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THIS INDEX is based on a consolidation of contents entries appearing in the January—June issues of the FEDERAL REGISTER together with broad subject references. The entries are arranged first under the name of the agency which issued the document. Under each agency, the entries are then listed alphabetically within the categories of Rules, Proposed Rules, and Notices. Executive Orders, Proclamations, and other documents from the President are listed under Presidential Documents. The number at the end of each entry gives the pages in the FEDERAL REGISTER where the document begins. Use the table of Federal Register Pages and Dates at the back of this index to locate the issue date for each page number. This index is published monthly and is cumulated for 12 months.

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January–June, 1983

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IHS—INDIAN HEALTH SERVICES			
	IHS circulars; IHS supplements to HHS manuals; IHS Operations Manual; General Counsel opinions; policy and procedural manual and circulars.		
BCHS—BUREAU OF COMMUNITY HEALTH SERVICES			
	BCHS administrative guide system; BCHS Operations Manual; "Emergency Medical Service Systems Program Guidelines"; BCHS Regional Memorandum Series.		
BHPDS—BUREAU OF HEALTH PERSONNEL DEVELOPMENT AND SERVICE			
	BHPDS supplements to the HHS manuals; BHPDS operations manuals which include memoranda, guidelines, handbooks and procedures.		
Department of the Interior, Bureau of Mines.	Basic Bureau of Mines Manual General Table of Contents and Checklist-July 6, 1976.	In accordance with fee schedule in 43 CFR 2, App. A.	Helen M. Gellett, Directives Management Officer, 2401 E St. NW., Washington, D.C. 20241; telephone: 634-4730.
	Numeric and subject listing of internal policies and procedures by series, part, chapter, paragraph, and subordinate paragraph.	Bureau of Mines.	
Department of the Interior, Bureau of Reclamation.	Reclamation Instructions Index - April 1, 1974: Subject listing of current instructions pertaining to Bureau of Reclamation organization and delegations of authority, policy and procedures, and detailed instructions on limited technical subjects.	Division of Management Support, E&R Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225. No charge.	Division of Management Support, E&R Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225 Telephone: 303 234-2081.
Department of Transportation, Federal Highway Administration.	Cease and Desist and Driver Disqualification Final Orders by the Federal Highway Administrator: 1969-1982; listing of cease and desist and driver disqualification final orders of the Federal Highway Administrator; items listed are identified by case docket number, name of carrier and date notice of investigation was mailed.	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590.
	Opinions and Final Orders of the FHWA in Regard to the Regulation of Toll Bridges: 1968-1982 listing of opinions and final orders regarding regulation of toll bridges issued by the Federal Highway Administrator, which identifies the case and the date issued.	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, FHWA, 400 Seventh Street, SW., Washington, D.C. 20590

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Department of the Treasury, Office of the Secretary.	Index of Selected Records: July 1967 to June 1983; Listing of current administrative documents, reports, and releases from the Office of the Secretary, Bureau of Engraving and Printing, Bureau of the Mint, U.S. Secret Service, Bureau of the Public Debt, Bureau of Government Financial Operations, Federal Law Enforcement Training Center, U.S. Customs Service.	Library, Room 5010-MT, Department of the Treasury, Washington, D.C. 20220, Reproduced upon request; fees charged per page copied in accordance with fee schedule at 31 CFR 1.6. Make checks payable to Treasury of the United States.	Treasury Department Library, Room 5010 Main Treasury Bldg., 15th and Pennsylvania Ave., N.W., Washington, D.C. 20220.
Architectural and Transportation Barriers Compliance Board.	ATBCB Freedom of Information Index; June 1978 through November 1982: Final decisions made in adjudication of cases concerning alleged noncompliance to the Architectural Barriers Act of 1968; and a record of the final votes of each member of the Board in every Board proceeding. ATBCB annual reports; pamphlets describing the ATBCB, how to file complaints, and resource guides to literature in the area of creating an accessible environment.	Freedom of Information Officer, ATBCB, Rm. 1010, 330 C St., SW, Washington, D.C. 20202. Reproduced upon request. Twenty cents per page, per copy. Make checks payable to the Department of Education.. Public Information Office, ATBCB, Rm. 1010, 330 C St., SW, Washington, D.C. 20202. No charge.	Freedom of Information Officer, ATBCB, Rm. 1010, 330 C St., SW, Washington, D.C. Phone: 202/245.1591. Public Information Office, ATBCB, Rm. 1010, 330 C St., SW, Washington, D.C. 20202. Phone: 202/245-1591.
Committee for Purchase from the Blind and Other Severely Handicapped.	Index of Additions and Deletions to the Procurement List: (a) Procurement List 1983 incorporates all additions and deletions through November 13, 1982; (b) Current index November 1982-June 1983.	Order from Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square Building No. 5, 1755 Jefferson Davis Highway, Suite 1107, Arlington, Va. 22202. Price: Ten cents per page, per copy. Make checks payable to: Treasurer of the United States.	Committee for Purchase from the Blind and Other Severely Handicapped, Attention: Freedom of Information Officer.
Commodity Futures TRading Commission.	Index of final Commission opinions, including concurring and dissenting opinions, and orders in the adjudication of cases. April 21, 1975 to date. (This index consists of separate chronological listings of final Commission opinions and orders in enforcement cases and reperations proceedings before the Commission).	Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581. Price: 10 cents per page	Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581 (202) 254-6314.
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Do	Index of Commission administrative manuals and instructions to staff that affect a member of the public. April 21, 1975 to date. (Commission instructions no longer in use are not included in this index).	Do	Do.
General Services Administration (GSA).	GSA Freedom of Information index; July 4, 1967 through June 30, 1983. Category A information which is final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases. Category B information which is those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER. Category C information which is administrative staff manuals and instructions to staff that affect members of the public.	GSA, Freedom of Information Officer (ORAR), Washington, D.C. 20405. Price: $4.75. Make checks payable to: General Services Administration.	GSA Central Office Library and the business service centers located in each regional office listed below: Central Office Library, 18th & F Sts. NW, Rm. 1033, Washington, D.C. 20405 Business Service Centers: National Capital Region: 7th & D Sts. SW., Washington, D.C. 20407 Region 1: John W. McCormack Post Office and Courthouse, Boston, Mass. 02109 Region 2: 26 Federal Plaza, New York, N.Y. 10278 Region 3: 9th & Market Sts., Philadelphia, Pa., 19107 Region 4: Richard B. Russell Bldg., 75 Spring St., Atlanta, Ga. 30303 Region 5: 230 So. Dearborn St., Chicago, Ill., 60604 Region 6: 1500 East Bannister Rd., Kansas City, Mo. 64131 Region 7: 819 Taylor St., Ft. Worth, Tex. 76102 Region 8: Building 41, Denver Federal Center, Denver, Colo. 80225 Region 9: 525 Market St., San Francisco, Calif. 94105 Region 10: GSA Center, Auburn, Wash. 98002.
International Boundary and Water Commission, United States and Mexico, U.S. Section.	Brochure: Amistad Dam and Reservoir	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840. No charge.	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840.
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Do	NSF Grant Policy Manual. A compendium of basic NSF grant policies and procedures for use by the grantee community and NSF Staff. The Manual implements OMB Circular No. A-110, which is directed toward standardizing and simplifying the various accountability and reporting requirements amoung Federal granting agencies. (NSF Publication 77-47).	Superindendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 038-000-81001-4. Unit Price $9.00..	NSF Division of Grants and Contracts. Room 201, 1800 G St. NW., WEashington, D.C. 20550.
Office of Personnel Management	Index to Information, OPM Document No. 1. As of May, 1983. A listing of policy and non-policy publications and information systems arranged alphabetically by title and subject. This index includes some information formerly published in the Index to Civil Service Commission Information.	Internal Distribution Subunit, Room B-443, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415. Free.	OPM Library or any OPM Office, including regional and area offices.
Pension Benefit Guaranty Corporation, Office of the General Counsel.	Index to Pension Benefit Guaranty Corp. Opinion Manual; Sept. 2, 1974 to Sept. 30, 1982; interpretive letters addressing the provisions of Title IV of the Employee Retirement Income Security Act (ERISA)-plan termination insurance program.	Disclosure Officer, Office of the Executive Director, Pension Benefit Guaranty Corp., Room 7000, 2020 K St. NW., Washington, D.C. 20006; Charge $0.10 per page; Payable to The Pension Benefit Guaranty Corp.; or contact Disclosure Officer for information regarding a subscription to the Opinion Manual.	Disclosure Officer, Office of the Executive Director, (202) 254-4827, 2020 K St. NW., Washington, D.C. 20006
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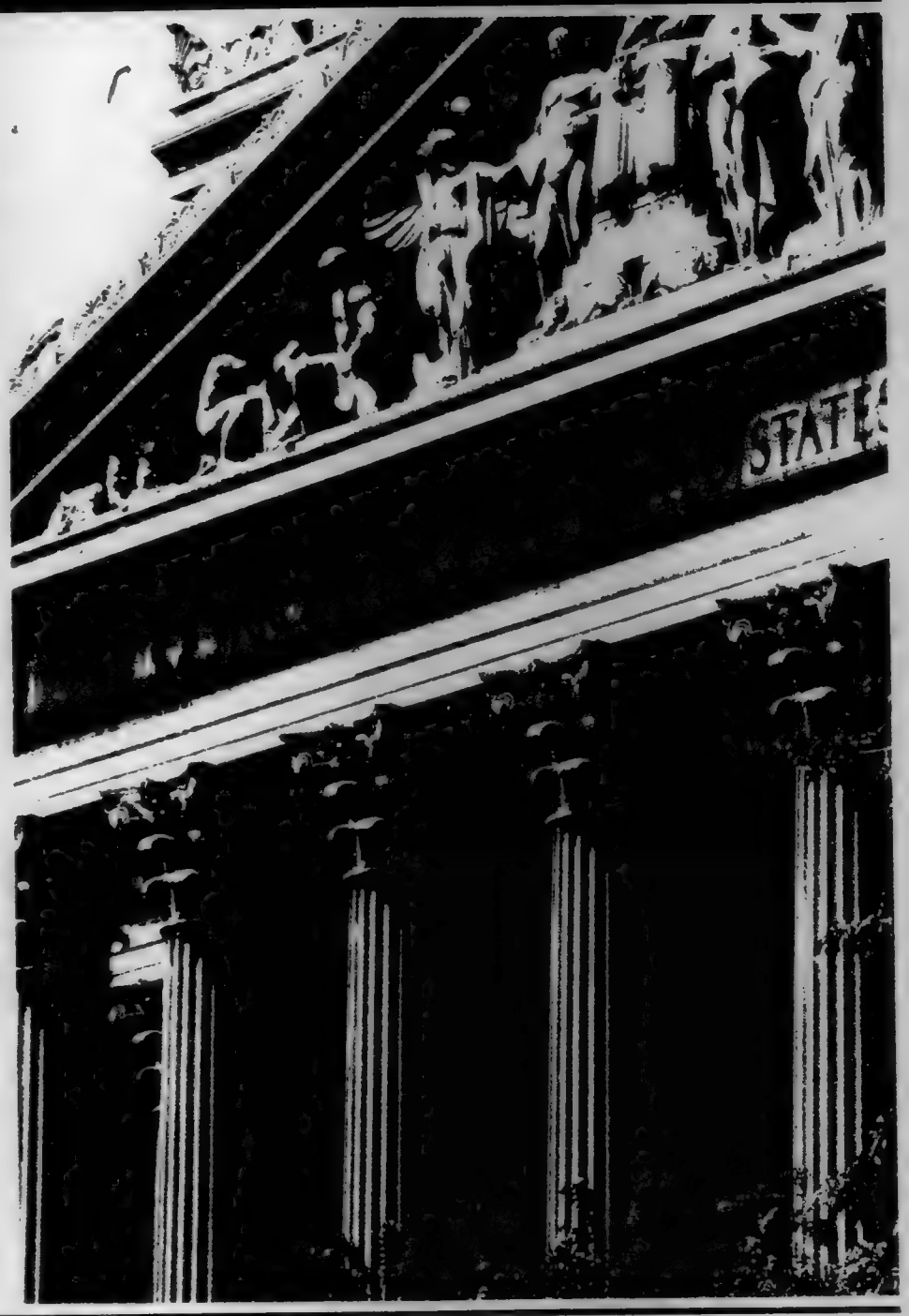

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Environmental Protection Agency

Savings and Loan Associations
Federal Home Loan Bank Board

Toys
Consumer Product Safety Commission

Trade Practices
Federal Trade Commission

Truth in Lending
Farmers Home Administration

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Presidential Documents

Title 3—

The President

Proclamation 5006 of December 29, 1982

National Closed-Captioned Television Month

By the President of the United States of America

A Proclamation

Nothing is more important to the welfare and progress of the United States than the assurance that all its people are afforded equality of opportunities. Our Nation's commitment to open new doors of opportunity for people in all walks of life has guided the growth of our Nation and stands as a measure of its greatness.

The realization of our high hopes for a better America can be gauged by our ability to bring the handicapped of our Nation into the mainstream of society. The recent initiation in March 1980 of closed-captioned television, which opened this important communications medium to millions of deaf and hearing-impaired Americans, is a significant achievement toward this end. The development of closed-captioned television marks the culmination of many years of cooperative effort by government, private industry and nonprofit groups. It is breaking down historic communications barriers and opening new social, educational and vocational opportunities for the hearing-impaired.

In recognition of the invaluable service performed by closed-captioned television, and in order to call public attention to the contribution that it is making toward enriching the lives of millions of Americans, the Congress has, by joint resolution, requested that the President designate the month of December 1982 as "National Closed-Captioned Television Month."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the month of December 1982 as National Closed-Captioned Television Month.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of December, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 82-35598
Filed 12-30-82; 10:19 am]
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Monday, January 3, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1807, 1872, 1901, 1910, 1924, 1940, 1941, 1943, 1944, 1945, 1962, and 1990

Truth in Lending; Real Estate Settlement Procedures

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises, redesignates and amends its regulations concerning Truth in Lending disclosure requirements and Real Estate Settlement Procedures. This action is taken to implement provisions of a public law. The intended effect is to exempt all credit transactions primarily for agricultural purposes from the requirements of the Truth in Lending Act, to reduce the number and complexity of the disclosures, to provide for early disclosure in residential mortgage transactions and to make minor nonsubstantive clarifications in the real estate settlement procedures.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Joyce M. Halasz, Loan Specialist, Single Family Housing Processing Division, Room 5341–S, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, Telephone: 202–382–1480.

SUPPLEMENTARY INFORMATION: This revision implements the Truth in Lending Simplification and Reform Act (Pub. L. 96–221) as required by Regulation Z of the Federal Reserve System and is consistent within the Agency's authority. This rule has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be nonmajor. The reasons for this determination are that this action will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Options and projected rules considered were:

1. Leave the present regulation as it stands, in which case FmHA would not be in full compliance with the Truth in Lending Act, as amended, and would be disclosing more credit information than is required by the act, or is necessary for consumers to make credit decisions.

2. Change only those items to bring the present regulation into compliance with the Truth in Lending Act, as amended, with regard to format and timing of credit and rescission disclosure, but continue making complete, detailed disclosure to applicants and borrowers. The complex and numerous disclosures previously required have been shown to be confusing and of no real benefit to credit consumers. In addition, the cost to FmHA of the time for preparation and explanation to applicants would be excessive for actions not required by law and of no benefit to applicants.

3. Completely revise the present regulation to comply with but not to exceed the requirements of the Truth in Lending Act, as amended. This implements the maximum benefits intended by the Truth in Lending Simplification and Reform Act (Pub. L. 96–221) to both credit consumers and the Agency. This option was selected to comply with the act, as amended, and for the other reasons stated above.

There was no response to our request for comments on the proposed rule, published in the **Federal Register** on June 24, 1982 (47 FR 27366).

It has been determined that this change is cost effective since it exempts loans for agricultural purposes from the Truth in Lending requirements and reduces the number and complexity of disclosures for non-exempt loans, thereby substantially reducing the paperwork burden imposed on FmHA, as a lending agency. Simplified disclosures will benefit consumers by providing a more useful basis for credit decisions. This instruction does not directly affect any FmHA programs or projects which are subject to A–95 clearinghouse review.

The Catalog of Federal Domestic Assistance programs affected are 10.404, Emergency Loans, 10.406, Farm Operating Loans, 10.407, Farm Ownership Loans, 10.410, Low to Moderate Income Housing Loans, 10.413, Recreation Facility Loans, 10.415, Rural Rental Housing Loans, 10.416, Soil and Water Loans, 10.417, Very Low-Income Housing Repair Loans and Grants, and 10.432, Biomass Energy and Alcohol Fuels Loan and Loan Guarantees.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Information collection requirements contained in this regulation (§ 1940.406) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0575–0088.

FmHA revises and redesignates Subpart I of Part 1901 to a new Subpart I of a new Part 1940 and amends various sections of Part 1807, Subpart A of Part 1872, Subparts A and B of Part 1910, Subpart A of Part 1924, Subpart A of Part 1941, Subparts A, B, and C of Part 1943, Subparts A, E, and J of Part 1944, Subparts B, C, and D of Part 1945, Subpart A of Part 1962, and Subpart A of Part 1990, Chapter XVIII, Title 7, Code of Federal Regulations. These revisions implement the provisions of the "Truth in Lending Simplification and Reform Act," Pub. L. 96–221, which was enacted on March 31, 1980, and make minor editorial clarifications.

List of Subjects in 7 CFR Part 1901

Administrative practice and procedure, Credit, Legal services, Mortgages, Truth in lending.

Therefore, Chapter XVIII of Title 7, Code of Federal Regulations, is amended as follows:

PART 1807—TITLE CLEARANCE AND LOAN CLOSING

§ 1807.1 [Amended]

1. Section 1807.1(j) is amended by changing the reference from "§ 1901.406(c)" to "§ 1940.406(c)".

PART 1872—REAL ESTATE SECURITY

Subpart A—Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note—Only Cases

2. Section 1872.18(g)(2)(iii) is amended by removing the reference to Form FmHA 440–41, "Disclosure Statement for Loans Secured by Real Estate", and inserting the reference to Form FmHA 1940–41, "Truth in Lending Disclosure Statement," and by removing the reference to Form FmHA 440–43, "Notice of Right to Rescind," and inserting the reference to Form FmHA 1940–43, "Notice of Right to Cancel," by adding a reference to footnote 3 beside Form FmHA 1940–43, and by revising footnotes 7 and 8 to read as follows:

§ 1872.18 Transfer of real estate security.

* * * * *

(g) *Processing transfer by assumption of indebtedness.* * * *

(2) *Preparation and distribution of transfer docket.* * * *

(iii) *Distribution of transfer docket forms.* * * *

[7] In right to cancel cases, original and sufficient copies for each person who has the right to cancel in accordance with Subpart I of Part 1940 of this Chapter.

[8] Original and 1 copy to transferee; 2 copies to each other person who has the right to cancel in accordance with Subpart I of Part 1940 of this Chapter. If the person exercises the right to cancel, she/he will sign one copy of the form and return it to the County Office. * * *

* * * * *

PART 1901—PROGRAM RELATED INSTRUCTIONS

Subpart I—[Removed and Reserved]

3. Subpart I, consisting of §§ 1901.401 through 1901.406 and Exhibit A, is removed and reserved.

PART 1910—GENERAL

Subpart A—Receiving and Processing Applications

4. In § 1910.3, paragraph (l) is added and reads as follows:

§ 1910.3 Receiving applications.

* * * * *

(l) For loans, assumptions and credit sales to individuals for household purposes and subject to the Real Estate Settlement Procedures Act (RESPA), Form FmHA 1940–41, "Truth in Lending Disclosure Statement," completed with "good-faith" estimates, will be delivered or placed in the mail to the applicant within 3 business days of receipt of the written application in the County Office.

Subpart B—Credit Reports (Individual)

§ 1910.62 [Amended]

5. Section 1910.62 (a) is amended by removing the reference to Form FmHA 440–41, "Disclosure Statement for Loans Secured by Real Estate," inserting the reference to Form FmHA 1940–41, "Truth in Lending Disclosure Statement" and in the last line changing the word "Issue" to "Insert" and renumbering Form FmHA 440–59 to 1940–59.

PART 1924—CONSTRUCTION AND REPAIR

Subpart A—Planning and Performing Construction and Other Development

6. Section 1924.5 (f)(2)(xii) is revised to read as follows:

§ 1924.5 Planning development work.

* * * * *

(f) *Responsibilities for planning development.* * * *

(2) *Responsibility of the County Supervisor or District Director.* * * *

(xii) Under certain conditions prescribed in Exhibit H of this Subpart, provide the applicant with a copy of the leaflet, "Lead-Based Paint Hazards, Symptoms, Treatment, and Techniques for Eliminating Hazards," which is available in FmHA County Offices, and the warning sheet, "Caution Note on Lead-Based Paint Hazard," which is Attachment 1 of this Exhibit.

* * * * *

7. Exhibit H, Paragraph IV.C., is revised to read as follows:

Exhibit H—Prohibition of Lead Based Paints

* * * * *

IV. Requirements:

* * * * *

C. For all *existing housing* or buildings constructed before 1950 on which a loan is closed after July 19, 1978, FmHA requires that the applicant, borrower, or tenant be notified as in paragraph IV B and a copy of Exhibit H, Attachment 2, "Caution Note on Lead-Based Paint Hazard" be delivered to the hands of the borrower. The caution note shall read as follows:

"This housing was constructed before 1950. There is a possibility that it may contain some lead-based paint that was in use before 1950. See 'Lead-Based Paint Hazards,' leaflet, available in all FmHA County Offices, for more information."

For all property transfers and inventory property sales, the caution note Exhibit H, Attachment 1, and the information leaflet, "Lead-Based Paint Hazards," shall be handed to the purchaser by the FmHA representative.

* * * * *

8. Title 7, Chapter XVIII is amended to add a new Part 1940 to read as follows:

PART 1940—GENERAL

Subparts A through H—[Reserved]

Subpart I—Truth in Lending—Real Estate Settlement Procedures

Sec.

1940.401 Truth in lending.
1940.402 Through 1940.405 [Reserved]
1940.406 Real estate settlement procedures.
1940.407 Through 1940.450 [Reserved]

Authority: Pub. L. 96–221, 7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Subparts A through H—[Reserved]

Subpart I—Truth in Lending—Real Estate Settlement

§ 1940.401 Truth in Lending.

(a) *General.* This section provides instructions for compliance with the Truth in Lending Act, as implemented by Regulation Z of the Federal Reserve System, to assure that individual Rural Housing (RH) applicants are informed of:

(1) the cost and terms of credit, and

(2) Their right to cancel certain credit transactions resulting in a lien or mortgage on their home.

(b) *Scope.* This section applies to all individuals who apply for loans, assumptions, or credit sales (hereafter described as transactions) for household purposes.

(1) Special rules for the right to cancel transactions not for purchase, acquisition or initial construction of a home broaden the scope of this section to include individuals who have an ownership interest in, and reside in as a principal dwelling, property which will be security for a mortgage, even though they may not execute the promissory note or assumption agreement. Such persons have the right to receive credit disclosures and the notice of the right to cancel and may cancel the transaction.

(2) This section does *not* apply to:

(i) Applicants who are corporations, associations, cooperatives, public bodies, partnerships, or other organizations;

(ii) Individual applicants for multiple family housing transactions (rural rental

or labor housing), unless for a two-family dwelling in which the applicants will reside, and other business and commercial type loans; or

(iii) Applicants involved in credit transactions primarily for agricultural purposes.

(c) *Disclosure of the cost and terms of credit.*—(1) *Form and content.* Form FmHA 1940–41, "Truth in Lending Disclosure Statement," will be used to provide the following required disclosures:

(i) Annual percentage rate;
(ii) Finance charge;
(iii) Amount financed;
(iv) Total of payments;
(v) Total sale price (required for credit sales only);
(vi) Payment schedule;
(vii) A separate itemization of the amount financed, if the applicant requests it. Normally this required disclosure will have been met in transactions subject to the Real Estate Settlement Procedures Act (RESPA) by providing the applicant with Form FmHA 440–58, "Estimate of Settlement Costs";
(viii) The lender's identity;
(ix) Prepayment or late payment penalties;
(x) Security interest;
(xi) Insurance requirements;
(xii) Assumption policy; and
(xiii) Referral to other loan documents.

(2) *Timing, use of estimates and required redisclosure.* (i) In transactions for the purchase or construction of a home subject to RESPA, Form FmHA 1940–41, completed using "good faith" estimates based on the best information available, will be delivered or placed in the mail to the applicant no later than three (3) business days after receipt of a written application in the County Office.

(ii) In transactions *not* subject to RESPA, such as RH Section 502 transactions for repairs or refinancing or RH Section 504 transactions, Form FmHA 1940–41, completed using the actual terms of the transaction, will be delivered to each applicant (and in transactions which are subject to cancellation, each non-applicant with the right to cancel) at the time of loan approval.

(iii) In the event of a change in rates and terms between the time of initial disclosure and closing, whereby the annual percentage rate varies by more than one-eighth of one percent, redisclosure must be made. This may be done by entering the changes on all copies of the initial Form FmHA 1940–41, or by preparing a new Form FmHA 1940–41. When required, redisclosure may be made at the time the transaction is approved or at the time of the change, but the form must be delivered to the applicant before the signing of the promissory note or assumption agreement.

(3) *Special instructions for assumption, reamortization, refinancing and multiple transactions.* (i) Assumptions, within the scope of paragraph (b) of this section, at new rates and terms or of existing obligations which were for purchase, acquisition or initial construction of a residence, require new credit disclosure before the assumption occurs. Since assumptions are not subject to RESPA, early disclosure is not required.

(ii) Reamortization, as described in § 1944.37(g) of Subpart A of Part 1944 and § 1951.314 of Subpart G of Part 1951 of this chapter, when the borrower is in default or delinquent, does not require new credit disclosure. In all other cases reamortization requires new credit disclosure.

(iii) Refinancing of debts in accordance with § 1944.22 of Subpart A of Part 1944 of this chapter, though not subject to RESPA or early disclosure, does require credit disclosure at the time the transaction is approved.

(iv) Multiple transactions.

(A) When a subsequent loan is financed along with another transaction and both transactions require credit disclosure, a separate Form FmHA 1940–41 will be prepared for each transaction.

(B) Transactions with multiple advances will be treated as one transaction for the purpose of credit disclosure, in accordance with the Forms Manual Insert (FMI) for Form FmHA 1940–41.

(d) *Notice of the right to cancel.* The right to cancel applies only to transactions within the scope of paragraph (b) of this section, which are *not* for purchase, acquisition or initial construction of *and* which result in a mortgage on an individual's principal residence, such as RH Section 502 transactions for refinancing, repairs or rehabilitation or RH Section 504 transactions.

(1) *Form and Content.* Form FmHA 1940–43, "Notice of Right to Cancel", will be used to notify individuals of their right to cancel those transactions, within the scope of paragraphs (b) and (d) of this section, which result in a mortgage on their principal residence *except* when the transaction is for its purchase or initial construction. This notice will identify the transaction and disclose the following:

(i) The acquisition of a security interest in the individual's principal residence.

(ii) The individual's right to cancel the transaction.

(iii) How to exercise the right to cancel the transaction, with a form for that purpose.

(iv) The effects of cancellation.

(v) The date the cancellation period expires.

(2) *Timing.* (i) Two copies of Form FmHA 1940–43, and one copy of Form FmHA 1940–41, in accordance with the FMI's, will be given to each individual entitled to cancel, not later than loan closing.

(ii) Any entitled individual may cancel the transaction until midnight of the third business day following whichever of the following events occurs last:

(A) The date the transaction is closed.

(B) The date Truth in Lending credit disclosures were made.

(C) The date notice of the right to cancel was received.

(3) *Disbursement of funds.* In a transaction subject to cancellation funds will not be disbursed, other than to a designated attorney or title insurance company preparatory to closing, until:

(i) Forms FmHA 1940–43 have been given to the appropriate individuals,

(ii) The three-day cancellation period has expired, and

(iii) The loan approval official is reasonably assured that the transaction has not been cancelled. This assurance may be obtained by:

(A) Waiting a reasonable period of time after the expiration of the cancellation period to allow for the delivery of a mailed notice, or

(B) Obtaining a written statement from each individual entitled to cancel that the right has not been exercised.

(iv) This delay in disbursing funds may be waived in cases of a bonafide personal financial emergency, which must be met within the cancellation period, when the individual submits a signed and dated statement describing the nature of the emergency and waiving the right to cancel. Such a statement must be signed by all individuals entitled to cancel.

(4) *Effects of cancellation.* (i) When an individual cancels a transaction, the mortgage securing the transaction becomes void and the borrower will not be liable for any amount, including any finance charge.

(ii) Within twenty (20) calendar days after receipt of a notice of cancellation the loan approval official will:

(A) Notify all interested parties of the cancellation;

(B) Return, and/or request the return of any money or property given to anyone in connection with the transaction; and

(C) Take the necessary action to terminate the mortgage.

(iii) Once evidence has been presented to the borrower that the mortgage has been terminated, the borrower must return any funds advanced by FmHA to the FmHA County Office or surrender any property at his/her residence within twenty (20) calendar days.

(e) *Advertisements.* An "advertisement" is defined as a commercial message in any medium that promotes, directly or indirectly, a credit transaction. Advertisements for credit sales of Government inventory property, within the scope of pararaph (b) of this section, are subject to the following requirements.

(1) If an advertisement states specific credit terms, it shall state only those terms that actually are or will be arranged or offered.

(2) If an advertisement states a rate of finance charge, it shall state the rate as an "annual percentage rate," using that term.

(3) Terms requiring additional disclosures.

(i) If any of the following terms is set forth in an advertisement:

(A) The amount or percentage of any down payment,

(B) The number of payments or period of repayment,

(C) The amount of any payment, or

(D) The amount of any finance charge,

(ii) The advertisement must also state:

(A) The amount or percentage of down payment,

(B) The terms of repayment, and

(C) The "annual percentage rate," using that term.

§§ 1940.402 through 1940.405 [Reserved]

§ 1940.406 Real estate settlement procedures.

(a) *General.* This section provides the instructions for compliance with the Real Estate Settlement Procedures Act (RESPA), as amended, and Regulation X of the Department of Housing and Urban Development.

(b) *Scope.* (1) This section applies to loans and credit sales, including Section 502 Rural Housing, 1–4 family Rural Rental Housing, 1–4 family Labor Housing, and Farm Ownership involving tracts of less than 25 acres, whether made to an individual, corporation, partnership, association or other entity, which meet the following requirements:

(i) The proceeds of the loan or the credit extended are used in whole or in part to finance the purchase and transfer of title of the property to be mortgaged by the borrower, and

(ii) The loan or credit sale is secured by a first lien covering real estate on which is located a structure designed principally for the occupancy of from 1–4 families, or on which a structure designed principally for the occupancy of from 1–4 families is to be constructed using proceeds of the loan.

(2) Exempt transactions include:

(i) Loans for repairs, improvements, or refinancing if the proceeds are not used to finance the purchase of the property.

(ii) Loans to finance the construction of a 1–4 family structure if the tract of land is already owned by the applicant/borrower.

(iii) Assumptions or transfers.

(c) *Action required.* (1) The information booklet entitled "Settlement Costs" will either be given to the applicant at the time the completed application is received, or mailed to the applicant no later than three (3) business days after receipt of the application in the County Office.

(i) Form FmHA 440–58, "Estimate of Settlement Costs," is to be used to provide a "good faith" statement of estimated closing costs. Form FmHA 440–58 will be completed by the County Supervisor and mailed or delivered to the applicant with the Settlement Costs booklet. Costs will vary between geographic areas; therefore, information supplied on this form must be based upon (A) the County Supervisor's best estimate of charges the borrower will pay for each service in connection with the transaction, or (B) a range of charges at which such service is available to the borrower from all providers in the area.

(ii) Form FmHA 440–58 does not replace Truth in Lending forms. Appropriate forms listed in § 1940.401 will be used for Truth in Lending purposes.

(2) Form FmHA 1940–59, "Settlement Statement," will be completed as indicated in the form and FMI by the designated attorney or title company for all transactions described in paragraph (b) of this section. The purpose of this form is to provide a uniform settlement statement prescribed by RESPA.

(i) During the business day immediately preceding the date of settlement, the closing agent, if requested by the applicant, must permit the applicant to inspect the settlement statement, completed for those items which are then known to the closing agent.

(ii) A copy will be given to both the borrower and seller at the time of closing or settlement or will be mailed as soon as practicable if the borrower or seller are not present at closing.

§§ 1940.407 through 1940.450 [Reserved]

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures and Authorizations

§ 1941.23 [Amended]

9. Section 1941.23(a)(4) is removed.

Exhibit A [Amended]

10. In Exhibit A, the paragraph entitled "Docket Preparation" is amended by removing the references to Forms FmHA 440–41, FmHA 440–41A, and FmHA 440–43.

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations.

11. In § 1943.23, paragraphs (e) and (g)(1) are revised to read as follows:

§ 1943.23 General provisions.

* * * * *

(e) *Real Estate Settlement Procedures Act.* The provisions of the Real Estate Settlement Procedures Act outlined in § 1940.406 of Subpart I of Part 1940 apply when FO funds are used involving tracts of less than 25 acres, if:

(1) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(2) The loan is secured by a first lien on the property where a dwelling is located.

* * * * *

(g) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including use for domestic or nonfarm enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

§ 1943.32 [Amended]

12. Section 1943.32(a) is amended by removing references to Forms FmHA 440–41, FmHA 440–42, and FmHA 440–43, removing footnotes 9 and 10 and renumbering footnotes 11, 12, and 13 to 9, 10, and 11, respectively, including those footnote references in the loan docket processing forms list.

Subpart B—Insured Soil and Water Loan Policies, Procedures, and Authorizations

13. Section 1943.73(e) is removed, paragraphs (f) and (g) are redesignated as paragraphs (e) and (f) respectively, and (f)(1) is revised to read as follows:

§ 1943.73 General provisions.

* * * * *

(f) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations governing construction; diverting, appropriating, and using water including use for domestic purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

§ 1943.82 [Amended]

14. Section 1943.82(a) is amended by removing references to Forms FmHA 440–41, FmHA 440–42, and FmHA 440–43, removing footnotes 8 and 9 and renumbering footnotes 10 and 11 to 8 and 9, respectively, including those footnote references in the loan docket processing forms list.

Subpart C—Insured Recreation Loan Policies, Procedures, and Authorizations

15. Section 1943.123 (e) and (g)(1) are revised to read as follows:

§ 1943.123 General provisions.

* * * * *

(e) *Real Estate Settlement Procedures Act.* The provisions of the Real Estate Settlement Procedures Act outlined in § 1940.406 of Subpart I of Part 1940 of this Chapter apply to any applicant when RL funds are used and less than 25 acres of land are involved, if:

(1) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(2) The loan is secured by a first lien on the property where a dwelling is located.

* * * * *

(g) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations including those governing building constuction; diverting, appropriating, and using water including use for domestic or recreational enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

§ 1943.132 [Amended]

16. Section 1943.132(a) is amended by removing references to Forms FmHA 440–41, FmHA 440–42, and FmHA 440–43, removing footnotes 9 and 10 and renumbering footnotes 11 and 12 to 9 and 10, respectively, including those footnote references in the loan docket processing forms list.

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1944.30 [Amended]

17. Section 1944.30(a) is amended by removing the reference to Form FmHA 440–41 and inserting reference to Form FmHA 1940–41, "Truth in Lending Disclosure Statement," by removing the reference to Form FmHA 440–42, and by removing the reference to Form FmHA 440–43 and inserting reference to Form FmHA 1940–43, "Notice of Right to Cancel".

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

§ 1944.33 [Amended]

18. Section 1944.233(b)(1)(iii) is amended by changing the reference from "§ 1901.406 of Subpart I of Part 1901 (FmHA Instruction 1901–I)" to "§ 1940.406 of Subpart I of Part 1940 of this Chapter".

Subpart J—Section 504 Rural Housing Loans and Grants

19. In § 1944.469, paragraph (d) and the introductory text of paragraph (f) are revised to read as follows:

§ 1944.469 Loan and/or grant closing.

* * * * *

(d) *Mortgage.* Form FmHA 427–1, "Real Estate Mortgage for (State)," will be used for each loan to be secured by a real estate mortgage. Each change made in the text by deletion, substitution or addition (excluding filling in the blanks) will be initialed in the margin by each person signing the mortgage and by the FmHA official making the change. Mortgages for loans on leasehold interests will be taken according to § 1944.18(a)(5) and § 1944.15(a)(5) (iv) and (v) of this Chapter. Form FmHA 1940–43, "Notice of Right to Cancel," on 504 loans secured by a real estate mortgage will be given at closing to all entitled individuals according to § 1940.401(d)(3) of this chapter.

* * * * *

(f) *Disbursement of funds.* The proceeds of a 504 loan secured by a real estate mortgage may not be disbursed until the right to cancel has expired.

* * * * *

PART 1945—EMERGENCY

Subpart B—Emergency Loan Policies, Procedures and Authorizations for Those Applications Associated With Disaster Designations Having a Beginning Incidence Period Date Prior to May 26, 1981

20. Section 1945.73 (f) and (h)(1) are revised to read as follows:

§ 1945.73 General provisions—compliance requirements.

(f) *Real Estate Settlement Procedures Act.* The provisions of the Real Estate Settlement Procedures Act outlined in § 1940.406 of Subpart I of Part 1940 of this Chapter apply when EM funds are used involving tracts of less than 25 acres, if:

(1) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(2) The loan is secured by a first lien on the property where a dwelling is located.

* * * * *

(h) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including use for domestic or nonfarm enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

Exhibit A [Amended]

21. Exhibit A, paragraph IV. D., is amended by removing the references to Forms FmHA 440–41, FmHA 440–41A, and FmHA 440–43.

Subpart C—Economic Emergency Loans

Exhibit A [Amended]

22. In Exhibit A to Subpart C of Part 1945, the paragraph entitled Docket Preparation is amended by removing the references to Forms FmHA 440–41, FmHA 440–41A, and FmHA 440–43.

Subpart D—Emergency Loan Policies, Procedures, and Authorizations for Applications Associated With FmHA Disaster Designations Having a Beginning Incidence Period Date on or After May 26, 1981

§ 1945.173 [Amended]

23. Section 1945.173(f) is amended by changing the reference from "1901.406" to "1940.406 of Subpart I of Part 1940 of this chapter."

Exhibit A [Amended]

24. Exhibit A, Paragraph IV. D., is amended by removing the references to Forms FmHA 440–41, FmHA 440–41A, and FmHA 440–43 from the Docket Preparation List.

PART 1962—PERSONAL PROPERTY

Subpart A—Servicing and Liquidation of Chattel Security

§ 1962.34 [Amended]

25. In § 1962.34, paragraphs (f)(10) and (f)(11) are removed and paragraphs (f)(12) and (f)(13) are redesignated as paragraphs (f)(10) and (f)(11), respectively.

PART 1990—BIOMASS ENERGY AND ALCOHOL FUELS LOANS AND GUARANTEES

Subpart A—General Provisions

26. Section 1990.23(g) is revised to read as follows:

§ 1990.23 Compliance with statutes and regulations.

* * * * *

(g) *Real Estate Settlement Procedures Act.* Procedures for compliance with the Real Estate Settlement Procedures Act stated in § 1940.406 of Subpart I of Part 1940 of this Chapter will apply to this part.

* * * * *

(Pub. L. 96–221, 7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: December 3, 1982.

Frank W. Naylor,

Under Secretary for Small Community and Rural Development.

[FR Doc. 82-35547 Filed 12-30-82; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 235

Inspection of Persons Applying for Admission

AGENCY: Immigration and Naturalization, Justice.

ACTION: Final rule.

SUMMARY: This rule eliminates references to the processing and inspection of aliens who were classified as conditional entrants under section 203(a)(7) of the Immigration and Nationality Act. Section 203(a)(7) was repealed by the Refugee Act of 1980, on March 17, 1980, and the Act now limits processing aliens either as refugees or asylees.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT:

For general information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–3048.

For specific information: Burwell O. Buchanan, Immigration Inspector, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–2361.

SUPPLEMENTARY INFORMATION: The repeal of section 203(a)(7) of the Immigration and Nationality Act by the Refugee Act of 1980, Pub. L. 96–212 (94 Stat. 109), nullified the processing instructions for conditional entrants abroad. The inspection of conditional entrants and refugee parolees for permanent resident status has been reserved for those aliens who entered the United States in those classes prior to April 1, 1980. Since there was a strong possibility that a number of aliens were still in these categories, the pertinent processing procedures for those categories had not been removed. This situation no longer exists; hence, all references to conditional entrants are now removed from the regulations.

The following is a section by section description of the revisions made in 8 CFR Part 235.

8 CFR 235.8(d) is amended to change the term "special inquiry officer" to "immigration judge".

8 CFR 235.9 (a), (a–1), (b), (c), and (d) are removed since these paragraphs were repealed by the amendments to section 207 of the Act.

8 CFR 235.9(e) is redesignated 8 CFR 235.9(a), amended to require a conditional entrant or parolee under 212(d)(5) of the Act to appear before an immigration officer within one year of entry or parole, and revised to improve readability.

Paragraphs 8 CFR 235.9 (f) and (g) are redesignated (b) and (c) respectively.

Compliance with 5 U.S.C 553 as to notice if proposed rulemaking and delayed effective date is unnecessary because the changes are mandated by law and delay would be contrary to the public interest.

In accordance with 5 U.S.C. 605(d) the Commissioner of Immigration and Naturalization certifies that this rule will not have significant economic impact on a substantial number of small entities.

This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 235

Administrative practice and procedure, Aliens, Inspections, Refugees.

Accordingly, Title 8 of the Code of Federal Regulations is amended as follows:

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

1. In § 235.8, paragraph (d) is revised to read as follows:

§ 235.8 Temporary exclusion.

* * * * *

(d) *Hearing by immigration judge.* If the regional commissioner directs that an alien temporarily excluded be given a hearing or further hearing before an immigration judge, the hearing and all further proceedings in the matter shall be conducted in accordance with the provisions of section 236 and other applicable sections of the Act to the same extent as though the alien had been referred to an immigration judge by the examining immigration officer; except, that if confidential information, not previously considered in the matter, is adduced supporting the exclusion of the alien under paragraph (27), (28), or (29) of section 212(a) of the Act, the disclosure of which, in the discretion of the immigration judge, may be prejudicial to the public interest, safety, or security, the immigration judge may again temporarily exclude the alien under the authority of section 235(c) of the Act and further action shall be taken as provided in this section.

* * * * *

2. Section 235.9 is revised to read as follows:

§ 235.9 Conditional entries.

(a) *Inspection of conditional entrant and refugee parolee as to admissibility for permanent residence.* Each alien

who has been admitted under section 203(a)(7) as a conditional entrant, or paroled under section 212(d)(5) of the Act as a refugee prior to September 30, 1980, and who is not otherwise eligible for retroactive adjustment of status to permanent resident, shall be required to appear before an immigration officer within one year following conditional entry or parole. If over 14 years of age, the conditional entrant or parolee shall be interrogated under oath by an immigration officer and a determination of admissibility shall be made under parts 235 and 236 of this chapter. Except as provided in parts 245 and 249 of this chapter, an application under this part shall be the sole method of requesting the exercise of discretion under section 212 (g), (h), or (i) of the Act, insofar as it relates to the excludability of an alien in the United States. Any alien who is inspected and admitted under this part who is eligible for and wishes to apply for naturalization immediately shall be processed under § 235.9(b)(3) of this chapter.

(b) *Request to "roll back" permanent residence date by permanent resident who was paroled into the United States as a refugee.*—(1) *General.* A request by a permanent resident who was originally paroled into the United States as a refugee before September 30, 1980 to "roll back" the date of acquiring permanent residence to the date of original parole as a refugee shall be made in writing to the district director having jurisdiction over the applicant's place of residence. Each request must be accompanied by the Alien Registration Card, Form I–151 or Form I–551, previously issued to the applicant, and completed forms G–325 and FD–258. Where an applicant is eligible for and wishes to apply immediately for naturalization, the request must contain a statement to that effect. The decision on the request shall be made by the district director. There is no appeal from the district director's decision.

(2) *Applicant for "roll back" who is not eligible for or who does not wish to file an application for naturalization immediately.* Where the recipient of a "roll back" would not be immediately eligible to apply for naturalization, or if eligible, does not wish to do so immediately, the "roll back" request must be accompanied by three identical color photographs taken within the past thirty days. The photographs must comply with the requirements for an ADIT card. These requirements may be obtained from any office of the Immigration and Naturalization Service. If the request is approved, the applicant shall be furnished a new Alien Registration Card bearing the new date lawful admission for permanent residence is recorded.

(3) *Where "roll back" would make applicant immediately eligible for naturalization and applicant intends to file the application immediately.* Where a "roll back" of the date of permanent residence under this regulation would make the applicant immediately eligible for naturalization, and the applicant indicates a desire to file an application for naturalization immediately, the district director shall receive the "roll back" application and process it. If the "roll back" application is granted, the new date lawful admission for permanent residence is recorded shall be entered on Form I–181 and placed in the applicant's file. The applicant shall then be furnished the appropriate forms and instructions for filing the application for naturalization. A new Alien Registration Card need not be issued under these circumstances. Where a new Alien Registration Card is not issued, Form I–181 will be so noted.

(c) *Termination of conditional entrant or refugee parole status.* Whenever a district director has reason to believe that a conditional entrant under section 203(a)(7) of the Act or an alien paroled or a refugee under section 212(d)(5) of the Act before September 30, 1980, whose status has not otherwise been terminated or changed, it or has become inadmissible to the United States under any provision (except paragraph (20)) of section 212(a) of the Act, the district director shall, in the case of a parolee, comply with § 212.5(d) of this chapter, and thereafter serve on either class of alien, Notice to Alien Detained for Hearing Before Immigration Judge, Form I–122, in accordance with § 235.6 of this part. The alien shall be referred for a hearing before an immigration judge under sections 235, 236, and 237 of the Act and Parts 235, 236, and 237 of this chapter. If the immigration judge determines that the alien is not inadmissible to the United States or, if inadmissible, that the alien is prima facie eligible for a waiver on the grounds of excludability under section 212 (g), (h), or (i) of the Act, the judge shall order the proceedings terminated and refer the matter to the district director for further proceedings under section 203(g) of the Act. The order shall be without prejudice to renewing proceedings or instituting new proceedings under this section. There is no appeal from a decision by a district director denying an application for a waiver under section 212 (g), (h), or (i) of the Act, but the denial is without prejudice to the renewal of the application in proceedings before an immigration judge. If the immigration judge determines that the alien is inadmissible to the United States for permanent residence under any provision of the Act, except section 212(a)(20), and that the alien is not entitled to the benefits of section 212 (g), (h), or (i) of the Act, the judge shall order the termination of the alien's conditional entry and make such further order as may be proper. The decision of the immigration judge may be appealed under § 236.7 of this chapter.

(Secs. 103, 235 of Immigration and Nationality Act as amended; (8 U.S.C. 1103, 1225))

Dated: December 14, 1982.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 82–35537 Filed 12–30–82; 8:45 am]

BILLING CODE 4410–10–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Concerning Retail Repurchase Agreements; Final Amendment

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: This final rule amends the FDIC's regulations by eliminating the requirement that retail repurchase agreements ("repos") be issued for 89 days or less. The current regulatory environment favoring the removal of interest rate controls renders the restrictions obsolete.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Counsel, or Fredric H. Karr, Attorney, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429 (202–389–4171).

SUPPLEMENTARY INFORMATION: Part 329 of the FDIC's regulations (12 CFR Part 329) prescribes rates of interest that may be paid on deposits by FDIC-supervised commercial banks and mutual savings banks. Prior to August 1, 1979, § 329.10(b)(2) of the FDIC's regulations exempted from the coverage of Part 329 any obligation other than a deposit obligation of an insured nonmember bank that:

(2) Evidences an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or

any agency thereof, that the bank is obligated to repurchase.

In August 1979, the FDIC, the Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board issued final rules narrowing the exemption for "retail" repos by requiring that repos for less than $100,000 mature in less than 90 days and not be automatically renewed or extended (12 CFR 329.10(b)(2), 217.1(f)(2), 563.8–4, respectively) (*see* 44 FR 46284–66 (1979) for the FDIC). At the same time, a grandfather provision was added which allowed banks to continue to issue repos of less than $100,000 with maturities of 90 days or more as long as the aggregate amount did not exceed that of such obligations outstanding on August 1, 1979 (footnote 17a, 12 CFR 329.10(b)(2)). Since that time, certain relevant changes have occurred in the financial environment. While retail repos were one device used by financial institutions to circumvent interest rate ceilings, in March 1980, the Depository Institutions Deregulation Act of 1980 (Pub. L. 96–221) was enacted, mandating the elimination of interest rate ceilings by March 31, 1986. In this regard, a phased deregulation schedule (12 CFR Part 1204) has been adopted so that interest rate ceilings on all categories of interest-bearing deposits will be phased out by mid-1986. In addition, section 327 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320) amends section 204 of Public Law 96–221 by providing for, by mid-December 1982, a new deposit instrument "directly equivalent to and competitive with money market funds . . ." and free from any interest rate ceilings. Therefore, the underlying basis (interest rates) for the use of (and the restrictions on) repos will soon cease to exist.

On August 25, 1982, the FDIC issued for public comment a proposed rule that would eliminate the requirement that retail repos be issued for 89 days or less (47 FR 37248–49 (1982)). In response to this request for comments, a total of 30 comments were filed, 28 favoring the elimination of this requirement and two being against this elimination. The reasons given in favor of removing the 89-day limit include the need to give commercial banks more flexibility in competing with thrift institutions and money market funds, the questionable utility of the 89-day restriction, the need for more competition and freedom from restrictions in an era of deregulation, and administrative convenience by eliminating customer paperwork. Of the two commentators who commented unfavorably on the proposal to remove the 89-day requirement, one said that commercial banking was already too "wide-open" while the other admitted to a pre-existing anti-repo bias.

This final rule eliminates the 89-day requirement of § 329.10(b)(2) and removes footnote 17a—the grandfather provision—which will no longer be relevant. The principal result of this change will be a reduction in banks' administrative activities stemming from the more frequent maturities and reinvestments of repos occasioned by the existing requirements. The rule will not have a direct or noticeable effect on the competitive relationships among banks and between banks and nonbanks. Accordingly, the FDIC's Board of Directors hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Consequently, as provided in section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), initial and final regulatory flexibility analyses were not prepared. For the same reason a cost-benefit analysis, with a small bank impact statement, as otherwise required by the Corporation's statement of policy, "Development and Review of FDIC Rules and Regulations," was not prepared. Further, since this rule does not entail any additional reporting or recordkeeping requirements, the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) is not applicable. Finally, since this rule relieves a restriction, good cause exists for the Board to find that the normal 30-day delayed effective date is not necessary. Hence, this rule will be effective immediately upon publication in the **Federal Register.**

List of Subjects in 12 CFR Part 329

Banks, banking.

In consideration of the foregoing, 12 CFR Part 329 is amended as follows:

PART 329—INTEREST ON DEPOSITS

Part 329 of chapter II of title 12 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 329 reads as follows:

Authority: Secs. 9 and 18, Pub. L. 797, 64 Stat. 881, 891 (12 U.S.C. 1819, 1828); sec. 303, Pub. L. 96–221, 94 Stat. 146 (12 U.S.C. 1832).

2. In Part 329, footnote 17a is removed and § 329.10(b)(2) is revised to read as follows:

§ 329.10 Obligations other than deposits.

* * * * *

(b) * * *

(2) Evidences an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof, that the bank is obligated to repurchase;

* * * * *

By Order of the Board of Directors, December 23, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[FR Doc. 82–35569 Filed 12–30–82; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82–ANE–47; Amdt. 39–4520]

Airworthiness Directives; McCauley Accessory Division, Model 1A170/FFA Fixed Pitch Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing Airworthiness Directive (AD) 80–04–05 applicable to McCauley Model 1A170/FFA fixed pitch propellers installed on, but not limited to, Gulfstream Aerospace Model AA–5B airplanes. The AD adds a repetitive dye penetrant inspection to the one-time inspection required by AD80–04–05 and is necessary to detect cracks in the propeller hubs.

DATES: Effective December 30, 1982. Compliance schedule—As prescribed in body of AD. Comments on the rule must be received on or before February 28, 1983.

ADDRESSES: The applicable service information may be obtained from:

McCauley Accessory Division, Cessna Aircraft Company, 3535 McCauley Drive, P.O. Box 430, Vandalia, Ohio 45377;

Gulfstream Aerospace Corporation, Light Aircraft Customer Service, P.O. Box 2206, Travis Field, Savannah, Georgia 31402.

A copy of the applicable service documents and a historical file on this AD are contained in the Rules Docket at the FAA, Office of Regional Counsel, New England Region, Attn: Rules Docket No. 82–ANE–47, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Henry L. Weiss, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-7134.

SUPPLEMENTARY INFORMATION: After issuing AD80-04-05, Amendment 39-3689, which requires a one-time inspection of the propeller, there have been reports of cracking of the propeller hub after such inspection. Since this condition is likely to exist or develop in other propellers of the same type design, an AD is being issued which requires repetitive inspection of the propellers and, if found cracked, replacement with a serviceable propeller.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action, which involves requirements affecting immediate flight safety is in the form of a final rule and, thus, was not preceded by notice and public comment, comments are now invited on the rule. When the comment period ends, the FAA will use the comments submitted together with other available information, to review the regulation. Public comments are helpful in evaluating the effects of the rule and in determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule. Send comments to FAA, Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

List of Subjects in 14 CFR Part 39

Propellers, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by superseding Amendment 39-3689, AD 80-04-05, by adding the following new AD:

McCauley Accessory Division: Applies to all McCauley Accessory Division Model 1A170/FFA fixed pitch propellers installed on, but not limited to, Gulfstream Aerospace Model AA-5B aircraft certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent propeller failure, accomplish the following:

(a) For propellers with 190 or more hours time in service since new or since last dye penetrant type inspection, inspect in accordance with paragraph (c) within the next 10 hours time in service and every 200 hours time in service thereafter.

(b) For propellers with less than 190 hours time in service since new or since last dye penetrant type inspection, inspect in accordance with paragraph (c) prior to the accumulation of 200 hours time in service and every 200 hours time in service thereafter.

(c) Inspection procedure:

(1) Remove propeller from the aircraft and remove spacer from the propeller.

(2) Thoroughly remove and clean all paint material down to the anodize surface and inspect the center relief bore (hole), all mounting bolt holes, and all external surfaces in the entire propeller hub area (faces and sides) for cracks using dye penetrant inspection methods.

(3) If a crack is found, replace the propeller with a serviceable propeller before further flight.

(d) A special flight permit may be issued in accordance with Federal Aviation Regulations (FARs) 21.197 and 21.199 to operate the aircraft to a base where this AD can be accomplished.

(e) Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

This AD supersedes Amendment 39-3689 (45 FR 8947) AD 80-04-05.

This amendment becomes effective December 27, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); sec. 11.89 Federal Aviation Regulation (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise an evaluation is not required). A copy of it when filed may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on December 10, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-34022 Filed 12-30-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-CE-37-AD; Amendment 39-4529]

Airworthiness Directives; Piper Model PA-38-112 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule, superseding existing AD.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper Model PA-38-112 airplanes, which supersedes AD 81-04-07R1. It requires inspection and appropriate repair or replacement of certain fin and related fuselage structural components and establishes a service life for the forward fin spar attachment plate. Service reports and manufacturer's investigation establish that cracks will develop in the affected structure due to normal flight loads. The required inspection and parts retirement will preclude progression of these cracks to failure of the fin or its supporting structure.

DATES: Effective January 10, 1983. Compliance: As prescribed in the body of the AD.

ADDRESSES: Piper Service Bulletins No. 710 and No. 745, both dated October 10, 1982, applicable to this AD may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745. A copy of this information is also contained in the Rule Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: J. Maher, Airframe Section, ANE-172, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581, Tel. No. 516-791-6221.

SUPPLEMENTARY INFORMATION: The discovery of cracks in the forward fin spar and its attaching bulkhead on several Piper Model PA-38-112 airplanes led to the issuance of AD 81-04-07, Amendment 39-4044 (46 FR 12472), and its subsequent revision AD 81-04-07R1, Amendment 39-4272 (46 FR 59530). This AD required a repetitive inspection and repairs, if needed, in the forward fin spar and fuselage bulkhead.

Subsequently, Piper Aircraft Corporation initiated a structural fatigue investigation program to determine the cause of the cracking of the fin and fuselage attaching structure and find a permanent solution to this problem. This resulted in a redesign of this area which

was incorporated in 1981 model airplanes. It also resulted in issuance of S/B 745 which requires inspections, repairs and replacements on pre-1981 model airplanes and established retirement times on the forward fin spar attachment plate P/N 77553–05 on all model year airplanes. Piper has also issued S/B No. 710 which provides for increasing the retirement time on the forward fin spar attachment plate from 3000 hours to 5000 hours. Piper also published Airplane Flight Manuals on the most recently delivered airplanes to incorporate the retirement time for the attachment plate. This action makes existing AD 81–04–07R1 inadequate and/or inappropriate on certain airplanes to which it is applicable. Since the conditions described herein are likely to exist or develop on other airplanes of the same type design, the FAA is superseding existing AD 81–04–07R1 with a new AD, applicable to Piper Model PA–38–112 airplanes, which contains the basic requirements of the superseded AD and incorporates additional provisions. These additional provisions allow for (1) discontinuing the repetitive inspection of the forward fin spar P/N 77601–03 by incorporating Piper Kit No. 764427; (2) an increase in the inspection interval for fuselage bulkhead P/N 77553–02, plus discontinuing the repetitive inspection when fuselage bulkhead assembly P/N 77553–06 is installed; (3) adding an inspection or modification of the fin aft spar P/N 77601–02 and aft fuselage bulkhead assembly P/N 77554–02; and (4) the establishment of replacement times for the forward fin spar attachment plate P/N 77553–05. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

Piper: Applies to Model PA–38–112 (S/Ns 38–78A0001 thru 38–82A0122) airplanes certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent possible inflight failure of the fin and associated fuselage structure because of fatigue damage:

(a) On Model PA–38–112 (S/Ns 38–78A0001 through 38–80A0198) airplanes, accomplish the following as indicated:

(1) On airplanes which do not incorporate a Piper Kit (P/N 764427) on an undamaged forward fin spar, within 25 hours time-in-service on airplanes that have 300 or more hours time-in-service on the effective date of this AD or upon the accumulation of 325 hours time-in-service on airplanes that have less than 300 hours time-in-service on the effective date of this AD and at intervals not exceeding 100 hours time-in-service thereafter.

(i) Inspect the forward surface of the forward fin spar web (P/N 77601–03) in the area of the forward fin spar attachment fitting (P/N 77553–05) for cracks using a dye penetrant method. Remove two forward fin attachment bolts and displace fin spar ⅛" laterally in each direction to increase visibility of spar area adjacent to edge of attachment fitting. Remove any scuff marks on spar by burnishing prior to applying dye penetrant.

(ii) Prior to further flight, replace or repair forward fin spars having cracks exceeding one-half inch in length with forward fin spar (P/N 77601–13) and Piper Forward Fin Spar Modification Kit 764427 or an equivalent part. Replace or repair parts which have cracks less than one-half inch within 25 hours time-in-service.

(2) On airplanes which do not incorporate fuselage bulkhead assembly (P/N 77553–06), within 25 hours time-in-service on airplanes that have 300 or more hours time-in-service on the effective date of this AD or upon the accumulation of 325 hours time-in-service on airplanes that have less than 300 hours time-in-service on the effective date of this AD and intervals not exceeding 300 hours time-in-service thereafter:

(i) Inspect the fuselage bulkhead assembly (P/N 77553–02) at fuselage station 221.42, in the area of the forward fin spar attachment plate (P/N 77553–05), for cracks using a dye penetrant method or equivalent. Access to the aft side of the bulkhead may be obtained by removing rudder and adjacent access door and to front side by removing the luggage compartment rear partition. When using luggage compartment, provide a stand to support the aft fuselage and, in order to assure that no associated damage will occur during the inspection, provide a support board for the mechanic.

(ii) Prior to further flight, repair or replace bulkheads having cracks exceeding three-quarter inch in length with bulkhead assembly (P/N 77553–06), or equivalent part. Replace or repair parts which have cracks less than three-quarter inch in length within 25 hours time-in-service.

(3) On airplanes that do not incorporate a Piper (P/N 77601–16) aft vertical fin spar assembly, (P/N 85606–02) upper rudder hinge shim, and (P/N 85615–02) fuselage bulkhead assembly, prior to the accumulation of 2,500 hours time-in-service or within 25 hours time-in-service on airplanes that have 2,475 or more hours time-in-service, whichever is later on the effective date of this AD and at intervals not to exceed 200 hours time-in-service thereafter:

(i) Inspect the aft vertical fin spar (P/N 77601–02) for cracks in accordance with Piper Service Bulletin No. 745, Part IV, Instruction Section, using a dye penetrant method or equivalent.

(ii) Prior to further flight, if cracks are found, repair or replace aft fin spar (P/N 77601–02) and Aft Fuselage Bulkhead Assembly (P/N 77554–02), with Aft Vertical Fin Spar Assembly (P/N 77601–16), Upper Rudder Hinge Shim (P/N 85606–02), and Fuselage Bulkhead Assembly (P/N 85615–02).

(4) Within the next 25 hours time-in-service after the effective date of this AD or upon the accumulation of 3,000 hours time-in-service, whichever is later, and thereafter at intervals not exceeding 3,000 hours time-in-service, replace the forward fin spar attachment plate (P/N 77553–05) with a new part.

(b) On Model PA–38–112 (S/N 38–81A0001 through 38–82A0101) airplanes:

(1) On airplanes which do not have Piper Kit No. 764421 installed, within the next 25 hours time-in-service from the effective date of this AD or upon the attainment of 3,000 hours time-in-service, whichever is later, and at intervals not to exceed 3,000 hours time-in-service, replace the forward fin spar attachment plate (P/N 77553–05) with a new part.

(2) On aircraft with Piper Kit No. 764421 installed, within the next 25 hours time-in-service for the effective date of this AD or upon the attainment of 5,000 hours time-in-service, whichever is later, and at intervals not to exceed 5,000 hours time-in-service, replace the forward fin spar attachment plate (P/N 77553–05) with a new part.

(c) On Model PA–38–112 (Serial Nos. 38–82A0102 thru 38–82A0122) airplanes, within the next 25 hours time-in-service from the effective date of this AD, or upon the attainment of 5,000 hours time-in-service, whichever is later, and at intervals not to exceed 5,000 hours time-in-service, replace the forward fin spar attachment plate (P/N 77553–05) with a new part.

Note.—Retirement time for the forward fin spar attachment plate (P/N 77553–05) on S/N 38–82A0123 and higher airplanes is contained in the Airplane Flight Manuals delivered with these airplanes.

(d) Airplanes may be flown to a location where the inspection, modification or repairs required by this AD may be accomplished in accordance with FAR 21.197 with prior approval of the Manager, New York Aircraft Certification Office, FAA, New England Region (see address below).

(e) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Manager, New York Aircraft Certification Office, FAA, New England Region may adjust the compliance times specified in this AD.

Piper Service Bulletins Nos. 710 and 745, both dated October 10, 1982, refer to this subject.

(f) Repairs, equivalent parts or equivalent methods of compliance with this AD if used must be approved by the Manager, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue.

Valley Stream, New York 11581; Telephone 516–791–6221.

This amendment supersedes AD 81–04–07R1, Amendment 39–4272 (46 FR 59530). This amendment becomes effective on January 10, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423) Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on December 23, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82–35494 Filed 12–30–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–ANE–44; Amdt. 39–4515]

Airworthiness Directives; Roto-Master, Inc. (Rajay Industries, Inc.) Turbocharger Model 325E10 or 3AT6EE10J2

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection and replacement, if necessary, of the turbocharger turbine housing on the Rajay Industries, Inc. Turbocharger Model 325E10 and 3AT6EE10J2. The AD is prompted by reports of hairline cracks developing in the inlet area of the turbocharger turbine housing which could result in the possibility of a powerplant system fire and/or engine mount heat damage.

DATES: Effective December 30, 1982. Compliance schedule—As prescribed in body of AD. Comments on the rule must be received on or before February 23, 1983.

ADDRESS: Information supporting this AD is in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Guy Dalla Riva, Propulsion Engineer, Federal Aviation Administration, Western Aircraft Certification Field Office, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009; telephone (213) 536–6381.

SUPPLEMENTARY INFORMATION: There have been reports of hairline cracks or burn through holes in the inlet area of the turbocharger turbine housing used on Rajay turbochargers. In some cases, the crack in the above referenced area (tongue area) may have propagated through the outer-wall of the turbine housing thus allowing the engine exhaust gases to jet-flow through the opening, potentially causing annealing and corrosion of a specific area of the engine mount.

There can be heat damage to other parts of the powerplant installation including ducting, fuel and oil lines, and the V-band clamping bolt with an attendant fire hazard. Therefore, visual inspection is required to detect the possible formation and/or propagation of hairline cracks and/or burn through holes in the turbine housing. Since this condition could result in an in-flight fire and is likely to exist or develop on other aircraft engine installations using the same Rayjay Turbochargers, an Airworthiness Directive is being issued which requires inspection and possible replacement of the turbocharger turbine housing. Replacement of the subject turbine housing with a new improved material turbine housing is terminating action for the inspections required by this AD.

Since a situation exists that requires the immediate adoption of this regulation it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulation (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Note.—Service letter number 27 which contains figures referred to below is filed with the original.

Roto-Master, Inc. (Rajay Industries, Inc.): Applies to Rajay Model 325E10 and 3AT6EE10J2 turbochargers, installed on but not limited to: Continental Engine Models TSIO–360, O–470, IO–470, IO–520, TIO–520; Lycoming Engine Models O–320, IO–320, LIO–320, O–360, IO–360, TO–360, O–540, IO–540, TIO–540. These engines are installed on, but not limited to the following aircraft: Piper PA–28R–201T, PA–28–RT–201T, PA–28–201T series; PA–34–200, PA–34–200T, series; PA–30 and—39 series; Mooney M–20 A thru K series; Lake LA–4, LA–4A, and LA–200 Series.

Compliance is required as indicated, unless already accomplished.

To prevent the possibility of a fire in the powerplant nacelle and/or heat damage to the powerplant installation caused by the engine exhaust gases escaping through a cracked turbocharger turbine housing, accomplish the following:

(a) Within 50 hours of time in service after the effective date of this AD inspect the engine turbocharger exhaust systems and determine whether or not the turbine housing Rajay P/N TC–60–11 or Rajay P/N 600510, 600510–01, 600510–02 or TCM P/N 643930 of turbocharger model 325E10 or 3AT6EE10J2 is installed. If any of these part numbers are installed, or if the turbine housing part number can not be determined, before further flight, and thereafter at intervals not to exceed 300 hours time in service from the last inspection, comply with paragraph (b) through (g) of this AD.

(b) Remove the turbocharger turbine housing exhaust coupling V-Band and tailpipes (see Figure 1).

(c) Visually inspect the turbocharger turbine housing for cracks using a dye penetrant inspection method.

Note.—The suspect area can be viewed through the exhaust port to ascertain possible

presence of cracks penetrating through the outer wall as shown in Fig. 2.

(d) Inspect coupling V-Band clamp for cracks by spreading the band segments and checking for failed spot welds and for indication of exhaust flanges bottoming in coupling V-Band (see Figure 1) and clamp bolt for bending, overstress, thread damage and cracks (see Figure 1).

(e) Inspect turbochargers and tailpipe flanges for cracks and distortion (see Figure 1). Remove all carbon deposits from mating flanges before reassembly.

(f) Inspect mating area of turbocharger exhaust flange to exhaust tailpipe connection for proper mating of surfaces.

(g) Inspect engine mount for indication of overheat, warpage, and corrosion, or rust. Repair as required.

(h) If during inspection required by paragraph (c), an internal crack is found that either exceeds the limit shown in Figure 2, View 1 or 2, or a crack penetrates the outer wall of a turbine housing as shown in Figure 2, View 3, the existing turbine housing must be removed from service and replaced with a serviceable turbine housing prior to the next flight.

(i) If during the inspections required by paragraphs (d) through (g), cracked, distored, or otherwise damaged parts, components, or assemblies are found, before further flight repair or replace with serviceable parts, components, and assemblies of the same part number.

(j) The inspections required by this AD may be discontinued when the turbine housing is replaced with a Roto-Master part number 600510-04 (TCM P/N 643931).

(k) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate aircraft to a base for the accomplishment of inspections required by this AD.

(l) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Manager, Western Aircraft Certification Field Office, FAA Northwest Mountain Region, Hawthorne, California.

Note.—Roto-Master, Inc. Service Letter Number 27, Rev. A dated September 24, 1982 refers to the above procedures.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and sec. 1189 Federal Aviation Regulation (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on December 8, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82-34230 Filed 12-30-82; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1030

Revisions to Financial Interest Reporting Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is revising its regulations pertaining to the submission of Confidential Statements of Employment and Financial Interests by updating the list of positions whose incumbents are required to submit statements, and clarifying the requirement for annual reporting. This is being done to reflect recent changes in the Commission's organizational structure, and to include certain data processing and contract personnel.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone (301) 492-6980.

SUPPLEMENTARY INFORMATION: Subpart F of Part 1030 of Title 16 of the Code of Federal Regulations contains the Commission's regulations regarding the submission of Confidential Statement of Employment and Financial Interests (CPSC Form 219). The statements are used to ascertain possible employee conflicts of interest. Submission of these forms by employees in positions such that their individual decisions could have an economic impact on private enterprises is mandated by Executive Order 11222 and regulations promulgated by the Office of Personnel Management. The actual list of such positions has been located in an Appendix at the end of Part 1030, printed several pages from Subpart F in the Code of Federal Regulations.

The list of positions required to submit Confidential Statements of Employment and Financial Interests has been revised to reflect recent changes in the Commission's organizational structure, and has been made a section of Subpart F itself so that it will be physically contiguous to the applicable regulations. Only minor substantive changes have been made in the grades required to report, but the list has been simplified by omitting position classification schedule numbers, and by defining the reporting positions in certain organizations as Merit Pay positions. Merit Pay employees are those in grades 13–15 with managerial or supervisory authority.

The list has also been revised in two other respects. All contract specialists at grade 7 and above in the Directorate for Administration are now required to report because their role in supervising contracts and selecting contractors makes them susceptible to conflicts of interest. Also, certain data processing positions at grade 7 and above which are sufficiently sensitive, under Office of Personnel Management regulations, to require background checks have been added to the list because they have the opportunity to manipulate critical data which underlies the Commission's decision making processes.

Section 1031.602 has been revised to give the Ethics Counselor the primary responsibility for determining which positions should be subject to the reporting requirement. Previously, the Executive Director had this responsibility.

Section 1030.604 has been revised to indicate that senior employees subject to the financial reporting requirements of the Ethics in Government Act are not also subject to the reporting requirements of Subpart F.

Sections 1030.605 and 1060.606 have been simplified and combined to specifically indicate when submissions are due, and to inform employees that they may be subject to disciplinary action for failing to report as required.

Since this rule relates solely to internal agency management, pursuant to 5 U.S.C. 553 the Commission finds that notice and other public procedures with respect to this rule are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612, and thus is exempt from the provisions of that act.

List of Subjects in 16 CFR Part 1030

Government employees and conflict of interest

PART 1030—[AMENDED]

Accordingly, Part 1030 of Title 16 of the Code of Federal Regulations is amended as shown.

1. The authority citation for Part 1030 is as follows:

Authority: E.O. 11222, 30 FR 6469, 3 CFR 1964–1965 Comp., p. 306; 5 CFR Part 735; Pub. L. 95–521. 92 Stat. 1824, as amended by Pub. L. 96–19, 93 Stat. 37 (5 U.S.C. App.).

§ 1030.601 [Amended]

2. Section 1030.601 is amended by removing the words "Appendix E" and inserting, in their place, "§ 1030.611".

3. Section 1030.602 is revised to read as follows:

§ 1030.602 Inclusion or removal of positions.

The Ethics Counselor shall, in accordance with the criteria in § 1030.601 and after consultation with the Executive Director, identify positions to be added to or removed from the listing in § 1030.611.

4. Section 1030.604 is revised to read as follows:

§ 1030.604 Employees not required to submit statements.

(a) Employees in positions that meet the criteria of § 1030.601, as listed in § 1030.611, may be excluded from the reporting requirement when the Ethics Counselor determines that:

(1) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests by the incumbent is not necessary because of the degree of supervision and review over the incumbent; or

(2) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict of interest situation is remote.

(b) Exclusions under this provision must be documented in writing and retained by the Ethics Counselor.

(c) Employees subject to the more detailed financial reporting requirements of Title II of the Ethics in Government Act of 1978 (Pub. L. 95–521, 5 U.S.C. Appendix), are excluded from the reporting requirements of this subpart.

5. Section 1030.605 is revised to read as follows:

§ 1030.605 Submission of statements.

(a) An employee required to submit a statement of employment and financial interests under this Subpart shall submit that statement to the Ethics Counselor not later than:

(1) Thirty days after appointment or assignment to a position covered by section 1030.611; and

(2) By June 30 of each succeeding year.

(b) Employees failing to submit a statement in accordance with this section may be subject to disciplinary action.

(c) Notwithstanding the filing of the statements required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions of 18 U.S.C. 208 or this part.

§ 1030.606 [Removed]

6. Section 1030.606 is removed.

7. A new § 1030.611 is added, to read as follows:

§ 1030.611 Positions requiring submission of statement of employment and financial interests.

(a) *Commissioners' staffs.* All positions grade 13 and above.

(b) *Office of the General Counsel.* All positions grade 11 and above.

(c) *Office of Congressional Relations.* All positions grade 15 and above.

(d) *Office of Public Affairs.* All positions grade 14 and above.

(e) *Office of the Secretary.* All positions grade 13 and above.

(f) *Office of Internal Audit.* All positions grade 14 and above.

(g) *Office of Equal Employment Opportunity and Minority Enterprise.* All positions grade 15 and above.

(h) *Office of the Executive Director.* All Merit Pay positions.

(i) *Office of Program Management.* All Merit Pay positions.

(j) *Office of Budget, Program Planning and Evaluation.* All positions grade 15 and above.

(k) *Office of Outreach Coordination.* All positions grade 13 and above.

(l) *Directorate for Epidemiology.* All Merit Pay positions and all Physiologists grade 11 and above, all Engineering Psychologists grade 11 and above, all Statisticians grade 11 and above, and all Program Analysts grade 12 and above.

(m) *Directorate for Economics.* All positions grade 12 and above.

(n) *Directorate for Engineering Sciences.* All Merit Pay positions.

(o) *Directorate for Health Sciences.* All positions grade 11 and above.

(p) *Directorate for Compliance and Administrative Litigation.* All positions grade 11 and above.

(q) *Directorate for Administration.* All Merit Pay positions and all Contract Specialists grade 7 and above.

(r) *Regional Offices.* All investigative positions grade 5 and above; all other positions grade 13 and above.

(s) *Computer-related positions.* All CPSC computer-related positions grade 9 and above classifiable as ADP–I or ADP–II under Chapter 732 of the Federal Personnel Manual, regardless of organizational unit.

Appendix E—[Removed]

8. Appendix E is removed.

Dated: December 23, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82–35324 Filed 12–30–82; 8:45 am]
BILLING CODE 6355–01–M

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16 CFR Parts 1500 and 1507

Additions of Cross-Reference Notations to Certain Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Addition of cross-reference notations.

SUMMARY: The Commission is adding to certain regulations under the Federal Hazardous Substances Act cross references to separate provisions that relate to the regulations. The purpose of the cross references is to help users of the Code of Federal Regulations be aware of all relevant provisions on a particular subject.

DATE: The notations are effective on January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Christine Nelson or Paul Galvydis (on fireworks provisions), Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6400.

SUPPLEMENTARY INFORMATION: A number of regulations issued under the Federal Hazardous Substances Act ban, or require labeling for, certain household products. These regulations are codified in the Code of Federal Regulations (CFR) at Chapter II, Subchapter C, Part 1500 of Title 16.

Other provisions in the CFR exempt some of these household products from the banning and labeling regulations cited above, and still other provisions clarify or relate to the regulations. Because the related provisions appear separately in the CFR, a person interested in an affected product might refer to an applicable regulation without realizing that an exemption or clarification also exists. Therefore, the Commission is adding to the regulations bracketed notations that reference a user of the CFR to related provisions.

The new notations are merely nonsubstantive cross references, and not rules or amendments. Therefore,

neither the general notice of proposed rulemaking nor the delayed effective date requirements of the Administrative Procedure Act apply. 5 U.S.C. 553.

List of Subjects

Consumer protection, Labeling.

Pursuant to section 10(a) of the Federal Hazardous Substances Act, 15 U.S.C. 1269(a), the following cross-reference notations are added to the following sections of Title 16, Chapter II, Subchapter C of the Code of Federal Regulations (in each case the notation shall be inserted at the end of the listed Part, section, or paragraph):

Regulation	Notation
1500.14(b)(7)	[See also 1500.17(a) (3), (8) and (9); 1500.83(a)(27); 1500.85(a)(2); and Part 1507].
1500.17(a)(3)	[See also 1500.14(b)(7); 1500.17(a) (8) and (9); 1500.83(a)(27); 1500.85(a)(2); and Part 1507].
1500.17(a)(8)	[See also 1500.17(a) (3) and (9)].
1500.17(a)(9)	[See also 1500.17(a) (3) and (8)].
1500.18(a)(1)	[But see 1500.86(a)(1)].
1500.18(a)(3)	[But see 1500.86(a)(5)] [See also 1500.48 and 1500.49].
1500.18(a)(4)	[But see 1500.86(a)(3)].
1500.18(a)(6)	[But see 1500.86(a)(4)].
1500.18(a)(7)	[But see 1500.86(a)(5)].
1500.83(a)(27)	[See also 1500.14(b)(7); 1500.17(a) (3), (8) and (9); 1500.85(a)(2); and Part 1507].
1500.85(a)(2)	[See also 1500.14(b)(7); 1500.17(a) (3), (8) and (9); and Part 1507].
Part 1507	[See also 1500.14(b)(7); 1500.17(a) (3), (8) and (9); 1500.83(a)(27) and 1500.85(a)(2)].

Effective date: The notations shall be effective on January 3, 1983.

15 U.S.C. 1269(a)

Dated: December 23, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-35322 Filed 12-30-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 2

National Security Information

AGENCY: Treasury.

ACTION: Final rule.

SUMMARY: This regulation supersedes the Department's regulation at 31 CFR Part 2 which was published at 43 FR 60448, December 28, 1978. This regulation implements Executive Order No. 12356, 47 FR 14874, April 6, 1982, (hereinafter referred to as the Order), and the Information Security Oversight Office Directive, 47 FR 27836, June 25, 1982, (hereinafter referred to as the Directive), which prescribe a uniform system for the classification, downgrading, declassification and safeguarding of national security information. The Order will facilitate the public's access to information about the affairs of government when disclosure would not damage national security. The Order also expressly prohibits the use of the classification system to conceal violations of law, prevent embarrassment, or delay the release of information that does not require protection.

EFFECTIVE DATE: August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Dennis E. Southern, Office of Physical Security, Office of Administrative Programs, Department of the Treasury, Washington, D.C. 20220 (202) 376-0823.

SUPPLEMENTARY INFORMATION: The sections in this regulation follow the format of the Directive. This regulation has been submitted to the Information Security Oversight Office in accordance with § 5.2(b)(3) of the Order.

The Department of the Treasury has determined that this regulation is not a major regulation for purposes of Executive Order 12291, February 17, 1981. Accordingly, a regulatory impact analysis is not required. Additionally, as this regulation is a rule of "agency organization, procedure or practice," notice and public procedure respecting this regulation is not deemed necessary or appropriate under 5 U.S.C. 553(b)(A). Because this regulation is being issued without notice of proposed rulemaking, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601-612, do not apply.

List of Subjects in 31 CFR Part 2

Archives and records, Authority delegations, Classified information, Executive orders, Freedom of information, Information, Intelligence, National defense, National security information, Presidential documents, Security information, Security measures.

Title 31 of the Code of Federal Regulations, Part 2, is revised to read as follows:

PART 2—NATIONAL SECURITY INFORMATION

Subpart A—Original Classification

Sec.

2.1 Classification levels.
2.2 Classification authority.
2.3 Listing classification authorities.
2.4 Record requirements.
2.5 Classification categories.
2.6 Duration of classification.
2.7 Identification and markings.
2.8 Limitations on classification.

Subpart B—Derivative Classification

Sec.

2.9 Use of derivative classification.
2.10 Classification guides.
2.11 Derivative identification and markings.

Subpart C—Downgrading and Declassification

2.12 Listing downgrading and declassification authorities.
2.13 Declassification policy.
2.14 Downgrading and declassification markings.
2.15 Systematic review for declassification.
2.16 Procedures for mandatory declassification review.
2.17 Assistance to the Department of State.
2.18 FOIA and Privacy Act requests.

Subpart D—Safeguarding

2.19 General.
2.20 General restrictions on access.
2.21 Access by historical researchers and former presidential appointees.
2.22 Dissemination.
2.23 Standards for security equipment.
2.24 Accountability procedures.
2.25 Storage.
2.26 Transmittal.
2.27 Telecommunications transmissions.
2.28 Special access programs.
2.29 Reproduction Controls.
2.30 Loss or possible compromise.
2.31 Responsibilities of holders.
2.32 Inspections.
2.33 Security violations.
2.34 Disposition and destruction.

Subpart E—Implementation and Review

2.35 Department administration.
2.36 Bureau administration.
2.37 Emergency planning.
2.38 Emergency authority.
2.39 Security education.

Subpart F—General Provisions

2.40 Definitions.

Authority: Executive Order 12356.

Subpart A—Original Classification

§ 2.1 Classification levels.

(a) National security information (hereinafter also referred to as "classified information") shall be classified at one of the following three levels:

(1) "Top Secret" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.

(2) "Secret" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security.

(3) "Confidential" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security.

(b) *Limitations [1.1(b)]*[1]. Markings other than "Top Secret," and "Confidential," such as "For Official Use Only" or "Limited Official Use," shall not be used to identify national security information. No other term or phrase shall be used in conjunction with these markings, such as "Secret Sensitive" or "Agency Confidential," to identify national security information. The terms "Top Secret," "Secret," and "Confidenatial" should not be used to identify non-classified Executive Branch information.

(c) *Reasonable Doubt [1.1(c)]*. When there is reasonable doubt the need to classify information, the information shall be safeguarded as if it were "Confidential" information in accordance with Subpart D, of this regulation, pending a determination about its classification. Upon a determination of a need for classification, the information that is classified shall be marked as provided in § 2.7. When there is reasonable doubt about the appropriate classification level, the information shall be safeguarded at the higher level in accordance with Subpart D, pending a determination of its classification level. Upon a determination of its classification level, the information shall be marked as provided in § 2.7.

§ 2.2 Classification authority.

(a) The authority to originally classify national security information as Top Secret, Secret or Confidential within the Department of the Treasury may be exercised by the Deputy Secretary, the Under Secretary (Monetary Affairs), the Under Secretary (Tax and Economic Affairs), the General Counsel, the Assistant Secretary (International Affairs), the Treasurer of the United States, the Fiscal Assistant Secretary, the Assistant Secretary (Administration), the Assistant Secretary (Legislative Affairs), the Assistant Secretary (Enforcement and Operations), the two Executive Assistants to the Secretary, the Executive Assistant to the Deputy Secretary, the Executive Secretary, the Special Assistant to the Secretary (National Security) and the Deputy (Security Affairs and Crisis Management) to the Assistant Secretary (Enforcement and Operations). The authority inheres in the office and may be exercised by a person acting in that office. These officials, with the exception of the Assistant Secretary (Administration), are not authorized to delegate authority to classify information as Top Secret, but may delegate authority to classify information as Secret and Confidential.

(b) The authority to originally classify national security information as Secret or Confidential within the Department of the Treasury may be exercised by the the Assistant Secretary (Tax Policy); Commissioner, Internal Revenue Service; the Director, Bureau of Alcohol, Tobacco and Firearms; the Commissioner, U.S. Customs Service; the Director, Bureau of Engraving and Printing; and the Director, U.S. Secret Service. This authority is not redelegable.

(c) The authority to originally classify national security information as Confidential within the Department of the Treasury may be exercised by the Assistant Secretary (Domestic Finance); the Assistant Secretary (Economic Policy); the Assistant Secretary (Public Affairs); the Inspector General; the Comptroller of the Currency; the Commissioner, Bureau of Government Financial Operations; the Commissioner, Bureau of the Public Debt; and the Director, Bureau of the Mint. Officials authorized to classify information as Confidential cannot redelegate such authority.

§ 2.3 Listing classification authorities.

Delegations of original Top Secret, Secret and Confidential classification authority shall be in writing and shall be reported in writing to the Assistant Secretary (Administration). These delegations shall be limited to the minimum number absolutely required for efficient administration. Periodic reviews of such delegations shall be made to ensure that the officials so designated have demonstrated a continuing need to exercise such authority.

§ 2.4 Record requirements.

The Assistant Secretary (Administration) shall maintain a listing by name, position title and authorized classification level of the officials in the Office of the Secretary who are authorized under this regulation to originally classify information as Top Secret, Secret or Confidential. Officials within the Office of the Secretary with Top Secret classification authority shall report in writing on TD F 71–01.14 (Report of Authorized Classifiers) to the Assistant Secretary (Administration) the names, position titles and authorized classification levels of the officials designated by them in writing to have original Top Secret, Secret and Confidential classification authority. The head of each bureau shall maintain a similar listing of the officials in his/her bureau authorized to apply original Secret and Confidential classification and shall furnish a copy of TD F 71–01.14 to the Assistant Secretary (Administration). This listing shall be compiled as of October 1, 1983, and updated no less than annually.

§ 2.5 Classification categories.

(a) *Classification in Context of Related Information [1.3(b)]*. Certain information which would otherwise be unclassified may require classification when combined or associated with other unclassified or classified information. Classification on this basis shall be supported by a written explanation that, at a minimum, shall be maintained with the file or referenced on the record copy of the information.

(b) *Unofficial Publication or Disclosure [1.3.(d)]*. Following an inadvertent or unauthorized publication or disclosure of information identical or similar to information that has been classified in accordance with the Order or predecessor orders, the agency of primary interest shall determine the degree of damage to the national security, the need for continued classification, and, in coordination with the agency in which the disclosure occurred, what action must be taken to prevent similar occurrences.

§ 2.6 Duration of classification.

(a) *Information Not Marked for Declassification [1.4]*. Information classified under predecessor orders that is not subject to automatic declassification shall remain classified until reviewed for declassification.

(b) *Authority to Extend Automatic Declassification Determinations [1.4(b)]*. The authority to extend the classification of information subject to automatic declassification under predecessor orders is limited to those officials who have classification authority over the information and are designated in writing to have original classification authority at the level of the information to remain classified. Any decision to extend this classification on other than a document-by-document basis shall be reported to the Assistant Secretary (Administration) who shall, in turn, report this fact to the Director of the Information Security Oversight Office.

§ 2.7 Identification and markings [1.5 (a), (b) and (c)].

A uniform information security system requires that standard markings be applied to classified information. Except in extraordinary circumstances as provided in § 1.5(a) of the Order, or as

[1] Bracketed references are to related sections of Executive Order 12356.

indicated herein, the marking of paper documents created after the effective date of the Order shall not deviate from the following prescribed formats. These markings shall also be affixed to material other than paper documents, including film, tape, etc., or the originator shall provide holders or recipients of the information with written instructions for protecting the information.

(a) *Classification Level.* The markiings "Top Secret," "Secret," and "Confidential" are used to indicate: information that requires protection as classified information under the Order; the highest level of classification contained in a document; and the classification level of each page and, in abbreviated form, each portion of a document.

(1) *Overall Marketing.* The highest level of classification of information in a document shall be marked in such a way as to distinguish it clearly from the informational text. These markings shall appear at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first and last pages, and on the outside of the back cover (if any).

(2) *Page Marking.* Each interior page of a classified document shall be marked at the top and bottom either according to the highest classification of the content of the page, including the designation "UNCLASSIFIED" when it is applicable, or with the highest overall classification of the document.

(3) *Portion Marking.* The Secretary of the Treasury may waive the portion marking requirement for specified classes of documents or information only upon a written determination that:

(i) There will be minimal circulation of the specified documents or information and minimal potential usage of these documents or information as a source for derivative classification determinations; or

(ii) There is some other basis to conclude that the potential benefits of portion marking are clearly outweighed by the increased administrative burdens.

(b) Unless the portion marking requirement has been waived as authorized, each portion of a document, including subjects and titles, shall be marked by placing a parenthetical designation immediately preceding the text to which it applies. The symbols "(TS)" for Top Secret, "(S)" for Secret, "(C)" for Confidential, and "(U)" for Unclassified shall be used for this purpose. If the application of parenthetical designations is not practicable, the document shall contain a statement sufficient to identify the information that is classified and the level of such classification, as well as the information that is not classified. If all portions of a document are classified at the same level, this fact may be indicated by a statement to that effect. If a subject or title requires classification, an unclassified identifier may be applied to facilitate reference.

(c) *Classification Authority.* If the original classifier is other than the signer or approver of the document, the identity shall be shown as follows: "CLASSIFIED BY (identification of original classification authority)".

(d) *Bureau and Office of Origin.* If the identity of the originating bureau and office is not apparent on the face of a document, it shall be placed below the "CLASSIFIED BY" line.

(e) *Downgrading and Declassification Instructions.* Downgrading and, as applicable, declassification instructions shall be shown as follows:

(1) For information to be declassified automatically on a specific date:

Classified by———
Office———
Declassify on (date) ———

(2) For information to be declassified automatically upon occurrence of a specific event:

Classified by———
Office———
Declassify on (description of event) ———

(3) For information not to be declassified automatically:

Classified by———
Office———
Declassify on Originating Agency's Determination Required or "OADR"———

(4) For information to be downgraded automatically on a specific date or upon occurrence of a specific event:

Classified by———
Office———
Downgrade to ———
on (date or description of event) ———

(f) *Special Markings.*—(1) *Transmittal Documents [1.5(c)].* A transmittal document shall indicate on its face and on the last page, if any, the highest classification of any information transmitted by it. It shall also include the following or similar instruction:

(i) For an unclassified transmittal document:
Unclassified When Classified Enclosure(s) Removed

(ii) For a classified transmittal document:
Upon Removal of Attachment(s) This Document is (classification level of the transmittal document standing alone)——

(2) *Restricted Data or Formerly Restricted Data [6.2(a)].* Restricted Data or Formerly Restricted Data information shall be marked in accordance with regulations issued under the Atomic Energy Act of 1954, as amended.

(3) *Intelligence Sources or Methods [1.5(c)].* Documents that contain information relating to intelligence sources or methods shall include the following marking unless otherwise proscribed by the Director of Central Intelligence:

"WARNING NOTICE—INTELLIGENCE SOURCES OR METHODS INVOLVED"

(4) *Foreign Government Information (FGI) [1.5(c)].* Documents that contain FGI shall include either the marking "FOREIGN GOVERNMENT INFORMATION," or a marking that otherwise indicates that the information is foreign government information. If the information is foreign government information that must be concealed, the marking shall not be used and the document shall be marked as if it were wholly of U.S. origin. However, such a marking must be supported by a written explanation that, at a minimum, shall be maintained with the file or referenced on the original record copy of the document or information.

(5) *National Security Information [4.1(c)].* Classified information furnished outside the Executive Branch shall show the following marking:

NATIONAL SECURITY INFORMATION
Unauthorized Disclosure Subject to Administrative and Criminal Sanctions

(6) *Computer Output [1.5(c)].* Documents that are generated as computer output may be marked automatically by systems software. If automatic marking is not practicable, such documents must be marked manually.

(g) *Electrically Transmitted Information (messages) [1.5(c)].* Classified information that is transmitted electrically shall be marked as follows:

(1) The highest level of classification shall appear before the first line of text;

(2) A "CLASSIFIED BY" line is not required;

(3) The duration of classification shall appear as follows:

(i) For information to be declassified automatically on a specific date: "DECL: (date)"

(ii) For information to be declassified upon occurrence of a specific event: "DECL: (description of event)"

(iii) For information not to be automatically declassified which

requires the originating agency's determination (see also § 2.7(e)(3)): "DECL: OADR"

(iv) For information to be automatically downgraded: "DNG (abbreviation of classification level to which the information is to be downgraded and date or description of event on which downgrading is to occur)"

(4) Portion marking shall be as prescribed in § 2.7(a)(3);

(5) Special markings as prescribed in § 2.7(f) (2), (3) and (4) shall appear after the marking for the highest level of classification. These include:

(i) Restricted Data or Formerly Restricted Data: Electrically transmitted information containing Restricted Data or Formerly Restricted Data shall be marked in accordance with regulations issued under the Atomic Energy Act of 1954, as amended;

(ii) Information concerning intelligence sources or methods: "WNINTEL," unless proscribed by the Director of Central Intelligence;

(iii) *Foreign Government Information:* "FGI," or a marking that otherwise indicates that the information is foreign government information. If the information is foreign government information that must be concealed, the marking shall not be used and the document shall be marked as if it were wholly of U.S. origin. However, such a marking must be supported by a written explanation that, at a minimum, shall be maintained with the file or referenced on the original or record copy of the document or information.

(6) Paper copies of electrically transmitted messages shall be marked as provided in § 2.7(a) (1) and(2).

(h) *Changes in Classification Markings [4.1(b)].* When a change is made in the duration of classified information, all holders of record shall be promptly notified. If practicable, holders of record shall also be notified of a change in the level of classification. Holders shall alter the markings to conform to the change, citing the authority for it. If the remarking of large quantities of information is unduly burdensome, the holder may attach a change of classification notice to the storage unit in lieu of the marking action otherwise required. Items withdrawn from the collection for purposes other than transfer for storage shall be marked promptly in accordance with the change notice.

§ 2.8 Limitations on classification [1.6(c)].

Before reclassifying information as provided in § 1.6(c) of the Order, the authorized official shall consider the following factors, which shall be addressed in a report to the Assistant Secretary (Administration) who shall in turn forward a report to the Director of the Information Security Oversight Office:

(a) The elasped time following disclosure;

(b) The nature and extent of disclosure;

(c) The ability to bring the fact of reclassification to the attention of persons to whom the information was disclosed;

(d) The ability to prevent further disclosure; and

(e) The ability to retrieve the information voluntarily from persons not authorized access in its reclassified state.

Subpart B—Derivative Classification

§ 2.9 Use of derivative classification [2.1].

The application of derivative classification markings is a responsibility of those who incorporate, paraphrase, restate, or generate in new form information that is already classified, and of those who apply markings in accordance with instructions from an authorized original classifier or in accordance with an authorized classification guide. If a person who applies derivative classification markings believes that the paraphrasing, restating or summarizing of classified information has changed the level of or removed the basis for classification, that person must consult an appropriate official of the originating agency or office of origin who has the authority to upgrade, downgrade or declassify the information for a determination. A sample marking documents is set forth in § 2.11.

§ 2.10 Classification guides.

(a) *General [2.2(a)].* A classification guide is a reference manual which assists document drafters and document classifiers in determining what types or categories of material have already been classified. The classification guide shall, at a minimum:

(1) Identify or categorize the elements of information to be protected;

(2) State which classification level applies to each element or category of information; and

(3) Prescribe declassification instructions for each element or category of information in terms of (i) a period of time, (ii) the occurrence of an event, or (iii) a notation that the information shall not be declassified automatically without the approval of the originating agency.

(b) *Review and Record Requirements [2.2(a)].* (1) Each classification guide shall be kept current and shall be reviewed at least once every two years and updated as necessary. Each office within the Office of the Secretary and the respective offices of each Treasury bureau possessing original classification authority for national security information shall maintain a list of all classification guides in current use by them. A copy of each such classification guide in current use shall be furnished to the Assistant Secretary (Administration).

(2) Each office that prepares and maintains a classification guide shall also maintain a record, copy to the Assistant Secretary (Administration), of individuals authorized to apply derivative classification markings in accordance with a classification guide. This record shall be maintained on TD F 71-01.18 (Report of Authorized Derivative Classifiers).

(c) *Waivers [2.2(c)].* Any authorized official desiring a waiver of the requirement to issue a classification guide shall submit in writing to the Assistant Secretary (Administration) a request for approval of such a waiver. Any request for such a waiver shall contain, at a minimum, an evaluation of the following factors:

(1) The ability to segregate and describe the elements of information;

(2) The practicality of producing or disseminating the guide because of the nature of the information;

(3) The anitcipated usage of the guide as a basis for derivative classification; and

(4) The availability of alternative sources for derivatively classifying the information in a uniform manner.

§ 2.11 Derivative identification and markings [1.5(c) and 2.1(b)].

Documents classified derivatively on the basis of source documents or classification guides shall bear all markings prescribed in § 2.7(a) through (f), as are applicable. Information for these markings shall be taken from the source document or instructions in the appropriate classification guide.

(a) *Classification Authority.* The authority for classification shall be shown as follows:

Derivatively Class by _____
Office _____
Derived from _____
Declassify on _____

If a document is classified on the basis of more than one source document or classification guide, the authority for classification shall be shown on the "DERIVED FROM" line as follows:

"CLASSIFIED BY MULTIPLE SOURCES"

In these cases, the derivative classifier shall maintain the identification of each source with the file or record copy of the derivatively classified document. A document derivatively classified on the basis of a source document that is marked "CLASSIFIED BY MULTIPLE SOURCES" shall cite the source document on its "DERIVED FROM" line rather than the term "MULTIPLE SOURCES."

(b) *Downgrading and Declassification Instructions.* Dates or events for automatic downgrading or declassification, or the notation "ORIGINATING AGENCY's DETERMINATION REQUIRED" to indicate that the document is not to be downgraded or declassified automatically, shall be carried forward from the source document, or as directed by a classification guide, and shown on a "DOWNGRADE TO" or "DECLASSIFY ON" line as follows:

"DOWNGRADE TO _____ ON (date; description of event; or 'ORIGINATING AGENCY'S DETERMINATION REQUIRED' (OADR))" "DECLASSIFY ON: *(date; description of* _____ event; or 'ORIGINATING AGENCY'S DETERMINATION REQUIRED' (OADR))"

Subpart C—Downgrading and Declassification

§ 2.12 Listing of downgrading and declassification authorities [3.1(b)].

Downgrading and declassification authority may be exercised by the official authorizing the original classification, if that official is still serving in the same position; a successor in that capacity; a supervisory official of either; or officials delegated such authority in writing by the Secretary or the Assistant Secretary (Administration). A listing of officials delegated such authority in writing shall be maintained on TD F 71–01.11 (Report of Authorized Downgrading and Declassification Authorities). Current listings of these officials shall be maintained by Treasury bureaus and offices within the Office of the Secretary. Copies of these listings shall be provided to the Assistant Secretary (Administration). If possible, these listings shall be unclassified.

§ 2.13 Declassification policy [3.1].

In making determinations under § 3.1(a) of the Order, officials shall respect the intent of the Order to protect foreign government information and confidential foreign sources.

§ 2.14 Downgrading and declassification markings.

Whenever a change is made in the original classification or in the dates of downgrading or declassification of any classified information, it shall be promptly and conspicuously marked to indicate the change, the authority for the action, the date of the action, and the identity of the person taking the action. Earlier classification markings shall be cancelled when practicable.

§ 2.15 Systematic review for declassification [3.3].

(a) *Permanent Records.* Systematic review is applicable only to those classified records and presidential papers or records that the Archivist of the United States, acting under the Federal Records Act, has determined to be of sufficient historical or other value to warrant permanent retention.

(b) *Non-Permanent Classified Records.* Non-permanent classified records shall be disposed of in accordance with schedules approved by the Administrator of General Services under the Records Disposal Act. These schedules shall provide for the continued retention of records subject to an ongoing mandatory declassification review request.

(c) *Systematic Declassification Review Guidelines [3.3(a)].* The Department, by February 1, 1983, shall:

(1) Issue guidelines for systematic declassification review, in consultation with the Archivist and the Director of the Information Security Oversight Office, to assist the Archivist in the conduct of systematic reviews;

(2) Designate experienced personnel to assist the Archivist in the systematic review process;

(3) Review and update systematic review guidelines at least every five years unless earlier review is requested by the Archivist.

(d) *Foreign Government Systematic Declassification Review Guidelines [3.3(a)].* By February 1, 1983, the Director of the Information Security Oversight Office shall issue, in consultation with the Archivist, the Department and other agencies having declassification authority over the information, guidelines for the systematic declassification review of foreign government information. These guidelines shall be reviewed and updated every five years unless earlier review is requested by the Archivist.

(e) *Special Procedures.* The Department shall be bound by the special procedures for systematic review of classified cryptologic records and classified records pertaining to intelligence activities (including special activities), or intelligence sources or methods issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

§ 2.16 Procedures for mandatory declassification review [3.4].

(a) Except as provided by § 3.4(b) of the Order, all information classified by the Department under the Order or predecessor orders shall be subject to declassification review by the Department, if:

(1) The request is made by a United States citizen or permanent resident alien, a Federal agency, or a state or local government;

(2) The request describes the document or material containing the information with sufficient specificity to enable the Department to locate it with a reasonable amount of effort; and

(3) The requester provides substantial proof as to their U.S. citizenship or status as a permanent resident alien, e.g., a copy of a birth certificate, a certificate of naturalization, official passport or some other means of identity which would sufficiently describe the requester's status.

(b) *Processing.*—(1) *Initial Requests for Classified Records Originated by the Department.* Requests for mandatory declassification review shall be directed to the Office of Physical Security, Office of Administrative Programs. Upon each request for declassification, pursuant to § 3.4 of the Order, the following procedures shall apply:

(i) The Office of Physical Security, Office of Administrative Programs, shall acknowledge in writing receipt of the request.

(ii) A valid mandatory declassification review request need not identify the requested information by date or title of the responsive records, but must be of sufficient particularity to allow Treasury personnel to locate the records containing the information sought with a reasonable amount of effort. Whenever a request does not reasonably describe the information sought, the requester shall be notified that unless additional information is provided or the scope of the request is narrowed, no further action will be undertaken.

(iii) The Office of Physical Security, Office of Administrative Programs, shall determine the appropriate office to take action on the request and shall forward the request to that office.

(iv) Department responses to mandatory declassification review requests shall be governed by the amount of search and review time required to process the request. In responding to mandatory declassification review requests, the appropriate offical shall make a prompt declassification determination. The Office of Physical Security, Office of Administrative Programs, shall notify

the requester if additional time is needed to process the request. The Department shall make a final determination within one year from the date of receipt except in unusual circumstances. When information cannot be declassified in its entirety, reasonable efforts, consistent with other applicable laws, will be made to release those declassified portions of the requested information which constitute a coherent segment. Upon the denial or partial denial of an initial request, the Department shall also notify the requester of the right of an administrative appeal which must be filed with the Assistant Secretary (Administration) within 60 days of receipt of the denial.

(v) When the Department receives a mandatory declassification review request for records in its possession that were originated by another agency, the Office of Physical Security, Office of Administrative Programs, shall forward the request to that agency. The Office of Physical Security, Office of Administrative Programs, shall include a copy of the records requested together with the Department's recommendations for action. Upon receipt, the originating agency shall process the request in accordance with § 2001.32(a)(2)(i) of the Directive. Upon request, the originating agency shall communicate its declassification determination to Treasury.

(vi) When another agency forwards to the Department a request for information in that agency's custody that has been classified by Treasury, the Office of Physical Security, Office of Administrative Programs, shall:

(A) Advise the other agency as to whether they can notify the requester of the referral:

(B) Review the classified information in coordination with other agencies that have a direct interest in the subject matter; and

(C) Respond to the requester in accordance with the procedures in § 2.16(b)(1)(iv). If requested, Treasury's determination shall be communicated to the referring agency.

(vii) Appeals of denials of a request for declassification shall be referred to the Assistant Secretary (Administration) who shall normally make a determination within 30 working days following the receipt of an appeal. If additional time is required to make a determination, the Assistant Secretary (Administration) shall notify the requester of the additional time needed and provide the requester with the reason for the extension. The Assistant Secretary (Administration) shall notify the requester in writing of the final determination and of the reasons for any denial.

(viii) Except as provided in this paragraph, the Department shall process mandatory declassification review requests for classified records containing foreign government information in accordance with § 2.16(a). The agency that initially received or classified the foreign government information shall be responsible for making a declassification determination after consultation with concerned agencies. If upon receipt of the request, the Department determines that Treasury is not the agency that received or classified the foreign government information, it shall refer the request to the appropriate agency for action. Consultation with the foreign originator through appropriate channels may be necessary prior to final action on the request.

(ix) Mandatory declassification review requests for cryptologic information and information concerning intelligence activities (including special activities) or intelligence sources or methods shall be processed solely in accordance with special procedures issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

(x) The fees to be charged for mandatory declassification review requests shall be for search, review and duplication. The fee charges for services of Treasury personnel involved in locating and reviewing records shall be at the rate of a GS–10, Step 1, for each hour or fraction thereof, except that no charge shall be imposed for search and/or review consuming less than one hour.

(A) Photocopies per page up to 8½" by 14" shall be $0.10 except that no charge will be imposed for reproducing 10 pages or less when search and/or review time requires less than one hour.

(B) When it is estimated that the costs associated with the mandatory declassification review request will exceed $100.00, the requester will be notified and requested to agree, in writing, to pay the actual charges. In the event the requester does not agree to pay the actual charges, the requester shall advise how to proceed with the mandatory declassification review request. Failure of a requester to pay charges after billing will result in future requests not being honored.

(C) A requester's initial request shall be accompanied by a statement that the requester is agreeable to paying fees for search, review and copying.

(D) Payment of fees shall be made by check or money order payable to the Treasurer of the United States.

§ 2.17 Assistance to the Department of State [3.3(b)].

The Secretary of the Treasury and other agency heads should assist the Department of State in its preparation of the *Foreign Relations of the United States* (FRUS) series by facilitating access to appropriate classified material in their custody and by expediting declassification review of documents proposed for inclusion in the FRUS.

§ 2.18 FOIA and Privacy Act Requests [3.4].

The Department of the Treasury shall process requests for declassification that are submitted under the provisions of the Freedom of Information Act, as amended, or the Privacy Act of 1974, in accordance with the provisions of those Acts.

Subpart D—Safeguarding

§ 2.19 General [4.1].

Information classified pursuant to this Order or predecessor orders shall be afforded a level of protection against unauthorized disclosure commensurate with its level of classification.

§ 2.20 General restrictions on access [4.1].

(a) *Determination of Need-To-Know.* Classified information shall be made available to a person only when the possessor of the classified information establishes in each instance, except as provided in § 4.3 of the Order, that access is essential to the accomplishment of official Government duties or contractual obligations.

(b) *Determination of Trustworthiness.* A person is eligible for access to classified information only after a showing of trustworthiness as determined by the Secretary of the Treasury based upon appropriate investigations in accordance with applicable standards and criteria.

§ 2.21 Access by Historical Researchers and Former Presidential Appointees [4.3].

(a) The requirement for access to classified information may be granted only as is essential to the accomplishment of authorized and lawful Government purposes and may be waived for persons who:

(1) Are engaged in historical research projects, or

(2) Previously have occupied policy-making positions to which they were appointed by the President.

(b) Access to classified information may be granted to historical researchers and to former Presidential appointees upon a determination of trustworthiness; a written determination that such access

is consistent with the interests of national security; the requestor's written agreement to safeguard classified information; and the requestor's written consent to have his notes and manuscripts reviewed in order to ensure that no classified information is contained therein. By the terms of § 4.3(b)(3) of the Order, former Presidential appointees not engaged in historical research may only be granted access to classified documents which they "originated, reviewed, signed or received while serving as a Presidential appointee."

(c) If the access requested by historical researchers and former Presidential appointees requires the rendering of services for which fair and equitable fees may be charged pursuant to Title 5 of the Independent Offices Appropriations Act, 31 U.S.C. 483a, the requestor shall be so notified and the fees may be imposed.

§ 2.22 Dissemination [4.1(d)].

Except as otherwise provided by Section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403 (1970 and Suppl V 1975), classified information originating in another agency may not be disseminated outside the Department without the consent of the originating agency.

§ 2.23 Standards for Security Equipment [4.1(b) and 5.1(b)].

The Administrator of General Services shall, in coordination with agencies originating classified information, establish and publish uniform standards, specifications, and supply schedules for security equipment designed to provide secure storage for and to destroy classified information. Any agency may establish more stringent standards for its own use. Whenever new security equipment is procured, it shall be in conformance with the standards and specifications referred to above and shall, to the maximum extent practicable, be of the type available through the Federal Supply System.

§ 2.24 Accountability procedures [4.1(b)].

(a) *Top Secret Control Officers.* Each Treasury bureau and the Office of the Secretary shall designate a primary and alternate Top Secret Control Officer. Top Secret Control Officers so designated shall:

(1) Maintain current accountability records of Top Secret information received within their bureau or office.

(2) Ensure that Top Secret information is properly stored and that Top Secret information under their control is personally destroyed, when required.

(3) Ensure that reproduction prohibitions of Top Secret information are strictly adhered to.

(4) Conduct annual physical inventories of such information. An inventory shall be conducted in the presence of an individual with an appropriate security clearance. The inventory shall be completed annually and signed by the Top Secret Control Officer and the witnessing individual.

(5) Ensure that Top Secret documents are downgraded, declassified, retired or destroyed as required by regulations or markings.

(6) Attach a TD F 71–01.7 (Top Secret Document Record) to the first page or cover of each copy of Top Secret information. The Top Secret Document Record shall be completed by the Top Secret Control Officer which shall serve as a permanent record.

(7) Ensure that all persons having access to Top Secret information sign the Top Secret Document Record. This also includes persons to whom oral disclosure was made.

(8) Maintain receipts concerning the transfer and destruction of Top Secret information. Record such actions on the Top Secret Document Record which shall be retained for a minimum of three years.

(9) As received, number in sequence each Top Secret document in a calendar year series (i.e. 82–001). This number shall be posted on the document and on all forms required for control of Top Secret information.

(10) Attach and properly execute TD F 71–01.5 (Classified Document Record of Transmittal) when a Top Secret document is transmitted internally or externally.

(11) Verify, prior to releasing Top Secret information, that the recipient is cleared for access to such information.

(12) Report in writing all Top Secret documents unacccounted for to the Assistant Secretary (Administration) who shall take appropriate action as promulgated by this regulation.

(13) Assure that no individual within the bureau or office transmits Top Secret information to another individual or office without the knowledge and consent of the Top Secret Control Officer.

(14) Ensure that Top Secret Document cover sheets (TD F 71–01.1) are affixed to such information while in use.

(15) Notify bureau of office employees of the designated control point for all incoming and outgoing Top Secret information.

(b) *Top Secret Control Officer Listings.* In order for the Office of Physical Security, Office of Administrative Programs, to maintain a current listing of Top Secret Control Officers within the Department, each Treasury bureau and the Office of the Secretary shall submit in writing to the Office of Physical Security, Office of Administrative Programs, the identities of the office(s) and names of the officials designated as their primary and alternate Top Secret Control Officers. Any changes in these designations shall be reported to the Office of Physical Security, Office of Administrative Programs, within thirty days.

(c) *Top Secret Document Record.* A TD F 71–01.7 shall be attached to the first page or cover of the original and each copy of Top Secret information. The Top Secret Document Record, which shall be completed by the Top Secret Control Officer, shall identify the Top Secret information attached, and shall serve as a permanent record of the information. All persons, including stenographic and clerical personnel, having access to the information attached to the Top Secret Document Record must list their name and date the TD F 71–01.7 prior to accepting responsibility for its custody. The TD F 71–01.7 shall indicate those individuals to whom only oral disclosure is made. The Top Secret Document Record shall remain attached to the Top Secret information until it is either transferred to another U.S. Government agency, downgraded, declassified or destroyed. Whenever any one of these actions is taken, the Top Secret Control Officer shall record the action on the Top Secret Document Record and retain it for a minimum of three years after which time it may be destroyed.

(d) *Classified Document Record of Transmittal.* TD F 71–01.5 shall be the exclusive classified document accountability record for use within the Department of the Treasury. No other logs or records shall be required except for the use of TD F 71–01.7 for Top Secret information. TD F 71–01.5 shall be used for single or multiple document receipting and for internal and external routing. The inclusion of classified information on TD F 71–01.5 should be avoided. In the event the subject title is classified, a recognizable short title shall be used, e.g., first letter of each word in the subject title. Several items may be transmitted to the same addressee with one TD F 71–01.5. The TD F 71–01.5 may be destroyed three years after the date of the final disposition of the document.

(1) *Top Secret Information.* Top Secret information shall be subject to a continuous receipt system regardless of how brief the period of custody. TD F 71–01.5 shall be used for this purpose. Top Secret accountability records shall

be maintained by Top Secret Control Officers separately from the accountability records of other classified information.

(2) *Secret Information.* Receipt on TD F 71-01.5 shall be required for transmission of Secret information between bureaus, offices and separate agencies. Responsible office heads shall determine administrative procedures required for the internal control within their respective offices. The volume of classified information handled and personnel resources available must be considered in determining the level of adequate security measures while at the same time maintaining efficiency.

(3) *Confidential Information.* Receipts for Confidential information shall not be required unless the originator indicates that receipting is necessary.

§ 2.25 Storage [4.1(b)].

Classified information shall be stored only in facilities or under conditions designed to prevent unauthorized persons from gaining access to it.

(a) *Minimum Requirements for Physical Barriers.*—(1) *Top Secret.* Top Secret information shall be stored in a GSA-approved security container with an approved, built-in, three-position, dial-type changeable combination lock or in other types of storage facilities that meet the standards for Top Secret established under the provisions of § 2.23. In addition, the designated security officer in each Treasury bureau or the Office of the Secretary shall prescribe those supplementary controls deemed necessary to restrict unauthorized access to areas in which such information is stored. Any vault used for the storage of sensitive compartmented information shall be configured to the specifications of the Director of Central Intelligence.

(2) *Secret and Confidential.* Secret and Confidential information shall be stored in a manner and under the conditions prescribed for Top Secret information, or in a container, vault, or alarmed area that meets the standards for Secret or Confidential information established under the provisions of § 2.23. Secret and Confidential information may also be stored in a safe-type filing cabinet having a built-in, three-position, dial-type changeable combination lock, or a steel filing cabinet equipped with a steel lock bar secured by a GSA-approved three-position changeable combination padlock. The designated security officer in each Treasury bureau or the Office of the Secretary shall prescribe those supplementary controls deemed necessary to restrict unauthorized access to areas in which such information is stored. Access to bulky Secret and Confidential material in weapons storage areas, strong rooms, closed areas or similar facilities shall be controlled in accordance with requirements established by the Department. At a minimum, such requirements shall prescribe the use of key-operated, high-security padlocks approved by the General Services Administration.

(b) *Combinations.*—(1) *Equipment in Service.* Combinations to dial-type locks shall be changed only by persons having an appropriate security clearance, and shall be changed whenever such equipment is placed in use; whenever a person knowing the combination no longer requires access to it; whenever a combination has been subjected to possible compromise; whenever the equipment is taken out of service; or at least once every year. Knowledge of combinations shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest level of classified information that is protected by the lock.

(2) *Equipment Out of Service.* When security equipment is taken out of service, it shall be inspected to ensure that no classified information remains, and any built-in combination lock shall be reset to the standard combination 50–25–50. Combination padlocks shall be reset to the standard combination 10–20–30 or the designated security officer in each Treasury bureau or the Office of the Secretary shall prescribe such supplementary controls deemed necessary to fulfill their individual needs.

(3) *Safe or Cabinet Security Record.* Each piece of equipment used for the storage of classified information will have attached conspicuously to the outside a General Services Administration Optional Form 62 (Safe or Cabinet Security Record) on which an authorized person will record the date and time each day that they initially unlock and finally lock the security equipment, followed by their initials.

On each normal workday regardless of whether the security equipment was opened on that particular day, the security equipment shall be checked by authorized personnel to assure that no surreptitious attempt has been made to penetrate the equipment and the "Checked By" column of the Optional Form 62 shall be annotated to reflect the date and time of the action followed by that person's initials. Security equipment used for the storage of classified information that has been opened on a particular day shall not be left unattended at the end of that day until it has been locked by an authorized person and checked by a second person. In addition, reversible "Open-Closed" signs, available through normal supply channels, shall be used on such equipment and the tops of such equipment shall be kept free of all extraneous matter.

(4) *Safe Combination Records.* Combinations to equipment containing classified information shall be recorded on Treasury Form No. 4032 (Security Container Information). Such forms shall be completed in their entirety. Part 1 of the Form shall be posted on the interior of the top or locking drawer of the safekeeping equipment concerned. The names, addresses and home telephone numbers of personnel responsible for the combination and the classified information stored therein must be posted on Part 1 of the Form. Part II shall be properly completed, inserted in the envelope (Part III) provided and forwarded to the designated central repository for safe combinations. Parts II and III shall show the appropriate classification marking.

(c) *Keys.* The designated security officer in each Treasury bureau and the Office of the Secretary shall establish administrative procedures for the control and accountability of keys and locks whenever key-operated, high-security padlocks are utilized. The level of protection provided such keys shall be equivalent to that afforded the classified information being protected by the padlock.

(d) *Classified Document Cover Sheets.* In order to alert personnel to the fact that a document or folder is classified and to protect it from unauthorized scrutiny, classified document cover sheets, available through normal supply channels, will be used to cover classified documents when in use. Classified document cover sheets will be removed before classified information is filed to conserve filing space and also prior to transmission except when the transmission is made internally within a headquarters by courier, messenger or by personal contact.

§ 2.26 Transmittal [4.1(b)].

(a) *Preparation and Receipting.* Classified information to be transmitted outside of a Treasury facility shall be enclosed in opaque inner and outer covers. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and addresses of both sender and addressee. The outer cover shall be sealed and addressed with no identification of the classification of its contents. A receipt

shall be attached to or enclosed in the inner cover, except that Confidential information shall require a receipt only if the sender deems it necessary. The receipt shall identify the sender, addressee, and the document, but shall contain no classified information. It shall be immediately signed by the recipient and returned to the sender. Within a Treasury facility, such information may be transmitted between offices by direct contact of the officials concerned in a single sealed opaque envelope with no security classification category being shown on the outside of the envelope. Classified information shall never be delivered to unoccupied rooms or offices.

(b) *Transmittal of Top Secret.* The transmittal of Top Secret information outside of a facility shall be by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system authorized for the purpose, or over authorized secure communications circuits.

(c) *Transmittal of Secret.* The transmittal of Secret information shall be effected in the following manner:

(1) *The 50 States, District of Columbia, and Puerto Rico.* Secret information may be transmitted within and between the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico by one of the means authorized for Top Secret information, by the U.S. Postal Service registered mail, or by protective services provided by U.S. air or surface commercial carriers under such conditions as may be prescribed by the head of the agency concerned.

(2) *Other Areas.* Secret information may be transmitted from, to, or within areas other than those specified in § 2.25(c)(1) by one of the means established for Top Secret Information, or by U.S. registered mail through Military Postal Service facilities provided that the information does not at any time pass out of U.S. citizen control and does not pass through a foreign postal system. Transmittal outside such areas may also be accomplished under escort of appropriately cleared personnel aboard U.S. Government owned and U.S. Government contract vehicles or aircraft, ships the United States Navy, civil service manned U.S. Naval ships, and ships of U.S. Registry. Operators of vehicles, captains or masters of vessels, and pilots of aircraft who are U.S. citizens and who are appropriately cleared may be designated as escorts.

(d) *Transmittal of Confidential.* Confidential information shall be transmitted within and between the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories or possessions by one of the means established for higher classifications, or by the U.S. Postal Service certified or registered mail. Outside these areas, Confidential information shall be transmitted only as is authorized for higher classifications.

(e) *Hand Carrying of Classified Information in Travel Status.*—(1) *General Provisions.* Personnel in travel status shall physically transport classified information across international boundaries only when essential. Whenever possible, and when time permits, the most desirable way to transmit classified information to the location being visited would be by other authorized means. The physical transportation of classified information on non-U.S. flag aircraft should be avoided if possible. See TD 71-10.A entitled "Screening of Airline Passengers Carrying U.S. Classified Information or Material".

(2) *Specific Safeguards.* If it is determined that the transportation of classified information by an individual in travel status is in the best interest of the U.S. Government, the following specific safeguards shall be provided for:

(i) Classified information shall be in the physical possession of the individual and shall have adequate safeguards at all times if proper storage at a U.S. Government facility is not available. Under no circumstances shall classified information be stored in a hotel safe or room, locked in automobiles, private residences, train compartments, or any vehicular detachable storage compartments.

(ii) An inventory of all Top Secret classified information, including teletype messages, shall be made prior to departure and a copy of same shall be retained by the traveller's office until the traveller's return at which time all Top Secret classified information shall be accounted for. These same procedures are recommended for information classified Secret.

(iii) Classified information shall not be displayed or used in any manner in public conveyances or rooms.

(iv) In order to avoid unnecessary delays in the screening process prior to boarding commercial air carriers, it is advisable that the individual shall have in his/her possession a written Department of the Treasury authorization to transport classified information. This courier authorization, along with official travel orders, shall in most instances, permit the individual to exempt the classified information from inspection. If difficulty is encountered, the individual should tactfully refuse to exhibit or disclose the classified information to inspection and should insist on the assistance of the local U.S. diplomatic representative at the port of entry or departure.

(v) Upon completion of the visit, the individual shall have the information returned to his/her office by approved means. All Top Secret classified information, including teletype messages, taken for the purpose of the visit shall be accounted for. It is recommended that Secret information also be accounted for. If any Top Secret or Secret classified items are left with the office being visited for its retention and use, the individual shall obtain a receipt.

§ 2.27 Telecommunications transmissions.

Classified information shall not be communicated by telecommunications transmission, except as may be authorized by this regulation with respect to the transmission of classified information over authorized secure communications circuits or systems.

§ 2.28 Special access programs [1.2(a) and 4.2(a)].

The Department may create or continue a special access program if:

(a) Normal management and safeguarding procedures do not limit access sufficiently; and

(b) The number of persons with access is limited to the minimum necessary to meet the objective of providing extra protection for the information.

§ 2.29 Reproduction controls [4.1(b)].

(a) Top Secret documents, except for the controlled initial distribution of information processed or received electrically, shall not be reproduced without the consent of the originator.

(b) Unless restricted by the originating agency, Secret and Confidential documents may be reproduced to the extent required by operational needs.

(c) Reproduced copies of classified documents shall be subject to the same accountability and controls as the original documents.

(d) Paragraphs (a) and (b) of this section shall not restrict the reproduction of documents to facilitate review for declassification.

§ 2.30 Loss or possible compromise [4.1(b)].

(a) *Report of Loss or Compromise.* Any Treasury employee who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to their designated security officer who shall take

appropriate action. In turn, the Office of Physical Security, Office of Administrative Programs, shall be notified by the affected bureau of such reported loss or possible compromise. The Office of Physical Security shall also notify the originating department and any other interested department.

(b) *Inquiry.* The Office of Physical Security, Office of Administrative Programs, shall notify the Assistant Secretary (Administration) who shall then direct an immediate inquiry to be conducted for the purpose of taking corrective measures and assessing damages. Based on the results of the initial inquiry, it may be deemed appropriate to notify the Inspector General who shall determine whether the Office of the Inspector General or a Treasury bureau will conduct any additional investigation. Upon completion of the investigation by the Inspector General, the Inspector General shall recommend to the Assistant Secretary (Administration) and concurrently the Office of Physical Security, Office of Administrative Programs, the appropriate administrative, disciplinary, or legal action to be taken.

§ 2.31 Responsibilities of holders [4.1(b)].

Any person having access to and possession of classified information is responsible for protecting it from persons not authorized access. This includes securing it in approved equipment or facilities whenever it is not under the direct supervision of authorized persons and meeting accountability requirements prescribed by the Department.

§ 2.32 Inspections [4.1(b)].

Individuals charged with the custody of classified information shall conduct the necessary inspections within their areas to ensure adherence to procedural safeguards prescribed to protect classified information. Security officers shall ensure that periodic inspections are made to determine whether procedural safeguards prescribed by this regulation are in effect at all times.

§ 2.33 Security violations.

General. Any individual, at any level of employment, determined to have been responsible for the unauthorized release or disclosure or potential release or disclosure of classified national security information, whether it be knowingly, willfully or through negligence, shall be notified on TD F 71–21.1 (Record of Security Violation) that his/her action is in violation of this regulation, the Order, the Directive, and Executive Order No. 10450, as amended. TD 71–21.A entitled "Administration of Security Violations" sets forth provisions concerning security violations which shall apply to each Treasury employee and all persons under contract or subcontract to the Department of the Treasury authorized access to classified national security information.

(a) Repeated abuse of the classification process, either by unnecessary or over-classification, or repeated failure, neglect or disregard of established requirements for safeguarding classified information by any employee shall be grounds for appropriate adverse or disciplinary action. Such actions may include, but are not limited to, a letter or warning, a letter of reprimand, suspension without pay, or dismissal, as appropriate in the particular case, under applicable personnel rules, regulations and procedures. Where a violation of criminal statutes may be involved, any such case shall be promptly referred to the Department of Justice.

(b) After an affirmative adjudication of a security violation, and as the occasion demands, reports of accountable security violations shall be placed in the employee's personnel security file, and as appropriate, in the employee's official personnel folder. The security official of the bureau or office concerned shall recommend to the respective management official or bureau head that disciplinary action be taken when such action is indicated.

§ 2.34 Disposition and destruction [4.1(b)].

Classified information no longer needed in current working files or for reference or record purposes shall be processed for appropriate disposition in accordance with the provisions of Chapters 21 and 33 of Title 44, United States Code, which govern disposition of Federal records. Classified information approved for destruction shall be destroyed by burning, mulching, or shredding in the presence of designated or authorized individuals. The method of destruction must preclude recognition or reconstruction of the classified information.

(a) *Approval of Use of Mulching and Shredding Equipment.* Prior to obtaining mulching or shredding equipment, the Office of Physical Security, Office of Administrative Programs, shall approve the use of such equipment.

(b) *Destruction by Burning.* Any classified information to be destroyed by burning shall be torn and placed in containers designated as burnbags and shall be clearly and distinctly labeled "Burn." Burnbags awaiting destruction shall be protected by security safeguards commensurate with the classification or control designation of the information involved.

(c) *Records of Destruction.* Appropriate accountability records shall be maintained on TD F 71–01.17 (Classified Document Certificate of Destruction) to reflect the destruction of all Top Secret information. The TD F 71–01.17 shall also be executed for the destruction of information classified Secret or Confidential as deemed necessary by the originator or as required by special regulations.

(d) *Destruction of Nonrecord Classified Information.* Nonrecord classified information such as extra copies and duplicates, including shorthand notes, preliminary drafts, used carbon paper and other material of similar temporary nature, shall also be destroyed by burning, mulching, or shredding as soon as it has served its purpose, but no records of such destruction need be maintained

Subpart E—Implementation and Review

§ 2.35 Departmental administration.

(a) The Assistant Secretary (Administration) shall:

(1) Enforce the Order, the Directive and this regulation, and establish, coordinate and maintain active training, orientation and inspection programs for employees concerned with classified information.

(2) Review suggestions and complaints regarding the administration of this regulation.

(b) The Office of Physical Security, Office of Administrative Programs, shall:

(1) Review all bureau implementing regulations prior to publication and shall require any regulation to be changed, if it is not consistent with the Order, the Directive or this regulation.

(2) Have the authority to conduct on-site reviews of bureau physical security programs and the information security programs as they pertain to each Treasury bureau and to require such reports, information and assistance as may be necessary.

§ 2.36 Bureau administration.

Each Treasury bureau and the Office of the Secretary shall designate a security officer or an official to direct, coordinate and administer its information security programs and physical security programs which shall include active oversight to ensure effective implementation of the Order, the Directive, this regulation and any bureau implementing regulation.

§ 2.37 Emergency planning [4.1(b)].

Each Treasury bureau and the Office of the Secretary shall develop plans for the protection, removal, or destruction of classified material in case of fire, natural disaster, civil disturbance, or enemy action. These plans shall include the disposition of classified information located in foreign countries.

§ 2.38 Emergency authority [4.1(b)].

The Secretary of the Treasury and other officials delegated original classification authority by the President may prescribe by regulation special provisions for the dissemination, transmittal, destruction, and safeguarding of national security information during combat or other emergency situations which pose an imminent threat to national security information.

§ 2.39 Security education [5.3(a)].

Each Treasury bureau that creates or handles national security information, including the Office of the Secretary, is required to establish a security education program. The program shall be sufficient to familiarize all necessary personnel with the provisions of the Order, the Directive, this regulation and any other implementing directives and regulations to impress upon them their individual security responsibilities. The program shall also provide for initial, refresher, and termination briefings.

(a) *Briefing of Employees.* All new employees concerned with classified information shall be afforded a security briefing regarding the Order, the Directive and this regulation. Employees concerned with sensitive compartmented information shall be required to read and sign a security agreement. All new employees afforded a security briefing shall be provided with copies of applicable laws and pertinent security regulations setting forth the procedures for the protection and disclosure of classified information. All employees given a security briefing shall be required to sign a TD F 71-01.16 (Physical Security Orientation Acknowledgment).

Supbart F—General Provisions

§ 2.40 Definitions [6.1].

(a) *Original Classification Authority.* The authority vested in an Executive Branch official to make an initial determination that information requires protection against unauthorized disclosure in the interest of national security.

(b) *Originating Agency.* The agency responsible for the initial determination that particular information is classified.

(c) *Multiple Sources.* The term used to indicate that a document is derivatively classified when it contains classified information derived from other than one source.

(d) *Portion.* A segment of a document for purposes of expressing a unified theme; ordinarily a paragraph.

(e) *Special Access Program.* Any program imposing "need-to-know" or access controls beyond those normally provided for access to Confidential, Secret, or Top Secret information. Such a program may include, but is not limited to, special clearance, adjudication, or investigative requirements, special designations of officials authorized to determine "need-to-know," or special lists of persons determined to have a "need-to-know".

(f) *Intelligence Activity.* An activity that an agency within the Intelligence Community is authorized to conduct pursuant to Executive Order No. 12333.

(g) *Special Activity.* An activity conducted in support of national foreign policy objectives abroad which is planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activity, but which is not intended to influence United States political processes, public opinion, policies or media and does not include diplomatic activities or the collection and production of intelligence or related support functions.

(h) *Unauthorized Disclosure.* A communication or physical transfer of classified information to an unauthorized recipient.

(i) *Derivative Classification.* A determination that information is, in substance, the same as information that is currently classified and a designation of the level of classification.

(j) *Information.* Any information or material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States Government.

(k) *National Security Information.* Information that has been determined pursuant to the Order or any predecessor order to require protection against unauthorized disclosure and that is so designated.

(l) *Foreign Government Information.* (1) Information provided by a foreign government or governments, an international organization of governments, or any elements thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or

(2) Information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

(m) *National Security.* The national defense or foreign relations of the United States.

(n) *Confidential Source.* Any individual or organization that has provided, or that may reasonably be expected to provide, information to the United States on matters pertaining to the national security with the expectation, expressed or implied, that the information or relationship, or both be held in confidence.

(o) *Original Classification.* An initial determination that information requires, in the interest of national security, protection against unauthorized disclosure, together with a classification designation signifying the level of protection required.

Donald T. Regan,

Secretary of the Treasury.

[FR Doc. 82-35489 Filed 12-30-82; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 21227-261]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of deferred effective date and request for comment.

SUMMARY: Final regulations implementing the Pacific Coast Groundfish Fishery Management Plan delayed until Janaury 1, 1983, the effectiveness of certain provisions dealing with vessel identification and gear specifications. The intended effect of this notice is to further defer the regulation that imposes specific marking requirements for each mile of trap or longline groundlines while the Secretary reconsiders this provision.

DATES: The effective date of groundline marking provisions contained in the second sentence of § 663.26(d)(4) and the second sentence of § 663.26(f)(2) is deferred. Comments on this provision must be received by February 2, 1983.

ADDRESSES: Send comments to H. A. Larkins, Director, Northwest Region,

National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the Assistant Administrator for Fisheries, NOAA, on January 4, 1982, and its final implementing regulations at 50 CFR Parts 611 and 663 (47 FR 43964) were published on October 5, 1982. Several provisions in the FMP were new or more restrictive than previous requirements and were thought to impose an economic burden on domestic fishermen if imposed immediately. Consequently, these provisions were deferred for three months to allow a grace period for compliance by fishermen.

The Pacific Fishery Management Council (Council) recommended at its November 17–18, 1982 meeting, and the Assistant Administrator concurs, that the previously deferred provisions should become effective at 0001 PST, January 1, 1983, except for the one-mile marking of longline and trap groundlines, which should be deferred indefinitely. The primary reason for delaying the effectiveness of this groundline regulation is to give the Council and the Secretary time to determine whether the groundline marking of each mile of trap and longline gear is unsafe, ineffective, impractical, and unenforceable, as public testimony has indicated. The exact wording of this deferred provision is—

Section 663.26(d)(4) for traps—"Traps laid on a groundline must also be marked at the surface every one mile of groundline with a pole and flag, and either a light or a radar reflector."; and

Section 663.26(f)(2) for longline gear—"Every one mile of groundline must also be marked at the surface with a pole and flag, and either a light or a radar reflector."

Comments on the need for this provision may be sent to the Regional Director at the above address.

(16 U.S.C. 1801 *et seq.*)

Dated: December 28, 1982.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 82–35550 Filed 12–28–82; 1:47 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 1
Monday, January 3, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

Onions Grown in South Texas; Proposed Amendment to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the continuing regulation § 959.322 to extend from May 10 to June 1 each year the ending date for grade and size requirements and the Sunday shipping prohibition. The regulation requires shipments of onions to fresh market to be inspected and meet minimum grade, size, pack and container requirements. The regulation promotes orderly marketing of such onions and keeps the less desirable quality and sizes from being shipped to consumers.

DATE: Comments due February 2, 1983.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C 20250 (202) 447–2615. Copies of the marketing policy are available from him.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation (7 CFR Part 959) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0074.

The proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not significantly affect costs for the directly regulated handlers.

Marketing Agreement No. 143 and Order No. 959, both as amended, regulate the handling of onions grown in designated counties in South Texas. It is effective under the agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Onion Committee, established under the order, is responsible for its local administration.

Because requirements under this program have changed infrequently, in October 1981 the committee recommended, and the Secretary approved, a regulation which would continue in effect from marketing season to marketing season indefinitely unless modified, suspended or terminated by the Secretary upon recommendation submitted by the committee or other information available to the Secretary.

At its public organizational meeting in McAllen, Texas, on October 28, 1982, the committee recommended that the regulation continue in effect again this season with one change.

The committee recommended that the grade and size requirements and the Sunday shipping prohibitions be extended through June 1 of each year. These requirements currently are in effect March 1 through May 10 of each year. However, committee members representing the Laredo and the Winter Garden districts, the two districts most directly affected by the proposed change, believe it would improve the overall quality of onions marketed during this period. This should contribute to more orderly marketing of the South Texas onion crop.

Although the regulation proposed to be amended is effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before December 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension or termination of the regulations on shipments of South Texas onions would tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 959

Marketing agreements and orders, Onions, Texas.

PART 959—ONIONS GROWN IN SOUTH TEXAS

It is proposed that the introductory text of § 959.322 *Handling regulations* (47 FR 8551, March 1, 1982) be revised as follows:

§ 959.322 Handling regulation.

During the period beginning March 10 and ending on June 15 each season no handler may package or load onions on Sunday or handle any onions except red varieties, unless they comply with paragraphs (a) through (d) or (e) or (f) of this section. However, the requirements of paragraphs (a) and (b) and the Sunday prohibition shall terminate at 11:59 p.m. on June 1 of each season.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: December 27, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-35590 Filed 12-30-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1126

[Docket No. AO-231-A49]

Milk in Texas Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals by Associated Milk

Producers, Inc., to amend the Texas milk order. The proposed amendments would reduce the current price for producer milk used to produce butter, nonfat dry milk and cheddar cheese by 40 cents per hundredweight during the months of March-June and December of each year. AMPI has requested that the proposals be adopted on an expedited basis so that amendments can be made effective for the spring months of 1983. The cooperative claims that the proposed action is needed to reflect the cost of maintaining and operating manufacturing facilities that serve a marketwide balancing function.

DATE: The hearing will convene January 18, 1983.

ADDRESS: The hearing will be held at the Sheraton Grand Hotel, Dallas-Ft. Worth Airport, Highway 114 and Esters Boulevard, Dallas, Texas 75261, beginning at 9:30 a.m., local time.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4824.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Sheraton Grand Hotel, Dallas-Ft. Worth Airport, Highway 114 and Esters Boulevard, Dallas, Texas 75261, beginning at 9:30 a.m., local time, on January 18, 1983, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Texas marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to Proposals 1 through 3.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96–354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of the proposals for the purpose of tailoring their applicability to small businesses.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PART 1126—[AMENDED]

Proposed by Associated Milk Producers, Inc.

Proposal No. 1

Amend § 1126.40 by adding a new paragraph (d) as follows:

§ 1126.40 Classes of utilization.

* * * * *

(d) Class III(A) milk shall be all producer milk used to produce nonfat dry milk powder, cheddar cheese and butter during the months of March, April, May, June and December.

Proposal No. 2

Amend § 1126.50 by adding a new paragraph (d) as follows:

§ 1126.50 Class prices.

* * * * *

(d) The Class III(A) price for the months of March, April, May, June and December shall be the basic formula price less 40 cents per hundredweight.

Proposal No. 3

Make conforming changes in the allocation, the classification of transfers and diversions, and computation of a handler's pool obligation sections of the order and other such necessary conforming changes to accommodate the Class III(A) classification and pricing provisions specified in proposals 1 and 2.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 4

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the market administrator, 11117 Shady Trail, P.O. Box 29529, Dallas, Texas 75229, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Diivision, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Texas Marketing Area

Procedural matters are not subject to the above prohibition and may be dicussed at any time.

List of Subjects in 7 CFR Part 1126

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on December 27, 1982.

Vern F. Highley,

Administrator, Agricultural Marketing Service.

[FR Doc. 82-35524 Filed 12-30-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ASW-84]

Proposed Alteration of Transition Area; De Ridder, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area at De Ridder, LA. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a new instrument approach procedure to the Beauregard Parish Airport. This action is necessary

since the relocation of the nondirectional radio beacon (NDB) and the installation of an instrument landing system (ILS).

DATE: Comments must be received on or before February 3, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70-3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at De Ridder, LA, will necessitate an amendment to this subpart. This amendment will be required at De Ridder, LA, since there is a proposed change in IFR procedures to the Beauregard Parish Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-84." The postcard will be date/time stamped and returned to the commenter. All communications received bvefore the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

De Ridder, LA, Revised

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Beauregard Parish Airport (latitude 30°50'00"N., longitude 93°20'30"W.)

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on December 21, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-35495 Filed 12-30-82; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 291

[Economic Reg. Docket 41148; EDR-451]

Domestic Cargo Transportation

Dated: December 16, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to exempt all-cargo air carriers and the Department of Defense from provisions of the Airline Deregulation Act so that they can enter into long-term contracts for domestic cargo transportation. This rulemaking is at the CAB's initiative.

The Board's decision is based on the fact that since the fitness criteria for awarding cargo rights under sections 401 and 418 are identical, requiring section 418 carriers to obtain section 401 certificates to compete for DOD domestic cargo is unjustified and unnecessary. The Board tentatively finds that it is in the public interest to permit all certified carriers to compete for DOD contracts.

DATES: Comments by February 28, 1983: reply comments by March 15, 1983. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable. Requests to be put on the Service List by January 12, 1983. The Docket Section prepares the Service List and sends it to each person listed, who then serves comments to others on the list.

ADDRESS: Twenty copies of comments should be sent to Docket 41148, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Joanne Yancey Hitchcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Air carriers engaged in domestic cargo transportation may be certificated under section 401 or 418 of the Act, and are subject to the regulations in 14 CFR Part 291. Section 401(o) of the Act provides that only carriers certificated under section 401 can enter into contracts of

more than 30 days' duration with the Department of Defense (DOD). Carriers holding only section 418 certificates are thus prevented from entering into long-term contracts with DOD.

On several occasions in recent years, section 418 carriers have sought exemption from section 401(o) of the Act to enable them to bid upon and enter into long-term contracts with DOD. Most recently, Interstate Airlines, Inc. and International Air Service Company, Ltd. d.b.a. IASCO sought exemptions to enable their participation in the bidding process for LOGAIR, a DOD charter program. Interstate based its application for exemption on the contention that the Board granted a similar exemption to Michigan Peninsular Airways in Order 80–7–198, July 30, 1980, that an expanded competitive process offered economic advantages for DOD, and that section 401(o) discriminated against section 418 carriers.

By Order 82–9–5, September 2, 1982, Interstate was granted a temporary exemption from the provisions of section 401(o) of the Act to the extent necessary to permit it to operate domestic cargo charters for the Department of Defense under contracts of more than 30 days' duration. IASCO ws granted an exemption in Order 82–9–27. The Board affirmed the staff's findings and actions on these orders in Order 82–1–16, October 7, 1982.

As the fitness criteria for awarding cargo rights under sections 401 and 418 are identical, we find that requiring section 418 carriers to obtain section 401 certificates to enable them to compete for DOD domestic cargo business is unjustified and unnecessary. Section 401(o) was added to the Act in 1976, when the only vehicle for obtaining a certificate was section 401. Section 418 was added in 1977. It is clear that Congress did not intended to prohibit the participation of 418 certificated carriers in DOD business, given the directive to expedite consideration of 401 applications to provide such service. The Board tentatively finds that it is consistent with the public interest to permit all certificated carriers to compete for DOD contracts to the extent consistent with the scope of their operating authority. See section 102(a) (3), (4), (5), (9) and (10); and section 102(b) (1) and (2).

By this notice the Board proposes to amend 14 CFR Part 291, Domestic Cargo Transportation, to include exemptions from section 401(o) of the Act for DOD and section 418 carriers. This action would make clear that any certificated air carrier engaged in domestic cargo transportation may submit bids and enter into long-term contracts for the carriage of interstate cargo with the Department of Defense under section 401(o) of the Act.

Initial Regulatory Flexibility Act Analysis

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that this rule may, if adopted or proposed, have a substantial economic impact on a substantial number of small entities. The objective and legal rationale for this rule is discussed above. Some carriers currently under long-term contracts with the Department of Defense could lose business in the expanded competitive situation for such contracts, as described above. On the other hand, a class of carriers, many of whom are small businesses, would be newly permitted to compete for DOD business.

List of Subjects in 14 CFR Part 291

Air carriers, Antitrust, Freight, Insurance, Reporting Requirements.

PART 291—[AMENDED]

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 291, *Domestic Cargo Transportation* as follows:

1. In § 291.31, Exemptions from the Act for direct air carriers, a new paragraph (c) would be added to read:

§ 291.31 Exemptions from the Act for direct air carriers.

* * * * *

(c) Each direct air carrier providing domestic cargo transportation under section 418 of the Act is exempted from the provisions of section 401(o)(1) of the Act to the extent necessary to permit it to compete for and operate domestic cargo charters for the Department of Defense under contracts of more than 30 days' duration.

2. In § 291.32, *Exemptions from the Act for persons other than direct air carriers,* a new paragraph (c) would be added to read as follows:

§ 291.32 Exemptions from the Act for persons other than direct air carriers.

* * * * *

(c) The Department of Defense is exempted from section 401(o) of the Act to the extent necessary to permit it to negotiate and enter into contracts of more than 30 days' duration with any section 418 carrier for operation of domestic cargo charters.

(Secs. 102, 204, 401, 407, 408, 416, and 418, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 766, 767, 771; 91 Stat. 1284; 49 U.S.C. 1302, 1324, 1371, 1377, 1378, 1386, and 1388)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–35501 Filed 12–30–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 325

[Docket No. 21215–252]

Export Trade Certificates of Review; Correction

AGENCY: International Trade Administration, Commerce.

ACTION: Proposed rule; Correction.

SUMMARY: This document corrects a proposed rule on Export Trade Certificates of Review that appeared at page 56972 in the **Federal Register** of Tuesday, December 21, 1982, (47 FR 56972). This action is necessary to correct typographical errors, errors in citations and cross references, and omissions in the original document.

DATE: Comment due date: Comments on the proposed rule must be submitted on or before January 20, 1983.

ADDRESS: Interested persons are invited to submit comments regarding the proposed rule with 5 copies to the Office of the Assistant General Counsel for Export Trading Companies, Department of Commerce, Room 4877, Washington, D.C. 20230. Communications should refer to the proposed rule by its title.

FOR FURTHER INFORMATION CONTACT: Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Department of Commerce, Washington, D.C. 20230; (202) 377–0937. This is not a toll free number.

The following corrections are made in FR DOC 82–34684 appearing on Page 56972 in the issue of December 21, 1982:

1. On page 56972, column one, the fifth paragraph following the document headings is corrected to read: "**ADDRESS:** Interested persons are invited to submit comments regarding this rule with 5 copies to the Office of the Assistant General Counsel for Export Trading Companies, Department of Commerce, Room 4877, Washington, D.C. 20230".

2. On page 56972, column two, second paragraph, "Any person may apply for a Certificate or Review", is corrected to read "Any person may apply for a Certificate of Review".

3. On page 56972, at the top of column three, § 329.3(b)(9)(B)" is corrected to read "§ 325.3(b)(9)(ii)".

4. On page 56973, column two, the first sentence of the third paragraph is corrected to read "The proposed rule is exempt from the Regulatory Flexibility Analysis requirements of section 553 of Title V, United States Code, or any other law, to publish general notice of proposed rulemaking for interpretative rules, general statements of policy, and rules of procedure or practice."

§ 325.1 [Corrected]

5. On page 56973, column three, in the first sentence of § 325.1, "Export Trading Certificate of Review" is corrected to read: "Export Trade Certificates of Review".

§ 325.2 [Corrected]

6. On page 56974, column one, in the second line of § 325.2(k), "Parnership" is corrected to read "Partnership".

7. On page 56974, column one, in the next to the last line of § 325.2(1), "Arrangement" is corrected to read "arrangement".

8. On page 56974, column one, the second line of § 325.2(o), "States of the United States the District" is corrected to read "States of the United States, the District".

§ 325.3 [Corrected]

9. On page 56974, column two, in the first line of § 325.3(b)(8)(i), "refleting" is corrected to read "reflecting".

10. On page 56975, column one, in the first line of § 325.3(b)(16), "porposed" is corrected to read "proposed".

11. On page 56975, column one, in the third sentence of § 325.3(d), "Deemded" is corrected to read "Deemed".

§ 325.4 [Corrected]

12. On page 56975, column three, in the second sentence of § 325.4(e), "to resubmit an application prior to the twelve month period" is corrected to read "to resubmit an application prior to the expiration of the twelve month period".

§ 325.6 [Corrected]

13. On page 56976, column one, in the third sentence of § 325.6, "certficate" is corrected to read "certificate".

§ 325.8 [Corrected]

14. On page 56976, column two, in § 325.8(b)(2), "the Secretary, and the Attorney General" is corrected to read "the Secretary and the Attorney General".

Dated: December 28, 1982.

Irving P. Margulies,

Deputy General Counsel.

[FR Doc. 82-35536 Filed 12-30-82; 8:45 am]

BILLING CODE 3515-25-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. No. 9146]

Xidex Corp.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Mountain View, Calif. manufacturer of diazo and vesicular duplicate microfilm, among other things, to timely divest to a Commission-approved buyer, the vesicular duplicate microfilm technology and know-how it acquired from Kalvar Corp. or Anacomp, Inc. Under the divestiture, Xidex would have to make available to the purchaser its customer lists; a royalty-free license for its diazo duplicate microfilm technology and know-how; and 12 months of technological training with periodic consultations thereafter. Xidex would also be required to license its proprietarily developed vesicular microfilm technology to all interested parties; train them in the use of such technology for a period of 1 year; and make available to them and the acquirer of the Kalvar technology, 10,000,000 square feet of its vesicular duplicate microfilm for private label sales. Additionally, Xidex would have to sell such parties a major ingredient necessary to the manufacture of its vesicular microfilm, which is not commercially available.

DATE: Comments must be received on or before February 28, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/CS-2, George S. Cary, Washington, D.C. 20580; (202) 254-8577.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commisison and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Microfilm.

Agreement Containing Consent Order

The agreement herein, by and between Xidex Corporation, hereinafter sometimes referred to as Respondent, a corporation, by its duly authorized officer, and its attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith, the parties hereby agree that:

1. Respondent Xidex Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal place of business at 2141 Landings Drive, Mountain View, California 94043.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violations of Section 7 of the Clayton Act, as amended (15 U.S.C. 18) and Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. 45), and has filed an answer to said complaint denying said charges.

3. Respondent admits all of the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

a. Any further precedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty (60) days and information in respect therto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision in disposition of the proceeding

6. This agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to Respondent, (1) issue its decision containing the following Order in disposition of the proceeding, and (2) make information public in respect thereto. When so entered the Order

shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other Orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to Order to Respondent's address as stated in this agreement shall constitute service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or in the agreement may be used to vary or to contradict the terms of the Order.

8. Respondent has read the complaint and the Order contemplated thereby. It understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It is ordered that Xidex Corporation, its successors and assigns, and it officers, directors, agents, representatives and employees shall, upon written application made within seven (7) years after the effective date of this Order, grant to any and all sole proprietorships, partnerships, corporations or other business entities, which state in their application a "bona fide" intention to engage in (a) the production of vesicular duplicate microfilm within the United States for sale within the United States or export sale from the United States, or (b) the production of vesicular duplicate microfilm outside the United States for sale including export sales to the United States, a non-exclusive license to produce and sell vesicular duplicate microfilm in the form of the non-exclusive license agreement set forth in Appendix A.

Provided, however, that if respondent disputes the "bona fide" nature of an applicant's stated intention to engage under the requested license in the production or sale of vesicular duplicate microfilm within the United States, Xidex shall, within thirty (30) days from the date that the written application was received by Xidex, submit to the Federal Trade Commisssion a written statement setting forth its reasons for disputing the bona fide nature of the applicant's stated intention. The Commission may, at its election, request further information and itself determine the issued of whether such stated intention is "bona fide."

It is further ordered that within twelve (12) months after the effective date of this Order Xidex shall divest absolutely to an acquirer (hereinafter the "acquirer") approved in advance by the Federal Trade Commission, all books and records, patents, patent applications, trade secrets, technology and knowledge acquired from Kalvar Corporation or Anacomp, Inc., together with any improvements thereto (hereinafter the "Kalvar Technology"). This paragraph shall not be construed to prevent the acquirer, at its option, from also entering into a license agreement pursuant to Paragraph I of this Order.

Xidex shall also grant to the acquirer, on a royalty fee basis, a non-exclusive license to produce and sell diazo duplicate microfilm in the form of the non-exclusive license agreement set forth in Appendix B.

III

It is further ordered that, as soon as practicable, but no later than thirty (30) days after the divestiture required by Paragraph II of this Order, Xidex will commence teaching a reasonable number of persons designated by the acquirer how to practice the Kalvar Technology. At that time, Xidex will deliver to the acquirer all of its manuals, drawings, blueprints, specifications and other tangible documents or documentation pertaining to the Kalvar Technology. Training sessions shall be conducted at the acquirer's plant or at such other places as are mutually satisfactory to Xidex and the acquirer and shall continue for a period of time sufficient to satisfy the management of the acquirer that its personnel are well enough trained in the Kalvar Technology to produce vesicular duplicate microfilm similar to that which Xidex was able to produce using the Kalvar Technology, provided, however, that Xidex shall not be required to continue this training program for a period of more than one year. The acquirer will pay Xidex its expenses incurred in conducting such training sections, including salaries of its employees and travel and lodging costs. Upon reasonable notice to Xidex, the acquirer may also designate a reasonable number of persons to take up to two (2) tours of Xidex' Sunnyvale facility during the one year training period to observe the commercial production of vesicular duplicate microfilm. Xidex shall make available during the tours knowledgeable employees to respond to questions regarding the manufacture of vesicular duplicate microfilm.

IV

It is further ordered that at six (6) month intervals, commencing twelve (12) months after the divestiture required by paragraph II of this Order and continuing thereafter for two (2) years, at the acquirer's request Xidex will have a reasonable number of persons familiar with the Kalvar Technology meet with the acquirer to discuss any problems which may have developed pertaining solely to the acquirer's use of the Kalvar Technology. The acquirer will pay Xidex its expenses incurred in attending such meetings, including salaries of its employees, and travel and lodging costs.

V

It is further ordered that at the time of divestiture Xidex shall provide to the person or entity acquiring the technology pursuant to paragraph II of this Order a current list of its customers for diazo duplicate microfilm and a current list of its customers for vesicular duplicate microfilm, ranked according to volume of purchases from Xidex.

VI

It is further ordered that Xidex shall not seek to enforce any agreement by Kalvar Corporation, Anacomp, Inc. or Scott Graphics, Inc., their successors and assigns, that might limit the ability of those firms to compete in the production or sale of non-silver duplicate microfilm or limit the ability of those firms to purchase non-silver duplicate microfilm from any available source. Xidex shall not enforce those portions of any secrecy agreements with respect to duplicate microfilm that might have been entered into by former Kalvar Corporation, Anacomp, Inc., or Scott Graphics, Inc. employees that would prevent or limit their employment in any capacity by the acquirer.

VII

It is further ordered that, for a period of ten (10) years from the date this Order becomes final, Xidex, its subsidiaries, affiliates, divisions, successors and assigns shall not, without the prior approval of the Federal Trade Commission, directly or indirectly acquire any stock, share capital or equity interest, except an interest of not more than 10% purchased for investment purposes only, in any concern engaged in, or the assets of any concern used in the manufacture of diazo or vesicular duplicate microfilm; provided, however, nothing in this Order shall prohibit Xidex from (1) becoming a licensee of any patents or technology from such concerns, or (2) making purchases or sales in the ordinary course of business.

VIII

It is further ordered that within sixty (60) days after the effective date of this Order, and every sixty (60) days thereafter until the divestiture required by paragraph II is effected, Xidex shall submit to the Federal Trade Commission a written report setting forth the manner and form in which it has complied with paragraph II of this Order.

Within sixty (60) days of the effective date of this Order, and annually thereafter for a period of seven (7) years, Xidex shall submit to the Federal Trade Commission a written report setting forth the manner and form in which it has complied with paragraph I of this Order.

All such compliance reports shall include a summary of all discussions and negotiations with any persons who are potential acquirers of the technology to be divested or licensees of the technology to be licensed, the identity of all such persons, copies of all communications to and from such persons and reports and recommendations concerning divestiture or licensing.

IX

It is further ordered that, commencing on the effective date of this Order, Xidex shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in its corporate structure which may affect compliance obligations arising from this Order.

Appendix A—Non-Exclusive License Agreement

This agreement is made this —— day of ————, 198—, between Xidex Corporation ("Xidex"), a California corporation, and ————, a ——— corporation, and provides for the grant by Xidex to ———— of a non-exclusive license to practice certain technology now owned and possessed by Xidex, relating to the

manufacture of vesicular duplicate microfilm, for the consideration and upon the conditions hereinafter set forth.

1. *Grant of License.* Xidex hereby grants to ———— a non-exclusive license, without the right to sublicense, to make, have made, use, sell and practice all of the inventions covered by United States patents and patent applications owned or controlled by Xidex, which patents and patent applications relate to vesicular duplicate microfilm or its components and the manufacturing and processing thereof, and are all of the patents and patent applications or extensions thereof which Xidex or any of its subsidiaries own relating to such subject matter (except patents or patent applications acquired from Kalvar Corporation) and any patents or patent applications relating to the manufacture of vesicular duplicate microfilm which Xidex may file or obtain after the date of and during the term of this Agreement. In addition thereto, Xidex hereby grants to ———— a non-exclusive license, without the right to sublicense, to employ in the manufacture of vesicular duplicate microfilm all of the knowledge and technology now possessed or hereafter developed by Xidex which relates to the manufacture of vesicular duplicate microfilm, including, without limitation, its know-how, inventions (whether or not patented or patentable), process knowledge, manufacturing practices (as applied to mix preparation, coating process and quality control), resin formulae and resin technology, regardless of how such knowledge or technology was obtained. All of the matter licensed under this Agreement is hereinafter referred to as the "Technology" and the license herein granted is hereinafter referred to as the "License."

2. *Training.* As soon as is practicable, but not more than sixty (60) days, after the execution of this Agreement, Xidex will commence teaching a reasonable number of persons designated by ———— how to practice the Technology. At that time, Xidex will deliver to ———— copies of all of its manuals, drawings, blueprints, specifications, formula books, quality control specifications and other tangible documents or documentation pertaining to the Technology (the "Technology Documents"). Training sessions shall be conducted at the plant of ———— or at such other places as are mutually satisfactory to Xidex and ———— and shall continue for a period of time sufficient to satisfy the management of ———— that its personnel are well enough trained in the Technology to produce vesicular duplicate microfilm similar to that which Xidex is able to produce; provided, however, that Xidex shall not be required to continue this training program for a period of more than twelve months. ———— will pay Xidex its expenses incurred in conducting such training sessions, including salaries of its employees and travel and lodging costs. Upon reasonable notice to Xidex, ———— may also designate a reasonable number of persons to take up to two (2) tours of Xidex' Sunnyvale facility during the one year training period to observe the commercial production of vesicular duplicate microfilm. Xidex shall make available during such tours knowledgeable employees to respond to questions regarding the Technology.

3. *Royalties, Records and Reports.* a. For the License, ———— will pay Xidex during the term of this Agreement, in the manner hereinafter provided, royalties equal to the following listed percentages of the net sales of vesicular duplicate microfilm manufactured by or for ———— with the use of all or any part of the Technology; provided, however that after December 31, 1988, ———— can use all of the matter which is the subject of the License, without paying any royalty.

[Percent of net sales]

Year of license	Royalty
1	[illegible]
2	3
3	[illegible]
4	[illegible]
5	2
6	[illegible]
7	2

b. As used herein, the phrase "net sales" shall mean the amounts which ———— bills for sales of epoxy-based vesicular duplicate microfilm manufactured by ———— with the use of all or any part of the Technology, less the following deductions, if applicable:

(1) Discounts allowed and taken;

(2) Transportation costs separately billed or prepaid;

(3) Special packaging costs;

(4) Sales and use taxes imposed with respect to such sales; and

(5) Amounts refunded or credited to customers who return any such vesicular duplicate microfilm.

No allowance or deduction shall be made for commissions.

c. ———— shall keep books of account containing such information as may be necessary to determine the amounts payable to Xidex as royalties. Said books of account shall be kept at ———— place of business, ————, and said books, and any supporting data, shall be open for inspection at all reasonable times by Xidex' independent certified public accountants who must agree, prior to examining same, that they will only report to Xidex whether the amounts represented by ———— to be payable to Xidex under the License are accurate.

d. Within 90 days after the close of each of its fiscal years, ———— shall deliver to Xidex a true and complete report giving such particulars of the business conducted by ———— pursuant to the License as are pertinent to an account for royalty purposes under the License. In addition, ———— shall deliver to Xidex a best estimate of these same particulars every 90 days in sufficient time to be incorporated into the Xidex Quarterly Report.

e. All royalties due pursuant to the License shall be paid at the time of the submission of the annual report required by paragraph d. above

f. Xidex covenants that if it shall have reason to believe, after inquiry, that any person, firm or corporation is infringing upon any of the patents which are the subject of the License, and which patent is actively being used by ———— at that time, it will institute and pursue such legal steps as required to determine the validity of such patent. If the patent is found to be invalid by an appropriate court of law, no further royalties shall be due on materials utilizing that patent only.

g. If Xidex should grant a License for the use of all or any part of the Technology to another at a more favorable royalty rate than that charged herein, Xidex will afford ———— the benefit of such more favorable rate from and after the date it is established.

4. *Technology Review.* At six-month intervals, commencing twelve months after the execution of this Agreement and continuing thereafter for three (3) years, ———— and Xidex will each have a reasonable numer of persons familiar with the subject matter of the License meet to review and update each other as to any problems which may have developed as a result of the License and as to new developments involving the Technology and the manufacture of vesicular duplicate microfilm. At such meetings, any Technology Documents not previously delivered shall be delivered to ————. The first such meeting shall be held at a place designated by Xidex, the second at a place designated by ———— and thereafter at places designated alternatively by Xidex and ————. In addition, at such meeting or prior thereto, each party hereto will notify the other of any new developments which it has made in the Technology and of its new research projects related to the Technology if, prior to the next such meeting, it proposes to announce such development of project to the public or to any person, firm or corporation other than its own patent counsel.

5. *Confidentiality—Assignability.* a. Any technical matters known to Xidex, transmitted in writing or orally transmitted to ———— and identified as confidential which are:

(1) Not publicly known,

(2) Not already possessed by ———— or

(3) Not disclosed to ———— by an unrelated third party, other than information which, of necessity, must be passed on to production workers to be used in the manufacturing process,

will be treated as confidential information. ———— will use its best efforts to prevent such confidential information from being made known to others.

b. Any technical matters known to ———— transmitted in writing or orally transmitted Xidex and identified as confidential which are

(1) Not publicly known,

(2) Not already possessed by Xidex, or

(3) Not disclosed to Xidex by an unrelated third party, other than information which, of necessity, must be passed on to production workers to be used in the manufacturing process,

will be treated as confidential information. Xidex will use its best efforts to prevent such confidential information from being made known to others.

c. Neither of the parties which receives confidential information from the other will assign or license the right to use such information.

6. *Sales of Vesicular Duplicate Microfilm to* Xidex hereby agrees that during the first year of the License it will, at the option of ————————, sell up to 10,000,000 square feet of vesicular duplicate microfilm of the type(s) specified in the purchase orders in mill rolls at a price of $.09 per square foot for 5-mil film (the prices to be charged for vesicular duplicate microfilm on a base other than 5-mil to be adjusted to reflect the difference between the price paid by Xidex for that base and the price paid by Xidex for 5-mil base) during the calendar year 1982. The prices shall also be adjusted annually to reflect changes in Xidex' costs of manufacturing vesicular duplicate microfilm. Xidex shall not be required to sell ———————— more than 10,000,000 square feet of such film. Xidex will deliver one-third of each order within thirty (30) days after receipt thereof, one-third within sixty (60) days after receipt thereof, and the balance within ninety (90) days after receipt thereof. The material delivered pursuant to the provisions of this paragraph shall be first quality by Xidex standards. Xidex shall be paid the net amount due within thirty (30) days of delivery of such film.

7. *Sale of Resin Solutions to* Xidex will, during the term of this Agreement, sell ———————— such epoxy resin solutions as ———————— may need in order to employ the Technology insofar as epoxy resin capacity is available. (If in any year the total resin demands of Xidex and its licensees are in excess of Xidex capacity, Xidex will not be obligated to provide to ———————— during that year more resin than is required to produce 10,000,000 square feet of vesicular duplicate microfilm.) As of the date of this Agreement, the price for such epoxy resin solutions shall be $5.00 per kilogram of 20 percent by weight solution, if in any one year, ———————— purchases less resin than is required to produce 10,000,000 square feet of vesicular duplicate microfilm. Otherwise, the price of such epoxy resin solutions shall be $6.00 per kilogram of 20 percent by weight solution. The price of this solution may be adjusted no more than once per calendar quarter to reflect changes in prices to Xidex of necessary raw materials. It is understood that Xidex's gross margin percentage for such sales will not be increased during the life of this Agreement.

8. *Sales to Which Royalties Do Not Apply.* a. Xidex shall not be entitled to any royalties based on sales of vesicular duplicate microfilm based wholly or in part upon poly-alpha-chloro-acrylonitrile technology, as covered by patents owned or licensed by Norman Notley, 3M, Eastman Kodak or other persons or corporations, or upon saran or resin blend technology as covered by patents previously owned or licensed by Kalvar Corporation or by Xidex as a result of any transaction with Kalvar Corporation, or upon any technology independently developed or licensed by ———————— which is not based on an epoxy technology.

b. ———————— will not be required to pay any royalty to Xidex for manufacturing vesicular duplicate microfilm for other parties who request to do such work and agree to indemnify ———————— against actual or alleged patent infringements, including infringement of Xidex patents, resulting from such work. ———————— will not accept any order for the manufacture of vesicular duplicate microfilm under this provision which would cause it to employ the Technology.

c. ———————— will not be required to pay any royalty to Xidex for vesicular duplicate microfilm purchased and resold pursuant to paragraph 6 of this Agreement.

9. *Termination of Agreement.* This Agreement shall terminate at the end of seven (7) years after its date.

10. *Arbitration.* Any controversy whatsoever relating to this Agreement shall be settled by arbitration in Mountain View, California, under the rules of the American Arbitration Association and shall be binding on the parties except for errors apparent on its face unless it appears to have been procured by corruption or other undue means, or that there was partiality or misbehavior by the arbitrators or any of them.

11. *Governing Law.* This Agreement shall be construed under the laws of the State of California.

Witness the following signatures and seals:

Xidex Corporation.

———— ————.

Attest:

———— ————.

Attest:

———— ————.

Appendix B—Non-exclusive License Agreement

This agreement is made this —— day of ————, 198—, between Xidex Corporation ("Xidex"), a California corporation, and ————, a corporation, and provides for the grant by Xidex to ———————— of a non-exclusive license to practice certain technology now owned and possessed by Xidex, relating to the manufacture of diazo duplicate microfilm in accordance with the provisions of the Order of the Federal Trade Commission dated ————.

1. *Grant of License.* Xidex hereby grants to ———————— a non-exclusive license, without the right to sublicense, to employ in the manufacture of diazo duplicate microfilm all of the knowledge and technology now possessed by Xidex which relates to the manufacture of diazo duplicate microfilm, including, without limitation, its know-how, inventions (whether or not patented or patentable), process knowleged, manufacturing practices (as applied to mix preparation, coating process and quality control), resin formulae and resin technology, regardless of how such knowledge or technology was obtained. All of the matter licensed under this Agreement is hereinafter referred to as the "Technology" and the license herein granted is hereinafter referred to as the "License."

2. *Training.* As soon as is practicable, but not more than sixty (60) days, after the execution of this Agreement, Xidex will commence teaching a reasonable number of persons designated by ———————— how to practice the Technology. At that time, Xidex will deliver to ———————— copies of all of its manuals, drawings, blueprints, specifications, formula books, quality control specifications and other tangible documents or documentation pertaining to the Technology (the "Technology Documents"). Training sessions shall be conducted at the plant of ———————— or at such other places as are mutually satisfactory to Xidex and ———————— and shall continue for a period of time sufficient to satisfy the management of ———————— that its personnel are well enough trained in the Technology to produce diazo duplicate microfilm similar to that which Xidex is now able to produce; provided, however, that Xidex shall not be required to continue this training program for a period of more than twelve months. ———————— will pay Xidex its expenses incurred in conducting such training sessions including salaries of its employees and travel and lodging costs. Upon reasonable notice to Xidex, ———————— may also designate a reasonable number of persons to take up to two (2) tours of Xidex's Sunnyvale facility during the one year training period to observe the commercial production of diazo duplicate microfilm. Xidex shall make available during such tours knowledgeable employees to respond to questions regarding the Technology.

3. *Technology Review.* At six-month intervals, commencing twelve months after the execution of this Agreement and continuing thereafter for three (3) years, ———————— and Xidex will each have a reasonable number of persons familiar with the subject matter of the License meet to review and update each other as to any problems which may have developed as a result of the License and as to new developments involving the Technology and the manufacture of diazo duplicate microfilm. At such meetings, any Technology Documents not previously delivered shall be delivered to ————. The first such meeting shall be held at a place designated by Xidex; the second at a place designated by ———————— and thereafter at places designated alternatively by Xidex and ————. In addition, at such meeting or prior thereto each party hereto will notify the other of any new developments which it has made in the Technology and its new research projects related to the Technology if prior to the next such meeting, it proposes to announce such development or project to the public or to any other person, firm or corporation other than its own patent counsel.

4. *Confidentiality—Assignability.* a. Any technical matters known to Xidex, transmitted in writing or orally transmitted to ———————— and identified as confidential which are

(1) Not publicly known,

(2) Not already possessed by ————, or

(3) Not disclosed to ———— by an unrelated third party, other than information which, of necessity, must be passed on to production workers to be used in the manufacturing process,

will be treated as confidential information. ———— will use its best efforts to prevent such confidential information from being made known to others.

b. Any technical matters known to ————, transmitted in writing or orally transmitted to Xidex and identified as confidential which are

(1) Not publicly known,

(2) Not already possessed by Xidex, or

(3) Not disclosed to Xidex by an unrelated third party, other than information which, of necessity, must be passed on to production workers to be used in the manufacturing process, will be treated as confidential information. Xidex will use its best efforts to prevent such confidential information from being made known to others.

c. Neither of the parties which receives confidential information from the other will assign or license the right to use such information.

5. *Sales of Diazo Duplicate Microfilm to* Xidex hereby agrees that during the first year of the License it will, at the option of ————, sell up to 10,000,000 square feet of diazo duplicate microfilm of the type(s) specified in the purchase orders in mill rolls at a price of $.08 per square foot for 5-mil film. (the prices to be charged for diazo duplicate microfilm on a base other than 5-mil to be adjusted to reflect the difference between the price paid by Xidex for that base and the price paid by Xidex for 5-mil base) during the calendar year 1982. The prices shall also be adjusted annually to reflect changes in Xidex' costs of manufacturing diazo duplicate microfilm. Xidex shall not be required to sell ———— more than 10,000,000 square feet of such film. Xidex will deliver one-third of each order within thirty (30) days after receipt thereof, one-third within sixty (60) days after receipt thereof, and the balance within ninety (90) days after receipt thereof. The material delivered pursuant to the provisions of this paragraph shall be first quality by Xidex standards. Xidex shall be paid the net amount due within thirty (30) days of delivery of such film.

6. *Arbitration.* Any controversy whatsoever relating to this Agreement shall be settled by arbitration in Mountain View, California, under the rules of the American Arbitration Association and shall be binding on the parties except for errors apparent on its face unless it appears to have been procured by corruption or other undue means, or that there was partiality or misbehavior by the arbitrators or any of them.

7. *Governing Law.* This Agreement shall be construed under the laws of the State of California. Witness the following signatures and seals:

Xidex Corporation.

———— ————.

Attest:

———— ————.

Attest:

———— ————.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Xidex Corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

In September 1980 the Commission issued a compliant against Xidex Corporation which alleged that Xidex's acquisition of certain assets of Scott Graphics, Inc., a subsidiary of Scott Paper Company, and its acquisition of certain assets of the Kalvar Corporation violated Section 7 of the Clayton Act and Section 5 of the FTC Act. The Scott Graphics acquisition took place in June of 1976 and the Kalvar acquisition in March of 1979. Specifically, the complaint alleged that through these two acquisitions Xidex, a manufacturer of both diazo and vesicular duplicate microfilm, substantially lessened competition in the markets for those two products and in the overall market for nonsilver duplicate microfilm, which the complaint alleged consists of the diazo duplicate microfilm and the vesicular duplicate microfilm submarkets.

Prior to the acquisition of its duplicate microfilm business, Scott Graphics was a manufacturer of diazo duplicate microfilm in competition with Xidex. Similarly, prior to its acquisition Kalvar was a manufacturer of vesicular duplicate microfilm in competition with Xidex. Thus, by means of these acquisitions, Xidex was alleged to have eliminated two of its direct competitiors in the manufacture of duplicate microfilm and to have greatly increased the level of concentration in the three product markets alleged. In addition, through its acquisition of Kalvar technology, Xidex was alleged to have attained a near monopoly in vesicular microfilm technology and to have made it significantly more difficult for new companies to enter this high technology market.

Following administrative hearings, but prior to the issuance of an initial decision by the administrative law judge, Xidex and the Commission's trial staff entered into a consent agreement that would settle the Commission's charges against Xidex. This matter has been withdrawn from adjudication so that the Commission itself may consider whether to accept the proposed consent order agreed to by Xidex.

The primary objective of the proposed order is to restore competition through the return of viable competitors to the overall duplicate microfilm market from which Scott and Kalvar have been removed. The manufacture of duplicate microfilm is a technically complex process that requires expertise in polymer chemistry, photographic science and precision film coating techniques. The Commission has reason to believe that considerable time would be required before potential competitors could master diplicate microfilm manufacturing know-how, that the time required to establish a competitive research and development department is significant and that the development of new products does not generally begin until production processes of existing products are mastered.

The Commission also has reason to believe that Xidex closed the Kalvar plant shortly after acquiring it, and ceased development efforts on the technology acquired from Kalvar so that Xidex' own technology is currently the only up-to-date technology that Xidex possesses, and so that manufacturers of microfilm duplicating equipment no longer attempt to keep their products compatible with the Kalvar microfilm technology. In addition, the underlying technology needed to produce vesicular duplicate microfilm is protected by patents, most of which were previously held by Kalvar and Xidex but which now are owned by Xidex alone.

Therefore, the objective of the proposed order is to make both patented and unpatented duplicate microfilm technology, and the know-how needed to use such technology, available to all comers at a low royalty rate. Because the lack of duplicate microfilm technology and know-how may be the most significant barrier faced by companies seeking to enter into the manufacture of duplicate microfilm, the licensing arrangement contained in the proposed order is intended to make it easier for such companies to enter the market. Moreover, the Commission has reason to believe that the proposed order's licensure provisions are deemed necessary by industry participants to accomplish this objective.

Paragraph 1 of the proposed order requires Xidex to license to any and all interested parties its proprietarily developed vesicular microfilm technology and the manufacturing know-how needed to use it. An actual license was agreed to by Xidex and is attached as Appendix A to the proposed order. This license covers both patented and unpatented epoxy vesicular technology and know-how, as well as improvements made thereto for seven years after execution of the license. (Appendix A, Paragraph 1) The royalty rate is set at 3 percent of net sales for the first two years of the license, and at 2 percent for the remaining years. (Appendix A, Paragraph 3) After December 1989 no royalties will be due, however, regardless of when the license was entered into.

The license agreement requires Xidex to train each licensee in the use of its technology for up to twelve months from the date of the license. (Appendix A, Paragraph 2) The cost to Xidex for the training is to be paid by the licensee. In addition, for a period of three years after the year of training, Xidex has agreed to meet with each licensee periodically to discuss problems or improvements in the licensed technology.

(Appendix A, Paragraph 4) Xidex is also required under the license to make available to each licensee at a set price 10,000,000 square feet of its vesicular duplicate microfilm for private label sales as needed. (Appendix A, Paragraph 6) This provision is intended to enable each licensee to get a marketing effort underway while it moves into its own vesicular microfilm production. Xidex also agrees to provide at a given price the major ingredient necessary to the manufacture of its vesicular microfilm, an ingredient that is not currently commercially available. (Appendix A, Paragraph 7)

Paragraph II of the proposed order requires Xidex to divest the vesicular duplicate microfilm technology and know-how it received from Kalvar Corporation. The acquirer must be approved by the Federal Trade Commission. This divestiture of the Kalvar technology will be absolute, meaning that no other company—including Xidex—will have the right to manufacture vesicular microfilm using the patented Kalvar process without the permission of the acquirer. Also under paragraph II, Xidex is required to make available by royalty-free license its diazo duplicate microfilm technology and know-how to the acquirer of the Kalvar vesicular technology. The license for diazo duplicate microfilm is attached as Appendix B to the proposed order. Appendix B employs the same mechanisms for transferring diazo technology and know-how as does Appendix A for vesicular technology and know-how. Thus, paragraphs III and IV of the proposed order, read together with the diazo license in Appendix B, provide that the acquirer-licensee is entitled to twelve months of training in the Kalvar vesicular and in the Xidex diazo technologies as well as periodic consultations thereafter. Under the diazo license Xidex must also make available at a set price 10,000,000 square feet of its diazo duplicate microfilm for private label sales to the acquirer/licensee. (Appendix B, Paragraph 5)

Xidex is required under paragraph V of the proposed order to provide to the purchaser of the Kalvar technology current lists of its diazo and vesicular duplicate microfilm customers, ranked by their volume of purchases.

Under paragraph VI of the proposed order, Xidex has agreed not to enforce certain secrecy agreements and agreements-not-to-compete which it obtained as part of the Scott Graphics and Kalvar transactions.

Paragraph VII of the proposed order bans Xidex from acquiring more than a 10 percent interest in any firm that manufactures non-silver duplicate microfilm without prior Commission approval. This ban lasts ten years from the date the order becomes final.

Finally, paragraphs VIII and IX of the proposed order require Xidex to submit periodic reports to the Commission on its compliance with the order, and to notify the Commission of any changes in its corporate structure that would affect its obligations under the order.

The broad purpose of the proposed order is to encourage and facilitate new entry into the diazo and vesicular duplicate microfilm marketplace. It is hoped that this new entry will result in a more competitive market structure in less time than would be required to achieve such relief through continued litigation and eventual divestiture of the assets alleged to have been acquired unlawfully.

The Commission does not intend, by provisionally accepting this agreement, to establish a general principle that compulsory licensing is an appropriate remedy in every merger case, or even in every merger case where technological innovations are important to the industry. On the other hand, the Commission has reason to believe that compulsory licensing is appropriate here, in view of the circumstances described above, including the market share of Xidex, its elimination of Kalvar as a technological rival, and the impracticability of obtaining an effective divestiture remedy.

Interested persons are invited to comment on any aspect(s) of the proposed order, including likely competitive or other effects. In particular, the Commission invites comments on whether the proposed consent order is likely to reduce incentives of firms in this and other industries to invest in research and development.

In connection with this general issue, the Commission solicits comments on the following:

(1) Whether the licensing requirements contained in the proposed order are of appropriate duration.

(2) Whether the Commission's acceptance of a proposed consent order requiring Xidex to license internally-developed (as distinguished from acquired) technology is appropriate.

(3) Whether the Commission's acceptance of a proposed consent order requiring Xidex to license future technology developed by Xidex during the term of its licensing obligation is appropriate.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 82-34924 Filed 12-30-82; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1145

Proposed Rule To Regulate Under the Consumer Product Safety Act (CPSA) a Risk of Injury That May Be Presented by Certain Squeeze Toys

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is investigating the possibility that certain squeeze toys made from compressible material may present a potential choking and/or suffocation hazard if they become lodged in the throat. The Commission proposes, should regulatory action become necessary regarding the possible risk of choking and/or suffocation injury from lodging in the throat which may be associated with such products, to use the procedures of the Consumer Product Safety Act rather than those of the Federal Hazardous Substances Act. The Commission preliminarily determines that this transfer is in the public interest because, in the event the Commission finds that a risk of choking and/or suffocation injury is associated with those products if they lodge in the throat, public notification and remedial action can be accomplished more expeditiously under the CPSA than under the FHSA.

The risk of injury which the Commission proposes to transfer to the Consumer Product Safety Act does not include the risk of choking, aspiration, or ingestion of the entire toy or small parts which may become detached from, or broken off any such toy. That risk of injury remains subject to regulations issued under the Federal Hazardous Substances Act.

DATE: Comments concerning this proposal must be received in the Office of the Secretary by February 2, 1983.

ADDRESS: Comments should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6800.

FOR FURTHER INFORMATION CONTACT: Lynn Lichtenstein, Trial Attorney, Division of Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6626.

SUPPLEMENTARY INFORMATION: By this notice, the Commission proposes to regulate under the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051 *et seq.*) rather than under the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*) a possible risk of choking and/or suffocation injury from lodging in the throat that may be associated with certain squeeze toys which are described in detail below.

The risk of injury which the Commission proposes to transfer to the CPSA does not include any risk of choking, aspiration, or ingestion of the entire toy or small parts which may become detached from, or break off any such toy. That risk of injury remains subject to regulations issued under the FHSA and published at 16 CFR 1500.18(a)(9) and Part 1501.

Section 30(d) of the CPSA (15 U.S.C. 2079(d)) governs this proposed rule. That section provides that a risk of injury which is associated with a consumer product and which could be eliminated

or reduced to a sufficient extent by action under the Federal Hazardous Substances Act may be regulated under the CPSA only if the Commission by rule finds that it is in the public interest to regulate such risk of injury under this Act.

The Commission has examined the applicable statutes and has considered the facts regarding the possible risk of choking and/or suffocation injury from lodging in the throat that may be presented by certain squeeze toys made of compressible materials. The Commission has preliminarily determined that it is in the public interest to regulate under the CPSA rather than the FHSA the possible risk of choking and/or suffocation injury (other than a risk of choking, aspiration, or ingestion of the entire toy or small parts of any such toy), which may be associated with the toys which are the subject of this notice if they become lodged in the throat.

SUPPLEMENTARY INFORMATION:

A. Background

In December of 1981 and January of 1982, the Commission staff received information concerning the deaths by choking and suffocation of two infants which resulted after the handles of squeeze toys had lodged in the children's throats. The toys involved in these deaths were made from compressible materials, and had handles with a smooth, cylindrical configuration and a flared or bulbous end. The Commission also as reports of two other suffocation deaths in 1975 and 1976, and a consumer complaint of a nonfatal choking incident, all of which involved squeeze toys with similar characteristics.

Information available to the Commission staff suggests that the handles of these toys appeal to infants as objects for sucking because of their smooth, cylindrical shape. That information also indicates that when an infant sucks on the handle of such a toy, it can move toward the back of the mouth and into the upper part of the throat. Once in the throat, it can prevent passage of air to the lungs.

The two fatalities reported in 1981 and 1982 were both associated with toys imported by the same firm. After receiving information about these two deaths, the Commission staff negotiated with the importer of the toys involved in these incidents to obtain a satisfactory plan for notification to the public of the hazard presented by these toys, and for recall of all toys in the same line of products as the toys associated with the two infant deaths. That notification and recall program is now in progress.

At the same time, the Commission's field staff began inspections of manufacturers, importers, and retailers of toys to determine if other squeeze toys are being marketed with physical characteristics similar to the products involved in the incidents described above.

During this investigation, the staff discovered that other firms were importing and distributing several different models of squeeze toys made from compressible materials, some of which were similar in size and configuration to the toys involved in the indicents discussed above.

B. Regulation Under FHSA

At this time, the toys described above are subject to regulation by the Consumer Product Safety Commission under provisions of the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261 *et seq.*) as toys or articles intended for use by children. In accordance with provisions of section 3(e) through (i) of the FHSA (15 U.S.C. 1262(e)(f), (g), (h), (i)), the Commission could begin a proceeding for the issuance of a rule to declare that these toys present a mechanical hazard. If issued on a final basis, such a rule would have the effect of classifying the toys as "banned hazardous substances" as that term is used in section 2(q)(1)(A) of the FHSA (15 U.S.C. 1261(q)(1)(A)), and would prohibit the importation of the toys into the United States, as well as the distribution or sale of the toys in this country. If a toy or children's article presents an "imminent hazard," provisions of section 3(e)(2) of the FHSA (15 U.S.C. 1262(e)(2)) authorize the Commission to issue an immediate order declaring the product to be a banned hazardous substance pending completion of a proceeding to issue a banning rule.

A final rule issued under provisions of section 3(e)through (i) of the FHSA would also make the toys in question subject to provisions of section 15 of the FHSA (15 U.S.C. 1274). That section authorizes the Commission to determine, after affording all interested persons opportunity for a hearing, that notification to the public of the hazard presented by a product which is a "banned hazardous substance" is necessary in order to adequately protect the public. That section also authorizes the Commission, after affording all interested persons opportunity for a hearing, (which could be combined with a hearing regarding the need for public notification), to require the manufacturer, distributor or dealer of a product which is a banned hazardous substance to elect to repair or replace the product, or to refund the purchase price of the product.

However, the provisions of section 15 of the FHSA concerning public notification and corrective action would be applicable to the toys which are the subject of this notice only if the Commission had first issued a rule under provisions of sections 3 (e) through (i) of the FHSA to announce the Commission's determination that the products present a mechanical hazard. A proceeding to issue such a rule is complex and time-consuming.

Such a proceeding is initiated by publication of an advance notice of proposed rulemaking in the **Federal Register** to invite comments from all interested persons about the risk of injury associated with the product which is the subject of the proceeding and possible means of addressing that risk of injury including voluntary standards now in existence or which might be developed. If, after consideration of all information received in response to the advance notice of proposed rulemaking the Commission decides to continue the proceeding, publication of a second notice in the **Federal Register** is required to propose the rule and invite written comments on the proposal. The Commission must then analyze all comments received in response to the proposal and publish a third notice in the **Federal Register** to issue the rule on a final basis.

C. Regulation Under CPSA

The CPSA has provisions for requiring public notification of substantial hazards which may be presented by the toys and for ordering corrective action to be taken with regard to those products without the necessity of first completing a rulemaking proceeding.

Additionally, the CPSA has provisions which authorize the Commission in certain cases to obtain a court order for public notification of the hazard presented by a product and for repair, or replacement of the product, or refund of the purchase price of the product without any necessity of first completing a rulemaking proceeding. The FHSA has no corresponding provisions.

Section 15 of the CPSA (15 U.S.C. 2064) confers upon the Commission the authority to order public notification of the hazard presented by a product if the Commission determines, after affording all interested persons opportunity for a hearing, that the product presents a "substantial product hazard," and that notification is required in order to adequately protect the public from that

substantial product hazard. Additionally, section 15 of the CPSA authorizes the Commission to order any manufacturer, importer, distributor, or retailer of a product to elect to repair or replace the product, or to refund the purchase price of the product, if the Commission determines, after affording all interested persons opportunity for a hearing, that the product presents a "substantial product hazard," and that issuance of such an order is in the public interest.

If the toys described in this notice were subject to regulation under the CPSA, no requirement for rulemaking would exist in order to invoke the provisions of section 15 of that act.

Additionally, provisions of section 12 of the CPSA (15 U.S.C. 2061) authorize the Commission to file an action in a United States district court against a manufacturer, importer, distributor, or retailer of a consumer product which presents an imminent and unreasonable risk of death or severe personal injury. The court has the authority to order the recall of the product, its repair or replacement, or refund of the purchase price. The court also has authority to order a firm to undertake extensive notification efforts to advise purchasers and the general public of the nature of the risk and of the firm's obligation for remedial action. The Commission may file an action under section 12 of the CPSA without any requirement for having first undertaken a rulemaking proceeding. As noted above, no corresponding provisions exist in the FHSA.

Because notification to the public of any hazard which may be presented by the toys described in this notice and remedial action with regard to those toys could be accomplished more expeditiously under the CPSA than under the FHSA, the Commission has preliminarily determined that it would be in the public interest to regulate under the CPSA rather than the FHSA any risk of choking and/or suffocation injury which may be associated with those toys if they become lodged in the throat.

As noted above, the FHSA has provisions for issuance of an immediate order to declare a toy or children's article to be a banned hazardous substance if it presents an "imminent hazard." However, some products may present a "substantial product hazard" warranting issuance of an order for public notification and corrective action, without amounting to an "imminent hazard" as that term is used in section 3(e)(2) of the FHSA.

In making the preliminary determination set forth above, the Commission has decided that notwithstanding provisions of section 3(e)(2) of the FHSA, use of the procedures of the CPSA may lead to more expeditious notification and corrective action than might be obtained by following the procedures of the FHSA.

If the Commission issues the rule proposed below on a final basis, and thereafter determines that a standard or regulation may be needed to address any risk of choking and/or suffocation injury which these toys may present if they become lodged in the throat, the CPSA would also authorize the Commission to issue a standard or banning rule. Procedures for issuance of a standard are set forth in sections 7 and 9 of the CPSA (15 U.S.C. 2056, 2058); procedures for issuance of a banning rule are in sections 8 and 9 of the CPSA (15 U.S.C. 2057, 2058).

D. Impact on Small Businesses

Section 603 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 603) requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis of the impact of any proposed rule on small entities, including small businesses. Section 605(b) of the RFA provides that an agency is not required to prepare a regulatory flexibility analysis if the agency certifies that the rule, if issued on a final basis, will not have a significant economic impact on a substantial number of small entities.

The regulation proposed below, if issued on a final basis, will not by itself impose any legal or other obligation on any person or firm. The rule would simply express the Commission's determination that any action taken to eliminate or reduce the risk of injury with which it is concerned will be taken following the procedures set forth in the CPSA rather than the FHSA.

If the Commission issues a final rule based on the proposal published below, and then determines that it should act to eliminate or reduce the risk of injury which is the subject of the rule, the Commission will be required to initiate and follow through to completion appropriate judicial or administrative proceedings under one or more sections of the CPSA before it can impose any obligation on any person or firm.

Since a final rule based on the proposal imposes no obligation on any person or firm, the Commission hereby certifies that it will not have a significant economic impact on a substantial number of small businesses.

E. Environmental Considerations

The regulation proposed below falls within the categories of Commission actions described in 16 CFR 1021.5(c) that have little or no potential for affecting the human environment. For this reason, neither an environmental assessment nor an environmental impact statement is required.

F. Conclusion and Proposal

After consideration of the information set forth above, and provisions of the FHSA and the CPSA, the Commission hereby proposes to regulate under the CPSA rather than the FHSA the possible risk of choking and/or suffocation injury which may be associated with the products described if they become lodged in the throat.

As stated above, the risk of injury which the Commission proposes to transfer does not include any risk of choking, aspiration, or ingestion of the entire toy or small parts which may become detached from, or break off any such toy. That risk of injury remains subject to FHSA regulations published at 16 CFR 1500.18(a)(9) and Part 1501.

Additionally, any risk of injury which may be associated with these toys, other than that of choking or suffocation from lodging in the throat, will remain subject to regulation under provisions of the FHSA if the rule proposed below is issued on a final basis. Until issuance of any final regulation under section 30(d) of the CPSA, the Commission has authority to regulate under the FHSA any risk of choking and/or suffocation injury which these toys may present if they become lodged in the throat.

List of Subjects in 16 CFR Part 1145

• Administrative practice and procedure, Consumer protection, Infants and children, Toys.

PART 1145—REGULATION OF PRODUCTS SUBJECT TO OTHER ACTS UNDER THE CONSUMER PRODUCT SAFETY ACT

Therefore, under provisions of the Consumer Product Safety Act (section 30(d), Pub. L. 92573, 86 Stat. 1231, as amended Pub. L. 94284, 90 Stat. 3472, Pub. L. 9735, 95 Stat. 703; 15 U.S.C. 2079(d)), the Commission proposes to amend the Code of Federal Regulations, Title 16, Chapter II, Subchapter B, Part 1145, by adding a new § 1145.10, as follows:

§ 1145.10 Certain squeeze toys; risk of choking and/or suffocation injury from lodging in the throat.

(a) The Commission finds that it is in the public interest to regulate under the

Consumer Product Safety Act, rather than under the Federal Hazardous Substances Act, the possible risk of choking and/or suffocation injury from lodging in the throat that may be associated with squeeze toys made of compressible material, other than the risk of choking, aspiration, or ingestion of the entire toy or small parts which may become detached from or break off any such toy, which is the subject of regulations published at 16 CFR 1500.18(a)(9) and Part 1501.

(b) Therefore, if the Commission finds regulation to be necessary, the possible risk of choking and/or suffocation injury from lodging in the throat which may be associated with the toys described in § 1145.10(a), above, shall be regulated only under one or more provisions of the Consumer Product Safety Act. Any risk of injury which may be associated with those toys other than the possible risk described in § 1145.10(a), above, shall remain subject to regulation only under one or more provisions of the Federal Hazardous Substances Act.

Interested persons are invited to submit written comments by February 2, 1983. Comments may be accompanied by written data, views, and arguments and should be addressed by the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Received comments may be seen in the Office of the Secretary, eighth floor, 1111 18th Street, NW., Washington, D.C. between 8:30 a.m. and 5:00 p.m., Monday through Friday. (Sec. 30(d), Pub. L. 92573, 86 Stat. 1231, as amended Pub. L. 94–284, 90 Stat. 3472, Pub. L. 97–35, 95 Stat. 703; 15 U.S.C. 2079(d)).

Dated: December 23, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-35325 Filed 12-30-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM83-1-000]

Rules of Practice and Procedure; Reconsideration of Initial Decisions; Extension of Time for Comments

December 23, 1982.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking, extension of comment period.

SUMMARY: On November 19, 1982, the Commission issued a Notice of Proposed Rulemaking involving its Rules of Practice and Procedure and the filing of motions for reconsideration of initial decisions (47 FR 53034, November 24, 1982). The comment period is being extended at the request of the Edison Electric Institute.

DATE: Comments must be submitted on or before January 26, 1983.

ADDRESS: Submit comments to: Office of the Secretary, Federal Energy Regulatory, Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, (202) 357–8400.

SUPPLEMENTARY INFORMATION: On December 21, 1982, Edison Electric Institute (EEI) filed a motion for an extension of time to file comments in response to the Commission's Notice of Proposed Rulemaking issued November 19, 1982, in the above-docketed proceeding. The motion states that EEI requires additional time in order to formulate its position and coordinate its comments with member companies. The motion further states that additional time is needed because of the intervening holidays.

Upon consideration, notice is hereby given that an extension of time for the filing of comments is granted to and including January 26, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35479 Filed 12-30-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 134, 148, 162, 171, and 172

Penalties and Penalties Procedures; Extension of Comment Period

AGENCY: Customs Service, Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time within which interested members of the public may submit comments with respect to a notice of proposed rulemaking with respect to penalties and penalties procedures. A document inviting the public to comment was published in the **Federal Register** on November 3, 1982 (47 FR 49853). That document proposed to: (a) Add revised penalty guidelines relating to 19 U.S.C. 1592 as an appendix to Part 171, Customs Regulations (19 CFR Part 171); (b) clarify the requirements and criteria applicable to prior disclosures of violations of 19 U.S.C. 1592; (c) place a limitation on the number of supplemental petitions requesting relief from fines, penalties, and forfeitures, and from liquidated damages claims; and (d) make certain other minor, technical changes to the Customs Regulations.

Customs has received a request to extend the period of time for the submission of comments, and it believes that an extension is warranted. Accordingly, this notice extends the period of time for comment until February 18, 1983.

DATE: Comments must be received on or before February 18, 1983.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harold Loring, Commercial Fraud and Negligence Penalties Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–8317).

Dated: December 29, 1982.

John P. Simpson,

Director, Office of Regulations & Rulings.

[FR Doc. 82-35594 Filed 12-30-82; 9:23 am]

BILLING CODE 4820-02-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 76

[CT Docket No. 82-434]

Elimination of the Prohibition on Common Ownership of Cable Television Systems and National Television Networks; Release of Staff Report

December 23, 1982.

AGENCY: Federal Communication Commission.

ACTION: Proposed rule; Release of staff report.

SUMMARY: A staff report, *Measurement of Concentration in Home Video Markets*, has been released by the Commission and submitted into CT Docket No. 82–434, concerning Elimination of the Prohibition on Common Ownership of Cable TV Systems and National TV Networks. In a separate action, the Commission has

extended the deadline in this proceeding so interested parties may comment on this report. This action was taken in response to suggestions by some Commissioners that the Office of Plans and Policy analyze the Measurement of Concentration issues.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan Levy, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION: The FCC's Office of Plans and Policy has released a staff report entitled *Measurement of Concentration in Home Video Markets,*[1] by Jonathan D. Levy and Florence O. Setzer. The report was submitted into CT Docket No. 82–434.

The Commission adopted a *Notice of Proposed Rulemaking* in this docket on July 15, 1982, proposing elimination of the broadcast network-cable system crossownership prohibition. 47 Fed. Reg. 39.212 (1982). In the *Notice,* the Commission requested comment on what the appropriate market(s) are for analyzing this and perhaps other ownership rules. Comments were also requested on appropriate measures of concentration in the relevant markets. In response to a suggestion from some Commissioners that OPP analyze these issues, the staff report was prepared.

This staff report is being submitted into CT Docket 82–434 so that interested parties can comment on the analysis presented therein. In order to allow a full opportunity for comments, the Mass Media Bureau today has issued an order extending to February 7, 1983 the deadline for reply comments in this proceeding. (The order extending the deadline for comment is published in the Proposed Rules section of the Thursday, December 30, 1982, issue of the **Federal Register**, FR Doc. 82–35300).

The staff report concludes that for Commission ownership rules, the relevant market is a local program delivery market. It identifies a separate program acquisition market, which may be local, regional, or national, but this market is not the report's primary subject.

To delineate a market properly, the product as well as geographic dimensions must be specified. Although the staff report argues for an expansive definition, including video discs and cassettes as well as the audio and print media, it makes sample calculations based on four "core" media in a video delivery market-broadcast television, STV, MDS, and cable.

[1] The staff report is filed as a part of the original document.

The staff report suggests the Commsssion's ownership policy goals—economic competition and diversity—are best viewed as processes to be encouraged rather than results to be mandated. If consumers have available a reasonably wide range of suppliers of goods, services, and ideas from which to choose, ownership regulation is unnecessary. It is also unwise in view of its costs in terms of efficient organizational arrangements prevented.

This analysis leads to the conclusion that, while local ownership rules may be needed to keep local markets reasonably competitive, no rigid national ownership rules are appropriate. When local markets are reasonably competitive, the Commission's goals are realized within them. When local markets are not competitive, the Commission should examine the effect of mergers on concentration. Sample calculations in the report, based on the worst case assumption that no local markets are competitive, suggest that national concentration is quite low. The staff report recommends that if the Commission chooses to employ a concentration index, it should be used only as a monitoring tool that might trigger detailed analysis of some mergers or acquisitions.

The study is available for inspection in the FCC's Public Reference Room 239 and in the Office of Public Affairs, Room 207, 1919 M St., N.W., Washington, D.C. and at the office of the **Federal Register.** Copies may be purchased from the FCC's duplicating contractor, Downtown Copy Center, 1114 21st St., N.W., Washington, D.C. 20037, (101) 452–1422.

For more information contact Jonathan Levy at (202) 653–5940.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82–35299 Filed 12–30–82; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. MC–125]

Fare Flexibility for Bus Industry

AGENCY: Interstate Commerce Commission.

ACTION: Discontinuance of proposed rulemaking proceeding.

SUMMARY: The Commission instituted this proceeding for the purpose of allowing bus companies: (1) To raise and lower, within a fixed zone, the passenger fares that they charge; and (2) to negotiate charges with organizers of charter parties for individual charter bus trips. The Bus Regulatory Reform Act of 1982 (Bus Act) supersedes the two essential goals for which this proceeding was instituted. First, section 11 of the Bus Act mandates a zone of rate freedom to regular route motor carriers of passengers. Second, section 12 provides that the Commission may not investigate, suspend, revise or revoke any rate proposed by a motor common carrier of passengers applicable to special or charter transportation, except under limited circumstances.

FOR FURTHER INFORMATION CONTACT: Jane Morris, (202) 275–1757.

SUPPLEMENTARY INFORMATION: The Commission instituted Ex Parte No. MC–125 proposing to allow bus companies: (1) To raise and lower, within a fixed zone, the fares that they charge; and (2) to negotiate charges with organizers of charter parties for individual charter bus trips. The final version of the proposed rulemaking was set forth in a decision served July 3, 1979, and published at 44 FR 39555, July 6, 1979.

Section 11 of the Bus Regulatory Reform Act of 1982 (Bus Act) added new subsections 49 U.S.C. 10708 (d) (4) and (5) and (e), which provide (except for charter or special transportation) for a zone of rate freedom (ZORF) designed to encourage individual ratemaking, meet inflationary cost increases without undue regulatory delay and allow carriers to adapt to changing conditions in individual markets. Regulations implementing the ZORF are now in place.[1]

Under the ZORF passenger carriers may raise or lower their rates or fares with substantially reduced risk of investigation or suspension within certain specified percentages that expand over a 3-year period. During those 3 years, rates or fares filed within the ZORF may not be suspended except on the grounds they are predatory or discriminatory. The result is that proposed bus rates or fares may not be protested on the grounds that they are unreasonable, or, in other words, too high or too low. After 3 years, the Commission may not suspend or investigate any proposed rate on the basis of its being unreasonable, except on ratemaking actions where antitrust immunity is retained.[2]

[1] See Final Rules in No. 38900, *Identification of Rates Filed Under Zone of Rate Freedom by Motor Carriers of Passengers* (not printed), served November 30, 1982, and published at 47 FR 54083, December 1, 1982.

[2] Complaints, however, are permitted. See Ex Parte No. MC–162, *Procedures for Complaints*

Under section 12 of the Bus Act, 49 U.S.C. 10708(g), the Commission may not investigate, suspend, revise or revoke any rate proposed by a motor common carrier of passengers applicable to special or charter transportation, except where such rates constitute predatory practices. The new law allows firms providing charter service and special operations wide freedom in negotiating charges.

The result of these provisions of the Bus Act is that carriers have substantial regular route fare flexibility and are free to negotiate and file non-predatory charter and special transportation charges. Consequently, we find that there is nothing of substance to be accomplished in this proceeding.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

It Is Ordered

This proceeding is discontinued.

Decided: December 23, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35525 Filed 12-30-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Marine Fisheries Service

50 CFR Parts 17 and 227

Review of Special Rules on Sea Turtles

AGENCIES: Fish and Wildlife Service, Interior and National Marine Fisheries Service, Commerce.

ACTION: Notice of intent.

SUMMARY: The Services have been requested to review the current ban on commercial U.S. trade for certain sea turtle species. An upcoming meeting of the Parties to the Convention on International Trade in Endangered Species (CITES) will consider whether certain populations of sea turtle should be traded for commercial purposes. In light of these activities, the Services hereby announce their intent to review Special Rule 50 CFR 17.42(b) and 50 CFR 227 Subpart D on sea turtle species listed as threatened under the Endangered Species Act, with particular attention on whether or not to allow U.S. trade in certain sea turtle products according to CITES. Written comments are invited.

DATE: Comments on this notice must be received by February 2, 1983.

ADDRESS: Please address correspondence to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Va. 22203. Information on this notice is available for review during the hours of 7:45 a.m. to 4:15 p.m. Monday through Friday except holidays in Room 601, 1000 N. Glebe Road, Arlington, Va.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Batky, Staff Biologist, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Va. 22203; (703/235-1903), or Mr. Charles Karnella, National Marine Fisheries Service, Office of Marine Mammals and Endangered Species, U.S. Department of Commerce, Washington, D.C. 20235; (202/634-7471).

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service and the National Marine Fisheries Service share jurisdictional responsibility for sea turtles listed under the Endangered Species Act (ESA). The loggerhead (*Caretta caretta*) and certain populations of green (*Chelonia mydas*) and olive ridley (*Lepidochelys olivacea*) sea turtles are listed as Threatened species under the ESA. The Services adopted Special Rules, 50 CFR 17.42(b) and 50 CFR 227 Subpart D (43 FR 32800), for the conservation of these species. These rules allow the Services to issue permits to take, import and export such species for scientific research, zoological exhibition or educational purposes and to enhance the propagation or survival of these species. The rules prohibit trade in these species for commercial purposes. The Services considered whether to allow an exception to these restrictions on commercial trade for mariculture during the rulemaking, but did not allow an exception in the final rules.

These species are also listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). As a general rule, Appendix I species cannot be imported or exported for commercial purposes.

The Services have decided to review their rules on Threatened sea turtles for the following reasons:

(1) Suriname and Reunion have submitted proposals to ranch (rear in a controlled environment specimens taken from the wild) green sea turtles for consideration at the fourth regular meeting of the Conference of the Parties to CITES to be held in Botswana during April 1983 (47 FR 34043). If the Parties deem these populations to be no longer endangered and to benefit by ranching with the intention of trade, these populations could be transferred to Appendix II.

Species included in Appendix II may be traded internationally for commercial purposes provided that the Management Authority of the country of export issues an export permit. An export permit can be issued when the Scientific Authority of the country of export advises, among other things, that such export will not be detrimental to the survival of that species and the Management Authority of the country of export is satisfied that the specimen was not obtained in contravention of the laws of that country.

(2) Appendix I animal specimens which are "bred in captivity" for commercial purposes are deemed to be included in Appendix II according to Article VII.4 of CITES. This provision of Article VII was the subject of a resolution by the Parties to CITES in 1979. Questions have been raised by the government of the Cayman Islands and the United Kingdom Management Authority about the application of this resolution to certain Appendix I species, such as those with long generation periods. It has been proposed that this issue be discussed by the CITES Technical Experts Committee and that it be addressed at the Conference of the Parties in Botswana. Green sea turtles are among the species that could be affected by a resolution on this matter.

(3) On January 22, 1982, the Pacific Legal Foundation and the Association for Rational Environmental Alternatives filed a petition for rulemaking with the Services (47 FR 13917). The petitioners proposed implementation of a mariculture exemption from the trade prohibition for green sea turtle products by means of a permit provision in the regulations or a special rule.

(4) The Cayman Turtle Farm, Ltd. (CTF) has requested the Services to allow items from farm-produced turtles to accompany tourists back to the U.S., to allow farm products to be transshipped through the U.S. and to allow farm products to be imported into the U.S. for commercial purposes. During direct discussions between officials of the Cayman Islands and U.S. Government officials, and at hearings before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on

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Against Bus Carrier Rates and Fares (not printed), served November 19, 1982, and published at 47 FR 53282, November 24, 1982.

Merchant Marine and Fisheries of the House of Representatives, the Cayman Islands Government gave assurances that it would prevent any further addition of wild sea turtles or eggs to CTF, and would impose a numbering and documentation system on traded items.

The purposes of this notice are to announce the Services' intent to reconsider allowing commercial import of maricultured sea turtle products into the United States and to invite comments on the topic. Also, the Services are requesting information on environmental and economic impacts and effects on small entities (including small businesses, small organizations and small governmental jurisdictions) that would result from any changes to the Special Rule, and information on possible alternative actions. This information will aid the Services in complying with the requirements of the National Environmental Policy Act, Executive Order 12291 on Federal Regulation, and the Regulatory Flexibility Act, and in preparing any required analyses of effect.

List of Subjects

50 CFR Part 17

Endangered and threatened species. Fish, Marine mammals, Plants (agriculture), Wildlife.

50 CFR Part 227

Endangered and threatened wildlife. Fisheries.

Dated: December 14, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

Dated: December 22, 1982.

William G. Gordon,

Assistant Administrator for Fisheries.

[FR Doc. 82-33160 Filed 12-30-82; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 1
Monday, January 3, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Renewals of Designation of Lima Grain Inspection Service (OH) and Virginia Department of Agriculture and Consumer Services (VA)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the renewals of designation of the Lima Grain Inspection Service (Lima) and Virginia Department of Agriculture and Consumer Services (Virginia) as official agencies responsible for providing, respectively, inspection services and inspection and weighing services, under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: February 1, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The July 30, 1982, issue of the **Federal Register** (47 FR 32972) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Lima and Virginia's designations would terminate on January 31, 1983, and requesting applications for designation as the agency to provide official services within each specified assigned area. Applications were to be postmarked by August 30, 1982.

FGIS announced the names of the applicants for designation for each agency and requested comments on same in the October 1, 1982, issue of the **Federal Register** (47 FR 43537). Comments were to be postmarked by November 15, 1982. No comments were received regarding the renewals of designation of Lima and Virginia (the only applicants for each respective designation) as official agencies.

After considering all available information in relation to the criteria for designation in Section 7(f)(1)(A) of the Act, and in accordance with Section 7(f)(1)(B), it has been determined that Lima and Virginia are able to provide official services in the geographic area for which their designations are being renewed. Each assigned area is the entire geographic area, as described in the July 30 issue of the **Federal Register**.

Effective February 1, 1983, and terminating January 31, 1986, the responsibility for providing official inspection services for Lima and official inspection, official weighing, and supervision of weighing services for Virginia in each geographic area, as specified above, will be assigned to Lima and Virginia, respectively.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection and where the agency and one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agencies will provide official services not requiring a licensed inspector to all locations within their geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons may also obtain a list of the specified service points by contacting the agencies at the following addresses:

Lima Grain Inspection Service, 2242 Arcadia Avenue, Lima, OH 45805.

Virginia Department of Agriculture and Consumer Services, 1110 Bank Street, Washington Building, Richmond, VA 23219.

(Sec. 8, Sec. 9, Pub. L. 94–582, 90 Stat. 2873, 2875 (7 U.S.C. 79, 79a))

Dated: December 20, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–34945 Filed 12–30–82; 8:45 am]

BILLING CODE 3410-EW-M

Request for Comments on Applicants for Designation in the Areas Currently Assigned to Grain Inspection Services, Inc. (MI), and Detroit Grain Inspection Service, Inc. (MI)

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for designation as the official agency in the areas currently assigned to Grain Inspection Services, Inc., and Detroit Grain Inspection Service, Inc. The designations terminate April 30, 1983.

DATE: Comments to be postmarked on or before February 17, 1983.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1642, South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive order and Secretary's Memorandum do not apply to this action.

The November 1, 1982, issue of the **Federal Register** (47 FR 49432) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to the official agencies. Applications were to be postmarked by December 1, 1982.

Grain Inspection Services, Inc., the only applicant, requested designation for all of the geographic area currently assigned to that agency. Detroit Grain Inspection Service, Inc., the only applicant, requested designation for all of the geographic area currently assigned to that agency. Battle Creek and Detroit each applied for a renewal of designation for a 3-year period.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants for designation. All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than February 17, 1983.

Consideration will be given to comments filed and to other information available before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: December 20, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–34946 Filed 12–30–82; 8:45 am]

BILLING CODE 3410–EW–M

Request for Applicants for Designation To Perform Official Services in the Geographic Area Currently Assigned to D. L. Boltenhouse Grain Inspection (OH)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), designations of official agencies shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures provided in the Act. This notice announces that the designation of one agency will terminate, in accordance with the act, and requests applications from parties, including the agency currently designated, who are interested in being designated as an official agency to conduct official services in the geographic area currently assigned to the specified agency. The official agency is D. L. Boltenhouse Grain Inspections.

DATE: Applications to be postmarked on or before February 2, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2405 Auditors Building, Washington, DC 20250. All applications submitted pursuant to this notice will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. 71 *et seq.*, at 79(f)(1)), specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official inspection services after a determination is made that the applicant is better able than any other applicant to provide official inspection services in an assigned geographic area.

D. L. Boltenhouse Grain Inspection (Boltenhouse), P.O. Box 96, Bellevue, Ohio 44811, was designated as an official agency under the Act for the performance of official inspection functions on September 25, 1978.

The agency's designation will terminate on June 30, 1983. This date reflects administrative extensions of official agency designations as dicussed in the July 16, 1979, issue of the **Federal Register** (44 FR 41275). Section 7(g)(1) of the Act states generally that designations of official agencies shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Boltenhouse in Ohio and Michigan, pursuant to Section 7(f)(2) of the Act, and which is the geographic area that may be assigned to the applicant selected for designation is the following:

In Ohio, the area shall be:

Bounded: on the North by the northern Lucas County line east to Lake Erie; the Lake Erie shoreline east to the Ohio-Pennsylvania State line;

Bounded: on the East by the Ohio-Pennsylvania State line south to State Route 154;

Bounded: on the South by State Route 154 west to Lisbon, Ohio; U.S. Route 30 west to Bucyrus, Ohio; and

Bounded: on the West by State Route 19 north to Seneca County; the southern Seneca County line west to State Route 53; State Route 53 north to Sandusky County; the southern Sandusky County line west to State Route 590; State Route 590 north to Ottawa County; the southern and western Ottawa and Lucas County lines.

In Michigan the area shall include those sections of Jackson, Lehawee, and Monroe Counties which are east of State Route 127 and south of State Route 50.

An exception to the described geographic area is the following location situated inside Boltenhouse's area which has been and will continue to be serviced by Grain Inspection Services, Inc.: Crop Aid, Hudson, Lenawee County, Michigan.

Additional exceptions to the described geographic area are the following export port locations situated inside Boltenhouse's area which have been and will continue to be serviced by FGIS: The Andersons, Toledo and Maumee, Ohio; Cargill, Inc., Toledo and Maumee, Ohio; and Mid-States Terminals, Inc., Toledo, Ohio.

Interested parties, including Boltenhouse, are hereby given opportunity to apply for designation as the official agency to perform the official services in each geographic area, as specified above, under the provisions of Section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning July 1, 1983, and terminating June 30, 1986. Parties wishing to apply for this designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than February 3, 1983, to be eligible for consideration.

In making a determination as to which applicant will be designated to provide official services in the geographic area, consideration will be given to applications submitted and other available information.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: December 20, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–34947 Filed 12–30–82; 8:45 am]

BILLING CODE 3410–EW–M

Office of the Secretary

Section 22 Imports Fees; Determination of Quarterly Import Fees on Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. This notice announces those determinations for the first calendar quarter of 1983.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202–447–6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4940, dated May 5, 1982, Headnote 4 of Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the adjusted daily spot (domestic) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee, Sugar, and Cocoa Exchange), expressed in United States cents per pound, in bulk, is less than the market stablization price. The market stablization price for the first calendar quarter of 1983 is 20.73 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter: (1) Exceeds the market stabilization price by more than one cent, the fee then in effect shall be decreased by one cent; or (2) is less than the market stabilization price by more than one cent, the fee then in effect shall be increased by one cent. Paragraph (c)(i) of Headnote 4 further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus one cent.

The average of the adjusted daily spot (domestic) price quotations for raw sugar for the applicable period prior to the first calendar quarter of 1983 has been calculated to be 20.8275 cents per pound. This results in a fee of 0.00 cent per pound for item 956.15, since the adjusted average spot price is greater than 20.73 cents. Accordingly, the fee for items 956.05 and 957.15 for the first calendar quarter of 1983 is 1.00 cent per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amounts of such fees to the Secretary of the Treasury and file notice thereof with the Federal Register prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

Notice

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the first calendar quarter of 1983 shall be as follows:

Item	Fee
956.05	1.00 cent per lb.
956.15	0.00 cent per lb.
957.15	1.00 cent per lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iv) of Headnote 4.

Signed at Washington, D.C. on December 28, 1982.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 82-35533 Filed 12-28-82; 5:11 pm]

BILLING CODE 3410-10-M

Rural Electrification Administration

Caney Valley Electric Cooperative Association, Inc., Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to a request for financing assistance from Caney Valley Electric Cooperative Association, Inc., (Caney Valley) of Cedar Vale, Kansas, for the construction of 26 km (16 mi) of 69 kV transmission line and related facilities in Chautauqua and Montgomery Counties, Kansas.

FOR FURTHER INFORMATION CONTACT: REA's FONSI and Environmental Assessment (EA) and Caney Valley's Borrower's Environmental Report (BER) may be reviewed at or obtained from Mr. William E. Davis, Director, Western Area-Electric, Room 3304, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–8848, or Mr. Robert L. Brown, Manager, Caney Valley Electric Cooperative Association, Inc., Cedar Vale, Kansas 67024, telephone (316) 758–2262, during regular business hours.

SUPPLEMENTARY INFORMATION: REA has reviewed the BER submitted by Caney Valley and has determined that it represents an accurate assessment of the environmental impacts of the proposed project. Based on the BER and other support documents, REA prepared an EA and FONSI concerning the proposed construction. It is REA's view that the proposed financing assistance will not be a major Federal action significantly affecting the quality of the human environment.

The BER and EA adequately consider potential impacts of the project on resources including prime farmland, floodplains, wetlands, threatened and endangered species, and cultural resources.

REA considered alternatives including: No action, energy management and conservation, underground construction, upgrade of the present system, alternative routes, and power sources. After reviewing these alternatives, REA has determined that the proposed project is an acceptable alternative because it meets Caney Valley's needs with minimal adverse environmental impacts.

In accordance with REA's Bulletin 20–21:320–21, dated January 21, 1980, Caney Valley advertised the availability of the BER in the local newspapers. Comments were solicited and the public was given 30 days to reply. No comments were received.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: December 22, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-35435 Filed 12-30-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Smithfield Farm Irrigation RC&D Measure Plan, Utah; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Smithfield Farm Irrigation RC&D Measures, Cache County, Utah.

FOR FURTHER INFORMATION CONTACT: George D. McMillan, State Conservationist, Soil Conservation Service, P.O. Box 11350, Salt Lake City, Utah 84147, telephone 801/524–5050.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the projects will not cause significant local, regional or national impacts on the environment. As a result of these findings, George D. McMillan, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The measures concern plans for installation of a high pressure, gravity head sprinkler irrigation system.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting George D. McMillan. The FONSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

George D. McMilan,

State Conservationist.

December 7, 1982.

[FR Doc. 82–35408 Filed 12–30–82; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

Air South, Inc.; Fitness Determination

AGENCY: Civil Aeronautics Board

ACTION: Notice of Commenter Air Carrier Fitness Determination—Order 82–12–120, order to show cause.

SUMMARY: The Board is proposing to find that Air South, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than January 13, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESS: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to Order 82–12–120.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Brennan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–12–120 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–12–120 to that address.

By the Civil Aeronautics Board: December 27, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–35671 Filed 12–30–82; 8:45 am]

BILLING CODE 6320–01–M

Central Caraibes Air, S.A.; Order To Show Cause

AGENCY: Civil Aeronautics Board

ACTION: Notice of Order to Show Cause; Order 82–12–121.

SUMMARY: The Board proposes to dismiss the following application:

Applicant: Central Caraibes Air, S.A.

Application Date: July 1, 1981; Docket: 39771.

Authority Sought: Scheduled foreign air transportation of persons, property, and mail between Port-au-Prince, Haiti and the coterminal points Miami, Florida and New York, New York, using aircraft wet-leased from Condor Flugdienst GmbH.

Basis for Decision: The wet-lease agreement between Central Caraibes Air and Condor has terminated, Central Caraibes has not found a replacement lessor for Condor and has not prosecuted its application.

Objections: All interested persons having objections to the Board's tentative findings and conclusions that this application should be dismissed, as described in the order cited above, shall, NO LATER THAN January 19, 1983, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, Air Florida, Inc., Rich International Airways, Inc., the Department of Transportation, the Department of State, and the Ambassador of Haiti in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will make final the Board's tentative findings and conclusions and dismiss the application.

Addresses for objections:

Docket 39771, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428

Robert P. Silverberg, Esq., General Counsel and Corporate Secretary, Air

Florida, Inc., 1050 Thomas Jefferson St., NW, Suite 600, Washington, D.C. 20007
Lawrence D. Wasko, Seamon, Wasko & Ozment, Counsel for Central Caraibes Air, S.A., 1211 Connecticut Ave., NW, Suite 300, Washington, D.C. 20036
Rich International Airways, Inc., c/o Gary B. Garofalo, Boros & Garofalo, P.C., 1120 Connecticut Ave., NW, Suite 460, Washington, D.C. 20036

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Allan Lewis, Regulatory Affairs Division of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5134.

By the Civil Aeronautics Board: December 27, 1982

Phyllis T. Kaylor,
Secretary

[FR Doc. 82-35572 Filed 12-30-82; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41127]

Sea and Sun Airlines, Inc.; Enforcement Proceeding; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John N. Vittose. Future communications should be addressed to him.

Dated at Washington, D.C., December 22, 1982.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 82-35568 Filed 12-30-82; 8:45 am]
BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

(See, 14 CFR 302.1701 et. seq.)

Week Ended December 23, 1982. Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
[illegible] 23, 1982	41165	Orion Lift Services, Inc. d/b/a Orion Air, c/o Stephen L. Gelband Hewes, Morella, Gelband & Lamberton, 1010 Wisconsin Avenue, N.W. Suite 640. Washington, D.C. 20007. Application of Orion Lift Services, Inc. d/b/a Orion Air pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations requests expeditious issuance to it of a certificate to provide world-wide charter air transportation in the following geographic areas: Between any point in any state of the United States or the District of Columbia, or any United States territory or possession and (a) Points in Canada, (b) Points in Mexico, (c) Points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea; (d) Points in Central and South America; (e) Points in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing; and (f) Points in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 19, 1983.
Do	41169	Air Florida, Inc., c/o Robert P. Silverberg, 1950 Thomas Jefferson Street, N.W., Suite 600, Washington, D.C. 20007. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Bord's Procedural Regulations requests an amendment of its certificate of public convenience and necessity for Route 197–F authorizing it to engage in air transportation with respect to persons, property and mail on a new segment as follows: Between the terminal point Miami, Florida, the intermediate point London, England and the coterminal point Frankfurt, FRG. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 19, 1983.
Dec. 23, 1982	41171	Aeronaves De Puerto Rico, Inc., c/o George T. Volsky, 1333 H Street, N.W., Suite 600, Washington, D.C. 20005. Application of Aeronaves De Puerto Rico, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for authority to engage in scheduled air transportation of passengers, property and mail between New York, N.Y. (JFK and Newark) or Puerto Rico (San Juan/Borinquen) and Santo Domingo/Puerto Plata, Dominican Republic. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 19, 1983.
Dec. 22, 1982	41025	Minerve, Compagnie Francaise de Transports Aeriens, S. A., c/o Andrew T. A. Macdonald, Wilmer, Cutler & Pickering, 1666 K Street, N.W., Washington, D.C. 20006. Supplement to and Completion of the Application of Minerve filed pursuant to Order 82–10–68. Answers may be filed by January 19, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-35569 Filed 12-30-82; 8:45 am]
BILLING CODE 6320-01-M

Vacation Air, Inc.; Applications for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order instituting the Vacation Air, Inc. Fitness Investigation, 82–12–112 Docket 41165.

SUMMARY: The Board is instituting an investigation to determine the fitness of Vacation Air, Inc. to engage in the interstate, overseas, and foreign charter air transportation of persons, property, and mail, except for charters in Alaska and all-cargo charters in Hawaii.

DATES: Persons wishing to intervene in the *Vacation Air, Inc. Fitness Investigation* shall file their petitions in Docket 41165 by January 19, 1983.

ADDRESSES: Petitions to intervene should be filed in Docket 41165 and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Joseph W. Bolognesi, Bureau of Domestic Aviation, Civil Aeronautics

Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–12–112 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–12–112 to that address.

By the Civil Aeronautics Board: December 22, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–35570 Filed 12–30–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Articles of Quota Cheese; Annual Listing of Foreign Government Subsidies

AGENCY: International Trade Administration, Commerce.

ACTION: Publication of annual list of foreign government subsidies on articles of quota cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Susan E. Silver or Thomas K. Hodge, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (19 U.S.C. 1202 note) (the "TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Department of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 23, 1982.

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

Country	Program(s)	Gross[1] subsidy (cents per pound)	Net[2] subsidy (cents per pound)
Belgium	European Community (EC) Restitution Payments.	7.9	7.9
Canada	Export Assistance on Swiss Cheese.	16.3	16.3
	Export Assistance on Cheddar Cheese.	[illegible]	[illegible]
	Export Assistance on Mozzarella NSPF Cheese.	34.6	[illegible]
	Export Assistance on all other NSPF Cheeses.	16.3	16.3
Denmark	EC Restitution Payments.	4.6	[illegible]
Finland	Export Subsidy	107.0	107.0
	Indirect Subsidies	20.5	[illegible]
		127.5	127.5
France	EC Restitution Payments.	6.3	[illegible]
Ireland	EC Restitution Payments.	4.0	4.0
Italy	EC Restitution Payments.	14.0	14.0
Luxembourg	EC Restitution Payments	7.9	7.9
Netherlands	EC Restitution Payments.	4.3	4.3
Norway	Indirect (Milk) Subsidy	19.7	19.7
	Consumer Subsidy	43.9	[illegible]
		[illegible]	[illegible]
Portugal	Direct Subsidy on All Sales of Gouda Cheese.	16.2	16.2
Switzerland	Deficiency Payments	75.4	75.4
U.K.	EC Restitution Payments.	3.2	3.2
W. Germany	EC Restitution Payments.	5.2	5.2

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 82–35379 Filed 12–30–82; 8:45 am]

BILLING CODE 3510–25–M

[A–201–034]

Elemental Sulphur From Mexico; Preliminary Results of Administrative Review and Modification of Revocation in Part of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review and Modification of Revocation in Part of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on elemental sulphur from Mexico. The review covers the one known exporter of this mechandise to the United States currently covered by the finding and the period June 1, 1980 through May 31, 1982.

As a result of the review, because the firm was non-responsive, the Department has preliminarily determined to assess dumping duties on the firm's sales during the period of review using the best information available.

The Department also intends to amend the wording of the exclusion for another firm so that elemental sulphur that is produced and/or sold by that firm is excluded from the finding. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 1981, the Department of Commerce ("the Department") published in the *Federal Register* (46 FR 35539–40) the final results of its last administrative review of the antidumping finding on elemental sulphur from Mexico (37 FR 12727, June 28, 1972) and announced its intent to conduct the next administrative review by the end of June 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of elemental sulphur. Basically there are two types of sulphur, "bright" and "dark" sulphur. Chemically

these two types are almost equal, the dark sulphur being discolored by certain hydrocarbon impurities. The greatest single use of sulphur is in the manufacture of sulphuric acid. In elemental form or as sulphuric acid it enters into the production or processing of hundreds of products. Among the most important are fertilizers, chemicals, titanium and other pigments, pulp and paper, rayon, film, iron and steel, dyestuffs, vulcanized and synthetic rubber, insecticides, fungicides, fuels and explosives. Elemental sulphur is currently classifiable under item 415.4500 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of elemental sulphur from Mexico to the United States currently covered by the finding, Agro Centro, S.A., and the period June 1, 1980 through May 31, 1982. Agro Centro did not respond to the Department's questionnaire. For this non-responsive exporter the Department will use the best information available for assessment and estimated duty cash deposit purposes. The best information available is the most recent rate for the firm.

On January 5, 1978, the Treasury Department published a "Modification of Dumping Finding" [43 FR 954–5] covering sulphur produced *and* sold by Azufrera Pan-Americana, S.A. ("APSA"). We intend to amend the wording of the modification for APSA to read "* * *except the produced and/or sold by Azufrera Pan-Americana, S.A.".

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin of 33% exists for sales by Agro Centro for the period June 1, 1980 through May 31, 1982.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication.

The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the period of review. The Department will issue assessment instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 33 percent shall be required on all shipments of Mexican sulphur from Agro Centro entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 23, 1982.

[FR Doc. 82–35543 Filed 12–30–82; 8:45am]

BILLING CODE 3510-25-M

[A–588–024]

Tempered Sheet Glass From Japan; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination To Revoke

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on tempered sheet glass from Japan. The review covers the one known exporter of this merchandise to the United States and the periods from September 13, 1975, the date of a previous Treasury Department tentative determination to revoke, through August 31, 1978, and September 1, 1980 through August 31, 1982.

As a result of the review, the department has tentatively determined to revoke the finding. All sales from September 13, 1975 through August 31, 1976 were made at not less than fair value and there have been no sales since then through August 31, 1982. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 8307) the final results of its last administrative review and determination not to revoke at that time the antidumping finding on tempered sheet glass from Japan (36 FR 10913, September 25, 1971) and announced its intent to conduct the next administrative review by the end of September 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review. The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of tempered sheet glass in patio door sizes, currently classifiable under item 544.3100 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the one known exporter of Japanese termpered sheet glass to the United States, Asahi Glass Company, Ltd. ("Asahi"), and the periods September 13, 1975 (the date of a prior Treasury Department tentative determination to revoke) through August 31, 1978, and September 1, 1980 through August 31, 1982. We covered the period from September 1, 1978 through August 31, 1980 in our last review.

United States Price

In calculating United States price the Department used purchase price, as defined in section 203 of the 1921 Act. Purchase price was based on the packed, delivered price to unrelated purchasers in the United States, with deductions where applicable, for Japanese inland freight, ocean freight, marine insurance, commissions to unrelated parties, U.S. duty, customs brokerage in Japan and the U.S., U.S. inland freight, and cash discounts. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used the price to purchasers in a third country (Australia), as defined in section 205 of the 1921 Act, since insufficient sales existed in the home market to form an adequate basis of comparison. Third-country prices were based on packed CIF prices and were

adjusted, where applicable, for Japanese inland freight, ocean freight, marine insurance, commissions to unrelated parties, Japanese brokerage fees, and differences in packing costs. Adjustments were also made for differences in the merchandise due to tinting of certain U.S. products, in accordance with § 153.11 of the Customs Regulations. We denied a claim for another difference in merchandise because it was not adequately quantified. Further, because Asahi presented no evidence supporting a claimed adjustment for a 3 percent selling commission for a trading house, we disallowed that claim. No other adjustments were claimed or allowed.

Preliminary Results of Review and Tentative Determination To Revoke

As a result of our comparison of United States price to foreign market value, we preliminarily determine that, for the period September 13, 1975 through August 31, 1976, all sales by Asahi were made at not less than fair value. There were no sales to the U.S. from September 1, 1976 through August 31, 1982.

As provided for in § 353.54(e) of the Commerce Regulations, Asahi has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if cicumstances develop which indicate that tempered sheet glass in patio door sizes thereafter imported into the United States is being sold by it at less than fair value.

Therefore, we tentatively determine to revoke the finding on tempered sheet glass from Japan. If this revocation is made final, it will apply to all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall instruct the Customs Service not to assess dumping duties on any entries made with purchase dates during the first period of review. The Department will issue appraisement instructions directly to the Customs Service.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (a) (1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and § 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 23, 1982.

[FR Doc. 82-35542 Filed 12-30-8:45 am]

BILLING CODE 3510-25-M

Certain Steel Products From Spain; Countervailing Duty Orders

AGENCY: International Trade Administration, Commerce.

ACTION: Countervailing Duty Orders; Certain Steel Products from Spain.

SUMMARY: In separate investigations, the U.S. Department of Commerce (the Department) and the U.S. International Trade Commission (ITC) have determined that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, and exporters in Spain of certain steel products and that these imports are materially unjuring a U.S. industry. Therefore, all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after August 30, 1982, the date of publication of our preliminary determinations, are liable for the possible assessment of countervailing duties. Further, a cash deposit of estimated countervailing duties must be posted on all such entries made on or after publication of these orders in the **Federal Register.**

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202) 377–3793.

SUPPLEMENTARY INFORMATION: On August 30, 1982, we published our preliminary determinatins that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Spain of certain steel products (47 FR 38161). On November 15, 1982, we published our final affirmative countervailing duty determinations on these imports (47 FR 38375). Critical circumstances were also found to exist for imports of one of the certain steel products, carbon steel structural shapes.

On December 21, 1982, the ITC notified us in accordance with section 705(b) of the Traiff Act of 1930, as amended (the Act) (19 U.S.C. 1671(b)), that it has determined that an industry in the United States is being materially injured by reason of imports of certain steel products from Spain. The ITC further determined that critical circumstances are not met since the material injury being caused a U.S. industry was not by reason of massive imports of the subject merchandise over a relatively short period. Therefore, all unliquidatd entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after August 30, 1982, the date of publication of our preliminary determinations, are liable for the possible assessment of countervialing duties. With respect to carbon steel structural shapes entered, or withdrawn from warehouse, for consumption during the ninety day period prior to August 30, 1982, the suspension of liquidation for all entries, is revoked and any cash deposits or bonds which were deposited will be refunded or released.

I am directing the U.S. Customs Service to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act and to require a cash deposit equal to the amount of the estimated net subsidy for all entries of certain steel products imported from Spain as defined in Appendix 1. These orders apply to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice. The amount to be deposited for each company is listed in Appendix 2 to this notice.

The products covered by these countervailing duty orders are:

- Carbon steel structural shapes,
- Hot-rolled cabon steel plate,
- Cold-rolled carbon steel sheet,
- Galvnized carbon steel sheet,
- Hot-rolled carbon steel bars,
- Cold-formed carbon steel bars.

These products are fully described in Appendix 1 to this notice.

I hereby make public these countervailing duty orders with respect to certain steel products from Spain pursuant to section 706 of the Act (19 U.S.C. 1671e) and section 355.36 of the Commerce Regulations (19 CFR 355.36). The Department intends to complete an administrative review of this order under section 751 of the Act.

Dated: December 28, 1982.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

Appendix 1—Description of Products

For purposes of these investigations:

1. *"carbon steel structural shapes"* covers hot-rolled forged, extruded, or drawn, or cold-formed or cold-finished carbon steel angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to Schedule 6, Part 2 of the *Tariff Schedules of the United States Annotated (TSUSA)*, for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates, or any tubular products set forth in the *TSUSA*, having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the *TSUSA*. Such products are generally referred to as structural shapes;

3. *"hot-rolled carbon steel plate"* covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut; not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6615, or 607.94, of the *Tariff Schedules of the United States Annotated ("TSUSA")*; and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710 and 608.11 of the *TSUSA*. Semifinished products of solid rectangular cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included;

3. *"cold-rolled carbon steel sheet"* covers the following cold-rolled carbon steel product, whether or not corrugated or crimped and whether or not pickled; not coated or plated with metal; over 12 inches in width and in coils or if not in coils under 0.1875 inch in thickness; as currently provided for in terms 607.8320 of 607.8344 of the *Tariff Schedules of the United States Annotated ("TSUSA"). Please note that the definition of cold-rolled carbon steel sheet includes some products classified as "plate" in the TSUSA (item 607.8320);*

4. *"galvanized carbon steel sheet"* covers hot- or cold-rolled carbon steel sheet which has been coated or plated with zinc including any material which has been painted, or otherwise covered, after having been coated or plated with zinc, as currently provided for in items 608.0710, 608.0730, 608.11 or 608.13 of the *Tariff Schedules of the United States Annotated ("TSUSA"). Note that the definition of galvanized carbon steel sheet includes some products classified as "plate" in the TSUSA (items 608.0710 and 608.11);*

5. *"hot-rolled carbon steel bars"* covers hot-rolled carbon steel products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons, not cold-formed and not coated or plated with metal, in items 606.8310, 606.8330, or 606.8350 of the *Tariff Schedules of the United States Annotated;*

6. *"cold-formed carbon steel bars"* covers cold-formed carbon steel products of solid section which have cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons, or octagons [1] as currently provided for in items 606.8805 or 606.8815 of the *Tariff Schedules of the United States Annotated;*

Appendix 2

Manufacturer/producer/exporter	Ad valorem rate (percent)
Empresa Nacional Siderurgica, S.A.:	
Carbon steel structural shapes	10.12
Hot-rolled carbon steel plate	10.12
Cold-rolled carbon steel sheet	10.12
Galvanized carbon steel sheet	10.12
Altos Hornos Del Mediterraneo, S.A.: Cold-rolled carbon steel sheet	38.25
Altos Hornos De Vizcaya, S.A.: Galvanized carbon steel sheet	4.54
Jose Maria Aristrain, S.A.: Carbon steel structural shapes	1.64
Industrias Del Besos, S.A.: Hot-rolled carbon steel bars	1.59
Pedro Orbegozo Y Cia, S.A.:	
Hot-rolled carbon steel bars	0
Cold-formed carbon steel bars	0
Tuyper, S.A.: Cold-formed carbon steel bars	1.30
Forjas Alavesas:	
Hot-rolled carbon steel bars	1.74
Cold-formed carbon steel bars	1.74
S.A. Echevarria:	
Hot-rolled carbon steel bars	15.06
Cold-formed carbon steel bars	15.06
All other manufacturers, producers, exporters of the product under investigation, as follows:n	
Carbon steel structural shapes	10.12
Hot-rolled carbon steel sheet	10.12
Cold-rolled carbon steel sheet	[illegible]
Galvanized carbon steel sheet	10.12
Cold-formed carbon steel bars	15.06
Hot-rolled carbon steel bars	15.06

[FR Doc. 82-35583 Filed 12-30-82; 8:45 am]

BILLING CODE 3510-25-M

Stainless Steel Wire Rod From Spain; Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Countervailing Duty Order; Stainless Steel Wire Rod From Spain.

SUMMARY: In separate investigations, the U.S. Department of Commerce (the Department) and the U.S. International Trade Commission (ITC) have determined that certain benefits which constitute subsides within the meaning of the countervailing duty law are being provided to manufacturers, producers, and exporters in Spain of stainless steel wire rod and that these imports are materially injuring a U.S. industry. Therefore, all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after August 31, 1982, the date of publication of our preliminary determination, are liable for the possible assessment of countervailing duties. Further, a cash deposit of estimated countervailing duties must be posted on all such entries made on or after publication of this order in the **Federal Register.**

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202) 377-3793.

SUPPLEMENTARY INFORMATION: On August 23, 1982, we issued our preliminary determinations that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Spain of certain stainless steel products (47 FR 38161), which included hot-rolled stainless steel bars, cold-formed stainless steel bars and stainless steel wire rod. On November 15, 1982 (47 FR 51453), we issued our final affirmative countervailing duty determinations on all these imports.

On December 22, 1982, the ITC notified us in accordance with section 705(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671d(b)), that it had determined that an industry in the United States is being materially injured by reason of imports of stainless steel wire rod from Spain. The ITC further determined that no industry in the United States is being materially injured or is threatened with material injury by reason of imports of hot-rolled stainless steel bars or cold-formed stainless steel bars from Spain.

Therefore, all unliquidated entries of stainless steel wire rod entered, or withdrawn from a warehouse, for consumption on or after August 31, 1982, the date of publication of our preliminary determination, are liable for the possible assessment of countervailing duties. The suspension of liquidation for all entries of hot-rolled stainless steel bars and cold-formed stainless steel bars is revoked and any cash deposits or bonds which were deposited with respect to these products will be refunded or released.

I am directing the U.S. Customs Service to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act and to require a cash deposit equal to the amount of the estimated net subsidy set forth in Appendix 1 for all entries of stainless steel wire rod, as herein defined,

[1] Initiation notice amended by deleting after octagons "and not coated or plated with metal."

imported from Spain. This order applies to all entries of the subject merchandise entererd, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The amount to be deposited for each such company is listed in Appendix 1 to this notice.

The stainless steel wire rod covered by this countervailing duty order includes a coiled, semi-finished, hot-rolled stainless steel product of solid cross section, approximately round in cross section, not under 0.20 inches nor over 0.74 inches in diameter, not tempered, not treated, and not partly manufactured as currently provided for in item 607.26 of the *Tariff Schedules of the United States Annotated (TSUSA)*, or if tempered, treated, or partly manufactured as provided for in item 607.43 of the TSUSA.

I hereby make public this countervailing duty order with respect to stainless steel wire rod from Spain pursuant to section 706 of the Act (19 U.S.C. 1671e) and section 355.36 of the Commerce Regulations (19 CFR 355.36). The Department intends to complete an administrative review of this order under section 751 of the Act.

Dated: December 28, 1982.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

Appendix 1

Manufacturer/producer/exporter	ad valorem rate (in percent)
Roldan	3.19
Olarra	0.00
Forjas Alavesas	2.09
S.A. Echevarria	15.43
All other manufacturers/producers/exporters	15.43

[FR Doc. 82-35594 Filed 12-30-82; 8:45 am]

BILLING CODE 3510-25-M

Preliminary Affirmative Countervailing Duty Determination; Tool Steel From Brazil

AGENCY: International Trade Administration, Commerce

ACTION: Preliminary Affirmative Countervailing Duty Determination.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of tool steel. The estimated net subsidy is 17.766 percent *ad valorem*. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of tool steel from Brazil which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this product in the amount equal to the estimated net subsidy.

It this investigation proceeds normally, we will make our final determination by March 14, 1983.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of tool steel. For purposes of this investigation, the following programs are preliminarily found to confer subsidies:

- IPI export credit premium
- Preferential working capital financing for exports
- Income tax exemption for export earnings
- Long-term loans
- IPI rebates for capital investment
- Industrial Development Council (CDI) program
- Accelerated depreciation for capital goods manufactured in Brazil

We estimate the net subsidy to be 17.766 percent *ad valorem*.

Case History

On July 30, 1982, we received a petition from Al Tech Specialty Steel Corporation, Braeburn Alloy Steel Division, Continental Copper & Steel Industries, Inc., Carpenter Technology Corporation, Columbia Tool Steel Company, Crucible Specialty Metals Division, Colt Industries, Inc., Cyclops Corporation, Guterl Special Steel Corporation, Jessop Steel Company, Latrobe Steel Company, on behalf of the U.S. industry producing tool steel and the United Steelworkers of America, AFL/CIO. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of tool steel.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on August 18, 1982, we initiated a countervailing duty investigation (47 FR 36874). We stated that we expected to issue a preliminary determination by October 25, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until December 27, 1982 (47 FR 49436).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiation. On September 13, 1982, the ITC preliminarily determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 41881).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. On November 15, 1982, we received the response to that questionnaire.

Scope of Investigation

The product covered by this investigation is tool steel which includes hot-finished tool steel, cold-finished tool steel, high speed tool steel, chipper knife steel and band saw steel bars and rods as currently provided for in items 606.9300, 606.9400, 606.9505, 606.9510, 606.9520, 606.9525, 606.9535, 606.9540, 607.2800, 607.3405, 607.3420, 607.4600, 607.5405 and 607.5420 of the *Tariff Schedules of the United States Annotated.*

There are four known producers and exporters in Brazil of tool steel to the United States. We have received information from the government of Brazil regarding three of these companies, Acos Finos Piratini S/A (PIRATINI), Acos Villares S/A (VILLARES), and Eletrometal Acos Finos S/A (ELETROMETAL) which represented over 85 percent of exports of this product to the United States during calendar year 1981.

The period for which we are measuring subsidization is that fiscal year for each company which most closely corresponds to calendar year 1981. That period is calendar year 1981 for PIRATINI, February 1, 1981 to January 31, 1982 for VILLARES and October 1, 1981 to September 30, 1982 for ELETROMETAL. We have referred to these periods as fiscal year 1981 in this notice.

Analysis of Programs

In its response, the government of Brazil provided data for the applicable periods. Based upon our analysis to date of the petition and the response to our questionnaire, we preliminarily determine the following.

I. Programs Preliminarily Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of tool steel under the following programs.

A. Industrialized Products Tax (IPI) Export Credit Premium

The IPI export credit premium has been found to be a benefit in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981.

Exporters of tool steel are eligible for the maximum IPI export credit premium. Up until March 30, 1982, 15 percent of the "adjusted" f.o.b. invoice price of the exported merchandise was reimbursed in cash to the exporter through the bank involved in the export transaction.

Subsequently, the government of Brazil reduced the benefit to 14 percent on March 31, 1982, 12.5 percent on June 30, 1982, and 11 percent on September 30, 1982.

In calculating the amount the exporter is to receive, several deductions may be made to the invoice price to obtain the "adjusted" f.o.b. value. These adjustmentsd include: any agent commissions, rebates or refunds resulting from quality deficiencies or damage during transit, contractual penalties, and the value of imported imputs. In order to receive the maximum export credit premium, the exported product must consist of a minimum of 75 percent value added in Brazil. If this minimum limit is not met, there is a specific calculation to reduce the f.o.b. invoice price when calculating the base upon which the IPI export credit premium is paid.

To determine the amount of benefit, we calculated the value of the IPI credits as of the date of shipment rather than the date of receipt and did not take into account the devaluation of the cruzeiro, in accordance with section 771(6)(B) of the Act. We then divided the value of the IPI credits by the value of exports and calculated a subsidy value of 13.186 percent. This rate is premised on an IPI export credit premium of 15 percent.

The government of Brazil has made three reductions in the level of the IPI credit during 1982, the most recent on September 30, 1982 to 11 percent. Accordingly, the government of Brazil asserts that a downward adjustment in the rate for this program is appropriate to reflect the current availability of the benefit. However, since the period for which we are measuring subsidization is the companies' 1981 fiscal year, when the benefit was based upon a nominal rate of 15 percent, we do not feel that it is appropriate to make this adjustment.

Therefore, we calculated an *ad valorem* export subsidy of 13.186 percent.

B. Preferential Working Capital Financing for Exports: Resolution 674

Under this program, companies are declared eligible to receive working capital loans by the Department of Foreign Commerce of the Banco Central do Brasil (CACEX). These loans may have a duration of up to one year. Firms in the steel industry can obtain this financing at preferential rates for up to 20 percent of the net f.o.b. value of the previous year's exports. The maximum dollar eligibility under this program is established by CACEX and is stated on the "Certificado de Habilitacao" issued to recipients. We preliminarily determine that such financing is an export subsidy.

The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports. In addition, any growth in the cruzeiro value of exports over the previous year will reduce the value of the benefit as a percentage of the current year's exports.

To determine the value of loans in existence under this program during 1981, we prorated any loans that straddled other years. For loans taken out in fiscal year 1980, only that portion extending into fiscal year 1981 was included in our calculation. Any fiscal year 1981 loans extending into fiscal year 1982 were similarly adjusted. We then divided the total value of these loans by the total value of exports of the three companies under investigation to calculate the amount of perferential financing they received.

As in previous Brazilian countervailing duty cases, we are using the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. We have used this comparison because information provided by the government of Brazil indicates that, within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. Currently, the rate for discounting sales of accounts receivable is 59.6 percent plus a 6.9 percent tax on financial transactions (IOF). The subsidy is the difference between the interest rate available under Resolution 674 and the commercial rate.

The interest rate on loans under Resolution 674 is 40 percent, with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. These loans are also exempt from the IOF. Therefore, the differential between these two types of financing is 22.5 percent. When multiplying this differential by the amount of preferential financing received as a percent of exports, we calculated an *ad valorem* export subsidy of 2.367 percent.

C. Income Tax Exemption for Export Earnings

Exporters of tool steel are eligible to participate in this program, under which the percentage of their profit attributable to export revenue is exempt from income tax. To arrive at this percentage, export revenue is divided by total revenue. The amount of profit exempt from the income tax is then multiplied by the 35 percent corporate income tax rate to determine the amount of the benefit.

In a program of this kind, benefits cannot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 income tax returns to determine if any benefit was received in fiscal year 1981. VILLARES and ELETROMETAL received benefits under this program in 1981. By dividing the benefit received by the value of exports of the companies under investigation, we calculated an *ad valorem* export subsidy of 0.837 percent.

D. Long-Term Loans

Long-term financing in cruzeiros is available in Brazil only through Government-controlled financial institutions, such as the National Bank for Economic Development (BNDE) and FINAME, a program of BNDE for the purchase of capital equipment manufactured in Brazil. Generally, these loans are fully indexed to the inflation rate in Brazil and are made at fixed real interest rates. The index used for these loans is the ratio established for the Readjustable Bonds of the National

Treasury (ORTN). FINAME loans are granted through commercial banks rather than directly from BNDE loans.

VILLARES and ELETROMETAL received direct BNDE loans. As in previous steel countervailing investigations, we have determined that BNDE loans, when fully indexed, are not made at preferential rates, and we preliminarily determine that such BNDE loans are not countervailable.

However, some long-term cruzeiro loans have been granted that are not fully indexed. Under a program no longer in operation, BNDE granted one such loan to VILLARES that is adjusted at only 20 percent of the variation on ORTN. VILLARES still has an outstanding balance on this loan, and we preliminarily determine that this loan is countervailable. Recipients of such loans benefit both from reduced interest payments and from principal abatement over the life of the loan. We calculated the benefit to VILLARES for this loan as the difference between the amount actually paid in fiscal year 1981 and the amount which would have been paid had the loan been fully adjusted. However, since principal repayments have not yet begun for this VILLARES loan, the sole benefit stemmed from reduction in interest.

ELETROMETAL has also received a partially adjusted loan. The Department has not received specific information relating to the actual repayment of the loan received by ELETROMETAL, but we have been provided with information concerning the original terms of the loan. Like the VILLARES loan, repayment of principal was not scheduled to begin on the loan to ELETROMETAL until after the review period. Therefore, for purposes of the preliminary determination, we estimated the benefit to ELETROMETAL to be the entire amount of the interest due in the review period. We then divided the interest payments saved in fiscal year 1981 due to the favorable terms of the loans by total sales of all companies under investigation and calculated an *ad valorem* subsidy of 0.256 percent.

FINAME loans have been received by ELETROMETAL, PIRATINI, and VILLARES and are available to a wide variety of sectors in Brazil. The steel industry has received such loans in proportions similar to other large capital-intensive industries in Brazil. This appears to be warranted by the capital requirements of such industries. In addition, numerous other sectors also received loans from FINAME during this period. Based on the general availability of these fully-indexed loans, we preliminary determine that they do not confer a subsidy.

E. IPI Rebates for Capital Investment

Decree Law 1547 (April 1977) provides funding for the expansion of the Brazilian steel industry through a rebate of the IPI, the Brazilian federal excise tax. Under this tax system, a company determines its liability for the tax at the end of each month. The net tax owed is calculated as the difference between the total IPI the company paid on purchases and the total IPI it collected on domestic sales. Normally, within five months after the end of each month, a company must pay the amount of the net tax owed directly to the Brazilian government. This net IPI tax is the basis for calculating the rebate for investment. A Brazilian steel company may deposit 95 percent of the net IPI tax in a special account with the Banco do Brasil. The amounts deposited are to be applied to steel expansion projects, and when rebated to the firms constitute tax-free capital reserves which must eventually be converted into subscribed capital.

PIRATINI received grants under this program from 1977 to 1981, while ELETROMETAL and VILLARES continue to receive them. With the enactment of Decree Law 1843 (December 1980), PIRATINI must now pay the IPI tax to the government which in turn rebates 95 percent to SIDERBRAS, the government holding company to which PIRATINI belongs, to increase its capital.

We consider the amount rebated each year as an untied grant received in that year. As such, we have allocated the grants over 15 years, the estimated average life of capital assets in integrated steel mills (based on Internal Revenue Service studies of actual experience in integrated mills in the United States).

To calculate the benefit, we have taken the amount of the rebate received in each month, converted the cruzeiro value to an ORTN value by using the ORTN index rate in the month of receipt, added the monthly ORTN amounts to determine the amount of the grant in each year, and used as the discount rate for each year the interest rate of 4 percent on ORTN-indexed long-term government debt. The total benefit in ORTN for fiscal year 1981 was converted into cruzeiros using the average ORTN index rate for the year and then divided by the total value of sales for the 1981 fiscal year of each company. The *ad valorem* benefit of this subsidy is 0.855 percent.

F. Industrial Development Council (CDI) Program

This program allowed an exemption of 80 percent of the customs duties and 80 percent of the IPI tax on certain imported machinery for projects approved by the CDI. Decree Law 1726 repealed this program in 1979 and no new projects are eligible for these benefits. However, companies with projects approved prior to repeal may still receive these benefits pending the completion of the project. The government of Brazil states that ELETROMETAL received such benefits during 1981. By dividing the benefit received by the total value of sales of the companies under investigation, we calculated the *ad valorem* benefit of this subsidy to be 0.168 percent.

G. Accelerated Depreciation for Capital Goods Manufactured in Brazil

This program allows companies that purchase Brazilian-made capital equipment as part of an approved CDI expansion project to depreciate this equipment at twice the rate normally permitted under tax laws. ELETROMETAL used the accelerated depreciation provisions of this program. The benefit of such a program is reduced taxable income and a subsequent reduction in tax liabilities. To calculate the benefit to ELETROMETAL, we determined the amount by which depreciation under this program exceeded normal depreciation, multiplied that amount by 35 percent, the corporate tax rate in Brazil, and then divided the result by the total value of sales for the 1981 fiscal year of each company. The *ad valorem* benefit of this subsidy is 0.097 percent.

II. Program Preliminarily Determined Not To Confer Subsidies

We preliminarily determine subsidies are not being provided to manufacturers, producers, or exporters in Brazil of tool steel under the following program.

A. Transportation Subsidies

The government of Brazil, in its response to our questionnaire, states that none of the exporters of tool steel receive preferential rates when using railroads and ports. We have no evidence that any programs exist which give preferential freight rates to steel exporters.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs, listed in the notice of "Initiation of Countervailing Duty Investigation," were not used by the manufacturers, producers, or exporters in Brazil of tool steel.

A. The Commission for the Granting of Fiscal Benefits for Special Export Programs (BEFIEX)

BEFIEX grants several types of benefits to companies that are part of certain targeted industries and that sign contracts that include specific export commitments. These benefits include the following: a reduction of between 70 percent and 90 percent of the import duties and the IPI tax on the import of machinery, equipment, apparatus, instruments, accessories and tools necessary to meet the approved export commitment; an extension of the period for carrying tax losses forward from four to six years, provided no dividends are paid during that time; and amortization of pre-operational expenses of BEFIEX projects at the discretion of the company rather than the normal straight-line amortization over ten years. As a general rule, companies that sign BEFIEX contracts guaranteeing these and any other benefits must make an export commitment that over the life of the project it will generate export earnings of at least three time the value of imports for the project. The government of Brazil states that the steel industry in Brazil has been developed primarily to supply the domestic market. Since manufacturers of tool steel export only a small portion of their production, they are not in a position to make the required export commitments. The government also states that neither ELETROMETAL nor PIRATINI received benefits from this program in 1981, and that VILLARES has received some benefits under the BEFIEX program but not with respect to tool steel.

B. Export Financing Under Resolution 68

This program provides financing for the export of Brazilian goods for a minimum period of 181 days. Such financing is granted on a transaction-by-transaction basis and may cover up to 85 percent of f.o.b. invoice price for the merchandise (plus freight and insurance). To be eligible, the exporter must show that the foreign purchaser has prepaid 15 percent of the invoice price. The government of Brazil states that none of the exporters of tool steel used Resolution 68 to finance exports of this merchandise to the United States in 1981.

Verification. In accordance with section 776(a) of the Act, we will verify data used in making our final determination.

Suspension of Liquidation. In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of tool steel from Brazil which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each such entry of this merchandise in the amount of 17.766 percent *ad valorem*. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry before the latter of 120 days after the Department makes its preliminary affirmative determination or 45 days after the Department makes its final affirmative determinatiion.

Public Comment

In accordance with section 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on February 1, 1983, at the U.S. Department Commerce, Room 3080, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication.

Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by January 25, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within thirty days of this notice's publication, at the above address and in at least ten copies.

Dated: December 27, 1982.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 82-35554 Filed 12-30-82; 8:45 am]

BILLING CODE 3510-25-M

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973, and rechartered on September 17, 1981 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to electronic instrumentation, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

Time and place: January 20, 1983, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., N.W., Washington, D.C. The meeting will continue to its conclusion on January 21, 1983, in Room 3708, Main Commerce Building.

Agenda

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Nomination and election of Chairman.

(4) New Business.

Executive Session

(5) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public participation: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time

permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

Supplementary Information: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202–377–4217.

For further information or copies of the minutes contact: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230

Telephone: 202–377–2583.

Dated: December 28, 1982

Richard Isadore,

Acting Director, Office of Export Administration.

[FR Doc. 82–35553 Filed 12–30–82; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meeting With a Partially Closed Session and Public Meetings of its Scientific and Statistical Committee and its Groundfish and Salmon Subpanels

AGENCY: National Marine Fisheries Service (NOAA), Commerce.

ACTION: Notice of Public Meetings with a Partially Closed Session.

SUMMARY: As required by the Federal Advisory Committee Act, this notice sets forth the schedule and proposed agendas of the forthcoming meetings of the Pacific Fishery Management Council, its Scientific and Statistical Committee (SSC), and its Groundfish and Salmon Subpanels. The Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94–265), and the Council has established a SSC and Groundfish and Salmon Subpanels to assist the Council in carrying out its responsibilities.

DATES: January 11–14, 1983.

ADDRESS: The meetings will take place at the Cosmopolitan Hotel 1030 N.E. Union Avenue, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Agendas

Council (open meetings)—January 12–14, 1983 (1:30 p.m. to 5 p.m. on January 12; 8 a.m. to 5 a.m. on January 13 and 14)—discuss the drafts of the 1983 salmon plan amendment and the salmon framework plan amendment; consider 1983 management measure options to stay within the optimum yields for widow rockfish and sablefish and within an aggregate harvest guideline for non-numerical optimum yield species; review groundfish experimental fishing permit applications and discuss groundfish management. Oral comments or questions by the public will be invited beginning at 4 p.m., on January 12.

Council (closed session)— January 12, 1983 (11 a.m. to noon)—discuss the status of maritime boundary and resource negotiations between the United States and Canada. Only those Council members and selected staff having security clearances will be allowed to attend this closed session.

Scientific and Statistical Committee (open meetings)—January 11–12, 1983 (10 a.m. to 5 p.m. on January 11; 8 a.m. to noon on January 12)—evaluate and develop recommendations on the drafts of the 1983 salmon plan amendment and salmon framework plan amendment; discuss groundfish management as a topic of referral from the Council to the Committee. Oral comments or questions by the public will be invited beginning at 3:30 p.m., on January 11.

Salmon Subpanel (open meeting)—January 12, 1982 (9 a.m. to 5 p.m.)—evaluate and develop comments on the drafts of the 1983 salmon plan amendment and salmon framework plan amendment.

Groundfish Subpanel (open meeting)—January 11, 1983 (10 a.m. to 5 p.m.)—consider 1983 management measure options to stay within the optimum yields for widow rockfish and sablefish and within an aggregate harvest guideline for non-numerical optimum yield species; review groundfish experimental fishing permit applications and discuss groundfish management.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on 12/22/82, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session is exempt from the provisions of the Act relating to open meetings and public participation therein, because the session will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as information which will disclose matters that are (A) specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such executive order. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6528, Department of Commerce.) All other portions of the meeting will be open to the public.

Dated: December 28, 1982.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 82–35550 Filed 12–30–82; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council's Scientific and Statistical Committee; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94–265), has established a Scientific and Statistical Committee, which will meet to review and approve methodology for projects which the Council has determined as high priority for FY 83 programmatic funding; review and discuss the status of approved (but not yet implemented) fishery management plans (FMP's)—Precious Corals (1980) and Spiny Lobster (1982); prepare a planning guide for the preparation of a bottomfish FMP, including structure and content; review and discuss the status of the Billfish FMP, as well as discuss other Committee business.

DATES: The public meetings will convene on Monday, January 17, and Tuesday, January 18, 1983, at

approximately 9 a.m., and will adjourn at approximately 4 p.m., both days; reconvene on Wednesday, January 19, 1983, at approximately 9 a.m., and adjourn at approximately 1 p.m.

ADDRESS: The public meetings will take place at the Southwest Fisheries Center, Conference Room, Honolulu Laboratory, National Marine Fisheries Service, 2570 Dole Street, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, 1164 Bishop Street—Room 1608, Honolulu, Hawaii 96813, Phone: (808) 523–1368.

Dated: December 28, 1982.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 82-35555 Filed 12-30-82; 8:45 am]

BILLING CODE 3510-22-M

Caribbean Fishery Management Council and Its Administrative Subcommittee; Meeting Amendment

AGENCY: National Marine Fisheries Service, NOAA; Commerce.

ACTION: Notice of Public Meeting, Correction.

SUMMARY: The date for the meeting of the Caribbean Fishery Management Council's Administrative Subcommittee, as published in the **Federal Register**, December 17, 1982 (47 FR 56535), was inadvertently omitted. The Council's Administrative Subcommittee public meeting will convene on Wednesday, February 16, 1983, at approximately 10 a.m., and will adjourn at approximately noon. All other information remains unchanged.

FURTHER INFORMATION: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00198, Telephone: (809) 753–4926.

Dated: December 28, 1982.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 82-35544 Filed 12-30-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1983 a commodity to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: January 3, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION:

On July 9, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (47 FR 29870) of proposed addition to Procurement List 1983, November 18, 1982 (47 FR 52101).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractor for the commodity listed.

c. The action will result in authorizing a small entity to produce a commodity procured by the Government.

Accordingly, the following commodity is hereby added to Procurement List 1983:

Pencil, Fine-Line Writing: 7510–00–286–5755; 7510–00–286–5750; 7510–00–286–5751.

C. W. Fletcher,

Executive Director.

[FR Doc. 82-38552 Filed 12-30-82; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of Closing Date for Institutions to Request Determination of Eligibility to Participate in the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs for 1983–84 Award Year.

SUMMARY: The Secretary requires institutions of higher education that intend to participate in Federal student assistance programs under Title IV of the Higher Education Act of 1965, as amended (HEA), to submit a request for a determination of eligibility to participate. The Secretary announces that in order to participate in three of the Title IV HEA programs, the National Direct Student Loan (NDSL), College Work-Study (CWS) and Supplemental Educational Opportunity Grant (SEOG) (campus-based) programs, for the 1983–84 award year, an institution must submit its request by February 2, 1983. Under these programs, the Secretary allocates funds to eligible institutions for financial assistance to students to meet the cost of postsecondary education.

(20 U.S.C. 1070b–1070b–3, 1087aa–1087ii; and 42 U.S.C. 2751–2756b)

DATE: The closing date for transmitting a Request for Institutional Eligibility for Programs under the campus-based programs is February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Leslie Ross, Chief, Institutional Eligibility Section, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 3030, ROB–3), Washington, D.C. 20202. Telephone: (202) 245–9873.

SUPPLEMENTARY INFORMATION: The Secretary requires that an institution seeking a determination of institutional eligibility to participate in the campus-based programs for award year 1983–84 submit a completed ED Form 1059 (Request for Institutional Eligibility for Programs) (hereafter referred to as the application) with the required documentation. The closing date for transmittal of an application for a determination of eligibility by an institution of higher education for participation in the campus-based programs for the 1983–84 award years is February 2, 1983. The Secretary will not award funds under the campus-based programs to institutions unless he determines that on or before February 2, 1983, the institution met the eligibility requirements established by the HEA.

Applications Delivered by Mail: An institution that sends its application by mail must address it to the U.S. Department of Education, ATTN: EAES/OPE, 400 Maryland Avenue, S.W., (Room 3030, ROB–3), Washington, D.C. 20202. An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered for funds under the campus-based programs for award year 1983–84. The application will also be reviewed for eligibility under other student financial assistance programs, including the campus-based programs for award year 1984–85.

Applications Delivered by Hand: An institution that hand-delivers an application must take it to the U.S. Department of Education, Eligibility and Agency Evaluation Staff (EAES), Room 3030, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. EAES will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Eastern Standard Time) daily, except Saturdays, Sundays, and Federal holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Applicable Regulations

The following regulations apply to the campus-based programs:

34 CFR Part 668—Student Assistance General Provisions.

34 CFR Part 674—National Direct Student Loan Program.

34 CFR Part 675—College Work-Study Program.

34 CFR Part 676—Supplemental Educational Opportunity Grant Program. Final regulations for Parts 674, 675, and 676 were amended on August 2, 1982 in the **Federal Register** (47 FR 33398).

(Catalog of Federal Domestic Assistance No. 13.471, National Direct Student Loan Program; 13.463, College Work-Study Program; and 13.418, Supplemental Educational Opportunity Grant Program)

Dated: December 28, 1982.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 82-35545 Filed 12-30-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Extension of Request for Recommendations on Marketing of Surplus Firm Power From Federal Columbia River Power System

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Extension of Request for Recommendations on Marketing of Surplus Firm Power from Federal Columbia River Power System. File No. FS–1.

SUMMARY: By **Federal Register** notice of November 30, 1982, BPA requested recommendations from the public on how firm power from the Federal Columbia River Power System which is surplus to the requirements of BPA customers might best be marketed or used. This notice extends the period in which BPA will accept recommendations on this subject from December 31, 1982, to January 15, 1983.

DATES: Any party who wishes to discuss firm surplus power marketing issues may call the Public Involvement Coordinator at the location listed below. Written comments may be submitted through January 15, 1983.

FOR FURTHER INFORMATION CONTACT:

Ms. Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–230–3478. Oregon Callers may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048.

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–345–0311.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3880.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Popular, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 521 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Issued in Portland, Oregon, December 27, 1982.

James J. Jura,

Acting Administrator.

[FR Doc. 82-35460 Filed 12-30-82; 10:07 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83–190–000

Alabama Power Co.; Filing

December 28, 1982.

The filing Company submits the following:

Take notice that on December 13, 1982, Alabama Power Company (Alabama) tendered for filing an Agreement with the Utilities Board of the City of Tuskegee. The filing is for the proposed new metering station at the City of Tuskegee. Service at this new metering station will replace the 44 kV service presently provided to the Utilities Board's #1, #2 and #3 delivery points. This new metering station is located within the city limits of Tuskegee. This new service agreement provides for a capacity of 40,000 kVa at 44 kV under Rate Schedule MUN–1 and the applicable revisions thereto.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 10, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35573 Filed 12-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-20-002]

Algonquin Gas Transmission Co.; Rate Filing, Under Rate Schedule STB and Rate Schedule ST-T

December 28, 1982.

Take notice that Algonquin Gas Transmission Company (Algonquin) on December 15, 1982, tendered for filing Eighth Revised Sheet No. 10-C and Second Revised Sheet No. 10-D to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that it is filing the above-mentioned tariff sheets to reflect in Algonquin's Rate Schedules STB and ST-T, increases in Texas Eastern Transmission Corporation's underlying Rate Schedules SS-II and ISS-II.

Algonquin requests that the proposed effective date of the filing be January 1, 1983.

Algonquin notes that a copy of this filing is being served upon each affected party and interested State commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35574 Filed 12-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-701-000]

Florida Power Corp.; Order Accepting for Filing and Suspending Phase-Two Rates, and Estsblishing Hearing Procedures

Issued: December 28, 1982.

On October 29, 1982, Florida Power Corporation (FPC) filed a "Supplemental Filing-Phase Two" in this proceeding. FPC's submittal included a revised cost of service study [1] and a request that the Commission assign a filing date for phase-two of the proposed two-phase wholesale rate increase for full requirements, partial requirements, and transmission service which it filed in this docket on July 30, 1982.[2] FPC states a proposed effective date of December 29, 1982, for the phase-two rates, but requests that the rates be suspended for one day, to become effective on December 30, 1982.

The background of FPC's supplemental filing may be briefly reviewed. FPC filed a proposed two-phase wholesale rate increase on July 30, 1982. The phase-one rates were designed to increase revenues by approximately $11.1 million (5.6%) for the calendar year 1982 test period. The proposed phase-two rates were designed to produce an additional increase in revenues of approximately $21.4 million (10.7%), based upon the inclusion of costs associated with Crystal River No. 4, a coal-fired generating unit scheduled for commercial operation on December 31, 1982. FPC's wholesale customers filed interventions and protests questioning, among other things, whether all necessary adjustments were made by the company to synchronize the annualization of Crystal River No. 4. Subsequently, the company answered the interventions and requested that the Commission temporarily withhold both a filing date and an effective date for the proposed phase-two rates.

By order issued September 24, 1982 (20 FERC ¶ 61,366), the Commission, *inter alia*, accepted for filing and suspended FPC's phase-one rate increase. Also, the Commission deferred the filing date for the company's proposed phase-two rates, pending a supplemental filing by FPC.

Notice of FPC's supplemental filing was published in the **Federal Register**, with comments due on or before November 24, 1982. Seminole Electric Cooperative, *et al.*, (Seminole) and Florida Cities (Cities), intervenors in this proceeding, filed timely motions protesting FPC's supplemental filing.[3]

Seminole argues that FPC's phase-two rate increase is deficient and should be rejected. Seminole asserts that the company has offset the adjustments to its original phase-two filing through the use of a floating return on equity. Also, Seminole avers that FPC's supplemental filing presents new issues including the failure to quantify or explain the claimed reduction in load growth projections,[4] overstated oil inventory level, excessive rate of return on equity, spent nuclear fuel disposal costs and an overstated cost of nuclear decommissioning. Alternatively, Seminole requests a maximum suspension of the phase-two rate increase and the initiation of phased price squeeze proceedings.

Cities urge the Commission to reject FPC's phase-two filing. Alternatively, Cities request a maximum suspension. Further, they seek summary disposition of certain issues: (1) the amortization period for spend nuclear fuel: (2) FPC's estimated allowance for Period II nuclear fuel disposal costs; (3) proposed demand allocators; and (4) FPC's alleged efforts to collect retroactive rates by "adjusting" the wholesale rates upward for the failure of this Commission to allow "CWIP" in rate base or tax normalization in prior periods. In addition, Cities again urge that the Commission consider their price squeeze claim for suspension purposes, and request a hearing.

On December 8, 1982, FPC filed a pleading answering the motions of Seminole and Cities. FPC opposes the requests for rejection, maximum suspension, or summary disposition, and addresses the various cost of service issues identified by the intervenors.

Discussion

We shall deny the motions to reject FPC's phase-two filing inasmuch as the submittal substantially complies with the Commission's filing regulations and we find that no other basis for rejection exists in this docket.[5] However, our

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[1] FPC's revised cost of service study reflects (1) the summary dispositions required by the Commission's September 24, 1982 order; (2) cash working capital computed on the basis of a lead-lag study; (3) elimination of the cost of power purchases from Gainesville, Florida; (4) use of an end-of-year capital structure; and (5) a five year amortization period for disposal of nuclear fuel burned in prior periods.

[2] *See* Attachment A for rate schedule designations.

[3] Seminole's member systems and Cities are identified in the September 24 order at footnotes 3 and 2, respectively.

[4] On December 3, 1982, Seminole filed a motion to amend and clarify its protest with respect to FPC's alleged consideration of the commencement of commercial operation of Seminole's generating facilities and the associated reduction in load growth projections.

[5] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971).

preliminary review of FPC's submittal and the pleadings indicates that the phase-two rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept FPC's phase-two rates for filing and suspend those rates as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed rates may be unjust and unreasonable, but may not produce substantially excessive revenues, as defined in *West Texas*. Our preliminary examination of the phase-two rates suggests that they may not yield excessive revenues. Accordingly, we shall suspend FPC's phase-two rates to become effective, subject to refund, on the later of December 30, 1982, or the date of commercial operation of Crystal River No. 4.[6] FPC shall notify the Commission and all affected parties as to the date on which service begins under the phase-two rates.

With respect to Cities' requests for summary disposition, we conclude that questions of law or fact are raised by these issues which are more appropriately resolved on the basis of an evidentiary hearing. We shall therefore deny the requests.

Coincerning the renewed requests will regard to price squeeze, we note that our order of September 24, 1982, already initiated phased price squeeze procedures. Any price squeeze issue allegedly raised by FPC's phase-two rates may be considered under the phased procedures previously established.

The Commission orders:

(A) Seminoe's and Cities' motions to reject FPC's submittal are hereby denied.

(B) Cities' motions for summary judgment are hereby denied.

(C) FPC's proposed phase-two rates are hereby accepted for filing and suspended to become effective, subject to refund, on the later of December 30, 1982, or the date of commercial operation of Crystal River No. 4. FPC shall notify the Commission and all affected parties as to the date on which service begins under the phase-two rates.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of FPC's rates.

(E) The Commission staff shall serve top sheets in this proceeding on or before January 7, 1983.

(F) The administrative law judge designated to preside in this docket shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A.—Floride Power Corporation Rate Schedule Designations

Docket No. BR82–701–000

Phase 1 Rates

FPC Electric Tariff, First Revised Volume No. 1

(1) *Full Requirements (FR) & Transmission*

Sheet No.	Supersedes
8th Revised Sheet No. 3	7th Revised Sheet No. 3.
8th Revised Sheet No. 23	7th Revised Sheet No. 23.
9th Revised Sheet No. 24	8th Revised Sheet No. 24.

(2) *Partial Requirements (PR) and Transmission*

Sheet No.	Supersedes
8 Revised Sheet No. 41	7th Revised Sheet No. 41.

(3) Other Party: Reed Creek Utility Company, Inc., Supplement No. 1 to Supplement No. 9 to Rate Schedule FPC No. 74.

(4) Other Party: City of Wauchula, Supplement No. 1 Supplement No. 4 to Rate Schedule FPC No. 77.

[FR Doc. 82–35570 Filed 12–30–82; 8:45 am]
BILLING CODE 6717–01–M

[6] As we stated in the September 24, 1982 order, in response to the Cities' request that price squeeze allegations be considered in our suspension determination, in the absence of a showing of extraordinary circumstances, unproved price squeeze claims will not be a factor in arriving at an appropriate suspension period. We are not persuaded that such a showing has been made in this case.

[Docket No. ER82–189–000]

Kansas City Power & Light Co.; Filing

December 20, 1982.

The filing Company submits the following:

Take notice that on December 13, 1982, Kansas City Power & Light Company ("KCPL") tendered for filing Service Schedules A–MPA for Reserve Capacity and B–MPA for Standby Service under the Municipal Participation Agreements between KCPL and the following municipalities:

City	Superseding and replacing
City of Kansas City, Kansas, Board of Public Utilities.	Schedules A–MPA–2 and B–MPA–2, Supplement Nos. 13 and 14 to KCPL's Rate Schedule FPC No. 54.
City of Independence, Missouri.	Schedules A–MPA–2 and B–MPA–2, Supplement Nos. 12 and 13 to KCPL's Rate Schedule FPC No. 55.
City of Marshall, Missouri	Schedules A–MPA–2 and B–MPA–2, Supplement Nos. 15 and 16 to KCPL's Rate Schedule FPC No. 83.
City of Carrollton, Missouri	Schedules A–MPA–1 and B–MPA–1, Supplement Nos. 11 and 12 to KCPL's Rate Schedule FERC No. 66.
City of Baldwin City, Kansas.	Schedules A–MPA–1 and B–MPA–1, Supplement Nos. 11 and 12 to KCPL's Rate Schedule FERC No. 65.
City of Garnett, Kansas	Schedules A–MPA–1 and B–MPA–1, Supplement Nos. 12 and 13 to KCPL's Rate Schedule FPC No. 76.
City of Osawatomie, Kansas.	Schedules A–MPA–1 and B–MPA–1, Supplement Nos. 11 and 12 to KCPL's Rate Schedule FPC No. 77.
City of Ottawa, Kansas	Schedules A–MPA–1 and B–MPA–1, Supplement Nos. 6 and 7 to KCPL's Rate Schedule FERC No. 90.

KCPL states that the purpose of this filing is to update the Reserve Capacity and Standby Service rates to those rate levels for similar service accepted for filing by the FERC effective July 21, 1982, in Docket No. ER82–270–000. KCPL requests an effective date 60 days from the date of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 10, 1983. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR. Doc. 82-38677 Filed 12-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EL82-27-000, ER82-146-000, EL82-16-000]

Cities of Naperville, Geneva, Batavia, St. Charles, Rock Falls, and Rochelle, Illinois v. Commonwealth Edison Co.; Order Setting Complaint for Investigation, Granting Summary Disposition in Part, Denying Motions, Consolidating Dockets, Noting Intervention, and Establishing Procedures

Issued: December 29, 1982.

On September 21, 1982, the Illinois Cities of Naperville, Geneva, Batavia, St. Charles, Rock Falls, and Rochelle, Illinois (Cities) filed a complaint against Commonwealth Edison Company (Edison). Cities allege that Edison has been collecting, through its wholesale fuel adjustment clause, charges for spent nuclear fuel disposal costs (SNFDC) since October 1, 1976, and that Edison's improper inclusion of these amounts has resulted in an overcollection of revenues through the fuel clause during the period October 1, 1976, until February 8, 1982. Cities request that the Commission grant summary disposition of this matter and order any overcollections to be refunded, with interest. In support of their complaint, Cities rely on the Commission's Opinion No. 132, *Carolina Power and Light Company*, 17 FERC ¶ 61,118 (November 5, 1982), in which the Commission held that the collection of SNFDC through the fuel adjustment clause was inappropriate.

Notice of the Cities' complaint was published in the **Federal Register**, with comments due on or before November 1, 1982. On October 12, 1982, the Village of Winnetka, Illinois (Winnetka) filed a motion to intervene. Winnetka states that it is a partial requirements customer of Edison that will be directly affected by Edison's overcollection of revenues for SNFDC and would be entitled to any refunds ordered by the Commission. Winnetka supports the Cities' contentions that Edison improperly collected SNFDC through the wholesale fuel adjustment clause.

On October 21, 1982, Edison submitted an answer to the Cities' complaint. Edison admits in its answer that it included SNFDC in the wholesale fuel adjustment clause. Edison states, however, that its treatment of SNFDC over that period was reasonable. While it recognizes the policy determination made by the Commission in Opinion No. 132, Edison argues that this policy should be applied on a prospective basis only. Edison also points out that the Commission permits SNFDC for prior periods to be collected through the base energy rates over a reasonable future period. Accordingly, Edison argues that even if its treatment of SNFDC was improper, the Commission should not order refunds since this would lead to intergenerational cross-subsidizations and inequity. Edison further contends that an order requiring refunds at this point would result in a windfall to the Cities to the extent that Edison has reduced its rate base through the recognition of SNFDC revenues which have had the effect of lowering Edison's cost of service. Edison therefore requests that the Commission set for hearing the issues of the propriety of its SNFDC treatment and the appropriate remedy to be granted, if any. Edison also requests that this matter be consolidated with the ongoing proceedings in Docket Nos. ER82-146-000 and EL82-16-000 which involve, *inter alia*, a request for prior SNFDC to be included in Edison's wholesale rates to the Cities.

Concerning the scope of the proceeding already pending in Docket Nos. ER82-146-000 and EL82-16-000, the Cities, on October 15, 1982, filed a petition for clarification of the Commission's September 23, 1982 order which instituted an investigation based on challenges by the Cities to Edison's fuel procurement practices associated with its Collins generating station. In their petition, Cities request clarification as to whether the Commission's order was intended to included an inquiry into Edison's charges for coal reclamation costs which are being flowed through to the wholesale customers. On October 29, 1982, Edison filed an answer to Cities' petition for clarification. Edison states that Cities' motion is, in reality, nothing more than a collateral attempt to appeal from a procedural ruling of the Presiding Judge in Docket Nos. ER82-146-000 and EL82-16-000 in which the judge denied a request by Cities for additional discovery on the coal reclamation issue.

In a separate motion filed on November 4, 1982, Edison asks for expedited disposition of the Cities; request for clarification.

On November 4, 1982, Cities filed responsive comments to Edison's answer. Cities dispute the contention of Edison that current claims for SNFDC would offset those amounts collected over past periods plus interest. Cities argue that any potential future offsets to Edison's past collections should not act to delay refunds that are presently owing for past improprieties, citing *Virginia Petroleum Jobbers Association* v. *FPC*, 259 F.2d 921 (D.C. Cir. 1978).

Discussion

Pursuant to Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR § 385.214), the timely motion to intervene serves to make Winnetka a party to this proceeding absent opposition within 15 days of its pleading.

In Opinion No. 132, the Commission determined that it was inappropriate for a utility to automatically charge SNFDC to its customers through the fuel clause.

> Such costs are particularly inappropriate for automatic fuel clause recovery because they not only involve estimates of costs which have not been incurred, [as opposed to costs *acutally* incurred [1]] but they are also based on assumptions regarding an uncertain government policy in reprocessing. To permit a utility to change its rates based on such discretionary estimates and assumptions would deprive the Commission of its authority to ensure just and reasonable rates.[2]

Edison has acknowledged in its answer that it included SNFDC in its fuel clause between October 1, 1976, and February 9, 1982. Accordingly, to the extent that Edison has collected SNFDC through its wholesale fuel adjustment clause since October 1, 1976, such recoveries have been improper. Edison has raised no new arguments in its pleadings that would distinguish Edison's actions from those of Carolina Power & Light Company. Accordingly, the Commission finds that Edison should be denied fuel clause treatment of SNFDC.

The Commission believes, however, that it would be inappropriate to summarily order refunds at the present time. Edison states that SNFDC amounts included in its accumulated reserve for depreciation have routinely been deducted from rate base in developing wholesale rates. Those rate base reductions would offset, in part, any improper recoveries which would, in turn, affect the amount of refunds appropriately due to Edison's customers. We would further note that Edison has

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[1] *See* Order No. 517, amending Section 35.14 of the Commission's regulations, 52 FPC 1304 (1974).

[2] 17 FERC ¶61,118 at 61,237.

requested an additional charge for SNFDC from prior periods to be included in the proposed rates for its wholesale customers in Docket No. ER82–146–000. The amount of SNFDC that will be permitted to be recovered in the rates in that case may also affect the level of refunds that would be appropriate. *See* Opinion No. 118, *Virginia Electric Power & Light Co.*, 15 FERC ¶61,052 (April 10, 1981). Accordingly, the Commission finds that the proper remedy for Edison's past SNFDC treatment involves questions of law and fact that should be resolved during the course of an evidentiary hearing. We shall therefore deny Cities' request for refunds at the present time and set for hearing the question of an appropriate remedy for Edison's treatment of SNFDC. Since the treatment of some SNFDC charges in rates in Edison's wholesale customers is already at issue in Docket No. ER82–146–000, we shall consolidate Docket No. EL82–27–000 with the pending proceedings.

Turning to the Cities' petition for clarification concerning the scope of the proceedings in Docket Nos. ER82–146–000 and EL82–16–000, the Cities argue that the Commission's September 23, 1982 order addressing questions concerning fuel procurement for the Collins generating facility should be read as opening the entire area of Edison's fuel procurement practices to renewed analysis and inquiry. According to Cities, such additional inquiry should include the issue of coal land reclamation costs. Edison, in response, notes that: (1) the issue of coal land reclamation costs had already been raised in the original pleadings in Docket No. ER82–146–000, (2) the parties have already conducted some discovery on that issue, and (3) the judge, having reviewed the matter and the ability of the parties to have obtained discovery under a series of procedural schedules, determined that further discovery on this issue would be inappropriate simply on the basis of the Commission's September 23, 1982 order.

We shall deny the Cities' petition for clarification. We believe the judge is in the best posture to determine whether an adequate opportunity has been provided for discovery or for preparation of testimony pertaining to an issue already extant in the ongoing proceeding. Further, there should be no need to address the question of whether our September 23, 1982 order had the effect of "adding" a new issue concerning coal land reclamation costs if that issue has been squarely presented prior to the order. Based on our decision in this order to consolidate yet a further docket into the ongoing proceeding, the presiding judge will presumably have another opportunity to consider the need for and scope of any additional discovery or testimony. We do not, however, anticipate that the Commission will then be any more inclined to disturb the procedural rulings of the judge.

The Commission orders:

(A) Cities' request for summary disposition of the issue of Edison's past inclusion of spent nuclear fuel disposal costs in its wholesale fuel adjustment clause is granted consistent with the body of this order.

(B) Cities' request for a summary order requiring refunds for all SNFDC charges collected between October 1, 1976, through February 9, 1982, is denied without prejudice.

(C) The issue of the appropriate remedy, if any, for Edison's improper past recovery of spend nuclear fuel disposal costs through its fuel adjustment clause is hereby set for investigation.

(D) Docket No. EL82–27–000 is consolidated with the ongoing proceedings in Docket Nos. ER82–146–000 and EL82–16–000.

(E) Cities' petition for clarification is hereby denied.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–35575 Filed 12–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER81–653–000]

Northern States Power Co. (Wisconsin); Refund Report

December 28, 1982.

The filing company submits the following:

Take notice that on October 18, 1982, Northern States Power Company (Wisconsin) filed a refund report pursuant to the Commission's order dated September 20, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 7, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–35576 Filed 12–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–188–000]

Northern States Power Co.; Filing

December 28, 1982.

The filing Company submits the following:

Take notice that Northern States Power Company, on December 13, 1982 tendered for filing an Agreement dated November 4, 1982 with Western Area Power Administration.

The Interconnection Contract, dated June 26, 1981, terminates on December 31, 1982. The filed Agreement, dated November 4, 1982, extends the provisions of the Contract until a new interconnection contract can be executed.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 358.214). All such motions or protests should be filed on or before January 10, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–35579 Filed 12–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA83–6–000]

Phelps-Dodge Corp.; Petition for Adjustment and Request for Interim Relief

December 28, 1982.

On December 17, 1982, Phelps-Dodge Corporation, 2600 North Central Avenue, Phoenix, Arizona 85004, (Petitioner) filed with the Federal Energy Regulatory Commission (Commission) a petition under § 385.1101(a)(2) for adjustment from the Commission's incremental pricing regulations issued under section 201 of the Natural Gas

Policy Act of 1978 (NGPA), 15 U.S.C. 3341 (Supp. IV 1980). Petitioner requests and adjustment to exempt Petitioner from incremental pricing surcharges under section 206(d) of the NGPA for natural gas used at its mining and smelting facility located at Morenci, Arizona. Petitioner also requests interim relief pursuant to Rule 1113 (§ 385.1113) to be effective December 1, 1982.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35580 Filed 12-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-187-000]

Puget Power & Light Co.; Filing

December 28, 1982.

The filing Company submits the following:

Take notice that on December 10, 1982, Puget Power & Light Company (Puget) tendered for filing Appendix 1 to Residential Purchase and Sale Agreement (Agreement), Contract No. DE-MS79-81BP90604, between Bonneville Power Administration (BPA) and Puget reflecting the Washington Utility Tax Rider—Additional 3% Surcharge, effective August 1, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 10, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35581 Filed 12-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-108-000]

Southwestern Public Service Co.; Cancellation

December 28, 1982.

The filing Company submits the following:

Take notice that on November 8, 1982, Southwestern Public Service Company (Southwestern) tendered for filing a notice of cancellation of Rate Schedule F.E.R.C. No. 80. Southwestern states that since the City of Canadian, Texas is no longer purchasing wholesale electric service, no customers are being served, or are contemplated to be served, under Rate Schedule F.E.R.C. No. 80.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 4, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-35503 Filed 12-30-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER83-77-000 and ER82-708-000]

West Texas Utilities Co.; Order Accepting for Filing and Suspending Superseding Fuel Adjustment Clause and Consolidating Proceedings

Issued: December 28, 1982.

On August 2, 1982, West Texas Utilities Company (WTU) tendered for filing a two-phase rate increase for service in Docket No. ER82-708-000. By order issued September 24, 1982, the Commission accepted the rate increase for filing and suspended the first phase of the rate increase to become effective, subject to refund, on January 1, 1983. The second phase of the rate increase was suspended to become effective, subject to refund, on March 2, 1983.

On October 29, 1982, WTU submitted for filing in Docket No. ER83-77-000 a revised fuel adjustment clause to supersede the fuel adjustment clause which is a part of both phases of the rate increase in Docket No. ER82-708-000.[1] WTU states that the new fuel adjustment clause is intended to fully synchronize monthly fuel revenues with monthly fuel costs. WTU incorporates by reference the materials filed in support of the original fuel adjustment clause. WTU further states that this change will have no revenue impact in Docket No. ER82-708-000.

Notice was duly published in the **Federal Register** with responses due on or before November 22, 1982. No responses have been received.

Under the circumstances, we find that good cause exists to permit the filing of a change in WTU's suspended rates in Docket No. ER82-708-000. Insofar as the substitution has no revenue impact and no party has objected, we find that good cause exists both to permit the filing and to suspend the revised fuel adjustment clause to become effective, subject to refund, coincidentally with the effective date of the rates in Docket No. ER82-708-000. Given the relationship between the rates submitted in Docket Nos. ER82-708-000 and ER83-77-000, we shall consolidate the dockets for purposes of hearing and decision.

The Commission orders:

(A) WTU's filing in Docket No. ER83-77-000 is hereby accepted for filing pursuant to Section 35.17(b) for good cause shown, suspended, and made effective, subject to refund, as of January 1, 1983.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of WTU's fuel clause.

(C) Docket Nos. ER83-77-000 and ER82-708-000 are hereby consolidated for purposes of hearing and decision.

(D) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

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[1] *See* Attachment A for rate schedule designations.

Attachment A.—West Texas Utilities Company

Docket No. ER83–77–000

Rate Schedule Designation

Designation	Description
(1) Seventh Revised Sheet Nos. 4 through 7 under FERC Electric Tariff Original Volume No. 1 (Supersedes Fifth Revised Sheet Nos. 4 through 7).	Tariff Customers (Step I, TR–1 Rates Excluding Full-CWIP).
(2) Eight Revised Sheet Nos. 4 through 7 under FERC Electric Tariff Original Volume No. 1 (Supersedes (1) above).	Tariff Customers (Step II, TR–1 Rates Excluding Full-CWIP).
(3) Supplement No. 10 to Rate Schedule FPC No. 39 (Supersedes Supplement No. 8)	Texas-New Mexico Power Company (Step I, TNP–2 Rates Excluding Full-CWIP).
(4) Supplement No. 11 to Rate Schedule FPC No. 39 (Supersedes (3) above)	Texas-New Mexico Power Company (Step II, TNP–2 Rates Excluding Full-CWIP).
(5) Supplement No. 6 to Rate Schedule FERC No. 40 (Supersedes Supplement No. 4)	City of Coleman, Texas (Step I, COB–2 Rates Excluding Full-CWIP).
(6) Supplement No. 7 to Rate Schedule FERC No. 40 (Supersedes (5) above)	City of Coleman, Texas (Step II, COB–2 Rates Excluding Full-CWIP).
(7) Supplement No. 6 to Rate Schedule FERC No. 42 (Supersedes Supplement No. 4)	City of Brady, Texas (Step I, COB–2 Rates Excluding Full-CWIP).
(8) Supplement No. 7 to Rate Schedule FERC No. 42 (Supersedes (7) above)	City of Brady, Texas (Step II, COB–2 Rates Excluding Full-CWIP).

[FR Doc. 82–35582 Filed 12–30–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–67–002]

Wisconsin Public Service Co. Refund Report

December 28, 1982.

The filing company submits the following:

Take notice that on October 18, 1982, Wisconsin Public Service Company filed a refund report pursuant to the Commission's order of September 20, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 7, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–35583 File 12–30–82; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–53044; BH–FRL 2275–6]

Toxic Substances; Premanufacture Notices; Monthly Status Report for November 1982

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for November 1982.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–106 at the address below between 8:00 a.m. and 4:00 p.m., Monday, through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS–53044]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–208, 401 M Street, SW., Washington, DC 20460, (202–382–3746).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012; 15 U.S.C. 2504), will identify: (a) PMNs received during November; (b) PMNs received previously and still under review at the end of November; (c) PMNs for which the notice review period has ended during November; (d) chemical substances for which EPA has received a notice of commencement to manufacture during November; and (e) PMNs for which the review period has been suspended. Therefore, the November 1982 PMN Status Report is being published.

Dated: December 21, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report, November 1982

I. 176 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH:

PMN No.	Identity/generic name	FR citation	Expiration date
83–88	Generic name: Dimer fatty acids, monocarboxylic acids, and diamines polymer	47 FR 52221 (11/19/82)	Jan. 29, 1983.
83–89	Generic name: Dimer fatty acids, monocarboxylic acid, polycarboxylic acid, diamines polymer, modified with an acrylic acid copolymer.	47 FR 52221 (11/19/82)	Do.
83–90	Generic name: Polymer of polysubstituted alkyl acrylates	47 FR 52221 (11/19/82)	Do.
83–91	Polymer of tall oil rosin, gum rosin, paraformaldehyde, calcium hydroxide, and phenol	47 FR 52222 (11/19/82)	Do.
83–92	Generic name: Reaction product of a polyhalogenated anhydride, maleic anhydride and alkylene glycols.	47 FR 52222 (11/19/82)	Jan. 30, 1983.

I. 176 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH:—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
[illegible]	Generic name: Polyester polycarboxylate salt	47 FR 52222 (11/19/82)	Do.
[illegible]	Generic name: Alkyl substituted salicylaldehyde	47 FR 52222 (11/19/82)	Do.
83-95	Generic name: Trisubstituted benzothiazole salt	47 FR 52222 (11/19/82)	Do.
83-96	Generic name: ((Substituted phenyl)azo)benzene-sulfonic acid, aminium salt	47 FR 52222 (11/19/82)	Do.
[illegible]	Generic name: Thermoplastic polyurethane resin	47 FR 52222 (11/19/82)	Jan. 31, 1983.
[illegible]	Generic name: N-(trimethylcarbomonocyclo) isopentanol	47 FR 52222 (11/19/82)	Do.
[illegible]	Generic name: Sulfonated phenol formaldehyde condensation polymer	47 FR 52222 (11/19/82)	Do.
[illegible]	Generic name: Copolymer of styrene with substituted alkanoic derivatives	47 FR 52222 (11/19/82)	Feb. 1, 1983.
[illegible]	Generic name: Polymer of diphenylmethane diisocyanate, hydroxy alkyl ethers, and substituted alkanediols.	47 FR 52222 (11/19/82)	Feb. 2, 1983.
83-102	Generic name: Polyacrylate	47 FR 52223 (11/19/82)	Feb. 5, 1983.
83-103	Generic name: Polyamine urea formaldehyde condensate	47 FR 52223 (11/19/82)	Do.
83-104	Generic name: Polyamine urea formaldehyde condensate	47 FR 52223 (11/19/82)	Do.
83-105	1,2-benzenediamine, 4-ethoxy, sulfate (1:1)	47 FR 52223 (11/19/82)	Do.
83-106	Generic name: Polymer of aliphatic and aromatic diacids and an aliphatic diol	47 FR 52223 (11/19/82)	Do.
83-107	Generic name: Modified polyester from carbomonocyclic anhydrides, an alkanediol and an alkanedioic acid.	47 FR 52223 (11/19/82)	Do.
83-108	Generic name: Polymer of fatty acids with a substituted alkanoic acid, carbomonocyclic acids, polyols and a carbomonocyclic anhydride.	47 FR 52223 (11/19/82)	Do.
83-109	Generic name: Substituted alkyl methacrylate	47 FR 52223 (11/19/82)	Do.
83-110	Generic name: Saturated acid diester	47 FR 52223 (11/19/82)	Feb. 6, 1983.
83-111	Generic name: Aromatic acid diester	47 FR 52223 (11/19/82)	Do.
83-112	Generic name: Hydroxy naphthalenedisulfonic acid, disodium salt, ((2-((sodium sulfooxyethyl) sulfonyl)azo, and dichlorotriazinylamino substituted.	47 FR 52223 (11/19/82)	Do.
83-113	Generic name: Benzenesulfonic acid, 4-[4-((4-substituted 2-sulfophenyl)azo) 3-carboxy-5-hydroxy-1H-pyrazol-1-yl)-, x sodium salt.	47 FR 52224 (11/19/82)	Do.
83-114	Generic name: Naphthalenedisulfonic acid, disodium salt, ((2-((sodium sulfooxyethyl) sulfonyl)aryl)azo, and monochlorotriazinylamino, substituted, copper complex.	47 FR 52224 (11/19/82)	Do.
83-115	Generic name: Naphthalenedisulfonic acid, disodium salt, ((2-(sodium sulfooxyethyl) sulfonyl)aryl)azo, and monochlorotriazinyl-amino, substituted, copper complex.	47 FR 52224 (11/19/82)	Do.
83-116	Generic name: Ethanol, 2-arylsulfonyl, hydrogen sulfate ester	47 FR 52224 (11/19/82)	Do.
83-117	Oxo alcohols (high boilers)-neopentyl glycol adipate ester	47 FR 52224 (11/19/82)	Do.
[illegible]	Generic name: Polymeric polyamidoamine	47 FR 52224 (11/19/82)	Do.
[illegible]	Generic name: Polyester from a carbomonocyclic anhydride and substituted alkanediols	47 FR 52224 (11/19/82)	Do.
[illegible]	Generic name Reaction product of isomeric mixture of dioxocarbopolycyclic amine with sulfur	47 FR 52224 (11/19/82)	Feb. 7 1983
83-121	Polymer of diethyleneglycol polyethylene-glycol dimethylterephthalate isophthalic acid 5-sulfo-isophthalic acid dimethyl ester sodium salt.	47 FR 52224 (11/19/82)	Do.
[illegible]	Generic name: Organic sulfur compound	47 FR 52224 (11/19/82)	Do.
[illegible]	Poly[oxy(methyl-1,2-ethanediyl)]yy'y"-1,2,3-propanetriyltris-[ω-hydroxy-, polymer withy-ω hydro-hydroxyoly[oxy-(methyl-1,2-ethanediyl)] and 1,1-methylene bis[4-isocyanato-benzene].	47 FR 52224 (11/19/82)	Do.
83-124	3-bromo-4-(4-bis-2-hydroxyethylamino)-2-methyl-=phenylazo)-5-nitrobenzoic acid ethyl ester	47 FR 53782 (11/29/82)	Feb 9, 1983.
83-125	3-bromo-4-(4-(bis-2-hydroxyethylamino)-phenyl=azo)-5-nitrobenzoic acid ethyl ester	47 FR 53782 (11/29/82)	Do.
[illegible]	Generic name: Modified fluoroaliphatic adduct	47 FR 53782 (11/29/82)	Feb. 11, 1983.
[illegible]	Polymer of acrylic acid, butyl acrylate, 2-hydroxy ethyl acrylate, methyl acrylate, and 2-ethylhexyl acrylate.	47 FR 53782 (11/29/82)	Do.
[illegible]	Generic name: Organo zinc salt	47 FR 53782 (11/29/82)	Do.
83-129	Syncrude (full range, dewaxed desensited shale oil)	47 FR 54357 (12/2/82)	Feb. 13, 1983.
83-130	Light straight run naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-131	Heavy straight run naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-132	Straight run middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Straight run gas oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-134	Atmosphere tower residuum (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Vacuum tower condensate (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Light vacuum gas oil (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Heavy vacuum gas oil (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Vacuum residuum (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Full range catalytic cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Light catalytic cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Catalytic cracked clarified oil (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Catalytic cracked light olefins (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Full range catalytic reformed naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Full range alkylate naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Light hydrocracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Heavy hydrocracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Light hydrocracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Light thermal cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Heavy thermal cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-150	Light thermal cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-151	Heavy thermal cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Coke (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Sweetened naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-154	Hydrodesulfurized heavy naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Hydrodesulfurized middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-156	Full range straight run naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-157	Straight run kerosine (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Light catalytic cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-161	Heavy catalytic cracked naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-162	Intermediate catalytic cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Heavy catalytic cracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Full range catalytic reformed naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Light catalytic reformed naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Heavy catarytic reformed naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Catalytic reformer fractionator residue (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Light alkylate naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Heavy alkylate naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-170	Alkylate distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-171	Polymerization naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Viscous polymer (shale oil)	47 FR 54357 (12/2/82)	Do.
[illegible]	Isomerization naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.

I. 176 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH:—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
83-174	Heavy hydrocracked distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-175	Hydrocracked residuum (shale oil)	47 FR 54357 (12/2/82)	Do.
83-176	Sweetened middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-177	Normal paraffins (shale oil)	47 FR 54357 (12/2/82)	Do.
83-178	Sorption process raffinate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-179	Solvent refined light naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-180	Solvent refined heavy naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-181	Solvent refined middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-182	Solvent refined gas oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-183	Solvent refined light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-184	Solvent refined heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-185	Solvent deasphalted residual oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-186	Solvent decarbonized heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-187	Solvent refined residual oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-188	Solvent refined spent lube oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-189	Light naphtha solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-190	Heavy naphtha solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-191	Middle distillate solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-192	Gas oil solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-193	Light paraffinic distillate solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-194	Heavy paraffinic distillate solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-195	Residual oil solvent extract (shale oil)	47 FR 54357 (12/2/82)	Do.
83-196	Heavy paraffinic distillate decarbonization raffinate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-197	Clay treated light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-198	Clay treated heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-199	Clay treated paraffin wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-200	Chemically neutralized spent lube oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-201	Hydrotreated light naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-202	Hydrotreated heavy naphtha (shale oil)	47 FR 54357 (12/2/82)	Do.
83-203	Hydrotreated light distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-204	Hydrotreated middle distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-205	Hydrotreated light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-206	Hydrotreated heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-207	Hydrotreated paraffin wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-208	Hydrotreated microcrystalline wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-209	Hydrotreated vacuum gas oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-210	Hydrotreated residual oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-211	Solvent dewaxed light paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-212	Solvent dewaxed heavy paraffinic distillate (shale oil)	47 FR 54357 (12/2/82)	Do.
83-213	Solvent dewaxed residual oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-214	Slack wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-215	Petrolatum (shale oil)	47 FR 54357 (12/2/82)	Do.
83-216	Foots oil (shale oil)	47 FR 54357 (12/2/82)	Do.
83-217	Paraffin wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-218	Microcrystaline wax (shale oil)	47 FR 54357 (12/2/82)	Do.
83-219	Catalytic dewaxed naphtha (shale oil)	47 FR 54358 (12/2/82)	Do.
83-220	Catalytic dewaxed middle distillate (shale oil)	47 FR 54358 (12/2/82)	Do.
83-221	Catalytic dewaxed light paraffinic oil (shale oil)	47 FR 54358 (12/2/82)	Do.
83-222	Catalytic dewaxed heavy paraffinic oil (shale oil)	47 FR 54358 (12/2/82)	Do.
83-223	Hydrodesulfurized light naphtha (shale oil)	47 FR 54358 (12/2/82)	Do.
83-224	Hydrosulfurized kerosine (shale oil)	47 FR 54358 (12/2/82)	Do.
83-225	Hydrosulfurized gas oil (shale oil)	47 FR 54358 (12/2/82)	Do.
83-226	Hydrodesulfurized atmospheric tower residuum (shale oil)	47 FR 54358 (12/2/82)	Do.
83-227	Hydrodesulfurized heavy vacuum gas oil (shale oil)	47 FR 54358 (12/2/82)	Do.
83-228	Hydrodesulfurized heavy vacuum gas oil (shale oil)	47 FR 54358 (12/2/82)	Do.
83-229	Steam cracked residuum (shale oil)	47 FR 54358 (12/2/82)	Do.
83-230	Light aliphatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do.
83-231	Medium aliphatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do.
83-232	Heavy aliphatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do.
83-233	Light aromatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do.
83-234	Heavy aromatic solvent naphtha (shale oil)	47 FR 54358 (12/2/82)	Do.
83-235	Calcined coke (shale oil)	47 FR 54358 (12/2/82)	Do.
83-236	Generic name: Alkyl-substituted imidazole derivative of methyl-pyrimidinone-azomethyl-phenyl benzothiazole	47 FR 53782 (11/29/82)	Do.
83-237	Generic name: Substituted pyridine	47 FR 53782 (11/29/82)	Do.
83-238	Generic name: Polyamide	47 FR 53782 (11/29/82)	Feb. 15, 1983.
83-239	Generic name: Polyester polyurethane from a diisocyanate and an alkanediol with alkanoic acid and anhydride.	47 FR 53783 (11/29/82)	Do.
83-240	Generic name: Reaction product of inorganic acid with the reaction product of carboxylic acid and alkanolamine.	47 FR 53783 (11/29/82)	Do.
83-241	Generic name: Polyester polycarboxylate salt	47 FR 53783 (11/29/82)	Do.
83-242	Generic name: Polymer of aliphatic polyols, aliphatic and aromatic dicarboxylic acids.	47 FR 53783 (11/29/82)	Do.
83-243	Generic name: Methyl-oxyethyl-methylene imidazolium deriv. of copper phthalocyanine methoxy-acetate	47 FR 53783 (11/29/82)	Do.
83-244	Polymer of tetrahydronaphthalic anhydride, tall oil fatty acid, bisphenol A-oxirane polymer, phenol-epichlorohydrin-formaldehyde polymer, paraformaldehyde, diethylamine, diethylamino-propylamine, diisopropylamine.	47 FR 53783 (11/29/82)	Do.
83-245	Polymer of tetrahydronaphthalic anhydride, phthalic anhydride, acrylic acid, 2-ethylhexyl ester, bisphenol A-oxirane polymer, phenolepichlorohydrin-formaldehyde polymer, paraformaldehyde, aminoethylpropanediol, butanol, diethanolamine, diethylamine, diethylaminopropylamine.	47 FR 53783 (11/29/82)	Do.
83-246	Polymer of tetrahydronaphthalic anhydride, acrylic acid, 2-hydroxyethyl ester, methacrylic acid, 2-hydroxy ethyl ester, bisphenol A-oxirane polymer, neodecanoic acid, 2,3-epoxypropyl ester, toluenediisocyanate, N,N-diethanolamine, diethanolamine.	47 FR 53783 (11/29/82)	Do.
83-247	Polymer of tetrahydronaphthalic anhydride, maleic anhydride, phthalic anhydride, tall oil fatty acid, acrylic acid, 2-hydroxyethyl ester, methacrylic acid, 2-hydroxyethyl ester, methacrylic acid, 2,3-epoxy propyl ester, bisphenol A-oxirane polymer, neodecanoic acid, 2,3-epoxy propyl ester, toluenediisocyanate, N,N-diethanolamine, diethanolamine, 1,6-hexanediol, butanol.	47 FR 53783 (11/29/82)	Do.
83-248	Polymer of bisphenol A-oxirane polymer, toluenediisocyanate, diethanolamine, diethylamino-propylamine.	47 FR 53783 (11/29/82)	Do.
83-249	Polymer of malonic acid, diethyl ester, dimethylolpropane	47 FR 53783 (11/29/82)	Do.
83-250	Polymer of malonic acid, diethyl ester, trimethylolpropane, 1,6-hexanediol	47 FR 53783 (11/29/82)	Do.

I. 176 Premanufacture Notices Received During the Month:—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
83-251	Generic name: Phenoxy modified alkyd	47 FR 54537 (12/3/82)	Feb. 16, 1983.
83-252	Generic name: Alkyl amino-amide salt	47 FR 54537 (12/3/82)	Feb. 19 1983.
83-253	Generic name: Maleated rosin monobasic acids glycerol ester	47 FR 54537 (12/3/82)	Feb. 20 1983.
83-254	Generic name: Maleated rosin monobasic acids pentaerythritol ester	47 FR 54537 (12/3/82)	Do.
83-255	Generic name: Dicarboxylic acid monoester	47 FR 54537 (12/3/82)	Do.
83-256	Generic name: Polymer of acrylic acid and mixed alkyl acrylates	47 FR 55422 (12/9/82)	Feb. 23, 1983.
83-257	Generic name: Copolymer of ethenyl heterocycle and substituted, ethenyl benzene	47 FR 55422 (12/9/82)	Do.
83-258	Generic name: Polymer of styrene; methacrylate ester, acrylic ester, and acrylic acid	47 FR 55422 (12/9/82)	Do.
83-259	Generic name: Polyester resin	47 FR 55422 (12/9/82)	Do.
83-260	Generic name: Modified maleated rosin pentaery-thritol ester alkylphenol formaldehyde resin	47 FR 55422 (12/9/82)	Feb. 27, 1983
83-261	2,2-bis [4-(4-aminophenoxy) phenyl] hexafluoropropane	47 FR 55422 (12/9/82)	Do.
83-262	Generic name: Halogenated dinitro ether compound	47 FR 55423 (12/9/82)	Do.
83-263	Generic name: Substitute thiocyclic compound	47 FR 55423 (12/9/82)	Do.

II. 85 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity and generic name	FR citation	Expiration date
83-1	Reaction mixture containing: isobornyl acetylacetate, isobornyl acetate and ethylacetylacetate	47 FR 27610 (6/25/82)	Jan. 24, 1983.
83-2	Generic name: Polymer of styrene, substituted sytrene, and substituted methacrylate salt	47 FR 46371 (10/18/82)	Dec. 29, 1982.
83-3	Generic name: Disubstituted propane	47 FR 46371 (10/18/82)	Do.
83-4	Generic name: Substituted propane	47 FR 46371 (10/18/82)	Do.
83-5	Generic name: Substituted alkanoic acid ester	47 FR 46371 (10/18/82)	Do.
83-6	Generic name: Substituted lactam	47 FR 46371 (10/18/82)	Do.
83-7	Generic name: Substituted lactam	47 FR 46372 (10/18/82)	Do.
83-8	Generic name: Substituted alkylsulfonic acid	47 FR 46372 (10/18/82)	Jan. 1, 1983
83-9	Generic name: Substituted alkyl polysulfide	47 FR 46372 (10/18/82)	Do.
83-10	Generic name: Substituted urea	47 FR 46372 (10/18/82)	Do.
83-11	Oxirane [(phenyl methoxy)methyl]	47 FR 46372 (10/18/82)	Do.
83-12	Generic name: 2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4-[[4-[(2,4-diamino-5-methyl phenyl)azo]phenyl]substituted]phenyl]azo]-5-hydroxy-6-(substituted phenyl)azo-, sodium salt.	47 FR 46372 (10/18/82)	Jan. 2, 1983
83-13	Generic name: Amine modified dimethylpolysiloxane	47 FR 46372 (10/18/82)	Do.
83-14	Generic name: Metal salt of sulfur analog of hydroxy-alkyl carbonic acid	47 FR 46372 (10/18/82)	Do.
83-15	Generic name: Polymer of methacrylic acid derivatives, a substituted alkane and vinyl aromatic compound.	47 FR 46372 (10/18/82)	Do.
83-16	Generic name: Polymer of acrylate and methacylate monomers and vinyl aromatic compounds	47 FR 46372 (10/18/82)	Do.
83-17	Generic name: Fatty acids, substituted aromatic esters, alkali metal salts	47 FR 46372 (10/18/82)	Do.
83-18	Generic name: Di(disubstitutednaphthyl)polyheterocycle	47 FR 46372 (10/18/82)	Do.
83-19	Generic name: Substituted benzoic acid	47 FR 46373 (10/18/82)	Do.
83-20	Generic name: Substituted phenoxy toluene	47 FR 46373 (10/18/82)	Jan. 3, 1983.
83-21	Generic name: Trisubstituted azo naphthol disulfonic acid	47 FR 46373 (10/18/82)	Do.
83-22	Generic name: Pentasubstituted pentanamide	47 FR 46373 (10/18/82)	Jan. 4, 1983.
83-23	Generic name: Substituted phenol	47 FR 46373 (10/18/82)	Do.
83-24	Generic name: Substituted pyridine	47 FR 46373 (10/18/82)	Do.
83-25	Generic name: Substituted pyridine	47 FR 46373 (10/18/82)	Jan. 5, 1983.
83-26	Antimony thioantimonate	47 FR 47067 (10/22/82)	Do.
83-27	Tetra (oxy-1, 2-ethanediyl), alfa-(carboxymethyl)-omega-hydroxy-C $_{10-16}$ alkyl ethers	47 FR 47067 (10/22/82)	Jan. 9, 1983.
83-28	Oxiranemthanamine, N-[3-(oxiranylmethoxy) phenyl-N-(oxiranylmethyl)	47 FR 47067 (10/22/82)	Do.
83-29	Generic name: Alkyldiarylphosphine	47 FR 47067 (10/22/82)	Do.
83-30	Generic name: Disbustituted naphthalene	47 FR 47067 (10/22/82)	Jan. 10, 1983
83-31	Generic name: Amine acid salt	47 FR 47067 (10/22/82)	Do.
83-32	Generic name: Modified polyester polyurethane from substituted alkanediols, alkanedioic acid and a diisocyanate.	47 FR 47067 (10/22/82)	Do.
83-33	1, 2, 3-propanetricarboxylic acid, 2 hydroxy, esters with high boiling C_9C_{15} alkane hydroformylation products.	47 FR 47067 (10/22/82)	Do.
83-34	Generic name: fatty acids, linseed oil glycidyl ester	47 FR 47067 (10/22/82)	Do.
83-35	Generic name: Sulfophenylazonaphthyl dye	47 FR 47067 (10/22/82)	Do.
83-36	Generic name: Acrylated alkoxylated aliphatic glycol	47 FR 47067 (10/22/82)	Do.
83-37	Generic name: Acrylated alkoxylated aliphatic glycol	47 FR 47067 (10/22/82)	Do.
83-38	Generic name: Sulfophenylazonaphthyl dye	47 FR 47067 (10/22/82)	Do.
83-39	Generic name: Polalkyl substituted unsaturated bicyclic tertiary alcohol	47 FR 47067 (10/22/82)	Jan. 11, 1983.
83-40	Generic name: Polyalkyl cycloalkenone	47 FR 47068 (10/22/82)	Do.
83-41	Generic name: Polyalkyl substituted unsaturated bicyclic ketoneb	47 FR 47068 (10/22/82)	Do.
83-42	Generic name: Polyalkyl substituted unsaturated bicyclic keto diol, alkanoic acid ester	47 FR 47068 (10/22/82)	Do.
83-43	Generic name: Polyalkyl unsaturated tricyclic diketone	47 FR 47068 (10/22/82)	Do.
83-44	Polyer of 2-propenoic acid, 2-methyl-, 2-[[(perfluoralkyl) sulfonyl]methyl]amino]ethyl ester with butyl methacrylate and lauryl methacrylate.	47 FR 47068 (10/22/82)	Do.
83-45	Propionic acid, zirconium salt	47 FR 49073 (10/29/82)	Jan. 12, 1983.
83-46	Not a PMN under Section 5 of TSCA	47 FR 49073 (10/29/82)	Do.
83-47	Generic name: Polymer of acrylic acid and acrylic esters	47 FR 49073 (10/29/82)	Do.
83-48	Generic name: Polymer of aliphatic and aromatic diacids, ester and an aliphatic diol	47 FR 49073 (10/29/82)	Do.
83-49	Generic name: Substituted pyridine	47 FR 49073 (10/29/82)	Do.
83-50	Polymer of: isophorone diisocyanate, 2-hydroxy ethyl acrylate, silicone fluid	47 FR 49073 (10/29/82)	Jan. 15, 1983.
83-51	Generic name: Alkoxylated alkyl amine	47 FR 49073 (10/29/82)	Do.
83-52	Reaction product of N, N' 2-tris(6-isocyanatohexyl)imidodicarbonic diamide with 3-(trimethoxysilyl)-1-propanethiol.	47 FR 49073 (10/29/82)	Do.
83-53	Generic name: Cobalt complex of substituted phenolazophenylacetacetamide	47 FR 49073 (10/29/82)	Jan. 16, 1983.
83-54	Generic name: Iron complex of substituted phenolazoresorcinol	47 FR 49073 (10/29/82)	Do.
83-55	Generic name: Substituted alkanediol	47 FR 49073 (10/29/82)	Do.
83-56	Generic name: Substituted acetoxyhexahydroindene	47 FR 49073 (10/29/82)	Jan. 17, 1983.
83-57	Generic name: Polymer of isophorone diisocyanate, polyhydroxyalkane, and an alkyl alkanoate	47 FR 49073 (10/29/82)	Do.
83-58	Generic name: Bis(((substituted pyrazolyl)azo)substituted phenol)metallate and bis(((substituted pyrazolyl)azo)substituted phenol)metallate, inorganic salts.	47 FR 49073 (10/29/82)	Do.
83-59	Generic name: Acrylic acid, polymer with vinyl acetate, acrylate esters and substituted ethylene	47 FR 49074 (10/29/82)	Do.
83-60	Generic name: Metal complex of methyl-substituted-((substituted-hydroxyphenyl)azo)-oxo-dihydro-1H-pyrazole and substituted-((naphthyl)azo)-2-naphthol, and metal complex of methyl-substituted-((substituted-hydroxyphenyl)azo)-oxo-dihydro-1H-pyrazole and substituted-((naphthyl)azo)-2-naphthol, inorganic salts.	47 FR 49074 (10/29/82)	Do.
83-61	Generic name: Disubstituted benzothiazole	47 FR 49074 (10/29/82)	Jan. 18, 1983.

II. 85 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-62	Generic name: Disubstituted benzothiazole salt	47 FR 48074 (10/29/82)	Do.
83-63	Generic name: Succinate ester amide	47 FR 50338 (11/5/82)	Jan. 19, 1983.
83-64	Oxo alcohol (high boilers), ethoxylated alcohol ester of citric acid	47 FR 50338 (11/5/82)	Do.
83-65	Generic name: Polymer of disubstituted propenoates	47 FR 50338 (11/5/82)	Do.
83-66	Generic name: Polymer of disubstituted propenoates	47 FR 50338 (11/5/82)	Do.
83-67	Generic name: Substituted thionocarbamate	47 FR 50338 (11/5/82)	Do.
83-68	Generic name: Alkylated isopropylbenzene	47 FR 50339 (11/5/82)	Do.
83-69	Generic name: Mixed C_{21} dicarboxylic amino alkyl amines	47 FR 50339 (11/5/82)	Jan. 22, 1983.
83-70	Generic name: Benzenedicarboxylic acid saturated mixed glycols copolyester	47 FR 50339 (11/5/82)	Do.
83-71	2-propenoic acid, 2 methyl-, octahydro-2,5-methane-2H-indeneone[1,2-(b)]oxiren-3(or 4)-yl ester	47 FR 50339 (11/5/82)	Do.
83-72	Generic name: Benzoquinolinyl-sulfoindenedione	47 FR 50339 (11/5/82)	Jan. 23, 1983.
83-73	Generic name: Polymer from PMDA and diamines	47 FR 50339 (11/5/82)	Jan. 24, 1983.
83-74	Generic name: Polymer of styrene, alkyl acrylates and substituted alkyl methacrylates	47 FR 50339 (11/5/82)	Jan. 23, 1983.
83-75	Generic name: Sodium 2-substituted propanoate	47 FR 50339 (11/5/82)	Jan. 24, 1983.
83-76	Incomplete		
83-77	Generic name: Bis(((substituted propanyl)azo) substituted phenol)metallate, plus bis(((substituted propanyl)azo)substituted phenol)metallate, inorganic salts.	47 FR 52220 (11/19/82)	Jan. 26, 1983.
83-78	Generic name: Metal complex of ((substituted phenyl)azo) substituted phenol and ((aryl)azo) substituted phenol plus metal complex of ((substituted phenyl)azo)substituted phenol and ((aryl)azo)substituted phenol, inorganic salts.	47 FR 52220 (11/19/82)	Do.
83-79	Generic name: Metal complex of ((substituted phenyl)azo)naphthol and ((substituted naphthyl)azo)naphthol plus metal complex of ((substituted phenyl)azo)naphthol and ((substituted naphthyl)azo)naphthol, inorganic salts.	47 FR 52221 (11/19/82)	Do.
83-80	Generic name: Bis(((aryl)azo)substituted phenol)metallate plus bis(((aryl)azo)substituted phenol) metallate, inorganic salts.	47 FR 52221 (11/19/82)	Do.
83-81	Generic name: Metal complex of ((substituted phenyl)azo)-substituted phenol and ((substituted pyrazolyl)azo)-substituted-benzenesulfonic acid plus metal complex of ((substituted phenyl)azo)-substituted phenol and ((substituted pyrozolyl)azo)-substituted-benzenesulfonic acid, inorganic salts.	47 FR 52221 (11/19/82)	Do.
83-82	Generic name: Bis(((substituted pyrazolyl)azo)benzoic acid)metallate plus bis(((substituted pyrazolyl)azo)benzoic acid)metallate, inorganic salts.	47 FR 52221 (11/19/82)	Do.
83-83	Generic name: Bis(((substituted aryl)azo)-substituted phenol)metallate and bis(((substituted aryl)azo)-substituted phenol)metallate, inorganic salts.	47 FR 52221 (11/19/82)	Do.
83-84	Generic name: Bis(((aryl)azo)-substituted phenol)metallate and bis(((aryl)azo)-substituted phenol)metallate, inorganic salts.	47 FR 52221 (11/19/82)	Do.
83-85	Generic name: Bis(((substituted aryl)azo)-substituted phenol)metallate, and bis(((substituted aryl)azo)-substituted phenol)metallate, inorganic salts.	47 FR 52221 (11/19/82)	Do.
83-86	Generic name: Mercaptoalkylsilane	47 FR 52221 (11/19/82)	Do.
83-87	Generic name: Siloxanes and silicones, dimethyl, methyl(mercapto-alkyl), trimethyl end blocked	47 FR 52221 (11/19/82)	Do.

III. 108 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)

PMN No.	Identity and generic name	FR citation	Expiration date
82-156	Methyl-trifluoromethyl-poly-(oxy-difluoromethylene)-poly-[oxy-2-(trifluoromethyl)-trifluoroethylene]oxy difluoromethly carboxylate.	47 FR 39241 (9/7/82)	Nov. 21, 1982.
82-157	Trifluoromethyl-poly-(oxydifluoro-methylene)-poly-[oxy-2-(trifluoromethyl)-trifluoroethylene]oxy-difluoromethyl carboxylic acid.	47 FR 39241 (9/7/82)	Do.
82-158	2-trifluoromethyl-poly-(oxy-difluoromethylene)-poly-[oxy-2-(trifluoromethyl)-trifluoro-ethylene]oxy 2,2 difluoroethanol.	47 FR 39241 (9/7/82)	Do.
82-159	*Aryl*-[*aryl*-oxycarbonyl difluoromethyl-poly-(oxy-difluoromethylene)-poly-(oxydifluoromethylene)-poly-(oxytetrafluoro ethylene)oxy]-difluoromethyl carboxylate.	47 FR 39242 (9/7/82)	Do.
82-160	Methyl[methyloxycarbonyl difluoromethyl-poly-(oxydifluoromethylene)-poly-(oxy tetrafluoro ethylene)oxy]-difluoromethyl carboxylate.	47 FR 39242 (9/7/82)	Do.
82-161	2-(cyano difluoromethyl-poly-(oxydifluoromethylene)-poly-(oxytetrafluoroethylene)-oxy] 2,2-difluoroacetonitrile.	47 FR 39242 (9/7/82)	Do.
81-162	2-[2,2-difluorohydroxyethyl-poly-(oxy-difluoromethylene)-poly-(oxytrifluoroethylene)oxy]-2,2-difluoroethanol.	47 FR 39242 (9/7/82)	Do.
82-163	2-[2,2-difluoroaminoethyl-poly-(oxydifluoromethylene)-poly-(oxytetrafluoroethylene)oxy]2,2-difluoro-ethylamine.	47 FR 39242 (9/7/82)	Do.
83-164	2-1-[N-m-isocyanato-o-(p)-tolyl)carbamyl]2,2-difluoroethyl-poly-(Oxydifluoroethylene)-poly-tetrafluoro-ethylene)oxy 2,2-difluoroethyl-N-(m-isocyanato-o-(p)-tolyl)-carbamate.	47 FR 39242 (9/7/82)	Do.
82-165	2[isocyanato-2,2-difluoroethyl-poly-oxydifluoromethylene)-poly-(oxytetrafluoroethylene)oxy]-2,2-difluoroethyl isocyanate.	47 FR 39242 (9/7/82)	Do.
82-485	Generic name: Quaternary ammonium chloride	47 FR 30103 (7/12/82)	Nov. 2, 1982.
82-541	Generic name: Fumarated rosin ester	47 FR 35333 (8/13/82)	Nov. 1, 1982.
82-542	Generic name: Citric acid ester	47 FR 35333 (8/13/82)	Do.
82-543	Generic name: Halec acid ester	47 FR 35333 (8/13/82)	Do.
82-544	Generic name: Benzoic acid ester	47 FR 35333 (8/13/82)	Do.
82-545	Polymer of hexane, 1,6-diisocyanato-, hopolymer, 2-butanone, oxime	47 FR 35333 (8/13/82)	Do.
82-546	Void		
82-547	Generic name: Modified polymer of styrene and substituted alkyl methacrylates	47 FR 35333 (8/13/82)	Do.
82-548	Generic name: Organometallic coupling agent	47 FR 35333 (8/13/82)	Do.
82-549	Void		
82-550	Generic name: Sulfoaryl disazo substituted naphthalenesulfonic acid salt	47 FR 35333 (8/13/82)	Do.
82-551	Generic name: Sulfoaryl disazo substitued naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-552	Generic name: Sulfoaryl disazo substitued naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-553	Generic name: Sulfoaryl disazo substitued naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-554	Generic name: Sulfoaryl disazo substitued naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-555	Generic name: Sulfoaryl disazo substitued naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-556	Generic name: Sulfoaryl disazo substitued naphthalenesulfonic acid salt	47 FR 35334 (8/13/82)	Do.
82-557	Generic name: Acetamidodimethylsiloxane	47 FR 35334 (8/13/82)	Nov. 2, 1982.
82-558	Generic name: Acetamidodimethylsiloxane	47 FR 35334 (8/13/82)	Do.
82-559	Generic name: Disubstituted benzene	47 FR 35334 (8/13/82)	Do.
82-560	Generic name: Polymer of the homopolymer of hexane, 1,6-diisocyanato-, substituted alkyl alkanoates and a benzene derivative.	47 FR 35334 (8/13/82)	Do.
82-561	Generic name: Substituted unsaturated polycyclic alcohol	47 FR 35334 (8/13/82)	Do.
82-562	Generic name: 1-Naphthalenesulfonic acid, (((triazin)amino)disulfo)azo)-, trisodium salt	47 FR 36469 (8/20/82)	Nov. 3, 1982.

III. 108 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-563	Unpublished	47 FR 36469 (8/20/82)	Nov. 7, 1982.
82-564	Generic name: Aliphatic polyol oligoacrylate oligopropionate	47 FR 36469 (8/20/82)	Do.
82-565	Generic name: Alkenyl alkanoate ester	47 FR 36469 (8/20/82)	Nov. 8, 1982.
82-566	Generic name: Heteromonocycle, substituted	47 FR 36469 (8/20/82)	Nov. 9, 1982.
82-567	Generic name: Heteromonocycle, substituted	47 FR 36469 (8/20/82)	Do.
82-568	Generic name: Chromophore substituted poly(oxyalkylene)	47 FR 36469 (8/20/82)	Do.
82-569	Generic name: Epoxidized hydroxystearic acid	47 FR 36469 (8/20/82)	Do.
82-570	Generic name: Amino acid modified polyester	47 FR 37954 (8/27/82)	Nov. 10, 1982.
82-571	Generic name: Orthophthalic anhydride modified unsaturated polyester resin	47 FR 37954 (8/27/82)	Nov. 13, 1982
82-572	Generic name: Organophosphorous compound	47 FR 37954 (8/27/82)	Do.
82-573	Generic name: Pentasubstituted pentanamide salt	47 FR 37954 (8/27/82)	Do.
82-574	Generic name: Glycol ester of fatty acids	47 FR 37954 (8/27/82)	Nov. 14, 1982.
82-575	Void		
82-576	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do
82-577	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do.
82-578	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do
82-579	Generic name: Unsaturated polyester	47 FR 37954 (8/27/82)	Do
82-580	Generic name: Salt of sulfosuccinic diester	47 FR 37954 (8/27/82)	Do.
82-581	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37954 (8/27/82)	Do
82-582	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37955 (8/27/82)	Do
82-583	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37955 (8/27/82)	Do
82-584	Dimethyl ester of 4,4'-(hydroxymethylene) bis-1, 2-benzenedicarboxylic acid	47 FR 39242 (9/7/82)	Nov. 17, 1982
82-585	Polymer of dimethy ester of 4,4'-(hydroxymethylene) bis-1,2-benzenedcarboxylic acid with 4,4'-methylenedianiline.	47 FR 39242 (9/7/82)	Do.
82-587	Generic name: Alkibenzenesulfonic acid compound with dialkyl fatty amine	47 FR 39242 (9/7/82)	Do
82-588	4-(1,1-dimethylethyl) pyridine	47 FR 39242 (9/7/82)	Do.
82-589	Generic name: Cresol novolac modified methacrylic epoxy ester	47 FR 39242 (9/7/82)	Nov. 20, 1982
82-590	Generic name: Fatty acid esters of monohydric	47 FR 39243 (9/7/82)	Nov. 21, 1982.
82-591	Generic name: Fatty acid esters of monohydric alcohol	47 FR 39243 (9/7/82)	Do
82-592	Generic name: Polyester polymer	47 FR 39243 (9/7/82)	Do
82-593	Generic name: Polyester polymer	47 FR 39243 (9/7/82)	Do
82-594	Generic name: Polymer of alkyl and substituted alkyl acrylates	47 FR 39243 (9/7/82)	Do
82-595	Generic name: Di (substitutedalkyl) dimethylammonium salt	47 FR 39243 (9/7/82)	Do
82-596	Generic name: Di (substitutedalkyl) dimethylammonium salt	47 FR 39243 (9/7/82)	Do
82-597	Vinyl acetate-N-methylolacrylamide copolymer	47 FR 39243 (9/7/82)	Nov. 22, 1982
82-598	Ethyl acrylate homopolymer	47 FR 39243 (9/7/82)	Do
82-599	Vinyl acetate-ethyl acrylate-N methylol acrylamide polymer	47 FR 39243 (9/7/82)	Do
82-600	Butyl acrylate-vinyl acetate copolymer	47 FR 39243 (9/7/82)	Do
82-601	Ethyl acrylate-methyl methacrylate copolymer	47 FR 39243 (9/7/82)	Do
82-602	Generic name: Mixed glycol oligoesters of mixed dicarboxylic acids	47 FR 39243 (9/7/82)	Do
82-603	Generic name: Mixed glycol oligoesters of aromatic diocarboxylic acid	47 FR 39243 (9/7/82)	Do
82-604	Generic name: Monoureido silane ester	47 FR 39244 (9/7/82)	Do
82-605	Generic name: Thadiazole derivative	47 FR 39244 (9/7/82)	Do.
82-606	Ethyl-trifluoromethyl-poly-(oxydifluoromethylene)-poly-[oxy-2-trifluoromethyl-trifluoromethyl-trifluoroethylene]oxy difluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Nov. 23, 1982.
82-607	Isopropyl-[trifluoromethyl-poly-(oxydifluoromethylene)-poly-[oxy-2-trifluoromethyl)-trifluoromethylene]oxy] difluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Do.
82-608	Ethyl[ethyl oxycarbonyl difluoromethyl-poly-(oxydifluoromethylene)-poly-(oxytetrafluoroethylene)oxy]difluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Do.
82-609	Isopropyl[methyl oxycarbonyl difluoromethyl-poly-(oxydifluoromethylene)-poly-(oxytetrafluoroethylene)oxy]difluoromethyl carboxylate.	47 FR 39244 (9/7/82)	Do
82-610	2-[2,20-difluorohydroxyethyl-poly-(oxydifluoromethylene)-poly-(oxytrifluoroethylene)oxy]-2,2-difluoroethanol.	47 FR 39244 (9/7/82)	Do
82-611	2-[2,2-difluorohydroxyethyl-poly-(oxydifluoromethylene)-poly-(oxytrifluoroethylene)oxy]-2,2-difluoroethanol.	47 FR 39244 (9/7/82)	Do
82-612	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 25°–35°.	47 FR 39244 (9/7/82)	Do
82-613	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 35°–50°.	47 FR 39244 (9/7/82)	Do
82-614	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 50°–60°.	47 FR 39244 (9/7/82)	Do
82-615	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 60°–75°.	47 FR 39244 (9/7/82)	Do
82-616	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 75°–90°.	47 FR 39245 (9/7/82)	Do
82-617	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 90°–105°.	47 FR 39245 (9/7/82)	Do.
82-618	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 105°–120°.	47 FR 39245 (9/7/82)	Do.
82-619	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 120°–140°.	47 FR 39245 (9/7/82)	Do.
82-620	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 140°–165°.	47 FR 39245 (9/7/82)	Do.
82-621	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 165°–180°.	47 FR 39245 (9/7/82)	Do.
82-622	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 180°–190°.	47 FR 39245 (9/7/82)	Do.
82-623	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 190°–200°.	47 FR 39245 (9/7/82)	Do.
82-624	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 200°–220°.	47 FR 39245 (9/7/82)	Do.
82-625	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 220°–235°.	47 FR 39246 (9/7/82)	Do.
82-626	Mixed C_5–C_{14} perfluorinated hydrocarbons, ethers and tertiary amines, characterized by boiling point range 235°–255°.	47 FR 39246 (9/7/82)	Do.
82-627	Generic name: Modified polyester	47 FR 39884 (9/10/82)	Do.
82-628	Generic name: Polyacrylate	47 FR 39885 (9/10/82)	Do.
82-629	Dimethyl hydantoin, formaldehyde, toluene sulfonamide condensation product	47 FR 39885 (9/10/82)	Do.
82-630	Generic name: Unsaturated alkyl fatty amine	47 FR 39885 (9/10/82)	Do.
82-631	Generic name: Unsaturated amine adduct	47 FR 39885 (9/10/82)	Do.

III. 108 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-632	Generic name: Fatty secondary amide	47 FR 39885 (9/10/82)	Do.
82-633	Generic name: Fatty secondary amide	47 FR 39885 (9/10/82)	Do.
82-634	Generic name: Fatty secondary amide	47 FR 39885 (9/10/82)	Do.
82-635	Generic name: Alkyl acid esters	47 FR 39885 (9/10/82)	Do.
82-636	Generic name: Alkyl ester	47 FR 39885 (9/10/82)	Do.
82-637	Generic name: Stearyl methacrylate copolymer	47 FR 39885 (9/10/82)	Do.
82-638	Ethanol 2,2'-[sulfonyl bis(4,1-phenyleneoxy)]	47 FR 39885 (9/10/82)	Do.
82-639	Generic name: Polyacrylate copolymer	47 FR 39885 (9/10/82)	Do.
82-640	Generic name: Amino modified polyester	47 FR 39885 (9/10/82)	Do.
82-641	Generic name: Substituted ammonium sulfonate	47 FR 39886 (9/10/82)	Nov. 29, 1982.

IV.29 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Chemical identification	FR citation	Date of commencement
80-172	Generic name: Polyisobutenyl succinic anhydride reaction products with substituted ethanol	45 FR 52241 (8/6/80)	Sept. 28, 1982.
81-108	Generic name: Modified soya alkyd	46 FR 20767 (4/7/81)	Nov. 2, 1982.
81-578	Generic name: Modified polyethylene oxide	46 FR 57126 (11/20/81)	Nov. 17, 1982.
81-579	Generic name: Polyglycol styrene acrylic polymer	46 FR 57126 (11/20/81)	Do.
81-663	Generic name: Alkali metal salt of substituted benzoate	47 FR 1021 (1/8/82)	Aug. 16, 1982.
82-25	Generic name: Substituted amine polymer	47 FR 3595 (1/26/82)	Nov. 23, 1982.
82-66	A mixture of 1-amino-8-naphthol-4,6-disulfonic acid and its mono and disodium salts	47 FR 7753 (2/22/82)	May 29, 1982.
82-148	Generic name: Ethylene interpolymer	47 FR 10075 (3/9/82)	Nov. 1, 1982.
82-217	2-methoxy-1;4 naphthalenedione	47 FR 13038 (3/26/82)	Nov. 9, 1982.
82-250	Generic name: Urethane polyether	47 FR 16404 (4/16/82)	Nov. 12, 1982.
82-331	Generic name: Nitrophenyl amide	47 FR 20853 (5/14/82)	Nov. 15, 1982.
82-332	Generic name: Aminophenyl amide	47 FR 20853 (5/14/82)	Do.
82-391	Generic name: Cresol-formaldehyde resin	47 FR 25401 (6/11/82)	Nov. 3, 1982.
82-391	Generic name: Styrene-diene-substrited alkene copolymer	47 FR 25402 (6/11/82)	November 1982.
82-457	Generic name: Alkyd derivative from fatty acids, alkanoic acids, a carbomonocyclic anhydride, polyols and esters.	47 FR 28995 (7/2/82)	Sept. 22, 1982.
82-485	Generic name: Quaternary ammonium chloride	47 FR 30103 (7/12/82)	Dec. 1, 1982.
82-484	Generic name: Phosphorodithoic acidm dialkylester, amine salts	47 FR 31062 (7/16/82)	Oct. 20, 1982.
82-501	Generic name: Substituted pentenedioate	47 FR 33235 (7/30/82)	Nov. 15, 1982.
82-505	4,4'-bis-(2,6-dimethylphenol)sulfone	47 FR 33235 (7/30/82)	Dec. 3, 1982.
82-506	Generic name: Bis alkoxylated aluminum acetoacetic ester chelate	47 FR 33235 (7/30/82)	Oct. 21, 1982.
82-533	Generic name: Polyhydroxylated diisocyanate	47 FR 34188 (8/6/82)	Oct. 26, 1982.
82-534	Generic name: Polyether-urethane	47 FR 34188 (8/6/82)	November 1982.
82-555	Generic name: Chromophore substituted poly(oxy-alkylene)	47 FR 36488 (8/20/82)	Nov. 10, 1982.
82-561	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37954 (8/27/82)	Nov. 22, 1982.
82-562	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37955 (8/27/82)	Do.
82-563	Generic name: N-alkyl-1,3-diamine propane salts of mixed mono and dialkyl hydrogen phosphate	47 FR 37955 (8/27/82)	Do.
82-564	Dimethyl ester of 4,4'-(hydroxymethylene)bis-1,2-benzenedicarboxylic acid	47 FR 39242 (9/7/82)	Do.
82-585	Polymer of dimethyl ester of 4,4'-(hydroxy-methylene)bis-1,2-benzenedicarboxylic acid with 4,4'-methylenedianiline.	47 FR 39242 (9/7/82)	Do.
82-594	Generic name: Polymer of alkyl and substituted alkyl acrylates	47 FR 39241 (9/7/82)	Do.

V. 17 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity and generic name	FR citation	Date suspended
80-137	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	Sept. 22, 1980.
80-138	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)	45 FR 48243 (7/18/80)	Do.
80-146	Phosphorodithioic acid *O,O'-di isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt.*	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Do.
80-264	Generic name: Benzeneamine, [*N*-(1-methylhexylidene)-*N*-(1-methyl butylidene)-4,4'-methylene bis]	45 FR 73127 (11/4/80)	Dec. 24, 1980.
81-558	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsulfonyl)-2-methoxyphenylazo)-7-succinylamino-2-naphthalenesulfonic acid disodium salt.	46 FR 55146 (11/6/81)	Jan. 27, 1982.
81-561	4-[4-[2-(hydroxysulfonyoxy)ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3- sulfophenyl)- 5-pyrazolone disodium salt.	46 FR 55146 (11/6/81)	Do.
81-660	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-1-naphthalene sulfonic acid disodium salt.	47 FR 1021 (1/8/82)	Mar. 28, 1982.
81-661	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-6-(3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.	47 FR 1021 (1/8/82)	Do.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25401 (6/11/82)	July 30, 1982.
82-388	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do.
82-586	Generic name: Ethyl ester of tertiary butyl carbomonocyclic acid	47 FR 39242 (9/7/82)	Nov. 16, 1982.
82-675	Generic name: Heterocyclic, aromatic methane	47 FR 43161 (9/30/82)	Nov. 22, 1982.
82-678	Generic name: Chlorinated aromatic azo anthraquinone pigment	47 FR 43161 (9/30/82)	Do.
82-679	Generic name: Chlorinated aromatic azo pigment	47 FR 43161 (9/30/82)	Do.
83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46371 (10/18/82)	Oct. 22, 1982.

[FR Doc. 82-35367 Filed 12-30-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51447; BH-FRL 2276-4]

Toxic Substances; Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 2558) and November 7, 1980 (45 FR 74378). This notice announces receipt of seventeen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-321, 83-322, 83-323, 83-324, 83-325, 83-326 and 83-327, March 16, 1983

PMN 83-328, 83-329, 83-330, 83-331 and 83-332, March 18, 1983

PMN 83-333, 83-334, 83-335, 83-336 and 83-337, March 19, 1983

Written comments by:

PMN 83-321, 83-322, 83-323, 83-324, 83-325, 83-326 and 83-327, February 14, 1983

PMN 83-328, 83-329, 83-330, 83-331 and 83-332, February 16, 1983

PMN 83-333, 83-334, 83-335, 83-336 and 83-337, February 19, 1983

ADDRESS: Written comments, identified by the document control number "[OPTS-51447]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-321

Manufacturer. Confidential.

Chemical. (G) Mixed glycol oligoesters of mixed dicarboxylic acids.

Use/Production. (S) Industrial component for urethane foam formulation. Prod. range: 10,000-4,500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 3 workers, up to 1 hr/da, up to 150 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, 24 hrs/da, 150 da/yr. Disposal by incineration.

PMN 83-322

Manufacturer. Confidential.

Chemical. (G) Polyester of aliphatic polyol, mono basic acids and aromatic diacids.

Use/Production. (S) Commercial foam polyol. Prod. range: 1,000,000-6,000,000 lbs/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: inhalation, a total of 7 workers, up to 8 hrs/da, up to 251 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water, 1 hr/da, 251 da/yr. Disposal by sanitary sewer.

PMN 83-323

Manufacturer. Confidential.

Chemical. (G) Polyester or aliphatic polyols, vegetable oil, and aromatic, dibasic acid.

Use/Production. (S) Commercial foam polyol. Prod. range: 1,000,000-6,000,000 lbs/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: inhalation, a total of 8 workers, up to 8 hrs/da, up to 251 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air with 10-100 kg/yr to water, 8 hrs/da, 251 da/yr. Disposal by sanitary sewer.

PMN 83-324

Manufacturer. Confidential.

Chemical. (G) Modified bisphenol A. epichlorohydrin polymer.

Use/Production. (G) Open use. Prod. range: 8,000-450,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, eye, a total of 89 workers, up to 6 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water, 10-1,000 kg/yr to land. Disposal by biological treatment system and incineration.

PMN 83-325

Manufacturer. Confidential.

Chemical. (G) Polyester polyurethane from carbomonocyclic anhydride, alkanediols and diisocyanates.

Use/Production. (G) Open use. Prod. range: 0-300,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, and use: dermal and eye, a total of 149 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water, 10-10,000 kg/yr to land. Disposal by biological treatment system and incineration.

PMN 83-326

Manufacturer. Confidential.

Chemical. (G) Functionalized acrylic polymer.

Use/Production. (S) General purpose trade sales dispersant Prod. range: Confidential.

Toxicity Data. Acute oral: > 5 g/kg; Acute dermal: > 5 g/kg; Irritation: Skin — Non-irritant, Eye —Minimal.

Exposure. Manufacture, processing: dermal, eye, a total of 9 workers, up to 8 hrs/da.

Environmental Release/Disposal. More than 10,000 kg/yr released to land. Disposal by publicly owned treatment works (POTW) and approved landfill.

PMN 83-327

Manufacturer. Confidential.

Chemical. (G) Blocked isocyanate.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83-328

Manufacturer. Confidential.

Chemical. (G) Modified copolymer of alkenoic esters and substituted alkenoic esters with styrene.

Use. (G) open use. Prod. range: 50,000-1,7500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and eye, a total of 120 workers, up to 6 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr to air and water, 10-10,000 to land. Disposal by biological treatment system, incineration and approved landfill.

PMN 83-329

Manufacturer. Confidential.

Chemical. (G) Substituted phenyl azo substituted naphthalenedisulfonic acid, sodium salt.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 8 workers, up to 6 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. No release. Disposal by navigable waterway.

PMN 83-330

Manufacturer. Confidential.
Chemical. (G) Substituted phenate.
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >3,500 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Moderate, Eye—Moderate.
Exposure. Manufacture: dermal and inhalation, a total of 12 workers, up to 2 hrs/da, up to 26 wks/yr.
Environmental Release/Disposal. No release.

PMN 83-331

Manufacturer. Confidential.
Chemical. (G) Bis-alkylated phenol.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83-332

Manufacturer. Confidential.
Chemical. (G) Aromatic alkyd—silicone modified.
Use/Production. (S) Resin for industrial coatings low V.O.C. Prod. range: 5,000–50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, inhalation and eye, a total of 53 workers, up to 8 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and water, >10–10,000 kg/yr to land. Disposal by POTW and approved landfill.

PMN 83-333

Importer. Confidential.
Chemical. (G) Reaction product of polycyclesulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.
Use/Import. (G) Closed use. Import range: Confidential.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Moderate, Eye—Moderate; LC_{50}, 96 hr, 240 mg/l; Ames Test: Negative.
Exposure. Use: dermal, up to 2 hrs/da.
Environmental Release/Disposal. No release. Disposal by biological treatment system, incineration and approved landfill.

PMN 83-334

Manufacturer. Confidential.
Chemical. (G) Polymer of alkane polyols, alkanedioic acid, and aromatic diacid.
Use/Production. (S) Coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-335

Importer. Confidential.
Chemical. (G) ((substituted phenyl)azo)naphthalenesulfonic acid, sodium salt.
Use/Production. (S) Colorant for textile fibers. Prod. range: Confidential.
Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; LC_{50}>100 mg/l.
Exposure. No exposure.
Environmental Release/Disposal. No release. Disposal by POTW and biological treatment system.

PMN 83-336

Manufacturer. Minnesota Mining & Manufacturing Company.
Chemical. (S) Methanesulfonic acid, tin (2+) salt.
Use/Production. (S) Solder electroplating. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 8 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. Minimal. Disposal by approved landfill.

PMN 83-337

Manufacturer. Minnesota Mining & Manufacturing Company.
Chemical. (S) Methanesulfonic acid, lead (2+) salt.
Use/Production. (S) Solder electroplating. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 8 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. Minimal. Disposal by approved landfill.

Dated: December 27, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-35531 Filed 12-30-82; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-140027; BH-FRL 2275-5]

Toxic Substances; General Accounting Office; Disclosure of Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The General Accounting Office (GAO) has requested access to all information on premanufacture notices (PMNs) submitted under section 5(a) of the Toxic Substances Control Act (TSCA). GAO will be conducting a study of EPA's implementation of the premanufacture notification provisions of section 5 of TSCA for the Subcommittee on Commerce, Transportation, and Tourism of the House Committee on Energy and Commerce. Much of the PMN information has been claimed as confidential by submitters.

DATE: This information will be provided to GAO no sooner than January 13, 1983.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Toll Free: (800-424-9065), In Washington, D.C.: (544-1404), Outside the USA: (Operator—202-544-1404).

SUPPLEMENTARY INFORMATION: In a letter to EPA, the Director of the Resources, Community, and Economic Development Division of the GAO, as the duly authorized representative of the Comptroller General, stated that GAO had been asked "to analyze EPA's process for reviewing PMNs and for deciding on the potential risks posed by new chemical substances and the need for regulatory action by EPA." To perform its analysis GAO has requested access to the PMNs. The PMN information which EPA will be providing GAO may contain confidential business information. Manufacturers and importers have been given the opportunity to claim information confidential in the PMNs submitted to EPA under section 5(a) of TSCA and have made such claims. Pursuant to 40 CFR 2.209(b), which applies to information submitted under TSCA by 40 CFR 2.306(h), EPA must provide confidential business information to GAO in response to a written request from the Comptroller General. (In this case, the Director has made the request on the Comptroller General's behalf as his authorized representative.) Before providing the information EPA is required by 40 CFR 2.209(b) to notify the submitters of the information at least ten days in advance of disclosure.

This is a notice under 40 CFR 2.209(b) to all manufacturers and importers who have submitted PMNs under section 5(a) of TSCA that EPA will provide the requested confidential business information to GAO no sooner than ten

days after publication of this notice in the Federal Register.

EPA will identify any information that is subject to a confidentiality claim and will inform GAO of the provisions of section 14(d) of TSCA which set criminal penalties for unlawful disclosure of confidential business information.

GAO recognizes that this confidential business information is commericially sensitive. Its auditors have experience conducting studies at other agencies involving such information. The auditors at other agenceis involving such information. The auditors have undergone background investigations to be cleared for access to national security information. Prior to access, the auditors will be briefed on EPA's security procedures as set forth in the TSCA Confidential Business Information Security Manual.

GAO auditors will be given access to confidential business information contained in PMNs and related EPA documents and will be allowed to attend meetings where such information is discussed. In addition, EPA employees will be authorized to discuss confidential PMN information with the GAO auditors.

GAO has indicated that, during the study, the auditors will have access to confidential business information only on EPA's premises and that no such information will be removed from EPA. In addition, GAO has indicated that it does not intend to include any such information in the final report to the Subcommittee. To this end, GAO will ask EPA to review any technical information to be included in the final report to verify that it does not contain confidential business information.

Dated: December 21, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-35532 Filed 12-30-82; 8:45am]

BILLING CODE 6560-50-M

[OPTS-59113; BH-FRL 2276-5]

Toxic Substances; 2-Propoxyethyl Acetate Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the Federal Register of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: January 18, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59113]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

TME 83-18

Close of Review Period. February 3, 1983.

Manufacturer. Eastman Kodak.

Chemical. (S) 2-propoxyethyl acetate.

Use. (G) Coatings for articles. Prod. range: 135 days—14,000 kg (max).

Toxicity Data. Acute oral: 8.7 g/kg (fed), 9.5-g/kg (fasted); Acute dermal: >19g/kg; Irritation: Skin, Slight; Eye, Slight; Inhalation: >934 ppm/6h; LC_{50} (96 hr.); Fathead minnow: 10-100 ul/1; LC_{50} (96 hr.); Water flea: >100 ul/1; Skin sensitization: None.

Exposure. Manufacture: dermal and inhalation, a total of 12 workers, up to 8 hrs/da, up to 12 da; processing—dermal and inhalation, a maximum of 150 workers up to 4 hrs/da, up to 30 days; use—dermal and inhalation, a maximum of 150 workers up to 4 hr/da, up to 4 days.

Environmental Release/Disposal. Less than 5 kg released to air, negligible amounts to land and water.

Dated: December 27, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-35530 Filed 12-30-82; 8:45 am]

BILLING CODE 6560-50-M

[OPRM FRL No. 2275-7]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 USC 3501 et seq.) requires the Agency to publish in the Federal Register a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Water Programs

National Pollutant Discharge Elimination System (NPDES) Application Forms

- Title: Application for Permit to Discharge Wastewater (EPA ID 0178)—
  Form A (Major Publicly Owned Treatment Works)
  Form C (Major New Industrial Sources)
  Short Form A (Minor Publicly Owned Treatment Works)
  Short Form C (Minor New Industrial Sources)
  Short Form D (Services, Wholesale and Retail Trade, and Other Commercial Establishments)

Respondents: Owners and operators of businesses, publicly owned treatment works and other institutions applying for an NPDES permit, except those covered under Form 2B, below.

- Title: Application Form 1—General Information (EPA ID 0227).

Respondents: Owners and operators of businesses and other institutions applying for an NPDES permit under Forms 2B or 2C, below.

- Title: Application for Permit to Discharge Wastewater—Form 2B (EPA ID 0226).

Respondents: Owners and operators of concentrated animal feeding and

aquatic animal production facilities (new sources and existing permits).

• Title: Application for Permit to Discharge Wastewater—Form 2C (EPA ID 0238).

Respondents: Owners and operators of businesses with existing manufacturing, commercial, mining or silvicultural operations (existing permits only).

Abstract for EPA IDs 0178, 0226, 0227 and 0238: Under the Clean Water Act, facilities intending to discharge any pollutant into national waters must obtain an NPDES permit. Applicants submit the appropriate form(s) to the permit authority (state agency or EPA regional offices), describing the facility location, receiving waters and nature of the proposed discharge. The permit authority approves/disapproves the application and decides what conditions will be included on those approved.

• Title: Recordkeeping of Supporting Data for Application for Permit to Discharge Wastewater (EPA ID 0094).

Abstract: Data used to support applications must be retained by permittees for at least three years. This information must be available for EPA review during compliance inspections and possible subsequent enforcement actions.

Respondents: Owners and operators of facilities applying for an NPDES permit under any of the above application forms (EPA IDs 0178, 0226, 0227, 0238).

Industry Surveys for Development of Effluent Limitation Regulations

• Title: Survey of Nonferrous Metals Manufacturing Industry, Phase 2 (EPA ID 1016).

Respondents: Owners and operators of businesses involved in the manufacture of nonferrous metals that were not covered by 40 CFR 421.

• Title: Survey of Nonferrous Metals Forming Industry (EPA ID 1017).

Respondents: Owners and operators of businesses involved in the deformation of nonferrous metals to produce mill products, except aluminum, coper and there alloys, SIC Codes 335, 336, 349.

• Title: Survey of Plastic Molding and Finishing Industry (EPA ID 1018).

Respondents: Owners and operators of industries in the plastics molding and forming category, SIC Code 3079.

Abstract for EPA IDs 1016, 1017 and 1018: EPA is surveying businesses on production processes, wastewater characteristics, and wastewater treatment technologies and costs. The Agency will use the information to develop effluent limitation regulations as required by the Clean Water Act.

Solid Waste Programs

• Title: Location Requirements for Hazardous Waste Management Facilities (EPA ID 0812).

Abstract: Hazardous waste facilities must apply for a permit to locate their operation in seismically active areas and/or 100-year floodplains. EPA requires this information to determine if facilities are in compliance with the locations standards under the Resource Conservation and Recovery Act (RCRA) and for further refinement of EPA's permitting requirements.

Respondents: Owners or operators of hazardous waste facilities.

Agency Forms Cleared by OMB Between November 15 and December 10, 1982

• EPA ID 0011, Selective Enforcement Auditing—Automobile, was cleared on November 18 (OMB #2000–0225).

• EPA ID 0971, Application for Variance from Secondary Treatment Requirements, was cleared on December 7 (OMB #2000–0427).

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), 401 M Street, SW., Washington, D.C. 20460.
and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503.

Dated: December 21, 1982.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 82–35535 Filed 12–30–82; 8:45 am]

BILLING CODE 6560–50–M

[OPTS 46011A; TSH–FRL 2277–3]

Initiation of Annual Review Process of Guidelines for Development of Test Data; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Extension of Comment Period.

SUMMARY: EPA is extending the comment period on the testing guidelines it offered for comment in its notice of initiation of the agency's annual review of these guidelines. The agency is taking this action to insure all interested persons an adequate opportunity to comment on the guidelines.

DATE: Written comments must be received on or before Feburary 4, 1983.

ADDRESS: Written comment should be sent to: Document Control Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460.

Comments should bear the identifying document control number OPTS 460011A. The public record regarding this notice is available for public inspection in Rm. E–107, at the above address from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTRACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9056), In Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: In the Federal Register of September 22, 1982 (47 FR 41857), EPA announced the initiation of its annual review of generic test guidelines. In the announcement, EPA indicated that the test guidelines would be available from the National Technical Information Service (NTIS) early in October 1982 and that the comment period on them would close on January 3, 1983.

In view of the fact that the guidelines did not become available from NTIS until several weeks later than anticipated, several organizations have requested an extension of time for providing comments. In response to this need for additional time to comment, the agency has extended the comment period to February 4, 1983.

Dated: December 23, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 82–35536 Filed 12–30–82; 8:45 am]

BILLING CODE 6560–50–M

[OW–FRL 2278–2]

Management Advisory Group to the Construction Grants Program; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the Management Advisory Group (MAG) to the Construction Grants Program will be held at the Marina Marriott Hotel, 13480 Maxella Avenue, Marina del Rey (Los Angeles), California, on January 24, 1983, at 9:00 AM and at the Joint Water Pollution Control Plant, 24501 S. Figueroa, Carson, California, on January 25, 1983.

The agenda for the meeting includes reviews of the status of the Evironmental Protection Agency (EPA) municipal wastewater treatment construction grants program, municipal compliance policy, and completion or reports by task forces on the financial capability of municipalities to finance wastewater treatment facilities, municipal compliance with the requirements of the Clean Water Act, and management of sludge. New task forces on other subjects are expected to be established. The agenda will also include briefings and discussions on other topics of current or future interest to MAG.

The meeting will be open to the public. To assist in planning, it would be appreciated if members of the public who will be attending the meeting, would contact Ms. Georgette Brown, at the Environmental Protection Agency, WH–547, 401 M Street, S.W. Washington, D.C. 20460 or on (202) 382–5859, but this is optional.

Date: December 15, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR. Doc. 82–35534 Filed 12–30–82; 8:45 am]

BILLING CODE 6560–50–M

[W–9–FRL 2271–1]

Modification of General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) off Southern California

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice of proposed modification of general NPDES permit.

SUMMARY: On February 18, 1982, the Regional Administrator, Region 9, Environmental Protection Agency, issued a general National Pollutant Discharge Elimination System (NPDES) permit (No. CA0110516) authorizing discharges from offshore oil and gas facilities operating in Federal waters off Southern California (47 FR 7312). EPA proposes to modify this permit to include as authorized discharge sites the tracts which were leased in two recent Minerals Management Service (MMS) lease sales: Lease Sale #68 held on June 2, 1982 and Reoffering Sale #2 (Southern California area) held on August 5, 1982. The new parcels are in the same geographic area and oil and gas facilities which will operate in these parcels will involve the same types of operations, discharge the same types of wastes, and require the same effluent limitations, operating conditions, and monitoring requirements. Therefore, these facilities will be more appropriately controlled under the general permit (No. CA 0110516) than under individual permits or a separate general NPDES permit.

DATES: Comment Period—Interested persons may submit to the Regional Administrator, Region 9, comments on this proposed modification, at the address shown below no later than February 2, 1983.

ADDRESS: Comments should be sent to the Regional Administrator, Region 9, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Eugene Bromley, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105. [Telephone (415) 974–8330].

SUPPLEMENTARY INFORMATION: General NPDES permit No. CA0110516 authorizes discharges from offshore oil and gas facilities operating on currently active lease parcels in Federal waters offshore Southern California. These parcels were leased in Lease Sales #53, #48, #35 and the 1966 and 1968 Federal lease sales. Twenty-nine additional tracts were leased by MMS in the recent Lease Sale #68. These tracts are (by OCS lease parcel number): P–0456, P–0457, P–0459, P–0460, P–0461, P–0462, P–0463, P–0464, P–0465, P–0467, P–0468, P–0469, P–0472, P–0473, P–0474, P–0475, P–0478, P–0479, P–0480, P–0481, P–0482, P–0483, P–0484, P–0485, P–0486, P–0487, P–0488, P–0489, P–0490. Ten additional tracts were leased in Reoffering Sale #2, Southern California area. The numbers of these parcels are (by OCS lease parcel number): P–0491 through P–0500, inclusive. EPA proposes to modify the geographic area covered by the general permit to include authorization to discharge on the tracts awarded in these two two lease sales.

The fact sheet accompanying the issuance of the general permit set forth the principal facts and the significant factual, legal, and policy questions considered in the development of the terms and conditions of the permit. As discussed below EPA believes that these terms and conditions are also appropriate for discharges occurring on the new lease parcels.

(1) *Geographical coverage of the General Permit.* Section I of the fact sheet discussed the basis for the geographic coverage of the general permit. The Consolidated Permit Regulations provide that the Director of an NPDES permit program may modify a NPDES permit upon receipt of any information which indicates substantial additions to permitted activities after final permit issuance (40 CFR 122.15(a)). New lease sales conducted by the MMS authorizing offshore oil and gas activities in the same geographic area covered by a final general NPDES permit are cause for permit modification. The proposed modification is a change in the geographic area only and extends authorization to discharge from oil and gas operations to parcels adjacent or nearly adjacent to those already covered by the general NPDES permit. In accordance with 40 CFR 122.59, the effluent limitations, operating conditions and monitoring requirements of the general permit will remain the same. Under certain circumstances outlined in Part III.A of the general permit, an individual NPDES permit may be required by the Regional Administrator.

(2) *403 Ocean Discharge Criteria.* Section 403 of the Clean Water Act requires that an NPDES permit for a discharge into marine waters be issued in compliance with EPA's guidelines for determining the degradation of marine waters. The Agency's finding under the guidelines were presented in Part III.F. of the general permit fact sheet. Since the Agency has not identified any new biological communities, critical or endangered species in the new lease parcels, its conclusions relative to the physical, chemical and biological transport of the pollutants to be discharged from the permitted facilities remain the same. The Agency has also not identified any new special aquatic sites, recreational or major commercial fishing areas in the proposed expansion of the general permit area. The special effluent limitations and operating conditions imposed on drilling muds and cuttings and on produced waters in the general permit should provide adequate protection of the marine environment and not adversely affect marine species or marine communities beyond the immediate area of the discharge.

(3) *Consistency with California Coastal Zone Management Program.* The Coastal Zone Management Act (CZMA) and its implementing regulations (15 CFR Part 930) require that any Federally-licensed activity affecting the coastal zone with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. The proposed modification of the general permit will not authorize discharges into the territorial seas of the State of California, nor into any body of water landward of the inner boundary of the territorial seas or any wetland adjacent to such waters. However, several of the new lease

parcels lie within 1,000 meters of State waters and discharges on these parcels may have some effect on the coastal zone of the State of California. Therefore, the provision of the general permit providing for CZMP consistency review prior to authorization to discharge from facilities within 1,000 meters will be applicable to some new lease parcels. The provision requires that operations under the general permit may not be conducted within 1,000 meters of the territorial seas of the State of California until the plan of exploration or development has been certified to the Coastal Commission of the State of California as consistent with the CZMP and has been concurred upon by that Commission. Since the requirements for certification will apply to the new parcels as well as to the old, the proposed modification will not conflict with the requirements of the CZMP.

(4) *Endangered Species Consultations.* The Endangered Species Act requires that each Federal Agency ensure that any of their actions, such as permit issuance, do not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of their habitats. The MMS has undertaken endangered species reviews including full consultation with the Department of Commerce, the National Marine Fisheries Service and the Department of the Interior's Fish and Wildlife Service, with respect to all oil and gas leasing in the general permit area. Prior to issuance of the general permit EPA concluded that the discharges authorized by the general permit would neither jeopardize the continued existence of any endangered or threatened species nor adversely affect its critical habitat. Both the National Marine Fisheries Service and the U.S. Fish and Wildlife Service concurred with this conclusion.

The proposed modification extends the authorization to discharge to parcels nearby to those on which discharges are currently authorized and within the general area in which the endangered species reviews were conducted. As these new parcels do not contain any previously unidentified listed species or any newly identified habitats which will be jeopardized or adversely affected by an authorization to discharge under the general permit, EPA believes that the previous conclusion regarding effects on endangered species is applicable to the new parcels included in this proposed modification.

(5) *Economic Impact.* EPA has reviewed the effect of Executive Order 12291 on this permit modification and has determined that it is not a major rule under that order. The modification will result in reduced paperwork required of regulated facilities by consolidating the currently active lease parcels into one permit.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

After review of the facts presented in the notice printed above, I hereby certify, pursuant to the provisions of 5 U.S.C. 605(b), that this modification will not have a significant impact on a substantial number of small entities.

Dated: October 27, 1982.

Richard Coddington,

Acting Director, Water Management Division.

[FR Doc. 82-35528 Filed 12-30-82; 8:45 am]

BILLING CODE 6560-50-M

[W-9-FRL-2271-2]

Issuance of Final General NPDES Permit for Oil and Gas Operations on the Outer Continental Shelf (OCS) off Southern California; Corrections

AGENCY: Environmental Protection Agency.

ACTION: Notice of final general NPDES permit; correction.

SUMMARY: On Thursday, February 18, 1982, Region 9 of the Environmental Protection Agency published at 47 FR 7312 notice of a final general NPDES permit for oil and gas operations on the outer continental shelf off Southern California. Part III.C.18 of the permit contains a table of maximum quantities of drilling mud components to be used in formulating drilling mud which is discharged. The heading "number per barrel" should read "pounds per barrel." The last sentence of Section I of the fact sheet (FR 7318) should read: "Until new source performance standards are finally promulgated, and EPA determines that it is appropriate to modify this general permit to include new sources, the Agency is not required to conduct an environmental review for the issuance of this general NPDES permit under the National Environmental Policy Act (NEPA)." In Appendix A, Public Comments (FR 7320) the equation to be used for determining compliance with the heavy metals limits for produced water should be:

$C_e = C_o - D_m (C_o - C_s)$

Richard Coddington,

Acting Director, Water Management Division.

[FR Doc. 82-35529 Filed 12-30-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Colonial Bancorporation, Inc.*, Thiensville, Wisconsin; to acquire 100 percent of the voting shares or assets of The First National Bank of Port Washington, Port Washington, Wisconsin. Comments on this application must be received not later than January 26, 1983.

2. *F & M Bancorporation, Inc.*, Kaukauna, Wisconsin; to acquire at least 80 percent of the voting shares or assets of Forest Junction State Bank of Forest Junction, Forest Junction, Wisconsin. Comments on this application must be received not later than January 26, 1983.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Western Bancorporation, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Western Bank—North Wilcrest, N.A., Houston, Texas, a proposed new bank. Comments on this application must be received not later than January 26, 1983.

Board of Governors of the Federal Reserve System, December 27, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35507 Filed 12-30-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 115.4(b)(1)), for permission to engage de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to product benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (commercial financing, leasing and servicing activities; United States): To engage through its subsidiary, Security Pacific Finance Corp., in making or acquiring for its own account, or for the account of others, asset based business loans and other commercial or industrial loans and extensions of credit, such as would be made by a factoring, rediscount or commercial finance company, and leasing and servicing activities with respect to personal property and equipment and real property. These activities would be conducted from an office of Security Pacific Finance Corp., in Oak Brook, Illinois, serving the United States. Comments on this application must be received not later than January 24, 1983.

2. *Security Pacific Corporation*, Los Angeles, California (investment and financial advising; United States): To engage through its subsidiary, Security Pacific Investment Real Estate, Inc. in acting as investment or financial adviser to the extent of providing portfolio investment advice with respect to real property interests. Such activities would be conducted from offices of Security Pacific Investment Real Estate, Inc. in Los Angeles, California and New York, New York, serving the United States. Comments on this application must be received not later than January 26, 1983.

Board of Governors of the Federal Reserve System, December 27, 1982.

James McAfee,

Associate Secretary of the Board.

[FR. Doc. 82-35510 Filed 12-30-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Straz Investment Co., Inc.*, St. Petersburg Beach, Florida; to become a bank holding company by acquiring 93.24 percent of the voting shares of First Bank & Trust Company, Belleair Bluffs, Florida. Comments on this application must be received not later than January 26, 1983.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *The Sedgwick Bancshares, Inc.*, Sedgwick, Kansas; to become a bank holding company by acquiring 80 percent of the voting shares of The Sedgwick State Bank, Sedgwick, Kansas. Comments on this application must be received not later than January 26, 1983.

Board of Governors of the Federal Reserve System, December 27, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35500 Filed 12-30-82; 8:45 am]

BILLING CODE 6210-01-M

Barnett Banks of Florida, Inc.; Merger of Bank Holding Companies

Barnett Banks of Florida, Inc., Jacksonville, Florida, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Suncoast Bancorp, Inc., Vero Beach, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 21, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 27, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35506 Filed 12-30-82; 8:45 am]

BILLING CODE 6210-01-M

Ranchers Investment Corp.; Formation of Bank Holding Company

Ranchers Investment Corporation, Winner, South Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Ranchers National Bank of Winner, Winner, South Dakota. The factors that are considered in acting on the

application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Ranchers Investment Corporation, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Ranchers National Agency, Winner, South Dakota.

Applicant states that the proposed subsidiary would engage in general insurance agency activities in a community that has a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Winner, South Dakota, and the geographic areas to be served are the Winner, South Dakota area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than January 26, 1983.

Board of Governors of the Federal Reserve System, December 27, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35508 Filed 12-30-82; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

December 22, 1982.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for Revision to an Existing Report

1. Report title: Weekly Report of Assets and Liabilities for Large Banks
Agency form number: FR 2416.
Frequency: Weekly
Reporters: Commercial banks
SIC Code: 602pt.
Small businesses are affected
General description of report:
Respondent's obligation to respond is voluntary (12 U.S.C. 248(a), (i) and 353 *et seq.*); a pledge of confidentiality is promised (5 U.S.C. 552(b)(4) and (b)(8)).

The report provides balance sheet data used for the calculation of various components of the money supply and bank credit, the trends in investment policy, and liquidity analysis; liability-side balance sheet data are used for analysis of sources of funds and capital adequacy.

2. Report title: Weekly Survey of Money Market Deposit Accounts and "Super NOW" accounts.
Agency form number: FR 2900s
Frequency: Weekly; quarterly
Reporters: depository institutions; commercial banks
SIC Code: 602, 603, 605, 612, 614
Small business are affected
General description of report:
Respondent's obligation to reply is mandatory (12 U.S.C. 248, 461, 3105); a pledge of confidentiality is promised.

A Survey of MMDAs and "Super NOWs"—for a period of six months—to obtain amounts outstanding of new money market deposit accounts and "Super Now" accounts established by the DIDC.

Board of Governors of the Federal Reserve System, December 27, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35505 Filed 12-30-82; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0414]

Modifications to Federal Reserve Bank Check Collection Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Approval of proposal to modify Federal Reserve Bank check collection services.

SUMMARY: The Board of Governors has approved a proposal of the Federal Reserve Banks to modify their check

collection services. The program will extend the times during which checks may be deposited at Federal Reserve offices and the times at which checks are presented to certain paying banks.

EFFECTIVE DATE: February 24, 1983. On that date, Reserve Banks will begin implementing new fee schedules, deposit deadlines, and funds availability schedules for check collection services. The program will be implemented over a five month period.

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Assistant Director (202/452–2231), or Florence M. Young, Program Manager (202/452–3955), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452–3625), Daniel L. Rhoads, Attorney (202/452–3711), or Joseph R. Alexander, Attorney (202/452/2489), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On August 4, 1982, the Board requested comment on a proposal by the Federal Reserve Banks to improve the speed and efficiency of the nation's payments mechanism by modifying the Federal Reserve System's check collection procedures. 47 FR 34190 (August 6, 1982). The proposal presented an integrated plan (1) to extend the deadlines for depositing checks for collection at Federal Reserve offices and (2) to extend the times at which Federal Reserve offices present checks to certain paying institutions. Under the proposal, Reserve Banks would accept checks three to five hours later from depository institutions using the Federal Reserve's Interdistrict Transportation System ("ITS"). As a result of extended deposit deadlines, depository institutions would have a longer time to process checks and receive improved funds availability for such checks.

Under the proposal, the earliest final presentment time for checks drawn of depository institutions located in Federal Reserve cities would be established at 12:00 noon local time. Later presentment might also be implemented for institutions located outside of Federal Reserve cities that receive a substantial dollar value of checks each day and where special arrangements are warranted. The proposal also stated that Reserve Banks were considering development of special services, such as providing the MICR line data from checks on computer tape or providing account information and dollar totals to payors, in advance of the presentment of the checks where requested by the paying bank.

The Reserve Banks informed depository institutions of the proposed changes to the Reserve Bank's check clearing services in May and June, 1982. Subsequently, the Board determined that it would be desirable to request public comment to assist it in evaluating the Reserve Banks' proposal.

Shortly after the proposal was published for comment, to assist interested parties in evaluating the proposal, the Reserve Banks distributed the fee schedules and deposit deadlines that they planned to implement if the proposal were adopted. A comprehensive proposal for eliminating and pricing Federal Reserve float was published for public comment also. 47 FR 50342 (November 5, 1982).

A. *Comments and Analysis.* A total of 557 comments were received on the proposal. Most of the commenters supported the overall purpose of the proposal to accelerate the collection of checks. The specific proposal received general support from 255 commenters. Thrity-five commenters supported a portion of the proposal but expressed reservations about certain of its aspects. Two hundred sixty-seven commenters opposed the proposal.

Support for the proposal was received primarily from small- and medium-sized commercial banks, savings and loan associations, credit unions, consumers, and several trade associations representing these parties. In addition, 20 correspondent and city banks concurred with the proposal. These commenters believed that if the proposal were implemented it would speed up the collection of checks and would benefit most depository institutions and their customers. The types of improvements that were anticipated included: (1) Increased collected deposit balances; (2) reduced levels of check clearing float; and (3) expedited returns of unpaid checks. Further, many depository institutions mentioned that they would benefit from the increased competition among providers of check collection services.

Objections to the proposal were raised primarily by banks located in Federal Reserve cities, larger correspondent banks located outside of Federal Reserve cities, small depository institutions that are dependent upon third-party processors, non-financial companies, and air couriers. The concerns expressed by these commenters generally fell into three broad categories—the operational ramifications of the proposal, the impact on competition among depository institutions, and the impact on competition between the Reserve Banks and correspondent banks.

(1) *Operational concerns.* Commenters opposed to the proposal raised several operational concerns. Some commenters stated that later presentment of checks to city and selected RCPC and country institutions[1] would disrupt current internal processing schedules, necessitating additional staff and equipment, and make the calculation of reserve positions more difficult. A number of commenters also stated that later presentment would disrupt the cash management services provided to corporations and services provided to smaller depository institutions, such as demand deposit accounting and account balance reporting.

It is recognized that implementation of a policy to present or dispatch checks to paying institutions located in Federal Reserve cities later would be a departure from the practice of most Federal Reserve Banks to present checks within the time frames established by local clearinghouse associations. However, the Board does not believe that the later presentment times proposed by the Reserve Banks would represent a substantial change from current practice. First, the final presentment times established by a majority of clearinghouse associations located in Federal Reserve cities range from 10:00 a.m. to 11:30 a.m. local time, which are close to the proposed times. Second, the Reserve Bank's current practice of making earlier "courtesy" presentments would not change.

Studies also indicated that large correspondent banks make extensive use of direct presentment of "on us" checks.[2] An analysis of availability schedules for a sample of banks demonstrated that some correspondent banks have as many as 200 direct-send relationships with depository institutions throughout the country. Currently, deadlines for "on us" presentments are usually the close of the business day for "over-the counter" (teller) transactions, which is typically 4:00 p.m. Based on these findings, it appears that many depository institutions already have made, and are willing to make, operational adjustments in order to derive the benefits that can

[1] RCPC institutions are depository institutions located in areas designated as RCPC zones which are outside Federal Reserve office cities. Country institutions are depository institutions located outside Federal Reserve office cities and RCPC [illegible]

[2] "On us" checks refer to those checks drawn by cutomers on the paying institution.

be realized by accelerating the collection of checks.

Only a few commenters submitted estimates of the impact of the proposal on their operating costs. It appears that their responses were based on the assumption that a large number of the checks presented to them would be received at 12:00 noon. Since the Reserve Banks would continue to make earlier courtesy presentments, such that only a small proportion of checks presented for payment will be received by these institutions later, these estimates generally were not helpful in evaluating the effects of the proposal.

While reserve account charges for check presentments are an important element in the calculation of an institution's reserve position, the dollar value of the charges is only a small proportion (about 10 percent) of total reserve account charges. Therefore, effecting the charge somewhat later in the day to the institution's reserve account for checks presented to it should not pose a major problem. Additionally, depository institutions are able to adjust their reserve positions until 6:30 p.m., Eastern time, when the Fedwire closes.

The potential of the proposal to disrupt the provision of cash management services to corporate customers was also considered. After considering the comments on this issue, the Board determined that the program should not have any significant disruptive effect upon the provision of such services or on financial markets. To the extent that there is any effect, the Board believes that it would be temporary until the markets have had an opportunity to adjust. Further, the impact of later presentment will be minimized by the provision of special services for payor banks (such as providing MICR line data on computer tapes or providing balance information) that Reserve Banks are developing. These services and courtesy presentments should also help alleviate the impact of later presentment times on service bureaus and correspondent banks that may choose to modify their processing schedules. In addition, the 6:30 p.m. Fedwire cut-off time should provide institutions with ample time to sell or purchase funds.

(2) *Competition among depository institutions.* Some commenters also expressed concern that the proposal would disrupt current patterns of competition among different classes of depository institutions. Specifically, some commenters expressed their belief that later presentment to city institutions that provide corporate disbursement services could result in a competitive disadvantage to those institutions unless a similar change were made in the presentment times for RCPC and country institutions that may provide similar corporate services. Further, it was stated that later presentment to selected RCPC and country institutions that provide corporate disbursement services would result in a competitive advantage to other RCPC and country institutions in the same region.

The program has been modified to take these comments into account. In order to assure that non-city institutions do not obtain an unfair advantage, later presentment will be applied to RCPC and country paying institutions that receive a substantial dollar value of checks. Further, deposit deadlines for checks drawn on these institutions will be extended to times generally comparable to deadlines for checks drawn on city institutions. However, because of the large geographic area and the large number of institutions in RCPC and country zones, it is not possible to treat all of these institutions in exactly the same manner. In order to assure that similarly situated RCPC and country institutions are treated comparably, if the volume of activity increases for specific institutions, they may also be included in this program.

(3) *Competition between Reserve Banks and depository institutions.* The third major concern raised by commenters was that the Federal Reserve was competing unfairly with other providers of payments services. Several commenters stated that the proposal to extend deposit deadlines for institutions using Federal Reserve transportation without similar extensions for institutions using their own transportation would enhance the Federal Reserve's competitive position *vis-a-vis* the private sector and result in volume shifts to the Federal Reserve. It was also stated that the proposed prices would provide the Reserve Banks an unfair competitive advantage because processing fees would not recover total costs, the interdistrict transportation surcharge would not fully recover costs, and the cost of Federal Reserve float would not be included in the fees. Some commenters also stated tht the Reserve Banks' proposed fee schedules favored smaller depository institutions and, therefore, discriminated against larger institutions.

Further analysis of the proposed different deposit deadlines for ITS users and direct sending institutions indicated the potential for temporary disruptions in check clearing patterns. To avoid this problem, the program has been modified to provide later deposit deadlines to all depositors—intraterritory institutions, institutions that direct send to other Federal Reserve offices, and institutions using the Federal Reserve's ITS network.

The fee schedules that the Reserve Banks proposed for implementation in conjunction with the changes in the System's check collection services were designed to recover total operating costs plus the private sector adjustment factor ("PSAF"). A review of the proposed prices indicates, that they fairly reflect the cost of providing the services. The schedule of fees to be implemented in 1983 by the Reserve Banks will recover the total costs of providing the check collection services, including the 16 percent PSAF.

The proposed ITS surcharge was designed to recover the costs of transporting checks on the network based on estimated mature volume levels. The surcharge has been modified to assure that all costs of transporting checks on the network, based on estimated 1983 volume are recovered.

As previously indicated, the Board has requested comment on proposals to reduce and price for float. It is anticipated that the proposals will be reviewed by the Board in late January.

(4) *Other issues.* A number of commenters expressed concern that the Federal Reserve had a competitive advantage over the private sector because of its role as both competitor and regulator. Commenters cited the ability of Reserve Banks to avoid payment of presentment fees, to obtain payment from paying institutions by the close of business on the day of presentment in the form of immediately available funds, and to vary the check collection rules of the Uniform Commercial Code. The Board has carefully evaluated these comments. The Board believes that the program does not represent an exercise of regulatory authority and does not result in a competitive advantage for Reserve Banks. The move to later presentment represent the exercise of the same rights that all presenting banks possess under the Uniform Commercial Code. With regard to the issue of presentment fees, the Federal Reserve Act (12 U.S.C. 342) prohibits the imposition of such fees on Reserve Banks. In any event, there is a question as to whether a paying bank is performing a service for which a fee may be assessed when it pays checks drawn on it in the ordinary course of business. In addition, the Board does not believe that the ability to charge an institution's account at the Reserve Bank represents a significant advantage since correspondent relationships

between depository institutions may also provide for such arrangements.

Several commenters also suggested that the manner in which the proposal was being implemented did not comply with the procedural requirements of the Administrative Procedure Act or the due process guarantees of the Constitution. These commenters expressed the view that the request for comment did not provide enough time or information to enable interested parties to comment on the proposal in a meaningful way. Some commenters also suggested that the Board should conduct formal hearings before an administrative law judge before making its decision on the proposal. After a review of applicable law, the Board has concluded that the notice and comment procedures adopted by the Board were sufficient to inform interested parties of the scope and nature of the proposal and that, under current law, a formal hearing before an administrative law judge is not required.

B. *Board Action.* After review of the comments the Board has determined to approve the following program to accelerate the collection of checks by Reserve Banks.

1. Reserve Banks will have checks available for presentment [3] (or dispatch) to paying institutions no later than 12:00 noon local time. The transition to later presentment will be accomplished in two steps. On February 24, 1983, presentment will be moved to 11:00 a.m.; on May 2, 1983, it will be moved to 12:00 noon.

2. The later presentment policy program will be applied to RCPC and country paying institutions that receive a substantial dollar value of checks. Further, deposit deadlines for checks drawn on high dollar RCPC and country institutions will be extended beyond the deadlines that were originally published by the Reserve Banks. Generally, these deadlines will be comparable to the deadlines for checks drawn on city institutions.

3. Each Reserve office's later deposit deadlines will be made available to all depositors—intraterritory institutions, institutions that direct send to other Federal Reserve offices, and institutions using the Federal Reserve's ITS network.

4. The revised fee schedules, like those published in August, will be deigned to recover the full costs of the check collection service plus the 16 percent private sector adjustment factor. The ITS surcharge will be set to recover the full costs of transporting checks over the network, based on 1983 volume estimates.

5. In order to provide depository institutions and their customers with adequate lead time, the program will be implemented in 1983 as follows:

Jan. 17—Reserve Banks announce new prices, deposit deadlines, and funds availability schedules for check services.

Jan. 31—Recommendations will be presented to the Board on the float reduction/pricing program.

Feb. 24—Reserve Banks implement new deposit deadlines and new prices for check services, and move the time for presentation of checks drawn on city institutions to 11:00 a.m.

May 2—Reserve Banks move presentment for checks drawn on city institutions to 12:00 noon.

July 1—Reserve Banks implement new deposit deadlines for checks drawn on certain non-city institutions and implement the later presentment times for these institutions.

The Board has carefully reviewed the impact of the program on depository institutions. The Board believes that smaller institutions will benefit substantially from the program in the form of better funds availability. Larger institutions will also benefit from better funds availability and the payor bank services to be offered by the Reserve Banks. The Board has determined that the program will accelerate the collection of checks and represent a more efficient utilization of resources, theregy enhancing the efficiency of the nation's payments mechanism.

By order of the Board of Governors of the Federal Reserve System, December 27, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-35504 Filed 12-30-82; 8:45 am]

BILLING CODE 6210-01-M

[3] Presentment indicates the time that Federal Reserve offices will present checks at clearinghouses or make them available for pick up at the Reserve office. Where deliveries must be made to city institutions outside a clearinghouse, delivery will be made as close as possible to these hours.

HEALTH AND HUMAN SERVICES DEPARTMENT

Public Health Service

Health Resources and Services Administration; Medical Reimbursement Rates for Fiscal Year 1983; Inpatient and Outpatient Medical Care

Notice is given that the Assistant Secretary for Health, under the authority of Sections 321(a) and 322(b) of the Public Health Service Act (42 U.S.C. 248(a) and 249(b)), has approved the following reimbursement rates for inpatient and outpatient medical care in facilities operated by the Health Resources and Services Administration for Fiscal Year 1983: Emergency Non-Beneficiaries, Beneficiaries of Other Federal Agencies, Medicare and Medicaid Beneficiaries.

Inpatient Services per day—$282.00 (In Alaska $358.00).

Outpatient Services per visit—$55.00 (In Alaska $88.00).

Dated: December 27, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82-35558 Filed 12-30-82; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6659-A]

Alaska Native Claims Selection

Executive Order (EO) 626, as amended, withdrew an area not to exceed 40 acres for school purposes on May 4, 1907 at Kanakanak, Alaska. On April 26, 1910, approximately 15.4 acres was withdrawn near Kanakanak by EO 1194, as amended, for the purpose of providing educational facilities for Natives of Alaska. The area was expanded by and is currently withdrawn by EO 5391, dated July 8, 1930. The withdrawal has been surveyed as U.S. Survey No. 937 and U.S. Survey No. 2013. The Bureau of Land Management's records were noted on March 24, 1958, that these lands were transferred by the Bureau of Indian Affairs to the Department of Health, Education and Public Welfare, now the Public Health Service (PHS), within the Department of Health and Human Services, and on September 25, 1979, were serialized as AA-29646 for the purpose of an Alaska Native Claims Settlement Act Sec. 3(e) determination.

On December 4, 1973, Choggiung Limited for the Native village of Dillingham, filed selection application AA-6659-A under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (Supp. IV, 1980) (ANCSA), for those portions of U.S. Survey No. 937 and U.S. Survey No. 2013 located within T. 13 S., R. 56 W., Seward Meridian.

United States Survey No. 937 and U.S. Survey No. 2013 were selected pursuant to Sec. 12(a) of ANCSA and are not lands in the national park system, lands withdrawn or reserved for national defense purposes, or former reserves selected pursuant to Sec. 19(b) of ANCSA. Therefore they are subject to a determination pursuant to Sec. 3(e) of ANCSA, which states:

"Public lands" means all Federal lands and interests therein located in Alaska except: (1) the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation. * * *

On January 25, 1982 (as amended), the Bureau of Land Management made a determination that the following described lands are the smallest practicable tract of that portion of U.S. Survey No. 937 and U.S. Survey No. 2013, located in T. 13 S., R. 56 W., Seward Meridian, actually used in connection with the administration of this Public Health Service facility:

That portion of U.S. Survey No. 2013 and U.S. Survey No. 937 that lies north of the township line between Tps. 13 and 14 S., R. 56 W., Seward Meridian, except for the following described parcel:

Commencing at the true point of beginning for this description as Corner 14, U.S. Survey No. 2013, thence N.0°03'W. 432.30 feet to Corner 13, U.S. Survey No. 2013; thence N. 70°48'W. 931.28 feet to Corner 12, U.S. Survey No. 2013; thence S. 15°44'W. 1,730.00 feet along line 12–11 of U.S. Survey No. 2013; thence N.65°00'E. 1,668.67 feet to the westerly side of the Dillingham-Kanakanak Road; thence N.5°00'W. 222.39 feet along the westerly side of said road to line 1–2 of amended U.S. Survey No. 66; thence S.89°57'W. 144.00 feet more or less along line 1–2 of amended U.S. Survey No. 66 to the true point of beginning.

Containing approximately 46 acres.

As to the lands described below, application AA–6659–A, submitted by Choggiung Limited, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands have been determined to be public lands, and do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, containing approximately 31 acres, is considered proper for acquisition by Choggiung Limited and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Commencing at the true point of beginning for this description as Corner 14, U.S. Survey No. 2013, thence N.0°03'W. 432.30 feet to Corner 13, U.S. Survey No. 2013, thence N.70°48'W. 931.28 feet to Corner 12, U.S. Survey No. 2013, thence S.15°44'W. 1,730.00 feet along line 12–11 of U.S. Survey No. 2013; thence N.65°00'E. 1,668.67 feet to the westerly side of the Dillingham-Kanakanak Road; thence N.5°00'W. 222.39 feet along the westerly side of said road to line 1–2 of amended U.S. Survey No. 66; thence S.89°57'W. 144.00 feet more or less along line 1–2 of amended U.S. Survey No. 66 to the true point of beginning.

Containing approximately 31 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601 1613(f)).

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. A right-of-way, AA–9170, for a Federal Aid Highway. Act of August 27, 1958, as amended (23 U.S.C. 317); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Choggiung Limited is entitled to conveyance of 161,280 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 153,630 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 7,650 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Bristol Bay Native Corporation when the surface estate is conveyed to Chogguing Limited, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native village shall be subject to the consent of Chogguing Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in title 43 Code of Federal Regulations (CFR, Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until February 2, 1983, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Department of Health and Human Services, Alaska Area Native Health Service, Box 7–741, Anchorage, Alaska 99510

Choggiung Limited, P.O. Box 237, Dillingham, Alaska 99576

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–35539 Filed 12–30–82; 8:45 am]

BILLING CODE 4310–84–M

[AA–6657–H]

Alaska Native Claims Selection

Executive Order (EO) 626, as amended, withdrew an area not to exceed 40 acres for school purposes on May 4, 1907 at Kanakanak, Alaska. On April 26, 1910, approximately 15.4 acres was withdrawn near Kanakanak by EO 1194, as amended, for the purpose of providing educational facilities for Natives of Alaska. The area was expanded by and is currently withdrawn by EO 5391, dated July 8, 1930. The withdrawl has been surveyed as U.S. Survey No. 937 and U.S. Survey No. 2013. The Bureau of Land Management's records were noted on March 24, 1958, that these lands were transferred by the Bureau of Indian Affairs to the Department of Health, Education and Public Welfare, now the Public Health Service (PHS) within the Department of Health and Human Services, and on September 25, 1979, were serialized as AA–29646 for the purpose of an Alaska Native Claims Settlement Act Sec. 3(e) determination.

On October 3, 1974, Saguyak Incorporated, for the Native village of Clark's Point, filed selection application AA–6657–H under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (Supp. IV, 1980) (ANCSA), for those portions of U.S. Survey No. 937 and U.S. Survey No. 2013 located within T. 14 S., R. 56 W., Seward Meridian.

United States Survey No. 937 and U.S. Survey No. 2013 were selected pursuant to Sec. 12(a) of ANCSA and are not lands in the national park system, lands withdrawn or reserved for national defense purposes, or former reserves selected pursuant to Sec. 19(b) of ANCSA. Therefore they are subject to a determination pursuant to Sec. 3(e) of ANCSA, which state:

"Public lands" means all federal lands and interests therein located in Alaska except: (1) the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation. * * *

On May 28, 1982 (as amended), the Bureau of Land Management made a determination that the following described lands are the smallest practicable tract of that portion of U.S. Survey No. 937 and U.S. Survey No. 2013, located in T. 14 S., R. 56 W., Seward Meridian, actually used in connection with the administration of this Public Health Service facility:

Beginning at the point for corner No. 1, identical with corner No. 11, U.S. Survey No. 2013; thence S. 75°00′E., 1400.00′ to corner No. 2; thence S. 44°52′46.4″E., approximately 1262.51′ to corner No. 3, a meander corner at the line of mean high-tide on the right bank of the Nushagak River, at the angle point formed by the meander lines 3 and 4, U.S. Survey No. 2013; thence along a portion of the original meanders of U.S. Surveys Nos. 937 and 2013, along the line of mean high-tide on the right bank of the Nushagak River, N. 25°00′E., 660.00″ N. 10°35′E., 660.00′, and N. 10°29′E., approximately 289.50′, to corner No. 4, a meander corner at the line of mean-high tide on the right bank of the Nushagak River, at the intersection of the theoretical township line of Townships 13 and 14 South, Range 56 West, Seward Meridian, with the original meander line of the right bank of the Nushagak River; thence west, along the theoretical township line of Townships 13 and 14 South, Range 56 West, Seward Meridian, approximately 2616.60′ to corner No. 5, at the intersection of the theoretical township line of Townships 13 and 14, South, Range 56 West, Seward Meridian, with line 11–12, U.S. Survey No. 2013; thence S. 15°44′W., along a portion of line 12–11, U.S. Survey No. 2013, approximately 285.34′ to corner No. 1, the point of beginning.

Containing approximately 46 acres.

Accordingly, selection application AA–6657–H must be and is hereby rejected as to the above-described lands. Further action on Sec. 12(a) selection AA–6657–H as to those lands not rejected herein, will be taken at a later date.

As to the lands described below, application AA–6657–H submitted by Saguyak, Incorporated, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands have been determined to be public lands, and do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, containing approximately 52 acres, is considered proper for acquisition by Saguyak Incorporated, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Beginning at the point for corner No. 1, identical with corner No. 11, U.S. Survey No. 2013; thence S. 75°00′E., 1400.00′ to corner No. 2; thence S. 44°52′46.4″E., approximately 1262.51′ to corner No. 3, a meander corner at the line of mean high-tide on the right bank of the Nushagak River, at the angle point formed by the meander lines 3 and 4, U.S. Survey No. 2013; thence along a portion of the original meanders of U.S. Survey No. 2013, along the line of mean high-tide on the right bank of the Nushagak River, S. 34°22′W., approximately 673.20′ to corner No. 4, a meander corner at the line of mean high-tide on the right bank of the Nushagak River, identical with corner No. 1., U.S. Survey No. 869 and corner No. 6, U.S. Survey No. 2013; thence N. 52°33′W., along line 1–2, U.S. Survey No. 869, identical with line 6–7, U.S. Survey No. 2013, approximately 660.00′to corner No. 5, identical with corner No. 2, U.S. Survey No. 869 and corner No. 7, U.S. Survey No. 2013; thence S. 37°27′W., along line 2–3, U.S. Survey No. 869, identical with line 7–8, U.S. Survey No. 2013, 660.00′ to corner No. 6, identical with corner No. 3, U.S. Survey No. 869 and corner No. 8, U.S. Survey No. 2013; thence S. 52°33′E., along line 3–4, U.S. Survey No. 869, identical with line 8–9, U.S. Survey No. 2013, approximately 759.66′ to corner No. 7, a meander corner at the line of mean high-tide on the right bank of the Nushagak River, identical with corner No. 4, U.S. Survey No. 869 and corner No. 9, U.S. Survey No. 2013; thence along a portion of the original meanders of U.S. Survey No. 2013, along the line of mean high-tide on the right bank of the Nushagak River, S. 33°00′W., approximately 467.94′ to corner No. 8, a meander corner at the line of mean high-tide on the right bank of the Nushagak River, identical with corner No. 10, U.S. Survey No. 2013; thence N., 24°42′W., along line 1–11, U.S. Survey No. 2013, approximately 3070.32′ to corner No. 1, the point of beginning

Containing approximately 52 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States pursuant

to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Saguyak Incorporated is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 88,839 acres of this entitlement have been approved for conveyance. The remaining entitlement of approximately 3,321 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Bristol Bay Native Corporation when the surface estate is conveyed to Saguyak, Incorporated, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Sec. 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in the lands within the boundaries of the Native village shall be subject to the consent of Saguyak, Incorporated.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances, (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until February 2, 1983, to file an appeal.

Any parties known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 113, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Department of Health and Human Services, Alaska Area Native Health Service, Box 7-741, Anchorage, Alaska 99510

Saguyak, Incorporated, General Delivery, Clarks Point, Alaska 99569

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-35540 Filed 12-30-82; 8:45 am]

BILLING CODE 4310-84-M

Delegation of Authority; Abolishment

AGENCY: Bureau of Land Management, Interior.

ACTION: Abolishment of Bureau Order No. 701.

SUMMARY: Bureau Order No. 701 (B.O. 701) as amended, concerning Delegaton of Authority in the Bureau of Land Management (BLM), is abolished. B.O. 701 is replaced with BLM Manual Section 1203—Delegation of Authority.

The BLM Manual Secton 1203—Delegtion of Authority, is available for review by the public in any Bureau field office during regular business hours.

EFFECTIVE DATE: January 3, 1983.

ADDRESS: Director (840), U.S.D.I., BLM, 18th & C Sts., N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Pamala R. Quallich, (202) 343-6825.

Dated: December 23, 1982.

Arnold E. Petty,

Acting Associate Director.

[FR Doc. 82-35546 Filed 12-30-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Land Protection Policy

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is announcing withdrawal of its previous "Land Acquisition Policy Statement" and "Land Acquisition Policy Implementation Guidelines" published in the **Federal Register** on April 26, 1979. The National Park Service is taking this action in conformance with the Department of the Interior's "Policy for Use of the Federal Portion of the Land and Water Conservation Fund" published in the **Federal Register** on May 7, 1982 (47 FR 19784).

SUPPLEMENTARY INFORMATION: The Department of the Interior's policy, as stated in 47 FR 19784, is to utilize, to the maximum extent possible, the most cost-effective methods of protecting nationally important natural, cultural and recreational resources. This Interior policy applies to the National Park Service, among others, and was

developed in response to several factors including:

Concerns about the adequacy of the Land Water Conservation Fund to provide for the purchase of remaining non-Federal lands in authorized units of the National Park System;

A need to employ the most "cost-effective" protection methods (considering both acquisition and management costs) to meet management objectives in line with Congressional mandates;

An effort to better utilize the assets of the United States through exchanges; and a need for closer cooperation with local governments, neighbors to Park System units and owners of land in Park areas.

The primary effect of the new policy is that alternatives to the cash purchase of fee simple title are being more fully explored and employed wherever practicable. Further instructions and procedures are being prepared. Prior to final adoption, an opportunity for public comment on these instructions and procedures will be provided through notice in the **Federal Register**. Thereafter, these instructions and procedures will be issued internally by the National Park Service in final form for implementation. The major elements of the former land acquisition policy implementation guideline will be retained in the internal instructions and procedures. The former policy and guideline required the preparation of land acquisition plans at each unit of the National Park System having an active land acquisition program. Under the new policy, a land protection plan will be prepared for each unit containing non-Federal lands within its authorized boundaries. Public participation in the planning process and identification of protection techniques will continue to be required.

Specific protection techniques and interests to be acquired are to be identified in a Land Protection Plan for each unit. These plans will be prepared in compliance with legislation (including the National Environmental Policy Act), other Congressional Guidelines, Executive Orders, and Departmental and National Park Service Policies. Each plan will be simple, concise, prepared with public participation at the individual park level, and with the utmost consideration given to alternatives available for land protection. The plans also will identify priorities for protection considering resource significance and other factors.

The Land Protection Policy applies to three categories of areas in the National Park System in terms of the various park authorizing acts and oher congressional mandates. These are:

(a) *Newly Authorized Areas.* Areas authorized after July 1959 where protection is carried out in accordance with the policies prescribed in the authorizing legislation and in accordance with existing appropriations.

(b) *Inholding Areas.* Areas authorized before July 1959 where the Service will pursue subject to the availability of funds, an opportunity-purchase program by acquiring those interests in lands offered for sale by owners of property so identified in the plan. The Service will also acquire sufficient interests in land to prevent uses that would be inconsistent with park purposes as identified in each park's Land Protection Plan.

(c) *Areas Where Acquisition is Limited to Donation or Exchange.* Those areas whose enabling legislation provides that interest in land is to be acquired solely by donation or exchange as opportunities occur.

Land protection in all areas of the National Park System is executed in accordance with the enabling act of each unit, Appropriation Act requirements, and provisions of other applicable legislation, including Pub. L. 91–646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. This latter-cited statute requires fair and equitable treatment of owners from whom land or interest in land is acquired and provides many benefits to both owners and tenants.

As indicated above, detailed procedures for the execution of the land protection program will be outlined in separate National Park Service directives.

The Revised Land Acquisition Policy and Land Acquisition Policy Implementation Guideline as published in the **Federal Register** on April 26, 1979, have been superseded and are withdrawn.

Dated: December 23, 1982.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 82-35498 Filed 12-30-82; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

National Environmental Policy Act; Withdrawal of Draft Environmental Impact Statements

AGENCY: Department of the Interior.

ACTION: Notice of Withdrawal of Draft Environmental Impact Statements.

SUMMARY: This notice announces the withdrawal of draft environmental impact statements (DEIS) that were issued during the period 1970–1976.

DATE: Effective December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240; Telephone (202) 343–3891.

SUPPLEMENTARY INFORMATION: From the enactment of the National Environmental Policy Act (NEPA) on January 1, 1970, through December 31, 1976, the Department of the Interior prepared 559 draft EIS's, including supplemental draft EIS's. Of these, 426 went directly into final EIS's (FEIS), 67 were superseded by another DEIS, and 48 were closed without an FEIS for various reasons (e.g., proposal dropped, modified, implemented by someone else, etc.).

The 18 remaining DEIS's are from six to eleven years old. In most cases policies, proposals and environments have changed. Moreover, and possibly more important, comments received from reviewers are out of date and may not reflect current positions.

These DEIS's, shown below, are being withdrawn effective December 31, 1982. If further Departmental action is necessary for any of these proposals, the NEPA process will be reinitiated.

Dated: December 23, 1982.

William D. Bettenberg,

Deputy Assistant Secretary of the Interior.

ATTACHMENT 1

DEIS	Bureau	Proposal
71–62	Legislative Counsel.	Omnibus Wilderness (includes North Cascades/WA and Sequoia-Kings Canyon/CA).
71–74	NPS	Glacier Bay General Management Plan/AK.
71–93	NPS	Joshua Tree General Management Plan/CA.
73–78	FWS	Hart Mountain Wilderness/OR.
74–4	BLM	OCS Hard Rock Leasing.
74–15	NPS	Death Valley Wilderness/CA.
74–33	FWS/NPS	Assateague/Chincoteague Wilderness/MD–VA.
74–35	FWS	Parker River Wilderness/MA.
74–38	FWS	Kofa Wilderness/AZ.
74–54	FWS	Russell Wilderness/MT.
74–55	FWS	Sheldon Wilderness/NV.
74–68	NPS	Arches Wilderness/UT.
74–70	NPS	Canyonlands Wilderness/UT.
74–73	NPS	Capitol Reef Wilderness/UT.
74–104	NPS	Great Smoky Mountains Wilderness/NC–TN.
76–17	BR	Orme Dam Construction/AZ.
76–24	NPS	Acadia General Management Plan/ME.
76–28	NPS	Grand Canyon Wilderness/AZ.

[FR Doc. 82–35527 Filed 12–30–82; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Application; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

No. MC–FC–80082. By decision of October 4, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to Finn Motor Lines, Inc. of Certificate No. MC–18343 issued April 17, 1950 to Nicholas Martella doing business as Martella Motor Freight (by William B. Scatchurd, Jr. Substituted Administrator of the Estate of Nicholas Martella, authorizing the transportation of *Plumbing supplies,* From Williamstown, NJ, to Wilmington, DE, Baltimore, MD, Peekskill, NJ, and Allentown, Lebanon, Mt. Carmel, Philadelphia, and Williamsport, PA. *Coke* and *pig iron,* from Conshohocken, PA, to Williamstown, NJ. *Scrap iron,* from Philadelphia, to PA to Williamstown, NJ. *Canned goods,* From Vincentown, NJ, to New York, NY, Philadelphia, PA, and Baltimore, MD. *Empty tin cans,* From Baltimore, MD, to Vincentown, NJ. *Acids, chemcials, blacks,* and *soaps,* From Camden, NJ, to Philadelphia, PA, Baltimore, MD, Wilmington, DE, and points and places in the New York, NY, Commercial Zone, as defined by the Commission in 1 M.C.C. 665. *General commodities,* except those of unusual value, and except dangerous explosives, liquor, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, Between Philadelphia, PA, and points and places within 15 miles of Camden. *Paper and paperboard,* From Wilmington, DE, to Philadelphia, PA, and New York, Brooklyn, and Long Island City, NY. From Philadelphia, PA, to New York and Brooklyn, NY, and Baltimore, MD; and *Scrap paper,* From the above-specified destination points to Wilmington and Philadelphia. *Flooring brick, and equipment, machinery and materials used or necessary to install such brick,* Between Philadelphia, PA, on the one hand, and, on the other, points and places in DE, MD, NJ, and NY. *Materials used in the manufacture of radios,* From Philadelphia, PA, to New York, NY.

No. MC–FC–80122. By decision of December 13, 1982 issued under 49 U.S.C. 10926 and the transfer rules at CFR 1181 Subpart A, Review Board Number 3 approved the transfer to FTL, INC., of Portland, OR of Certificate No. MC-112188 and Sub-Nos. 6, 8, 10, and 12, issued October 25, 1963, March 17, 1964, October 26, 1965, November 7, 1966 and May 12, 1980, respectively to McBREEN TRUCKING, INC., of Portland, OR authorizing the transportation as summarized: (A) over regular routes, (1) *films and articles associated with the exhibition of motion pictures,* as described in Descriptions in Motor Carrier Certificates, 61 M.C.C. 766, (a) between Portland, OR and LaGrande, OR and (b) between Hood River, OR and White Salmon, WA, and (2) *motion picture films, theatre advertising matter, and motion picture machine parts and accessories,* (a) between Portland, OR and Ashland, OR, (b) between McMinnville, OR and Myrtle Point, OR, (c) between Pprtland, OR and junction OR Hwy 47 and US Hwy 99w near McMinnville, OR, (d) between Oregon City, OR and Salem, OR, (e) between Salem, OR and junction OR Hwy 22 and US Hwy 99w at Rickreall, OR, (f) between Albany, OR and Sweet Home, OR, and (g) between Sweet Home, OR and Halsey, OR, serving specified immediate points, and (B) over irregular routes, (1) *motion picture film, theatre advertising matter, and motion picture machine parts and accessories,* (a) between Portland, OR, on the one hand, and, on the the other, Baker and-Freewater, OR, (2) *bread, pies, and pastries* (a) from Portland, OR to Walla Walla, WA, and points within 10 miles thereof and return shipments, (3) *blood specimens,* (a) from Vancouver, WA, and points in OR to Portland, OR, (4) *time-dated magazines and advertising material moving in connection therewith* and (5) *paperback books,* from Portland, OR to Baker, Coos Bay, Corvallis, Roseburg, Eugene, LaGrande, Medford, Salem, The Dalles, Klamath Falls, and Bend, OR (6) *magazines, paperback* and books, periodicals, and printed matter, between points in OR and WA, and (7) *newspapers* from Portland, OR, to Walla Walla, WA. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue, Portland, OR 97210.

Note.—Transferee holds authority in MC–52914. No TA filed.

No. MC–FC–80143. By decision of November 18, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 3 approved the transfer to Camion's Inc. of Certificates No. MC–149563 (Sub-No. 4) issued October 31, 1981; No. MC–149563 (Sub–No. 6) issued June 8, 1981; No. MC–149563 (Sub-No. 9) issued August 12, 1981; No. MC–149563 (Sub-No. 10) issued August 12, 1981; No. MC–149563 (Sub-No. 11) issued January 13, 1982; No. MC–149563 (Sub-No. 12) issued March 12, 1982; and No. MC–149563 (Sub-No. 13X(c)) issued March 9, 1982; and Permits No. MC–149563 (Sub-No. 8) issued August 21, 1981 and No. MC–149563 (Sub-No. 13X(P)) issued March 9, 1982 (except for the first operating paragraph authorizing service on behalf of Decor, Inc.) to Super Truckers, Inc, authorizing transportation (A) as a common carrier over irregular routes, of

(1) general commodities between points in, MS counties, (3) LA parishes, (2) TX counties, (1) OH county, and (2) AL counties, on the one hand, and, on the other, points in the United States, (2) metal products between points in the United States, (2) metal products between points in the United States; (3) rubber and plastic products between points in 3 AL counties, 2 IL counties, 2 KS counties, 1, WV county, 1 OH county, 1 MO county, 1 IA county, 2 TX counties, 1 MI county, 1 KY county, 1 NE county, and 1 OK county, on the one hand, and, on the other points in the United States; (4) ores and minerals, and clay, concrete, glass or stone products radially between points in 2 TN counties and points in 8 states; (5) clay, concrete, glass or stone products radially between points in 2 TX counties and points in the United States (c) plastic pipe and pipe fittings between Houston, TX, New Orleans, LA, and points in Scotts County, KS, on the one hand, and, on the other, points in the United States; and (7) lumber and lumber products between points in the United States and (B) as a contract carrier of general and specified commodities for 9 named shippers between points in the United States. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203–3005.

James H. Bayne,
Acting Secretary.

[FR Doc. 82–36514 Filed 12–30–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decision; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of these applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United State Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2 Members Carleton, Williams, Ewing.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team Four (202) 275–7669.

Volume No. OP4–090

Decided: December 27, 1982.

MC 136146 (Sub-4), filed December 10, 1982. Applicant: OLYMPIA TRAILS BUS COMPANY, INC., Rear 30, 116 Port St., Newark, NJ 07105. Representative: Eric Meiehoefer, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 737–1030. Over regular routes, transporting *passengers*, between New York, NY and Atlantic City, NJ, (1) from New York over city streets to junction Holland Tunnel, then through Holland Tunnel to junction access roads, then over access roads to junction NJ Turnpike Interchange 14C, then over NJ Turnpike to junction NJ Turnpike Interchange 14, then over NJ Turnpike to junction NJ Turnpike Interchange 11, then over NJ Turnpike access roads to junction Garden State Parkway access roads in Woodbridge, NJ, then over Garden State Parkway to junction Atlantic City Expressway in Pleasantville, NJ, then over Atlantic City Expressway to Atlantic City, NJ, serving all intermediate points; (2) from New York over city streets to junction Lincoln Tunnel, then through Lincoln Tunnel to junction Interstate Hwy 495, then over

Interstate Hwy 495 to junction NJ Hwy 3, then over NJ Hwy 3 to junction NJ Turnpike access roads, then over NJ Turnpike access roads to junction NJ Turnpike Interchange 16, in Secaucus, NJ, then over NJ Turnpike to junction NJ Turnpike Interchange 14, serving all intermediate points; and (3) from New York over city streets to junction the George Washington Bridge, then over the George Washington Bridge to junction access roads, then over access roads to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction NJ Turnpike access roads, then over NJ Turnpike access roads to junction NJ Turnpike Interchange 18, then over NJ Turnpike to junction NJ Turnpike Interchange 14, serving all intermediate points. Note: Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

Volume No. OP4-092

Decided: December 27, 1982.

(Member Ewing not participating.)

MC 152337 (Sub-7), filed December 17, 1982. Applicant: CENTRAL STATES TRUCKING CO., 5101 S. Lawndale Ave., P.O. Box 450, Summit, IL 60501. Representative: Edward G. Bazelon, 135 S. LaSalle St., Chicago, IL 60603, (312) 236-8375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Schwinn Bicycle Co., of Chicago, IL.

MC 158207 (Sub-1), filed December 17, 1982. Applicant: MASS TRANSPORTATION CO., INC., 5616 Snowdrop Lane, Lisle, IL 60532. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722-2848. Transporting *food and related products*, between Chicago, IL, on the one hand, and, on the other, points in OK and TX.

MC 165247, filed December 17, 1982. Applicant: CARMELA P. GOLDSTEIN d.b.a. CPG TRUCKING, 10 Mamaroneck Rd., White Plains, NY 10605. Representative Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836-1144. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MA, RI, CT, NY, NJ, DE, PA, MD, VA, NC, SC, GA, FL, and DC.

MC 165237, filed December 16, 1982. Applicant: EAST SIDE GRAVEL, INC., P.O. Box 491, Elkhart, IN 46515. Representative: Norman R. Garvin, 1301 Merchants Plaza, E. Tower, Indianapolis, IN 46204-3491, (317) 638-1301. Transporting *commodities in bulk*, between points in IL, IN and MI.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35511 Filed 12-30-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 CFR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed; and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, Ewing.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team Four at (202) 275-7669.

Volume No. OP4-091

Decided: December 27, 1982.

MC 125506 (Sub-39), filed December 15, 1982. Applicant: JOSEPH ELETTO TRANSFER, INC., 445 Northern Blvd., Great Neck, NY 11021. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466-0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 142846 (Sub-2), filed December 15, 1982. Applicant: ROYAL COACH TOURS, 644 Stockton Ave., San Jose, CA 95126. Representative: Joanne S. Christian, (same address as applicant), (408) 279–4801. Transporting *passengers*, in charter and special operations, beginning and ending at points in the U.S. (except AK and HI), and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 143686 (Sub-3), filed December 15, 1982. Applicant: AMRAM ENTERPRISES, INC., 4823 Pennsylvania Avenue, Pittsburgh, PA 15224. Representative: Amram Onyundo (same address as applicant), (412) 661–7030. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume NO. OP4–093

Decided: December 27, 1982.

(Member Ewing not participating.)

MC 126667 (Sub-7), filed December 17, 1982. Applicant: BRUSH HILL TRANSPORTATION COMPANY, 109 Norfolk St., Dorchester, MA 02124. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW, Washington, DC 20005, (202) 783–3525. Transporting *passengers*, in charter and special operations, between CT, ME, MA, NH, NY, RI, and VT, on the one hand, and, on the other, points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 156307 (Sub-1), filed December 17, 1982. Applicant: ANTHONY M. BUTLER d.b.a., PLEASURE RIDE., 16108 Minean Court, Upper Marlboro, MD 20772. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *passengers*, in charter and special operations, beginning and ending at points in MD, VA, and DC, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165257, filed December 17, 1982. Applicant: G & J BUS RENTAL INC., R.D. No. 2, Schoolhouse Lane, Box 965, Chester, NJ 07930. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35516 Filed 12-30-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–226

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 2934 (Sub-3–49 TA), filed December 17, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract: Irregular: IBM GSD Equipment Systems;* from Seattle, WA to points and places in the States of: AL, AZ, AR, CA, CO, CT, DC, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, and WY, under continuing contracts with D. P. Enterprises, 1320 Prospect Street, Seattle, WA 98109. Supporting shipper: D. P. Enterprises, Inc., 1320 Prospect Street, Seattle, WA 98109.

MC 165258 (Sub-3–1 TA), filed December 17, 1982. Applicant: CHARLES E. WILLIFORD, JR., Route 1, Box 20–C, Engelhard, NC 27824. Representative: Geo. Thomas Davis, Jr., P.O. Box 277, Swan Quarter, NC 27885. *Potash, fertilizers, agricultural nitrogen, trace elements, agricultural limestone, other soil conditioners, soybean and other meals* between all points in SC, NC, VA. Supporting Shipper: Pamlico Chemical Company, 933 West 3rd Street, Washington, NC 27889.

MC 165253 (Sub-3–1TA), filed December 17, 1982. Applicant: KERR CARTAGE INC., Route 1, Box 122A, Mt. Holly, NC 28120. Representative: Thomas C. Kerr Jr., 111 Kingsway Circle, Charlotte, NC 28214. Contract irregular route, *Such commodities as are dealt in by discount department stores*, Under continuing contract with Cook United Inc., Maple Heights OH, Between points in NC, SC, GA, FL and OH. Supporting shipper: Cook United, 16501 Rockside Road, Maple Heights, OH 44137.

MC 165225 (Sub-3–1TA), filed December 17, 1982. Applicant: LEWCO, INC., 1900 Dahlia Road, Jacksonville, FL 32205. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except classes A and B explosives, household goods, commodities in bulk or hazardous materials)*, between points in Duval, Nassau, Baker, Clay, Union and St. Johns Counties, FL. Restricted to shipments having a prior or subsequent movement by water. Supporting shippers: Hawkins Sandblasting, Inc., 7254 Old Plank Road, Jacksonville, FL 32205; General Machine and Fabricating Corp., 7254 Old Plank Road, Jacksonville, FL 32205; Pittman & Sons, 3335 N. Edgewood Avenue, Jacksonville, FL 32205.

MC 165250 (Sub-3–1TA), filed December 17, 1982. Applicant: B A R TRANSPORTATION, INC., P.O. Box 863, Calhoun, GA 30701. Representative: Mark S. Gray, Suite 1006, 225 Peachtree St., N.E., Atlanta, GA 30303. *Such commodities as are dealt in by auto*

supply stores (except household goods, Class A and B explosives and commodities in bulk): between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Brad Ragan, Inc. Supporting shipper: Brad Ragan, Inc., Route 5, Dews Pond Road, Calhoun, GA 30701.

MC 165208 (Sub-3–1TA), filed December 17, 1982. Applicant: LINDSEY TRANSPORT SERVICE, INC., 3465A Bayliss, Memphis, TN 38122. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. *Petroleum products,* in bulk, in tank vehicles, from the facilities of Amoco Oil Company at or near West Memphis, AR, to Jackson, TN and points in its commercial zone. Supporting shipper: Amoco Oil Company, 200 E. Randolph Dr., Chicago, IL 60601.

MC 165196 (Sub-3–1TA), filed December 17, 1982. Applicant: EAST COAST LEASING, INC., 5910 W. Market St., Greensboro, NC 27509. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. *Contract,* irregular: *printed material* from the facilities of Henry Wurst, Inc., located at or near Apex, NC, to Jacksonville, FL; Atlanta, GA; Chicago, IL; Raleigh, Greensboro and High Point, NC; and Washington, DC, under account with Henry Wurst, Inc. of Apex, NC. Supporting shipper: Henry Wurst, Inc., P.O. Box 917, Apex, NC 27502.

MC 141339 (Sub-3–2TA), filed December 17, 1982. Applicant: DAVIS EXPRESS, INC,. Route 3, Box 651, Starke, FL 32091. Representative: Sol H. Proctor, 1101 Blackstone building, Jacksonville, FL 32202. *Contract,* irregular; *general commodities (except classes A and B explosives, household goods, commodities in bulk, hazardous materials or waste)* between points in U. S. (except AK and HI). Supporting shipper: Economics Laboratory, Inc., 255 Blair Road, Avenel, NY 07001.

MC 143956 (Sub-3–28TA), filed December 17, 1982. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, P.O. Box 393, Berne, IN 46711. *General commodities (except classes A and B explosives, commodities in bulk and household goods);* from Ardmore, OK; Eau Claire, WI; Santa Ana, CA; Opelika, Al; Naugatuck, CT; Geismar, La; Gastonia, NC; Lenexa, KS; Port Clinton, OH; Red Oak, IN; Kennett, MO; to points in the US, (except AK and HI). Supporting shipper: Uniroyal, Inc., World Headquarters, Middlebury, CT 06749.

MC 2934 (Sub-3–50TA), filed December 17, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel., IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household goods;* between points in the US, (excluding AK & HI), under continuing contracts with Computer Sciences Corporation and its subsidiaries, 650 North Sepulveda Boulevard, El Segundo, CA 90254. Supporting shipper: Computer Science Corporation, 65. North Sepulveda Boulevard, El Segundo, CA 90254.

MC 152950 (Sub-3–5TA), filed December 17, 1982. Applicant: CENTURY TRANSPORTATION CORPORATION, Post Office Box 207, Columbus, MS 39703. Representative: Lloyd R. Pate (same as applicant). *Contract Carrier;* Irregular Route; *General Commodities (except Classes A & B Explosives; Household Goods; and Commodities in Bulk)* between MS, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with: Fine Vines, Inc., Greenville, MS, Supporting shipper: Fine Vines, Inc., 517 Washington St., Greenville, MS.

MC 165162 (Sub-3–1TA), filed December 17, 1982. Applicant: NELSON DE MIRANDA, dba. N.T.I. EXPRESS, 1750 W. 39th Place, Hialeah, FL 33012. Representative: Gerard J. Donovan, Registered Practioner, 4791 S.W. 82nd Ave., Davie, FL 33328. *General Commodities, (Except Classes A and B Explosives, Household Goods and those injurious to other commodities, commodities in bulk)* in Containers having a prior or subsequent movement by water. Between all points and places in the state of FL. Supporting shipper(s): There are 12 statements in support of this application whose statements may be examined at the ICC Regional Office, Atlanta, GA.

MC 104149 (Sub-3–5TA), filed November 15, 1982. Republication—originally publish in **Federal Register** of 11–24–82, page 53141 volume 47, No. 227. Applicant: OSBORNE TRUCK LINE, INC., 516 North 31st Street, Birmingham, AL 35202. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. Contract; irregular routes, transporting: *Such commodities as are dealt in or used by a manufacturer of metal products,* between the facilities of Cooperweld Corporation at or near Warren, OH, Shelby, OH, and Chicago, IL, on the one hand, and, on the other, points in the US (except AK and HI). Restriction: Restricted to transportation provided under continuing contract or contracts with Copperweld Corporation. Supporting shipper: Copperweld Corporation, 7410 South Linder, Chicago, IL 60636.

MC 164947 (Sub-3–1TA), filed December 13, 1982. Applicant: HAF GROUP, INC., 341 Cumberland St., Memphis, TN. 38112. Representative: Ralph D. Golden, Suite 2348–100 N. Main Bldg., Memphis, TN. 38103. *Contract;* irregular; *carpet and carpet products* from the facilities of Columbus Mills, Inc. located at Columbus, GA, to all points in the states of TN, MS, LA, AR, MO, AL, TX, OK, KY, NC, SC, and GA under continuing contract with Columbus Mills, Inc. of Columbus, GA. Supporting shipper: Columbus Mills, Inc., 4500 River Road, Columbus, GA 31504.

MC 150536 (Sub-3–5TA), filed December 13, 1982. Applicant: THE STACY WILLIAMS CO., INC., P.O. Box 10884, Birmingham, AL 35202. Representative: Calvin R. Turner, Jr., P.O. Box 517, Evergreen, AL 36401. *Sugar, corn, syrup and blends thereof,* between Marshall County, AL on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, and TN. This includes commodities which have a prior or subsequent movement by water. Supporting shipper(s): Archer-Daniels-Midland Company, Decatur, IL; Nutritive Sweeteners, Birmingham, AL; Mid-South Sweeteners, Birmingham, AL.

MC 149560 (Sub-3–2TA), filed December 22, 1982. Applicant: BRYSON INDUSTRIAL SERVICES, INC., 108 White Oak Lane, Lexington, SC 29072. Representative: Mrs. Anne Greene (same as applicant). Contract: irregular: *Crushed clay, cat litter, oil and grease absorbents* from Pinewood, SC, to NC, TN, CT, VT, MA, NY, PA, IL, OH, GA, MD, MI, ME, NJ, and SC. Supporting shipper: Mid-Florida Mining Company, County Road 329 and SCL Railroad Tracks, Lowell, FL 32663.

MC 165317 (Sub-3–1TA), filed December 22, 1982. Applicant: COMMERCIAL FREIGHT CARRIERS, INC., P.O. Box 160066, Mobile, AL 36616. Representative: John W. Brown (address same as above). *General Commodities (except Classes A & B explosives, Household goods, and commodities in bulk),* between points in Mobile, AL, New Orleans, LA, and Houston, TX, on the one hand, and, on the other, points in FL, GA, SC, NC, AL, MS, LA, TX, AR, TN, and KY. Supporting shippers: Richard Murray & Company, 904 Commerce Bldg., Mobile, AL 36602; B & B Supply Company, Inc., P.O. Box 116, Mobile AL 36601; Barber Steamship Company, Inc., 515 International Trade Mart Bldg., New Orleans, LA 70130;

Climate Masters, Inc., P.O. Box 6254, Pearl, MS 39208.

MC 45656 (Sub-3–5 TA), filed December 22, 1982. Applicant: ANDERSON TRUCK LINE, INC., P.O. BOX 1198, Lenoir, NC 28645. Representative: Dan E. Anderson (same as above). *Furniture, furniture parts and materials used in the manufacture and distribution of furniture (except commodities in bulk)* between points in PA on the one hand; and on the other, points in AL, GA, SC, NC, TN, and VA. Supporting shippers: Madison Square Furniture, P.O. Box 65, Hanover, PA 17331.

Note.—Applicant intends to interline with other carriers pat Catawba and Caldwell Counties, NC.

MC 162832 (Sub-3–2 TA), filed December 22, 1982. Applicant: SOUTHERN REFRIGERATED CARRIERS, INC., 1720 Central Avenue, Memphis, Tennessee 38104. Representative: Kim D. Mann, 7101 Wisconsin Avenue, Suite 1010, Washington, D.C. 20814. *Food and related products* between points in Madison and Gibson Counties, TN, on the one hand, and, on the other, points in AL, AR, IL, IN, KY, TN, GA, MS, TX, MO, LA, NY, OH, FL, NJ, PA, VA, NC, SC, and WV. Supporting shipper: The Beare Company, 100 Lee Street, Jackson, TN 38301.

MC 165321 (Sub-3–1 TA), filed December 22, 1982. Applicant: LARRY RICE d.b.a. LARRY RICE TRUCKING, Rte. 1, Box 6757, Grayson, KY. 41143. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. *Contract,* irregular: *coal* from the facilities of Can-Do Stoker, Inc., located at or near Grayson, KY, to points in IL, IN, MI, OH, TN, VA, and WV under account with Can-Do Stoker, Inc. of Grayson, KY. Supporting shipper: Can-Do Stoker, Inc. P.O. Box 903, Grayson, KY 41134.

MC 2934 (Sub-3–51 TA), filed December 22, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household Goods;* between points in the U.S. (except AK and HI) with GTE Corporation, One Stamford Forum, Stamford, Stamford, CT 06904. Supporting shipper: GTE Corporation, One Stamford Forum, Stamford, CT 06904.

MC 165153 (Sub-3–1 TA), filed December 22, 1982. Applicant: ECKEL BAKING COMPANY, DIVISION OF ECKEL INC., 1771 Sunshine Drive, Clearwater, FL 33515. Representative: John A. Eckel (same as applicant). *Contract:* Irregular: *Shortening, margerine, cooking, and salad oil except in bulk,* from Hamilton County, TN to points in FL. Supporting shipper: Bunge Edible Oil Corporation, P.O. Box 192, Kankakee, IL 60901.

MC 164805 (Sub-3–1TA), filed December 22, 1982. Applicant: G B TECHNICAL SERVICES, INC., 2810 Mercury Road, Jacksonville, Florida 32207. Representative: Robert S. Galloway, III, P.O. Box 11598, Columbia, South Carolina 29211. *Contract:* Irregular, *PBX Telephone Equipment and Scrap* from points and places, in FL, GA, and NC, to Columbia, SC. Supporting Shipper: Southern Bell Telephone & Telegraph Company, 2001 Assembly Street, Columbia, SC 29201.

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 112223 (Sub-4–11TA), filed October 18, 1982. Applicant: QUICKIE TRANSPORT COMPANY, 1700 New Brighton Blvd., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Blvd., Minneapolis, MN 55413 *Polymeric Isocyanates and Polyurethane Resins in Bulk* between points in WV, MD, MN and TN limited to the account of Foam Enterprise, Inc. Supporting shipper: Foam Enterprise, Inc., 13630 Watertower Circle, Minneapolis, MN 55441.

MC 15735 (Sub-No. 4–48TA), filed December 17, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with Nixdorf Computer Corporation, 80 Main Street, North Reading, MA 01864.

MC 112223 (Sub-4–11TA), filed October 18, 1982. Applicant: QUICKIE TRANSPORT COMPANY, 1700 New Brighton Blvd., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Blvd., Minneapolis, MN 55413. *Polymeric Isocyanates and Polyurethane Resins in Bulk* between points in WV, MD, MN and TN limited to the account of Foam Enterprise, Inc. Supporting Shipper: Foam Enterprise, Inc., 13630 Watertower Circle, Minneapolis, MN 55441.

MC 143732 (Sub-4–2TA), filed December 10, 1982. Applicant: PICK-A-TREAT, INC., 3820 West Wisconsin Ave., Milwaukee, WI. 53208. Representative: Lawrence P. Kahn, 633 West Wisconsin Ave., Milwaukee, WI. 53203. *Food, foodstuffs, alcoholic beverages and supplies and equipment related to the sale, handling and preparation of such commodities* between points in IA, IL, MI, MN, and WO. There is three supporting shippers.

MC 154674 (Sub-4–3TA), filed December 17, 1982. Applicant: ELMER BUCHTA TRUCKING, INC., 414 Washington Street, Otwell, IN 47564 Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Coal,* from near Bloomfield, IN to Cape Girardeau, MO. Supporting Shipper: BNI American, Inc., New Albany, IN.

MC 160303 (Sub-4–2TA), filed December 16, 1982. Applicant: RAPID TRANSPORT, INC., P.O. Box 215, Glyndon, MN 56547. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102. (1) *Carpet,* and (2) *materials, equipment and supplies used in the sale, distribution, and installation of carpet,* from points in GA, SC, and TN, to points in MN, ND, SD and WI. There are twelve supporting shippers.

MC 164700 (Sub-4–1TA), filed December 17, 1982. Applicant: 48 FREIGHTWAYS, INC., 1875 North State Street, Belvidere, IL 61008. Representative: Richard D. Armstrong, 925 Hyland Drive, Stoughton, WI 53589. *Contract irregular: Food and related products* between Belvidere, IL, Monroe, WI and Weyauwega, WI on the one hand and, on the other, points in AR, CA, CO, IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, NV, OK, SD, TX and UT under continuing contract(s) with Belvidere Cheese Company, Inc.

MC 165216 (Sub-4–1TA), filed December 15, 1982. Applicant: STEIL TRUCK LINES, 591 Montogomery Road, Aurora, IL 60538. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603, 312/782–8880. *General commodities* (except Classes A & B explosives, household goods and commodities in bulk), between Chicago, IL and its commercial zone on the one hand, and, on the other, points in MN, WI, IA, NE, IN, and IL. There are five (5) supporting shippers.

MC 165217 (Sub-No. 4–1 TA), filed December 15, 1982. Applicant: POSTMA CARTAGE, INC., 13550 South Indiana, Riverdale, IL 60626. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Plastic products* (except in bulk) and materials and supplies utilized in the manufacture thereof, between points in Chicago, IL, and its commercial zone, on the one hand, and, on the other, points in IL, IN, MI, MN, OH and WI. An underlying ETA seeks 120 days

authority. Supporting shipper: There are 3 statements of support attached.

MC 165219 (Sub-4–1 TA), filed December 15, 1982. Applicant: JAMES REDMAN, d.b.a. REDMAN AUTO TRANSPORT, 4640 W. 135th Street, Crestwood, IL 60445. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602. *Motor vechicles* (except agricultural vehicles), between points in IL, IN, OH, MO and KY. There are four supporting shippers.

MC 165251 (Sub-No. 4–1 TA), filed December 17, 1982. Applicant: CENTRAL CITIES FREIGHT LINES, INC., P. O. Box 241, Columbia, City, IN 46725. Representative: Robert B. Hebert, Miller, Faires, Hebert & Woddell, P. C., Suite 1600, One Indiana Square, Indianapolis, IN 46204. *General commodities,* (except commodities in bulk, household goods and Classes A and B explosives), between points in Allen, Whitley, Noble and Huntington Counties, IN, on the one hand, and on the other, Chicago, IL; and from Chicago, IL to points in Wabash, Kosciusko, LaGrange and DeKalb Counties, IN. Supporting shipper: Superior Wall Book, Inc., Gerber Street Industrial Park, Ligonier, IN 46767, Rea Magnet Wire Company, Inc., 3600 East Pontiac, Fort Wayne, IN 46896; Clear-Pack Company, 11610 Copenhagen Court, Franklin Park, IL 60131; Carroll Cable Company, 1900 North Fifth Avenue, River Grove, IL 60171; Phelps Dodge Copper Products Company, 4400 New Haven Avenue, Fort Wayne, IN 46801; Reel Craft Industries, Inc., P. O. Box 248, Columbia City, IN 46725; General Electric Company, 2000 Taylor Street. Fort Wayne, IN 46804; Shuttleworth, Inc., 10 Commercial Road, Huntington, In 46750.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 67234 (Sub-5–40 TA), filed December 16, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract; irregular, transporting *General Commodities (except Classes A and B explosives and commodities in bulk)* between points in the U. S. (including AK and HI) under continuing contract(s) with Monsanto Company. Supporting shipper: Monsanto Company, St. Louis, MO.

MC 143043 (Sub-5–4TA), filed December 15, 1982. Applicant: WATSON TRUCK LINES, INC., Rte. 2, Box 612, Colfax, LA 71417. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Food and related products,* between points in LA, on the one hand, and, on the other, points in AZ, CA, CO, ID, NV, UT, WA and OR. Supporting shipper: Joan of Arc Company, Inc., Peoria, IL

MC 148199 (Sub-1TA), filed December 15, 1982. Applicant: T. G. AND J. C. GARLAND, d.b.a. AQUARIAN LINES, Rt. 1, Box 261, Van Alstyne, TX 75095. Representative: T. G. Garland (same as above), Common; regular. *General commodities, (except classes A and B explosives)* between Tulsa, OK and Amarillo, TX via U.S. Highway 66, serving all intermediate points. Applicant intends to tack and interline. Supporting shipper(s): six.

MC 160279 (Sub-5–1TA), filed December 17, 1982. Applicant: MBPXL TRANSPORTATION, INC., 2901 N. Mead, P.O. Box 2519, Wichita, KS. 67201. Representative: James T. Ferguson, P.O. Box 2519, Wichita, KS. 67201. Contract, irregular; *equipment, parts, and materials, except in bulk, used in the manufacturing, assembling, and repairing of automotive buses* between points in the U.S. (except AK and HI), under continuing contract with Transportation Manufacturing Corp.

Supporting shipper: Transportation Manufacturing Corp., Roswell, NM.

MC 162566 (Sub-5–2TA), filed December 16, 1982. Applicant: LEONARD & IRIS PALMER TRUCKING, INC., Box 187, Wilsonville, NE 69046. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* from the facilities of Victor's Iowa Pack, Inc., at or near Council Bluffs, IA, and from Harlan, IA, to points in CA, FL, MA, NJ, OR, PA and TX. Supporting shipper: Victor's Iowa Pack, Inc., Council Bluffs, IA.

MC 163503 (Sub-5–7TA), filed December 16, 1982. Applicant: NATIONAL FREIGHT SYSTEM, INC., 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell, (same as above), *Primary and Fabricated Metal Products and Machinery (Except Ordnance and Transportation Equipment)* between TX, AR, CA, on the one hand, and, on the other, points in the continental U.S. Supporting shipper(s): 11.

MC 164095 (Sub-5–2TA), filed December 16, 1982. Applicant: BIG RED EXPRESS, INC., 7911 L Street, Omaha, NE 68127. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Such merchandise as is dealt in by home centers and hardware stores* from points in the U.S. (except AK and HI) to the facilities of John L. Hoppe Lumber Co. at Lincoln, NE. Supporting shipper: John L. Hoppe Lumber Co., Lincoln, NE.

MC 165213 (Sub-5–1TA), filed December 15, 1982. Applicant: Bill Purdy d.b.a. SERVICE EXPRESS COMPANY, 2204 South Tyler, Amarillo, TX 79190. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *General Commodities (except classes A and B explosives, household goods as defined by the Commission or bulk commodities)* between Amarillo, TX on the one hand, and, on the other, points in NM. Supporting shipper: (19).

MC 165215 (Sub-5–1TA), filed December 15, 1982. Applicant: K & W TRANSPORTS, INC., Route 5, Box 350, Kemp, TX 75143. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Bananas* from Galveston, TX to points in TX and OK. Restricted to shipments for the account of Castle & Cooke Foods. Supporting shipper: Castle & Cooke Foods, Metairie, LA.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 50, San Francisco, CA 94105.

MC 144047 (Sub-6–1TA), filed December 20, 1982. Applicant: BROOKSIDE TRANSPORT LTD., P.O. Box 2091, Brooks Alberta, CD TOJOJO. Representative: Dale E. Isley, Esq., 50 South Steele St., Suite 330, Denver, CO 80209. *Contract Carrier:* irregular routes: *Fresh and Frozen Meat,* between the Port of Entry on the International Boundary Line between the U.S. and CD at or near Eastport, ID.; Sweetgrass, MT.; Portal, N.D.; Pembina, N.D.; and Sault Ste. Marie, MI. and points in CA, CO, KS, OH, OK, OR, and UT for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lakeside Packers, P.O. Box 1868, Brooks, Alberta, CD, TOJOJO.

MC 135215 (Sub-6–7TA), filed December 16, 1982. Applicant: BULK TRANSPORTATION, 415 Lemon Ave., Walnut, CA 91789. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111. *Wine, brandy, foods, chemical fertilizers and agricultural chemicals, and aluminum extrusions and products,* between all points in CA north of the southern boundaries of Santa Barbara, Kern, Tulare, Fresno and Mono counties, for 270 days. An underlying ETA seeks 120 day authority. Supporting shippers: There are 6 shippers. Their statements may be examined in the office listed.

MC 152155 (Sub-6–1TA), filed December 17, 1982. Applicant: BOBBY

AND/OR DONNA COLE, d.b.a., COLE TRUCKING, 2910 55th Wy, Long Beach, CA 90805. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Av, Portland, OR 97210. *Contract carrier:* irregular routes: *Pulp, paper and related products,* between points in OR, WA, CA, MT, NV, ID, UT, CO, NM, WY, AZ, TX, OK, AR, KS, ND, SD, NE, MN, IA and WI, under continuing contract(s) with Superior Transportation Systems, Inc., for 270 days. Supporting shipper: Superior Transportation Systems, Inc., 9450 S W Commerce Ct, Ste 400, Wilsonville, OR 97070.

MC 56840 (Sub-6-11TA), filed December 20, 1982. Applicant: DELTA LINES, INC., P.O. B. 2081, Oakland, CA. 94604. Representative: Kirk Wm. Horton, 333 Hegenberger Rd. Ste. 408, Oakland, CA 94621. *Contract carrier,* irregular routes, *general commodities* (except household goods, commodities in bulk, classes A & B explosives, and those of unusual value), between points in AZ, CA, CO, ID, MT, NV, OR, UT, WA and WY under continuing contract(s) with MDCI Corporation d/b/a Transtop United, Los Angeles, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Metropolitan Distribution Centers, Inc., 1340 E. 6th St., Los Angeles, CA 90021.

MC 58186 (Sub-6-2TA), filed December 16, 1982. Applicant: GIBSON TRUCK LINES, INC., South Highway 285. La Jara, CO 81140. Representative: Nancy P. Bigbee, 745 E. 18th Ave., #101, Denver, CO 80203. *Contract carrier,* irregular route: *perlite ore, diatomaceous earth, firebrick, and materials, equipment, and supplies* used in the processing, manufacture, production, and distribution of those commodities, between points in the U.S. (except AK and HI), under continuing contract(s) with Grefco, Inc., and its parent General Refractories Co., Bala Cynwyd, PA; for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Grefco, Inc. (subsidiary of General Refractories Co.), Antonito, CO.

MC 165267 (Sub-6-1TA), filed December 17, 1982. Applicant: KENNETH M. COON AND M. MARGARET COON d.b.a. INDU-PRISE, 850 SE Coon Ave., Corvallis, OR 97333. Representative: Donald A. Coon (same as applicant). *General commodities* (except hazardous materials, class A and B explosives, household goods, and products in bulk), between points, in WA, OR, CA, ID, NV, AZ, and MT for 270 days. Supporting shipper: Tri-Border Transportation, P.O.B. 8258, C Coburg, OR 97401.

MC 165266 (Sub-6-1TA), filed December 17, 1982. Applicant: JOHN J. GURZYNSKI, d.b.a. JAMESWAY TRANSPORTATION, 80 Volcic Court, Box 161, Rock Springs, WY 82901. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Contract carrier,* irregular routes (1) *Wood excelsior or wood excelsior pads,* (2) *carpet padding,* and (3) *wood excelsior filters or pads,* (1) between Rice Lake and Marinette, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI); (2) between Cairo, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (3) between Englewood, CO, on the one hand, and, on the other, points in the U.S. in and west of ND, SD, NE, KS, OK, and TX (except AK and HI), under continuing contract(s) with American Excelsior, for 270 days. Supporting shipper: American Excelsior, 850 Avenue "H" East, P.O. Box 5067, Arlington, TX 76011.

MC 147896 (Sub-6-TA), filed December 17, 1982. Applicant: WESTERN SONTEX, INC., P.O. B 667, Seal Beach, CA 90740. Representative: Kevin Steiner (same as applicant). *Contract Carrier,* Irregular routes: *Foods and related products; and, chemicals,* between points in the U.S. (except AK and HI), for the account of A. E. Staley Mfg. Co., for 270 days. Supporting shipper: A. E. Staley Mfg. Co., 2200 E. El Dorado St., Decatur, IL. 62525.

James H. Bayne

Acting Secretary.

[FR Doc. 82-35513 Filed 12-30-82; 8:45 am]

BILLING CODE 7035-01-M

Agricultural Cooperative; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: December 28, 1982.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Agway Inc.
(2) Box 4933, Syracuse, NY 13221.
(3) 333 Butternut Dr., DeWitt, NY 13214.
(4) Ralph E. Hallock, Box 4933, Syracuse, NY 13221.

(1) Dairymen, Inc.
(2) 10140 Linn Station Rd., Louisville, KY 40223.
(3) Georgia Division—5305 Panola Industrial Blvd., Decatur, GA 30031.
Gulf Division—P.O. Box 667, Enon Hwy., Franklinton, LA 70438.
Kyana Division, P.O. Box 18118, Louisville, KY 40218.
Old Dominion Division, P.O. Box 27522, Richmond, VA 23261.
Southeast Division—P.O. Box 1099, Bristol, VA 24201.
(4) Mr. Beverly Williams, 10140 Linn Station Rd., Louisville, KY 40223.

(1) Linsid Transportation.
(2) P.O. Box 1828, Kankakee, IL 60901.
(3) Route 1, Box 347, Kankakee, IL 60901.
(4) Sidney Levin, P.O. Box 1828, Kankakee, IL 60901.

(1) Rainbow Farms Cooperative Association.
(2) 925 West Main St., Rock Hill, SC 29730.
(3) 925 West Main St., Rock Hill, SC 29730.
(4) Brenda M. Carpenter, 925 West Main St., Rock Hill, SC 29730.

(1) Union Transport Association.
(2) Route 4, 6310 Armfield Mill Rd., Monroe, NC 28110.
(3) Route 4, 6310 Armfield Mill Rd., Monroe, NC 28110.
(4) J. F. Beck, Route 4, 6310 Armfield Mill Rd., Monroe, NC 28110.

James H. Bayne,

Acting Secretary.

[FR Doc. 82-35517 Filed 12-30-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30091]

Garden City Co-op, Inc.; Acquisition and Operation; Exemption Between Garden City and Wolf, in Finney County, KS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 10901, the acquisition and operation by the Garden City Co-op, Inc., a non-carrier, of approximately 14.5 miles of railroad track of the Garden City Western Railway Company between Garden City and Wolf in Finney County, KS.

DATES: This exemption will be effective on January 3, 1983. Petitions to reopen must be filed by January 24, 1983.

SEND PLEADINGS TO:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's Representative: Michael E. Collins, 607 N. Seventh, P.O. Box 439, Garden City, KS 67846.

Pleadings should refer to Finance Docket No. 30091.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area (800) 424–5403—Toll free for outside the DC area.

DECIDED: December 23, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–35512 Filed 12–30–82; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15033]

Ligon Transport, Inc.; Purchase Exemption; Ligon Specialized Hauler, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), motor carrier Ligon Transport, Inc., (Transport) (MC–109462) and, in turn, Herbert A. Ligon, Jr., who controls Transport, seek an exemption from the requirement under section 11343 of prior regulatory approval for the purchase of a portion of the operating authorities of motor carrier Ligon Specialized Hauler, Inc., (Specialized) (MC–119777). Transport and Specialized are affiliated through common ownership with each other and with (1) Ligon Transportation Company of Kentucky (MC–117109), (2) Ligon Transportation Company of Tennessee (MC–127834), and Ligon Transportation Company of Georgia (MC–35045).

DATES: Comments must be received on or before February 2, 1983.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and
(2) Petitioner's representative: Carl U. Hurst, Esq., P.O. Box 691, Madisonville, KY 42431.

Comments should refer to No. MC–F–15033.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: December 27, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 82–35515 Filed 12–30–82; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278 or Tom Smerdon, (202) 275–7277

SUPPLEMENTARY INFORMATION:

The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions.

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review Board	Decided date
498	Union Pacific Railroad Co., ICC–UP–C–0163, (Paper and paper articles)	[1]	12–21–82
517	Atchison, Topeka and Santa Fe Railway Co., ICC–ATSF–C–0025, Amendment 2, (Coal)	[1]	12–21–82
518	Denver and Rio Grande Western Railroad Co., ICC–DRGW–C–0075, (Lumber)	[2]	12–22–82
519	Burlington Northern Railroad Co., ICC–BN–C–0202, (Aluminum coiled sheet and can stock)	[3]	12–22–82
520	Grand Trunk Western Railroad Co., ICC–GTW–C–0060, (Grain and grain products)	[2]	12–22–82
[4]522	Southern Pacific Transportation Co., ICC–SP–C–0294, (Corn, grain sorghums, wheat, soybeans)	[2]	12–22–82
523	Chicago and North Western Transportation Co., ICC–CNW–C–0005, Supplement 1, (Corn products, in bulk)	[3]	12–22–82
524	Chicago and North Western Transportation Co., ICC–CNW–C–0400, (Malt)	[1]	12–22–82
525	Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC–MILW–C–0057, Supplement 1, (Salt, rock crushed or screened)	[2]	12–22–82
530	Grand Trunk Western Railroad Co., ICC–GTW–C0070, (Sheet or strip steel)	[3]	12–22–82

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.
[2] Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

James H. Bayne,

Acting Secretary.

[FR Doc. 82–35357 Filed 12–30–82; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 13, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 13, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 20th day of December 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Am. Ship Division, American Ship Building Co. (workers)	Toledo, Ohio	12/2/82	11/24/82	TA-W-14,158	Ships—for U.S. carriers.
Climax Molybdenum Co., Henderson Mine (workers)	Empire, Colo	11/29/82	11/1/82	TA-W-14,159	Molybdenum.
Doris Ann Fashions, Inc. (company)	Union City, N.J	12/10/82	11/30/82	TA-W-14,160	Sportswear—ladies.
Great Western Sugar Co. (Teamsters, Warehouse & Sugar Workers).	Bayard, Nebr	12/14/82	11/22/82	TA-W-14,161	Sugar—pure.
Jameson East/Delta Shoe Corp. (workers)	Somersworth, N.H	12/3/82	11/29/82	TA-W-14,162	Sandals and shoes—ladies.
Kay Fries, Inc. (ICWU)	Stony Point, N.Y	12/3/82	11/23/82	TA-W-14,163	Chemicals—organic, intermediate.
Levi Strauss & Co. (company)	Beaufort, S.C	12/6/82	12/1/82	TA-W-14,164	Shirts—men's.
Misty Manufacturing Corp. (ILGWU)	Parkersburg, W. Va	12/15/82	12/9/82	TA-W-14,165	Sportswear—ladies', childrens'.
Renola Sportswear, Inc. (ILGWU)	New York, N.Y	12/4/82	11/30/82	TA-W-14,166	Blouses—ladies, sewing, contractor.
Uniroyal, Inc. (URW)	Opelika, Ala	12/13/82	12/2/82	TA-W-14,167	Tires—passenger, radial.
Ameron, Inc., Ameron Steel & Wire Division (USWA)	Etiwanda, Calif	12/10/82	12/6/82	TA-W-14,168	Rebar, pipe rod, construction wire, fabric.
Bethlehem Mines Corp. (workers)	Drennen, W. Va	11/30/82	11/24/82	TA-W-14,169	Coal mining.
Bonney Forge—a Gulf & Western Manufacturing Co. (Boilermakers—Blacksmiths).	Allentown, Pa	12/4/82	11/15/82	TA-W-14,170	Forgings steel fittings.
Clark Equipment Co. Construction Machinery Division (workers).	Benton Harbor, Mich	12/9/82	12/3/82	TA-W-14,171	Machines—construction and mining.
Cyclops Corp., Universal Cyclops Special Steel Division (USWA).	Bridgeville, Pa	11/30/82	11/24/82	TA-W-14,172	Bars—steel, stainless, billets, sheet.
Electron Corp. (workers)	Littleton, Colo	11/30/82	11/24/82	TA-W-14,173	Transmissions, gears, housing, shieves, pulleys—for equipment.
RMI Company (USWA)	Niles, Ohio	12/10/82	12/6/82	TA-W-14,174	Titanium mill products.
Teledyne Portland Forge (IAM)	Portland, Ind	11/29/82	11/23/82	TA-W-14,175	Forgings.
Walpole Woodworkers, Inc. (company)	Detroit, Maine	12/4/82	11/23/82	TA-W-14,176	Post, rails, pickets, panels of cedar fence.
Walpole Woodworkers, Inc. (company)	Chester, Maine	12/4/82	11/23/82	TA-W-14,177	Post, rails, pickets, panels of cedar fence.
Colorado & Wyoming Rail Road (Brotherhood of Maintenance of Way).	Pueblo, Colo	11/22/82	11/18/82	TA-W-14,178	Rails, tubular goods, rail spikes, basic steel.
E-Systems, Inc., Memcor Division, Huntington Operations (workers).	Huntington, Ind	12/8/82	12/1/82	TA-W-14,179	VRC-12 military radio.
Foote Mineral Co. (workers)	New Haven, W. Va	12/10/82	12/7/82	TA-W-14,180	Metal alloys.
Modern Clothing (ILGWU)	Hammonton, N.J	12/10/82	12/1/82	TA-W-14,181	Coats and suits, ladies.
TRW, Inc., TRW Casting Division (workers)	Noblesville, Ind	12/9/82	12/1/82	TA-W-14,182	Castings—steel, ductile.

[FR Doc. 82-35128 Filed 12-30-82; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-82-82-C]

Acme Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Acme Coal Company, 130 Broad Street, Williamstown, Pennsylvania 17098 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity and velocity) to its mine (I.D. No. 36-01778) located in Dauphin County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternative method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

9. Petitioner states that the alternative method proposed will at all times provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 2, 1983. Copies of the petition are available for inspection at that address.

Dated: December 23, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-35520 Filed 12-30-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-31-M]

International Salt Co.; Petition for Modification of Application of Mandatory Safety Standard

International Salt Company, 2400 Ships Channel, Whiskey Island, Cleveland, Ohio 44113 has filed a petition to modify the application of 30 CFR 57.4-61A (ventilation doors) to its Cleveland Mine (I.D. No. 33-01994) located in Cuyahoga County, Ohio. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that ventilation doors be installed at or near shaft stations to prevent the spread of smoke or gas in the event of a fire.

2. The mine operates from a single level and produces rock salt by conventional room and pillar mining. The rooms are 45 feet wide with 105 foot pillars; the room height varies between 18 and 22 feet. Rock salt is non-combustible; no traces of methane have ever been found in the mine.

3. Petitioner states that the installation of ventilation doors would result in a diminution of safety for the miners affected because the entries around the shaft and shop areas are large. In order to install ventilation doors, it would be necessary to construct supporting door frames and bulkheads which would restrict the return air flow and could cause recirculation. Closing off the exhaust air shaft would greatly diminish or eliminate the effectiveness of the ventilation system, resulting in a diminution of safety. Ventilation doors, if closed, would create an unnecessary concentration of toxic gases which could recirculate if one or more of the air doors or air locks were damaged by fire.

4. As an alternative method, petitioner proposes to use a refuge chamber in lieu of installing ventilation doors. Petitioner states that the refuge chamber is approximately 100 feet from the service shaft (primary escapeway) and 400 feet from the production shaft at its nearest point. The refuge chamber contains 156,000 cubic feet of air, which will support 100 people for four days without any additional air supply. The refuge chamber has water and air lines direct to the surface through the production shaft. It is equipped with Foam Pac to seal the doors air tight or construct barricades, and contains standard safety equipment, including fire extinguishers, tools, telephone to the surface, first aid kits, and carbon monoxide detectors.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 2, 1983. Copies of the petition are available for inspection at that address.

Dated: December 22, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-35519 Filed 12-30-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-32-M]

International Salt Co.; Petition for Modification of Application of Mandatory Safety Standard

International Salt Company, 2400 Ships Channel, Whiskey Island, Cleveland, Ohio 44113 has filed a petition to modify the application of 30 CFR 57.4-61B (fire doors) to its Cleveland Mine (I.D. No. 33-01994) located in Cuyahoga County, Ohio. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fire doors or bulkheads be constructed in all openings to underground shops in order to confine or prevent the spread of toxic gases from a fire originating in the shop.

2. The mine operates from a single level and produces rock salt by conventional room and pillar mining. The rooms are 45 feet wide with 105 foot pillars; the room height varies between 18 and 22 feet. Rock salt is non-combustible; no traces of methane have ever been found in the mine.

3. Petitioner states that the installation of fire doors would result in a diminution of safety for the miners affected because the entries around that shaft and shop areas are large. In order to install fire doors, it would be necessary to construct supporting door frames and bulkheads which would restrict the return air flow and could cause recirculation. Closing off the exhaust air shaft would greatly diminish or eliminate the effectiveness of the ventilation system, resulting in a diminution of safety. Fire doors, if closed, would create an unnecessary concentration of toxic gases which could recirculate if one or more of the air doors or air locks were damaged by fire.

4. As an alternative method, petitioner proposes to use a refuge chamber in lieu of installing fire doors. Petitioner states that the refuge chamber is approximately 100 feet from the service shaft (primary escapeway) and 400 feet from the production shaft at its nearest point. The refuge chamber contains 156,000 cubic feet of air, which will support 100 people for four days without any additional air supply. The refuge chamber has water and air lines direct to the surface through the production shaft. It is equipped with Foam Pac to seal the doors air tight or construct barricades, and contains standard safety equipment, including fire extinguishers, tools, telephone to the surface, first aid kits, and carbon monoxide detectors.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and

Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 2, 1983. Copies of the petition are available for inspection at that address.

Dated: December 22, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-35518 Filed 12-30-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-119-C]

Jeff Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Jeff Coal Company, R.D. #1, Box 315A, Ashland, Pennsylvania 17921 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its Tracy Vein Slope (I.D. No. 36-07328) located in Schuykill County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other poxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternative method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

8. Petitioner states that the alternative method proposed will at all times provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 2, 1983. Copies of the petition are available for inspection at that address.

Dated: December 22, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-35522 Filed 12-30-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-94-C]

New River Co.; Petition for Modification of Application of Mandatory Safety Standard

The New River Company, Lock Drawer 711, Mount Hope, West Virginia 25880 has filed a petition to modify the application of 39 CFR 75.326 (aircourses and belt haulage entries) to its Skelton Mine (I.D. No. 46-01500) located in Raleigh County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries.

2. Quantities of methane are expected to be liberated from the mine as new areas are developed. Petitioner states that additional entries are necessary to course sufficient air to the active workings to protect the miners from the hazards of methane. Additional entries will also be used as belt haulage entries.

3. As an alternative method, petitioner proposes to use belt haulage entries as additional intake and return aircourses, with the following safeguards:

a. A visual and audible automatic fire detection system will be installed on the belt conveyors. The conveyors are approved and flame resistant, provided with automatic sprinkler systems and fire sensor devices;

b. The automatic fire detection system will be calibrated to activate warning signals if the carbon monoxide concentrations reach 10 p.p.m. above ambient air;

c. Should the fire detection system be affected by a power interruption or other malfunction, a qualified person will be stationed at the belt conveyors to continually test for carbon monoxide;

d. Each carbon monoxide monitor and sensor will be visually inspected at least once each 24 hours, checked weekly for proper operation, and checked at least every 30 days for operating accuracy. A record of these tests will be kept and made available to interested persons. The sensors will be located within 50 feet of the section loading points and in by the direction of airflow. A sensor will be limited to monitoring 4,000 feet in length. Once the belt entry exceeds 4,000 feet in length, a second sensor will be installed at a fixed location in the entry. The original sensor will continue to be moved with the section loading point.

e. The stoppings separating the belt haulage entry from the intake escapeway will be constructed of concrete blocks, cinderblocks, brick or tile with mortared joints.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 2, 1983. Copies of the petition are available for inspection at that address.

Dated December 22, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-35521 Filed 12-30-82; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected,

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

A estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Norman Frumkin, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration

Survey of the Causes of Retention and Attrition in Apprenticeship Programs
MT–333
Nonrecurring
Individuals or households
2,458 responses; 1,215 hours

A survey of people who entered registered apprenticeship programs and apprenticeship coordinators will be conducted to determine the causes of retention in apprenticeship programs. The survey will identify three types of factors which may be associated with retention: economic characteristics of local labor markets; apprentice characteristics; and characteristics of apprenticeship programs.

Mine Safety and Health Administration

Trade-Name Chemicals
Nonrecurring
Businesses or other institutions
Small business or organization
SIC: 147
300 responses; 150 hours

MSHA needs to identify the major chemical components of trade-name products found to be used on mining property. We intend to use the information in our regulatory review process to make our air quality regulations more applicable to the metal and nonmental mining industry.

Mine Safety and Health Administration

Wire Rope Diameter Measurements and Tests
MSHA 720R
Semi-annually
Businesses or other institutions
Small business or organization
SIC: Major groups, 10, 11, 12, and 14
1,322 responses; 330 hours

Record of initial wire rope diameters after break-in is used to make subsequent semi-annual evaluations of wire rope wear. These evaluations indicate whether unsafe conditions are arising.

Revision

Mine Safety and Health Administration

Hoist and Shaft Inspection Records
MSHA 414R
Semi-annually; varying intervals—hoist equipment; daily—wire rope
Businesses or other institutions
Small business or organization
SIC: Major groups 10 and 14
424 responses; 1,060 hours

A record of systematic inspections of shafts and hoists expecially of the wire rope and its attachments, assures that mine operators are inspecting their equipment for any development of unsafe conditions.

Reinstatement

Mine Safety and Health Administration

Gamma Radiation Exposure Records
MSHA 405R
Quarterly
Businesses or other institutions
Small business or organization
SIC: 1094
64 responses; 1,024 hours

Requires records to be kept of accumulative individual gamma radiation exposure to ensure that annual exposure does not exceed 5 Rems per year. It is intended to protect the health of the worker.

Signed at Washington, D.C. this 28th day of December, 1982.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 82–35523 Filed 12–30–82; 8:45 am]
BILLING CODE 4510–43–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83–1]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Subcommittee on Aerodynamics.

DATE: February 1, 1983, 8:30 a.m. to 5 p.m.; February 2, 1983, 8 a.m. to 12 noon.

ADDRESS: National Aeronautics and Space Administration, Lewis Research Center, Administration Building, Room 215, Cleveland, OH.

FOR FURTHER INFORMATION CONTACT: Mr. Clinton E. Brown, National Aeronautics and Space Administration, Code RTF–6, Washington, DC 20546 (202/755–3280).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aerodynamics was established to provide advice and coordination of NASA Aerodynamics research programs with efforts in other agencies, universities, and industry. The Subcommittee, chaired by Dr. Joseph Cornish, is comprised of ten members. The meeting will be open to the public up to the seating capacity of the room (approximately 60 persons including the Subcommittee members and participants).

TYPE OF MEETING: Open.

AGENDA:

February 1, 1983;

8:30 a.m.–3 p.m.—Review of Lewis Research Center Aerodynamic programs.

3 p.m.–5 p.m.—Member comments.

February 2, 1983

8:30 a.m.–11 a.m.—Program status, budget, and long range plan.

11 a.m.–12 noon—Issues and questions. Future plans and recommendations.

12 noon—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

December 22, 1982.

[FR Doc. 82-35502 Filed 12-30-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: January 20–21, 1983.
Time: January 20, 1983—8:30 a.m. to 7:00 p.m. January 21, 1983—8:30 a.m. to 5:00 p.m.
Room: 807.
Program: This meeting will review applications submitted for Humanistic Projects in Media, Division of General Programs, for projects beginning after July 1, 1983.

2. Date: January 24–25, 1983.
Time: January 24, 1983—8:30 a.m. to 7:00 p.m. January 25, 1983—8:30 a.m. to 5:00 p.m.
Room: 807.
Program: This meeting will review applications submitted for Humanistic Projects in Media, Division of General Programs, for projects beginning after July 1, 1983.

3. Date: January 27–28, 1983.
Time: January 27, 1983—8:30 a.m. to 7:00 p.m. January 28, 1983—8:30 a.m. to 5:00 p.m.
Room: 807.
Program: This meeting will review applications submitted for Humanistic Projects in Media, Division of General Programs, for projects beginning after July 1, 1983.

4. Date: January 31, 1983–February 1, 1983.
Time: January 31, 1983—8:30 a.m. to 7:00 p.m. February 1, 1983—8:30 a.m. to 5:00 p.m.
Room: 807.
Program: This meeting will review applications submitted for Humanistic Projects in Media, Division of General Programs, for projects beginning after July 1, 1983.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-35557 Filed 12-30-82; 8:45 am]

BILLING CODE 7536-01-M

National Council on the Humanities Advisory Committee; Meeting

December 23, 1982.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on Saturday, January 15, 1983 from 9:00 a.m. to 5:30 p.m. in Room 314 in the Shoreham Building, 806 15th Street, N.W., Washington, D.C. This meeting will be open to the public. The purpose of the meeting is for five Council members to discuss the applications review process. Because the Shoreham Building will be locked on January 15, persons wishing to attend this meeting will have to call 202–724–0238 no later than 4:45 p.m. on January 14, 1983 to make arrangements to be admitted.

Further information about this meeting can be obtained from Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call 202–724–0367.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 82-35541 Filed 12-30-82; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Company; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 53 and 78 to Facility Operating License Nos. DPR–71 and DPR–62 issued to Carolina Power & Light Company (the licensee) which revised the Technical Specifications for operation of the Brunswick Steam Electric Plant, Units 1 and 2 (the facility), located in Brunswick County, North Carolina. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to reflect certain digital to analog instrument replacements, revise instrumentation formats, and correct miscellaneous typographical errors.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated November 12, 1982, (2) Amendment Nos. 53 and 78 to License Nos. DPR–71 and DPR–62, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Southport-Brunswick County

Library, 109 West Moore Street, Southport, North Carolina 28461. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of December 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-35559 Filed 12-30-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-254 and 50-265]

Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 84 and 77 to Facility Operating License Nos. DPR-29 and DPR-30, issued to Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company, which revised the Technical Specifications for operation of the Quad-Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, Illinois. The amendments are effective as of the date of issuance.

The amendments expand the Technical Specifications for the scram discharge volume (SDV) to include surveillance requirements for SDV vent and surveillance requirements for the reactor protection system (RPS) and control rod block SDV limit switches.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of the amendments was not required since they do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendments.

For further details with respect to this action, see (1) the application for amendments dated October 14, 1980, as supplemented October 22, 1981, (2) Amendment Nos. 84 and 77 to License Nos. DPR-29 and DPR-30 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street N.W. Washington, D.C., and at the Moline Public Library, 504-17th Street, Moline, Illinois. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23rd day of December 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-35560 Filed 12-30-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-247

Consolidated Edison Company of New York, Inc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 83 to Facility Operating License No. DPR-26, issued to the Consolidated Edison Company of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of the date of issuance.

The amendment modifies your Technical Specifications to require a prompt report in the event of a hurricane and action to ensure that the plant is in a cold shutdown condition prior to hurricane arrival on site.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 17, 1982, (2) Amendment No. 83 to License No. DPR-26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the White Plains Public Library, 100 Maritime Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23rd day of December 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-35561 Filed 12-30-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-220]

Niagara Mohawk Power Corporation; Nine Mile Point Nuclear Station, Unit No. 1; Exemption

Niagara Mohawk Power Corporation (the licensee) is the holder of Facility Operating License No. DPR-63 (the license) which authorizes operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) at steady state reactor power level not in excess of 1850 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Oswego County, New York.

The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission.

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.1 of Appendix E requires each licensee to conduct an emergency preparedness exercise annually.

By letter dated August 20, 1982, as revised by letter dated October 6, 1982, the licensee requested an exemption from the schedular requirements of Section IV.F.1. of Appendix E. A full-scale emergency preparedness exercise was conducted at the Nine Mile Point Nuclear Station Unit No. 1 during September 1981. The next annual

exercise, therefore, was due to be conducted in September 1982. The licensee requests that it be granted an exemption on a one-time basis to allow the next exercise to be conducted within 12 months prior to achieving 5% of rated power at the completion of the current extended outage.

The licensee indicates that scheduling problems and constraints are being experienced during the current plant outage. A significant workload has been undertaken necessitated by the replacement of recirculation system piping. The licensee has also stated that all nuclear fuel has been removed from the reactor and is stored in the spent fuel pool. Finally, the licensee has committee to continual training of personnel as outlined in the Nine Mile Point Nuclear Station Emergency Plan to ensure that personnel remain familiar with emergency response duties.

The last exercise at Nine Mile Point was held on September 16, 1981. The James A. FitzPatrick Nuclear Power Plant is adjacent to the Nine Mile plant and located on the same site. Subsequent to this Nine Mile exercise a full-scale exercise was conducted by FitzPatrick personnel on August 11, 1982. These two exercises provide assurance regarding the capability of State and local officials to respond to an emergency at either nuclear plant.

Based on the above, we conclude that the licensee's request for a one time delay of the next emergency preparedness exercise at the Nine Mile plant until the completion of the current outage is reasonable and that granting the request will not adversely affect the state of emergency preparedness at Nine Mile Point. We conclude, therefore, that the licensee's request for exemption should be granted.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter of August 20, 1982, as revised by letter dated October 6, 1982, as discussed above, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The exemption is hereby granted as follows:

In order to allow for schedule changes, the next emergency preparedness exercise at the Nine Mile Point Nuclear Station, Unit No. 1 shall be conducted anytime during the 12 month period prior to achieving 5% of rated power at the completion of the current extended maintenance outage. This exercise shall include appropriate participation by the State and local authorities.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 23rd day of December, 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 82-35562 Filed 12-30-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Company; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. DPR-22, issued to Northern States Power Company, which revised the Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective on January 1, 1983.

The amendment authorizes changes to the Technical Specifications 1) to implement the requirements of Appendix I to 10 CFR Part 50, 2) to establish new limiting conditions for operation for the quarterly and annual average release rates, and 3) to revise environmental monitoring programs to assure conformance with the Commission's regulations.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License was published in the **Federal Register** on July 9, 1979 (44 FR 40163). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated May 1, 1979, as revised by letter dated July 23, 1982 (2) Amendment No. 15 to License No. DPR-22, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 17th day of December, 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-35563 Filed 12-30-82; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review, the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision and extension.

2. The title of the information collection: 10 CFR 25, Access Authorization for Licensee Personnel.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Nuclear facility licensees, nuclear transportation companies and other organizations requiring access to NRC classified information.

6. An estimate of the number of responses: 3,864.

7. An estimate of the total number of hours needed to complete the requirement or request: 2,058.

8. An indication of whether section 3504 (h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: Licensees and other organizations are required to provide information to ensure that an adequate level of protection is provided NRC classified information and material.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Comments and questions shoulud be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7430.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland the 27th day of December 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82–35564 Filed 12–30–82; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: 10 CFR Part 30, Rules of General Applicability to Domestic Licensing of Byproduct Material.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: All persons desiring to receive, possess, use, or transfer byproduct material.

6. An estimate of the number of responses: 1,000,635.

7. An estimate of the total number of hours needed to complete the requirement or request: 30,091.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: 10 CFR Part 30 establishes rules governing the domestic licensing of byproduct material.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 27th day of December 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82–35565 Filed 12–30–82; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review, the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision and extension.

2. The title of the information collection: 10 CFR 95, Security Facility Approval and Safeguarding of National Security Information and Restricted Data.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Nuclear facility licensees, nuclear transportation companies and other organizations requiring access to NRC classified information.

6. An estimate of the number of responses: 1,006.

7. An estimate of the total number of hours needed to complete the requirement or request: 1,680.

8. An indication of whether Section 3504 (h), Pub. L. 96–511 applies. Not applicable.

9. Abstract: Licensees and other organizations are required to provide information to ensure that an adequate level of protection is provided NRC classified information and material.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7430.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland the 27th day of December 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82–35566 Filed 12–30–82; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: Orders to Licensees on BWR Scram Discharge Volume System.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Non-recurring.

5. Who will be required or asked to report: BWR Nuclear Power Plant Licensees.

6. An estimate of the number of responses: 14.

7. An estimate of the total number of hours needed to complete the requirement or request: 3060 staff hours.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: The Nuclear Regulatory Commission is issuing Confirmatory Orders to confirm BWR licensees commitments to install long-term BWR scram discharge system modifications and to install diverse instrumentation in accordance with NRC criteria.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill (202) 395–7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 27th day of December 1982.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 82-35007 Filed 12-30-82; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Approval of Special Withdrawal Liability Rules; Division 1181 Amalgamated Transit Union-New York Employees Pension Fund and Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from the Division 1181 Amalgamated Transit Union-New York Employees Pension Fund and Plan for approval of a plan amendment providing for special withdrawal liability rules. Under section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended, a plan may establish special withdrawal liability rules if PBGC finds that the rules apply to an industry that has the characteristics that would make use of the special rules appropriate, and that the rules would not pose a significant risk to the PBGC insurance system. The effect of this notice is to advise interested persons of this request for approval of special withdrawal liability rules and to solicit their views on it.

DATE: Comments must be submitted on or before February 17, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation 2020 K Street, N.W., Washington, D.C. 20006. The complete request for approval is available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m. Any comments received will also be made available to the public at the above address at those times.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K street, N.W., Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

Under section 4203(a) of Employee Retirement Income Security Act of 1974, as amended ("ERISA") a complete withdrawal is generally defined as the permanent cessation of an employer's obligation to contribute under the plan, or the permanent cessation of all covered operations under the plan. Under section 4205, a partial withdrawal generally occurs when an employer reduces covered operations by 70 percent, or removes a continuing facility or bargaining unit from the plan while continuing to do the previously covered work in the area. Thus, the general rules on complete and partial withdrawal identify those events that normally result in a loss to the plan's contribution base.

However, Congress recognized that, in certain industries and under certain circumstances, a complete or partial cessation of the obligation to contribute by an employer normally does not weaken the plan's contribution base. For that reason, Congress established special withdrawal rules for the construction and entertainment industries.

Under the definition in ERISA section 4203(b)(2), a complete withdrawal occurs only if a construction industry employer ceases to have an obligation to contribute under the plan, and the employer either continues to perform previously covered work in the area of the collective bargaining agreement or resumes such work within five years without renewing the obligation to contribute at the time of resumption. Section 4203(c)(1) applies the same special definition of complete withdrawal to the entertainment industry, except that the pertinent area is the area of the plan rather than the area of the collective bargaining agreement. In contrast, the general definition of complete withdrawal imposes liability regardless of the continued activities of the withdrawn employer (section 4203(a)).

Congress also established special partial withdrawal liability rules for the construction and entertainment industries. In construction, a partial withdrawal occurs "only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required" (ERISA section 4208(d)(1)). The entertainment industry is exempt from partial withdrawal liability "except under the conditions and to the extent prescribed by the corporation by regulation" (section 4208(d)(2)).

ERISA section 4203(f) provides that PBGC may authorize plans in industries other than construction and entertainment to adopt special complete withdrawal liability rules similar to those for the construction and entertainment industries in section 4203 (b) and (c). Section 4208(e)(3) provides that PBGC may permit plans to adopt special partial withdrawal liability rules upon a finding by PBGC that the rules are consistent with the purposes of Title IV of ERISA. Under ERISA section 4203(f) and § 2645.4(a) of the PBGC's regulation on procedures for extension of special withdrawal liability rules (47 FR 12622, March 24, 1982), PBGC will approve a plan amendment establishing special withdrawal rules if the PBGC determines that the plan amendment—

(A) Will apply only to an industry that has characteristics that would make use of the special withdrawal rules appropriate; and

(B) Will not pose a significant risk to the insurance system.

In making these determinations, PBGC will conduct a comprehensive analysis of the request, the actuarial data submitted and other relevant information relating to the industry and the plan. PBGC may condition its approval of the special rules on the plan's taking certain additional actions in order to ensure satisfaction of the regulatory standards. For example, PBGC approval may be conditioned on the plan's modification of the rule or a change in the plan's funding practices.

In order for the PBGC to determine whether a special withdrawal rule is appropriate, § 2645.3(d)(7) of the regulation requires that plans provide information on the industry which is the subject of the rule. This includes information on the effects of withdrawals on the plan's contribution base, as well as information sufficient to demonstrate the existence of industry characteristics which would indicate that withdrawals in the industry do not typically have an adverse effect on the plan's contribution base. [These characteristics include the mobility of employees, the intermittent nature of employment, the project-by-project nature of the work, extreme fluctuations in the level of an employer's covered work under the plan, the existence of a consistent pattern of entry and withdrawal by employers, and the local nature of the work performed.]

Under § 2645.2(a) of the regulation, a special partial withdrawal rule must be consistent with the rule the plan has adopted on complete withdrawals. The

regulation also requires that a plan indicate how the special rules will operate in the event of a sale of assets by a contributing employer or the withdrawal from the plan of all employers (§ 2645.3(d)(4)). Finally, § 2645.4(b) requires PBGC to publish a notice of the pendency of a request for approval of special withdrawal rules in the **Federal Register**, and to provide interested parties with an opportunity to comment on the request.

The Request

PBGC has received a request from the Division 1181 Amalgamated Transit Union-New York Employees Pension Fund and Plan (the "Plan") for approval of a Plan amendment providing for special withdrawal liability rules. In the request, the Plan represents, among other things, that:

The Plan

The Plan is a multiemployer plan, with approximately 84 contributing employers, that is maintained pursuant to collective bargaining agreements between Division 1811–1061 Amalgamated Transit Union, AFL–CIO, and employers operating school buses under contract with the Board of Education of the City of New York ("Board of Education"). The Plan is the only multiemployer plan in New York City, which covers drivers, maintenance employees and matron-attendant escorts on buses used to transport school children to and from the New York City public schools. The Plan also covers employees who transport handicapped and emotionally disturbed children to and from public and nonpublic schools in New York City.

Virtually, all of the employees covered by the Plan work in the school transportation industry in New York City. As of August 31, 1982, The Plan covered 4,259 active workers and 519 retired and terminated vested participants. The Plan had assets of $34.7 million. With minor exceptions, all of the current contributing employers are school bus operators. The only non-school bus contributors are Division 1181–1061 and three organizations connected to it. Those four contributors account for only 39 of the approximate 4,600 participants in the Plan.

Special Characteristics of the Plan and Industry

Pursuant to a 1979 order of the Supreme Court of New York, contracts for school busing between the Board of Education and a contractor with more than five vehicles must contain certain employee protection provisions. Under the court order, as extended by the Board of Education, a contractor is required to give priority in employment to any employee who was employed prior to June 1, 1982 under a school bus contract, and who is on furlough or is unemployed as a result of a loss of contract or a reduction in service ordered by the Board of the Education ("Master Seniority List Employees"). In addition, the contractor is required to sign an agreement with the Plan to contribute on behalf of Master Seniority List Employees. The Board of Education is authorized to cancel any transportation contract if an employer willfully fails to comply with the employee protection provisions. Therefore, employers who are awarded transportation contracts are bound by law to contribute to the Plan on behalf of Master Seniority List Employees.

For this reason, the Plan is not dependent for contributions on the participation of a specific employer. Under the employee protection provisions required by law, when a contributing employer no longer holds a contract, the new employer must hire Master Seniority List Employees and must then contribute to the Plan on behalf of those employees.[1] As the Plan stated in its application:

> This industry is therefore unique in that it does not depend upon the existence of any one employer (company) or group of employers (companies). The fact that one such employer of group of employers cease operation or go out of business, does not affect the aggregate level of work, number of employees or contributions.

As long as the Board of Education requires school transportation, pursuant to the employee protection provisions in the contracts, contributions will be made to the Plan.

The school bus transportation contracts are subject to competitive bidding and are normally for a 3-year period. The employee protection provisions apply to contracts for handicapped pupils effective through June 30, 1984, and have been extended to cover all contracts for normal pupils through June 30, 1983.

The Plan also points out that the work in the industry is local in nature. Covered work can only be performed in New York City. If an employer ceases to operate in New York City, it can no longer compete for that work.

Actuarial Data

As part of its request, the Plan submitted copies of its two most recent actuarial valuation reports. These reports where for the plan years ending August 31, 1977 and August 31, 1981. The valuations were as of August 31, 1977 and August 31, 1980. Plan costs for funding purposes are determined on the Frozen Initial Liability Method.

In addition to the actuarial reports, the Plan submitted Forms 5500 (including Schedule B's) and audited financial statements for all plan years commencing in 1976 through plan years commencing in 1980.

The information submited shows that from August 31, 1977, to August 31, 1981, the Plan experienced growth in its population base. The number of active participants increased 36.0 percent, representing an average compounded growth rate of 8.0 percent. The number of retirees, as a percentage of the number of actives, went from 7.0 percent to 11.3 percent

The Plan requires employee contributions. During the period under discussion, total contributions went from $3,741,159 to $5,437,254. The contribution rate for employers increased, while that for employees remained constant. Benefits plus expenses increased from $889,132 to $2,182,807. The excess of contributions over benefits and expenses went from $2,852,030 to $3,254,447. Assets have almost doubled from $17,445,817 to $34,687,944.

There was a benefit increase in 1981, which increased the Plan's unfunded accrued liability as of August 31, 1980 by approximately $5.5 million. This benefit increase consisted of raising the minimum benefits payable under the plan. An increase in the assumed interest rate from 5½ to 7 percent lowered unfunded accrued liability as of September 1, 1979 by approximately $4.4 million. Overall, the plan's unfunded accrued liability went from $23,292,422 as of August 31, 1977 to $21,166,484 as of August 31, 1980.

As of September 1, 1980, approximately 50 percent of the active participants were under age 42.5; approximately 82 percent were under age 52.5 Approximately 1 percent of the active participants were age 62.5 or older.

A summary of the actuarial information is set forth below.

[1] The employee protection provisions do not apply with respect to drivers, mechanics and dispatchers of contractors providing five vehicles or less.

SUMMARY OF ACTUARIAL VALUATION RESULTS

	Aug. 31, 1981	Aug. 31, 1980	Aug. 31, 1979	Aug. 31, 1978	Aug. 31, 1977
A. Participants and benefits:					
1. Number of participants and beneficiaries:					
a. Active	4,259	[1]4,251	3,143	3,113	[2]3,132
b. Retired	485	[1]389	317	240	[2]221
c. Terminated vested and beneficiaries in pay status	58	[1]35	19	33	[2]9
2. Benefit formula: benefit	(3)	(3)	(3)	(3)	(3)
B. Income and expenses (in dollars):					
1. Annual contributions:					
a. Employer	$4,042,997	[illegible]	$2,479,024	$2,965,091	$2,567,866
b. Employee	1,394,257	1,425,309	[illegible]	1,192,207	1,173,273
c. Total	5,437,254	5,363,812	3,401,872	4,157,298	3,741,159
2. Benefits and expenses:					
a. Annual benefit payout including refunds of employee contributions	1,729,630	1,508,269	1,168,045	886,515	706,205
b. Expenses	453,177	[illegible]	177,345	162,765	182,924
c. Total	2,182,807	1,743,058	1,345,390	1,049,280	889,129
C. Plan assets and liabilities (in dollars):					
1. Frozen initial liability normal cost for plan year ending	1,902,156	2,137,418	1,101,015	[illegible]	1,106,621
2. Net charge to funding standard account (without regard to prior year credit balance) for plan year ending	3,517,688	3,341,623	2,405,175	[illegible]	2,410,781
3. Unfunded value of:					
a. Accrued liability-FIL	NA	[1]21,168,484	NA	NA	[2]23,292,422
b. Liability for Vested Benefits	NA	[4]3,974,918	[5]6,416,439	NA	NA
4. Market value of assets	34,687,944	31,266,626	25,865,105	22,070,753	17,445,817
D. Interest rate used to value liabilities	NA	7%	7%	NA	5½%

[1] From 1981 Actuarial Report.
[2] From 1977 Actuarial Report.
[3] Percentage of pay, depending upon years of service, with specified minimum benefit.
[4] From 1980 Schedule B—September 1, 1980 figure.
[5] From 1979 Schedule B—September 1, 1979 figure.
NA—Not available from information submitted.
Source: Forms 5500 and attached financial statements except where otherwise noted.

Complete Withdrawal Rule

On April 28, 1982, the Plan adopted an amendment prescribing special withdrawal rules to take effect as of January 1, 1981. The amendment was modified by the Plan on November 10, 1982. The amendment would apply to any contributing employer under the Plan. Under the amendment, a complete withdrawal from the Plan would occur if:

(1) An Employer ceases to have an obligation to contribute under the Plan, and

(2) The Employer—

(a) Continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required, or

(b) Resumes such work within five years after the date on which the obligation to contribute under the Plan ceases, and does not renew the obligation at the time of resumption.

(3) If the Plan is terminated by mass withdrawal as determined in Section 4041(a)(2) of ERISA paragraph (2)(b) above shall be applied by substituting "three years" for "five years".

(*Plan Amendment:* Article XI, section 1(A).)

Partial Withdrawal Rule

The Plan amendment also provides special partial withdrawal liability rules. Under the amendment, a partial withdrawal from the Plan shall occur if, on the last day of the plan year, for such year—

(1) There is a 70-percent contribution decline in an Employer's contribution to the Plan which shall be defined in accordance with the appropriate provisions of ERISA § 4205, or

(2) There is a partial cessation of an Employer's contribution obligation which shall be defined in accordance with the appropriate provisions of ERISA § 4205, and

(3) In addition to (a) or (b) above, the Employer is performing work of the type for which contributions were required in the jurisdiction of the collective bargaining agreement on a non-covered basis.

(*Plan Amendment;* Article XI, section 1(B).)

Treatment of Sales of Assets and Mass Withdrawal

The Plan amendment does not contain rules specifically pertaining to sales of assets or mass withdrawal by all employers. The request states that those rules are not necessary due to the nature of the industry, described above, which is covered by the Plan.

Notice

The Plan has given notice of the adoption of the amendment and of the request for PBGC approval of the amendment to all employers who have an obligation to contribute under the Plan and to the union representing employees covered under the Plan.

Comments

All interested persons are invited to submit written comments on the pending request to the above address, on or before February 17, 1983. All comments will be made a part of the record. Comments received, as well as the application for approval of the plan amendment, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 27th day of December 1982.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-35477 Filed 12-30-82; 8:45 am]
BILLING CODE 7708-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 1
Monday, January 3, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Civil Rights Commission	1
Consumer Product Safety Commission	2
Federal Maritime Commission	3
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1

COMMISSION ON CIVIL RIGHTS

PLACE: Room 512, 1121 Vermont Avenue, N.W., Washington, D.C.

DATE AND TIME: January 10, 1983, 9:30 a.m.–12:00 noon; 1:30–4:00 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda.
II. Approval of Minutes of Last Meeting.
III. Review of the Religious Discrimination Statement.
IV. Review of Staff Comments on the Analysis of Executive Order 11246 by the Senate Committee on Labor and Human Resources.
V. Discussion of a Proposal for the Commission to Establish Business-Labor Advisory Committees.
VI. State Advisory Committee Recharters.
A. Iowa.
B. North Dakota.
C. Texas.
D. Utah.
E. Virginia.
VII. Illinois Advisory Committee Report Entitled *Housing: Chicago Style.*
VIII. Connecticut Advisory Committee Report Entitled *Hate Groups and Acts of Bigotry.*
IX. Oregon Advisory Committee Report Entitled *External Review of Police Misconduct in Portland, Oregon.*
X. Civil Rights Developments in the Northwestern Region.
XI. Staff Director's Report.
A. Status of Funds.
B. Personnel Report.
C. Office Directors' Reports.

PERSON TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division, (202) 254–6697.

[FR Doc. S–1871–82 Filed 12–29–82; 11:10 am]

BILLING CODE 6335–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission meeting, Wednesday, January 5, 1983, 10 a.m.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW, Washington, D.C.

STATUS:

Open to the Public

1. *Special Packaging Requirements Under the Poison Prevention Packaging Act: ANPR.*
The staff will brief the Commission on a draft Advance Notice of Proposed Rulemaking (ANPR) which solicits suggestions for methods to improve the effectiveness of child-resistant packaging and which requests comments on specific suggested revisions to the child and adult test procedures.

Closed to the Public

2. *Compliance Report.*
The staff will brief the Commission of a special compliance report.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207, 301–492–6800.

[S–1873–82 Filed 12–29–82; 3:57 pm]

BILLING CODE 6355–01–M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., January 7, 1983.

PLACE: Hearing Room 1, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: 1. Docket No. 82–58: Actions To Adjust or Meet Conditions Unfavorable to Shipping in the United States/Venezuela Trade—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1870–82 Filed 12–29–82; 10:55 am]

BILLING CODE 6730–01–M

4

TENNESSEE VALLEY AUTHORITY (MEETING NO. 1303)

TIME AND DATE: 1 p.m. (EST), Wednesday, January 5, 1983.

PLACE: TVA West Tower Auditorium.

STATUS: Open.

C—Power Items

C1. Adoption of supplemental resolution authorizing 1983 Series A power bonds.
C2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1983 Series A power bonds.

D—Personnel Actions

D1. Revised pay plan for certain management and physician schedule employees.

DATED: December 29, 1982.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

[S–1872–82 Filed 12–29–82; 3:49 pm]

BILLING CODE 8120–01–M

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federal register

Monday
January 3, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modification to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama: AL82-1082	November 19, 1982
California:	
CA82-5112	July 16, 1982
CA82-5120	August 27, 1982
CA82-5118	August 20, 1982
CA82-5122	September 3, 1982
Hawaii: HI82-5123	October 1, 1982
Indiana:	
IN80-2082	September 26, 1980
IN80-2015	April 11, 1980
Louisiana:	
LA82-4021	May 7, 1982
LA82-4022	May 7, 1982
LA82-4053	November 5, 1982
Nevada: NV82-5113	August 6, 1982
New York:	
NY81-3061	September 11, 1981
NY82-3025	September 3, 1982
Texas:	
TX82-4046	October 1, 1982
TX82-4054	November 5, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Indiana: IN80-2007 (IN82-2070).	March 14, 1980.

Special Notice

Inasmuch as Friday December 24 and 31, 1982 falls on Federal holidays, the Davis-Bacon wage determinations will be published the next work days, i.e., Monday, December 27, 1982, and Monday, January 3, 1983, respectively.

Signed at Washington, D.C., this 23th day of December 1982.

Dorothy P. Come,

Assistant Administrator Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. CA82-5112 - Mod. #8
(47 FR 31154 - July 16, 1982)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas , Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers	$21.15	$3.86
Bricklayers; Stonemasons:		
Area 4	17.53	3.46
Area 6	20.25	3.87
Line Construction:		
Groundmen	15.70	5.75+ 3%
Linemen; Line Equipment Operators	23.00	5.75+ 3%
Cable Splicers	24.75	5.75+ 3%
Plasterers:		
Area 1	18.85	4.43
Area 4	16.61	5.44
Plumbers; Steamfitters:		
Area 3	$26.64	$5.30
Area 4	20.90	5.43
Sheet Metal Workers:		
Area 4	19.25	4.32
Area 5	24.00	5.22
Area 11	20.86	4.32
Soft Floor Layers:		
Area 1	15.81	3.00

DECISION NO. CA82-5120 - Mod. #5
(47 FR 38022 - August 27, 1982)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers	$21.19	$3.86
Bricklayers; Stonemasons:		
Area 4	17.53	3.46
Area 6	20.25	3.87
Plasterers:		
Area 1	18.83	4.43
Area 5	16.63	5.44
Plumbers; Steamfitters:		
Area 3	26.64	8.30
Area 6	20.90	5.43
Sheet Metal Workers:		
Area 1	$25.73	$5.14
Area 4	18.25	4.32
Soft Floor Layers:		
Area 1	15.81	3.00
Add:		
Sheet Metal Workers:		
Area 9 (Monterey and San Benito Counties):	25.80	5.88
Area 10 (Santa Cruz County)	20.86	4.32

DECISION NO. CA82-5118 - Mod. #4
(47 FR 38513 - August 20, 1982)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernatdino, San Luis Obispo, Santa Barbara, and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 7:		
Electricians	$23.23	$3.36+ 3%
Cable Splicers	24.45	3.36+ 3%
Residential Electricians	18.80	3.36+ 3%
Area 8:		
Electricians	20.95	3.18+ 3%
Cable Splicers	22.45	3.18+ 3%
Area 9:		
Electricians	20.41	3.67+ 3%
Area 10:		
Electricians	24.20	3.18+ 3%
Cable Splicers	25.70	3.18+ 3%
Line Construction:		
Area 7:		
Groundman	15.67	3.33+ 3%
Lineman; Equipment Operators	22.23	3.33+ 3%
Cable Splicers	24.45	3.33+ 3%
Area 8:		
Lineman; Equipment Operators	20.41	3.67+ 3%
Area 9:		
Groundman	18.96	3.18+ 3%
Lineman; Equipment Operators	24.20	3.18+ 3%
Cable Splicers	25.70	3.18+ 3%
Marble Setters:		
Area 2	$18.50	$2.95
Marble Finishers:		
Area 1	14.14	3.30
Painters:		
Area 4:		
Brush, Pot Tender	18.48	3.61
Paperhangers, Paste Machine Operators; Iron and Steel	18.73	3.61
Spray, Taper; Sandblaster	18.18	3.61
Sign Painter	19.13	3.61
Steeplejack	19.48	3.61
Drywall Taper and Spray Texture	19.81	3.61
Sheet Metal Workers:		
Area 6	18.17	4.30+ 10%
Terrazzo Workers:		
Area 1	18.50	2.85
Tile Setters:		
Area 1	18.50	2.95
Power Equipment Operators:		
Dredging:		
(Hydraulic Suction Dredges)		
Leverman	18.10	6.41
Watch Engineer; Welder; Deckmate	17.52	6.41
Winchman (stern winch or Dredge)	16.97	6.41
Bargeman; Deckhand; Fireman; Oiler; Leveehand	16.43	6.41
Dozer	17.63	6.41
(Clamshell Dredges):		
Leverman	18.10	6.41
Watch Engineer; Deckmate	17.52	6.41
Barge Mate	17.84	6.41
Bargeman; Deckhand; Fireman; Oiler	16.43	6.41

DECISION NO. CA82-5118 (Cont'd)

DECISION NO. CA82-5122 - Mod. #2
(47 FR 39075 - September 3, 1982)

DECISION NO. CA82-5118 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Power Equipment Operators:		
Group 1	$16.25	$6.41
Group 2	16.53	6.41
Group 3	16.82	6.41
Group 4	16.96	6.41
Group 5	17.18	6.41
Group 6	17.29	6.41
Group 7	17.41	6.41
Group 8	17.58	6.41
Group 9	17.71	6.41

	Basic Hourly Rates	Fringe Benefits

DECISION NO. CA82-5122 - Mod. #2
(47 FR 39075 - September 3, 1982)
San Diego County, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$21.29	$3.83
Boilermakers	20.01	3.59
Carpenters:		
Carpenters	18.61	3.23
Piledriver	18.86	3.23
Millwrights; Pneumatic Nailer; Hardwood Floorlayers	19.21	3.23
Divers:		
Divers	42.22	3.23
Stand-by Divers	21.11	3.23
Tender	20.11	3.23
Electricians:		
Electricians; Technicians	21.32	3.61+ 3%
Cable Splicers	21.77	3.61+ 3%
Utility Technician	16.00	3%+.47
Soft Floor Layers	17.80	3.59
Tile, Marble, and Terrazzo Setters	18.50	2.95
Tile, Marble, and Terrazzo Finishers	14.14	3.30

	Basic Hourly Rates	Fringe Benefits
Power Equipment Operators		
Group 1	$16.25	$6.41
Group 2	16.53	6.41
Group 3	16.82	6.41
Group 4	16.96	6.41
Group 5	17.18	6.41
Group 6	17.29	6.41
Group 7	17.41	6.41
Group 8	17.58	6.41
Group 9	17.71	6.41
Dredging: (Hydraulic Suction Dredge);		
Leverman	18.10	6.41
Watch Engineer; Welder; and Deckmate	17.52	6.41
Winchman (Stern Winch or Dredge)	16.97	6.41
Bargeman; Deckhand; Fireman; Oiler; Leveehand	16.43	6.41
Clamshell Dredges;		
Leverman	18.10	6.41
Watch Engineers and Deckmate	17.52	6.41
Bargemate	17.04	6.41
Bargeman; Deckhand; Fireman; Oiler	16.43	6.41
Add:		
Sound Installers	16.47	1.46+ 3%

MODIFICATIONS P. 5

DECISION NO. MI82-5123 - Mod. #2
(47 FR 43513 - October 1982)
Statewide, Hawaii

	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers	$15.10	$4.06
Marble Setters	15.03	4.75
Sheet Metal Workers	14.25	7.30
Terrazzo Workers and Tile Setters:		
Terrazzo Base Grinder	13.45	4.75
Terrazzo Floor Grinder and Finisher	12.02	4.75
Terrazzo Workers and Tile Setters	15.03	4.75

DECISION #AL82-1082 - Mod. #1
(47 FR 52316 - November 19, 1982)
Madison County, Alabama

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Cement masons	$12.75	

Basic Hourly Rates	Fringe Benefits

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits
DECISION NO. IN80-2082 - MOD. #1 (45 FR 64052 - September 26, 1980) Elkhart, Jasper, Kosciusko, LaGrange, Marshall, Newton, Pulaski & Starke Counties, Indiana		
Change:		
Asbestos Workers: Elkhart, Jasper, Kosciusko, Marshall, & Stark Cos.	$16.96	2.57
Bricklayers & Stonemasons: Elkhart, Kosciusko & LaGrange Cos.	15.77	1.68
Carpenters; Millwrights; Piledrivermen & Soft Floor Layers: Elkhart Co.; Carpenters	14.30	2.48
Millwrights/Piledrivermen	14.55	2.48
Cement Masons: Elkhart, Kosciusko, & LaGrange Cos.	14.92	1.58
Electricians: Elkhart, Kosciusko & Marshall Cos.	17.40	14.38
Ironworkers: Elkhart, Kosciusko (W. Portion exclu. Warsaw) LaGrange, (W 1/2 exclu. City of LaGrange, Marshall, Pulaski, & Starke Cos.	15.40	4.61
Laborers:- Semi-Skilled	11.45	1.89
Skilled	11.65	1.89
Painters: Elkhart, Kosciusko, Marshall, Pulaski, & Starke Cos.	12.64	1.95
Plumbers: Elkhart, Kosciusko & LaGrange	16.48	2.70
Roofers: Elkhart, Kosciusko, Marshall, Pulaski & Starke Cos.: Composition; Damp & Waterproof	14.60	2.03
Slate	15.10	2.03
Sheet Metal Workers: Elkhart, Kosciusko & Marshall Cos.	15.76	2.21
Sprinkler Fitters	16.67	2.83
DECISION NO. IN80-2015 - MOD. #3 (45 FR 24985 - April 11, 1980) Statewide, Except Lake, LaPorte, Porter, and St. Joseph Counties		
Change: Carpenters: Elkhart County Zone II	$13.36	2.15

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits
DECISION NO. LA82-4021 - MOD. #6 (47 FR 19877 - 5/7/82)		
Change:		
Boilermakers	$15.10	$4.06
Marble Setters	15.03	4.75
Sheet Metal Workers	14.25	7.30
Terrazzo Workers and Tile Setters:		
Terrazzo Base Grinder	13.45	4.75
Terrazzo Floor Grinder and Finisher	12.02	4.75
Terrazzo Workers and Tile Setters	15.03	4.75

	Basic Hourly Rates	Fringe Benefits
DECISION NO. LA82-4053 - MOD. #5 (CONT'D)		
Change:		
Boilermakers	$15.10	$4.06
Marble Setters	15.03	4.75
Sheet Metal Workers	14.25	7.30
Terrazzo Workers and Tile Setters:		
Terrazzo Base Grinder	13.45	4.75
Terrazzo Floor Grinder and Finisher	12.02	4.75
Terrazzo Workers and Tile Setters	15.03	4.75

MODIFICATIONS P. 8

DECISION NO. LA82-4021 - MOD. #6 (47 FR 19877 - 5/7/82) Bossier & Caddo Pars., Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Painters - Painters, tape & float, vinyl & paperhangers /	$11.25	1.25
DECISION NO. LA82-4042 - MOD. #8 (47 FR 19877 - 5/7/82) Calcasieu Par.,Louisiana		
CHANGE:		
Painters - Group 1	15.795	.45
Group 2	16.01	.45
Group 3	16.17	.45
Tile setters	13.07	1.70
DECISION NO. LA82-4053 - MOD. #5 (47 FR 50421 - 11/5/82) Statewide Louisiana		
CHANGE:		
Asbestos workers:		
Zone 3	14.80	2.32
Zone 4	14.29	1.36
Boilermakers	16.60	2.415
Carpenters:		
Zone 7:		
Carpenters & soft floor layers	13.35	
Millwrights	14.10	
Piledrivermen	13.85	
Glaziers - Zone 2	13.25	.01
Lathers - Zone 6	13.35	
Marble, tile & terrazzo workers & finishers:		
Zone 2 - Tile setters	13.07	1.70
Painters:		
Zone 1 - Group 1	15.795	.45
Group 2	16.81	.45
Group 3	16.17	.45
Group 4	17.73	.45
Zone 6 - Painters,tape & float,vinyl & paperhanger	11.25	1.25
Zone 7 - Group 1	9.55	
Group 2	10.05	
Group 3	10.55	
Plasterers - Zone 2	13.25	.81

DECISION NO. LA82-4053 - MOD. #5 (CONT'D)	Basic Hourly Rates	Fringe Benefits
Power equipment ops.:		
Zones 2, 3 & 4:		
Group 1	$ 9.55	2.20
Group 2	10.58	2.20
Group 3	10.68	2.20
Group 4	11.15	2.20
Group 5	13.32	2.20
Group 6	12.32	2.20
Roofers:		
Zone 2:		
Roofers	10.11	3.10
Preparers remove old roofing,place,stock or move material, tools or equipment for journeymen	4.90	1.15
Zone 3 - Roofers	12.18	1.94
Zone 4 - Roofers	11.50	.30
Kettlemen	9.20	.30

DECISION NO. NV82-5113 - Mod. #5 (47 FR 34300 - August 6, 1982) Clark County (does not include the Nevada Test Site), Nevada	Basic Hourly Rates	Fringe Benefits
Change:		
Cement Masons:		
Cement Masons	$16.05	$3.70
Cement Floor Finishing Machine; Color Work	16.43	3.70
Plasterers	16.95	3.70
Truck Drivers:		
Group 1	14.18	2.54
Group 2	14.29	2.54
Group 3	14.34	2.54
Group 4	14.50	2.54
Group 5	14.68	2.54
Group 6	15.18	2.54

DECISION NO. NY81-3061 - MOD. #3 (46 FR 45525 - Sept. 11, 1981) CLINTON COUNTY, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS		
Zone I - City Of Plattsburg and 5 mile radius		
Electricians	13.30	1.75+ 4%+a
Cable Splicers	13.60	1.75+ 4%+a
Zone II - From Zone I to a 20 mile radius of Plattsburg		
Electricians	13.50	1.75+ 4%+a
Cable Splicers	13.80	1.75+ 4%+a
Zone III - Beyond Zone II		
Electricians	13.70	1.75+ 4%+a
Cable Splicers	14.00	1.75+ 4%+a

Basic Hourly Rates	Fringe Benefits

DECISION NO. NY82-3025- MOD. #3 (47 FR 39079 - Sept. 3, 1982) ORANGE COUNTY, NEW YORK	Basic Hourly Rates	Fringe Benefits
ADD: ELECTRICIANS		
Twps. of Otisville, Middletown, Goshen, Florida, Warwick, Port Jervis, Sparrow Bush, Monroe, Harman, Southfield, Tuxedo Lake and Tuxedo	14.00	30%
Remainder of County	14.90	1.97+ 10.55%

DECISION NO. TX82-4046 - MOD. #4 (47 FR 43525 - 10/1/82) Jefferson & Orange Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters-residential const. of not more than 2 units & condominium townhouses of not more than 10 units excluding all apt. const. & multiple bldgs. for rental purposes	$15.19	1.765
Laborers - Group 1	10.66	1.50
Group 2	10.86	1.50
Group 3	10.96	1.50
Group 4	11.11	1.50

DECISION NO. TX82-4054 - MOD. #4 (47 FR 50430 - 11/5/82) Collin,Dallas,Denton, Ellis,Grayson,Hood, Hunt,Johnson,Kaufman, Palo Pinto,Rockwall, Tarrant & Wise Cos., Texas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayer & stonemason:		
Zone 1	15.58	1.74
Zone 2	15.57	1.71
Painters:		
Zone 2 - Group 1	15.75	1.12
Group 2	16.00	1.12
Group 3	17.00	1.12
Group 4	16.125	1.12
Plumber & pipefitter:		
Zone 1	16.62	1.99

SUPERSEDEAS DECISION

STATE: Indiana COUNTY: Blackford & Delaware
DECISION NO.: IN82-2070 DATE: Date of Publication
Supersedes Decision No. IN80-2007, dated March 14, 1980 in 45 FR 16817
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$ 7.50	
BRICKLAYERS	15.80	
CARPENTERS	7.95	
CEMENT MASONS	9.00	
DRYWALL FINISHERS/TAPERS	6.95	
DRYWALL HANGERS	8.00	
ELECTRICIANS	8.96	
HEATING MECHANICS	7.80	
INSULATORS	8.63	
LABORERS	5.78	
PAINTERS	8.75	
PLASTERERS	7.00	
PLUMBERS	10.30	1.15
ROOFERS	6.23	
SHEET METAL WORKERS	9.00	
TRUCK DRIVERS	7.35	
POWER EQUIPMENT OPERATORS		
BACKHOE OPERATOR	10.00	
FRONT END LOADER	10.40	
BULLDOZER OPERATOR	10.00	
GRADER OPERATOR	10.73	
SCRAPER OPERATOR	10.00	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc. 82-35228 Filed 12-30-82; 8:45 am]

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Part III

Environmental Protection Agency

Hazardous Waste Management System; Standards Applicable to Generators of Hazardous Waste; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[SW FRI 1970–2]

Hazardous Waste Management System; Standards Applicable To Generators of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On February 26, May 19, and November 19, 1980, and January 11, 1982, the Environmental Protection Agency (EPA) published regulations pursuant to the Resource Conservation and Recovery Act (RCRA). Those regulations allow hazardous waste generators to accumulate hazardous waste generators to accumulate hazardous waste on-site for 90 days without obtaining a permit or having interim status under RCRA, provided that they accumulate the waste in accordance with certain standards.

EPA has received comments from the regulated community indicating that industries which generate hazardous waste typically have numerous locations on-site where waste is initially generated and accumulated, often in small amounts, prior to consolidation at centralized accumulation areas. In response to concerns that the standards for 90-day accumulation are unnecessary and impractical to apply at these "satellite" areas, EPA is proposing to amend the generator standards to allow generators to accumulate as much as 55 gallons of hazardous waste (except for acutely hazardous waste as listed in 40 CFR 261.33(e) of the regulations) at each satellite area for any length of time without complying with the 90-day accumulation standards. Generators could accumulate wastes under this provision provided that: (1) The wastes are placed in containers which are in good condition, (2) the wastes are compatible with their containers, and (3) the containers are marked with the words "Hazardous Waste" or other words that identify their contents. Within 72 hours of accumulating over 55 gallons at a satellite area, the generator would be required to comply with all applicable requirements under RCRA for further management of any waste in excess of 55 gallons.

EPA believes that protection of human health and the environment will not be affected by this action. EPA also estimates that this action will result in a savings to the regulated community of approximately $5,000,000 per year.

DATES: EPA will accept public comments on the proposed amendment until March 4, 1983.

ADDRESSES: Comments should be addressed to the Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M St. SW, Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 262.34(c)."

The public docket for this proposed rule is located in Room S–269C, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C., and is available for viewing from 9:00 am to 4:00 pm Monday through Friday excluding holidays.

FOR FURTHER INFORMATION CONTACT: Amy Mills, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382–4755, or the RCRA Hotline at (800) 424–9346 or (202) 382–3000.

SUPPLEMENTARY INFORMATION:

I. Background

On February 26, 1980, May 19, 1980, and November 19, 1980, EPA promulgated regulations pursuant to the Solid Waste Disposal Act, as amended by the Resource Consevation and Recovery Act (RCRA), as amended, 42 U.S.C. 6901, *et seq.* The regulations established a system to manage hazardous waste, and include standards for generators of hazardous waste. (40 CFR Part 262, 45 FR 12732, 45 FR 33142, and 47 FR 1251). In § 262.34(a) of the regulations, EPA stated that generators may accumulate hazardous waste on-site for up to 90 days without obtaining a storage permit, provided they accumulate the waste in accordance with certain standards. These standards include requirements for: the use of tanks and containers, personnel training, and the preparation of contingency plans. In establishing those standards, EPA had assumed that accumulation generally occurred at one or two discrete locations within an industrial facility, and that the § 262.34 requirements would apply to loading docks, storage buildings, sheds and other central areas where wastes are accumulated.

Members fo the regulated community, however, have pointed out that within an industrial complex there may be dozens of paces where hazardous wastes are initially generated and collected during daily operations prior to consolidation at a loading dock or other central waste accumulation area. At present, the regulations make no distinction between the initial collection of hazardous waste at various points of generation ("satellite" accumulation) and accumulation at a central area on-site where these wastes are consolidated for on-site managment or transportation off-site. Therefore, the standards for 90-day accumulation apply to both.

In the preamble to the November 19, 1980, **Federal Register** notice amending § 262.34, the Agency raised the issue of whether a distinction should be drawn between satellite accumulation and central accumulation areas. 45 FR 76624. EPA expressed the view that the requirements of § 262.34(a) appear appropriate for all types of accumulation areas, but solicited comments on the subject.

Various groups responded and all asserted that there is indeed a practical distinction between satellite and central accumulation which should be recognized in the regulations. The commenters supported a reduction or deletion of regulatory requirements for initial accumulation of hazardous wastes at or near points of generation.

Some commenters expressed the opinion that regulation of hazardous waste in satellite areas is unnecessary because these waste quantities are small and pose a very low risk to human health and the environment. Some noted that hazardous waste in satellite areas is typically held in a bucket or other container for only several days or a week before being emptied; therefore, they contended that there is little risk of undetected corrosion or leakage. Commenters also pointed out that unlike central accumulation areas where the variety and quantity of wastes contribute to the likelihood of serious incidents and chain reactions (fires, explosions, etc.), satellite areas usually Have only one type of waste and are not prone to accidents of serious magnitude.

Most of the industries that commented reported that their satellite areas are close to manufacturing process areas and are under close company supervision. They stated that personnel who work in these areas are trained and experienced with hazardous raw materials and wastes. One example given was that of degreasing solvents accumulated in closed containers in a machine shop prior to being transferred to a central accumulation point. The satellite area is properly ventilated and equipped with a sprinkler system, mainly because of the risks posed by the raw material solvents and their use. The personnel who work in this area are said to be trained and experienced with the handling of these solvents before and after use. The commenters concluded that the additional training

required under § 262.34(a), which requires compliance with § 265.16, is unnecessary and burdensome.

In addition, by applying the training requirements to personnel who work at satellite areas, some plant officials have to train very large numbers of employees and keep extensive records on each person. One commenter noted that at one manufacturing plant, the personnel training requirements apply to ten times as many employees as they would if the requirements applied only to central accumulation areas. In his opinion, this large difference in cost and paperwork is not justified.

Some commenters claimed that the requirement that the date upon which each period of accumulation begins be marked on each container is too stringent for wastes accumulated at satellite areas. They stated that it is unnecessarily burdensome to mark dates on buckets and other small containers in which these wastes are likely to be collected. Further, since these vessels are emptied frequently, they must be marked repeatedly with new accumulation dates. This aspect of the requirement was also thought to be burdensome.

One commenter wrote that requirements in § 262.34(a) which requires compliance with Part 265 Subpart D (Contingency Plans and Emergency Procedures) are too stringent for satellite areas. In his opinion, it is not necessary to prepare contingency plans and designate emergency coordinators for these small, scattered accumulation areas.

Several commenters remarked that Congress intended that RCRA not interfere in manufacturing processes. They stated that initial accumulation of hazardous waste at or near the points of generation are integral parts of the manufacturing process, and should therefore not be subject to regulation under RCRA. They also noted that most of the accumulation areas are indoor workplaces and are subject to regulation under OSHA. Regulation of satellite areas under RCRA appears to them to be duplicative and unwarranted.

In general, the commenters believed that applying the requirements of § 262.34(a) to activities at satellite accumulation areas add unnecessary paperwork and cost without improving protection of human health or the environment. They advocated an exemption for satellite areas from some or all of the requirements of § 262.34(a).

While the Agency does not agree with all of the arguments raised by the commenters, EPA does agree with the general conclusion that there is little need for extensive regulation of satellite areas under RCRA. The Agency agrees that it should not apply most of the requirements of § 262.34(a), which were intended for more centralized, higher volume accumulation, to the smaller volumes of waste at satellite areas. Specifically, the Agency believes that wastes collected at or near points of generation in small quantities need not be subject to requirements for marking of dates on containers, contingency plans, personnel training, and most standards for the management of containers and tanks required by Part 265 Subparts I and J.

As previously stated, some commenters claimed that OSHA standards protect the safety and health of persons handling hazardous materials in the workplace, and therefore RCRA regulations are redundant. EPA has considered OSHA's standards and has concluded that EPA should retain some regulation for accumulation of hazardous waste in the workplace. First, current OSHA regulations concern the handling of various hazardous materials in the workplace, but OSHA does not specifically regulate hazardous waste as defined under RCRA. Also, OSHA's rules do not deal specifically with aspects of accumulation that affect human health and the environment immediately outside the workplace. For instance, OSHA does not regulate the condition of containers used for accumulation. EPA therefore believes it is within the Agency's purview to continue to regulate the accumulation of hazardous waste within industrial areas insofar as those regulations do not duplicate or interfere with ongoing practices.

In a proposed rule published in the March 19, 1982, **Federal Register** (47 FR 12119), OSHA proposed new safety regulations for manufacturing entities which produce hazardous chemicals. The rule, which would apply to most kinds of hazardous wastes accumulated by generators, would require labeling, material safety data sheets (MSDS) and training for employees of manufacturing industries who work around hazardous chemicals. When and if OSHA's proposal is promulgated in final form, EPA will ensure that any final rulemaking on the subject of hazardous waste accumulation is consistent with and will not duplicate OSHA's requirements.

II. Today's Proposed Rule

For the reasons expressed above, EPA is today proposing to amend § 262.34 by adding a paragraph (c) to provide that small quantity accumulation of hazardous waste at satellite areas be exempt from the requirements of § 262.34(a). Section 262.34(c) would allow for accumulation of as much as 55 gallons of hazardous waste (other than "acutely" hazardous wastes listed in § 262.33(e) of the regulations) at or near any point of generation for any amount of time if the generator complies with §§ 265.171 and 265.172 and marks the containers with the words "Hazardous Waste" or with another description of their contents (e.g., "waste organics" or "waste solvent"). Within 72 hours of accumulating over 55 gallons at any satellite area, the generator would be required to manage that waste in excess of 55 gallons on conformance with all applicable standards under RCRA, including the 90-day time limit and other requirements under § 262.34(a) for further on-site accumulation. During the 72-hour interim period, §§ 265.171 and 265.172 and the container marking requirement would continue to apply.

After considering several alternatives, EPA has selected 55 gallons as a quantity threshold for this provision. The regulated community has indicated that a 55-gallon threshold would accommodate the variety of satellite situations they encounter. At the same time, EPA believes this threshold will provide a reasonable limit to the amount of hazardous waste managed without the benefit of the more environmentally protective measures of § 262.34(a). Fifty-five gallons of waste fills approximately one standard size drum, which, to EPA's knowledge, is the largest commonly used container for such accumulation.

EPA had considered setting a limit of one container at each satellite location instead of setting a waste volume limit. That option was rejected because different industries use different sizes of containers for satellite accumulation, and the Agency believes it would be unreasonable to limit all generators to one contrainer per area, regardless of container size. Further, the Agency believes that protection of health and the environment is more closely associated with the quantity of accumulation at each location than with the number of containers used to accumulate the waste.

EPA had also considered setting a limit at each satellite area of 200 kilograms (kg) or ten days of accumulation, whichever occurs first. Although 200 kg and 55 gallons of waste are approximatly equivalent, the Agency selected the volume limit (gallons) because it believes that a volume limit would provide for greater equity under the regulations for generators with wastes of higher unit weight. With regard to the 10-day threshold, the Agency believes there is little to be

gained by applying a time limit to the accumulation of small quantities of wastes in satellite areas if they are containerized and marked properly. For these reasons, EPA has decided not to propose either a weight limit or a time limit for satellite accumulation. However, the Agency requests comments on this determination and on whether a threshold other than 55 gallons should be used in this provision.

The 55-gallon threshold applies to each satellite area where hazardous wastes are accumulated. One manufacturing plant, therefore, may have several satellite areas on-site where as much as 55 gallons may be accumulated in conformance with § 262.34(c).

When over 55 gallons of hazardous waste has been accumulated at any point of generation, the generator would have 72 hours in which to comply with other hazardous waste management standards, such as § 262.34(a), for that amount of waste in excess of 55 gallons. The 72-hour period is intended to provide generators with adequate lead time to remove the excess wastes from the satellite area and to comply with the appropriate standards for subsequent management of the wastes. However, the same hazardous waste management standards that would apply during 55-gallon accumulation would continue to apply during the 72-hour period.

The proposed rule would require that waste in satellite areas be managed in accordance with §§ 265.171 and 265.172 of the interim status standards for storage. These standards are general, good-housekeeping measures which ensure that containers used for storage of hazardous wastes are in good condition, and are compatible with their contents. EPA believes that these are sensible requirements which should provide protection to human health and the environment.

EPA believes it is appropriate that the contents of containers used for satellite accumulation be identified clearly for safe handling and storage. The standards in § 262.34(a) require the containers used for 90-day accumulation be marked with the words "hazardous waste". EPA believes that the same standard should apply to satellite accumulation, but recognizes that in many satellite areas these containers are already routinely labelled with more explicit information about the materials they contain. Either a marking of "hazardous waste" or another marking identifying the contents of the container would probably serve the purpose of informing persons in the area of the hazardous nature of the material. EPA is therefore proposing to allow either type of marking during the satellite accumulation period.

The proposed rule does not provide for the satellite accumulation of acutely hazardous wastes, (wastes comprised of those commercial chemical products and chemical intermediates listed in § 261.33(e), their off-specification species, containers and inner liners containing these materials, and spill residue and debris created by spills of these materials). The Agency identified those wastes as being particularly hazardous, and believes that all generators should use extra precautions wherever they handle acutely hazardous wastes, including at satellite accumulation areas. For this reason, today's proposal to exempt satellite accumulation of hazardous waste from many regulatory requirements does not include acutely hazardous waste. Acutely hazardous waste would therefore continue to be subject to § 262.34(a) at both central and satellite accumulation areas. The Agency welcomes comments on this determination.

III. Laboratory Wastes

Today's proposed exemption for satellite accumulation of hazardous wastes could be applied to laboratories where waste chemicals are initially generated and collected in small containers. Laboratory chemicals which have served their intended purpose, including discarded samples and spent solvents, are often collected initially in small containers such as 5-gallon cans or jars. When a number of these containers are aggregated, they are commonly placed in "lab packs" (as discussed in the preamble to § 265.316, November 17, 1981) and sent off-site for disposal. Some laboratories cannot qualify for the small quantity generator exemption in 40 CFR § 261.5; therefore, under current regulations, these laboratories must comply with § 262.34(a) from the moment they begin accumulating hazardous waste. If today's proposed rule is promulgated in final form, the initial accumulation of as much as 55 gallons of hazardous waste at or near any point of generation in a laboratory will be governed by § 262.34(c) rather than § 262.34(a).

Some laboratories that handle hazardous waste have indicated to EPA that the RCRA regulations regarding accumulation have been impractical to implement in laboratories. Their main concern has been the problem of accumulating quantities of hazardous waste that can be practically transported off-site. Because laboratories commonly collect waste chemicals at slow rates, if often takes longer than 90 days in which to accumulate enough waste to fill a shipment. EPA believes that today's proposed rule, together with the current provisions for accumulation by small quantity generators (§ 261.5), will alleviate most of the operational problems associated with accumulation of hazardous waste by laboratories. However, the Agency welcomes comments and suggestions on this matter.

IV. Maintenance of Vessels at Manufacturing Areas

Hazardous wastes are sometimes generated when product vessels in manufacturing plants are periodically cleaned out. This maintenance procedure may produce a number of drums of hazardous waste which, according to the current regulations, must be managed in accordance with § 262.34(a) as soon as accumulation begins. Some generators find this requirement unreasonable, explaining that these drums are commonly removed from the clean-out area within two or three days, and therefore the immediate need to comply with the regulatory requirements for 90-day accumulation poses an unreasonable burden. Under the amendment being proposed today, a generator would have 72 hours after the first 55 gallons are accumulated in which to comply with either § 262.34(a) for continued on-site accumulation, or other hazardous waste management standards, as appropriate. EPA believes that today's proposal would alleviate the problems that generators experience with complying with § 262.34(a) during maintenance of product vessels.

V. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. In addition, 5 U.S.C. 553 of the Administrative Procedure Act requires that substantive rules not become effective until at least 30 days after promulgation unless there is good cause for shortening the period. The purpose of these requirements is to allow persons affected by the rulemaking sufficient lead time to prepare to comply with major new regulatory requirements. However, for the amendment proposed today, the Agency believes that delaying the effective date for any period of time after promulgation would cause substantial and unecessary disruption in the implementation of the regulations and would be contrary to the public interest. This amendment, if promulgated in final form, would relieve

hazardous waste generators of having to comply with a number of requirements with respect to the initial, small quantity accumulation of hazardous waste in containers within a generating area. The Agency believes that this is not the type of regulation revision that Congress had in mind when it provided a delay between the promulgation and the effective date of revisions to regulations. Consequently, the Agency plans to make this amendment effecive immediately if an when it is promulgated in final form.

VI. Compliance With Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory Impact Analysis. This proposed regulation is not major because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. There would be no adverse impact on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation, no Regulatory Impact Analysis is being conducted.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

VII. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information collection request contained in a proposed or final rule. This proposed rule, if promulgated, will not impose any new information collection requirements on the regulated community. In fact, this rule would reduce the information collection requirements contained in the cleared OMB request #2000–0062.

VIII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis for all proposed rules to assess their impact on small entities. No regulatory analysis is requred however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The economic impact of this regulation will be to reduce the costs of complying with EPA's hazardous waste management regulations for generators of hazardous waste, including those which are small entities. Accordingly, I hereby certify, pursuant to 5 U.S.C. 601(b), that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 262

Hazardous materials, packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal water supply.

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

It is proposed that Title 40 of the Code of Federal Regulations Part 262 be amended as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

1. The authority citation for Part 262 reads as follows:

Authority: Secs. 1006, 2002, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6905, 6912, 6922, 6923, 6924, 6925.

2. In § 262.34, paragraph (c) is added to read as follows:

§ 262.34 Accumulation time.

* * * * *

(c)(1) Except as provided by paragraph (c)(2) of this section, a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation without a permit or interim status and without complying with paragraph (a) of this section provided he—

(i) Complies with §§ 265.171 and 265.172 of this chapter; and

(ii) Marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

(2) Paragraph (c)(1) of this section does not apply to the accumulation of acute hazardous wastes as identified in § 261.33(e) of this chapter.

(3) A generator who accumulates hazardous waste in accordance with paragraph (c)(1) of this section and exceeds 55 gallons at or near any point of generation must, with respect to that amount of waste in excess of 55 gallons, comply within 72 hours with paragraph (a) of this section or other applicable provisions of this chapter. During the 72-hour period, the generator must continue to comply with paragraphs (c)(1)(i) and (c)(1)(ii) of this section.

[FR Doc. 82–35150 Filed 12–30–82; 8:45 am]

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Part IV

Environmental Protection Agency

Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Amendment To Use Authorization for PCB Railroad Transformers

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS-62020A; TSH-FRL 2205-7]

Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Amendment To Use Authorization for PCB Railroad Transformers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 31, 1979, EPA promulgated a rule under section 6(e) of the Toxic Substances Control Act (TSCA) that authorizes the use of polychlorinated biphenyls (PCBs) in railroad transformers until July 1, 1984. Under this authorization, these transformers may not contain dielectric fluids with a PCB concentration exceeding 60,000 parts per million (ppm) (6 percent) after January 1, 1982, and exceeding 1,000 ppm (0.1 percent) after January 1, 1984. This rule amends the use authorization by: (1) Requiring these railroad organizations to meet the 60,000 ppm concentration level by July 1, 1984; (2) requiring these railroad organizations to meet the 1,000 ppm concentration level by July 1, 1986; and (3) authorizing the use of PCBs for the remaining useful life of these transformers at concentrations below 1,000 ppm. Finally, EPA is also amending the May 1979 rule to permit railroad organizations to service these transformers to reduce PCB concentrations and thereby to reduce the costs of disposal. The two primary reasons for these amendments are: (1) The majority of the affected railroad organizations did not select an adequate non-PCB substitute until October 1981, and (2) for certain organizations, necessary Federal funding for this activity was not received in time to perform the required servicing on PCB railroad transformers.

DATES: These amendments shall be considered promulgated for purposes of judicial review under section 19 of TSCA at 1:00 p.m. Eastern Daylight Time on January 17, 1983. These amendments shall be effective on February 2, 1983.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-509, 401 M St., SW., Washington, D.C. 20460; toll free: (800-424-9065); in Washington, D.C.: (554-1404); outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: EPA regulation at 40 CFR Part 761 have been recodified. Notice of the recodification appeared in the **Federal Register** of May 6, 1982 (47 FR 19527). As a result of this recodification, the revised section numbers will be used in this rule. Refer to the **Federal Register** Notice of May 6, 1982 to determine equivalent provisions under the former codification.

I. Background

On January 1, 1982, there were 756 railroad transformers in service that contained PCB dielectric fluid. Of this equipment, 730 transformers are used in self-propelled railroad cars and 26 transformers are used in locomotives. These PCB railroad transformers are operated in the northeastern United States by the National Railroad Passenger Corporation (Amtrak) and four State and metropolitan transit authorities.

Section 6 (e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.*, prohibit the manufacture, processing, distribution in commerce, and use of polychlorinated biphenyls (PCBs). In section 6(e) (2), there are two exceptions under which EPA may, by rule, allow a particular use of PCBs to continue. First, EPA may find that the use is in a "totally enclosed" manner. A "totally enclosed" manner is defined in section 6 (e) (2) (C) to be "any manner which will ensure that any exposure of human beings or the environment to a polychlorinated biphenyl will be insignificant as determined by the Administrator by rule." Second, EPA may authorize PCBs to be used in a manner other than in a "totally enclosed manner" if the Agency finds that the use "will not present an unreasonable risk of injury to health or the environment."

A. Other PCB Regulations

EPA issued in the **Federal Register** of May 31, 1979 (44 FR 31514) final rules to modify the general ban on the manufacture, processing, distribution in commerce, and use of PCBs. The May 1979 rule, *inter alia:* (1) Excluded from regulation PCBs in concentrations less than 50 ppm: (2) defined all electrical capacitors, electromagnets, and non-railroad transformers as "totally enclosed," thus automatically exempting them from regulation under the Act; and (3) authorized 11 non-totally enclosed uses based on consideration of the health and environmental effects of PCBs, the exposure to PCBs resulting from these activities, the availability of substitutes for the PCBs, and the economic impact of restricting those uses. Included in the non-totally enclosed uses was an authorization to use PCBs in railroad transformers until July 1, 1984, with certain use and servicing restrictions. This authorization provided that railroad transformers in active service may not contain dielectric fluid with a PCB concentration exceeding 60,000 ppm (6.0 percent on a dry weight basis) after January 1, 1982, may not contain greater than 1,000 ppm (0.1 percent on a dry weight basis) after January 1, 1984, and may not contain PCBs after July 1, 1984.

The Environmental Defense Fund (EDF) obtained judical review of the provisions described above in the U.S. Court of Appeals for the District of Columbia Circuit. *Environment Defense Fund* v. *Environmental Protection Agency*, 636 F.2d 1267. As a result of the lawsuit, the court invalidated the 50 ppm regulatory exclusion and the EPA determination that the use of PCBs in electrical equipment was "totally enclosed" and remanded these issues to EPA for further action consistent with its opinion. The court upheld all PCB use authorizations including the use authorization for railroad transformers. Accordingly, this rulemaking is not affected by the PCB litigation.

Invalidation of the 50 ppm regulatory cutoff and the "totally enclosed" use finding would have made effective the general statutory ban on PCBs. This would have caused significant disruption in the electrical industry, which heavily depends on PCB equipment in current use, and in the chemical industry, which uses a large number of processes that inadvertently generate PCBs in very low concentrations. To avoid this disruption, parties to the lawsuit sought a stay of the court's mandate pending further rulemaking. As a result, the court entered orders for futher actions by EPA and industry groups leading toward future rulemakings on PCBs. These court-ordered activities do not affect this final rule on the use of PCBs in railroad transformers. In response to the court order, EPA issued a proposed rule on the use of PCBs in electrical equipment which was published in the **Federal Register** of April 22, 1982 (47 FR 17426). The final rule for this use of PCBs was published in the **Federal Register** of August 25, 1982 (47 FR 37342). In addition, EPA issued a proposed rule excluding from regulation certain PCBs manufactured under conditions of very low risk, which was published in the **Federal Register** of June 8, 1982 (47 FR 24976). The final rule for this regulatory exclusion was published in the **Federal Register** of October 21, 1982 (47 FR 46980).

B. EPA Rulemaking Activities on the Use of PCBs in Railroad Transformers

Several railroad organizations had indicated to EPA that they could not comply with the deadlines affecting railroad transformers in the May 1979 rule. As a result, EPA proposed to extend the deadlines as published in the **Federal Register** of November 18, 1981 (46 FR 56626). The proposed deadline extension for the 60,000 parts per million (ppm) concentration level was based on a schedule submitted by the Southeastern Pennsylvania Transportation Authority (SEPTA) on February 5, 1981. Under that schedule, SEPTA estimated that the earliest that it could complete its servicing ("retrofill") program to meet the 6 percent PCB concentration level was October 1, 1983. (The term "retrofill" is used to denote the entire process of draining, flushing, and refilling a transformer with a non-PCB fluid.) This date was based on SEPTA's assumption that Federal funding for this retrofill activity would be received by October 1, 1981. SEPTA later requested an extension of the first two performance deadlines to July 1, 1984 and July 1, 1986, respectively. In addition, it requested an amendment of the second performance deadline to require a 20,000 ppm (2 percent) PCB concentration level. The November 1981 proposed amendment to the May 1979 rule also requested comment on the compliance deadline for achieving a 1,000 ppm concentration level.

Following a comment period for these proposed amendments, an informal hearing was held on January 5, 1982. Participants included SEPTA, other affected railroad organizations, representatives from transformer servicing firms, and manufacturers of substitute dielectric fluids. Reply comments were received through January 19, 1982. Many of the participants in the January 5, 1982 hearing contributed reply comments.

II. Specific Amendments to the Railroad Transformer Use Authorization

EPA considered three options in this rulemaking: (1) To maintain the deadlines in the May 1979 rule and thereby prohibit the use of PCBs in railroad transformers in violation of the January 1, 1982 deadline; (2) to rescind the deadlines in the May 1979 rule and to allow the use of PCBs in railroad transformers at their present concentration level; and (3) to extend the deadlines in the May 1979 rule. With respect to the third option, there were three additional considerations: (1) whether to change the PCB concentration levels mandated for the respective deadlines; (2) whether to require a phased schedule for the lowering of the PCB concentration levels in railroad transformers and thereby to require six performance deadlines rather than two deadlines; and (3) whether to delete the expiration deadline of July 1, 1984 and thereby allow the use of PCBs for the remaining useful life of these transformers at a concentration level at or below 1,000 ppm. In this rule, EPA has chosen: (1) To extend the deadlines in the May 1979 rule; (2) to require a six-stage schedule of deadlines for lowering the PCB concentration levels in railroad transformers; and (3) to allow the use of PCBs at a concentration level at or below 1,000 ppm for the remaining useful lives of the railroad transformers. In addition, EPA is adding a provision to the servicing conditions of this use rule to allow for the reclassification of railroad transformers using PCBs.

A. Deadlines for Attaining PCB Concentration Levels

In this amendment to the May 1979 rule, two sets of three performance deadlines are established to meet the 60,000 ppm and 1,000 ppm PCB concentration levels, respectively. The three performance deadlines that these railroad organizations must achieve to meet the 60,000 ppm level are: (1) After July 1, 1983, the number of railroad transformers containing a PCB concentration greater than 60,000 ppm in use by any railroad oganization may not exceed two-thirds of the total railroad transformers containing PCBs in use by that organization on January 1, 1982; (2) after January 1, 1984, the number of railroad transformers containing a PCB concentration greater than 60,000 ppm in use by any railroad organization may not exceed one-third of the total railroad transformers containing PCBs in use by that organization on January 1, 1982; and (3) after July 1, 1984, the use of railroad transformers that contain dielectric fluids with a PCB concentration level of greater than 60,000 ppm is prohibited. The environmental risks and economic impacts involved in these three performance deadlines for the 60,000 ppm concentration level are discussed in Unit IV.D.3. of this preamble.

The three performance deadlines for the 1,000 ppm concentration level follow a schedule that parallels that set for the 60,000 ppm level: (1) After July 1, 1985, the number of railroad transformers containing a PCB concentration greater than 1,000 ppm in use by any affected railroad organization may not exceed two-thirds of the total railroad transformers containing PCBs in use by that organization on July 1, 1984; (2) after January 1, 1986, the number of railroad transformers containing a PCB concentration greater than 1,000 ppm in use by any affected railroad organization may not exceed one-third of the total railroad transformers containing PCBs in use by that organization on July 1, 1984; and (3) after July 1, 1986, use of railroad transformers that contain dielectric fluids with a PCB concentration greater than 1,000 ppm is prohibited. The environmental risks and economic impacts involved in these three performance deadlines for the 1,000 ppm concentration level are discussed in Unit IV.D.3. of this preamble.

As required by section 6(e)(2)(B) of TSCA, the Agency has balanced the public health and environmental risks of this use of PCBs with the benefits and economic impacts of this use. In addition, EPA has compared the risks and benefits involved in the proposed amendment with the comparable risks and benefits of the alternative regulatory options. This analysis is discussed, together with the Agency's unreasonable risk determination and findings in Unit IV of this preamble.

B. Provision for the Reclassification of Railroad Transformers Subject to This Use Rule

EPA has added a provision to the PCB rules to permit these railroad organizations to service PCB railroad transformers in order to change their classification and thereby reduce burdens associated with disposal. Thus, railroad transformers will be serviced in a manner consistent with other transformers under 40 CFR 761.30(a)(5). Section 761.30(a)(5) allows the conversion of a PCB Transformer to a PCB-Contaminated Transformer or a non-PCB Transformer by draining, refilling, and otherwise servicing the non-railroad transformer. In order to reclassify, the non-railroad transformer's dielectric fluid must contain less than 500 ppm PCB (for conversion to a PCB-Contaminated Transformer) or less than 50 ppm (for conversion to a non-PCB Transformer) after a minimum of three months of in-service use subsequent to the last servicing conducted for the purpose of reducing the PCB concentration in the transformer. Therefore, paragraph (b)(2)(vii) of § 761.30 has been added to this use rule to provide similar reclassification procedures for both railroad and non-railroad transformers. This amendment is intended to provide an additional incentive for railroad organizations to conduct the necessary retrofill operations to lower the PCB concentration levels in their railroad

transformers below 1,000 ppm. These organizations can realize cost savings through lower disposal costs for PCB-Contaminated and non-PCB Transformers under EPA regulations at 40 CFR 761.60. By providing further incentive for railroad organizations to lower PCB concentrations in these transformers below 1,000 ppm, this provision will also aid in ensuring that unreasonable risks are not presented by the promulgation of this rule.

C. Date of Promulgation for This Rule

In order to avoid a "race to the courthouse" by persons seeking judicial review of this rule, EPA has decided to designate the time and date of promulgation of this rule as 1:00 p.m. Eastern Daylight Time on January 17, 1983. The Agency has previously taken this approach for rules promulgated under the Clean Water Act (see 40 CFR 100.01, 45 FR 26048). The Agency will be considering a general rule for TSCA similar to 40 CFR 100.01.

The remainder of this preamble includes three primary units. Unit III of the preamble presents a review of significant information submitted by the railroad organizations during this rulemaking activity. Unit IV includes a discussion of the specific factors considered in the unreasonable risk determination with respect to these changes in the use rule. Finally, in Unit V, the Agency will respond to other proposed amendments presented by railroad organizations in this rulemaking.

III. Information Submitted by the Railroad Organizations on Technical Problems of Retrofilling PCB Railroad Transformers

During this rulemaking activity, the affected railroad organizations contributed information directly related to EPA concerns in promulgating the May 1979 rule. The following categories of information have been relied on by the Agency in the development of this rule.

A. Compliance Problems With the May 1979 Rule

The affected railroad organizations contributed significant information with respect to specific performance deadline requirements. These organizations provided two primary reasons for their failure to comply with the performance deadlines in the May 1979 rule: (1) The majority of these railroad organizations did not select an adequate non-PCB substitute until October 15, 1981, and (2) for certain organizations, necessary Federal funding for this activity was not received in time to perform the required retrofills on transformers. The factors in the respective choices of substitute dielectric fluids are discussed in Unit IV.C. of this preamble. The issue of Federal funding for this activity is of particular importance for one of these organizations, the Southeastern Pennsylvania Transportation Authority (SEPTA). Of these organizations, SEPTA owns the largest number of PCB railroad transformers. As a result of the limited amount of non-Federal funds for its maintenance projects, SEPTA depends significantly on funding from the Urban Mass Transit Administration (UMTA) of the U.S. Department of Transportation. SEPTA's delay in receiving necessary UMTA funds was due to several factors: (1) Its failure to receive the necessary matching funds from the Commonwealth of Pennsylvania and its constituent localities; (2) alterations in the UMTA procedure for funding applications for capital modification projects; and (3) the delay in the submission of the SEPTA application for the first phase of retrofilling which was not formally received by UMTA until April 8, 1982.

B. Restrictions in Conducting the Necessary Retrofills

In its consideration of specific compliance dates for the 60,000 ppm and 1,000 ppm concentration levels, EPA has relied on information from the railroad organizations with respect to the maximum amount of railroad transformers that can be serviced each week. SEPTA has stated that only four of its cars per week can be properly retrofilled by its servicing contractor. In addition, SEPTA commented that, if the New York Metropolitan Transportation Authority (New York MTA) and the New Jersey Transit Corporation (New Jersey Transit) are each planning to retrofill one transformer per week, in addition to SEPTA's four transformers per week, the General Electric service shop in Philadelphia, Pennsylvania would probably be at its limit of capacity. Hence, the most rapid retrofill schedule that can be conducted for the transformers in violation of the January 1, 1982 deadline of the May 1979 rule is 6 transformers per week. (This calculation disregards Amtrak which performs its own retrofilling operations.)

SEPTA and other railroad organizations have commented that certain factors limit their capacity to retrofill their railroad transformers. First, they believe that only "quality" retrofills will result in meeting the compliance deadlines. This process requires removal of the transformer, application of a proper retrofill process, and the subsequent reattachment of the transformer to the respective vehicles. SEPTA has stated that if retrofilling is performed on a transformer attached to a self-propelled car, approximately 15 percent of the total dielectric fluid would still remain. As a result, any non-PCB substitute used to retrofill a transformer would become contaminated with the remaining PCB fluid. Hence, SEPTA has concluded that removal of the transformer from the car can decrease the amount of PCB fluid remaining in the transformer after draining. Second, with the exception of Amtrak, these railroad organizations rely on the General Electric service shop in Philadelphia, Pennsylvania as their sole contractor for these retrofilling operations. In particular, SEPTA believes that the General Electric shop is the only service facility that is capable of providing the required retrofill services with the removal of the transformers from the respective cars. Third, the "drop tables" at each of the railroad organization's facilities used to remove the transformers from the cars cannot be used exclusively for retrofilling, because these facilities are also required for routine maintenance and repairs resulting from collisions or other non-routine maintenance damage. At least 10 percent of each of these railroad organization's cars are out of service for routine inspection and maintenance.

The maximum retrofill schedule might be accelerated by the entry of additional service contractors with the capacity to perform retrofills with the removal of the transformer from the car. Comments from Westinghouse Electric Corporation and Energy Optimization Incorporated (EOI) indicated that other retrofill servicing firms might be able to provide the required retrofill services in the near future. Amtrak has also provided information that it could perform these retrofill services for other railroad organizations. Despite the possible entry of these firms to provide retrofilling services for these railroad organizations, a large number of railroad cars or locomotives to be retrofilled cannot be removed from service within any single period.

According to SEPTA and the other railroad organizations, the aforementioned constraints on their compliance with the respective PCB concentration levels require that they proceed on a phased, uniform retrofilling schedule. Any clustering of retrofilling operations resulting in the removal of a

large number of self-propelled cars from commuter service is not possible.

C. Necessary Retrofill Operations To Achieve Compliance With the 1,000 PPM PCB Concentration Level

In their comments, all of the railroad organizations agreed that the 60,000 ppm PCB concentration level could be achieved in one retrofill. Prior to recent results from a SEPTA demonstration project, however, there was concern whether the 1,000 ppm concentration level could be met in two retrofills. A demonstration project by SEPTA on a PCB railroad transformer in operation since June 1979 has contributed important information following the first and second retrofills of this transformer with a non-PCB dielectric fluid (IRA-LEC T1). After one retrofill, in February 1980, the PCB concentration level was measured at 15,600 ppm (1.56 percent PCB concentration level). Following a second retrofill, the transformer was measured in August 1981 as containing a PCB concentration level of 137 ppm. Later measurements in November 1981 and February 1982 showed levels of approximately 480 ppm and 489 ppm, respectively.

Comments have also been received that in addition to traditional technologies that use liquid solvents as a flushing medium, there exists an alternative method for the railroad organizations to meet the 1,000 ppm concentration level requirement. This alternative retrofill method uses an electrical grade non-PCB flushing fluid which is chemically equivalent to standard freon refrigerants. This method transforms the fluid into a gas for penetration of the transformer interior. (The freon product used in this method is commercially known as "freon 113.") According to the developer of this method, the process depends on a combination of liquid sprays, rinses, and soaks, interspersed with freon gas bombardment of the transformer interiors. The process will require approximately five days per railroad transformer. This method can be applied with the transformer in place under the railroad car.

The developer of this system conducted a demonstration on a 750 KVA network transformer containing 270 gallons of PCB dielectric fluid. The trend in the leaching rate for PCBs into ansformer fluid used in this demonstration indicates that after 53 days of operation, the PCB concentration has leveled off and remained under 500 ppm.

IV. Specific Factors Considered in This Unreasonable Risk Determination Concerning PCB Railroad Transformers

To authorize any use of PCBs under section 6(e)(2)(B) of TSCA, EPA must find that the activity will not present an unreasonable risk of injury to human health or the environment. This determination involves balancing the probability that harm will occur from the use of PCBs and the magnitude and severity of that harm against the benefits to society that would result from the proposed regulatory action. In determining whether an unreasonable risk is present, EPA has considered the following factors:

1. The effects of PCBs on human health and the environment, including the magnitude of PCB exposure.
2. The benefits of PCBs in railroad transformers.
3. The adequacy of the available substitute dielectric fluids.
4. The reasonably ascertainable economic impact of the rule after the consideration of impacts on the national economy, small business, technological innovation, the environment, and public health.

These factors are listed in section 6(c) of TSCA and are applicable to determinations concerning whether a chemical presents an unreasonable risk under section 6(a) and 6(e) of TSCA.

This unit will discuss these key factors in the unreasonable risk determination for this use rule. Finally, it will present specific findings for the determination that this use of PCBs does not present an unreasonable risk.

A. Human Health and Environmental Risks

In determining whether this amendment to the May 1979 rule is warranted, EPA considered information concerning the effects of PCBs on human health and the environment. The effects of PCBs were described in various documents which were part of the rulemaking record for the May 1979 rule. EPA evaluated this information, new information submitted to the Agency, as well as other recent literature on the effects of PCBs. The results are presented in the document "Response to Comments on Health Effects of PCBs." This document is included in the rulemaking record. Copies of this document are available through the Industry Assistance Office (see the "FOR FURTHER INFORMATION CONTACT" paragraph).

1. *Health effects.* In sum, EPA has determined that while PCBs have not been found to be uniquely toxic, they are toxic and persistent.

Chloracne occurs in humans exposed to PCBs. Although the effects of chloracne are reversible, EPA does not consider it insignificant. Chloracne is painful, disfiguring, and may require a long period of time before symptomatology disappears. Other areas of major concern have been identified by EPA. EPA finds that reproductive effects, developmental toxicity, and oncogenicity are areas of concern and may produce effects in humans exposed to PCBs.

Available data show that some PCBs have the ability to alter reproductive processes in mammalian species, sometimes even at doses that do not cause other signs of toxicity. Animal data and limited available human data indicate that prenatal exposure to PCBs can result in various degrees of developmentally toxic effects. Postnatal effects have also been demonstrated on immature animals following exposure prenatally and via breast milk.

Available animal studies indicate an oncogenic potential (the degree of which would be dependent on exposure). Available epidemiological data are not adequate to confirm or negate oncogenic potential in humans at this time. Further epidemiological research is needed in order to correlate human and animal data, but EPA does not find any evidence to suggest that the animal data would not be predictive of human potential.

EPA agrees that little or no mutagenic activity from PCBs is indicated from available data. It is EPA's opinion that more information is needed to draw a final conclusion on the possibility of mutagenic effects from PCBs.

EPA does not attribute all the effects observed with PCBs to be due to toxic impurities. Relatively pure PCB congeners have been shown to produce toxicity equivalent to that found when testing commercial PCB mixtures containing higher levels of impurities.

EPA also does not assume that all PCBs are equivalent toxicologically. It cannot be assumed that if one PCB congener is positive or negative for a specific health effect, then all PCB congeners are also positive or negative for that specific health effect. Research is just beginning in this area; many more studies need to be conducted on specific congeners before conclusions can be reached on an isomer or cogener specific basis. Until such time, however, based on long-standing EPA policy, the Agency has determined that under section 6(e) all PCB congeners will be regulated uniformly.

2. *Environmental effects.* PCBs have been shown to affect the productivity of

phytoplankton and the composition of phytoplankton communities. Deleterious effects on environmentally important freshwater invertebrates from PCBs have been demonstrated. PCBs have also been shown to impair reproductive success in birds and mammals.

It has been demonstrated that PCBs are toxic to fish at very low exposure levels. The survival rate and the reproductive success of fish can be adversely affected in the presence of PCBs. Various sublethal physiological effects attributed to PCBs have been recorded in the literature. Abnormalities in bone development and reproductive organs have also been demonstrated.

EPA concludes that PCBs can be concentrated and transferred in freshwater and marine organisms. Transfer up the food chain from phytoplankton to invertebrates, fish, and mammals can result ultimately in human exposure through consumption of PCB-containing food sources.

3. *Risks.* Toxicity and exposure are the two basic components of risk. As indicated above, EPA concludes that in addition to chloracne, there is the potential for reproductive effects and developmental toxicity as well as oncogenic effects in humans based on animal data. EPA also concludes that PCBs do present a hazard to the environment.

Minimizing exposure to PCBs should minimize any potential risk. The requirements in this amendment to the May 1979 rule will result in the reduction of exposure relative to present exposure levels from railroad transformer use. EPA's analysis of regulatory options in section D. of this unit includes examining the effectiveness of each option in reducing exposure, thereby reducing the associated risk.

Human health and environmental risks involved in this use authorization relate to several categories of activity. Through normal operation of railroad cars, certain concentrations of PCBs in dielectric fluid are frequently spilled onto railroad beds. These spills can occur as a result of overheating or electrical failure in the transformers and of damage to these transformers from rocks and debris on the railroad bed. The transformers on self-propelled railroad cars are hung beneath their mainframes, and they are consequently vulnerable to puncture and other damage when the trains strike debris on the tracks. These activities result in risks to human health and the environment. As noted in the preamble to the proposed PCB ban rule published in the **Federal Register** of June 7, 1978 (43 FR 24808), PCBs in railroad transformers are released during servicing and volatilized during overheating in operation. The design of these transformers, to fit within confined spaces on locomotives and self-propelled cars, has compounded the overheating problem.

There are two categories of persons that could be exposed to PCBs by the continuation of this use authorization: (1) Workers in service shops and railroad lines, and (2) persons exposed to PCBs leaked or spilled on railroad lines. PCB exposure from servicing operations is largely confined to workers in service shops. EPA believes that current service practices will result in minimal human exposure to PCBs. According to comments submitted in this rulemaking proceeding by various railroad organizations, adequate workplace controls to reduce risks from exposure to PCBs are provided by the marking and disposal requirements in 40 CFR Part 761, together with procedures for the handling and disposal of PCBs used by the Consolidated Rail Corporation (Conrail). Conrail is a railroad organization created by Congress in the Regional Rail Reorganization Act of 1973, 45 U.S.C. 741, which provides maintenance and other operational services to the railroad organizations subject to this rule except for Amtrak. Amtrak has developed its own procedures for the handling and disposal of PCBs. The railroad organizations have stated that when Conrail ceases to provide operational service after January 1, 1983, Conrail's servicing procedures will be continued by servicing contractor(s). It is also anticipated that at least a portion of the present servicing obligations of Conrail will be replaced by the recently incorporated Commuter Services Corporation which was created by Congress in 1981 to replace Conrail's maintenance and other operational services. Included in these procedures are guidelines concerning: (1) Protective clothing to minimize exposure during retrofills and normal shop maintenance functions; (2) workplace procedures for conducting retrofills; (3) precautionary measures, including cleanup procedures, to prevent skin contact with or ingestion of PCBs; (4) floor and curbing specifications; (5) inspection of storage areas for leaks; and (6) handling and storage of PCBs in yard and shop areas. In addition to these general guidelines, there exist more detailed procedures that have been designed by railroad organizations for certain railroad work sites and retrofill/repair shops. These general and particular servicing practices, and strict compliance with EPA marking and disposal requirements in 40 CFR Part 761 will significantly reduce any potential exposure to PCBs suffered by workers who service transformers.

Because leaks and moderate spills do not cause the immediate failure of railroad transformers, railroad transformer leaks and spills can spread PCBs over extensive distances along the railroad beds. Hence, persons can be exposed to PCBs leaked or spilled on these railroad lines. Westinghouse Electric Corporation has indicated that as much as 30 percent of the dielectric fluid of a railroad transformer can leak before the unit fails. SEPTA has commented that its self-propelled cars operate from one to twenty miles between stops. There are some express commuter cars in SEPTA's system that could run twenty miles without stopping. In Amtrak's experience, punctures frequently result in leaks of dielectric fluid along the right of way.

The magnitude of exposure to PCBs from railroad transformers relates to the amount and concentration of PCBs in dielectric fluid that are released from these transformers. The capacity of self-propelled cars and locomotives varies in the ranges of 130–220 gallons and 420–750 gallons of dielectric fluid, respectively. The magnitude of exposure to PCBs in these transformers resulting from leaks and spill events will vary by the concentration levels of PCBs in the dielectric fluid of these transformers and by the amounts of PCBs which are leaked or spilled. For example, at a 550,000 ppm PCB concentration level (a typical PCB concentration in a railroad transformer in violation of the May 1979 rule), the maximum leakage of PCBs and exposure to PCBs from a single spill event would be approximately 268 pounds. In contrast, at a concentration of 60,000 ppm, the maximum leakage of PCBs from a transformer would be lowered to 29 pounds. Further, at a concentration of 1,000 ppm, the maximum leakage of PCBs from a transformer would be lowered to about 0.5 pounds. (Under 40 CFR 761.3(m), "leaks" refer to instances in which any electrical equipment, including PCB railroad transformers, have any PCBs on any portion of their external surface(s). Hence, the Agency views "leaks" as any release of PCBs on any portion of the railroad transformer. "Spill events" refer to significant leaks of dielectric fluid that can be identified by the railroad organizations in their normal operational practices.)

EPA has extrapolated to determine the maximum PCB leakage from the operation of railroad transformers. Given the information received during

this rulemaking activity, EPA has determined that if no restrictions were required for railroad transformers, a maximum of approximately 231,000 pounds would be released over the remaining useful lives of the PCB railroad transformers in active service on January 1, 1982. This determination is based on the following assumptions: (1) 773,000 pounds of PCBs are present in railroad transformers in active service on January 1, 1982, and (2) a maximum of 30 percent of the total dielectric fluid in a railroad transformer can be released as leaks or spills before the transformers fail. This amount of PCBs potentially released in railroad beds or workplaces could cause a significant risk of injury to human health or the environment.

Data concerning recorded spill events experienced by certain railroad organizations support the finding that this use of PCBs presents a risk of injury to human health or the environment. The New York Metropolitan Transportation Authority (New York MTA) has submitted information that in 1980 and 1981, there were 11 recorded spills in the New York MTA/Connecticut Department of Transportation (ConnDOT) systems. SEPTA has submitted data that in 1981, there were 15 recorded spill events in its system, with 168 gallons of dielectric fluid (approximately 1,155 pounds of PCBs) discharged into the environment as a result of these events.

B. Benefits of PCB Use in Railroad Transformers

The benefits of PCB use in railroad transformers include: (1) The unique properties of PCBs as a dielectric fluid, and (2) the benefits derived from allowing their continued use in railroad transformers, i.e., avoidance of further retrofilling or replacement costs and of service interruptions.

Perhaps the most important attribute of PCBs as a dielectric fluid for railroad transformers is their nonflammability. Prior to the enactment of section 6(e) of TSCA in 1976, these railroad organizations had relied on PCBs as a liquid coolant and as an insulating medium in railroad transformers. PCBs have good heat transfer and dielectric properties.

At present, these railroad organizations do not have a sufficient number of locomotives and self-propelled cars equipped with non-PCB railroad transformers to enable them to retire those equipped with PCB transformers. Transformers in 756 electric railroad self-propelled cars and locomotives operated in the northeastern United States by Amtrak and four State/metropolitan commuter transit authorities contain PCBs. The respective railroad organizations' reliance on PCB railroad transformers varies among the organizations. The respective levels of reliance on PCB railroad transformers include: (1) 53 percent for Amtrak's commuter service in the Northeast Corridor; (2) 86 percent for SEPTA's metropolitan Philadelphia commuter service; and (3) 100 percent for the New Haven, Connecticut to New York City line of New York MTA and ConnDOT. New Jersey Transit relies on its self-propelled cars and locomotives with PCB transformers for its South Amboy, New Jersey to New York City line. Removal of these transformers without adequate replacements would seriously disrupt necessary commuter rail service areas. In addition, these organizations do not have adequate funding to replace these transformers. Moreover, the accquisition of new transformers or entire new self-propelled cars by these organizations cannot be accomplished within the time frame of the 1979 use authorization.

The aforementioned problems of these railroad organizations are particularly significant as related to the number of PCB railroad transformers operating in these specific service areas. According to information submitted during this rulemaking, SEPTA owns 319 transformers in self-propelled cars. New York MTA and ConnDOT own 244 PCB transformers in self-propelled cars. New Jersey Transit owns 106 PCB transformers used in self-propelled cars and 11 PCB transformers in its locomotives. Amtrak owns 87 PCB transformers, with 61 transformers in self-propelled cars and 26 transformers in locomotives. The 61 transformers in self-propelled cars were in compliance with the January 1, 1982 deadline. The 26 transformers in locomotives are not in compliance with that deadline. In addition, Conrail and the Maryland Department of Transportation own PCB railroad transformers in inactive service.

Because of the reliance of these organizations on PCB railroad transformers to maintain commuter service, it is important that EPA provide performance deadlines that allow for the continuation of this use of PCBs with consideration for the minimization of risks to public health or the environment.

C. Adequacy of the Available Substitute Dielectric Fluids

At the time of promulgation of the May 31, 1979 rule, railroad organizations had been testing for potential substitute dielectric fluids. By that date, no PCB substitutes had performed satisfactorily in tests in railroad transformers. When the performance deadlines in the May 1979 rule were promulgated, EPA had expected timely testing and selection of an adequate PCB substitute from these continuing tests. In this testing, several non-PCB dielectric fluids successfully used for retrofilling non-railroad transformers overheated or created pumping problems in railroad applications. The failure of these common PCB substitutes considerably delayed the process of selecting a suitable non-PCB dielectric fluid for PCB railroad transformers. In the preamble to the proposed amendment to this use rule, EPA stated that certain dielectric fluids appeared to be feasible PCB substitutes: IRA–LEC, FR–15, Midel 7131, and RTEmp Blend (Rail Temp). Subsequent to the publication of the proposed amendment on November 18, 1981, Rail Temp (a trichlorobenzene product) has been canceled by its distributor. In its comments concerning this decision, the distributor of Rail Temp cited a 1979 report concerning certain public health and environmental risks that might result from the incineration of chlorobenzenes at high temperatures. Following a review of this report, the distributor chose to concentrate its marketing efforts on a synthetic ester substitute, Envirotemp 100. During this period, EPA has been informed of other substitute fluids that have been introduced to the market.

1. *Information Concerning Non-PCB Dielectric Fluids.* a. *IRA–LEC/FR–15.* IRA–LEC and FR–15 have been tested by SEPTA and other railroad organizations and have been found to be suitable dielectric fluids for PCB railroad transformers. Unlike substitute dielectric fluids with synthetic esters, IRA–LEC and FR–15 are non-flammable. According to SEPTA and other railroad organizations, these fluids possess good dielectric properties and thermal characteristics. IRA–LEC and FR–15 are mixtures of 1,2,3-trichlorobenzene; 1,2,4-trichlorobenzene; 1,2,3,4-tetrachlorobenzene; and other hydrocarbons.

Certain railroad organizations have expressed concern that the toxicity and persistence of the chlorinated benzenes contained in FR–15 and IRA–LEC may make them subject to future regulatory action. One of the trichlorobenzenes contained in these fluids, 1,2,4-trichlorobenzene, is listed as a "hazardous constituent" for EPA regulations, 40 CFR Part 261, under the Resource Conservation and Recovery Act, 42 U.S.C. 6902. Therefore, given this possibility of future Federal regulation, certain railroad organizations have been

reluctant to use these fluids for retrofilling. At this point, however, these fluids are suitable for meeting the performance deadlines in this use rule. EPA is in the process of negotiating an agreement with producers of certain isomers of chlorinated benzenes to conduct specific health effects tests of these isomers, including 1,2,4-trichlorobenzene contained in FR–15 and IRA–LEC. A notice describing the terms of this agreement will be published for public comment in the Federal Register prior to the commencement of these health effects tests. An evaluation of the results of these tests will determine whether any regulatory action is necessary under section 6 of TSCA to protect public health and the environment from exposure to trichlorobenzene.

b. *Midel 7131.* Midel 7131 is composed of pentaerythritol esters and is manufactured in the United Kingdom and the United States. According to SEPTA and other railroad organizations, Midel provides good dielectric strength and is non-toxic and biodegradable. However, certain railroad organizations have expressed concern about Midel's fire point of 310° C. which is close to the minimum standard of section 450–23 of the National Electrical Code of the National Fire Protection Association, i.e., 300° C. This standard has been accepted by these railroad organizations as their minimum standard for dielectric fluids in passenger applications.

According to Amtrak, Midel's fire point is sufficiently higher than the minimum standard of the National Electrical Code. In addition, Amtrak has cited the successful use of Midel as a substitute for PCB fluids in enclosed switches in the Dartford Tunnel, London. According to Amtrak's comment, this application of Midel demonstrates its high resistance to repeated arcing in the fluid as compared with the arcing which would be experienced, mainly under fault conditions, in a PCB railroad transformer.

Based on a review of tests of the flammability of Midel in railroad transformers as conducted by Factory Mutual Research Corporation, the Federal Railroad Administration has concluded that Midel is satisfactory as a non-PCB dielectric fluid for railroad transformer use.

c. *Other non-PCB dielectric fluids.* Envirotemp 100 is composed of pentaerythritol esters, and its dielectric properties and chemical composition are similar to Midel 7131. Like Midel, Envirotemp is biodegradable, non-bioaccumulating, and non-toxic.

Given comments received from a major supplier of synthetic-based lubricants for jet engines, another transformer fluid with a chemical composition and dielectric properties similar to Midel could be introduced in the near future.

2. *Technological feasibility of achieving the 1,000 ppm PCB concentration level.* As described in Unit III.C. of this preamble, the Agency has received information that confirms that these PCB railroad transformers can achieve the 1,000 ppm PCB concentration level in two retrofills. As a result of a demonstration project conducted by SEPTA on a PCB railroad transformer in operation since June 1979, there is substantial evidence that the PCB concentration level has been lowered to below 1,000 ppm after two retrofills using FR–15 or IRA–LEC. The last recorded reading of this demonstration, conducted eight months after the second retrofill, has shown that the leaching of PCBs from the transformer has not resulted in a PCB concentration level exceeding the 1,000 ppm level. As described in Unit III.C. of this preamble, the results of the SEPTA demonstration project indicate that the PCB concentration level in the transformer has leveled off and remained under 500 ppm. Although EPA believes that this demonstration confirms that the 1,000 ppm level is feasible as a mandated concentration level for the second set of performance deadlines, the results from this demonstration have not yet provided sufficient data to confirm the feasibility of a 500 ppm mandated concentration level.

D. Economic and Environmental Impacts of Regulatory Options

EPA considered three primary regulatory options in amending this use rule. These options were: (1) To maintain the deadlines in the May 1979 rule, (2) to rescind the performance deadlines of the May 1979 rule, and (3) to extend the deadlines in the May 1979 rule. This unit will consider the economic and environmental impacts of these regulatory options.

1. *Maintenance of the performance deadlines in the May 1979 use rule.* Without this amendment to the current performance deadlines, approximately 669 transformers would be in violation of the January 1, 1982 performance deadline. These transformers provide most of the daily commuter service to the metropolitan areas of the northeastern United States. If transformers were removed from service, there would be severe interruptions in daily commuter service which could affect both users of the railroads and railroad workers, and would have secondary effects on related businesses. For example, small businesses serving metropolitan areas of the northeastern United States could suffer significant commercial losses resulting from a temporary cessation of public transit. This effect on small businesses would result from the dependency of businesses in these commercial areas on public transit operations conducted by these railroad organizations. These public transit operations provide necessary access for residents of the affected metropolitan areas to shop in commercial areas served by public rail transit.

Without an extension of the performance deadlines in the May 1979 rule, there would be increased vehicular traffic in the affected metropolitan areas resulting from reduced railroad commuter traffic. Congestion would be increased in these metropolitan areas, with increased air pollution and a higher risk of automobile accidents. If the current performance deadlines are not extended and these railroad organizations ceased commuter service, SEPTA has estimated that the following impacts would result in its service area: (1) Approximately 73,000 increased auto trips per day; (2) approximately 32,500,000 aggregate pounds per year in increased air pollution through emissions of carbon monoxide, hydrocarbons, and nitrogen oxide; and (3) an increase of approximately 61,000 gallons in daily regional gasoline consumption. Similar impacts could be expected for other affected metropolitan areas in the northeastern United States.

Existing service capacity for commuters could be maintained only by these organizations incurring significant costs to replace existing PCB railroad transformers. Given cost estimates provided by SEPTA and the other affected organizations, the total incremental replacement costs for these transformers would range from approximately $28 million, assuming a useful life of 15 years for a transformer, to $63 million assuming a useful life of 30 years for a transformer.

The advantages of maintaining the performance deadlines of the May 1979 rule include the prevention of PCB exposure to railroad workers and persons affected by PCB leaks and spills along the railroad lines, and the avoidance of cleanup costs that result from releases of PCBs during this use.

2. *Rescission of the performance deadlines in the May 1979 rule.* This option was proposed by certain railroad organizations, including SEPTA and

New York MTA, as an alternative to their proposed modification of the performance deadlines in the May 1979 rule. It was presented in conjunction with their argument that PCB railroad transformers should qualify as "totally enclosed" uses under section 6(e)(2)(C) of TSCA. (For a discussion of this issue, see Unit V.A. of this preamble.)

Under this option, 773,000 pounds of PCBs in railroad transformers would be used in active service for the remaining useful lives of these transformers. Westinghouse Electric Corporation estimated that a maximum of 30 percent of the total dielectric fluid in a railroad transformer might be released as leaks and spills before the transformer fails. Hence, a maximum of approximately 231,000 pounds of PCBs could be released into the environment under this alternative. Compared with the other options, this alternative would represent the greatest magnitude and risk of exposure from the use of PCBs in railroad transformers.

The advantage of this option is the avoidance of the cost of performing one or two retrofills for these transformers. The total costs of retrofilling these PCB railroad transformers to meet the 1,000 ppm concentration level ranges from $8.3 to $23 million. Under this option, however, small businesses that could provide retrofilling functions for these railroad organizations would lose the opportunity to perform these services. These cost estimates are described in greater detail in the Agency's economic analysis prepared for this rulemaking.

3. *Extension of the performance deadlines in the May 1979 rule.* As described in Unit II, in their comments for this rulemaking, the railroad organizations presented the following proposal for the extension of the performance deadlines in the May 1979 rule. In sum, they urged EPA to: (1) Order the reduction of PCB concentrations in railroad transformers to 60,000 ppm by July 1, 1984; (2) order the reduction of PCB concentrations in railroad transformers to 20,000 ppm by July 1, 1986; and (3) allow the use of PCBs for the remaining useful lives of these transformers below 20,000 ppm.

This amendment to the use rule differs from the proposed rule in the following requirements. First, the amendment establishes a set of three performance deadlines for these transformers to achieve a 60,000 ppm level. Under these deadlines, one-third of the transformers in active service by each railroad organization must reach this level by July 1, 1983; another third by January 1, 1984; and the final third by July 1, 1984. Second, the amendment establishes a set of three performance deadlines for meeting the 1,000 ppm level. Under these deadlines, one-third of the transformers in active service by each railroad organization must reach this level by July 1, 1985; another third by January 1, 1986; and the final third by July 1, 1986. Finally, the amendment deletes an expiration deadline for this use of PCBs at or below 1,000 ppm, allowing this use of PCBs for the remaining useful lives of these transformers below 1,000 ppm. This unit will analyze the economic impacts and environmental risks of each of the principal requirements of this amendment to the May 1979 rule.

a. *Extension of the performance deadlines for the 60,000 and 1,000 ppm concentration levels.* In its joint petition of October 15, 1981, SEPTA together with New Jersey Transit, New York MTA, and ConnDOT has provided certain cost assumptions which the Agency has used to calculate the economic impact of this amendment. In addition, the Agency has applied other assumptions in calculating the total cost of retrofilling railroad transformers under the deadlines of this amendment. These costs were estimated based on present value calculations. (These present value calculations take into account the opportunity costs of expenditures that are deferred by railroad organizations and shifted into retrofilling operations required under this rule.) The total costs of retrofilling these PCB railroad transformers to meet the 1,000 ppm concentration level ranges from $8.3 million to $23 million. For SEPTA, the range is between $3 million and $9.65 million. The estimate ranges of costs for the other railroad organizations are: $3 million to $7.4 million for New York MTA/ConnDOT, $938,000 to $3.2 million for New Jersey Transit, and $654,000 to $2.4 million for Amtrak. According to the Agency's economic analysis, the average cost-effectiveness of this amendment, excluding clean-up cost savings, ranges from $85 to $1,205 per pound of PCBs saved from the environment. The assumptions and calculations supporting these estimates are presented in the economic analysis prepared for this rulemaking.

The developer of the freon retrofill method has commented that through application of its method, the 1,000 ppm PCB concentration level can be met in one retrofill. Under cost assumptions presented by Positive Technologies Inc. (PTI), the total cost for the railroad organizations to meet the 1,000 ppm PCB concentration level could range from approximately $8.3 million, assuming a 15-year useful life for transformers, to $9.7 million, assuring a 30-year useful life. At this time, the Agency cannot confirm the accuracy of the cost assumptions presented by PTI.

The extension of these performance deadlines would also have economic implications for small businesses. This amendment to the use rule for PCB railroad transformers would avoid any adverse economic impact on small businesses. This amendment should provide incentives for the development of non-PCB substitute fluids and alternative retrofill technologies, a portion of which is provided by small businesses. In addition, this amendment will provide a stimulus for continued improvements in existing alternative retrofill methods including those retrofill methods provided by small businesses.

Compliance by railroad organizations under the performance deadlines of this amendment would remove most of the PCBs in the dielectric fluid of railroad transformers. On January 1, 1982, there were 773,000 pounds of PCBs in railroad transformers used in active service. Under the performance deadlines of this rule, by July 1, 1984, there should be 93,000 pounds of PCBs remaining in railroad transformers used in active service (60,000 ppm PCB concentration). Under the 1,000 ppm concentration requirement, by July 1, 1986, there would be only 1,550 pounds of PCBs remaining in railroad transformers used in active service. This will represent the maximum pounds of PCBs remaining in railroad transformers used in active service with the elimination of an expiration deadline under this rule. Therefore, with full compliance by railroad organizations, 99.8 percent of the PCBs present in the transformers on January 1, 1982 will be eliminated by this rule. This will greatly reduce the potential for contamination of the environment and exposure to humans from the continued use of railroad transformers.

The aforementioned estimates have been derived from data provided by several railroad organizations. A key assumption for these estimates was an average PCB concentration in railroad transformers, with the exception of transformers used in Amtrak self-propelled cars, of 550,000 ppm (55.0 percent on a dry weight basis). Amtrak was able to retrofill the 61 transformers in its self-propelled cars to meet the 60,000 ppm (6 percent) concentration level by January 1, 1982. Hence, for these estimates, the average PCB concentration in these transformers is at a 6 percent PCB level, rather than at a 55 percent PCB level. Amtrak did not, however, retrofill the 26 PCB railroad transformers in its locomotives by that date. The average PCB concentration in

these transformers is at a 56 percent concentration level.

The possible reliance by certain railroad organizations on the freon gas method to supplement the retrofilling of these transformers with a non-PCB substitute fluid will present no known risks to public health or the environment. Given information provided by the developer of this method, EPA has determined that as used in the retrofill of these transformers, an insignificant amount of this freon product will be released into the environment. After each retrofill of a transformer with this process, the freon gas is recycled and used for other retrofills. Given the minimal exposure risk presented by the use of the freon product in this retrofill process, no regulatory action by the Agency under section 6 of TSCA will be initiated.

b. *Performance deadlines for lowering PCB concentration levels in railroad transformers to 60,000 ppm and 1,000 ppm.* The Agency considered three options for the establishment of performance deadlines for lowering PCB concentration levels in railroad transformers to 1,000 ppm by July 1, 1986. These options were: (1) Requiring only a single performance deadline of July 1, 1986, for compliance with the 1,000 ppm concentration level; (2) requiring one performance deadline for compliance with the 60,000 ppm level (July 1, 1984) and one performance deadline for compliance with the 1,000 ppm level (July 1, 1986); and (3) requiring three performance deadlines for compliance with the 60,000 ppm level and three additional deadlines for compliance with the 1,000 ppm level. The Agency also considered requiring periodic reports of progress together with each of these options.

Under any of these approaches, with traditional retrofill technology, these organizations will conduct two retrofills of their railroad transformers to meet the 1,000 ppm PCB concentration level by July 1, 1986. The testing, inspection, and maintenance costs should be identical under any of these approaches.

EPA has determined that options with more performance deadlines ensure the reduction of risk to human health and the environment associated with this use of PCBs in a shorter period than options with fewer deadlines. Because there are significant differences in the risks involved with use of PCBs at different concentrations, the six-stage PCB reduction schedule has been promulgated in this amendment to hasten retrofill progress. Given the present concentration level in most PCB railroad transformers, there would be a maximum release of 268 pounds of PCBs from a maximum spill of 39 gallons of dielectric fluid. With the 60,000 ppm level, there would be a maximum release of approximately 29 pounds of PCBs from a similar transformer. With the 1,000 ppm level, there would be a maximum release of approximately 0.5 pound of PCBs from a similar transformer. It is EPA's concern for the minimization of risks from a single spill event that makes a schedule with more performance deadlines more desirable. Requiring periodic reports of progress from these organizations would not contribute to the reduction of risks. Such a requirement would merely provide information, rather than risk-minimization.

EPA has determined that of the options considered, a schedule with six performance deadlines provides the greatest assurance that these railroad organizations will not fall behind in their retrofill schedule. This safeguard is important because, according to the comments provided by these organizations, each of them is limited as to the rate at which cars can be removed from service. Because of the limitation, it is necessary for the retrofilling to proceed at a steady rate. Options which theoretically would provide greater flexibility for the railroad organizations by specifying fewer interim deadlines are not desirable because such flexibility has no practical value. This conclusion is supported by the comments of the railroad organizations that the maximum rate of removal of cars from service cannot be exceeded. Therefore, to comply with the final deadline, railroad organizations must not fall behind schedule. Requiring compliance with interim deadlines provides incentive for these organizations to stay on schedule. Requiring periodic reports of progress from these organizations would not provide additional incentive for them to maintain their schedule, and would impose unnecessary costs.

Given these considerations, EPA has decided that a total of six performance deadlines should be required for compliance with the rule. Periodic progress reports will not be required. The six performance deadlines in this rule are easily achievable by any of the railroad organizations because the deadlines have been developed to follow the schedule proposed by them.

EPA has determined that no adverse economic impacts will result from the promulgation of a uniformly phased schedule of six performance deadlines as compared with the performance deadlines that would be established under any of the other options. Compared with these options, the establishment of six performance deadlines will not impose any additional costs on the affected railroad organizations.

c. *Deletion of the expiration deadline for this use of PCBs at a concentration level below 1,000 ppm.* The use authorization for PCB railroad transformers in the May 1979 rule expires on July 1, 1984, six months after the performance deadline for the 1,000 ppm concentration level. This amendment will delete the expiration deadline for this use of PCBs below a concentration of 1,000 ppm.

This deletion of the expiration deadline will allow these railroad organizations to avoid the cost of at least an additional retrofill of their transformers to further reduce PCB concentrations below 1,000 ppm. EPA has estimated that the cost of a third retrofill for these transformers to further reduce PCB concentrations below 1,000 ppm would range from approximately $6.7 million to $9.1 million. Alternatively, the replacement costs for these transformers would range from approximately $28 million to $63 million. Finally, the Agency cannot determine that it is technologically possible to completely eliminate PCBs from railroad transformers through retrofilling operations, including the freon gas method.

After the last performance deadline of this rule, July 1, 1986, there will remain a maximum of approximately 1,550 pounds of PCBs in active service in these transformers. These transformers can lose at most 30 percent of their dielectric fluid before they fail. Hence, approximately 460 pounds of PCBs as a portion of the total dielectric fluid of these transformers could be released through leaks and spills on railroad beds before the transformers fail. Similarly, under the 1,000 ppm concentration level, the maximum leakage of PCBs from a railroad transformer for a single spill event will be approximately 0.5 pound of PCBs.

E. Findings on the Use of PCBs in Railroad Transformers

The Agency has concluded that the risks associated with extending the deadlines and allowing the use of PCBs for the useful remaining lives of railroad transformers at a concentration level at or below 1,000 ppm are outweighed by the benefits of continued operation of commuter rail service in the northeastern United States and the costs that are avoided by not requiring the reduction of the PCB concentration level below 1,000 ppm. Therefore, EPA finds that authorizing the use of PCBs in

railroad transformers with the performance deadlines specified in this rule does not present an unreasonable risk to health or the environment for the following reasons:

1. These performance deadlines should progressively reduce the human health and environmental risks involved in this use of PCBs. By July 1, 1986, PCB concentration levels in dielectric fluid in railroad transformers will be at or below 1,000 ppm. At this concentration level, a minimal amount of PCBs (approximately 1,550 pounds) will remain in railroad transformers. This amount constitutes 0.2 percent of the amount of PCBs used in railroad transformers in active service on January 1, 1982. Under this schedule, the risks involved in a release of PCBs from these transformers will decrease from a maximum release of 266 pounds of PCBs from a single spill event under present concentration levels to a maximum release of 0.5 pound of PCBs under the 1,000 ppm concentration level. Further reductions in risk should occur as a result of servicing provisions permitting transformer reclassifications. Railroad organizations will have the incentive to reduce PCB concentrations in transformers below 500 ppm, if feasible, in order to reduce their disposal burdens.

2. The risks from continued use of PCBs in railroad transformers would be low, given the amount and concentrations of PCBs remaining after July 1, 1986, existing railroad workplace controls, and EPA disposal requirements in 40 CFR Part 761.

3. The estimated costs for the necessary retrofill operations under this amendment will range between $8.3 million and $23 million.

4. The costs to these railroad organizations associated with retrofilling under these performance deadlines are not excessive compared to the amount of PCBs that are removed from potential release into the environment.

5. Compared with the alternative of two final compliance dates for the 60,000 ppm and 1,000 ppm PCB concentration levels, the establishment of six performance deadlines will not impose any additional costs for testing, inspection, and maintenance of these transformers under requirements in 40 CFR Part 761.

6. The continued use of PCBs in railroad transformers under the performance deadlines of this rule would avoid a disruption of necessary commuter rail service in the northeastern United States.

7. The continued use of PCBs in railroad transformers under the performance deadlines of this rule would avoid increased vehicular traffic in affected metropolitan areas with related congestion and air pollution.

8. There exist adequate non-PCB dielectric fluids for use in railroad transformers to lower the PCB concentration level in railroad transformers below 1,000 ppm. In addition, there is evidence that railroad organizations might be able to lower PCB concentration levels to below 500 ppm. These organizations are encouraged to reach this level in order to reduce their disposal burdens.

9. The elimination of PCBs from these railroad transformers might not be technologically feasible through retrofill operations. Hypothetically, assuming that additional retrofills could eliminate all PCB fluid from these transformers, the costs of such retrofills (at least $6.7 million to $9.1 million) would be excessive. It would cost approximately as much to eliminate the last 0.2 percent of the PCB fluid as the first 99.8 percent. In addition, the cost of replacement for these transformers (between $28 million and $63 million) would be an unreasonable burden considering the small amount of PCBs (a maximum of 1,550 pounds) that would be eliminated. Under the 1,000 ppm concentration level, the maximum release of PCBs from these transformers for a single spill event would be only 0.5 pound of PCBs.

V. Other Proposed Amendments Presented by Railroad Organizations in This Rulemaking

Through the comment periods and informal hearing related to the proposed amendments to this use rule as published in the Federal Register of November 18, 1981, the affected railroad organizations presented several regulatory options not adopted in this final use rule. This section presents summaries of these proposed amendments as presented by the affected railroad organizations and EPA determinations on the validity of these proposed options.

A. Issue Concerning Whether PCB Railroad Transformers Should Qualify as "Totally Enclosed" Uses Under Section 6(e)(2)(C) of the Toxic Substances Control Act

Reply comments presented by SEPTA and New York MTA proposed that their PCB railroad transformers should be defined as "totally enclosed" uses and thereby excluded from this use rule. Under section 6(e)(2)(C) of TSCA, the continued use of PCBs in a "totally enclosed" manner is permitted. TSCA defines that category as "any manner which will ensure that any exposure of human beings or the environment to a polychlorinated biphenyl will be insignificant as determined by the Administrator." As presented in EPA regulations at 40 CFR 761.20, the Agency found that any exposure of humans or the environment to PCBs as measured or detected by any scientifically acceptable analytical method is a significant exposure.

In the comments of SEPTA and New York MTA, no information was provided by these organizations that the use of their railroad transformers would result in no exposure to humans or the environment. Documentation was provided concerning the number of recorded spill accidents during 1980 and 1981. According to these data, in 1980 and 1981, there were eleven recorded spill events in the New York MTA and ConnDOT service system (five recorded spills in 1980, six recorded spills in 1981). In 1981, there were 15 recorded spill events of 168 gallons of dielectric fluid, including PCBs, in the SEPTA system.

Through data received during this rulemaking activity from the affected railroad organizations, estimates of maximum leakage from these PCB transformers in active service have been developed. These estimates are presented in Unit IV of this preamble.

The U.S. Circuit Court of Appeals for the District of Columbia in *Environmental Defense Fund* v. *Environmental Protection Agency*, 636 F.2d 1267 (1980), has reviewed the legal status of the current use rule for PCB railroad transformers. In footnote 31 of that decision, the Court acknowledged the Agency conclusion that railroad transformers cannot be considered totally enclosed. In addition, the Court stated that "[b]ecause of the strenuous conditions under which they operate, railroad transformers often leak PCBs onto railroad beds, risking exposure to the environment and to workers and other persons near rail lines." 636 F.2d at 1279.

B. Transfer of PCB Railroad Transformers to Museums or Historical Societies

In its comments, Amtrak has proposed amendments to 40 CFR 761.20 concerning the distribution in commerce of PCB equipment, including PCB railroad transformers. First, Amtrak proposed that the owner of a railroad locomotive or self-propelled car with a PCB railroad transformer may at any time sell or otherwise distribute in commerce or export the locomotive or car provided that certain conditions are met. These conditions are that these Amtrak transformers must contain

dielectric fluid with either: (1) A concentration level no greater than 60,000 ppm or (2) the concentration level set by EPA for the first retrofill requirement in effect six months after the date of sale, distribution, or export, whichever is lower. Second, Amtrak proposed that the owner of an electric locomotive or self-propelled car containing a PCB Transformer may at any time transfer ownership of such locomotive or car to a "reputable historical society or institution" for premanent display. This transfer would be permitted provided that certain precautions were met prior to the transfer. These precautions would be: (1) All free-flowing dielectric fluid would be drained from the transformer; (2) the transformer would be filled with an appropriate non-PCB solvent and allowed to stand for a period of not less than 18 hours; (3) a sufficient quantity of appropriate absorbent material would be placed in the transformer to absorb any remaining fluid; (4) the transformer would be sealed by welding or another process to insure that it is totally enclosed within the statutory definition; and (5) the transformer must be prominently marked as a PCB Transformer, consistent with EPA marking rules presented in 40 CFR 761.40(a)(2).

The first proposal of Amtrak should be submitted in the form of an exemption petition under section 6(e) of TSCA for the distribution in commerce of railroad cars and locomotives equipped with railroad transformers with PCB fluid. Section 6(e)(3)(A)(ii) of TSCA prohibits the distribution in commerce of PCBs after July 1, 1979 unless the agency has granted an exemption for the activities. Section 6 of TSCA provides exemption procedures applicable to Amtrak's proposal for the distribution in commerce of locomotives or self-propelled cars equipped with a PCB railroad transformer. Exemption petitions must be consistent with procedures presented in section 6(e)(3)(B) of TSCA and EPA regulations at 40 CFR Part 750.

EPA regulatory provisions in 40 CFR Part 761 are applicable to Amtrak's second proposal for the transfer of ownership of GG–1 locomotives to historical institutions and the related retirement of these locomotives with their PCB railroad transformers. PCB Transformers must be disposed in accordance with the disposal requirements of the PCB rule, 40 CFR 761.60. Section 761.60(b) of the disposal requirements states that drained PCB Transformers must be sent either to an incinerator under § 761.70 or to an EPA-approved chemical waste landfill. EPA rules at 40 CFR 761.65 provide requirements for transformers in locomotives or cars that are stored for disposal. Furthermore, if the transformers were not disposed of, the museums and historical societies would be using PCBs in a manner not found to be totally enclosed or authorized by the PCB rule. Such uses are banned under section 6(e)(2)(A) of TSCA.

The use authorization for PCBs in electrical equipment in the May 1979 rule has recently been amended. The final amendment to the use authorization was published in the **Federal Register** of August 25, 1982 (47 FR 37342). Included in this final amendment are modifications to the distribution in commerce provisions in 40 CFR 761.20 for electrical equipment with PCB fluid. This provision allows the distribution in commerce of all intact, nonleaking electrical equipment with PCB fluid including PCB railroad transformers. Hence, under this provision, in order to transfer ownership of these GG–1 locomotives, Amtrak must ensure that these locomotives are "intact" and "nonleaking."

VI. Executive Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this amendment to the PCB rule is not a "major rule" as that term is defined in section 1(b) of the Executive Order. Therefore, EPA has not prepared a Regulatory Impact Analysis for this rule.

EPA has concluded that the amendment is not "major" under the criteria of section 1(b) because the annual effect of the rule on the economy will be less than $100 million; it will not cause a major increase in costs or prices for any sector of the economy or for any geographic region; and it will not result in any significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of United States enterprises to compete in domestic or foreign markets. Indeed, it will reduce the burden on railroad organizations to comply with the PCB rule. By extending the performance deadlines in the May 1979 rule and eliminating an expiration deadline for this use of PCBs at or below 1,000 ppm, this amendment should reduce costs for the railroad industry and for governmental bodies that operate railroads.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

VII. Regulatory Flexibility Act

Section 604 of the Regulatory Flexibility Act (5 U.S.C. 604) requires EPA to prepare a "regulatory flexibility analysis" in connection with any rulemaking for which there is a statutory requirement that a general notice of proposed rulemaking shall be published. The "regulatory flexibility analysis" describes the effect of a final rule on small business entities.

Section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), however, provides that section 604 of the Act "shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."

Since the effect of this rule avoids the economic impact associated with a disruption of passenger railroad service, and no negative economic effect is expected upon any business entity from this amendment, the Administrator of EPA has certified that promulgation of this amendment will not have a significant economic impact on a substantial number of small entities. Therefore, a "regulatory flexibility analysis" is not required and will not be prepared for this rulemaking.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) of 1980, 44 U.S.C. 3501 *et seq.*, requires Federal agencies to submit certain collection of information requests to the Office of Management and Budget (OMB) for its review and approval. Without appropriate approval from OMB under the Act, agencies may not impose penalties for noncompliance with certain types of collection of information requests, including recordkeeping requirements. Based on a review of the specific recordkeeping requirements under this use rule, EPA has determined that these requirements do not meet the threshold criteria for "collection of information" under the PRA.

The recordkeeping requirements of this use rule are presented in 40 CFR 761.30(b)(1)(iii). This provision requires that the concentration of PCBs in the dielectric fluid of railroad transformers must be measured at two points in time:

(1) Immediately upon completion of any authorized servicing of a railroad transformer conducted for the purpose of reducing the PCB concentration in the transformer, and (2) between 12 and 24 months after each servicing conducted

under this rule. In addition, these measurements must be recorded and retained until January 1, 1991.

This amendment does not alter the recordkeeping requirements contained in 40 CFR 761.30 (b)(1)(iii) of the current rule. The only change in the recordkeeping requirements from the current rule refers to the extension of the performance deadlines and the related extension of the period for railroad organizations to measure the concentration of PCBs in the dielectric fluid of railroad transformers. Under this change, these organizations would be required to measure the concentration of PCBs for compliance with the respective performance deadlines through July 1, 1986, rather than through July 1, 1984, under the current rule.

Under section 3502(4) of the Act, "collection of information" includes "the obtaining or soliciting of facts or opinions by an agency through the use of written report forms, application forms, schedules, questionnaires, reporting or recordkeeping requirements, or other similar methods." In addition, to meet the statutory definition of "collection of information," any recordkeeping requirements under this use rule must request either of the following responses: (1) "Answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States" or (2) "answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes." The recordkeeping requirements under this use rule do not meet either of these categories. With respect to the first response category, the requirements in the use rule are applicable to less than 10 affected railroad organizations with PCB railroad transformers in either active or inactive service. With respect to the second category, none of the affected railroad organizations are "agencies, instrumentalities, or employees of the United States." In addition, the testing records concerning PCB concentration levels that must be maintained through January 1, 1991 are to measure compliance with the performance deadlines, and are not to be used for general statistical purposes.

IX. Official Record of Rulemaking

In accordance with the requirements of section 19 (a)(3)(E) of TSCA, EPA is issuing the following list of documents constituting the record of this rulemaking. However, this list does not include public comments, the transcript of the rulemaking hearing, or submissions made at the rulemaking hearing or in connection with it. These documents are exempt from Federal Register listing under section 19(a)(3). A full list of these materials will be available on request from the Industry Assistance Office listed under "FOR FURTHER INFORMATION CONTACT."

A. Previous Rulemaking Records

1. Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions Rule" published in the Federal Register of May 31, 1979, (44 FR 31514).

2. Official Rulemaking Record from "Proposed Amendment to Use Authorization for PCB Railroad Transformers" published in the Federal Register of November 18, 1981, (46 FR 56626).

B. Support Documents

3. USEPA, OTS, "Cost-Effectiveness Analysis for the PCB Railroad Transformer Rule Amendment."

4. USEPA, OTS, "Response to Comments on Health Effects of PCBs."

5. USEPA, OTS, "Support Document for the PCB Railroad Transformer Rule: Response to Comments."

C. Reports

6. Buser, H. R., "Formation of Polychlorinated Dibenzofurans (PCDFs) and Dibenzo-p-dioxins (PCDDs) from the Pyrolysis of Chlorobenzenes," 8 *Chemosphere*, 415 (1979).

X. Statutory Authority

Under section 6(e) of TSCA (15 U.S.C. 2605), the Administrator may by rule authorize the manufacture, processing, distribution in commerce, or use (or any combination of such activities) of any PCBs in other than a totally enclosed manner if the Administrator finds that it will not present an unreasonable risk of injury to human health or the environment.

List of Subjects in 40 CFR Part 761

Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Environmental protection.

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

PART 761—[AMENDED]

Therefore, in 40 CFR 761.30, the introductory text in paragraph(b) and paragraph(b)(1) are revised, and paragraph(b)(2)(vii) is added to read as follows:

§ 761.30 Authorizations.

* * * * *

(b) *Use in and servicing of railroad transformers.* PCBs may be used in transformers in railroad locomotives or railroad self-propelled cars ("railroad transformers") and may be processed and distributed in commerce for purposes of servicing these transformers in a manner other than a totally enclosed manner subject to the following conditions:

(1) *Use restrictions.* (i) After July 1, 1983, the number of railroad transformers containing a PCB concentration greater than 60,000 ppm (6.0 percent on a dry weight basis) in use by any affected railroad organization may not exceed two-thirds of the total railroad transformers containing PCBs in use by that organization on January 1, 1982.

(ii) After January 1, 1984, the number of railroad transformers containing a PCB concentration greater than 60,000 ppm in use by any affected railroad organization may not exceed one-third of the total railroad transformers containing PCBs in use by that organization on January 1, 1982.

(iii) After July 1, 1984, use of railroad transformers that contain dielectric fluids with a PCB concentration greater than 60,000 ppm is prohibited.

(iv) After July 1, 1985, the number of railroad transformers containing a PCB concentration greater than 1,000 ppm (0.1 percent on a dry weight basis) in use by any affected railroad organization may not exceed two-thirds of the total railroad transformers containing PCBs in use by that organization on July 1, 1984.

(v) After January 1, 1986, the number of railroad transformers containing a PCB concentration greater than 1,000 ppm in use by any affected railroad organization may not exceed one-third of the total railroad transformers containing PCBs in use by that organization on July 1, 1984.

(vi) After July 1, 1986, use of railroad transformers that contain dielectric fluids with a PCB concentration greater than 1,000 ppm is prohibited.

(vii) The concentration of PCBs in the dielectric fluid contained in railroad transformers must be measured:

(A) Immediately upon completion of any authorized servicing of a railroad transformer conducted for the purpose of reducing the PCB concentration in the dielectric fluid in the transformer, and

(B) Between 12 and 24 months after each servicing conducted in accordance with paragraph (b)(1)(vii)(A) of this section;

(C) The data obtained as a result of paragraph (b)(1)(vii) (A) and (B) of this

section shall be retained until January 1, 1991.

(2) * * *

(vii) A PCB Transformer may be converted to a PCB-Contaminated Transformer or to a non-PCB Transformer by draining, refilling, and/or otherwise servicing the railroad transformer. In order to reclassify, the railroad transformer's dielectric fluid must contain less than 500 ppm (for conversion to PCB-Contaminated Transformer) or less than 50 ppm PCB (for conversion to a non-PCB Transformer) after a minimum of three months of inservice use subsequent to the last servicing conducted for the purpose of reducing the PCB concentration in the transformer.

* * * * *

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January 3, 1983

Part V

Equal Employment Opportunity Commission

Final Procedural Regulations; Age Discrimination in Employment Act

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1626

Final Procedural Regulations; Age Discrimination in Employment Act

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final procedural regulations.

SUMMARY: On July 1, 1979, pursuant to Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978), responsibility and authority for enforcement of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.*, (ADEA), was transferred from the Department of Labor to the Equal Employment Opportunity Commission.

On January 30, 1981, the EEOC published for comment proposed ADEA procedural regulations. *See* 46 FR 9970. After receipt and review of these comments, the Commission herein publishes in final form its procedural regulations for the administration and enforcement of the ADEA. These regulations advise the public as to the procedures the Commission proposes to follow in processing charges and issuing interpretations and opinions under the Age Discrimination in Employment Act. These regulations will complement the Commission's existing procedural regulations under Title VII of the Civil Rights Act of 1964.

DATE: These procedural regulations are effective January 3, 1983.

FOR FURTHER INFORMATION CONTACT: John Pagano, Office of the Legal Counsel, Legal Services Division, 2401 E Street, N.W. Room 2254, Washington, D.C. 20506, telephone (202) 634–6592.

SUPPLEMENTARY INFORMATION: The Commission publishes the regulations herein with the desire to provide continuity with the Commission's procedural regulations under Title VII. In those areas where the statutory provisions of the two Acts allow, the final procedural regulations under the ADEA conform to the Title VII procedural regulations. Total conformity, however, is not possible for the reason that while the substantive provisions of the ADEA are derived for the most part from Title VII, the ADEA statutory procedures are taken from the Fair Labor Standards Act of 1938 (FLSA). *Lorillard* v. *Pons*, 434 U.S. 575 (1975).

The Commission received numerous suggestions that the ADEA procedures should incorporate charges processing restrictions such as are found in the Title VII procedures. In this context it was suggested that the ADEA procedural regulations require that a charge be made in writing, be signed and verified, that time restrictions be placed on the administrative process, that the Commission investigate before conciliation, that the Commission issue no violation letters, and that the Commission's authority to investigate be limited to timely filed charges. These and other similar suggestions were rejected because to implement them would impose upon the ADEA practice restrictions that were placed on Title VII by statute. As the Supreme Court noted in *Lorillard* v. *Pons, supra*, Congress considered and rejected incorporating Title VII procedures into the ADEA in favor of the FLSA enforcement scheme.

In areas where conformity to the Title VII procedures does not offend the ADEA statutory scheme, however, the Commission has adopted Title VII practice. Thus for example Sections 1626.8 and 1626.19 mirror in part Title VII regulations and Title VII case law. *See EEOC* v. *Western Publishing Co.*, 502 F.2d 599 (8th Cir. 1974); *Sanchez* v. *Standard Brands, Inc.*, 431 F.2d 455 (5th Cir. 1970).

After reviewing the comments received on the proposed procedures, the Commission has reconsidered the positions taken therein and has determined that certain modifications are necessary. Sections receiving no comments or comments generally addressed above will be published without modification except as noted below.

§ 1626.3 Other definitions.

Numerous comments were received on this section. The comments suggested that the difference between a charge and a complaint was not clear, that the ADEA did not require confidentiality of complaints, that there is no statutory authority for the Commission accepting charges filed "on behalf of" an aggrieved party, and that there is no statutory authority for accepting complaints or charges on alleged future violations. Several commentors question the acceptance of a charge of a future violation. The ADEA prohibits discrimination in employee benefits and other matters that are often committed to writing. Therefore, a future violation may be apparent, and the regulation is so worded to allow an individual to challenge an employment policy such as mandatory retirement before the practice actually affects the complaining person.

The Commission responds to the queries regarding the difference between a charge and a complaint by clarifying the legal effect of each in §§ 1626.3 and .4. The regulations now make clear that a complaint is one method by which the Commission may receive information about alleged violations of the Act, where the party providing the information does not wish to file a charge. Section 1626.4 provides, however, that where a complaint or information received discloses a possible violation, the Commission will so advise the informant and assist in filing a charge if the individual wishes to preserve the right of all aggrieved persons to file a civil action.

One commentor found this section unclear as to whether a complaint would trigger the 7(d) requirement that the Commission conciliate the matter. The Commission feels that § 1626.4 provides the answer. The Commission may on its own initiate and conduct an investigation based on information received from any source, including a complaint. This function is clearly discretionary, but the regulation goes on to suggest that the Commission will render assistance to, among others, a complainant who may wish to change his or her complaint to a charge, thereby triggering the 7(d) requirement that the Commission conciliate.

Three comments focused on the question of confidentiality. This section as proposed makes it clear that an individual has the choice of remaining anonymous by either filing a complaint or by having someone else file a charge on his or her behalf. Filing an individual charge implies that the charging party is prepared to make known his or her identity. While the first notice to the respondent of the charge may not state who the charging party is, his or her identity will generally be made known to the respondent through the conciliation process. The Commission wishes to note that while the practice under Title VII is to identify the charging party to the respondent, the Title VII regulations provide confidentiality, if sought. 29 CFR 1601.7.

One commentor correctly noted that while under section 706(b) of Title VII, charges may be filed "on behalf of" an aggrieved person, there is no precisely similar language in the ADEA. However, an examination of the 1978 amendments shows that Congress intended that charges "on behalf of" be sufficient for the purposes of preserving the private right of action. Prior to 1978, section 7(d) of the ADEA required that the individual give the Secretary not less than 60 days notice of intent to file suit. In 1978 section 7(d) was amended to provide that an aggrieved person could not commence a suit until 60 days after a charge covering the matter complained of had been filed with the Secretary. The

change from the active to the passive mode lifts the burden from the individual aggrieved to personally file the charge, and allows any charge made in accordance with § 1626.8 which gives sufficient notice to the Commission to conciliate, to satisfy the 7(d) requirement.

For the reasons stated above, the proposed regulation remains unchanged with the following exceptions: The definition of a "charge" has been reworded to conform to § 1626.6, the language on future violations has been clarified, the definition of a "charging party" has been shortened to clarify the distinction between the party filing a charge and persons aggrieved by the subject matter of the charge, and the definition of a complaint has been altered to indicate that information received by the Commission that is not a charge creates no legal obligations nor protects any individual right.

§ 1626.4 Information concerning alleged violations of the Act.

The comments on § 1626.4 focus on the confidentiality provisions and the assistance provided in filing a charge and has been reworded to indicate that the confidentiality provision is within the Commission's discretion, not mandated by statute. The provision on providing assistance in filing a charge has likewise been reworded to show that the assistance is discretionary.

§ 1626.5 Where to submit complaints and charges.

One commentor noted that the DOL offices have been receiving ADEA complaints and charges, and suggests that if this practice is to be discontinued, the public should be informed. The Commission agrees. The notice at 44 FR 37975 is hereby rescinded with respect to the designation of the offices of the Wage and Hour Division of the DOL to receive complaints and information relating to possible violations of the ADEA.

§ 1626.6 Form of charge.

This section remains unchanged, except that language was added to this section to harmonize with §1626.7 which specifically provides for oral charges.

§ 1626.7 Timeliness of charges.

The Commission received comments on this section questioning the use of the "mailbox" rule, and generally opposing the Commission accepting untimely charges.

The Commission feels that the regulation as proposed makes clear that a charge must be filed within certain time frames to preserve the right of any person aggrieved by actions which fall within the scope of the charge to bring a private action. However, information received from charges filed, whether timely or not, may still form the basis of a Commission-initiated suit. To only accept charges that were timely for the purposes of individual suits would be to ignore the Commission's own enforcement function. Furthermore, the timeliness of filing a charge may be subject to equitable tolling, an issue which must ultimately be judicially decided. *See Coke* v. *General Adjustment Bureau*, 640 F. 2d 584 (5th Cir. 1981).

On the use of the mailbox rule, the statute is silent on what constitutes the date of filing, and the Commission has constructed an adequate general rule. It should be noted that the rule parallels in part the state agency filing rule set forth in 14(b) of the ADEA. Several commentors felt that subsection (c)(1)(ii) would encourage fabrication, but this argument was rejected in light of the fact that a post mark occurs after a letter is dated, making the utility of a fabrication highly speculative.

This section has been reworded, however, to use the language of 7(d) of the ADEA. The regulation as proposed may have created the impression that 7(d) requires that the individual who wishes to file suit, must file a charge. The statute and Commission regulations provide that a properly filed charge may be filed on behalf of the individual, or that an aggrieved person may bring suit so long as the matter complained of was within the scope of the previously filed charge, regardless of who filed it.

§ 1626.9 Referrals to and from state agencies; referral states.

In response to requests to clarify the federal/state relationship, § 1625.10 has been added. This section, like 29 CFR 1601.70, provides both employers and potential charging parties with guidance on the effect of filing with one or both authorities. Former § 1626.10 is now § 1626.9(b). In addition, the language in this section concerning referrals was altered to indicate that referral to a state agency is a matter of Commission policy and that the Commission will encourage referrals from state agencies, and that a charge so referred shall be deemed to have been filed simultaneously with both agencies.

§ 1626.12 Conciliation efforts pursuant to Section 7(d) of the Act.

The Commission has added a provision to § 1626.12 which allows a charging party or person aggrieved by the subject matter of the charge to commence action after 60 days or upon failure of conciliation, whichever occurs first. This addition mirrors a similar provision in section 14(b) of the Act regarding the early termination of state proceedings.

§ 1626.15 Commission enforcement.

The following editorial changes were made in this section:

Specific reference to the Act was expanded in subsection (a); language that was duplicative of other sections was deleted from subsections (b) and (c), the references to confidentiality in subsection (b) and (c) were consolidated in subsection (b); subsection (d) was deleted as material more appropriate for inclusion in the *Compliance Manual*; and language was added to subsection (b) to focus on the commencement of conciliation rather than the conclusion of investigation and to indicate that when the Commission has concluded that a violation of the Act has occurred or is about to occur, the Commission will attempt to notify aggrieved persons who have a private right to preserve or act upon. New language was added to make it clear that the purpose of subsection (b) is to procedurally define the period during which the statute of limitations is tolled under section 7(e)(2) of the Act.

§ 1626.16 Subpoenas.

Seven comments were received on this section. The primary concern is that the Commission has delegated the power to issue subpoenas to certain Commission offices without a right to appeal to the full Commission. The commentors note that this practice differs both from the Title VII regulation and the Equal Pay Act regulation providing for the issuance of subpoenas.

Under Title VII, the authority to issue subpoenas has been delegated by the Commission in conjunction with a right of appeal to the Commission. *See* 29 CFR 1601.12. This practice mirrors that of the NLRB form whence Title VII takes its provision for the issuance of subpoenas, and has been judicially approved. *EEOC* v. *Chrysler Corp.*, 14 E.P.D. ¶7516 (D.C. Mo. 1977) (delegation lawful where Commission exercises final review powers).

Under the Equal Pay Act, the Commission is authorized to utilize the subpoena procedures of sections 9 and 10 of the Federal Trade Commission Act. Pursuant to that authority, the Commission has not delegated the authority to issue subpoenas nor has provided a right of appeal to the Commission when one Commissioner issues a subpoena. *See* 29 CFR 1620.20.

As in the EPA, the ADEA authorizes the Commission to use the FTC subpoena provisions. However, unlike either Title VII or the EPA, the ADEA also provides in section 6(a) that the Commission may make delegations as it deems necessary. Therefore, the Commission is not constrained to provide a right of appeal as provided in the Title VII regulation.

The Commission sees no reason to impose additional procedures on ADEA enforcement simply to conform to the practice under Title VII or the EPA. This is not the first instance where more latitude exists under the ADEA. Since the ADEA statute of limitations continues to run until the Commission begins conciliation under Section 7(b), the additional latitude is necessary to limit the ability of respondents to avoid liability through delay of the investigative process.

§ 1626.19 Rules to be liberally construed.

This section was amended in response to a request for clarification. As noted above, this section reflects settled law under Title VII and is in harmony with FLSA procedures.

The Commission has determined that these procedural regulations are not a "major rule" under section 1(b) of Executive Order 12291. This document has been submitted to the Office of Management and Budget in accordance with the requirements of section 3(c)(3) of Executive Order 12291.

Signed at Washington, D.C., this 25th day of October 1982.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

List of Subjects in 29 CFR Part 1626

Administrative practice and procedure, Aged, Equal employment opportunity.

In 29 CFR Ch. XIV Part 1626 is added as follows:

PART 1626—PROCEDURES—AGE DISCRIMINATION IN EMPLOYMENT ACT

Sec.

1626.1 Purpose.
1626.2 Terms defined in the Age Discrimination in Employment Act of 1967, as amended.
1626.3 Other definitions.
1626.4 Information concerning alleged violations of the Act.
1626.5 Where to submit complaints and charges.
1626.6 Form of charge.
1626.7 Timeliness of charge.
1626.8 Contents of charge; amendment of charge.
1626.9 Referrals to and from State agencies; referral States.
1626.10 Agreements with State and local fair employment practices agencies.
1626.11 Notice of charge.
1626.12 Conciliation efforts pursuant to Section 7(d) of the Act.
1626.13 Withdrawal of charge.
1626.14 Right to inspect or copy data.
1626.15 Commission enforcement.
1626.16 Subpoenas.
1626.17 Procedure for requesting an opinion letter.
1626.18 Effect of Opinions and Interpretations of the Commission.
1626.19 Rules to be liberally construed.

Authority: Sec. 9, 81 Stat. 605, 29 U.S.C. 628; Sec. 2, Reorg. Plan No. 1 of 1978, 3 CFR 321 (1979).

§ 1626.1 Purpose.

The regulations set forth in this part contain the procedures established by the Equal Employment Opportunity Commission for carrying out its responsibilities in the administration and enforcement of the Age Discrimination in Employment Act of 1967, as amended.

§ 1626.2 Terms defined in the Age Discrimination in Employment Act of 1967, as amended.

The terms "person," "employer," "employment agency," "labor organization," "employee," "commerce," "industry affecting commerce," and "State" as used herein shall have the meanings set forth in section 11 of the Age Discrimination in Employment Act, as amended.

§ 1626.3 Other definitions.

For purpose of this part, the term "the Act" shall mean the Age Discrimination in Employment Act of 1967, as amended; the "Commission" shall mean the Equal Employment Opportunity Commission or any of its designated representatives; "charge" shall mean a statement filed with the Commission by or on behalf of an aggrieved person which alleges that the named prospective defendant has engaged in or is about to engage in actions in violation of the Act; "complaint" shall mean information received from any source, that is not a charge, which alleges that a named prospective defendant has engaged in or is about to engage in actions in violation of the Act; "charging party" means the person filing a charge; "complainant" means the person filing a complaint; and "respondent" means the person named as a prospective defendant in a charge or complaint, or as a result of a Commission-initiated investigation.

§ 1626.4 Information concerning alleged violations of the Act.

The Commission may, on its own initiative, conduct investigations of employers, employment agencies and labor organizations, in accordance with the powers vested in it pursuant to sections 6 and 7 of the Act. The Commission shall also receive information concerning alleged violations of the Act, including charges and complaints, from any source. Where the information discloses a possible violation, the appropriate Commission office may render assistance in the filing of a charge. The identity of a complainant, confidential witness, or aggrieved person on whose behalf a charge was filed will ordinarily not be disclosed without prior written consent, unless necessary in a court proceeding.

§ 1626.5 Where to submit complaints and charges.

Complaints and charges may be submitted in person, by telephone, or by mail to any of the District or Area Offices of the Commission, or at the Headquarters of the Commission at Washington, D.C., or with any designated representative of the Commission. The addresses of the Commission's District Offices appear at § 1610.4.

§ 1626.6 Form of charge.

A charge shall be in writing and shall name the prospective respondent and shall generally allege the discriminatory act(s). Charges received in person or by telephone shall be reduced to writing.

§ 1626.7 Timeliness of charge.

(a) Charges will not be rejected as untimely provided that they are not barred by the statute of limitations as stated in section 6 of the Portal to Portal Act of 1947.

(b) Potential charging parties will be advised that, pursuant to section 7(d) (1) and (2) of the Act, no civil suit may be commenced by an individual until 60 days after a charge has been filed on the subject matter of the suit, and such charge shall be filed with the Commission or its designated agent within 180 days of the alleged discriminatory action, or, in a case where the alleged discriminatory action occurs in a state which has its own age discrimination law and authority administering that law, within 300 days of the alleged discriminatory action, or 30 days after receipt of notice of termination of State proceedings, whichever is earlier.

(c) For purposes of determining the date of filing with the Commission, the following applies:

(1) Charges filed by mail: (i) Date of postmark, if legible, (ii) Date of letter, if postmark is illegible, (iii) Date of receipt by Commission, or its designated agent, if postmark and letter date are illegible and/or cannot be accurately affixed;

(2) Written charges filed in person: Date of receipt;

(3) Oral charges filed in person or by telephone, as reduced to writing: Date of oral communication received by Commission.

§ 1626.8 Contents of charge; amendment of charge.

(a) In addition to the requirements of § 1626.6, each charge should contain the following:

(1) The full name, address and telephone number of the person making the charge;

(2) The full name and address of the person against whom the charge is made;

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful employment practices;

(4) If known, the approximate number of employees of the prospective defendant employer or members of the prospective defendant labor organization.

(5) A statement disclosing whether proceedings involving the alleged unlawful employment practice have been commenced before a State agency charged with the enforcement of fair employment practice laws and, if so, the date of such commencement and the name of the agency.

(b) Notwithstanding the provisions of paragraph (a) of this section, a charge is sufficient when the Commission receives from the person making the charge either a written statement or information reduced to writing by the Commission that conforms to the requirements of § 1626.6.

(c) A charge may be amended to clarify or amplify allegations made therein. Such amendments and amendments alleging additional acts which constitute unlawful employment practices related to or growing out of the subject matter of the original charge will relate back to the date the charge was first received. A charge that has been so amended shall not again be referred to the appropriate State agency.

§ 1626.9 Referral to and from State agencies; referral States.

(a) The Commission may refer all charges to any appropriate State agency and will encourage State agencies to refer charges to the Commission in order to assure that the prerequisites for private law suits, as set out in section 14(b) of the Act, are met. Charges so referred shall be deemed to have been filed with the Commission in accordance with the specifications contained in § 1626.7(b). The Commission may process any charge at any time, notwithstanding provisions for referral to and from appropriate State agencies.

(b) States to which all ADEA charges may be referred: Alaska, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Puerto Rico, South Carolina, Utah, Virgin Islands, West Virginia, and Wisconsin.

(c) States to which only specified classes of charges are referred: Arizona, Colorado, Kansas, Maine, Ohio, Rhode Island, South Dakota, and Washington.

§ 1626.10 Agreements with State or local fair employment practices agencies.

(a) Pursuant to sections 6 and 7 of the ADEA and section 11(b) of the FLSA, the Commission may enter into agreements with state or local fair employment practices agencies to cooperate in enforcement, technical assistance, research, or public informational activities, and may engage the services of such agencies in processing charges assuring the safeguard of the federal rights of aggrieved persons.

(b) The Commission may enter into agreements with state or local agencies which authorize such agencies to receive charges and complaints pursuant to § 1626.5 and in accordance with the specifications contained in §§ 1626.7 and 1626.8.

(c) When a worksharing agreement with a State agency is in effect, the State agency will act on certain charges and the Commission will promptly process charges which the State agency does not pursue. Charges received by one agency under the agreement shall be deemed received by the other agency for purposes of § 1626.7

§ 1626.11 Notice of charge.

Upon receipt of a charge, the Commission shall promptly notify the respondent that a charge has been filed.

§ 1626.12 Conciliation efforts pursuant to section 7(d) of the Act.

Upon receipt of a charge, the Commission shall promptly attempt to eliminate any alleged unlawful practice by informal methods of conciliation, conference and persuasion. Upon failure of such conciliation the Commission will notify the charging party. Such notification enables the charging party or any person aggrieved by the subject matter of the charge to commence action to enforce their rights without waiting for the lapse of 60 days.

§ 1626.13 Withdrawal of charge.

Charging parties may request withdrawal of a charge. Because the Commission has independent investigative authority, see § 1626.4, it may continue any investigation and may secure relief for all affected persons notwithstanding a request by a charging party to withdraw a charge.

§ 1626.14 Right to inspect or copy data.

A person who submits data or evidence to the Commission may retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness may for good cause be limited to inspection of the official transcript of his or her testimony.

§ 1626.15 Commission enforcement.

(a) As provided in Sections 9, 11, 16 and 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 209, 211, 216 and 217) (FLSA) and Sections 6 and 7 of this Act, the Commission and its authorized representatives may (1) investigate and gather data; (2) enter and inspect establishments and records and make transcripts thereof; (3) interview employees; (4) impose on persons subject to the Act appropriate recordkeeping and reporting requirements; (5) advise employers, employment agencies and labor organizations with regard to their obligations under the Act and any changes necessary in their policies, practices and procedures to assure compliance with the Act; (6) subpoena witnesses and require the production of documents and other evidence; (7) supervise the payment of amounts owing pursuant to section 16(c) of the FLSA, and (8) institute action under section 16(c) or section 17 of the FLSA or both to obtain appropriate relief.

(b) Whenever the Commission has a reasonable basis to conclude that a violation of the Act has occurred or will occur, it may commence conciliation under section 7(b) of the Act. The date of issuance of written notice to the respondent of the Commission's intent to begin or continue conciliation shall determine when the statute of limitations is tolled pursuant to section 7(e)(2) of the Act. Such notice will

ordinarily be issued in the form of a letter of violation; provided, however, that failure to issue a written violation letter shall in no instance be construed as a finding of no violation. The Commission will ordinarily notify the respondent and aggrieved persons of its determination. In the process of conducting any investigation or conciliation under this Act, the identity of persons who have provided information in confidence shall not be disclosed except in accordance with § 1626.4. When the written notice prescribed above is issued, the statute of limitations shall be tolled for a period of one year unless a conciliation agreement is obtained earlier.

(c) Any agreement reached as a result of efforts undertaken pursuant to this section shall, as far as practicable, require the respondent to eliminate the unlawful practice(s) and provide appropriate affirmative relief. Such agreement shall be reduced to writing and will ordinarily be signed by the Commission's delegated representative, the respondent, and the charging party, if any. A copy of the signed agreement shall be sent to all the signatories thereto.

(d) Upon the failure of informal conciliation, conference and persuasion under section 7(b) of the Act, the Commission may initiate and conduct litigation.

(e) The District Directors and the Director of the Office of Program Operations or their designees, are hereby delegated authority to exercise the powers enumerated in § 1626.15(a) (1) through (7) and (b) and (c). The General Counsel or his/her designee is hereby delegated the authority to exercise the powers in paragraph (a) of this section and at the direction of the Commission to initiate and conduct litigation.

§ 1626.16 Subpoenas.

(a) To effectuate the purposes of the Act the Commission shall have the authority to issue a subpoena requiring:

(1) The attendance and testimony of witnesses;

(2) The production of evidence including, but not limited to, books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(3) Access to evidence for the purpose of examination and the right to copy.

(b) The power to issue subpoenas has been delegated by the Commission, pursuant to section 6(a) of the Act, to the General Counsel, the District Directors, the Director of the Office of Program Operations, or their designees. The subpoena shall state the name, address and title of the issuer, identify the person or evidence subpoenaed, the name of the person to whom the subpoena is returnable; the date, time and place that testimony is to be given or that documents are to be provided or access provided.

(c) A subpoena issued by the Commission or its designee pursuant to the Act is not subject to review or appeal.

(d) Upon the failure of any person to comply with a subpoena issued under this section, the Commission may utilize the provisions of sections 9 and 10 of the Federal Trade Commission Act, 15 U.S.C. 49 and 50, to compel compliance with the subpoena.

(e) Persons subpoenaed shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

§ 1626.17 Procedure for requesting an opinion letter.

(a) A request for an opinion letter should be submitted in writing to the Chairman, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, and shall contain:

(1) A concise statement of the issues on which an opinion is requested;

(2) As full a statement as possible of relevant facts and law; and

(3) The names and addresses of the person making the request and other interested persons.

(b) Issuance of an opinion letter by the Commission is discretionary.

(c) Informal Advice: When the Commission, at its discretion, determines that it will not issue an opinion letter as defined in § 1626.18, the Commission may provide informal advice or guidance to the requestor. An informal letter of advice does not represent the formal position of the Commission and does not commit the Commission to the views expressed therein. Any letter other than those defined in § 1626.18(a)(1) will be considered a letter of advice and may not be relied upon by any employer within the meaning of section 10 of the Portal to Portal Act of 1947, incorporated into the Age Discrimination in Employment Act of 1967 through section 7(e)(1) of the Act.

§ 1626.18 Effect of opinions and interpretations of the Commission.

(a) Section 10 of the Portal to Portal Act of 1947, incorporated into the Age Discrimination in Employment Act of 1967 through section 7(e)(1) of the Act, provides that:

> In any action or proceeding based on any act or omission on or after the date of the enactment of this Act, no employer shall be subject to any liability or punishment . . . if he pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any written administrative regulations, order, ruling, approval or interpretation . . . or any administrative practice or enforcement policy of [the Commission].

The Commission has determined that only (1) a written document, entitled "opinion letter," signed by the Legal Counsel on behalf of and as approved by the Commission, or (2) a written document issued in the conduct of litigation, entitled "opinion letter," signed by the General Counsel on behalf of and as approved by the Commission, or (3) matter published and specifically designated as such in the **Federal Register**, may be relied upon by any employer as a "written regulation, order, ruling, approval or interpretation" or "evidence of any administrative practice or enforcement policy" of the Commission "with respect to the class of employers to which he belongs," within the meaning of the statutory provisions quoted above.

(b) An opinion letter issued pursuant to § 1626.18 (a) (1) above, when issued to the specific addressee, has no effect upon situations other than that of the specific addressee.

(c) When an opinion letter, as defined in § 1626.18 (a) (1), is requested, the procedure stated in § 1626.17 shall be followed.

§ 1626.19 Rule to be liberally construed.

(a) These rules and regulations shall be liberally construed to effectuate the purposes and provisions of this Act and any other acts administered by the Commission.

(b) Whenever the Commission receives a charge or obtains information relating to possible violations of one of the statutes which it administers and the charge or information reveals possible violations of one or more of the other statutes which it administers, the Commission will treat such charges or information in accordance with all such relevant statutes.

(c) Whenever a charge is filed under one statute and it is subsequently believed that the alleged discrimination constitutes an unlawful employment practice under another statute administered and enforced by the Commission, the charge may be so amended and timeliness determined from the date of filing of the original charge.

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Part VI

Department of Energy

Office of Hearings and Appeals

Implementation of Special Refund Procedures

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE

ACTION: Notice of Implementation of Special Refund Procedures

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from funds obtained from Standard Oil Company (Indiana), commonly known as Amoco, in settlement of enforcement proceedings brought by the DOE's Office of Special Counsel.

DATES AND ADDRESSES: Applications for refund must be postmarked by May 1, 1983, and should be addressed to Amoco Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. All applications should refer to Case No. BFF-0007.

FOR FURTHER INFORMATION CONTACT: Suggested formats for refund applications may be obtained by writing Mrs. Margaret A. Slattery, Public Docket Room, Office of Hearings and Appeals, Department of Energy, Room 1111, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20461. Other information may be obtained by contacting: Terry Johnson, Deputy Assistant Director, Roger J. Klurfeld, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-8362.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the decision and order set out below. The decision and order establishes procedures to distribute funds obtained as a result of a 1980 consent order between Standard Oil Company (Indiana), commonly known as Amoco, one of the largest marketers of petroleum products in the United States, and the DOE. *See* 45 FR 28747 (1980). The consent order settled nearly all disputes between the DOE and the firm concerning Amoco's compliance with the DOE price and allocation regulations during the period 1973 through 1979. Under the terms of the consent order, Amoco deposited $72,000,408 into an escrow account. Interest has increased the amount available for distribution to over $100 million.

The Office of Hearings and Appeals previously issued a proposed decision and order which tentatively established a two-page refund procedure for each of six different "pools" of money which were established for purchasers of crude oil and five major petroleum product groups. The proposed decision and order discussing the distribution of funds obtained through the Amoco consent order was issued on August 9, 1982, and was published in the **Federal Register** on August 13, 1982. 47 FR 35317 (1982). Following issuance of the proposed decision, we received over 100 written comments from interested members of the public, and two public hearings were held, one in Chicago on September 22, and a second in Washington, D.C. on September 30.

The final decision and order set forth below reflects our analysis of comments received from interested parties. As we indicate in the decision, applications for refund from the escrow fund may now be filed. The specific requirements for filing an application for refund are set forth in the section entitled "How to Apply for a Refund." In addition, a suggested format for organizing the required information is set forth in the Appendix to the Decision. We will accept applications in any form from all persons who claim that they have been injured by Amoco's alleged regulatory violations during the period covered by the consent order. Applications for refund filed by trade associations on behalf of their members will also be accepted. Applications must be postmarked by May 1, 1983. No applications for refund should be filed by state governments at this time.

Dated: December 23, 1982.

George B. Breznay,

Director, Office of Hearing and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Petitioner: Office of Special Counsel for Compliance, Economic Regulatory Administration: In the Matter of Standard Oil Company (Indiana).

Date of filing: July 18, 1980.

Case Number: BFF-0007.

The procedural regulations of the Department of Energy permit the Economic Regulatory Administration's Office of Special Counsel (OSC) to request the Office of Hearings and Appeals to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with those regulatory provisions, the OSC filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Standard Oil Company (Indiana). Under the terms of the consent order both the DOE and Standard, or Amoco as it is commonly known, agreed to a general settlement of outstanding DOE compliance matters. As a part of the settlement, DOE agreed to stipulate to dismissal of all pending administrative and judicial proceedings regarding Amoco's compliance with the DOE regulations, with certain enumerated exceptions, and Amoco agreed to make refunds to compensate for its alleged violations of the DOE regulatory programs during the period March 6, 1973 through December 31, 1979. Amoco has remitted $72,000,408 to the DOE, and those funds are now being held in an escrow account under the jurisdiction of the DOE pending instructions from the Office of Hearings and Appeals regarding their distribution. The escrow account is an interest-bearing account, and as of December 17, 1982, the Amoco funds have earned $28,545,581.70. Accordingly, as of December 17, 1982, $100,545,989.70 is available for distribution.

On August 9, 1982, we issued a Proposed Decision and Order setting forth the procedures which we had tentatively decided to use in distributing the Amoco settlement fund. The Proposed Decision was published in the **Federal Register** on August 13, 1982. *See* 47 FR 35317 (August 13, 1982). We established a 30-day period for the submission of public comments. We also held two hearings, one in Chicago on September 22 and the other in Washington, D.C., on September 30, at which interested parties could offer their views on our proposal. *See* September 22, 1982 and September 30, 1982 Transcripts of Proceedings held by the Office of Hearings and Appeals, Case No. BFF-0007 (hereinafter cited as Sept. 22 Transcript and Sept. 30 Transcript).

During the course of this proceeding we have received comments from nearly one hundred parties representing a diverse range of interests. Trade associations representing Amoco wholesalers and retailers have participated, as well as 30 State governments and various large consumers of Amoco products. Many of the comments were quite helpful, and this decision reflects several changes suggested by the commenters. However, although we repeatedly requested additional data that would be useful in revising the general scheme or the details of our proposal for the

distribution of these funds, *see, e.g.*, Sept. 30 Transcript at 6, and left the record open until October 13, 1982, in order to receive additional evidence, few commenters provided us with concrete statistical data which we had not already obtained through our own research efforts.(*1*) Consequently, although we have considered all of the comments which we received, the data base which underlies our determination is substantially similar to that discussed in the proposal which we issued on August 9.

In the present determination we shall briefly outline the background of this proceeding and summarize our August 9 proposal. Next we will discuss the comments which we received regarding the overall course of action which we tentatively adopted. Then we will examine the comments that addressed specific details of the proposed procedures. Finally, we shall set forth the refund procedures which we have decided to adopt.

I. Background

A. The Consent Order

Amoco is a major, integrated oil company whose wholly-owned subsidiaries produce, transport, sell, and refine crude oil and petroleum products. The firm was the fourth largest seller of petroleum products in the United States during the consent order period. Beginning in 1973 the Department of Energy's predecessor agencies undertook a comprehensive audit of Amoco's compliance with the federal petroleum price and allocation regulations. The audit continued until the proposed consent order was signed on February 14, 1980. *See* Consent Order, ¶¶ 301 and 304. Based on information obtained through the audit, the OSC believed that Amoco had violated a number of the regulatory provisions enforced by the agency. Several administrative actions were instituted against Amoco as a result of the audit. Additionally, Amoco and the DOE each filed at least one civil suit against the other on matters arising out of the audit. *See* Consent Order, ¶¶ 414–15.

Subsequently, Amoco and the DOE entered into the consent order involved in this proceeding. With a few specified exceptions, the consent order settles all pending and potential disputes between Amoco and the DOE regarding the firm's compliance with the petroleum regulations administered, by the agency during the period March 6, 1973 through December 31, 1979.(*2*)

In settlement of the DOE's claims against the firm, Amoco agreed to (1) deposit $71 million into an escrow account to be disbursed as directed by the DOE; (2) distribute $29 million in refunds directly to certain end-user purchasers of middle distillate products during the consent order period, and to add any funds remaining from the $29 million as of December 31, 1980 to the $71 million escrow account; (3) reduce its "banks" of unrecovered product cost increases for motor gasoline and propane by a total of $180 million; and (4) invest $410 million in energy-related projects as approved by the DOE. In exchange, the DOE agreed to terminate the Amoco audit and pending administrative and judicial claims against Amoco for violations allegedly occurring during the period March 6, 1973 through December 31, 1979.

On Febraury 25, 1980, the OSC published notice of the proposed Amoco consent order in the **Federal Register** as required by the DOE regulations at 10 CFR 205.199J(c). *See* 45 FR 12287 (1980). The OSC considered the numerous comments which it received concerning the proposed consent order and concluded that it should adopt the proposed order as a final consent order on April 21, 1980. *See* 45 FR 26747 (1980).

On July 18, 1980, the OSC filed the present Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals. In its petition, the OSC requested that the OHA develop procedures for the distribution of the $71 million fund created pursuant to paragraph 403 of the Consent Order. In an interlocutory order issued on August 21, 1980, OHA accepted jurisdiction over the matter. *See Office of Special Counsel*, 6 DOE ¶ 82,572 (1980). Our determination to accept jurisdiction over the case was based on the amount of money involved, the complexity of disbursing this sum, and the importance of providing adequate notice to persons who may have an interest in the funds. *ID.* at 85,220. Subsequently, an additional sum of $1,000,408, which remained undistributed under the other remedial provisions of the consent order, was added to the $71,000,000 fund in the escrow account for distribution under the special refund procedures to be established by the Office of Hearings and Appeals.

B. The Proposed Decision

On August 9, 1982, we issued a Proposed Decision and Order setting forth the special refund procedures which we had tentatively determined to adopt. In that Decision, we proposed to divide the Amoco settlement fund into six pools of money to correspond with the type of products sold by Amoco during the period covered by the consent order. The amount of money in each pool was based on the level of business activity in each category in relation to Amoco's overall petroleum business. First, crude oil sales revenues and non-crude oil sales revenues were determined. The overall pool was then split into two shares whose sizes correspond to the relative size of Amoco's sales revenues in the two areas. Then the non-crude share was further subdivided into five pools, one for each product category, based upon the relative volume of sales in each category of Amoco's overall sales volume of refined products.

A pool of $16.5 million plus interst was set aside for claims related to Amoco's sales of crude oil. Firms which purchased crude oil from Amoco would have the opportunity to file applications for refund from this pool. Participants in the Crude Oil Entitlements Program, 10 CFR 211.67, would also be eligible to file for a refund. Each refund applicant would be required to demonstrate a particularized injury that was not corrected by the DOE regulatory system. We proposed that if money remained after valid claims were paid, it be distributed to benefit consumers of refined petroleum products. We suggested that state governments be used as a conduit for this distribution, and that they be required to use the funds for energy-related projects.

A second pool of approximately $36.8 million plus interest was established to pay motor gasoline claims. Resellers, retailers, and consumers of Amoco motor gasoline would be permitted to file applications for refund for a portion of this pool. Instead of requiring that each firm or individual purchasing Amoco products during the relevant period provide detailed documentation to establish the extent of the injury which it sustained, we proposed to use certain rebuttable presumptions as to the degree of injury at each level of distribution caused by the alleged overcharges. The alleged overcharges would be presumed to have been spread evenly over each gallon of refined products sold (the refund was estimated at $0.000953 per gallon at the time the Proposed Decision was issued). For those gallons of motor gasoline which were resold after the initial sale by Amoco, presumptions were suggested to reflect the injury sustained at each level of distribution. Any claimant that believed it was entitled to more than the presumptive level of injury could file material to document that claim. We tentatively found that resellers had absorbed 45 percent of the injury, retailers had absorbed 34 percent, and

Notes appear at end of document.

consumers 21 percent of the injury associated with Amoco's alleged violations of the DOE regulatory program. An applicant that elects to take a refund under the presumptions would have to furnish only its name and address, proof of Amoco purchases, and the claimant's level in the distribution chain. The claimant's refund would be computed by reference to a formula which was set forth in the Proposed Decision. Since the average motorist would have difficulty documenting purchases made during the consent order period and, in any event, the average motorist who purchased Amoco motor gasoline would receive a refund of less than $1.00, we further proposed to distribute the consumers' share of the motor gasoline pool to the governments of the states in which Amoco sold motor gasoline for use in projects that would benefit motor gasoline consumers.

A third pool of approximately $7.4 million plus interest was tentatively set aside for purchases of Amoco's natural gas liquids (NGLs). In the first stage, firms that were direct purchasers, downstream purchasers, and consumers of natural gas liquids and products from Amoco would be permitted to file applications for refund. Unless the applicant is a regulated entity or agricultural cooperative which is required to pass on the refund received, it must show that it absorbed the effects of the alleged overcharges and was thereby injured. A second-level distribution could be made through first purchasers, disbursement to the state governments, or deposit into the U.S. Treasury.

The next largest pool of about $5 million plus interest would be apportioned to settle claims of home heating oil and diesel fuel customers. Many firms of this type have already received a refund directly from Amoco, and we stated that they will not be eligible to file applications for an additional refund for their middle distillate purchases. For qualifying applicants, we proposed to make refunds based on the volume of their purchases from Amoco during the relevant period. However, we tentatively determined that we could presume from available data that Amoco's consignees and independent resellers were generally able to pass through the full amount of the alleged overcharges to their customers. We therefore predicted that few firms in this class would be able to show injury, and that consequently there would be a large amount of money remaining after all valid claims were paid. We proposed that state governments submit plans for using the undistributed funds from this pool to benefit a class of persons who were likely to have been ultimate consumers of middle distillates.

The fifth pool of about $3.9 million plus interest was established to pay refunds to purchasers of residual fuel oil, lubricating oil and industrial grease. Persons who purchased these products from Amoco would be permitted to file claims. Since we did not have any information concerning potential claimants or the specific uses to which these products were put, we did not propose a second-stage distribution plan.

Finally, the Proposed Decision tentatively established a pool of approximately $2.3 million plus interest to be used to pay refunds to purchasers of aviation gasoline and jet fuel. We noted that the likely claimants for this portion of the settlement money are commercial airlines. We indicated that information in the record could be interpreted in two ways—to mean that the airlines should receive the entire pool, or to mean that the airlines passed on a significant amount of their increased fuel costs during the consent order period. We invited further comment on how the data should be interpreted. If money remains after all claims are considered, we proposed that the benefits of any further distribution of this refund pool should inure to airline passengers and general aviation.

II. Comments on the Overall Procedures

As described above, the August 9 proposal established a framework for the distribution of refunds to claimants in the first stage on a volumetric basis to direct and downstream purchasers of Amoco crude oil and refined products. It also suggested possible recipients of remaining funds once all valid claims had been paid. In most cases we proposed to distribute residual funds to state governments as representatives of ultimate consumers residing in the state. Many parties filed submissions challenging the underlying premises or overall framework of the proposed procedures. We shall discuss these comments first before addressing comments regarding our proposals for specific product pools.

A. First Stage Procedures

At the September 30 hearing, most parties urged immediate action to distribute the refund moneys. However, Representative Margaret Heckler testified and suggested that the Office of Hearings and Appeals should defer all action in this case until the Congress has acted on a bill she introduced, H.R. 5290, which provides for the distribution of unclaimed refund amounts. *See* Sept. 30 Transcript at 181–88. If H.R. 5290 were enacted into law, consent order funds obtained by the DOE would be subject to claims by purchasers from the consenting firm, and any remaining funds would fund a trust to assist low-income individuals with rising energy costs. Inasmuch as today's decision establishing a first-stage claims procedure is not inconsistent with the purpose of the proposed bill, it is neither necessary nor appropriate to delay issuing this decision.

One commenter, the State of New York, noted the proposal to distribute funds to purchasers of crude oil and refined petroleum products was inconsistent with a recent statement made by the former DOE attorney who had negotiated the Amoco consent order. In a March 24, 1982 hearing before a subcommittee of the House Committee on Government Operations, former Special Counsel Paul L. Bloom testified that

> [T]here was $100 million cash for middle distillates restitution out of a $285 million cash and gasoline bank elimination. The $100 million cash was for middle distillates because we were taking virtually the entire gasoline bank of the company as a compensation—and this was in late 1979—as restitution for the driving public, the gasoline consumers. Out of the $100 million it was agreed in advance with Amoco that $29 million, maximum, would be offered to directly identifiable lists of large-volume middle-distillate customers from the various refineries. . . . The balance, subtracting $29 million from $100 million, was $71 million. I filed a petition under subpart V of the Department's regulations, OHA regulations, invoking the jurisdiction of that office, which the head of that office approved. Under that petition the OHA assumed responsibility. I believe in the late spring or summer of 1980, for the distribution of that money to middle-distillate customers at all downstream levels of consumption below the large industrial customers.

March 24, 1982 Hearing before the Subcommittee on Environment, Energy and Natural Resources of the Committee on Government Operations of the United States House of Representatives, 97th Cong., 2d Sess., 5–6. In view of this statement, the State of New York suggested that the Office of Hearings and Appeals is obliged to explain the Proposed Decision's divergence from Mr. Bloom's interpretation of the consent order, or to revise the proposed procedures to conform with his statement.

We have considered Mr. Bloom's statement in light of the record in this proceeding. The general purpose of the consent order was to achieve some form

of restitution for all of Amoco's customers. No narrower purpose is evident. Neither the consent order nor the OSC's Petition for the Implementation of Special Refund procedures clearly mandates the disposition of these funds to only one class of claimant. In particular, we note that the documents invoking our jurisdiction over these funds—the original July 18, 1980 Petition for the Implementation of Special Refund Procedures and the March 17, 1981 supplemental petition adding to the escrow fund the remainder of the ¶ 404 funds—do not place any restrictions on their disbursement. This is significant. In cases where the OSC has intended that the OHA limit the payment of refunds to a particular class of customers, it has so stated in the petition. *See, e.g., Office of Special Counsel,* 10 DOE ¶ 85,039 (1982) (hereinafter cited as *Charter*). In *Charter* we found that the OSC had specified that the refund money was to be paid only to purchasers of No. 2–D diesel fuel, and we therefore limited claims to that class of claimants. Neither Amoco petition contains any such restrictions. Moreover, we have served a copy of the proposed decision on both parties to the consent order, Amoco and the OSC, and neither party has objected that the proposed distribution is contrary to the intent of the consent order. Finally, we note that under Mr. Bloom's construction of the consent order 100 percent of the settlement's cash would be allotted to products that constituted only 14 percent by volume of Amoco's sales. There is no evidence in the record to suggest that this lopsided and seemingly inequitable monetary recovery was intended for one class of claimants. Accordingly, we attribute little weight to Mr. Bloom's statement—which was made more than two years after the fact—in determining the class of eligible refund claimants, and we assume that his recollection may be flawed. All purchasers of Amoco crude oil and refined products, with certain minor exceptions, will therefore be eligible to file refund applications.

Several parties with specific complaints about Amoco's regulatory practices during the consent order period have contended that claimants with identifiable grievances, such as parties who filed a complaint against Amoco with the DOE or in federal district court, should be given priority treatment and should not be limited to a volumetric recovery.(3) According to these commenters, parties with a "provable claim" should not be subject to any Subpart V procedures.

The priority treatment which is suggested would be inconsistent with the purposes of Subpart V proceedings. Once a special refund proceeding has been convened, all interested persons stand on equal footing and their claims must be judged on their respective merits, unless the relevant consent order provides otherwise. We have previously discussed and rejected claims by parties who asserted that they should receive priority status in special refund proceedings. In *Office of Special Counsel,* 9 DOE ¶ 82,538 (1982) (hereinafter cited as *Tenneco*), we decline to give first priority to a firm which had pursued its complaint against the Tenneco Oil Company through DOE administrative channels prior to the signing of the underlying consent order. We found that the firm's theory that it deserved priority because it had a "provable claim" was inconsistent with the underlying consent order, which provided that the DOE did not find and Tenneco did not admit to any violation of the DOE regulations. The Amoco consent order likewise provides that "(E)xecution of this Consent Order constitutes neither an admission by Standard nor a finding by DOE or OSC that Standard has violate any federal petroleum price or allocation requirement." Consent Order, ¶ 408. Consequently, it is untrue, despite some commenters" claims to the contrary, that any party has been identified as an overcharged customer of Amoco or that the amount of the overcharge is readily ascertainable. *See, e.g.,* September 20, 1982 Comments from the Army and Air Force Exchange Service at 3. It is true that the OSC's investigation of a particular firm's complaint against Amoco may have led to the issuance of a Proposed Remedial Order. However, all alleged violations in charging documents of that type were settled by the consent order and do not create a right to recovery that would entitle the complainant to priority status.

It is important to remember that there has been no finding of overcharges by Amoco. Execution of the Amoco consent order was intended to end the DOE's inquiry into Amoco's compliance with federal energy regulations. The adoption of priority status based on a party's claim that it can somehow "prove" that Amoco violated the DOE regulations in sales to it would have the effect of reopening the DOE investigation into Amoco's compliance and would be inconsistent with the agency's express promise not to do so. *See* Consent Order, ¶ 409. Furthermore, other firms that were subject to the DOE regulations might be more reluctant to enter into future consent orders if they know that claims of possible overcharges could be litigated in the context of a Subpart V refund proceeding. This would frustrate the public's interest in expeditiously concluding matters which arose under the DOE price control program. Moreover, where the OSC has found that the claims of a particular firm or class of claimants should be given priority treatment, the consent order has provided for direct payment by the consenting party. *See* Amoco Consent Order, ¶ 404 (providing for refunds to certain large middle distillate consumers); *see also* Consent Order with Standard Oil Company of California, 46 FR 52221 (1981) (providing for payment of $10.5 million to Time Oil Company). Finally, the right of a firm to file a private enforcement action against Amoco under § 210 of the Economic Stabilization Act, 12 U.S.C. § 1904 note, has not been affected by the existence of the Amoco consent order. *Bulzan v. Atlantic Richfield Co.,* 620 F.2d 278 (Temp. Emer. CT. App. 1980); *U.S. Oil Co. v. DOE,* 510 F. Supp. 910 (E.D. Wis. 1981). Accordingly, our denial of priority treatment in this proceeding does not mean that a party may not seek full redress of its grievances in another forum. For these reasons, we will not give priority treatment to refund claims asserted by persons with "identifiable grievances" against Amoco.

In our August 9 proposal, we determined the portion of the settlement fund that would be allotted to crude oil claims by focusing on the relationship of Amoco's revenues from crude oil sales to all of its sales revenues. The 22.9 percent allotted to crude oil reflected the ratio of Amoco's revenues during the consent order period from domestic crude oil sales to Amoco's revenues from domestic sales of crude oil and refined products. Several commenters raised questions about our calculations, and clarification is in order. The revenue figures which we used to perform this computation were derived from Amoco's published annual reports and confidential, proprietary data submitted by Amoco. In our calculations we excluded all inter-affiliate transfers of crude oil and refined products and also adjusted the figures to take into account the stripper well property crude oil sales that were excluded from the scope of the consent order. These exclusions were proper.(4) First sales of Canadian NGLs into U.S. commerce were likewise excluded because we did not have separate revenue data for those transactions; however, these NGL sales apparently comprise less than 0.1 percent of Amoco's total sales and could

safely be ignored for these purposes. A major oversight which we discovered in reviewing our calculations was the failure to exclude revenues generated by the sales of certain petroleum products after those products had been exempted from DOE price and allocation controls. When we make the necessary adjustment to exclude decontrolled products, the ratio for this pool rises to 30.7 percent, or $30,867,618.84 including interest to December 17, 1982. After this adjustment, the amount in the refined products pool becomes $69,668,810, or 69.3 percent of the money available for distribution as of December 17, 1982. The respective portions of the refined products pool for each product group are as follows:

Product	Percent controlled sales	Amount of fund as of Dec. 17, 1982
Motor gasoline	66.27	$46,169,193
Middle distillates [1]	9.16	6,381,618
NGL's	13.36	9,300,720
Residual fuel oil and related products	7.06	4,932,517
Jet fuel and aviation gasoline	4.14	2,884,268

[1]Excludes volumes covered by ¶ 414 of the consent order.

We also considered, at the behest of several commenters, whether we should compare sales *volumes* of crude oil and refined products rather than *revenues*. The commenting parties noted that this change in methodology would make it consistent with the manner in which we allocated funds among the product pools. The suggested change in analysis would further increase the crude oil portion of the fund. After careful consideration we have concluded that no further increase in the crude oil pool is warranted. Apart from consistency for consistency's sake, we see no advantage to a volumetric division. Our aim in dividing the Amoco fund between crude oil and non-crude oil-related activities was to give proper emphasis to that portion of Amoco's business that generated the most income for the firm inasmuch as one consideration in this restitutionary process is the disgorgement of allegedly unlawful profits. *Citronelle-Mobile Gathering, Inc. v. Edwards*, 669 F.2d 717 (Temp. Emer. Ct. App. 1982). Neither the volumetric nor the revenue approach is more correct than the other; both have distinct disadvantages. After balancing the alternatives, we have concluded that the revenue analysis properly reflects the characteristics of Amoco's business during the consent order period and is the appropriate method to use in dividing the fund between the two major aspects of Amoco's business.

Several commenters suggested alternatives to our proposed method of allocating refund moneys to controlled refined products on a volumetric basis. Under the proposal, the per gallon refund amount for refined products would be determined by dividing the total amount of money in the five refund pools for refined products by the total number of price-controlled gallons of product sold by Amoco during the consent order period. The commenters maintained that the *pro rata* amount—$.000953 per gallon at the time the proposed Decision was issued—was too small and they suggested a number of alternative methods. Some parties suggested that we should examine the records compiled during the DOE's extensive audit of Amoco, which was terminated with the signing of the consent order, and base refund amounts on the findings of the auditors. Commenters who favored this position generally believed that the adoption of this change would be advantageous to them because it would result in the allocation of more money to certain product pools from which these commenters could apply for refunds, or to firms that had previously complained of Amoco's regulatory practices to the DOE. For example, Consumers Power Company, a Michigan utility that is a major purchaser of Amoco NGLs, has alleged that "earlier enforcement actions against Amoco reveal that sales by Amoco of natural gas liquids were responsible for a major portion of the alleged overcharges." Sept. 30 Transcript at 14. Other commenters suggested that we use as the numerator of the fraction for determining the per gallon refund amount the sum of $690 million, which was the total dollar amount of the different remedial provisions in the consent order, rather than the sum of $72 million plus interest, which is the total dollar amount of the funds currently held in escrow. *See* Sept. 30 Transcript at 172. This method would yield a volumetric recovery per gallon of product sold of $.008584. This method would obviously deplete the available fund much more quickly, and the commenters suggest that in the event that so many claims were filed under this alternate volumetric scheme that the funds were exhausted, then all claimants' refunds would be reduced on a *pro rata* basis. Still other parties contended that we should distribute all of the available money on a *pro rata* basis among all successful refund applicants. The advantages claimed for these three proposed alternatives were that each would more closely approximate the actual damages suffered by claimants, would distribute most or all of the available funds more quickly, and would thereby avoid the need for a second-stage procedure.

In considering the comments of those who suggested that we modify the proposed volumetric refund mechanism, we have noted that many of their arguments are based on the faulty premise that the DOE somehow determined as a matter of law that Amoco overcharged its customers in sales of covered products. As we have already stated, no Amoco overcharges have been established prior to the present special refund proceeding and none will be established during the course of this proceeding. It is therefore fallacious to use as a theoretical basis for calculating refund amounts any unproven assertions in preliminary DOE enforcement documents or any other unsubstantiated theory that Amoco "must have" violated DOE regulations at least to the extent of the $690 million in remedies which it agreed to undertake in the consent order. In addition, it is also incorrect to expect that all parties who were affected by Amoco's regulatory practices will either file applications for refund or waive their right to do so, and that the fund can therefore properly be distributed completely among those claimants who actually file applications for refund. If we were to do that, we would be ignoring the very real practical problems which prevent or deter applicants from filing claims, one of which is the threshold level of a $15.00 minimum claim which we have established. Moreover, in addition to the practical problems which prevent the universe of filed claims from being complete, distributing all of the Amoco refunds to persons who file claims would be inappropriate. The fact that claims to specific refunds may not be made does not mean that injuries to customers who did not file claims have not occurred. Rather, the absence of claims for the full amount of the settlement would tend to reflect the small size of these claims as well as the difficulty and expense of filing a claim. Refunding money to benefit adversely affected parties, even though their identities and the amounts which they should receive are not easily ascertainable, is the primary concern of Subpart V proceedings. We therefore reject the suggestion that we should limit recovery of these funds only to those claimants who file applications for refund.

On balance, attribution of injury to each gallon of refined products sold by Amoco seems the best available, general method of distributing the refund

moneys. It is uniform, places all applicants on an equal footing, and is relatively easy to administer. Applicants can readily compute the size of their potential refund and thereby make an informed choice on whether to file an application. This method also implicitly recognizes that computation of individual, particularized overcharges in individual transactions is impossible to establish in this proceeding and would be contrary to the purposes of the consent order.

Finally, we note that the recovery of a specified amount for each gallon of product purchased is, like the other presumptions we are employing in this case, subject to challenge by individuals who seek to establish that the presumption should not be applied in their cases. One notable example of an exception to this presumption would be a firm claiming injury due to Amoco's allocation practices. *See, e.g., Tenneco Oil Co./Research Fuels, Inc.*, 10 DOE ¶ 85,012 (1982), and the discussion below. We have therefore concluded that, notwithstanding the commenters' objections, the proposed volumetric distribution of refined product refunds best serves our purpose of accomplishing a wide distribution of these funds in an equitable and efficient manner. Consequently, we shall employ that method in the final procedures which we adopt.

One commenter suggested that a portion of the Amoco fund be used to pay claimants' attorney's fees incurred in seeking a refund. We will not adopt this suggestion. These procedures are simple, so that claimants should, if they so desire, be able to file refund applications without seeking professional assistance. In addition, it is this office's general practice to seek additional information from an applicant whose initial submission fails to include sufficient information for us to analyze it. Since we will not require that an applicant be represented by counsel, and it will be possible to file a complete claim without professional assistance, we shall not provide for attorney's fees to be paid out of the settlement fund in addition to the refund amount to be paid any successful applicant.

A number of potential claimants maintained that we should require Amoco to furnish each of its customers with notice of this proceeding and a list of the customer's purchases throughout the consent order period. Other firms who believed that they might be downstream purchasers of Amoco products added that Amoco should be required to furnish the DOE with a list of Amoco first purchasers to be published with this decision so that potential claimants could ascertain whether their supplier furnished them with Amoco refined products.

While this material could well be helpful, it is questionable whether the DOE could require Amoco to provide any of this information. Paragraph 411 of the consent order states that Amoco will not be subject to the information requests from the DOE for matters covered by the consent order. Furthermore, customer lists contain the type of information that is customarily held to be confidential, proprietary information, the publication of which would be likely to cause competitive harm to the firm involved. Even if the DOE were to obtain this material from Amoco, the lists would probably be exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(4) (unless Amoco waived the exemption, which is unlikely), and the DOE might be prohibited from disclosing it under the Trade Secrets Act, 18 U.S.C. 1905. *See, e.g., Collier, Shannon, Rill & Scott*, 9 DOE ¶80,105 (1981) (customer lists dating back to 1973 and 1974 are still withholdable because release could cause the firm competitive harm); *see also St. Petersburg Times, Inc.*, 1 DOE ¶80,201 (1978). We therefore do not intend to seek this information from Amoco.(5)

Some refiners who submitted comments complained that the proposal excluded them as eligible claimants for the product pools. They noted that the proposed decision mentioned only wholesalers, retailers, and consumers of Amoco products as probable refund applicants. We did not mean to exclude a refiner that purchased Amoco crude oil or refined products. We encourage all purchasers of Amoco crude oil or covered petroleum products to file applications. *See* 10 CFR 205.282(e); *Tenneco*, 9 DOE at 85,208.

One commenter urged that we make rebuttable the presumption that spot purchasers were not injured by Amoco's pricing practices because they presumably only purchased Amoco product when it was to their advantage to do so. The commenter contended that there may be spot purchasers who were unable to pass on the alleged overcharges. We agree with this comment, even though our experience in other refund proceedings supports the conclusion that spot purchasers are unlikely to have experienced injury. For example, in *Tenneco Oil Co./J.O. Cook, Inc.*, 9 DOE ¶82,581 (1982), the refund applicant admitted that it had sold its spot purchases of Tenneco product at cost plus a broker's fee and had thereby passed on the full effect of any alleged overcharges. We therefore found that the applicant had suffered no injury and we denied its refund application. While our experience justifies the use of this presumption, like all of the presumptions we have employed in this case the spot purchaser presumption is rebuttable. The presumption will be retained, and spot purchaser claimants should be aware that they should submit additional evidence sufficient to establish that they were unable to recover the product prices they paid to Amoco.

One commenter expressed concern that parties who operated as Amoco consignees during the consent order period might be permitted to recover refunds. According to information in the record, a majority of firms operating as wholesalers or jobbers of Amoco products during the latter part of the consent order period had been consignee agents during the early part of the period. These consignee agents established their prices at a set, per-gallon commission fee that was added to Amoco's wholesale price. That type of arrangement insured that a consignee did not absorb any alleged overcharges. It was therefore suggested that we adopt a presumption of non-injury similar to that adopted for spot purchasers. We agree that consignees should generally not receive refunds based upon the number of gallons they handled for Amoco, and we shall therefore adopt a rebuttable presumption that claims submitted by consignees should not be approved.(6) However, this presumption will be rebuttable because in unusual circumstances some consignees may be able to establish that their sales volumes, and their corresponding commission revenues, declined due to alleged uncompetitiveness of Amoco's prices.

A number of commenters expressed confusion about the statement in the proposed decision that excluded from eligibility Amoco's middle distillate customers who had already received refunds under ¶ 404 of the consent order. Some parties contended that they should be given an additional refund if their per gallon recovery under ¶ 404 was substantially less than the per gallon recovery generated by this proceeding. We need not address this issue because the per gallon recovery under ¶ 404 was in fact substantially higher than the figure which we are adopting for middle distillate claims in this proceeding. Other commenters maintained that even if they had already received refunds relating to their middle distillate

purchases, they should nevertheless be eligible to file claims for their purchases of other refined products. That was our intent, although it was not specifically articulated in the proposed decision. Accordingly, firms who have received ¶ 404 funds for their middle distillate purchases may file refund applications based upon their purchases of other covered products.

Several commenters endorsed our proposal to exempt purchasers of natural gas liquids (NGLs) for having to offer proof of injury if they are cooperatives or regulated firms who file a full explanation of the manner in which refunds will be passed through to their customers. Many of those parties suggested that regulated entities should also be exempt from the proof of injury requirement for refunds relating to other refined products. We agree, and we shall therefore extend an exemption from the general proof of injury requirement to regulated utilities or cooperatives who purchased any type of refined products from Amoco.

B. Second Stage Procedures

A substantial number of interested persons filed comments about our proposals for distribution of refunds in a second stage of this proceeding. In general we proposed that these funds be remitted to state governments to benefit the injured persons in their states by using the funds for energy-related projects. If the residual funds were very small, we suggested as an alternative that the funds be deposited into the U.S. Treasury. Setting aside for a later discussion the comments relating to particular types of second-stage distributions proposed for each of the six pools, we find that a majority of the commenters favored the general mechanism whereby states would act as conduits for the residual Amoco settlement moneys. This type of distribution would be relatively efficient, have a wide geographical impact in proportion to the level of injury actually sustained, and would have a sound restitutionary basis. However, a few commenters suggested that we substitute as the conduit for second-stage funds (i) an energy trust fund, (ii) regulated utilities, (iii) entitlement purchasers, or (iv) Amoco dealers. Those commenters who agreed that state governments could be used effectively for restitutionary purposes also suggested a variety of refinements to our proposal. Finally, there was virtually unanimous disapproval of our suggestion that any small residual funds be placed in the U.S. Treasury. We shall discuss each of these comments at this juncture since the specific second-stage procedures we adopt for each pool will be affected by these considerations.

The energy trust fund which several commenters proposed would give grants from the income and corpus of the Amoco funds to encourage alternative energy research and to assist low-income individuals with energy-related costs. While we agree that the idea of an energy trust has appeal insofar as its proponents envision the funding of projects to benefit persons who were likely injured by alleged overcharges, distribution of these funds to state governments is a more effective means to accomplish the restitutionary goals of the Amoco settlement. The residual crude oil funds will be apportioned among states in proportion to each state's share of national petroleum consumption and the products funds will be apportioned among the states according to sales of Amoco petroleum products within their respective borders. The states will have broad discretion in the use of these funds, consistent with the overall objective of restitution, and the funds will be utilized for energy-related projects which benefit all of their citizens. An energy trust fund could not accomplish some of these objectives at all and others not as efficiently, since substantial attention would have to be given to start-up and managerial issues.

With respect to the proposal that residual funds from all products pools be funnelled through regulated utilities, we have already indicated that these entities are attractive alternatives where the benefits of restitution would be passed on to those persons who were injured by the alleged overcharges. We have therefore proposed a second-stage distribution through utilities in cases involving NGLs. *See, e.g., Office of Enforcement,* 9 DOE ¶ 82,508 (1982). However, we prefer distribution to the states in cases involving other products because the states can distribute funds over wider areas and with more uniformity than selected utilities. In addition, the states have greater flexibility than do strictly regulated utility firms in fashioning programs targeted to benefit those parties who were most likely injured by Amoco's regulatory practices. Consequently, we continue to believe that regulated utilities should not be the primary vehicle for channelling second-stage refunds.

As for the suggestion that we use entitlements program participants (*viz.* refiners) or Amoco dealers as conduits for these residual funds, we reject both of those proposals. Whereas the operations of regulated utilities are overseen by state agencies, and states have a fiduciary responsibility to their citizens as well as political accountability, there are no corresponding checks and balances on the refiners or dealers. The suggestion that these entities would most likely pass through refunds to consumers in the form of decreased prices has only been advanced in the form of an expectation, not a pledge, and in any event it could not be enforced. The likelihood that the benefits of refunds would be passed on depends upon a number of factors including the continuation of current, highly competitive market conditions that might not exist at the time the second stage is implemented. In addition, the price-cutting which the groups suggest would occur would unfairly advantage certain classes of recipients over others and could create a disturbance in the marketplace that is contrary to the policy of non-interference in the deregulated petroleum market. For all of these reasons, we have concluded that in the present case state governments are generally the best-suited entities to use to effect restitution to injured parties.

A number of states and consumer representatives requested that we clarify or refine our proposal that state governments submit plans for use of the Amoco settlement funds in a manner that will benefit classes of affected purchasers. After careful consideration of these groups' comments, we have decided to adopt the following plan. After the first-stage applications for refund have been paid, we shall notify the relevant states of the availability of funds. All jurisdictions that were included in the "United States" as defined by § 3(7) of the Emergency Petroleum Allocation Act of 1973 (EPAA) will be eligible to receive funds. This includes the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. possessions and the territories of Guam, the Virgin Islands, American Samoa, and Northern Marianas. Attached to this Decision as Appendix B is a chart showing the percentage shares of national petroleum consumption for each governmental entity that will be eligible to file a claim for crude oil funds. With regard to the particular product pools, only states in which Amoco sold the product concerned will be eligible to participate. Each state's share will be proportional to the ratio which statewide sales of that Amoco product bears to national sales of the Amoco product. We have requested information from the Energy Information Administration that will show sales of Amoco products within

each state. This information will be made available to each state at the appropriate time. (7) Where a state's share of the residual funds for one pool is so small that it is impractical to distribute, that state may elect to aggregate it with its share of the remainder of other pools, so long as the programs proposed are broad enough to benefit members of the appropriate classes.

Each government that wishes to participate will be required to file a plan setting forth the project or projects it desires to fund with its share of the Amoco funds. The plan should include a brief explanation of each project, the amount of money to be spent, the approximate timetable for implementation, and the group or groups to be benefitted. Each state's plan should also be accompanied by a statement that each of the proposed projects is a new program or an enlargement of an existing program. Funds may not be used to replace state funds for activities already fully funded. Although we are sensitive to the concerns of low-income consumer representatives who sought a requirement that states hold a public hearing on their proposals prior to submitting them, we are reluctant to and shall not dictate to the states any particular procedure to be used in formulating their respective plans. Nevertheless, like all applications for refund, state plans will be available for inspection in the OHA Public Docket Room. We expect that the plans will be scrutinized carefully to insure effective uses are made of the Amoco funds. These plans should not be filed until we give notice to the state governments that we are accepting second-stage distribution plans.

We will review each state's plan to see whether it fulfills the general requirement that the projects undertaken should benefit those who were most likely affected by the transactions covered by the consent order. We decline to restrict any state's creative and best use of these funds by establishing a minimum percentage of funds that must be set aside of programs to benefit low-income consumers or alternative energy research. However, projects directed towards either of those uses would certainly be acceptable. We shall not issue an exclusive list of acceptable projects because we believe that each state should have great flexibility in formulating its plan. We have previously suggested as examples of suitable projects weatherization or conservation programs, highway, bridge and airport maintenance, and ridesharing programs. *See Office of Enforcement*, 9 DOE ¶ 82,521 at 85,136 (1982). In reviewing the states' plans, we shall seek further explanation for any administrative expenses that appear to be disproportionately high. If we find a state plan or portions of a plan unacceptable, the state will be permitted to amend its application. Upon approval, the funds will be transferred to the state. Upon completion of its programs, the state will be required to certify that it has spent all of the funds in the manner specified in its approved plan.

Finally, although many commenters urged that we eliminate as a possible alternative the deposit of residual funds into the U. S. Treasury, we believe that the option should be maintained. We have previously discussed at length the legal arguments that have been raised frequently in connection with this question in *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). *See also Terrace Mobil*, 9 DOE ¶ 83,045 (1982) at 86,332–34. However, it is premature to decide this issue now, even though it is unlikely that we will implement this option inasmuch as the large sums of money involved in this case will probably generate substantial residual funds that may be efficiently distributed by state governments.

III. Comments Regarding Crude Oil Claims Procedures

In our August 9 proposal, we determined that we should develop standards for the evaluation of applications for refund from parties whose claims are based upon purchases or rights to purchase crude oil which are different from the standards applied to purchases or rights to purchase refined products. We proposed that the portion of the settlement fund that is allocated to crude oil claims should first be distributed among firms that successfully establish in their refund applications that they suffered a particularized injury that was neither redressed by the regulatory system nor passed through to their customers. We noted that we had previously stated our belief that direct purchasers of miscertified crude oil were compensated by the operation of the entitlements program. We further indicated our belief that entitlements program participants were compensated for any increased costs as a result of an increase in competitive market prices. *See Office of Enforcement*, 9 DOE ¶ 82,521 (1982) (hereinafter cited as *Adams*).(8) We suggested that in the second stage, residual funds would be apportioned among state governments along with and for the same purposes as the residual funds in other crude oil-related special refund cases such as *Alkek* and *Adams*. The funds would be apportioned among state governments to reflect the level of consumption of covered products in each state during the consent order period.

The parties who filed comments about this specific portion of the Proposed Decision did not challenge our preliminary analysis that, in general, any impact purchasers of Amoco crude oil might have felt from Amoco's alleged crude oil miscertification violations was dispersed among all refiners by the operation of the DOE's Crude Oil Entitlements Program, 10 CFR 211.67. Rather, refiners disputed our statement that they then passed on any increased costs of crude oil to their customers. *See Alkek*, 9 DOE at 85,133. Some refiners objected to what they believe to be an unreasonably high standard of proof for crude oil claimants, especially when compared to the streamlined presumptive levels of injury which we suggested in connection with refined products claims. The commenters maintain that, having acknowledged that any injury caused by Amoco's application of the crude oil price regulations would be felt most directly by participants in the Entitlements Program, we should adopt a standard of proof which would permit recovery by any Entitlements Program participant that could demonstrate that it had substantial banks of unrecouped product cost increases throughout the consent order period. These commenters contend that the existence of banks in and of itself clearly establishes that such firms were injured because they were unable to pass on the effects of the alleged overcharges.

As an initial matter, we disagree with the commenters that crude oil purchases by large refiners should be treated in exactly the same way as purchases of refined products by smaller entities and consumers. There is no question that the circumstances in each type of transaction are vastly different. The average crude oil buyer was much better equipped to protect itself from overcharges that the usual refined products buyer, who was probably a much smaller, less sophisticated entity and was most typically a consumer or retailer of Amoco products. Moreover, the refiner price rules offered considerable flexibility for refiners to pass through costs. Accordingly, different treatment could well be warranted. Nevertheless, we have in fact applied the same standard to both types of entities: the need to show

injury. The presumptions which we have proposed are designed to facilitate the processing of refund claims when in our judgment there is a substantial likelihood that a particular class of claimants was injured. The presumptions used in Subpart V special refund proceedings are based on a consideration of restitutionary objectives and the body of information and data which is available about the underlying transactions. In the present case, the OHA has collected and reviewed a very substantial amount of information concerning the refined petroleum products markets during the consent order period. On the basis of that material and our knowledge of the industry during this period, we are able to adopt presumptions about the injury which occurred at various levels in the distribution chain for certain products. In contrast, the material, we have reviewed to date in the crude oil area suggests that, because of market factors and cost-equalization-based DOE regulatory programs (especially the Entitlements Program), refiners were generally not injured as a result of alleged miscertifications of crude oil. *Id.* It is therefore entirely reasonable and appropriate to adopt limited presumptions of injury with respect to the refined products pools while at the same time requiring claimants seeking refunds from the crude oil pool to come forward with evidence that shows the nature and extent of their injury.

Regarding the level of proof to be required of crude oil claimants, the commenters argue that the mere existence of banks of unrecouped product costs on an industry-wide basis establishes that all Entitlements Program participants were injured. We do not agree. There are many reasons that may explain why an individual refiner's banks were very large, *e.g.*, increases in inventory, uses of incentives in the refiner price rules, and wholly fortuitous transactions occurring on May 15, 1973, which was the base date for determining prices under the DOE regulations. *See, e.g., Tenneco Oil Co./Chevron U.S.A. Inc.*, 10 DOE ¶ 85,014 (1982). Because of the operation of the DOE refiner price regulations, these factors will have a very significant effect in times such as the latter part of the consent order period, when crude oil inventories increased substantially, refinery utilization rates declined, and sales of covered products also declined significantly. Furthermore, the establishment of banks of unrecovered allowable costs was a very complex calculation with many opportunities for a refiner to include in its calculations of allowable costs for recovery purposes costs not actually incurred. Moreover, the banks of many refiners are currently being challenged by DOE Proposed Remedial Orders. *See, e.g., Crown Central Petroleum Corp.*, Case No. DRO–0111. Banks of unrecouped costs were strictly a creature of the DOE regulatory program, and we do not believe that the existence of banks in and of itself is sufficient to demonstrate that refiners as a group were unable to pass through costs associated with alleged crude oil miscertifications which are the subject of a DOE consent order. *See Pacific Service Stations Co. v. Mobil Oil Corp.*, No. CV79–2973 AAH (Temp. Emer. Ct. App. September 17, 1982).

Finally, our acceptance of the refiners' position would mean that neither marketers nor consumers would receive Amoco refunds. According to the refiners, we should assume that any overcharges that they incurred were still in their cost banks at the end of the Amoco consent order period and therefore that they should receive refunds up to the amount of banks available to cover them. Since the refiners' banks are quite sizable, this would mean the complete exhaustion of the Amoco consent order fund. This position contradicts common sense. Allocating the entire fund to refiners' claims would be particularly inequitable in light of evidence, which we shall discuss below, that marketers and consumers were forced to absorb price increases and were consequently injured during much of the consent order period. We therefore reject the refiners' claim to the entire fund.

While none of the commenters has yet offered sufficient evidence to convince us that our preliminary analysis of the likely impact of the alleged violations is incorrect when applied to the broad class of crude oil claimants, we are *not* adopting a presumption against payment of claims to participants in the Entitlements Program. Our preliminary analysis of the likelihood of injury is inapplicable to overcharge claims based on allegations of incorrect posted prices or to claims for crude oil purchases made before November 1974, when the Entitlements Program began. Consequently, we shall accept applications for refund seeking a portion of the Amoco crude oil moneys from all firms. Firms that purchased Amoco crude oil as well as other participants in the Entitlements Program may file applications. Applicants should seek to establish a particularized injury that was not redressed by the regulatory system. The analysis of those applications will comprise the first stage of the claims process for crude oil refunds. States will receive funds from the crude oil pool once the first stage has been completed. We have attached as Appendix B our computation of each state's respective second-stage share of any remaining funds. We shall follow the procedure outlined earlier for the states' submission of plans for programs benefitting state residents who were likely affected by the transaction covered by this section.

IV. Comments Regarding Proposed Motor Gasoline Claims Procedures

The most controversial section of the Proposed Decision was our proposal for handling refund applications from Amoco's motor gasoline customers through the use of presumptive levels of injury. To summarize briefly, our experience in previous special refund cases had shown that the use of presumptions enabled small firms who very likely experienced injury to qualify for refunds without their having to generate so much information to support their claim of injury that the expense of filing a refund application exceeded the refund expected. *See, e.g. Uban Oil Co.*, 9 DOE ¶ 82,541 (1982) (hereinafter cites as *Uban*). Where available, many applicants opted to use a presumption method instead of filing a more lengthy application. *See, e.g., Vickers Energy Corp./Howard's Service*, 10 DOE ¶ 85,035 (1982). Once we had ascertained the viability of our presumptions, we found that we were able to streamline the process of analyzing and paying refund claims. For example, in *Tenneco Oil Co./Thomas Fastiggi*, 9 DOE ¶ 82,582 (1982), we were able to issue a determination covering 23 refund applications less than one month after the deadline for filing applications has passed. Hence, we concluced that the use of presumptions in the Amoco proceeding would assist us in the efficient processing of the large volume of refund applications which we anticipated receiving. *See* 10 CFR 205.282(e). With the knowledge that Amoco motor gasoline was sold throughout the United States, we examined a broad range of information about the motor gasoline market during the consent order period in order to determine whether, using our lengthy and extensive experience concerning this market, any general assumptions could be made about the likelihood of injury to particular classes of claimants. After finding that Amoco's price changes for motor gasoline generally followed national trends during the consent order period and that the prices

Amoco charged for covered products during that period generally were around the national average, we analyzed data showing national average price movements for gasoline at different levels of the marketing chain. That data is presented in graphic form as Appendix A to this Decision. This information clearly indicated that motor gasoline marketers did not always raise their prices at the same time and by the same amounts as refiners raised their prices. Based on our observation of the change in profit margins realized at each level of distribution, we concluded that as Amoco's refinery prices increased, a portion of that increase was absorbed at the wholesale level, another portion was absorbed at the retail level, and the remaining portion of the increase was absorbed by ultimate consumers. We observed that retailers appeared to have absorbed, *i.e.*, did not pass on, price increases and therefore were injured in 18 of the 53 months of the period which we studied, or 34 percent of the time; that resellers absorbed cost increases in 24 of 53 months, or 45 percent of the time; and that consumers absorbed the remaining 21 percent of the increases. We therefore proposed that, where a refund applicant was willing to be subject to the applicable presumption, we would pay a refund to each motor gasoline claimant, depending upon the claimant's position in the distribution chain, for all volumes which it purchased, without any further showing that the claimant was injured by Amoco's alleged overcharges in sales of motor gasoline. We stated that the presumptions were rebuttable, so that claimants could offer additional evidence of injury which could form the basis for the approval of larger refunds. We also suggested that the trade associations could assist us in identifying eligible claimants and processing their applications. We noted that purchases by individual motorists would probably be unverifiable and so small as to make it inefficient to process claims by these consumers. We therefore proposed that state governments be given the consumer's unclaimed presumptive portion for use for projects that would generally benefit users of motor gasoline.

Our proposal to use presumptions that would eliminate the burden of otherwise establishing injury for thousands of refund applicants generated many comments, both approving and disapproving. Before discussing these comments it would be useful to place the proposed methodology into perspective. The suggested approach was based on the best statistical information which we were able to obtain for the period encompassed by the consent order. Contrary to the belief of a number of commentators, the DOE does not possess other useful statistical information (for example, data showing how often the average retailer was constrained by its maximum lawful selling price from raising its price to consumers), and virtually no additional data has been submitted to us by critics of our methodology. Moreover, despite our best efforts we were not able to locate additional data that commenters suggested existed somewhere. Our review of the information we did obtain drew heavily on the experience this office has gained over eight years of dealing with the petroleum industry. Despite some commenters' claims that "everyone knows" that consumers bore the brunt of increased petroleum prices, or that "it is common knowledge" that retailers absorbed all of the period's price increases, nothing in the record supports either of these propositions. The analysis which we used to arrive at the presumptions discussed above encompasses a lengthy period of time during which substantial changes took place in marketing practices and consuming habits of American motor gasoline purchasers. Based on the record and our experience, we are therefore confident in our conclusion that some measure of injury was borne at each level of distribution at various times during the Amoco consent order period.

As is the case in most equitable proceedings, there is no mathematically precise answer to the question of how large a share of the settlement fund each competing group of Amoco customers should receive. As we have repeatedly stated, neither the prior enforcement proceedings not the present special refund proceeding has established that Amoco violated the DOE regulations in any transaction with any individual and, accordingly, no party can be said to be entitled as a matter of law to a particular share of the refund money. The proposed methodology represents an attempt to identify and approximate those factors upon which a finding of injury could be based. This type of approach is aimed at assisting refund applicants who were likely injured to obtain a refund without having to furnish substantial amounts of information conerning their historical pricing practices throughout the seven-year consent order period.

We have reviewed the comments which we received and have revised our presumptions somewhat in light of the criticisms in those comments. Most of the comments supported the use of presumptions in this case because they will facilitate the filing of refund applications by small businesses who might not otherwise be willing to incur the time and expense of submitting a more detailed application, even though they were likely injured by Amoco's alleged violations. We have therefore concluded that although the presumptions should be revised somewhat, they should nevertheless be used to streamline the refund process. Accordingly, we have concluded that the presumptions should be adopted as revised. We again emphasize, however, that any applicant who objects to the use of presumptions may claim a larger refund by presenting additional evidence concerning its individual injury.

We will first address the few comments which criticize the use of presumptions as a means of distributing refund moneys. Some commenters argue that the proposed methodology is unlawful because refund money will be paid to parties who are not direct purchasers from Amoco. According to these firms, the antitrust cases of *Hanover Shoe v. United Shoe Machine Corp.*, 392 U.S. 431 (1968), and *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977), stand for the proposition that in distributing these refund moneys the agency may not consider whether direct purchasers may have passed on the effects of alleged overcharges. We have previously discussed this contention at length in *Office of Enforcement*, 9 DOE ¶ 82,508 (1981) (hereinafter cited as *Coline*). In that case we determined that we are not legally bound in special refund proceedings by the holdings which courts have adopted in private antitrust actions and, moreover, none of the policy considerations underlying the limitations adotped by the courts in those cases is applicable to special refund cases. *See Coline* at 85,051–52. The commenters in this proceeding have not raised any new arguments that support their position that they should receive the entire proceeds of the DOE's enforcement efforts. Consequently, we again reject this contention.

Some state governments suggested that the use of presumptions is unlawful because the OHA is required to prove that wholesalers and retailers did not pass on the alleged overcharges to consumers. These commenters urged that, in the absence of such proof, we must find that consumers absorbed all of the cost increases. They argued that such a finding is not inequitable inasmuch as distribution to a particular state will also benefit wholesalers and

retailers who are residents of the state. We cannot accept this position. The states have not cited any legal authority whatsoever in support of their claim that the absolute validity of all conclusions underlying the presumptions employed in this proceeding must be established first. In fact, the DOE procedural regulations expressly permit the use of presumptions in refund proceedings precisely because of the perplexing problems inherent in reconstructing pricing practices during past periods. In the present case, there is ample evidence to support the particular level of presumptions of injury established in this determination and those presumptions are reasonable. As the Temporary Emergency Court of Appeals has noted, "the problems of government are practical ones and may justify if they do not require, rough accommodations—illogical, it may be, and unscientific." *General Crude Oil Co. v. DOE*, 585 F.2d 508, 516 (Temp. Emer. Ct. App. 1978), *quoting Amtel, Inc. v. FEA*, 536 F.2d 1378, 1383 (Temp. Emer. Ct. App. 1976). We therefore reject the states' challenge to the use of presumptions in this case.

We shall next address the criticisms of the analytical technique which was used to arrive at the level of the proposed presumptions. As noted above, we used national average motor gasoline price data in performing our analysis. The Service Station Dealers of America (SSDA) has challenged as incorrect our statement that Amoco's prices were generally around the national average. *See* Sept. 30 Transcript at 32. It has introduced evidence showing that at certain times and at certain locations across the country Amoco's dealer tankwagon price was higher than three or four other major suppliers in the particular market. Sept. 30 Transcript at 36–36. The SSDA's evidence is not convincing. We have reexamined our comparison of Amoco's weighted average prices with the national weighted average prices and have found that no adjustment is required. If only selected data is used, one can show that in certain localities Amoco's prices were significantly higher than the national average. However, despite the few isolated examples cited by the SSDA, we have found that Amoco's national weighted average price for all grades of gasoline track the national average prices remarkably closely. Except for one quarter in 1979, when Amoco's prices were as much as four cents *below* national average prices, Amoco's prices did not deviate from the national average by more than two cents. The SSDA representatives stated that they had in the past challenged the Energy Information Administration's national average data as not being accurate, but they have neither convinced the EIA that its data is incorrect nor provided further information in this proceeding to support their position, despite our invitation to do so. *See* Sept. 30 Transcript at 51. Consequently, we reject the position advanced by the representatives of Amoco retailers with respect to this issue.

A number of commenters advanced another criticism of the proposed analysis. They expressed concern that the analysis underlying the choice of presumptions encompassed only the 54-month period from July 1975 through December 1979 rather than the entire 82-month period of the consent order. As we noted in the proposed Decision, the DOE and its predecessors did not have a systematic data collection system in place until July 1975. Before that date, the information of this type is fragmented and inconsistent. Although several commenters suggested that additional data were available, no commenting party has supplemented the record with reliable data for the pre-July 1975 period, despite our invitation to do so.

Another, related issue concerns the extrapolation of the available data to the period prior to July 1975. In preparing the proposed Decision we assumed that market behavior would have produced the same measure of injury for the period for which we had no data because the missing 28-month period was characterized by similar market fluctuations as the 54-month period for which we did have data. This assumption was based on the following factors. During the initial part of the consent order period (*i.e.*, late 1973 and much of 1974), there were substantial supply disruptions and a rapid increase in prices. Gradually the market regained equilibrium. This period of relative stability, which includes the first third of the period which we have charted, continued until supplies of motor gasoline became tight in the fourth quarter of 1978. There was a substantial OPEC crude oil price increase in June 1979, and the market remained unstable until the latter part of 1980. We therefore believe that since the pattern of disruption followed by a gradual return to stability occurred both before and after July 1975, the use of the available data is appropriate to estimate the effects of the alleged overcharges over the entire consent order period.

Another criticism raised by several commenters was that double-counting may have occurred in some months in which both wholesalers' and retailers' margins were shrinking. Simply stated, these commenters argue that if both levels experienced declining margins during all of 1979, it was incorrect to count those twelve months each time we computed the number of months during the consent order period in which firms at each level of the disruption chain experienced injury. We agree that it was wrong to give both groups 100 percent credit for months in which both groups actually shared the burden of increasing prices. The correct method for accounting for this overlap is to ascribe only partial credit for these twelve months to each level, and we will make that adjustment in our final calculations.

We noted earlier that we would utilize a presumption that commission agents were not injured by alleged overcharges. It was suggested by a number of commenters that the period during which the majority of Amoco jobbers were commission agents should not be included as a time when jobbers were absorbing costs. It is not. The 24-month period from January 1978 through December 1979 was the period which we counted as a period of price absorption for jobbers. The record indicates that the conversion of Amoco commission agents to independent jobbers was substantially completed during 1976, well before the period that we counted as a time of probable injury for jobbers. As noted above, jobbers will generally not be eligible for a refund based upon purchases during the period in which they were commission agents. The consumers' refund shares for volumes purchased from commission agents will be accordingly adjusted, as discussed in the next paragraph.

Finally, numerous commenters challenged our assumption that the majority of Amoco motor gasoline was marketed through a three-level distribution system. According to information that has recently been added to the record, about half of Amoco's motor gasoline is distributed to consumers through dealers who purchase product directly from Amoco. In addition, about five percent of Amoco's motor gasoline sales during the consent order period were made directly to large consumer accounts. The commenters pointed out that under the method which we proposed, purchasers of motor gasoline that was not marketed through a three-level distribution system would not receive a full refund. They therefore suggested that where no jobber handled the product, the share of the volumetric refund amount allotted under the presumptions to the jobber

level should instead be allotted either to the dealer who first purchased the product from Amoco, or to the direct purchaser, if there was no intervening dealer. We agree with some of these points. Clearly members of the direct-purchase consumer group should receive 100 percent of the per gallon refund allotted to those volumes. However, there is no support in the record for the proposition that direct-purchase retailers should be entitled to the share of the refund that would otherwise be allocated to jobbers. We do not agree that the elimination of an additional middleman from our analysis of the market automatically means that Amoco's price increases were absorbed at the retailer level. The direct-purchase dealers have testified that the price which they paid Amoco was the dealer tankwagon (DTW) price, which is represented by the line in the middle of the graph in Appendix A. The method which we have used to determine when retail profit margins decreased, *viz.*, observing when the difference between the DTW and the retail prices decreased, remains unchanged if we eliminate the wholesale price line. Consequently, our analysis still indicates that, as discussed in greater detail below, retail margins were depressed only during certain limited periods. During the rest of the analyzed period retailers generally raised their prices to consumers as Amoco's price to them was raised. The appropriate adjustment, therefore, is to credit consumers who purchased motor gasoline from retailers directly supplied by Amoco with the share that would otherwise have been allocated to jobbers. While this will complicate the refund process where consumers are not certain whether and to what extent their supplier was directly supplied by Amoco, it is nevertheless appropriate. In addition, the direct-supply phenomenon seems to vary according to the geographic areas where Amoco products were sold. For example, most Amoco retailers in the Chicago area were directly supplied, whereas most retailers in the rural southeastern states were supplied by jobbers. Sept. 22 Transcript at 32; Sept. 30 Transcript at 45, 154. In preparing its application, a consumer should identify its supplier and, if it believes that its supplier is a direct-supplied Amoco dealer, it must state a basis for the belief. If its supplier is a direct-supplied reseller, the amount of the refund approved for the consumer will be increased by an appropriate amount.

B. Theoretical Criticisms of Proposed Methodology.

Many of the commenters contended that the analysis underlying the presumptions about the distributon of the alleged gasoline overcharges was theoretically flawed. While we did not claim that our analysis had scientific precision, most of the commenters' criticisms appeared to rest on that assumption. Consequently, many of the commenters simply restated the proposition, which we have already rejected above, that the presumptions could not be used unless their validity was conclusively established.

In addition, some parties' comments suggested that a better analysis could be made on the basis of other information. However, other, better information is simply not available—to us or to anyone else. Despite our best research efforts, we were unable to locate consistent, reliable, and meaningful supporting data from any source that would enable us to use any of the following suggested analyses: a comparison of the average profit margins earned by Amoco-branded dealers during the period with the national average profit margins earned by all dealers (*9*) a methodology attributing injury to a level of distribution when that level was restricted from raising its price by the application of its maximum lawful selling price (*10*); an analysis based on the assumption that consumers were injured to the extent that demand was inelastic (*11*) and an analysis using increases in refiner's profit margins to establish periods of likely injury. (*12*) Our listing of these proposed alternative methods should not suggest that we agree that any one of them is preferable to the analysis which we used. All are subject to the flaw that information which would permit their use is not available. In the interest of brevity, we shall not critically discuss these suggested alternative methods of analysis that are not adequately supported by reliable information. Other suggested methods are discussed below.

The retailers' representatives maintained that, contrary to our preliminary conclusions, consumers of Amoco motor gasoline as a class were never injured by Amoco's price increases and the alleged overcharges because they always had the ability to purchase motor gasoline from other sources if Amoco's prices were high. Because this choice existed, they contend, consumers presumably would have purchased Amoco motor gasoline only when the alternatives were higher priced, and therefore the consuming class suffered no injury. The retailers argue that, in contrast, they were contractually bound to purchase Amoco products even when the price increased above average market levels, and therefore they sustained the entire injury associated with Amoco's increasing prices.

We do not agree. As we have previously indicated, during the consent order period all refiners' prices were increasing at about the same time and in the same increments as Amoco's prices, so the notion of consumers' ability to avoid price increases is illusory. In fact, Amoco's prices were around the middle of the price range, and its sales volumes and market share remained relatively constant during this period, which confirms that Amoco customers apparently did not cease buying gasoline from Amoco branded retailers. We have received a large number of inquiries about this proceeding from consumers who have indicated a high degree of brand loyalty for Amoco products.

Moreover, pricing symmetry was apparent not only at the refiner level. The graph in Appendix A shows that frequently whenever refiners' prices went up by a certain increment, all intermediate suppliers' prices likewise went up by the same amount. We find this to be a clear indication that Amoco's price increases were often directly passed on to consumers and not absorbed by the intervening levels of distribution. Under these circumstances we have concluded that consumers were indeed injured whenever Amoco's price increases were passed on to them by all intermediate suppliers, even when Amoco's prices were not at the top of the range of prices. Having absorbed a substantial percentage of these alleged overcharges, consumers as a group should be permitted to receive their appropriate share of the refunds made in this restitutionary process.

The retailers' representatives also claim that the proposed methodology is faulty because it fails to take into account the fact that few retailers were able to charge their DOE-mandated maximum lawful selling price during the period of price regulations. They note that the margins reflected in the graph in Appendix A are consistently below those that the retailers claim were the average maximum lawful margins. The retailers contend that this conclusively establishes that only they were injured by price increases during the Amoco consent order period. Otherwise, they would have been recovering their allowable margin.

This argument obviously misperceives the purpose and effect of the DOE price

controls. The petroleum price regulations were not intended to guarantee a minimum profit for marketers. Instead, they were designed to limit price increases to actual cost increases and thus decrease economic dislocations caused by rapidly escalating crude oil prices. As a result, maximum lawful profit margins were established which varied from firm to firm, and increases above those levels required each firm's justification based upon increased costs. Although the profit margin limitation was initially based upon each firm's May 15, 1973 profit margin, subsequent revisions were made in increments that had no relationship to actual amount of justifiable cost increases as defined by the regulations that had been incurred by firms since the last increase was permitted.(*13*) The maximum allowable profit margin that was applicable during the final portion of the consent order period, 15.4 cents per gallon, was adopted to simplify the price regulations and was intended to provide retailers greater individual flexibility in setting prices. Accordingly, since the DOE price controls were designed to limit price increases, it is inappropriate to treat them as providing a government-guaranteed or recommended profit margin and to claim that a firm's failure to achieve its maximum lawful profit margin constitutes the type of injury that should be redressed in the special refund process. In view of the fact that the overall gasoline market was highly competitive during most of the consent order period, it is hardly surprising that marketers priced their product at less than the allowed maximum prices in order to sell what they judged to be the optimum volume needed to advance their respective market strategies. We therefore do not agree that an inability to achieve the maximum profits in and of itself constitutes an "injury" and, accordingly, we reject the retailers' claim that any analysis that gives them less than 100 percent of the motor gasoline pool is faulty.

Several state governments maintained that our use of declining margins to indicate cost absorption was faulty because declining profit margins do not conclusively establish that a marketer was unable to pass on price increases. They note that declining margins could have been caused in part by a change in marketing strategy from earlier low volume, full-service retail outlets to high volume, low margin, self-service outlets. The latter type of station typically sells gasoline at a lower per gallon profit margin in order to produce a higher sales volume. They also contend that during periods of shortage such as 1979, when our analysis indicates that marketers' margins were falling, marketers' operating costs would also have fallen due to decreased hours of operation, and that declining profit margins were therefore not *per se* injurious.

As we discussed earlier, our analysis is not intended to prove conclusively that a certain group was injured by a precisely measurable amount at any particular time. It is true that marketers' profit margins during the consent order period may have also been influenced by the factors cited by the states. Nevertheless, the presence of those factors does not negate the fact that a significant decline in profit margins at the same time that prices were increasing is indicative of probable injury attributable to a price "squeeze." The "missing" portion of the price increase that was not passed on had to be absorbed somewhere, and we conclude that it was absorbed at the jobber and retailer levels: Moreover, neither of the two factors cited by the commenters could have been responsible for the significant decrease in profit margins during 1979, as reflected in Appendix A.(*14*) We therefore reject the contention that motor gasoline marketers' declining profit margins do not provide substantial evidence that those jobbers and retailers were absorbing some of the alleged Amoco overcharges.

In summary, after considering all of the comments which criticized our proposed methodology for distributing the motor gasoline refund pool, we have determined that the methodology, with certain modifications, offers the best means for equitably distributing these funds among all of the potentially affected parties.

In view of the double-counting problem and the other comments which we received on our interpretation of the data set forth in Appendix A, we carefully reexamined the graph and other evidence that has been added to the record.(*15*) Upon close inspection, we again concluded that the only period during which resellers' margins were significantly affected was the two-year period January 1978 through December 1979. However, during all of 1979 retailers' margins were also greatly diminished. If we attribute one half cost absorption to each group for those twelve months and the jobbers receive full credit for all of 1978, we arrive at a ratio for months in which costs were absorbed of [(.5×12)+12] divided by 53, or 34 percent for the jobber level.(*16*)

In addition to the 12-month period during 1979 when retailers apparently absorbed part of the increasing prices, we noted that during the period between September 1976 through December 1977 retailers' margins decreased about 40 percent. This 15-month period encompasses a period of supply stability during which retail price competition was relatively fierce, as indicated by the sizeable decrease in the number of major branded retail outlets operating in that period.(*17*) Finally, we found that throughout this period Amoco's prices were more consistently higher than the national average prices than during any other portion of the consent order period which we examined. For these reasons we have concluded that this 15-month period should be added to the 12 months of shared injury during 1979 to yield the ratio of [(.5×12)+15] divided by 53, or 40 percent for retailers.

The preceding analysis of the price aborption by jobbers and retailers leads to the conclusion that consumers absorbed the remainder, or 26 percent, where the motor gasoline passed through these two levels before reaching the consumer. As we have already indicated, a consumer's share will be larger when the product it purchased passed through fewer levels of distribution.

We have concluded that we should adopt the proposed methodology with the modifications discussed above, *viz.* the adjustments for:

(i) Double-counted months; and

(ii) Direct-purchase dealers and consumers. These adjustments result in the following revised presumptions:

	Percent
Non-commission wholesalers	34
Retailers	40
Direct-retailer supplied consumers	60
Other retailer-supplied consumers	26
Jobber-supplied consumers	66
Direct-supplied consumers	100

C. Proposals to Modify the Administration of These Procedures

In addition to comments about the methodology which produced the presumptions that we will use to analyze gasoline refund applications, several parties made suggestions about the administration of these procedures. Several firms commented that it seemed unfair to limit recovery to the volumetric refund in cases where a firm had an allocation claim or a rent claim. Neither type of claimant will be so limited; the presumption system is designed only for applicants whose claims are based on alleged violations of the DOE price regulations.

Many persons who submitted comments requested that we set forth a simple format for applicants to use in filing a refund claim. We will accept applications for refund that contain the necessary information in any form which an applicant may wish to submit. However, in order to assist claimants, we will add as Appendix C to this Decision a suggested format that applicants for refunds based on motor gasoline and middle distillate purchases who wish to use the presumptions may use to organize the required information.

Most commenters assumed that we would process the claims based on presumptions first and feared that claimants would so deplete the fund that the money remaining might not be sufficient to pay other claimants. In addition, one commenter suggested that we should initially pay out at least the amount based on presumptions to *all* claimants, since that amount would represent their minimum recovery. This commenting party suggested that by adopting this practice we would avoid penalizing firms for arguing that they were injured to a greater extent than the presumptive level of injury. Our experience in previous refund proceedings strongly suggests that the total amount claimed by refund applicants will not exceed the available funds. For example, even in the *Vickers* case, after we gave direct mail notice to each member of the group of Vickers' customers who were eligible to receive refunds, less than one half the eligible participants filed claims. We will, however, monitor the total amount of the claims being filed in this proceeding and will take steps, if necessary, to prevent the early depletion of the fund. Because of the considerable additional effort, processing time and record-keeping involved, we will not accept the suggestion that some claimants should be paid refunds once for the presumptive amount and later for any further amounts they establish.

Several commenters suggested that our final decision should set forth the standards which would be used in evaluating claims for amounts greater than those allotted by the presumptions. We shall detail as completely as possible the information needed for each type of case in a latter section of this decision. In making the determination as to whether the alleged overcharges were passed on to a refund applicant's customers, we have used two different analytic methodologies in the past, one for firms who purchased most of their product from a single supplier, *eg.*, *Unruh's*, and another for firms with multiple suppliers, *e.g.*, Tenneco Oil Co./Racetrac Petroleum, Inc., 10 DOE ¶ 85,023 (1982) (hereinafter cited as *Racetrac*). In an *Unruh's* type of case we have generally examined a firm's price changes in light of its supplier's price changes, its profit margins and its volume of sales throughout the period in order to determine when the firm passed on price increases to its customers. In a *Racetrac* type of case we have compared the prices paid by the applicant to the consenting firm with the prices paid to the applicant's other suppliers. *See also Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982).

In the proposed decision, we stated that we might adopt a requirement that Amoco marketers who are members of a trade association file applications for refund through their association. We have concluded that this requirement should not be adopted. Some firms may not wish to use the services of their trade organization, particularly where the group charges a fee for its services, and we will not overrule individual preferences. However, we strongly encourage firms to utilize those trade associations who have expressed an interest in assisting their members in filing refund applications. One such group, the Amoco Brand Subcommittee of the National Oil Jobbers Council (NOJC Subcommittee), has filed a submission styled as an "Application for Certification of Branded Amoco Jobbers As a Class." Insofar as our approval of that application might be interpreted to mean that the organization will be treated as the exclusive representative of all Amoco-branded jobbers unless a jobber affirmatively elects to opt out of the class, *see* Rule 23(c)(2), Fed. Rules Civ. Proc., we decline to approve formal certification for the class. However, we do appreciate the lengths to which this group has gone to notify all potential jobber claimants and to offer their able assistance to us in refining our proposal. We expect and encourage this group to continue to represent all interested jobbers.

A group application filed by any organization should be filed after the association has collected the required information for each applicant's business, the identity of the applicant's supplier, the refund claimed, and a statement by the applicant that all information is true according to the applicant's best information. The information needed for each individual applicant is detailed in the section of this Decision entitled "How to Apply For a Refund." The association should assemble the necessary documentation to support the applications of its members and submit it in summary form after verification to the OHA. If approved, refund checks containing each member's appropriate share of the refund will be issued to the individuals on whose behalf the group application was filed.

The NOJC Subcommittee has also recommended in its comments that jobbers serve as conduits for the refund amounts to be apportioned to the jobbers' customers. The association suggests that we enlist jobbers to notify the retailers and end-users which they supplied during the consent order period of their eligibility for a refund and include those customers' applications along with their own. Under this suggested scheme, the jobbers' customers' refunds would be included in the jobbers' refund check. The jobbers would then distribute the refund, less a fee of $15 for each refund over $100 that was granted, to their customers by check or credit memoranda. The jobbers contend that this proposal would ensure the widest possible participation in this refund proceeding.

We appreciate the offer of assistance from the jobbers and we certainly seek to have the widest possible participation in the refund process. However, we believe we can achieve this goal through other means, and the jobbers' proposal has a number of undesirable features. The best control which we have on the proper disposition of these funds to the correct recipients is our authority to direct the DOE Controller to issue a check to a named individual. If we were to issue checks to jobbers on behalf of their customers, we would lose control of the process to that extent. This would not be in keeping with our responsibility to distribute these funds correctly. In addition, we could easily become entangled in litigation between the parties if the jobber retained the money as payment on a debt owed to it by the customer. Secondly, there would be a danger that some jobber customers might file separate claims on their own. It would be difficult for us to identify such claimants and prevent double payments if control over one part of the process rests with private entities. Finally, while we have no objection to the voluntary payment of a fee by a claimant to a person or firm as consideration for assistance in filing for a refund, the jobber's proposal in reality would amount to an involuntary levy on a class of claimants. We encourage jobbers to assist their customers in assembling the necessary information for filing a refund application and will accept group applications filed by jobbers on behalf of their customers.

However, we will direct the refund amounts which we approve to the jobber's customers, and any fee to be paid the jobber by the refund recipient must be based on a private contractual agreement between the parties.

Turning to the consumer class of claimants, we have received nearly one thousand inquiries from individual motorists about the standards to be applied to their applications for refund. Many of those who have contacted us stated that they did not have receipts showing the volumes of their purchases but they did have cancelled checks showing the dollar amount of their purchases. The DOE does not have information on the actual prices charged these individual consumers over the seven-year consent order period, or the percentage of the principal amount of these checks which was for motor gasoline purchases alone. Thus, we are unable to calculate their purchase volumes so as to compute a refund for them. However, consumers may estimate the Amoco selling price to calculate a gallonage purchase figure.

In connection with this discussion of consumer claims we must emphasize that due to the administrative costs incurred in processing each refund application, we will not approve a refund for an amount less than $15.00, the sum which we have determined to be the administrative cost of issuing a refund check. *Uban Oil Co.*, 9 DOE ¶ 82,541 (1982) at 85,225. For the reasons discussed below, we realize that a great many legitimate claims will be too small to be processed. However, we believe that it is essential that some minimum figure be established, and no one has suggested an alternative to the $15.00 level. In addition, there will be a restitutionary benefit from the Amoco refunds to individual consumers and motorists through the refunds paid to state governments. Consequently, Amoco customers whose claims would fall below the $15 level are not being ignored in this determination.

It is extremely unlikely that individual motorists made sufficient purchases to warrant a refund at or above the $15 minimum level because the per gallon refund is less than one-tenth of a cent. If a consumer purchased motor gasoline from a "direct-purchase" retailer, his or her purchases must exceed 20,090 gallons over the consent order period to qualify for the minimum $15.00 refund.(*18*) For a consumer who purchased fuel from a retailer who obtained its Amoco product from a jobber, the minimum purchase volume would be 64,823 gallons. Virtually all consumers purchased less than these quantities. According to information published by the Energy Information Administration, the average motorist consumed 4,845 gallons per car during the consent order period. Even if all of that motor gasoline was purchased from an Amoco direct-supplied dealer, that person would qualify for a refund of only $2.59. It is for this reason that we have proposed to distribute the refunds that would otherwise go to small consumers of Amoco motor gasoline to the states in the first stage. We have requested the EIA to generate data showing each state's respective share of Amoco's motor gasoline sales, and we will provide each state with that figure upon request. During the first stage, after deducting all volumes on which refunds were paid to large consumers within a state, a check will be issued to every state after its submission of an approved plan for using the funds for programs to benefit motor gasoline consumers.

V. Comments Concerning the Proposed Middle Distillate Refund Procedure

In discussing refund procedures to be used for claimants who were purchasers of middle distillates, we first suggested that we could reasonably presume that Amoco consignees were not required to absorb any overcharges. No commenter has challenged that proposed presumption. We next examined the available data to determine whether we could conclude, as we did for motor gasoline resellers, that independent middle distillate dealers generally absorbed a portion of Amoco's price increases during the consent order period. After reviewing data showing that average heating oil dealer margins during the period January 1974 through February 1976 remained fairly constant, we reached the preliminary conclusion that Amoco dealers were generally able to pass through price increases to their customers. This conclusion was further confirmed by our finding that Amoco's wholesale prices for middle distillates during the period for which we had data were generally below the average wholesale price for the industry. We therefore presumed that resellers of Amoco middle distillates generally were able to and usually did pass through Amoco's price increases entirely to consumers. We stated that this presumption, if adopted, would be rebuttable, and a reseller could show injury by establishing that (a) market conditions in its market area during the relevant time period put it at a competitive price disadvantage and (b) its profit margin or sales volume declined significantly during the relevant period. Since the record before us indicated that consumers bore most of the injury in middle distillate sales and that the majority of these consumers, both residential heating oil users and diesel vehicle owners, would not have purchased enough product during the 3½ years when middle distillates were under controls to qualify for the $15.00 minimum refund, we proposed to distribute the middle distillate fund to the states in which Amoco sold these products. Refunds would be paid based upon the amount of middle distillate purchased, and the same presumption would be used as was used in the motor gasoline area—namely, that the injury sustained was the same for each gallon of middle distillate purchased.

At the September 22 hearing a representative of independent truck stop owners contended that truck stops are quite different from heating oil dealerships and that our analysis of the No. 2 heating oil market should not be applied to diesel fuel marketers. He argued that even though diesel fuel is essentially the same product as heating oil, sellers of diesel fuel were unable to realize their maximum lawful selling prices during the period and, contrary to our preliminary findings concerning heating oil prices, information showed that Amoco's prices for diesel fuel were higher than the average price for that product. Consequently, he maintained that the claims of diesel fuel sellers should be analyzed separately from those of heating oil sellers and that diesel fuel sellers should receive 100 percent of the refund money which corresponds to their share of middle distillate sales.

We do not agree that No. 2 heating oil and diesel fuel sales should be analyzed according to separate criteria. As an initial matter, our preliminary finding concerning per gallon profit margins was not that Amoco's heating oil resellers obtained their maximum lawful profit margins, but rather that their profit margins remained relatively constant throughout the 26-month period. The truck-stop operators have not offered any evidence that sellers of Amoco diesel fuel were in a different position. As for their contention that failure to achieve maximum lawful profit margins constitutes an "injury" that should be redressed in the context of this proceeding, we have already discussed and rejected that contention in the context of our motor gasoline analysis. In the absence of convincing arguments and evidence to the contrary, we have concluded that since No. 2 heating oil and diesel fuel are identical products and therefore priced similarly because of their interchangeability we must use

the available data for heating oil prices to establish presumptions for all middle distillate sales.

Due to the diesel fuel sellers' strong representations that Amoco's wholesale middle distillate prices were higher, not lower, than the national average, we sought additional price information for periods earlier than we had previously examined. We found that our preliminary determination was erroneous and that Amoco's wholesale middle distillate prices were *higher* than the national average prices reported to the EIA in 10 of the 26 months from January 1974 through February 1976, or 38 percent of the time. Consequently, we must revise the presumptions for middle distillates that we proposed in our August 9 determination.

In several recent refund application cases we have compared the consenting firm's prices with those of the applicant's other suppliers in order to determine the months in which the applicant suffered competitive injury. *See, e.g., Racetrac.* We have also made price comparisons between the consenting firm's prices and the prices reported for a product in the EIA's publication "Monthly Petroleum Product Price Report", *e.g., Pennzoil Co./B&L Motor Freight Inc.*, 10 DOE ¶ 85,037 (1982), or in *Platt's Oil Price Handbook and Oilmanac, e.g., Tenneco Oil Co./ Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). In all of these cases we have approved refunds to firms for each month in which their acquisition cost of product from the consenting firm exceeded the average market price at the same level of distribution. A similar analysis may be applied to the present case.(*19*) The data which we have obtained shows that retailers of Amoco middle distillate products experienced a competitive cost disadvantage during 10 of the 26 reported months. Consequently, we will adopt a rebuttable presumption that middle distillate resellers were injured during 38 percent of the period during which middle distillates were subject to DOE controls.(*20*) We find that the use of this presumption will significantly aid us in processing refund applications from middle distillate resellers who were likely injured by the alleged overcharges. Those refund applicants who wish to receive a refund under this presumption will have only to furnish us with their names, addresses, number of gallons of middle distillates purchased from Amoco during the period of controls, and an affirmation that the information is correct. Those applicants who wish to establish that the presumption is inapplicable to their particular cases must additionally furnish us with a list of their product acquisition cost from Amoco by month for the entire period.

Since we presume that 38 percent of the injury was absorbed by resellers, it follows that the remaining 62 percent was passed on to consumers. That portion of the middle distillate pool will therefore be distributed on a volumetric basis to ultimate consumers of middle distillates who file applications for refund. The $15.00 minimum refund policy will apply to these applications. We expect that a large portion of the consumer's share will remain unclaimed because a motorist or home-owner would have had to have consumed 27,184 gallons of middle distillate during the period March 1973 through June 1976 to reach that level. The portion remaining after all consumer applications have been analyzed in the first stage will be distributed to state governments that submit plans for the use of these funds for projects benefitting middle distillate consumers.

VI. Comments Regarding Proposed NGL Refund Procedures

Our proposed procedures for this type of claim elicited few comments. In addition to arguing that we should look to the underlying enforcement documents to set the per gallon recovery—an idea rejected above—one commenter did raise two factual concerns about the refund process for NGLs that should be addressed. First, we have concluded that purchasers of Canadian NGLs which Amoco sold into this country are eligible to file for a refund because those transactions were covered by the DOE price regulations. *See Citronelle-Mobile Gathering, Inc. v. Edwards, supra; A. Johnson & Co., Inc.*, 3 FEA ¶ 80,546 (1976). Secondly, we want to make it clear that all of Amoco's interaffiliate NGL sales were in fact excluded, as suggested by the commenter, from the volume used to arrive at the per-gallon refund amount. Consequently, no further adjustment to the calculation of the volumetric refund for NGLs is necessary.

Our experience in analyzing NGL refund applications using the procedures we suggested in our proposed decision has proven satisfactory, and we will therefore adopt the proposed procedures. Accordingly, firms that purchased Amoco NGLs will be permitted to file applications for refund in the first stage. Downstream purchasers as well as direct purchasers will be eligible to apply. Firms should submit a summary of their monthly banks of unrecouped product cost increases and evidence that they did not pass on the alleged overcharges to their customers. As noted above, regulated utilities and agricultural cooperatives will be exempted from these requirements, and those applications will be analyzed under the standards used in *Tenneco Oil Co./Farmland Industries, Inc.*, 9 DOE ¶ 82,597 (1982).

Regarding any second-stage distribution, we are unable to determine what the appropriate disposition of the remaining funds in this pool should be because we do not know at this time the size of the residual fund. In the proposed Dicision, we suggested that first purchasers might submit plans for the distribution of refunds to their downstream purchasers. However, very few such plans have been offered in previous NGL refund cases. We also suggested in the proposed decision that if the amount of the funds remaining was large, we might distribute it to states in which the NGLs were sold for use in energy programs to benefit NGL consumers. In the alternative, if only a relatively minor amount remained unclaimed we might deposit it in the U.S. Treasury. Several states have urged that even if each state's proportionate share is too small to efficiently administer, residual funds from other product pools should be aggregated. We agree that this idea has considerable merit so long as the funds are used to benefit those persons who were injured by the alleged overcharges. At this time, however, we do not need to decide this issue, and will reserve judgment on it until an analysis of first-stage claims has been made completed.

VII. Comments Concerning Proposed Refund Procedures for Claims Relating to Residual Fuel Oil and Related Products

In our proposed decision we suggested a two-stage refund procedure for claims relating to Amoco's sales of residual fuel oil, lubricating oil, and industrial grease that was similar to the procedure we adopted for NGL claimants. Firms which purchased or had a right to purchase these heavy petroleum products from Amoco, and downstream purchasers from those firms, would be entitled to file refund applications. A demonstration must be made that an applicant did not pass on the effects of the alleged overcharges. As for the second stage, we stated that we did not have sufficient information concerning the ultimate uses to which these products were put for us to propose a plan for the distribution of unclaimed funds and we therefore solicited comments on this issue.

We received few comments on this portion of our proposal. The NOJC Subcommittee contended that firms that purchased Quaker State motor oil from Amoco should be permitted to file refund applications with respect to those purchases because resellers were not allowed to obtain direct refunds under the terms of a consent order which the DOE entered into with Quaker State. *See* Notice of Consent Order with Quaker State Oil Co., 47 FR 38868 (September 3, 1982). In that consent order, Quaker State agreed to deposit $4.8 million into the U.S. Treasury in settlement of allegations that Quaker State had violated DOE price regulations. The NOJC Subcommittee's position apparently is that purchasers of Quaker State products should received some form of direct restitution and that to correct this situation the Amoco funds could be used. This would not be proper. The OSC determined that the appropriate form of restitution in the Quaker State case was the deposit of this money into the U.S. Treasury, which was intended to benefit all persons in the United States. That decision is not under review here, nor is it subject to review by this office. *See* 10 CFR 205.199J(a) *and* (b); *New York State Energy Office*, 9 DOE ¶ 82,601 (1982). We will therefore not provide for an additional benefit to be paid out of the Amoco fund to firms that purchased Quaker State motor oil from Amoco.

The other commenters who addressed this section of the proposal suggested that we designate state governments as recipients of any remaining funds. Noting that each state's share of this small pool was likely to be quite small by itself, these commenters suggested that we aggregate these funds with the second-stage NGL of middle distillate funds designated for use by the states in broad-based energy projects. We agree that this proposal has merit. However, we may obtain information during our analysis of the first stage applications that would suggest a better course of action. Therefore, we reserve judgment on this issue at the present time.

Having considered all of the comments on this portion of the proposed refund procedures, we will adopt the two-stage methodology proposed in our August 9 determination. We will set forth in a later section of this decision the information which first-stage refund applicants must file.

VIII. Comments Regarding Proposed Refund Procedures for Aviation Gasoline/Jet Fuel

For claims relating to purchases of Amoco aviation gasoline and jet fuel we also proposed a two-stage refund procedure. In the first stage, refund applications would be filed by firms who purchased or had a right to purchase these products during the period that they were subject to controls, *viz.* March 3, 1973, through February 28, 1979. Absent special circumstances, applicants would be required to demonstrate that they did not pass through the alleged overcharges to their customers. We noted that commercial airlines were likely applicants, and we examined industry-wide data which we had obtained from the Air Transport Association (ATA) with a view towards establishing a presumption as to the amount of injury absorbed by commercial airlines and the amount passed on to airline passengers. In the information which is submitted to us, the ATA listed industry-wide quarterly operating revenues, operating expenses, and fuel expenses, and it calculated for operating revenues and fuel expenses the change from the same quarter of the previous year. The association then allocated the amount of revenues available to cover increased fuel costs on the basis of the proportion of increased total costs which was due to increased fuel costs. Rather than assuming that in times where revenues fell short of expenses the industry would have paid for its non-fuel expenses first and would have paid as much of its fuel expenses as there was revenue left over to cover, the ATA assumed that the airlines paid a *pro rata* share of their fuel and non-fuel expenses. When there was insufficient revenues to cover the fuel expenses' *pro rata* share, the ATA called the deficiency a fuel expense recovery shortfall. Similarly, in quarters when sufficient revenues were generated to more than recover added fuel expenses, the ATA called the overrecovery a fuel recovery excess.

In analyzing the ATA data in our Proposed Decision, we noted that the airlines experienced a fuel expense recovery excess, *i.e.* they were able to pass through all increased fuel costs in 6 of 24 calendar quarters of the period, or 25 percent of the time. Alternatively, we observed that if we compared the total revenue allocated by the ATA for payment of fuel costs with the total revenue needed for complete recovery of fuel costs (revenue available plus shortfall), we could postulate that the airlines were able to pass through their increased fuel costs 72 percent of the time. Without drawing any conclusions, we solicited further comments on the appropriate level of proof for airline claimants. With regard to the second-stage procedures, we suggested that a group such as the National Association of State Aviation Officials (NASAO) might act as a conduit for these funds to ensure that the benefits would inure to purchasers of airline tickets and to general aviation.

The Air Transport Association filed comments suggesting that: (i) since we found in the Proposed Decision that Amoco's jet fuel prices were higher than the national average, we should conclude that all airlines that purchased that fuel were overcharged, and refund 100 percent of the funds to commercial airlines; (ii) the ATA information which we analyzed in the Proposed Decision demonstrates that air carriers did not pass through increased fuel costs; (iii) the OHA analysis of the ATA data was flawed because it used an apportioned figure in order to compute the revenues available to recover added fuel expenses and because the OHA double-counted those available revenues when it determined that airlines absorbed only 28 percent of total increased fuel costs during the period.

We do not agree with the ATA that the evidence in the record conclusively establishes that the airline absorbed all of Amoco's price increases. First, it is fallacious to assume that because Amoco's jet fuel prices were generally above the national average prices, Amoco was overcharging for its product. In computing any "average" industry price, there will always be prices above and below that average. It is important to remember that in this special refund proceeding no inquiry will be made regarding precisely when and to what extent overcharges occurred. In fact, we do not know nor is it the purpose of this proceeding to determine whether Amoco's pricing practices for its sales of jet fuel were unlawful. As noted earlier in this Decision, rather than focusing on Amoco's regulatory practices during the period we have allocated the settlement fund among the different product groups on the basis of the firm's sales volumes during the consent order period. Moreover, as we noted in the Proposed Decision, the ATA information indicated that in 6 of 24 calendar quarters of the period the airlines had a "fuel expense recovery excess," which indicated that they were able to pass through all increased fuel costs to customers during those periods. We therefore reject the ATA's contention that it had clearly demonstrated that no alleged overcharges were passed on to passengers and that the entire jet fuel pool should be distributed only to air carriers.

Finally, we have determined that the ATA's criticisms of the manner in which the proposed decision analyzed its data are without merit. The association maintains that we should not have adopted its method of apportioning revenues available to cover increased fuel costs based on the ratio between fuel and non-fuel costs during the period. The ATA argues that if it had instead allocated revenues to cover non-fuel expenses first there would have been no revenues remaining to cover fuel expenses. There is no logic in selecting one category of expenses in preference to others. As the ATA admitted in one of its submissions, "this would not have been an accurate portrayal of the situation. . . ." September 28, 1982 Comments by ATA at 7. In addition, we have reviewed our analysis and have found erroneous ATA's characterization as "double-counting" the method which we used to calculate the ratio of revenues available to cover fuel expenses to total actual fuel expenses. While it is true that the available revenues figure was a component of both the numerator and the denominator of the fraction which represented the percentage of fuel costs passed to consumers, it is always necessary in making such a comparison to include in the denominator all components of the whole. Thus, contrary to ATA's assertion, it is not double-counting to say, for example, that if $1 out of every $4 dollars spent by a business was spent for fuel, then ¼ of its money was spent for fuel, even though the $1 was a part of the $4 denominator.

We hesitate to adopt a presumption for this product pool. As we stated in the Proposed Decision, various conclusions could be reached from the data in the record. We, therefore, requested that commenters supply additional material upon which to base a presumption of injury. However, despite our requests, we have had insufficient input from commenters as to the proper conclusions to be drawn from the record. We have therefore concluded that no presumption in this area should be adopted, and refund applicants may address the tentative conclusions we reached in the Proposed Decision in their applications. In the alternative, applicants may argue that the industry average information in the record is inapplicable to their individual circumstances, or that other information indicates that they did not pass through its increased fuel costs to their customers. The uncertainties discussed above will have to be addressed and resolved in the context of deciding the refund applications when they are submitted by claimants.

With respect to the second stage of procedures applicable to this pool, we received comments from the NASAO and the Airline Owners and Pilots Association (AOPA) in which each group volunteered to administer the distribution of funds to benefit general aviation and flight safety. Since we do not yet know the amount, if any, of the residual funds, we are not prepared to accept either offer. We intend to seek detailed proposals from both organizations when analysis of the first-stage claims is completed.

IX. Procedures for Claims Relating to Alleged Allocation Violations

Claims for refunds based on alleged allocation violations are substantially different than those based on alleged overcharges. Allocation claims are based on the consenting firm's alleged failure to furnish product which it was obliged to supply to the claimant under the DOE allocation regulations, 10 CFR Part 211. An allocation claimant should have been aware of the alleged violation at the time when it occurred, and should have taken some contemporaneous action to mitigate the injury. In addition, the measure of injury from the alleged violation is different for an allocation claimant. In contrast to the *pro rata* volumetric refund share usually given in the case of an alleged price violation, allocation claimants have been awarded refunds in the nature of damages attributable to the monetary loss (if any) which was caused by the failure to deliver product. *See, e.g., Tenneco Oil Co./Research Fuels, Inc.*, 10 DOE ¶ 85,012 (1982). For these reasons we tentatively determined to adopt for allocation claimants the procedures which we implemented in the *Tenneco* special refund proceeding. *See generally Tenneco* at 85,202–03. As in the *Tenneco* case, we proposed that we would exclude from eligibility any allocation claimant which had not contemporaneously complained of Amoco's alleged allocation violation. We stated that an allocation claimant should submit sufficient information to demonstrate that its claim was not spurious, including the best available evidence of the injury which was sustained by the claimant. We held that the burden of establishing eligibility for a refund would rest on the claimant, and that successful claimants would be paid from the respective product pools which we have established.

The only submission which we received that mentioned these proposed procedures was in the nature of a preliminary application for refund. Our experience with these procedures in the *Tenneco* refund case has been satisfactory, and we will therefore adopt the proposed allocation claim procedures in total.

X. Procedures for Filing "Rent Claims"

Several commenters noted that we had not proposed any refund procedures for alleged violations of the regulations controlling the rent which Amoco was permitted to charge lessees of retail outlets. A number of these commenters contended that they were injured when Amoco changed their monthly rental fee from a cents-per-gallon figure to a flat monthly amount. The effect of this change was that lessee's rent were no longer tied to their sales volumes, and these firms allege that they subsequently suffered financial hardship when their sales volumes were restricted by the DOE allocation regulations.

We reiterate that any party alleging an injury as a result of Amoco's regulatory practices during the consent order period may file a claim in this refund proceeding. However, we note that the parties which have raised this issue refer to lease changes that occurred after April 30, 1974. The Temporary Emergency Court of Appeals has held that the DOE's authority to regulate rents directly ended with the expiration of the Economic Stabilization Act of 1970. *Shell Oil Co. v. FEA*, 527 F.2d 1243 (Temp. Emer. Ct. App. 1975). Consequently, a request for a refund based solely on a claim that the rent that Amoco charged after April 30, 1974, was likely to have violated the DOE price controls will not be successful. Nevertheless, in *Marathon Oil Co. v. FEA*, 547 F.2d 1140 (Temp. Emer. Ct. App. 1976), the court stated that although the agency could not control rents directly, a change in rent charged could be an independent violation of the normal business practices rule set forth in 10 CFR 210.62. Accordingly, a claimant who desires a refund based upon the rent charged by Amoco must show that the increased rent charged by Amoco was likely to have violated § 210.62 of the DOE regulations.

XI. How To Apply for a Refund

Our experience with special refund procedures has taught us that many applicants are confused by the lengthy textual explanations of the refund procedures we have decided to adopt as final. We have drafted these procedures as simply as possible to avoid that problem. The information which refund applicants must supply is set forth below. In Appendix C we have set forth a suggested format that applicants may use to organize the required information. We will nevertheless accept all

applications that contain the necessary information. It is generally the policy of this office to seek additional information from applicants when an incomplete application had been filed but, of course, timely processing and payment of claims will be greatly enhanced it applicants are careful to supply all of the necessary data in their initial application.

A. All Applicants

1. Each application for refund should begin with the caption "Application for Amoco Refund" and the case number, BFF-0007. Applicants should print or type all information.

2. Each applicant should furnish its name, street or post office address, and its telephone number. If the applicant is a business firm, the applicant should furnish any and all other names under which it had operated during the period March 6, 1973 through December 31, 1979, or for whatever shorter period for which the claim is being filed.

3. The application for refund should contain the name and telephone number of the person who prepared the application. If the preparer was someone other than the applicant, the claimant may wish to furnish the name and telephone number of a "contact person" who is familiar with the facts set forth in the application. Unless otherwise specified, the refund check will be issued to the preparer.

4. Each application should set forth the name, address and telephone number of the supplier who sold the applicant the volumes of Amoco crude oil or product for which a claim is being filed. If the supplier was a reseller, the applicant should state whether the reseller was supplied directly by Amoco. If the item was purchased directly from Amoco, the applicant's customer identification number and its sales representative's name and telephone number should be included in the application. If the crude oil or refined product was not Amoco-branded, the applicant should explain the reasons why it believes that the purchased volumes were Amoco crude oil or product.

5. The application should include a list of purchase volumes, by month and by product, for all of the gallons for which a refund claim is being made. This volume number should include only volumes purchased while the particular product was subject to federal price and allocation controls during the consent order period, March 6, 1973 through December 31, 1979. Therefore, claims may be filed only for purchases made before the date of decontrol for a particular covered item. The covered items and their dates of decontrol are listed below:

Item	Decontrolled
Crude oil	Jan. 27, 1981.
Motor gasoline	Dec.
Middle distillates	July 1, 1976.
NGL's	Jan. 27, 1981.
Butane and natural gasoline	Jan. 1, 1980.
Residual fuel oil and related products	July 1, 1975.
Aviation gas/jet fuel	Mar. 1, 1979.

The various grades of motor gasoline are one product. The information must be in *gallons*, not in how many dollars the applicant spent for motor gasoline during the period. No invoices need be submitted with the application; however, the applicant should keep its supporting material in a convenient place at least until it has received a refund. We may request copies of invoices or other more detailed supporting material in certain cases.

6. The application should state the total gallonage for which a refund is being requested. Refund applications for amounts less than $15.00 will *not* be processed. We will also dismiss all refund applications that, after we have computed the refund amount due the applicant, result in a refund of less than $15.00.

7. The applicant should report whether it is or has been involved as a party in DOE enforcement or private, § 210 actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

8. The application *must* contain a signed statement that the applicant swears (or affirms) that all of the information furnished in the application is true and accurate to the applicant's best knowledge, and that the signer understands that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both. 18 U.S.C. 1001.

9. A copy of the application will be made available for public inspection in our public Docket Room. If these is confidential information in an application, the claimant should submit the original application and *two* copies of a version with all confidential information deleted. If the application does not contain confidential information, the applicant should submit one copy in addition to the original.

10. Each application must be postmarked no later than May 1, 1983.

B. Motor Gasoline Claimants

The information which a motor gasoline claimant should submit in addition to that listed above will depend upon whether the applicant elects to have its application analyzed using the presumption applicable to it. The formula for calculating a refund using the presumption method is as follows:

Dollar amount of refund = claimant's purchase volumes × claimant's applicable distribution level percentage × volumetric amount ($.00089 as of Dec. 17, 1982)

The following chart lists the applicable distribution level percentages:

Level of distribution	Percentage
Wholesalers (noncommission only)	[illegible]
Retailers	[illegible]
Direct-retailer supplied consumers	[illegible]
Other retailer-supplied consumers	[illegible]
Jobber-supplied consumers	[illegible]
Direct-supplied consumers	100

By direct-retailer supplied we mean that the fuel was obtained from a retailer who was directly supplied by Amoco.

A motor gasoline claimant that elects to use these presumptions in filing an application for refund needs supply only the following information:

1. The information listed under "All Applicants."

2. A statement that the applicant elects to use the presumption method.

3. The claimant's applicable distribution level percentage, or a statement that the claimant is unable to determine its level of distribution.

An applicant for a motor gasoline refund that does not elect to take under the presumptions must demonstrate that it absorbed the alleged overcharges and was thereby injured. Applicants who fail to make that showing will in any case receive the presumption level. The information which the wholesaler or retailer applicant must supply for us to analyze its application is as follows:

1. The information listed under "All Applicants."

2. A statement that the applicant does *not* elect to use the presumption method.

3. The applicant's monthly, non-cumulative "banks" of unrecouped product costs.

4. If the applicant had only one supplier, the application should list by month the volume of product purchased and the prices at which the applicant purchased and sold the Amoco motor gasoline. For example: May 1975, purchased product at 34.4 cents per gallon and resold it at 38.0 cents per gallon.

5. If the claimant had more than one motor gasoline supplier, the application should include the names of those suppliers, the volumes purchased from each supplier during each month of the refund period, the monthly prices paid to each supplier and the price at which the product was sold.

6. The claimant should also state where the price information supplied for Item 4 or 5 came from (*e.g.*, books, invoices, etc.) and indicate where those records are located.

C. Middle Distillate Claims

Middle distillates were subject to price and allocation controls only during the period March 6, 1973 through June 30, 1976. Refund applications based upon volumes purchased after June 30, 1976 will be denied.

Again, the amount and type of information required of an applicant will depend upon whether it elects to use the presumption method. If a claimant elects to use the presumption method, its refund will be calculated according to the following formula:

Dollar amount of refund = claimant's purchase volumes × Claimant's applicable distribution level percentage × volumetric amount ($.00669 as of 12/17/82)

The following chart lists the applicable distribution level percentages:

Level of distribution	Percentage
Non-commission resellers	[illegible]
Reseller-supplied consumers	62
Direct-supplied consumers	100

A middle distillate claimant that elects to use these presumptions in applying for a refund need supply only the following information:

1. The information listed under "All Applicants."

2. A statement that the applicant elects to use the presumption method.

3. The claimant's applicable distribution level percentage, or a statement that the applicant is unable to determine which distribution lebel percentage is applicable.

An applicant for a middle distillate refund that does not elect to use the presumption method must furnish information to demonstrate that it absorbed the alleged overcharges and did not pass them on to its customers. Applicants who fail to make that showing will, in any event, be paid the appropriate presumption refund. The information that such an applicant should provide is the same as that listed as Items 1 through 6 above for non-presumption motor gasoline clamaints.

C. NGL, Residual Fuel Oil, Lubricating Oil and Industrial Grease Claims

In addition to the information listed under "All Applicants", a claimant in this category must submit evidence to establish that they did not pass on the alleged injury to their customers. For example, a firm may submit market surveys to show that price increases to recover alleged overcharges were infeasible. Another method a claimant may use to establish that is absorbed the alleged overcharges is to submit the information listed as Items 1 through 6 for non-presumption-type motor gasoline claimants.

D. Jet Fuel/Aviation Gasoline Claims

The precise nature of the information that claimants in this category should provide in addition to the information listed under "All Applicants" will be left open. These claimants should furnish information sufficient to demonstrate that they were unable to pass through the alleged overcharges to their customers. These applicants should read carefully and respond to our analysis of the data concerning the commercial airlines industry in the present determination and in our proposed decision.

E. Allocation Claimants

Allocation claimants should furnish all of the information listed under "All Applicants" except for Item 5, since presumably each allocation claimant will contend that it was denied the opportunity to purchase volumes of allocable products to which it was entitled. Allocation claimants should under Item 5 furnish information as to the circumstances under which the alleged Amoco obligation to supply arose, the volumes not offered to the applicant, and the injury suffered by the applicant as a result (*e.g.*, profits due to inability to obtain substitute products, losses caused by purchasing higher-priced products, etc.). Allocation claimants *must* have previously and contemporaneously complained about the alleged allocation violation by filing a complaint with the DOE, a State agency, or a State or Federal court. This previous complaint should be described in the application.

F. Rent Claims

As noted above, the Temporary Emergency Court of Appeals has held that after April 30, 1974, the agency did not have the authority to directly control the rents charged the firms in the oil industry. The court has also held that notwithstanding this lack of authority, a change in the rent charged could be a violation of the normal business practices rule set forth in § 210.62 of the DOE regulations. Consequently, any applicant that claims a refund relating to rent increases after April 30, 1974 must submit information that will show that there is a likelihood that the change in, rent charged violated the normal business practice rule. Each claimant should furnish copies of the prior lease and the allegedly unlawful lease, and explain why it believes that the new lease violated the provisions of § 210.62.

G. Group Claims

A group application filed by any organization should be filed after the association has collected the necessary information for each applicant. The group may, after verification, present in summary form the volume information required in Item 5. (*21*) Refunds approved will be paid by checks issued to individual members of the group.

H. State Government Claims

No State government claims except those based on direct purchases of Amoco products should be filed at this time. The Office of Hearings and Appeals will contact the State governments well in advance of the appropriate time for filing State proposals for distribution of refunds for the benefit of consumers.

XI. Conclusion

In the foregoing determination we have reviewed the refund procedures which we tentatively adopted in our August 9 decision in light of the written and oral comments which we received during the two-month comment period. We discussed all of the comments and made significant adjustments to our proposed methodology where warranted. We have concluded that we should adopt as final the first-stage procedures set forth in the present Decision and Order. We shall set as the deadline for filing Applications for Refund for a portion of the Amoco settlement fund May 1, 1983, a date

more than 90 days after the required Federal Register publication of this Decision and Order. *See* 10 CFR 205.283(b).

It Is Therefore Ordered That:

Applications for Refund from the funds provided by the Standard Oil Company (Indiana) shall be filed and processed in the manner set forth in the foregoing Decision.

Dated: December 23, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Notes

(*1*) At the September 30 hearing, we established October 8, 1982 as the deadline for final submissions in this proceeding. Sept. 30 Transcript at 188. We extended the deadline to October 13 when delivery of the hearing transcript to the OHA Public Docket Room was delayed. We have also included in our consideration comments received shortly after that date.

(*2*) The transactions excluded from coverage by the consent order involve crude oil producing properties whose classification as a stripper well property by Amoco has been challenged by the DOE on the grounds that injection wells may not be counted as "wells." *See geneally* Garrett Production Co., 8 DOE ¶ 83,034 (1981), for a description of this long-disputed question. On July 29, 1982, the Temporary Emergency Court of Appeals ruled in favor of the DOE on the injection well issue. Energy Reserves Group, Inc. v. DOE, No. 10–39 (Temp. Emer. Ct. App. July 29, 1982).

(*3*) The parties that have contended that they should be given priority status are the Army and Air Force Exchange Service, which has instituted a lawsuit against Amoco in federal district court alleging injury due to Amoco's discontinuation of a 3 cent per gallon discount; Tosco Corporation, which alleges that it has been injured in the amount of $12.2 million due to alleged abuses of the Crude Oil Entitlements Program by Amoco and other refiners; the Illinois Service Station Operators Association, which filed one of the complaints against Amoco that formed the basis for the OSC's audit of the firm; and Jax Car Wash, which alleges injury due to Amoco's substantial increase in the rent charged for operation of its service station.

(*4*) One commenter contended that Amoco's interaffiliate crude oil transfers should be included in our calculation of the appropriate division of the fund between crude oil and refined products. The commenter maintained that if Amoco miscertified any of the crude oil which it sold to its refining subsidiary, that transaction would affect Amoco's overall entitlements position. Even though the preceeding statement might be valid in theory, we believe that the use of a crude oil revenue figure which included interaffiliate sales would be misleading for purposes of allocating refunds between crude oil and refined products. A vertically-integrated oil company such as Amoco has a number of different profit centers (e.g., production, refining, and marketing). When an interaffiliate transfer of crude oil from the production division to the refining division occurs, the production division records the revenues from the sale, and the refining division accounts for the transaction by recording an expense item to reflect the cost of the crude oil obtained from its production affiliate. The amount of the transaction reflected in the accounts of the two divisions is eliminated in the process of consolidating the various intercompany accounts, since the production revenue figure is offset by the refining expense figure. The allocation of refunds between crude and refined products is based on the ratio of crude revenues to total revenues from all covered products. If the numerator were increased by the amount of interaffiliate crude revenues, the ratio would be distorted because the refined products revenue figure included in the denominator has already been reduced by the expense of interaffiliate crude transfers. Only if there had been tier miscertification violations on every barrel of crude oil sold by Amoco production to Amoco refining would it be logical to include interaffiliate crude revenues in the numerator, since the refined products revenue figure in the denominator would have included entitlement sales revenues which Amoco earned by refining the miscertified crude oil. Since we are dealing with a consent order, it is impossible to ascertain whether there were any price violations on the crude oil involved in intercompany transfers, and whether those alleged violations all involved miscertifications. In balancing these competing considerations, it is our opinion that the possible harm of including interaffiliate crude revenues outweighs any incremental benefits that might be gained by increasing the size of the crude oil refund pool to account for the very remote possibility that a tier miscertification occurred on every barrel of crude oil that was transferred from Amoco production to Amoco refining.

(*5*) Of course, Amoco may furnish voluntarily to its customers whatever information it wishes to provide.

(*6*) Most of Amoco's commission agents were converted to independent jobbers during 1976 when Amoco substantially changed its marketing strategy in some regions and sold its bulk plants to the agents who were operating them. There is no question that such an independent marketer is eligible to file a claim for the volumes it sold after it became independent.

(*7*) Some states suggested that the product pools be distributed on the same basis as the crude oil pool. We have decided not to do so because it would overcompensate consumers in states where Amoco sold few products, *e.g.*, California, at the expense of consumers in states where Amoco was a major supplier, *e.g.*, Illinois.

(*8*) The Entitlements Program, 10 CFR 211.67, was part of the comprehensive program administered by the DOE for the mandatory pricing and allocation of crude oil, residual fuel oil and refined petroleum products. The Entitlements Program was designed to alleviate certain disruptions and inequities in the United States petroleum industry originally attributable to the Arab oil embargo of 1973. During the latter half of 1973 significantly less foreign crude was available for domestic consumption than before and foreign crude oil prices quadrupled. In an effort to minimize the inflationary effect of foreign oil prices on the United States economy and encourage domestic production, the Federal Energy Office promulgated a regulatory program which provided for the control of prices for most crude oil produced in the United States. See 10 CFR 212.73 and 39 FR 1923 (1974). This program was embodied in the Mandatory Petroleum Price Regulations.

The price regulations set a ceiling price on "old" or "lower-tier" crude oil, *i.e.* domestic crude oil produced from a particular property where that production was equal to or less than the level of production from that property in the same month in 1972. In order to encourage increased domestic production, the regulations permitted "new" or "upper-tier" crude oil, that is, crude oil produced in excess of the 1972 level, to be sold at the free market price. Certain additional production, *inter alia*, newly discovered crude oil and production from stripper well properties, was also exempt from the price controls.

The price disparity between foreign crude and uncontrolled domestic crude oil, and controlled old oil had an unequal effect on refiners because some refiners had greater access to the cheap old oil than others. Firms which has little or no access to price-controlled old oil were forced to purchase uncontrolled domestic or similarly expensive foreign crude oil. As a result, many small, independent firms, with little or no access to price-controlled domestic reserves, experienced crude oil acquisition costs so high relative to the industry as a whole that those costs threatened to put them out of business.

To remedy these imbalances, the DOE established the Entitlements Program. 39 FR 31650 (1974); 39 FR 39740 (1974). Under the Entitlements Program, refiners with proportionally greater access to cheap old oil made cash payments, in the form of the purchase of entitlements, to refiners with less access to price-controlled oil. The program was designed to restore the competitive viability of the refining industry by generally equalizing among all domestic refiners the benefits associated with access to the lower-priced domestic crude oil.

(*9*) The purpose of this comparison is apparently to determine whether Amoco dealers suffered greater hardships from Amoco's alleged overcharges than other dealers suffered from other refiners' alleged overcharges. In any event, we have not date in the record concerning motor gasoline dealers' average profit margins.

(*10*) We have no concrete data showing when jobbers and retailers were restrained from increasing their prices by operation of the DOE price regulations. However, we note that both groups have alleged in this proceeding that they were seldom able to attain their maximum lawful selling prices throughout the consent order period. *See* Sept. 30 Transcript at 29, 31, and 160–61.

(*11*) The State of Minnesota submitted some figures concerning price elasticity of

demand, but they were taken from studies that either covered a variety of energy sources or covered only a portion of the consent order period. Hence, they have little utility in the present proceeding. Moreover, the graph in Appendix A seems to indicate that during 1979, when a motor gasoline supply shortage existed that would appear to fit the states' definition of a period of inelastic demand, marketers' margins shrank dramatically.

(*12*) The record contains no information concerning any major refiner's profit margins, and we are not certain what relevance they would have to the question of when injury to Amoco's customers most likely occurred.

(*13*) For example, in January 1974 the agency permitted a one-half cent increase, in March 1974 it permitted an additional two cents per gallon increase, and in April 1974 it added another one-half cent per gallon increase as increments that could be added to a firm's May 15, 1973 profit margin to the extent that a firm could justify these as covering increased non-product costs.

(*14*) In fact, the two factors cited by the consumer commenters have also been cited by the marketers as contribution to the injury which they claim to have experienced as a class. For instance, as more cut-rate, unbranded or branded service stations were introduced by refiners during the period, Amoco dealers were less able, due to this added competition, to recoup increased costs. In addition, while it is true that a retailer's variable costs per gallon sold would decline when supplies of gasoline were so short that his operating hours had to be curtailed, the DOE allocation system would have reduced the amount of gasoline available to some fraction of his base period sales volumes, and consequently his fixed costs per gallon sold would increase substantially.

(*15*) The graph which appears in Appendix A has been mechanically reproduced so that it may be printed in the **Federal Register**. The graph which we used for our analysis is much larger and easier to interpret.

(*16*) We split the shared months' injury in half according to the SSDA's suggestion that jobbers and retailers shared injury in that proportion when they were unable ot recover the entire amount of a refiner's price increases. *See* Sept. 30 Transcript at 23–24.

(*17*) For example, evidence in the record indicates that the number of branded retail outlet selling Amoco motor gasoline decreased from 27,545 in 1975 ot 23,492 in 1978. October 12, 1982 Supplementary Comments of the Controller of State of California at Appendix.

(*18*) We calculated this number by multiplying $.00089, the volumetric amount including interest to December 3, 1982, times 60 percent, the direct-retailer supplied consumer's percentage share, and dividing that number into $15.00, the minimum refund amount.

(*19*) In the cases cited in the text, we first examined the particular refund applicant's banks of unrecouped product cost increases prior to our comparison of its prices with those of its competitors. In those cases, we concluded that the nonexistance of cost banks would indicate that an applicant had passed on all its prices increases to its customers. In the present case the record indicates that, in general, firms selling middle distillates were not able to charge their maximum lawful selling price and thus were accruing banks of increased product cost. *See, e.g.*, Sept. 22 Transcript at 137; Exhibit III to Testimony on Noel Neu, National Associaiton of Truck Stop Operators.

(*20*) Inasmuch as we have concluded that we should presume a 36 percent level of injury, which is greater than the 33⅓ percent level urged by the NOIC Subcommittee, we will not discuss their contention that dealers should be presumed to have been injured because their profit margins dropped by one-half of a cent during one of the three winters for which we had data.

(*21*) This summary should include a statement by the official signing the group application that the association has reviewed schedules of monthly purchase volumes for each person it represents and that the summary figures presented reflect those schedules.

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Appendix A: National Average Refiners' Prices for Wholesale, DTW, and Retail Gasoline

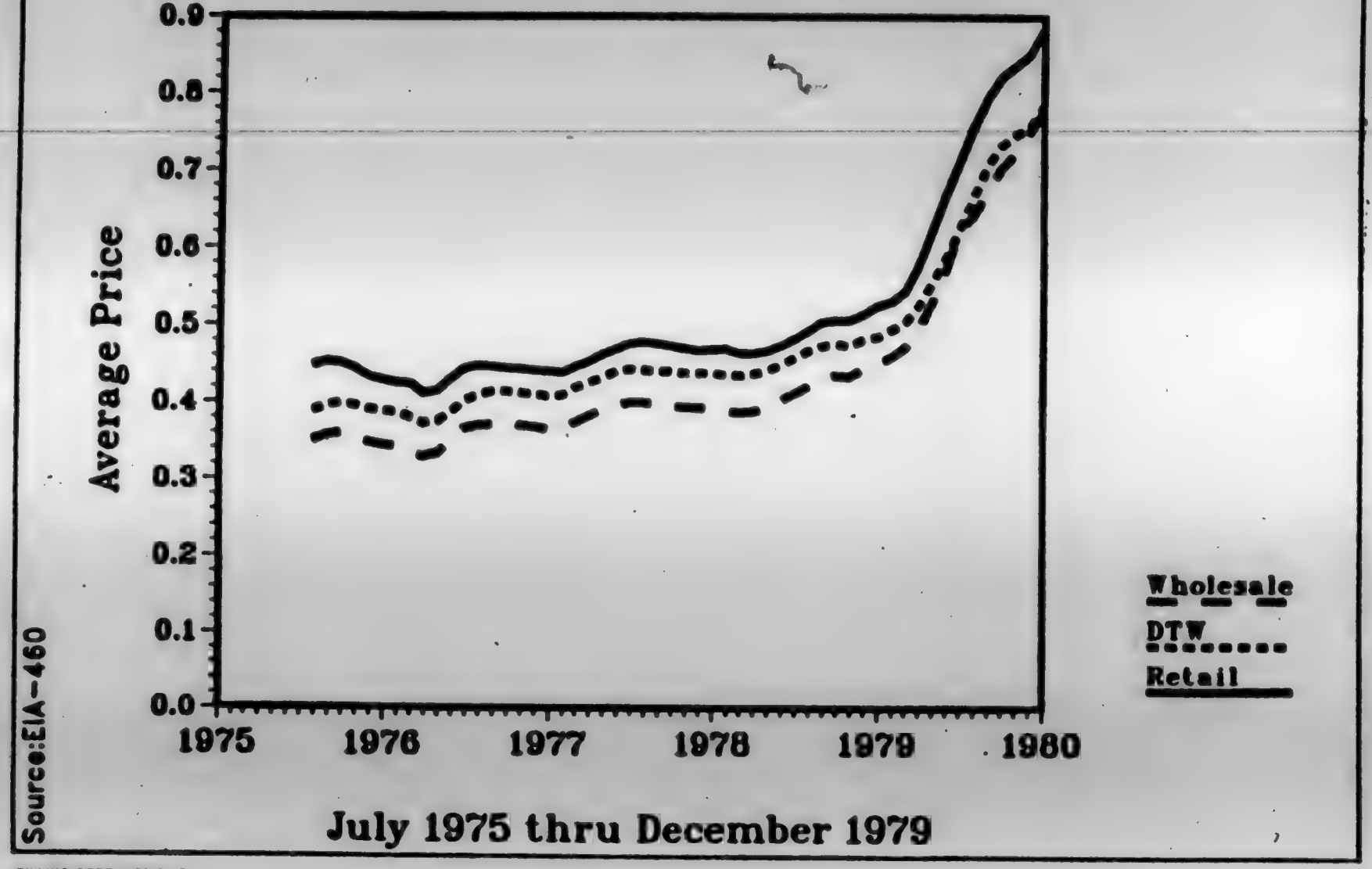

July 1975 thru December 1979

BILLING CODE 6450-01-C

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APPENDIX B.—PERCENTAGE SHARES OF REFINED PRODUCTS CONSUMPTION

Alabama	1.47
Alaska	0.39
Arizona	1.01
Arkansas	1.28
California	9.10
Colorado	1.10
Connecticut	1.67
Delaware	0.47
District of Columbia	0.26
Florida	[illegible]
Georgia	[illegible]
Hawaii	[illegible]
Idaho	[illegible]
Illinois	[illegible]
Indiana	2.69
Iowa	1.43
Kansas	1.19
Kentucky	1.27
Louisiana	2.23
Maine	0.76
Maryland	1.87
Massachusetts	3.45
Michigan	[illegible]
Minnesota	1.85
Mississippi	1.29
Missouri	[illegible]
Montana	0.44
Nebraska	[illegible]
Nevada	0.37
New Hampshire	0.47
New Jersey	3.76
New Mexico	[illegible]
New York	[illegible]
North Carolina	2.22
North Dakota	0.37
Ohio	[illegible]
Oklahoma	1.35
Oregon	[illegible]
Pennsylvania	[illegible]
Rhode Island	0.42
South Carolina	1.21
South Dakota	[illegible]
Tennessee	1.62
Texas	[illegible]
Utah	[illegible]
Vermont	[illegible]
Virginia	[illegible]
Washington	1.51
West Virginia	[illegible]
Wisconsin	1.83
Wyoming	[illegible]
American Samoa	[illegible]
Guam	0.13
Northern Mariana Islands [1]	0.01
Puerto Rico	1.09
Virgin Islands	0.90

[1] Estimated. Complete data on consumption in all sectors [illegible] not available.

Appendix C.—Suggested Format for Application for Refund; Instructions

You may elect to obtain a refund by using either the presumption or the non-presumption method of calculating injury. If you choose to use the presumption method, please complete the attached suggested format. Schedules showing your monthly purchases of gasoline and middle distillates should be attached. "Name of Applicant" is the firm or individual which actually purchased the Amoco product. "Contact person" is the person that is able to provide additional or clarifying information. Refund checks will be made payable and sent to the contact person, unless you indicate otherwise. Check the "Level in the Distribution Chain" that best describes the nature of your business or, if you are a consumer, the way you obtained Amoco product. If you are unsure of your level, attach a statement describing your activities. "Total gallonage" is the number of gallons of Amoco gasoline you purchased between March 6, 1973 and December 31, 1979, and the number of gallons of Amoco middle distillates you purchased between March 6, 1973, and June 30, 1976.

If you wish to show that you were injured to a greater extent than the presumption level of injury, you need to submit significantly more detailed information. First, provide the type of information indicated on the suggested format. In addition, please provide a schedule of your firm's monthly non-cumulative "bank" of unrecouped product costs for the entire period of March 1973 through December 1979. If you stopped calculating a "bank" during that period, tell us when you did so. For the entire period for which you seek a refund, provide a schedule of your monthly volumes purchased, the price you paid for this product, and the price at which the product was sold. Do this for each of your suppliers. Please state where this information came from (*e.g.*, invoices, books, etc.) and indicate the address where those records are now located. This information must be submitted separately for gasoline and middle distillates. Remember that middle distillates were decontrolled on July 1, 1976, and refunds will be based on product purchased before that date. Finally, your application must include the following certification: "I swear (or affirm) that the information contained in this application and attached materials is true and accurate to the best of my knowledge. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both pursuant to 18 U.S.C. § 1001."

All submissions must be made on 8½ X 11 paper only. All applications will be available for public inspection. If you believe that information you submit is confidential you must indicate the confidential information, state a reason why that information is confidential, and submit two copies of your application from which confidential information has been deleted.

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Application for Amoco Refund--BFF-0007

1. Name of Applicant: _____
Principal Business Location: _____
_____
_____
Telephone: ( ) _____

2. Contact Person: _____
Address: _____
_____
_____
Telephone: ( ) _____

3. Level in Distribution Chain:

Motor Gasoline:	Distillate:
____ Wholesaler	
____ Retailer	____ Reseller
____ Consumer directly supplied by Amoco	____ Consumer supplied by reseller
____ Consumer supplied by retailer directly supplied by Amoco	____ Consumer directly supplied by Amoco
____ Consumer supplied by wholesaler	
____ Consumer supplied by retailer not directly supplied by Amoco	
____ Unknown (attach statement)	

4. Total gallonage for which a refund is requested:
Motor Gasoline _____ Middle Distillates _____

5. Attach to this application schedules showing your purchases of motor gasoline and middle distillates on a monthly basis for the period for which you claim a refund.

6. Name of Supplier: _____
Address: _____
_____
_____
Telephone: ( ) _____

7. Name of Amoco sales representative: _____
Address: _____
_____
_____
Telephone: ( ) _____

8. Amoco customer ID number: _____

9. If you are a reseller, were you at any time between 1973 and 1979 a consignee agent? ____ Yes ____ No. If yes, when were you a consignee agent? From _____ to _____.

10. Was the product you bought Amoco-branded? ____ Yes ____ No. If not, attach an explanation why you believe the product came from Amoco.

11. Have you ever been involved in a DOE enforcement or private Section 210 legal action? ____ Yes ____ No. If yes, attach a copy of any final order issued or, if the action is ongoing, a statement briefly describing the action and its current status.

I hereby elect to use the presumption method of calculating injury and my refund. I swear (or affirm) that the information contained in this application and attached schedules is true and accurate to the best of my knowledge. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both pursuant to 18 U.S.C. § 1001.

_____ _____
Date Signature of Applicant

_____
Title

[FR Doc. 82-35409 Filed 12-29-82; 10:03 am]
BILLING CODE 6450-01-C

federal register

Monday
January 3, 1983

Part VII

Federal Home Loan Bank Board

Delegation of Authority Regarding Holding Company Acquisition and Debt; Organization, Merger, and Acquisition of Interim Savings and Loan Associations and Interim Savings Banks; and Processing of Applications; Final Rules

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 584

[No. 82-785]

Delegation of Authority Regarding Holding Company Acquisition and Debt

December 8, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is adopting regulations which delegate to its Principal Supervisory Agents the following actions: (1) Approval of acquisitions of insured institutions where the assets of both acquiring and acquired institutions do not exceed $1,000,000,000, provided certain competitive and other criteria are met; (2) approval of applications by savings and loan holding companies to substitute debt for debt which has previously been approved; (3) approval of applications to incur debt up to the greater of $1,000,000 or 50 percent of the consolidated net worth of the applicant holding company, provided the applicant holding company agrees to limit the dividends of the acquired institution to 50 percent of its net income; and (4) waiver, on supervisory grounds or in *de minimis* acquisitions, of the conditions that an applicant holding company limit dividends it receives from the acquired institution and guarantee the insured institution's reserve requirements.

EFFECTIVE DATE: December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Laura Patriarca, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202) 377-6454.

SUPPLEMENTARY INFORMATION: On November 12, 1981, the Board, as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), amended its regulations governing savings and loan holding companies ("Holding Company Regulations") (12 CFR Parts 583–589) to delegate to the Board's Principal Supervisory Agents, among other things, the authority to approve certain acquisitions of institutions the accounts of which are insured by FSLIC, in order to expedite the processing of routine holding company applications. 46 FR 57027. On August 26, 1982, by Board Resolution No. 82–579, the Board proposed to further amend those regulations to permit delegated approvals of acquisitions of and by larger institutions, and to revise the competitive-criteria acquisitions must meet to be approved under delegated authority in order to conform with those criteria proposed the same day for automatic approvals of mergers. 47 FR 39836. The proposed amendments would also have permitted a Principal Supervisory Agent to waive the condition that an applicant holding company maintain an acquired institution's net worth at the statutorily required minimum in cases where the acquisition represents less than five percent of the acquiring company's holdings in insured institutions or on supervisory grounds. The same grounds would permit a Principal Supervisory Agent to waive the requirement that an applicant holding company must agree not to receive dividends from the acquired institution in excess of 50 percent of its net income. Finally, the proposed amendment would have permitted Principal Supervisory Agents to approve applications for holding companies to substitute debt for debt previously approved and to approve new debt up to the greater of $1,000,000 or 50 percent of the applicant holding company's consolidated net worth, subject to a restriction on the payment of dividends by the subsidiary insured institution to 50 percent of its net income. Except for the proposed anticompetitive criteria discussed below, the Board has determined to adopt the amendments as proposed. (Note that the regulation refers to "Supervisory Agents" in conformity with § 583.5 of the Board's Regulations for Savings and Loan Holding Companies which defines the term to mean the President of a Federal Home Loan Bank.)

Summary of Comments

The Board received a total of 10 public comments in response to its proposal. The commenters included three federal savings and loan associations, five state-chartered savings and loan associations, and two savings and loan trade associations. All of the commenters supported the proposed amendments, although several suggested different or additional amendments regarding certain aspects of the proposal. The comments are reviewed in detail below.

Antitrust Considerations for Holding Company Acquisitions

Pursuant to the regulations as amended on November 12, 1981, an acquisition could be approved under delegated authority if it met criteria formulated in terms of the amounts of residential mortgage loans and savings accounts held by institution(s) to be acquired and by subsidiary insured institution(s) of the acquiring company. In counties where both sets of institutions had offices prior to the acquisition, neither mortgage loans nor savings deposits could exceed 10 percent or 15 percent if the Supervisory Agent obtained the concurrence of the Office of General Counsel that the acquisition was not in violation of the federal antitrust laws. In counties in which only the institution(s) to be acquired had offices prior to the acquisition, neither mortgage loans nor savings deposits could exceed 12 percent unless the Office of General Counsel similarly concurred, in which case a 15-percent cap applied. Delegated approvals were confined to those acquisitions involving institution(s) to be acquired of less than $100 million in assets and subsidiary insured institution(s) of the acquiring company of less than $500 million.

Under the proposed delegation, an entirely new set of criteria, based on deposits held by the involved institutions, would have applied. In addition, the proposal would have required referral to Washington only of applications in which the assets of both the insured institution(s) of the acquiring company and the institution(s) to be acquired exceed $1 billion. Three commenters suggested that the Board delegate approval of acquisitions involving institutions with assets of up to $2 or $3 billion. The Board continues to believe, however, that it is appropriate to require Washington review of acquisitions of or by large institutions and, accordingly, has determined to adopt the amendments as proposed.

Under the proposal, if the Department of Justice issued an advisory opinion asserting that the proposed acquisition would have a substantially adverse effect upon competition, the acquisition could not be approved under delegated authority. The Board has decided to delete this criterion and to adopt the Herfindahl-Hirschman Index, as discussed in companion Board Resolution No. 82–785 adopted today, pertaining to merger processing.

The proposal would have required a Principal Supervisory Agent to analyze an acquisition in accordance with antitrust standards set out in an acquisition table and would have established separate criteria for potential-competition acquisitions. (The acquisition table was substantially the same as the one adopted today and will not be reproduced here.) As discussed in companion Board Resolution No. 82–785, the Board has determined to revise its

antitrust criteria, including the criteria applicable to potential-competition acquisitions.

Under the revised antitrust standards as adopted, acquisition applications will be approved under delegated authority if:

(1) The aggregate assets of the institution(s) to be acquired or the aggregate assets of the subsidiary insured institution(s) of the acquiring company are less than $1 billion; and

(2) The subsidiary insured institution(s) of the acquiring company and of the institution(s) to be acquired would have, together, less than 25 percent of the total deposits held by depository institutions in the relevant geographic area where before the acquisition there were five or fewer depository institutions, and the aggregate share of total deposits would not constitute one of the three largest shares of total deposits and would increase by less than five percent.

(3) The subsidiary insured institution(s) of the acquiring company and of the institution(s) to be acquired would have, together, less than 30 percent of the total deposits held by depository institutions in the relevant geographic area where before the acquisition there were six to 11 depository institutions, and the aggregate share of total deposits would not constitute one of the two largest shares of total deposits and would increase by less than 10 percent.

(4) The subsidiary insured institution(s) of the acquiring company and of the institution(s) to be acquired would have, together, less than 35 percent of the total deposits held by depository institutions in the relevant geographic area where before the acquisition there were 12 or more depository institutions, and the aggregate share of total deposits would not constitute one of the two largest shares of total deposits and would increase by less than 15 percent.

(5) The Herfindahl-Hirschman Index ("HHI")[1] in the relevant geographic area was less than 1800 before the acquisition, and the increase in the HHI caused by the acquisition is less than 50.

(6) In an acquisition involving potential competition, the Supervisory Agent determines that the subsidiary insured institution(s) of the acquiring company is not one of three or fewer potential entrants into the relevant geographic area.

The following table summarizes the thresholds above which Board review of a proposed acquisition would be required under differing market structures.

THRESHOLDS OF MARKET STRUCTURE CRITERIA REQUIRING BOARD REVIEW

Delegated Approval if—[2]			
The combined deposit rank of the subsidiary insured institution(s) of the acquiring company and of the insured institution(s) to be acquired is—	And the number of competitors in the relevant geographic area before the acquisition is—	And the combined share of deposits of the subsidiary insured institution(s) of the acquiring company and of the insured institution(s) to be acquired in a direct competition acquisition is—	And the increase in the share of deposits is—
At least 4th	5 or fewer	Less than 25 percent	Less than 5 percent
At least 3rd	6 to 11	Less than 30 percent	Less than 10 percent
At least 3rd	12 or more	Less than 35 percent	Less than 15 percent

[2] No acquisition may be approved under delegated authority where the HHI in the relevant geographic area exceeds 1800 before the acquisition and as a result of the acquisition the increase in the HHI is 50 or more, or where both the subsidiary insured institution(s) of the acquiring company and the insured institution(s) to be acquired have assets of $1,000,000,000 or more.

Community Reinvestment Act

Under the previous delegation of authority, no subsidiary insured institution of the acquiring company could have received a less than satisfactory rating with respect to its compliance with the Community Reinvestment Act for an acquisition to be approved by the Principal Supervisory Agent. This requirement has been modified to permit delegated approval if the deficiency is in the process of being resolved to the satisfaction of the Principal Supervisory Agent. In addition, no serious, uncorrected deficiencies may exist with respect to the Board's nondiscrimination regulations for an acquisition to be approved under delegated authority.

Delegation of Debt-Approval Authority

The final amendment modifies the previous delegation of authority to the Board's Principal Supervisory Agents (*see* Board Resolution No. 80–202, dated March 26, 1980) to approve applications to incur debt. As previously provided, applications to incur debt up to the greater of $1 million or five percent of the consolidated net worth of the holding company could be approved by the Principal Supervisory Agent. That authority has now been increased to the greater of $1 million or 50 percent of the consolidated net worth of the holding company and the Principal Supervisory Agent is authorized to impose a condition limiting dividends paid by the acquired insured institution to 50 percent of the institution's net income. One commenter suggested removing any limit on the amount of debt a Principal Supervisory Agent may approve. The Board continues to believe, however, that large debt applications should receive Washington review and has determined, accordingly, to adopt the debt-approval delegation as proposed.

The final amendment also authorizes the Board's Principal Supervisory Agents to approve applications to substitute debt for debt already approved. The Board originally delegated this authority pursuant to Board Resolution No. 80–202, dated March 26, 1980, but has determined to incorporate it into this regulation for clarity.

Delegation of Authority To Waive Conditions on Certain Acquisitions by Savings and Loan Holding Companies

The amendment also modifies two of the conditions under which Principal Supervisory Agents may approve acquisitions pursuant to the authority delegated by Board Resolution No. 81–677, November 21, 1981 (46 FR 57027). Those conditions require that the acquiring company agree to limit dividends from the acquired insured institution to 50 percent of net income and to maintain the net worth of the insured subsidiary at the level required of institutions insured for 20 years or longer. The amendment authorizes the Principal Supervisory Agent to waive either or both of these conditions for supervisory reasons or where the assets of the acquired institution will constitute less than five percent of the acquiring company's assets in insured institutions. One commenter suggested permitting Principal Supervisory Agents to waive net-worth and dividend restrictions for all first-time acquisitions without regard to the size of the insured institution to be acquired. However, the Board is revising this delegation to make clear that the *de minimis* acquisition exception is available only to savings and loan holding companies that have not been required to restrict the dividends or guarantee the net worth of the subsidiary insured institutions they control. The Board believes it

[1] The HHI is an index of market concentration, and is the sum of the squares of all market shares of all depository institutions in the relevant geographic area. Thus, if a relevant geographic area has three depository institutions with total deposit shares of 50, 30, and 20 percent, respectively, the HHI is 3800 (50 squared (2500) plus 30 squared (900) plus 20 squared (400)).

appropriate to require Washington review of any waiver request from a company acquiring its first insured institution or from a savings and loan holding company that is subject to net-worth and dividend-restriction conditions at the time it applies to acquire another subsidiary insured institution.

Regulatory Flexibility Act Certification

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980), the Chairman certifies that the amendments will not have a significant impact on a substantial number of small entities. The regulations provide for delegated approval of certain acquisition applications in the least burdensome and most efficient manner and generally give subject institutions greater flexibility. The Board believes that the amendments will benefit small institutions by reducing paperwork and delay but will not have a significant economic impact on institutions.

Because it is in the public interest to reduce unnecessary delay in application processing and to allow managerial decisions to be planned on a calendar-year basis, the Board has determined that the full 30-day delay of effective date following publication of the regulations pursuant to 12 CFR 508.11 and 15 U.S.C. § 553(d) is unnecessary. The amendments will take effect on December 31, 1982, and will apply to all applications filed and deemed complete on or after that date.

Accordingly, the Board hereby amends Part 584, Subchapter F, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

List of Subjects in 12 CFR Part 584

Acquisitions, Delegation of authority, Holding companies, Savings and loan associations, Savings and loan holding companies.

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

PART 584—REGULATED ACTIVITIES

1. Revise paragraphs (g)(1) (iii), (iv), (vi), (2) and (3) of § 584.4, as follows (for the convenience of the user, the introductory text of paragraph (g)(1) is reprinted without charge):

§ 584.4 Acquisitions.

* * * * *

(g) *Approval by the Supervisory Agent.*

(1) Any acquisition that may be approved under this section by the Corporation may be approved by a Supervisory Agent, provided that all of the following conditions are met:

* * * * *

(iii) The company will service its debt without receiving dividends from the acquired insured subsidiary in excess of 50 percent of the subsidiary's net income per year on a cumulative basis, and the company agrees in writing that it will not receive dividends from the acquired subsidiary in excess of that amount, unless waived by the Supervisory Agent (*a*) on supervisory grounds; (*b*) in cases where the assets of the institutions to be acquired will constitute less than five percent of the assets of the insured subsidiary institution(s) of the acquiring company for acquisitions by savings and loan holding companies that have not agreed to restrict the dividends received from, or guarantee the net worth of, its subsidiary insured institution(s);

(iv) The company agrees in writing that it will ensure that the subsidiary insured institution meets the minimum statutory reserve and net-worth requirements applicable to institutions insured for 20 years or more, as set out in § 563.13 of this Chapter, and, where necessary, will refuse additional equity capital in a form satisfactory to the Supervisory Agent and sufficient to effect compliance with the requirements, unless waived—(*a*) on supervisory grounds; (*b*) in cases where the assets of the institutions to be acquired will constitute less than five percent of the assets of the insured subsidiary institution(s) of the acquiring company for acquisitions by savings and loan holding companies that have not agreed to restrict the dividends received from, or guarantee the net worth of, its subsidiary insured institution(s);

* * * * *

(vi) No subsidiary insured institution of the acquiring company (other than an institution that is neither insured by the Corporation nor chartered by the Board) has received on its most recent examination a rating of less than satisfactory with regard to its compliance with the Community Reinvestment Act and the regulations issued thereunder or is seriously deficient with respect to the Board's nondiscrimination regulations, unless the rating or other deficiencies have been or are being resolved to the satisfaction of the Supervisory Agent;

* * * * *

(2) Where the acquisition comes within paragraph (a) (1) or (2) of this section or the acquisition would be of two or more insured institutions under paragraph (b) of this section, the following conditions must also be met:

(i) The Supervisory Agent determines that the acquisition will serve the convenience and needs of the local community of every insured institution to be acquired;

(ii) The aggregate assets of the institution(s) to be acquired or the aggregate assets of the subsidiary insured institution(s) of the acquiring company are less than $1 billion;

(iii) The subsidiary insured institution(s) of the acquiring company and of the institution(s) to be acquired would have, together, less than 25 percent of the total deposits held by depository institutions in the relevant geographic area where before the acquisition there were five or fewer depository institutions and the aggregate share of total deposits would not institute one of the three largest shares of total deposits and would increase by less than five percent;

(iv) The subsidiary insured institution(s) of the acquiring company and of the institution(s) to be acquired would have, together, less than 30 percent of the total deposits held by depository institutions in the relevant geographic area where before the acquisition there were 6 to 11 depository institutions and the aggregate share of total deposits would not constitute one of the two largest shares of total deposits and would increase by less than 10 percent;

(v) The subsidiary insured institution(s) of the acquiring company and of the institution(s) to be acquired would have, together, less than 35 percent of the total deposits held by depository institutions in the relevant geographic area where before the acquisition there were 12 or more depository institutions and the aggregate share of total deposits would not constitute one of the two largest shares of total deposits and would increase by less than 15 percent;

(vi) The Herfindahl–Hirschman Index in the relevant geographic area was less than 1800 before the acquisition, and the increase in the Herfindahl–Hirschman Index caused by the acquisition is less than 50;

(vii) In an acquisition involving potential competition, the Supervisory Agent determines that the subsidiary insured institution(s) of the acquiring company does not constitute one of three or fewer potential entrants into the relevant geographic area.

(3) For purposes of paragraph (g)(2) of this section, the following provisions apply:

(i) "Total deposits" includes all demand, savings, and time deposit accounts.

(ii) "Depository institution" includes savings and loan associations, building and loan associations, homestead associations, cooperative banks, savings banks, commercial banks, and credit unions.

(iii) A "relevant geographic area" is used as a proxy for the "relevant geographic market," the area within which the competitive effects of an acquisition may be evaluated. The relevant geographic area shall be delineated as follows:

(*a*) A county or similar political subdivision, an area smaller than a county, or an aggregation of counties within which the subsidiary insured institution(s) of the acquiring company and the insured institution to be acquired compete (the "home county").

(*b*) *The commuting test.* If, when using the area delineated in preceding subparagraph (*a*), the acquisition does not meet the market share and concentration criteria set forth in subparagraphs (2)(ii) through (vii) of this paragraph (g), the relevant geographic area shall be expanded to include an analysis of surrounding areas where the workforce comes in and goes out of the home county on a regular basis.

(*1*) In a Standard Metropolitan Statistical Area ('SMSA"), the relevant geographic area will include any county to which 20 percent of the home county's workforce commutes and any county from which 20 percent of the workforce commutes to the home county. [These calculations may be obtained from the Census, Table p–2, Social Characteristics of the Population.]

(*2*) In a non-SMSA, the relevant geographic area will include any county to which 20 percent of the home county's workforce commutes and any other county in which depositors have access to depository institutions that are located approximately the same distance from their homes as are the depository institutions in the home county. [Data on households are available from the Census.]

(*c*) *The advertising test.* If, when using the area delineated in preceding subparagraph (*a*) and (*b*), the acquisition does not meet the market share and concentration criteria set forth in subparagraphs (2) (ii) through (vii) of this paragraph (g), the relevant geographic area shall be further expanded to include counties where competition between institutions is demonstrated by newspaper advertising. Where the volume of sales of a newspaper originating in a county other than the county of the institution to be acquired equals 50 percent of the households of the county of the association to be acquired, the county from which the newspaper originates will be included in the analysis if the insured institution to be acquired advertises regularly in that newspaper. [Data on households are available from the Census; data on sales are available from newspaper circulation offices.]

2. Add paragraph (f) to § 584.6 as follows:

§584.6 Holding company indebtedness.

* * * * * *

(f) *Approval by the Supervisory Agent.*

(1) Applications to substitute debt for debt which has been approved previously pursuant to this section may be approved by the Supervisory Agent, provided that the substituted debt would not impose an unreasonable or inprudent financial burden on the applicant or be injurious to the operation of any subsidiary insured institution.

(2) Applications to incur debt up to the greater of $1,000,000 or 50 percent of the consolidated net worth of the applicant holding company may be approved by the Supervisory Agent, provided that the proposed debt would not impose an unreasonable or imprudent financial burden on the applicant or be injurious to the operation of any subsidiary insured institution. The Supervisory Agent may condition the approval of such an application upon the agreement by the savings and loan holding company to limit the dividends of the acquired institution to 50 percent of its net income.

(Pub. L. No. 90–255 (12 U.S.C. 1730a *et seq.*); Reorg. Plan No. 3 of 1947; 3 C.F.R., 1943–1948 comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc 82–35584 Filed 12–30–82; 8:45]

BILLING CODE 6720–01–M

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12 CFR Parts 541, 543, 545, 546, 552, 562, and 563

[No. 82–788]

Organization, Merger, and Acquisition of Interim Savings and Loan Associations and Interim Savings Banks

Date: December 8, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is adopting amendments to its regulations governing charter, merger, and holding company applications to facilitate (1) the reorganization of a federally chartered or state-chartered stock association into a holding company form of ownership or (2) the acquisition of an insured institution by a savings and loan holding company. The changes are intended to eliminate duplicative and unnecessary procedures in processing applications filed pursuant to a plan of reorganization that involves a nonoperating or "interim" savings and loan association or savings bank. The Board has also decided to modify certain requirements for combinations involving federally chartered stock associations ("Charter S associations") and interim associations and to eliminate a procedural restriction applicable to all combinations involving Charter S associations.

In addition, pursuant to the Garn-St Germain Depository Institutions Act of 1982, which authorizes the Board, among other things, to charter stock associations and mutual and stock savings banks, the Board is taking this opportunity to indicate its intention to issue, where appropriate, *de novo* stock charters for interim associations and *de novo* stock or mutual charters for interim savings banks for the purposes of facilitating the reorganization of a stock association into holding company form or the acquisition of an insured institution by a savings and loan holding company. In further implementation of the 1982 Act, the Board has determined to delete the requirement that persons organizing a federal association must be local residents of the community the institution will serve.

EFFECTIVE DATE: December 31, 1982.

FOR FURTHER INFORMATION PLEASE CONTACT: Laura Patriarca, Attorney, Office of General Counsel, (202) 377–6454, at 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

On April 15, 1982, the Board promulgated regulations authorizing the chartering of nonoperating federal associations and providing for the insurance of accounts of nonoperating state-chartered institutions, for the purpose of facilitating corporate reorganizations. Because the Board perceived an immediate need to gain experience in processing and monitoring applications involving interim associations, the amendments were adopted as a temporary final rule and a 60-day public comment period was provided. See Bd. Res. No. 82–289; 47 FR

17797, published April 28, 1982. Five comments were received from federal associations and a trade association, and two applications were filed pursuant to the amendments. After reviewing the comments and applications, the Board has determined to retain the regulations substantially as adopted, with some minor modifications as discussed below.

Ordinarily, the formation of a holding company is accomplished when the prospective holding company acquires the stock of the target association through an exchange or tender offer. Similarly, the acquisition by an existing savings and loan holding company of another insured institution involves an exchange or tender offer for all of the stock of the target institution. This is often a less than satisfactory means of proceeding, especially when 100 percent control is desired. An alternative method involves the chartering of a nonoperating "phantom" or interim institution in order to merge it with the association to be acquired. For example, where an association desires to form a savings and loan holding company, an interim institution could be chartered and merged with the association and all of the stock of the association resulting from the merger would be acquired by a company formed to become a savings and loan holding company. Where an existing savings and loan holding company seeks to acquire an insured institution, it could charter an interim institution and merge it with the target institution, subject to the approval of the target institution's shareholders. This method of reorganization or acquisition is attractive because it ensures that upon approval of the merger by the insured institution's shareholders, the holding company will acquire 100 percent of the shares of the existing institution, a goal which is often difficult to attain through an exchange or tender offer.

The Board believes that the regulations as amended will facilitate the acquisition of stock associations or stock savings banks, whether federally chartered or state-chartered, through a merger with an interim association or an interim savings bank or through any other transaction the Board may approve.

Ratification of Temporary Rules

1. *Reorganization and formation of a holding company using an interim institution*

A stock savings and loan association or shareholders of a stock savings and loan association may reorganize into a holding company structure by taking the following actions:

(1) Form a corporation to become the sole depositor or shareholder in a newly chartered interim federal mutual, federal stock, state mutual, or state stock savings and loan association.

(2) Charter an interim Federal savings and loan association or savings bank, in either stock or mutual form, the only deposit or stock of which is wholly owned by a newly formed corporation.* Alternatively, charter a state stock association, in either mutual or stock form, the only deposit or stock of which is wholly owned by a newly formed corporation.

(3) Merge the interim association with the existing stock association under a plan of merger whereby all outstanding voting shares of the existing stock association convert to like shares of the corporation, thereby causing the newly formed corporation to acquire all of the outstanding voting shares of the association resulting from the merger.

2. *Acquisition using an interim institution*

An existing savings and loan holding company may acquire an existing insured institution by taking the following actions:

(1) Charter an interim Federal savings and loan association or savings bank, in either stock or mutual form, the only deposit or stock of which is wholly owned by a newly formed corporation.* Alternatively, charter a state stock association, in either mutual or stock form, the only deposit or stock of which is wholly owned by a newly formed corporation.

(2) Merge the interim association with the existing stock association under a plan of merger whereby all the outstanding voting shares of the existing stock association convert to shares of the holding company, thereby causing the holding company to acquire all of the outstanding voting stock of the association resulting from the merger.

Board approval must be obtained for the charter, merger, holding company acquisition, and insurance of accounts, as appropriate, pursuant to 12 CFR Parts 543, 546, 552, 563, 571, and 583–589. In determining whether to approve such applications, the Board will consider the proposed transaction in its entirety. The Board will evaluate, as appropriate, the purpose and effect of the overall transaction in light of whether the existing institution's management, or other officials acting on behalf of the institution, are of good character and responsibility, and whether the community need for, and the probability of success of, such an institution justifies the reorganization without unduly injuring other properly conducted existing thrift and home financing institutions. In addition, the approval of the appropriate state authority is necessary for transactions involving state-chartered institutions.

3. *Procedures*

A reorganizing association proposing to organize an interim federal association for the purpose of creating a holding company must file an application for permission to organize pursuant to 12 CFR 543.2. Section 543.2(h) exempts applicants for an interim federal charter from the procedures under that Part which ordinarily require publication of notice and opportunity for oral argument, provided those procedures are required upon filing the related merger and holding company applications.

In most instances, the notice and comment periods will be required by § 584.4(g) of the Regulations for Holding Companies, 12 CFR 584.4(g), upon the filing of an H–(e)(1) application for permission to acquire control of an insured institution. However, a reorganizing association which qualifies for an exemption from prior FSLIC approval of an acquisition pursuant to 12 CFR 584.4 will be required to adhere to the notice and comment procedures under 12 CFR 546.2(d), 552.13(h)(5), or 563.22(b), as applicable, in connection with a merger application.

Under paragraph (h) of § 543.2, the Board will grant approval of the issuance of the charter on the condition that the related merger and holding company applications are approved. After issuance of the charter, applicants must also comply with the completion-of-organization requirements of 12 CFR 543.6, including the requirements that the interim association must qualify as a member of a Federal Home Loan Bank pursuant to 12 CFR 523.1 and meet the requirements necessary to obtain insurance of accounts.

4. *Combinations involving Charter S associations*

The regulations governing mergers of mutual savings and loan associations at 12 CFR Parts 546 and 563, as well as the Board's policy statement on mergers, 12 CFR 571.5, were not changed in connection with the adoption of the Board's temporary rules, except for eliminating duplicative notice and comment periods as described above. However, § 552.13 of the Rules and Regulations for the Federal Savings and Loan System, 12 CFR 552.13, governing

* Under the temporary rule, only interim Federal mutual savings and loan associations may be chartered. Today's amendments permit the chartering of interim Federal stock savings and loan associations, as well as stock or mutual Federal savings banks.

mergers involving federal stock (Charter S) associations, permits the merger of an interim mutual institution into a stock institution. Prior to April 22, 1982, paragraph (C)(1) of that section required that in any combination in which any constituent is a mutual association, the resulting association must be mutually held, except in supervisory merger-conversion cases. As a nonoperating institution, an interim mutual association will have negligible assets; and because the charter is issued only to provide a reorganization vehicle, no significant ownership rights in the interim association can be jeopardized by its merger into a stock institution. Indeed, the merger is the sole reason for the existence of the mutual charter. The Board therefore believes it appropriate to continue to allow stock associations to survive mergers involving interim institutions.

[Today, in a separate action, the Board is further amending § 552.13(c)(1) to permit mergers involving Charter S associations and Federal associations insured by the Federal Deposit Insurance Corporation reflecting changes to the Home Owners' Loan Act, 12 U.S.C. 1462 *et seq.*, made by the Garn-St Germain Depository Institutions Act of 1982. The Board is also amending § 552.13(c)(1) to provide an additional exception to the rule that a mutual association must survive its merger with a Charter S association. This amendment incorporates into § 552.13(c)(1) amendments to §§ 563b.9 and 563b.10 of the Rules and Regulations for Insurance of Accounts (12 CFR 563b.9, 563b.10). *See* Board Res. No. 82–390; 47 FR 24252 (June 4, 1982), which authorizes, on a test-case basis, the filing of applications for the nonsupervisory merger of insured mutual institutions into insured stock institutions. (*See* Board Res. No. 82–791; 47 FR 56985.)]

5. *Minimum capitalization and dispersion of ownership*

Board policy requires that an organizing federal mutual association obtain a minimum of $1–2 million in pledged savings depending upon the population size of the association's service area. The Board imposes similar requirements on applicants for insurance of accounts with respect to the amount of capitalization. [Section 552.13(c)(1) is being further amended today (*see* Board Res. No. 82–791) to permit mergers involving federal associations insured by the Federal Deposit Insurance Corporation and will not be restated here.]

However, minimum capitalization of an interim federal association is not necessary because the newly chartered entity will not operate until after it merges with a fully capitalized association. Accordingly, paragraph (h) of 12 CFR 543.2 does not condition approval of an interim federal association's charter application on meeting any minimum requirement with respect to capitalization. The regulation also exempts interim state institutions seeking insurance of accounts from the usual capital requirements.

6. *Technical holding company status of the reorganizing stock association*

Where an existing institution is using an interim institution as a means of facilitating the formation of a holding company, the existing institution arguably becomes a holding company by virtue of its control of the interim institution. (The same argument would apply to a service corporation or other subsidiary formed to hold the interim institution.) However, because the relationships between the existing institution undergoing the reorganization, its service corporation, and the interim institution are established only to permit the existing institution to reorganize into a holding company form of ownership, the Board requires only a single holding company application to be filed for permission to acquire control of the resulting association.

7. *Preapproval of the activity of investing in the accounts of or owning the stock of an interim institution*

A Charter S association that decides to use a service corporation in connection with its reorganization need not apply for permission for the service corporation to purchase the stock of or invest in the accounts of an interim institution. The Board therefore amended its list of preapproved service corporation activities to include such investments for the limited purpose of facilitating the reorganization of a stock association into a holding company form of ownership.

8. *Approval of the acquisition of a recently converted association in connection with an interim institution merger*

Paragraph 563b.3(i) of the Rules and Regulations for Insurance of Accounts (12 CFR 563b.3(i)) prohibits the acquisition of more than 10 percent of any class of an equity security of an association which has converted to stock form pursuant to 12 CFR 563b.3 within one year of completion of the conversion process, without prior FSLIC approval. Any recently converted association desiring to reorganize into a holding company structure through a merger with an interim association may apply for Board approval in conjunction with its holding company application.

New Amendments

1. *Amendment of definitions*

As previously adopted, § 541.8–1 of the Rules and Regulations for the Federal Savings and Loan System (to be codified at 12 CFR 541.8–1) defines "interim Federal association" to mean a nonoperating savings and loan association chartered by the Board to facilitate a merger or any other transaction the Board may approve, which will result in the acquisition of a stock association by a newly formed or existing savings and loan holding company. This section has been modified by removing the phrase "savings and loan" to conform with another amendment adopted today which broadens the definition of "Federal association" at § 541.8 to include savings banks. *See* Board Res. No. 82–791, 47 FR 56985 (December 22, 1982). Together, the amendments reflect the Board's intention to issue interim charters for savings banks. The definitions of "association," "mutual association," "stock association," and "insured institution" at §§ 546.1, 552.13(b)(6)–(7), 561.1, and 583.6 of the Board's regulations governing mergers and holding company acquisitions (12 CFR 546.1, 552.13(b)(6)–(7), 561.1, 583.6) were amended in April explicitly to include interim federal associations and, where appropriate, interim state-chartered associations. However, the comprehensive revisions to the Board's regulations adopted today (*see* Board Res. No. 82–791) amend the definitions of "association" and "insured institution" at §§ 546.1 and 583.6, respectively (12 CFR 546.1 and 583.6) and need not be restated here. Because of certain of these revisions, the Board is revising the definitions of "mutual association" and "stock association" at §§ 552.13(b)(6)–(7) by removing references to interim associations which have now been rendered unnecessary. Similarly, the definition of "insured institution" at § 561.1 is amended by Board Resolution No. 82–791 and will not be restated here.

2. *Shareholder approval*

For combinations involving federally chartered stock associations (Charter S associations), an affirmative vote of two-thirds of the outstanding voting stock has been required for approval of the combination agreement, except when the Charter S association is the surviving or resulting association and three other conditions, set out at 12 CFR 552.13(i)(3), have been met. One commenter expressed the view that stockholder approval of Charter S combinations involving interim

associations should not be required and suggested a hearing in lieu of a stockholder vote. Another commenter suggested reducing the proportionate number of affirmative votes required to approve a combination.

The Board continues to believe that shareholders must be given an opportunity to approve or disapprove a merger. However, in cases involving the formation of a new holding company, the Board, upon reconsideration, has determined to reduce the affirmative vote requirement from 66⅔% to 50% plus 1 affirmative vote for combinations involving an interim federal or state association as part of the reorganization of a Charter S association. The Board is taking this action because the ownership interests of shareholders of an association reorganizing into a holding company form of ownership do not undergo material substantive change. In addition, the Board notes that any shareholder of a Charter S association combining under § 552.13 has dissenter and appraisal rights under § 552.14. For cases in which an existing holding company acquires control of a Charter S association through a merger with an interim institution, 66⅔% of the Charter S shareholders must vote in favor of the merger.

In addition, the Board is taking this opportunity to eliminate the requirement, for all combinations involving Charter S associations, that Board approval of the combination agreement be obtained before holding a shareholders meeting or soliciting proxies for the purpose of voting on a combination. This procedure ensures that an applicant association would have to bear the expense of soliciting proxies only once because it allowed for the inclusion in the proxy soliciting materials of any conditions the Board may have imposed upon approval of the application. Applicant associations may now decide whether they wish to bear the risk of a second proxy solicitation if the Board imposes material conditions to a merger application approved after the mailing of proxy soliciting materials. The Board is eliminating this requirement because it believes that this is a business decision.

3. *Issuance of charters to interim stock associations and interim stock savings banks and mutual savings banks*

The Garn-St Germain Depository Institutions Act of 1982 authorizes the Board to organize federal stock savings and loan associations and federal mutual or stock savings banks on a *de novo* basis. Regulations are being developed to implement that authority. (In fact, the Board is adopting today regulations concerning *de novo* mutual savings bank charters and conversion of existing institutions to other available charters. *See* Board Resolution No. 82–791.) However, with respect to interim federal associations, the Board wishes to take this opportunity to indicate that it intends to issue *de novo* stock charters for interim federal ("interim Charter S") associations and for interim federal savings banks, as well as *de novo* charters for interim federal mutual savings banks. By organizing an interim Charter S association, a stock association wishing to reorganize into holding company form would have the option of merging into the interim stock association or the interim stock savings bank. Similarly, a savings and loan holding company wishing to acquire another insured institution could charter an interim federal stock association or savings bank into which the target institution could be merged. (Examples of the uses of interim institutions described above apply to all interim institutions, including interim stock and mutual savings banks.) Where a mutually owned interim institution is chartered by the Board or a state authority, the existing stock association will be the surviving institution. However, if an interim state stock association, an interim Charter S association, or an interim federal stock savings bank is utilized in the transaction, the interim institution may be the survivor. The availability of a stock form of institution as an interim association will provide greater flexibility to institutions wishing to reorganize and to holding companies wishing to acquire 100% of the shares of an insured institution.

4. *Individuals need not reside in local community to apply for federal charter*

One commenter questioned whether it is necessary for applicants for a charter for an interim association to be local residents. In light of the amendments to section 5(a) of the Home Owners' Loan Act, 12 U.S.C. 1464, which deleted the descriptive term "local" in directing the Board to issue charters for federal mutual savings banks and to give primary consideration to the best practices thrift institutions *in the United States*, the Board is revising § 543.2(b) of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 543.2(b)) by eliminating the requirement that applicants seeking permission to organize a federal association reside in the local community.

Regulatory Flexibility Act Certification

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Chairman certifies that the amendments will not have a significant economic impact on a substantial number of small entities. The amendments are essentially technical in nature and will improve the ability of federal associations to perform services for the public. The Board believes that associations reorganizing or savings and loan holding companies acquiring an insured institution will benefit from the amendments by attaining an advantageous corporate form more efficiently than is available without the amendments.

The Board finds that notice and public procedure pursuant to 5 U.S.C. 553(b) and 12 CFR 508.11, with respect to the amendments, are unnecessary because they relieve restriction and it is in the public interest to immediately make available to insured institutions the opportunity to reorganize with greater flexibility. The Board also finds the 30-day delay of the effective date following publication of such amendments as prescribed in 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary for the same reasons.

List of Subjects in 12 CFR Parts 541, 543, 545, 546, 552, 562, and 563

Federal Home Loan Bank Board, Holding companies, Savings and loan associations.

Accordingly, the Board hereby amends Parts 541, 543, 545, 546, and 552 of Subchapter C and Parts 562 and 563 of Subchapter D Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 541—DEFINITIONS

1. Sections 541.8–1 is revised and §§ 541.8–2 and 541.8–3 are restated without change for the reader's convenience as follows:

§ 541.8–1 Interim Federal association.

An association chartered by the Board under section 5 of the Act to facilitate the acquisition of 100 percent of the voting shares of an existing Federal stock association or other insured stock institution by a newly formed company or an existing savings and loan holding company or to facilitate any other transaction the Board may approve.

§ 541.8–2 Interim state institution.

An insured instituion, other than a Federal association, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, to facilitate the acquistion

of 100 percent of the voting shares of an existing Federal stock association or other insured stock institution by a newly formed company or an existing savings and local holding company or to facilitate any other transaction the Board may approve.

§ 541.8–3 Insured institution.

An insured institution as defined in § 561.1 of this Chapter.

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION

2. Amend § 543.2 by revising the second sentence of paragraph (b) and revising paragraph (h), as follows:

§ 543.2 Application for permission to organize.

* * * * *

(b) *Form; supporting information* * * * An application and all required supporting information shall be executed by at least seven persons (the "applicants") and submitted to the Supervisory Agent. * * *

* * * * *

(h) *Alternative procedures for interim Federal associations.*

(1) The procedures prescribed by paragraphs (d)–(g) of this section shall not be required with respect to applications for permission to organize an interim Federal association except that decisions on all such applications will be made by the Board and except as may be required by Parts 546, 563, or 584 of this Chapter. (2) Preliminary approval of an application for permission to organize an interim Federal association shall be conditioned on Board approval of an application to merge the interim Federal association and an existing insured stock institution or on Board approval of any other transaction. After organization has been completed pursuant to § 543.6(d) of this Part, final approval may be granted in conjunction with Board approval of an application filed pursuant to § 584.4 or acquiescence in a filing under § 584.4–1. In evaluating the information provided in accordance with the requirements of paragraph (b) of this section, the Board will consider the purpose for which the association will be organized, the form of any proposed transactions involving the organizing association, the effect of the transactions on existing institutions involved in the transactions, and the effect of the transactions on the community and on other properly conducted existing thrift institutions.

3. Revise paragraph (d) of § 543.6 as follows:

§ 543.6 Completion of organization.

* * * * *

(d) *Failure to complete.* Organization of a Federal association is completed when the organization meeting and the first meeting of its directors have been held, permanent officers have been bonded, the association holds the cash required to be paid on subscriptions to its capital, if required, and any additional requirement imposed by the Board has been met. If organization is not so completed within six months after issuance of a charter, or within such additional period as the Board may for good cause grant, and in the case of an interim Federal association, if a merger, or other transaction facilitated by the existence of an interim institution, has not been approved, the charter shall become void and all cash collected on subscriptions shall thereupon be returned.

PART 545—OPERATIONS

4. Paragraph (c)(23) of § 545.9–1 is revised as follows:

§ 545.9–1 Service corporations.

* * * * *

(c) *Permitted activities.*

* * * * *

(23) Investing in the capital stock or in the accounts of an interim Federal association or an interim state institution that has been chartered solely for the purpose of becoming a constituent in a merger that will result in the acquisition of a stock association by a savings and loan holding company or by a company which will, after the acquisition, be a savings and loan holding company;

* * * * *

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

5. Paragraph (d)(3) of § 546.2 is restated without change for the reader's convenience:

§ 546.2 Procedure; effective date.

(d) * * *

* * * * *

(3) This paragraph (d) does not apply to mergers involving an interim Federal association or an interim state institution if the resulting institution is immediately acquired under § 584.4 of this Chapter.

PART 552—STOCK ASSOCIATIONS

6. Amend § 552.13 by revising paragraphs (b) (6) and (7), (h)(5), and (i), as follows:

§ 552.13 Combinations involving Charter S associations.

* * * * *

(b) *Definitions.* The following definitions apply to §§ 552.13 and 552.14 of this Part:

* * * * *

(6) *Mutual association.* Any association organized in a form not requiring nonwithdrawable stock under Federal or state law.

(7) *Stock association.* Any association organized in a form requiring nonwithdrawable stock.

* * * * *

(h) *Notice.*

* * * * *

(5) *Procedure.* Processing of an application under this section shall follow the procedures set forth in this paragraph (h) and in §§ 543.2(e) and 543.2(f) of this Subchapter unless, in the case of mergers involving an interim Federal association or an interim state institution, the merging institution is immediately acquired under § 584.4, in which case § 584.4(h)(1) of this Chapter shall apply.

* * * * *

(i) *Aproval by stockholders.*

(1) *General rule.* Except as otherwise provided in this section, an affirmative vote of two-thirds of the outstanding voting stock shall be required for approval of the combination agreement. If any class of shares is entitled to vote as a class pursuant to § 552.4 of this Part, an affirmative vote of a majority of the shares of each voting class and two-thirds of the total voting shares shall be required. The required votes shall be taken at a meeting of the association.

(2) *General exception.* Stockholders of the resulting association need not authorize a combination agreement if: (i) It does not involve an interim Federal association or an interim state institution; (ii) the association's charter is not changed; (iii) each share of stock outstanding immediately prior to the effective date of the combination is to be an identical outstanding share or a treasury share of the resulting association after such effective date; and (iv) either (A) no shares of voting stock of the resulting association and no securities convertible into such stock are to be issued or delivered under the plan of combination or (B) the authorized unissued shares or the treasury shares of voting stock of the resulting association to be issued or delivered under the plan of combination, plus those initially issuable upon conversion of any securities to be issued or deliverd under such plan, do not exceed 15% of the total shares of voting stock of such association outstanding immediately prior to the effective date of the combination.

(3) *Exceptions for certain combinations involving an interim institution.* Stockholders of a Charter S association need not authorize by a two-thirds affirmative vote combinations involving an interim Federal association or an interim state institution where a company acquires the resulting Charter S association pursuant to § 584.4(b) of this Chapter. In those cases, an affirmative vote of 50 percent of the shares of the outstanding voting stock of the Charter S association plus one affirmative vote shall be required. If any class of shares is entitled to vote as a class pursuant to § 552.4 of this Part, an affirmative vote of 50 percent of the shares of each voting class plus one affirmative vote shall be required. The required votes shall be taken at a meeting of the association.

* * * * *

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 562—APPLICATION FOR INSURANCE OF ACCOUNTS

9. Section 562.4 is revised as follows:

§ 562.4 Processing of application.

Processing of an application under this Part shall follow the procedures set forth in § 543.2 (d), (e), and (f) of this Chapter, except that an interim state institution need not follow such procedures except as required by Parts 546, 563, or 584 of this Chapter.

10. Paragraph (b) of § 562.6 is revised as follows;

§ 562.6 Exceptions to foregoing procedure.

* * * * *

(b) *Procedure not applicable to Federal savings and loan associations or interim Federal associations.* The procedure prescribed by the foregoing sections of this Part 562 shall not be applicable to an application for insurance of accounts by a Federal savings and loan association or an interim Federal association.

PART 563—OPERATIONS

11. Revise paragraph (c) to § 563.22, as follows:

§ 563.22 Merger, consolidation, or purchase of bulk assets.

* * * * *

(c) The requirements of paragraph (b) of this section do not apply to any merger, consolidation, or purchase of bulk assets involving an interim Federal association or an interim state institution if the resulting institution is immediately acquired in accordance with the procedures set forth in § 584.4(g) of this Chapter.

* * * * *

(Sec. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464); Sec. 401, 402, 403, 404, 405, 406, 407, 48 Stat. 1255, 1256, 1257, 1259, 1260, as amended (12 U.S.C. 1724, 1725, 1726, 1728, 1729, 1730); Sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947; 3 CFR 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-35585 Filed 12-30-82; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Parts 543, 545, 546, 552, and 563

[No. 82-785]

Processing of Applications

Date: December 8, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is adopting a streamlined approach for processing all applications subject to public notice and protest procedures. Under the new application processing system, public notice requirements for all unprotested applications could be completed within 30 calendar days. In addition, the Board is adopting a three-tiered system of review for merger applications which makes use of revised antitrust criteria and an automatic-approval procedure for substantially unprotested applications for new branches, change of office location and redesignation of offices ("branch applications").

Under the new application processing system, the majority of merger and branch applications will be deemed to be approved 30 calendar days after the applicant is notified in writing that the application is complete. Those merger and branch applications which do not meet the automatic-approval criteria will require either the specific approval of the Board's Principal Supervisory Agent or will be referred to the Board for its consideration. These procedures are intended to reduce unnecessary delay in application processing and corporate reorganizations which require agency approval.

EFFECTIVE DATE: December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Gayle L. Radley (202–377–6961), Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: All mergers involving federal savings and loan associations or institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("Corporation" or "FSLIC") are subject to Board approval. Sections 543.2, 546.2, 545.14 (d) and (e), 545.15, and 552.13 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 543.2, 546.2, 545.14 (d) and (e), 545.15 and 552.13) prescribe the rules for applications and mergers of federal savings and loan associations. Section 563.22 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.22) prescribes similar rules applicable to mergers of institutions the accounts of which are insured by the FSLIC.

Background

In specified circumstances, Board approval of mergers may be given by the Board's Principal Supervisory Agency (*i.e.*, the president of the Federal Home Loan Bank of which the resulting association in the proposed merger is a member) pursuant to delegated authority. The current delegation regulations result primarily from Board Resolution No. 80–446 (July 24, 1980; 45 FR 50553 (1980)).

During the past two years, the board significantly increased the Principal Supervisory Agent's delegation of merger approval authority. *See* Board Resolutions Nos. 81–18 (January 30, 1981; 46 FR 9917 (1981)), 81–90 (March 3, 1981; 46 FR 14727 (1981)), 81–403 (July 22, 1981; 46 FR 37628 (1981)), 82–103 (February 18, 1982; 47 FR 8152 (1982)); 82–270 (April 15, 1982; 47 FR 17801 (1982)), 82–408 (June 25, 1982; 47 FR 26807 (1982)).

In Board Resolution No.82–270–A (April 15, 1982; 47 FR 17999), the Board proposed for public comment regulations regarding processing of applications, which were intended to streamline the review of all applications subject to public notice and protest procedures, including merger applications. Those regulations were re-proposed for public comment in Board Resolution No. 82–578 (August 26, 1982; 47 FR 39836).

Summary of Comments

The Board received 17 public comment letters in response to its first proposal. These comments were fully discussed in Board Resolution No. 82–578. *See* 47 FR 39836. The Board received 10 public comment letters in response to Board resolution No. 82–578 (the "proposal"). Four of the letters

commended the Board on its proposal. Three suggusted expanding the relevant product market to include money market mutual funds; this recommendation is addressed below. Two of the commenters addressed the issue of making branch applications subject to the 30-day automatic-approval process. Another comenter requested that the new branch application processing system apply in states in which a working agreement is in effect between the state regulator and the Board. In response, the Board wishes to emphasize that these agreements remain fully effective notwithstanding the new application processing system unless and until the state and the Board arrive at a new agreement.

One commenter spoke in favor of streamlining the branch application process and suggested that language be included in the preamble which would discourage protests to proposed branches by competing financial institutions. After submitting this proposal for public comment, however, the Board proposed a new regulation on Branch Office Approvals which would eliminate the current "undue injury" criterion used by competitors as a basis for protesting a proposed branch office. *See* Board Resolution No. 82–669 (September 30, 1982; 47 FR 44333). The Board is, therefore, deferring this isue pending further consideration of the Branch Office Approval proposal.

The final commenter addressed the antitrust issues. The Board's response and analysis is set forth below.

Notice and Protest

To expedite the processing of applications subject to notice and protest procedures, the Board is reducing the time requirements for public notice and protest. These procedures apply to applications for Federal charters, branch offices, mergers, insurance of accounts, and holding company acquisitions. Currently, even an unprotested application may take up to 53 days to process. Under the new application processing system, the maximum processing time for an unprotested application will be 27 days. The following changes will reduce the time frame so that substantially unprotested applications may be approved within 30 calendar days:

(1) Under existing procedures, once the Principal Supervisory Agent advises an applicant to publish the required newspaper notice, the applicant has 15 days to publish. The Board is reducing the time period to 10 days.

(2) Currently, an applicant must publish notice twice on the same day of two consecutive weeks. The Board will now require only one publication. The Board wishes to note that interested persons or organizations may request the Supervisory Agents to send them notice of all applications.

(3) Under the current regulations, the public has 10 days after publication to submit comments. An additional 20-day extension of time may be granted if requested in writing during the 10-day comment period. In addition, protestants have 10 days after the close of the comment period to request oral argument on the merits of an application. The new time limitations will reduce the additional comment time which may be requested to 7 days and will require protestants to make a request for oral argument within the initial 10-day period.

(4) At present, no guidelines exist as to what constitutes a substantial protest. The Board is therefore amending the regulations to clarify that a protest will be considered "substantial" where it is based on one of the regulatory criteria for denying an application. The bases for denying an application are set out in each regulation subject to notice and protest procedures. Only protests consistent with the regulatory denial criteria which are determined by the Supervisory Agent to be substantial will be considered.

(5) Under current procedures, applicants have 15 days after the close of the comment period to rebut a protest. The Board is reducing the rebuttal period to 10 days.

Finally, to provide consistency in the Board's application procedures, the Board is amending section 563b.4 of the Rules and Regulations for Insurance of Accounts (12 CFR 563b.4), pertaining to conversions, to reduce the comment period from 20 days to 10 days.

Antitrust Considerations for Mergers

After reviewing the public comments, the Board has determined to revise further the antitrust cirteria which has been proposed as part of the three-tiered review process for merger applications.

As originally proposed in Board Resolution No. 82–270–A, a merger could not be approved under the three-tiered review process for merger applications if: (1) As a result of the merger, the resulting association would have acquired sufficient deposits to give it the largest share of total deposits in any county or similar political subdivision in which it competed; (2) after the merger, the resulting association would have had greater total deposits than any other depository institution with which it significantly and directly competed; (3) after the merger, the resulting association would have significantly and directly competed with fewer than eight depository institutions and fewer than two of those institutions would have had more total deposits than the resulting association; or (4) both the acquiring association and a merging association would have had assets of $1 billion or greater. The proposal's revised antitrust standards set up a merger table substantially the same as the one adopted today. *See* FR 39836.

Under the revised antitrust standards the Board is adopting today, merger applications will be automatically approved 30 calendar days after the Supervisory Agent notifies the applicant that the application is complete unless:

(1) The resulting association would be one of the 3 largest depository institutions competing in the relevant geographic area where before the merger there were 5 or fewer depository institutions, and the resulting association would have 25 percent or more of the total deposits held by depository institutions in the relevant geographic area, and the share of total deposits would have increased by 5 percent or more;

(2) The resulting association would be one of the 2 largest depository institutions competing in the relevant geographic area where before the merger there were 6 to 11 depository institutions, and the resulting association would have 30 percent or more of the total deposits held by depository institutions in the relevant geographic area, and the share of total deposits would have increased by 10 percent or more;

(3) The resulting association would be one of the 2 largest depository institutions competing in the relevant geographic area where before the merger there were 12 or more depository institutions, and the resulting association would have 35 percent or more of the total deposits held by depository institutions in the relevant geographic area, and the share of total deposits would have increased by 15 percent or more;

(4) The Herfindahl-Hirschman Index (HHI) [1] in the relevant geographic area was more than 1800 before the merger, and the increase in the HHI caused by the merger would be 50 or more;

[1] The Herfindahl-Hirschman Index (HHI) is an index of market concentration, and is the sum of the squares of all market shares of all depository institutions in the relevant geographic area. Thus, if a relevant geographic area has three depository institutions with total deposit shares of 50, 30, and 20 percent, respectively, the HHI is 3800: 50 squared (2500) plus 30 squared (900) plus 20 squared (400).

(5) In a merger involving potential competition, the Principal Supervisory Agent determines that the acquiring association is one of 3 or fewer potential entrants into the relevant geographic area; or

(6) Both the acquiring and an acquired association have assets of $1 billion or more.

The following table summarizes the thresholds of market structure criteria in the relevant geographic area above which Board review of the proposed merger is required.

THRESHOLDS OF MARKET STRUCTURE CRITERIA REQUIRING BOARD REVIEW

Eligible for automatic approval unless [2]—

The deposit rank of the resulting association among depository institutions is—	The number of competitors in the relevant geographic area before the merger is—	The resulting association's share of total deposits in a direct competition merger is—	And the increase in the share of total deposits is—
1 to 3	5 or fewer	25 percent or more	5 percent or more.
1 or 2	6 to 11	30 percent or more	10 percent or more.
1 or 2	12 or more	35 percent or more	15 percent or more.

[2] No merger will be approved automatically where the HHI in the relevant geographic area exceeds 1,800 before the merger, and as a result of the merger the HHI would increase by 50 or more, or where both the acquiring and an acquired association have assets of $1 billion or more.

The Relevant Geographic Area

For the purpose of the antitrust review which the Supervisory Agent will conduct under these application processing regulations, a "relevant geographic area" will be used as a proxy for the "relevant geographic market," (*i.e.*, "section of the country" referred to in Section 7 of the Clayton Act, 15 U.S.C. 18 ("Clayton Act")). Using a market proxy as a means of evaluating the structural consequences of a merger has been sanctioned by the courts for the practical reason that market proxies provide a reasonable framework within which levels of concentration may be measured. *United States* v. *Phillipsburg National Bank*, 399 U.S. 350 (1970). Accordingly, the Board has determined that for the administrative purposes of its analysis under the antitrust laws, the relevant geographic area is that geographic area within which the competitive effects of a merger may be evaluated.

After reviewing the comment letters and for reasons explained below, the Board has determined to refine further the manner in which the relevant geographic area is determined. For the purpose of this antitrust review, a county or similar political subdivision will generally be the smallest relevant geographic area. The Principal Supervisory Agency may, therefore, designate a county as a proxy for the relevant geographic area, and if the merger satisfies the market structure criteria set out above, may permit the merger to be approved automatically. In the delineation of a proxy, counties will usually be aggregated to form a relevant geographic area which will enable the competitive analysis mandated by the Clayton Act. Where circumstances warrant, *i.e.*, in mergers in remote areas of the country, the Principal Supervisory Agency may designate an area smaller than a county as the relevant geographic area. To the extent that a county or smaller area is coextensive with the geographic market, such an area will not be a proxy, but will rather be the actual relevant geographic market.

Where a proposed merger in a single county or smaller area does not meet the market share and concentration criteria, the relevant geographic area will be a combination of counties or political subdivisions in which the Principal Supervisory Agent believes the merging associations compete directly and significantly. To make this threshold determination, the Principal Supervisory Agent will first examine the commuting patterns of the depositors of the merging associations. If, on the basis of the commuting test, the proposed merger satisfies all criteria, there is no need to examine the relevant geographic area further. Under the commuting test, the relevant geographic area will include the county where the acquired association is located, any county from which 20 percent of the work force regularly commutes into the county of the acquired association, and any county to which 20 percent of the work force regularly commutes from the acquired association's county. These calculations may be readily made using the Census Tracts, Table P–2, Social Characteristics of the Population.[3]

If the market share and concentration criteria are not satisfied, the Principal Supervisory Agent may further include in a relevant geographic area additional counties where competition between associations is demonstrated by the advertisements of the merging associations appearing in a major newspaper. Where the volume of sales of a newspaper originating in a county other than the county of the acquired association equals 50 percent of the households of the county of the acquired association, the county from which the newspaper originates will also be included in the relevant geographic area.[4]

Thus, for purposes of this antitrust review, the relevant geographic area may be a county, an area smaller than a county, or an aggregation of counties within which the merging associations compete. Merging associations should, in their merger applications, delineate the area which they consider to be the relevant geographic area, and where necessary provide commuting and advertising data to substantiate such a delineation. The data should be sufficient to indicate that direct and significant competition occurs between depository institutions in the delineated geographic area.

Public Comment Letters on the Proposed Relevant Geographic Area

The Board received comments which pointed out some of the shortcomings of using a county as a proxy for the relevant geographic market. Boundaries of a county may not accurately correspond to the boundaries that separate competing associations, since such boundaries usually reflect historical political considerations, rather than current economic realities. The commenter recommended that in addition to using a county, the Board should adopt another source of predefined geographic areas which has taken into account a variety of factors relevant to a determination of an appropriate relevant geographic market such as the Ranally Metro Areas ("RMAs") contained in the Rand McNally & Company's *Commercial Atlas & Marketing Guides*.

Recognizing the inherent difficulties in selecting a set of factors that may be used to make a qualitative judgment about competition, the Board believes

[3] The data to be used for the commuting test is available only for Standard Statistical Metropolitan Areas ("SMSAs"). Where there is no delineated SMSA, the Supervisory Agent should include all counties from which it appears reasonable that approximately 20 percent of all workers regularly commute into the county of the acquired association. The Supervisory Agent will also include all counties where depositors have access to depository institutions located approximately the same distance from their homes as they have to ones located in the county of the acquired association. In such cases, the Supervisory Agent should also apply the advertising test.

[4] Data on households are readily available from the Census; data on sales are available from newspaper circulation offices.

there is merit in using an alternative market proxy. However, the Board is concerned that RMAs are not constructed to delineate particular geographic markets for depository institutions, and thus, may not be relevant to the geographic markets of depository institutions. The Board, therefore, has decided to adopt the alternative criteria, set out above, which include economic and demographic factors most relevant to depository institutions.

Given the wide dissemination of comprehensive and accurate information regarding the prices and services which depository institutions provide, the low economic barriers to entry, rapid technological change, and the widespread deregulation of financial institutions, the Board believes that commuting and advertising tests utilize the major economic and demographic criteria necessary to determine the geographic area. These two computationally straightforward tests were adopted because the Board believes they will best facilitate the most accurate determination of the size and shape of the area of direct an significant competition.

The Product Market

The Board proposed that the "total deposits" of depository institutions, which include all demand, savings, and time deposit accounts, be used as a reasonable, meaningful proxy for the relevant product market. Since deposits are considered to be a reasonable, meaningful proxy for a product market when analyzing the competitive effects of a merger between commercial banks, *U.S. v. Phillipsburg Nat. Bank*, 399 U.S. 350 (1970), the Board considers deposits to be an equally good proxy to use in evaluating a merger of savings and loan associations. While there have been some commercial bank products and services that savings and loan associations have not, in the past, been able to offer, there are virtually no products or services that a savings and loan association can offer that a commercial bank cannot. For this reason and for others set forth below, the Board firmly believes savings and loan associations and commercial banks to be direct competitors and that no fair competitive analysis could be complete without taking into account that competition.

On October 15, 1982, President Reagan signed into law the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469 (1982) (the Garn-St Germain Act), an enactment of great significance to the savings and loan industry. This Act authorizes federal savings and loan associations to offer an expanded range of commercial bank lending and related investment activities, including corporate checking. In *U.S. v. Philadelphia Nat. Bank*, 374 U.S. 321 (1963), the Court defined "commercial banking" as a distinct line of commerce. At that time, the Court noted that some "[c]ommercial banking products or services are so distinctive that they are entirely free of effective competition from products or services of other financial institutions. The checking account is in this category." *Id.*, at 356. Section 312 of the Garn-St Germain Act now authorizes federal associations to offer such commercial banking products as individual, business, and corporate demand deposit accounts. Section 325 gives federal savings and loan associations the power to make commercial, corporate, business or agricultural loans. Thus, with federal associations' new power to offer corporate checking and expanded commercial loan authority, the distinction between the line of commerce of commercial banking and the product market of federal savings and loan associations evaporates.

The Board is aware that the use of any proxy in defining a relevant product market for depository institutions is not the best means, nor the most inclusive way, to measure market power. For example, although they are clearly in direct competition with most traditional depository institutions, the Board has not included money market mutual funds in its definition of depository institution nor in the calculation of deposit market shares and concentration levels set out in the merger table above. The Board's reasons were set forth in the proposal and will not be repeated here. The Board's definition of depository institution is administratively limited to depository institutions which have both the capability of taking deposits and making loans. This self-imposed and narrowed definition is adopted even though Congress, in recognition of the competitive realities of the market place, included a provision in the Garn-St Germain Act which directed the Depository Institutions Deregulation Committee to adopt a new deposit instrument which would enable banks and savings and loan associations to better compete with money market mutual funds.[5] The Board's approach is, thus, substantially more restrictive than necessary and deliberately excludes some direct and significant competitors.[6] The Board, however, wishes to ensure that a merger, otherwise approvable under delegated authority, will not have a significant adverse effect on competition. The Board's use of total deposits as a proxy for product market is also administratively reasonable when viewed in the context of the qualitative, but unquantifiable, elements of competition, the financial state of the industry, the fragmented nature of the financial institutions industry, the large number of mergers processed by the Board, the absence of any prior cases involving alleged Clayton Act ramifications arising from savings and loan association mergers, and the need for administrative processes which reflect practical cost-benefit analyses.

The Board realizes that qualitative factors which affect competition are as important as, and possibly more important than, the quantitative measurements of market structure. In the market in which depository institutions compete, competition revolves around how well and in what manner an institution can offer, package, and service its product, and how conveniently this all can be done. Such qualitative factors includes, but are not limited to, conduct and performance indicia of actual competition in the relevant geographic market, *i.e.*, the types of products and services offered, the manner in which they are offered and the price at which they are available to the customer. *See United States v. First National State Bancorporation*, 499 F. Supp. 793, 804–05 (D.N.J. 1980). Moreover, electronic and technological developments, interstate expansion of depository institutions, significantly broadened statutory and regulatory authority of depository institutions, and the encroachment by nondepository institutions into the domain previously reserved to traditional financial institutions have the combined effect of enlarging the market for financial services and have made it imperative that new and realistic means of evaluating competition be developed. The Board is not, however, delegating the authority to conduct such an analytical review to the Principal Supervisory Agents. Although restricting their review to purely

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[5] The Garn-St Germain Act further bolsters the Board's contention that banks and other financial institutions directly compete with federal savings and loan associations: "[C]ompetition for deposits has become increasingly fierce and expensive, due in large part to the rapid and enormous expansion of money market mutual funds." S. Rep. No. 536, 97th Cong., 2d Sess. 13 (1982).

[6] The definition of "depository institution" excludes not only money market mutual funds but also mortgage banks, commercial finance companies and other lenders which compete for loans but which do not take deposits.

structural considerations will likely result in the Board's review of mergers which pose no threat to competition, the Board considers this prudent in order to avoid approval of mergers which may have adverse competitive effects.

Public Comment Letters on the Proposed Product Market

The definition of the product market and the allocation of market shares in the proposal elicited concern that the proposed market share threshold was too high and could allow the automatic approval of anticompetitive mergers. The Board was urged to lower the market share criteria and to incorporate the HHI as a standard with which to measure market concentration.

The Board agrees in part, and is, therefore, adopting the use of the HHI. The United States Department of Justice (Department) has indicated that it is more likely than not to challenge a merger where the HHI is more than 1800 before the merger and as a result of the merger will rise between 50 and 100 points. The Board has determined to review any merger where the HHI, including all depository institutions, is 1800 before the merger and as a result of the merger will rise by 50 points or more. The Board has adopted this threshold primarily because the relevant product market excludes bona fide competitors whose market shares cannot be accurately calculated, *i.e.*, money market mutual funds, mortgage banks, commercial finance companies, and lenders that compete for loans but do not take deposits, and because the relevant geographic area will generally be smaller than the actual geographic market.

Another commenter maintained that the use of total deposits as a proxy for the relevant product market does not accurately reflect the relative market positions of commercial banks and savings and loan associations because savings and loan associations are not able to offer as broad a range of financial services as commercial banks. As was stated above, however, because savings and loan associations may now offer the same range of depository services as commercial banks, and because of the increased liability powers given to savings and loan associations by the Garn-St Germain Act, this comment is no longer relevant.[7]

[7] Commercial banks and savings and loan associations compete to provide a distinct cluster of products and services: *i.e.*, various type of credit such as unsecured personal and business loans, mortgage loans, secured loans, automobile and consumer goods installment loans, tuition financing, credit cards and overdraft protection, trust services, and accepting demand deposits from individuals and corporate customers. The advantage which commercial banks enjoyed previously by virture of their ability to obtain the bulk of their working capital from demand deposit accounts without the need to pay interest has been eroded by the enactment of the Garn-St Germain Act.

The definition of the relevant product market must, therefore, fairly and realistically include the accounts of commercial banks with which savings and loan associations compete.

The proposal defined the "largest depository institution" as an institution, including its affiliates and subsidiaries, that has the greatest amount of total deposits, whether those deposits are derived from offices within the relevant geographic area or not. In order to determine rank for purposes of the Board's table set out above, the definition of the "largest depository institution" has been modified in this final regulation to include only the deposits of an institution, its holding company and affiliates, and subsidiaries, located in the relevant geographic area.

Potential Competition

The market structure criteria set out in the proposal distinguished between mergers between associations which directly and significantly compete and mergers involving potential competition. According to the theory of potential competition, the existence of a potential entrant can have a favorable effect on competition. Thus, the merger of a potential entrant with an existing competitor in the market could arguably eliminate the restraining influence of potential competition.

Whether the theory of potential competition can be practically applied to mergers of depository institutions has not yet been shown. In the last 19 years, numerous potential-competition cases have been brought to enjoin bank mergers.[8] In each of those cases, however, the courts found that antitrust violations based on the theory of potential competition had not been proven.

[8] *United States v. Crocker-Anglo National Bank*, 277 F. Supp. 133 (N.D. Cal. 1967); *United States v. Marine Bancorporation, Inc.*, 418 U.S. 602 (1974); *United States v. Connecticut Nat'l Bank*, 418 U.S. 656 (1974); *United States v. Deposit Guarantee Nat'l Bank of Jackson*, 373 F. Supp. 1230 (S.D. Miss. 1974); *United States v. United Virginia Bankshares, Inc.*, 347 F. Supp. 891 (E.D. Va. 1972); *United States v. First Nat'l Bancorporation, Inc.*, 329 F. Supp. 1003 (D. Colo. 1971), *aff'd per curiam*, 410 U.S. 577 (1973); *United States v. Idaho First Nat'l Bank*, 315 F. Supp. 261 (D. Idaho 1970); *United States v. First Nat'l Bank of Maryland*, 310 F. Supp. 157 (D. Md. 1970); *United States v. First Nat'l Band of Jackson*, 301 F. Supp. 1161 (S.D. Miss. 1969); *United States v. First National State Bancorporation*, 499 F. Supp. 793 (D.N.J. 1980); *United States v. Zions Utah Bancorporation*, Civ. No. C-79-0769A (D. Utah, filed August 21, 1980).

In rendering such decisions, the courts were unwilling to rely on static, quantitative representations of market structure and speculative estimates of future entry into the market in deciding whether potential competition had been adversely and substantially affected, given the regulated nature of banking and demonstrated evidence of market competition.

On the assumption that the theory of potential competition does apply to mergers of depository institutions,[9] the Board is adopting a limited but legally sufficient potential competition analysis. If the Principal Supervisory Agent concludes that the association is one of only 3 or fewer potential entrants into the relevant geographic area, the merger application must be referred to Washington for Board review.

Public Comment Letters on the Theory of Potential Competition

One commenter asserted that the market share criteria for potential competition mergers had been set too high. The commenter also noted that the proposed guidelines burdened the Principal Supervisory Agents with difficult factual determinations and recommended that the only criterion which should be examined is the existence of a few potential competitors, one of which is the acquiring association. The Board agrees and has amended the regulation accordingly to eliminate the market share criteria for potential competition and to substitute the limited test set out above.

Other comments

It was suggested that the Board adopt specific standards in connection with the Principal Supervisory Agent's approval of a merger of a "failing association." That commenter suggested that the Principal Supervisory Agent make an affirmative effort to ascertain whether there are other merger partners with which a merger would be less anticompetitive, and then weigh competitive considerations in deciding between alternative merger proposals.

The Board takes this opportunity to direct the Principal Supervisory Agents, in considering whether to approve the merger of a "failing association" which might be otherwise anticompetitive, to make reasonable efforts to ascertain whether other merger partners are available with which a merger would be less anticompetitive.

If another merger partner is available and willing to acquire the failing

[9] *United States v. Marine Bancorporation, Inc.*, 418 U.S. 602 (1974).

association on an unassisted basis, the Principal Supervisory Agent is directed to consider that proposed merger as an alternative.

Finally, it was recommended that the Board issue a statement about the interrelationship between the Board's proposed 30-day automatic approval period and the 30-day statutory period required for certain savings and loan association merger applications under the Hart-Scott-Rodino Antitrust Improvement Act of 1976 (15 U.S.C. 18a(c)(8) (1976)). The Board agrees and takes this opportunity to state that one of the prerequisites for a merger application being deemed complete is the proper filing with the Department and the Federal Trade Commission of a Hart-Scott-Rodino pre-merger notification when required.

Three-Tiered Processing

Under this new application processing system, merger applications will be channeled through a three-tiered review process. The majority of merger applications will be deemed to be approved automatically by the Board 30 calendar days after the Supervisory Agent sends written notice to the applicant that the application is complete, unless the Supervisory Agent notifies the applicant that a substantial, timely protest to the application has been failed, or that for any other reason the application must receive specific approval.

At the first tier of the review process, merger applications will be deemed to be approved automatically by the Board 30 calendar days after the Supervisory Agent sends written notice to the applicant that the application is complete, unless:

(1) The resulting association requests that supervisory forbearances be granted;

(2) The Principal Supervisory Agent recommends imposing nonstandard conditions prior to approving the merger;

(3) The application has been substantially protested;

(4) The Principal Supervisory Agent raises objections to the merger;

(5) The Board's antitrust criteria are not met;

(6) The association that will be the resulting association in the merger has a composite Community Reinvestment Act rating of less than satisfactory, or is otherwise seriously deficient with respect to the Board's nondiscrimination regulations and the deficiencies have not been resolved to the satisfaction of the Principal Supervisory Agent;

(7) The resulting association's net worth would not at least equal the amount required for that association under 12 CFR 563.12(b). Where goodwill has been included in the resulting association's assets, the applicant must submit an opinion of a certified public accountant, satisfactory to the Principal Supervisory Agent, that its use and value are appropriate under, and accounted for by, generally accepted accounting principles. For purposes of this paragraph, in calculating whether the net worth of the resulting association will at least equal the amount required under § 563.13(b), the Principal Supervisory Agent may exclude scheduled items which will be acquired in the merger and the amount of either: (i) The net-worth deficiency or (ii) the liabilities, including averaged liabilities, of the acquired association at the date of merger;

(8) The merger involves any agreement with the Corporation;

(9) The merger would result in the conversion of a mutual association to a stock association;

(10) The Principal Supervisory Agent determines that the financial condition of the resulting association would not satisfy minimum financial standards as determined from time to time by the Board's Office of Examinations and Supervision;

(11) The merger of an association which has a class of voting securities registered with the Board under the Securities Exchange Act of 1934 (15 U.S.C. 78a–78jj);

(12) The merger application involves unusual circumstances or policy questions.

Examples of the types of mergers which should be referred to the Board under this paragraph include, but are not limited to, situations involving an interstate merger of a federal association, the interstate acquisition of the branches of an association, the merger of an interim association, the merger of an association with an entity which is not a thrift institution, or any merger which the Principal Supervisory Agent believes raises unusual policy issues. Where there is an interstate merger or interstate acquisition of branches, an application presents an unusual circumstance only if, as a result of such a merger or acquisition, an association would establish its initial presence in the affected jurisdiction.

At the second tier of the review process, the Principal Supervisory Agent may specifically approve mergers not eligible for 30-day automatic approval under delegated authority, if the reason for ineligibility is the necessity for agreeing to supervisory forbearances or the imposition of nonstandard conditions. The Principal Supervisory Agent may also take affirmative action within the 30-day automatic approval period to approve any application which would qualify for automatic approval.

In addition, the Principal Supervisory Agent may specifically approve those mergers described in paragraph (5) if the Principal Supervisory Agent first makes a determination that but for the merger, one party to the merger would not satisfy minimum financial standards as determined from time to time by the Board's Office of Examinations and Supervision (*i.e.*, it is a failing association).

At the final tier of the review process, all mergers which are not eligible for 30-day automatic approval or which may not be specifically approved by the Principal Supervisory Agent under delegated authority must be referred to Washington for Board approval.

The Board wishes to emphasize at this time that, in reviewing a proposed merger to determine whether it may be either automatically or specifically approved, the Principal Supervisory Agent must determine that any unacceptable policies or procedures of the merging associations with respect to satisfactory compliance with the Community Reinvestment Act will not be continued by the resulting association.

Automatic Approval of Applications for New Branches, Change of Office Location and Redesignation of Offices

The Board is adopting processing amendments to 12 CFR 545.14 and 545.15 similar to the merger processing amendments to provide that applications for new branches, change of office location, and redesignation of offices without substantial protest will be deemed to be approved automatically 30 days after the Supervisory Agent sends notice to the applicant that the application is complete, unless the Principal Supervisory Agent takes objection during the 30-day period.

Clarifying Amendments

The Board proposed amending 12 CFR 552.13 in Board Resolution No. 82–578 to clarify that the Board delegated to the Principal Supervisory Agent limited authority to approve merger applications involving Charter S associations consistent with delegated authority to approve mergers pursuant to 12 CFR 546.2 and 563.22. The Board is adopting this amendment as proposed and ratifies all mergers involving Charter S associations which might have been previously approved under

delegated authority. *See* Board Resolution No. 82–270 (April 15, 1982; 47 FR 17801) and 82–578 (August 26, 1982; 47 FR 39836).

Regulatory Flexibility Act Certification

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Chairman certifies that the amendments will not have a significant impact on a substantial number of small entities. The regulations provide for application processing in the least burdensome and most efficient manner and generally give subject institutions greater flexibility in corporate reorganization. The Board believes that the amendments will benefit small institutions by reducing paperwork and delay but will not have a significant economic impact on institutions.

Because it is in the public interest to reduce unnecessary delay in application processing and to allow managerial decisions to be planned on a calendar-year basis, the Board has determined that the full 30-day delay of effective date following publication of the regulations pursuant to 12 CFR 508.11 and 15 U.S.C. § 553(d) is unnecessary. The amendments will therefore take effect on December 31, 1982, and will apply to all applications filed and deemed complete on or after that date.

List of Subjects in 12 CFR Parts 543, 545, 546, 552, and 563

Mergers, savings and loan associations, applications.

Note.—This Resolution No. 82–785 (FR Doc. 82–35586) corrects certain minor errors in the preceding Resolution No. 82–788 (FR Doc. 82–35585). The Federal Home Loan Bank Board requests the Office of the Federal Register to treat this document, Resolution No. 82–785, as controlling for purposes of the 1983 Code of Federal Regulations.

Accordingly, the Board hereby amends Parts 543, 545, 546, and 552 of Subchapter C and Part 563 of Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION

1. Amend § 543.2 by revising the last sentence of paragraph (b) and revising paragraphs (d)(1), the introductory text of paragraph (e) and paragraphs (e)(1), (2) and (3), and (f), as follows:

§ 543.2 Application for permission to organize.

* * * * *

(b) *Form; supporting information.* * * * An application shall be deemed filed when four copies are delivered to the Supervisory Agent; the Supervisory Agent shall notify the applicant in writing that the application is complete and direct the applicant to publish notice pursuant to paragraph (d) of this section when the Supervisory Agent determines that all information required under this paragraph has been submitted.

* * * * *

(d) *Public notice and inspection.* (1) The applicant shall publish notice within 10 days after being notified by the Supervisory Agent that the application is complete. Notice shall be published in a newspaper printed in the English language and having a general circulation in the community in which the home office of the new association is to be located. If the Supervisory Agent determines that the primary language of a significant number of adult residents of the community is a language other than English, the Supervisory Agent may require that notice also be given simultaneously in the appropriate language(s).

* * * * * *

(e) *Protest.* Communications and answers to protests shall be submitted only as provided in this paragraph or as requested by the Supervisory Agent or the Board.

(1) Within 10 days of the date of publication of notice of application (or 17 days after such date if an extension is requested in writing within the 10-day period), anyone may file a communication in favor or protest of the application by furnishing four copies to the Supervisory Agent. If the applicant or any person who has filed a substantial protest pursuant to this paragraph wishes to have oral argument heard on the merits of an application, a request for oral argument must me made within this period.

(2) Within 10 days after the filing of a protest, the Principal Supervisory Agent shall advise the protestant and the applicant, in writing, whether the protest is considered "substantial." A protest will be considered substantial only in those instances where the reason for the protest is consistent with one of the regulatory bases set forth in each regulation for denying the application (excluding supervisory considerations).

(3) The applicant may file an answer to any protest until 10 days after the last date for filing of communications by furnishing four copies to the Supervisory Agent.

* * * * *

(f) *Oral argument.* (1) *General.* Oral argument on the merits of an application shall be heard if (i) the applicant or anyone who has filed a substantial protest has seasonably requested it pursuant to paragraph (e) of this section; or (ii) the Supervisory Agent, after reviewing the application and other pertinent information, considers oral argument desirable. The Supervisory Agent shall mail notice of the time (which shall be not less than 10 days after such mailing) and place of oral argument to the applicant and to all persons who filed communications. In the case of protests pertaining to Part 563e of this Chapter, the Supervisory Agent shall ensure that the time and place of any oral argument is reasonably convenient to the protestants.

(2) *Procedure.* The Supervisory Agent, or any other person designated by the Board, may hear and determine all matters relating to the conduct of oral argument. Arguments may be made in person or by authorized representatives and unless otherwise permitted by the Supervisory Agent shall be based only on written information previously filed regarding the application. A reasonable time of at least one hour shall be allowed to each side for oral argument. A transcript of the oral argument shall be made and included in the application file.

* * * * *

PART 545—OPERATIONS

2. Revise § 545.14 by revising paragraph (d), removing paragraphs (e), (f), and (g) and redesignating paragraphs (h), (i), (j), (k), (l), and (m) as new (e), (f), (g), (h), (i), and (j), respectively, and revising new paragraph (e)(2), as follows:

§ 545.14 Branch offices.

* * * * *

(d) *Processing of application.* Processing of an application under this Part shall follow the procedures set forth in § 543.2 (d), (e), and (f) of this Subchapter except that the applicant shall publish the required newspaper notice of application in the applicant's home office community and in the community to be served by the proposed branch office.

(e) *Approval by the Board or the Principal Supervisory Agent.* * * *

* * * * *

(2) The Principal Supervisory Agent may approve, on behalf of the Board, an application for permission to establish a branch office if no substantial protest based on undue injury or Part 563e of this Chapter has been filed. Such

application shall be deemed to be approved by the Board 30 days after notification that the application is complete, unless the applicant is otherwise notified by the Principal Supervisory Agent that objection has been taken on grounds set forth in subparagraph (1) of this paragraph (e).

(f) *Approval of temporary or permanent location.* * * *

(g) *Offices not requiring prior written approval.* * * *

(h) *Application for and maintenance of branch office after conversion, consolidation, purchase of bulk assets, or merger.* * * *

(i) *Exclusive agreements prohibited.* * * *

(j) *Effective date; effect on existing applications.* * * *

3. Revise paragraph (b) and remove paragraph (c) of § 545.15, as follows:

§ 545.15 Change of office location and redesignation of offices.

* * * * *

(b) *Processing of application.* Processing and approval of an application for a change of office location or redesignation of a home or branch office shall follow the procedures set forth in § 545.14 (c), (d), (e), and (f) of this Part except that the applicant shall publish the required newspaper notice of application in (1) the applicant's home office community, (2) the community to be served by the new office, (3) the community where the office is to be closed or the home office is to be redesignated as a branch, and the applicant shall post notice of the application for 17 days from the date of publication in a prominent location in the office to be closed or redesignated.

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

4. Amend § 546.2 by revising paragraphs (d) and (h) and by adding paragraph (i), as follows:

§ 546.2 Procedure; effective date.

* * * * *

(d)(1) Processing of an application under this section shall follow the procedures set forth in § 543.2 of this Subchapter, except that: (i) The required newspaper publication of notice of application shall be made in the communities in which the home offices of the merging and resulting associations are located; (ii) applicants may also mail such notice to the voting members of each association within the time specified in § 543.2(d); and (iii) five copies of the application shall be filed.

(2) This paragraph (d) shall not apply to any merger authorized by the Board to be instituted for supervisory reasons.

(3) This paragraph (d) does not apply to mergers involving an interim Federal association or an interim state institution if the resulting institution is immediately acquired under § 584.4 of this Chapter.

(4) In approving a merger under paragraph (h) and (i) of this section, the Principal Supervisory Agent may approve maintenance of an office of the merging association as a facility of the resulting association.

* * * * *

(h)(1) Merger applications filed in accordance with the procedures set out in § 543.2 of this Subchapter shall be deemed to be approved automatically by the Board 30 calendar days after the Principal Supervisory Agent sends written notice to the applicant that the application is complete, unless:

(i) The resulting association requests the granting of supervisory forbearances pursuant to paragraph (i)(3) of this section;

(ii) The Principal Supervisory Agent recommends the imposition of nonstandard conditions prior to approving the merger;

(iii) The application has been substantially protested;

(iv) The Principal Supervisory Agent raises objections to the merger;

(v) The resulting association would be one of the 3 largest depository institutions competing in the relevant geographic area where before the merger there were 5 or fewer depository institutions, the resulting association would have 25 percent or more of the total deposits held by depository institutions in the relevant geographic area, and the share of total deposits would have increased by 5 percent or more;

(vi) The resulting association would be one of the 2 largest depository institutions competing in the relevant geographic area where before the merger there were 6 to 11 depository institutions, the resulting association would have 30 percent or more of the total deposits held by depository institutions in the relevant geographic area, and the share of total deposits would have increased by 10 percent or more;

(vii) The resulting association would be one of the 2 largest depository institutions competing in the relevant geographic area where before the merger there were 12 or more depository institutions, the resulting association would have 35 percent or more of the total deposits held by depository institutions in the relevant geographic area, and the share of total deposits would have increased by 15 percent or more;

(viii) The Herfindahl-Hirschman Index (HHI) in the relevant geographic area was more than 1800 before the merger, and the increase in the HHI caused by the merger would be 50 or more;

(ix) In a merger involving potential competition, the Principal Supervisory Agent determines that the acquiring association is one of 3 or fewer potential entrants into the relevant geographic area;

(x) Both the acquiring and an acquired association have assets of $1 billion or more;

(xi) The association that will be the resulting association (other than an association that is neither insured by Federal Savings and Loan Insurance Corporation nor chartered by the Board) in the merger has a composite Community Reinvestment Act rating of less than satisfactory, or is otherwise seriously deficient with respect to the Board's nondiscrimination regulations and the deficiencies have not been resolved to the satisfaction of the Principal Supervisory Agent;

(xii) The resulting association's (other than an association that is neither insured by the Federal Savings and Loan Insurance Corporation nor chartered by the Board) net worth would not at least equal the amount required for that association under § 563.13(b) of this Chapter. Where goodwill has been included in the resulting association's assets, the applicant must submit an opinion of a certified public accountant, satisfactory to the Principal Supervisory Agent, that its use and value are appropriate under, and accounted for, by generally accepted accounting principles. For purposes of this subparagraph (xii), in calculating whether the net worth of the resulting association will at least equal the amount required under § 563.13(b), the Principal Supervisory Agent may exclude scheduled items which will be acquired in the merger and the amount of either: (A) the net-worth deficiency or (B) the liabilities, including averaged liabilities, of the acquired association at the date of merger;

(xiii) The merger involves any agreement with the Federal Savings and Loan Insurance Corporation;

(xiv) The merger would result in the conversion of a mutual association to a stock association;

(xv) The Principal Supervisory Agent determines that the financial condition of the resulting association would not satisfy minimum financial standards as

determined from time to time by the Board's Office of Examinations and Supervision;

(xvi) The merger includes an association which has a class of voting securities registered with the Board under the Securities Exchange Act of 1934 (15 U.S.C. 78a-78jj); or

(xvii) The merger application involves unusual circumstances or policy questions.

(2) With regard to subparagraphs (1)(v) through (x) of this paragraph (h), the following provisions apply.

(i) "Depository institution" includes savings and loan associations, building and loan associations, homestead associations, cooperative banks, savings banks, commercial banks, and credit unions. The "largest depository institutions" are those whose percentage of total deposits in the relevant geographic area ranks one, two, or three. "Total deposits" includes all demand, savings, and time deposit accounts.

(ii) A "relevant geographic area" is used as a proxy for the "relevant geographic market," the area within which the competitive effects of a merger may be evaluated. The relevant geographic area shall be delineated as follows:

(*a*) A county or similar political subdivision, an area smaller than a county, or an aggregation of counties within which the merging associations compete (the "home county").

(*b*) *The commuting test.* If, when using the area delineated in preceding subparagraph (*a*), the merger does not meet the market share and concentration criteria set forth in subparagraphs (1)(v) through (x) of this paragraph (h), the relevant geographic area shall be expanded to include an analysis of surrounding areas where the workforce comes in and goes out of the home county on a regular basis.

(*1*) In a Standard Metropolitan Statistical Area ("SMSA"), the relevant geographic area will include any county to which 20 percent of the home county's workforce commutes and any county from which 20 percent of the workforce commutes to the home county. [These calculations may be obtained from the Census, Table P–2, Social Characteristics of the Population.]

(*2*) In a non-SMSA, the relevant geographic area will include any county to which 20 percent of the home county's workforce commutes and any other county in which depositors have access to depository institutions that are located approximately the same distance from their homes as are the depository institutions in the home county. [Data on households are available from the Census.]

(*c*) *The advertising test.* If, when using the area delineated in preceding paragraphs (h)(2)(ii) (*a*) and (*b*), the merger does not meet the market share and concentration criteria set forth in subparagraphs (1)(v) through (x) of this paragraph (h), the relevant geographic area shall be further expanded to include counties where competition between institutions is demonstrated by newspaper advertising. Where the volume of sales of a newspaper originating in a county other than the county of the institution to be acquired equals 50 percent of the households of the county of the association to be acquired, the county from which the newspaper originates will be included in the analysis if the association to be acquired advertises regularly in that newspaper. [Data on households are available from the Census; data on sales are available from newspaper circulation offices.]

(i) Board approval of mergers that may not occur automatically under paragraph (h) of this section, including those which entail modifications of the plan of merger, consolidation, or purchase of assets, may be given by the Board's Principal Supervisory Agent in those cases where paragraph (h) does not apply because:

(1) The Principal Supervisory Agent has recommended the imposition of nonstandard conditions prior to approving the merger;

(2) The Principal Supervisory Agent, notwithstanding the applicability of paragraphs (h)(1)(v) through (x) of this section, has determined that but for the merger, the merging association would not satisfy minimum financial standards as determined from time to time by the Board's Office of Examinations and Supervision (*i.e.*, it is a failing association); or

(3) The Principal Supervisory Agent has granted any of the following forbearances with respect to supervisory action:

(i) For purposes of the resulting association's satisfaction of the net-worth calculation of § 563.13(b), the Principal Supervisory Agent may exclude, for up to a five-year period, operating losses on acquired assets, capital losses sustained by the resulting association upon disposition of acquired assets, acquired scheduled items, and the amount of either (*a*) the net-worth deficiency at the date of merger, or (*b*) liabilities, including averaged liabilities, of the acquired association;

(ii) For purposes of calculating the liquidity requirements of §§ 523.11(a) and 523.12 of this Chapter, the Principal Supervisory Agent may exclude, for up to one year, any liquidity deficiency which the acquired association has and, also for one year, any aggregate net withdrawals from the acquired association;

(iii) For purposes of calculating the resulting association's investments under § 545.10(a) of this Subchapter, the Principal Supervisory Agent may exclude the building investments of the acquired association;

(iv) For the purpose of calculating any holding company net-worth maintenance requirement, the Principal Supervisory Agent may exclude, for up to a five-year period, the assets and liabilities balances of the acquired association; and

(v) For purposes of calculating the eligibility of the resulting association under §§ 545.9(h)(1), 545.9–1(d) (2) and (4), and 563.8(e)(1) of this Chapter, the Principal Supervisory Agent may, for a five-year period, compute net worth in accordance with subparagraph (3)(i) of this paragraph (i) and may, for a five-year period, exclude from scheduled items those scheduled items acquired in the merger;

For purposes of this paragraph (i)(3), the Principal Supervisory Agent may agree to forbear from taking supervisory action if the acquiring association can demonstrate, by projections or otherwise, that its net worth will be adversely affected by the merger within a five-year period. The Principal Supervisory Agent may approve, with the concurrence of the Director of the Board's Office of Examinations and Supervision, the renewal of any supervisory forbearances, for up to five additional years, where the association can demonstrate the need for extended supervisory forbearances, a record of substantial corrective action and the extent of noncompliance caused by the acquisition of the acquired association. The Principal Supervisory Agent may approve an application for insurance of accounts and Bank membership filed by an uninsured association merging into a Federal association. The authority to approve mergers under this paragraph (i) is discretionary with the Principal Supervisory Agent. It is expected that when a merger subject to these delegations raises significant issues of law or policy for which the Board has not established a formal position, the Principal Supervisory Agent will refer that merger application to the Board for its consideration.

PART 552—STOCK ASSOCIATIONS

5. Amend § 552.13 by deleting paragraphs (h) (1) and (2) and redesignating paragraphs (e), (f), (g), and (h), (3), (4), (5), and (6), (i), (j), (k), (l), and (m) as new paragraphs (f), (g), (h), and (i) (1), (2), (3), and (4), (j), (k), (l), (m), and (n), respectively, revise new paragraphs (i) (1) and (3) and add a new paragraph (e), as follows:

§ 552.13 Combinations involving Charter S associations.

* * * * *

e. *Approval by the Board's Principal Supervisory Agent.* The specific approval of the Board (including recommending modifications of the plan of merger, consolidation, or purchase of bulk assets) required by paragraph (d) of this section may be given by the Board's Principal Supervisory Agent in accordance with the conditions set forth in § 546.2(i) of this Subchapter.

(f) *Approval of board of directors.* * * *

(g) *Combination agreement.* * * *

(h) *Application for Board approval.* * * *

(i) *Notice.*

(1) *Notice to stockholders.* In addition to publication, Charter S associations shall mail notice of the filing of applications to stockholders within 10 days of filing. The contents of the notice shall include the information prescribed by § 543.2 of this Subchapter.

(2) *Republication.* * * *

(3) *Procedure; processing of application.* Processing of an application under this section shall follow the procedures set forth in § 543.2.

(4) *Supervisory exception.* * * *

(j) *Approval by stockholders.* * * *

(k) *Disclosure.* * * *

(l) *Articles of combination.* * * *

(m) *Effective date.* * * *

(n) *Mergers and consolidations: transfer of assets and liabilities to resulting association.* * * *

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

6. Revise §563.22, as follows:

§ 563.22 Merger, consolidation, or purchase of bulk assets.

(a) No insured institution (which, for the purposes of this section, shall not include a Federal institution the deposits of which are insured by the Federal Deposit Insurance Corporation) may at any time increase its accounts of an insurable type as a part of any merger or consolidation with another institution or through the purchase of bulk assets without application to and approval by the Corporation. Application for such approval shall be upon forms prescribed by the Corporation and such other information shall be furnished as the Corporation may require. An applicant shall also comply with section 7A of the Clayton Act (15 U.S.C. §18A) and regulations issued thereunder (16 CFR Parts 801, 802, and 803).

(b) Processing of an application under this section shall follow the procedures set forth in §543.2 of this Chapter, except that (1) the required newspaper publication of notice of application shall be made in the communities in which the home offices of the merging and resulting institutions are located; and (2) applicants may additionally mail such notice of the voting members of each institution within the time specified in §543.2(d).

(c) Paragraph (b) of this section does not apply to any merger, consolidation, or purchase of bulk assets (1) authorized by the Corporation to be instituted for supervisory reasons, or (2) involving an interim Federal association or an interim state institution if the resulting institution is immediately acquired in accordance with the procedures set forth in §584.4 of this Chapter.

(d)(1) Merger applications filed in accordance with the procedures set out in §543.2 shall be deemed to be approved automatically by the Corporation 30 calendar days after the Principal Supervisory Agent sends written notice to the applicant that the application is complete, unless:

(i) The resulting institution requests the granting of supervisory forbearances pursuant to paragraph (e)(3) of this section;

(ii) The Principal Supervisory Agent recommends the imposition of nonstandard conditions prior to approving the merger;

(iii) The application has been substantially protested;

(iv) The Principal Supervisory Agent raises objections to the merger;

(v) The resulting institution would be one of the 3 largest depository institutions competing in the relevant geographic area where before the merger there were 5 or fewer depository institutions, the resulting institution would have 25 percent or more of the total deposits held by depository institutions in the relevant geographic area, and the share of total deposits would have increased by 5 percent or more;

(vi) The resulting institution would be one of the 2 largest depository institutions competing in the relevant geographic area where before the merger there were 6 to 11 depository institutions, the resulting institution would have 30 percent or more of the total deposits held by depository institutions in the relevant geographic area, and the share of total deposits would have increased by 10 percent or more;

(vii) The resulting institution would be one of the 2 largest depository institutions competing in the relevant geographic area where before the merger there were 12 or more depository institutions, the resulting institution would have 35 percent or more of the total deposits held by depository institutions in the relevant geographic area, and the share of total deposits would have increased by 15 percent or more;

(viii) The Herfindahl-Hirschman Index (HHI) in the relevant geographic area was more than 1800 before the merger, and the increase in the HHI caused by the merger would be 50 or more;

(ix) In a merger involving potential competition, the Principal Supervisory Agent determines that the acquiring institution is one of 3 or fewer potential entrants into the relevant geographic area;

(x) Both the acquiring and an acquired institution have assets of $1 billion or more;

(xi) The institution that will be the resulting institution in the merger has a composite Community Reinvestment Act rating of less than satisfactory, or is otherwise seriously deficient with respect to the Board's nondiscrimination regulations and the deficiencies have not been resolved to the satisfaction of the Principal Supervisory Agent;

(xii) The resulting institution's net worth would not at least equal the amount required for the institution under § 563.13(b) of this Subchapter. Where goodwill has been included in the resulting institution's assets, the applicant must submit an opinion of a certified public accountant, satisfactory to the Principal Supervisory Agent, that its use and value are appropriate under, and accounted for, by generally accepted accounting principles. For purposes of this subparagraph (xii), in calculating whether the net worth of the resulting institution will at least equal the amount required under § 563.13(b), the Principal Supervisory Agent may exclude scheduled items which will be acquired in the merger and the amount of either: (A) The net-worth deficiency or (B) the liabilities, including averaged liabilities, of the acquired institution at the date of merger;

(xiii) The merger involves any agreement with the Corporation;

(xiv) The merger would result in the conversion of a mutual institution to a stock institution;

(xv) The Principal Supervisory Agent determines that the financial condition of the resulting institution would not satisfy minimum financial standards as determined from time to time by the Board's Office of Examinations and Supervision;

(xvi) The merger includes an institution which has a class of voting securities registered with the Board under the Securities and Exchange Act of 1934 (15 U.S.C. §§ 78a–78jj); or

(xvii) The merger application involves unusual circumstances or policy questions.

(2) With regard to subparagraphs (1)(v) through (x) of this paragraph (d), the following provisions apply.

(i) "Depository institution" includes savings and loan associations, building and loan associations, homestead associations, cooperative banks, savings banks, commercial banks, and credit unions. The "largest depository institutions" are those whose percentage of total deposits in the relevant geographic area ranks one, two, or three. "Total deposits" includes all demand, savings, and time deposit accounts.

(ii) A "relevant geographic area" is used as a proxy for the "relevant geographic market," the area within which the competitive effects of a merger may be evaluated. The relevant geographic area shall be delineated as follows:

(*a*) A county or similar political subdivision, an area smaller than a county, or an aggregation of counties within which the merging institutions compete (the "home county");

(*b*) *The commuting test.* If, when using the area delineated in preceding paragraph (d)(2)(ii)(*a*), the merger does not meet the market share and concentration criteria set forth in subparagraphs (1) (v) through (x) of this paragraph (d), the relevant geographic area shall be expanded to include an analysis of surrounding areas where the work force comes in and goes out of the home county on a regular basis.

(*1*) In a Standard Metropolitan Statistical Area ("SMSA"), the relevant geographic area will include any county to which 20 percent of the home county's work force commutes and any county from which 20 percent of the work force commutes to the home county. [These calculations may be obtained from the Census, Table P–2, Social Characteristics of the Population.]

(*2*) In a non-SMSA, the relevant geographic area will include any county to which 20 percent of the home county's workforce commutes and any other county in which depositors have access to depository institutions that are located approximately the same distance from their homes as are the depository institutions in the home county. [Data on households are available from the Census.]

(*c*) *The advertising test.* If, when using the area delineated in preceding paragraphs (d)(2)(ii) (*a*) and (*b*), the merger does not meet the market share and concentration criteria set forth in subparagraph (1)(v) through (x) of this paragraph (d), the relevant geographic area shall be further expanded to include counties where competition between institutions is demonstrated by newspaper advertising. Where the volume of sales of a newspaper originating in a county other than the county of the institution to be acquired equals 50 percent of the households of the county of the institution to be acquired, the county from which the newspaper originates will be included in the analysis if the institution to be acquired advertises regularly in that newspaper. [Data on households are available from the Census; data on sales are available from newspaper circulation offices.]

(e) Corporation approval of mergers that may not occur automatically under paragraph (d) of this section, including those which entail modifications of the plan of merger, consolidation, or purchase of assets, may be given by the Board's Principal Supervisory Agent (as defined in § 541.8 of this Chapter) in those cases where paragraph (d) does not apply because:

(1) The Principal Supervisory Agent has recommended the imposition of nonstandard conditions prior to approving the merger;

(2) The Principal Supervisory Agent, notwithstanding the applicability of paragraphs (d)(1)(v) through (x) of this section, had determined that but for the merger, the merging institution would not satisfy minimum financial standards as determined from time to time by the Board's Office of Examinations and Supervision (*i.e.*, it is a failing institution); or

(3) The Principal Supervisory Agent has granted any of the following forbearances with respect to supervisory action:

(i) For purposes of the resulting institution's satisfaction of the net-worth calculation of § 563.13(b) of this Part, the Principal Supervisory Agent may exclude, for up to a five-year period, operating losses on acquired assets, capital losses sustained by the resulting institution upon disposition of acquired assets, acquired scheduled items, and the amount of either (*a*) the net-worth deficiency at the date of merger, or (*b*) liabilities, including averaged liabilities, of the acquired institution;

(ii) For purposes of calculating the liquidity requirements of §§ 523.11(a) and 523.12 of this Chapter, the Principal Supervisory Agent may exclude, for up to one year, any liquidity deficiency which the acquired institution has and, also for one year, any aggregate net withdrawals from the acquired institution;

(iii) For purposes of calculating the resulting institution's investments under § 545.10(a) of this Chapter, the Principal Supervisory Agent may exclude the building investments of the acquired institution;

(iv) For the purpose of calculating any holding company net-worth maintenance requirement, the Principal Supervisory Agent may exclude, for up to a five-year period, the assets and liabilities balances of the acquired institution; and

(v) For purposes of calculating the eligibility of the resulting institution under §§ 545.9(h)(1), 545.9–1(d)(2) and (4), and 563.8(e)(1) of this Chapter, the Principal Supervisory Agent may, for a five-year period, compute net worth in accordance with subparagraph (3)(i) of this paragraph (e) and may, for a five-year period, exclude from scheduled items those scheduled items acquired in the merger;

For purposes of this paragraph (e)(3), the Principal Supervisory Agent may agree to forbear from taking supervisory action if the acquiring institution can demonstrate, by projections or otherwise, that its net worth will be adversely affected by the merger within a five-year period. The Principal Supervisory Agent may approve, with the concurrence of the Director of the Board's Office of Examinations and Supervision, the renewal of any supervisory forbearances, for up to five additional years, where the institution can demonstrate the need for extended supervisory forbearances, a record of substantial corrective action and the extent of noncompliance caused by the acquisition of the acquired institution.

The authority to approve mergers under this paragraph (e) is discretionary with the Principal Supervisory Agent. It is expected that when a merger subject to these delegations raises significant issues of law or policy for which the Corporation has not established a formal position, the Principal Supervisory Agent will refer that merger application to the Corporation for its consideration.

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

§ 563b.4 [Amended]

1. Amend § 563b.4(b)(1) by substituting the number "10" for the number "20" in the second paragraph of the Notice set forth in that subparagraph.

(Section 5 of the Home Owners' Loan Act. 48 Stat. 132 (12 U.S.C. 1464); secs. 402, 403, and 407 of the National Housing Act, 12 U.S.C. 1725, 1726, & 1730; Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR 1071 (1943–48 Comp.))

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83–35586 Filed 12–30–83; 8:45 am]

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Monday, January 3, 1983

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Printing schedules and pricing information	523-3419
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JANUARY 1983

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (see 1 CFR 18.17)

A new table will be published in the first issue of each month.

All January, February, and March dates are in 1983.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
January 3	January 18	February 2	February 17	March 4	April 4
January 4	January 19	February 3	February 18	March 7	April 4
January 5	January 20	February 4	February 22	March 7	April 5
January 6	January 21	February 7	February 22	March 7	April 6
January 7	January 24	February 7	February 22	March 8	April 7
January 10	January 25	February 9	February 24	March 11	April 11
January 11	January 26	February 10	February 25	March 14	April 11
January 12	January 27	February 11	February 28	March 14	April 12
January 13	January 28	February 14	February 28	March 14	April 13
January 14	January 31	February 14	February 28	March 15	April 14
January 17	February 1	February 16	March 3	March 18	April 18
January 18	February 2	February 17	March 4	March 21	April 18
January 19	February 3	February 18	March 7	March 21	April 19
January 20	February 4	February 22	March 7	March 21	April 20
January 21	February 7	February 22	March 7	March 22	April 21
January 24	February 8	February 23	March 10	March 25	April 25
January 25	February 9	February 24	March 11	March 28	April 25
January 26	February 10	February 25	March 14	March 28	April 26
January 27	February 11	February 28	March 14	March 28	April 27
January 28	February 14	February 28	March 14	March 29	April 28
January 31	February 15	March 2	March 17	April 1	May 2

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CFR CHECKLIST; 1982 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1982. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $615 domestic, $153.75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1982):

Title	Price
1-2	$5.50
3	7.00
4	7.50
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1-1199	8.00
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7 Parts:	
0-45	8.50
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52	8.50
53-209	8.50
210-299	8.00
300-399	6.50
400-699	7.50
700-899	7.50
900-999	9.50
1000-1059	7.50
1060-1119	7.50
1120-1199	6.50
1200-1499	7.50
1500-1899	6.50
1900-1944	8.50
1945-end	8.00
8	6.00
9 Parts:	
1-199	7.50
200-end	7.50
10 Parts:	
0-199	8.50
200-399	7.50
400-499	8.00
500-end	8.00
12 Parts:	
1-199	6.50
200-299	14.00
300-499	7.00
500-end	8.50
13	8.00
14 Parts:	
1-59	8.00
60-139	8.00
140-199	6.50
200-1199	8.50
1200-end	6.50
15 Parts:	
0-299	6.50
300-399	7.50
400-end	7.50
16 Parts:	
0-149	7.00
150-999	7.00
1000-end	7.50
CFR Index	9.50

CFR Unit (Rev. as of Apr. 1, 1982):

Title	Price
17 Parts:	
0-239	8.50
240-end	8.00
18 Parts:	
1-149	8.00
150-399	8.50
400-end	7.50
19	9.50
20 Parts:	
1-399	6.50
400-499	8.00
500-end	8.50
21 Parts:	
1-99	7.00
100-169	7.50
170-199	7.50
200-299	5.50
300-499	8.50
500-599	8.00
600-799	6.00
800-1299	7.00
1300-end	5.50
22	9.00
23	7.50
24 Parts:	
0-199	7.00
200-499	8.50
500-799	7.00
800-1699	7.50
1700-end	7.00
25	8.50
26 Parts:	
1 (§§ 1.0-1.169)	9.00
1 (§§ 1.170-1.300)	7.50
1 (§§ 1.301-1.400)	7.00
1 (§§ 1.401-1.500)	7.50
1 (§§ 1.501-1.640)	7.50
1 (§§ 1.641-1.850)	7.50
1 (§§ 1.851-1.1200)	8.50
1 (§§ 1.1201-end)	9.00
2-29	7.50
30-39	7.00
40-299	8.50
300-499	7.00
600-end	5.50
27 Parts:	
1-199	7.50
200-end	7.50

CFR Unit (Rev. as of July 1, 1982):

Title	Price
28	8.00
29 Parts:	
0-99	9.00
100-499	6.00
500-899	8.50
900-1899	6.50
1900-1910	9.00
1911-1919	6.00
30 Parts	
0-199	8.00
31 Parts:	
0-199	7.00
32 Parts:	
1-39, Vol. I (rev. 9/1/82)	9.00
1-39, Vol. II (rev. 9/1/82)	11.00
1-39, Vol. III (rev. 9/1/82)	10.00
700-799	8.50
800-999	8.00
1000-end	7.00
34 Parts:	
400-end	8.50
35	6.50
37	7.00
38 Parts:	
0-17	8.00
18-end	7.00
39	7.00
40 Parts:	
0-51	8.50
53-80	8.50
81-99	8.50
100-149	7.50
150-189	7.50
190-399	7.50
400-424	8.00
425-end	7.50
41 Chapters:	
(1-11 to App.)	7.50
3-6	8.50
7	5.50
8	5.50
9	8.00
19-100	8.00
102-end	7.00

CFR Unit (Rev. as of Oct. 1, 1982):

Title	Price
46 Parts:	
110-139	5.00

MICROFICHE EDITION OF THE CFR:

The CFR is now available on microfiche from the Superintendent of documents, Government Printing Office, Washington, D.C. 20402, at the following prices:

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Complete set (one-time mailing):
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1982

Subscription (mailed as issued):
$250.00 (domestic).
Individual copies—$2.25 each (domestic).

CFR ISSUANCES

Complete Listing of 1982 Editions and Projected January 1983 Editions

This list restates the complete publication plans for the 1982 editions and projects the publication plans for the January, 1983 quarter. A projected schedule that will include the April, 1983 quarter will appear in the first **Federal Register** issue of April, 1983, immediately after the CFR checklist.

The 1982 edition of the CFR consists of 180 volumes. Titles in the January and April 1982 quarters are presently available at the Government Printing Office. All titles in the July and October 1982 quarters are not available at this time. In the July and October list appearing below, the asterisk (*) indicates the 1982 issuances that are not available.

For pricing information on available 1982 volumes consult the CFR checklist in this **Federal Register.**

Pricing information is not available on projected issuances. Individual announcements of the actual release of volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The monthly CFR checklist or the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR volumes actually printed.

Normally, CFR volumes are revised according to the following schedule:

Titles 1-16—January 1
Titles 17-27—April 1
Titles 28-41—July 1
Titles 42-50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

Titles revised as of January 1, 1982:

Title	Title
CFR Index	9 Parts:
1-2	1-199
3 (Compilation)	200-end
4	10 Parts:
5 Parts:	0-199
1-1199	200-399
1200-end	400-499
6 [Reserved]	500-end
7 Parts:	11 (Cover only)
0-45	12 Parts:
46-51	1-199
52	200-299
53-209	300-499
210-299	500-end
300-399	13
400-699	14 Parts:
700-899	1-59
900-999	60-139
1000-1059	140-199
1060-1119	200-1199
1120-1199	1200-end
1200-1499	15 Parts:
1500-1899	0-299
1900-1944	300-399
1945-end	400-end
8	16 Parts:
	0-149
	150-999
	1000-end

Titles revised as of April 1, 1982:

Title	Title
17 Parts:	24 Parts:
0-239	0-199
240-end	200-499
18 Parts:	500-799
1-149	800-1699
150-399	1700-end
400-end	25
19	26 Parts:
20 Parts:	1(§§ 1.0-1-1.169)
1-399	1(§§ 1.170-1.300)
400-499	1(§§ 1.301-1.400)
500-end	1(§§ 1.401-1.500)
21 Parts:	1(§§ 1.501-1.640)
1-99	1(§§ 1.641-1.850)
100-169	1(§§ 1.851-1.1200)
170-199	1(§§ 1.1201-end)
200-299	2-29
300-499	30-39
500-599	40-299
600-799	300-499
800-1299	500-599 (Cover only)
1300-end	600-end
1308 Table (Cover only)	27 Parts:
22	1-199
23	200-end

Titles revised as of July 1, 1982:

Title
28
29 Parts:
0-99
100-499
500-899
900-1899
1900-1910
1911-1919
1920-end
30 Parts:
0-199
200-end*
31 Parts:
0-199
200-end
32 Parts:
1-39, Vol. I (Revised as of September 1, 1982)
1-39, Vol. II (Revised as of September 1, 1982)
1-39, Vol. III (Revised as of September 1, 1982)
40-399*
400-699
700-799
800-999
1000-end
33 Parts:
1-199
200-end
34 Parts:
1-399
400-end
35
36 Parts:
1-199
200-end
37
38 Parts:
0-17
18-end
39

* Indicates volume is still in production and not ready for distribution.

Title

40 Parts:
0–51
52
53–80
81–99
100–149
150–189
190–399
400–424
425–end
41 Parts:
Chap. 1 (1–1 to 1–10)
Chap. 1 (1–11 to App.)–2
Chap. 3–6
Chap. 7
Chap. 8
Chap. 9
Chap. 10–17
Chap. 18 Vol. I (Revised as of December 31, 1982)
Chap. 18 Vol. II (Revised as of December 31, 1982)
Chap. 18 Vol. III (Revised as of December 31, 1982)
Chap. 19–100
Chap. 101*
Chap. 102–end

Titles revised as of October 1, 1982:

Title

42 Parts:
1–60
61–399
400–end*
43 Parts:
1–999*
1000–3999*
4000–end*
44*
45 Parts:
1–199
200–499*
500–1199*
1200–end*
46 Parts:
1–29*
30–40*
41–69*
70–89
90–109*
110–139
140–155*
156–165*
166–199*
200–399*
400–end*
47 Parts:
0–19*
20–69*
70–79*
80–end*
48 [Reserved]
49 Parts:
1–99*
100–177*
178–199*
200–399*
400–999*
1000–1199 (Revised as of November 1, 1982)*
1200–1299*
1300–end
50 Parts:
1–199*
200–end*

* Indicates volume is still in production and not ready for distribution.

Projected January 1, 1983 editions:

Title

CFR Index
1–2
3 (Compilation)
4
5 Parts:
1–1199
1200–end
6 [Reserved]
7 Parts:
0–45
46–51
52
53–209
210–299
300–399
400–699
700–899
900–999
1000–1059
1060–1119
1120–1199
1200–1499
1500–1899
1900–1944
1945–end
8

Title

9 Parts:
1–199
200–end
10 Parts:
0–199
200–399
400–499
500–end
11 (To be announced)
12 Parts:
1–199
200–299
300–499
500–end
13
14 Parts:
1–59
60–139
140–199
200–1199
1200–end
15 Parts:
0–299
300–399
400–end
16 Parts:
0–149
150–999
1000–end

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing December 28, 1982

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48
ISS.
1
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1983
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Just Released

Code of Federal Regulations

Revised as of July 1, 1982

Quantity	Volume	Price	Amount
_____	Title 40—Protection of Environment (Parts 53 to 80)	$8.50	$_____
_____	Title 41—Public Contracts and Property Management (Chapter 1(1-11 to App.) and Chapter 2)	7.50	_____
_____	Title 41—Public Contracts and Property Management (Chapter 7)	5.50	_____
		Total Order	**$**_____

A Cumulative checklist of CFR issuances for 1981–82 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

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federal register

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01-04-83
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Announcement

The Administrative Committee of the Federal Register announces a new binding format for the daily Federal Register. The new adhesive binding and mailing cover increase efficiency in the handling and delivery of the Federal Register by the Government Printing Office and the Postal Service. It is done at no additional cost.

01-04-83
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Pages 191-376

federal register

Tuesday
January 4, 1983

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Social Security Administration

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Environmental Protection Agency

Air Rates and Fares
Civil Aeronautics Board

Aliens
Employment and Training Administration

Animal Drugs
Food and Drug Administration

Banks, Banking
Federal Reserve System

Charter Flights
Civil Aeronautics Board

Coal Mining
Surface Mining Reclamation and Enforcement Office

Customs Duties and Inspections
Customs Service

Fisheries
National Oceanic and Atmospheric Administration

Flood Insurance
Federal Emergency Management Agency

Food Additives
Food and Drug Administration

Food Assistance Programs
Food and Nutrition Service

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

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Rules and Regulations

Federal Register
Vol. 48, No. 2
Tuesday, January 4, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 720

Affirmative Employment Programs; Affirmative Action for Disabled Veterans

AGENCY: Office of Personnel Management (OPM).

ACTION: Final regulations.

SUMMARY: These regulations implement OPM's responsibilities under section 403 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, and section 307 of the Civil Service Reform Act of 1978. The regulations establish a Government-wide affirmative action program for disabled veterans in the Federal service.

EFFECTIVE DATE: January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Hassan El-Amin or Marvin Kossmann, (202) 254–3058.

SUPPLEMENTARY INFORMATION:

Background

Under section 403 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 (38 U.S.C. 2014), the former Civil Service Commission was given the responsibility for affirmative action programs in the executive branch with respect to disabled veterans. Subsequently, Executive Order 12106 (1978) transferred various equal employment opportunity enforcement functions from the Civil Service Commission to the Equal Employment Opportunity Commission (EEOC), pursuant to Reorganization Plan No. 1 of 1978. In October 1980, Congress amended 38 U.S.C. 2014 and assigned OPM responsibility for planning, implementing and overseeing an affirmative action program for disabled veterans in the Federal service.

OPM and EEOC shared responsibility for the program during fiscal year 1982. OPM assumed full responsibility for all aspects of the program on October 1, 1982 (the beginning of fiscal year 1983). Accordingly, OPM and EEOC instructed all Federal agencies to comply with instructions in EEOC's EEO–MD–709, "Affirmative Action for Hiring, Placement, and Advancement of Handicapped Individuals Including Disabled Veterans," for FY '82. These instructions require agencies to submit their FY '82 accomplishment reports to EEOC by December 1, 1982.

These regulations implement OPM's responsibility under the law. They add Subpart C to Part 720 of Title 5 of the Code of Federal Regulations, and make other technical changes in Part 720 in connection with the addition of Subpart C. OPM will provide further guidance to Federal agencies in Chapter 720 of the Federal Personnel Manual.

Response to Comments

On June 4, 1982 (47 FR 24336), OPM published proposed rules to implement an affirmative action program for disabled veterans and invited comments on its proposals. Comments and suggestions were received from 32 individuals and organizations. Discussed under topical headings below are the modifications made to the proposed rules in response to those suggestions. Where appropriate, reasons for adopting or not adopting certain suggested revisions are given. Several recommendations which did not result in changes to the regulations will be incorporated into Chapter 720 of the Federal Personnel Manual (FPM).

Program Name and Abbreviation

OPM has accepted one commentator's recommendation to employ a simplified name for "affirmative action for disabled veterans" which will readily distinguish it from the affirmative action plans under the jurisdiction of the Equal Employment Opportunity Commission. Accordingly, the Office has adopted as the official title of the program established by these regulations, "Disabled Veterans Affirmative Action Program," abbreviated "DVAAP."

Definition

Several comments focused on the proposed definition of "disabled veteran," which was taken from 5 U.S.C. 2108. The most significant of these came from the Veterans Administration (VA). The VA argued that the legislative history of 38 U.S.C. 2014 indicates that Congress intended the title 38, not the title 5, definition of disabled veteran to apply to the affirmative action program created by section 2014 (the DVAAP). After lengthy discussions with officials of VA and the Office of Management and Budget, and thorough consideration of the issues and implications involved, the Office is persuaded that the title 38 definition is the more appropriate for the DVAAP. Therefore, the definition of "disabled veteran" for present DVAAP purposes is that found at 38 U.S.C. 2011(3): "(A) a veteran who is entitled to compensation under the laws administered by the Veterans Administration, or (B) a person who was discharged or released from active duty because of a service-connected disability."

Under this (the title 38) definition, proof of the present existence of a service-connected disability is not by itself sufficient to enable a veteran to be classified as "disabled." Thus, Purple Heart recipients can only be considered "disabled veterans" for DVAAP purposes if they otherwise meet the statutory definition. Likewise, those veterans whose disabilities are noncompensable are covered by the DVAAP only if their disability resulted in discharge or release from active duty.

Using the title 38 definition of "disabled veteran" for the DVAAP also requires using the title 38 for the definition of "veteran." Accordingly, the operational definition of "veteran" for DVAAP purposes is that found at 38 U.S.C. 101(2): "a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable."

Agency Programs

Several commentators pointed out that, in order to build more accountability into the program, the performance standards of the responsible agency official identified in § 720.303(b) should contain a specific reference to the DVAAP. OPM concurs, and has included a provision to this effect in its FPM guidance on the program.

Some commentators also expressed concern with the proposed use of the Central Personnel Data File (CPDF) data

exclusively for disabled veteran employment problem identification. They suggested that the program require a comparison with agency employment levels and civilian labor force (CLF) availability of disabled veterans, as is done for minorities and women in the Federal Equal Opportunity Recruitment Program (FEORP). One problem with that approach is that there are no consolidated CLF data on disabled veterans, making the accuracy of a CLF-based indexing system highly questionable. More importantly, the Office wishes to minimize the amount of paperwork and calculation required for the implementation of the program, so that agencies can concentrate on action—recruiting, hiring, and promoting—rather than on statistical calculation.

Another concern voiced in this area is that agencies may want to use more detailed and updated data for DVAAP purposes. The regulations do not prohibit this; they simply point out that for DVAAP purposes CPDF data will be the official record of the status of disabled veteran employment within each participating agency. One factor in OPM's decision to reply on CPDF was the probability that use of CPDF data will save both OPM and participating agencies time and money. Because of this expected savings, and because of the obvious need for uniformity, control, and consistency in administering and reporting to Congress on this Government-wide program, OPM has made no changes to § 720.303(c).

Agency Plans

Because of delays experienced in the publication of these final regulations, the deadline for agencies to have their FY '83 DVAAP plans developed and in place has been changed from October 1, 1982 to January 30, 1983. The final rule also reflects changes that resulted from numerous comments directed at the regulation proposed under this heading:

Plan Development. Discussions with the Equal Employment Opportunity Commission under Executive Order 12067 resulted in the inclusion in this section of the final rule the reference to section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)). Reference to that same Act is made in the law establishing the DVAAP (38 U.S.C. 2014).

Plan Coverage. Some commentators suggested that the regulations include the particular criteria OPM will use to require separate plans from operating components and/or installations. OPM's position is that the initial focus of program implementation should be at the agency level, with OPM headquarters and regional offices providing technical assistance. The Office wishes to provide agencies with a framework that is flexible and reasonable under the widest possible range of employment and labor force conditions. For example, OPM believes that an installation's size, alone, is not sufficient reason for requiring a separate plan. This is consistent with the problem identification approach in that no component/installation will be required by OPM to develop a separate plan absent a specific need for a separate plan.

The regulations do currently permit agencies to set criteria for their own installations. Should it become necessary to publish criteria for OPM's requirement of separate agency component/installation plans, these criteria will be published as program guidance rather than regulation.

On commentator suggested that the law (38 U.S.C. 2014(d)) requires OPM to review all agency DVAAP plans annually (and not on a selective basis). The statute requires that OPM review and evaluate agencies' implementation of DVAAPs, and report semiannually to Congress. OPM believes the program, as proposed, fully satisfies these requirements. In addition, OPM is meeting the requirement of 38 U.S.C. 2014(d) to obtain semiannual reports from agencies by obtaining data from CPDF (to which agencies report regularly) on a semiannual basis.

Plan Certification. To avoid confusing the annual certification requirement with the plan submission requirements (on an "as requested" basis), the subsection entitled "Plan Submission and Certification" in the proposed regulations has been broken out into two subsections, "Plan Submission" and "Plan Certification." The deadline for certification has been changed from November 1 to December 1 of each year to coincide with the new deadline for submission of DVAAP accomplishment reports. As a matter of convenience, most agencies will want to submit their certification when they submit their accomplishment reports for the previous fiscal year.

Plan Content. A number of commentators objected to the absence of a requirement for goals, timetables and other quantifiable guideposts. Several voiced opinion that by not requiring goals and timetables OPM is creating what amounts to be a "paper tiger." By using CPDF data as baseline information, OPM is acknowledging the importance of quantified information. Agencies are expected to show measurable improvement in their disabled veteran employment profiles, and they are free to set goals and timetables for their own programs if they so desire. But they are not required to do so.

Agency Accomplishment Reports

The discussion under the previous subsection, *Plan Content,* also applies to this section. One significant change was made in response to agency concerns over the specified reporting date: the submission date for accomplishment reports was changed from November 1 to December 1 of each year, in order to allow adequate time for agencies to prepare and submit their reports. Thus, the first accomplishment reports required by these regulations will be due to OPM on December 1, 1983.

The Office of Personnel Management has examined and considered all the comments brought to its attention during the public comment period. In preparing the preceding summary, the Office has tried to address all the major points raised in the letters it has received. Certain of the comments and suggestions, however, involved matters outside the scope of these regulations. Others addressed issues of program administration that will be covered in guidance materials the Office will issue to assist agencies in implementing the program.

Pursuant to section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately to enable agencies to commence their DVAAPs as soon as practicable.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to Federal Government employment practices.

List of Subjects In 5 CFR Part 720

Equal employment opportuntiy, Government employees, Reporting requirement, Veterans.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM is amending 5 CFR Part 720 as shown:

PART 720—AFFIRMATIVE EMPLOYMENT PROGRAMS

1. By revising the Part heading to read as set forth above.

§ 720.101 [Amended]

2. In § 720.101, by redesignating the section title as "Federal Equal Opportunity Recruitment Program" and removing the word "subpart" and inserting in its place the word "section" in both places where it appears.

3. By adding a new Subpart C, to read as follows:

* * * * *

Subpart C—Disabled Veterans Affirmative Action Program

720.301 Purpose and authority.
720.302 Definition.
720.303 Agency programs.
720.304 Agency plans.
720.305 Agency accomplishment reports.
720.306 Responsibilities of the Office of Personnel Management.
720.307 Interagency Report Clearance.

Authority: 5 U.S.C. 7201; 42 U.S.C. 2000e; 38 U.S.C. 101(2), 2011(3), 2014; 5 U.S.C. 3112; 29 U.S.C. 791(b).

Subpart C—Disabled Veterans Affirmative Action Program

§ 720.301 Purpose and authority.

This subpart sets forth requirements for agency disabled veteran affirmative action programs (DVAAPs) designed to promote Federal employment and advancement opportunities for qualified disabled veterans. The regulations in this subpart are prescribed pursuant to responsibilities assigned to the Office of Personnel Management (OPM) under section 403 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended (38 U.S.C. 2014), and section 307 of the Civil Service Reform Act of 1978 (5 U.S.C. 3112).

§ 720.302 Definition.

As used in this subpart, the terms "veteran" and "disabled veteran" have the meanings given to these terms in title 38 of the United States Code.

§ 720.303 Agency programs.

(a) *Continuing Programs.* Each Department, agency, and instrumentality in the executive branch, including the U.S. Postal Service and the Postal Rate Commission, shall conduct a continuing affirmative program for the recruitment, hiring, placement, and advancement of disabled veterans.

(b) *Program Responsibility.* The head of each agency shall assign overall program responsibility to an appropriate agency official. The official so designated shall be at a high enough level to ensure effective program administration and the devotion of adequate resources to the program.

(c) *Problem Analysis.*

(1) Annually, OPM will provide appropriate data on the employment of disabled veterans to each agency participating in the Central Personnel Data File (CPDF). These data will be taken from CPDF. For DVAAP purposes, CPDF data are considered to be the offical record of the status of disabled veteran employment within each participating agency. Each participating agency is responsible for assuring that such records are timely, accurate, and complete.

(2) CPDF data must be analyzed by participating agencies to identify problem areas and deficiencies in the employment and advancement of disabled veterans. (OPM will establish with each agency not participating in CPDF, the nature and extent of data to be used in identifying problems and deficiencies.) Based on this analysis, agencies shall develop methods to improve the recruitment, hiring, placement, and advancement of disabled veterans, or revise or redirect existing methods, as necessary. These methods must then be translated into action items.

§ 720.304 Agency plan.

(a) *Plan Development.* As part of the affirmative action plan it prepares pursuant to section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791 (b)) ("Section 501(b) Plan"), each Department, agency, or instrumentality in the executive branch must have an up-to-date affirmative action plan for the employment and advancement of disabled veterans.

(1) Each agency must review its plan on an annual basis, together with its accomplishments for the previous fiscal year, updated employment data, and any changes in agency mission or structure, and update the plan as necessary. Agency operating components and field installations required to develop separate plans under paragraph (b) of this section, below, must perform the same type of annual review and update of their plans.

(2) Plans shall cover a time period of not less than one year and may cover a longer period if concurrent with the agency's Section 501(b) Plan. Each plan must specify the period of time it covers.

(3) Initial plans for fiscal year 1983 required under this subpart must be developed by January 30, 1983 and must be in effect on that day.

(b) *Plan Coverage.*

(1) Each agency must have an agencywide plan covering all of its operating components and field installations. Agencywide plans shall include instructions assigning specific responsibilities on affirmative actions to be taken by the agency's various operating components and field installations to promote the employment and advancement of disabled veterans. OPM must be informed when headquarters offices require plans at the field or installation level.

(2) Agency operating components and field installations must have a copy of the plan covering them, and must implement their responsibilities under it. OPM may require operating components and field installations to develop separate plans in accordance with program guidance and/or instructions.

(c) *Plan Submission.* Affirmative action plans developed under this section shall be submitted to OPM upon request. The Office of Personnel Management will review a selection of agency plans each fiscal year.

(d) *Plan Certification.* Each agency must certify to OPM by December 1 of each year that it has an up-to-date plan as required by this section. This certification must indicate the date the agency's most recent plan was effective or was last amended.

(e) *Plan Content.* Disabled veteran affirmative action plans shall, at a minimum, contain:

(1) A statement of the agency's policy with regard to the employment and advancement of disabled veterans, especially those who are 30 percent or more disabled.

(2) The name and title of the official assigned overall responsibility for development and implementation of the action plan.

(3) An assessment of the current status of disabled veteran employment within the agency, with emphasis on those veterans who are 30 percent or more disabled.

(4) A description of recruiting methods which will be used to seek out disabled veteran applicants, including special steps to be taken to recruit veterans who are 30 percent or more disabled.

(5) A description of how the agency will provide or improve internal advancement opportunities for disabled veterans.

(6) A description of how the agency will inform its operating components and field installations, on a regular basis, of their responsibilities for employing and advancing disabled veterans.

(7) A description of how the agency will monitor, review, and evaluate its planned efforts, including implementation at operating component

and field installation levels during the period covered by the plan.

§ 720.306 Agency accomplishment reports.

(a) Not later than December 1 of each year, agencies must submit an annual accomplishment report on their disabled veterans affirmative action program to the Office of Personnel Management, covering the previous fiscal year.

(b) Agency annual accomplishment reports must describe:

(1) Methods used to recruit and employ disabled veterans, especially those who are 30 percent or more disabled.

(2) Methods used to provide or improve internal advancement opportunities for disabled veterans.

(3) A description of how the activities of major operating components and field installations were monitored, reviewed, and evaluated.

(4) An explanation of the agency's progress in implementing its affirmative action plan during the fiscal year. Where progress has not been shown, the report will cite reasons for the lack of progress, along with specific plans for overcoming cited obstacles to progress.

§ 720.306 Responsibilities of The Office of Personnel Management

(a) *Program Review.* OPM will monitor agency program implementation through review of agency plans, direct agency contact, review of employment data, and through other appropriate means. As it deems appropriate, OPM will conduct onsite evaluations of program effectiveness, both at agency headquarters and at field installations or operating components.

(b) *Technical Assistance.* The Office of Personnel Management will provide technical assistance, guidance, instructions, data, and other information as appropriate to supplement and support agency programs for disabled veterans, through the Federal Personnel Manual (FPM).

(c) *Semiannual Reports.* As provided by 38 U.S.C. 2014(d), OPM will, on at least a semiannual basis, publish reports on Government-wide progress in implementing affirmative action programs for disabled veterans.

(d) *Report to Congress.* As required by 38 U.S.C. 2014(e), OPM will report to Congress each year on the implementation and progress of the program. These reports will include specific assessments of agency progress or lack of progress in meeting the objectives of the program.

§ 720.307 Interagency report clearance.

The reports contained in this regulation have been cleared in accordance with FPMR 101–11.11 and assigned interagency report control number 0305–OPM–AN.

(38 U.S.C. 2011(3), 2014, 5 U.S.C. 3112, 29 U.S.C. 791(b))

[FR Doc. 83–97 Filed 1–3–83; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR PARTS 210, 215, 220 and 235

[Amendments 56, 27, 45, and 9, respectively]

Corrections and Minor Amendments to School Program Rules

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This document makes corrections in the rules for National School Lunch Program (Part 210), the School Breakfast Program (Part 220), the Special Milk Program for Children (Part 215), and State Administrative Expense Funds (Part 235) which were published in the **Federal Register** on April 2, 1982, (47 FR 14131 and 14134). In the matching of funds requirements, the amendatory language was inaccurate resulting in the retention of paragraphs that are now obsolete. This document removes those paragraphs.

Another amendment concerns the precise wording used to delete reference to the Food Service Equipment Assistance Program from Parts 210, 215, 220 and 235.

Furthermore, this document updates the address for the Food and Nutrition Service National Office and for some Regional offices. This update includes the regulations for the National School Lunch and School Breakfast Programs and for the Special Milk Program for Children.

EFFECTIVE DATE: January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification: This action has been reviewed under Executive Order 12291 and has not been classified major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more nor will it have a major increase in costs or prices for individual industries, Federal, State or local government agencies, or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity innovation or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

This rule has also been reviewed with regard to the requirements of Public Law 96–354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service, (FNS) has certified that this rule does not have a significant economic impact on a substantial number of small entities.

This rule does not contain any reporting or recordkeeping provisions which are subject to approval by the Office of Management and Budget (OMB).

Accordingly, Part 210—National School Lunch Program, Part 215—Special Milk Program for Children, Part 220—School Breakfast Program and Part 235—State Administrative Expense Funds are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

§ 210.6 [Amended]

1. In § 210.6Matching of Funds, paragraphs (i) and (j) are removed.

§ 210.17 [Amended]

2. In § 210.17, Management evaluations and audits, paragraph (a)(4)(i) is amended by removing the reference "the Food Service Equipment Assistance Program,"

3. In § 210.21, Paragraphs (a), (b), (c) and (f) are revised to read as follows:

§ 210.21 Program information.

* * * * *

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, Massachusetts 01803.

(b) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, N.W., Atlanta, Georgia 30367.

(c) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 50

E. Washington Street, Chicago, Illinois 60602.

* * * * *

(f) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, Mercer Corporate Park, Corporate Boulevard CN02150, Trenton, New Jersey 08650.

* * * * *

Appendix A [Amended]

4. In Part 210 Appendix A—Alternate Foods for Meals—Enriched Macaroni Products With Fortified Protein, paragraph (2), the third sentence is amended by removing the words "Washington, D.C. 20250" and replacing them with "Alexandria, Virginia 22302".

5. In Part 210 Appendix A—Alternate Foods for Meals—Cheese Alternate Products, paragraph (2), the third sentence is amended by removing the words "Washington, D.C. 20250" and replacing them with "Alexandria, Virginia 22302."

Appendix B [Amended]

6. In Part 210 Appendix B—Categories of Foods of Minimal Nutritional Value, the last paragraph, first sentence is amended by removing the words "Washington, D.C. 20250" and replacing them with "Alexandria, Virginia 22302."

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

§ 215.13 [Amended]

1. In § 215.13, Management evaluations and audits, paragraph (a)(4)(i) is amended by removing the reference "the Food Service Equipment Assistance Program,".

2. In § 215.16, paragraphs (a), (b), (c) and (d) are revised to read as follows:

§ 215.16 Program information

* * * * *

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, Massachusetts 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, Mercer Corporate Park, Corporate Boulevard, CN02150, Trenton, New Jersey 08650.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, N.W., Atlanta, Georgia 30367.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Midwest Regional Office, FNS Department of Agriculture, 50 E. Washington Street, Chicago, Illinois 60602.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

§ 220.15 [Amended]

1. In § 220.15, Management evaluations and audits paragraph (a)(4)(i) is amended by removing the reference "the Food Service Equipment Assistance Program,".

2. In § 220.21, paragraphs (a), (b), (c) and (f) are revised to read as follows:

§ 220.21 Program information

* * * * *

(a) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, Mercer Corporate Park, Corporate Boulevard, CN02150, Trenton, New Jersey 08650.

(b) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, N.W., Atlanta, Georgia 30367.

(c) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Midwest Regional Office, FNS U.S. Department of Agriculture, 50 E. Washington Street, Chicago, Illinois 60602.

* * * * *

(f) In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, Massachusetts 01803.

* * * * *

Appendix A [Amended]

3. In Part 220 Appendix A—Alternate Foods for Meals—Formulated Grain Fruit Products, paragraph (2), the third sentence is amended by removing the words "Washington, D.C. 20250" and replacing them with "Alexandria, Virginia 22302."

Appendix B [Amended]

4. In Part 220 Appendix B—Categories of Foods of Minimal Nutritional Value, the last paragraph, first sentence is amended by removing the words "Washington, D.C. 20250" and replacing them with "Alexandria, Virginia 22302."

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

§ 235.7 [Amended]

1. In § 235.7, Records and Reports, the first sentence of paragraph (c) is amended by removing the reference "and 230," by placing the word "and" after 220, and by removing the comma after 226.

§ 235.8 [Amended]

2. In § 235.8, Management evaluations and audits, paragraph (a) is amended by removing the words "Attachment H of Federal Management Circular 74-7 (34 CFR Part 256)" and replacing them with "OMB Circular A-102".

(Catalog of Federal Domestic Assistance Nos. 10.553, 10.555, 10.556 and 10.560)

(Sec. 804, 816, 817 and 819, Public Law 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1756, 1759, 1771, 1773, and 1785))

Dated: December 23, 1982.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 83-4 Filed 1-3-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 984

Walnuts Grown in California; Free and Reserve Percentages for the 1982-83 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes free and reserve percentages of 77 percent and 23 percent, respectively, for California walnuts certified as merchantable during the 1982-83 marketing year, which began August 1, 1982. The rule is designed to allocate this season's supplies between domestic and export markets so as to make ample supplies available for domestic needs and all of the excess available for export. The percentages are authorized by the Federal marketing order for walnuts grown in California.

EFFECTIVE DATES: August 1, 1982 through July 31, 1983.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant econimic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 24 handlers.

It is found that good cause exists for not postponing the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The relevant provisions of the order require that the free and reserve percentage established for a particular marketing year shall apply to all walnuts certified as merchantable from the beginning of that year. The 1982–83 marketing year began August 1, 1982.

Notice of this action was published in the November 29, 1982, issue of the **Federal Register** (47 FR 53738), and interested persons were afforded an opportunity to submit written comments. No comments were received.

The authority to establish free and reserve percentages is pursuant to § 984.49 of the marketing agreement and Order No. 984, both as amended (7 CFR Part 984), regulating the handling of walnuts grown in California and hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended by the Walnut Marketing Board, hereinafter referred to as the "Board", which works with USDA in administering the order.

Pursuant to § 984.48 of the order, the Board based its recommendation for free and reserve percentages of 77 percent and 23 percent, respectively, on estimates of supply and combined inshell and shelled domestic trade demand for the current marketing year. Estimated trade demand was adjusted to account for supplies of walnuts carried in from the 1981–82 marketing year and for supplies deemed desirable to be carried out on July 31, 1983, for early season domestic use next year until the 1983 crop is available for market.

The estimated 1982 walnut production is well in excess of the 1982–83 marketing year domestic needs. While this action is designed to tailor the supply to domestic demand, it would still ensure the availability of ample supplies of walnuts for domestic markets during that year and promote maximum usage.

Supplies in excess of domestic needs would be available chiefly for export. Any excess supplies that could not be absorbed by export markets would be used for oil, feed, or other outlets noncompetitive with outlets for free merchantable walnuts.

In considering its recommendation, the Board noted the estimates it had made one year earlier for the 1981 crop. These estimates and final results are as follows:

	Estimated kernel weight (1,000 lbs.)	Final kernel weight (1,000 lbs.)
Supply:		
1. Orchard-Run Production	172,000	180,000
2. Less: Miscellaneous Farm Use	500	800
3. Commercial Production	171,200	179,200
4. Plus: Uncertified Carryin Inshell	944	944
Uncertified Carryin Shelled	11,440	11,440
5. Total Merchantable Supply	183,584	191,584
6. Plus: Substandard Creditable for Reserve	8,000	6,344
7. Total supply subject to regulation	191,584	197,928
Demand:		
8. Inshell Demand	27,000	25,632
9. Plus: Desirable Carryout	5,625	2,977
10. Less: Certified Carryin	2,386	2,386
11. Adjusted Inshell Demand	30,239	26,123
12. Shelled Demand	100,000	97,344
13. Plus: Desirable Carryout	30,000	25,345
14. Less: Certified Carryin	16,097	16,097
15. Adjusted Shelled Demand	113,903	116,592
16. Total demand (Item 11+Item 15)	144,142	142,715
Marketing percentages:		
17. Free Percentage [Item 16÷Item 7]	[1]75	
18. Reserve Percentage [100%—Item 17]	[1]25	

[1] Percent.

The Board used the estimates given in the table below in making its recommendation for the 1982–83 marketing year. Weight figures for inshell walnuts are converted to their equivalent shelled kernel weights.

	Inshell weight (1,000 lbs.)	Conversion factor (percent)	Kernel weight (1,000 lbs.)
Supply:			
1. Orchard-Run Production	440,000		
2. Less: Miscellaneous Farm Use	2,000		
3. Commercial Production	438,000	40	175,200
4. Plus: Uncertified Carryin Inshell	415	45	187
Uncertified Carryin Shelled			17,680
5. Total Merchantable Supply			193,267
6. Plus: Substandard Creditable for Reserve			8,500
7. Total supply subject to regulation			201,267
Demand:			
8. Inshell Demand	69,000		
9. Plus: Desirable Carryout	15,000		
10. Less: Certified Carryin	5,208		
11. Adjusted Inshell Demand	73,800	45	33,210
12. Shelled Demand			100,000
13. Plus: Desirable Carryout			37,500
14. Less: Certified Carryin			17,465
15. Adjusted Shelled Demand			120,035
16. Total demand [Item 11+Item 15]			153,245
Marketing percentages:			
17. Free Percentage [Item 16÷Item 7]		[1]	[1]
18. Reserve Percentage [100%—Item 17]		[2]	[2]

[1] Seventy-seven percent [76.1% rounded up by the Board].

[2] Twenty-three percent [23.9% rounded down by the Board].

List of Subjects in 7 CFR Part 984

Marketing agreements and orders, Walnuts, California.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Board, and other available information, it is further found that establishment of the free and reserve percentages under the order, as hereinafter set forth, will tend to effectuate the declared policy of the act.

PART 984—[AMENDED]

Therefore, § 984.228 is added to 7 CFR Part 984 as follows: (This section will not appear in the Code of Federal Regulations).

§ 984.228 Free and reserve percentages for California walnuts during the 1982–83 marketing year.

The free and reserve percentages for California walnuts during the marketing year beginning August 1, 1982, shall be 77 percent and 23 percent, respectively.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 29, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83-132 Filed 1-3-83; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1924 and 1944

Revision of Section 502 Rural Housing Loan Policies, Procedures and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its regulations regarding Section 502 rural housing (RH) loans. This action is taken to implement a 1-year interest credit agreement based on current rather than projected income, change the definition of household income from projected income to current income, and define moderate-income as $5,500 over the low-income limit for an area. Also added is an eligibility requirement that makes it more difficult for previous Section 502 RH borrowers to obtain a new Section 502 RH loan. An application priority method based on five categories of applicants has also been added. Numerous editorial changes have been made for clarity.

The circumstance requiring this action is an Office of Audit report indicating an execessive amount of improper interest credit is being granted. The intended effect is more accurate granting of interest credit based on current income. Restricting previous borrowers to a 2-year wait before eligibility for another RH loan, unless there were mitigating circumstances, is required for better administrative control of the program. The intended effect is to stop the program from being used for personal gain beyond adequate housing. Retaining the moderate-income limits at $5,000 over the low-income limits is required in order to adequately serve those persons who are unable to qualify for housing credit from conventional sources but who could afford homeownership at FmHA rates and terms. Circumstances requiring the application priority processing are better use of funds for necessary servicing actions on the existing loan portfolio and for serving those applicants living in substandard housing and with incomes at or below 50 percent of median income. The intended effect is more efficient and timely processing of credit sales of acquired properties, transfers of existing FmHA loans thus protecting the Government's security interest, and better fulfilling of the Agency's mandate to serve those rural residents living in substandard housing and with very low incomes.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Daryl L. Grove, Division Director, Single Family Housing Processing Division, or Ruth Smith, Loan Specialist, Farmers Home Administration, USDA, 5345, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250 telephone (202) 382-1474.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (sections 1944.4, 1944.8, 1944.22, 1944.24, 1944.26 1944.30 1944.33 1944.34 1944.38 1944.39 and 1944.45) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35, and have been assigned OMB No. 0575-0059.

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291, and has been designated nonmajor. This determination is based on the fact that any increase or decrease in cost to the Government or to the borrowers is not considered a major impact as defined in Secretary's Memorandum 1512-1. The main effect of the changes is to better assure that benefits received are in line with the actual needs of the recipients. This is accomplished by determining income on current circumstances and reviewing the recipients' incomes on an annual rather than a biannual basis. According to audits conducted on the Section 502 interest credit program, this change will net approximately 78 million dollars in subsidy benefits for the Government. Requiring previous Section 502 RH borrowers who sell without cause to be ineligible for 2 years should discourage borrowers from cashing in on equity at Government expense. The new application priority system gives priority handling to applicants living in substandard housing and those with incomes below 50 percent of the area median income. These added priorities will enable the Agency to better assist applicants in the most need of housing.

1. Interest Credit Agreement

The Agency is implementing a 1-year interest credit contract based on the borrower's current circumstances. Changes will be made only in case of error in borrower information, cancellation if the borrower's adjusted income exceeds the moderate-income limit, and granting of moratorium if decrease in income justifies and borrower qualifies.

The Agency studied two alternatives regarding the term of the Interest Credit Agreement.

Alternative 1 (current method). A 2-year Interest Credit Agreement based on the current household situation and income projected for the next 12 months.

Effects: This alternative has the least public and administration burden. It is estimated that it cost the public $345,000 to comply. It requires completion of approximately 200,000 agreements by FmHA each year. Audit findings estimate that 190.7 million dollars of excessive interest credit are granted because of initial errors and borrowers circumstances changing over the life of the agreement. Changes in the family income during the 2-year period result in 19 percent of the borrowers subsequently becoming ineligible and an additional 48 percent receiving excessive benefits. It also results in borrowers adjusting to a living standard above their means causing financial problems at time of renewal if benefits are lowered.

Alternative 2 (chosen method). A 1-year interest credit contract based on the borrower's current circumstances and income.

Effects: this alternative increases the public and administrative burden over alternative 1. It is estimated that the public burden will be $550,000 or $205,000 over alternative 1. It doubles the administrative burden of the interest credit program. However, it is estimated that it will reduce the cost of the interest credit program by about $128 million dollars. It benefits the borrower by frequent revision of housing cost in ratio to household income. Computing current income is also a more accurate method of determining annual income than projecting income for the next 12 months as is presently required.

2. Loan Restriction

The Agency is imposing a loan restriction on an applicant who previously had a Section 502 rural housing loan but disposed of the property through sale or transfer unless 2 years have elapsed or there were mitigating circumstances.

Alternative 1. Provide for no eligibility restriction in regards to applicants who previously had been Section 502 rural housing borrowers.

Effect: This alternative permits borrowers the option to sell their

property for a profit and then reapply for a new loan. These previous borrowers apply for the limited available resources causing delay in service to other applicants without adequate housing. It is estimated that in some areas over 10 percent of FmHA loan funds are being used to serve this group. Because housing costs have constantly increased, the cost to the Government in providing subsidy to this group is also higher.

Alternative 2 (chosen method). Restrict applicants who prevsiously had a Section 502 rural housing loan to a 2-year waiting period.

Effect: This option should curb the incentive to sell for profit and thus reduce Government cost. It diminishes the tendency of third party groups to profit at the expense of the borrower. It still permits eligibility for those borrowers who must sell because of job transfer or other extenuating circumstances.

3. Moderate-Income Limit

FmHA is retaining the current maximum moderate-income limits of $5,500 more than the applicable maximum low-income limits for the area.

In a proposed regulation of March 11, 1982 (47 FR 10566), FmHA proposed to lower the moderate-income limit to $3,000 over the area low-income limit. Based on comments received, the limits will remain at $5,500 over the low-income limits which have been in effect since December 21, 1981.

Alternative 1. Establish the moderate-income limits at $3,000 over the low-income limits except that no maximum moderate-income limit would be less than $15,600 or greater than $23,000 with the exception of Alaska.

Effect: It is estimated that about 2 million households have a moderate income based on this definition. As a practical matter, persons or households within these income limits would have to commit more than 30 percent of their incomes to housing and often lack repayment ability for a Section 502 loan at current moderate interest rates unless their debt structure is very favorable. Those persons of moderate income and in need of adequate housing which would be within their budget would effectively be made ineligible by the lower moderate-income limit, yet they are unable to obtain conventional credit.

Alternative 2. (chosen method). Retain the current maximum moderate-income limits of $5,500 over the maximum low-income limits.

Effect: It is estimated that about 3 million households have a moderate income based on this definition. About 197,800 of these households occupy substandard housing. Based on current budget levels approximately 10 percent of eligible households could be provided with a Section 502 loan in any year but FmHA feels these persons should not be shut out of the program since their need for housing is as valid as applicants qualifying for interest credit subsidy.

4. Application Priority Processing System.

FmHA has added an application priority processing method based on five categories.

Alternative 1. (current method). Process applications in date order received with priorities given to loans to refinance qualified debts, and subsequent loans necessary to complete transfers by assumption, complete credit sales or for essential improvements and repairs.

Effect: Current method gives no priority to those applicants living in substandard housing or with incomes at or below 50 percent of median income for the area and FmHA is mandated to use 30 percent of its funds for these two groups to the extent practicable.

Alternative 2. (chosen method). Establish a priority processing system for applications with five categories with FmHA State Directors reserving funds for loans for refinancing, sales of inventory properties, hardship cases and essential repairs. Applicants for transfers by assumption, those living in substandard housing, applicants for mutual self-help housing and those with incomes at or below 50 percent of median would be processed ahead of other applications.

Effect: This method of selection of applications for priority processing will make the program more responsive to those eligible applicants now living in substandard or deficient housing and speed up loans necessary for servicing actions to protect the Government's security interest.

This regulation does not directly affect any FmHA programs or projects which are subject to A–95 clearinghouse review.

The Catalog of Federal Domestic Assistance program affected is No. 10.410—Low to Moderate Income Housing Loans (Rural Housing Loans—Section 502 Insured).

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

A total of 111 individual comments were received on both the final rule, published December 21, 1981 (46 FR 61988), and the proposed rule published March 11, 1982. Fourteen individuals commented on the final rule and 97 individuals commented on the proposed rule. The average number of issues discussed in each letter was six. Many commented on issues that were not changed or proposed to be changed. These were considered because the whole regulation was published for comment.

The comments were summarized and grouped by sections of the regulation. Comments have been generalized for discussion in this part to reflect the typical idea being expressed. Numerous editorial changes were recommended. These were rejected or adopted without discussion here.

1. Section 1944.2(b) Comments were received asking for elimination of the 5 percent and $300 per dependent child adjustments. The reasons given were that they provide greater opportunity for errors, it would be more appropriate to use the Social Security tax rate in place of the 5 percent rate and that the $300 deduction is farcical and should be increased or dropped altogether. This recommendation was not adopted because it is a definition used by the Department of Housing and Urban Development (HUD) and to the extent practical our program is to conform with similar programs administered by HUD.

2. Section 1944.2(r) A definition of very low income was added to provide clarity.

3. Section 1944.3 A comment recommended that this section should include as an eligible loan purpose equity in cooperatives. This recommendation was not adopt because the Section 502 loan program deals with individual ownership of real property.

4. Section 1944.3(b)(15) This paragraph was removed because it is not needed. These services should be provided by an FmHA Community Facilities loan or by the subdivision developer.

5. Section 1944.4(a) Most comments favored this action believing there is enough latitude to help applicants who dispose of their properties for justified reasons. A few opposed the action because they believed the 2-year restriction punishes rural residents who have been forced to move for employment reasons. This section was adopted as proposed. The regulation gives sufficient latitude to help applicants who disposed of the property for justified reasons.

6. Section 1944.4(b)(1) One comment recommended this paragraph be amended to permit income resulting from "shared housing" provided the nonowner or nonborrower income is counted toward subsidy calculations. This recommendation was not adopted because current regulations permit loans to individuals or group of individuals provided the income of all adults residing in the household is considered in determining eligibility and amount of subsidy.

7. Section 1944.4(d) has been added. In the proposed rule, this was § 1944.9(g). Most comments agreed with a need for a requirement that addressed situations where the applicant had demonstrated an inability to be a homeowner. However, all comments believed the proposed rule was meaningless and gave each county office carte-blanche authority to discriminate. Therefore, paragraph 1944.9(g) as proposed was dropped and paragraph 1944.4(d) was added. The new paragraph is clearer as to intent and meaning.

8. Section 1944.8(a)(2)(i) Comments were received wanting definite criteria on this item for guidance to County Supervisors. This recommendation was not adopted. Adequate and dependable income can best be determined by considering each individual's circumstances and not by use of arbitrary rules of thumb.

9. Section 1944.8(a)(2)(ii) Comments were received suggesting that partnerships, cooperatives or public entities be accepted as cosigners. This recommendation was not adopted because there is no legal authority to accept other than individuals as cosigners.

10. Section 1944.8(b) Most commenters believed that it is not reasonable or legal to require someone to become an applicant. The paragraph was rewritten for clarity and intent.

11. Section 1944.8(c) Ten comments were received on the proposed changes. Most agreed with the changes and expressed concern on how to calculate periodic income and some suggested that income be estimated and adjusted at the end of the year with benefits reapplied retroactively. Although this idea has merit, it was rejected because of increased workload required to accomplish it. The paragraph was rewritten based on comments and clarifies calculation of periodic income.

12. Section 1944.8(c)(5)(vii) was added to assure compliance with Federal laws which specifically state that income received from certain sources cannot be used to deny or reduce Federal financial assistance or benefits.

13. Section 1944.9(a)(1) Comments were received that the law specifies that eligible applicants must include the owners and renters of inadequate housing (Section 502 (b) and (c), Title V of the Housing Act of 1949). This section was not changed because of comments but the Agency introduced an application processing priority system in § 1944.26(b) which gives priority to households occupying substandard housing.

14. Section 1944.10(b)(2) Comments were received that this section is confusing and unnecessary. It adds no definite or objective measure for determining urban areas and should be removed. The paragraph is deleted.

15. Section 1944.10(f) Comments were received that this section should be written to provide all developers and other interested parties 6 months notice before the effective date of redesignation and public notice should also be provided through the appropriate local newspapers 60 days before the effective redesignation date. To the extent possible the State Director will follow a course as described in the comment, however, because it is not always possible to delay action for a specified period of time, the recommendation was not adopted.

16. Section 1944.11(b) Comments were received requesting the rule be amended to include unpaved private roads where road maintenance is minimal and not a financial burden to the homeowner. This section was not changed since FmHA will handle these situations on an individual case-by-case basis.

17. Section 1944.11(c) (1) and (3) Comments were received objecting to the elimination of the authority to make loans on sites of any size already owned by the applicant and which do not require the use of loan funds for acquisition or refinancing. The paragraph was rewritten based on comments to allow more latitude.

18. Section 1944.16(a) Comments were received that it be required that all applicants be counseled regarding the type of housing necessary to meet their needs. This was adopted.

19. Section 1944.16(a)(3) Commenters objected to the requirement of an automatic heating system which would maintain a minimum of 55 degrees in the dwelling because it was discriminatory. This action was adopted and the paragraph deleted.

20. Section 1944.16(a)(4) Comments were received requesting the State Director be given authority to approve two-car garages because of local ordinances. This was not adopted.

21. Section 1944.16(a)(5) Comments were received wanting clear criteria by which solar system effectiveness will be evaluated, an outline of the submittal/approval process for solar systems, and a list of the information the applicant, builder or developer must provide. This was not adopted because this information will be contained in a planned exhibit to Subpart A of Part 1924 of this Chapter.

22. Section 1944.16(b) A statement was added for clarity purposes.

23. Section 1944.18(b)(6) Comments were received indicating that in some cases, attorney's fees in handling of the foreclosure of the prior mortgage are such that it adversely affects FmHA junior lien position. A paragraph was adopted to prevent this, which limits future junior liens to be permitted only when the attorney's cost, in case of foreclosure, is limited to 5 percent.

24. Section 1944.22(a) Comments were received requesting classification concerning refinancing secured debts which were incurred solely for a building site. This was rewritten making it an unauthorized use of funds.

25. Section 1944.22(d)(3) Comments were received wanting a phrase to be added requiring the County Supervisor to document that all conditions for refinancing have been met. This was adopted and renumbered to § 1944.22(e).

26. Section 1944.26(a) Comments were received that the absence of a priority for applicants with incomes at or under 50 percent of area median defies the Law (Section 517(a) of Title V of the Housing Act of 1949). Commenters said the absence of a priority for applicants living in substandard housing also violates the law and that self-help housing applicants should receive priority. This section was rewritten based on comments and renumbered to § 1944.26(b).

27. Section 1944.30(a) Comments were received that two forms were omitted in the earlier publication. These have been added.

28. Section 1944.31 Commenters recommended a maximum time of 30 days from the time of application submittal to loan approval be specified. This was not adopted since the time frame for determination of eligibility from date of application submittal is specified in Subpart A of Part 1910 of this Chapter.

29. Section 1944.32(a)(2) Comments were received that the timing indicated is not possible to meet if date of check request is used. This has been corrected.

30. Section 1944.34(a) Comments were received indicating that interest credit can be used to retain housing. This was adopted.

31. Section 1944.34(b)(3) Comments received indicated the change to an annual rather than biennial review period will have a positive impact on FmHA and borrowers. However, there was concern that this provision will add to the workload of the already overworked FmHA county office staffs. A 1-year review period was adopted.

32. Section 1944.34(d)(1) Comments received indicated a need to identify those mortgage loans which can be considered in calculating interest credits. This paragraph was revised to specify that liens made prior to FmHA loans will be eligible for consideration in the interest credit calculation.

33. Section 1944.34(d)(1)(i) Comments received suggested changes to 30 percent, 35 percent, 25 percent or a graduated scale. These suggestions were not adopted since the current 20 percent of income for PITI equates with 30 percent of PITIUM which is typically used as a barometer of housing costs.

34. Section 1944.34(i)(3) Most commenters disagreed with two parts of this section. First, that the effective date of cancellation be the date the County Supervisor becomes aware of the situation. There was a preference for the date the situation actually occurred. This paragraph remains unchanged as proposed since date of actual occurrence usually is difficult to determine. Secondly, commenters disagreed with not recognizing decreases in adjusted income unless the amount of payment with loan amortized at 1 percent exceeds 35 percent of the borrower's adjusted income. This paragraph was changed to provide for revision of the Interest Credit Agreement when decreased income resulted in the borrower paying 35 percent or more of income for PITI.

35. Section 1944.38 This paragraph was changed in order to comply with legal requirements.

36. Exhibit C Seventy-six comments were received on the proposed change of the moderate-income limit from $5,500 to $3,000 over the low-income limit. Only two commenters believed the proposed change was beneficial and necessary. Most commenters pointed out that conventional credit cannot and will not serve those made ineligible by this change. They stressed that in most cases borrowers within $3,000 of the low-income limit would need to commit 30 percent or more of their incomes for housing in order to qualify. Many commenters were concerned about renters in FmHA multi-family housing projects who would become ineligible because of the change. In some cases, rental projects would become unfeasible if this change is adopted. The final rule leaves the moderate-income limit at $5,500 over the low-income limit.

List of Subjects in 7 CFR Part 1944

Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Rural housing, Subsidies.

For the reasons set out in the preamble, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended as follows:

PART 1924—CONSTRUCTION AND REPAIR

Subpart A—Planning and Performing Construction and Other Development

§ 1924.6 [Amended]

1. § 1924.6(c) is amended by changing the reference in the first sentence from "Exhibit G" to "Exhibit E."

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

2. §§ 1944.1 through 1944.46 are revised to read as follows:

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations.

Sec.

1944.1 General.
1944.2 Definitions.
1944.3 Loan purposes.
1944.4 Loan restrictions.
1944.5–1944.7 [Reserved]
1944.8 Income eligibility requirements.
1944.9 Other eligibility requirements.
1944.10 Rural area designation.
1944.11 Property requirements.
1944.12–1944.14 [Reserved]
1944.15 Ownership requirements.
1944.16 Building requirements.
1944.17 Maximum loan amounts.
1944.18 Security requirements.
1944.19–1944.21 [Reserved]
1944.22 Refinancing debts.
1944.23 Loans to Farm Ownership (FO), Individual Soil and Water (SW), and Recreation (RL) borrowers.
1944.24 Technical services.
1944.25 Rates, terms, and source of funds.
1944.26 Application processing.
1944.27–1944.29 [Reserved]
1944.30 Preparation of loan docket.
1944.31 Loan approval.
1944.32 Actions subsequent to loan approval.
1944.33 Loan closing.
1944.34 Interest credit.
1944.35–1944.36 [Reserved]
1944.37 Subsequent Section 502 loans.
1944.38 Mutual self-help housing loans.
1944.39 RH loans to FmHA employees and loan closing officials.
1944.40 Rural Housing Disaster (RHD) loans.
1944.41–1944.43 [Reserved]
1944.44 Borrower graduation.
1944.45 Conditional commitments.
1944.46 Construction financing for builders by private credit sources.
1944.47–1944.50 [Reserved]
Exhibit A Information required to package applications for Section 502 rural housing loans.
Exhibit B Addresses for authentication of alien registration cards.
Exhibit C Maximum adjusted income limits for rural housing programs.
Exhibit D Rural housing applicant interview.
Exhibit E Mutual self-help housing guidelines.
Exhibit E–1 Membership agreement.
Exhibit E–2 Promissory note.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1944.1 General.

This Subpart sets forth the policies and procedures and delegates authority for making Section 502 Rural Housing (RH) loans to individuals under Title V of the Housing Act of 1949, as amended. The objective of Section 502 loans is to provide eligible persons who will live in rural areas an opportunity to obtain adequate but modest, decent, safe, and sanitary dwellings and related facilities. The requirements of Subpart E of Part 1901 will be applied as appropriate. Loans and services provided under this Subpart shall not be denied to any person or applicant based on race, sex, national origin, color, religion, marital status, age, physical or mental handicap (applicant must possess the capacity to enter into a legal contract for services), receipt of income from public assistance, or because the applicant has, in good faith, exercised any right under the Consumer Protection Act.

§ 1944.2 Definitions.

The following definitions apply to this Subpart:

(a) *Above-moderate income.* An adjusted annual income that exceeds the maximum limit for moderate-income households as provided in Exhibit C of this Subpart.

(b) *Adjusted annual income.* Annual income as defined in paragraph (c) of this section less 5 percent thereof and less an additional $300 for each dependent minor person (excluding the applicant and foster children) who is a member of the household.

(c) *Annual income.* Current monthly income received by the applicant and all adult members of the household times

twelve. See § 1944.8(c) for supplemental rules on determining annual income.

(d) *Cosigner.* A party who joins in the execution of a promissory note to guarantee its repayment by the borrower. The cosigner becomes jointly and severally liable to comply with the terms of the note in the event of the borrower's default.

(e) *County Supervisor.* Includes Assistant County Supervisor for all duties and responsibilities which are included in the employee's job description and for authorizations which have been delegated in writing in accordance with FmHA Instruction 2006–F (available in any FmHA office). For the areas of Alaska and the Western Pacific Territories it also includes the Area Supervisor.

(f) *Existing dwelling.* One which is (1) more than 1 year old, or (2) previously occupied as a residence.

(g) *Extended family.* A family unit consisting of parents, children and other relatives who will lie together on a permanent basis as a part of the household.

(h) *Farm.* Includes the total acreage of one or more tracts of land which (1) is owned by the applicant, (2) is operated as a single unit, (3) is in agricultural production, and (4) annually will produce agricultural commodities for sle and home use with a gross value of at least $400 based on 1944 prices. To aid in estimating the gross annual value of agricultural commodities produced on a particular farm, a State Supplement will be issued listing the 1944 prices for the principal farm commodities in the State.

(i) *Household.* The applicant and all other persons who will make the applicant's dwelling their primary residence for all or part of the next 12 months.

(j) *Low income.* Eighty percent of the area median income rounded up to the next $500 but not less than 60 percent nor greater than 80 percent of the non-metro census regional income. Maximum low-income limits are set forth in Exhibit C of this Subpart.

(k) *Moderate income.* An adjusted annual income that does not exceed the maximum limit for moderate-income households as provided in Exhibit C of this Subpart.

(l) *Nonfarm tract.* A parcel of land that is not a farm and is located in a rural area, or a building site that is part of a farm, and which secures an RH loan in accordance with § 1944.18 (b)(10).

(m) *Place.* An area containing a concentration of inhabitants within a determinable unincorporated area.

(n) *Rehabilitation.* Major repairs and improvements to existing dwellings such as the installation or completion of bathroom facilities, installation of major items of equipment, additions, or structural changes.

(o) *Senior citizen.* A "senior citizen" is a person who is 62 years of age or older.

(p) *Town.* A "town" means a municipality similar to a city but not a New England-type town which resembles a township or county in most States.

(q) *Urban area.* Either a town, village, city, place or any associated combination thereof, which with the immediately adjacent densely settled areas has a population in excess of the limits prescribed in § 1944.10(a)(2)(i) and (ii).

(r) *Very low income.* Fifty percent of area median income. Maximum limits for very low income are set forth in Exhibit C of this Subpart.

§ 1944.3 Loan purposes.

(a) A loan may be made to an eligible applicant for the following purposes:

(1) To buy, build, rehabilitate, improve or relocate a dwelling and provide related facilities for use by the applicant as a permanent residence.

(2) To buy, build, rehabilitate, improve or relocate a dwelling, and provide related facilities for a farm owner to provide housing to be occupied by the farm manager, tenants, sharecroppers or farm laborers.

(3) To refinance secured debts or unsecured debts as provided in § 1944.22.

(b) A loan made under paragraph (a) (1) or (2) of this section may be used to:

(1) Purchase, in fee title, a minimum adequate site, as outlined in § 1944.11(c) on which the improvements are or will be located, if the applicant does not own an adequate site.

(2) Pay reasonable acquisition cost for a leasehold interest in a minimum adequate site at the time of making the initial RH loan.

(3) Provide an adequate and safe water supply and/or an adequate sewage disposal facility.

(4) Provide site preparation, including grading, foundation plantings, seeding or sodding of lawns, trees, walks, yard fences and driveways to building sites.

(5) Purchase and install essential equipment in the dwelling including items such as a range, refrigerator, clothes washer or clothes dryer, if these items are normally sold with dwellings in the area and if purchase of these items is not the primary purpose of the loan.

(6) Provide special design features or equipment when necessary because of physical handicap or disability of the applicant or a member of the household.

(7) Purchase and install approved energy saving measures and approved furnaces and space heaters which use a type of fuel that is commonly used, and is economical and dependably available.

(8) Provide storm cellars, and similar protective structures.

(9) Pay incidental expenses such as fees for credit reports, tax monitoring service, legal, title clearance, loan closing, architectural, surveying and other technical services.

(10) Pay reasonable connection fees for utilities such as water, sewer, electricity or gas, which are required to be paid by the borrower and which cannot be paid from other funds.

(11) Pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned improvements.

(12) Pay real estate taxes which are due and payable on the building and/or site at the time of closing on an initial loan, if this amount is not a substantial part of the loan.

(13) Establish escrow accounts for the payment of real estate taxes or property insurance premiums in those States where the use of escrow accounts is authorized by the National Office.

(14) Provide living area for all members of the applicant's household, including "extended family," as provided in § 1944.18(a)(6).

§1944.4 Loan restrictions.

(a) A loan will not be made to an applicant who, within the previous 2 years, had a Section 502 RH loan but disposed of the property through sale or transfer unless:

(1) The dwelling sold or transferred was inadequate to meet the applicant's housing needs; or

(2) The applicant was compelled to relocate due to change of employment or health reasons and the property the applicant proposes to buy is in a different trade/market/employment area; or

(3) The housing need is due to a legal separation or divorce.

(b) Loan funds may not be used to:

(1) Buy or improve income-producing land, or buildings to be used for income-producing purposes or buildings not essential for RH purposes.

(2) Pay fees, charges or commissions such as finders' fees, fees for packaging the application or placement fees for the referral of prospective applicants to FmHA.

(c) A loan will not be made to an applicant whose previous FmHA debts have been settled pursuant to Part 1864 of this Chapter (FmHA Instruction 456.1)

or by release from personal liability under Subpart A of Part 1955 of this Chapter as reflected by the County Office records, or where settlement under such regulation is contemplated, unless failure to pay the indebtedness was the result of circumstances beyond the applicant's control, or the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been removed or will be removed by making the loan. Before approving the property or causing such an applicant to incur any expense in connection with the loan the County Supervisor will complete Form FmHA 431–2, "Farm and Home Plan," or Form FmHA 431–3, "Household Financial Statement and Budget," and send it with the application, any available case folders, and recommendations to the State Office for a determination as to whether to proceed with the development of the loan docket.

(d) A loan will not be made to an applicant who has demonstrated his or her inability to carry out the required obligations of the loan, as evidenced by recent failure to maintain rental property or a former home and premises in a habitable and responsible manner, has performed unauthorized conversion or alterations of the structure, or created public nuisances in or around a former residence, unless the reasons have been removed and are not likely to recur. Evidence of such inability must be specifically addressed in the letter of rejection and documented in the case file running record, and may never be due to presumed inability based on age, sex, marital status, or any other prohibited basis under the Equal Credit Opportunity Act (ECOA).

(e) Loans will not be made to a homestead entryman or desert entryman to improve the entry prior to receipt of patent.

§§ 1944.5–1944.7 [Reserved]

§ 1944.8 Income eligibility requirements.

(a) An applicant is eligible for a Section 502 loan only if the following requirements are met:

(1) The adjusted annual income as defined in § 1944.2(b) at time of loan approval of the applicant's household does not exceed the applicable income limit in Exhibit C.

(2) Repayment ability as provided in § 1944.26(f), is demonstrated in the following manner:

(i) The applicant has adequate and dependably available income. The determination of income dependability will include consideration of the applicant's past history of annual income and/or the history of the typical annual income of others in the area with similar types of employment. Such income should be sufficient to meet living expenses, pay taxes, insurance and maintenance costs, and to make required payments on all obligations including the Section 502 loan; or

(ii) The applicant obtains a cosigner with dependably available income which will be sufficient to repay the loan. The cosigner must be an individual but may not be a member of the applicant's household.

(b) Applicants applying who do not meet the requirements of paragraph (a)(2)(i) of this section will be considered ineligible unless another adult(s) in the household has adequate income and wishes to join in the application as a co-applicant. The combined incomes then may be considered in determining repayment ability.

(c) Annual income as defined in § 1944.2(c) will be determined as follows and thoroughly documented in the case file running record:

(1) If the spouse or any other adult is not presently employed but there is a recent history of such employment, that person's income will be considered unless the applicant/borrower and the person(s) involved sign a statement that the person(s) is not presently employed and does not intend to resume employment in the foreseeable future, or if interest credit is involved, during the term of the Interest Credit Agreement. The statement will be filed in the applicant/borrower's case file.

(2) For all adults, including the spouse, presently employed in either full-time or part-time employment, such income will be computed as the current monthly income times twelve, and

(3) Income from such sources as seasonal type work of less than 12 months duration, commissions, overtime, bonuses and unemployment compensation will be computed as the estimated annual amount of such income for the ensuing 12 months. Historical data based on the past 12 months may be used if a determination of expected income cannot logically be made.

(4) Income from all sources will be included except as provided in paragraph (c)(5) of this section and will include but is not limited to:

(i) Gross income from wages, salaries, and commissions, including that from seasonal type work which can be expected to be repeated.

(ii) Historical receipt of overtime and bonus income which can reasonably be expected to be repeated.

(iii) All net farm and nonfarm business income. Farm or nonfarm business losses will be considered as "0" in determining annual income.

(iv) Pensions, Social Security, welfare, and unemployment compensation.

(v) Child support payments and other payments made on behalf of minors.

(vi) The income of an applicant's spouse, unless the spouse has been living apart from the applicant for at least 6 months (for reasons other than military or work assignment), or court proceedings for divorce or legal separation have been commenced.

(vii) GI bill benefits, fellowships, scholarships, and assistantships, except as provided in paragraph (c)(5)(i) of this section.

(viii) Alimony, or other spousal support payment.

(ix) Proceeds from the sale of equipment, mineral rights or real estate sold under long-term contract (usually more than 3 years).

(5) The following income will not be included in determining annual adjusted income, although it will be included under § 1944.26 (a)(2) and (f)(2) for documenting repayment ability:

(i) Income received by a full time student (*who is not* the applicant or co-applicant) from employment or income from GI Bill benefits, fellowships, scholarships, or assistantships for schooling.

(ii) Proceeds from the sale of equipment, mineral rights, or real estate sold under a short term contract (usually 3 years or less).

(iii) Cash value of food stamps, real estate tax exemptions, or similar types of assistance.

(iv) Payments received for the care of foster children, foster adults or for services rendered as a volunteer on a project sponsored by any of the following programs:

(A) Retired Senior Volunteer Program.

(B) Foster Grandparent and Older American Community Service Programs (as either a foster grandparent, senior health aide or senior companion).

(C) National Volunteer Programs to Assist Small Business and Promote Volunteer Service by Persons With Business Experience.

(D) Peace Corps, VISTA, or any other volunteer program sponsored by ACTION.

(v) Allowances, such as training and travel expenses, paid by the Department of Labor to CETA participants. (Wages paid by the employers of CETA workers will be included.)

(vi) Any payments received by "live in" aides for members of a senior citizen borrower's household paid by state or

federal programs which specifically exclude the cost of shelter from the amount received.

(vii) Any funds, other than those listed in paragraphs (c)(5) (i) through (vi) of this section, which a Federal law specifies must not be used as the basis for denying or reducing Federal financial assistance or benefits to which the recipient would otherwise be entitled.

(6) In determining the applicant's annual income the following deductions are allowed:

(i) A deduction may be made in the same manner as outlined in Internal Revenue Service (IRS) regulations for the exhaustion, wear and tear, and obsolescence of depreciable property used in the applicant's trade, business, or farming operation. The applicant must provide an itemized schedule showing the depreciation claimed. The schedule should be consistent with the amount of depreciation actually claimed for these items for Federal income tax purposes.

(ii) A deduction may be made in the same manner as outlined in IRS regulations for necessary work related expenses actually paid by the employee in excess of the amount reimbursed by the employer. The deduction must be reasonable and, in the judgment of the approving official, should be deducted from an employee's income to reflect annual income on an equal basis with other employed persons. Deductions, however, are not permitted for the following:

(A) Transportation to and from work.

(B) Cost of meals incurred on one day business trips.

(C) Educational expenses except those incurred to meet the minimum requirements for the employee's present position.

(D) Fines and penalties for violation of laws.

(iii) A maximum aggregate deduction of $400 per month may be made for child care or disabled dependent care which is necessary to enable the borrower to be gainfully employed. The deduction will be based only on monies actually paid for care services. Payments for these services may not be made to persons whom the borrower is entitled to claim as dependents for income tax purposes. Full justification for such deduction must be recorded in detail in the applicant's loan docket.

(iv) A maximum aggregate deduction of $400 per month may be made for full time nursing home or institutional type care which cannot be provided in the home for a member of the household. Such care must be expected to be required for a period of six months or more. The deduction will be limited to expenditures actually paid for such services.

§ 1944.9 Other eligibility requirements.

In addition to the income eligibility requirements of § 1944.8, the applicant must:

(a) Qualify as one of the following:

(1) A person who does not own a dwelling, or owns a dwelling which is not structurally sound, functionally adequate, or large enough to accommodate the needs of the applicant, or

(2) A farmowner without decent, safe and sanitary housing for the farmowner's own use or for the use of farm tenants, sharecroppers, farm laborers, or farm manager.

(b) Be without sufficient resources to provide the necessary housing or related facilities, and be unable to secure the necessary credit from other sources upon terms and conditions which the applicant could reasonably be expected to fulfill. If the applicant has only an undivided interest in the land to be improved, those co-owners whose execution of the mortgage is required under § 1944.18(b)(8) must also be unable to provide the improvement with their own resources or obtain the necessary credit elsewhere either individually or jointly with the applicant.

(c) Be a natural person (individual) who resides as a citizen in any of the 50 States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, or a non-citizen who resides in one of the foregoing areas after being legally admitted for permanent residence or on indefinite parole. Permanent residents can verify their status by presentation of Form I–551, "Alien Registration Receipt Card," or any later revision of the form. Those on indefinite parole must present Form I–94, "Arrival/Departure Card," or any later revision of the form. If the County Supervisor has reason to question the authenticity of the information provided, he will further authenticate such information through the Immigration and Naturalization Service by the use of INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Service Records," which is obtainable from the nearest INS District Office (See Exhibit B). The words, "No fee, Government Agency," will be inserted in the "Fee Stamp" block on Form G–641.

(d) Possess legal capacity to incur the loan obligation, and have reached the legal age of majority in the State, or have had the disability of minority removed by court action.

(e) have the potential ability to personally occupy the home on a permanent basis, if the loan is to provide housing for the applicant's own use. To illustrate, because of the probability of their being transferred or moving after graduation, military personnel on active duty and full-time students will not be granted loans unless:

(1) The applicant, if military personnel, will be discharged at an early date (usually within 1 year). The family must continue to occupy the home in case the borrower is transferred to another duty station before discharge, and

(2) The applicant intends to make the home a permanent residence and there are reasonable prospects that employment will be available in the area after graduation or discharge, and

(3) An adult member of the household will be available to make inspections if the home is being constructed and to sign checks for work performed.

(f) Have a credit history which indicates a reasonable ability and willingness to meet obligations as they become due. The following *will not* indicate an unacceptable credit history:

(1) "No history" of credit transactions by the applicant.

(2) Bankruptcies, foreclosures, satisfied judgments, or delinquent payment records which occurred more than 36 months before the application if no recent similar situations have occurred.

(3) Isolated incidents of delinquent payments which do not represent a general pattern of unsatisfactory or slow payment

(4) Recent bankruptcy, foreclosure, judgment or delinquent payment when the applicant can satisfactorily demonstrate that:

(i) The circumstances causing any of the above were of a temporary nature, were beyond the applicant's control and have been removed. Examples: loss of job; delay or reduction in government benefits, or other loss of income; increased expenses due to illness, death, etc.

(ii) The adverse action or delinquency was the result of a refusal to make full payment because of defective goods or services or as a result of some other justifiable dispute relating to the goods or services purchased or contracted for.

§ 1944.10 Rural area designation.

(a) For the purposes of this Subpart, a rural area is:

(1) Open country which is not part of or associated with an urban area, or

(2) Any town, village, city or place, including the immediately adjacent densely settled area, which is not part of or associated with an urban area and which:

(i) Has a population not in excess of 10,000 if it is rural in character, or

(ii) Has a population in excess of 10,000 but not in excess of 20,000, and

(A) Is not contained within a Standard Metropolitan Statistical Area (SMSA), and

(B) Has a serious lack of mortgage credit for low- and moderate-income households as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development.

(b) A determination that open country, or any town, village, city, or place is not part of or associated with an urban area must include a finding that any densely populated section of the area in question is separated from the densely populated section of any adjacent urban area by open spaces (which are undeveloped, agricultural, or sparsely settled) other than open spaces due to physical barriers, commercial or industrial developments, public parks and similar open spaces, and areas reserved for recreational purposes. This determination should also consider such other factors as the existence of known plans for development within the near future (e.g., 3 to 5 years) of a substantial portion of the intervening land between the area in question and an urban area.

(c) Two or more towns, villages, cities, and places may have contiguous boundaries, and each be considered separately if they are not otherwise associated with each other, as determined after consideration of paragraphs (a) and (b) of this section.

(d) The latest official Bureau of the Census data or more recent official population counts (U.S. Census of Population or other Governmental official counts) will be used in determining population.

(e) The State Director will be responsible for determining boundaries of rural areas and shall issue an appropriate State Supplement to identify such areas by list and maps. Areas in excess of 10,000 population will be identified as "rural areas" in a State Supplement only after written authorization by the National Office and compliance with the requirement of paragraph (a)(2)(ii) of this section.

(f) When a change of designation from rural to nonrural is anticipated, all developers and other interested parties should be notified.

(g) If an area designation is changed from rural to nonrural, loans may be made only in the following instances:

(1) Applications received by FmHA prior to the change of designation may be processed.

(2) New conditional commitments may be issued and existing conditional commitments will be honored only in conjunction with the approval of RH loan applications which were received prior to the date the area was designated non-rural.

(3) Credit sales and transfers by assumption may be processed in such areas as authorized by § 1955.103(e) of Subpart C of Part 1955 of this Chapter and § 1872.18(c)(1)(i) of this Chapter (FmHA Instruction 465.1, paragraph XVIII C 1 a).

(4) Subsequent loans may be made on property in an area where the designation was changed from rural to nonrural after the initial loan was made:

(i) To make necessary repairs.

(ii) To pay equity in connection with an assumption and transfer of an RH loan.

§ 1944.11 Property requirements.

(a) The property on which the loan is made must be located on a farm, or in a designated rural area as defined in § 1944.10 or in an area the designation of which has been changed as provided in § 1944.10(g). A nonfarm tract to be purchased or improved with loan funds must not include or be closely associated with farm service buildings.

(b) Unless an exception is granted by the National Office (notwithstanding the requirement of § 1804.67(b) of this Chapter (FmHA Instruction 424.5, paragraph VII B), the property must be contiguous to and have direct access from an:

(1) All-weather street which has been dedicated to and accepted by a public body which shall be responsible for continuous maintenance, or

(2) Extended driveway if:

(i) The driveway has an all-weather surface,

(ii) The driveway does not potentially serve more than two individual dwellings,

(iii) The applicant obtains title or an easement to the driveway and it is included in the security for the loan, and

(iv) The maintenance cost for the driveway is considered in determining the applicant's repayment ability.

(c) A nonfarm tract on which a loan is to be made may not be larger than a minimum adequate site, which is the smallest area sufficient for the dwelling, an adequate water and/or waste disposal system, other related facilities, and a yard. In all cases, a site of more than one acre must be authorized by the State Director and the reasons and justification for exceeding one acre must be recorded in the loan docket. In determining whether the property is a minimum adequate site the following considerations apply:

(1) The extra land does not qualify as a minimum adequate site for another dwelling, and

(2) The value of the extra land is not a substantial portion of the total value of the property.

(d) Loans made to buy, build, or repair dwellings located in an area having special flood or mudslide hazards are subject to the conditions of Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2).

§§ 1944.12–1944.14 [Reserved]

§ 1944.15 Ownership requirements.

(a) After the loan is closed, the borrower must have an interest in the property to be purchased, improved, or refinanced, which qualifies as one of the following:

(1) Full marketable title.

(2) The purchaser's interest under a land purchase contract which obligates payment of the purchase price, gives the rights of present possession, control and beneficial use of the property, and entitles the purchaser to a deed upon paying all or a specific part of the purchase price.

(3) An undivided fee interest if the co-owners meet the security requirements imposed by § 1944.18(b)(8).

(4) A life estate interest with rights of present possession, control and beneficial use of the property if the remaindermen meet the security requirements imposed by § 1944.18(b)(9).

(5) Leasehold interest if all of the following conditions are met:

(i) The applicant is unable to obtain fee title to the property and the rent charged for the lease does not exceed the rate being paid for similar leases.

(ii) The lessor owns the fee simple title.

(iii) Neither the leasehold nor the fee simple title is subject to a prior lien, unless the County Supervisor submits complete information to the State Director for review and authorization prior to approval of the loan. The amount of the RH loan plus any prior liens may not exceed the recommended market value of the leasehold.

(iv) The written lease contains the following provisions:

(A) The lessor's consent to the RH mortgage.

(B) Reasonable security of tenure. The borrower's interest must not be subject to summary forfeiture or cancellation.

(C) The right of FmHA to foreclose the RH mortgage and sell without restrictions that would adversely affect the market value of the security.

(D) The right of FmHA to bid at foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

(E) The right of FmHA, after acquiring the leasehold through foreclosure or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property or sublet it, and to sell for cash or credit. In case of a credit sale, FmHA will take a mortgage with rights similar to those under the original RH mortgage.

(F) The right of the borrower, in the event of default or inability to continue with the lease and the RH loan, to transfer the leasehold, subject to the RH mortgage, to an eligible transferee with assumption of the RH debt.

(G) Advance notice of at least 90 days to FmHA of lessor's intention to cancel or terminate the lease. Such advance notice will be long enough to permit FmHA to ascertain the amount of delinquencies, the total amount of the lessor's and any other prior interests, and the market value of the leasehold interest and, if litigation is involved, to refer the case with a report of the facts to the United States Attorney for appropriate action.

(H) Express provisions covering the question of liability of FmHA for unpaid rentals or other charges accrued at the time it acquires possession of the property or title to the leasehold, and those which become due during FmHA's possession or ownership, pending further servicing or liquidation.

(I) Any necessary provisions to assure fair compensation to the lessee for any part of the premises taken by condemnation.

(v) The lease has an unexpired term, from the date of loan approval, of at least 50 years (a lease for 25 years with an option to the lessee to renew for an additional 25 years would be considered a 50 year lease) except where:

(A) A lease is granted for the purpose of permitting a person to obtain an RH loan and the time required to process and approve the loan results in the unexpired term of the lease being not less than 49 years, or

(B) A lease is in existence at least 1 year prior to the date of the loan approval, and the unexpired term of the lease is at least 50 percent longer than the repayment period of the loan. In no case may the unexpired term of the lease be less than 15 years.

(6) Possessory rights on an Indian reservation or State-owned land if the security requirements imposed by § 1944.18(b)(2) are met.

(7) The interest of an Indian in land held in severalty under trust patents or deeds containing restrictions against alienation if the security requirements imposed by § 1944.18(b)(3) are met.

(b) If an applicant's title to any part of the property does not qualify as an ownership interest under paragraph (a) of this section and is therefore defective, an RH loan may nevertheless be made if:

(1) The defect cannot be cured at a reasonable cost, and

(2) No improvements to be constructed or repaired with loan funds will be located on the parcel to which title is defective, and

(3) No security value will be accorded to the parcel to which title is defective.

§ 1944.16 Building requirements.

(a) *New dwellings.* Dwellings to be built or purchased new must provide decent, safe and sanitary housing that is modest in size, design and cost, and consistent with the market in the area. Applicants should be counseled regarding the type of housing necessary to meet their needs, however, modest housing may include 3 bedrooms and 1½ bathrooms if such a dwelling is within the applicant's repayment ability and is typical of other dwellings owned or being built in the area by persons with similar incomes.

(1) The dwelling will contain no more than 1,200 square feet of living area. When the size of the household results in an average of more than two persons per bedroom a larger dwelling may be justified to provide adequate sleeping space. For purposes of complying with this paragraph, the following will be considered in determining living area:

(i) Living area will include all finished areas as well as unfinished areas that are designed for or normally considered as living area. This will include those areas which meet or can be improved to meet the Minimum Property Standards (MPS), as defined in Subpart A of Part 1924 of this Chapter, requirements for habitable area.

(ii) Living area will not include such space as a stairway between living areas, enclosed stairway, enclosed entryway, space necessary for utilities in a home without a basement, general storage area, porch not suited for year-round use, solar greenhouse which provides heat to the living area, garage or carport which is attached, detached or in the basement area; basement or other area not designed for or normally considered living area.

(2) Special design features or equipment may be included when necessary because of physical handicap or disability.

(3) Two-car garages or carports will not be authorized. Single-car garages or carports may be included if customarily included in other homes in the area.

(4) Energy saving measures which exceed FmHA requirements and cost more than 1 percent of the market value of the property and solar energy systems may be used only after approval by the State Architect/Engineer and authorization by the State Director. Complex systems, such as active solar space heating or cooling, geothermal, hydropower, wind and photovoltaic, that could be considered unconventional, must be submitted to the National Office for concurrence prior to authorization by the State Director.

(5) Solid fuel burning devices may be authorized only if the loan approval official determines and documents that a dependable and economical fuel supply is available. All solid fuel burning devices must comply with MPS (4900.1, 610–1.1) and with Exhibit D, paragraph IV D 2, of Part 1924, Subpart A. To assure compliance and to remove uncertainties regarding safety and efficiency, solid fuel burning devices are authorized only after approval by the State Architect/Engineer and subsequent authorization by the State Director.

(6) A dwelling for an extended family as defined in § 1944.2(g) may include bedroom area with an exterior entrance and an additional bathroom. This area should be designed in a manner that will not adversely affect the home's potential for resale.

(b) *Existing dwellings.* Applicants should be counseled regarding the type of housing necessary to meet their needs. Existing dwellings purchased with RH funds must be structurally sound, functionally adequate, either be in good repair or placed in good repair with loan funds and meet the standards required by § 1924.5(d)(1)(ii) of Subpart A of Part 1924 of this Chapter. All existing dwellings must meet the thermal performance standards required in Exhibit D, paragraph IV B, of Subpart A of Part 1924. The policies stated in paragraph (a) of this section may be used as a guide in making a determination of adequate but modest existing dwellings, however, modest existing dwellings should contain no more then 1,400 square feet of living area and be modest in cost and design. Loans should not be made on existing dwellings which contain more than one

design feature which would not be allowed in new homes.

(c) *Repairs.* Any dwelling repaired with RH funds must be structurally sound, functionally adequate, and be placed in good repair with loan funds. If the loan is not more than $7,500 and is scheduled for repayment in not more than 15 years from the date of the note, the dwelling may lack some equipment or features such as a complete bath, kitchen cabinets, closets, or completely finished interior in some rooms. Such dwellings must meet the basic housing needs of the applicant and provide decent, safe, and sanitary living conditions when the improvements financed with the loan are completed.

(d) *Improvements.* Improvements financed with loan funds must be on land which, after loan closing, is part of a tract owned by the borrower in accordance with § 1944.15(a), or on an easement appurtenant to such a tract.

§ 1944.17 Maximum loan amounts.

(a) An RH loan to buy or build a dwelling may be made up to the market value of the security less the unpaid principal balance and past-due interest of any other liens against the security property for:

(1) An existing dwelling which is more than a year old or previously occupied as a residence.

(2) A new dwelling when any of the following conditions exist:

(i) A conditional commitment was issued in accordance with § 1944.45.

(ii) The RH loan will be closed prior to the start of construction.

(iii) Construction is financed in accordance with § 1944.46.

(iv) The required construction inspections were made by the Federal Housing Administration (FHA) or Veterans Administration (VA). A complete set of plans and specifications will be submitted together with copies of inspection reports or certification by FHA or VA indicating the dwelling was built in accordance with approved plans and specifications. The builder will also furnish a certification of compliance with FmHA thermal standards for new construction as required by Exhibit D of Subpart A of Part 1924 of this Chapter.

(v) The dwelling is covered by an approved insured 10-year warranty plan. The builder will provide complete plans and specifications together with a certification that construction was completed in compliance with the plans and specifications, MPS and FmHA thermal standards for new construction. The cost of the insured warranty will be included in the sale price of the dwelling, if it is to be charged to the borrower. Prior to loan approval the builder must provide evidence that he/she is an approved builder in good standing under a 10-year insured warranty plan.

(b) A loan will be limited to 90 percent of the market value of the security for any dwelling that does not meet the requirements of paragraph (a) of this section.

(c) A loan on a dwelling meeting the requirements of paragraph (a) of this section which causes the total secured indebtedness to exceed the appraised value of the property securing the loan may be made when the amount exceeding the appraised value is all or part of a lien held by a public body, hospital or welfare institution for advances made for medical bills, welfare payments, or state motor vehicle judgments provided:

(1) The borrower is unable to settle or compromise such lien sufficiently to avoid exceeding the market value, and

(2) The lien securing the excess amount will at all times be inferior to the FmHA mortgage securing the initial loan and any subsequent loan or advances determined by the FmHA to be reasonably necessary to carry out the purpose of the initial loan or to protect the Government's financial interest, and

(3) The existence of the excess lien will not jeopardize the security or servicing so as to preclude the making of a sound RH loan, and

(4) The borrower has the ability to meet any payments on the excess debt as they become due or are likely to become due.

§ 1944.18 Security requirements.

(a) *Adequate security.* To protect the interests of FmHA all loans must be adequately secured. Except as provided in paragraph (b) of this section, a loan is adequately secured only when all of the following requirements are met:

(1) FmHA obtains at closing a mortgage on all ownership interests in the entire tract.

(2) No liens prior to the FmHA mortgage exist at the time of closing, and no junior liens are likely to be taken immediately subsequent to or at the time of closing.

(3) The provisions of Part 1807 of this Chapter (FmHA Instruction 427.1) regarding title clearance and the use of legal services are complied with.

(b) *Exceptions.* Exceptions to the usual security requirements will be made only as follows:

(1) *Note only.* A loan of $2,500 or less scheduled for repayment is not more than 10 years from the date of the note, and that is not subject to recapture of subsidy in accordance with Subpart I of Part 1951 of this Chapter, may be secured by the borrower's promissory note alone when the County Supervisor determines that:

(i) The applicant has a credit history which indicates an ability and willingness to pay debts when they are due;

(ii) The applicant will have sufficient income to readily meet all obligations; and

(iii) The applicant's equity in the real estate as improved equals or exceeds the amount of the proposed loan.

(2) *Mortgage insurance.* When the applicant is the holder of possessory rights on an Indian reservation or State-owned land, adequate security in the form of mortgage insurance guaranteeing payment from a State agency or Indian tribe will be acceptable. Separate State Supplements covering loan approval, title clearance, closing, appropriate loan documents and a Memorandum of Understanding with the State or Indian tribe insuring agency should be developed and used with the approval of the State Director and the concurrence of the Office of General Counsel (OGC). Approval of such supplements by the National Office is required prior to participation in any such program.

(3) *Indian land.* Indian land in trust or restricted status acquired with an RH loan will remain in trust or restricted status. In these cases mortgages must be approved by the Secretary of the Interior. When a lien is to be taken on trust or restricted property, the local Bureau of Indian Affairs (BIA) representative will be requested to furnish advice and information with respect to the property and each applicant. The FmHA State Director should arrange with the BIA Area Director or other appropriate local BIA official as to how the information will be requested and furnished. A State Supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under such conditions.

(4) *Best mortgage obtainable.* Loans of $7,500 or less scheduled for repayment in not more than 15 years from the date of the note must be secured by a mortgage, except as provided in paragraph (b)(1) of this section, but title clearance and the use of legal services in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1) are not required. The best mortgage obtainable without use of these procedures will be sufficient unless the loan approval official determines that the procedures in Part 1807 of this Chapter (FmHA Instruction 427.1) are necessary to assure repayment or

accomplish the objective of the loan. Evidence of ownership must comply with § 1944.24(d)(2).

(5) *Leasehold.* When the applicant owns only a leasehold interest, FmHA may not require a mortgage on the lessor's interest but will treat the lessee's interest like any other type of ownership interest in determing whether a mortgage on the leasehold is required. The lease must meet the requirements of § 1944.15(a)(5) (iv) and (v). In any State in which applicants are likely to own a leasehold interest, the State Director will issue a State Supplement outlining the technical requirements for making such loans.

(6) *Security by junior lien.* FmHA may take a junior mortgage as security for an RH loan if the tract which will secure the FmHA mortgage provides adequate security for the entire prior lien debt and the RH loan, and

(i) The prior mortgage does not contain provisions that may jeopardize FmHA's security position or the borrower's ability to repay the loan, such as provisions for future advances, forfeiture, cancellation, foreclosure without adequate notice to junior lienholders, the charge of a flat fee of more than 5 percent attorney's cost in case of foreclosure; or

(ii) Such provisions are satisfactorily limited, modified, or waived.

(7) *Liens junior to FmHA lien.* Liens junior to the FmHA lien will be allowed at closing or immediately subsequent to closing only when:

(i) The junior lien will not interfere with the purposes or repayment of the RH loan, and

(ii) The total amount of the RH loan, the junior lien, and any prior liens will not exceed the market value of the security except as provided in § 1944.17(c).

(8) *Undivided interest.* When the applicant owns an undivided interest in the property, the co-owners' interests need not be included in the mortgage in the following cases:

(i) When one or more of the co-owners are not legally competent, or cannot be located, or the ownership rights are divided among such a large number of co-owners that it is not practical for all their interests to be mortgaged, the mortgaging of interests not exceeding 50 percent may be excluded from the security requirements upon prior approval by the State Director. The State Director should review the County Supervisor's recommendation accompanied by a full statement of ownership and conditions which justify the exclusion. All legally competent co-owners using or occupying the property will be required to sign the mortgage. Co-owners will be required to sign the note when necessary for a sound loan or to obtain the required security. The loan may not exceed the percentage of the market value of the property represented by the interests of the owners who sign the mortgage. In determining such value, consideration will be given to any adverse effect which might result from sale of the mortgaged interests separately from the nonmortgaged interests.

(ii) When an applicant owns an undivided interest in part of a farm and seeks a loan to build or improve facilities on another part in which the applicant owns the entire interest, or the applicant owns only an undivided interest in a building site which will be a part of the farm, the interest of the applicant's co-owners may be excluded from the security requirements upon approval by the State Director if:

(A) The loan will be adequately secured by the applicant's equity in the wholly owned tract,

(B) The market value of the jointly owned tract is at least equal to the debts against it, and

(C) The applicant's participation in the joint ownership of part of the farm and its operations has been and is likely to continue to be successful.

(9) *Life estate.* When the applicant owns a life estate interest in the property, the remaindermen's interests need not be included in the mortgage if one or more of the remaindermen are not legally competent or cannot be located or if the remainder rights are divided among such a large number of remaindermen that it is not practicable to obtain the signatures of all the remaindermen. In that case, the mortgaging of remainder interests, not exceeding 50 percent of the total remainder interest may be excluded from the security requirements upon prior approval by the State Director. The State Director should review the County Supervisor's and District Director's recommendations accompanied by a memorandum stating complete ownership information and circumstances which justify the exclusion. In such cases, the loan may not exceed the percentage of market value of the property represented by the interests of those remaindermen who sign the mortgage, determined with due regard to all adverse factors involved. Remaindermen will be required to sign the note when necessary for a sound loan or to obtain the required security.

(10) *Farm dwelling.* When the applicant is the owner of a farm, a mortgage may be taken only on the dwelling and dwelling site provided the following conditions can be met:

(i) The tract to be mortgaged must not include or be close to farm service buildings, must be in a good residential location, be otherwise suitable as a residential type of nonfarm tract, provide adequate security for the loan, be contiguous to and have direct access to a public road, or

(ii) The tract to be mortgaged must contain at least enough land to clearly provide adequate security for the loan and to make the tract readily saleable in the area.

(11) *Land purchase contract.* When the ownership interest is by virtue of a land purchase contract a prior lienholder's agreement must be obtained as required by Part 1807 of this Chapter (FMHA Instruction 427.1, paragraph II F 5.)

(c) *Additional security.* When necessary to supplement the applicant's equity in the farm or nonfarm tract on which the dwelling is located, or to facilitate servicing the loan, FmHA may also take a mortgage on other real estate owned by the applicant.

(d) *Assignment of income from real estate to be mortgaged.* Income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be depreciated will be assigned and disposed of in accordance with § 1872.11 of Part 1872 of this Chapter (FmHA Instruction 465.1, paragraph XI), and the provisions for written consent of any prior lienholder. In small nonfarm tract cases, the State Director may authorize withholding transmittal of assignments to lessees for execution until production begins. The State Director may, in individual cases, waive the requirement of taking an assignment if repayment of the loan is reasonably assured from other sources.

§§ 1944.19–1944.21 [Reserved]

§ 1944.22 Refinancing debts.

(a) Refinancing of FmHA debts and debts on a building site without a dwelling is not authorized.

(b) Loan funds may be used for refinancing non-FmHA debts on a dwelling only if the debt was incurred by the applicant prior to the date the application was filed and the following conditions can be met:

(1) The debt was incurred for purposes for which a Section 502 RH loan could be made or is a protective advance by the mortgagee for items covered by the mortgage to be refinanced, such as accrued interest, insurance premium or real estate tax advances or preliminary foreclosure costs.

(2) The debt must be a lien against the property which will be security for the RH loan. The promissory note and security instrument for the debt must represent rates and terms that were typical and customary for long-term residential financing in the area at the time the debt was incurred.

(3) A loan to refinance a qualified secured debt may also include short-term or unsecured debts, if necessary to establish a sound repayment ability, if such short-term or unsecured debts were incurred for authorized Section 502 loan purposes and are not a significant portion of the loan.

(4) Payments on the debt are so seriously delinquent, for reasons beyond the control of the applicant, that the applicant is likely to lose the dwelling at an early date if the debt is not refinanced. Such delinquency must be due to loss of employment or income, illness, or such other similar events or unforeseen circumstances.

(5) A statement will be obtained for each debt to be refinanced showing the purpose for which the debt was incurred, the date on which it was incurred, the final due date, interest rate, amount and frequency of installments, amount of delinquency, unpaid principal and accrued interest.

(c) If a loan of $5,000 or more is necessary for repairs to correct major deficiencies to make the dwelling decent, safe and sanitary, an existing lien which meets the requirements of paragraph (b) (1), (2) and (3) of this section may be refinanced regardless of delinquency, if necessary for the applicant to have repayment ability for the existing loan and the requested loan for repairs.

(d) Debts or costs incurred after the date of application may be refinanced if the costs were incurred for:

(1) Fees for legal, architectural and other technical services, or

(2) Materials, construction or site acquisition.

(e) The County Supervisor may authorize the use of RH funds to pay costs provided for in paragraph (d) (1) and (2) of this section only when all of the following conditions exist and have been documented in the borrower case file:

(1) The costs were incurred after the applicant filed a written application for a loan but before the loan was closed. In the case of a subsequent loan to complete improvements previously planned, the costs must have been incurred after the initial loan was closed.

(2) The applicant is unable to pay such costs from personal resources or to obtain credit from other sources and failure to authorize the use of RH funds to pay such costs would jeopardize the applicant's capability of repaying the loan.

(3) The construction or repair work conforms to that shown on the building plans and specifications or Form FmHA 424–1, "Development Plan," when applicable, and the costs were incurred for authorized Section 502 loan purposes.

§ 1944.23 Loans to Farm Ownership (FO), Individual Soil and Water (SW), and Recreation (RL) borrowers.

A Section 502 loan may be made to an FO, SW, or RL borrower or simultaneously with an FO loan and a loan from another lender if all conditions of this Subpart are met. In these cases, the borrower's current FO, SW, or RL loan may be reamortized in accordance with § 1951.40 of Subpart A of Part 1951 of this Chapter.

§ 1944.24 Technical services.

(a) *Planning and performing construction work.* Any construction work will be planned and completed in accordance with Subpart A of Part 1924 of this Chapter.

(b) *Planning and performing site development work.* Any site development will be planned and completed in accordance with Subpart D of Part 1804 of this Chapter (FmHA Instruction 424.5).

(c) *Appraisal.* The value of property securing RH loans will be determined as follows:

(1) When a mortgage will be taken on a nonfarm tract or small farm, or on a leasehold interest in a nonfarm tract or small farm, to secure a total indebtedness of more than $7,500, an appraisal of the security property will be made in accordance with FmHA Instruction 422.3 (available in any FmHA office). A small farm for the purpose of this Subpart is a farm as defined in § 1944.2(h) of this Subpart which has value primarily as a residence rather than for the production of agricultural commodities, and repayment of the RH loan is not dependent on farm income.

(2) When a mortgage will be taken on a farm tract or leasehold interest in a farm tract to secure a total indebtedness of more than $7,500, an appraisal of the security property will be made in accordance with Subpart A of Part 1809, of this Chapter (FmHA Instruction 422.1).

(3) When the total indebtedness will be not more than $7,500, an appraisal of the real estate or leasehold interest is not required, unless the County Supervisor or loan approval official is uncertain as to the adequacy of the security. When an appraisal is not completed the County Supervisor will document in the case file the estimated market value of the property.

(4) When a loan is being made to an FmHA real estate borrower and the FmHA appraisal report in the borrower's case folder indicates the value of the security property is adequate to secure the total real estate indebtedness, including the planned loan, an appraisal is not required.

(5) Real estate mortgaged as additional security will be appraised when it represents a substantial portion of the security for the loan or when requested by the loan approving official.

(d) *Title clearance and legal services.* (1) When real estate will be taken as security except on a best mortgage obtainable basis (including a mortgage on a leasehold), title clearance and legal services for making and closing the loan will be provided in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1). Title clearance and legal services will not be requested until the loan is approved.

(2) When real estate will not be mortgaged or when the best real estate mortgage obtainable is taken as security without title clearance or use of legal services, each applicant will be required to submit evidence of ownership of the farm or nonfarm tract. This may be the original or a certified or photostatic copy of the deed, purchase contract, or other instrument evidencing ownership. When the County Supervisor is uncertain as to whether or not the applicant is a qualified owner, such action will be taken as the County Supervisor considers necessary, such as requiring the applicant to furnish additional information or obtaining the advice of the OGC regarding the evidence of ownership submitted and any further information or action that may be needed. Proof of ownership need not be as much as that required by Part 1807 of this Chapter (FmHA Instruction 427.1). For example, it may include such evidence as the levy and payment, in the applicant's name, of taxes on the real estate and affidavits by others in the community to the effect that the applicant has occupied the property as the apparent owner for a given length of time and is believed and generally reputed to be the owner. No loan will be made if the County Supervisor has actual knowledge that the applicant does not have a valid title to the property.

§ 1944.25 Rates, terms, and source of funds.

(a) *Source of funds.* Insured loan funds from the Rural Housing Insurance Fund (RHIF) will be used for all Section 502 loans.

(b) *Interest rate per annum on unpaid principal.* Loans will be made at the interest rate(s) specified in FmHA Instruction 440.1, Exhibit B (available in any FmHA office). If only one interest rate is so specified, such rate will be the maximum interest rate established for mortgages under Section 203 (b) of the National Housing Act by the Secretary of Housing and Urban Development (HUD). If there are two interest rates for Section 502 insured RH loans specified in FmHA Instruction 440.1, Exhibit B, moderate-income borrowers will pay the HUD rate if the annual payments required for principal and interest on existing Section 502 RH loans, if any, the annual principal and interest payments on the loan for which application is being made (with payments calculated at the HUD rate), taxes, and insurance are not more than twenty percent (20%) of the borrower's adjusted annual income. In all other cases, moderate-income borrowers will pay the rate specified as the Section 502 rate.

(c) *Amortization.* Each loan will be scheduled for repayment over a period not to exceed 33 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probability of depreciation of the security. A loan for $2,500 or less not secured by a real estate mortgage will be scheduled for repayment over a period not to exceed 10 years from the date of the note.

(d) *Interest credit.* Borrowers may be eligible for an interest credit subsidy which can reduce the borrower's effective interest rate to as low as 1 percent. The policies and procedures for granting and servicing interest credit on RH loans are set forth in § 1944.34.

§ 1944.26 Application processing.

(a) *Application forms.* (1) Applications for Section 502 RH loans will be made on Form FmHA 410–4, "Application for Rural Housing Assistance (Nonfarm Tract)," or Form FmHA 410–1, "Application for FmHA Services," which are available at local County Offices, and processed in accordance with Subpart A of Part 1910 of this Chapter.

(2) If Form FmHA 410–4 does not provide sufficient information to clearly determine the applicant's repayment ability, or if the applicant needs credit counseling, Form FmHA 431–3 will be completed by the applicant and County Supervisor. In preparing Form FmHA 431–3 the following will be considered:

(i) Non-cash items (*e.g.*, food stamps, scholarships, free clothing, or transportation which help reduce the applicant's budgeted expenses) will be properly documented, and budgeted expenses will be reduced accordingly.

(ii) Dependably available income from all sources not used to determine adjusted annual income, such as earnings from employment of minors or full-time students, foster care payments, and similar income items, will be considered to the extent it is used to offset budgeted expenses even though such income will not be included in "annual income."

(3) An applicant who completes Form FmHA 410–1 will also complete Form FmHA 431–2 as prescribed in Subpart B of Part 1924 of this Chapter. In preparing Form 431–2, the provisions of paragraphs (a)(2)(i) and (ii) of this section will apply to allow consideration of all income and non-cash items. When a loan is to be made to a non-operator farmowner, the columns in Table B and C pertaining to the operator's share will be changed to the owner's share. If an application is being considered early in the crop year for a borrower who has a current Form FmHA 431–2, such form will be revised to show changes in the financial statement and significant changes in the planned operation. However, if the crop year is well advanced or completed, a farm and home plan will be developed for the ensuing year. The applicant will also complete Form FmHA 431–1, "Long-Time Farm and Home Plan," when needed.

(4) When available funds are not adequate to complete the processing of all applications as they are received, a preliminary determination of eligibility will be made based on information provided by the applicant. To avoid duplication of work, a credit report or Verification of Employment will not be ordered for those who appear eligible until it is known that funds will be available for the processing of the loan and it appears that such information will not have to be updated before loan closing. Applicants who appear eligible at time of application will be advised within 30 days of the filing of the application of the estimated waiting period and that a final determination of eligibility will be made when loan funds are available for the processing of their applications. Applicants found not eligible will be advised of the appeal procedure in accordance with Subpart B of Part 1900 of this Chapter. Applicants on the waiting list will be notified when funds are available and will be advised of information necessary to determine final eligibility for loan approval.

(b) *Processing priorities.* Applications for Section 502 RH loans will be processed in accordance with § 1910.4(a) of Subpart A of Part 1910 of this Chapter except that the County Supervisor will designate the following categories of applications on the left side of Form FmHA 405–4, "Application and Processing Card—Individual," to establish a processing priority system as follows:

(1) Category I. The State Director will maintain an adequate reserve to fund applications for the following types of loans. Applications for such loans will be processed as soon as they are received in the county office and the approved loans submitted through the State Office for funding.

(i) Loans for refinancing of debts in accordance with § 1944.22(b).

(ii) Subsequent loans related to credit sales of inventory property and credit sales of inventory property requiring no allocated loan funds.

(iii) Applicant hardship cases as determined by the State Director.

(iv) Susequent loans for essential improvements and repairs.

(2) Category II. Applicants for transfers by assumption whose applications are accompanied by an option to purchase, a sales contract or a Form FmHA 465–5, "Transfer of Real Estate Security," for the purchase of property presently mortgaged by FmHA. Also, applicants for mutual self-help housing loans in FmHA approved self-help projects.

(3) Category III. Applicants living in deficient housing for a period of more than 6 months prior to the date of application. This determination will be based on information obtained from the applicant and will be documented on the last page of the application or by attachment thereto. If the County Supervisor believes there is reason to question the accuracy of the information provided, an on-site inspection may be made. Deficient housing is defined as follows:

(i) Lack of complete plumbing; the housing does not have a bathtub or shower, wash basin, flush toilet and hot running water for the exclusive use of the occupant, or

(ii) is overcrowded: More than one person per room. The number of rooms in a dwelling will include bedrooms, living rooms, dining rooms, kitchen, and other rooms designed for living area.

(4) Category IV. Applicants with incomes, as shown on the application, at or below 50 percent of median income as listed in Exhibit C of this Subpart. If

such applicants also are currently living in deficient housing, they will be designated as category III applicants. If it is determined during later processing that category IV applicants have incomes higher than 50 percent of median, such information will be documented and their designation will be changed to category V.

(5) Category V. All other Section 502 RH applications. Applicants in this category, or categories III and IV, who wish to assume an existing FmHA RH loan and who have obtained an option to purchase, a sales contract, or a Form FmHA 465–5 will be changed to category II and processed in the order that complete material is submitted for loan approval.

(c) *Selection for processing.* Quarterly, or as necessary, the County Supervisor will select a sufficient number of applicants from categories II, III, IV and V, in that order, to assure an adequate number of loans which can be processed and approved during the period. Processing will be handled in accordance with the following:

(1) Selected applicants will be notified that they have not more than 30 days in which to submit the necessary material to continue the processing of the loan.

(2) The County Supervisor will post and update after each selection period on the county office bulletin board in a conspicuous place a list of the names of those applicants who have been selected and notified of the processing of their applications.

(3) After applicants are notified, the loans will be approved in the order in which required material is submitted to the county office.

(4) Those applicants supplying all necessary items but for whom loans cannot be funded in the current quarter will be held over for priority funding from the subsequent quarter's funds, according to the date of submission of complete material, prior to the selection of any other applicants.

(5) Applicants who respond affirmatively to the notice of selection for processing but fail to furnish within 30 days all material necessary to approve a loan will be by-passed for the current quarter but will be reselected for the ensuing quarter. If all required material for loan approval is not received within 30 days after the second selection notification, the applicants will be notified that after an additional 15 days their application will be withdrawn.

(d) *Applicant interview.* A personal interview will be conducted by FmHA employees with all applicants before approval of the requested loan. During the interview, the applicant will verify information, including any submitted by a packager or others, concerning the applicant's employment and income. The applicant will also verify information concerning persons who will occupy the dwelling and on whose income eligibility for the loan and any interest credit is based. The County Supervisor will inform the applicant, and reach an understanding with the applicant, as to the FmHA loan making and servicing authorities, and the responsibilities of the applicant or borrower. The *discussion* will include an explanation of all options of assistance which may be available to the applicant or borrower. A documentation of the items *discussed* will be placed in each applicant case file and will be dated and signed by both the applicant and County Supervisor. A copy will be provided to the applicant or borrower at the time of the personal interview. Exhibit D of this Subpart sets forth items which must be included and may be used as a guide in preparing the required documentation for this purpose. *No housing loan will be approved without such evidence that a personal interview has been completed.*

(e) *Credit counseling.* During the time of the applicant's initial interview and application processing, consultation will be provided as necessary to assist the applicant in preparing and understanding a meaningful budget, Form FmHA 431–2, or Form FmHA 431–3, which will reasonably reflect the applicant's repayment ability. County Supervisors will work closely with applicants to better understand all sources of income and cash substitutes. Credit and financial counseling will also be provided, as needed, to suggest financial management methods by which the applicant's success as a homeowner may most likely be achieved. When the County Supervisor determines that the applicant does not have sufficient income to repay the requested loan, other alternatives will be considered such as reducing amenities in the dwelling, selecting a less expensive dwelling or site, obtaining a cosigner, reduction of present debt load or, when appropriate, building the dwelling by the self-help method.

(f) *Determining eligibility.* (1) The County Committee will determine eligibility of RH applicants who are also applying for or are indebted for a Farmer Program loan. The County Supervisor will determine eligibility for all other RH applicants.

(2) Repayment ability as outlined in § 1944.8 (a)(2), will be evaluated on the circumstances surrounding the individual case including possible eligibility for interest credits as provided in § 1944.34. Obvious repayment ability may be determined by use of the short budget on Form FmHA 410–4. Form FmHA 431–3 will be completed by the applicant and the County Supervisor if eligibility cannot be clearly determined from the short budget. Under no condition(s) will arbitrary guidelines or "rules of thumb" be used. If the applicant(s) can verify payment of a comparable or greater amount for housing costs for the previous 12 months, the applicant will be presumed to have repayment ability for the requested loan unless:

(i) Current annual income is less than past income,

(ii) Planned expenses are proportionally greater than current expenses, when compared to income, or

(iii) The applicant has increased debts, or failed to pay existing debts in order to maintain the present standard of living.

(3) Credit history will be considered to the extent that it is used in evaluating all applicants for similar types and amounts of credit in accordance with the ECOA. For instance, credit requirements for a female applicant will not differ from those of a male applicant.

(4) The age of the applicant will not be used as a consideration of eligibility, except as provided in § 1944.9(d).

(5) The County Supervisor must determine whether the applicant could obtain housing credit elsewhere as follows:

(i) In any case in which a County Supervisor determines there is no possibility of the applicant's obtaining adequate housing credit elsewhere and, therefore, does not require the applicant to provide evidence that an effort has been made to obtain such credit, the County Supervisor will record that conclusion and the basis for it in the loan docket.

(ii) In any case where there may be a possibility that credit could be obtained from another source, the County Supervisor will require the applicant to make a diligent effort to obtain other credit.

(A) Applicants will be expected to apply for credit from lenders engaged in extending long-term housing credit in the area.

(B) Applicants should be advised to request lenders to indicate the amount, interest rate, and terms of housing credit they would be willing to extend to the applicant.

(C) When appropriate, the County Supervisor should verify evidence

presented by an applicant that adequate credit is not available elsewhere.

(D) Letters from the lenders and any other evidence indicating that the applicant is unable to obtain credit elsewhere will be included in the loan docket.

(E) In no case will a loan be made to an applicant who is able to obtain the credit needed from another source at terms that can reasonably be expected to be within the applicant's repayment ability.

(g) *Veterans preference.* Veterans preference will apply when:

(1) There is a shortage of funds.

(2) Obligating forms are ready to be submitted to the Finance Office, and

(3) There is more than one application in the same category having the same date.

(h) *Optioning of real estate.* The County Supervisor should advise the applicant about the size, design, quality, cost and location of the dwellings and dwelling sites suitable for the RH program. If possible this should be done before the applicant selects a property to be purchased. Form FmHA 440–34, "Option to Purchase Real Property," should be used; however, other option forms may be used if their provisions are acceptable.

(i) *Application assistance.* Builders, brokers, contractors, and others including organizations such as those providing self-help assistance, who can provide complete information on the applicant and the house that is to be purchased, may assist in the assembly and processing of loan applications. Form FmHA 1944–12, "Rural Housing Loan Application Package," will be used for this purpose. Builders or sellers who received conditional commitments may also assist applicants in applying for an RH loan to buy a house for which a conditional commitment was issued in accordance with § 1944.45. The County Supervisor will meet with such interested parties to explain:

(1) The eligibility requirements of RH loans,

(2) The size, design, cost and location of homes that can be financed,

(3) The requirements of Subpart E of Part 1901 of this Chapter.

(4) How applications will be handled, and

(5) The type of information that must be submitted. The information to be submitted is listed in Exhibit A of this Subpart which may be used as a guide.

(j) *Appeal.* If the decision on the applicant's request for assistance is unfavorable and was based on appealable determinations, the applicant will be notified of appeal rights as required by § 1910.6(b) of Subpart A of Part 1910 and Subpart B of Part 1900 of this Chapter.

§§ 1944.27–1944.29 [Reserved]

§ 1944.30 Preparation of loan docket.

(a) Forms and documents will be fastened in the designated filing positions of the case folder as prescribed in Exhibit A of FmHA Instruction 2033–A (available in any FmHA office). Appropriate loan docket forms will be prepared in accordance with the Forms Manual Insert (FMI) for distribution as follows:

Form No.	Name of form	Total No. of copies	Fin. signed by borrower	Loan docket	Copy for borrower
FmHA 410–1	Application for FmHA services	1	[1]1	[1]1	
FmHA 410–4	Application for rural housing assistance (nonfarm tract)	1	[4]1	[1]1	
FmHA 1944–12	Rural housing loan application package	1		[1]1	
FmHA 410–5	Request for verification of employment	1		[1]1	
FmHA 410–7	Notification to applicant on use of financial information from financial institution	2		[2]1	[1]1
FmHA 410–8	Applicant reference letter	1		[1]1	
FmHA 410–9	Statement required by the Privacy Act	2	[1]2	[2]1	[1]1
FmHA 431–2	Farm and home plan	1	[1]1	[2]1	(In record book)
FmHA 431–1	Long-time farm and home plan	2	[1]2	[2]1	[1]1
FmHA 431–3	Household financial statement and budget	2	[1]2	[2]1	[1]1
FmHA 440–2	County committee certification or recommendation	1		[1]1	
FmHA 427–8	Agreement with prior lienholder (or similar form)	[3]3		[1]1	[2]1
FmHA 440–34	Option to purchase real property	[4]3	[1]2	[1]1	[2]1
FmHA 424–1	Development plan (including any plans, specifications, and cost estimates)	[5]2	[1]1	[1]1	[2]1
FmHA 422–1	Appraisal report (farm tract) (with attachments)	1		[2]1	
FmHA 422–8	Property information and appraisal report, rural housing nonfarm tract	1	[1]1		
FmHA 427–9	Preliminary title opinion	2		[1]1	[2]1 (designated attorney)
FmHA 1944–6	Interest credit agreement (section 502 RH loans)	3	[1]1	[1]1	[2]1 (finance); [3]1
FmHA 1940–1	Request for obligation of funds	4	[1]2	[1]1	[2]1
FmHA 444–2	Single family housing fund analysis	4		[2]1	
FmHA 440–35	Acceptance of option	2	[1]1	[2]1	[1][6]1
FmHA 1940–41	Truth in lending disclosure statement	3	(See FMI)	[2]1	[1]1
FmHA 1940–43	Notice of right to cancel	3	(See FMI)	[2]1	[1]2
FmHA 400–1	Equal opportunity agreement	2	2	[1]1	[2]1
FmHA 400–3	Notice to contractors and applicants	3		[2]1	[2]1; [1]1 (contractor)
FmHA 400–6	Compliance statement	3		[2]1	[1]1 (contractor); [2]1
FmHA 440–9	Supplementary payment agreement	2	[1]1	[1]1	[2]1
FmHA 440–45	Nondiscrimination certificate (individual housing)	2	[1]2	[2]1	[2]1

[1]Original. [2]Copy. [3]Copy to lienholder. [4]Signed copy of option previously delivered to seller. [5]When contract method will be used, 3 copies of plans and specifications will be required. [6]Original to seller.

(b) All other documents necessary for approval of the particular loan will be included in the loan docket. This will include the following or others as appropriate:

(1) A copy of Exhibit D, "Rural Housing Applicant Interview," or a similar document executed by the applicant.

(2) Credit report(s) on the applicant(s).

(3) Evidence of ownership such as a certified copy of the applicant's deed, lease, purchase contract, or other evidence specified in § 1944.24(d), or a statement by the County Supervisor that such documents have been reviewed.

(4) Estimates of the value of any security for which a formal appraisal report is not required.

(5) Agreements from prior lienholders, if any, when necessary to comply with § 1944.18(b)(6) and § 1807.2(f) of this Chapter (paragraph II F of FmHA Instruction 427.1).

(6) When the loan is to be secured by a junior real estate mortgage, the docket must include a copy of each prior mortgage and, if available, a copy of each secured note or other obligation, furnished by the applicant at the applicant's own expense. The docket must include a current statement signed by the mortgagee showing the amount of unpaid principal secured by the mortgage; the amount of any accrued interest; the amount of any delinquency,

with interest and principal shown separately; and, if a copy of the note is not furnished, its maturity date, payment schedule, interest rate, and a summary of any other provisions of the note.

(7) When the applicant obtains a cosigner, the docket must include that cosigner's current financial statement, income statement, and employment or business history. This will be supplemented by a statement from the County Supervisor as to the cosigner's financial condition and reputation for paying debts, and any other information, such as a credit report, that will be of assistance to the loan approval official.

§ 1944.31 Loan approval.

(a) The State Director, District and Assistant District Directors, County and Assistant County Supervisors are authorized to approve or disapprove loans in accordance with Subpart A of Part 1901 of this Chapter.

(b) The loan approval official is responsible for reviewing the docket to determine that the proposed loan complies with established policies and all pertinent regulations and that funds are available for the loan.

(c) Prior to loan approval a new verification of employment will be required if more than 90 days have elapsed since the date of the last verification of employment, or if evidence is brought to the attention of the loan approval official that indicates the applicant's financial status has changed.

(d) When a loan is approved, the loan approval official will:

(1) Indicate on all copies of Form FmHA 1940–1 any condition that must be met before the loan is closed. Also, the loan approval official will specify all security requirements that the applicant will need to meet, such as a first real estate lien or a junior lien subject to certain prior liens. If title evidence is required in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1) or in accordance with any special requirements for the loan but is not included in the docket, the loan may be approved subject to the applicant's furnishing the required title evidence. When the applicant furnishes required title evidence, the County Supervisor will proceed with processing the loan. In those cases in which the title evidence does not comply with the conditions specified by the approval official, the docket will be reconsidered by the loan approval official.

(2) Sign the approval certification on the original and one copy of Form FmHA 1940–1 and insert title in the space provided. The remaining copies will be conformed.

(3) If a loan is not approved after the docket has been developed, the reason for such action with date and initial of the approval official will be shown on the original Form FmHA 1940–1 and the County Supervisor will notify the applicant in accordance with § 1910.6(b) of Subpart A of Part 1910 of this Chapter.

(e) After the loan is approved the docket forms will be distributed as outlined below.

(1) *To the Finance Office.* (i) Form FmHA 1940–1 (first copy)

(ii) Form FmHA 444–2 (original)

(2) *To the State Office.* If the loan is approved by the County Supervisor, or the District Director, an unsigned copy of Form FmHA 1940–1 (unless exempted by State Supplement) and a copy of Form FmHA 444–2 will be sent to the State Office. If the loan is approved in the State Office, an unsigned copy of Form FmHA 1940–1 and a copy of Form FmHA 444–2 will be retained in the State Office.

(3) *To the borrower.* A signed copy of Form FmHA 1940–1, the original of Form FmHA 1940–41, and if applicable, the original and copy of Form FmHA 1940–43. The sending of Form 1940–1 to the borrower completes the approval process.

§ 1944.32 Actions subsequent to loan approval.

(a) *Requesting a loan check.* (1) A loan check may be requested when all approval conditions can be met and necessary curative actions have been taken to provide a satisfactory title to real estate security. Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request," will be completed and a copy sent to the Finance Office to request the check.

(2) A loan check may be requested at the time of loan approval by entering the amount of the check requested on Form FmHA 1940–1 when one of the following conditions exist:

(i) The loan will be secured by a promissory note only, or

(ii) Real estate security will be taken and the County Supervisor is reasonably certain that satisfactory title evidence can be obtained and the loan can be closed within 20 working days from the date of the check.

(3) When not more than $4,000 of the loan funds will remain unexpended for more than 15 days after loan closing, the total amount of the loan will be requested in a single advance.

(4) If loan funds cannot be expended within 15 days, the County Supervisor will enter in the appropriate "block" of Form FmHA 1940–1 the amount of loan funds to be disbursed at loan closing. Additional loan funds will be requested when, and in amounts, needed by submitting a completed copy of Form FmHA 440–57 to the Finance Office, or by telephone request if the additional funds cannot be received by the date needed using mail service. The County Supervisor should work with borrowers, developers, and others to be sure that funds will be available when needed and to reduce the multiple advances to a reasonable number. Any loan funds not requested by the "amortization effective date" for the loan, will be disbursed by the Finance Office to the County Office by check dated on the amoritization effective date. The check will be deposited in the borrower's supervised bank account if it cannot be endorsed directly to a payee within 20 working days from the date of the check.

(b) *Handling loan checks.* (1) When the loan check or borrower's personal funds are to be deposited in the designated loan closing agent's escrow account, this will be done no later than the date of loan closing. If loan funds or borrower's personal funds are to be deposited in a supervised bank account, this will be done in accordance with § 1902.6 of Subpart A of Part 1902 of this Chapter no later than the first banking day following the date of loan closing.

(2) If a loan check is received and the loan cannot be closed within 20 working days from the date of the check, the County Supervisor will take appropriate action in accordance with FmHA Instruction 102.1 (available in any FmHA office).

(c) *Cancellation of loan.* Loans may be cancelled before loan closing by the use of Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation," prepared in accordance with the FMI for that form. Checks received in the County Office will be returned with Form FmHA 1940–10 to the Finance Office. Interested parties will be notified of the cancellation as provided in Part 1807 of this Chapter (FmHA Instruction 427.1). If the cancellation is not a voluntary action by the applicant, the applicant will be notified in accordance with § 1910.6 (b) of this Chapter.

(d) *Increase or decrease in amount of loan.* If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office. The loan docket will be revised and reprocessed in accordance with the FMI for Form FmHA 1940–1.

(e) *Property insurance.* Buildings on the property which is to be taken as

security for the loan will be insured in accordance with Subparts A and B of Part 1806 of this Chapter (FmHA Instructions 426.1 and 426.2) when appropriate.

§ 1944.33 Loan closing.

(a) *Loans approved with interest credit.* If the loan will be closed and Form FmHA 1944–6 or 1944–A6, "Interest Credit Agreement (Section 502 RH Loans,)" will be executed more than 90 days after the last "Verification of Employment," or if there is evidence to indicate the applicant's financial status has changed significantly, a current "Verification of Employment" will be obtained and the amount of interest credit will be determined on the basis of the applicant's new circumstances. If the adjusted income exceeds the low-income limit set forth in Exhibit C of this Subpart, the loan will not be closed unless authorized by the State Director. Such authorization may be granted if there is documented evidence to clearly indicate other credit is not available. Interest credit will not be granted in any case in which the adjusted income exceeds the moderate-income limit set forth in Exhibit C.

(b) *Loans approved without interest credit.* Further review of the applicant's financial status is not required at the time of closing unless the loan is closed more than 90 days after the date of loan approval, or there is evidence to indicate the financial status has changed significantly. If the adjusted income exceeds the limit for moderate income set forth in Exhibit C of this Subpart, the case will be referred to the State Director. The State Director may authorize closing of the loan if there is documented evidence to clearly indicate other credit is not available.

(c) *Promissory note.* Form FmHA 440–16, "Promissory Note," will be prepared and signed in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1), and the FMI for the form.

(1) The payment alternatives of the note will be completed in accordance with the FMI for the form. Payments of principal and interest will be deferred during the period the dwelling is not expected to be suitable for occupancy as a residence because of construction or repairs to be made. In such cases if the loan is closed before any funds are advanced by the Finance Office or loan funds are distributed by multiple advance, accrued interest is added to principal and repaid in regular amortized installments (payment alternative II) after the deferment period.

(2) The payment provision of the note will be completed in accordance with the FMI for the form and the following:

(i) The monthly payment provision will be used for all borrowers who regularly receive monthly income and who can repay the loan in 12 equal monthly payments.

(ii) The annual payment provision will be used only for borrowers who do not regularly receive monthly income throughout the year. If installments are not to be deferred, the following provisions apply:

(A) The amount of the first installment will be determined by the County Supervisor after considering the immediate debt paying ability of the borrower. The amount of the first installment may be less, but not more, than a regular annual installment.

(B) The amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to the next January 1.

(C) Form FmHA 440–9 should be used to supplement this payment provision to facilitate servicing of loans for borrowers who pay more than one time a year.

(d) *Real estate mortgage.* Form FmHA 427–1, "Real Estate Mortgage for (State)," will be used for loans to be secured by a real estate mortgage. Any changes made in the text by deletion, substitution, or addition (excluding filling in blanks) will be initialed in the margin by all persons signing the mortgage. Additions will be made on the mortgage in the following cases:

(1) For a loan secured by a mortgage on a leasehold, the following language, or similar language which in the opinion of OGC is legally adequate, will be inserted in the mortgage just before the legal description of the real estate:

"All Borrower's right, title, and interest in and to the leasehold estate for a term of —— years beginning on ——, 19—, created, executed and established by certain Lease dated ——, 19—, by ———— as lessor(s), and recorded at Book ——, Page — of the —— Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:"

(2) For a loan secured by a mortgage on a leasehold an additional covenant will be inserted in the mortgage to read as follows:

"Borrower will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of Borrower's right, title or interest in or to said leasehold estate or under said Lease while this instrument remains in effect."

(3) For all initial and subsequent Section 502 RH loans, until the mortgage forms are revised, the following additional covenant will be inserted above the signature line on the mortgage and be initialed at loan closing by all parties signing the mortgage.

"This instrument also secures the recapture of any interest credit or subsidy which may be granted to the borrower(s) by the Government pursuant to 42 U.S.C. 1490a."

(e) *Collection of first installment.* If the annual payment provision of the note is used and payments are not deferred, the first installment of a loan closed during December will be collected at the time of loan closing.

(f) *Direct payments.* Direct payment cards for all new borrowers, including transferees, will be retained in the County Office until the borrower has made at least three monthly payments on time. The cards may then be delivered to the borrower and payments made directly to the Finance Office. The County Supervisor may retain the payment cards for a longer period if such action is considered to be necessary to determine that the borrower is able to make timely payments as agreed. Payments made to the County Office will be forwarded to the Finance Office with the appropriate direct payment card in the Finance Office mail. Cash payments, refunds, and extra payments made by borrowers will be handled in accordance with Subpart B of Part 1951 of this Chapter.

(g) *Owner's policy of title insurance.* If an owner's policy of title insurance is obtained, it will be delivered to the borrower as soon as it is received from the title insurance company.

(h) *Real estate mortgage after filing.* When the real estate mortgage is returned by the filing official or loan closing official, the original will be filed in the borrower's case folder. If the original is retained by the filing official in the official records, a copy conformed to show the recording data including the date and place of recording and the book and page number will be filed in the borrower's case folder. A copy of the mortgage will be delivered to the borrower.

(i) *Effective date of loan closing.* A loan secured by a real estate mortgage is closed when the mortgage is filed for record. In other cases a loan is closed when the borrower executes the note and any other required instruments.

(j) *Water stock certificate or other such collateral.* When water stock certificates or other such collateral are

part of the security, they will be retained in the County Office. A notation will be made on Form FmHA 1905–1, "Management System Card-Individual," or Form FmHA 1905–5, "Management System Card-Individual (RH Only)," as appropriate, showing that such security has been retained.

(k) *Account record and case folder.* The account record and case folder will be established in accordance with FmHA Instructions 2033–A and 1905–A (available at any FmHA office).

§ 1944.34 Interest credit.

(a) *General.* It is the policy of FmHA to grant interest credit on loans to low-income borrowers to assist them in obtaining and retaining decent, safe, and sanitary dwellings and related facilities.

(b) *Definitions.* (1) *Annual payment borrowers.* Borrowers who signed promissory notes providing for annual payments, including borrowers converted to monthly payments through the use of Form FmHA 451–34, "Direct Payment Plan Change."

(2) *Monthly payment borrowers.* Borrowers who signed promissory notes providing for monthly payments.

(3) *Review period.* The review period for an annual payment borrower will be the months of October and November. The review period for a monthly payment borrower will be the second and third months prior to the anniversary date of the borrower's current Interest Credit Agreement.

(4) *Real estate taxes.* Real estate taxes for interest credit purposes means the amount of real estate taxes and assessments that will actually be due and payable on the dwelling and the dwelling site during the interest credit period, reduced by the amount of any tax exemption available to the borrower, regardless of whether such exemption is actually claimed. Tax exemptions may include such things as homestead exemptions, spacial exemptions for low-income families, senior citizens, veterans and others.

(c) *Approval authority.* Those FmHA officials who are authorized to approve Section 502 loans are also authorized to approve the Interest Credit Agreement.

(d) *Amount of interest credit.* (1) Loans other than FmHA loans qualified to be considered in the interest credit calculation include only those advanced for authorized Section 502 RH purposes and which are a lien against the FmHA security by virtue of a prior mortgage. Except as provided in paragraph (d)(2) of this section, the amount of interest credit granted will be the lesser of:

(i) The difference between 20 percent of the borrower's adjusted annual income and the sum of the annual installments due at the note interest rate on qualified loans plus the cost of real estate taxes and insurance, or

(ii) The difference between the annual installment due on the FmHA promissory notes eligible for interest credit and the amount the borrower would pay if the loan(s) were amortized at an interest rate of 1 percent.

(2) For repair and rehabilitation loans which meet the requirements of paragraph (f)(6) of this section, interest credit will be granted in an amount to achieve the following effective interest rates:

(i) For borrowers whose adjusted annual income is not more than $5,000, interest credit will be calculated to reduce the effective interest rate to 1 percent.

(ii) For borrowers whose adjusted annual income is more than $5,000, but not more than $7,000, interest credit will be calculated to reduce the effective interest rate to 2 percent.

(iii) For borrowers whose adjusted annual income is more than $7,000 but not more than $10,000, interest credit will be calculated to reduce the effective interest rate to 3 percent.

(3) Borrowers qualifying for interest credit assistance under both paragraphs (d) (1) and (2) of this section will be granted only the one type of interest credit assistance that is most beneficial to them. Interest credit on initial and subsequent loans will always be the same type. There is no provision for switching from one type of interest credit to the other.

(e) *Recapture.* At the applicant interview, the County Supervisor will advise all Section 502 RH applicants that interest credit is subject to recapture. Applicants who receive interest credit will be required to sign a "Subsidy Repayment Agreement" (Supart I of Part 1951 of this Chapter, Exhibit A) at the time the initial interest credit agreement is signed.

(f) *Eligibility.* To be eligible for interest credit, a borrower must qualify for a Section 502 loan, must personally occupy the dwelling, and must meet the following additional requirements:

(1) *Initial loans including credit sales.* Interest credit my be granted at loan closing if:

(i) The borrower's adjusted annual income does not exceed the applicable low-income limit in Exhibit C of this Subpart.

(ii) The borrower's net worth does not exceed $7,500 (a maximum net worth of $10,000 will be allowed for senior citizens) unless an exception is authorized. The calculation of net worth will exclude the value of the dwelling and a minimum adequate dwelling site, cash on hand which will be used to reduce the amount of the loan, and household goods and the debts against them. For the purpose of determining whether an exception is justified, consideration will be given to the nature of the assets, particularly whether they are assets upon which a borrower is currently dependent for a livelihood or which could be used to reduce or eliminate the need for interest credit. The District Director may authorize exceptions of the net worth limitation up to $20,000. Cases recommeded by the State Director for which the net worth exceeds $20,000 will be submitted to the National Office for authorization to grant interest credit.

(iii) The term of the loan is for 33 years, unless authorized otherwise by the State Director based on complete documentation of the justifiable reasons on an individual case basis. Interest credit will not be granted on loans with a term of less than 25 years, except as provided in paragraphs (f) (4) and (6) of this section.

(iv) The loan was approved on or after August 1, 1968.

(v) The amount of interest credit will be $5 or more per month or $60 or more annually.

(2) *Subsequent loans.* Interest credit may be granted on subsequent loans which meet the requirements of paragraph (f)(1) of this section. If interest credit is presently being granted on the initial loan and the borrower's adjusted income does not exceed the moderate-income limit set forth in Exhibit C of this Subpart, it may also be granted on the subsequent loan if the term of the subsequent loan is 25 years or more.

(3) *Transfers.* Interest credit may be granted to a borrower assuming an RH loan provided:

(i) The requirements of paragraph (f)(1) of this section are met except that if the loan being assumed was initially approved before August 1, 1968, the assumption must be on new terms.

(ii) The note being assumed is not an above-moderate loan.

(4) *Reamortization.* Interest credit may be granted on loans made as low- and moderate-income loans after reamortization under the following conditions:

(i) If the loan was eligible for interest credit prior to reamortization, interest credit may continue to be granted even though the term of the reamortization period is less than 25 years; or

(ii) If the loan was not eligible for interest credit prior to reamortization, the reamortized term of the loan must be 25 or more years and all other

conditions of paragraph (f)(1) of this section must be met.

(5) *Existing loans.* Interest credit may be granted at any time after loan closing if:

(i) The requirements of paragraph (f)(1) of this section are met.

(ii) The loan was approved as a "low or moderate" Section 502 loan on or after August 1, 1968.

(iii) The borrower requests interest credit, or the County Supervisor determines that interest credit is needed to enable the borrower to repay the loan. In the case of married borrowers, when one spouse has left the dwelling due to marital discord, interest credit based on the remaining spouse's income may be extended to the remaining spouse if:

(A) The remaining spouse is occupying the dwelling, owns a legal interest in the property, and is liable for the debt;

(B) The FmHA loan account is put in the remaining spouse's name;

(C) Legal papers have been filed with the appropriate court to commence divorce or legal separation proceedings, or one spouse has not been living in the dwelling for at least six months. Interest credit will not be granted if separation is due only to work assignment or military order; and

(D) The remaining spouse is informed and agrees that should the spouse begin to live in the dwelling, that spouse's income will then be counted toward annual income and interest credit may be reduced or cancelled.

(6) *Repair and rehabilitation loans.* Interest credit may be granted on Section 502 RH loans made to repair or rehabilitate a dwelling already owned by the applicant provided the following conditions are met:

(i) The initial interest credit will be granted at the time of loan closing and the loan will be secured by a real estate mortgage;

(ii) The dwelling is, or will be, occupied by an eligible borrower after the loan is made;

(iii) The amount of the loan will not exceed $10,000, or be amortized for not more than 25 years;

(iv) The applicant's adjusted annual income does not exceed $10,000;

(v) The repairs will be made to bring a substandard dwelling up to the standards outlined in §1944.18 (c); and

(vi) The net worth requirements in paragraph (f)(1)(ii) of this section are met.

(g) *Processing interest credit.* (1) *General.* The amount of interest credit for which a borrower may be eligible will be determined by use of Form FmHA 1944–6 or Form FmHA 1944–A6 as outlined in paragraph (d) of this section.

(i) *Determination of income.* The County Supervisor is responsbile for determining the borrower's annual and adjusted annual income as defined in §1944.2, paragraphs (b) and (c) respectively, of this Subpart. A borrower interview will be conducted in all cases for granting initial interest credit. Form FmHA 410–5 will be used to verify the earnings from employment of all persons whose income is included in "Annual Income."

(ii) *Effective period.* Interest Credit Agreements on loans made to monthly payment borrowers will be for a 12-month period with the agreement extendable for an additional 12 months if the borrower's circumstances do not change. For annual payment borrowers the agreement will be in effect until the first December 31 after the effective date with the agreement renewable until the second December 31 after the effective date if the borrower's circumstances do not change. The effective date will be as indicated on the FMI for Form FmHA 1944–6.

(iii) *Partial year interest credit.* For an annual payment borrower with an initial installment less than a regular installment, and who will receive less than a full year of interest credit assistance, the interest credit granted will be a pro rata portion calculated on the number of months left in the current calendar year, including the month in which the loan is closed.

(iv) *Advances from the RHIF.* The repayment schedule for advances made from the Rural Housing Insurance Fund will be computed at the interest rate shown on the promissory note. However, interest will accrue and payments will be applied on the amount advanced at the reduced interest rate in effect at the time of payment.

(v) *Preparation of the transaction record.* For borrowers receiving interest credit, the following changes will be shown on Form FmHA 451–26, "Transaction Record," when prepared by the Finance Office:

(A) Interest rate field. The interest rate field of the form will continue to show the interest rate on the note. The Finance Office will compute the effective interest rate charged the borrower based on the amount of interest credit granted. The computed rate, rounded to the nearest ⅛ of a percent, will be shown as a footnote on the form as "Interest Rate reduced to %." Subsequent transactions will be applied to the loan by the Finance Office at the reduced interest rate until such time as renewal, change, or cancellation occurs.

(B) Daily interest accrual field. The daily interest accrual will be shown at the reduced interest rate and the interest will accrue at the same interest rate until such time as the interest credit is renewed, changed, or cancelled.

(C) Application of credit field. The initial transaction record form will not have an entry in the "Application of Credit" field. The Interest Credit Transaction Code for this method of processing interest credit will be 4 Z.

(D) Payment status field. The payment status field will not reflect the dollar amount of the interest credit granted. No entry will be made for monthly payment borrowers.

(E) Minimum amount due be date shown field. For annual payment borrowers, the amount of the installment, reduced by the amount of interest credit granted, will be shown. For monthly payment borrowers the word "monthly" will be entered in the space provided.

(2) *Initial and subsequent loans.* (i) *County Office action.* The County Supervisor will:

(A) Determine the borrower's adjusted annual income and document the calculations in the case file running record.

(B) Enter of Form FmHA 1940–1 the adjusted annual income, the estimated real estate taxes that will become due and payable during the first and second years of the agreement, and the amount of the annual property insurance premium for the dwelling.

(C) For initial loans approved with interest credit and closed under the multiple advance feature of the loan disbursement system outlined in Subpart A of Part 1902 of this Chapter, further review of the borrower's financial status is not required unless the Interest Credit Agreement will be approved more than 90 days after the last "Verification of Employment," or there is evidence which indicates the borrower's financial status has changed significantly. If prior to approval of the Interest Credit Agreement the County Supervisor finds that the adjusted income has increased, interest credit will be granted on the basis of the borrower's new circumstances. Interest credit will not be granted if the borrower's adjusted income exceeds the moderate-income limit indicated in Exhibit C of this Subpart.

(D) Complete and submit a corrected Interest Credit Agreement to the Finance Office when the loan is closed, or at the amortization effective date, if the borrower's circumstances have changed so that the amount of interest

credit would be increased or decreased by at least $5 monthly or $60 annually.

(ii) *Finance Office actions.* The Finance Office will:

(A) Enter the information concerning adjusted annual income, the estimated real estate taxes, and the insurance premium on Form FmHA 440–57.

(B) Calculate the amount of interest credit to be granted to the borrower. The amount of interest credit will be determined from the information initially shown on Form FmHA 1940–1.

(C) Prepare and mail Form FmHA 1944–A6 to the County Office when the final loan check is issued. Upon receipt, the form will be competed and a copy returned to the Finance Office only when indicated on the form.

(D) Prepare and issue payment cards to the County Office.

(3) *Reamortization, credit sales and transfers.* Interest credit to a borrower whose loan is being reamortized, or a borrower who assumes an RH loan or purchases property from inventory will be calculated by the County Office on Form FmHA 1944–6. A copy of Form FmHA 1944–6 will be forwarded to the Finance Office along with the copy of the Reamortization Agreement, Advice of Mortgaged Real Estate Sold, or Assumption Agreement. The Finance Office will issue payment cards to the County Office.

(4) *Existing loans.* Interest credit granted in accordance with paragraph (f)(5) of this section can be processed at any time in the same manner as interest credit on initial loans, except that the County Office will complete Form FmHA 1944–6 and calculate the amount of interest credit assistance the borrower will receive. A copy of Form FmHA 1944–6 will be used to send interest credit information to the Finance Office. The daily interest accrual will be reduced as of the effective date entered on the form or as of the date the last cash credit was made to the account, whichever is later.

(h) *Interest credit modification.* (1) *Before expiration.* When approving a change in interest credit assistance before the expiration of a current Interest Credit Agreement in Accordance with paragraph (i)(3) of this section, the County Supervisor will again interview the borrower, determine the follower's adjusted annual income and document the findings in the case file running record. A Form FmHA 1944–6 will be completed in accordance with the FMI and a copy of the form will be forwarded to the Finance Office. The Finance Office will adjust the daily interest accrual as of the date entered on the form or as of the date of the last cash credit made to the account, whichever is later.

(2) *Correction of Interest Credit Agreements.* If a corrected Interest Credit Agreement will be prepared pursuant to paragraph (j) of this section and the borrower is still eligible to receive interest credit, the corrected agreement will be submitted to the Finance Office only after the borrower's appeal right has expired or, if the borrower has filed an appeal, after a final decision has been made. In such cases, a Form FmHA 1944–6 showing the proper amount of interest credit which the borrower is entitled to receive, together with written authorization from the State Director to reapply any affected payments, will be submitted to the Finance Office to replace the incorrect agreement. The effective date of the corrected agreement will be the same as the agreement in error. The notation "Corrected in accordance with § 1944.34" will be entered on the face of the form. The Finance Office will cancel the incorrect Interest Credit Agreement as of its effective date. Payments made under the previous agreement will be reversed and reapplied at the adjusted interest rate of the new Interest Credit Agreement.

(3) *Interest credit renewal.* (i) *Initiation of renewal action.* At the beginning of the annual review period, the Finance Office will mail to the County Office a list of borrowers whose Interest Credit Agreements are to be reviewed, together with a package to be mailed by the County Supervisor to each borrower. The package will contain Form FmHA 1944–6 (3 parts with carbon interleaved). If the renewal Form FmHA 1944–6 is for the first year review period following the effective date of the agreement, it will contain the following legend:

"Subsidy for *(ensuing year)* of $————. Is this correct?☐"

The County Supervisor will complete Form FmHA 1944–1, "Interest Credit Agreement Renewal," according to the FMI for the form and insert it in the package together with two Forms FmHA 410–5, "Request for Verification of Employment." Two envelopes (without indicia) which have been preaddressed with the County Office address will be inserted in the package to be used by the employer(s) to mail the Verification of Employment form(s) to the County Office.

(ii) *Borrower responsibility.* Upon receipt of the package, the borrower will give one copy of the Verification of Employment form to the employer or employers of each member of the household who has income to be considered. An envelope will be provided each employer to facilitate the mailing of the Verification of Employment form directly to the County Office. The borrower will also complete part II of the Interest Credit Agreement form (leaving carbon intact), sign the original form and bring the original and all copies to the County Office.

(iii) *County Office actions.* The County Supervisor, or designee, will:

(A) Maintain the list of borrowers as a record of Interest Credit Agreements processed and sent to the Finance Office.

(B) Conduct an interview with the borrower to review the information on Forms FmHA 1944–A6 and 410–5 for completeness and accuracy. The interview should, whenever possible, be a face-to-face contact.

(C) Determine the adjusted annual income and document the calculations in the case file running record.

(D) For the first year review period following the effective date of the agreement, place an "X" in the box of the Finance Office legend on the renewal Form FmHA 1944–A6 if there is no change in the amount of interest credit. This will extend the agreement for one year. If there is a change, complete the Interest Credit Agreement and send a copy of the agreement to the Finance Office. For the second review period following the effective date of the agreement, an Interest Credit Agreement will be completed and a copy of the agreement sent to the Finance Office. If an annual note installment borrower is not eligible for interest credit, enter "O" in the blocks which indicate the amount of interest credit and send a copy of the agreement to the Finance Office. For monthly note installment borrowers not eligible for interest credit a copy of the agreement need not be sent to the Finance Office.

(E) If the Form FmHA 1944–A6 is multilated or unusable, transfer *all* information preprinted on the form to a new Form FmHA 1944–6 to be signed by the borrower and submit the completed form to the Finance Office.

(F) Retain the original of the Interest Credit Agreement and return the other copy to the borrower.

(G) Notify by letter borrowers not eligible for continued interest credit and those whose interest credit has been reduced of the amount of their revised payments. The letter must notify the borrower of the right to appeal as outlined in § 1944.34(1). A new Form FmHA 440–9 will be obtained when needed.

(iv) *Finance Office actions.* The Finance Office will:

(A) Upon receipt of Form FmHA 1944–A6 fron the County Office, send the County Office a new set of payment cards.

(B) Before the end of the review period, send the County Office a list of annual installment borrowers for whom a renewal Interest Credit Agreement has not been received. The County Office staff will place a chechmark in the appropriate column of the list to indicate those borrowers who are no longer eligible for interest credit or whose agreements will not be renewed. The original of the completed list will be retained in the County Office and a copy returned to the Finance Office.

(v) *Processing interest credit renewals not received during the review period.* The County Supervisor may approve interest credit renewals not completed during the review period. They will be handled as follows:

(A) The amount of interest credit assistance granted will be based on the borrower's current annual income. The effective date of the Interest Credit Agreement will be as indicated on the FMI for Form FmHA 1944–6.

(B) Payments made by the borrower after the expiration date of the previous Interest Credit Agreement will be applied at the note interest rate until the Finance Office receives a new Form FmHA 1944–6.

(C) Upon receipt of Form FmHA 1944–6, the Finance Office will reduce the daily interest accrual in accordance with the following conditions and limitations:

(*1*) If failure to renew was due to error or oversight by FmHA, the State Director will authorize the Finance Office to reduce the interest accrual as of the effective date entered on the form and reverse and reapply payments processed after the effective date. Such authorization must be in writing.

(*2*) In all other cases the Finance Office will reduce the daily interest accrual as of the effective date entered on the form or as of the date of the last cash credit made to the account, whichever is later.

(i) *Eligibility review.* The eligibility of those borrowers currently receiving interest credit will be reviewed as follows:

(1) *Annual review.* The eligibility of borrowers with one-year renewable agreements (agreements signed after the implementation date of this regulation) will be reviewed annually during the review period. The eligibility of borrowers with existing two-year Interest Credit Agreements effective prior to the implementation date of this regulation will be redetermined at the expiration of the agreement.

(i) If the borrower's net worth increases above the applicable eligibility limit, interest credit may nevertheless be renewed unless the increase is sufficient to enable the borrower to graduate to another source of credit.

(ii) Interest credit will not be renewed if:

(A) The amount of interest credit for which the borrower qualifies is less than $5 monthly or $60 annually, or

(B) The borrower's adjusted annual income exceeds the moderate-income limit set forth in Exhibit C of this Subpart.

(iii) Interest credit will not be renewed if the borrower has enlarged or improved the dwelling or added related facilities so that the housing exceeds modest standards for size, design, and cost for previously occupied homes as compared to other housing in the locality for low- and moderate-income families.

(2) *Renewals not completed during the review period.* When the borrower's renewal Interest Credit Agreement is not completed during the review period, it will be processed in accordance with § 1944.34(h)(3)(v).

(3) *Change in borrower's circumstances.* The County Supervisor is not responsible for monitoring whether a borrower's income, family size, real estate taxes, or insurance costs have changed after an Interest Credit Agreement is approved. If, however, it becomes known that the borrower's circumstances have changed significantly, the County Supervisor will take action in accordance with the following:

(i) *Increased adjusted income.* If the County Supervisor determines that the borrower's adjusted income exceeds the moderate-income limit set forth in Exhibit C of this Subpart, the interest credit will be cancelled effective the date the County Supervisor becomes aware of the situation. The borrower will be notified in accordance with paragraph (1) of this section. For existing two-year Interest Credit Agreements effective prior to the implementation date of this regulation, the agreement will be revised in accordance with paragraph (h)(1) of this section if the interest credit will be decreased by $15 or more per month.

(ii) *Decreased adjusted income.* Changes in interest credit will not be made except in cases where the decrease in income is such that the sum of principal and interest on loans eligible for interest credit, amount of annual installments due at the note rate on qualified loans ineligible for interest credit, real estate taxes and insurance equals or exceeds 35 percent of the borrower's adjusted income. If the change is determined within three months prior to the anniversary date of the agreement currently in effect, the change will be effective on the anniversary date. For existing two-year Interest Credit Agreements effective prior to the implementation date of this regulation, the agreement will be revised in accordance with paragraph (h)(1) of this section if the interest credit will be increased by $15 or more per month.

(j) *Improper interest credit.* (1) *When to take action.* Servicing under this section will be taken when, at the time of interest credit approval, incorrect information was provided by a borrower or any other person or an error by any FmHA employee results in the borrower receiving improper interest credit of $5 or more per month or $60 or more annually.

(2) *Determining improper interest credit.* Whenever there is a reason to believe a borrower was granted improper interest credit the County Supervisor will immediately reverify the information on which the interest credit was based. The County Supervisor will determine if improper interest credit was granted. If there is reason to believe there may be fraud or fiscal irregularities, the complete case file together with all facts will be submitted to the State Director. If the State Director believes there is indication of fraud or fiscal irregularity, further investigation will be considered as provided in FmHA Instruction 2012–B (available in any FmHA office). If there is no indication of fraud or fiscal irregularity the case will be returned to the County Supervisor for appropriate corrective action.

(3) *Falsification or error by borrower.* The following actions will be taken when it is determined that excessive interest credit was granted because the borrower intentionally or otherwise provided incorrect information.

(i) The County Supervisor will inform the borrower by certified mail (return receipt requested) of the intent to cancel the Interest Credit Agreement and the effective date of such cancellation. The notice to the borrower will include the right to appeal as provided in § 1900.56 of Subpart B of Part 1900 of this Chapter. The borrower will also be informed of the amount of monthly payment required after proper corrections are made. A corrected Interest Credit Agreement with an effective date the same as the agreement in error will be prepared if the borrower remains eligible for interest credit. The corrected agreement or cancellation will be

submitted to the Finance Office only after the borrower's appeal right has expired or if the borrower has filed an appeal and a final decision has been made.

(ii) If the borrower does not appeal, or it is determined that the appeal is not valid, the case will be handled by one of the following methods:

(A) If the Interest Credit Agreement is to be cancelled, the County Supervisor will cancel the Interest Credit Agreement as of the effective date of the current Form FmHA 1944–6, the date of the extension of the agreement, or the earlier Form FmHA 1944–6 as appropriate for the period of review or investigation. The Finance Office will then reapply any affected payments to the account at the note rate of interest and will notify the County Supervisor and borrower of any adjustments made in the account.

(B) If a corrected Interest Credit Agreement based on the borrower's actual circumstances during the period in question is to be prepared, it will be submitted to the Finance Office in accordance with paragraph (h)(2) of this section together with written authorization from the State Director to reapply payments in accordance with the corrected Form FmHA 1944–6. The Finance Office will notify the County Supervisor and borrower of adjustments made in the account.

(C) If the borrower's action appears to have been deliberate and a major error occurred, liquidation may be warranted. For example, such actions may be taken if the information obtained indicates that the borrower was not eligible for an RH loan. Such a borrower will be asked to repay the RH loan by refinancing or otherwise satisfying the account. In other cases, the borrower may already be in default and the fact that the borrower had not correctly reported income may justify liquidation of the loan. The State Director may authorize the account to be repaid under an acceleration agreement if the conditions of § 1872.17(g) of this Chapter (FmHA Instruction 465.1, paragraph XVII G) are met.

(D) When falsified information is provided to FmHA in order to qualify the borrower for interest credit (for example, a packager provides information for a borrower), but there is evidence that the borrower is not at fault or definitely did not intend to provide false information, the borrower will be requested to pay the loan in full, including any improper and excessive interest credit that may have been granted. If, however, the borrower is unable to satisfy the account and the State Director determines that the Government's financial interest would not be jeopardized by leaving the loan outstanding, and that it would be inequitable to call it, the loan may be continued.

(E) In cases for which immediate liquidation is not warranted and the State Director determines the loan may be continued, the County Supervisor will make a diligent effort to obtain a lump sum restitution of the improperly advanced interest credit. If the borrower is unable to pay by lump sum payment, Form FmHA 451–37 will be used to establish a new repayment schedule. The borrower will be charged interest of the improperly advanced interest credit at the same rate charged on the principal indebtedness.

(4) *Error by FmHA employee.* (i) When the borrower presented correct information and an FmHA employee erroneously granted excessive interest credit, the following action will be taken:

(A) The County Supervisor will inform the borrower by letter of the action to be taken and of the right to appeal as provided in paragraph (1) of this section. A cancellation of interest credit or a corrected Interest Credit Agreement will be submitted to the Finance Office only after the borrower's appeal right has expired or if the borrower has filed an appeal and a final decision has been made.

(B) If the Interest Credit Agreement is to be cancelled, the County Supervisor will cancel the Interest Credit Agreement effective the date of the current Form FmHA 1944–6, the extension of the agreement, or earlier Form FmHA 1944–6 as appropriate for the period of review or investigation. The Finance Office will then reapply any affected payments to the account at the note rate of interest and will notify the County Supervisor and borrower of any adjustments made in the account.

(C) If a corrected Interest Credit Agreement based on the borrower's actual circumstances during the period in question is to be prepared, it will be submitted to the Finance Office in accordance with paragraph (h)(2) of this section together with written authorization from the State Director to reapply payments in accordance with the corrected Form FmHA 1944–6. The Finance Office will notify the County Supervisor and borrower of adjustments made in the account. The amount of improper interest credit will be charged to the borrower's account and become immediately due and payable.

(D) If the Interest Credit Agreement is cancelled or revised, the County Supervisor will make a diligent effort to obtain a lump sum restitution of the improperly advanced interest credit from the borrower. If this cannot be done, the County Supervisor will take one of the following courses of action:

(*1*) If the borrower can repay the improperly advanced interest credit over a reasonable period of time, the County Supervisor will use Form FmHA 451–37 to establish a new repayment schedule. The borrower will be charged interest on the improperly advanced interest credit at the same rate charged on the principal indebtedness.

(*2*) If the County Supervisor determines that the borrower is unable to repay the improperly granted interest credit, that fact should be documented and the case forwarded to the State Director for review. If the State Director concurs with the findings of the County Supervisor, the case will be forwarded to the National Office with recommendations that the improperly advanced interest credit be forgiven.

(ii) When an error by an FmHA employee results in too little interest credit being granted, a corrected agreement will be prepared effective the date of the error, if the error results in the granting of $5 or more per month or $60 or more per year less interest credit than the borrower was eligible for.

(k) *Cancellation of interest credit agreements.* (1) *Reasons for cancellation.* An existing Interest Credit Agreement will be cancelled whenever:

(i) The borrower has never occupied the dwelling and FmHA will not continue with the loan.

(ii) The borrower ceases to occupy the dwelling.

(iii) The borrower sells or conveys the title to the property.

(iv) The borrower has received improper interest credit as outlined in § 1944.34(j) and a corrected Interest Credit Agreement will not be submitted.

(v) The borrower has an increase in income as outlined in § 1944.34(i)(3)(i) and is no longer eligible for interest credit.

(vi) The borrower has enlarged or improved the dwelling or added related facilities so that the housing exceeds modest standards for size, design and cost for previously occupied homes compared to other housing in the locality for low- and moderate-income families.

(2) *Effective date of cancellation.* The effective date of cancellation for paragraph (k)(1)(i) of this section will be date of loan closing. The effective date of cancellation for paragraphs (k)(1) (ii), (iii) and (iv) of this section will be the date on which the earliest action occurs which causes the cancellation. If the date cannot be determined, the date on

which the County Supervisor became aware of the situation will be used. The effective date of cancellation for paragraph (k)(1) (v) and (vi) of this section will be the date on which the County Supervisor became aware of the situation. When an account has been accelerated and none of the conditions outlined in paragraph (k)(1) of this section exists, the Interest Credit Agreement will remain in effect until the final foreclosure action is completed. However, if the existing agreement expires before the foreclosure action is completed an interest credit renewal agreement will not be prepared. If foreclosure action is dismissed, withdrawn or terminates without sale of the property or payment of the loan in full a renewal agreement will be prepared with an effective date as of the expiration of the previous agreement.

(3) *Notification to the Finance Office.* The County Supervisor will determine the date of cancellation and notify the Finance Office on Form FmHA 19194444–15, "Interest Credit Agreement Cancellation (Section 502 RH Loans)." If there is more than one loan eligible for interest credit represented on the Interest Credit Agreement being cancelled, a separate Form FmHA 1944–15 must be prepared for each loan. The Finance Office will process the cancellation and will accrue interest from the date of cancellation at the rate of interest shown on the promissory note. Prompt notification to the Finance Office, using Form FmHA 1944–15, is extremely important, as any transaction affecting the borrower's account subsequent to cancellation will be incorrect if cancellation action has not been completed by the Finance Office.

(l) *Applicant or borrower notice of right to appeal.* All applicants or borrowers who request and are denied interest credit or whose interest credits are reduced, cancelled, or not renewed, will be notified of their appeal rights as required by § 1900.56 of Subpart B of Part 1900 of this Chapter except when:

(1) Interest credit is denied because of confirmed income that is above FmHA published limits, or

(2) Interest credit is reduced because of confirmed income increases.

(m) *Submission to National Office.* The State Director may submit to the National Office for determination by the Administrator or a delegate any proposed transaction in which the conditions prescribed in the foregoing paragraphs of this section cannot be met, and it is determined that interest credit is necessary to avoid extreme hardship to the family or prevent foreclosure action. This paragraph is primarily intended to be used for those cases in which the granting of interest credit is necessary for the borrower to retain a dwelling for the borrower's own use, and there are no other means to do so. The State Director will submit to the National Office the County Office files together with full facts, justification, and recommendation.

§§ 1944.35–1944.36 [Reserved]

§ 1944.37 Subsequent Section 502 loans.

Subsequent Section 502 loans may be made to present borrowers for the same purposes and under the same conditions and limitations as initial loans, except as provided in this section.

(a) The subsequent loan will be processed in the same manner as initial loans, except that a new appraisal report will be required in accordance with § 1944.24 only when real estate will be taken as security and at least one of the following conditions exists:

(1) The property was not appraised in connection with the initial loan.

(2) The latest appraisal report of the real estate is over two years old.

(3) The physical characteristics of the property have changed significantly.

(4) The County Supervisor or loan approval official is uncertain of the adequacy of the security and requests a new appraisal report.

(5) The subsequent loan is in connection with a transfer of an existing loan subject to subsidy recapture in accordance with Subpart I of Part 1951 of this Chapter.

(b) A subsequent RH loan may be made on a note-only basis, provided the amount of the subsequent loan plus the unpaid principal balance of any prior note-only RH loan or loans does not exceed $2,500. Applicants for such loans must meet the requirements of § 1944.18(b)(1).

(c) When a real estate mortgage is required in connection with a subsequent RH loan, any outstanding RH notes will be described in the mortgage unless an exception can be made in accordance with Exhibit A, paragraph II F, of FmHA Instruction 427.1 (available in any FmHA office).

(d) The subsequent loan will bear interest at a rate determined in accordance with Exhibit B of FmHA Instruction 440.1 (available in any FmHA office).

(e) When necessary to settle a divorce action, a subsequent loan may be made to permit the remaining borrower, if eligible, to purchase the equity of the departing spouse.

(f) When an area designation has been changed from rural to non-rural, subsequent RH loans may be made only in accordance with the provisions of § 1944.10(g)(4).

(g) The loan approval official may authorize reamortization of a prior RH loan at the time a subsequent loan is made in those cases in which it is determined that the borrower cannot reasonably be expected to meet installments due unless the account is reamortized. It will be processed in accordance with § 1951.314 of this Chapter.

§ 1944.38 Mutual self-help housing loans.

Low income applicants may build their homes by participating in a mutual self-help housing project. The County Supervisor will not approve RH loans or proceed in the development of a self-help project without prior authorization of the State Director. If an organization applies for a Technical Assistance (TA) grant, the District Director will submit form AD–625, "Application for Federal Assistance (Short Form)," and all related information concerning the technical assistance grant to the State Director. If it is determined that the technical assistance grant has been approved for funding, the State Director may issue written authorization for the County Supervisor to approve Mutual Self-Help Housing Loans. Exhibit E, "Mutual Self-Help Housing Guidelines," will be used as a guide for developing self-help projects and counseling with participating families. Exhibit E–1, "Membership Agreement," and Exhibit E–2, "Promissory Note," will be used as explained in Exhibit E. The county Supervisor, in counseling with families participating in self-help housing projects, will determine the anticipated time required for construction.

§ 1944.39 RH loans to FmHA employees and loan closing officials.

FmHA employees, County Committee members, and loan-closing officials, or their spouses may receive a Section 502 RH loan subject to the provisions of this Subpart and the following conditions:

(a) The application will be submitted to the County Office in the usual manner. Written evidence indicating the applicant's inability to obtain the needed credit will be included. The County Office will obtain the verification of employment and credit report and submit the application and related information to the District Director for review. The District Director will forward the applicant's docket, along with written recommendation concerning the applicant's eligibility, to the State Director for eligibility determination.

(b) The State Director will determine the eligibility of the applicant. If eligible, the applicant will be notified and the docket will be returned to the District Director for processing. If the applicant is determined ineligible, the State Director will notify the applicant in writing and will provide the applicant all information required by § 1910.6(b) of Subpart A of Part 1910 of this Chapter.

(c) The application will be retained in the County Office and will be processed in the same order as other applications. The District Director will be notified when the application is in order for processing and will be responsible for the complete loan processing.

(d) If the loan applicant works outside the county in which the application is filed, the District Director may permit authorized County Office staff to perform the appraisal function. In all other cases the District Director will appraise the property or have it appraised by a qualified FmHA appraiser from outside the County Office area in which the loan is to be made. The completed loan docket together with the District Director's written recommendation will be submitted to the State Director for consideration of approval.

(e) If the applicant is an employee in the District Office, the State Director will designate another District Director to process the application.

(f) The State Director must, before approving the loan, determine that the applicant has not been and will not be given any advantage because of the FmHA relationship and the making of a loan will not result in a conflict of interest under FmHA Instruction 2045-BB (available in any FmHA office). The dwelling may not exceed the needs of the applicant or be excessive in size, design, or cost when compared to other FmHA financed dwellings in the area.

(g) If the loan is approved, the borrower's case file will not be maintained or serviced in the office where the borrower is or will be employed. If the property is in the area serviced by the office of employment the State Director will designate another District or County Office to service the loan.

(h) If the loan involves any type of construction, the inspections for FmHA will be made by the District Director or another member of the District Director's staff as designated by the District Director. Under no circumstances will the employee receiving the loan make the inspections for FmHA.

(i) Loans, credit sales, or assumption agreements *will not* be approved under this authority for any of the following purposes:

(1) Purchase of inventory property.

(2) Purchase of a dwelling from an RH borrower.

(3) Purchase of FmHA security property being sold at foreclosure sale.

§1944.40 Rural housing disaster (RHD) loans.

RHD loans may be made to repair or replace dwellings which were damaged or destroyed by a natural disaster such as earthquake, flood, forest fire, severe windstorm, or lightning.

(a) *Eligibility requirements.* (1) The applicant must meet the requirements of §1944.8 and §1944.9.

(2) Nonfarm applicants must have occupied the dwelling as their permanent residence.

(3) The loss by a nonfarm applicant was not the result of a major disaster designated by the President as eligible for individual assistance or a natural disaster designated by the Administrator of the Small Business Administration.

(4) The loss by a farmer was not the result of a major disaster designated by the President as eligible for individual assistance or a natural disaster designated by the Secretary of Agriculture.

(5) The loan application must be filed within 12 months after the date the loss occurred.

(6) The applicant must use available assets, including insurance loss payments, and other assistance, to the extent available, to repair or replace the damaged or destroyed buildings.

(b) *Repair or replacement of buildings.* Repair or replacement of any damaged or destroyed building must be consistent with the basic Section 502 loan policies. Changes may be made in the building, but in any case the repaired or replaced building should not be significantly larger or more costly than the original building except as necessary to provide a building which is adequate but modest. Any new dwelling constructed must meet the limitations established by § 1944.16.

(c) *Interest rate and source of funds.* (1) RHD loans will be made at an interest rate of 5 percent. Interest credit will not be granted for RHD loans.

(2) Insured loan funds will be used for RHD loans.

(d) *Approval authorization.* The State Director, County and Assistant County Supervisors are authorized to approve RHD loans in accordance with Subpart A of Part 1901 of this Chapter for Section 502 RH loans.

(e) *Deferred payments.* The initial payments of principal and interest, or principal only, may be deferred so as not to become due until as late as the third January 1 for annual payment notes, or the third anniversary date of the note for monthly payment notes, subject to all of the following conditions:

(1) The applicant, as a result of the loss suffered from the disaster, has had a substantial loss of income; or debts, including the proposed RHD loan, have increased substantially as a result of the disaster.

(2) The income loss or increase in debts must be sufficiently great so that the applicant will not likely be able to pay in full the installments that ordinarily would be due during the proposed deferment period and also meet other obligations.

(3) The applicant's other debts must be adjusted by reduction, reamortization, extension, or other means to the extent possible by negotiation with other creditors.

(4) The applicant's income will be sufficient after the deferment period to enable the applicant to meet the payments on the RHD loan and all other obligations.

(f) *Form FmHA 1940–1.* The appropriate assistance code number will be entered in the space provided to indicate the nature of the loss.

§§ 1944.41.–1944.43 [Reserved]

§ 1944.44 Borrower graduation.

County supervisors must stay currently informed about credit from other sources including availability of funds, interest rates, terms and debt/value ratios required. Borrowers will be asked to refinance RH loans when FmHA determines that credit likely will be available at rates and terms prevailing in the area and on terms which the borrower can reasonably be expected to meet. Borrowers will be required to apply for a refinancing loan from one or more locally active lenders when asked and, if approved by a lender, accept such credit to pay the FmHA loan in full. Graduation reviews will be conducted in accordance with Part 1865 of this Chapter (FmHA Instruction 451.6).

§ 1944.45 Conditional commitments.

(a) *General.* A conditional commitment is assurance from FmHA to a qualified builder or seller that a dwelling to be built or rehabilitated and offered for sale will be acceptable for purchase by qualified RH loan applicants if built in accordance with FmHA approved plans and specifications and priced at not more than a specified maximum amount. The conditional commitment does not

reserve funds for a loan nor does it assure that a loan applicant will be available to buy the dwelling.

(b) *Eligibility.* To be eligible for conditional commitments, the builder or seller must:

(1) Be the owner as defined in § 1944.15, before construction is started, of the site on which the dwelling is located or to be built, except as indicated in Subpart G of Part 1822 of this Chapter (paragraph VII L of FmHA Instruction 444.8).

(2) Have the experience and ability to complete the type of proposed work in a competent and workmanlike manner.

(3) Be financially responsible and have the ability to finance or obtain financing for the proposed housing or rehabilitation.

(4) Comply with the requirements of Subpart E of Part 1901 of this Chapter and all applicable laws relating to equal opportunity.

(5) Plan to build or rehabilitate dwellings which will qualify for purchase by RH applicants and which will be in compliance with all applicable laws, ordinances, and codes.

(6) Have the legal capacity to enter into the required agreements and the actual capacity to carry them out.

(c) *Limitations.* (1) Conditional commitments will be issued only in cases where the commitment applicant's selling price does not exceed the commitment price, which will never be more than the appraised value minus customary closing costs.

(2) Conditional commitments will be issued by FmHA only for new homes to be constructed or existing homes to be rehabilitated.

(3) Conditional commitments will not be issued after construction has started.

(4) Number of conditional commitments.

(i) The total number of conditional commitments issued in any locality will not exceed the number of homes for which there is an immediate and ready market in that locality.

(ii) The number of houses on which conditional commitments will be outstanding to a commitment applicant at any time will not exceed 15 in any one county unless authorized by the State Director after the State Director:

(A) Determines that a larger number of commitments must be made to meet the immediate housing needs in the area;

(B) Determines that authorizing more than 15 commitments to one commitment applicant will not reduce the participation of small volume builders in the Rural Housing program; and

(C) Provides guidelines to the County Supervisor to assure that all builders active in the area have equal opportunity to obtain more than 15 conditional commitments.

(iii) The total number of conditional commitments outstanding in the area served by a County Office will not exceed the number on which the County Supervisor can reasonably expect to be able to approve RH loans within 3 months after the houses covered by the commitments are completed, considering the availability of loan funds and the number of applications in the County Office.

(5) The period of the conditional commitment will be for 12 months from the date of issue. The commitment may be extended for an additional 6 months if justified because of (1) unexpected delays in construction caused by such factors as bad weather or materials shortages, or (2) marketing difficulties.

(6) When five or more conditional commitments have been issued to one recipient during a 12 month period, an affirmative marketing plan will be required in accordance with § 1901.203 (c) of Subpart E of Part 1901 of this Chapter.

(d) *Conditional commitments involving packaging of applications.* A conditional commitment may be made to a builder who packages a Rural Housing application for an applicant to buy the property. In cases when the dwelling is presold and is to be constructed for sale only to a specific applicant and the information on the house and the loan applicant is submitted at the same time, all of the following conditions must be met to avoid misunderstanding of FmHA's obligation to either the RH applicant or the conditional commitment applicant:

(1) The conditional commitment will not be approved until the RH loan has been approved.

(2) Construction will not begin until the County Office has received notice from the Finance Office that funds are obligated for the RH loan.

(3) The RH loan will be closed only after the dwelling is constructed or the rehabilitation completed and final inspection has been made.

(e) *Fees.* Each commitment applicant will pay an application fee at the time an application is submitted for a conditional commitment. The fee for each dwelling will be:

(1) For proposed construction of new dwellings—$65.

(2) For existing dwellings to be rehabilitated—$50.

(f) *Processing applications.* (1) Applications for conditional commitments will be submitted on Form FmHA 1944-36, "Application for Conditional Commitment." Attachments as outlined on the form will be included for each individual dwelling for which a conditional commitment is requested.

(2) *Transmittal of fees.* The County Supervisor will transmit application fees on Form FmHA 451-2, "Schedule of Remittances." The payment will be handled with all other payments for the day in accordance with Subpart B of Part 1951 of this Chapter and the FMI for Form FmHA 451-2.

(3) *Evaluation of applications.* The County Supervisor will take the following actions in the order specified:

(i) Determine whether the commitment applicant meets the requirements of paragraphs (b) and (c) of this section.

(ii) Determine whether the dwelling and site meet the requirements of this Subpart and Subpart A of Part 1924 of this Chapter and will comply with all local codes and ordinances. The property must meet the requirements of Subpart D of Part 1804 of this Chapter (FmHA Instruction 424.5).

(iii) If the commitment applicant and the dwelling and site have qualified, an appraisal will be made in accordance with FmHA Instruction 422.3 (available in any FmHA office).

(4) *Failure of applicant or dwelling to qualify.* In case any commitment applicant or dwelling does not qualify for a conditional commitment, the documents attached to the application will be returned to the commitment applicant with a letter explaining why the application was not approved. If the application is denied for failure to meet the requirements of paragraph (b) (2) or (3) of this Section, notice of appeal rights will be given as required by §1900.56 of Subpart B of Part 1900 of this Chapter.

(i) The application fee will be refunded if for any reason preliminary inspection of the property or investigation of the commitment applicant indicates that a conditional commitment cannot be issued. For example, the property might be located in a nonrural area or the dwellings may not be of a type that the FmHA can appropriately finance. If a refund is required, a memorandum should be sent to the Finance Office indicating the commitment applicant's name together with the date and amount of fees paid. The memorandum should also indicate the number of commitments being denied and amount of fees to be refunded.

(ii) Application fees will not be refunded for any property on which the appraisal has been made.

(5) *Conditional commitment approval.* The State Director, District Director, County and Assistant County Supervisors are authorized to approve conditional commitments provided the commitment price does not exceed the loan approval authority for Section 502 RH loans as outlined in Subpart A of Part 1901 of this Chapter. If the application is approved, the County Supervisor will complete and sign Form FmHA 444–11, "Conditional Commitment." When a qualified applicant applies for a loan to buy a dwelling on which a conditional commitment has been issued, the RH loan docket will be transferred to the conditional commitment folder.

(g) *Inspections.* Inspections of work to be done will be performed in accordance with Subpart A of Part 1924 of this Chapter. Failure to correct any deficiencies or to complete the work in accordance with plans and specifications approved by FmHA will be a basis for cancelling the conditional commitment.

(h) *Changes in plans, specifications, and/or commitment price.* The County Supervisor is authorized to approve changes in plans and specifications that are consistent with MPS and Exhibit D of Subpart A of Part 1924 of this Chapter. If the changes are requested after an option has been executed by a rural housing applicant, the change will be approved only after the applicant and the commitment holder submit a written request for approval. If a change will reduce or increase the appraised value of the property, the County Supervisor will revise the commitment price and inform the commitment holder. Also, in cases when the holder of a commitment reports to the County Supervisor that costs associated with the construction or repair of a dwelling have increased, the approval official may increase the commitment price provided the property has not been optioned by an RH applicant, and the County Supervisor determines that the increase is clearly justified, the circumstances causing the price increase were beyond the commitment holder's control, and the value of the property is adequate to permit the increased commitment price. A revised appraisal report will be prepared. The conditional commitment will be revised, initialed, and dated by the person authorizing the change.

(i) *Cancellation of outstanding conditional commitments.* (1) Conditional commitments may be cancelled when construction of the dwelling is not begun within 60 days after the commitment is issued.

(2) Conditional commitments will be cancelled when construction is not in accordance with all FmHA requirements, approved plans, specifications, or MPS, and the builder refuses to make corrections necessary for compliance.

(j) *Folder maintenance.* Documents prescribed in this Subpart will be filed in accordance with FmHA Instruction 2033–A (available in any FmHA office).

(k) *Builder's warranty.* The builder or seller, as appropriate, will execute Form FmHA 424–19, "Builder's Warranty," or provide a 10-year isured warranty when construction is completed or the loan to buy the dwelling is closed.

§ 1944.46 Construction financing for builders by private credit sources.

(a) The purpose of this section is to provde a method by which a builder may be able to obtain construction credit from commercial sources of credit. It may eliminate the need to use a supervised bank account and also eliminate the need for the borrower to make payments on the loan during construction.

(b) This method may be used under the following conditions:

(1) A conditional commitment has been or will be issued, an RH loan approved, and funds obligated for the applicant in accordance with § 1944.45, or

(2) The applicant owns a building site and will contract the construction or improvement of the building or buildings. In such a case:

(i) The applicant will retain ownership of the site and not convey title to the builder, and

(ii) The lender providing the construction financing will not take a mortgage on the site owned by the applicant or otherwise require the applicant to secure the construction loan.

(c) This method may not be used if the RH loan is made in participation with an FO or an individual SW loan.

(d) Loan docket forms will be prepared in accordance with § 1944.30 of this Subpart. Applicants who own the building site will be required to obtain and submit to the County Supervisor preliminary title evidence in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1). Satisfactory title or leasehold interest in the property must be confirmed before execution of Form FmHA 424–6, "Construction Contract," and Form FmHA 444–16, "Notice of Loan Approval."

(e) When Form FmHA 440–57 is received from the Finance Office, the County Supervisor will complete and sign an original and one copy of Form FmHA 444–16. The original of Form FmHA 444–16 will be given to the builder and a copy will be retained in the loan docket.

(f) The builder may present Form FmHA 444–16, Form FmHA 444–11, "Conditional Commitment," Form FmHA 440–34, or Form FmHA 424–6, as appropriate, to a commercial lender to obtain construction financing. The County Supervisor will make no commitments to the lender except as indicated on the above forms.

(g) The required inspections will be made by FmHA or a firm or company that will provide a 10-year insured warranty. In all cases the final inspection will be made by FmHA. Copies of Form FmHA 424–12, "Inspection Report," will be provided to the builder and, if requested, to the commercial lender.

(h) The lender is responsible for determining the amount that will be advanced to the builder under the construction financing arrangement, and for determining any measures necessary to protect its interest.

(i) When construction is completed, the loan will be closed in accordance with Subpart A of Part 1807 of this Chapter (FmHA Instruction 427.1), usually within 10 days after satisfactory completion of construction.

§§ 1944.47–1944.50 [Reserved]

Exhibit A [Amended]

2. Exhibit A, paragraph III, is amended by changing the reference in the last sentence from "§ 1944.26 (c)" to "§ 1944.26 (d)."

Exhibit B [Amended]

3. Exhibit B is amended by removing the Sample Letter for Authenticating Alien Registration Cards and by changing the list of addresses of the Immigration and Naturalization Service district offices to read as follows:

Albany, New York 12207, Post Office and Courthouse, Room 220, 445 Broadway
Anchorage, Alaska 99513, Room D–229, 701 C Street
Atlanta, Georgia 30303, Room 1408, Federal Office Building, 75 Spring Street, SW
Baltimore, Maryland 21201, E.A. Garmatz Federal Building, 100 S. Hanover St.
Boston, Massachusetts 02203, John Fitzgerald Kennedy Federal Building, Government Center
Buffalo, New York 14202, 68 Court Street
Chicago, Illinois 60604, Dirksen Federal Office Building, 219 South Dearborn Street
Cincinnati, Ohio 45201, U.S. Post Office and Courthouse, 5th and Walnut Streets, Post Office Box 537
Cleveland, Ohio 44199, Room 1917, Federal Building, 1240 East 9th Street
Dallas, Texas 75202, Room 6A21, Federal Building, 1100 Commerce Street

Denver, Colorado 80202, 17027 Federal Office Building
Detroit, Michigan 48207, Federal Building, 333 Mount Elliott Street
El Paso, Texas 79984, 343 U.S. Courthouse, Post Office Box 9398
Hammond, Indiana 46320, 102 Federal Building, 507 State Street
Harlingen, Texas 78550, 2102 Teege Avenue
Hartford, Connecticut 06105, 900 Asylum Avenue
Helena, Montana 59601, Room 512, 301 South Park
Honolulu, Hawaii 96809, 595 Ala Moana Boulevard, Post Office Box 461
Houston, Texas 77004, 2627 Caroline Street
Kansas City, Missouri 64106, Suite 1100, 324 E Eleventh Street
Los Angeles, California 90012, 300 North Los Angeles Street
Los Fresnos, Texas 78566, Route 3, Box 341
Memphis, Tennessee 38104, 814 Federal Building, 167 North Main Street
Miami, Florida 33130, 155 South Miami Avenue
Milwaukee, Wisconsin 53202, Room 186 Federal Building, 517 East Wisconsin Avenue
Newark, New Jersey 07102, Federal Building, 970 Broad Street
New Orleans, Louisiana 70113, Room T–8005, Postal Services Building, 701 Loyola Avenue
New York, New York 10007, 26 Federal Plaza
Norfolk, Virginia 23502, Room 207, Bank of Virginia Building, 870 North Military Highway
Omaha, Nebraska 68102, Room 1008, Federal Office Building, 106 South 15th Street
Philadelphia, Pennsylvania 19106, Room 1321 U.S. Courthouse, Independence Mall West, 601 Market Street
Phoenix, Arizona 85025, Federal Building, 230 North First Avenue
Pittsburgh, Pennsylvania 15222, 2130 Federal Building, 1000 Liberty Avenue
Port Isabel, Texas 78566, Rural Route 3
Portland, Maine 04112, 76 Pearl Street
Portland, Oregon 97209, Federal Office Building, 511 N.W. Broadway
Providence, Rhode Island 02903, Federal Building, U.S. Post Office, Exchange Terrace
Reno, Nevada 89502, Suite 150, 350 South Center Street
Saint Albans, Vermont 05478, Federal Building, Post Office Box 328
Saint Louis, Missouri 63101, Room 423, U.S. Courthouse and Customhouse, 1114 Market Street
Saint Paul, Minnesota 55111, 927 New Post Office Building, 180 East Kellog Blvd.
Salt Lake City, Utah 84138, Room 4103, New Federal Building, 125 South State Street
San Antonio, Texas 78206, Suite A301, U.S. Federal Building, 727 East Durango
San Diego, California 92188, 880 Front Street
San Francisco, California 94111, Appraisers Building, 630 Sansome Street
San Juan, Puerto Rico 00936, U.S. Immigration and Naturalization Service, GPO Box 5068
Seattle, Washington 98134, 815 Airport Way, South
Spokane, Washington 99201, 691 U.S. Courthouse Building
Washington, D.C. 20538, E Street NW.

Exhibit C [Amended]

5. Under "Maximum adjusted incomes for rural housing programs in Idaho," the column entitled "Area/county" is revised by changing "District I" to "Panhandle," "District II" to "Clearwater," "District III" to "Ida-Ore," "District IV" to "Region IV," "District V" to "Southeast," and "District VI" to "East Central."

6. Under "Maximum adjusted incomes for rural housing programs in New Mexico," the Mid Rio Grande area is amended by adding the county "Cibola" and by changing "Los Almos" to read "Los Alamos."

7. The table entitled, "Maximum adjusted incomes for rural housing programs in Alaska" is revised to read as follows:

MAXIMUM ADJUSTED INCOMES FOR RURAL HOUSING PROGRAMS IN ALASKA

Area/County	Very low, 50% median	Low income	Moderate income
Soldotna	15,000	24,000	28,500
Palmer	15,000	24,000	28,500
Fairbanks	18,000	24,000	28,500
Juneau	17,100	27,500	33,000

Exhibit D [Amended]

8. Item number 2 is amended by changing the wording in the second sentence from "The planned income to be received" to "The current income received."

9. Item number 4 is amended by adding the word "initial" following "An" in the first sentence.

10. Item number 9 is amended by changing the wording at the end of the paragraph from "every 2 years" to "every year."

11. Item number 11 is revised to change the word "it" to "the property."

12. Item number 15 is revised to read as follows:

15. *Graduation:* FmHA does not replace conventional credit. FmHA credit is available to eligible rural residents only until such time as conventional credit is available to finance the borrower's needs. When, in FmHA's opinion, the borrower may obtain credit at rates and terms then prevailing in the area and on terms the borrower can reasonably be expected to meet, the borrower will be required to apply for and, if approved by the lender, accept a loan sufficient to pay the balance of the FmHA debt in full.

13. Item number 20 has been amended by adding at the end of the sentence, the words, "and the home may then become ineligible for transfer by assumption in the FmHA loan program."

14. Exhibits E and F are removed and Exhibits G, G–1 and G–2 are renumbered to Exhibits E, E–1 and E–2 respectively.

Exhibit E [Amended]

15. Exhibit E is amended in the Table of Contents by changing the references from "Exhibit G–1" and "Exhibit G–2" to "Exhibit E–1" and "Exhibit E–2," in the section titled "Organization and Agreements," by changing the reference in the third sentence of the first paragraph from "Exhibit G" to "Exhibit E–1," and in the second paragraph by changing the reference in the second sentence from "Exhibit G–2" to "Exhibit E–2."

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: November 12, 1982.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 83–128 Filed 1–3–83; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Parts 204 and 217

[Docket No. R–0444]

Reserve Requirements of Depository Institutions (Regulation D) and Interest on Deposits (Regulation Q); Technical Amendments

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; technical amendments.

SUMMARY: Pursuant to its authority under section 19 of the Federal Reserve Act, as amended, the Board has amended Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) and Regulation Q—Interest on Deposits (12 CFR Part 217) to incorporate the rules of the Depository Institutions Deregulation Committee ("DIDC"), adopted pursuant to the Depository Institutions Deregulation Act of 1980 and section 327 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320; 96 Stat. 1501). The amendments to Regulations D and Q are technical in nature and conform the Board's rules to those of the DIDC.

EFFECTIVE DATE: January 5, 1983.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452–3625), or Paul S. Pilecki, Senior Attorney (202/452–3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96-221) transfers to the DIDC the authority conferred by section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) upon the Board (and the similar authority of the Federal Deposit Insurance and the Federal Home Loan Bank Board, which are contained in other statutes) to establish rules concerning the payment of interest on deposit accounts.

The Board has amended its Regulation D and Regulation Q to bring them into conformity with actions taken by the DIDC. The following table presents the regulatory provisions that have been affected by the DIDC's actions:

DIDC rule	Regulatory provision amended
1204.104—26 Week Money Market Time Deposits of Less Than $100,000.	217.7(f).
1204.105—Maximum Rates of Interest Payable by Depository Institutions on Deposits Subject to Negotiable Orders of Withdrawal.	217.1(e), 217.7(c).
1204.120—90-Day Time Deposits of Less Than $100,000.	217.7(j).
1204.121—Seven to 31-Day Time Deposits of $2,500 or More.	204.2(b)(2), (c)(1), 217.4(d)(6), 217.4(f), 217.7(*l*).
1204.122—Money Market Deposit Account.	217.1(e)(4), 217.5(c), 217.7(m).
1204.201—Establishment of Interest Rates on Deposits Not Subject to Interest Rate Ceilings.	217.4(d)(5).

Because of the technical nature of the amendments conforming Regulations D and Q to actions of the DIDC, the Board finds that application of the notice and public participation provisions of 5 U.S.C. 553 to these actions is unnecessary and contrary to the public interest, and that good cause exists for making these actions effective January 5, 1983.

List of Subjects in 12 CFR Part 217

Advertising, Banks, banking, Federal Reserve System, Foreign banking.

PARTS 204 AND 217—[AMENDED]

Pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C 461, 371a, and 371b), the Board amends Regulation D (12 CFR Part 204) and Regulation Q (12 CFR Part 217), effective January 5, 1983, as follows:

§ 204.2 [Amended]

1. Section 204.2 is amended by removing the phrase ", subject to a minimum balance of $20,000," in paragraphs (b)(2)(iv)(A) and paragraph (c)(1)(iii).

2. Section 217.1(e) is amended by adding a new paragraph (4) as follows:

§ 217.1 Definitions

* * * * *

(e) * * *

(4) Savings deposit also means a deposit issued pursuant to § 217.7(c)(2)(ii) or § 217.7(m) with respect to which the member bank reserves the right to require at least seven days' notice prior to withdrawal or transfer.

* * * * *

3. Section 217.4 is amended by revising paragraph (d) (5) and (6) and paragraph (f) to read as follows:

§ 217.4 Payment of time deposits before maturity.

* * * * *

(d) * * *

(5) Any amendment of a time deposit contract that results in an increase in the rate of interest paid, except for time deposits on which no maximum interest rate limitation is prescribed, or any amendment of a time deposit contract that results in a reduction in the maturity of the deposit constitute payment of a time deposit before maturity.

(6) For purposes of computing the penalty required to be imposed under this paragraph, under a time deposit agreement that provides that subsequent deposits reset the maturity of the entire account, each deposit, maintained in the account for at least a period equal to the original maturity of the deposit may be regarded as having matured individually and been redeposited at intervals equal to such period. Except as provided in § 217.7(*l*)(3), when a time deposit is payable only after notice, for funds on deposit for at least the notice period, the penalty for early withdrawal shall be imposed for at least the notice period.

* * * * *

(f) *Loans upon security of time deposits.* Except as provided in § 214.7(*l*)(2), a member bank may make a loan to the depositor upon the security of his time deposit, provided that the rate of interest on such loan shall be not less than 1 percent per annum in excess of the rate of interest on the time deposit.

4. Section 217.5 is amended by revising the introductory text of paragraph (c)(1) but not footnote 12, which remains unchanged to read as follows:

§ 217.5 Withdrawal of savings deposits.

* * * * *

(c) *Manner of payment of savings deposits.* (1) Subject to the provisions of paragraphs (c)(2) and (3) of this section and § 217.7(m), a member bank may permit withdrawals to be made from a savings deposit only through payment [12] to the depositor himself (but not to any other person whether or not acting for the depositor), except

* * * * *

12 * * *

§ 217.7 [Amended]

5. Section 217.7 is amended by removing the number "$10,000" wherever it appears in paragraph (f) and the number "$7,500" in paragraph (j) and substituting in lieu thereof the number "$2,500".

6. Section 217.7 is amended by revising paragraphs (c) and (l) and by adding a new paragraph (m) to read as follows:

§ 217.7 Maximum rates of interest payable by member banks on time and savings deposits.

* * * * *

(c) *Savings deposits.* (1) Except as provided in paragraph (m), no member bank shall pay interest at a rate in excess of 5¼ percent on any savings deposit.

(2) A member bank may pay interest on any deposit or account subject to negotiable or transferable orders of withdrawal that is authorized pursuant to 12 U.S.C. 1832(a)

(i) At a rate not to exceed 5¼ percent per annum, or

(ii)(A) At any rate on a deposit account subject to the conditions of this paragraph with an initial balance of no less than $2,500 and an average deposit balance (as computed in paragraph (c)(2)(ii)(B) of this section) of no less than $2,500. However, for an account with an average balance of less than $2,500, a member bank shall not pay interest in excess of the rate specified in paragraph (c)(2)(i) of this section for the entire computation period, as described in paragraph (c)(2)(ii)(B).

(B) The average balance in paragraph (c)(2)(ii)(A) may be calculated on the basis of the average daily balance over any computation period selected by a member bank which is not longer than one month. (For purposes of this paragraph (c)(2)(ii), a "month" shall mean, at a member bank's option, a calendar month or statement cycle. A statement cycle is normally 28 to 31 days, but may occasionally be as long as 35 days.)

(C) A member bank may not obligate itself to pay any interest rate or obligate itself to employ any method of calculation of an interest rate on this account for a period longer than one month. A member bank may not condition the interest rate paid upon the period of time the funds remain on deposit in this account, if that period is longer than one month.

(D) A member bank must reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds in this account. If such a requirement for a notice period is imposed by a member bank on one depositor, it must be applied equally to all other depositors holding an account subject to this paragraph (c)(2)(ii) at the same institution.

(E) A member bank is not permitted to lend funds to a depositor to meet the $2,500 balance requirements of this paragraph (c)(2)(ii).

* * * * *

(l) *Seven-to-31 day time deposits of $2,500 or more.* (1) Notwithstanding paragraphs (b) and (d), a member bank may pay interest at any rate as agreed to by the depositor on any nonnegotiable time deposit of $2,500 or more, with a maturity or required notice period of not less than seven days nor more than 31 days. However, a member bank shall not pay interest in excess of the ceiling rate for regular savings deposits or accounts on any day the balance in a time deposit issued under this paragraph is less than $2,500.

(2)(i) A member bank is not permitted

(A) To lend funds to a depositor upon the security of a time deposit that it has issued under this paragraph, or

(B) To lend funds to a depositor to meet or maintain the minimum denomination requirement of a time deposit issued under this paragraph.

(ii) The rate of interest and any other charges imposed on an overdraft credit arrangement to which withdrawals are paid or to which payments upon maturity or expiration of a required notice period are made from an account issued under this paragraph must be not less than those imposed on such overdrafts for customers that do not possess an account issued under this paragraph at the same institution.

(3)(i) Where all or any part of a time deposit issued under this paragraph is paid before maturity or expiration of the required notice period, a depositor shall forfeit an amount at least equal to the greater of

(A) All interest earned on the amount withdrawn from the most recent of the date of deposit, date of maturity, or date on which notice was given, or

(B) All interest that could have been earned on the amount withdrawn during a period equal to one-half the maturity period or required notice period.

(ii) Where all or any part of a time deposit issued under this paragraph is withdrawn within one business day after the maturity date of the deposit or the date of expiration of notice of withdrawal, no early withdrawal penalty is required to be applied on the amount withdrawn.

(4) Additional deposits to an account issued under this paragraph with a fixed maturity must be maintained in the account for a period at least equal to the original term of the account and may be regarded as having matured individually and having been redeposited at intervals equal to such period. For accounts issued under this paragraph that are subject to a notice period, additional deposits must remain in the account for a period equal to at least the notice period before such funds may be withdrawn without the imposition of an early withdrawal penalty.

(5) Deposits to any account issued under this paragraph may not be made by automatically transferring funds from another account of the depositor at the same institution where the transfer is initiated by the level of the balance in any account.

(6)(i) Withdrawals from any account issued under this paragraph may not be made

(A) By check, draft, or other third party payment instrument or instruction drawn or issued by the depositor, or

(B) By automatically transferring funds to another account of the depositor where the transfer is initiated by the level of balance in any account held by the depositor.

(ii) Payments at maturity or withdrawals may be paid by

(A) Check or cash to the depositor,

(B) Cash, draft, or electronic transfer issued by the institution to a third party, or

(C) Transfer to any other account held by the depositor.

(iii) Notice of withdrawal from an account issued under this paragraph may be delivered by the depositor to the institution by telephone or other telecommunication, mail, messenger, standing order, or by appearance in person at the offices or premises of the institution.

(m) *Money market deposit accounts.* (1) Notwithstanding paragraph (c) of this section, a member bank may pay interest at any rate on a deposit account as described in this paragraph with an initial balance of no less than $2,500 and an average deposit balance (as computed in paragraph (m)(2) of this section) of no less than $2,500. However, for an account with an average balance of less than $2,500, a member bank shall not pay interest in excess of the ceiling rate specified for NOW accounts under paragraph (c)(2)(i) of this section for the entire computation period, as described in paragraph (m)(2) of this section.

(2) The average balance for this account may be calculated on the basis of the average daily balance over any computation period selected by the member bank that is not longer than one month. (For purposes of this paragraph, a "month" shall mean, at a member bank's option, either a calendar month or a statement cycle. A statement cycle is normally 28 to 31 days, but may occasionally be as long as 35 days.)

(3) A member bank is not required to establish a maturity on this account. However, it may do so, provided that the maturity is no longer than one month. Furthermore, a member bank may not obligate itself to pay any interest rate or obligate itself to employ any method of calculation of an interest rate on this account for a period longer than one month. A member bank may not condition the interest rate paid or the method of calculation of the interest rate paid upon the period of time funds remain on deposit in this account, if that period is longer than one month.

4. A member bank must reserve the right to require at least seven days' notice prior to withdrawal or transfer of any funds in this account. If such a requirement for a notice period is imposed by a member bank on one depositor, it must be applied equally to all other depositors holding this account at the same institution.

(5)(i) A member bank is not required to limit the number of transfers of funds from this account to another account of the same depositor when made by mail, messenger, automated teller machine or in person. A member bank is not required to limit the number of withdrawals (*i.e.*, payments directly to the depositor) from this account when made by mail, telephone (via check mailed to the depositor), messenger, automated teller machine or in person. A member bank must restrict all preauthorized (including automatic) transfers of funds from this account to a maximum of six per month. Three of such transfers may be by check, draft or similar device drawn by the depositor to third parties. Telephone transfers to third parties or to another account of the same depositor are regarded as preauthorized transfers. There is no required minimum denomination for the transfers allowed by this paragraph.

(ii) In order to ensure that no more than the permitted number of transfers are made, a member bank must either:

(A) Prevent transfers of funds in this account that are in excess of the limits established by this subparagraph, or

(B) Adopt procedures to monitor those transfers on an ex post basis and contact customers who exceed the limits established by this paragraph on more than an occasional basis. For customers

who continue to violate those limits after being contacted by the member bank, the bank will be required to either close the account or take away the account's transfer and draft capacities.

(iii) A member bank, at its option, may use on a consistent basis either the date on a check or the date it is paid in applying the limit on checks established by this subparagraph (5).

(iv) The rate of interest or other charges imposed on an overdraft credit arrangement on an account to which withdrawals from this account can be paid must be not less than those imposed on overdrafts for customers who do not maintain this account.

(6) A member bank may offer the account authorized by this paragraph to any depositor.

(7) A member bank is not required to impose restrictions on the number of additional deposits (including sweeps from other accounts) into this account.

(8) A member bank is not permitted to lend funds to a depositor to meet the $2,500 balance requirement of this account.

By order of the Board of Governors, December 28, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-114 Filed 1-3-83; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 207

[Economic Reg. Amdt. No. 34; Dockets 40366, 38621, Reg. ER-1311]

Charter Trips and Special Services

AGENCY: Civil Aeronautics Board.

ACTION: Conforming amendment.

SUMMARY: The CAB is conforming its rules to take account of its recent codification of its domestic baggage liability rules. This action is taken at the Board's initiative.

DATES: Adopted: December 22, 1982. Effective: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

14 CFR Parts 207, *Charter trips and special services,* and 208, *Terms, conditions and limitations of certificates to engage in charter air transportation,* set out rules applicable to domestic charter operations. Sections 207.18 and 208.30 prohibit air carriers subject to those parts from limiting their baggage liability except as set forth in Part 254.

In ER-1305, 47 FR 52987, November 24, 1982, the Board simplified its rules for domestic baggage liability and codified them in 14 CFR Part 254. The orders that had previously set forth the domestic baggage liability requirements have been superseded by this new part. Part 254 provides that air carriers in interstate and overseas air transportation may not limit their liability to less than $1000 per passenger for loss, damage, or delay in the carriage of passenger baggage. In addition, carriers must provide written notice in or with their tickets of any limitation on liability for fragile or perishable goods, and of the availability, if any, of excess valuation insurance.

This amendment makes conforming changes consistent with the new Part 254. References to the three baggage orders have been removed and replaced with a reference to Part 254. The notification that copies of the orders are available through the CAB Publications Section has also been removed.

Because these changes are editorial in nature, are necessary, and are made merely to conform to the recent codification of the baggage liability rules, the Board finds that notice and public procedure are unnecessary.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act (Pub. L. 96-354), the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. The requirements concerning domestic baggage liability apply only to large aircraft operations (more than 60 seats/18,000 pound payload capacity), which are not considered small entities for the purposes of the Regulatory Flexibility Act under the Board's definition.

List of Subjects in 14 CFR Part 207

Charter flights, Reporting requirements, Surety bonds, Travel agents.

PART 207—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 207, *Charter trips and special services,* as follows:

1. The authority for Part 207 is:

Authority: Secs. 102, 204, 401, 403, 404, 407, 411, 416, 418, 1002 of Pub. L. 85-726, as amended; 72 Stat. 740, 743, 754, 758, 760, 766, 769, 771, 91 Stat. 1284, 72 Stat. 788; 49 U.S.C. 1302, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1388, 1482.

2. Section 207.18, Baggage liability, is amended so that it reads:

§ 207.18 Baggage liability.

Air carriers shall not limit their baggage liability for interstate and overseas charter flights except as set forth in 14 CFR Part 254.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-79 Filed 1-3-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 208

[Economic Regs. Amdt. No. 36; Dockets 40366, 38621; Reg. ER-1312]

Terms, Conditions and Limitations of Certificates To Engage in Charter Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Editorial amendment.

SUMMARY: The CAB is conforming its rules to take account of its recent codification of its domestic baggage liability rules. This action is taken at the Board's initiative.

DATES: Adopted: December 22, 1982. Effective: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION:

Supplementary information about this change appears in ER-1311, issued along with this rule. Because these changes are editorial in nature, are necessary, and are made merely to conform to the recent codification of the baggage liability rules, the Board finds that notice and public procedure are unnecessary.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act (Pub. L. 96-354), the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. The notice requirements concerning domestic baggage liability apply only to large aircraft operations (more than 60 seats/18,000 pound payload capacity), which are not considered small entities for the purposes of the Regulatory Flexibility Act under the Board's definition.

List of Subjects in 14 CFR Part 208

Charter flights, Insurance, Military air transportation, Reporting requirements, Surety bonds, Travel agents.

PART 208—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 208 as follows:

1. The authority for Part 208 is:

Authority: Secs. 102, 204, 401, 403, 404, 407, 411, 416, 417, 1002 of Pub. L. 85–726, as amended; 72 Stat. 740, 743, 754, 758, 760, 766, 769, 771; 76 Stat. 145; 72 Stat. 788; 49 U.S.C. 1302, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1387, 1482.

2. Section 208.39, *Baggage liability*, is amended to read:

§ 208.39 Baggage liability.

Air carriers shall not limit their baggage liability for interstate and overseas charter flights except as set forth in 14 CFR Part 254.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–80 Filed 1–3–83; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 221

[Economic Regs. Amdt. No. 62, Dockets 40366, 38621; Reg. ER–1310]

Tariffs

AGENCY: Civil Aeronautics Board.

ACTION: Conforming amendment.

SUMMARY: The CAB is conforming Board-mandated notices concerning baggage liability to remove unnecessary references to domestic baggage liability from countersigns and ticket notices, because they are governed by a new, recently adopted baggage rule. This action is taken at the Board's initiative.

DATES: Adopted: December 22, 1982. Effective: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION:

In ER–1305, 47 FR 52987, November 24, 1982, the Board simplified its rules for domestic baggage liability and codified them in 14 CFR Part 254. The rule provides that air carriers in interstate and overseas air transportation may not limit their liability to less than $1,000 per passenger for loss, damage, or delay in the carriage of passenger baggage. In addition, a carrier must provide written notice on or with its ticket concerning any limitations on its baggage liability, including its rules for fragile or perishable goods and the availability, if the carrier provides it, of excess valuation insurance coverage.

Section 221.176, *Notice of limited liability for baggage; alternative consolidated notice of liability limitations*, requires air carriers to provide notice to passengers concerning their baggage liability limitations, on Board-specified countersigns and ticket notices. Although the notices deal primarily with international air transportation, one clause alerts passengers to the monetary limit in domestic air transportation. This amendment removes the reference to the domestic baggage limitation because it has been superseded by the general notice requirement in Part 254.

An obsolete transitional proviso is deleted from § 221.176(b).

Because these changes are editorial in nature, are necessary, and are made merely to conform to the recent increase of the baggage liability limitation, the Board finds that notice and public procedure are unnecessary.

The Board is aware that some uncertainty concerning international baggage limitations has been caused by the decision in *Franklin Mint Corporation* v. *Trans World Airlines, Inc.*, No. 82–7012, (2nd Cir., decided September 28, 1982). The purpose of this amendment is only to conform the Part 221 notice requirements for domestic baggage liability with the issuance of the new Part 254. It should not be construed as affecting in any way the rules concerning international baggage liability.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act (Pub. L. 96–354), the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. The notice requirements concerning domestic baggage liability apply only to large aircraft operations (more than 60 seats/18,000 pound payload capacity), which are not considered small entities for the purposes of the Regulatory Flexibility Act under the Board's definition.

List of Subjects in 14 CFR Part 221

Air rates and fares, Credit, Explosives, Freight, Handicapped.

PART 221—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 221, as follows:

1. The authority for Part 221 is:

Authority: Secs. 102, 204, 401, 402, 403, 404, 411, 416, 1001, 1002, as amended, Pub. L. 85–726, 72 Stat. 740, 743, 754, 757, 578, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1374, 1381, 1386, 1481, 1482.

2. Section 221.176, *Notice of limited liability for baggage: alternative consolidated notice of baggage liability* is amended to remove the references to domestic baggage liability so that as revised it reads:

§ 221.176 Notice of limited liability for baggage; alternative consolidated notice of liability limitations.

(a) Each air carrier and foreign air carrier which, to any extent, avails itself of limitations on liability for loss of, damage to, or delay in delivery of baggage shall cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in the charge of a person employed exclusively by it or by it jointly with another person, or by any agent employed by such air carrier or foreign air carrier to sell tickets to persons or accept baggage for checking, a sign which shall have printed thereon the following statement:

Notice of Limited Liability for Baggage

For most international travel (including domestic portions of international journeys) liability for loss, delay, or damage to baggage is limited to approximately $9.07 per pound for checked baggage and $400 per passenger for unchecked baggage unless a higher value is declared and an extra charge is paid. Special rules may apply for valuables. Consult your carrier for details.

Provided, however, that an air carrier or foreign air carrier which provides a higher limitation of liability for death or personal injury than that set forth in the Warsaw Convention and has signed a counterpart of the agreement approved by the Board by Order E–23680, dated May 13, 1966 (31 FR 7302, May 19, 1966), may use the following notice in full compliance with the posting requirements of this paragraph and of § 221.175(b):

Advice to Passengers on Limitations of Liability

Airline liability for death or personal injury may be limited by the Warsaw Convention and tariff provisions in the case of travel to or from a foreign country.

For most international travel (including domestic portions of international journeys) liability for loss, delay or damage to baggage is limited to approximately $9.07 per pound for checked baggage and $400 per passenger for unchecked baggage unless a higher value is declared and an extra charge is paid. Special rules may apply to valuable articles.

See the notice with your tickets or consult your airline or travel agent for further information.

Provided, however, that carriers may include in the notice the parenthetical phrase "($20.00 per kilo)" after the phrase "$9.07 per pound" in referring to

the baggage liability limitation for most international travel. Such statements shall be printed in bold-face type at least one-fourth of an inch high and shall be so located as to be clearly visible and clearly readable to the traveling public.

(b) Each air carrier and foreign air carrier which, to any extent, avails itself of limitations of liability for loss of, damage to, or delay in delivery of, baggage shall include on each ticket issued in the United States or in a foreign country by it or its authorized agent, the following notice printed in at least 10-point type:

Notice of Baggage Liability Limitations

For most international travel (including domestic portions of international journeys) liability for loss, delay, or damage to baggage is limited to approximately $9.07 per pound for checked baggage and $400 per passenger for unchecked baggage unless a higher value is declared in advance and additional charges are paid. Excess valuation may not be declared on certain types of valuable articles. Carriers assume no liability for fragile or perishable articles. Further information may be obtained from the carrier.

Provided, however, that carriers may include in their ticket notice the parenthetical phrase "($20.00 per kilo)" after the phrase "$9.07 per pound" in referring to the baggage liability limitation for most international travel.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-73 Filed 1-3-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

15 CFR Part 2301

[Docket No. 21102-222]

Public Telecommunications Facilities Program; Correction of Final Rules

AGENCY: National Telecommunications and Information Administration (NTIA), Department of Commerce.

ACTION: Correction of final rules.

SUMMARY: In 47 FR 53652, November 26, 1982, NTIA issued Final Rules governing its Public Telecommunications Facilities Program (PTFP). In issuing the Final Rules NTIA added two new subparagraphs to a section. NTIA is now correcting one of the subparagraphs by deleting the phrase "or other transmission" in order to clarify the intent of its regulations and to conform more closely with existing law.

FOR FURTHER INFORMATION: Contact persons desiring further information concerning the correction of the Final Rules should contact: Robert M. Hunter, Office of General Counsel, DOC, Room 5883, Washington, D.C. 20230. Telephone: (202) 377-5384.

SUPPLEMENTARY INFORMATION:

List of Subjects in 15 CFR Part 2301

Administrative procedure, Grant programs—communications, Reporting requirements, Telecommunications.

Paragraph (17) of § 2301.28(a) is hereby amended by removing the phrase "or other transmission" and adding the phrase, "except as permitted by law." Section 2301.28(a)(17) now reads:

§ 2301.28 Nondiscrimination.

During the construction of a project and the Federal interest period, the grantee must:

* * * * *

(a) * * *

(17) Not make its facilities available to any person for the broadcast of any advertisement except as permitted by law.

(Catalogue of Federal Domestic Assistance No. 11.550.)

Dated: December 27, 1982.

Approved:

Bernard J. Wunder, Jr.

Administrator.

[FR Doc. 83-76 Filed 1-3-83; 8:45 am]

BILLING CODE 3510-60-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 7

[T.D. 83-7]

Customs Regulations Amendment Relating to Articles Imported From Insular Possessions of the United States Other Than Puerto Rico

AGENCY: Customs Service. Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that articles valued at $100 or less coming directly into the United States from an insular possession of the United States other than Puerto Rico may be admitted free of duty pursuant to the Tariff Schedules of the United States, without certain specified accompanying documentation. The current regulation provides for this treatment for articles valued at $25 or less. This change will result in a reduction in paper work for both importers and Customs, and will expedite the clearance of passengers' baggage and mail parcels containing products from insular possessions.

EFFECTIVE DATE: February 3, 1983.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: Benjamin Mahoney, Entry Procedures and Penalties Division (202-566-5765); Operational Aspects: Eula D. Walden, Office of Cargo Enforcement and Facilitation (202-566-8151); U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

General Headnote 3(a), Tariff Schedules of the United States (TSUS, 19 U.S.C. 1202) provides, in part, that articles coming into the customs territory of the United States directly from an insular possession of the United States other than Puerto Rico (Guam, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and American Samoa), which are the growth or product of any such insular possession, or are manufactured or produced in any such possession from materials the growth, product, or manufacture of any such possession or of the customs territory of the United States, or of both, which do not contain foreign materials to the value of more than 50 percent of their total value (or more than 70 percent of their total value with respect to watches and watch movements), are exempt from duty. It further provides that all articles previously imported into the customs territory of the United States with payment of all applicable duties and taxes imposed upon or by reason of importation, which were shipped from the United States without remission, refund, or drawback of such duties and taxes, directly to the insular possession from which they are being returned by direct shipment, are exempt from duty.

Section 7.8 (a), Customs Regulations (19 CFR 7.8. (a)), provides that when articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $25 are sought to be admitted free of duty under the provisions of General Headnote 3(a), TSUS, relating to certain articles *produced in the insular possessions*, there shall be filed in connection with the entry, a certificate of origin on Customs Form 3229 signed by the chief or assistant chief Customs officer at the port of shipment, showing that the articles are the growth or

product of such possession, or were manufactured or produced in such possession from materials the growth, product, or manufacture of any such possession or of the United States, or of both, which do not contain foreign materials to the value of more than 50 percent of their total value. A certificate of origin is not required for any shipment valued at $25 or less.

Section 7.8(b), Customs Regulations (19 CFR 7.8(b)), provides that when articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $25 are sought to be admitted free of duty under the provisions of General Headnote 3(a), TSUS, relating to certain articles *returned to the United States,* there shall be filed in connection with the entry, a certificate on Customs Form 3311, of the district director of Customs at the port from which the articles were shipped from the United States. Section 7.8(b) further provides for a declaration of the shipper of the articles in the insular possession with respect to when the articles were shipped from the United States, and back to the United States. The certificate and declaration requirements of § 7.8(b) are not applicable for shipments valued at $25 or less, or in any case where the district director is satisfied by reason of the nature of the articles or otherwise that they were shipped directly to the insular possession and were returned by direct shipment, and that no drawback of duties or refund or remission of taxes was allowed when the articles were shipped from the United States.

Section 7.8(c), Customs Regulations (19 CFR 7.8(c)), provides that when merchandise, excluding any shipments valued at $25 or less, arrives unaccompanied by a certificate of origin or a declaration of the shipper, or when any other document necessary to complete entry is lacking, a bond for the production of any missing document may be accepted by Customs.

Customs has determined that the $25 limit of § 7.8 (a), (b), and (c) should be raised to $100. Due to inflation, the $25 limit is no longer realistic. This change will result in a reduction in paperwork for both importers and Customs, and will expedite the clearance of passengers' baggage and mail parcels containing products from the insular possessions.

Section 7.8(d), Customs Regulations (19 CFR 7.8(d)), which relates to the determination as to whether an article contains foreign materials in the value of more than 50 percent of the value of the article for an exemption from duty under General Headnote 3(a), TSUS, must be amended to reflect the fact that the precentage test for watches and watch movements is 70 percent, not 50 percent. General Headnote 3(a), TSUS, was asmended to provide for the 70 percent test by Pub. L. 94–88.

Footnote 4 to § 7.8, which set forth previous General Headnote 3(a), TSUS, has been deleted since it is readily available in the TSUS, and its inclusion in the regulations is unnecessary.

In addition, several minor, non-substantive changes are being made to § 7.8.

Inapplicability of Public Notice and Delayed Effective Date Provisions

Pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary because these amendments relieve a burden on the importing public and because they are essentially procedural.

Executive Order 12291

Because these amendments will not result in a "major rule" as defined by section 1(b) of Executive Order 12291, the regulatory impact analysis prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub L. 96–354, the "Regulatory Flexibility Act." That act does not apply to any regulation, such as this, for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other statute.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 7

Customs duties and inspection, Exports, Imports, Insular possessions of the U.S.

Amendment to the Regulations

Part 7, Customs Regulations (19 CFR Part 7), is amended as set forth below.

Approved December 15, 1982.

Robert E. Powis,

Acting Assistant Secretary of the Treasury.

William von Raab,

Commissioner of Customs.

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

Section 7.8, Customs Regulations (19 CFR 7.8), is revised to read as follows:

§ 7.8 Insular possessions of the United States other than Puerto Rico.

(a) When articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $100 are sought to be admitted free of duty under the provisions of General Headnote 3(a), Tariff Schedules of the United States (19 U.S.C. 1202), relating to certain articles produced in such insular possessions, there shall be filed in connection with the entry a certificate of origin covering articles shipped from insular possessions (except Puerto Rico) to the United States. The certificate shall be on Customs Form 3229, and shall be signed by the chief or assistant chief customs officer at the port of shipment,[5] showing that the merchandise is the growth or product of such possession, or manufactured or produced in such possession, from materials the growth, product, or manufacture of any such possession or of the United States, or of both, which do not contain foreign materials to the value of more than 50 percent of their total value (or more than 70 percent of their total value with respect to watches and watch movements). A certificate shall not be required for any shipment valued at $100 or less.

(b) When articles coming directly into the United States from an insular possession, other than Puerto Rico, in a shipment valued over $100 are sought to be admitted free of duty under the provisions of General Headnote 3(a), Tariff Schedules of the United States, relating to certain articles returned to the United States, there shall be filed in connection with the entry the following evidence:

(1) A certificate, on Customs Form 3311, of the district director at the port from which the merchandise was shipped from the United States. No certificate shall be required if the district director is satisfied by reason of the nature of the articles or otherwise that no drawback of duties or refund or remission of taxes was allowed on the merchandise by reason of the shipment. This certificate shall be issued on application of the importer, or of the district director at the importer's request, and shall be mailed by the issuing officer directly to the port at which it is to be used. If the

merchandise was shipped from the port at which entry is made and the fact of shipment appears on Customs records, the fact of return shall be noted on the record but the filing of the certificate on Customs Form 3311 shall not be required; and

(2) A declaration of the shipper in the insular possession in the following form:

I, ———— of ———— do hereby declare that to the best of my knowledge and belief the articles identified below were sent directly from the United States on ———— 19——, to ————, of ————, on (insular possession) the ————, and that the (Name of carrier) articles remained in said insular possession until shipped by me directly to the United States via the ———— (Name of carrier on ————, 19——.

Marks: ————, Numbers: ————, Quantity: ————, Description: ————, Value: ————.

Dated at ————, this —— day of ————, 19——.

Shipper:

The declaration shall not be required in any case where the district director is satisfied by reason of the nature of the articles or otherwise that they were shipped directly to the insular possession and were returned by direct shipment.

(c) When merchandise, excluding any shipments valued at $100 or less, arrives unaccompanied by any of the documentation required by this section, or when any other document necessary to complete entry is lacking, a bond for the production of any missing document may be taken on Customs Form 7551, 7553, or another appropriate form, except that a bond for production of a bill of lading shall be taken on Customs Form 7581.

(d) In determining whether an article produced or manufactured in any such insular possession contains foreign materials to the value of more than 50 percent (or more than 70 percent with respect to watches and watch movements), a comparison shall be made between the actual purchase price of the foreign materials (excluding any material which at the time such article is entered, or withdrawn from warehouse, for consumption in the United States, may be imported into the United States from a foreign country, other than Cuba or the Philippines, free of duty), plus the cost of transportation to such insular possession (but excluding duties and taxes, if any, assessed by the insular possession and any charges which may accrue after landing), and the final appraised value in the United States determined in accordance with section 402, Tariff Act of 1930, as amended (19 U.S.C. 1401a), of the article brought into the United States.

(e) A special Customs invoice on Customs Form 5515 shall be required in connection with shipment of dutiable merchandise valued over $500 unless the shipment would have been exempt from the requirement of a special Customs invoice under § 141.83 of this chapter if it had been imported from a foreign country, or when the shipment is covered by a certificate of origin provided for in paragraph (a) of this section.

(f) Merchandise may be withdrawn from a bonded warehouse under section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, without payment of duty, or with a refund of duty if the duties have been paid, in like manner as for exportation to foreign countries. No drawback may be allowed under section 313, Tariff Act of 1930, as amended (19 U.S.C. 1313), on articles manufactured or produced in the United States and shipped to any insular possession. No drawback of internal-revenue tax is allowable under 19 U.S.C. 1313 on articles manufactured or produced in the United States with the use of domestic tax-paid alcohol and shipped to Wake Island, Midway Islands, Kingman Reef, Johnston Island.

(g) Guam, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and American Samoa are American territory, but not within the customs territory of the United States. Importations into those islands are not governed by the Tariff Act of 1930 or these Customs Regulations. The Customs administration of American Samoa is under the jurisdiction of the Department of the Interior (Office of Territories). The Customs administration of Wake Island is under the jurisdiction of the Department of the Air Force (General Counsel). The Customs administration of Midway Islands is under the jurisdiction of the Department of the Navy. The Customs administration of Guam is under the Government of Guam. A certificate signed by the Commander at the Johnston Island Air Force Base, or his assistant, shall be acceptable as proof of origin. Kingman Reef is understood to be uninhabited (R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[FR Doc. 83-46 Filed 1-3-83; 8:45 am]
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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 626

Establishment of State Job Training Coordinating Councils and Private Industry Councils; Designation of Service Delivery Areas Under the Job Training Partnership Act

Note.—This document originally appeared in the Federal Register of Thursday, December 30, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Employment and Training Administration, Labor.

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This document contains final regulations to implement certain provisions of the Training Partnership Act (Pub. L. 97–300). The final rule provides guidance on the structure and implementation of the planning systems authorized under Title I of the Act.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Keefe, Telephone (202) 376–8444.

SUPPLEMENTARY INFORMATION: Proposed rulemaking governing certain provisions of the Job Training Partnership Act was published in the Federal Register on November 19, 1982 (47 FR 52197), for the purpose of soliciting public comment. The Department received 32 written comments on the proposal. Following is a description of each affected section as it appears in these final regulations, a summary of the comments received, and the Department's response.

The proposed regulations at § 626.2 describe the appointment of the State job training coordinating council (SJTCC). Commentators suggested that the regulations set forth an order of events in establishing the SJTCC, and suggested that the regulations prescribe a process to be used by the Governor in selecting SJTCC members. The Department believes, however, that it would be appropriate not to compromise the flexibility of the Governor in appointing the SJTCC. Therefore, the provision remains as proposed.

The proposed regulations at § 626.3 provide guidance on the designation of service delivery areas (SDAs). Several commentators requested additional rules addressing circumstances the Governors will face in designating SDAs for areas of the State comprised of units of general local government with

populations of less than 200,000. Other comments on § 626.3 suggested that the regulations set dates for establishing SDAs, and provide more structure for appeals. Consistent with the decentralized spirit of the Act, the Department believes that the Governor is in the best position to resolve any issues that arise during the designation of SDAs. Therefore, the provision remains as proposed.

Commentators suggested clarification on whether the entire State is to be covered by an SDA. That clarification has been included.

In § 626.3, paragraph (a) was relettered as paragraph (b) and paragraph (b) was relettered as paragraph (a) to reorder the presentation of events which must occur in the SDA designation process.

In § 626.4, paragraph (a) governs the establishment and certification of the private industry council (PIC) and paragaph (b) covers PIC functions. Commentators requested additional rules and/or guidance concerning delineation of responsibilities in cases of a combined SJTCC/PIC, criteria for evaluating, appointing and certifying PIC members, delineation of monitoring and oversight functions of the PIC versus the local elected official(s), and public notice of PIC nominees prior to the Governor's certification. Consistent with the intent of the Act, the regulations were written to provide those at the State and local levels with the authority for making these determinations. Therefore, additional guidance is unnecessary.

Numerous commentators objected to the authority granted in § 626.4(b) for the PIC to exercise independent oversight over activities under the job training plan. Commentators pointed out that the law places oversight responsibility jointly with the PIC and the unit(s) of local government in the SDA. The regulation as proposed was not intended to diminish the oversight authority of others, including local elected officials. Instead, in addition to any joint oversight, the PIC is authorized to undertake its own independent oversight activities. We are, however, revising the regulation to explicity state that such additional oversight is authorized, but not required.

The proposed regulations at § 626.4, paragraph (b), state that the PIC is to provide policy and program guidance for all activities under the job training plan. There was objection to the word program since the law only specifies that the PIC will provide policy guidance. The statute requires the PIC to provide policy guidance and such guidance would be related solely to the program, therefore inclusion of the word program is appropriate.

Also in § 626.4, paragraph (b), is a reference to the agreements to be negotiated between the PIC and the chief elected official(s). There was comment that in Section 163(b) of the Act the term chief elected official can include an authorized representative. The comment suggested that the regulation be revised to add "or his designee" after chief elected official. The Department, however, believes this addition is unnecessary since the statute is clear on this point. Therefore, no further clarification by regulation is necessary.

Commentators objected to the language in § 626.4(c) concerning the development of the plans required under the Wagner-Peyser Act. The commentators felt that the language should repeat the statutory provision. Accordingly, the language in paragraph (c) has been revised.

A question was also raised with respect to Section 181(f)(7) of the statute concerning the Secretary's authority to provide up to $80,000 to each PIC for Fiscal Year 1983. Because this provision does not impose a Secretarial responsibility, it is not addressed as a regulation. However, this issue will be addressed through an internal Department of Labor administrative issuance at a later date.

Due to the statutory deadline of January 1, 1983 for publication of these regulations, these rules have not been submitted to OMB for review under Executive Order 12291. See Section 8(a)(2) of the Executive Order.

List of Subjects in 20 CFR Part 626

Grant programs—Labor, Manpower training programs.

Accordingly, Chapter V of Title 20 of the Code of Federal Regulations is amended by adding a new part, Part 626, to read as follows:

PART 626—JOB TRAINING PARTNERSHIP SYSTEM

Sec.
626.1 Scope and purpose.
626.2 State job training coordinating council.
626.3 Service delivery areas.
626.4 Private industry council.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97–300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

§ 626.1 Scope and purpose.

These regulations implement provisions of the Job Training Partnership Act (JTPA or the Act) governing the establishment of the State job training coordinating councils, the designation of service delivery areas, and the establishment and certification of private industry councils.

§ 626.2 State job training coordinating council.

The Governor shall appoint a State job training coordinating council (SJTCC) pursuant to Section 122 of the Act. The SJTCC shall have specific functions and responsibilities outlined in Sections 122 and 501 of the Act.

§ 626.3 Service delivery areas.

(a) The SJTCC shall make recommendations to the Governor on proposed SDA designations in a form and by a date established by the Governor (Sec. 101(a)(1) and (2)).

(b) Pursuant to Section 101 of the Act, the Governors shall designate service delivery areas (SDAs) for the State. All areas within the State must be covered by designated SDAs. Requests for designation shall be submitted in a form and by a date established by the Governor.

(c) Pursuant to Section 101(a)(4)(C) of the Act, an entity described in Section 101(a)(4)(A) may appeal the Governor's denial of service delivery area designation to the Secretary of Labor.

(1) Appeals shall be submitted to the Secretary, U.S. Department of Labor, Washington, D.C. 20210, ATTENTION: ASET. A copy of the apeal shall simultaneously be provided to the Governor.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification of the denial from the Governor.

(3) The appealing party shall explain why it believes the denial is contrary to the provisions of Section 101 of the Act.

(4) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the denial is inconsistent with Section 101 of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 30 days after this appeal is received (Sec. 101(a)(4)(C)).

§ 626.4 Private industry council.

(a) The chief elected official(s) of the SDA shall establish and the Governor shall certify the private industry council (PIC) pursuant to Section 102 of the Act.

(b) Pursuant to Section 103 of the Act, the PIC shall provide policy and

program guidance for all activities under the job training plan for the SDA. In accordance with agreements negotiated with the appropriate chief elected official(s), the PIC shall: determine the procedures for development of the job training plan and select the grant recipient and administrative entity for the SDA. The PIC may exercise independent oversight over activities under the job training plan, and oversight shall not be circumscribed by agreements with the appropriate chief elected official(s) of the SDA.

(c) The employment service shall develop jointly with each appropriate PIC and chief elected official(s) for the SDA those components of the plans required under the Wagner-Peyser Act of 1933, as amended, applicable to the SDA (Sec. 501(d)).

Signed at Washington, D.C., this 28th day of December, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-35220 Filed 12-29-82; 8:45 am]

BILLING CODE 4510-30-M

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20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in the United States in Agriculture; Adverse Effect Wage Rates

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: Pursuant to two recent orders of the United States District Court for the District of Columbia, the Employment and Training Administration of the Department of Labor is amending its regulations for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. The rule amends the regulations to establish 1982 adverse effect wage rates for the four States covered by the orders: Florida (sugar cane only), Maine, Vermont, and West Virginia. The rule does not establish a permanent methodology for adoption beyond 1982 in these four or any other States.

EFFECTIVE DATE: February 3, 1983.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles I. Carter, telephone: 202-376-6292.

SUPPLEMENTARY INFORMATION: Pursuant to two orders of the United States District Court for the District of Columbia, the Employment and Training Administration (ETA) of the Department of Labor (DOL) is amending its regulations for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. The order in *Robert A. Bragg, et al.* v. *Raymond J. Donovan, et al.*, Civil Action No. 82-2361 (D.D.C. August 25, 1982), deals with adverse effect wage rates (AEWRs) covering apple harvesting in Maine and Vermont and sugar cane harvesting in Florida. The order in *NAACP, Jefferson County Branch, et al.* v. *Raymond J. Donovan,* Civil Action No. 82-2315 (D.D.C. September 3, 1982), concerns piece rates for apple harvesting in West Virginia.

The notice of proposed rulemaking in this rulemaking was published in the **Federal Register** on November 19, 1982, (47 FR 52198) and written comments were requested by December 20, 1982. The comments received are discussed later in this document. The rule establishes a methodology for determining the 1982 adverse effect wage rates (AEWRs) for the four States covered by the orders.

The issuance of a visa petition to admit a nonimmigrant alien to the United States for the purpose of temporary employment is the decision of the Attorney General and his designee, the Immigration and Naturalization Service (INS). 8 U.S.C. 1101(a)(15)(H)(ii) and 1184. INS has determined that prior to granting or denying such a visa petition it first will request DOL to advise INS, in part, whether the employment of the alien will adversely affect the wages and working conditions of similarly employed United States workers. 8 CFR 214.2(h)(3)(i).

Pursuant to the INS regulations, ETA has published regulations at 20 CFR Part 655, Subpart C, for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States. DOL has determined that similarly employed United States workers had been adversely affected by the importation and employment of nonimmigrant aliens in agricultural employment. It also has been determined that employment of those aliens in a number of States at wages below specially computed adverse effect wage rates (AEWRs) would adversely affect the wage of similarly employed United States workers. 20 CFR 655.202(b)(9) and 655.207.

Since 1968, these AEWRs had been computed by adjusting the previous year's AEWR for a State by the same percentage change as the annual average wage rates for field and livestock workers, as surveyed by the United States Department of Agriculture (USDA). See 41 FR 25018 (June 22, 1976). However, in 1981 USDA substantially reduced its number of surveys and ceased compiling annual average field and livestock worker wage rates.

The methodology contained in this rule compensates for the reduction of data available from the USDA. DOL plans to address separately the viability and appropriateness of a general AEWR methodology, and its action today in no way prejudges those more basic and broader questions. In other States, rates established for 1981 "remain in effect until such time as a final determination regarding the methodologies for computing AEWRs can be made." 47 FR 37980 (August 27, 1982).

In recent years, ETA has considered several methodologies and options regarding the use of AEWRs. During that time period, some options were dropped from consideration as they were determined not to be viable due to the lack of base data or other reasons.

The methodologies considered in this rulemaking were:

Option 1. Use of the federal minimum wage ($3.35) as the AEWR.

Option 2. Use of the Federal minimum wage increased by 15 percent as the AEWR.

Option 3. Use regression analysis for each State based upon a historical relationship between the average hourly earnings paid field workers in agriculture and the average hourly wages of private, nonfarm workers during the previous year to estimate the 1981 USDA annual average rate; determine the percentage change between the actual 1980 USDA rate and the estimated 1981 rate; and apply it to the 1981 AEWR to determine the 1982 AEWR.

Option 4. Use the seven-year average differential (1974-1980) between the USDA January-April rates and the annual average rates multiplied by the January-April average rates for 1981 to estimate the 1981 USDA annual average rate for each State; determine the percentage change between the actual 1980 USDA rate and the estimated 1981 rate; apply the percentage change to the 1981 AEWR to determine the 1982 AEWR.

The Option 4 methodology was adopted in the proposal, and is adopted in final form because it is the most readily understandable and consistent with the methodology used since 1968. Under this option the 1981 USDA annual average rates were estimated for Florida, Maine, Vermont, and West Virginia based on the seven-year percentage differential between the USDA January-April average rates and annual average rates for each State. (AEWRs for 1982 were not determined previously because of lack of USDA annual average rates for 1981). The January-April 1981 surveys included

thousands of workers in each survey. With the estimated 1981 annual average for each State, the percentage change can be determined from the difference between it and the 1980 actual annual average. The percentage change would be applied to the 1981 AEWR for each State to determine the 1982 AEWR.

For the four States involved, the instant rule amends the **Federal Register** notice of August 27, 1982, cited above, and the AEWRs set forth in the rule "shall remain in effect until such time as a final determination regarding the methodologies for computing AEWRs can be made." 47 FR 37980. Some recent applicants for certification have asked ETA informally whether the rulemaking amends the August 27, 1982, notice to permit 1983 wages in any State at prevailing rates below the AEWRs set forth in this document and in that notice. It does not, but to avoid any lowering of wages past the 1982 and 1982–83 seasons, the final rule has been clarified to apply beyond those seasons, the final rule has been clarified to apply beyond those seasons.

As applied to the four named States, the 1982 AEWRs are set at the levels shown in Table I below. For comparison, the 1981 AEWRs and the percentage changes also are shown.

TABLE I.—ADVERSE EFFECT WAGE RATES

States	1981 Rates	1982 Rates	Percentage changes
Florida (sugar cane only)	$4.60	$4.73	+0.8
Maine	3.44	3.53	+2.5
Vermont	3.54	3.63	+2.5
West Virginia	3.62	3.98	+10d.0 [1]

[1]The actual increase for West Virginia under the methodology was +17.2 percent. A 10.0 percent increase will be applied in 1982. As noted in the proposed rule, the balance (+7.2 percent) will be applied in computing the 1983 AEWR ($4.24) for West Virginia.

Comments were received by DOL both in favor of the proposed rule and opposed to it.

A number of Florida agricultural employers and employer associations commented favorably on the proposed rule. One such employer referred to the rule as the "most viable option", which is "fair to all parties concerned". Other Florida employers submitting comments supported the rule as an interim measure, but indicated that a new methodology would be needed in the future. They also made suggestions on methodologies for setting AEWRs in future years.

A comment was received from the AFL–CIO objecting to the employment of nonimmigrant aliens in United States agriculture. The association's Department of Economic Research opposed the use of Option 4 for determining the AEWRs, and suggested that AEWRs be issued for all States based upon actual wage surveys or the increase in wages of nonfarm production workers. The AFL–CIO also objected to the proposal "to exempt" the West Virginia AEWR from 7.2% of the scheduled increase. The general subject of alien employment in the United States is outside the narrow scope of this rulemaking.

As noted above, the full year agricultural wage surveys formerly supplied by the USDA are no longer available. The linkage of farm wages to nonfarm wages was considered by DOL in a previous rulemaking (44 FR 59890, October 16, 1979), and continues to be one of many options considered in the determination of a final AEWR policy. As shown in Table I above, West Virginia was not exempted from the further 7.2% increase. That increase has been deferred until 1983, to avoid any potential economic hardship on West Virginia employers, who will have to pay the 1982 wages retroactively.

> The common purpose [of 8 U.S.C. 1101(a)(15)(H)(ii) and 1184] are to assure [employers] an adequate labor force on the one hand and to protect the jobs of citizens on the other. Any statutory scheme with these two purposes must inevitably strike a balance between the two goals. Clearly, citizen-workers would best be protected and assured high wages if no aliens were allowed to enter. Conversely, elimination of all restrictions upon entry would most effectively provide employers with an ample labor force.

Rogers v. *Larsen*, 563 F. 2d 617, 626 (3rd Cir. 1977); *Flecha* v. *Quiros*, 567 F. 2d 1154, 1156 (1st Cir. 1977).

Comments from West Virginia were split into two groups, each claiming that the AEWR discriminates against its members. West Virginia agricultural employers, and those representing their interests, commented that the AEWP was so high as to discriminate unfairly against growers in that State. West Virginia agricultural workers, and those representing their interests, commented that the AEWR should have been increased even more for 1982, and, thus, discriminated unfairly against workers in that State.

A number of comments were received from West Virginia growers and persons representing their interests, who opposed the proposed rule, arguing that it would put West Virginia growers importing nonimmigrant alien workers in a less competitive position than growers which use United States workers. Similar comments were received from West Virginia employer groups and State agencies, and were enclosed with letters from two West Virginia Members of Congress.

However, as noted above, the rate for West Virginia has been set in response to the court Order ordering DOL to set a rate for 1982.

DOL considered several courses of action, and selected the most practical option; one that is equitable to both United States workers and agricultural employers. This neutral statistical methodology was applied for the AEWR for each of the four States named in the court's Orders. As noted in the above Table I, the effect on West Virginia was tempered for 1982.

The 1981 annual USDA rates for West Virginia and the other named States were computed by examining the historical relationship between USDA's January–April data and annual data. Once the 1981 USDA annual rates were computed, the methodology used to determine the 1982 AEWRs was virtually the same as that currently contained in 20 CFR 655.207(b) (1) and (2), and is firmly anchored in economic realities.

The Immigration and Nationality Act and the Immigration regulations grant the Secretary of Labor "broad discretionary authority to choose any reasonable formula to compute" AEWRs. *Rowland* v. *Marshall*, 650 F. 2d 28, 30 (4th Cir. 1981); *Florida Sugar Cane League, Inc.* v. *Usery*, 531 F. 2d 299 (5th Cir. 1976). The methodology in 20 CFR 655.207(b) (1) and (2) has been accepted by the United States Courts of Appeal both in cases where employers argued that the AEWR was set too high and in cases where workers argued that the AEWR was set too low. *Rowland* v. *Marshall, supra; Williams* v. *Usery*, 531 F. 2d 305 (5th Cir. 1976); and *Florida Sugar Cane League, Inc.* v. *Usery, supra.*

As shown in Table II below, the data base for the West Virginia AEWR, and the AEWR itself, were computed by the same methodology as for the other States covered by the court's orders.

TABLE II.—USDA DATA BASE FOR 1982 AEWR'S

State	Year	Jan.–Apr. Average	Annual Average	Ratio
West Virginia:	1974	$1.51	$1.75	$1.16
	1975	1.69	1.96	1.05
	1976	1.95	1.95	1.00
	1977	2.17	2.20	.84
	1978	2.41	2.24	.93
	1979	2.51	2.37	.94
	1980	2.62	2.62	1.00
	1981	3.05	$3.07	$1.0057
New England: [2]	1974	2.07	2.00	.96
	1975	2.17	2.81	1.02
	1976	2.32	2.32	1.00
	1977	2.34	2.38	1.02
	1978	2.44	2.47	1.01
	1979	2.71	2.81	1.04
	1980	2.81	2.82	1.00
	1981	2.88	$2.89	$1.01

TABLE II.—USDA DATA BASE FOR 1982 AEWR's—Continued

State	Year	Jan.–Apr. Average	Annual Average	Ratio
Florida	1974	2.49	2.45	.97
	1975	2.71	2.59	.96
	1976	2.85	2.75	.96
	1977	3.13	2.96	.95
	1978	3.29	3.22	.98
	1979	3.56	3.47	.99
	1980	4.16	3.98	.96
	1981	4.15	[1]4.01	[2].9657

[1]The 1981 annual average USDA rate was computed by multiplying the January–April 1981 USDA rate by the average ratio for the previous seven years.
[2]The 1981 ratio is the average of the ratios for the previous seven years.
[3]USDA surveys New England, including Maine and Vermont, as one unit.

As shown in Table II above, the USDA annual average wage rate for West Virginia field and livestock workers increased by 17.2% from 1980 to 1981, from $2.62/hour to $3.07/hour. In comparison, the USDA annual rates increased 0.8% in Florida, from $3.98/hour to $4.01/hour; and increased 2.5% in Maine and Vermont, from $2.82/hour to $2.89/hour. Those percentage increases were applied to the 1981 AEWRs for the States included in the court's Orders in the manner shown in Table I above.

Attorneys for various West Virginia agricultural workers objected to the deferral of 7.2% of that State's AEWR until 1983. However, a comparison of the AEWR increases in the four States named in the court's Orders shows that the West Virginia AEWR otherwise would have increased substantially more than the other three named States. Given that the AEWR will rise by the additional 7.2% in 1983, that the AEWR did not rise in States other than the named four since 1981, and that the 1982 AEWR is being applied retroactively to employers, the rule being adopted by this document is a reasonable approach to the AEWR question, and is equitable to both employers and workers. Similar comments were received from the attorneys for the plaintiffs in *Bragg* v. *Donovan, supra.*

The Director of the Economic Development Division of the Economic Research Service of USDA expressed three concerns on the proposed rule. One concern alleged inequities in the AEWR determinations. That suggestion is dealt with above. Another concern was that the "1982 methodology * * * includes no 1982 * * * data." As indicated above, the AEWR methodology in place since 1968, necessarily relied upon the increase in average rates between the previous two years. The methodology used here followed that procedure.

In his third concern the Director stated that "DOL derived 1981 farm wage rates that are questionable [because] the data for the 1974–80 period indicate there is no close correlation between the farm wage survey rates and the USDA annual average farm wage survey rates for this period." DOL disagrees with this analysis.

Table II shows that for the past seven years the January to April averages in the four States have been reasonably comparable to the annual averages in those States. To compensate for year-to-year variations between first quarter and annual average wage rates, DOL determined, for each State, the average variation for the past seven years. Using the resultant ratios, DOL estimated, for each State, an annual average wage for 1981. The methodology adopted provides an appropriate balance protecting the interests of U.S. workers and agricultural employers.

An attorney who represents various East Coast agricultural employers suggested setting the AEWR at $3.35, the Fair Labor Standards Act minimum wage, or at 15% above that level. These options were considered in adopting the new rule, and were rejected for the reasons discussed above.

An attorney representing Vermont agricultural employers objected to the issuance of any AEWR for that State, particularly one issued retroactively. DOL is under a court Order to adjust the rate in Vermont and to apply that increase retroactively.

An attorney representing Florida farmworkers opposed the rule on a number of grounds. Most of his comments related to expansion of the rulemaking and the AEWR increase beyond those States and crop activities covered by the court's Orders, and thus were outside the narrow scope of this rulemaking. Similar comments were received from the attorneys for the plaintiffs in *Bragg* v. *Donovan, supra.* The Florida attorney also suggested that the AEWR for Florida sugar cane be raised. As stated above, the rates were set pursuant to the established methodology and in accordance with the court's Orders. In addition, the AEWRs for Florida sugar cane in the past have resulted consistently in average hourly earnings above the adverse effect level in the crop activity.

The Maryland Department of Human Resources opposed the increase in the West Virginia AEWRs, suggesting that it would "impact on recruiting efforts in Maryland". However, DOL has had to develop a 1982 AEWR for West Virginia pursuant to the court's Order, and historically AEWRs have been set on a State-by-State basis.

DOL has reviewed and considered carefully each of the above comments, and based on the requirements of the court's Orders, and the practicality of the chosen methodology for 1982, the final rule set forth below is being adopted. The rule is consistent with the document published in the **Federal Register** on November 19, 1982 (adopting the same methodology as there proposed), and protects United States workers from the adverse effect of employment of nonimmigrant aliens, while at the same time allowing for such employment where there are shortfalls in the domestic workforce.

Development of Final Rule

This final rule was developed under the direction and control of Mr. Richard C. Gilliland, Director, United States Employment Service, Employment and Training Administration, Room 8000—Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213.

Regulatory Impact

The rule would affect only those employers in the four named States using nonimmigrant alien workers in temporary agricultural employment. It does not have the financial or other impact to make it a major rule, and therefore, the preparation of a regulatory impact analysis is not necessary. Executive Order 12291 (February 17, 1981).

At the time of publication of the proposed rule, the Department of Labor notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b), that the rule will not have a significant impact on a substantial number of small entities. It is expected to increase labor costs only moderately, and applies only to the small number of employers who employ nonimmigrant aliens in agricultural jobs in the four named States.

Catalogue of Federal Domestic Assistance Number

This program is listed in the Catalogue of Federal Domestic Assistance at Number 17.202, "Certification of Foreign Workers for Agricultural or Logging Employment."

List of Subjects in 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Forests and forest products, Guam, Labor, Migrant labor, Wages.

Final Rule

PART 655—[AMENDED]

Accordingly, § 655.207 of Part 655 of Chapter V of Title 20, Code of Federal Regulations, is amended, by adding thereto a paragraph (b)(3) to read as follows:

§ 655.207 Adverse effect rates.

* * * * *

(b) * * *

(3) Notwithstanding paragraphs (b) (1) and (2) of this section, pursuant to the Orders in *Bragg* v. *Donovan,* Civil Action No. 82–2361 (D.D.C. August 25, 1982), and *NAACP, Jefferson County Branch* v. *Donovan,* Civil Action No. 82–2315 (D.D.C. September 3, 1982), the adverse effect rates for the following States shall be as follows: beginning in the 1982 harvest season, $3.53 in Maine, $3.63 in Vermont, and $3.98 in West Virginia, for agricultural employment in those States; beginning in the 1982–83 harvest season, $4.73 in Florida for sugar cane work; and beginning in the 1983 harvest season, $4.24 in West Virginia, for agricultural employment in that State.

* * * * *

(Secs. 101(a)(15)(H)(ii) and 1184(c) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii) and 1184(c)); 8 CFR 214.2 (h)(3)(i).)

Signed in Washington, D.C., this 29th day of December 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83–140 Filed 1–3–83; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 82F–0192]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of poly(diallyldimethylammonium chloride) as a pigment dispersant and/or retention aid in the manufacture of paper and paperboard that may contact food. This action responds to a petition by Calgon Corp.

DATES: Effective January 4, 1983; objections by February 3, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 27, 1982 (47 FR 32479), FDA announced that a petition (FAP 2B3616) had been filed by the Calgon Corp., Calgon Center, P.O. Box 1346, Pittsburgh, PA 15230, proposing that the food additive regulations be amended to provide for the safe use of poly(diallyldimethylammonium chloride) as a pigment dispersant and/or retention aid in the manufacture of paper and paperboard intended to contact food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In acordance with § 171.1(h) (21 U.S.C. 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition, are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment, and therefore an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 176 is amended in § 176.170(a)(5) by alphabetically inserting a new item in the list of substances, to read as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * *	* *
Poly(diallyldimethylammonium chloride) (CAS Reg. No. 26062–79–3) produced by the polymerization of diallyldimethylammonium chloride so that the finished resin has a nitrogen content of 8.66±0.4 percent on a dry weight basis and a minimum viscosity in a 40-weight percent aqueous solution of 1,000 centipoises at 25° C (77° F), determined by LVF Model Brookfield Viscometer using a No. 3 spindle at 30 r.p.m. (or equivalent method). The level of residual monomer is not to exceed 1 weight percent of the polymer (dry basis).	For use only as a pigment dispersant and/or retention aid prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 10 pounds of active polymer per ton of finished paper and paperboard.
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 3, 1983, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 4, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: December 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-11 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 177

[Docket No. 82F-0026]

Indirect Food Additives: Polymers; High-Temperature Laminates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of an aliphatic polyurethane laminating adhesive for fabricating retortable pouches and related high-temperature laminates. This action responds to a food additive petition filed by Toyo Seikan Kaisha, Ltd.

DATES: Effective January 4, 1983, objections by February 3, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Terry C. Troxell, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In notices published in the **Federal Register** of March 19, 1982 (47 FR 11971) and December 28, 1982 (47 FR 57775), FDA announced that a petition (FAP 2B3615) had been filed by Toyo Seikan Kaisha, Ltd., 3-1 Uchisaiwaicho 1-Chome, Chiyoda-ku, Tokyo 100, Japan, proposing that the food additive regulations be amended to provide for the safe use of a 2-component aliphatic polyurethane laminating adhesive for fabricating retortable pouches and other high-temperature laminates identified in § 177.1390(c) *High-temperature laminates* (21 CFR 177.1390(c)).

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that § 177.1390 should be amended as set forth below.

In accordance with § 177.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting these findings may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Polymeric food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 177 is amended in § 177.1390 by adding new paragraph (c)(2)(iv) to read as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

§ 177.1390 High-temperature laminates.

* * * * *

(c) * * *

(2) * * *

(iv) Polyester-urethane adhesive for use at temperatures not exceeding 121° C (250° F) and formulated from the following:

(*a*) Polyester-urethanediol resin prepared by the reaction of a mixture of polybasic acids and polyhydric alcohols listed in § 175.300(b)(3)(vii) of this chapter, 3-isocyanatomethyl-3,5,5-trimethylcyclohexyl isocyanate (CAS Reg. No. 4098-71-9) and optional trimethoxysilane coupling agents containing amino, epoxy, ether, and/or mercapto groups not to exceed 3 percent by weight of the cured adhesive.

(*b*) Urethane cross-linking agent comprising not more than 25 percent by weight of the cured adhesive and formulated from 3-isocyanatomethyl-3,5,5-trimethylcyclohexyl isocyanate (CAS Reg. No. 4098-71-9) adduct of trimethylol propane (CAS Reg. No. 77-99-6).

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 3, 1983 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 4, 1983.

(Secs. 202(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: December 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-50 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 81F-0367]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Cyclic Neopentanetetrayl Bis(Octadecyl Phosphite)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for safe use of cyclic neopentanetetrayl bis(octadecyl phosphite) as an antioxidant and/or stabilizer in ethylenevinyl acetate copolymers intended to contact food. This action responds to a petition filed by Borg-Warner Chemicals, Inc.

DATES: Effective January 4, 1983; objections by February 3, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julia L. Ho, Bureau of Foods (HFF-334),

Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 8, 1981 (46 FR 60063), FDA announced that a food additive petition (FAP 2B3591) had been filed by Borg-Warner Chemicals, Inc., Technical Centre, Washington, WV 26181, proposing that Part 178 (21 CFR Part 178) of the food additive regulations be amended to provide for the safe use of cyclic neopentanetetrayl bis(octadecyl phosphite) as an antioxidant and/or stabilizer in ethylene-vinyl acetate copolymers intended to contact food.

FDA had evaluated the data in the petition and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742), may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives; Food packaging; Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.2010(b) by alphabetically inserting a new item in the list of substances to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.2010 Antioxidants and/or stabilizers for polymers.

(b) * * *

Substances	Limitations
* * *	* * *
Cyclic neopentanetetrayl bis(octadecyl phosphite) (CAS Reg. No. 3806–34–6); the phosphorus content is in the range of 7.8 to 8.2 weight percent.	For use only at levels not to exceed 0.1 percent by weight of ethylene-vinyl acetate copolymers complying with § 177.1350 of this chapter that contact food under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter.
* * *	* * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 3, 1983, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 4, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: December 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–12 Filed 1–3–83; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 178

[Docket No. 82F–0227]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers; Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as an antioxidant in surface lubricants used in the manufacture of metallic articles for contact with food. This action responds to a petition by Ciba-Geigy Corp.

DATES: Effective January 4, 1983; objections by February 3, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice in the **Federal Register** of August 27, 1982 (47 FR 37958), FDA announced that a petition (FAP 2B3640) had been filed by CIBA-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing to amend § 178.3910 *Surface lubricants used in the manufacture of metallic articles* (21 CFR 178.3910) to provide for safe use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)]methane as an antioxidant in surface lubricants used in the manufacture of metallic articles intended for food-contact use.

Having evaluated data in the petition and other relevant material, FDA concludes that the proposed food additive use is safe and that § 178.3910 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2) (21 CFR 171.1(h)(2)), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Comestic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.3910(b)(2) by alphabetically inserting a new item in the list of substances to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.3910 Surface lubricants used in the manufacture of metallic articles.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * * * *	
Tetrakis[methylene (3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane (CAS Registry No. 6683-19-8).	For use at a level not to exceed 0.5 percent (by weight of the finished surface lubricant formulation.
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 3, 1983, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 4, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: December 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-13 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 178

[Docket No. 82F-0245]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in vinylidene chloride homopolymers and copolymers intended to contact food. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective January 4, 1983; objections by February 3, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 27, 1982 (47 FR 37959), FDA announced that a petition (FAP 2B3618) had been filed by the Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in vinylidene chloride homopolymers and copolymers intended for food-contact use.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the document available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 178.2010(b) is amended by adding a new limitation for "Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate" to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.2010 Antioxidant and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Octadecyl 3,5-di-tert-butyl-4-hydroxyhydrocinnamate (CAS Reg. No. 2082-79-3).	For use only * * * 12. At levels not exceeding 0.2 percent by weight of vinylidene chloride homopolymers and/or vinylidene chloride copolymers complying with applicable regulations in Parts 175, 176, 177, 179, and 181 of this chapter. The vinylidene chloride copolymers shall contain not less than 50 weight percent of total polymer units derived from vinylidene chloride.
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 3, 1983, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective, January 4, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: December 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-49 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 184

[Docket No. 82G-0010]

Direct Food Substances Affirmed as GRAS, Mixed Carbohydrase and Protease Enzyme Product

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that mixed carbohydrase and protease enzyme product derived from *Bacillus licheniformis* is generally recognized as safe (GRAS) when used to hydrolyze starches and proteins in the production of certain foods. This action is based on an industry petition requesting such affirmation.

EFFECTIVE DATE: January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Mary C. Custer, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-0463.

SUPPLEMENTARY INFORMATION: In accordance with the procedures described in § 170.35 (21 CFR 170.35), Novo Laboratories, Inc., Danbury Rd., Wilton, CT 06897, submitted a petition (GRASP 3G0026) requesting affirmation that mixed carbohydrase and protease enzyme product derived from *Bacillus licheniformis* used as an enzyme in the production of nutritive sweeteners, beer, distilled spirits, and protein hydrolyzates is GRAS. A notice of filing of the petition was published in the **Federal Register** of September 12, 1973 (38 FR 25214), and interested persons were given an opportunity to review the petition and to submit comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

In response to the notice, one comment was received from the manager of microbiological research at a large firm. The comment questioned the statement made by the petitioner that *B. licheniformis* is a member of the *Bacillus subtilis* group and the petitioner's contention that all the data available to show the safety of carbohydrase and proteases prepared from *B. subtilis* are applicable to the mixture derived from *B. licheniformis*. The respondent pointed out that *B. licheniformis* had been classified as a separate and distinct species from *B. subtilis* as early as 1944 and used examples to show that the safety data for one organism do not automatically guarantee the safety of another albeit closely related, organism.

The agency concurs with the comment and concludes that the safety of mixed carbohydrase and protease enzyme product derived from *B. licheniformis* should be evaluated on the basis of scientific procedures, not on the basis of the history of use of similar enzyme preparations from *B. subtilis*, as requested by the petitioner.

Mixed carbohydrase and protease enzyme product is an enzyme preparation that includes amylases and proteases. It is obtained from the culture filtrate resulting from a pure culture fermentation of a nonpathogenic strain of the organism *B. licheniformis*. The enzyme mixture is standardized with respect to amylase or protease activity by the addition of an appropriate amount of dilute sodium chloride solution. The enzyme product, as prepared, should meet the specifications for enzymes of the Food Chemicals Codex, 3d Ed. (1981).

The applications of mixed carbohydrase and protease enzyme preparations in the food industry fall into two spearate areas based upon the principal reaction that is being catalyzed by the enzymes in the mixture. The amylase portion of the mixture catalyzes the hydrolysis of starch to water soluble sugars, and the protease portion of the mixture catalyzes the hydrolysis of proteins to smaller, usually more soluble, proteins and polypeptides.

Mixed carbohydrase and protease enzyme preparations are used in the brewing and distilling industries to liquify the starch in mashes or adjuncts. These preparations may also be used to dissolve starch in cane juice to facilitate the subsequent filitration process. Likewise, the enzyme preparation can be used to recover sugars from scrap candy that contains starch as a gelling agent.

The mixed carbohydrase and protease enzyme product derived from *B. licheniformis* has been used to degrade gelled starch to water soluble sugars in the corn syrup industry since 1972. This enzyme preparation has also been used in the experimental production of protein hydrolyzates since 1971.

Published scientific literature as well as standard books on food microbiology demonstrate that *B. licheniformis* is widely recognized as a common contaminant found in many foods. None of these references report any toxicity or pathogenicity associated with the presence of this organism in food.

A search of the scientific literature reported by the petitioner disclosed no evidence that *B. licheniformis* produces disease in man. One published

pathogenicity study reported that *B. licheniformis* was not pathogenic in mice or guinea pigs.

The petition also contains unpublished pathogenicity studies, animal feeding studies, and dermal studies to support the safety of the enzyme preparation. The unpublished pathogenicity studies on the particular strain of *B. licheniformis* covered by the petition confirm that this strain of *B. licheniformis* is neither pathogenic nor toxicogenic to rats, mice, guinea pigs, and rabbits. The animal feeding studies, including LD_{50}s in both sexes of mice and rats, a 28-day study in the rat, two 90-day studies in the rat and the dog, respectively, a teratology study in the rat, and two dominant lethal studies in the male mouse and male rat, respectively, provide data that corroborate that anticipated levels of the enzyme preparation in food are safe for human consumption. The dermal studies on rabbit skin and rabbit eye mucosa showed, respectively, moderate and minimal irritation. However, the agency believes that these effects are not relevant to the safety of the enzyme preparation as a food ingredient.

The agency has evaluated all the information related to the use of mixed carbohydrase and protease enzyme product derived from *B. licheniformis* in food and has reached the following conclusions:

1. The enzyme product is not GRAS based on history of common use in food.

2. The enzyme product is GRAS based on scientific procedures. This conclusion is based on published information establishing that *B. licheniformis* is widely recognized as a harmless contaminant found in many foods. This conclusion is corroborated by unpublished animal feeding studies that confirm that food uses of the enzyme product derived from *B. licheniformis* are safe.

The agency has also concluded that it is both impractical and unnecessary to include levels of use in the GRAS affirmation regulation for mixed carbohydrase and protease enzyme product derived from *B. licheniformis*. A set of percentage-by-weight levels of use would not be meaningful because of the varying activity levels of individual enzyme preparations, and the use of this enzyme preparation in many foods is self-limiting because the addition of excessive amounts results in a degree of hydrolysis that produces products of unacceptable texture. Therefore, the agency is affirming the GRAS status of mixed carbohydrase and protease enzyme product derived from *B. licheniformis* when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of this substance is based on the evaluation of limited uses, the regulation sets forth the technical effect and the food uses of this ingredient that FDA evaluated.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

The format of the final regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1027 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including both the technical effects and food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined pursuant to 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule and the agency has determined that the rule is not a major rule as defined by the Order. A copy of the threshold assessment supporting this determination is on file with the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 184 is amended by adding new § 184.1027 to read as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

§ 184.1027 Mixed carbohydrase and protease enzyme product.

(a) Mixed carbohydrase and protease enzyme product is an enzyme preparation that includes carbohydrase and protease activity. It is obtained from the culture filtrate resulting from a pure culture fermentation of a nonpathogenic strain of *B. licheniformis*.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 107, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW , Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme, as defined in § 170.3(o)(9) of this chapter, to hydrolyze proteins or carbohydrates.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: alcoholic beverages, as defined in § 170.3(n)(2) of this chapter, candy, nutritive sweeteners, and protein hydrolyzates.

Effective date. This regulation shall become effective January 4, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: December 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

Note.—Incorporation by reference was approved by the Director of the Office of the Federal Register on April 1, 1982, and is on file in the Office of the Federal Register.

[FR Doc. 83-3 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-1-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Trimethoprim and Sulfadiazini Sterile Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Wellcome Animal Health Div., Burroughs Wellcome Co., providing for safe and effective use in horses of a combination antibacterial drug containing trimethoprim and sulfadiazine.

EFFECTIVE DATE: January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Wellcome Animal Health Div., Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709, filed an NADA (106–965) providing for intravenous use of Tribrissen 48% Injection (a sterile suspension containing 80 milligrams (mg) of trimethoprim and 400 mg of sulfadiazine per milliliter (mL)) for treating bacterial infections in horses. The firm also holds approval for use of Tribrissen 24% Injection in dogs. Use of the injection in horses is indicated where control of bacterial infections is required during treatment of acute strangles, respiratory tract infections, acute urogenital infections, and wound infections and abscesses. The firm submitted effectiveness data that comply with the Bureau of Veterinary Medicine's combination drug guidelines. The data generated by several field investigations, and also from several general infection models, demonstrate substantial evidence of the drug's effectiveness. Therefore, the Bureau granted a waiver from the requirement of 21 CFR 514.111(a)(5)(ii) that the field investigations specifically qualify as adequate and well-controlled studies based on certain criteria designated by the section. Safety of the drug combination to horses is established. The NADA is approved, and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) [21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in the environmental impact analyses report (pursuant to 21 CFR 25.1(f)(1)(ii)), may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 522.2610 is revised, to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.2610 Trimethoprim and sulfadiazine sterile suspension.

(a)(1) *Specifications.* Each milliliter of sterile aqueous suspension contains 240 milligrams (40 milligrams of trimethoprim and 200 milligrams of sulfadiazine).

(2) *Sponsor.* See 017220 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) *Dosage.* One milliliter (40 milligrams of trimethoprim and 200 milligrams of sulfadiazine) per 20 pounds (9 kilograms) of body weight per day.

(ii) *Indications.* For dogs for treatment of acute urinary tract infections, acute bacterial complications of distemper, acute respiratory tract infections, acute alimentary tract infections, and acute septicemia due to *Streptococcus zooepidemicus.*

(iii) *Limitations.* For subcutaneous use in dogs only; administer once every 24, hours, or for severe infections, after an initial dose, administer half the normal daily dose every 12 hours; continue therapy 2 to 3 days after clinical signs of infection have subsided; if no improvement is seen in 3 to 5 days, reevaluate diagnosis; injection may be used alone or in conjunction with oral dosing; not recommended for use for more than 14 days; a complete blood count should be done for prolonged use; Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(b)(1) *Specifications.* Each milliliter of sterile aqueous suspension contains 480 milligrams (80 milligrams of trimethoprim and 400 milligrams of sulfadiazine (as the sodium salt)).

(2) *Sponsor.* See 017220 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) *Dosage.* Two milliliters (160 milligrams of trimethoprim and 800 milligrams of sulfadiazine) per 100 pounds (45 kilograms) of body weight per day.

(ii) *Indications.* For horses where systemic anti-bacterial action against sensitive organisms is required during treatment of acute strangles, respiratory tract infections, acute urogenital infections, and wound infections and abscesses.

(iii) *Limitations.* For intravenous use; administer as single, daily dose for 5 to 7 days; daily dose may also be halved and given morning and evening; continue acute infection therapy 2 to 3 days after clinical signs have subsided; if no improvement of acute infections is seen in 3 to 5 days, reevaluate diagnosis; a complete blood count should be done periodically for prolonged use; not for use in horses intended for food; Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. January 4, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360 b(i)).)

Dated: December 21, 1982.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83–2 Filed 1–3–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1990

Identification, Classification and Regulation of Potential Occupational Carcinogens; Partial Stay

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Partial administrative stay.

SUMMARY: On January 5, 1982, OSHA published a combined advance notice of

proposed rulemaking and proposal for partial administrative stay of certain provisions of its generic standard, Identification, Classification and Regulation of Potential Occupational Carcinogens (The "Carcinogen Policy") 29 CFR Part 1990. After considering the comments received in response to this notice, OSHA is staying the requirements to issue the Candidate and Priority Lists contained in 29 CFR 1990.121, 1990.122, 1990.131 and 1990.133, as proposed. The partial stay will be in effect during the period of reevaluation and rulemaking proceedings on the Carcinogen Policy.

DATE: The stay is effective January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N3641, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION:

On January 5, 1982, OSHA published an advance notice of proposed rulemaking (47 FR 187) requesting public comment on a reevaluation of its generic standard for Identification, Classification and Regulation of Potential Occupational Carcinogens (29 CFR Part 1990), also known as the "Carcinogen Policy." The Agency also proposed to stay, during the course of the reevaluation, those provisions of the Policy requiring the establishment and publication of the Candidate List and Priority Lists (29 CFR 1990.121, 1990.122, 1990.131 and 1990.133).

These lists are part of the Carcinogen Policy's screening and priority setting process which was intended to reduce the large number of substances that OSHA needed to review in order to determine the most hazardous ones. The establishment and publication of the 1980 Candidate List was the first step in the process. OSHA reviewed all substances for which there was some evidence of carcinogenicity. It screened out those that were not present in the American workplace or which the evidence did not justify further action at that time. The substances eventually placed on the Candidate List should receive further study.

The development and publication of the Priority Lists constituted the second step of the priority setting process. Substances were to be screened from the Candidate List by using several priority factors listed in the Carcinogen Policy. Some of these factors included the number of workers exposed to the substance, estimated exposure levels, levels of exposure known to cause cancer in animals or humans, molecular similarity of the substance to a known carcinogen, and availability of suitable safe substitutes. After receipt of public comment and review of any new data, OSHA would select an appropriate substance from the Priority Lists and initiate rulemaking proceedings. This was the final step in OSHA's screening and priority setting process.

The first Candidate List (45 FR 53672, August 12, 1980) included 204 substances for further scientific review and evaluation. The two Priority Lists would have involved a more extensive review in order to determine approximately twenty substances that would have priority for review and consideration by OSHA. Any public comments, information, or data received after the publication of the lists would have been included in OSHA's analysis and selection of any priority substance for possible regulation.

OSHA proposed to stay the requirements for the development and publication of these lists in order to evaluate the impact of publishing the lists and to reconsider the criteria used in establishing the lists.

In response to the January 5 **Federal Register** notice, OSHA has received and reviewed numerous comments regarding the proposed stay of publication of the Candidate and Priority Lists. A substantial number of parties, generally businesses and trade associations, responded in support of the stay, directing their comments to three basic issues.

The issue addressed most frequently dealt with the adverse economic effects felt by business after the publication of the 1980 Candidate List (45 FR 53672). For example, one manufacturer stated, "when the government labels a substance as having unacceptable toxic (particularly carcinogenic) qualities, those who produce or use the substance become exposed to a variety of adverse economic consequences including reduced sales, and increased insurance costs" (Chemical Manufacturers Association, Exh. 302–38). Another business was concerned because its "customers, plant workers, and the general public will interpret the published lists as OSHA's conclusion that the chemical substances included are carcinogens. This interpretation may lead to undue and unwarranted concern, or 'cancer scares' which could be damaging to our business" (BASF Wyandotte Corporation, Exh. 302–57).

A second issue repeatedly raised was, that in the absence of a stay, the Agency might incorrectly list substances based on inappropriate criteria thereby directing valuable resources toward hazards that may not be the most severe. As one commenter stated, "the Agency would find itself in the position of listing and prioritizing substances at the same time as it is examining the criteria which should be used to list and prioritize. This is not only contradictory, but also is an inefficient means of allocating limited Agency resources" (Cast Metals Federation, Exh. 302–45).

Additional comments referred to the waste of valuable scientific and administrative resources both in the government and industry if OSHA did not stay the development and publication of lists based on criteria that may be changed (PPG Industries, Exh. 302–16; Certain Teed, Exh. 302–42; Shipbuilders Council of America, Exh. 302–32). One commenter contended that, "in light of OSHA's rulemaking capability, the backlog that will result from priority lists, without subsequent immediate regulation, can create a public image of an Agency unable to regulate 'known' carcinogens" (Dow Chemical Company, Exh. 302–59).

A third issue was the actual use of the 1980 Candidate List for regulatory purposes although, as stated in the preamble to the List, it was published to guide further study. One commenter remarked, "that despite protestations that the Lists are not official rules, other regulatory groups, especially those of local agencies, choose to use them as guides. One such example is the Philadelphia 'workers' right to know law' which is using the Candidate List to require labeling, recordkeeping, and notification by employers" (Air Products, Exh. 302–7).

OSHA also received a number of comments principally from employee unions, that objected to the proposed stay of the requirements for publishing the list for two principal reasons.

The first reason is that employees have the right to know the evidence about the potential carcinogenic nature of chemicals with which they work, so that they, or their union representatives, will be in a position to make a judgment regarding protective work practices. One commenter stated "that the right to know as a democratic principle outweighs any potential negative effects about which the Agency has speculated" (International Molders and Allied Workers Union, Exh. 302–62). Another contended that, "we have concluded that notification of cancer risk does not produce 'scares.' On the contrary, it is the lack of information provided to workers that creates rumors, erroneous views, fears and cynicism"

(Pattern Makers League of North America, Exh. 302–44).

A second reason raised by those objecting to the proposed stay was the claim by industry that the 1980 Candidate List had produced negative effects. As one commenter stated, "While industry claimed that publication of that list would create a black list of chemicals and cause undo alarm, no such documented reaction among the public has resulted" (American Federation of Labor and Congress of Industrial Organizations, Exh. 302–56).

OSHA recognizes the concerns expressed by those opposing, as well as those supporting, the partial stay. After a careful review of the comments received, OSHA has concluded that it is appropriate to stay those provisions requiring the development and publication of the Candidate List and Priority Lists during the course of the reconsideration of the Carcinogen Policy. The reasons for this conclusion are as follows:

First, the scientific criteria used for establishing the lists are among those provisions of the Carcinogen Policy that are to undergo review and possible amendment. The January 5, 1982, **Federal Register** notice was the first step in this review process. OSHA believes it would not be effective use of Agency resources to develop and publish Candidate and Priority Lists based on criteria that may be changed in the near future.

Second, a number of industry comments, as referenced above, stated that economic injury had been or would be caused by the publication of the lists. Third Candidate List was intended to direct further scientific research on substances briefly reviewed by OSHA. Therefore, it is inappropriate to use it as the sole basis for making major decisions which may have substantial adverse economic effects. Third, industry comments indicated that the presence of the Candidate List as an official Agency document has led to use of the list by other regulatory agencies and groups as if it were a document based on full scientific review. OSHA believes a stay of the lists will help to prevent the use of preliminary documents as if they were final decisions.

Other comments received, principally from unions, made the point that employees and their representatives are entitled to know the scientific evidence, as well as to know the judgments of cancer experts, regarding the possible carcinogenicity of specific chemicals. OSHA believes that staying the provisions regarding further preparation and publication of the lists will not unduly restrict employee access to information pertaining to the carcinogenicity of substances. All data upon which the lists were to be based are available to the public. Furthermore, the National Institute for Occupational Safety and Health has published a list of chemicals for which there is some evidence of carcinogenicity and has referenced the reviewed data (Registry of Toxic Effects of Chemical Substances-Tumorigenic, Teratogenic and Mutagenic Citations Subfiles, 1979). The International Agency for Research on Cancer (IARC) has published monographs that contain conclusions concerning the carcinogenicity of substances reviewed by this international agency (IARC, 1972–1981). These sources, as well as others, will permit employees and their representatives to make judgments about the suitability of precautions to be taken.

OSHA agrees with all the commenters that a priority setting process is needed to maximize employee protection and to promote cost-effective regulation. Therefore, OSHA is not staying those sections of the Carcinogen Policy, such as 29 CFR 1990.132, which give guidance to the priority setting process. OSHA also agrees with labor union commenters that the priority setting process must include public participation However, for the reasons stated above, OSHA believes that it is necessary and appropriate to stay the lists while the priority setting process is under review. This will permit the Agency to devise a priority system which will be effective and will include public participation without creating adverse consequences.

Accordingly, pursuant to Sections 6 and 8 of the Occupational Safety and Health Act, 29 CFR 1990.106(b)(3) and the Administrative Procedure Act, OSHA is hereby staying the provisions of 29 CFR 1990.121 (a) and (b), 1990.122, 1990.131 and 1990.133 requiring the Agency to establish and publish the Candidate List and the Priority Lists. Section 1990.121(c) is not stayed, as it indicates that the 1980 Candidate List, already published, does not reflect a scientific determination that the substances listed are carcinogenic. All other provisions of the Carcinogen Policy will remain in effect during this period of reevaluation and rulemaking proceedings.

List of Subjects in 29 CFR Part 1990

Administrative practice and procedure, Cancer, Occupational safety and health.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(Secs. 6 and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657); the Administrative Procedure Act (5 U.S.C. 551 et. seq.); Secretary of Labor's Order 8–76, 41 FR 25059; 29 CFR Part 1911 and 1990)

Signed at Washington, D.C., this 28th day of December 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83–16 Filed 1–3–83; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Approval of Program Amendments From the State of Iowa Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 915 by adding permanent program amendments to the Iowa permanent regulatory program under the provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director of OSM has determined that the modifications to the Iowa program meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director has approved the Iowa program amendments, and Part 915 of 30 CFR Chapter VII is being amended to implement this decision.

EFFECTIVE DATE: This approval is effective January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

Background

The Iowa program was conditionally approved effective April 10, 1981. Notice of the Secretary's decision was published in the January 21, 1981

Federal Register (48 FR 5885–5892). Two of the three conditions imposed on the approval of the Iowa program were removed on May 26, 1982 (47 FR 22950) and the final condition was removed on September 8, 1982 (47 FR 39482).

On December 21, 1981, OSM notified the Iowa Department of Soil Conservation (DSC) that a review of Iowa's program rules revealed that several important rules had been deleted and that the Iowa program was therefore deficient. (Administrative Record No. IA–188). On September 28, 1982, Iowa submitted to OSM provisions intended to correct the deficiencies noted in OSM's December 21, 1981 letter, and additional amendments.

OSM published a notice in the Federal Register on November 3, 1982, announcing receipt of the amendments, procedures for the public comment period, and a public hearing on the adequacy of the amendments (47 FR 49868–49869). The public comment period ended December 6, 1982. A public hearing scheduled for November 30, 1982, was not held because no one expressed a desire to present testimony On November 24, 1982, OSM published a notice cancelling the public hearing.

Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17, that the program amendments submitted by Iowa on September 28, 1982, meet the requirements of sections 510, 515 and 516 of SMCRA and 30 CFR Parts 771, 816 and 817.

The provisions submitted by Iowa are to replace rules deleted by the State in order to comply with actions taken by OSM suspending certain rules in 30 CFR Chapter VII as a result of litigation on the permanent program rules (*In re Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. 1980), aff'd 617 F. 2d 807 (D.C. Cir. 1980)). When Iowa chose to delete the corresponding rules from its program, it also deleted portions of the rules that were not suspended.

The amendments to chapter 4 of the Iowa Administrative Code on "Surface Mining and Reclamation Operations" are summarized as follows:

1. Subrule 4.522(11) dealing with hydrologic balance, water quality standards, and effluent limitations, and which adopts by reference 30 CFR 816.42 as promulgated March 13, 1979, is modified so that paragraph (a), subparagraphs (1) and (7), do not apply to the reclamation phase of mining, and paragraph (b) does not apply to total suspended solid discharges.

2. Subrule 4.522(15) dealing with hydrologic balance and sedimentation ponds, and which adopts by reference 30 CFR 816.46 as promulgated March 13, 1979, is modified to delete all but the first sentences from paragraphs (b), (c), and (h) of the federal regulations, and the following words from paragraph (d): "and shall have a discharge rate to achieve and maintain the required theoretical detention time."

3. Subrule 4.522(41) dealing with water control measures for coal processing waste banks, and which adopts by reference 30 CFR 816.83 as promulgated March 13, 1979, is modified to adopt by reference an amended rule adopted by the Office of Surface Mining on November 20, 1980, at 45 FR 76934.

4. Subrule 4.522(56) dealing with backfilling and grading for covering coal, acid and toxic-forming materials, and which adopts by reference 30 CFR 816.103 as promulgated March 13, 1979, is modified so that in lieu of subparagraph (a)(1) which was suspended, the Iowa DSC applies Sections 515(b)(14) and 516(b)(10) of SMCRA and 30 CFR 816.48.

5. Subrule 4.522(65) dealing with revegetation, and which adopts by reference 30 CFR 816.116 as promulgated March 13, 1979, is modified as amended by the Office of Surface Mining on August 4, 1980 (45 FR 51549).

6. Subrule 4.523(15) dealing with hydrologic balance and sedimentation ponds, and which adopts by reference 30 CFR 817.46 as promulgated March 13, 1979, is modified to delete all but the first sentences from paragraphs (b)(c), and (h) and the following words from paragraph (d): "and shall have a discharge rate to achieve and maintain the required theoretical detention time."

7. Subrule 4.523(38) dealing with water control measures for coal processing waste banks, and which adopts by reference 30 CFR 817.83 as promulgated March 13, 1979, is modified to adopt by reference an amended rule adopted by the Office of Surface Mining on November 20, 1980 (45 FR 76935).

8. Subrule 4.523(60) dealing with the standards for success of revegetation, and which adopts by reference 30 CFR 817.116 as promulgated March 13, 1979, is modified as amended by the Office of Surface Mining on August 4, 1980 (45 FR 51549).

9. Subrule 4.55(1) dealing with special requirements for prime farmlands, and which adopts by reference 30 CFR 823.11 as promulgated March 13, 1979, is modified to adopt by reference an amended rule adopted by the Office of Surface Mining on August 4, 1980 (45 FR 51550).

10. Subrule 4.55(5) dealing with prime farmland revegetation, and which adopts by reference 30 CFR 823.15 as promulgated March 13, 1979, is modified to adopt by reference an amended rule adopted by the Office of Surface Mining on August 24, 1980 (45 FR 51550).

The following two provisions were not submitted in response to OSM's December 21, 1981 letter, but are additional amendments submitted by the State.

11. Subrule 4.311(2), paragraph (e), subparagraph (1) dealing with maps and plans is modified to change the scale of maps required for the permit area from "1:1200 or larger" to "1:2400 or larger."

12. Subrule 4.322(13) dealing with cross sections, maps and plans, is modified in paragraph (k) to change the scale of topographic maps required for the existing land surface of proposed permit areas from "1:1200 or larger" to "1:2400 or larger" and to change the required contour interval from "two foot or less" to "five foot or less." Paragraph (1) of the same subrule is changed to modify the scale requirement for cross sections from "1:1200 or larger" to "1:2400 or larger."

Public Comment

No comments were received on the Iowa amendments.

Approval of Amendments

Accordingly, 30 CFR Part 915 is amended to indicate approval of the Iowa program amendments submitted to OSM September 28, 1982.

Additional Determinations

National Environmental Policy Act. Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), this rule is not a major Federal action and therefore no environmental impact statement, environmental assessment, or FONSI need be prepared on this rulemaking.

Regulatory Flexibility Act. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State programs, actions, or amendments. Therefore, this program amendment is exempt from the requirement to prepare a Regulatory Impact Analysis and regulatory review by OMB.

List of Subjects in 30 CFR Part 915.

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Therefore, Part 915 of 30 CFR Chapter VII is amended as set forth herein.

Dated: December 22, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 915—IOWA

1. Section 915.10 is revised to read as follows:

§ 915.10 State regulatory program approval.

The Iowa program as submitted February 28, 1980, and as amended and clarified June 11, 1980, and December 15, 1980, was approved effective April 10, 1981. The amendments submitted October 1, 1981, were approved effective May 26, 1982. The amendments submitted June 3, 1982, were approved effective September 8, 1982. The amendments submitted September 28, 1982 were approved effective January 4, 1983. Copies of the approved program, as amended, are available at:

(a) Iowa Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Building, Des Moines, Iowa 50319.

(b) Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

(c) Office of Surface Mining, Administrative Record, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240.

[FR Doc. 83-53 Filed 1-3-83; 8:45 am]

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30 CFR Part 917

Removal of Certain Conditions of Approval of the Kentucky Permanent Program Under the Surface Mining Control and Reclamation Act of 1977 and Consideration of Additional Amendments Thereto

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 917 by (1) removing certain conditions of approval of the Kentucky permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and (2) approving certain additional amendments to the Kentucky program. Kentucky has submitted material to OSM which satisfies some of the conditions of the Secretary's approval of May 18, 1982 (47 FR 21404–21435).

EFFECTIVE DATE: The removal of these conditions and the approval of these program amendments are effective on January 4, 1983.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Ky. 40504, Telephone (606) 233–7320.

SUPPLEMENTARY INFORMATION:

Background on the Kentucky Program Submission

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982, **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982, **Federal Register** (47 FR 21404–21435).

Background on the Secretary's Conditional Approval

Deficiencies (b), (c), (k) and (l) of the Kentucky program for which the Secretary required correction as conditions of approval were as follows:

(b) Kentucky did not have fully promulgated regulations providing for citizens to accompany State inspectors onto a minesite consistent with 30 CFR 842.

(c) Kentucky did not have fully promulgated regulations providing adequate public participation in the cumulative bond crediting process consistent with SMCRA Section 519.

(k) Kentucky did not have a policy statement or regulations establishing standards no less effective than those at 43 CFR 4.1294 for the award of costs and expenses in administrative proceedings.

(l) Kentucky did not have a plan which includes: (1) A process for prompt completeness determinations of permit applications from existing operators who expect to continue mining past the eighth month of primacy; (2) assurances that operators who have not submitted complete applications by eight months after primacy will be immediately advised that they may not continue mining until being issued an approved permit, and (3) a policy that permit applications for new areas will not be given priority for processing over those from existing operations which are continuing to mine under the interim program when such existing mine applications are one year old or older.

Submission of Revisions and Program Amendments

On May 28 and July 31, 1982, OSM received from the Commonwealth of Kentucky material intended to satisfy conditions (b), (c), (k), and (l), above. OSM also received pursuant to the 30 CFR 732.17 state program amendment procedures, certain revisions to the State regulations.

OSM published a notice in the **Federal Register** on July 23, 1982, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected these deficiencies, and whether the Secretary should approve the additional amendments to the State program (47 FR 31890–31896). The public comment period ended August 23, 1982. A public hearing was held on August 12, 1982. OSM published a second notice in the **Federal Register** on September 8, 1982, announcing receipt of provisions to satisfy conditions (k) and (l), and inviting public comment on whether the proposed amendments corrected these deficiencies (46 FR 39536–39537). The public comment period ended October 8, 1982. A public hearing scheduled September 22, 1982, was not held because no one expressed a desire to present testimony.

Submission of Proposed Program Corrections

On June 18, 1982, OSM received from the Commonwealth of Kentucky a letter attempting to clarify certain statements in the May 18, 1982, **Federal Register** (47 FR 21404–21435) notice announcing the approval of the State program. The letter makes the following points:

1. At the top of page 21434, middle column, the notice states that the deadline for correcting deficiency (d), relating to civil procedure guidelines, is September 30, 1982, when the actual date agreed upon was December 31, 1982.

2. On page 21428 of the notice in Item No. 2 relating to performance standards, the Secretary indicates, in a response to a public comment, that plans prepared by a professional engineer under 405 KAR 16:140E Section 6 and 18:140E Section 6 for removal of burned coal processing waste must be certified by the engineer as being in accordance with sound engineering practice.

Kentucky states that its regulations provide for no such certification.

3. Kentucky is concerned that in Finding 13.26 (47 FR 21413) and deficiency No. 1 (47 FR 21433), the Secretary does not make it clear that this deficiency exists only for permit areas larger than 40 acres.

4. On page 21426, in Item No. 3 relating to permitting, in response to a public comment, the Secretary defines "incidental boundary revisions" as incidental to whatever revision is being sought. Kentucky states that its Act allows boundary revisions incidental to the mining operation as a whole.

5. Kentucky is concerned that in Finding 18 8 (47 FR 21419), the Secretary gives an incorrect impression of the State's criteria for release of bond by increments. Kentucky states that in incremental bonding the remaining bond amounts must be sufficient to insure reclamation on the remaining permit area as a result of setting initial bond amounts on individual increments sufficiently high to insure reclamation on those increments.

Secretary's Findings

1. The Secretary finds the material submitted by Kentucky on May 28 and July 31, 1982, addresses the deficiencies in the Kentucky program as follows:

(b) Kentucky has promulgated 405 KAR 12:030 Section 4 to provide for citizens to accompany State inspectors, and thus has satisfied condition (b).

(c) Kentucky has eliminated its cumulative bond crediting process. Condition (c) is, therefore, removed as a condition of approval.

(k) Kentucky has adopted a policy statement, effective July 30, 1982, which establishes the same standards as those in 43 CFR 4.1294 for the award of costs and expenses in administrative hearings. In order to fully satisfy condition (k), by October 31, 1983, the State must submit promulgated regulations establishing standards which are no less effective than those at 43 CFR 4.1294.

(1) The Secretary has not completed his review of the material submitted by Kentucky to satisfy condition (1). The Secretary will announce his decision on all of this material at a later date.

2. The Secretary finds the following program amendments submitted by Kentucky on May 28, 1982, pursuant to the 30 CFR 732.17 procedures, to be acceptable and hereby approves them:

a. An addition to 405 KAR 7:020 Section 1(11) to include in the definition of "auger mining" the phrase, ". . . and shall also include all other such methods of mining in which coal is extracted from beneath the overburden by mechanical devices located at the face of the cliff or highwall and extending laterally into the coal seam, such as extended depth, secondary recovery systems." This addition is no less effective than the Federal definition of "auger mining" at 30 CFR 701.5.

b. An amendment to 405 KAR 7:020 Section 1(70) to change the definition of "operator" to, "any person, partnership or corporation engaged in surface coal mining and reclamation operations." This definition is no less effective than the Federal definition at 30 CFR 701.5 because removal of 250 tons of coal per 12 month period is contained in the definition of "surface coal mining operations" at 405 KAR 7:020 Section 1(117) discussed under "c" below.

c. An amendment to 405 KAR 7:020 Section 1(117) in the definition of "surface coal mining operations" to exclude from such definition, "the extraction of, or intent to extract, 250 tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months." This definition now is no less effective than the provision in the Federal regulations at 30 CFR 700.11 which excludes from applicability of the regulations the removal of less than 250 tons of coal.

d. An amendment to 405 KAR 7:030 Section 1 to change the applicability section to state: "Title 405, Chapter 7 through 24 apply to all coal exploration and surface coal mining and reclamation operations, except surface coal mining and reclamation operations of two (2) acres or less which are exempt from the requirements of SMCRA." This revision is no less effective than 30 CFR 700.11.

e. In 405 KAR 7:040 Section 5(1), an amendment to delete the words, "Division of Water," after the word, "department."

f. Amendments to 405 KAR 7:040 Section 10(2):

(1) Delete the phrase, "and appropriate direct participation and/or supervision by the registered professional engineer," and replace it with the phrase, "and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates."

(2) Delete the phrase, "or assume any liability other than that normally incurred in the practice of engineering," in the second sentence.

There is no Federal counterpart to 405 KAR 7:040 Section 10. These amendments, therefore, are no less effective than the Federal regulations.

g. An amendment to 405 KAR 7:040 Section 10(7) to delete the requirement that certifications by registered professional engineers be notarized. There is no Federal counterpart to 405 KAR 7:040 Section 10. This amendment is, therefore, no less effective than the Federal regulations.

h. An addition to 405 KAR 7:090 Section 4(1) to clarify that a preliminary hearing need not be scheduled if it is waived. This amendment is no less effective than the Federal regulations.

i. An amendment to 405 KAR 7:090 Section 4(6) to give a person to whom a notice or order was issued, 15 days from the mailing of the proposed penalty assessment to waive the preliminary hearing and request a formal hearing. This amendment is no less effective than the Federal regulations.

j. An amendment to 405 KAR 7:090 Section 6 to provide a 15 day period during which a local preliminary hearing may be requested. This amendment is no less effective than the Federal regulations.

k. An addition to 405 KAR to create a new part, 7:095, Assessment of Civil Penalties. This new part contains, *inter alia*, the State's proposed penalty assessment guidelines at § 731.14(g)(4–7)(15) of the Kentucky resubmission. This new part is no less effective than 30 CFR 845.

l. An amendment to 405 KAR 8:010 Section 6(1) to delete the different requirements applicable to "small operators" (as defined by KRS 350.450(4)(d)) for the payment of permit application fees. This amendment is not less effective than 30 CFR 771.25 which leaves such fees to the discretion of the State. Such fees must no exceed the actual cost of reviewing, administering or enforcing the permit, and they do not appear to do so.

m. An amendment to 405 KAR 8:010 Section 6(2) to increase the permit application fee for applications submitted after July 15, 1982, to $375 plus $75 for each acre or fraction thereof of the area of land to be affected under the permit. This amendment is no less effective than 30 CFR 771.25 which leaves such fees to the discretion of the State. Such fees must not exceed the actual cost of reviewing, administering, or enforcing the permit, and they do not appear to do so.

n. Amendments to 405 KAR 8:010 Section 13(1) to:

(1) Decrease from 15 to 10 the number of days from initial receipt of the application by which the department shall notify the applicant of the initial completeness of the application, and

(2) Explain the department's procedures if an application is determined to be incomplete.

These amendments are no less effective than 30 CFR 786.11 and 786.17.

o. An amendment to 405 KAR 8:010 Section 20(5), regarding permit revisions, to conform the fees therefor to the amendment to 405 KAR 8:010 Section 6(2), above. This amendment is no less effective than 30 CFR 771.25 which leaves such fees to the discretion of the State.

p. An amendment to 405 KAR 8:010 Section 21(2)(a)(4), regarding permit renewals, to conform the fees therefor to the amendment to 405 KAR 8:010 Section 6(2), above. This amendment is no less effective than 30 CFR 771.25 which leaves such fees to the discretion of the State.

q. An amendment to 405 KAR 8:010 Section 21(2)(b)(1) to delete the phrase, "except that the time for the initial completeness determination shall be ten (10) days." This amendment is no less effective than 30 CFR 788.14(b)(1).

r. An amendment to 405 KAR 8:010 Section 22(1) and 22(2)(a) to change the word "chapter" to "Title."

s. An amendment to 405 KAR 8:010 Section 22(2)(a)(2), regarding the transfer, assignment or sale of permit rights, to conform the fees therefor to the amendment to 405 KAR 8:010 Section 6(2), above. This amendment is no less effective than 30 CFR 771.25 which leaves such fees to the discretion of the State.

t. An amendment to 405 KAR 8:010 Section 22(2)(c)(1) to delete the existing language and replace it with the following: "The person seeking approval would be eligible to receive a permit in accordance with the criteria specified in Section 14." This amendment is no less effective than 30 CFR 788.18(c)(1).

u. Amendments to 405 KAR 8:010 Section 22, to create the following three new subsections:

(1) Section 22(4), regarding proof of transfer, sale or assignment of permit rights.

(2) Section 22(5), regarding release of bond liability.

(3) Section 22(6), regarding interim program permits.

These amendments are no less effective than 30 CFR 788.17–.19.

v. An amendment to 405 KAR 8:020 Section 2(2)(h) to increase the fee for exploration to $375 after July 15, 1982. The amendment is no less effective than the Federal regulations as there is no Federal provision for a fee for exploration approval.

w. An amendment to 405 KAR 8:030 Section 23(4) and 8:040 Section 23(4) to add the following sentence: "The qualified registered professional engineer shall not be required to certify true ownership of property." The amendment is no less effective than 30 CFR 779.24 and 779.25.

x. Amendments to 405 KAR 12:010 Section 3(5) (a) and (b) to delete the phrase, "under its jurisdiction," and replace it with the phrase, "permitted under Title 405, Chapter 8." The amendment changes the inspection frequency regulations to require four complete and eight partial inspections per year only on sites which are permitted, thus excluding illegal operations from this requirement. These amendments are no less effective than 30 CFR 840.11.

y. An amendment to 405 KAR 16:140 Section 2(1)(d) to add the following sentence: "The responsible registered professional engineer shall certify to the department within two (2) weeks after each inspection that the coal processing waste bank has been constructed as specified in the design approved by the department." This amendment is no less effective than 30 CFR 816.82.

z. An amendment to 405 KAR 18:140 Section 2(1)(d) to add the same sentence as the amendment to 405 KAR 16:140 Section 2(1)(d), above. This amendment is no less effective than 30 CFR 817.82.

aa. Amendments to 405 KAR 24:020 Section 3(7) and Section 4(6) and 24:030 Section 3(5) to delete the term, "supporting evidence," and replace it with the term "objective evidence." The Secretary finds that the State's use of the term "objective evidence" is intended to signal petitioners to avoid "subjective" information in compiling petitions. These amendments, therefore, are no less effective than 30 CFR 764.13 and 764.15(a)(4).

bb. Amendments to 405 KAR 24:030 Section 4(4) as follows:

(1) To delete the term, "supporting evidence," and replace it with the term, "objective evidence," in subsection (d). The Secretary finds that the State's use of the term "objective evidence" is acceptable and the amended regulation is no less effective than 30 CFR 764.16(c) for the reasons set forth above.

(2) To require a notarized signature by an intervenor in subsection (a). While the Federal counterpart, 30 CFR 764.16(c), does not require notarization, it is a time honored manner of insuring the validity of signed documents. While notarization represent somewhat of an inconvenience to the potential intervenor, such inconvenience is minor when weighed against the State's desire to insure that it is dealing with *bona fide* parties. This amendment is, therefore, no less effective than 30 CFR 764.16(c).

cc. An amendment to 405 KAR 24:030 to create a new Section 9 and delete existing Section 8(7), describing the administrative and judicial review of decisions on petitions to designate lands unsuitable for surface mining operations. This amendment is no less effective than 30 CFR 764.

dd. An amendment to 405 KAR 1:005, to create a new Section 6 which states, "The hearing provisions of this chapter shall apply to the resolution of all notices and orders that were issued by the department prior to the date of primacy as defined in 405 KAR 7:020E." This amendment is no less effective than the Federal regulations.

ee. An amendment to 405 KAR 3:005 to create a new Section 6 which states, "The hearing provisions of this chapter shall apply to the resolution of all notices and orders that were issued by the department prior to the date of primacy as defined in 405 KAR 7:020E." This amendment is no less effective than the Federal regulations as there is no comparable Federal provision.

ff. An amendment to the Kentucky Revised Statutes (KRS), Chapter 350, contained in House Bill No. 19, to add the following language: "All bonds required to be filed in accordance with KRS 350.060 and KRS 350.064 shall not be required to be filed until the applicant for the permit has been notified in writing by the department that the application for the permit has been approved, with the exception of the bond." This admendment is consistent with SMCRA Section 508 and 30 CFR 800.11.

gg. An amendment to KRS 350.010, contained in Senate Bill No. 207, changing the definition of "surface coal mining operations," to include "extended depth secondary recovery systems" within such definition. This amendment is no less effective than Federal regulation and law as there is no comparable Federal provision.

hh. Amendments to the KRS, contained in Senate Bill No. 380, as follows:

(1) Section 1. KRS 350.425 is amended to add the following sentence at the end: "The Kentucky bureau of surface mining through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream, which structures or obstructions are permitted under this chapter."

(2) Section 2. KRS 151.250 is amended to add the following sentence at the end of Subsection (3): "The Kentucky bureau of surface mining through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees,

embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream which structures are permitted under KRS Chapter 350 for surface coal mining operations."

These amendments are no less effective than Federal regulations and law as there are no comparable Federal provisions.

ii. Amendments to the KRS, contained in Senate Bill No. 165, as follows:

(1) Amendments to KRS 350.035 to create an office of special investigations, and to authorize the appointment of special investigation officers who shall be responsible for the enforcement of provisions relating to criminal offense.

(2) Amendments to KRS 350.990 (2) and (3), clarifying enforcement authority and increasing the penalty for mining without a permit from a misdemeanor to a felony.

(3) A new section of KRS Chapter 350 is created to allow the secretary of the department to appoint officers to deal with criminal violations. This section describes such officers' authority and their qualifications.

(4) A new section of KRS Chapter 350 is created to allow the seizure by the department of all instrumentalities used in the mining of coal without a permit.

(5) A new section of KRS Chapter 350 is created to establish an "illegal mining reclamation fund", consisting of monies from the sale or forfeiture of all instrumentalities used in the mining of coal without a permit. The section describes the permissible uses of such monies.

These amendments are no less effective than Federal regulations and law as there are no comparable Federal provisions.

jj. Amendments to the KRS, contained in Senate Bill No. 218, as follows:

(1) Amendments to KRS 350.010 Section 1 as follows:

(a) Excluding from the definition of "surface coal mining operations" those persons who extract or intend to extract two hundred fifty tons or less of coal by surface coal mining operations within twelve successive calendar months. This definition is consistent with the Federal definition of the term at SMCRA Section 701(28), and the provision for approval of exploration at Section 512(d) where not more than 250 tons of coal may be removed without written, regulatory approval.

(b) Conforming the definition of "strip mining" to the definition of "surface coal mining operations", as above.

(c) Revising the definition of "overburden" to include "material of any nature, consolidated or unconsolidated, excluding topsoil." This definition is no less effective than the Federal definition at 30 CFR 701.5.

(d) Revising the definition of "area of land affected" to mean, "any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located." This definition is no less effective than the Federal definition of "affected area" at 30 CFR 701.5.

(e) Conforming the definition of "operator" to the definition of "surface coal mining operations," above.

(f) Adding the following definition: "Certification by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Such certification shall not be construed to constitute a warranty or guarantee". While there is no Federal counterpart to this definition, it is consistent with Federal regulations and law.

(2) Amendments to KRS 350.028, Section 3, subsections (3), (4) and (5) to clarify enforcement hearing authority and the power to adopt rules. These amendments are consistent with Federal regulations and law.

(3) Amendments to KRS 350.060, Section 5, as follows:

(a) Deleting the reference to interim permit applications filed in 1980 in subsection (3).

(b) Modifying the application requirements regarding stock ownership in an applicant company in subsection (5)(g).

(c) Stating that the professional engineer certifying the application not be required to certify the true ownership of property in subsection (8)(a).

(d) Adding the word "show" at the beginning of subsection (8)(d).

(e) Relettering existing subsection (8)(d)–(h) as (8)(e)–(i).

(f) Amending subsection (10) to read as follows: "All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the department and shall be reasonably specific as to the work being certified. The department may reject any document or map as incomplete if it is not properly certified."

(g) Amending subsection (14) to clarify the language regarding bonding for a two acre operation.

(h) Adding the term "revegetation" in the description of minimal regulations which the Kentucky Department of Natural Resources will promulgate for surface coal mining and reclamation operations which affect two acres or less, in subsection (15).

(i) Clarifying the application, acreage fee and bond requirements for deep mines, in subsection (16).

These amendments are consistent with Federal regulations and law because they are either non-substantive, or add or clarify requirements in OSM's regulations and SMCRA.

(4) An amendment to KRS 350.450 Section 33(4) to develop a simplified small operator permit. This amendment is consistent with Federal regulations and law.

(5) Amendments to KRS 350.130 Section 14 as follows:

(a) Clarifying the issuance of enforcement notices and orders and the opportunity for hearings thereon.

(b) Clarifying the State's enforcement authority in cases where an imminent danger is discovered.

These amendments are consistent with Federal regulations and law.

(6) An amendment to KRS 350.610 clarifying the contents of a petition to have an area designated as unsuitable for surface coal mining operations, and the judicial review of a decision on such petition. These amendments are consistent with Federal regulations and law as they are non-substantive in nature.

(7) An amendment to KRS 350.990 Section 35 authorizing the State to develop a method for calculating monetary penalties. This amendment is consistent with SMCRA Section 518.

kk. Amendments to KRS 350.060(9), 350.060 Section 5(14), and Chapter 377 Section 1(14), contained in House Bill No. 813, to increase the maximum allowable permit application fee to $375 plus $75 for each acre or fraction thereof of the area of land to be affected by the operation. The amendments are consistent with Federal regulations and law as the setting of fee amounts is a matter within the discretion of the State. Such fees must not exceed the actual cost of reviewing, administering or enforcing the permit, and they do not appear to do so.

ll. Amendments to KRS 350.139(2) and 350.139, Chapter 377 Section 4(2), contained in Senate Bill No. 316, to read as follows: "The state treasurer shall on

or before August 1 of each year transfer thirty-three and one-third percent (33⅓%) of all funds paid during the preceding fiscal year as fees for the issuance of any permit to strip mine to the fiscal courts of the county in which the permitted operation is located for the general purposes of that fiscal court." The amendments are consistent with Federal regulations and law as the use of such fees is a matter within the discretion of the State because there are no comparable Federal provisions.

3. The Secretary has not completed his review of the remaining statutory and regulatory revisions, submitted by Kentucky on May 28, 1982. In some cases the State has been asked to submit further, clarifying material. The Secretary will announce his decision on these State program amendments at a later date. These revisions are to the following Kentucky rules: 405 KAR 7:020 Section 1(86), 8:050 Section 2, 16:020 Section 4 and 16:190 Section 2(2). These revisions are to the following Kentucky statutory provisions: KRS 350.060 Section 5(21) and (22), 350.093 Section 10(2), and 350.062(9), contained in Senate Bill 218.

The Secretary further finds that, in spite of the self-implementing nature of these revisions, Kentucky must not begin the administration or enforcement of these provisions until Secretarial approval. SMCRA Section 503 establishes that a State may not exercise jurisdiction under the Act unless the State program is approved by the Secretary. Thus, any changes to the program are not enforceable by the State until approved by the Secretary. 30 CFR 732.17(g) clearly prohibits any such unilateral changes to approved State programs, thus implementing SMCRA Section 503. In his oversight of the State program the Secretary will recognize only the statutes and regulations approved by him, and will require the enforcement by the State of only such provision.

4. The Secretary finds the following statements contained in the June 18, 1982, letter from the State to be acceptable, and hereby approves them as clarifications to the Kentucky program:

a. Condition (d), relating to civil procedure guidelines, is to be satisfied by December 31, 1982.

b. 405 KAR 16:140 Section 6 and 18:140 Section 6 do not require that plans prepared by a professional engineer for removal of burned coal processing waste be certified as being in accordance with sound engineering practice. Rather, the engineer is required by KRS Chapter 322 to affix his/her seal and signature to such plans as evidence that a professional engineer has performed the work to insure that it is competently done. 405 KAR 16:140 Section 6 and 18:140 Section 6 are no less effective than 30 CFR 816.87.

c. 405 KAR 16:200 Section 6(4) and 18:200 Section 6(4) contain alternative standards for success of revegetation for permit areas of forty acres or less as in 30 CFR 816.116(d). Thus, condition (a) applies only to permit areas larger than forty acres, and is hereby amended to that extent.

d. In finding 18.8 of the May 18, 1982, notice approving the Kentucky program (47 FR 21419–21420), the Secretary stated that the main difference between State and Federal regulations regarding bond increments is that 405 KAR 10:040E Section 3 allows each bond increment to be treated independently and deleted from the permit area after final release on the increment, whereas 30 CFR 807.12(c) specifies that the increment not be released from the permit area separately until release of the last remaining increment. The Secretary found the State requirements no less effective than the Federal requirements because of the additional safeguards that the State has established for the increments (see 47 FR 21419–21420). In its letter of June 18, 1982, Kentucky pointed out that in incremental bonding, the remaining bond amounts must be sufficient to insure reclamation on the remaining permit area as a result of setting initial bond amounts on individual increments sufficiently high to insure reclamation on those increments. The Secretary finds he is not in disagreement with Kentucky's letter of June 18, 1982, as it clarifies Finding 18.8 in the May 18, 1982, notice.

5. The Secretary has not completed his review of the statement in the June 18, 1982, letter relating to incidental boundary revisions because the State has been asked to submit further, clarifying material. The Secretary will announce his decision on this statement at a later date.

Public Comments

1. The Appalachian Research and Defense Fund of Kentucky, Inc. (ARDFK) commented, regarding the June 18, 1982, clarifying letter from Kentucky as follows:

a. The State is given too much time (to December 31, 1982) to correct deficiency (d) which is a program defect of major proportion. The Secretary disagrees that the defect is major because the State presently has procedures for hearings. Further, condition (d) requires the State to submit guidelines of civil procedure which are no less effective than those at 43 CFR 4 for use in administrative hearings by December 31, 1982, a date which is less than two months away. Condition (d) also requires promulgated regulations which are no less effective than those at 43 CFR 4 by October 31, 1983.

b. That 405 KAR 16:140 Section 6 and 18:140 Section 6 do not require that plans prepared for removal of burned coal processing waste be certified by a professional engineer as being in accordance with sound engineering practice renders such rules inconsistent with 30 CFR 816.87. For the reasons set forth in Finding 4(b), above, the Secretary finds KAR 16:140 Section 6 and 18:140 Section 6 are no less effective than 30 CFR 816.87, and accepts Kentucky's explanation of its provisions.

c. Kentucky's clarification of its approach to incremental bonding shows that the State's approach is deficient in meeting the requirements of SMCRA Section 509. The State proposes to allow each increment of a permit area to be treated independently of other increments for purposes of bond release and liability. In so doing, it expressly violates Federal regulations, and all but insures that the amount of the bond will be insufficient to insure reclamation of the remaining permit area.

For the reasons set forth in Finding 4(d), above, the Secretary finds that 405 KAR 10:040 Section 2(2)(c) is no less effective than 30 CFR 807.12(c), and accepts Kentucky's explanation of its provisions.

2. ARDFK criticized OSM for its actions during the 1982 Kentucky legislative session, and the enactment of legislative amendments by Kentucky prior to approval by the Secretary. OSM, however, merely evaluated certain proposed State legislation at Kentucky's request. The Office never gave its approval of any such legislation, nor did it ever suggest that such legislation should be effective prior to submission as program amendments. See Finding 3, above.

3. ARDFK commented that Kentucky published the regulatory amendments in emergency form and put them into full force and effect, without any notice or opportunity to be heard, in violation of 30 CFR 732.17(g). The Secretary agrees with this comment. See Finding 3, above.

4. ARDFK commented that the revisions to 405 KAR 7:090 provide that the State will set a preliminary hearing in all enforcement cases unless affirmatively waived by the alleged violator. ARDFK points out that such a provision is not necessarily inconsistent with the Federal regulations, but that it creates potential delay in enforcement activity and strains staff resources. The

Secretary agrees that the revision is not inconsistent with Federal regulations and, therefore, finds it acceptable.

5. Another commenter objected to the revisions to 405 KAR 7:030 and 8:040 Section 23(4) which add the sentence: "The qualified registered professional engineer shall not be required to certify true ownership of property." First, 30 CFR 779.24 and 779.25 do not require any such certification. Second, the Kentucky regulations at 405 KAR 8:030 and 8:010 Section 23(1)(e) require that the permit application include a map showing, "All * * * names of present owners of record of those lands, both surface and subsurface, included in or contiguous to the permit area." Further, 405 KAR 8:030 and 8:040 Section 23(4) provide that, "Plans, maps, and drawings required under this section shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer, and shall be updated as required by the department." Therefore, the professional engineer is required to certify as to owners of record, but is not required to search beyond such records. The Secretary finds the Kentucky amendments to be reasonable, and no less effective than 30 CFR 779.24 and 779.25.

6. The Kentucky Coal Association (KCA) states that Kentucky has not substantially complied with State law in developing the revision to 405 KAR 7:020 Section 1(11), regarding the definition of "auger mining." According to KCA, this revision is in conflict with the amended definition of "surface coal mining operations" at KRS 350.010(1) in Senate Bill No. 218 because the intent of this bill was to include "extended depth secondary recovery systems" as a new mining method, along with the other common methods of coal mining such as contour, strip and auger. The Secretary disagrees as the only changes to the definition of "surface coal mining operations" are the deletion of the phrase, "or subject to the requirements of this chapter," and the addition of the phrase, "or the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months." These changes reflect no such intent by the Kentucky legislature. The Secretary, therefore, finds that KRS 350.010(1) is consistent with SMCRA Section 701(28), and 405 KAR 7:020 Section 1(11) is no less effective than 30 CFR 701.5 (See Findings 2(a) and 2(jj)(1)(a), above).

7. KCA commented that in the revision to 405 KAR 7:090 Section 4(6), the operator should be allowed to waive the preliminary hearing within 15 days of receipt of the proposed penalty assessment rather than within 15 days of the mailing of the assessment. As the Federal regulations contain no such preliminary hearing and this revision has been found to be consistent with Federal regulations in Finding 2(i), above, the Secretary believes it is within the State's discretion to set the length and timing of such waiver periods.

8. KCA had a number of comments on the creation of 405 KAR 7:095, Assessment of Civil Penalties. First, KCA felt that this section is biased against large permittees in its assessment of penalties based on history of violations. Second, KCA suggested that each violation be counted, for purposes of history of previous violations, only if it led to a civil penalty assessment. Third, a total of 30 points should be the limit for all performance standards cited in a single non-compliance order, for purposes of seriousness. Fourth, the subsection assigning points for probability of occurrence should be deleted. Fifth, the subsection assigning points for negligence should be deleted. Sixth, the penalty amounts listed in the table should be divided by a factor of three. Seventh, the penalty assessment worksheet should be accompanied by a detailed explanation of point totals for each category. Eighth, the penalty "break point" of thirty points for fines should be raised. Last, the column entitled, "Day's violation existed" should be deleted, reserving this column for those operators who fail to correct a violation for which a citation has been issued.

On May 16, 1980, the U.S. District Court for the District of Columbia issued its second round decision in the litigation over the permanent regulations (*In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144). In that decision the Court answered the Secretary's request for clarification regarding the Round I decision issued February 26, 1980, regarding penalties. In those decisions the Court indicated that Section 518(i) of SMCRA requires only that a State incorporate the penalties, the four criteria, and the procedures in Section 518 of SMCRA. It is, therefore, within the State's discretion to fashion its civil penalty system within those strictures. Since KCA's objections are to matters within the State's discretion, the Secretary must find Kentucky's revisions no less effective than 30 CFR 845 (See Finding 2(k)).

9. ARDFK commented that the proposed State amendment to 405 KAR 8:010 Section 22(1)(c)(1) would be acceptable if the department would affirmatively find that the successor of a permit will conduct operations in accordance with KRS Chapter 350 and 405 KAR Chapters 7–24. The phrase requiring the department to find that the successor will comply with State laws and regulations must be retained since it is not explicitly included in 405 KAR 8:010 Section 14. The Secretary believes the Kentucky program does provide for compliance with all State laws and regulations by a successor. First, Section 14 mandates compliance with all permit requirements. Second, 405 KAR Section 22 (1)(c)(3) requires the successor to continue to conduct the operations involved in full compliance with the terms of the original permit until a new permit has been obtained. Finally, KRS 350.085(1) states that, "No application for a permit and no operation shall be approved or allowed by the department if there is found on the basis of the information set forth in the application that the requirements of this chapter or regulations will not be observed . . ." Taken together, the Secretary finds that these provisions of the Kentucky program do require a successor to conduct operations in accordance with KRS Chapter 350 and 405 KAR Chapters 7–24, and that these provisions are no less effective than 30 CFR 788.18(c)(1).

10. ARDFK objected to the replacement of the term "supporting evidence" with the term "objective evidence" in KRS 350.610 and 405 KAR 24:020 and 24:030, regarding the contents of a petition to have an area designated as unsuitable for surface coal mining. The commenters felt that any exclusion of evidence tending, however tenuously, to support a petition's allegations is impermissible. The Secretary does not believe he is in disagreement with the commenter's goal, or that the Kentucky program provides for the exclusion of relevant evidence. SMCRA Section 522(c) requires such a petition to contain, "allegations of fact with supporting evidence which would tend to establish the allegations." KRS 350.610(6) requires the petition to contain, "allegations of facts . . . and shall be based upon objective evidence which would tend to establish the allegations." The emphasis in both the State and Federal law is on evidence which supports the allegations. The Secretary believes that the Kentucky provisions do not allow the State to disregard non-empirical, non-scientific evidence tending to establish an allegation, but only material which does not tend to support any allegations. On this basis, the Secretary finds KRS

350.610(6) to be consistent with SMCRA 522(c) and 405 KAR 24:020 and 24:030 to be no less effective than 30 CFR 764.

11. 405 KAR 24:020 Sections 3(7) and 4(6) require that, regarding petitions to have an area designated as unsuitable for surface mining, the allegations of fact and objective evidence in support thereof be "specific as to the petitioned area" sought to be petitioned or terminated as an area unsuitable for mining. ARDFK sought clarification of this language. The commenters were concerned that general scientific or other evidence which may be pertinent to characteristics of a petitioned area, yet refer to a more general or similar area, may be excluded. For the reasons set forth in response comment No. 10, above, the Secretary believes that such evidence would not be excluded. On this basis, the Secretary finds 405 KAR 24:020 Sections 3(7) and 4(6) to be no less effective than 30 CFR 764.13.

12. ARDFK objected to 405 KAR 24:030 Section 9(1) which establishes a right to formal administrative review of a petition to have an area designated as unsuitable for surface mining if the department makes a determination on completeness or frivolity regarding the petition. The commenters felt that such a hearing would dilute the petition process by permitted premating involvement of an administrative hearing officer into the process. While the Federal designation scheme contains no similar hearing right, the Secretary finds no conflict with Federal laws or regulations. Further, there is no evidence as yet that the right to such a hearing will dilute the Kentucky petition process. If, in his oversight of the Kentucky program, the Secretary determines that such a hearing is causing the State petition process to be inconsistent with SMCRA Section 522 or less efffective than 30 CFR Subchapter F, he will take appropriate steps to remedy the situation. The Secretary, therefore, finds 405 KAR 24:030 Section 9(1) no less effective than the Federal regulations.

13. The Secretary received comments on a number of the revisions and on Kentucky's statement regarding incidental boundary revisions in the June 18, 1982, letter, for which he has not yet completed his review as specified in Findings 3 and 5, above. The Secretary will address those comments when he announces his decision on these provisions of the Kentucky program.

Approval of Amendments to Satisfy Conditions and Additional Program Amendments

Accordingly, conditions (b) and (c) are hereby removed. Condition (k) is partially satisfied. Condition (a) is clarified to the extent that it applies only to permit areas larger than forty acres.

Revisions to the following Kentucky regulations are hereby approved pursuant to 30 CFR 732.17: 405 KAR 7:020 Section 1(11), 7:020 Section 1(70), 7:020 Section 1(117), 7:030 Section 1, 7:040 Section 5(1), 7:040 Section 10(2), 7:040 Section 10(7), 7:090 Section 4(1), 7:090 Section 4(6), 7:090 Section 6, 7:095, 8:010 Section 6(1), 8:010 Section 6(2), 8:010 Section 13(1), 8:010 Section 20(5), 8:010 Section 21(2)(a)(4), 8:010 Section 21(2)(b)(1), 8:010 Section 22(1), 8:010 Section 22(2)(a), 8:010 Section 22(a)(2), 8:010 Section 22(2)(c)(1), 8:010 Section 22(4), 8:010 Section 22(5), 8:010 Section 22(6), 8:020 Section 2(2)(h), 8:030 Section 23(4), 12:010 Section 3(5)(a) and (b), 16:140 Section 2(1)(d), 18:140 Section 2(1)(d), 24:020 Section 3(7), 24:020 Section 4(6), 24:020 Section 3(5), 24:030 Section 4(4), 24:030 Section 8(7), 24:030 Section 9, 1:005 Section 6, and 3:005 Section 6.

Revisions to the following Kentucky statutory provisions are hereby approved pursuant to 30 CFR 732.17: KRS Chapter 350, as contained in House Bill No. 19; KRS 350.010, as contained in Senate Bill No. 267; KRS 350.425 and 151.250(3), as contained in Senate Bill No. 380; KRS 350.035, 350.990 (2) and (5), and KRS Chapter 350, as contained in Senate Bill No. 165; KRS 350.010 Section 1(1), (2), (4), (7), (8) and (17), KRS 350.028 Section 3(3), (4) and (5), KRS 350.060 Section 5(3), (5)(g), (8)(a), (8)(d)–(i), (10), (14), (15), and (16), KRS 350.450 Section 33(4), KRS 350.130 Section 14, KRS 350.610(6), and KRS 350.990 Section 35(1), contained in Senate Bill No. 218; KRS 350.060(9), KRS 350.060 Section 5(14) and KRS Chapter 377 Section 1(14), contained in House Bill No. 813; KRS 350.139 and KRS Chapter 377 Section 4(2), contained in Senate Bill No. 316.

30 CFR 917.11 is amended to indicate approval of these program amendments. 30 CFR 917.10 incorporates approval of the corresponding amendments. The removal of these conditions, the clarification of condition (a), and the approval of the additional amendments to the Kentucky program are effective January 4, 1983.

Additional Findings

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections, 3, 4, 6, and 8, of Executive Order 12291 for all actions taken to approve or conditionally approve state regulatory programs, actions, or amendments. Therefore, these program amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review of OMB.

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), this rule is not a major Federal action. It is designated as a categorical exclusion from the NEPA Process. Therefore, for this rule OSM is exempt from the requirements of preparing an Environmental Assessment, EIS or FONSI.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On September 3, 1982, the Environmental Protection Agency transmitted its written concurrence on these Kentucky program amendments.

List of Subjects in 30 CFR Part 917:

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 917 of Title 30 is amended as set forth herein.

Dated: December 22, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 917—KENTUCKY

Accordingly, Part 917 of title 30 is amended as follows:

1. 30 CFR 917.10 is revised to read as follows:

§ 917.10 State regulatory program approval.

The Kentucky State program as resubmitted on December 30, 1981, and amended and clarified on February 22, 1982, was conditionally approved, effective May 18, 1982. Beginning on that date, the Kentucky Department for Natural Resources and Environmental Protection was deemed the regulatory authority in Kentucky for surface coal mining and reclamation operations and for coal exploration operations on non-Federal and non-Indian lands. Copies of the approved program are available for review at:

(a) Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

(b) Office of Surface Mining, Administrative Record Room, 1100 L Street, N.W., Washington, D.C. 20240.

(c) Department for Surface Mining, Reclamation and Enforcement, Commonwealth of Kentucky, 3rd Floor, Capitol Plaza Tower, Frankfort, Kentucky 40504.

§ 917.11 [Amended]

2. Section 917.11 is amended as follows:

A. By removing and reserving paragraph (b).

B. By revising paragraph (a) to read as follows:

(a) Steps will be initiated to withdraw the approval found in § 917.10 unless Kentucky submits to the Secretary by October 31, 1983, copies of promulgated regulations eliminating the discretionary stocking plan approval for noncommercial forest land for permit areas larger than 40 acres, or otherwise amends its program to set standards for stocking for such areas when the post mining land use is forest land other than commercial forest. Furthermore, pending completion of the above, Kentucky must utilize the reference areas concept for these areas or the approval will terminate immediately.

C. By revising paragraph (k) to read as follows:

(k) Steps will be initiated to withdraw the approval found in § 917.10 unless Kentucky submits to the Secretary by October 31, 1983, copies of promulgated regulations establishing standards of costs and expenses no less effective than those at 43 CFR 4.1294.

3. 30 CFR 917 is amended by adding a new § 917.15 to read as follows:

§ 917.15 Approval of Amendments to State Regulatory Program.

(a) The following amendments are approved effective on January 4, 1983. Revisions submitted on May 28, 1982, to the following Kentucky regulations: 405 KAR 7:020 Section 1(11), 7:029 Section 1(70), 7:020 Section 1(117), 7:030 Section 1, 7:040 Section 5(1), 7:040 Section 10(2), 7:040 Section 10(7), 7:090 Section 4(1), 7:090 Section 4(6), 7:090 Section 6, 7:095, 8:010 Section 6(1), 8:010 Section 6(2), 8:010 Section 13(1), 8:010 Section 20(5), 8:010 Section 21(2)(a)(4), 8:010 Section 21(2)(b)(1), 8:010 Section 22(1), 8:010 Section 22(2)(a), 8:010 Section 22(a)(2), 8:010 Section 22(2)(c)(1), 8:010 Section 22(4), 8:010 Section 22(5), 8:010 Section 22(6), 8:020 Section 2(2)(h), 8:030 Section 23(4), 12:010 Section 3(5) (a) and (b), 18:140 Section 2(1)(d), 18:140 Section 2(1)(d), 24:020 Section 3(7), 24:020 Section 4(6), 24:020 Section 3(5), 24:030 Section 4(4), 24:030 Section 8(7), 24:030 Section 9, 1:005 Section 6, and 3:005 Section 6.

(b) Revisions submitted on May 28, 1982, to the following Kentucky statutory provisions: KRS Chapter 350, as contained in House Bill No. 19; KRS 350.010, as contained in Senate Bill No. 267; KRS 350.425 and 151.250(3), as contained in Senate Bill No. 380; KRS 350.035, 350.990 (2) and (5), and KRS Chapter 350, as contained in Senate Bill No. 165; KRS 350.010 Section 1 (1), (2), (4), (7), (8) and (17), KRS 350.028 Section 3 (3), (4) and (5), KRS 350.060 Section 5 (3), (5)(g), (8)(a), (8)(d)–(i), (10), (14), (15), and (16), KRS 350.450 Section 33(4), KRS 350.130 Section 14, KRS 350.610(6), and KRS 350.990 Section 35(1), contained in Senate Bill No. 210; KRS 350.060(9), KRS 350.060 Section 5(14) and KRS Chapter 377 Section 1(14), contained in House Bill No. 613; KRS 350.139 and KRS Chapter 377 Section 4(2), contained in Senate Bill No. 316.

[FR Doc. 83-52 Filed 1-3-83; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations; Bank Interest Payments to Iran

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations to further specify which assets are required to be transferred pursuant to § 535.213. The amendment is needed to facilitate the ongoing implementation of the Iran-U.S. agreements of January 19, 1981 (the "Algiers Accords").

EFFECTIVE DATE: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond W. Konan, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, Tel. (202) 376–0236.

SUPPLEMENTARY INFORMATION: Sections 535.212 and 535.213 of the Regulations require that certain Iranian assets held by U.S. banks be transferred to the Federal Reserve Bank of New York, together with interest from November 14, 1979, at commercially reasonable rates. Section 535.440 specified that, with respect to obligations other than time or savings deposits, the expectation was that the "commercially reasonable rate" would be that rate agreed upon by the bank and Iran.

A number of U.S. banks are currently negotiating with Iran concerning payments of non-syndicated debt. These negotiations, and the settlements that are expected to result, also deal with Iran's claim for interest on deposits which were transferred pursuant to the Algiers Accords. However, Iran has also filed claims for such interest against the United States Government before the Iran-U.S. Claims Tribunal (the "Tribunal"). It is the position of the United States that any settlement agreements between the banks and Iran which discharge the banks' liability to Iran for interest on deposits fully discharge any U.S. Government liability to transfer such interest or to pay any damages or additional interest with regard to such claims. Accordingly, any claims that Iran has filed against the United States with regard to matters settled between the banks and Iran are moot and should be dismissed. However, the United States also recognizes that the Tribunal is the final arbiter of the obligations of the parties pursuant to the Algiers Accords.

Therefore, the Office of Foreign Assets Control is amending the provisions of the Regulations dealing with the transfer of interest. The expectation remains that the "commercially reasonable rate" of interest will be that rate agreed upon between the banks and Iran. The amendment, however, provides that if the Tribunal determines that a greater amount of interest, or compensation or damages in lieu of interest, is due Iran, then the amount of interest at a "commercially reasonable rate" shall be determined on the basis of that amount determined to be due Iran. Transfers which are required to be made by banks to the Federal Reserve Bank of New York shall be based upon the amount determined by the Tribunal to be due Iran, regardless of any settlement between the banks and Iran or any release or discharge that Iran may have given the banks.

Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date, are inapplicable. Similarly, because the Regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with federal regulations. Since no notice of proposed rulemaking is required for this regulation, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are not applicable to this regulation.

List of Subjects in 31 CFR Part 535

Iran, Foreign assets control.

PART 535—[AMENDED]

31 CFR Part 535 is amended as follows:

1. Section 535.213 is amended by the revision of paragraph (b) as follows:

§ 535.213 Direction involving property held by offices of banks in the United States in which Iran or an Iranian entity has an interest.

* * * * *

(b) Transfer of funds, securities or deposits under paragraph (a) of this section shall be in accordance with the provisions of § 535.221 of this part, and such funds, securities or deposits, plus interest at commercially reasonable rates from November 14, 1979, to the transfer date, shall be received by the Federal Reserve Bank of New York by 11 a.m., E.D.T., July 10, 1981. For periods for which rates are to be determined in the future, whether by agreement between Iran and the bank or otherwise (see § 535.440), interest for such periods shall be transferred to the Federal Reserve Bank of New York promptly upon such determination. Such interest shall include interest at commercially reasonable rates from July 19, 1981, on the interest which would have accrued by July 19, 1981.

2. Section 535.440 is being amended by revising paragraph (a), adding a new paragraph (b) and redesignating existing paragraph (b) as paragraph (c). As revised, § 535.440 reads:

§ 535.440 Commercially reasonable interest rates.

(a) For purposes of §§ 535.212 and 535.213, what is meant by "commercially reasonable rates" depends on the particular circumstances. In the case of time or savings deposits, the "commercially reasonable rate" is that rate provided for by the deposit agreement or applicable law. With respect to other obligations where the rate remains to be determined, it is presently expected that the "commercially reasonable rate" will be the rate agreed upon by the bank and Iran. However, where a deposit has in fact operated as a demand account under Treasury license, it would be appropriate to treat the deposit for purposes of §§ 535.212 and 535.213 as a non-interest bearing account. Furthermore, in the event that the Iran-U.S Claims Tribunal (the "Tribunal") determines that interest additional to that agreed upon between the bank and Iran, or compensation or damages in lieu of interest, is due Iran, then that amount determined by the Tribunal to be owing to Iran shall be transferred as, or as part of, the interest at "commercially reasonable rates" required to be transferred pursuant to §§ 535.212 and 535.213, regardless of any settlement between the bank and Iran or any release or discharge that Iran may have given the bank.

(b) The contingent interest of Iran in any liability for further or additional interest, or compensation or damages in lieu of interest, that may be claimed in, and determined by the Tribunal, constitutes an interest of Iran in property for purposes of this part, and no agreement between Iran and any person subject to the jurisdiction of the United States is effective to extinguish such Iranian interest in property unless so specifically licensed by the Treasury Department.

(c) For deposits held as time deposits, no penalty shall be imposed for early withdrawal. (In this connection, the Board of Governors of the Federal Reserve System has determined that application of the penalty for early withdrawal of time deposits transferred before maturity, pursuant to § 535.213 is not required).

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. No. 12170, 44 FR 65729; E.O. No. 12205; 45 FR 24099; E.O. No. 12211, 45 FR 26605; E.O. No. 12276, 46 FR 7913; E.O. No. 12277, 46 FR 7915; E.O. No. 12278, 46 FR 7917; E.O. No. 12279, 46 FR 7919; E.O. No. 12280, 46 FR 7921; E.O. No. 12281, 46 FR 7923; E.O. No. 12282, 46 FR 7925; and E.O. No. 12294, 46 FR 14111)

Dated: December 30, 1982.

Dennis M. O'Connell,

Director.

Approved:

John M. Walker, Jr.,

Assistant Secretary, Enforcement and Operations.

[FR Doc. 82-35601 Filed 12-30-82; 5:15 pm]

BILLING CODE 4810-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2273-6]

Approval and Promulgation of Implementation Plans; Maricopa County, Arizona; Nonattainment Area Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: This notice disapproves the Maricopa County State Implementation Plan (SIP) for Total Suspended Particulates (TSP). The effect of this action is the imposition of a moratorium on the construction or modification of major sources of TSP in the Maricopa Urban Planning Area.

DATE: This action is effective January 4, 1983.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Wallace Woo (415) 974–7634.

SUPPLEMENTARY INFORMATION:

Background

On May 5, 1982 [47 FR 19327] EPA conditionally approved the TSP nonattainment area plan (NAP) for Maricopa County, Arizona. EPA required that, as a condition of approval of the TSP plan, the State submit by August 3, 1982 a schedule for the development, adoption and implementation of the control measures necessary for attainment of the TSP standard. As indicated in that rulemaking notice as supplemented by the General Preamble [44 FR 38583 (July 2, 1979)], failure to satisfy the condition would result in EPA action to disapprove the plan under Part D of the Clean Air Act. The State has not submitted the required schedule and therefore has failed to satisfy the condition of approval.

EPA Action

This notice disapproves the Maricopa NAP for TSP since it does not satisfy the requirements of Part D of the Clean Air Act, or the terms of the conditional approval granted on May 5, 1982. The effect of this disapproval is the imposition of a moratorium on the construction or modification of major new sources of TSP in the Maricopa County Urban Planning Area.

Regulatory Process

EPA finds that there is good cause within the meaning of 5 U.S.C. 553(b) (Administrative Procedure Act) to take this action without providing further notice and opportunity to comment. Opportunity to comment on this procedure and the specific conditions for the Maricopa NAP was provided in the October 22, 1980 proposed rulemaking notice on the Maricopa NAP and the May 5, 1982 conditional approval. Comment on this action is unnecessary, since the State has failed to meet the condition specified in the May 5, 1982 conditional approval. In addition, a discussion of conditional approval appears in two supplements to the General Preamble [44 FR 38583 (July 2, 1979) and 44 FR 67192 (November 23, 1979)] and specifies that failure to meet a condition will result in immediate disapproval of the NAP and imposition of the construction ban.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 7, 1983. This action may not be challenged later in proceedings to enforce its requirements.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

The Administrator has certified that SIP actions do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

(Sections 110, 129, 171–178 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)]]

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Ozone, Sulfur oxides, Nitrogen oxides, Hydrocarbons, Carbon monoxides.

Dated: December 27, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

PART 52—[AMENDED]

Subpart D of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart D—Arizona

1. Section 52.123 is amended by adding paragraph (e) as follows:

§ 52.123 Approval status.

* * * * *

(e) The Administrator finds that the plan does not satisfy all the requirements of Part D, Title I, of the Clean Air Act as amended in 1977 for the nonattainment and area pollutants listed in this paragraph.

(1) Maricopa County Urban Planning Area for TSP.

§ 52.124 [Amended]

2. Section 52.124 is amended by removing paragraph (a)(1)(ii).

[FR Doc. 83-64 Filed 1-3-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6472]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION:

The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the Federal Register.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the Nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Colorado	Mesa	Grand Junction, city of	080117-D	Oct. 13, 1978, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Feb. 1, 1974, June 28, 1974, Oct. 10, 1975, Dec. 12, 1978.	Jan. 6, 1983.
Illinois	Sangamon	Unincorporated areas	170912-C	July 28, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	May 5, 1978, June 15, 1978.	Do.
Indiana	Noble	Kendallville, city of	180185-C	Mar. 24, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	June 14, 1974, Dec. 26, 1975, Sept. 10, 1976.	Do.
Do	....do	Ligonier, city of	180186-A	Sept. 23, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	July 16, 1976	Do.
Do	Porter	Valparaiso, city of	180204-C	Mar. 24, 1975, emergency; Mar. 2, 1979, regular; Jan. 6, 1983, suspended.	Jan. 9, 1974, Apr. 9, 1976.	Do.
Michigan	Oakland	Bloomfield, township of	260169-B	May 22, 1973, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	May 17, 1974, June 18, 1976.	Do.
Minnesota	Hennepin	Independence, city of	270167-B	Jan. 28, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	June 28, 1974, July 30, 1976.	Do.
Do	Pine	Sandstone, city of	270351-B	May 14, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	May 10, 1974, June 4, 1976.	Do.
Missouri	Ray	Hardin, city of	290307-B	Nov. 10, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	June 7, 1974, Nov. 28, 1975.	Do.
New Jersey	Cape May	Cape May City, city of	345268-A	July 10, 1970, emergency; Feb. 26, 1971, regular; Jan. 6, 1983, suspended.	Aug. 7, 1970, Feb. 13, 1976.	Do.
Do	....do	Cape May Point, borough of	345269-B	June 30, 1970, emergency; Dec. 31, 1970, regular; Jan. 6, 1983, suspended.	July 1, 1970, Feb. 13, 1976.	Do.
Do	Monmouth	Howell, township of	340301-B	Nov. 26, 1974, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Mar. 22, 1974, Aug. 27, 1976.	Do.
Do	Warren	Knowlton, township of	340488-B	July 11, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Aug. 16, 1974, July 9, 1976.	Do.
Do	Gloucester	Logan, township of	340206-C	June 29, 1976, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Sept. 13, 1974, Nov. 28, 1975, Dec. 30, 1977.	Do.
Do	Somerset	Somerville, borough of	340484-C	May 22, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	July 26, 1974, Oct. 24, 1975, Mar. 31, 1981.	Do.
Do	Ocean	South Toms River, borough of	340392-B	June 27, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	July 26, 1974, July 23, 1976.	Do.
Do	Cape May	Wildwood, city of	345329-A	June 5, 1970, emergency; Dec. 31, 1970, regular; Jan. 6, 1983, suspended.	June 5, 1970, Dec. 19, 1975.	Do.
Do	....do	North Wildwood, city of	345306-B	July 24, 1970, emergency; Mar. 5, 1971, regular; Jan. 6, 1983, suspended.	Mar. 6, 1971, Dec. 19, 1975.	Do.
New York	Montgomery	Canajoharie, town of	360442-B	June 13, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	May 3, 1974, Apr. 23, 1976.	Do.
Do	Albany	Guilderland, town of	360010-A	Oct. 9, 1974, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Jan. 17, 1975	Do.
Do	Nassau	Laurel Hollow, village of	360475-B	May 8, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	June 28, 1974, July 9, 1976.	Do.
North Carolina	Lenoir	Unincorporated areas	370144-B	July 7, 1980, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Dec. 27, 1974, July 21, 1978.	Do.
Do	Haywood	Waynesville, town of	370124-B	July 2, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Mar. 8, 1974, Aug. 27, 1976.	Do.
Ohio	Jefferson	Mingo Junction, city of	390300-B	April 30, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Mar. 1, 1974, June 11, 1976.	Do.
Oklahoma	....do	Waurika, city of	400076-B	Sept. 23, 1974, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	June 28, 1974, July 19, 1977.	Do.
New Mexico	Sandoval	Bernalillo, town of	350096-B	Jan. 17, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	June 4, 1974, May 21, 1976.	Do.
Do	....do	Corrales, village of	350094-B	Oct. 14, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Dec. 20, 1974, May 18, 1976.	Do.
Pennsylvania	Delaware	Ridley, township of	420420-B	Sept. 8, 1972, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Apr. 27, 1973, Aug. 6, 1976.	Do.
South Carolina	Lancaster	Unincorporated areas	450120-B	July 3, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Dec. 20, 1974, Sept. 9, 1977.	Do.
Tennessee	Wilson	Lebanon, city of	470206-B	June 23, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Apr. 12, 1974	Do.
Texas	Jefferson	Bevil Oaks, town of	480678-B	July 19, 1976, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	May 13, 1977	Do.
Do	Orange	Unincorporated areas	480510-B	Nov. 6, 1970, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Mar. 11, 1977	Do.
Do	....do	Orange, city of	480512-B	Jan. 15, 1974, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	June 14, 1974, May 24, 1977.	Do.
Do	....do	Pinehurst, city of	480513-B	Dec. 31, 1970, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Jan. 6, 1983	Do.
Do	....do	West Orange, city of	480515-A	Apr. 11, 1974, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Mar. 31, 1974	Do.
Wisconsin	Oconto	Unincorporated areas	550294-A	May 21, 1973, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Jan. 6, 1983	Do.
Do	La Crosse	La Crosse, city of	555562-A	Jan. 15, 1971, emergency; Jan. 15, 1971, regular; Jan. 6, 1983, suspended.	May 14, 1976	Do.
Minnesota	Hennepin	Brooklyn Park, city of	270152-B	Feb. 5, 1974, emergency; May 17, 1982, regular; Jan. 6, 1983, suspended.	Apr. 12, 1974, May 17, 1982.	Do.
Do	Marshall	Stephen, city of	270273-A	Apr. 26, 1974, emergency; Sept. 16, 1982, regular; Jan. 6, 1983, suspended.	May 17, 1974	Do.
New Jersey	Cape May	Sea Isle City of, city of	345318-B	June 19, 1970, emergency; Dec. 31, 1970, regular; Jan. 6, 1983, suspended.	Dec. 31, 1970, Dec. 26, 1975.	Do.
Montana	Missoula	Missoula, city of	300046-B	Mar. 14, 1975, emergency; Jan. 6, 1983, regular; Jan. 6, 1983, suspended.	Mar. 8, 1974, Aug. 15, 1975.	Do.
Wisconsin	Washington	West Bend, city of	550475-B	Aug. 15, 1975, emergency; Aug. 2, 1982, regular; Jan. 1, 1982, suspended.	Dec. 28, 1973, Apr. 30, 1976.	Do.

[1] Certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 29, 1982.
Dave McLoughlin,
Acting Associate Director, State and Local Programs and Support.
[FR Doc. 83-110 Filed 1-3-83; 8:45 am]
BILLING CODE 3716-03-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 21124-247]

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to amend the foreign fishing regulations. The final rule establishes for 1983 the foreign fishing permit fee, the surcharge for the Fishing Vessel and Gear Damage Compensation Fund, and the methods of calculating the observer surcharge and paying for certain fees and surcharges. The final rule also clarifies the scope of responsibility of the designated agent. The final rule will allow NOAA to recover 1983 administrative costs and other surcharges required by statute, and improve payment procedures.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Susan E. Jelley, 202-634-7432.

SUPPLEMENTARY INFORMATION:

Background

NOAA is publishing the fee schedule for 1983 in two, or possibly three, segments. A proposed rulemaking for the first segment was published at 47 FR 38947 on September 3, 1982. Public comments were invited on the proposed regulations for 30 days ending October 4, 1982. By that action, NOAA proposed to: (1) Increase the 1983 foreign fishing permit fee; (2) set the surcharge fee at 4 percent in 1983 to capitalize the Fishing Vessel and Gear Damage Compensation Fund (FVGDCF); (3) establish the method of surcharge calculation and payment for the observer fund; (4) require each nation to establish a single revolving letter of credit for all fee and surcharge payments except permit fees; and (5) clarify that the designated agent for a foreign nation would be required to receive and respond to any legal process for any vessel of that nation fishing subject to the jurisdiction of the United States. The basis for the proposed regulations is throughly discussed at 47 FR 38947. Comments were received from one source, the Japan Fisheries Association (JFA).

The following summarizes the comments provided by that source and NOAA responses to these comments.

Comments and Responses

1. The JFA suggested that NOAA provide a sufficient amount of time for the industry to review and confirm the quarterly observer billing following its receipt, before NOAA draws against the letter of credit (L/C).

Responses: A 45-day period to reconcile observer expenditures is now included in the final rule at § 611.8(b).

2. The JFA suggested that the required amount to be established and maintained in the L/C for the observer surcharge should be for three months rather than six months.

Response. The proposed rule suggested that a letter of credit be established for half of the predicted annual observer surcharge. This is amended in the final rule at § 611.8(b) to be one-quarter of the predicted annual observer surcharge.

3. Section 611.22(a)(2)(ii) should not be revised. The reference to establishing and maintaining an irrevocable confirmed L/C at a level not less than one-quarter of the total estimated annual poundage and surcharge fees should remain as it is in the present regulation.

Response: The final rule does not change the reference to establishing a L/C at 25 percent of the previous year's total allocations, at the current year's fees. The decision to reduce the amount to be included in the L/C for the observer program makes this change unnecessary. The proposed reference to surcharges, including the surcharge under § 611.8(b), is retained in the final rule. Because the L/C is revolving, if a country's bill exceeds the 25 percent level during any quarter, the required payments can be made by two successive withdrawals. (See *Observer Surcharge* for further discussion).

4. The surcharge rate for the FVGDCF should be controlled by setting $1.7 million, or the final FVGDCF capitalization requirement, as a fixed target to be collected against final poundage fees established for 1983 and it should remain unchanged.

Response: NOAA has refined its estimate of the 1983 fee collection target and believes the 4 percent surcharge set out in § 611.22(b) is adequate to capitalize the FVGDCF for 1983. No adjustment during the year is currently foreseen.

Observer Surcharge

Section 201(i)(5) of the Magnuson Fishery Conservation and Management Act requires that the Secretary maintain a revolving fund to operate the observer program. However, to meet monthly program operating expenses NOAA needs to maintain a cash balance in the fund of one-twelfth of the expected annual appropriation. In fiscal year (FY) 1983, the appropriation is $6.9 million, requiring that a monthly balance of $575,000 be maintained. To respond in a positive manner to comment No. 3 and yet achieve the purposes of the Magnuson Act, the following procedure is instituted.

The foreign fishing nations were billed for a combined total of $3 million in September 1982, under the assumption that the FY 1983 appropriation would be $4 million. In fact, $6.9 million was subsequently appropriated. Cash payments made under the September billings are being used to operate the program during October 1982 through December 1982 (i.e., the first quarter of FY 1983). Also, NOAA intends to apply these funds to a portion of second quarter FY 1983 (January through March) program costs. The funds will support the observer program until withdrawals are made against the L/Cs required by these regulations in 1983.

Each fishing nation must establish a single, irrevocable, revolving L/C at an amount sufficient to cover all estimated quarterly fees and surcharges (except permit application fees). This amount will include an amount for one-fourth (rather than one-half) of the total estimated annual observer surcharge. NOAA will determine the amount of the L/C for each foreign nation by early December, based on the anticipated fishing effort by that nation for the year. The L/C must be established by January 1, 1983, or before fishing or processing may commence. If a L/C in the stated amount is not established, foreign fishing permits will not be issued.

NOAA will monitor actual observer expenditures. If the monthly balance of the observer fund falls below one-twelfth of the annual observer surcharge (as estimated under the appropriation),

intermediate withdrawals from the L/C will be made to return the fund balance to the minimum level. The amount of the intermediate withdrawals from each nation's L/C will be prorated based on the total amount of observer coverage provided and anticipated for that nation's vessels for the quarter in which the intermediate withdrawal is made. For example, if the amount of actual and anticipated observer coverage for a single nation's vessels is equal to 90 percent of the total actual and anticipated observer coverage for the quarter, then that nation's L/C will be assessed 90 percent of the sum needed to balance the fund at the minimum level. Thus, if a nation has not fished during the quarter in question, no intermediate withdrawal will be made from that nation's L/C. The major withdrawals will be made at the beginning of each quarter. Withdrawals from each nation's L/C will be for the amount needed to cover the costs of anticipated observer coverage for the upcoming quarter.

The table shows a sample cash flow. Under this procedure, $575,000 out of the $3 million billed last September would be applied to establish the minimum monthly balance in the fund.

One alternative would be for foreign nations to pay cash in advance for the entire fiscal year, but no refunds or credits would be made. Therefore, this option was rejected.

The benefit of this procedure adopted today is that, after the initial payment, use of the L/C system reduces the possibility of collecting more cash than is actually needed to operate the system. At the time a foreign fishing nation notifies the United States that it will not be fishing during a subsequent year, that nation's pro-rated contribution to the initial establishment of the fund's minimum monthly balance will be credited back to that nation's observer account. No refund may be made, however.

Foreign nations should be aware that if Congress appropriates more than $6.9 million for FY 1983 or otherwise acts to allow expansion of the program beyond that amount, the minimum monthly balance and observer payments may be greater than those sample payments on the table.

	1982			1983									1983
	October	November	December	January	February	March	April	May	June	July	August	September	October
Cash at beginning of month	3,000,000 [1]	2,900,000	2,100,000	1,575,000 [2]	1,075,000	725,000	1,625,000 [3]	1,125,000	575,000 [4]	2,067,000 [5]	1,567,000	1,077,000	575,000 [6]
Sample observer expenditures	400,000	500,000	525,000	500,000	650,000	800,000	700,000	700,000	300,000	500,000	490,000	502,000	
Cash at end of month	2,600,000	2,100,000	1,575,000	1,075,000	725,000	625,000	1,125,000	425,000	275,000	1,567,000	1,077,000	575,000	etc.

[1] Source: September 1982 billings.
[2] Note: New L/C for one-quarter of predicted fiscal year 1983 observer fees established now. No withdrawals are made, though, because cash on hand is sufficient to operate the program.
[3] $425,000 cash on hand at the end of March, plus withdrawals from L/Cs of $150,000 to bring cash up to minimum level of $575,000, and a withdrawal of $1,200,000 to cover observer estimated cost for April, May and June.
[4] $425,000 on hand at the end of May, plus intermediate withdrawal of $150,000 to bring cash up to minimum level of $575,000 because estimate of cost for April, May and June was low.
[5] $275,000 cash on hand at the end of June, plus withdrawals from L/Cs of $300,000 to bring cash up to minimum and a withdrawal of $1,492,000 to cover estimated costs for July, August and September.
[6] Beginning of new fiscal year. $575,000 on hand. Accounts balanced based on actual cost. A withdrawal will be made to cover the estimated cost for October, November and December.

Certain non-substantive changes are made in § 611.22. These changes remove § 611.22(a)(3) because its provisions are no longer relevant to an L/C system of payments. Section 611.22(a)(1) makes clear that checks for permit application fees must be drawn on a U.S. bank. Editorial changes are made in § 611.22(a)(2)(ii) for clarity.

Administrative Procedure Act

The Assistant Administrator has determined that in order not to disrupt foreign fishing operations, these regulations must be effective on January 1, 1983. Therefore, the Assistant Administrator waives part of the 30-day delay in implementation required under the Administrative Procedure Act.

Classification

The Assistant Administrator has determined that this action is consistent with the Magnuson Act and other applicable laws. NOAA has prepared a regulatory impact review (RIR) that discusses the economic consequences and impacts of the regulations. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, has determined that the regulations do not constitute a major rule under E.O. 12291. The RIR demonstrates that the final rules comply with the requirements of Section 2 of E.O. 12291.

These regulations will not have a significant impact on a substantial number of small domestic entities for purposes of the Regulatory Flexibility Act because the only impacts are on foreign entities. The preamble to the proposed rule (47 FR 38947) states that the General Counsel of the Department of Commerce has certified to the Small Business Administration that this action is non-significant.

This action does not constitute a major Federal action significantly affecting the quality of the human environment. These amendments are programmatic functions with no potential for environmental impacts under the National Environmental Policy Act.

This final rule has no information collection provisions, for purposes of the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: December 29, 1982.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons set out in the preamble, 50 CFR Part 611 is amended as follows:

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Revise § 611.3(c) (3) and (4) to read as follows:

§ 611.3 Permits for foreign fishing vessels.

* * * * *

(c) * * *

(3) The payment of the fees established by the Secretary, including any surcharge fees; and

(4) The designation of an agent to receive and respond to any legal process issued in the United States to an owner or operator of any vessel of that nation fishing subject to the jurisdiction of the United States.

* * * * *

3. Revise § 611.8(b) to read as follows:

§ 611.8 Observers.

* * * * *

(b) The Assistant Administrator will notify the owners or operators of foreign fishing vessels of the estimated annual costs of placing observers aboard their vessels. The owners or operators of any such vessel shall provide for repayment of those costs by including one-fourth of the estimated annual observer fee as determined by the Assistant Administrator in a letter of credit, as prescribed in § 611.22(a)(2)(ii). During the fiscal year, payment will be withdrawn from the letter of credit at the beginning of each quarter to cover the estimated costs of observer coverage for that quarter. NOAA will reconcile any differences between the estimated cost and actual costs of observer coverage 45 days after the end of each quarter based on actual observer coverage.

* * * * *

4. The authority citation for § 611.22 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, and 22 U.S.C. 1980.

5. Remove § 611.22(a)(3), and revise § 611.22 (a)(1)(i), (a)(2)(ii), and (b) to read as follows:

§ 611.22 Fee Schedule for foreign fishing permits.

(a) * * *

(1) *Permit application fees.* (i) Each vessel permit application submitted under § 611.3 must be accompanied by a fee of $73 per vessel, plus the surcharge required under paragraph (b) of this section, rounded to the nearest dollar. At the time the application is submitted to the Department of State, a check for the fees, drawn on a U.S. bank, made out to "Department of Commerce, NOAA", must be sent to: Division Chief, Permits and Regulations Division, F/CM7, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. 20235. The permit fee payment must be accompanied by a list of the vessel applications for which payment is made.

* * * * *

(2) * * *

(ii) *Method of payment of poundage fees, observer fees, and surcharges.* If a nation chooses to accept an allocation, an irrevocable revolving letter of credit must be established and maintained to cover the poundage fees for at least 25 percent of the previous year's total allocations at the rate in paragraph (a)(2)(i) of this section, or as determined by the Assistant Administrator, plus the surcharges required by paragraph (b) of this section, and § 611.8(b). The Department of Commerce, NOAA, must be designated as the beneficiary. The customer must pay all commissions, telex, and service charges. The letter of credit must be confirmed by a Federally chartered bank in the United States. No fishing will be allowed unless the letter of credit is established, and authorized written notice of its issuance and confirmation is provided to the Assistant Administrator at the address in paragraph (a)(1)(i) of this section.

(iii) * * *

(b) The owner or operator of each foreign vessel who accepts and pays permit application or poundage fees under paragraph (a) of this section must also pay a surcharge equal to 4 percent of those fees. The Assistant Administrator may reduce or waive the surcharge if it is determined that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator also may increase the surcharge during the year to a maximum level of 20 percent, if needed to maintain capitalization of the fund.

[FR Doc. 83-130 Filed 1-3-83; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 2
Tuesday, January 4, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 285

[Amendment Number 239]

Noncash Nutrition Assistance in the Commonwealth of Puerto Rico

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rulemaking proposes amendments to the regulations published July 27, 1982 (47 FR 32409) concerning the Commonwealth of Puerto Rico's Nutrition Assistance Program. The proposed changes are required to implement a provision of the Food Stamp Act Amendments of 1982. The major change proposed in this rule will prohibit the use of cash for providing food assistance in the Commonwealth of Puerto Rico after September 30, 1983.

DATE: Comments must be recieved on or before March 7, 1983, to be assured of consideration in the final rulemaking process.

ADDRESS: Comments should be submitted to Judith M. Seymour, Acting Supervisor, Policy and Regulations Section Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Va. 22302. All written comments will be open to public inspection at the Office of Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Va., Room 708.

FOR FURTHER INFORMATION CONTACT: Ms. Judith M. Seymour, at the above address or by telephone at (703) 756–3429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This regulation does not contain reporting and recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act.

Classification

This rule has been reviewed under Executive Order 12291 and the Secretary's Memorandum No. 1512–1. The Department has classified this rule as a non-major rule. The proposed rule will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions. This proposed rule would not affect the business community and would not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The proposed rule has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. No. 96–354, 94 Stat. 1164, September 19, 1980). Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this action would not have a significant economic impact on a substantial number of small entities. The proposed action would implement that provision of the Food Stamp Act Amendments of 1982 which prohibits the use of cash for providing food assistance in the Commonwealth of Puerto Rico after September 30, 1983. The State and local welfare agencies will be affected to the extent that they administer the current program.

Background

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97–35) provided for the conversion of the Food Stamp Program in the Commonwealth of Puerto Rico to a nutrition assistance grant effective July 1, 1982. A final rule implementing this legislative provision was published on July 27, 1982 (47 FR 32409).

The July 27, 1982, rulemaking required that the Commonwealth of Puerto Rico submit a plan of operation for fiscal years 1982 and 1983. The Commonwealth of Puerto Rico submitted its plan to provide nutrition assistance in the form of cash. The Department approved the plan and on July 1, 1982, the Commonwealth of Puerto Rico began issuing checks for food assistance.

During the deliberation of proposed legislation which eventually become the Food Stamp Act Amendments of 1982 (Pub. L No. 97–253 enacted September 8, 1982), the House Agriculture Committee expressed concern ". . . that using cash for nutrition assistance in Puerto Rico would jeopardize the integrity of the food assistance program and would preclude close monitoring for potential abuse. The Committee, not wanting the Food Stamp Program to become an income transfer program in Puerto Rico or in any of the fifty States, declared its opposition to a block grant concept that cashes out food assistance." H.R. Rep. No. 97–687, 97th Cong., 2d Sess., P. 57 (1982). Additionally, the General Accounting Office's Inspector General testified that a cash-out system in the Commonwealth of Puerto Rico would make the prevention or detection of fraud difficult and perhaps impossible. (H.R. Rep. No. 97–687, p. 68). In response to these concerns, Section 184 of the Food Stamp Act Amendments of 1982 prohibits the use of cash for food assistance in the Commonwealth of Puerto Rico after September 30, 1983. The Congressman offering this amendment stated that he is not suggesting a return to coupons as the medium of nutrition assistance, but that cash or checks are an unacceptable medium for this purpose in the Commonwealth of Puerto Rico or elsewhere (H.R. Rep. No. 97–687, p.77).

This proposed rulemaking would amend the current provisions (7 CFR 285) on the Commonwealth of Puerto Rico's nutrition assistance program, this rulemaking would prohibit the use of cash for nutrition assistance in the Commonwealth of Puerto Rico. Examples of alternate benefit delivery systems that the Commonwealth of Puerto Rico may use include but are not limited to food vouchers, electronic funds transfer, and food coupons.

If change in an amount of less than one dollar is required, this proposed rulemaking would allow the Commonwealth of Puerto Rico to give the change on cash. At no time would cash change in excess of 99 cents be returned in a nutrition assistance program transaction.

Implementation

In accordance with Section 184(b) of the Food Stamp Act Amendments of 1982, the provisions in this rulemaking would be implemented no later than October 1, 1983.

List of Subjects in 7 CFR Part 285

Accounting, Food assistance programs, Grant programs-Agriculture, Grant programs-social programs, Intergovernmental relations, Puerto Rico, Technical assistance, Reporting and recordkeeping requirements.

PART 285—PROVISION OF A NUTRITION ASSISTANCE GRANT FOR THE COMMONWEALTH OF PUERTO RICO

For the reasons set forth in the preamble, this proposed rule would amend Part 285 as follows:

§ 285.2 [Amended]

1. In §285.2(a), the first sentence is amended by inserting the word "noncash" before the words "food assistance" wherever it appears.

2. In §285.3:

a. Paragraph (b)(3)(i) is amended by replacing the semicolon at the end of the paragraph with a period and by adding three new sentences after the period.

b. Paragraph (b)(3)(ii) is amended by replacing the period at the end of the paragraph with a semicolon.

c. A new paragraph (b)(3)(iii) is added.

The additions read as follows:

§ 285.3 Plan of operation.

* * * * *

(b) * * *

(3) * * *

(i) * * * This nutrition assistance shall be in the form of a noncash benefit that can only be used for purchasing food. Noncash nutrition assistance shall be in a form other than cash or checks. Alternate benefit delivery systems include but are not limited to: food vouchers, electronic funds transfer and food coupons;

* * * * *

(iii) If change in an amount of less than 1-dollar is required, the Commonwealth of Puerto Rico may allow eligible households to receive the change in cash. At no time may cash change be in excess of 99 cents. Food stores may not engage in a series of transactions of less than one dollar in order to provide the same customer an amount of cash change greater than the maximum 99 cents cash change allowed in one transaction.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: December 27, 1982.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 83-17 Filed 1-3-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 947

Irish Potatoes Grown in Modoc and Siskiyou Counties in California and in All Counties in Oregon Except Malheur County; Withdrawal of Proposed Amendment No. 1 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed amendment to rule.

SUMMARY: This document withdraws a proposal to amend handling regulation § 947.340 (46 FR 47757) which would have increased the minimum size requirements for fresh market potatoes grown in Modoc and Siskiyou Counties in California and all counties in Oregon except Malheur County. The proposal was recommended to help promote orderly marketing by making Oregon-California production area size requirements more similar to those of potato marketing orders in two adjoining States. It has now been determined that the proposed change based on market conditions in October would no longer benefit growers and consumers this late in the marketing season. Therefore, there is no longer a need to implement the proposed amendment.

DATE: This document is effective December 29, 1982.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250, (202) 447–2615.

SUPPLEMENTARY INFORMATION: This document withdraws that portion of a proposal published in the **Federal Register** on November 30, 1982 (47 FR 53883–53884), to amend the handling regulation for Oregon-California potatoes (§ 947.340).

The proposed amendment to increase size requirements was published in the November 30 **Federal Register** with comments allowed until December 15. Two comments were filed favoring the proposed amendment. Twenty-four comments were filed against the proposal including two petitions signed by a total of 52 producers. Some producers expressed concern about the disruptive effect of changing the regulation in mid-season. This prompted the Oregon-California Potato Committee to meet and re-analyze the proposed changes. After reviewing the most current farm and market conditions, it was concluded that the proposed changes would not improve the growers' position in the marketplace. Hence, the committee filed a comment with the hearing clerk recommending withdrawal of the proposed amendment.

Therefore, the current handling regulation (§ 947.340) tends to effectuate the declared policy of the act and shall remain in effect.

List of Subjects in 7 CFR Part 947

Marketing agreements and orders, Potatoes, Oregon, California.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 29, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-134 Filed 1-3-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 993

Dried Prunes Produced in California; Proposed Changes in the Time for Filing Reports and Conforming Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend § 993.172 (b) and (d) of the Administrative Rules and Regulations to change the time requirements for handlers to file the monthly "New Crop Supply and Inbound Prune Report" and the "Report of Shipments". This change would enable the Prune Marketing Committee (PMC) staff to prepare and release its statistical data on supply and shipments sooner each month, thereby better meeting the needs of the prune industry.

In addition, minor conforming changes would be made in the Administrative Rules and Regulations to reflect the change in the name of the Prune Administrative Committee to Prune Marketing Committee. This change was made when the marketing order was amended last December.

DATES: Written comments on this proposal must be received by February 28, 1983.

ADDRESSES: Written comments should be submitted in duplicate to the Hearing

Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5697.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated 13 handlers.

The proposal under consideration would amend Subpart—Administrative Rules and Regulations (7 CFR 993.101–993.174) to change form filing deadline dates and to make minor conforming changes. This subpart is issued under the marketing agreement, as amended, and Order No. 993, as amended (7 CFR 993), regulating the handling of California dried prunes. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is based on a unanimous recommendation of the PMC.

Current, § 993.172(b) requires handlers to file with the PMC, for each month, prior to the 10th calendar day of the next succeeding month a signed report on Form PMC 11.1 "New Crop Supply and Inbound Prune Report". The proposed change would require handlers to file this report prior to the 5th calendar day of the next succeeding month.

Similarly, under § 993.172(d) handlers currently are required to file with the PMC, for each month prior to the 10th calendar day of the next succeeding month, a signed report on Form PMC 12.1 "Report of Shipments". The proposed change would require handlers to file this report prior to the 5th calendar day of the next succeeding month.

The purpose for changing this reporting date is to enable the PMC staff to prepare its monthly report on supply and shipments sooner than they can under the current provisions. The prune industry and others use this report extensively and would benefit by having it sooner each month. All handler members on the PMC supported these changes. Both reports are authorized under § 993.72 of the order.

In addition, minor conforming changes in the Administrative Rules and Regulations should be made to reflect a change in the name of the Committee from the Prune Administrative Committee to the Prune Marketing Committee. This change was made when the order was amended on December 18, 1981 (47 FR 61635).

List of Subjects in 7 CFR Part 993

Marketing agreements and orders, Plums and prunes, and California.

PART 993—AMENDED

Therefore, the proposal is to amend Subpart—Administrative Rules and Regulations (7 CFR 993.101–993.174) as follows:

§ 993.172 [Amended]

1. Section 993.172(b) (amended) is revised by changing the phrase "prior to the 10th calendar day" to "prior to the 5th calendar day", and by changing the phrase "Form PAC" to "Form PMC".

2. The first sentence of § 993.172(d) (amended) is revised to read as follows:

* * * * *

(d) *Shipments by handlers.* Each handler shall file with the Committee for each month, prior to the 5th calendar day of the next succeeding month, a signed report on Form PMC 12.1 "Reports of Shipments" reporting shipments of prunes during the crop year through the last day of the immediately preceding month. Such report shall contain at least the following information:

* * * * *

§ 993.102 [Amended]

3. A conforming change in § 993.102 (amended) is made by changing the phrase "Prune Administrative Committee" to "Prune Marketing Committee".

§§ 993.149–993.174 [Amended]

4. Conforming changes should be made in §§ 993.149–993.174 (amended) by changing the phrase "Form PAC" to "Form PMC" wherever it appears in those sections.

Dated: December 29, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83–133 Filed 1–3–83; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 210

[Docket No. ERA–R–82–03]

General Allocation and Price Rules; Recordkeeping

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: In order to reduce the burden on firms the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) proposes to amend the regulation set forth at 10 CFR Part 210.1 which requires the maintenance of records that resulted from requirements in 10 CFR Parts 210, 211, and 212 that were in effect on January 27, 1981. ERA is proposing to eliminate this requirement with respect to most firms whose activities were limited to the resale of refined petroleum products or residual fuel oil, the production of crude oil, or the sale of natural gas liquids.

ERA will receive written comments with respect to this proposal.

DATE: Comments by February 3, 1983.

ADDRESSES: Send comments to Public Hearing Management, Department of Energy, Room 4130, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: William Funk, Office of General Counsel, Department of Energy, Room 6A–141, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6736.

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, U.S. Department of Energy, Room 4309, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, (202 633–8108).

SUPPLEMENTARY INFORMATION:

I. Background

On January 28, 1981, in E.O. 12287 President Reagan exempted crude oil and petroleum products from price and allocation controls. The Order expressly retained all reporting and record-keeping requirements then in effect until eliminated or modified by the Secretary of Energy. On April 3, 1981, DOE eliminated and modified a large number of the previous reporting requirements, but adopted 10 CFR 210.1 to ensure that all firms continued to maintain those historical records that were required under the regulations in 10 CFR Parts 210, 211 and 212 that were in effect on January 27, 1981. (46 FR 28506, April 3,

1981). DOE acted to preserve these records in order to maintain the information necessary to determine whether enforcement actions should be continued or commenced.

Since the adoption of 10 CFR 210.1 DOE has endeavored to complete the enforcement activities under 10 CFR Parts 210, 211 and 212 and has completed, to a large extent, the audit phase of its effort in the area of product resellers, crude producers, and sellers of natural gas liquids. Because the maintenance of records can impose a burden on firms, especially small firms which many of these firms are, ERA is proposing to amend 10 CFR 210.1 to eliminate certain recordkeeping requirements with respect to many of these firms.

Specifically, Section 210.1 would be amended to exempt from its requirements the records of firms whose *only* business subject to Part 212 was limited to (1) the reselling or retailing of refined petroleum products or residual fuel oil, (2) the first sale of domestically produced crude oil, and/or (3) the sale (including the processing) of natural gas liquids or natural gas liquid products. The exemption, however, would not apply to any firm in one of these groups if the firm is the subject of an enforcement activity or a party to court action. For purposes of this provision, a firm would be considered to be the subject of an enforcement activity if (1) it has received a subpoena, a Notice of Probable Violation, or a Proposed Remedial Order, unless it has been formally rescinded or withdrawn, and (2) there has been no final (that is, non-appealable) administrative or judicial resolution or settlement regarding alleged violations or DOE has not informed the firm in writing that the Department's review of the matter is completed. A firm would be considered to be a party to a court action if the court action involves any issue under the EPAA or the regulations thereunder, whether or not the firm is a plaintiff, defendant, or other party, and whether or not DOE or the United States is a party to the action. The exemption from the recordkeeping requirement of Section 210.1 also would not apply to any firm specifically notified by DOE that it was not subject to the exemption. DOE would so notify a firm if it is still being audited, if it is subject to a remedial order that requires or permits further review, or if its records are needed to reconstruct the activities of another firm. DOE would make this notification within 60 days of the publication of a final rule, and before its effective date.

Firms within these groups, even if they were not presently subject to an enforcement activity or a court action, or were not notified by DOE, would still have to retain any records relating to the tertiary incentive program (former § 212.78) or the entitlements program (§ 211.67–69). For example, crude producers would have to retain those records necessary to confirm their reports on Forms ERA–424A, 424B, 424C, and to confirm their certifications or recertifications of crude oil as tertiary incentive oil. An importer of residual fuel oil into the East Coast would have to retain its records to confirm its reports on ERA–49.

The Department would like to narrow further the scope of 10 CFR 210.1 if it is possible to do so without compromising existing or potential enforcement activity. Accordingly, we invite comments from firms such as refiners and crude oil resellers, which are not covered by this proposal, and firms with multiple roles (such as a producer that also acted as a reseller), as to ways in which their recordkeeping requirements might be reduced consistent with appropriate enforcement needs. Such commenters should also document the financial and resource burden involved in retaining these historical records.

It should be noted, especially with regard to product resellers, that an elimination of these recordkeeping requirements would not affect the Office of Hearings and Appeals requirement in Subpart V proceedings for firms making claims for refunds to document their claims. Moreover, this amendment would not affect any reporting or recordkeeping requirements that stem from sources other than § 210.1, for example, the currently effective section 212.78 or a consent agreement that might impose certain reporting or recordkeeping requirements.

DOE has tentatively determined that whether or not product resellers retain their records will not affect the feasibility or lack of feasibility of DOE tracking how refiner or crude oil overcharges were passed through the commercial chain to determine which persons or firms actually suffered from such overcharges and to what extent. DOE requests comments on this issue.

II. Comment Procedures

A. *Written Comments*

You are invited to participate in this proceeding by submitting information, views, or arguments with respect to the proposed amendment of 10 CFR Part 210.1. Comments should be submitted no later than [insert date 30 days from date of publication] to the address indicated in the "ADDRESSES" section of this preamble and should be identified on the outside envelope and on the document with the docket number and the designation: "Recordkeeping Requirements Reduction, Docket No. ERA–R–82–03". Ten copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 1E–190, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. *Public Hearing*

DOE believes that the amendment proposed in this Notice presents no substantial issue of fact or law and is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Accordingly, DOE is not scheduling a public hearing as provided by section 501(c) of the Department of Energy Organization Act (DOE Act), Pub. L. 95–91, and the Administrative Procedure Act (5 U.S.C. 553). If a significant number of persons should request an opportunity for oral presentation of views, data and arguments, a public hearing could be held after public notice.

III. Other Matters

A. *Executive Order 12291*

Section 3 of Executive Order 12291 (46 FR 13193, February 19, 1981) requires that DOE determine whether a proposed rule is a "major rule", as defined by section 1(b) of E.O. 12291, and prepare a regulatory impact analysis for each major rule. Since the amendment would eliminate requirements and thus, reduce costs to firms, DOE has determined that the proposed repeal does not meet the E.O. 12291 definition of a major rule as one likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

B. *Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 Pub. L. 96–354, (5 U.S.C. 601–612) requires, in part, that an agency prepare an initial regulatory flexibility analysis for any proposed rule, unless it determines that the rule will not have a "significant economic impact" on a substantial number of small entities. The proposed amendment would not impose any additional burdens on small entities, but rather it would reduce an obligation on a number of small entities. Nevertheless, DOE does not believe the obligation involved has a significant impact on small entities, and accordingly, as required by section 605(b), DOE certifies that the amendment will not have a significant economic impact on a substantial number of small entities.

C. *Environmental Review*

DOE has determined that the proposed amendment, which is essentially administrative in nature, clearly is not a major federal action with significant environmental impact. Consequently, the proposed amendment does not require preparation of an Environmental Assessment of Environmental Impact Statement under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*

List of Subjects in 10 CFR Part 210

Petroleum price regulations, Reporting requirements.

(Federal Energy Administration Act of 1974, Pub. L. 93–275; Department of Energy Organization Act, Pub. L. 95–91)

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C. December 22, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

PART 210—[AMENDED]

Section 210.1, of Subpart A of Title 10 CFR is revised to read as follows:

§ 210.1 Records.

(a) The recordkeeping requirements that were in effect on January 27, 1981 in Parts 210, 211 and 212 will remain in effect for (1) all transactions prior to February 1, 1981; and (2) all allowed expenses incurred and paid prior to April 1, 1981 under § 212.78 of Part 212. These requirements include, but are not limited to, the requirements that were in effect on January 27, 1981 in § 210.92 of this part; in §§ 211.67(a)(5)(ii); 211.89; 211.109; 211.127; and 211.223 of Part 211; and in §§ 212.78(h)(5)(ii); 212.78(h)(6); 212.82(c)(2)(iii)(E)(I); 212.83(c)(2)(iii)(E)(II); 212.83(c)(2)(iii) "Fit"; 212.83(i); 212.93(a); 212.93(b)(4)(iii)(B)(I); 212.93(i)(4); 212.94(b)(2)(iii); 212.128; 212.132; 212.172; and § 212.187 of Part 212. (OMB Control No. 1903–0073)

(b) Effective (sixty days after publication of final rule), paragraph (a) of this section shall not apply to a firm that had no activity subject to Part 212 other than the reselling or retailing of refined petroleum products or residual fuel oil, the first sale of domestically produced crude oil, or the sale of natural gas liquids or natural gas liquid products, unless that firm is the subject of an enforcement activity or a court action or that firm is notified by DOE within sixty days of the publication of this paragraph that it must maintain its records. Provided that, if a firm that would be exempted from paragraph (a) of this section by reason of this paragraph ever had any entitlements purchase or sale obligations under § 211.67 or 211.69 or ever was a qualified producer or project operator under § 212.78(a)(2) (as it existed on January 27, 1981), then the firm shall be subject to paragraph (a) with respect to all its records relating to and reflecting the basis for its entitlements obligations or relating to the tertiary project and tertiary oil sold pursuant thereto, respectively.

(c) For purposes of this section: (1) A firm is "the subject of an enforcement activity" if (i) it has received a subpoena, a Notice of Probable Violation, or a Proposed Remedial Order, unless it has been formally rescinded or withdrawn, and (ii) there has been no final (that is, non-appealable) administrative or judicial resolution or settlement regarding alleged violations or DOE has not informed the firm in writing that the Department review of the matter is completed.

(2) Refined petroleum product does not include natural gas liquids or natural gas liquid products.

(3) A firm means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any entity however organized, including charitable, educational, or other eleemosynary institutions, and State and local governments. A firm includes a parent and the consoldiated and unconsilidated entities (if any) which it directly or indirectly controls.

(4) The sale of natural gas liquids or natural gas liquid products includes the processing of such items.

(5) A firm is "the subject of a court action" if it is involved in any way with a court action for which there has been no final (that is, non-appealable) judicial resolution and which involves any issue under the Emergency Petroleum Allocation Act or the regulations thereunder, whether or not the firm is a plaintiff, defendant, or other party, and whether or not DOE or the United States is a party to the action.

[FR Doc. 83–122 Filed 1–3–83; 8:45 am]
BILLING CODE 6450–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

15 CFR Part 303

Allocation of Watch Quotas for Calendar Year 1983 Among Producers Located in the Virgin Islands, Guam and American Samoa

AGENCY: Import Administration, International Trade Administration, Commerce, and Office of the Secretary, Interior.

ACTION: Proposed rule.

SUMMARY: Pursuant to Section 3 of the Departments' Codified Watch Quota regulations (15 CFR Part 303), calendar year 1983 provisions are being proposed. The Departments are proposing only minor changes from the 1982 provisions. The Departments are also proposing to change the procedures for publishing the annual allocation formula and other special provisions. See the discussion in Supplementary Information below.

DATE: Comments must be received on or before Feburary 3, 1983.

ADDRESS: Comments should be sent to: Statutory Import Programs Staff, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 dated February 17, 1981, the Departments of Commerce and the Interior have determined that these rules do not constitute a "major rule" as defined by Section 1(b) of the Order. They are not likely to result in:

(1) Annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices in either the public or private sector; or

(3) Significant adverse impact on the domestic economy or on the ability of U.S. enterprises to compete with foreign enterprises.

The General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities. Finally, the Departments have determined that publication of this rule will impose no change in the information collection burden on the public. That burden is limited solely to those entities receiving the associated Federal benefits and the information collection is made on ITA form 334P under OMB approval number 0625–0040. Accordingly, publication of these rules is consistent with the Departments' responsibilities under the Paperwork Reduction Plan Act of 1980.

We are proposing two substantive changes from the 1982 provisions: Applications from new firms for a portion of the Virgin Islands quota would not be invited. Applications from new firms for 500,000 units of the Guam quota would be invited. The only other changes would be editorial to conform the rule with these substantive changes and with the proposed amendment of the codified provisions discussed below.

Last year, a commenter on the proposed rules for 1982 urged the Departments to conduct an "examination" of the need to revise their assembly criteria with respect to quartz analog watches and to establish a standard not "less stringent" than the existing standard. The Departments agreed that such a need existed and invited specific recommendations for a new standard for possible inclusion in the 1983 rule. No recommendations have be received. The Departments again invite specific recommendations from interested parties.

The Departments also propose to amend the existing 15 CFR 303.3 entitled "Publication of Annual Rules." The existing rule provides for the annual issuance, by notice in the **Federal Register**, of proposed and final rules containing the allocation formula and other special rules and provisions. The proposed amendment provides for the issuance of such rules as an appendix to this Part which may or may not, at the Departments' discretion, be amended annually. With this change, contrary to past practice, annual provisions would not automatically expire at the end of the calendar year and would continue in force until such time as new provisions were adopted.

List of Subjects in 15 CFR Part 303

Imports, Customs duties and inspection, Watches and jewelry, Marketing quotas, Administrative practice and procedure, Reporting requirements, American Samoa, Guam, Virgin Islands.

PART 303—[AMENDED]

For the above reasons, the Departments propose to revise § 303.3 and to include an Appendix to Part 303 as follows:

§ 303.3 Annual allocation formula and other special provisions.

(a) The appendix to this part contains the criteria or formulae which will be used by the Secretaries in calculating each producer's annual watch quota allocation, and such other special rules or provisions as the secretaries may periodically adopt in order to carry out their responsibilities in a timely manner while taking into account changing circumstances.

(b) References in the appendix to the quota, unless indicated otherwise, are to that quota available for allocation or reallocation in the current calendar year. Specifications of or references to data or bases to be used in the calculation of current year quotas (e.g., economic contributions and shipments) are, unless indicated otherwise, those which were generated in the year prior to the current year.

(c) The Secretaries may proposed changes to the appendix at any time they consider such changes necessary to fulfilling their responsibilities. Normally, however, such changes will be proposed towards the end or at the beginning of each calendar year.

(d) Interested parties shall be provided an opportunity to submit written comments on all proposed changes.

Appendix

Section 1. (a) A portion of the Virgin Islands quota determined in accordance with subsection (c) below will be allocated on the basis of (1) the net dollar amount of economic contributions to the Virgin Islands consisting of the dollar amount of wages, up to a maximum of $23,000 per person, paid by each producer to Virgin Islands residents and attributable to each producer's headnote 3(a) watch and watch movement assembly operations plus the dollar amount of income taxes paied by each producer attributable to its headnote 3(a) watch and watch movement assembly operations (excluding penalty and interest payments and deducting income tax refunds and subsidies paid by the Virgin Islands government), and (2) the number of units of watches and watch movements assembled in the Virgin Islands and entered by each producer duty-free into the customs territory of the United States.

(b) In making allocations under this formula, a weight of 80 percent will be assigned to the economic contributions factor and a weight of 20 percent will be assigned to the shipments factor. In calculating each producer's economic contributions, the Departments shall deduct from creditable wages any negative tax balances. That is, if the total of a producer's income tax payments (excluding penalties and interest charges) is smaller than the total of refunds and subsidies received from the Virgin Islands government, the difference of the two sums shall be deducted from the producer's creditable wages for allocation purposes.

(c) An amount representing that portion of the Virgin Islands quota equal to the ratio of general headnote 3(a) shipments of watches and watch movements from the territory to the total Virgin Islands quota in the previous year will be allocated among the producers in the Virgin Islands, in accordance with the allocation factors and weights specified in (b) above.

Section 2. Except as specified in Section 4, the Guam quota may be allocated, pursuant to § 303.5(a)(2) of this part, to the single Guam producer (see also subsection 3(b) and Section 6, below).

Section 3. (a) The portion of the Virgin Islands quota not allocated pursuant to Section 1, except as specified in Section 4, will be allocated among firms meeting the requirements of paragraphs (1) or (2) of this section. Eligible firms will be allocated quota in accordance with the factors and weights specified in Section 1. Allocation of the portion of the Virgin Islands quota under this Section will be made to firms which: (1) Assembled all watch movements shipped from unassembled movements having at least 26 discrete components and all watches (that is, cased movements) from at least 29 discrete components, including at least 26 movement components and at least 3 case components; or (2) Made wage payments in the territory averaging not less than $.75 per watch movement and $.95 per watch assembled and shipped into the customs territory of the United States. In determining a firm's eligibility under this criterion, the Departments may make appropriate data adjustments to take into account wages paid for units assembled but not shipped or shipped but not assembled during the calendar year prior to the year of the allocation.

(b) Allocation of the portion of the Guam quota not allocated pursuant to Section 2 may be allocated pursuant to § 303.5(b) of this part.

Section 4. Quota set aside for new firms in Guam under subsection 5(b) shall be subtracted from the quota amount allocable under Section 2, before allocations are made pursuant to that subsection.

Section 5. (a) Applications from new firms are invited for the American Samoa quota. Due to the limited size of the American Samoa quota, the Departments will allocate that quota to the single firm which offers the best prospect of a meaningful long-term contribution to the economy of the territory.

(b) Applications from new firms are invited for 500,000 units of the Guam quota.

(c) Applicants for new-entrant quotas must complete applicable sections of Form ITA–334P, copies of which may be obtained from the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Detailed instructions for completing

ITA–334P will be provided by the Statutory Import Programs Staff together with copies of the application form.

(d) The Departments will consider new entrant applications only from firms which certify to the Departments that they are able and willing to meet the minimum assembly or wage contribution criteria established in Section 3. Following the Secretaries' determination that a qualifying application has been received, an announcement will be published in the **Federal Register** establishing a closing date for further applications. The closing date shall be 30 days from the date of such notice. If the Departments do not receive prior to September 1 a qualifying application for quota set aside by subsection (b) above, that quota may be reallocated among eligible producers pursuant to § 303.5(b) of this part.

Section 6. Reallocation of quota that becomes available will be restricted to those firms satisfying the criteria established in subsection 3(a), to any new entrant firms selected pursuant to Section 5 above, and to the existing Guam firm, provided its operations at the time of the reallocation satisfy the criteria established in subsection 3(a).

Section 7. As used in Section 3 of this Appendix:

(a) "Wages" means all wages up to $23,000 per person paid to residents of the territories employed in a firm's headnote 3(a) watch and watch movement assembly operations. Excluded, however, are wages paid (i) accountants, lawyers, or other professional personnel who may render special services to the firm, (ii) persons assembling non-headnote 3(a) watches and watch movements, (iii) persons engaged in the repair of non-headnote 3(a) watches and watch movements, and (iv) persons engaged in the strapping and packaging of watches. Wages paid to persons engaged in both headnote 3(a) and non-headnote 3(a) assembly and repair activities shall be credited proportionately for their headnote 3(a) activities, provided the firm maintains production and payroll records adequate for the Departments' verification of the headnote 3(a) portion.

(b) "Discrete movement components" means screws, parts, components and subassemblies not assembled together with another part, component or subassembly at the time of importation into the territory. (A mainplate containing set jewels or shock devices, together with other parts, would be considered a single discrete component, as would a barrel bridge subassembly.) Excluded are dials, dial washer, dial screws, hour wheels, hands, automatic mechanisms and related parts, day-date mechanisms and calendar features, and jewels.

Section 8. (a) All firms must, as a condition for receipt of allocations or reallocations based on subsection 3(a) criteria, certify to the Departments that they will not alter assembly operations in a manner which would result in their failure to satisfy the respective criteria.

(b) If the Departments have reason to believe that a producer has not complied with or is not complying with the certification required by subsection (a) of this section, they may issue an order requiring the producer to show cause within 30 days of receipt of the order why the duty-free quota to which it would otherwise be entitled should not be cancelled or reduced by the Departments.

Section 9. (a) The quarterly reporting requirements of § 303.8(a) of this part are suspended and copies of Form ITA–321P will not be forwarded to producers at the times specified by that provision.

(b) Each producer must comply with § 303.8(b) of this part and report any changes in ownership, interest and control which have occurred during any quarter by April 15, July 15 and October 15, respectively, but may do so by letter.

(Pub. L. 89–805; 80 Stat. 1521 (19 U.S.C. 1202) as amended, 15 CFR 303)

Issued at Washington, D.C. on December 28, 1982.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration, Department of Commerce.

Pedro A. Sanjuan,

Assistant Secretary for Territorial and International Affairs, Department of the Interior.

[FR Doc. 83–75 Filed 1–3–83; 8:45 am]

BILLING CODE 4210–10–M

BILLING CODE 3510–25–M

FEDERAL TRADE COMMISSION

16 CFR Part 419

Games of Chance in Food Retailing and Gasoline Industries; Advanced Notice of Proposed Rulemaking

AGENCY: Federal Trade Commission.

ACTION: Advanced Notice of Proposed Rulemaking and Request for Comments.

SUMMARY: This notice requests comments on the Commission's staff recommendation regarding a petition requesting modification of the advertising disclosure requirements of the Trade Regulation Rule Relating to Games of Chance in the Food Retailing and Gasoline Industries ("the Rule") and, pursuant to the Paperwork Reduction Act of 1980, staff's proposals to reduce the paperwork burden on those individuals subject to the Rule. The Commission also invites comments on other issues related to the Rule which might be the subject of future petitions. Specifically, staff recommends amending the advertising disclosure provision to permit marketers and users of games of chance to employ broadcast media without the necessity of disclosing full prize and odds-of-winning information, and amending the recordkeeping provision to reduce the time period for retention of the winners lists to one year.

DATE: The Commission shall accept written comments until March 7, 1983.

ADDRESSES: Send comments to Federal Trade Commission, Cleveland Regional Office, Suite 500, The Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114. Comments should be addressed: Attention Advanced Notice of Rulemaking/Games of Chance Rule.

FOR FURTHER INFORMATION CONTACT: Noble F. Jones, Consumer Protection Specialist, Federal Trade Commission, Cleveland Regional Office, Suite 500, The Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114. Telephone: (216) 522–4207.

SUPPLEMENTARY INFORMATION:

Part A—Background Information

On August 19, 1969, the Federal Trade Commission published, at 34 FR 13,302, the Trade Regulation Rule Relating to Games of Chance in the Food Retailing and Gasoline Industries. Commission staff now recommends institution of rulemaking proceedings in order to make two amendments to the Rule. Specifically, staff recommends amending the advertising disclosure provision to permit marketers and users of games of chance to employ broadcast media without the necessity of disclosing full size and odds-of-winning information, and amending the recordkeeping provision to reduce the time period for retention of the winners lists to one year. Section 22(d) of the Federal Trade Commission Act requires the Commission to publish annually a regulatory agenda reflecting proposed rulemakings. Because this rulemaking has been initiated in response to an unanticipated industry petition and a cutback in the Commission's burden hours allowance under the Paperwork Reduction Act of 1980, it did not appear on the Commission's recent regulatory agenda. However, pursuant to Section 22(d)(4) of the Federal Trade Commission Act, the Commission may propose rulemaking which was not included in the regulatory agenda if the Commission publishes an explanation of the circumstances surrounding the omission. The Commission has made no determination on the findings and recommendations of the staff, and is seeking public comment before doing so. The Commission is requesting public comments on the issues presented by the petition and the Paperwork Reduction Act proposals, as well as comments on any other issues interested parties may wish to raise, and on what action, if any, the Commission should take.

Staff has recommended that the Commission propose two amendments to the Trade Regulation Rule for Games

of Chance in the Food Retailing and Gasoline Industries, 16 CFR 419, promulgated in 1968. The first of the two proposed amendments will affect the advertising provision of the Trade Regulation Rule, 16 CFR 419.1(b), and the second proposed amendment will affect the recordkeeping provision of the Rule, 16 CFR 419.1(f).

The proposed advertising provision amendment is in response to an industry petition requesting an exemption from the required full prize and odds-of-winning disclosures. Presently, the Rule mandates that all advertisements must clearly and conspicuously disclose:

(1) The exact number of prizes in each category or denomination to be made available during the game program and the odds of winning each such prize made available;

(2) The geographic area covered by the game;

(3) The total number of retail outlets participating in the game; and

(4) The scheduled termination date of the game.

While there does not appear to be any difficulty in making disclosures required by items (2), (3), and (4), above, there does appear to be some difficulty in presenting full odds-of-winning and prize information required by item (1) in a typical 30- or 60-second commercial.

The petition filed on behalf of the American Advertising Federation, the National Association of Broadcasters, and Telecom Productions, Inc., requests that marketers and users of games of chance promotions be exempted from the necessity of disclosing the full prize and odds-of-winning information in radio and television adertising. The petitioners believe that the Rule unfairly discriminates by requiring the full disclosures for games run by supermarkets and retail gasoline stations, yet other retail establishments involved in identical chance promotions are under no obligation to make such disclosures. Additionally, the petition argues that, because of the requirement to disclose visual and audio information simultaneously in a clear and conspicuous manner, the Commission's 1970 *Enforcement Policy Statement in Regard to Clear and Conspicuous Disclosure in Television Advertising* virtually forecloses the use of television as a medium for game advertising which is subject to the Trade Regulation Rule.

In connection with the proposed advertising provision amendment, the Commission invites public comment on whether there are fair and feasible alternatives to complete elimination of the present requirements for disclosing full prize and odds-of-winning information in radio and television advertising. For example, could the above-referenced Enforcement Policy Statement, as it applies to this Rule, be modified to require only visual presentation of the disclosures, or modified in other ways to permit the disclosures to be made without undue burden to the advertiser? Could the disclosures still be fairly prescribed for 60-second advertisements, if not for 30-second spots? Could an abbreviated disclosure be designed and prescribed for broadcast advertisements, such as one alerting the viewer or listener to the availability of full prize and odds-of-winning information at the point of purchase? Are there any other specific alternatives that the Commission should consider, in addition to these?

A specific goal of the Paperwork Reduction Act of 1980 is to minimize the burden imposed on businesses and individuals by governmental recordkeeping requirements. The statutory target was to reduce the paperwork burden by 15% during fiscal year 1982. To further the goal of a 15% burden reduction, staff has recommended an amendment of the recordkeeping provision in the Rule. The Rule currently requires that promoters of games of chance covered by the Rule retain winners lists for a period of three years. The proposed amendment would reduce the record retention period to one year.

Finally, the Commission, in this Advanced Notice of Proposed Rulemaking, is offering all interested parties an opportunity to raise other issues which might be subject to future petitions such as:

(1) Should marketers and users of games of chance be allowed to mix winning and non-winning game pieces on a batch basis as opposed to the total random method currently required?

(2) Should marketers and users of games of chance be allowed to add winning game pieces during the course of a promotion?

(3) What effect does the requirement of game termination dates have on game piece distribution?

Part B—Objectives

The objective of the Commission's actions in both these areas is to reduce the regulatory burden imposed on businesses and individuals. The principal question the Commission wishes to explore in the advertising disclosure proposal is whether there will be any negative impact if the information is not disclosed in broadcast advertisements. With regard to the record retention proposal, the Commission wishes to explore the proposal's impact on future enforcement actions. By inviting general comments, it is the Commission's hope that other issues related to the Games of Chance Rule will be thoroughly explored.

Part C—Regulatory Alternatives Under Consideration

The Commission currently has no regulatory alternatives under consideration other than staff's recommended rulemaking to effect the amendments.

Part D—Rulemaking Procedures

If the Commission determines that amendments are appropriate, a notice of proposed rulemaking asking for public comment on specific proposed amendments will be published in the **Federal Register**. The Commission intends to utilize expedited rulemaking procedures pursuant to § 1.20 of the Commission's Rules of Practice. These procedures will be similar to those employed during previous amendment proceedings regarding the hiatus provision of the Rule.[1]

Part E—Request for Comments

The Commission has not reached any conclusions concerning the two Rule amendments proposed by staff. Prior to making a decision, the Commission wishes to receive public comments on the arguments raised in the petition, as well as staff's recommended course of action regarding both the petition and the Paperwork Reduction Act objectives.

The Commission believes that such public comment could greatly enhance its understanding of the issues that need to be considered. Interested persons are invited to address any issues of fact, law, policy, or procedure, and to suggest any alternative course of action which they believe should be considered by the Commission.

List of Subjects in 16 CFR Part 419

Advertising, Foods, Games, Gasoline, Trade practices.

By direction of the Commission.

Issued: December 2, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 83-96 Filed 1-3-83; 8:45 am]

BILLING CODE 6750-01-M

[1] 44 FR 51630 (Sept. 5, 1979).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

[Docket No. RM82-15-000]

Petition of Amoco Production Co. for Initiation of Rulemaking To Establish Statutory Exemption From Natural Gas Act Certificate Requirement, or, in the Alternative, for Institution of a Blanket Certificate Program

Issued: December 23, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Denial of petition for a rulemaking.

SUMMARY: The Amoco Production Company recently filed a petition for a rulemaking to amend the Commission's regulations by establishing either an exemption from Natural Gas Act certificate requirements or a blanket certificate program under the Natural Gas Act. In this order, the Commission denies Amoco's petition for rulemaking partly because the relief requested is duplicative of an ongoing rulemaking and partly because the problem is not significant enough to merit the requisite expenditure of Commission resources.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Office of General Counsel, Room 8100, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 16, 1982, Amoco Production Company (Amoco) filed a petition for a rulemaking to amend the Commission's regulations by establishing either an exemption from Natural Gas Act certificate requirements or a blanket certificate program under the Natural Gas Act. By this order, the Commission denies Amoco's petition for rulemaking.

II. Background

Amoco's petition concerns natural gas previously subject to the Natural Gas Act (NGA), but removed from that Act's jurisdiction by operation of the Natural Gas Policy Act of 1978 (NGPA). Under section 7 of the NGA, a producer is required to obtain a certificate of public convenience and necessity (section 7 certificate) before selling natural gas that is subject to NGA jurisdiction. 15 U.S.C. 717F (1976).

Natural gas which would otherwise be subject to the NGA is removed from NGA jurisdiction by section 601(a)(1)(B) of the NGPA if such gas receives a final determination [1] that it meets the qualifications for one of the following categories of natural gas:

(1) High-cost natural gas (as defined in section 107(c)(1) through (4) of the NGPA);

(2) New natural gas (as defined in section 102(c) of the NGPA);

(3) Natural gas produced from a new, onshore production well (as defined in section 103(c) of the NGPA).

15 U.S.C. 3431 (Supp. IV 1980). Even though a final determination will remove the gas from the Commission's NGA jurisdictional, a producer must obtain a section 7 certificate in order to sell such gas before the jurisdiction agency determination becomes final. Once the determination is final, however, the section 7 certificates becomes unnecessary.

Amoco's petition suggests that filing for a section 7 certificate for natural gas that will eventually be removed from the Commission's NGA jurisdiction is an unnecessary burden on producers and contrary to the interests of natural gas consumers. Amoco notes that this problem is "most acute for Outer Continental Shelf (OCS) gas." Amoco requests that the Commission allow producers to avoid the necessity of obtaining a section 7 certificate by either exempting sales of gas that would be removed from NGA jurisdiction after an affirmative NGPA determination or issuing blanket certificates under the NGA to individual companies for such sales.

III. Discussion

The Commission has recently proposed a rule which, if promulgated, would eliminate the necessity of obtaining section 7 certificates for natural gas produced from new OCS leases. "Reduction in Filing Requirements for Well Category Applications Under Sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978," Docket No. RM83-3-000, issued November 23, 1982, 47 FR 53,907 (1982). Under this proposal, a determination that natural gas qualifies as gas produced from a new OCS lease under section 102(c)(1)(A) of the NGPA will be made on a lease-by-lease basis, rather than on a well-by-well basis. The proposal would permit the grant of a new OCS lease by the Department of Interior to constitute a determination that gas produced from wells on that lease will qualify under section 102.

Therefore if the Commission finally adopts this proposed rule, it would not be necessary for a producer to obtain a section 7 certificate for gas produced from a new OCS lease because the determination most likely would be final prior to any drilling on the lease and any subsequent first sales of such gas. Thus, the Commission's proposal would rectify the problem noted by Amoco's petition in the situation in which it is allegedly "most acute." Since the proposed rule covers the principal thrust of Amoco's request, the initiation of a separate rulemaking is unnecessary and duplicative. Therefore, the portion of Amoco's petition relating to new OCS leases is being denied on these grounds.

The Commission recognizes that there are other instances in which section 7 certificates may still be required for gas that eventually will be freed of NGA jurisdiction by an affirmative jurisdictional agency determination, such as certain production from section 103 wells where the gas is otherwise subject to NGA jurisdiction. The Commission notes that the NGPA has been in effect for over four years; thus, there should be very few situations left in which a producer has not received either a section 7 certificate or a final well category determination that would remove the sale from NGA jurisdiction. Since the Commission's certificate jurisdiction only pertains to gas committed or dedicated to interstate commerce before November 9, 1978, the amount of gas subject to NGA jurisdiction continues to decline with the passage of time.

The Commission has balanced the potential burden on its resources that would result from the initiation of a rulemaking to rectify these few situations against the burden on producers of filing for these section 7 certificates. On balance, the Commission believes that these instances are too few to merit the expenditure of Commission resources to develop a program to eliminate the need for a section 7 certificate. Accordingly, the Commission is not now inclined to propose a rule to cover these instances. Therefore, the Commission is denying this portion of Amoco's petition because it does not consider the problem significant enough to merit such an expenditure of Commission resources.

The Commission orders:

That the "Petition of Amoco Production Company for Initiation of Rulemaking to Establish Statutory Exemption from Natural Gas Act

[1] A determination made by a jurisdictional agency becomes final 45 days after the Commission receives notice thereof if the Commission does not issue a preliminary finding reversing such determination. See NGPA section 503(b), 15 U.S.C. 3413(b) (Supp. IV 1980); 18 CFR 275.202 (1982).

Certificate Requirement or, In the Alternative, for Institution of a Blanket Certificate Program" is hereby denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-111 Filed 1-3-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Baudette and Warroad, Minnesota, and Dunseith, North Dakota; Change in Hours of Service

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of proposed change in hours of service; solicitation of comments.

SUMMARY: This notice solicits public comments on a proposed change in the hours of service currently provided at the Customs ports of entry at Baudette and Warroad, Minnesota, and Dunseith, North Dakota, located on the U.S. Canadian border, in the Pembina, North Dakota, Customs district. Currently, service at these ports is provided on a 24-hour basis daily by Customs and Immigration and Naturalization Service (INS) personnel. However, recently INS withdrew one inspector at each of these ports for duty elsewhere. Due to budgetary and personnel restraints, Customs cannot now replace the inspectors withdrawn by INS with Customs personnel. Consequently, it is necessary to reduce the operating hours at these ports since Customs staffing is not adequate to continue to provide the necessary coverage on a 24-hour basis. If the proposal is adopted, the new hours would be 9:00 a.m. to 10:00 p.m. daily. The change would enable Customs to obtain more efficient use of its personnel, facilities, and resources.

DATES: Comments must be received on or before March 7, 1983.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Richard C. Coleman, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

Section 101.6, Customs Regulations (19 CFR 101.6), provides that each Customs office shall be open for the transaction of Customs business between the hours of 8:30 a.m. and 5:00 p.m. on all days of the year except Saturdays, Sundays, and national holidays. It also provides that services performed outside a Customs office generally shall be furnished between the hours of 8:00 a.m. and 5:00 p.m. Many offices provide service during hours in addition to those specified in the regulations.

Currently, the Customs ports of entry at Baudette and Warroad, Minnesota, and Dunseith, North Dakota, located on the U.S. Canadian border, in the Pembina, North Dakota, Customs district, provide service on a 24-hour basis, daily. Customs and Immigration and Naturalization Service (INS) personnel jointly staff a number of ports of entry along the border, including those named above. However, recently INS withdrew one inspector at each of these ports for duty elsewhere. Due to budgetary and personnel restraints, Customs cannot now replace the inspectors withdrawn by INS with Customs personnel. Consequently, Customs finds it necessary to reduce the operating hours at these ports since Customs staffing is not adequate to continue to provide the necessary coverage on a 24-hour basis, daily.

While the proposed change would result in a substantial reduction in the service hours at the affected ports and may result in some inconvenience to the public, these ports would nevertheless remain open beyond the normal business hours set forth in the regulations, and area businesses requiring port service after hours could contact local Customs officials for service which would be provided on a reimbursable basis.

Accordingly, it is proposed to change the hours of service at Baudette and Warroad, Minnesota, and Dunseith, North Dakota, to 9:00 a.m. to 10:00 p.m. daily.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

List of Subjects in 19 CFR Part 101

Harbors, Organization and functions (Government agencies), Seals and insignia.

Drafting Information

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: December 21, 1982.

William von Raab,

Commissioner of Customs.

[FR Doc. 83-44 Filed 1-3-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404, 410, 416, 422

Reopening and Revising Determinations and Decisions Expedited Appeals Process

AGENCY: Social Security Administration, HHS.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration plans to make five unrelated changes in its rules on when a determination or decision affecting someone's rights under programs administered by the Social Security Administration may be reopened and revised. The programs are Old-Age, Survivors, and Disability Insurance; Black Lung Benefits (Part B); and Supplemental Security Income for the Aged, Blind, and Disabled. Most of the changes expand the exceptions to the time limits on reopening. Two of the changes are to take account of recent legislative changes. The other three add longstanding policies to the regulations.

In addition, the Social Security Administration plans to make the time limit for appealing a determination or decision on benefit rights to a Federal district court pursuant to the "expedited appeals process," the same as the time limits for other appeals of its determinations or decisions. This change will allow slightly more time for people to appeal under the "expedited appeals process" and will make the rules on appeals more consistent.

FOR FURTHER INFORMATION CONTACT: Richard Dzingeleski, Room 3-A-21, Operations Building, 6401 Security

Boulevard, Baltimore, Maryland 21235, telephone (301) 594–3334.

SUPPLEMENTARY INFORMATION: The regulatory change will affect 20 CFR 404.927, 404.988, 410.629e, 410.672, 416.1427, and 422.210, and will add new sections 404.991a, 404.996, 410.675a, and 416.1491.

The Department of Health and Human Services has classified the proposed regulations as non-major.

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and disability insurance.

20 CFR Part 410

Administrative practice and procedure, Black lung benefits, Death benefits, Disabled, Miners.

20 CFR Part 416

Administrative practice and procedure, Aged, blind, disabled, Public assistance programs, Supplemental Security Income (SSI).

20 CFR Part 422

Administrative practice and procedure, Freedom of information, Organization and functions (Government Agencies), Social security.

Dated: December 27, 1982.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 83–130 Filed 1–4–83 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 161

[Docket No. 80N–0384]

Canned Sardines and Sardine-Type Products; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of the establishment of U.S. standards for sardines and sardine-type products based on the "Recommended International Standard for Sardines and Sardine-type Products". (Codex standard) because there is not sufficient need to warrant proposing a U.S. standard for these foods.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 4, 1980 (45 FR 73092), FDA published an advance notice of proposed rulemaking which offered interested persons an opportunity to review the Codex standard and to comment on the desirability and need for U.S. standards of identity, quality, and/or fill of container for sardines and sardine-type products. The Codex standard was submitted to the United States for consideration for acceptance by the Codex Alimentarius Commission whose worldwide food standards program is sponsored jointly by the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). The agency commented in the advance notice that, in keeping with agency policy to limit the number of new regulations, the standard would not be proposed if the comments received did not support a regulation. In the notice, the agency also discussed its view that certain provisions of the standard are potentially confusing to U.S. consumers. The agency continues to believe this potential exists.

Five comments were received in response to the advance notice of proposed rulemaking: one of which generally favored establishing U.S. standards, but contained no data to support the need for such standards. Three of the comments were opposed to establishing standards because current laws, in particular, the Federal Food, Drug, and Cosmetic Act, adequately govern the wholesomeness and labeling of these foods. These three comments also expressed the opinion that a regulation would result in increased costs to both packers and government, with no benefit to consumers. The fifth comment took no position on whether standards for sardines and sardine-type products are necessary but contained information for consideration, should standards by established.

Having considered the comments received, FDA has concluded that there is not sufficient need to warrant proposing U.S. standards of identity, quality, or fill of container for sardines and sardine-type products at this time, under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.8, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing U.S. standards of identity, quality, and fill of container for sardines and sardine-type products based on the Codex standard. This action is without prejudice to further consideration of the development of U.S. standards of identity, quality, and/or fill of container for sardines and sardine-type products upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: December 27, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–48 Filed 1–3–83; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Parts 182, 184, and 186

[Docket No. 82N–0157]

Zinc Salts; Proposed Affirmation of GRAS Status; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period on its proposal to affirm that certain zinc salts are, with specific limitations, generally recognized as safe (GRAS). The Continental Can Co. asked for the extended comment period.

DATE: Comments by March 7, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: In the Federal Register of Tuesday, October 26, 1982 (47 FR 47441), FDA issued a proposal to affirm zinc salts as GRAS. The proposal stipulated a comment period to run until December 27, 1982.

Under 21 CFR 10.35 and 10.40(b)(3), the Continental Can Co. petitioned FDA to extend the comment period for 60 days beyond the December 27, 1982 closing date. Continental said the proposal could adversely affect it and its customers, and it wanted more time to review the proposal and submit its comments.

Under 21 CFR 10.35(e), the Commissioner of Food and Drugs is granting Continental's petition. This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.10).

Interested persons may, on or before March 7, 1983, submit to the Dockets Management Branch (address above), written comments regarding the subject proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 27, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-35587 Filed 12-30-82; 11:05 am]

BILLING CODE 4160-01-M

21 CFR Part 357

[Docket No. 82N-0165]

Orally Administered Drug Products for Relief of Symptoms Associated With Overindulgence in Alcohol and Food for Over-the-Counter Human Use; Advance Notice of Proposed Rulemaking; Extension of Time for Comments and Reply Comments

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; extension of comment periods.

SUMMARY: The Food and Drug Administration (FDA) is extending to January 28, 1983, the comment period and to February 28, 1983, the reply comment period for the advance notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of over-the-counter (OTC) orally administered drug products for relief of symptoms associated with overindulgence in alcohol and food. FDA is taking this action in response to a request to allow more time for interested persons to review the advance notice of proposed rulemaking in order to prepare and provide useful comments.

DATES: Written comments by January 28, 1983, and reply comments by February 28, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 1, 1982 (47 FR 43540), FDA issued an advance notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of orally administered drug products for relief of symptoms associated with overindulgence in alcohol and food for OTC human use. This advance notice of proposed rulemaking, which was based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, is part of the ongoing review of OTC drug products conducted by FDA. Interested persons were given until December 30, 1982, to comment on the advance notice of proposed rulemaking and until January 31, 1983, for reply comments.

Miles Laboratories, Inc., has requested a 29-day extension of the comment and reply comment periods in order to produce more useful comments to the advance notice of proposed rulemaking. Miles Laboratories, Inc., has pointed out that it was one of five companies that submitted data and information on these drug products to the Panel and that it has an active interest in the products that will be covered by this monograph. The company has explained that for the past several months its employees' time has been preempted by the need to take steps promptly and effectively to prevent tampering with its OTC products. Also, two major national holidays, Thanksgiving and Christmas, fall within the comment period and have decreased the time for its employees to review the notice and to prepare thoughtful comments.

FDA has carefully considered the request. The agency believes that an extension of the comment and reply comment periods may be of assistance in establishing the safety and effectiveness of OTC orally administered drug products for relief of symptoms associated with overindulgence in alcohol and food and is in the public interest. The agency considers an extension of the comment period to January 28, 1983, as requested, to be appropriate. Accordingly, the comment period for submissions by any interested person is extended to January 28, 1983, and the reply comment period is extended to February 28, 1983. Interested persons may submit written comments to the Dockets Management Branch (address above). Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-35500 Filed 12-28-82; 12:04 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1907

[Docket No. S-105]

Accreditation of Testing Laboratories

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) plans to revise its regulation at 29 CFR Part 1907, "Accreditation of Testing Laboratories." This regulation established the criteria and procedures that OSHA would use to accredit testing laboratories desiring to test equipment required to be "acceptable" or "approved" under OSHA standards. To date, OSHA has not implemented this regulation, originally published on September 11, 1973, and proposed for revocation on June 3, 1974.

The purpose of this notice is to solicit information regarding the appropriate content, scope, and format of a complete revision of 29 CFR Part 1907 and complementary changes to 29 CFR Part 1910. This notice is not a proposal to revise the regulation; when the proposal is developed, it will be published in the **Federal Register.**

DATE: The written information requested in this notice should be postmarked on or before February 15, 1983.

ADDRESS: Written comments should be submitted, in quadruplicate, to the Docket Office, Docket S-105, Room S6212, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Higgins, Deputy Director,

Directorate of Safety Standards Programs, Room N3605, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–8061.

SUPPLEMENTARY INFORMATION:

Background

Certain occupational safety and health standards, particularly in 29 CFR Part 1910, require acceptability or approval of equipment, materials, or installations by a "nationally recognized testing laboratory." (*E.g.*, 29 CFR 1910.155(c)(3), 29 CFR 1910.35(h), and 29 CFR 1910.399(a)). These standards do not define "nationally recognized testing laboratory," but offer as examples of such laboratories Underwriters' Laboratories, Inc., (UL) and Factory Mutual Engineering Corp. (FM).

In order that additional laboratories could be recognized by OSHA as acceptable under such standards, the agency published, on September 11, 1973, a new Part 1907 of Title 29 of the Code of Federal Regulations (38 FR 25150). Entitled "Accreditation of Testing Laboratories," Part 1907 established the criteria and procedures that OSHA would use to accredit testing laboratories desiring to test products which require approval under Parts 1910 and 1926. The regulation was adopted under Section 8(g)(2) of the Occupational Safety and Health Act of 1970. Because of the perceived need to act without delay to provide laboratories with a system for recognition, the regulation was published without notice and comment. After promulgation, however, interested persons were given an opportunity to comment on the rule through written submissions and a public hearing. Over 130 written submissions were received. In addition, approximately 200 pages of testimony, 32 exhibits, and numerous post-hearing comments were received as a result of an informal hearing.

After reviewing these submissions, OSHA concluded that several major problems needed resolution, including whether the agency should change the requirement that laboratories be independent from manufacturers and vendors and whether the agency had sufficient resources to implement the regulation. In light of these problems, OSHA decided to reconsider the entire matter of accreditation and seek the aid of an advisory committee. On June 3, 1974, in order to give such an advisory committee the widest possible scope in its deliberations, the agency proposed to revoke the regulation (39 FR 19507).

The notice of proposed revocation invited interested persons to submit written comments on the proposal by July 3, 1974. In response, 105 written submissions were received. An informal hearing was then held, which resulted in 245 pages of testimony, 30 exhibits, and post-hearing comments.

Through their comments, parties raised several major issues. Among these were: (1) whether revocation would produce anticompetitive results, such as delay in product approval or increased charges for this service; (2) whether the rule as promulgated established barriers to international trade; (3) whether the agency should revoke the rule and simply accept the results of other laboratory accreditation systems, which where then in the process of being developed; and (4) whether the rule should be retained, with amendments to specific provisions, such as the requirement that laboratories be independent from manufacturers and vendors.

The record on the proposed revocation closed July 31, 1975 (40 FR 27691). Since that time, the matter has been in abeyance. No advisory committee has been appointed, and OSHA has neither revoked, amended, nor implemented Part 1907.

OSHA is concerned that its failure to determine how best to deal with Part 1907 has created problems for testing organizations and employers. OSHA has received complaints recently that its inaction has caused testing companies other than UL and FM to lose business and has resulted in delays to companies needing to have products tested. Because its failure to implement Part 1907 may be contributing to this situation, OSHA wishes to determine what action would now be appropriate. Through the rulemaking that will follow this ANPR, the agency will decide whether to revoke Part 1907 or to amend and implement it.

The agency's present intention is to amend Part 1907 to create a recognition system that will be administratively workable and will take advantage of recent developments by others in organizing and evaluating product certification systems. The agency also intends to amend 29 CFR Part 1910 as necessary to reflect the revised Part 1907. Such amendments would supply necessary cross references to Part 1907 and eliminate references to specific testing organizations by name.

OSHA presently plans to limit changes effected by this rulemaking to Parts 1907 and 1910 and to make needed revisions to Part 1926 (and Parts 1915 and 1918) in subsequent proceedings. This sequence will enable the agency to accomplish the present rulemaking more speedily than if other Parts were included. In addition, the agency will be able to take advantage of its experience with the revised recognition system in the subsequent amendment process.

Comments and Information Requested

At this time, OSHA requests the submission of all information, comments, and regulatory proposals related to this subject. The value to the public in general, and to OSHA, of having each interested or affected entity actively participating in this developmental stage cannot be overestimated; such input is greatly encouraged at this time by OSHA.

Current Agency Views Concerning Revisions to Part 1907

To stimulate public comment in response to this ANPR, OSHA's preliminary views concerning revisions to Part 1907 are set forth below.

As indicated by the title to Part 1907, its orientation is toward "accreditation of testing laboratories." It is questionable, however, whether that orientation is an appropriate one. Much of the activity involved in the testing and approval of equipment referred to in OSHA standards is more complicated than merely conducting tests in a laboratory setting. Rather, the process seems to involve "third party certification programs," as this activity has come to be known. This requires action by a "third party," *i.e.*, an entity that is neither the vendor nor buyer, to carry out such activities as determination of appropriate testing procedures and methods, evaluation of whether the product as used in the workplace conforms to the testing criteria, and assurance to employers and OSHA that the product meets the agency's standards.

Although portions of Part 1907 indicate that the regulation was aimed at evaluating a more complicated activity than merely testing in a laboratory setting (*e.g.*, 29 CFR 1907.12 (d) and (e)(3)), the accreditation system was not designed with the present concept of third party certification in mind. Nor could the regulation, promulgated 9 years ago, take advantage of recent developments in third party certification programs. Therefore, this rulemaking gives OSHA an opportunity to conduct a major overhaul of the current regulation, adopting a substantially different focus and approach. The revised rule would explicitly relate OSHA's recognition system to third party certification

programs, not laboratory testing activities.

In addition, the rule would be drafted with an eye toward the work of public and private entities that have given considerable attention to product evaluation activities. Such entities include: (1) the American National Standards Institute (ANSI) Certification Committee, which proposes to accredit third party certifiers; (2) the ANSI Committee Z34, under the secretariat of the American Council of Independent Laboratories, which has recently promulgated its Standard for Third Party Certification, Z34.1–1982; (3) the U.S. Department of Housing and Urban Development, which, under 24 CFR 200.935, allows organizations acceptable to HUD to validate manufacturers' certifications that building products and materials meet applicable standards; (4) the U.S. Commerce Department's National Bureau of Standards, which through its National Voluntary Laboratory Accreditation Program ("NVLAP") accredits laboratories based upon their ability to perform certain established tests on specified products; (5) the American Society for Testing and Materials, which has expressed a strong interest in systematizing laboratory accreditation; (6) the American Association for Laboratory Accreditation, which proposes to accredit laboratories, by specific technical disciplines, for product testing within each discipline; and (7) the U.S. Coast Guard, which approves laboratories as competent to test and certify manufacturers' products used in ships.

OSHA anticipates that it will integrate into its regulation some degree of reliance on activities conducted by groups such as these. Indeed, a positive evaluation of an applicant by one of these accrediting groups could possibly be substituted—as appropriate and to the extent warranted—for many of the more generic requirements now in Part 1907.

It is expected that after a certifier has met the requirements for OSHA recognition under Part 1907, provision would be made for public review of and comment on the application before the agency would issue its decision.

It may also be desirable to include in the revision of Part 1907 appendices concerning (a) equipment, materials, and installations requiring certification, (b) test standards required for use in testing and certification, and (c) third-party certification programs recognized by OSHA. In addition, the rulemaking could include development of guidelines for third party certifiers to use in evaluating testing laboratories. Alternatively, OSHA may wish to limit such testing activity only to laboratories accredited through a pertinent accreditation program, such as the National Bureau of Standards' NVLAP.

Under the contemplated revision, specific product-related requirements would not be contained in Part 1907 itself. Such requirements would continue to be set out in applicable standards, such as those in Part 1910. No new product approval requirements would be proposed in this revision. Existing Part 1910 standards that now require approval of products or processes would be amended to reflect the new direction taken by the revised Part 1907. Substitute language for such a standard could read, for example:

> To be acceptable, type "w" equipment shall conform to ANSI standard W37–1982 and shall be certified as in conformance by a third party certifier recognized under 29 CFR Part 1907.

Through its revised recognition process, OSHA would not be attempting to control or systematize this Nation's product evaluation industry under the guise of creating an "OSHA accreditation" system. The agency intends to maintain its involvement with certifiers and testing laboratories only to the extent necessary to fulfill its legislated mandate—providing for improved safety and health conditions in the Nation's workplaces through standards-setting and related enforcement and assistance activities.

Updated Economic Information Also Requested

In addition to the technical information requested above, OSHA requests that interested parties provide certain economic information. OSHA's need for this information is based upon Executive Order 12291 and the Regulatory Flexibility Act, which require that OSHA perform an Economic Impact Assessment and a Regulatory Flexibility Analysis for every regulatory change. In order to perform these tasks, OSHA requests that interested parties provide the following information:

1. What are the typical laboratory charges for testing a firm's products? Is this a major cost in the product's development. What are the typical laboratory charges for periodic retesting?

2. How much time typically elapses between the time a manufacturer or vendor requests that a product be tested and the time the product is approved? Is there significant variation among types of products?

3. How many OSHA-related products are tested and approved (or certified) yearly? How many of these are new certifications? How many are recertifications? What are the most recent valid data available?

4. What would be the cost to testing laboratories of applying to OSHA for approval under the criteria in the current Part 1907? Which provisions, if any, in the current Part 1907 would be considered particularly burdensome economically?

5. How many persons are employed in independent testing laboratories which provide product testing and approval and presumably would be affected by this regulation?

6. What is the typical revenue annually of an independent testing laboratory? Would anticipated OSHA-related revenues be a significant addition?

7. How much OSHA-related business would independent testing laboratories anticipate receiving if the current Part 1907 is implemented? How much would be received if OSHA were to shift to third-party certification systems?

8. What would be the costs to third-party certifiers of establishing a methodology to determine whether a testing laboratory should be allowed to test a product? How long would this development take and what procedures would thrid-party certifiers use to evaluate these laboratories? If such procedures are in place now, what would their application costs be, in their entirety and to laboratories only?

9. What would third-party certifiers expect to charge a testing laboratory for evaluation and acceptance? Would the cost vary by size of laboratory? Would it vary by product class or discipline evaluated?

10. Are additional tests of products required in present Part 1910 that are not required for consumer product safety, state and local building, public safety, and other code requirements? What do these additional tests cost?

11. What burdens do the many different state and local requirements impose on testing agencies and certifying bodies? For economic burdens, what is the yearly cost?

Written Comments and Information

The written comments and information requested in this notice should be postmarked by February 15, 1983, and submitted in quadruplicate to the Docket Officer, Docket No. S–105, Room S–6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

All information submitted will be considered by OSHA in development of

proposed revisions to Parts 1907 and 1910. In addition these submissions will be available for inspection and copying during normal business hours at the OSHA Docket Office.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. (Secs. 6 and 8, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657); Sec. 107, 83 Stat. 96 (40 U.S.C. 333); 5 U.S.C. 553; 29 CFR Part 1911; Secretary of Labor's Order No. 8–76 (41 FR 25059)).

List of Subjects in 29 CFR Part 1907

Laboratories, Occupational Safety and Health, Research, Safety.

Signed at Washington, D.C. this 28th day of December, 1982.

Thorne G. Auchter

Assistant Secretary of Labor.

[FR Doc. 83–7 Filed 1–3–83; 8:45 am]

BILLING CODE 4510–26–M

Mine Safety and Health Administration

30 CFR Parts 55, 56, 57, 75 and 77

Wire Rope Standards: Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice to extend period for public comment.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the period for public comment on its proposed rule for the use of wire rope at coal and metal and nonmetal mines. The proposed rule would apply to wire ropes used to hoist personnel or to handle loads in shafts where people may be endangered by the load lifted. The comment period is extended to February 18, 1983.

DATES: Written comments must be received on or before February 18, 1983.

ADDRESS: All comments should be sent to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION: On November 16, 1982 (47 FR 51684), MSHA published a proposed rule to update and clarify existing safety standards for the selection, use, examination and retirement of wire ropes. The standard would address the use of wire ropes to hoist personnel or to handle loads in shafts where people may be endangered by the load lifted.

The Agency established January 17, 1983, as the date for submission of written comments on the proposed rule. However, due to requests from several interested parties, MSHA has decided to extend the comment period to February 18, 1983. All members of the mining community who would be affected by the proposed rule are encouraged to submit comments within this time.

MSHA wishes to clarify that it does not intend to apply the proposed standards to draglines; elevators equipped with a governor rope; or cranes used to lift materials, other than cranes used in shaft and slope sinking operations where people work below the loads lifted. The Agency is aware that some mine operators use cranes to hoist personnel in applications other than shaft and slope sinking. MSHA specifically requests further comment from both manufacturers and users on the appropriateness of the proposed standards to wire rope used on cranes to hoist people.

The Agency has received a request for public hearings in this rulemaking and will publish a notice of public hearings in the **Federal Register** at the close of the comment period. The notice will include a schedule of hearings and list the major issues addressed by written comments.

Dated: December 28, 1982.

Thomas J. Shepich,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 83–51 Filed 1–3–83; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 903

Surface Mining and Reclamation Operation Under a Federal Program for Arizona

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Cancellation of promulgation process for a Federal program.

SUMMARY: The Office of Surface Mining (OSM) is announcing the withdrawal of the proposed Federal program to regulate surface coal mining and reclamation operations for Arizona because there are no known coal deposits on non-Indian lands in that State.

DATES: None.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION: On October 6, 1982, the Office of Surface Mining proposed a Federal program for the State of Arizona in the **Federal Register** which would regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in that State. 47 FR 44194. The notice provided for a public comment period and a hearing in order to receive comments but further stated that if no person indicated an intention to testify by December 3, 1982, the hearing would be cancelled. As of close of business on December 3, 1982, no persons had contacted OSM indicating that they wished to testify and, therefore, the Director of OSM cancelled the hearing.

During the comment period OSM was informed by Arizona officials that all known coal reserves in Arizona are located on Indian reservation lands. The Surface Mining Control and Reclamation Act in Sections 503 and 504, 30 U.S.C. 1253 and 1254, and OSM's regulations, 30 CFR 736.11, require that there be an approved State or Federal regulatory program in States having coal on non-Federal or non-Indian lands and in which there is a likelihood of either exploration or development before June 1985. Since Arizona does not have any known coal deposits on either non-Federal or non-Indian lands, a regulatory program is not required. Therefore, promulgation of the proposed regulatory program for Arizona is being withdrawn. Should information come to light which indicates the presence of coal on non-Federal, non-Indian lands within the State, promulgation of the required program wil be reinitiated by subsequent rulemaking notice.

Dated: December 27, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 83–127 Filed 1–3–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. A-1-FRL 2264-7]

Approval and Promulgation of Implementation Plans; Rhode Island; Energy Initiative

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan revisions submitted by the State of Rhode Island. These revisions will provide temporary variances from sulfur-in-fuel and particulate emission limitations for small fuel burning sources which commit to convert to a fuel other than oil or to establish permanent energy conservation measures or to bubble allowable emissions. The intended effect of this action is to provide cost-effective energy alternatives to Rhode Island sources with only a minimal increase in emissions, while assuring no violations of the National Ambient Air Quality Standards (NAAQS).

DATES: Comments must be received on or before February 2, 1983.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2111, JFK Federal Bldg., Boston, MA 02203 and the Division of Air and Hazardous Materials, Room 204, 45 Davis Street, Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: Betsey Horne, (617) 223-5130.

SUPPLEMENTARY INFORMATION: The origianl Rhode Island State Implementation Plan (SIP) approved by EPA on May 31, 1972 (37 FR 10891), and revised on November 3, 1975 (40 FR 51044) established limits for the sulfur content of residual fuel oil under Regulation No. 8, "Sulfur Content of Fuels." High sulfur fuel (greater than .55 pounds of sulfur per million Btu heat release potential or greater than 1% sulfur oil by weight) could only be used where approved control equipment could limit stack sulfur dioxide emissions to 1.1 pounds per million Btu gross heat input. Otherwise, only low sulfur fuel burning (no greater than .55 pounds per million Btu heat input or 1% sulfur oil by weight) was permitted.

Rhode Island has now proposed that sources which meet specific criteria and which comply with its new state procedures may burn higher sulfur fuel. EPA's proposed approval of the State's November 9, 1982 submittal also includes amended federal procedures. Today's notice constitutes a proposed approval of the Rhode Island regulations as well as for each complying source. Under the federal procedures the State would be required to forward a SIP revision for each complying applicant to EPA and the Agency would publish only final rulemaking approving the source's use of the higher sulfur fuel. This process will considerably shorten the period between a source's application and the date it can commence burning the higher sulfur fuel. A description of the new regulations follows.

Rhode Island's Regulations

A. Subsection 8.3.2, "Emission Bubbling"

Rhode Island's regulation would allow bubbling of sulfur dioxide emissions on a plant-wide basis. Bubbling provides the owner of more than one fuel burning device to act as if there was a dome over his source. Under existing Regulation 8, each fuel burning device must meet the same specified emission limitations. With bubbling, by placing the dome over all fuel burning units, the owner may meet the total allowable emission control requirements of the existing regulations through a different mix of fuels and/or control technology. By bubbling, a source may "over-control" emissions from one unit under the dome while "under-controlling" another unit. This can be a cost-effective method of operation while allowing no greater amount of pollution than would be the case if existing control limits were placed on each emission unit.

The Rhode Island bubble would allow applicant sources to use high sulfur fuel, up to 1.21 pounds of sulfur per million Btu heat release potential, in individual fuel burning units provided the sulfur dioxide emissions from the entire plant do not exceed the existing SIP limit equivalent of 1.1 pounds per million Btu actual heat input. Similarly, total suspended particulate (TSP) emissions from the bubble could not exceed the current SIP limit of .10 pounds per million Btu heat input and no single emission unit within the bubble could emit greater than .15 pounds per million Btu actual heat input. Each applicant must: certify that all fuel burning units are at the same plant and under common control; identify each emission point and its physical and operating parameters; perform specific air quality modeling procedures to assure maintenance of the applicable NAAQS and Prevention of Significant Deterioration (PSD) increments; assure that no PSD or nonattainment permit is compromised nor any New Source Performance Standard or National Emissions Standard for Hazardous Air Pollutants is violated by the bubble. These conditions as well as unit by unit emission limits must be specified in a permit issued by Rhode Island. Specific emission limits for each emission point will be enforced through a State permit. Initial bubble approvals will be in effect for three years. The State may extend or terminate the bubble for each applicant at the end of the 3-year period based on air quality, control technology advances or other considerations. Should the state extend the bubble, it must submit another SIP revision to EPA. The modeling requirements may be waived if there is no increase in actual emissions and the bubble meets other requirements that will assure no degradation in ambient air quality.

As it is presently written, the Rhode Island bubble regulation does not conform to EPA's Emissions Trading guidelines on generic rules (47 FR 15076, April 7, 1982), and therefore cannot be approved as such. Under the terms of a generic rule that has been approved by EPA as replicable and fully protective of air quality, further EPA approval of each individual bubble application is not necessary. Although Rhode Island's bubble rule does not meet EPA's criteria for generic rules, it is appropriately designed to warrant a generic proposal by EPA to approve all bubbles submitted in accordance with Rhode Island's rule. Thus, EPA will take final action on all such individual bubbles without further proposed action. Section IV of this notice describes the applicable SIP revision procedures in greater detail.

In the narrative that accompanied the November 9, 1982 submittal, Rhode Island committed to limit bubbling to fuel burning devices with an energy input capacity of less than 250 million Btu heat input. Should the State submit a bubble for a larger source, EPA would not take rulemaking action under this expedited procedure but would publish both proposed and final rulemaking notices.

B. Subsection 8.3.3, "Conversion and Conservation Initiative"

Rhode Island's regulation would allow fuel burning devices with an energy input capacity of less than 250 million Btu's per hour to burn, for a period not to exceed 30 months, higher sulfur fuel having a sulfur content of no greater than 1.21 pounds of sulfur per million

Btu's heat release potential (or 2.2% sulfur by weight).

The burning of less expensive higher sulfur fuel oil will provide the sources with some of the money needed to pay the capital costs of conversion to a fuel other than residual fuel oil or to implement permanent energy conservation measures. At the end of the temporary period during which the sources may burn the higher sulfur content fuel, the sources will be required to return to the original sulfur dioxide and particulate emission requirements.

The proposed regulation would require sources currently burning residual fuel oil and desiring permission to burn the higher sulfur fuel to make a commitment to either (a) commence conversion to an alternate fuel with equipment to insure that existing sulfur and TSP emission limitations will be met, or (b) implement energy conservation measures to reduce residual fuel oil consumption such that no greater level of sulfur oxides or TSP will be emitted burning higher sulfur fuel than is presently allowed.

A source must complete its conversion or conservation measures within a period not to exceed 30 months from the date of commencement of burning higher sulfur oil, unless the State finds good cause for a longer period. Financial difficulty will not be considered good cause. At the end of the period during which the source was allowed to burn higher sulfur fuel, the source must comply with one of the following: (a) the source shall return to burning fuel with a sulfur content no greater than that permitted before it was approved to burn the higher sulfur content fuel, unless a new emission standard has been adopted; (b) a source providing permanent energy conservation measures must reduce oil consumption by at least 50,000 gallons per year; (c) a source which, prior to its approval under the new regulation, was limited to 1% sulfur fuel oil may continue to burn fuel containing up to 2.2% sulfur provided that, through permanent energy conservation measures approved by the State, the source reduced its consumption of petroleum products at the facility by at least 56 percent; or (d) a source which has converted to a non-petroleum based fuel and which, prior to its approval under the new regulation was limited to 1% sulfur fuel oil, must provide that the heat input rate of the converting unit will at least be equal to the estimated average heat input rate when that unit burned high sulfur fuel oil. The State may waive this requirement if an increase in the unit's efficiency would decrease its required capacity.

Applicants under this regulation must: perform specific air quality modeling procedures to assure maintenance of the applicable NAAQS and PSD increments; sign a consent agreement with specific milestones toward completing the conversion or conservation measures; submit a quarterly report on fuel costs and usage during the 30-month period; agree to conduct stack or fuel testing after conversion to verify compliance with emission limitations and post a bond for the estimated savings in fuel costs over the variance period. This sum would be forfeited if the conversion or conservation measures do not take place.

C. Other Changes to Regulation 8

In addition to the regulatory changes discussed above, Rhode Island has substantially rewritten Regulation 8 to more effectively implement its program. Additions have been made to sections concerning definitions, general limitations and determinations of compliance. EPA is proposing to approve these subsections since the State has made certain narrative commitments as follows:

Subsection 8.4, "Determination of Compliance"—Under 8.4.1 this regulation would allow the Director to determine compliance with emission limitations using a procedure he deemed equivalent to Appendix A of 40 CFR 60. In its November 9, 1982 narrative, Rhode Island has committed to seek written approval from EPA prior to making such a determination.

Subsection 8.4.4, which allows special averaging time for compliance testing for sulfur and particulate emissions, is not approvable for particulates. EPA is proposing to approve this subsection with the understanding that the State will eliminate the words "and particulates" from its regulation and in the interim, uses only EPA emission test Method 5 as an enforcement procedure. The State has agreed to make this change by November 30, 1983.

In its November 9, 1982 narrative, Rhode Island outlined the procedures that will be used to enforce Regulation 8. These procedures include a State check on both the individual source's and its supplier's fuel use records.

D. Regulation 13, "Particulate Emissions From Fossil Fuel Fired Steam or Hot Water Generating Units"

Rhode Island has rewritten Regulation 13 to create a comprehensive particulate emission limiting control mechanism. The State has created subsections dealing with definitions, limitations, determinations of compliance, exemptions and compliance schedules. In terms of the energy initiatives described in A. and B. above, subsection 13.4.2 under "Exemptions" has been added.

Rhode Island's existing particulate emission limitation is .10 pounds per million Btu actual heat input. For sources approved under the bubble or the conversion-conservation regulations discussed above, the State has amended that limit in 13.4.2. For bubble applicants, particulate emissions may not exceed .10 pounds per million Btu heat input on a plant-wide basis while individual units have an emission limit of .15 pounds per million Btu heat input. For conversion or conservation sources the limit on individual fuel burning devices would also be raised to .15 pounds per million Btu heat inputs during the variance period. Subsection 13.4, "Exemptions," includes the phrase "in any 24-hour period" in its discussion of the TSP emission rate for sources bubbling their emissions. In order to determine compliance with the bubble procedures, the State, in its narrative submitted on November 9, 1982, has committed to delete these words from its regulation by November 30, 1983 and, in the interim, to use only EPA emission test Method 5 to enforce the regulation.

Modeling Requirements

Applications to burn high sulfur fuel oil under these proposed regulations will be reviewed by the State on a source by source basis to assure they will not cause a violation of any NAAQS or PSD increment, and will not have a significant impact on any nonattainment area. The NAAQS are maximum allowable ambient air pollutant concentrations which are set to protect public health and welfare. The PSD increments are allowable incremental increases in ambient pollutant concentrations, as calculated by modeling, which are set to limit the degradation of air quality over baseline levels in areas currently attaining the NAAQS. The baseline levels for the State of Rhode Island, which is itself the Section 107 designated attainment area, are the actual air quality levels as of June 5, 1981.[1] Significant impacts on nonattainment areas are defined as increases in ambient levels, as calculated by air quality modeling, which would be expected to exacerbate an existing nonattainment problem.

[1] This date was set by the filing of the first Rhode Island PSD permit application filed by the Rhode Island Solid Waste Management Corporation.

The Rhode Island regulations require applicants to demonstrate compliance with the above regulatory limits by means of air quality modeling described in the *Rhode Island Guideline for Air Quality Modeling*, hereafter referred to as the RI Guideline. The RI Guideline has been reviewed by EPA and is today being proposed for approval for use by Rhode Island in administering the regulations described above.

The EPA *Guideline on Air Quality Models* (EPA–450/2–78–027), hereafter referred to as the EPA Guideline, describes two levels of modeling. Screening modeling normally uses simple models with assumed worst-case meteorology to yield conservative upper bound predictions. If this screen is failed, a more resource-consuming second level of analysis is recommended by the EPA Guideline. This level uses more complex models with actual recorded meteorological data. This level of anaylsis is commonly referred to as refined modeling.

The RI Guideline details a screening modeling procedure consistent in most respects with the EPA screening procedures described in EPA's *Guidelines for Air Quality Maintenance Planning and Analysis Volume (10) Revised: Procedures for Evaluating Air Quality Impacts of New Stationary Sources* (EPA–450/4–77–001) which is recommended by the EPA Guideline. All relevant model inputs and options, as well as the treatment of background air quality, are detailed in the RI Guideline. Single and multiple source screening are addressed in both simple and complex terrain. Building wake downwash is also addressed. EPA believes the procedures detailed in the RI Guideline are at least as conservative as EPA's procedures.

Due to the complexity of refined modeling the RI Guideline does not specify detailed refined modeling techniques. Instead, the RI Guideline requires that a written modeling protocol outlining the analysis be approved by EPA Region I prior to the execution of a refined analysis. This protocol will conform to EPA guidance. In the SIP submittals to EPA for individual applications under these regulations, Rhode Island has agreed that refined modeling will be fully documented in a modeling report detailing all relevant modeling information including choice of models, model options and model input, as well as the results of the analysis.

However, because the RI Guideline is quite specific on required screening modeling procedures and because these regulations are limited to small sources with an emissions cap of 1.21 pounds of sulfur per million Btu, SIP submittals using screening modeling will normally only summarize the results with comparison to all applicable regulatory limits, and certify that the screening procedures in the RI Guideline were followed. However, EPA reserves the right to review any screening modeling analysis in detail on a case-by-case basis before taking final rulemaking on any individual source.

The Rhode Island Guideline may also be applicable to other regulatory actions for individual stationary sources of sulfur dioxide and TSP (e.g., new source review, SIP revisions). However, the certification concept described above is being approved only for the proposed regulations described in today's notice. Detailed documentation of modeling analyses, screening or refined, must be submitted to EPA for all other regulatory actions requiring EPA review.

SIP Revision Procedures

A. Proposed Approvals

EPA is proposing to approve amendments to: Regulation 8, "Sulfur Content of Fuels" and Regulation 13, "Particulate Emissions from Fossil Fuel Fired Steam or Hot Water Generating Units", the Rhode Island Guideline for Air Quality Modeling and the narrative implementing these additions to Rhode Island's SIP, all submitted on November 9, 1982. After receiving comments EPA will take final action on these revisions.

B. Individual Sources

Today EPA is also proposing to approve the revised sulfur-in-fuel limitation for all sources which meet the eligibility requirements as specified by Rhode Island in accordance with the provisions of the new regulations. The procedures to be used will involve concurrent State/EPA procedures.

This concurrent approach is a departure from EPA's normal rulemaking process for sulfur relaxations in Rhode Island which involves completion of State review before EPA commences its review and proposes rulemaking. This process has taken from four to six months, or even longer in some cases, and has involved duplication of effort by EPA and the State.

Under today's proposal, EPA will be conducting its proposed rulemaking process concurrent with the State's review. Rhode Island will review the applications for sulfur relaxations under the new regulations for eligibility and will evaluate the sources in accordance with EPA-approved modeling procedures. The State will provide a thirty-day public notice and comment period for each relaxation under the new regulations. Those persons who would normally comment during EPA's comment period should instead comment directly to Rhode Island during the State comment period. In the narrative submitted on November 9, 1982, the State has committed to maintain a mailing list of persons who wish to receive notices of proposed action on individual sources by mail. Persons wishing to be placed on the mailing list should notify the State by writing to Mr. Thomas E. Wright, Chief, Division of Air and Hazardous Materials, Room 204, Davis Street, Providence, RI 02908.

After the State reviews applications of specific sources, it will submit copies of its final decisions to EPA, including a copy of the State-issued permit containing the new emission limitations. The State will also submit all comments received (and the Division's response). The State will submit a certification to EPA indicating that the source meets the eligibility requirements of the new regulations, that the State has used EPA-approved modeling, and has followed the approved public notice and comment procedures.

By today's Notice of Proposed Rulemaking EPA is putting the public on notice that it is proposing to approve all individual sources submitted to EPA by Rhode Island as described above. Notice of the specific individual sources to be approved will be given only by the State in accordance with its review procedures (including mailing such notices to persons on the mailing list referred to above). The public is encouraged to participate in the notice and comment period. EPA will, of course, be free to participate in the comment period.

Prior to taking its final action, EPA will review public comments submitted to the State during its review process. Any member of the public wishing to submit comments to EPA should, therefore, submit comments to the State during the State review process, since EPA will not conduct an independent proposed rulemaking proceeding.

EPA believes that these procedures will provide the public with adequate notice and opportunity to comment both to Rhode Island and EPA on the rulemaking regarding each individual source. Similar procedures have been approved by EPA in Massachusetts (45 FR 82675, Dec. 16, 1980) and Connecticut (46 FR 43418, Aug. 28, 1981).

After receiving the State's submittal containing its final decision regarding

relaxations for an individual source or group of sources, EPA will then promulgate final rulemaking by publishing the action in the Federal Register. The effective date of the approval will be the date of such publication.

Because Rhode Island will be using EPA-approved modeling procedures and will be providing adequate public notice and comment, and because EPA will review each submittal from the State to determine that these requirements are met, EPA will not conduct a separate proposed rulemaking after Rhode Island has fully completed its review. As a result the time required for EPA's review will be shortened substantially. EPA's final rulemaking for relaxations for any individual source or group of sources will incorporate the new individual source emission limits into the SIP and these limits will be enforceable by EPA under the Clean Air Act.

EPA anticipates that this concurrent State/EPA approach will save substantial time over EPA's normal review process and will thus be a significant regulatory reform.

Public comment is specifically solicited at this time on these proposed procedures.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709, Jan. 27, 1981.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: December 2, 1982.

Paul G. Keough,

Acting Regional Administrator, Region I.

[FR Doc. 83-100 Filed 1-3-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[AD-FRL; AG-FRL 2247-5]

Approval and Promulgation of Implementation Plans; Texas: Lead Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: As required by Section 110 of the Clean Air Act and the October 5, 1978, (43 FR 46246), promulgation of national ambient air quality standards (NAAQS) for lead, the State of Texas has submitted a State Implementation Plan (SIP) for lead. This action proposes approval of the SIP, which provides for attainment and maintenance of the NAAQS for lead in all areas of the State except Dallas and El Paso, Texas. These areas will be addressed in a future rulemaking.

DATES: Interested persons are invited to submit comments on this proposed action on or before March 7, 1983.

ADDRESSES: Written comments should be sent to John Hepola, Chief, State Implementation Plan Section, EPA (6AW-AS), 1201 Elm Street, Dallas, Texas 75270. Copies of the plan, the public hearing minutes, and the evaluation report which explains EPA's actions are available for public review at the following locations:

Texas Air Control Board, 6330 Hwy. 290 East, Austin, Texas 78723

Environmental Protection Agency, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270

FOR FURTHER INFORMATION CONTACT: Ken Greer at (214) 767-9855 or FTS 729-9855.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, the NAAQS for lead was promulgated by EPA (43 FR 46246). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air (μg lead/m^3) averaged over a calendar quarter. As required by Section 110 of the Clean Air Act (CAA), and the October 5, 1978, promulgation of Lead SIP requirements (43 FR 46284), all States must submit a SIP which will provide attainment and maintenance of the lead NAAQS. Texas has developed and submitted such a SIP.

The general requirements for a SIP are outlined in Section 110 of the Clean Air Act and EPA regualtions in 40 CFR Part 51, Subpart B. Specific requirements for developing a lead SIP are outlined in 40 CFR Part 51, Subpart E. These provisions require the submission of air quality data, emission data, air quality modeling, control strategies for each area exceeding the NAAQS, a demonstration that the NAAQS will be attained within the time frame specified by the CAA, and provisions for maintenance of the NAAQS. EPA has evaluated this plan by comparing it to the requirements for an approvable SIP, as set forth in the above mentioned regulations. [See Evaluation Report, available at addresses listed above].

II. Description of the Texas SIP

On June 12, 1980, the Governor of Texas submitted to EPA the State's SIP for attainment and maintenance of the NAAQS for lead, after holding 4 public hearings during August of 1979. The plan identified eleven point sources of lead for which attainment of the lead standard must be demonstrated. The significant point sources include one primary lead smelter-ASARCO, Inc.; five secondary lead smelters—ESB Inc., Dixie Metals Corp., Houston Lead Co., Gould Inc., and RSR Corp.; two tetraethyl lead producers—Ethyl Corp. and PPG Industries; one gasoline additive manufacturing plant—Nalco Chemical Co.; one steel mill—Lone Star Steel; and one grey iron foundry—Tyler Pipe Co.

Dispersion modeling for the eleven significant point sources of lead demonstrated that the lead NAAQS will not be exceeded around three of those point sources: PPG Industries, Beaumont, Texas; Tyler Pipe, Tyler, Texas; and Nalco, Freeport, Texas. In addition, of the 11 identified lead emission point sources in Texas, three sources are now permanently shut down: Ethyl, Pasadena, Texas; Houston Lead, Houston, Texas; and ESB, Dallas, Texas. The State has agreed to assure EPA that these three shut down sources would be subject to permit review or, if needed, control plan development if they began operating again although resumption of operations is highly unlikely.

An acceptable control plan for another point source, Gould Inc. in Frisco, Texas, for which dispersion modeling demonstrated possible exceedances of the lead NAAQS, has been adopted by the TACB in a Board Order, number 82-11, and the TACB has agreed to submit the Board Order to EPA as part of the Lead SIP. This control strategy requires Gould to limit lead emissions from more than a dozen emission points in the secondary smelter. The emission reductions are obtained from improvements to the ventilation system for different areas of the plant plus enclosure and ventilation

of the blast furnace in the plant. The control strategy and emission limitations are included in a TACB approved Board Order which TACB has agreed to submit to EPA in a letter from Bill Stewart, Executive Director, TACB, dated October 14, 1982.

Dispersion modeling has been done by TACB for Lone Star Steel, Dixie Metals, and RSR Corp., but questions remain concerning the modeling for those three sources. In order to determine if the lead NAAQS is being exceeded in the Dallas, Texas, area, TACB is conducting monitoring around Dixie Metals and RSR Corp. in Dallas. The State has agreed to submit a control strategy for the areas in Dallas where the monitoring data, when validated, shows an exceedance of the standard, and has agreed to submit all validated monitoring and modeling data to EPA for the Dallas area. In order to determine if the lead NAAQS is being exceeded in the Lone Star, Texas, area, TACB has agreed to install and operate a monitoring system for lead around Lone Star Steel. Since Lone Star Steel has recently shut down its lead-emitting operations for an indeterminate amount of time, the monitoring should continue for two full quarters while the operations are shut down and for a year after start-up to determine if the area is and will remain in attainment of the lead NAAQS after Lone Star Steel resumes normal operations.

For the remaining significant point source, ASARCO in El Paso, Texas, the SIP includes modeling for the source but no exceedances of the lead standard are listed. Questions remain concerning the modeling since a breakdown of the emission points and emission rates is not included in the SIP, and two different emission levels (in tons of lead per year) are mentioned in the SIP for ASARCO. Also, the modeled receptor point values are not compared to monitoring information at local monitoring sites in El Paso to validate the modeling results. Since the local monitoring data for the El Paso area was not included in the SIP and since no comparison of modeled and monitored data was included, the modeling results cannot be fully evaluated. Furthermore, the New Mexico State Agency has raised questions concerning the attainment of the lead standard in the El Paso area and in the Anapra, N.M. area (located across the State line from El Paso). The TACB is currently conducting a study for the El Paso area which is intended to analyze and possibly identify the lead pollution problem(s) in the El Paso areas.

Of the air quality data including in the SIP, one monitor was identified in downtown El Paso that showed exceedances of the NAAQS. The State determined that the ASARCO smelter and vehicle exhaust emissions were the primary influences on the monitored concentration. Rollback calculations were used by the State to demonstrate that the automotive gasoline lead phasedown program, and particulate control measures required at ASARCO by TACB Order 75–5 and an Agreed Order of Injuction, May 14, 1975, would be sufficient to attain the standard. However, data from local monitors were not used in the SIP. Since the local monitors are located throughout the city, with a few monitors located near the smelter, submittal of all valid monitoring data for the El Paso area has been requestd by EPA. The TACB has agreed to submit validated monitoring data to the Regional Office for inclusion in the State's SIP.

The State is now conducting a study for the El Paso area which will include the local monitoring data, will determine the level of lead emissions and the source(s) of lead pollution for the El Paso area, and will include an identification of sources in New Mexico and Mexico, if any, which may be contributing to lead pollution in the El Paso area. Results of this study should be available in late 1982 and the State has agreed to submit a schedule for development of additional control measures, if necessary, shortly thereafter.

In addition to information concerning lead point sources, modeling, and monitoring data, the SIP listed the attainment date for the lead NAAQS for the State of Texas as November 5, 1982. The SIP and the Governor's submittal letter also requested that a two-year extension of the attainment date be granted by EPA, to November 5, 1984. The SIP further explained that the State had the necessary resources and legal authority to implement the lead control plan and enforce the point source compliance schedules included in the SIP. Finally, the lead SIP explained that the procedures for review of new lead sources and the procedures for source surveillance of lead emitting facilities are similar to the procedures described in the "New Source Review" and the "Source Surveillance" sections in the Texas Air Pollution Control Plan.

III. Results of EPA Review

As explained above and in more detail in the evaluation report (available at the locations listed in the **ADDRESSES** section of this notice), the Regional Office has reviewed the Texas Lead SIP and the additional information submitted by Texas. The Texas Lead SIP is adequate for the attainment and maintenance of the Lead NAAQS in all areas of the State except for the two areas of the State for which TACB is developing additonal information and control strategies where necessary. The Regional Office has found the Resources Section and Legal Authority Section of the Lead SIP as adequate. The State met the requirements for a public hearing by holding four public hearings throughout the State. Texas has agreed to assure EPA that the State requires a public notice and permit review of all new lead sources with potential to emit five tons or more of lead per year. The State's assurance was received by the Regional office in a letter dated October 14, 1982, from Bill Stewart, Executive Director of TACB.

The Texas Lead SIP lists an attainment date for lead of November 5, 1982, for sources in the State. Since most areas of the State are presently in attainment, except for possibly the Dallas and El Paso areas of the State, EPA agrees with the November 5, 1982, attainment date since the State should show attainment as expeditiously as practicable for areas in the State which can be or are in attainment. For the Dallas and El Paso areas, for which control strategies will be developed, if needed, the attainment date will be determined when EPA announces its action on those areas in a future rulemaking.

In addition, pursuant to Section 110(e) (1) and (2) of the Clean Air Act, the governor of Texas requested that a two year extension of the attainment date for the primary lead standard be granted by EPA. An extension can only be granted if the Administrator determines that: (1) One or more emission sources are unable to comply within the initial three years because the necessary technology or other alternatives are not available or will not be available soon enough to permit compliance; and (2) the State includes in its SIP a consideration and application of any reasonably available alternative means of attaining the standard and justifiably concludes that attainment cannot be achieved. The State did not include in its SIP the required alternatives consideration nor were any sources identified to EPA as being unable to comply because of the lack of necessary technology. Also, for the areas of the State which EPA is proposing action on, the SIP has demonstrated that the lead standard is being attained. Therefore, EPA is proposing that the two year extension of the lead attainment date is not

necessary and need not be granted for the Sections of the Texas Lead SIP which EPA is proposing action on.

EPA's Action

EPA has evaluated the Texas Lead SIP and determined that with the exceptions of the Dallas and El Paso areas, it meets the requirements of Section 110(a) of the CAA and 40 CFR Part 51 Subparts B and E. EPA believes that the SIP is adequate to attain and maintain the lead NAAQS and is, therefore, proposing approval of it except for the areas of Dallas and El Paso, Texas. Those areas will be acted on by EPA in a future rulemaking. EPA finds that the Texas SIPs that have been approved for other NAAQS's contain regulations that satisfy general regulations not specifically mentioned in this lead SIP and that these general regulations can be incorporated into the lead SIP.

The Regional Administrator hereby issues this notice setting forth EPA's proposed approval, with exceptions, of the Texas Lead SIP and advises the public that interested persons may participate by submitting written comments to the Region VI Office. Comments received on or before the date listed in the **DATES** section will be considered. Comments received will be available for public inspection at the EPA Region VI Office and at the locations listed in the **ADDRESSES** section of this notice.

The Administrator's final decision to approve or disapprove the Texas Lead SIP will be based on the comments received and on a determination whether the SIP meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Subpart B and E. EPA's final rulemaking action will not be taken until EPA receives the information which the TACB has committed to submit to EPA.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region VI office (see address above).

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

This notice of proposed rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, 42 U.S.C. 7410(a).

Lists of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations.

Dated: October 4, 1982.

Frances E. Phillips,

Regional Administrator.

[FR Doc. 83-00 Filed 1-3-83; 8:45 am]

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40 CFR Part 60

[AD-FRL-2234-7]

Standards of Performance for New Stationary Sources; VOC Fugitive Emission Sources; Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissions of volatile organic compounds (VOC) from fugitive emission sources in the petroleum refining industry. The proposed standards would: (1) Require a leak detection and repair program to reduce VOC emissions from pumps and valves; and (2) specify the use of certain equipment to reduce VOC emissions from compressors, sampling connection systems, and open-ended valves. The proposed standards would also allow no detectable emission from pressure relief devices during normal operations.

The proposed standards implement the Clean Air Act and are based on the Administrator's decision that fugitive emission sources of VOC in the petroleum refining industry contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. As required by Section 111 of the Clean Air Act, the proposed standards are intended to require new, modified, and reconstructed sources in the petroleum refining industry to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impact and energy requirements.

A public hearing will be held to provide interested persons an opprotunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments:* Comments must be received on or before March 21, 1983.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by February 11, 1983, a public hearing will be held on February 23, 1983 beginning at 10 a.m. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur.

Requests to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by February 21, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Central Docket Section (A-130), Attention: Docket No. A-80-44, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, the public hearing will be held at the Office of Administration Auditorium, Research Triangle Park, N.C. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur.

Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. The background information document (BID) for the proposed standards is contained in the docket and may be obtained from the U.S. EPA library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "VOC Fugitive Emissions In Petroleum Refining Industry—Background Information for Proposed Standards" (EPA-450/3-81-015a).

Docket. Docket No. A-80-44, containing supporting information used in developing the proposed standard, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Susan R. Wyatt, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION:

Summary of Proposed Standards

The proposed standards of performance cover fugitive emission

sources of volatile organic compounds (VOC) within petroleum refineries. The proposed standards would apply to new, modified, and reconstructed compressors and new, modified, and reconstructed fugitive emission sources within process units. The proposed standards would reduce fugitive emissions of VOC from pumps, valves, sampling connections, pressure relief devices and open-ended valves in VOC service within process units and from compressors in VOC service. "In VOC service" means that a fugitive emission source contains or contacts a fluid containing 10 or more percent by weight VOC.

The proposed standards are different from most standards of performance because they are mainly work practices and equipment standards rather than emission standards and they cover several emission sources. The proposed standards would require: (1) A leak detection and repair program for valves in gas or light liquid service and for pumps in light liquid service; (2) certain equipment for compressors, sampling connection systems, and open-ended valves; and (3) no detectable emissions from pressure relief devices in gas service during normal operation. "In gas service" means that a fugitive emission source contains VOC fluids in the gaseous or vapor state. "In light liquid service" means that a fugitive emission source contains VOC liquids which will have more than 10 percent of the liquids evaporated at a boiling point of 150° C, as determined by ASTM Method D 86. While still assuring that equivalent emission reduction will be achieved, the proposed standards allow the use of alternative equipment for valves, pumps, compressors and sampling connection systems. In addition, the proposed standards provide alternative standards for valves and a procedure for determining the equivalency of alternative control measures.

Summary of Environmental, Energy, and Economic Impacts

The proposed standards of performance would reduce fugitive emissions of VOC from new, modified, and reconstructed compressors and process units (production facilities) by about 70 percent from the emission levels that would result with control means currently practiced by the industry. In 1986, the proposed standards would reduce uncontrolled fugitive emissions of VOC from new, modified, and reconstructed production facilities by approximately 46,000 megagrams (Mg), a reduction of emissions from 64,000 megagrams of VOC per year (Mg/yr) to about 18,000 Mg/yr. By 1986, some States will require control of petroleum refinery fugitive emission sources of VOC through their State implementation plans (SIP's). Consequently, the VOC emission reduction attributable to the proposed standards after these SIP's are established by 1986 would be 31,000 Mg, a reduction of emissions from 49,000 Mg/yr to about 18,000 Mg/yr.

The proposed standards or performance would not increase the energy usage within petroleum refineries. In general, the controls required by the proposed standards do not require energy. Furthermore, the effect of the proposed standards would be to increase efficiency of raw material usage, so that a net positive energy impact would result. Implementation of the proposed standards could result in a minor adverse solid waste impact. In contrast, the proposed standards would also cause a positive impact on water quality by containment of potential liquid leaks.

The proposed standards would require a cumulative capital investment of $8.2 million for newly constructed production facilities and up to $19.0 million for modified and reconstructed production facilities through 1986. This capital investment would not defer construction of petroleum refinery units. The industry-wide net annualized cost for new, modified, and reconstructed production facilities could be as much as $8.2 million in 1986. These costs would be distributed among about 100 newly constructed production facilities and up to 182 modified and reconstructed production facilities that could be affected by 1986. Significant price increases are not expected to result from implementation of these standards because the annualized cost of the proposed standards is a small fraction (0.1 percent or less) of the yearly revenue expected from new, and modified, reconstructed production facilities.

Rationale

Selection of Sources and Pollutants

The Priority List (40 CFR 60.16, 44 FR 49222, August 21, 1979) includes, in order of priority for standards development, various major source categories that the Administrator has determined contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The order of the listed categories is based on consideration of the three factors specified in Section 111(f) of the Clean Air Act: (1) The quantity of air pollutant emissions which each category will be designed to emit, (2) the extent to which each such pollutant may reasonably be anticipated to endanger public health or welfare, and (3) the mobility and competitive nature of each category. The Priority List identifies the source categories for which EPA must promulgate standards of performance. The category "Petroleum Refineries: Fugitive Sources" ranks third on the list.

Fugitive emission sources at petroleum refineries include compressors, pumps, valves, flanges, pressure relief devices, open-ended valves, sampling connection systems, process drains, wastewater separators, and cooling towers. Process drains and wastewater separators are part of the wastewater system within a petroleum refinery. Studies are currently being conducted which should allow development at a later date of standards of performance for fugitive emission sources which are part of a refinery wastewater system. Presently available refinery data on cooling towers indicate that new cooling towers use indirect heat transfer and that emissions from these cooling towers are much less than emissions from cooling towers that use direct heat transfer. Additionally, control techniques for indirect cooling towers are not well defined. Adequate information is available, however, to develop standards of performance for compressors, pumps, flanges, valves, pressure relief devices, sampling connection systems, and open-ended valves. Therefore, EPA selected compressors, pumps, flanges, valves, pressure relief devices, sampling connection systems, and open-ended valves as the fugitive emission sources covered by the proposed standards.

Fugitive emission sources covered by the proposed standards emit volatile organic compounds (VOC) that contribute to atmospheric photochemical reactions. As discussed in Appendix E of the BID, about 100 newly constructed production facilities and as many as 182 modified or reconstructed production facilities could become covered by the proposed standards during the period from 1982 to 1986. If the fugitive emission sources covered by the proposed standards in these 282 production facilities are controlled only by existing maintenance procedures, an estimated 64,000 megagrams of VOC per year (Mg/yr) would result from these facilities in 1986. If however, these sources are controlled by SIP's in States not attaining the national ambient air quality standard (NAAQS) for ozone and by existing maintenance procedures in States attaining the NAAQS for ozone, an estimated 49,000 Mg/yr would

result from these facilities in 1986. The proposed standards, as presented in this preamble, would reduce these emissions to about 16,000 Mg/yr in 1986.

In summary, as required by Section 111(f) of the Clean Air Act, EPA selected fugitive emission sources at petroleum refineries as a source category for which EPA must promulgate standards of performance. After considering the adequacy of available information, EPA decided to propose standards for compressors, pumps, flanges, valves, pressure relief devices, sampling connection systems, and open-ended valves. In 1986, emissions of VOC would be reduced by at least 31,000 Mg/yr for the fugitive emission sources covered by the proposed standards.

Standards of performance have other benefits in addition to achieving emissions reductions. Standards of performance establish a degree of national uniformity to air pollution standards, and, therefore, preclude situations in which some States may attract new industries as a result of having relaxed standards relative to other States. Further, standards of performance provide documentation that reduces uncertainty in case-by-case determinations of best available control technology (BACT) for facilities located in NAAQS attainment areas and of lowest achievable emission rates (LAER) for facilities located in NAAQS nonattainment areas. This documentation includes identification and comprehensive analyses of alternative emission control technologies, development of associated costs, evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternate technologies. This documentation also provides an economic analysis that reveals the affordability of controls in a study of the economic impact of controls on an industry.

The rulemaking process that establishes standards of performance ensures adequate technical review and promotes participation of representatives of the industry being considered for regulation, government, and the public affected by that industry's emissions. The resultant standards represent a balance in which government resources are applied in a well publicized national forum to reach a decision on a pollution emission level that allows for a dynamic economy and a healthful environment.

Selection of Affected Facilities

The choice of the affected facility for the proposed standards is based on EPA's interpretation of Section 111 of the Clean Air Act and on the judicial construction of its meaning [ASARCo, Inc., v. EPA, 578 F.2d 319 (D.C. Cir. 1978)]. Under Section 111, standards of performance for new stationary sources must apply to "new sources;" "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, may consist of numerous facilities—equipment or groups of equipment—which emit air pollutants and which, consequently, may be viewed as "sources." EPA uses the term "affected facility" to designate the equipment or groups of equipment, within a particular kind of plant, chosen as the "source" affected by given standards of performance.

In choosing the affected facility, EPA must decide which equipment or groups of equipment is the appropriate unit, or the "source," for separate standards of performance in the particular industrial context involved. EPA must do this by examining the situation in light of the terms and purpose of Section 111 of the Clean Air Act. One major consideration in determining the definition of a source is that the use of a narrower designation results in bringing replacement equipment under standards of performance sooner. If, for example, an entire plant is designated as the affected facility, no part of the plant would be covered by the standards unless the plant as a whole is "modified" (see 40 CFR 60.14) or "reconstructed" (see 40 CFR 60.15). The plant as a whole could be considered modified only if the replacement resulted in an increase in the aggregate emissions from the entire plant. The plant as a whole could be considered reconstructed only if the cost of the replacement exceeded 50 percent of the cost of an entire new plant. If, on the other hand, each piece of equipment is designated as an affected facility, then as each piece is replaced, the replacement piece will be a new source subject to the standards regardless of the cost of the replacement or whether the replacement caused emissions from the plant as a whole to increase. Since the purpose of Section 111 is to minimize emissions by application of the best demonstrated system of emission reduction at all new and modified sources (considering cost, nonair quality health and environmental impacts, and energy requirements), there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if EPA concludes either that: (a) A broader designation of the affected facility would result in greater emission reduction; or (b) consideration of the other relevant statutory factors (technical feasibility, costs, nonair quality health and environmental impacts, and energy requirements) leads to the conclusion that a broader designation is appropriate.

Affected facilities for standards that would cover fugitive emission sources could be defined as individual emission sources (equipment components), groups of equipment components that are operated in conjunction with each other (process units), or groups of process units at one location (plant sites). In determining which alternative definition of affected facilities to select for petroleum refinery fugitive emission sources, EPA first considered the roles of modifications and reconstructions and how they affect the overall emission reduction potential for these sources. As a result, EPA concluded that a definition of an affected facility which is based on the plant site would provide the lowest emission reduction potential. It was further concluded that a definition that is based on equipment components would provide an emission reduction potential similar to a definition that is based on process units. Therefore, EPA rejected the plant site basis and considered the equipment component basis and process unit basis definitions, in conjunction with other relevant factors, before defining the affected facility for petroleum refining fugitive emission sources.

The alternative of defining facilities on the basis of equipment components was reviewed first. Equipment components (such as pumps and valves) are typically much smaller than the average source covered by Section 111, and there are many of these equipment components per process unit. If EPA selected equipment components as the basis for defining affected facilities, situations would arise in which replaced equipment components in existing process units would be subject to the standards, while adjacent components would not be subject to the standards. With such a mixture of new and existing components, the effort to keep track of equipment components covered by the standards and components not covered by the standards would be costly. Implementing a leak detection and repair program, the principal control technique considered for the proposed standards, for a very small proportion of all the equipment components at a plant site would be too costly. As discussed below, compressors are an exception to

these considerations. Therefore, EPA rejected the equipment component designation for fugitive emission sources other than compressors. Consequently, EPA examined the next most narrow alternative (the group of equipment components within a process unit) for fugitive emission sources other than compressors.

The alternative of defining an affected facility as the group of equipment components, other than compressors, within a process unit would achieve as much emission reduction as the first alternative. In addition, it would have no associated cost of distinguishing between those sources covered by the standards and those not covered. Consideration of the other relevant statutory factors did not lead to the conclusion that designating each group of equipment components in a process unit as an affected facility would lead to adverse impacts. Therefore, EPA selected the group of equipment components within a process unit as the affected facility for fugitive emission sources other than compressors.

Relatively few compressors are located in petroleum refinery process units; in fact, may process units do not contain compressors. When a compressor is used in a process unit, it is designed for use only within that process unit. In general, there are no spare compressors in petroleum refineries, and compressors that are in place are readily identifiable. Thus, it would not be costly for an owner or operator to keep track of compressors covered by the standards and compressors not covered by the standards. EPA considered the relevant statutory factors before selecting the alternative as the basis for defining the affected facility for compressors located at petroleum refineries. Based on these considerations, EPA selected the equipment component as the affected facility for compressors.

Even though all new compressors can be designed to use the control technology described in Chapter 4 of the BID, a few existing compressors are not designed to allow reasonable retrofitting of this control technology. A few existing reciprocating compressors cannot be retrofitted with this control technology without completely replacing the distance piece or, in some cases, completely replacing the compressor. The cost of replacing a distance piece or compressor in order to bring an existing reciprocating compressor into compliance with the proposed standards would be exorbitant.

It is unlikely that any existing compressors would be covered by the standards through the modification provisions of 40 CFR 60.14 because increases in fugitive emissions from a compressor are unlikely. However, some existing compressors would be covered by the standards through the reconstruction provisions of 40 CFR 60.15. Since each compressor would be an affected facility, EPA would make a determination that it is technically or economically feasible for an existing reciprocating compressor to meet the standards [see 40 CFR 60.15(e)] before the compressor would be covered through the reconstruction provisions. This determination could be used to exempt the few existing reciprocating compressors which are not designed to allow reasonable retrofitting of the control technology described in Chapter 4 of the BID. If compressors were included among other fugitive emission sources in defining affected facilities, then an existing compressor could become subject to the standards under the modification provisions and an independent determination would not be used to consider whether an existing reciprocating compressor can be reasonably retrofitted with the control technology. These considerations support the selection of the equipment component as the affected facility for compressors.

In summary, the proposed standards apply to two types of affected facilities. Each refinery compressor in VOC service is one type of affected facility. The second type of affected facility comprises all fugitive emission sources in VOC service, other than compressors, within a refinery process unit. A process unit is defined as equipment components assembled to perform any of the physical and chemical operations within a petroleum refinery. More specifically, a process unit has discrete boundaries that consist of the points where process fluid is discharged from the preceding refining activity and where the physically or chemically treated process fluid is discharged for storage or further refining. For example, a crude oil atmospheric distillation unit is a process unit because crude oil enters the unit's column through the crude oil desalter and the preheater furnace and then the fractions separated by the column are discharged through several pipelines for further refining by other process units. There may be several columns associated with one process unit. For example, a prefractionation column may be used to separate light gasoline from the crude oil before the crude oil is separated into heavy naphtha, kerosene, and heavy gasoline. If a vacuum distillation column is employed to refine the heaviest fractions (bottoms) from the atmospheric distillation column, the vacuum distillation column is a separate process unit consisting of all equipment between the atmospheric distillation column bottoms discharge and vacuum distillation column discharge points. Other examples of petroleum refinery process units include, but are not limited to, equipment comprising fluid catalytic cracking units, storage vessels, and coking units. Thus, the process unit is used as the basis for defining an affected facility, but coverage is limited to fugitive emission sources. In addition the proposed standards would exempt additions made for process improvements if they are made without incurring a "capital expenditure" as defined in the General Provisions. Exemptions are made for routine replacement and for additions made to increase production rate if they can be accomplished without capital expenditures. There are many specific reasons for routine additions and changes made in a process unit. For example, a small number of fugitive emission sources might be added in making changes to increase productivity, to increase ease of maintenance, to improve plant safety, and to correct minor design flaws.

Sources covered by the standards of performance for VOC fugitive emission sources within the synthetic organic chemical manufacturing industry, the standard for benzene fugitive emission sources, and standards of performance being developed for fugitive emission sources within natural gas processing plants would be excluded from these standards.

Control Techniques for Fugitive Emission Sources

There are basically two types of control techniques available for fugitive emission sources: (1) Leak detection and repair programs and (2) equipment, design, and operational requirements. Leak detection and repair programs reduce fugitive emissions of VOC by establishing a procedure which includes monitoring fugitive emission sources to detect those that leak VOC's and steps to repair leaking fugitive emission sources. Both types of control techniques apply to pressure relief devices, valves in gas/vapor and light liquid service, and pumps. Equipment, design, and operational requirements apply to open-ended valves, compressors, and sampling connection systems. The control techniques considered for each fugitive emission source covered by the proposed standards are summarized below and

are described more fully in Chapter 4 of the BID.

VOC emission reduction and control cost of some fugitive emission source leak detection and repair programs were determined using the leak detection and repair (LDAR) model. The LDAR model is an empirical model developed for estimating the fraction of fugitive emission sources screened for leaks during each selected monitoring interval, the fraction of sources repaired each period, and the emission reduction efficiency of each leak detection and repair program. Detailed information required for LDAR model input is available for valves and pumps. However, because detailed LDAR model data input are not available for pressure relief devices, engineering judgment along with the LDAR model were used to determine the impacts associated with leak detection and repair programs for pressure relief devices. The LDAR model and LDAR model impact analyses are discussed in detail in Appendix F of the BID.

Based on emission reductions and control costs as estimated in the BID, control costs per megagram of VOC emission reductions were calculated. These estimates are presented in Table 1 for each control technique for fugitive emission sources covered by the proposed standards.

Pressure Relief Devices. Fugitive emissions of VOC from pressure relief devices result from leakage of process materials through the pressure relief device valve seat. VOC emissions can be controlled by a leak detection and repair program or by installation of a rupture disc between the process stream and pressure relief device.

The annualized costs and VOC emissions reductions achieved for a quarterly leak detection and repair program and for use of control equipment (rupture discs) were determined for pressure relief devices. A quarterly leak detection and repair program is less expensive than using rupture discs. However, rupture discs achieve a higher degree of fugitive VOC emission control. The control costs per megagram of VOC reduced and the emission reductions achieved are presented in Table 1.

Table 1.—Control Costs Per Megagram of VOC's Reduced[a]

Fugitive emission source	Control technique[b]	Emission reduction (mg/yr)[c]	Average[d] $/mg	Incremental[e] $/mg
Pressure relief devices	Quarterly leak detection and repair	4.4	(170)[f]	(170)
	Rupture discs[g]	9.8	440	800
Compressors	*Controlled degassing vents*[g]	16.5	140	140
Open-ended valves	*Caps on open ends*[g]	2.8	420	440
Sampling connection systems	*Closed purge sampling*[g]	2.5	810	810
Valves	Quarterly leak detection and repair	31.7	(90)	(90)
	Monthly leak detection and repair[g]	37.1	(40)	300
	Sealed bellows valves	110.0	6,500	5,790
Pumps	Annual leak detection and repair	3.0	3,480	3,480
	Monthly leak detection and repair[g]	11.5	360	80
	Dual mechanical seal systems	13.9	2,200	6,200

[a] Costs and emission reductions based on fugitive emission source (component) counts in Model Unit B from the BID, EPA-450/3-81-015a, page 6-3.
[b] Further discussion of control techniques used can be found in Chapters 4 and 6 of the BID.
[c] Emission reductions are for Model Unit B. Refer to BID Tables 3-1, 7-1, and F-14.
[d] Average dollars per megagram (cost effectiveness) = net annualized cost per component ÷ annual VOC emission reduction per component.
[e] Incremental dollars per megagram = (net annualized cost of the control technique − net annualized cost of the next less restrictive control technique) ÷ (annual emission reduction of control technique − annual emission reduction of the next less restrictive control technique).
[f] Values in parentheses denote savings.
[g] Control techniques selected as the basis for the proposed standards are italicized.

Compressors. Packed seals, mechanical seals, or liquid film seals are used to limit leakage of process gases around compressor drive shafts. These seals can emit VOC as a result of seal deterioration or imperfections. VOC also can be emitted from barrier fluid degassing vents that are used on some types of dual mechanical seals. Fugitive emissions of VOC from compressor seals can be controlled by venting the leakage to an air pollution control device (controlled degassing vents). The annualized costs and emission reductions associated with venting the leakage to an air pollution control device results in control costs per megagram of VOC reduced and emission reductions as presented in Table 1.

Open-Ended Valves and Sampling Connection Systems. Fugitive emissions of VOC result from leakage of process fluids around open-ended valves in the shut position or around incompletely closed open-ended valves. These emissions can be controlled by the installation of a cap or a second valve. Fugitive emissions of VOC arise when process fluids are purged from sampling lines. These emissions can be reduced through the use of closed sampling systems. The control costs per megagram of VOC reduced and the emission reductions achieved are presented in Table 1.

Valves. Fugitive emissions of VOC result when valve packings or O-rings that are used to limit leakage of process fluids around valve stems deteriorate. VOC emissions from valves can be reduced through leak detection and repair programs or the use of sealed bellows valves.

The annualized costs per megagram of VOC emissions reduced and emission reductions achieved were determined for leak detection and repair programs and the use of sealed bellows valves. These costs and emission reductions are presented in Table 1. Quarterly monitoring for leaks from valves in gas/vapor and in light liquid service results in savings. Monthly leak detection and repair of valves in gas/vapor and light liquid service increases the degree of emission reduction while maintaining the savings; however, the magnitude of these savings are less than the savings obtained for a quarterly leak detection and repair program. Sealed bellows valves provide the highest degree of VOC control; however, the control cost per megagram of VOC reduced is substantially greater than the costs for any of the leak detection and repair programs.

Pumps. Fugitive emissions of VOC result from leakage of process fluids around pump drive shafts and through deteriorated seal packings or worn mechanical seal faces. VOC can also be emitted from the barrier fluid degassing vents used on some types of dual mechanical seal systems. VOC emissions from pump seals can be reduced through leak detection and repair programs or through the use of dual mechanical seals with controlled degassing vents.

The control costs incurred for each megagram of VOC emissions reduced and emission reductions achieved were determined for leak detection and repair programs and the use of dual mechanical seals with controlled degassing vents. These costs and emission reductions are presented in Table 1. Dual mechanical seals with controlled degassing vents provide the greatest amount of VOC emission reduction; however, the control cost per megagram of VOC reduced is greater than that for either leak detection and repair program.

Selection of the Basis for the Proposed Standards

Section 111 of the Clean Air Act, as amended, requires that standards of performance be based on the best system of continuous emission reduction that has been adequately demonstrated, considering costs, nonair quality health and environmental impact and energy requirements (best demonstrated technology). As a first step toward determining which control techniques should be selected as the basis of the proposed standards, EPA analyzed the annualized cost of controlling VOC emissions and the resultant VOC reduction for each alternative control technique. EPA also considered the nonair environmental, energy, and economic impacts associated with selecting alternative control techniques as the basis for the proposed standards.

The control costs per megagram of VOC reduced are presented in Table 1. These costs do not represent the actual amounts of money spent at any particular plant site. The cost of VOC emission reduction systems will vary according to the petroleum product being produced, production equipment, plant layout, geographic location, and company preferences and policies. However, these costs are considered typical of control techniques for fugitive emission sources within petroleum refineries and can be used in making decisions about the level of control to be required.

After review of control costs per megagram of VOC reduced, EPA judged that the cost of certain control equipment on fugitive emission sources is unreasonably high. The analysis presented in Table 1 shows that leakless equipment on valves in gas/vapor and light liquid service have incremental control costs per megagram of VOC reduced that are about $6,800. The analysis also shows that dual mechanical seal systems on pumps have an incremental control cost per megagram of VOC reduced of about $8,200. After examining these costs and resulting emission reductions, EPA determined the control costs per megagram of VOC reduced for leakless equipment on valves and dual mechanical seal systems on pumps to be unreasonably high.

EPA decided that a leak detection and repair program with monthly monitoring for pumps and valves and the use of control equipment for pressure relief devices, open-ended valves, sampling connection systems, and compressors have reasonable control costs per megagram of VOC reduced. These control techniques are italicized in Table 1. The incremental control costs per megagram of VOC reduced for these control techniques range from a cost of $80 to a cost of about $900 and are considered reasonable. Petroleum refineries are large emitters of VOC with fugitive emission sources comprising a significant VOC emitting segment in petroleum refineries. These control techniques would result in a nationwide reduction of at least 31,000 Mg of VOC in the fifth year after proposal. It is reasonable to expect that a reduction of this size in VOC emissions from the petroleum refining industry would be of significant benefit to the environment. After considering the results of the analysis of the control costs per megagram reduced by these control techniques, EPA tentatively selected them as the basis for the proposed standards. Economic, energy, and nonair quality environmental impacts were then examined to determine if they would alter this selection of control techniques.

In considering the potential economic impacts of the control techniques, EPA examined regulatory alternatives that included six combinations of the control techniques for fugitive emission sources. That is, each regulatory alternative included one of the control techniques considered for each fugitive emission source. For example, Regulatory Alternative V included rupture discs on pressure relief devices, controlled degassing vents on compressor seals, caps on open-ended valves, closed purged sampling for sampling connection systems, monthly leak detection and repair programs for valves in gas/vapor and light liquid service, and dual mechanical seal systems on pumps. Regulatory Alternative VI was the most costly and had the greatest emission reducton. The regulatory alternatives are described in detail in Chapter 6 of the BID; the economic impacts of the regulatory alternatives are discussed in Chapter 9 and Appendix F of the BID.

The economic analysis shows that the only regulatory alternative which could cause a significant adverse economic impact on petroleum refineries included the use of leakless equipment on valves (Alternative VI). The analysis shows that any combination of the control techniques presented in Table 1, excluding the use of leakless equipment on valves, would not have a significant adverse economic impact on petroleum refineries. The analysis shows that the control techniques for which it was decided the costs per megagram of VOC reduced are reasonable would result in no adverse impact on profitability (decrease less than 0.5 percent), would have a potential to slightly increase the consumer price of petroleum products (0.1 percent or less), and would have no adverse impact on capital availability for construction of petroleum refineries. Since consideration of costs per megagram of emission reduction eliminated the only control technique which could have contributed to an adverse economic impact, consideration of economic factors played no further role in the selection of the basis of the proposed standards.

EPA also examined the nonair quality environmental and energy impacts of the control techniques considered for each source. Analysis of these impacts for the various regulatory alternatives are presented in Chapter 7 and Appendix F of the BID. There were no significant adverse impacts identified; therefore, the nonair quality environmental and energy impacts did not affect the decision on the basis of the proposed standards.

In summary, the most effective control techniques which were considered to have reasonable costs per megagram of VOC emissions reduced were selected as the basis of the proposed standards.

These control techniques include a monthly leak detection and repair program for pumps and valves, and control equipment for pressure relief devices, open-ended valves, sampling connection systems, and compressors. Less restrictive control techniques were not considered further because they achieved less emission reduction, and there were no cost, economic, energy, or nonair quality environmental impacts which necessitated further examination of these control techniques.

Selection of Format for the Proposed Standards

Several formats could be used to implement the control requirements selected as the basis for the proposed standards. Section 111 of the Clean Air Act requires that a standard of

performance be prescribed unless, in the judgment of the Administrator, it is not feasible to prescribe or enforce such a standard. Section 111(h) defines two conditions under which it is not feasible to prescribe or enforce a performance standard. These conditions are: (1) If the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations, or (2) if the pollutants cannot be emitted through a conveyance device. If a performance standard is not feasible to prescribe or enforce, then the Administrator may instead promulgate a design, equipment, work practice, or operational standard or combination thereof.

A performance standard allows for some flexibility because any control technique may be used if it achieves the level of emission reduction represented by the standard. However, for most refinery fugitive emission sources, it is not feasible to prescribe a performance standard. One approach to prescribing a performance standard is to limit emissions directly. Except in those cases in which standards can be set at "no detectable emissions," the only way to measure emissions from refinery fugitive emission sources, such as pumps and valves, would be to use a bagging technique for each of the sources in a process unit. The great number of sources and their dispersion over large areas would make such a requirement economically impracticalbe. Therefore, EPA has not selected this type of performance standard format in prescribing the proposed standards.

Another approach for prescribing a performance standard would be to specify a number or percent of fugitive emission sources that would be allowed to leak. This approach would be more qualitative than an approach based on quantitative emission measurements such as bagging. This format would be based on a leak frequency limit rather than an emission limit and would have some of the same benefits of flexibility. The only fugitive emission source for which a leak frequency limit would be applicable is valves because other fugitive emissions are too few in number to allow a meaningful percent to be determined. But, the variability in the percentage of valves leaking among process units and the resulting correlation to emissions precludes setting an allowable percentage of valves leaking that could be achieved by all process units within the refining industry. This variability is observed even among units in which leak detection and repair programs are being implemented. Therefore, establishing an allowable percentage of leaking valves is not practicable.

However, establishing an allowable percentage of valves leaking based on cost considerations and levels of performance is possible. If a process achieves this level of good performance, then the owner or operator may elect for the valves to comply with an alternative standard for valves. Because this approach would add flexibility to the proposed standards, the proposed standards incorporate this approach. This is discussed in more depth in *Alternative Standards for Valves* in the next section of this preamble.

Based on EPA's determination that it is infeasible to prescribe a performance standard for most fugitive sources at refineries, the alternative regulatory formats identified in Section 111(h) were considered. One possible format is an equipment standard. Equipment standards provide well-documented emission reductions. Determining compliance would require an initial check to ensure that the equipment had been installed properly and periodic checks to ensure that the equipment was continuing to operate properly. An inherent disadvantage associated with this type of format is less site-specific flexibility.

In the next section of this preamble, EPA considers emission reductions associated with equipment other than the equipment selected as the basis for the proposed standards. As a consequence, EPA is proposing to allow certain equipment as alternatives to the equipment and work practices required by the proposed standards. Alternative equipment is allowed if it provides a reduction in emissions that is at least equivalent to the reductions achieved by the equipment or work practices required by the proposed standards. In addition, owners and operators of affected facilities would have additional flexibility because they could obtain EPA's approval to employ other equivalent techniques under Section 111(h)(3) and innovative techniques under the waiver provisions of Section 111(j).

Another format is work practices. An example of this format would be a program for leak detection and repair. Inspection methods, inspection time intervals, and time allowed for repair would be defined in detailing the work practices. Compliance with a work practice standard would be determined by judging success in implementing the work practices. Recordkeeping would be needed to serve as the basis for judging this success.

Design and operational standards are other possible formats. Rather than requiring specific control equipment or work practices, a design or operational format would require that a certain design representative of a level of control be attained or that certain procedures be followed during operation of a process. For example, combustion devices may be required to be designed to achieve a specified level of control efficiency.

The proposed standards could incorporate all of the possible formats. Different formats are required for different fugitive emission sources because characteristics of the emission sources, and the available emission control techniques, and the applicability of the measurement method used for fugitive emission sources differ among the sources. In the next section, the rationale for selecting a particular format is explained for each type of fugitive emission source. For each fugitive emission source, the feasibility of prescribing or enforcing a performance standard is discussed. If a performance standard is not feasible, the rationale for selecting another format is presented.

Selection of Emission Limit, Equipment, Work Practice, Design and Operational Standards

Pressure relief devices. Rupture disks were selected as the basis for the proposed standards for gas service pressure relief devices. When the integrity of rupture disks is maintained, fugitive emissions of VOC through the relief device are eliminated. Rupture disks maintain their integrity unless an overpressure occurs. After the occurrence of an overpressure, replacement of the rupture disk once again eliminates fugitive emissions of VOC through the pressure relief device.

For control techniques that eliminate fugitive emissions, an emission limit measurement for "no detectable emissions" is feasible. An instrument reading of less than 500 parts per million by volume (ppmv) above a background concentration based on Reference Method 21 can be used to indicate whether fugitive emissions have been eliminated, that is, have "no detectable emissions." Measurement methods for determining the quantitative emission rate from pressure relief devices are not feasible because they would require bagging each piece of equipment. However, as discussed in Appendix D of the BID, Reference Method 21 does not allow quantitative measurement of emissions, but it does allow the detection of leaks of fugitive VOC

emissions from relief devices. Therefore, the proposed standard for relief devices in gas service is "no detectable emissions."

The "no detectable emission" limit would not apply to discharges through the pressure relief device during overpressure relief because the function of relief devices is to discharge process fluid, thereby reducing dangerous high pressures within the equipment. The standard would specify, however, that the relief device be returned to a state of no detectable emissions within 5 days after such a discharge. The standard would further require an annual test to verify the "no detectable emissions" status of the pressure relief devices.

A test to determine if a fugitive emission source is complying with a "no detectable emissions" requirement is a performance test. As provided in 40 CFR 60.8(f) performance tests require three separate runs, unless otherwise specified in an applicable subpart. A test to determine if a fugitive emission source is complying with a "no detectable emissions" requirement does not need three runs. Thus, performance tests to determine "no detectable emissions" would be exempted from 40 CFR 60.8(f) by the proposed standards.

Performance test requirements under 40 CFR 60.8(d) include a notification to the Administrator 30 days before each performance test. For fugitive emission sources, tests to determine "no detectable emissions" may occur throughout a year and must occur after each overpressure relief. Requiring an owner or operator to notify the Administrator as provided in 40 CFR 60.8(d) is not considered reasonable for these proposed standards. Thus, to reduce the reporting burden on industry, owners or operators of affected facilities are exempted from 40 CFR 60.8(d) by the proposed standards.

As an alternative to the use of rupture disks and other techniques that achieve the "no detectable emission" limit, EPA is proposing to allow owners or operators to vent pressure relief devices to control devices achieving the requirements presented in the *Closed vent systems and control device* portion of this section of the preamble. When venting a pressure relief device, the control device also reduces emissions of VOC that occur during overpressure relief. EPA judges that the emission reduction lost by allowing 95 percent control for fugitive emissions (rather than 100 percent control achieved by the "no detectable emission" limit) is offset by the emission reduction gained by controlling the emissions due to overpressure relief. Thus, EPA is proposing to allow the use of closed vent systems connected to a control device as an equivalent alternative to the "no detectable emission" limit.

Leakless equipment. The proposed standards would not require leakless equipment, such as sealed-bellows and diaphragm valves, canned and diaphragm pumps, and sealless compressors. This equipment is either not widely applicable to refineries, or as indicated in Table 1, the control costs per megagram of emission reduction achieved are unreasonable. However, use of leakless equipment is clearly equivalent to the proposed standards for pumps, compressors, and valves. The proposed standards would allow the use of such equipment as an alternative to the required practices.

Leakless equipment would be required to operate with "no detectable emissions" at all times when this equipment is in service. As with pressure relief devices, a performance test for "no detectable emissions" means an instrument reading of less than 500 ppmv or above a background concentration based on the measurement method of Reference Method 21. The proposed standards require that the leakless status of this equipment be verified annually and at other times if requested by EPA. In addition, the proposed standards would exempt these performance tests from 40 CFR 60.8(d) and 60.8(f) of the General Provisions.

Compressors. The basis of the proposed standards for compressors is mechanical seals with barrier fluid systems and controlled degassing vents. Emission limits for compressors have not been proposed because the application of available measurement methods would not be practicable because of technological or economic limitations. That is, bagging of compressors for emission measurement would be unreasonably expensive and impractical. Thus, EPA selected mechanical seals with barrier fluid systems and controlled degassing vents as the required equipment for compressors. The controlled degassing vents would use a closed vent system and a control device and, therefore, would be required to comply with the requirements discussed in the *Closed vent systems and control devices* portion of this section of the preamble.

EPA reviewed enclosure of the compressor seal area as an alternative to requiring seals with barrier fluid systems. If an enclosure captures all emissions from the compressor seal area, then the fugitive emissions can be captured and transported effectively to a control device by a closed vent system. The level of emission reduction achieved by this alternative is at least equivalent to the level of reduction attained by compressors that are fitted with the equipment that was selected as the basis for the proposed standards. Therefore, EPA proposes to allow enclosure of the compressor seal area and venting of fugitive emissions through a closed vent system to a control device, provided the enclosure captures all the emissions from the seal area. The closed vent system and control device would be required to comply with requirements discussed in the *Closed vent systems and control devices* portion of this section of the preamble.

Section 111(h) of the Clean Air Act requires that when equipment standards are established, requirements must also be established to ensure the proper operation and maintenance of the equipment. A pressure or level indicator on the fluid system would reveal any catastrophic failure of the seal or of the barrier fluid system. This indicator could be monitored in the control room or be equipped with an alarm to signal a failure of the system. Thus, a requirement to include an indicator to detect failure of the system is proposed to ensure the proper operation and maintenance of the mechanical seal system.

As mentioned in the *Selection of Affected Facilities* section of this preamble, there may be some cases in which seals with barrier fluid systems can not be utilized because some existing compressors can not technologically or economically be retrofitted with dual seals and barrier fluid systems. For example, use of a dual seal with barrier fluid or its equivalent could require replacement of the distance piece on a reciprocating compressor or replacement of an entire reciprocating compressor. In these situations, determination of whether installation of a dual seal and barrier fluid system or its equivalent is technologically or economically feasible can take place during the determination of whether an existing compressor will be considered reconstructed and therefore affected by the standards. If EPA determines that an existing compressor can not be technologically or economically retrofitted, then the compressor would not be required to comply with the standards.

Open-Ended Valves. The basis of the proposed standards is equipment that would effect enclosure of the open end. Open-ended valves are not designed to release fugitive emissions to a conveyance, and bagging of these sources for emission measurement

would not be economically or technologically practicable. A "no detectable emissions" standard could not be selected as the format for the proposed standard because VOC could leak through the valve seat and become trapped in the line between the open-ended valve and the enclosure. The trapped VOC could be emitted to atmosphere, even though the VOC emitted to atmosphere would be much less than the VOC emitted without the enclosure. Thus, EPA selected the use of an equipment standard for control of fugitive emissions from open-ended valves.

Enclosure of the open end can be achieved by installing a cap, plug, or a second valve. The control efficiency associated with these techniques is approximately 100 percent, except when the line is used for draining, venting, or sampling operations. Thus, EPA is proposing standards that require open-ended valves to be equipped with a cap, plug, or a second valve. If a second valve is used, the proposed standards require the upstream valve to be closed first. After the upstream valve is completely closed, the downstream valve must be closed. This operational requirement is necessary in order to prevent trapping process fluid between the two halves, which could result in a situation equivalent to the uncontrolled open-ended valve.

Sampling connection systems. Closed-purge sampling was selected as the basis for the standards for sampling connection systems. Closed-purge sampling connection systems eliminate emissions due to purging by either returning the purge material directly to the process or by collecting the purge in a collection system which is not open to the atmosphere. Generally, these sampling connection systems are not designed to release fugitive emissions to a conveyance, and bagging of these sources for emission measurement would not be economically or technologically practicable. Although closed-purge sampling effectively eliminates emissions due to purging, a "no detectable emissions" limit could not be prescribed because closed-purge systems can have detectable emissions. Thus, EPA selected closed-purge sampling as the equipment requirement for sampling connection systems.

In addition to closed-purge sampling, EPA considered closed-vent vacuum systems connected to a control device and *in-situ* sampling systems. Closed-vent vacuum systems that are connected to a control device extract the sample purge and then reduce emissions from the sample purge by transporting the VOC to the control device. *In-situ* sampling systems involve measurement or sampling of process stream conditions without extraction of the sample from the process stream. *In-situ* sampling systems, therefore, result in no emissions of VOC. If closed-vent vacuum systems are not open to the atmosphere and the control device complies with the requirements discussed in the *Closed vent systems and control devices* portion of this section of the preamble, then their reduction of VOC emissions would be equivalent to the reduction achieved by closed-purge sampling connection systems. Based on these considerations, EPA is proposing to allow closed-vent vacuum systems connected to control devices and *in-situ* sampling systems as allowable alternatives to closed-purge sampling.

Valves. Valves are generally not designed to release fugitive emissions to a conveyance. because of the large number of valves, bagging of these sources for emission measurement would not be economically or technologically practicable. As discussed in the *Selection of Format for the Proposed Standards* section of this preamble, an allowable percentage of valves leaking can not be prescribed because of process unit variability. A "no detectable emissions" limit can not be prescribed, because, with the control techniques selected as the basis for the proposed standards, valves will still occasionally leak.

Work practices consisting of periodic leak detection and repair programs were selected as the basis for the proposed standards for valves. Several factors influence the level of emission reduction that can be achieved by a leak detection and repair program. The three main factors are the monitoring interval, leak definition, and repair interval. Training and diligence of personnel conducting the program, the adequacy of repair methods attempted, and other site-specific factors may also influence the level of emission reduction achievable; however, these factors are less quantifiable. The overall emission reduction of a leak detection and repair program depends on the three main factors. Each of these three factors limits the effectiveness of the program. For example, if each of the factors selected for a leak detection and repair program represents a 90 percent effectiveness, then the overall effectiveness would be about 73 percent. Thus, the most effective definition that is reasonable for each factor should be selected.

The *monitoring interval* is the frequency at which individual component monitoring is conducted. The length of time between inspections is best determined by the rate at which new leaks occur and repaired leaks recur. More frequent inspections could then be required for sources which tend to leak more often. Available data indicate that leak recurrence is an important factor in predicting leaks from valves. That is, if a valve leaks, then it is more likely to leak than a valve that has not leaked. However, these data also show that some valves leak less frequently than others. EPA considers the annualized cost of monthly monitoring of valves that leak infrequently to be unreasonably high in comparison to the annualized cost of quarterly monitoring, considering the emission reduction achieved by monthly and quarterly monitoring. However, EPA does not consider the annualized cost of monthly monitoring of valves that leak frequently to be unreasonably high considering the emission reduction achieved by monthly monitoring of these valves. Thus, EPA is proposing that leak detection and repair programs include monthly monitoring for valves, except that quarterly monitoring would be allowed for valves which have been found not to leak for two successive months (monthly/quarterly monitoring).

Some valves are difficult to monitor because access to the valve is restricted. Difficult-to-monitor valves can be eliminated in new facilities but cannot be eliminated in existing facilities. Therefore, for facilities that become affected by a modification or reconstruction, EPA is proposing an annual leak detection and repair program for valves which are difficult to monitor. However, for new affected facilities, all valves would be subject to the proposed monthly leak detection and repair program. Valves which are difficult to monitor are defined as valves which would require elevating the monitoring personnel more than two meters above any readily available support surface. This means that ladders must be used, if needed, to elevate monitoring personnel.

In addition to valves that are difficult to monitor, some valves are unsafe to monitor because monitoring personnel would be subjected to imminent hazards. Valves which are unsafe to monitor cannot be eliminated in new or existing facilities. The proposed standards would allow an owner or operator with valves that are unsafe to monitor to develop a special leak detection and repair program. These special programs would conform with

the routine monitoring requirements of the proposed standards as much as possible, but would allow deviation from a routine monitoring so that monitoring would not occur under unsafe conditions. Valves which are unsafe to monitor are defined as those valves which could, based on the judgment of the owner or operator, expose monitoring personnel to imminent hazards from temperature, pressure, or explosive process conditions.

The *leak definition* is the instrument reading observed during monitoring that defines which sources require repair. As discussed in Appendix D of the BID, the proposed standards would require monitoring to follow Reference Method 21. The best leak definition would be the one that achieves the most emission reduction at reasonable costs. The emission reduction achieved would increase as the leak definition decreased, due to the increasing number of sources that would be found leaking and, therefore, repaired. As a matter of practical consideration, most commonly available hydrocarbon detectors that are considered intrinsically safe have a maximum reading of 10,000 ppm. A leak definition higher than 10,000 ppm, such as 20,000 ppm, could be selected (dilution probes could be used with the portable detectors); however, there would be less emission reduction than with the 10,000 ppm definition and no substantial associated cost savings. Consequently, there was no basis for selecting a leak definition greater than 10,000 ppm. A leak definition lower than 10,000 ppm may be practicable in the sense that leaks can be repaired to levels less than 10,000 ppm. However, EPA is unable to conclude that a leak definition lower than 10,000 ppm is practicable. Because the 10,000 ppm leak definition would achieve emission reductions at reasonable costs and safe available hydrocarbon detectors can accurately read 10,000 ppm, the 10,000 ppm number was selected as the leak definition for valves. This definition was also considered appropriate for pumps. The same portable monitor used for valves would be used for pumps, and consideration of other relevent factors did not indicate that the 10,000 ppm definition should be different for these sources.

The *repair interval* is the length of time allowed between the detection of a leaking source and repair of the source. To provide the maximum effectiveness of the leak detection and repair program, the repair interval should be selected to require expeditious reduction of emissions but allow the owner or operator sufficient time to maintain flexibility in the refinery's overall maintenance schedule.

The length of the repair interval would affect emission reductions achievable by the leak detection and repair program, because leaking sources would be allowed to continue to leak for a given length of time. Repair intervals of 1, 5, 10, 15, 30, and 45 days were evaluated. The effect on the emission reduction potential is proportional to the number of days the source is allowed to leak between detection and repair.

A repair interval of one day could cause severe problems in coordinating activities of personnel involved in leak detection and leak repair, and in some instances would not be technically feasible. A repair interval of one day would essentially require repair of each component as soon as the leak was discovered. Even though some owners or operators may have repair personnel assigned to the leak detection team, only simple field repair could normally be attempted within 1 day.

An initial attempt at repair of a leaking source should be accomplished as soon as practicable after detection of the leak. Most repairs can be done quickly. A 5-day period provides sufficient time to schedule simple field repair. Attempting to repair the leak within 5 days will help maintenance personnel to identify the leaks that can not be repaired with simple field repair or without shutdown of the affected facility.

Valves that are not repairable by simple field repair may require removal from the process for repair. Even repair intervals of 5 and 10 days could cause scheduling problems is repairing these valves. A 15-day interval provides time for isolating pieces of leaking equipment when equipment isolation is needed for repair beyond simple field repairs. A 15-day interval provides the owner or operator with sufficient time for determining precisely which spare parts are needed and provides sufficient time for flexibility in scheduling repair for these valves. In addition, a 15-day interval provides time for better determination of methods for isolating pieces of leaking equipment when equipment isolation is needed for repair beyond simple field repairs.

In general, a 5-day repair interval provides sufficient time to schedule simple field repair. A 15-day repair interval allows more efficient handling of more complex repair tasks while maintaining an effective reduction in fugitive emissions. A repair interval of 30 or 45 days provides less effective reduction in emissions and does not substantially improve the efficiency in handling repair tasks. Thus, the proposed standards require an initial attempt to repair a leaking valve within 5 days and complete repair, except as discussed below, within 15 days.

Delay of repair beyond 15 days would be allowed for leaks that could not be repaired without shutting down an affected facility. In general, these leaks would have to be repaired at the next scheduled facility shutdown. Spare parts for valves can usually be stocked such that all leaks that could not be repaired without shutting down the affected facility could be repaired during the shutdown. Spare parts include packing gland bolts and valve packing material. In a few instances, replacement of the entire valve assembly would be required. EPA is proposing to allow delay of repair beyond an affected facility shutdown for valves which require replacement of the entire valve assembly, provided the owner or operator can demonstrate that sufficient stock of spare valve assemblies had been maintained before the stock had been depleted.

Alternative Standards for Valves. The emission reduction and annualized cost of the proposed leak detection and repair program depend in part on the number of leaking valves that are detected during monitoring. If very few valve leaks are detected in an affected facility, then the amount of VOC that could be reduced by the proposed program for valves is much smaller than the amount that could be reduced in a facility having more leaks. Additionally, the annualized cost of the leak detection and repair program would be larger for an affected facility with fewer leaks than in an affected facility with more leaks, because the annualized cost includes a recovery credit based on the amount of VOC reduced by the program. Thus, the annualized cost per megagram of VOC emission reduction for the proposed leak detection and repair program varies with the number of valves which leak within an affected facility.

For example, a monthly leak detection and repair program for valves in light liquid service and valves in gas/vapor service results in an annualized credit of about $2,100 and achieves an annual emission reduction of 36.6 Mg for a typical small refinery process unit. In contrast, for a small process unit with 2.0 percent of the valves leaking on the average, a monthly leak detection and repair program results in an annualized cost of $3,500 and achieves an annual emission reduction of 4.9 Mg. For a small process unit with 0.5 percent of

the valves leaking on the average, a monthly leak detection and repair program results in an annualized cost of $4,200 and achieves an annual emission reduction of about 0.4 Mg.

There is no precise breakpoint in the annualized cost and emission reduction relationship. However, EPA judges that the emission reduction and annualized cost relationship is unreasonably high for process units having on the average fewer than 1.0 percent of valves leaking. Based on this judgment, an allowable percent of valves leaking was determined that reflects the average of 1.0 percent of valves leaking, as discussed below.

An allowable percent of valves leaking was selected that included the variability inherent in leak detection of valves. The variability in leak detection of valves can be characterized as a binominal distribution around the average percent of valves leaking. Inclusion of the variability in leak detection of valves is accomplished by straightforward statistical techniques based on the binominal distribution. An allowable percent of valves leaking of 2.0 percent, to be achieved at any point in time, would provide an owner or operator a risk of about 5 percent that greater than 2.0 percent of valves would be determined leaking when the average of 1.0 percent was actually being achieved. Based on these considerations, EPA considers an allowable percent of valves leaking of 2.0 percent to represent an average of 1.0 percent of valves leaking.

EPA is proposing two alternative standards which would exempt valves within process units from the required (monthly/quarterly monitoring) leak detection and repair program. Owners or operators of affected facilities may identify and elect to achieve either of the alternative standards. The alternative standards would allow owners or operators to tailor fugitive emissions control programs to their own operations. An owner or operator would report which alternative standard he or she had identified and elected to achieve.

The first alternative standard would limit the maximum percent of valves leaking within an affected facility to 2.0 percent. This type of standard would provide the flexibility of a performance standard. As previously pointed out in the *Selection of Format for the Proposed Standards* section of this preamble, an industry-wide performance standard which could be achieved at all facilities was not possible for valves. This was due to the variability in valve leak frequency and variability in the ability of a leak detection and repair program to reduce these leaks among all affected facilities within the industry. However, this alternative standard would allow any affected facility the option of complying with an allowable percent of valves leaking for a particular affected facility. Choosing this alternative standard would allow for the possibility of different leak detection and repair programs and substitution of engineering controls at the discretion of the owner or operator. This alternative standard would also eliminate a large part of the recordkeeping associated with the monthly/quarterly leak detection and repair program for valves.

Performance tests as specified in 40 CFR 60.8(f) require three runs. Three runs for performance tests to determine the percent of valves leaking are unnecessary. Thus, performance tests are exempt from § 60.8(f) in the proposed standards. However, this alternative standard would require a minimum of one performance test per year. Additional performance tests could be requested by EPA. If the results of a performance test showed that greater than 2.0 percent of the valves leak, the owner or operator could be cited for violation of the standards.

In certain circumstances, an owner or operator may want to request a waiver of future tests as provided in the General Provisions of 40 CFR Part 60. This would provide flexibility for owners and operators of petroleum refineries where, for whatever reason, routine leak detection and repair is not needed to effectively control emissions. This would include refineries which use superior equipment either due to the value or hazardous nature of the product, refineries which have effective occupational safety and health programs, or refineries which simply do not leak for unexplained reasons. Based on performance tests that demonstrate the achievability of the 2.0 percent standard and information that indicates that this standard would be achieved on a continuing basis, EPA could waive the annual performance tests.

The second alternative standard would allow the use of skip-period leak detection for valves. Under skip-period leak detection, an owner or operator could skip from routine leak detection for valves to less frequent leak detection. This skip-period leak detection program would require that a performance level of 2.0 percent be achieved on a continuous basis with more than 95 percent certainty. An owner or operator would choose one of two skip-period leak detection programs for valves and then implement that program. The first skip-period leak detection program could be used when fewer than 2.0 percent of the valves had been leaking for two consecutive quarterly leak detection periods. The first skip-period leak detection program would allow an owner or operator to skip every other quarterly leak detection period; that is, leak detection can be performed semi-annually. Under the second skip-period leak detection program, if fewer than 2.0 percent of the valves had been leaking for five consecutive quarterly leak detection periods, the owner or operator may skip three quarterly leak detection periods; that is, leak detection can be performed annually. When more than 2.0 percent of valves are found to leak monthly/quarterly leak detection would be required to be resumed.

Pumps. As with some of the previously discussed fugitive emission sources, pumps are generally not designed to release fugitive emissions to a conveyance. Because of the difficulty of routinely bagging pumps, bagging of these sources for emission measurement would not be economically or technologically practicable. Even though Reference Method 21 can be used to detect leaks from pumps, the number of pumps and the variability in the number of pumps leaking within process units does not allow the establishment of a performance standard. A "no detectable emissions" limit can not be prescribed because, with the control technique specified as the basis for the proposed standards, pumps can still leak.

In the analysis for the basis for the proposed standards, EPA selected a work practice consisting of periodic leak detection and repair program for pumps. As with valves, the effectiveness of the leak detection and repair program for pumps is limited by the selection of the monitoring interval, leak definition, and repair interval. The same leak definition and repair interval selected for valves was selected for pumps for the reasons discussed previously. Monthly monitoring was selected as the monitoring interval for pumps based on cost considerations, as discussed in the *Selection of Basis for the Proposed Standards* section of this preamble. One month provides the most effective leak detection and repair program for pumps without imposing difficulties or unreasonable costs in implementing the program.

Delay of repair beyond 15 days would be allowed for leaks that could not be repaired without shutting down the affected facility. These leaks would have to be repaired as soon as practicable, but not later than by the end of the next facility shutdown. Spare parts are generally stocked by refineries

in order to provide expeditious repair of pump seal failures. Sufficient stocks of spare parts can be maintained to complete pump seal repair during scheduled facility shutdown without imposing an unreasonable burden on industry. Therefore, delay beyond a shutdown is not allowed.

Several types of pumps with ancillary equipment can achieve emission reductions of VOC at least equivalent to that achieved by a monthly leak detection and repair program for pumps. These include dual mechanical seal systems that utilize a barrier fluid between the seals, enclosure of the pump seal area, and sealess pumps. If the barrier fluid in a dual seal system is maintained at a pressure greater than the pump stuffing box pressure, any leakage between the seals would be from the barrier fluid to the process fluid, so no process fluid would be emitted to the atmosphere. If the pump stuffing box pressure is greater than the barrier fluid pressure (for example, tandem seals), the barrier fluid collects the leakage from the inner seal; the process fluid collected by the barrier fluid is controlled by either (1) connection the barrier fluid degassing system to a control device with a closed vent system, or (2) by returning the barrier fluid to the process stream. Because these duel mechanical seal systems are at least equivalent to a monthly leak detection and repair for pumps, they have been exempted from the monthly monitoring provisions of the proposed standards.

Section 111(h) of the Clean Air Act requires that when equipment standards, such as dual mechanical seal systems, are established, requirements must also be established to assure the proper operation and maintenance of the equipment. A pressure of level indicator on the barrier fluid system would reveal any catastrophic failure of the inner or outer seal, or of the barrier fluid system. This indicator could be monitored in the control room or equipped with an alarm to signal a failure of the system. Thus, EPA is proposing these requirements to assure the proper operation and maintenance of the dual mechanical seal system.

Sealless pumps, such as diaphragm or canned pumps, do not have a potential leak area and, therefore, are at least equivalent to monthly leak detection and repair and dual seal systems. Thus, any equipment that complies with a "no detectable emissions" limit is equivalent to the monthly leak detection and repair program required in the proposed standards. As with other leakless equipment, the proposed standard requires an initial performance test, using the procedures specified in Reference Method 21, to verify that the piece of leakless equipment meets the "no detectable emissions" limit, and annual rechecks to ensure continued operation with "no detectable emissions."

In many cases, the seal area of a pump could be completely enclosed, and this enclosed area could be connected to a control device with a closed vent system. The control efficiency of this arrangement is dependent on the control efficiency of the combustion or vapor recovery system. The closed vent system could require a flow-inducing device to transport emissions from the seal area to the control device. However, some owners or operators may decide that this approach is preferable to leak detection and repair. Enclosing the seal area and venting the captured emissions to a control device by means of a closed vent system is a reasonable alternative because this system would be at least as effective as a monthly leak detection and repair program. Therefore, the EPA is proposing to allow pumps to be equipped with enclosed seal areas that are connected to a control device by a closed vent system.

Closed vent systems and control devices. Control devices would be used to reduce VOC captured and transported through closed vent systems. These control devices would be existing and would be designed to dispose of organic vapor streams from other sources in the plant. Because the streams from the closed vent systems will usually be low-flow or intermittent in comparison to streams from other sources, emissions in closed vent streams will often contribute a very small and varying portion of the total organic vapor stream going to the control device. Measurement techniques that reflect the effectiveness of these control devices to reduce fugitive emissions of VOC are limited. Because these measurements would require elaborate and costly material balancing of the VOC entering the control devices, it is not economically practicable to measure the emissions from these control devices. For this reason an emission standard is not proposed for control devices used to reduce VOC that are captured and transported by closed vent systems.

Control devices were selected as part of the best technological system of emission reduction for some fugitive emission sources (such as compressors) and are part of alternative approaches to achieving compliance with the standards for other fugitive emission sources (such as closed-vent vacuum systems connected to a control device). These control devices would already be in place in existing refineries and therefore would not be designed solely to reduce VOC streams from fugitive emission sources. Flares are almost always present in refineries. Enclosed combustion devices and vapor recovery systems are present in most, if not all, refineries. These existing control devices provide varying degrees of emission reduction, and, therefore, selecting standards of performance for these devices may not reflect the emission reduction capability of new control devices, nor the capability of devices specifically designed for control of fugitive emission sources.

Flares are used in petroleum refineries mainly as a means of handling emergency releases of combustible material from process units within the refinery. Flares also can be used in petroleum refineries to combust certain waste gas streams that might otherwise pose a safety problem if allowed to vent uncontrolled into the ambient air. EPA has examined recent flare studies in an effort to select a representative destruction efficiency estimate for calculating emission impacts of flares. The number of flare studies is limited, and no data specifically address conditions present within vent streams of fugitive emissions from petroleum refining process unit. Five flares studies provide information on flare gas composition, flowrate, and destruction efficiency. Each study can be found in complete form in the docket. In recent tests, smokeless steam-assisted elevated flares and smokeless elevated flares with no assist were found to be as efficient as other combustion devices (i.e., 98 percent efficient) in destroying VOC over a broad range of operating conditions if the heat content of the flared gas was maintained above 7.45 MJ/scm (200 Btu/scf), or 11.2 MJ/scm (300 Btu/scf), depending upon flare design, and the exit velocity of the flare is 22 m/sec (73 ft/sec) or less.

According to the current knowledge of flare design, the best available flare design or state-of-the-art flare design is the smokeless flare. The smokeless flare inducts combustion air into the flame by steam injection. The injection of steam increases the mixing of VOC within the flame zone thereby increasing destruction of the compounds. Smoking flares are environmentally less desireable because they emit particulates.

There are a number of techniques currently in use within industry which

help flares achieve smokeless operation. One technique involves the use of staged elevated flare systems, where a small diameter flare is operated in tandem with a large diameter flare. The system is designed such that the small flare takes the continuous low flow releases and the larger flare accepts emergency releases. A second technique involves the use of a small, separate conveyance line to the flare tip in order to maintain a high exit velocity for the continuous low flow, low pressure, gas flow. A third technique, sometimes used in conjuction with either of the above techniques, involves the use of continuous flare gas recovery. In the third technique, a compressor is used to recover the continuously generated flare gas "base load." The compressor is sized to handle the "base load," and any excess gas is flared. These techniques can be used to help provide smokeless operation of a flare which is used to reduce fugitive emissions of VOC that are captured and transported by closed vent systems.

EPA considered the available control devices and their VOC reduction efficiency before selecting the proposed requirements for these devices. The flares in operation within petroleum refineries are smokeless flares. Based on the available studies and a comparison of vent stream characteristics between these studies and fugitive emission sources, EPA believes that the average destruction efficiency of an in-place petroleum refinery smokeless flare would be about 98 percent destruction efficiency. Most enclosed combustion devices are designed and can be operated to achieve VOC emission reductions of at least 98 percent. Vapor recovery systems are available which are designed and can be operated to achieve VOC emission reductions of at least 95 percent. EPA considers control devices achieving 98 percent emission reduction too costly to add to a process unit solely to control fugitive emissions in light of the presence of control devices that can achieve 95 percent control. Therefore, EPA selected a VOC reduction efficiency of 95 percent for control devices used to reduce VOC's from fugitive emission sources.

EPA selected design and operational requirements for flares, enclosed combustion devices, and vapor recovery systems used to reduce VOC's from fugitive emission sources. These requirements reflect application of the best technological system of emission reduction for these control devices. The design and operation requirements for flares, discussed above, require smokeless operation and the presence of a flame. The presence of a flame can be ensured by monitoring the flare's pilot light with a thermocouple or some other heat sensor connected to an alarm. Smokeless oepration of the flare is ensured through visible emission requirements. The proposed standards would limit visible emissions from a flare to less than 5 minutes in any 2-hour period as determined by Reference method 22. (Revisions to Reference Method 22 wil be proposed soon in the **Federal Register** to broaden its applicability to flares. Comments on the use of Reference Method 22 for flares will be requested at that time.) The visible emission requirement is reasonable because may refineries currently comply with State limits similar to this requirement. In addition, steam assisted flares would have to be operated with exit velocities less than 22 m/sec combusting gases with heat contents greater than 11.2 MJ/scm. Flares operated without assist would have to be operated with exit velocities less than 22 m/sec combusting gases with heat contents greater than 7.4 MJ/scm. Because enclosed combustion devices and vapor recovery systems exist that provide at least 95 percent emission reduction, a 95 percent emission reduction design requrement is proposed for these control devices. For enclosed combustion devices that do not use catalysts to aid in combustion of organic vapor streams, provisions for a minimum vapor residence time of 0.75 seconds at a minimum temperature of 816° C will be considered equivalent to at least a 95 percent emission reduction efficiency.

Miscellaneous. Flanges in all services, pressure relief devices in liquid service, and all componets in "heavy liquid" (VOC fluids of which less than 10 percent evaporate at a temperature of 150° C) VOC service would be excluded from the routine monitoring and inspection requirements. However, if leaks are detected from these sources, the same allowable repair interval which applies to compressors, pumps, and valves would apply. These sources would be excluded from routine monitoring on the basis tof data from EPA testing in petroleum refineries. Flanges in refineries have very low emission rates; and although they represent 69 percent of the total number of VOC sources in refineries, their total contribution to overall emissions is about 5.2 percent. In EPA testing of fugitive emission sources in refineries, pressure relief devices in liquid VOC service also exhibited very low emission rates. These sources contribute only 0.2 percent of all emissions from refineries. Components in "heavy liquid" VOC service have emission rates that are much lower than "light liquid" or gas service components. Since all three of these types of sources contibute a very small portion of overall emissions, applying the technology selected as BDT would result in an exorbitant cost per megagram; therefore, including them in the monitoring and equipment requrements was not considered reasonable.

Also excluded would be equipment operating under a vacuum because leaks to atmosphere would not occure while the equipment is operated at subatmospheric internal pressures.

Selection of Recordkeeping and Reporting Requirements

Recordkeeping would be required by the proposed standards to document compliance with: (1) Work practice standards, (2) equipment standards. (3) design standards. (4) emission standards, and (5) operationtional standards. Review of records would provide information for plant personnel and enforcement personnel to assess implementation of the proposed standards. Compliance with the proposed standards would be determined by inspection and review of records.

Three recordkeeping alternatives were considered in evaluating the amount of recorded information needed to assess compliance with the proposed standard.

The first alternative would require no formal recordkeeping. If recorded documentation of the proposed leak detection and repair program were not required; no mechanism would be provided for checking the thoroughness of efforts to reduce fugitive emissions. Many owners or operators would institute recordkeeping requirements to manage the efforts of their plant personnel. However, some owners or operators may not institute such programs.

The second alternative would require recordkeeping to document results of the leak detection and repair program and information relating to equipment specifications and design standards. Information would be recorded in sufficient detail to enable owners or operators to ensure that their emission reduction programs are being implemented effectively and to demonstrate compliance with the proposed standards. This alternative would require the maintenance of quantitative records of repaired and unrepaired leaking components. This alternative would require only that

amount of records necessary to manage implementation of the required programs and to ensure the effective implementation of the proposed standards.

The third alternative would require recordkeeping of all the information generated by the proposed standards. This information would include, for example, the leak rate (ppmv) detected for all components monitored at a given facility. The usefulness of this information for managing implementation of the required programs or for ensuring the effective implementation and maintenance of the proposed standards is unclear.

The second alternative was selected as the basis for the recordkeeping requirements of the proposed standards. As a consequence, general information pertaining to the leak detection and repair would be recorded. Each valve found to leak during the first month of a quarter would be marked with a readily visible, weatherproof identification. Each pump found to be leaking during a monthly monitoring would also be identified. The identification could be a tag attached to the valve or pump or a number designation permanently marked on the valve or pump. The identification could be removed after a valve is repaired and found not to leak for the next two successive months and after a pump is repaired.

A log would be maintained to record the efforts by an owner or operator pertaining to the leak detection and repair program. The log would contain the instrument and operator identification numbers, the leaking source identification number, the date of detection of the leaking source, the date of the first attempt to repair the leaking source, repair methods applied to repair the source, and the date of final repair. The log would be kept for 2 years following the survey. If the leaking component could not be repaired within 15 days, the reasons for unsuccessful repair and the date of anticipated successful repair would be recorded on the leak report form. Once the leaking source was successfully repaired, the date of repair would be recorded on the leak report form. These records would be needed to provide the information necessary to allow the owner or operator to evaluate the effectiveness of repair efforts and to allow enforcement personnel to assess compliance with the work practice standards.

For equipment specifications, records would be maintained of the dates of installation, start-up, equipment repair, and equipment modifications. The dates and descriptions of any control equipment failures, including times when the pilot light of a flare is extinquished, would also be recorded. These records would be needed to provide information necessary to allow endorcement personnel to assess the effectiveness of implementation and maintenance of equipment standards. For design standards, records would be maintained of the location and type of equipment to which the standards apply. As an example, if a combustion source is used as a VOC emission control device, then the design fuel and air usage rates, the firebox volume, and the average firebox temperature and other design specifications would be recorded.

Reporting was considered for the proposed standards. Three alternatives were considered in evaluating the reporting information needed to assess compliance with the proposed standards. These alternatives represent varying levels of enforcement monitoring of the proposed standards. Enforcement personnel would review the reports submitted by industry personnel on the status of implementing the proposed standards. Review of reports reduces the need for in-plant inspections.

The first alternative would require no formal reporting of compliance with the proposed standards other than notifications of construction, anticipated startup and actual startup, and an intention to comply with one of the alternative standards discussed in this preamble. This alternative would not provide a mechanism for checking the thoroughness of the industry's efforts to reduce fugitive emissions of VOC. Thus, compliance with the proposed standards would be assessed through in-plant inspections.

The second reporting alternative would require the submittal of information in sufficient detail to ensure the implementation and maintenance of the proposed standards. These requirements would stipulate the submittal of quarterly reports. Included in the reports would be a minimum summary of information on the leaking components which had been detected during trhe quarter. This summary of information would most likely contain less information than that which a plant manager would desire to be recorded to ensure effective emission reduction. This requirement would provide enforcement personnel with an overview of the repair of leaking components. A statement signed by the plant owner or operator attesting to the validity of the results of the monitoring surveys and instrument calibration procedures would allow enforcement personnel to assess the compliance of facilities with the work practice standards. The report would also attest to the proper application and operation of the equipment required by the proposed standards.

The third reporting alternative would require the submittal of all the information obtained while conducting leak detection and repair programs. This information would include the information reported in the second alternative and, additionally, comprehensive information on all tested components. This reporting alternative would necessitate the reporting of all information included in the recordkeeping requirements and would require more resources than the second alternative.

The first alternative was selected as the reporting requirement for the proposed standards. This alternative provides no routine reporting; therefore, compliance would be assessed through inspection of plant records and in-plant testing. A State or local agency delegated the responsibility for enforcement of the proposed standards might implement the second alternative level of reporting to facilitate enforcement of the standard; however, this would not be required by the proposed standard.

The reporting requirements of the General Provisions of Subpart A of 40 CFR Part 60, the requirements for notification of intention to comply with an alternative standard, and the reports necessary for determination of equivalence of alternative means of emission limitation would apply.

The Paperwork Reduction Act (PRA) of 1980 (Pub. L. 96–511) requires clearance from the Office of Management and Budget (OMB) of reporting and recordkeeping requirements that qualify as an "information collection request" under the PRA. OMB is currently clearing information collection requests for a period of 2 years. For the purposes of OMB's review, an analysis of the burden associated with the reporting and recordkeeping requirements of this regulation has been made. During the first 2 years of this regulation, the average annual burden of the reporting and recordkeeping requirements would be about 12 person-years, based on an average of 56 respondents per year.

Equivalence of Alternative Means of Emission Limitation

Under the provisions of Section 111(h) of the Clean Air Act, if the Administrator establishes work practices, equipment, design or operational standards, then the Administrator must allow the use of

alternative means of emission limitations if they achieve a reduction in air pollutants equivalent to that achieved under requirements of a standard of performance. Sufficient data would be required to show equivalency, and a public hearing would be required.

Individual owners or operators could request alternatives for specific requirements, such as the proposed equipment and the proposed leak detection and repair program. Sufficient information would have to be collected by a facility to demonstrate that the alternative control techniques would be equivalent to the control techniques required by the proposed standard. This information would then be submitted to EPA in a request for a determination of equivalence. If the Administrator does not deny an equivalency request, a public hearing notice would be published in the Federal Register.

After public notice and opportunity for public hearing, the Administrator would determine the equivalence of an alternative means of emission limitation and would publish his or her determination in the Federal Register.

Public Hearing

A public hearing will be held to discuss these proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of this preamble and should refer to docket number A–80–44.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see ADDRESSES section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow members of the public and industries involved to identify and locate documents so they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Miscellaneous

As prescribed by Section 111 of the Clean Air Act, establishment of standards of performance for the petroleum refining industry was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that sources within this industry contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. EPA welcomes comments on all aspects of the proposed regulations, including economic and technological issues. This regulation will be reviewed 4 years from the date of promulgation. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and the reporting requirements.

"Major Rule" Determination. Under Executive Order 12291, the Administrator is required to judge whether a regulation is a "major rule" and, therefore, subject to certain requirements of the Order. The Administrator has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." Fifth-year annualized costs of the proposed standards would be as much as $8.2 million for the 282 newly constructed, modified, and reconstructerd production facilities projected that could be affected by the standards during the first 5 years. Significant price increases are not expected to result from implementation of these proposed standards because the annualized cost is a small fraction (0.1 percent or less) of the yearly revenue expected for the new, modified, and reconstructed units affected during the 5-year period. The Administrator has also concluded that this rule is not "major" under any of the criteria established in the Executive Order. The Administrator has concluded, therefore, that the proposed regulation is not a "major rule" under Executive Order 12291.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Regulatory Flexibility Analysis Certification. The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. According to current Small Business Administration guidelines, a small business in the petroleum refining industry is one that has 1,500 employees or fewer. Currently, about as many as one-third of existing refineries employ fewer than 1,500 people. A reason for this high percentage is Department of Energy (DOE) subsidies that promoted their growth. These subsidies have been discontinued with decontrol of crude oil prices, and relatively little new unit construction will occur at these refineries. Since Section 111 of the Clean Air Act standards applies only to newly constructed, modified, and reconstructed production facilities, few of these small refineries are expected to be subject to the proposed standards. Even if facilities at small refineries do become subject to the proposed standards, none will be adversely affected. This conclusion is based on the fact that, in doing the economic analysis for this proposal, the price increase and profitability impacts have been estimated from the perspective of the smaller refinery units in operation. Therefore, the finding that the annualized cost of the proposed standards would be 0.1 percent or less of the yearly revenue expected for units affected by the proposed standards accurately reflects the impacts for small refiners.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

Dated: December 27, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended by adding a new subpart as follows:

Subpart GGG—Standards of Performance for Fugitive Emission Sources of VOC in Petroleum Refineries

Sec.
60.590 Applicability and designation of affected facility.
60.591 Definitions.
60.592–1 Standards: General.
60.592–2 Standards: Pumps in light liquid service.
60.592–3 Standards: Compressors.
60.592–4 Standards: Pressure relief devices in gas/vapor service.
60.592–5 Standards: Sampling connection systems.
60.592–6 Standards: Open-ended valves or lines.
60.592–7 Standards: Valves in gas/vapor service and valves in light liquid service.
60.592–8 Standards: Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and flanges and other connectors.
60.592–9 Standards: Delay of repair.
60.592–10 Standards: Closed vent systems and control devices.
60.593–1 Alternative standards for valves—allowable percentage of valves leaking.
60.593–2 Alternative standards for valves—skip period leak detection and repair.
60.594 Equivalence of a means of emission limitation.
60.595 Test methods and procedures.
60.596 Recordkeeping requirements.
60.597 Reporting requirements.

Authority: Secs. 111 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart GGG—Standards of Performance for Fugitive Emission Sources of VOC in Petroleum Refineries

§60.590 Applicability and designation of affected facility.

(a)(1) The provisions of this subpart apply to affected facilities in petroleum refineries.

(2) A compressor is an affected facility.

(3) The group of all fugitive emission sources within a process unit is an affected facility.

(b) Any affected facility under paragraph (a) of this section that commences construction or modification after January 4, 1983, would be subject to the requirements of this subpart.

(c) Addition or replacement of fugitive emission sources for the purpose of process improvement which is accomplished without a capital expenditure shall not by itself be considered a modification under this subpart.

(d)(1) Affected facilities covered by Subpart VV or Subpart KKK of 40 CFR Part 60 and affected facilities producing natural gasoline from natural gas are excluded from this subpart.

(2) If a fugitive emission source is subject to the provisions of 40 CFR Part 61 Subpart J and 40 CFR Part 60 Subpart GGG, the source will only be required to comply with the provisions of 40 CFR Part 61 Subpart J.

§60.591 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act or in Subpart A of Part 60, and the following terms shall have the specific meanings given them.

"Closed Vent System" means a system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow inducing devices that transport gas or vapor from a compressor or a fugitive emission source to a control device.

"Connector" means flanged, screwed, welded, or other joined fittings used to connect two pipelines or a pipeline and a piece of equipment.

"Control Device" means an enclosed combustion device, vapor recovery system, or flare.

"First Attempt at Repair" means to take rapid action for the purpose of stopping or reducing leakage of organic material to atmosphere using best practices.

"Flare" means a single burner tip elevated above ground level used to burn vent gases in essentially a diffusion flame.

"Fugitive Emission Source" means each valve, pump, pressure relief device, sampling connection system, open-ended valve or line, and flange or other connector in VOC service.

"In Gas/Vapor Service" means that a compressor or a fugitive emission source contains process fluid that is in the gaseous state at operating conditions.

"In Light Liquid Service" means that a fugitive emission source contains a liquid that meets the conditions specified in § 60.595(e).

"In-situ sampling systems" means nonextractive samplers or in-line samplers.

"Open-Ended Valve or Line" means any valve, except pressure relief valves, having one side of the valve seat in contact with process fluid and one side that can be open to the atmosphere, either directly or through open piping.

"Petroleum Refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through the distillation of petroleum, or through the redistillation, cracking, or reforming of unfinished petroleum derivatives.

"Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.

"Pressure Release" means the emission of materials from processes resulting from the system pressure being greater than the set pressure of the pressure relief device.

"Process Improvement" means routine changes made for safety and occupational health requirements, for energy savings, for better utility, for ease of maintenance and operation, for correction of design deficiencies, for bottleneck removal, for changing product requirements, or for environmental control.

"Process Unit" means equipment assembled to produce intermediate or final products from petroleum, unfinished petroleum derivatives, or other intermediates; a process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

"Quarter" means a 3-month period; the first quarter concludes on the last day of the last full month during the 180 days following initial startup.

"Repaired" means that a fugitive emissions source is adjusted or otherwise altered in order to reduce fugitive emissions below 10,000 ppm, as provided in §§ 60.592–2(c)(1), –7(d)(1), –8(c)(1); or below the leak level as defined in §§ 60.592–2(d)(6)(i) and –3(f).

"Sensor" means a device that measures a physical quantity or the change in a physical quantity such as temperature, pressure, flow rate, or pH.

"In Vacuum Service" means that a fugitive emission source is operating at an internal pressure which is at least 5kPa below ambient pressure.

"Volatile Organic Compound (VOC)" means any organic compound which participates in atmospheric photochemical reactions. An organic compound participates in atmospheric reactions unless the Administrator determines that it does not.

"In VOC Service" means that a compressor or a fugitive emission source contains or contacts a process fluid that is at least 10 percent VOC by weight as determined according to the provisions of § 60.595.

§ 60.592–1 Standards: General.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the requirements of § 60.592–1 to § 60.592–10 as soon as practicable, but not later than 180 days after initial startup.

(b) Compliance with § 60.592–1 to § 60.592–10 will be determined by review of records, review of performance test results, and inspection

using the methods and procedures specified in § 60.595.

(c)(1) A determination of equivalence of alternative means of emission limitation to the requirements of §§ 60.592–2, –3, –5, –6, –7, –8, and –10 may be requested as provided in § 60.594.

(2) If the Administrator determines that a means of emission limitation is at least equivalent to the requirements of §§ 60.592–2, –3, –5, –6, –7, –8, or –10 the requirements of that determination will apply.

(d) Fugitive emission sources that are in vacuum service may be excluded from the requirements of §60.592–1 to § 60.592–10 if they are identified as required in § 60.596(e)(4).

§ 60.592–2 Standards: Pumps in light liquid service.

(a)(1) Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in § 60.595(b), expect as provded in § 60.592–1(c) and §§ 60.592–2 (d), (e), and (f).

(2) Each pump shall be checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seal.

(b)(1) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected, or

(2) If there are indications of liquids dripping from the pump seal, a leak is detected.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected except as provided in § 60.592–9.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(3) If repair requires that the pump be equipped with a dual mechanical seal system that includes a barrier fluid system, then repair shall be completed no later than 6 months after the leak is detected.

(d) Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of § 60.592–2(a) provided the following requirements are met:

(1) Each dual mechanical seal system is:

(i) Operated with the barrier fluid at a pressure that is at all times greater than the pump stuffing box pressure; or

(ii) Equipped with a barrier fluid degassing reservoir that is connected by a closed vent system to a control device as described to § 60.592–10; or

(iii) Equipped with a system that purges the barrier fluid into a process stream with no VOC emission to atmosphere.

(2) The barrier fluid is not in light liquid service or gas/vapor service or is not in VOC service.

(3) Each barrier fluid system is equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(4) Each pump is checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seal.

(5)(i) Each sensor as described in § 60.592–2(d)(3) is checked daily or is equipped with an audible alarm, and

(ii) Based on design considerations and operating experience, the owner or operator shall demonstrate a criterion that indicates failure of the seal system, the barrier fluid system, or both as determined by the owner or operator for each sensor.

(6)(i) If there are indications of liquids dripping from the pump seal or the sensor indicates failure of the seal system, the barrier fluid system, or both, a leak is detected.

(ii) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected except as provided in § 60.592–9.

(iii) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(e) Any pump that is designated, as described in § 60.596(e)(1), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of §§ 60.592–2(a), (c), and (d) if the pump:

(1) Has no externally actuated shaft penetrating the pump housing,

(2) Is operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the methods specified in § 60.595(c), and

(3) Is tested for compliance with § 60.592—2(e)(2) initially, annually, and at other times requested by the Administrator.

(f) If any pump is equipped with a closed vent system capable of capturing and transporting any leakage from the seal or seals to a control device as described in § 60.592–10, it is exempt from the §§ 60.592–2(a)–(e).

§ 60.592–3 Compressors.

(a) Each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of VOC to the atmosphere, except as provided in § 60.592–1(c) and §§ 60.592–3(h) and (i).

(b) Each compressor seal system as required in § 60.592–3(a) shall be:

(1) Operated with the barrier fluid at a pressure that is greater than the compressor stuffing box pressure; or

(2) Equipped with a barrier fluid system that is connected by a closed vent system to a control device as described in § 60.592–10; or

(3) Equipped with a system that purges the barrier fluid into a process stream with no VOC emission to the atmosphere.

(c) The barrier fluid is not in light liquid service or gas/vapor service or is not in VOC service.

(d) Each barrier fluid system as described in § 60.592–3(a) shall be equipped with a sensor that will detect failure of the seal system, barrier fluid system, or both.

(e)(1) Each sensor as required in § 60.592–3(d) shall be checked daily or shall be equipped with an audible alarm.

(2) Based on design considerations and operating experience, an owner or operator shall demonstrate a criterion that indicates failure of the seal system, the barrier fluid system, or both shall be determined by the owner or operator for each sensor installed on a compressor seal system.

(f) If the criterion determined under § 60.592–3(e)(2) is registered by the sensor, a leak is detected.

(g)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected except as provided in § 60.592–9.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(h) Any compressor that is not equipped as described in §§ 60.592–3(a) and (b) shall be equipped with a closed vent system capable of capturing and transporting any leakage from the seal to a control device as described in § 60.592–10.

(i) Any compressor that is designated, as described in § 60.596(e)(1), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of §§ 60.592–3(a)–(h) if the compressor:

(1) Is operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the methods specified in § 60.595(c); and

(2) Is tested for compliance with § 60.592–3(i)(1) initially, annually, and at other times requested by the Administrator.

§ 60.592–4 Standards: Pressure relief devices in gas/vapor service.

(a) Except during pressure releases, each pressure relief device in gas/vapor service shall be operated with no detectable emissions as indicated by an instrument reading of less than 500 ppm above background, as measured by the methods specified in § 60.595(c).

(b)(1) After each pressure release, the pressure relief device shall be returned to a condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as soon as practicable, but no later than 5 calendar days after the pressure release, except as provided in § 60.592–9.

(2) No later than 5 calendar days after the pressure release the pressure relief device shall be monitored to confirm the condition of no detectable emissions, as indicated by an instrument reading of 500 ppm above background, as measured by the methods specified in § 60.595(c).

(c) Closed vent systems and control devices, as described in § 60.592–10, that are used to comply with §§ 60.592–4(a) and (b) shall be designed and operated on at all times when VOC emissions may occur.

§ 60.592–5 Standards: Sampling connection systems.

(a) Each sampling connection system shall be equipped with a closed purge system.

(b) Each closed purge system as required in § 60.592–5(a) shall:

(1) Return the purged process fluid directly to the process line without VOC emissions to atmosphere, or

(2) Collect and recycle the purged process fluid without VOC emissions to atmosphere.

(3) Be designed and operated to capture and transport all the purged process fluid to a control device complying with the requirements of § 60.592–10.

(c) In-situ sampling systems are exempt from §§ 60.592–5(a) and (b).

§ 60.592–6 Standards: Open-ended valves or lines.

(a)(1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve.

(2) The cap, blind flange, plug, or second closed valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line.

(b) Each open-ended valve or line equipped with a second valve shall be operated in a manner such that the valve on the process fluid end is closed before the second valve is closed.

§ 60.592–7 Standards: Valves in gas/vapor service and valves in light liquid service.

(a) Each valve shall be monitored monthly to detect leaks by the methods specified in § 60.595(b) and shall comply with §§ 60.592–7(b)–(e), except as provided in §§ 60.592–7 (f), (g), and (h) and § 60.593–1 and 2.

(b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(c)(1) Any valve for which a leak is not detected for 2 successive months may be monitored the first month of every quarter, beginning with the next quarter, until a leak is detected.

(2) If a leak is detected, the valve shall be monitored monthly until a leak is not detected for 2 successive months.

(d)(1) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in § 60.592–9.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(e) First attempts at repair include, but are not limited to, the following best practices where practicable:

(1) Tightening of bonnet bolts;

(2) Replacement of bonnet bolts;

(3) Tightening of packing gland nuts;

(4) Injection of lubricant into lubricated packing.

(f) Any valve that is designated, as described in § 60.596(e)(1), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of § 60.592–7(a) if the valve:

(1) Has no external actuating mechanism in contact with the process fluid,

(2) Is operated with emissions less than 500 ppm above background as determined by the method specified in § 60.595(c), and

(3) Is tested for compliance with § 60.592–7(f)(2) initially, annually, and at other times requested by the Administrator.

(g) Any valve that is designated, as required in § 60.596(f)(1), as an unsafe-to-monitor valve is exempt from the requirements of § 60.592–7(a) if:

(1) The owner or operator of the valve demonstrates that the valve is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with § 60.592–7(a), and

(2) The owner or operator of the valve has a written plan that requires monitoring of the valve as frequent as practicable during safe-to-monitor times.

(h) Any valve that is designated, as required in § 60.596(f)(2), as a difficult-to-monitor valve is exempt from the requirements of § 60.592–7(a) if:

(1) The owner or operator of the valve demonstrates that the valve cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface.

(2) The process unit within which the valve is located becomes an affected facility through § 60.14 or § 60.15, and

(3) The owner or operator of the valve has a written plan that requires monitoring of the valve at least once per calendar year.

§ 60.592–8 Standards: Pumps and valves in heavy liquid service, pressure relief devices in light liquid and heavy liquid service, and flanges and other connectors.

(a) Pumps and valves in heavy liquid service, pressure relief devices in light liquid and heavy liquid service, and flanges and other connectors shall be monitored within 5 days by the method specified in § 60.595(b) if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method.

(b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 60.592–9.

(2) The first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(d) First attempts at repair include, but are not limited to, the best practices described under § 60.592–7(e).

§ 60.592–9 Standards: Delay of repair.

(a) Delay of repair of compressors and fugitive emission sources for which leaks have been detected will be allowed if the repair is technically infeasible without a complete or partical process unit shutdown.

(b) Delay of repair beyond a process unit shutdown will be allowed for valves, if valve assembly replacement is necessary during the process until shutdown, valve assembly supplies have been depleted, and valve assembly supplies had been sufficiently stocked before the supplies were depleted.

§ 60.592–10 Standards: Closed vent systems and control devices.

(a) Owners or operators of closed vent systems and control devices used to comply with provisions of this subpart shall comply with the provisions of this section.

(b) Vapor recovery systems (for example, condensers and adsorbers) shall be designed and operated to

recover the organic vapors vented to them with an efficiency of 95 percent or greater.

(c) Enclosed combustion devices shall be designed and operated to reduce the VOC emissions vented to them with an efficiency of 95 percent or greater or to provide a minimum residence time of 0.75 seconds at a minimum temperature of 816°C.

(d)(1) Flares shall be designed for and operated with no visible emissions except for periods not to exceed a total of 5 minutes during any period of 2 consecutive hours as determined by methods in § 60.595(g).

(2) Flares shall operate with a flame at all times.

(3) Flares shall be operated with exit velocities less than 22 meters per second as determined for the gas being combusted at the flare tip.

(4) Flares shall be elevated above ground level and operate without assist or with steam assist.

(5) Steam assisted flares shall combust gases with the net heating value of the gases greater than 11.2 Megajoule per standard cubic meter (300 Btu/scf).

(6) Flares operated without assist shall combust gases with the net heating value of the gases greater than 7.4 Megajoule per standard cubic meter (200 Btu/scf).

(e) Owners or operators of control devices that are used to comply with the provision of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their design.

(f)(1) Closed vent systems shall be designed and operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the methods specified in § 60.595(c).

(2) Closed vent systems shall be monitored annually and at other times requested by the Administrator,

(3) Leaks, as indicated by an instrument reading greater than 500 ppm, shall be repaired within 15 calendar days.

(g) Closed vent systems and control devices used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.

§ 60.593–1 Alternative standards for valves—allowable percentage of valves leaking.

(a) An owner or operator may elect to have the valves comply with an allowable percentage of valves leaking of equal to or less than 2.0 percent.

(b) The following requirements shall be met if an owner or operator wishes to have the valves comply with an allowable percentage of valves leaking:

(1) An owner or operator must notify the Administrator that the owner or operator has elected to have the valves comply with the allowable percentage of valves leaking before implementing this alternative standard.

(2) A performance test as specified in § 60.593–1(c) shall be conducted initially, annually, and at other times requested by the Administrator.

(3) If a valve leak is detected, it must be repaired in accordance with § 60.592–7(d) and (e).

(c) Performance tests shall be conducted in the following manner:

(1) All valves in gas/vapor service and light liquid service within the affected facility shall be monitored within 1 week by the methods specified in § 60.595(b).

(2) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(3) The leak percentage shall be determined by dividing the number of valves for which leaks are detected by the number of valves in gas/vapor and light liquid service within the affected facility.

(d) Owners and operators who elect to comply with this alternative standards shall not have an affected facility with a leak percentage greater than 2.0 percent.

(e) If an owner or operator no longer wishes the valves to comply with § 60.593–1, the owner or operator must notify the Administrator in writing that the work practice standard described in §§ 60.592–7(a)–(e) will be followed.

§ 60.593–2 Alternative Standards for valves—skip period leak detection and repair.

(a)(1) An owner or operator may elect to comply with one of the alternative work practices specified in § 60.593–2(b).

(2) An owner or operator must notify the Administrator before implementing one of the alternative work practices of § 60.593–2(b), as specified in § 60.597(b).

(b)(1)(i) An owner or operator shall comply with a reference leak detection program.

(ii) The reference leak detection program shall conform to the requirements for valves in gas/vapor service and valves in light liquid service, as described in § 60.592–7.

(2) After 2 consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0, an owner or operator may begin to skip 1 of the quarterly leak detection periods.

(3) After 5 consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0, an owner or operator may begin to skip 3 of the quarterly leak detection periods.

(4) If the percent of valves leaking is greater than 2.0, the owner or operator shall comply with the reference leak detection program, as described in § 60.592–7, but can again elect to use §§ 60.593–2(b)(2) or –2(b)93).

§ 60.594 Equivalent means of emission limitation.

(a) Each owner or operator subject to the provisions of this subpart may apply to the Administrator for determination of equivalence for any means of emission limitation that achieves a reduction in emissions of VOC at least equivalent to the reduction in emissions of VOC achieved by the controls required in this subpart.

(b) Determination of equivalence to the equipment, design, and operational requirements of this subpart will be evaluated by the following guidelines:

(1) Each owner or operator applying for an equivalence determination shall be responsible for collecting and verifying test data to demonstrate equivalence of any equivalent means of emission limitation.

(2) The Administrator will compare test data for the equivalent means of emission limitation to test data for the equipment, design, and operational requirements.

(3) The Administrator may condition the approval of equivalence on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the equipment, design, and operational requirements.

(c) Determination of equivalence to the required work practices in this subpart will be evaluated by the following guidelines:

(1) Each owner or operator applying for a determination of equivalence shall be responsible for collecting and verifying test data to demonstrate equivalence of an equivalent means of emission limitation.

(2) For each affected facility for which a determination of equivalence is requested, the emission reduction achieved by the required work practice shall be demonstrated.

(3) For each affected facility, the emission reduction achieved by the equivalent means of emission limitation shall be demonstrated.

(4) Each owner or operator applying for a determination of equivalence shall commit to compliance with a performance that provides for emission reductions equal to or greater than the

emission reductions achieved by the required work practice.

(5) The Administrator will compare the demonstrated emission reduction for the equivalent means of emission limitation to the demonstrated emission reduction for the required work practice and will consider the commitment in § 60.594(c)(4).

(6) The Administrator may condition the approval of equivalence on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the required work practice.

(d) An owner or operator may offer a unique approach to demonstrate the equivalence of any equivalent means of emission limitation.

(e)(1) After a request for determination of equivalence is received, the Administrator will publish a notice in the **Federal Register** and provide the opportunity for public hearing if the Administrator judges that the request may be approved.

(2) After notice and opportunity for public hearing, the Administrator will determine the equivalence of means of emission limitation and will publish the determination in the **Federal Register.**

(3) Any equivalent means of emission limitation approved under this section shall constitute a required work practice, equipment, design or operational standard within the meaning of Section 111(h)(1) of the Clean Air Act.

(f)(1) Manufacturers of equipment used to control fugitive emissions of VOC may apply to the Administrator for determination of equivalence for any equivalent means of emission limitation that achieves a reduction in emissions of VOC achieved by the equipment, design, and operational requirements of this subpart.

(2) The Administrator will make an equivalence determination according to the provisions of §§ 60.594(b), (c), (d), and (e).

§ 60.595 Test methods and procedures.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the test methods and procedures requirements provided in this section.

(b) Monitoring, as required in §§ 60.592, 60.593, and 60.594, shall comply with the following requirements:

(1) Monitoring shall comply with Reference Method 21.

(2) The VOC detection instrument shall meet the performance criteria of Reference Method 21.

(3) The instrument shall be calibrated before use on each day of its use by the methods specified in Method 21.

(4) Calibration gases shall be:

(i) Zero air (less than 3 ppm of hydrocarbon in air); and

(ii) A mixture of methane or n-hexane and air at a concentration of approximately but less than 10,000 ppm methane or n-hexane.

(5) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

(c) When compressors or fugitive emission sources are tested for compliance with no detectable emissions as required in §§ 60.592–2(e), –3(i), –4, –7(f) and –10(e), the test shall comply with the following requirements:

(1) The requirements of §§ 60.595(b)(1)–(4) shall apply.

(2) The background level shall be determined, as set forth in Reference Method 21.

(3) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

(4) The arithmetic difference between the maximum concentration indicated by the instrument and the background level is compared with 500 ppm for determining compliance.

(d)(1) For purposes of determining the percent VOC content of the process fluid that is contained in or contacts a compressor or a fugitive emission source, procedures that conform to the methods described in ASTM Method E–260 (incorporated by reference as specified in § 60.18) shall be used.

(2) If an owner or operator decides to exclude nonphotochemically reactive substances from the percent VOC content of the process fluid, the exclusion will be allowed provided:

(i) Those substances excluded are considered nonphotochemically reactive by the Administrator; and

(ii) The owner or operator demonstrates that the percent VOC content, excluding nonphotochemically reactive substances, can be reasonably expected never to exceed 10 percent VOC by weight.

(e) A fugitive emission source is in light liquid service if the percent evaporated is greater than 10 percent at 150°C as determined by ASTM Method D–86 (incorporated by reference as specified in §60.18).

(f) Samples used in conjunction with §§ 60.595(d) and (e) shall be representative of the process fluid that is contained in or contacts the fugitive emission source.

(g) Reference Method 22 shall be used to determine the compliance of flares with the provisions of this subpart.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414).)

§ 60.596 Recordkeeping requirements.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the recordkeeping requirements of this section.

(b) When each leak is detected as specified in §§ 60.592–2, –3, –7, and –8, the following requirements apply:

(1) A weatherproof and readily visible identification, marked with the source identification number, shall be attached to the leading source.

(2) The identification on a valve may be removed after it has been monitored for 2 successive months as specified in § 60.592–7(c) and no leak has been detected during those 2 months.

(3) The identification on a compressor or fugitive emission source, except on a valve, may be removed after it has been repaired.

(c) When each leak is detected as specified in §§ 60.592–2, –3, –7, and –8, the following information shall be recorded in a log and shall be kept for 2 years in a readily accessible location:

(1) The instrument and operator identification numbers and the fugitive emission source identification number.

(2) The date the leak was detected and the dates of each attempt to repair the leak.

(3) Repair methods applied in each attempt to repair the leak.

(4) "Above 10,000" if the maximum instrument reading measured by the methods specified in § 60.595(a) after each repair attempt is greater than 10,000 ppm.

(5) "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

(6) The signature of the owner or operator (or designate) whose decision it was that repair could not be effected without a process shutdown.

(7) The expected date of successful repair of the leak if a leak is not repaired within 15 days.

(8) The date of successful repair of the leak.

(d) The following information pertaining to the design requirements for closed vent systems and control devices described in § 60.592–10 shall be recorded and kept in a readily accessible location:

(1) Detailed schematics, design specifications, and piping and instrumentation diagrams.

(2) The dates and descriptions of any charges in the design specifications.

(3) Periods when the closed vent systems and control devices required in

§§ 60.592–2, –3, –4, and –5 are not operated as designed, including periods when a flare pilot light does not have a flame.

(4) Dates of startups and shutdowns of the closed vent systems and control devices required in §§ 60.592–2, –3, –4, and –5.

(e) The following information pertaining to all compressors and fugitive emission sources subject to the requirements in §§ 60.592–2, –3, –4, and –7 shall be recorded in a log that is kept in a readily accessible location:

(1)(i) A list of identification numbers for fugitive emission sources that the owner or operator elects to designate for no detectable emissions under the provisions of §§ 60.592–2(e), –3(i), and –7(f).

(ii) The designation of these sources as subject to the requirements of §§ 60.592–2(e), –3(i), or –7(f) shall be signed by the owner or operator.

(2) A list of source identification numbers for pressure relief devices required to comply with § 60.592–4.

(3)(i) The dates of each compliance test required in §§ 60.592–2(e), –3(i), –4, and –7(f).

(ii) The background level measured during each compliance test.

(iii) The maximum instrument reading measured at the source during each compliance test.

(4) A list of identification numbers for fugitive emission sources that are in vacuum service.

(f) The following information pertaining to all valves subject to the requirements of §§ 60.592–7 (g) and (h) shall be recorded in a log that is kept in a readily accessible location:

(1) A list of identification numbers for valves that are designated as unsafe to monitor, an explanation for each valve stating why the valve is unsafe to monitor, and the plan for monitoring each valve.

(2) A list of identification numbers for valves that are designated as difficult to monitor, an explanation for each valve stating why the valve is difficult to monitor, and the expected date for monitoring each valve.

(g) The following information shall be recorded in a log that is kept in a readily accessible location:

(1) Design criterion required in § 60.592–2(d)(5) and § 60.592–3(e)(2) and an explanation of the design criterion; and

(2) Any changes to this criterion and the reasons for this change.

(h) The provisions of §§ 60.7 (b) and (d) do not apply to affected facilities subject to this subpart.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414).)

§ 60.597 Reporting requirements.

(a) An owner or operator electing to comply with the provisions of §§ 60.593–1 and –2 shall notify the Administrator of the alternative standard selected 90 days before implementing either of the provisions.

(b) The provisions of § 60.8(d) do not apply to affected facilities subject to the provisions of this subpart except that an owner or operator shall notify the Administrator of the schedule for the initial performance tests 30 days before the initial performance tests.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 480, 482, 483, 484, 485, 486, 487, and 488

Medicare and Medicaid Programs; Conditions of Participation for Hospitals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing a general revision of the Conditions of Participation for hospitals. The Conditions are those requirements that hospitals must meet in order to participate in the Medicare and Medicaid programs (titles XVIII and XIX of the Social Security Act). This proposed rule is part of the Department's regulatory relief efforts and is designed to reduce Federal requirements, simplify and clarify regulations, and provide maximum flexibility in administration, while protecting patient health and safety.

DATE: To assure consideration, comments should be submitted by March 7, 1983.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, U.S. Department of Health and Human Services, Attention: BPP–519–P, P.O. Box 17073, Baltimore, Maryland 21235.

In addition please address a copy of your comments on the information collection requirements to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503, Attention: Desk Officer for HHS.

In commenting, please refer to BPP–519–P.

If you prefer, you may deliver your comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., Washington, D.C., or to Room 132, East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309–G of the Department's Office at 200 Independence Ave., S.W., Washington, D.C 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Alan Spielman, Acting Director, Division of Standards and Certification, OCP, BPP, 1–D–3 Dogwood East, 1849 Gwynn Oak Avenue, Baltimore, Md. 21207 (301) 594–3775.

SUPPLEMENTARY INFORMATION:

A. Background

Conditions of Participation (Conditions) is the term used for the requirements that hospitals must meet in order to participate in the Medicare and Medicaid programs. These requirements are based on section 1861 (e), (f), and (g) of the Social Security Act (the Act); the utilization review provisions in section 1814(a)(7), 1861(k), 1903(g) of the Act; and the general rulemaking authority in sections 1102 and 1871 of the Act.

The current requirements for participating hospitals are presented as 21 Conditions, containing 126 Standards, and are located in the existing Federal regulations at 42 CFR Part 405, Subpart J. There has been no substantial revision of the Conditions since they were first published in 1966, despite changes in the state of the art.

On June 20, 1980, the Department published a notice of proposed rulemaking (NPRM) proposing a revision of the hospital Conditions (45 FR 41794). Subsequent to this publication, HCFA initiated a process of regulatory reform as part of the Secretary's efforts to reduce the burden of Federal regulations. Therefore, the June 20, 1980 NPRM was not prepared for final rule. We established criteria for reviewing the existing Conditions applicable to hospitals. Those criteria are as follows:

1. Requirements should be necessary to protect the health and safety of patients.

2. The Conditions should contain only provisions authorized by the statute.

3. Requirements should not unnecessarily overlap with similar

requirements enforced by other Federal, State, or local government programs.

4. Requirements should permit maximum flexibility for facility compliance.

As a result of our review, we have decided to proceed with another proposed rule. These proposals are intended to simplify and clarify requirements, to focus on patient care, to emphasize outcome rather than the means used to achieve those ends, to promote cost containment while maintaining quality care, and to achieve more effective compliance with Federal requirements. The basic function of the Conditions in protecting patient's health and safety has been maintained, and in some areas, such as the new Conditions, and Standards that have been elevated to Conditions, enhanced. We have considered and, as appropriate, provided for the comments received to the 1980 NPRM. In developing the final rule, we will base our decisions on this proposed rule, and on comments specifically submitted in response to its publication.

B. General Approach to Proposed Rule

The hospital industry is heavily regulated in this country. In addition to Federal regulations, hospitals are subject to substantial State inspection through licensure programs. Further, nationally recognized standards of practice are well accepted and are adhered to generally through the voluntary accreditation process. Recognizing the scrutiny under which hospital care is provided, we believe it is appropriate to eliminate unnecessary regulation in the existing conditions of participation. We also believe that it is important to modernize the regulations in light of significant changes in the organizational structure of hospitals and the dramatic technological advancements since 1965. At the same time, we are aware that it is necessary to impart sufficient flexibility into the regulations to allow their application to both the smallest rural facility and to the most modern urban hospital centers. Therefore, in the framing of these proposals, we used the following approach.

1. First, we were careful to assure that our attempts to eliminate unnecessary regulation, and provide hospitals with greater flexibility, would not adversely affect patient health and safety. Consequently, in our view, certain key additions and modifications would be necessary to underscore the hospital's accountability for the services it provides. For example, we are proposing a new Condition, Quality Assurance (§ 482.21) that would require that the hospital actively evaluate its services. The Condition is sufficiently flexible to permit a variety of assessment mechanisms and plans, but would place responsibility on the hospital for ensuring that quality of care is an ongoing goal. Further, we would clarify that the hospital is accountable for its services provided under contract. In recognition of high patient-risk areas, we are proposing to elevate certain Standards to the Condition level (e.g., Surgical Services, Anesthesia Services, Infection Control). This would place greater emphasis on the certification process in these areas.

2. Generally, we replaced most prescriptive adminstrative requirements with language that was stated in terms of expected outcome. For example, mandatory committees and committee meetings would be deleted from the governing body and medical staff Conditions (§§ 482.12 and 482.22). Instead, the objective that was intended, e.g., good and direct governance, would be stated in postive terms.

3. Next, we would balance the need for personnel to have certain credentials against hospital accountability and flexibility in determining personnel requirements. Recognizing that personnel achieve competency through many routes (education, training, and experience), we would frequently place the responsibility on the hospital for choosing its own staff and delineating staff responsibilities (e.g., Radiology, Medical Records).

This in no way diminishes our interest in high standards for hospital personnel. When, in our view, specific degrees or experience would be necessary to the provision of safe care the Condition would clearly state those requirements.

4. In most Conditions, we would delete specific references to adequate and safe facilities in favor of a general comprehensive statement under the physical environment Condition (§ 482.4). In those areas of the hospital requiring special concern for safe practices, such as Nuclear Medicine services and Radiologic services, we would maintain specific language to assure additional protection.

5. We would delete most of the references to "Departments" by using the more encompassing term "services". This would be done in order to clarify that a hospital's organizational structure would not determine whether or not services would be subject to the Conditions. Further, use of the term "services" would avoid any implied suggestion that hospitals should organize their services into formal "Departments".

We believe that the numerous proposed modifications and deletions to the regulations would result in an improved set of Conditions of Participation. We believe that the proposed language of the regulations offers better protection to our beneficiaries. At the same time, hospitals, when functioning properly, should be administratively unburdened by the Conditions of Participation. We would like to mention, however, that hospitals accredited by the JCAH (the majority of the 5200 accredited hospitals) will be affected by JCAH's similar efforts to lessen overly prescriptive requirements while increasing administrative flexibility. The JCAH's revised standards will focus, as do our proposed Conditions, on provision of quality care more than on the means of achieving it. Although we comment on each draft of JCAH's proposed revisions, JCAH's efforts are not directly linked to ours; that is, the adoption of new JCAH standards will be unrelated to the possible implementation of new Medicare Hospital Conditions.

C. Proposed Revisions

1. *Compliance with State and Local Laws.* Section 1861(e)(7) of the Act addresses State and local licensure requirements. If State or local laws provide for the licensing of hospitals, the Act requires the hospital to be licensed or to be approved by the appropriate State or local licensing authority as meeting the standards for licensure. Current regulations at 42 CFR 405.1020 restate these statutory requirements and expand upon them by requiring compliance with all relevant laws (e.g., laws relating to staff licensure, postmortem examinations, communicable diseases). We are proposing to revise these regulations (see § 482.11) by simply restating statutory requirements and deleting other requirements. The regulations would also require hospitals to comply with applicable Federal laws.

2. *Governing Body.* Under the revised Condition relating to the governing body (see proposed § 482.12) we would make these changes:

a. *Bylaws, meetings, committees, liaison.* The current provisions regarding bylaws, meetings, committees, and liaison (42 CFR 405.1020(a)–(d)) would be deleted since we consider them unnecessarily prescriptive. We believe that it is not necessary for Federal regulations to address these specific administrative issues. Rather, these provisions should fall under the

discretion of individual facility management.

b. *Medical Staff.* Current regulations (42 CFR 405.1021(e)) specify the details of the relationship between the governing body and the medical staff. We are proposing to revise these regulations to indicate simply that the medical staff must be accountable to the governing body and be organized under bylaws as required by Section 1861(e)(3) of the Act. (See proposed § 481.12(a).)

c. *Hospital Administrator.* Regulations at 42 CFR 405.1021(f) and (g) specify that the governing body must appoint a hospital administrator, describe the qualifications for this position, and specify the details of how the administrator should perform this function. We are proposing to revise these regulations by eliminating education and experience requirements applicable to an administrator. Proposed regulations at § 482.12(b) would simply require the Governing Body to appoint an Administrator or Chief Executive officer responsible for administration of the hospital. The functions would remain, but the detail of how to accomplish the tasks would be deleted.

d. *Physician Services.* Section 1861(e)(4) of the Act mandates that every patient be under the care of a physician. Current regulations (at 42 CFR 405.1021(h)) require that a hospital have policies to assure patients are under the care of a physician. We are proposing (see § 482.12(c)) to require *that* patients actually be under a physician's care, not merely to require that the hospital have an established policy. We would also relocate current requirements for a health history and physical examination to this Standard because these are the responsibility of the attending physician.

The term "physician", as it is defined in § 482.3, would include all practitioners provided for by Section 1861(r) of the Act. Thus, the use of the term "physician" in regulations will be consistent with its use in the statute. However, individual hospitals would retain the authority to determine who has admitting privileges in their hospital.

e. *Physical Plant.* Current regulations at 42 CFR 405.1021(i) require that the governing body be actively involved in maintaining the physical plant. We are proposing to delete this requirement as the intent of the Standard (a safe and effective physical plant) is met through other regulations. (See Physical Environment in current 42 CFR 405.1022, and proposed 42 CFR 482.41.)

f. *Institutional Planning.* Sections 1861(e)(8) and 1861(z) of the Act require a hospital to have an annual operating budget and capital expenditure plan. Current regulations at 42 CFR 405.1021(j) expand upon the statutory requirement. We are proposing (see proposed § 482.12(d)) to modify the regulations by simply incorporating the basic provisions contained in the statute.

g. *Contracted Services.* The use of contracted services in hospitals has increased dramatically since 1965. Today, services frequently provided through contractual arrangements include nursing, pharmacy, emergency, dietary, laboratory, and radiology. Our concern regarding these contracted services is twofold. First, although the services might be subject to survey under other Conditions (e.g., § 482.23, Nursing; § 482.25 Pharmacy), it is difficult to survey for all aspects of these services when thy are not provided on the hospital premises. For example, hospital food may be prepared elsewhere, and certain ancillary services may be provided off-site.

Second, comments received as a result of the 1980 NPRM highlighted the fact that there does not appear to be a clear understanding, or acceptance, of the hospital's responsibility for services provided under contract. We would clarify that the hospital has ultimate responsibility for services, whether they are provided directly, such as by its own employees, or by leasing, or through arrangment, such as formal contracts, joint ventures, informal agreement, or shared services. Because many contracted services are integral to direct patient care and are important aspects of health and safety, a hospital cannot abdicate its responsibility simply by providing that service through a contract with an outside resource. For purposes of assuring adequate care, the nature of the arrangment between the hospital and the "contractor" is irrevelant.

As a result of the increased reliance on contracting for temporary nursing personnel by hospitals, we would include specific requirements to ensure that hospitals provide adequate supervision and evaluation of the clinical activities of non-employee licensed nursing personnel (see § 482.23(b)(6)). This would ensure that contracted nursing employees are required to perform at the same level of competence as nurses employed directly by the hospital.

h. *Discharge Planning.* We are proposing (see § 482.12(f)) to add a new Standard that requires discharge planning. We believe this requirement is important since discharge planning has been linked to decreased rates of hospital readmission

3. *Quality Assurance.* Many of the current regulations specify procedural requirements that hospitals must follow to assure quality care (e.g., organizational characteristics, committee functions, personnel). These requirements are currently located in several of the Conditions (e.g., Governing Body and Medical staff). We believe a focused requirement would better address quality of care. Therefore, we are proposing to establish a new Condition on Quality Assurance at § 482.21. We would require that the hospital establish a hospital-wide quality assurance program aimed at identifying and correcting patient care problems. Specifically, we would require that the hospital—

(a) Have a written quality assurance plan;

(b) Evaluate all organized services, nosocomial infections, and medication therapy;

(c) Evaluate all surgery; and

(d) Document deficiencies and take appropriate remedial action.

4. *Medical Staff.* Current regulations at 42 CFR 405.1023 provide specific requirements for medical staff, such as requiring very detailed bylaws, committees, meetings, and staff qualification. In proposed § 482.22 we would delete those provisions that we now believe to be overly prescriptive or unnecessary and modify others as follows:

a. In proposed § 482.22(a)(1) and (2) we use the term "medical staff", not "physicians". This would grant maximum flexibility to the hospital in granting privileges and organizing its professional staff. Nurse practitioners and nurse-midwives for example, could be granted staff privileges. This reflects the present hospital trend of extending patient care responsibilities to practitioners other than physicians.

We note that proposed § 482.12(c) would require each patient to be under the care of a physician. In that case, "physician" would be interpreted as defined in section 482.3 of this regulation; that is, a doctor of medicine, osteopathy, dentistry, or other discipline cited in that section.

b. We would delete the Standard regarding staff responsibilities to support hospital policies since such detail is not necessary for Federal regulations. We would, however, retain the requirement that bylaws be enforced (proposed § 482.22(b)).

c. We would delete the Standard on securing autopsies since autopsies depend on the consent of next-of-kin, except when legally mandated.

d. We would delete requirements regarding consultations. There is no indication that consultations, which are the direct responsibility of the attending

physician, are being improperly conducted.

e. We would combine and simplify requirements regarding staff appointments, staff qualifications, and staff officers (see current 42 CFR 405.1023(d), (e), and (h)). Proposed regulations would require: (1) a well organized medical staff accountable to the governing body for the quality of medical care given to patients; (2) periodic appraisals of members of the staff; (3) the granting of clinical privileges only to those legally, professionally, and ethically qualified; and (4) and individual physician with responsibility for the organization and conduct of the medical staff. These requirements would be maintained since there is evidence that a strong and responsible medical staff organization is positively related to the provision of quality care.

f. The requirements regarding "other staff" (current 42 CFR 405.1023(g)) would be deleted since they are prescriptive without an apparent relationship to patient health and safety.

g. The requirement on bylaws would be simplified. Proposed regulations would require bylaws that enable the medical staff to carry out its responsibilities, and include a statement of qualifications for admittance to the staff and responsibilities of each category of medical staff.

h. Requirements on various specified committees (current 42 CFR 405.1023(j)-(o)) would be deleted as unnecessary and overly prescriptive. For example, the medical staff should have flexibility in determining whether a medical records committee is necessary. Also, the issue of quality of care that formerly gave rise to the tissue committee (current 42 CFR 405.1023(o)) is now provided for under a new Condition, Quality Assurance (proposed § 482.21).

i. Requirements concerning meetings (current 42 CFR 405.1023(p)) would be deleted. These meetings, such as those focusing on review of clinical work, were intended to assure quality of care. That intent would be provided for under the new quality assurance Condition (proposed § 482.21).

j. Requirements regarding medical staff departments and chiefs of services that are in current 42 CFR 405.1023(q) and (r) would be deleted as unnecessary and not affecting health and safety.

5. *Nursing Services.* Section 1861(e)(5) of the Social Security Act requires that a hospital provide 24-hour nursing services. Current regulations at 42 CFR 405.1024 implement this requirement. Several of the requirements of this Condition are overly prescriptive, inflexible, and, in some areas overlapping. We are proposing to replace the Condition statement with the statutory language that requires 24-hour nursing care given or supervised by a registered nurse. We are proposing to retain requirements on organization, staffing, administration of drugs, and delivery of care. We would delete Standards on working relationships and staff meetings because we believe these issues are best addressed by the individual hospitals (see proposed § 482.23).

Section 949 of Pub. L. 96-499 provides authority to HCFA to temporarily waive the statutory 24-hour registered nursing service requirements for rural hospitals of 50 or fewer beds. Regulations implementing this law have been issued separately.

6. *Medical Records.* Section 1861(e)(2) of the Act requires that a hospital maintain clinical records on all patients. Regulations at 42 CFR 405.1026 currently implement this requirement. This Condition consists of 10 Standards and 32 factors, many of which overlap, are inflexible, and are overly prescriptive. In addition, parts of this rule have been made obsolete by changes in technology. In proposed § 482.24 we are recommending the following changes, the majority of which are intended to focus on outcome-related requirements, rather than process-oriented requirements:

a. *Preservation.*—We would remove the reference to statute of limitations and require retention of medical records for 5 years.

b. *Personnel.*—We would delete all specific credential requirements for medical records personnel. We have seen no evidence that specific credential requirements are indispendable in assuring the quality of the medical records.

c. *System Details.*—We would modify these requirements to retain the requirements that the hospital maintain a system ensuring prompt location of a patient record by diagnosis and procedure; that the content of the medical record contains sufficient information; and that the appropriate person sign the medical record.

7. *Pharmacy.* Current regulations at 42 CFR 405.1027 mandate that pharmaceutical services be administered in accordance with accepted professional principles and recognized standards of practice to assure safe, accurate pharmacological regimes for patients. As currently written, this Condition limits the hospital's ability to establish its own system for the control and administation of drugs. We are proposing (see § 482.25) to eliminate many of the specific and prescriptive details. We would also modify the personnel Standard to specify that if the hospital does not have a staff pharmacist, a designated individual must have responsibility for the day-to-day operations of the pharmacy services. We would also specify that when a pharmacist is not available, drugs may be removed only by personnel designated by the medical staff or pharmacy.

8. *Radiology.* Regulations at 42 CFR 405.1029 provide that basic radiology services must be available to patients and that these services be provided in accordance with professionally approved standards for safety and personnel qualifications. We are proposing (see proposed § 482.26) to revise the Condition statement to define more specifically what constitutes radiological services. We would retain the basic factors relating to safety hazards. We are proposing to revise the personnel Standard to require that only a qualified radiologist, either full or part-time, supervise the department and interpret films that require specialized knowledge. The present language had been interpreted by some to mean that a radiologist must interpret or reinterpret every film. Proposed language would also make it clear that the radiologist needs to sign reports only of his or her interpretations.

We are proposing to allow the medical staff and the individual responsible for radiological services to designate who is qualified to use rediological apparatus. We would also modify the Standard on signed reports to require that records of departmental activities be maintained and that radiological reports and films be preserved for five years. Specific references to fluoroscopy and radium would be deleted since the term radiology includes these items.

9. *Laboratories.* Current regulations at 42 CFR 405.1028 specify requirements to ensure the health and safety of patients who are furnished laboratory services in hospitals. Under current rules, and these proposed rules, if a hospital arranges for laboratory services from an outside laboratory, the outside laboratory must be a Medicare approved hospital or independent laboratory.

The main thrust of the proposed revisions to this Condition is to consolidate similar factors, clarify the intent, and establish uniformity in clinical laboratory requirements. The Standards affected by the consolidation are: adequacy of laboratory services, clinical laboratory examinations, availability of facilities and services, laboratory report, tissue examination,

and reports of tissue examinations. The revision would also consolidate all personnel requirements in a single Standard in order to eliminate the ambiguity in qualifications and clarify the responsibilities of the laboratory director. Of particular note is the distinction between those laboratory services that can be directed by a laboratory specialist qualified by a doctoral degree and those laboratory services that, by their nature, must be under the direction of an individual at the physician level. Additionally, the preference for American Society of Clinical Pathologists registry would be eliminated in order to permit fair competition for technologist positions by otherwise qualified non-registered professionals.

We propose to delete the requirement for routing urinalysis and hemoglobin or hematocrit on admission of each patient. HCFA has requested Medicare insurance carriers to stop automatic payments for a variety of clinical tests which have sometimes been routinely performed on all Medicare admissions. This deletion would ensure that the regulations would be consistent with reimbursement actions. Requirements on participation in staff, departmental, and clinicopathic conferences would be deleted as unnecessarily prescriptive. We believe such conferences should be subject to administrative discretion based on the needs of the individual facility.

HCFA is coordinating, with the Food and Drug Administration and the Centers for Disease Control of the Public Health Service, future revisions of the regulations concerning blood banking, personnel, proficiency testing, and quality control. When this process is completed, joint proposals will be published and the public will be afforded the opportunity to comment specifically on these various issues.

10. *Food and Dietetic Services.* Current regulations at 42 CFR 405.1025 provide for the existence of a professionally staffed dietary department integrated into the hospital. We are proposing to retain a Condition on food and dietetic services, but to delete requirements that are overly prescriptive and details that are no longer necessary. (See proposed § 482.28.)

a. References to requirements for policies and procedures and the supervision of the staff would be deleted.

b. The specific details on the organization of the department would be deleted.

c. The detailed requirements for the facilities of the dietary department would be deleted, and we would provide for a general statement under physical environment (proposed § 482.41(c)(4)) that the kitchen and dietetic services areas must be well-ventilated and properly equipped and maintained.

d. The specific details relating to therapeutic diets would be deleted.

e. The requirement that the director of dietetics participate in meetings with other department heads would be deleted.

We believe that this revision would not lower the quality of the dietetic services. Regulations at proposed § 482.28(a) would still require a full-time employee to serve as director of the food services and would continue to require a qualified dietitian on a full-time, part-time, or consultation basis.

11. *Utilization Review.* Current regulations at 42 CFR 405.1035 discuss the requirements for a hospital utilization review plan. We are proposing (see § 482.30) to replace the language in the current regulation with language from the statute. This would eliminate the overly prescriptive and detailed specifics. The revised rule would require the review of admissions, durations of stay, and professional services, with respect to medical necessity and for the purpose of promoting the most efficient use of facilities and services. Reviews would be conducted by a hospital committee or outside group and written notification of findings made to the patient, the physician, and the institution. The regulations would also specify who can make final determinations and the timeframe for notification of these decisions. Finally, we would retain a provision found in current regulations that prohibits the committee's review from being conducted by a physician who was professionally involved in the case being reviewed or who is financially interested in the hospital. (See current 42 CFR 405.1035(e)(3) and proposed § 482.30(b)).

12. *Physical Environment.* Section 1861(e)(9) of the Act permits the Secretary to mandate requirements for hospitals relating to the health and safety of patients. Some of these requirements are found in current regulations under 42 CFR 405.1022, which address physical environment and related Standards. This proposed rule would provide for the following revisions:

a. Current 42 CFR 405.1022(a) contains many details regarding the functional features of the physical plant. We are proposing to revise the requirements to state that the condition of the physical plant and overall hospital environment must be developed and maintained so that the safety and well-being of all patients are maintained. We have deleted specific reference to isolated power since requirements pertaining to isolated power are contained in the Life Safety Code. We would retain the elements addressing emergency power, gas, water, lighting, and obstacle-free corridors. All other elements and details would be deleted as redundant.

b. Current 42 CFR 405.1022(b) mandates that hospitals comply with the 1967 edition of the Life Safety Code (LSC). We are proposing to maintain this Standard but revise it to update to the 1981 edition. The 1981 LSC is more flexible since it contains more options for compliance than previous editions. A "grandfather clause" would provide for facilities meeting the 1967 edition of LSC.

c. Regulations at 42 CFR 405.1022(d) require the hospital to provide adequate facilities for diagnostic and therapeutic services. We would modify this provision by specifically requiring hospitals to provide adequate facilities for all services, not just diagnostic and therapeutic services. (See proposed § 482.41(c)).

13. *Infection Control.* Current regulations at 42 CFR 405.1022(c), under the Condition Physical Environment, discuss the sanitary environment of the hospital. In the United States nosocomial (originating in a hospital) infections occur in approximately 5% of the patients admitted to acute-care hospitals. This prolongs hospital stay by several days on the average, and leads to more than an extra billion dollars a year in direct hospital charges. Because of the enormity of the problem, we are proposing (see § 482.42) to elevate infection control provisions to the level of a separate Condition of Participation. This proposed revision would place more accountability on hospitals to prevent, control, and report hospital infections, and less emphasis on the number of persons necessary to accomplish the task. The revision would delete the current requirement for an infection control committee and instead would require designation of an infection control officer(s). This flexibility would give hospitals the option of retaining existing committees, but hospitals with limited staff could comply by the designation of one person. We are also proposing to require that the hospital keep a log to identify problems and that improvement be made when problems are identified.

14. *Complementary Services.* Current regulations at 42 CFR 405.1031 consist of four Standards that represent five different services of the hospital. These

requirements are applicable if the hospital offers surgery, anesthesiology, respiratory care, dental services, or rehabilitative services. We are proposing to delete the Standard on dental services because our proposed definition of physician (§ 482.3) includes doctor of dentistry. Thus, standards for dental services are included in the standards for medical staff. We would convert the other provisions into four Conditions as follows:

a. *Surgical Services.*—We are proposing (see § 482.51) to retain most of the current language on surgical services, while deleting the overly prescriptive details about the operation of the service (such as the location of the operating room and the posting of operating room rules). We would also include under this Condition the provisions regarding operating room circulating nurses that are currently under Nursing Department located at 42 CFR 405.1024(d)(2).

We would specify that only registered nurses may perform circulating duties in the operating room. The 1980 NPRM revisions would have permitted licensed practical (vocational) nurses and surgical technologists to perform circulating duties. We have evaluated large numbers of comments received in response to the NPRM and have concluded that, while many of the functions of the circulator are task-oriented and may be performed by personnel of lesser training, the responsibility for assessing various patient signs, symptoms, and responses require registered nurse qualifications. We would provide for an exception to the registered nurse restriction only when HCFA determines that rigid application of the requirement would be a hardship to the facility. The exception, however, would only be granted when HCFA determines that patient health and safety would not be adversely affected (see § 482.51(2)(4)).

b. *Anesthesia—Services.*—Many factors contribute to the risk associated with exposure to anesthesia. The anesthesia itself poses a threat, especially to the patient's respiratory and cardiovascular systems. Other factors identified by studies as affecting anesthesia outcome are the skills and knowledge of the anesthetist, familiarity with equipment, adequacy of the preanesthesia work-up, and the method and circumstances of anesthesia administration. Anesthesia services is considered a "high risk" area. Because of these factors, we would elevate the anesthesia services requirements to the level of a Condition (see proposed § 482.52).

We would retain the concept of the preanesthetic examination but require that the examination be done no longer than 48 hours before surgery by an anesthesiologist or person administering the anesthesia. The proposed requirements would permit an anesthesia assistant (physician's assistant with specialized training in anesthesia) to administer anesthesia under the supervision of a physician. We are also proposing to modify the Condition to change the term "registered nurse anesthetist" to "certified registered nurse anesthetist (CRNA)".

c. *Rehabilitation Services.*—We would simplify these provisions (see § 482.56) by stating that if the hospital provides for physical or occupational therapy (whether or not the services are provided by a distinct department), those services would have to be furnished under the supervision of a qualified therapist. We would then cross-refer to 42 CFR 405.1702(d) or 405.1202(f), respectively where qualifications of therapists are specified. This would avoid unnecessary duplication in Federal regulations. We would also expand these provisions by requiring speech pathology services to be provided under the supervision of a qualified speech pathologist, as defined in 42 CFR 405.1702(j).

d. *Respiratory Care Services.*—The new Condition (§ 482.97) would apply only if the hospital has organized respiratory care services. Regulations would describe staffing requirements.

15. *Nuclear Medicine.* We are proposing to add a new Condition, Nuclear Medicine (proposed § 482.53). The requirements of this Condition would apply only to those hospitals that choose to provide nuclear medicine services. These requirements are necessary because of the inherent risks of procedures that expose patients to non-contained (uncovered) radiation and the increase in the number of hospitals offering these services. Specifically, the regulations would require that the director of the services be a physician qualified in nuclear medicine. Recognizing that there are a number of ways for a physician to become qualified in nuclear medicine, we have not defined "qualified". We would also require that radioactive materials be handled in accordance with acceptable standards of practice, that the facilities be maintained for safe and efficient performance, and that signed and dated reports be maintained. If the hospital does not have organized nuclear medicine services, radiopharmaceuticals would be evaluated under the laboratory, radiology, or pharmacy services, as appropriate.

16. *Outpatient Services.* Current regulations at 42 CFR 405.1032 require that organized outpatient departments have effective policies and procedures, be appropriately staffed, maintain medical records, and have suitable facilities. We are proposing to modify this Condition to retain only two of the Standards, organization and personnel, and delete the others as being overly prescriptive and duplicative of requirements found in other Conditions. (See proposed § 482.54.)

17. *Emergency Services.* Current regulations at 42 CFR 405.1033 specify requirements for hospitals that choose to provide emergency services. We are proposing to remove those Standards that are overly prescriptive and overlap with requirements of other Conditions. We are proposing to modify the Condition statement to assure that the hospital meets the emergency needs of patients in accordance with acceptable standards of practice. We would also add a new Standard to specify that if the hospital does not have an emergency department, it must have at least written referral procedures or be part of a community-wide emergency services program. (See proposed § 482.55).

18. *Specialty Hospitals.* a. *Special Rules for Psychiatric and Tuberculosis Hospitals.*— Current regulations at 42 CFR 405.1036 describe the special Conditions that apply to psychiatric and tuberculosis hospitals. We are proposing to simplify these provisions. The revised Condition (see § 482.60) would require these facilities to be accredited by the Joint Commission on Accreditation of Hospitals or, if a distinct part of an institution, meet the requirements in proposed 42 CFR 482.11 through 482.57. We would also require that they keep sufficient clinical records and meet staffing requirements determined by HCFA to be necessary for carrying out an active treatment program.

b. *Special Medical Records Requirements for Psychiatric Hospitals.*— Current regulations at 42 CFR 405.1037 specify special medical record requirements for psychiatric hospitals. We are proposing (see § 482.61) to retain this Condition and elevate the requirements on the psychiatric evaluation, the treatment plan, progress notes, and the discharge summary, to Standards. These Standards form the most critical elements of the psychiatric record. Adequate documentation provides the means for measuring the degree and intensity of active treatment mechanisms employed. Specifically, the

psyhciatric evaluation, which contains a mental status examination, forms the foundation of the diagnostic decision-making process. The psychiatric evaluation, completed within 60 hours of admission, provides a critical data base upon which decisions regarding specific methods of treatment are based.

The individualized treatement plan is critical because (1) it forces the focus of attention on each patient as a unique individual; (2) it provides a systematic approach to care of patients and the documentation of what happens to them; (3) it assists staff in their understanding of the patient and his or her needs; and (4) it is in keeping with legislative and judicial concerns that treatment be appropriate and that reimbursement be for active psychiatric treatment rather than custodial care.

Documentation of progress is necessary to determine patients' response to treatment planning, treatment, and discharge planning. It serves to apprise all staff about patients' progress and any new problems or regression.

Discharge planning and follow-up services are part of the continuum of total care and treatment planning. The GAO, in a 1976 Report to Congress, emphasized the critical need to provide appropriate discharge planning and follow-up services. Appropriate discharge planning assists in reducing unnecessary readmissions.

c. *Special Staff Requirements for Psychiatric Hospitals.*—Current regulations at 42 CFR 405.1038 specify special staff requirements for psychiatric hospitals. We would provide for these requirements in proposed § 482.62, and we note the following:

(1) The current detailed specifications regarding staff in general have been simplified to reflect instead the responsibilities and functions that are appropriate to a psychiatric hospital staff. (See proposed § 482.62(a).)

(2) We would retain the requirement (§ 482.62(b)) that the director of the inpatient psychiatric services meet the requirements for examination by the Board Of Psychiatry and Neurology. We believe that a director with these qualifications is necessary to monitor and assure the appropriateness of physician services. Similarly, in proposed § 482.62(d) we have retained the qualifications for the director of psychiatric nursing services to assure quality care.

(3) Under psychological services (§ 482.62(e)) we use the general language of the 1980 NPRM by stating that the director must be eligible to be considered a professional psychologist according to the American Psychological Association's standards for providers of psychological services. Current regulations at 42 CFR 405.1038(e) discuss such details as whether or not the director has a doctoral degree.

(4) Under social services (proposed § 482.62(f)) we would allow equivalent training and experience to substitute for the master's degree requirement for the director of social services.

HCFA is considering the feasibility of flexibly applying the medical records and staffing requirements for psychiatric hospitals (items b and c above) to inpatient psychiatric units of general (acute) hospitals. When the general hospital Conditions were originally developed, very few acute care hospitals had psychiatric sections. Those that did, generally had small units. Currently there are more than 1,600 psychiatric units in general hospitals, but there are no specialized standards applicable to those units.

We believe that psychiatric patients should be afforded equal protection regardless of the setting. Therefore, we invite public comments on whether the two special psychiatric conditions should be applied to psychiatric units of general hospitals. We are paricularly interested in knowing which portions, if any, of these Conditions would be appropriate.

d. *Special Medical Record and Staff Requirements for Tuberculosis Hospitals.*—Current regulations at 42 CFR 405.1039 and 405.1040 require hospitals to maintain records for all patients and to have adequate numbers of qualified staff. We are proposing (see §§ 482.63 and 482.64) to modify these Conditions to limit the requirements to the statutory language. Also, in view of the small number of hospitals to which these requirements apply, we do not propose further revisions.

19. *Medical Library.* Current regulations (42 CFR 405.1030) require the hospital to maintain a medical library, in or adjacent to the facility, containing modern textbooks, journals, and periodicals. We would delete the provisions that address medical libraries. We believe this should not be a Federal requirement, but that each hospital should have the flexibility of deciding if it wants to have a medical library.

20. Social Services. The proposed rule would delete requirements addressing the provision of social services. Current Federal regulations at 42 CFR 405.1034 specify the requirements hospitals must meet if they have a social service department, including details on the organization of the social work department and the qualifications of the persons providing social work. However, the Act does not specify that hospitals must provide social services to their patients and the current regulations do not require hospitals to have a social work department. Therefore, we believe this is a service that does not require Federal regulation. While social services can be helpful as part of total patient care planning, there is no indication that direct risks to patient health or safety may result in the absence of Federal standards. In fact, we believe that with the elimination of these prescriptive requirements, hospitals may feel freer to provide social services to their patients. Although there would no longer be a Condition on social services, social services would continue to be a covered service under HCFA reimbursement policies.

D. Impact Analysis

Executive Order 12291

We have determined that these regulations would not result in an annual economic effect of $100 million or otherwise meet the criteria of section 1(b) of the Order. Therefore, under the Order, a regulatory impact analysis is not required.

Section 2 of the Order establishes a general requirement that, among alternative approaches to any given regulatory objective, an agency shall, to the extent permitted by law, choose the approach involving the least cost to society. We have abided by this principle in developing these regulations.

Under existing regulations, approximately 5200 of the 6700 hospitals participating in Medicare and Medicaid are voluntarily accredited by the JCAH or the AOA, and are therefore deemed to meet the Conditions of Participation. Accredited hospitals are generally larger than non-accredited hospitals. In fact, 1,065 of the 1,495 non-accredited hospitals have fewer than 50 beds.

We expect these regulations to reduce costs incurred by non-accredited hospitals in meeting the conditions of participation. We do not have sufficient information to reliably estimate the amount of the reduction. However, taking into account our experience with existing regulations, and the number and size of the hospitals affected, we believe that these reductions, while significant (see regulatory flexibility discussion below) will not reach $100 million.

Regulatory Flexibility Act

We have determined that these regulations would have significant impact on a substantial number of small entities. Thus, under 5 U.S.C. 603,

enacted by the Regulatory Flexibility Act (Pub. L. 96–354), we are required to prepare and make available for public comment an initial regulatory flexibility analysis. The preamble to these proposed regulations constitutes our initial regulatory flexibility analysis.

As stated earlier, one of the criteria used in reviewing existing regulations was that requirements should permit maximum flexibility for facility compliance. Our intention is to focus on outcome rather than the process used. This is consistent with 5 U.S.C. 603(c)(3), which requires that, as applicable, an initial regulatory flexibility analysis discuss the use of performance (i.e., outcome) rather than design (i.e., process) standards.

These regulations would affect the 1,495 hospitals which participate in Medicare or Medicaid but are not accredited by the JCAH or the AOA. Nearly all of these hospitals are small entities for purposes of a regulatory flexibility analysis.

By taking advantage of the administrative flexibility offered by these regulations, hospitals may reduce costs incurred in complying with conditions of participation. We believe these economies, in comparison to total revenues, would be significant, particularly for the 1,065 non-accredited hospitals of fewer than 50 beds.

Therefore, since these regulations will have a significant and beneficial impact on a substantial number of small hospitals, we believe we have accomplished the stated objectives of the Department's regulatory relief effort.

Paperwork Reduction Act of 1980

Sections 482.12, 482.22, 482.24, 482.41, 482.51, 482.52, 482.53, and 482.61 of this proposed rule contain information collection requirements. As required by 44 U.S.C. 3504(h), enacted by the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should follow the instructions in the "ADDRESS" section of this preamble.

E. Response to Comments

Because of the large number of comments we receive on proposed regulations, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and respond to them in the preamble to that rule.

F. List of Subjects

42 CFR Part 405

Administrative practice and procedure,
Certification of compliance,
Clinics,
Contracts (Agreements),
End-Stage Renal Disease (ESRD),
Health care,
Health facilities,
Health maintenance organizations (HMO),
Health Professions,
Health suppliers,
Home health agencies,
Hospitals,
Inpatients,
Kidney dieseases,
Laboratories,
Medicare,
Nursing homes,
Onsite surveys,
Outpatient providers,
Reporting requirements,
Rural areas,
X-rays.

42 CFR Part 482

Administrative practice and procedure,
Certification of compliance,
Contracts (Agreements),
Health care,
Health facilities,
Health professions,
Hospitals,
Laboratories,
Medicare,
Onsite surveys,
Outpatient providers,
Reporting requirements,
Rural areas,
X-rays.

42 CFR Chapter IV is amended as set forth below:

A. Chapter IV is amended by designating a new Subchapter E, adding and reserving Parts 480, and 483–488, and adding a new Part 482. The Table of Contents for Chapter IV, Subchapter E, reads as follows:

* * * * *

SUBCHAPTER E-STANDARDS AND CERTIFICATION

Part
480 [Reserved].
481 Certification of certain health facilities.
482 Conditions of participation for hospitals.
483 –488 [Reserved].
489 Provider agreements under Medicare.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

B. Part 405 is amended as follows:

1. The table of contents for Part 405 is amended by removing the title and content of Subpart J.

2. The content of 42 CFR Part 405, Subpart A, §§ 405.1011 through 405.1040 is redesignated as Part 482 and revised.

SUBCHAPTER E—STANDARDS AND CERTIFICATION FOR PARTICIPATION IN MEDICARE AND MEDICAID

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

Subpart A—General Provisions

482.1 Basis and scope.
482.2 Provisions of emergency services by nonparticipating hospitals.
482.3 Definitions.

Subpart B—Administration.

482.11 Condition of participation: Compliance with Federal, State and local laws.
482.12 Condition of Participation: Governing body.

Subpart C—Basic Hospital Functions

482.21 Condition of participation: Quality assurance.
482.22 Condition of participation: Medical staff.
482.23 Condition of participation: Nursing services.
482.24 Condition of participation: Medical record services.
482.25 Condition of participation: Pharmaceutical services.
482.26 Condition of participation: Radiologic service.
482.27 Condition of participation: Laboratories.
482.28 Condition of participation: Food and dietetic services.
482.30 Condition of participation: Utilization review.
482.41 Condition of participation: Physical environment.
482.42 Condition of participation: Infection control.

Subpart D—Optional Hospital Services

482.51 Condition of participation: Surgical services.
482.52 Condition of participation: Anesthesia services.
482.53 Condition of participation: Nuclear medicine services.
482.54 Condition of participation: Outpatient services.
482.55 Condition of participation: Emergency services.
482.56 Condition of participation: Rehabilitation services.
482.57 Condition of participation: Respiratory care services.

Subpart E—Requirements for specialty Hospitals

482.60 Special provisions applying to psychiatric and tuberculosis hospitals.
482.61 Condition of Participation: Special medical record requirements for psychiatric hopsitals.
482.62 Condition of Participation: Special staff requirements for psychiatric hospitals.

482.63 Condition of participation: Special medical record requirement for tuberculosis hospitals.
482.64 Condition of participation: Special staff requirements for tuberculosis hospitals.

Authority: Secs. 1102, 1861(e) (f), (g) and (k), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x (e), (f), (g), and (k) and 1395hh)

Subpart A—General Provisions

§ 482.1 Basis and scope.

(a) *Basis in legislation.* (1) Section 1861(e) of the Act provides that—

(i) Hospitals participating in Medicare must meet certain specified requirements; and

(ii) The Secretary may impose additional requirements if they are found necessary in the interest of the health and safety of the individuals who are furnished services in hospitals.

(2) Section 1905(a) of the Act provides that "medical assistance" (Medicaid) payments may be applied to various hospital services. Regulations interpreting those provisions specify that hospitals receiving payment under Medicaid must meet the requirements for participation in Medicare. See § 440.10 of this chapter.

(b) *Scope.* The provisions of this part serve as the basis of survey activities for the purpose of determining whether a hospital qualifies for a provider agreement under Medicare and Medicaid.

§ 482.2 Provision of emergency services by nonparticipating hospitals.

(a) The services of an institution that does not have an agreement to participate in the Medicare program may, nevertheless, be reimbursed under the program if—

(1) The services are emergency services; and

(2) The institution meets the requirements of section 1861(e) (1) through (5) and (7) of the Act. See 42 CFR 405.152, 405.157, and 405.158 for provisions regarding emergency services

(b) Section 440.170(e) of this chapter defines emergency hospital services for purposes of Medicaid reimbursement.

§ 482.3 Definitions

For purposes of this part: "Physician" means the following categories of practitioners, functioning within the restrictions of Section 1861(r) of the Social Security Act:

(a) Doctor of Medicine or Osteopathy;

(b) Doctor of Dental Surgery or Dental Medicine;

(c) Doctor of Podiatric Medicine;

(d) Doctor of Optometry; and

(e) Chiropractor.

Subpart B—Administration

§ 482.11 Condition of participation: Compliance with Federal, State and local laws.

(a) The hospital must be in compliance with applicable Federal laws.

(b) The hospital must be—

(1) Licensed; or

(2) Approved as meeting applicable standards by the agency of the State or locality responsible for approval.

§ 482.12 Condition of participation: Governing body.

The hospital must have an effective governing body legally responsible for the conduct of the hospital as an institution. However, if a hospital does not have an organized governing body, the persons legally responsible for the conduct of the hospital must carry out the functions specified in this Part that pertain to the governing body.

(a) *Standard: Medical staff.* The governing body must ensure that the medical staff—

(1) Is accountable to the governing body for the quality of patient care;

(2) Organizes itself under bylaws; and

(3) Provides that a physical examination be performed and a health history obtained no more than 7 days before or 60 hours after admission.

(b) *Standard: Chief executive officer.* The governing body must appoint a chief executive officer responsible for managing the hospital.

(c) *Standard: Physician care.* The governing body must ensure the availability of physician care. Physician is defined in section 1861(r) of the Act.

(1) Every patient must be under the care of a physician.

(2) Patients must be admitted to the hospital only on the recommendation of a physician.

(3) A doctor of medicine or doctor of osteopathy must be on duty or on call at all times.

(d) *Standard: Institutional plan.* The institution must have an overall institutional plan and budget that meets the following conditions:

(1) It is prepared according to generally accepted accounting principles.

(2) It provides for an annual operating budget that includes all anticipated income and expenses. This provision does not require that the budget identify item-by-item the components of each anticipated income or expense.

(3) It provides for a capital expenditures plan for at least a 3-year period, including the year in which the operating budget specified in paragraph (d)(2) of this section is applicable. The plan must include and identify in detail and the objectives of the anticipated sources of financing for, each anticipated expenditure in excess of $100,000 related to the following:

(i) Acquisition of land;

(ii) Improvement of land, buildings, and equipment;

(iii) The replacement, modernization, and expansion of buildings and equipment.

(4) It provides for annual review and updating.

(5) It is prepared—

(i) Under the direction of the governing body; and

(ii) By a committee consisting of representatives of the governing body, the administrative staff, and the medical staff of the institution.

(e) *Standard: Contracted services.* The governing body must be responsible for services furnished in the hospital whether or not they are furnished under contracts, including shared services and joint ventures.

(1) The governing body must ensure that the services performed under a contract are provided in a safe and effective manner.

(2) The hospital must maintain a list of all contracted services, including the scope and nature of the services provided.

(f) *Standard: Discharge planning.* The governing body must ensure that the hospital has an effective, ongoing discharge planning program that facilitates the provision of follow-up care.

(1) Discharge planning must be initiated in a timely manner.

(2) Patients, along with necessary medical information, must be transferred or referred to appropriate facilities, agencies, or outpatient services, as needed for follow-up care.

Subpart C—Basic Hospital Functions

§ 482.21 Condition of participation: Quality Assurance.

The governing body must ensure that there is an effective, hospital-wide quality assurance program encompassing all practicing hospital staff.

(a) *Standard: Plan.* The organized, hospital-wide quality assurance program must be ongoing and have a written plan of implementation.

(1) All organized services must be evaluated.

(2) Nosocomial infections and medication therapy must be evaluated.

(3) All surgery performed in the hospital must be evaluated as it relates

to appropriateness of diagnosis and treatment.

(b) *Standard: Implementation.* The hospital must take and document appropriate remedial action to address deficiencies found through the quality assurance program.

§482.22 Condition of participation: Medical staff

The hospital must have an organized medical staff that operates under bylaws approved by the governing body and is responsible for the quality of medical care provided to patients by the hospital.

(a) *Standard: Staff appointments and qualifications.* The medical staff must be well-organized and accountable to the governing body for the quality of medical care given to patients.

(1) The medical staff must periodically conduct appraisals of its members.

(2) Staff must be legally, professionally, and ethically qualified.

(3) An individual physician must be assigned the responsibility for the organization and conduct of the medical staff.

(b) *Standard: Bylaws.* The medical staff must adopt and enforce bylaws to carry out responsibilities. The bylaws must include a statement of—

(1) The necessary qualifications for admittance to the staff; and

(2) The duties and privileges of each category of medical staff.

§ 482.23 Condition of participation: Nursing services.

The hospital must have an organized nursing service that provides 24-hour nursing services furnished or supervised by a registered nurse. There must be a licensed practical nurse or registered nurse on duty at all times, except for rural hospitals as specified in section 1861(e) of the Act.

(a) *Standard: Organization.* The hospital must have a well-organized service with a plan of administrative authority and delineation of responsibilities for patient care. The director of the nursing service must be a licensed registered nurse. He or she is responsible for the operation of the service, including determining the types and numbers of nursing personnel and staff necesary to provide nursing care for all areas of the hospital.

(b) *Standard: Staffing and delivery of care.* The nursing service must have adequate numbers of licensed registered nurses, licensed practical (vocational) nurses, and other personnel to provide nursing care to all patients as needed. There must be supervisory and staff personnel for each department or nursing unit to ensure, when needed, the immediate availability of a registered nurse for bedside care of any patient. There must be registered nurse on duty at all times and available for all patients on a 24-hour basis.

(1) The hospital must have 24-hour nursing services on each tour of duty, except for rural hospitals as specified in 1861(e) of the Act.

(2) The nursing service must have a procedure to ensure that hospital nursing personnel for whom licensure is required have valid and current licensure.

(3) A registered nurse must supervise and evaluate the nursing care for each patient.

(4) The hospital must ensure that the nursing staff develops, and keeps current, a nursing care plan for each patient.

(5) A registered nurse must assign the nursing care of each patient to other nursing personnel in accordance with the patient's needs and the preparation and competence of the nursing staff available.

(6) Non-employee licensed nurses who are working in the hospital must adhere to the policies and procedures of the hospital. The director of nursing service must provide for the adequate supervision and evaluation of the clinical activities of non-employee nursing personnel.

(c) *Standard: Administration of drugs.* Drugs must be prepared and administered according to established policies and accepted patterns of practice.

(1) Drugs must be administered in accordance with applicable State laws by only the following:

(i) A registered nurse.

(ii) Under the supervision of a registered nurse, the following individuals:

(A) A licensed practical nurse.

(B) A student nurse in an approved school of nursing.

(C) A psychiatric technician or a medication technician who has completed a State-approved training program in medication administration.

(2) All orders for drugs and biologicials must be in writing and signed by the physician. When telephone or oral orders must be used, they must be—

(i) Accepted and transcribed by registered nurses of licensed practical (vocational) nurses;

(ii) Signed or initialed by the prescribing physician as soon as possible; and

(iii) Used sparingly.

(3) Blood transfusions must be administered by registered nurses, in accordance with State law, and only by those who have had special training.

(4) There must be a hospital procedure for reporting transfusion reactions, adverse drug reactions, and errors in administration of drugs.

§ 482.24 Condition of Participation: Medical Record Services.

The hospital must have a medical record service with administrative responsibility for medical records. A medical record must be maintained for every individual evaluated or treated in the hospital.

(a) *Standard: Organization and staffing.* The organization of the medical record service must be appropriate to the scope and complexity of the services performed. The hospital must employ adequate personnel to ensure prompt completion, filing, and retrieval of records.

(b) *Standard: Form and retention of record.* The hospital must maintain a medical record for each inpatient and outpatient. Medical records must be accurately written, promptly completed, properly filed and retained, and accessible. The hospital must use a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries.

(1) Medical records must be retained in their original or legally reproduced form for a period of 5 years.

(2) The hospital must have a system of coding and indexing medical records. The system must allow for immediate retrieval by diagnosis and procedure, in order to support medical care evaluation studies.

(3) The hospital must have a procedure for ensuring the confidentiality of patient records. Records must be released to authorized individuals only and the hospital must ensure that unauthorized individuals cannot gain access to or alter patient records.

(c) *Standard: Content of record.* The medical record must contain information to justify admission and continued hospitalization, support the diagnosis, and describe the patient's progress and response to medications and services.

(1) All entries must be legible and complete, and must be authenticated and dated promptly by the person (identified by name and discipline) who is responsible for ordering, providing, or evaluating the service furnished.

(i) The author of each entry must be identified and must authenticate his or her entry.

(ii) Authentication may include signatures, written initials or computer entry.

(2) All records must document the following, as appropriate:

(i) Evidence of a physical examination, including a health history, performed no more than 7 days prior to admission or within 60 hours after admission.

(ii) Admitting diagnosis.

(iii) Results of all consultative evaluations of the patient and appropriate findings by clinical and other staff involved in the care of the patient.

(iv) Documentation of complications, hospital acquired infections, and unfavorable reactions to drugs and anesthesia.

(v) Properly executed informed consent forms.

(vi) All physicians' orders, nursing notes, reports of treatment, medication records, radiology and laboratory reports, and vital signs and other information necessary to monitor the patient's condition.

(vii) Discharge summary with prognosis, disposition of case, and provisions for follow-up care.

(viii) Final diagnosis with completion of medical records within 30 days following discharge.

§ 485.25 Condition of Participation: Pharmaceutical services.

The hospital must have pharmaceutical services that meet the needs of the patients. The institution must have a pharmacy directed by a registered pharmacist or a drug storage area under competent supervision. The pharmacy or drug storage area must be administered in accordance with accepted professional principles.

(a) *Standard: Pharmacy management and administration.* There must be a pharmacy directed by a registered pharmacist, or a drug storage area under competent supervision and direction.

(1) A full time, part-time, or consulting pharmacist must be responsible for developing, supervising, and coordinating all the activities of the pharmacy services.

(2) The pharmaceutical services must have an adequate number of personnel to ensure quality pharmaceutical services, including emergency services.

(3) If the hospital does not have a staff pharmacist, a designated employee of the hospital must have overall responsibility for day-to-day operation of the services.

(4) If the hospital maintains only a drug storage area, a pharmacist must provide regular consultation, assist in overseeing control and distribution of drugs, and visit the hospital as needed.

(5) Current and accurate records must be kept of the receipt and disposition of all drugs.

(b) *Standard: Delivery of services.* Distribution and administration of drugs must be done in accordance with acceptable standards of practice in order to provide patient safety.

(1) All compounding, packaging, and dispensing of drugs must be under the supervision of a pharmacist.

(2) Drugs must be kept in a locked storage area.

(3) Outdated, mislabelled, or otherwise unusable drugs must not be dispensed or distributed.

(4) If a pharmacist is not available, drugs must only be removed from the pharmacy or storage area by personnel designated in the policies of the medical staff or pharmacy.

(5) Toxic or dangerous medications, not specifically prescribed as to time or number of doses, must automatically be stopped after a reasonable time that is predetermined by the medical staff.

(6) Drug administration errors, adverse drug reactions, and incompatibilities that are brought to the attention of the pharmacy staff must be immediately reported to the attending physician and, if appropriate, to the hospital-wide quality assurance program.

(7) Abuses and losses of controlled substances must be reported to the director of the pharmacy and the chief executive officer, as appropriate.

(8) The following must be available for use by the professional staff:

(i) Information relating to drug interactions.

(ii) A current drug list, or formulary.

§ 482.26 Condition of participation: Radiologic services.

The hospital must maintain, or have available, diagnostic radiologic services. If therapeutic services are also provided, they, as well as the diagnostic services, must meet professionally approved standards for safety and personnel qualifications. The provisions specified in this section apply only to ionizing radiology procedures.

(a) *Standard: Radiologic services.* The hospital must maintain, or have available, radiologic services according to needs of the patients.

(b) *Standard: Safety for patients and personnel.* The radiologic services must be free from hazards for patients and personnel.

(1) Proper safety precautions must be maintained against radiation hazards. This includes adequate shielding for patients, personnel, and facilities, as well as appropriate storage, use, and disposal of radioactive materials.

(2) Periodic inspection of equipment must be made and hazards identified must be promptly corrected.

(3) Radiation workers must be checked periodically, by the use of exposure meters or badge tests, for amount of radiation exposure.

(4) Radiologic services must be provided only on the order or a practitioner with clinical privileges.

(c) *Standard: Personnel.*

(1) A qualified radiologist, full-time or part-time, must supervise the service and interpret tests that require specialized knowledge.

(2) Only personnel designated as qualified by the individual responsible for the service or by the medical staff may use the radiologic equipment and administer procedures.

(d) *Standard: Records.* Records of radiologic services must be maintained.

(1) The radiologist must sign reports of his or her interpretations.

(2) The hospital must maintain the following for five years:

(i) Copies of reports and printouts.

(ii) Films, as appropriate.

§ 482.27 Condition of participation: Laboratories.

The hospital must maintain, or have available, adequate clinical laboratory services to meet the needs of its patients. The hospital must ensure that all laboratory services provided to its patients are performed in a Medicare approved facility.

(a) *Standard: Adequacy of laboratory services.* The hospital must have laboratory services available, either directly or through a contractual agreement with a Medicare approved hospital or independent laboratory, that meet the needs of the patients and the medical staff.

(1) Emergency laboratory services must be available during all hours of operation.

(2) A written description of services provided must be available to the medical staff.

(3) The laboratory must make provision for proper receipt and reporting of tissue specimens.

(i) The medical staff and a pathologist must determine which tissue specimens require a macroscopic (gross) examination, or microscopic examination, or both.

(ii) Except as specified in paragraphs (a)(3) (iii) and (iv) of this section, the pathologist must sign the tissue examination reports.

(iii) In the case of tests limited to skin pathology, the tissue examination

reports may be signed by an individual—

(A) Certified in dermatopathology by the American Board of Dermatology and American Board of Pathology; or

(B) Possessing qualifications that are equivalent to those required for certification (board eligible).

(iv) In the case of tests limited to oral pathology, the tissue examination reports must be signed by an individual—

(A) Certified in oral pathology by the American Board of Oral Pathology; or

(B) Possessing qualifications that are equivalent to these required for certification (board eligible).

(4) For emergency situations, the hospital must—

(i) Directly provide a minimum blood supply;

(ii) Have a list of donors and equipment to obtain blood quickly; or

(iii) Contract with blood banks or other institutions to obtain blood quickly.

(b) *Standard: Laboratory management.* The clinical laboratory must meet the management requirements specified in § 405.1316 of this chapter.

(c) *Standard: Personnel.* The facility must provide personnel to direct and conduct the laboratory services.

(1) The laboratory director must be technically qualified to supervise the laboratory personnel and test performance.

(i) The director must be a pathologist or other physician with training and experience in the areas of services offered, or a laboratory specialist with a doctoral degree in physical, chemical or biological sciences, and training and experience in the areas of services offered.

(ii) If the laboratory performs anatomic pathology services, the tissue examination must be performed under the technical supervison of a pathologist or other individual who meets the requirements of paragraphs (a)(3) (iii) and (iv) of this section.

(iii) If the laboratory performs blood banking and transfusion services they must be performed under the technical supervision of a pathologist or other physician with at least two years of experience in immunohematology subsequent to graduation.

(2) The laboratory director must—

(i) Provide technical supervision of the laboratory services; and

(ii) Assure that tests, examinations, and procedures are properly performed, recorded, and reported.

(3) The laboratory director must ensure that the staff—

(i) Has appropriate education, experience, and training to perform and report laboratory tests promptly and proficiently;

(ii) Is sufficient in number for the scope and complexity of the services provided; and

(iii) Receives in-service training appropriate to the type and complexity of the laboratory services offered.

(4) The laboratory technologists must be technically competent to perform test procedures and report test results promptly and proficiently.

(d) *Standard: Blood and blood products.* The hospital must ensure that there are facilities for procurement, safe keeping, and transfusion of blood; and that blood products are provided or readily available.

(1) The hospital must maintain, as a minimum, proper blood storage facilities under adequate control and supervision of the pathologist or other authorized physician.

(2) In the case of services provided by an outside blood bank, the hospital must have an agreement governing the procurement, transfer, and availability of blood that is reviewed and approved by the medical staff and administration.

(3) There must be provision for prompt blood grouping, antibody detection, and identification and compatibility testing; and for laboratory investigation of transfusion reactions, either through the hospital or by arrangements with others on a continuous basis, under the supervision of a physician.

(4) Blood storage facilities in the hospital must have an adequate temperature alarm system that is regularly inspected.

(5) The hospital, according to its established procedures, must retain samples of each unit of blood used at the hospital for further testing in the event of reactions. The hospital must promptly dispose of blood not retained for further testing that has exceeded its expiration date.

(6) The hospital, according to its established procedures, must promptly investigate all transfusion reactions occurring in its own facility and make recommendations to the medical staff regarding improvements in transfusion procedures.

(e) *Standard: Proficiency testing.* The laboratory must meet the proficiency testing provisions specified in §§ 405.1310(c) and 405.1314(a) of this chapter.

(f) *Standard: Quality Control.* The laboratory must meet the quality control requirements specified in § 405.1317 of this chapter.

§ 482.28 Condition of participation: Food and dietetic services.

The hospital must have organized dietary services that are directed and staffed by adequate qualified personnel. However, a hospital that has a contract with an outside food management company may be found to meet this Condition of participation if the company has a dietitian who serves, on a full-time, part-time, or consultant basis to the hospital, provided the company maintains at least the minimum standards specified in this section and provides for constant liaison with the hospital medical staff for recommendations on dietetic policies affecting patient treatment.

(a) *Standard: Organization.*

(1) The hospital must have a full-time employee who—

(i) Serves as director of the food and dietetic service; and

(ii) Is responsible for the daily management of the dietary services.

(2) There must be a qualified dietitian, full-time, part-time, or on a consultant basis. A qualified dietitian is an individual who is registered or eligible for registration, by the American Dietetic Association or who has the documented equivalent in education, training, and experience.

(3) There must be administrative and technical personnel competent in their respective duties.

(b) *Standard: Diets.* Menus must meet the needs of the patients.

(1) Therapeutic diets must be prescribed by the physician.

(2) Nutritional needs must be met in accordance with the current Recommended Dietary Allowances of the Food and Nutrition Board, National Research Council, and in accordance with physician's orders.

(3) A current therapeutic diet manual approved by the dietitian and medical staff must be readily available to all medical, nursing, and food service personnel.

§ 482.30 Condition of participation: Utilization review.

The hospital must have in effect a utilization review plan that provides for review of services furnished by the institution to individuals entitled to benefits under the Medicare and Medicaid programs. The provisions of this section do not apply to a hospital for which a Professional Standards Review Organization has assumed binding review.

(a) *Applicability of UR plan requirements under titles XVIII and XIX.*

(1) Except as specified in paragraph (a)(2) of this section, for title XVIII purposes the facility must meet the UR requirements specified in this section.

(2) If HCFA determines that the UR procedures established by the State under title XIX of the Act are superior to the procedures required in this section, HCFA may require hospitals in that State to meet the UR plan requirements under §§ 456.50 through 456.245 of this chapter.

(b) *Standard: Composition of utilization review committee.* A UR committee consisting of two or more physicians, with or without participation of other professional personnel, must carry out the UR functions.

(1) Except as specified in paragraphs (b) (2) and (3) of this section, the UR committee must be one of the following:

(i) A staff committee of the institution;

(ii) A group outside the institution—

(A) Established by the local medical society and some or all of the hospitals in the locality; or

(B) Established in a manner approved by HCFA.

(2) If, because of the small size of the institution, it is impracticable to have a properly functioning staff committee, the UR committee must be established as specified in paragraph (b)(1)(ii) of this section.

(3) The commitee's or group's reviews may not be conducted by any physician who—

(i) Is financially interested in that hospital; or

(ii) Was professionally involved in the care of the patient whose case is being reviewed.

(c) *Standard: Scope and frequency of reviews.*

(1) The UR plan must provide for the review with respect to medical necessity of admissions to the institution, the duration of stays, and the professional services (including drugs and biologicals) frunished.

(2) Expect as specified in paragraph (e) of this section, the reviews may be conducted on a sample basis.

(d) *Standard: Final determination relgarding admissions or continued stays.*

(1) The final determination that an admission or continued stay is not medically necessary—

(i) May be made by on physician on the UR committee in cases where the attending physician concurs with the determination or fails to present his or her views when afforded the opportunity; and

(ii) Must be made by at least two physicians on the UR committee in all other cases.

(2) Before making a final determination that an admission or continued stay is not medically necesary, the UR committee must consult the attending physician and afford him or her the opportunity to present his or her views.

(3) If the committee decides that further stay in the hospital is not medically necessary, written notification must be given—

(i) To the hospital, the attending physician, and the individual;

(ii) No later than two days after the determination;

(iii) No later than two days after the end of the certified period.

(e) *Standard: Extended stay review.* The UR committee must make a periodic review, as specified in the UR plan, of each current inpatient receiving hospital services during a continuous period of extended duration.

(1) The scheduling of the periodic reviews may—

(i) Be the same for all cases; or

(ii) Differ for different classes of cases.

(2) The UR committee must make the periodic review no later than 7 days after the day required in the UR plan.

(f) *Standard: Review of professional services.* The committee must review professional services provided, to determine medical necessity and to promote the most efficient use of available health facilities and services.

§ 482.41 Condition of participation: Physical environment.

The hospital must be constructed, arranged, and maintained to ensure the safety of the patient, and to provide facilities for diagnosis and treatment and for special hospital services appropriate to the needs of the community.

(a) *Standard: Buildings.* The condition of the physical plant and the overall hospital environment must be developed and maintained in such a manner that the safety and well-being of patients are assured.

(1) There must be emergency power and lighting in at least the operating, recovery, intensive care, and emergency rooms, and stairwells. In all other areas not serviced by the emergency supply source, battery lamps and flashlights must be available.

(2) There must be facilities for emergency gas and water supply.

(3) Corridors and passageways must be free of obstacles.

(b) *Standard: Life safety from fire.*

(1) The facility must meet the provisions of the 1981 edition of the *Life Safety Code* of the National Fire Protection Association that apply to hospitals. (Incorporation of the 1981 edition of the Life Safety Code was approved by the Director of the Federal Register on September 28, 1981). The code is available for inspection at the Office of the Federal Register Information Center, Room 8301, 1110 L Street, NW., Washington, D. C. Copies may be obtained from the National Fire Protection Association; Battery March Park; Quincy, Mass. 02269.

(i) Any facility that on December 4, 1980 complied, with or without waivers, with the requirements of the 1967 edition of the *Life Safety Code*, is considered to be in compliance with this standard so long as the facility continues to remain in compliance with that edition of the Code.

(ii) The provisions of the *Life Safety Code* do not apply in a State where HCFA finds that the State Fire and Safety Code adequately protects patients in hospitals.

(iii) After consideration of State Survey agency findings, HCFA may waive specific provisions of the Code which, if rigidly applied, would result in unreasonable hardship upon the facility, but only if the waiver does not adversely affect the health and safety of patients.

(2) The hospital must have procedures for the proper routine storage and prompt disposal of trash.

(3) The hospital must have written fire control plans that contain provisions for prompt reporting of fires; extinguishing fires; protection of patients, personnel and guests; evacuation; and cooperation with fire fighting authorities.

(c) *Standard: Facilities.* The hospital must maintain adequate facilities for its services.

(1) Diagnostic and therapeutic facilities must be located for the safety of patients.

(2) Facilities, supplies, and equipment must be maintained to ensure an acceptable level of safety and quality.

(3) The extent and complexity of facilities must be determined by the services offered.

(4) There must be proper ventilation, light, and temperature controls in pharmaceutical, food preparation, and other approprate areas.

§ 482.42 Condition of Participation: Infection control.

The hospital must provide a sanitary environment to avoid sources and transmission of infections. There must be an active program for the prevention, control, and investigation of infection and communicable diseases.

(a) *Standard: Organization and policies.* A person (or persons) must be

designated as infection control officer(s) to develop and implement policies governing asepsis and infecton control.

(1) The infection control officer(s) must develop a system for identifying, reporting, investigating, and controlling infections of patients and personnel.

(2) The chief executive officer, the medical staff, and the director of nursing services must ensure that the hospital-wide quality assurance program and training programs address problems identified by the infection control officer(s).

(3) The chief executive officer, the medical staff, and the director of nursing service must be responsible for the implementation of successful corrective action plans is affected problem areas.

(4) A log of incidents related to infections must be maintained.

Subpart D—Optional Hospital Services

§ 482.51 Condition of Participation: Surgical Services.

If the hospital provides surgical services, the services must be well organized and provided in accordance with acceptable standards of practice. If outpatient surgical services are offered the services must be consistent in quality with inpatient care in accordance with the complexity of services offered.

(a) *Standard: Organization and staffing.* The organization of the surgical services must be appropriate to the scope of the services offered.

(1) The operating rooms must be supervised by an experienced professional registered nurse.

(2) Licensed practical nurses (LPNs) and surgical technologists (operating room technicians) may serve as "scrub nurses" under the supervision of a registered nurse

(3) Only qualified registered nurses may perform circulating duties in the operating room, except that LPNs and surgical technologists may assist in circulatory duties under the direct supervision of a qualified registered nurse.

(4) Surgical privileges must be delineated for all physicians performing surgery in accordance with the competencies of each physician. The surgical service must maintain a roster of physicians specifying the surgical privileges of each physician.

(b) *Standard: Delivery of service.* Surgical services must be consistent with needs and resources. Policies governing surgical care must be designed to assure the achievement and maintenance of high standards of medical practice and patient care.

(1) There must be a complete history and physical work-up in the chart of every patient prior to surgery, except in emergencies. If this has been dictated, but not yet recorded in the patient's chart, there must be a statement to that effect and an admission note by the physician in the chart.

(2) A properly executed informed consent form for the operation must be in the patient's chart before surgery, except in emergencies.

(3) The following equipment must be available to the operating room suites: call-in-system, cardiac monitor, resuscitator, defibrillator, aspirator, thoracotomy set, and tracheotomy set.

(4) There must be adequate provisions for immediate post-operative care.

(5) The operating room register must be complete and up-to-date.

(6) An operative report describing techniques, findings, and tissues removed or altered must be written or dictated immediately following surgery and signed by the surgeon.

§ 482.52 Condition of Participation: Anesthesia services.

If the hospital furnishes anesthesia services, they must be provided in a well organized manner under the direction of a qualified physician. The service is responsible for all anesthesia administered in the hospital.

(a) *Standard: Organization and Staffing.* The organization of anesthesia services must be appropriate to the scope of the services offered.

(1) Anesthetics must be administered by only—

(i) A qualified anesthesiologist; or

(ii) A physician qualified to administer anesthesia, a certified registered nurse anesthetist (CRNA), or an anesthesia assistant. In these cases the persons administering the anesthesia must be under the supervision of the operating physician.

(2) An anesthesia assistant under paragraph (a)(1)(ii) must have successfully completed a four year educational program for a physician's assistant, that includes two years of specialized academic and clinical training in anesthesia.

(b) *Standard: Delivery of services.* Anesthesia services must be consistent with needs and resources. Policies on anesthesia procedures must include the delineation of preanesthesia and post anesthesia responsibilities. The policies must ensure that the following are provided for each patient;

(1) A preanesthesia evaluation by an anesthesiologist or anesthetist performed within 48 hours prior to surgery.

(2) An intraoperative anesthesia record.

(3) A post anesthesia follow-up report by an anesthesiologist or individual administering the anesthesia written within 48 hours after the operation, noting any postoperative abnormalities or complications.

§ 482.53 Condition of Participation: Nuclear medicine services.

If the hospital provides nuclear medicine services, those services must meet the needs of the patients in accordance with acceptable standards of practice.

(a) *Standard: Organization and staffing.* The organization of the nuclear medicine service must be appropriate to the scope and complexity of the services offered.

(1) There must be a director who is a physician qualified in nuclear medicine.

(2) The qualifications, training, functions, and responsibilities of nuclear medicine personnel must be specified by the service director and approved by the medical staff.

(b) *Standard: Delivery of service.* Radioactive materials must be prepared, labeled, used, transported, stored, and disposed of in accordance with acceptable standards of practice.

(1) In-house preparation of radiopharmaceuticals is by, or under, the direct supervision of an appropriately trained registered pharmacist or physician.

(2) There is proper storage and disposal of radioactive material.

(3) If clinical laboratory tests are performed in the nuclear medicine service, the unit must meet the requirement for clinical laboratories with respect to management, adequacy of facilities, proficiency testing and quality control (see § 482.27 (a), (b), (e), and (f)).

(c) *Standard: Facilities.* Equipment and supplies must be appropriate for the types of nuclear medicine services offered and must be maintained for safe and efficient performance. The equipment must be—

(i) Maintained in safe operating condition; and

(ii) Inspected, tested, and calibrated at least annually by qualified personnel.

(d) *Standard: Records.* Signed and dated reports of nuclear medicine interpretations, consultations, and procedures must be maintained by the service.

(1) The hospital must maintain copies of nuclear medicine reports for no fewer than 5 years.

(2) The practitioner approved by the medical staff to interpret diagnostic

procedures must sign and date the interpretations of these tests.

(3) The hospital must maintain records of the receipt and disposition of radiopharmaceuticals.

(4) Nuclear medicine services must be ordered only by a practitioner with clinical privileges.

§ 482.54 Condition of participation: Outpatient services.

If the hospital provides outpatient services, the services must meet the needs of the patients in accordance with acceptable standards of practice.

(a) *Standard: Organization.* Outpatient services must be appropriately organized and integrated with inpatient services.

(b) *Standard: Personnel.* The hospital must—

(1) Assign an individual to be responsible for outpatient services; and

(2) Have appropriate professional and nonprofessional personnel available.

§ 482.55 Condition of participation: Emergency services.

The hospital must meet the emergency needs of patients in accordance with acceptable standards of practice.

(a) *Standard: Organization and direction.* If the hospital has an emergency department or service—

(1) It must be organized under the direction of a qualified member of the medical staff;

(2) It must be integrated with other departments of the hospital;

(3) The policies and procedures governing medical care provided in the emergency service or department are established by and are a continuing responsibility of the medical staff; and

(4) The emergency service is supervised by a qualified member of the medical staff.

(b) *Standard: Alternative procedures.* If the hospital does not have an organized emergency service, it must at least have written policies and procedures for appraisal, initial treatment for emergencies, and referral when appropriate.

(c) *Standard: Medical and Nursing personnel.* There must be adequate medical and nursing personnel to meet the written emergency procedures and needs anticipated by the facility.

§ 482.56 Condition of Participation: Rehabilitation services.

If the hospital provides rehabilitation, physical therapy, occupational therapy, audiology, or speech pathology services, the services must be organized and staffed to ensure the health and safety of patients.

(a) *Standard: Organization and staffing.* The organization of the service must be appropriate to the scope of the services offered.

(1) The director of the services must have the necessary knowledge, experience, and capabilities to properly supervise and administer the services.

(2) If physical therapy services are offered, the services must be given by a qualified physical therapy therapist or a qualified physical therapist assistant as defined in § 405.1702(d) and (e) of this chapter. The physical therapist assistant must function under the supervision of a qualified physical therapist.

(3) If occupational therapy services are offered, the services must be given by a qualified occupational therapist or qualified occupational therapist assistant as defined in § 405.1202(f) and (g) of this chapter. The occupational therapist assistant must be under the supervision of a qualified occupational therapist.

(4) If speech pathology services are offered, the services must be given by or under the supervision of a qualified speech pathologist. A qualified speech pathologist is one who is qualified as specified in 405.1702(j) of this chapter.

(b) *Standard: Delivery if services.* Services must be furnished in accordance with a written plan of treatment. Services must be given in accordance with physician's orders and the orders must be incorporated in the patient's record.

§ 482.57 Condition of participation: Respiratory care services.

The hospital must meet the needs of the patients in accordance with acceptable standards of practice. The following requirements apply if the hospital has an organized respiratory care service.

(a) *Standard: Organization and Staffing.* The organization of the respiratory care service must be appropriate to the scope and complexity of the services offered.

(1) There must be a director of respiratory care services who is responsible for the service.

(2) There must be adequate numbers of qualified respiratory therapists, respiratory therapy technicians, and other personnel who are trained in respiratory care. A qualified respiratory therapist is one who is eligible to take the registry examination for respiratory therapists administered by the National Board for Respiratory Therapy, Inc.

(b) *Standard: Delivery of Services.* Services must be delivered in accordance with medical staff directives.

(1) Personnel qualified to perform specific procedures and the amount of supervison required for personnel to carry out specific procedures must be designated in writing.

(2) If blood gases or other clinical laboratory tests are performed in the respiratory care unit, the unit must meet the requirements for clinical laboratories with respect to management, adequacy of facilities, proficiency testing, and quality control. (See § 482.27(a), (b), (e) and (f) of this part for requirements applicable to laboratories.)

Subpart E—Requirements for Specialty Hospitals

§ 482.60 Special provisions applying to psychiatric and tuberculosis hospitals.

The hospital must—

(a) Be accredited by the Joint Commission on Accreditation of Hospitals or, if a distinct part of an institution, meet the Conditions of participation for hospitals specified in this part.

(b) Maintain clinical records sufficient to permit the Secretary to determine the degree and intensity of treatment furnished to the beneficiary

(c) Meet the staffing requirements specified in §§ 482.62 and 482.64.

§ 482.61 condition of participation: Special medical record requirements for psychiatric hospitals.

The medical records maintained by a psychiatric hospital must permit determination of the degree and intensity of the treatment provided to individuals who are furnished services in the institution.

(a) *Standard: Development of assessment/diagnostic data.* Medical records must stress the psychiatric components of the record, including history of findings and treatment provided for the psychiatric condition for which the patient is hospitalized.

(1) The identification data must include the patient's legal status.

(2) A provisional or admitting diagnosis must be made on every patient at the time of admission, and must include the diagnoses of intercurrent diseases as well as the psychiatric diagnoses.

(3) The reasons for admission must be clearly documented as stated by the patient and/or others significantly involved.

(4) The social service records, including reports of interviews with patients, family members, and others, must provide an assessment of home plans and family attitudes, and community resource contacts as well as a social history.

(5) When indicated, a complete neurological examination must be

recorded at the time of the admission physical examination.

(b) *Standard: Psychiatric evaluation.* Each patient must receive a psychiatric evaluation that must—

(1) Be completed within 60 hours of admission;

(2) Include a medical history;

(3) Contain a record of mental status;

(4) Note the onset of illness and the circumstances leading to admission;

(5) Describe attitudes and behavior;

(6) Estimate intellectual functioning, memory functioning, and orientation; and

(7) Include an inventory of the patient's assets in descriptive, not interpretative, fashion.

(c) *Standard: Treatment plan.*

(1) Each patient must have an individual comprehensive treatment plan that must be based on an inventory of the patient's strengths and disabilities. The written plan must include—

(i) A substantiated diagnosis;

(ii) Short-term and long-range goals;

(iii) The specific treatment modalities utlilized;

(iv) The responsibilities of each member of the treatment team; and

(v) Adequate documentation to justify the diagnosis and the treatment and rehabilitation activities carried out.

(2) The treatment received by the patient must be documented in such a way to assure that all active therapeutic efforts are included.

(d) *Standard: Recording progress.* Progress notes must be recorded by the physician, nurse, social worker and, when appropriate, others significantly involved in active treatment modalities. The frequency of progress notes is determined by the condition of the patient but should be recorded at least weekly for the first 2 months and at least once a month thereafter and should contain recommendations for revisions in the treatment plan as indicated as well as precise assessment of the patient's progress in accordance with the original or revised treatment plan.

(e) *Standard: Discharge planning and discharge summary.* Each patient must have a discharge summary that includes a recapitulation of the patient's hospitalization and recommendations from appropriate services concerning follow-up or aftercare as well as a brief summary of the patient's condition on discharge.

§ 482.62 Condition of participation: Special staff requirements for psychiatric hospitals.

The hospital must have adequate numbers of qualified professional and supportive staff to evaluate patients, formulate written, individualized comprehensive treatment plans, provide active treatment measures, and engage in discharge planning.

(a) *Standard: Personnel.* The hospital must employ or undertake to provide adequate numbers of qualified professional, technical, and consultative personnel to:

(1) Evaluate patients;

(2) Formulate written individualized, comprehensive treatment plans;

(3) Provide active treatment measures; and

(4) Engage in discharge planning.

(b) *Standard: Director of inpatient psychiatric services; medical staff.* Inpatient psychiatric services must be under the supervision of a clinical director, service chief, or equivalent who is qualified to provide the leadership required for an intensive treatment program. The number and qualifications of physicians must be adequate to provide essential psychiatric services.

(1) The clinical director, service chief, or equivalent must meet the training and experience requirements for examination by the American Board of Psychiatry and Neurology.

(2) The director must monitor and evaluate the quality and appropriateness of services and treatment provided by the medical (physician) staff.

(c) *Standard: Availability of physcians and other personnel.* Physicians and other appropriate professional personnel must be available to provide necessary medical and surgical diagnostic and treatment services. If medical and surgical diagnostic and treatment services are not available within the institution, qualified consultants or attending physicians must be immediately available or a satisfactory agreement must be established for transferring patients to a Medicare certified general hospital.

(d) *Standard: Nursing services.* The hospital must have a qualified director of psychiatric nursing services. In addition to the director of nursing, there must be adequate numbers of registered nurses, licensed practical nurses, and mental health workers to provide nursing care necessary under each patient's active treatment program and to maintain progress notes on each patient.

(1) The director of psychiatric nursing services must have a master's degree in psychiatric or mental health nursing, or its equivalent from a school of nursing accredited by the National League for Nursing, or be qualified by education and experience in the care of the mentally ill. The director must demonstrate competence to participate in interdisciplinary formulation of individual treatment plans; to give skilled nursing care and therapy; and to direct, monitor, and evaluate the nursing care furnished.

(2) The staffing pattern must insure the availability of a registered professional nurse 24 hours each day. There must be adequate numbers of registered nurses, licensed practical nurses, and mental health workers to provide the nursing care necessary under each patient's active treatment program.

(e) *Standard: Psychological services.* The hospital must provide or have available psychological services to meet the needs of the patients. If there are organized psychological services, there must be a director who is eligible to be considered a professional psychologist according to the American Psychological Association's standards for providers of psychological services. The director must monitor psychological services and evaluate their quality and appropriateness. The services must be furnished in accordance with acceptable standards of practice, service objectives, and established policies and procedures.

(f) *Standard: Social services.* There must be a director of social services who monitors and evaluates the quality and appropriateness of social services furnished. The services must be furnished in accordance with accepted standards of practice and established policies and procedures.

(1) The director of the social work department or service must have a master's degree from an accredited school of social work or must be qualified by education and experience in the social services needs of the mentally ill. If the director does not hold a masters degree in social work, at least one staff member must have this qualification.

(2) Social service staff responsibilities must include, but are not limited to, participating in discharge planning, arranging for follow-up care, and developing mechanisms for exchange of appropriate information with sources outside the hospital.

(g) Standard: Therapeutic activities. The hospital must provide a therapeutic activities program.

(1) The program must be apropriate to the needs and interests of patients and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

(2) The number of qualified therapists, support personnel, and consultants must

be adequate to provide comprehensive therapeutic activities consistant with each patient's active treatment program.

§ 482.63 Condition of participation: Special medical record requirements for tuberculosis hospitals.

The medical records maintained by a tuberculosis hospital must permit determination of the degree and intensity of the treatment provided to individuals who are furnished services in the institution.

482.64 Condition of participation: Special staff requirements for tuberculosis hospitals.

The hospitals must have staff adequate in number and qualifications to carry out an active program of treatment for individuals who are furnished services in the institution. There must be a full-time medical director.

(Catalog of Federal Domestic Assistance Program No. 13.714; Medical Assistance Program, No. 13.773; Medical-Hospital Insurance; No. 13.774; Medicare-Supplementary Medical Insurance.

Dated: July 1, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 2, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-33286 Filed 12-30-82; 8:45 am]

BILLING CODE 4120-03-M

Notices

Federal Register
Vol. 48, No. 2
Tuesday, January 4, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Tobacco Inspection; Growers' Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of referendum.

SUMMARY: This notice announces that a referendum will be conducted by mail during the period of January 10–14, 1983, of producers of flue-cured tobacco who sell their tobacco at auction in Burlington and Mebane, North Carolina, to determine producer approval of the designation of the Burlington and Mebane tobacco markets as one consolidated auction market.

DATES: The referendum will be held January 10–14, 1983.

FOR FURTHER INFORMATION CONTACT: J. T. Bunn, Deputy Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250; Telephone Number (202) 447–7235.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a mail referendum on the designation of a consolidated Burlington-Mebane, North Carolina, auction market. Burlington and Mebane, North Carolina, were separately designated on June 26, 1942 (7 FR 4811) as flue-cured tobacco auction markets under the Tobacco Inspection Act of 1935 (7 U.S.C. 511 *et seq.*). Under this Act the two markets have been receiving mandatory grading services from USDA.

On June 15, 1981, an application was made to the Secretary of Agriculture to consolidate the designated markets of Burlington and Mebane. This application, filed by the warehousemen in those markets, was made pursuant to the regulations promulgated under the Tobacco Inspection Act (7 CFR Part 29). On November 17, 1981, an oral hearing was held in Graham, North Carolina, pursuant to applicable provisions of the regulations under the Tobacco Inspection Act.

A review Committee, established pursuant to § 29.3(h) of the regulations (7 CFR 29.3(h)), has reviewed and considered the application, the testimony presented at the hearing, the exhibits received in evidence, together with other available information which was officially noticed at the hearing relating to the application and the brief filed by the applicants. The Committee recommended to the Secretary that the application for consolidation be granted and the Secretary approved the application on November 18, 1982.

Before a new market can be officially designated, a referendum must be held to determine that a two-thirds majority of producers favor said designation. It is hereby determined that the referendum will be held by mail during the period of January 10–14, 1983. The purpose of the referendum is to determine whether farmers who sold their tobacco on the designated markets at Burlington and Mebane, North Carolina, are in favor of or opposed to the designation of the consolidated market for the 1983 and succeeding crop years. Accordingly, if a majority of those tobacco producers voting in the referendum favor this consolidation, a new market will be designated as and be called Burlington-Mebane.

To be eligible to vote in the referendum the tobacco producer must have sold flue-cured tobacco on either the Burlington or Mebane auction market during 1982. Any farmer who believers he or she is eligible to vote in the referendum but has not received a mail ballot by January 10, 1983, should immediately contact Mr. J. T. Bunn at (202) 447–7235.

The referendum will be held in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1312(c)) and the regulations set forth in 7 CFR Parts 29 and 717.

Dated: December 28, 1982.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 83–135 Filed 1–3–83; 8:45 am]

BILLING CODE 3410–02–M

Soil Conservation Service

Mill Creek Watershed, Virginia

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mill Creek Watershed, Page County, Virginia.

FOR FURTHER INFORMATION CONTACT: Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, P.O. Box 10026, Richmond, Virginia 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include the treatment of 1,400 acres of cropland and 1,300 acres of pastureland. The conservation practices will help protect the resource base, reduce erosion, and improve the water quality of Mill Creek.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Gerald P. Bowie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

[Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.]

Manly S. Wilder,

State Conservationist.

December 21, 1982.

[FR Doc. 83–5 Filed 1–3–83; 8:45 am]

BILLING CODE 3410–16–M

CIVIL RIGHTS COMMISSION

Oklahoma Advisory Committee, Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference to be conducted by the Oklahoma Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 12:00 noon, on January 26, 1983, at the Lincoln Plaza, 4345 Lincoln Boulevard, in the Rotunda Room, Oklahoma City, Oklahoma, 73105. The purpose of this press conference is to release the Committee's report on block grants.

Persons desiring additional information should contact the Chairpersons, Earl D. Mitchell, 3 Summit Circle, Stillwater, Oklahoma, 74074, (405) 624–6212 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas, 78204, (512) 229–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 28, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–20 Filed 1–3–83; 8:45 am]

BILLING CODE 6335–01–M

New Mexico Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference to be conducted by the New Mexico Advisory Committee to the Commission will convene at 9:30a and will end at 11:00a, on January 26, 1983, at the Hilton Inn—Santa Fe, 100 Sandoval, in the Onate Room, Santa Fe, New Mexico, 87501. The purpose of this press conference is to release the Committee's report on block grants.

Persons desiring additional information should contact the Chairperson, Robert Mondragon, Route 5, Box 343 A, Santa Fe, New Mexico, 87501, (505) 455–7402 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas, 78204, (512) 229–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 28, 1982.

John I. Binkley,

Advisory Committtee Management Officer.

[FR Doc. 83–21 Filed 1–3–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Carbon Steel Plate From Romania; Suspension of Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of suspension of investigation.

SUMMARY: The Department of Commerce has decided to suspend the antidumping duty investigation involving hot-rolled carbon steel plate from Romania. The basis for the suspension is an agreement by Metalimportexport, an exporter which accounts for all of the known imports of this product from Romania, to revise its prices to eliminate sales of this merchandise to the United States at less than fair value.

EFFECTIVE DATE: January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Raymond G. Busen, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230, telephone (202) 377–1784.

SUPPLEMENTARY INFORMATION: On January 11, 1982, the Department of Commerce (the Department) received petitions from United States Steel Corporation, and counsel for Republic Steel Corporation, Inland Steel Corporation, Jones & Laughlin Steel Incorporated, National Steel Corporation and Cyclops Corporation (the Five), filed on behalf of the United States industry producing certain steel products. The petitions alleged that certain steel products from Romania are being sold in the United States at less than fair value, and that such sales are materially injuring, or are threatening to materially injure, a United States industry. On January 26, 1982, the Five withdrew their petitions on carbon steel structural shapes, hot rolled carbon steel bars, hot-rolled alloy steel bars, cold-formed carbon steel bars, and cold-formed alloy steel bars. On January 31, 1982, the Five withdrew their petition on galvanized carbon steel sheet. Counsel for the Five also alleged that "critical circumstances," as defined in section 733(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), exist in this case.

After reviewing the petitions, we determined they contained sufficient grounds to initiate an antidumping investigation on hot-rolled carbon steel plate (carbon steel plate). We notified the United States International Trade Commission (ITC) of our action and initiated such an investigation on February 1, 1982 (47 FR 5752). Concurrent with our initiation, we dismissed the Five's petitions with respect to hot-rolled carbon steel sheet and cold-rolled carbon steel sheet because there had been *de minimis* imports of those products in recent years, and no evidence had been provided of bona fide offers on merchandise for export to the United States. The ITC subsequently found, on February 26, 1982, that there is a reasonable indication these imports of carbon steel plate are materially injuring, or are threatening to materially injure, a United States industry. We determined this case to be "extraordinarily complicated," as defined in section 733(c) of the Act. Therefore, we extended the period for making a preliminary determination by 50 days until August 9, 1982 (47 FR 23509).

The Department also decided that Romania is a state-controlled-economy country for the purposes of this investigation. Subsequently, Finland was selected as the surrogate country for the purposes of determining fair value.

We presented questionnaires concerning the allegations to Metalimportexport, the Romanian exporter, and to Rautaruukki Oy, a steel company in the surrogate country, on May 10 and May 13, 1982, respectively. We verified Metalimportexport's response to the questionnaire on June 24–25, 1982. On June 28–29, 1982, we verified the response supplied by Rautaruukki Oy. We determined that Metalimportexport's exports of carbon steel plate to the United States were made at prices lower than the equivalent Rautaruukki Oy home market prices during the investigatory period of April 1, 1981, through September 30, 1981.

On July 22, 1982, the Court of International Trade in *Republic Steel Corp., et al.* v. *United States* (Slip Op.

82–58) ordered the Department to initiate investigations with respect to hot-rolled carbon steel sheet and cold-rolled carbon steel sheet from Romania. On August 5, 1982, the Department appealed the decision of the Court of International Trade to the Court of Customs and Patent Appeals which directed a stay of the order of the Court of International Trade pending review. On November 19, 1982, the United States Court of Appeals for the Federal Circuit (successor to the Court of Customs and Patent Appeals as of October 1, 1982) ordered that the decision be vacated and the action remanded to the Court of International Trade for dismissal on grounds of mootness.

On August 16, 1982, the Department published a notice (47 Fed. Reg. 35648) announcing an affirmative preliminary determination of sales at less than fair value. We also determined that critical circumstances do not exist in this case. We directed the United States Customs Service to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise on or after August 16, 1982, and to require a cash deposit or bond in the amount of 13.2 percent of the f.o.b. value of the merchandise.

On November 24, 1982, Metalimportexport and the Department initialed a proposed suspension agreement, which was based upon Metalimportexport's agreement to eliminate completely sales of this merchandise to the United States at less than fair value. On the same date, in compliance with the procedural requirements of section 734(e) of the Act, we provided copies of the proposed suspension agreement to the petitioners and to other interested parties for their comments and consulted with the petitioners. Written comments were received from counsel for the petitioners and from counsel for Bethlehem Steel Corporation.

The Five's Comments

Comment 1

The Department must base its foreign market value determination on constructed value rather than on Finnish home market prices because the Department had reasonable grounds to believe or suspect that Finnish prices were at less than the cost of production. This was because of worldwide depression in the steel industry. Further, the Department should have used constructed value instead of choosing Finland as the surrogate country because Finland's stage of economic development was not comparable to that of Romania.

DOC Position

The Department has had no reason to believe or suspect that Finnish prices were at less than the cost of production. Although sales below cost were not a subject of our investigation, our verification of Finnish home market prices did not indicate that sales were made below cost. In regard to using Finland as the surrogate country rather than using constructed value, § 353.8 of the Department's Regulations states a preference for determining foreign market value by using prices in a surrogate country rather than constructing a foreign market value. Section 353.8(b) also states that "to the extent possible" a surrogate country be chosen with a comparable economy to the state-controlled economy. Since we could not locate a comparable economy country which was willing to cooperate in our investigation, we chose Finland and Finland's Rautaruukki Oy steel plant because of the plant's comparability to Romania's Galati plant and Finland's willingness to cooperate in our investigation.

Comment 2

Petitioner questions whether the agreement can be effectively monitored and enforced because Metalimportexport sells its plate in batches which vary by thickness, width, and length. The batch product mix could conceivably be altered so that each batch contains a greater proportion of higher priced plate. The agreement should be revised to prevent such circumvention.

DOC Position

The agreement provides for effective monitoring by requiring that Metalimportexport report all sales (including the product mix of each batch if sold in a batch) and sales prices during each preceding calendar quarter. If it is found, when monitoring under the semiannual foreign market value estimate and the annual 751 review, that the terms of the agreement are being violated, then the provisions of section 734(i) shall apply.

Comment 3

The proposed agreement should expressly safeguard against related party transactions where foreign producers "sell" at fair value to related United States importers who then resell on the domestic market at less than fair value.

DOC Position

The Department has adequate authority under section C of the agreement to monitor the sales of Metalimportexport and under section D to deal with any violations should they occur.

United States Steel Corporation's Comments

Comment 1

The Department failed to comply with the procedural requirements of the Act by not adequately consulting with the petitioners before the suspension and by not properly explaining the operation and enforcement of the proposed agreement.

DOC Position

In accordance with section 732(e) of the Act, the petitioner was notified and a copy of the proposed suspension agreement was provided not less than 30 days prior to the date set for the execution o the agreement. We answered petitioner's questions and provided explanations regarding our computation of foreign market value. We also believe that the section on monitoring adequately explains the enforcement provisions of the agreement.

Comment 2

Petitioner alleges that failure to name the surrogate country in the proposed agreement is inconsistent with the Department's obligation to show how the agreement will meet the statutory requirements.

DOC Position

We did not expressly identify the surrogate country in the event that a situation would arise which would preclude our continued use of Finland as the surrogate country.

Comment 3

Petitioner alleges that Italy should be the appropriate choice of the surrogate country.

DOC Position

Italy was considered as a possible surrogate choice but was disregarded because of distorted home market pricing in its highly protected steel industry.

Comment 4

Petitioner alleges that foreign market value should be based on constructed value because the Finnish producer may not be selling above the cost of production in its home market.

DOC Position

Our position is stated above under comment 1 to the Five.

Comment 5

No change in the surrogate country should be permitted unless detailed standards are set forth in the agreement itself.

DOC Position

This addition is unnecessary. In the event that the Department decides to change surrogates, petitioners will be notified and permitted an opportunity to comment on the contemplated change.

Comment 6

No change in methodology for computing foreign market value should be permitted unless petitioners are first notified and given an opportunity to comment.

DOC Position

The Department will determine whether its computation methodology no longer meets the objectives of the agreement. As stated in the agreement, Metal import export will be notified of the change prior to the effective date of any semiannual estimate. Written comments from interested parties regarding our computation methodology will be considered.

Comment 7

All adjustments to foreign market value should be delineated in the suspension agreement.

DOC Position

The suspension agreement indicates that, as determined by the Department, the estimate of foreign market value will be based on the price of such or similar merchandise in the surrogate country with appropriate adjustments. The term "appropriate adjustments" will allow the Department to change its estimate of foreign market value if it deems that certain adjustments are found to be inappropriate.

Comment 8

The petitioner contends that under the statute the Department's estimates of foreign market value should also be made available to petitioners.

DOC Position

The information which the Department uses to make its estimate of foreign market value is considered to be business confidential. The Department will make available nonconfidential summaries of its estimated foreign market value calculations.

Comment 9

The petitioner contends that Metalimportexport should be required to attach duplicate copies of its invoices to its quarterly report of all carbon steel plate sales and should specify the deadlines for and contents of the United States Custom Service's autidumping reports on Romanian steel plate imports.

DOC position

The agreement already preserves the Department's right to obtain from Metalimportexport any additional information as may be required to ensure that Metalimportexport is fully complying with the terms of the agreement. In regard to specifying deadlines for information to be submitted by the United States Customs Service, this information is normally submitted in a timely manner and need not be further clarified in the agreement.

Bethlehem Steel Corporation's Comments

Comment 1

The information in the agreement as to adjustments contained in the sample calculation of foreign market value is nowhere incorporated into the proposed suspension agreement.

DOC Position

Our position is stated above under Comment 7 to United States Steel Corporation.

Comment 2

The language of the proposed suspension agreement leaves open the identity of the surrogate country.

DOC position

Our position is stated above under Comment 2 to United States Steel Corporation.

Comment 3

There is no indication in the proposed suspension agreement that the domestic producers will have an opportunity before the setting of the price for the next period of time to review the agency's methodology in determining foreign market value or to review the quarterly reports submited by Metalimportexport to make certain that the price at which the merchandise is sold in the United States is at or above foreign market value.

DOC Position

Our position is stated above under Comments 6 and 7 to United States Steel Corporation.

Comment 4

Bethlehem requests that the semiannual estimate of foreign market value be revised more frequently than every six months if the Finnish producer changes its base price or extra charges during the period.

DOC Position

The agreement's quarterly reporting requirement and the Department's subsequent estimate of foreign market value will adequately provide for the elimination of sales at less than fair value.

Comment 5

Bethlehem objects to the Department's failure to provide domestic interested parties with sufficient information on Finnish quality and size extras which prevented it from providing meaningful comments on the proposed suspension agreement.

DOC Position

We were unable to obtain a breakdown of Finnish home market sales according to quality and size extras.

Comment 6

Bethlehem objects to the Department's deductions from foreign market value for freight equalization and interest cost differences.

DOC Position

We have determined that freight equalization and differences in interest costs are allowable deductions from foreign market value.

Scope of the Investigation

For purposes of this investigation the term "carbon steel plate" covers hot-rolled carbon steel plate currently provided for in items 607.6615, 607.94, 608.0710, and 608.11 of the *Tariff Schedules of the United States Annotated.*

Suspension of the Investigation

The Department has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement eliminates sales of this merchandise to the United States at less than fair value, can be monitored effectively, and is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 734 of the Act have been met. The terms and conditions of the agreement are set forth in Annex 1 to this notice.

Pursuant to section 734(f)(2)(A) of the Act, the suspension of liquidation of entries, or withdrawals from warehouse, for consumption of carbon steel plate from Romania effective August 10, 1982, as directed in our notice of "Antidumping Preliminary

Determination of Sales at Less than Fair Value, Carbon Steel Plate from Romania" is hereby terminated. Any cash deposits on entries of carbon steel plate from Romania pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within twelve months of the publication of this suspension agreement as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 734(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 734(f)(1)(A) of the Act.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

December 28, 1982.

Suspension Agreement

Hot-Rolled Carbon Steel Plate From Romania

Pursuant to the provisions of section 734 of the Tariff Act of 1930, as amended (19 U.S.C. 1673c) (the Act), and § 353.42 of the Commerce Regulations (19 CFR 353.42), the Department of Commerce (the Department) and Metalimportexport, 21–25 Mendeleev Street, Bucharest, Romania, enter into the following suspension agreement (the agreement) on the basis of which the Department shall suspend its antidumping investigation initiated on February 1, 1982 (47 FR 5752) with respect to hot-rolled carbon steel plate (carbon steel plate) from Romania, in accordance with the terms and provisions set forth below.

A. Product Coverage

This agreement applies to carbon steel plate which is the subject of the above-referenced investigation and which is directly or indirectly exported to the United States. Carbon steel plate is currently provided for under item numbers 607.6615, 607.9400, 608.0710, and 608.1100 of the *Tariff Schedules of the United States Annotated*

B. Basis for the Agreement

As of the effective date of this agreement, Metalimportexport, which accounts for all of the known exports of carbon steel plate to the United States from Romania, agrees to make any necessary price adjustments to eliminate completely any sales of carbon steel plate at less than the Department's estimate of foreign market value, as determined by the Department on the basis of the price of such or similar merchandise in the surrogate country with appropriate adjustments.

(1) Beginning on the effective date of the suspension of the investigation, and twice each year after that, the Department shall provide to Metalimportexport the Department's estimate of the foreign market value of the product. Immediately after receipt of the Department's estimate, Metalimportexport will adjust its price charged any United States importer or customer for subsequent sales of carbon steel plate which are entered into the United States, or withdrawn from warehouse, for consumption in the United States, so that the price will not be less than the Department's provided estimate.

(2) The semiannual estimate will apply to sales made from the date on which Metalimportexport receives notice of the estimate until the date on which it receives notice of the next semiannual estimate.

(3) The Department reserves the right to modify its computation mehtodology for estimating foreign market value. The Department shall notify Metalimportexport of any changes in methodology prior to the effective date of any semiannual estimate.

C. Monitoring

Metalimportexport will deliver a report to the Department within 15 days of the beginning of each calendar quarter (January, April, July, October), itemizing all sales of carbon steel plate during the preceding quarter which were exported to the United States directly from Romania or through third countries. These quarterly reports must list all invoiced sales prices, must provide the amount of each adjustment made on each sale price to yield a net (ex factory) price, must show how net prices were calculated, and must show that these prices are at or above the Department's foreign market value estimate.

The Department will conduct administrative reviews under section 751 of the Act annually or at such shorter intervals as the Department deems necessary to ensure that its foreign market value estimate is properly calculated. Pursuant to the section 751 review, Metalimportexport will adjust its price on any sale for export to the United States for which the extension of credit differs from the extension of credit on which the immediately preceding semiannual foreign market value estimate was based so that the net price on such sale is not less than the immediately preceding semiannual foreign market value estimate. Further, Metalimportexport agrees to provide the Department with any additional information as may be required to ensure that Metalimportexport is fully complying with the terms of the agreement. The Department may verify the information on which its administrative review is based and metalimportexport will cooperate with the verification of Romanian information. The Department shall also request the United States Customs Service to direct the ports of entry to forward an Antidumping Report of Importations for all entries of carbon steel plate from Romainia while this agreement is in effect.

D. Reopening of the Investigation

If the Department is unable to obtain the cooperation of a suitable surrogate country, or if it determines that the agreement is being or has been violated or no longer meets the requirements of section 734(b) or (d) of the Act, then the provisions of 734(i) shall apply.

E. Other Provisions

In entering into the agreement, Metalimportexport does not admit that any sales of carbon steel plate have been made at less than fair value.

The effective date of this suspension agreement is the date of publication in the **Federal Register.**

Signed on this 27th day December 1982.

Joseph H. Price,

for Metalimportexport.

I have determined that the provisions of Paragraph B provide for the complete elimination of sales at less than fair value of carbon steel plate from Romania to the United States and that the provisions of Paragraph C ensure that this agreement can be monitored effectively pursuant to section 734(d) of the Act. Furthermore, I have determined that this agreement meets the requirements of section 734(b) of the Act and is in the public interest as required under section 734(d) of the Act.

Department of Commerce.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-116 Filed 1-3-83; 8:45 am]

BILLING CODE 3510-25-M

United States Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on February 2, 1983, at 10:00 a.m. in Room 4830 of the Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97–63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans. A detailed agenda will be published in the **Federal Register** in advance of the meeting.

A limited number of seats will be

available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Christine Hathaway, Committee Control Officer, United States Travel and Tourism Administration, Room 1865, U.S. Department of Commerce, Washington, D.C. 20230 (telephone: 202/377-0136) will respond to public requests for information about the meeting.

Peter McCoy,

Under Secretary for Travel and Tourism.

[FR Doc. 83-115 Filed 1-3-83; 8:45 am]

BILLING CODE 3510-11-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Visa Requirements for Ornamented Tents

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Requiring an export visa for ornamented tents in category 669 (T.S.U.S.A. number 386.1105) produced or manufactured in, and exported from, Brazil, China, Colombia, the Dominican Republic, Haiti, India, Korea, Malaysia, Macau, Mexico, the Philippines, Singapore, Taiwan, and Thailand.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: A new breakout in the Tariff Schedules has been established for ornamented tents pursuant to Executive Order 12389 of October 25, 1982, which requires an export visa for ornamented tents in Category 669, (T.S.U.S.A. number 386.1105) exported on or after January 5, 1983 from Brazil, China, Colombia, the Dominican Republic, Haiti, India, Korea, Malaysia, Macau, Mexico, the Philippines, Singapore, Taiwan and Thailand. The purpose of this notice is to advice the public of this new requirement. As necessary, consultations may be held with the affected foreign governments concerning this change.

EFFECTIVE DATE: January 5, 1983.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 29, 1982.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: To facilitate implementation of the U.S. textile import program, it would be appreciated if you would require effective on January 5, 1983 and until further notice, export visas for ornamented tents in Category 669 (TSUSA number 386.1105) produced or manufactured in, and exported from Brazil, China, Colombia, the Dominican Republic, Haiti, India, Korea, Malaysia, Macau, Mexico, the Philippines, Singapore, Taiwan, and Thailand.

The actions taken with respect to these governments have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-56 Filed 1-3-83; 8:45 am]

BILLING CODE 3510-25-M

Announcing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products From Colombia, Effective on July 1, 1982 Under a New Bilateral Agreement

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool, and man-made fiber textile products from Colombia during the twelve-month period which began on July 1, 1982 and extends through June 30, 1983.

SUMMARY: On July 1 and August 11, 1982, the Governments of the United States and Colombia signed a new Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement which establishes specific levels for cotton, wool, and man-made fiber textile products in Categories 313, 444 and 641, produced or manufactured in Colombia during the twelve-month period which began on July 1, 1982. It also provides consultation levels for categories, such as 310, 320 and 435 which are not subject to specific ceilings and which may be adjusted during the agreement year. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in the foregoing categories be limited to the designated twelve-month levels of restraint.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 5, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 29, 1982.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of July 1, 1982, as amended, between the Governments of the United States and Colombia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 5, 1983 and for the twelve-month period beginning on July 1, 1982 and extending through June 30, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products, exported from Colombia in the following categories, in excess of the indicated twelve-month levels of restraint:

Category—Twelve-Month Level of Restraint [1]
310—3,700,000 square yards
313—11,921,690 square yards
320—7,000,000 square yards
435—5,556 dozen
444—4,388 dozen
641—174,110 dozen

[1] The levels of restraint have not been adjusted to reflect any imports after June 30, 1982.

In carrying out this directive, entries of cotton, wool, and man-made fiber textile products in the foregoing categories, except Category 313, produced or manufactured in Colombia, which have been exported to the United States on and after July 1, 1981 and extending through June 30, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Cotton textile products in Category 313, which have been exported prior to July 1, 1982 shall not be subject to this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of July 1, and August 11, 1982, between the Governments of the United States and Colombia, which provide, in part, that: (1) within the applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may also be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) certain consultation levels may be increased within the applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustment under the provisions of the bilateral agreement, referred to above will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Colombia and with respect to imports of cotton, wool, and man-made fiber textile products from Colombia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-57 Filed 1-3-83; 8:45 am]

BILLING CODE 3510-25-M

Export Visa Issued by Hong Kong, Korea, and Taiwan To Include Correct Subcategories

December 29, 1982.

Effective on January 5, 1983, export visas from Hong Kong, the Republic of Korea, and Taiwan will be required to include the following subcategories or parts of categories in order to comply with the established "correct category" requirement for merchandise exported on and after January 5, 1983:

Merchandise/Category	Visa must show
HONG KONG	
Tank tops in Categories 338/339	338/339 (1)
Other than tank tops in Categories 338/339	338/339.
REPUBLIC OF KOREA	
Cordage in Category 605 (TSUSA numbers 316.5500 and 316.5800).	605 "C"
All other TSUSA numbers in Category 605 except 316.5800 and 316.5500.	605 "O"
Shirts other than dress shirts in Category 640.	640 "O"
Dress shirts in Category 640	640 "D"
Headwear in Category 659 (only TSUSA numbers 703.0500, 703.1000, and 703.1515).	659 "H"
Other than headwear in Category 659 (All TSUSA numbers except 703.0500, 703.1000, and 703.1515).	659 "O"
Cordage in Category 669 (only TSUSA numbers 348.0065, 348.0075, and 348.0565, and 348.0575).	669 "C"
Fishnets in Category 669 (only TSUSA numbers 335.4520 and 355.4530)	669 "F"
Polypropylene bags in Category 669 (TSUSA number 385.5300).	669 "P"
Tents in Category 669 (TSUSA numbers 389.6210 and 386.1105)	669 "T".
All other TSUSA numbers in Category 669 except 348.0065, 348.0075, 348.0565, 348.0575, 355.4520, 355.4530, 385.5300, 389.6210, and 386.1150	669 "O"
TAIWAN	
Hats (only TSUSA numbers 703.0500 and 703.1000)	659 "H"
Caps (only TSUSA number 703.1515)	659 "C"
All other TSUSA numbers in Category 659 except 703.0500, 703.1000, and 703.1515	659 "O".

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 F.R. 55709).

SUMMARY: The visa systems established with Hong Kong, the Republic of Korea, and Taiwan require that the correct category be shown on the export visa. The bilateral textile and apparel agreements concerning cotton, wool, and man-made fiber textile products from these countries include a number of categories which have sublimits or parts of categories for which the correct designation is also needed. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, effective on January 5, 1983, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile and apparel products in the foregoing categories which do not include the agreed subcategory designations or parts of categories.

EFFECTIVE DATE: January 5, 1983.

FOR FURTHER INFORMATION CONTACT: Claire McDermott, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 29, 1982.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: To facilitate implementation of the U.S. textile import program and pursuant to the established export visa requirements concerning certain cotton, wool, and man-made fiber textile products from Hong Kong, the Republic of Korea, and Taiwan, it would be appreciated if, effective on January 5, 1983, you would require that export visas for merchandise in the following categories of cotton and man-made fiber textile products, produced or manufactured in Hong Kong, the Republic of Korea, and Taiwan include the appropriate subcategory designation or part of the category, as indicated below, in order to be entered into the United States for consumption, or withdrawn from warehouse for consumption, for goods exported on and after January 5, 1983:

Merchandise/Category	Visa must show
HONG KONG	
Tank tops in Categories 338/339	338/339 (1)
Other than tank tops in Categories 338/339	338/339
REPUBLIC OF KOREA	
Cordage in Category 605 (only TSUSA numbers 316.5500 and 316.5800)	605 "C"
All other TSUSA numbers in Category 605 except 316.5500 and 316.5800	605 "O"
Shirts other than dress shirts in Category 640.	640 "O"
Dress shirts in Category 640	640 "D"
Headware in Category 659 (only TSUSA numbers 703.0500, 703.1000, and 703.1515)	659 "H"
Other than headwear in Category 659 (All TSUSA numbers except 703.0500, 703.1000, and 793.1515).	659 "O"
Cordage in Category 669 (only TSUSA numbers 348.0065 348.0075, and 348.0565, and 348.0575)	669 "C"
Fishnets in Category 669 (only TSUSA numbers 335.4520 and 355.4530)	669 "F"
Polypropylene bags in Category 669 (TSUSA number 385.5300).	669 "P"
Tents in Category 669 (TSUSA numbers 389.6210 and 386.1105)	669 "C"
All other TSUSA numbers in Category 669 except 348.0065, 348.0075 348.0565, 348.0575, 355.4520, 355.4530 335.5300, 389.6210 and 386.1105	669 "C"
TAIWAN	
Hats (only TSUSA numbers 703.0500 and 703.1000)	659 "H"
Caps (only TSUSA number 703.1515)	659 "C."

Merchandise/Category	Visa must show
All other TSUSA numbers in Category 659 except 703.0500, 703.1000, and 703.1515.	659 "O."

The actions taken with respect to imports of cotton and man-made fiber textile products from Hong Kong, Taiwan, and the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-55 Filed 1-3-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF EDUCATION

Office of the Secretary

Appeals of the State of Nevada; Prehearing Conference

AGENCY: Department of Education.

SUMMARY: This notice advises readers that the Education Appeal Board has scheduled a prehearing conference in the following cases: *Appeals of the State of Nevada,* Docket Nos. 2-(48)-79 and 6-(61)-80, to commence at 10:30 a.m. in Room 1130, 400 Maryland Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, S.W. (Room 2141, FOB-6), Washington, D.C. 20202. Telephone (202) 245-7835.

SUPPLEMENTARY INFORMATION: Under the Education amendments of 1978 (20 U.S.C. 1234), the Education Appeal Board has authority to conduct: (1) Audit appeal proceedings, (2) withholding, termination, and cease and desist proceedings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. For information concerning the Board and its procedures, see the Board's final regulations as published in the **Federal Register** on May 18, 1981 (46 FR 27304).

Dated: December 28, 1982.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. not applicable)

[FR Doc. 83-66 Filed 1-3-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

Subcommittee of the National Energy Extension Service Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: National Energy Extension Service Advisory Board

Date and Time: Tuesday, January 25, 1983—9:00 a.m.-3:00 p.m.

Place: Loew's L'Enfant Plaza Hotel, Pierre Suite, Eleventh Floor, 480 L'Enfant Plaza East, SW., Washington, D.C. 20024.

Contact: William H. H. King, Department of Energy, Forrestal Building—5B137, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: 202-252-8290.

Purpose of Committee: The Board was established to carry on a continuing review of the comprehensive Energy Extension Service program and approved plans of the Governors of each State for implementing Energy Extension Service activities.

Tentative Agenda: *Tuesday, January 25, 1983.*

- Welcoming by National Energy Extension Service Advisory Board Subcommittee Chairman.
- Working Group Session on the Development of the NEESAB Annual Report.
- Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William H. H. King at 252-8290. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on December 29, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-118 Filed 1-3-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Energy Research Advisory Board (ERAB).

Date and Time: February 3-4, 1983, 9 a.m. to 5 p.m.

Place: Department of Energy, Room 6E-069, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Contact: Joan Snodderly, U.S. Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/252-8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: Briefings and discussions of:

Overview of fiscal year 1984 DOE Budget.

Progress Reports from ERAB Panels on Conservation R&D, Materials R&D, University Research and LWR Safety and Technology.

Discussion of Draft Working paper on Federal Role in Energy R&D.

Public comment (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Joan Snodderly at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on December 29, 1982.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-17, Filed 1-3-83, 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 82-CERT-022]

Long Island Lighting Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On November 16, 1982, Long Island Lighting Company (LILCO), 250 Old Country Road, Mineola, New York 11501, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for certification of an eligble use of approximately 50,000 dekatherms (approximately 50,000 Mcf) of natural gas per day. This gas is estimated to displace the use of approximately 700,000 barrels of residual fuel oil (1.5 percent sulfur) and 20,000 barrels of No. 2 fuel oil (0.3 percent sulfur) at the E. F. Barrett Electric Plant in Island Park, New York, and 95,000 barrels of residual fuel oil (1.0 percent sulfur) at the Glenwood Plant in Glenwood Landing, New York. The eligible seller of the natural gas is Equitable Gas Company and the natural gas will be transported by Texas Eastern Transmission Corporation. Notice of that application was published in the **Federal Register** (47 FR 55286, December 8, 1982), and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed LILCO's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that LILCO's application satisfies the criteria enumerated in 10 CFR Part 595 and therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification is available for public inspection at the ERA Natural Gas Division Docket Room, Room GA-007, RG-43, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585 from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., December 28, 1982.

Robert Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-41 Filed 1-3-83; 8:45 am]

BILLING CODE 6450-01-M

Gladieux Refinery, Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Gladieux Refinery, Inc. (Gladieux) and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by February 3, 1983.

ADDRESS: Send comments to: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106-2466

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106-2466; telephone number (816) 374-2092. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On December 17, 1982, the ERA executed a proposed Consent Order with Gladieux Refinery, Inc. of Fort Wayne, Indiana. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more excluding interest and penalities, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the DOE has signed and tentatively accepted the proposed Consent Order, the DOE may, after consideraton of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Gladieux Refinery, Inc., with its home office located in Fort Wayne, Indiana, is a firm engaged in the refining and marketing of crude oil and refined petroleum products and was subject to the Mandatory Petroleum Allocation and Price Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by the Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Part 205, 210, 211, and 212 in connection with Gladieux's transactions involving petroleum products during the period August 19, 1973 through January 27, 1981, the DOE and Gladieux enter into a Consent Order, the sighificant terms of which are as follows.

A. The Consent Order encompasses all matters relating to Gladieux's compliance with the federal petroleum price and allocation regulations administered by DOE and its predecesor agencies during the period from August 19, 1973 through January 27, 1981.

B. As a result of its audit, ERA raised certain issues with respect to Gladieux's compliance with the federal petroleum price and allocation regulations. Gladieux disputes ERA's allegations and maintains that it has correctly construed, and operated in accordance with the regulatons.

C. Execution of the Consent Order constitutes neither an admission by Gladieux nor a finding by DOE of any violations by Gladieux of any statute or regulation.

II. Refunds

To resolve the issues raised by ERA's audit of Gladieux and to remedy any violations that may have occurred during the audit period, Gladieux has agreed to remedies, described more fully below, totaling $1,300,000.

The $1,300,000 in remedies consists of two elements: First, within thirty days after the Consent Order is effective, Gladieux shall issue credit memoranda totaling $480,000 to purchasers identified in the Consent Order. The memoranda entitle the purchasers to purchase product from Gladieux at a discount of $.0185 per gallon and are fully redeemable in cash three years after the issue date. Second, Gladieux shall refund $820,000 plus interest to the Defense Fuels Supply Center by means of a rollback of one-half cent per gallon off the price set by contract between Gladieux and the Defense Fuels Supply Center. Any balance remaining at the end of three years shall be refunded by cash payment. Interest shall accrue on the outstanding balance during the refund period and shall be paid in a lump sum cash payment within thirty days after the third year anniversary of the effective date of the Consent Order.

III. Submission of Written Comments.

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments would be identified on the outside of the envelope and on the documents submitted with the designation "Comment on Gladieux Refinery, Inc. Consent Order." The DOE will consider all comments it receives by 4:30 p.m., local time, on February 3, 1983. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedure in 10 CFR 205.9(f).

Issued in Kansas City on the 17th day of December, 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administraton.

[FR Doc. 82-34 Filed 1-3-83; 8:45 am]

BILLING CODE 6450-01-M

Proposed Consent Order With Time Oil Co.; Action on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Adoption of Proposed Consent Order.

SUMMARY: The Department of Energy (DOE) hereby gives the notice required by 10 CFR 205.199J that it has adopted the Consent Order with Time Oil Company (Time) executed on October 15, 1982 and published for comment in 47 FR 49882 on November 3, 1982, as a final order of DOE. The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations, except as noted in the Consent Order, for the period August 19, 1973 through January 27, 1981. The Consent Order does not cover Time's rights or obligations under the Entitlements Program. To remedy any violations that may have occurred during the period, Time has agreed to make a payment of $1,187,500.00 to DOE.

As required by the regulation cited above, DOE received comments on the Consent Order for a period of not less than 30 days following publication of the notice cited above. Eleven comments were received by December 3, 1982, the thirtieth day following publication of the notice of the proposed Consent Order. Four additional comments were received after that deadline. DOE has considered all comments, including those which were filed late, and determined that the Consent Order should be made final without modification. The Consent Order was made effective as a final order of the DOE by written notice to Time on December 13, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Cohn, Attorney, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street (6th Floor), San Francisco, California 94105, (415) 974-7110.

Copies of the Consent Order may be received free of charge by request in person or by written request to: Time Oil Company, Consent Order Request, Economic Regulatory Administration, U.S. Department of Energy, 333 Market Street (6th Floor), San Francisco, California 94105.

SUPPLEMENTARY INFORMATION:

The Consent Order

On November 3, 1982, DOE published notice in the **Federal Register** (at page 49882) announcing the execution of a proposed Consent Order between Time and DOE. In compliance with DOE Regulations, that notice and a subsequent press release summarized the Consent Order and the facts behind it. The notice and press release also gave instructions for obtaining copies of the Consent Order. The Consent Order can be summarized as follows:

1. The Consent Order marks the conclusion of the DOE's audit of Time's compliance with the Federal petroleum price and allocation regulations for the period August 19, 1973 through January 27, 1981. With the exception of the matters specifically excluded from the settlement in the Consent Order, the Consent Order resolves all civil issues not previously resolved concerning the allocation and sale of covered petroleum products during the period August 19, 1973 through January 27, 1981.

2. Within 10 days after the effective date of this Consent Order, Time shall make a payment of $1,187,500.00 to DOE. DOE will distribute $325,000.00 of the funds to the Defense Fuel Supply Center. The remaining funds, totalling $862,500.00, will be distributed proportionately to the treasurers of those states within which Time sold covered petroleum products during the period November 1973—January 1981. DOE has allocated these funds to the states on the basis of Time's retail sales volumes of gasoline, which comprised the majority of Time's sales of covered petroleum products, in the following amounts: California $258,491.00; Hawaii $10,523.00; Idaho $18,716.00; Montana $9,315.00; Nevada $28,118.00; Oregon $115,143.00; and Washington $422,194.00.

3. The Consent Order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the Consent Order. These matters include Time's obligation under DOE recordkeeping regulations and DOE's obligation to maintain the confidentiality required by law of proprietary data received from Time. The Consent Order provides that Time has waived its right to an administrative or judicial appeal of the Consent Order. The Consent Order does not constitute an admission by Time nor a finding by ERA of a violation of any Federal petroleum price and allocation statutes or regulations.

Comments Received

As noted above, DOE received a total of fifteen comments on the proposed Time Consent Order. Comments were submitted by ten states, three trade and service associations, one reseller and the Defense Fuel Supply Center. DOE has considered all comments and determined that the Consent Order should be made final without modification. The significant points raised by the comments are discussed below.

Some of the comments objected to the remedial provisions of the Consent Order, claiming that since overcharged customers are not receiving refunds the Consent Order does not provide for restitution as required by *Citronelle-Mobile Gathering, Inc.*, v. *Edwards*, 669 F.2d 717 (TECA 1982). In *Citronelle*, TECA affirmed a district court determination in a judicial enforcement action that the seller's prices resulted in overcharges to twelve specifically identifiable customers. TECA declined to permit payment of adjudicated overcharges into the U.S. Treasury without first attempting to refund monies to the identified injured parties. Unlike *Citronelle*, this is not an adjudicated enforcement case. The Consent Order makes no finding of a violation, nor does Time admit to any violations of DOE regulations.

Further, DOE has not been able to identify any specific purchaser who may have been injured or to determine the amount by which such purchaser was injured other than the Defense Fuel Supply Center. There are several reasons for this. The Defense Fuel Supply Center was the only purchaser of jet fuel during the months selected for intensive audit. In addition, purchasers from refiners often are not injured parties since they have passed on the overcharges to others. Finally, to trace cost violations to specific product sales to determine the impact on alleged overcharges would be a difficult if not impossible task. Because the refunded monies cannot be attribued to

specifically identifiable injured parties (other than the Defense Fuel Supply Center), payments to the treasurers of those states in which Time marketed petroleum products is an appropriate remedy in this case.

Several comments, while expressing support for the payment of monies to states, suggested that the states should be required to expend the amounts received for energy related uses in accord with a National Governor's Association policy position. DOE encourages the states to make use of the funds for energy related projects and to provide restitution for their aggrieved citizens. All such efforts are endorsed by the DOE. The designation of state treasurers in the Consent Order was not intended to preclude such uses for the funds, rather was intended to provide the states with maximum flexibility in determining the appropriate use of the monies.

Several comments suggested that the implementation of Subpart V proceedings was mandatory. Others stated that even if not required by the regulations it would be desirable to use such proceedings here. The use of Subpart V proceedings is not mandated by the regulations. Rather, the choice of appropriate remedies in a particular Consent Order is made on a case-by-case basis within the framework of an overall negotiated agreement between ERA and the consenting firm. Here, the parties agreed—and ERA affirms—that in light of the violations alleged, payment to the states and the Defense Fuel Supply center are appropriate remedies.

Having considered all comments received, DOE has determined that the proposed Consent Order with Time should be made final without modification. The Consent Order was made final and effective by written notice to Time on December 13, 1982.

Issued in San Francisco, California, December 14, 1982.

Patrick J. O'Hern,

Director, San Francisco Office, Economic Regulatory Administration.

[FR Doc. 82-36 Filed 1-3-83; 8:45 am]

BILLING CODE 6450-01-M

Mira Oil Company, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Mira Oil Company, Inc., of Spring Valley, New York. This Proposed Remedial Order charges Mira with pricing violations in the amount of $112,949.96 plus interest, connected with the sale of regular and unleaded motor gasoline to its wholesale unbranded retailers (dealers) customers during the period June 1, 1979 through December 31, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J. McKee, Jr., Director, Philadelphia Field Office, ERA (215) 597–2833. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pennsylvania on the 15th day of December, 1982.

Robert J. McKee, Jr.,

Director, Philadelphia Field Office, ERA.

[FR Doc. 83-36 Filed 1-3-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Environmental Protection, Safety, and Emergency Preparedness

Certification of Radiological Condition of Five Private Properties Located in Middlesex and Piscataway, New Jersey

AGENCY: Office of Environmental Protection, Safety, and Emergency Preparedness, DOE.

ACTION: Notice of certification.

SUMMARY: The Department of Energy has completed radiological surveys and taken remedial actions to decontaminate properties found to contain low-level, naturally occurring residual radioactive material resembling the uranium ore processed at the nearby Middlesex Sampling Plant while it operated under contract to the Manhattan Engineer District and Atomic Energy Commission. The Department, through the Office of Environmental Protection, Safety, and Emergency Preparedness, has issued the following statement:

Statement of Certification: Five Properties Associated With the Former Middlesex Sampling Plant

The Office of Environmental Protection, Safety, and Emergency Preparedness has reviewed and analyzed the radiological data obtained following remedial action at five of the properties that were contaminated by material similar to that processed at the former Middlesex Sampling Plant in Middlesex, New Jersey. Based on this analysis and the concurrence of the New Jersey Department of Environmental Protection, the Department of Energy certifies that the following properties are in compliance with all applicable decontamination criteria and standards:

- The Rectory of Our Lady of Mount Virgin, located at 650 Harris Avenue, Borough of Middlesex, New Jersey, identified as Block 298, Lots 1–3 (reference Middlesex tax maps).
- A portion of the Rectory schoolyard, located across Drake Avenue from the Rectory, identified as Block 310, Lots 1–19 and 33–49 (reference Middlesex tax maps).
- Parcel 8 (Rosamillia property) located on Wood Avenue, Borough of Middlesex, New Jersey, identified as Block 318, Lots 21–29 (reference Middlesex tax maps).
- Kays' property, located at 312 Mountain Avenue, Borough of Middlesex, New Jersey, identified as Block 287, Lot 1A (reference Middlesex tax maps).
- 432 William Street, Township of Piscataway, New Jersey, identified as Block 185, Lot 1 (reference Township of Piscataway tax map).

This certification of compliance provides assurance that unrestricted use of any of the properties will result in no radiological exposure above applicable criteria and standards to members of the general public or to site occupants.

FOR FURTHER INFORMATION CONTACT: Dr. William E. Mott, Director, Public Safety Division, Office of Operational Safety (EP–323), U.S. Department of Energy, Washington, D.C. 20545, (301) 353–3016.

SUPPLEMENTARY INFORMATION: The Department of Energy has established a program to characterize and, where necessary, correct the radiological conditions at sites formerly used by the Army Corps of Enigneers' Manhattan Engineer District and the Atomic Energy Commission during the early years of nuclear research and development. The ultimate objective of the program is to ensure that these formerly utilized sites, and any associated properties in their vicinity, are within the radiological guidelines established to protect the general public. The former Middlesex Sampling Plant in Middlesex, New Jersey, is one of the formerly utilized sites.

The Middlesex Sampling Plant began operations in November 1943 and, under various contracts, continued in operation until February 1968 when it was declared excess to program needs by the Atomic Energy Commission. Over

the years, the naturally occurring radioactive minerals were inadvertently transported to nearby and remote properties. Initially, the residual radioactive material is being removed from private properties to an interim storage facility on the site.

Radiological surveys completed at the site in 1976 revealed the presence of offsite contamination on nearby properties. An aerial radiological survey conducted in 1978 revealed the presence of contamination on two non-contiguous properties as well. In 1980, five properties were decontaminated and post-remedial action radiological surveys were conducted before and after backfill of the excavated areas. Radon monitoring of the affective area continued before, during, and after remedial action to verify safe conditions.

The Department of Energy coordinated its activities with the New Jersey Department of Environmental Protection, the Borough of Middlesex, and the Township of Piscataway. The New Jersey State Department of Environmental Protection verified Department of Energy results through independent analysis of soil samples.

Based upon the results of the radiological surveys completed at the five properties, the Department of Energy has determnined that radiological conditions on the affected properties are consistent with applicable criteria agreed upon by the New Jersey Department of Environmental Protection and the Borough of Middlesex and that the unrestricted use of the five properties present no radiological hazards to the general public or to site occupants.

These findings are supported by the Department of Energy "Certification Docket for the Five Vicinity Properties Associated with the former Middlesex Sampling Plant, Middlesex, New Jersey." The docket will be available for review between 8:00 a.m. and 4:00 p.m., Monday through Friday (except Federal holidays), in the Department of Energy Public Document Room located in Room 1E–190 of the Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C.

Dated: November 10, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83-40 Filed 1-3-83; 8:45 am]

BILLING CODE 6450-01-M

Notices of Objection To Proposed Remedial Orders Filed Period of October 11, Through November 19, 1982

Office of Hearings and Appeals

During the period of October 11 through November 19, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as a non-participants for good cause shown.

Eddy Refining Company, Key Oil Company, Houston, Texas, HRO–0094, Refined Petroleum Products.

On November 19, 1982, Eddy Refining Company and Key Oil Company, P.O. Box 185, Houston, Texas 77001, filed Notices of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement of the Economic Regulatory Administration issued to them on September 21, 1982. On November 22, 1982, the Attorney General of the State of Alabama, c/o James F. Flug, Esq., Lobel, Novins & Lamont, 1523 L Street, N.W., Suite 200, Washington, D.C. 20005, also filed a Notice of Objection to the Proposed Remedial Order.

In the PRO, the Southeast District found that during the period December 1, 1973 through June 30, 1976, Eddy and Key sold refined petroleum products at prices in excess of those permitted by the Mandatory Petroleum Price Regulations. According to the PRO, the violations by Eddy and Key resulted in $1,630,401 of overcharges.

Paul Investments, Inc./A. B. Holding Co., San Antonio, Texas, HRO–0096, Motor Gasoline

On November 19, 1982, Paul Investments, Inc./A. B. Holding Co. (hereinafter collectively referred to as Paul), 7900 Calloghon Road, Suite 220, P.O. Box 32800, San Antonia, Texas 78216, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on September 21, 1982.

In the PRO, the Southeast District found that during the period March 1, 1979 through December 31, 1979, Paul, a reseller-retailer, sold motor gasoline at prices in excess of those permitted under 10 C.F.R. Part 212, Subpart F.

According to the PRO, Paul's violation resulted in $880,364.41 of overcharges.

Petrotech Trading Company, Et Al., Abilene, Texas, HRO–0095, Crude Oil

From November 19, 1982 through November 24, 1982, the following individuals filed Notices of Objection to the Proposed Remedial Order (PRO) which the Houston Audit Director of the DOE Economic Regulatory Administration issued to Petrotech Trading Co., *et al.*, on September 30, 1982:

The Controller of the State of California, c/o James F. Flug, Esq., Lobel, Novins & Lamont, 1523 L Street, NW., Suite 200, Washington, D.C. 20005;

Mr. David L. Hooper, 1215 East South 11th Street, P.O. Box 3215, Abilene, Texas 79604;

Petrotech Trading Company, P.O. Box 3215, Abilene, Texas 79604;

Mr. Kenneth Rogers, 211 Fairmont, Clyde, Texas 79510;

Mr. John T. Troland, 710 Byrd, Abilene, Texas 79601;

Mr. David W. Ratliff, 1226 Kingbury Road, Abilene, Texas 79602.

In the PRO, the Audit Director alleges layering violations in the amount, including interest, of $23,235,622.71, connected with resales of crude oil during the period April 1979 through March 1980. The PRO further alleges that resales of crude oil during the same period were made in circumvention and contravention of the Mandatory Petroleum Price Regulations. The PRO directs the alleged recipients of these overcharges to refund the above amount, plus interest accrued from July 1982, to the DOE.

Varibus Corporation, Beaumont, Texas, HRO–0093, No. 2 Fuel Oil

On November 19, 1982, Varibus Corporation, 285 Liberty Avenue, Beaumont, Texas 77704, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on September 29, 1982.

In the PRO the Southeast District found that during the period October 1, 1973 through October 31, 1974, Varibus charged prices in excess of those permitted by the reseller price rule set forth at 10 CFR Part 212, Subpart F.

According to the PRO the Varibus violation resulted in $7,550,750.32 of overcharges.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: December 22, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-33 Filed 1-3-83; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

National Petroleum Council, Thermal Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Thermal Task Group of the Committee on Enhanced Oil Recovery will meet in January 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Thermal Task Group meeting follows:

The Thermal Task Group will hold its second meeting on Friday, January 14, 1983, starting at 8:30 a.m. in Room 37C, Atlantic Richfield Company, ARCO Plaza, 515 South Flower Street, Los Angeles, California.

The tentative agenda for the Thermal Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.

2. Review progress of Task Group study assignments.

3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Thermal Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Thermal Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on December 28, 1982.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83–37 Filed 1–3–83; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Costs and Economics Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Costs and Economics Task Group of the Committee on Enhanced Oil Recovery will meet in January 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increased the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Costs and Economics Task Group meeting follows:

The Costs and Economic Task Group will hold its second meeting on Monday, January 17, 1983, starting at 9:00 a.m. in Room 1820, Stouffer's Greenway Plaza Hotel, Six Greenway Plaza East, Houston, Texas.

The tentative agenda for the Costs and Economics Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.

2. Review progress of Task Group study assignments.

3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Costs and Economics Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Costs and Economics Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on December 28, 1982.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83–38 Filed 1–3–83; 8:45 am]

BILLING CODE 6450–01–M

National Petroleum Council, Chemical Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Chemical Task Group of the Committee on Enhanced Oil Recovery will meet in January 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Chemical Task Group meeting follows:

The Chemical Task Group will hold its second meeting on Thursday, January 13, 1983, starting at 10:00 a.m. in Room 112, Phillips Petroleum Company, Research Forum, Bartlesville, Oklahoma.

The tentative agenda for the Chemical Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.

2. Review progress of Task Group study assignments.

3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Chemical Task Group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Chemical Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353–3032, prior to the meeting and

reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on December 28, 1982.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83–39 Filed 1–3–83; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[A–1–FRL 2277–5]

Delegation of Authority to the Commonwealth of Massachusetts for Prevention of Significant Deterioration of Air Quality Program (PSD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Informational notice.

SUMMARY: EPA Region I has delegated authority for the implementation and enforcement of the Prevention of Significant Deterioration of Air Quality (PSD) program to the Massachusetts Department of Environmental Quality Engineering (DEQE) under 40 CFR 52.21. The Massachusetts DEQE will receive, conduct technical review of, and process all PSD applications as well as issue and enforce final PSD permits.

EFFECTIVE DATE: June 30, 1982.

ADDRESS: Copies of DEQE's request for delegation and the DEQE/EPA Agreement for delegation of authority are available for public inspection at the State Air Programs Branch, Environmental Protection Agency, Region I, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–5130.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, State Air Programs Branch, Environmental Protection Agency, Region I, J. F. Kenndy Federal Building, Boston, Massachusetts 02203, 617/223–5130.

SUPPLEMENTARY INFORMATION: On April 29, 1982, the Commissioner of the Massachusetts DEQE submitted to EPA Region I a request for EPA to delegate to DEQE the authority to implement the federal PSD Program. After a thorough review of this request the Regional Administrator determined that the Massachusetts DEQE's procedures for carrying out the PSD program are adequate and effective.

Thus, on June 30, 1982 the Regional Administrator delegated authority for the implementation of the federal PSD program to the Commonwealth of Massachusetts. The conditions of the delegation are delineated in the Regional Administrator's letter to the Commonwealth dated June 30, 1982.

Effective immediately, all applications and other information pursuant to 40 CFR 52. 21 for sources locating in the Commonwealth of Massachusetts should be sent directly to DEQE at the following address: Department of Environmental Quality Engineering, Division of Air Quality Control, 1 Winter Street, Boston, Massachusetts 02108.

Dated: December 20, 1982.

Paul G. Keough,

Acting P.E. Regional Adminstrator.

[FR Doc. 83–86 Filed 1–3–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Technical Subgroup of Radio Advisory Committee; Resumes Meeting

The Technical Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Tuesday, January 11, 1983 at 10 a.m. in the fourth floor conference room of the National Association of Broadcasters, 1771 N Street N.W., Washington, D.C.

The Subgroup will continue its consideration of recommendations to the Federal Communications Commission concerning matters pertinent to the ongoing United States Canadian discussions on the drafting of a new bilateral AM agreement which, it is expected, will replace the North American Regional Broadcasting Agreement (NARBA).

The Subgroup will also discuss preparations for bilateral discussions which have started with Mexico, looking toward post-Rio revision of the United States-Mexican AM Agreement.

The meeting, a continuing one, will be resumed after the January 11, 1983 session at such time and place as is decided at that session. It is open for prticipation by all interested persons.

For further information, please call the Subgroup Chairman, Mr. Wallace Johnson, at (703) 841–0500.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–10 Filed 1–3–83; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

On December 23, 1982, the Federal Communications Commission submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96–511.

Copies of these submissions are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632–7513. Comments should be sent to Edward H. Clarke, Office of Management and Budget, OIRA, Room 3201 NEOB, 726 Jackson Place, N.W., Washington, D.C. 20503.

Title: Fee Refund program (Phase I)—Refund Request Form.
Form No.: FCC 199–A/199–B.
Action: Extension.
Respondents: Broadcasters, common carriers, equipment manufacturers, amateur operators.
Estimated Annual Burden: 1,500 Responses; 2,750 Hours.
Title: Fee Refund Program (Phase II)—Refund Request Form.
Form No.: FCC 199–C.
Action: Extension.
Respondents: Individuals and small radio operators.
Estimated Annual burden: 5,000 Responses; 2,500 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–10 Filed 1–3–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–208]

Builders Federal Savings and Loan Association, Rocky Mount, North Carolina; Final Action—Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

December 29, 1982.

Notice is hereby given that on December 15, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the

mutual-to-stock conversion application of Builders Federal Savings and Loan Association, Rocky Mount, North Carolina ("Association"). The application had been approved by the Board by Resolution No. 80-177, dated March 13, 1980. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G. Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-107 Filed 1-3-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-209]

Dominion Federal Savings and Loan Association McLean, Virginia; Final Action—Approval of Post-Approval Amendment to Mutual-to-Stock Conversion Application

December 29, 1982.

Notice is hereby given that on December 16, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Dominion Federal Savings and Loan Association, McLean, Virginia ("Association"). The application had been approved by the Board by Resolution No. 80-436, dated July 9, 1980. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G. Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-108 Filed 1-3-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

BancTexas Group Inc. and Houston Bancshares Inc.; Merger of Bank Holding Companies

BancTexas Group Inc., Dallas, Texas, and its subsidiary, Houston Bancshares Inc., Dallas, Texas, have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. § 1842) to acquire 100 per cent of the voting shares of East Texas Bancshares, Inc., Tyler, Texas, through merger of East Texas Bancshares, Inc., and Houston Bancshares Inc., and, thereby, acquire 100 per cent of the voting shares of Heritage National Bank, Tyler, Texas, and 100 per cent of the voting shares of Peoples National Bank, Sulphur Spring, Texas. The factors to be considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 21, 1983. Any comment on an application that requests a hearing must include a statement of why written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 28, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-27 Filed 1-3-83; 8:45 am]

BILLING CODE 6210-01-M

BancTexas Group Inc. and Houston Bancshares Inc.; Merger of Bank Holding Companies

BancTexas Group Inc., Dallas, Texas, and its subsidiary, Houston Bancshares Inc., Dallas, Texas, have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. § 1843) to acquire 100 per cent of the voting shares of Great Southern Bancshares, Inc., Houston, Texas, by merger of Houston Bancshares Inc. and Great Southern Bancshares, Inc., and, thereby, acquire 100 per cent of the voting shares of Great Southern Bank, Houston, Texas. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 21, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 28, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-28 Filed 1-3-83; 8:45 am]

BILLING CODE 6210-01-M

Keewatin Bancorporation, Inc.; Proposed Acquisition of First National Insurance Agency

Keewatin Bancorporation, Inc., Keewatin, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire 100 per cent of the voting shares of First National Insurance Agency, Keewatin, Minnesota.

Applicant states that the proposed subsidiary would conduct general insurance activities in a town of less than 5,000 population. These activities would be performed from offices of Applicant's subsidiary in Keewatin, Minnesota, and the geographic areas to be served are Keewatin, Itasca County, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanies by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically an questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 20, 1983.

Board of Governors of the Federal Reserve System, December 27, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-29 Filed 1-3-83; 8:45 am]

BILLING CODE 6210-10-M

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Board of Governors of the Federal Reserve System. (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Broadway Bancshares, Inc.*, San Antonio, Texas; to acquire 100 percent of the voting shares of assets or Broadway Air Force National Bank, Randolph Air Force Base, Bexar County, Texas, a proposed new bank. This application maybe inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than January 27, 1983.

Board of Governors of the Federal Reserve System, December 28, 1982.

Jamed McAfee,

Associate Secretary of the Board.

[FR Doc. 83-30 Filed 1-3-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *FTS Financial, Inc.*, Williamsburg, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Farmers Trust and Savings Bank, Williamsburg, Iowa. Comments on this application must be received not later than January 26, 1983.

Board of Governors of the Federal Reserve System, December 28, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-31 Filed 1-3-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 115.4(b)(1)), for permission to engage de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to product benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

A. *American Fletcher Corporation*, Indianapolis, Indiana (residential first mortgage lending; Michigan and Indiana): To engage through its subsidiary, American Fletcher Mortgage Company, Inc., in making first mortgage loans on 1–4 family residences for sale to other investors (serving designated counties in Michigan and Indiana). This activity will be conducted from offices at the following locations which will serve the primary market areas indicated: Battle Creek, Michigan, serving Calhoun, Lenawee, Hillsdale, Branch, Berrien, Van Buren, St. Joseph, Barry, and Allegan Counties, Michigan; Mishawaka, Indiana, serving St. Joseph, Porter, LaPorte, Starke, Pulaski, Lake, Marshall, Fulton, Elkhart, Kosciusko, LaGrange, and Noble Counties, Indiana; Marion, Indiana, serving Grant, White, Tippecanoe, Clinton, Carroll, Cass, Miami, Wabash, Huntington, Whitley, Allen, Adams, Wells, Jay, Blackford, Delaware, Howard, and Madison Counties, Indiana; Carmel, Indiana, serving Hamilton, Tipton, Boone, Hancock, Rush, Marion, and Hendricks, Counties, Indiana. Comments on this application must be received not later than January 19, 1983.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (finance and credit life and credit accident and health insurance activities; Pennsylvania): To engage through its subsidiaries, Security Pacific Finance Corp. and Security Pacific Consumer Discount Company in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from offices of Security Pacific Finance Corp. and Security Pacific Consumer Discount Company located in Exton and King of Prussia, Pennsylvania, serving the State of Pennsylvania. Comments on

this application must be received not later than January 20, 1983.

Board of Governors of the Federal Reserve System, December 28, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-32 Filed 1-3-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82N-0331]

Monooctanoin for Dissolution of Cholesterol Gallstones Retained After Cholecystectomy, Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the signature line of the notice asking for new drug applications (NDA's) for monooctanoin in dissolving gallstones after a cholecystectomy.

FOR FURTHER INFORMATION CONTACT: Roger Gregorio, Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4903

SUPPLEMENTARY INFORMATION: In FR doc. 82-33585 at page 55520 in the issue of Friday, December 10, 1982, FDA's Orphan Products Development Office asked for NDA's for the above-referenced drug. Marion J. Finkel, M.D., is the Director of the Office. Her title was incorrectly given as "Associate Director for New Drug Evaluation". It should read "Director, Orphan Products Development."

Dated: December 22, 1982.

Marion J. Finkel,

Director, Orphan Products Development.

[FR Doc. 83-1 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0180]

Scherer Laboratories, Inc., et al.; Withdrawal of Approval of Abbreviated New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) withdraws approval of 37 abbreviated new drug applications (ANDA's) based on the written request of the applicants.

EFFECTIVE DATE: February 3, 1983.

FOR FURTHER INFORMATION CONTACT: David Rosen, National Center for Drugs and Biologics (HFN-530), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4080.

SUPPLEMENTARY INFORMATION: The holders of the ANDA's listed below have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

ANDA No. and drug	Applicant
80-032 Tri-A-Mul Suspension, 0.5 gm/5 mL.	Scherer Laboratories, Inc., formerly First Texas Pharmaceuticals, Inc., P.O. box 400009, Dallas, TX 75240.
80-033 Tri-A-Mul Table, 0.5 gm.	Do.
80-034 Sodium Aminosalicylate Tablet, 1.0 gm.	ICN Pharmaceuticals, Inc., 5040 Lester Rd., Cincinnati, OH 45213.
80-042 Sulfamethizole Table, 500 mg.	Webon Pharmaceuticals Division, Alcon Laboratories, Inc., P.O. Box 1629, Fort Worth, TX 76101.
80-427 Hydrocortisone Cream, 0.25%, 0.5%, 1.0%.	Texas Pharmacal Co., 201 Tabor Rd., Morris Plains, NJ 07950.
80-740 Cyanocobalamin Injection, 1,000 ug/mL.	Ingram Pharmaceutical Co., 202 Green St., San Francisco, CA 94111.
80-777 Gamma Benzene Hexachloride Cream, 1%.	Byk-Gulden, Inc., P.O. Box 730, Hicksville, NY 11802.
80-876 Bidoce Injection, 1,000 ug/mL.	Lincoln Laboratories, Inc., P.O. Box 1139, Decatur, IL 62525.
83-048 Diphenylhydantoin Oral Suspension, 30 mg/5 mL.	Abbott Laboratories, 14th & Sheridan Aves., North Chicago, IL 60604.
83-155 Reserpine Tablet, 0.25 mg.	Tablicaps, Inc., P.O. Box 5555, Franklinville, NJ 08322.
83-175 Ramsed Injection, 25 & 50 mg/mL.	Endo Laboratories, 1000 Stewart Ave., Garden City, NY 11530.
83-197 Propoxphene Hydrochloride Capsule, 65 mg.	Natcon Chemical Co., Inc., One Fairchild Court, Plainview, NY 11803.
83-225 Sodium Pentobarbital Capsule, 100 mg.	Philips Roxane Laboratories, Inc., P.O. Box 16532, Columbus, OH 43216.
83-227 Sodium Pentobarbital Tablet, 1½ gr.	Stayner Corp., 2391 West Winter Ave, Hayward, CA 94545.
83-228 Sodium Pentobarbital Capsule, 1½ gr.	Do.
83-258 Sodium Butabarbital Tablet, ¼ & ½ gr.	Stanlabs Pharmaceutical Co., P.O. Box 3108, Portland, OR 97208.
83-268 Sodium Butabarbital Tablet, ¼ gr.	Stayner Corp.
83-269 Sodium Butabarbital Tablet, ½ gr.	Do.
83-293 Propoxyphene HC1 Capsule, 65 mg.	ADS Laboratories, Inc., 200 Elmora Ave., Elizabeth, NJ 07207.
83-374 Esterified Estrogens Tablet, 0.625 mg.	Scherer Laboratories, Inc.
83-418 Conjugated Estrongens Tablet, 0.3 mg.	Standard Pharmacal Corp., 1300 Abbott Dr., Elgin, IL 60120.
83-432 Semestrin Aqueous Suspension, 2 mg/mL.	Beecham Laboratories, 501 Fifth St., Bristol, TN 37620.
83-454 Lidocaine Ointment, 5%.	Credo Co., 1708 Chase Dr., Fenton, MO 63026.
83-537 Sodium Secobarbital Capsule, 100 mg.	Stayner Corp.
83-578 Sodium Butabarbital; Tablet, 30 mg.	Stanlabs Pharmaceutical Co.
83-756 Piperazine Citrate Syrup, 500 mg/5 mL [1].	Natcon Chemical Co.
83-864 Sodium Secobarbital Tablet, 100 mg.	Stayner Corp.
83-880 Procaps Capsule, 65 mg.	A. H. Robins Co., 1211 Sherwood Ave., Richmond, VA 23220.
83-912 Vitamin A Capsule, 50,000 Units.	Parmaceutical Associates, Inc., P.O. Box 128, Conestee, SC 29636.
83-920 Propoxyphene HC1 Capsule, 65 mg.	Reid-Provident Laboratories, Inc., 25 Fifth St., N.W., Atlanta, GA 30308.
85-148 Reserpine Tablet, 0.1 mg.	Tablicaps, Inc.
85-212 Dextroamphetamine Sulfate Tablet, 5 mg.	Stanlabs Parmaceutical Co.
85-429 Propoxyphene HC1 Capsule, 65 mg.	Richlyn Laboratories, Inc., Castor & Kensington Aves., Philadelphia, PA 19124.
85-431 Hydrocortisone Foam, 1%.	Reed & Carnrick Parmaceuticals, 30 Boright Ave., Kenilworth, NJ 07033.
85-726 Esterified Estrogens Tablet, 1.25 mg.	Scherer Laboratories, Inc.
85-727 Esterified Estrogens Tablet, 2.5 mg.	Do.
85-843 Lorolate Sublingual Tablet, 1.0 mg.	Wallace Laboratories, Formerly Mallinckrodt, Inc., Cranbury NJ 08512.

[1] Note.—Marketing of this drug product will continue under ANDA 80-671.

The agency has determined that, in accordance with 21 CFR 25.24(d)(2) (proposed in the **Federal Register** of December 11, 1979, 44 FR 71742), this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 050(e), 76 Stat. 782 as amended (21 U.S.C. 355(e))), and under authority delegated to the Director of the National Center for Drugs and Biologics (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn.

This order becomes effective on February 3, 1983.

Dated: December 22, 1982.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-22 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0181]

American Pharmaceutical Co., Inc., et al.; Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) offers an

opportunity for hearing on a proposal to withdraw approval of 48 abbreviated new drug applications (ANDA's) on the grounds that the applicants have failed to submit required reports.

DATE: Requests for hearing due by February 23, 1983.

ADDRESSES: Communications in response to this notice should be identified with the docket number appearing in the heading of this notice and directed to the attention of the appropriate office named below:

Requests for hearing: Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20587.

Periodic reports: Division of Generic Drug Monographs (HFN–530), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20587.

FOR FURTHER INFORMATION CONTACT: David Rosen, National Center for Drugs and Biologics (HFN–530), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20587.

SUPPLEMENTARY INFORMATION: Applicants are required to maintain records on drug products for which an approval is in effect, and to report to FDA periodically concerning the drugs in accordance with 21 CFR 310.300. Although in the past some exemptions from these reporting requirements have been granted, all such exemptions were rescinded, as announced in the **Federal Register** of May 12, 1978 (43 FR 20356). Reports have not been submitted for the drug products listed below, and the firms have not voluntarily waived their opportunity for a hearing. Each applicant was advised by certified letter that it should submit the required reports within 30 days of receipt of the letter or the agency would proceed to publish a notice of opportunity for hearing on a proposal to withdraw approval of the ANDA's on the grounds of failure to report.

The objective of this action is to close a large number of files on drugs that have been discontinued or were never marketed or whose holders are delinquent in submitting the required periodic reports.

ANDA No. and Drug	Applicant
80–004 Propylthiouracil Tablet, 50 mg.	American Pharmaceutical Co., Inc., 120 Bruckner Blvd., Bronx, NY 10454.
80–019 Propylthiouracil Tablet, 50 mg.	Davis/Edwards Pharmacal Corp., P.O. Box 1325, Danbury, CT [illegible]. Do.
80–115 Isoniazid Tablet, 100 mg.	Fellows Medical Manufacturing Co., Subsidiary of Chromalloy American Corp., 12741 Capital Ave., Oak Park, MI 48237.
80–227 Prednisone Tablet, 5 mg.	
80–246 Prednisone Tablet, 5 mg.	Nysco Laboratories, Inc., 34–24 Vernon Blvd., Long Island City, NY 11106. Do.
80–247 Prednisolone Tablet, 5 mg.	Gotham Pharmaceutical Co. Inc., 1840 McDonald Ave., Brooklyn, NY 11223.
80–298 Menadione Sodium Bisulfite Injection, 2.5, 5, & 10 mg/mL.	Medical Chemicals Corp., 2137 N. 15th Ave., Melrose Park, IL 60150.
80–312 Phytonadione Injection, 10 mg/mL.	Gotham Pharmaceutical Co., Inc.
80–316 Desoxycorticosterone Acetate Injection, 5 mg/mL.	Century Laboratories, Inc., P.O. Box 1038, Turnersville, NJ [illegible]12.
80–996 Cyanocobalamin Injection, 1,000 ug/mL.	A.D.S. Laboratories, 200 Elmora Ave., Elizabeth, NJ 07207. Do.
83–030 Prednisolone Tablet, 5 mg.	Medwick Laboratories, 2137 North 15th Ave., Melrose Park IL 60160.
83–031 Prednisone Tablet, 5 mg.	Dell Laboratories, Inc., 666 Front St., Teaneck, NJ 07666.
83–121 Diphenhydramine HC1 Injection, 10 mg/mL.	
83–151 Dexamethasone Sodium Phosphate Injection, 4 mg/mL.	Medwick Laboratories.
83–206 Cortisone Acetate Injection, 25 & 50 mg/mL.	Do.
83–233 Hydrocortisone Acetate Injection, 25 & 50 mg/mL.	
83–311 Vitamin A Capsule, 50,000 units.	Arcum Pharmaceutical Corp., 225 Mill St., N.E., Box 38, vienna, VA 22180
83–387 Lidocaine HC1 Injection, 1%.	Dell Laboratories, Inc.
83–388 Lidocaine HC1 Injection, 2%.	Do.
83–389 Lidocaine HC1 Injection, 1% with Epinephrine 1:100,000.	Do.
83–390 Lidocaine HC1 Injection, 2% with Epinephrine 1:100,000.	Do.
83–582 Prednisolone Acetate Injection, 25 mg/mL.	Ferndale Laboratories, Inc., 780 West Eight Mile Rd., Ferndale, MI 48220.
83–674 Diphenhydramine HC1 Elixir, 12.5 mg/5 mL.	The C. M. Bundy Co., 2055 Reading Rd., Cincinnati, OH 45202.
83–675 Prednisolone Tablet, 5 mg.	Do.
83–676 Prednisone Tablet, 5 mg.	Do.
83–771 Pyridoxine HC1 Injection, 50 mg/mL.	Dell Laboratories, Inc.
83–775 Thiamine HC1 Injection, 100 mg/mL.	Do.
83–782 Promethazine HC1 Tablet, 25 mg.	Rover's Pharmacal, Inc., 918 Jersey St., West Babylon, NY 11704.
83–865 Promethazine HC1 Tablet, 50 mg.	Do.
83–929 Cortisone Acetate Tablet, 5 & 25 mg.	Robinson Laboratories, Inc., 356 Brannan St., San Francisco, CA 94107.
83–940 Diethylstilbestrol Tablet, 0.5, 1, & 5 mg.	Do.
83–955 Diphenhydramine HC1 Capsule, 50 mg.	Heather Drug Co., Inc., No 1 Fellowship Rd., Cherry Hill, NJ 08003.
83–958 Propylthiouracil Tablet, 50 mg.	Robinson Laboratories, Inc.
83–959 Rohydra HC1 Capsule, 25 & 50 mg.	Do.
83–960 Prednisolone Tablet, 5 mg.	Do.
83–974 Trihexyphenidyl HC1 Tablet, 2 and 5 mg.	Rover's Pharmacal, Inc.
84–185 Bethanechol Chloride Tablet, 10 mg.	Oak Park Pharmaceuticals, Inc., 100 Wisconsin Ave., Fredonia, WI 53021.
84–186 Bethanechol Chloride Tablet, 25 mg.	Do.
84–524 Diphenhydramine Capsule, 25 mg.	Heather Drug Co., Inc.
85–009 Folic Acid Tablet, 1 mg.	Oak Park Pharmaceuticals, Inc.
85–040 Isoniazid Tablet, 100 mg.	Do.
85–041 Medizine Hydrochloride Tablet, 25 mg.	Do.
85–042 Methocarbamol Tablet, 500 mg.	Do.
85–044 Reserpine Tablet, 0.25 mg.	Do.
85–170 Prednisolone Tablet, 5 mg.	Tablicaps, Inc., P.O. Box 5666, Frankfurville, NJ 08322.
85–207 Reserpine Tablet, 0.25 mg.	Do.
85–270 Methyltestosterone Tablet, 25 mg.	Do.
85–550 Butabarbital Tablet, 30 mg.	The C. M. Bundy Co.

Therefore notice is given to the holders of the abbreviated new drug applications listed above that the Director of the National Center for Drugs and Biologics proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the abbreviated new drug applications and all amendments and supplements thereto on the grounds that the applicants have failed to submit the reports required under 21 CFR 310.300.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 210, 314), the applicants are hereby given an opportunity for a hearing to show why approval of their abbreviated new drug applications should not be withdrawn.

An applicant who decides to seek a hearing shall file (1) on or before February 3, 1983 a written notice of appearance and request for hearing, and (2) on or before March 7, 1983 the data, information, and analyses relied on to justify a hearing as specified in 21 CFR 314.200.

The failure of the applicant to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by that person not to make use of the opportunity for a hearing concerning the action proposed for the product.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that justifies a hearing. Reports submitted to remedy the deficiencies must be complete in all respects in accord with 221 CFR 310.300. If the submission is not complete or if a request for hearing is not made in the required format or with the required reports, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests a

hearing, making findings and conclusions, and denying a hearing.

All submissions under this notice must be filed in four copies. Except for information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m. Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)) and under authority delegated to the Director of the National Center for Drugs and Biologics (21 CFR 5.82).

Dated: December 22, 1982.

Harry M. Meyer, Jr.,

Director, National Center For Drugs and Biologics.

[FR Doc. 83-23 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0012; DESI 9049]

Prescription Topical Anti-Infective Drug Products; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application for Neo-Cort-Dame Lotion (NDA 50–307) on the ground that the drug product lacks substantial evidence of effectiveness for its labeled indications. The product is no longer marketed.

EFFECTIVE DATE: February 3, 1982.

ADDRESS: Requests for an opinfon of the applicability of this notice to a specific product should be identified with the reference number DESI 9094 and directed to the Division of Drug Labeling Compliance (HFN–310), National Centers for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Margaret Erickson, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 25, 1981 (46 FR 47408), the Director of the Bureau of Drugs proposed to withdraw approval of the new applications (NDA's) of certain prescription topical anti-infective drug products and offered an opportunity to request a hearing on the proposal. The basis of the proposal was that the products lack substantial evidence of effectiveness.

In response to the notice, Miles Pharmaceuticals, Division of Miles Laboratories, Inc., 400 Morgan Ln., West Haven, CT 06516, requested a hearing for several products. Miles subsequently informed FDA that the product listed below is no longer marketed and was inadvertently included in its hearing request. Accordingly, approval of the following new drug application is being withdrawn:

NDA 50–307; Neo-Cort-Dome Lotion (0.5 percent and 1 percent) containing neomycin sulfate and hydrocortisone.

Any drug product that is identical, related, similar to the drug product named above and is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

This notice does not apply to the following products for which Miles requested a hearing:

1. NDA 50–237; Neo-Cort-Dome Cream (0.5 percent and 1 percent) containing hydrocortisone and neomycin sulfate.

2. Iodochlorhydroxyquin and Hydrocortisone Cream and Ointment (no NDA).

This notice does not apply to any other product which is the subject of a pending hearing request. These products are listed in a notice published in the **Federal Register** of April 23, 1982 (47 FR 17677). These products may be marketed pending a final determination of their effectiveness.

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Sat. 1052–1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982), finds, on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or sugested in its labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 50–307 and all its amendments and supplements is withdrawn effective February 3, 1983.

Shipment in interstate commerce of the above product or any idential, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: December 22, 1982.

Harry M. Meyer, Jr.,

National Center for Drugs and Biologics.

[FR Doc. 83-24 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0330/AP]

Tamper-Resistant Packaging Requirements for Certain Over-the-Counter Human Drug and Cosmetic Products; Advisory Opinion

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the agency's advisory opinion that over-the-counter (OTC) drugs in one-piece soft gelatin capsules belong to the category of products that must comply with tamper-resistant packaging requirements by May 5, 1983. The advisory opinion was issued in response to trade correspondence.

ADDRESS: The trade correspondence is on file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eileen Hodkinson, National Center for Drugs and biologics (HFN–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 5, 1982 (47 FR 50442), FDA published regulations establishing tamper-resistant requirements for certain OTC human drugs and cosmetic products. Compliance with the regulations becomes effective in steps. The requirement that a tamper-resistant package be used is effective February 7, 1983 for OTC drug products and cosmetics that are the most vulnerable to tampering. These products are oral, vaginal, and rectal drugs, (other than oral and vaginal tablets and vaginal and rectal suppositories), otic drugs, nasal drugs, and ophthalmic drugs. A later effective date of May 5, 1983 is provided for oral and vaginal tablets and vaginal and rectal suppositories that are considered less susceptible to known methods of tampering.

Pharmacaps, Inc., Elizabeth, NJ, filed a request for an exemption from the February 7, 1983 effective date of the tmper-resistant rule asking the agency to distinguish OTC drug products in one-piece soft gelatin capsules from OTC drug products in two-piece hard gelatin

capsules for purposes of compliance with the tamper-resistant packaging requirement.

By letter dated November 23, 1982, the petitioner was informed that because one-piece soft gelatin capsules are less susceptible to tampering than two-piece capsules, it would be more appropriate to place them in the category of drug products that must comply with the tamper-resistant regulations by May 5, 1983.

Under § 10.85(c) (21 CFR 10.85(c)), the Commission of Food and Drugs considers the substance of the November 23, 1983 letter to be an advisory opinion applicable to all OTC human drug products marketed in one-piece soft gelatin capsules. Such products, therefore, should comply with the tamper-resistant packaging requirement by May 5, 1983.

Dated: December 25, 1982.

Joseph P. Hile,

Associate Commission for Regulatory Affairs.

[FR Doc. 83-25 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0374]

Mitsui Petrochemical Industries, Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Mitsui Petrochemical Industries, Ltd., has filed a petition proposing that the food additive regulations be amended to provide for an increase in the level of butene-1 in ethylene/butene-1 copolymers to be used in blends with other permitted polyolefins.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3674) has been filed by the Mitsui Petrochemical Industries, Ltd., (No. 2,3-Chrome, Kasumigaseki, Chiyoda-ku, Tokyo, Japan) proposing that § 177.1520 *Olefin polymers* (21 CFR 177.1520) be amended to provide for an increase in the butene-1 content in ethylene/butene-1 copolymers for use in blends with other olefin copolymers intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: December 22, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-26 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80P-0234/P]

Gonorrhea Antibody Test Kits; Refusal To Initiate Proceedings To Withdraw Premarket Approval; Availability of Commissioner's Decision

AGENCY: Food and Drug Administration.

ACTION: Notice of availability of Commissioner's decision.

SUMMARY: The Food and Drug Administration is announcing that the Commissioner of Food and Drugs has issued a final decision concerning a petition filed by the Health Research Group (HRG) requesting the agency to withdraw premarket approval for three blood-screening tests for detection of gonorrhea antibody.

ADDRESS: The decision and all documents related to the decision may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Tenny Neprud, Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: Acting as the Commissioner's designee pursuant to 21 CFR 15.30(a), the Deputy Commissioner has determined that HRG has not presented evidence that would justify initiation of proceedings to withdraw premarket approval for these gonorrhea antibody test kits (GAT's) but that labeling for the devices should be revised to communicate more effectively to consumers the performance characteristics of the devices. These revisions in labeling include: (1) Amendment of the special labeling prominently displayed on all packaging and promotional materials to state that the tests will identify as positive a significant number of individuals who do not have the disease, (2) use of examples to illustrate the tests' specificity and sensitivity, (3) discussion of the predictive value of test results, and (4) more prominent placement of the discussion of the tests' performance characteristics. In addition, the decision directs the Office of Medical Devices to consider seriously a requirement that written information concerning the likelihood of false-positive test results accompany the products for distribution directly to patients.

Dated: December 29, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-172 Filed 1-4-83; 8:45 am]

BILLING CODE 4160-01-M

Small Business Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming small business exchange meeting to be chaired by Ceasar A. Roy, Regional Food and Drug Director, Region II, New York Field Office.

DATE: Thursday, January 20, 1983, at 1 p.m.

ADDRESS: The meeting will be held at the Roosevelt Hall Little Theatre, SUNY at Farmingdale, Farmingdale, NY 11735.

FOR FURTHER INFORMATION CONTACT: George R. Walden, Small Business Representative, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 202-645-6466.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small businesses and FDA officials. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small business persons in FDA's decisionmaking process.

Dated: December 29, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-171 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82P-0362]

Tomato Juice Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing

that a temporary permit has been issued to Ardmore Farms, Inc., to market test tomato juice prepared from concentrate and preserved by freezing and by refrigeration after subsequent defrosting. The purpose of this temporary permit is to permit the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 days, beginning on the date the food is introduced or caused to be introducted into interstate commerce, but no later than April 4, 1983. However, the permit may terminate sooner, depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the **Federal Register** of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In accordance with § 130.17 (21 CFR 130.17) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Ardmore Farms, Inc.

The permit covers limited interstate marketing tests of tomato juice that deviates from the standard of identity prescribed for tomato juice under § 156.145 (21 CFR 156.145) in that it is prepared from tomato paste and tomato puree that comply with the requirements of § 155.191(a)(1) (21 CFR 155.191(a)(1)) and § 155.192(a)(1) (21 CFR 155.192 (a)(1)), respectively, to which water is added and is preserved by freezing and by refrigeration after subsequent defrosting.

The test product is equivalent to a single-strength tomato juice normally found in the marketplace. The finished product contains not less than 5.5 percent tomato-soluble solids. The permit provides for temporary marketing of 2,000 cases per month of 48 4-ounce plastic cups of the product to be distributed in all 50 of the United States.

The test product is to be packed at the Ardmore Farms, Inc., plant, P.O. Box 183, Deland, FL 32730.

The principal display panel of the label states the product's name as "tomato juice from concentrate." Each of the ingredients used is stated on the label as required by the applicable sections of 21 CFR Part 101, except that the tomato ingredients complying with the requirements of § 155.191 (a)(1) and § 155.192(a)(1) are declared as "tomato concentrate." The statement "Keep Refrigerated" is printed on the label and a coded packing date is printed on the shipping container of the frozen food. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than April 4, 1983. However, the permit may terminate sooner, depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the **Federal Register** of May 9, 1978. If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after the negative ruling on the proposal.

Dated: December 23, 1982.

Wlilliam F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-8 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

Native American Programs; Amendment to Program Announcement 13612-831

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Amendment to Announcement of Availability of FY 1983 Financial Assistance for Native American Projects.

SUMMARY: The Administration for Native Americans (ANA) is amending the list of Fiscal Year 1982 grantees eligible to apply for funding under Program Announcement 13612-831, Financial Assistance for Native American Projects (47 FR 25726, June 14, 1982). The following list of Fiscal Year 1982 grantees includes those grantees whose budget periods have been changed.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: December 14, 1982.

Casimer R. Wichlacz,

Acting Commissioner, Administration for Native Americans.

Approved: December 27, 1982.

Dorcas R. Hardy,

Assistant Secretary, for Human Development Services.

ADMINISTRATION FOR NATIVE AMERICANS

Grantee	State	BPE	Application due date
All Indian Pueblo Council	NM	Feb. 28, 1983	Dec. 1, 1982
White Earth Reservation Business Committee	MN	do	Do.
Ute Mountain Ute Tribe	CO	do	Do.
Blackfeet Tribe	MT	do	Do.
Pueblo of Laguna	NM	do	Do.
Council on Energy Resource Tribes	DC	do	Do.
Shoshone-Arapaho Joint Council	WY	do	Do.
Lincoln Indian Center	NE	do	Do.
Leech Lake RBC	MN	Mar. 31, 1983	Dec. 31, 1982.
Oneida Tribe of Indians	WI	do	Do.
Business Committee of Chippewa Cree	MT	do	Do.
Eight Northern Pueblos	NM	do	Do.
Native Americans for Community Action	AZ	do	Do.
Indian Development District of Arizona	AZ	Apr. 30, 1983	Jan. 31, 1983
Miccosukee Tribe of Florida	FL	do	Do.
Hoopa Valley Indian Reservation	CA	do	Do.
Fort McDermitt Paiute-Shoshone Tribe	NV	do	Do.
Council for Tribal Employment Rights	WA	do	Do.
Pueblo de Acoma	NM	do	Do.
Eastern Band of Cherokee	NC	do	Do.
Saginaw Chippewa Indian Tribe	MI	do	Do.
Community Action for the Urbanized Indian	CA	do	Do.
Muskogee Creek Nation	OK	May 31, 1983	Mar. 3, 1983
Rhode Island Indian Council	RI	do	Do.
Port Gamble Klallum Tribe	WA	do	Do.

[FR Doc. 83-69 Filed 1-3-83; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent parts at 47 FR 3603–06, January 26, 1982 and 47 FR 30293, July 13, 1982), is amended to reflect the consolidation of all responsibilities associated with the animal drug approval process into the Office of the Director, Bureau of Veterinary Medicine (BVM). The Division of Food Animal Additives, Bureau of Foods (BF), is being abolished and its functions transferred to BVM along with the animal drug related responsibilities of the Divisions of Toxicology, Mathematics, and Chemistry and Physics, BF. Consolidating these functions into a single bureau will streamline and make more efficient the agency's animal drug approval process.

Section HF–B, Organization and Functions, is amended as follows:

1. Delete subparagraph (k–3–iii) of paragraph (k) in its entirety and reserve it for future use:

(k–3–iii) reserved.

2. Delete subparagraph (k–4–i) of paragraph (k) in its entirety and substitute the following:

(k–4–i) *Division of Toxicology (HFFB).* Originates, plans, and conducts research on the toxic effects of substances for which the bureau has regulatory responsibility; i.e., direct and indirect food additives, color additives and other colors, GRAS substances, prior sanction substances, natural and man-made contaminants of food, natural toxicants in food, and cosmetics ingredients, and of metabolites of these substances.

Investigates mechanisms of the underlying toxicological reactions which may directly or indirectly cause adverse effects in man or laboratory animals.

Investigates, develops, and improves bases for establishing and evaluating toxicological injury to man or laboratory animals from substances for which the bureau has regulatory responsibility.

Conducts toxicological studies on various classes of substances for which the bureau has regulatory responsibility to provide data for evaluation of new petitions and proposals and for the review of current tolerances and applications.

Plans and conducts research pertinent to basic toxicity mechanisms affecting cell growth, reproduction, and function.

Performs toxicological evaluation of all chemical substances for which the bureau has regulatory responsibility.

Develops and makes recommendations regarding the establishment and updating of toxicologic evaluation criteria, guidelines, and protocols for application in the approval process of new substances and for the reaffirmation of presently used substances for which the bureau has regulatory responsibility.

Plans and implements discrete phases of the review of approved food additives as they apply to the toxicology component of the program.

Maintains liaison with other Federal agencies for coordinating toxicologic procedures and information exchange.

Serves as the bureau's chief source of advice on the toxicology of substances which are added to or become a component of food or cosmetics.

Interacts with and provides support to the National Toxicology Program (NTP) by identifying substances for which the bureau has regulatory responsibility that should be tested by the NTP, designing appropriate experiments for testing these substances, and assisting in the preparation of reports and other documents as required by NTP.

3. Delete subparagraph (k–4–iii) of paragraph (k) in its entirety and substitute the following:

(k–4–iii) *Division of Mathematics (HFFE).* Develops mathematical methods and models and provides statistical analysis of bureau and field research, extramural, and regulatory programs.

Originates, plans, and conducts research with regard to the mathematical design, analysis, and interpretation of health, sanitation, and economic studies.

Reviews and evaluates experimental design and statistical data submitted in petitions for food and color additives and food standard regulations.

Provides statistical support to all components of the bureau.

Investigates mathematical and statistical techniques for data analysis systems and for translation and interpretation of technical information for bureau use.

4. Delete subparagraph (k–5–i) of paragraph (k) in its entirety and substitute the following:

(k–5–i) *Division of Chemistry and Physics (HFFA).* Devises new methods of analysis for food additives, natural contaminants and their alteration products in foods; recommends analytical procedures, and provides technical support when requested by the field laboratories. Conducts research to elucidate the chemical structure and properties of food components and potentially hazardous substances in foods.

Provides primary scientific evaluation of the chemical data in food additive petitions and provides laboratory support for validation of analytical methods.

Provides expertise in specialized fields of advanced instrumentation and evaluates, designs, and adapts instrumentation to meet analytical needs in food research.

Provides other chemistry services, as requested, in support of bureau and field programs.

5. Delete subparagraph (m–1) of paragarph (m) in its entirety and substitute the following:

(m–1) *Office of the Director (HFV1).* Directs overall bureau activities and coordinates and establishes bureau policy in the areas of research, management, scientific evaluation, compliance, and surveillance.

Directs systems for planning, programming, and budgeting and provides administrative, and information support for the bureau.

Approves new animal drug applications and issues notices of withdrawal of new animal drug approvals when the opportunity for a hearing has been waived.

Authorizes, for use as edible products, animals treated with investigational drugs and terminates exemptions for investigational trials.

In conjunction with the Bureau of Foods, provides FDA policy development and direction on environmental impact matters.

Ensures that industy-submitted new animal drug applications for food-producing animals are reviewed and evaluated with respect to possible effects on the health of humans consuming food from the affected food-producing animals.

Dated: December 23, 1982.

Richard S. Schweiker,

Secretary

[FR Doc. 83–112 Filed 1–03–83; 8:45 am]

BILLING CODE 4160–01–M

Social Security Administration

Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS)

covers the Social Security Administration (SSA).

Notice is given that Part S as published in the **Federal Register** on March 21, 1979 (44 FR 17218–19) and as amended by 44 FR 46350 of August 7, 1979 and by 46 FR 41215 of August 14, 1981, is being amended to reflect the functional and organizational realignments required to accomplish the SSA Systems Modernization Plan (SMP). A new position of Deputy Commissioner of Social Security, Systems, is being established with specific responsibility for the accomplishment of agency systems objectives, and for overseeing the modernization of SSA's automatic data processing and telecommunications systems. Three major new offices are established to realign SSA's systems components in a manner consistent with the SMP. The new offices are: (1) The Office of System Operation (OSO) with responsibility for operation and maintenance of existing operational systems, (2) The Office of System Requirements (OSR) with responsibility for identifying and developing user-oriented systems requirements, and (3) The Office of System Integration (OSI) with responsibility for planning and implementation of systems modernization efforts. Broadly stated, OSR represents a realignment of functions currently reflected within the Office of Operational Policy and Procedures under the Office of User Requirements and Validation and the Office of Enumeration and Earnings Records. OSI represents a new component which subsumes the existing organizations devoted to systems design and development, and OSO constitutes a restructuring of the remaining capacity of the existing Office of Systems. The Systems Management Support Staff, which reports directly to the Deputy Commissioner of Social Security, Systems, represents a realignment of the Management Support Staff of the present Office of Systems. The existing Office of Systems is abolished. Additional changes describe the establishment of the position of Deputy Commissioner of Social Security, Programs and Policy, in lieu of the former position of Deputy Commissioner of Social Security, Programs, and other changes of a purely technical nature required to update Chapters S and SA of the Statement of Organization, Functions and Delegations of Authority. The new material and changes are as follows:

Sec. S.10 The Social Security Administration—(Organization):

Retitle Subsection B to read: "B. The Office of System Operations (SB)."

Reletter and retitle Subsection D. to read: "C. The Office of Field Operations (SD)."

Add Subsection: "O. The Office of the Actuary (SN)."

Add Subsection: "P. The Office of System Requirements (ST)."

Add Subsection: "Q. The Office of System Integration (SU)."

Add Subsection: "R. The Systems Management Support Staff (SQ)."

Sec. SA.10 The Office of the Commissioner—(Organization):

Retitle Subsection B to read: "B. *The Deputy Commissioner of Social Security, Programs and Policy (SA).*"

After Subsection C add: "D. *The Deputy Commissioner of Social Security, System (SA).*"

The remaining material, Subsection D, is relettered "E."

Sec. SA.20 The Office of The Commissioner—(Functions):

Retitle and revise subsection B. to read:

"B. *The Deputy Commissioner of Social Security, Programs and Policy* (SA) assists the Commissioner in carrying out his/her responsibility for managing and directing administration of SSA programs, concentrating on program policy issues, public and governmental affairs, intergovernmental relations and the appeals process."

After Subsection C. add:

"D. *The Deputy Commissioner of Social Security, Systems* (SA) assists the Commissioner in carrying out his/her responsibility for managing and directing administration of SSA programs, concentrating on automated data processing and telecommunications systems."

All remaining material; namely, subsections D and E are reordered as follows:

Subsection D. *The Immediate Office of the Commissioner* (SA) is relettered as "E."

Subsection E. *The Executive Secretariat* (SAX) is renumbered as "1." and its subsections are renumbered as "a–f."

Chapter SB—*The Office of Systems:*

Chapter SB is deleted. The new material reads as follows:

Sec. SB.00 The Office of System Operations—(Mission):

The Office of System Operations (OSO) directs, manages and coordinates the planning, implementation, operation and maintenance of SSA's computer and telecommunications systems operations. It directs and coordinates the transition, implementation and operation of current/ongoing operating systems software and other operating systems support software, including diagnostic software. OSO interfaces with the Office of System Integration (OSI) in the transition and implementation of redesigned programmatic, administrative and communications application systems to progressively replace existing application systems. It manages several computer and telecommunications operations complexes, which process SSA's programmatic support, administrative, management information and statistical application systems. OSO conducts continuing assessments and engineering analyses of the computer and telecommunications operations, as well as equipment performance analyses and coordinates with OSI the implementation of necessary improvements to existing resources. It directs and coordinates the activities associated with the planning, management, acquisition, procurement and renewal of automated data processing (ADP) equipment, software and technical services to maintain operational systems and to prevent progressive deterioration. OSO develops, controls and implements operational plans, which includes preparing technical specifications, evaluation criteria, acceptance test criteria, facilities engineering plans and budget estimates, to maintain operational systems. It advises the Deputy Commissioner for Systems, SSA Executive Staff and external monitoring authorities, such as the Department of Health and Human Services, the General Services Administration, the General Accounting Office, the Office of Management and Budget and Congress on SSA's operational computer and telecommunications systems.

Sec. SB.10 The Office of System Operations—(Organization):

The Office of System Operations, under the leadership of the Associate Commissioner for System Operations, includes:

A. The Associate Commissioner for System Operations (SB)

B. The Deputy Associate Commissioner for System Operations (SB)

C. The Immediate Office of the Associate Commissioner for System Operations (SB)

D. The Office of Computer Processing Operations (SBP)

E. The Office of Telecommunications Systems Operations (SBJ)

F. The Office of Operational Planning and Control (SBK)

Sec. SB.20 The Office of System Operations—(Functions):

A. *The Associate Commissioner for System Operations* (SB) is directly responsible to the Deputy Commissioner for Systems for carrying out the OSO mission and providing general supervision to the major components of OSO.

B. *The Deputy Associate Commissioner for System Operations* (SB) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for System Operations* (SB) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. *The Office of Computer Processing Operations* (SBP): The Office of Computer Processing Operations (OCPO) plans and directs data processing operations in support of social insurance and income maintenance programs, as well as statistical and administrative information systems. It ensures that systems operational plans are consistent with overall OSO plans. OCPO manages a complex data processing facility of computers and related equipment which process programmatic and management information data. It designs, develops, implements and provides operating control systems software and operational standards for SSA's programmatic and management information ADP equipment. OCPO conducts technical evaluations of operations in the data processing facility and advises the Associate Commissioner for System Operations and other SSA officials on technical matters concerning computer operations. OCPO serves as liaison with other SSA officials on technical matters concerning computer operations. OCPO serves as liaison with other SSA components, Federal and non-Federal agencies and other organizations on operational data processing matters.

E. *The Office of Telecommunications Systems Operations* (SBJ): The Office of Telecommunications Systems Operations (OTSO) operates SSA's nationwide data communications systems in support of all SSA programmatic and administrative activities. OTSO manages a complex nationwide facility which provides data communications for all SSA components. It maintains operating system software and develops operational standards for telecommunications services. It conducts operational evaluations of data communications facilities and provides advice to the Associate Commissioner for System Operations and other SSA officials on all matters concerning data communications operations. OTSO serves as liaison with other SSA components, other Federal and non-Federal agencies and other organizations on operational data communications matters.

F. *The Office of Operational Planning and Control* (SBK): The Office of Operational Planning and Control (OOPC) directs all OSO operational systems planning and control. It directs the development of broad OSO systems plans and determines planning requirements at various levels in OSO. OOPC reviews and approves technical and operational systems priorities among program areas to ensure maximum use of OSO resources. OOPC proposes to the Associate Commissioner for System Operations resource requirements for systems activities in OSO. It plans and develops operational policies, standards and procedures for OSO. OOPC coordinates the resolution of operational problems identified by the Office of System Requirements and the users of OSO systems. It directs and coordinates the OSO activities associated with the operational planning, management, utilization measurement, acquisition and renewal of operational ADP equipment, and software and technical services to maintain operational systems and prevent progressive deterioration. It directs, coordinates and conducts operations analyses and studies in areas such as work force requirements, media and supply logistics, work station to work station communication, supply storage and retrieval and job stream interdependencies and networking. OOPC is the central OSO point of contact for the coordination and transition of redesigned application systems developed by the Office of System Integration into the OSO production environment. It is the control point in OSO responsible for the integrity of the SSA hardware configuration, production software change control and major production job streams. It serves as liaison with other SSA components, the Department of Health and Human Services and external monitoring authorities, including the General Services Administration, the Office of Management and Budget, the General Accounting Office and Congress on SSA's ADP and telecommunications systems operations.

Sec. SJ.10 The Office of Operational Policy and Procedures (Organization):

Delete Subsection: "F. The Office of Enumeration and Earnings Records (SJC)."

Delete Subsection: "J. The Office of User Requirements and Validation (SJR)."

All remaining material lettered G–I is relettered F–H.

Chapter ST—*The Office of System Requirements:*

A new Chapter ST is titled and reads as follows:

Sec. ST.00 The Office of System Requirements—(Mission):

The Office of System Requirements (OSR) directs, develops and coordinates organizational information requirements and functional specifications for new systems and modifications to existing systems in direct support of SSA programs, as well as statistical and administrative information systems. OSR is responsible for long-range planning and analyses to define new and improved systems processes in support of user requirements and maintains a comprehensive, updated and integrated set of system requirement specifications. OSR directs validation of systems operations against user defined requirements and performance criteria, and approves the resulting system for operational acceptance. It directs the development of procedures and instructions to support user needs in effective implementation of all systems. OSR develops security standards and ensures implementation of the standards within OSR. It directs the evaluation of the effect of proposed legislation, policies or regulations to determine the impact on SSA systems and develops information requirements and procedures as they relate to such legislation, regulations and SSA policy directives. It directs the coordination of user requirements with SSA central and field offices to ensure the efficiency and effectiveness of program information needs and overall systems support. Based on input from users, OSR translates organizational information requirements and priorities into plans and, in line with Office of System Integration (OSI) and Office of System Operations (OSO) systems targets, develops SSA's annual agency systems plan and directs the development and maintenance of the plan. OSR serves as primary contact and advocate for SSA user community on issues concerning the development of organizational information requirements, functional specifications

and supporting operational procedures and instructions.

Sec. ST. 10 The Office of System Requirements—(Organization):

The Office of System Requirements, under the leadership of the Associate Commissioner for System Requirements, includes:

A. The Associate Commissioner for System Requirements (ST)
B. The Deputy Associate Commissioner for System Requirements (ST)
C. The Immediate Office of the Associate Commissioner for System Requirements (ST)
D. The Office of Claims and Payment Requirements (STA)
E. The Office of Pre-Claims Requirements (STB)
F. The Office of System Modernization Requirements (STC)
G. The Office of Planning, Control and Validation (STE)

Sec. ST. 20 The Office of System Requirements—(Functions):

A. *The Associate Commissioner for System Requirements* (ST) is directly responsible to the Deputy Commissioner for Systems for carrying out the OSR mission and providing general supervision to the major components of OSR.

B. *The Deputy Associate Commissioner for System Requirements* (ST) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for System Requirements* (ST) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. *The Office of Claims and Payment Requirements* (STA): The Office of Claims and Payment Requirements (OCPR) develops, evaluates and implements organizational information requirements, including security and fraud detection requirements, for modifications to systems in direct support of SSA's multiple social insurance and income maintenance programs, as well as statistical and administrative information systems, and provides data exchange services to Federal and State agencies. OCPR maintains a comprehensive and integrated set of system requirements specifications, participates in the planning and conduct of unit validation tests with the Office of Planning, Control and Validation of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility. OCPR develops procedures and instructions to support user needs in effective implementation of systems, evaluates proposed legislative and policy changes to determine the impact on SSA systems, and develops information requirements and procedures needed to implement legislation, regulations and policy directives. In assigned areas, it coordinates development of user requirements with SSA headquarters and field components, as well as Federal and State agencies, and represents users in resolving systems problems with the Office of System Integration and the Office of System Operations.

E. *The Office of Pre-Claims Requirements* (STB): The Office of Pre-Claims Requirements (OPCR) develops, evaluates and implements organizational information requirements, including security and fraud detection requirements, for modifications to systems which establish, correct and maintain social security earnings records; issues new and duplicate social security cards and related records; records social security earnings for State and local government employees; furnishes Trust Fund information to the Department of the Treasury; accomplishes vested pension rights identification and notification and provides a variety of data information services that relate to enumeration and earnings records. OPCR maintains a comprehensive and integrated set of system requirements specifications, participates in the planning and conduct of unit validation tests with the Office of Planning, Control and Validation of system changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility. It develops procedures and instructions to support user needs in effective implementation of systems, evaluates proposed legislative and policy changes to determine the impact on SSA systems and develops information requirements and procedures needed to implement legislation, regulations and policy directives. In assigned areas, OPCR coordinates development of user requirements with SSA headquarters and field components, as well as Federal and State agencies, and represents users in resolving systems problems with the Office of System Integration and the Office of System Operations.

F. *The Office of System Modernization Requirements* (STC): The Office of System Modernization Requirements (OSMR) develops, evaluates and implements organizational information requirements for all systems modernization efforts for macro-level systems modernization proposals developed by the Office of Planning, Control and Validation (OPCV) and approved by the Deputy Commissioner for Systems. OSMR maintains a comprehensive and integrated set of system requirements specifications, participates in the planning and conduct of unit validation tests with OPCV of system modernization procedures and applications against user-defined requirements and performance criteria and certifies that the system meets specifications. It develops procedures and instruction to support user needs for modernization projects in effective implementation of systems. In assigned areas, OSMR coordinates development of user requirements with SSA headquarters and field components, as well as Federal and State agencies, and represents users in resolving systems problems with the Office of System Integration and the Office of System Operations relating to modernization efforts.

G. *The Office of Planning, Control and Validation* (STE): The Office of Planning, Control and Validation (OPCV) plans, analyzes, evaluates, coordinates and documents user requirements and changes in system processes to support long-term needs in relation to SSA's multiple social insurance and income maintenance programs, and statistical and administrative information systems. OPCV develops security standards and ensures implementation of the standards within OSR. It develops validation standards and requirements, conducts integrated tests of systems application processes, and certifies release of system modification and developmental projects. It develops automated techniques and methodologies for validation of systems processes, and identifies requirements for automated validation tools and test field data bases developed by OSI. OPCV develops and maintains the overall SSA plan for fulfilling immediate and long-range user requirements, including determining, classifying and defining SSA organizational systems needs and publishing the approved plan. It coordinates approved system requirement changes with system modernization plans. OPCV develops and maintains a management support

system which provides resource accounting, project control and workload scheduling, and controls user initiated automated data processing budget items relating to the agency systems plan.

Chapter SU—*The Office of System Integration:*

A new Chapter SU is titled and reads as follows:

Sec. SU.00 The Office of System Integration—(Mission):

The Office of System Integration (OSI) directs SSA's automated data processing (ADP) strategic planning process. It evaluates ADP and telecommunications technology and is responsible for acquiring and, with the Office of System Operations (OSO), implementing such technology at SSA. OSI directs and coordinates a comprehensive SSA systems configuration management program. It manages a detailed project control system for OSI system projects. OSI directs the design and development of software improvement projects. It designs, develops and, with OSO, implements the production of all new or improved data base oriented systems. OSI directs SSA's data base administration/management program. It is responsible for a comprehensive software engineering program and develops and oversees the implementation of standards, methods and procedures in connection with this program. OSI directs and coordinates the development of ADP systems in support of SSA's social insurance and income maintenance programs. It directs the development, maintenance and, with OSO, the implementation of software systems for administrative, management information and statistical applications. OSI develops policies and procedures for the acquisition of ADP/telecommunications equipment (ADP/TC), software and services, and directs the SSA ADP/TC acquisition process as it supports systems improvement and modernization initiatives. OSI directs the integration testing of new or revised hardware and software. It directs the design, development, maintenance and, with OSO, the implementation of SSA's nationwide data communications systems. OSI plans and directs a software development facility to support applications development personnel. It serves as liaison with other SSA components, the Department of Health and Human Services and external monitoring authorities, including the Office of Management and Budget, the General Services Administration, the General Accounting Office and the Congress on SSA systems planning, ADP/TC acquisition, systems development and data communications activities.

Sec. SU.10 The Office of System Integration—(Organization):

The Office of System Integration, under the leadership of the Associate Commissioner for System Integration, includes:

A. The Associate Commissioner for System Integration (SU)
B. The Deputy Associate Commissioner for System Integration (SU)
C. The Immediate Office of the Associate Commissioner for System Integration (SU)
D. The Configuration Management and Project Control Staff (SUA)
E. The Strategic Planning Staff (SUB)
F. The Software Technology and Engineering Center Staff (SUC)
G. The Office of Software Improvement and Engineering (SUE)
H. The Office of Programmatic Systems (SUF)
I. The Office of Administrative and Management Systems (SUG)
J. The Office of System Engineering (SUH)

Sec. SU.20 The Office of System Integration—(Functions):

A. *The Associate Commissioner for System Integration* (SU) is directly responsible to the Deputy Commissioner for Systems for carrying out the OSI mission and providing general supervision to the major components of OSI.

B. *The Deputy Associate Commissioner for System Integration* (SU) assists the Associate Commission in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. *The Immediate Office of the Associate Commissioner for System Integration* (SU) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. *The Configuration Management and Project Control Staff* (SUA): The Configuration Management and Project Control Staff (CMPCS) plans, develops and implements policies, standards and procedures for the overall management of the system configuration and control of improvement and modernization systems projects. It prepares and maintains SSA systems configuration management plans in a current status. It is responsible for software and hardware configuration management from requirements definition through the operational phase of system development. CMPCS is responsible for the initiation and operation of the project control system for OSI projects. It evaluates project plans; identifies interfaces, risks and resource requirements; and decides on the standard methods of project management to be utilized. CMPCS prepares all reports which result from the review and audit phases of configuration management, processes all configuration change orders, operates the configuration change control board and monitors achievement of project milestones. It determines plan impacts and prepares progress reports for all OSI projects.

E. *The Strategic Planning Staff* (SUB): The Strategic Planning Staff (SPS) develops, evaluates and recommends major systems goals, evaluates current technology and emerging technology, and prepares proposals for improving existing SSA systems processes. Directs and conducts a comprehensive ADP/TC strategic planning process in order to maintain and update systems modernization plans. Performs analyses of the feasibility, risk, security implications and cost-effectiveness of proposed new systems, proposed major changes to existing systems and the use of new ADP/TC technologies to assess technical impact upon systems modernization plans. Uses modeling and simulation techniques to test and evaluate proposed changes in the SSA environment. Performs applied technological research and documents and disseminates the results of such analyses to the SSA systems community. Coordinates with the Office of System Requirements (OSR), the Office of System Operations (OSO) and other SSA components, as necessary, to determine the progress of SSA in meeting its systems modernization goals.

F. *The Software Technology and Engineering Center Staff* (SUC): The Software Technology and Engineering Center Staff (STECS) plans and directs the establishment and implementation of an SSA software development facility to provide an integrated set of automated tools and techniques in support of applications development personnel during all phases of the software development life cycle, including analysis, design, programming, testing, validation, production and maintenance. STECS directs the phased implementation of a modern software development environment and provides ongoing technical support in the use of contemporary software engineering methodologies and techniques. It monitors compliance with established SSA and Federal standards and advises

SSA management on issues affecting software development, tools and procedures and programmer productivity.

G. *The Office of Software Improvement and Engineering* (SUE): The Office of Software Improvement and Engineering (OSIE) directs the design and development of all new or improved inhouse file access software for SSA data base/master record files, including selection and installation of commercial data base management packages, in connection with systems modernization and design/development initiatives. It identifies, evaluates, selects and manages software improvement projects which are implemented internally by OSIE, are assigned to OSI operational support components or to private contractors. OSIE prepares draft requirements statements and statements of work for the acquisition of software packages/tools and software contractor support services and coordinates the securing of such resources through the Office of System Engineering (OSE). OSIE develops, documents, publishes and maintains software engineering technology; audits and monitors agency components for software standards compliance and chairs an interdisciplinary standards committee responsible for the direction of software/data base engineering technology and the ongoing review of existing standards. It designs and develops new software systems/subsystems based on systems modernization plans or user requirements. OSIE directs the planning, design and implementation of software based security safeguards and controls to prevent unauthorized access, detect fraud or abuse and protect the confidentiality of personal and sensitive data. It designs and develops all new or improved inhouse applications support software designed to promote data base/master record data independence. It is responsible for all analyses in support of data standardization and data quality improvement/assurance in connection with software improvement and design and development initiatives. It establishes and maintains a data dictionary to support and control its function.

H. *The Office of Programmatic Systems* (SUF): The Office of Programmatic Systems (OPS) plans, directs and coordinates the development of operational ADP systems which directly support SSA's social insurance and income maintenance programs. Based on user requirements developed by OSR, it develops and modifies programmatic applications software systems, including systems analysis and design, programming, documentation, testing, implementation and maintenance. OPS coordinates systems development activities with OSR to assure full integration with OSI and SSA plans. It assures implementation of systems operating policies by developing detailed standards, methods and procedures consistent with OSI directives and standards. OPS serves as liaison with other OSI and SSA components, other governmental agencies and private organizations on operational systems development and maintenance functions.

I. *The Office of Administrative and Management Systems* (SUG): The Office of Administrative and Management Systems (OAMS) plans, directs and coordinates the development, implementation and maintenance of software systems for administrative, management information, statistical and specialized software development applications. These systems support SSA research and statistical activities, financial management, quality assurance, program integrity, personnel administration and administrative control programs, and provide information to facilitate executive planning and decisionmaking. OAMS provides complete life cycle support for these systems, including analysis, design, programming, documentation, testing, validation, implementation and maintenance. OAMS provides technical advice and consultation to other SSA components on their needs for new or revised systems, and recommends to them the most cost-effective methods of deveolpment. It advises SSA management on technical and cost factors for reimbursable work for other Federal and non-Federal agencies and organizations.

J. *The Office of System Engineering (SUH):* The Office of System Engineering (OSE) develops SSA policies and procedures for the acquisition of ADP/telecommunications equipment (ADP/TC), software and services, in compliance with SSA, the Department of Health and Human Services, the Office of Management and Budget and the General Services Administration policies and regulations. It directs and coordinates the SSA ADP/TC acquisition process in support of SSA's systems improvements and modernization initiatives, including the development of justification materials and technical specifications. OSE plans, directs and controls the integration test and, in conjunction with OSR and OSO, the production release of new or revised hardware and software. It develops policy and standards for integration test, validation and acceptance of ADP/TC hardware and software. Based on user requirements defined by OSR, OSE plans and directs the design, development and, with OSO, implementation of SSA's nationwide data communications systems and future data communications based systems. It directs and coordinates OSI activities associated with the ADP capacity planning, monitoring and utilization measurement of ADP/TC equipment and software resources. OSE plans and directs the implementation of pilot testing and special studies to test the application of new or improved systems technologies in SSA. It serves as liaison with other SSA components, the Department of Health and Human Services and external monitoring authorities in all systems modernization and improvement matters pertaining to the OSE mission.

Chapter SQ—*The Systems Management Support Staff:*

A new Chapter SQ is titled and reads as follows:

Sec. SQ.00 The Systems Management Support Staff—(Mission):

The Systems Management Support Staff (SMSS) plans, develops and coordinates a variety of general management and budget activities for the Office of System Operations (OSO), Office of System Integration (OSI) and the Office of System Requirements (OSR). SMSS provides support to the Deputy Commissioner of Social Security, Systems, and other Systems' executives on management planning, policies, procedures and operations; ensures that management support services are provided by the Office of Management, Budget and Personnel and other staff offices; and serves as the focal point for the Deputy Commissioner of Social Security, Systems and other Systems' executives on management support and budget activities. It plans, directs and coordinates personnel management activities in such areas as recruitment, placement, and employee relations; assures that training and management information needs are identified and defined and that ongoing management review and special studies are conducted to support management decisions and recommendations; and directs the development and execution of an integrated Systems budget and internal budget procedures.

Sec. SQ.10 The Systems Management Support Staff—(Organization):

The Systems Management Support Staff, under the leadership of the Administrative Officer for Systems, includes:

A. The Administrative Officer for Systems (SQ)

B. The Administrative Support Group (SQA)

C. The Budget Support Group (SQB)

D. The Training Support Group (SQC)

Sec. SQ.20 The Systems Management Support Staff—(Functions):

A. *The Administrative Officer for Systems* (SQ) is directly responsible to the Deputy Commissioner of Social Security, Systems, for carrying out a variety of general management, budget and training activities in support of OSO, OSI and OSR, and the Deputy Commissioner of Social Security, Systems.

B. *Administrative Support Group* (SQA): The Administrative Support Group plans and directs the coordination of Systems' organization requirements and personnel management activities in such areas as recruitment, placement and employee relations; coordinates activities related to facilities and space management, assures that management information needs are identified and defined; and directs the evaluation of management information and assures that trends in data are identified and reported to Systems' executives. It coordinates and consults with the Office of Management, Budget and Personnel and other staff offices regarding services required by the various Systems' components and evaluates services provided to ensure adequate management support. The Group provides advice to the Administrative Officer for Systems and other Systems' executives on management planning, policies, procedures and operations.

C. *The Budget Support Group* (SQB): The Budget Support Group directs the planning, development and execution of the total Systems' budget and develops recommendations for staffing and fund allowances for the various Systems' components. It develops and maintains necessary budgetary controls over components' spending plans and requests to ensure that obligations of funds are within Systems' budgetary limitations. The Group reviews and recommends approval/disapproval of spending and staffing plans and component requests involving salaries and benefits, overtime, travel, transportation, rentals, supplies and equipment, contract services, maintenance and repair costs.

It develops, analyzes and reports to the Administrative Officer for Systems on the rate of expenditure, reprogramming of funds to areas of higher priority, and budget management concerns.

The Group evaluates and provides recommendations to the Administrative Officer for Systems on the impact of legislative proposals, organizational changes, new or expanded automated data processing applications, and policy or procedural changes on the resource requirements of the various System's components.

D. *The Training Support Group* (SQC): The Training Support Group directs the development, coordination, administration, conduct and evaluation of technical training for the various Systems' components. It directs, coordinates and conducts job and task analysis for a cross-section of technical functions or positions, or for organization segments, to assure appropriateness to current job and technical requirements, as well as future needs and state-of-the-art technologies.

Dated: December 23, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 83-113 Filed 1-3-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted for Review

December 17, 1982.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Rick Otis, at 202-395-7340.

Titles: (1) Agreement to Reimburse for Reindeer, 25 CFR Part 243.10(c) Bureau Form Number: JO-NR-3

(2) Permit to Acquire Live Reindeer, 25 CFR Part 243.8 Bureau Form Number: JAO 1668

Frequency: On occasion.

Description of Respondents: Individual Eskimo reindeer ranchers, tribal corporations

Annual Responses: 20 (each form)

Annual Burden Hours: 20 (each form)

Bureau clearance officer: Diana Loper, 202-235-2517

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 83-72 Filed 1-3-83; 8:45 am]

BILLING CODE 4310-02-M

Sokaogon Chippewa Community (Reservation); Proclaiming Certain Lands as Part of Indian Reservation; Correction

December 9, 1982.

In FR Doc. 82-10958, appearing on pages 17337 and 17338, in the issue for Thursday, April 22, 1982, the land description is hereby corrected by deleting "R. 8 E." under "Parcel D" in the second column and inserting in lieu thereof "R. 12 E." Also on the second line in the last paragraph delete "246.23 acres" and insert in lieu thereof "246.21 acres."

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 83-700 Filed 1-3-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[INT DEIS 82-79]

Proposed Livestock Grazing Management for the Otay Planning Unit; Escondido Project Area, California Desert District, California

Pursuant to Section 102(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement concerning a proposed grazing management program for the Escondido Project Area in Los Angeles, Riverside, Orange, and San Diego Counties in Southern California. The proposed action would continue present management of the 55,370 acres of public land presently grazed by cattle, permitting the consumption of 4378 AUMs of forage of 28 grazing allotments. Alternatives analyzed include increased livestock grazing (nine new allotments and 5848 AUMs), decreased livestock grazing (3972 AUMs to livestock) and no grazing.

Comments on the Draft Environmental Impact Statement are being solicited from public agencies and interested individuals and entities. The Bureau of Land Management invites written comments on the statement to be

submitted by February 22, 1983 to the District Manager, California Desert District, Bureau of Land Management, Attn: Otay Grazing EIS, 1695 Spruce Street, Riverside, California 92507.

A limited number of copies of this document are available upon request at the California Desert District, (714) 351–6394, and the California State Office, Bureau of land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4701.

In addition to the above offices, copies of this EIS are available for public reading and review at: Division of Rangeland Management, Bureau of Land Management Premier Building, Room 909–H, Washington, D.C. 20006.

Ed Hastey,

State Director.

[FR Doc. 83–83 Filed 1–3–83; 8:45 am]

BILLING CODE 4310–84–M

[C–35420]

Realty Action; Exchange of Public Lands in Hinsdale County, Colo.

The following described public lands have been determined to be prospectively suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

New Mexico Principal Meridian

T. 43 N., R. 4 W., N.M.P.M.
Sec. 4, lots 18, 22 and 25 and part of lots 19 and 21 east of the Lake Fork of the Gunnison River.
T. 44 N., R. 4 W., N.M.P.M.
Sec. 34, lots 2, 6, 7, and 11, W½W½S W¼NE¼, W½W½NW¼SE¼, NW¼SW¼S E¼ less patented land, E½SW¼SE¼, W½SE¼SW¼SE¼.
T. 42 N., R. 5 W., N.M.P.M.
Sec. 12, M.S. No. 20607.
Containing 158.71 acres.

In exchange for these lands, the Federal government will obtain non-federal lands in Hinsdale County from William C. and Ruthanna M. Hall, P.O. Box B, Lake City, CO 81235.

New Mexico Principal Meridian

T. 45 N., R. 3 W., N.M.P.M.
Sec. 21, N½NE¼;
Sec. 22, N½N½, SW¼NW¼.
Containing 280 acres.

The purpose of the exchange is to obtain non-federal lands for use in Federal recreation programs in the Powderhorn Primitive Area. The exchange is consistent with the Bureau's planning for the lands involved. The public interest will be well served by making the exchange. The values of the lands to be exchanged are approximately equal and the acreage will be adjusted or money will be used to equalize values upon completion of the final appraisal of the lands.

The terms and conditions applicable to the exchange are:

1. The exchange involves only the surface estate; all minerals in the public lands to be conveyed to non-federal ownership will be reserved to the United States. The United States owns the mineral estate in the private lands that would be conveyed to Federal ownership.

Effective as of the date this notice is published in the **Federal Register**, the public lands selected in the exchange shall be segregated from all the non-discretionary public land laws including the mining laws.

Additional information about the exchange is available for review at the Bureau of Land Management, Gunnison Resource Area Office, 11 S. Park Ave., P.O. Box 1269, Montrose, Colorado 81402.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Montrose District Manager, Bureau of Land Management, 2465 S. Townsend Ave., P.O. Box 1269, Montrose, Colorado 81402.

For a period of 45 days from the date of first publication indicated below, persons asserting a claim to or interest in the described lands may file such claim with the Montrose District Manager, Bureau of Land Management, 2465 South Townsend Ave., P.O. Box 1269, Montrose, Colorado 81402, together with evidence that a copy thereof has been served on the exchange proponent, Mr. and Mrs. William C. Hall, P.O. Box B, Lake City, Colorado 81235.

R. S. Schmidt,

Acting District Manager, Montrose District.

[FR Doc. 83–71 Filed 1–3–83; 8:45 am]

BILLING CODE 4310–84–M

[F–14907–A through F–14907–I]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance (DIC) under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (Supp. IV, 1980)) (ANCSA), will be issued on January 4, 1983 to NANA Regional Corporation, Inc. as successor in interest to Noatak Napaaktukmeut Corporation (for the Native village of Noatak), for approximately 96,252 acres. The lands involved are within the Kateel River Meridian:

T. 27 N., R. 17 W.
T. 28 N., R. 18 W.
T. 27 N., R. 18 W.
T. 24 N., R. 19 W.
T. 25 N., R. 19 W.
T. 26 N., R. 19 W.
T. 27 N., R. 19 W.
T. 23 N., R. 20 W.
T. 24 N., R. 20 W.

The complete decision will be published once a week, for four (4) consecutive weeks, in the Tundra Times when the DIC is issued. A copy may also be obtained by contacting the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (961), 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by the decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until February 3, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the

manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: NANA Regional Corporation, Inc. Successor in Interest to Noatak Napaaktukmeut Corporation, P.O. Box 49, Kotzebue, Alaska 99752.

Sandra Thomas,

Acting Chief, Branch of Alaska Native Claims Settlement Act Adjudication.

[FR Doc. 83-61 Filed 1-3-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-36301]

Alaska Native Claims Selection

On February 22, 1982, a Decision of Easement Identification and Modification of Patent No. 50-80-0060 and Interim Conveyance No. 293, was issued to Cook Inlet Region, Inc.

Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the decision is hereby amended to include the following easements.

One Acre Site.—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

j. (EIN 10 C4,D4, N) An easement twenty-five (25) feet in width for an existing trail from an existing road (locally known as Gas Well Road) in Sec. 16, T. 4 N., R. 11 W., Seward Meridian easterly to site easement EIN 10a C4, D4, N at Know Lake in the SE¼, Sec. 16, T. 4 N., R. 11 W., Seward Meridian. The uses allowed are those listed for a twenty-five (25) foot wide trail easement. Parking, loading or unloading within the first twenty-five (25) feet of the easement from its junction with the existing road is permitted.

k. (EIN 10a C4, D4, N) A one-quarter (¼) acre site easement upland of the ordinary high water mark in the SE¼, Sec. 16, T. 4N., R. 11 W., Seward Meridian, on the west bank of Know Lake. The uses allowed are those listed for a one (1) acre site. No overnight camping will be permitted.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Daily News.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, Office of the Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until February 3, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is:

Cook Inlet Region, Inc., P.O. Drawer 4-N, Anchorage, Alaska 99509.

Sandy Thomas,

Acting Chief, Branch of Alaska Native Claims Settlement Act Adjudication.

[FR Doc. 83-62 Filed 1-3-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-42144]

Alaska Native Claims Selection

The document entitled Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area was ratified by Public law (Pub. L.) 94-204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1977, Sec. 3(a) of Pub. L. 95-178 (91 Stat. 1369), authorized the Secretary of the Interior to identify and reserve within 2 years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance and issue immediately thereafter a revised conveyance reflecting such reservation.

On May 1, 1981, Patent No. 50-81-0104 and Interim Conveyance No. 404 were issued to Cook Inlet Region, Inc., for 2,008.70 acres and approximately 652 acres, respectively, of the surface and subsurface states of lands conveyed to the United States by the State of Alaska. The lands were conveyed pursuant to Secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(e), 1621(j)) (ANCSA), and Sec. 12(c) of Pub. L. 94-204 (89 Stat. 1145, 1152), as amended by Sec. 3(a) of Pub. L. 95-178 (91 Stat. 1369), and are described as follows:

Patent No. 50-81-0104 of May 1, 1981

Seward Meridian, Alaska (Surveyed)

T. 6 N., R. 11 W.
Sec. 34, lots 37 and 76.
Containing 5.00 acres.

T. 5 S., R. 12 W.
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, SE¼, E½SW¼;
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Sec. 8, N½, N½S½, S½SW¼;
Sec. 9, NW¼, N½SW¼.
Containing 2,003.70 acres.
Aggregating 2,008.70 acres.

Interim Conveyance No. 404 of May 1, 1981

Seward Meridian, Alaska (Surveyed)

T. 1 S., R. 11 W.
That portion of tract "A" previously described as (protracted):
Sec. 3, all.
Containing approximately 652 acres.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA. When this decision becomes final, revised conveyance documents will be issued to Cook Inlet Region, Inc., for the above-described lands with no Sec. 17(b) easements reserved. The revised conveyance documents will

remain subject to all the rights, terms, conditions, and covenants contained in Patent No. 50–81–0104 and interim Conveyance No. 404.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, Office of the Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until February 3, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of land requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is:

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99500.

Sandy Thomas,

Acting Chief, Branch of Alaska Native Claims Settlement Act Adjudication.

[FR Doc. 83–89 Filed 1–3–83; 8:45 am]

BILLING CODE 4310–84–M

[AA–43766]

Alaska Native Claims Selection

On June 22, 1981, Cook Inlet Region, Inc., filed selection application AA–43766 under provisions of Secs. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and I.C. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976, for the surface and subsurface estates of certain lands located near Talkeetna, Alaska.

Section 12(b)(6) of the act of January 2, 1976, authorizes conveyance of lands to Cook Inlet Region, Inc., from a selection pool established by the Secretary of the Interior and the General Services Administrator.

The lands are located inside the boundaries of Cook Inlet Region. The lands within selection AA–43766 were placed in the pool of properties available for Cook Inlet Region, Inc., subject to valid existing rights, by notices dated March 13, 1979, and May 11, 1979.

The selection application of Cook Inlet Region, Inc., as to the lands described below, is properly filed and meets the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition to title.

In view of the foregoing, the surface and subsurface estates of the following described lands, containing 256.95 acres, are considered proper for acquisition by Cook Inlet Region, Inc., and are hereby approved for conveyamce pursuant to Sec. 12(b)(6) of the act of January 2, 1976:

Seward Meridian, Alaska (Surveyed)

T. 26 N., R. 4 W.
Sec. 19, Lot 1, NE¼NW¼;
Sec. 30, lot 5, SE¼SW¼;
Sec. 31, lot 1, NE¼NW¼, E½SE¼NW¼, NE¼, NE¼SW¼.
Containing 256.95 acres.

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act (ANCSA).

The grant of the above-described lands shall be subject to:

1. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

2. A right-of-way, A–058772, for a Federal Aid Highway, located in Sec. 31, T. 26 N., R. 4 W., Seward Meridian, granted to the State of Alaska, Department of Highways, under the act of August 27, 1958, as amended (23 U.S.C. 317); and

3. A right-of-way, A–059164, for an electric distribution line one hundred (100) feet in width, located in Sec. 31, T. 26 N., R. 4 W., Seward Meridian, granted to Matanuska Electric Association, Inc., under the act of February 15, 1901, as amended (43 U.S.C. 959).

Section 12(b)(6) of Public Law (Pub. L.) 94–204 provides that conveyances pursuant to this section shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in Sec. 12(b)(5) of this act and on the basis of values determined by appraisal. The lands described above have been appraised at a value of $375,000. Under Sec. I.C. (2)(e) of the Terms and Conditions, this property constitutes 750 acre/equivalents. Upon acceptance of title to these lands, Cook Inlet Region, Inc., will relinquish its selection rights to 750 acres of its out-of-region entitlement.

Conveyance of the remiaing entitlement to Cook Inlet Region, Inc., shall be made at a later date.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consective weeks, in the Anchorage Daily News.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the

decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 of Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, Office of the Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until February 3, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. (Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510.

Sandy Thomas,

Acting Chief, Branch of Alaska Native Claims Settlement Act, Adjudication.

[FR Doc. 83–84 Filed 1–3–83; 8:45 am]

BILLING CODE 4310–84–M

[AA–42143]

Alaska Native Claims Selection

The document entitled Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area was ratified by Public Law (Pub. L.) 94–204 (89 Stat. 1145, 1151) on January 2, 1976, and clarified on August 31, 1976. Section II of the Terms and Conditions authorized reconveyance by the United States to Cook Inlet Region, Inc., of lands conveyed by the State of Alaska to the United States. On November 15, 1977, Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369), authorized the Secretary of the Interior to identify and reserve within 2 years after initial conveyance of such lands to Cook Inlet Region, Inc., any easement he could have lawfully reserved prior to conveyance and issue immediately thereafter a revised conveyance reflecting such reservation.

On May 12, 1981, Patent No. 50–81–0106 and on May 1, 1981 Interim Conveyance No. 407 were issued to Cook Inlet Region, Inc., for 606.16 acres and approximately 12.405 acres, respectively, of the surface and subsurface estates of lands conveyed to the United States by the State of Alaska. The lands were conveyed pursuant to Secs. 14(e) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(e), 1621(j)) (ANCSA), and Sec. 12(c) of Pub. L. 94–204 (89 Stat. 1145, 1152), as amended by Sec. 3(a) of Pub. L. 95–178 (91 Stat. 1369), and are described as follows:

Patent No. 50–81–0106 of May 12, 1981

Seward Meridian, Alaska (Surveyed)

T. 6 N., R. 11 W.
Sec. 24, SE¼SE¼, E½SW¼SE¼;
Sec. 25, E½E½, E½W½E½.
Containing 300.00 acres.

T. 5 N., R. 11 W.
Sec. 24, lot 11.
Containing 35.01 acres.

T. 1 S., R. 13 W.
Sec. 4, SW¼SE¼SW¼, NW¼SW¼NE¼, NE¼SE¼NW¼;
Sec. 9, W½NE¼NW¼;
Sec. 18, lot 3, NW¼SE¼NW¼;
Sec. 34, W½SE¼.
Containing 171.15 acres.

T. 1 S., R. 14 W.
Sec. 24, W½SE¼NE¼.
Containing 20.00 acres.

T. 2 S., R. 13 W.
Sec. 3, NE¼SE¼, SW¼SE¼.
Containing 80.00 acres.
Aggregating 606.16 acres.

Interim Conveyance No. 407 of May 1, 1981

Seward Meridian, Alaska (Surveyed)

T. 3 N., R. 12 W.
Sec. 16, Lots 4 and 5 of Block 2, according to Cohoe Alaska Subdivision plat filed in the Kenai Recording District on September 25, 1963, as plat No. K–1348.
Containing approximately 10.455 acres.

T. 7 S., R. 11 W.
Sec. 6, Beginning at corner No. 5 of U.S. Survey No. 1380, Alaska; thence S. 39° 39' 00" W. 309.11 feet; thence S. 09° 40' 00" W. 320.92 feet to a point on the mean high water line of Halibut Cove and the TRUE POINT OF BEGINNING OF THIS DESCRIPTION from which WCMC 4 of ASLS 69–5 bears N. 79° 03' 00" E. a distance of 47.34 feet;
Thence N. 79° 03' 00" E. a distance of 410.85 feet to a point;
Thence S. 15° 11' 00" W. a distance of 248.10 feet to a point;
Thence S. 51° 56' 50" W. a distance of 114.36 feet to a point;
Thence N. 80° 50' 45" W. a distance of 99.98 feet to a point;
Thence N. 53° 28' 15" W. a distance of 204.31 feet to a point;
Thence N. 08° 43' 30" E. a distance of 95.39 feet to the true point of beginning.
Per ASLS 69–5 filed in the Homer Recording District on June 7, 1976, as plat No. 76–41.
Containing approximately 1.96 acres.
Aggregating approximately 12.405 acres.

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA. When this decision becomes final, revised conveyance documents will be issued to Cook Inlet Region, Inc., for the above-described lands with no Sec. 17(b) easements reserved. The revised conveyance documents will remain subject to all the rights, terms, conditions, and covenants contained in Patent No. 50–81–0106 and Interim Conveyance No. 407.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Daily News.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision

consitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, Office of the solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt and parties who received a copy of this decision by regular mail, which is not certified, return receipt requested, shall have until February 3, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Sandy Thomas,

Acting Chief, Branch of Alaska Native Claims Settlement Act Adjudication.

[FR Doc. 83–86 Filed 1–3–83; 8:45 am]

BILLING CODE 4310–84–M

Battle Mountain District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Grazing Advisory Board meeting.

SUMMARY: In accordance with Pub. L. 94–579, a meeting of the Battle Mountain District Grazing Advisory Board will be held.

DATE: February 12, 1983, begin at 10:00 a.m. in the Battle Mountain District Office conference room at North 2nd and Scott Streets, Battle Mountain, Nevada.

FOR FURTHER INFORMATION CONTACT: H. James Fox, District Manager, P.O. Box 194, Battle Mountain, Nevada 89820 or phone 702–635–5181.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. The expenditure of range betterment funds for range improvement,
2. Discussion of the Tonopah Stewardship Program and Allotment Management Plans,
3. Changes in BLM grazing regulations and policies,
4. Discussion of the criteria for categorizing allotments for the Shoshone-Eureka Resource Management Plan/Environmental Impact Statement,
5. Elections and composition of the Board, and
6. Recommendations from the grazing board concerning BLM's rangeland management program.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:00 p.m. on February 12, 1983 or file written statements for the Board's consideration. If you wish to make oral comments please contact H. James Fox by February 4, 1983.

Date signed: December 23, 1982.

H. James Fox,

District Manager, Battle Mountain, Nevada.

[FR Doc. 83–104 Filed 1–3–83; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2868, Block 31, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226..

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 21, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–103 Filed 1–3–83; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3577, Block 69, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information

contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 23, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-105 Filed 1-3-83; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Availability of Final Environmental Impact Statement on the General Management Plan/Development Concept Plan, Cape Lookout National Seashore, North Carolina

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service, U.S. Department of the Interior, has prepared a Final Environmental Impact Statement for the proposed General Management Plan/Development Concept Plan for Cape Lookout National Seashore, North Carolina. The Final Environmental Impact Statement involves development of an administrative site at East Harker's Island, ferryboat docks, and minimal visitor use/contact facilities on the Outer Banks. Present recreation opportunities (including recreation vehicle use) and resource protection programs will be continued. The three alternatives considered are: no action, extensive development and recreational use, and minimal development and recreational use.

A limited number of copies are available upon request to: Regional Director, Southeast Region, National Park Service, 75 Spring Street; SW., Atlanta, Georgia 30303, Telephone: (404) 221-5835, FTS 242-5835.

Public reading copies will be available at the address above and at the following location: Superintendent, Cape Lookout National Seashore, P.O. Box 690, Beaufort, North Carolina 28516, Telephone: (919) 728-2121.

Dated: December 7, 1982.

Neal G. Guse,

Acting Regional Director, Southeast Region.

[FR Doc. 83-91 Filed 1-3-83; 8:45 am]

BILLING CODE 4310-70-M

Mid-Atlantic Regional Advisory Committee; Organization of

AGENCY: National Park Service, Interior.

ACTION: Notification of the organization and first meeting of the Mid-Atlantic Regional Advisory Committee.

SUMMARY: This notice sets forth the date and location for the organizational meeting of the Mid-Atlantic Regional Advisory Committee recently established by the Secretary of the Interior. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: February 8, 1983, 9 a.m.

ADDRESS: Independence National Historical Park headquarters, 313 Walnut Street, Philadelphia, Pa. 19106.

FOR FURTHER INFORMATION CONTACT: David Kimball, National Park Service, Mid-Atlantic Regional Office, 143 So. 3rd St., Philadelphia, Pa. 19106 (215) 597-9655.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Regional Advisory Committee is one of nine advisory committees established by the Secretary of the Interior on August 11, 1982, in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463).

The purpose of the committee shall be to advise the regional director on programs, policies and such other matters as may be referred to it by the regional director. The committee shall also function to provide closer communication with the public on such matters.

Agenda items for the meeting shall include: Introduction of advisory committee members; introduction of members of the regional office staff; organization of the advisory committee; statement of purpose; review of regional concerns and issues by the regional director; orientation of committee members to the Mid-Atlantic Region.

The meeting will be open to the public. Any members of the public may file with the advisory committee a written statement concerning agenda items. The statement should be addressed to the Mid-Atlantic Regional Advisory Committee, c/o National Park Service, Mid-Atlantic Regional Office, 143 So. 3rd St., Philadelphia, Pa. 19106. Minutes of the meeting will be available for inspection four weeks after the meeting at the regional office.

Dated: December 22, 1982.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 83-93 Filed 1-3-83; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreational River

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: January 28, 1983, 7 p.m.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159 (717/729-7135).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. § 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include review of Draft Management Plan.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764-0159. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National Scenic and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: December 21, 1982.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 83-92 Filed 1-3-83; 8:45 am]

BILLING CODE 4310-70-M

Plan of Operations for Converting Oil and Gas Leases to Combined Hydrocarbon Leases Within and Adjoining Glen Canyon National Recreation Area, Utah

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement and Request for Issues to be Discussed.

SUMMARY: On December 16, 1982, the Santa Fe Energy Co., Altex Oil Corporation, other lease holders, and Gulf Oil Corporation submitted a plan of operations to the Bureau of Land Management for converting existing oil and gas leases to combined hydrocarbon leases. The plan is for recovering tar sands hydrocarbons in one large unit of land involving some 66,000 acres of Utah's Tar Sands Triangle both within and adjoining the Orange Cliffs portion of Glen Canyon National Recreation Area.

The law establishing Glen Canyon National Recreation Area (16 U.S.C. 460dd) permits the removal of leasable minerals from within the area if the Secretary of the Interior finds that such disposition would not have significant adverse effects on the Glen Canyon project or on the administration of the national recreation area. Moreover, the Combined Hydrocarbon Leasing Act of 1982 and implementing regulations in 43 CFR Part 3140 require the consent of the National Park Service (NPS) to any conversion of a lease or issuance of a new combined hydrocarbon lease in Glen Canyon National Recreation Area. Such consent must be based on a specific environmental finding.

The submitted plan of operations involves four phases. Phase 1, planned for 1984, involves drilling two cores and conducting extensive analysis for one year on recovery processes and well spacing. Phase 2 calls for drilling some fifteen additional corings over 1½ years to better define the extent of the hydrocarbon resource. Phase 3 would be a two- to three-year period of developing a demonstration or pilot project to confirm the feasibility of extracting the tar sands. Phases 1, 2, and 3 would encompass eight to ten years, and if proved feasible, Phase 4 would be commercial development and production.

The NPS believes that the potential magnitude of the plan of operations is such that it has decided to prepare an environmental impact statement (EIS) in order to find whether any significant adverse impacts to resources would occur on Federally-administered lands within the national recreation area.

Alternatives to be considered will include no action (disapproval of converting the leases), the proposed plan of operations, a plan with additional stipulations, and converting leases only outside the national recreational area.

The State of Utah, the Bureau of Land Management, and the Minerals Management Service have all been requested to assist in preparing the EIS.

The Combined Hydrocarbon Leasing Act and implementing regulations require that applications to convert leases be acted upon within 15 months of submittal. This requirement means that the EIS must be completed by March 15, 1984, for the NPS to make its finding as to impacts. The public should realize that this time constraint may result in the EIS addressing broad impacts and mitigating measures for a very conceptual plan.

The NPS has identified a number of issues and impacts to be addressed both in the plan of operations and the EIS. These include potential impacts on archeological resources, soils, plants and animals, air quality, water quality and quantity, scenery, safety, and socioeconomic effects. These could encompass further topics such as areas of the national recreation area closed to leasing, effects on Canyonlands National Park, site specific designs to control surface disturbance, off-lease unit requirements, transportation needs and effects, utilities and facilities requirements and impacts, recreational conflicts, and rehabilitation plans. The public is invited to suggest other issues, alternatives or impacts that it believes should be addressed in the EIS. Such comments will be received for 30 days following the publication of this notice at the addresses given below.

A public meeting on the draft EIS itself may be held at a later date; if so, the meeting will be announced well in advance.

FOR FURTHER INFORMATION CONTACT: Mr. John Lancaster, Superintendent, Glen Canyon National Recreation Area, P.O. Box 1507, Page, Arizona 86040, telephone 602/645–2471; or Mr. Bob Kasparek, Compliance Officer, Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225, telephone 303/234–4942; or Mr. Joel Pickelner, Office of the Assistant to the Regional Director, Utah, Room 3418, 125 South State Street, Salt Lake City, Utah 84138, telephone 801/524–4112.

Dated: December 22, 1982.

James B. Thompson,
Regional Director, Rocky Mountain Region.

[FR Doc. 83–94 Filed 1–3–83; 8:45 am]
BILLING CODE 4310–70–M

United States World Heritage Nominations 1983

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: The Department of the Interior, through the National Park Service, announces the nomination of Great Smoky Mountains National Park and San Juan National Historic Site including La Fortaleza to the World Heritage List. The nomination is the result of Interior's annual World Heritage nomination process, which was initiated through a January 13, 1982, **Federal Register** notice (47 FR 1034). The Department earlier announced the identifiction of both sites as proposed U.S. World Heritage nominations (47 FR 33017). The nominations are being submitted to the Secretariat of the World Heritage Committee for consideration through a process that could lead to their inscription on the World Heritage List in fall 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Ritsch, Associate Director, Recreation Resources, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240 (202/343–4462).

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 63 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world. The Convention complements each participating nation's heritage conservation programs and provides for:

(a) The establishment of a 21-member World Heritage Committee assisted by UNESCO to further the goals of the Convention and to approve properties for inclusion on the World Heritage List;

(b) The development and maintenance of a World Heritage List to be comprised of natural and cultural properties of outstanding universal value;

(c) The preparation of a List of World Heritage in Danger;

(d) The establishment of a World Heritage Fund, with a primary function

to assist participating coutries in preserving and protecting endangered World Heritage properties;

(e) The provision of technical assistance to participating countries, upon request; and

(f) The promotion and enhancement of public knowledge and understanding of the vital importance of heritage conservation at the international level.

Participating nations identify and nominate their sites for inclusion on the World Heritage List, which currently includes 112 cultural and natural properties. The World Heritage Committee judges all nominations against established criteria. Under the Convention, each participating nation assumes responsibiltiy for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, presentation, and rehabilitation of World Heritage properties situated within its borders.

The Federal Interagency Panel for World Heritage makes recommendations on proposed U.S. World Heritage nominations and related matters. The Panel includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; the Department of Commerce; and the Department of State.

In the United States, the Interior Department is responsible for directing and coordinating U.S. partcipation in the World Heritage Convention. The Department implements its responsibilities under the Convention in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515; 16 U.S.C. 470a–1, a–2). On May 6, 1982, the Interior Department published in the **Federal Register** the final rules which will be used to carry out this legislative mandate (47 FR 23392). The rules contain further information on the Convention and its implementation in the United States.

United States World Heritage Nominations: 1982.

The Interior Department, in cooperation with the Federal Interagency Panel for World Heritage, has selected the following properties as United States nominations to the World Heritage Committee for inscription on the World Heritage List.

I. Cultural Property

Puerto Rico

La Fortaleza-San Juan National Historic Site, Puerto Rico. Spanish defenses at San Juan guarded their sea lanes to the Caribbean; at this site they founded one of their earliest colonies in Americas. La Fortaleza, the first fortification of San Juan (built 1533–40), has been the residence of the island's governors since the 1620s. The massive masonary citadel of El Morro was in 1591. Criteria: (iv) an outstanding example of a type of structure which illustrates a significant stage in history; and (vi) directly and tangibly associated with events of outstanding universal significance.

II. Natural Property

North Carolina/Tennessee

Great Smoky Mountains National Park, Tennessee/North Carolina. This tract, which includes one of the oldest uplands on earth, has a diversity of lush vegetation associated with its veried topography, including spruce-fir, hemlock, deciduous, and mixed forests. The area has been designated a Biosphere Reserve. Criteria: (ii) an outstanding example of biological evolution, and (iii) contains superlative natural phenomena and areas of exceptional natural beauty.

Dated: December 29, 1982.

Ray G. Arnett,

Assistant Seacretary for Fish and Wildlife and Parks.

[FR Doc. 83–137 Filed 1–3–83; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

Interim Water Service Contract Intent To Negotiate Interim Water Service Contracts

The regional Director of the Lower Missouri Region, Bureau of Reclamation, Department of the Interior, may enter into interim water service contracts for irrigation and municipal and industrial (M&I) water when such water or storage space is available and surplus to project needs. Contracts of this type can be entered into upon short notice to meet emergency or temporary demands. However, such contracts may not exceed 2 years in duration and are limited to 10,000 acre-feet annually per irrigation contract or 2,000 acre-feet annually per M&I contract. All interim contracts will specify quantities, rates, and other terms and conditions in compliance with Reclamation law and Bureau of Reclamation policy.

The Regional Director of the Lower Missouri Region, Denver, Colorado, has authority to execute interim water service contracts in southeastern Wyoming, eastern Colorado, Nebraska, and northern Kansas. For calendar year 1983, it appears that water or storage space, surplus to project needs, will be available for sale from Glendo, Seminoe, and Glen Elder Reservoirs of the Pick-Sloan Missouri Basin Program; Pathfinder Reservoir of the North Platte Project; Ruedi Reservoir and the East Slope System of the Fryingpan-Arkansas Project; and Green Mountain Reservoir of the Colorado-Big Thompson Project. Other Bureau projects in the region with regulated reservoir storage may have minor quantities of surplus water or storage space available to meet temporary demands. All releases will be subject to State laws for beneficial use and prior appropriation rights.

Parties interested in receiving information about the Bureau's interim water or storage space marketing program or obtaining a temporary supply of water or storage space from a Bureau project should contact:

Project Manager, Mills, Wyoming (307) 261-5633—Glendo, Seminoe, and Pathfinder Reservoirs, Wyoming

Project Manager, Grand Island, Nebraska, (308) 382–3660—Glen Elder Reservoir, Kansas

Project Manager, Pueblo, Colorado, (303) 544-8171—Ruedi Reservoir and East Slope System, Colorado

Project Manager, Loveland, Colorado, (303) 667–4410—Green Mountain Reservoir, Colorado

Unless significant public interest in the proposed interim water marketing program is demonstrated in response to this notice and local news release or announcements, the availability of the proposed draft contracts will be limited to those parties who have expressed an interest therein. Written comments from the public on the forms of the proposed contracts should be submitted not later than 30 days after the completed contract drafts are made available.

Dated: December 22, 1982.

H.W. Furman II

Acting Commissioner of Reclamation.

[FR Doc. 83-[illegible] Filed 1-3-83; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Office of Proceedings

Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (Except Fitness-Only); Motor Common Carriers of Passengers (Public Interest); Freight Forwarders; Water Carriers; Household Goods Brokers

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representtive is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted. Please direct status inquiries about the following to Team 2, (202) 275–7030.

Volume No. OP2–001

Decided: December 23, 1982.

By the Commission Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating.

MC 107012 (Sub-781), filed December 7, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Margaret S. Vegeler (same address as applicant), (219) 429–2213. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Elxsi, of Santa Clara, CA.

MC 128863 (Sub-1), filed December 13, 1982. Applicant: SANNER BROS. TRUCKING CO., INC., R.D. #3, Box 138A, Meyersdale, PA 15552. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, 412–471–1800. Transporting *coal and coal products, and cinders,* between points in the U.S., under continuing contract(s) with Venture Coal Sales Company, and Action Mining, Inc., both of Meyersdale, PA, and Sanner Energies, Inc., of Rockwood, PA.

MC 143712 (Sub-2), filed December 8, 1982. Applicant: A & D MOVING & STORAGE CO., INC., 250 Globe St., P.O. Box 835, Radcliff, KY 40160. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Washington, DC 20036, 202–785–0024. Transporting *household goods,* between points in AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NC, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY, and DC. Condition: the person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343 (A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application for common control to team 2, Room 2379.

MC 150682 (Sub-2), filed December 13, 1982. Applicant: KEDASHAW, INC., P.O. Box 246, Kensington, KS 66951. Representative: Erle W. Francis, 700 Kansas Ave. -Suite 719, Topeka, KS 6603, 913–232–0601. Transporting *cemetery vaults,* between points in Clark County, OH, and Knox County, TN, on the one hand, and, on the other, points in KS and NE.

MC 153843 (Sub-1), filed December 17, 1982. Applicant: THE PILLSBURY COMPANY, 200 South 6th St., Minneapolis, MN 55402. Representative: Gerald D. Siegel (same address as applicant), 612–330–8193. Transporting *general commodities* (except classes A and B explosives, household goods, and commodites in bulk), between points in the U.S. (except AK and HI).

MC 161193, filed December 15, 1982. Applicant: S & N TRUCKING, INC., 3297 Betsy Ross Way, Boise, ID 83706. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208–343–3071. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 161753, filed December 13, 1982. Applicant: MINORITY UNIVERSAL CARRIERS, INC., 987 40th Lane, Anoka, MN 55303. Representative: Harold Orlofske, 145 W. Wisconsin Ave., Neenah, WI 54948, 414–722–2848. Transporting (1) *clay, concrete, glass or stone products*, between Fairbault, County, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *general commodities*, (except classes A and B explosives, household goods and commodities in bulk), between Minneapolis, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *transportation equipment*, between points in AR, IA, KS, MN, MO, ND, NE, OK, SD and TX, on the one hand, and, on the other, points in the U.S. (except HI), and (4) machinery, between points in Isanti County, MN, on the one hand, and, on the other, points in the U.S. (except HI).

MC 165163, filed December 13, 1982. Applicant: DWAYNE M. CARROLL, Rt. 1 B 1816, Hermiston, OR 97838. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, 503–226–3755. Transporting *chemicals and related products*, between points in OR, WA and ID.

MC 165232, filed December 16, 1982. Applicant: AIRLINE MOVING & STORAGE, INC., 142 Stockton St., Jacksonville, FL 32204. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, 904–632–2300. Transporting *household goods and furniture and fixtures*, between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VA, WA, WV, WI, and DC.

Please direct status inquiries about the following to Team 3 at (202) 275–5332.

Volume No. OP3–85

Decided: December 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 20824 (Sub-51), filed December 13, 1982. Applicant: COMMERCIAL MOTOR FREIGHT, INC. OF INDIANA, P.O. Box 41719, Indianapolis, IN 46204. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *general commodities* (except household goods, commodities in bulk and classes A and B explosives), between points in IN, IL, MO, OH, MI, KY, AND TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 67234 (Sub-70), filed December 13, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Paradyne Corporation, of Largo, FL.

MC 99975 (Sub-5), filed December 10, 1982. Applicant: CATAWBA TRUCKING CO., INC., P.O. Box 10352, Rock Hill, SC 29731. Representative: Edward L. Nehez, P.O. Box Y–7 Becker Farm Rd., Roseland, NJ 07068, (201) 992–2200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S (except AK and HI), under continuing contract(s) with Kimlor Mills, Inc., of Petaluma, CA, Ralston Purina Company, of St. Louis, MO, Highworth Trading Co. LTD, of New York, NY, International Freight Brokers, Inc., of Charlotte, NC, United Freight, Inc., of Morrow, GA, Certified Brokerage Services, Inc., of Hagerstown, MD, and Greater Atlanta Shippers Association, Inc., of Atlanta, GA.

MC 117274 (Sub-4(b)), filed December 9, 1982. Applicant: EARLE'S MOVING & STORAGE CO., INC., 2062 Generals Highway, P.O. Box 789, Annapolis, MD 21037. Representative: James J. Fratino, P.O. Box 82, Edgewater, MD 21037, (301) 261–7227. Transporting *household goods*, between points in DE, MA, MD, NJ, NY, NC, OH, PA, SC, VA, WV, and DC.

MC 133314 (Sub-16), filed December 13, 1982. Applicant: SILVAN TRUCKING COMPANY, INC., R.R. 2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones, Jr., 1111 E. 54th St., Suite 155, Indianapolis, IN 46220, (317) 257–4066. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 133604 (Sub-19), filed December 7, 1982. Applicant: LYNN TRANSPORTATION COMPANY, INC., 712 S. 11th St., Oskaloosa, IA 52577. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *textile mill products*, between points in Whitfield County, GA, on the one hand, and, on the other, points in IL, IA, MN, NE, and WI.

MC 141024 (Sub-4), filed December 13, 1982. Applicant: CLARK TRUCKING, INC., 711 Clymer Rd., P.O. Box 207, Marysville, OH 43040. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except commodities in bulk, classes A and B explosives and household goods), between points in Union County, OH, on the one hand, and, on the other, points in the U.S. (except AK, HI, IN, KY, MI, OH, PA, and WV.

MC 141255 (Sub-23), filed December 14, 1982. Applicant: TANDY TRANSPORTATION, INC., 2560 East Long Avenue, Fort Worth, TX 76111. Representative: Roy Beans, 2560 East Long Avenue, Fort Worth, TX 76111, (817) 834–0182. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 142125 (Sub-4), filed December 13, 1982. Applicant: WESTERN WISCONSIN TRUCKING CO., INC., Route 1, Independence, WI 54747. Representative: Joseph E. Ludden, P.O. Box 1567, 2707 South Ave., La Crosse, WI 54601, (608) 788–2000. Transporting (1) *cement*, between points in Dakota, Ramsey, Anoka, and Hennepin Counties, MN, on the one hand, and, on the other, points in WS and MN, and (2) *flyash*, between points in Buffalo and Vernon Counties, WS, and Allamakee County, IA, on the one hand, and, on the other, points in MN, IA, and WS.

MC 146964 (Sub-23), filed December 7, 1982. Applicant: RELIABLE TRUCK LINES, INC., R.D. #5, 5 Marianne Dr., York, PA 17402. Representative: Michael Valencik (same address as applicant), (717) 767–6681. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 153664 (Sub-2), filed December 6, 1982. Applicant: DAVID A. LUNDEEN, d.b.a. FARGO FREIGHT TERMINAL & WAREHOUSE, 1445 5th Ave., N., P.O. Box 1828, Fargo, ND 58107. Representative: Richard P. Anderson,

Fed. Square, 112 Roberts St., P.O. Box 2561, Fargo, ND 58108, (701) 235–3300. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Cook County, IL, on the one hand, and, on the other, points in ND, SD, MT, MN, and WI.

MC 153885 (Sub-6), filed December 10, 1982. Applicant: THE GREAT AMERICAN TRUCKING COMPANY, INC., 21 Northlake Dr., P.O. Drawer 2857, Peachtree City, GA 30269. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133, (404) 949–7756. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 162864 (Sub-1), filed December 13, 1982. Applicant: SOUTHWAY TRUCKING CO., INC., P.O. Box 1550, Hickory, NC 28603. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. Transporting (1) *food and related products*, between points in WV, VA, NC, SC, GA, and FL, and (2) *furniture and fixtures*, between points in Mitchell and Alexander Counties, NC, on the one hand, and, on the other, points in FL.

MC 163244 (Sub-1), filed December 20, 1982. Appplicant: NEW IMAGE TRANSPORT, INC., 117 Anderson Drive, Monaca, PA 15061. Representative: David M. O'Boyle, 1610 Two Chatham Center, Pittsburgh, PA 15219, (412) 765–1600. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Babcock Lumber Co, (b) Bennett Supply Co., (c) Duquesne Light Co., and (d) Elwin G. Smith Division, Cyclops Corp., all of Pittsburgh, PA, (2) *metal products*, between points in the U.S. (except AK and HI) under continuing contract with (a) Meadowbrook Corp. of Spelter, WV, and (b) Pittsburgh Tube Co. of Monaca, PA, and (3) *metal products and wire and cable products*, between points in the U.S., under continuing contract(s) with Triangle PWC, Inc., of New Brunswick, NJ.

MC 163414, filed December 13, 1982. Applicant: G. E. PERRY, d.b.a. PERRY RIGGING & STORAGE, 21055 West Rd., Trenton, MI 48183. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting (1) *furniture and fixtures*, between Detroit, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *machinery and metal products*, between points in the U.S. (except AK and HI).

MC 164144, filed December 14, 1982. Applicant: BUSTER SHOEMAKE, d.b.a. SHOEMAKE EQUIPMENT RENTAL, P.O. Box 82946, Oklahoma City, OK 73148. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375–9151. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Bryson, Inc, of Oklahoma City, OK.

MC 165045, filed December 6, 1982. Applicant: TCDC TRANSPORTATION, INC., 2325 Belt Line Rd., Carrollton, TX 75006. Representative: William H. Towle, 180 N. LaSalle St., Room 3520, Chicago, IL 60601, (312) 332–5106. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk, between points in the U.S. (except AK and HI), under continuing contract(s) with Trammell Crow Distribution Corporation of Houston, TCDC of LaPorte, Inc., both of Houston, TX, Trammell Crow Distribution Corporation of Los Angeles, Commerce, CA, Trammell Crow Distribution Corporation of Memphis, Memphis, TN, Trammell Crow Distribution Corporation of Oklahoma City, Oklahoma City, OK, Redman Warehousing Corporation, Trammell Crow Distribution of Utah #2, Trammell Crow Distribution Corporation of Utah #3, and Trammell Crow Distribution Corporation of Utah, all of Clearfield, UT, TCDC Realty Corporation of Baltimore, Dorsey, MD, Columbia Warehouse Corporation, West Columbia, SC, Trammell Crow Distribution Corporation of Denver, Denver, CO, TCDC of Florida, Inc., Orlando, FL, Trammell Crow Distribution Corporation of Dallas, Carrollton, TX, and Trammel Crow Distribution Corporation of Atlanta, Norcross, GA.

MC 165135, filed December 10, 1982. Applicant: WINSTON AIRPORT TRANSPORTATION SERVICE, INC., d.b.a. WINSTON AMERICAN TRANSPORTATION SERVICE, 1650 Sycamore Ave., Bohemia, NY 11716. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759–3700. Over regular routes, transporting *passengers* in the same vehicle with passengers, (1) Between Montauk, NY and Newark Airport, NJ: From Montauk over NY Hwy 27 to junction Conduit Ave., then over Conduit Ave. to junction Van Wyck Expressway, then over Van Wyck Expressway to the J.F.K. International Airport, NY, then over city streets to junction Ft. Hamilton Parkway, then over Ft. Hamilton Parkway to junction Gowanus Expressway, then over Gowanus Expressway to Verazano Bridge, then over Verazano Bridge to junction Interstate Hwy 278, then over Interstate Hwy 278 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Newark Airport; (2) Between Riverhead, NY, and J.F.K. International Airport, NY: From Riverhead over Long Island Expressway to junction Van Wyck Expressway, then over Van Wyck Expressway to J.F.K. International Airport, NY; (3) Between Orient Point, NY and Newark Airport, NJ: From Orient Point over NY Hwy 25 to junction Little Neck Parkway, then over Little Neck Parkway to junction city streets, then over city streets to La Guardia Airport, NY, then over city streets to junction Brooklyn Queen Expressway, then over Brooklyn Queens Expressway to junction Gowanus Expressway, then over Gowanus Expressway to Verazano Bridge, then over Verrazano Bridge to junction Interstate Hwy 278, then over Interstate Hwy 278 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Newark Airport, NJ and (4) between Port Jefferson, NY and LaGuardia Airport, NY: From Port Jefferson, NY over NY Hwy 25A to junction city street, then over city street to LaGuardia Airport, NY, serving all intermediate points in the above routes.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 165164, filed December 13, 1982. Applicant: JOHN FAYARD FAST FREIGHT, INC., 10 Parkwood Dr., Gulfport, MS 39501. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Over regular routes, transporting *general commodities* (except classes A and B explosives, houshold goods, and commodities in bulk), between New Orleans and Mobile, AL, over U.S. Hwy 90 and Interstate Hwy 10, serving the off-route points of Bayou La Batre, AL, and serving all intermediate points.

MC 165165, filed December 13, 1982. Applicant: LENOX TRUCKING, INC., 551 Murray Rd., Cincinnati, OH 45217. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Procter & Gamble Company, of Cincinnati, OH.

MS 165184, filed December 14, 1982. Applicant: LANDPOWER, INC. of FREMONT, Box 474, East Highway 275, Fremont, NE 68025. Representative:

Lavern R. Holdeman, 1610 S. 70th St., Suite 200, Lincoln, NE 68506. (402) 488–0985. Transporting *such commodities* as are dealt in or used by agricultural, construction, lawn and garden, and recreational equipment dealers, between points in ND, SD, NE, IA, MO, KS, and OK.

MC 165234, filed December 16, 1982. Applicant: COLE TRUCKING CO., INC., 404 South 52nd Avenue West, P.O. Box 6007, Duluth, MN 55806. Representative: Thomas J. Van Osdel, 15 Broadway, Suite 502, Fargo, ND 58102, (701) 235–4487. Transporting *lumber and wood products, building materials, construction materials, metal and metal products,* and *such commodities* as are dealt in or used by lumber yards and home buildings centers, between points in the U.S. (except HI).

James H. Bayne,
Acting Secretary.

[FR Doc. 83-68 Filed 1-3-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30095]

Baltimore and Ohio Railroad Co.; Acquisition and Operation of the Newburgh and South Shore Railway Co.

December 28, 1982.

The Baltimore and Ohio Railroad Company (B&O), The Terminal Tower, Cleveland, OH 44101 represented by Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101 and The Newburgh and South Shore Railway Company (Newburgh), 4200 E. 71st Street, Cleveland, OH 44105, represented by Robert N. Gentile and Gary J. Marini, P.O. Box 68, Monroeville, PA 15146 filed on December 14, 1982, with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 *et seq.* for B&O to acquire all the assets of Newburgh, operating 6 miles of main line and approximately 22 miles of side, yard, and miscellaneous tracks in Cuyahoga County, OH, and to integrate the operations of Newburgh into the operations of B&O. B&O is controlled by The Chesapeake and Ohio Railway Company and is part of CSX Corporation's system of railroads. Newburgh is controlled by the United States Steel Corporation.

The application was filed under our current consolidation regulations, 49 CFR Part 1180 (formerly 49 CFR Part 1111), as modified in *Railroad Consolidation Procedures,* 363 I.C.C. 75 (1982). The transaction is governed by 49 U.S.C. 11343 and the time limits of 49 U.S.C. 11345.

The proposed transaction does not involve the merger or control of two or more Class I railroads, and is not one of regional or national transportation significance within the meaning of 49 U.S.C. 11345(b) and (c). The proposal is a minor transaction within the meaning of that term as used in our consolidation procedures, 49 CFR Part 1180.2(c). Under 49 U.S.C. 11345(d)(2) this evidentiary proceeding must be completed by April 19, 1983.

The application and exhibits are available for inspection in the Public Docket Room at the offices of the Interstate Commerce Commission in Washington, D.C. In addition, they may be obtained from applicant's representatives upon request.

Any interested person may participate in this proceeding by submitting written comments regarding the application. An original and 10 copies must be filed with the Rail Section, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than February 3, 1983. Written comments shall be concurrently served by first-class mail on the United States Secretary of Transportation, the Attorney General of the United States, and the applicants' representatives: Peter J. Shudtz, P.O. Box 6419, Cleveland, OH 44101, and Robert N. Gentile and Gary J. Marini, P.O. Box 68, Monroeville, PA 15146. Written comments must also be served upon all parties of record within 10 days of our issuance of the service list in this proceeding. (We plan to issue that service list by 2 weeks after final day for filing comments.) All persons who file timely written comments may be considered as parties of record, but only if they so indicate in their comments. In this event no petition for leave to intervene need be filed.

Written comments must contain the information required in 49 CFR 1180.46(d)(1)(A)–(G).

Preliminary comments from the Secretary of Transportation and the Attorney General must be filed with the Commission by February 18, 1983.

Service of an initial decision will be waived, and determination on the merits of the application will be made in the first instance by the entire Commission, under 49 U.S.C. 11345 by 45 days from completion of evidentiary stage.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,
Acting Secretary.

[FR Doc. 83-67 Filed 1-3-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30058]

Rail Carriers; Illinois Central Gulf Railroad Company; Abandonment Exemption; Warren County, MS.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the abandonment by the Illinois Central Gulf Railroad Company of 2.0 miles of railroad between milepost 20 and milepost 22 near Redwood Junction, MS, subject to conditions for protection of employees.

DATES: This exemption is effective on February 3, 1983. Petitions to stay must be filed by January 14, 1983; petitions for reconsideration must be filed by January 24, 1983.

ADDRESS: Send pleadings to:
(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423.
(2) Petitioner's representative: Howard D. Koontz, Illinois Central Gulf Railroad Company, 233 North Michigan Avenue, Chicago, IL 60601.

Pleadings should refer to Finance Docket No. 30058.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact T.S. InfoSystems, Room 2227, Interstate Commerce Commission, Washington, D.C. 20423 or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Dated: December 27, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam was absent and did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-139 Filed 1-3-83; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the

notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278 or Tom Smerdon (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub No	Name of railroad, contract No., and shortlick	Review Board [1]	Decided date
521	Delaware and Hudson Railway Co., ICC-DH-C-0011, (Newsprint and groundwood)	1	12-27-82
526	Burlington Northern Railroad Co., ICC-BN-C-0228, (Animal feed)	3	12-23-82
[illegible]	CP Rail (Canadian Pacific Limited), ICC-CPE-C-0012, (Corn, Dried, Shelled)	1	12-27-82
[illegible]	Consolidated Rail Corp., ICC-CR-C-0257, (Bituminous coal) via Ports of Philadelphia and Baltimore	2	12-27-82
529	Consolidated Rail Corp., ICC-CR-C-0259, (Bituminous coal) via Ports of Philadelphia and Baltimore	3	12-23-82

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Parker not participating. Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-10 Filed 1-3-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 81-26]

David W. Bradway, M.D., Clearfield, Pennsylvania; Hearing

Notice is hereby given that on or about October 30, 1981, the Drug Enforcement Administration, Department of Justice, issued to David W. Bradway, M.D., an Order To Show Cause as to why the DEA Certificate of Registration, AB7572517, issued to him pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 832), should not be revoked.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, January 11, 1983 in Courtroom No. 3-B, Room 309, U.S. Claims Court, 717 Madison Place, NW., Washington, D.C.

Dated: December 27, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-89 Filed 1-3-83; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 82-21]

Odie Pharmacy; Revocation of Registration

On August 16, 1982, the Acting Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause to Odie Pharmacy, 5922 West Division Street, Chicago, Illinois 60651 (Respondent) seeking to revoke DEA Certificate of Registration AO8656588 issued to Odie Pharmacy. The statutory predicate under 21 U.S.C. 824 was the February 12, 1982, conviction of Joseph Williams, R.Ph., the managing pharmacist and sole owner of Odie Pharmacy, of felony offenses relating to controlled substances.

Respondent Pharmacy, through counsel, requested a hearing on the matters raised by the Order, and this matter was placed on the docket of Administrative Law Judge Francis L. Young, who ordered the filing of prehearing statements. Counsel for Respondent requested a continuation for the filing of prehearing statements, which Judge Young granted to October 22, 1982. The Government filed its prehearing statement on time but Respondent has neither filed a prehearing statement nor requested a further continuance. On October 26, 1982, Judge Young, *sua sponte*, terminated the proceedings before him. Respondent tendered a prehearing statement a month later and moved to reopen the proceedings before the Administrative Law Judge. Judge Young denied the motion and terminated all proceedings before him in this matter so the Acting Administrator may issue his final order as contemplated by 21 CFR 1301.54(e). The Acting Administrator now issues his final order based on the record as it appears. 21 CFR 1301.54(e), 1301.57.

The Acting Administrator finds that Respondent has waived its right to a hearing by failing to timely file its prehearing statement. The applicable statutes and regulations require only that DEA grant Respondent an opportunity for a hearing. *National Independent Coal Operators* v. *Kleppe*, 423 U.S. 388, 96 S.Ct. 809 (1976); *Costel* v. *Pacific Legal Foundation*, 445 U.S. 198, 100 S.Ct. 1095 (1980); *United States* v. *Consoljdated Mines & Smelting Co., Ltd.*, 455 F.2d 432 (9th Cir. 1971). This agency has consistently held that failure to timely file a prehearing statement as ordered can lead to a finding of a waiver of request for hearing. See *Marshall D. Nickerson, Jr., M.D.*, 45 FR 72310 (1980); *Thomas E. Johnston, D.O.*, 45 FR 72311 (1980); *Faunce Drug Store*, Docket No. 82-3, 47 FR 30122 (1982).

Examining the record in this case, the Acting Administrator finds that Joseph Williams was indicted on five counts of possessing pentazocine HCl (Talwin), a Schedule IV controlled substance, with intent to distribute, in violation of 21 U.S.C. 841(a)(1); and five counts of failure to maintain a record required to be kept under 21 U.S.C. 827 and 21 CFR 1304.24, in violation of 21 U.S.C. 824(a)(5). Williams pled guilty to two counts of possession of pentazocine with intent to distribute and one count of failure to maintain a record required to be kept. The Acting Administrator finds that Odie Pharmacy purchased approximately 70,000 dosage units (d.u.) of pentazocine between April, 1980 and June, 1981; in February, 1981, Odie Pharmacy ordered approximately 50,000 d.u. of controlled substances. Odie Pharmacy is a small one-room pharmacy whose only employee is Williams. On June 22, 1981, DEA Compliance Investigators served an administrative inspection warrant on Odie Pharmacy and asked Williams whether the pharmacy handled pentazocine, a Schedule II controlled substance under Illinois law. Williams replied that he never handled pentazocine or other

controlled substances requiring an Illinois triplicate prescription form. The Acting Administrator finds that Williams lied to the Investigators, since invoices, cancelled checks and delivery records clearly show that Odie Pharmacy handled pentazocine at this time. On June 24, 1981, DEA Special Agents served a search warrent on Odie Pharmacy and, sebsequent to the execution of the search warrant, the Special Agents interviewed Williams. The Acting Administrator finds that after the Special Agents gave Williams the *Miranda* warning, he confessed that he had sold pentazocine and Schedule V cough syrups to an individual who was later arrested and convicted after Williams cooperated with DEA in the investigation.

The Acting Administrator has carefully examined the facts in this case and concludes that the cooperation of Williams notwithstanding, there is nothing in the record that would lead to any other result than revocation of the DEA Certificate of Registration issued to Odie Pharmacy. Abuse of the combination of Talwin and pyribenzamine, the so-called "T's and Blues," was widespread in the Chicago area in 1981. Joseph Williams, through Odie Pharmacy, contributed to that abuse. The Acting Administrator concludes that the sale of highly abused controlled substances by a DEA registered pharmacy is not consistent with the high ethical and legal obligations of a pharmacist. DEA has consistently held that the controlled substance felony conviction of a managing pharmacist can lead to the revocation of a pharmacy's DEA Certificate of Registration. See *Nicholas G. Gakidis, t/a New Seabury Pharmacy*, 41 FR 52555 (1976); *Blue Hill Drug Co., David Brothers, Proprietor*, Docket No. 77–14, 42 FR 54963 (1977); *Lynnfield Drug Inc.*, Docket No. 76–6, 42 FR 8435 (1977); *Woodfield Drugs Inc. et al.*, Docket No. 80–20, 46 FR 35397 (1981); *Faunce Drug Store*, Docket No. 82–3, 47 FR 30122 (1982). Accordingly, under the authority vested in the Attorney General by 21 U.S.C. 824, and redelegated to the Administrator of the Drug Enforcement Administration, the acting Administrator hereby orders that DEA Certificate of Registration AO 8656588 issued to Odie Pharmacy be and is hereby revoked, effective February 3, 1983.

Date: December 27, 1982.

Francis M. Mullen, Jr.,
Acting Administrator.

[FR Doc. 83-90 Filed 1-3-83; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-13,054]

Amstar Corporation, Spreckels Sugar Division, Factory No. 1, Spreckels, California; Negative Determination on Reconsideration

On October 29, 1982, the Department issued an Affirmative Determination Regarding Application for reconsideration for former workers of Amstar Corporation's Spreckels Sugar Division's Factory No. 1 in Spreckels, California. This determination was published in the **Federal Register** on November 16, 1982 (47 FR 51639).

The union in its application for reconsideration claims that the Trade Act of 1974 was misinterpreted by the Department in that almost half of all the sugar consumed in the United States is imported and that since 1974 domestic production costs and sugar prices have been directly influenced and dependent on world prices. The union also claims that the facts were misinterpreted in that the shutdown of Spreckels Factory No. 1 resulted form dumping by the European Community (EC) and the expiration of the Sugar Act in 1974. Further, the percent of imports is greater now than in the previous period when workers at Factory No. 1 were certified. Lastly, the union claims that the Department did not consider all the facts since the circumstances concerning Factory No. 1 are virtually identical to what they were in 1978 when the workers were certified for trade adjustment assistance except that now the situation is more severe resulting in the closure of the plant rather than in a reduction of work.

Initially, the Department found that the worker petition did not meet the increased import criterion of the Trade Act of 1974. The Spreckels Sugar Division of Amstar Corporation, including the petitioning workers at the Spreckels, California Factory No. 1, is engaged in the production of refined sugar. The refined sugar produced at Factory No. 1 was refined from sugar beets purchased from independent growers. U.S. imports of refined sugar decreased both absolutely and relative to domestic production in each year from 1978 through 1981.

On reconsideration, the Department finds that it is appropriate to consider imports of cane and beet sugar and that although such imports have increased in 1981 the increased imports did not contribute importantly to the unemployment of the workers or to the closure of the plant. The Department reviewed the petitioner's claims and finds that while it is true that raw cane and beet sugar imports constitute a substantial share of U.S. consumption, that share has declined since the period of the earlier certification alluded to by the petitioner. The raw cane and beet sugar imports were 99.2 percent and 83.0 percent of domestic production in 1977 and 1978 respectively compared to 82.1 percent in 1981. Although U.S. imports of raw cane and beet sugar increased from 1980 to 1981 so did U.S. production. U.S. production had increased more in 1981 compared to 1978 than had U.S. imports.

Of greater significance to sugar refiners was the continued erosion of their market by producers of high fructose corn syrup (HFCS). In the 1977/1978 period HFCS replaced about 38 percent of the decline in refined sugar consumption; in the 1980/1981 period HFCS consumption increased by 107 percent of the decline in refined sugar consumption. During the recent and continuing recession HFCS prices have dropped by more than a third and been about 10 cents per pound less than refined sugar. Over this same period sugar prices have dropped proportionately less. Industrial users of sweeteners, the principal market of the Spreckels Sugar Division have shifted away from refined sugar and to increasing use of HFCS.

It is clear that recent market conditions are substantially changed from the earlier period when factors warranted certification of the workers.

The Department notes from its files that imports of HFCS are negligible. Domestic production of HFCS has made significant and increasing inroads into the sweetener market and competes most effectively with sugar in industrial uses. U.S. consumption of HFCS increased nearly a half million tons in 1981 compared to 1980. Raw cane and beet sugar imports increased only slightly from 1980 to 1981 and were down when compared with 1979.

The Department considers the impact of the nominal increases of raw cane and beet sugar imports that occurred in 1981 as insignificant in light of the above noted shift away from sugar sweeteners in favor of HFCS.

Further, the Department's denial is not proven wrong by petitioner's allegations that the law and facts were misinterpreted and the fact that workers of Factory No. 1 were certified eligible for trade adjustment assistance in an earlier period, (TA–W–5302).

The petitioner's claim that the expiration of the Sugar Act in 1974 which had the effect of linking domestic

sugar prices more closely to foreign sugar prices continues to have an adverse impact on the domestic industry. The Department notes that sugar prices increased substantially between 1977 and 1980. In 1981, even though prices dropped sharply, refined sugar prices were more than 75 percent greater than 1977 levels.

In summation, the Department's review and reconsideration of the case in light of the petitioner's claims finds that imports supplied a smaller share of the sugar market in 1981 than was true in 1978 and that domestic production of raw sugar has increased in the 1978–1981 period. Sugar consumption was adversely affected by the recession and by the substantial shift by industrial sweetener users to HFCS. Consumption of HFCS more than offset the decline in consumption of refined sugar.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to former workers of Amstar Corporation's Spreckels Sugar Division's Factory No. 1 in Spreckels, California.

Signed at Washington, D.C. this December 27, 1982.

Robert O. Deslongchamps,

Acting Deputy Administrator, Unemployment Insurance Service

[FR Doc. 83-128 Filed 1-3-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 20, 1982–December 24, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,979E; Munsingwear, Inc., Paris, TX.

TA–W–12,979F; Munsingwear, Inc., Pawnee, OK.

TA–W–12,979G; Munsingwear, Inc., Winnfield, LA.

TA–W–13,478; Diamond Coat, Hoboken, NJ.

A certification was issued in response to a petition received on May 15, 1982 covering all workers separated on or after October 31, 1981.

TA–W–13,124; Biquette, Inc., West New York, NJ.

A certification was issued in response to a petition received on December 4, 1982 covering all workers separated on or after November 30, 1980 and before December 31, 1981.

TA–W–13,128; Jacques Syl Knitwear, West New York, NJ.

A certification was issued in response to a petition received on December 4, 1981 covering all workers separated on or after November 30, 1980 and before December 31, 1981.

TA–W–13,372; Conflo Manufacturing, Inc., Orrville, OH.

A certification was issued in response to a petition received on March 30, 1982 covering all workers separated on or after March 25, 1981.

TA–W–13,372A; The Lunkenheimer Co., Cincinnati, OH.

A certification was issued in response to a petition received on March 30, 1982 covering all workers separated on or after March 25, 1981.

TA–W–12,373; Conflo Manufacturing, Inc., Wadsworth, OH.

A certification was issued in response to a petition received on March 30, 1982 covering all workers separated on or after March 25, 1981.

TA–W–12,960; Munsingwear, Inc., Crossville, TN.

A certification was issued in response to a petition received on September 8, 1981 covering all workers engaged in employment related to the production of men's and boys' knit sportshirts separated on or after January 1, 1981.

TA–W–12,979; Munsingwear, Inc., Minneapolis MN.

A certification was issued in response to a petition received on September 21, 1981 covering all workers engaged in employment related to the production of men's and boys' knit sportshirts separated on or after January 1, 1981.

TA–W–12,979A; Munsingwear, Inc., Ashland, WI.

A certification was issued in response to a petition received on September 21, 1981 covering all workers engaged in employment related to the production of men's and boys' knit sportshirts separated on or after January 1, 1981.

TA–W–12,979B; Munsingwear, Inc., Ironwood, MI.

A certification was issued in response to a petition received on September 21, 1981 covering all workers engaged in employment related to the production of men's and boys' knit sportshirts separated on or after January 1, 1981.

TA–W–12,979C; Munsingwear, Inc., Little Falls, MN.

A certification was issued in response to a petition received on September 21, 1981 covering all workers engaged in employment related to the production of men's and boys' knit sportshirts separated on or after January 1, 1981.

TA–W–12,979D; Munsingwear, Inc., Montgomery, MN.

A certification was issued in response to a petition received on September 21, 1981 covering all workers engaged in employment related to the production of men's and boys' knit sportshirts separated on or after January 1, 1981.

TA–W–13,467; W. R. Grace & Co., Evans Chemetics, T-Acid Section, Waterloo, NY.

A certification was issued in response to a petition received on May 11, 1982 covering all workers separated on or after April 1, 1982 and before June 1, 1982.

I hereby certify that the aforementioned determinations were issued during the period December 20, 1982–December 24, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: December 28, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-123 Filed 1-3-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this

notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 14, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 14, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 27th day of December 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner (Union/workers or former workers of:)	Location	Date received	Date of petition	Petition number	Articles produced
Bendix Corp., (UE)	Greenfield, MA	Dec. 17, 1982	Dec. 15, 1982	TA-W-14,183	Drills, pops, reamers.
Cresco Outerwear, Cresco-Pollak Sportswear, Inc. (workers).	Ashland, Ohio	Dec. 22, 1982	Dec. 3, 1982	TA-W-14,184	Coats, jackets & [illegible].
Crystal Springs Printing & Finishing Plant of Danville Div. of Dan River, Inc. (Printers & Engravers).	Chickamauga, GA	Dec. 17, 1982	Dec. 14, 1982	TA-W-14,185	Fabric—textile, dyed & printed.
Double Talk, Inc. (workers)	Miami, FL	Dec. 16, 1982	Dec. 11, 1982	TA-W-14,186	Suits, bathing, shorts-terry, shirts, T. [illegible].
Duggan of Mississippi (workers).	Pass Christian, MS	Dec. 22, 1982	Dec. 20, 1982	TA-W-14,187	Drawings—steel, structural.
Duggan of Georgia (workers)	Macon, GA	Dec. 22, 1982	Dec. 20, 1982	TA-W-14,188	Drawings—steel, structural.
Duggan of Dixie (workers)	Chattanooga, TN	Dec. 22, 1982	Dec. 20, 1982	TA-W-14,189	Drawings—steel, structural.
Ingersoll-Rand (UE)	S. Deerfield, MA	Dec. 17, 1982	Dec. 15, 1982	TA-W-14,190	Tools—electric.
Jondel Industries, Inc., DBA Malbe Sportswear (ILGWU).	New York, NY	Nov. 29, 1982	Nov. 17, 1982	TA-W-14,191	Apparel—ladies.
Kinney Shoes Corp., Romney No. 2 (wkrs).	Romney, W. VA	Dec. 17, 1982	Dec. 12, 1982	TA-W-14,192	Boots—boy's, sandles—children, women shoes—children.
Lewiston Lustre, Inc. (workers)	Lewiston, MI	Dec. 21, 1982	Dec. 15, 1982	TA-W-14,193	Trim & stampings—automotive.
Seas' Manufacturing (workers)	Brady, TX	Dec. 20, 1982	Dec. 10, 1982	TA-W-14,194	Sportswear—ladies.
W.P. Coal Company (workers)	Omar, W. VA	Dec. 17, 1982	Dec. 15, 1982	TA-W-14,195	Coal mining.
Weather Wise (workers)	New York, NY	Dec. 22, 1982	Dec. 20, 1982	TA-W-14,196	Coats—ladies.
Mickey Blumfield, Inc. (workers).	New York, NY	Dec. 22, 1982	Dec. 20, 1982	TA-W-14,197	Coats—ladies.

[FR Doc. 83-124 Filed 1-3-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13, 414]

Manhattan Fashions, Inc., Union City, New Jersey; Revised Determination on Reconsideration

On December 2, 1982, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers at Manhattan Fashions, Inc., Union City, New Jersey. This determination was published in the **Federal Register** on December 7, 1982 (47 FR 55052).

A company official of the contracting company for ladies' coats (Manhattan Fashions) claims that his only manufacturer imports ladies' coats contrary to what the Department's customer survey revealed.

The Department's review of the initial investigation showed that the Department's notice of Negative Determination was based on the fact that Manahattan Fashions' only manufacturer did not import ladies' coats nor used the services of foreign contractors during 1979, 1980 or 1981.

On reconsideration, the Department found, however, that the manufacturer has been increasing its imports of ladies' coats every year since 1980 and that these imports have contributed importantly to declines in production, sales and employment at Manhattan Fashions.

Manhattan's employment and production of ladies' coats decreased in the fourth quarter of 1981 compared to the same quarter in 1980 and decreased in the first seven months of 1982 compared to the same period in 1981.

U.S. imports of women's, misses' and children's coats and jackets increased absolutely and relatively in 1981 compared to 1980 and increased absolutely in the first six months of 1982 compared to the same period in 1981. The imports to domestic production ratio (I./P.) reached a five year high in 1981 at 98.4 percent.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with ladies' coats produced at Manhattan Fashions, Inc., Union City, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers and former workers of Manhattan Fashions, Union

City, New Jersey. In accordance with the provision of the Trade Act of 1974, I make the following revised determination:

"All workers of Manhattan Fashions, Inc., Union City, New Jersey who became totally or partially separated from employment on or after November 1, 1981 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C., this 27th day of December 1982.

Stephen A. Wandner,

Deputy Director, Office of Research, Legislation and Program Policies.

[FR Doc. 83-125 Filed 1-3-83; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas & Electric Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 66 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas and Electric company (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station Unit No. 1 (the facility) located in San Diego County, California. The amendment is effective upon issuance; however, the Technical Specifications are to be implemented within 30 days from the date of issuance.

The amendment approves changes to the Appendix A and Appendix B Technical Specifications which incorporate modifications to the Administrative Controls Section.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) th application for amendment dated December 8, 1981, and its supplement dated August 5, 1982, (2) Amendment No. 66 to License No. DPR-13, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of December, 1982.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-121 Filed 1-3-83; 8:45 am]

BILLING CODE 7590-01-M

Statement of Policy: Further Commission Guidance on Emergency Response Capability

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of Policy Statement.

SUMMARY: The Commission announces that a supplement is being issued to NUREG-0737, "Clarification of TMI Action Plan Requirements," on the subject of emergency response capabilities at nuclear power stations. The new guidance applies to all operating nuclear power plants and to all applicants for operating licenses.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Robert A. Purple, Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone: 301-492-7980.

SUPPLEMENTARY INFORMATION: On December 24, 1980, the Commission published a Statement of Policy, "Further Commission Guidance to Power Reactor Operating Licenses" (45 FR 85236), modifying an earlier Policy Statement on the same subject (45 FR 41738; June 23, 1980). The Commission's Policy Statement discussed the background of efforts to improve safety requirements in light of experience resulting from the Three Mile Island accident. The Commission indicated that operating license applications would be measured by the Commission's regulations, as augmented by the requirements reflected in NUREG-0737, "Clarification of Action Plan Requirements." The Commission further noted that it will continue to monitor developments with regard to litigation of action plan requirements and continue to offer guidance where appropriate.

Since that time, the NRC staff has developed a number of NUREG documents and other guidance documents which provide information and guidance as to methods of implementation and other details concerning certain NUREG-0737 items relating to emergency response capability. The more important elements of these various staff documents were identified in "NRC Staff Recommendations on the Requirements for Emergency Response Capability," which the NRC staff recommended be adopted by the NRC in order to provide guidance clarifying and amplifying the NUREG-0737 items relating to emergency response capability. The Commission has considered the staff recommendation and approved the requirements with modifications as appropriately clarifying and providing greater detail with respect to the TMI Action Plan Requirements contained in NUREG-0737 relating to emergency response capability. The "Staff Recommendations" document referred to above, with Commission modifications, has been adapted for use by licensees. In this revised form, it has been published as a supplement to NUREG-0737. The provisions for scheduling set forth in this supplement supersede the schedules with respect to related NUREG-0737 items.

Accordingly, the Commission has concluded that this supplement should be used by the staff and by adjudicatory boards as appropriate clarifications and interpretations of related NUREG-0737 items and should be accorded the status of approved NUREG-0737 items as set forth in the December 24, 1980 Statement of Policy. Litigation of the requirements reflected in the NUREG-0737 supplement should be permitted in operating license proceedings under the same conditions as those applicable to NUREG-0737 items in accordance with the December 24, 1980 Statement of Policy. In this regard, it should be understood that the Commission's December 24, 1980 Statement of Policy is

applicable to all operating license applications and that therefore this new guidance on emergency response capability is applicable to all operating license applications.

The supplement to NUREG–0737 is available upon request from the following sources: GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or the National Technical Information Service, Springfield, Virginia 22161.

Dated at Washington, D.C., this 28th day of December 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83–47 Filed 1–3–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Decay Heat Removal System; Meeting

The ACRS Subcommittee on Decay Heat Removal Systems will hold a meeting on January 27, 1983, in Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review the status of Task Action Plan A–45, "Shutdown Decay Heat Removal Requirements" and the decay heat removal Capabilities of Combustion Engineering plants with the emphasis on the CESSAR System 80 type of design. Notice of this meeting was published December 22.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, January 27, 1983—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: December 28, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–101 Filed 1–3–83; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittees on Metal Components/Three Mile Island; Meeting

The Combined ACRS Subcommittees on Metal Components/Three Mile Island will hold a meeting on January 28, 1983, Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittees will review the proposed NRC Steam Generator Generic Recommendation Report and the TMI–1 steam generator problems and fixes. Notice of this meeting was published December 22.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittees, their consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittees finds it necessary to discuss proprietary and Unclassified Safeguards information. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTIONS 3 and 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance. The agenda for subject meeting shall be as follows:

Friday, January 28, 1983—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne or Mr. Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Unclassified Safeguards information. The authority for such closure is Exemptions (3) and (4) to the Sunshine Act, 5 U.S.C. 552b(c) (3), (4).

Dated: December 28, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–102 Filed 1–3–83; 8:45 am]

BILLING CODE 7590–01–M

PENSION BENEFIT GUARANTY CORPORATION

Public Information Collection Requirements Submitted to OMB for Review

On November 17, 1982, the Pension Benefit Guaranty Corporation (PBGC) submitted the following public information collection requirement to

OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of this submission may be obtained by calling the PBGC Clearance Office on (202) 254–4776 or by writing to Robert E. Geiger, Office of Management Services, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006. Comments regarding this information collection should be addressed to Leonard Lenoci, Office of Program Operations (540), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, and to OMB reviewer listed at the end of the entry.

Date Submitted: November 17, 1982.

Submitting Bureau: Pension Benefit Guaranty Corporation.

OMB Number: N/A (new submission).

Form Number: 5500, 5500–C, 5500–K and 5500–R.

Type of Submission: New.

Title: Annual Return/Report of Employee Benefit Plan.

Purpose: Forms listed above are annual information returns filed by employee benefit plans. The PBGC uses the data to determine if the plan appears to be in compliance with Title IV of ERISA (Pub. L. 93–406).

OMB Reviewer: Norman Frumkin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Robert E. Geiger

Senior Agency Official.

[FR Doc. 83–120 Filed 1–3–83; 8:45 am]

BILLING CODE 7708–01–M

POSTAL RATE COMMISSION

[Docket No. A83–11; Order No. 473]

De Borgia, Montana 59830 (Ronald G. Peterson, Petitioner); Filing of Appeal

Issued: December 29, 1982.

On November 30, 1982, the Commission received a petition from Ronald G. Peterson from De Borgia, Montana (hereinafter "Petitioner") concerning the alleged United States Postal Service (hereinafter "Postal Service" or "Service") intent to consolidate De Borgia, Montana post office. The petitioner contends that the Postal Service has incorrectly calculated the cost saving that would result, following consolidation.

The Act requires that the Service provide the affected community with at least 60 days notice prior to issuance of its Final Decision. The requirement is to "* * * ensure that such persons will have an opportunity to express their views." [1] The petition does not mention whether this notice was provided. Moreover, there is no explicit mention in the petition of any hearings, nor is there any indication of any Final Determination, in this matter, pursuant to 39 U.S.C. 404(b)(3).[2] Furthermore, petitioner has neither attached a copy of the Postal Service's Final Determination to his petition as is required by Commission rules of practice, nor made any specific reference to 39 U.S.C. 404(b), which gives the Postal Rate Commission jurisdiction in the matter.

However, the document does clearly indicate that petitioner is requesting the type of review provided by statute. Furthermore, petitioner has made a sufficient statement to enable the Commission to assume jurisdiction in this matter. Thus, we conclude that petitioner has substantially complied with Commission rules of practice and his petition will be considered a petition for review pursuant to section 404(b) of the Postal Reorganization Act (hereinafter "Act").

Applicable Law in This Proceeding

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[3]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close or consolidate post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

Upon preliminary inspection, the petitioner appears to raise only one issue of law; namely, did the Postal Service properly consider the economic savings resulting from the consolidation, pursuant to 39 U.S.C. 404(b)(2)(D) (Supp. 1979). Other issues of law may become apparent when the Commission has had an opportunity to examine the determination made by the Postal Service. Conversely, the determination may be found to resolve adequately one or more of such issues.

Commission Procedure in This Docket

In view of the statutory requirements, and in the interest of expedition of this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on one or more of the issues described above, and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will, within 20 days of receiving the Determination and record pursuant to section 113 of the rules of practice [4] make the request by order specifying the issues to be addressed. When such a request is issued, the memorandum shall be due within 20 days of the issuance, and a copy of the memorandum shall be served on Petitioner by the Service.

In addition, the Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5]

In briefing the case, or in filing any motion to dismiss for want of prosecution, in appropriate circumstances, the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases, and none is being appointed.[6]

The Commission orders:

(A) The petition from Ronald G. Peterson shall be construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

(C) The Postal Service shall file the administrative record in this case on or before December 27, 1982, pursuant to the Commission's rules of practice [39 CFR 3001.112(a)].

By the Commission.

David F. Harris,

Secretary.

Appendix

November 30, 1982—Filing of Petition.

December 29, 1982—Notice and Order of Filing of Appeal.

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[1] 39 U.S.C. 404(b)(1).

[2] Petitioner has not supplied a copy of the Postal Service's Final Determination, if indeed one is in existence.

[3] 39 U.S.C. 101(b).

[4] 39 CFR 3001.113.

[5] 39 CFR 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal. The circumstances of this case require an extension of the usual time limit. *See* 39 CFR 3001.113(a).

[6] In the matter of Gresham, S.C., Route #1, Docket No. A78–1 (May 11, 1978).

December 27, 1982—Filing of record by Postal Service [*see* 39 CFR 3001.112(a)].

December 29, 1982—Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].

January 9, 1983—Petitioner's initial brief [*see* 39 CFR 3001.115(a)].

January 26, 1983—Postal Service answering brief [*see* 39 CFR 3001.115(b)].

February 10, 1983—

(1) Petitioner's reply brief, if petitioner chooses to file such brief [*see* 39 CFR 3001.115(c)].

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its descretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.

March 30, 1983—Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5).

[FR Doc. 83-95 Filed 1-3-83; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12930; 812-5368, 812-5369, 812-5370, 812-5378]

Capital Housing Partners—CXLI, et al.; Filing of Applications for Orders

December 28, 1982.

Notice is hereby given that Capital Housing Partners—CXLI ("CXLI"), Capital Housing Partners—CXLIII ("CXLIII"), Capital Housing Partners—CXLVI ("CXLVI") and Capital Housing Partners CXLVII ("CXLVII"), District of Columbia limited partnerships, and their general partners, C.R.I., Inc. ("CRI"), which is the managing general partner of CXLI, CXLIII, CXLVI and CXLVII, William B. Dockser ("Dockser"), Martin C. Schwartzberg ("Schwartzberg"), and H. William Willoughby ("Willoughby") (CRI, Dockser, Schwartzberg and Willoughby are hereinafter referred to as "General Partners") (CXLI, CXLIII, CXLVI and CXLVIII are referred to hereinafter from time to time as the "Partnerships and the Partnerships, CRI, Dockser, Schwartzberg and Willoughby are referred to as "Applicants"), filed applications pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), One Central Plaza, 11300 Rockville Pike, Rockville, Maryland 20852, for orders of the Commission exempting Applicants from all provisions of the Act and rules thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that CXLI was formed under the District of Columbia Uniform Limited Partnership Act on April 15, 1980, an that CXLIII, CXLVI and CXLVII were organized under that statute on January 1, 1981, each as a vehicle for equity investment in government-assisted rental housing in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). Applicants further state that the Partnerships will operate as "two-tier" entities, i.e., each Partnership, as a limited partner, will invest in other limited partnerships ("Local Limited Partnerships"), which own or lease, and are developing, government-assisted apartment projects for elderly, handicapped and other persons of low and moderate income. Applicants represent that all such investments will comport with the purposes and criteria set forth in the final paragraph of Investment Company Act Release No. 8456 (August 9, 1974) ("Release No. 8456"), which release states the views of the Commission's Division of Investment Management regarding the applicability of the Act to two-tier real estate limited partnerships. It is also stated that an affiliate of CRI will be a partner in each Local Limited Partnership.

Specifically, Applicants state that CXLI will invest in the following three Local Limited Partnerships: (i) Villas de Humacao Limited Dividend Partnership, a Massachusetts limited partnership formed to construct, own and operate a 120-unit apartment project in Humacao, Puerto Rico; (ii) Villa Blanca Limited Dividend Partnership, a Massachusetts limited partnership formed to construct, own and operate a 100-unit apartment project in Caguas, Puerto Rico; and (iii) San Ildefonso Limited Dividend Partnership, a District of Columbia limited partnership formed to rehabilitate, own and operate a 39-unit apartment project in San Juan, Puerto Rico. Applicants further state that CXLIII will invest in five Local Limited Partnerships: (i) a Kentucky limited partnership which owns and is developing a government-assisted apartment project for individuals and families of low and moderate income in Cumberland and Lynch, Harlan County, Kentucky; (ii) a Kentucky limited partnership which owns and is developing a government-assisted apartment project for individuals and families of low and moderate income in Shelbyville, Shelby County, Kentucky; (iii) an Illinois limited partnership which owns and is developing a government-assisted apartment and townhouse project for individual families and elderly persons of low and moderate income in Chicago, Cook County, Illinois; (iv) a Connecticut limited partnership which is leasing and developing a government-assisted apartment project for elderly persons of low and moderate income in Stamford, Connecticut; and (v) a Virginia limited partnership which owns and is developing a government-assisted apartment project for individuals, families and handicapped persons of low and moderate income in Arlington County, Virginia.

It is stated, in addition, that CXLVI will invest in the following Local Limited Partnerships: (i) two Illinois limited partnerships, each of which owns and is developing a government-assisted apartment project in the City of Chicago, Cook County, Illinois, one of which is for elderly persons, individuals and families, and handicapped persons, of low and moderate income, and the other of which is for individuals and families of low and moderate income; (ii) a Pennsylvania limited partnership which owns and is developing a government-assisted apartment project for individuals and families, and handicapped persons, of low and moderate income in Lower Allen Township, Pennsylvania; (iii) a California limited partnership which owns and is developing a government-assisted apartment project for individuals and families of low and moderate income in the City of Santa Rosa, Sonoma County, California; and (iv) a California limited partnership which owns and is developing a government-assisted apartment project for individuals and families of low and moderate income in the City of Hayward, Alameda County, California. Lastly, Applicants state that CXLVII will invest in a single Local Limited Partnership, which owns and is developing, with assistance from the Federal Urban Development Action Grant Program, a 250-unit high-rise apartment development for individuals and families meeting criteria of the Minnesota Housing Finance Agency, with ancillary parking ramp and commercial space, in the City of Minneapolis, Hennepin County, Minnesota.

Applicants state that the Partnerships are organized as limited partnerships because that form of organization is the only one which provides investors with both liability limited to their capital investments and the ability to claim on their individual tax returns the deductions, losses, credits, and other tax items that originate from the Partnerships' interests in the Local Limited Partnerships. Through their investments in the Local Limited Partnerships, it is stated, the Partnerships intend to realize: (i) A potential increase in their equity in the

projects through amortization of the projects' mortgage indebtedness, (ii) cash flow from operations, (iii) a potential increase in the value of the projects, (iv) cash distributions through potential refinancing of the projects, and (v) certain current tax benefits. Although the Partnerships' direct control over the management of each apartment complex is represented to be limited, the Partnerships' ownership of interests in Local Limited Partnerships shall, in an economic sense, it is asserted, be tantamount to direct ownership of the apartment complexes themselves. Applicants state that the interests in Local Limited Partnerships will have no substantial value other than their pro rata share of the value of the apartment complexes. It is also stated that no Local Limited Partnership will generate a substantial amount of income or expense other than as directly related to the development, ownership operation of its apartment complex.

Applicants further state that each Partnership will offer its limited partnership interests ("Units") in reliance upon Rule 506 under Section 4(2) of the Securities Act of 1933. It is represented that CXLI will offer 60 Units in the amount of $3,150,000 at $52,500 per Unit; CXLIII will offer 100 Units at $63,500 per Unit, totaling $6,350,000; CXLVI will offer $8,700,000 of limited partnership interests in 116 Units at $75,000 per Unit; and CXLVII will offer 100 Units at $78,000 per Unit for a total subscription amount of $7,800,000. Applicants further state that subscriptions for half Units may be accepted by the General Partners, and accordingly, the securities of any Partnership could be held by more than 100 persons. It is also stated that (i) in the case of CXLI, CRICO Securities Corporation ("CRICO"), an affiliate of CRI, and Shearson/American Express, Inc. ("Shearson") will act as selling agents for the offering of Units; (ii) in the case of CLXIII, Dean Witter Reynolds, Inc. will act as selling agent for the offering of Units; (iii) in the case of CXLVI, Merrill Lynch, Pierce, Fenner & Smith Incorporated and CRICO will act as selling agents for the offering of Units; and (iv) in the case of CXLVII, Shearson and CRICO will act as selling agents for the offering of Units. Applicants also state that purchasers of Units will become limited partners ("Limited Partners") of the particular Partnership in which they invest.

Applicants state, in addition, that each Partnership will be controlled by its General Partners, and that the Limited Partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnerships. It is further stated that a majority in interest of the Limited Partners of each Partnership will, however, have the right to amend the partnership agreement for such Partnership, dissolve such Partnership, and remove any General Partners and elect replacements therefore, provided that such rights will not adversely affect the tax or limited partner status of the Limited Partners, and that each Partnership must receive a favorable opinion of counsel on this issue prior to exercise of any such rights. Applicants represent, in addition, that under the partnership agreement for each Partnership, each Limited Partner is entitled to review all books and records of the Partnership in which he has invested at any and all reasonable times.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Without conceding that the Partnerships are investment companies as defined in the Act, Applicants request that the Partnerships be exempted from all the provisions of the Act pursuant to Section 6(c) of the Act. In support of this request, Applicants assert that such exemption is both necessary and appropriate in the public interest and consistent with the protection of investors and the purposes and policies underlying the Act.

Applicants assert that the Partnerships are not "investment companies" under the Act; that they will be in the business of investing in and being the beneficial owners of apartment complexes which are not securities, and that the limited partnership interests they will own should not constitute "investment securities" within the meaning of Section 3(a)(3) of the Act. They state that the interests in Local Limited Partnerships, by their nature are not readily marketable, and will have no value apart from the value of the apartment complexes owned by the Local Limited Partnerships. No separate market is alleged to exist for such interests and their sale could involve severe adverse tax consequences. To treat such interests as "investment securities" within the ambit of the Act, Applicants state, would be to ignore the economic realities of the two-tier partnership structure as utilized by the Partnerships and the Partnerships' participation in the development, ownership, and operation of government-assisted housing.

Applicants assert further that investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and organizational advantages of the limited partnership structure. That form of organization provides the only means of bringing private equity capital into government-assisted housing, particularly because public investors typically consider investment in low and modrate income housing programs as involving greater risk than real estate investment generally. Applicants state that the limited partnership form insulates each limited partner from personal liability and limits financial risk incurred by the limited partner to the amount he has invested in the program, while also allowing the limited partner to claim on his individual tax return his proportionate share of the income and losses from the investment.

Applicants state that despite the advantages it affords investors in government-assisted housing, the limited partnership form of organization is incompatible with fundamental provisions of the Act, such as the requirement of Section 15(a)(2) of the Act that investors annually approve a management contract. In addition, Applicants assert that the asset coverage limitations contained in Section 18 of the Act were designed to protect investors in securities from wide fluctuations in market prices. It is asserted that such concerns are not justified in real estate investments and are inapposite to the mortgage financing and other federal, state and local government-assisted programs developed for low and moderate income housing. Thus, an exemption from these basic provisions is necessary and, Applicants contend, it is appropriate that such exemption be granted so as not to discourage use of the two-tier limited partnership entity. To do so, Applicants assert, would frustrate the public policy established by the housing laws.

Applicants state that the substantial fees and other forms of compensation that will be paid to the General Partners and their affiliates will not have been

determined through arm's length negotiations. They represent, however, that the terms of all such compensation will be fair and not less favorable to the Partnerships than would be the case if such terms had been negotiated with independent third parties. Further, the Partnerships believe that such compensation meets all applicable guidelines necessary to permit the Units to be be offered and sold in the various states which prescribe such guidelines, including, without limitation, the statement of policy adopted by the North American Securities Administrators Association, Inc., with respect to real estate programs.

Applicants also note that interests in the Partnerships will be sold only to relatively sophisticated investors who must meet specified suitability standards as well as the suitability standards, if any, prescribed by the securities laws of any state where Units will be sold, and the Limited Partners will receive comprehensive reports concerning the Partnerships' business and operations. Although the interests of the General Partners and their affiliates may conflict in various ways with the interests of Limited Partners, Applicants claim that the prospectus for each Partnership contains various provisions designed to eliminate or significantly reduce such conflicts of interest. Further protection for the interests of Limited Partners is provided, Applicants state, by the numerous provisions of the partnership agreement of each Partnership designed to prevent overreaching by the General Partners and to assure fair dealing by the General Partners vis-a-vis the Limited Partners.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 24, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-108 Filed 1-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12891B; 812-5386]

Chicago Partners I; Chicago Partners II; Winthrop Financial Co., Inc.; and Linnaeus-Hawthorne Associates; Correction

December 28, 1982.

This is to correct an error made in Investment Company Release No. 12891A, issued December 21, 1982, In the Matter of Chicago Partners I, Chicago Partners II, Winthrop Financial Co., Inc. and Linnaeus-Hawthorne Associates, 225 Franklin Street, Boston, Massachusetts 02110. In that Release it was stated that the correct file number was 812-5368. The correct file number is 812-5386.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-110 Filed 1-3-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19378; File No. SR-NSCC-82-29]

Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corporation

December 27, 1982.

Pursuant to Section to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 23, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change ensures that a number of language changes, separately effective in either File No. SR-NSCC-81-7 (Securities Exchange Act Release No. 19230 (November 10, 1982), 47 FR 51969 (November 18, 1982)) or File No. SR-NSCC-82-18 (Securities Exchange Act Release No. 18995 (August 23, 1982), 47 FR 37990 (August 27, 1982)), are incorporated into NSCC Rules 4, 18 and 20. The proposed rule change is needed because File No. SR-NSCC-81-7 was filed before, but was approved after, the effective date of File No. SR-NSCC-82-18.

NSCC believes that the proposed rule change is consistent with Section 17A of the Act because it clarifies and conforms NSCC's rules in accordance with previously approved policies and rules. In addition, because the proposed rule change merely clarifies and conforms NSCC's rules, NSCC states that the proposed rule change does not affect the safeguarding of securities and funds in NSCC's custody or control or for which it is responsible.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-29.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-109 Filed 1-3-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-3369]

General Builders Corp.; Application To Withdraw From Listing and Registration

December 28, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of General Builders Corporation ("Company") is listed and registered on the Amex, but trading in the Company's common stock has been halted since May 1976. The Company has therefore determined to include its common stock in the NASDAQ System.

Any interested person may, on or before January 19, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-74 Filed 1-3-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 10/10-0180]

Alaska Business Investment Corp.; Issuance of License To Operate as a Small Business Investment Company

On September 28, 1982, a notice was published in the **Federal Register** (FR 42665), stating that Alaska Business Investment Corporation, 301 West Northern Lights Boulevard, Anchorage, Alaska 99511 has filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

The period for comment expired on October 13, 1982, and no significant comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 10/10-0180 to Alaska Business Investment Corporation.

(Catelog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 27, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-67 Filed 1-3-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5218]

West Tennessee Venture Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On October 4, 1982, a notice was published in the **Federal Register** (FR 43823), stating that West Tennessee Venture Capital Corporation, located at 8 North Third Street, Memphis, Tennessee 38103, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business October 19, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 04/04-5218 to West Tennessee Venture Capital Corporation on December 16, 1982, to operate as a small business investment company, pursuant to Section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 27, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-60 Filed 1-3-83; 8:45 am]

BILLING CODE 8025-1-M

DEPARTMENT OF THE TREASURY

Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Cigarette Leaf Tobacco

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Receipt of domestic interested party petition.

SUMMARY: Customs have received a petition from a domestic interested party requesting that certain imported leaf tobacco which has been processed by threshing, shredding, and other acts of manipulation, be classified for tariff purposes, at a higher rate of duty, under the provision for stemmed cigarette leaf filler tobacco rather than under the general provision for tobacco, manufactured or not manufactured, not specially provided for. This document invites comments with regard to the correctness of the current classification.

DATES: Comments (preferably in triplicate) must be received on or before March 7, 1983.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: John G. Hurley, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of flue-cured tobacco, requesting that certain imported tobacco, which has been machine-threshed for use in the manufacture of cigarettes, be classified for tariff purposes by Customs as stemmed cigarette leaf filler tobacco under item 170.35, Tariff Schedules of the United States (TSUS) (19U.S.C. 1202). The merchandise in question is currently classified by Customs under item 170.80, TSUS, as tobacco, manufactured or not manufactured, not specially provided for. The rate of duty for tobacco classified under item 170.35, TSUS, is higher than the rate of duty for tobacco classified under item 170.80, TSUS.

The petitioner contends that item 170.80, TSUS, is a catchall classification provision, which is intended to include only tobacco which is not clearly identifiable under a more specific

provision. The petitioner claims that the merchandise at issue is identifiable as stemmed cigarette leaf filler tobacco, and thus is properly classifiable under item 170.35, TSUS.

After review of numerous comments received in response to a domestic interested party petition concerning the classification of certain machine-threshed cigarette tobacco, in T.D. 80-132, published in the Federal Register on May 20, 1980 (45 FR 33761), Customs determined that the subject tobacco was neither scrap tobacco nor was it in leaf form, but that it had been processed to the extent that it was considered a partially manufactured product, classifiable under item 170.80, TSUS.

Comments

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties on the correctness of Customs classification.

The domestic interested party petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), between the hours of 9:00 a.m. and 4:00 p.m. on normal business days, at the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Authority

This notice is published in accordance with section 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: December 21, 1982.

John P. Simpson,

Director, Office of Regulations & Rulings.

[FR Doc. 83-45 Filed 1-3-83; 8:45 am]

BILLING CODE 4820-02-M

Office of the Secretary

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to Section 10 of Public Law 92-463, that a meeting will be held at the U.S. Treasury Department in Washington, D.C. on January 25 and 26, 1983, of the following debt management advisory committee:

Public Securities Association, U.S. Government and Federal Agencies Securities Committee.

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meeting provides for a working session on January 25 and the preparation of a written report to the Secretary of the Treasury on January 26, 1983.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 101-5, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by secton 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may or may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: December 27, 1982.

Roger W. Mehle,

Assistant Secretary (Domestic Finance).

[FR Doc. 83-65 Filed 1-3-83; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

During the period December 17 through December 23, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. N.W., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of entry.

Date Submitted: December 20, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: N/A (new Submission).

Form Number: SWR E-2580.

Type of Submission: New.

Title: Savings Plan Distribution Job Aid.

Purpose: This form is used in determining unreported income from savings plan distributions. This form will materially increase consistency and expediency in determining the taxable portion of distribution made from savings plans. Pursuant to Internal Revenue Code, Section 402, the amount actually distributed or made available to any distributee shall be taxable to him in the year in which distributed or made available. The form can be adopted to numerous plans.

OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: December 20, 1982.

Submitting Bureau: Bureau of the Public Debt.

OMB Number: 1535-0021.

Form Number: PD 4632-1, 4632-2 and 4632-3.

Type of Submission: Extension.

Title: Tenders for Treasury Bills.

Purpose: Form used to submit an offer to purchase U.S. Treasury Bills. If tender is accepted per auction results, then information is used to establish and maintain a book entry account for Treasury bills.

OMB Reviewer: Arnold Strasser (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: December 20, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545–0279.

Form Number: Letter 124C.

Type of Submission: Revision.

Title: Employer Requested to Clarify Discrepency Between Employee's Record and W–2.

Purpose: Sections 6051 and 6053 of the Code require an employer/payer to furnish a Form W–2/W–2P to an employee/payee with information regarding wages/payments and tax withholding for filing of an income tax return. If this information is not correct, Letter 124C is sent to the employer/payer, advising them to provide the recipient a correct statement.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: December 21, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545–0534.

Form Number: 5303.

Type of Submission: Revision.

Title: Application for Determination for Collectively-Bargained Plan.

Purpose: IRS needs certain information on the finances and operation of employee benefit plans set up by employers. The IRS uses Form 5303 to get needed information to determine whether the plans qualify under section 401(a) of the Code and the applicable part of ERISA as approved employee benefit plans. It also used the information to determine the tax exempt status of the related trust under section 501(a) of the Code.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Date Submitted: December 21, 1982.

Submitting Bureau: Alcohol, Tobacco and Firearms.

OMB Number: 1512–0008.

Form Number: ATF F 1600.8

Type of Submission: Extension.

Title: Requisition for Firearms and Explosives Forms.

Purpose: Information is requested to fulfill requests from the public for various forms and publications concerning firearms and explosives.

OMB Reviewer: Arnold Strasser (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: December 21, 1982

Submitting Bureau: Alcohol, Tobacco and Firearms

OMB Number: 1512–0002

Form Number: ATF F 1600.7

Type of Submission: Extension

Title: ATF Distribution Center Survey

Purpose: Information required to evaluate distribution system freight mail companies and shipping time. Data used for program evaluation, shipping services and other statistical information.

OMB Reviewer: Arnold Strasser, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: December 21, 1982

Submitting Bureau: Alcohol, Tobacco and Firearms

OMB Number: 1512–0001

Form Number: ATF F 1600.1

Type of Submission: Extension

Title: Request for Forms and/or Publications.

Purpose: Form is used to enable the general public to request or order forms and publications from the Bureau's Distribution Center. The form notifies the Bureau of the quantity required by the respondent and also provides a guide as to the annual usage of the forms and publications by the general public.

OMB Reviewer: Arnold Strasser, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: December 21, 1982

Submitting Bureau: Alcohol, Tobacco and Firearms

OMB Number: 1512–0042

Form Number: ATF F 7 (5130.12)

Type of Submission: Extension

Title: Application for License

Purpose: Form is used by the public when applying for a Federal Firearms License. The information requested on the form establishes eligibility for a license. The form is signed under the penalty of 18 USC 924. The form is used in applying for various types of firearms, e.g., dealer, importer, and manufacturer.

OMB Reviewer: Arnold Strasser, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: December 21, 1982

Submitting Bureau: Alcohol, Tobacco and Firearms

OMB Number: 1512–0178

Form Number: ATF F 4483

Type of Submission: Extension

Title: Report of Firearms Transactions

Purpose: Form is used to determine transactions of firearms by a Federal firearms licensee. Form requires the Federal firearms licensee to respond to certain firearm transaction specified by the form. The Federal firearms licensee must examine his/her records and prepare an appropriate response.

OMB Reviewer: Arnold Strasser, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Date Submitted: December 22, 1982

Submitting Bureau: Internal Revenue Service

OMB Number: N/A (new submission)

Form Number: 8038

Type of Submission: New

Title: Information Return for Private Activity Bond Issues

Purpose: form 8038 collects the information that IRS is required to collect by section 215 of TEFRA. IRS will use the information to complete the required study of tax exempt bonds (requested by Congress). IRS also needs the information to assure that tax exempt bonds are issued consistent with the rules of IRC section 103.

OMB Reviewer: Arnold Strasser, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,

Departmental Reports, Management Officer.

[FR Doc. 83–64 Filed 1–3–83; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held in Hall of Cities Conference Room, Miami Marriott Hotel, 1201 N.W. Le Jeune Rd. (N.W. 42nd Avenue) Miami, Florida 33126, on February 14, and 15, 1983. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects. The Committee advises the Director, Medical Research Service, throught the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., on February 14 and 15, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator, Cooperative Studies Evaluation Committee, Veterans Administration Central Office, Washington, DC (202–389–3702), prior to January 14.

The meeting will be closed from 8:30 a.m. to 4:30 p.m. on February 14, and from 8:30 a.m. to 3:30 p.m. on February 15, for consideration of specific proposals in accordance with provisions set forth in subsection 10(d) of Pub. L. 92–463, as amended by section 5(c) of Pub. L. 94–409, and subsection (c)(6) and (c)(9)(B) of section 552b, title 5, United States Code. During this portion of the meeting, discussions and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of the Committee's recommendations would likely frustrate implementation of final proposed actions.

Dated: December 22, 1982.
By direction of the Administrator.

Rosa Maria Fontanez,
Committee Management Officer.

[FR Doc. 83-43 Filed 1-3-83; 8:45 am]
BILLING CODE 8320-01-M

Medical Research Service Merit Review Boards; Meetings

The Veterans Administration gives notice pursuant to Pub. L. 92–463 of the meetings of the following Merit Review Boards.

Merit Review Board	Date	Time	Location
Gastroenterology	Jan. 18, 1983	8 a.m. to 5 p.m.	Room 755, VA Central Office.[1]
Surgery	Jan. 31, 1983	do	Room 119, VA Central Office.
Oncology	Feb. 1, 1983	do	Room 304, VA Central Office.
Nephrology	Feb. 4, 1983	do	Room 817, VA Central Office.
Alcoholism and drug dependence	Feb. 8, 1983	do	Room 815A, VA Central Office.
Mental health and behavioral sciences	Feb. 10, 1983	do	Room 119, VA Central Office.
Do	Feb. 11, 1983	do	Do.
Immunology	Feb. 16, 1983	do	Room 304, VA Central Office.
Cardiovascular studies	Feb. 16, 1983	do	Room 136, VA Central Office.
Respiration	Feb. 18, 1983	do	Room 817, VA Central Office.
Neurobiology	Feb. 24, 1983	do	Room 817, VA Central Office.
Do	Feb. 25, 1983	do	Do.
Hematology	Feb. 28, 1983	do	Room 119, VA Central Office.
Infectious diseases	Mar. 1, 1983	do	Room 119, VA Central Office.
Endocrinology	Mar. 1, 1983	do	Room 755, VA Central Office.
Basic sciences	Mar. 8, 1983	do	Room 755, VA Central Office.
Do	Mar. 9, 1983	do	Do.

[1] Veterans Administration Central Office, 810 Vermont Avenue NW, Washington, DC 20420.

These meetings will be for the purpose of evaluating scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration Medical Centers and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. All of the Merit Review Board meeting will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial, and renewal research projects.

The closed portion of the meetings involve: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementaion of proposed agency action regarding such research projects. As provided by subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, closing portions of these meetings are in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Because of the limited seating capacity of the rooms, those who plan to attend should contact Mr. Howard M. Berman, Chief, Merit Review Board Staff Division, Medical Research Service, Veterans Administration, Washington, DC, (202) 389–5065 at least five days prior to each meeting. Minutes of the meeting and rosters of the members of the Boards may be obtained from this source.

Dated: December 22, 1982.
By direction of the Administrator.

Rosa Maria Fontanez,
Committee Management Officer.

[FR Doc. 83-42 Filed 1-3-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 2
Tuesday, January 4, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., Friday, January 7, 1983.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: CLOSED.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1874–82 Filed 12–30–82; 9:28 am]

BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:00 a.m., Thursday, January 6, 1983.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

NYSE—New York Stock Exchange Composite Index Options.

CME—Standard and Poor's 500 Stock Price Index Options.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1875–82 Filed 12–30–82; 9:28 am]

BILLING CODE 6351–01–M

3

FEDERAL RESERVE SYSTEM.

(Board of Governors)

TIME AND DATE: 10:00 a.m., Monday, January 10, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452–3204.

Dated: December 30, 1982.

James McAfee,

Associate Secretary of the Board.

[S–1877–82 Filed 12–30–82; 1:51 pm]

BILLING CODE 6210–01–M

4

[USITC SE–83–01]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10:00 a.m., Wednesday, January 19, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigations TA–201–47 (Motorcycles and Motorcycle Power Train Assemblies)—briefing and vote on injury.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–1876–82 Filed 12–30–82; 1:51 pm]

BILLING CODE 7020–02–M

5

[NM–83–1]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, January 11, 1983.

PLACE: NTSB Board Room, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Multiple-Vehicle Collision and Fire, Caldecott Tunnel, near Oakland, California, April 7, 1982, and Recommendations to California Department of Transportation; U.S. Department of Transportation; Alameda/Contra Costa (California) Transit District; American Trucking Associations, Inc.; American Public Transit Association; and Armour Oil Company.
2. *Highway Accident Report:* Automobile/Missouri Pacific Railroad Freight Train Collision, Woodland Drive, Lake View, Arkansas, July 9, 1982, and Recommendations to State of Arkansas and Missouri Pacific Railroad.
3. *Letter* to Union Pacific Railroad Company regarding its petition for reconsideration of probable cause of railroad accident involving the rear-end collision of trains Extra 3119 and Extra 8044 West, near Kelso, California, November 17, 1980, and its response to the Safety Board's recommendations.
4. *Board Position* on Ultralight vehicle Accidents.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

December 30, 1982.

[S–1876–82 Filed 12–30–82; 10:53 am]

BILLING CODE 6210–58–M

6

NUCLEAR REGULATORY COMMISSION.

DATE: Week of January 3, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Tuesday, January 4:

2:00 p.m.:
Discussion of Regulatory Reform Task Force—Legislative Proposals (public meeting)

Wednesday, January 5:

10:00 a.m.:
Discussion of Safety Goals and Staff Evaluation Plan (public meeting) (Postponed from December 22)
2:00 p.m.:
Discussion/Possible Vote on Order in Clinch River Breeder Reactor Proceeding (closed—Ex. 10)

Thursday, January 6:

10:00 a.m.:
Discussion of Order in Waste Confidence Proceeding (closed—Ex. 10)
2:00 p.m.:
Discussion of Severe Accident Policy Statement (public meeting)
3:30 p.m.:
Affirmation/Discussion and Vote (public meeting)
Environmental Qualification of Electrical Equipment in Nuclear Power Plants

Friday, January 7:
10:00 a.m.:
Discussion/Possible Vote on Order in Clinch River Breeder Reactor Proceeding (closed—Ex. 10) (If needed)
2:00 p.m.:
Discussion and Possible Vote on Regulatory Reform Task Force—Legislative Proposals (public meeting)

ADDITONAL INFORMATION:

On December 21 the Commission voted 4–0 (Commissioner Gilinsky abstaining) to hold Discussion/Possible Vote on Actions in Regard to Indian Point, held on December 22. Discussion of Immediate Effectiveness Issues in TMI–1 Restart Proceeding scheduled for December 21 *postponed.* Affirmation of Review of ALAB–691 (Consumers Power Company) and San Onofre Memorandum and Order Re Medical Services scheduled for December 22 *postponed.*

Automatic telephone answering service for schedule update: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

December 28, 1982.

Walter Magee,
Office of the Secretary.

[S–1879–82 Filed 12–30–82; 4:08 pm]
BILLING CODE 7590–01–M

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federal register

Tuesday
January 4, 1983

Part II

Department of Agriculture

Food and Nutrition Service

Summer Food Service Program for Children

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program For Children

Note.—This document originally appeared in the Federal Register of Thursday, December 30, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Food and Nutrition Service, USDA.

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is amending the Summer Food Service Program (SFSP) regulations by adding the required notice concerning collection of social security account numbers on applications for free and reduced price meal benefits. This change is being made in order to clarify the notification requirements. Several minor changes have been made in response to public comment. The current regulations for the Summer Food Service Program remain unchanged in all other respects.

EFFECTIVE DATE: This final rule is effective January 1, 1983.

ADDRESS: Copies of all written comments are available for public review at the office of the Child Care and Summer Programs Division, Food and Nutrition Service, in Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Jordan Benderly or Ms. Beverly Walstrom at the address listed above, or call (703) 756–3888.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has been classified *not major* because it will not have an annual effect on the economy of $100 million, will not cause a major increase in cost or prices for Program participants, individual industries, Federal agencies, State or local government agencies or geographic regions, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

This final rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. Pursuant to the review, Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting and recordkeeping requirements that are included in this rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

Background

The Summer Food Service Program (SFSP) is authorized by Section 13 of the National School Lunch Act. Comprehensive regulations for the SFSP were last published on February 16, 1982 (47 FR 6790).

On November 5, 1982, (47 FR 50268), a proposed amendment to the SFSP regulations was published. Interested parties were given 30 days in which to submit their comments on the amendment.

At the close of the comment period, a total of thirty (30) comments were received on the proposal from Food and Nutrition Service (FNS) Regional Offices, State administering agencies, sponsors, advocacy groups and private citizens. All comments were studied and summarized so that they could be systematically considered during the development of this final rule.

Section 13(g) of the National School Lunch Act requires the Secretary of Agriculture to publish regulations necessary to implement the SFSP in proposed form by November 1 and final form by January 1. On November 5, 1982, (47 FR 50268) the Department proposed not to alter the regulations published on February 16, 1982, (47 FR 6790), with one exception. The one proposed change added to the regulations the requirement that the social security account number disclosure notice be placed on applications for free and reduced price meal benefits distributed by camps and other programs which document site eligibility through collection of family size and income information.

Section 803 of Pub. L. 97–35 requires that parents or guardians who apply for free and reduced price meals must disclose the social security numbers of all adult household members as a condition of eligibility. The Department proposed to amend § 225.21(d) to include a requirement that the application form contain a notice which informs people of the authority under which the social security numbers are collected, whether disclosure of the numbers is mandatory, and what uses will be made of the numbers. The notice is similar to that used in the SFSP last summer but is more detailed. It was the Department's intent that the proposed change also serve to conform the SFSP notice with the notice required in Part 245 of the regulations governing the delivery of free and reduced price meal benefits in the National School Lunch Program (NSLP).

The Department determined that no other changes were necessary for successful implementation of the 1983 SFSP. Therefore, in all other respects, it was proposed that the final SFSP regulations, published on February 16, 1982, (47 FR 6790), remain unchanged for the 1983 SFSP.

Notification Statement

Five (5) commenters supported the addition, in the regulations, of the language required on the application regarding the disclosure of social security numbers.

One commenter requested clarification regarding the slight difference in the language of the SFSP proposed notification statement from the statement required in the National School Lunch Program (NSLP). The Department regrets any confusion that this discrepancy may have caused, and has revised the statement included in this rule to reflect the current NSLP statement.

Collection of Social Security Numbers

Fourteen (14) commenters suggested that the requirement to collect the social security numbers of all adult household members be deleted from the SFSP regulation. The public is reminded that the proposed rule did not solicit comment on the requirement to collect social security numbers as a condition of eligibility because this requirement is imposed by Section 803 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981. Moreover, this legislative requirement was included in the proposed and final SFSP regulations, published on December 11, 1981, (46 FR 60592) and February 16, 1982, (47 FR 6790), respectively, and was implemented during the 1982 SFSP.

One commenter pointed out that the proposed rule made no allowance for adult household members who do not possess social security numbers to indicate this on the application for Program meals. In order to address this concern, the final rule has been amended by including a statement that if an adult household member does not possess a social security number, the application must indicate that such is the case.

Finally, in response to inquiries, the Department wishes to point out that eligibility for free or reduced-price meals in the SFSP is based on the income and family size guidelines for free and reduced-price meals established for the National School Lunch Program.

List of Subjects in 7 CFR Part 225

Food assistance program, Grant programs-health, Infants and children, Reporting requirements.

Accordingly, Part 225 is to be amended as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM

Section 225.21 is amended as follows: by revising the last sentence of current § 225.21(d) and by adding paragraphs (d)(1) and (2) to read as follows:

§ 225.21 Free meal policy.

* * * * *

(d) * * * The application shall include the social security numbers of all adult members of the household or an indication that an adult household member does not possess one.

(1) The application shall also contain the following statement, "Sections 9 and 13 of the National School Lunch Act require that in order for your child to be eligible for Program meals, you must provide the social security numbers of all adult members of your household. Provision of these social security numbers is not mandatory, but failure to provide the numbers will result in a denial of the application for Program meals. This notice must be brought to the attention of all household members whose social security numbers are disclosed. The social security numbers may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application. The verification efforts may be carried out through Program reviews, audits, and investigations, and may include contacting employers to determine income, contacting the State employment security office to determine the amount of benefits received and checking the documentation produced by household members to prove the amount of income received. These efforts may result in loss of benefits, administrative claims, or legal action if incorrect information is reported." State agencies and sponsors shall ensure that the notice complies with Section 7 of Pub. L. 93–579 (Privacy Act of 1974). If a State or local agency plans to use the social security numbers in a manner not described by this notice, the notice shall be altered to include a description of these uses; and (2) the signature of the parent or guardian who has completed the application.

(Sec. 803, Pub. L. 97–35, 95 Stat. 521–535 (42 U.S.C. 1758))

Dated: December 27, 1982.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 82-35499 Filed 12-29-82; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program for Children; Program Reimbursement Rates for 1983

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of adjustments in the Program reimbursement rates to reflect changes in the Consumer Price Index. These adjustments are required by the statutes and regulations governing the Program.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, Director, or Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302, (703) 756–3808.

SUPPLEMENTARY INFORMATION:

Classification: This notice has been reviewed under Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete. This notice has also been reviewed with regard to the requirements of Pub. L. 96–354. Samuel C. Cornelius, Administrator of the Food and Nutrition Service, has certified that this notice does not have a significant economic impact on a substantial number of small entities.

Background: Pursuant to Section 13 of the National School Lunch Act (42 U.S.C. 1761) and the regulations governing the Summer Food Service Program for Children (7 CFR Part 225), notice is hereby given of adjustments in Program payments for meals served to children participating in the Summer Food Service for Children during the 1983 Program. Adjustments are based on changes in the food away from home series of the Consumer Price Index for All Urban Consumers for the period November 1981 through November 1982. The new reimbursement rates are as follows:

Maximum Per Meal Reimbursement Rates for Operating Costs in cents:

Breakfast	78.25
Lunch or Supper	140.50
Supplement	37.00

Maximum Per Meal Reimbursement Rates for Administrative Costs in cents:

a. For meals served at rural or self-preparation sites:

Breakfast	7.25
Lunch or Supper	13.25
Supplement	3.75

b. For meals served at other types of sites:

Breakfast	5.75
Lunch or Supper	11.00
Supplement	2.75

The above reimbursement rates, before being rounded-off to the nearest quarter-cent, represent a 4.78 per cent increase in the payment rates for 1982. This represents the percentage of increase during 1982 (from 297.2 in November 1981 to 311.4 in November 1982) in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

The total amount of payments to State agencies for distribution to Program sponsors shall be based upon these Program reimbursement rates and the number of meals of each type served.

Definitions. The terms used in this Notice shall have the meanings ascribed to them in the regulations governing the Summer Food Service Program for Children (7 CFR Part 225).

(Catalog of Federal Domestic Assistance Programs No. 10.559)

(Section 2, Pub. L. 95–166, 91 Stat. 1325, (42 U.S.C. 1761); Section 5, Pub. L. 95–627, 92 Stat. 3620, (42 U.S.C. 1761); Section 809, Pub. L. 97–35, 95 Stat. 527 (42 U.S.C. 1761))

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

Dated: December 29, 1982.

[FR Doc. 82–129 Filed 1–3–83; 8:45 am]

BILLING CODE 3410-30-M

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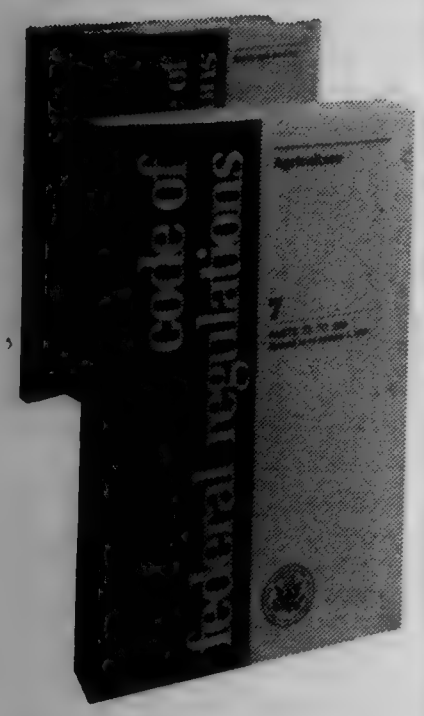

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Announcement

The Administrative Committee of the Federal Register announces a new binding format for the daily Federal Register. The new adhesive binding and mailing cover increase efficiency in the handling and delivery of the Federal Register by the Government Printing Office and the Postal Service. It is done at no additional cost.

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Income Taxes
Internal Revenue Service

Natural Gas
Federal Energy Regulatory Commission

Oil and Gas Reserves
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Federal Register
Vol. 48, No. 3
Wednesday, January 5, 1983

Presidential Documents

Title 3—

The President

Executive Order 12398 of December 31, 1982

President's Private Sector Survey on Cost Control in the Federal Government

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), and in order to increase the membership and extend the life of the President's Private Sector Survey on Cost Control in the Federal Government, it is hereby ordered that Executive Order No. 12369 of June 30, 1982, is amended as follows:

(a) The second sentence of Section 1(a) shall read: "The Committee shall be composed of not more than 170 members appointed by the President from among citizens in private life.".

(b) Section 4(b) shall read: "In accordance with the Federal Advisory Committee Act, as amended, the Committee shall terminate on June 30, 1983, unless sooner extended.".

Ronald Reagan

THE WHITE HOUSE,
December 31, 1982.

[FR Doc. 83-364]
Filed 1-3-83; 4:25 pm]
Billing code 3195-01-M

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Presidential Documents

Executive Order 12399 of December 31, 1982

Continuance of Certain Federal Advisory Committees

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered as follows:

Section 1. Each advisory committee listed below is continued until September 30, 1984.

(a) Committee for the Preservation of the White House; Executive Order No. 11145, as amended (Department of the Interior).

(b) President's Commission on White House Fellowships; Executive Order No. 11183, as amended (Office of Personnel Management).

(c) President's Committee on the National Medal of Science; Executive Order No. 11287, as amended (National Science Foundation).

(d) President's Council on Physical Fitness and Sports; Executive Order No. 12345, as amended (Department of Health and Human Services).

(e) President's Committee on Mental Retardation; Executive Order No. 11776 (Department of Health and Human Services).

(f) President's Export Council; Executive Order No. 12131 (Department of Commerce).

(g) The International Private Enterprise Task Force; Executive Order No. 12395 (Agency for International Development).

(h) Advisory Committee on Small and Minority Business Ownership; Executive Order No. 12190 (Small Business Administration).

(i) Federal Advisory Council on Occupational Safety and Health; Executive Order No. 12196 (Department of Labor).

(j) President's Committee on the International Labor Organization; Executive Order No. 12216 (Department of Labor).

(k) President's Economic Policy Advisory Board; Executive Order No. 12296 (Office of Policy Development).

(l) National Productivity Advisory Committee; Executive Order No. 12332 (Department of the Treasury).

(m) President's Committee on the Arts and the Humanities; Executive Order No. 12367 (National Endowment for the Arts).

Sec. 2. The following advisory committee is continued until December 31, 1983: President's National Security Telecommunications Advisory Committee; Executive Order No. 12382 (Department of Defense).

Sec. 3. Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act which are applicable to the committees listed in Sections 1 and 2 of this Order, except that of reporting annually to the Congress, shall be performed by the head of the department or agency designated after each committee, in accordance with guidelines and procedures established by the Administrator of General Services.

Sec. 4. The following Executive Orders, that established committees which have terminated or whose work is completed, are revoked:

(a) Section 2(d) of Executive Order No. 12039, establishing the Intergovernmental Science, Engineering, and Technology Advisory Panel.

(b) Executive Order No. 12168, establishing the President's Commission for a National Agenda for the Eighties.

(c) Executive Order No. 12202, establishing the Nuclear Safety Oversight Committee.

(d) Executive Order No. 12229, establishing the White House Coal Advisory Council.

(e) Executive Order No. 12303, establishing the Presidential Advisory Committee on Federalism.

(f) Executive Order No. 12308, establishing the Presidential Task Force on the Arts and Humanities.

(g) Executive Order No. 12310, establishing the President's Commission on Housing.

(h) Executive Order No. 12323, establishing the Presidential Commission on Broadcasting to Cuba.

(i) Executive Order No. 12329, establishing the President's Task Force on Private Sector Initiatives.

(j) Executive Order No. 12360, establishing the President's Task Force on Victims of Crime.

(k) Section 1–2 of Executive Order No. 12137, as amended, establishing the Peace Corps Advisory Council.

Sec. 5. Executive Order No. 12258 is superseded.

Sec. 6. This Order shall be effective December 31, 1982.

Ronald Reagan

THE WHITE HOUSE,
December 31, 1982.

[FR Doc. 83-401
Filed 1-4-83; 12:03 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12400 of January 3, 1983

President's Commission on Strategic Forces

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C App. I), an advisory committee on strategic forces, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the President's Commission on Strategic Forces. The Commission shall be composed of no more than 15 members appointed or designated by the President. These members shall have particular knowledge and expertise concerning the national security, strategic forces, or foreign relations of the United States.

(b) The President shall designate a Chairman from among the members of the Commission.

Sec. 2. *Functions.* (a) The Commission shall review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

(b) The Commission shall report to the President by February 18, 1983.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Commission such information as it may require for purposes of carrying out its functions. Information supplied to or developed by the Commission shall not, to the extent permitted by law, be available for public inspection.

(b) Members of the Commission shall serve without compensation for their work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707), to the extent funds are available therefor.

(c) The Secretary of Defense shall provide the Commission with such administrative services, facilities, staff and other support services as may be necessary. Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of Defense.

Sec. 4. *General.* (a) Notwithstanding any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to the Commission, shall be performed by the Secretary of Defense, in accordance with guidelines and procedures established by the Administrator of General Services.

(b) The Commission shall terminate 30 days after its report, unless sooner extended.

Ronald Reagan

THE WHITE HOUSE,
January 3, 1983.

[FR Doc. 83-402
Filed 1-4-83; 12:04 pm]
Billing code 3195-01-M

Editorial Note: The President's statement of January 3 on the formation of the Commission is printed in the *Weekly Compilation of Presidential Documents* (vol. 19, no. 1).

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Presidential Documents

Proclamation 5009 of January 3, 1983

Bicentennial of Air and Space Flight

By the President of the United States of America

A Proclamation

On November 21, 1783, a French balloonist named Etienne de Montgolfier made the first manned flight in history when he soared aloft in a hot air balloon at LaMuette, France. The balloon sailed over Paris for 25 minutes and traveled five and one-half miles.

This epochal flight fulfilled mankind's desire, as old as the myth of Icarus, to become airborne. But it was also something more than the fulfillment of a dream. Montgolfier's achievement was a concrete demonstration of the power of technological know-how when coupled with the yearnings of the human spirit. For the first time, man had freed not only his imagination but his physical self from the forces of gravity. With every advance, our imagination and knowledge have leaped forward—from Montgolfier to the Wright brothers, through the moon walks and the space shuttle.

In the 200 years since that first flight, man's quest to understand the unknown has resulted in our ability to fly higher, faster, safer and farther. We race the sun as we move from continent to continent in a matter of hours. We have vastly multiplied commerce and communication among far-flung peoples. We have flown 250 thousand miles to explore the surface of the moon, and, with this unprecedented triumph of spirit and technology, changed forever our view of the Earth. She is a delicate blue jewel in the darkness of space.

In recognition of 200 years of progress around the globe in manned flight, the Congress, by Senate Joint Resolution 270, has designated the year 1983 as the Bicentennial of Air and Space Flight. I am proud to have been named Honorary Chairman of the United States Organizing Committee, which will plan our participation in activities at home and abroad to commemorate the Bicentennial. I view the celebration as an opportunity to increase public awareness of our Nation's achievements in aviation and space flight and to rededicate ourselves to the spirit of excellence which has brought us so far so fast.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the year beginning January 1, 1983, as the Bicentennial of Air and Space Flight. I call upon all government agencies and the American people to observe this year with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of Jan., in the year of our Lord nineteen hundred and 83, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-403
Filed 1-4-83; 12:05 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 5010 of January 3, 1983

One Hundred and Fiftieth Anniversary of Greene County, Missouri

By the President of the United States of America

A Proclamation

The year 1983 marks the sesquicentennial anniversary of the founding of Greene County, Missouri.

Greene County, named for the Revolutionary War hero General Nathanael Greene, has enjoyed a long and distinguished history. Many of its sons and daughters have held high public office and otherwise served the State of Missouri and our nation.

In 1833, Greene County included all of southwest Missouri and remains today an important cultural and economic center. As the third most populous county in the State of Missouri, it continues to grow and prosper.

The Congress of the United States, by House Joint Resolution 630, has requested and authorized the President of the United States to proclaim January 3, 1983, as the One Hundred and Fiftieth Anniversary of Greene County, Missouri.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim January 3, 1983, as the "One Hundred and Fiftieth Anniversary of Greene County, Missouri."

IN WITNESS WHEREOF, I have hereunto set my hand this third day of January, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-404
Filed 1-4-83; 12:06 pm]
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Rules and Regulations

Federal Register
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Wednesday, January 5, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 82-356]

Citrus Canker—Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the interim rule published in the Federal Register on November 17, 1982, which was based on the finding of citrus canker disease in the State of Colima and in the municipio of Coahuayana in the State of Michoacan in Mexico. The interim rule is amended by reestablishing fruit and peel of lemon and Persian lime as restricted articles and by allowing fruit or peel of ethrog, grapefruit, lemon, orange, Persian lime, and tangerine from areas in Mexico not infected by citrus canker disease to be imported into the United States in accordance with the restrictions set forth in the interim rule of November 17, 1982. The interim rule is further amended by adding restrictions designed to assure that fruit or peel of ethrog, grapefruit, lemon, orange, Persian lime and tangerine are not destined to locations within Arizona, California, Florida, Hawaii, Louisiana, Puerto Rico, Texas, or the Virgin Islands of the United States.

This action is necessary as an emergency measure to establish provisions in accordance with the statutory mandate and to prevent the introduction of citrus canker disease into the United States.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT:

Frank Cooper, Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 637 Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782; 301–436–8248.

Stephen Poe, Plant Pathologist, Emergency Programs, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 609 Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782; 301–436–6365.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without further opportunity for public comment. Immediate action is necessary to establish provisions in accordance with the statutory mandate and to prevent the introduction into the United States of citrus canker disease.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the Federal Register.

Background

On November 17, 1982, the Department, on an emergency basis, established an interim rule (47 FR 51723–51729) based on the recent finding of citrus canker disease in the State of Colima and in the municipio of Coahuayana in the State of Michoacan in Mexico (these areas are referred to below as infected areas).

The interim rule of November 17, 1982, provided that any fruit or peel of Mexican lime (*Citrus aurantifolia*) from any area in Mexico, and any other fruit or peel of citrus or citrus relatives (fruit or peel of any genera, species, or varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae) from infected areas in Mexico offered for importation into the United States would be refused importation unless imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions. This portion of the interim rule of November 17, 1982, remains in effect without change.

The interim rule of November 17, 1982, also designated fruit or peel of ethrog (*Citrus medica*), grapefruit (*Citrus paradisi*), lemon (*Citrus limon*), orange (*Citrus sinensis*), Persian lime (*Citrus latifolia*), and tangerine (*Citrus reticulata*) from uninfected areas in Mexico as restricted articles and provided that they would be allowed to be imported into the United States by any importer if imported in accordance with certain conditions. In addition, the interim rule of November 17, 1982, allowed these articles to be imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions.

A companion document to the interim rule of November 17, 1982, was also published in the Federal Register on November 17, 1982, (47 FR 51764–51765). The companion document proposed to establish as a final rule provisions similar to those set forth in the interim rule. Comments were solicited concerning the proposed rule for a 60 day period which ends January 17, 1983.

The provisions of the interim rule concerning the importation of fruit or peel of lemon and Persian lime were changed by court order. On November 17, 1982, the United States District Court for the Southern District of Florida issued a temporary restraining order concerning the importation of fruit or peel of lemon and lime from Mexico, and on November 19, 1982, the court converted the temporary restraining order into a preliminary injunction. Pursuant to the preliminary injunction, it appears that fruit or peel of lemon or lime have been allowed to be imported by the U.S. Department of Agriculture for experimental or scientific purposes in accordance with certain conditions, but that otherwise, fruit or peel of lemon or lime from Mexico have been prohibited from being imported into the United States pending an Agency decision to be made after a public hearing. *South Florida Growers Association, Inc. et al. v. U.S. Department of Agriculture et al.*, 82–

2462, (S.D. Fla., 1982). A document published in the **Federal Register** on December 2, 1982 (47 FR 54273–54275), announced this rule change as a result of the preliminary injunction.

The court ordered that the preliminary injuction concerning lemons and limes remain in effect until 5 days after the announcement of an Agency decision after a public hearing. On December 6, 1982 the court extended this 5 day period to a 15 day period. Pursuant to notices in the documents of November 17, 1982, and in the document of December 2, 1982, a public hearing was held in San Antonio, Tex. on December 7, 1982. As explained in the document of December 2, 1982, the public hearing, among other things, served as a forum for soliciting comments on the interim rule of November 17, 1982.

This document reestablishes fruit and peel of lemon and Persian lime as restricted articles, and sets forth additional restrictions on the importation of all restricted articles. The provisions of the interim rule of November 17, 1982, allowing such fruit or peel of ethrog, grapefruit, lemon, orange, Persian lime, and tangerine to be imported by the U.S. Department of Agriculture for experimental or scientific purposes remain in effect without change. However, this document provides that otherwise fruit or peel of ethrog, grapefruit, lemon, orange, Persian lime, and tangerine from uninfected areas in Mexico are allowed to be imported into the United States in accordance with the restrictions set forth in the interim rule of November 17, 1982, and in accordance with additional restrictions set forth in this document. As a condition of importation, these articles are required to comply with provisions of the interim rule of November 17, 1982, concerning permits, inspection and phytosanitary certificates of inspection, treatment and other requirements, marking and identity, arrival notification, costs and charges, and ports of entry. These provisions and the rationale for them are set forth in the interim rule document of November 17, 1982. As an additional condition of importation, this document requires these articles to comply with restrictions designed to assure that they are not destined to locations within Arizona, California, Florida, Hawaii, Louisiana, Puerto Rico, Texas, or the Virgin Islands of the United States.

As noted above, any of the articles subject to the provisions of the interim rule are allowed to be imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions. The specific provisions and the rationale for them are set forth in the interim rule document of November 17, 1982.

Basis for Requirements

Citrus canker disease, which does not occur in the United States other than in Guam, is caused by the infectious bacterium *Xanthomonas campestris* pv *citri* (Hasse 1915) Dye 1976. The strain of citrus canker bacteria found to occur in infected areas in Mexico has been found to infect twigs and foliage of Mexican lime trees and Persian lime trees in Mexico. The resulting disease damages the twigs and foliage of the trees.

Further, artificial inoculation tests using the Mexican strain of the pathogen were conducted by USDA scientists in a greenhouse under optimum conditions. These tests resulted in development of citrus canker disease symptoms on leaves of Meyer lemon (*Citrus Meyeri* syn. *Citrus limon* X *Citrus sinensis*) and caused a hypersensitive reaction to citrus canker bacteria on leaves of calamondin (*Citrus reticulata* X *Fortunella* sp.).

The interim rule does not concern twigs or foliage of any citrus or citrus relatives. This is because twigs and foliage of all citrus and citrus relatives from Mexico are already subject to provisions of the "Citrus Canker and Other Citrus Diseases" regulations (7 CFR 319.19). These regulations appear to be adequate to prevent the dissemination of citrus canker disease into the United States by the movement of such twigs and foliage.

As noted above, the interim rule of November 17, 1982, provided that any fruit or peel of Mexican lime from any area in Mexico, and any other fruit or peel of citrus or citrus relatives from infected areas in Mexico offered for importation into the United States would be refused entry into the United States unless imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions. The court orders did not affect this portion of the interim rule of November 17, 1982. After further consideration of all of the available information, including that presented at the public hearing, it has been determined that this portion of the interim rule of November 17, 1982, should remain in effect without change. The basis for this determination is as follows.

The presence of citrus canker disease in infected areas may result in high levels of citrus canker bacteria being spread to fruit growing on infected trees and to fruit on nearby uninfected trees. Based on departmental expertise, it has been determined that fruit of citrus or citrus relatives grown in the infected areas could be contaminated with high levels of citrus canker bacteria, some of which could be trapped in the pores or wounds of the fruit. There does not appear to be a feasible method for inspection or treatment, or other procedures for removing or destroying all of these bacteria. The chlorine treatment required for restricted articles would be adequate to destroy any bacteria on the surface of the fruit, but would not be adequate to destroy bacteria trapped in the pores or wounds of the fruit.

It is unlikely that new citrus canker infections would be established in the United States because of the importation of fruit or peel of citrus or citrus relatives carrying bacteria trapped in the pores or wounds. In order for the bacteria to cause an infection an unlikely sequence of events would have to occur. First, bacteria trapped in the pores or wounds of the fruit would have to be released without coming in contact with any of the natural acid of the fruit, since citrus canker bacteria are quickly killed by contact with the acid. Next, bacteria would have to be brought into intimate contact with young live twigs or leaves of host plants and, in addition, such contact would have to occur under optimum temperature and humidity conditions. However, it has been determined that action should be taken to prevent the introduction of live citrus canker bacteria under circumstances where there is even such an unlikely chance that these bacteria could cause citrus canker disease to become established. Therefore, it is necessary to refuse to allow the importation of all fruit or peel of citrus or citrus relatives, including Mexican lime, from infected areas in Mexico, unless imported by the U.S. Department of Agriculture for experimental or scientific purposes.

Since there are no feasible methods for assuring that Mexican limes offered for importation have not come from infected areas, it is also necessary to refuse to allow the importation of any fruit or peel of any Mexican lime from uninfected areas in Mexico, unless imported by the U.S. Department of Agriculture for experimental or scientific purposes. Approximately sixty percent of the Mexican limes grown in Mexico are grown within the infected areas of Mexico. These Mexican limes are moved and consumed throughout Mexico. As a condition of movement from the infected areas, Mexican limes are required by the Mexican government to be treated by thorough wetting with a

solution containing 200 parts per million active chlorine for a period of at least two minutes. Bacteria present on the surface of the Mexican limes would be destroyed by this treatment. However, some of the citrus canker bacteria could remain trapped in the pores or wounds of the fruit. Consequently, any Mexican limes offered for importation could have live citrus canker bacteria trapped in the pores or wounds, and, as noted above, it has been determined that action should be taken to prevent the introduction of live citrus canker bacteria under circumstances where there is even such an unlikely chance that these bacteria could cause citrus canker disease to become established.

Also, as noted above, the interim rule published on November 17, 1982, provided that fruit or peel of ethrog, grapefruit, lemon, orange, Persian lime, and tangerine from uninfected areas in Mexico would be designated as restricted articles and would be allowed to be imported into the United States by any importer in accordance with certain restrictions. Since the publication of the interim rule of November 17, 1982, further consideration has been given concerning the importation of these articles.

Consideration for restricted article status has been limited to these articles since all other fruit and peel of citrus and citrus relatives are refused importation into the United States because of citrus canker disease (with certain exceptions for importation by the U.S. Department of Agriculture) or are in effect prohibited from being imported under the fruits and vegetables regulations (7 CFR 319.56 *et seq.*).

Based on all of the available information, including that submitted at the public hearing, it has been determined that fruit and peel of ethrog, grapefruit, lemon, orange, Persian lime, and tangerine should be designated as restricted articles and be allowed to be imported into the United States by any importer if such movement is in conformity with all of the restrictions set forth in the interim rule of November 17, 1982, and in conformity with additional restrictions designed to keep the articles from being distributed in citrus producing areas in the United States. The basis for this determination is as follows.

Restricted articles are required to come only from uninfected areas in Mexico. Even so, because of the possibility of natural spread of the bacteria and because of the possibility of spread of the bacteria by the movement of Mexican limes from infected areas, there is a slight risk that fruit or peel of ethrog, grapefruit, lemon, orange, Persian lime, and tangerine from uninfected areas, could become lightly contaminated with surface bacteria. However, the restrictions set forth in the interim rule of November 17, 1982, including the chlorine treatment, appear to be adequate to destroy any surface contamination that could occur on the restricted articles. Accordingly, it appears that these treated articles from uninfected areas would not transmit any live bacteria.

If any new infections were to occur in the areas that are currently uninfected areas, then treated, restricted articles could contain bacteria trapped in the pores or wounds. As discussed above, it has been determined that action should be taken to prevent the introduction of live citrus canker bacteria under circumstances in which there is even the unlikely chance that these bacteria could cause citrus canker to become established. Therefore, as a precautionary measure, geographical restrictions are added as a condition of importation for restricted articles as further explained below.

The disease caused by citrus canker bacteria could be spread by the movement of twigs or leaves from infected trees. However, action is being taken to prevent this from occurring. The Mexican government has established a quarantine which prohibits the movement from the infected areas of any plant material as well as all nursery stock of citrus and citrus relatives.

Also, there is a theoretical risk that new infections could be caused by the natural spread of citrus canker bacteria, or from the movement of treated Mexican limes from infected areas to other areas throughout Mexico.

However, it does not appear that the disease would move by natural spread out of the areas where the disease currently is present. The citrus canker bacteria are moved in nature by wind and splashing rain. Such natural movement is limited to distances of no more than one and one-half miles. The infected areas are not in close enough proximity with other areas where significant amounts of citrus are grown to allow natural spread of the disease.

Further, it does not appear that new infections would be caused by the movement of Mexican limes. Mexican limes are the only citrus or citrus relatives allowed to move out of the infected areas in Mexico. As noted above, Mexican limes are required to be treated with a chlorine treatment prior to movement out of the infected areas. The treatment would be sufficient to destroy surface bacteria but may not kill bacteria trapped in the pores or wounds. It is unlikely that new citrus canker infections would be established in Mexico due to the movement within Mexico or Mexican limes carrying citrus canker bacteria in the pores or wounds because, in accordance with the principles explained above, an unlikely sequence of events would have to occur in Mexico. Bacteria would have to be released without coming into contact with any of the natural acid of the fruit, would have to be brought into contact with young live twigs of host plants, and would have to have such contact under optimum temperature and humidity conditions.

It does not appear that it is necessary to provide additional precautions with respect to restricted articles to assure that they would not be mixed with the same types of peel or fruit grown in the infected areas. Only small amounts of the types of fruit designated as restricted articles are grown in the infected areas. Further, it appears that such restricted articles grown in the infected areas are used in the infected areas. Also, Mexico has established procedures which appear to be adequate to prevent the movement of such restricted articles out of the infected areas.

The Department is continuing to participate with Mexico in conducting surveys designed to detect any new infections that could occur in Mexico outside of the infected areas, and it appears that any new infections would be quickly detected. However, as an additional precaution against the establishment of citrus canker disease caused by bacteria trapped in pores or wounds of restricted articles from possible undetected infections in Mexico, it has been determined that it is necessary to establish procedures designed to prevent restricted articles from being destined to areas in the United States where host plants are grown either commercially or noncommercially in significant amounts. As explained above, certain lemon and lime species have been found to be host plants, and calamondin may be a host plant. Further, additional testing may indicate that plants of other citrus or citrus relatives are hosts. Significant numbers of known host plants are grown either commercially or noncommercially in Arizona, California, Florida, Guam, Hawaii, Louisiana, Puerto Rico, Texas, and the Virgin Islands of the United States. It should also be noted that these States and Territories are the only places in the United States where significant numbers of any types of citrus or citrus relatives

are grown either commercially or noncommercially.

Under these circumstances, it has been determined that it is necessary to amend the interim rule of November 17, 1982, to allow restricted articles to be imported only for movement to and use in a location other than Arizona, California, Florida, Hawaii, Louisiana, Puerto Rico, Texas, and the Virgin Islands of the United States (the rationale for not including Guam is explained below); to require that the restricted articles move from the port of entry in the United States to destination only pursuant to a restricted destination permit issued by an inspector of the U.S. Department of Agriculture; and to require the outer container of the restricted articles to bear the statement "Not to be distributed within Arizona, California, Florida, Hawaii, Louisiana, Puerto Rico, Texas, or the Virgin Islands of the United States." The interim rule is also amended to provide that a restricted destination permit will be issued for the movement of an article only upon the presentation of evidence, such as a U.S. Customs bond, invoice, or other shipping document indicating destination, sufficient to establish that the articles would be shipped to a location in the United States other than a location in the specified States or Territories. Further, a definition of "restricted destination permit" is added to explain that a restricted destination permit is a statement added by a U.S. Department of Agriculture inspector to a shipping document of the importer stating that restricted articles referred to in the shipping document are allowed to be shipped to the destination specified on the shipping document. These provisions appear to be adequate to advise affected persons of the restrictions and to provide a mechanism for assuring that the articles are not shipped to a location in the United States in which significant amounts of any types of citrus or citrus relatives are grown either commercially or noncommercially.

As noted above, the geographical restrictions do not apply to the importation of fruit into Guam. Pursuant to the provisions of the Federal Plant Pest Act and the Plant Quarantine Act there is authority to regulate the importation of fruit and peel of citrus and citrus relatives into Guam. However, Guam is not listed as a jurisdiction subject to the provisions of the interim rule and it is not proposed to regulate the importation of these articles into Guam under the proposed rule. Citrus canker occurs in Guam and the introduction of citrus canker into Guam from Mexico would not cause significant additional damage to crops in Guam. Also, there appears to be adequate protection against the risk of spread of citrus canker disease from Guam into other parts of the United States since the provisions in 7 CFR 318.82-2 in essence prohibit the importation into other parts of the United States from Guam of the classes of articles subject to the provisions of this interim rule.

Under these circumstances, it appears that there is no basis for refusing to allow the importation of the fruit or peel of ethrog, grapefruit, lemon, orange, Persian lime, or tangerine from uninfected areas in Mexico if imported in compliance with the conditions set forth in the interim rule of November 17, 1982, and in accordance with the additional conditions designed to keep the articles from being distributed in uninfected citrus producing areas in the United States as set forth above.

Clarification

This document also makes a clarification with respect to § 319.27-5(a) of the interim rule. Prior to the effective date of this document § 319.27-5(a) provided that:

(a) Any restricted article at the time of importation shall plainly and correctly bear on the outer container (if in a container) or on the restricted article (if not in a container) the following information:

(1) General nature and quantity of the contents,

(2) Country or locality of origin,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee,

(5) Identifying shipper's mark and number,

(6) A letter "C" within the figure of a diamond or a rectangle if the article had been treated in Mexico in accordance with § 319.27-4, and

(7) A statement, such as "origin in a citrus canker free zone," to represent origin outside of the infected areas.

As explained above, these provisions remain in effect and this document also provides that the outer container must bear the statement "Not to be distributed within Arizona, California, Florida, Hawaii, Louisiana, Puerto Rico, Texas, or the Virgin Islands of the United States." Obviously, the information required by § 319.27-5(a) could not be included feasibly on the fruit itself under the provisions of this section. Accordingly, § 319.27-5(a) is amended by deleting the provisions allowing the information to be borne on the fruit.

Comments

Many of the comments presented at the public hearing and other comments that have been received were fully or partially in favor of the provisions of the interim rule of November 17, 1982; however, many of the comments opposed the interim rule in one or more respects and are discussed below.

Assertions were made that restricted articles (some comments referred only to lemons and limes) should not be allowed to be imported into the United States in accordance with the conditions set forth in the interim rule of November 17, 1982, because some Mexican limes are moved from the infected areas to other locations in Mexico and could have bacteria trapped in the pores or wounds of the fruit. This issue and the basis for allowing restricted articles to be imported in accordance with specified restrictions are fully discussed above under the heading "Basis for Requirements."

Many comments were made concerning the imposition of geographical restrictions on the importation into the United States of restricted articles. In this connection:

(1) It was asserted that lemons and Persian limes from uninfected areas should not be allowed to be imported into lemon or lime producing areas of the United States,

(2) It was asserted that lemons and limes from uninfected areas should not be allowed to be imported into any citrus producing areas in the United States,

(3) It was asserted that restricted articles should not be allowed to be imported into citrus producing areas in the United States,

(4) It was asserted that restricted articles should not be allowed to be imported into States east of the Mississippi River,

(5) It was asserted that restricted articles (some comments referred only to lemons and limes) should not be allowed into Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, and Tennessee. These issues are fully discussed above under the heading "Basis for Requirements," and the interim rule is amended to contain provisions to help assure that restricted articles are not destined to locations in Arizona, California, Florida, Hawaii, Louisiana, Puerto Rico, Texas, or the Virgin Islands of the United States. As explained above, this list includes only those States in which significant amounts of citrus or citrus relatives are grown.

It was also asserted that buffer zones should be established around citrus growing areas in the United States and that restricted articles should not be allowed to be shipped to areas in the buffer zones. No changes are made

based on this assertion. As noted above, it is provided that any restricted article may move only pursuant to a restricted destination permit and must bear on the outer container the statement "Not to be distributed within Arizona, California, Florida, Hawaii, Louisiana, Puerto Rico, Texas, or the Virgin Islands of the United States." This appears to provide adequate protection against the distribution of restricted articles in citrus producing areas in the United States and it does not appear that the establishment of buffer zones is necessary.

Assertions were made that restricted articles (some comments referred only to lemons and limes) should not be allowed to be imported into the United States, unless more safeguards were established or until more testing should occur. In this connection:

(1) It was asserted that not enough is known about the disease at this time to make a judgment concerning what measures should be taken to prevent its spread,

(2) It was asserted that the effect of the disease in Mexico should be observed for one full year,

(3) It was asserted that Mexican limes should be prohibited from moving out of the infected areas, and

(4) It was asserted that Mexican limes should be prohibited from moving from the infected areas into the State of Veracruz, the principal Persian lime growing area in Mexico.

No changes are made based on these comments. Based on data from field observations and greenhouse testing, it has been determined that the strain of citrus canker bacteria present in Mexico does not infect any fruit, but only infects twigs or leaves of host plants. Further, as explained above under the heading "Basis for Requirements," it has been determined that the provisions of the interim rule are adequate to allow the importation of restricted articles without causing citrus canker disease to become established in the United States. In addition, it should be noted that based on current field observations it has been determined that the disease has been present in the infected areas for at least two years, and that this factor has been considered in determining the characteristics of the disease.

Assertions were made that it is necessary to prohibit the importation of restricted articles (some comments referred only to lemons and limes) because of damage that could arise if the citrus canker disease from Mexico were to become established in citrus producing areas in the United States. In this connection:

(1) It was asserted that it is unknown what effect this disease would have on citrus or citrus relatives in the United States because of differences between temperature and rainfall levels in the areas in Mexico where citrus canker occurs and the citrus producing areas in the United States,

(2) It was asserted that it is possible that the bacteria causing this disease could mutate and attack the fruit of citrus or citrus relatives or attack additional plants of citrus or citrus relatives,

(3) It was asserted that this disease is a new strain and there has not been adequate field testing to determine what types of citrus or citrus relatives in the United States are susceptible to damage from this disease,

(4) It was asserted that even if this disease were found to cause little damage to citrus or citrus relatives, its establishment in citrus producing areas in the United States could cause confusion and delay in identifying any other strain of citrus canker disease that could become established in these citrus producing areas,

(5) It was asserted that there are no adequate control measures which could be taken if the disease were to become established in citrus growing areas in the United States, and

(6) It was asserted that if the disease were to become established in the lime producing area in Florida (which is the only major commercial lime producing area in the United States) it would totally destroy the lime industry and that this could result in approximately $190 million worth of damage.

No changes are made based on these comments. The Department does not dispute that, for the most part, these assertions would have some validity if this strain of citrus canker were to become established in citrus producing areas in the United States. However, as explained above under the heading "Basis for Requirements," it has been determined that the provisions of the interim rule are adequate to allow the importation of restricted articles without causing the establishment of citrus canker disease in the United States. Also, it should be noted that survey programs are continually being conducted in Florida, and that if the disease were to appear in Florida it would almost certainly be detected and eradicated before it became extensive.

Further, the following should be noted with respect to the issue of mutation. If mutations were to occur and to cause additional plants to become infected or to cause the fruit of any plants to become infected the mutations would almost certainly occur in the infected areas. This would be readily detected as a result of the ongoing research being conducted in the infected areas.

It was asserted that vegetables from infected areas, and fruits not subject to the provisions of the interim rule, including mangoes, from infected areas should be prohibited from being imported into the United States, or at least should be required to be treated as a condition of importation. One commenter also asserted that citrus canker bacteria could be spread from infected areas in Mexico to uninfected areas in Mexico by people, crates, farm equipment, and vehicles. No changes are made based on these comments. The Mexican government prohibits the movement from infected areas of crates, farm equipment, and vehicles used for citrus production in infected areas. Based on departmental expertise, it has been determined that (except for actions concerning citrus or citrus relatives) it is not necessary to require additional restrictions on the movement of persons or articles because of citrus canker disease. Any article or object from the infected areas could be lightly contaminated with citrus canker bacteria. However, the survival time on articles or objects other than citrus fruits would be likely to be very short and, based on departmental expertise, it has been determined that new infections would not be caused by such means.

Assertions were made that restricted articles (some comments referred only to lemons and limes) should not be allowed to be imported into the United States because of a lack of effectiveness of activities being conducted in Mexico. In this connection:

(1) It was asserted that the interim rule was based in part on an agreement between the United States and Mexico in which, among other things, Mexico has agreed to require Mexican limes to be free of leaves, stems, and other debris, and to be treated with a chlorine treatment prior to movement from infected areas; but that Mexican limes are moving out of the infected areas without compliance with these procedures,

(2) It was asserted that Plant Protection and Quarantine (the unit within the United States Department of Agriculture which is assigned to administer the citrus canker program; referred to below as PPQ) and "impartial" monitoring teams should participate in monitoring compliance of the agreement within Mexico,

(3) It was asserted that a PPQ official should be assigned to each Mexican packing house to assure compliance

with the agreement, and that the costs for the PPQ officials should be paid by the packers,

(4) It was asserted that all required treatments should be allowed to be conducted only in the United States under PPQ supervision,

(5) It was asserted that it would be difficult to assure the effectiveness of the treatments since there could be some difficulty in maintaining the chlorine treatments at proper strengths,

(6) It was asserted that Mexico may not have the capability and willingness to exercise controls, particularly to assure that adequate measures are taken during other than working hours and that the Mexican control program would be compromised by bribes, and

(7) It was asserted that Mexico should be required to establish a feasible program to eradicate the disease before any fruit or peel of citrus is allowed to be imported into the United States.

No changes are made based on these assertions. PPQ supervisory personnel regularly visit packing houses in infected areas, border stations on roads leaving these areas, and wholesale markets outside of the infected areas in Mexico, and have found that fruit is being moved in compliance with the agreement referred to in item (1) above, and in compliance with the provisions of the interim rule of November 17, 1982. Further, an employee of PPQ is assigned on a full time basis in the infected areas in Mexico to monitor the treatment of Mexican limes. In addition, it should be noted that the Department is working with Mexico to develop appropriate technology to be used to eradicate this disease from infected areas in Mexico. However, as explained above, there is currently no basis for refusing to allow the importation of restricted articles in accordance with the specified restrictions.

Persons stated at the public hearing that a plant pathologist from a university in Texas while in Colima observed citrus canker disease on citrus other than limes. No changes are made based on these comments. These comments apparently referred to activities of Dr. Mike Davis of Texas A & I University who was not present at the public hearing. However, in a telephone conversation with representatives of the Department and in a confirmation letter, Dr. Davis stated that he had not observed citrus canker disease on any citrus other than limes.

One commenter asserted that there should be a total embargo on all citrus from Mexico until a hearing is held in Florida. The commenter did not raise issues that were not already raised at the public hearing that was held in San Antonio, Texas, on December 7, 1982, and it does not appear that there is a need for holding an additional hearing in Florida. Accordingly, an additional hearing is not scheduled. Also, it should be noted that many of the comments presented at the public hearing were from representatives of various Florida citrus interests.

It was asserted that the public hearing was illegal based on the contention that it did not conform to the provisions of 5 U.S.C. 556 and 557. The hearing was not conducted in accordance with these provisions. These provisions only apply to hearings required by statute to be made "on the record". The Department has authority to regulate the importation of articles because of citrus canker disease under the Federal Plant Pest Act and the Plant Quarantine Act. The November 17, 1982, interim rule was established by the Department, on an emergency basis, pursuant to authority contained in the Federal Plant Pest Act. The Federal Plant Pest Act authorizes Department action on an emergency basis without a public hearing. Further, any public hearings held under the Federal Plant Pest Act or the Plant Quarantine Act are not required to be made "on the record."

It was asserted that the public hearing was illegal based on the contention that the notice that the hearing concerned the interim rule was not proper and timely. As noted above, the public hearing was held on December 7, 1982. The interim rule and the proposed rule which were published in the **Federal Register** on November 17, 1982, announced that the public hearing would concern the proposed rule. The rule change as a result of injunction, which was published on December 2, 1982, announced that the public hearing would also serve as a forum for soliciting comments on the interim rule. The proposed rule and the interim rule concern the same issues, i.e., what provisions should apply concerning the importation of fruit and peel of citrus and citrus relatives from Mexico. Accordingly, notice concerning the relevant issues to be discussed at the hearing was given in the **Federal Register** on November 17, 1982, and given again on December 2, 1982, and it appears that these notices were proper and timely in all respects.

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 with respect to this interim rule. Immediate action is necessary to establish provisions in accordance with the statutory mandate to prevent the introduction into the United States of citrus canker disease.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 7 CFR Part 319

Agricultural commodities, Imports, Plant diseases, Plants (agriculture), Transportation, Citrus canker, Fruit.

PART 319—[AMENDED]

Under the circumstances referred to above, "Subpart—Citrus Canker—Mexico" in 7 CFR Part 319 is amended as follows:

§ 319.27 [Amended]

1. Section 319.27 is amended by deleting "1a" in the heading, by deleting "1a" in both places it occurs in paragraph (b), and by removing footnote 1a.

2. Secton 319.27–1 is amended by adding the following definition in alphabetical order:

* * * * *

§ 319.27–1 [Amended]

Restricted destination permit. A statement added by an inspector to a shipping document of the importer stating that restricted articles referred to in the shipping document are allowed under this Subpart to be shipped to the destination specified on the shipping document.

* * * * *

§ 319.27–5 [Amended]

3. Section 319.27–5(a) is amended by removing "(if in a cantainer) or on the restricted article (if not in a container)"; by removing "and" in paragraph (a) (6), by changing "areas." to "areas, and" in paragraph (a) (7); and by adding a new paragraph (a)(8) to read as follows:

* * * * *

(8) The Statement "Not to be distributed within Arizona, California, Florida, Hawaii, Louisiana, Puerto Rico, Texas, or the Virgin Islands of the United States."

4. A new § 319.27–9 is added to read as follows:

§ 319.27–9 Destination requirements.

Any restricted article may be imported only for movement to and use in locations other than Arizona, California, Florida, Hawaii, Louisiana, Puerto Rico, Texas, or the Virgin Islands of the United States.

5. A new § 319.27–10 is added to read as follows:

§ 319.27–10 Restricted Destination Permits.

Any restricted article may be moved from the port of entry to locations other than Arizona, California, Florida, Hawaii, Louisiana, Puerto Rico, Texas, or the Virgin Islands of the United States only pursuant to a restricted destination permit issued by an inspector. A restricted destination permit will be issued for the movement of a restricted article only upon the presentation of evidence, such as a U.S. Customs bond, an invoice, or other shipping document indicating destination, sufficient to establish that the articles would be shipped to a location in the United States other than a location in the specified States or Territories.

(Secs. 105, 106, and 107; 71 Stat. 32–34; 7 U.S.C. 150dd, 150ee, 150ff; secs. 5, 7, and 9; 37 Stat. 316–18; 7 U.S.C. 159, 160, 162; 7 CFR 2.17, 2.51, and 371.2(c))

Done at Washington, D.C., this 3rd day of January 1983.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83–383 Filed 1–4–83; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 82–810]

Examination Fees

Dated: December 16, 1982

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is amending its regulations concerning payment of costs for examinations of insured institutions to provide explicitly for annual assessments on all insured institutions to cover the indirect costs of examinations. The proposal is intended to conform the regulatory language to long-standing administrative practice and to clarify the method for implementing planned increases in examination fees and annual assessments that should permit the entire cost of examinations to be recovered by 1987.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: David A. Felt, (202–377–6240), Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G St., N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Section 403(b) of the National Housing Act, 12 U.S.C. 1726(b) (1980), the Federal Savings and Loan Insurance Corporation ("FSLIC") is authorized to require insured institutions to pay the costs of examinations necessary for the protection of the FSLIC and the protection of other insured institutions. Section 563.17–1(a) of the Board's Regulations for the FSLIC (12 CFR 563.17–(a)) makes it clear that the cost of examinations includes overhead and other indirect costs as computed by the FSLIC.

In order to recover some of the indirect costs of examinations, the Board for some time has imposed an annual assessment on all insured institutions whether or not a given institution was examined during the year. The assessments were in addition to charges for examiner time levied when institutions were actually examined. In an effort to conform the language of the Board's regulations to long-standing administrative practice, the Board, by Resolution No. 82–706, dated October 27, 1982 (47 FR 49663 (1982)), proposed an amendment to its regulations to provide explicitly for such annual assessments, which, in practice, are levied against gross assets.

In Resolution No. 82–706, aside from proposing the formal regulatory amendment, the Board also announced the intention of the FSLIC to increase both direct examination fees and annual assessments incrementally to ensure the full recovery of examination costs, direct and indirect, by 1987. Under current practice, only about half these costs are met. The announcement included a schedule which set out staff estimates of the yearly increases contemplated.

Summary of Comments

The Board received a total of 32 comment letters from 11 federally chartered associations, 10 other FSLIC-insured institutions, 4 trade organizations, and 7 agencies of state governments. Twelve of the commenters opposed the regulatory amendment, most of them suggesting that the annual assessment be eliminated or restructured. Four of the commenters favored the amendment and the remaining 16 commenters did not address it. The letters generally were critical of both the amount and the timing of the estimated increases in examination fees and assessments. Concerning the Board's intention to have the cost of examinations paid entirely through fees and assessments, 13 of the commenters approved, although all but one of them suggested various means to modify the method of assessment or to reduce the total cost of examinations. Eight commenters expressed no opinion, but discussed other aspects of the Board's Resolution. Eleven commenters opposed the contemplated increases in fees and assessments.

Annual Assessment

Two categories of comments critical of the annual assessment were received. One group of commenters recommended that in states where state banking authorities shared the examination responsibilities with the Board's examiners, a lesser assessment should be charged state-chartered institutions because lower overhead costs are incurred by the board in connection with those institutions. The other group suggested that the assessment schedule unfairly benefits small or unsound institutions to the detriment of large or healthy insured institutions.

In the Board's view, the overhead costs of examinations are not reduced by the participation of state authorities. The same amount of data and reports must be processed, reviewed, analyzed, and stored for state and federal institutions. Participation of state authorities results in a reduction only of direct costs, a reduction reflected in lower direct examination fees.

The other group of comments advanced the theory that the assessment method caused large institutions and sound institutions to pay an inordinately high proportion of the cost of examinations. The suggestion was made that, because small institutions take more time to examine relative to their total assets, those institutions should pay assessments at a higher percentage of assets. Alternatively, it was suggested that the annual assessment be eliminated and all costs be recouped from direct fees. With regard to weak or failing institutions, arguments were advanced that such institutions consume a greater proportionate share of examiner time than healthy institutions and should pay

a larger proportionate share of overhead costs.

The Board finds no merit in such arguments. Large institutions require the storage, processing, and analysis of more voluminous data than small institutions. Supervisory time (an overhead cost) is greater in reviewing examinations of large institutions. However, directly charged examiner time is not significantly greater for large institutions. Overhead costs are not related to examiner time billed to each institution. Incorporation of overhead costs into a direct charge would burden small institutions with costs disproportionate to FSLIC expenses related to their examination and supervision. The Board has also found no significant increase in overhead costs for weak or failing institutions.

The Board does not believe that the interests of the FLSIC would be advanced by changing the long-established method by which the costs of examinations are charged. On the basis of the foregoing, the Board has decided to adopt the changes to § 563.171(a) as proposed.

Increases in Fees and Assessments

Most comments regarded the estimated increases in charges as excessive. Many commenters believed that charges should not be raised at a time when the industry has been experiencing great financial difficulties. Others complained about perceived inefficiencies of the examination process, including poor utilization of time by examiners, and suggested no increases in rates until the examination process is improved.

With respect to objections to the timing or amount of the increases, all costs of examinations currently are paid by insured institutions either through fees and assessments or by transfers from the insurance fund. If the estimated increases in fees and assessments were not implemented, it would be necessary to increase insurance premiums. The Board believes that paying the cost of examinations through the proposed fees and assessments is a fairer and more accurate method of distributing costs of examinations than raising insurance premiums.

Three institutions were of the impression that the estimated increases in charges represented projected increases in FSLIC costs. This is not the case. Examination fees and assessments have not been increased since 1972. Even in 1972, charges did not recover the full cost of examinations. The Board has attempted to cushion the impact of the overall increase by phasing it in over a five-year period.

Fees and Assessments—Types of Costs Included

Two state government agencies and one trade group incorrectly assumed that directly charged fees for examiner time would not include travel, per diem charges, or fringe benefits of examiners. The Board intends to include all such costs in the daily rate by 1987.

One state government agency commented that examiners' time for processing merger or branching applications should be charged directly to the applicant. Examiners ordinarily do not process merger or branching applications. Should examiner time be required for this type of work, the applicant would be charged.

Charging the Same Rate for All Examiners

Two institutions commented that the Board should not charge the same daily rate for all personnel working on examinations. From past experience, the Board is of the view that charging different rates based upon salary levels or experience would create more inequities than it would resolve because institutions would have no control over the rates paid for examiners sent to them. The task that institutions face in budgeting examination costs would be further complicated and examination overhead costs would be increased.

Eliminate Regulatory Burdens

One trade association and one institution urged that the Board decrease examination costs by decreasing regulatory review and requirements in the areas of consumer protection, discrimination, and civil rights. While these comments were not within the scope of the proposal under review, the Board takes this opportunity to emphasize its commitment to enforcement of its fair-lending responsibilities through appropriate, cost-effecitve examination procedures.

Review of Examination Costs by the Board

One commenter suggested that the Board combine the increase in charges with an annual accounting and review of the costs of examinations and refund any excess payments *pro rata*. The Board does, however, carefully review costs of all operations, including each examination field office, on an annual basis and maintains detailed records of examination costs. Costs of examinations are budgeted carefully and any excess payments collected are applied to the following year's expenses to reduce that year's budget.

Final Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 13, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objective and legal basis underlying the proposed rule.* These elements are incorporated above in the supplementary information regarding the regulation and in Board Resolution 82-706, which proposed the regulation.

2. *Small entities to which the proposed rule would apply.* The rule would apply equally to all institutions insured by the FSLIC.

3. *Overlapping or conflicting Federal rules.* There are no known Federal rules that may duplicate, overlap, or conflict with the proposal.

4. *Alternative to the proposed rule.* The proposal would not have a disproportionate impact on small institutions. Alternative payment methods would defray a larger portion of the cost of examinations through fees based upon hours of examiner time directly used in each examination. Those alternatives would, however, all place a greater proportionate share of the cost on small institutions than does the adopted regulation.

Because the Board views this amendment as a technical change that would have no substantive effect on regulatory requirements, and because there is a present need for clarification in order to provide for timely implementation of the 1983 examination fee schedule, the Board finds that the full delay of the effective date of the amendment for 30 days after publication pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary.

List of Subjects in 12 CFR Part 563

Savings and Loan Associations.

Accordingly, the Board hereby amends Part 563 of Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Amend § 563.17-1 by revising paragraph (a) as follows:

§ 563.17-1 Examinations and audits; appraisals; establishment and maintenance of records.

(a) *Examinations and audits.* (1) Each insured institution and affiliate thereof shall be examined periodically, and may be examined at any time, by the Corporation, with appraisals when deemed advisable, in accordance with

general policies from time to time established by the Board. The costs, as computed by the Corporation, of any examinations made by it, including office analysis, overhead, per diem, travel expense, other supervision by the Board, and other indirect costs, shall be paid by the institutions examined, except that in the case of service corporations of Federal savings and loan associations the cost of examinations, as determined by the Corporation, shall be paid by the service corporations. Payments shall be made in accordance with a schedule of annual assessments based upon each institution's total assets and of rates for examiner time in amounts determined by the Corporation.

* * * * *

(Secs. 401–405, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-178 Filed 1-4-83; 8:45 am]

BILLING CODE 6720-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 133

Display of Office of Management and Budget (OMB) Control Numbers for Reporting and Recordkeeping Requirements

AGENCY: Small Business Administration.

ACTION: Addition of Part 133.

SUMMARY: The Small Business Administration is amending its regulations to indicate Office of Management and Budget (OMB) approval of information collection requirements contained in or authorized by the regulations. This action is required by the Paperwork Reduction Act of 1980.

EFFECTIVE DATE: December 29, 1982.

FOR FURTHER INFORMATION CONTACT: Elizabeth M. Zaic, Chief, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, N.W., Washington, D. C. 20416. Telephone No. (202) 653–8538.

SUPPLEMENTAL INFORMATION: This amendment is administrative in nature and is intended to comply with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3512) that agencies display a current OMB control number assigned by the Director, OMB on each agency information collection requirement. This subpart collects and displays current OMB control numbers and expiration dates. Where the information collection requirement exists as a document separate from the regulations, the Small Business Administration will also display the current OMB number on the document. Because this is a nonsubstative amendment dealing with procedural matters, it is not subject to the provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.) requiring advance notice and comment.

List of Subjects in 13 CFR Part 133

OMB control numbers assigned, Reporting and recordkeeping requirements.

Accordingly, it is effective on December 29, 1982 and 13 CFR Chapter I is amended by adding Part 133 consisting of § 133.1 to read as follows:

PART 133—INDEX TO APPROVED SBA REPORTING AND RECORDKEEPING REQUIREMENTS

Sec.

133.1 Control numbers assigned by OMB under the Paperwork Reduction Act.

§ 133.1 Control numbers assigned by OMB under the Paperwork Reduction Act.

(a) **Purpose.** This part collects and displays the control numbers and expiration dates assigned to the SBA reporting and recordkeeping requirements that have been approved by the Office of Management and Budget (OMB) according to the Paperwork Reduction Act. SBA intends that this part comply with the requirements of Section 3512 of that Act to display a current control number assigned by the Director, OMB on each approved reporting and recordkeeping requirement. This part contains current OMB control numbers, expiration dates, regulatory cross-references, and, where applicable, form numbers. Where the reporting and recordkeeping requirements exist as documents separate from SBA regulations, they will also display the current OMB approval numbers.

(b) Index to OMB-approved Reporting and Recordkeeping Requirements.

Current OMB control No.	Information collection requirement	13 CFR Part or section where identified and described	Expiration date
3245–0001	SBA 707	112.9	6-30-83
3245–0005	SBA 745	125.8	4-30-85
	SBA 745A	125.8	4-30-85
3245–0007	SBA 912	115.5	5-31-85
	SBA 990	115.5	5-31-85
	SBA 994	115.5	5-31-85
	SBA 994B	115.5	5-31-85
	SBA 994F	115.5	5-31-85
	SBA 994H	115.5	5-31-85
	SBA 994J	115.5	5-31-85
3245–0009	SBA 480	107.301	3-31-84
3245–0012	SBA 770	123.9	7-31-84
3245–0013	SBA 74	125.5	5-31-83
	SBA 74A	125.5	5-31-83
	SBA 74B	125.5	5-31-83
	SBA 185	125.5	5-31-83
3245–0015	SBA 1010A	124	5-31-83
	SBA 1010B	124	5-31-83
	SBA 1010C	124	5-31-83
	SBA 1010D	124	5-31-83
	SBA 1010E	124	5-31-83
	SBA 1010I	124	5-31-83
3245–0016	SBA 4	122.306	5-31-83
	SBA 4I	122.306	5-31-83
3245–0017	SBA 5	123	5-31-84
	SBA 413	123	5-31-84
	SBA 720A	123	5-31-84
3245–0018	SBA 9C	120.1	5-31-83
	SBA 730	123.5	5-31-84
	SBA 143	123.9	5-31-84
3245–0019	SBA 1000	101.2–7	11-30-84
	SBA 903	101.2–7	11-30-84
	SBA 1107	101.2–7	11-30-84
	SBA 1100	101.2–7	11-30-84
3245–0020	SBA 1195	111.5	5-30-85
	SBA 1195A	111.5	5-30-85
3245–0023	SBA 2006	101.2–6	5-30-85
3245–0024	SBA 1167	125.10	5-31-83
	SBA 1167A	125.10	5-31-83
3245–0046	SBA 1174	101.2–7	5-30-83
3245–0053	SBA 24	101.2–7	12-31-82
3245–0062	SBA 418	107.102	5-31-83
	SBA 418A	107.102	5-31-83
	SBA 418B	107.102	5-31-83
3245–0063	SBA 468	107.1102	5-31-83
	SBA 468, Pts. 1, 2, 3	107.1102	5-31-83
3245–0066	SBA 1281	113.15	5-31-83
3245–0070	SBA 15	101.2–7	11-30-83
3245–0071	SBA 1244	108.503	3-31-84
3245–0072	SBA 22	101.2–7	11-30-83
3245–0073	SBA 1846	108.503	3-31-84
3245–0074	SBA 1253	108.503	1-31-84

Current OMB control No.	Information collection requirement	13 CFR Part or section where identified and described	Expiration Date
	SBA 1256A	108.503	1-31-84
	SBA 1253B	108.503	1-31-84
3245-0075	SBA 20	101.2-7	3-31-84
3245-0076	Non-Discriminatory Requirements	112.9, 113.5	4-30-85
3245-0077	Reporting & Recordkeeping Requirements on Non-Bank Lenders.	120.5 and 120.6	5-30-84
3245-0078	Small Business Investment Company Records and Reports.	107.1102	4-30-84
3245-0079	SBA 419	125.4	5-30-84
3245-0080	SBA 1081	120.4	3-31-84
3245-0081	Funds to Licensee	107.201	5-30-84
	SBA 1022	106.201	5-30-84
	SBA 1022A	107.201	5-30-84
3245-0083	Amendments to License	107.1105	7-31-84
	SBA 415C	107.1105	7-31-84
3245-0084	SBA 700	123	8-31-84
[illegible]	SBDC Impact Study	Pub. L. 96-302	3-31-83
3245-0090	SBA 59	101.2-7	5-30-84
3245-0091	SBA 641	101.2-7	11-30-84
3245-0095	SBA 1175		11-30-84
3245-0096	SBA 883	Presidential Proclamation Designating Small Business Week.	12-31-83

(44 U.S.C. 3512)

Dated: December 29, 1982.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-141 Filed 1-4-83; 8:45 am]

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CIVIL AERONAUTICS BOARD

14 CFR Part 326

[Procedural Reg. Enactment of Part 326, Docket 40916; Reg. PR-253]

Procedures for Bumping Subsidized Air Carriers From Eligible Points

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Civil Aeronautics Board (CAB) adopts procedures under which an airline serving a community with subsidy may be replaced by another airline offering to provide better service or offering to provide service at a lower subsidy cost. The Small Community Air Service section of the Federal Aviation Act provides for this sort of replacement as of January 1, 1983, and these procedures are needed to implement the statute.

DATES: Adopted: December 22, 1982. Effective: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: William Boyd, Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5408; or David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

Introduction

By PDR-81, 47 FR 37914, August 27, 1982, as corrected by 47 FR 43986, October 5, 1982, the Board proposed procedures under which an airline serving a small community with subsidy could be replaced by another carrier offering to provide better service or essential service with less subsidy. This would implement sections 491 (a)(11) and (b)(8) of the Federal Aviation Act (the Act), which provide for this sort of replacement. These sections are commonly known as the "bumping provisions."

As proposed, a bumping proceeding would be initiated by the filing of a bumping application. Any person could file an answer to the application. The incumbent carrier's answer could include a counter-proposal offering to match or better the applicant's proposed service pattern or subsidy request. After receiving the pleadings, an investigation of the applicant's operation would be made to make sure that it is able to provide the essential service in a reliable manner and a rate conference would be held to evaluate the subsidy request. The case would usually be processed by show-cause procedures although a procedure for holding oral evidentiary hearings was also proposed.

PDR-81 also proposed standards that the Board would use in deciding bumping cases. It incorporated the standards of section 419 of the Act as well as other criteria that the Board has used in carrier selection cases. It proposed $50,000 or 10 percent of the incumbent carrier's subsidy rate, whichever is greater, as the minimum subsidy decrease that would usually have to be proposed by the applicant to justify bumping the incumbent.

General Comments

The proposal was met by a generally favorable reaction. The Mississippi Aeronautics Commission termed it satisfactory, the Illinois Department of Transportation found it generally sound, the Metropolitan Airport Commission in Minnesota supported it and the Michigan Aeronautics Commission concurred in most of its contents. Ponca City, Oklahoma, said that it "appreciated the care that the Civil Aeronautics Board is taking in its proposed rulemaking." American Samoa stated that it was encouraged by the proposal's general tone.

The only general objection was raised by Northwest Airlines. Although Northwest characterized the proposed procedures as acceptable, it attacked the 406 subsidy program. At the time PDR-81 was issued, carriers subject to bumping were receiving their subsidy under either section 406 (49 U.S.C. 1376) or section 419 (49 U.S.C. 1389) of the Act. Section 406 was enacted in 1938 in the original Civil Aeronautics Act. It was directed toward developing a national air transportation system although, more recently, it has been viewed as a means of ensuring small community air service. Section 419 was enacted in 1978 as part of the Airline Deregulation Act (Pub. L. 95-504), and is directed toward ensuring air service at small communities.

Northwest attacked section 406 on the grounds that it does not ensure continued service at small communities. It stated that subsidized carriers have used the funds received under section 406 to buy larger aircraft, rather than aircraft more suited to service at small communities. It was particularly concerned that Republic, one of its major domestic competitors and the nation's seventh largest airline, had received a subsidy of 38 million dollars last year.

The Board has long shared Northwest's views about the inefficiencies of section 406 subsidy. For example, on March 3, 1981, the Board's Chairman told a Subcommittee of the Senate Committee on Appropriations that the "CAB believes that early termination of the section 406 program as proposed by the President and the administration is a sound proposal and we support it."

In the recent budget resolution, Congress provided that notwithstanding any other provision of law, no appropriated funds shall be expended for section 406 subsidy for services provided after September 30, 1982, Pub. L. 97-276, October 2, 1982. This has the effect of terminating section 406 subsidy.

At the same time, however, Congress created a special program with a 13.5 million dollar ceiling to continue to pay subsidy to carriers that had formerly received section 406 money. It therefore appears that the issue of 406-type payments has been settled by Congress, at least until next October.

Two-Year Grace Period

The Act provides that no carrier may file a bumping application until January 1, 1983. In the case of incumbent carriers receiving their subsidy under section 419, the Act further provides for a 2-year grace period. It reads:

> After January 1, 1983, any air carrier may file an application with the Board seeking to have the compensation provided under this section to the air carrier then serving an eligible point, and which has been serving such eligible point for at least two years preceding the date on which such application is filed, terminated in order to allow the applicant air carrier to provide essential air transportation to such eligible point for compensation under this section.

In the proposal (§ 326.3(c)), the Board read this provision to mean that the 2-year grace period begins when the carrier commences service at the point involved. Alaska Airlines, however, argued that the Board should use its "interpretative authority" rather than following "the literal wording of the statute" and read this provision as allowing the grace period to start when the carrier begins receiving 419 payments. Alaska considered it unfair that carriers such as itself, which have been receiving 406 subsidy, would be immediately subject to bumping even if they converted to section 419 subsidy, while carriers serving a point for the first time under section 419 would have the benefit of the grace period. This result, it contended, was inconsistent with the Congressional intent that the experience of a carrier in providing service to a point be a selection factor, and would cause uncertainty at the communities involved. For similar reasons, the North Dakota State Aeronautics Commission favored a 4-year grace period for carriers being subsidized under section 419, and the State of Alaska asked that the service provided under a subcontract agreement not be counted as part of the grace period if the carrier should later become the primary subsidized carrier on that route.

In the Board's view, the statute is unambiguous in this respect and it is therefore unnecessary to look beyond the plain words to discern Congressional intent. The Act refers to a carrier that "has been serving such eligible point for at least two years." It does not limit that to service with subsidy or to non-subcontract service. Nor does it authorize the Board to extend the grace period. In any event, the commenters have not cited any Congressional report that indicates that the Board should read this provision differently from the proposal.

Concerns about disruption to the community are misplaced here. Section 326.3 merely states when a carrier may file a bumping application, not when it will be granted. The basis for granting an application is governed by § 326.7. Paragraph (d)(7) of that section addresses this potential problem. It states that in deciding a bumping case, the Board will consider the amount of time that the incumbent carrier was on the subsidy rate being challenged. Thus, a bumping applicant that filed soon after the incumbent had been placed on a new or revised section 419 subsidy rate would have to overcome a heavier burden to have its application granted. The Regional Airline Association specifically commented in favor of this provision.

Bumping Applications

Section 326.3 of the rule sets forth the information that must be included in a bumping application. It requires identifying, fitness, service, and subsidy information. Republic and Big Sky Airlines asked that additional information be required.

Big Sky was concerned about an applicant that merely sought to terminate the incumbent carrier's subsidy without requesting any subsidy to serve the point itself. These are considered bumping applications under the rule. Sections 326.2(b) and 326.3(a) have been revised to make this clear. Big Sky stated that these applications should include forecast income and traffic statements to ensure that the claim that there is no need for subsidy is legitimate.

Republic was concerned that the service and subsidy projections in a bumping application would be based on the assumption that the incumbent carrier would stop serving the point if it lost the case. Republic argued that this would not necessarily occur and, if it did not, the projections of the applicant would be affected. It suggested that applicants should be required to indicate what they would do if the incumbent continued its service. It also asked that applicants include information on fares, yield, schedules and the other issues in § 326.7, *Standards for decision.*

It is not the Board's intention to use the application requirements in § 326.3(c) to effectively bar bumping applications. The purpose of that provision is to obtain the information necessary to process the case. If more information is needed in a particular case, it can be obtained by the Board under § 326.6(a)(2) of this rule or section 407 of the Act. One situation where the Board might request more information is where it appears that the incumbent carrier will stay even if it loses the subsidy.

It does not seem necessary to require an applicant to address the issues raised in § 326.7. An applicant is not, however, prohibited from doing so. Indeed, one of the reasons for listing the Board's decisional criteria in § 326.7 was to give applicants some idea of the issues to be addressed. It is therefore in the applicant's interests to address these issues, but not required of it.

We do, however, see merit in Big Sky's comment. The Board does not want the procedures adopted here to be used by a carrier to wedge its way into a market with a no-subsidy proposal, only to request a subsidy later. Section 326.3(c)(5) has been revised to help prevent this. Applicants will have to provide the information required by § 204.6(c)(2) and (3) of the Board's fitness rule even if they are not requesting a subsidy for themselves. This will help the Board to determine whether the no-subsidy proposal should be given credence.

Answers and Replies

Section 326.4 provides for answers to bumping applicants, and for replies to those answers. Answers must be filed within 30 days and replies within 15 days. The incumbent carrier, in its answer, may attach the bumping application or the capability of the applicant to provide the service it proposes, or file a counterproposal. At the request of the Regional Airline Association, paragraph (c) of § 326.4 has been revised to make clear that the incumbent carrier may both attach the application and submit a counterproposal. It does not have to choose between those two approaches.

The California Department of Transportation and Big Sky Airlines asked that the answer and reply periods be lengthened. The Board has decided not to make changes in these time periods, but to deal with the need for more time on a case-by-case basis. In other cases, the Board has generally taken a liberal view toward granting more time where good cause is shown. Authority has already been delegated to officials of the Board's Bureau of Domestic Aviation to give interested

persons additional time to submit their views (§§ 385.14(a) and 385.14a(d)).

Service of Documents

Section 326.5 lists the persons upon whom the applications, answers, and replies must be served. The State of Oregon asked that copies of the application be filed with the mayor and appropriate State agency. This is already required by paragraphs (a)(1) and (a)(2) of § 326.5. American Samoa sought assurances that the reference to State agency in paragraph (a)(2) includes agencies of U.S. territories. A change has been made in this paragraph to clarify that issue.

American Samoa, the Regional Airline Association (RAA), and the California DOT raised the issue of the confidentiality of the document submitted. The RAA stated that other carriers should not have access to the bumping application until they file their answers. It favored merely notifying them that an application had been filed as is now done in essential service carrier selection cases. In this way the applicant would not be giving every other carrier a target to shoot at. California and American Samoa also favored some confidentiality provisions. American Samoa, however, felt that the community should have access to all the data submitted so that it could evaluate the capabilities, particularly the financial capabilities, of the applicant.

The Board does not consider it necessary to include any confidentiality provisions in this rule. Information in previous essential service cases has been routinely made available at the end of the application period, without any noticeable harm to the community or carriers involved. Bumping cases are different, of course, because there is no specified application period. As a result, an application would become available as soon as it was received. The Board is not persuaded that it should withhold this information in order to avoid giving the incumbent carrier a target to shoot at. Indeed, due process and procedural fairness to the incumbent seem to require that. As other commenters have noted, the incumbent may have made a substantial investment in service to the community. It seems only fair that it have the chance to show that it can meet the applicant's service or subsidy proposal, or that those proposals are unrealistic. It can only do this if it has access to the bumping application. Denying access to other carriers would tend to undermine the competitive aspects of the bumping provisions and might result in a denial of due process.

Information on an applicant's financial capabilities may present some problems. It is directed primarily toward the applicant's fitness rather than toward the service it will provide or the subsidy it will need. As such, it may not even have to be submitted in a bumping proceeding if the applicant has already been found fit. See § 326.3(d)(4)(i). If the applicant submits this information and considers confidential treatment of it to be necessary, it may request such treatment under § 302.39 of the Board's rules. Communities and carriers, in turn, may request access to that information under Part 310 of the Board's rules.

Conferences and Hearings

After the application and responses have been filed, the Board may request additional information, hold rate conferences with the airlines involved, hold a conference with the community, set the matter for a trial-type hearing, or issue a show-cause order with a tentative decision. See § 326.6. Several commenters asked that conferences with the community or formal hearings be mandatory rather than at the discretion of the Board.

With respect to community conferences, Oregon stated that they were necessary to deal with the complexity and individual circumstances of an essential service case. It had found these conferences to be "very worthwhile and a positive step in the EAS process." The Local Airline Service Action Committee (LASAC) considered community conferences to be necessary to examine the applicant with respect to its "proposed service and its ability to provide such service."

The Board recognizes the value of informal conferences with communities and will try to hold them whenever possible. Unfortunately, given budgetary constraints, it will not always be possible for the Board or its staff to travel to distant communities. See S. Rep. No. 97–546, 97th Cong., 2d Sess. 29 (1982). Community officials are of course welcome to come to Washington to discuss their situation with Board officials. They may also request that the bumping applicant appear at their community for discussions and evaluation. Although there is no requirement in this rule that the applicant appear, clearly one that refused a reasonable request to do so would be running a risk of a negative community response.

With respect to oral evidentiary hearings, it was suggested that they be held when a majority of the interested parties request them (Mississippi), when any of the interested parties request them (North Dakota), when the community requests them (Minnesota), or when "material facts are in dispute which could affect the outcome of the Board's decision" (Metropolitan Airports Commission). Michigan stated that a full evidentiary hearing is the only way to protect the economic interests of the community. California favored a flexible approach to this issue.

Republic presented a more detailed analysis. It argued that the statutory language giving the incumbent carrier the right to request a hearing granted the incumbent an unconditional right to an oral hearing. It noted that revocation of authority as opposed to refusal to grant it in the first instance has generally been considered more serious and given rise to a right to a hearing on due process grounds. It stated that where Congress did not want to require hearings in the Act it stated so specifically, citing section 401(p). Republic considered an oral hearing to be consistent with the directive in the Conference Report to "meticulously evaluate" bumping applications. It did not consider this overriden by the additional directive in that report to handle these applications "expeditiously." In Republic's view, these could be reconciled by expediting the oral hearing. *Marine Space Enclosures, Inc.* v. *Federal Maritime Commission*, 420 F.2d 577 (D.C. Cir. 1969). Republic further contended that the cases the Board had relied on in PDR–81 to support its discretionary approach involved rulemaking rather than adjudication, or different statutory language.

The Board is not persuaded that it is prohibited from using show-cause procedures from bumping cases. This sort of hearing will still allow for a full ventilation of the issues. We are therefore adopting the flexible approach toward hearings that was proposed and supported by some of the commenters. Communities will have an ample opportunity to question the applicant in their answers to the application and show-cause order, and to examine the applicant in community meetings. Similar procedures have been used in other essential air service cases. Likewise, the incumbent carrier will have the opportunity to protect its interests during the answer and response period, and will have the option of requesting an oral evidentiary hearing where necessary to resolve material facts in the case.

The Board does not agree that the language in the bumping provisions of the Act require oral hearings. It has long been held that "hearing on the record" is the language that is used when an oral evidentiary hearing is to be required, *United States* v. *Florida East Coast Ry. Co.*, 410 U.S. 224 (1972) and that

agencies have discretion to use non-oral procedures in contested cases. *Eastern Air Lines* v. *CAB*, 185 F.2d 426 (D.C. Cir 1950), *Yellow Forwarding Co.* v. *ICC*, 369 F. Supp. 1040, 1048 (D. Kan. 1973). Where Congress wanted to specify this type of hearing in the Act, it used specific language. See section 401(g)(1). In other cases, the Board should be free to fashion its own rules of procedure. *Vermont Yankee Nuclear Power Corp.* v. *National Resources Defense Council*, 435 U.S. 519 (1978).

It does not follow from the section 419(a)(11)(A) hearing language that the incumbent carrier has the right to demand a specific type of hearing such as an oral evidentiary hearing. What type of hearing is called for depends on the facts and issues in each case. *See Marine Space Enclosure, Inc.* v. *FMC*, 420 F.2d at 589, ft. 36. Where there are significant decisional facts in dispute that can best be resolved in an oral evidentiary hearing, the Board will adopt that approach. But in most instances, the issues in a bumping case are likely to be questions of how to interpret or apply a given set of facts. There is no reason why such questions ordinarily cannot be resolved on the basis of pleadings and a written record. In such cases, the community and incumbent can make their views known by filing written pleadings.

As discussed in PDR–61, the Board's approach toward the hearing question is consistent with courts' treatment of the subject. Although the case primarily relied on there involved rulemaking, courts have taken a similar approach to the hearing question in cases involving adjudication and the revocation of authority. See *Gallagher & Ascher Co.* v. *Simon, 51 LW 2177 (7th Cir. 1982)*, 3 Davis, *Administrative Law Treatise*, § 14.3 (2nd Ed. 1980).

Decisional Criteria

General

Section 326.7 lists the factors that the Board will consider in deciding a bumping case. These reflect the criteria established by section 419 of the Act as well as others that the Board has considered in initial essential service carrier selection cases.

The two basic criteria on which a decision will rest are the service and subsidy levels proposed. An incumbent carrier receiving subsidy under section 406 cannot be bumped unless the applicant shows that it can provide substantially improved service at a substantially decreased subsidy level. An incumbent carrier receiving subsidy under section 419 can be bumped if the applicant shows that it can provide substantially improved service with no increase in subsidy or that it can provide the essential service at a substantially decreased subsidy level.

Northwest advocated adopting the lesser standard applicable to 419 incumbents for 406 incumbents as well. It stated that 406 subsidy is wasteful and that there is no reason for the stiffer test for section 406 incumbents.

These tests, however, are mandated by section 419(a)(11)(A) of the Act. They were reconsidered again in the recent appropriations legislation. Congress determined that carriers that had been receiving subsidy under section 406 should continue to have the benefit of the stricter standard of section 419(a)(11)(A). Pub. L. 97–276, section 128 (last proviso). The Board considers itself bound by that decision.

Big Sky urged the Board to place upon the applicant the burden of proving that its proposal meets the standards of improved subsidy or service. It suggested that the standard of proof be "clear and convincing evidence."

The rule, as proposed, already places the burden of proof on the applicant, but without a specific standard. Paragraphs (a)(3) and (a)(4) of § 326.7 state that the Board will not decide in favor of the applicant unless "the applicant shows" that it can meet statutory standards of improved service and/or subsidy. Under these provisions, the mere filing of the bumping application does not shift the burden of proof to the incumbent. The Board has the discretion to deny the application if it finds that the applicant has not made the required showing. It could do this even if the incumbent had not filed an answer.

A standard of "preponderance of the evidence" has been added to the rule. This means that if the weight of evidence and argument with respect to the § 326.7 standards is evenly balanced, the Board's decision will be for the incumbent. This standard of proof, rather than the one suggested by Big Sky, has been chosen because it is the standard typically used in administrative proceedings. Davis, *Administrative Law Treatise*, § 16.9. The highest standard suggested by Big Sky is more appropriate where some wrongdoing is being imputed, which is not the case in bumping situations.

It should be noted that the Act imposes a significant burden on the applicant. It already requires that the proposed improvement in service and/or decrease in subsidy be substantial. It therefore seems unnecessary to impose a stricter burden of proof than would otherwise be required to protect the interests of the incumbent. An incumbent cannot be bumped unless the applicant shows by a preponderance of the evidence that it will provide substantially improved service and/or service at a substantially decreased subsidy level.

Subsidy Threshold

To meet the required showing with respect to the subsidy level, the applicant would have to propose, under § 326.7(b), a decrease of at least $50,000 per year or 10 percent of the incumbent's subsidy rate, whichever is greater. $50,000 was chosen because that is somewhat more than the approximate cost to the Board and the community in processing a bumping case. Savings of a lesser amount would usually not compensate for the administrative costs and the disruption to the community in changing air carriers.

Big Sky Airlines, the Wisconsin Department of Transportation, and the Minnesota Department of Transportation favored a higher subsidy threshold. The State of Alaska favored a lower one. The Mississippi Aeronautics Commission strongly supported this aspect of the Board's proposal. The Virginia Department of Transportation supported the threshold levels but asked that it be the lesser of $50,000 or 10 percent, not the greater.

Minnesota, supported by several other commenters, suggested as an alternative to raising the threshold that the applicant be required to post a performance bond to ensure that it performs the service it proposes. Alaska favored a lower threshold because it was concerned that a point where the carrier was receiving less than $50,000 per year would not have the benefits of bumping even if that point were part of a cluster for which the carrier was receiving more than $50,000. Virginia asked the Board to clarify what it would do if an applicant met the subsidy threshold but the service it would provide would not be as good.

After considering the comments, the Board has decided to adopt the subsidy threshold as proposed. It should be emphasized that meeting this threshold does not automatically guarantee a favorable decision. An applicant meeting the threshold whose service would, in the Board's view, be unreliable § 326.7(a)(2)), less than essential, or inadequate under § 326.7 (d) and (e) might not be chosen. Similarly, a carrier proposing a subsidy decrease somewhat less than the threshold level might still be chosen if it could show that, in light of the proposed decrease and its relative merits under § 326.7 (d) and (e), it is the better carrier. Thus, the subsidy threshold in the rule

can be viewed as creating a rebuttable presumption that the applicant has proposed a substantial decrease in subsidy.

Viewed this way, it appears that most of the commenters' objections have been satisfied. None have demonstrated that the subsidy threshold proposed is not a reasonable approximation of the cost of a bumping proceeding. In response to Alaska's concern, it should be noted that the $50,000 threshold should not be read as "$50,000 per eligible point." An applicant proposing to bump a carrier serving several communities would have to propose a subsidy decrease of at least $50,000 or 10 percent of the incumbent's rate for all communities on which that subsidy rate is based. It would not have to propose a decrease of $50,000 per community.

Minnesota's suggested performance bond, while it would have some advantages, may be expensive for an applicant to obtain. Bumping applicants are likely to be small businesses. Imposing an expensive requirement on a small business may be viewed as inconsistent with the Regulatory Flexibility Act (Pub. L. 96-354), which is designed to reduce regulatory burdens on these small entities. A bond requirement would also not comport with the scheme established by Congress for ensuring the provision of essential air service. A successful applicant that finds that it is unable to provide the service at its established subsidy level must, under section 419(a)(3) of the Act, file a termination notice and risk losing its subsidy as well as its credibility for future cases. In the Board's view, this provides a sufficient incentive to discourage unrealistically low bidding by bumping applicants.

Of course, it is still possible that a carrier may try to obtain a subsidy by proposing an unrealistic subsidy decrease. In such cases, the Board is free to reject the proposal if it finds that the applicant cannot reasonably be expected to provide the essential service at that subsidy level. This conclusion is reached through rate conferences, comparisons of similar communities and carriers, and by evaluating the data supplied by the incumbent carrier and the community. This process will guard against abuses of the bumping process without imposing the kind of barrier to bumping that a performance bond might.

Service Factors

The Board proposed several factors that it would consider in evaluating whether a proposed service change would be a substantial improvement (§ 326.7(c)). The Board also proposed other factors it would consider in evaluating a bumping case (§ 326.7(d)). These were taken from section 419(a)(4) of the Act and from various Board orders choosing a carrier to provide essential service where the incumbent had voluntarily filed notice to withdraw.

California asked for clarification of two of the factors: § 326.7(d)(3) (relative efficiency of the aircraft) and § 326.7(d)(4) (relative financial stength of the competing carriers). The first refers primarily to the operating cost characteristics of the carriers' aircraft. A carrier that has lower operating costs will not have to enplane as many passengers to break even and will therefore have a better chance of eventually providing the service subsidy-free, one of the goals of the small community program. See, for example, Order 82-11-77, November 18, 1982, where Air Chaparral was selected to provide essential service at Modesto, California at least in part because of its potential for eventually providing subsidy-free service there. It is also relevant to the question of whether a proposed decrease in subsidy is realistic. The second refers to the capital at the carrier's disposal. As California well knows, undercapitalized carriers may go bankrupt and leave a community without any air service until a replacement can be found.

Alaska asked that paragraph (d)(2) of § 326.7 be expanded to include the language of section 419(a)(4)(A)(iii) of the Act relating to the experience of the carrier in providing scheduled or nonscheduled air service in that State. A new paragraph (d)(10) has been added to accomplish this.

Several commenters asked that the Board consider factors in addition to those listed in § 326.7. The additional factors suggested were the adequacy of the applicant's resources, whether the applicant has equipment equivalent to that of the incumbent, whether the incumbent is serving one of a group of points, system access, community support, quality of service, cargo carrying capability, investment and marketing efforts of the incumbent, whether the carrier is based at the local airport, and timeliness of flights.

It is not the purpose of § 326.7 to create an exhaustive list of factors that the Board will consider in bumping cases. Parties are free to bring others to the Board's attention and the Board will consider them if they have a bearing on the issues of service improvement or subsidy decrease. The purpose of the list is to provide standards for the Board's decision and to help the parties focus their pleadings on the issues the Board usually considers important.

Most of the additional factors suggested are already included in the factors listed in § 326.7. Cargo-carrying capability was not included because the definition of essential air transportation in section 419(f) of the Act refers specifically to persons. The incumbent's investment and marketing efforts in the community were not listed because loss of those investments is one of the risks inherent in the bumping provisions. Congress must have been aware that carriers could lose substantial sums if they were bumped, but considered that outweighed by the benefits of improved service and decreased subsidy. The procedures and standards discussed above provide an adequate opportunity for an incumbent to protect its investment.

In PDR-81, the Board stated that "timing changes or other minor service improvements" would not be considered substantial improvements in service. Yet several commenters considered timeliness of flights to be an important factor that the Board should consider. The Board agrees that this is important. To qualify as essential air transportation, however, the incumbent carrier must have been providing flights at reasonable times of the day, according to § 398.7 of the Board's rules. Assuming compliance, it seems unlikely that an applicant could propose flight times that would be so different as to be fairly characterized as a substantial improvement.

The Board has decided to add one new factor: system access or slots. Since the strike by the air traffic controllers in August 1981, the Federal Aviation Administration (FAA) has found it necessary to limit the number of take-offs and landings (slots) at some large airports. It has also limited flights through some flow-control centers.

By letter dated November 1, 1982, the Associate Administrator for Policy and International Aviation of the FAA asked that the slot question be clarified in this rule. He suggested that the Board either require the incumbent carrier to give up its slots if it is bumped or require the applicant to provide the slots from its own pool.

Since nothing was proposed on this important issue, the Board is not adopting a specific approach to that issue here. Each situation will be dealt with on a case-by-case basis, utilizing one of the approaches favored by the FAA. An applicant will be required to state whether it has slots available for its proposed service, and the Board will consider the slot question in deciding the case.

Some commenters argued that there were factors that the Board should not consider. Simmons Airlines stated that aircraft size (§ 326.7(c)(3)) should not be considered, because that would place non-jet operators at a disadvantage and result in the Board subsidizing "inefficiency for the sake of passenger comfort." New York asked that the Board not consider increased flights with smaller aircraft (§ 326.7(c)(4)) unless that is the expressed wish of the community.

The Board has decided that it should not eliminate from consideration such important factors as aircraft size and flight frequencies unless they could not be considered at all under the Act. It is not necessary for an applicant to show that it is the better candidate under all the listed factors in order to prevail. To the extent that non-jet operators are disadvantaged by considerations of aircraft size, they will generally benefit from considerations of aircraft efficiency and flight frequencies (§ 326.7 (d)(3) and (c)(4)). Similarly, increased frequencies with small aircraft may represent a substantial improvement and lead to increased traffic. In weighing the competing considerations, the Board will give great weight to the views of the affected community (§ 326.7(e)).

In PDR–81, the Board specifically requested comments on whether it should consider proposals to provide more than essential air service. It noted that there may be a legal impediment to doing so. This problem arose because section 419(a)(5) of the Act only authorizes the Board "to pay compensation to any air carrier to provide essential air transportation." It does not authorize payments for service above the essential level. If the Board cannot subsidize this sort of improvement in service, it reasoned that it should not raise false hopes by proposing to consider increases above the essential level.

This view was opposed by eight commenters and supported by the State of Alaska. The Regional Airline Association (RAA) agreed that the Board can only compensate a carrier for that level of service required to continue essential air transportation. It did not agree, however, that this precluded the Board's consideration of improvements in air service above that level. It noted that the Board has offered to consider which hub or hubs will be served, the number of stops that will be made between the eligible point and the hub, and the size and type of aircraft to be used. These are, like the number of seats and flights, subject to essential air service minimums. RAA considered it inconsistent for the Board to take into account these factors beyond the definition of essential air transportation but not to consider seats or flights above that level. RAA argued that the Board could consider the latter but still limit subsidy to that which is necessary to maintain only essential air service. It claimed that there have been cases where carriers have provided more than essential service and "the Board has had no difficulty in deciding how much it would cost to subsidize only that service required by the essential service definition." RAA further stated that it would be in the public interest to encourage carriers to provide a higher level of service.

RAA admitted that the notice (section 419(a)(3)) and service (section 419(a)(6)) issues raised in the proposal were difficult. It recognized that the Board would not want to allow a bumping and then find that the additional service was not being provided. On the other hand, the bumping carrier would not want to be bound to provide the higher level of service indefinitely if it proved to be highly unprofitable. In RAA's view, this should be a matter to be decided on a case-by-case basis, and whether a proposal to provide more than essential service is realistic should affect the weight to be given it and not be a basis for refusing to consider it altogether.

The Illinois Department of Transportation argued that Congress intended for the Board to consider service above the essential level. It cited the Senate Report (S. Rep. No. 631, 95th Cong., 2d Sess, 92 (1978), which stated:

> "Since there may be some temptation on the part of applicants under the latter "bumping" provision to either propose *unrealistically high service levels* without regard to costs or unrealistically low subsidy forecasts without regard to service levels, the Committee cautions the Board to meticulously evaluate applications to determine what if any changes are in the long-term public interest." (Emphasis added.)

It read this as authorizing the Board to consider higher service levels as long as those levels were not "unrealistically high." Illinois saw no inconsistency with section 419(a)(5) because that section does not, in its view, limit the amount of subsidy, but only the amount of time ("for so long as the Board determines it is necessary") that it may be paid.

Illinois further argued that the Board's proposed approach would be inconsistent with the procompetitive policies of the Act, in removing the competitive incentive of the incumbent to upgrade its service. It considered the problems of notice and service enforceability to be misplaced. It suggested that notice and service conditions could be attached to the Board order granting the bumping application. RAA, however, claimed that the Board lacked the statutory authority to impose notice and service requirements for service reductions above the essential level.

After considering these comments, the Board has decided that we will not automatically preclude applications proposing to provide more than the previously established essential air service level. Applicants seeking to bump on the basis of increased flights or seats would, under revised § 326.7(c)(4)(ii), have to include a petition for modification of the point's essential service level under § 325.10 of the Board's rules with their bumping application. The proceeding on this petition would give the incumbent the opportunity to challenge, and the Board the opportunity to evaluate, the proposed level of service under the Board's essential service guidelines (14 CFR Part 398). The incumbent would also have the option of supporting the petition and offering to provide the higher level of service itself. This approach provides the benefits to the communities noted by the commenters without the statutory, notice, and service enforceability problems that concerned the Board. The higher level of service would, if the petition were granted, become the essential level. And even if the petition were not granted, the incumbent carrier would still have the discretion to provide a higher level of service on its own initiative.

Smith, Member, Concurring and Dissenting

The statute provides that a carrier receiving subsidy under section 419 may be bumped by another carrier if the result is:

"(i) improvement in the air transportation being provided such eligible point with no increase in the amount of compensation then being paid; or

(ii) decrease in the amount of compensation that will be required to continue essential air transportation to that point."

The rule states that the "Board can only compensate a carrier for that level of service required to continue essential air transportation" and that premise is used to require a modification of the essential air service level in order to consider service proposals greater than the essential air service definition.

This is a narrow interpretation and a distortion of the intent of the bumping provisions. The reasoning is to prevent a carrier "overbidding" service at the original subsidy rate in order to be selected and then subsequently reducing service to the essential level, which could be done at any time at the carrier's discretion.

A more proper approach would be to accept service proposals greater than the essential level and fix the subsidy to that level of performance, the subsidy being paid at or below the incumbent subsidy level as proposed. If service reductions occur thereafter, subsidy would be reduced as well, so the result would be no less than essential air transportation, with a decrease in the "amount of compensation," as Congress intended.

The requirement for a modified essential air service definition each time a proposal exceeds the essential air service level provides an unnecessary exercise and has a chilling effect on the prospects of "improvement in air transportation being provided" as one of the options mandated by Congress.

James R. Smith.

Regulatory Flexibility Act

For the reasons stated in PDR–81, the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. It merely provides procedures for bumping cases. The right to try to bump an incumbent carrier is established by the Act itself.

Final Rule

Since the bumping provisions of the Act take effect on January 1, 1983, and these procedures are important in implementing those provisions, the Board finds good cause for making this rule effective on less than 30 days' notice.

List of Subjects in 14 CFR Part 326

Administrative practice and procedure, Air carriers, Essential air service, Grant programs—Transportation.

Accordingly, the Board adds a new Part 326 to Chapter II of 14 CFR, as follow:

PART 326—PROCEDURES FOR BUMPING SUBSIDIZED AIR CARRIERS FROM ELIGIBLE POINTS

Sec.

326.1 Purpose.
326.2 Definitions.
326.3 Application to bump an incumbent carrier.
326.4 Answers and replies to bumping applications.
326.5 Service of applications and answers.
326.6 Board action.
326.7 Standards for decision.
326.8 Transition from the incumbent carrier to the applicant.
326.9 Confromity with Subpart A of Part 302.

Authority: Secs. 204, 401, 406, 407, 419, and 1001, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 763, 766, 788, 92 Stat. 1732; 49 U.S.C. 1324, 1371, 1376, 1377, 1389, 1481.

§ 326.1 Purpose.

The purpose of this part is to establish procedures for an air carrier applying under section 419(a)(11) or (b)(8) of the Act to provide essential air transportation to an eligible point, where it would be displacing another carrier that is providing essential air transportation under a subsidy rate previously established by the Board under either section 406 or section 419 of the Act. This part applies even if the applicant is not applying for a subsidy for itself but is merely seeking to terminate the incumbent carrier's subsidy.

§ 326.2 Definitions.

As used in this part:

(a) "Applicant" means an air carrier that files a bumping application.

(b) "Bumping application" means an application by an air carrier proposing to provide essential air transportation at an eligible point and requesting the Board to terminate the subsidy paid to an incumbent carrier for providing essential air transportation at that eligible point. The application may also request a subsidy to provide essential air transportation to that point.

(c) "Eligible point" means—

(1) Any community in the United States, the District of Columbia, and the several territories and possessions of the United States to which any direct air carrier was authorized, under a certificate of public convenience and necessity issued by the Board under section 401 of the Act, to provide passenger air transportation on October 24, 1978, whether or not such service was actually provided;

(2) Any point in the United States and its several territories and possessions that was deleted from a section 401 certificate between July 1, 1968 and October 24, 1978, that the Board designates as eligible under the criteria in Part 270 of this chapter; or

(3) Any other point in Alaska or Hawaii that the Board designates as an eligible point under Part 270 of this chapter.

(d) "Essential air transportation" means the level of air service that is guaranteed an eligible point by the Board under section 419 of the Act and the guidelines in Part 398 of this chapter.

(e) "Hub" means a point annually enplaning more than 0.05 percent of the total annual enplanements in the United States or listed as such by the joint Civil Aeronautics Board—Department of Transportation publication "Airport Activity Statistics of Certificated Route Carriers."

(f) "Incumbent carrier" means the air carrier serving an eligible point with subsidy at the time a bumping application is filed.

(g) "Subsidy under section 406" means payments made under section 406 of the Federal Aviation Act, P.L. 97–276, or any other appropriation act or continuing resolution that authorizes payments to air carriers based upon rate orders issued under section 406 of the Act.

§ 326.3 Application to bump an incumbent carrier.

(a) To replace an incumbent carrier at an eligible point, an air carrier shall file a bumping application in the Board's Docket Section.

(b) If the incumbent carrier is receiving its subsidy under section 406 of the Act, the application may be filed at any time after January 1, 1983.

(c) If the incumbent carrier is receiving its subsidy under section 419 of the Act, the application may not be filed until the incumbent carrier has been serving the eligible point for at least 2 years.

(d) The application shall include:

(1) The name and address of the carrier filing the application;

(2) The name of the incumbent carrier;

(3) The name of the eligible point involved;

(4) Fitness information, as follows:

(i) If the applicant has already been found by the Board to be fit, willing, and able to provide scheduled service, it shall cite the most recent order establishing the finding.

(ii) If the applicant has not yet been found by the Board to be fit, willing, and able to provide a scheduled service, it shall include the fitness information required by Part 204 of this chapter to support such a finding. In making this showing, the applicant may incorporate by reference material submitted in a prior proceeding before the Board.

(5) The information required by § 204.6(c) (2) and (3) of this chapter, even if the applicant is not seeking subsidy for itself;

(6) The service pattern proposed, including the hub and hubs to be served from the eligible point, the number of flights to be provided, whether the flights will be nonstop, and the type of aircraft to be employed. If the applicant is basing its application on improved service at the eligible point, it shall state how its proposed service represents an inprovement over the incumbent carrier's service;

(7) If the applicant is seeking a subsidy, the assurances required by §§ 379.4 and 382.21 of this chapter;

(8) The earliest date or season that the applicant is prepared to begin service; and

(9) The availability of slots at the hub airport it proposes to serve.

(e) All information supplied by an air carrier in its application is subject to verification by Board auditors.

§ 326.4 Answers and replies to bumping applications.

(a) Any person may file an answer to an application filed under this part.

(b) To be considered by the Board, an answer should be filed not later than 30 days after the filing of the application to which it responds.

(c) An answer by the incumbent carrier may refute the fitness and reliability of the applicant to provide the essential air transportation, refute its ability to provide the service at the amount of compensation requested, deny that the applicant's proposed service represents a substantial improvement, and/or offer a counterproposal to that offered by the applicant. If the incumbent desires a hearing, it should request it at this time.

(d) An answer by representatives of the eligible point should state whether they consider the service pattern proposed by the applicant to be a substantial improvement in service and the reasons for their views.

(e) Any other carrier may submit a bumping application during the answer period. Such an application should include the information required by § 326.3(d).

(f) Any person may submit a reply to a counterproposal filed under paragraph (c) of this section or to another application filed under paragraph (e) of this section within 15 days of the end of the answer period.

§ 326.5 Service of applications and answers.

(a) The application shall be served upon:

(1) The chief executive of the principal city or other unit of local government of the eligible point. The principal city is the one named, or previously named, in the section 401 certificate by virtue of which the point qualifies as an eligible point. For points in Alaska or Hawaii that are named by the Board as eligible points without having been listed on a section 401 certificate, the principal city is the most populous municipality at the point.

(2) The agency of the State, territory, or possession with jurisdiction over transportation by air in the area containing the eligible point. If there is no such agency, the application shall be served on the Governor of the State, territory, or possession.

(3) The manager of, or other individual with direct supervision over and responsibility for, the airport at the eligible point.

(4) Each air carrier providing scheduled passenger service at the eligible point.

(5) The CAB Office of Congressional, Community, and Consumer Affairs Field Office for the region in which the eligible point is located.

(6) Any other person designated by the Board.

(b) Answers to applications and replies to answers shall be served on the persons listed in paragraph (a) of this section, on the applicant, and on the person that filed the answer to which the reply is directed.

§ 326.6 Board action.

(a) After an application is filed under this part and the answer and reply period has elapsed, a rate conference will be held with the applicant or applicants and with the incumbent carrier, if it has filed a counter proposal, to determine the reasonableness of the compensation requested. One or more of the following actions may also be taken:

(1) A conference may be held with the eligible point concerned to determine its view on the relative merits of the present and proposed service pattern.

(2) Additional information may be requested.

(3) The application may be consolidated with the incumbent carrier's rate renegotiation proceeding if the incumbent's rate term is close to expiration.

(4) Additional service and subsidy proposals may be solicited.

(b) After the Board completes its reviews and conferences, and obtains any necessary information, it will take one or more of the following actions:

(1) Issue an order to show cause proposing to grant the application;

(2) Deny the application if the applicant fails to meet the criteria set forth in § 326.7;

(3) Set the application for an oral evidentiary hearing under the following circumstances:

(i) There are material facts in dispute;

(ii) These facts are of decisional significance; and

(iii) The Board finds that the disputed facts can best be resolved in an oral evidentiary hearing.

(4) Set the application for oral arguments before the Board.

§ 326.7 Standards for decision.

(a) The Board will not grant an application under this part unless:

(1) It finds, or previously found, that the applicant is fit, willing, and able to provide scheduled air transportation;

(2) It finds that the applicant will provide the essential air transportation at the eligible point in a reliable manner; and

(3) If the incumbent carrier is receiving its subsidy under section 406 of the Act, the applicant shows by a preponderance of the evidence that its proposal will result in both of the following:

(i) A substantial improvement in the air service being provided to the eligible point; and

(ii) A substantial decrease in the amount of subsidy that will be required to provide air service to the eligible point.

(4) If the incumbent carrier is receiving its subsidy under section 419 of the Act, the applicant shows by a preponderance of the evidence that its proposal will result in either of the following:

(i) A substantial improvement in the air service being provided the eligible point with no increase in subsidy; or

(ii) A substantial decrease in the amount of subsidy that will be required to provide essential air transportation at the eligible point.

(b) To be considered substantial, the proposed decrease in the amount of subsidy should be at least $50,000 per year or 10 percent of the incumbent carrier's subsidy rate, whichever is greater.

(c) In deciding whether a proposed service pattern represents a substantial improvement in air service, the Board will consider the following factors:

(1) Which hub or hubs the applicant proposes to serve from the eligible point;

(2) The number of stops that the applicant will make between the designated hub and the eligible point;

(3) The size and type of aircraft, including whether they are pressurized, that the applicant intends to use at the eligible point;

(4) An increase in the number of flights or seats that the applicant proposes to provide at the eligible point, if—

(i) The increased frequencies are combined with a change in aircraft so as not to result in the Board paying a subsidy for more than essential air transportation; or

(ii) A petition has been filed under § 325.10 of this chapter to raise the eligible point's essential air transportation level.

(5) Service-related advantages held by the applicant such as computerized reservation systems or joint fares.

(d) In addition to the factors described above, the Board, in evaluating an application, will consider the following:

(1) The desirability of developing an integrated linear system of air transportation whenever such a system most adequately meets the air transportation needs of the eligible point involved;

(2) The experience of the applicant in providing scheduled air service in the vicinity of the eligible point involved;

(3) The relative efficiency of the aircraft that the competing carriers use or propose to use;

(4) The relative financial strength of the competing carriers;

(5) The time necessary for the applicant to begin providing the service it proposes;

(6) The performance of the incumbent carrier in serving the eligible point involved;

(7) The amount of time that the incumbent carrier was on the subsidy rate to question;

(8) The effect of granting the bumping application on other points in the incumbent carrier's system;

(9) The availability of slots for the applicant at the hub or hubs that it proposes to serve; and

(10) In Alaska, the experience of the applicant in providing scheduled air service, or significant patterns of nonscheduled air service under Part 298 of this chapter, in that State.

(e) In evaluating the standards described above, the Board will give great weight to the views of representatives of the eligible point involved.

§ 326.8 Transition from the incumbent carrier to the applicant.

(a) If an applicant is successful in its bid to replace an incumbent carrier and receive a subsidy for serving the eligible point, it shall notify the Board and the incumbent carrier of the date that it is prepared to begin service at the eligible point. It shall allow the incumbent 45 days to close down its operation at the eligible point, unless another date is agreed on.

(b) The incumbent carrier shall continue service at the eligible point until the successful applicant begins service there.

(c) The Board will continue to pay the subsidy to the incumbent carrier for at least 45 days after it grants the bumping application, unless the two carriers agree to a different date for the transfer of service. The Board will continue to pay the subsidy to the incumbent carrier thereafter until the successful applicant begins service at the eligible point.

§ 326.9 Conformity with Subpart A of Part 302.

Except where they are inconsistent, the provisions of Subpart A of Part 302 of this chapter shall apply to proceedings under this part.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-227 Filed 1-4-83; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 385

[Organization Reg. Amdt. No. 130 to Part 385, Reg. OR-205]

Delegations and Review or Action Under Delegation; Nonhearing Matters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is revising its filing fee schedule and is setting procedures by which persons can apply for refunds. This rule delegates authority to the Comptroller to decide whether refunds are owed and to order payment. This rule is at the Board's own initiative to expedite refund procedures.

DATES: Effective: January 10, 1983. Adopted: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: For financial information, Joseph L. Kull, Office of Comptroller, 202-673-5476; for legal information; Joseph A. Brooks, Office of the General Counsel, 202-673-5442, Civil Aeronautics Board, 1185 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The reasons for the rule are fully explained in OR-204, issued contemporaneously.

List of Subjects in 14 CFR Part 385

Administrative practice and procedure, Authority delegations.

PART 385—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, Delegations and Review of Action Under Delegation; Nonhearing Matters, as follows:

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85-726, as amended; 72 Stat. 740, 743, 754, 758, 766, 771, 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386; Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. A new paragraph (g) is added to § 385.27 to read:

§ 385.27 Delegation to the Comptroller.

The Board delegates to the Comptroller the authority to:

* * * * *

(g) Grant or deny applications under § 389.27(b) of this chapter for refunds of fees paid, consistent with Board policy, and to order amounts refunded as necessary.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-228 Filed 1-4-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Approval of Permanent Program Amendments From the State of Virginia Under Surface Mining Control and Reclamation Act of 1977

Correction

In FR Doc. 82-33680 beginning on page 55675 in the issue of Monday, December 13, 1982 make the following correction:

On page 55675, third column, second line from the bottom should read, "**EFFECTIVE DATE:** This approval is effective December 13, 1982."

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 173

[OPP 00159; PH-FRL 2215-3]

Federal Insecticide, Fungicide, and Rodenticide Act, State Primary Enforcement Responsibilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interpretive rule.

SUMMARY: This rule states EPA's interpretation of several of the key provisions in sections 26 and 27 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), but does not impose substantive requirements on the States. Sections 26 and 27 established a standard and procedure for according States the primary enforcement responsibility for pesticide use violations (primacy). The rule also provides operational substance to the criteria used by EPA for primacy related decisionmaking, and ensures that such decisionmaking is consistent throughout the regions.

EFFECTIVE DATE: This rule will not take effect before the end of 60 calendar days of continuous session of Congress after

the date of publication. EPA will publish a notice of the actual effective date of this rule. See **SUPPLEMENTARY INFORMATION** for further details.

FOR FURTHER INFORMATION CONTACT: Laura Campbell, Pesticides and Toxic Substances Enforcement Division (EN-342), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. M-2624E, 401 M St., SW., Washington, D.C. 20460, (202-382-5566).

SUPPLEMENTARY INFORMATION:

Background

In 1978, Congress enacted Pub. L. 95-396 which contained numerous revisions to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*). One of the changes added two new sections to FIFRA, sections 26 and 27, U.S.C. 136w-1 and 136w-2, which together established a standard and procedure for according States the primary enforcement responsibility for pesticide use violations (primacy).

Section 26 provides three methods by which a State can obtain primacy. Section 26(a) requires a State to be accorded primacy if the Administrator finds that the State has (1) adopted adequate use laws, (2) adopted adequate procedures for implementing those laws, and (3) agreed to keep such records and make such reports as the Administrator may require by regulation. Section 26(b) allows a State to obtain primacy if the State has an approved section 4 certification plan that meets the criteria set forth in section 26(a), or if a State enters into a cooperative agreement for the enforcement of pesticide use restrictions under section 23.

Section 27 authorizes the Administrator to override or rescind a grant of primacy in certain situations. Section 27(a) requires the Administrator to refer significant allegations of pesticide use violations to the States. If a State does not commence appropriate enforcement action within 30 days of such referral, EPA may bring its own enforcement action.

Section 27(b) authorizes the Administrator to rescind the primary enforcement responsibility of a State if she finds that the State is not carrying out such responsibility. The Administrator initiates a rescission proceeding by notifying the State of those aspects of the State's pesticide use enforcement program which the Administrator has found to be inadequate. If the State does not correct the deficiencies in its program within 90 days, the Administrator may rescind the States's primary enforcement responsibility in whole or in part. EPA has promulgated procedures which govern the conduct of a proceeding to rescind State primacy. These procedures were published in the **Federal Register** of May 11, 1981 (46 FR 26058). (40 CFR Part 173).

Section 27(c) authorizes the Administrator to take immediate action to abate an emergency situation where the State is unable or unwilling to respond to the crisis.

As is evident from the above description, several of the operative terms in sections 26 and 27 require further definition. This rule clarifies the meaning of such words as "adequate" and "appropriate" which FIFRA sets forth as the criteria for most of the decisions which will be made under these two sections. The rule also sets guidelines to be used by EPA in making primacy-related decisions, and ensures that such decisionmaking is consistent by limiting, although not eliminating, Agency discretion in the primacy area.

Specifically, this rule addresses the following issues:

1. Procedures EPA will follow when referring allegations of pesticide use violations to the State and tracking State responses to these referrals (see Unit I, Subdivision A below).

2. The meaning of "appropriate enforcement action" (see Unit I, Subdivision B).

3. Clarification of when a State will be deemed to have (1) adopted adequate pesticide use laws and regulations, and (2) implemented adequate procedures for the enforcement of such laws and regulations (see Unit II).

4. The criteria the Administrator will use to determine whether a State is adequately carrying out its primary enforcement responsibility for pesticide use violations (see Unit III).

5. The factors which constitute an emergency situation, and the circumstances which require EPA to defer to the State for a response to the crisis (see Unit IV).

Comments Received

Four comments were received in response to the proposal of the Interpretive Rule. (47 FR 16799, April 20, 1982).

In the proposed rule, a determination of the gravity of violation was based on two factors: (1) risk associated with the violative action, and (2) risk associated with the pesticide. Some of the comments stated that EPA should determine the gravity of each violation based on whether actual harm occurred as a result of the violation. If the Agency were to determine the seriousness of a violation based on the actual harm which occurred in a particular case, pesticide users would be encouraged to take the risk of misusing a pesticide, with the hope that no actual harm would result from their unlawful act. Congress charged EPA with regulating pesticide use in a manner which will prevent unreasonable risk of pesticide exposure to man or the environment. Congressional intent would not be carried out if EPA encouraged pesticide users to engage in unsafe activities by not charging violations in cases where no actual harm occurred. For this reason, the final rule retains the language of the proposed rule.

Two comments concerning the imposition of criminal penalties for pesticide misuse were received. One comment stated that Congress intended criminal sanctions to be applied only in cases involving unlawful manufacture of pesticides. Nothing in FIFRA or its legislative history so limits the use of criminal penalties. The only criterion in the statute for the imposition of criminal penalties is that a violation is "knowing". The language referring to criminal penalties in the proposed rule has been largely retained in the final rule.

Another comment expressed the concern that imposing more stringent sanctions where violations are found to be "knowing" penalizes persons who are informed about the law. Section 14 of FIFRA states that "knowing" violations are subject to criminal penalties. Knowledge of the violator is a valid criterion to use in determining gravity because of a "knowing" violation shows a disregard for the law.

One comment stated that no State with more stringent pesticide use laws than the Federal law should be granted primacy. Although EPA cannot require a State to enact a pesticide use law that is more stringent than FIFRA, there is no prohibition against granting primacy to a State whose pesticide use law is more stringent.

One comment suggested a change in the requirement that State laboratories conducting sample analysis participate in EPA's check sample program. The comment stated that the National Enforcement Investigation Center (NEIC) check sample program should be coordinated with the American Association of Pest Control Officials (AAPCO). The NEIC check sample program is currently coordinated with the AAPCO check sample program. The rule has been changed to reflect this comment.

Further Information on Effective Date of This Rule

On December 17, 1980, the Federal Insecticide, Fungicide, and Rodenticide Act extension bill (Pub. L. 96–539) became law. This bill amended several sections of FIFRA, including section 25 on rulemaking. Section 4 of the Extension Act adds a new paragraph, section 25(e), to FIFRA which requires EPA to submit final regulations to Congress for review before the regulations become effective. Copies of this rule have been transmitted to appropriate offices in both Houses of Congress.

Under section 4 of the 1980 FIFRA Extension Act, this rule will not take effect before the end of 60 calendar days of continuous session of Congress after the date of publication of this rule. Since the actual length of this waiting period may be affected by Congressional action, it is not possible, at this time, to specify a date on which this regulation will become effective. Therefore, at the appropriate time EPA will publish a notice announcing the end of the legislative review period and notifying the public of the actual effective date of this regulation.

Compliance With the Regulatory Flexibility Act

I hereby certify that this rule will not have a significant economic impact on small entities. The rule affects only State pesticide control agencies, which are not small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Compliance With Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major since it is interpretive in nature and does not contain new substantive requirements. The regulation:

1. Does not have an annual effect on the economy of $100 million or more.
2. Will not substantially increase costs to consumers, industry, or government.
3. Will not have a significant adverse effect on competition, employment, investment, productivity, or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. (Sec. 25(a)(1) (7 U.S.C. 136w)). [Note: This rule will not appear in the Code of Federal Regulations.]

I. Appropriate Enforcement Action

A. *Procedures Governing Referrals.* 1. *General.* Section 27(a) requires EPA to refer to the States any information it receives indicating a significant violation of pesticide use laws. If a State has not commenced appropriate enforcement action within 30 days, EPA may act on the information.

Given current resource limitations, EPA is not in a position to monitor State responses to every allegation of pesticide misuse referred by the Agency. Rather, the Agency will focus its oversight activities on evaluating the overall success of State pesticide enforcement programs, and will track, on a case-by-case basis, only those allegations involving particularly serious violations. Such "significant" allegations will be formally referred to the States and tracked by EPA, while other less serious complaints will be forwarded to the States for information purposes only.

2. *Criteria for significant cases.* To determine which alleged violations are sufficiently significant to warrant formal referral and tracking, the regions will go through a two step process. First, the regions, in consultation with each State, will identify priority areas for referral. These priority areas will consist of those pesticide activities in the State which present the greatest potential for harm to health or the environment (e.g. the application of a pesticide by a certain method to a particular crop, such as ground application of endrin to apple trees). The selection of these priority areas will depend primarily on the results of pesticide enforcement program evaluations conducted by the States and the regions. The priority areas will be revised on an annual basis based upon the effectiveness of the program in reducing the harm associated with pesticide use.

Thereafter EPA will determine on a case-by-case basis which allegations in these priority areas involve sufficiently "significant" violations to be formally referred to the State and tracked. If a complaint received by EPA alleges a minor infraction which clearly presents little or no danger to health or the environment, or if the information contains patently spurious allegations, such as those from sources which have repeatedly proved unreliable, the matter will be forwarded to the State for information purposes only.

3. *The 30-day time period.* The Agency interprets the term "commence appropriate enforcement action" in section 27(a) to require States to initiate a judicial or administrative action in the nature of an enforcement proceeding, if one is warranted. Starting an investigation of the matter would not be sufficient. If the State does not commence an appropriate administrative, civil, or criminal enforcement response, EPA would then be permitted, although not required, to bring its own enforcement action.

Although section 27(a) permits EPA to act if the State has not commenced an enforcement action within 30 days, the Agency recognizes that States may not be able to complete their investigation of many formal referrals in so short a time. The time needed to investigate a possible use violation will vary widely, depending upon the nature of the referral. A referral which simply conveys an unsubstantiated allegation will usually require more investigation than a referral which partially or fully documents a pesticide use violation. Consequently, the Agency wishes to develop a flexible approach towards the tracking of referrals.

To accomplish this objective, EPA is adopting a system in which the referral process is broken down into two stages, investigation and prosecution.

4. *The investigation stage.* Following the formal written referral of an allegation of a significant pesticide use violation, the appropriate regional pesticide official will contact the State to learn the results of the investigation and the State's intended enforcement response to the violation. If the State has not conducted an adequate investigation of the alleged violation, the region may choose to pursue its own investigation or enforcement action after notice to the State. As a general rule, however, the regional office will attempt to correct any deficiencies in the investigation through informal communication with the State.

An investigation will be considered adequate if the State has (1) followed proper sampling and other evidence-gathering techniques, (2) responded expeditiously to the referral, so that evidence is preserved to the extent possible, and (3) documented all inculpatory or exculpatory events or information.

5. *The prosecution stage.* After completion of the investigation, the State will have 30 days, the prosecution stage, to commence the enforcement action, if one is warranted. An appropriate enforcement response may consist of required training in proper pesticide use, issuance of a warning letter, assessment of an administrative civil penalty, referral of the case to a pesticide control board or State's Attorney for action, or other similar enforcement remedy available under State law. The 30-day period may be extended when necessitated by the procedural characteristics of a State's regulatory structure (see Unit V.A. Hypothetical 1).

If, after consultation with the State, EPA determines that the State's intended enforcement response to the violation is inappropriate (see subdivision B), EPA may bring its own action after notice to the State. Regional attorneys will not, however, initiate an enforcement proceeding sooner than 30 days after the matter was referred to the State.

At times, a State may find that the particular enforcement remedy it views as the appropriate response to a use violation is not available under the State's pesticide control laws. Therefore the State may, at any time, request EPA to act upon a violation utilizing remedies available under FIFRA. In these instances, of course, EPA will immediately pursue its own action, if one is warranted.

To illustrate better the proposed referral system, two hypothetical situations are described in Unit V. A.

B. *Appropriate Enforcement Action.* 1. *General.* After the Agency learns of the enforcement action, if any, the State proposes to bring against the violator, the EPA regional pesticide office will consider, in consultation with the State, whether the proposed action is "appropriate", relative to the remedies available to the State under its pesticide control legislation. EPA interprets the modifier "appropriate" in section 27(a) of FIFRA to require that the severity of the proposed enforcement action correlate to the gravity of the violation.

It is not possible in this Interpretive Rule to prescribe the specific enforcement action which will constitute an appropriate response to a particular violation. There are too many variables which will influence the treatment of a use violation, including the disparity between the types of enforcement remedies available under the various State pesticide control statutes. This document can, however, establish criteria to be employed in evaluating the appropriateness of a proposed State enforcement action. More detailed guidance on evaluating relative gravity is contained in EPA's "Guidelines for the Assessment of Civil Penalties under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended", published in the **Federal Register** of July 31, 1974 (39 FR 27711). The Guidelines establish dollar amounts to be applied under the Federal statute to use violations in civil penalty proceedings. Regional personnel can use these figures as a guide in evaluating the gravity of a particular violation. The Agency will not require that a State response to a violation have a monetary impact equivalent to that of a civil penalty which EPA would impose under the Guidelines. Rather, the dollar amounts contained in the penalty matrices can be used by regional personnel to define the relative gravity of a violation by comparing the figures applicable to different violations.

2. *Gravity of the violation.* The Agency believes that the gravity of a pesticide use violation is dependent upon the risk the violation poses to human health and the environment. The factors which determine the degree of risk presented by a use violation can be divided into two categories: factors related to the particular action which constituted the violation and factors related to the pesticide involved in the incident.

a. *Risk associated with the violative action.* The circumstances surrounding the violative action partially determine the risk the violation presents to human health or the environment. To assess the degree of such risk, State and regional personnel should ask such questions as:

i. Did the violation occur in a highly populated area, or near residences, schools, churches, shopping centers, public parks or public roads, so that health was endangered?

ii. Did the violation occur near an environmentally sensitive area, such as a lake or stream which provides drinking water to the surrounding community, a wildlife sanctuary, a commercial fishery, or other natural areas?

iii. Did a structural application threaten to contaminate food or food service equipment?

iv. Did the violation have the potential to affect a large or a small area?

v. What was the actual harm which resulted from the violation?

vi. Was the nature of the violation such that serious consequences were likely to result?

This last question is designed to take into account the variation in the inherent risk associated with different categories of use violations. For example, a drift violation resulting from improper aerial application generally presents a greater risk of harm than a storage violation, since the latter infraction does not necessarily involve the improper exposure of the pesticide to the environment.

b. *Risk associated with the pesticide.* The factors which will be crucial in evaluating the risk associated with the pesticide itself include:

i. The acute toxicity of the pesticide or pesticides involved in the incident. The toxicity of a pesticide will be indicated by the "human hazard signal word" on the labels (see 40 CFR 162.10). "Danger" or "Poison" are indicators of a highly toxic pesticide while "Warning" and "Caution" signify successively less toxic substances.

ii. The chronic effects associated with the pesticide, if known.

iii. The amount of the pesticide involved in the incident, relative to the manner of application (e.g., aerial versus structural).

iv. Other data concerning the harm a pesticide may cause to human health or the environment, such as data concerning persistence or residue capability.

An analysis of the interrelationship between these two categories of risk factors should yield a notion of the relative gravity of the violation and the severity of the action which should be taken in response.

3. *Category of applicator, size of business, and history of prior violation.* Gravity is not the only factor which EPA will take into account in evaluating the propriety of an enforcement action. Section 14 of FIFRA requires that distinctions in the severity of an enforcement response be made between the categories of persons who commit use violations. The intent of Congress, as expressed in section 14, is that commercial pesticide applicators who violate use requirements will be subject to more stringent penalties that other persons who violate use restrictions. Congress also envisioned that the size of the violator's business will be a factor in determining the severity of the penalty. In addition, section 14 distinguishes between violators who have committed previous infractions and those who are first offenders. Thus, the issuance of a warning letter by a State to a person or firm who has been repeatedly warned in the past about a certain violation would not generally be considered an appropriate response to the violation.

4. *Knowing violations; criminal penalties.* The state of mind of the violator is another important consideration. In extreme circumstances where the civil penalty remedy is inappropriate, it is the Agency's policy to pursue a criminal action against persons who knowingly violate a provision of FIFRA. EPA will be particularly interested in pursuing criminal prosecution for those violations which involve a death or serious bodily injury or in which the violator has demonstrated a reckless or wanton disregard for human safety, environmental values or the terms of the statute. To be appropriate, a State's response to a knowing violation under the circumstances indicated above must be similarly severe.

5. *Deterrence.* It should be noted that the appropriateness of an enforcement

action is a dynamic, rather than a static, concept. Because it is dynamic, penalties must be periodically evaluated. If a certain violation is occurring more frequently, the leniency of the remedies which have been applied to this infraction in the past should be questioned. Consequently, what is appropriate in one year may be viewed as an inadequate response in the next.

The factors described above, together with the aforementioned Guidelines, should help to clarify the Agency's definition of "appropriate enforcement action." To understand better how the criteria described above can be used to evaluate whether a proposed State enforcement action is appropriate, the reader is referred to the hypothetical fact situations in Appendix B.

II. Criteria Governing Grants of Primacy

Section 26 of FIFRA sets forth the general criteria which apply to EPA's decision whether to grant primacy to a State:

> "(a) For the purposes of this Act, a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State—
>
> "(1) has adopted adequate pesticide use laws and regulations; *Provided*, That the Administrator may not require a State to have pesticide use laws that are more stringent than this Act;
>
> "(2) has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations; and
>
> "(3) will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Administrator may require by regulation.
>
> "(b) Notwithstanding the provisions of subsection (a) of this section, any State that enters into a cooperative agreement with the Administrator under section 23 of this Act for the enforcement of pesticide use restrictions shall have the primary enforcement responsibility for pesticide use violations. Any State that has a plan approved by the Administrator in accordance with the requirements of section 4 of this Act that the Administrator determines meets the criteria set out in subsection (a) of this section shall have the primary enforcement responsibility for pesticide use violations. The Administrator shall make such determinations with respect to State plans under Section 4 of this Act in effect on September 30, 1978 not later than March 31, 1979.

Thus, a State may obtain primacy in two ways: (1) by demonstrating that the elements of its use enforcement program, or of its approved certification program, satisfy the two main criteria in section 26(a), (adequate laws and adequate procedures implementing those laws), or (2) by entering into a cooperative agreement for the enforcement of use restrictions, provided the terms of the agreement do not specify otherwise. The Agency will also evaluate the adequacy of a State's use enforcement program before conferring primacy by this latter method.

A. *Adequate Laws and Regulations.* To be considered adequate, a State's pesticide control legislation must address at least the following areas:

1. *Use restrictions.* State pesticide control legislation will be considered adequate for purposes of assuming full primacy if State law prohibits those acts which are proscribed under FIFRA and which relate to pesticide use. The activities presently proscribed under FIFRA include:

a. Use of a registered pesticide in a manner inconsistent with its label (FIFRA section 12(a)(2)(G)).

b. Use of a pesticide which is under an experimental use permit contrary to the provisions of the permit (section 12(a)(2)(H)).

c. Use of a pesticide in tests on humans contrary to the provisions of section 12(a)(2)(P).

d. Violation of the provision in section 3(d)(1)(c) requiring pesticides to be applied for any restricted use only by or under the direct supervision of a certified applicator. Violations of suspension or cancellation orders are not considered use violations for purposes of the primacy program.

States may be granted partial primacy if they regulate less than all categories of use violations. For example, EPA may in the future decide to issue "other regulatory restrictions" on use under section 3(d)(1)(C)(ii), (such as a requirement to notify area residents before pesticide spraying). If such a restriction were issued, (and not reflected on pesticide product labels), each State would automatically have partial primacy extending to all of the categories listed above which are proscribed by State law, unless the State already has authority to enforce such restrictions. A State with partial primacy would obtain full primacy by enacting a prohibition tracking the section 3(d)(1)(C)(ii) restriction.

2. *Authority to enter.* To carry out effectively their use enforcement responsibilities, State officials should be able to enter, through consent, warrant, or other authority, premises or facilities where pesticide use violations may occur. States should also have concomitant authority to take pesticide samples as part of the use inspection process.

3. *Flexible remedies.* Finally, State legislation must provide for a sufficiently diverse and flexible array of enforcement remedies. The State should be able to select from among the available alternatives an enforcement remedy that is particularly suited to the gravity of the violation. Without such flexibility, a State may frequently be forced to underpenalize violators, and thereby fail significantly to deter future use violations. Thus, in order to satisfy the "adequate laws" criterion, States should demonstrate that they are able to:

a. Issue Warning Letters or Notices of Noncompliance;

b. Pursue administrative or civil actions resulting in an adverse economic impact upon the violator, e.g., license or certification suspensions or civil penalty assessments; and

c. Pursue criminal sanctions for knowing violations.

B. *Adequate Procedures for Enforcing the Laws.* In order to obtain primacy, States must not only demonstrate adequate regulatory authority, but must also show that they have adopted procedures to implement the authority. These procedures must facilitate the quick and effective prevention, discovery, and prosecution of pesticide use violations.

1. *Training.* One step towards this objective is the training of enforcement personnel. At a minimum, States, in cooperation with EPA, should implement procedures to train inspection personnel in such areas as violation discovery, obtaining consent, preservation of evidence, and sampling procedures. Enforcement personnel should be adequately versed in case development procedures and the maintenance of proper case files.

Instruction in these techniques should take the form of both on-the-job training and the use of prepared training materials. The Agency also considers a continuing education program to be a crucial training procedure, so that enforcement personnel can be kept abreast of legal developments and technological advances.

2. *Sampling techniques and laboratory capability.* Requests for primacy should also show that the State is technologically capable of conducting a use enforcement program. States must have ready access to the equipment necessary to perform sampling and laboratory analysis, and should implement a quality assurance program to train laboratory personnel and protect the integrity of analytical data. Laboratories conducting sample analyses must also agree to participate in EPA (NEIC) Check Sample programs which are designed to ensure minimum standards of analytical capability. (Such a program is already operational for formulation samples, and a residue sample program is also under consideration). The EPA Check Sample program is coordinated with the Association of American Pesticide Control Officials (AAPCO) to reduce unnecessary duplication of effort. The EPA will be guided in evaluating the adequacy of State analytical procedures by official compilations of approved analytical methods, such as the Food and Drug Administration's (FDA) Pesticide Analytical Manual, the CIPAC (Collaborative International Pesticides Analytical Council) Handbook, the EPA Manual of Chemical Methods for Pesticides, and Official Analytical Chemists Analytical Procedures. For additional guidance on adequate sampling techniques, States should consult EPA's FIFRA Inspectors Manual or contact the appropriate regional office.

3. *Processing complaints.* Since a significant portion of pesticide use violations are identified through reports from outside EPA or the State lead agency, the State must implement a system for quickly processing and reacting to complaints or other information indicating a violation. An adequate referral system should contain:

a. A method for funneling complaints to a central organizational unit for review.

b. A logging system to record the receipt of the complaint and to track the stages of the follow-up investigation.

c. A mechanism for referring the complaint to the appropriate investigative personnel.

d. A system for allowing a rapid determination of the status of the case.

e. A procedure for notifying citizens of the ultimate disposition of their complaints.

4. *Compliance monitoring and enforcement.* Along with the above described enforcement procedures, States must provide assurance that sufficient manpower and financial resources are available to conduct a compliance monitoring program, i.e., either planned or responsive use inspections. In addition, States must implement procedures to pursue enforcement actions expeditiously against violators identified through compliance monitoring activities.

The Agency also believes that program planning and the establishment of enforcement priorities is an integral part of an adequate enforcement program. Such planning, taking into account the national program priorities as manifested through the grant negotiation process, as well as the priorities specific to the individual State, will help assure that compliance monitoring and enforcement resources are properly allocated.

5. *Education.* States should implement a program to inform their constituencies of applicable pesticide use restrictions and responsibilities. Examples of education methods include disseminating compliance information through cooperative extension services, seminars, publications similar to the **Federal Register**, newspapers, and public assistance offices where persons can call to ask questions or report violations. Such an educational program will promote voluntary compliance and is essential to effective enforcement. States should also develop procedures for soliciting input from the public regarding the administration of the pesticide use enforcement program.

III. Criteria Governing Rescission of Primacy Under Section 27(b)

Section 27(b) authorizes the Administrator to rescind primacy from a State in certain situations:

> "(b) Whenever the Administrator determines that a State having primary enforcement responsibility for pesticide use violations is not carrying out (or cannot carry out due to the lack of adequate legal authority) such responsibility, the Administrator shall notify the State. Such notice shall specify those aspects of the administration of the State program that are determined to be inadequate. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Administrator determines that the State program remains inadequate, the Administrator may rescind, in whole or in part, the State's primary enforcement responsibility for pesticide use violations.

In deciding whether a State is not carrying out, or cannot carry out, its use enforcement responsibilities, the Administrator will apply the criteria for an adequate program set forth in Unit II to the performance of the State during the time the State had primacy.

A. *Adequate Laws.* The legal authority can conduct an adequate use enforcement program is a criterion which affects both the decision to grant primacy and the decision to rescind it. Within the context of rescission, the Administrator will assess the impact of any amendments or supplements to the State's pesticide use laws and regulations. If legislative changes have adversely affected the State's ability to collect information or bring enforcement actions, the State may be subject to a rescission action on grounds of inadequate laws.

B. *Adequate Procedures.* In determining whether a State which has adequate legal tools is carrying out its use enforcement obligations, the Agency will examine the efficacy of the procedures adopted by the State to implement its pesticide laws. The Agency will be particularly interested in the remedies the State has actually applied to the various use violations. The lack of sufficient correlation between the gravity of a use violation and the severity of the enforcement response would be evidence that the State's arsenal of remedies is not being applied in a flexible manner.

In addition, EPA will evaluate each program element listed in Unit II.B., in light of the performance of the State during the period the State had primary use enforcement responsibility.

1. *Training.* The Administrator will note whether any difficulties encountered by the State in enforcing pesticide use restrictions have resulted from a lack of adequate training of State enforcement personnel.

2. *Sampling techniques and laboratory capability.* The Administrator will consider whether the State's sampling techniques and

analytical capabilities are enhancing or hindering the State's ability to unearth and prosecute successfully persons who misuse pesticides. Another important consideration will be the degree to which State laboratory and sampling procedures have kept pace with developments in analytical technology.

3. *Processing complaints.* The Administrator will examine whether complaints have been processed quickly and efficiently. The degree to which citizens alleging a use violation seek redress from EPA after first directing their complaint to the State will be considered. In addition, the Administrator will take into account the performance of the State in responding to allegations referred to the State by EPA under section 27(a) of FIFRA.

4. *Compliance monitoring and enforcement.* Under this element, the Administrator will compare the State's level of compliance monitoring activities with that of other comparable States. The EPA will review State case files to determine whether the State has aggressively investigated a case before deciding on the disposition of the matter. The EPA will also investigate whether a State's Attorney General's office or other prosecutorial authorities have demonstrated a willingness to pursue cases referred by the State's pesticide control lead agency.

The Agency will examine whether State enforcement resources have been directed towards the more significant enforcement problem areas, and whether enforcement priorities have been reevaluated as the demands of an adequate program change over time.

5. *Education.* The Administrator will evaluate whether the State's education program is encouraging voluntary compliance with pesticide use restrictions. As part of this process, the Administrator will note those use violations which are at least partially attributable to the violator's lack of familiarity with applicable laws and regulations. The Administrator will also review State procedures for facilitating public participation in the enforcement program.

These criteria are indices of the adequacy of a State's use enforcement program, but they do not conclusively determine whether a State is discharging its primacy responsibilities. Since the Agency's goal is to protect the public from the risks associated with pesticides, one of EPA's central inquiries will be whether the State's primacy program assures compliance with pesticide use restrictions. EPA, in evaluating State program adequacy, will consider both the deficiencies of the program and the success of the program in achieving compliance.

IV. Emergency Response

Notwithstanding other provisions of sections 26 and 27, the Administrator may, after notification to the State, take immediate action to abate emergency situations if the State is "unwilling or unable adequately to respond to the emergency."

FIFRA does not define "emergency conditions." Other EPA-administered statutes, however, characterize emergencies in fairly consistent terms. The consensus of these statutes is that an emergency presents a risk of harm to human health or the environment that is both serious and imminent, and that requires immediate abatement action.

Examples of use-related emergency situations are:

1. Contamination of a building by a highly toxic pesticide.

2. Hospitalizations, deaths, or other severe health effects resulting from use of a pesticide.

3. A geographically specific pattern of use or misuse which presents unreasonable risk of adverse effects to health or sensitive natural areas. This situation may occur, for example, if a hazardous pesticide is consistently misused in a particular area so that the net effect is the creation of substantial endangerment to the environment, such as runoff into a water supply.

A. *"Unwilling".* When EPA learns of an emergency situation, Agency representatives must notify the affected State. These representatives will try to obtain a commitment from the State as to (a) what the State is capable of doing in response to the situation, and (b) when the State intends to respond to the crisis.

Emergencies, by nature, require the quickest possible response. In most cases, due to proximity, the State will have the opportunity to be first on the scene. If the State manifests an unwillingness to respond rapidly to the situation, or if the State cannot give assurances that it will respond more quickly than EPA could respond, Agency emergency response teams will be activated.

B. *"Unable".* The EPA will immediately take action to abate an emergency if the State is unable to do so. The Agency interprets "unable" to mean that either the State does not have the authority to adequately respond or that the State is incapable of solving the problem due to the lack of technology or resources.

1. *Authority.* The EPA can utilize its authority in section 16(c) of FIFRA to seek, in conjunction with the Department of Justice, a district court order preventing or restraining misuse of a pesticide. States should also be able to address a use-related emergency in this manner or by the rapid issuance of an enforceable stop-use order or other similar means. If the State lacks this authority and the emergency conditions warrant a legal response in the nature of specific enforcement or equitable relief, EPA may initiate its own action after notice to the State.

2. *Technical capability.* Some emergency situations may present problems which the States are technologically incapable of solving. In these instances, if EPA possesses the requisite technology or equipment, the Agency will immediately respond to the crisis. For example, where a dissolved organic pesticide has contaminated a surface water system, EPA would activate its portable advanced waste treatment unit, a resource that is not generally available to the States.

The EPA will also take action if the State cannot rapidly commit the necessary manpower to the emergency situation. In most cases EPA will not, however, initiate a response on this basis if the State has developed an emergency response plan detailing the procedures to be followed in counteracting a pesticide emergency.

V. Hypothetical Situations

In reading the hypotheticals in Units A and B, assume that the cases discussed fall under priority referral areas discussed in Unit I.A.2.

A. *Action by Citizen. Hypothetical 1.* EPA refers to the State a citizen's allegation that an aerial applicator has allowed pesticides to drift over his property. After 25 days, the EPA Region obtains the results of State's investigation and learns that the State plans to issue a warning letter to the applicator. The EPA advocates a more firm response and, after discussion, the State agrees to suspend the applicator's certification. The State certification board does not meet, however, until two months later. In this instance, the Region may decide to extend the normal 30 day prosecution stage to accommodate the schedule of the board.

Hypothetical 2. A citizen calls EPA with information concerning a fish kill which occurred in a stream near his residence. The citizen claims that he reported his information to the State, but State officials have not responded to his complaint. The EPA's Regional official calls the State, and learns that the State did indeed know of the problem, but has not yet had the opportunity to investigate the allegation. The Regional

official, believing the allegation to be significant, formally refers the complaint to the State, and the State agrees that the matter should be investigated within 20 days. After 20 days, the Region learns that the State has not yet begun its investigation. In this case, the Region will begin its own inquiry into the matter, and may commence its own enforcement action, after notice to the State, provided that 30 days have elapsed from the date of the referral.

B. *Action by State.* In both of these hypotheticals, assume that the State has chosen a Warning Letter as the appropriate enforcement response.

Hypothetical 1. Mr. Smith operates a one-man crop dusting company. Smith is hired to spray Herbicide A over a power company's lengthy right-of-way. The right-of-way is bounded on one side by a residential development and on the other by a wooded area. Smith performs the aerial application amidst high swirling winds in contravention of the instructions on the herbicide's label. A significant portion of the herbicide drifts onto the wooded area. Herbicide A, which contains the hazard word "danger" on its label, is a highly toxic and persistent restricted use pesticide. Smith has no record of prior pesticide-related violations with government pesticide control offices.

The Agency would consider the issuance of a warning letter to be an inappropriate response to this violation.

a. *Risk associated with the violative action.* Fortunately in this instance, the herbicide did not result in damage to humans or sensitive environmental areas. But at the time the violation was committed, the risk that harm would result from the misuse was quite significant, given the high swirling winds and the proximity of a residential neighborhood. Only chance prevented the herbicide from drifting into an inhabited area. The risk of harm was also increased by the fact that a great deal of land was subject to drift given the length of the target area.

b. *Risk associated with the pesticide.* Herbicide A is labelled "danger" and is therefore an acutely toxic Category I pesticide under 40 CFR 162.10. The harm that would result from exposure to this persistent substance is substantial, regardless of whether chronic effects or residue properties have been ascribed to it. In addition, a large amount of herbicide A was involved in the violation.

c. *Other factors.* Smith is a commercial applicator under FIFRA and would be subject to the maximum penalty. As a mitigating factor, however, Smith could point to the absence of prior FIFRA violations.

In summary, since Smith's actions were highly likely to result in serious harm to human health, his drift violation warrants a severe enforcement response, such as assessing a fine or suspending his certification. Despite Smith's clean record, a warning letter would not be deemed "appropriate enforcement action."

Hypothetical 2. A small food processing firm which markets frozen TV dinners utilizes company maintenance personnel to accomplish its pest control needs. No particular training is provided for such employees but they are instructed to read and follow the label directions. They are provided all appropriate application equipment and protective clothing. A company employee applied a non-persistent general-use (Category IV) pesticide which was registered for structural pest control to combat a particularly serious cockroach infestation. Despite label instructions requiring the user to avoid contaminating food, food containers, or cooking utensils, the employee applied the pesticide directly upon and below counter tops and related surfaces in the room where food cooking racks are stored. The application took place late Friday afternoon. The cooking racks were not utilized again until Monday morning. An inspection took place on Monday morning. This was the third pesticide use inspection which the State had conducted at the firm in the last four years. None of the prior inspections had revealed a pesticide-related violation. Residue samples taken Monday morning revealed no trace residue of the pesticide on the treated surfaces.

Since the violation constitutes a first offense by an "other person" under section 14(a)(2) of FIFRA, the maximum federal enforcement response would be a Notice of Warning. Accordingly, the Warning Letter issued by the State would constitute an appropriate enforcement action.

a. *Risk associated with the violative action.* The direct application of any pesticide to a cooking rack in a food processing establishment poses some risk of exposure to humans. Although the pesticide used in this case was not applied in great amounts or over large areas, the inherent risk associated with the violation is relatively high, since violation results in the introduction of the pesticide into non-target surfaces with the likelihood of human exposure.

b. *Risk associated with the pesticide.* In this instance, the risk associated with the pesticide itself is relatively small. This Category IV pesticide is not acutely toxic or persistent, and is not known to cause any chronic effects. Sample analysis revealed no trace of the product at the time the exposed cooking racks were to be used.

c. *Other factors.* Under FIFRA, the issuance of a Notice of Warning is the maximum enforcement response to a use violation committed by a private applicator with no history of prior violations. Thus, the Agency would, of course, view the proposed State enforcement action as appropriate. If the violation were repeated, a more stringent enforcement action would be warranted.

Dated: December 22, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc. 83-0 Filed 1-4-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[OPP-300069A; PH-FRL 2277-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Methyl Bis (2-Hydroxyethyl)Alkyl Ammonium Chlorids

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts methyl bis (2-hydroxyethyl)alkyl ammonium chloride from the requirement of a tolerance, where the carbon chain (C_8-C_{18}) is derived from coconut, cottonseed, soya, or tallow acids, when used as a surfactant in pesticide formulations. This regulation was requested by the Armak Company.

EFFECTIVE DATE: January 5, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Roland Blood, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the Federal Register of November 3, 1982 (47 FR 49874) which announced that at the request of Armak Company, 300 South Wacker Drive, Chicago, IL 60606, the Administrator proposed to amend 40 CFR 180.1001(d)

by including methyl bis (2-hydroxyethyl)alkyl ammonium chloride.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: December 22, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(d) is amended by adding and alphabetically inserting methyl bis (2-hydroxyethyl) alkyl ammonium chloride to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Methyl bis (2-hydroxyethyl) alkyl ammonium chloride, where the carbon chain (C_8–C_{18}) is derived from coconut, cottonseed, soya, or tallow acids.	.....	Surfactant.
* * * * *		

[FR Doc. 83-101 Filed 1-4-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3130

[Circular No. 2517]

Amendment to the National Petroleum Reserve—Alaska Oil and Gas Leasing Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends the regulations in 43 CFR Part 3130 to provide procedures for consolidation of leases in the National Petroleum Reserve—Alaska into a single lease, not larger than 60,000 acres in size, in accordance with the Department of the Interior Appropriations Act, Fiscal Year 1981.

EFFECTIVE DATE: February 4, 1983.

ADDRESS: Any inquiries or suggestions should be sent to: Director (530), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jan Daniels, (202) 343–7753.

SUPPLEMENTARY INFORMATION: The proposed rulemaking amending the existing regulations providing Procedures for Leasing Oil and Gas in the National Petroleum Reserve—Alaska allowing consolidation of leases was published in the **Federal Register** on April 20, 1982 (47 FR 16807), with a 30-day comment period. During the comment period, 10 comments were received, with 9 from industry sources and one from a Federal source.

In general, the comments favored the amendment allowing consolidation of leases made by the proposed rulemaking. While the amendment was recognized as a "step in the right direction" by the majority of the comments, there was general recognition that the amendment fell short of meeting industry's concerns with operating in the National Petroleum Reserve—Alaska. At the same time, the comments contained an awareness of the inability of the Department of the Interior to fully resolve the problems presented by operating in the Reserve without the granting of additional authority by legislation. In this vein, a majority of the comments recommended that the Department pursue legislation to allow for unitization; to provide for the extension of lease terms for shut-in wells capable of production pending the availability of transportation; and for the suspension of lease terms as directed or approved by the authorized officer.

The Bureau of Land Management recognizes that the provisions of the Appropriations Act, Fiscal Year 1981, do not provide the optimum basis for leasing in the National Petroleum Reserve—Alaska and agrees that the leasing program would be aided by legislative changes covering the three areas discussed in the comments. The Department of the Interior is considering recommending to Congress legislation addressed to these issues. One comment suggested that the 60,000 acre limitation is not applicable to consolidated leases because the Appropriations Act is silent on that issue. While the Appropriations Act is silent on the question of consolidation of leases, it expressly states in proviso 7 that the size of lease tracts may be up to 60,000 acres. Since existing leases are limited to 60,000 acres by the legislation, leases cannot be consolidated into a single operating lease that exceeds 60,000 acres. Language has been added to the final rulemaking clarifying this point.

A number of comments expressed concern about the provision in section 3135.1–6(b) of the proposed rulemaking that "(L)eases to different lessees for different terms, rental and royalty rates or those containing provisions of law which cannot be reconciled shall not ordinarily be considered for consolidation." The comments noted that this provision would have very limited application because the combination of circumstances would apply only to leases with the same lessee or with identical terms, royalty rates, rental and reconcilable provisions of the law in an area not to exceed 60,000 acres. After careful review of the comments and the language of the proposed rulemaking, the final rulemaking has been changed to make it clear that conflicting provisions will be permitted in consolidated leases, except that all parties to an undivided interest in a lease must agree to enter into the same lease consolidation.

One comment raised questions concerning the lease stipulations and suggested that the final rulemaking specify which stipulations would be applicable to the consolidated lease if there are differing stipulations for the leases that are being consolidated. Any special lease stipulations would remain attached to the individual tracts or portions of tracts even after consolidation. Since the consolidation of noncontiguous tracts is allowed, and because stipulations are tract-specific, they will continue to apply to those areas specified in the original lease. The

final rulemaking contains changes that clarify this point.

There was a comment which inquired as to whether leases must be contiguous to qualify for consolidation. There is no requirement in the proposed rulemaking that leases or portions of leases be contiguous to qualify for consolidation. No change has been made on this point in the final rulemaking.

The provisions for lease consolidation in the National Petroleum Reserve in Alaska contained in this Subpart 3135 differ from the provisions for lease consolidation under the Mineral Leasing Act of 1920, as amended (30 U.S.C 181 et seq.) contained in Subpart 3105 of this title. The latter permits consolidation only when the royalty, rental, lease stipulations and other lease terms are the same. Under Subpart 3135 of this title, leases containing different terms can be consolidated. After consolidation they retain their individual identities except for the effective date, anniversary date and the primary term which, for the consolidated lease, will be the same as the dates of the oldest lease involved.

Several questions were raised in the comments regarding the provisions for segregation of leases for inclusion in a consolidated lease. Provisions for segregation and subdivision of existing leases in the National Petroleum Reserve—Alaska are provided under the existing regulations for oil and gas leasing in the National Petroleum Reserve—Alaska.

There were a few comments that requested changes in the final rulemaking to clarify minor items. These changes and necessary editorial changes and corrections have been made in the final rulemaking.

The principal author of this final rulemaking is Jan Daniels, Division of Oil and Gas, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management and the Office of the Solicitor, Department of the Interior.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The change made by this final rulemaking will only have a minor impact on the leasing program authorized by 43 CFR Part 3130. The opportunity to consolidate leases will apply to all entities who have leased lands in the National Petroleum Reserve—Alaska, without regard to their size.

The information collection requirements contained in this final rulemaking amending 43 CFR Part 3130 have been approved by the Office of Management and Budget as required by 44 U.S.C. 3507 and assigned clearance number 1004–0108.

List of Subjects in 43 CFR Part 3130

Alaska, Mineral royalties, Oil and gas reserves, Public lands—mineral resources, Surety bonds.

Under the authority of the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514), Part 3130, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: December 11, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

1. The title to subpart 3135 is revised to read:

Subpart 3135—Assignments, Transfers and Extensions

2. Subpart 3135 is amended by adding a new § 3135.1–6 to read:

§ 3135.1–6 Consolidation of leases.

(a) Leases may be consolidated upon written request of the lessee filed with the State Director Alaska, Bureau of Land Management. The request shall identify each lease involved by serial number and shall explain the factors which justify the consolidation.

(b) All parties holding any undivided interest in any lease involved in the consolidation shall agree to enter into the same lease consolidation.

(c) Consolidation of leases not to exceed 60,000 acres may be approved by the State Director, Alaska if it is determined that the consolidation is justified.

(d) The effective date, the anniversary date and the primary term of the consolidated lease shall be those of the oldest original lease involved in the consolidation. The term of a consolidated lease shall be extended beyond the primary lease term only so long as oil or gas is produced in paying quantities or approved constructive or actual drilling or reworking operations are conducted thereon.

(e) Royalty, rental, special lease stipulations and other terms and conditions of each original lease except the effective date, anniversary date and the primary term shall continue to apply to that lease or any portion thereof regardless of the lease becoming a part of a consolidated lease.

[FR Doc. 83-297 Filed 1-4-83; 8:45 am]
BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1157

[Ex Parte No. 293 (Sub-6)]

Standards for Determining Commuter Rail Service; Continuation Subsidies

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Adoption of final rules.

SUMMARY: On August 30, 1982 the Rail Services Planning Office (RSPO) issued a notice of proposed rulemaking and requested comments on regulations precribing the necessary contents of a Notice by Amtrak Commuter Services Corporation (CSC) to discontinue commuter rail operations, 47 FR 39700. These regulations were required by the Northeast Rail Service Act of 1981 (NERSA). No comments were received and RSPO is adopting the proposed regulations as final rules.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT:
Stephen Grimm, (202) 275–0839.
Elaine Kaiser, (202) 275–0907.

SUPPLEMENTARY INFORMATION: Section 1137 of NERSA creates a new Title V of the Rail Passenger Service Act (45 U.S.C. 501) which provides for the establishment of a new corporation, CSC, to replace Conrail as the operator of commuter rail services. As of January 1, 1983, CSC is required to take over the commuter operations currently provided by Conrail if a commuter authority offers a subsidy payment which complies with RSPO's Standards (45 U.S.C. 504(c)). CSC may, however, discontinue these operations upon 60 days notice if (1) a commuter authority fails to offer an operating payment in accordance with the RSPO Standards or (2) an applicable commuter service operating payment is not paid when it is due.

Section 1137 of NERSA (45 U.S.C. 504(d)(2)) directs RSPO to issue regulations prescribing the necessary content of a discontinuance notice by CSC. Accordingly, on August 30, 1982 we issued a notice of proposed rulemaking. No comments were received

and we are now adopting the proposed rules as final.

This is not a major Federal action significantly affecting the quality of the human environment or the conservation of energy resources. Also, the final rules do not appear to have a negative impact on small entities.

The final rules are published under authority of 45 U.S.C. 504(d)(2).

List of Subjects in 49 CFR Part 1157

Railroads.

Decided: December 22, 1982.

By the Commission, William Southard, Director, Rail Services Planning Office.

Agatha L. Mergenovich,

Secretary.

PART 1157—[AMENDED]

1. Sections 1157.1 through 1157.10, including appendices I, II, and III are redesignated as Subpart A, the heading of which is added to read as follows:

Subpart A—Determination of Commuter Rail Service Continuation Subsidies

2. A new Subpart B is added to Part 1157 to read as follows:

Subpart B—Notice of Discontinuance of Commuter Service by Amtrak Commuter Services Corporation

Sec.
1157.20 Purpose.
1157.21 Content and form of the notice.
1157.22 Service and posting.

Authority: 49 U.S.C. 504(d)(2).

Subpart B—Notice of Discontinuance of Commuter Service by Amtrak Commuter Services Corporation

§ 1157.20 Purpose.

Section 1137 of the Northeast Rail Service Act, 45 U.S.C. 504(d)(2), directs the Rail Services Planning Office (RSPO) to issue regulations prescribing the necessary contents of a notice by Amtrak Commuter Services Corporation (Commuter Services Corporation) to discontinue commuter service operations. Commuter Services Corporation may discontinue commuter service upon 60 days notice if (a) a commuter service operating payment (subsidy payment) is not made by a commuter authority in accordance with the Standards For Determining Commuter Rail Service Continuation Subsidies issued by RSPO, or (b) an applicable subsidy payment is not paid when it is due.

§ 1157.21 Content and form of the notice

The notice to discontinue commuter service operations shall contain the following information and shall be in the following form:

Notice of Discontinuance of Commuter Services Corporation's Operation of [Name of Subsidizer] Commuter Rail Service

Commuter Services Corporation hereby gives 60 days notice that on [date of proposed discontinuance] it intends to discontinue the operation of commuter rail service currently subsidized by [name of subsidizer] in [identify general area to be affected].

Commuter Services Corporation intends to discontinue the service because [name of subsidizer] has [cite reason for discontinuance in accordance with 45 U.S.C. 504(d)(1) (A) or (B)] as required by section 1137 of the Northeast Rail Service Act of 1981.

Timetables for the commuter service to be discontinued are [list timetables for the affected commuter service]. For further information contact [specify name and telephone number of a designated representative for Commuter Services Corporation and the subsidizer].

Commuter Services Corporation.

By: [Commuter Services Corporation Authorizing Official and Title].

[Date of Notice]

§ 1157.22 Service and posting.

(a) The notice shall be served by certified mail on the subsidizer, the governor, and the designated state agency, and by first class mail on the Rail Services Planning Office and the National Railroad Passenger Corporation. Service shall be made no less than 3 days prior to the date of the notice.

(b) The notice shall be posted in a conspicuous place in each car of all trains affected by the proposed discontinuance and in each station, depot, and other facility involved. The posting of the notice shall be completed prior to the date of the notice.

[FR Doc. 83-160 Filed 1-4-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 21215-251]

Foreign Fishing; Hake Fisheries of the Northwestern Atlantic

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of amendment to preliminary fishery management plan.

SUMMARY: NOAA issues notice that the Assistant Administrator for Fisheries has approved an amendment to the Preliminary Fishery Management Plan for the Hake Fisheries of the Northwestern Atlantic and requests comments on the amendment. The amendment (1) decreases the optimum yield (OY) for the Georges Bank silver hake management unit and the total allowable level for foreign fishing; (2) eliminates the reserve specification for Georges Bank silver hake; (3) reduces the estimate for domestic annual processing capacity (DAP) for Georges Bank silver hake; and (4) revises the DAP for the Southern New England/Mid-Atlantic silver hake management unit. These charges reflect the latest available information on stock conditions and updated estimates of DAP. The reduced OY is intended to maintain adequate spawning stock size.

DATES:

Effective date: January 4, 1983.

Comment date: Comments on the amendment must be submitted on or before January 20, 1983.

ADDRESSES: Copies of the amendment are available from Frank Grice, Chief, Management Division, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930.

FOR FURTHER INFORMATION CONTACT: Peter D. Colosi, Jr. (Atlantic hakes plan coordinator), 617-281-3600.

SUPPLEMENTARY INFORMATION: The foreign fisheries for Atlantic silver and red hake have been governed since 1977 by the Preliminary Fishery Management Plan for the Hake Fisheries of the Northwestern Atlantic (PMP), implemented at 50 CFR 611.50 and 611.53. The PMP has been amended twice; the amended PMP continues in effect until further changed. Fishing for silver and red hake in the fishery conservation zone (FCZ) is restricted to "windows" located in the Georges Bank and Southern New England/Mid-Atlantic management areas, whose locations are identified in Figure 1, Appendix II, of § 611.9.

The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires annual reevaluation of specifications contained in fishery management plans. The OYs and the estimates of domestic annual harvest (DAH) and DAP for silver and red hake have been reviewed. Of the four hake stocks regulated by the PMP (silver and red hake from the Georges Bank management area and silver and red hake from the Southern New England/Mid-Atlantic management area), this action only amends the specifications for the Georges Bank and the Southern New England/Mid-Atlantic silver hake stocks. The changes adjust an OY, the

DAPs, the total allowable levels of foreign fishing (TALFF), and reserves, and are made in response to updated scientific information on stock conditions and revised estimates of DAP. The changes were approved by the Assistant Administrator for Fisheries, NOAA, on December 20, 1982. The revised values are presented in the following table.

SPECIFICATIONS FOR GEORGES BANK AND SOUTHERN NEW ENGLAND/MID-ATLANTIC SILVER HAKE

[Values in metric tons]

Specification	OY	DAH	DAP	TALFF	Reserve
Areas:					
Georges Bank (5Ze)[1] (includes foreign fishing area 5)	13,000	9,000	2,000	4,000	0
Southern New England Mid-Atlantic (5Zw+SA6)[1] (includes foreign fishing areas 1–4)	30,000	20,600	5,600	9,400	0

[1] Management area designation used by PMP and based on ICNAF designations.

Silver Hake—Georges Bank

The latest available assessment data for the Georges Bank silver hake stock indicate a stock size considerably less than that suggested by previous data. The assessment data indicate that an annual harvest of 13,000 metric tons (mt) would maintain an adequate spawning stock through 1983. Accordingly, the OY for this stock is reduced from 25,000 mt to 13,000 mt. DAH is unchanged at 9,000 mt and includes potential U.S. harvest for joint ventures in the near future. The TALFF is adjusted downward from 10,000 mt to 4,000 mt. The DAP is decreased from 9,000 mt to 2,000 mt to reflect recent performance by U.S. processors. The difference between DAH and DAP (7,000 mt) is available for joint ventures.

The reserve is reduced to zero. Establishment of a reserve is not necessary for this fishery; it is impractical to consider reallocation from reserve to TALFF during the foreign fishing season because the foreign fishery is completed before the domestic fishery gets underway.

Silver Hake—Southern New England/ Mid-Atlantic

The DAP is revised downward from 20,000 mt to 5,600 mt to provide a more current estimate, which is still adequate to meet projected domestic fishery needs. The difference between DAH and DAP (15,000 mt) is available for joint ventures, for which applications are anticipated in the near future. The DAH is left unchanged based on projected U.S landings and the U.S. harvest in joint ventures.

Classification

An environmental assessment (EA) was prepared to determine whether this action would have a significant impact on the environment, as required by the National Environmental Policy Act of 1969. Based on the EA, the Assistant Administrator determined on October 5, 1982 that there will be no significant environmental impact resulting from this action.

The changes in OY, DAH, DAP, TALFF, and reserve made by this amendment to the PMP do not change any existing regulations. A "TALFF Table" previously contained in § 611.20 (Appendix 1) of the foreign fishing regulations (50 CFR Part 611) showed the values for OYs and the distributions among DAH, TALFF, reserve, and joint venture processing. Notice of a final rule to withdraw this table from the Code of Federal Regulations was published on October 7, 1982 (47 FR 44264) and made effective on November 8, 1982. This notice is issued to inform the public of changes in PMP specifications made by this amendment.

Dated: December 28, 1982.

Carmen Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-142 Filed 1-4-83; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Parts 611 and 680

[Docket No. 21222-256]

Foreign Fishing and International Agreements

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical revocations.

SUMMARY: NOAA issues this final rule which revokes Part 680, International Agreements. Part 680 implemented Pub. L. 95–73 which provided for the collection of catch and effort statistics of U.S. fishermen fishing in Canadian waters in the Atlantic and Pacific Oceans. Also, NOAA is revoking 611.95 which regulated fishing for herring in parts of the Bering Sea and the North Pacific Ocean. The intended effect is to remove codified regulations, the authority for which are obsolete.

EFFECTIVE DATE: January 5, 1983.

FOR FURTHER INFORMATION CONTACT: Donna D. Turgeon, Regulations Coordinator, Permits and Regulations Division, National Marine Fisheries Service, 202–634–7432.

SUPPLEMENTARY INFORMATION: NOAA revokes obsolete § 611.95 and Part 680 from 50 CFR for the following reasons.

The U.S. District Court in Alaska nullified the regulations for the Bering Sea and Aleutian Islands herring fishery, which were codified at § 611.95 (*Napoleon v. Hodges*, February 8, 1980, affirmed by the Ninth Circuit Court of Appeals on January 20, 1982.) The regulations governed a foreign fishery under preliminary fishery management plan authority.

Part 680, International Agreements, implemented Pub. L. 95–73, an amendment to the Fishery Conservation Zone Transition Act, Pub L. 95–6. This act provided for the collection of catch and effort statistics on U.S. fishermen fishing in Canadian waters in the Atlantic and Pacific Oceans under Article XIII of the Reciprocal Fisheries Agreement between the United States and Canada (Agreement) signed on February 24, 1977. The agreement entered into force on July 26, 1977. A second one-year interim agreement was negotiated and signed for 1978; however, it was never brought into force due to differing interpretations of certain provisions.

The Assistant Administrator for Fisheries, NOAA, finds that it is impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of this regulatory action under the provisions of the Administrative Procedure Act, because the underlying authority is obsolete for both sets of fisheries regulations being revoked from codified law.

List of Subjects in 50 CFR Parts 611 and 680

Fish, Fisheries, Foreign relations, Reporting requirements.

PART 611—[AMENDED]

§ 611.95—[Removed]

PART 680—[REMOVED]

50 CFR Part 680 and 50 CFR 611.95 are hereby revoked and removed and the Part and Section numbers are reserved.

(16 U.S.C. 1801 *et seq.*, unless otherwise noted)

Dated: December 28, 1982.

Carmen Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-143 Filed 1-4-83; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 653

[Docket No. 21208-246]

Atlantic Herring Fishery

AGENCY: National Oceanic and Atmospheric Administration(NOAA), Commerce.

ACTION: Final rule and notice of withdrawal of plan approval.

SUMMARY: NOAA announces the withdrawal of Secretarial approval of the Fishery Management Plan for the Atlantic Herring Fishery of the Northwest Atlantic (FMP), and the repeal of regulations implementing the FMP. Withdrawal of FMP approval is necessitated by serious operational difficulties in implementing the FMP, which no longer meets the national standards of the Megnuson Fishery Conservation and Management Act. The intended effect of the repeal of the regulations is to eliminate Federal management of the Atlantic herring fishery until such time as the New England Fishery Management Council prepares a new management plan which can be approved and implemented.

EFFECTIVE DATE: January 5, 1983.

ADDRESS: A copy of the environmental assessment and regulatory impact review may be obtained from Frank Grice, Chief, Management Division, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts, 01930.

FOR FURTHER INFORMATION CONTACT: Barbara S. Claflin, Herring Plan Coordinator, 617-281-3600, extension 351.

SUPPLEMENTARY INFORMATION: The FMP, developed by the New England Fishery Management Council (Council), was approved in December 1978. It was implemented on March 19, 1979 (44 FR 17186), under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Amendment 1 to the FMP revised the procedure for determining when a quota is reached (44 FR 37616). Amendment 2 extended the optimum yield (OY) and seasonal allocations for the Georges Bank and Gulf of Maine management areas through the 1979-80 fishing year (44 FR 56700).

Amendment 3, the most recent amendment to the FMP, was implemented in August 1980 (45 FR 52810). Amendment 3 expanded the management unit to include the herring fisheries from the shoreline of all States out to the seaward limit of the fishery conservation zone (FCZ). Amendment 3 also increased the Gulf of Maine OY and quotas for age-3 and older fish (age 3+), modified the area/period allocation system, and placed heavy reliance on the States to maintain fixed quotas.

Shortly after the approval and implementation of Amendment 3, problems with the herring management system became apparent. The National Marine Fisheries Service (NMFS) was unable to implement the FMP in accordance with the Magnuson Act during the 1980-81 fishing year. Subsequent review of the FMP revealed that erroneous assumptions were made in approving the FMP, and that changed circumstances in the fishery have rendered the FMP invalid and inoperative over the time period since its approval. The FMP's management measures cannot be successfully implemented by NOAA/NMFS, and the FMP no longer meets the national standards established by the Magnuson Act.

The Assistant administrator for Fisheries, NOAA (Assistant Administrator), made an initial determination on August 10, 1982, to withdraw approval of the FMP. Withdrawal of approval of the FMP necessitates the repeal of the regulations. A notice of the initial decision to withdraw plan approval, the proposed rule to repeal the regulations implementing the FMP, and a request for comments were published on September 28, 1982 (47 FR 42596). The preamble to the notice and proposed rule provided a detailed discussion of the problems and events leading up to the decision to withdraw FMP approval and the rationale for that decision. That discussion is not repeated here. This final rule to repeal the regulations is identical to the proposed rule.

Response to Public Comments

No public comments were received in response to the request for comments on the proposed repeal of regulations.

Classification

An environmental assessment was prepared to determine whether the proposed action will have a significant impact on the environment. The Assistant Administrator has determined that repealing the regulations will not significantly affect the environment; therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

A regulatory impact review (RIR) was prepared. The Administrator, NOAA, has determined, after reviewing the information set forth in the RIR, that this action is not major under E.O. 12291.

The preamble to the proposed rule published at 47 FR 42596 notes that the General Counsel for the Department of Commerce certified that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

The Assistant Administrator has waived the 30-day delayed-effectiveness period for final regulations specified by the Administrative Procedure Act (APA). The APA states that the required publication of a substantive rule shall be made not less than 30 days before its effective date, except when the rule relieves a restriction. Since the repeal of the herring regulations removes a restriction, the 30-day delayed-effectiveness period is waived.

List of Subjects in 50 CFR Part 653

Fish, Fisheries, Reporting requirements.

Dated: December 30, 1982.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reason set forth in the preamble, 50 CFR Part 653 is amended as follows:

PART 653—ATLANTIC HERRING FISHERY

1. The authority citation for Part 653 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

PART 653—[REMOVED AND RESERVED]

2. Part 653 is revoked and part number 653 is reserved.

[FR Doc. 83-247 Filed 1-4-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 3
Wednesday, January 5, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 563 and 563c

[No. 82-809]

Amortization Methods for Loan Premiums and Deferred Income; State Concurrence in Use of Deferral Accounting

Dated: December 16, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board proposes to prohibit use of the straightline and sum-of-the-years-digits methods to amortize premiums and deferred income (such as discounts) if the amounts of such premiums and deferred income exceed 10 percent of the outstanding principal balances of such loans at the time the loans are made or acquired. Under the proposal, institutions could continue to use the two methods if the premiums and deferred income were ten percent or less of the outstanding loan balances or if the related loans were fully amortizing and had remaining terms to maturity of seven years or less at the time they were made or acquired. The Board also proposes to amend its regulation authorizing the deferral and amortization of gains and losses from the disposition of loans and certain other assets to provide that the concurrence of a state supervisory authority in the use by an institution of such accounting should be sent to the Board's Principal Supervisory Agent at the Federal Home Loan Bank of which the institution is a member. The proposed amendments are intended to preclude the use of the above-mentioned amortization methods where such use would distort reported earnings. If adopted, they would be effective with regard to all loans made or acquired on or after December 16, 1982, excluding loans made or acquired on or after such date pursuant to commitments entered into prior to such date.

DATES: Comments must be received by January 21, 1983. Proposed Effective Date: December 16, 1982.

ADDRESS: Send comments to Director, Information Services, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Michael S. Joseph (202-377-6392), Professional Accounting Fellow, Office of Examinations and Supervision, or Kenneth F. Hall (202-377-6466), Attorney, Office of General Counsel, at the above address.

SUPPLEMENTARY INFORMATION:

Amorization of Loan Premiums and Deferred Income

Section 563.232-1 of the Board's regulations currently permits insured institutions to amortize premiums and deferred income related to loans using the straight-line, level-yield, or sum-of-the-years-digits methods. 12 CFR 563.23-1(g)(9) (1982). When the Board authorized use of these methods of amortization, accretion of deferred income did not constitute a significant portion of institutions' earnings. Thus, the amortization method used did not materially affect institutions' income statements.

At present, however, market interest rates greatly exceed contract interest rates on a signifiant portion of mortgage loans available for purchase and sale in the secondary market. In addition, institutions are relying to a greater degree on the acquisition of loans to meet their investment requirements. One result of these new circumstances is that the method by which loan discounts are amortized to income can have a significant impact on institutions' reported earnings. The use of an accelerated amortization method tends to overstate the net book value of assets held by an insured institution by permitting income recognition during the early years after loan acquisition of a greater amount of discounts than is necessary to recognize a market rate of return on an institution's investments. The same is true with respect to deferred income related to the making of a loan where the deferred income is intended to compensate an institution for making a below-market-rate loan.

Under the level-yield method of amortization, an institution's reported periodic earnings on a below-market-rate loan are maintained at the same level as if a loan that bears an interest rate equal to a market interest rate had been made or acquired. However, because the greatest distortions of reported earnings occur only from the making or purchase of longer-term loans whose contract interest rates are significantly below market levels, the Board proposes to prohibit use of the straight-line or sum-of-the-years-digits methods only where the premiums or deferred income exceed ten percent of the remaining principal loan balances of the loans made or acquired. In addition, the prohibition would not apply to a loan that provided for full amortization within its term and whose term did not exceed seven years.

The Board also proposes to amend paragraphs (b)(3)(ii) and (c)(2) of § 563c.14 by removing the specific references in those two paragraphs to § 563.23-1. The specific references are unnecessary and have caused some institutions to incorrectly interpret § 563c.14 as making § 563.23-1 applicable to transactions involving securities. In addition, the wording of paragraph (c)(2) would be amended to clarify that the amortization method and period used to amortize a discount and matching loss must be the same (except to the extent a shorter period is appropriate for the discount) and must be appropriate for both the discount and the loss. Finally, the amendment would clarify that an institution may change the method and period used to amortize a loss if necessary to comply with paragraph (c)(2).

If adopted, the proposed prohibition would be effective as of December 16, 1982, and would apply to all loans made or acquired on or after December 16, excluding loans made or acquired pursuant to a commitment entered into prior to that date. The proposed change would permit institutions to continue to use the straight-line and sum-of-the-years-digits method to amortize premiums and deferred income only (1) with regard to loans that were invested in or committed to prior to December 16, 1982, and (2) where the use of such methods was authorized at the time of investment. This announcement of the proposed early effective date (the date of this proposal) is intended to prevent institutions from making or acquiring deeply-discounted loans solely for the

purpose of obtaining a boost to earnings from accelerated amortization of the deferred income during the period that the Board reviews the comments and determines whether to adopt the proposal in final form.

State Concurrence in Use of Deferral Accounting

Section 563c.14(b)(2) provides that a state-chartered insured institution may elect to defer and amortize gains and losses from the disposition of loans and certain other assets only if its state supervisory authority has provided the FSLIC with specific or blanket concurrence for state law purposes in the use of such accounting. 12 CFR 563c.14(b)(2) (1982) (as amended at 47 FR 2857, 22346 (1982)). The regulation does not specify, however, how the concurrence is to be communicated to the FSLIC. The Board proposes to amend § 563c.14 to provide that the concurrence should be sent to the Board's Principal Supervisory Agent at the Federal Home Loan Bank of which the insured institution is a member, with a copy to the Director, Office of Examinations and Supervision, at the Board's headquarters in Washington, D.C.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354; 5 U.S.C. 601 *et seq.*), the Chairman certifies that the proposed amendments would not have a signifiant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Parts 563 and 563c

Savings and loan associations.

Because of the Board's concern over the current effect of the amortization methods proposed to be prohibited, the Board has determined to accept comments for a limited period of 30 days.

Accordingly, the Federal Home Loan Bank Board proposes to amend Parts 563 and 563c of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. Amend paragraph (g)(9) of § 563.23-1, as follows:

§ 563.23-1 Premiums, discounts, charges, and credits with respect to loans; sale of real estate; and related items.

* * * * *

(g) *Definitions.* * * *

* * * * *

(9) The term "approved method" means any one of the following methods for computing amortization of a capitalized premium or for recognizing deferred income (*e.g.*, discounts and acquisition credits):

(i) "Straight-line" method, as described in § 1.167(b)-1 of the Federal Income Tax Regulations (26 CFR 1.167(b)-1), but not, as to loans made or acquired on or after December 16, 1982 (excluding loans made or acquired after such date pursuant to a commitment entered into prior to such date), with respect to premiums or deferred income that exceed ten percent of the outstanding principal balance of a related loan on the date it is made or acquired unless the loan will be fully amortized within seven years of the date of closing or acquisition.

(ii) "Sum-of-the-years-digits" method, as described in § 1.167(b)-3 of the Federal Income Tax Regulations (26 CFR 1.167(b)-3), but not, as to loans made or acquired on or after December 16, 1982 (excluding loans made or acquired after such date pursuant to a commitment entered into prior to such date), with respect to premiums or deferred income that exceed ten percent of the outstanding principal balance of a related loan at the time it is made or acquired unless the loan will be fully amortized within seven years of the date of closing or acquisition.

* * * * *

PART 563c—ACCOUNTING REQUIREMENTS

2. Amend § 563c.14 by revising paragraphs (b)(2), (b)(3)(ii) and (c)(2) thereof, as follows:

§ 563c.14 Accounting for gains and losses on the sale or other disposition of mortgage loans, redeemable ground-rent leases, and certain securities; matching the amortization of discounts and losses.

* * * * *

(b) *Amortization.* * * *

* * * * *

(2) If it is a state-chartered institution, exercise this election only if its state supervisory authority has provided the Corporation with either specific or blanket concurrence for state law purposes in the use of this accounting treatment by sending the concurrence to the Board's Principal Supervisory Agent at the Federal Home Loan Bank of which the institution is a member, and sending a copy of the concurrence to Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552; and

(3) Account for such gains and losses as follows:

* * * * *

(ii) Such gains or losses shall be amortized by the straight-line or level-yield methods over a period not to exceed the average of the remaining terms to maturity of the disposed mortgage loans or qualifying securities, or, in the case of redeemable ground-rent leases, a period not to exceed 40 years, with the yield calculated to reflect the length of the amortization period. Amortization periods for gains shall be established in the same manner as are amortization periods for losses deferred in the same fiscal year.

(c) *Matching the amortization of discounts and losses.*

* * * * *

(2) When long-term, deep-discount securities are purchased or otherwise acquired within six months preceding or subsequent to the disposition of a mortgage loan, mortgage-related security or debt security with respect to which an election to defer and amortize any loss or gain has been made pursuant to paragraph (a) of this section, the resulting discount shall be amortized over the same period and by the same method used to amortize any matching loss: *Provided,* that (i) The method used for the loss is also an appropriate method by which to amortize a discount, and (ii) if the average of the remaining terms to maturity of the securities purchased is shorter than the period used to amortize the matching loss, then the average of the remaining terms to maturity of the securities purchased may be used as the amortization period for the discount.

(3) If necessary to meet the requirements of paragraph (c)(2) of this section, an institution may change the method and period by which the matching loss is being amortized. When making such a change, the amount of the matching loss shall be that portion of the loss that remains to be amortized as of the date of the change.

* * * * *

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Reorg. Plan No. 3 of 1947, 12 FR 4981, CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 83-179 Filed 1-4-83; 8:45 am]
BILLING CODE 6720-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 710

Voluntary Liquidation of Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend Part 710 of the NCUA Rules and Regulations by providing for a more democratic process in approving a voluntary liquidation by eliminating the requirement that a majority of the membership must approve the voluntary liquidation. Instead, the will of the majority of members who vote would determine the voluntary liquidation question. In addition, a number of technical, housekeeping and sequential section changes were made for clarification purposes and to bring the regulation current with previous changes made to other regulations.

DATES: Comments must be received on or before February 21, 1983.

ADDRESS: Send comments to Rosemary Brady, Secretary to the Board, National Credit Union Association, 1776 G Street N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Lyle Mettler, Department of Insurance, at the above address, (202) 357–1010.

SUPPLEMENTARY INFORMATION: The voluntary liquidation regulation was prepared under the authority contained in Section 120(a) of the Federal Credit Union Act (12 U.S.C. 1766(a)), which authorizes NCUA to prescribe the rules and for the dissolution of Federal credit unions. Accordingly, 12 CFR Part 710 was promulgated, outlining in some detail the process that must be followed when a voluntary liquidation is contemplated. The procedure essentially involves the preparation of a notice that is mailed to each member. This notice informs the member of the decision by the board of directors to place the credit union into voluntary liquidation with a request that the shares and loans be confirmed. The regulation provides that the credit union members shall have the right to approve or disapprove the voluntary liquidation proposal. This provision is in general accord with recognized principles of corporate law and it is not the intent of these proposed amendments to abolish the members' rights to accept or reject a voluntary liquidation in which their credit union will be losing its identity.

It has been determined that the majority affirmative vote of the membership contained in § 710.1 is not in the best interest of credit unions or their members. The provision was originally included to assure that a voluntary liquidation proposal would receive the attention of a majority of the entire membership. In this way a small and aggressive minority of members could not bind the entire membership on a voluntary liquidation proposal.

As a practical matter, however, this concern has proven relatively unfounded. The provisions that are currently contained in Section 710.3 assure that all members will receive adequate notice of the voluntary liquidation proposal and that all are entitled to vote on it.

The Administration sees no reason why the question of whether or not to liquidate the credit union be decided by more than a simple majority of those who vote, provided that all members have been given reasonable notice of the reason for liquidation and on opportunity to vote. In addition to unnecessary delays in a voluntary liquidation caused by attempting to get the majority of the members to vote, another undesirable result is that the majority voting requirement transforms neutral indifference into a negative vote.

In order to bring the proposed rule current with recent regulation and procedural changes, sequential section and format style changes have been made for clarification purposes.

The proposed rule changes are as follows:

Section 710.0 *Scope* and § 710.1 *Definitions* are new sections added to describe the rule intent and define key terms used.

Section 710.1 *Approval of Liquidation.* Section has been retitled § 710.03 *Approval of the Liquidation Proposal by the Members.* The confusing, redundant voting procedures have been deleted. The proposed voting procedures follow the Federal Credit Union Bylaw requirements. Subsection (b) is the major change of the proposed rule changing the membership voting requirement for voluntary liquidation.

Section 710.2 *Notice of Liquidation to National Credit Union Administration.* Section has been retitled §710.4 *Certification of Vote on Liquidation Proposal.* New descriptive title and minor word changes made for clarification purposes.

Section 710.3 *Transactions of Business During Liquidation.* Section has been redesignated § 710.6. *Format style changes made for clarification purposes.* The requirement of NCUA Board approval to sell assets for an amount insufficient to pay shareholders at par has been changed to approval of the Regional Director to conform with current board delegations.

Section 710.4 *Notice of Liquidation to Members.* Section has been retitled § 710.3 *Approval of the Liquidation Proposal by Members.* Minor format changes made for clarification purposes.

Section 710.5 *Notice of Liquidation to Creditors.* Section has been redesignated § 710.7. The membership voting requirement has been changed in accordance with the proposed rule.

Section 710.6 Report of Commencement of Liquidation. Section has been retitled § 710.8 *Reports at Commencement and During Liquidation.* New descriptive title and format style changes made for clarification purposes. The required report forms identify the current financial reports used by Federal credit unions.

Section 710.7 *Reports During Period of Liquidation.* Section has been retitled § 710.8 *Reports at Commencement and During Liquidation.* New descriptive title and format changes made for clarification purposes.

Section 710.8 *Examinations of Federal Credit Unions in Voluntary Liquidation.* Section has been redesignated § 710.12. The elimination of examination fees is to conform with prior rule changes.

Section 710.9 *Responsibility for Conduct of Voluntary Liquidation.* Section has been redesignated § 710.5. Format and style changes made for clarification purposes. The supervisory committee audit requirements have been eliminated to conform with current Administrative policy.

Section 710.9a *Partial Distribution.* Section has been redesignated § 710.9. Redundant wording has been eliminated for clarification purposes.

Section 710.10 *Completion of Liquidation.* Section has been retitled § 710.10 *Distribution of Assets.* New descriptive title and format style change for clarification purposes.

Section 710.11 *Distribution of Assets.* Section has been redesignated § 710.10. Format and style changes made to eliminate redundant references to membership approval in accordance with proposed rule.

Section 710.12 *Final Report.* Section has been retitled § 710.11 *Final Reports.* Title changed as more than one report is necessary. Format style and technical changes made for clarification purposes.

Section 710.13 *Retention of Records.* Redundant wording deleted.

Section 710.14 *Cancellation of Charter.* Charter cancellation by NCUA Board changed to Regional Director to conform to current Board delegation.

Section 710.15 *Further Instructions and Information.* Section has been eliminated as unnecessary.

The Voluntary Liquidation Procedure for Insured Federal Credit Unions, NCUA 8040, Revised June 1972 will be updated in conjunction with the proposed rule change. A number of revised liquidation forms and procedural changes will be made to the manual that will eliminate a number of outdated reports and schedules prepared by the credit union and submitted to the Regional Director.

Regulatory Procedures

Regulatory Flexibility Act

The proposed regulation eliminating the need for an affirmative vote of a majority of the membership in order to enter voluntary liquidation will reduce the time needed to gather the vote which in turn will reduce the liquidation costs and allow a timely share payment to the members.

Therefore, a regulatory flexibility analysis was not prepared for this proposed regulation because it was determined that the proposal will not result in a significant economic impact to a substantial number of small Federal credit unions.

Paperwork Reduction Act

The reporting requirements set forth in the proposed rule are being referred to the Office of Management and Budget in accordance with 44 U.S.C. 3504(h).

List of Subjects in 12 CFR Part 710

Credit unions.

Accordingly, the National Credit Union Administration proposes to amend 12 CFR Part 710 to read as set forth below.

Dated: December 16, 1982.

Rosemary Brady,

Secretary to the National Credit Union Administration Board.

12 CFR Part 710 is proposed to be revised to read as follows:

PART 710—VOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS

Sec.

710.0 Scope.
710.1 Definitions.
710.2 Notice of liquidation to National Credit Union Administration.
710.3 Approval of the liquidation proposal by members.
710.4 Certification of vote on liquidation proposal.
710.5 Responsibility for conduct of voluntary liquidation.
710.6 Transaction of business during liquidation.
710.7 Notice of liquidation to creditors.
710.8 Reports at commencement and during liquidation.
710.9 Partial distribution.
710.10 Distribution of assets.
710.11 Final reports.
710.12 Examinations of Federal Credit Unions in voluntary liquidation.
710.13 Retention of records.
710.14 Cancellation of charter.

Authority: 12 U.S.C. 1766(a).

§ 710.0 Scope.

This part prescribes the procedures that must be followed in order for a Federal credit union to enter voluntary liquidation.

§ 710.1 Definitions.

For the purpose of this Part, the following definitions apply:

(a) "Liquidation Date" means the date the board of directors decide to place the question of liquidation to the members.

(b) "Liquidating agent" means the person appointed by the board of directors to liquidate the credit union. The board may delegate all or a part of their responsibilities of the liquidation to the liquidation agent.

§ 710.2 Notice of liquidation to National Credit Union Administration.

Within 10 days after the decision of the board of directors to submit the question of liquidation to the members, the president shall notify the Regional Director in writing, setting forth in detail the reasons for the proposed action.

§ 710.3 Approval of the liquidation proposal by members.

(a) When the board of directors decide to seek the members' approval of the liquidation, the members shall:

(1) Be given advance notice of the meeting at which the liquidation proposal is the be submitted, in accordance with the provisions of Article V, Federal Credit Union Bylaws. The notice shall:

(i) Inform members that they have the right to vote on the liquidation proposal in person at the meeting called for that purpose or by written ballot to be received no later than the time and date indicated in the notice.

(ii) Have incorporated in or be accompanied by a ballot for the liquidation proposal.

(b) The liquidation proposal must be approved by the affirmative vote of a majority of the credit union members who vote on the proposal.

§ 710.4 Certification of vote on liquidation proposal.

Within 10 days after the vote of the members on the question of liquidation, the president shall notify the Regional Director in writing as to whether or not the members approved the proposed liquidation. If the members have not approved the liquidation and the board decides that the credit union should resume operations, the board may rescind its original resolution to present the question of liquidation to the members. However, before rescinding the original resolution, the board shall notify the Regional Director of its intent to resume operations and set forth in detail the action which has been taken to correct the conditions that caused the board to seek liquidation.

§ 710.5 Responsibility for conduct of voluntary liquidation.

(a) The board of directors shall be responsible for conserving the assets, for expediting the liquidation, and for equitable distribution of the assets to the members.

(b) The board may appoint a liquidating agent and delegate all or part of the board's responsibilities to such agent and may authorize reasonable compensation for his services.

(c) The shall determine that the liquidating agent and all persons handling or having access to funds of the credit union are adequately covered by surety bond.

(d) The board or liquidating agent shall appoint a custodian for the credit union's records which are to be retained for 5 years after the charter is canceled.

§ 710.6 Transaction of business during liquidation.

(a) Immediately upon decision by the board of directors to seek approval of the members, payments on shares, withdrawal of shares (except for transfer of shares to loans and interest), transfer of shares to another share account, granting of loans, and making investments other than short-term investments as specified in paragraph (b) of this section shall be suspended pending action by the members on the proposal to liquidate. On approval of the members, payments on shares, withdrawal of shares (except for transfer of shares to loans and interest), transfer to shares to another share account, granting of loans and making of investments other than short-term investments as specified in paragraph (b) of this section shall be discontinued permanently. Necessary expenses to complete the liquidation shall, however, continue to be paid on authorization by the board of directors or liquidating agent during the period of liquidation.

(b) While the primary duty of the board of directors during liquidation is to convert loans and investments to

cash at the earliest possible date, there may be intervals during which funds being accumulated prior to distribution may be advantageously placed in short-term, interest-bearing savings accounts in institutions whose accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. Common trust funds approved as legal investments for Federal credit unions, deposits in credit unions insured by the Board, and short-term U.S. Government obligations, or short-term securities fully guaranteed as to principal and interest by the U.S. Government may be used as a source for the investment of such excess funds. These deposits should be withdrawable upon demand. The liquidation of such investments should be timed so as to facilitate the planned distribution to the members.

(c) The board of directors or the liquidating agent must obtain approval from, the Regional Director prior to consummating any sale of assets which would not provide sufficient funds to pay shareholders at par.

§ 710.7 Notice of liquidation to creditors.

On approval of the members of a proposal to liquidate the credit union, the board of directors shall immediately have prepared and mailed to all creditors a notice of liquidation containing instructions to present their claims to the credit union within 120 days for payment.

§ 710.8 Reports at commencement and during liquidation.

(a) Within 20 days following the liquidation date, the treasurer or liquidating agent conducting the liquidation shall file the following reports with the Regional Director:

(i) A combined report of operations, which includes all the information reported in (a) (ii), (iii) and (iv) , with (v) and (vi) of this section; or

(ii) Statement of Financial Condition, FCU 109A.

(iii) Statement of Income, FCU 109B.

(iv) Statistical Report, FCU 109F.

(v) A schedule of members' share and loan accounts showing account number, name, share and loan balances, and

(vi) A schedule of delinquent loans showing comments as to the collectibility of each loan.

(b) Within 10 days from the close of each calendar quarter, the treasurer or liquidating agent will forward current reports, as specified in paragraph (a) of this section to the Regional Director.

§ 710.9 Partial distribution.

With the written approval of the Regional Director, a partial distribution of the credit union's assets may be made to its members from cash funds available on authorization by its board of directors or liquidating agent.

§ 710.10 Distribution of assets.

(a) After all assets of the credit union have been coverted to cash or round to be worthless and all loans and debts owing to it have been collected or found to be uncollectable and all obligations of the credit union have been paid, with the exception of shares due its members, the books shall be closed and the pro rata distribution to members computed.

(b) Promptly after the pro rata distribution to members has been computed, checks shall be drawn for the amounts to be distributed to each member who has given a written confirmation of his balance. The checks shall be mailed to such members at their last known address or handed to them in person. The written confirmations submitted by members to verify balances shall be retained with the credit union records.

(c) The Regional Director shall be notified promptly of the date final distribution of assets to the members is started.

(d) Unclaimed share accounts which have been dormant for the period which makes them subject to the escheat or abandoned property laws of the State in which the credit union is located shall be paid to the State as required by such laws.

§ 710.11 Final reports.

Within 120 days after the final distribution to members is started, the Federal credit union shall furnish to the Regional Director the following:

(a) A schedule of unpaid claims, if any, due members who failed to confirm their balances in writing during liquidation and whose share accounts are not payable to the state under applicable escheat or abandoned property laws, and of unpaid claims, if any, due members or creditors who failed to cash final distribution checks within the 120 days.

(b) This schedule shall be accompanied by a certified check or money order payable to the National Credit Union Administration in the exact amount of the total of these unpaid claims. The Administration will deposit said funds in a special account where they will be held for the individuals. Each individual, or any authorized person on his behalf may submit to the Administration a written claim for the amount of such funds held for him.

(c) A schedule showing the book number, name share balance at the commencement of liquidation, pro rata share of gain, the amount distributed to each member and the amount of each unclaimed share account paid to the state under applicable escheat or abandoned property laws. The check number and date of payment to the member or state should be included in the schedule.

(d) A Summary Report on Liquidation and Analysis of Assets Sold.

(f) The Certificate of Dissolution and Liquidation signed under oath by the president, treasurer, or agent who conducted the liquidation and made the final distribution of assets to the members.

(g) The name and address of the custodian of the Federal credit union's records.

(h) The charter and insurance certificate of the Federal credit union.

§ 710.12 Examinations of Federal Credit Unions in voluntary liquidation.

When deemed advisable by the Regional Director, an examination of the books and records of a Federal credit union may be made prior to, during, or following completion of voluntary liquidation.

§ 710.13 Retention of records.

All records of the liquidated credit union necessary to establish that creditors were paid and that member's shareholdings were equitably distributed shall be retained by a custodian appointed by either the board or liquidating agent for a period of 5 years following the date of charter cancellation.

§ 710.14 Cancellation of charter.

On proof that distribution of assets has been made to members and after receipt of the Certificate of Dissolution and Liquidation, the Regional Director shall cancel the charter of the Federal credit union.

[FR Doc. 83-177 Filed 1-4-83; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-154 (Texas-27)]

High-Cost Gas Produced from Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Middle Wilcox (11,000'–15,000') Formation be designated at a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on February 14, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 14, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued December 30, 1982

I. Background

On November 5, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Middle Wilcox (11,000'–15,000') Formation located in Lavaca County, Texas, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this notice of proposed rulemaking is hereby issued to determine whether Texas' recommendation that the Middle Wilcox (11,000'–15,000') Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Middle Wilcox (11,000'–15,000') Formation in the Vienna Field area of eastern Lavaca County, Texas, Railroad Commission District 2, be designated as a tight formation. The recommended area is located 14 miles east-southeast of Halletsville, Texas, and 8 miles south-southeast of Sublime, Tex., and is comprised of the following 15 surveys:

James Ryan, A–42
Miguel Muldoon, A–34
E. W. Perry, A–359
Lev. T. Bostiok, A–95
E. W. Pery, A–358
P. Ansuldua, A–621
F. Baseldua, A–622
Peter Garza, A–632
J. A. Wynmaker, A–499
John W. Seymour, A–431
H. I. and B.P. R., A–523
A. M. Gillespie, A–633
H. E. and W.T.R.R., A–551
H. E. and W.T.R.R., A–550
North ½ John D. Ragsdale, A–377

The Middle Wilcox Formation within the recommended area is encountered between 11,000 feet and 15,000 feet as measured on the log of the Mitchell Energy Corporation C. F. Aschbacher No. 1 well. The top of the Middle Wilcox pay ranges in depth from approximately −11,200 feet in the north to −13,300 feet in the south.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal Regulations assure that development of the formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Middle Wilcox (11,000'–15,000') Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, on or before February 14, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–154 (Texas–27) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 14, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by adding subparagraph (153) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(115) through (152) [Reserved].

* * * * *

(153) *Middle Wilcox (11,00'–15,000') Formation in Texas.* RM79–76–154 (Texas–27).

(i) *Delineation of formation.* The Middle Wilcox Formation is located in Lavaca County, Texas, Railroad Commission District 2. The designated area is located 14 miles east-southeast of the Halletsville, Texas, and 8 miles south-southeast of Sublime, Texas, and is comprised of the following 15 surveys: James Ryan A–42, Miguel Muldoon A–34, E. W. Perry A–359, Lev. T. Rostiok A–95, E. W. Perry A–358, P. Ansuldua A–621, F. Baseldua A–622, Peter Garza A–632, J. A. Wynmaker A–499, John W. Seymour A–431, H. I. and B. P. R. A–523, A. M. Gillespie A–633, H.E. and W.T.R.R. A–551, H.E. and W.T.R.R. A–550, and North 1/3 John D. Ragsdale A–377.

(ii) *Depth.* The Middle Wilcox Formation is defined as that formation which is encountered between 11,000 feet and 15,000 feet as measured on the log of the Mitchell Energy Corporation C. F. Aschbacher No. 1 well. The top of the Middle Wilcox pay ranges in depth from approximately −11,200 feet in the north to −13, 300 feet in the south.

[FR Doc. 83–249 Filed 1–4–83; 8:45 am]
BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–158 (Texas—28)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that the Vicksburg (12,000' Boyt Sand) Formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on February 14, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 14, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: December 30, 1982.

Background

On November 9, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Vicksburg (12,000' Boyt Sand) Formation, located in Hidalgo County, Texas, be designated as a tight formation. Pursuant to §271.703(c)(4) of the regulations, this notice of proposed rulemaking is hereby issued to determine whether texas' recommendation that the Vicksburg (12,000' Boyt Sand) Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Vicksburg (12,000' Boyt Sand) Formation in Hidalgo County, Texas, Railroad Commission District 4, be designated as a tight formation. The recommended area is within a 2.5 mile radius of the CNG Producing Company Boyt No. 1 well and consists of approximately 12,000 acres. This well is located 18,725 feet south and 1,800 feet east of the northwest corner of the Dyonisio Ramirez Porcion 78, Abstract No. 563, Hidalgo County, Texas.

The recommended formation lies in the Vicksburg—Frio trend of Hidalgo County. Vicksburg sediments are present in this area of Texas from depths of approximately 7,500 feet to as deep as 16,000 feet. The Vicksburg (12,000' Boyt Sand) Formation is identified as that formation occurring between the measured depths of 11,802 feet and 12, 186 feet on the induction electrical log of the CNG Producing Company Boyt No. 1 well.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Vicksburg (12,000' Boyt Sand) Formation as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 14, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–158 (Texas—28) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000,

825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 14, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by adding subparagraph (154) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(115) through (153) [Reserved]

* * * * *

(154) *Vicksburg (12,000' Boyt Sand) Formation in Texas.* RM79–76–156 (Texas—28).

(i) *Delineation of formation.* The Vicksburg (12,000' Boyt Sand) Formation is located in Hidalgo County, Texas, Railroad Commission District 4. The designated area is within a 2.5 mile radius of the CNG Producing Company Boyt No. 1 well located 18,725 feet south and 1,800 feet east of the northwest corner of Dyonisio Ramirez Porcion 78, Abstract No. 583.

(ii) *Depth.* The Vicksburg (12,000' Boyt Sand) Formation is identified as that formation occurring between the measured depths of 11,802 feet and 12,186 feet on the induction electrical log of the CNG Producing Company Boyt No. 1 well.

[FR Doc. 83–1280 Filed 1–4–83; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM79–76–161 (Texas—7 Addition II)]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Lower Wilcox (Midcox) Formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on February 14, 1983. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 14, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued: December 30, 1982.

I. Background

On November 9, 1982, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that an additional area of the Lower Wilcox (Midcox) Formation, located in Colorado County in the southeastern part of the State of Texas, be designated as a tight formation. The Commission previously adopted recommendations that the Lower Wilcox Formation in parts of Wharton, Austin and Colorado Counties be designated as a tight formation (Order No. 133 issued February 19, 1981, in Docket No. RM79–76 (Texas—7) and Order No. 210 issued February 5, 1981, in Docket No. RM79–76 (Texas 7 Addition)). Pursuant to § 271.703(c)(4) of the regulations, this notice of proposed rulemaking is hereby issued to determine whether Texas' recommendation that the Lower Wilcox (Midcox) Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that the Lower Wilcox (Midcox) Formation encountered in the central portion of Colorado County, Texas, approximately five miles northeast of the town of Rock Island, Railroad Commission District 3, be designated as a tight formation. The recommended area is within a 2.5 mile radius around the Holt Oil and Gas Corporation (formerly Perkins Oil Company) Kleimann Unit No. 1 well located 1,500 feet from the east line and 500 feet from the north line of the J. E. Hester Survey A–740. The area includes all or a part of the following surveys: C. S. Andrews A–71, B. Bassford A–95, Marmaduke Baton A–105, B.P.B. & C. RR. A–122, F. Besch A–128, F. Bezdek A–736, R.W. Byars A–809, John Dalrymple A–179, R. L. Foard A–714, Louis Henry A–339, John E. Hester A–740, C. Hutchins A–348, I & G.N. RR. A–269, A–310, and A–632, Willis Johnson A–357, William Kelly A–372, S. H. Kolb A–746, Jos. Krumpholz A–744, R. Krumpholz A–743, J. Lessing A–397, Geo. E. Looney A–381, P. H. Mayes A–426, and A–427, Geo. Metz A–409, N Minter A–930, W. Minter A–931, W. A. Minter A–929, N. H. Morris A–415, Jones H. Ryan A–484, S. A. & M. G. RR. A–536, and A–537, B. Scheller A–514, F. Scheller A–515, Socorro Farming Co. A–672, Jno. R. Standish A–522, J. Tinkler A–757, J. W. Tinkler A–777, J. J. Townsend A–575, J. L. Townsend A–750, A–751, and A–752, Waco Mfg. Co. A–611, A–616, A–617, A–618 and A–619, C. J. Ward A–587, and A–588, E. P. Whitfield A–620.

The Lower Wilcox Formation in this area is a thick sequence of interbedded sands and shales of marine nearshore deposition. It is located below the Claiborne Formation and above the Midway Formation. The sands in the Kleimann Unit No. 1 well are very close to the base of the Wilcox Formation and may be a part of the underlying Midway Formation. Because of the uncertainty of the location of the sands in the stratigraphic column, they have been

given a local nomenclature designation of "Midcox." The top of the Lower Wilcox (Midcox) Formation in the Kleimann Unit No. 1 well is located at an approximate log depth of 11,650 feet and has an approximate thickness of 344 feet.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Texas further asserts that existing State and Federal regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Texas that the Lower Wilcox (Midcox) Formation, as described and delineated in Texas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 14, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–161 (Texas—7 Addition II), and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during businesss hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 14, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301.3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Texas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703(d) is amended by revising subparagraph (18)(iii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(18) *Lower Wilcox Formation in Texas. RM–78–161 (Texas—7).*

(i) *Three County Area.* * * *

(ii) *Bonus, S. (Wilcox 13,900') Field.*

* * *

(iii) *Lower Wilcox (Midcox) Formation.*—(A) *Delineation of formation.* The Lower Wilcox (Midcox) Formation is found approximaltely five miles northeast of the town of Rock Island in central Colorado County, Texas, Railroad Commission District 3. The designated area is within a 2.5 mile radius around the Holt Oil & Gas Corporation (formerly Perkins Oil Company) Kleimann Unit No. 1 well located in the J. E. Hester Survey A–740.

(B) *Depth.* The top of the Lower Wilcox (Midcox) Formation is found at an approximate log depth of 11,650 feet in the Kleimann Unit No. 1 well and is 344 feet thick.

[FR Doc. 83–251 Filed 1–4–83; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1209

[Docket No. 82–18; Notice 4]

Incentive Grant Criteria for Alcohol Traffic Safety Programs

AGENCY: National Highway Traffic Safety Administration, (NHTSA), Transportation.

ACTION: Notice of proposed rulemaking and notice of public hearings.

SUMMARY: This notice proposes criteria for determining effective programs to reduce traffic accidents resulting from persons driving while under the influence of alcohol. This effort is undertaken pursuant to Pub. L. 97–364, which provides for two categories of federal incentive grants, basic grants and supplemental grants, to States that implement effective programs to reduce drunk driving. This rulemaking will also set forth the means by which a State may certify to NHTSA facts necessary to establish grant eligibility, and the procedure by which NHTSA will award such grants. This notice also announces a public hearing and invites submission of written comments to the public docket on this subject.

DATES: A public hearing will be held on January 11, 1983. All written comments must be received by January 14, 1983. The agency will isue a final rule on February 1, 1983. The criteria for a basic grant will go into effect upon publication of the final rule. The criteria for a supplemental grant are scheduled by statute to become effective on April 1, 1983.

ADDRESSES: The January 11, 1983, hearing will be held at the Omni International Hotel, Elizafield Room, 1 Omni International, Atlanta, Georgia. The hearing schedule will be from 9 a.m. to 12 p.m. and from 1:30 p.m. to 5 p.m.

Written comments should refer to the docket number and the number of the notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington D.C. 20590 (Docket hours are 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. George Reagle, Associate Administrator for Traffic Safety Programs, National Highway Traffic

Safety Administration, 400 Seventh Street, SW. Washington, D.C. 20590 (202–426–0837). To schedule a time for appearing at the January hearing contact: Marian Tomassoni or Joe Jeffrey, Office of Associate Administrator for Traffic Safety Programs, NHTSA 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–1634).

SUPPLEMENTARY INFORMATION: On November 4, 1982, (47 FR 51152) the National Highway Traffic Safety Administration (NHTSA) issued an advance notice of proposed rulemaking seeking comments on possible ways to implement the alcohol traffic safety incentive grant program established by Pub. L. 97–364 (23 U.S.C. 408, the Act). NHTSA primarily sought comments on what definitions and criteria the agency should establish for States to be eligible for both basic and supplemental grants, which can total up to 50 percent of the amount apportioned to a State under Section 402 of the Highway Safety Act of 1966.

To provide an increased opportunity for public comment, NHTSA held a public hearing on December 13, 1982, in Washington, D.C. on the proposal. Persons representing numerous States, professional organizations, citizen groups, and others testified. In addition, many interested parties submitted written comments to the docket for this rulemaking.

The proposal being issued today is based on the agency's review of the hearing testimony, comments received on the advance notice of proposed rulemaking and the Interim Report to the Nation prepared by the Presidential Commission on Drunk Driving. The agency will hold a public hearing on this proposal on January 11, 1983 in Atlanta, Georgia to coincide with a meeting of the National Association of Governors' Highway Safety Representatives. Significant comments to the first notice are addressed below.

Basic Grant Criteria

The Act established four criteria that must be met by a State in order to be eligible for a basic grant in the amount of 30 percent of each State's fiscal year 1983 apportionment under section 402 of the Highway Safety Act. The agency notes again that because the four basic criteria are statutorily mandated by Congress, the agency does not have the authority to change, by deletion or addition, the substantive requirements for a basic grant, as was requested by some of the commenters. As was also previously noted, however, several of the terms used in the statutory language setting forth the basic grant criteria were undefined, and the agency sought comments on several possible definitions that the agency believed would be consistent with the legislative purpose of the Act. In addition, NHTSA sought comments on ways by which States might most easily and effectively demonstrate that the basic grant criteria have been met.

Criterion No. 1: Prompt License Suspension

The first criterion established by Congress for basic grant eligibility requires:

> The prompt suspension, for a period not less than ninety days in the case of a first offender and not less than one year in the case of any repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffice offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

Terms Used: "Prompt"

The agency proposed to define "prompt" as a mandatory suspension of the privileges of a driver's license which occurs no later than 30 days after a person is arrested for drunk driving. A number of States commented that in order to comply with such a stringent time requirement, they would have to implement entirely new programs to process driver license suspensions administratively. A representative of the State of New Jersey estimated that adopting such a system, with all the necessary due process safeguards, would cost more than the value of any basic grant for which it might therefore become eligible, and noted that under its system of judicially administered suspension, the average license suspension occurs within 46 days. Based on a survey of its membership, the National Association of Governors' Highway Safety Representatives (NAGHSR) recommended the agency define prompt suspension as suspension within 45 days. NAGHSR noted that 19 of the 34 members responding to the survey currently take at least 60 or more days to suspend or revoke a license. NAGHSR said setting a 45-day period, would act as an incentive for States to accelerate their license suspension processes. Rhode Island recommended that the agency consider requiring States to process a certain percentage of all suspensions within the 30 day criterion.

The agency recognizes that currently most States impose a license suspension within 30 to 60 days after a person is convicted of an alcohol-related traffic offense, with the process of trial and conviction taking anywhere from 60 days to one year from the date of arrest. The legislative history of the Act emphasizes that Congress wanted to increase the deterrance effect of license suspension by cutting down on the long delays between arrest and subsequent license sanction.

The Presidential Commission on Drunk Driving (the Commission) in its Interim Report to the Nation also stressed the need to establish license suspension as a swift and certain penalty for drunk driving. The Commission's report cited examples of how such systems can be established either administratively or judicially.

Experience in such States as Minnesota and Iowa has shown that administrative license suspension can be effective. The agency recognizes that setting up the necessary administrative procedures can be costly, but believes that in carrying out its authority under the Act it would not necessarily be inappropriate to consider measures which may not be initially cost-effective, in and of themselves, or in comparison with the size of potential grants.

To accommodate these concerns, the agency proposes to define "prompt" as suspension of a license within 30 days of arrest for at least 60 percent of the suspension cases. In addition, the acency proposes that the overall average time to suspend a license cannot exceed 45 days.

The agency recognizes that if suspensions are judically imposed, there may be an increase in requests for jury trials and thus the average time to suspend a license may increase. The agency believes that permitting the average time to be 45 days will allow a sufficient margin of time to account for instances where trial backlogs prevent suspension within 45 days.

As discussed in the comments, the agency recognizes that all States may not be able to comply with a 30-day requirement, but that some already do. The agency believes that allowing 60 days to process a suspension, as requested by some States, would not require States to increase their efforts as required by the Act. Requiring States to suspend licenses within 30 days of arrest would require many States to significantly improve their judicial or administrative license suspension process. A 30-day period will also allow States that choose to use an administrative process sufficient time to

provide license suspension appeal hearings that will satisfy the due process standard.

The agency cannot adopt the suggestion of the California Highway Patrol that the time period for suspension be measured from date of conviction, rather than the date of arrest. The Act specifically mandates that the time period is to be measured from date of arrest.

In the advance notice, NHTSA said that States which authorize the immediate suspension of driving privileges by physical confiscation of a license upon arrest would meet the prompt suspension criterion. One commentator has correctly noted that the physical taking of a license does not itself suspend a license, and that suspension only results from a subsequent action of the licensing authority in the State.

"Suspension"

Several of the commenters, such as the American Automobile Association (AAA), Florida Bureau of Highway Safety and the California Highway Patrol, requested the agency specifically to include within the definition of "suspension" the use of restricted licenses, i.e., a suspension of some, but not all, driving privileges for a stated period. Such restricted licenses commonly are used to permit driving for limited purposes, such as going to work and attending an alcohol education or treatment program. Several commenters, such an NAGHSR, also noted that the impact of a 90-day suspension can vary widely between rural areas, where public transportation is limited or unavailable, and urban areas, where a loss of driving privilege may not cause transportation difficulties. All commenters addressing the issue agreed that restricted licenses should only be used for first offenders.

Because the issue of restrictive licenses was not addressed by the majority of commenters the agency seeks additional comment on this issue. The principal intent of the draftsmen was as stated in the Act's full 90-day suspension of all driving privileges. Testimony was received by the Commission on both sides of the issue, and tended to show both lax and stringent enforcement of restrictions, depending on the jurisdictions and available enforcement resources involved. The Commission has tentatively recommended that strict uniform standards should be adopted to govern such sanctions, and that they be allowed only in exceptional cases.

The agency believes that the carefully controlled use, in exceptional circumstances specific to the offender, and under statewide published guidelines, of a 30-day full suspension of driving privileges followed by a 60-day period of enforced restricted driving, could fulfill the congressional purposes of using license suspension as a key deterrent to drunk driving. A promptly imposed 30-day period of full suspension impresses the drunken driver that punishment is swift and certain. Allowing the use of restricted license can help ensure that the driver can attend an appropriate education/rehabilitation program within a short time of committing the offense.

The agency believes that the use of restricted licenses would not in any event be warranted for repeat offenders or for those who refuse to take a chemical test under the implied consent statutes.

NHTSA therefore seeks comments on two alternative definitions of the term "suspension." The first would define suspension as including only a full loss of driving privileges for the statutory period of 90 days. The second would allow the use of a 30-day full suspension, followed by a 60-day period of restricted driving privileges, under State-wide published guidelines, in exceptional circumstances specific to each offender, and for the limited purpose of driving between a residence and a place of employment, and/or to and from an alcohol education or treatment program.

Repeat Offender

NHTSA's proposal to define a repeat offender as anyone convicted of DWI or a similar alcohol-related traffic offense more than once in five years was supported by the commenters and therefore the agency is proposing to adopt the definition in the final rule.

Refusal of Second Test

The agency proposed that mandatory license suspension should apply to a refusal by a driver to take more than one chemical test, even if the driver consented to the first test. The California Highway Patrol support the use of a second test in instances where the officer has a reasonable belief that the driver is under the influence of drugs. North Carolina, however, suggested that the requirement for a second test is unnecessary and could be counterproductive by eroding public confidence in the alcohol breath test program.

One commenter who supported the proposed approach nevertheless suggested that the agency either delete the requirement or incorporate it as a criterion for a supplemental grant, on the asserted grounds that such a requirement could necessitate a change in every State law in a very short time for States to be eligible for a basic grant.

The statutory language does not permit such an interpretation. The agency's understanding of the Congressional intent in the language of the criterion is a desire to ensure that where a second test is authorized, and proposed to a driver under State law, a refusal should be grounds for mandatory suspension. The agency concurs and proposes no change.

Demonstrate Compliance

Commenters did not oppose the proposed showings that NHTSA set forth by which States might demonstrate compliance with this criterion. The agency therefore proposes to adopt a requirement in the final rule that States provide NHTSA with a copy of the law, regulation or guideline implementing mandatory license suspension, information on the number of licenses suspended, the average length of suspension for first-time and repeat offenders and for refusals to take chemical test and the average number of days between the offense and the sanctioning action.

Criterion No. 2: Mandatory Sentence

The second criterion established by Congress for basic grant eligibility requires:

> A mandatory sentence, which shall not be subject to suspension or probation, of (i) imprisonment for not less than 48 consecutive hours, or (ii) not less than ten days of community service, of any person convicted of driving while intoxicated more than once in any five-year period.

Commenters uniformly supported the imposition of mandatory sentences. Several commenters, such as New York and Missouri, requested the agency to more specifically define what is meant by "imprisonment". They pointed out that most States have a serious problem with jail overcrowding. To provide States with more flexibility, the agency is proposing that imprisonment be interpreted so as to include confinement (restriction of freedom to leave) not only in the traditional prison/jail environment, but also in such places as minimum security facilities or in-patient rehabilitation/treatment centers. Confinement in such facilities would provide the same deterrence as confinement in jail.

Several California agencies objected to the requirement that the period of minimum imprisonment be 48 *consecutive* hours. They pointed out that in California the sentence time does not

have to consist of full 24-hour days nor does it have to be consecutive. The criteria of "48 consecutive hours" is statutorily mandated in the Act and therefore cannot be changed by NHTSA. Likewise, Massachusetts' suggestion that the penalty be more severe and Missouri's suggestion that requiring participation in a long-term rehabilitation program with supervised probationary conditions be adopted as an alternative to a mandatory sentence cannot be adopted, although more severe minimum penalties would of course establish eligibility.

Demonstrate Compliance

No commenter opposed the proposed requirement for demonstrating compliance with this criterion. Therefore, the agency proposes to adopt, in the final rule, a requirement that States provide NHTSA with copies of the existing legislation or regulations on the subject, and with information on the numbers of people convicted of an alcohol-related traffic offense more than once in any five year period, the places of confinement used and the average sentences imposed for those persons.

Criterion No. 3: Illegal Per Se Laws

The third criterion established by Congress for basic grant eligibility requires State to have a law that:

> Provides that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

The agency's proposal to accept a State *per se* law, which makes the act of driving with a blood alcohol concentration (BAC) of 0.10 percent an offense in and of itself as evidence of compliance with this criterion was uniformly supported and the agency therefore proposes to adopt the same interpretation in the final rule.

Criterion No. 4: Increased Enforcement/ Public Information Efforts

The fourth and final criterion established by Congress for the basic grant eligibility requires:

> Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

NHTSA proposed that States demonstrate increases in their levels of alcohol-related enforcement and public information efforts by comparing the levels of effort in fiscal year 1982 with fiscal year 1981. The use of 1981 and 1982 was viewed as reasonable by some commenters, such as Mississippi. Others, such as the International Association of Chiefs of Police (IACP), commented that the 1981–1982 time frame might not provide an accurate measure. IACP said that many law enforcement agencies have emphasized efforts to reduce drunk driving as a priority program for the past several years. The agency agrees that it may be more appropriate to use a baseline which takes into account a State's activities over a longer period of time. The agency therefore proposes that the baseline measurement consist of either the comparison of FY 82 (or later years) with the one preceding year, or with the average of the State's enforcement and public information activities over the three years preceding the year in which a State first applies for a grant. However, to qualify for subsequent year grants a State should demonstrate increased efforts over the preceding year program.

Several commenters, such as the California Highway Patrol and Illinois State Police, stressed that in determining whether a State is in compliance with this criterion, NHTSA should not emphasize specific indicators, such as arrest and conviction rates, but should instead look to whether the efforts have produced a reduction in drunk driving accidents, deaths and injuries. Other, such as the IACP and NAGHSR, said that the agency should not concentrate solely upon on-the-road inforcement efforts, but should also examine how a State implements a systems approach to the problem.

The purpose of this criterion is to deter drunk driving by increasing the public's perception of risk of being caught and punished. The agency agrees that the emphasis should be on improvements to the total drunk driver control system that contribute to that purpose, and not only on one or more specific indications of success.

To provide the States with flexibility to demonstrate that they have increased their enforcement and public in information efforts, the agency has tentatively decided not to specify what data a State must provide. States would thus be able to determine which indicators they believe are most appropriate to demonstrate their increased efforts. Those indicators could include development of supportive administrative policy, increases in arrests and convictions, license suspensions/revocations, decrease in repeat offenders, increased training for law enforcement, prosecutors and judges, decreases in alcohol related crashes, increases in rehabilitation referral rates, changes in the public's perception of risk, number of PSA's, media support and citizen involvement in reporting drunk drivers.

Supplemental Grant Criteria

Need for Flexibility

Almost all of the commenters, including NAGHSR and the National Highway Safety Advisory Committee (NHSAC), urged the agency to provide States with maximum flexibility in determining which supplemental grant criteria they might choose to implement. They emphasized that each State should have the ability to tailor its program to fit its own situation. Several States, such as Idaho, Iowa and others, suggested that rather than setting specific minimum criteria a State must meet, the agency should create a list of criteria and specify that States have to meet a certain number or percentage of that list.

Some States, such as Wisconsin and New York, suggested that the agency develop a system that would give a State credit for incremental compliance. Thus, Wisconsin suggested that a State would receive some credit for proposing legislation, even if that legislation did not pass.

The agency recognizes that there is a legitimate need to provide States with flexibility in designing a program that will be effective in their State. At the same time, the agency must act in accordance with the Congressional mandate that the agency establish criteria for effective programs and the section 408 funds be used as an incentive to encourage States to significantly improve their alcohol traffic safety programs. The legislative history of the Act indicates that Congress was concerned that States not only adopt and implement new programs to combat drunk drivers, but that the States fully implement the programs and authority that they already have in place.

Based on the criteria proposed in the advance notice, criteria suggested by individual commenters and criteria contained in the Presidential Commission's Interim Report, the agency is proposing to establish a total of twenty-one eligibility criteria for receiving a supplemental grant. For the purpose of emphasis, NHTSA has ranked the supplemental criteria in what in its view is their general relative order of significance and potential impact on the total alcohol highway safety problem. While this may not mean that Criterion No. 3, for example, is necessarily of less importance than Criterion No. 2, it may be taken to indicate a belief that large scale differences in placement are considered important. Thus, early criteria may be considered to be greater in significance than lowest ranking criteria.

The agency is seeking comments on two alternative ways of establishing requirements on which criteria a State would have to have in place and implement or adopt and implement in order to receive a supplemental grant.

The first alternative on which the agency seeks comments would be to provide that States can receive a grant of less than 20 percent of its fiscal year 1983 section 402 funds if it implements some, but not all, of the twenty-one criteria. The agency requests comments on what proportion of the full 20 percent grant should be given to a State for each criteria that it adopts and implements. As demonstrated by the agency's ranking of the criteria, the agency recognizes that some criteria are of more significant than others. Thus, the agency seeks comments on the possibility of weighting the criteria so that implementation of the more important ones would mean that a State would receive a larger incentive grant. Finally, the agency requests comments on whether it should establish an upper limit on the number of criteria a State has to implement in order to be eligible for a full 20 percent supplemental grant.

The second alternative on which the agency seeks comments would require States to implement all of those criteria that the Governor of the State has the current authority to implement without requiring the concurrence of another branch of the State government. The agency believes that requiring a State to implement those criteria which it is administratively possible for the Governor to implement is consistent with Congress's concern about States fully implementing existing programs or authority. In instances where a Governor already has existing, but unused, authority to take an action such as establishing a State Task Force on alcohol traffic safety, the agency believes that the authority should be exercised before a State can be eligible for a supplemental grant. In instances where the administrative authority already exists to adopt a criterion, States can implement a program in a minimal time.

The agency recognizes that there may be variations between States in the number of criteria that it is administratively possible to implement. Thus, the agency will accept a State's certification of the number of criteria that it is administratively possible to implement solely on the basis of the Governor's authority.

Under this approach, in addition to taking those actions which can be administratively implemented, a State would also be required to implement a certain number of additional criteria to be eligible for additional supplemental grant funding. For each succeeding year additional criteria would be required as well. In meeting this eligibility requirement, States would have the flexibility of determining which specific criteria to implement.

The agency specifically requests comments on how the appropriate number of additional criteria might be established, relatively or absolutely.

The agency recognizes that in several States, either the legislature or the Governor, or both have recently taken action that would under this rule constitute implementation of a criterion, e.g., raising the drinking age or appointing a task force. On the other hand, it appears to have been the primary intent of the Congress to induce future action through the new program. The agency believes that the phenomenon of momentum and the need to capitalize on very recent widespread attention to the issue makes it unreasonable not to recognize very recent such efforts in determining eligibility. The agency thus proposes to recognize such actions as qualifying implementation of the criteria where such has taken place either in the legislative session current at the time of enactment of this Act (Pub. L. 97-364, October 25, 1982) or during the previous legislative session of the State.

To summarize, under each alternative, the agency is proposing that in order for a State to qualify for a supplemental grant in subsequent years, it must adopt and implement additional supplemental criteria, and demonstrate enhanced performance in criteria adopted in prior years. The key to subsequent grants is progress towards achieving program goals and objective as outlined in the State's three year Alcohol Highway Safety Plan. The effectiveness of existing alcohol highway safety programs should rise each year in terms of improved performance, the public's perception of risk, system improvements, etc.

The agency has tentatively decided against creation of a system that would recognize attempted, but not actual, implementation of a criteria. The most frequent example suggested by commenters was introducing, but not passing, legislation to set the drinking age at 21. The Act provides that the agency is to award supplemental grants to States that "adopt and implement" effective programs to reduce drunk driving. Thus, we construe Congress as intending that States are to be rewarded for taking specific actions, not for merely proposing those actions. The agency does note that a systematic, aggressive program of legislative action and support for such enactment at the State level, and as part of a overall program, could qualify as an indicator of increased overall program support and emphasis, which itself could assist in satisfying other criteria.

1. Raising Drinking Age to 21 for All Alcoholic Beverages. As discussed in the advance notice, research has clearly established that raising the drinking age to 21 for all alcoholic beverage results in both a decrease in the number of alcohol-related crashes and a decrease in the number of alcohol-related fatalities. Raising the drinking age to 21 has been strongly endorsed by the Presidential Commission and the National Transportation Safety Board.

Although the commenters uniformly supported increasing the drinking age to 21, they were concerned about how States that have partially raised their drinking age would be treated. Wisconsin, Rhode Island and New York, for example, urged that States be given credit for incrementally raising their drinking age, e.g., from 18 to 19.

The agency believes that there is an important need for uniformity in the drinking age because of the substantial problems caused by teenagers in border communities who drive to neighboring States with a lower drinking age. The agency further concludes that in view of current State laws and the status of research into age related eligibility requirements, the strongly preferred uniform age is 21 years for all alcoholic beverages.

The agency has thus tentatively concluded that States should only be permitted to apply this criterion toward qualification for a supplemental grant if they enacted, whether or not fully implemented, legislation which would immediately or over limited period of time, (e.g. not to exceed three years) raise the drinking age to 21 for all alcoholic beverages. The agency is concerned that rewarding partial compliance would lessen the incentive further to move toward full compliance.

2. Designation of State Alcohol Highway Safety Coordinator. States generally supported the designation of a single individual as responsible for the coordination of a State's alcohol traffic safety program. The California Highway Patrol, however, objected that setting such a position would require "an entirely new bureaucracy." New York's Division of Alcoholism and Alcohol Abuse noted that because planning requires the integration of a number of disciplines and agencies, a group representing each of those disciplines should participate in and be responsible for program coordination.

Current experience in several States shows that designation of a single program coordinator does not require the establishment of an entirely new bureaucracy. NHTSA recognizes that people from many different disciplines must be consulted in order to successfully coordinate a State-wide program and that a panel or task force is an appropriate way to help coordinate the entire program. However, the agency still believes that it is important that a single individual be designated as overall coordinator to ensure all appropriate agencies are fully involved in the drunk driver control system.

3. Rehabilitation and Treatment. A substantial number of the commenters, such as the National Council on Alcoholism and State alcohol treatment agencies, urged the agency to require the use of rehabilitation and treatment as one of the supplemental criteria. They noted, and the agency fully recognizes, that rehabilitation and treatment are a necessary adjunct to an effective drunk driver control system.

In the advance notice, the agency expressed its concern about the need for uniform standards and procedures for creating and operating the program. Based upon an agency-funded demonstration project, the agency proposed that the program be at least one year in length. A number of commenters requested that a minimum time not be set, because of the variability in how different people respond to treatment. To provide States with increased flexibility the agency has decided not to propose a specific minimum time for a treatment program. It is important to note that the only treatment program for problem drinkers that has, in the agency's judgment, been statistically *proven* to be effective in reducing recidivism on a general basis was the comprehensive DWI Offender Treatment Project in Sacramento, California, where long term treatment (1 year) and follow-up (2 years) was required. The agency is concerned about the need for some State oversight of such programs to ensure that they are effectively planned and operated. The agency therefore proposes that each State set minimum standards for rehabilitation and treatment programs.

States can demonstrate compliance with this criterion by providing the agency with the law or regulations requiring or authorizing the treatment referral program along with information on the types and duration of their rehabilitation and treatment programs and a summary of their uniform standards and procedures for creating and operating their programs.

4. State and Local Task Forces. In its interim report, the Presidential Commission noted that:

> The development of State and local Task Forces has proved to be central to the development of more effective local and State responses to drunk driving. These Task Forces provide a mechanism to bring together governmental officials and non-governmental leaders in an effort to increase public awareness of the problem, develop more effective legal responses to it, and to develop governmental and non-governmental programs of drunk driving countermeasures.

Several States, such as California and North Carolina, noted in their comments the valuable role of Task Forces in examining new approaches for reducing drunk driving. NHTSA, therefore, proposes that creation of State and local Task Forces become one of the supplemental grant criteria. The agency has developed guidelines to assist States and local communities to establish Task Forces. Those guidelines are found in the agency's publication "Task Force Implementation Guidelines for the Development of State and Community Alcohol Highway Safety Programs." As a minimum a State should have a Task Force and active plans should be underway to encourage and assist in the establishment of county, city, or Regional Task Forces.

5. Statewide Driver Record System. Commenters, such as AAA and Citizens for Safe Drivers Against Drunk Drivers and Other Chronic Offenders (CSD), supported the need for an up-to-date, readily accessible system of driver records to identify repeat offenders. The advance notice sought comments on a proposed requirement that the system be operated so that conviction information is actually recorded in the system within 30 days of conviction, license sanction or the completion of the appeals process. Mississippi, the only State to directly address the issue of timeliness, said that 90 days is needed to process conviction and license actions. The agency needs additional information from States on the current and potential capabilities of their records system before it can resolve the issue of what, if any, requirements it should set on timeliness. The agency specifically requests States to address this issue in their comments on this notice but proposes at this time to retain the 30-day requirement originally proposed.

The agency also sought comments on public access to the driver records. CSD strongly supported full public disclosure. Illinois recommended that statistical information on DWI charges that have been subsequently reduced should be part of the public record, but that the public should not have access to specific information on individual cases. The New York Division of Alcoholism and Alcohol Abuse stated its concerns about whether information would be disclosed that indicates that an individual is receiving or has received treatment for alcoholism. It said that such disclosures could be a violation of state law and Department of Health and Human Services' confidentiality regulations. The agency requests additional commenters to address the issue of public accessibility and the effect of State privacy laws on accessibility.

The Presidential Commission's Interim Report and CSD raised several important points concerning the operation of record systems, including the use of a uniform traffic ticket and participation in the National Driver Register. The agency is proposing to adopt those recommendations as a part of supplemental criterion No. 14.

One of CSD's recommendations, however, is crucial to the operation of the records system. CSD noted that some States expunge their records within two or three years, which makes it difficult to identify repeat offenders. The agency concurs with this concern, and therefore, proposes that States retain their records for a period of five years in order to meet the driver record supplemental criterion; such a requirement is consistent with the agency's proposed definition of "repeat offender" for the purposes of the basic grant, and with the agency's understanding of the intent of the Congress in enacting the National Driver Register Act, Title II of Pub. L. 97–364, signed by the President on October 26, 1982.

6. Locally Coordinated Programs. As emphasized in the advance notice, the agency believes that drunk driving has become a national problem by virtue of being first a local problem in every locality. The success of any alcohol traffic safety effort is dependent upon local communities recognizing, understanding and accepting the responsibility for solving this problem.

While endorsing the concept of locally-coordinated programs, a number of States, such as North Carolina and Connecticut, said that implementation of the local programs will be costly. A number of States pointed out statutory and administrative problems they have in implementing local programs. California, for example, said that currently it has no statutory provisions to allow fines to be funneled back to local programs.

The agency recognizes that implementation of programs that are

locally coordinated may incur some increased costs and may necessitate enactment of new legislation. However, a number of States, such as New York and Virginia, have found that the costs of a local coordinator are minimal when compared to overall system improvements. These programs can be established by local jurisdictions and need not be restricted to a specific size community or region. The agency would prefer that communities decide the geographic area to be involved in a locally coordinated program. It can be a city, county or any combination of cities, towns or counties forming a regional alcohol traffic safety community. As discussed in more detail later in this notice, the agency believes that these programs can eventually become self-sufficient. Because of the overriding importance in having the primary drunk driver effort at the local level, the agency proposes to adopt the requirement for locally coordinated programs as one of the final supplemental criteria.

7. Prevention and Education. The commenters uniformly supported making a prevention and education program designed to change the societal norm relative to drunk driving a supplemental criterion. Many commenters discussed the need for a long-term program aimed at the pre-driver and young driver population. The agency agrees that the long-term success of any alcohol safety effort is, in large part, dependent upon establishing responsible attitudes toward alcohol use and driving among today's youth and, therefore, proposes to adopt prevention and education as one of the supplemental criteria.

States can demonstrate compliance with such a requirement by providing a brief description of their prevention and education program and discussing how it relates to changing societal attitudes and norms against drunk driving. This should include a comprehensive kindergarten through twelfth grade education program as well as involvement of the private sector groups and parents. In particular, a State should provide information on its youth alcohol traffic safety programs.

8. Screening. The use of pre-sentence screening was strongly supported by several commenters, including Oklahoma and AAA. New York agreed with the agency's proposal that the courts be given the authority to order such screening, but the use of the screening not be mandatory.

Florida suggested that the emphasis be placed on the use of screening and not on the pre-sentence timing of the screening. Florida noted that it currently uses screening as a part of its probation procedures and as a link to its education and treatment programs.

The agency agrees with Florida that the importance of the screening is to identify problem drinkers and to see that they receive appropriate education and rehabilitation. The agency proposes to adopt as a supplemental criterion the requirement that States have a screening procedure. States could demonstrate compliance with this criterion by submitting a copy of the law authorizing screening and providing a brief description of the screening process. The agency requests further comment on whether only pre-sentence screening should be included in this criterion.

9. Evaluation Systems. Individual alcohol countermeasures and the system as a whole require continual review and scrutiny in order to determine which of these measures work and which do not work. In order for States to be able to evaluate the progress and impact of their comprehensive alcohol programs, evaluation systems should be designed and implemented to measure performance of their counter-measures and overall impact of the program. Progress and impact should be made known and available to State and local governments, legislative committees, and citizen groups.

Minimum requirements for qualification of the system would be the demonstration of an adequate State-wide data reporting collection system which could collect pertinent data elements, such as crashes, arrests, convictions, etc. In addition, an evaluation section as part of the Alcohol Safety Plan would be required that would specify the kind of data to be collected, and the appropriate disseminations of the data in terms of reports and analysis.

10. Self-Sufficiency. Although the advance notice discussed the importance of State and local program becoming self-sufficient, self-sufficiency was not proposed as a separate criterion. The agency believes that because of Congress' intent that the section 408 incentive grants be used as "seed money", more emphasis should be placed on State and local programs becoming self-sufficient.

As emphasized in the advance notice, the agency believes that making the drunk drivers who create the problem pay for its solution is sound policy. The agency recognizes, as stated by several commenters, that legislation may be needed in order to redistribute the offenders' fines, court fees and education and treatment program tuition back to State and local agencies to pay for the system. However, enactment of such legislation is one way of assisting those programs to become financially self-sufficient and self-sustaining.

The agency, therefore, proposes to adopt as one of the criteria a requirement that States take the necessary steps to ensure that their alcohol traffic safety programs will become self-sufficient. States can demonstrate compliance by providing a plan how they intend to make their programs self-sufficient. Specific progress toward implementation of the plan must be shown in future years to continue to claim this as a supplemental criterion.

11. Use of Roadside Sobriety Checks. There was a sharp difference of opinion among commenters on the use of roadside checks to detect drunk drivers. Both the California Highway Patrol and AAA opposed their use on constitutional grounds. Mississippi said that it widely uses them as an integral part of its alcohol safety program, and U.S. Representative Barnes, one of the sponsors of the Act, expressed his strong support for the use of roadside sobriety checks.

The agency believes that the selective use of reasonable roadside checks can be supported on constitutional grounds. An important effect of the checks is to increase the public's perception of the risk of being caught for drunk driving.

The agency proposes to adopt the use of roadside checks as one of the supplemental criteria in the final rule. States can demonstrate compliance with this criterion by providing information on the frequency and area where roadside checks are being used, the purpose of those checks and a copy of their regulation, law, or policy authorizing the use of roadside sobriety checks.

12. Citizen Reporting. In its Interim Report, the Presidential Commission recommended that states encourage citizens to report drunken drivers to the police. The Commission said that:

> This program of citizen involvement increases the public's perceived and actual risk of apprehension and adds to general deterrence. In Nebraska from June 1981 to May 1982, for example, 2,636 suspected drunk drivers were reported to the police and, as a result, police intercepted 1,827 potentially drunk drivers and arrested 1,428. Similar results have been achieved in several other States.

The agency believes that citizen reporting programs can contribute to the overall success of an alcohol traffic safety program by enhancing deterrence and therefore proposes to make such a program one of the supplemental criteria. States can demonstrate

compliance by submitting a description of its citizen reporting guidelines or policy and the degree of participation, e.g., number of citizens reporting and number of arrests resulting therefrom.

13. Enactment of a BAC of 0.08 Percent as Presumptive Evidence. In the advance notice, the agency proposed that States enact a law making a .05 percent BAC presumptive evidence of driving under the influence of alcohol. Although Connecticut supported the proposal, several commenters argued that a BAC of 0.05 was too low a level at which to create a presumption that a driver is impaired.

The California Highway patrol said that there is "no general agreement among authorities that a BAC of 0.05 constitutes 'under the influence' or impairment." Wisconsin urged the agency to consider establishing a BAC of 0.08 percent as presumptive evidence of impairment.

The agency believes that the setting of a presumptive level of impairment can assist enforcement officials in making arrests and obtaining convictions where impairment is evident from the driving action in a particular case. Although there is uncertainty surrounding whether a BAC of 0.05 percent would constitute impairment for all drivers, the agency believes that there is sufficient research to show that a BAC 0.08 percent represents a level which can commonly produce driver impairment or physical effects which lead to conduct properly chargeable as driving under the influence. At this time, and for this purpose, the agency therefore proposes to retain the level of 0.05 percent as requisite for satisfaction of this criterion. States can demonstrate compliance by providing a copy of the applicable law.

14. Uniform Licensing Procedures. In its Interim Report, the Presidential Commission recommended that States fully participate in the National Driver Register and the Driver's License Compact and use a one-license/one-record policy. The Commission said that "Cooperation between States in sharing information on driver licensing and violations in order to stop those with revoked or suspended licenses from becoming licensed in another State is a necessity." Similar suggestions were made by CSD.

The Commission and CSD also suggested the need for a uniform traffic ticketing and disposition procedure. Such a system is needed in order to follow each charge from arrest through prosecution and back to the central State file. It also provides excellent system and financial accountability.

The agency recognizes that it is important to have States share driver licensing suspension and revocation information and therefore is proposing to adopt this suggestion as one of the supplemental criteria. States can demonstrate compliance by providing a copy of the executive order, regulation or law setting up a uniform traffic ticketing system. In addition, States would have to show that they have signed the Driver License Compact and are participating in use of the National Driver Register.

15. Preliminary Breath Tests. Use of preliminary breath tests (PBT's) was supported by a number of States, such as Wisconsin, Connecticut and Mississippi. Several States, including California and Florida, were concerned that use of the PBT's may place too much reliance on the use of the test device and not enough on the arresting officer's observation of the suspect's behavior. Florida also commented that the use of PBT's may encourage drunk drivers to refuse to take an evidential breath test, if they fail the preliminary test.

The agency believes that use of PBT's can contribute to the effectiveness of an alcohol enforcement program. The agency agrees that police officers must be trained in how to identify potentially drunk drivers based on the officer's observations, however, we believe the use of PBT's can complement the officer's observation. Research done by the agency and the experience of the States, such as Minnesota, have shown that (1) wider use of preliminary breath tests can increase the effectiveness of any alcohol enforcement effort through increases in arrests and an overall lowering of the average BAC of persons arrested for DWI, (2) the PBT's are accepted by and useful to the police, and (3) the PBT devices function accurately and dependably. Twenty States currently have laws authorizing the use of PBT's. The potential problem of suspects refusing to take an evidential breath test can be combated by strengthing the penalties for refusing the test. Since the potential problems raised by the commenters can be solved and the benefits outweigh the efforts of solving these problems, the agency proposes to adopt the use of PBT's as a supplemental criterion.

16. Plea-bargaining. Many commenters, such as AAA, NHSAC, and IACP, suggested limitations on the use of plea-bargaining in alcohol-related driving cases. They pointed out that the principal problem is that an alcohol-related offense may be bargained down to a lesser non-alcohol-related offense, such as reckless driving. Thus, upon subsequent arrest, the offender's driving record might not contain any information to indicate that he or she has committed prior alcohol-related offenses.

Several States have already placed limits on plea-bargaining in alcohol-related traffic cases. California, for example, requires the reason for accepting the bargain to be placed on the public record. In addition, the lesser offense is entered on the driver's record as alcohol-related.

IACP commented that in some jurisdictions courts can make a finding of probation without judgment. Once the defendant completes the probationary period, the record is expunged and thus no record of an alcohol-related offense would exist, according to IACP.

In its Interim Report, the Presidential Commission also recommended that prosecutors and courts not reduce driving under the influence charges. The Commission said that a charge should be reduced only if the prosecutor states in writing "why the interest of justice uniquely requires a reduction or why the charge cannot be proven beyond a reasonable doubt."

Based on those comments, the agency has decided to propose as a criterion that no charge be reduced or probation without judgment be entered without a written declaration of why the action is in the interest of justice. In addition, the agency proposes that if the charge is reduced, the defendant's driving record must reflect that the reduced charge is alcohol-related. States can demonstrate compliance by providing a copy of the law implementing these provisions.

17. Victim Assistance, Compensation and Impact Statements. The Presidential Commission's Interim Report refers to those injured by drunk drivers as the "forgotten victims of the legal system." The Commission recommended a number of programs to aid those victims. The Commission said that State and local governments should have victim assistance programs, which would inform the victim or the victim's family about the progress and ultimate disposition of the legal case against the drunk driver and provide information on available community services. The Commission also recommended that victim impact statements be required before sentencing in all cases where death or serious injury occurred. CSD also made the same recommendation to the agency.

Finally, the Commission recommended that any person convicted for driving under the influence should pay restitution. The Commission said that, "where feasible, courts should order offenders to pay for property

damage, medical expenses, and lost wages."

The agency proposes to make the establishment of programs incorporating the elements recommended by the Commission (victim assistance programs, use of victim impact statement and victim restitution) a separate criterion. States can demonstrate compliance by providing a description of their program.

18. Impoundment. The proposal to impound the vehicle of a person whose driver's license has been suspended or revoked drew considerable comments. The Texas Department of Public Safety strongly supported the use of impoundment at the expense of the owner as a "significant sanction." Numerous other commenters, including NHSAC, Connecticut, Florida and Idaho, sharply questioned whether impoundment was cost-effective, given what they termed the large costs of administering the program. Florida suggested using the alternative of confiscating the vehicle's tags.

Given the successful use of impoundment in Texas and other States, the agency believes that it can be an effective deterrent. At the same time, the agency also recognizes that physical impoundment can create due process and administrative problems. Such problems, however, will commonly arise at the State level, and can be resolved there. To ensure that States who do wish to use this enforcement option may receive Federal assistance, the agency is proposing to include impoundment as a criterion and define impoundment as including the taking of the vehicle license plates or tags.

States can demonstrate compliance with this criterion by providing the agency with a copy of the law authorizing appropriate impoundment or license plate confiscation.

19. Choice of Test. Several States, including Mississippi and Connecticut, supported the proposal to allow the arresting officer the choice of chemical tests. The California Highway Patrol noted that California currently allows the suspected drunk driver to specify which test is to be used. It said that any action "which diminishes individual freedom of choice, without compelling reasons, would not receive legislative or public support."

The agency believes that there is a compelling reason for allowing States to authorize an officer to specify the test to be used and, under controlled circumstances, to require a second test. The use of breath tests is an accurate and appropriate way to determine if a person is driving under the influence of alcohol. Unlike urine and blood tests, however, breath tests do not indicate the presence of drugs other than alcohol. In situations where an officer administers a breath test that gives a negative or very low reading, the agency believes that the officer should have the authority to require the suspect to submit to another chemical test if, and only if, the officer has a reasonable belief that the suspect is impaired because of the use of drugs or drugs and alcohol. To ensure that the suspect will submit to the second test, the agency believes that States should have implied consent laws that make refusal to take the second test result in a license suspension for a greater period of time than for conviction of driving while under the influence.

The agency, therefore, proposes to adopt a supplemental criterion that provides that where State law authorizes the officer to specify not only the first but also the second or subsequent chemical tests to be used, refusal to take any such requested test should result in a license suspension. States can demonstrate compliance by providing copy of the applicable laws.

20. Dram Shop Laws. The Presidential Commission, in its interim report, recommended that States enact or implement dram shop laws. Those laws make dispensers of alcohol liable for injuries that occur when they serve alcohol to an obviously impaired driver and the driver is subsequently involved in a crash. The agency believes that such a law can effectively motivate people to stop serving drivers who are visibly impaired and thus proposes to make enactment of dram shop laws one of the supplemental criteria. States can demonstrate compliance by providing a copy of the applicable law or regulation.

21. Use of Innovative Programs. In proposing supplemental criteria, the agency has attempted to draw upon its own research and demonstration projects, the interim recommendations of the Presidential Commission and the suggestions of the commenters. A review of the proposed supplemental criteria demonstrates the agency has attempted to provide States with maximum flexibility in designing their own alcohol traffic safety programs.

The agency recognizes that there are other potential countermeasures that have not been developed that may be effective in reducing drunk driving. In addition, there are some countermeasure programs that overlap several of the proposed criteria but are not specifically covered by any of them. For example, Oklahoma suggested the use of bartender education programs as a way to reduce drunk driving. Such a program contains elements of the proposed education and dram shop criteria, but does not fully fall within either of them.

The agency believes that States should have an incentive to develop new, unique, and innovative programs. Therefore, the agency proposes that States can meet this final criterion by using innovative alcohol safety programs that are as potentially effective as any of the programs mandated in the other criteria. This would reward States for experimenting with new programs. To demonstrate compliance, States would provide a description of the program and an explanation of why the State believes the program is as potentially effective as any of the other specified criteria as shown by an impact or administrative evaluation.

General Requirements

The Act requires that in order to be eligible for a basic grant, a State must maintain its aggregate level of funding from non-section 408 funds for existing alcoholic traffic safety programs "at or above the average level of such expenditures in its two fiscal years preceding the date of enactment . . . " The purpose of this requirement is to ensure that States continue to maintain their prior level of expenditures for alcohol safety programs from section 402 and other monies. The new section 408 money would then serve to increase their prior efforts, rather than replace money previously spent on alcohol safety and now diverted elsewhere.

The agency proposal to permit States to select either Federal or State fiscal year in determining the level of expenditures that must be maintained was not opposed by any of the commenters. The agency therefore proposes to adopt that definition of fiscal year in the final rule.

Florida requested the agency to clarify what monies are to be considered in determining the funding base, e.g., should section 406, 154 and Federal Highway Administration 402 monies be included. In determining their prior levels of funding, States are to include any money expended for alcohol safety purposes, regardless of source.

Certification and Award Procedure

There are very few comments on the agency's proposed certification and awards procedures. Those that did comment supported the use of a section 402-like certification. NAGHSR supported the proposal to allow States to submit their alcohol safety plan as an expanded portion of the alcohol section of a State's section 402 Highway Safety

Plan. NAGHSR and Oklahoma both supported the use of a so-called "soft match" in determining what States Expenditures are reimbursable under section 400.

Because there were only as few comments on this issue, the agency reproposes the certification and awards procedures set forth in the advance notice and requests States to specifically address the procedures.

The agency also requests comments on an alternative procedure. The purpose of the alternative is to save States from having to prepare unnecessary paperwork by determining a States's eligibility for a grant before a detailed alcohol safety plan is submitted. The alternative procedure would have the following three steps:

1. The State provides information to document and verify its eligibility for the basic and supplemental grant criteria.

2. Upon review by NHTSA, the State would be notified that it is or is not eligible for the grant award based upon the documentation submitted. If eligible for grant award, the State would also be advised of the amount of the grant to be awared subject to receipt and NHTSA formal approval of the State's Alcohol Highway Safety Plan. The Plan must be submitted within a specified period of time (90–120 days) to retain award eligibility.

3. Upon receipt and subsequent approval of the Plan, the grant will be awarded by execution of a Federal-Aid Agreement.

Procedures for Commenting on Proposal

Interested persons are invited to attend the public hearings and/or submit written comments on this proposal. It is requested but not required that 10 copies be submitted.

Anyone who wishes to make an oral statement at the January 11, 1983 public hearings should notify Marian Tomassoni or Joe Jeffrey at the address or telephone number listed at the beginning of this notice no later than seven days before the hearing. Oral statements should be limited to 10 minutes or less. Oral or written clarification on issues raised in the oral statements or in the docket submissions may also be requested by agency representatives conducting the hearing. As time permits, the formal statements may be followed by an open discussion. Written comments to the public docket must be received by January 14, 1983.

The comment period established for this notice is necessarily short in order to meet the February 1, 1983 deadline set by Congress for completion of this rulemaking process.

Comments should not exceed 15 pages in length. Necessary attachments may be added to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise manner.

All comments received before the close of business on January 14, 1983, the comment closing date, will be considered and will be available for examination in the docket at the above address before and after that date.

To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all written statements and comments will be placed in Docket 82–18; Notice 4 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. A verbatim transcript of the public hearing will be prepared and placed in the NHTSA docket as soon as possible after the hearing.

Pursuant to the Paperwork Reduction Act, the agency will seek Office of Management and Budget Approval for any new reporting or recordkeeping requirements adopted in the final rule.

The agency has determined that this rulemaking should be classified as significant under the Department's regulatory policies and procedures. The agency has prepared a regulatory evaluation and placed it in the public docket for this rulemaking. The agency has determined that since this rule will not have an annual impact of $100 million on the economy, it is not a major rule within the meaning of Executive Order 12291.

To develop the benefit estimates, the agency determined the degree to which proposals in the notice are presently being implemented. Estimates of safety benefits were then based on satisfying the criteria in those States that presently are not doing so. The impact of the criteria in one or more of four areas was determined where applicable: (1) Drunk drivers on the road, (2) alcohol-related crashes, (3) DWI arrests, and (4) DWI convictions. The agency quantified benefits in terms of reduced numbers of fatalities, injuries, or accidents where possible. Lack of data, or the nature of the criteria themselves at times, precluded quantifying benefits in every criteria; however, in such cases where quantification of benefits is not possible, the general magnitude of the impact is assessed to the degree possible. In some instances, benefits are estimated for specified levels of safety measure effectiveness in order to gauge the potential of the measure for improving highway safety.

I hereby certify that the requirements that will be established by this rulemaking action will not have a significant economic impact on a substantial number of small entities because the States will be the recipients of any funds awarded under the regulation and, therefore, preparation of an Initial Flexibility Analysis is not necessary.

List of Subjects in 23 CFR Part 1209

Alcohol, Grant programs—transportation, Highway safety.

In consideration of the foregoing, it is proposed to add a new Part 1209 to Title 23 of the Code of Federal Regulations to read as follows:

PART 1209—INCENTIVE GRANT CRITERIA FOR ALCOHOL TRAFFIC SAFETY PROGRAMS

Sec.

1209.1 Scope.
1209.2 Purpose.
1209.3 Definitions.
1209.4 General requirements.
1209.5 Requirements for a basic grant.
1209.6 Requirements for a supplemental grant.
1209.7 Award procedures.

Authority: 23 U.S.C. 408.

§ 1209.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 408, for awarding incentive grants to States that implement effective programs to reduce drunk driving.

§ 1209.2 Purpose.

The purpose of this part is to encourage States to adopt and implement alcohol traffic safety programs by legislation or regulations which will significantly reduce crashes resulting from persons driving while under the influence of alcohol. The criteria established are intended to ensure that the State alcohol traffic safety programs for which incentive grants are awarded meet or exceed minimum levels designed to reduce drunk driving.

§ 1209.3 Definitions.

(a) "Imprisonment" means confinement to a jail, minimum security facility or in-patient rehabilitation or treatment center.

(b) "Prompt suspension" means that mandatory driver license suspension takes place, in at least 60 percent of the cases, no later than 30 days after a person is arrested for an alcohol-related driving offense. In addition, the overall average time to suspend a drivers' license can not exceed 45 days.

(c) "Repeat offender" means any person convicted of an alcohol-related traffic offense more than once in five years.

(d) "Suspension" means:

(1) For first offenses—

Alternative A, the temporary debaring of all driving privileges for 90 days.

Alternative B, the temporary debaring of all driving privileges for 30 days and then the use for 60 days of a restricted license permitting a person to drive only for the purposes of going from a residence to or from a place of employment or to and from a mandated alcohol education or treatment program. Such restricted licenses can only be issued in accordance with Statewide published guidelines and in exceptional circumstances specific to the offender.

(2) For Refusal to take a chemical test, first offense, the temporary debaring of all driving privileges for 90 days.

(3) For Second and Subsequent offenses, including the refusal to take a chemical test, the temporary debaring of all driving privileges for one year.

§ 1209.4 General Requirements.

(a) *Certification Requirements.* To qualify for a grant under 23 U.S.C. 408, a State must:

(1) Meet the requirements of § 1209.5 and, if applicable, the requirements of § 1209.6;

(2) Submit a certification to the Director, Office of Alcohol Countermeasures, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 that (i) it has an alcohol traffic safety program that meets those requirements, (ii) it will use the funds awarded under 23 U.S.C. 408 only for the implementation and enforcement of alcohol traffic safety programs, and (iii) it will maintain its aggregate expenditures from all other sources for its existing alcohol traffic safety programs at or above the average level of such expenditures in fiscal years 1981 and 1982; and

(3) Submit to the agency an alcohol safety plan for one, two or three years, as applicable, that describes the programs the State is implementing in order to be eligible for the grants and provides the necessary information, identified in §§ 1209.5 and 1209.6, to demonstrate that the programs comply with the criteria.

(b) *Limitations on Grants.* A State may receive a grant for up to three fiscal years subject to the following limitations:

(1) The amount received as a basic grant shall not exceed 30 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(2) The amount received as a supplemental grant shall not exceed 20 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(3) In the first fiscal year the State receives a grant, it shall be reimbursed for up to 75 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408;

(4) In the second fiscal year the State receives a grant, it shall be reimbursed for up to 50 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408; and

(5) In the third fiscal year the State receives a grant, it shall be reimbursed for up to 25 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408.

§ 1209.5 Requirements for a basic grant.

To qualify for a basic incentive grant of 30 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must have in place and implement or adopt and implement the following requirements:

(a)(1) The prompt suspension, for a period not less than 90 days in the case of a first offender and not less than one year in the case of a repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

(2) To demonstrate compliance, a State shall submit a copy of the law or regulation implementing the mandatory license suspension, information on the number of licenses suspended, the length of the suspension for first-time and repeat offenders and for refusals to take chemical tests and the average number of days it took to suspend the licenses from date of arrest.

(b)(1) A mandatory sentence, which is not subject to suspension or probation, of imprisonment for not less than 48 consecutive hours or community service for not less than 10 days, for any person convicted of driving while intoxicated more than once in a five year period.

(2) To demonstrate compliance a State shall submit a copy of its law adopting this requirement and data on the number of people convicted of DWI more than once in any five years and the sentences for those persons.

(c)(1) Establishment of 0.10 percent blood alcohol concentration (BAC) as sufficient evidence for finding that a person driving a motor vehicle is intoxicated.

(2) To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(d)(1) Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

(2) To demonstrate compliance, a State shall submit data showing that it has increased its enforcement and public information efforts.

§ 1209.6 Requirements for a supplement grant.

[The two alternative sets of proposed requirements for a supplemental grant are discussed in the preamble of this notice.] The twenty-one criteria proposed by the agency are as follows:

(a) Establishment of 21 years of age as the minimum age for drinking any alcoholic beverages. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(b) Designation of a single State official as the coordinator for the alcohol highway safety program in the State. To demonstrate compliance, a State shall submit information identifying the official who has been designated as the State coordinator and the extent of the coordinator's authority.

(c) Rehabilitation and treatment programs for persons arrested and convicted of alcohol-related traffic offenses. To demonstrate compliance, a State shall submit a copy of its law or regulation adopting this requirement.

(d) Establishment of State and local Task Forces of governmental and non-governmental leaders to increase awareness of the problem, to more effectively apply drunk driving laws and to involve governmental and private sector leaders in programs attacking the drunk driving problem. To demonstrate compliance a State shall submit a copy of the executive order, regulation, or law setting up the task force and a description of planned activities to assist and encourage the establishement of city, county or regional Task Forces.

(e) A Statewide driver record system readily accessible to the courts and the public which can identify drivers repeatedly convicted of drunk driving. To demonstrate compliance, a State shall submit a description of its record system discussing its accessibility to prosecutors, the courts and the public and providing data on the time required to enter DWI convictions into the system.

(f) Establishment in each major political subdivision of a locally coordinated alcohol traffic safety program, which involves enforcement, adjudication, licensing, public information, education, prevention, rehabilitation and treatment and management and program evaluation. To demonstrate compliance, a State shall submit a description of the number, type and percentage of the State population covered by such local programs.

(g) Prevention and long-term education programs on drunk driving. To demonstrate compliance, a State shall submit a description of its prevention and education program, discussing how it is related to changing societal attitudes and norms against drunk driving with particular attention to the implementation of a comprehensive youth alcohol traffic safety program.

(h) Authorization for courts to conduct screenings of convicted drunk dirvers. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement and a brief description of its screening process.

(i) Development and implementation of State-wide evaluation system to assure program quality and effectiveness. To demonstrate compliance, a State shall provide a copy of the executive order, regulation or law setting up the evaluation program and a copy of the evaluation plan.

(j) Establishment of a plan for acheiving self-sufficiency for the State's total alcohol traffic safety program. To demonstrate compliance, a State shall provide a copy of the plan. Specific progress toward achieving this criterion must be shown in subsequent years.

(k) Use of roadside sobriety checks as part of a comprehensive alcohol safety enforcement program. To demonstrate compliance, a State shall submit data on the frequency and area within a State where roadside checks are being used, purpose of the checks and a copy of its regulation or policy authorizing the use of roadside checks.

(l) Establishment of programs to encourage citizen reporting of alcohol-related traffic offenses to the police. To demonstrate compliance, a State shall submit a copy of its citizen reporting guidelines or policy and data on the degree of citizen participation, e.g., number of citizen reports and the number of related arrests.

(m) Establishment of a 0.08 percent BAC as presumptive evidence of driving while under the influence of alcohol. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(n) Adoption of a one-license/one-record policy. In addition, the State shall fully participate in the National Driver Register and the Driver License Compact. To demonstrate compliance, a State shall submit a copy of the order, regulation or law showing the State has signed the Driver License Compact and has adopted a one-license/one-record policy, and is participating in the National Driver Register.

(o) Authorization for the use of a preliminary breath test where there is probable cause to suspect a driver is impaired. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(p) Elimination of plea-bargaining to non-alcohol-related offenses in the prosecution of alcohol-related traffic offenses. To demonstrate compliance, a State shall submit a copy of its law or court guidelines adopting this requirement.

(q) Provide victim assistance and victim restitution programs and require the use of victim impact statement prior to sentencing in all cases where death or serious injury results from an alcohol-related traffic offense. To demonstrate compliance, a State shall submit a copy of its law or court guidelines adopting this requirement.

(r) Mandatory impoundment or confiscation of license plate/tags of any vehicle operated by an individual whose license has been suspended or revoked for an alcohol-related offense. To demonstrate compliance a State shall submit a copy of its law adopting this requirement.

(s) Enactment of legislation or regulations authorizing the arresting officer to determine the type of chemical test to be used to measure intoxication and to authorize the arresting officer to require a second chemical test where the arresting officer has a reasonable belief that the driver is under the influence of drugs. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(t) Enactment of dram shop laws. To demonstrate compliance, a State shall submit a copy of its law or regulation adopting this requirement.

(2u1) Use of innovative programs to demonstrate compliance, a State shall submit a description of its program and an explanation showing that the program will be as effective as any of the programs adopted to comply with the other supplemental criteria.

§ 1209.7 Award procedures.

For each Federal fiscal year, grants under 23 U.S.C. 408 shall be made to eligible States upon submission of the alcohol safety plan and certification required by § 1209.4. Such grants shall be made until all eligible States have received a grant or until there are insufficient funds to award a full grant to a State. Time of submission shall be determined by the postmark for certifications delivered through the mail and by stamped receipt for certifications delivered in person.

(Sec. 101, Pub. L. 97–364; 96 Stat. 1738 (23 U.S.C. 408); delegation of authority at 49 CFR 1.50)

Issued on December 30, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 83–310 Filed 1–3–83; 12:39 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–183–76]

Disallowance of Certain Items as Deductions for Estate and Income Tax Purposes; Withdrawal of Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking, relating to the disallowance of certain items as deductions from the gross estate for estate tax purposes and from gross income for income tax purposes, that appeared in the **Federal Register** on Monday, December 13, 1982 (47 FR 55697). The notice is being withdrawn in order to meet all applicable procedural requirements pertaining to its issuance.

FOR FURTHER INFORMATION CONTACT: Neil W. Zyskind of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention CC:LR:T, (202–566–3289), not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document withdraws the notice of proposed rulemaking that appeared in the **Federal Register** on Monday, December 13, 1982 (47 FR 55697). That notice contained proposed amendments to the regulations under secton 642(g) of the Internal Revenue Code of 1954 (Code). If adopted, the rules would have provided guidance to the public on the disallowance of certain items as deductions from the gross estate for estate tax purposes and from gross income for income tax purposes. However, the notice is being withdrawn in order to meet all applicable procedural requirements pertaining to its issuance.

Drafting Information

The principal author of this document is Neil. W. Zyskind of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing this document, both in matters of substance and style.

List of Subjects in 26 CFR 1.641–1.692–1

Income taxes, Estates, Trusts and trustees, Beneficiaries.

Withdrawal of Notice of Proposed Rulemaking

The proposed amendments to 26 CFR Part 1 relating to the disallowance of certain items as deductions for estate and income tax purposes published in the **Federal Register** (47 FR 55607, FR Doc. 82–33770) on December 13, 1982, are hereby withdrawn.

Roscoe L. Egger, Jr.,

Commissoner of Internal Revenue.

[FR Doc. 83–252 Filed 1–4–83; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 48

[LR–2117]

Manufacturers Excise Taxes on Petroleum Products

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments which would update and revise the regulations concerning manufacturers excise taxes on petroleum products.

DATE: Written comments and requests for a public hearing must be delivered or mailed by March 7, 1983. Except as otherwise provided in this document, the amendments are proposed to be effective for sales of gasoline and lubricating oil after December 31, 1954.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Ave., NW., Washington, D.C. 20224, Attention: CC:LR:T (LR–2117).

FOR FURTHER INFORMATION CONTACT: Cynthia L. Clark of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224, Attention: CC:LR::T (202–566–4336), not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under sections 4081 through 4102 of the Internal Revenue Code of 1954. However, this document does not provide proposed regulations under section 4081(c), relating to non-imposition of tax on gasoline mixed with alcohol, as added by section 221(a) of the Energy Tax Act of 1978. This document also does not provide proposed regulations under the amendments to section 4093, relating to exemption from imposition of tax on lubricating oil, made by section 404 of the Energy Tax Act of 1978. Regulations under section 4081(c) were published in the **Federal Register** Wednesday, December 5, 1979 (44 FR 69924). Regulations relating to the amendments to section 4093 made by the Energy Tax Act of 1978 were provided by another regulation project (LR–173–78). These amendments are to be issued under the authority contained in section 7805 of the Code. [68A Stat. 917, 26 U.S.C. 7805.]

Explanation of Provisions

The proposed regulations would update and revise the exisiting regulations regarding manufacturers excise taxes on petroleum products.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis in not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking that solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these proposed regulations is Cynthia L. Clark of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 48

Agriculture, Arms and munitions, Coal, Excise taxes, Gasohol, Gasoline, Motor vehicles, Petroleum, Sporting goods, Tires.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 48 are as follows:

PART 48—[AMENDED]

Paragraph 1. Sections 48.4081–1, 48.4082–1, 48.4083–1, 48.4083–2, 48.4084–1, 48.4091, 48.4091–1, 48.4091–2, 48.4091–3, 48.4091–4, 48.4091–5, 48.4091–6, 48.4092–1, 48.4093–1, 48.4101–1, and 48.4102–1 of the Manufacturers and Retailers Excise Tax Regulations are removed.

Par. 2. The following new § 48.4081–1 is added immediately after § 48.4073–4 to the Manufacturers and Retailers Excise Tax Regulations:

Gasoline

§ 48.4081–1 Imposition and rates of tax.

(a) *In general.* Section 4081 imposes a tax on the sale of gasoline by its producer or importer, or by any producer of gasoline, whether or not the gasoline was produced by it. For the requirement that producers and importers of gasoline be registered, see section 4101 and § 48.4101–1. See section 4082(c) and paragraph (c) of § 48.4082–1

for certain uses of gasoline that are considered to be sales of gasoline.

(b) *Rate of tax.* Tax is imposed on the sale of gasoline at the rate applicable on the date on which the gasoline is sold. See section 4081 for the rate of tax.

(c) *Liability for tax.* The tax imposed by section 4081 is payable by the producer or importer making the sale of the gasoline.

Par. 3. The following new §§ 48.4082–1, 48.4083–1, 48.4083–2, 48.4084–1, 48.4091–1, 48.4091–2, 48.4091–3, 48.4091–4, 48.4091–5, 48.4092–1, 48.4093–1, 48.4101–1, and 48.4102–1 are added immediately after § 48.4081–2:

§ 48.4082–1 Definitions.

For purposes of the regulations in this subpart, unless otherwise expressly indicated:

(a) *Producer.* For purposes of the tax imposed by section 4081, the term "producer" includes an actual producer, a refiner, compounder, or blender, and a dealer selling gasoline exclusively to producers of gasoline. The term also includes a person who is a "wholesale distributor" as defined in paragraph (d) of this section. The term also includes a common carrier by pipeline subject to the Interstate Commerce Act that is engaged in transportation for hire of gasoline, but only with respect to gasoline acquired tax free by the carrier for use exclusively in indemnifying in kind (normally the shipper) for tax-free gasoline lost in transit through evaporation, leakage, spillage, theft, or casualty. Any other person to whom gasoline is sold tax free under this subpart is considered to be a "producer", but only with respect to gasoline acquired tax free. The mere blending or mixing by any person of gasoline to adapt it for seasonal use or to meet the requirements of particular vendees, or mere blending which is not a substantial part of the blender's regular year-round business, does not cause the person to be a producer.

(b) *Gasoline.* (1) The term "gasoline" includes all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. The term does not include any product that (i) is sold as a product other than gasoline, and (ii) has an American Society for Testing Materials ("A.S.T.M.") octane number of less than 75 as determined by the "motor method".

(c) *Use defined as sale*—(1) *In general.* When an importer or producer of gasoline uses gasoline purchased by it tax free, or gasoline it imported or produced (otherwise than in the production of gasoline or of special fuels referred to in section 4041), the use constitutes a sale of the gasoline by the producer or importer. The phrase "otherwise than in the production of gasoline or of special fuels referred to in section 4041" includes any use of gasoline by its producer or importer other than as component material in the manufacture or production of gasoline or special fuels. For circumstances under which gasoline may be used tax free as a material in the manufacture of any other article, see section 4218(a) and § 48.4218–1(b)(4).

(2) *Indemnification for gasoline lost in transit.* An indemnification in kind for gasoline lost in transit, made by a pipeline common carrier that is a producer for purposes described in paragraph (a)(1) of this section, is not considered to be a sale or use of gasoline for purposes of the tax imposed by section 4081.

(d) *Wholesale distributor*—(1) *In general.* The term "wholesale distributor" includes any person who—

(i) Holds one's self out to the public as being engaged in the trade or business of selling gasoline to producers of gasoline (including other wholesale distributors), to retailers of gasoline, or to users of gasoline who purchase in bulk quantities for delivery into bulk storage tanks;

(ii) Actually makes more than casual sales of gasoline to the producers, retailers, or users described in subdivision (i) of this subparagraph (1); and

(iii) Has elected to be treated as a producer of gasoline as provided in paragraph (d)(2) of this section.

(2) *Election.* The election provided in paragraph (d)(1)(iii) of this section is made by registering as a producer of gasoline in accordance with the provisions of section 4101 and the regulations thereunder. A wholesale distributor will be considered a producer of gasoline only with respect to gasoline sold by the distributor on and after the date on which the distributor is issued a Certificate of Registry (Form 637) as a producer of gasoline.

(3) *Persons otherwise qualifying as producers.* The term "wholesale distributor" does not include any person who is a producer or importer of gasoline without regard to paragraph (d)(1).

(4) *Gasoline on hand.* Since a wholesale distributor is considered a producer with respect to all gasoline sold by it on and after the date on which it qualifies as a producer of gasoline, the distributor may incur tax liability under section 4081 on the sale of gasoline which it has on hand at the time it so qualifies and on which tax under section 4081 has already been paid. Such a wholesale distributor is assumed to sell the gasoline which it has on hand before selling any gasoline which it purchases after qualifying as a producer of gasoline. However, the distributor may take a credit against the tax imposed under section 4081 on the sale of any such gasoline on hand in an amount equal to any tax which had been previously paid pursuant to section 4081 with respect to the sale of the gasoline.

(e) *Effective date.* In general, the regulations in this section are effective with respect to gasoline sold on or after December 31, 1954. However, the first sentence of paragraph (b)(1) of this section is effective only with respect to gasoline sold on or after July 1, 1965. In addition, the regulations in this section dealing with wholesale distributors are effective with respect to gasoline sold on or after January 1, 1960.

§ 48.4083–1 Exemptions; sales to producers of gasoline.

(a) *In general.* Gasoline may be sold tax free by a producer or importer of gasoline to other producers of gasoline, but only if:

(1) Both the seller and the purchaser are registered in accordance with the provisions of section 4101,

(2) The purchaser has notified the seller in writing which district director the purchaser is registered with and the certificate registry number, and

(3) In the case of sales to a pipeline common carrier—

(i) The carrier also certifies to the seller that the gasoline purchased tax free will be used exclusively to indemnify in kind losses of tax-free gasoline by the common carrier in transit through evaporation, leakage, spillage, theft, or casualty, and

(ii) The carrier maintains for inspection by an Internal Revenue Service officer the records required under paragraph (b) of this section.

A single notification containing the information described in subparagraph (2) or (3) of this paragraph (a) may cover all sales by the seller to the purchaser made during a designated period not to exceed 12 successive calendar quarters.

(b) *Pipeline common carrier records.* Pipeline common carriers who qualify as producers of gasoline under the conditions described in paragraph (a) of § 48.4082–1 must, in addition to any other records required under section 6001 and the regulations thereunder, maintain for inspection the following information:

(1) *Records of purchases.* The records of each purchase shall include:

(i) Name and address of the seller,

(ii) Date of purchase and place of delivery of each lot purchased, and

(iii) Quantity and grade of each lot purchased.

(2) *Records of indemnifications.* The records of indemnifications shall include:

(i) Name and address of the person indemnified,

(ii) Date and place of indemnification with respect to each shipment,

(iii) Quantity and grade of each shipment,

(iv) Quantity and grade of gasoline lost through evaporation, leakage, spillage, theft, or casualty from each shipment that is indemnified in kind upon termination of the shipment,

(v) An explanation of the nature or type of the loss, and

(vi) The percent that the loss from each shipment represents to the total quantity of the shipment.

(c) *Seller not notified prior to filing of excise tax return.* If the written information required under paragraph (a) (2) and (3) of this section is not furnished to the seller before the seller files a return covering taxes due for the period during which the sale was made, the seller must include the tax on the sale in its return for that period. However, if the information is later obtained, a claim for refund of the tax paid on the sale may be filed by the seller, or a credit may be claimed, upon compliance with the provisions of section 6416 (a) and § 48.6416 (a)–1.

(d) *Seller relieved of liability.* See section 4221(c) and § 48.4221–1(b) for provisions under which the seller is relieved of liability for tax in respect of gasoline sold tax free under section 4083 when it accepts in good faith the evidence required of the purchaser in support of the tax-free sale. If, however, the seller has knowledge at the time of its sale that the purchaser is not registered pursuant to section 4101, the seller is not relieved, under the provisions of section 4083, from liability for the tax. For provisions under which the purchaser is considered to be producer of gasoline purchased tax free, see section 4082(a).

§ 48.4083–2 Other tax-free sales.

For provisions relating to other tax-free sales of gasoline, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture; and the regulations thereunder contained in Subpart H of this part.

§ 48.4084–1 Cross references; payments to ultimate purchasers of gasoline.

For provisions relating to payments that may be made to the ultimate purchaser of gasoline—

(a) Used on a farm for farming purposes, see section 6420 and § 48.6420(a)–1; or

(b) Used for certain nonhighway purpose, by local transit systems, or by certain taxicabs, see section 6421 and §§ 48.6421 (a)–1 and 48.6421 (b)–1 and section 6427(e).

Lubricating Oil

§ 48.4091–1 Tax on lubricating oil.

(a) *Imposition of tax.* Section 4091 imposes a tax on lubricating oil (other than cutting oil) sold in the United States by the manufacturer or producer of the oil. For definition of the term "cutting oil", see paragraph (b) of § 48.4092–1.

(b) *Rate of tax.* Tax is imposed upon lubricating oil sold on or after January 1, 1966, at the rate prescribed in section 4091. In the case of nonfluid lubricating oil sold by weight, 8 pounds to the gallon must be used as the basis for computing the tax.

(c) *Scope of regulations.* The regulations in this section and in §§ 48.4091–2 through 48.4083–1 are effective with respect to lubricating oil sold on or after January 1, 1966.

§ 48.4091–2 Definitions.

(a) *Lubricating oil.* The term "lubricating oil" includes all oil, regardless or origin, which:

(1) Is suitable for use as a lubricant, or

(2) Is sold for use as a lubricant. The term does not include synthetic materials which possess lubricating properties and does not ordinarily include products of the type commonly known as grease. Oleaginous substances which are classed as grease and which contain oil are not subject to the tax when of a worked consistency of less than 390 penetration units or an unworked consistency of less than 360 penetration units by the method of test of the American Society for Testing and Materials D–217–68.

(b) *Manufacturer.* (1) For purposes of the tax imposed under section 4091, the term "manufacturer" includes:

(i) Any person who produces lubricating oil by any process of manufacturing, refining, or compounding, or any manipulation involving substantially more than mere mixing of taxable oils, and

(ii) Any person who produces lubricating oil by mixing taxable oils with other substances.

(2) For purposes of the tax imposed under section 4091, the term "manufacturer" does not include:

(i) Any person who merely blends or mixes two or more taxable oils,

(ii) Any person who merely cleans, renovates, or refines used or waste lubricating oil, or

(iii) Any person who merely blends or mixes one or more taxable oils with used of waste lubricating oil that has been cleaned, renovate, or refined.

Neither does the term "manufacturer" include an importer of lubricating oil, since section 4091 does not impose a tax on lubricating oil sold by the importer of the lubricating oil.

§ 48.4091–3 Sales of cutting oil.

(a) *Exemption certificates.* (1) Lubricating oil may be sold tax free by the manufacturer or producer for use, or for resale for use, in cutting and machining operations on metals if the manufacturer obtains a properly executed cutting oil certificate from its purchaser. The following form of certificate is acceptable and must be adhered to in substance:

Cutting Oil Certificate

(For use by purchaser of lubricating oil, otherwise subject to tax under section 4091 of the Internal Revenue Code of 1954, as amended, for use by it in cutting and machining operations on metals or for resale for such use.)

(Date) ———————, 19 ——

The undersigned certifies that he/she or the (Name of purchaser if other than undersigned) ———————— of which he/she is (Title) ————————, is in the business of (State business and, except in case of a purchase for resale, article or articles manufactured) ———————— and that the oil covered by the accompanying order or contract for purchase from (Name and address of vendor) ———————— of oil produced by (Name and address of producer if other than vendor) ———————— is purchased for the following—

Check one:

———— use as a lubricant in cutting and machining operations on metals:

————————

———— resale for use as a lubricant in cutting and machining operations on metals.

The purchaser understands that it must be prepared to establish by satisfactory evidence the actual use or disposition made of such oil, and that upon its use of the oil for a lubricating purpose other than in cutting and machining operations on metals, or upon its sale or other disposition of the oil, prior to use in cutting and machining operations on metal, it is required to notify the manufacturer. The purchaser further understands that if any of the oil purchased tax free by use of this certificate is resold by it for use as a lubricant in cutting and machining operations on metals or for resale

for such use, it must obtain a similar certificate from its vendee. In addition, the purchaser also understands that the above-listed oils which are purchased tax free by use of this certificate do not qualify for the tax credit or payment under sections 39(a)(3) and 6424 of the Code.

The undersigned understands that he/she and all other parties who make fraudulent use of this certificate for the purpose of purchasing oil tax free instead of at the tax rate of 6 cents a gallon are subject to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(Signature) _____

(Address) _____

(2) A manufacturer making a tax-free sale under a cutting oil certificate must use reasonable diligence to satisfy itself that the use of the certificate is warranted under this paragraph (a). If the manufacturer has knowledge at the time of its sale that the oil is not intended for use as specified in the certificate, the manufacturer is liable for the tax on the sale at the rate of 6 cents per gallon. If the manufacturer receives information establishing that oil sold tax free for us in cutting machining operations on metals has not been and will not be so used by the purchaser, or that oil sold to a purchaser tax free for resale for use in cutting and machining operations on metals has been resold for use otherwise, or has not been and will not be used by the ultimate purchaser in cutting and machining operations on metals, tax at the rate of 6 cents per gallon with respect to the sale by the manufacturer must be included in the manufacturer's return for the return period in which the information is received.

(3) Where only occasional sales of cutting oil are made to a purhaser, a separate cutting oil certificate must be furnished for each order. However, where sales of cutting oil are regularly or frequently made to a purchaser a certificate covering all orders for a specified period not to exceed 12 calendar quarters is acceptable. Such certificates and proper records of invoices, orders, etc., relative to cutting oil sales must be kept for inspection by the district director as provided in section 6001 of the Code.

(4) If the cutting oil certificate in respect of any sale to which this paragraph (2) applies is not obtained before the time the manufacturer files its return for the period during which the sale was made, the manufacturer must include tax on that sale in its return. If a certificate is later obtained, a claim for refund may be filed or a credit claimed under section 6402 for excess tax paid. The manufacturer filing the claim must comply with the requirements of section 6416(a) and § 48.6416(a)–1.

(b) *Containers of 5 gallons or less.* Lubricating oil may be sold tax free by the manufacturer or producer as cutting oil without the necessity of obtaining exemption certificates where—

(1) The manufacturer or producer packages the oil in containers of 5 gallons or less furnished by it and labeled by it to indicate use of the oil only in cutting and machining operations on metals;

(2) Any advertising of the oil so packaged and labeled indicates that the oil is for use only in cutting and machining operations on metals; and

(3) The oil so packaged and labeled is sold by the manufacturer or producer to a purchaser for such use by it or for resale by it for such use.

(c) *Oil unsuitable for lubricating use except in cutting and machining operations on metals.* No exemption certificate is required where the Commissioner has determined certain oil to be suitable for use as a lubricant only in cutting and machining operations on metals. Oils as to which the Commissioner has made such a determination may be sold tax free, whether in bulk or otherwise, unless the manufacturer has knowledge, before or at the time of the sale of such oil, that the oil is not being purchased for use, or for resale for use, in cutting and machining operations on metals. However, the Commissioner may require that the oil be specifically represented to the purchaser, whether by labeling or otherwise, as being suitable for use only in cutting and machining operations on metals.

§ 48.4091–4 Sales after December 31, 1965, of oil seldom used as a lubricant.

(a) *General rule.* The Commissioner may issue determinations that any oil that is suitable for use as a lubricant is seldom used as a lubricant. This determination is based on the specific use of the oil rather than on its physical characteristics. If the Commissioner makes such a determination, the sale by the manufacturer of the oil directly to a purchaser for the specific nonlubricating use under a name identifying it for such use, or for resale by it for the specific nonlubricating use under a name identifying it for such use, may be made tax free. Except as provided in paragraph (c) of this section, the manufacturer, in order to establish the right to sell lubricating oil tax free under this section, must obtain from the purchaser and retain in its possession a properly executed exemption certificate.

(b) *Exemption certificates*—(1) *Form of certificate.* The following form of certificate is acceptable and must be adhered to in substance:

Exemption Certificate

(For use by purchaser of lubricating oil, otherwise subject to tax under section 4091 of the Internal Revenue Code of 1954, as amended, which the Commissioner of Internal Revenue has determined to be seldom used as a lubricant, for use by the purchaser for nonlubricating purposes, or for resale for nonlubricating use.)

(Date) _____, 19__

The undersigned certifies that he/she, or the (Name of purchaser if other than undersigned) _____ of which he/she is (Title) _____, is in the business of (State business and, except in case of a purchase for resale, article or articles manufactured) _____ and that the oil covered by the accompanying order or contract for purchase from (Name and address of vendor) _____ of oil produced by (Name and address of producer if other than vendor) _____ is (Type or types of oil which the Commissioner has determined to be seldom used as a lubricant) _____ and is purchased for—

Check One:

_____ The following nonlubricating purposes: _____

_____ Resale for nonlubricating use (specify use or uses if known): _____

The purchaser understands that if any of the oil purchased tax free by use of this certificate is resold by it for nonlubricating use or for further resale for such use, it must obtain a similar certificate from its vendee. The purchaser further understands that it must be prepared to establish by satisfactory evidence the actual use or disposition made of such oil, and that upon use of the oil for a lubricating purpose, or sale for a lubricating purpose, it is required to notify the vendor named above. The purchaser also understands that if its vendee notifies it that the oil covered by this certificate has been used for a lubricating purpose or sold for a lubricating purpose, it is required to so notify the vendor from whom it purchased the oil covered by this certificate. In addition, the purchaser understands that the above listed oils which are purchased tax free by use of this certificate do not qualify for the tax credit or refund under sections 39(a)(3) and 6424 of the Code.

The undersigned understands that he/she and all other parties who make fraudulent use of this certificate for the purpose of purchasing oil tax free are subject to a fine of not more than 5 years, or both, together with the costs of prosecution.

(Signature) _____

(Address) _____

(2) *Period covered.* Where only occasional sales of an oil which the Commissioner has determined to be seldom used as a lubricant are made to a purchaser for nonlubricating use, a separate exemption certificate must be furnished for each order. However, where sales of such oil for nonlubricating use are regularly or

frequently made to a purchaser, a certificate covering all orders for a specified period, not to exceed 12 calendar quarters, is acceptable. The certificates and proper records of invoices, orders, etc., relative to sales of lubricating oil under this section must be kept for inspection by the district director as provided in section 6001 of the Code.

(3) *Certificate not obtained prior to filing of manufacturer's excise tax return.* Except as provided in paragraph (c) of this section, if an exemption certificate in respect of any sale to which this section applies is not obtained before the manufacturer files a return covering taxes due for the period during which the sale was made, the manufacturer must include the tax on the sale in its return for that period. If a certificate is later obtained the manufacturer will be entitled to file a claim for credit or refund of tax under section 6402. However, the manufacturer must comply with the requirements of section 6416(a) and § 48.6416(a)–1.

(4) *Duty of manufacturer to ascertain validity of certificate.* A manufacturer making a tax-free sale under a certificate for oil seldom used as a lubricant must use reasonable diligence to satisfy itself that the use of the certificate is warranted under paragraph (a) of this section. If the manufacturer has knowledge at the time of its sale that the oil is not intended for nonlubricating use, the manufacturer is liable for the tax on the sale at the rate imposed by section 4091 on each gallon. If the manufacturer receives information establishing that oil sold tax free for nonlubricating use has not been and will not be so used by the purchaser, or that oil sold to a purchaser tax free for resale for nonlubricating use has been resold for use otherwise, or has not been and will not be used by the ultimate purchaser in a nonlubricating use, tax at the rate imposed by section 4091 on each gallon with respect to the sale by the manufacturer must be included in the manufacturer's return for the period in which the information is received.

(c) *Oils determined before July 1, 1966, to be "seldom used as a lubricant".* The requirement of an exemption certificate is waived in respect of sales by the manufacturer of oils which, before July 1, 1966, the Commissioner determined to be seldom used as a lubricant but used almost exclusively for nonlubricating purposes.

(d) *Tax-paid oil used for nontaxable purpose.* If oil, with respect to which the manufacturer has paid tax under section 4091, is subsequently used in a qualified business use or in a qualified bus, the ultimate purchaser of the oil may file a claim for refund under section 6424, or for credit under section 39(a)(3), as applicable.

§ 48.4091–5 Other tax-free sales.

For provisions relating to tax-free sales of lubricating oils (including cutting oil), see:

(a) Section 4093, relating to exemption of sales to producers;

(b) Section 4221, relating to certain tax-free sales;

(c) Section 4222, relating to registration; and

(d) Section 4223, relating to special rules with respect to sales for further manufacture,

and the regulations thereunder.

§ 48.4092–1 Definitions.

(a) *Certain vendees considered as manufacturers.* Any person who purchases lubricating oil free of tax under section 4093(a)(see § 48.4093–1) is considered to be the manufacturer of the lubricating oil so purchased.

(b) *Definition of cutting oil.* The term "cutting oil" includes all lubricating oil which is sold for use in cutting and machining operations on metals. The term does not include any oil which is sold for use in cutting and machining operations on plastics or any other substance which is not a metal. The term "cutting and machining operations" includes, but is not limited to, forging, drawing, rolling, shearing, punching, and stamping.

§ 48.4093–1 Tax-free sales to manufacturers for resale.

(a) *In general.* No tax attaches to the sale of lubricating oil by the manufacturer direct to another manufacturer of lubricating oil for resale by it, if:

(1) Both the purchasing manufacturer and the selling manufacturer are registered as manufacturers of lubricating oil in accordance with the provisions of § 48.4101–1, and

(2) The purchasing manufacturer notifies the selling manufacturer in writing that:

(i) The lubricating oil to be purchased by it in the period beginning ————, and ending ———— (such period not to exceed 12 calendar quarters) is purchased for resale by it, unless otherwise indicated, and it is registered with the District Director at ———— under Certificate of Registry No. ————.

It is immaterial for purposes of this section whether the lubricating oil is to be resold for general lubricating use, for lubricating use in cutting and machining operations on metals, or for nonlubricating use. See § 48.4092–1 for liability of the purchasing manufacturer.

(b) *Selling manufacturer not notified prior to filing of excise tax return.* If the written information required under paragraph (a) (2) of this section is not furnished to the selling manufacturer before the manufacturer files a return covering taxes due for the period during which the sale was made, the manufacturer must include the tax on the sale in its return for that period. However, if the information is later obtained, a claim for refund of the tax paid on the sale may be filed, or a credit may be claimed, under section 6402. The manufacturer filing the claim must comply with the provisions of section 6416(a) and § 48.6416(a)–1.

(c) *Selling manufacturer relieved of liability.* See section 4221(c) and § 48.4221–1(b) for provisions under which the selling manufacturer is relieved of liability for the tax in respect of oil sold tax free under section 4093 where it accepts in good faith the evidence required of the purchasing manufacturer in support of the tax-free sale. If, however, the selling manufacturer has knowledge at the time of its sale that the lubricating oil sold by it is not intended for resale as indicated by the purchaser, or that the purchaser is not a registered manufacturer of lubricating oil, the selling manufacturer is not relieved under the provisions of section 4093 of liability for the tax. For provisions under which the purchasing manufacturer is considered to be the manufacturer of lubricating oil purchased tax free for resale by it, see § 48.4092–1.

Special Provisions Applicable to Petroleum Products

§ 48.4101–1 Registration.

(a) *Requirement*—(1) *In general.* Except to the extent otherwise provided in paragraph (a)(2) of this section, every producer or importer of gasoline (see section 4082 and the regulations thereunder) and every manufacturer of lubricating oil (see § 48.4091–2(b)) must, before incurring any liability for tax with respect to such articles under section 4081 or 4091, as the case may be, make application for registry in accordance with the provisions of paragraph (b) of this section. Upon approval of the application, the applicant will be furnished a Certificate of Registry bearing its registration number. Such certificate may not be transferred from one person to another. For the civil penalty imposed for failure to register, see section 7272. For provisions relating to the criminal

penalties imposed for failure to register as required by section 4101, for false representation as a person so registered, or for willfully making any false statement in an application for registry under such section, see section 7232.

(2) *Exception for prior registration or applications.* In any case in which a producer or importer of gasoline, or a manufacturer of lubricating oil, has made application for registry under corresponding provisions of prior regulations, or holds a Certificate of Registry in effect under the prior regulations, the person is not required to make application for registry under this section, unless the district director furnishes the person with written notification that an application is required. In that event, the application of registry must be made at the time, in the form, and in the manner prescribed in written notification.

(b) *Application for registry.* The application for registry required under paragraph (a) of this section must be prepared on Form 637 in accordance with the instructions and applicable regulations. The application shall include a statement as to whether the applicant is a refiner, compounder, blender, actual producer, or pipeline common carrier of gasoline; whether it is a dealer selling exclusively to producers of gasoline; whether it is a wholesale distributor of gasoline; and whether it is a manufacturer of lubricating oil. In addition, the application shall include a statement setting forth in detail:

(1) A description of the equipment and facilities, if any, maintained for the production of gasoline or lubricating oil, as the case may be,

(2) A description of the equipment and methods actually employed in such production,

(3) The ingredients or materials utilized,

(4) In the case of a refiner, compounder, blender, or actual producer of gasoline, the percentage which its sales, if any, of gasoline produced by it is expected to bear to its total sales of gasoline,

(5) In the case of a wholesale distributor of gasoline, a description of the storage facilities maintained by the distributor and the percentage which its bulk sales of gasoline is expected to bear to its total sales of gasoline,

(6) In the case of a pipeline common carrier of gasoline for the purposes described in § 48.4082–1(a), a description of the pipeline equipment, terminal points, and storage facilities, and

(7) In the case of a manufacturer of lubricating oil, the percentage which its sales of lubricating oil produced by it is expected to bear to its total sales of lubricating oil.

The application for registry on Form 637 required under paragraph (a) of this section must be signed by the individual if the applicant is an individual; the president, vice president, or other principal officer, if the applicant is a corporation; a responsible and duly authorized member or officer having knowledge of its affairs, if the applicant is a partnership or other unincorporated organization; or the fiduciary, if the applicant is a trust or estate. The application on Form 637 shall be filed with the district director for the district in which the applicant has his or her principal office or place of business. Copies of Form 637 may be obtained from any district director.

(c) *Effective date.* The regulations in this section are effective with respect to gasoline and lubricating oil sold on or after July 1, 1965.

§ 48.4102–1 Inspection of records by State or local tax officers.

(a) *Inspection of records maintained by taxpayer.* The records which a producer or importer of gasoline or a manufacturer of lubricating oil is required to keep pursuant to section 6001 and the regulations thereunder must be open to inspection by any officer of any State or political subdivision thereof, or of the District of Columbia, who is charged with the enforcement or collection of any tax on gasoline or lubricating oil.

(b) *Inspection of records maintained by Internal Revenue Service*—(1) *In general.* The records maintained by the Internal Revenue Service with respect to the taxes imposed by sections 4081 and 4091 on the sale or use of gasoline or lubricating oil, respectively, shall, upon the request of an officer (described in paragraph (b)(2) of this section) of a State or political subdivision thereof, or of the District of Columbia, be open to inspection by the officer for purposes of collection or enforcement.

(2) *Requests for inspection.* Requests for inspection under this paragraph shall be made in writing, signed by any officer of a State, political subdivision, or the District of Columbia, who is charged with the enforcement or collection of any tax on gasoline or lubricating oil imposed by the State, political subdivision, or the District of Columbia, and shall be addressed to the director of the Internal Revenue Service Center having custody of the records which it is desired to inspect. Each such request shall state (i) the kind of records (whether pertaining to gasoline or lubricating oil) it is desired to inspect, (ii) the period or periods covered by the records involved, (iii) the name of the officer by whom the inspection is to be made, (iv) the name of the representative of the officer who has been designated to make the inspection, (v) by specific reference, the law of the State, political subdivision, or the District of Columbia imposing the tax which the officer is charged with collecting or enforcing, and the law under which the officer is so charged, and (vi) the purpose for which the inspection is to be made. The service center director will notify the person making the request upon approval or disapproval of the request.

(3) *Time and place for inspection.* In any case where a request for inspection under this paragraph (b) is approved, the inspection shall be made in the office of the service center director having custody of the records which it is desired to inspect, but only in the presence of an internal revenue officer or employee and during the regular hours of business of the office.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–256 Filed 1–4–83; 8:45 am]

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26 CFR Part 48

[LR–2115]

Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments which would revise and update the regulations concerning manufacturers excise taxes on sporting goods and firearms and other administrative provisions especially applicable to manufacturers and retailers excise taxes. These proposed amendments, if adopted, will revise and update Part 48 to achieve greater clarity and conform the regulations to numerous amendments to the Internal Revenue Code of 1954 made after 1964.

DATES: Written comments and requests for a public hearing must be delivered or mailed by May 5, 1983. Except as otherwise provided, the amendments made by this document are proposed to be effective after December 31, 1954.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of

Internal Revenue, 1111 Constitution Ave. NW., Washington, D.C. 20224, Attention CC:LR:T (LR–2115).

FOR FURTHER INFORMATION CONTACT: For further information write to the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, D.C. 20224, Attention CC:LR:T (LR–2115), or telephone either, Annie R. Alexander at 202–566–3287 in regard to proposed regulation §§ 48.0–1 through 48.6412–3, John R. Harman at 202–566–3238 in regard to proposed regulation §§ 48.6416(a)–1 through 48.6416(b)(2)–2, or Cynthia L. Clark at 202–566–4336 in regard to proposed regulation §§ 48.6420–1 through 48.6675–1. These telephone numbers are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to certain Manufacturers and Retailers Excise Tax Regulations [26 CFR Part 48] as follows: (i) the introductory regulatory provisions to Part 48, §§ 48.0–1 through 48.0–5; (ii) the regulations under sections 4161, 4181 and 4182 of the Internal Revenue Code of 1954 (Code) relating to the imposition of manufacturers excise taxes on sporting goods and firearms; (iii) the regulations under sections 6011, 6071, 6081, 6091, 6101, 6109, 6151, 6161, 6206, 6302, 6402, 6404 and 6412 of the Code relating to refunds and other administrative provisions of special application to retailers and manufacturers excise taxes; (iv) the regulations under section 6416 of the Code relating to special refund and credit provisions for certain taxes on sales and services; (v) the regulations under section 6420 of the Code relating to credit or refund of tax on gasoline used on farms; (vi) the regulations under section 6421 of the Code relating to credit or refund of tax on gasoline used in a qualified business use or in intercity, local or school buses; (vii) the regulations under section 6424 of the Code relating to credit or refund of tax on lubricating oil used in a qualified business use or a qualified bus; (viii) the regulations under section 6427 of the Code relating to credit or refund of tax on fuels not used for taxable purposes; and (ix) the regulations under section 6675 of the Code relating to the civil penalty for excessive claims under section 6420, 6421, 6424, or 6427 of the Code. These proposed amendments, if adopted, will revise and update Part 48 to achieve greater clarity and conform the regulations to numerous amendments to the Code made after 1964.

Statutory Amendments Reflected in the Proposed Changes

Many statutory changes enacted after 1964 have not previously been reflected in Part 48 of the regulations. The table set forth below enumerates the statutory changes reflected in these proposed regulations. The section numbers on the left margin list the sections of the Code to which the statutory changes relate.

4161: 1. Section 201 of the Act of October 25, 1972, Pub. L. 92–568, 86 Stat. 1173, relating to the imposition of tax on bows and arrows. The amendments to the regulations made under section 201 shall apply with respect to articles sold by the manufacturer, producer, or importer on or after July 1, 1974.

6206: 1. Section 207(d)(3) of the Airport and Airway Development Act of 1970, Pub. L. 91–258, 84 Stat. 219, relating to rules applicable to excessive claims. The amendments to the regulations made under section 207(d)(3) shall apply with respect to sales made on or after July 1, 1970.
2. Section 202(c)(2)(A) of the Excise Tax Reduction Act of 1965, Pub. L. 89–44, 79 Stat. 136, relating to special rules applicable to excessive claims.

The amendments to the regulations made under section 202(c)(2)(A) shall apply only with respect to lubricating oil placed in use after December 31, 1965.

6412: 1. Section 502(c) of the Federal Aid Highway Act of 1978, Pub. L. 95–599, 92 Stat. 2689, relating to floor stock refunds.
2. Section 303(b) of the Federal Aid Highway Act of 1976, Pub. L. 94–280, 90 Stat. 425, relating to floor stock refunds.

6416: 1. Sections 205(b) (3) and (4) and 207 (d)(4) through (d)(7) of the Airport and Airway Revenue Act of 1970, Pub. L. 91–258, 84 Stat. 219, allowing refund or credit of gasoline taxes when gasoline is used in the production of special fuels. The regulations under sections 205(b) (3) and (4) and 207 (d)(4) through (d)(7) are effective after June 30, 1970.
2. Section 302 of the Excise, Estate and Gift Tax Adjustment Act of 1970, Pub. L. 91–614, 84 Stat. 1836, modifying the refund and credit provisions for the use of new tax-paid component parts in further manufacture. The regulations under section 302 are effective for claims filed after December 31, 1970, but only if the filing of the claim is not barred on January 1, 1971, by any law or rule of law.
3. Sections 401(a)(3)(C) and 401(g)(6) of the Revenue Act of 1971, Pub. L. 92–178, 85 Stat. 497, allowing a refund or credit for certain trash containers. The regulations under section 401(a)(3)(c) and 401(g)(6) are effective with respect to articles sold after December 10, 1971.
4. Sections 1904(b) (1) and (2), 1906(a)(24), 1906(b)(13)(A) and 2106 of the Tax Reform Act of 1997, Pub. L. 94–455, 90 Stat. 1520, eliminating numerous deadwood provisions and allowing refund or credit for certain truck parts and accessories. The regulations under section 1904(b) (1) and (2), 1906(a)(24)(A) and 1906(b)(13)(A) are effective after January 31, 1977. The regulations under section 1906(a)(24)(B)(i) are effective with respect to uses or resales for use of liquids after December 31, 1976. The regulations under section 2106 are effective with respect to parts and accessories sold after October 4, 1976.
5. Section 2(b)(4) of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95–227, 92 Stat. 11, modifying the refund and credit provisions for the excise tax on coal. The regulations under section 2(b)(4) are effective with respect to sales after March 31, 1978.

6420: 1. Section 669(a) of the Excise Tax Reduction Act of 1965, Pub. L. 89–44, 79 Stat. 136, relating to income tax credit in lieu of payment with respect to gasoline used on farms. The regulations under section 669(a) are effective with respect to gasoline used on or after July 1, 1965.
2. Section 207(b) of the Airport and Airway Development Act of 1970, Pub. L. 91–258, 84 Stat. 219, relating to the time for filing claims under section 6420. The regulations under section 207(b) are effective with respect to taxable years ending after June 30, 1970.
3. Section 3(a) of the Act of October 14, 1978, Pub. L. 95–458, 92 Stat. 1257, relating to entitlement of aerial applicators to refund of gasoline tax in certain cases. The regulations under section 3(a) are effective for gasoline used after March 31, 1979.

6421: 1. Section 609(b) of the Excise Tax Reduction Act of 1965, Pub. L. 89–44, 79 Stat. 136, relating to income tax credit in lieu of payment with respect to gasoline used for certain non-highway purposes or by local transit systems. The regulations under section 609(b) are effective with respect to gasoline used after June 30, 1965.
2. Section 205(b)(1) of the Airport and Airway Development Act of 1970, Pub. L. 91–258, 84 Stat. 219, relating to credit or refund of gasoline used as fuel in an aircraft (other than aircraft in noncommercial aviation). The regulations under section 205(b)(1) are effective after June 30, 1970.
3. Section 207(b) of the Airport and Airway Development Act of 1970, Pub. L. 91–258, 84 Stat. 219, relating to the time for filing claims under section 6421. The regulations under section 207(b) are effective for taxable years ending after June 30, 1970.
4. Section 222(a)(1) of the Energy Tax Act of 1978, Pub. L. 95–618, 92 Stat. 3174, relating to refund or credit of tax on gasoline used in a qualified business use. The regulations under section 222(a)(1) are effective with respect to uses after December 31, 1978.
5. Section 233(a)(1) of the Energy Tax Act of 1978, Pub. L. 95–618, 92 Stat. 3174, relating to repayment of tax on gasoline used in intercity, local or school buses. The regulations under section 233(a)(1) are effective with respect to uses after November 30, 1978.
6. Section 109(c)(1) of the Technical Corrections Act of 1979, Pub. L. 96–222, 94 Stat. 194, relating to repayment of tax on gasoline used in vessels employed in the fisheries or the whaling business. The regulations under section 109(c)(1) are effective with respect to uses after December 31, 1978.

6424: 1. Section 292(b) of the Excise Tax Reduction Act of 1965, Pub. L. 89–44, 79 Stat. 136, relating to refund or credit of tax on lubricating oil not used in highway motor vehicles. The regulations under section 292(b) are effective with respect to lubricating oil placed in use after December 31, 1965.
2. Section 207(b) of the Airport and Airway Development Act of 1970, Pub. L. 91–258, 84 Stat. 219, relating to the time for filing claims under section 6424. The regulations under section 207(b) are effective for taxable years ending after June 30, 1970.
3. Section 233(b)(1) of the Energy Tax Act of 1978, Pub. L. 95–618, 92 Stat. 3174, relating to credit or refund of tax on lubricating oil used in a qualified business use or in a qualified bus.

6427: 1. Section 207(a) of the Airport and Airway Development Act of 1970, Pub. L. 91–258, 84 Stat. 219, relating to credit or refund of tax on gasoline and special fuels used for certain purposes. The regulations under section 207(a) are effective with respect to taxable years ending after June 30, 1970.
2. Section 3(b) of the Act of October 14, 1978, Pub. L. 95–458, 92 Stat. 1257, relating to entitlement of aerial applicators to refunds of special fuels tax in certain cases. The regulations under section 3(b) are effective for gasoline used after March 31, 1979.

6675: 1. Section 202(c)(3)(A) of the Excise Tax Reduction Act of 1965, Pub. L. 89–44, 79 Stat. 136, relating to civil penalty for excessive claims under section 6424 with respect to lubricating oil. The regulations under section 202(c)(3)(A) are effective with respect to oil used after December 31, 1965.

2. Section 207(d)(8) of the Airport and Airway Development Act of 1970, Pub. L. 91-258, 84 Stat. 219, relating to civil penalty for excessive claims under section 6427 with respect to fuels not used for taxable purposes. The regulations under section 207(d)(8) are effective after June 30, 1970.

These proposed regulatory amendments, if adopted, will be issued under the authority contained in section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805).

Statutory Amendments Not Reflected in the Proposed Changes

The table set forth below enumerates the post-1964 statutory changes relating to manufacturers and retailers excise taxes which are not reflected in these proposed regulations.

6416:
1. Sections 201(c)(3), 232(b) and 233(c)(3) of the Energy Tax Act of 1978 relating to the refund and credit provisions for tread rubber, tires, inner tubes, and certain parts and accessories of automobile buses and light-duty trucks. These amendments are the subject of another regulation project.
2. Sections 106(c)(2)(A)–(2)(B) and (c)(3)–(c)(4) of the Technical Corrections Act of 1979 relating to the refund and credit provisions for lubricating oil, tires, and inner tubes. This amendment is the subject of another regulation project.
3. Sections 1(a)–(b)(2)(D) and 4(c) of the Act of December 24, 1980, P.L. 96-598, 94 Stat. 3465, relating to the refund and credit provisions for tax paid on tread rubber used in recapping or retreading a tire. These amendments are the subject of another regulation project.

6427:
1. Section (1)(b) of the Act of October 17, 1978, P.L. 94-530, 90 Stat. 2487, relating to credit or refund of tax on gasoline and special fuels used by certain aircraft museums. This Act expired on October 1, 1982. The tax was reinstituted by the Tax Equity and Fiscal Responsibility Act of 1982. This amendment is the subject of another regulation project.
2. Section 505(a) of the Highway Revenue Act of 1978, relating to credit or refund for certain taxicabs of excise taxes on gasoline and other motor fuels. [The provisions of section 505(a) are not expected to be the subject of another regulation project because they expired on January 1, 1983.]
3. Section 232(d)(1) of the Crude Oil Windfall Profit Tax Act of 1980, relating to refund of tax on gasoline used to produce certain alcohol fuels. This statutory change is expected to be the subject of another regulation project.

Explanation of the Proposed Provisions

The proposed amendments would revise and update the existing regulations regarding manufacturers and retailers excise taxes on sporting goods and firearms, and refunds and other administrative provisions of special application to retailers and manufacturers excise taxes. If adopted, these amendments would revise the introductory provisions to Part 48 by deleting §§ 48.0–3 through 48.0–4 and redesignating § 48.0–5 as § 48.0–3. Proposed regulations under section 4161 of the Code would make only minor modifications to existing regulations, such as by expanding the definition of essential equipment sold in connection with the sale of taxable articles. See § 48.4161(a)–3(b). Proposed § 48.4182–2(b) describes exemptions from the excise tax on firearms imposed by section 4181.

Proposed new §§ 48.6011(a)–2 and 48.6071(a)–1 add new selected administrative provisions pertaining to filing of returns or other documents. Proposed new §§ 48.6091–1 and 48.6151–1 relate to periods covered by returns or other documents and extensions of time for paying tax shown on the return.

Proposed § 48.6302(c)–1 would expand the existing regulation provisions pertaining to the use of government depositaries. Proposed §§ 48.6402(a)–1 and 48.6404(a)–1 would provide rules pertaining to abatements, credits and refunds. Certain other minor revisions would also be made by these proposed regulations under the foregoing sections of the Internal Revenue Code.

Changes in the Regulations Under Section 6416 of the Code.

Generally, for taxes imposed by section 4041 (special fuels tax) or Chapter 32 (manufacturers excise taxes), the full tax must be paid when due regardless of whether an event may occur which, if it had occurred concurrently with the original taxable event, would have reduced or eliminated the tax. That subsequent event may require the original payment of tax to be treated as an overpayment, thus giving rise to a right to a credit or refund. Examples of subsequent events which give rise to a credit or refund include: (1) for taxes based on sales price, a renegotiation of a consummated sale and refund of a portion of the sales price; and (2) for taxes on manufactured articles, the manufacture of an article using certain component parts for which a manufacturers excise tax has previously been paid.

Section 6416 lists events which give rise to overpayments of taxes imposed by chapters 31 and 32, provides methods of calculating the amount of each overpayment, provides who is entitled to credit or refund of the overpayment, and lists requirements for claiming credit or refund. Numerous amendments are proposed to the existing regulations under section 6416. These amendments, contained in §§ 48.6416(a)–1 through 48.6416(h)–1, are proposed to restructure the existing regulations for easier reference, to provide clarity, and to conform the regulations to certain amendments to section 6416 of the Code made by the Airport and Airway Revenue Act of 1970, the Excise and Gift Tax Adjustment Act of 1970, the Revenue Act of 1971, the Tax Reform Act of 1976, and the Black Lung Benefits Revenue Act of 1977.

The Airport and Airway Revenue Act of 1970 amended section 6416 to allow credit or refund of taxes paid on gasoline when the gasoline is used, or sold for use, in the production of special fuels.

The Excise, Estate, and Gift Tax Adjustment Act of 1970 amended section 6416 to clarify the computation of the manufacturers excise tax in cases where a taxable article is produced with tax-paid component parts. In addition, the amendment permits the credit for taxes paid on new component parts used in further manufacture to be passed through to a subsequent manufacturer in several situations where the pass-through was previously not allowed—namely, where there is a series of subsequent manufacturers or where there are distributors intervening between the subsequent manufacturer and those who paid the original manufacturers tax on the component parts.

The Revenue Act of 1971 amended section 6416 to provide, in pertinent part, that the tax paid under section 4061(a) on trash containers shall under some circumstances be treated as an overpayment and thus be allowed as a credit or refund.

The Tax Reform Act of 1976 eliminated many deadwood provisions in section 6416 and amended section 6416 to provide that the tax paid under section 4061(b) on truck parts and accessories sold on or in connection with the first retail sale of a light-duty truck shall be allowed as a credit or refund, so that those parts will be effectively treated the same as parts which are actually a part of a tax-exempt truck.

The Black Lung Benefits Revenue Act of 1977 amended section 6416 to conform the refund and credit provisions to the excise tax provisions on coal set forth in section 4121. The conforming amendments were necessary because certain exemptions common to other excise taxes, which give rise to overpayments, were not available to taxpayers paying the excise tax on coal. These exemptions included the exemption for further manufacture, the exemption for export, the exemption for use as supplies for vessels and aircraft, the exemption for use by a State or local government, and the exemption for use by a nonprofit-educational organization.

The proposed amendments of the regulations under section 6416 include one significant change not necessitated by legislative enactments. Paragraph (a)(1) of § 48.6416(b)(1)–(2) would

expand the meaning of the term "price readjustment." If the price of an article subject to a manufacturers excise tax is readjusted, under certain circumstances, part of the tax paid is treated as an overpayment resulting in a credit or refund. Under the existing regulations, no payments by manufacturers to third parties, such as commissions to the vendee's salesmen, can be treated as price readjustments.

Under the proposed amendments, a payment to a third party will be considered a price readjustment if (1) the payment is contractually or economically related to the sale which the payment purports to adjust and (2) the payment ultimately benefits the vendee of the manufacturer.

Gasoline Used on Farms

If gasoline on which tax was imposed by section 4081 is used on a farm in the United States for farming purposes, the ultimate purchaser of that gasoline will be entitled under section 6420 to a refund or credit of the tax. Only the United States, State and local governments, and tax-exempt organizations (other than those required to make a return of the tax imposed under Subtitle A of the Code for the taxable year) may file a claim for payment with respect to the excise tax paid on gasoline used on a farm for farming purposes. All other persons entitled to a refund in respect of the excise tax paid on gasoline used on a farm for farming purposes may obtain that refund only by claiming a credit (under section 39(a)(1) of the Code) on their annual income tax returns. Generally, only the owner, tenant, or operator of a farm will be treated as an ultimate purchaser. However, an aerial applicator that uses gasoline on a farm for certain farming purposes will be treated as the ultimate purchaser if the owner, tenant or operator waives, in accordance with § 48.6420–4(1), the right to be considered as the ultimate purchaser.

Gasoline Used for Certain Nonhighway Purposes or by Local Transit Systems

If gasoline on which tax was imposed by section 4081 is used in a qualified business use, as a fuel in an aircraft (other than aircraft in noncommerical aviation), or in an intercity, local, or school bus, the ultimate purchaser of that gasoline will be entitled under section 6421 to a refund or credit of the tax. A claim for payment under section 6421 may be made only by (1) those persons entitled to payment under section 6421 of $1,000 or more for any one of the first three calendar quarters of the taxable year, (2) the United States (or any of its agencies or instrumentalities), (3) State and local governments, or (4) tax-exempt organizations (other than those required to file an income tax return). All other persons must file their payment as a credit (under section 39(a)(2) of the Code) on their annual income tax returns.

Lubricating Oil Used for Certain Nontaxable Purposes

Section 6424 provides that the ultimate purchaser of lubricating oil (other than cutting oil defined in section 4092(b), and other than oil that has previously been used) will be entitled to claim a credit or refund of 6 cents for each gallon of lubricating oil used in a qualified business use or in qualified bus. A claim for payment under section 6424 may be made only by (1) those persons entitled to payment under section 6424 of $1,000 or more for any one of the first three calendar quarters of the taxable year, (2) the United States (or any of its agencies or instrumentalities), (3) State and local governments, or (4) tax-exempt organizations (other than those required to file an income tax return). All other persons must claim their payment as a credit (under section 39(a)(3) of the Code) on their annual income tax returns.

Fuels Not Used for Taxable Purposes

In general, section 6427 provides a credit or refund of tax imposed by section 4041 on diesel and special fuels. The credit or refund is allowed if the purchaser of the tax-paid fuels uses them other than for the use for which sold; or in an intercity, local, or school bus; or the farming purposes. A claim for payment may be made by (1) those persons entitled to payment under section 6427 (a) or (b) of $1,000 or more for any of the first three calendar quarters of the taxable year, (2) the United States (or any of its agencies or instrumentalities), (3) State and local governments, or (4) tax-exempt organizations (other than those required to file a income tax return). In general, all other persons must claim their payment as a credit (under section 39 (a)(4) of the Code) on their annual income tax return.

Excessive Claims with Respect to the Use of Certain Fuels or Lubricating Oil

Section 6675 provides for a civil penalty in the case of excessive claims under section 6420 6421, 6424, or 6427. The amount of the penalty is the greater of (1) $10 or (2) twice the excess of the amount claimed under section 6420 6421, 6424, or 6427, as the case may be, for any period, over the amount allowable for the period under such section. The penalty will not be imposed if the excessive claim is due to reasonable cause.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking that solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Comments and Requests for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments submitted to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal authors of these proposed regulations are Annie R. Alexander in regard to §§ 48.0–1 through 48.6412–3, John R. Harman in regard to §§ 48.6416 (a)–1 through 48.6416(b)(2)–2, and Cynthia L. Clark in regard to §§ 48.6420–1 through 48.6675–1. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 48

Agriculture, Arms and munitions, Coal, Excise taxes, Gasohol, Gasoline, Motor vehicles, Petroleum, Sporting goods, Tires.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 48 are as follows:

Paragraph 1. Section 48.0–1 is revised to read as follows. Sections 48.0–3 and 48.0–4 are removed. Section 48.0–5 is redesignated as § 48.0–3.

§ 48.0–1 Introduction.

The regulations in this part (Part 48, Subchapter D, Chapter I, Title 26, Code of Federal Regulations) are designated "Manufacturers and Retailers Excise Tax Regulations." The regulations relate to the taxes imposed by sections 4041 and 4042 or by chapter 32 of the Internal Revenue Code of 1954, as amended, and to certain related administrative provisions of subtitle F of the Code. Section 4041 imposes taxes on certain sales or uses of the special fuels described in that section, and on certain sales or uses of gasoline as a fuel in aircraft engaged in noncommercial aviation. Section 4042 imposes taxes on liquids used as fuel in certain vessels in commercial waterway transportation. Chapter 32 of the Code imposes taxes on the sale or use by the manufacturer, producer, or importer of articles specified in that chapter. References in the regulations in this part to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, unless otherwise indicated. References to a section or other provision of law are references to a section or other provision of the Internal Revenue Code, as amended, unless otherwise indicated.

Par. 2. Section 48.4161(a)–1 is amended by revising paragraph (c) to read as follows.

§ 48.4161(a)–1 Imposition and rate of tax; fishing equipment.

* * * * *

(c) *Liability for tax.* The tax imposed by section 4161(a) is payable by the manufacturer, producer, or importer making the sale. For determining who is the manufacturer, producer, or importer, see § 48.0–2(a)(4).

Par. 3. Section 48.4161(a)–2 is amended by revising paragraph (d) to read as follows.

§ 48.4161(a)–2 Meaning of terms.

* * * * *

(d) *Artificial lures, baits, and flies.* The term "artificial lures, baits, and flies" includes all artifacts, of whatever materials made, that simulate an article considered edible by fish and are designed to be attached to a line or hook to attract fish so that they may be captured. Thus, the term includes such artifacts as imitation flies, blades, spoons, and spinners, and edible materials that have been processed so as to resemble a different edible article considered more attractive to fish, such as bread crumbs treated so as to simulate salmon eggs, and pork rind cut and dyed to resemble frogs, eels, or tadpoles.

Par. 4. Section 48.4161(a)–3 is amended by revising paragraph (b) to read as follows.

§ 48.4161(a)–3 Parts and accessories.

* * * * *

(b) *Essential equipment.* If taxable articles are sold by the manufacturer, producer, or importer thereof, without parts or accessories that are essential for their operation, or are designed directly to improve the performance or appearance of the articles, the separate sale of the parts or accessories to the same vendee will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the basic article, even though the parts or accessories are shipped separately at the same time or on a different date.

Par. 5. Section 48.4161(b)–1 is amended by revising paragraph (c) to read as follows:

§ 48.4161(b)–1 Imposition and rates of tax; bows and arrows.

* * * * *

(c) *Liability for tax.* The tax imposed by section 4161(b) is payable by the manufacturer, producer, or importer making the sale. For determining who is the manufacturer, producer, or importer, see § 48.0–2(a)(4).

Par 6. Section 48.4181–2 is amended by revising paragraph (d) to read as follows.

§ 48.4181–2 Meaning of terms.

* * * * *

(d) *Shells and cartridges.* (1) The terms "shells" and "cartridges" include any article consisting of a projectile, explosive, and container that is designed, assembled, and ready for use without further manufacture in firearms, pistols or revolvers.

(2) A person who reloads used shells or cartridges is a manufacturer of shells or cartridges within the meaning of section 4181 if such reloaded shells or cartridges are sold by the reloader. However, the reloader is not a manufacturer of shells or cartridges if, in return for a fee and expenses, he reloads shells or cartridges submitted by a customer and returns the identical shells or cartridges to that customer. Under such circumstances, the customer would be the manufacturer of the shells or cartridges and liable for tax on the sale of the articles.

Par. 7. Section 48.4182–1 is amended by revising paragraph (b) to read as follows.

§ 48.4182–1 Exempt sales.

* * * * *

(b) *Sales to Defense Department or to U.S. Coast Guard*—(1) *Military department.* Section 4182(b) provides that the tax imposed by section 4161 shall not attach to the sale of firearms, pistols, revolvers, shells, or cartridges that are purchased with funds appropriated for a military department of the United States. For this purpose, the term "military department" means the Department of the Army, the Department of the Navy, and the Department of the Air Force. Included in the Department of the Navy are naval aviation and the Marine Corps and the Coast Guard when operating as a service in the Navy pursuant to the provisions of 14 U.S.C. 3.

(2) *Coast Guard.* (i) 14 U.S.C. 655, as added by sec. 5 of the Act of July 10, 1962, (Pub. L. 87–526, 76 Stat. 142), provides as follows:

> Sec. 655. *Arms and ammunition: immunity from taxation.* No tax on the sale or transfer of firearms, pistols, revolvers, shells, or cartridges may be imposed on such articles when bought with funds appropriated for the United States Coast Guard.

(ii) In view of the provisions of 14 U.S.C. 655, the tax imposed by section 4161 shall not attach to the sale of firearms, pistols, revolvers, shells, or cartridges that are purchased with funds appropriated for the U.S. Coast Guard whether or not the Coast Guard is operating as a service in the Navy pursuant to 14 U.S.C. 3.

(3) *Supporting evidence.* (i) Any manufacturer, producer, or importer claiming an exemption from the tax imposed by section 4181 by reason of section 4182(b) must maintain such records and be prepared to produce such evidence as will establish the right to the exemption. Generally, clearly identified orders or contracts of a military department or the Coast Guard signed by an authorized officer of the military department or the Coast Guard will be sufficient to establish the right to the exemption. In the absence of such orders or contracts, a statement, signed by an authorized officer of a military department or the Coast Guard, that the prescribed articles were purchased with funds apropriated for that military department or the Coast Guard will constitute satisfactory evidence of the right to the exemption.

(ii)(A) In *General.* Under 18 U.S.C. 922 (b) (5) a manufacturer, dealer, or importer licensed under 18 U.S.C. 923 is required to record the name, age, and place of residence of an individual person, or the identity and principal and local places of business of a corporation or other business entity, to whom the licensee sells or delivers any firearm or

ammunition. 18 U.S.C. 923(g) requires the licensee to maintain such records and to make them available for inspection.

(B) *Exception.* However, under section 4182(c) of the Internal Revenue Code no person holding a license under 18 U.S.C. 933 shall be required to record the name, address, or other information about the purchaser of shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, or component parts for such ammunition.

Par. 8. Sections 48.6011(a)–1 and 48.6011(a)–2 are revised to read as follows.

§ 48.6011(a)–1 Returns.

(a) *In general.* (1) Liability for tax imposed under section 4041 or 4042 or chapter 32 of the Code shall be reported on Form 720. Except as provided in paragraph (b) of this section, a return on Form 720 shall be filed for a period of one calendar quarter.

(2) Every person required to make a return on Form 720 for the return period ended June 30, 1965, shall make a return for each subsequent calendar quarter, month, or semimonthly period (whether or not liability was incurred for any tax reportable on the return for the return period) until the person has filed a final return in accordance with § 48.6011(a)–2.

(3) Every person not required to make a return on Form 720 for the return period ended June 30, 1965, shall make a return for the first calendar quarter thereafter in which he incurs liability for tax imposed under section 4041 or 4042 or chapter 32, and shall make a return for each subsequent calendar quarter, month, or semimonthly period until the person has filed a final return in accordance with § 48.6011(a)–2.

(4) Each return required under the regulations in this part, together with any prescribed copies, records, or supporting data, shall be completed in accordance with the applicable forms, instructions, and regulations.

(b) *Monthly and semimonthly returns*—(1) *Requirement.* If the district director determines that any taxpayer who is required to deposit taxes under the provisions of § 48.6302(c)–1 has failed to make deposits of those taxes, the taxpayer shall be required, if so notified in writing by the district director, to file a monthly or semimonthly return on Form 720. Every person so notified by the district director shall file a return for the calendar month or semimonthly period (as defined in § 48.6302 (c)–1 (d)) in which the notice is received and for each calendar month or semimonthly period thereafter until the person has filed a final return in accordance with § 48.6011(a)–2 or is required to file returns on the basis of a different return period pursuant to notification as provided in paragraph (b)(2) of this section.

(2) *Change of requirement.* The district director may require the taxpayer, by notice in writing, to file a quarterly or monthly return, if the taxpayer has been filing returns for a semimonthly period, or may require the taxpayer to file a quarterly or semimonthly return, if the taxpayer has been filing monthly returns.

(3) *Return for period change takes effect.* (i) If a taxpayer who has been filing quarterly returns receives notice to file a monthly or semimonthly return, or a taxpayer who has been filing monthly returns receives notice to file a semimonthly return, the first return required pursuant to the notice shall be filed for the month or semimonthly period in which the notice is received and all months or semimonthly periods which are not includible in an earlier period for which the taxpayer is required to file a return.

(ii) If a taxpayer who has been filing monthly or semimonthly returns receives notice to file a quarterly return, the last month or semimonthly period for which a return shall be filed is the last month or semimonthly period of the calendar quarter in which the notice is received.

(iii) If a taxpayer who has been filing semimonthly returns receives notice to file a monthly return, the last semimonthly period for which a return shall be made is the last semimonthly period of the month in which the notice is received.

§ 48.6011(a)–2 Final returns.

a. *In general.* Any person who is required to make a return on Form 720 pursuant to § 48.6011(a)–1, and who in any return period ceases operations in respect of which the person is required to make a return on the form, shall make the return for that period as a final return. Each return made as a final return shall be marked "Final Return" by the person filing the return. A person who has only temporarily ceased to incur liability for tax required to be reported on Form 720 because of temporary or seasonal suspension of business or for other reasons, shall not make a final return but shall continue to file returns.

(b) *Statement to accompany final return.* Each final return shall have attached a statement showing the address at which the records required by the regulations in this part will be kept, the name of the person keeping the records, and, if the business of the taxpayer has been sold or otherwise transferred to another person, the name and address of that person and the date on which the sale or transfer took place. If no sale or transfer occurred or if the taxpayer does not know the name of the person to whom the business was sold or transferred, that fact should be included in the statement.

(c) An individual's signature on a return, statement, or other document made by or for a corporation or a partnership shall be prima facie evidence that the individual is authorized to sign the return, statement, or other document.

Par. 9. Section 48.6071(a)–1 is revised to read as follows:

§ 48.6071(a)–1 Time for filing returns.

(a) *Quarterly returns.* Each return required to be made under § 48.6011(a)–1(a) for a return period of not less than one calendar quarter shall be filed on or before the last day of the first calendar month following the close of the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following the close of the period if timely deposits under section 6302(c) of the Code and the regulations thereunder have been made in full payment of the taxes due for the period. For the purposes of the preceding sentence, a deposit which is not required by regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of the period, and the timeliness of any deposit made otherwise than by mail will be determined by the earliest date stamped on the applicable deposit form by an authorized commercial bank or by a Federal Reserve bank. For determining the timeliness of a deposit made by mail, see section 7502(e) and § 301.7502–1 of this chapter (Regulations on Procedure and Administration).

(b) *Monthly and semimonthly returns*—(1) *Monthly returns.* Each return required to be made under § 48.6011(a)–1(b) for a monthly period shall be filed not later than the 15th day of the month following the close of the period for which it is made.

(2) *Semimonthly returns.* Each return required to be made under § 48.6011(a)–1(b) for a semimonthly period shall be filed not later than the 10th day of the semimonthly period following the close of the period for which it is made.

(c) *Last day for filing.* For provisions relating to the time for filing a return when the prescribed due date falls on Saturday, Sunday, or a legal holiday, see

§ 301.7503–1 of this chapter (Regulations on Procedure and Administration).

(d) *Late filing.* For additions to the tax in case of failure to file a return within the prescribed time, see § 301.6651–1 of this chapter (Regulations on Procedure and Administration).

Par. 10. The following new § 48.6081(a)–1 is added immediately after § 48.6071(a)–1.

§ 48.6081(a)–1 Extension of time for filing returns.

(a) *In general.* Ordinarily, no extension of time will be granted for filing any return statement or other document required with respect to the taxes imposed by section 4041 or 4042 or chapter 32, because the information required for the filing of those documents is under normal circumstances readily available. However, if because of temporary conditions beyond the taxpayer's control, a taxpayer believes an extension of time for filing is justified, the taxpayer may apply to the district director, or to the director of the service center, for an extension. An extension of time for filing a return does not operate to extend the time for payment of the tax or any part of the tax unless so specified in the extension. For extensions of time for payment of the tax, see § 48.6161(a)–1.

(b) *Application for extension of time.* The application for an extension of time for filing the return shall be addressed to the district director, or director of the service center, with whom the return is to be filed and must contain a full recital of the causes for the delay. It should be made on or before the due date of the return, and failure to do so may indicate negligence and constitute sufficient cause for denial. It should, where possible, be made sufficiently early to permit consideration of the matter and reply before what otherwise would be the due date of the return.

(c) *Filing the return.* If an extension of time for filing the return is granted, a return shall be filed before the expiration of the period of extension.

Par. 11. Section 48.6091–1 is revised to read as follows.

§ 48.6091–1 Place for filing returns.

(a) *Persons other than corporations.* The return of a person other than a corporation shall be filed with the district director for the internal revenue district in which is located the principal place of business or legal residence of the person. If the person has no principal place of business or legal residence in any internal revenue district, the return shall be filed with the District Director, Internal Revenue Service, Baltimore, MD 21202, except as provided in paragraph (c) of this section.

(b) *Corporations.* The return of a corporation shall be filed with the district director for the district in which is located the principal place of business or principal office or agency of the corporation, except as provided in paragraph (c) of this section.

(c) *Returns of taxpayers outside the United States.* The return of a person (other than a corporation) outside the United States having no legal residence or principal place of business in any internal revenue district, or the return of a corporation having no principal place of business or principal office or agency in any internal revenue district, shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225. If, however, the principal place of business or legal residence of the person, or the principal place of business or principal office or agency of the corporation, is located in the Virgin Islands or Puerto Rico, the return shall be filed with the Director of International Operations, U.S. Internal Revenue Service, Hato Rey, Puerto Rico 00917.

(d) *Returns filed with service centers.* Notwithstanding paragraphs (a), (b), and (c) of this section, whenever instructions applicable to any returns provide that the returns shall be filed with a service center, the returns shall be so filed in accordance with the instructions.

(e) *Hand-carried returns.* Except as provided in paragraph (e)(3) of this section, and notwithstanding paragraphs (1) and (2) of section 6091(b) and paragraph (d) of this section, the following rules apply.

(1) *Persons other than corporations.* Returns of persons other than corporations which are filed by hand carrying shall be filed with the district director as provided in paragraph (a) of this section.

(2) *Corporations.* Returns of corporations which are filed by hand carrying shall be filed with the district director as provided in paragraph (b) of this section.

(3) *Exceptions.* This paragraph (e) shall not apply to returns of—

(i) Persons who have no legal residence, no principal place of business, or no principal office or agency in any internal revenue district.

(ii) Citizens of the United States whose principal place of abode for the period with respect to which the return is filed is outside the United States,

(iii) Persons who claim the benefits of section 911 (relating to income earned by individuals in certain camps) section 913 (relating to deduction for certain expenses of living abroad), section 931 (relating to income from sources within possessions of the United States), section 933 (relating to income from sources within Puerto Rico), or section 936 (relating to Puerto Rico and possession tax credit), and

(iv) Nonresident alien persons and foreign corporations.

(f) *Permission to file in district other than required district.* The Commissioner may permit the filing of any return required to be made under the regulations in this part in any internal revenue district, notwithstanding the provisions of paragraphs (1), (2), and (4) of section 6091(b) and paragraphs (a), (b), (c), (d), and (e) of this section.

(g) *Cross reference.* For definition of the term "hand carried", see § 301.6091–1(c) of this chapter (Regulations on Procedure and Administration).

Par. 12. The following new § 48.6101–1 is added immediately after § 48.6091–1.

§ 48.6101–1 Period covered by returns or other documents.

The normal period for which returns are ordinarily required under this subpart is a calendar quarter. Under certain circumstances, however, the district director may require returns to be filed for monthly or semimonthly periods. For provisions relating to quarterly returns, see § 48.6011(a)–1(a). For provisions relating to monthly and semimonthly returns, see § 48.6011(a)–1(b).

Par. 13. Section 48.6109–1 is revised to read as follows:

§ 48.6109–1 Employer identification numbers.

(a) *Requirement of application*—(1) *In general.* An application on Form SS–4 for an employer identification number shall be made by every person who makes a sale or use of an article with respect to which a tax is imposed by section 4041 or 4042 or chapter 32 of the Code, but who has not earlier been assigned an employer identification number or has not applied for one. The application and any supplementary statement accompanying it shall be prepared in accordance with the applicable form, instructions, and regulations and shall set forth fully and clearly the date therein called for. Form SS–4 may be obtained from any district director or director of a service center. The application shall be filed with the internal revenue officer designated in the instructions applicable to Form SS–4. The application shall be signed by (i) the individual if the person is an individual; (ii) the president, vice-president, or other principal officer, if

the person is a corporation; (iii) a responsible and duly authorized member or officer having knowledge of its affairs, if the person is a partnership or other unincorporated organization; or (iv) the fiduciary, if the person is a trust or estate. An employer identification number will be assigned to the person in due course upon the basis of information reported on the application required under this section.

(2) *Time for filing Form SS–4.* The application for an employer identification number shall be filed on or before the seventh day after the date of the first sale or use of an article with respect to which a tax is imposed by section 4041 or 4042 or chapter 32 of the Code.

(b) *Use of employer identification number.* The employer identification number assigned to a person liable for a tax imposed by section 4041 or 4042 or chapter 32 of the Code shall be shown in any return, statement, or other document submitted to the Internal Revenue Service by the person.

(c) *Cross references.* For the definition of the term "employer identification number", see § 301.7701–12 of this chapter (Regulations on Procedure and Administration). For provisions relating to the penalty for failure to include the employer identification number in a return, statement, or other document, see § 301.6676–1 of this chapter (Regulations on Procedure and Administration).

Par. 14. Section 48.6151–1 is revised to read as follows:

§ 48.6151–1 Time and place for paying tax shown on return.

The tax required to be reported on each tax return under this subpart is due and payable to the internal revenue officer with whom the return is filed at the time prescribed in § 48.6071(a)–1 for filing such return. See section 6601, and chapter 68 of subtitle F of the Code, and the regulations thereunder in Part 301 of this chapter (Regulations on Procedure and Administration) for provisions relating to interest on underpayments, additions to tax, and penalties. For provisions relating to the use of government depositaries in depositing the taxes, see § 48.6302(c)–1.

Par. 15. The following new § 48.6161(a)–1 is added immediately after § 48.6151–1.

§ 48.6161(a)–1 Extension of time for paying tax shown on return.

(a) *In General.* (1) Ordinarily, no extensions of time will be granted for payment of any tax imposed by section 4041 or 4042 or chapter 32 of the Code, and shown or required to be shown on any return. However, if because of temporary conditions beyond the taxpayer's control a taxpayer believes an extension of time for payment is justified, the taxpayer may apply to the district director, or to the director of the service center, for an extension. The period of any extension shall not be in excess of 6 months from the date fixed for payment of the tax, except that if the taxpayer is abroad the period of the extension may be in excess of 6 months.

(2) The granting of an extension of time for filing a return does not operate to extend the time for the payment of the tax or any part of the tax unless so specified in the extension. See § 48.6081(a)–1.

(b) *Undue hardship required for extension.* An extension of the time for payment shall be granted only upon a satisfactory showing that payment on the due date of the amount with respect to which the extension is desired will result in an undue hardship. The extension will not be granted upon a general statement of hardship. The term "undue hardship" means more than an inconvenience to the taxpayer. It must appear that substantial financial loss, for example, loss due to the sale of property at a sacrifice price, will result to the taxpayer from making payment on the due date of the amount with respect to which the extension is desired. If a market exists, the sale of property at the current market price is not ordinarily considered as resulting in an undue hardship.

(c) *Application for extension.* An application for an extension of time for payment of the tax shown or required to be shown on any return shall be made on Form 1127 and shall be accompanied by evidence showing the undue hardship that would result to the taxpayer if the extension were refused. The application shall also be accompanied by a statement of the assets and liabilities of the taxpayer and an itemized statement showing all receipts and disbursements for each of the 3 months immediately preceding the due date of the amount to which the application relates. The application, with supporting documents, must be filed, on or before the date prescribed for payment of the amount with respect to which the extension is desired, with the internal revenue officer to whom the tax is to be paid. The application will be examined, and within 30 days, if possible, will be denied, granted, or tentatively granted subject to certain conditions of which the taxpayer will be notified. If an additional extension is desired, the request for it must be made on or before the expiration of the period for which the prior extension is granted.

(d) *Payment pursuant to extension.* If an extension of time for payment is granted, the payment shall be made on or before the expiration of the period of the extension without the necessity of notice and demand. The granting of an extension of time for payment of the tax does not relieve the taxpayer from liability for the payment of interest on the tax during the period of the extension. See section 6601 and § 301.6601–1 of this chapter (Regulations on Procedure and Administration).

Par. 16. Section 48.6206–1 is revised to read as follows.

§ 48.6206–1 Assessment and collection of excessive payment and penalty.

(a) *Treatment of excessive amount as tax.* If any portion of a payment made under section 6420 (relating to gasoline used on farms), section 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), section 6424 (relating to lubricating oil not used in highway motor vehicles), or section 6427 (relating to special fuels not used for taxable purposes) constitutes an excessive amount as defined in section 6675(b) and § 48.6675–1(b), the excessive amount and any civil penalty provided by section 6675 may be assessed and collected by the district director—

(1) As if the excessive amount and civil penalty were a tax imposed by section 4081 (relating to tax on the sale of gasoline), section 4091 (relating to tax on sale of lubricating oil), or section 4041 (relating to tax on sale of special fuels), as the case may be, and

(2) As if the person who made the claim for payment were liable for tax imposed by section 4081, 4091, or 4041, in that amount.

(b) *Assessment period.* The period within which the portion of a payment constituting an excessive amount and any civil panalty may be assessed shall be 3 years from the last date prescribed by section 6420, 6421, 6424, or 6427, as the case may be, for the filing of the claim in respect of which the excessive amount is attributable.

Par. 17. Section 48.6302(c)–1 is revised to read as follows:

§ 48.6302(c)–1 Use of Government depositaries.

(a) *Monthly deposits.* Except as provided in paragraph (b) of this section, if for any calendar month (other than the last month of a calendar quarter) any person required to file a quarterly excise tax return on Form 720 has a total liability under this part of more than $100 for all excise taxes reportable on that form, the amount of liability for

taxes shall be deposited by the person with a Federal Reserve bank or authorized financial institution on or before the last day of the month following the calendar month.

(b) *Semimonthly deposits.* (1) If any person required to file an excise tax return on Form 720 for any calendar quarter has a total liability under this part of more than $2,000 for all excise taxes reportable on the form for any calendar month in the preceding calendar quarter, the amount of that liability for taxes under this part for any semimonthly period (as defined in paragraph (d)(1) of this section) in the succeeding calendar quarter shall be deposited by him with a Federal Reserve bank or authorized financial institution on or before the depositary date (as defined in paragraph (d)(2) of this section) applicable to the semimonthly period.

(2) A person will be considered to have complied with the requirements of paragraph (b)(1) of this section for a semimonthly period if—

(i)(A) The person's deposit for the semimonthly period is not less than 90 percent of the total amount of the excise taxes reportable by the person on Form 720 for the period, and

(B) If the semimonthly period occurs in a calendar month other than the last month in a calendar quarter, the person deposits any underpayment for the month by the 9th day of the second month following the calendar month; or

(ii)(A) The person's deposit for each semimonthly period in the calendar month is not less than 45 percent of the total amount of the excise taxes reportable by the person on Form 720 for the month, and

(B) If such month is other than the last month in a calendar quarter, the person deposits any underpayment for such month by the 9th day of the second month following the calendar month; or

(iii)(A) The person's deposit for each semimonthly period in the calendar month is not less than 50 percent of the total amount of the excise taxes reportable by the person on Form 720 for the second preceding calendar month, and

(B) If such month is other than the last month in a calendar quarter, the person deposits any underpayment for such month by the 9th day of the second month following the calendar month; or

(iv)(A) The requirements of paragraph (b)(2) (i)(A), (ii)(A), or (iii)(A) of this section are satisfied for the first semimonthly period of a calendar month after January 1971,

(B) If the person's deposit for the second semimonthly period of the calendar month is, when added to the deposit for the first semimonthly period, not less than 90 percent of the total amount of the excise taxes reportable by the person on Form 720 for the calendar month, and

(C) If the semimonthly periods occur in a calendar month other than the last month in a calendar quarter, the person deposits any underpayment for the month by the 9th day of the second month following the calendar month.

(3)(i) Paragraph (b)(2) (ii) and (iii) of this section shall not apply to any person who normally incurs in the first semimonthly period in each calendar month more than 75 percent of the person's total excise tax liability under this part for the month.

(ii) Persons who make their deposits in accordance with paragraph (b)(2) (ii), (iii), or (iv) of this section will find it unnecessary to keep their books and records on a semimonthly basis.

(c) *Deposit of certain excess undeposited amounts.* Notwithstanding paragraphs (a) and (b) of this section, if any person required to file an excise tax return on Form 720 for any calendar quarter beginning after March 31, 1968, has a total liability under this part for all excise taxes reportable on the form for the calendar quarter which exceeds by more than $100 the total amount of taxes deposited by the person pursuant to paragraph (a) or (b) of this section for the calendar quarter, the person shall, on or before the last day of the calendar month following the calendar quarter for which the return is required to be filed, deposit with a Federal Reserve bank or authorized financial institution the full amount by which the person's liability for all excise taxes reportable on the form for that calendar quarter exceeds the amount of excise taxes previously deposited by the person for that calendar quarter.

(d) *Definitions.* For purposes of this part—

(1) *Semimonthly period.* The term "semimonthly period" means the first 15 days of a calendar month or the portion of a calendar month following the 15th day of that month.

(2) *Depositary date.* (i) The term "depositary date" means, in the case of deposits for semimonthly periods beginning after January 31, 1971, the 9th day of the semimonthly period following the semimonthly period for which the taxes are reportable.

(ii) The term "depositary date" means, in the case of deposits for semimonthly periods ending before February 1, 1971, the last day of the semimonthly period following the semimonthly period for which the taxes are reportable.

(e) *Depositary forms and procedures*—(1) *In general.* A person required by this section to make deposits may make one or more remittances with respect to the amount required to be deposited. An amount of tax which is not otherwise required by this section to be deposited may, nevertheless, be deposited if the person liable for the tax so desires.

(2) *Deposits for 1968 and subsequent years.* Each remittance of amounts required to be deposited for periods subsequent to 1967 shall be accompanied by Form FTD 504 (Federal Tax Deposit, Excise Taxes); which shall be prepared in accordance with the applicable instructions. The remittance, together with Form FTD 504, shall be forwarded to a financial institution authorized as a depositary for Federal taxes in accordance with 31 CFR Part 214 or, at the election of the corporation, to a Federal Reserve Bank. For procedures governing the deposit of Federal taxes at a Federal Reserve Bank, see 31 CFR Part 214.7. The timeliness of the deposit will be determined by the date it is received (or is deemed received under section 7502(e) and § 301.7502–1 of this chapter (Regulations on Procedure and Administration)) by the Federal Reserve Bank or by the authorized financial institution. Amounts deposited pursuant to this paragraph (e)(2) shall be considered to be paid on the last day prescribed for filing the return in respect of the tax (determined without regard to any extension of time for filing the returns), or at the time deposited, whichever is later.

(3) *Information required.* Each person making deposits pursuant to this section shall report on the return for the period with respect to which the deposits are made information regarding the deposits in accordance with the instructions applicable to the return and pay (or deposit by the due date of the return) the balance, if any, of the taxes due for the period.

(4) *Procurement of prescribed forms.* Copies of the applicable deposit form will be furnished, so far as possible, to persons required to make deposits under this section. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished. A person not supplied with the proper form is required to apply for it in ample time to make the required deposits within the time prescribed, supplying with the application the person's name, identification number, address, and the taxable period to which the deposits will relate. Copies of Form FTD 504 may be obtained by applying for them with the distinct

director to the director of the service center.

(f) *Nonapplication to certain taxes.* This section does not apply to taxes for (1) any month or semimonthly period in which the taxpayer receives notice from the district director pursuant to § 48.6011(a)–1(b) to file Form 720 or (2) any subsequent month or semiannually period for which a return on Form 720 is required.

Par. 18. The following new § 48.6302(c)–2 is added immediately after § 48.6302(c)(1)

§ 48.6302(c)–2 Cross reference.

(a) *Failure to deposit.* For provisions relating to failure to make a deposit within the time prescribed, see § 301.6656–1 of this chapter (Regulations on Procedures and Administration).

(b) *Saturday, Sunday, or legal holiday.* For regulations relating to the time for performance of acts when the last day for the performance falls on a Saturday, Sunday, or a legal holiday, see § 301.7503–1 of this chapter (Regulations on Procedure and Administration).

Par. 19. The following new §§ 48.6402(a)–1, 48.6404(a)–1, 48.6412–1, 48.6412–2, and 48.6412–3 are added immediately after § 48.6302(c)–2.

§ 48.6402(a)–1 Authority to make credits or refunds.

For provisions relating to credits and refunds of certain taxes on sales and services see section 6416 and the regulations thereunder. For regulations under section 6402 of general application in respect of credits or refunds, see §§ 301.6402–1, 301.6402–2, and 301.6402–4 of this chapter (Regulations on Procedure and Administration).

§ 48.6404(a)–(1) Abatements.

For regulations under section 6404 of general application in respect of abatements of assessments ot tax, see § 301.6404–1 of this chapter (Regulations on Procedure and Administration).

§ 48.6412–1 Floor stocks credit or refund.

(a) *In general.* This section sets forth the procedures to be followed in claiming the credit or refund authorized by section 6412 for manufacturers excise taxes paid in respect of certain articles held by dealers as floor stocks on October 1, 1984. See § 48.6412–2 for definitions of the following terms when used in this section: "floor stocks", "inventory date", "dealer", "held by a dealer", "old rate", "new rate", "dealer request limitation date", "claim limitation date", and "tax paid". See § 48.6412–3 for determining the amount of tax paid on articles that are held as floor stocks. The manufacturers excise taxes for which credit or refund may be claimed under this section are those imposed by section 4061(a)(1), relating to trucks, buses, tractors, etc.; section 4071(a)(1), relating to tires of the type used on highway vehicles; section 4071(a)(3), relating to inner tubes for tires; section 4071(a)(4), relating to tread rubber; and section 4081, relating to gasoline. For definition of the term "highway vehicle", see § 48.4061(a)–1(d).

(b) *Computation of the amount of floor stocks credit or refund.* The amount of floor stocks credit or refund which may be claimed by the manufacturer under section 6412(a)(1) may not exceed an amount equal to the difference between the tax paid by the manufacturer on the sale of the article and the amount of tax made applicable to the article on the inventory date. For example, *M*, a dealer has on hand on October 1, 1984, as floor stocks inventory, an automobile truck chassis which had a manufacturer's taxable sale price of $20,000 on which tax was paid under section 4061(a)(1) at a rate of 10 percent, or $2,000. Since this automobile truck chassis is subject to a tax of 5 percent, or $1,000, under section 4061(a)(1) as of October 1, 1984, the amount of floor stocks credit or refund that may be claimed by the manufacturer with respect to such truck chassis is the difference between the $2,000 tax paid on the manufacturer's sale of the truck chassis and the $1,000 tax made applicable to the article on October 1, 1984. No interest is allowable with respect to any amount of tax credited or refunded under section 6412 and this section. In applying the floor stocks credit or refund provisions, the date on which the manufacturer paid the tax with respect to the article held as floor stocks is not relevant. Thus, the period of limitations provided in section 6511 with respect to claims for credit or refund does not apply; however, see paragraph (f) of this section. For definition of the term "manufacturer", see § 48.0–2(a)(4).

(c) *Limitation.* Except as provided in § 48.6412–3, no credit or refund is allowable under this section for an amount paid as tax which may be credited or refunded under any provisions of law other than section 6412(a)(1), or which was allowable as a credit or refund under section 6412 with respect to an earlier inventory date.

(d) *Relationship between credits or refunds for floor stocks and credits or refunds for price readjustments.* The amount which may be credited or refunded for floor stocks and for price readjustments on an article may not in the aggregate exceed the tax paid in respect of the article. A credit or refund computed on the basis of the old tax rate will be allowed with respect to a price readjustment of an article on which a floor stock credit or refund was allowed, but only if the amount of the floor stock credit or refund otherwise allowable was reduced by taking into account such price readjustment, as determined under § 48.6412–3(e). The manufacturer must keep readily available for inspection sufficient records to enable examining officers of the Internal Revenue Service to ascertain the correctness of any claim for credit or refund for a price readjustment of an article on which a floor stock refund was claimed.

(e) *Participation of dealers*—(1) *Request by dealer.* On or before the dealer request limitation date, a dealer may submit to a manufacturer a request with respect to a credit or refund allowable under this section for tax paid by the manufacturer with respect to articles held by the dealer as floor stocks. This request may be submitted directly to the manufacturer, or it may be submitted to him indirectly through another dealer in the distribution chain if the request is received by the manufacturer or an authorized agent of the manufacturer on or before the dealer request limitation date.

(2) *Requirements for claim by manufacturer.* No amount of credit or refund under this section may be claimed by a manufacturer with respect to articles held by a dealer as floor stocks unless—

(i) The claim for the amount is based upon a request submitted by the dealer to the claimant on or before the dealer request limitation date;

(ii) The amount is paid by the claimant to the dealer, or the dealer's written consent to allowance of the credit or refund has been received by the claimant, on or before the claim limitation date; and

(iii) The request by the dealer is supported by an inventory statement, made under the penalties of perjury and signed by the dealer or by the dealer's authorized representative, setting forth the following information:

(A) The name and address of the dealer and of the applicable manufacturer, (if the name and address of the applicable manufacturer is unknown to the dealer, these items may be added by any person in the chain of distribution);

(B) The identification number, if any, of the article, such as a serial, stock, model, type, or class number, or some other suitable means of identification;

(C) A brief description of the article, such as its common name or designation; and

(D) The quantity of articles held by the dealer as floor stocks on the inventory date.

(3) *Actual manufacturer unknown.* If a dealer addresses a request to the person, who from markings on the article the dealer presumes to be the manufacturer, the request may be treated as made to the actual manufacturer if the actual manufacturer accepts the dealer's request.

(4) *Payment to dealer by claimant.* Payment may be made directly to the dealer or to the dealer's authorized agent or representative by the claimant or by the claimant's authorized agent or representative. If a claimant pays a dealer through the claimant's agent or representative, the evidence must show that the dealer actually received the payment. If a dealer authorizes the claimant to pay the dealer through the dealer's agent or representative, evidence showing receipt of the payment by the agent or representative will be accepted as proof of actual payment to the dealer. Payment shall be made, at the manufacturer's option, in cash, by check, or by credit to the dealer's account as maintained by the claimant. The amount of the payment which may be made by crediting the dealer's account may not exceed the undisputed debit balance due at the time the credit is made. However, payment may be made in merchandise at the dealer's option with the concurrence of the manufacturer.

(5) *Date of performance.* The date on which any act described in this paragraph (e) is performed by an agent or representative on behalf of a claimant or dealer is deemed to be the date on which the act is performed by the principal.

(6) *Record of inventories.* For provisions relating to the record of a dealer's inventories to be kept by the claimant, see paragraph (g) of this section.

(7) *Sample written consent.* No particular form is prescribed or required for the written consent of the dealer described in paragraph (e)(2)(ii) of this section. However, the following is an example of an acceptable consent statement by a dealer:

Consent Statement of Dealer

(For use by dealer in requesting manufacturer, producer, or importer to obtain credit under section 6412 of the Internal Revenue Code of 1954 with respect to floor stocks.)

I hereby consent to the allowance to the manufacturer, producer, or importer of the floor stocks credit or refund of the excise tax imposed by the Internal Revenue Code of 1954 with respect to the articles in my inventory on _____

_____
(Name)
By _____
(Signature of Officer)
_____
(Title)
_____
(Date)

(f) *Procedure for claiming credit or refund*—(1) *In general.* Each claim for credit or refund under this section shall be filed on or before the applicable claim limitation date, in the manner and subject to the conditions stated in this section and in § 301.6402–2 of this chapter (Regulations on Procedure and Administration). Either credit or refund, or a combination thereof, may be claimed, but the amount which may be claimed as a credit on a return shall not exceed the total tax liability shown on the return, reduced by the amount of any deposits made under § 48.6302(c)–1 with respect to the return and by any amount of credit claimed on the return pursuant to any provision of law other than section 6412. If the total amount which may be claimed exceeds the amount that may be claimed as credit on a return, the excess amount may be claimed on or before the applicable claim limitation date either as a refund or as a credit on a subsequent return. If credit is claimed the amount of the credit shall be entered as a credit on a timely-filed return of tax. The statement described in paragraph (f)(2) of this section must show the amount and date of each previous and concurrent claim for credit or refund under this section and indicate whether any future claims are expected to be filed.

(2) *Supporting evidence to be submitted by the manufacturer.* No credit or refund shall be allowed under this section unless there is submitted, in support of the claim for credit or refund, a statement signed by the person making the claim, that describes in general terms the articles covered by the claim, sets forth the method of computing the amount claimed (including a description of any procedures used pursuant to § 48.6412–3), and states that—

(i) The claimant paid to the district director or the director of the internal revenue service center the tax for which credit or refund is claimed;

(ii) The total amount claimed represents payments requested by dealers before the dealer request limitation date;

(iii) The total amount claimed either was paid by the claimant to the dealers, or the claimant received the written consent of the dealers to the allowance of the amount claimed:

(iv) The claimant has in his possession, and available for inspection by internal revenue officers, the evidence with respect to inventories required by paragraph (g)(2) of this section, and any written consents referred to in paragraph (f)(2)(iii) of this section; and

(v) No other claim for credit or refund under this section has been or will be made by the claimant with respect to any amount covered by the claim.

(g) *Evidence to be retained in the manufacturer's records.* Every person filing a claim for credit or refund pursuant to this section shall support the claim by keeping as part of the claimant's records—

(1) The dealer's inventory statements required by paragraph (e)(2)(iii) of this section, to the extent that the articles are covered by the claim;

(2) Records, in respect of the articles held by each dealer, showing—

(i) The name and address of the dealer,

(ii) The quantities of each article held by the dealer as floor stocks by taxable category, for example, by model or type number,

(iii) The amount of tax considered to be paid by the manufacturer with respect to each article held by the dealer, as determined under § 48.6412–3,

(iv) The amount of tax, if any, which the claimant would pay on the sale or each article held by the dealer if the tax were computed at the new rate,

(v) The total amount of reimbursement due the dealer,

(vi) The date on which the claimant received from the dealer the request described in paragraph (e)(1) of this section, but only if payment was not made to the dealer before the dealer request limitation date, and

(vii) The date and amount of each payment to a dealer, or the date of receipt by the claimant from the dealer of a written consent, as set forth in paragraph (e)(2)(ii) of this section; and

(3) Any such written consent received from a dealer.

(h) *Special rules where the presumed manufacturer is the agent of the actual manufacturer.* For purposes of this section, if a manufacturer sells articles tax-paid to a second manufacturer for resale by the second manufacturer under its own brand name, the second manufacturer may perform any acts and keep any records which are a prerequisite to the first manufacturer's filing a claim for floor stocks credit or refund with respect to the articles. If such a procedure is followed, the claim

filed by the first manufacturer shall include a statement indicating the name and address of the second manufacturer and the amount of its claim which relates to articles sold to the second manufacturer.

(i) *Effect on other claims for credit or refund.* If a claim for credit or refund is made pursuant to section 6416 and the regulations thereunder, relating in part to returned sales, sales for export or for exempt use, sales to States, etc., with respect to a tax imposed by section 4061(a)(1), section 4071(a) (1), (3), or (4), or section 4081, and if the claim is made with respect to articles sold by the claimant before the date on which the tax is reduced in rate or terminated, the claim shall be based on the new rate of tax unless the claimant can establish that the tax was imposed at the old rate and that no refund or credit under this section was allowed with respect to the articles. See, however, paragraph (d) of this section.

(j) *Other applicable provisions.* All provisions of law, including penalties, applicable in respect of the taxes imposed by sections 4061, 4071, and 4081 shall, insofar as applicable and not inconsistent with section 6412, apply in respect to the credits and refunds provided for in section 6412 to the same extent as if the credits or refunds constituted overpayments of the taxes. For provisions under which timely mailing is treated as timely filing, and for provisions applicable to the time for performance of acts when the last day falls on Saturday, Sunday, or a legal holiday, see §§ 301.7502–1 and 301.7503–1, respectively, of this chapter (Regulations on Procedure and Administration).

§ 48.6412–2 Definitions for purposes of floor stocks credit or refund.

For purposes of section 6412 and the regulations thereunder—

(a) *Floor stocks.* The term "floor stocks" means any article subject to the tax imposed by section 4061(a)(1), section 4071(a) (1), (3), or (4) or section 4081 which—

(1) Is sold by the manufacturer (otherwise than in a tax-free sale) before October 1, 1984,

(2) Is held by a dealer at the first moment on October 1, 1984, and has not been used, and

(3) Is intended for sale or, in the case of tread rubber, is intended for sale or is held for use.

However, the term "floor stocks" does not include gasoline in retail stocks held at the place where intended to be sold at retail, nor with respect to gasoline held for sale by a producer or importer of gasoline, or inner tubes for bicycle tires (as defined in section 4221(e)(4)(B)).

(b) *Inventory date.* The term "inventory date" means the first moment on the date on which an article is treated as floor stocks within the meaning of paragraph (a) of this section.

(c) *Dealer.* The term "dealer" includes a wholesaler, jobber, distributor, or retailer, or in the case of tread rubber subject to tax under section 4071(a)(4), includes any person (other than the manufacturer of the tread rubber) who holds the tread rubber for sale or use.

(d) *Held by a dealer*—(1) *In general.* (i) An article is considered as "held by a dealer" if title to the article has passed to the dealer whether or not delivery to the dealer has been made), and if, for purposes of consumption, title to or possession of the article has not at any time been transferred to any person other than a dealer.

(ii) Floor samples, demonstrators, and articles undergoing repair (whether or not on the dealer's premises) that are carried in stock to be sold as new articles, and articles purchased tax-paid by a manufacturer or a sales subsidiary and held by the person on the inventory date for resale as such, will be considered as unused and held by a dealer, if title to or possession of the article has not at any time been transferred to any person for purposes of consumption.

(iii) Articles sold by a dealer to a consumer before the inventory date and thereafter repossessed by the dealer, and articles purchased tax-paid by a manufacturer for use in further manufacture within the meaning of section 4221(d)(6), will not be considered as held by a dealer.

(iv) The determination as to the time title or possession passes for purposes of consumption shall be made under applicable local law.

(2) *Examples.* The application of this paragraph (d) may be illustrated by the following examples:

Example (1). If, under local law, title to an article sold by a dealer under a conditional sales contract is in the dealer on the inventory date, but the consumer has physical possession of the article on that date, the article is not considered as held by the dealer.

Example (2). If, under local law, title to an article is in the consumer on the inventory date because the article is specifically identified with a contract, but on that date the dealer still has physical possession of the article, for example, in his will-call department, the article is not considered as held by the dealer on that date because title to the article has passed to the consumer for purposes of consumption.

Example (3). If, under local law, title to an article is in the consumer on the inventory date because the dealer transferred the article to a common carrier for delivery to the consumer, the article in transit is not considered as held by the dealer on that date because title has passed to the consumer for purposes of consumption, even though neither the dealer nor the consumer has physical possession of the article.

Example (4). If, under local law, title to an article is in the dealer on the inventory date and does not pass to the consumer until delivery by a common carrier, the article in transit shall be considered as held by the dealer on that date because neither the title nor possession has passed to the consumer for purposes of consumption.

Example (5). If an article has been mortgaged or otherwise hypothecated by a dealer as security for a loan and, under local law, title to the article is in the creditor on the inventory date, and physical possession is in the dealer, the article shall be considered as held by the dealer on that date because neither title nor possession has passed to the consumer for purposes of consumption.

(e) *Old rate.* The term "old rate" means the rate of tax in effect with respect to the sale of an article before the date designated in paragraph (a) or (b) of this section on which the tax is reduced in rate or is terminated.

(f) *New rate.* The term "new rate" means the rate of tax, if any, in effect with respect to the sale of an article on the date designated in paragraph (a) or (b) of this section on which the tax is reduced in rate or is terminated.

(g) *Dealer request limitation date.* The term "dealer request limitation date" is the date prescribed by section 6412(a)(1) before which the request on which the manufacturer's claim is based must be submitted to the manufacturer by the dealer who held the floor stocks on the inventory date. In the case of an article held by a dealer on October 1, 1984, the dealer request limitation date is January 1, 1985.

(h) *Claim limitation date.* The term "claim limitation date" means the last date prescribed by section 6412(a)(1) on which refund or credit with respect to floor stocks may be claimed by a manufacturer. In the case of an article held by a dealer on October 1, 1984, the claim limitation date is March 31, 1985.

(i) *Tax paid.* A tax is considered paid if it was paid or was offset by an allowable credit on the return on which it was reported.

§ 48.6412–3 Amount of tax paid on each article.

(a) *General rule.* For purposes of making the claim for credit or refund under § 48.6412–1 in respect of floor stocks held by a dealer, the tax paid on each article must be separately computed. If desired, the procedures set forth in paragraphs (b) through (g) of this

section may be used in making the computation. The procedure used in determining the tax paid on an article must also be used in determining the amount of tax, if any, made applicable to the article on the effective date of reduction or repeal of the tax involved. Prior approval of the Internal Revenue Service for the method of computation need not be obtained and should not be requested.

(b) *Selling price.* In determining the price of an article on which the tax paid is to be computed, the average of the gross selling prices of identical articles sold during a representative period may be used. For example, truck chassis of the same model that are sold by the manufacturer with the same equipment and accessories are identical articles whose selling prices may be computed on the basis of an average.

(c) *Transportation charges.* In determining the price of an article on which the tax paid is to be computed, the average of the exclusions authorized by section 4216(a) for transportation, delivery, insurance, installation, etc., for a reasonable category of articles during a representative period may be used.

(d) *Credits for tax paid on inner tubes.* The average of the credits authorized by section 6416(c) for tax paid on tires or inner tubes may be averaged for a reasonable category of articles during a representative period. The credits shall be subtracted from the gross excise tax to arrive at the net excise tax paid.

(e) *Price readjustments.* (1) In determining the price on which the tax paid is to be computed, there must be taken into account any price readjustments with respect to which the manufacturer has filed a claim for credit or refund under section 6416(b). Other price readjustments which have been, or are reasonably expected to be, made with respect to the article may, at the option of the manufacturer, be taken into account in computing the price of the article.

(2) Price readjustments which cannot be attributed to specific articles as of the inventory date (as, for example, a price readjustment of a flat dollar amount which is made to dealers who meet a sales quota) may be taken into account on the basis of an average of the adjustments which is computed for a reasonable category of articles over a representative period.

(3) Price readjustments related to specific items (as, for example, an automatic rebate of a specific percentage of the price of each unit sold to a dealer) may not be averaged, and in such a case only the actual price readjustment attributable to a particular article may be taken into account in computing the tax on that article.

(4) If, because of the facts in a case, a price readjustment can be attributed to specific articles for purposes of consumer refunds but cannot be attributed to specific articles for purposes of floor stocks credits or refunds (as, for example, in the case of a price readjustment made with respect to trucks sold by a dealer to a fleet operator), the price adjustment may be averaged for purposes of both consumer refunds and floor stocks credits and refunds.

(f) *Representative period.* A period will be considered a representative period if—

(1) It covers (i) at least four consecutive calendar quarters, the last of which ends with a period of six calendar months immediately preceding the effective date of the tax reduction or repeal involved or (ii) any other period of time which the taxpayer can demonstrate constitutes a representative period for the particular category, and

(2) The number of articles in the category involved sold by the manufacturer during the period either (i) equals or exceeds the number of articles in the category to which the average amount is to be applied or (ii) can be demonstrated by the taxpayer to be a representative quantity.

(g) *Reasonable category.* Examples of a reasonable category of articles are articles that are identified by a common stock or class number or which are of the same model, class, or line. For the purpose of averaging exclusions, another example of a reasonable category of articles is a grouping of articles that are shipped in the same container. If a manufacturer sells articles bearing his own trademark and also sells articles as private brands, separate computations of the two brands must be made under this section.

Par. 20. Section 48.6416(a)–1 is revised to read as follows:

§ 48.6416(a)–1 Claims for credit or refund of overpayments of taxes on special fuels and manufacturers taxes.

Any claims for credit or refund of an overpayment of a tax imposed by chapter 31 or chapter 32 shall be made in accordance with the applicable provisions of this subpart and the applicable provisions of § 301.6402–2 of this chapter (Regulations on Procedure and Administration). A claim on Form 843 is not required in the case of a claim for credit, but the amount of the credit shall be claimed by entering that amount as a credit on a return of tax under this subpart filed by the person making the claim. In this regard, see § 48.6416(f)–1.

Par. 21. The following new §§ 48.6416(a)–2 and 48.6416(a)–3 are added immediately after § 48.6416(a)–1 to read as follows.

§ 48.6416(a)–2 Credit or refund of tax on special fuels.

(a) *Overpayments not described in section 4616(b)(2)*—(1) *Claims included.* This paragraph applies only to claims for credit or refund of an overpayment of tax imposed by section 4041(a)(1) (relating to tax on the sale of diesel fuel), section 4041(b)(1) (relating to tax on the sale of special motor fuels), section 4041(c)(1)(A) (relating to tax on the sale of fuel for use in noncommercial aviation), or section 4041(c)(2)(A) (relating to the tax on sale of gasoline for use in noncommercial aviation). It does not apply, however, to a claim for credit or refund of any overpayment described in paragraph (b) of this section which arises by reason of the application of section 6416(b)(2).

(2) *Supporting evidence required.* No credit or refund of any overpayment to which this paragraph (a) applies shall be allowed unless the person who paid the tax submits with the claim a written consent of the ultimate purchaser to the allowance of the credit or refund, or submits with the claim a statement, supported by sufficient available evidence, asserting that—

(i) The person has neither included the tax in the price of the fuel with respect to which it was imposed nor collected the amount of the tax from a vendee, and identifying the nature of the evidence available to establish these facts, or

(ii) The person has repaid the amount of the tax to the ultimate purchaser of the fuel.

(3) *Ultimate purchaser.* The term "ultimate purchaser", as used in paragraph (a)(2) of this section, means the vendee to whom the fuel was sold tax-paid by the person claiming credit or refund.

(b) *Overpayments determined under section 6416(b)(2)*—(1) *Claims included.* This paragraph applies only to claims for credit or refund of amounts paid as tax under section 4041(a)(1) (relating to tax on the sale of diesel fuel) or section 4041(b)(1) (relating to tax on the sale of special motor fuels) that are determined to be overpayments by reason of section 6416(b)(2) (relating to tax payments in respect of certain uses, sales, or resales of a taxable article).

(2) *Supporting evidence required.* No credit or refund of an overpayment to which this paragraph (b) applies shall be

allowed unless the person who paid the tax submits with the claim a statement, supported by sufficient available evidence, asserting that—

(i) The person has neither included the tax in the price of the fuel with respect to which it was imposed nor collected the amount of the tax from a vendee, and identifying the nature of the evidence available to establish these facts, or

(ii) The person has repaid, or agreed to repay, the amount of the tax to the ultimate vendor of the fuel, or

(iii) The person has secured, and will submit upon request of the Service, the written consent of the ultimate vendor to the allowance of the credit or refund.

(3) *Ultimate vendor.* The term "ultimate vendor", as used in paragraph (b)(2) of this section, means the seller making the sale which gives rise to the overpayment or which last precedes the exportation or use which gives rise to the overpayment.

(c) *Nonapplication to tax on use of special fuels.* Neither this section nor paragraph (d)(1) of section 6416 shall have any effect on overpayments of tax under section 4041(a)(2) (relating to tax on the use of diesel fuel), section 4041(b)(2) (relating to tax on the use of special motor fuels), section 4041(c)(1)(B) (relating to tax on the use of fuel other than gasoline in noncommercial aviation), section 4041(c)(2)(B) (relating to tax on the use of gasoline in noncommercial aviation), or section 4042 (relating to tax on fuel used in commercial transportation on inland waterways).

§ 49.6416(a)–3 Credit or refund of manufacturers tax under chapter 32.

(a) *Overpayment not described in section 6416(b)(2), (3)(C) or (4).*—(1) *Claims included.* This paragraph applies only to claims for credit or refund of an overpayment of manufacturers tax imposed by chapter 32. It does not apply, however, to a claim for credit or refund on any overpayment described in paragraph (b) of this section which arises by reason of the application of section 6416(b)(2), (3)(C), or (4).

(2) *Supporting evidence required.* No credit or refund of any overpayment to which this paragraph (a) applies shall be allowed unless the person who paid the tax submits with the claim a written consent of the ultimate purchaser to the allowance of the credit or refund, or submits with the claim a statement, supported by sufficient available evidence, asserting that—

(i) The person has neither included the tax in the price of the article with respect to which it was imposed nor collected the amount of the tax from a vendee, and identifying the nature of the evidence available to establish these facts, or

(ii) The person has repaid the amount of the tax to the ultimate purchaser of the article.

(3) *Ultimate purchaser.*—(i) *General rule.* The term "ultimate purchaser", as used in paragraph (a)(2) of this section, means the person who purchased the article for consumption, or for use in the manufacture of other articles and not for resale in the form in which purchased.

(ii) *Special rule under section 6416(a)(3)(A).*—(A) *Conditions to be met.*—If tax under chapter 32 is paid in respect of an article and the Commissioner determines that the article is not subject to tax under chapter 32, the term "ultimate purchaser", as used in paragraph (a)(2) of this section, includes any wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of the determination, holds for sale any such article with respect to which tax has been paid, if the claim for credit or refund of the overpayment in respect of the articles held for sale by the wholesaler, jobber, distributor, or retailer is filed on or before the date on which the person who paid the tax is required to file a return for the period ending with the first calendar quarter which begins more than 60 days after the date of the determination by the Commissioner.

(B) *Supporting statement.*—A claim for credit or refund of an overpayment of tax in respect of an article as to which a wholesaler, jobber, distributor, or retailer is the ultimate purchaser, as provided in this paragraph (a)(3)(ii), must be supported by a statement that the person filing the claim has a statement, by each wholesaler, jobber, distributor, or retailer whose articles are covered by the claim, showing total inventory, by model number and quantity, of all such articles purchased tax-paid and held for sale as of 12:01 a.m. of the 15th day after the date of the determination by the Commissioner that the article is not subject to tax under chapter 32.

(C) *Inventory requirement.*—The inventory shall not include any such article title to which, or possession of which, has previously been transferred to any person for purposes of consumption unless the entire purchase price was repaid to the person or credited to the person's account and the sale was rescinded or any such article purchased by the wholesaler, jobber, distributor, or retailer as a component part of, or on or in connection with, another article. An article in transit at the first moment of the 15th day after the date of the determination is regarded as being held by the person to whom it was shipped, except that if title to the article does not pass until delivered to the person the article is deemed to be held by the shipper.

(b) *Overpayments determined under section 6416(b) (2), (3)(C), or (4).*—(1) *Claims included.*—This paragraph applies only to claims for credit or refund of amounts paid as tax under chapter 32 that are determined to the overpayments by reason of section 6416(b)(2) (relating to tax payments in respect of certain uses, sales, or resales of a taxable article), section 6416(b)(3)(C) (relating to tax-paid tires or inner tubes used for further manufacture), or section 6416(b)(4) (relating to tires or inner tubes used by the manufacturer on another manufactured article).

(2) *Supporting evidence required.*—No credit or refund of an overpayment to which this paragraph (b) applies shall be allowed unless the person who paid the tax submits with the claim a statement, supported by sufficient available evidence, asserting that—

(i) The person neither included the tax in the price of the article with respect to which it was imposed nor collected the amount of the tax from a vendee, and identifying the nature of the evidence available to establish these facts, or

(ii) The person repaid, or agreed to repay, the amount of the tax to the ultimate vendor of the article, or

(iii) The person has secured, and will submit upon request of the Service, the written consent of the ultimate vendor to the allowance of the credit or refund.

(3) *Ultimate vendor.*—(i) *General rule.*—The term "ultimate vendor", as used in paragraph (b)(2) of this section, means the seller making the sale which gives rise to the overpayment or which last precedes the exportation or use which has given rise to the overpayment.

(ii) *Special rule under section 6416(a)(3)(B).*—In the case of an overpayment determined under section 6416(b) (2)(E), (3)(C), or (4) in respect of tires or inner tubes, where the taxable article is used as a component part of, or sold on or in connection with or with the sale of, a second article which is exported, sold to a nonprofit educational organization for its exclusive use, sold to a State or local government for the exclusive use of a State or local government or used or sold for use as supplies for vessels or aircraft, the term "ultimate vendor", as used in paragraph (b)(2) of this section, means the ultimate vendor of the second article. See

§§ 48.6416(b)(2)–2(g), 48.6416(b)(3)–2(d), and 48.6416(b)(4)–1(b), respectively.

(c) *Overpayments not included.* This section does not apply to any overpayment determined under section 6416(b)(1) (relating to price readjustments), section 6416(b)(3) (A) or (B) (relating to certain cases in which refund or credit is allowable to the manufacturer who uses, in the further manufacture of a second article, a taxable article purchased by the manufacturer tax-paid), or section 6416(b)(5) (relating to the return to the seller of certain installment accounts which the seller had previously sold). In this regard, see §§ 48.6416(b)(1)–1, 48.6416(b)(3)–1, and 48.6416(b)(5)–1.

Par. 22. Section 48.6416(b)–1 is removed, and the following new §§ 48.6416(b)(1)–1, 48.6416(b)(1)–2, 48.6416(b)(1)–3, and 48.6416(b)(1)–4 are added immediately after § 48.6416(a)–3.

§ 48.6416(b)(1)–1 Price readjustments causing overpayments of manufacturers tax.

In the case of any payment of tax under chapter 32 that is determined to be an overpayment by reason of a price readjustment within the meaning of section 6416(b)(1) and § 48.6416(b)(1)–2 or § 48.6416(b)(1)–3, the person who paid the tax may file a claim for refund of the overpayment or may claim credit for the overpayment on any return of tax under this subpart which the person subsequently files. Price readjustments may not be anticipated. However, if the readjustment has actually been made before the return is filed for the period in which the sale was made, the tax to be reported in respect of the sale may, at the election of the taxpayer, be based either (a) on the price as so readjusted or (b) on the original sale price and a credit or refund claimed in respect of the price readjustment. A price readjustment will be deemed to have been made at the time when the amount of the readjustment has been refunded to the vendor or the vendor has been informed that the vendor's account has been credited with the amount. No interest shall be paid on any credit or refund allowed under this section. For provisions relating to the evidence required in support of a claim for credit or refund, see § 301.6402–2 of this chapter (Regulations on Procedure and Administration), § 48.6416(a)–3(a)(2), and § 48.6416(b)(1)–4. For provisions authorizing the taking of a credit in lieu of filing a claim for refund, see section 6416(f) and § 48.6416(f)–1.

§ 48.6416(b)(1)–2 Determination of price readjustments.

(a) *In general.*—(1) *Rules of usual application.*—(i) *Amount treated as overpayment.*—If the tax imposed by chapter 32 has been paid and thereafter the price of the article on which the tax was based is readjusted, that part of the tax which is proportionate to the part of the price which is repaid or credited to the purchaser is considered to be an overpayment. A readjustment of price to the purchaser may occur by reason of—

(A) The return of the article,

(B) The repossession of the article,

(C) The return or repossession of the covering or container of the article, or

(D) A bona fide discount, rebate, or allowance against the price at which the article was sold.

(ii) *Requirements of price readjustment.* A price readjustment will not be deemed to have been made unless the person who paid the tax either—

(A) Repays part or all of the purchase price in cash to the vendee,

(B) Credits the vendee's account for part or all of the purchase price, or

(C) directly or indirectly reimburses a third party for part or all of the purchase price for the direct benefit of the vendee.

In addition, to be deemed a price readjustment, the payment or credit must be contractually or economically related to the taxable sale that the payment or credit purports to adjust. Thus, commissions or bonuses paid to a manufacturer's own agents or salesman for selling the manufacturer's taxable products are not price readjustments for purposes of this section, since those commissions or bonuses are not paid or credited either to the manufacturer's vendee or to a third party for the vendee's benefit. On the other hand, a bonus paid by the manufacturer to a dealer's salesman for negotiating the sale of a taxable article previously sold to the dealer by the manufacturer is considered to be a readjustment of the price on the original sale of the taxable article, regardless of whether the payment to the salesman is made directly by the manufacturer or to the salesman through the dealer. In such a case, the payment is related to the sale of a taxable article and is made for the benefit of the dealer because it is made to the dealer's salesman to encourage the sale of a product owned by the dealer. Similarly, payments or credits made by a manufacturer to a vendee as reimbursement of interest expense incurred by the vendee in connection with a so-called "free flooring" arrangement for the purchase of taxable articles is a price readjustment, regardless of whether the payment or credit is made directly to the vendee or to the vendee's creditor on behalf of the vendee.

(iii) *Limitation on credit or refund.* The credit or refund allowable by reason of a price readjustment in respect of the sale of a taxable article may not exceed an amount which bears the same ratio to the total tax originally due and payable on the article as the amount of the tax-included readjustment bears to the original tax-included sale price of the article.

Example. A manufacturer sells a taxable article for $100 plus $10 excise tax, and reports and pays tax liability accordingly. Thereafter, the manufacturer credits the customer's account for $11 (tax included) in readjustment of the original sale price. The overpayment of tax is $1, determined as follows:

$$\frac{\text{Tax-included readjustment}}{\text{Tax-included sale price}} \times \text{Original tax due} = \text{Tax overpayment.}$$

$$\frac{\$11}{\$100} \times \$10 = \$1 \text{ tax overpaid.}$$

(2) *Rules of special application.*—(i) *Constructive sale price.*—If, in the case of a taxable sale, the tax imposed by chapter 32 is based on a constructive sale price determined under any paragraph of section 4216(b) and the regulations thereunder, as determined without reference to section 4218, then any price readjustment made with respect to the sale may be taken into account under this section only to the extent that the price readjustment reduces the actual sale price of the article below the constructive sale price.

Example. (A) A manufacturer sells a taxable article at retail for $110 tax included. Under section 4216(b)(1) the constructive sale price (tax included) of the article is determined to be $93. Thereafter, the manufacturer grants an allowance of $10 to the purchaser, which reduces the actual selling price (tax included) to $100. Since the readjusament price still exceeds the amounts of the constructive sale price, this readjustment is not recognized as a price readjustment under this section.

(B) Subsequently, the manufacturer extends to the purchaser an additional price allowance of $10, thereby reducing the actual sale price to $90. Since the actual sale price is now $3 less than the constructive sale price of $93, the manufacturer has overpaid by the amount of tax attributable to the $3. Assuming the tax rate involved is 10 percent, and the prices involved are tax-included, the overpayment of tax would be $0.27, that is, 10/110ths of $3.

(ii) *Price determined under section 4223(b)(2).*—If a manufacturer (within the meaning of section 4223(a)) to whom an article is sold or resold free of tax in

accordance with the provisions of section 4221(a)(1) for use in further manufacture diverts the article to a taxable use or sells it in a taxable sale, and pursuant to the provisions of section 4223(b)(2) computes the tax liability in respect of the use or sale on the price for which the article was sold to the manufacturer or on the price at which the article was sold by the actual manufacturer, a reduction of the price on which the tax was based does not result in an overpayment within the meaning of section 6416(b)(1) or this section. Moreover, if a manufacturer purchases an article tax free and computes the tax in respect of a subsequent sale of the article pursuant to the provisions of section 4223(b)(2), an overpayment does not arise by reason of readjustment of the price for which the article was sold by the manufacturer except where the readjustment results from the return or repossession of the article by the manufacturer, and all of the purchase price is refunded by the manufacturer. See, however, paragraph (b)(4) of this section as to repurchased articles.

(b) *Return of an article.*—(1) *Price readjustment.*—If a taxable article is returned to the manufacturer who paid the tax imposed by chapter 32 on the sale of the article, a price readjustment giving rise to an overpayment results—

(i) If the article is returned before use, and all of the purchase price is repaid to the vendee or credited to the vendee's account, or

(ii) If the article is returned under an express or implied warranty as to quality or service, and all or a part of the purchase price is repaid to the vendee or credited to the vendee's account, or

(iii) If title is still in the seller, as, for example, in the case of certain installment sales contracts, and all or a part of the purchase price is repaid to the vendee or credited to the vendee's account.

(2) *Return of purchase price.*—For purposes of paragraph (b)(1) of this section, if all of the purchase price of an article has been returned to the vendee, except for an amount retained by the manufacturer pursuant to contract as reimbursement of expense incurred in connection with the sale (such as a handling or restocking charge), all of the purchase price is considered to have been returned to the vendee.

(3) *Taxability of subsequent sale or use.*—If, under any of the conditions described in pargraph (b)(1) of this section, an article is returned to the manufacturer who paid the tax and all of the purchase price is returned to the vendee, the sale is considered to have been rescinded. Any subsequent sale or use of the article by the manufacturer will be considered to be an original sale or use of the article by the manufacturer which is subject to tax under chapter 32 unless otherwise exempt. If under any such condition an article is returned to the manufacturer who paid the tax and only part of the purchase price is returned to the vendee, a subsequent sale of the article by the manufacturer will be subject to tax to the extent that the sale price exceeds the adjusted sale price of the first taxable sale.

(4) *Treatment of other transactions as repurchases.*—Except as provided in paragraph (b)(1) of this section, a price readjustment will not result when a taxable article is returned to the manufacturer who paid the tax on the sale of the article, even though all or a part of the purchase price is repaid to the vendee or credited to the vendee's account, since such a transaction will be considered to be a repurchase of the article by the manufacturer.

(c) *Repossession of an article.* If a taxable article is repossessed by the manufacturer who paid the tax imposed by chapter 32 on the sale of the article, and all or a part of the purchase price is repaid to the vendee or credited to the vendee's account, a price readjustment giving rise to an overpayment will result. However, if the manufacturer later resells the repossessed article for a price in excess of the original adjusted sale price, the manufacturer will be liable for tax under chapter 32 to the extent that the resale price exceeds the original adjusted sale price.

(d) *Return or repossession of covering or container.* If the covering or container of a taxable article is returned to, or repossessed by the manufacturer who paid the tax imposed by chapter 32 on the sale of the article, and all or a portion of the purchase price is repaid to the vendee or credited to the vendee's account by reason of the return or repossession of the covering or container, a price adjustment giving rise to an overpayment will result. If a taxable article is considered to have been repurchased, as provided in paragraph (b)(4) of this section, and the covering or container accompanies the taxable article as part of the transaction, the covering or container will also be considered to have been repurchased.

(e) *Bona fide discounts, rebates, or allowances*—(1) *In general.* Except as provided in § 48.6416(b)(1)–3 (relating to readjustments in respect of local advertising), the basic consideration in determining, for purposes of this section, whether a bona fide discount, rebate, or allowance has been made is whether the price actually paid by, or charged against, the purchaser has in fact been reduced by subsequent transactions between the parties. Generally, the price will be considered to have been readjusted by reason of a bona fide discount, rebate, or allowance, only if the manufacturer who made the taxable sale repays a part of the purchase price in cash to the vendee, or credits the vendee's account, or directly or indirectly reimburses a third party for part or all of the purchase price for the direct benefit of the vendee, in consideration of factors which, if taken into account at the time of the original transaction, would have resulted at that time in a lower sale price. For example, a price readjustment will be considered to have been made when a bona fide discount, rebate, or allowance is given in consideration of such factors as prompt payment, quantity buying over a specified period, the vendee's inventory of an article when new models are introduced, or a general price reduction affecting articles held in stock by the vendee as of a certain date. On the other hand, repayments made to the vendee do not effectuate price readjustments if given in consideration of circumstances under which the vendee has incurred, or is required to incur, an expense which, if treated as a separate item in the original transaction, would have been includible in the price of the article for purposes of computing the tax.

(2) *Inability to collect price.* A charge-off of an amount outstanding in an open account, due to inability to collect, is not a bona fide discount, rebate, or allowance and does not, in and of itself, give rise to a price readjustment within the meaning of this section.

(3) *Loss or damage in transit.* If title to an article has passed to the vendee, the subsequent loss, damage, or destruction of the article while in the possession of a carrier for delivery to the vendee does not, in and of itself, affect the price at which the article was sold. However, if the article was sold under a contract providing that, the article was lost, damaged, or destroyed in transit, title would revert to the vendor and the vendor would reimburse the vendee in full for the sale price, then the original sale is considered to have been rescinded. The vendor is entitled to credit or refund of the tax paid upon reimbursement of the full tax-included sale price to the vendee.

§ 48.6416(b)(1)–3 Readjustment for local advertising charges.

(a) *In general.* If a manufacturer has paid the tax imposed by chapter 32 on the price of any article sold by the manufacturer and thereafter has repaid

a portion of the price to the purchaser or any subsequent vendee in reimbursement of expenses for local advertising of the article or any other article sold by the manufacturer which is taxable at the same rate under the same section of chapter 32, the reimbursement will be considered a price readjustment constituting an overpayment which the manufacturer may claim as a credit or refund. The amount of the reimbursement may not, however, exceed the limitation provided by section 4216(f)(2) and § 48.4216(f)–2, determined as of the close of the calendar quarter in which the reimbursement is made or as of the close of any subsequent calendar quarter of the same calendar year in which it is made. The term "local advertising", as used in this section, has the same meaning as prescribed by section 4216(f)(4) and includes, generally, advertising which is broadcast over a radio station or television station, or appears in a newspaper or magazine, or is displayed by means of an outdoor advertising sign or poster.

(b) *Local advertising charges excluded from taxable price in one year but repaid in following year*—(1) *Determination of price readjustments for year in which charge is repaid.* If the tax imposed by chapter 32 was paid with respect to local advertising charges that were excluded in computing the taxable price of an article sold in any calendar year but are not repaid to the manufacturer's purchaser or any subsequent vendee before May 1 of the following calendar year, the subsequent repayment of those charges by the manufacturer in reimbursement of expenses for local advertising will be considered a price readjustment constituting an overpayment which the manufacturer may claim as a credit or refund. The amount of the reimbursement may not, however, exceed the limitation provided by section 4216(f)(2) and § 48.4216(f)–(2), determined as of the close of the calendar quarter in which the reimbursement is made or as of the close of any subsequent calendar quarter of the same calendar year in which it is made.

(2) *Redetermination of price readjustments for year in which charge was made.* If the tax imposed by chapter 32 was paid with respect to local advertising charges that were excluded in computing the taxable price of an article sold in any calendar year but are not repaid to the manufacturer's purchaser or any subsequent vendor before May 1 of the following calendar year, the manufacturer may make a redetermination, in respect of the calendar year in which the charge was made, of the price readjustments constituting an overpayment which the manufacturer may claim as a credit or refund. This redetermination may be made by excluding the local advertising charges made in the calendar year that became taxable as of May 1 of the following calendar year.

§ 48.6416(b)(1)–4 Supporting evidence required in case of price readjustments.

No credit or refund of an overpayment arising by reason of a price readjustment described in § 48.6416(b)(1)–2 or § 48.6416(b)(1)–3 shall be allowed unless the manufacturer who paid the tax submits with the claim the evidence required by paragraph (a)(2) of § 48.6416(a)–3 and a statement, supported by sufficient available evidence—

(a) Describing the circumstances which gave rise to the price readjustment,

(b) Identifying the article in respect of which the price readjustment was allowed,

(c) Showing the price at which the article was sold, the amount of tax paid in respect of the article, and the date on which the tax was paid,

(d) Giving the name and address of the purchaser to whom the article was sold, and

(e) Showing the amount repaid to the purchaser or credited to the purchaser's account.

Par 23. Section 48.6416(b)–2 is removed and the following new §§ 48.6416(b)(2)–1, 48.6416(b)(2)–2, 48.6416(b)(2)–3 and 48.6416(b)(2)–4 are added immediately after § 48.6416(b)(1)–4.

§ 48.6416(b)(2)–1 Certain exportations, uses, sales, or resales causing overpayments of tax.

In the case of any payment of tax under section 4041 (a)(1) or (b)(1) (special fuels tax) or under chapter 32 (manufacturers tax) that is determined to be an overpayment by reason of certain exportations, uses, sales, or resales described in section 6416(b)(2) and § 48.6416(b)(2)–2, the person who paid the tax may file a claim for refund of the overpayment or, in the case of overpayments under chapter 32, may claim credit for the overpayment on any return of tax under this subpart which the person subsequently files. However, under the circumstances described in section 6416(e) and § 48.6416(e)–1, the overpayments under chapter 32 may be refunded to an exporter or shipper. In the case of overpayments of tax under section 4041 resulting from certain nontaxable uses of tax-paid fuel after June 30, 1970, see also section 6427 and the regulations thereunder. No interest shall be paid on any credit or refund allowed under this section. For provisions relating to the evidence required in support of a claim for credit or refund under this section, see § 301.6402–2 of this chapter (Regulations on Procedure and Administration) and §§ 48.6416(b)(2)–3 and 48.6416(b)(2)–4. For provisions authorizing the taking of a credit in lieu of filing a claim for refund, see section 6416(f) and § 48.6416(f)–1.

§ 48.6416(b)(2)–2 Exportations, uses, sales, and resales included.

(a) *In general.* The payment of tax imposed by section 4041 (a)(1) or (b)(1), or by chapter 32, as the case may be, on the sale of any article, other than coal taxable under section 4121, will be considered to be an overpayment by reason of any exportation, use, sale, or resale described in any one of paragraphs (b) to (o), inclusive, of this section. This section applies only in those cases where the exportation, use, sale, or resale (or any combination thereof) referred to in any one or more of these paragraphs occurs before any other use. If any article is sold or resold for a use described in any one of these paragraphs and is not in fact so used, the paragraph is treated in all respects as inapplicable.

(b) *Exportation of tax-paid articles.* Subject to the limitation in section 6416(g) and § 48.6416(g)–1, a payment of tax under chapter 32 on the sale of any article, or under section 4041 (a)(1) or (b)(1) on the sale of diesel fuel or special motor fuel, will be considered to be an overpayment under section 6416(b)(2)(A) if the article or fuel is by any person exported to a foreign country or shipped to a possession of the United States. Except in the case of articles subject to the tax imposed by section 4061(a), it is immaterial for purposes of this paragraph (b), whether the person who made the taxable sale had knowledge at the time of the sale that the article or fuel was being purchased for export to a foreign country or shipment to a possession of the United States. See § 48.6416(e)–1 for the circumstances under which a claim for refund by reason of the exportation of an article may be claimed by the exporter or shipper, rather than by the person who paid the tax. For definition of the term "possession of the United States", see § 48.0–2(a)(11).

(c) *Supplies for vessels or aircraft.* A payment of tax under chapter 32 on the

sale of any article, or under section 4041 (a)(1) or (b)(1) on the sale of diesel fuel or special motor fuel, will be considered to be an overpayment under section 6416(b)(2)(B) if the article or fuel is used by any person, or is sold by any person for use by the purchaser, as supplies for vessels or aircraft.

The term "supplies for vessels or aircraft", as used in this paragraph, has the same meaning as when used in sections 4041(g), 4221(a)(3), 4221(d)(3), and 4221(e)(1), and the regulations thereunder.

(d) *Use by State or local government.* A payment of tax under chapter 32 on the sale of any article, or under section 4041 (a)(1) or (b)(1) on the sale of diesel fuel or special motor fuel, will be considered to be an overpayment under section 6416(b)(2)(C) if the article of fuel is sold by any person to a State, any political subdivision thereof, or the District of Columbia for the exclusive use of a State, any political subdivision thereof, or the District of Columbia. For provisions relating to tax-free sales to a State, any political subdivision thereof, or the District of Columbia, see section 4221(a)(4) and the regulations thereunder.

(e) *Use by nonprofit educational organization.* A payment of tax under chapter 32 on the sale of any article, or under section 4041 (a)(1) or (b)(1) on the sale of diesel fuel or special motor fuel, will be considered to be an overpayment under section 6416(b)(2)(D) if the article or fuel is sold by any person to a nonprofit educational organization for its exclusive use. The term "nonprofit educational organization", as used in this paragraph (e), has the same meaning as when used in section 4221 (a)(5) or (d)(5), whichever applies, and the regulations thereunder.

(f) *Tax-paid tires or inner tubes resold for use in further manufacture.* A payment of tax under section 4071 on the sale of a tire or inner tube will be considered to be an overpayment under section 6416(b)(2)(E) if—

(1) The tire or inner tube is, after the original sale of the article by the manufacturer, resold by any person to another manufacturer;

(2) The other manufacturer sells the tire or inner tube on or in connection with, or with the sale of, any other article manufactured or produced by the other manufacturer; and

(3) That other article is by any person either—

(i) Exported to a foreign country or to a possession of the United States,

(ii) Sold to a State, any political subdivision thereof, or the District of Columbia for the exclusive use of a State, any political subdivision thereof, or the District of Columbia,

(iii) Sold to a nonprofit educational organization for its exclusive use, or

(iv) Used or sold for use as supplies for vessels or aircraft.

The overpayment described in this paragraph (f) is to be distinguished from the overpayment described in section 6416(b)(3)(C) and § 48.6416(b)(3)–2 (d) in that the overpayment here described arises from a "resale" for the use described in this paragraph, while the section 6416(b)(3)(C) overpayment arises from the "use" of tires or inner tubes in the manufacture of other articles by a subsequent manufacturer who purchases tax-paid tires or tubes and disposes of finished articles on the basis of one of the exemptions set forth in section 6416(B)(3)(C). A manufacturer claiming a credit or refund under this paragraph (f) must have substantially the same information available in support of the claim as is required under § 48.4221–7(c)(2) in support of exempt sales of tires or inner tubes under the provisions of section 4221(e)(2), except that none of the parties involved need be registered under section 4222.

(g) *Parts or accessories used on farm equipment.* A payment of tax under section 4061(b) on the sale of parts or accessories (other than spark plugs and storage batteries) will be considered to be an overpayment under section 6416(b)(2)(F) if the parts or accessories are used by any person, or are sold by any person for use by the purchaser, as repair parts, replacement parts or accessories for farm equipment. The term "farm equipment," as used in this paragraph (g), does not include any article taxable under section 4061(a)(1) (relating to trucks, buses, tractors, etc.). The term "parts or accessories," as used in this paragraph (g), has the same meaning as in section 4061(b) and the regulations thereunder. This paragraph (g) does not apply to an overpayment of tax arising by reason of section 6416(b)(3) and § 48.6416(b)(3)–1, relating to articles purchased tax paid from a manufacturer by a subsequent manufacturer and used by the subsequent manufacturer in further manufacture of a taxable or nontaxable article.

(h) *Tread rubber used for certain purposes.* A payment of tax under section 4071(a)(4) on the sale of tread rubber which is used by any person, or which is sold by any person for use by the purchaser, otherwise than in the recapping or retreading or tires of the type used on highway vehicles, will be considered to be an overpayment under section 6416(b)(2)(G). If the tread rubber is used in the recapping or retreading of tires, the type of vehicle on which the recapped or retreaded tire is be used and the actual or intended use of the recapped or retreaded tire are immaterial in determining whether an overpayment arises under this paragraph (h). The controlling factor is whether the tire resulting from the recapping or retreading is of a type which is not used on a highway vehicle. The term "tread rubber," "tires of the type used on highway vehicles", and "tires", as used in this paragraph (h) have the same meaning as in section 4072 and the regulations thereunder. This paragraph (h) does not apply to an overpayment arising by reason of section 6416(b)(3) and § 48.6416(b)(3)–1, relating to articles purchased tax paid from a manufacturer by a subsequent manufacturer and used by the subsequent manufacturer in further manufacture of another article taxable under chapter 32.

(i) *Gasoline used in production of special fuels.* A payment of tax under section 4081 on the sale of gasoline will be considered to be an overpayment under section 6416(b)(2)(H) if the gasoline is used by any person, or sold by any person for use by the purchaser, in the production of a special fuel. The term "special fuel", as used in this paragraph (i), has the same meaning as in section 4041 and the regulations thereunder.

(j) *Articles sold for use as trash containers.* A payment of tax under section 4061 (a) on a sale of any box, container, receptacle, bin, or other similar article will be considered to be an overpayment under section 6416(b)(2)(J) if the article is—

(1) Sold by any person to any purchaser for use by the purchaser as a trash container,

(2) Not designed for the transportation of freight other than trash, and

(3) Not designed to be permanently mounted on, or permanently affixed to, a chassis or body of an automobile truck, truck trailer, or truck semitrailer.

In addition, a payment of tax under section 4061(b) on parts or accessories for any such box, container, receptacle, etc., will be considered to be an overpayment under section 6416(b)(2)(J) if the part or accessory is designed primarily for use on, in connection with, or as a component part of, the box, container, receptacle, etc., and is installed on the box, container, receptacle, etc. at the time of sale or is sold with the article as an integral part of the container system. This paragraph (j) does not apply to parts or accessories sold for use as replacement parts or

accessories, even if those parts or accessories are sold in connection with the sale of a box, container, receptacle, etc. Any term used in this paragraph (j) that is also used in section 4063(a)(7) or the regulations thereunder has the same meaning as in that section and the regulations thereunder.

(k) *Parts or accessories sold in connection with light-duty trucks.* A payment of tax under section 4061(b) on the sale of parts or accessories will be considered to be an overpayment under section 6416(b)(2)(K) if—

(1) The parts or accessories are sold on or in connection with the first retail sale of a light-duty truck as described in section 4061(a)(2) and the regulations thereunder, and

(2) The credit or refund of tax is not available under any other provisions of law.

The term "parts or accessories," as used in this paragraph (k), has the same meaning as in section 4061(b) and the regulations thereunder. This paragraph (k) does not apply to an overpayment of tax arising by reason of section 6416(b)(2) and § 48.6416(b)(3)–1, relating to articles purchased tax-paid from a manufacturer by a subsequent manufacturer and used by the subsequent manufacturer in further manufacture of a taxable or nontaxable article.

§ 48.6416(b)(2)–3 Supporting evidence required in case of manufacturers tax involving exportations, uses, sales, or resales.

(a) *Evidence to be submitted by claimant.* No claim for credit or refund of an overpayment, within the meaning of section 6416(b)(2) and § 48.6416(b)(2)–2, of tax under chapter 32 shall be allowed unless the person who paid the tax submits with the claim the evidence required by paragraph (b)(2) of § 48.6416(a)–3 and a statement, supported by sufficient available evidence—

(1) Showing the amount claimed in respect of each category of exportations, uses, sales, or resales on which the claim is based and which give rise to a right of credit or refund under section 6416(b)(2) and § 48.6416(b)(2)–1,

(2) Identifying the article, both as to nature and quantity, in respect of which credit or refund is claimed,

(3) Showing the amount of tax paid in respect of the article or articles and the dates of payment, and

(4) In the case of an overpayment determined under section 6416(b)(2)(A) and paragraph (b) of § 48.6416(b)(2)–2 in respect of an article taxable under section 4061(a), indicating that, pursuant to section 6416(g), the person claiming a credit or refund, possessed at the time that person shipped the article or at the time title to the article passed to the vendee, whichever is earlier, evidence that the article was to be exported to a foreign country or shipped to a possession of the United States, or

(5) In the case of any overpayment other than an overpayment determined under section 6416(b)(2)(E) and paragraph (f) of § 48.6416(b)(2)–2, indicating that the person claiming a credit or refund (as set forth in paragraph (b)(1) of this section) that the article has been exported, or has been used, sold, or resold in a manner or for a purpose which gives rise to an overpayment within the meaning of section 6416(b)(2) and § 48.6416(b)(2)–2, or

(6) In the case of an overpayment determined under section 6416(b)(2)(E) and paragraph (f) of § 48.6416(b)(2)–2, relating to a tax-paid tire or inner tube sold on or in connection with, or with the sale of, a second article that has been manufactured, indicating that the person claimaing a credit or refund possesses (i) evidence (as set forth in paragraph (b)(2) of this section) that the second article has been exported, or has been used or sold as provided in § 48.6416(b)(2)–2(f), and (ii) a statement, executed and signed by the ultimate purchaser of the tire or inner tube, that the ultimate purchaser purchased the tire or inner tube from a person other than the person who paid the tax on the sale of the tire or inner tube.

(b) *Evidence required to be in possession of claimant*—(1) *Evidence required under paragraph (a)(5)*—(i) *In general.* The evidence required to be retained by the person who paid the tax, as provided in paragraph (a)(5) of this section, must, in the case of an article exported, consist of proof of exportation in the form prescribed in the regulations under section 4221 or must, in the case of other articles sold tax-paid by that person, consist of a certificate, executed and signed by the ultimate purchaser of the article, in the form prescribed in paragraph (b)(1)(ii) of this section. However, if the article to which the claim relates has passed through a chain of sales from the person who paid the tax to the ultimate purchaser, the evidence required to be retained by the person who paid the tax may consist of a certificate, executed and signed by the ultimate vendor of the article, in the form provided in paragraph (b)(1)(iii) of this section, rather than the proof of exportation itself or the certificate of the ultimate purchaser.

(ii) *Certificate of ultimate purchaser.*

(A) The certificate executed and signed by the utlimate purchaser of the article to which the claim relates must identify the article, both as to nature and quantity; show the address of the ultimate purchaser of the article, and the name and address of the ultimate vendor of the article; and describe the use actually made of the article in sufficient detail to establish that credit or refund is due, except that the use to be made of the article must be described in lieu of actual use if the claim is made by reason of the sale or resale of an article for a specified use which gives rise to the overpayment.

(B) If the certificate sets forth the use to be made of any article, rather than its actual use, it must show that the ultimate purchaser has agreed to notify the claimant if the article is not in fact used as specified in the certificate.

(C) The certificate must also contain a statement that the ultimate purchaser understands that the ultimate purchaser and any other party may, for fraudulent use of the certificate, be subject under section 7201 to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(D) A purchase order will be acceptable in lieu of a separate certificate of the ultimate purchaser if it contains all the information required by this paragraph (b)(1)(ii).

(iii) *Certificate of ultimate vendor.* Any certificate executed and signed by an ultimate vendor as evidence to be retained by the person who paid the tax, as provided in paragraph (a)(5) of this section, may be executed with respect to any one or more overpayments by the person which arose under section 6416(b)(2) and §§ 48.6416(b)(2)–2 by reason of exportations, use, sale or resales, occurring within any period of not more than 12 consecutive calendar quarters, the beginning and ending dates of which are specified in the certificate.

The certificate must be in substantially the following form:

Statement of Ultimate Vendor

(For use in claiming credit or refund of overpayment determined under section 6416(b)(2) (other than section 6416(b)(2)(E)) of the Internal Revenue Code.)

The undersigned or the

(Name of ultimate vendor if other than undersigned) of which the undersigned is (Title), is the ultimate vendor of the article specified below or on the reverse side hereof.

The article was purchased by the ultimate vendor tax-paid and was thereafter exported, used, sold, or resold (as indicated below or on the reverse side hereof).

The ultimate vendor possesses

(Proof of exportation in respect of the article, or a certificate as to use executed by the ultimate purchaser of the article)
The

(Proof of exportation or certificate)
(1) is retained by the ultimate vendor, (2) will, upon request, be forwarded to

(Name or person who paid the tax)
at any time within 3 years from the date of this statement for use by that person to establish that credit or refund is due in respect of the article, and (3) will otherwise be held by the ultimate vendor for the required 3-year period.

According to the best knowledge and belief of the undersigned, no statement in respect of the

(Proof of exportation or certificate)
has previously been executed, and the undersigned understands that the fraudulent use of this statement may, under section 7201, subject the undersigned or any other party making such fraudulent use to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(Signature)

(Address)

(Date)

Vendor's invoice	Articles	Date of receipt	Quantity	Exported or use made or to be made (specify)

(2) *Evidence required under paragraph (a)(6).*—(i) *In general.*—The evidence required to be retained by the person who paid the tax, as provided in paragraph (a)(6) of this section, must, in the case of an exportation of the second article, consist of proof of exportation of the second article in the form prescribed in the regulations under section 4221 or must, in other cases, consist of a certificate, executed and signed by the ultimate purchaser of the second article, in the form prescribed in paragraph (b)(2)(ii) of this section. However, the evidence required to be retained by the person who paid the tax may consist of a certificate, executed and signed by the ultimate vendor of the second article, in the form provided in paragraph (b)(2)(iii) of this section, rather than the proof of exportation itself or the certificate of the ultimate purchaser.

(ii) *Certificate of ultimate purchaser.*—The certificate of the ultimate purchaser of the second article must contain the same information as that required in paragraph (b)(1)(ii) of this section, except that the information must be furnished in respect of the second article, rather than the article to which the claims relates.

(iii) *Certificate of ultimate vendor.*—Any certificate executed and signed by an ultimate vendor as evidence to be retained by the person who paid the tax, as provided in paragraph (a)(6) of this section, may be executed with respect to any one of more overpayments by that person which arose under section 6416(b)(2)(E) and § 48.6416(b)(2)–2 (f) by reason of exporatations, uses, sales, or resales of a second article occurring within any period of not more than 12 consecutive calendar quarters, the beginning and ending dates of which are specified in the certificate. The certificate must be in substantially the following form:

STATEMENT Of ULTIMATE VENDOR

(For use in claiming credit or refund of overpayment determined under section 6416 (b)(2)(E), Internal Revenue Code, involving tires or inner tubes sold on or with another article.)

The undersigned or the

(Name of ultimate vendor of second article if other than undersigned)
of which the undersigned is (Title), is the ultimate vendor of an article, specified below or on the reverse side hereof, on which or with which a tax-paid tire or inner tube was sold.

The ultimate vendor possesses

Tires or inner tubes (specify and state quantity)	Vendor's invoice on second article	Second article (specify and state quantity)	Date of sale of second article	Exported or use made of or to be made (specify in respect of second article)

(Proof of exportation in respect of the article on which or with which the tire or inner tube was sold, or a certificate as to use of the article executed by the ultimate purchaser of the article)
The

(Proof of exportation or certificate) (1) is retained by the ultimate vendor, (2) will, upon request, be forwarded to

(Name of person who paid the tax on the tire or inner tube)
at any time within 3 years from the date of this statement for use in establishing that credit or refund is due in respect of the tire or inner tube, and (3) will otherwise be held by the ultimate vendor for the required 3-year period.

According to the best knowledge and belief of the the undersigned, no statement in respect of the

(Proof of exportation or certificate)
has previously been executed, and the undersigned understands that the fraudulent use of this statement may, under section 7201, subject the undersigned or any other party making such fraudulent use to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(Signature)

(Address)

(Date)

(3) *Repayment or consent of ultimate vendor.* If the person claiming credit or refund of an overpayment to which this section applies has repaid, or agreed to repay, the amount of the overpayment to the ultimate vendor or if the ultimate vendor consents to the allowance of the credit or refund, a statement to that effect, signed by the ultimate vendor, must be shown on, or made a part of, the evidence required under this section to be retained by the person claiming the credit or refund. In this regard, see § 48.6416(a)–3(b)(2).

§ 48.6416(b)(2)–4 Supporting evidence required in case of special fuels tax involving exportations, uses, sales, or resales of special fuels.

(a) *Evidence to be submitted by claimant.* No claim for credit or refund of an overpayment, within the meaning of section 6416(b)(2) and § 48.6416(b)(2)–2 of tax under section 4041(a)(1) or (b)(1) shall be allowed unless the person who paid the tax submits with the claim the evidence required by paragraph (b)(2) of § 48.6416(a)–2 and a statement, supported by sufficient available evidence—

(1) Showing the amount claimed in respect of each category of exportations, uses, sales, or resales on which the claim is based and which give rise to right of credit or refund under section 6416(b)(2) and § 48.6416(b)(2)–1,

(2) Identifying the fuel, both as to nature and quantity, in respect of which credit or refund is claimed,

(3) Showing the amount of tax paid in respect of the fuel and the dates of payment, and

(4) Indicating that the fuel has been exported, or has been used, sold, or resold in a manner or for a purpose

which gives rise to an overpayment within the meaning of section 6416(b)(2) and § 48.6416(b)(2)–2.

(b) *Evidence required to be in possession of claimant.* (1) The evidence required to be retained by the person who paid the tax, as provided in paragraph (a)(4) of this section, must, in the case of fuel exported, consist of proof of exportation or must, in the case of other fuel sold tax-paid by that person, consist of a certificate, executed and signed by the person who purchased the fuel in a resale or for the use which gave rise to the overpayment.

(2) The certificate must identify the fuel, both as to nature and quantity, in respect of which credit or refund is claimed; show the address of the purchaser; show the name and address of the person from whom the fuel was purchased and the date or dates on which the fuel was purchased; and show that the fule was resold and the date of the resale.

(3) If the claim is not based on resale of the fuel, the certificate must describe the use actually made of the fuel in sufficient detail to establish that credit or refund is due. However, the use to be made of the fuel must be described in lieu of actual use if the claim is made by reason of the sale of the fuel for a specified use which gives rise to an overpayment under § 48.6416(b)(2)–2.

(4) If the certificate sets forth the use to be made of the fuel, rather than its actual use, it must show that the purchaser has agreed to notify the claimant if the fuel is not in fact used as specified in the certificate.

(5) The certificate must also contain a statement that the purchaser has not previously executed a certificate in respect of the fuel and understands that any party may, for fraudulent use to the certificate, be subject under section 7201 to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

Par. 24. Section 48.6416(b)–3 is removed and the following new §§ 48.6416(b)(3)–1 ,48.6416(b)(3)–2, and 48.6416(b)(3)–3 are added immediately after 48.6416(b)(2)–4.

§ 48.6416(b)(3)–1 Tax-paid articles used for further manufacture and causing overpayments of tax.

In the case of any payment of tax under chapter 32 that is determined to be overpayments under section 6416(b)(3) and § 48.6416(b)(3)–2 by reason of the sale of an article (other than coal taxable under section 4121), directly or indirectly, by the manufacturer of the article to a subsequent manufacturer who uses the article in further manufacture of a second article or who sells the article with, or as a part of, the second article manufactured or produced by the subsequent manufacturer, the subsequent manufacturer may file claim for refund of the overpayment or may claim credit for the overpayment on any return of tax under this subpart subsequently filed. No interest shall be paid on any credit or refund allowed under this section. For provisions relating to the evidence required in support of a claim for credit or refund, see § 301.6402–2 of this chapter (Regulations on Procedure and Administration) and §§ 48.6416(a)–3 and 48.6416(b)(3)–3. For provisions authorizing the taking of a credit in lieu of filing a claim for refund, see section 6416(f) and § 48.6416(f)–1.

§ 48.6416(b)(3)–2 Further manufacture included.

(a) *In general.* The payment of tax imposed by chapter 32 on the sale of any article (other than coal taxable under section 4121) by a manufacturer of the article will be considered to be an overpayment by reason of any use in further manufacture, or sale as part of a second manufactured article, described in any one of paragraphs (b) through (f) of this section. This section applies in those cases where the exportation, use, sale (or any combination of those activities) referred to in any one or more of those paragraphs occurs before any other use. For provisions relating to overpayments arising by reason of resales of tax-paid articles for use in further manufacture as provided in this section, see section 6416(b)(2)(E) and paragraph (f) of § 48.6416(b)(2)–2.

(b) *Use of tax-paid articles in further manufacture described in section 6416(b)(3)(A).* A payment of tax under chapter 32 on the sale of any article (other than coal taxable under section 4121), directly or indirectly, by the manufacturer of the article to a subsequent manufacturer will be considered to be an overpayment under section 6416(b)(3)(A) if the article is used by the subsequent manufacturer as material in the manufacture or production of, or as a component part of, a second article manufactured or produced by the subsequent manufacturer which is—

(1) Taxable under chapter 32, or

(2) An automobile bus chassis or an automobile bus body.

For this purpose it is immaterial whether the second article is sold or otherwise disposed of, or if sold, whether the sale is a taxable sale. Any article to which this paragraph (b) applies which would have been used in the manufacture or production of a second article, except for the fact that it was broken or rendered useless in the process of manufacturing or producing the second article, will be considered to have been used as a component part of the second article. This paragraph (b) does not apply to articles sold and used as provided in any of paragraphs (c) through (f) of this section.

(c) *Use of truck, bus, etc., parts or accessories.* A payment of tax under section 4061 (b) on the sale of any truck, bus, etc., part or accessory, directly or indirectly, by the manufacturer of the article to a subsequent manufacturer will be considered to be an overpayment under section 6416(b)(3)(B) if the part or accessory is used by the subsequent manufacturer as material in the manufacture or production of, or as a component part of, a second article manufactured or produced by the subsequent manufacturer. For this purpose it is immaterial whether the second article is or is not taxable under chapter 32. Any article to which this paragraph (c) applies which would have been used in the manufacture or production of a second article, except for the fact that it was broken or rendered useless in the process of manufacturing or producing the second article, will be considered to have been used as a component part of the second article.

(d) *Tax-paid tires or inner tubes used in further manufacture.* (1) A payment of tax under section 4071 on the sale of a tire or inner tube, directly or indirectly, by the manufacturer of the article to a subsequent manufacturer will be considered to be an overpayment under section 6416(b)(3)(C) if the subsequent manufacturer sells the tire or inner tube on or in connection with, or with the sale of, any other article manufactured or produced by the subsequent manufacturer and if the other article is—

(i) An automobile bus chassis or automobile bus body, or

(ii) By any person (A) exported to a foreign country or to a possession of the United States, (B) sold to a State, any political subdivision thereof, or the District of Columbia for the exclusive use of a State, any political subdivision thereof, or the District of Columbia, (C) sold to a nonprofit educational organization for its exclusive use, or (D) used or sold for use as supplies to vessels or aircraft.

(2) The overpayment in this paragraph (d) is to be distinguished from that overpayment described in section 6416(b)(2)(E) and § 48.6416(b)(2)–2(f) in that this overpayment arises from the "use" described in this paragraph,

whereas the overpayment under section 6416(b)(2)(E) arises from the "resale" of tax-paid tires or inner tubes by any person to a subsequent manufacturer who disposes of the articles on or in connection with, or with the sale of, a second article manufactured or produced by the subsequent manufacturer which is disposed of on the basis of one of the exemptions set forth in section 6416(b)(3)(C).

(3) If the second article is exported or shipped as provided in this paragraph (d), it is immaterial whether the subsequent manufacturer sold the article with the knowledge that it would be exported or shipped.

(4) An overpayment arises under paragraph (d)(1) of this section only if the tire or inner tube constitutes a part of, or is associated with, the second article at the time the second article is exported, shipped, sold, used, or sold for use, as prescribed in this paragraph.

(5) For definition of certain terms used in this paragraph, see section 4221 and the regulations thereunder.

(6) For provisions relating to overpayments arising by reason of tires or inner tubes sold tax-paid by the manufacturer of the same, on or in connection with, or with the sale of, any article manufactured or produced by that manufacturer and exported, sold, or used or sold for use, as provided in this paragraph (d), see section 6416(b)(4) and § 48.6416(b)(4)–1.

(7) For provisions relating to credit allowable in respect of tires and inner tubes sold on or in connection with, or with the sale of, another article taxable under chapter 32, see section 6416(c) and § 48.6416(c)–1.

(8) If a second article referred to in paragraph (d)(1) of this section is sold for a use described in that paragraph and is not so used, this paragraph (d) is in all respect inapplicable.

(e) *Use of bicycle tires or tubes in further manufacture.* A payment of tax under section 4071 on the sale of a bicycle or tricycle tire or inner tube, directly or indirectly, by the manufacturer of the same to a subsequent manufacturer will be considered to be an overpayment under section 6416(b)(3)(E) if the tire or tube is used by the subsequent manufacturer as material in the manufacture or production of, or as a component part of, a bicycle or tricycle manufactured or produced by the subsequent manufacturer which is not a rebuilt or reconditioned bicycle or tricycle. For definition of the term "bicycle tire", see section 4221(e)(4)(B) and the regulations thereunder.

(f) *Use of gasoline in further manufacture.* A payment of tax under section 4081 on the sale of gasoline, directly or indirectly, by the manufacturer of the same to a subsequent manufacturer will be considered an overpayment under section 6416(b)(3)(F) if the gasoline is used for nonfuel purposes by the subsequent manufacturer as a material in the manufacture or production of any other article manufactured or produced by the subsequent manufacturer. For this purpose it is immaterial whether the other article is or is not taxable under chapter 32. For provisions relating to the use of gasoline for nonfuel purposes, see section 4221 and the regulations thereunder.

§ 48.6316(b)(3)–3 Supporting evidence required in case of tax-paid articles used for further manufacture.

(a) *Evidence to be submitted by claimant.* No claim for credit or refund of an overpayment, within the meaning of section 6416(b)(3) and § 48.6416(b)(3)–2 shall be allowed unless the subsequent manufacturer submits with the claim the evidence required by § 48.6416(a)–3 and a statement, supported by sufficient available evidence—

(1) Showing the amount claimed in respect of each category of exportations, uses, or sales on which the claim is based and which give rise to a right of credit or refund under section 6416(b)(3) and § 48.6416(b)(3)–1,

(2) Showing the name and address of the manufacturer, producer, or importer of the article in respect of which credit or refined is claimed,

(3) Identifying the article, both as to nature and quantity, in respect of which credit or refund is claimed,

(4) Showing the amount of tax paid in respect of the article by the manufacturer or producer of the article and the date of payment,

(5) Indicating that the article was used by the claimant as material in the manufacture or production of, or as a component part of, a second article manufactured or produced by the manufacturer or was sold on or in connection with, or with the sale of, a second article manufactured or produced by the manufacturer,

(6) Identifying the second article, both as to nature and quantity, and

(7) In the case of an overpayment determined under section 6416(b)(3)(C) and paragraph (d)(1) of § 48.6416(b)(3)–2 in respect of a tire or inner tube taxable under section 4071, indicating that the manufacturer has evidence available (as set forth in paragraph (b) of this section) that the second article is an automobile bus chassis or automobile bus body, or has been exported, used, or sold as provided in section 6416(b)(3)(C)(ii) and § 48.6416(b)(3)–2(d)(1)(ii).

(b) *Evidence required to be in possession of claimant.*—(1) *In general.*—The evidence required to be retained by the person claiming credit or refund, as provided in paragraph (a)(7) of this section, must, in the case of an exportation of the second article, consist of proof of exportatin of the second article in the form prescribed in the regulations under section 4221, or must, in other cases (except when the second article is an automobile bus chassis or automobile bus body), consist of a certificate, executed and signed by the ultimate purchaser of the second article, in the form prescribed in paragraph (b)(2) of this section. However, if the second article has passed through a chain of sales from the manufacturer of the second article to the ultimate purchaser of the second article, the evidence may consist of a certificate, executed and signed by the ultimate vendor of the second article, in the form provided in paragraph (b)(3) of this section, rather than the proof of exportation itself of the second article or the certificate of the ultimate purchaser of the second article.

(2) *Certificate of ultimate purchaser of second article.* The certificate executed and signed by the ultimate purchaser of the second article must contain the same information as that required in paragraph (b)(1)(ii) of § 48.6416(b)(2)–3, except that the information must be furnished in respect of the second article, rather than the article to which the claim relates.

(3) *Certificate of ultimate vendor of second article.* Any certificate executed and signed by an ultimate vendor as evidence to be retained by the person claiming credit or refund must be executed in the same form and manner as that provided in paragraph (b)(2)(iii) and § 48.6416(b)(2)–3.

(4) *Repayment or consent of ultimate vendor.* If the person claiming credit or refund of an overpayment to which this section applies has repaid, or agreed to repay, the amount of the overpayment to the ultimate vendor or if the ultimate vendor consents to the allowance of the credit or refund, a statement to that effect, signed by the ultimate vendor, must be shown on, or made a part of, the evidence required to be retained by the person claiming the credit or refund. In this regard, see §48.6416(a)–3(b)(2).

Par. 25. Section 48.6416(b)–4 is removed and the following new § 48.6416(b)(4)–1 is added immediately after § 48.6416(b)(3)–3.

§ 48.6416(b)(4)–1 Tax-paid tires or inner tubes used for further manufacture.

(a) *In general.* In the case of any payment of tax under section 4071 in respect of tires or inner tubes that is determined to be an overpayment under section 6416(b)(4) and paragraph (b) of this section by reason of any exportation, use, or sale described in paragraph (b) of this section, the person who paid the tax may file a claim for refund of the overpayment or may claim a credit for the overpayment on any return of tax under this subpart subsequently filed. No interest shall be paid on any credit or refund allowed under this section. For provisions relating to the evidence required in support of a claim for credit or refund under this section, see § 301.6402–2 of this chapter (Regulations on Procedure and Administrations) and paragraph (c) of this section. For provisions authorizing the taking of a credit in lieu of filing a claim for refund, see section 6416(f) and § 48.6416(f)–1.

(b) *Conditions causing overpayment.* (1) The payment of tax under section 4071 on the sale of a tire or inner tube by the manufacturer of the article will be considered to be an overpayment under section 6416(b)(4) if the tire or inner tube is sold by that manufacturer on or in connection with, or with the sale of, any other article manufactured or produced by that manufacturer and such other article—

(i) Is an automobile bus chassis or an automobile bus body, or

(ii) Is by any person (A) exported to a foreign country or shipped to a possession of the United States, (B) sold to a State, any political subdivision thereof, or the District of Columbia for the exclusive use of a State, any political subdivision thereof, or the District of Columbia, (C) sold to a nonprofit educational organization for its exclusive use, or (D) used or sold for use as supplies for vessels or aircraft.

(2) If the second article is exported or shipped as provided in this paragraph (b), it is immaterial whether the manufacturer sold the article with the knowledge that it would be exported or shipped.

(3) An overpayment arises under paragraph (b)(1) of this section only if the tire or inner tube constitutes a part of, or is associated with, the second article at the time the second article is exported, shipped, sold, used, or sold for use, as prescribed in this paragraph.

(4) Paragraph (b)(1) of this section applies only in those cases where the exportation, use, or sale (or any combination thereof) occurs before any other use.

(5) For definition of certain terms used in this paragraph (b), see section 4221 and the regulations thereunder.

(6) For provisions relating to overpayments arising by reason of the tax-paid sale of tires or inner tubes by the manufacturer of the same and their resale by any person to another manufacturer for use as provided in this paragraph, see section 6416(b)(2)(E) and § 48.6416(b)(2)–2(f).

(7) For provisions relating to overpayments arising by reason of the tax-paid sale of tires or inner tubes, directly or indirectly, by the manufacturer of the same, to a subsequent manufacturer who uses them as provided in this paragraph (b), see section 6416(b)(3)(C) and § 48.6416(b)(3)–2(d).

(8) For provisions relating to the credit allowable in respect of tires or inner tubes sold on or in connection with, or with the sale of, another article taxable under chapter 32, see section 6416(c) and § 48.6461(c)–1.

(9) If a second article referred to in paragraph (b)(1)(ii) of this section is sold for a use described in that paragraph and is not so used, this paragraph (b) is in all respects inapplicable.

(c) *Evidence to be submitted by claimant.* No claim for credit or refund of an overpayment, within the meaning of section 6416(b)(4) and paragraph (b) of this section, shall be allowed unless the person who paid the tax submits with the claim the evidence required by § 48.6416(a)–3(b)(2) and a statement, supported by sufficient available evidence—

(1) Showing the amount claimed in respect of each category of exportations, uses, or sales on which the claim is based and which give rise to a right of credit or refund under section 6416(b)(4) and paragraph (a) of this section,

(2) Indicating that the person claiming the credit or refund is the manufacturer of the articles in respect of which credit or refund is claimed,

(3) Identifying the article, both as to nature and quantity, in respect of which credit or refund is claimed,

(4) Showing the amount of tax paid in respect of the article and the date of payment of the tax,

(5) Indicating that the person claiming the credit or refund sold the article on or in connection with, or with the sale of, or used the article as a component part of, a second article manufactured or produced by that person,

(6) Identifying the second article, both as to nature and quantity, and

(7) Indicating that the person claiming the credit or refund evidence available (as set forth in paragraph (b) of this section) that the second article is an automobile bus chassis or body, or has been exported, used, or sold as provided in section 6416(b)(4)(B)(ii) and paragraph (b)(1)(ii) of this section.

(d) *Evidence required to be in possession of claimant.*—(1) *In general.*—The evidence required to be retained by the person claiming credit or refund, as provided in paragraph (c)(7) of this section, must, in the case of an exportation of the second article, consist of proof of exportation of the second article in the form prescribed in the regulations under section 4221 or must, in other cases (except when the second article is an automobile bus chasis or automobile body) consist of a certificate, executed and signed by the ultimate purchaser of the second article, in the form prescribed in paragraph (d)(2) of this section. However, if the second article has passed through a chain of sales from the manufacturer of the second article to the ultimate purchaser of the second article, the evidence may consist of a certificate, executed and signed by the ultimate vendor of the second article, in the form prescribed in paragraph (d)(3) of this section, rather than the proof of exportation itself of the second article or the certificate of the ultimate purchaser of the second article.

(2) *Certificate of ultimate purchaser of second article.* The certificate executed and signed by the ultimate purchaser of the second article must contain the same information as that required in paragraph (b)(1)(ii) of § 48.6416(b)(2)–3, except that the information shall be furnished in respect of the second article, rather than the article to which the claim relates.

(3) *Certificate of ultimate vendor of second article.* Any certificate executed and signed by an ultimate vendor as evidence to be retained by the person claiming credit or refund must be executed in the same form and manner as that provided in paragraph (b)(2)(iii) of § 48.6416(b)(2)–3.

(4) *Repayment or consent of ultimate vendor.* If the person claiming credit or refund of an overpayment to which this section applies, has repaid, or agreed to repay, the amount of the overpayment to the ultimate vendor or if the ultimate vendor consents to the allowance of the refund or credit, a statement to the effect, signed by the ultimate vendor, must be shown on, or made a part of, the evidence required to be retained by the person claiming refund or credit. In this regard, see § 48.6416(a)–3 (b)(2).

Par. 26. Section 48.6416(b)–5 is removed and the following new § 48.6416(b)(5)–1 is added immediately after § 48.6416(b)(4)–1.

§ 48.6416(b)(5)–1 Return of installment accounts causing overpayments of tax.

(a) *In general* . In the case of any payment of tax under section 4216(e)(1) in respect of the sale of any installment account that is determined to be an overpayment under section 6416(b)(5) and paragraph (b) of this section upon return of the installment account, the person who paid the tax may file a claim for refund of the overpayment or may claim credit for the overpayment on any return of tax under this subpart which that person subsequently files. No interest shall be paid on any credit or refund allowed under this section. For provisions relating to the evidence required in support of a claim for credit or refund under this section, see § 301.6402–2 of this chapter (Regulations on Procedure and Administration) and paragraph (c) of this section. For provisions authorizing the taking of a credit in lieu of filing a claim for refund, see section 6416(f) and § 48.6416(f)–1.

(b) *Overpayment of tax allocable to repaid consideration.* The payment of tax imposed by section 4126(e) (1) on the sale of an installment account by the manufacturer will be considered to be an overpayment under section 6416(b)(5) to the extent of the tax allocable to any consideration repaid or credited to the purchaser of the installment account upon the return of the account to the manufacturer pursuant to the agreement under which the account originally was sold, if the readjustment of the consideration occurs pursuant to the provisions of the agreement. The tax allocable to the repaid or credited consideration is the amount which bears the same ratio to the total tax paid under section 4216(e)(1) with respect to the installment account as the amount of consideration repaid or credited to the purchaser bears to the total consideration for which the account was sold. This paragraph (b) does not apply where an installment account is originally sold pursuant to the order of, or subject to the approval of, a court of competent jurisdiction in a bankruptcy or insolvency proceeding.

(c) *Evidence to be submitted by claimant.* No claim for credit of refund of an overpayment, within the meaning of section 6416(b)(5) and paragraph (b) of this section, of tax under section 4216(e)(1) shall be allowed unless the person who paid the tax submits with the claim the evidence required by paragraph (a)(2) of § 48.6416(a)–3 and a statement supported by sufficient available evidence, indicating—

(1) The name and address of the person to whom the installment account was sold.

(2) The amount of tax due under section 4216(e)(1) by reason of the sale of the installment account, the amount of the tax paid under section 4216(e)(1) with respect to the sale, and the date of payment,

(3) The amount for which the installment account was sold,

(4) The amount which was repaid or credited to the purchaser of the account by reason of the return of the account to the person claiming the credit or refund, and

(5)(i) The fact that the amount repaid or credited to the purchaser of the account was so repaid or credited pursuant to the agreement under which the account was sold, and

(ii) The fact that the account was returned to the manufacturer pursuant to that agreement.

Par. 27. Section 48.6416 (c)–1 is revised to read as follows:

§ 48.6416 (c)–1 Credit for tax paid on tires or inner tubes.

(a) *Allowance of credit against tax on sale of taxable article.* If tax has been paid under section 4071 on the sale, or under section 4218 on the use, of a tire or inner tube, and the manufacturer of a another article taxable under chapter 32 sells the tire or inner tube on or in connection with the sale of that other article, a credit in respect of the tire or inner tube is allowable under section 6414(c) against the tax imposed on the sale of that other article. The amount of the credit is to be determined as provided in paragaph (b) or (c) of this section.

(b) *Tires or tubes purchased by manufacturer of the other article.* If the manufacturer of the other article purchased the tire or inner tube tax-paid, the amount of the credit shall be determined by applying to the purchase price of the tire or inner tube the percentage rate of tax applicable to the sale of the other article. For this purpose, the purchase price shall be determined by including any tax passed on to the manufacturer and, in the case of a tire, by excluding any part of the price attributable to the metal rim or rim base. For example, if the selling price of an automobile truck is $24,000, tax equivalent to 10 percent of the price (*i.e.*, $2,400) is imposed under section 4601 (a) on the sale of the automobile truck. If the tires or inner tubes sold on or in connection with the automobile truck are purchased by the manufacturer of the automobile truck for $1,500 (computed as provided in this paragraph) a credit of $150 (10 percent of $1,500) is allowable against the tax imposed on the sale of the automobile truck.

(c) *Tires or tubes manufactured by manufacturer or other articles.* If the manufacturer of the other article is also the manufacturer of the tire or inner tube and incurs tax liability under section 4218 on the use by that manufacturer of the tire or innes tube, the amount of the credit shall be determined by applying to the fair market price of the tire or inner tube, the percentage rate of tax applicable to the sale of the other article. For this purpose, the fair market price of the tire or inner tube shall be the price at which the same or similar tires or inner tubes are sold by manufacturers of tires or inner tubes in the ordinary course of trade, as determined by the Commissioner, and by excluding, in the case of a tire, any part of the price attributable to the metal rim or rim base. The determination of the Commissioner shall be made in the same manner as determinations made under section 4218.

(d) *Other applicable rules.* (1) For purposes of this section, the term "manufacturer" includes the original manufacturer of the other article and any succeeding purchaser of the article who further manufactures the article so as to become liable as a manufacturer of an article taxable under chapter 32. Therefore, the credit provided by section 6416(c) and this section is available both to the original manufacturer of the other article and also to every succeeding purchaser of that article who sells that article on or in connection with, or with the sale of, another article taxable under chapter 32.

(2) No interest shall be paid on any credit allowed under this section.

(3) If credit is not claimed under this section against the tax applicable to the sale of the other article, the manufacturer of the other article may claim refund of an amount equivalent to the credit or may claim credit on any return of tax under this subpart subsequently filed.

Par. 28. Section 48.6416(e)–1 is revised to read as follows.

§ 48.6416(e)–1 Refund to exporter or shipper.

(a) *In general.* Any payment of tax imposed by section 4041 or chapter 32 that is determined to be an overpayment within the meaning of section 6416(b)(2)(A) or (E), section 6416(b)(3)(C), or section 6416(b)(4), and the regulations thereunder, by reason of the exportation of any article may be refunded to the exporter or shipper of the article pursuant to section 6416(e) of this section. if—

(1) The exporter or shipper files a claim for refund of the overpayment, and

(2) The person who paid the tax waives the right to claim credit or refund of the tax.

No interest shall be paid on any refund allowed under this section. For provisions relating to the evidence required in support of a claim under this paragraph (a), see § 301.6402 of this chapter (Regulations on Procedure and Administration) and paragraph (b) of this section.

(b) *Supporting evidence required.* No claim for refund of any overpayment of tax to which this section applies shall be allowed unless the exporter or shipper submits with that claim the evidence required by § 48.6416(a)–2(b), or § 48.6416(a)–3(b), proof of exportation in the form prescribed by the regulations under section 4221, and a statement, signed by the person who paid the tax, showing—

(1) That the person who paid the tax waives the right to claim credit or refund of the tax,

(2) In the case of an overpayment determined under section 6416(b)(2)(A) and paragraph (b) of § 48.6416(b)(2)–2 in respect of a truck, bus, tractor, etc., taxable under section 4061(a), that, pursuant to section 6416(g), the person who paid the tax possessed at the time that person shipped the article or at the time title to the article passed to that perons's vendee, whichever is earlier, evidence that the article was to be exported to a foreign country or shipped to a possession of the United States.

(3) The amount of tax paid on the sale of the article and the date of payment, and

(4) The internal revenue service office to which the tax was paid.

Par. 29. Section 48.6416(f)–1 is revised to read as follows:

§ 48.6416(f)–1 Credit on returns.

Any person entitled to claim refund of any overpayment of tax imposed by section 4041 or chapter 32 may, in lieu of claiming refund of the overpayment, claim credit for the overpayment of any return of tax under this subpart subsequently filed. Any such credit claimed on a return must be supported by the evidence prescribed in the applicable regulations in this subpart and § 301.6402 of this chapter (Regulations on Procedure and Administration).

Par. 30. Section 48.6416(g)–1 is revised to read as follows:

§ 48.6416(g)–1 Intent to export trucks, buses, tractors, etc.

In the case of any payment of tax imposed by section 4061 (a) in respect of the sale of a truck, bus, tractor, etc., an overpayment of tax will not be considered to arise by reason of an exportation described in section 6416(b)(2)(A) and paragraph (b) of § 48.6416(b)(2)–2 unless the manufacturer of the article possessed at the time the article was shipped or at the time title to the article passed to that manufacturer's vendee, whichever is earlier, evidence that the article was to be exported to a foreign country or shipped to a possession of the United States.

Part. 31. Section 48.6416(h)–1 is revised to read as follows:

§ 48.6416(h)–1 Accounting procedures for like articles.

(a) *Identification of manufacturer.* In applying section 6416 and the regulations thereunder, a person who has purchased like articles from various manufacturers may determine the particular manufacturer from whom that person purchased any one of those articles by a first-in-first-out (FIFO) method, by a last-in-first-out (LIFO) method, or by any other consistent method approved by the district director. For the first year for which a person makes a determination under this section, the person may adopt any one of the following methods without securing prior approval by the district director.

(1) FIFO method.

(2) LIFO method.

(3) Any method by which the actual manufacturer of the article is in fact identified.

Any other method of determining the manufacturer of a particular article must be approved by the district director before its adoption. After any method for identifying the manufacturer has been properly adopted, it may not be changed without first securing the consent of the district director.

(b) *Determining amount of tax paid.* In applying section 6416 and the regulations thereunder, if the identity of the manufacturer of any article has been determined by a person pursuant to a method prescribed in paragraph (a) of this section, that manufacturer of the article must determine the tax paid under chapter 32 with respect to that article consistently with the method used in identifying the manufacturer.

Par. 32. Sections 48.6420(a)–1, 48.6420(b)–1, 48.6420(c)–1, 48.6420(d)–1, 48.6420(e)–1, 48.6420(f)–1, 48.6420(g)–1, 48.6420(h)–1, and 140.6420–1 are removed. The following new §§ 48.6420–1, 48.6420–2, 48.6420–3, 48.6420–4, 48.6420–5, 48.6420–6, and 48.6420–7 are added immediately after § 48.6416(h)–1.

§ 48.6420–1 Credits or payments to ultimate purchaser of gasoline used on a farm.

(a) *In general.* If gasoline is used on a farm from farming purposes after June 30, 1965, a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c) of this section) in respect of the gasoline shall be allowed or made to the ultimate purchaser of the gasoline in an amount determined by multiplying (1) the number of gallons of gasoline so used by (2) the rate of tax on gasoline under section 4081 that applied on the date the gasoline was purchased by the ultimate purchaser. No interest shall be paid on any payment, allowed under paragraph (c) of this section. However, interest may be paid on any overpayment (as defined by section 6401) arising from a credit allowed under paragraph (b) of this section. See section 39(a), relating to credit for certain uses of gasoline, special, fuels, and lubricating oil. See § 48.6420–2 for the time within which a claim for credit or payment must be made. See section 4081 and the regulations thereunder for the rates of tax on gasoline. See § 48.6420–2 for meaning of the terms "Used on a farm for farming purposes," "farm," "gasoline," "ultimate purchaser," and "taxable year."

(b) *Allowance of income tax credit in lieu of payment.* With respect to persons subject to income tax, repayment of the tax paid under section 4081 on gasoline used on a farm for farming purposes may be obtained only by claiming a credit for the amount of this tax against the income tax imposed by subtitle A of the Code. The amount of the credit shall be an amount equal to the payment which would be made under section 6420 with respect to gasoline used during the taxable year on a farm for farming purposes if section 6420(g)(1) and paragraph (c) of this section did not apply. See section 39(a)(1).

(c) *Allowance of payment.* Payments in respect of gasoline upon which tax was paid under section 4081 that is used on a farm for farming purposes shall be made only to—

(1) The United States or agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions of a State, or the District of Columbia, or

(2) An organization which is exempt from tax under section 501(a) and is not

required to made a return of the income tax imposed under subtitle A for its taxable year.

(d) *Use of gasoline.* (1) The credit or payment described in paragraph (a) of this section is allowable only in respect of gasoline used on a farm in the United States for farming purposes. The credit or payment is not allowable with respect to gasoline used for nonfarming purposes, or gasoline used off a farm, regardless of the nature of the use. If a vehicle or other equipment is used both on a farm and off the farm, or if it is used on a farm both for farming and nonfarming purposes, the credit or payment is allowable only with respect to that portion of the gasoline which was "used on a farm for farming purposes" as defined in paragraph (a) of § 48.6420–4. In determining if this requirement is met, neither the type of equipment or vehicle used nor its registration for highway use is material. However, the actual use of the equipment or vehicle and the place where it is used are material. For example, if a truck used on a farm for farming purposes is also used on the highways, gasoline used in connection with operating the truck on the highways is not taken into account in computing the credit or payment.

(2) For purposes of determining the allowable credit or payment in respect of gasoline used on a farm for farming purposes, gasoline on hand shall be considered used in the order in which it was purchased. Thus, if the owner, tenant, or operator of a farm has on hand gasoline acquired in two purchases made at different times and subject to different rates of tax, in determining credit or payment for gasoline used on a farm for farming purposes, it will be assumed that the gasoline purchased first was the first gasoline used, and the rate applicable to that purchase will apply in determining the credit or payment, until all that gasoline is accounted for.

§ 48.6420–2 Time for filing claim for credit or payment.

(a) *In general.* A claim for credit or payment described in § 48.6420–1 with respect to gasoline used after June 30, 1965, on a farm for farming purposes, shall cover only gasoline used during the taxable year on a farm for farming purposes. Therefore, gasoline on hand at the end of a taxable year as, for example, in fuel supply tanks of farm machinery or in storage tanks or drums, must be excluded from a claim filed for that taxable year (but may be included in a claim filed for a later taxable year if used during that later year on a farm for farming purposes). Gasoline used during a taxable year may be covered by a claim filed for that taxable year although the gasoline was not paid for at the time the claim is filed. For purposes of applying this section, a governmental unit or exempt organization described in § 48.6420–1 (c) is considered to have as its taxable year, the calendar year or fiscal year on the basis of which it regularly keeps its books; see paragraph (h) of this section.

(b) *Time for filing.* (1) A claim for credit with respect to gasoline used on a farm for farming purposes shall not be allowed unless it is filed no later than the time prescribed by section 6511 and the regulations thereunder for filing a claim for credit or refund of income tax for the particular taxable year.

(2) A claim for payment of a governmental unit or exempt organization described in § 48.6420–1(c) must be filed no later than 3 years following the close of its taxable year. (See paragraph (h) of this section).

(3) See § 301.7502–1 of this chapter (Regulations on Procedure and Administration) for provisions treating timely mailing as timely filing and § 301.7502–1 of this chapter for time for performance of an act where the last day falls on Saturday, Sunday, or a legal holiday.

(c) *Limit of one claim per taxable year.* Not more than one claim may be filed under section 6420 by any person with respect to gasoline used during the same taxable year.

(d) *Form and content of claim.*—(1) *Claim for credit.* (i) The claim for credit with respect to gasoline used on a farm for farming purposes must be made by attaching a Form 4136 to the income tax return of an individual or a corporation. Form 4136 must be executed in accordance with the instructions prescribed for the preparation of the form. A partnership may not file Form 4136. When a partnership files Form 1065, U.S. Partnership Return of Income, it must include a statement showing how many gallons of gasoline are allocated to each partner and the use made of the gasoline.

(ii) If an individual dies during the taxable year, the claim for credit may be made only for that portion of the individual's taxable year ending with the date of death. If a sole proprietorship, a partnership or corporation is terminated or liquidated during the taxable year, the claim for credit may be made only for the portion of its year ending with the date of the termination or liquidation.

(2) *Claim for payment.* The claim for payment with respect to gasoline used on a farm for farming purposes by a governmental unit or exempt organization described in § 48.6420–1(c) must be made on Form 843 in accordance with the instructions prescribed for the preparation of the form. The claim by such a unit or organization must be filed with the service center for the internal revenue region in which the principal place of business or principal office of the claimant is located.

§ 48.6420–3 Exempt sales; other payments or refunds available.

(a) *Exempt sales.* Credits or payments are allowable only for gasoline that was sold by the producer or importer in a transaction that was subject to tax under section 4081. No credit or payment shall be allowed or made under § 48.6420–1 with respect to gasoline which was exempt from the tax imposed by section 4081. For example, a State or local government may not file a claim with respect to any gasoline which it purchased tax free from the producer, even though the State or local government used the gasoline on a farm for farming purposes. Similarly, payment may not be made with respect to gasoline purchased by a State tax free for its exclusive use, as provided in section 4221, which is used on a State prison farm for farming purposes.

(b) *Other payments or refunds available.* Any amount which, without regard to the second sentence of section 6420(d) and this paragraph (b), would be allowable as a credit or payable to any person under § 48.6420–1 with respect to any gasoline is reduced by any other amount which is allowable as a credit or payable under section 6420, or is refundable under any other provision of the Code, to any person with respect to the same gasoline. Thus, a person who is the ultimate purchaser of gasoline may not file a claim for credit or payment with respect to that gasoline if another person is entitled to claim a payment, credit, or refund with respect to the same gasoline. For example, a State or local government may not file a claim for payment if it has executed, or intends to execute, a written consent to enable the producer to claim a credit or refund for the tax that was paid. See, for example, §§ 48.6416(a)–3(b)(2), 48.6416(b)(2)–2(d), and 48.6416(b)(2)–3(b)(1).

§ 48.6420–4 Meaning of terms.

For purposes of the regulations under section 6420, unless otherwise expressly indicated—

(a) *Used on a farm for farming purposes.* The term "used on a farm for farming purposes" applies only to

gasoline which is used (1) in carrying on a trade or business of farming, (2) on a farm in the United States, and (3) for farming purposes. Gasoline used in an aircraft will qualify if its use otherwise satisfies these requirements. For the meaning of the term "trade or business of farming," see paragraph (b) of this section. For the definition of the term "farm," see paragraph (c) of this section. For the definition of the term "farming purposes," see paragraphs (d) through (g) of this section. The term "United States" has the meaning assigned to it by section 7701(a)(9).

(b) *Trade or business of farming.* A person will be considered to be engaged in the trade or business of farming if the person cultivates, operates, or manages a farm for gain or profit, either as an owner or a tenant. A person engaged in forestry or the growing of timber is not thereby engaged in the trade or business of farming. A person who operates a garden plot, orchard, or farm for the primary purpose of growing produce for the person's own use is not considered to be engaged in the trade or business of farming. Generally, the operation of a farm does not constitute the carrying on of a trade or business if the farm is occupied by a person primarily for residential purposes or is used primarily for pleasure, such as for the entertainment of guests or as a hobby.

(c) *Farm.* The term "farm" is used in its ordinary and accepted sense, and generally means land used for the production of crops, fruits, or other agricultural products or for the sustenance of livestock or poultry. The term "livestock" includes cattle, hogs, horses, mules, donkeys, sheep, goats, and captive fur-bearing animals. The term "poultry" includes chickens, turkeys, geese, ducks, and pigeons. Thus, a farm includes livestock, dairy, poultry, fish, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, feed yards for fattening cattle, and greenhouses and other similar structures used primarily for the raising of agricultural or horticultural commodities. Greenhouses and other similar structures that are used primarily for purposes other than the raising of agricultural or horticultural commodities do not constitute farms, as, for example, structures that are used primarily for the display, storage, fabrication, or sale of wreaths, corsages, and bouquets. A fish farm is an area where fish are grown or raised, as opposed to merely caught or harvested.

(d) *Gasoline used in cultivating, raising, or harvesting.* Gasoline is used for "farming purposes" when it is used on a farm by the owner, tenant, or operator of the farm in connection with cultivating the soil, raising or harvesting any agricultural or horticultural commodity, or raising, shearing, feeding, caring for, training, or managing livestock, poultry, bees, or wildlife. Examples of operations which are considered to be operations for "farming purposes" within the meaning of this paragraph include plowing, seeding, fertilizing, weed killing, corn or cotton picking, threshing, combining, baling, silo filling, and chopping silage.

(e) *Gasoline used in handling, packing, or storing.* (1) Gasoline is used for "farming purposes" when it is used by the owner, tenant, or operator of the farm in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator produced more than one-half of the commodity which was so treated during the taxable year for which claim for credit or payment is filed.

(2) Gasoline used in connection with canning, freezing, packaging, or processing operations will not be considered to be used for farming purposes, even though these operations are performed on a farm. Thus, for example, although gasoline used on a farm in connection with the production or harvesting of maple sap or oleoresin from a living tree is considered to be used for farming purposes under paragraph (d) of this section, gasoline used in the processing of maple sap into maple syrup or maple sugar or used in the processing of oleoresin into gum spirits of turpentine or gum resin is not used for farming purposes, even though these processing operations are conducted on a farm.

(3) Gasoline used in connection with processing operations which change a commodity from its raw or natural state, or operations performed with respect to a commodity after its character has been changed from its raw or natural state by a processing operation, will not be considered to be used for farming purposes. For example, gasoline used for the extraction of juices from fruits or vegetables is used in a processing operation which changes the character of the fruits or vegetables from their raw or natural state and will not be considered to be used for "farming purposes."

(4) The term "commodity," as used in this paragraph (e), refers to a single agricultural or horticultural product. For example, all apples are treated as a single commodity while apples and peaches are treated as two separate commodities. Operations with respect to each commodity are to be considered separately in applying the "one-half" production test described in paragraph (e)(1) of this section.

(f) *Gasoline used in planting, cultivating, or caring for trees.* Gasoline is used "for farming purposes" when it is used by the owner, tenant, or operator of the farm in connection with the planting, cultivating, caring for, or cutting of trees that is incidental to the farming operations of the farm on which it is performed or incidental to the farming operations of the owner, tenant, or operator of the farm, or in connection with the preparation (other than milling) of trees for market that is incidental to these farming operations. These operations include the felling of trees and cutting them into logs or firewood but do not include sawing logs into lumber, chipping, or other milling operations. Operations of the prescribed character will be considered incidental to farming operations only if they are of a minor nature in comparison with the total farming operations involved. Therefore, a tree farmer or timber grower may not claim credit or payment under § 48.6420–1 with respect to gasoline used in connection with the trade or business of tree farming or timber growing.

(g) *Gasoline used in the maintenance of a farm or farm equipment.* Gasoline is used "for farming purposes" when it is used by the owner, tenant, or operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of the farm and its tools and equipment. The activities included are those which contribute in any way to the conduct of the farm as such, as distinguished from any other enterprise in which the owner, tenant, or operator may be engaged. Examples of included operations are clearing land, repairing fences and farm buildings, building terraces or irrigation ditches, cleaning tools or farm machinery, and painting farm buildings. Since the gasoline must be used by the owner, tenant, or operator of the farm to which the operations relate, gasoline used by an organization which contracts with a farmer to renovate his farm properties is not used for farming purposes. Gasoline used in a gasoline-powered lawn mower for maintaining a lawn is not used for farming purposes.

(h) *Taxable year.* The "taxable year" of a governmental unit or tax-exempt organization described in § 48.6420–1(c) is the calendar or fiscal year on the basis of which it regularly keeps its books. The "taxable year" of persons subject to income tax shall have the

meaning as it has under section 7701(a)(23).

(i) *Gasoline.* The term "gasoline" has the same meaning given to this term by section 4082(b) and the regulations thereunder.

(j) *Ultimate purchaser.*—The term "ultimate purchaser" includes only a person who is an owner, tenant, or operator of a farm. A person who is an owner, tenant, or operator of a farm is an ultimate purchaser of gasoline only with respect to such gasoline as is purchased by the person and used for farming purposes on a farm of which the person is the owner, tenant, or operator. Thus the owner of a farm who purchases gasoline which is used on the farm by its owner, tenant, or operator for farming purposes is generally the ultimate purchaser of the gasoline. If, however, the cost of gasoline supplied by an owner, tenant, or operator of a farm, is by agreement or other arrangement borne by a second person who is an owner, or operator of the farm, the second person who bore the cost of the gasoline is considered to be the ultimate purchaser of the gasoline.

(k) *Certain farming use by persons other than the owner, tenant or operator.*—(1) *In general.* Except as provided in paragraph (l) of this section, the owner, tenant, or operator of a farm on which gasoline is used by any other person for the purposes described in section 6420 (c)(3)(A) and paragraph (d) of this section (relating to gasoline used in cultivating, raising, or harvesting) will be treated, for the purposes of § 48.6420–1 (a), as the ultimate purchaser who used the gasoline on the farm for farming purposes.

(2) *Example.* The rule of paragraph (k)(1) of this section may be illustrated by the following example.

Example. Farmer A hired custom operator B to cultivate the soil on A's farm. B used 200 gallons of gasoline which B had purchased in performing the work on A's farm. In addition, A hired Farmer C to do some plowing on A's farm, using C's own tractor and 50 gallons of gasoline which C had purchased. A is deemed to be the ultimate purchaser and user of the gasoline used on A's farm by B and C, and A is entitled to take a credit in respect of the gasoline. Accordingly, no credit in respect to the gasoline may be taken by either B or C.

(l) *Aerial applicators treated as ultimate purchasers.*—(1) *General rule.* Section 6420(c)(3)(A) provides that only the owner, tenant, or operator of a farm is entitled to be treated as a user and ultimate purchaser. Section 6420(c)(4) provides that, under section 6420(c)(3)(A), an aerial applicator is entitled to be treated as the user and ultimate purchaser of gasoline used by it on a farm for the purposes described in section 6420(c)(3)(A), but only if the owner, tenant, or operator who is otherwise entitled to treatment as the user and ultimate purchaser waives the right to credit or payment. See paragraph (l)(2) of this section.

(2) *Form and manner of waiver.* To waive the right to be treated as user and ultimate purchaser of gasoline which is used on a farm by an aerial applicator, the owner, tenant, or operator of a farm who is otherwise entitled to treatment as user and ultimate purchaser must execute an irrevocable written agreement (as here described) no later than the date on which the aerial applicator claiming the credit or payment files its return for the taxable year in which the gasoline is used. The agreement must identify the period for which the owner, tenant, or operator waives the right to credit or payment. The effective period of the waiver cannot extend beyond the last day of the taxable year of the owner, tenant, or operator of the farm on which the gasoline was used. If the owner, tenant, or operator's taxable year extends beyond the taxable year of the applicator, the applicator can only claim a credit or payment for periods included in the applicator's taxable year. Periods after the last day of the applicator's taxable year which are included under the agreement must be claimed on the applicator's return for the next succeeding taxable year. The waiver may be in the form shown under paragraph (l)(6) of this section or in any other form that meets the requirements of this paragraph and clearly states that the owner, tenant, or operator of the farm knowingly waives the right to receive the credit or payment.

(3) *Agreement included on aerial applicator's invoice.* The agreement waiving a right to receive a credit or payment under section 6420 may be a separate document or may appear on the invoice for aerial application services or other unrelated document from the aerial applicator to the owner, tenant, or operator of the farm. If the waiver agreement appears on an invoice or other unrelated document, however, it must be printed in a section of the invoice or other document clearly set off from all other material contained in the invoice or other document, and it must be printed in type sufficiently large to put the owner, tenant, or operator of the farm on notice that the person has waived the right to receive a credit or payment under section 6420. Additionally, if the waiver agreement appears as part of any invoice or other unrelated document, it must be executed separately from any other item included in the invoice or other document which requires the owner, tenant, or operator's signature.

(4) *Copies of agreement waiving right to credit or payment.* No copies of any agreement waiving a right to credits or payments under section 6420 are to be submitted to the Internal Revenue Service unless a request is made by the Service to the taxpayer for the waivers. Aerial applicators must, however, retain copies of all waivers, and a copy of each waiver must be supplied by the aerial applicator to the owner, tenant, or operator of the farm who waives the right to receive a credit or payment. See regulations § 48.6420–6 for general requirements for records to be kept.

(5) *Waiver on behalf of owner, tenant, or operator of farm.* An agent of the owner, tenant, or operator of a farm who is expressly authorized to act on behalf of and to bind the owner, tenant, or operator may waive that person's rights to a credit or payment under section 6420 by signing the waiver on the person's behalf.

(6) *Sample form of agreement.* While no specific form is required for an effective waiver, an acceptable form waiving the right to receive a credit or payment under section 6420 follows:

I hereby waive my right as owner/tenant/operator of a farm located at (address) to receive credit or payment from the United States for gasoline used by (aerial applicator) on the farm in connection with cultivating the soil, or the raising or harvesting of any agricultural or horticultural commodity. This waiver applies to gasoline used during the period , both dates inclusive. I understand that by signing this waiver, I give up my right to claim any credit or payment for gasoline used by the aerial applicator during the period indicated, and I acknowledge that I have not previously claimed any credit for that gasoline.

(Signature of Owner/Tenant/Operator)

§ 48.6420–5 Applicable laws.

(a) *Penalties, excessive claims, etc.* All provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, to the extent applicable and consistent with section 6420, apply in respect of the payments provided for in section 6420 to the same extent as if these payments were refunds of overpayments of the tax imposed on the sale of gasoline under section 4081. For special rules applicable to the assessment and collection of amounts constituting excessive payments under section 6420, see section 6206 and the regulations thereunder. For the civil penalty assessable in the case of excessive

claims under section 6420, see section 6675 and the regulations thereunder. For the treatment as an overpayment of an amount allowable as an excessive credit under section 39 with respect to amounts payable under section 6420, see section 6401(b).

(b) *Examination of books and witnesses.* For the purpose of ascertaining (1) the correctness of any claim made under section 6420 or (2) the correctness of any credit or payment made in respect of the claim, the Commissioner shall have the same authority granted by paragraphs (1), (2), and (3) of section 7602, relating to examination of books and witnesses, as if the person claiming credit or payment under section 6420 were the person liable for tax.

(c) *Fractional part of a dollar.* Section 6420(e)(3) provides that section 7504, relating to fractional parts of a dollar, shall not apply with respect to the allowance of any amount as a credit or payment under section 6420. Accordingly, credits or payments authorized by section 6420 shall be made in the exact amount to which the claimant is entitled and shall not be rounded to the nearest whole dollar amount.

§ 48.6420–6 Records to be kept in substantiation of credits or payments.

(a) *In general.* Every person making a claim for credit or payment under section 6420 must keep records sufficient to enable the district director to determine whether the person is entitled to credit or payment under section 6420 and, if so, the amount of the credit or payment. No particular form is prescribed for keeping the records, but the records must include a copy of the income tax return or claim and a copy of any statement or document submitted with the return or claim. The records must also show with respect to the taxable year covered by the claim—

(1) The number of gallons of gasoline purchased and the dates of purchase,

(2) The name and address of each vendor from whom gasoline was purchased and the total number of gallons purchased from each,

(3) The number of gallons of gasoline purchased by the claimant and used during the taxable year for farming purposes on a farm of which the claimant is the owner, tenant, or operator,

(4) The number of gallons of gasoline used during the taxable year for the purposes described in section 6420(c)(3)(A) and § 48.6420–4(d) (relating to cultivating, raising, or harvesting) by a person other than the owner, tenant, or operator on a farm of which the claimant is the owner, tenant, or operator, and

(5) Other information as necessary to establish the correctness of the claim.

(b) *Acceptable records.* (1) Evidence of purchases of gasoline, and the purposes for which it was used, to substantiate claims may include paid duplicate sales invoices or tickets from the gasoline dealer or other vendor, and detailed records of all fuel used which show the amount consumed on a farm for farming purposes and the amount used for other purposes.

(2) Records maintained for Federal or State income tax purposes, or to support claims for refund of a State tax on gasoline, may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim for credit under section 6420. However, the records must show separately the number of gallons of gasoline used on a farm for farming purposes.

(3) If trucks or other vehicles are used both on and off the farm, an allocation of gasoline used in the vehicle will be required to show separately the number of gallons of gasoline used on a farm for farming purposes in respect of which the claim is made.

(4) If the owner, tenant, or operator is entitled under section 6420(c)(4)(A) to claim credit or payment in respect of gasoline used on the person's farm by another person other than an owner, tenant, or operator of the farm for a purpose described in section 6420(c)(3)(A) and § 48.6420–4(d), the claimant must have records showing (i) the name and address of the person who performed the farming operation, (ii) a description of the type of work (such as plowing, threshing, combining, etc.) and the type of equipment used, (iii) the date or dates on which the work was done, and (iv) the number of gallons of gasoline so used on the claimant's farm.

(c) *Place and period for keeping records.* (1) All records required by this section must be kept by the claimant at a convenient and safe location within the United States which is accessible to internal revenue officers and shall during normal business hours be available for inspection by internal revenue officers. If the claimant has a principal place of business in the United States, the records must be kept at that place of business.

(2) Records required to substantiate a claim under section 6420 must be maintained for a period of at least 3 years from the last date prescribed for the filing of the claim for credit or payment.

§ 48.6420–7 Cross references.

(a) *Gasoline used by local transit systems or for certain nonhighway purposes other than farming.* For provisions with respect to payments to the ultimate purchaser of gasoline used for certain nonhighway purposes (other than farming) or by local transit systems, see section 6421 and the regulations thereunder.

(b) *Diesel fuel and special motor fuels used on a farm for farming purposes.* For provisions with respect to exemption from tax in the case of diesel fuel and special motor fuels used on a farm for farming purposes, see section 4041(f) and the regulations thereunder. For credit or payment in respect of special fuels used after June 30, 1970, for farming purposes, see section 6427(c) and § 48.6427–1.

Par. 33. Sections 48.6421(a)–1, 48.6421(b)–1, 48.6421(c)–1, 48.6421(d)–1, 48.6421(e)–1, 48.6421(f)–1, and 48.6421(g)–1 are removed and the following new §§ 48.6421–1, 48.6421–2, 48.6421–3, 48.6421–4, 48.6421–5, 48.6421–6, and 48.6421–7 are added immediately after § 48.6420–7.

§ 48.6421–1 Credits or payments to ultimate purchaser of gasoline used for certain nonhighway purposes.

(a) *In general.* (1) If gasoline is used in a qualified business use or as fuel in an aircraft (other than aircraft in noncommercial aviation), a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c) of this section) in respect of the gasoline shall be allowed or made to the ultimate purchaser of the gasoline. For gasoline used in a qualified business use, the credit or payment under this section shall be an amount equal to 1 cent for each gallon of gasoline so used on which the tax was paid at the rate of 3 cents a gallon, and 2 cents for each gallon of gasoline so used on which the tax was paid at the rate of 4 cents a gallon. For gasoline used as a fuel in an aircraft (other than aircraft in noncommercial aviation) the credit or payment under this section shall be an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on the gasoline under section 4081. No interest shall be paid on any payment allowed under paragraph (c) of this section. However, interest may be paid on any overpayment (as defined by section 6401) arising from a credit allowed under paragraph (b) of this section. See section 39(a), relating to credit for certain uses of gasoline, special fuels,

and lubricating oil. See § 48.6421–3 for the time within which a claim for credit or payment must be made under this section. See § 48.6421–4 for the meaning of the terms "gasoline," "qualified business use," "noncommercial aviation," and "taxable year."

(2) For purposes of determining the allowable credit or payment in respect of gasoline used in a qualified business use or as fuel in an aircraft (other than aircraft in noncommercial aviation), gasoline on hand shall be considered used in the order in which it was purchased. Thus, if the ultimate purchaser has on hand gasoline acquired in two purchases made at different times and subject to different rates of tax, in determining credit or payment for the gasoline used in a qualified business use or as fuel in an aircraft (other than aircraft in noncommercial aviation), it will be assumed that the gasoline first purchased was the first gasoline used, and the rate applicable to that purchase will apply in determining the credit or payment, until all that gasoline is accounted for.

(b) *Allowance of income tax credit in lieu of payment.* Except as provided in paragraph (c) of this section, repayment under this section of the tax paid under section 4081 on gasoline used in a qualified business use or as a fuel in an aircraft (other than aircraft in noncommercial aviation) by a person subject to income tax may be obtained only by claiming a credit for the amount of this tax against the tax imposed by subtitle A of the Code. The amount of the credit shall be an amount equal to the payment which would be made under section 6421 with respect to gasoline used during the taxable year in a qualified business use or as a fuel in an aircraft (other than aircraft in noncommercial aviation) if section 6421(i) and paragraph (c) of this section did not apply. See section 39(a)(2).

(c) *Allowance of payment.* Payments in respect of gasoline upon which tax was paid under section 4081 that is used in a qualified business use or as a fuel in an aircraft (other than aircraft in noncommercial aviation) shall be made only to—

(1) The United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more State political subdivisions of a State, or the District of Columbia,

(2) An organization which is exempt from tax under section 501(a) and is not required to make a return of the income tax imposed under subtitle A for its taxable year, or

(3) A person described in section 6421(c)(2) to whom $1,000 or more is payable (without regard to paragraph (b) of this section) under this section with respect to gasoline used during any of the first three quarters of the person's taxable year.

(d) *Dual use of gasoline.* (1) No credit or payment may be claimed in respect of gasoline used in a highway vehicle used in a trade or business or for the production of income solely by reason of the fact that the propulsion motor in the vehicle is also used for a purpose other than the propulsion of the vehicle. Thus, if the propulsion motor of a highway vehicle (used in a trade or business or for the production of income) also operates special equipment, such as a mixing unit on a concrete mixer truck or a pump for discharging fuel from a tank truck, by means of a power takeoff or power transfer, no credit or payment may be claimed in respect of the gasoline used to operate the special equipment, even though the special equipment is mounted on the highway vehicle.

(2) If a highway vehicle is equipped with a separate motor to operate the special equipment used in a trade or business or for the production of income, such as a refrigeration unit, pump, generator, or mixing unit, credit or payment may be claimed in respect of the gasoline used in the separate motor.

(3) If gasoline used in a separate motor is drawn from the same tank as the one which supplies gasoline for the propulsion of the highway vehicle, the determination as to the quantity of gasoline used in the separate motor operating the special equipment must be based on operating experience and supported by records.

(4) Devices to measure the number of miles the highway vehicle has traveled, such as hubometers, may be used in making a preliminary determination of the number of gallons of gasoline used to propel the vehicle. In order to make a final determination of the number of gallons of gasoline used to propel the vehicle, there must be added to this preliminary determination the number of gallons of gasoline consumed while idling or warming up the motor preparatory to propelling the vehicle.

(e) *Gasoline lost or destroyed.* Gasoline lost or destroyed through spillage, fire, or other casualty is not considered to have been "used" in a qualified business use or as fuel in an aircraft (other than aircraft in noncommercial aviation) and, accordingly, credit or payment in respect of the gasoline may not be claimed.

(f) *Supporting evidence required.* Each claim under this section for credit or payment must include a statement showing—

(1) The total number of gallons of gasoline purchased and used during the period covered by the claim in a qualified business use multiplied by the rate of payment allowable in respect of the gasoline (1 or 2 cents, as the case may be).

(2) The total number of gallons of gasoline purchased and used during the period covered by the claim for use as fuel in an aircraft (other than aircraft in noncommercial aviation) multiplied by the rate of payment allowable in respect of the gasoline.

(3) The purpose or purposes for which the gasoline was used, determined by reference to general categories, and the amount used for each purpose; and

(4) If a claim on Form 843 is being filed, the internal revenue district or service center with which the claimant last filed an income tax return (if any).

§ 48.6421–2 Credits or payments to ultimate purchasers of gasoline used in intercity, local, or school buses.

(a) *In general.* If gasoline is used in an intercity or local bus while engaged in furnishing (for compensation) passenger land transportation available to the general public or in a school bus engaged in the transportation of students or employees of schools, a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c) of this section) in respect to the gasoline shall be allowed or made to the ultimate purchaser of the gasoline. The credit or payment under this section shall be an amount equal to the product of the number of gallons of gasoline so used multiplied by the rate at which tax was imposed on the gasoline by section 4081. No interest shall be paid on any payment allowed under paragraph (c) of this section. However, interest may be paid on an overpayment (as defined by section 6401) arising from a credit allowed under paragraph (b) of this section. See section 39(a) relating to credit for certain uses of gasoline, special fuels, and lubricating oil. See § 48.6421–3 for the time within which a claim for credit or payment must be made under this section. See § 48.6421–4 for the meaning of "gasoline." See section 4221(d)(7) and the regulations thereunder for the definition of "intercity bus," "local bus" and "school bus."

(b) *Allowance of income tax credit.* Except as provided in paragraph (c) of

this section, repayment under this section of the tax paid under section 4061 of gasoline used while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations by a person subject to income tax may be obtained only by claiming a credit for the amount of this tax against the tax imposed by subtitle A of the Code. The amount of the credit shall be an amount equal to the payment which would be made under section 6421 with respect to gasoline used during the taxable year for this passenger land transportation or school bus operations if section 6421(i) and paragraph (c) of this section did not apply. See section 39(a)(2).

(c) *Allowance of payment.* Payments in respect of gasoline upon which tax was paid under section 4061 that is used while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations shall be made only to—

(1) The United States or any agency or instrumentality thereof, a State, or political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions of a State, or the District of Columbia,

(2) An organization which is exempt from tax under section 501(a) and is not required to make a return of the income tax imposed under subtitle A for its taxable year, or

(3) A person described in section 6421(c)(2) to whom $1,000 or more is payable (without regard to paragraph (b) of this section) under this section with respect to gasoline used during any of the first three quarters of the person's taxable year.

(d) *Supporting evidence required.* Each claim under this section for credit or payment must include a statement showing—

(1) The total number of gallons of gasoline purchased and used during the period covered by the claim for each intercity or local bus while engaged in furnishing (for compensation) passenger land transportation available to the general public multiplied by the rate at which tax was imposed on the gasoline by section 4061.

(2) The total number of gallons of gasoline purchased and used in each bus while engaged in school bus transportation operations multiplied by the rate at which tax was imposed on the gasoline by section 4061, and

(3) If a claim on Form 843 is being filed, the internal revenue district or service center with which the claimant last filed an income tax return (if any).

§ 48.6421–3 Time for filing claim for credit or payment.

(a) *In general.* A claim for credit or payment described in § 48.6421–1 with respect to gasoline used in a qualified business use or as a fuel in an aircraft (other than aircraft in noncommercial aviation) or in § 48.6421–2 with respect to gasoline used either in an intercity or local bus while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations, shall cover only gasoline used during the taxable year, or when paragraph (b)(2) of this section applies, gasoline used during the calendar quarter. Therefore, gasoline on hand at the end of a taxable year, or, if applicable, a calendar quarter, such as gasoline in fuel supply tanks of vehicles or in storage tanks or drums, must be excluded from a claim filed for the taxable year or calendar quarter, as the case may be. However, this gasoline may be included in a claim filed for a later taxable year or a later calendar quarter if it is used during that later year or quarter in a qualified business use, as fuel in an aircraft (other than aircraft in noncommercial aviation), or in intercity, local, or school buses. Gasoline used during the taxable year or calendar quarter may be covered by the claim for that period although the gasoline was not paid for at the time the claim is filed. For purposes of applying this section, a governmental unit or exempt organization described in § 48.6421–1(c) or § 48.6421–2(c) is considered to have as its taxable year, the calendar year or fiscal year on the basis of which it regularly keeps its books; see § 48.6421–4(g).

(b) *Time for filing*—(1) *Annual claims.* (i) A claim under this section for credit or payment with respect to gasoline shall not be allowed unless it is filed no later than the time prescribed by section 6511 and the regulations thereunder for filing a claim for credit or refund of income tax for the particular taxable year.

(ii) A claim for payment of a governmental unit or exempt organization described in § 48.6421–1(c) or § 48.6421–2(c) must be filed no later than 3 years following the close of its taxable year (see § 48.6421–4).

(2) *Quarterly claims.* A claim for payment of $1,000 or more in respect of gasoline used during any of the first three quarters of the taxable year, filed either under § 48.6421–1(c)(3) in respect of gasoline used in a qualified business use or as a fuel in an aircraft (other than aircraft used in noncommercial aviation) or under § 48.6421–2(c)(3) in respect of gasoline used while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus operations, shall not be allowed unless the claim is filed on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed. No quarterly claim may be filed for the last calendar quarter of the taxable year. Amounts for which payment is disallowed under this paragraph (b)(2) merely because the claim was not filed on time may be included in an annual claim filed under paragraph (b)(1) of this section, but other amounts for which a claim for payment has been filed under this paragraph (b)(2) may not be included in an annual claim filed under paragraph (b)(1) of this section.

(3) *Other applicable rules.* See § 301.7502–1 of this chapter (Regulations on Procedure and Administration) for provisions treating timely mailing as timely filing and § 301.7503–1 of this chapter for time for performance of an act where the last day falls on Saturday, Sunday, or a legal holiday.

(c) *Limit on claims per taxable year.* Not more than one claim may be filed under § 48.6421–1 or § 48.6421–2 by any person with respect to gasoline used during any taxable year, except to the extent that quarterly claims may be filed under paragraph (b)(2) of this section with respect to any calendar quarter (other than the last calendar quarter) of the taxable year.

(d) *Form and content of claim*—(1) *Claim for credit.* The claim for credit to which this section applies must be made by attaching a Form 4136 to the income tax return of an individual or a corporation. Form 4136 must be executed in accordance with the instructions prescribed for the preparation of the form. A partnership may not file Form 4136. When a partnership files Form 1065, U.S. Partnership Return of Income, it must include a statement showing how many gallons of gasoline are allocated to each partner and the use made of the gasoline.

(2) *Claim for payment.* The claim for payment to which this section applies must be made on Form 843 in accordance with the instructions prescribed for the preparation of the form. Each form must designate the taxable year, or calendar quarter, for which it is filed. The form must be filed with the same service center where the income tax return was last filed or, in the case of a governmental unit or exempt organization described in § 48.6421–1(c) or § 48.6421–2(c), with the service center for the internal revenue

region in which the principal place of business or principal office of the claimant is located.

(3) *Death or termination.* (i) If an individual dies, or if a sole proprietorship, partnership, or corporation is terminated or liquidated, during the taxable year, the claim for credit or payment may be filed in respect of gasoline used during the short taxable year in the same manner as is provided for gasoline used in a full taxable year. Those months which constitute a quarter of a full taxable year will constitute the same quarter of the short taxable year. For example, if a corporation using the calendar year is liquidated on September 30, 1982, and is entitled to $900 under § 48.6421–1 in respect of gasoline used in a qualified business use for the calendar quarters ending June 30 and September 30, it may file a claim for payment in respect of the gasoline used during the calendar quarters ending June 30, and September 30, 1981, and take a credit of $900 on its income tax return for the short taxable year in respect of the gasoline used during the calendar quarter ending March 31, 1982.

(ii) A claim for payment on behalf of a decedent may be filed by the decedent's executor, administrator, or any other person charged with responsibility for the decedent's affairs. Such a claim must be accompanied by copies of the letters testamentary, letters of administration, or, in the case of a claim filed by other than the executor or administrator, the information called for in Form 1310 (Statement of Person Claiming Refund Due a Deceased Taxpayer). The claim may cover only a gasoline in respect of which the decedent would have been entitled to claim payment. For example, if an individual dies on July 15, 1982, prior to claiming payment under § 48.6421–1 or $1,000 or more applicable to gasoline purchased and used in a qualified business use during the calendar quarter ending June 30, 1982, the decedents's executor or other legal representative may file a claim for payment covering that calendar quarter, and take the credit provided by section 39(a)(2) against the decedent's income tax on the income tax return for the short taxable year in respect of gasoline purchased by the decedent and so used during the period from July 1, 1982, to July 15, 1982, the date of death.

(e) *Restrictions on claims for credit or payment.* Credits or payments are allowable only in respect of gasoline that was sold by the producer or importer in a transaction that was subject to tax under section 4081. For example, a State or local government may not file a claim with respect to any gasoline which it purchased tax free from the producer, even though the State or local government used the gasoline as a fuel for the purposes described in paragraph (a) of this section. Similarly, a governmental unit or tax-exempt organization that is the ultimate purchaser of gasoline may not file a claim for payment if it is known that another person is entitled to claim credit, payment, or refund with respect to the same gasoline. For example, a State or local government may not file a claim for payment if it has executed, or intends to execute, a written consent, or other documentation, to enable the producer to claim credit or refund for the tax that was paid. See, for example, §§ 48.6416(a)–3 and 48.6416(b)(2)–3(b)(1).

§ 48.6421–4 Meaning of terms.

For purposes of the regulations under section 6421, unless otherwise expressly indicated—

(a) *Gasoline.* The term "gasoline" has the same meaning given to such term by section 4082(b) and regulations thereunder.

(b) *Qualified business use.* (1) The term "qualified business use" means any use by a person in a trade or business of the person or in an activity of the person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

(i) That at the time of the use is registered, or is required to be registered, for highway use under the laws of any state, the District of Columbia, or a foreign country, or

(ii) That, in the case of a highway vehicles owned by the United States, is used on the highway.

The term "qualified business use" does not include any use in a motorboat, other than a vessel used in the fisheries or whaling business. See paragraph (c) of this section for the definition of "highway vehicle." See paragraph (d) of this section for the definition of "highway."

(2) Any highway vehicle operated under a dealer's tag, license, or permit will be considered to be registered. A highway vehicle is not considered to be "registered" solely because there has been issued a special permit for operation of the vehicle at particular times and under specified conditions. However, a highway vehicle that is required to be registered and that is also issued a special permit for operation of the vehicle under specified conditions, such as carrying an oversize load, is still considered to be "registered."

(3) Nonbusiness, off-highway use of gasoline by such vehicles and equipment as minibikes, snowmobiles, power lawn mowers, chain saws, and other yard equipment does not qualify as gasoline used a qualified business use.

(4) Examples of gasoline used in a qualified business use include (i) gasoline used (in a trade or business or for the production of income) in stationary engines to operate pumps, generators, compressors, and power saws; (ii) gasoline used (in a trade or business or for the production of income) for cleaning purposes; (iii) gasoline used (in a trade or business or for the production of income) in forklift trucks, bulldozers, and earthmovers; and (iv) gasoline used by a nonhighway vehicle in connection with the trade or business of construction, mining or logging.

(5) *Illustration.* The application of this paragraph (b) may be illustrated by the following example.

Example. M Corporation, a logging company, files its income tax return on the basis of the calendar year. During 1982, the company used 20,000 gallons of gasoline in its logging business. Of this amount, 12,000 gallons were used as fuel in registered highway vehicles which were operated both on the public highways and on the company's private roads. Of the remaining 8,000 gallons, 6,000 were used in nonhighway vehicles, such as tractors and bulldozers, and 2,000 gallons were used in highway vehicles, such as heavy trucks which, at the time of use, were neither registered nor required to be registered under state law for highway use by reason of being operated entirely on the company's property. As the ultimate purchaser, M may take a credit on its income tax return for 1982 under this section in respect of the 6,000 gallons used in the nonhighway vehicles and the 2,000 gallons used in the unregistered highway vehicles. However, no credit may be allowed with respect to the 12,000 gallons used in the registered highway vehicles even though a portion of this gasoline was used in operating the vehicles on the company's own property.

(c) *Highway vehicle.* The term "highway vehicle" has the same meaning assigned to this term under § 48.4061(a)–1(d).

(d) *Highway.* The term "highway" includes any road, whether a Federal highway, State highway, city street, or otherwise, in the United States which is not a private roadway.

(e) *Noncommercial aviation.* The term "non-commercial aviation" has the same meaning given to such term by section 4041(c)(4).

(f) *Calendar quarter.* The term "calendar quarter" means a period of three calendar months ending on March 31, June 30, and September 30, or December 31.

(g) *Taxable year.* The "taxable year" of a governmental unit or tax-exempt organization described in § 48.6421–1(c) or § 48.6421–2(c) is the calendar or fiscal year on the basis of which it regularly keeps its books. The "taxable year" of persons subject to income tax shall have the meaning it has under section 7701(a)(23).

§ 48.6421–5 Exempt sales, other payments or refunds available.

(a) *Exempt sales.* No credit or payment shall be allowed or made under § 48.6421–1 or § 48.6421–2 with respect to gasoline which was exempt from the tax imposed by section 4081. For example, credit or payment may not be allowed or made with respect to gasoline purchased tax free for use as supplies for certain vessels and airplanes, or with respect to gasoline purchased by a State tax free for its exclusive use, as provided in section 4221.

(b) *Other payments or refunds available.* Any amount which, without regard to the second sentence of section 6421(e)(1) and this paragraph (b), would be allowable as a credit or payable to any person under § 48.6421–1 or § 48.6421–2 is reduced by any other amount which is allowable as a credit or payable under section 6421, or is refundable under any other provision of the Code, to any person with respect to the same gasoline.

(c) *Gasoline used on farms.* Payments with respect to gasoline used on a farm for farming purposes shall be claimed under section 6420 and § 48.6420–1, and no claim in respect of that gasoline may be made under section 6421 and the regulations thereunder.

§ 48.6421–6 Applicable laws.

(a) *Penalties, excessive claims, etc.* All provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, to the extent applicable and consistent with section 6421, apply in respect of the payments provided for in section 6421 to the same extent as if these payments were refunds of overpayments of the tax imposed on the sale of gasoline by section 4081. For special rules applicable to the assessment and collection of amounts constituting excessive payments under section 6421, see section 6206 and the regulations thereunder. For the civil penalty assessable in the case of excessive claims under section 6421, see section 6675 and the regulations thereunder. For the treatment as an overpayment of an amount allowable as an excessive credit under section 39 with respect to amounts payable under section 6421, see section 6401(b).

(b) *Examination of books and witnesses.* For the purpose of ascertaining (1) the correctness of any claim made under section 6421 or (2) the correctness of any credit or payment made in respect of the claim, the Commissioner shall have the same authority granted by paragraphs (1), (2), and (3) of section 7602, relating to examination of books and witnesses, as if the person claiming credits or payment under section 6421 were the person liable for tax.

§ 48.6421–7 Records to be kept in substantiation of credits or payments.

(a) *In general.* Every person making a claim for credit or payment under section 6421 must keep records sufficent to enable the district director to determine whether the person is entitled to credit or payment under section 6421 and, if so, the amount of the credit or payment. No particular form is prescribed for keeping the records, but the records must include a copy of any statement or document submitted with the return or claim. The records must also show with respect to the period covered by the claim—

(1) The number of gallons of gasoline purchased and the dates of purchase,

(2) The name and address of each vendor from whom gasoline was purchased and the total number of gallons purchased from each,

(3) The number of gallons of gasoline purchased by the claimant and used during the period covered by the claim for nonhighway purposes or in intercity, local or school buses,

(4) Other information as necessary to establish the correctness of the claim.

(b) *Acceptable records.* (1) Evidence of purchases of gasoline, and the purposes for which it was used, to substantiate claims may included paid duplicate sales invoices or tickets from the gasoline dealer or other vendor, and detailed records of all fuel used which show the amount used for the prescribed purpose and the amount use for other purposes.

(2) Records maintained for Federal or State income tax purposes, or to support claims for refund of a State tax on gasoline, may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim for credit under section 6421. However, the records must show separately the number of gallons of gasoline used for nonhighway purposes or in intercity, local, or school buses during the period covered by the claim.

(4) Other information as necessary to establish the correctness of the claim.

(b) *Acceptable records.* (1) Evidence of purchases of gasoline, and the purposes for which it was used, to substantiate claims may include paid duplicate sales invoices or tickets from the gasoline dealer or other vendor, and detailed records of all fuel used which show the amount used for the prescribed purpose and the amount used for other purposes.

(2) Records maintained for Federal or State income tax purposes, or to suport claims for refund of a State tax on gasoline, may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim for credit under section 6421. However, the records must show separately the number of gallons of gasoline used for nonhighway purposes or in intercity, local, or school buses during the period covered by the claim.

(c) *Place and period for keeping records.* (1) All records required by this section must be kept by the claimant at a convenient and safe location within the United States which is accessible to internal revenue officers and shall during normal business hours be available for inspection by internal revenue officers. If the claimant has a principal place of business in the United States, the records must be kept at that place of business.

(2) Records required to substantiate a claim under section 6421 must be maintained for a period of at least 3 years from the last date prescribed for the filing of the claim for credit or payment.

Par. 34. The following new §§ 48.6424–1, 48.6424–2, 48.6424–3, 48.6424–4, 48.6424–5, and 48.6424–6 are added immediately following § 48.6421–7.

48.6424–1 Credits or payments to ultimate purchaser of lubricating oil used in a qualified business use or in a qualified bus.

(a) *In general.* If lubrication oil (other than cutting oils, as defined in section 4092(b) and other than previously used oil) is used in a qualified business use or in a qualified bus, a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c) of this section) in respect of the lubricating oil shall be allowed or made to the ultimate purchaser of the lubricating oil in an amount equal to 6 cents for each gallon of lubricating oil so used on which tax was paid under section 4091. No interest shall be paid on any payment allowed under paragraph (c) of this section. However, interest may be paid on a overpayment (as defined by section 6401) of tax arising from a credit allowed under

paragraph (b) of this section. See section 39(a), relating to credit for certain uses of gasoline, special fuels, and lubricating oil. See § 48.6424–2 for the time within which a claim for credit or payment must be made under this section. See § 48.6424–3 for the meaning of the terms "lubricating oil," "use in a qualified business use" "qualified bus," "calendar year," and "taxable year." See § 48.6424–2 for the time within which a claim for credit or payment must be made under this section. See § 48.6424–3 for the meaning of the terms "lubriciating oil," "use in a qualified business use" "qualified bus," "calendar year," and "taxable year."

(b) *Allowance of income tax credit in lieu of payment.* Except as provided in paragraph (c) of this section, repayment under this section of the tax paid under section 4091 on lubricating oil used in a qualified business use or in a qualified bus by a person subject to income tax may be obtained only by claiming a credit for the amount of this tax against the tax imposed by subtitle A of the Code. The amount of the credit shall be an amount equal to the payment which would be made under section 6424 with respect to lubricating oil used during the taxable year in a qualified business use or in a qualified bus if section 6424(f) and paragraph (c) of this section did not apply. See section 39(a)(3).

(c) *Allowance of payment.* Payments in respect of lubricating oil upon which tax was paid under section 4091 that is used in a qualified business use or a qualified bus shall be made only to—

(1) The United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions of a State, or the District of Columbia,

(2) An organization which is exempt from tax under section 501(a) and is not required to make a return of the income tax imposed under subtitle A for its taxable year, or

(3) A person described in section 6424(b)(2) to whom $1,000 or more is payable (without regard to paragraph (b) of this section) under this section with respect to lubricating oil used during any of the first three quarters of the person's taxable year.

(d) *Uses which qualify for credit or payment.* The use contemplated by section 6424 is a use of lubricating oil (previously unused) through which the oil is consumed or rendered unfit for further use as a lubricant or for sale as a lubricant. If previously unused lubricating oil is blended or mixed with previously used lubricating oil which has been reclaimed or rerefined, the unused oil is considered to have lost its identity and the resulting product will be treated as previously used. Thus, no credit or payment will be allowed under this section with respect to the use of such blended lubricating oil regardless of how this mixture is eventually used.

(e) *Dual use of lubricating oil.* (1) No credit or payment may be claimed in respect of lubricating oil used as a lubricant in a highway vehicle used in a trade or business or for the production of income solely by reason of the fact that the propulsion motor in the vehicle is also used for a purpose other than the propulsion of the vehicle. Thus, if the propulsion motor of a highway vehicle (used in a trade or business or for the production of income) also operates special equipment, such as a mixing unit on a concrete mixer truck, by means of a power takeoff or power transfer, no credit or payment may be claimed in respect of the lubricating oil used to operate the special equipment, even though the special equipment is mounted on the highway vehicle.

(2) If a highway vehicle is equipped with a separate motor to operate special equipment (used in a trade or business or for the production of income) such as a refrigeration unit, pump, generator, or mixing unit, the credit or payment may be claimed in respect of the lubricating oil used in the separate motor.

(f) *Lubricating oil lost or destroyed.* Lubricating oil lost or destroyed through spillage, fire, or other casualty is not considered to have been "used" in a qualified business use or in a qualified bus and, accordingly, credit or payment in respect of this lubricating oil may not be claimed.

(g) *Supporting evidence required.* Each claim under this section for credit or payment must include a statement showing—

(1) The total number of gallons of lubricating oil purchased and used in a qualified business or in a qualified bus during the period covered by the claim, multiplied by 6 cents;

(2) The purpose or purposes for which the lubricating oil was used, determined by reference to general categories, and the amount used for each purpose; and

(3) If a claim on Form 843 is being filed, the internal revenue district or service center with which the claimant last filed an income tax return, if any.

§ 48.6424–2 Time for filing claim for credit or payment.

(a) *In general.* A claim for credit or payment described in § 48.6424–1 with respect to lubricating oil used in a qualified business use or in a qualified bus shall cover only lubricating oil used during the taxable year, or when paragraph (b)(2) of this section applies, used during the calendar quarter, for these purposes. Therefore, lubricating oil on hand at the end of a taxable year, or, if applicable, a calendar quarter, such as lubricating oil in storage tanks or drums, must be excluded from a claim filed for the taxable year or calendar quarter, as the case may be. However, this lubricating oil may be included in a claim filed for a later taxable year or a later calendar quarter if it is used during that later year or quarter in a qualified business or in a qualified bus. Lubricating oil used during the taxable year or calendar quarter may be covered by the claim for that period although the lubricating oil was not paid for at the time the claim is filed. For purposes of applying this section, a governmental unit or exempt organization described in § 48.6424–1(c) is considered to have as its taxable year, the calendar year or fiscal year on the basis of which it regularly keeps its books. See § 48.6424–3(g).

(b) *Time for filing*—(1) *Annual claims.* (i) A claim under this section for credit or payment with respect to lubricating oil used during a taxable year, shall not be allowed unless it is filed no later than the time prescribed by section 6511 and the regulations thereunder for filing a claim for credit or refund of income tax for the particular taxable year.

(ii) A claim for payment of a governmental unit or exempt organization described in §48.6424–1(c) must be filed no later than 3 years following the close of its taxable year. See §48.6424–3(f).

(2) *Quarterly claims.* A claim for payment of $1,000 or more in respect of lubricating oil used during any of the first three quarters of the taxable year, filed under § 48.6424–1(c)(3) in respect of lubricating oil used in a qualified business use or in a qualified bus, shall not be allowed unless the claim is filed on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed. No quarterly claim may be filed for the last calendar quarter of the taxable year. Amounts for which payment is disallowed under this paragraph (b)(2) merely because the claim was not filed on time may be included in an annual claim filed under paragraph (b)(1) of this section but other amounts for which a claim for payment has been filed under this paragraph (b)(2) may not be included in an annual claim filed under paragraph (b)(1) of this section.

(3) *Other applicable rules.* See § 301.7502–1 of this chapter (Regulations on Procedure and Administration) for provisions treating timely mailing as timely filing and § 301.7503–1 of this

chapter for time for performance of an act where the last day falls on Saturday, Sunday, or a legal holiday.

(c) *Limit on claims per taxable year.* Not more than one claim may be filed under § 48.6424–1 by any person with respect to lubricating oil used during any taxable year, except to the extent that quarterly claims may be filed under paragraph (b)(2) of this section with respect to any calendar quarter (other than the last calendar quarter) of the taxable year.

(d) *Form and content of claim*—(1) *Claim for credit.* The claim for credit to which this section applies must be made by attaching a Form 4136 to the income tax return of an individual or a corporation. Form 4136 must be executed in accordance with the instructions prescribed for the preparation of the form. A partnership may not file Form 4136. When a partnership files Form 1065, U.S. Partnership Return of Income, it must include a statement showing how many gallons of lubricating oil are allocated to each partner and the use made of the lubricating oil.

(2) *Claim for payment.* The claim for payment to which this section applies must be made on Form 843 in accordance with the instructions prescribed for the preparation of the form. Each form must designate the taxable year, or calendar quarter, for which it is filed. The form must be filed with the same service center where the income tax return was last filed or, in the case of a governmental unit or exempt organization described in § 48.6424–1(c) with the service center for the internal revenue region in which the principal place of business or principal office of the claimant is located.

(3) *Death or termination.* (i) If an individual dies, or if a sole proprietorship, partnership, or corporation is terminated or liquidated, during the taxable year, the claim for credit or payment may be filed in respect of lubricating oil used during the short taxable year in the same manner as is provided for lubricating oil used in a full taxable year. Those months which constitute a quarter of a full taxable year will constitute the same quarter of the short taxable year. For example, if a corporation using the calendar year is liquidated on September 30, 1982, and is entitled to $900 under § 48.6424–1 in respect of lubricating oil used in a qualified business use of in a qualified bus for the calendar quarter ending March 31 and is also entitled to payments of $1,500 for each of the calendar quarters ending June 30 and September 30, it may file a claim for payment in respect of the lubricating oil used during the calendar quarters ending June 30, and September 30, 1982, and take a credit of $900 on the corporation's income tax return for the short taxable year in respect of the lubricating oil used during the calendar quarter ending March 31, 1982.

(ii) A claim for payment on behalf of a decedent may be filed by the decedent's executor, administrator, or any other person charged with responsibilty for the decedent's affairs. Such a claim must be accompanied by copies of the letters testementary, letters of administration, or, in the case of a claim filed by other than the executor or administrator, the information called for in Form 1310 (Statement of Person Claiming Refund Due a Deceased Taxpayer). The claim may cover only lubricating oil in respect of which the decedent would have been entitled to claim payment. For example, if an individual dies on July 15, 1982, prior to claiming payment under § 48.6424–1 of $1,000 or more applicable to lubricating oil purchased and used in a qualified business use during the calendar quarter ending June 30, 1982, the decedent's executor or other legal representative may file a claim for payment covering that calendar quarter, and take the credit provided by section 39(a)(3) against the decedent's income tax on the income tax return for the short taxable year in respect of lubricating oil purchased by the decedent and so used during the period from July 1, 1982, to July 15, 1982, the date of death.

(e) *Restrictions on claims for credit or payment.* Credits or payments are allowable only in respect of lubricating oil that was sold by the manufacturer in a transaction that was subject to tax under section 4091. For example, a State or local government may not file a claim with respect to any lubricating oil which it purchased tax free from the manufacturer, even though the State or local government used the lubricating oil in a qualified business use or in a qualified bus. Similarly, a governmental unit or tax-exempt organization that is the ultimate purchaser of lubricating oil may not file a claim for payment if it is known that another person is entitled to claim a credit, payment, or refund with respect to the same lubricating oil. For example, a State or local government may not file a claim for payment if it has executed, or intends to execute, a written consent, or other documentation, to enable the producer to claim a credit or refund for the tax that was paid. See, for example, §§ 48.6416(a)–3(b)(2), 48.6416(b)(2)–2(d), and 48.6416(b)(2)–3(b)(1).

§ 48.6424–3 Meaning of terms.

For purposes of the regulations under section 6424, unless otherwise expressly indicated—

(a) *Lubricating oil.* The term "lubricating oil" has the same meaning given to this term by the regulations under section 4091. It does not include cutting oil, as defined in section 4092(b) and the regulations thereunder, or any oil which has previously been used.

(b) *Qualified business use.* The term "qualified business use" means any use by a person in a trade or business of such person or in an activity of the person described in section 212 (relating to production of income).

Qualified business use does not include:

(1) use in a highway vehicle which is registered or required to be registered for highway use in any State or foreign country,

(2) use on the highway in a highway vehcle owned by the United States or

(3) use in a motor boat.

Lubricating oil in respect of which credit or payment may be claimed under section 6424 includes, for example, previously unused lubricating oil used—

(i) In stationary engines (used in a trade or business or for the production of income) to operate pumps, generators, compressors, or power saws; or

(ii) In forklift trucks, bulldozers, earthmovers, trench diggers, road graders, farm tractors, cotton pickers, and other motorized agricultural equipment of similar nature, if used in a trade or business or for the production of income.

(c) *Qualified bus.* The term "qualified bus" has the same meaning assigned to this term by section 4221(d)(7) and the regulations thereunder.

(d) *Highway vehicle.* The term "highway vehicle" has the same meaning assigned to this term under § 48.4061(a)–1(d).

(e) *Highway.* The term "highway" includes any road, whether a Federal highway, State highway, city, street, or otherwise, in the United States which is not a private roadway.

(f) *Calendar quarter.* The term "calendar quarter" means a period of three calendar months ending March 31, June 30, September 30, or December 31.

(g) *Taxable year.* The "taxable year" of a governmental unit or a tax-exempt organization described in § 48.6424–1(c) is the calendar or fiscal year on the basis of which it regularly keeps its books. The "taxable year" of persons subject to income tax shall have the meaning it has under section 7701(a)(23).

§ 48.6424–4 Exempt sales; other payments or refunds available.

(a) *Exempt sales.* No credit or payment shall be allowed or made under § 48.6424–1 with respect to lubricating oil which was exempt from the tax imposed by section 4091. For example, credit or payment may not be allowed or made with respect to lubricating oil purchased tax free for use as supplies for certain vessels and airplanes, or with respect to lubricating oil purchased by a State tax free for its exclusive use, as provided in section 4221.

(b) *Other payments or refunds available.* Any amounts which, without regard to the second sentence of section 6424(c) and this paragraph (b), would be allowable as a credit or payable to any person under § 48.6424–1 is reduced by any other amount which is allowable as a credit or payable under section 6424, or is refundable under any other provision of the Code, to any person with respect to the same lubricating oil.

§ 48.6424–5 Applicable laws.

(a) *Penalties, excessive claims, etc.* All provisions of law, including penalties, applicable in respect of the tax imposed by section 4091 shall, to the extent applicable and consistent with section 6424, apply in respect of the payments provided for in section 6424 to the same extent as if these payments were refunds of overpayments of the tax imposed on the sale of lubricating oil by section 4091. For special rules applicable to the assessment and collection of amounts constituting excessive payments under section 6424, see section 6406 and the regulations thereunder. For the civil penalty assessable in the case of excessive claims under section 6424, see section 6675 and the regulations thereunder. For the treatment as an overpayment of an amount allowable as an excessive credit under section 39 with respect to amounts payable under section 6424, see section 6401(b).

(b) *Examination of books and witnesses.* For the purpose of ascertaining (1) the correctness of any claim made under section 6424 or (2) the correctness of any credit or payment made in respect of the claim, the Commissioner shall have the same authority granted by paragraphs (1), (2), and (3) of section 7602, relating to examination of books and witnesses, as if the person claiming credit or payment under section 6424 were the person liable for tax.

§ 48.624–6 Records to be kept in substantiation of credit or payments.

(a) *In general.* Every person making a claim for credit or payment under section 6424 must keep records sufficient to enable the district director to determine whether the person is entitled to credit or payment under section 6424 and, if so, the amount of the credit or payment. No particular form is prescribed for keeping the records, but the records must include a copy of the income tax return or claim and a copy of any statement or document submitted with the return or claim. The records must also show with respect to the period covered by the claim—

(1) The number of gallons of lubricating oil purchased and the dates of purchase.

(2) The name and address of each vendor from whom lubricating oil was purchased and the total number of gallons purchased from each,

(3) The number of gallons of lubricating oil purchased by the claimant and used, during the period covered by the claim in a qualified business use or in a qualified bus, and

(4) Other information as necessary to establish the correctness of the claim.

(b) *Acceptable records.* (1) Evidence of purchases of lubricating oil, and the purposes for which it was used, to substantiate claims may include paid duplicate sales invoices or tickets from the dealer or other vendor, and detailed records of all lubricating oil used which show the amount used for the prescribed purpose and the amount used for other purposes.

(2) Records maintained for Federal or State income tax purposes, or to support claims for refund of a State tax on lubricating oil, may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim for credit under section 6424.

(c) *Place and period for keeping records.* (1) All records required by this section must be kept by the claimant at a convenient and safe location within the United States which is accessible to internal revenue officers and shall during normal business hours be available for inspection by internal revenue officers. If the claimant has a principal place of business in the United States, the records must be kept at that place of business.

(2) Records required to substantiate a claim under section 6424 must be maintained for a period of at least 3 years from the last date prescribed for the filing of the claim for credit or payment.

Par. 35 The following §§ 48.6427–1, 48.6427–2, 48.6427–3, 48.6427–4 and 48.6427–5 are added immediately following § 48.6424–6.

§ 48.6427–1 Credit or payments to purchaser of special fuels resold or used for nontaxable, farming, or other purposes.

(a) *Amount of repayment*—(1) *Nontaxable or other uses.* (i) If tax has been paid under section 4041(a)(1) on the sale of diesel fuel for use as a fuel in a diesel-powered highway vehicle or under section 4041(b)(1) on the sale of special motor fuel for use as a fuel in a motor vehicle or a motorboat and the fuel is used by the purchaser for a nontaxable purpose or for a purpose taxable at a lower rate than the purposes for which sold, a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c) of this section) in respect of the fuel shall be allowed or made to the purchaser of the fuel in an amount equal to—

(A) The amount of the tax imposed on the sale of the fuel to the purchaser if the purchaser resells the fuel, or

(B) If the purchaser uses the fuel, the amount of tax imposed on the sale of the fuel to the purchaser, less the amount of tax, if any, that would have been imposed on the purchaser's use of the fuel if no tax had been imposed on the sale of the fuel to the purchaser.

(ii) For purposes of paragraph (a)(1)(i) of this section, and for the regulations under section 6427 applying such paragraph, tax imposed on the sale of fuel will be treated as an overpayment by the purchaser if the person resells the fuel or uses it for a nontaxable purpose or for a purpose taxable at a lower rate than that for which sold to the purchaser. Thus, for example, special motor fuel which was sold tax paid to the purchaser for use otherwise than in a qualified business use in a motor vehicle will qualify for the payment under section 6427 if the purchaser uses it as a fuel in a qualified business use.

(2) *Used for farming purposes.* (i) If tax has been paid under section 4041(a)(1) on the sale of diesel fuel for use as a fuel in a diesel-powered highway vehicle, or under section 4041(b)(1) on the sale of special motor fuel for use as a fuel in a motor vehicle or a motor boat and the fuel is used on a farm for farming purposes, a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c)(1) or (2) of this section) in respect of the fuel shall be allowed or made to the purchaser of

the fuel in an amount equal to the amount of tax that was imposed under section 4041 on the sale of the fuel. The provisions of section 6420(c) (1), (2), and (3) and § 48.6420–4 shall apply under this paragraph (a)(2) in determining whether the fuel is used on a farm for farming purposes.

(ii) The term "purchaser," as used in paragraph (a)(2)(i) of this section, includes only a person who is an owner, tenant, or operator of a farm. A person who is owner, tenant, or operator of a farm is a purchaser of fuel only with respect to such fuel as is purchased by the person and used for farming purposes on a farm of which the person is the owner, tenant, or operator. Thus, the owner of a farm who purchases fuel which is used on the farm by its owner, tenant, or operator for farming purposes is generally the purchaser of the fuel. If, however, the cost of fuel supplied by an owner, tenant, or operator of a farm, is by agreement or other arrangement borne by a second person who is an owner, tenant, or operator of the farm, the second person who bore the cost of the fuel is considered to be the purchaser of the fuel.

(iii) Except as provided in paragraph (a)(2)(iv) of this section, if fuel is used on a farm by any person other than the owner, tenant, or operator for the purposes described in section 6420(c)(3)(A) and § 48.6420–4(d) (relating to gasoline used in cultivating, raising, or harvesting), the owner, tenant, or operator (as the case may be) will be treated for the purposes of § 48.6427–1(a)(2)(i) as the purchaser who used the fuel on the farm for farming purposes.

(iv) Section 6427(c) provides that an aerial applicator is entitled to be treated as the user and ultimate purchaser of fuel that the applicator uses on a farm for the purposes described in section 6420(c)(3)(A), but only if the owner, tenant, or operator of the farm who is otherwise entitled to be treated as the ultimate purchaser waives the right to credit or payment. The rules contained in section 6420 and the regulations under the section regarding waivers by owners, tenants, and operators of farms of their rights to payments under section 6420 for gasoline used by aerial applicators on a farm for farming purposes apply to waivers under this section.

(3) *Defintions, uses, and other rules.* (i) No interest shall be paid on any payment allowed under paragraph (c) of this section. However, interest may be paid on any overpayment (as defined by section 6401) arising from a credit. See section 39(a), relating to credit for certain uses of gasoline, special fuels, and lubricating oil. See section 6611, relating to interest on overpayments.

(ii) See § 48.6427–3 for the time within which a claim for credit or payment must be made under this section.

(iii) See § 48.6420–4 for the meaning of the terms "used on a farm for farming purposes" and "farm." The term "gasoline" has the same meaning given to this term by section 4082(b) and the regulations thereunder. For the meaning of the terms "diesel fuel," "special motor fuel," "motor vehicle," "highway vehicle," and "registered" see section 4041 and the regulations thereunder. The term "fuel" means diesel fuel, special motor fuel, or gasoline, as the context requires. Where appropriate, the term "use" includes a resale. See § 48.6421–4 for the meaning of "calendar quarter" and "taxable year".

(iv) For purposes of determining the allowable credit or payment in respect of fuel used for nontaxable purposes, on a farm for farming purposes, or for purposes taxable at a lower rate, fuel on hand shall be considered used in the order in which it was purchased. Thus, if the purchaser made purchases at different times and subject to different rates of tax, then in determining credit or payment for fuel used for a described purpose, it will be assumed that the fuel first purchased was the first fuel used, and the rate applicable to that purchase will apply in determining the credit of payment, until all of that fuel is accounted for.

(v) Fuel lost or destroyed through spillage, fire, or other casualty is not considered to have been "used" within the meaning of this section, and, accordingly, no credit or payment of the tax paid on the sale of the fuel may be made under this section.

(b) *Allowance of income tax credit in lieu of payment.* Except as provided in paragraph (c) of this section, repayment under this section of the tax paid under section 4041 on fuel used by a person subject to income tax may be obtained only by claiming a credit for the amount of this tax against the tax imposed by subtitle A of the Code. The amount of the credit shall be an amount equal to the payment which would be made under section 6427 with respect to fuel used during the taxable year for nontaxable purposes on a farm for farming purposes, or for purposes taxable at a lower rate, if section 6427(i) and paragraph (c) of this section did not apply. See section 39(a)(4).

(c) *Allowance of payment.* Payments in respect of fuel upon which tax was paid under section 4041 that is used for nontaxable purposes, on a farm for farming purposes, or for purposes taxable at a lower rate, shall be made only to—

(1) The United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions of a State, or the District of Columbia,

(2) An organization which is exempt from tax under section 501(a) and is not required to make a return of the income tax imposed under subtitle A for its taxable year, or

(3) In the case of fuel used for nontaxable purposes to which section 6427(a) applies, to a person described in section 6427(g)(2) to whom $1,000 or more is payable (without regard to paragraph (b) of this section) under this section with respect to fuel used during any of the first three quarters of his taxable year.

(d) *Dual use of fuel.* The principles set forth in § 48.4041–7, relating to dual use of fuel, for determining whether liability is incurred under section 4041 at the time of sale of the fuel, are equally applicable in determining whether a credit or payment is to be allowed under this section. Thus, if diesel fuel or special motor fuel used in a separate motor is drawn from the same tank as the one which supplies fuel for the propulsion of the vehicle, a reasonable determination of the quantity of the fuel used in the separate motor will be acceptable for purposes of computing the payment or credit under this section. The determination must be based, however, on the operating experience of the person using the fuel, and a statement, signed by the person, evidencing the operating experience must be maintained as a part of the records of the person claiming the payment or credit.

(e) *Supporting evidence required.* Each claim under this section for credit or payment must include a statement showing—

(1) The total number of gallons of fuel purchased and used for nontaxable or farming purposes during the period covered by the claim, multiplied by the rate of payment allowable under this section with respect to such fuel;

(2) The purpose or purposes for which the fuel was used, determined by reference to general categories, and the amount used for each of the purposes; and

(3) If a claim on Form 843 is being filed, the internal revenue district or service center with which the claimant last filed an income tax return, (if any).

(f) *Illustrations.* The application of this section may be illustrated by the following example:

Example. Special motor fuel was sold for use as fuel in a highway vehicle that was registered for highway use. Tax was imposed on the sale at the rate of 4 cents a gallon under section 4041(b)(1). The special motor fuel was eventually used by the purchaser in a qualified business use. The credit or payment of tax is to be computed as follows:

	Cents per gallon
Rate at which tax was paid	4
Less: Rate at which tax would have been imposed on a qualified business use under sec. 4041(b).	2
Net credit or payment under sec. 6427(a)	2

§ 48.6427–2 Credits or payments to purchaser of diesel or special motor fuels used in intercity, local, or school buses.

(a) *In general.* (1) If tax has been paid under section 4041(a)(1) on the sale of diesel fuel for use as a fuel in a diesel-powered highway vehicle or under section 4041(b)(1) on the sale of special motor fuel for use as a fuel in a motor vehicle or a motorboat and the fuel is used by the purchaser in an intercity or local bus while engaged in furnishing (for compensation) passenger land transportation available to the general public or in a school bus in the transportation of students and employees of schools, a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c) of this section) in respect of the fuel so used shall be allowed or made to the purchaser of the fuel. The credit or payment under this section shall be an amount equal to the product of the number of gallons of fuel so used multiplied by the rate at which tax was imposed on the fuel by section 4041(a) or (b). No interest shall be paid on any payment allowed under paragraph (c) of this section. However, interest may be paid on any overpayment (as defined by section 6401) arising from a credit. See section 39(a), relating to credit for certain uses of gasoline, special fuels, and lubricating oil. See section 6611, relating to interest on overpayments. See § 48.6427–3 for the time within which a claim for credit or payment must be made under this section.

(2) The terms "diesel fuel" and "special motor fuel" have the same meaning as in section 4041 and the regulations thereunder. The term "fuel" means diesel fuel and special motor fuel. See § 48.6421–4 for the meaning of "calendar quarter" and "taxable year."

(b) *Allowance of income tax credit.* Except as provided in paragraph (c) of this section, repayment under this section of the tax paid under section 4041(a) or (b) on diesel or special motor fuel used while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations by a person subject to income tax may be obtained only by claiming a credit for the amount of this tax against the tax imposed by subtitle A of the Code. The amount of the credit shall be an amount equal to the payment which would be made under section 6427 with respect to fuel used during the taxable year for passenger land transportation or school bus operations if section 6427(i) and paragraph (c) of this section did not apply. See section 39(a)(4).

(c) *Allowance of payment.* Payments in respect of diesel or special motor fuel upon which tax was paid under section 4041(a) or (b) that is used while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations shall be made only to—

(1) The United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions of a State, or the District of Columbia,

(2) An organization which is exempt from tax under section 501(a) and is not required to make a return of the income tax imposed under subtitle A for its taxable year, or

(3) A person described in section 6427(g)(2) to whom $1,000 or more is payable (without regard to paragraph (b) of this section) under this section with respect to fuel used during any of the first three quarters of the person's taxable year.

(d) *Supporting evidence required.* Each claim under this section for credit or payment must include a statement showing—

(1) The total number of gallons of fuel purchased and used in each intercity or local bus while engaged in furnishing (for compensation) passenger land transportation available to the general public multiplied by the rate at which tax was imposed on the fuel by section 4041(a) or (b).

(2) The total number of gallons of fuel purchased and used in each bus while engaged in school bus transportation operations multiplied by the rate at which tax was imposed on the fuel by subsection (a) or (b) of section 4041.

(3) If a claim on Form 843 is being filed, the internal revenue district or service center with which the purchaser last filed an income tax return (if any).

§ 48.6427–3 Time for filing claim for credit or payment.

(a) *In general.* A claim for credit or payment described in § 48.6427–1 with respect to fuel used for nontaxable, farming, or other purposes taxable at a lower rate or in § 48.6427–2 with respect to fuel used either in an intercity or local bus while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations shall cover only fuel used during the taxable year, or when paragraph (b)(2) of this section applies, used during the calendar quarter. Therefore, fuel on hand at the end of a taxable year, or, if applicable, a calendar quarter, such as fuel in supply tanks of vehicles or in storage tanks or drums, must be excluded from a claim filed for the taxable year or calendar quarter, as the case may be. However, this fuel may be included in a claim filed for a later taxable year or a later calendar quarter if it is used during that later year or quarter for nontaxable or farming purposes, or in an intercity or local bus while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations. Fuel used during the taxable year or calendar quarter may be covered by the claim for that period although the fuel has not been paid for at the time the claim is filed. The purposes of applying this section, a governmental unit or exempt organization described in § 48.6427–1(c) or § 48.6427–2(c) is considered to have as its taxable year the calendar year or fiscal year on the basis of which it regularly keeps its books; see § 48.6421–4.

(b) *Time for filing*—(1) *Annual claims.* (i) A claim under this section for credit or payment with respect to fuel used during a taxable year shall not be allowed unless it is filed no later than the time prescribed by section 6511 and the regulations thereunder for filing a claim for credit or refund of income tax for the particular taxable year.

(ii) A claim for payment of a governmental unit or exempt organization described in § 48.6427–1(c) or unit or exempt organization described in § 48.6427–2(c), must be filed no later than 3 years following the close of its taxable year. See § 48.6421–4.

(2) *Quarterly claims.* A claim for payment of $1,000 or more in respect to fuel used during any of the first three quarters of the taxable year, filed either under § 48.6427–1(c)(3) in respect of fuel used for nontaxable purposes or for purposes taxable at a lower rate, or under § 48.6427–2(c)(3) in respect of fuel

used while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations, shall not be allowed unless the claim is filed on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed. No quarterly claim may be filed for the last calendar quarter of the taxable year. Amounts for which payment is disallowed under this paragraph (b)(2) merely because the claim was not file on time may be included in an annual claim filed under paragraph (b)(1) of this section, but other amounts for which a claim for payment has been filed under this paragraph (b)(2) may not be included in an annual claim filed under paragraph (b)(1) of this section.

(3) *Other applicable rules.* See § 301.7502–1 of this chapter (Regulations on Procedure and Administration) for provisions treating timely mailing as timely filing and § 301.7503–1 of this chapter for time for performance of an act where the last day falls on Saturday, Sunday, or a legal holiday.

(c) *Limit on claims per taxable year.* Not more than one claim may be filed under § 48.6427–1 or § 48.6427–2 by any person with respect to fuel used during any taxable year, except to the extent that quarterly claims may be filed under paragraph (b)(2) of this section with respect to any calendar quarter (other than the last calendar quarter) of the taxable year.

(d) *Form and content of claim.*—(1) *Claim for credit.* The claim for credit to which this section applies must be made by attaching a Form 4136, to the income tax return of an individual or a corporation. Form 4136 must be executed in accordance with the instructions prescribed for the preparation of the form. A partnership may not file Form 4136. When a partnership files Form 1065, U.S. Partnership Return of Income, it must include a statement showing how many gallons of fuel are allocated to each partner and the use made of the fuel.

(2) *Claim for payment.* The claim for payment to which this section applies must be made on Form 843 in accordance with the instructions prescribed for the preparation of the form. Each form must designate the taxable year, or calendar quarter, for which it is filed. The form must be filed with the same service center where the income tax return was last filed or, in the case of a governmental unit or exempt organization described in § 48.6427–1(c) or § 48.6427–2(d), with the service center for the internal revenue region in which the principal place of business or principal office of the claimant is located.

(3) *Death or termination.* (i) If an individual dies, or if a sole proprietorship, partnership, or corporation is terminated or liquidated, during the taxable year, the claim for credit or payment may be filed in respect of fuel used during the short taxable year in the same manner as is provided for fuel used in a full taxable year. Those months which constitute a quarter of a full taxable year will constitute the same quarter of the short taxable year. For example, if a corporation using the calendar year is liquidated on September 30, 1982, and is entitled to $900 under § 48.6427–1 in respect of fuel used for nontaxable purposes for the calendar quarter ending March 31 and is also entitled to payments of $1,500 for each of the calendar quarters ending June 30 and September 30, it may file a claim for payment in respect of the fuel used for nontaxable purposes during the calendar quarters ending June 30, and September 30, 1982, and take a credit of $900 on its income tax return for the short taxable year in respect of the fuel used during the calendar quarter ending March 31, 1982.

(ii) A claim for payment on behalf of a decedent may be filed by the decedent's executor, administrator, or any other person charged with responsibility for the decedent's affairs. Such a claim must be accompanied by copies of the letters testamentary, letters of administration, or, in the case of a claim filed by other than the executor or administrator, the information called for in Form 1310 (Statement of Person Claiming Refund Due a Deceased Taxpayer).
The claim may cover only fuel in respect of which the decedent would have been entitled to claim payments. For example, if an individual dies on July 15, 1982, prior to claiming payment under § 48.6427–1 of $1,000 or more applicable to fuel purchased and used for nontaxable purposes during the calendar quarter ending June 30, 1982, the decedent's executor or other legal representative may file a claim for payment covering that calendar quarter, and take the credit provided by section 39(a)(4) against the decedent's income tax on the income tax return for the short taxable year in respect of fuel purchased by the decedent and so used during the period from July 1, 1982, to July 15, 1982, the date of death.

(e) *Restrictions on claims for credit or payment.* Credits or payments are allowable only in respect of fuel that was sold by the producer or importer in a transaction that was subject to tax under section 4041. For example, a State or local government may not file a claim with respect to any fuel which it purchased tax free from the producer, even though the State or local government used the fuel for the purposes described in paragraph (a) of this section. Similarly, a State or local government may not file a claim with respect to the use of fuel if it is known that another person is entitled to claim a payment, credit, or refund with respect to the same fuel. For example, a State or local government may not file a claim in respect of tax-paid fuel that has been resold by the purchaser to the State or local government.

§ 48.6427–4 Applicable laws.

(a) *Penalties, excessive claims, etc.* All provisions of law, including penalties, applicable in respect of the tax imposed by section 4041 shall, to the extent applicable and consistent with section 6427, apply in respect of the payments provided for in section 6427 to the same extent as if these payments constituted refunds of overpayments of the tax imposed on the sale of fuels by section 4041. For special rules applicable to the assessment and collection of amounts constituting excessive payments under section 6427, see section 6206 and the regulations thereunder. For the civil penalty assessable in the case of excessive claims under section 6427, see section 6675 and the regulations thereunder. For the treatment as an overpayment of an amount allowable as an excessive credit under section 39 with respect to amounts payable under section 6427, see section 6401(b).

(b) *Examination of books and witnesses.* For the purpose of ascertaining (1) the correctness of any claim made under section 6427 or (2) the correctness of any credit or payment made in respect of the claim, the Commissioner shall have the same authority granted by paragraphs (1), (2), and (3) of section 7602, relating to examination of books and witnesses, as if the person claiming credit or payment under section 6427 were the person liable for tax.

§ 48.6427–5 Records to be kept in substantiation of credits or payments.

(a) *In general.* Every person making a claim for credit or payment under section 6427 must keep records sufficient to enable the district director to determine whether the person is entitled to credit or payment under such section and, if so, the amount of the credit or payment. No particular form is prescribed for keeping the records, but the records must include a copy of the

income tax return or claim and a copy of any statement or document submitted with the return or claim. The records must also show with respect to the period covered by the claim—

(1) The number of gallons of fuel purchased and the dates of purchase,

(2) The name and address of each vendor from whom fuel was purchased and the total number of gallons purchased from each,

(3) The number of gallons of fuel purchased by the claimant and used during the period covered by the claim for nontaxable purposes, farming purposes, for othe purposes taxable at a lower rate, in local, intercity, or school buses, and

(4) Other information as necessary to establish the correctness of the claim.

(b) *Acceptable records.* (1) Evidence of purchases of fuel, and the purposes for which it was used, to substantiate claims may include paid duplicate sales invoices or tickets from the fuel dealer or other vendor, and detailed records of all fuel used which show the amount used the prescribed purpose and the amount used for other purposes.

(2) Records maintained for Federal or State income tax purposes, or to support claims for refund of a State tax on fuel, may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim for credit under section 6427. However, the records must show separately the number of gallons of fuel used for nontaxable purposes, farming purposes, other purposes taxable at a lower rate, or in intercity, local, or school buses during the period covered by the claim.

(c) *Place and period for keeping records.* (1) All records required by this section must be kept by the claimant at a convenient and safe location within the United States which is accessible to internal revenue officers and shall during normal business hours be available for inspection by internal revenue officers. If the claimant has a principal place of business in the United States, the records must be kept at that place of business.

(2) Records required to substantiate a claim under section 6427 must be maintained for a period of at least 3 years from the last date prescribed for the filing of the claim for credit or payment.

Par. 36. Section 48.6675–1 is revised to read as follows:

§ 48.6675–1 Excessive claims under section 6420, 6421, 6424, or 6427.

(a) *Civil penalty.* Any person making a claim for credit or payment under section 6420 (relating to gasoline used on farms), section 64211 (relating to lubricating oil used for certain nontaxable purposes), or section 6427 (relating to fuels not used for taxable purposes) for an excessive amount shall be liable, in addition to any criminal penalty provided by law, to penalty in an amount equal to the greater of either (1) two times the excessive amount or (2) ten dollars, unless the person shows that the making of the excessive claim was due to reasonable cause. For provisions relating to the assessment and collection of the civil penalty provided by section 6675, see section 6206 and the regulations thereunder.

(b) *Excessive amount defined.* For purposes of section 6675(a), the term "excessive amount" means the amount by which—

(1) The claim for credit or payment under section 6420, section 6421, section 6424, or section 6427 exceeds

(2) The amount of credit or payment under the section for the period covered by the claim.

§ 140.6427–1 [Removed]

Par. 37. Section 140.6427–1 (Temporary Regulations in connection with section 3 of the Act of October 14, 1978) is removed.

§ 154.4–1 [Removed]

Par. 38. Paragraph (e) of § 154.4–1 (Temporary Regulations in connection with the Airport and Airway Revenue Act of 1970) is removed.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc 82–35481 Filed 12–30–82; 8:45 am]

BILLING CODE 4830–01–M

Office of the Secretary

31 CFR Part 1

Privacy Act of 1974; Proposed Notice of Rules Exempting a System of Records From Certain Requirements

AGENCY: Office of the General Counsel, Office of the Secretary, Treasury.

ACTION: Proposed rule.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, the Office of the General Counsel gives notice of a proposed revision of 31 CFR 1.36. This revision will (1) change the name of the system of records, Treasury/OS 00.144, from "Civil Litigation Records" to "Treasury Interagency Automated Litigation System (TRIALS)", (2) exempt TRIALS from the application of certain parts of the Privacy Act in accordance with 31 CFR 1.23(c) and § 1.36, and (3) revise § 1.36 to reflect TRIALS' operational characteristics.

DATE: Comments must be received on or before March 7, 1983.

ADDRESS: Comments should be sent to: Office of the Assistant General Counsel (Enforcement and Operations), Room 2310, Main Treasury, 1500 Pennsylvania Avenue, NW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Stephanie Dick, Office of the Assistant General Counsel (Enforcement and Operations), Room 2000, Main Treasury, 1500 Pennsylvania Avenue, NW., Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION: The existing system of records, Civil Litigation Records, is a manual system. The Office of the General Counsel proposes to revise and supplement this system through automation. The revised system, TRIALS, is essentially a computerized indexing version of the Civil Litigation Records system. TRIALS is a case-management index which provides summary data on Treasury non-tax litigation and administrative proceedings. This document amends 31 CFR 1.36 to reflect the existence of the revised system.

As required by Executive Order 12291, it has been determined that this proposed rule is not a "major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), it has been determined that these regulations do not have significant economic impact on a substantial number of small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the Department of the Treasury has made a determination that this proposed rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Privacy.

Dated: December 16, 1982.

Cora P. Beebe,

Assistant Secretary (Administration).

Title 31 CFR 1.36 of Subpart C is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 1.36 [Amended]

* * * * *

Office of the Secretary

Office of the General Counsel

Notice Exempting a System of Records from Requirements of the Privacy Act.

(a) *In General.* The General Counsel of the Treasury exempts the system of records entitled "Treasury Interagency Automated Litigation System (TRIALS)" from the provisions of subsections (e)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. 552a. The manual part of this system of records contains information or documents relating to litigation or administrative proceedings involving or concerning the Department or its officials, and includes pending, active, and closed files. The manual records consist of copies of pleadings, investigative reports, information compiled in reasonable anticipation of a civil action or proceeding, legal memoranda, and related correspondence. Pleadings which have been filed with a court or administrative tribunal are matters of public record, and no exemption is claimed as to them. The computerized part of the system contains summary data on Treasury Department non-tax litigation and administrative proceedings, *e.g.* plaintiff, defendant, attorney, witness, judge and/or hearing officer names, type of case, relief sought, date, docket number, pertinent dates, and issues. The purpose of the exemptions is to maintain the confidentiality of investigatory materials compiled for law enforcement purposes; information compiled in reasonable anticipation of a civil action or proceeding is exempt from access under subsection (d)(5) until the file is closed; thereafter subsection (k)(2) may apply in part to the information. Legal memoranda and related correspondence contain no personal information and are not subject to disclosure under section 552a. Determinations concerning whether particular information contained in this system is exempt from disclosure will be made at the time a request is received from an indivudual to gain access to information pertaining to him.

(b) *Authority.* These rules are promulgated pursuant to the authority vested in the Secretary of the Treasury by 5 U.S.C. 552a(k), and pursuant to the authority vested in the General Counsel by 31 CFR 1.23(c).

(c) *Name of System.* Treasury Interagency Automated Litigation System (TRIALS).

* * * * *

[FR Doc. 83-168 Filed 1-4-83; 8:45 am]

BILLING CODE 4810-25-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM83-4]

December 29, 1982.

AGENCY: Postal Rate Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Postal Rate Commission, pursuant to 39 U.S.C. 3603, 3622, 3623, 3661, and 3662, proposes two changes in its rules of practice (39 CFR Part 3001). One change would amend the rules governing complaints filed under 39 U.S.C. 3662 by persons who believe that the United States Postal Service is rendering service not consistent with the policies of title 39, U.S.C. The rule change would provide for a period of informal investigation, where the Commission determined that such a procedure would be helpful, before the Postal Service is required to file a formal answer to the complaint. The rules affected are 39 CFR 3001.84 and 3001.85.

The second change amends 39 CFR 3001.23(C) to reflect the fact that the Commisson now regularly hears cases en banc and does not employ Administrative Law Judges. It deletes a portion of the cited subsection which properly applies only to Administrative Law Judges, but not to Commissioners.

DATE: Comments responsive to this Notice should be filed on or before February 7, 1983.

ADDRESS: Comments and other correspondence relating to this Notice should be sent to David F. Harris, Secretary of the Commission, 2000 L Street, N.W., Washington, D.C. 20268 (telephone: 202/254–3880).

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 2000 L Street, N.W., Washington, D.C. 20268 (telephone: 202/254–3824).

SUPPLEMENTARY INFORMATION: This Notice proposes two changes in the rules of practice of the Commission, 39 CFR Part 3001. One is intended to simplify and clarify the procedures to be followed upon the filing of a complaint, pursuant to 39 U.S.C. 3662, by an interested party who believes he or she is "not receiving postal service in accordance with the policies of this title." If adopted, it will result in changes to 39 CFR 3001.84 and 3001.85. The second change affects 39 CFR 3001.23(c), and is intended only to eliminate language which has ceased to be useful since the Commission adopted the practice of hearing cases en banc, without the services of an administrative law judge (ALJ).

Changes in the complaint rules. Experience has indicated to the Commission that the existing procedural rules regarding complaints under section 3662 of the Postal Reorganization Act may, in cases involving complaints as to service, be unnecessarily rigid. The rules as they stand, particularly § 3001.84 (39 CFR 3001.84), require that "[w]ithin thirty days after the filing of a complaint with the Commission the Postal Service shall file and serve an answer in the form and manner required by [the relevant sections of the general rules of practice]." This answer resembles the answer filed by the respondent in a court proceeding, and has the effect of formally joining issue and permitting litigation to go forward.

While in many cases there may be no reason not to proceed directly to adversarial stages, as § 3001.84 contemplates, the Commission believes that in some cases—and in service complaint cases particularly—time and litigation costs may be saved if the procedures are more flexible and allow for some preliminary investigation by the Commission before the Postal Service is called upon to file a formal answer. That procedure would, in particular, be consistent with § 3001.85 of the rules of practice, which states that:

> It shall be the general policy and practice of the Commission to encourage the resolution and settlement of complaints by informal procedures, including correspondence, conferences between the parties, and the conduct of proceedings off the record with the consent of the parties.

As the rules currently stand, this initiative toward informal disposition can begin to operate only after an answer is filed, unless the Commission, for good reasons and on an ad hoc basis, arranges for some informal procedures and defers the filing of the answer to await their completion. If, however, as experience indicates is possible, a portion of a compliant indicates not so much a genuine dispute between an interested party and the Postal Service as a misunderstanding of actual Postal Service rules or practices, or a situation which the Postal Service is pleased to correct voluntarily once it has been brought up in a complaint, it is not efficient to use the formal, adversarial answer as a vehicle for disclosing and discussing the problem.

Accordingly, the Commission proposes to amend the relevant rules to make it clear that, in appropriate cases and with notice to those concerned, it may undertake informal investigative procedures in a service complaint and correspondingly postpone the formal answer required by § 3001.84 of the rules.

Because section 3662 contemplates, in some types of cases, trial-type hearings on the record, and in general the action taken by the Commission should rest on bases known to the interested parties, the Commission proposes that when informal investigative procedures are utilized the Commission will issue an order summarizing their results when they are completed. Any correspondence engaged in during the period when the informal procedures are in use would be made part of the record as well.

On the other hand, there may be cases of the general type dealt with in this proposal where the Commission concludes that informal procedures can accomplish nothing significant, and that a formal answer from the Postal Service is indeed the appropriate next step. In that event, the Commission would issue an order indicating its intent not to use the informal procedures. In either event it could extend the time available for the Service to answer, to the extent fairness required.

The purposes of the proposed amendment, as expressed in its language, would be looked to as a guide for deciding whether to use informal procedures and, if so, what kind. The purposes are:

—To define the issues;

—To facilitate the exchange of information and explanations between the complainant and the Postal Service; and

—To facilitate the achievement of agreement between the Service and the complainant.

While most of the amendatory language proposed would affect section 85, a conforming amendment must be made to section 84 to recognize the effect of the proposed new procedure on the schedule for filing of answers by the Postal Service.

Amendment of § 3001.23(c). The first sentence of § 3001.23(c) of the rules of practice (39 CFR 3001.23(c)) preserves a principle which reflected legal obligations imposed by 5 U.S.C. 3105. In the past, the Commission employed one or more Administrative Law Judges, and, correspondingly, incorporated in its rules of practice the mandate of section 3105 that these officers "not perform duties inconsistent with their duties and responsibilities as administrative law judges." The Commission's current practice is to dispense with the services of an ALJ; instead, the Commission itself presides, en banc, at the taking of evidence and issues a final decision thereon. One Commissioner is designated as Presiding Officer in each case, and is responsible for making procedural and evidentiary rulings and executing the other functions set forth in § 3001.23.

The purpose of 5 U.S.C. 3105 being to preserve the independence from agency suasion of Administrative Law Judges as a distinct class, there is no current reason to retain its language in § 3001.23(c). Accordingly, to remove any possible confusion regarding the ability of a Commissioner who happens to be serving as Presiding Officer in a case to perform other functions (which may indeed be required by his or her position as a Commissioner), the Commission proposes to strike the first sentence of § 3001.23(c). By doing so, the Commission would leave a single subject matter in place in that subsection; its subtitle would therefore be changed from *"Limitations"* to *"Ex parte communications"*. This change clarifies the long-standing meaning of that part of § 3001.23(c) which would remain following the amendment: that presiding officers are subject to the rules prohibiting *ex parte* communications (*see* §§ 3000.735–501 *et seq.* and 3001.7). Since this historic limitation would be the only remaining directive contained in § 3001.23(c), the more specific subtitle is appropriate.[1]

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure.

PART 3001—RULES OF PRACTICE AND PROCEDURE

For the reasons set out above, the Commission proposes to amend §§ 3001.23(c) and 3001.84 and 3001.85 of the rules or practice [39 CFR 3001.23(c), 3001.84, 3001.85], as follows:

1. In § 3001.23(c), change the title from *"Limitation."* to *"Ex parte communication."* and remove the first sentence in its entirety.

2. Revise § 3001.84 introductory text to read as follows:

§ 3001.84 Answers by the Postal Service.

Within 30 days after the filing of a complaint with the Commission (unless more time is allowed under § 3001.85(a)), the Postal Service shall file and serve an answer. Such answer shall be in the form and manner required by §§ 3001.9 to 3001.12, and shall include the following:

* * * * *

3. Redesignate present § 3001.85 as paragraph (b), and add before it a new paragraph (a), as follows:

§ 3001.85 Informal procedures.

(a) In case of a complaint alleging service not in accordance with the policies of the Act, the Commission, acting through such appropriate Commission employees as the Chairman shall designate, may use correspondence, conferences, or other appropriate informal inquiry methods to define the issues, further the exchange of information and explanations between the Postal Service and the complainant, and facilitate negotiated settlement. On receiving a service complaint, the Commission will give notice of whether or not it intends to use informal procedures. In either case, it will give the Postal Service such additional time to answer the complaint as is just and appropriate. After expeditiously conducting informal inquiries, it will issue an order summarizing the results. All correspondence and other documents issued by or lodged with the Commission during informal inquiries will be part of the public record of the case

* * * * *

David F. Harris,

Secretary

[FR Doc. 83-306 Filed 1-4-83; 8:45 am]

BILLING CODE 7715-01-M

[1] This part of § 3001.23(c) parallels 5 U.S.C. 554(d); for discussion of that provision, *see* 3 Davis, *Administrative Law Treatise* §§ 17.8 *et seq.* (2d ed., 1980).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-9-FRL 2279-1]

Guam's Application for Interim Authorization, Phase I, Hazardous Waste Management Program.

AGENCY: Environmental Protection Agency, Region 9.

ACTION: Notice of public comment period and public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the Territory of Guam application for Phase I interim authorization, for the hazardous waste management program, inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for February 24, 1983 at 7:00 p.m. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by February 4, 1983. EPA

will determine by February 7, 1983, whether there is significant interest to hold the public hearing. All written comments on the Guam Interim Authorization application must be received by the close of business on February 4, 1983.

ADDRESSES: If significant public interest is expressed, EPA will hold a public hearing on Guam's application for Interim Authorization on February 24, 1983 at 7:00 p.m. at the Harmon Plaza in Upper Tumon, Guam.

Written comments on the application and written or telephone communications of interest in EPA's holding a public hearing on the Guam application must be sent to: U.S. Environmental Protection Agency, Region 9, Toxics and Waste Management Division, Attention: Gary Lance (T–2–1), 215 Fremont Street, San Francisco, Calif. 94105, (415) 974–8125.

If you wish to find out whether or not EPA will hold a public hearing on the Guam application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after February 7, 1983, the EPA contact person listed below.

Copies of the Guam Phase I Interim Authorization application are available during normal business hours at the following addresses for inspection and copying:

Environmental Protection Agency, Region 9, Library Information Center, 215 Fremont Street, Room 601, San Francisco, Calif. 94105, (415) 974–8074
EPA Headquarters Library, 401 M Street, SW., Room 2404, Washington, D.C. 20460
Guam Environmental Protection Agency, Harmon Plaza, Upper Tumon, Guam 96910

FOR FURTHER INFORMATION, CONTACT: Environmental Protection Agency, RCRA State Programs Section Attn: Gary Lance (T–2–1), 215 Fremont Street, San Francisco, Calif. 94105, (415) 974–8125.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 Federal Register (45 FR 33063) the Environmental Protection Agency promulgated Phase I of its regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous wastes, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization.

As noted in the May 19, 1980, Federal Register, copies of State submittals for interim authorization are to be available for public inspection and comment. The purpose of this notice is to announce the availability of the Guam submittal for Phase I interim authorization; to invite public comment; and, that if significant public interest is expressed in holding a hearing, to give notice of a public hearing to be held on the Guam application. A listing and a description of requirements for interim authorization are stated in 40 CFR Part 123, Subpart F.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian-land, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 *et seq.* and implementing regulation in 40 CFR Part 123, Subpart F.

Dated: December 23, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 83–192 Filed 1–4–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 2E2648/P263; PH–FRL 2270–8]

Cyano(3-Phenoxyphenyl)Methyl 4-Chloro-Alpha-(1-Methylethyl) Benzeneacetate; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity artichokes. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was submitterd, pursuant to a petition, by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before February 4, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process Coordination Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2648 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity artichokes at 0.2 ppm.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support ot the proposed tolerance included an acute oral rat toxicity study with a median lethal dose (LD_{50}) of 1–3 grams(g)/kilogram(kg) of body weight(bw) (water vehicle) and 450 milligrams(mg)/kg of bw (dimethyl sulfoxide (DMSO) vehicles); a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm (highest dose tested); a 90-day rat feeding study with a NOEL of 125 ppm; an 18-month mouse feeding study with a NOEL of less than 100 ppm with no oncogenic effects observed at the highest level fed (3,000 ppm); a 24-month mouse feeding study with a NOEL of 10–50 ppm for males and 50–250 ppm for females (no oncogenic effects were noted at 1,250 ppm, the highest does tested); a 24-month rat feeding study that demonstrated no oncogenic effects at 1,000 ppm (only level tested) (significantly decreased body weight was observed at this dose level); a 2-year rat feeding study with a NOEL of 250 ppm (highest level fed), no onogenic effects were observed; a three-generation rat reproduction study with a NOEL of 250 ppm (highest level fed);

teratology studies (in mice and rabbits), each negative at 50 mg/kg/day (highest dose tested); and the following mutagenicity studies: mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed); mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); Ames test *in vitro* (negative), and a bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: a hen study negative at 1.0 g/kg of bw for 5 days, repeated at 21 days; a rat (8-day) acute study with a NOEL of 200 mg/kg of bw; a 15-month rat feeding study which resulted in a systemic NOEL of 500 ppm and a NOEL of 1,500 ppm with respect to nerve damage.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 12.5 mg/kg, or 250 ppm) and using a 100-fold safety factor, is calculated to be 0.1250mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 7.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.6283 mg/day; the current action will increase the TMRC by 0.00009 mg/day (0.014 percent). Published tolerances utilize 8.38 percent of the ADI; the current action will untilize an additional 0.001 percent.

The nature of the residues is adequately understood and an adequate analytical method, electron-capture gas chromatography, is available for enforcement purposes. Since there are no animal feed item involved, there will be no secondary residues in meat, milk, poultry, or eggs. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.379 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in acordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 2E2648/P263]. All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e))).

Dated: December 23, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.379 be amended by adding and alphabetically inserting the raw agricultural commodity artichokes to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl) benzeneacetate; tolerances for residues.

* * * * *

Commodities	Parts per million
Artichokes	0.2

[FR Doc. 82-190 Filed 1-4-83; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 48, No. 3
Wednesday, January 5, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), Science and Education announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.
Date: February 1–2, 1983.
Time: 8:00 a.m.–5:00 p.m., February 1 and 2, 1983.
Place: Hyatt Regency—Crystal City, 2799 Jefferson Davis Highway, Arlington, VA.

Type of Meeting

Open to the public. Persons may participate in the meeting as time and space permit.

Comments

The public may file written comments before or after the meeting with the contact person below.

Purpose

The Board will be preparing a report assessing the President's proposed FY 1984 budget for agricultural research and extension.

Contact Person for Agenda and More Information

Barbara L. Fontana, Executive Secretary, National Agricultural Research and Extension Users Advisory Board; Room 351–A Administration Building, U.S. Department of Agriculture; Washington, D.C. 20250; telephone 202–447–3684.

Done at Washington, D.C., this 20th day of December 1982.

Robert D. Reinsel,

Acting Executive Director, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 83–175 Filed 1–4–83; 8:45 am]
BILLING CODE 3410–03–M

CIVIL AERONAUTIC BOARD

Announcement of Proposed Collection of Information

AGENCY CLEARANCE OFFICER FROM WHOM A COPY OF THE COLLECTION OF INFORMATION AND SUPPORTING DOCUMENTS IS AVAILABLE: Robin A. Caldwell (202) 673–5922.

New

Title of the Collection of Information: Part 326, "Procedures for Bumping Subsidized Air Carriers from Eligible Points"
Agency Form Number: None
How often the Collection of Information must be filed: On occasion
Who is asked or required to report: Certificated Air Carriers
Estimate of number of annual responses: 10
Estimate of number of annual hours needed to complete the collection of information: 1,200

Revision

Title of the Collection of Information: Part 204, "Data to Support Fitness Determinations"
Agency Form Number: None
How often the Collection of Information must be filed: On occasion
Who is asked or required to report: Nonoperating Air Carriers
Estimate of number of responses: 176
Estimate of number of annual hours needed to complete the collection information: 8,620

Revision

Title of the Collection of Information: Part 291, "Domestic Cargo Transportation"
Agency Form Number: None
How often the Collection of Information must be filed: On occasion
Who is asked or required to report: Nonoperating All-Cargo Air Carriers
Estimate of number of annual responses: 25
Estimate of number of annual hours needed to complete the collection of information: 165

Revision

Title of the Collection of Information: "Reporting Required for International Civil Aviation Organization (ICAO)"
Agency Form Number: Appendices A, B & C of Board Order 81–3–120
How often the Collection of Information must be filed: Monthly, quarterly and annually
Who is asked or required to report: Certificated air carriers providing international scheduled or charter services
Estimate of number of annual responses: 85
Estimate of number of annual hours needed to complete the collection of information: 270

December 23, 1982.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

[FR Doc. 83–222 Filed 1–4–83; 8:45 am]
BILLING CODE 6320–01–M

Announcement of Approval of Information Collections by the Office of Management and Budget

On November 30, 1982, the Office of Management and Budget approved the following new information collection: Information collection contained in a "Charter Escrow Records Survey"—approved through March 31, 1983, under OMB No. 3024–0062.

On November 30, 1982, the Office of Management and Budget approved the extension of the following reporting requirements: Reporting requirements contained in Part 221 of the Economic Regulations, "Construction, Publication, Filing and Posting of Tariffs of Air Carriers and Foreign Air Carriers"—extended through June 30, 1985, under OMB No. 3024–0038.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

December 23, 1982.

[FR Doc. 83–223 Filed 1–4–83; 8:45 am]
BILLING CODE 6320–01–M

[Oder 82–12–127]

Fitness Determination of Air Sunshine, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 82–12–127, Order to Show Cause.

SUMMARY: The Board is proposing to find that Air Sunshine, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the

Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than January 18, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to Order 82–12–127.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Klothe, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5450.

SUPPLEMENTARY INFORMATION: The complete text of Order 82–12–127 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 82–12–127 to that address.

By the Civil Aeronautics Board: December 28, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–224 Filed 1–4–83; 8:45 am]

BILLING CODE 6320–01–M

[Order 82–12–138]

Order Concerning Mail Rates

Order 82–12–138, December 30, 1982, Docket 41134, establishes temporary service mail rates for Alaska Island Air, Inc. at the same level as fixed by Order 82–11–108 for other intra-Alaska carriers and proposes final rates at the same level as determined in Docket 38961 for carriers providing substantially the same services.

FOR FURTHER INFORMATION CONTACT: James E. Gardner, Bureau of International Aviation, (202) 673–5391.

Copies of the order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

By the Civil Aeronautics Board: December 30, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–220 Filed 1–4–83; 8:45 am]

BILLING CODE 6320–01–M

[Order 82–12–139]

Order Concerning Mail Rates

Order 82–12–139, December 30, 1982, Docket 41155, establishes temporary service service mail rates for Air Polynesia, Inc. t/a DHL Cargo at the same level as fixed by Order 82–12–33 for other intra-Hawaii carriers and proposes final rates at the same level as determined in Docket 40751 for carriers providing substantially the same services.

FOR FURTHER INFORMATION CONTACT: James E. Gardner, Bureau of International Aviation, (202) 673–5391.

Copies of the order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

By the Civil Aeronautics Board: December 30, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–221 Filed 1–4–83; 8:45 am]

BILLING CODE 6320–01–M

CIVIL RIGHTS COMMISSION

Texas Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference to be conducted by the Texas Advisory Committee to the Commission will convene at 10:00 am and will end at 12:00 noon, on January 28, 1983, at the Sheraton Crest Inn, First and Congress, in the Parlor Rooms C and D, Austin, Texas, 78701. The purpose of this press conference is to release the Committee's report on block grants.

Persons desiring additional information should contact the Chairperson, Denzer Burke, 1421 Pine Street, Texarkana, Texas, 75501, (214) 794–9741 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas, 78204, (512) 229–5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., December 30, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–169 Filed 1–4–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Southwest Fisheries Center, National Marine Fisheries Service.

b. Address: P.O. Box 271, La Jolla, California 92038.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Northern elephant seals (Mirounga angustirostris)—120.

4. Type of Take: to mark and/or tag up to 40 seals per year for population studies.

5. Location of Activity: San Clemente Island, California.

6. Period of Activity: 3 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 29, 1982.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-240 Filed 1-4-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Intent To Impose Controls on Imports of Cotton, Wool, and Man-Made Fiber Textile and Apparel From the People's Republic of China

On December 28, 1982 a notice was published in the **Federal Register** (47 FR 57748), which announced that, if no mutually satisfactory bilateral agreement is reached by January 15, 1983 between the Governments of the United States and the People's Republic of China, the United States Government will take further action under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), to control imports of cotton, wool, and man-made fiber textile products from the People's Republic of China, effective on January 1, 1983. The level of restraint shown in that notice for Category 338 pt. during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983 should have been 467,750 dozen, instead of 338,351 dozen.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-35599 Filed 12-30-82; 2:46 pm]

BILLING CODE 3510-25-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Thursday, January 20, 1983 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington including buildings, memorials, parks, etc., also matters of design referred by other agencies of the government. The Vietnam Veterans Memorial design may also be discussed at this meeting. Access for handicapped persons will be through the main entrance to the New Executive Office Building on 17th Street between Pennsylvania Avenue and H Street, NW.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 566-1066.

Dated in Washington, D.C., December 30, 1982.

Charles H. Atherton,

Secretary.

[FR Doc. 83-170 Filed 1-4-83; 8:45 am]

BILLING CODE 6330-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Toxicological Advisory Board; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting; Toxicological Advisory Board.

SUMMARY: This notice announces a meeting of the Toxicological Advisory Board on Tuesday January 11, 1983 from 9:00 a.m. to 4:00 p.m. and Wednesday January 12, 1983, from 9:00 a.m. to 2:00 p.m. The meeting, which is open to the public, will be held in Room 456 at 5401 Westbard Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Ann L. Hamann, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492-6957.

SUPPLEMENTARY INFORMATION: The Toxicological Advisory Board is an established nine-member advisory committee which advises the Commission on precautionary labeling for acutely toxic household substances and on instructions for first aid treatment labeling. In addition the Board reviews labeling requirements that have been issued under the Federal Hazardous Substances Act (FHSA) and recommends revisions it deems appropriate. The Toxicological Advisory Board was created on November 10, 1978, under the authority of Section 20 of the FHSA, 15 U.S.C. 1275. The three year term of the original members has expired and the Commission has appointed new members.

The meeting on Tuesday, January 11, 1983, is primarily intended as an orientation of the new board members. Included at this meeting will be discussions on the purpose and scope of the board, background information on and labeling requirements of the FHSA, work of the previous Board, and recommendations made by the previous Board with respect to work to be done in the future. On Wednesday, January 12, 1983, the meeting will be devoted to discussion by members of priority activities for the next three years and determination of individual member assignments under the direction of the Board Chairman.

The two-day meeting is open to the public, but space is limited. Normally, members of the public may be permitted to make oral presentations to the members of the Commission's advisory committees. However, the purpose of this meeting is an orientation for Board members and is basically an organizational meeting. The time available for such presentations may be severely limited. Persons who wish to make oral or written presentations should notify Dr. Fred Marozzi, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301-492-6477, by January 3, 1983. The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter and the approximate time requested. Time premitting, these presentations and other statements from the audience to members of the Board may be allowed by the presiding officer. Requestors will be informed of the decision before the meeting.

Dated: December 30, 1982.

Sayde E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-229 Filed 1-4-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 400-005, et al.]

Colorado-Ute Electric Assocation, Inc., et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Amendment of License.

b. Project No: P-400-005.

c. Date Filed: August 16, 1982 and revised on October 19, 1982.

d. Applicant: Colorado-Ute Electric Association, Inc.

e. Name of Project: Tacoma-Ames.

f. Location: on the Animas and San Miquel Rivers and their tributaries in LaPlata, San Juan, and San Miguel Counties, Colorado, and affecting lands of the United States within the Uncompahgre and San Juan National Forests.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: Girts Krumins, P.O. Box 1149, Montrose, Colorado 81402.

i. Comment Date: February 7, 1983.

j. Description of Project: Applicant proposes to install a fourth generating unit in the Tacoma Development powerhouse. A short length of penstock would be added to serve the new unit. The switchyard would be expanded to accommodate additional associated electrical equipment. The new Unit 4 and appurtenant facilities would cost $8,440,000.

Applicant proposes no changes in project storage capacity or other impoundment characteristics. The new Unit 4 would have a rated capacity of 14,000-kW at a gross head of 1,073 feet and hydraulic capacity of 200 cfs. The powerhouse would contain four generating units having a total rated capacity of 22,800-kW. Short-term peak discharge from the Tacoma powerhouse could increase from 130 to 320 cfs.

k. Purpose of Project: The project would continue to be operated to provide peaking power and voltage support for Applicant's system. Applicant estimates that the average annual Tacoma Development energy output would be increased to 31,000,000 kWh.

l. This notice also consists of the following standard paragraphs: B and C.

2a. Type of Application: Amendment of License (New Capacity).

b. Project No.: 2188–009.

c. Date Filed: June 28, 1982.

d. Applicant: The Montana Power Company (Licensee).

e. Name of Project: Missouri—Madison.

f. Location: Cascade County, Montana; Missouri River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Contact Person: Mr. R. J. Labrie, Vice President, The Montana Power Company, 40 East Broadway Street, Butte, Montana 59701.

i. Comment Date: February 9, 1983.

j. Description of Project: The modified project would consist of: (1) The existing Ryan Dam and reservoir, intake and 60-MW powerhouse; (2) a proposed intake structure at the upstream end of the left dam abutment; (3) a proposed 650-foot long penstock; (4) a proposed semi-outdoor 40-MW powerhouse located about 125 feet downstream and to the left of the existing powerhouse; (5) a proposed short, 60-foot wide tailrace channel facilities. The Licensee estimates the increase in average annual generation of the project to be 548 GWh.

k. Purpose of Project: The Licensee proposes to utilize the additional power to meet its expected growth in electrical demand.

l. This notice also consists of the following standard paragraphs: B and C.

3a. Type of Application: 5 MW Exemption.

b. Project No.: P–3464–001.

c. Date Filed: November 19, 1982.

d. Applicant: White Mountain Hydroelectric Corporation.

e. Name of Project: Lisbon Hydro Project.

f. Location: Grafton County, New Hampshire.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (Act), 16 U.S.C. 2705, and 2708 as amended.

h. Contact Person: John M. A. Rolli, 126 Main Street, Littleton, New Hampshire 03561, and Edward M. Clark, Pesthouse Road, Lincoln, New Hampshire 03251.

i. Comment Date: February 4, 1983.

j. Description of Project: The proposed project would be run-of-the-river and would consist of: (1) The existing Lower Lisbon Dam, 300 feet long and 24 feet high, having concrete gravity construction with 228 feet of spillway at a crest elevation of 566.3 feet m.s.l.; (2) a reservoir having minimal pondage; (3) a new concrete lined canal (with wasteways), approximately 180 feet long, 24 feet wide and 15 feet deep, located at the left river bank and leading to (4) a gated intake structure, with trashracks, integral with a new powerhouse (adjacent to an old powerhouse) containing two turbine-generator units having rated capacities of 325 kW and 350 kW for a total rated capacity of 675 kW; (5) a tailrace returning flow to the Ammonoosuc River approximately 250 feet downstream of the dam; (6) a new 12-kV transmission line, 110 feet long, connecting to existing lines; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,225,000 kWh. Project energy would be sold to the Public Service Company of New Hampshire.

k. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

l. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

4a. Type of Application: Major License (Less than 5MW).

b. Project No. 4142–001.

c. Date Filed: November 1, 1982.

d. Applicant: Borough of Grove City, Pennsylvania.

e. Name of Project: Shenango River Dam.

f. Location: Shenango River in Mercer County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Philip J. Movish, Daverman Associates, Inc., 500 South Salina Street, Syracuse, New York 13202.

i. Comment Date: February 24, 1983.

j. Description of Project: The proposed project would make use of the existing U.S. Army Corps of Engineers Shenango Lake Dam and would consist of: (1) Modification of two existing sluiceways to create intake structures; (2) two proposed 120-foot long, 8-foot diameter steel penstocks; (3) a proposed powerhouse containing two turbine/generator units operating under an average head of 22 feet, each with a capacity of 850 kW; (4) a proposed tailrace; (5) a proposed switchyard; (6) a proposed 200-foot long transmission line; and (7) appurtenant facilities. The estimated average annual generation is 7,802,000 kWh. The license was filed during the term of the Applicant's Preliminary Permit for Project No. 4142.

k. Purpose of Project: Project energy will be used to offset power purchases from the local utility required to meet the needs of the residential, industrial and commercial consumers of the Borough of Grove City municipal electric system.

1. This notice also consists of the following standard paragraphs: A2, B, C and D1.

5a. Type of Application: Mayor License.

b. Project No: P–4900–001.

c. Date Filed: November 19, 1982, as revised on December 13, 1982.

d. Applicant: Lawrence R. Taft.

e. Name of Project: Forestport.

f. Location: on the Black River in the Towns of Forestport and Boonville, Oneida County, New York.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r)

h. Contact Person: Mr. Neal F. Dunlevy, 185 Genesee Street, Utica, New York 13501.

i. Comment Date: February 28, 1982.

j. Description of Project: The proposed run-of-river project would utilize existing facilities owned by the State of New York, Department of

Transportation, consisting of: (1) A 300-foot-long 26-foot-high dam having crest elevation 1,126.3 feet m.s.l.; (2) a reservoir (Forestport) having a surface area of 75 acres and a storage capacity of 970 acre-feet at spillway crest elevation; (3) a 600-foot-long and 25-foot-wide intake canal with a gated control structure; (4) a 550-foot-long 15-feet-high earthern dam; (5) a forebay (Alder Pond) having a surface area of 15 acres and a storage capacity of 100 acre-feet at normal surface elevation 1,124.6 feet m.s.l.; and (6) a 1,700-foot-long and 25-foot-wide canal with a stop-log bypass control structure along its right bank.

Applicant proposes to: (1) Enlarge the intake canal control structure; (2) dredge a portion of the canal; (3) construct a downstream gated control structure across the canal; (4) construct an intake structure along the canal; (5) construct a 400-foot-long 9-foot-diameter penstock; (6) construct a powerhouse containing a generating unit having a rated capacity of 2,750-kW operated at a 59-foot head and a flow of 650 cfs; (7) construct a tailrace; (8) construct a switchyard/substation; (9) construct a 2-mile-long 46-kV transmission line; and (10) construct an access road and parking area. Applicant estimates that the proposed project would cost $6,400,000. The application was filed during the term of the Applicant's preliminary permit for Project No. 4900.

k. Purpose of Project: Project energy would be sold to Niagara Mohawk Power Corporation. Applicant estimates that the average annual energy output would be 12.6 million kWh.

l. This notice also consists of the following standard paragraphs: A2. B, C, and D1.

6a. Type of Application: 5MW Exemption.

b. Project No: P–5315–001.

c. Date Filed: September 15, 1982.

d. Applicant: The Phoenix Hydro Corporation.

e. Name of Project: Phoenix Project.

f. Location: Oswego River, Onondaga and Oswego Counties, New York.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (Act), 16 U.S.C. 2705 and 2708 as amended, and Part I of the Federal Power Act.

h. Contact Person: Gary R. Schoonmaker, President, The Phoenix Hydro Corporation, 2701 Howlett Hill Road, Marcellus, New York 13108.

i. Comment Date: February 4, 1983.

j. Competing Application: Project No. 4113–001 Date Filed: October 30, 1981.

k. Description of Project: The proposed project would consist of: (1) The existing New York State Department of Transportation Dam at Lock No. 1, a concrete structure with 0.8-foot high flashboards in 3 sections, the north section is 11 feet high and 388 feet long, the middle section is 20 feet high and 206 feet long and consists of 6 Taintor gates, and the south section is 11 feet high and 180 feet long; (2) a reservoir having a surface area of 4,350 acres, a storage capacity of 3,500 acre-feet, and a normal water surface elevation of 362.8 m.s.l.; (3) the existing intake structure; (4) a new powerhouse containing three units with a total generating capacity of 3,300 kW; (5) a new tailrace; (6) a new 34.5-kV transmission line 1,500 feet long; and (7) appurtenant facilities. Applicant estimates the average annual energy production would be 15,263,500 kWh. All project facilities other than the dam and reservoir are owned by the Applicant. The Applicant estimates the cost of construction would be $4,330,000.

l. Purpose of Project: All project energy would be sold to the Niagara Mohawk Power Corporation.

m. This notice also consists of the following standard paragraphs: A3, B, C and D3a.

n. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

7a. Type of Application: Preliminary Permit.

b. Project No.: 6561–000.

c. Date Filed: July 30, 1982.

d. Applicant: Energenics Systems Inc.

e. Name of Project: Rathbun Dam Hydroelectric Project.

f. Location: Chariton River in Appanoose County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) 825(r).

h. Contact Person: Mr. Granville J. Smith, Energenics Systems Inc., 1717 K Street, NW., Suite 706, Washington, D.C. 20006.

i. Comment Date: March 2, 1983.

j. Description of Project: The proposed project would utilize a U.S. Army Corps of Engineers' dam and reservoir. Project No. 6561 would consist of: (1) A proposed 6 foot diameter and 150-foot-long penstock at the right side of the existing dam; (2) a proposed powerhouse containing one turbine/generator with a total installed capacity of 2 MW; (3) a 50-foot-long, 14-foot-wide concrete tailrace; (4) a proposed transmission line, less than one mile long, interconnecting with the Iowa Southern Utilities; and (5) appurtenant facilities. Applicant estimates the average annual energy production to be 5.5 GWh.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, and C.

l. Agency Comments: Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set, it will be presumed to have no comments.

8a. Type of Application: License (Less than 5 MW).

b. Project No: P–6588–000.

c. Date Filed: August 11, 1982.

d. Applicant: East Coast Engineering.

e. Name of Project: Milton Three Ponds Project.

f. Location: Salmon Falls River, Strafford County, New Hampshire and York County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: James M. Rea, East Coast Engineering, P.O. Box 25, Barrington, New Hampshire 03825.

i. Comment Date: March 4, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing Milton Three Ponds Dam, 19 feet high and 156 feet long; (2) a reservoir having a storage capacity of 15,000 acre-feet, a surface area of 1400 acres, and a normal pool elevation of 413.8 feet NGVD; (3) a new 7-foot diameter steel penstock 60 feet long; (4) a new powerhouse containing 1 unit with a generating capacity of 180 kW; (5) a new tailrace; (6) a new 12.47–kV transmission line 100 feet long; and (7) appurtenant facilities. The existing project facilities are owned by the State of New Hampshire. The Applicant estimates the annual average energy production would be 900,000 kWh. The estimated cost of constructing the project would be $330,000.

k. Purpose of Project: All project power would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A2, B, C and D1.

9a. Type of Application: Preliminary Permit.

b. Project No: 6755–000.

c. Date Filed: October 4, 1982.

d. Applicant: Brown's Industries, Inc.

e. Name of Project: Hard and Hazard Creeks Hydroelectric Project.

f. Location: On Hard and Hazard Creeks, within Payette National Forest near the town of Riggins in Idaho County, Idaho.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Judd W. DeBoer, President, Brown's Industries, Inc., P.O. Box 100, Eagle Idaho 83616 and CH2M Hill, Attention: Mr. Eric R. Schultz, 700 Clearwater Lane, P.O. Box 8748, Boise, Idaho 83707.

i. Comment Date: January 20, 1983.

j. Competing Applications: Project No. 6589 and Project No. 6590 Date Filed: August 12, 1982.

k. Description of Project: The proposed project would consist of: (1) Two 5-foot-high diversion structures, one 60 feet long and the other 50 feet long; (2) two 24-inch-diameter penstocks, one 12,550 feet long and the other 9,000 feet long; (3) a powerhouse to contain a single generating unit with a rated capacity of 1,500 kW, operating under a head of 480 feet; and (4) a 4,800-foot-long transmission line to tie into an existing Idaho Power Company line. The average annual energy output is 11 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months to study the feasibility of constructing and operating the project. An existing access road will be upgraded. The estimated cost for conducting these studies is $39,000.

l. Purpose of Project: The project power will be sold to Idaho Power Company.

m. This notice also consists of the following standard paragraphs: A3, B, C, and D2.

10a. Type of Application: 5MW Exemption.

b. Project No. 6795–000.

c. Date Filed: October 25, 1982.

d. Applicant: Pownal Hydropower Corporation.

e. Name of Project: Pownal Project.

f. Location: Hoosic River, Bennington County, Vermont.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (Act), 16 U.S.C. §§ 2705 and 2708 as amended, and Part I of the Federal Power Act.

h. Contact Person: Peter B. Clark, President, Swift River Company, Inc., 148 State Street, Boston, MA 02109.

i. Comment Date: February 7, 1983.

j. Description: The proposed project would consist of: (1) An existing concrete gravity overflow dam, 18 feet high and 153 feet long; (2) the replacement of 2.5-foot-high flashboards; (3) a reservoir with a storage capacity of 490 acre-feet, a surface area of 77 acres, and normal water surface elevation of 516.6 feet m.s.l.; (4) two existing 8-foot-diameter steel penstocks 129 feet long; (5) an existing powerhouse containing one new or rehabilitated generating unit with a capacity of 400 kw; (6) an existing tailrace; and (7) appurtenant facilities. The Applicant estimates the average annual energy production would be 1,800,00 kWh. All project energy would be sold to Central Vermont Public Service Company. All project facilities are owned by the Applicant.

k. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, B and C.

(m) Agency Comments: D3a.

11a. Type of Application: Preliminary Permit.

b. Project No: 6798–000.

c. Date Filed: October 25, 1982.

d. Applicant: Mountain West Hydro, Inc.

e. Name of Project: Tunnel Creek Project.

f. Location: On Tunnel Creek, near Idanha, in Marion County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Dave L. Browning, Mountain West Hydro, Inc., 2155 Christina N.W., Salem, Oregon 97304.

i. Comment Date: February 23, 1983.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) Two 6-foot-high, 30-foot-long concrete diversion structures; (2) two 20-inch-diameter steel pipelines, one 1,220-foot-long, the other 2,240-foot-long; (3) a common 20-inch-diameter, 3,450-foot-long steel penstock; (4) a powerhouse containing a single 1,100-kW generating unit with an estimated average annual generation of 5.165 GWh; and (5) appurtenant facilities. The project would affect Willamette National Forest lands. Project power would be sold to Pacific Power & Light Company or to the Bonneville Power Administration.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $83,000.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

12a. Type of Application: Preliminary Permit.

b. Project No: 6799–000.

c. Date Filed: October 25, 1982.

d. Applicant: Hydro Power Development, Inc.

e. Name of Project: Lost Creek Project.

f. Location: On Lost Creek, near McKenzie Bridge, in Lane County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Bill Sundin, Hydro Power Development, Inc., P.O. Box 511, 16840 Hoffman Lane, Sandy, Oregon 97055.

i. Comment Date: February 23, 1983.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 6-foot-high, 30-foot-long concrete diversion structure; (2) a 7,070-foot-long, 108-inch-diameter steel pipeline; (3) a powerhouse containing a single 3,200-kW generating unit with an estimated average annual generation of 24.5 GWh; and (4) appurtenant facilities. The project would affect Willamette National Forest lands. Project power would be sold to Pacific Power & Light Company or to the Bonneville Power Administration.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and estimates the cost of studies at $83,000.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

13a. Type of Application: Preliminary Permit.

b. Project No: 6800–000.

c. Date Filed: October 25, 1982.

d. Applicant: Hydro Power Development, Inc.

e. Name of Project: White Water Creek.

f. Location: On White Water Creek, near Marion Forks, in Marion and Linn Counties, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Bill Sundin, Hydro Power Development, Inc., P.O. Box 511, 16840 Hoffman Lane, Sandy, Oregon 97055.

i. Comment Date: February 23, 1983.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 6-foot-high, 30-foot-long concrete diversion structure; (2) 14,550-foot-long, 68-inch-diameter steel pipeline; (3) a powerhouse containing a single 3,600-kW generating unit with an estimated average generation of 16.65 GWh; and (4) appurtenant facilities. The project would affect Willamette National Forest lands. Project power would be sold to Pacific Power & Light Company or the Bonneville Power Administration.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and

operating the project and estimates the cost of studies at $83,000.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

14a. Type of Application: Preliminary Permit.

b. Project No: 6821–000.

c. Date Filed: November 2, 1982.

d. Applicant: Malcolm S. Brown.

e. Name of Project: Napanoch One.

f. Location: Ulster County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Malcolm S. Brown, 644 E. 24th St., Brooklyn, New York 11210 (212) 434–3702.

i. Comment Date: March 2, 1983.

j. Description of Project: The proposed run-of-river project would consist of: (1) An existing 42.2-foot-high concrete dam, owned by Recycled National Paper Products Company, Napanoch, New York; (2) an existing powerhouse containing an existing 200-kW generating unit and a proposed 75-kW generating unit, which will make the total rated capacity 275 kW. The powerhouse is owned by Mr. and Mrs. T. Kuwayama of New York, New York; (3) a new penstock 1425 feet long; (4) existing transmission lines owned by the Central Hudson Gas and Electric Company; and (5) appurtenant facilities. The Applicant estimates that the average annual energy out put would be 1,000 MWh.

k. Purpose of Project. The most likely market for the energy derived at the proposed project would be the Central Hudson Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 18 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $6,000.

15a. Type of Application: Preliminary Permit.

b. Project No: 6828–000.

c. Date Filed: November 4, 1982.

d. Applicant: Public Utility District No. 1 of Franklin County.

e. Name of Project: Lower Palouse River Hydroelectric Power Project.

f. Location: On Palouse River, in Franklin County, near Kahlotus, WA.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Sig T. Hansen, President of the Board of Commissioners, 1411 West Clark Street, P.O. Box 2407, Pasco, WA 99302, with a copy to Mr. Kenneth R. Engstorm, Manager, 1411 West Clark Street, P.O. Box 2407, Pasco, WA 99302.

i. Comment Date: February 23, 1983.

j. Description of Project: The proposed project would consist of: (1) A 375-foot-long, 150-foot-high concrete dam creating a reservoir with a storage capacity of about 20,000-acre-feet and a surface area of 200 acres; (2) an 80-foot-long, 30-foot-high intake structure; (3) two 2,000-foot-long, 12-foot-diameter concrete pipes; (4) three 250-foot-long, 8-foot-diameter steel penstocks leading to; (5) a powerhouse to contain three turbine-generating units with a total rated capacity of 50 MW operating under a gross head of 310 feet; (6) a 20-mile-long, 115-kV transmission line to connect to the existing Applicant's Kahlotus Substation; and (7) other appurtenant facilities. A preliminary permit, if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. No new roads would be required to conduct the studies. Applicant states that the development stages of the studies are not expected to significantly alter or disturb lands or waters in the vicinity of the proposed project. Neither will the cultural resources or endangered species be affected by preparation of the studies.

k. Purpose of Project: The Applicant would use the entire output of the project, estimated to be about 117.4 million kWhs, within its own electrical system.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, and D2.

16a. Type of Application: Preliminary Permit.

b. Project No: 6851–000.

c. Date Filed: November 15, 1982.

d. Applicant: City of Kankakee, Illinois.

e. Name of Project: Kankakee Hydro Project.

f. Location: Kankakee County, Illinois on the Kankakee River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: James R. Clarno, P. E., City Hall Building, 385 East Oak Street, Kankakee, Illinois 60911.

i. Comment Date: February 24, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 440-foot-long overflow type concrete dam with a curved ogee section; (2) an existing small reservoir; (3) a proposed powerhouse with an installed capacity of 2MW; (4) proposed transmission lines; and (5) appurtenant facilities. Applicant estimates that average annual generation would be 8 GWh. All power generated could be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B and C.

l. Agency Comments: Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set, it will be presumed to have no comments.

17a. Type of Application: Preliminary Permit.

b. Project No: P–6853–000.

c. Date Filed: November 15, 1982.

d. Applicant: Trans Mountain Hydro Corporation.

e. Name of Project: Elliot Creek Hydro Power Project.

f. Location: Summit County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Herbert C. Young, 123 S. Paradise Road, Golden, Colorado 80401.

i. Comment Date: Feburary 28, 1983.

j. Description of Project: The proposed project would utilize the existing Bureau of Reclamation and U.S. Forest Service's Elliot Creek Feeder Canal, and would consist of: (1) A proposed powerhouse containing a single turbine-generator having a rated capacity of 90 kW; (2) a new 750-foot-long penstock; (3) 300 feet of new 14.4-kV transmission line; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output would be 560,000 kWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the local rural electric association that serves the area.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the

preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $10,000.

18a. Type of Application: Preliminary Permit.

b. Project No: 6856–000.

c. Date Filed: November 16, 1982.

d. Applicant: City of Petersburg, Alaska.

e. Name of Project: Thomas Bay Project.

f. Location: On Cascade Creek, in the North Tongass National Forest, near Petersburg, Alaska.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Richard Underkofler, City of Petersburg, P.O. Box 329, Petersburg, Alaska 99833.

i. Comment Date: February 25, 1983.

j. Competing Application: Project No. 6211–000 Date Filed: 4/9/82, Alaska Industrial Power Corporation, Notice Issued: 7/12/82.

k. Description of Project: The proposed project would consist of: (1) The existing natural Swan Lake with the 572-acre surface area at 1,515 m.s.l; (2) a lake tap; (3) a 10-foot-diameter, 13,000-foot-long power tunnel; (4) an 8-foot-diameter, 2,100-foot-long penstock; (5) a powerhouse containing two generating units with a total installed capacity of 44 MW and an estimated average annual production of 200 GWh; and (6) appurtenant facilities. Applicant would transmit project energy via proposed and existing transmission lines from Thomas Bay to a U.S. Borax Company mining development southeast of Ketchikan.

A preliminary permit if issued, does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $1,500,000.

l. This notice also consists of the following standard paragraphs: A3, B, C, and D2.

19a. Type of Application: Preliminary Permit.

b. Project No: 6859–000.

c. Date Filed: November 17, 1982.

d. Applicant: Hy-Tech Company.

e. Name of Project: Bull Run Creek.

f. Location: On Bull Run Creek within the Clearwater National Forest near the town of Elk River in Clearwater County, Idaho.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl W. Haywood, 2109 Broadview Drive, Lewiston, Idaho 83501 and Mr. David J. Milan, James M. Montgomery, Consulting Engineers, Inc., 1301 Vista Avenue, Boise, Idaho 83705.

i. Comment Date: February 28, 1983.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 45-foot-long diversion structure; (2) a 42-inch-diameter, 10,000-foot-long penstock; (3) a powerhouse to contain three generating units with a total capacity of 2,580 kW, operating under a head of 640 feet; (4) a tailrace; and (5) a 6-mile-long, 12.5-kV transmission line to tie into an existing transmission line owned by Washington Water Power Company (WWPC). The estimated average annual energy output of 8,825,000 kW would be sold to WWPC.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months to study the feasibility of constructing and operating the project. The estimated cost for conducting these studies is $40,000.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

20a. Type of Application: Preliminary Permit.

b. Project No: 6861–000.

c. Date Filed: November 18, 1982.

d. Applicant: Alaska Power Authority.

e. Name of Project: Silver Lake.

f. Location: On Silver Lake and Duck River, within Chugach National Forest, near Valdez, Alaska.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Eric P. Yould, Executive Director, Alaska Power, Authority, 334 West 5th Avenue, Anchorage, Alaska 99501.

i. Comment Date: February 25, 1983.

j. Description of Project: The proposed project would consist of: (1) A 100- to 150-foot-high dam, which would raise the existing lake elevation from 306 feet to 450 feet msl., and impounding; (2) a 1,792-acre reservoir with a storage capacity of 200,000 acre-feet; (3) a 6,000-foot-long, 8-foot-diameter penstock; (4) a powerhouse containing 3 generating units, each rated at 5,000 kW; (5) an 82.2-mile-long transmission line; (6) a tailrace; and (7) an access road. The average annual energy generation is estimated to be 56.4 million kWh.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which it would conduct environmental, economic, engineering, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. Applicant has already performed core drilling at the site. All disturbed lands have been or will be restored. The cost of the studies is estimated to be $2,400,000.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, D2.

21a. Type of Application: Preliminary Permit.

b. Project No: 6865–000.

c. Date Filed: November 22, 1982.

d. Applicant: Village of Sun, Louisiana.

e. Name of Project: Pools Bluff and Bogue Chitto.

f. Location: St. Tammany Parish, Louisiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mayor Nathan T. Wood, Village of Sun, P.O., Box 897, Sun, Louisiana 70463.

i. Comment Date: March 2, 1983.

j. Description of Project: The proposed project would utilize facilities owned by the U.S. Army Corps of Engineers and would consist of two developments:

(A) The Pools Bluff Development on the Pearl River would use the Corps' Pools Bluff Sill, 350 feet long and 14 feet high, and would include: (1) A new steel penstock 50 feet long and 8 feet in diameter leading to; (2) a new 100 by 85-foot powerhouse containing three 850 kW turbine/generator units and one 800 kW unit; (3) a new tailrace, 100 feet long, 20 feet wide and 18 feet deep; and (4) a new 230-kV transmission line 5 miles long.

(B) The Bogue Chitto Development on the Bogue Chitto River and the Pearl River Navigation Canal would use the Corps' Bogue Chitto Sill, 250 feet long and 9 feet high, and would include: (1) A new steel penstock 50 feet long and 6 feet in diameter leading to; (2) a new 100 by 50-foot powerhouse housing one 800 kW turbine/generator unit; (3) a new tailrace, 100 feet long, 20 feet wide and 15 feet deep; (4) the transmission line described above; and (5) appurtenant facilities. Applicant estimates the total capacity of the two developments would be 3970 kW.

k. Purpose of Project: The average annual generation of 21 million kWh would be sold to the Louisiana Power & Light Company or a local cooperative.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, and C.

m. Agency Comments: Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set, it will be presumed to have no comments.

22a. Type of Application: Preliminary Permit.

b. Project No: P–6871–000.

c. Date Filed: November 19, 1982.

d. Applicant: Energenics Systems, Inc.

e. Name of Project: Monongahela River Lock and Dam No. 7.

f. Location: Fayette County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Granville J. Smith II, President, Energenics Systems, Inc., 1717 "K" Street NW., Suite 706 Washington, D.C., 20006.

i. Comment Date: February 23, 1983.

j. Description of Project: The proposed project would utilize the existing Corps of Engineers' Monongahela River Lock and Dam No. 7 and would consist of: (1) A new powerhouse containing two generating units having a total rated capacity of 13.5 MW.; (2) existing 115-kV transmission lines owned by the West Penn Power Company; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 50.7 GWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be West Penn Power Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $50,000.

23a. Type of Application: Preliminary Permit.

b. Project No: P–6872–000.

c. Date Filed: November 23, 1982.

d. Applicant: City of Ithaca.

e. Name of Project: Sixty-Foot Dam Project.

f. Location: Six Mile Creek, Tompkins County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Jay Ryder, Halliwell Associates, Inc., 865 Waterman Avenue, East Providence, Rhode Island 02914.

i. Comment Date: March 2, 1983.

j. Competing Application: Project No. 6520. Date Filed: July 15, 1982.

k. Description of Project: The proposed project would consist of: (1) The existing Sixty-Foot Dam 70.5 feet high and 220 feet long; (2) a reservoir having a storage capacity of 800 acre-feet, a surface area of 47 acres and normal water surface elevation of 704 feet m.s.l.; (3) a new 6-foot-diameter steel penstock 1,000 feet long; (4) a new powerhouse containing 1 unit with a generating capacity of 452 kW; and (5) appurtenant facilities. Applicant estimates that the average annual energy production would be 1,583,808 kWh. The dam is owned by the Applicant.

l. Purpose of Project: All project power would be sold to New York State Electric and Gas Company.

m. This notice also consists of the following standard paragraphs: A3, B, C, D2.

n. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $25,400.

24a. Type of Application: Preliminary Permit.

b. Project No: 6897–000.

c. Date Filed: December 1, 1982.

d. Applicant: Energos Management, Inc.

e. Name of Project: Carters Lake & Dam Hydro Project.

f. Location: Oakman, Murray County, Georgia on the Coosawattee River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) 825(r).

h. Contact Person: George C. Welborn, Jr., Secretary, Energos Management, Inc., P.O. Box 724591, Atlanta, Georgia 30339.

i. Comment Date: February 28, 1983.

j. Description of Project: The proposed project would utilize a U.S Army Corps of Engineers' dam and reservoir, and would consist of: (1) A proposed intake structure; (2) a proposed powerhouse with an installed capacity of 5 MW; (3) a proposed return channel; (4) a proposed transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual generation would be 23 GWh. All power generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B and C.

l. Agency Comments: Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set, it will be presumed to have no comments.

25a. Type of Application: Preliminary Permit.

b. Project No: 6904–000.

c. Date Filed: December 2, 1982.

d. Applicant: Batten Kill Hydro Associates.

e. Name of Project: Upper Greenwich.

f. Location: Town of Greenwich, Washington County, New York.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: Wayne L. Rogers, President, Synergics, Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

i. Comment Date: February 28, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 11.5-foot-high, 204-foot-long reinforced concrete dam; (2) an existing gate section at the south abutment containing four 10.66-foot-wide waste gates; (3) a 15-acre reservoir with no usable storage capacity at 340.0 feet M.S.L.; (4) an existing headgate section leading to a 200-foot-long, 30-foot-wide, 6-foot-deep power canal; (5) a new powerhouse containing turbine-generators with a total rated capacity of 660 kW; (6) a 4,500-foot-long transmission line; (7) a tailrace channel; and (8) appurtenant facilities. The project would generate up to 3,100,000 kWh annually. The dam and facilities are owned by Niagara Mohawk Power Corporation.

k. Purpose of Project: Energy produced at the project would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The work proposed under preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. The cost of the studies under the preliminary permit has been estimated by the Applicant to be $36,000.

26a. Type of Application: Preliminary Permit.

b. Project No: 6908–000.

c. Dated Filed: December 6, 1982.

d. Applicant: Tom Coffman.

e. Name of Project: Sandy Creek Hydropower.

f. Location: On Sandy Creek in Coos County, Oregon; partially on lands of the United States administered by the Bureau of Land Management.

g. Filed Pursuant to: Federal Power Act (16 U.S.C. 791(a)–825(r)).

h. Contact Person: Mr. Tom Coffman, 1539 Carlisle Avenue, Myrtle Point, Oregon 97458.

i. Comment Date: February 25, 1983.

j. Description of Project: The proposed project would consist of: (1) An 8-foot-high concrete diversion structure; (2) a 30-inch-diameter, 5,000-foot-long pipeline; (3) a powerhouse containing four turbine-generating units with a total rated capacity of 1.0 MW and an average annual energy output of 3.3 GWh; and (4) a 35-foot-long tailrace. The project would utilize a 2-mile length of an existing transmission line after upgrading it from single to three-phase capacity.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 36 months during which engineering, economic and environmental studies would be conducted to ascertain project feasibility and to support an application for a license to construct and operate the project. The estimated cost of permit activities is $19,000.

k. Purpose of Project: Project power would be sold to Pacific Power and Light Company and would provide a source of electricity for the southern Oregon coastal area.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

Competing Applications

A1. Exemptions for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1982). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d).

A2. Applications for License—Anyone desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either the competing application itself (see 18 CFR 4.33 (a) and (d), and Part 16, where applicable) or a notice of intent (see 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or §§ 4.101 to 4.104 (1982).

A3. Public notice of the filing of the initial application, which has already been given established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for license, exemption or preliminary permit, or notices of intent to file competing applications, will be accepted for filing in response to this notice (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate). Any application for license or exemption from licensing, or notice of intent to file a license or an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

Preliminary Permits

A4a. Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natual water feature project, must submit the competing application to the Commission on or before 30-days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A4b. No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or there are proposed to be major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.30 to 4.33 (1982)).

A4c. The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before the specified comment date for the particular application. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

A4d. Submission of a timely notice of intent to file an application for preliminary permit allows an interested person to file an acceptable competing application for preliminary permit no later than 60 days after the specified comment date for the particular application.

B. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

D1. License applications (5 MW or less capacity)—Federal, State, and local agencies that receive this notice through

direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. Preliminary permit applications—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Exemption applications (5 MW or less capacity)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Exemption applications (Conduit)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: December 30, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–244 Filed 1–4–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–35–000]

Texas Eastern Transmission Corp.; Proposed Changes in the FERC Gas Tariff

December 30, 1982.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) an December 30, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1. Texas Eastern has filed six alternative sets of revised tariff sheets underlying its major rate increase. The primary revised tariff sheets reflect utilization of the *United* method of cost classification for allocation and rate design purposes, but does not reflect the utilization of the *South Georgia* method of amortizing Texas Eastern's future unfunded income tax liability. In the event of a Commission decision permitting Texas Eastern to utilize the *Seaboard* method of cost classification for allocation and rate design purposes or the fixed-variable method and/or in the event that the Internal Revenue Service (IRS) issues a ruling satisfactory to Texas Eastern, permitting Texas Eastern to utilize the *South Georgia* method without jeopardizing its ability to take accelerated depreciation, Texas Eastern will file to place into effect the revised tariff sheets included in Alternate I, II, III, IV, or V as appropriate.

The proposed increased rates reflected in the primary revised tariff sheets and the revised tariff sheets included in Alternates II and IV will increase the level of Texas Eastern's jurisdictional rates to provide an annual increase in revenues from jurisdictional sales and services of approximately $62.5 million based on the test period sales and services for the 12 months ended September 30, 1982, as adjusted. The increased rates reflected in the revised tariff sheets included in Alternates I, III, and V are based on a cost of service using the *South Georgia* method to amortize Texas Eastern's future unfunded income tax liability and, therefore, provide an annual increase in revenues from jurisdictional sales and services of approximately $58.5 million. Approximately $3 million of the proposed increase can be attributed to purchased gas cost increases reflected in the proposed rate level but not accounted for in the present rate level which Texas Eastern will track under the applicable provisions of its FERC Gas Tariff. The remainder of the increase is related to other than purchased gas cost increases.

Texas Eastern states that the principal reasons for the proposed rate increase are increased costs of labor, expenses, plant facilities cost, working capital requirements, income taxes, and rate of return.

As part of its proposed major rate increase, Texas Eastern has filed revised tariff sheets to reflect changes in and additions to its FERC Gas Tariff and related rate schedules. Included among them are:

(1) Section 28 providing for the tracking of the costs of transportation and compression services performed by others for Texas Eastern other than those performed pursuant to Section 311(a) of the Natural Gas Policy Act of 1978;

(2) Section 29 providing for the tracking of the costs of transportation and compression services performed by others for Texas Eastern pursuant to Section 311(a) of the Natural Gas Policy Act of 1978;

(3) Section 27 providing for the tracking of electric power costs incurred to operate the electric prime movers on the compressor facilities on Texas Eastern's system.

(4) A new tariff provision which will specifically permit tracking of prepayments to gas suppliers;

(5) A change in the PGA provisions of Texas Eastern's tariff to utilize total sales to expressly include the right to track certain take-or-pay for payments and to exclude capitalized gas costs;

(6) A change in the tariff to provide for payment by electronic transfer.

Texas Eastern has requested waiver of any rules and regulations of the Commission to the extent required to put the foregoing major rate increase and accompanying tariff revisions and rate schedule revisions into effect.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 12, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-243 Filed 1-4-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Period of November 1 Through December 17, 1982

During the period of November 1 through December 17, 1982, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR, Part 205, Subpart D), any person who will be aggrievied by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave. NW., Washington, DC. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Geroge B. Breznay,

Director, Office of Hearings and Appeals.

December 29, 1982.

Briggs & Tillman Inc., Clinton, Missouri, HEE-0037, Petroleum Products.

Briggs & Tillman, Inc. (Briggs) filed an Application for Exception from the provisions of EIA Filing Requirements. The exception request, if granted, would permit Briggs to be relieved of the obligation to file Form EIA-764A. On December 16, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Deiter Bros. Fuel Co., Inc., Bethlehem, Pennsylvania, HEE-0038, Petroleum Products

Deiter Bros. Fuel Co., Inc. (Deiter Bros.) filed an Application for Exception from the provisions of the EIA Filing Requirements. The exception request, if granted, would permit Deiter to be relieved of the obligation to file Forms EIA-764A and EIA-172. On December 17, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Siler Oil Co., Inc., Washington, Indiana, HEE-0049, Petroleum Products

Siler Oil Company, Inc. (Siler) filed an Application for Exception from the provisions of EIA Filing Requirements. The exception request, if granted, would permit Siler to be relieved of the obligation to file Form EIA-9A. On December 13, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Thompson Oil Co., Inc., Waynesboro, Pennsylvania, HEE-0017, Petroleum Products

Thompson Oil Company, Inc. (Thompson) filed an Application for Exception from the provisions of EIA Filing Requirements. The exception request, if granted, would permit Thompson to be relieved of the obligation to file Form EIA-9A. On December 13, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 83-300 Filed 1-4-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of December 6 Through December 10, 1982

During the week of December 6 through December 10, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

State of Mississippi, HFA-0097

The State of Mississippi filed an Appeal from a determination issued to it by the Manager of the DOE Chicago Operations Office (Manager) in response to a Freedom of Information Act (FOIA) request filed by the State. In his determination, the Manager had asserted that the certain portions of a document concerning the DOE's nuclear waste respository program were exempt from mandatory disclosure under Exemption 5 of the FOIA. In its Appeal, Mississippi requested that the Manager's determination be reversed and that the document be released in its entirety. In considering the Mississippi Appeal, the DOE found that the Manager's characterization of the withheld portions of the document was correct, and noted that even if the document was a final report of a contractor to the DOE, it was still pre-decisional and an integral part of the deliberative process of the agency. Accordingly, the State's Appeal was denied.

Remedial Order

Hunt Oil Company, DRO-0343

Hunt Oil Company (Hunt) objected to a Proposed Remedial Order which the DOE Economic Regulatory Administration (ERA) issued to the firm on August 2, 1979. In the Proposed Remedial Order, the ERA found that during the period September 1, 1973 through August 31, 1975, Hunt sold crude oil at prices exceeding the applicable ceiling prices under the crude oil producer price rule at 10 C.F.R. Part 212, subpart D. After considering Hunt's objections, the DOE concluded that the Statement of Objections should be granted in part and that the Proposed Remedial Order, as modified, should be issued as a final Order. The important issues discussed in the Decision and Order include (i) the determination of the relevant property when there are two overlapping, but not coextensive base leases; (ii) whether a compressor station constitutes a separate property and (iii) whether interest payments should be waived because of the

length of time which has elapsed in this proceeding.

Request for Modification and/or Rescission

Exxon Company, U.S.A., HRR–0025, HRD–0007, HRH–0002

Exxon Company, U.S.A. (Exxon) filed Motions for Reconsideration, Discovery and Evidentiary Hearing in connection with an enforcement proceeding pending against the firm. The Exxon Proposed Remedial Order involves alleged regulatory violations in its sales of motor gasoline as a result of reductions in the octane rating of that gasoline. In its Motion for Reconsideration, the firm argued that the Office of Hearings and Appeals erred in failing to summarily dismiss the Exxon PRO for its failure to establish a *prima facie* case of regulatory violation. The DOE denied the Motion for Reconsideration, holding that the findings in the PRO were sufficient to establish a *prima facie* case. It also found that Exxon's assertions of deficiencies in the PRO arose chiefly as a result of the firm's differing legal positions.

In its Motion for Discovery, Exxon sought information related to (1) the meaning of the regulatory term "price increase"; (2) the alleged requirement that it make adjustments to its base prices; (3) whether refunds may be ordered absent a finding that a firm exceeded its MLSP's; (4) what activities fall within the prohibitions of the Normal Business Practices Rule; (5) the basis for alleged changes in the DOE's position from that presented in the NOPV; and (6) the DOE's method for assigning monetary valuations to Exxon's octane reductions. The DOE granted limited discovery with regard to the necessary factual basis for a refund order, but denied the remaining discovery requests, predominantly because discovery was not necessary to determine the proper interpretation of the regulations to the facts at issue.

In its Motion for Evidentiary Hearing, Exxon asserted that a hearing should be held with regard to (1) the nature of Exxon's historical octane policies; (2) the dimensions of the firm's octane adjustments; and (3) the effect of its octane reductions on the overall satisfaction levels of its customers. The DOE granted an evidentiary hearing to better determine the impact of octane reductions on Exxon's customers. In all other respects, the Motion was denied.

Supplemental Order

Gulf Oil Corporation, HEX–0046

Gulf Oil Corporation sought reconsideration of a Decision and Order that the DOE issued to the Citronelle Unit on May 21, 1982. *The 341 Tract Unit of the Citronelle Field*, 9 DOE ¶ 82,571 (1982). In the May 21 Order, the DOE concluded that the Citronelle Unit should deposit the revenues from the sale of the Units tertiary crude oil into the escrow account that is used to fund the project on the Citronelle Field. In its motion, Gulf maintained that portions of the May 21 Order were unclear and therefore a clarification was necessary. In its determination, the DOE concluded that the provisions of the May 21 Order were unambiguous. Accordingly, no clarification of the May 21 Order was appropriate.

Refund Application

Tenneco Oil Co./Midway Enterprises, Inc., RR7–4

Midway Enterprises, Inc. (Midway) filed a Motion for Modification requesting the DOE to reconsider its Decision in *Tenneco Oil Co./Midway Enterprises, Inc.*, 10 DOE ¶ 85,010, (1982) (*Midway*). In that Decision, Midway's Application for Refund was partially denied on the basis that it had not submitted information demonstrating that it maintained banks of unrecovered increased product costs during the consent order period. Midway was therefore limited to the threshold volume of 600,000 gallons per year per covered product. In considering its Motion, the DOE found that Midway did not meet the requirements for a Motion for Modification. The DOE also found that there was no error in the holding in *Midway* that in order to be eligible for a refund in excess of the threshold amount, an applicant must first demonstrate that it maintained banks. Accordingly, Midway's Motion for Modification was denied.

Dismissals

The following submissions were dismissed without prejudice:

Duffy's Oil Co., Inc., HEE–0043; Kansas Refined Helium Company, Inc., HEE–0044; Sonat, Inc., HRD–0058, HRH–0058.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 29, 1982.

[FR Doc. 83–201 Filed 1–4–83; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30000/5B; PH–FRL 2275–3]

Chloroform and Maleic Hydrazide; Determination Concluding the Rebuttable Presumptions Against Registration and Notice of Availability of Position Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of determination; notice of availability.

SUMMARY: In 1976, chloroform was referred to the Rebuttable Presumption Against Registration (RPAR) process because a National Cancer Institute study reported oncogneic effects in rats and mice. The information currently available indicates minimal human exposures which result in negligible risks. Similarly, maleic hydrazide (MH) was referred to the RPAR process because laboratory studies indicated that MH induced oncogenic, mutagenic and adverse reproductive effets in test animals. A review of available toxicity and exposure data, however, has showed that insufficient evidence exists to justify continuation of the RPAR. This notice constitutes a final determination of the agency and concludes the RPAR proceedings for chloroform and maleic hydrazide.

DATE: Requests for a hearing must be received on or before February 4, 1983, or within thirty (30) days from receipt of this notice, whichever occurs later.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A–110), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Copies of the Position Documents for chloroform and maleic hydrazide are available upon request from: Joan Warshawsky (Chloroform), Jerry Moore (Maleic Hydrazide), Special Pesticide Review Division (TS–791), Office of Pesticide Programs, Environmental Protection Agency, Room 711, CM #2 1921 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Joan Warshawsky (703–557–7451) for chloroform and Jerry Moore (703–557–7420) for maleic hydrazide.

SUPPLEMENTARY INFORMATION:

I. Introduction

In April, 1976, the agency issued a "Notice of Presumption Against Continued Registration of Pesticide Product—Chloroform (Trichloromethane)" [Presumption; 41 FR 14588]. The rebuttable presumption against the continued registration (RPAR) of chloroform was based on oncogenic effects in rats and mice that were reported in a 1976 National Cancer Institute (NCI) study.

The Agency issued a "Notice of Presumption Against Continued Registration of Pesticide Product—Maleic Hydrazide" in October 1977. [Presumption; 42 FR 56920]. The rebuttable presumption against the continued registration of maleic hydrazide was based on oncogenic, mutagenic and adverse reproductive effects in test animals.

Subsequent to publication of the RPARs, the agency obtained additional information relative to the risks and benefits associated with the pesticidal uses of chloroform and maleic hydrazide which indicate that continuation of the RPAR process is unwarranted. This

notice contains a summary of the agency's findings and presents the agency's final regulatory decision regarding chloroform and maleic hydrazide.

This notice is divided into four units. Unit I is this introduction. Unit II, "Legal Background," is a discussion of the legal support for the agency's regulatory decision regarding chloroform and maleic hydrazide. Unit III, "Scientific Rationale Conclusions," presents a summary of the scientific bases for the agency's regulatory conclusions regarding chloroform and maleic hydrazide. Unit IV, "Procedural Matters," is a brief discussion of the procedures the agency will utilize to implement the regulatory actions that are announced in this notice.

II. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended ("FIFRA"), an applicant for registration must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment," FIFRA section 3(c)(5). The phrase "unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide," FIFRA, section 2(bb). This standard requires a finding that the benefits of each use of the pesticide exceed the risks of such use, when the pesticide is used in accordance with commonly recognized practice and in compliance with the terms and conditions of registration.

The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide or modify the terms and conditions of registration whenever it is determined that the pesticide causes unreasonable adverse effects on the environment. The agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide an informal procedure to gather and evaluate information about the risks and benefits of these uses.

The regulations governing the RPAR process are set forth in 40 CFR 162.11. Among other things, this section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The agency announces that an RPAR has arisen by publishing a notice of determination in the **Federal Register**. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption of risk by showing that the agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to human beings or the environment with regard to the adverse effects in question. In addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide outweigh the risks of use.

In determining whether the use of a pesticide poses risks which are greater than the benefits, the agency considers possible changes to the terms and conditions of registration which can reduce risks, and the impacts of such modifications on the benefits of the use. If the agency determines that such changes sufficiently reduce risks to the level where the benefits outweigh the risks, it may conclude the RPAR process. The compound may then be returned to the normal registration process on the condition that such changes are implemented by the registrant. It is agency practice to announce this type of regulatory action by publication of a notice of determination in the **Federal Register**. In that notice, the agency would state and explain the rationale for its regulatory position.

III. Determinations and Initiation of Regulatory Action

The agency has considered information regarding the effects on human health, the environment, and the economy relative to the pesticidal use of chloroform and maleic hydrazide. The assessment of these effects are presented in the Presumptions, published in the **Federal Register**, and in the chloroform Position Document 2 (PD 2) and maleic hydrazide Decision Document. These documents are hereby adopted as the agency's statements of reasons for concluding the RPARs on chloroform and maleic hydrazide. Copies of these documents are available upon request as stated previously in this Notice.

A. Determination of Risks and Unreasonable Adverse Effects

1. *Chloroform.* Based upon the scientific information discussed in PD 2, the agency has concluded that chloroform, administered orally in high doses, induces oncogenic effects in rats and mice. Therefore, chloroform is considered potentially oncogenic to humans. However, the agency believes applicator exposure has been reduced to a minimum as a result of product label amendments instituted through the agency's Label Improvement Program (LIP). In addition, the agency negotiated with the registrant to remove chloroform from two animal health products. In 1981, the agency approved the registrants' petition to delete chloroform from those products. As a result, applicator exposure that could have resulted from using those products was eliminated. Further, dietary contamination is expected to be negligible due to chloroform's high degree of volatility and the relatively small volume applied annually. The agency believes that if chloroform is applied according to product label directions, it will not concentrate, persist, or accrue to levels in man or the environment that would result in any significant chronic adverse effects.

2. *Maleic hydrazide.* Subsequent to the publication of the notice of RPAR, the agency reevaluated the original toxicological data, rebuttal comments and new studies. The review of these data did not conclusively establish either the presence or the absence of adverse effects from maleic hydrazide. In addition to examining the risks of maleic hydrazide, the agency assessed the potential oncogenic risks from hydrazide, a contaminant which occurs at low levels in MH products. Using worst case exposure assumptions, the agency determined that the levels of hydrazine in MH products are toxicologically insignificant with respect to oncogenic risk. Based on FIFRA section 3(c)(8), as amended in 1978, which requires that initiation of formal action (such as an RPAR) be based on a validated test or other significant evidence raising prudent concerns of unreasonable human or environmental risks, the agency has concluded that there is an inadequate basis for continuing the RPAR.

B. Determination of Benefits

1. *Chloroform.* Chloroform is registered only to fumigate stored, raw, bulk grain. It comprises approximately 0.4 percent of all grain fumigants used annually in the United States. The

agency estimates that less than 12 percent of all grain produced is fumigated. Therefore, chloroform is applied to relatively small volumes of grain. Due primarily to the relatively small volume applied, and to the lack of certain economic data, the agency has not derived an assessment of monetary impact from the use of chloroform as a grain fumigant. However, there are a number of intangible benefits associated with its use. Some of the benefits include: pesticidal effectiveness; relatively low human toxicity compared with some other fumigants; ease of application; short persistence and rapid dissipation; and remedial (as needed) application as opposed to unnecessary treatment as a prestorage protectant. These factors are discussed in greater detail in PD 2.

2. *Maleic hydrazide.* Maleic hydrazide, potassium maleic hydrazide (K–MH) and diethanolamine maleic hydrazide (DEA–MH) are registered for sucker control on tobacco and as an antisprouting agent for onions and potatoes. In addition, K–MH and DEA–MH are used for growth control of commercial lawn and grass. The benefits of MH were not formally evaluated because the evaluation of risks showed that there are no prudent concerns of risk at this time.

C. Initiation of Regulatory Action

1. *Chloroform.* Based upon the determinations summarized above and discussed in greater detail in the Presumption and Position Document 2, the agency has decided to return chloroform to the normal registration process. However, since chloroform induces oncogenic effects in test animals species and is considered a potential human carcinogen, the registrant is required to submit data to establish a tolerance(s) of permissible residues on raw agricultural commodities. The agency believes that the general public should be protected from dietary contamination that could result from misuse of the compound. Because chloroform is currently exempt from a tolerance, the agency believes that establishment of a tolerance(s) will provide a means by which the general public can be protected from undue dietary contamination that might result from fumigation of stored grain.

The conclusions regarding the pesticidal use of chloroform and the subsequent regulation (requiring the establishment of tolerances) are relevant only to the grain fumigant use. Any proposed registrations for additional uses must be accompanied by all appropriate data necessary to obtain registration for new uses. The agency will carefully evaluate the exposures that may result from any new uses of chloroform.

2. *Maleic hydrazide.* Based on the determinations summarized above and in the Decision Document, the agency has decided to return MH, DEA–MH and K–MH to the normal registration process. However, because the studies to evaluate the risk of MH were inadequate, the agency has required additional studies be submitted by registrants for K–MH and DEA–MH. Because registrants of DEA–MH decided not to conduct these studies, their products have been suspended under section 3(c)(2)(B) of FIFRA. Finally, the registrants of technical MH have been required and have voluntarily agreed to limit the hydrazine impurities in technical MH to 15 ppm. This level will result in less than 1 ppm of hydrazine in the formulated K–MH products and will not result in any unreasonable adverse effects.

IV. Procedural Matters

This notice announces the agency's decision to terminate the chloroform and maleic hydrazide RPARs. In doing so, the compounds will be returned to the normal registration process with the stipulation that (1) chloroform registrants must submit data to establish a tolerance(s) of persmissible residue on the raw agricultural commodities which are fumigated with chloroform and (2) registrants of technical MH must be provide confidential statements of formula to document that the hydrazine in their products does not exceed 15 ppm. It should be noted that the suspension of DEA–MH, an action taken independently of this notice, will remain in effect until and unless a registrant commits to provide the required studies for that chemical.

A. Procedures for Amending the Terms and Conditions of Registration

1. *Chloroform.* To make the changes required to maintain registration, chloroform registrants within a 30-day period must submit the necessary data to support a petition to establish a tolerance(s) of acceptable residues on the raw commodities that are fumigated. Or, within a 30-day period, chloroform registrants must make known their intentions regarding submission of data to establish a tolerance(s). It is suggested that chloroform registrants confer with agency chemists and toxicologists to assure the suitability of testing protocols and subsequent data. The registrant(s) intention to submit data must be directed to: William Miller, Product Manager (PM) 15, Registration Division (TS–767C), Office of Pesticide Programs, Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–2600)

2. *Maleic hydrazide.* Registrants of technical MH are required to submit a confidential statement of formula to certify that the hydrazine in their products does not exceed 15 ppm. They have already done so and thereby met this condition of registration.

B. Procedure for Requesting a Hearing

Registrants adversely affected by the regulatory actions decribed above may request a hearing on such actions within 30 days of receipt of this notice, or within 30 days from publication of this notice in the **Federal Register**, whichever occurs later. Any other person adversely affected by the regulatory actions described above may request a hearing within 30 days of publication of this notice in the **Federal Register**.

All registrants and other affected parties who request a hearing must file the request in accordance with the procedures established by FIFRA and the agency's Rules of Practice Governing Hearings (40 CFR part 164). These procedures require among other things that (1) all requests must identify the specific registration(s) by registration number(s) and the specific use(s) for which a hearing is requested, (2) all requests must be accompanied by objections to the regulatory action set out in Unit III.C. of this notice that are specific for each use of the identified pesticide products for which a hearing is requested, and (3) all requests must be received by the Hearing Clerk within the applicable 30-day period. Failure to comply with these requirements will result in denial of the request for a hearing. Requests for a hearing must be submitted to: Hearing Clerk (A–110), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

C. Consequence of Filing or Failing To File a Hearing Request

1. *Consequence of filing a timely and effective hearing request.* If a hearing on any action initiated by this notice is requested in a timely and effective manner, the hearing will be governed by the agency's Rules of Practice for hearings under FIFRA section 6 (40 CFR Part 164). In the event of a hearing, each action which is the subject of the hearing will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing.

2. *Consequences of Failure to File in a Timely and Effective Manner.* If a registrant does not request a hearing and fails to fulfill the requirements set

out in Unit IV.A. of this notice, that use will be cancelled.

Dated: November 22, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-67 Filed 1-4-83; 8:45 am]

BILLING CODE 6560-50-M

[OLEC-FRL 2169-6]

Findings Under the Steel Industry Compliance Extension Act: Jones and Laughlin Steel Corp.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Findings Under the Steel Industry Compliance Extension Act.

SUMMARY: The Administrator refuses to consent to the entry of a Federal judicial decree under the Steel Industry Compliance Extension Act extending pollution control obligations of Jones & Laughlin Steel Corporation. The Administrator's decision is based upon a finding that the company is in violation of Federal judicial decrees and such violations are not *de minimis* in nature.

EFFECTIVE DATE: December 29, 1982.

ADDRESSES: Documents submitted by Jones & Laughlin Steel Corporation with its application under the Steel Industry Compliance Extension Act and information otherwise available to the Administrator in connection with that application may be inspected at the following location between 9:00 am and 4:00 pm weekdays: U.S. Environmental Protection Agency, Central Docket Section: West Tower, 401 M Street, SW., Washington, D.C. 20460, Docket No. EN 82-10.

FOR FURTHER INFORMATION CONTACT: Stuart Silverman, Attorney (EN-329), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-2859.

SUPPLEMENTARY INFORMATION:

Background

On July 17, 1982, President Reagan signed into law the Steel Industry Compliance Extension Act (SICEA), Pub. L. No. 97-23, popularly known as "Steel Stretchout". This legislation amended Section 113 of the Clean Air Act (CAA), 42 U.S.C. 7413, and was the result of recommendations made to Congress by the Steel Tripartite Committee to improve the steel industry's competitive position.[1]

SICEA provides the Administrator of the Environmental Protection Agency (EPA) with discretionary authority to enter into consent decrees postponing compliance with applicable emission limitations under the CAA for a maximum of three years until December 31, 1985, for qualifying iron- and steel-producing companies. A company could qualify for compliance extensions provided it agreed to use the money which it saved by deferring pollution control expenditures for capital investments which improved the efficiency and productivity of steelmaking facilities.

Thus, Congress provided that each company which took advantage of Steel Stretchout would actually spend twice the value of the deferred pollution controls. Each company would still meet its environmental obligations (albeit later than initially required) and it would invest at least an equal additional sum in plant modernization.

To qualify, SICEA sets forth specific criteria which reflect a delicate balance of competing interests—freeing up needed capital for modernization while assuring continued progress in meeting clean air goals. Compliance extensions are not available on a blanket basis. The Administrator must review requests for extensions case-by-case, the applicant assumes the burden of demonstrating that it qualifies. Specifically, SICEA requires the Administrator to find:

— that requested compliance extensions are necessary to allow investments in iron- and steel-producing operations for productivity and efficiency improvements,

— that funds which would have been expended for compliance in the absence of SICEA relief will, if such relief is granted, be expended by July 16, 1983, for qualifying modernizations,

— that the applicant is in compliance with existing Federal consent decrees or that violations are *de minimis* in nature,

— that the applicant will have sufficient funds to both complete modernization and by December 31, 1985, comply with applicable emission limitations, and

— that postponement of compliance will not result in degradation of air quality below current levels.

For violating facilities not covered by existing consent decrees or granted stretchout, SICEA also requires the applicant to commit in a Federal consent decree to bring these facilities into compliance with clean air standards by December 31, 1982. Finally, the decree embodying compliance programs for stretched and non-stretched sources must contain interim pollution control measures, monitoring requirements, and stipulated penalties for failure to meet schedule deadlines.

Application of Jones & Laughlin Steel Corporation

On November 9, 1981, Jones & Laughlin Steel Corporation (J&L) submitted its application under Steel Stretchout. The company filed suppplementary materials on December 21, 1981, March 16, September 9, September 23, and November 18, 1982. J&L requested postponement of compliance obligations at five steelmaking plants and proposed capital investments for modernization of approximately $320 million.

As indicated above, to grant stretchout relief, the Administrator must find, among other things, that the applicant is in compliance with all of its Federal consent decrees, or that any violations are *de minimis* in nature. Section 113(e)(1)(E), 42 U.S.C. 7413(e)(1)(E).

J&L is a party to three Federal consent decrees covering pollution abatement programs for its steelmaking plants in Pennsylvania, Ohio and Indiana.[2] The Administrator has determined that the company is not in compliance with the Pennsylvania and Ohio decrees. Further, she finds that violations are not *de minimis* in nature. Accordingly, J&L's Steel Stretchout application is denied.

Decree Violations—the Pennsylvania Decree

The Pennsylvania consent decree, entered on March 25, 1981, required J&L to place purchase orders for pushing controls at its Aliquippa A-1 coke battery by September 2, 1980. Commencement and completion of installation of controls were due by March 15, 1981, and Ferburary 15, 1982, respectively. Compliance was required by March 15, 1982. The company has not placed purchase orders and has violated

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[1] Created by President Carter in January 1979, the Steel Tripartite Committee was comprised of representatives from industry management, labor, government and environmental groups. Its mission was to assess the unique problems of the American steel industry and make recommendations for its revitalization. To make available needed capital for plant modernization, the Committee proposed that steel companies be given three additional years to comply with CAA requirements (with safeguards for the protection of public health) provided the companies committed to capital investments for productivity improvements.

[2] *United States of America* v. *Jones & Laughlin Steel Corporation and the LTV Corporation, et al.*, U.S. District Court for the Western District of Pennsylvania, Civil Action No. 79-1194; *United States of America* v. *Youngstown Sheet and Tube Company, et al.*, U.S. District Court for the Northern District of Ohio, Civil Action Nos. C77-144-Y and C81-12; *United States of America* v. *Youngstown Sheet and Tube Company, et al.*, U.S. District Court for the Northern District of Indiana, Civil Action No. H-79-65.

remaining schedule requirements for A–1 battery pushing controls, including final compliance with the applicable emission standard. These violations are continuing. The Administrator finds the violations not *de minimis* in nature.

The Pennsylvania decree imposed two separate requirements for compliance with the emissions standard for coke oven gas desulfurization at the company's Pittsburgh works. J&L was obligated to demonstrate compliance with this standard by September 1, 1980. Futher, the decree required continuous operation of the existing desulfurizer in compliance with the desulfurization standard on and after March 25, 1981. Both of these emission limitation requirements have not been met. the Administrator finds these violations not *de minimis* in nature.

The Ohio Decree

The Ohio decree, entered April 30, 1981, imposed control requirements for J&L's Campbell Coke Works. Specifically, for coke battery No. 9, the company was obligated to submit engineering plans and issue purchase orders for combustion stack controls by February 15 and March 1, 1981, respectively. Further, initiation and completion of construction for controls were required by November 30, 1981, and September 30, 1982, respectively. These schedule deadlines have been violated and the violations are continuing. The Administrator finds these violations not *de minimis* in nature.

Similarly, for pushing controls at Campbell coke batteries Nos. 7 and 9, J&L was obligated to submit engineering plans and issue purchase orders by March 1, and July 1, 1981, respectively. The Ohio decree also required the company to complete foundation work and installation of controls by April 1 and December 1, 1982. These control schedule requirements have been violated and the violations are continuing. The Administrator finds these violations not *de minimis* in nature.

In its November 18, 1982, submittal, J&L offered to cease coke production at batteries Nos. 7 and 9, thereby curing decree violations at the Campbell batteries. This offer does not make the current violations of the decree *de minimis*. In the November 18 submission, J&L did not indicate definite plans to close the batteries. Rather, the company stated that it ". . . proposes to discontinue the operation of the Cambell coke plant no later than December 31, 1982 . . ." (p. 2). In the next paragraph, J&L states "Now that Jones & Laughlin is willing to resolve this issue in favor of EPA, it respectfully submits that EPA should be able to approve Jones & Laughlin's Steel Stretchout Act application." (p. 3) Thus, there is no definitive statement that the batteries will cease operation, but rather a proposal connected with the grant of the pending Steel Stretchout application. Batteries Nos. 7 and 9 are continuing to operate in violation of the foregoing schedule deadlines as of the effective date of these findings. The company's November 18 conditional offer to cease production at these two batteries at some future time does not make the violations at the Campbell batteries *de minimis*.

The De Minimis Requirement

To consent to an extension of compliance schedules, the Administrator must find that the applicant is in compliance with existing Federal decrees or that violations of such decrees are *de minimis* in nature.

The Administrator has adopted an interpretation of *de minimis* based on the plain meaning of the phrase—small, trivial, of little concern. She has evaluated each of JUL's decree violations separately to determine if they are *de minimis*. The Administrator is required to deny stretchout relief if she finds even one violation which is not *de minimis*.[3]

As noted earlier, the Administrator has determined that J&L is in violation of numerous schedule requirements at four operating steelmaking facilities—including commencement and submission of engineering plans, issuance of purchase orders, commencement and completion of construction for controls as well as compliance with three separate final emission limitation requirements.

These violations, considered individually, are not trivial or matters of small concern. For this reason, the Administrator finds each violation not *de minimis* in nature. SICEA's legislative history evidences a predominant concern that companies maintain compliance with existing decrees and that stretchout not be granted to companies which did not comply at the expense of those which met their environmental obligations. J&L's continuing failure to comply with interim schedule requirements which predate enactment of SICEA runs counter to Congressional expectations that sources would incur pollution control expenditures required by decrees.[4] Moreover, violation of an emission standard after a compliance deadline was viewed by Congress as grounds to disqualify a stretchout applicant.[5] J&L has violated three separate emission standard deadlines. Finding J&L's decree violations not *de minimis* is in no way contrary to legislative intent.[6]

Additional Considerations

Force Majeure Claim

In materials submitted in support of its stretchout application, J&L contended that, assuming it has not met schedule deadlines, based on "force majeure"

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[3] In material submitted by the company, J&L asserted that under the *de minimis* criterion, an applicant's compliance record should be judged on the basis of whether it is in "substantial compliance" with all obligations under existing decrees rather than the more circumscribed review of each decree violations. the company's contention, however, lacks support. SICEA strikes a balance between the steel industry's need for compliance extensions to pursue modernization against continued progress in cleaner air. Applicants for stretchout were to be carefully scrutinized to insure that all statutory conditions, including the *de minimis* criterion, were met. "The bill does not authorize the granting of extensions on a blanket basis. Each request for an extension with respect to a specific emission control requirement and facility is to be considered individually." S. Rep. No. 133, 97th Cong., 1st Sess. (1981) at 1. Further, Congress contemplated that a decree violation at one source would preclude stretchout even if all other emission sources are in compliance with decree requirements:

"The owner of a *source* which is in violation of an emission limitation after a compliance deadline . . . is not eligible for a compliance extension . . . for any *source* which would otherwise be eligible until the violating *source* is brought into compliance . . ." *Id.* at 4 (emphasis added)

[4] H.R. Rep. No. 121, 97th Cong., 1st Sess. (1981), at 9, 10.

[5] S. Rep. No. 133, 97th Cong., 1st Sess. (1981) at 3, 4. The magnitude and duration of violation for final compliance with the pushing standard at Aliquippa A–1 battery is of serious concern. Under the Pennsylvania decree, the company was obligated to demonstrate final compliance with the pushing standard at A–1 battery by March 15, 1982. More than eight months after the final compliance deadline, J&L is continuing to operate A–1 battery uncontrolled for pushing emissions.

Violations of the standard for coke oven gas desulfurization at the Pittsburgh Works on September 1, 1980, and March 25, 1981, are particularly egregious. When controls are functioning properly, the area where the Pittsburgh Works is located is monitored attainment for the sulfur oxide primary health standard. However, when the system is out of service (its current status), violations directly contribute by at least 40 percent to exceedances of the sulfur oxide primary health standard for the area.

[6] See, *Steel Tripartite Committee Proposal: Hearings on H.R. 1817, H.R. 2024, H.R. 2219, H.R. 2055, H.R. 2286 Before the Subcomm. on Health and the Environment of the House Comm. on Energy and Commerce*, 97th Cong., 1st Sess. (1981) at 40, 65, 90; *Steel Industry Compliance Extension Act of 1981: Hearings on S. 63 Before the Senate Comm. on Environment and Public Works*, 97th Cong., 1st Sess. (1981) at 5, 9, 12, 24; *Reort of the Steel Tripartite Committee: Hearings Before the Senate Comm. on Environment and Public Works*, 97th Cong., 1st Sess. (1980) at 27. Also see, 127, Cong. Rec. H3750 (daily ed. June 26, 1981); *id.* at H2447 (daily ed. May 28, 1981).

considerations, it is in compliance with decree deadlines.

The company is apparently relying on the "force majeure" provisions of the decrees. These provisions do allow for relief from schedule deadlines in limited circumstances. Remedial relief, however, is available only after substantive and procedural prerequisites are met. Specifically, the "force majeure" clauses impose upon the company the burden of proving the merits of its request for relief—that delays are due to circumstances beyond its control. If EPA and the company do not agree on the merits, the decrees specifically require J&L to petition the court for resolution. Importantly, where the parties do not agree, unless the court rules otherwise, the original control schedules remain judicially enforceable.

On September 2, 1980, J&L submitted to EPA a request for deferral of the schedule for Aliquippa A–1 battery pushing controls. Relying upon "force majeure" provisions in the Pennsylvania decree, the company contended that an economic downturn in the steel industry resulted in its financial inability to comply with schedule deadlines.[7]

In a letter dated August 21, 1980, one week prior to the company's deferral request for A–1 battery, the government informed J&L that the "force majeure" clauses of the Federal decrees were not intended to apply to financial hardships from economic downturns. The government has maintained this position. Moreover, on several occasions, the government informed J&L that the original control deadlines remained in full force and effect.[8]

Although the issue of the company's entitlement to relief from schedule deadlines has apparently been in dispute since August 1980, J&L has not petitioned the court for resolution of this matter as contemplated and required by the Pennsylvania decree. Further, J&L has not availed itself of remedies potentially available by filing a motion under Rule 60(b) of the Federal Rules of Civil Procedure seeking relief from the court's judgment. Hence, the original control schedule in the decree for Aliquippa A–1 battery remains a judicially enforceable obligation of the company.[9] This schedule is the relevant obligation for consideration of the company's eligibility for stretchout under the *de minimis* criterion.

Late Maturing Deadlines

Finally, in its submissions for stretchout, the company contended that assuming violations of decree schedules for A–1 battery pushing controls, such violations are "late maturing" obligations and therefore *de minimis*. A similar argument was made for violations of desulfurization at the Pittsburgh Works as well as for schedules at Campbell batteries Nos. 7 and 9. These facilities, among others, were the subject of the company's request for extensions in its stretchout application.

J&L attempts to rely on the "late maturing date" theory which EPA applied in earlier preliminary findings for a stretchout applicant.[10]

The "late maturing date" theory reconciles two objectives under SICEA. Congress intended to free up needed capital for plant modernization providing the stretchout applicant had complied with existing decrees. If a company was required to continue to meet decree deadlines which fell due *after* passage of SICEA and which were the subject of its stretchout request until relief was granted, on pain of denial of stretchout, there would be virtually nothing left to stretch, and no additional funds would be available for modernization. If violations of such obligations could not be found to be *de minimis* for SICEA purposes, a company would be caught in a "Catch 22": in order to remain eligible for any relief under SICEA, as time passed while its stretchout application was pending, a company would have to deny itself increasing increments of relief. Thus, to effectuate SICEA's statutory scheme, where deadlines which fell due early in the schedule have been met, violated deadlines which fell due *after* SICEA enactment and subject to a request for stretchout are viewed as "late maturing" and *de minimis* for SICEA purposes. Application of the "late maturing date' theory is appropriate solely where a SICEA applicant complies with all interim deadlines which fall due early in the compliance schedule prior to SICEA enactment.

J&L's reliance on the "late maturing date" concept is misplaced. With regard to Aliquippa A-1 battery pushing controls, the company has violated interim schedule deadlines which fell due as early as September 2, 1980, predating SICEA enactment by nine months. For batteries Nos. 7 and 9 at the Campbell Works, early interim deadlines were violated a number of months prior to SICEA's passage. For each of the control projects, these early violations have necessarily caused violations of remaining deadlines in the schedule which fell due in late 1981 and 1982. J & L has inappropriately applied the "late maturing date" concept selectively to these latter schedule deadlines. Importantly, the company ignores violated deadlines of these schedules which fell due *prior* to SICEA enactment and *prior* to the company's stretchout application.

J & L's aplication of the "late maturing date" concept for desulfurization at the Pittsburgh Works is similarly inappropriate. The Pennsylvania decree obligated the company to meet two separate requirements for compliance with the sulfur oxide standard. The company was to demonstrate compliance on September 1, 1980. Further, on March 25, 1981 and continuing thereafter, J & L was obligated to operate the control system in compliance with the standard. The company did not comply with either of these requirements. A State permit was issued to J & L on May 18, 1981, to repair desulfurization controls. The company argued that since the permit set a compliance date of October 1, 1982, this date should govern. J & L contended that the October 1 date is after SICEA enactment and subsequent to its application. It is therefore "late maturing". J & Ls position, however, is not persuasive. The State permit did not modify the September 1, 1980 and March 25, 1981, compliance requirements in the decree which were not met. These two dates, both predating SICEA enactment, are the relevant obligations for consideration of the company's eligibility for stretchout under the *de minimis* criterion.

J & L's adaptation of the "late maturing date" concept is beyond Agency intentions and contrary to SICEA's legislative history. Congress did not intend to grant stretchout to companies which failed to comply with decree obligations *prior* to SICEA enactment.

Reservation of Rights

Findings by the Administrator expressed herein do not necessarily address all violations by J & L of existing Federal decrees and should not be construed as limiting any causes of

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[7] The company is on record as having requested compliance deferrals based on financial "force majeure" considerations for Aliquippa A–1 pushing controls in addition to other control strategies not pertinent ot the Administrator's findings herein.

[8] Assuming, *arguendo*, that the "force majeure" clauses have applicability, J&L failed to meet its burden of persuasion. Financial analyses in 1980 and 1981 did not support the company's claims of financial inability. (*J&L Financial Study*, Confidential Appendix I, J&L Steel Stretchout Docket No. EN 82–10)

[9] See, *Delaware Valley Citizens' Council for Clean Air v. Commonwealth of Pennsylvania*, 674 F. 2d. 976 (3d Cir. 1982)

[10] See, *Notice of Findings Preliminary to Lodging of Amended Consent Decree*, 47 FR 35855, *et seq.* (August 17, 1982)

action or remedies available to the government in any future administrative or judicial proceedings.

Dated: December 28, 1982.

John W. Hernandez,

Acting Administrator.

[FR Doc. 83-181 Filed 1-4-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140029; BH-FRL 2278-7]

Consumer Product Safety Commission; Disclosure of Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (CPSC) has requested EPA to provide it with access to certain information reported under current and prospective rules promulgated under section 8(a) of the Toxic Substances Control Act (TSCA), including the Preliminary Assessment Information rule published in the Federal Register of June 22, 1982 (47 FR 26992), and the Asbestos Reporting Requirements rule published in the Federal Register of July 30, 1982 (47 FR 33198). The EPA will provide CPSC with access to information reported under section 8(a) on chemical substances which may have consumer use applications. The CPSC has stated that it requires access to this information in connection with the performance of its duties under the Consumer Product Safety Act (CPSA). Some of the information reported under section 8(a) may be claimed as confidential.

DATE: Access to confidential business information will be provided to CPSC no sooner than January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Environmental Protection Agency, Rm. E-511, 401 M Street, SW., Washington, D.C. 20460, Toll Free: (800-424-9065). In Washington: (554-1404). Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Commission administers, among other Federal laws, the Consumer Product Safety Act, as amended, 15 U.S.C. 2051 et seq. The CPSC is charged under that law with protecting the public against unreasonable risks of injury associated with consumer products; assisting consumers in evaluating the comparative safety of consumer products; developing uniform safety standards for consumer products; and promoting research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries. The CPSC has requested that designated CPSC employees, in connection with their official duties under the CPSA, be granted access to certain information submitted to EPA under current and prospective reporting rules promulgated under authority of section 8(a) of TSCA, 15 U.S.C. 2607(a).

The EPA issued in the Federal Register of June 22, 1982 (47 FR 26992), a final Preliminary Assessment Information rule under section 8(a) of TSCA requiring chemical manufacturers and certain producers and importers to submit information on approximately 250 chemicals. The information reported includes data on quantities of chemicals manufactured, amounts directed to certain classes of uses and potential exposures and environmental releases associated with the processing of the chemicals. This information can be used by EPA in setting priorities for the testing of chemicals and in assessing chemical risks.

A final rule on Asbestos Reporting Requirements was published in the Federal Register of July 30, 1982 (47 FR 33198). The rule requires asbestos manufacturers, importers, and processors to report such information as quantities of asbestos used in making products, employee exposure data, and waste disposal and pollution control equipment data. The EPA will consider this information in calculating the extent of exposure from asbestos and in determining whether and where exposures present an unreasonable risk.

The CPSC has requested access to information reported to EPA under these and any future section 8(a) rules on chemical substances which may have consumer use applications. Some of the information reported to EPA under section 8(a) may be claimed confidential. The EPA will provide CPSC with access to this confidential business information in accordance with section 14(a)(1) of TSCA and 40 CFR 2.209(c), which applies to information submitted under TSCA through 40 CFR 2.306(h).

As required by 40 CFR 2.209(c), this notice is published to inform submitters that confidential information reported under section 8(a) rules will be provided to CPSC no sooner than ten days after publication of this notice. Designated CPSC employees will be cleared for access to confidential business information in accordance with the provisions of the TSCA Confidential Business Information Security Manual and will be required to sign a confidentiality agreement.

Under an agreement between EPA and CPSC, confidential business information will be reviewed by CPSC employees at EPA only, and no such information will be permitted to be removed from EPA's premises. The CPSC will not notified that this confidential business information was acquired by EPA under authority to TSCA and that any knowing disclosure of the information may subject the officers and employees of CPSC to the penalties in section 14(d) of the Act.

Dated: December 22, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-187 Filed 1-4-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50588; PH-FRL 2278-1]

Pesticides; Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

275-EUP-35. Issuance. Abbott Laboratories, 1400 Sheridan Rd., North Chicago, IL 60064. This experimental use permit allows the use of 66.7 pounds of the plant growth regulator gibberellic acid on Valencia oranges to evaluate the prevention of rind crease. A total of 500 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from May 1, 1983 to November 30, 1985. A permanent tolerance for residues of the active ingredient in or on citrus fruits has been established (40 CFR 180.224). (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

7969-EUP-18. Issuance. BASF Wyandotte Corporation, 100 Cherry Hill Road, P.O. Box 181, Parsippany, NJ 07054. This experimental use permit allows the use of 14,560 pounds of the

fungicide N-cyclohexyl-N-methoxy-2,5-dimethyl-3-furancarboxamide on cottonseed to evaluate the control of *Rhizoctonia solani*. A total of 7,500 tons of seed are involved; the program is authorized only in the States of Arizona, California, Mississippi, and Texas. The experimental use permit is effective from December 6, 1982 to December 6, 1983. (Henry Jacoby, PM 21, Rm. 229, CM#2, (703–557–1900)).

1471–EUP–75. Extension. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 9,900 pounds of the fungicide fenarimol on apples and grapes to evaluate the control of scab and cedar rust of apples and powdery mildew of apples and grapes. A total of 6,188 acres are involved; 5,188 acres of apples to be treated and 1,000 acres of grapes to be treated. The program is authorized only in the States of California, Indiana, Michigan, New York, North Carolina, Ohio, Oregon, Pennsylvania, Virginia, and Washington for apples and in California, Michigan, New York, Ohio, Oregon, and Washington, for grapes. The experimental use permit is effective from March 19, 1983 to March 19, 1985. Temporary tolerances for residues of the active ingredient in or on apples have been established. (Henry Jacoby, PM 21, Rm. 229, CM#2, (703–557–1900))

47361–EUP–1. Issuance. Mandops, Inc., 1551 Forum Place, West Palm Beach, FL 33401. This experimental use permit allows the use of a total of 140 pounds in nine formulations of the plant growth regulator 2-chloroethyl trimethyl ammonium chloride on barley, corn, dry beans, oats, potatoes, soybeans, and wheat to evaluate yield increase and the control of lodging in corn, dry beans, small grains, and soybeans. The program is authorized only in the States of Alabama, Idaho, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Virginia, and Wisconsin. The experimental use permit is effective from November 9, 1982 to November 9, 1983. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703–557–1830))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: December 23, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–188 Filed 1–1–83; 8:45 am]

BILLING CODE 6560–50–M

[OPP–50585; PH–FRL 2278–2]

Pesticides; Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

239–EUP–75. Extension. Chevron Chemical Company, 940 Hensley St., Richmond, CA 94804. This experimental use permit allows the use of the remaining supply of approximately 276 pounds (340 pounds originally authorized) of the harvest aid paraquat dichloride on dry beans to evaluate the desiccation of bean plants and broadleaf weeds and grasses. A total of 680 acres are involved; the program is authorized only in the States of California, Idaho, Oregon, Utah, and Washington. The experimental use permit is effective from February 18, 1983 to February 18, 1985. A temporary tolerance for residues of the active ingredient in or on dry beans has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800)).

677–EUP–22. Issuance. Diamond Shamrock Corporation, 1100 Superior Ave., Cleveland, OH 44114. This experimental use permit allows the use of 9,152 pounds of the fungicide 2,4,5,6-tetrachloro-isophthalonitrile on apples to evaluate the control of apple scab. A total of 700 acres are involved; the program is authorized only in the States of Illinois, Indiana, Kentucky, Michigan, Missouri, New York, North Carolina, Ohio, Oregon, Pennsylvania, Virginia, and Washington. The experimental use permit is effective from January 1, 1983 to July 1, 1983. A temporary tolerance for residues of the active ingredient in or on apples has been established. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703–557–1900)).

1471–EUP–65. Extension. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 320 pounds of the herbicide fluridone on drainage ditches to evalute the control of aquatic weeds. A total of 100 acres are involved. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703–557–1830)).

1471–EUP–66. Extension. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 450 pounds of the herbicide fluridone on drainage ditches to evalute the control of aquatic weeds. A total of 150 acres are involved. This program and the one above are authorized only in the State of Florida. The permits are effective from November 22, 1982 to November 22, 1983. Both permits are issued with the limitation that the herbicide will not be applied to waters that will be used for drinking, domestic purposes, swimming, fishing, watering livestock, or irrigation of crops used for food or feed. The permits will use the same active ingredient but different formulations. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703–557–1830)).

10182–EUP–30. Issuance. ICI Americas Inc., Wilmington, DE 19897. This experimental use permit allows the use of 1,000 pounds of the herbicide 5-[2-chloro-4-(trifluoromethyl)phenoxy]-*N*-(methylsulfonyl)-2-nitrobenzamide on soybeans to evaluate the control of broadleaf weeds. A total of 1,000 acres are involved; 400 acres treated the first year of the program and 600 acres treated the second year of the program. The program is authorized in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. The experimental use permit is effective from November 12, 1982 to November 12, 1984. This permit is issued with the limitation that all food or feed derived from the crops are destroyed or

used for research purposes only. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703–557–1830)).

3125–EUP–158. Issuance. Mobay Chemical Corporation, 1025 Vermont Ave., NW., Washington, DC 20005. This experimental use permit allows the use of 5,000 pounds of the fungicide 6-methyl-2, 3-quinoxalinedithiol cyclic S,S-dithiocarbonate [6-methlyl-1,3-dithiolo[4,5-b] quinoxalin-2-one on almonds to evaluate the control of mites. A total of 5,000 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from October 21, 1982 to October 21, 1983. Temporary tolerances for residues of the active ingredient in or on almond meats and hulls have been established. (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386)).

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excuding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: December 23, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-189 Filed 1-4-83; 8:45 am]
BILLING CODE 6560-50-M

[OPP–180617; PH–FRL 2278–3]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the States listed below. Details of a quarantine exemption granted by EPA to the United States Department of Agriculture are also given. Also listed are two crisis exemptions initiated by California and Texas.

DATES: See each specific, quarantine, and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific, quarantine, and crisis exemption for the name of the contact person. The following information applies to all contact people: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arkansas State Plant Board for the use of diethatylethyl on spinach to control weeds; November 11, 1982 to May 31, 1983. Arkansas had initiated a crisis exemption for this use. (Jack E. Housenger)

2. California Department of Food and Agriculture for the use of dicloran on fresh market tomatoes to control gray mold; November 22, 1982 to August 31, 1983. California had initiated a crisis exemption for this use. (Libby Welch)

3. California Department of Food and Agriculture for the use of paraquat on kiwi fruit to control weeds and grasses; January 1, 1983 to December 31, 1983. (Jim Tompkins)

4. Florida Department of Agriculture and Consumer Services for the use of heptachlor on ornamental plants and nonbearing citrus nursey stock to control the West Indian sugarcane rootstalk borer weevil (*Diaprepes abbreviatus*); November 29, 1982 to November 1, 1983. (Gene Asbury);

5. Florida Department of Agruculture and Consumer Services for the use of methamidiphos on Chinese cabbage, endive, escarole, and parsley to control leafminers; November 9, 1982 to June 1, 1983. (Jack E. Housenger)

6. Hawaii Department of Agriculture for the use of thiabendazole on papayas to control post-harvest fungal diseases; October 1, 1982 to October 1, 1983. Hawaii had initiated a crisis exemption for this use. (Gene Asbury)

7. Office of the Governor of Puerto Rico for the use of oxyfluorfen on dry bulb onions to control various weeds; November 9, 1982 to April 30, 1983. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination was published in the **Federal Register** of June 23, 1982 (47 FR 27118). (Libby Welch)

8. Texas Department of Agriculture for the use of *N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine in poultry houses to control flies; November 22, 1982 to December 11, 1983. (Jim Tompkins)

9. Washington Department of Agriculture for the use of fenamiphos on raspberries to control root lesion nematodes; November 11, 1982 to April 1, 1983. (Gene Asbury)

10. U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA/APHIS), for the use of toxaphene on beef cattle to control scabies and ticks within the United States according to the USDA/APHIS program; December 1, 1982 to November 30, 1983. EPA completed an RPAR on this chemical; the final determination was published in the **Federal Register** of November 29, 1982 (47 FR 53784). (Gebe Asbury)

A quarantine exemption was granted to the USDA/APHIS for the use of naled on inanimate objects to control the Oriental fruit fly in California; December 3, 1982 to December 3, 1983.. (Jack E. Housenger)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on November 9, 1982, for the use of permethrin on fresh market tomatoes to control pinworms, leafminers, and *Heliothis* spp. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expectd to last until July 28, 1983. (Libby Welch)

2. Texas Department of Agriculture on November 29, 1982, for the use of permethrin on spinach to control the cabbage looper. Since it was anticipated that this program would be needed for more than 15 days, Texas is expected to request a specific exemption to continue it. (Libby Welch)

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: December 27, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83-183 Filed 1-4-83; 8:45 am]
BILLING CODE 6560-50-M

[PH–FRL–2278–4; PP 2G2593/T400]

Fenarimol; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for residues of the fungicide fenarimol in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire March 19, 1985.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm, 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the **Federal Register** of June 30, 1982 (47 FR 28454), announcing the renewal of

temporary tolerances for residues of the fungicide fenarimol [a-(2-chlorophenyl)-a-(4-chlorophenyl)-5-pyrimidinemethanol] in or on the raw agricultural commodities apples at 0.10 part per million (ppm) and grapes at 0.05 ppm as a result of preharvest applications. The apples and grapes will be for the fresh fruit market only. These tolerances were issued in response to pesticide petition PP 2G2593, submitted by Elanco Products Company, 740 S. Alabama St., Indianapolis, IN 46285.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 1471-EUP-75, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Elanco Products Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire March 19, 1985. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408 (j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: December 23, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-104 Filed 1-4-83; 8:45 am]

BILLING CODE 6560-50-M

[PH-FRL-2275-4; OPP-50585]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticieds for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

43142-EUP-2. Renewal. BFC Chemicals, Inc., 4311 Lancaster Pike, P.O. Box 2867, Wilmington, DE 19805. This experimental use permit allows the use of 765 pounds of the insecticide amitraz on a maximum of 8,560 dairy cattle to evaluate the control of ticks. The program is authorized only in the States of Oklahoma and Utah and the Territory of Puerto Rico. The permit was previously effective from August 10, 1981 to August 10, 1982. The permit is not effective from October 7, 1982 to October 7, 1983. Temporary tolerances for residues of the active ingredient in or on the milk, meat, fat, and meat byproducts of cattle have been established. (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703-557-2386))

10182-EUP-28. Amendment. ICI Americas Inc., Concord Pike and New Murphy Rd., Wilmington, DE 19897. Notice published in the **Federal Register** of August 11, 1982 (47 FR 34853) pertaining to the issuance of an experimental use permit, No. 10182-EUP-28, to ICI Americas Inc. At the request of the company, the permit has been amended to allow 2,050 additional acres, 1,250 additional pounds of the active ingredient, and extension of the expiration date. This experimental use permit now allows the use of 2,400 pounds of the herbicide (±)-butyl 2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy] propanoate on cotton and soybeans to evaluate the control of weeds. A total of 3,200 acres are involved; 1,200 acres treated the first year of the program and 2,000 acres treated the second year of the program. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703-557-1830))

10182-EUP-29. Issuance. ICI Americas Inc., Concord Pike and New Murphy Rd., Wilmington, DE 19897. This experimental use permit allows the use of 3,750 pounds of the herbicide (±)-butyl 2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy] propanoate on cotton and soybeans to evaluate the control of weeds. A total of 10,000 acres, 5,000 acres treated both years of the program, are involved. This program and the one above are authorized in the States of Alabama, Arizona, Arkansas, California, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. Both permits are effective from October 6, 1982 to September 30, 1984. Temporary tolerances for residues of the active ingredient in or on cottonseed; eggs; milk; soybeans; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep have been established. The permits will use the same active ingredient but different formulations. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703-557-1830))

35977-EUP-1. Issuance. MAAG Agrochemicals Research and Development, HLR North Kings Highway, P.O. Box X, Vero Beach, FL 32960. This experimental use permit allows the use of 0.16 pound of the insect growth regulator ethyl[2-(p-phenoxyphenoxy) ethyl]carbamate on stored seed peanuts to evaluate the control of various insects. A total of 4 bins are involved; the program is authorized only in the State of Florida. The experimental use permit is effective from October 1, 1982 to October 1, 1983.

(Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690))

201–EUP–73. Issuance. Shell Oil Company, Suite 200, 1025 Connecticut Ave., NW., Washington, D.C. 20036. This experimental use permit allows the use of 541 pounds of the insecticide cyano-(3-phenoxyphenyl)methyl 4-chloro-alpha-(1-methylethyl) benzeneacetate on cherries, grapefruits, lemons, and oranges to evaluate the control of various insects. A total of 250 acres are involved; the program is authorized only in the States of Arizona, Arkansas, California, Colorado, Florida, Kansas, Michigan, Montana, Nebraska, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Utah, Wisconsin, and Texas. The experimental use permit is effective from September 15, 1982 to September 15, 1983. (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690))

46946–EUP. Issuance. TH Agriculture and Nutrition Company, Inc., P.O. Box 2700, Kansas City, KS 66110. This experimental use permit allows the use of 225.06 pounds of the insecticide N-[[(4-chlorophenyl) amino]carbony1]-2,6-difluorobenzamide on cotton to evaluate the control of the boll weevil. A total of 730 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Louisiana, and Mississippi. The experimental use permit is effective from July 30, 1982 to July 30, 1983. A permanent tolerance for residues of the active ingredient in or on cottonseed has been established (40 CFR 180.377). (Franklin Gee, PM 17, Rm. 207, CM#2, (703-557-2690))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136))

Dated: December 8, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–18 Filed 1–4–83; 8:45 am]

BILLING CODE 6560–50–M

[PP 5G1627/T398; PH–FRL 2278–5]

Paraquat; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended a temporary tolerance for residues of the harvest aid paraquat dichloride in or on the raw agricultural commodity dry beans.

DATE: This temporary tolerance expires February 18, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the **Federal Register** of August 19, 1976 (41 FR 35096), announcing the renewal of a temporary tolerance for residues of the harvest aid paraquat dichloride in or on the raw agricultural commodity dry beans at 0.5 part per million (ppm).

This temporary tolerance was issued in response to pesticide petition (PP 5G1627), submitted by Chevron Chemical Company, Ortho Agricultural Chemicals Division, 940 Hensley St., Richmond, CA 94804.

The temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit 239–EUP–75, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Chevron Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires February 18, 1985. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. The tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirments of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981, (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: December 23, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–185 Filed 1–4–83; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL 2279–4]

Science Advisory Board—Open Meeting; Environmental Engineering Committee

Under Pub. L. 92–463, notice is hereby given that the Agency has expressed a desire to have an immediate one-day meeting of the Environmental Engineering Committee (EEC) of the Science Advisory Board to be held in Room 3–242, Sid Richardson Hall (Building 3), Lyndon B. Johnson School of Public Affairs, University of Texas, Austin, Texas, on January 17, 1983. The meeting will be begin at 8:30 am and last until approximately 5:00 pm.

The purpose of the meeting will be to review technical support data pertaining to proposed revisions to the Agency's secondary treatment regulations (40 CFR Part 133), and will address the following issues:

a. Whether the carbonaceous biochemical oxygen demand ($CBOD_5$) test should be substituted for the BOD_5 test as an appropriate measure of effluent quality from secondary treatment facilities.

b. The technical bases for adjusting trickling filter performance standards during cold-weather.

c. Whether newly-designed trickling filters can be expected to meet current effluent limitations during warm-weather periods.

The meeting is open to the public. Any member of the public wishing to participate or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382–2552, or Dr. Terry F. Yosie, Acting Staff Director, Science Advisory Board, at (202) 382–4126.

Terry F. Yosie,

Acting Staff Director, Science Advisory Board.

December 29, 1982.

[FR Doc. 83–331 Filed 1–4–83; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL 2279–5]

Science Advisory Board—Open Meeting; High-Level Radioactive Waste Disposal Subcommittee

Under Pub. L. 92–463, notice is hereby given that the Agency has expressed a desire to have an immediate one-day meeting of the High-Level Radioactive Waste Disposal Subcommittee of the Science Advisory Board to be held in The Regency Ballroom E and F, Hyatt Regency Crystal City Hotel, 2799 Jefferson Davis Highway, Arlington, Virginia, on January 18, 1983. The meeting will begin at 9:00 am and last until approximately 3:30 pm.

The purpose of the meeting will be to organize the Subcommittee's review of the scientific and technical basis of the Agency's proposed rules for the management and disposal of high-level radioactive wastes. The members of the Subcommittee are as follows:

Dr. Herman Collier (Chairman), President, Moravian College, Bethlehem, Pennsylvania
Dr. Bruce B. Boecker, Assistant Director, Inhaltion Toxicology Research Institute, Albuquerque, New Mexico
Dr. Robert Budnitz, President, Future Resources Associates, Berkeley, California
Dr. Floyd Culler, President, Electric Power Research Institute, Palo Alto, California
Dr. Stanley N. Davis, Department of Hydrology and Water Resources, University of Arizona, Tucson, Arizona
Dr. Bruno Giletti, Department of Geological Sciences, Brown University, Providence, Rhode Island
Dr. Steven Kaye, Director, Health and Safety Research Division, Oak Ridge National Laboratory, Oak Ridge, Tennessee
Dr. Konrad Krauskopf, Department of Applied Earth Sciences, Stanford University, Stanford, California
Dr. Alan S. Manne, Department of Operations Research, Terman Engineering Center, Stanford University, Stanford, California
Dr. John Neel, Department of Human Genetics, The University of Michigan Medical School, Ann Arbor, Michigan
Dr. David Okrent, School of Engineering and Applied Science, UCLA, Los Angeles, California
Dr. Frank Parker, Department of Environmental and Waste Resources Engineering, Vanderbilt University, Nashville, Tennessee

Other members may be appointed, if needed.

EPA'S Office of Radiation Programs has proposed that the Subcommittee review and provide advice on the following issues, and will discuss these proposals with the subcommittee.

1. The scientific and technical rationale behind the choice of a 10,000 year period as the basis for the assessment of disposal facility performance.

2. The technical basis for selection of the proposed performance requirements, including the risk-assessment methodology, uncertainties in the data and in the analytical methods, and the estimation of premature cancer deaths.

3. The scientific appropriateness of concentrating on disposal in geologic media.

4. The validity of the conclusion that, under the proposed rules, the risks to future generations will be no greater than the risks from equivalent amounts of naturally occurring uranium ore bodies.

5. The adequacy of the economic analysis.

6. The ability of the analytical methods/models used in the analysis to predict potential releases from the disposal facility and their resultant effects on human health. Included would be an evaluation of the model's ability to deal with uncertainty, and the confidence, in a statistical sense, one can have that the model predictions were adequate to support selection of projected performance requirements.

The agenda for the meeting will include a briefing on the background leading up to the development of the proposed rules, a discussion of the issues to be reviewed by the Subcommittee and discussions on organizing the Subcommittee to conduct the review.

The meeting is open to the public. Any member of the public wishing to attend or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382–2552, or Terry F. Yosie, Acting Staff Director, Science Advisory Board, at (202) 382–4126. Public comment will be accepted at subsequent meetings of the Subcommittee during the technical review.

Terry F. Yosie,

Acting Staff Director, Science Advisory Board.

December 29, 1982.

[FR Doc. 83–330 Filed 1–4–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Streeet, N.W., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statements should indicate that this has been done.

Agreement No.: 7540–36.

Filing party: Nathan J. Bayer, Esq., Freehill, Hogan & Mahar, 80 Pine Street, New York, N.Y. 10005.

Summary: Agreement No. 7540–36 modifies the basic agreement of the United States Atlantic & Gulf/Southeastern Carribbean Conference to clarify existing authority concerning alternate port service.

Agreement No.: 7680–46

Filing party: Seymour H. Kliger, Esq., Brauner Baron Rosenzweig Kligler Sparber & Bauman, 120 Broadway, New York, N.Y. 10271.

Summary: Agreement No. 7680–46 would amend the scope of the American West African Freight Conference Agreement to permit the conference to collectively establish rates for point-to-point, point-to-port and port-to-point intermodal services in the conference trade. In addition, any member line would be permitted to effectuate intermodal rates or routings at variance from the conference's in accordance with the terms and conditions set forth in the agreement.

Agreement No.: 10376–3.

Filing party: Mr. R. J. Finnan, Chief Tariff Publishing Officer, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Summary: Agreement No. 10376–3 extends the term of the Lykes-COSCO Discussion and Sailing Agreement through April 15, 1986.

Dated: December 29, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83–147 Filed 1–4–83; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Hap Dong Express, Inc., 1265 Broadway, Suite 703, New York, NY 10001. Officers: Tae Hee Kim, Stockholder/President/Director, Grace Myung Won Kang, Vice President/Director, Won Hyun Paek, Secretary/Treasurer/Director

Air/Compak of Melbourne, Inc., 2805 W. Nasa Blvd., Melbourne, FL 32901. Officer: Thomas N. Davis, President/Sole Stockholder

F.F.F. Fast Freight Forwarding, Inc., P.O. Box 848, 64–A Woodbridge Terrace, Woodbridge, NJ 07095. Officers: Hani E. Barghash, President/Sole Stockholder, Guitta H. Barghash, Secretary

James G. Wiley Co. of San Francisco, 230 California Street, Suite 201, San Francisco, CA 94111. Officers: James G. Wiley, President, William R. Fielding, Vice President, Louise M. Whittier, Vice President/Secretary/Treasurer

Condor Forwarding Services, Inc., c/o 350 Thorens Avenue, Garden City Park, NY 11040. Officers: Felix Grinacoff, President, Hector Grinacoff, Vice President, Edward Grinacoff, Treasurer

Miram Martinez, Calle Julian Blanco, #38, Santa Rita, Rio Piedras, PR 00925

Dated: December 30, 1982.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83–149 Filed 1–4–83; 8:45 am]

BILLING CODE 6730–01–M

Items Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following items have been submitted to OMB for extension of clearance pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.). Interested parties may obtain a copy of the items and the justifications submitted from Ronald D. Murphy, Agency Clearance officer, Federal Maritime Commission, 1100 L Street, N.W., Room 9305, Washington, D.C. 20573, telephone number (202) 523–5326.

Comments may be submitted to the Agency Clearance Officer and Wayne Leiss, Desk Officer, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, N.W., Room 3228, Washington, D.C. 20503, telephone number (202) 395–7313. All comments should be submitted within 15 days after the date of the **Federal Register** in which this notice appears.

Summary of Items Submitted for OMB Review

46 CFR Part 512—Financial Reports of Common Carriers by Water in the Domestic Offshore Trades (General Order 11) and Related Forms FMC–377 and FMC–378.

General Order 11 establishes methodologies that the Commission will utilize in evaluating the reasonableness of rates in the domestic offshore trades filed by vessel operating common carriers subject to the Intercoastal Shipping Act, 1933. It also provides for the acquisition of data essential to this evaluation. Related Forms FMC–377 and FMC–378 also facilitate the acquisition of data under General Order 11.

The Commission estimates the following respondent burdens: General Order 11—43 respondents at 13.3 manhours annually, Form FMC–377—27 respondents at 1,425 manhours annually, Form FMC–378—16 respondents at 2,722 manhours annually.

Total estimated annual cost to the Federal Government is $54,500.

46 CFR Part 514—Financial Exhibits and Schedules—Non-Vessel Operating Common Carriers in the Domestic Offshore Trades (General Order 42) and Related Form FMC–379.

General Order 42 establishes the methods for evaluating proposed rate changes in the domestic offshore trades submitted by non-vessel operating common carriers subject to the provisions of the Intercoastal Shipping Act, 1933. It also provides for acquisition of data which is to be submitted only in certain formal proceedings. Related Form FMC–379 also facilitates the acquisition of data under General Order 42.

The Commission estimates that approximately 90 non-vessel operating common carriers in the U.S. domestic offshore trade will incur an annual recordkeeping burden of 900 manhours under General Order 42, and approximately 1 respondent per year at 33 manhours for related Form FMC–379.

Total estimated annual cost to the Federal Government is $200.

46 CFR Part 544—Financial Responsibility for Water Pollution (Outer Continental Shelf) (General Order 41) and Related Forms FMC–11 (OCS), FMC–160, and FMC–192.

General Order 41 is the Federal Maritime Commission's regulations to implement Pub. L. 95–372, section 305(a)(1). It helps to determine the financial responsibility of vessel owners and operators carrying oil from offshore facilities above the Outer Continental Shelf. Related Forms FMC–11 (OCS), FMC–160, and FMC–192 also assist in this determination.

The Commission estimates the following respondent universes and burdens:

General Order 41—33 respondents at 33 manhours annually.

FMC–11 (OCS)—16 respondents at 4 manhours annually.

FMC–160—75 respondents at 19 manhours annually.

FMC–192—10 respondents at 5 manhours annually.

Total estimated annual Federal Government cost is $1,510.

Francis C. Hurney,

Secretary.

[FR Doc. 83–148 Filed 1–4–83; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1715]

Laurie B. Pazmino d.b.a. Intercontinental Bridge Services; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Laurie B. Pazmino dba Intercontinental Bridge Services, P.O. Box 74305, 162 North Edgemont, Los Angeles CA 90004 was cancelled effective December 8, 1982.

By letter dated November 9, 1982, Laurie B. Pazmino dba Intercontinental Bridge Services was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No 1715 would be automatically revoked unless a valid surety bond was filed with the Commission.

Laurie B. Pazmino dba Intercontinental Bridge Services has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1715 be and is hereby revoked effective December 8, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 1715 issued to Laurie B. Pazmino dba Intercontinental Bridge Services be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Laurie B. Pazmino dba Intercontinental Bridge Services.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-150 Filed 1-4-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *InterFirst Corporation*, Dallas, Texas; to acquire 100 percent of the voting shares or assets of InterFirst D/FW Freeport, N.A., Irving, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than January 28, 1983.

Board of Governors of the Federal Reserve System, December 29, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-154 Filed 1-4-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8)) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 115.4(b)(1)), for permission to engage de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the questions whether consummation of the proposal can "reasonably be expected to product benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *The Maybaco Company, and Equitable Bancorporation*, Baltimore, Maryland (insurance activities; Delaware): To engage through its subsidiary, known as Equiban Life Insurance Company, in underwriting, as reinsurer, credit life insurance in connection with extensions of credit by Equitable Bancorporation's subsidiaries located in Delaware. These activities will be conducted from an office in Baltimore, Maryland, serving the State of Delaware. Comments on this application must be received not later than January 24, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Pittsburgh National Corporation*, Pittsburgh, Pennsylvania (financing; Pennsylvania): To engage, through its subsidiary, The Kissell Company, in making or acquiring and servicing for its own accounts and or the accounts of others, loans and other extensions of credit. These activities would be conducted at an office in Pittsburgh, Pennsylvania, which is located in south west portion of the State of Pennsylvania and would serve: Allegheny, Westmoreland, Indiana, Armstrong, Butler, Beaver, Washington, Greene, Fayette, Somerset, Cambria, Lawrence, and Mercer, all in Pennsylvania. Comments on this application must be received not later than January 24, 1983.

Board of Governors of the Federal Reserve System, December 29, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-155 Filed 1-4-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank

Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Bancshares, Inc.*, Bellevue, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Bellevue, Bellevue, Ohio. Comments on this application must be received not later than January 28, 1983.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Mahnomen Bancshares, Inc.*, Mahnomen, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Mahnomen, Mahnomen, Minnesota. Comments on this application must be received not later than January 28, 1983.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National Utica Company*, Utica, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Utica, Utica, Nebraska. Comments on this application must be received not later than January 28, 1983.

Board of Governors of the Federal Reserve System, December 29, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-180 Filed 1-4-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA) (**Federal Register**, Vol. 46, No. 223, pp. 56911–56934, dated Thursday, November 19, 1981) is amended to reflect the Secretary's approval of the following:

- Transferring the audit liaison function from the Bureau of Quality Control, Office of the Associate Administrator for Operations, to the Office of Executive Operations.
- Changing the name of the Bureau of Program Policy, Office of the Associate Administrator for Policy, to the Bureau of Eligibility, Reimbursement and Coverage.
- Transferring the health standards and certification policy functions from the Office of Standards and Certification in the Health Standards and Quality Bureau, Office of the Associate Administrator for Operations, to the Bureau of Eligibility, Reimbursement and Coverage, Office of the Associate Administrator for Policy (previously the Bureau of Program Policy—reference above).
- Transferring the Division of Congressional Affairs out of the Office of Legislation and Congressional Affairs, Office of Legislation and Policy, Office of the Associate Administrator for Policy (OAAP), to the Office of Legislation and Policy, OAAP. Changing the name of the Division of Congressional Affairs to the Congressional Affairs Staff, and changing the name of the Office of Legislation and Congressional Affairs to the Office of Legislation.
- Transferring the functional responsibility related to certain Medicaid statistical activities from the Office of Research and Demonstrations, Office of the Associate Administrator for Policy, to the Bureau of Data Management and Strategy, Office of the Associate Administrator for Management and Support Services.
- Restructuring the functions associated with contractor and State agency financial management within the Office of Program Administration, Bureau of Program Operations, Office of the Associate Administrator for Operations.
- Transferring Medicare provider direct reimbursement functions and staff from the Bureau of Support Services, Office of the Associate Administrator for Management and Support Services (OAAMSS), to an organizational location reporting directly to the AAMSS.
- Transferring the Division of Performance Evaluation from the Office of Standards and Performance Evaluation, Bureau of Program Operations, Office of the Associate Administrator for Operations (OAAO), to the Office of Quality Control Programs, Bureau of Quality Control, OAAO.

1. Section FP.20., the Office of the Associate Administrator for Operations (FP), is amended by deleting the last sentence in section FP.20.B.4. in its entirety and by deleting the last three sentences in section FP.20.B.4.b. in their entirety. In both instances, the single sentence deletion in B.4. and the three sentence deletion in B.4.b. begin as follows: "Acts as HCFA control point for GAO and HHS Audit Agency reports. . ."

2. Section FE.20., the Office of Executive Operations (FE), is amended by inserting the following two sentences immediately prior to the last sentence of section FE.20.A. The new sentences will start after the word "memoranda" on line 22 of this section. The new sentences are "Acts as the HCFA control point for GAO and HHS Audit Agency reports. Implements and maintains a follow-up system to assure Agency compliance with audit findings and recommendations, as required."

3. Section FQ.20., the Office of the Associate Administrator for Policy (FQ), is amended by the following actions:

a. Change the organizational title of section FQ.20.A. from Bureau of Program Policy to Bureau of Eligibility, Reimbursement and Coverage. The code (FQA) assigned to the Bureau remains the same.

b. Delete section FQ.20.C.1.d., Division of Congressional Affairs, in its entirety.

c. Change the organizational title of section FQ.20.C.1. from the Office of Legislation and Congressional Affairs to the Office of Legislation. The code (FQCA) will become (FQCC).

d. Delete the functional statement for the Office of Legislation and Congressional Affairs, section FQ.20.C.1. (now the Office of Legislation—reference No. 3.c. above) in it entirety and replace it with the following functional statement. The code (FQCA) will become (FQCC).

1. *Office of Legislation (FQCC).* Directs the legislative planning and operations activities of HCFA. Develops and evaluates recommendations

concerning legislative proposals for changes in health care financing. Develops the long-range HCFA legislative plans. Analyzes and makes recommendations to the Administrator and the Department on related health legislative proposals, including those which may require coordination with programs conducted by other HCFA components or which relate to methods other than health insurance for providing economic security through social insurance. Prepares technical specifications for legislation and coordinates congressional testimony and briefing materials for all of HCFA. Serves as a principal advisor on HCFA's relations with the legislative branch of the Government on substantive program issues. Provides technical assistance to members of Congress and their staffs at legislative mark-up sessions, prepares bill reports on health care financing legislation and provides legislative research and reference services to all of HCFA. Through the Director, Office of Legislation and Policy, coordinates its activities with the Office of the Assistant Secretary for Legislation.

e. Change the administrative codes of the three remaining divisions within section FQ.20.C.1., Office of Legislation (reference c above) as follows:

- Section FQ.20.C.1.a., Division of Coverage and Benefits, from code (FQCA1) to (FQCC1).
- Section FQ.20.C.1.b., Division of Health Systems, from code (FQCA2) to (FQCC2).
- Section FQ.20.C.1.c, Division of Administration and Reimbursement, from code (FQCA3) to (FQCC3).

f. Add the following new organization component entitled "Congressional Affairs Staff" (FQC–1), including functional statement and administrative code, at the end of section FQ.20.C., Office of Legislation and Policy (FQC), but before the newly titled Office of Legislation (FQCC) (reference No. 3 above). Consequently, the Congressional Affairs staff will become number 1. under section FQ.20.C., the Office of Legislation will become number 2. and the Office of Policy Analysis will become number 3.

1. *Congressional Affairs Staff (FQC–1).* Answers constituents' inquiries about HCFA's programs, policies and initiatives. Responds to congressional requests and inquiries on HCFA's programs and organization. Refers congressional requests to appropriate HCFA components and coordinates responses to those requests. Provides HCFA staff with timely information on both congressional actions and interests and concerns of outside interest groups and organizations. Maintains an active liaison with congressional offices in order to anticipate their requests and their reactions to HCFA policies, programs and initiatives. Confers with congressional offices to provide them with requested information on HCFA initiatives and actions and coordinates meetings between congressional offices and HCFA staff. Conducts seminars and briefings for congressional staff on organizational and operational issues. Maintains relationships with selected interest groups and organizations. Serves as HCFA's point of contact with the Department's Congressional Liaison Office; coordinates and consults with that office on issues of significant interest and coordinates congressional inquiries with the appropriate HCFA Regional Office.

g. Delete the functional statement for section FQ.20.A.4., Office of Coverage Policy, in its entirety and replace it with the following functional statement. The current administrative code (FQA4) will be changed to (FQA7).

4. *Office of Coverage Policy (FQA7).* Develops, evaluates and reviews national policies and standards concerning the coverage and utilization effectiveness of items and services under the HCFA programs provided by hospitals, long-term care facilities, home health agencies, alternative health care organizations, physicians, health practioners, clinics, laboratories and other health care providers and suppliers. Serves as the principal organization within HCFA for evaluating the medical aspects of Medicare and Medicaid coverage issues and for health quality and safety standards. Directs, manages, plans and coordinates the development and evaluation of coverage policies and data analysis systems for HCFA's End-Stage Renal Disease (ESRD) program. Determines, in conjunction with other interested HCFA components, ESRD information requirements and analyzes information necessary to support ESRD coverage policy decisions. Relying on data inputs from other HCFA and Department sources, assumes the lead in preparation of the Annual Report to Congress on the ESRD program. Develops, evaluates and reviews national coverage issues concerning the amount, duration, scope, reasonableness and necessity for medical and related services. Develops, evaluates and reviews health and safety standards for providers and suppliers of health services under Medicare, Medicaid and other Federal programs. Conducts a review of coverage aspects of State plans under the Medicaid program. Develops policies defining services which are reimbursable under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) program and interprets these policies by responding to inquiries from State agencies, regional offices, congressional staffs, professional societies and the general public. Updates and supplements those portions of current EPSDT regulations pertaining to the definition of screening and treatment services and revises the State Medicaid Manual to reflect policy changes relative to EPSDT screening and treatment services. Develops, evaluates and reviews national policies concerning the coverage of new and unusual items and services and those medical items and services which are excluded from coverage. Develops, evaluates and reviews regulations, guidelines and instructions required for the dissemination of program policies to program contractors, State agencies and the health care field. Identifies, studies and makes recommendations for modifying HCFA program coverage policies and health and safety standards to reflect changes in beneficiary health care needs, program objectives and the health care delivery system. Conducts ongoing analyses of innovative treatment patterns, referral patterns and activities that improve health care outcomes. Analyzes and recommends legislative or other remedies to improve coverage, health and safety standards and utilization effectiveness. Coordinates with other organizations, including the Public Health Service, which share responsibilities for health quality and standards. Maintains ongoing liaison with professional groups, standards setting organizations and members of the general public on issues relative to the area of responsibility.

h. Change the administrative codes of the two current divisions within section FQ.20.A.4., Office of Coverage Policy, as follows:

- Section FQ.20.A.4.a., Division of Provider Services Coverage Policy, from code (FQA41) to code (FQA71).
- Section FQ.20.A.4.b., Division of Medical Services Coverage Policy, from code (FQA42) to code (FQA72).

i. Add the new section FQ.20.A.4.c., Division of Provider and Supplier Standards, including functional statement and administrative code, to the Office of Coverage Policy, section FQ.20.A.4. The new division is to be entered after the Division of Medical Services Coverage Policy (FQA72) but before the Office of Reimbursement Policy (FQA5). The new addition is as follows:

c. *Division of Provider and Supplier Standards (FQA73).* Develops, evaluates

and reviews health and safety standards and other related policies for providers and suppliers of health services under Medicare, Medicaid and other Federal programs. Reviews the effectiveness of existing standards. Develops standards for new types of facilities or services recognizing advances in medical practice and technology. Monitors selected health care and health related provisions of the Social Security Act pertinent to HCFA's mission and coordinates these functions with the Office of the Associate Administrator for Operations. Conducts liaison with professional groups and standards setting organizations and is the HCFA center for health quality and safety standards, policies and procedures.

4. Section FP.20., the Office of the Associate Administrator for Operations (FP), is amended by deleting the functional statements and administrative codes for section FP.20.C.4., Office of Standards and Certification (FPE4), and all of associated divisions, i.e., a. Division of Hospital Services (FPE41), b. Division of Laboratory and Ambulatory Services (FPE42), c. Division of Long-Term Care (FPE43), d. Division of Program Analysis and Training (FPE44) and e. Division of Field Operations (FPE45) in their entirety and replacing them with the following:

4. *Office of Survey and Certification (FPE5).* Develops and establishes procedures and oversees the implementation and enforcement of health and safety standards for providers and suppliers of health services under Medicare, Medicaid and other Federal programs. Administers and monitors the nationwide Medicare and Medicaid provider and supplier certification program. Develops procedures/guidelines for regional certification responsibilities under Medicare and Medicaid. Monitors and validates the application of health and safety standards and the adherence to Medicare and Medicaid policies by State survey agencies and other approved accrediting bodies. Monitors and evaluates regional performance of oversight responsibilities in survey and certification. Reviews the validity and effectiveness of existing standards. Develops and analyzes national data on the administration of the Medicare and Medicaid standards and certification program and develops methods for improvement. Conducts training, informational and other initiatives for improving the performance of State survey agencies and the providers and suppliers under the Medicare and Medicaid program.

a. *Division of Data and Program Analysis (FPE56).* Designs, tests and manages the centralized Medicare/Medicaid Automated Certification System (MMACS) to provide program related and health management information on all providers and suppliers participating in the Medicare and Medicaid programs. Develops data input and output requirements, specifications for modification of computer processing activities. Provides technical assistance and training to central and regional office personnel involved in operation of MMACS equipment, forms and utilization of data output. Develops new approaches for standards and certification on the basis of needs identified through MMACS data, regional office direct surveys, comments from State survey agencies and other program areas. Tests improvements in the State agencies certification process including modification of reporting procedures, utilization of personnel and use of financial incentives. Develops criteria for setting surveyor qualifications and methods for reviewing the performance of survey personnel. Collects and analyzes data derived from MMACS for use by regional offices and State agencies in pinpointing specific certification problems and for development of criteria and procedures to assess the quality of care being recorded by Medicare and Medicaid providers. Examines and revises, in coordination with other standards and certification divisions, the survey report forms, guidelines and instructions to ensure consistency of application and interpretation by both surveyors and providers.

b. *Division of Survey Procedures and Training (FPE57).* Develops and coordinates administrative and fiscal procedures and guidelines for State survey and certification agencies. Monitors and evaluates State agency operations and certification functions through the comprehensive program review of State agency activities. Develops procedures for evaluating the effectiveness of regional office oversight of State survey agency performance. Makes periodic onsite reviews of the Division of Health Standards and Quality in regional offices and of State agencies. Assists regional offices by arranging for supplemental personnel to participate in direct sample surveys of provider institutions and by participating in program and administrative reviews conducted by communications to State agencies and regional offices relating to provider certification and State agency management. Develops and conducts a survey and certification training program for regional and State agency personnel. Promotes provider/supplier personnel training programs based on analysis of deficiency patterns, study results and suggestions from provider groups. Develops and/or updates existing training materials and techniques for surveyor and provider personnel. Provides technical assistance to educational institutions, professional organizations and State agencies in developing training activities.

c. *Division of Institutional and Ambulatory Services (FPE58).* Directs and coordinates activities that implement, enforce and monitor health quality and safety standards and other health care procedures for all providers and suppliers under Medicare, Medicaid and other Federal programs. Coordinates and applies regulations, procedures and guidelines for the improvement of standards enforcement and validation processes. Reviews and analyzes existing standards to determine their initial and continued effectiveness and impact on utilization, quality and cost of provider and supplier services and initiates new or revised instructions or standards, as necessary. Develops, reviews and maintains guidelines and instructions for interpretation, implementation and enforcement of health quality and safety standards by the regional offices and State survey agencies. Prepares provider/supplier participation materials and instructions. Develops survey and certification forms and procedures utilized by State survey agencies in the survey and certification process. Monitors the enforcement of health quality and safety standards and compliance with established policy by State survey agencies and other public and private organizations participating in the Medicare/Medicaid program. Directs and coordinates division functions with the Bureau of Program Operations and the Bureau of Eligibility, Reimbursement and Coverage. Conducts liaison with professional groups and standards setting organizations. Serves as the focal point for responding to regional office, State agency, congressional, organizational and individual inquiries relating to application of health and safety requirements and certification procedures for participating providers and suppliers.

5. Section FQ.10., Office of the Associate Administrator for Policy (FQ), is amended by changing the organization title of section FQ.10.A. from the Bureau of Program Policy

(FQA) to the Bureau of Eligibility, Reimbursement and Coverage (FQA). The administrative code (FQA) will remain the same.

6. Section FH.20., Office of the Associate Administrator for Management and Support Services (FH), is amended by the following actions within section FH.20.D., Bureau of Data Management and Strategy (FHE):

a. Section FH.20.D.1.b., Division of Medicaid Cost Estimates (FHE12), is amended by the following actions:

- Eliminate the first three words in the third sentence which appear on lines 8 and 9 of the section, i.e., "Conducts studies measuring . . ." and replace them with the following six words, "Develops descriptive information detailing and projecting . . .". The remainder of the sentence continues as stated "The effect of changes . . .".
- Add the following sentence immediately prior to the next to last sentence of the section. The new sentence will start after the word "costs" on line 19 and will become the third to last sentence of the section. The new sentence is "Develops and publishes routine descriptive Medicaid statistical information."
- Eliminate the last three words of the seventh sentence which appears on line 22 of the section, i.e., "and administrative costs" in their entirety. The seventh sentence will now stop after the word "benefits" on line 21 of the section.
- Eliminate the last sentence, which is located on lines 22 through 25 of the section, in its entirety and replace it with the following, "Provides actuarial and statistical consultation to other HCFA components, States or outside organizations."

b. Section FH.20.D.2., Office of Statistics and Data Management (FHE2), is amended by deleting the words "data entry" on lines 14 and 15, respectively. The revised sentence will now read "Manages and updates HCFA statistical data bases and provides programming and coding services to other HCFA components."

c. Section FH.20.D.2.a., Division of Data Production (FHE21), is amended by adding the following sentence immediately after the second sentence of the section. The new sentence will start after the acronym "HCFA" on line 7 and become the third sentence of the section. The new sentence is "Develops descriptive Medicare statistical information for publication."

d. Section FH.20.D.2.d., Division of Information Analysis (FHE24), is amended by adding the following sentence immediately after the first sentence of the section. The new sentence will start after the word "files" on line 12 of the section and will become the second sentence of the section. The new sentence is "Prepares text and publishes descriptive Medicare statistical information and combined Medicare/Medicaid reports."

7. Section FQ.20.B., Office of Research and Demonstrations (FQB), is amended by the following actions:

a. Delete the last sentence of section FQ.20.B.1., Office of Demonstrations and Evaluation (FQBA), and replace it with the following sentence, "Provides technical advice and consultation to other Federal and external organizations on potential experimental projects and publishes research analytic program statistical information and results based on analyses of experimental findings." The sentence to be replaced starts on line 23 of the section.

b. Delete the last sentence of section FQ.20.B.2., Office of Research (FQBB), and replace it with the following sentence, "Makes available research analytic program information to assist in the formation of reimbursement and other policy questions and publishes results and analyses of these findings." The sentence to be replaced starts on line 21 of the section.

c. Delete the last sentence of section FQ.20.B.2.b., Division of Beneficiary Studies (FQBB2), and replace it with the following sentence, "Provides research analytic program statistical information and assistance upon request for legislative planning and policymaking as well as to other Federal programs requiring data on the Medicare and Medicaid populations." The sentence to be replaced starts on line 25 of the section.

8. Section FP.20., the Office of the Associate Administrator for Operations (FP), is amended by deleting section FP.20.A.3.d., Division of Budget (FPA34), including administrative code and functional statement, in its entirety and replacing it with the following new divisional title, administrative code and functional statement.

d. *Division of Contractor Financial Management (FPA36).* Formulates and approves the national budget for Medicare contractor administrative costs. Directs the Medicare contractor budget process and the cash management letter-of-credit system. Sets requirements and procedures for contractors and regional offices to prepare and submit periodic budget estimates and reports. Analyzes and evaluates budget estimates submitted by contractors for ADP systems proposals. Participates in experimental contract Request for Proposal (RFP) preparation and proposal evaluation. Participates in negotiations and approval of all related price adjustments. Reviews periodic contractor expenditure reports to evaluate budget execution and determinations of the allowability of costs. Designs, maintains and, as necessary, prepares specifications to revise the automated Contractor Administrative Cost Information System (CACIS). Analyzes contractor administrative cost data and trends. Directs and prepares instructions to guide regional offices in conducting reviews of specific financial management areas and reviews regional office performance to assure consistency in implementation of instructions. Develops, implements and monitors cash management letter-of-credit procedures for contractors and servicing banks.

9. Section FP.20., the Office of the Associate Administrator for Operations (FP), is amended by deleting section FP.20.A.3.e., Division of Financial Operations (FPA35), including administrative code an functional statement, in its entirety and replacing it with the following new divisional title, administrative code and functional statement.

e. *Division of State Agency Financial Management (FPA37).* Establishes policies and procedures by which Medicaid State agencies and regional offices submit periodic budget estimates and reports. Analyzes budget estimates and formulates the national Medicaid budget. Administers the State grants process for administrative and program payments. Approves all State claims for Federal reimbursement under title XIX. Reviews periodic State agency expenditure reports to evaluate budget execution and determine the allowability of costs. Reviews regional office disallowances of State claims for Medicaid reimbursements. Serves as focal point within the Bureau of Program Operations for defense of disallowance decisions before the Grant Appeals Board (GAB), analyzes and disseminates GAB decisions and monitors their implementation. Sets and interprets fiscal requirements and procedures for use by States and regional offices. Sets HCFA instructions for regional staff concerning the financial review of the Medicaid program and reviews regional office performance to assure consistency in implementation of instructions. Interprets cost reimbursement principles and policies related to operational accounting issues. Reviews and recommends approval/disapproval of funding of State agency ADP systems proposals. Determines compliance with

accepted accounting principles and procedures. Directs and coordinates the fiscal aspects of the title XIX program compliance activities.

10. Section FH.20., the Office of the Associate Administrator for Management and Support Services, is amended by the following actions:

a. Delete the second sentence of section FH.20.B., Bureau of Support Services (FHB), in its entirety. The sentence to be deleted reads as follows: "Provides reimbursement services to providers that choose to receive Medicare payments directly from HCFA."

b. Delete all functional statements and administrative codes for section FH.20. B.6., Office of Direct Reimbursement (FHB6), including all components; i.e., a. Technical Support Staff (FHB6–1), b. Division of Provider Reimbursement (FHB62), c. Division of Claims Processing (FHB63) and d. Division of Health Sevice Studies (FHB64).

c. Add the following new organization components including functional statements and administrative codes at the end of the section FH.20.D.3., the Office of Information Planning and Development (FHE3), but before section FP.10., the Office of the Associate Administrator for Operations.

E. *Office of Direct Reimbursement (FHF).* Directs HCFA's function of reimbursing those Medicare providers who are reimbursed directly by the Federal government. Plans and designs operations systems and develops methods and procedures for the review, disallowance or authorization of Medicare claims submitted by these providers. Determines the methods and procedures for interim reimbursement and establishes interim reimbursement rates. Receives and analyzes Medicare cost reports submitted by these providers to validate aggregate and program costs to determine final Medicare program payments. Participates with Departmental components in a wide range of experimental health care delivery projects. Performs claims adjudication, cost reimbursement and data collection for demonstration projects. Provides a setting for testing proposed policies and procedures which impact on fiscal intermediary operations and provides the capacity for serving specialized providers.

a. *Technical Support Staff (FHF–1).* Coordinates all assignments, projects and activities involving more than one of the Office's divisions. Provides direction and assistance to assure performance of assigned responsibilities. Serves as a liaison point for communicating with providers of services and with outside organizations whose activities interrelate with the Office of Direct Reimbursement (ODR). Carries out a comprehensive internal quality assurance program. Negotiates and awards individual Medicare or joint Medicare/Medicaid audit contracts with CPA firms with respect to direct-dealing providers. Coordinates ODR activities with respect to cost report appeals from providers and beneficiary appeals involving direct-dealing facilities.

b. *Division of Provider Reimbursement (FHF2).* Develops procedures for and establishes interim reimbursement rates for direct-dealing providers. Determines final provider reimbursement. Assesses provider accounting structures and reporting capability to determine reimbursement formulas, arranges for audits and determines final program liability. Plans, directs and coordinates studies of the administrative and fiscal arrangements of municipal hospitals and health care cooperatives to determine the need for and to develop special policies, procedures and audits.

c. *Division of Claims Processing (FHF3).* Plans, directs, coordinates and performs the examination, review, authorization of payment or disallowance of Medicare bills submitted by direct-dealing providers. Designs systems and develops methods and procedures for processing these bills. Collaborates with other HCFA components, as necessary, on problems involving health care reimbursement systems. Determines payment methods, procedures and policies. Programs and maintains electronic operations for provider payment. Determines the amount, method and frequency of utilization adjustments. Participates with HCFA components and other governmental and nongovernmental organizations on projects to develop unified and innovative health care reimbursement mechanisms.

d. *Division of Health Service Studies (FHF4).* Serves as fiscal intermediary for experiments and demonstrations conducted under legislative authorities in the Social Security Act, Public Health Service Act and related legislation. Provides a wide range of duties related to the development, implementation and ongoing operation of the demonstrations. Provides technical advice and assistance, prior to the start of the demonstrations and throughout the period of the experiment, to other bureaus and agencies in developing service definitions, reimbursement protocols, contracts and reporting mechanisms. Designs and establishes information systems for compiling demonstration payment and service data for evaluator use. Develops cost reporting and billing systems. Acts as liaison between governmental agencies, service contractors, evaluation contractors and Medicare carriers and intermediaries participating in demonstration activities.

11. Section FH.10., the Office of the Associate Administrator for Management and Support Services (FH), (Organization), is amended by adding the following new organization component and administrative code. The new component will follow D. the Bureau of Data Management and Strategy (FHE). The new component will read:

E. *The Office of Direct Reimbursement (FHF).*

12. Section FP.20.A., Bureau of Program Operations (FPA), is amended by the following actions:

a. Delete the functional statement for the Bureau of Program Operations (FPA), section FP.20.A., in its entirety and replace it with the following functional statement. The organization title and administrative code remain the same.

A. *Bureau of Program Operations (FPA).* Provides direction and technical guidance for the nationwide administration of HCFA's health care financing programs. Develops, negotiates, executes and manages contracts with Medicare contractors and coordinates review of State plan amendments. Manages Medicare/Medicaid financial management systems and national budgets for State and Medicare contractors. Establishes national policies and procedures for the procurement of claims processing and related services from the private sector. Defines the relative responsibilities of all parties in health care financing operations and designs the operational systems which link these parties. Directs the establishment of standards for contractors and State agencies. Collects, disseminates and analyzes operational data regarding contractor and State agency performance including operational performance in reimbursement and recovery and intermediary reconsideration performance. Directs the processing of Part A beneficiary appeals and beneficiary overpayments. Promotes improved program management through implementing a corrective action strategy and serves as a clearinghouse of best management techniques. Manages HCFA's conference program with State and contractor groups for consultation and information exchange purposes and provides programmatic training for HCFA staff and training

assistance to State contractor staffs for implementing management improvements.

b. Delete the functional statement for the Office of Standards and Performance Evaluation (FPA5), section FP.20.A.5., in its entirety and replace it with the following functional statement. The organization title and administrative code remain the same.

5. Office of Standards and Performance Evaluation (FPA5). Establishes quantitative standards and qualative requirements for contractors, State agencies and fiscal agents participating in the Medicare and Medicaid programs or in experimental arrangements. Coordinates responses to interested organizations prior to formal issuance of new standards and requirements. Develops, implements and maintains the Contractor Inspection and Evaluation Program (CIEP). Designs and coordinates with other HCFA components a system of reports that generate Medicare contractor and Medicaid State agency and fiscal agent data of an administrative and program nature. Prepares reports explaining the nature of the statistical information obtained from the established reporting mechanisms. Establishes general specifications for an automated administrative information system for both Medicare and Medicaid. Reviews and evaluates contractor, State agency and State fiscal agent performance in carrying out HCFA reimbursement policy including determining the correct amount of provider, physician and supplier overepayments. Assists contractors, State agencies and fiscal agents in negotiations related to the acceptability of the technique for determining the amount of overpayment and the method of recovery. When compromises are not appropriate and overpayments are uncollectable, prepares cases and, in general, assists the General Accounting Office, the Office of the General Counsel and the Department of Justice in filing suit. Prepares manual instructions concerning the proper determination and recovery of overpayments. Designs, implements and maintains a Medicare/Medicaid overpayment tracking system. Directs the processing of all Medicare (Part A) and Medicaid beneficiary appeals and beneficiary overpayments. Plans, directs and coordinates the processing of claims submitted for reconsiderations and hearings. Reviews Office of Hearings and Appeals, Social Security Administration decisions.

c. Delete the functional statement for the Division of Performance Evaluation (FPA53), section FP.20.A.5.c., in its entirety. This division is being transferred to the Bureau of Quality Control. The organization title remains the same. The administrative code is changed from (FPA53) to (FPC23). The new functional statement for the Division of Performance Evaluation, to be located at section FP.20.B.C., reads as follows:

C. *Division of Performance Evaluation (FPC23).* Develops a program for evaluating Medicare contractors and Medicaid State agencies and fiscal agents in their performance against established standards and qualitative requirements. Develops, implements and maintains the Annual Contractor Evaluation Program (ACEP) for the inspection and evaluation of contractors and the State Assessment Program for the evaluation of State agencies and fiscal agents. Provides technical direction and guidance to regional offices in their overall evaluation of the performance of contractors, State agencies and fiscal agents. Reviews Contractor Inspection and Evaluation Program reports, ACEP reports and State Assessment reports to determine the operational effectiveness of contractors, State agencies or fiscal agents. Identifies significant operational problems and/or issues of national concern with respect to contractors and State agencies. Coordinates appropriate Bureau action and works with other HCFA components to take necessary corrective action. Prepares comparative rankings of contractor and State agency performance. Prepares recommendations for the Associate Administrator for Operations concerning limitations, withholding of Federal funds, terminations or nonrenewal of Medicare contractors or any sanctions or adverse actions against Medicaid State agencies or fiscal agents arising as a result of these reviews. Coordinates the review of regional office evaluations of contractor and State agency compliance with Central Office policies and procedures.

13. Section FP.20.B., Bureau of Quality Control (FPC), is amended by the following actions:

a. Delete the functional statement for the Bureau of Quality Control (FPC), section FP.20.B., in its entirety and replace it with the following functional statement. The organization title and administrative code remain the same.

B. *Bureau of Quality Control (FPC).* Manages statistical-based quality control and penalty programs in the areas of end-of-line bill review, eligibility review, third party liability, Part A quality assurance and utilization control and develops similar additional quality control programs which measure the financial integrity of Medicare and Medicaid. Following coordination with pertinent HCFA components, notifies carriers, fiscal intermediaries and State agencies of findings resulting from quality control programs. Makes recommendations to the Associate Administrator for Operations regarding financial penalties authorized and determined appropriate under regulations. Assists State Medicaid contractors and Medicare contractors in improving the management of federally required quality control programs. Develops, operates and manages a program for the performance evaluation of Medicare contractors and Medicaid State agencies and fiscal agents. Reviews program expenditure information to detect patterns of erroneous expenditures. Reviews selected providers to identify patterns of improper expenditures and assures that corrective action is taken by responsible HCFA components. Develops and conducts an internal HCFA audit program evaluating the effectiveness of HCFA operating policies and procedures with a focus on those which may be resulting in erroneous expenditures. Plans and conducts comprehensive validations of payments made to providers participating in HCFA programs. Participates with other HCFA components in the development of regulations, policies, and procedures for program administration.

b. Delete the functional statement for the Office of Quality Control Programs (FPC2), section FP.20.B.2., in its entirety and replace it with the following functional statement. The organization title and administrative code remain the same.

2. *Office of Quality Control Programs (FPC2).* Designs and performs systematic reviews of HCFA carriers, intermediaries, State agencies, HCFA's Office of Direct Reimbursement and other related entities to evaluate performance of individual fiscal agents and to identify systemic program management problems. Applies established standards in evaluating the performance of HCFA agents. Develops and applies standards and guidelines for State Medicaid quality control programs, State utilization control programs, Part A Quality Assurance Program, Part B end-of-line review, third party liability and other quality control and assessment programs. Evaluates performance trend data and other indicators of priority problems in order to design and implement new quality control/assessment programs which assure proper dissemination and

oversight of Federal funds by carriers, intermediaries, State agencies and other HCFA-related organizations. Initiates recommendations for financial penalties and disallowances on the basis of formal review results. Evaluates regional performance in operating quality control-assessment programs. Participates with other HCFA components in developing regulations, policies and procedures for improved program administration. Provides consultation and technical guidance to carriers, fiscal intermediaries, State agencies and regional ofices, as necessary.

Dated: December 28, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-242 Filed 1-4-83; 8:45 am]

BILLING CODE 4120-03-M

National Institutes of Health

Biometry and Epidemiology Contract Review Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, January 27, 1983, Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on January 27, from 9:30 a.m. to 10:00 a.m., to review administrative details. Attendance by the public will be limited to space available

In accordance with provisions set forth in Sections 552b(c) (4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 27, from 10:00 a.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Wilna A. Woods, Executive Secretary, Biometry and Epidemiology Contract Review Committee, National Cancer Institute, Westwood Building, Room 822, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7153) will furnish substantive program information.

Dated: December 16, 1982.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-152 Filed 1-4-83; 8:45 am]

BILLING CODE 4140-01-M

Blood Diseases and Resources Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, January 17-18, 1983, National Institutes of Health, Building 31, Conference Room 8, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 9:00 AM-5:00 PM, January 17, 1983, and from 8:30 AM-4:30 PM, January 18, 1983, to discuss the status of the Blood Diseases and Resources program needs and opportunities. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21A, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Fann Harding, Special Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, Room 5A-08, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-1817, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 1, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-151 Filed 1-4-83; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

Primary Resettlement of Cuban Entrants in the United States; Announcement of the Availability of Grant Funds

Closing Date: None. Due to the continuing and urgent need to resettle Cuban entrants, applications will be considered for possible funding as soon as they are received. The Director invites applications for the primary resettlement of Cuban entrants whom the United States Attorney General has decided can be released from various federal detention sites.

Authorization: Authority for this activity is contained in Section 501(c) of the Refugee Education Assistance Act of 1980 (Pub. L. 96-422). No Catalog of Federal Domestic Assistance number has been assigned.

Available Funds: It is expected that up to $120,000 will be available for these new grants in fiscal year 1983. The Director estimates that these funds could support 100 awards at $1,200 each. However, the Office of Refugee Resettlement is not bound to award a specific number of grants unless that number is otherwise specified by statute or regulation.

The Federal Government will provide for the transportation of the entrant from the place of detention to the place of resettlement.

SUMMARY: The U.S. Department of Health and Human Services, Office of Refugee Resettlement announces the availability of federal funds for grants to support the resettlement of Cuban entrants currently under Immigration and Naturalization Service (INS) detention at various federal sites; most detainees are held at the maximum security United States Penitentiary, Atlanta. Each application will be judged on its merits.

SUPPLEMENTARY INFORMATION:

I. Background

The Honorable Marvin Shoob, United States District Court Judge, Northern District of Georgia has ordered the Office of Refugee Resettlement (ORR) to prepare and implement a plan for the resettlement of some Cuban detainees held at various federal detention sites; most entrants are detained at the maximum security United States Penitentiary, Atlanta.

These detainees are persons who were placed in detention directly from the "Mariel Boatlift" and the Cuban refugee camps, or who were previously placed in the community and for various reasons have had their parole revoked by officials of the Immigration and Naturalization Service (INS). They have now been determined to be releasable into the community by the Commissioner of INS when suitable sponsorship can be arranged.

In July 1981, the Attorney General established a "Status Review Plan" which provides for periodic review of the releasability of each Cuban entrant held at the various detention sites including the United States Penitentiary,

Atlanta. Since the establishment of this review plan, over 1309 detainees have been released under the plan.

Those persons considered releasable have normally been placed in residential programs which provide a structured living experience which includes intensive counseling and social services. These programs are provided by organizations which are grantees of ORR. Other Cuban detainees approved for release have been provided family reunification services through the voluntary agencies if the family sponsorships could provide proper support.

Judge Shoob has determined that certain releasable detainees are not being quickly resettled from detention. He has ordered that the Office of Refugee Resettlement supplement traditional placement options with an individual non-relative sponsorship program.

The Director of ORR wishes to emphasize that the agency will not consider a releasable detainee for this sponsorship program unless other current placement options have been exhausted.

Only those Cuban detainees releasable without conditions who have been waiting placement for a period longer than 60 days, and for whom no organizational or institutional placement is available, will be considered for the program described in this announcement.

II. Purpose and Scope

The purpose of these awards is to provide resettlement services for single, adult, Cuban entrants, with no minor children, averaging 20–35 years of age. The entrants to be served under this program are the members of the class Fernandez-Roque v. Smith et al. They are presently held in INS detection at various federal sites; most are detained at the United States Penitentiary, Atlanta and have been approved for release and resettlement by the Attorney General, United States Department of Justice.

The detainees generally have low levels of education, inconsistent or sporadic employment histories and have previously exhibited behavior, in some instances criminal, which may hinder their successful integration into the community unless intensive social services and a structured living experience are provided.

These entrants are considered difficult to resettle in that they present a variety of chronic and special needs which, although different in degree for each entrant, are such that they require intensive acculturation, English language training, employment and adjustment counseling services.

Services provided through these resettlement grants should have the specific goal of assisting the entrant to gain self-sufficiency through services leading to permanent employment and social adaptation and integration into the community. Individual sponsors are expected to assist the entrant in receiving their services for a period of 12 months. This period of support begins at the time the entrant is resettled with the individual sponsor.

Program Services are described in the "Application Contents," Section IV.

III. Definition of Entrant

The definition of a Cuban entrant is found in P.L. 96–422 (Section 502(e)) which defines a Cuban or Haitian entrant as:

1. Any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration law for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

2. Any other national of Cuba or Haiti

(A) Who—

(i) Was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) Is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) Has an application for asylum pending with the Immigration and Naturalization Service; and

(B) With respect to whom a final nonappealable, and legally enforceable order of exclusion or deportation has not been entered.

IV. Application Contents

The applicant is required to provide a detailed description of how he/she will meet the program requirements described in this notice.

Applications will be evaluated by ORR. Selection will be based upon evaluative criteria (See Section IX, Criteria for Evaluating Applications). Each application will be judged independently; applications will be reviewed and evaluated as they are received.

Final selection of potential sponsors will be determined after a personal interview of the applicant by ORR staff.

The Director of ORR emphasizes that acceptance as a potential sponsor does not guarantee that a detainee will be sponsored to a particular individual. ORR reserves the right to match individual detainees and sponsors based upon ORR's judgment of a detainee's needs, of the sponsor's ability to meet those needs, and of the number of Cuban entrants needing individual sponsors.

(A) *Eligibility Requirements:*

Potential applicants for this resettlement program must meet the following eligibility requirements:

(1) Be 21 years of age or older;

(2) Be self-supporting and a non-public assistance recipient;

(3) Be a United States citizen or possess resident alien status; and

(4) Be able to communicate in English and Spanish.

(B) *Application:* The ORR Sponsorship Application Form will be the primary basis for evaluating an individual's capacity and ability to serve the special needs of this population.

Applicants must provide the following information in detail on the ORR Sponsorship Application Form:

Section I. Identifying Data

(1) Name.
(2) Address.
(3) Telephone number.
(4) Data of Birth.
(5) Sex.
(6) Citizenship or Immigration Status.
(7) Employer and dates of employment.
(8) Source(s) and amount(s) of income.
(9) Language ability, both Spanish and English.

Section II. Reason for Application

You must describe those reasons which have prompted your application for sponsorship.

Section III. Personal Assessment

You must describe your personal skills, abilities and experiences which will enhance the sponsorship process.

Section IV. Description of Client Needs

You must provide an assessment of the personal needs of entrants who have been held in long-term confinement.

Section V. Program/Service Components

(1) *Care and Maintenance*

Describe, in detail, how you will provide or arrange for the basic needs of the entrant in the following areas: (The entrant should not be allowed to develop a long-term economic dependency on the sponsor.)

(a) Food, or food allowance, to provide for three meals per day;

(b) Weekly spending money;

(c) Personal items (i.e., toothpaste, soap, shaving articles, etc.);

(d) Clothing which is appropriate for the area of resettlement and for employment;

(e) Transportation for employment and recreation; and

(f) Housing.

(1) If the entrant is to temporarily live in the sponsor's home, the applicant must identify or describe:

(a) The home (i.e., single family home, multi-family home, apartment building) and the location of the neighborhood (i.e., rural, suburban, inner-city, business or residential area);

(b) Sleeping arrangements for the entrant (will the entrant have his own room or will he share a room with others?);

(c) All individuals, including non-relatives, who are living in the home;

(d) A plan for eventual independent living.

(2) If you will provide an apartment or room, outside your home, you must describe:

(a) How you will ensure the living space will be available upon the arrival of the entrant;

(b) A plan to ensure monthly or weekly payment of rent; and

(c) How you will ensure that the apartment or room has sufficient furnishings including bed, dresser, table, chairs and necessary household utensils. All living arrangements must conform to minimum local health, safety and zoning standards.

(2) *Medical Care*

You must describe how you will ensure that:

(a) The entrant will be immediately enrolled in a local medical assistance progam such as medicaid, or if medicaid is unavailable, be provided coverage by private health insurance; and

(b) Routine and emergency medical care will be available as needed.

(3) *Adjustment Counseling Services*

You must describe how you will provide adjustment counseling services for the entrant. This description must identify how this service will be provided and if payment will be required, how you will pay for it.

(4) *Local Social Services*

You will be evaluated as to how you will provide the following services:

(a) English language training;

(b) Acculturation/orientation; and

(c) Recreation.

You must describe:

(1) Those services listed above which will be available to the entrant and identify the community resource which will provide the services; and

(2) If payment will be required, how you will pay for it;

(5) *Employment or Employment Training*

The primary goal of this sponsorship program is to help the entrant become self-supporting. You must show how you will assist the entrant in finding and keeping a full-time permanent job or how you will enroll the entrant in a training program which will result in full-time permanent employment.

(C) Additional Information

(1) You must submit three personal character references with the ORR Sponsorship Application Form. These letters can be from anyone in the community who has knowledge of you and your ability to provide a sponsorship (i.e., clergyman, employer, credit reference, physician, community leader, etc.).

(2) You must submit with the ORR Sponsorship Application Form documentation of citizenship or resident alien status (a copy of your birth certificate, the number and date of your naturalization papers or the Alien Registration Number on your "green card").

(3) Cuban/Haitian entrants are not eligible to act as sponsors under this program.

(4) ORR will subject each application to a police records check.

(5) All applicants will be screened according to evaluative criteria described in Section IX. All applicants receiving a score of 65 or higher will be considered for a personal interview with ORR staff, depending on ORR's need for sponsors. Final selection by the Director of ORR will be made after this interview.

V. Eligible Grantees

Participation under this announcement is limited to individuals. Public or private organizations and agencies interested in participating in a similar program are invited to submit applications under a separate ORR announcement. For information, contact individuals listed in Section VII (Application and Approval).

VI. OMB A-95

Applications submitted in response to this notice are not subject to review by State and area-wide clearinghouses under the procedures detailed in Part 1 of Office of Management and Budget (OMB) Circular Number A-95.

VII. Application and Approval

Applications will be evaluated on the basis of weighted criteria which are described in Section IX.

For programmatic information, please contact Deni Blackburn or Kenneth Leutbecker at 1-800-424-9304 or (202) 245-0979. For an application kit and budgetary information, please contact Robert L. Robins, (202) 472-4440, or write to Grants Management Branch, Office of Refugee Resettlement, Room 1229, 330 C Street, SW., Washington, D.C. 20201.

VIII. Applicable Regulations

None.

IX. Criteria for Evaluating Applications

Applications will be evaluated on the following basis:

(A) Realistic personal reasons which prompted the sponsorship application as described in the *Reason for Application* (IV, B, Section II) (10 points).

(B) A realistic evaluation of personal skills, abilities and strengths as described in the *Personal Assessment* (IV, B, Section III) (15 points).

(C) A clear understanding by the sponsor of the needs of Cuban entrants as stated in the *Description of Client Needs* (IV, B, Section IV) (15 points).

(D) The ability to provide needed services as described in (IV, B, Section V, Nos. 1, 2, and 3) including:

(a) Care and maintenance;

(b) Medical care;

(c) Adjustment counseling;

(d) English language training, acculturation/orientation and recreation services (30 points).

(E) An understanding of the importance of helping the entrant become self-supporting as reflected in the *Employment or Training Section* (IV, B, Section V, #5) (10 points).

(F) Individual capability and ability to provide the necessary sponsorship services as described in the letters of reference (20 points).

All applicants receiving a score of 65 or higher will be considered for a personal interview depending upon ORR's need for sponsors. All applicants receiving a score of 64 or below will be notified in writing by ORR that they will not be considered as sponsors.

X. Record and Reports

(A) *Records*

Grantees will be required to maintain individual records covering:

(1) How grant monies were spent;

(2) What social services were provided to the entrant;

(3) Attempts to arrange for social services;

(4) Contacts made with ORR; and

(5) Contacts with the police.

(B) *Reports*

ORR will provide the sponsor with quarterly reporting forms. These reports will be due 30 days after the last calendar day of each quarter. In 1983, the due dates are April 30, July 30 and

October 30. All records and reports must be in English.

(C) *Weekly Reporting Requirements*

Each grantee will be required to report on a weekly basis (either by telephone or in writing, whichever is easier for the grantee) information about:

(1) The present location of the entrant, including address and telephone number;

(2) Services being provided to the entrant;

(3) Who is providing the services;

(4) Whether the entrant is working; and

(5) Whether the entrant, during the reporting period, has had contact with any law enforcement agencies and reason for contact.

XI. Grant Support

(A) The grant award is intended to assist the entrant for a period of one year.

(B) The grant payments will be made on a quarterly basis.

(C) Grant awards will not exceed $1200. Payments, in the amount of $300, will be made quarterly but only if the sponsor has met all grant requirements. See Section X B, & C.

(D) Persons sponsored under this program would be eligible for benefits in those States participating in the Cuban/Haitian Entrant Program; however, the Director of the Office of Refugee Resettlement assumes that sponsors would make every effort to support the entrant so that it would be unnecessary that welfare benefits be used. Social services for individuals sponsored under this program would generally be available only in those States receiving funds from the Office of Refugee Resettlement under the Cuban/Haitian Entrant Program.

All States but Oregon, Washington, Colorado, Alaska, Hawaii, Iowa, Kansas, Minnesota, Montana, Nevada, Nebraska, New Mexico, North Dakota, South Dakota, Oklahoma, Puerto Rico, Vermont and Wyoming participate in the Cuban/Haitian Entrant Program.

In the participating States, Cuban entrants are eligible for cash and medical assistance for a period of 18 months from the date of parole. In States with general assistance programs, assistance is provided for an additional 18 months if the entrant meets local eligibility criteria. The Director of ORR strongly encourages each sponsor to make every effort to assist the entrant in becoming self-supporting.

XII. Grant Termination

Under certain conditions, the Government could suspend or terminate support from a sponsorship grant if,

—The entrant is returned to Federal custody or is incarcerated in a state or local facility,

—The entrant does not maintain close contact with the sponsor or,

—The sponsor fails to furnish all required reports and services, the Government can immediately stop all further grant payments.

XIII. Additional Conditions

To help ensure the success of a sponsorship, the Director may add special conditions to a grant before or at the time of award.

Dated: December 30, 1982.

James J. Gigante,

Acting Director, Office of Refugee Resettlement, Social Security Administration, U.S. Department of Health and Human Services.

[FR Doc. 83-241 Filed 1-4-83; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Alabama; Requesting Comments on Intent to Rank Tracts and Modified Tract Ranking Factors in the Southern Appalachian Federal Coal Production Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: This notice is to advise the public that the Regional Coal Team (RCT) for the Southern Applachian Federal Coal Production Region, Alabama Subregion, will meet to (1) discuss the team's recommendation on the Federal coal leasing levels for the subregion, (2) review and discuss the tract profile data for each of the identified potential lease tracts, (3) discuss the issues that may be addressed in the second round regional lease sale Environmental Impact Statement (EIS), (4) review and discuss the comments on the potential lease tracts and on the ranking factors, and (5) rank the potential lease tracts.

Comments on the tracts that have been identified and factors that will be used by the RCT in the ranking process are requested.

DATES: Public comments on the tracts and the ranking factors must be received by close of business, February 4, 1983. The RCT will meet on February 9, 1983 at 8:30 a.m. This meeting will extend into the evening, if necessary.

ADDRESSES: Comments on the potential lease tracts and the ranking factors should be addressed to Robert L. Todd, Manager, Tuscaloosa Office, Bureau of Land Management, 518 19th Avenue, Tuscaloosa, Alabama 35401, or Jeff Williams, Chief, Branch of Energy and Minerals, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304. The regional coal team meeting will be held at the Stagecoach Inn, 4610 Skyland Boulevard East, Tuscaloosa, Alabama, 35405.

FOR FURTHER INFORMATION CONTACT: Robert L. Todd Manager, Tuscaloosa Office, (205) 759-5441 or Jeff Williams, Chief, Branch of Energy and Minerals, Eastern States Office (703) 235-3630.

SUPPLEMENTARY INFORMATION:

Leasing Level and EIS Scoping

On October 8, 1982, a notice appeared in the **Federal Register** (47 FR 44621) announcing the intent of the RCT to meet on November 9, 1982 to develop leasing level alternatives for the second round of regional coal leasing in Alabama. Public comment was requested. Pursuant to its responsibilities under 43 CFR 3400.4(b) (47 FR 33114, July 30, 1982), the RCT will review the comments received on the leasing level alternatives. The team will discuss its recommendation to the Secretary of the Interior on a Federal coal leasing level for the subregion and will discuss the range of issues ("scoping") that may be addressed in the regional lease sale EIS. The Secretary, after consultation with the Governor of Alabama, will establish the final leasing level which will be used by the regional coal team when it makes a final selection of possible tracts to be evaluated in the regional lease sale EIS.

Tract Ranking

As many as sixteen potential lease tracts have been identified in the Alabama Subregion of the Southern Appalachian Federal Coal Production Region. These potential lease tracts have been delineated, are being Analyzed on a site-specific basis, and will be ranked and considered for lease sale in mid-1984. Complete description of, and other material on, the potential lease tracts are available for public review at the Tuscaloosa Office, Bureau of Land Management, 518 19th Avenue, Tuscaloosa, Alabama, 35401. The team will rank the tracts on the basis of high, medium, and low desirability for leasing using three categories. These categories are impacts on the natural environment, coal economics, and social and economic impacts that could result if the tracts are leased and mined. These

major categories are further subdivided as follows:

Environmental: (1) Number of wells affected by mining, (2) surface and ground water effects, (3) estimation of percent total basin mined-Federal and private, (4) muncipal reservoirs affected (Lakes Tuscaloosa, Harris, Nicol), (5) wetlands-bottomland and hardwoods, (6) loss of terrestrial productivity, (7) wildlife impacts, (8) acres disturbed, (9) aquatic life.

Coal economics: (1) By-pass/suitability for smal business of public body set asides/existing applications for emergency leases, (2) industry interest, (3) surface of underground mining, (4) deep mine recovery factor, (5) tract potential for development classification: (a) Coal resources, (b) coal quality, (c) transportation, (d) minability, (e) marketability, (f) overall class.

Socio-economics: (1) Royalty to State, (2) severance tax, (3) personal income (payroll), (4) road deterioration, (5) housing impacts, (6) coal trespass (legal complications), (7) surface owner opinion/consent.

For use in the ranking process, the RCT will determine the emphasis to be placed on, and the degree of importance of, each of the categories and subcategories.

In ranking the tracts, the RCT will use tract profile data (tract delineation summary report, social-economic profile, site-specific environmental analysis report, and summary matrices). The team will also use information obtained as a result of consultations with Federal and State agencies, the views of the public as voiced at the RCT meeting held on November 9 in Birmingham, Alabama, comments received in response to this notice, and other considerations such as guidance provided by the Department of the Interior and the Bureau of Land Management.

The boundaries of the tracts may be modified by the Regional Coal Team based on the analyses contained in the tract profile reports. The teams may also defer the ranking of any potential lease tract if it is determined that insufficient tract information is available.

The public is invited to comment on these potential lease tracts and on the factors listed above that will be considered by the RCT in ranking the tracts.

The comments should be addressed to Robert L. Todd, Manager, Tuscaloosa Office, Bureau of Land Management, at the address provided above. Comments must be received by Mr. Todd by close of business February 4, 1983. At the February meeting, the RCT will review the comments received in response to this notice before the team ranks the identified potential lease tracts and makes a preliminary selection from those tracts for analysis in the EIS and second round lease sale in mid-1984.

Dated: December 30, 1982.

G. Curtis Jones, Jr.,

Director.

[FR Doc. 83-208 Filed 1-4-83; 8:45 am]

BILLING CODE 4310-84-M

[NM 54955 TX]

New Mexico; Legal Notice

December 27, 1982.

United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Pursuant to coal exploration license application NM 54955 TX, members of the public are invited to participate with City Public Service Board of San Antonio, on a pro rata cost sharing basis, in a program for the exploration of coal deposits owned by the United States of America. The lands are located within Camp Swift Military Reservation in Bastrop County, Texas and are described by Army Corps of Engineers Real Estate Tract numbers as follows:

A–21	D–151	G–320
A–22	D–152	G–321
A–31	D–153	G–322
A–37	D–165	G–323
D–131	D–166	G–324
D–133	D–171	G–325
D–137	G–104	G–326
D–139	G193 (Parts 1 & 2)	G–327
D–140		G–328
D–141	G–314	G–329
D–142	G–315	G–330
D–145	G–316	G–331
D–146	G–317	G–322 (Parts 1 & 2)
D–146A	G–318	
D–147	G–319	G–350

Any party electing to participate in this exploration program shall notify in writing, both the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 and The City Public Service Board of San Antonio, Eugene Duke, Lignite Development, P.O. Box 1771, San Antonio, Texas 78296. Such written notice must be received no later than 30 calendar days after publication of this notice in the **Federal Register.**

This proposed exploration program is for the purpose of determining the quality of the lignite and groundwater in the area and is fully described and will be conducted pursuant to an exploration plan to be approved by the Minerals Management Service and the Bureau of Land Management. A copy of the exploration plan as submitted by the City Public Service Board of San Antonio may be examined at the Bureau of Land Management State Office, Room 3031, Joseph M. Montoya Federal Building and U.S. Post Office, South Federal Place, Santa Fe, New Mexico, the Minerals Management Service, 505 Marquette Avenue, NW, Suite 815, Albuquerque, New Mexico 87102 and the Minerals Management Service, 6136 East 32nd Place, Tulsa, Oklahoma 74135.

Charles W. Luscher,

State Director.

[FR Doc. 83-144 Filed 1-4-83; 8:45 am]

BILLING CODE 4310-84-M

[U-47297]

Salt Lake District, Utah; Postponement of Sale of Public Land

AGENCY: Bureau of Land Management, Salt Lake District, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the sale of public land in Rich County, Utah that was published as a Notice of Realty Action on October 28, 1982 in 47 FR 47939 to be held on January 10, 1983 is postponed until further notice.

Frank W. Snell,

District Manager.

[FR Doc. 83-145 Filed 1-4-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning 8:30 a.m. (EST), on Thursday, January 27, 1983, at the Happy Days Visitor Center located on West Streetsboro Road, 1 mile west of Route 8 in Peninsula, Ohio.

The Commission was established by the Act of December 27, 1974, 88 Stat. 1788, 16 U.S.C. 460ff–4, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Cuyahoga Valley National Recreation Area.

The members of the Commission are as follows:

Mrs. Tommie Patty (Chairperson), Mr. John Craig, Mr. Norman A. Godwin, Mrs. William Hutchison, Mr. James S. Jackson, Mrs. George Klein, Mr. Stanley Mottershead, Mr. C. W. Eliot Paine, Mr. Melvin J. Rebholz, Mr. F. Eugene Smith, Ms. R. Robbie Stillman, Mr. Barry K. Sugden, and Dr. Robert W. Teater.

Matters to be discussed at this meeting include:

1. Status of Historic Leasing and Preservation and its potential for Cuyahoga Valley National Recreation Area;

2. Report on our interpretive programing including Special Populations and Environmental Education;

3. Report on our Automated Data Processing system;

4. Land Protection Plan.

The meeting will be open to the public. It is expected that about 100 persons, in addition to members of the Commission, will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone (216) 650–4414. Minutes of the meeting will be available for public inspection 3 weeks after the meeting, at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road (State Route 303), 2 miles east of Peninsula, Ohio.

Dated: December 22, 1982.

James L. Ryan,

Acting Regional Director, Midwest Region.

[FR Doc. 83–77 Filed 1–4–83; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations: Wyoming

AGENCY: Office of Surface mining Reclamation and Enforcement, Interior.

ACTION: Notice of a Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations and Request for Comments.

SUMMARY: Notice is given that the Office of Surface Mining (OSM) has determined as complete a petition to designate certain Federal lands in the Red Rim coal lease tract as unsuitable for surface coal mining operations, pursuant to Section 522 of the Surface Mining control and Reclamation Act of 1977 (30 U.S.C. 1272). Interested persons are requested to submit relevant information and comment on the issues raised in the petition.

DATE: Information on which to base analyses of the issues raised by the petitioner is being sought from all interested parties. In order to be considered in a timely manner, comments should be received by February 4, 1983.

ADDRESS: Comments should be sent to: Office of Surface Mining, Western Technical Center, Attn: Charles Albrecht, Brooks Towers, 2d floor, 1020–15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht at the address listed above. Telephone: (303)837–5656 or FTS 327–5656.

SUPPLEMENTARY INFORMATION: Under Section 522 of the Surface Mining Control and Reclamation Act of 1977 (Act) and its implementing regulations, persons with interests which are or may be adversely affected by surface coal mining operations may petition OSM to have an area of Federal land designated as unsuitable for all or certain types of mining. The petition alleges that:

1. Mining will affect "fragile lands" which are valuable habitat for pronghorn antelope. As defined in 30 CFR 762.5, fragile lands include those containing valuable habitats for wildlife. see Section 522(a)(3)(B) of the Act and 30 CFR 762.11(b)(2).

2. Reclamation of the lands is not technologically and economically feasible pursuant to Section 522(a)(2) of the Act and 30 CFR 762.11(a)

A petition was submitted to the Wyoming Department of Environmental Quality (DEQ) on May 10, 1982. The Petition was amended to included Federal lands and September 27, 1982, The petition has been forwarded to OSM and was determined to be a complete petition to designate federal lands unsuitable on December 27, 1982. The petition will be processed in accordance with the procedures as set forth in 30 CFR Part 769. In addition, the State of Wyoming Department of Environmental Quality is processing the petition with regard to corresponding non-Federal lands.

The following describes the petitioner and the land involved:

Petitioner: National Wildlife Federation and Wyoming Wildlife Federation.

State: Wyoming.

Counties: Carbon and Sweetwater.

The Federal lands petition area (10,320 acres) is described as:

T. 19 N., R. 90 W.,
Sec. 4, W½,NE¼;
Sec. 6, E½NE¼, SW¼NE¼, W½SE ¼;
Sec. 8, NE¼, E½NW¼, E½SW¼, SW¼SW¼, N½, SE¼;
Sec. 18;
Sec. 30, W½, NE¼, NW¼SE¼.
T. 19 N., R. 91 W.,
Sec. 24;
Sec. 26, E½E½.
T. 20 N., 89 W.,
Sec. 4, W½;
Sec. 6;
Sec. 8; W½, NE¼;
Sec. 18.
T. 20 N., R. 90 W.,
Sec. 12; E½, SW¼, E½NW¼, SW¼NW¼;
Sec. 14; E½, SW¼, E½NW¼;
Sec. 22; E½, SW¼;
Sec. 24;
Sec. 26;
Sec. 28; SE¼, E½NE¼, SE¼SW¼;
Sec. 32; E½SE¼, SW¼SE¼;
Sec. 34.
T. 21 N., R. 89 W.,
Sec. 24; S½;
Sec. 26; E½, SW¼, SE¼NW¼;
Sec. 34; SE¼, E½NE¼, E½SW¼, SW¼SW¼.

In addition to the Federal lands, 10,160 acres of non-Federal lands are included in the petition. Wyoming DEQ will process the petition for these lands under Section 35–11–425 of the Wyoming Environmental Quality Act.

A review of the Federal land area's suitability for mining will be undertaken by OSM. Factual information such as coal resource data of Federal lands will be supplied by the Bureau of Land Management (formally the Minerals Management Service). In addition, the Bureau of Land Management, as the surface managing agency, will make recommendations on the petition. A decision on the petition will be made by September 28, 1983.

Copies of the petition may be obtained upon request from OSM at the address listed above. The public record on the petition is available for public review during normal working hours at the OSM office listed above and at the three following locations:

Bureau of Land Management, 1300 North 3d Street, Rawlins, Wyoming 82301, Telephone: (307) 324–7171

Office of the County Clerk, Carbon County Courthouse, Fifth and Spruce Street, Rawlins, Wyoming 82301, Telephone: (307) 328–2668

State of Wyoming, Department of Environmental Quality, Equal State Bank Building, 401 West 19th Street, Cheyenne, Wyoming 82002, Telephone: (307) 777–7756

After reviewing and analyzing available information, OSM will issue a draft evaluation document which will be available for public review. This will be followed by a public hearing held near the area covered by the petition. The time and place of the hearing will be announced at a later date.

After completion of the analyses and public hearing, the Department of the Interior may designate the area or a portion thereof as unsuitable for all or certain types of surface coal mining operations. The Department may also

decline to designate all or part of the area as unsuitable.

Dated: December 29, 1982.

J. Steven Griles,

Director, Office of Surface Mining.

[FR Doc. 83-190 Filed 1-4-83; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[332-131]

Additional Period for Public Comment on Chapters of the Tariff Schedules of the United States Converted Into the Nomenclature Structure of the Harmonized System

AGENCY: International Trade Commission.

ACTION: Setting of additional period for public comment from interested parties, pursuant to Commission investigation No. 332-131, under the authority of section 332(g) of the Tariff Act of 1930, as amended, and initiated upon the request of the President of the United States, on chapters 1-8, 16, 20, 22-29, 36, 37, 44-55, 61-63, 68-71, 74-76, 78-81, and 84-92, inclusive, of the Tariff Schedules of the United States (TSUS) converted into the nomenclature structure of the Harmonized Commodity Description and Coding System (Harmonized System) and previously released for public comment by the Commission.

SUMMARY: The United States International Trade Commission (hereinafter "the Commission") has previously released for public comment and conducted hearings concerning the above chapters of the TSUS converted into the nomenclature structure of the Harmonized System. This notice announces the opening of an additional period for public comment on such chapters.

Written Submissions

Persons wishing to submit written comments with respect to one or more of the chapters should do so at the earliest possible date, but no later than the close of business (5:15 p.m.) April 22, 1983. The signed original and 14 copies of all written comments must be filed with the Secretary of the Commission at his office in Washington, D.C. and should conform with § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Any person desiring confidential treatment as to commerical or financial information must submit that information on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules (19 CFR 201.6). All nonconfidential written submissions will be made available to interested persons.

Hearing

An additional opportunity to present oral testimony as to the above chapters will be afforded during the hearing covering the final volumes of chapters of the converted tariff schedule. Details concerning the hearing will be provided in a subsequent notice. Provisionally adopted texts of all chapters of the Harmonized System and of explanatory notes thereto have previously been released and may be used in the preparation of comments and testimony as to those chapters of the converted tariff schedule not yet published by the Commission.

Copies of Documents

Copies of the chapters which are the subject of this notice are available for public inspection at the offices of the Commission, 701 E Street, NW., Washington, DC 20436. The Secretary will also send copies of chapters to interested parties upon request; telephone (202) 523-5178.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene A. Rosengarden, Director, or Mr. Holm Kappler, Deputy Director, Office of Tariff Affairs, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436; telephone (202) 523-0370 or 0362.

SUPPLEMENTARY INFORMATION: In its public notices of January 29, 1982 (47 FR 5369 of February 4, 1982) and August 16, 1982 (47 FR 37317 of August 25, 1982), the Commission identified 56 chapters of the TSUS converted into the nomenclature structure of the Harmonized System. Hearings were conducted on the first group of chapters on March 29 and 30, 1982, and on the second group on November 1, 1982. The final set of converted chapters will be published for public comment and hearing in January 1983. Further details concerning the conversion and the structure of the Harmonized System were set forth in the Commission's notice of the institution of the investigation of September 16, 1981 (46 FR 47897 of September 30, 1981), at the request of the President of the United States.

In preparing the converted U.S. tariff schedules, the Commission is seeking and taking into consideration the views of any interested person, of any trade or industry organization and of interested government agencies. Submissions should be directed at evaluating the draft conversion in light of the President's guidelines, in particular whether the conversion—

(a) Avoids, to the extent practicable and consonant with sound nomenclature principles, changes in rates of duty on individual products;

(b) Simplifies the U.S. tariff structure to the extent possible without rate changes significant for U.S. industry, workers, or trade; and

(c) Alleviates administrative burdens on the Customs Service.

The Commission will utilize the post-MTN rates of duty on individual products when analyzing impacts of any proposed changes.

Submissions should also address the probable effect of U.S. adoption of the converted tariff schedules on U.S. industries, workers, and trade. Submissions aimed primarily at seeking increases or reductions in existing tariff rates are not relevant and will not be entertained by the Commission.

Issued: December 28, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-214 Filed 1-4-83; 8:45 am]

BILLING CODE 7020-02-M

[332-151]

Assessment of the MTN on Selected Benzenoid Chemicals

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the Commission has instituted investigation No. 332-151 for the purpose of gathering and presenting information to assess the impact on domestic producers of and trade in selected benzenoid chemicals as a result of the implementation of duty modifications, including the elimination of the American selling price, following conclusion of the 1979 Multilateral Trade Negotiations (MTN) and passage of the Trade Agreements Act of 1979 (see 93 Stat. 205). This analysis will also examine the apparent changes in U.S. and foreign countries' competitiveness in benzenoid chemicals following the MTN negotiations.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Edmund D. Cappuccilli, Energy and Chemicals Division, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202-523-0490).

WRITTEN SUBMISSIONS: While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be received by the close of business on June 30, 1983. All submissions should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

Issued: December 29, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-215 Filed 1-4-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-155, 157, 158, 159, 160, and 162 (Final)]

Certain Carbon Steel Products From Spain

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission determines, pursuant to section 705(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)), that an industry in the United States is materially injured by reason of imports of the following products which have been found by the Department of Commerce to be subsidized by the Government of Spain:

Hot-rolled carbon steel plate (investigation No. 701-TA-155 (Final)); [2] [3]

Cold-rolled carbon steel sheet (investigation No. 701-TA-157 (Final)); [4]

Galvanized carbon steel sheet (investigation No. 701-TA-158 (Final)); [5] [6]

Carbon steel structural shapes (investigation No. 701-TA-159 (Final)); [7] [8]

Hot-rolled carbon steel bar (investigation No. 701-TA-160 (Final)); [9] [10] and

Cold-formed carbon steel bar (investigation No. 701-TA-162 (Final)). [11] [10]

Background

The Commission instituted these investigations effective August 25, 1982, following preliminary determinations by the Department of Commerce that there was a reasonable basis to believe or suspect that subsidies were being provided to manufacturers, producers, or exporters of the subject carbon steel products in Spain.

Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on September 15, 1982 (47 FR 40725). The hearing was held in Washington, D.C. on November 9, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

I. Introduction

These views set forth the reasons supporting the determinations of the Commission in these six final countervailing duty investigations. Chairman Eckes, Commissioner Stern and Commissioner Haggart join in the discussion of the appropriate domestic industries and the conditions of those industries. The joint views of Chairman Eckes and Commissioner Haggart are set forth following the section on the condition of the domestic industries. The separate views of Commissioner Stern follow.

Definition of the Domestic Industries

The domestic industry against which the impact of the imports under investigation is to be gauged is defined in section 771(4)(A) of the Tariff Act of 1930 as "the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." [12] "Like product" is defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation. . . ." [13]

These investigations concern subsidized imports from Spain of six different types of steel products. These six types are: (1) Hot-rolled carbon steel plate; (2) cold-rolled carbon steel sheet; (3) galvanized carbon steel sheet; (4) carbon steel structural shapes; (5) hot-rolled carbon steel bar; and (6) cold-formed carbon steel bar. These same products were among the nine products which were the subject of the recent preliminary investigations involving certain steel products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany. In those cases the Commission [14] found that each of the different product categories under investigation constituted a separate like product and noted:

> Each [product category] has physical characteristics of size, shape, or composition that are unlike those of the others. Moreover, they have varying uses, and products of one type generally do not compete with products of another type. As noted in the Commission determination in the 1980 steel products antidumping investigations, "Although raw steel constitutes much of the value of each of the . . . product groups under investigation, competition in the U.S. market between domestically producted steel products and the alleged LTFV [and subsidized] imports occurs in each of the . . . separate and distinct product groups." In these investigations the domestic producers have been able to

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i), 47 FR 6190, Feburary 10, 1982).

[2] For purposes of this investigation, hot-rolled carbon steel plate is provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA).

[3] Commissioner Stern determines that there is no material injury but that there is threat of material injury to an industry in the United States by reason of subsidized imports of hot-rolled carbon steel plate from Spain. Accordingly, pursuant to section 705(b)(4)(B) of the Tariff Act (19 U.S.C. 1671d(b)(4)(B)), Commissioner Stern further determines that she would have found material injury but for any suspension of liquidation of entries of this merchandise.

[4] For purposes of this investigation, cold-rolled carbon steel sheet is provided for in items 607.8320 and 607.8344 of the TSUSA.

[5] For purposes of this investigation, galvanized carbon steel sheet is provided for in items 608.0710, 608.0730, 608.1100, and 608.1300 of the TSUSA.

[6] Commissioner Stern dissenting.

[7] For purposes of this investigation, carbon steel structural shapes are provided for in items 609.8005, 609.8015, 609.8035, 609.8041, and 609.8045 of the TSUSA.

[8] In its final countervailing duty determination (47 FR 51438, November 15, 1982) the Department of Commerce found, pursuant to section 705(a)(2) of the Tariff Act (19 U.S.C. 1671d(a)(2)), that critical circumstances exist with respect to imports of subsidized carbon steel structural shapes from Spain. Accordingly, pursuant to section 705(b)(4)(A) of the act (19 U.S.C. 1671d(b)(4)(A)), the Commission determines, Commissioner Stern dissenting, that material injury was not be reason of massive imports of the subsidized merchandise over a relatively short period.

[9] For purposes of this investigation, hot-rolled carbon steel bar is provided for in items 606.8310, 606.8330, and 606.8350 of the TSUSA.

[10] Commissioner Stern dissenting.

[11] For purposes of this investigation, cold-formed carbon steel bar is provided for in items 606.8805 and 606.8615 of the TSUSA.

[12] 19 U.S.C. 1677(4)(A).

[13] 19 U.S.C. 1677(10).

[14] Commissioner Haggart was not a member of the Commission at that time.

identify production and profitability data in terms of each of the groups, allowing the Commission to examine the impact of imports on each group separately.[15]

The Commission recognized that within each of the nine product categories there may have been slightly different characteristics and uses for articles having different specifications, but the record contained no information to warrant making any meaningful distinctions among them. In the absence of "clear dividing lines among the products in each group," each was treated in its entirety as a separate like product.[16] Thus, the Commission determined that there was a separate industry corresponding to each of the product groups.

In these six final investigations we have determined that the same analysis should apply. The record developed in these final investigations regarding the same imported products from Spain contains no additional information that would suggest a revision of the definitions. Moreover, no party has objected to these industry definitions. Thus, we determine that there are six domestic industries corresponding to the six product groups.

Condition of the Domestic Industries

1. *Hot-rolled carbon steel plate.* The U.S. industry producing hot-rolled carbon steel plate has been in decline during most of the period under investigation. Production and capacity have fallen since 1979. Production fell from 6.6 million tons in 1979 to 5.9 million tons in 1981, a decrease of 11 percent. This decline continued in the first three quarters of 1982 as production was only 2.1 million tons compared with 4.1 million tons in the same period of 1981.[17] Paralleling the decline in production, U.S. producers, shipments of carbon steel plate decreased steadily from 1979 to 1981 and fell rapidly in the first three quarters of 1982.[18] Production capacity shrank from 10.4 million tons in 1979 to 9.6 million tons in 1981. Despite the decline in capacity, the loss of production yielded a continued decline in capacity utilization from 63.9 percent in 1979 to 61.9 percent in 1980 and 61.2 percent in 1981.

Capacity utilization fell greatly in the first three quarters of 1982 to 32.7 percent.[19]

Declining production has adversely affected employment and profitability levels as well. Employment of workers engaged in producing hot-rolled carbon steel plate fell from 20,625 in 1979 to 19,758 in 1980 and 18,378 in 1981, an 11 percent decline over the period. Employment and wages dropped sharply in January–September 1982 by approximately 40 percent from the levels in the corresponding period in 1981.[20]

U.S. producers' operating profits declined from $93 million in 1979, to $34 million in 1980, and increased to $87 million in 1981. However, net sales dropped sharply in the first three quarters of 1982, and producers suffered operating losses totalling $122 million during that period. The ratio of operating profits to net sales decreased irregularly from 3.8 percent in 1979 to 2.6 percent in 1981. During the first nine months of 1982, the ratio of operating losses to net sales was 11.8 percent as compared with a ratio of operating profit to net sales of 3.0 percent during the corresponding period in 1981.

2. *Cold-rolled carbon steel sheet.* Production in this industry fell sharply between 1979 and 1980, from 13.4 million to 10.4 million tons, then increased to 11.3 million tons in 1981. However, a sharp decline occurred in the first three quarters of 1982 as production was only 6.3 million tons compared with 9.2 million tons during the corresponding period in 1981.[21] Shipments declined irregularly from 1979 to 1981, then fell off sharply in the first three quarters of 1982.[22] Capacity remained relatively stable throughout the period, increasing or decreasing only marginally from year to year. Capacity utilization declined from 79.9 percent in 1979 to 70.5 percent in 1981. Capacity utilization reached a low of 52.1 percent in the first three quarters of 1982.[23]

Although fluctuating from year to year, employment generally declined from 1979 to 1981. The number of workers then decreased significantly in the first three quarters of 1982 by 27 percent compared to the identical period in 1981.[24]

The industry has suffered declining profitability since 1979. Net profits were $53 million in 1979, but the industry then experienced losses of $383 million in 1980, $293 million in 1981, and $484 million in the first three quarters of 1982. The ratio of operating profits to net sales was 1.0 percent in 1979. The ratio of operating losses to net sales was 9.2 percent in 1980, 5.9 percent in 1981, and 16.9 percent in the first three quarters of 1982, as compared with 4.3 percent in the first three quarters of 1981.

3. *Galvanized carbon steel sheet.* The galvanized carbon steel industry has experienced a downturn since 1979. Production fell from 4.7 million tons in 1979 to 3.7 million tons in 1980. Although production rose to 4.4 million tons in 1981, a sharp drop in production occurred in the first 9 months of 1982, with only 2.8 million tons being produced, in contrast to the 3.7 million tons produced in the same period in 1981.[25] Shipments have similarly decreased.[26] While capacity for producing galvanized sheet has remained roughly constant since 1979, capacity utilization fell from 70.4 percent in 1979 to 59.4 percent in 1980. After rebounding to 70.7 percent in 1981, capacity utilization fell to 60.9 percent in the first three quarters of 1982.[27] Employment of production and related workers, which had peaked at 16,900 in the first three quarters of 1981, declined to 13,684 by the first three quarters of 1982 as production declined.[28]

From operating profits of $135 million in 1979, the industry declined to losses of $91 million in 1980, and $29 million in 1981. In the first three quarters of 1982, the industry experienced a loss of $190 million compared with a loss of $3 million in the same period in 1981. The ratio of operating profits to net sales was 5.8 percent in 1979. The ratio of operating losses to net sales was 4.8 percent in 1980, 1.2 percent in 1981, and 12.5 percent in the first three quarters of 1982.[29]

4. *Carbon steel structural shapes.* The industry producing carbon steel structural shapes is also experiencing serious difficulty. Production has declined from 4.3 million tons in 1979 to 3.9 million tons in 1981. Production continued to decline to 1.9 million tons in the first three quarters of 1982 compared to 2.9 million tons in the same period of 1981. Trends for U.S. producers' shipments corresponded to the decline in production.[30] Although capacity decreased slightly between 1979 and 1981, capacity utilization decreased steadily from 65.6 percent 1979 to 61.2 percent in 1981. Capacity

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[15] Investigations Nos. 701–TA–88 to 144, 701–TA–146, and 701–TA–147 (Preliminary), and Investigations Nos. 731–TA–83 to 86 (Preliminary), USITC Pubs. 1221 and 1226 (1982), at 14–15 (footnote omitted). Specific descriptions of the products, their characteristics and uses, and methods of manufacture may be obtained by reference to the Commission's Views and the Report in those investigations.

[16] *Id.* at 15–16.

[17] Report at A–11.

[18] *Id.* at A–9, A–11.

[19] *Id.* at A–11.

[20] *Id.* at A–14, A–16.

[21] *Id.* at A–11.

[22] *Id.* at A–9, A–11.

[23] *Id.* at A–11.

[24] *Id.* at A–14.

[25] *Id.* at A–11.

[26] *Id.* at A–9, A–11.

[27] *Id.* at A–11.

[28] *Id.* at A–14.

[29] *Id.* at A–21.

[30] *Id.* at A–9, A–11.

utilization then fell sharply in the first three quarters of 1982 to 41.0 percent as compared with 62.2 percent in the same period in 1981.[31]

Average employment of production and related workers declined steadily from 13,444 workers in 1979 to 12,304 in 1981. In the first three quarters of 1982, employment fell approximately 30 percent to 8,327 as compared with 11,848 in the same period in 1981.[32]

Although this industry's net sales increased irregularly between 1979 and 1981 before dropping sharply in the first three quarters of 1982, the industry experienced losses during most of the period. Operating profits were $34 million in 1979. Thereafter, the industry incurred losses of $30 million, $26 million, and $140 million in 1980, 1981, and the first three quarters of 1982, respectively. The ratio of operating profits to net sales was 2.2 percent in 1979. The ratio of operating losses to net sales was 2.0 percent in 1980 and 1.6 percent in 1981. In January-September 1982, the ratio of operating losses to net sales amounted to 16.6 percent as compared with 1.3 percent in the first three quarters of 1981.

5. *Hot-rolled carbon steel bar.* U.S. production of hot-rolled carbon steel bar dropped sharply from 1979 to 1980, from 6.2 million tons to 4.5 million tons, recovered slightly in 1981 reaching 4.8 million tons, then fell again in the first three quarters of 1982 to 2.0 million tons compared with 3.3 million tons in the same period in 1981. Shipments during the period of investigation declined in a similar manner.[33] While production capacity fluctuated somewhat during the period under investigation, capacity utilization fell from 67.6 percent in 1979 to 51.2 percent in 1980, increased slightly to 54 percent in 1981, then declined to 34.4 percent in the first three quarters of 1982.[34]

Employment of production and related workers declined by 26 percent between 1979 and 1980. After increasing marginally in 1981, employment dropped 33 percent in the first three quarters of 1982 compared with the same period in 1981. Employment in the first three quarters of 1982 stood at 10,455, a full 10,000 workers fewer than the 1979 total.[35]

The industry's net sales declined irregularly from 1979 to 1981, then plunged in the first three quarters of 1982. Operating profits were $50 million in 1979, but the industry suffered operating losses of $84 million in 1980, $10 million in 1981, and $214 million in the first three quarters of 1982. The ratio of operating profits to net sales was 2.2 percent in 1979. Thereafter, the ratio of operating losses to net sales was 5.1 percent in 1980 and 0.5 percent in 1981. In the first three quarters of 1982, the ratio of operating losses to net sales reached 25.6 percent as compared with 0.4 percent in the corresponding period in 1981.[36]

6. *Cold-formed carbon steel bar.* The domestic cold-formed carbon steel bar industry has experienced declines in production as well as financial losses during most of the period under investigation. Production decreased irregularly from 1.3 million tons in 1979 to 946 thousand tons in 1980 and 1.0 million tons in 1981.[37] Shipment data essentially mirror the production trends.[38] During the same period, capacity utilization declined by more than 20 percentage points from 66.1 percent in 1979 to 45.4 percent in 1981. During the first nine months of 1982, both production and capacity utilization were lower than in the corresponding period in 1981.

After experiencing an operating profit of $21 million in 1979, the domestic industry sustained operating losses of $4 million for 1980, $2 million for 1981, and $29 million for the first three quarters of 1982. The ratio of operating profit to net sales was 4.0 percent in 1979. The ratio of operating losses to net sales was 0.9 percent in 1980 and 0.4 percent in 1981. In the period January-September 1982, the ratio of operating loss to net sales was 14.6 percent as compared with an operating profit of 4.0 percent in the same period in 1981.[39]

Views of Chairman Eckes and Commissioner Haggart

Before proceeding with our analysis of the relationship between the condition of the domestic industries and the imports subject to these investigations, two issues should be addressed:

1. Whether the Commission, in determining causation, is required to establish a causal link between subsidized imports and injury to the domestic industry or between the net subsidy determined by the Department of Commerce (ITA) and the injury to the domestic industry; and

2. Whether the Commission should "cumulate" imports of a particular product from a country subject to a countervailing duty investigation with imports of the same product from other countries.

A resolution of both of these issues requires examination of the statutory language and the legislative history.[40]

Causation

With respect to the issue of whether any material injury experienced by the domestic industry must be by reason of subsidized imports or the net subsidy calculated by the ITA, the statute is clear as to what the Commission is required to do when making a final determination of material injury. According to section 705(a)(1) of the Tariff Act of 1930 as amended by the Trade Agreements Act of 1979, ("the Act") (19 U.S.C. 1671d (a)(1)):

> Within 75 days after the date of its preliminary determination under section 703(b) * * * [the ITA] shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise.

After the ITA makes an affirmative determination that a subsidy is being provided, section 705(b) of the Act (19 U.S.C. 1671d (b)) directs the Commission to determine whether there is material injury to a domestic industry "by reason of imports" of the merchandise subject to investigation. The statute reads:

> (b) Final Determination by Commission.
> (1) In General—The Commission shall make a final determination of whether—
> (A) An industry in the United States—
> (i) Is materially injured, or
> (ii) Is threatened with material injury, or
> (B) the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise with respect to which * * * [The ITA] has made an affirmative determination under subsection (a) of this section.

Sections 771(7)(B) and (C) of the Act (19 U.S.C. 1671(7)(B)(C)) set forth the general factors the Commission is required to consider in reaching its determination of material injury by reason of subsidized imports. These sections instruct the Commission to examine the volume of imports, the effect of such imports on prices in the United States of the "like" product, and the impact of imports of such merchandise on domestic producers of the "like" product. More specifically, these sections of the Act set out certain aspects of these general factors which are to be examined in considering the effect of imports. Concerning the volume of imports, the Commission is to determine whether the volume is significant, or whether there is any

[31] *Id.* at A–11.
[32] *Id.* at A–14.
[33] *Id.* at A–10, A–12.
[34] *Id.* at A–12.
[35] *Id.* at A–15.
[36] *Id.* at A–22.
[37] *Id.* at A–12.
[38] *Id.* at A–10, A–12.
[39] *Id.* at A–22.
[40] See Commissioner Haggart's Additional Views on these issues.

significant absolute or relative increase in that volume. With respect to prices, the Commission is to consider whether there has been significant price undercutting by the imported merchandise, and whether such imports have resulted in significant price suppression or depression. In examining the impact of imports on the domestic industry producing the like product, the Commission is directed to consider the impact of imports in terms of declines in output, sales, return on investment, capacity utilization, domestic prices, and other specified factors. Furthermore, the statute instructs the Commission to consider "all relevant economic factors which have a bearing on the state of the industry."

The statute does not direct the Commission to consider the amount of the net subsidy in determining whether there is material injury. At most, the amount of the net subsidy is a factor which the Commission may consider under section 771(7)(B) of the Act. The relationship of the net subsidy to material injury should not be dispositive of the issue of causation. We conclude that once the ITA makes an affirmative determination the Commission must only establish a causal link between the subsidized imports under investigation and any injury to the domestic industry.[41]

The countervailing duties which will be imposed as the result of our determinations are intended to offset the net subsidies found by the ITA. These duties are not intended to remedy the injury we have found the industry to be experiencing; they are intended to ensure that imports compete in the market on a fair basis. In assessing the impact of such imports, an analysis which focuses on the ultimate benefit to the domestic industry resulting from the imposition of duties is not consistent with the purpose of the statute.

Cumulation

This is not the first time that the issue of whether the Commission should cumulate imports from more than one country for purposes of determining material injury has been raised. However, in each prior investigation where the issue has been presented, we have made our determinations on a case-by-case basis and have not cumulated imports from more than one country. In view of the "conditions of trade" [42] which exist in the carbon steel industries which are the subject of investigation, we have adopted a similar approach in these investigations.[43]

There are no specific references to cumulation either in the Trade Agreements Act of 1979 itself or in the accompanying legislative history. The only injury determinations in which the Commission's discretionary authority to cumulate imports from more than one country has been upheld by the courts, or sanctioned by Congress, were antidumping cases under the Antidumping Act of 1921. Although the Commission may have the discretion to cumulate imports in countervailing duty investigations as well as in antidumping investigations, cumulation of imports from several countries is not the basis for our decisions in each of these investigations. However, we note that the Commission may consider imports from all sources as part of the conditions of trade in making its injury analysis with respect to imports from a particular country.

Conditions of trade

It was the intent of Congress that in countervailing duty investigations the assessment of the impact of subsidized imports is to be made with regard to the particular conditions of trade, competition, and development of the relevant industry.[44] The statutory scheme for determining the appropriate "like product", and in turn, the industry against which the Commission assesses the impact of imports, further assures that the focus of our inquiry is on the nature of the imported product that is the subject of these investigations and those characteristics of trade involving both the relevant domestic and imported products.

As set forth above, we have determined those products being produced in the United States which are "like" the imported merchandise. Further, we have considered the economic condition of the respective domestic industries producing those products and have found them to be experiencing material injury. In the following section, we will set forth our views on a case-by-case basis regarding the causal relationship between this injury and the subsidized imports.

Certain conditions of trade with regard to these products are critical in establishing the framework for our analyses. One fundamental characteristic of each of the products under consideration is its inherent fungibility and price sensitivity.[45] Fungibility is established once certain objective criteria are met to the satisfaction of the purchaser.[46] Price then becomes a major factor in the decision to purchase.[47] Although much of the domestic steel is sold drirectly to end users, whereas the majority of imported steel is primarily sold first to service centers/distributors, ultimately imported and domestic steel compete on the basis of price in the same end-user market. In a market where discounting is now commonplace, the mere presence of an offer from an importer of steel at a lower price can have a discernible impact. Such offers affect the ability of the domestic steel producer to price competitively, to cover fixed costs, and to generate funds for needed capital improvements.

Another important condition of trade relevant to these products is that these subsidized imports are entering the U.S. Market at the same time as imports from a variety of sources. Additionally, in some cases, subsidized imports have either entered the U.S. Market or have further increased their penetration levels during the most recent period when U.S. consumption for these products turned downward and the domestic industries were operating at very low levels of capacity utilization. Given these conditions of trade, the impact of seemingly small import volumes and penetrations is magnified in the marketplace. In these steel industries, each of which is characterized by a high level of fixed costs, the loss of even a few sales means that revenues cannot be maintained at levels sufficient to cover fixed costs. The ability to cover these costs is vital to the ongoing viability of these industries. All of the above factors regarding the conditions of trade relating to these industries are significant in our analyses of the impact of subsidized imports from Spain.

Our causation analysis reflects Congressional intent that the effects from subsidized imports are not to "be weighed against the effects associated with other factors * * * which may be contributing to overall injury to an industry." [48] The record in these

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[41] See Commissioner Haggart's Additional Views, *infra*.

[42] See discussion of "Conditions of Trade", *infra*.

[43] See Commissioner Haggart's Additional Views, *infra*.

[44] *See* Sen. Rept. No. 96-249, 96th Cong., 1st Sess. (1979) at p. 57 and p. 86; H. Rept. No. 96-317, 96th Cong., 1st Sess. (1979) at p. 46.

[45] See the "like product" discussion, *supra*, p. 3.

[46] See Report at A-45 ff.

[47] With regard to the fungibility question, we note that during the course of these investigations, some purchasers were unable to indicate the country or company of origin of the imported steel they had purchased. See, e.g., Report at A-45, A-48, A-50.

[48] See Sen. Rept., *supra*, at p. 57, and H. Rept., *supra*, at p. 47

investigations suggests that there are a number of causes associated with the problems experienced by the domestic industry, such as high labor costs, reduced productivity levels, and the appreciation of the dollar. In an affirmative determination, the statute directs that we determine whether the material injury experienced by the domestic industry is "by reason of" subsidized imports. There is no requirement that subsidized imports be a "principal, a substantial, or a significant cause of material injury." [49] Congress was explicit in its purpose for providing this guidance:

> Any such requirement has the undesirable result of making relief more difficult to obtain for industries facing difficulties from a variety of sources; such industries are often the most vulnerable to subsidized imports.[50]

The case-by-case determinations which follow are based upon these fundamental perceptions regarding the conditions of trade affecting these domestic industries. Our analysis indicates these industries find themselves increasingly susceptible to injury from subsidized imports.

The information developed in investigations cannot be expected to be comprehensive with regard to all areas of inquiry. With respect to some areas, such as import volume and penetration, the record in these investigations provides information which is comprehensive. The record provides less comprehensive information with regard to transaction prices, lost sales,[51] and price suppression or depression. However, we view such data as indicative of the impact of imports in the market. The totality of data regarding import trends and their effect in the market forms the basis for our determinations in each of these investigations.

Material Injury by Reason of Subsidized Imports

1. *Hot-Rolled Carbon Steel Plate.* Imports from Spain increased from their 1979 level of 74,000 tons to 110,000 tons in 1980 and decreased to 99,000 in 1981. Imports declined over the first three quarters of 1982 compared to the same period in 1981, but they still remained above the level of imports for all of 1979. The ratio of imports to apparent domestic consumption increased from 0.9 percent in 1979 to 1.4 percent in 1980, and decreased slightly to 1.3 percent. In January–September 1982, imports from Spain climbed to 2.3 percent of domestic consumption compared with 1.6 percent for the corresponding period in 1981. Although available pricing data cannot be used in making pricing comparisons between the domestic product and imports from Spain,[52] information relating to lost sales provides a clear indication of underselling. Six instances of lost sales were confirmed in the preliminary investigation and five instances of lost sales have been confirmed in this final investigation.[53] In all these cases, the principal reason cited for the purchase of the Spanish product was the lower price of the imports, which may have been as much as $40 to $140 below comparable domestic products. In addition, two instances of price suppression or depression were confirmed, involving price reductions by domestic producers in order to meet competition from lower-priced Spanish products.

For the foregoing reasons, we find that there is material injury to the affected domestic industry by reason of the subject imports.

2. *Cold-Rolled Carbon Steel Sheet.* While imports from Spain steadily decreased in both absolute terms and in relation to apparent U.S. consumption from 1979 to 1980, imports and import penetration rose sharply in 1981, signalling a reentry in the United States market. Imports rose from 8,000 tons in 1980 to 62,000 tons in 1981 and the levels for the first three quarters of 1982 are significantly higher than the same period in 1981. Import penetration rose from 0.1 percent in 1980 to 0.4 percent in 1981 and the figure for the first three quarters of 1982 is 0.5 percent compared with 0.2 percent in the corresponding period in 1981. Imports from Spain increased at a time when the domestic industry was operating at 52 percent of capacity. It is apparent that these recent sharp increases in the levels of imports have contributed to the accelerating downturn in the industry's performance and have thus caused material injury.

In addition, in the final investigation two instances of lost sales were confirmed. Price was the most important factor in these lost sales, with the imports underselling the domestic product by $80 to $100 per ton.[54]

For the foregoing reasons, we find material injury to the domestic industry by reason of subsidized imports of cold-rolled carbon steel sheet from Spain.

3. *Galvanized carbon steel sheet.* Although imports from Spain fell steadily from their 1979 level of 39,000 tons to 19,000 tons in 1981, Spanish imports increased significantly to 27,000 tons in the first three quarters of 1982 alone,[55] an influx that was substantially in excess of that in the entire year 1981.[56] Import penetration followed a similar trend, reaching 0.6 percent in the first nine months of 1982, compared with 0.1 percent in the corresponding period in 1981. On a quarterly basis imports from Spain were concentrated in the last half of 1981 and the first quarter of 1982, when imports accounted for 1.8 percent of domestic consumption. The significant increase in Spanish imports coincided with the serious downturn in domestic production, and profitability in the first three quarters of 1982.

Other information also strongly supports our conclusion of material injury by reason of subsidized imports. Three allegations of sales lost by domestic firms to imports of galvanized sheet were confirmed in the final investigation.[57] Price was the most important factor in these lost sales, with the imports underselling the domestic product by approximately $100 a ton. In addition, in the preliminary investigation, five transactions were confirmed in which a domestic firm lost revenues by lowering its prices in order to meet price competition by Spanish imports.[58]

For the foregoing reasons, we determine that imports of galvanized carbon steel sheet from Spain are causing material injury to the domestic industry.

4. *Carbon Steel Structural Shapes.* Imports steadly increased from 96,000 tons in 1979 to 238,000 tons in 1981, accounting for a growing share of the U.S. market increasing from 1.5 percent in 1979 to 4.1 percent in 1981. Although the level of imports from Spain dropped somewhat in the first three quarters of 1982 compared with the corresponding period in 1981, they still amounted to 4.5

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[49] *Id.*

[50] *Id.*

[51] *See* Acrylic Yarn from Japan and Italy, Nos. 731–TA–1 (Final) and 731–TA–2 (Final), March 1980, Views of Commissioner Stern and former Vice-Chairman Calhoun:

> While information on lost sales is normally difficult to obtain and actual occurrences are difficult for the Commission to verify, such instances, when confirmed, can be symptomatic of broader practice.

[52] Report at A–36, A–37, A–45.

[53] *Id.* at A–45, A–46.

[54] One purchaser of Spanish sheet indicated that the price gap between Spanish and domestic cold-rolled sheet widened since 1981 and, as a result, this purchaser is buying proportionally more Spanish sheet in 1982 than it did in 1981. Another purchaser indicated that importers of Spanish cold-rolled sheet were targeting their sales to a few dealers. Report at A–46, A–47.

[55] We note that one purchaser of Spanish galvanized sheet reported that a Spanish mill cancelled delivery of an order made in 1981 because of the institution of this countervailing duty investigation report at A–47.

[56] Report at A–28.

[57] *Id.* at A–47.

[58] *Id.* at A–52.

percent of total consumption during this period.[60] Information shows that the industry has lost sales to Spanish imports on the basis of price. Of the ten allegations of lost sales, seven firms confirmed that they had bought the Spanish product primarily because of its lower price.[60] In addition, a number of domestic firms submitted allegations of instances in which prices were lowered or adjusted in order to meet competition from Spain. Six allegations were confirmed representing over $220,000 loss of revenue or an average discount of approximately 11 percent.[61]

Based on the foregoing, we determined that there is material injury to the domestic industry producing carbon steel structural shapes by reason of imports from Spain.

Critical Circumstances

In its final determination, the ITA found that "critical circumstances" existed with respect to imports of structural shapes from Spain.[62] This finding, under 19 U.S.C. 1671d(a)(2), is a finding that these imports benefit from a subsidy inconsistent with the subsidies agreement implemented by the Trade Agreements Act of 1979 and that there have been massive imports over a relatively short period. Given this finding by ITA and our own finding of material injury, we are required by 19 U.S.C. 1671d(b)(4)(A) to make an additional finding as to whether there is material injury which will be difficult to repair and whether the material injury was by reason of the massive imports over a relatively short period of time (March to June 1982) as defined by the ITA.[63] In light of historical import trends since 1980, we find that the material injury was not by reason of the massive imports over a relatively short period referred to by the ITA. Therefore, we have made a negative additional finding with respect thereto.

5. *Hot-Rolled Carbon Steel Bar.* Imports of hot-rolled carbon steel bar from Spain increased irregularly from 28,000 tons in 1979 to 34,000 tons in 1981. Imports during the first three quarters of 1982 were 18,000 tons, compared with 26,000 tons in the same period in 1981. The ratio of Spanish imports to apparent U.S. consumption increased steadily from 0.4 percent in 1979 to 0.7 percent in 1981.[64] Despite the decrease in absolute imports in 1982, the ratio for the January-September 1982 period rose to 0.8 percent compared with 0.7 percent for the same period in 1981.[65]

In the preliminary investigation, one instance of a lost sale because of lower priced imports from Spain was confirmed,[66] as was a price concession because of a purchaser's intention to buy a less expensive Spanish import.[67]

Based on the foregoing, we find that there is material injury by reason of subsidized imports of hot-rolled carbon steel bar from Spain.

6. *Cold-formed carbon steel bar.* Imports, both in absolute terms and as a percentage of apparent U.S. consumption, rose dramatically in 1981 compared with imports in 1979 and 1980. The quantity of Spanish imports more than tripled from 5,000 tons in 1980 to 17,000 tons in 1981. This high level has continued; the January-September 1982 import figure of 12,000 tons is the same as it was for the corresponding period in 1981.[68] The substantial increase in Spanish imports between 1979 and 1981 resulted in a tripling of the import penetration level.[69] The ratio of Spanish imports to apparent U.S. consumption increased from 0.4 percent in 1980 to 1.2 percent in 1981. The ratio of imports increased further in the first three quarters of 1982 to 1.6 percent.

The Commission confirmed four lost sales of 635 tons in its final investigation, in addition to those confirmed in the preliminary investigation.[70] Purchasers of the Spanish product indicated that price was the most important factor in their decisions to buy Spanish bar instead of domestic bar.

For the foregoing reasons, we find that there is material injury to a domestic industry by reason of imports of cold-formed carbon steel bar from Spain.

Additional Views of Commissioner Haggart

As noted in the majority views, there are two central issues in these investigations which warrant further discussion. I have concluded that, as a matter of law, the Commission is only required to find a causal nexus between material injury and the subsidized imports. In addition, because of the "conditions of trade" which exist in these carbon steel industries, I have not cumulated imports from Spain with imports from other countries in making my determinations in these investigations.

Relation of Subsidy to Material Injury

The issue has been raised in these investigations as to whether sections 710(a) and 705(b) of the Trade Agreements Act of 1979 (the Act) and Article 6, paragraph 4, of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code) require the Commission to establish a causal link between the net subsidy determined by the Department of Commerce and injury to the domestic industry. Counsel for petitioners assert that the statute does not require the Commission to relate the amount of the net subsidy to the injury to the domestic industry in determining whether there is a causal link between subsidized imports and that injury. As indicated in the majority views, I concur with this view. My conclusion is based on an examination of the statutory language, the relevant legislative history, and the provisions of the Subsidies Code as they relate to U.S. law.

Insofar as U.S. law is concerned, the MTN agreements, including the Subsidies Code, are Congressionally authorized executive agreements.[71] These agreements are not self-executing; therefore, their effectiveness is dependent on U.S. implementing legislation. Consequently, it was necessary for Congress to pass the Trade Agreements Act of 1979 in order to give the Subsidies Code domestic legal effect.[72] It is therefore incumbent

[60] *Id.* at A–28, A–30.
[61] *Id.* at A–48, A–49.
[62] *Id.* at A–52.
[63] 47 FR 51436, 51448 (November 15, 1982), reproduced as Appendix A of our Report in these investigations.
[64] See, 47 FR 38167 (August 30, 1982).
[65] *Id.* at A–29, A–31.
[66] *Id.* at A–31. This increase in import penetration occurred at the same time this industry was operating at 34.4 percent of its capacity. Thus, the impact of these imports on the domestic industry was magnified.
[66] *Id.* at A–49.
[67] *Id.* at A–52, A–53.
[68] *Id. at A–29.*
[69] *Id. at A–31.*
[70] *Id. at A–.50*

[71] Senate Committee on Finance, Trade Agreements Act of 1979, S. Rept. No. 96–249, 96th Cong., 1st Sess., 36 (1979) [hereinafter cited as S. Rept.]; House Committee on Ways and Means, Trade Agreements Act of 1979, H.R. No. 96–317, 96th Cong., 1st Sess., 1 (1979) [hereinafter cited as H. Rept.]. See Cohen, *The Trade Agreements Act of 1979: Executive Agreements, subsidies, and Countervailing Duties*, 15 Texas Int. Law Journal 96 (1980), for an analysis of the different types of executive agreements.

[72] The Trade Agreements Act of 1979 added Title VII to the Tariff Act of 1930, which replaced the Antidumping Act of 1921, and amended the countervailing duty statute. Section 102 of the Trade Act of 1974 authorized the President to negotiate trade agreements with foreign countries subject to procedures for the approval and implementation of such agreements by Congress. These procedures outlined in the Trade Act of 1974 represented "a unique Constitutional experiment". According to the Senate Report, "* * * virtually all the provisions of H.R. 4537 [the Trade Agreements Act of 1979] reflect the decision of the Committee of Ways and Means of the House of Representatives and Senate Finance Committee," as coordinated in joint meetings with representatives of the administration and other

upon us to examine the statute itself in order to determine how Congress implemented into U.S. law the obligations assumed by the United States under the Subsidies Code.

According to the Senate Report accompanying the Act, Section 705 of the Tariff Act, as amended by section 101 of the Trade Agreements Act of 1979, codifies U.S. obligations under the Subsidies Code into U.S. law.[73] Section 705(b) provides that injury is to be "by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) of this section [705(a)]." Article 6, paragraph 4, of the Code states that a countervailing duty will not be imposed on the product of any country which is a party to the GATT unless it is demonstrated that "the subsidized imports, through the effects of the subsidy, [are] causing injury * * *"

Congress could have used the specific language of the Code in the statute; however, it chose not to do so. Instead, Congress elected to require the Commission to make a final determination of whether an industry is materially injured "by reason of imports of the merchandise".[74] Thus, within the context of the issue of causality, the plain meaning of the statute requires us to trace any injury to imports of the subsidized merchandise from a particular country. The statute does not require the Commission to relate the amount of the subsidy to the injury being experienced by a domestic industry.

During its consideration of the Trade Agreements Act, Congress was aware that the relationship between the trade agreements and domestic law was a sensitive issue. The Senate Report states: "This bill is drafted with the intent to permit U.S. practice to be consistent with the obligations of the agreement, *as the United States understands those obligations*"[75] (Emphasis added.) Further, Congress was acutely aware that the U.S. law did not repeat the precise language of the agreements. Congress observed that greater precision in our law is required than the "often vague terms of the agreements or implementing regulations of other countries" because our trade laws are subject to administrative and judicial review processes.[76] Congress further stated that: "Unfamiliar terms in the agreements, or terms which may have a different meaning in United States law than in international practice or another country's laws, need to be rendered into United States law in a way which insures maximum predictability and fairness."[77]

The function of the Commission is to abide by the Congressional statutory scheme.[78] When the legislative history as a whole does not demonstrate that a literal reading of the statutory language results in an interpretation of the law that is clearly contrary to Congressional intent, rules of statutory construction do not require the Commission to look behind the clear language of the statute. There is no compelling reason to rely upon certain portions of the legislative history to interpret statutory language which is not ambiguous.[79] In the instant case, the legislative history does not contradict the plain meaning of the statute. Accordingly, the statutory language should be accorded its plain meaning.

Interpreting Congressional intent in conformity with the plain meaning of the statute is not inconsistent with the Subsidies Code. The relationship between the provisions of the Subsidies Code and the provisions of Title VII can be better understood by a comparison of certain articles of the Code with certain sections of Title VII. Section 771(7)(B) employs language very similar to Article 6, paragraph 1, of the Code with regard to the volume of imports, the effect of imports on prices, and the impact of imports on producers. Sections 771(7)(C)(i) and (ii) also closely parallel Article 6, paragraph 2, of the Code. These provisions refer to absolute or relative increases in the volume of imports, significant price undercutting, and imports as a cause of price depression or supression. Similarly, section 771(7)(C)(iii) closely parallels Article 6, paragraph 3, of the Code, inasmuch as both refer to an evaluation of all relevant economic factors which have a bearing on examining the impact on the industry concerned. Both provisions specifically include the following factors: actual and potential decline in output, sales, market share, profits, return on investment, utilization of capacity, factors affecting prices, actual and potential negative effects on cash flow, etc.

The provisions of the Trade Agreements Act and of the Code central to the dispute of whether the Act implements the Code are section 705(b) and Article 6, paragraph 4, respectively. Section 705(b), in relevant part, reads:

. . . The Commission shall make a final determination of whether—

. . . an industry . . . is materially injured

. . . *by reason of imports of the merchandise* with respect to which the administering authority has made an affirmative determination. (Emphasis added.)

Article 6, paragraph 4, in relevant part, states:

It must be demonstrated that the subsidized imports are, *through the effects*[19] *of the subsidy*, causing injury within the meaning of this Agreement . . . (Emphasis added.)

[19] As set forth in paragraphs 2 and 3.

Footnote 19 to Article 6, paragraph 4, specifically cross-references paragraphs 2 and 3 and, therefore, paragraph 4 must be examined in conjunction with paragraphs 2 and 3 of Article 6. As indicated above, Article 6, Paragraph 2, is implemented in section 771(C)(i) and (ii) of the statute, and Article 6, Paragraph 3, is implemented in section 771(7)(C)(iii) of the statute.

The methodology contemplated in Article 6 for tracing the effects of the subsidy to any material injury

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relevant House and Senate Committees." Congress had agreed that the bill as reported out of Committee would either be enacted without amendment or rejected.

[73] S. Rept. at 57.

[74] The language "by reason of imports" is articulated in sections 701 and 705. In addition, Congress focused on the "volume of imports," the "effect of imports" on prices, and "the impact of imports" on domestic producers. Section 771(7)B. In contrast, in section 771(7)(E), which pertains only to threat cases, Congress directed the Commission to consider "the effects likely to be caused by the subsidy," in addition to the other factors. This is the only provision of the statute that directs the Commission to take cognizance of the effect of the foreign subsidy. Had Congress intended the Commission to take cognizance of the effect of the subsidy, it is logical to assume that it would have used the language employed in section 771(7)(E) in other sections of the statute.

[75] S. Rept. at 36.

[76] *Id.*

[77] *Id.*

[78] Within another context involving the administration of the countervailing duty provisions, Judge Watson of the Court of International Trade observed: Congress has explicitly enacted this legislation to conform to trade agreements entered into by the United States and has defined those procedures which constitute conformity in the initiation of investigations. Thus, the petition determination by the ITA and the preliminary injury determination by the ITC were considered together to implement the code requirement that before a countervailing duty investigation is initiated the existence of a subsidy and injury must be considered. [Citation omitted]. The ITA's first duty in determining the sufficiency of a petition is to adhere to the procedures contained in the law *and not to assume a larger responsibility by looking beyond the law to the codes or trade agreements it implements.* (Emphasis added). Republic Steel, et al. v. United States et al., Slip Op. 82–58, at 14, July 22, 1982.

[79] Although the legislative history refers to the term "net subsidy" and "subsidization" in conjunction with injury to the domestic industry, e.g., S. Rept. at 57–58, H.R. at 46, focusing on these references in the legislative history in preference to the numerous references, e.g., S. Rept. at 43–45, 47–60, 84–89, H. Rept. 46–58, 73–75, in the same legislative history that strongly support the plain meaning of the statutory language is not justified.

experienced by the domestic producers in the importing country is to determine the effects of the volume of subsidized imports on the prices in the product markets of the importing country and their impact on the domestic producers. These are the same effects that sections 771(7)(B) and (C) direct the Commission to consider. Thus, section 771 implements Article 6, paragraphs 2, 3, and 4, of the Code. Therefore, the argument that the statute fails to implement the provision of Article 6, Paragraph 4, of the Code is not persuasive. For these reasons, the literal language of the Code cannot be relied upon to defeat the argument that the Commission must follow the plain meaning of Title VII in making its injury determinations.

Although the statute directs us to determine whether injury is "by reason of imports of the merchandise", we are not precluded from considering the amount of the subsidy or the likely effect of the subsidy as one of the non-specified factors in the Commission's analysis under section 771(7)(B).[90] However, the presence or absence of a causal nexus between the amount of the net subsidy and material injury should not be dispositive with respect to the issue of the cause of any material injury since "the presence or absence of any factor which the Commission is required to evaluate under subparagraph (C) or (D) shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury."[91] If the presence or absence of a specified factor is not decisive, than *a fortiori*, the presence or absence of a non-specified factor should not be dispositive.

Other considerations support the conclusion that the amount of the net subsidy should not be relied upon in determining material injury by reason of subsidized imports. There is no compelling reason to presume that there is a casual relationship between the amount of the net subsidy calculated by the Department of Commerce and any price differential in the U.S. market between domestic products and imported subsidized products. Commerce's net subsidy calculation reflects a determination of the value of a foreign subsidy. Essentially, foreign accounting principles are used in determining whether a program is a subsidy and assessing the benefits accruing to the foreign manufacturer because of the subsidy. Caution is warranted in relying upon this net subsidy calculation in light of the fact that accounting calculations may not accurately reflect economic phenomena outside the system within which they are used.[92]

Although there may be some logic in assuming that a less than fair value dumping margin will manifest itself through price differentials in the market, this may not be the case with a subsidy. Subsidies may be utilized by foreign producers for a number of purposes such as to improve cash flow, to achieve economies of scale through encouraging production, to encourage employment, or to contribute to product development. Imports still may be a cause of material injury even if there is no evidence of underselling in the market.[93] Thus, a negative determination based on the fact that the net subsidy calculated by the Department of Commerce does not account for a certain portion of the underselling would not comport with the plain meaning of the statute and Congressional intent.

Moreover, the period of investigation covered by the Department of Commerce does not always correspond with the period of investigation covered by the Commission. In these investigations, the period of investigation for the Commission ended in September of 1982. By comparison, the period used by Commerce for measuring subsidization for the Spanish producers was the 1981 calendar year. Thus, certain analytical obstacles exist in drawing conclusions from the relationship between the net subsidies and margins of underselling, when the latter are based on a time period that is not analogous to the period for which the net subsidies were calculated.

In light of these problems, a compelling argument can be made that the amount of the net subsidy calculation may have no methodological connection with any attempt to assess the effects in the U.S. market likely to be caused by certain foreign subsidy practices. Consequently, in these investigations, I have relied on the existence of a casual nexus between the subsidized imports and injury, rather than attempting to relate the amount of the net subsidy to the injury.

This conclusion is consistent with the bifurcated statutory scheme established by Congress.[94] Under the statutory scheme, there are two basic determinations required before a countervailing duty is imposed. The law states that the Department of Commerce shall make a final determination as to whether a subsidy is being provided. The Commission is then required to make a final determination as to whether an industry is materially injured or threatened with material injury "by reason of the imports" of the merchandise with respect to which the Department of Commerce has made an affirmative final subsidy determination. As stated in the Senate Report, "[a] domestic industry must be materially injured by reason of subsidized imports before a countervailing duty could be imposed."[95] If both the finding of the Department of Commerce and the Commission are affirmative, the Department of Commerce is required to publish upon notification from the Commission, a countervailing duty order and duties are assessed in accordance with that order.[96]

"Title VII is not punitive, it is a limited remedy statute. Under the scheme [only] the amount of the advantage enjoyed [subsidy] by the imports is offset by a corresponding duty. Imports are still permitted full access to the U.S. market."[97] Thus, the statutory scheme results in an offset of the advantage the net subsidy bestows on the imported product. To the extent the subsidy adversely affects the U.S. market, such distortive impact is negated by the countervailing duty. As a result, the statute affords protection to the domestic industry from the distortive effects of subsidization while still permitting imports of subsidized merchandise into the market.

The Commission should not be required to project what effect an affirmative determination will have in the market. The statute is only designed to insure that subsidized imports which cause material injury do not compete in the U.S. market without an offsetting of the subsidy.

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[90] Section 771(7)(B) states: "The Commission shall consider, *among other factors*" (Emphasis added), the volume of imports, the effect of imports on prices, and the impact of imports on domestic producers. The reference to "other factors" can properly be construed as referring to factors other than those enumerated which could include the effects of the net subsidy. As the Senate Report states, "In determining whether injury is 'by reason of' subsidized imports, the ITC now looks at the effects of such imports on the domestic industry. [The Commission] also considers, among other factors, the quantity, nature, and rate of importation of the imports subject to investigation, and how the effects of the net bounty or grant relate to injury . . ." S. Rept. at 57.

[91] Section 771(7)(E)(ii).

[92] As a general proposition, accounting calculations "do not provide valid measurements that can be used for answering or gaining insights into most economic questions." George J. Benton, "Accounting Numbers and Economic Values," XXVII The Antitrust Bulletin 161 (1982).

[93] Section 771(7)(E)(ii).

[94] Section 705(a)(1) and Section 705(b)(1).

[95] S. Rept. at 44.

[96] Section 705(c)(2) and Section 706(a).

[97] Additional views of Vice-Chairman Calhoun, Certain Steel Wire Nail from the Republic of Korea, Inv. No. 701-TA-145, March 1982.

Based on the foregoing, I have concluded that a causal link between the amount of the subsidy and material injury is not required to be established before an affirmative final determination can be made by the Commission. In other words, an analysis of the effect of the subsidy should not be dispositive. The relationship of the level of net subsidy to material injury is, at best, a non-specified factor that the Commission may consider at its discretion under § 771(7)(B) of the Act.

Cumulation

In each of the subject investigations, I have made my determination on a case-by-case basis and have not cumulated imports from more than one country. The statute expressly gives the Commission the discretion to consider imports from all sources in making its injury analysis with respect to the imports from a particular country. Section 771(7) of the Tariff Act of 1930 directs the Commission to "evaluate all relevant economic factors which have a bearing on the state of the industry". Further, both the Senate and House Reports accompanying the Trade Agreements Act specifically note that the Commission is to consider all factors and conditions of trade in the relevant industry.[88] Imports from all countries can and should be considered as part of the conditions of trade in assessing the impact of imports from a particular country on the domestic industry. The mere existence in the market of these imports is plainly a "factor or condition of trade" that would bear on an injury analysis conducted on a case-by-case basis.

This analysis, however, is different from cumulation inasmuch as it does not require the Commission to determine that imports from each country are a contributing cause of material injury; nor does it result in a finding of material injury with respect to imports from one country solely by reason of aggregating that country's imports with imports from other countries. Rather, imports from other countries are one of many factors to be considered in the market in determining whether imports from a particular country themselves are a cause of material injury.[89]

"Material injury" means "harm which is not inconsequential, immaterial, or unimportant".[90] According to the statute, in making a final determination of material injury pursuant to section 771(d), the Commission shall consider, among other factors—

(i) The *volume of imports* of the merchandise which is the subject of the investigation,

(ii) The *effect of imports of that merchandise on prices* in the United States for like products, and

(iii) The *impact of imports of such merchandise on domestic producers* of like products. 19 U.S.C. § 1677(7)(b) (Emphasis added).

According to the Senate Report, the significance of each factor affecting the industry will depend on the facts of each case. Neither the presence nor absence of any such factor necessarily gives decisive guidance with respect to whether an industry is materially injured and the Commission has the discretion to decide what significance should be assigned to particular factors. In deciding the weight to give to a particular factor, the Commission should consider the conditions of trade, competition, and development with respect to the industry concerned.[91] More specifically, according to section 771(7)(C)(i)

"In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant" (19 U.S.C. 1677(7)(C)).

The Senate Report points out that *"for some industries an apparently small volume of imports may cause harm that is not inconsequential* (Emphasis added)."[92]

Whether a certain volume of imports is capable of causing harm which is not inconsequential depends on the facts present in each investigation. For example, a certain volume of imports in a market dominated by the domestic industry may be incapable of causing material injury. However, that same volume of imports in a market characterized by severe price competition from several sources, both domestic and foreign, may be considered significant in light of the conditions of trade in the industry, the nature of the industry itself, and the economic condition of the industry at the time that the imports became a factor in the market. A relatively healthy industry facing competition from only one foreign source may be in a position to withstand certain lost sales. The same lost sales, however, may have a more significant impact on an industry which has not only lost these particular sales, but has also lost numerous additional sales to other unfairly traded imports. In addition, the effect on prices that a certain volume of imports may have also depends on the conditions of trade in existence at the time. Significant price depression or suppression may occur in one set of circumstances whereas the same volume of imports priced at the same level may not have a significant impact under a different set of circumstances. Consequently, harm which may be inconsequential in one context can be considered not inconsequential in another context. Accordingly, the statute gives the Commission the discretion to weigh all relevant factors in making its material injury determination. The Senate Report states:

". . . (J)udgment as to whether the facts in a particular case actually support a finding of injury are for the Commission to determine, subject to judicial review for substantial evidence on the record."

Counsel for petitioners have argued that cumulation is warranted in these investigations because the subject imports are fungible along product lines, compete on the basis of price, and they are indistinguishable once they enter the U.S. market. These factors, among others, should be taken into consideration as part of the conditions of trade which relate to the assessment of the impact of imports from a particular country on the domestic industry. In these investigations involving certain carbon steel industries, the record with respect to the conditions of trade has been sufficiently developed and, consequently, I have made my determinations on a case-by-case basis.

Applying the above principles to the cases currently before us, it is evident that the domestic steel industries in their present distressed condition are industries as to which even an apparently small volume of imports can have a significant adverse market effect. With respect to all six products involved in these investigations, the industries can be characterized by high fixed costs and relatively low variable costs, thereby requiring relatively high levels of capacity utilization and sales to cover those costs. As capacity utilization decreases, average costs per unit rise at a disproportionately steep rate. When capacity utilization is low, industry profits are more adversely affected by lost sales. Any additional increment of

[88] Sen. Rept. at p. 57 and p. 88, H. Rept. at p. 45.

[89] The distinction between those two approaches should not be minimized. Under the latter approach, the Commission's determination is made without reliance upon the cumulative impact of imports subject to sequential investigations, suspension agreements, or settlement agreements. A case-by-case analysis will result in the Commission's final determinations having the advantage of more stability and repose.

[90] Section 771(7)(A).

[91] S. Rept. at 88.

[92] *Id.*

import volume or penetration may have a more severe effect under these circumstances. In many of these cases, import penetration increased significantly at a time when the domestic industry was experiencing its most difficult problems.

I have made an affirmative determination in these investigations because the record provides sufficient information to conclude that the levels of imports from Spain are such that those imports are capable of causing material injury in light of the conditions of trade which exist in these industries. Whether or not these imports have in fact caused material injury also depends on a more detailed analysis of the existence of underselling, price suppression or depression, lost sales, and other factors regarding the effect of these imports on competition in the marketplace. The presence or absence of any of these factors is not decisive.[93] The weight to be given the presence or absence of each factor is dependent on the facts of each case. When information on the record supports a conclusion of material injury by reason of the imports from an individual country, there is no need to cumulate the imports from several countries while ignoring the impact, or lack thereof, of imports from an individual country.

Views of Commissioner Paula Stern

In these cases on imports from Spain, as in the other recent cases on various carbon steel imports,[94] my determinations have diverged from those of my colleagues on the question of causality. All six product lines under consideration here are experiencing severe problems reflected in virtually all the economic indicators examined in these investigations. The link between these difficulties and subsidized imports from Spain, however, varies by product line.

I have presented in detail the general legal and analytical framework I am utilizing to assess causality in my opinion in Certain Carbon Steel Products from Belgium, France, Italy, Luxembourg, the United Kingdom and the Federal Republic of Germany.[95] I incorporate those views by reference in this opinion.[96] My views on the general conditions of trade and competition in the carbon steel industry are also set forth in that opinion.[97] I have considered these conditions in reaching my determinations in the cases under consideration here.

In these views I would like to emphasize the need to consider the level of subsidization in reaching a determination in cases brought under this unfair trade statute.[98] [99] This point is brought into sharp focus in these cases on imports from Spain because comparative purchase price data are not available and thus a full analysis comparing the margin of subsidization with the margin of underselling is not possible. Still, the magnitude of the subsidization is relevant in assessing causality.

In recent cases, I am increasingly struck by the danger of this statute becoming a means of obtaining protection, albeit limited, from fair rather than unfair competition. The Congress has established standards for relief from fair competition which are considerably more stringent than those that apply to unfair competition.[100] Theories on causality which suggest that the level of subsidization is irrelevant to the Commission's analysis of the impact of "subsidized imports" on the domestic industry can lead to a breakdown of the carefully constructed framework that Congress [101] has established for providing protection consistent with the public interest and U.S. international obligations.

An affirmative finding in any unfair trade case is premised on a finding of potentially unfair trade, [102] i.e., the existence of subsidization or less than fair value imports. This very basic element was missing in a number of recent cases before the Commission (and yet there were some affirmative votes.[103] Even when the subsidy level is not zero, as in the cases before us here, its significance must still be examined to determine whether it—the potentially unfair trade practice—has resulted or is likely to result in volume or price effects.[104] Only if this has occurred as a result of the subsidy does the potential for material injury or threat of material injury caused by the subsidized imports exist within the meaning of the statute.

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[93] Section 771(7)(E)(i).

[94] Certain Carbon Steel Products from Belgium, France, Italy, Luxembourg, the United Kingdom, and the Federal Republic of Germany, Inv. Nos. 701-TA-86 to 701-TA-128 (numbers not inclusive); Carbon Steel Wire Rod from Belgium and France, Inv. Nos. 701-TA-148 and 701-TA-150, Carbon Steel Wire Rod From Brazil and Trinidad and Tobago, Inv. Nos. 731-TA-113 and 731-TA-114.

[95] *Id.* My opinion in these cases appears at pages 1*-71* of USITC Pub. No. 1316 (November 1982). These cases were terminated by the Commission, despite my dissent. I believe that the Commission did not have the legal authority to terminate these cases. I found that action to be inconsistent with the public interest and contrary to sound, responsible agency practice. On the latter point, I note that termination of cases on the basis of settlements after the Commission votes places the Commission's independent status in jeopardy as its votes can become a part of the Executive Branch's negotiating process.

The Commission's final determinations in those carbon steel cases took place at the time of the votes on October 15, 1982. According to the statute, 19 U.S.C. 167d(d):

(d) Publication of notice of determinations—Whenever the administering authority or the Commission makes a determination under this section, it shall notify the petitioner, other parties to the investigation, and the other agency of the determination and the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the **Federal Register.** The requests for withdrawal of the petitions and the settlement agreement were not on the record of those investigations which closed at the time of the vote and was not subsequently reopened. Thus, the Commission was legally bound to issue its determination and transmit its views to the Commerce Department.

I note that the sequence of events that occurred in those carbon steel cases was without precedent. Prior to those cases, settlements of unfair trade cases had consistently been made before the Commission's votes in line with both the statute and the public interest. For my full views on this matter see my memorandum, CO2-F-74, relative to Commission action jacket GC-82-143, dated October 22, 1982.

[96] See in particular pages 1*-38* of that opinion which include discussion of margins analysis, de minimis subsidies, circumstances for cumulation and the meaning of lost sales. ITC Pub. No. 1316 (November 1982).

[97] See Pages 54*-70* of that opinion. ITC Pub. No. 1316 (November 1982).

[98] I note that the sequence of the bifurcated administrative process established by the Congress for countervailing duty cases supports the view that the level of subsidization is relevant to the Commission's final determination. As a matter of law, the Commission's final determination on the injury question awaits the Commerce Department's final determination of the margin of subsidization. If this final margin were irrelevant to the Commission and we were to consider only "the imports" as some have suggested, our final injury determination could just as well precede that of the Commerce Department. This sequence, however, is precluded by the statute.

[99] That is not to say that the level of subsidization alone is dispositive. It is one of a myriad of factors which the Commission should consider in drawing a final conclusion on the question of injury.

[100] The standards for relief from fairly traded imports are set forth in section 201 of the Trade Act of 1974. In a section 201 investigation, the Commission must determine whether "an article is being imported into the United States in such increased quantities as to be a *substantial* cause of *serious* injury, or the threat thereof, to the domestic industry . . ." (emphasis added).

[101] The framework is part of international agreements negotiated over the last thirty-five years under the General Agreement on Tariffs and Trade.

[102] It is unfair only if material injury or threat of material injury to a U.S. industry results.

[103] In the following cases, Commerce made affirmative determinations despite the fact that for most or all of the subject imports subsidies were evaluated at zero:

Hot-rolled Stainless Steel Bar from Spain, Inv. No. 701-TA-176. Cold-formed Stainless Steel Bar from Spain, Inv. No. 701-TA-177. Hot-rolled Carbon Steel Plate from Belgium and the FRG*, Inv. Nos. 701-TA-86 and 701-TA-93. Hot-rolled Carbon Steel Sheet and Strip from the FRG*, Inv. No. 701-TA-101. Cold-rolled carbon steel sheet and strip from the FRG*, Inv. No. 701-TA-100. Carbon Steel Structural Shapes from the FRG Inv. Nos. 701-TA-124 and 701-TA-121. An asterisk indicates that subsidies on all the subject imports were evaluated at zero by the Department of Commerce.

[104] 19 U.S.C. 1677(7)(B)(i)-(ii).

This is clear from the legislative history. In pointing out that the significance of various factors will differ from industry to industry, the Senate noted:

> Similarly, for one type of product, *price may be a factor in making a decision as to which product to purchase* and a small price differential resulting from the *amount of the subsidy* or the margin of dumping *can be decisive;* for others the size of the differential may be of lesser significance.[105] (Emphasis added.)[106]

The Congress was concerned about price differences resulting from a subsidy which could affect the condition of a domestic industry, and so am I. As a legal matter, the impact of the subsidy needs to be assessed on the basis of the best information available in a particular case. That this task will at times prove difficult provides neither an excuse nor legal justification for us to avoid making an effort toward such assessment.

Though my positon on this matter is taken strictly as a result of the direction of the statute and the legislative history, I point out that it is also based on sound economic and public policy. In brief, if subsidies have no material influence on import prices or volume (as when the subsidy is very small or when it is insignificant in relation to the margin by which the foreign product undersells the U.S. product), corresponding countervailing duties do not correct a problem. Instead, they impose a cost on the U.S. economy and become a nuisance to trade. They result in American penalties for foreign government intervention in their economies even in those instances where the intervention does not materially affect the competing U.S. industry. From a public policy point of view, affirmative Commission findings in cases where the potentially unfair practice itself has not been a cause of injury to the domestic industry fosters a myopic public perception of the factors necessary to strengthen U.S. competitiveness.

The following are my views on the specific cases covered in these investigations.

I. Hot-rolled Carbon Steel Plate

1. *Imports from Spain.* Imports rose from 74,000 tons in 1979 to 110,000 tons in 1980 and then fell to 99,000 tons in 1981. Imports in January–September 1982 amounted to 76,000 tons, 17 percent below the level for the same period of 1981. The ratio of these imports to apparent U.S. consumption rose from 0.9 percent in 1979 to 1.3 percent in 1981. In the first three quarters of 1982 the market share rose to 2.3 percent compared to 1.6 percent for the like period of 1981.[107]

2. *Prices and Lost Sales.*[108] Comparisons of delivered prices paid by purchasers for the subject import and the domestic product are not available.[109] [110]

Of 15 lost sales allegations checked, 5 were confirmed, all because of price. Confirmed lost sales covered 0.2 percent of the subject sales. Purchasers noted that Spanish prices were from $40.00–$120.00 per ton below domestic prices.

3. *Subsidy.* The size of subsidies found on the subject steel product was 10.12 percent.

4. *Determination.* In light of the level of market penetration of imports of hot-rolled carbon steel plate from Spain and other information on the record, in my judgment the facts before us most clearly support an affirmative finding on the basis of threat of material injury. The criteria suggested in the legislative history of the Trade Agreements Act of 1979 for a finding of threat are satisfied in this case.[111]

Import penetration is increasing and the rate of increase is accelerating. These trends are likely to continue. Importers' inventories are already substantial. Spanish raw steel capacity has been steadily increasing and Spain has the capacity to generate increased exports.[112] The United States is likely market for increased Spanish production. Spanish domestic consumption is depressed and Spain's access to another important foreign market, the EC, is subject to restrictions.[113] In 1979 Spain shipped 20% of its total exports of this product to the United States. By 1981 this figure was 32.8%. The sizable subsidy—10.12 per cent—provided to the sole Spanish exporter of this product, Ensidesa, provides a competitive advantage which assures a "real and imminent" increase in Spanish exports to the U.S. market resulting in a further deterioration of the U.S. industry.

Given the current weakened state of the domestic industry, even a very small additional increase in these imports would result in material injury. Thus, I have further determined that the industry would have been materially injured by reason of the subsidized imports but for the suspension of liquidition of entries thereof.[114]

II. Cold-rolled Carbon Steel Sheet

1. *Imports from Spain.* Imports fell from 48,000 tons in 1979 to 8,000 tons in 1980, but then increased to 62,000 tons in 1981. Imports in January–September 1982 amounted to 48,000 tons, almost twice the level for the same period of 1981. The ratio of imports from Spain to apparent U.S. consumption fell from 0.4 in 1978 percent to 0.1 percent in 1980, the rose to 0.4 percent in 1981. In the first three quarters of 1982 the market share rose to 0.5 percent compared to 0.2 percent for the like period of 1981.[115]

2. *Prices and Lost Sales.* Two lost sales allegations were checked, and both were confirmed, principally because of price. In this particular case, the confirmed lost sales covered a significant share, 10.7 percent, of the subject sales. Purchasers indicated that Spanish prices were $80.00–$100.00 per ton below domestic prices and that the price gap had recently widened.

3. *Subsidy.* The size of subsidies found on the subject steel product ranged from 10.12 to 38.25 percent. The weighted average subsidy was 30.54 percent.[116]

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[105] S. Rep. 96–249, 96th Cong., 1st Sess. (1979) p. 88. See also pps. 57–58 and H. Rep. 96–317, 96th Cong., 1st Sess. (1979) p. 46.

[106] In the carbon steel industries price is important and the products are relatively fungible. Even here, however, other factors such as quality and reliability of supplier do play a role. Thus, very small subsidies are unlikely to affect the level of imports.

[107] Report at A–28, A–30.

[108] Lost sales information presented in this opinion relates only to data gathered in the final investigations. Lost sales information gathered in the preliminary investigation is presented in the Report at A–45 to A–51.

[109] This point applies to all cases covered here. Therefore, I will not discuss price data in subsequent product-line discussions.

[110] Some may argue that margins of underselling based on lost sales information should be used as a substitute for purchase price comparisons. Margins calculated on the basis of lost sales, however, generally have only limited value. Purchase price data ideally provide a representative sample of different transactions for both domestic and imported merchandise reported in confidential responses to official Commission questionnaires. These data include both domestic and imported prices in actual market transactions. In contrast, lost sales information is gathered through telephone inquiries concerning petitioners' allegations of purchases of imports in lieu of domestic products. The sample is suggested by an interested party to the investigation. Though it is sometimes possible to derive margins of underselling based on lost sales conversations, these margins are often based on the purchaser's collection of the price of the imported product in a given transaction in comparison with what the purchaser perceived to be the prevailing domestic price at the time.

[111] Sen. Rep. 96–249, 96th Cong., 1st sess. (1979), pp. 88–89.

[112] Report at A–23 to A–26.

[113] Staff Report on Certain Steel from Belgium *et al.*, Investigation Nos. 701–TA–86—128 (not inclusive), at pp. E2–E10.

[114] The additional finding is required by 19 USC § 1671d(B)(4)(B), when a finding of threat of material injury is made.

[115] Report at A–28, A–30.

[116] Weighted average subsidies were obtained from calculations performed by the Office of Investigations. See Confidential Memorandum INV–F–190.

4. *Determination.* Spanish imports taken alone are not sufficient to cause or threaten material injury. During the entire period of this investigation, however, subsidized imports, which I found to be injurious when cumulated, entered the United States from France and Italy.[117] The substantial Spanish subsidies on this product, most at 38 percent, have been instrumental in enabling Spanish producers to offer substantially lower prices to U.S. purchases as confirmed in lost sales reports.

For an affirmative finding of present injury, we are to judge whether material injury occurred during the period of the investigation by reason of the subsidized imports. During the entire period of this investigation subsidized imports (not subject to countervailing duties or a settlement agreement) entered the U.S. market from Spain, Italy and France. In light of the imports from France and Italy and the large subsidy margins, I voted in the affirmative in this case on imports from Spain.

III. Galvanized Carbon Steel Sheet

1. *Imports from Spain.* Imports fell from 38,000 tons in 1979 to 24,000 tons in 1980 and again fell in 1981 to 19,000 tons. In January–September 1982 imports amounted to 27,000 tons, compared to 7,000 tons for the same period of 1981. The ratio of these imports from Spain to apparent U.S. consumption fell from 0.5 percent in 1979 to 0.3 percent in 1981. In the first three quarters of 1982 the market share was to 0.6 percent compared to 0.1 percent for the like period of 1981.[118]

2. *Prices and Lost Sales.* Three lost sales allegations were checked and all three were confirmed, principally because of price. Confirmed lost sales covered 9.2 percent of the subject sales.

3. *Subsidy.* The size of subsidies found on the subject steel product ranged from 4.54 to 10.12 percent. Most sales benefitted from subsidies of 4.54 percent. The weighted average subsidy was 5.71 percent.

4. *Determination.* The tiny presence of imports of galvanized sheet from Spain in the United States market is simply not enough to cause or threaten material injury. Cumulation was not an issue in this case. Therefore, I found in the negative.

IV. Carbon Steel Structural Shapes

1. *Imports.* Imports rose from 96,000 tons in 1979 to 174,000 tons in 1980 and 236,000 tons in 1981. Imports in January–September 1982 amounted to 149,000 tons, 30 percent below the level for the same period of 1981. The ratio of these imports to apparent U.S. consumption rose from 1.0 percent to 4.1 percent in 1981. In the first three quarters of 1982 the market share was 4.5 percent compared to 4.6 percent for the like period of 1981.[119]

2. *Prices and Lost Sales.* Of 10 lost sales allegations checked, 7 were confirmed, principally because of price. Confirmed lost sales covered 0.2 percent of the subject sales.

3. *Subsidy.* The size of subsidies found on subject steel product ranged from 1.54 to 10.12 percent. The weighted average subsidy was 7.31 percent.

4. *Determination.* I have determined that subsidized imports of structural shapes from Spain are causing material injury to the domestic industry. The major considerations in my determination include the significance of the subsidies in maintaining the competitiveness of Spanish steel and the level of current penetration by these imports. Moreover Spain has been increasing the share of its total exports of this product to the United States. In 1979 12 percent of Spanish exports went to this country. In 1981 this figure was 18 percent. The EC is now considering a dumping action against Spanish wide flange beams.[120] Material injury to the U.S. industry has already taken place and further injury is imminent without a countervailing duty order.

On the question of the retroactive application of countervailing duties, unlike my colleagues, I have voted in the affirmative. The difference in our votes relates to a difference in interpretation of the facts on the record, rather than to a difference in legal interpretation. I find the jump in penetration of the U.S. market by imports from Spain during the period we are concerned with here (March–June, 1982) to be unusual. Quarterly data available show that for April–June 1982 Spanish penetration of the U.S. market was 5.9 percent. This is the highest penetration level recorded for that period in recent years. It also is a sharp increase from the previous quarter's level of 3.7 percent. I believe that such an increase is evidence of actions by importers to avoid the bond and the possibility of countervailing duties. Thus, an affirmative additional finding is warranted.

V. Hot-Rolled Carbon Steel Bar

1. *Imports.* Imports fell from 28,000 tons in 1979 to 24,000 tons in 1980, but then increased to 34,000 tons in 1981. Imports in January–September 1982 amounted to 18,000 tons, 31 percent below the level for the same period of 1981. The ratio of these imports to apparent U.S. consumption rose from 0.4 percent in 1979 to 0.7 percent in 1981. In the first three quarters of 1982 the market share rose to 0.8 percent compared to 0.7 percent for the like period of 1981.[121]

2. *Prices and Lost Sales.* One lost sale was alleged, but it could not be confirmed.

3. *Subsidy.* The size of subsidies found on the subject steel product ranged from 1.59 to 15.06 percent. The weighted average subsidy margin was 2.82 percent, but nearly all imports entered benefitted from subsidies of either 1.59 percent or 1.74 percent. One producer, Pedro Orbegozo y Cia. S.A., was continued by Commerce with no current subsidy margin.

4. *Determination.* My determination in this case was in the negative. Spanish exports to the United States and Spanish U.S. market penetration are both small. Nearly all Spanish imports benefit from only a small subsidy, ranging from 1.59 to 1.74 percent. These imports have no significance in the market place. The small subsidy is not sufficient to trigger increased import penetration by Spain. Therefore, I find no present injury and no "real and imminent" threat of injury to the domestic industry by these imports.[122]

VI. Cold-formed Carbon Steel Bar

1. *Imports.* Imports rose from 6,000 tons in 1979 to 17,000 tons in 1981. Imports in January–September 1982 amounted to 12,000 tons, the same level as for the same period of 1981. The ratio of these imports to apparent U.S. consumption rose from 0.3 percent in 1979 to 1.2 percent in 1981. In the first three quarters of 1982 the market share rose to 1.6 percent compared to 1.1 percent for the like period of 1981.[123]

2. *Prices and Lost Sales.* Of 11 lost sales allegations checked, 4 were confirmed, principally because of price. Confirmed lost sales covered 1.9 percent of the subject sales.

3. *Subsidy.* Virtually all the subject steel product benefitted from subsidies of 1.56 percent. One producer, Pedro

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[117] See my opinion in Certain Carbon Steel Products from Belgium *et al.* published in USITC Pub. No. 1316 (November 1982).

[118] Report at A–28, A–30.

[119] Report at A–28, A–30.

[120] Metal Bulletin, June 29, 1982.

[121] Report at A–29, A–31.

[122] In Certain Carbon Steel from Belgium *et al.* I voted affirmatively on imports of hot-rolled carbon steel bar from the U.K. In that case penetration of subsidized imports was higher and the level of subsidization was meaningful. Imports from Spain have not contributed to a hammering effect.

[123] Report at A–29, A–31.

Orbegozo y Cia, S.A., was continued by Commerce with no current subsidy.

4. *Determination.* I have found in the negative in this case. Spanish exports to the U.S. are small as is import penetration. The subsidies provided to the largest Spanish exporter amount to only 1.56 percent. These imports are not significant in the market and the subsidy level is not sufficient to distort trade patterns. Thus, there is neither present material injury nor a "real and imminent" threat of such injury as a result of subsidized imports from Spain.

By Order of the Commission.

Issued: December 21, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-218 Filed 1-4-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-104]

Certain Card Data Imprinters and Components Thereof; Termination of Investigation

AGENCY: International Trade Commission.

ACTIONS: Termination of investigation No. 337-TA-104 on the basis of a finding of no violation of section 337.

SUMMARY: Complainants AM International, Inc. and Bartizan Corp., moved on September 27, 1982, to terminate this investigation. On October 14, 1982, the presiding officer recommended that the motion be granted. On December 22, 1982, the Commission terminated Inv. No. 337-TA-104, based on a finding of no violation of section 337.

SUPPLEMENTARY INFORMATION: This investigation was conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain card data imprinters and components thereof. Notice of the institution of the investigation was published in the **Federal Register** of June 12, 1981 (46 F.R. 31094).

Copies of the Commission's Action and Order and all other non-confidential documents filed in connection with the investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-0523-0109.

By order of the Commission.

Issued: December 28, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-212 Filed 1-4-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-112]

Certain Cube Puzzles; Issuance of Exclusion Order

AGENCY: International Trade Commission.

ACTION: Issuance of exclusion order.

SUPPLEMENTARY INFORMATION: On December 15, 1982, the Commission determined with respect to the above-captioned investigation that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation of certain infringing cube puzzels into the United States, and in their sale, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States. The Commission determined that a general exclusion order pursuant to subsection (d) of section 337 is the most appropriate remedy for the violation found to exist, that the public interest factors enumerated in subsection (d) did not preclude the issuance of such an order, and that the amount of the bond under subsection (g) of section 337 would be 600 percent of the entered value of the articles concerned. The Commission's Action and Order and the Commission opinions in support thereof or dissenting therefrom where issued on December 29, 1982.

The notice instituting the investigation and defining its scope was published in the **Federal Register** on December 29, 1981 (46 FR 62964).

The Commission Action and Order, the Commission opinions, and all other nonconfidential documents on the record of the investigation are available for public inspection Monday through Friday during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0499.

By order of the Commission.

Issued: December 30, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-210 Filed 1-4-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-135]

Certain Direction-Reversing Musical Crib Toys; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: December 23, 1982.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-209 Filed 1-4-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-115]

Certain Power Woodworking Tools, Their Parts, Accessories and Special Purpose Tools; Termination of Six Respondents on the Basis of Settlement Agreements and Termination of the Investigation

AGENCY: International Trade Commission.

ACTIONS: Termination of investigation as to respondents King Feng Fu Machinery Works Co., Ltd., ABCA, Inc., Johnson Metal Industries Co., Ltd., Master Woodcraft and Hobby Machine Company, United States Metal Service, Inc., and Big Joe Industrial Corporation on the basis of settlement agreements. Termination of investigation as to respondents Tops Equipment and Tool Co., Ltd. ("Tops"), Herbert Clark and Associates ("Herbert Clark"), and Worcester Tool Factory Outlet ("Worchester Tool") on the basis of a finding of no violation of section 337. Termination of the investigation.

SUMMARY: Complainant Shopsmith, Inc. jointly moved with respondents King Feng Fu Machinery Works Co., Ltd. ("KFF"), ABCA, Inc. ("ABCA"), Johnson metal Industries Co., Ltd. ("Johnson Metal"), Master Woodcraft and Hobby Machine Company ("Master Woodcraft"), United States Metal Service, Inc. ("United Metals"), and Big Joe Industrial Corporation ("Big Joe") in several motions to terminate the investigation with regard to those respondents on the basis of written

settlement agreements. On August 2, 1982, the presiding officer recommended the joint motions be granted. A Federal Register notice was published on October 20, 1982 (47 FR 46774), seeking comments from interested members of the public. No comments adverse to termination were received. On December 20, 1982, the Commission granted the joint motion to terminate the investigation as to respondents KFF, ABCA, Johnson Metals, Master Woodcraft, United Metals, and Big Joe on the basis of settlement agreements.

The presiding officer recommended that respondents Tops, Herbert Clark, and Worcester Tool be terminated on the basis of a finding of no violation of section 337. The Commission on December 20, 1982, voted to terminate the aforementioned respondents from this investigation on the basis of a finding of no violation of section 337.

Inasmuch as no respondents remain, the Commission on December 20, 1982 terminated investigation No. 337-TA-115.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain power woodworking tools. Notice of the institution of the investigation was published in the Federal Register of January 28, 1982 (47 FR 4165).

Copies of the Commission's Action and Order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone: 202-523-0719.

By order of the Commission.

Issued: December 28, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-213 Filed 1-4-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-92 (Final)]

Stainless Steel Sheet and Strip From the Federal Republic of Germany

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from the Federal Republic of Germany of stainless steel sheet and strip, provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the Tariff Schedules of the United States Annotated, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-92 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in the case on or before March 1, 1983, and the Commission will make its final injury determination by April 8, 1983 (19 CFR 207.25).

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen A. Vastagh (202-523-0283), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On June 2, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly LTFV imports of stainless steel and strip from the Federal Republic of Germany. The preliminary investigation was instituted in response to a petition filed on April 26, 1982, by members of the Tool & Stainless Steel Industry Committee (since renamed: Specialty Steel Industry of the United States), and the United Steelworkers of America.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to §201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on February 15, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a joint hearing in connection with this investigation and with Inv. 731-TA-95 (Final), Stainless Steel and Strip from France, beginning at 10:00 a.m. on March 3, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 14, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on February 17, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 25, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not availale at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR

207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on March 11, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 11, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8.45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: December 28, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-210 Filed 1-4-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-95 (Final)]

Stainless Steel Sheet and Strip From France

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports from France of stainless steel sheet and strip, provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the Tariff Schedules of the Unites States Annotated, are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-95 (Final) under section 735(b) of the act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final dumping determination in the case on or before February 21, 1983, and the Commission will make its final injury determination by April 8, 1983 (19 CFR 207.25).

EFFECTIVE DATE: December 9, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen A. Vastagh (202-523-0283), Office of Investigations, U.S. International Trade Commisssion.

SUPPLEMENTARY INFORMATION:

Background.—On June 17, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of allegedly LTFV imports of stainless steel and strip from France. The preliminary investigation was instituted in response to a petition filed on May 10, 1982, by members of the Tool & Stainless Steel Industry Committee (since renamed: Specialty Steel Industry of the United States), and the United Steelworkers of America.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearnce, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are prties to the investigation, pursuant to a § 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on February 15, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a joint hearing in connection with this investigation and with Inv. 731-TA-92 (Final), Stainless Steel and Strip from the Federal Republic of Germany, beginning at 10:00 a.m. on March 3, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 14, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on February 17, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 25, 1983.

Testimony at the public hearing is governed by section 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be

limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on March 11, 1983.

Written submissions.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an apperance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 9, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All witten submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procudure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982 and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: December 28, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-211 Filed 1-4-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-176 Through 178 (Final)]

Hot Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod From Spain

Determinations

On the basis of the record [1] developed in investigations Nos. 701-TA-176 and 177 (Final), the Commission determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded [2] by reason of imports of the following products for which the Department of Commerce has made a final affirmative determination:

Hot-rolled stainless steel bar, provided for in item 606.90 of the Tariff Schedules of the United States (TSUS), (investigation No. 701-TA-176 (Final)); [3]

Cold-formed stainless steel bar, provided for in item 606.90 of the TUSU, (investigation No. 701-TA-177 (Final)).[3]

On the basis of the record, the Commission also determines that an industry in the United States is materially injured by reason of imports of the following product which has been found by the Department of Commerce to be subsidized by the Government of Spain:

Stainless steel wire rod, provided for in items 607.26 and 607.43 of the TSUS, (investigation No. 701-TA-178 (Final)).

Background

The Commission instituted these investigations effective September 9, 1982, following preliminary determinations by the United States Department of Commerce that there was a reasonable basis to believe or suspect that subsidies were being provided to the manufacturers, producers, or exporters of certain stainless steel products in Spain. On November 15, 1982, Commerce made affirmative final subsidy determinations on the products subject to these investigations (47 FR 51453).

Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on September 13, 1982 (47 FR 40732). The hearing was held in Washington, D.C., on November 16, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission voted on the investigations on December 15, 1982.

Views of the Commission

Introduction

The following constitute our views on the three final countervailing duty investigations involving stainless steel hot-rolled, bar, stainless steel cold-formed bar and stainless steel wire rod from Spain. First, we summarize the standards for our determinations. Second, we define the domestic industries against which the impact of the imports under investigation are to be assessed. We then examine the condition of the domestic industry and analyze the issue of causality.

Standards for Determination

Material injury is defined as "harm which is not inconsequential, immaterial, or unimportant." [4] In making a determination as to whether there is material injury by reason of the imports under investigation, the Commission is required to consider, among other factors: (1) The volume of imports; (2) the effect of imports on domestic prices for like products; and (3) the impact of imports on the domestic industry.[5]

In making a determination as to whether there is a threat of material injury by reason of the imports under investigation, the Commission considers, among other factors: (1) The rate of increase of subsidized imports into the U.S. market, (2) the capacity in the exporting country to generate exports, and (3) the availability of other export markets.[6] A finding of threat of material injury must be based on a showing that the likelihood of harm is real and imminent, and not on mere supposition, speculation, or conjecture.[7]

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Material retardation is not an issue in these investigations.

[3] Chairman Eckes dissenting.

[4] 19 U.S.C. 1677(7)(A).

[5] 19 U.S.C. 1677(7)(B).

[6] 19 CFR 207.26(d).

[7] S. Rep. No. 249, 96th Cong., 1st Sess. 88-89 (1979); S. Rep. No. 1298, 93d Cong., 2d Sess. 180 (1974); Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780, 790 (Ct. Int'l Trade 1981).

Domestic Industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." [8] Section 771(10) defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses" with the article under investigation." [9]

The imported articles under investigation are stanless steel hot-rolled bar, stainless steel cold-formed bar, and stainless steel wire rod. Each of these products is manufactured by domestic producers. The imports under investigation are like the domestically produced products of the same grade and specification. Therefore, the following discussion pertains to both the imported and domestic products.

Stainless steel bar [10] is a semifinished product that has numerous applications in the manufacture of such items as pump shafts, ball bearings, automotive parts, and medical instruments.[11] One major distinguishing characteristic of bar as shipped is that it is straightened and cut to length, as opposed to wire rod, which is shipped in coil form.

Hot-rolled stainless steel bar is produced from stainless steel billets in a rolling mill which reduces the steel to a specific diameter and size.[12] Hot-rolled bar is used for applications for which appearance and precise tolerances are not critical, or where further processing is intended.[13] The principal applications of hot-rolled bar are in the manufacture of turbines, electrical equipment, and industrial equipment.[14]

Cold-formed stainless steel bar is produced by subjecting hot rolled bar to an additional "cold working" process, either by "cold drawing",[15] or "cold finishing".[16] The object of the cold working process is to produce a thinner bar with closer tolerances. Cold-formed bars may also be subject to various operations to improve their surface, such as polishing. Because the cold working processes result in a bar with greatly superior surface and mechanical properties than the hot-rolled product,[17] cold-formed bar has applications for which hot-rolled bar would not be suitable, i.e., applications for which precise tolerances or appearance are important.[18] For example, cold-formed bars are used to make automobile valves and fittings, drive shafts, airplane landing gear, boat propeller shafts, water pumps and cutlery.[19]

Stainless steel wire rod is a semifinished, hot-rolled product that is round in cross section and measures between 0.02 inch and 0.74 inch in diameter. The distinguishing characteristic of rod is that it is a round, narrow-diameter hot-rolled product that is produced and purchased in large coils. Most rod is sold to converters or "redrawers" that draw the rod into wire or to manufacturers of fasteners.[20] Such purchasers have continuous operations which are most efficient when large coils of rod are used.

Petitioners argue that hot-rolled bar, cold-formed bar, and wire rod should be considered to be one like product because they can be and are generally rolled on the same equipment, and because they are to some extent substitutable.[21] The fact that all three products share production processes is not dispositive.[22] This factor is only relevant to the extent that it relates to the basic issue of characteristics and uses. Furthermore, although there may be some limited substitutability among these products, such instances are not sufficient to warrant a finding that these products collectively are "like." [23] [24]

Therefore, we find that hot-rolled bar, cold-formed bar and wire rod are three separate like products. Accordingly, we determine that there are three separate domestic industries consisting of the producers of each like product.

I. Hot-Rolled Stainless Steel Bar

Condition of the Domestic Industry

Apparent U.S. consumption of hot-rolled stainless steel bar declined by 11 percent between 1979 and 1981, and by 15 percent in the January-August 1982 period as compared to the corresponding period of 1981.[25] Domestic production declined by 14 percent between 1979 and 1981, and by 27 percent in the January-August 1982 period as compared with the corresponding period of 1981.[26] Domestic shipments followed a similar downward trend.[27] In addition, the ratio of end-of-period inventories to domestic shipments increased from 19.8 percent in 1979 to 24.7 percent in 1981, and to 34 percent in January-August 1982 as compared with 25 percent in the corresponding period of 1981.[28]

Utilization of hot-rolled bar capacity declined steadily, from 67 percent in 1979 to 58 percent in 1981, and to 45 percent in the January-August 1982 period as compared with 62 percent in the corresponding period of 1981.[29]

Employment also steadily declined. The average number of production and related workers producing hot-rolled bar declined 6 percent between 1979 and 1981, and fell 19 percent in the January-August 1982 period as compared with the corresponding period of 1981.[30] The number of hours paid—a more accurate indicator of loss of employment in an industry with reduced hours and furloughs—fell by 14 percent between 1979 and 1981, and by 27 percent during the January-August 1982 period as compared with the corresponding period of 1981.

Financial data indicate that sales and profits nevertheless increased slightly during the 1979–1981 period, and that the

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[8] 19 U.S.C. 1677(4)(A).

[9] 19 U.S.C. 1677(10).

[10] Bars are steel products not conforming to the specifications of other steel products and having cross sections in a variety of shapes, such as circles, rectangles, and triangles, for various end uses. For the full definition, see Report at A–5 and A–6.

[11] *Id.* at A–10.

[12] For a full description of the production process, *see id.* at A–6 and A–7.

[13] *Id.* at A–9 and A–10. (Table 2).

[14] *Id.* at A–9.

[15] Cold drawing is the process whereby a hot-rolled bar is forced through a die having an opening smaller than the entering material in order to reduce it to a required size. This is generally done to bars less than one inch in diameter. *The Making, Shaping and Treating of Steel,* 9th Ed., U.S. Steel (1971) at 607; Transcript of Preliminary Conference (Tr.) in Stainless Steel Hot-Rolled Bar, Cold-Formed Bar and Wire Rod from Brazil, Inv. Nos. 701–TA–179 through 181 (hereinafter *Brazil*) at 42.

[16] Bars of a diameter greater than one inch can only be cold reduced by turning (using a lathe) or by centerless grinding. The latter is similar to lath turning, but allows for achieving closer tolerances. *Making of Steel* at 802.

[17] *Making of Steel* at 933.

[18] *See, e.g.,* Tr. *Brazil* at 42.

[19] Report in *Brazil* at A–10, Tr. *Brazil* at 41–42.

[20] Report at A–10 (Table 4).

[21] Petitioners' Post-Conference Statement at 1.

[22] *See* General Counsel Memorandum GC–F–416 (Dec. 13, 1982, as revised Dec. 15, 1982) at 8–10.

[23] There is some overlap with respect to characteristics and uses between hot-rolled bar and rod to the extent that narrow gauge bar can be produced by uncoiling, cutting, and straightening rod. However, most rod as purchased is not converted into bar but is used in continuous manufacturing processes such as wire rod and fasteners. *See* Report at A–11 (Table 4).

[24] Because cold-formed bar is a refinement of hot-rolled bar, a purchaser that required cold-formed bar could purchase hot-rolled bar and cold-work it, provided that the purchaser had the necessary equipment. However, because of the higher cost of cold-formed bar, it would not be economical for a purchaser that only required hot-rolled bar to use cold-formed bar as a substitute. Furthermore, although service centers are able to cold-finish bars to some extent, a significant amount of cold-formed bar is accounted for by a firm that sells directly to end users. *See id.* at A–12. (Table 5).

[25] *Id.* at A–37 (Table 22).

[26] *Id.* at A–20 (Table 10).

[27] Shipments declined by 14 percent between 1979 and 1981, and by 28 percent in January-August 1982 compared with the corresponding period of 1981. *Id.* at A–21 and A–22.

[28] *Id.* at A–23 (Table 12).

[29] *Id.* at A–20 (Table 10).

[30] *Id.* at A–25 (Table 13).

ratio of operating profit to net sales was favorable. The ratio of operating profit to net sales increased slightly from 9.1 percent in 1979 to 9.6 percent in 1981.[31] However, all financial indicators fell substantially during the January-August 1982 period. During the period, the ratio of operating profit to net sales dropped to a negative 2.8 percent as compared with a positive 10.4 percent in the corresponding period of 1981.[32] In addition, the number of firms reporting operating and net losses increased substantially in January-August 1982 as compared with the corresponding period of 1981.[33]

Therefore, we find that the domestic industry is currently experiencing material injury.

ISSUE OF MATERIAL INJURY OR THREAT BY REASON OF IMPORTS

Views of Commissioner Paula Stern

I find that the domestic stainless steel hot-rolled bar industry is not materially injured or threatened with material injury by reason of imports from Spain.

Virtually all of the imports of stainless steel hot-rolled bar from Spain are not presently benefitting from subsidies.[34] [35] This case was continued by the Department of Commerce which stated that the key Spanish producer, Olarra S. A., could qualify for subsidies in the future [36] should its financial situation improve.

Since there are virtually no subsidized imports of stainless steel hot-rolled bars from Spain, I have determined in the negative on the question of present injury. The countervailing duty law is designed to remedy material injury or threat of material injury to a domestic industry caused by an unfair trading practice. Subsidization is unfair only if material injury or threat of material injury to a U.S. industry results. If there is no unfair practice, relief falls outside the logic of the law as there are no unfairly traded imports.[37]

As far as threat is concerned, the Commission cannot base its judgment on "conjecture" or "speculation;" the threat must be "real" and "imminent." [38] Nothing in the record supports such a judgment in this case. There is no indication on the record that Olarra's financial situation will improve, that it will, in fact, receive subsidies, or that these subsidies will be significant enough to affect the volume and price of imports and thus possibly materially injure the domestic industry.[39] Therefore, I have determined in the negative on the question of threat.

Some may view the Commission's vote in a case where the Department of Commerce has evaluated the subsidy at zero as merely academic, since no countervailing duties will be collected in any case. From a public policy point of view, the Commission's vote is significant. Affirmative Commission votes lead the public to believe that an unfair trade practice has taken place which has injured a domestic industry. Issuing affirmative findings when in fact there has been no unfair act or where subsidization has not resulted in material injury or threat thereof fosters a myopic public perception of the factors necessary to strengthen U.S. competitiveness.

Views of Commissioner Veronica Haggart

I find that the domestic hot-rolled bar industry is not being materially injured or threatened with material injury by reason of subsidized imports from Spain. As set forth more fully below, virtually none of the imports of hot-rolled bar from Spain are presently being subsidized.[40] Congress has instructed us that: "A domestic industry must be materially injured by reason of *subsidized* imports before a countervailing duty could be imposed" [41] (Emphasis added). Thus, even though I find that the domestic hot-rolled stainless steel bar industry is experiencing injury in 1982, the requisite causal nexus between the injury and subsidized imports from Spain is not present.

In its final determination, the Department of Commerce noted that Olarra S. A., which accounted for virtually all of the imports of hot-rolled bar from Spain in 1981,[42] had received some countervailable short-term loans before going into receivership in 1979, that it has not received any countervailable benefits since 1979, and that it is not presently benefitting from such loans. Thus, Commerce concluded: "We have determined that no subsidy is currently being provided to Olarra." [43] Therefore, for purposes of our injury determination, there can be no injury to the domestic industry by reason of subsidized imports.[44]

I have also concluded that a domestic industry is not threatened with material injury by reason of subsidized imports from Spain. *Sprague Electric Co. v. United States*, 488 F. Supp. 910 (Cust. Ct.), *as modified on reh'g*, 84 Cust. Ct. 260 (1980) has been cited as support for the proposition that non-subsidized imports which are included in an affirmative determination must be considered in the context of any analysis of threat of material injury. However, Sprague is distinguishable from the instant case in that it involved less than fair value imports and not subsidized imports. In a dumping case, section 735(a) of the statute provides that Commerce may determine whether merchandise "is being or *is likely to be*, sold in the U.S. at less than fair value" (Emphasis added). By contrast, in a countervailing duty case, section 705(a) of the statute directs only that Commerce is to determine whether or not "a subsidy *is* being provided" (Emphasis added). Assuming arguendo that it is appropriate to consider non-subsidized imports in a threat analysis in a countervailing duty case, under the facts of this case, there is no "real and

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[31] *Id.* at A–27.

[32] *Id.*

[33] *Id.*

[34] The exact figure is based upon confidential information received from the Department of Commerce. The data is for 1981, which is the best information available.

[35] 47 F.R. 51,459 (1982). An argument has been made that there is a distinction between these stainless steel bar cases and the recent cases involving carbon steel imports from the Federal Republic of Germany and Belgium, Inv. Nos. 701–TA–88 thru 144, 701–TA–146, and 147. See my views as incorporated in Carbon Steel Bar and Wire Rod from Brazil and Trinidad and Tobago, Inv. Nos. 731–TA–113 and 114 (Preliminary) USITC Pub. No. 1316 (November 1982) (hereinafter "Carbon Steel from Brazil and Tobago"). However, for the purpose of examining injury which is the sole responsibility of the ITC in this bifurcated process, there is no material distinction between a Commerce finding of a *de minimis* subsidy which it evaluates as zero and a finding that no subsidy has been provided.

[36] 47 FR 51,458 (1982).

[37] For detailed discussed of my views on causality, see my views in Certain Carbon Steel from Belgium, *et al.* as incorporated in Carbon Steel from Brazil and Tobago, *supra*, and my views in Certain Steel Products from Spain, Inv. Nos. 701–TA–115 thru 163 (Final) (December 1982).

[38] S. Rep. No. 249, 96th Cong., 1st Sess. 88–89 (1979); S. Rep. No. 1298, 93d Cong., 2d Sess. 180 (1974); Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780, 790 (Ct. Int'l Trade 1981).

[39] See General Counsel memorandum GC–F–418 (December 15, 1982).

[40] Only a minuscule amount of the imports of hot-rolled bar from Spain have been determined by Commerce to be subsidized. I have determined that the volume of these subsidized imports is too small to be a cause of material injury or threat thereof to the domestic industry.

[41] S. Rep. No. 249, 96th Cong., 1st Sess. 44 (1979).

[42] The exact percentage of imports attributable to Olarra is confidential.

[43] 47 FR 51,459 (1982). This language is different from the language used by Commerce in its final affirmative determination of *de minimis* subsidies in Certain Steel Products from Belgium, et al. In that determination, Commerce stated: "We have determined that a subsidy is being provided to P&S" 47 FR at 39,315 (1982). The identical statement was made with respect to the "affirmative *de minimis*" determination for Forges de Clabecq. 47 FR 39,355 (1982). Thus, in these earlier cases, unlike the instant investigation, Commerce did make an explicit finding that the imported products benefited from a subsidy.

imminent" threat of material injury by reason of the imports under investigation.

Commerce included Olarra in its final affirmative determination based upon the following grounds:

> We consider any benefits associated with pre-receivership privileged circuit working-capital loans to have been lost when the loans were incorporated into Olarra's receivership debt. However, Olarra received these benefits in the past and if its financial condition improves, Olarra could again qualify and obtain benefits from that program in the future. For that reason Olarra is not being excluded from the final determination in these investigations.[45]

Therefore, the Department's affirmative final determination appears to have been made on the basis that Olarra *might* receive countervailable benefits in the future should its financial condition improve. There is no basis in the record for concluding that Olarra is likely to receive subsidies or that Olarra's financial condition is likely to improve in the near future.[46] Thus, there is no "real and imminent" threat that imports from Olarra will benefit from subsidies.

Views of Chairman Alfred Eckes

I do not agree with my colleagues regarding the ramifications of including Olarra in the Department of Commerce's final affirmative determination.

In my view the Commission is required, as a matter of law, to base its analysis of material injury or threat thereof upon all the imports which were included within the scope of the final determination by Commerce. Section 705(b) provides "the Commission shall make a final determination [of material injury or threat thereof, or material retardation] *by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a)."* (Emphasis supplied).[47] The inclusion of all imports in the Commission's final determination reflects the bifurcated authority which Congress purposely vested in the Department of Commerce, as the administering authority, and the Commission.

In a countervailing duty investigation, the Commerce Department determines whether the imports subject to investigation are subsidized within the meaning of the countervailing duty laws and, if so, calculated the net subsidy. The net subsidy calculation becomes the basis for a tax assessed as a countervailing duty on the subject imports. The Commission, in turn, determines whether or not imports covered by that affirmative determination are causing material injury to domestic producers. In essence, the Department's affirmative determination designates for the Commission those imports which we must determine are, or are not, causing material injury or threat thereof. Therefore, regardless of the merits of any Commerce determination, I do not believe that the Commission can or should look behind it.

This issue was squarely addressed and resolved in *Sprague Electric Co. v. United States.*[48] *In Sprague* the Customs Court remanded an antidumping case to the Commission because, among other reasons, some Commissioners declined to make a threat of injury analysis with respect to imports for which the Department of Commerce had found no less-than-fair-value margins. The court based its determination in *Sprague* on the explicit bifurcation of authority between the administering authority[49] and the Commission, and held that the Commission did not have the authority to effectively exclude from its injury determination imports which the administering authority included in its determination.

The *Sprague* case involved an appeal of the Commission's negative determination in an antidumping investigation concerning *Tantalum Electrolytic Fixed Capacitors from Japan,* investigation No. AA1921–159. In that investigation, the administering authority had not calculated any margins of less-than-fair-value sales on certain capacitors manufactured by Nippon Electric Company. Imports of these same capacitors, however, were included in the affirmative determination of sales made at less-than-fair-value. On the basis of the absence of less-than-fair-value margins for capacitors manufactured by Nippon Electric Co., the Commission (former Commissioner Parker dissenting) did not consider those imports in its injury analysis. The reviewing court remanded the case to the Commission with instructions, inter alia, to include the imports of Nippon Electric Co. capacitors in its analysis. In fact, the court expressly adopted what it characterized as the "cogent" analysis of the dissenting Commissioner that the Commission had no authority to sever or eliminate imports from the less-than-fair-value determination of the administering authority, that this determination "is binding upon the Commission as a matter of law; and "that [the] Commission has no authority to refine or modify the class or kind or merchandise found to be, or likely to be sold at LTFV." [50]

The argument can be made that the holding in the *Sprague* case is distinguishable from the present investigation because it was an antidumping investigation and the plain language of the statutory standard for the administering authority's final determination of dumping is different than that in a countervailing duty investigation. I read the holding in *Sprague* as going to the more basic recognition of bifurcated authority which is as appropriate in a countervailing duty investigation as in an antidumping investigation. Even assuming, arguendo, that the Department of Commerce exceeded its statutory authority by including Olarra in its final affirmative determination, it is clearly an issue for the courts, not the Commission to determine.[51] No artful distinctions can disguise the fact that the colleagues based their determinations upon an examination of less than all of the imports included in the Commerce Department's final

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[44] The basis for my negative determination in this case is distinguishable from the issue of whether the Commission is required to establish a causal link between the net subsidy determined by Commerce and any injury to the domestic industry. For my views on the latter subject, see Certain Steel Products from Spain, Inv. 701–TA–155 thru 163 (Final) (December 1982). The basis for my decision in the instant investigation is the finding of no subsidy by the Department of Commerce. The purpose of the countervailing duty statute is to offset the advantage bestowed on the imported product by any subsidy while still permitting imports of subsidized merchandise into the market. If, as in this case, no subsidy is being provided, there is no statutory basis for any affirmative determination.

[45] 47 FR 51,458 (1982).

[46] *See* General Counsel memorandum GC–F–418 (December 15, 1982).

[47] As a practical matter, imports from Olarra, and therefore virtually all of the hot-rolled bar imports under investigation, have a zero net subsidy, and therefore will not have a countervailing duty assessed against them as long as the net subsidy rate remains at zero. Thus any concern that an affirmative vote by the Commission would be contrary to the basic purpose of the Act, which is limited to offsetting the benefits of subsidization enjoyed by unfairly traded imports, is not warranted.

[48] 488 F. Supp. 910 (Cust. Ct.), *as modified on reh'g,* 84 Cust. Ct. 280 (1980).

[49] In *Sprague,* the administering authority was the Department of the Treasury. Although the investigation conducted by the Commission was authorized by the Antidumping Act of 1921, the same relationship between the administering authority and the Commission exists in the antidumping and countervailing duty provisions of Title VII of the Tariff Act as in the 1921 Act.

[50] 84 Cust. Ct. at 280, 282.

[51] The Department of Commerce's determination has, in fact, been challenged on appeal, not because Olarra was included, but because of the Department's determination that although the producer received subsidies in the past, it is not presently benefitting from subsidies. The zero net subsidy calculation was based upon this determination.

affirmative determination. In my view, such an approach is clearly wrong.

Nor can *Sprague* be distinguished by construing it narrowly to hold that the Commission cannot simply ignore imports which the administering authority includes in its final determination, but that the Commission is nevertheless free to reject certain of these imports providing that it gives them perfunctory recognition. Such a construction of the holding results in a distinction without a difference. It is contrary to the Court's recognition of the fundamental bifurcation of statutory functions which underlies the *Sprague* decision. Accordingly, I have made my analysis on the basis of all imports included in the Department of Commerce's final determination.

While the market share of domestic producers declined substantially to 77 percent in the January-August 1982 period as compared with 89 percent in the corresponding period of 1981, imports of hot-rolled bar from Spain increased in both absolute and relative terms. In 1981, imports from Spain totalled 766 tons. In the January-August 1982 period, imports from Spain almost tripled, to 690 tons as compared with 233 tons in the corresponding period of 1981. Similarly, whereas the ratio of imports from Spain to apparent domestic consumption was 1.6 percent in 1981, in the January-August 1982 period it increased to 2.5 percent as compared with the corresponding period of 1981.

Imports from Spain are also a significant and increasing share of total hot-rolled bar imports. In 1981, imports from Spain accounted for 10.1 percent of total hot-rolled bar imports. In January-August 1982 the percentage increased to 11.2 percent as compared with 6.7 percent in the corresponding period of 1981.

In addition, imports of hot-rolled bar from Spain have undersold the domestic product by margins of underselling ranging from 29 to 45 percent for one product, and from 21 to 36 percent for another product. This underselling has resulted in both lost sales [58] and price suppression.[59]

Therefore, I find that the domestic stainless steel hot-rolled bar industry is materially injured by reason of the imports of hot-rolled stainless steel bar from Spain that were included in the Department of Commerce's final investigation.

II. Cold-Formed Stainless Steel Bar

Condition of the Domestic Industry

Apparent domestic consumption of cold-formed bar decreased by 11 percent between 1979 and 1981, and by 11 percent in the January–August 1982 period as compared to the corresponding period of 1981.[54] Domestic production of cold-formed bar declined by 19 percent between 1979 and 1981.[55] Domestic shipments also declined by 18 percent during this period,[56] with end-of-period inventories increasing from a level equivalent to 26 percent of shipments in 1979 to 40 percent in 1981.[57] In the January–August 1982 period, the situation grew worse. Production declined by 24 percent, and shipments declined by 26 percent. The ratio of inventories to shipments increased to 46 percent compared to 36 percent in the corresponding period of 1981.

Utilization of cold-formed capacity also declined steadily from 84 percent in 1979 to 68 percent in 1981, then fell to 49 percent in the January–August 1982 period as compared with 65 percent in the corresponding period of 1981.[58]

Employment also declined steadily. The average number of production and related workers producing cold-formed bar decreased by 14 percent between 1979 and 1981, and by 15 percent in the January–August 1982 period as compared with the corresponding period of 1981.[59] Similarly, the number of hours paid fell by 21 percent between 1979 and 1981, and by 22 percent in the January–August 1982 period as compared with the corresponding period of 1981.

The ratio of operating profit to net sales increased slightly during this period, from 9.3 percent in 1979 to 10.5 percent in 1981.[60] In the January–August 1982 period, sales, cash flow, the ratio of operating profit to net sales, and other profit margins all fell sharply compared with the indicators for the corresponding period of 1981.[61] For example, in the January–August 1982 period, the ratio of operating profit to net sales declined to a negative 1.6 percent as compared with a positive 10.8 percent in the corresponding period of 1981.[62]

In the January–August 1982 period, five domestic producers reported both operating and net losses compared with only three in the corresponding period of 1981.[63] These financial developments in 1982 demonstrate that the industry is currently experiencing material injury.

ISSUE OF MATERIAL INJURY OR THREAT BY REASON OF IMPORTS FROM SPAIN

Views of Commissioner Paula Stern

A very substantial percentage [64] of imports of stainless steel cold-formed bar from Spain are produced and exported by Olarra, S.A. The Department of Commerce has determined that imports accounted for by Olarra are not presently benefitting from subsidies.[65] Therefore, only a small amount of the imports under investigation are currently subsidized and thus meet the threshold causation test for a determination of material injury or threat thereof.[66]

The small volume of subsidized imports of stainless steel cold-formed bar from Spain [67] is not significant enough to cause or threaten material injury to the domestic industry. Therefore, I found in the negative in this case.

I also note that the subsidized imports benefit from only a small subsidy, while the available information on margins of underselling shows that imports from Spain have been priced substantially below the domestic product.[68] Thus, it is unlikely that the Spanish subsidies have any effect whatsoever on the performance of imports from Spain in the U.S. market.

There is no information on the record which indicates that increases in subsidies, either on an individual producer basis or on a weighted-average product-line basis are "real and imminent." In fact, the information we

[58] Report at A–55.
[59] *Id.* at A–56.
[54] Report at A–36 (Table 23).
[55] *Id.* at A–20 (Table 10).
[56] *Id.* at A–22 (Table 11).
[57] *Id.* at A–23 (Table 12).
[58] *Id. at A–20 (Table 10).*
[59] *Id.* at A–26 (Table 14).
[60] *Id.* at A–28 (Table 16).
[61] *Id.*
[62] *Id.*
[63] *Id.*
[64] The exact figure is based upon confidential information received from the Department of Commerce. The data is for 1981, which is the best information available.
[65] 47 FR 51,459 (1982).
[66] See the preceding discussion on stainless steel hot-rolled bar imports as well as my views on causation in Certain Carbon Steel from Belgium, et al., as incorporated in Carbon Steel Bar and Wire Rod from Brazil and Trinidad and Tobago, Inv. Nos. 731–TA–113 and 114 (Preliminary) USITC Pub. No. 1316 (November 1982) and my views in Certain Steel Products from Spain, Inv. Nos. 701–TA–155 thru 163 (Final) (December 1982).
[67] Some may argue that I have not examined all the imports subject to these bar investigations. This view appears to reflect a difference in opinion on the factors necessary to demonstrate a causal nexus between the imports under investigation and any material injury the domestic industry is or is likely to experience. Given my views on causality, as discussed above and in prior opinions, it should be clear that I examined all the imports, but nevertheless found no causal relationship between the imports subject to the investigation and material injury or threat of injury. I judge that such a causal nexus is required by the statute.
[68] Underselling data is only available based on imports from Olarra. Assuming other Spanish exporters are competitive with Olarra, the above statement is valid. This calculation was not the basis for, but simply reinforced my negative finding.

do have indicates that it is not likely that Olarra, the predominant exporter of bar, will receive or will be eligible to receive countervailable "privileged circuit loans" in the foreseeable future. Furthermore, there is no information on the record indicating that other producers have or will obtain additional countervailable benefits. There is no reason to believe that Olarra's imports will not continue to dominate exports of cold-formed bar to the United States. Therefore, I found in the negative on the question of threat of material injury.

Views of Commissioner Veronica Haggart

As with hot-rolled bar, I have determined that a domestic industry is not being materially injured or threatened with material injury by reason of subsidized imports of cold-formed bar from Spain. More than two-thirds of the imports from Spain are attributable to Olarra, which has been determined by Commerce not to be currently receiving subsidies.[69] In order for an affirmative determination to be made, injury must be by reason of imports which have been determined by Commerce to be subsidized.[70] With respect to the remainder of the cold-formed bar imports, which have been found to be subsidized, the information on the record is insufficient to establish a causal nexus with the injury being experienced by the domestic industry.

Information in the record regarding instances of confirmed price underselling by the Spanish product and confirmed lost sales to the Spanish product is attributable to non-subsidized imports. Therefore, there is no basis for finding that subsidized imports from Spain are a cause of material injury to the domestic industry.

Furthermore, based on the information on the record, there is no threat of material injury by reason of subsidized imports from Spain. As noted with respect to hot-rolled bar, there is no real and imminent threat by reason of imports from Olarra.[71]

Regarding imports from the other Spanish producers, which were found by Commerce to be receiving subsidies, there is no information on the record from which one could conclude that there is a real and imminent threat of an increase in such imports into the U.S. market or of an increase in the capacity of these Spanish producers. Additionally, the availability of other export markets has not been sharply restricted in recent periods.[72]

Views of Chairman Alfred Eckes

As fully explained in my views in the hot-rolled bar investigation, I determine, pursuant to section 705(b) of the Act, that a domestic industry has been materially injured by reason of the imports from Spain which the administering authority has included in its final affirmative determination.

Imports of cold-formed bar from Spain totalled 6,010 tons in 1981.[73] Imports for the January-August 1982 period decreased slightly to 3,730 tons as compared with 4,068 in the corresponding period of 1981.[74] However, the ratio of cold-formed bar imports from Spain to apparent domestic consumption has increased to 5.4 percent in the January-August 1982 period as compared with 5.3 percent in the corresponding period of 1981.[75]

Furthermore, pricing information indicates that Spanish stainless cold-formed bar from Spain has generally undersold the domestic product by substantial margins. Margins of underselling for sales to service centers was mixed. Imports of one product actually oversold the domestic product by 9.4 percent.[76] Imports of the other product undersold the domestic products by margins ranging from 29.2 to 36.7 percent.[77] However margins of underselling to end users were consistently large, ranging from 8.4 percent to 19.8 percent for one product and from 26.4 to 42 percent for the other.[78] In addition, we have confirmed that such underselling has caused price suppression of the domestic product.[79] Therefore, I find that the domestic cold-formed stainless steel bar industry is being materially injured by reason of imports of cold-formed stainless steel bar from Spain.

III. Stainless Steel Wire Rod

Condition of the Domestic Industry

The condition of the domestic stainless steel wire rod industry has declined significantly.[80] Between 1979 and 1981, apparent U.S. consumption of wire rod decreased slightly. In the January-August 1982 period, it decreased by 9 percent as compared to the corresponding period of 1981.[81] Domestic production of wire rod dropped by 18 percent between 1979 and 1981, and by 34 percent in the January-August 1982 period as compared to the corresponding period of 1981.[82] In addition, the ratio of inventories to shipments increased from 9.4 percent in 1979 to 14.9 to 14.8 percent in 1981 and to 17.4 percent in the January-August 1982 period as compared to 15.1 percent in the corresponding period of 1981.[83]

Utilization of wire rod capacity also declined steadily, from 72.4 percent in 1979 to 59.7 percent in 1981, and to 48.5 percent in the January-August 1982 period as compared with 73.3 percent in the corresponding period of 1981.[84]

Employment also declined sharply. The average number of production and related workers producing wire rod declined by 7 percent between 1979 and 1981, and fell by 25 percent in the January-August 1982 period as compared to the corresponding period of 1981.[85] The number of hours paid dropped by 14 percent between 1979 and 1981, and by 25 percent during the January-August 1982 period as compared with the corresponding period of 1981.[86]

In contrast to the hot-rolled bar and cold-formed bar industries, the wire rod industry as a whole has shown signs of substantial weakening of profitability during the period under investigation.[87] Sales declined by 18 percent between 1979 and 1981. Operating profit plunged from $4.8 million in 1979 to a loss of $1.4 million in 1981. A net profit of $4.3 million in 1979 fell to a loss of $454,000 in 1980 and to $2.2 million in 1981. In the same period, the ratio of operating profit to net sales dropped from 6.6 percent in 1979, to a negative 2.3 percent in 1981.

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[69] 45 FR 51.459 (1982). See the discussion of this matter in my views on Hot-Rolled Stainless Steel Bar, *supra*, pp. 12–13.

[70] As with hot-rolled bar, the basis for my negative determination in this case is distinguishable from the issue of whether the Commission is required to establish a causal link between the net subsidy determined by Commerce and any injury to the domestic industry. See the discussion of this matter in my views on Hot-Rolled Stainless Steel Bar, *supra* pp. 12, 13 & note 5.

[71] See the discussion of this matter in my views on Hot-Rolled Stainless Steel Bar, supra pp. 13–14 & note 6.

[72] Petitioners argue that a bilateral agreement between the EC and Spain limiting Spanish exports of steel products to the EC will cause greater exports by Spain to the U.S. This pact places a limit in terms of tons of steel on all steel products combined. No limitation is placed on stainless steel products alone. Therefore, the effect of this limitation on stainless steel products specifically is a matter of conjecture.

[73] Report at A–16 (Table 8).

[74] *Id.*

[75] *Id.* at A–38.

[76] *Id.* A–50 and A–51.

[77] *Id.*

[78] *Id.*

[79] *Id.* at A–55.

[80] Stainless steel wire rod from Spain was first imported into the United States in 1980.

[81] Report at A–39 (Table 24).

[82] *Id.* at A–20 (Table 10).

[83] *Id.* at A–23 (Table 12).

[84] *Id.* at A–20 (Table 10).

[85] *Id.* at A–25 (Table 13).

[86] *Id.*

[87] Our discussion of financial data is based on information contained in the Report at A–30. (Table 17).

This negative trend substantially worsened during the January-August 1982 period. Sales fell by 35 percent in the January-August 1982 period as compared with the corresponding period of 1981. Operating losses increased to $4.2 million as compared with $108,000 in the corresponding period of 1981. Net losses followed a similar trend. The ratio of operating loss to net sales increased to 17.3 percent in the January-August 1982 period as compared with 0.3 percent in the corresponding period of 1981. Furthermore, three domestic producers of wire rod reported operating and net losses in 1981, and four reported both operating and net losses in the January-August 1982 period. Therefore, we find that the stainless steel wire rod industry is experiencing material injury.

Material Injury By Reason of Imports From Spain

While the share of the domestic stainless steel wire rod market held by the domestic industry decreased from 57.5 percent in 1980, to 51 percent in 1981, and to 44 percent in the January-August 1982 period as compared with 55 percent in the corresponding period of 1981,[88] imports of stainless steel wire rod from Spain have increased both in absolute and relative terms.

Imports of stainless steel wire rod from Spain increased from zero tons in 1979 to 1,674 tons in 1980 and 2,763 tons in 1981. Imports for the January-August 1982 period increased to 1,809 tons as compared with 1,520 tons for the corresponding period in 1981.[89]

The ratio of Spanish wire rod imports to apparent domestic consumption has also increased from 3.3 percent in 1980 to 5.4 percent in 1981, and to 6.2 percent in the January-August 1982 period as compared with 4.8 percent in the corresponding period of 1981.[90]

Furthermore, imported wire rod from Spain has undersold the domestic product by significant margins during the 1981–1982 period.[91] [92] The margins of underselling for sales of one product to service center distributors ranged from 1.7 to 18.5 percent in 1981, and from 0.2 to 8.6 percent in the January-August 1982 period. Non-confidential pricing data regarding sales of the same product to end-users indicate margins of underselling ranging from 1.7 percent to 7.1 percent in the January-August 1981 period only. In addition, confidential pricing data indicate that the imported product from Spain steadily undersold the product of one major domestic producer by sizable margins through 1981 and January-February 1982.[93] Also, we have verified that the lower priced wire rod from Spain has caused domestic producers to lower their prices in order to win a sale over competing imports from Spain.[94]

Given the condition of the domestic industry, the existence of underselling, and the increasing market share of imports of wire rod from Spain, we determine that the domestic industry is materially injured by reason of imports of stainless steel wire rod from Spain.

By order of the Commission.

Issued: December 22, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-217 Filed 1-4-83; 8:45 am]

BILLING CODE 7020-02-M

[88] Report at A-39 (Table 24).

[89] *Id.* at A-17 (Table 9).

[90] *Id.* at A-39 (Table 24).

[91] Six out of eight purchasers that responded to the Commission's questionnaire stated that they had not paid a higher price for the domestic product due to non-price factors such as quality and availability. See *Id.* at A-54. One indicated that it had paid a higher price for quality. Another paid a higher price because of availability.

[92] Commissioner Stern notes that in many quarters the net subsidy either accounted for all or a substantial portion of the margins of underselling.

[93] *Id.* at A-53 (Table 32).

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278 or Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
[illegible]	Southern Pacific Transportation Co., ICC-SP-C-0024, Supplements 4 and 5, (Soda ash)	2	12-28-82
531	Providence and Worcester Railroad Co., ICC-PW-C-0004, (Animal meal)	1	12-28-82
[illegible]	Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC-MILW-0276, (Wheat)	2	12-28-82
[illegible]	The Baltimore and Ohio Railroad Co., ICC-BO-C-0076, Supplement 2, (Sand)	2	12-28-82
534	The Baltimore and Ohio Railroad Co., ICC-BO-C-0096, (Coal)	1	12-28-82
535	Burlington Northern Railroad Co., ICC-BN-C-0232, (Grain and grain products)	2	12-28-82
[illegible]	Southern Pacific Transportation Co., ICC-SP-C-0293, (Grain sorghum or corn)	2	12-28-82
537	Consolidated Rail Corp., ICC-CR-C-0237, (Coke)	1	12-28-82
538	Seaboard Coast Line Railroad Co., ICC-SCL-C-0064, (Kaolin and water mixed)	2	12-28-82
[illegible]	Southern Pacific Transportation Co., ICC-SP-C-0301, (Vegetable oil), ICC-SP-C-0302, (Paste, tomato), ICC-SP-C-0303, (Canned or preserved foodstuffs)	3	12-28-82
[illegible]	Louisville and Nashville Railroad Co., ICC-LN-C-0072, (Cast iron pressure pipe and related fittings)	1	12-28-82
541	Consolidated Rail Corp., ICC-CR-C-0272, (Finished vehicles)	1	12-28-82
542	Consolidated Rail Corp., ICC-CR-C-0264, (Motor vehicles on-tri-level cars and empty tri-level cars)	1	12-28-82
[illegible]	Consolidated Rail Corp., ICC-CR-C-0220, 0251, 0255, 0252 & 0265, (All commodities with exceptions)	2	12-28-82

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Fortier not participating.
Review Board No. 2, Members Carleton, Williams, and Ewing of the
Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

49 U.S.C. 10505)

James H. Bayne,

Acting Secretary.

[FR Doc. 83-66 Filed 1-4-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-

only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it it fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note: All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–242

Decided: December 28, 1982.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 85401 (Sub-4), filed December 17, 1982. Applicant: BELLINGHAM SUMAS STAGES, INC., P.O. Box 648, Sumner, WA 98390. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206)–228–3807. Transporting *passengers*, in charter and special operations between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 109780 (Sub-81), filed December 10, 1982. Applicant: TRAILWAYS, INC., 1500 Jackson Street, Dallas, TX 75201. Representative: Rebecca Patton (same address as applicant), (214) 655–7796. *Over regular routes*, transporting *passengers*, between Dewey, AZ, and junction AZ Hwy 169 and Interstate Hwy 17, over AZ Hwy 169, serving all intermediate points.

Note:—Applicant intends to tack the sought rights to its existing authority. Applicant seeks to serve a community not regularly served by an ICC-authorized motor common carrier of passengers.

MC 115891 (Sub-5), filed December 13, 1982. Applicant: INTER-COUNTY MOTOR COACH, INC., 243 Deer Park Ave., Babylon, NY 11702. Representative: Edward L. Nehez, P.O. Box Y, 7 Becker Farm Rd., Roseland, NJ 07068, (201) 992–2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note:—Applicant seeks to provide privately funded charter and special transportation.

MC 141460 (Sub-6), filed December 17, 1982. Applicant: THE GRAY LINE TOURS COMPANY, 1207 W. Third St., Los Angeles, CA 90017. Representative: Warren N. Grossman, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017, (213) 627–8471. Transporting *passengers* in special and charter operations, between points in the U.S.

Note:—Applicant seeks to provide privately-funded special and charter transportation.

MC 144820 (Sub-1), filed December 16, 1982. Applicant: EXECUTIVE COACH, INC., 207 Willow Valley Square, Lancaster, PA 17602. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA, NY, NJ, DE, MD, VA, WV, OH, and DC, and extending to points in the U.S.

Note:—Applicant seeks to provide privately funded charter and special transportation.

MC 144630 (Sub-68), filed December 20, 1982. Applicant: STOOPS EXPRESS, INC., P.O. Box 287, Anderson, IN 46015. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 150691 (Sub-1), filed December 17, 1982. Applicant: CHARLES BURKE LEASING, INC., d.b.a. BURKE CHARTERS, P.O. Box 715, Maiden, NC 28650. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting *passengers* in charter and special operations, beginning and ending at points in NC and SC, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159120 (Sub-1), filed November 30, 1982. Applicant: JOSEPHINE

AVVISATO, d.b.a. JO JO'S TRAVELERS, 1146 Bennett St., Old Forge, PA 18518. Representative: Josephine Avvisato (same address as applicant), (717)–457–7716. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA, NJ and NY, and extending to points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165010, filed December 3, 1982. Applicant: GRANDEUR TOURS, INC., 1914 South "U" St., Fort Smith, AR 72901. Representative: Randy A. Eubanks (same address as applicant), (501) 782–9535. Transporting *passengers* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165131, filed December 17, 1982. Applicant: STEVEN CIANCIOTTA, d.b.a. J & S TRUCKING & LEASING CO., 65 Virginia Ave., Lake Ronkonkoma, NY 11779. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165171, filed December 13, 1982. Applicant: JDS BROKERAGE CO., P.O. Box 567, Sioux City, IA 51102. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA 51101, (712)–277–1434. As a *broker* of *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 165200, filed December 14, 1982. Applicant: MORRIS DEAN ACKER d.b.a. DEAN ACKER TRUCKING, POB 1233, Pecos, TX 79772. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805)–872–1106. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165231, filed December 16, 1982. Applicant: TERRY THOMPSON, 9102 W. Thompson Rd., Woodstock, IL 60098. Representative: Terry Thompson (same address as applicant), (815)–338–5408. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165240, filed December 16, 1982. Applicant: JAMES S. PATTERSON, d.b.a. LAS VEGAS TOURS, 4152 West 135th Street, Hawthorne, CA 90250. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165270, filed December 20, 1982. Applicant: CONTENTINENTAL FORWARDING CO., INC, P.O. Box 81222 AMF, Cleveland, OH 44181. Representative: John D. Cioffi (same address as applicant), (216) 243–7100. As a *broker* of *general commodities* (except household goods) between points in the U.S.

For the following, please direct status calls to Team 2 (202) 275–7030.

Volume No. OP2–002

Decided: December 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 114093 (Sub-2), filed December 9, 1982. Applicant: LAKELAND BUS LINES, INC., 2929 23rd Place, N. Chicago, IL 60064. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, 212–239–4610 Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 136393 (Sub-13), filed December 13, 1982. Applicant: NY., NJ., CONN., FREIGHT & MESSENGER CORP., 351 West 38th St., New York, NY 10018. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, 212–239–4610. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions, between points in the U.S. (except AK and HI).

MC 159323 (Sub-1), filed December 14, 1982. Applicant: CITIZENS BUS LINES, INC., P.O. Box 1504, 72 By-pass West, Greenwood, SC 29648. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *passengers*, in special and charter operations, beginning and ending at points in GA and SC, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 160453 (Sub-1), filed December 13, 1982. Applicant: SCHROCK, INC., Broderick St., Berlin, PA 15530. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, 412–281–9494. Transporting *passengers*, in special and charter operations, beginning and ending at points in PA, MD, and WV, and extending to points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165113, filed December 9, 1982. Applicant: GLENNES HAYES, JR. d.b.a. G & L HAYES, 624 North Ryan, Oapopka, FL 32703. Representative: Glennes Hayes, Jr. (same address as applicant), (305) 886–5581. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165173, filed December 8, 1982. Applicant: WILLIAM H. HANDY, d.b.a. HANDY'S CHARTER SERVICE, 1915 Spring Hill Rd., Salisbury, MD 21801. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 217–544–5468. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165182, Filed December 13, 1982. Applicant: MONTAUK BUS COMPANY, INC., P.O. Box 261, Hampton Bays, NY 11946. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165212, Filed December 15, 1982. Applicant: SMITH BUS COMPANY, Route 7, Box 314, Annapolis, MD 21403. Representative: Joseph Smith, (same as applicant), (301) 268–5240. Transporting

passengers, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165243, filed December 16, 1982. Applicant: FREE STATE BUS LINES, INC., 12906 Old Chapel Rd., Bowie, MD 20715. Representative: John M. Ballenger, 123 South Royal St., Alexandria, VA 22314, 703–683–6304. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP2–003

Decided: December 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 102623, (Sub-5), filed December 10, 1982. Applicant: LEE LINE, INC., 714 Bench St., Red Wing, MN 55066. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *passengers*, in charter and special operations, beginning and ending at points in ND, SD, MN, WI, IA, IL, IN and OH, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 145992 (Sub-5), filed December 6, 1982. Applicant: FUNBUS SYSTEMS, INC., 304 Katella Way, Anaheim, CA 92802. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745). Transporting *passengers*, in charter and special transportation, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148282 (Sub-1), filed December 13, 1982. Applicant: SOUTH CENTRAL COACHES, INC., 910 Weston Ave., St. James, MN 56081. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *passengers*, in charter and special operations, beginning and ending at points in MN, IA, SD, ND, WI, MO, OK, TX, AR, LA, and IL, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

MC 155643, filed December 13, 1982. Applicant: TRANSPORT LIMOUSINE OF LONG ISLAND, INC., 1600 Locust Ave., Bohemia, NY 11716. Representative: James Robert Evans, 145 West Wisconsin Ave., Neenah, WI 54956, 414–722–2848. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164992, filed December 3, 1982. Applicant: CHESAPEAKE MOTOR COACH, INC., 12 W. Montgomery St., Baltimore, MD 21230. Representative: Mark Pestronk, 805 King St., Box 1417 A–40, Alexandria, VA 22313, (703) 549–8666. Transporting *passengers*, in charter and special operations, beginning and ending at DC and points in MD, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165082, filed December 7, 1982. Applicant: ANTHONY SCIACOVELLI d.b.a., AMERICAN TRANSPORTATION SERVICES, 112 Decker Avenue, Staten Island, NY 10303. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173, (212) 755–0500. Transporting *passengers* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP2–006

Decided: December 27, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 165072, filed December 7, 1982. Applicant: TARANTO BUS CORP., 4 Seventh St., Englewood Cliffs, NJ 07632. Representative: Ronald L. Shapss; 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165103, filed December 9, 1982. Applicant: JAMES L. CRAFT, d.b.a., SENIOR TRANSPORTATION, 3011 San Luis, Richmond, CA 94804. Representative: James L. Craft, (same address as applicant), 415–222–5562. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165233, filed December 16, 1982. Applicant: WORLD'S FAIR TOURS BY ROGER Q, INC., d.b.a., ROGER Q TRANSPORTATION, 6721 Albunda Drive, Knoxville, TN 37919. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, (201) 322–5030. Transporting *passengers*, in special and charter operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165262, filed December 17, 1982. Applicant: THE NEW MACEDONIA BAPTIST CHURCH, 4200 Massachusetts Ave., SE, Washington, DC 20019. Representative: Thomas Ferguson (same address as applicant), (202) 583–5555. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165263, filed December 20, 1982. Applicant: TOWNE BUS CORP., 42 E Carl St., Hicksville, NY 11801. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–005

Decided: December 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 3217 (Sub-5), filed December 21, 1982. Applicant: SCENIC STAGE LINE, INC., 606 Portland Ave., Morrison, IL 61270. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks privately-funded charter and special transportation.

MC 165246, filed December 17, 1982. Applicant: EMERALD EMPIRE TRANSPORTATION SYSTEM, INC., 9000 W. Washington Blvd., Culver City, CA 90230. Representative: Warren N. Grossman, 707 Wilshire Blvd.—#1600, Los Angeles, CA 90017, (213) 627–8471. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165276, filed December 20, 1982. Applicant: S AND J COMMUTER BUS SERVICE, INC., 3410 Kem Drive, Winston-Salem, NC 27106. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, (919) 635–4711. Transporting *Passengers*, in charter and special operations, beginning and ending at points in NC and VA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165286, filed December 20, 1982. Applicant: COAST COUNTIES CHARTER, 690 Parkdale Dr., Campbell, CA 95008. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the Following, please direct Status Calls to Team 5 at 202–275–7289.

Volume No. OP5–299

Decided: December 21, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 128209 (Sub-1), filed December 13, 1982. Applicant: VOIGT BUS SERVICE, INC., Route 3, St. Cloud, MN 56301. Representative: Val M. Higgins, 1600 TCF Tower 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341; Transporting *passengers*, in charter and special operations, (1) between points in MN, WI, ND, SD, and IA, and (2) beginning and ending at points shown in (1) above, and entending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 130278 (Sub-1), filed December 13, 1982. Applicant: HEIMANN'S BUS TOURS, INC., 99 Wilson St., Brooklyn, NY 11211. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 133058 (Sub-4), filed December 13, 1982. Applicant: CENTRAL CAB COMPANY, 285 South East St., Waynesburg, PA 15370. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 138278 (Sub-2), filed December 10, 1982. Applicant: KOCH BUS SERVICE, INC., 308 South Birch St., Waconia, MN 55387. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *passengers*, in charter and special operations, beginning and ending at points in MN, IA, WI, ND, and SD, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 139508 (Sub-1), filed December 7, 1982. Applicant: AIR BROOK LIMOUSINE, INC., 115 West Passaic St., Rochelle Park, NJ 07662. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173, 212–755–9500. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 141858 (Sub-1), filed December 7, 1982. Applicant: ZOBRIST BUS LINES, INC., Rural Route 2, Highland, IL 62249. Representative: Bruce E. Mitchell, Suite 520, 3390 Peachtree Road, NE, Atlanta, GA 30326, (404) 262–7855. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 157338 (Sub-1), filed December 10, 1982. Applicant: SHUTTLEJECK, INC., P.O. Box 5793, Santa Fe, NM 87501. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 160158, filed December 7, 1982. Applicant: EDWIN J. PINA, SR. AND SON, INC., 227 Bumps River Rd., Osterville, MA 02655. Representative: Arthur M. White, 281 Pleasant St., P.O. Box 2547, Framingham, MA 01701, (617) 879–5000. Transporting *passengers*, in charter operations, beginning and ending at points in Barnstable County, MA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 165099, filed December 9, 1982. Applicant: ELEGUA LIMOUSINE SERVICE, INC., 614 West 49th St., New York, NY 10019. Representative: Bruce J. Robbins, 18 East 48th St., New York, NY 10017, (212) 755–9400. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165109, filed December 9, 1982. Applicant: BUDSON COMPANY, INC., 1705 Ship Ave., Anchorage, AK 99501. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting *general commodities* (except household goods), between points in AK and WA. Condition: Any certificate issued in this proceeding to the extent it authorizes the transportation of classes A and B explosives, shall be limited in point of time, to a period expiring five years from the date of service.

MC 165129, filed December 10, 1982. Applicant: PIONEER DIESEL REPAIR, d/b/a/ PIONEER TRANSPORT, 244 Dayton Ave., Union, NJ 07083. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, (201) 322–5030. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165148, filed December 10, 1982. Applicant: LOUIE JAMES WYNNE, d/b/a NATIONAL RATE AND BROKERAGE SERVICES, 3133 N.W. St. Helens Rd., Portland, OR 97210. Representative: Louis James Wynne (same address as applicant), (503) 224–5042. To operate as a *broker* of *general commodities* (except household goods, between points) in the U.S.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–163 Filed 1–4–83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice.

See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 19022(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OP1–241

Decided: December 28, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

FF–640, filed December 17, 1982. Applicant: GATEWAY FORWARDERS, INC., 661 Knocknaboul, San Rafael, CA 94903. Representative: George Y. Takahashi (same address as applicant), (415)–499–1047. As a *freight forwarder* in connection with the transportation of *household goods, baggage and automobiles*, between points in the U.S.

MC 28060 (Sub-68), filed December 15, 1982. Applicant: WILLERS, INC. d/b/a WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, SD 57101. Representative: Roger A. Kirschenbaum, Suite 520, 3390 Peachtree Rd., N.E., Atlanta, GA 30326, (404)–262–7855. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AR, CO, IA, IL, IN, KS, MI, MO, MN, MT, ND, NE, OH, OK, TX, SD, WI and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 61440 (Sub-223), filed December 20, 1982. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown (same address as applicant) (405) 840–7579. Transporting *juice concentrates and fruit products*, between Chicago, IL, on the one hand, and, on the other, points in FL and TX.

MC 109780 (Sub-80), filed December 10, 1982. Applicant: TRAILWAYS, INC., 1500 Jackson St., Dallas, TX 75201. Representative: George W. Hanthorn (same address as applicant), (214) 655–7711. Over regular routes, transporting *passengers*, between Greenville, TX, and Texarkana, AR, over Interstate Hwy 30, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 113861 (Sub-88), filed December 17, 1982. Applicant: WOOTEN TRANSPORTS, INC., 153 Gaston Ave., Memphis, TN 38106. Representative: Dale Woodall, 6077 Primacy Parkway, Suite 209, Memphis, TN 38119, (910) 683–5400. Transporting *commodities in bulk*, between points in GA, NC, and TN.

MC 121470 (Sub-90), filed December 13, 1982. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan St., Nashville, TN 37207. Representative: Helen Jones (same address as applicant), (615)–244–7417. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 124111 (Sub-73), filed December 20, 1982. Applicant: OHIO EASTERN EXPRESS, INC., 300 W. Perkins Ave., Sandusky, OH 44870. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, (614)–228–1541. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Certified Brokerage Services, Inc., of Hagerstown, MD.

MC 143501 (Sub-14), filed December 16, 1982. Applicant: R.G.C. CARGO CARRIERS, INC., 16651 S. Vincennes

Rd., P.O. Box 523, South Holland, IL 60473. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301)–840–8565. Transporting *foodstuffs*, between points in the U.S. (except AK and HI), under continuing contract(s) with Fearn International, Inc., of Franklin Park, IL.

MC 146121 (Sub-3), filed December 10, 1982. Applicant: BAY CARTAGE CO., 1122 Barney Ave., Muskegon, MI 49444. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616)–459–6121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Clarke Division of McGraw Edison Co., of Muskegon, MI.

MC 148540 (Sub-3), filed December 17, 1982. Applicant: DIXIE GAS, INC., P.O. Box 40, Marks, MS 38646. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting *anhydrous ammonia*, between points in Mississippi County, AR, on the one hand, and, on the other, points in KY, LA, MS, MO, and TN.

MC 148970 (Sub-1), filed December 20, 1982. Applicant: BEACH PARK FREIGHT LINES, INC., 38433 North Holdridge Ave., Waukegan, IL 60085. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., 421 South Second St., Elkhart, IN 46516. Transporting *construction materials* and *such commoditiews* as are dealt in or used in the manufacture, distribution, and application of construction materials, between points in the U.S. (except AK and HI), under continuing contract(s) with CertainTeed Corporation, of Valley Forge, PA.

MC 156121 (Sub-2), filed December 13, 1982. Applicant: KOPF TRUCKING, INC., 18470 Victoria Drive, Goshen, IN 46526. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703)–893–4924. Transporting (1) *furniture, fixtures and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Foremost Enterprises, Inc., of Elkhart, IN, (2) *machinery and metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Thunander Corporation, of Elkhart, IN, and (3) *metal and metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Dakat, Inc., Sailor Manufacturing, Inc. and Shrock Manufacturing, Inc., each of Elkhart, IN.

MC 157140 (Sub-2), filed December 16, 1982. Applicant: TRICO EQUIPMENT INC., P.O. Box 669, Ahoski, NC 27910. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804)–282–3809. Transporting (1) *metal and metal products and* (2) *lumber and wood products*, between Baltimore, MD, Philadelphia, PA, points in NC, SC and VA, and points in Chester County, PA, on the one hand, and, on the other, those points in ands east of MN, LA, MO, AR and LA.

MC 158651 (Sub-6), filed December 17, 1982. Applicant: GRAEBEL VAN LINES, INC., 719 North Third Ave., Wausau, WI 54401. Representative: Roger Will (same address as applicant), (715) 675–9481. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Employers Insurance of Wausau, A Mutual Company, of Wausau, WI.

MC 159011 (Sub-1), filed December 17, 1982. Applicant: DICK GASSER & SONS TRUCKING, LIMITED, 4055 E. 64th St., Commerce City, CO 80022. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, (303) 424–1761. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Navajo Shippers, Inc., of Denver, CO.

MC 161970, filed December 20, 1982. Applicant: LARRY'S CARTAGE CO., INC., P.O. Box 2009, Bridgeview, IL 60455. Representative: Larry Denton, 7732 W. 96th Place, Hickory Hills, IL 60457, (312)–430–5652. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, MI, OH, WI, IA and MO.

MC 162460 (Sub-1), filed December 14, 1982. Applicant: B. J. EXPRESS, INC., P.O. Box 4601, Spencer, IA 51301. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515)–282–3525. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with IBP, Inc., of Dakota City, NE.

MC 163471, filed December 17, 1982. Applicant: PATTI DELIVERY, INC., 5758 West Dakin St., Chicago, IL 60634. Representative: Edward G. Finnegan, 134 North La Salle St., Suite 1016, Chicago, IL 60602, (312) 782–9500. Transporting (1) *paper*, (2) *printed matter*, (3) *empty skids*, and (4) *graphic art and supplies*, between points in IL, WI, MN, MI, IN, IA and MO.

MC 165120, filed December 10, 1982. Applicant: THORNDIKE TRUCKING, INC., Box 903, Oroville, WA 98844. Representative: Donald J. Thorndike, (same address as applicant), (509) 476–2501. Transporting (A)(1) *farm products*, and (2) *food and related products*, between points in the U.S. (except AK and HI), and (B)(1) *Forest products*, (2) *lumber and wood products*, (3) *pulp, paper and related products*, (4) *chemicals and related products*, (5) *rubber and plastic products*, (6) *clay, concrete, glass or stone products*, (7) *metal products*, and (8) *machinery*, between points in AZ, AR, CA, CO, FL, ID, IL, IN, MT, NM, OH, OK, OR, TX, UT, WI, WA, and WY.

MC 165131 (Sub-1), filed December 17, 1982. Applicant: STEVEN CIANCIOTTA, d.b.a. J&S TRUCKING & LEASING CO., 65 Virginia Ave., Lake Ronkonkoma, NY 11779. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Knomark, Inc., of Jamaica, NY, and Strauss Brothers Packing, of Hales Corner, WI.

MC 165241, filed December 16, 1982. Applicant: ASSOCIATED FOOD STORES, INC., 1610 South Empire Road, Salt Lake City, UT 84104. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Ralston Purina Company, of St. Louis, Mo.

MC 165251, filed December 20, 1982. Applicant: CENTRAL CITIES FREIGHT LINES, INC., P.O. Box 241, Columbia City, IN 46725. Representative: Robert B. Herbert, Suite 1600, One Indiana Square, Indianapolis, IN 46204, (317) 632–6262. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, and points in Huntington, Whitley, Wabash,

Kosciusko, Noble, LaGrange, Allen and Dekalb Counties, IL, on the one hand, and on the other, points in IL, IN, KY, MI, and OH.

MC 165280, filed December 20, 1982. Applicant: JOSEPH W. ("BILL") HAYMAN, d.b.a. HAYMAN TRUCKING, R.R. #1 Little York, IL 61453. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Agmart, Inc., of Monmouth, IL, and (2) *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Midwest Biscuit Company, of Burlington, IA.

MC 165291, filed December 20, 1982. Applicant: CARPET WORLD, INC., P.O. Box 12087, Oklahoma City, OK 73157. Representative: David B. Schneider, 210 W. Park Ave., Suite 1120, Oklahoma City, OK 73102. Transporting *general commodities* (except classes A and B explosives, used household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Chemical Products Development Corporation, (2) CRL Limited, (3) Durashield II, Inc., and (4) Bill's Wholesale, Inc., all of Oklahoma City, OK.

For the following, please direct status calls to Team 2 (202) 275–7030.

Volume No. OP 2–004

Decided: December 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 46313 (Sub-16), filed December 9, 1982. Applicant: SUHR TRANSPORT, Box 1727, Great Falls, MT 59403. Representative: Fred R. Covington, 2150 Franklin St., Suite 554, Oakland, CA 94612, 415–893–4102. Transporting *waste or scrap materials not identified by industry producing, forest products, lumber and wood products, metal products, food and related products*, and *such commodities* as are dealt in by hardware stores, between points in AZ, CA, CO, ID, MT, ND, OR, NV, NM, SD, TX, UT, WA, and WY.

MC 72243 (Sub-77), filed December 10, 1982. Applicant: THE AETNA FREIGHT LINES, INC., 2507 Youngstown Rd, SE, P.O. Box 350, Warren OH 44482. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., in and east of MT, WY, CO and NM.

MC 87113 (Sub-30), filed December 9, 1982. Applicant: WHEAT VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006, (202) 833–8884. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Merrill Lynch Relocation Management, Inc., of White Plains, NY.

MC 121572 (Sub-2), filed November 19, 1982. Applicant: TRANS STATE BUS, INC., Route 1, Hwy 156, Larned, KS 67550. Representative: Eugene W. Hiatt, 207 Casson Bldg., 603 Topeka Blvd., Topeka, KS 66603, 913–232–7263. Transporting *passengers*, (1) over regular routes, between Dalhart, TX and Liberal, KS, over U.S. Hwy 54, serving all intermediate points; and (2) over irregular routes, in charter and special operations, beginning and ending at points in KS, those in Dallam, Hartley, and Sherman Counties, TX, and Beaver, Cimarron, and Texas Counties, OK, and extending to points in the U.S. (including AK, but excluding HI).

Note.—(1) Applicant seeks to provide regular-route service only in interstate or foreign commerce, (2) applicant may tack this authority with existing authority, and (3) applicant seeks to provide privately-funded charter or special transportation.

MC 121572 (Sub-4), filed November 29 1982. Applicant: TRANS STATE BUS, INC., Rte. 1, Hwy 156, Larned, KS 67550. Representative: Eugene W. Hiatt, 627 S. Topeka Blvd., Topeka, KS 66603, 913–232–7263. Transporting *passengers* (1) between Manhattan, KS, and junction U.S. Hwy 77 and KS Hwy 150: from Manhattan over KS Hwy 18 to military post road, then over military post road to U.S. Hwy 77, then over U.S. Hwy 77 to junction KS Hwy 150, and return over the same route, serving all intermediate points, (2) between Junction City, KS, and junction Interstate Hwy 135 and U.S. Hwy 56: from Junction City over Interstate Hwy 70 to junction Interstate Hwy 135, then over Interstate Hwy 135 to junction U.S. Hwy 56, and return over the same route, serving all intermediate points, and (3) between Hillsboro, KS and junction U.S. Hwy 50 and Interstate Hwy 135: from Hillsboro over unnumbered county road to U.S. Hwy 50, then over U.S. Hwy 50 to junction Interstate Hwy 135, then over Interstate Hwy 135 to junction KS Hwy 96, then over KS Hwy 96 to junction U.S. Hwy 50, serving the off route point of Halstead, KS, and return over the same route, serving all intermediate points.

Note.—(1) Applicant seeks to provide regular-route service in intrastate commerce under 49 U.S.C. 10922(c)(2)(B); (2) Applicant seeks to provide privately-funded charter and special transportation; and (3) Applicant may tack this authority with its existing authority.

MC 133133 (Sub-23), filed December 10, 1982. Applicant: FULLER MOTOR DELIVERY CO., 802 Plum St., Cincinnati, OH 45202. Representative: Norbert B. Flick, 2250 Beechmont Ave., Cincinnati, OH 45230, 513–231–4631. Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL, IN, KY, MD, MI, MO, OH, PA, TN, VA, and WV.

MC 151583 (Sub-6), filed December 12, 1982. Applicant: UTF CARRIERS, INC., Benson Road, Middlebury, CT 06749. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under a continuing contract(s) with Tarkett, Inc., of Parsippany, NJ.

MC 163372, filed December 7, 1982. Applicant: TRANS-CARRIERS, INC., 1013 Camelot Cove, West Memphis, AR 72301. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103, 901–526–4114. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of (a) medical supplies, (b) foods and related products, (c) glass and glass products, (d) drugs, (e) toilet articles, (f) paper products, (g) health care articles, (h) cosmetics, and (i) home repair supplies, and (2) *such commodities* as are dealt in or used by wholesale, retail, and discount stores, between points in the U.S. (except AK and HI).

MC 164923, filed November 30, 1982. Applicant: HOWARD TRANSPORTATION, INC., Airport Industrial Park, Laurel, MS 39440. Representative: Michael F. Morrone, 1150 17th St., NW, Suite 1000, Washington, DC 20036, 202–457–1124. Transporting (1) *electrical transformers, electrical testers for transformers, transformer oil, and components and parts* used in the manufacture, sale, and distribution of electrical transformers, between points in the U.S. (except AK and HI), under continuing contract(s) with Howard Industries, Inc., (2) *such commodities* as are dealt in or used by manufacturers and distributors of walk-in refrigeration equipment, between points in the U.S. (except AK and HI), under continuing contract(s) with Mid South Industries, Inc., (3) *lubrication oil and diesel fuel, automotive chemicals*

and automotive accessories, between points in the U.S. (except AK and HI), under continuing contract(s) with Oil Distributors, Inc., (4) *tires, tubes and rubber* used in recapping tires, between points in the U.S. (except AK and HI), under continuing contract(s) with Laurel A–1 Tire Centers, Inc., (5) *canned foods, cosmetics, juices, paper and paper products, and chemicals and brushes,* between points in the U.S. (except AK and HI), under continuing contract(s) with Crumbley Paper Co., Inc., (6) *such commodities* as are sold by discount department stores, between points in the U.S. (except AK and HI), under continuing contract(s) with Martin Merchandising Co., Inc.—Division of Gibson Prod. Co., of Laurel, Inc., all of Laurel, MS, (7) *fiberboard, hardboard, particleboard, wallboard, paint, lumber, vinyl, paper products, and equipment* used in the fabrication of wood products, between points in the U.S. (except AK and HI), under continuing contract(s) with Masonite Corp., Custom Components Division, of High Point, NC, and (8) *such commodities* as are sold in food and department stores, between points in the U.S. (except AK and HI), under continuing contract(s) with Hudson Salvage Centers, Inc., of Gulfport, MS.

MC 156493 (Sub-1), filed December 10, 1982. Applicant: BOYD MESSER TRANSFER, INC., P.O. Box 19, Fulton, KS 66738. Representative: Eugene W. Hiatt, 207 Casson Building, 603 Topeka Blvd., Topeka, KS 66603, (913) 232–7263. Transporting *petroleum, natural gas and their products,* between points in KS, OK and MO.

Volume No. OP2–005

Decided: December 28, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 143503 (Sub-39), filed December 20, 1982. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: David B. Schneider, 210 W. Park Ave., Suite 1120, Oklahoma City, OK 73102, 405–232–9990. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Goodwin's Carriage House, Inc., of Auburn, MA.

MC 165292, filed December 20, 1982. Applicant: SUN-UP TRUCK LINE, INC., 350 Thistle Dr., Bolingbrook IL 60439. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601, 312–332–5106. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 165293, filed December 20, 1982. Applicant: C&H ADCOCK TRUCKING, Rte 1, Box 224, Hayden, AL 35079. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, (501) 521–8121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles McAlpin Brokerage, Inc., of Decatur, AL.

Volume No. OP 2–007

Decided: December 27, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 46612 (Sub-2), filed December 13, 1982. Applicant: HENDERSON TRANSFER CO. INC., P.O. Box 15, Vincennes, IN 47591. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204, 317–636–1301. Transporting *household goods,* between points in IL, IN, and KY, on the one hand, and, on the other, points in AL, AR, FL, GA, IN, IL, IA, KS, KY, LA, MD, MI, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, WI, WV, and DC.

MC 151293 (Sub-3), filed December 13, 1982. Applicant: HUTCHENS TRUCKING COMPANY, INC., 615 Roseann Dr., Winston-Salem, NC 27104. Representative: Terrell Price, 800 Briar Creek Rd., Rm. DD–504, Charlotte, NC 28205, 704–372–8212. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with General Electric Company, of Ft. Wayne, IN.

MC 165183, filed December 14, 1982. Applicant: FLEETWOOD TRANSIT, INC., 3388 South 127, Omaha, NE 68144. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, 402–397–7033. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IA and NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165252, filed December 16, 1982. Applicant: CLEM MILLER TRUCKING COMPANY, 920 South Caroline St., Baltimore, MD 21231. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740, (301) 739–4860. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Baltimore, MD, New York, NY, and Norfolk, VA, on the one hand, and, on the other, those points in the U.S., in and east of MN, IA, MO, AR AND LA.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–004

Decided: December 29, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 107 (Sub-14), filed December 20, 1982. Applicant: BORO BUSSES COMPANY, 445 Shrewsbury Ave., Shrewsbury, NJ 07701. Representative: William L. Russell, Jr., P.O. Box 263, Little Silver, NJ 07739, (201) 741–2000, Transporting *passengers,* in charter and special operations, between points in the U.S.

Note:—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 59856 (Sub-94), filed December 17, 1982. Applicant: SALT CREEK FREIGHTWAYS, 3333 W. Yellowstone, Casper, WY 82601, Representative: Joseph F. Sloan, 6540 Washington St., Denver, CO 80229, (303) 287–3231. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 138466 (Sub-4), filed December 17, 1982. Applicant: RMK TRUCKING, INC., Suite 595, 500 Skokie Blvd., Northbrook, IL 60062. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301, (404) 522–2322. Transporting *general comodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with James River Corporation, of Richmond, VA.

MC 144927 (Sub-51), filed December 20, 1982. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Steve Martin (same address as applicant), (219) 261–3461. Transporting *glassware,* between points in Cumberland County, NJ, on the one hand, and, on the other, points in AL, OH, MI, IN, KY, MO, OK, TX, MS, CA, TN, MA, IL, GA, VA, OR, PA, NY, and DC.

MC 152137 (Sub-3), filed December 20, 1982. Applicant: A. M. COX, d.b.a. AMCO TRANSPORTATION, 1305 Wildbriar St., Lufkin, TX 75901. Representative: Billy R. Reid, 1721 Carl St., Ft. Worth, TX 76103, (817) 332–4718). Transporting *such commodities* as are

dealt in or used by grocery business houses, between points in TX and LA, on the one hand, and, on the other, points in U.S. (except AK and HI).

MC 159106 (Sub-1), filed December 20, 1982. Applicant: SOUTHWEST FREIGHT LINES, INC., 1400 Kansas Ave., Kansas City, KS 66110–0277. Representative: Michael P. Zell, 110 Ionia Ave., NW, Suite 7000, Grand Rapids, MI 49503, (616) 774–0400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 159346 (Sub-2), filed December 21, 1982. Applicant: DON LINMAN d.b.a. LINMAN TRUCKING, Monmouth, IL 61462. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with G & M Distributors, Inc., of Galesburg, IL; and (2) *farm machinery and farm implements,* between points in the U.S. (except AK and HI), under continuing contract(s) with Sampson Implement Co., of Galesburg, IL.

MC 164367, filed December 20, 1982. Applicant: STAPLES TRUCK LINE, INC., 4th and Dowey, P.O. Box 216, Blackwell, OK 74631. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262–1322. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Garfield, Kay, Tulsa and Oklahoma Counties, OK, on the one hand, and, on the other, points in KS, MO and TX.

MC 165277, filed December 20, 1982. Applicant: PURDY BROS. TRUCKING CO., INC., Rt. 40, Box 288, Loudon, TN 37774. Representative: James P. Purdy (same address as applicant), (615) 458–4642. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with the Ralston Purina Company, of St. Louis, MO.

MC 165287, filed December 20, 1982. Applicant: ALASKA OILFIELD SPECIALITIES, INC., P.O. Box 74650, Fairbanks, AK 99707. Representative: Clifton D. Firestone, SRA Box 1629–W, Anchorage, AK 99507, (907) 345–2423. Transporting/(1) *cement,* (2) *oilwell drilling commodities,* and (3) *oilwell machinery and equipment,* between points in AK, under continuing contract(s) with Dowell Company, Division of Dow Chemical, of Houston, TX.

MC 165296, filed December 20, 1982. Applicant: TRAIL BLAZER TRANSPORTATION, 33 NE Middlefield Rd., Suite 111, Portland, OR 97211. Representative: John M. Pugh, 16225 SE Talwood Lane, Milwaukie, OR 97222, (503) 659–5490. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with JWS Enterprises, Inc., of Portland, OR.

MC 165297, filed December 20, 1982. Applicant: AUTO WHOLESALERS & TRANSPORT, INC., 965 County Rd. 18 N., Plymouth, MN 55441. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440 (612) 542–1121. Transporting *motor vehicles,* between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–300

Decided: December 21, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 22988 (Sub-21), filed December 13, 1982. Applicant: K. G. MOORE, INC., 116 Washington Street, Plainville, MA 02762. Representative: Robert G. Parks, 20 Walnut Street, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: Issuance of a Certificate of Public Convenience and Necessity is subject to the coincidental cancellation, at applicant's written request, of its Certificate No. MC–20988 (Sub-Nos. 13 and 15).

MC 79658 (Sub-42), filed December 13, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as above), (812) 424–2222. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Motorola, Inc. GEG, of Scottsdale, AZ.

MC 120249 (Sub-10), filed December 10, 1982. Applicant: GEORGE A. HORTON, dba. ASHLAND-HARLO FREIGHT LINES, 640 St. Johns Ave. Billings, MT 59102. Representative: George A. Horton (same address as applicant), 406–259–6504. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between Glendive, Sidney and Circle, MT, over regular routes, (1) between Glendive and Sidney, MT over MT Hwy 16, (2) between Sidney and Circle, MT over MT Hwy 200, and (3) between Circle and Glendive MT, over MT Hwy 200S, serving all intermediate points on routes (1) thru (3).

MC 144879 (Sub-12), filed December 10, 1982. Applicant: D & J TRANSFER CO., Sherburn, MN 56171. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501 (402) 476–1144. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Swift & Company, of Chicago, IL.

MC 150498 (Sub-4), filed December 9, 1982. Applicant: PACIFIC INLAND TRANSPORT, INC., 3093 Citrus Circle, Suite 145, Walnut Creek, CA 94598. Representative: Robert S. Burch (same address as applicant), (415) 945–6777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI).

MC 151619 (Sub-2), filed December 9, 1982. Applicant: WESTERN CAROLINA EXPRESS, INC., P.O. Box 2523, Hickory, NC 28603. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602, (919) 828–0731. Transporting *new furniture,* between points in GA, NC, and SC.

MC 156818 (Sub-1), filed December 10, 1982. Applicant: CURRY ICE & COAL, INC., R.R. #2, Box 229A, Carlinville, IL 62626. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *fertilizer,* and (2) *grain and fertilizer handling equipment,* between points in the U.S. (except AK and HI).

MC 159428 (Sub-1), filed December 7, 1982. Applicant: LOREN J. VERBURG AND DAVID E. FOWLER, d.b.a. EXCELLENT TRUCKING CO., P.O. Box 41, Zeeland, MI 49464. Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603, 312–236–0548. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. under continuing contract(s) with Greene Companies International, Inc. of Oak Brook, IL, and its subsidiaries.

MC 163509 (Sub-1), filed December 9, 1982. Applicant: DELTA FREIGHT, INC., R.D. 2, Box 4, Parkesburg, PA 19365. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6000. Transporting (1) *such commodities* as are dealt in or used by grocery and food business houses and agricultural feed business houses, between those points in the U.S. in and east of MN, IA, MO,

KS, OK, and TX, (2) *building materials* between points in Wadena County, MN, Broome County, NY, Franklin County, OH, and PA, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS, and (3) *such commodities* as are dealt in by hardware stores, between Greenville, SC, and points in Coles County, IL, Hampden County, MA, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI) .

MC 165139, filed December 10, 1982. Applicant: NORTHERN UTAH DRYWALL EQUIPMENT & SUPPLY, INC., d.b.a. NUDES, 2211 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110, (801) 531–1777. Transporting (1) *building materials*, (2) *clay, concrete, glass or stone products*, (3) *chemicals and related products*, (4) *pulp, paper and related products*, and (5) *lumber and wood products*, between those points in the U.S. in and west of MT, WY, CO, and NM (except AK and HI).

James H. Bayne,

Acting Secretary.

[FR Doc. 83–184 Filed 1–4–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 319]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: December 28, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,

Secretary.

MC 37656 (Sub-17)X, filed October 28, 1982. Applicant: DOYLE TRUCKING CORPORATION, 91 Monmouth St., Red Bank, NJ 07701. Representative: Edward L. Nehez, P.O. Box Y, 7 Becker Farm Rd., Roseland, NJ 07068. Lead and Sub 3 permits: broaden to (1) "furniture and fixtures, textile mill products, metal products, pulp, paper and related products, machinery, rubber and plastic products, lumber and wood products, and clay, concrete, glass or stone products" from (a) home furnishings, Sub 3; and (b) new furniture, and such supplies, materials, machinery and equipment as are used in the manufacture, display or sale of furniture, lead; and (2) "between points in the U.S.", under continuing contract(s) with a specified class of shippers, both Subs.

MC 106036 (Sub-1)X, filed November 29, 1982. Applicant: WILLIAM B. REYNOLDS, d.b.a. WM. REYNOLDS TRUCK CO., 3395 Miller Park Rd., Akron, OH 44312. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Lead permit: Broaden the territorial description to between points in the U.S. (except Alaska and Hawaii), under continuing contract(s).

MC 108460 (Sub-76)X, filed November 15, 1982. Applicant: PETROLEUM CARRIERS COMPANY, P.O. Box 762, 5104 W. 14th, Sioux Falls, SD 57101. Representative: Leonard R. Kofkin, Ste. 1515, 140 S. Dearborn, Chicago, IL 60603. Sub 71F certificate: broaden (1) from concrete block, pipe, beams, prestressed panels and prestressed products, and concrete products, and materials and supplies used in the manufacturing of above commodities to "clay, concrete, or stone products and commodities which by reason of size or weight require special equipment or special handling"; and (2) to radial authority.

MC 110581 (Sub-11)X, filed November 29, 1982. Applicant: G & H MOTOR FREIGHT LINES, INC., 118 S.E. Jackson St., Greenfield, IA 50849. Representative: James F. Crosby & Associates, 7363 Pacific St., Suite 210B, Omaha, NE 68114. MC–48603 (Subs 1, 2, and 3), purchased in MC–FC 80059: (A) Sub 1, remove the restriction to traffic having a prior or subsequent movement by rail; (B) Subs 2 and 3, broaden the general commodities authority by removing exceptions to "those of unusual value, commodities requiring special equipment, those injurious or contaminating to other lading, and livestock;" (C) Sub 2, regular-route authority, (a) authorize service at all intermediate points, and (b) broaden off-route points to countywide as follows: Cass County, IA (Lewis); Shelby, Harrison and Pottawattamie Counties, IA (Shelby); Pottawattamie, Cass and Shelby Counties, IA (Hancock, Oakland, Marne, and Walnut); Shelby County, IA (Corley); and (D) Sub 3, broaden irregular-route points to: Washington, Douglas, Sarpy and Cass Counties, NE, and Pottawattamie and Mills Counties, IA (Omaha, NE); Pottawattamie, Mills, Montgomery and Cass Counties, IA, and Douglas and Sarpy Counties, NE (Council Bluffs, Treynor, Carson, Macedonia, Kemling, Elliott, and Griswold, IA).

MC 140125 (Sub-4)X, filed December 6, 1982. Applicant: SCHUSTER GRAIN COMPANY, INC., P.O. Box 616, Le Mars, IA 51031. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Certificates No. MC–126489 (Sub-Nos. 25 and 31), acquired in MC–FC–79937. Broaden (1) commodity descriptions to authorize: (a) Sub 25, chemicals and related products (dry feed ingredients, except those which are petroleum-based); and (b) Sub 31, food and related products (dog food, except in bulk); (2) named point and facilities location to countywide authority: Sub 25, Reno County, KS (facilities near Hutchinson), and Sub 31, Reno County, KS (Hutchinson); and, (3) one-way service to radial authority, in both certificates.

MC 146111 (Sub-9)X, filed November 24, 1982. Applicant: INDUSTRIAL TRANSPORT, INC., 11910 Harvard Ave., Cleveland, OH 44105. Representative: Brian S. Stern, 5411–D Backlick Rd., Springfield, VA 22151. Lead and Subs 2F, 3F, 4F, and 5F certificates, and No. MC–144075 and Subs 2F and 7 permits: (1) Broaden to (a) "metal products" from sheet metal products used in the manufacture . . . air conditioning systems, and coil steel, in lead permit; (b) "transportation equipment" from transit expressway vehicles, in Sub 2F permit; (c) "machinery" from electric stairways, electric walks, elevators, and materials, equipment, and supplies used in the maufacture and installation of these commodities, in Sub 7 permit; (d) "metal products" from aluminum articles, and aluminum and aluminum products, in lead and Subs 4F and 5F

certificates; (e) "food and related products" from foodstuffs and animal foods, in Sub 2F certificate; (f) "chemicals and related products" from paint and paint products, in Sub 3F. (2) expand territorial description to between points in the U.S. (except Alaska and Hawaii), under continuing contract(s) with named shipper(s), in all permits. (3) remove facilities limitations and expand cities to counties (a) Ravenswood, WV (Jackson County) in lead certificate; (b) Napoleon, OH (Henry County) in Sub 2F certificate: (c) Delaware, OH (Delaware County), Atlanta, GA (Cobb, Dekalb, Fulton, Clayton, Douglas, Fayette, Henry, Rockdale, and Gwinnett Counties); New Orleans, LA (Orleans, St. Bernard, Placquemines, Jefferson, St. Charles, St. John the Baptist, Lafourche, and St. Tammany Parishes, LA, and Hancock County, MS); Detroit, MI (Wayne, Oakland, Macomb, Washtenaw, St. Clair, and Livingston Counties); St. Louis, MO (Monroe, Madison, and St. Clair Counties, IL, and St. Charles, St. Louis and Jefferson Counties, MO, and St. Louis, MO); Kansas City, MO (Cass, Jackson, Clay, and Platte Counties, Mo, and Wyandotte, Johnson, and Leavenworth Counties, KS); Philadelphia, PA (Montgomery, Philadelphia, Bucks, Chester, and Delaware Counties, PA, Salem, Gloucester, Burlington, Camden, Mercer, Hunterdon, and Monmouth Counties NJ, and New Castle County, DE); Memphis, TN (Shelby, Fayette, and Tipton Counties, TN, Crittenden County, AR, and DeSoto County, MS); Dallas, TX (Dallas, Collin, Rockwall, Kaufman, Ellis, Tarrant, Denton, Johnson, and Hunt Counties, TX); East Point, GA (Fulton County); Dover, DE (Kent County), in Sub 3F; (d) Heath, OH (Licking County); Cincinnati, OH (Hamilton, Butler, Clermont, and Warren Counties, OH, and Boone, Kenton, and Campbell Counties, KY); Toledo, OH (Lucas, Ottawa, and Wood Counties, OH and Monroe and Lenawee Counties, MI), Belpre, OH (Washington County), in Sub 4F; (e) Chalmette, LA (St. Bernard Parish), in Sub 5F. (4) change one-way to radial authority, in all certificates. (5) remove: commodities in bulk exception, in Sub 2F permit and subs 2F and 3F certificates; in containers limitation, and originating at and destined to restriction, in Sub 2F certificate.

MC 149585 (sub-3)X, filed December 3, 1982. Applicant: SCHMIDT BROTHERS TRANSPORT, INC., Box 37, R.R. #3, Augusta, WI 54722. Representative: James E. Ballenthin, 1016 Conwed Towers, 444 Cedar St., St Paul, MN 55101. Sub 1 permit: (1) broaden dairy products, cheese, cottage cheese, cheese dip, butter, powdered milk, cream, new empty containers used in retail sales of cottage cheese and cheese dip, orange juice, fruit juices, and fruit drink to "food and related products; and (2) change the territorial description to between points in the U.S. (except Alaska and Hawaii), under continuing contract(s) with named shipper.

MC 163160 (Sub-1)X, filed December 10, 1982. Applicant: HOWARD BELL, JR., d.b.a. BELL READY MIX, R.R. #1, Box 4, Columbus Junction, IA 52738. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. MC–5227 Subs 5 and 51F acquired thru FC–79927: (1) broaden (a) metal buildings metal grain bins, and accessories and parts to "metal products and machinery" in Sub 5 and (b) iron and steel articles to "metal products" in Sub 51F; (2) broaden Galesburg, IL to Knox and Warren Counties, IL, and Kansas City, MO to Platte, Jackson, Clay, and Cass Counties, MO and Leavenworth, Wyandotte, and Johnson Counties, KS in Sub 5; and St. Louis, MO to St. Louis, MO and Jefferson, St. Louis, and St. Charles Counties, MO, and Madison, Saint Clair and Monroe Counties, IL, and Muscatine, IA to Muscatine County, IA and Rock Island County, IL, in Sub 51F; and (3) change one-way to radial authority, both subs.

[FR Doc. 83-102 Filed 1-4-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and that amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and perfinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–227

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 134518 (Sub-4TA), filed December 20, 1982. Applicant: CHEESE HAULING, INC., P.O. Box 1973, Bismarck, ND 58501. Representative: Carl E. Munson, 400 Fischer Building, P.O. Box 798, Dubuque, IA 52001. *Paper and paper products,* from points in Eau Claire, Marinette and Winnebago Counties, WI, to points in Burleigh County, ND. Supporting shipper: Super Value Stores Inc., P.O. Box 1397, Bismarck, ND 58502.

MC 150388 (Sub-4–6)X, filed December 20, 1982. Applicant: BURKLUND TRANSPORTATION, INC., Route 1, Vulcan, MI 49892. Representative: Nancy J. Johnson, Attorney, 103 East Washington Street, Box 218, Crandon, WI 54520. *Foodstuffs* from Corning, Gilroy, Merced, San Jose, Stockton, Sunnyvale, Thorton, San Francisco (and its Commercial Zone), and Sacramento (and its Commercial Zone), CA to points in the Upper Penninsula of Michigan. There are two supporting shippers.

MC 152995 (Sub-4–3TA), filed December 20, 1982. Applicant: JAMES THOMAS TRUCKING, INC., 17706 Stonebridge Dr., Hazel Crest, IL. 60429. Representative: James Thomas (same address as applicant). Transporting *general commodities,* (except Classes A and B explosives, household goods, and commodities in bulk), between points in AR, CA, IL, IN, KY, MI, MN, MO, NJ, NY, OH, OK, PA, TN, TX, WI, and, points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, NV, NJ, NY, NC, OH, OK, PA, SC, TN, TX, UT, VA, WV, WI AND WY. Supporting shipper(s): Alberto Culver Co., Melrose Park, IL., and Combined Warehouse, Inc., Chicago, IL.

MC 162610 (Sub-4–6TA), filed December 20, 1982. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 West 47th Street, Lyons, IL 60534. Representative: Thomas M. O'Brien, Sullivan & Associates, Ltd., 180 North Michigan Avenue, Suite 1700, Chicago, IL 60601. *Such commodities* as are dealt in by manufacturers and distributors of cleaning products and food products, (1) from the facilities of Purex Corporation in the Chicago, IL Commerical Zone, St. Charles and Ashton, IL to Auburndale, FL, and (2) from the facilities of Purex Corporation in St. Louis, MO to points in AL, AR, CO, FL, GA, IA, IL, IN, KS, KY, LA, MI, MN, MS, NE, OH, TN, and TX. Supporting shipper: Purex Corporation, 2500 South 25th Avenue, Broadview, IL 60153.

MC 165086 (Sub-4–1TA), filed December 20, 1982. Applicant: FRANK S. MORSKI d.b.a. MORSKI TRUCK LINES, 503 South Lincoln, O'Fallon, IL 62269. Representative: Irwin D. Rozner, 134 North LaSalle St., Chicago, IL 60602. *Contract* irregular: *Empty trash containers, empty tube trailers,* between O'Fallon, IL, on the one hand, and, on the other, points in United States. Underlying ETA was filed. Supporting shipper: (Hamilton-Buell, Inc.) d.b.a. Magna-Fab Ltd., P.O. Box 308, O'Fallon, IL 62269.

MC 165275 (Sub-4–1TA), filed December 20, 1982. Applicant: SHEEHY MAIL CONTRACTORS, INC., 644 11th Ave. North, Onalaska, WI 54650. Representative: Joseph E. Ludden, 2707 South Ave., P.O. Box 1567, La Crosse, WI 54601. *Contract* irregular: Books, catalogs, catalog parts or section, magazines and/or periodicals and printed articles and supplies between points in Jefferson, Dane, and Sauk Counties, WI, on the one hand, and, on the other, points in the states of MN, IA, MD, IL, IN and OH. Restricted to traffic moving under continuing contract with Perry Printing Corporation. Supporting shipper: Perry Printing Corporation, 240 West Madison Street, Waterloo, WI 53594.

MC 165273 (Sub-4–1TA), filed December 20, 1982. Applicant: THOMAS J. LESKO, d.b.a. LESKO TRANSPORTATION, 6615 7th Street, Kenosha, WI 43142. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203. *Contract; irregular. Inedible beef by-products for the mink and pet food industries,* from Kenosha, WI, to the facilities of General Foods at or near Kankakee, IL, under continuing contract(s) with Bydalek Farms, Ltd., of Kenosha, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Bydalek Farms, Ltd., 5830 6th Place, Kenosha, WI 53142.

MC 165311 (Sub-4–1TA), filed December 21, 1982. Applicant: DMJ LEASING & TRUCKING, INC., 1985 Anson Drive, Melrose Park, IL 60160. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. *Contract,* irregular: *Shampoo and Toilet Preparations, in bulk, in tank vehicles,* between Plant Site of Helene Curtis Industries, Inc. at Chicago, IL and Plant Site of Per Pak, Inc. at Foresman, IN under continuing contract with Helene Curtis Industries, Inc. Supporting shipper: Helene Curtis Industries, Inc., 4401 West North Avenue, Chicago, IL 60639.

MC 165312 (Sub-No. 4–1TA), filed December 21, 1982. Applicant: McKENNA TRUCKING, INC., Sheldon Street, Gratiot, WI 53541. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Such commodities as are dealt in by manufacturers, distributors, and users of feeds, seeds, and farm supplies and farm structures* between Jo Davies and Stephenson Counties, IL, Grant, Iowa, and Lafayette Counties, WI, on the one hand, and on the other hand, points in IA and IL. Supporting shippers: There are five supporting shippers.

The following applications were filed in Region 5. Send protest to: CONSUMER ASSISTANCE CENTER, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 79658 (Sub-5–6TA), filed 12–20–82. Applicant: ATLAS VAN LINES, INC., Post Office Box 509, Evansville, IN 47711. Representatives: Robert C. Mills, Michael L. Harvey (same as above). *Contract, irregular; household goods, computers, displays and exhibits, energy, avionic, aeronautical, medical, building control, communication, and analog/digital text systems and equipment; and parts, materials and supplies used in the manufacture, distribution, sale and maintenance of these commodities* between points in the U.S. under continuing contracts with Honeywell Inc., Minneapolis, MN. Supporting shipper: Honeywell, Inc., Minneapolis, MN.

MC 141995 (Sub-5–1TA), filed December 19, 1982. Applicant: International Ex-Air Transport Co., Inc., 220 Guadalupe St., Laredo, TX 78040. Representative: Eduardo Pena, Jr., Solar Bldg., 1000 16th St., N.W., Suite LL50, Washington, DC 20036. *General Commodities (except HHG's and Classes A & B explosives)* between ports of entry on the United States-Republic of Mexico border in TX and points in TX. Supporting shipper(s): Barrenechea, Inc., Laredo, TX, Xuniga Freight Services, Inc., Laredo, TX, Quintanilla & Co., Inc., Laredo, TX, Goyan-Tex International, Inc., Laredo, TX.

Note.—Applicant intends to tack to existing authority.

MC 146853 (Sub-5–15TA), filed December 20, 1982. Applicant: FRANK F. SLOAN, d.b.a. HAWKEYE WOODSHAVINGS, Route 1, Runnells, IA. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Food and related products,* between Des Moines, IA; Seattle and Vancouver, WA. on the one hand, and, on the other, points in IL, IA, MN, MO, ND, NE, TN, and WI. Supporting shipper: HAR Trading Company, Des Moines, IA.

MC 151381 (Sub-5–2TA), filed December 20, 1982. Applicant: SUNBELT FREIGHT, Division of Sunbelt Holding Corporation, 2455 E. 51st Street, Tulsa, OK 74105. Representative: John Buchan, 5520 West Channel Road, Catoosa, OK 74015. Steel pipe, between the Port of Catoosa (near Tulsa), OK, on the one hand, and, on the other, points in the U.S. except AR, CO, KS, LA, MO, NE, NM, OK, TN, and TX. AK and HI. Supporting shipper: American Challenge Threading & Service, Inc., Castoosa, OK.

MC 160785 (Sub-5–4TA), filed December 20, 1982. Applicant: CASTAR TRUCKING, INC., 7840 "F" Street, Omaha, NE 68127. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *(1) Telephone equipment, and materials and supplies used in the construction and maintenance of telephone systems,* between points in MN, IA, ND, SD, NE, MT, WY, CO, NM, ID, UT, and AZ, on the one hand, and, on the other, points in the U.S. (except AK and HI); (2) *Printed matter,* between points in the U.S. (except AK and HI), for the account of Western Electric Company, Inc. Supporting shipper: Western Electric Company, Inc., Aurora, CO.

MC 162577 (Sub-5–2TA), filed December 20, 1982. Applicant: Triffany Truck Lines LTD., 4921 Camp Street, New Orleans, La. 70115. Representative: Timothy E. Jilek (Same as above). *General Commodities (except Class A & B Explosives),* between MO, on the one hand, and New Orleans, LA and Gulfpost, MS on the other, and further restricted to prior or subsequent movement by rail or water. Supporting

shipper: McTeer Int'l Freight Forwarding Co., Savannah, GA.

MC 163503 (Sub-5–8TA), filed December 20, 1982. Applicant: NATIONAL FREIGHT SYSTEM, INC., 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell (same as above). *Food or Kindred Products* between LA, OK, TN and TX on the one hand, and, on the other, points in CA, CO, LA, GA, FL, OK, AR, PA, NY, OH, NJ, IA, IL, MI, WI, MN, ND, SD, WA, WY, NM, KS, MI. Supporting shipper(s): 8.

MC 165271 (Sub-5–1TA), filed December 20, 1982. Applicant: CLINTON L. THOMPSON, P.O. Box 78, Osage City, KS 66523. Representative: Erle W. Francis, Esq., 719 Capitol Federal Bldg., Topeka, KS 66603. *Telephone Equipment and Supplies,* between Kansas City, Mo. on the one hand, and, on the other, points and places in the State of KS. Supporting shipper: ConTel Supply & Service, Kansas City, MO.

MC 165279 (Sub-5–1TA), filed December 20, 1982. Applicant: L. O. GREER, 1111 Gibbs St., Houston, TX 77009. Representative: L. O. Greer (same as above). *Oilfield tools and equipment in hot shot service* between points in TX, NM, OK, and LA. Supporting shipper: MWL Tool Co., Midland, TX.

MC 61440 (Sub-5–18TA), filed December 23, 1982. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown (same as above). Contract irregular; *General Commodities (except classes A&B explosives, HHG's, and commodities in bulk)* between points in the U.S. (except AK and HI) under continuing contract with E. I. duPont de Nemours and Co. of Wilmington, DE and its subsidiaries: Remington Arms Co., Inc., Endo Labs, Inc., Endo, Inc., Endo Pharmaceuticals, Inc., New England Nuclear Corp., Conoco Inc., Fairmont Supply Co., Douglas Oil Co. of CA, Continental Carbo Co., Kayo Oil Co., Pitts-Concol Chemical Co., Western Oil and Fuel Co.

MC 142633 (Sub-5–1TA), filed December 23, 1982. Applicant: HATHORN TRANSFER & STORAGE CO., INC., 620 Elliott Street, Alexandria, Louisiana 71301. Representative: William D. Hathorn (same as above). *Used household goods* to the account of the U.S. Government incident to the performance of a pack and crate service on behalf of the Departmenmt of the Defense, between points in Rapids Parish, LA, on the one hand, and, on the other, points in LA parishes of Caldwell, East Carroll, Franklin, Madison, Morehouse, Richland, West Carroll, Winn & Tensas and counties in the State of MS of Adams, Amite, Claiborne, Franklin, Jefferson & Wilkinson. Supporting shipper: U.S. Army Legal Services Agency, Falls Church, VA.

MC 146336 (Sub-5–21TA), filed December 22, 1982. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609 109th Street, Grand Prairie, TX 75050. Representative: D. PAUL STAFFORD, P.O. Box 45536, Dallas, TX 75245. Contract; Irregular; *Personal computer Systems* (1) between Carrollton, TX on the one hand, and, on the other, Sunnyvale, Irvine, Oakland and San Jose, CA; Rolling Meadows, IL; Charlotte, NC and Marlboro, MA (2) from Sunnyvale and Oakland, CA to Rolling Meadows, IL, Charlotte, NC and Marlboro, MA and Carrollton, TX under continuing contract with Apple Computer, Inc. Supporting shipper(s): Apple Computer, Inc., Cupertino, CA.

MC No. 148852 (Sub-5–3TA), filed December 23, 1982. Applicant: LINDSEY ROBISON, d.b.a. MIDWEST CARPET CARRIERS, 1219 A East Division, Springfield, MO 65803. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601. Floor and Wall Coverings, (a) between Dillon and Pickens Counties, S.C.; Laurens and Whitfield Counties, GA; Washington County, MS and Dallas, TX, on the one hand, and on the other, points in IA, NE, CO, and WY; (b) Between Dallas, TX, on the one hand, and on the other, points in KS, MO, OK, AR, MS, TN, AL, GA, and SC. Supporting shippers: Lowy Enterprises, St. Louis, MO, and Mohasco Corp., Atlanta, Mo.

Docket No. MC 152117(Sub-5–5TA), filed December 22, 1982. Applicant: Little Ginny Transport Systems, Inc., 1112 29th Avenue, S.W., Cedar Rapids, IA 52408. Representative: Virginia A. Wilson (same). (1) *Machinery and metal products* between Cedar Rapids, IA and points in the U.S. excluding AK and HI. (2) *Pulp, Paper and Related Products, Printed Matter, Rubber and Plastic Products, Petroleum, Natural Gas and their Products* between points in AL, AR, IL, IA, and WI, on the one hand, and, on the other, points in the U.S. excluding AK and HI. Supporting shippers: 7.

MC 65195 (Sub-5–1TA), filed December 22, 1982. Applicant: KELLEY COMPANY INC., P.O. Box 8838, Dallas, TX 75216. Representative: Les Humphrey (same as above). *Forest Products and Building Materials* from points in AR, LA, MS and OK to points in TX. Supporting shipper(s): Brand Forest Products Inc., Mansfield, TX.

MC 165195 (Sub-5–2TA), filed December 22, 1982. Applicant: KELLEY COMPANY INC., P.O. Box 8838, Dallas, TX 75216. Representative: Les Humphrey (same as above). *Forest Products and Building Materials* from points in OK to points in TX, ARK, LA, and MS. Supporting Shipper(s): Honeywell Lumber Company, Bokchito, OK.

MC 165272 (Sub-5–1TA), filed December 22, 1982. Applicant: HUGHES & ROYAL, INC., P.O. Box 2206, Ardmore, OK 73401. Representative: JAMES F. CROSBY & ASSOCIATES, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Metal products,* from Madill, OK (and points in its commercial zone) to points in U.S. (except AK and HI). Supporting shipper: Oklahoma Steel Wire Co., Inc. Madill, OK.

MC 165307 (Sub-5–1TA), filed: December 22, 1982. Applicant: ARKANSAS ELECTRIC COOPERATIVES, INC., 8000 Scott Hamilton Drive, Little Rock, AR 72219. Representative: J. Mark Davis, Esq., 2200 Worthen Bank Building, Little Rock, AR 72201. Contract, irregular: *Electrical equipment* containing hazardous waste substances, between points in AL, AR, LA, MO, MS, OK and TN, under continuing contracts with: (1) Sand Mountain Electric Cooperative, Rainsville, AL; (2) Concordia Electric Cooperative, Inc., Ferriday, LA; (3) Northeast Louisiana Power Coop, Winnsboro, LA; (4) Claiborne Electric Cooperative, Homer, LA; (5) Southwest Mississippi Electric Power Association, Lorman, MS; (6) Ozark Border Electric Cooperative, Poplar Bluff, MO; (7) Grundy Electric Cooperative, Trenton, MO; (8) Ralls Electric Cooperative, New London, MO; (9) Southeast Electric Cooperative, Durant, OK; (10) Kiamichi Electric Cooperative, Wilburton, OK; (11) Alfalfa Electric Cooperative, Cherokee, OK; (12) Twin County Electric Power Association, Hollandale, MS; (13) Environmental International, Inc., Springfield, MO; and (14) Volunteer Electric Cooperative, Decatur, TN. Supporting shippers: 14.

MC 165346 (Sub-5–1TA), filed December 23, 1982. Applicant: INLAND TRANSPORTATION SYSTEMS, INC., 2905 Haddock, Muskogee, OK 74401. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. *General commodities (except classes A and B explosives, household goods and commodities in bulk) having a prior or subsequent movement by water,* between the Port of Muskogee, OK, on the one hand, and, on the other, points in OK. Supporting shipper: Wilbros

Terminal Co., Rt. 6 Port 50, Muskogee, OK 74401.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-161 Filed 1-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30062]

Burlington Northern Railroad Co.—Construction Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10901 the construction by Burlington Northern Railroad Company (BN) of 2800 feet of rail line in and near Spokane, WA. The construction will effectuate the supplemental trackage rights agreement between BN and Union Pacific Railroad Company and Oregon-Washington Railroad & Navigation Company exempted in Finance Docket No. 27011 (Sub-No. 1).

DATES: This exemption is effective on February 4, 1983. Petitions for reconsideration must be filed by January 25, 1983. Petitions for stay must be filed by January 17, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Douglas J. Babb, 176 East Fifth Street, St. Paul, MN 55101

Pleadings should refer to Finance Docket No. 30062.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll free for outside the DC area.

Decided: December 28, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam was absent and did not participate

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-158 Filed 1-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 27011 (Sub-1)]

Union Pacific Railroad Co., and Oregon-Washington Railroad and Navigation Co.—Trackage Rights Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11343 the acquisition by Union Pacific Railroad Company and Oregon-Washington Railroad and Navigation Company of trackage rights over 2,800 feet of the rail line of the Burlington Northern Railroad Company (the construction is being exempted in Finance Docket No. 30062), in and near Spokane, WA, subject to labor protective conditions.

DATES: This exemption is effective on February 4, 1983. Petitions for reconsiderations must be filed by January 25, 1983. Petitions for stay must be filed January 17, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Joseph D. Anthofer, 1416 Dodge Street, Omaha, NE 68179

Pleadings should refer to Finance Docket No. 27011 (Sub-No. 1).

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC Metropolitan area, (800) 424-5403—Toll free for outside the DC area.

Decided: December 28, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-157 Filed 1-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30079]

Wyandotte Terminal Railroad Co.—Abandonment Exemption—Wyandotte, MI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by the Wyandotte Terminal Railroad Company of 8.93 miles of track in Wyandotte, MI.

DATES: This exemption will be effective on December 30, 1982. Petitions to reopen must be filed by January 19, 1983.

ADDRESSES: Send pleadings to:

Rail Section Room 5349, Interstate Commerce Commission, Washington, DC 20423

Petitioner's representative: Edwin L. Stenzel, 1609 Biddle Avenue, Wyandotte, MI

Pleadings should refer to Finance Docket No. 30079.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—toll free for outside the DC area.

Decided: December 27, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam and Commissioner Andre were absent and did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-156 Filed 1-4-83; 8:45 am]

BILLING CODE 7035-01-M

LEGAL SERVICES CORPORATION

Recipient Fund Balances; Instruction

AGENCY: Legal Services Corporation.

ACTION: Instruction on Recipient Fund Balances.

SUMMARY: The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355(a) 88 Statute 378, 42 U.S.C. 2996 et. seq., as amended, Pub. L. 95-222 (December 28, 1977). Section 1008(e) of the Legal Services Corporation Act provides:

(e) The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the **Federal Register** at least 30 days prior to guidelines, and instructions.

The Legal Services Corporation hereby publishes its Instruction on Recipient Fund Balances.

EFFECTIVE DATE: February 4, 1983.

FOR FURTHER INFORMATION CONTACT: Hulett H. Askew, Acting Director, Office of Field Services, Legal Services Corporation, 733 15th Street, NW., Washington, D.C. 20005, (202) 272–4080.

Donald P. Bogard,
President.

Instruction

I. Purpose

The purpose of this instruction is to provide notice and direction to recipients of Legal Services Corporation funding in meeting the terms of a Special condition regarding recipient fund balances to be placed upon 1983 grant awards. The objective is to ensure the timely allocation of Corporation funds for the effective and economical provision of high quality legal assistance to eligible clients. To that end recipients will henceforth be permitted to maintain and reprogram from year to year fund balances of no more than 10% of their Legal Services Corporation funding.

A waiver of this provision to a maximum of 25% may be obtained upon a satisfactory showing of good cause by the recipient. Funds carried over in excess of 10% or the level permitted by a specific waiver will be set-off against the succeeding year's grant award.

II. Special Condition

The Special Condition to be placed upon all 1983 annualized grant awards will provide:

Consistent with the Instruction on Recipient Fund Balances to be published by the Corporation, unexpended funds in excess of 10% of the recipient's 1982 support from the Legal Services Corporation, carried forward as a fund balance at the close of the recipient's 1982 fiscal year shall be set off against this grant award.

A waiver of this provision to a maximum of 25% may be sought by application to the appropriate Regional Office within 90 days of the close of the recipient's fiscal year.

III. Definitions

A. For purposes of this instruction the term "fund balance" shall be as defined on page 2–11 of the Corporation's *Audit and Accounting Guide for Recipients and Auditors,* to wit:

"Any excess of support over expenses represents, as a general policy, a fund balance to be carried over to the next period or returned to LSC if grant or contract conditions are not complied with or if funding is terminated."

B. "Support" shall be defined as the sum of: (1) The recipient's LSC fund balance, if any, carried forward from the previous period; (2) its annualized LSC grant award for the period in question; and (3) any investment income attributable to such funds.

C. The "fund balance amount" shall be determined solely by reference to the recipient's annual audit and shall be limited to LSC support (as defined in (B) above) and LSC expenses.

D. The *"fund balance percentage"* shall be determined by expressing the fund balance amount as a percentage of the recipient's LSC support for the period in question (as defined in (B) above *except that it shall exclude the recipient's fund balance, if any, carried forward from the previous period).*

IV. Policy

A. In the absence of a waiver from the Corporation, any fund balance amount in excess of 10% shall be set off against the recipient's annualized grant award for the next period by pro rata deductions from the remaining monthly allocations to the recipient.

B. After receipt and review of the recipient's annual audit, written notice regarding any such deduction shall be provided to the recipient 30 days prior to such deduction being made.

C. In no way shall any such deduction be construed to affect the annualized funding level of such recipient.

D. A waiver of the 10% ceiling may be sought where the recipient can show good cause that a higher level should be permitted. Such waivers may be granted by the Regional Office to a maximum of 25%.

V. Process

A. Not later than 90 days after the close of its fiscal year, a recipient shall determine (pursuant to Section III(D) of this Instruction) and submit to the appropriate Regional Office of the Corporation a statement of the fund balance which has to occurred according to the annual audit required by Section 1009(c)(1) of the Legal Services Act, as amended.

B. Should the recipient expect its audit figures to show a fund balance in excess of 10% of its Corporation support during the previous fiscal year it may, not later than 90 days after the close of its fiscal year, apply to the appropriate Regional Office for a waiver of the 10% ceiling.

Such application must specify:

(1) The fund balance amount which is expected to occur according to the recipient's annual audit;

(2) The reason that such level has been maintained;

(3) The recipient's plan for the disposition or reserve of such fund balance amount; and,

(4) The level of fund balance projected to be carried forward at the close of the recipient's then current period.

C. The decision of the Regional Office regarding the granting of a waiver shall be guided by the statutory mandate requiring the provision of the highest quality services in the most effective and economical manner. In addition, the Regional Office shall consider:

(1) Emergencies, unusual occurrences, or other circumstances giving rise to the existence of a short-term fund balance in excess of 10%;

(2) Management decisions related to the general funding of the recipient, the dictates of professional responsibility in the jurisdiction(s) within which the recipient operates, or other factors giving rise to the need to maintain operating or contingent reserves in excess of 10%; and/or,

(3) The special needs of eligible clients in the recipient's service area giving rise to the need to extend the spend down of a recipient's excess fund balance into the succeeding period.

D. The decision of the Regional Office shall be communicated to the recipient within 30 days of the receipt of the request for a waiver and shall set forth the level of fund balance amount in excess of 10%, which shall not be subject to the set off provision of this policy.

E. The decision of the Regional Office may be appealed to the Director of the Office of Field Services who, upon independent inquiry and consideration of the criteria set out above, shall make the final decision, after consultation with the President of LSC.

[FR Doc. 83–167 Filed 1–4–83; 8:45 am]
BILLING CODE 6820–35–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued the periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 5, No. 2).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria

published in the Federal Register (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

This report to Congress is for the second calendar quarter of 1982. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described. The report states that there were no abnormal occurrences at the nuclear power plants licensed to operate. There were no abnormal occurrences for the other NRC licensees. The Agreement States reported no abnormal occurences to the NRC.

The report also contains information updating some previously reported abnormal occurences. Some of the updates have been given more generalized titles (as compared to their former specific titles) to include some new events which are associated in some respects to previously reported abnormal occurrences.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C., or at any of the nuclear power plant Local Public Document Rooms throughout the country. Single copies of the report, designated NUREG–0090, Vol. 5, No. 2, may be purchased from the National Technical Information Service, Springfield, Va. 22161.

A year's subscription to the NUREG–0090 series publication, which consists of four issues, is available from the NRC/GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Microfiche of single copies of the publication are also available from this [illegible]

Dated at Washington, D.C., this 30th day of December, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83–233 Filed 1–4–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–369 and 50–370]

Duke Power Co.; Granting of Relief From Certain Requirements of ASME Code Section XI Inservice (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules and Inservice Inspection of Nuclear Power Plant Components" to the Duke Power Company (the licensee). The relief relates to the preservice hydrostatic tests for the McGuire Nuclear Station, Units 1 and 2 (the facilities) located in Mecklenburg County, North Carolina. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief relates to certain preservice examination requirements, pursuant to the Commission's regulations in 10 CFR 50.55a(g)(6)(i) for Unit 1 and 10 CFR 50.55a(a)(2)(i) for Unit 2. In lieu of hydrostatic tests, the licensee will perform nondestructive examinations consisting of radiography, ultrasonic testing, and surface examination of the welds.

The requests for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the related Safety Evaluation Report.

The Commission has determined that the granting of relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) the licensee's letters dated September 14 and October 19, 1982, (2) the Commission's letter to the licensee dated December 29, 1982, and, (3) the Commission's related Safety Evaluation Report. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Atkins Library, University of North Carolina, Charlotte, UNCC Station, North Carolina 28223. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of December 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83–234 Filed 1–4–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–334]

Duquesne Light Co., Ohio Edison Co., and Pennsylvania Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR–66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment modifies Table 3.3–10 to reflect the fire detection instruments that have been added to Beaver Valley Unit No. 1.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 11, 1982, (2) Amendment No. 60 to License No. DPR–66 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Aliquippa, Pa. 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of December 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-235 Filed 1-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 90 to Facility Operating License No. DPR-31, and Amendment No. 84 to Facility Operating License No. DPR-41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments modify the required flow rate of the auxiliary feedwater system from 600 gpm to 373 gpm for the new model 44F steam generators.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 5, 1982, (2) Amendment Nos. 90 and 84 to License Nos. DPR-31 and DPR-41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Fla. 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 28th day of December, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-236 Filed 1-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. P-564A; ASLBP 73-334-07 AN]

Pacific Gas & Electric Co.; (Stanislaus)

Pursuant to the authority contained in 10 CFR 2.105 (effective November 6, 1981), the Atomic Safety and Licensing Board for Pacific Gas & Electric Company (Stanislaus), Docket No. P-564-A, is hereby reconstituted by appointing Administrative Law Judge Morton B. Margulies to serve as presiding officer. Administrative Law Judge James A. Laurenson was the presiding officer but will not be able to continue to preside because of a schedule conflict.

All correspondence, documents and other materials shall be filed with Judge Margulies in accordance with 10 CFR 2.701 (1980). His address is: Administrative Law Judge Morton B. Margulies, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 28th day of December 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-237 Filed 1-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-272]

Public Service Electric and Gas Co., Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Facility Operating License No. DPR-70, issued to Public Service Electric and Gas Co., Philadelphia Electric Co., Delmarva Power and Light Co., and Atlantic City Electric Co. (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications pertaining to borated water systems, the refueling water tank, and the spray additive system to bring these specifications into agreement with those for Salem Unit 2 and with the requirements of NRC/IE bulletin 77-04.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 5, 1982, (2) Amendment No. 50 to License No. DPR-70, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, N.J. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of December, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-238 Filed 1-4-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas & Electric Corp.; Systematic Evaluation Program; Availability of Final Integrated Plant Safety Assessment Report for the R. E. Ginna Nuclear Power Plant

The Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation (NRR) has published its Final Integrated Plant Safety Assessment Report (IPSAR) (NUREG-0821) related

to the Rochester Gas & Electric Corporation's (licensee) R. E. Ginna Nuclear Power Plant located in Wayne County, New York.

The Systematic Evaluation Program (SEP) was initiated by the NRC to review the design of older operating nuclear reactor plants to reconfirm and document their safety. This report documents the review completed under the Systematic Evaluation Program for the Ginna plant. Areas in the report identified as requiring further analysis or evaluation and required modifications for which design descriptions have not yet been provided by the licensee to the NRC will be reviewed as part of the operating license conversion review. Supplements to the Final IPSAR will be issued addressing items requiring further analysis and review. The review has provided for (1) an assessment of the significance of differences between current technical positions on selected safety issues and those that existed when the Ginna plant was licensed, (2) a basis for deciding on how these differences should be resolved in an integrated plant review, and (3) a documented evaluation of plant safety when all supplements to the IPSAR and the Safety Evaluation report for converting the license from a provisional to a full-term license have been issued. Equipment and procedural changes have been identified as a result of the review. The report also addresses the comments and recommendations made by the Advisory Committee on Reactor Safeguards (ACRS) in connection with its review of the Draft Report, issued in May 1982. These comments and recommendations, as contained in a report by the ACRS dated August 18, 1982, and the NRC staff's related responses are included in Appendix H of the report.

The Final IPSAR and its supplements will form part of the bases for considering the conversion of the existing provisional operating license to a full-term operating license.

Pursuant to 10 CFR 50.71(e)(3)(ii), the licensee is required within 24 months after receipt of the letter dated December 9, 1982, from the Director of the Office of Nuclear Reactor Regulation to the licensee transmitting the Final IPSAR, to file a complete Final Safety Analysis Report (FSAR), which is up to date as of a maximum of six months prior to the date of filing the revision.

The Final IPSAR is being made available at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Rochester Public Library, 115 South Avenue, Rochester, N.Y. 14627 for inspection and copying. Copies of this Final Report (Document No. NUREG–0821) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161, and from the Sales Office, U.S. Nuclear Regulatory Commission, Director, Division of Technical Information and Document Control, Washington, D.C. 20555, Attention: Publications Unit.

Dated at Bethesda, Maryland, this 9th day of December, 1982.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83–1239 Filed 1–4–83; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Executive Office of the President; White House Science Council (WHSC); Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on January 20 and 21, 1983, in Room 305, Old Executive Office Building, Washington, D.C. The meeting will begin at 7:00 p.m. on January 20, recess and reconvene at 8:00 a.m. on January 21. Following the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The January 20 session and a portion of the January 21 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2), and 9(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

The portion of the meeting open to the public will begin at 10:00 a.m. Because of the security in the Old Executive Office Building, persons wishing to attend the open portion of the meeting should contact Jerry Jennings, Executive Director of the Office of Science and Technology Policy at (202) 456–7740, prior to 3:00 p.m. on January 20. Mr. Jennings is also available to provide further information regarding this meeting.

Dated: December 29, 1982.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

[FR Doc. 83–146 Filed 1–4–83; 8:45 am]

BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 22803; 70–6706]

New England Electric System; Proposal To Refinance Short-Term Note

In the matter of New England Electric System, Manchester Electric Co., 25 Research Drive, Westborough, Massachusetts 01581.

The New England Electric System ("NEES"), a registered holding company, and one of its subsidiaries, Manchester Electric Company ("Manchester"), have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(a), 7, 9(a), 10, and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42(a), 43, 45(a), and 50 promulgated thereunder.

By orders dated March 31, 1982, April 28, 1982, and October 22, 1982 (HCAR Nos. 22438, 22476, and 22681 respectively), five of NEES' subsidiaries were authorized to borrow, through March 31, 1983, from NEES, banks, and a money-pool system currently in operation, and/or to issue commercial paper. The proceeds of the borrowings are to be used to repay existing short-term debt and to provide new money for capitalizable expenditures.

By order dated November 8, 1982 (HCAR No. 22699), the Commission authorized NEES to acquire Manchester.

Pursuant to this authorization, NEES acquired over 80% of Manchester's stock on December 10, 1982, thereby making Manchester a subsidiary of NEES and subject to the Act.

Prior to said acquisition, Manchester had a short-term note outstanding in the amount of $150,000 with the Cape Ann Bank and Trust Company ("Cape Ann Bank"). This note comes due on January 25, 1983. Manchester proposes to refinance the note in the same principal amount of $150,000, by the issue of another short-term note, with a maturity not to exceed 270 days, to the Cape Ann Bank or to one of the lending banks listed in said application-declaration. Based on the current prime rate of 11½%, it is expected that the effective interest rate of the borrowing will be no greater than 14.4%.

The application-declaration, as amended by the post-effective amendment, and any further amendments are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 20, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-178 Filed 1-4-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan #2072; Amendment #1]

Arkansas; Declaration of Disaster Loan Area

Declaration #2072 (See 47 FR 57185) is amended in accordance with FEMA's declaration of December 20, 1982, to include Baxter, Cleburne, Crawford, Fulton, Howard, Izard, Little River, Perry, Pike, Stone, Woodruff and Yell Counties in the State of Arkansas. The termination date for filing applications for physical damage is close of business on February 11, 1983, and for economic injury until close of business on September 13, 1983, for eligible victims in the declared counties.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Date: December 22, 1982.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-230 Filed 1-4-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan No. 2070; Amendment No. 1]

Hawaii; Declaration of Disaster Loan Area

The above numbered declaration (See 47 FR 55358) is amended by adding the adjacent counties of Maui and Hawaii as a result of damage caused by a hurricane beginning on November 23, 1982. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on January 28, 1983, and for economic injury until the close of business on August 27, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 23, 1982.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-231 Filed 1-4-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan #2071; Amendment #1]

Missouri; Declaration of Disaster Loan Area

The above numbered declaration (See 47 FR 57185) is amended by adding the adjacent counties of Butler, Maries, Oregon, Reynolds and Texas as a result of damage caused by severe storms, tornadoes and flooding beginning on December 1, 1982. All other information remains the same, i.e., the termination dates for filing applications for physical damage is close of business on February 10, 1983, and for economic injury until the close of business on September 12, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 23, 1982.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-232 Filed 1-4-83; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Privacy Act of 1974; Proposed Revision of Systems of Records

AGENCY: Tennessee Valley Authority.

ACTION: Proposed revision of routine use for system TVA–28, Retirement System Records–TVA.

SUMMARY: This publication gives notice, as required by the Privacy Act, of TVA's intention to establish a new routine use for system TVA–28, Retirement System Records-TVA. Details of the proposed routine use are described below under the heading, "**SUPPLEMENTARY INFORMATION.**"

DATES: Written comments on the proposed routine use must be received by February 4, 1983.

ADDRESS: Send comments to Privacy Act Coordinator, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902.

All comments received will be available for public inspection at the TVA Technical Library, 400 West Summit Hill Drive, E2B7, Knoxville, Tennessee 37902, during normal business hours.

FOR FURTHER INFORMATION CONTACT: Thomas E. Cressler II, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902, (615) 632–2170.

SUPPLEMENTARY INFORMATION: To assist members of the TVA Retirement System in corresponding with each other for their mutual aid and support, TVA proposes to establish a new routine use for system TVA–28, Retirement System Records-TVA. The new routine use would permit disclosure "To provide the TVA Retirees Association, retired members of the TVA Retirement System, and retired former TVA employees who are covered by the Civil Service Retirement System, with names and mailing addresses of other retired members and retired employees." All comments received by the end of the above comment period will be considered in the final adoption of this proposal.

Dated: December 27, 1982.

W. F. Willis,

General Manager.

[FR Doc. 83-194 Filed 1-4-83; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Privacy Act of 1974; Proposed Revision of a System of Records

AGENCY: Office of the Secretary, Office of the General Counsel, Treasury.

ACTION: Notice of Proposed revision of a system of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, 5 U.S.C. 552a, the Office of the Secretary, Office of the General Counsel, gives notice of the proposed revision of the system of records, Treasury/OS 00.144–Civil Litigation Records, 46 FR 16480 (March 12, 1981). The revised system of records is retitled "Treasury/OS 00.144–Treasury Interagency Automated Litigation System (TRIALS)."

The existing system, Civil Litigation Records, consists of a manual index and related files. The revised system, TRIALS, consists of a computer index and related files. Thus, TRIALS augments the Citil Litigation Records system by computerizing its index.

The computerized portion of TRIALS is a case-management index that provides summary data on Treasury Department civil litigation and administrative proceedings, except for IRS tax litigation. It enhances the ability of attorneys and managers to track litigation-related activities and administrative proceedings. Information in the system is to be retrieved by type of case, docket number, action dates, legal issues, and the names of parties, attorneys, witnesses, judges and/or hearing officers. TRIALS thus provides for the more efficient use of information already maintained within the Treasury Department Legal Division's litigation files.

Pursuant to 5 U.S.C. 552a(d)(5), (j)(2), and (k), TRIALS contains records which are exempt from certain provisions of the Privacy Act of 19745. TRIALS contains information related to litigation and administrative proceedings involving or concerning the Department of the Treasury or its officials and includes pending, active and closed files. The system contains information concerning pleadings, investigative reports, and data compiled in reasonable anticipation of a civil action or proceeding.

DATE: Comments must be received on or before March 7, 1983. If no comments are received, this system of records will become effective March 7, 1983.

ADDRESS: Comments should be sent to: Assistant General Counsel (Enforcement & Operations), Room 2310, Main Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Stephanie Dick, Office of the Assistant General Counsel (Enforcement & Operations), Room 2000, Main Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220.

Dated: December 10, 1982.

Cora P. Beebe,

Assistant Secretary (Administration).

Treasury/OS 00.144

SYSTEM NAME:

Treasury Interagency Automated Litigation System (TRIALS), Treasury/OS 00.144.

SYSTEM LOCATION:

U.S. Treasury Department, Office of the General Counsel, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220, and through computer terminals at various national and regional Treasury Bureau locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are parties, plaintiff or defendant, in civil litigation or administrative proceedings with the Treasury Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents related to litigation or administrative proceedings involving or concerning the Treasury Department or its officials. The hard-copy records consist of pleadings, investigative reports, legal memoranda, and related correspondence. The computerized index consists of information describing and categorizing litigation and administrative proceedings, including type of case, docket number, action dates, legal issues, and the names of parties, attorneys, witnesses, judges and/or hearing officers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 31 U.S.C. 301

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records are used to prosecute, defend, track and index court cases or administrative proceedings related to certain general civil litigation. The records are also routinely used to provide cooperation to the U.S. Department of Justice in marshalling facts, correlating evidence, and preparing pleadings and briefs. The system can be used only by authorized employees within the Treasury's Legal Division. For additional routine uses see Appendix AA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The hard copy records are maintained in file folders with index cards. The computerized records are maintained in computer data banks, tapes and printouts.

RETRIEVABILITY:

All records are indexed on a variety of data fields including case name and location, type of case, relief sought, responsible attorney, and date.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel. Only employees within the Treasury Department with proper user identification have access to the computer banks.

RETENTION AND DISPOSAL:

The records are maintained during the pendency of the litigation. Approximately two years thereafter the hard-copy records are transferred to the Federal Records Center, Suitland, Maryland. the hard-copy records are destroyed by the Federal Records Center, when the records are seven years old. The computer index will be maintained for 5 years thereafter, and then retired to magnetic tape, and maintained an additional 5 years.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Room 3006, Office of the General Counsel, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220.

NOTIFICATION PROCEDURE:

Individuals wishing to be notified they are named in this system of records, or gain access to records maintained in this system must submit a written request containing the following elements: (1) Identity of the record system, (2) identity of the category and type or records sought, (3) at least two types of secondary information (date of birth, employee identification number, dates

of employment or similar information.) The system contains records which are exempt under 31 CFR 1.36; 5 U.S.C. 552a(j)(2); 5 U.S.C. 552a(k)(2); or 5 U.S.C. 552a(d)(5). Address inquiries to Chief, Disclosure Branch, Department of the Treasury, Room 5423, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220.

RECORD ACCESS PROCEDURES:

Chief, Disclosure Branch, Department of the Treasury, Room 5423, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Treasury Department Legal Division, Department of Justice Legal Division.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Exempt under 31 CFR 1.36, 5 U.S.C. 552a(j)(2); 5 U.S.C. 552a(k)(2).

[FR Doc. 83-165 Filed 1-4-83; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 3
Wednesday, January 5, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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	Meeting
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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 10, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of the minutes of previous meetings.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 3, 1983.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S–2–83 Filed 1–3–83; 3:43 pm]
BILLING CODE 6714–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 10, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389–4425.

Dated: January 3, 1983.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S–3–83 Filed 1–3–83; 3:43 pm]
BILLING CODE 6714–01–M

3

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 57818, December 28, 1982.

STATUS: Closed/open meeting.

PLACE: 450 5th Street, N.W., Washington, D.C,, Room 1C30.

DATE PREVIOUSLY ANNOUNCED: Thursday, December 23, 1982.

CHANGES IN THE MEETING: Additional items. The following additional items will be considered at a closed meeting scheduled for Tuesday, January 4, 1982, at 10:00 a.m.

Settlement of administrative proceeding of an enforcement nature.
Institution of injunctive actions.
Litigation matter.
Regulatory matter regarding financial institution.

The following additional item will be considered at an open meeting scheduled for Thursday, January 6, 1982, at 10:00 a.m.

Consideration of whether to grant the request of Krys, Boyle, Golz & Keithley for a waiver of imputed disqualification pursuant to 17 CFR 200.735–8(d). For further information, please contact Myrna Siegel at (202) 272–2430.

Commissioner Evans, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Catherine McGuire at (202) 272–2401.

December 30, 1982.

[S–1–83 Filed 1–3–83; 11:22 am]
BILLING CODE 8010–01–M

federal register

Wednesday
January 5, 1983

Part II

Environmental Protection Agency

Standards for Remedial Actions at Inactive Uranium Processing Sites

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 192

[A-FRL 2211-8a]

Standards for Remedial Actions at Inactive Uranium Processing Sites

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: We are issuing final health and environmental standards to govern stabilization, control, and cleanup of residual radioactive materials (primarily mill tailings) at inactive uranium processing sites. These standards were developed pursuant to Section 275 of the Atomic Energy Act (42 U.S.C. 2022), as added by Section 206 of the Uranium Mill Tailings Radiation Control Act of 1978 (Pub. L. 95-604), and were proposed in April 1980 and January 1981.

The standards apply to tailings at locations that qualify for remedial action under Title I of Pub. L. 95-604. The standards for control provide that the tailings be stabilized in a way that gives reasonable assurance that the health hazards associated with the tailings will be controlled and limited for a long period of time. They also establish a requirement to control releases of radon from tailings piles. The standards for cleanup set limits on the radon decay-product concentration and gamma radiation levels in buildings affected by tailings and on the radium-226 concentration in contaminated land.

In response to comments on the proposed standards for disposal and for cleanup, we have evaluated a number of alternatives in terms of their costs and the reductions achievable in potential health effects. A number of changes have been made, including raising some of the numerical limits and eliminating some requirements. The purpose of most of these changes is to make implementation easier and less costly. The changes should not result in any substantial loss of health or environmental protection over that which would have been provided by the proposed standards.

EFFECTIVE DATE: The final standards take effect on March 7, 1983.

ADDRESSES: *Final Environmental Impact Statement.* Background information is given in the *Final Environmental Impact Statement for Remedial Action Standards for Inactive Uranium Processing Sites.* (FEIS), EPA Report 520/4-82-013-1. Single copies of the FEIS, as available, may be obtained from the Program Management Office (ANR-458), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460; telephone number 703-557-9351.

Docket. Docket Number A-79-25 contains the rulemaking record. The docket is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (A-130), West Tower Lobby, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Dr. Stanley Lichtman, Guides and Criteria Branch (ANR-460), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460; telephone number 703-557-8927.

SUPPLEMENTARY INFORMATION:

I. Introduction

On November 8, 1978, Congress enacted the Uranium Mill Tailings Radiation Control Act of 1978, Pub. L. 95-604 (henceforth designated "the Act"). In the Act, Congress stated its finding that uranium mill tailings ". . . may pose a potential and significant radiation health hazard to the public, . . . and . . . that every reasonable effort should be made to provide for stabilization, disposal, and control in a safe and environmentally sound manner of such tailings in order to prevent or minimize radon diffusion into the environment and to prevent or minimize other environmental hazards from such tailings." The Administrator of the Environmental Protection Agency (EPA) was directed to set ". . . standards of general application for the protection of the public health, safety, and the environment . . ." to govern this process of stabilization, disposal, and control.

The Act directs the Department of Energy (DOE) to conduct necessary remedial actions at designated inactive uranium processing sites to achieve compliance with the standards established by EPA. Standards are required for two types of remedial actions: control and cleanup. Control is the operation which places the tailings piles in a condition that will minimize the risk to man for a long time. Cleanup is the operation which reduces the potential health consequences of tailings that have been dispersed from tailings piles by natural forces or removed by man and used elsewhere in buildings or land.

In April 1980, we proposed standards for cleanup of tailings (45 FR 27370, April 22, 1980) and made them effective immediately as interim standards (45 FR 27366, April 22, 1980). We took this action to allow DOE to begin remedial work immediately at some contaminated buildings which posed a high level of risk. In January 1981, we proposed standards for control of tailings piles (46 FR 2556, January 9, 1981) and issued a Draft Environmental Impact Statement (DEIS) covering both the control and cleanup standards. Public hearings on the standards were held in Salt Lake City, Utah, on April 24-25, 1981; in Durango, Colorado, on April 27-28, 1981; and in Washington, D.C., on May 14-15, 1981.

We received a wide range of responses to the proposed standards and the DEIS. Sixty-eight substantive comment letters were received and twenty-three individuals testified or submitted comments at the public hearings. Comments were received from a broad spectrum of participants, including private citizens, public interest groups, members of the scientific community, representatives of industry, and State and Federal agencies. We have carefully reviewed and considered these comments in preparing the FEIS and in promulgating these final standards. The written comments are reproduced in the FEIS, which also contains our detailed responses. The major issues raised in public comments, our response to them, and the detailed changes in the standards are given in Sections III and IV. Below we simply summarize the major conclusions reached as a result of our review.

These standards are established to satisfy the purposes of the Act to ". . . stabilize and control . . . tailings in a safe and environmentally sound manner and to minimize or eliminate radiation health hazards to the public." The Act does not provide specific criteria to be used in determining that these purposes have been satisfied. We have therefore made it our objective to establish standards that take account of the tradeoffs between costs and benefits in a way that assures adequate protection of the public health, safety, and the environment; that can be implemented using presently available techniques and measuring instruments; and that are reasonable in terms of overall costs and benefits. We have been especially cognizant of the need to differentiate what would be desirable from what we believe to be necessary to achieve the purposes of the Act.

Substantial dissatisfaction with the proposed standards was expressed in written comments and at the public hearings. In response to these views, we carefully evaluated a number of alternatives with respect to the above factors. Details of each of the alternative control and cleanup standards we

considered are given in the FEIS. Selected results of our analysis that are pertinent to our choices for each part of the final standard are given in Section III of this Notice. The following table contains a summary of the alternative standards we considered for control of tailings piles.

ALTERNATIVE STANDARDS FOR CONTROL OF URANIUM MILL TAILINGS PILES

Alternative	Principal requirements		
	Minimum time that controls should prevent erosion and misuse (years)	For radon emission from top of pile (pCi/m²s)	For water quality protection
No standards	None (radioactivity decays to 10 percent in 265,000 yr).	No limit (The average emission is 500 pCi/m²s).	None (Toxic chemicals in tailings at concentrations 100 times background).
EPA proposed standard	1,000	2 above background	No increased concentration of [illegible]
Alternative A	1,000 to 10,000	2 above background	No degradation that would prevent present uses.
Alternative B	200 to 1,000	20	Guidance, based on water quality criteria.
Alternative C	Indefinite, long-term	100	Guidance, based on water quality criteria.
Alternative D	Durable cover; 100-yr institutional control; discourage moving of piles.	No requirement	Prevent significant erosion of tailings to surface water or ground water, or treat water [illegible]
Alternative E	Minimal cover to prevent wind-blown erosion only; 100- to 200-yr institutional control; move only piles in immediate danger due to floods	No requirement	No protection required.

The alternative cleanup and control standards can be generally categorized as:

(1) *Least cost* alternatives which provide minimum acceptable health protection, and depend upon the use of institutional methods of control;

(2) *Optimized cost-benefit* alternatives which provide longer term health protection, without reliance on institutional controls, but at somewhat higher costs; and

(3) *Nondegradation* alternatives which attempt to achieve close to the same environmental consequences as might occur if the ore had not been mined; these entail much higher costs, and could result in some undesirable environmental consequences.

Our analysis was based on assuming that remedial actions to satisfy "least cost" tailings pile control standards would entail applying a thin earthen cover and little or no reinforcement of relatively steep side slopes. Integrity of the cover would be assured through active maintenance for 100 years. Only minimal flood protection measures would be applied, and as few as one pile would be moved to a more stable location. Covers would be progressively thicker and less dependent upon care under the more stringent alternatives, with more gradual slopes and greater use of rock for reinforcement. Under the "nondegradation" alternatives, up to half of the piles would be moved to satisfy either water protection or longevity requirements.

The alternative cleanup standards would require progressively more complete removal of tailings from more buildings. Remedial methods that do not involve tailings removal may be used on a limited basis under all but "nondegradation" alternatives.

The more stringent land cleanup alternatives require more complete removal of contaminated material, implying that larger areas may be cleaned up at each contaminated location and somewhat greater numbers of sites qualify for cleanup.

We concluded that the standards we originally proposed approach a "nondegradation" alternative that would, in at least some cases, be difficult to implement, since they specify cleanup and control limits close to background levels. More importantly, the small incremental health benefits, when compared to the benefits for less stringent alternatives, do not appear to justify the large additional costs.

We selected an "optimized cost-benefit" rather than a "least cost" alternative for the final standards, in part because it provides much greater protection of health at only a small increase above the least cost alternatives, and in part because it does not place primary reliance on institutional methods of control. The final standards provide for:

(1) *Control systems for tailings piles*—Control and stabilization which will ensure, to the extent reasonably achievable, an effective life of 1000 years, and in any case, for at least 200 years. This control and stabilization will be designed to provide a barrier which will effectively minimize the potential for misuse and spread of the tailings, limit the average radon emission from the surface of tailings piles to no more than 20 pCi/m²s,[1] protect against flooding, and protect from wind and water erosion. We have also provided an alternative equivalent to the radon emission limit that is stated in terms of the maximum radon concentration in air at locations off the pile.

(2) *Flood control*—Diking or other flood protection controls given first consideration, rather than moving piles, when there is a risk from floods.

(3) *Control of waterborne pollutants*—DOE should assess each site and establish any corrective or preventive programs found necessary to meet relevant State and Federal Water Quality Standards and to be consistent, to the maximum extent practicable, with the Solid Waste Disposal Act, as amended.

(4) *Cleanup of buildings*—An objective for reduction of radon decay products of 0.02 WL,[2] with a maximum limit of 0.03 WL.

(5) *Cleanup of dispersed tailings*—Limitations of soil radium content to 5 pCi/g (above background) averaged over the top 15 centimeters of soil, and to 15 pCi/g averaged over any 15 centimeters of soil below this.

(6) *Cleanup of off-site land*—Remedial actions applied only to situations that constitute a hazard; in those cases, cleanup equivalent to the above standard for dispersed tailings.

The Table below provides a summary comparison of the proposed and final standards. The following sections provide a more detailed discussion of the basis for the final standards.

[1] A curie is the amount of radioactive material that produces 37 billion nuclear transformations (e.g., decays of radium into radon) per second. A picocurie (pCi) is a trillionth of a curie. One picocurie of material produces just over two transformations per minute. pCi/m²s is a unit for the release rate of radioactivity from a surface (m=meter, s=second). pCi/g is a unit for the radioactivity concentration in a mass of material (g=gram).

[2] A "working level" (WL) is any combination of short-lived radon decay products in one liter of air that will result in the ultimate emission of alpha particles with a total energy of 130 billion electron volts. Working level is a measure of the concentration of radioactivity in the air, not of how much radiation a person actually receives.

SUMMARY COMPARISON OF PROPOSED AND FINAL STANDARDS

	Proposed	Final
Control of Tailings Piles:		
1. Longevity	At least 1000 years	Up to 1000 years, to the extent reasonably achievable, but at least 200 years.
2. Radon emissions from disposal site.	2 pCi/m ^{2}s; equivalent to about 99.6% reduction.	20 pCi/m ^{2}s, *or* 0.5 pCi/l in air outside the disposal site; equivalent to about 90% reduction.
3. Water protection	Specific limits for a number of toxic and radioactive contaminants in groundwater; nondegradation of surface water.	Use existing State and Federal standards; apply site-specific measures where needed.
Cleanup of Buildings:		
1. Indoor radon decay products	Shall not exceed 0.015 WL	Shall not exceed 0.03 WL; to the extent practicable, achieve 0.02 WL.
2. Indoor gamma radiation	20 microR/hr	Unchanged.
Cleanup of Land:		
1. Surface	5 pCi/g in any 5 cm layer within one foot of surface.	5 pCi/g in the 15 cm surface layer.
2. Buried	5 pCi/g in any 15 cm layer below one foot.	15 pCi/g in any 15 cm layer below the surface layer.
Exceptions:		
1. Procedure	Site-specific exception procedures	Supplemental standards (may be applied on generic or site-specific basis).
2. Applicability	Where health and safety would be endangered, or where costs clearly outweigh benefits.	Same as proposed; criteria also provided to avoid cleanup of small amounts of tailings and inaccessible tailings posing minimal hazards.

It should be noted that these standards in no way are intended to establish precedents for other situations or regulations involving similar environmental objectives, but with different economic and/or technological circumstances. For example, our forthcoming proposed standards for active uranium mills will be based on an independent analysis of operating and future mills, which may result in different standards. Similarly, our remedial action standard for contaminated buildings should not be taken as an appropriate design goal for indoor radon decay product concentration in new housing, or as a remedial action goal appropriate for all circumstances.

II. Summary of Background Information

Beginning in the 1940's, the U.S. Government purchased uranium for defense purposes. As a result, large quantities of tailings were created by the uranium milling industry. These tailings are a sand-like material, and are attractive for use in construction and soil conditioning. Most of these mills are now inactive, and the ultimate disposal of their tailings has not yet taken place. In addition, tailings have been dispersed from the piles at most of the sites by natural forces, or have been removed by man for use in or around buildings, or on land. The Act provides for the cleanup of these offsite tailings as well as for the long-term control of the tailings piles.

Congress designated twenty-two inactive sites, and the Department of Energy has added two more. The sites are located in the West, predominantly in arid areas, except for a single site at Canonsburg, Pa. Tailings piles at these sites range in area from 5 to 150 acres and in height from a few feet to as much as 230 feet. The amount of tailings at each site ranges from only residual contamination to 2.7 million tons. The twenty-four designated sites combined contain about 26 million tons of tailings covering a total of about 1,000 acres.

The most important hazardous constituent of uranium mill tailings is radium, which is radioactive. We estimate that these tailings contain a total of about 15,000 curies of radium. Radium, in addition to being hazardous itself, produces radon, a radioactive gas whose decay products can cause lung cancer. The amount of radium in tailings, and, therefore, the rate at which radon is produced, will decay to about 10% of the current amount in several hundred thousand years. Other potentially hazardous constituents of tailings include arsenic, molybdenum, selenium, uranium, and, usually in lesser amounts, a variety of other toxic substances. The concentrations of these materials vary from pile to pile.

Radiation and toxic materials may cause a variety of cancers, and other diseases, as well as genetic damage and teratogenic effects. Tailings are hazardous to man because: (1) decay products of radon may be inhaled and increase the risk of lung cancer; (2) individuals may be exposed to gamma radiation from the radioactivity in tailings; and (3) radioactive and toxic materials from tailings may be ingested with food or water. We believe the first of these hazards is clearly the most important.

The radiation hazard from tailings lasts for many hundreds of thousands of years, and some nonradioactive toxic chemicals persist indefinitely. The hazard from uranium tailings therefore must be viewed in two ways. In themselves, the tailings pose a present hazard to human health. Beyond this immediate, but generally limited, health threat, the tailings are vulnerable to human misuse and to dispersal by natural forces for an essentially indefinite period. In the long run, this threat of expanded, indefinite contamination overshadows the present dangers to public health. The Congressional report accompanying the Act expressed the view that the methods used for remedial actions should not be effective for only a short period of time. It stated: "The committee believes that uranium mill tailings should be treated . . . in accordance with the substantial hazard they will present until long after existing institutions can be expected to last in their present forms," and, that "The Committee does not want to visit this problem again with additional aid. The remedial action must be done right the first time." (H.R. Rep. No. 1480, 95th Cong., 2nd Sess., Pt. I, p. 17, and Pt. II, p. 40 (1978).)

For the purpose of establishing standards for the protection of health, we assume a linear, nonthreshold dose-effect relationship as a reasonable basis for estimating risks to the general public from radiation. This means we assume that any radiation dose poses some risk and that the risk of low doses is directly proportional to the risk that has been demonstrated at higher doses. We recognize that the data available preclude neither a threshold for some types of damage below which there are no harmful effects, nor the possibility that low doses of gamma radiation may be less harmful to people than the linear model implies. However, the major radiation hazard from tailings arises from alpha radiation, and the National Academy of Sciences' Advisory Committee on the Biological Effects of Ionizing Radiation (the BEIR Committee) stated in their 1980 report that for ". . . radiation, such as from internally deposited alpha-emitting radionuclides, the application of the linear hypothesis is less likely to lead to overestimates of risk, and may, in fact, lead to underestimates."

Our quantitative estimates of radiation risk are based on our review of epidemiological studies, conducted in the United States and in other countries, of underground miners of uranium and other metals who have been exposed to

radon decay products, and on three reports: *The Effects on Populations of Exposure to Low Levels of Ionizing Radiation* (1972) and *Health Effects of Alpha Emitting Particles in the Respiratory Tract* (1976) by the BEIR Committee, and the report of the United Nations Scientific Committee on the Effects of Atomic Radiation entitled *Sources and Effects of Ionizing Radiation* (1977). Details of our risk estimates are provided in *Indoor Radiation Exposure Due to Radium-226 in Florida Phosphate Lands* (EPA 520/4–78–013) and in the FEIS.

Although the studies of underground miners show that there is a significant risk of lung cancer from exposure to radon decay products, there is some uncertainty about its magnitude. Exposures of miners are estimated from the time spent in each location in a mine and the measured radon decay product levels at those locations. However, radon decay product measurements were infrequent and often nonexistent for exposures of miners prior to the 1960's. The uncertainty increases when data for miners are used to estimate risk to the general population because there are differences in age, physiology, exposure conditions, and other factors between the two populations. Nevertheless, we believe the information available provides an estimate of risk which is probably reliable within a factor of two or three, and that this constitutes an adequate basis for these standards.

It is not possible to reduce the risk to zero for people exposed to radiation or, for that matter, to many other hazardous materials. In order to decide on an appropriate level of a small residual risk, we evaluated the costs and benefits of different levels of control. We also considered technical difficulties associated with implementing different levels of control.

The legislative record shows that Congress intended that EPA set general standards and not specify any particular method of control. Therefore, our analyses of control methods, costs, risks, and other pertinent factors emphasize the general characteristics of uranium mill tailings and the designated sites. The Act gives other agencies of the Federal Government the responsibility to decide how to satisfy these standards at specific sites. They will issue site-specific Environmental Impact Statements or Environmental Assessments, as appropriate, covering such matters.

The information upon which we based these health and environmental standards for control and cleanup of tailings from inactive uranium processing sites is summarized below. Additional background information and more complete presentations are given in our notices of proposed rulemaking (45 FR 27370, April 22, 1980, and 46 FR 2556, January 9, 1981) and in the FEIS.

A. The Risks from Tailings

Uranium mill tailings can affect man through four principal environmental pathways:

- *Diffusion of radon-222, the decay product of radium-226, from tailings into indoor air.* Breathing radon-222, an inert gas, and its short half-life decay products, which attach to tiny dust particles, exposes the lungs to alpha radiation (principally from polonium-218 and polonium-214). The exposures involved may be large for persons who have tailings in or around their houses, or who live very close to tailings piles. Additional, but smaller, exposures to alpha radiation may result from long-lived radon-222 decay products (principally lead-210 and polonium-210). Exposure due to radon from tailings in or around buildings is best estimated from direct measurements of its decay products in indoor air.
- *Direct exposure to gamma radiation.* Many of the radioactive decay products in tailings produce gamma radiation. The most important are lead-214, bismuth-214, and thallium-210. Hazards from gamma radiation are limited to persons in the immediate vicinity of piles or removed tailings. Exposure due to gamma radiation from tailings is readily estimated from direct measurements.
- *Dispersal of small particles of tailings material in the air.* Wind erosion of unstabilized tailings piles creates airborne tailings material. The predominant dose is to the bones from eating foods contaminated by thorium-230, radium-226, and lead-210, and is small. Exposure due to airborne transport of radon and particulates from a pile usually cannot be directly measured, but may be estimated using meteorological transport models.
- *Waterborne transport of radioactive and toxic material.* Dispersal of unstabilized tailings by wind or water, or leaching, can carry radioactive and other toxic materials to surface or ground water. Current levels of contamination appear to be low or nonexistent. However, some long-term future contamination of surface and ground water and consequent intake by man and animals is possible. Potential exposures due to the transport of waterborne contaminants are highly site-specific and can generally only be determined by a careful survey program.

The following discussion of risks focuses largely on current biological effects; however, these current effects could be expanded by future misuse of tailings by man and by uncontrolled effects of natural forces. Our standards reflect consideration of both current and future impacts of tailings.

1. Air Pathways. We estimated the hazards posed by radon emissions to air from uranium mill tailings piles and from tailings used in and around houses. For the first case we used meteorological models and considered people in the neighborhood of the pile, the population in the local region, and the remainder of the national population. For the second, we drew largely upon experience from contaminated houses in Grand Junction, Colorado. Four sources of exposure were considered; inhaled short-lived radon decay products, gamma radiation, the long-lived radon decay products, and airborne tailings.

From our analysis we conclude:

(a) Lung cancer caused by the short-lived decay products of radon is the dominant radiation hazard from tailings. Effects of gamma radiation, of long-lived radon decay products, and of airborne tailings from the piles are generally much less significant, although high gamma radiation doses may sometimes occur.

(b) Individuals who have tailings in or around their houses often have large exposures to indoor radon and hence high risks of lung cancer. For example, in 50% of a sample of 190 houses with tailings in Grand Junction, Colorado, we estimate that the lifetime excess risk due to exposure to short-lived radon decay products prior to remediation may have been greater than 4 chances in 100.

(c) Individuals living near an uncontrolled tailings pile are also subjected to high risks from short-lived radon decay products. For example, we estimate that people living continuously next to some of the piles may have lifetime excess lung cancer risks as high as 4 chances in 100.

(d) Based on models for the cumulative risk to all exposed populations, we estimate that, without remedial action, the radon from all the inactive sites considered together could cause about 170 to 240 potential excess lung cancer deaths per century. Of these, 55% to 80% are projected to occur among persons living less than 50 miles from a pile.

There is a substantial uncertainty in these estimates because of uncertainties in the rate of release of radon from tailings piles, the exposure people will receive from its decay products, and

from our incomplete knowledge of the effects on people of these exposures. In addition, our estimates are based upon current sizes and geographical distributions of populations. If populations increase in the future, the estimated impact would be larger.

We concluded that a primary objective of standards for *cleanup* of tailings should be to remove or reduce existing and potential risks due to radon decay products indoors. Such risks from indoor radon decay products arise in two ways—in existing buildings where tailings were used in construction and cause elevated levels, and from land contaminated sufficiently to cause elevated levels in new construction. A secondary objective should be to reduce high exposures to gamma radiation due to tailings in buildings or on land away from the tailings piles.

We concluded that a primary objective of standards for *control* of tailings should be isolation and stabilization to prevent their misuse by man and dispersal by natural forces, such as wind, rain, and flood waters. A second objective should be to reduce radon emissions from tailings piles. A third objective should be the elimination of significant exposure to gamma radiation from tailings piles.

2. Water Pathways. Although water contamination does not now appear to be a significant source of immediate radiation exposure at the piles, both radionuclides and nonradioactive toxic substances, such as arsenic, molybdenum, and selenium, could be leached or otherwise removed from tailings and contaminate water resources. If this occurred, it could then affect crops, animals, and people. Such contamination could, in principle, be caused by either past or future releases from the tailings. Tailings piles at inactive sites have already lost most of the water deposited in them during mill operations through evaporation and seepage. However, elevated concentrations of radioactive or toxic substances in ground water have been observed at only a few of the designated sites (four are identified in the FEIS), and in some standing water ponds (but not in running water). Any future water contamination would arise from the effects of rain or through flooding of a pile, from penetration of a pile from below by ground water, or from leaching of tailings transported off a pile.

A theoretical analysis performed for the Nuclear Regulatory Commission (NRC) of a larger model pile showed that contamination of ground water by selenium, sulfate, manganese, and iron might exceed current drinking water standards over an area 2 kilometers wide and 8 to 30 kilometers long. However, more than 95% of this projected contamination was attributable to initial seepage of process water discharged to the pile during mill operations. The movement of contaminants through a pile and subsoil to ground water depends on a combination of complex chemical and physical properties, as well as on local precipitation and evaporation rates. Chemical and physical processes can effectively remove or retard the flow of many toxic substances passing through subsoil. However, some contaminants such as arsenic, molybdenum, and selenium, can occur in forms that are not removed. Typically, ground water can move as slowly as a few feet per year, and only in coarse or cracked materials does the speed exceed one mile per year. For these reasons, contaminants from tailings may not affect the quality of nearby water supply wells for decades or longer after they are released. However, once contaminated, the quality of water supplies cannot usually be easily restored simply by eliminating the source (although, in some cases removing or isolating the tailings may contribute to improving water quality).

Based on results from the NRC generic model for mill tailings piles, it is likely that the few observed cases of ground water contamination resulted from seepage of the original liquid waste discharges from the mill. Additional future contamination of ground water should be much smaller, and in most cases would be expected to be minimized by measures required to control misuse of tailings by man and dispersal by wind, rain, and flood waters. These measures should also effectively eliminate the threat of contamination of surface water by runoff or from leaching of tailings transported off piles, and provide reasonable protection of surface and ground water from contamination by flooding. However, at a few specific sites, especially in areas of high rainfall or where ground water tables intersect the piles, special consideration of possible future contamination of ground water may be needed.

Though a few sites appear to have some existing contamination due to the presence of tailings, we believe it will usually not be feasible or practical to remove the contaminants from subsoil or ground water. Whether or not it is feasible or practical to restore an aquifer and to what degree will depend on site-specific factors, such as the ability to restore the aquifer in its hydrogeologic setting, the cost, the present and future value of the aquifer as a water resource, the availability of alternative supplies, and the degree to which human exposure is likely to occur.

We concluded that potential contamination of surface and ground water at the inactive sites must be considered on a site-specific basis. The remedial program should provide for adequate hydrological and geochemical surveys of each site as a basis for determining whether specific water protection or cleanup measures should be applied. In many cases, the control measures needed for other purposes should reduce any potential for contamination.

In addition to the available information upon which we based our conclusion, hydrological and geochemical studies are presently being conducted or planned at a number of sites. The purpose of these studies is to gather additional information so as to more fully assess any actual or potential ground water contamination and to better understand the mechanism of contaminant movement. The studies will identify the extent and character of contaminants remaining in the piles, as well as the direction, rate of movement and degree of attenuation of any contaminants already released. In particular, attention is being given to identifying the likelihood of contaminants reaching an actual or potential water supply source. We are currently reviewing current studies and will review future studies assessing the site-specific factors related to potential ground water contamination.

As stated previously in this Section II, site-specific Environmental Assessments (EAs) or Environmental Impact Analyses (EIAs) will be prepared for each site. We will review the information generated as part of those. The EAs or EIAs would gather data on a site-specific basis which would either characterize the site completely or confirm the use of general models in determining potential mechanisms for impact or lack of impact on ground water.

We believe that it is important to conclude these studies as quickly as possible. These studies will provide a more complete data and analytical base to allow us to reevaluate the decision not to set ground water protection standards. Information to be obtained as a part of the studies will include the response of the tailings and interstitial fluids to water table and precipitation stimuli; distribution of radionuclides and other contaminants within the tailings pile; identification of mobile constituents within the tailings and

ground water system; and analyses of the mechanisms for the release and transport of the contaminants both to the surface and downward to ground water.

To date, the results of more recent studies than those we described in our FEIS strongly support our decision not to issue general numerical water protection standards. We intend to continue to review additional information as it becomes available, and will reconsider our decision if the need to do so becomes apparent.

B. Cleanup and Control of Tailings

1. Control of Tailings Piles. The objectives of tailings control and stabilization efforts are to prevent their misuse by man, to reduce radon emissions (and gamma radiation exposure), and to avoid the contamination of land and water by preventing erosion by natural processes. The longevity (i.e., long-term integrity) of control is particularly important. This is affected by the potential for disruption by man; by the probability of occurrence of such natural phenomena as earthquakes, floods, windstorms, and glaciers; and by chemical and mechanical processes in the piles. Prediction of the long-term integrity of control methods becomes less certain as the period of concern increases. Beyond several thousand years, long-term geological processes and climatic change become the dominant factors.

Methods to prevent misuse by man and disruption by natural phenomena may be divided into those whose integrity depends upon man and his institutions ("active" controls) and those that do not ("passive" controls). Examples of active controls are fences, warning signs, restrictions on land use, and inspection and repair of semi-permanent tailings covers, temporary dikes, and drainage courses. Examples of passive controls are thick earthen covers, rock covers, massive earth and rock dikes, burial below grade, and moving piles out of locations highly subject to erosion, such as unstable river banks.

Erosion of tailings by wind, rain, and flooding can be inhibited by contouring the pile and its cover, by stabilizing the surface (with rock, for example) to make it resistant to erosion, and by constructing dikes. If necessary, erosion can be inhibited by burying tailings in a shallow pit or moving them away from a particularly flood-prone or otherwise geologically unstable site.

Methods to control release of radon range from applying a simple barrier (such as an earthen cover) to such ambitious treatments as embedding tailings in cement or processing them to remove radium, the precursor of radon. Covering tailings with a permeable (porous) barrier, such as earth, delays radon diffusion so that most of it decays and is effectively retained in the cover. In addition to simple earthen covers, other less permeable materials such as asphalt, clay, or soil cement, usually in combination with earthen covers, may be used. The more permeable the covering material, the thicker it must be to achieve a given reduction in radon release. However, maintaining the integrity of very thin impermeable covers, such as plastic sheets, even over a period as short as several decades is unlikely given the chemical and physical stresses present at piles.

The most likely constituents of covers for use to control tailings are locally available earthen materials. The effectiveness of an earthen cover as a barrier to radon depends most strongly on its moisture content. Typical clay soils in the uranium milling regions of the west exhibit ambient moisture contents of 9% to 12%. For nonclay soils ambient moisture contents range from 6% to 10%. The following table provides, as an example, the cover thicknesses that would be required to reduce the radon emission to 20 pCi/m^2s for the above ranges of soil moisture. Three examples of tailings are shown that cover the probable extreme values of radon emission from bare tailings at the designated sites (100 to 1000 pCi/m^2s); the most common value is probably somewhat less than 500 pCi/m^2s.

ESTIMATED COVER THICKNESS (METERS) TO ACHIEVE 20 pCi/M^2S

Radon emission from tailings (pCi/m^2s)	Percent moisture content of cover			
	6	8	10	12
100	1.7	1.3	1.0	0.7
500	3.4	2.6	2.0	1.5
1,000	4.1	3.2	2.4	1.8

These values are for simple homogeneous covers. In practice, multi-layer covers using clay next to the tailings can be used to significantly reduce the total thickness required.

Methods that control radon emissions will also prevent transport of particulates from the tailings pile to air or to surface water.[3] Similarily, permeable covers sufficiently thick for effective radon control will also absorb gamma radiation effectively (although thin impermeable covers will not).

[3] However, recent studies suggest the possibility that some chemical processes in tailings piles could carry dissolved contaminants upward, perhaps even through earthen coverings. Control system designers must carefully consider this possibility.

Control of possible contamination of ground water is difficult. In the few cases where this is a potentially significant problem, clay liners and/or clay caps may provide a good degree of protection for at least many decades. However, more permanent protection may require removal to a site with more favorable hydrological, geochemical, or meteorological characteristics.

Very effective long-term inhibition of misuse by man, as well as of releases to air and surface water, could be achieved by burying tailings in deep mined cavities. In this case, however, direct contact with ground water would be difficult to avoid. The potential hazards of tailings could also be reduced by chemically processing them to remove contaminants. Such processes have limited efficiencies, however, so the residual tailings would still require control. Furthermore, the extracted substances (e.g., radium and thorium) would be concentrated, and would require further control.

We analyzed the costs of a number of possible control methods. The total cost is affected most strongly by the type of material used to stabilize the surface against erosion and inhibit misuse by man, by the water protection features required, and by the number of piles that must be moved to new sites. In general, costs of covers using man-made materials (e.g., asphalt) are somewhat higher than costs for earthern covers. Active control measures are usually less costly in the short term than are passive measures. The costs for burial of tailings piles or for using chemical processing to extract radium (and perhaps other substances) are much higher than those for disposal using covers. We find that, given a decision to carry out any significant stabilization, the total cost of control using earthen covers does not depend strongly on the degree of reduction of radon emissions, for reductions by up to about a factor of 50 (the maximum that would probably be required at any site under these standards).

2. Cleanup of Tailings. The objective of cleanup of tailings from buildings is to reduce elevated indoor levels of radon decay products and gamma radiation. The objective of cleanup of tailings from land is to remove the potential for elevated levels of radon decay products in future buildings, and exposure of people to gamma radiation.

A variety of methods for cleanup of buildings are available. The most commonly used, and the most reliable and permanent measure, is to dig out the tailings and return them to the pile. This is sometimes relatively easy, such as

removing tailings from outside footings, but may be very difficult, as in removing tailings from under a concrete slab floor in a finished room. Other methods include air filtration, improved ventilation, and the use of sealants to keep out radon.

Windblown tailings on lands around a tailings pile are usually removed by scraping off the top few inches of earth with earth-moving equipment and adding it to the pile. Land cleaned up in this way is relatively easily restored to close to background levels of radioactivity because windblown tailings are usually on the surface and easy to remove. Generally the cost is determined by the amount of land scraped, and not by the depth of scraping required. Alternatively, the land could be removed from productive use, access restricted, and the tailings fixed on the site by deep plowing.

When tailings have been removed from piles and misused in other ways, such as for soil conditioners in gardens and yards or as fill under detached buildings, the usual cleanup measure is to dig up the tailings and return them to the pile.

III. Resolution of Major Issues Raised in Public Comments

A. The Basis for the Standards

1. Health Risk Models. Some commenters considered that the models we used to estimate risks from breathing radon decay products underestimate the risk. More, however, argued that the models overestimate the risk. Some of these comments argued that the use of data on exposure of underground miners was not valid for estimating risks to the general public and suggested that we should use a lower risk estimate recently published as a contributed article in *Nature* (*290*:96, 1981).

We have reviewed the evidence presented and conclude that it does not support changing the risk models we have used. We agree that some evidence exists that risks may be either higher or lower than those we use, but, when all the available information is carefully considered, this evidence is not compelling. It is also true that the use of data on underground miners to predict risks to the general public is less than ideal; however, we have corrected for the most obvious difference (breathing rate) and do not believe this substantial body of evidence can be ignored. Finally, the estimates published in the article in *Nature* are not convincing. The upper limit of lung cancer risk given by these authors is apparently based on assuming that the total period of risk following exposure is only 15 years. However, the evidence from the Japanese A-bomb survivor data, the only large body of data for a general population, leads to use of a lifetime period of risk following exposure. Our detailed responses to these comments are presented in the FEIS.

2. Cost Estimates. Commenters suggested that our estimates of the costs to implement the standards were low (by a factor of two or more) and that we had not included costs for engineering, field supervision, contingencies, or for reclamation of borrow pits from which cover material was obtained.

Many of these comments are correct. Our estimates in the DEIS were expressed in 1978 dollars. Costs of some construction activities have increased substantially between 1978 and 1982. We have revised our cost estimates to reflect these changes, and have also included previously omitted costs for engineering, field supervision, contingencies, and reclamation of borrow pits. We have analyzed specific estimates of the cost of meeting the proposed standards and find that our revised estimates are lower than those of the DOE, but in substantial agreement with those provided by industry and NRC. Our cost estimates are reported in detail in the FEIS.

3. Cost-Benefit Analysis. Commenters expressed the view that the cost of implementing the proposed standards will be high compared to the benefits, that we failed to carry out a cost-benefit analysis for these standards, or that we did not adequately consider alternatives to the standards proposed.

It is not possible to carry out a formal quantitative cost-benefit analysis for these standards. Many of the hazards reduced (or avoided) through their application (or through application of alternative standards) can neither be evaluated quantitatively nor restated in terms of a common index of value. The major hazard, the extent of possible future misuse of tailings by man, is almost impossible to quantify. A further complication is that the benefits of successful control accrue over a very long period of time, whereas the costs occur now. We can only roughly estimate how long control will last and how many cases of lung cancer might be avoided over the full term of effective control.

Instead of a quantitative cost-benefit anlaysis, we have cited examples of the impact of misuse and dispersal by wind and water in the FEIS, and have estimated the impact of radon emissions from unstabilized piles. We have then estimated the extent to which these impacts might be avoided over the long term under realistic alternative standards, and made judgments about which alternatives offer the most cost-effective reduction of these impacts. The final standards are based on the results of such an analysis of alternatives, including a detailed consideration of their costs. This information is presented in Chapters 6 and 7 of the FEIS. Based on these analyses, we have made a number of changes (described in Sections B and C, below) to make the standards more cost-effective and easier to implement.

One notable conclusion from our analysis is that providing tailings piles with thick, durable covers costs surprisingly little more than applying minimal covers that will require maintenance and last a much shorter time. This conclusion follows from the large start-up expenditures related to managing the remedial program and undertaking any significant level of remedial work at mill sites. Thick covers offer greatly increased benefits from inhibiting misuse, controlling radon emissions, and increased longevity of the covers' effectiveness. For example, we estimate that the final control standard provides about ten times greater overall benefits than the lowest cost alternative standard, for only about 25 percent greater cost. Therefore, given that tailings piles will be stabilized under any of the alternatives we considered, we find it cost-effective to stabilize them well. This observation strongly influenced our choice of a radon release standard, as discussed in Section III.B.2, below.

Cost and benefit estimates for the alternative standards we considered are reported in detail in the FEIS; we briefly summarize here only our estimates for the final standards we selected.

Costs: We estimate the remedial action costs for mill sites and for off-site cleanup will be 158 and 36 million (1981) dollars, respectively. DOE has estimated its program development and management ("overhead") costs as 118 million (1981) dollars. These estimated total expenditures of 314 million (1981) dollars will occur over a period of seven years or more.

Benefits: We estimate benefits under the assumption, when appropriate, that tailings pile control systems will be partially effective longer than the standard requires. Control systems are required to be effective for as long as reasonably achievable up to 1000 years, but for not less than 200 years. Under this standard most of the 24 tailings pile will be stable against erosion and casual intrusion for misuse for much longer than 1000 years. Those few piles that are susceptible to flood damage will be

protected for at least 200 years, and might not suffer real damage for much longer. During the period of full control, the maximum risk for individuals living very near a tailings pile from exposure to its radon emissions will be reduced by about 97%, from about 3 chances in 100 to about 1 chance in 1000. An estimated 200 potential premature deaths per century will be avoided initially, for a total of many thousands over the life of the cover. The potential for or existence of water contamination from tailings piles will be evaluated and any protective or remedial actions that the implementing agencies determine are warranted will be taken. We further estimate that about 60 premature deaths will be avoided by cleaning up contaminated buildings. An undeterminable additional number of deaths and the institutional burden of applying land-use controls may be avoided by cleaning up 1900 acres of land containing windblown tailings and about 3200–6500 additional locations where tailings have been brought for inappropriate uses.

4. Scope of the Standards and the EIS. Commenters expressed the view that some important impacts of mill tailings were not adequately considered in the DEIS and that we had not considered all of the available pertinent data. They cited inadequate consideration of (a) the health impacts of toxic elements, (b) radiation doses to man from the food pathway, and (c) the effects of radionuclides and toxic elements on plants and animals.

We have reviewed the available data on toxic elements in tailings and improved the FEIS in this respect (Appendix C). We have concluded that it is reasonable to expect that hazards from toxic elements will be adequately limited if control and cleanup are carried out according to these final standards. We have also reviewed the radiation doses from ingestion of food and confirmed our earlier conclusion that the risks from this pathway are small. We have not specifically required measures to protect animals and plants from the hazards of radioactivity, since we have concluded that the impacts are small.

Some comments expressed the view that the proposed standards were too narrow in scope to adequately protect public health. For example, it was proposed that the standards should include: Limits for radionuclide concentrations in air particulates and in vegetation; limits for toxic elements in soil; guidance for the interim period prior to remedial actions; and radiation protection criteria for workers who perform remedial actions.

We have considered these comments and believe that no changes are needed. If control and cleanup are carried out according to these final standards, the health impact from radionuclides in air and from food pathways, and from toxic elements in soil, which are already low, would be further mitigated. Workers are already protected under existing Federal Guidance for occupational radiation exposures. Finally, the impacts that will occur prior to completion of remedial actions are sufficiently small that we do not believe special interim standards are justified.

B. The Standards for Control of Tailings Piles

1. Longevity of the Control. Some commenters expressed the view that the proposed requirement that stabilization and control last for at least 1000 years is unreasonable because events cannot be predicted over this period of time with sufficient certainty. They recommended a period of no more than 100 to 200 years, and that active institutional care, such as access control and periodic maintenance, be permitted. Other commenters recommended that the longevity required should be greater than 1000 years, and expressed the view that a requirement for longevity of up to 10,000 years is practical.

We consider the single most important goal of control to be effective isolation and stabilization of tailings for as long a period of time as is reasonably feasible, because tailings will remain hazardous for hundreds of thousands of years. The longevity of tailings control is governed chiefly by the possibilty of intrusion by man and erosion by natural forces. Reasonable assurance of avoiding casual intrusion by man can be provided through the use of relatively thick and/or difficult-to-penetrate covers (such as soil, rock, or soil-cement). No standard can guarantee absolute protection against the purposeful works of man, and these standards do not require such protection. Protection against natural forces requires consideration of wind and surface water erosion, and of the possibility of flood damage. Wind and surface water erosion are relatively well-understood and predictable, and are easily inhibited through the use of rock or, in some cases, vegetative surface stabilization. Similarly, a body of scientific and engineering knowledge exists to predict the frequency and magnitude of floods for periods of many hundreds of years, and to provide the engineering controls to protect against such floods (including the possibility of moving a pile if this is more economical). We considered longevity requirements ranging from 100 to 10,000 years and have concluded that existing knowledge permits the design of control systems for these tailings that have a good expectation of lasting at least for periods of 1000 years. We recognize that it may not always be practical, however, to project such performance with a high degree of certainty, because of limited engineering experience with such long time periods.

We know no historical examples of societies successfully maintaining active care of decentralized materials through public institutions for periods extending to many hundreds or thousands of years. We have concluded that primary reliance on passive measures is preferable, since their long-term performance can be projected with more assurance than that of measures which rely on institutions and continued expenditures for active maintenance.

Section 104 of the Act requires the Federal Government to acquire and retain control of these tailings disposal sites under licenses issued by the Nuclear Regulatory Commission (NRC). The NRC is authorized to require performance of any maintenance, monitoring, and emergency measures that are needed to protect public health and safety. As long as the Federal Government exercises its ownership rights and other authorities regarding these sites, they should not be systematically exploited by people or severely degraded by natural forces.

We believe that these institutional provisions are essential to support any project whose objectives is as long term as are these disposal operations, and for which we have as little experience. This does not mean that we believe primary reliance should be placed on institutional controls; rather, that institutional oversight is an essential backup to passive control. We note, in this regard, that the remedial actions required by these standards would not make it safe to build habitable structures on the disposal sites. Federal ownership of the sites is assumed to preclude such inappropriate uses.

In the final standards we have modified the requirement for longevity of control so as to assure that it is practical for agencies to certify that the standards are implemented in all cases. We recognize that this is a remedial action program, that these sites were not chosen with long-term disposal in mind, and that our ability to predict the longevity of engineered designs is not always adequate to the task at hand. The proposed standard required a longevity of control of at least 1000

years. The final standard requires that control measures be carried out in a manner that provides reasonable assurance that they will last, to the extent reasonably achievable, up to 1000 years and, in any case, for a minimum of 200 years. The widely varying characteristics of the inactive sites, the uncertainties involved in projecting performance of control measures over long periods of time, and the large costs involved in moving some tailings piles to provide a very high degree of assurance of longevity make this change appropriate. (We estimate up to 50 million dollars might be unnecessarily spent to move piles under the proposed requirement for a longevity of at least 1000 years.) The change does not signify that there are circumstances under which the term of protection contemplated by the proposed standards is not appropriate. The change merely acknowledges that implementing agencies may in some cases have difficulty certifying that control measures that are appropriate can reasonably be expected to endure without degradation for 1000 years. Man's ability to predict the future is notoriously limited. That fact, which on the one hand warrants our making responsible societal efforts to limit risk to future generations, also warrants our refraining from actions undertaken merely in the name of necessarily artificial levels of statistical certainty.

We selected this period of period of performance because we believe there is a reasonable expectation that readily achievable controls will remain effective for at least this period. However, we recognize that uncertainties increase significantly beyond a thousand years, and we conclude it would be unreasonable to require that assurance be provided that the controls will be effective for periods of up to 10,000 years.

2. The Radon Release Limit. Some commenters expressed the view that the proposed radon emission standard of 2 pCi/m^2s from the surface of a tailings pile was either unreasonably low or unnecessary. Others suggested that proper consideration of costs and benefits would lead to a higher standard, in the range of 40–100 pCi/m^2s. Some urged that the standards for radon be expressed as a limit on ambient air concentration at the site boundary, rather than as an emission limit. Others were concerned that the proposed level could not be reliably implemented, since it is close to background levels. Finally, many argued that radon emitted from tailings piles does not constitute a significant health hazard because it cannot be distinguished from background radon levels a short distance from a tailings pile (i.e., ¼–½ mile), and that, therefore, there is no need for a radon emission standard.

We believe that limiting radon emissions from tailings piles serves several necessary functions: reducing the risk to nearby individuals and individuals at greater distances; and furthering the goals of reliable long-term deterrence of misuse of tailings by man and control of erosion of piles by natural processes. The degree of reduction of radon emissions achieved by a disposal system is more or less directly related to the degree of abatement of each of these hazards.

Our analysis predicts significant risk to people living next to tailings piles, and field measurements confirm elevated levels of radon in air close to the piles. If radon emissions are not reduced, we estimate that individuals residing permanently near some of the piles could incur as much as three to four chances in a hundred of a fatal lung cancer in addition to normal expectations. The fact that increases in radon levels due to the piles cannot be distinguished relative to background levels further away from a pile does not mean that radon is not present or that there is no increased risk from this radon—it merely means that measurements are not capable of unambiguously detecting such levels. Limiting radon release, therefore, not only benefits the nearby individual, but also reduces the adverse effects of radon well beyond the immediate vicinity of the site.

Radon emission was selected as the preferred quantity to be specified by the standard because, unlike ambient air concentration at the site boundary, it is directly related to the degree of radon control achieved. A site boundary standard would not necessarily require any control of radon emissions (since the boundary might be moved arbitrarily far from the pile), and, in any case, compliance would depend on indefinitely excluding public access across the boundary.

We have concluded that a limit on a radon emission is the most direct and appropriate means for furthering the Congressional objective of adequate and reliable long-term control of tailings. Such a limit assures a sufficient earthen cover (or its equivalent) to provide an acceptable degree of stabilization and isolation of the tailings over a long period of time. Congress did not intend that EPA set standards for one generation only, or that it set standards without consideration of the long-term reliability of whatever means are available for implementing them. (Similarly, Congress anticipated that short-term institutional controls would not provide the primary basis for protection.) Although the implementing agencies will decide which specific controls to employ, this does not preclude our considering, in accordance with Congress' directive, the effect of a particular choice of a numerical limit on the maintenance of future control. Therefore, in selecting the value for radon emissions, an important consideration was that the standard promote the objectives of adequate isolation and stabilization to control both intrusion by man and erosion by natural forces.

We have reevaluated the costs and benefits of alternative standards and have revised the radon emission standard to 20 pCi/m^2s, in part because we concluded that the incremental benefits of the proposed standards are not justified by the increased costs, and in part because recent results of tests of covers indicate that a 2 pCi/m^2s standard may be more difficult to achieve than we originally believed. The specific alternatives we analyzed are described in detail in the FEIS. They ranged from controlling emissions to 2 pCi/m^2s to providing only a minimal cover that we estimate would, on the average, reduce total radon emissions by half (to final values ranging from 40 pCi/m^2s to 500 pCi/m^2s, depending upon the site.) Estimated disposal costs for these options (excluding DOE overhead and the cost of moving piles) range from 50 to 195 million dollars. The costs for the revised standard of 20 pCi/m^2s were estimated as 95 million dollars; this is approximately 45 million dollars less than for the proposed standard.

We have concluded that this revised standard will provide excellent protection of public health, safety, and the environment. Control measures designed to meet this standard will prevent misuse and protect piles from erosion by providing adequate isolation of tailings. The standard provides more than 96% of the reduction of the potential for lung cancer from radon emissions provided by the proposed standard. Under the revised emission limit, the excess risk to the most exposed individual would be reduced to a few chances in a thousand. In addition, it provides this protection at a substantial cost reduction compared to the originally proposed standard (including the modification of the longevity requirement, the combined saving is approximately 95 million

dollars). The revised emission limit should also be high enough to remove any concern associated with confusing radon from tailings with radon emitted from normal soils (typically up to 1 pCi/m²s), and can be readily achieved through the use of a wider variety of earthen materials than the proposed standards.

We conclude from our analysis that a higher emission standard, such as 100 pCi/m²s, would not achieve the above objectives to an acceptable degree. It would result in a five times greater risk to individuals living near a tailings pile and a similar increase in the impact from radon emissions on local, regional, and national populations (to 20% of the total risk from uncontrolled piles). The control measures required to meet such a less restrictive standard would provide significantly less isolation against intrusion and protection against erosion. The further cost reduction compared to the final standard would be relatively small (approximately 20 million dollars).

The Department of Energy, in the course of the consultations that Section 206 of the Act requires before we promulgate final standards, expressed its strong preference for an ambient air concentration standard rather than an emission standard. Therefore, through calculations described in the FEIS, we determined an alternative standard expressed as a radon concentration at the *edge of the tailings* that we believe would require basically the same level of control as the 20 pCi/m²s emission standard. Applying a concentration standard at the edge of the tailings resolves our concerns about applying it at a site boundary. A limit applied at a site boundary would permit varying effectiveness of cover, depending on the choice of location of the boundary, and compliance would depend on indefinite maintenance of the boundary. However, a radon concentration standard at any position that is defined in terms of its relation to the tailings has a fixed relationship to radon releases and compliance does not depend on institutional maintenance of a fence.

Calculations can be used to estimate the values of the annual average radon concentrations at various distances from tailings piles with a given emission rate. Considering the uncertainties in such calculations, we are confident that designing control systems to keep the maximum annual average radon concentration at the edges of the tailings below 0.5 pCi/1 will provide approximately the same overall health protection as designing them for an average emission rate of 20 pCi/m²s. Under either form of the radon limit the radon concentration due to a pile will be well below the background level at any residence near the disposal site. The final standard contains both forms of radon limit, as approximately equivalent alternatives.

3. Avoiding Contamination of Water. Commenters expressed concern that the proposed requirements for protection of water are unnecessarily restrictive, are impractical or too costly to implement, or incorporate numerical values that had not been adequately justified. Some argued that water protection should be handled on a site-specific basis, that general standards were not necessary, and that water quality standards were not an appropriate basis for these regulations. Other comments expressed the opposite view that the proposed standards did not provide sufficient protection, that already degraded ground water should be cleaned up, or that numerical values should be included for additional toxic elements.

We have carefully reviewed available data on contamination of ground water at the designated sites. Studies of these sites are not yet conclusive, but they provide little evidence of recent movement of contaminants into ground water, and there is some evidence that the geochemical setting may inhibit contaminants from entering usable ground water at two sites where there might otherwise be a problem (Salt Lake City and Canonsburg). The proposed standards might be difficult to implement at certain sites because our ability to perform definitive hydrological assessments is limited. That is, they could lead to decisions to use very expensive control methods, such as moving piles to new sites and installing liners, even though no substantial threat to ground water is demonstrated. We also believe that minor degradation of ground water may be acceptable, such as for water of already inadequate quality for existing or probable uses, or for very small aquifers.

Finally, we agree that there is uncertainty associated with the appropriateness of both the toxic elements selected and the numerical values specified in the proposed standards, which were drawn mainly from existing national water quality standards for surface water and public drinking water supplies.

In summary, although a few sites appear to have some existing ground water contamination, probably due to dewatering of process liquids from the tailings, we believe there is a low probability of additional contamination at most of the sites. The remedial program should provide for adequate hydrological and geochemical surveys of each site as a basis for determining whether specific water protection or cleanup measures should be applied. Whether or not it is feasible or practical to restore an aquifer and to what degree will depend on site-specific factors, including the aquifer's hydrogeologic setting, the cost, the present and future value of the aquifer as a water resource, the availability of alternative supplies, and the degree to which human exposure is likely to occur.

We do not believe that the existing evidence indicates that ground water contamination from inactive mill tailings is or will be a matter of regulatory concern. We have decided, therefore, not to establish general substantive standards on this subject. Should evidence be found that shows that this judgment is in error, we will consider the need for further rulemaking procedures.

A possible alternative to the above course of action is for us to establish a general regulatory mechanism for others to use in deciding, on a site-specific basis, whether a ground water problem exists and, if so, what remedial action is appropriate. Such a nonsubstantive, or procedural, mechanism would resemble that established by our regulations implementing the Solid Waste Disposal Act, as amended (47 FR 32274, July 26, 1982). In this connection, the Uranium Mill Tailings Radiation Control Act reflects the desire of Congress (in Section 206) that EPA's standards be consistent, to the maximum extent practicable, with the Solid Waste Disposal Act. It also requires NRC to concur in DOE's remedial actions at each site (in Section 108) and to issue licenses for these sites (in Section 104) that may encompass any ". . . monitoring, maintenance, or emergency measures necessary to protect public health and safety." These functions are consistent with those embodied in EPA's above-referenced regulations. We have decided not to adopt this alternative, because we believe that the devising of any necessary such mechanisms for application under this Act can more appropriately be left to the NRC and DOE.

If any existing contamination or potential for future ground water contamination is present we have provided, therefore, in the implementation section of these standards, that judgments on the possible need for monitoring or remedial actions should be guided by relevant considerations described in EPA's hazardous waste management system,

and by relevant State and Federal Water Quality Criteria for existing and anticipated uses of the aquifer. Decisions to undertake remediation should consider the costs and benefits of possible remedial and control measures, including the extent and usefulness of the aquifer. We have also concluded that the same approach is appropriate to surface water, which should be adequately protected in any case by any control measures meeting the standards for longevity and radon emission.

C. The Standards for Cleanup of Tailings

1. Radium-226 in Soil. Comments about the cleanup standard for radium-226 in soil dealt primarily with the proposed numerical value of the standard and perceived difficulty of measurement to show conformance. Many comments expressed the view that there was no justification for a standard as low as 5 pCi/g and that a higher value would be most cost-effective. Recommended values ranged from 10–30 pCi/g.

The purpose of this standard is to limit the risk from inhalation of radon decay products in houses built on land contaminated with tailings, and to limit gamma radiation exposure of people using contaminated land. We estimate that each increase of 0.01 WL inside a house increases the risk of lung cancer to each of its inhabitants by something like one-half to one in a hundred, for an assumed lifetime of residency. The infiltration of radon in soil gas directly into a house is by far the largest contributor to indoor radon, and we estimate that soil extensively contaminated at a level of 5 pCi/g radium can readily lead to indoor levels of radon decay products of 0.02 WL. Because the risks from soils contaminated with radium-226 are potentially so great, the proposed standard was set at a level as close to background as we believed reasonable, taking into consideration the difficulties in measuring this level and distinguishing it from natural backgound.

We have examined the costs and benefits of alternative standards ranging from 5 to 30 pCi/g. These are described in detail in the FEIS. Total cleanup costs are less than 10% to 20% of the total costs of disposal of tailings piles for all the alternatives considered. Costs for cleanup of windblown tailings from land surfaces are sensitive to the standard, because the area to be cleaned up varies approximately inversely with the limit selected. Costs for removal of buried tailings are not sensitive to the standard, since the amount to be removed varies only slightly with the limit selected. That is, we concluded most buried tailings would be removed under any of the alternatives considered. We also considered the difficulty of measuring various thicknesses of surface contamination, and in identifying and measuring contamination due to buried tailings. Detection of buried tailings could be difficult. However, buried tailings, as opposed to surface contaimination (usually windblown and diluted with soil), can be effectively located using a higher detection limit than the proposed standard of 5 pCi/g. Based on these analyses, we have modified the standard for surface contamination of soil (5 pCi/g) from an average over the top 5 cm of soil to an average over the top 15 cm of soil; and revised the standard for subsurface contamination from 5 pCi/g to 15 pCi/g (still averaged over any 15 cm layer of soil). We believe these standards will result in essentially the same degree of cleanup, and will be simpler to implement.

For tailings transported by man to off-site properties, the hazard varies with the amount of tailings involved and their location. The proposed standard did not provide for exemption of locations posing a low hazard. The final standard requires cleanup of contamination only when the amount and location of tailings poses a clear present or future hazard, and provides criteria to assist this determination. We estimate that perhaps more than half of the identified locations of such contamination do not present a hazard sufficient to warrant cleanup, at an estimated saving of 24 million dollars.

Some comments expressed the view that measuring radium-226 and distinguishing residual radioactive materials from natural background at the levels proposed would be difficult and costly, and that many samples would have to be collected and analyzed to show compliance with the standards. The changes we have made make determination of compliance with the standard easier and less costly. In addition, we have provided guidance in this Notice and the FEIS on implementation of the standards, to clarify our intent that unnecessarily stringent (and costly) verification that the standards have been achieved should be avoided.

2. Radon Decay Products in Buildings. Some comments expressed the view that the proposed indoor radon decay product standard of 0.015 WL would be difficult and costly to implement, because it is within the upper range of levels that commonly occur in houses due to natural causes. For example, it might be necessary to distinguish whether the standard is exceeded because of the presence of tailings or because of anomalies in the natural background. This could result in costly and unnecessary remedial actions, or in the frequent use of an exceptions procedure. These comments recommended that we raise this standard to a more cost-effective value that can be more easily distinguished from naturally-occurring levels.

We have considered these arguments and re-examined the costs and benefits of alternative standards. We used the data from the Grand Junction, Colorado, remedial program for contaminated buildings to assist this evaluation. Reduction of radon decay products in existing buildings is probably the most cost-effective of all types of remedial actions for tailings, because the high risk associated with indoor radon decay products. Based on these evaluations, the standard has been revised upward only slightly so as to facilitate implementation and to more closely conform to other related standards. Under the final standard the objective of remedial actions is to achieve an indoor radon decay product concentration of 0.02 WL. For circumstances where remedial action has been performed and it would be unreasonably difficult and costly to reduce the level below 0.03 WL, the remedial action may be terminated at this level without a specific finding of the need for an exception. However, we have also sought to avoid excessive costs by encouraging the use of active measures (such as heat exchangers, air cleaners, and sealants) to meet the objective of 0.02 WL when further removal of tailings to achieve levels below 0.03 WL is impractical. We believe the final standard deals adequately with complications introduced by the presence of any high concentration of naturally-occurring radionuclides, and avoids unnecessary and costly remedial actions that produce only marginal improvements.

D. Reducing Regulatory Burdens. Some commenters suggested that the proposed standards should be flexible to take account of unusual circumstances, site-specific factors, and any complications due to high natural background levels. These commenters recommended that this be accomplished by raising the numerical limits, establishing different standards for unusual circumstances, or by expressing the standards as a range of values.

We agree that it is appropriate and desirable to take into account, as far as

practical, different circumstances. In addition, we believe that regulations should be easy to carry out and not contain unnecessary procedural requirements. We have encouraged the implementing agencies to do this in our "Guidance for Implementation" as described below. We have also changed the procedures for situations in which it would be unreasonable to satisfy the standards from an "exceptions" process to one in which the implementing agencies apply "Supplemental Standards." This is also described below. Finally, the numerical limits of some of the standards have been raised; this will assure that they are more readily distinguishable from background levels.

IV. Implementation.

The Act requires the Secretary of Energy to select and perform the remedial actions needed to implement these standards, with the full participation of any State that shares the cost, with the concurrence of the Nuclear Regulatory Commission, and in consultation, when appropriate, with affected Indian tribes and the Secretary of the Interior.

The cost of remedial action will be borne by the Federal Government and the States as prescribed by the Act. Control and stabilization remedial activities are large scale undertakings for which there is relatively little experience. Although preliminary engineering assessments have been performed, specific engineering requirements and costs to meet the standards at each site have yet to be determined. We believe control and stabilization costs (including DOE overhead) averaging about 10–12 million (1981) dollars per tailings pile are most likely. For some sites, this cost may be partly offset by recovered land values or through provisions of the Act for recovery of uranium or other minerals through reprocessing the tailings prior to performing remedial actions.

A. Guidance for Implementation

Conditions at the inactive processing sites vary greatly, and engineering experience with some of the required remedial actions is limited. It is our objective that implementation of these standards be consistent with the assumptions we have made in deriving them. We are therefore providing "Guidance for Implementation" to avoid needless expense which may result from uncertainty or confusion as to what level of protection the standards are intended to achieve.

The standard for control and stabilization of tailings piles is primarily intended as a design standard. Implementation will require a judgment that the method chosen provides a reasonable expectation that the provisions of the standard will be met, to the extent reasonably achievable, for up to 1000 years, and, in any case, for at least 200 years. This judgment will necessarily be based on site-specific analyses of the properties of the sites, candidate control systems, and the potential effects of natural processes over time, and, therefore, the measures required to satisfy the standard will vary from site to site. We expect that computational models, theories, and expert judgment will be the major tools in deciding that a proposed control system will adequately satisfy the standard. Post-remediation monitoring will not be required to show compliance, but may serve a useful role in determining whether the anticipated performance of the control system is achieved.

The purpose of our cleanup standards is to provide the maximum reasonable protection of public health and the environment. Costs incurred by remedial actions should be directed toward this purpose. We intend the standards to be implemented using search and verification procedures whose cost and technical requirements are reasonable. For example, since we intend the cleanup standards for buildings to protect people, measurements in such locations as small crawl spaces and furnace rooms may often be inappropriate. Remedial action decisions should be based on radiation levels in the parts of buildings where people spend substantial amounts of time. The standards for cleanup of land are designed to limit the exposure of people to gamma radiation, and to limit the level of radon decay products in buildings that might later be built on the land. In most circumstances, no significant harm would be caused by not cleaning up small areas of land contaminated by tailings. Similarly, it would be unreasonable to require expensive detailed proof that all the tailings below the surface of open lands had been removed. Procedures that provide a reasonable assurance of compliance with the standards will be adequate. Where measurements are necessary to determine compliance with the cleanup standards, they should be performed within the accuracy of presently available field and laboratory measurement capabilities and in conjunction with reasonable survey and sampling procedures designed to minimize the cost of verification. We are confident that DOE and NRC, in consultation with EPA and the States, will adopt implementation procedures consistent with our intent in establishing these standards.

B. Supplemental Standards

The varied conditions at the designated sites and limited experience with remedial actions make it appropriate that EPA allow adjustment of the standards where circumstances require. We believe that, in most cases, our final standards are adequately protective and can be implemented at reasonable cost. However, the standards could be too strict in some applications. We anticipate that such circumstances might occur. We originally proposed to deal with this through an "exceptions" procedure which would relax standards when certain criteria were satisfied. We agree with the comments, however, that the proposed procedure was unnecessarily burdensome to apply.

In the final regulations we have eliminated this procedure and replaced it with a simplified procedure for applying "supplemental standards." This is a more effective means of accomplishing our original purpose. An additional significant change in the proposed criteria for exceptions is the addition of criterion 192.21(c), which relaxes the requirement for cleanup of land at off-site locations when residual radioactive materials are not clearly hazardous and cleanup costs are unreasonably high. This category of contamination was not adequately addressed in the proposals.

Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. That order requires such an analysis if the regulations would result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation is not Major, because we expect the costs of the remedial action program in any calendar year to be less than $100 million; States bear only 10% of these costs and there are no anticipated major effects on costs or prices for others; and we anticipate no

significant adverse effects on domestic or foreign competition, employment, investment, productivity, or innovation. The costs of these standards are discussed in the FEIS.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

This regulation will not have a significant effect on a substantial number of small entities, as specified under Section 605 of the Regulatory Flexibility Act, because there are no small entities subject to this regulation.

Dated: December 15, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects in 40 CFR Part 192

Environmental protection; Radiation protection; Uranium.

In 40 CFR Chapter I, Part 192 is revised to read as follows:

PART 192—HEALTH AND ENVIRONMENTAL PROTECTION STANDARDS FOR URANIUM MILL TAILINGS

Subpart A—Standards for the Control of Residual Radioactive Materials from Inactive Uranium Processing Sites

Sec.

192.00 Applicability.
192.01 Definitions.
192.02 Standards.

Subpart B—Standards for Cleanup of Land and Buildings Contaminated with Residual Radioactive Materials from Inactive Uranium Processing Sites

192.10 Applicability.
192.11 Definitions.
192.12 Standards.

Subpart C—Implementation

192.20 Guidance for implementation.
192.21 Criteria for applying supplemental standards.
192.22 Supplemental standards.
192.23 Effective date.

Authority: Section 275 of the Atomic Energy Act of 1954, 42 U.S.C. 2022, as added by the Uranium Mill Tailings Radiation Control Act of 1978, Pub. L. 95-604.

Subpart A—Standards for the Control of Residual Radioactive Materials from Inactive Uranium Processing Sites

§ 192.00 Applicability

This subpart applies to the control of residual radioactive material at designated processing or depository sites under Section 108 of the Uranium Mill Tailings Radiation Control Act of 1978 (henceforth designated "the Act"), and to restoration of such sites following any use of subsurface minerals under Section 104(h) of the Act.

§ 192.01 Definitions

(a) Unless otherwise indicated in this subpart, all terms shall have the same meaning as in Title I of the Act.

(b) *Remedial* action means any action performed under Section 108 of the Act.

(c) *Control* means any remedial action intended to stabilize, inhibit future misuse of, or reduce emissions or effluents from residual radioactive materials.

(d) *Disposal site* means the region within the smallest perimeter of residual radioactive material (excluding cover materials) following completion of control activities.

(e) *Depository site* means a disposal site (other than a processing site) selected under Section 104(b) or 105(b) of the Act.

(f) *Curie* (Ci) means the amount of radioactive material that produces 37 billion nuclear transformation per second. One picocurie (pCi) = 10^{-12}Ci.

§ 192.02 Standards

Control shall be designed[4] to:

(a) Be effective for up to one thousand years, to the extent reasonably achievable, and, in any case, for at least 200 years, and,

(b) Provide reasonable assurance that releases of radon-222 from residual radioactive material to the atmosphere will not:

(1) Exceed an average [5] release rate of 20 picocuries per square meter per second, *or*

(2) Increase the annual average concentration of radon-222 in air at or above any location outside the disposal site by more than one-half picocurie per liter.

Subpart B—Standards for Cleanup of Land and Buildings Contaminated with Residual Radioactive Materials from Inactive Uranium Processing Sites

§ 192.10 Applicability

This subpart applies to land and buildings that are part of any processing site designated by the Secretary of Energy under Section 102 of the Act. Section 101 of the Act, states, in part, that "processing site" means—

(a) Any site, including the mill, containing residual radioactive materials at which all or substantially all of the uranium was produced for sale to any Federal agency prior to January 1, 1971, under a contract with any Federal agency, except in the case of a site at or near Slick Rock, Colorado, unless—

(1) Such site was owned or controlled as of Januray 1, 1978, or is thereafter owned or controlled, by any Federal agency, or

(2) A license (issued by the (Nuclear Regulatory) Commission or its predecessor agency under the Atomic Energy Act of 1954 or by a State as permitted under Section 274 of such Act) for the production at site of any uranium or thorium product derived from ores is in effect on January 1, 1978, or is issued or renewed after such date; and

(b) Any other real property or improvement thereon which—

(1) Is in the vicinity of such site, and

(2) Is determined by the Secretary, in consultation with the Commission, to be contaminated with residual radioactive materials derived from such site.

§ 192.11 Definitions

(a) Unless otherwise indicated in this subpart, all terms shall have the same meaning as defined in Title I of the Act or in Subpart A.

(b) "Land" means any surface or subsurface land that is not part of a disposal site and is not covered by an occupiable building.

(c) "Working Level" (WL) means any combination of short-lived radon decay products in one liter of air that will result in the ultimate emission of alpha particles with a total energy of 130 billion electron volts.

(d) "Soil" means all unconsolidated materials normally found on or near the surface of the earth including, but not limited to, silts, clays, sands, gravel, and small rocks.

§ 192.12 Standards

Remedial actions shall be conducted so as to provide reasonable assurance that, *as a result of residual radioactive materials from any designated processing site:*

(a) The concentration of radium-226 in land averaged over any area of 100 square meters shall not exceed the background level by more than—

(1) 5 pCi/g, averaged over the first 15 cm of soil below the surface, and

(2) 15 pCi/g, averaged over 15 cm thick layers of soil more than 15 cm below the surface.

(b) In any occupied or habitable building—

(1) The objective of remedial action shall be, and reasonable effort shall be made to achieve, an annual average (or

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[4] Because the standard applies to design, monitoring after disposal is not required to demonstrate compliance.

[5] This average shall apply over the entire surface of the disposal site and over at least a one-year period. Radon will come from both residual radioactive materials and from materials covering them. Radon emissions from the covering materials should be estimated as part of developing a remedial action plan for each site. The standard, however, applies only to emissions from residual radioactive materials to the atmosphere.

equivalent) radon decay product concentration (including background) not to exceed 0.02 WL. In any case, the radon decay product concentration (including background) shall not exceed 0.03 WL, and

(2) The level of gamma radiation shall not exceed the background level by more than 20 microroentgens per hour.

Subpart C—Implementation

§ 192.20 Guidance for implementation

Section 108 of the Act requires the Secretary of Energy to select and perform remedial actions with the concurrence of the Nuclear Regulatory Commission and the full participation of any State that pays part of the cost, and in consultation, as appropriate, with affected Indian Tribes and the Secretary of the Interior. These parties, in their respective roles under Section 108, are referred to hereafter as "the implementing agencies." The implementing agencies shall establish methods and procedures to provide "reasonable assurance" that the provisions of Subparts A and B are satisfied. This should be done as appropriate through use of analytic models and site-specific analyses, in the case of Subpart A, and for Subpart B through measurements performed within the accuracy of currently available types of field and laboratory instruments in conjunction with reasonable survey and sampling procedures. These methods and procedures may be varied to suit conditions at specific sites. In particular:

(a)(1) The purpose of Subpart A is to provide for long-term stabilization and isolation in order to inhibit misuse and spreading of residual radioactive materials, control releases of radon to air, and protect water. Subpart A may be implemented through analysis of the physical properties of the site and the control system and projection of the effects of natural processes over time. Events and processes that could significantly affect the average radon release rate from the entire disposal site should be considered. Phenomena that are localized or temporary, such as local cracking or burrowing of rodents, need to be taken into account only if their cumulative effect would be significant in determining compliance with the standard. Computational models, theories, and prevalent expert judgment may be used to decide that a control system design will satisfy the standard. The numerical range provided in the standard for the longevity of the effectiveness of the control of residual radioactive materials allows for consideration of the various factors affecting the longevity of control and stabilization methods and their costs. These factors have different levels of predictability and may vary for the different sites.

(2) Protection of water should be considered in the analysis for reasonable assurance of compliance with the provisions of § 192.02. Protection of water should be considered on a case-specific basis, drawing on hydrological and geochemical surveys and all other relevant data. The hydrologic and geologic assessment to be conducted at each site should include a monitoring program sufficient to establish background ground water quality through one or more upgradient wells, and identify the presence and movement of plumes associated with the tailings piles.

(3) If contaminants have been released from a tailings pile, an assessment of the location of the contaminants and the rate and direction of movement of contaminated ground water, as well as its relative contamination, should be made. In addition, the assessment should identify the attenuative capacity of the unsaturated and saturated zone to determine the extent of plume movement. Judgments on the possible need for remedial or protective actions for groundwater aquifers should be guided by relevant considerations described in EPA's hazardous waste management system (47 FR 32274, July 26, 1982) and by relevant State and Federal Water Quality Criteria for anticipated or existing uses of water over the term of the stabilization. The decision on whether to institute remedial action, what specific action to take, and to what levels an aquifer should be protected or restored should be made on a case-by-case basis taking into account such factors as technical feasibility of improving the aquifer in its hydrogeologic setting, the cost of applicable restorative or protective programs, the present and future value of the aquifer as a water resource, the availability of alternative water supplies, and the degree to which human exposure is likely to occur.

(b)(1) Compliance with Subpart B, to the extent practical, should be demonstrated through radiation surveys. Such surveys may, if appropriate, be restricted to locations likely to contain residual radioactive materials. These surveys should be designed to provide for compliance averaged over limited areas rather than point-by-point compliance with the standards. In most cases, measurement of gamma radiation exposure rates above and below the land surface can be used to show compliance with § 192.12(a). Protocols for making such measurements should be based on realistic radium distributions near the surface rather than extremes rarely encountered.

(2) In § 192.12(a), "background level" refers to the native radium concentration in soil. Since this may not be determinable in the presence of contamination by residual radioactive materials, a surrogate "background level" may be established by simple direct or indirect (e.g., gamma radiation) measurements performed nearby but outside of the contaminated location.

(3) Compliance with § 192.12(b) may be demonstrated by methods that the Department of Energy has approved for use under Pub. L. 92–314 (10 CFR 712), or by other methods that the implementing agencies determine are adequate. Residual radioactive materials should be removed from buildings exceeding 0.03 WL so that future replacement buildings will not pose a hazard [unless removal is not practical—see § 192.21(c)]. However, sealants, filtration, and ventilation devices may provide reasonable assurance of reductions from 0.03 WL to below 0.02 WL. In unusual cases, indoor radiation may exceed the levels specified in § 192.12(b) due to sources other than residual radioactive materials. Remedial actions are not required in order to comply with the standard when there is reasonable assurance that residual radioactive materials are not the cause of such an excess.

§ 192.21 Criteria for applying supplemental standards

The implementing agencies may (and in the case of Subsection (f) shall) apply standards under § 192.22 in lieu of the standards of Subparts A or B if they determine that any of the following circumstances exists:

(a) Remedial actions required to satisfy Subparts A or B would pose a clear and present risk of injury to workers or to members of the public, notwithstanding reasonable measures to avoid or reduce risk.

(b) Remedial actions to satisfy the cleanup standards for land, § 192.12(a), or the acquisition of minimum materials required for control to satisfy § 192.02(b), would, notwithstanding reasonable measures to limit damage, directly produce environmental harm that is clearly excessive compared to the health benefits to persons living on or near the site, now or in the future. A clear excess of environmental harm is harm that is long-term, manifest, and

grossly disproportionate to health benefits that may reasonably be anticipated.

(c) The estimated cost of remedial action to satisfy § 192.12(a) at a "vicinity" site (described under Sec. 101(6)(B) of the Act) is unreasonably high relative to the long-term benefits, and the residual radioactive materials do not pose a clear present or future hazard. The likelihood that buildings will be erected or that people will spend long periods of time at such a vicinity site should be considered in evaluating this hazard. Remedial action will generally not be necessary where residual radioactive materials have been placed semi-permanently in a location where site-specific factors limit their hazard and from which they are costly or difficult to remove, or where only minor quantities of residual radioactive materials are involved. Examples are residual radioactive materials under hard surface public roads and sidewalks, around public sewer lines, or in fence post foundations. Supplemental standards should not be applied at such sites, however, if individuals are likely to be exposed for long periods of time to radiation from such materials at levels above those that would prevail under § 192.12(a).

(d) The cost of a remedial action for cleanup of a building under § 192.12(b) is clearly unreasonably high relative to the benefits. Factors that should be included in this judgment are the anticipated period of occupancy, the incremental radiation level that would be affected by the remedial action, the residual useful lifetime of the building, the potential for future construction at the site, and the applicability of less costly remedial methods than removal of residual radioactive materials.

(e) There is no known remedial action.

(f) Radionuclides other than radium-226 and its decay products are present in sufficient quantity and concentration to constitute a significant radiation hazard from residual radioactive materials.

§ 192.22 Supplemental standards

Federal agencies implementing Subparts A and B may in lieu thereof proceed pursuant to this section with respect to generic or individual situations meeting the eligibility requirements of § 192.21.

(a) When one or more of the criteria of § 192.21(a) through (e) applies, the implementing agencies shall select and perform remedial actions that come as close to meeting the otherwise applicable standard as is reasonable under the circumstances.

(b) When § 192.21(f) applies, remedial actions shall, in addition to satisfying the standards of Subparts A and B, reduce other residual radioactivity to levels that are as low as is reasonably achievable.

(c) The implementing agencies may make general determinations concerning remedial actions under this Section that will apply to all locations with specified characteristics, or they may make a determination for a specific location. When remedial actions are proposed under this Section for a specfic location, the Department of Energy shall inform any private owners and occupants of the affected location and solicit their comments. The Department of Energy shall provide any such comments to the other implementing agencies. The Department of Energy shall also periodically inform the Environmental Protection Agency of both general and individual determinations under the provisions of this section.

§ 192.23 Effective date.

Subparts A, B, and C shall be effective March 7, 1983.

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BILLING CODE 6565-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 192

[A–FRL 2211–8b]

Standards for Remedial Actions at Inactive Uranium Processing Sites, Advance Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: EPA has issued final remedial action standards (40 CFR Part 192, Subpart A) for the control of tailings piles at inactive uranium processing sites. This notice announces that the Agency will consider whether different standards than 40 CFR Part 192, Subpart A would be more appropriate for control of tailings piles at those designated sites that have been established as having "medium" or "low" priority for carrying out remedial actions. Specifically, since most of these sites have much lower population densities than the "high" priority sites, 1) should the standards be less restrictive at such sites, and/or 2) should the standards place primary reliance on control of access (such as through fences) rather than physical control of tailings (such as by thick earthen covers) to avoid radiation exposure, so as to reduce the costs of disposal of tailings at these sites?

DATE: Comments are due by May 5, 1983.

ADDRESS: Comments on the issue described in this notice should be submitted to Docket No. A–79–25, which is located at the Environmental Protection Agency, Central Docket Section (A–130), West Tower Lobby, 401 M Street, S.W., Washington, D.C. 20460. Docket A–79–25 contains the rulemaking records. The Docket is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Dr. Stanley Lichtman, Guides and Criteria Branch (ANR–460), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460; telephone 703–557–8927.

SUPPLEMENTARY INFORMATION:

Background

On November 8, 1978, Congress enacted the Uranium Mill Tailings Radiation Control Act of 1978, Pub. L. 95–604 (henceforth designated "the Act"). In the Act, Congress stated its finding that uranium mill tailings ". . . may pose a potential and significant radiation health hazard to the public, . . . and . . . that every reasonable effort should be made to provide for stabilization, disposal, and control in a safe and environmentally sound manner of such tailings in order to prevent or minimize radon diffusion into the environment and to prevent or minimize other environmental hazards from such tailings." The Administrator of the Environmental Protection Agency was directed to set ". . . standards of general application for the protection of the public health, safety, and the environment . . ." to govern this process of stabilization, disposal, and control.

The Act directs the Department of Energy (DOE) to conduct necessary remedial actions at designated inactive uranium processing sites to achieve compliance with the general standards established by EPA. Standards are required for two types of remedial actions: control and cleanup. Control is the operation which places the tailings piles in a condition that will minimize the risk to man for a long time. Cleanup is the operation which reduces the potential health consequences of tailings that have been dispersed from tailings piles by natural forces or removed by man and used elsewhere in buildings or land.

In another part of this issue we have promulgated such standards (40 CFR Part 192). Subparts A and B of the standards cover control and cleanup, respectively; Subpart C addresses implementation of Subparts A and B. This notice concerns only Subpart A, the standards for control of tailings piles.

DOE has designated 24 inactive mill sites for remedial actions under the Act (44 FR 74892, December 18, 1979). Furthermore, as required by Section 102(b) of the Act, DOE has established priorities for carrying out remedial actions at each site (44 FR 74892), relying primarily on advice from EPA. EPA recommended that the primary basis for establishing priorities for carrying out remedial action should be the estimated near-term local rates of induction of health effects associated with radon emissions from the piles. Accordingly, DOE established 9 sites as having "high" priority, 6 as having "medium" priority, and 9 as having "low" priority for carrying out remedial actions. However, in advising DOE on a logical order for carrying out remedial actions, EPA noted that it was not addressing the need for nor the goals of such actions (see docket item IV–E–2).

EPA's goals for control of these tailings piles were described in the supporting documents (see below) for the final standards as: isolation and stabilization against misuse by people and dispersal by natural forces; reduction of risk to nearby individuals and of the collective risk to populations from radon emitted by the piles; elimination of any significant exposure to gamma radiation from piles; and protection of ground and surface water quality. The longevity of control to achieve these goals was a major concern in setting the standards.

Issues for Public Comment

During the review of the standards by certain Federal agencies required by Section 206(a) of the Act and Executive Order 12291 (46 FR 13193–8, February 19, 1981), questions were raised regarding the appropriateness of the control standards for general application to all 24 inactive sites. Noting that the regions around "low" priority sites are generally sparsely populated, some reviewers suggested that less restrictive standards might be appropriate for sites in the lower priority categories than for those having "high" priority for carrying out remedial actions. In view of this concern at Federal agencies that have reviewed the final standards, EPA is requesting public comments on this issue.

Some of these Federal reviewers suggested, in addition, that a radon limit applied at the boundary ("fenceline") of the government-owned property around a tailings pile would be an appropriate form of standards for the lower priority sites. Such a standard could be satisfied largely by institutional methods, i.e., by acquiring and maintaining control over land. The standard of Subpart A, however, can be satisfied only by generally more costly physical methods (such as applying thick earthen covers) that control the tailings and their emissions, with minimal reliance on institutional methods. EPA also requests comments on the adequacy of such a radon "fenceline" standard to meet the objectives of the Act.

Comments on both issues are requested to assist the Agency in its decision whether the standards should be revised for the lower priority sites. Revision of the standards is authorized by Section 275a of the Atomic Energy Act, as added by Pub. L. 95–604. Persons interested in commenting on these issues may wish to examine the rulemaking record (see "ADDRESS," above), or review site-specific information. Of special interest are the Preamble to the final standards published today, and the Final Environmental Impact Statement (EPA Report 520/4–82–013–1; instructions for obtaining this report are given in the

Preamble). Individual "Engineering Assessment" reports have been prepared for DOE for the 24 designated sites. Ordering instructions may be obtained from the U.S. Department of Energy, Albuquerque Operations Office, Uranium Mill Tailings Remedial Action Project Office, Albuquerque, New Mexico 87108; telephone number 505-844-1014.

List of Subjects in 40 CFR Part 192

Environmental protection, Radiation protection, Uranium.

Dated: December 27, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc. 82-35696 Filed 12-30-82; 11:00 am]

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federal register

Wednesday
January 5, 1982

Part III

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Endangered Status and Critical Habitats for Two Fish Species in Ash Meadows, Nevada; Emergency Rule and Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Emergency Determination of Endangered Status and Critical Habitats for Two Fish Species in Ash Meadows, Nevada

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: The Service determines the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish to be Endangered species and designates their Critical Habitats. This action is being taken because these species are restricted to the Ash Meadows region and groundwater basin in Nye County, Nevada, where they are facing intensifying threats. Imminent land development for housing subdivisions, clearing of land for road construction and agricultural purposes, pumping of groundwater, and diversion of surface flows threaten the integrity of the species' habitat and therefore their survival. This action will result in the continuation of protective measures beyond the January 5, 1982, expiration date of their May 10, 1982, emergency listing as Endangered.

DATES: This emergency determination is effective on January 5, 1983, and expires on September 2, 1983.

ADDRESSES: Interested persons or organizations can obtain information from and submit written comments to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232 (phone 503/231–6131) or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Ash Meadows Amargosa pupfish (*Cyprinodon nevadensis mionectes)* and Ash Meadows speckled dace (*Rhinichthys osculus nevadensis*) are found only in the Ash Meadows basin and require the integrity of its physical environment and maintenance of spring, surface, and subsurface flows for their survival. The Ash Meadows speckled dace was described as a full species (*Rhinichthys nevadensis*) by Gilbert (1893) based on material collected in 1891 (La Rivers, 1962). It was later designated a subspecies of *Rhinichthys osculus* by Hubbs and Miller (1948). *Cyprinodon nevadensis mionectes* was described by Miller (1948) based on specimens collected in 1937 and 1942.

An emergency rule published on May 10, 1982, listed these fishes as Endangered for a period lasting 240 days. This period of emergency listing expires on January 5, 1983. A proposal of Endangered status and Critical Habitats for these two fish species under normal listing procedures is being published concurrently with this rule. Development of this proposal was delayed as a result of uncertainties concerning changes in listing procedures specified by the 1982 Amendments to the Endangered Species Act. In addition, the Bureau of Land Management (BLM) has been negotiating with Preferred Equities Corporation (PEC), owner of most of these species' remaining habitat, for a land exchange that would have brought these habitats under BLM protection. These negotiations now appear to indicate that a land exchange for all of PEC's land is no longer being considered. The uncertain status of this possible land exchange has delayed development of the economic analysis required for the designation of Critical Habitat. The present emergency listing and Critical Habitat designations for these species will provide protection for these species for the time period from January 5, 1983, the date of expiration of the original emergency listing, until the normal rulemaking process for listings is completed.

The Ash Meadows region is a unique and diverse desert wetland located east of the Amargosa River. These wetlands are maintained by flow from several dozen springs and seeps which are fed by an extensive groundwater system which extends more than 167 km northeast of Ash Meadows. Hundreds of plant and animal species, many of them endemic, are associated with these wetlands and depend upon them for survival.

The Ash Meadows Amargosa pupfish and Ash Meadows speckled dace are restricted to the large warmwater springs and related outflows of Ash Meadows. The pupfish inhabits the pools and outflows of Fairbanks, Rogers, Longstreet, Jack Rabbit, Big, and Point of Rocks Springs; Crystal Pool; three unnamed springs just southeast of Longstreet Spring; and the two westernmost springs of the Bradford Springs group. These springs are at elevations ranging from 655 to 700 m and are generally oriented along an imaginary line running 16 km from Fairbanks Spring to Big Spring. Water temperatures of the springs are consistently between 24° and 30° C. Flowing water of spring outflows is preferred by the speckled dace. Although formerly inhabiting much of the interconnected surface drainage in Ash Meadows, dace populations have been severely reduced and are now restricted to springs and outflows of Jack Rabbit Spring, Big Spring, and the two westernmost springs of the Bradford Springs group. A number of exotic species, such as mosquitofish and black mollies, have been introduced to these springs and compete with the native fishes.

Many other plant and animal species are endemic to Ash Meadows. The Service proposed the Ash meadows turban snail (*Fluminicola erythropoma*) as Threatened on April 28, 1976 (41 FR 17742). This proposal was withdrawn on December 10, 1979 (44 FR 70796), as a result of the 1978 Amendments to the Endangered Species Act. Current evidence indicates that this species, as proposed, actually comprised more than one species. This area has an extraordinarily diverse freshwater mollusk fauna, which is currently being studied by Dr. Dwight Taylor of Tiburon, California. Of special interest is the presence of two species flocks or complexes of snails which are found within a 5-mile radius in Ash Meadows and gives Ash Meadows the highest concentration of endemic species in the United States. Most of these mollusk species have not been scientifically described and named.

Two endemic Ash Meadows fishes, the Devil's Hole pupfish (*Cyprinodon diabolis*) and the Warm Springs pupfish (*Cyprinodon nevadensis pectoralis*) are already listed as Endangered. The Devil's Hole pupfish's natural distribution is restricted to Devil's Hole, a disjunct portion of Death Valley National Monument. The Warm Springs pupfish occurs only in small nearby springs at an elevation of about 710 m.

The Point of Rocks Springs naucorid (*Ambrysus amargosus*) is an insect that has been recorded living only in Point of Rocks Springs.

A general notice of review on candidate plants in the December 15, 1980, **Federal Register** (45 FR 82479) included six species that are restricted to Ash Meadows. These species and their edaphic associations are as follows: The spring-loving centaury (*Centaurium namophilum* var. *namophilum*) is restricted to wet clay soils of spring areas and stream banks; the Amargosa niterwort (*Nitrophila*

mohavensis) is found only on undisturbed, salt-encrusted, heavy alkaline mud flats in the Carson Slough area in Inyo County, California; the Ash Meadows gum plant (*Grindelioa fraxino-pratensis*) occurs in small populations in relatively undisturbed moist to wet clay soils of spring areas and stream banks, and is often associated with the spring-loving centaury; the Ash Meadows stick-leaf (*Mentzelia leucophylla*) is associated with desert washes in coarse-grained, water-sorted, alkaline soils; the Ash Meadows milk-vetch (*Astragalus phoenix*) occurs in washes and on flats and low knolls in fine-grained, clay-like soils; and corrugated sunray (*Enceliopsis nudicaulis* var. *corrugatum*) occupies strongly alkaline and often poorly drained soils in several localities. An additional species in that review, the tecopa birds-beak (*Cordylanthus tecopensis*), has a wider but still restricted distribution that includes Ash Meadows.

Early homesteaders attempted to farm Ash Meadows using the free-flowing water from the springs for irrigation. These efforts failed because the salty, clay soils were not suitable for crops.

Agricultural practices in the late 1960s and early 1970s resulted in large tracts of land being plowed and the installation of groundwater pumps and diversion ditches to support a cattle-feed operation. These practices resulted in the destruction of many populations of plants and animals and their wetland habitats by alteration of the land surface and lowering of the water table. In 1976, the Supreme Court limited the amount of groundwater pumping in Ash Meadows to ensure sufficient water levels in the only known habitat of the Endangered Devil's Hole pupfish. The agricultural interests in Ash Meadows sold approximately 36 square km of land to a real estate developer, Preferred Equities Corporation (PEC), in 1977.

While the Bureau of Land Management (BLM) is the principal landowner in Ash Meadows, PEC owns most of the surface water rights, which are currently designated for municipal use. Groundwater pumping would be required to develop and support municipal and agricultural activities. The imminent development and concomitant destruction of Ash Meadows by PEC may be avoided if an acceptable alternative can be devised with BLM to protect this fragile habitat. A possibility did exist whereby BLM would have exchanged land suitable for development in the Pahrump Valley (approximately 20 miles SE of Ash Meadows) for PEC's holding in Ash Meadows. Negotiations between FWS, BLM, and PEC proved fruitless: PEC found BLM lands in the Pahrump Valley unacceptable because of inadequate water supply.

The initial phase of construction, when completed, would result in the destruction of Crystal Pool, Point of Rocks and Jack Rabbit Springs, and possibly lower the level of other springs by groundwater pumping. PEC's activities have already substantially altered surface flows and spring hole morphometry at these sites. The amount of land which would be altered for housing is unknown. PEC has recently constructed a multi-lane road which connects Ash Meadows at Point of Rocks Spring with Pahrump Valley, a connecting section of road (2 miles long and 80 feet wide) north of Jack Rabbit Spring, and a new road (1.5 miles long and 30 feet wide) east of Crystal Pool. In addition, approximately 1,000 acres of cotton have been planted west of Point of Rocks Spring. The terrestrial habitats of the Ash Meadows ecosystems are as fragile as the aquatic habitats. Many candidate plant species are dependent upon the unique hydrological characteristics of this basin and require undisturbed soils for sustenance and propagation.

Factors Affecting the Species

The Service's listing regulations (50 CFR Part 424) provide for a review of the five factors below when listing (or reclassifying or delisting) a species (§ 424.11):

(A) The present or threatened destruction, modification or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) Inadequacy of existing regulatory mechanisms; and

(E) Other natural or manmade factors affecting its continued existence.

These factors, and their application to the subject species, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.*

The Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace are endemic to the Ash Meadows basin and depend upon the integrity of this fragile ecosystem for their survival. These species require undisturbed flows from the extensive Ash Meadows basin aquifer. The imminent threat to their existence is the proposed development of Ash Meadows by PEC into a residential, recreational, industrial, and agricultural community. Construction activities will clear essential habitat, directly extirpate populations of these fish, and alter surface drainage patterns. Human habitation will require great quantities of potable water. Utilization of surface outflows from springs and pumping of the acquifer will reduce or eliminate surface flows, lower the water table, and interfere with ground water recharge which will destroy down-gradient wetlands.

Diversion of spring outflows and pumping of spring holes and ground water to provide water for the proposed development will destroy essential habitat of the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish. Since all springs in this acquifer are intricately connected, drawdown at one location would affect water levels of many other springs. In addition, such alternation of surface flows will prevent migration to other suitable habitats and therefore prevent natural expansion of range or recolonization by these species.

To date, the outflow channels of Crystal Pool and King Pool (Point of Rocks Spring) have been modified to increase flows, resulting in the lowering of pool levels 1–1.5 feet and consequently decreasing riparian habitat. A significant area of land has already been altered by road construction in the vicinity of Crystal Pool and Point of Rocks and Jack Rabbit Springs.

Initial construction activities in late spring and summer of 1981 severely altered the watercourse of two springs (Point of Rocks and Bradford) and related spring hole morphometry; these activities severely reduced the populations of the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish in Bradford Springs. Recent excavation of Fairbanks Spring by heavy equipment has apparently eliminated all but one pupfish.

Recent construction activities in Ash Meadows have continued the destruction of fish habitat that began with early agricultural activities. The Ash Meadows Amargosa pupfish has been extirpated in Bole, Deep, and Forest Springs. The Ash Meadows speckled dace has been extirpated from Forest, Fairbanks, Rogers, Longstreet, Tubbs, and Point of Rocks Springs, the easternmost spring of the Bradford Springs group, and Crystal Pool. The ranges of both the pupfish and the dace have been reduced from 1 mile to about 200 yards in the Bradford Springs outflow and from 3 miles to 0.5 mile in the Big Springs outflow. The range of the pupfish has been reduced from 6 miles to 0.5 mile of the Point of Rocks Springs outflow and from 2,000 acres to about 0.5 acre in the area of Fairbanks, Rogers,

and Longstreet Springs. Dace and pupfish populations were temporarily extirpated form Jack Rabbit Spring when the spring pool was pumped dry. Both the dace and pupfish populations are much reduced in most of the limited habitat that they still occupy. Both the pupfish and the dace have been eliminated from Carson Slough where draining, plowing, and mining have eliminated the fish habitat.

PEC's long-term development plans call for direct alteration of many of these springs with construction to progress in three phases in the following areas: Phase I—Crystal Pool; Phase II—Point of Rocks Springs; Phase III—Fairbanks Spring complex. The Nye County Commission has already approved Phases I and II, and work has begun. Further, PEC, as principal owner of water rights, has made application to the State of Nevada to divert water from many of the other Ash Meadows springs, which will destroy more riparian habitat. Ground water pumping may seriously deplete water levels (directly and indirectly) upon which the fish species depend. In the past, pumping of ground water from nearby wells for agriculture has lowered the water level in Devil's Hole in Ash Meadows, which caused a severe decline in the population of the Endangered Devil's Hole pupfish; continued pumping could have caused the extinction of the species. In 1976 the U.S. Supreme Court ruled (*United States vs. Cappaert et al.*) that a minimum water level must be maintained to protect the Devil's Hole pupfish. Devil's Hole is the most sensitive spring in Ash Meadows, but all of the springs are interconnected. The impact of ground water pumping from wells south of Devil's Hole appears to be greater than from those located in the north. Because agricultural and municipal activities require large volumes of water, and pumping of ground water from the northern areas may be necessary to supplement flows from the south, it is expected that the proposed development by PEC will create a demand for water throughout Ash Meadows.

Introduction of exotic fish and other aquatic species which compete with or prey upon native species have caused the extinction of the Ash Meadows killifish (*Empetrichthys merriami*) and reduced or extirpated other native fish populations. Continued modification of habitat by construction activity can only exacerbate this problem.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.*

Not applicable to these species.

C. *Disease or predation.*

Numerous exotic organisms have been introduced into springs in Ash Meadows. Some of these exotics, including largemouth bass (*Micropterus salmoides*), crayfish (*Procambarus clarki*), and bullfrogs (*Rana catesbeiana*) prey on the Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace. Largemouth bass have been introduced into Crystal Reservoir and have subsequently gained access to Crystal Pool and its outflow. Crayfish and bullfrogs are common inhabitants in many springs and have significantly contributed to the decline of the Ash Meadows pupfish (La Rivers, 1962; Miller, 1948).

D. *The inadequacy of existing regulatory mechanisms.*

No permanent regulations exist to protect the two species of fish included in this rule. The existing emergency regulations will expire on January 5, 1983.

E. *Other natural or manmade factors affecting its continued existence.*

The extremely small range and specialized habitats of these species make them especially vulnerable to all of the factors that adversely affect them.

Vandalism has been reported at a number of springs. Future acts of vandalism could cause the extinction of local populations of the fishes.

The Mexican mollie (*Poecilia mexicana*) and mosquitofish (*Gambusia affinis*) have been introduced into several Ash Meadows spring systems including Point of Rocks, Jack Rabbit, Big, Bradford Springs, and Crystal Pool. These exotic fishes have replaced the pupfish and dace as the dominant species in the affected springs (Deacon *et al.*, 1964). Exotic snails have also become established in several springs, where they compete for food with native fishes.

Critical Habitat

50 CFR Part 424 defines "Critical Habitat" to include areas within the geographical area occupied by the species at the time the species is listed which are essential to the conservation of the species and which may require special management considerations or protection and specific areas outside the geographic area occupied by the species at the time, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Critical Habitat for the Ash Meadows speckled dace is as follows:

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters from the springs and outflows: Bradford Springs in Section 11, T. 18 S., R 50 E., and their outflows for a distance of 300 meters from the springs.

Jack Rabbit Spring and its outflows flowing southwest to the boundary between Section 24 in T. 18 S., R. 50 E. and Section 19, T. 18 S., R. 51 E.

Big Spring and its outflow to the boundary between Section 19, T. 18 S, R. 51 E. and Section 24, T. 18 S., R. 50 E.

Critical Habitat for the Ash Meadows Amargosa pupfish is as follows:

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas or a distance of 50 meters from these springs and outflows:

Fairbanks Spring and its outflow to the boundary between Sections 9 and 10, T. 17 S., R. 50 E.

Rogers Spring and its outflow to the boundary between Sections 15 and 16, T. 17 S., R. 50 E.

Longstreet Spring and its outflow to the boundary between Sections 15 and 22, T. 17 S., R. 50 E.

Three unnamed springs in the northwest corner of Section 23, T. 17 S., R. 50 E. and each of their outflows for a distance of 75 meters from the spring.

Crystal Pool and its outflow for a distance of 400 meters from the pool.

Bradford Springs in Section 11, T. 18 S., R. 50 E., and their outflows for a distance of 300 meters from the springs.

Jack Rabbit Spring and its outflow flowing southwest to the boundary between Section 24, in T. 18 S., R. 50 E. and Section 19, T. 18 S., R. 51 E.

Big Spring and its outflow to the boundary between Section 19, T. 18 S., R. 51 E. and Section 24, T. 18 S., R. 50 E.

Point of Rocks Springs and their entire outflows within Section 7, T. 18 S., R. 51 E.

These Critical Habitats include the springs and associated outflows that are the sole remaining habitat for these fishes. The Critical Habitats also include land areas immediately surrounding these aquatic land areas. These land areas provide vegetative cover that contributes to providing the uniform water conditions preferred by the pupfish and dace and provides habitat for insects and other invertebrates which constitute a substantial portion of their diet.

The activities that may adversely modify these Critical Habitats are described in the "Factors Affecting the Species" section of this emergency rule.

Effect of the Rule

Endangered Species regulations already published in Title 50, § 17.21 of the Code of Federal Regulations, set forth a series of general prohibitions and

exceptions which apply to all Endangered species. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

This rule, by extending the protection provided by the original emergency rule, could subject the construction activities of Preferred Equities Corporation (PEC) to enforcement actions, undertaken through Section 9 of the Endangered Species Act, or civil injunction, should such development result in the taking of one of the fish.

This rule requires Federal agencies not only to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace, but also requires them to insure that their actions do not result in the destruction or adverse modification of Critical Habitats. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

Section 4 (b)(8) of the Act requires that, to the maximum extent practicable, any determination of Critical Habitat be accompanied by a brief description and evaluation of those activities which in the opinion of the Secretary may adversely modify such habitat if undertaken or may be impacted by such designation. Activities that may adversely affect these Critical Habitats include the activities carried out and planned by Preferred Equities Corporation (PEC) that would modify the springs and their outflows, disturb the land areas immediately surrounding these habitats, or draw down the water table to the extent that spring flows are reduced.

Section 4 (b)(2) requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. Listing these species as Endangered does not specifically preclude in their entirety housing, commercial, intensive agricultural, or industrial development in Ash Meadows. Full protection of the two fish species may, however, preclude a portion of the proposed PEC development, and may result in the modification of PEC's construction activities. The Service notes that much of PEC's proposed development may already be precluded by the extent of their water ownership and the Endangered status of the Devil's Hole pupfish and the Warm Springs pupfish. The exact extent of possible water conflict is presently unknown.

The designated Critical Habitats include a total area of approximately 200 acres. Based on the best scientific and commercial data available, smaller Critical Habitats might result in the extinction of species.

The Bureau of Land Management (BLM) has jurisdiction over two springs (Big and Jack Rabbit) that are included in these Critical Habitats. Present BLM activities are consistent with the conservation of these fishes and therefore will not be affected by this action.

National Environmental Policy Act

A draft Environmental Assessment was prepared when these fishes were proposed as Endangered, with Critical Habitat, pursuant to regulations in 50 CFR 424.16 and 50 CFR 424.17. A determination will be made at the time of final listing of these species under normal listing procedures as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 and 40 CFR Parts 1500–1508.

Primary Author: The primary author of this emergency rule is Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Phone: 703/235–1975.

This rule is issued under the following authority:

(Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1241; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*)).

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

1. Accordingly, until September 2, 1983, or until regulations become effective through normal listing procedures, whichever comes first, § 17.11(h), subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended by adding the

following two entries alphabetically to the table under the heading "Fishes" as set forth below.

§ 17.11 Endangered and Threatened Wildlife.

(h) * * *

Common name	Species (scientific name)	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Fishes							
Dace, Ash Meadows Speckled	*Rhinichthys osculus nevadensis*	U.S.A. (NV)	Entire	E		17.95(e)	N/A
Pupfish, Ash Meadows Amargosa	*Cyprinodon nevadensis mionectes*	U.S.A. (NV)	Entire	E		17.95(e)	N/A

§ 17.95 [Amended]

2. It is further determined that § 17.95(e), Fishes, be amended until September 2, 1983 or until these regulations become effective through normal listing procedures, whichever comes first, by adding Critical Habitat of the Ash Meadows speckled dace after that of the spotfin chub as follows:

Ash Meadows Speckled Dace

(Rhinichthys osculus nevadensis)

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters from these springs and outflows:

Bradford Springs in Section 11, T. 18 S., R. 50 E., and their outflows for a distance of 300 meters from the springs.

Jack Rabbit Spring and its outflow flowing southwest to the boundary between Section 24 in T. 18 S., R. 50 E. and Section 19, T. 18 S., R. 51 E.

Big Spring and its outflow to the boundary between Section 19, T. 18 S., R. 51 E. and Section 24, T. 18 S., R. 50 E.

Known constituent elements include warm-water springs and their outflows and surrounding land areas that provide vegetation for cover and habitat for insects and other invertebrates on which the species feeds.

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ASH MEADOWS SPECKLED DACE

Nye County, NEVADA

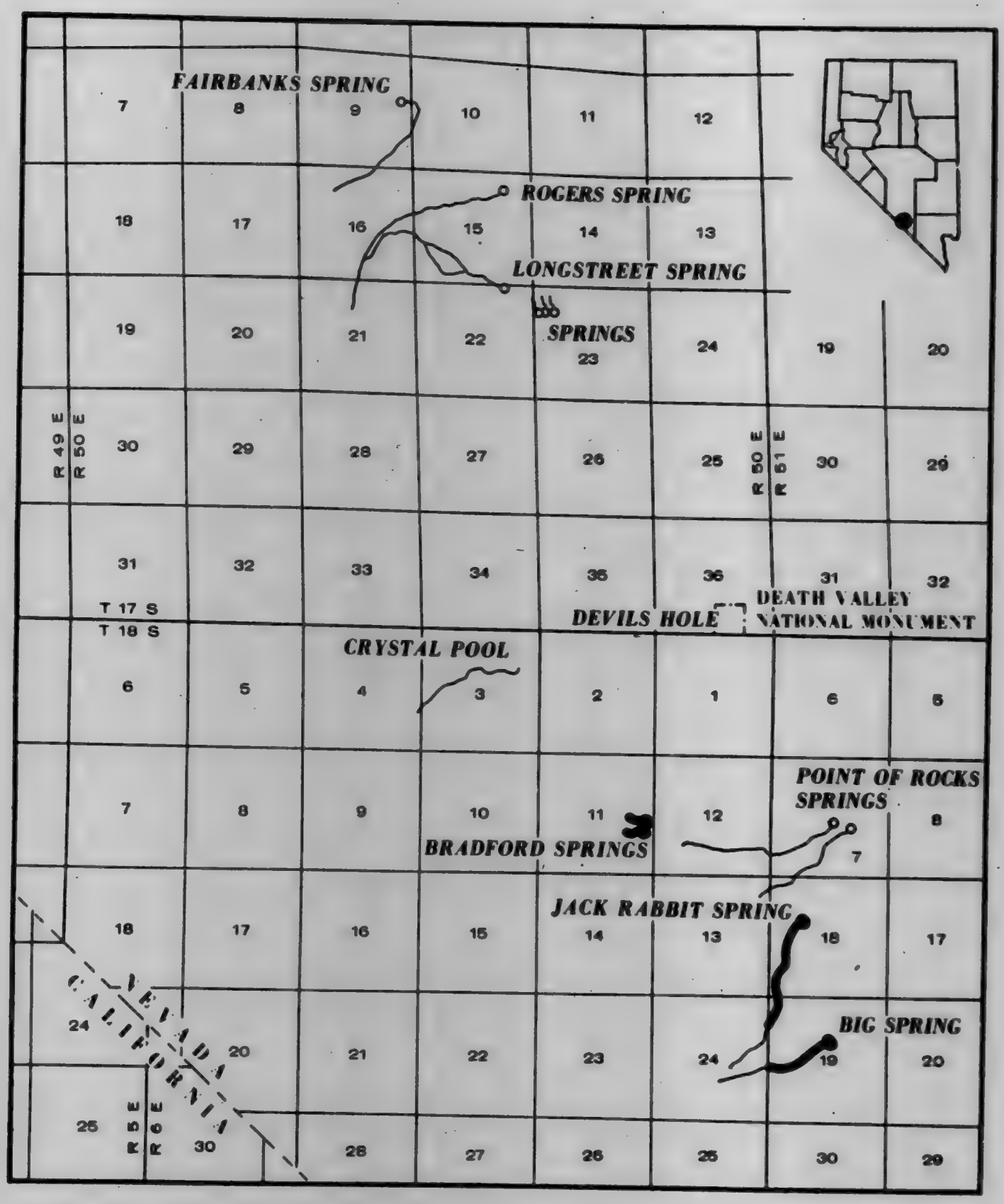

BILLING CODE 4310-55-C

3. It is further determined that § 17.95 (e), Fishes, be amended until September 2, 1983, or until these regulations are effective through normal listing procedures, whichever comes first, by adding Critical Habitat of the Ash Meadows Amargosa pupfish after that of the leopard darter as follows:

Ash Meadows Amargosa Pupfish

(Cyprinodon nevadensis minonectes)

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters from these springs and outflows:

Fairbanks Spring and it outflow to the boundary between Sections 9 and 10, T. 17 S., R. 50 E.

Rogers Spring and its outflow to the boundary between Sections 15 and 16, T. 17 S., R. 50 E.

Longstreet Spring and it outflow to the boundary between Sections 15 and 22, T. 17 S., R. 50 E.

Three unnamed springs in the northwest corner of Section 23, T. 17 S., R. 50 E., and each of their outflows for a distance of 75 meters from the spring.

Crystal Pool and its outflow for a distance of 400 meters from the pool.

Bradford Springs in Section 11, T. 18 S., R. 50 E., and their outflows for a distance of 300 meters from the springs.

Jack Rabbit Springs and its outflow flowing southwest to the boundary between Section 24, T. 18 S., R. 50 E. and Section 19, T. 18 S., R. 51 E.

Big Spring and its outflow to the boundary between Section 19, T. 18 S., R. 51 E. and Section 24, T. 18 S., R. 50 E.

Point of Rocks Springs and their entire outflows within Section 7, T. 18 S., R. 51 E.

Known constituent elements include warm-water springs and their outflows and surrounding land areas that provide vegetation for cover and habitat for insects and other invertebrates on which this species feeds.

BILLING CODE 4310-55-M

ASH MEADOWS AMARGOSA PUPFISH

Nye County, NEVADA

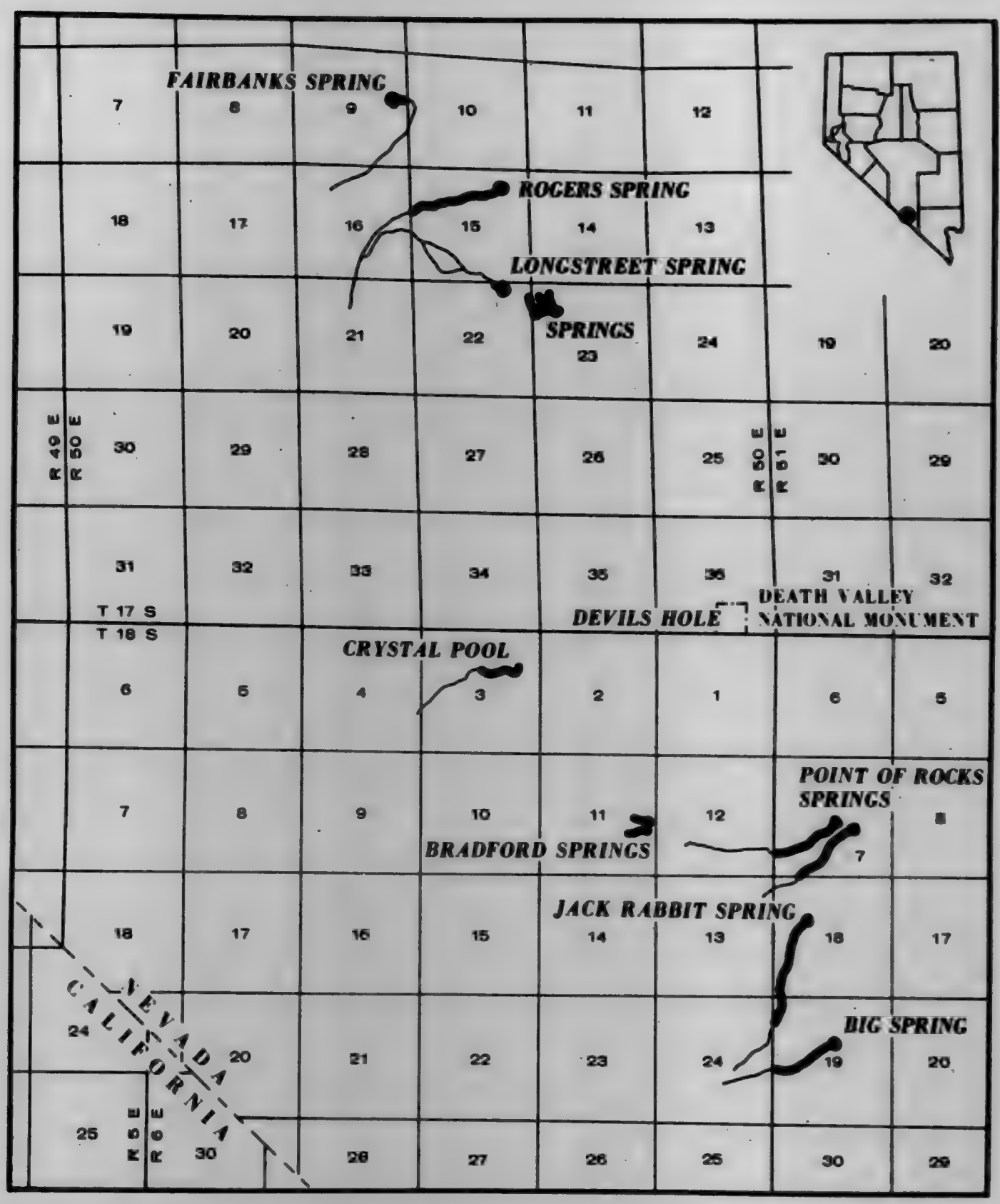

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Dated: December 29, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-204 Filed 1-4-83; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Proposed Endangered Status and Critical Habitats for Two Fish Species in Ash Meadows, Nev.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish to be Endangered species and to designate their Critical Habitats. This action is being taken because these species are restricted to the Ash Meadows region and groundwater basin in Nye County, Nevada, where they are facing intensifying threats. Imminent land development for housing subdivisions, clearing of land for road construction and agricultural purposes, pumping of groundwater, and diversion of surface flows threaten the integrity of the species' habitat and therefore their survival. The proposed action will result in the continuation of protective measures that were instituted for these species by their May 10, 1982, emergency listing as Endangered.

DATES: Comments from the public must be received by February 22, 1983. A public hearing will be held on February 11, 1983, beginning at 7:00 p.m.

ADDRESSES: Interested persons or organizations can obtain information from and submit written comments to the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232. Comments and materials received will be available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species at the address above.

The public hearing will be held at the U.S. Bureau of Land Management Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Mr. Sanford R. Wilbur, U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 NE. Multnomah Street, Portland, Oregon 97232 (phone 503/231–6131) or Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703) 235–2771.

SUPPLEMENTARY INFORMATION:

Background

The Ash Meadows Amargosa pupfish *(Cyprinodon nevadensis mionectes)* and Ash Meadows speckled dace *(Rhinichthys osculus nevadensis)* are found only in the Ash Meadows basin and require the integrity of its physical environment and maintenance of spring, surface, and subsurface flows for their survival. The Ash Meadows speckled dace was described as a full species *(Rhinichthys nevadensis)* by Gilbert (1893) based on material collected in 1891 (La Rivers, 1962). It was later designed a subspecies of *Rhinichthys osculus* by Hubbs and Miller (1948). *(Cyprinodon nevadensis) mionectes* was described by Miller (1948) based on specimens collected in 1937 and 1942.

An emergency rule published on May 10, 1982, listed these fishes as Endangered for a period lasting 240 days. This period of emergency listing expires on January 5, 1983. The present proposal of Endangered status for these species was delayed as a result of uncertainties concerning changes in listing procedures specified by the 1982 amendments to the Endangered Species Act. In addition, the Bureau of land Management (BLM) has been considering a land exchange that would have brought these habitats under BLM protection. At the present time it appears that a land exchange for all of PEC's land is no longer being considered. The uncertain status of this possible land exchange has delayed development of the economic analysis required for the present proposal of Endangered status and Critical Habitat.

The Ash Meadows region is a unique and diverse desert wetland located east of the Amargosa River. These wetlands are maintained by flow from several dozen springs and seeps which are fed by an extensive groundwater system which extends more than 167 km northeast of Ash Meadows. Hundreds of plant and animal species, many of them endemic, are associated with these wetlands and depend upon them for survival.

The Ash Meadows Amargosa pupfish and Ash Meadows speckled dace are restricted to the large warmwater springs and related outflows of Ash Meadows. The pupfish inhabits the pools and outflows of Fairbanks, Rogers, Longstreet, Jack Rabbit, Big, and Point of Rocks Springs; Crystal Pool; three unnamed springs just southeast of Longstreet Spring; and the two westernmost springs of the Bradford Springs group. These springs are at elevations ranging from 655 to 700 m and are generally oriented along an imaginary line running 16 km from Fairbanks Spring to Big Spring. Water temperatures of the springs are consistently between 24° and 30° C. Flowing water of spring outflows is preferred by the speckled dace. Although formerly inhabiting much of the interconnected surface drainage in Ash Meadows, dace populations have been severely reduced and are now restricted to springs and outflows of Jack Rabbit Spring, Big Spring, and the two westernmost springs of the Bradford Spring group. A number of exotic species, such as mosquitofish and black mollies, have been introduced to these springs and compete with the native fishes.

Many other plant and animal species are endemic to Ash Meadows. The Service proposed the Ash Meadows turban snail *(Fluminicola erythropoma)* as Threatened on April 28, 1976 (41 FR 17742) this proposal was withdrawn on December 10, 1979 (44 FR 70796) as a result of the 1979 Amendments to the Endangered Species Act. Current evidence indicates that this species, as proposed, actually comprised more than one species. This area has an extraordinarily divise freshwater mollusk fauna, which is currently being studied by Dr. Dwight Taylor of Tiburon, California. Of special interest is the presence of two species flocks or complexes of snails which are found within a five mile radius in Ash Meadows and give Ash Meadows the highest concentration of endemic species in the United States. Most of these mollusk species have not been scientifically described and named.

The Point of Rocks Springs naucorid *(Ambrysus amargosus)* is an insect that has been recorded living only in Point of Rocks Springs.

A general notice of review on candidate plants in the December 15, 1980 **Federal Register** (45 FR 82479) included six species that are restricted to Ash Meadows. These species and their edaphic associations are as follows: The spring-loving centaury (*Centaurium namophilum* var. *namophilum)* is restricted to wet clay soils of spring areas and stream banks; the Amargosa niterwort (*Nitrophila mohavensis*) is only found on undisturbed, salt-encrusted, heavy alkaline mud flats in the Carson Slough area in Inyo County, California; the Ash Meadow gum plant (*Grindelina fraxino-pratensis*) occurs in small populations in relatively undisturbed moist to wet clay soils of spring areas and stream banks, and is often associated with the spring-loving centaury; the Ash Meadows stick-leaf (*Mentzelia leucophylla*) is associated

with desert washes in coarse-grained, water-sorted, alkaline soils; the Ash Meadows milk-vetch (*Astragalus phoenix*) occurs in washes and on flats and low knolls in fine-grained, clay-like soils; and corrugated sunray (*Enceliopsis nudicaulis* var. *corrugatum*) occupies strongly alkaline and often poorly drained soils in several localities. An additional species in that review, the tecopa birds-beak (*Cordylanthus tecopensis*), has a wider distribution that includes Ash Meadows.

Early homesteaders attempted to farm Ash Meadows using the free-flowing water from the springs for irrigation. These efforts failed because the salty, clay soils were not suitable for crops.

Agricultural practices in the late 1960s and early 1970s resulted in large tracts of land being plowed and the installation of groundwater pumps and diversion ditches to support a cattle-feed operation. These practices resulted in the destruction of many populations of plants and animals and their wetland habitats by alteration of the land surface and lowering of the water table. In 1976, the Supreme Court limited the amount of groundwater pumping in Ash Meadows to ensure sufficient water levels in the only known habitat of the Endangered Devil's Hole pupfish. The agricultural interests in Ash Meadows sold approximately 36 square km of land to a real estate developer, PEC, in 1977.

While the BLM is the principal landowner in Ash Meadows, PEC owns most of the surface water rights, which are currently designated for municipal use. Groundwater pumping would be required to develop and support municipal and agricultural activities. The imminent development and concomitant destruction of Ash Meadows by PEC may be avoided if an acceptable alternative can be devised with BLM to protect this fragile habitat. A possibility did exist whereby BLM would have exchanged land suitable for development in the Pahrump Valley (approximately 20 miles SE of Ash Meadows) for PEC's holding in Ash Meadows. Negotiations between FWS, BLM, and PEC proved fruitless: PEC found BLM lands in the Pahrump Valley unacceptable because of inadequate water supply.

The initial phase of construction, when completed would result in the destruction of Crystal Pool, Point of Rocks Spring and Jack Rabbit Springs and possibly lower the level of other springs by groundwater pumping. PEC's activities have already substantially altered surface flows and spring hole morphometry at these sites. The amount of land which would be altered for housing is unknown. PEC has recently constructed a multi-lane road which connects Ash Meadows at Point of Rocks Spring with Pahrump Valley, a connecting section of road (2 miles long and 80 feet wide) north of Jack Rabbit Springs, and a new road (1.5 miles long and 30 feet wide) east of Crystal Pool. In addition, approximately 1,000 acres of cotton have been planted west of Point of Rocks Spring. The terrestrial habitats of the Ash Meadows ecosytem are as fragile as the aquatic habitats. Many candidate plant species are dependent upon the unique hydrological characteristics of this basin and require undisturbed soils for sustenance and propagation.

Factors Affecting the Species:

The Service's listing regulations (50 CFR Part 424) provide for a review of the five factors below when listing (or reclassifying or delisting) a species (§ 424.11):

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Utilization for commercial, recreational, scientific, or educational purposes at levels that detrimentally affect it;

(C) Disease or predation;

(D) Absence of regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat; and

(E) Other natural or manmade factors affecting its continued existence.

These factors, and their application to the subject species, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace are endemic to the Ash Meadows basin and depend upon the integrity of this fragile ecosystem for their survival. These species require undisturbed flows from the extensive Ash Meadows basin aquifer. The imminent threat to their existence is the proposed development of Ash Meadows by PEC into a residential, recreational, industrial, and agricultural community. Construction activities will clear essential habitat, directly extirpate populations of these fishes, and alter surface drainage patterns. Human habitation will require great quantities of potable water. Utilization of surface outflows from springs and pumping of the aquifer will reduce or eliminate surface flows, lower the groundwater table, and interfere with groundwater recharge which will destroy down-gradient wetlands.

Diversion of spring outflows and pumping of spring holes and groundwater to provide water for the proposed development will destroy essential habitat of the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish. Since all springs in this aquifer are intricately connected, drawdown at one location would affect water levels of many other springs. In addition, such alteration of surface flows will prevent migration to other suitable habitats and therefore prevent natural expansion of range or recolonization by these species.

To date, the outflow channels of Crystal Pool and King Pool (Point of Rocks Spring) have been modified to increase flows, resulting in the lowering of pool levels 1–1.5 feet and consequently decreasing riparian habitat. A significant area of land has already been altered by road construction in the vicinity of Crystal Pool and Point of Rocks and Jack Rabbit Springs.

Initial construction activities in late spring and summer of 1981 severely altered the watercourse of two springs (Point of Rocks and Bradford) and related spring hole morphometry; these activities severely reduced the populations of the Ash Meadows speckled dace and Ash Meadows Amargosa pupfish in Bradford Springs. Recent excavation of Fairbanks Spring by heavy equipment has apparently eliminated all but one pupfish.

Recent construction activities in Ash Meadows have continued the destruction of fish habitat that began with early agricultural activities. The Ash Meadows Amargosa pupfish has been extirpated in Bole, Deep, and Forest Springs. The Ash Meadows speckled dace has been extirpated from Forest, Fairbanks, Rogers, Longstreet, Tubbs, and Point of Rocks Springs, the easternmost spring of the Bradford Springs group, and Crystal Pool. The ranges of both the pupfish and the dace have been reduced from 1 mile to about 200 yards in the Bradford Springs outflow and from 3 miles to .5 mile in the Big Springs outflow. The range of the pupfish has been reduced from 6 miles to .5 mile of the Point of Rocks Springs outflow and from 2,000 acres to about 0.5 acre in the area of Fairbanks, Rogers and Longstreet Springs. Dace and pupfish populations were temporarily extirpated from Jack Rabbit Spring when the spring pool was pumped dry. Both the dace and pupfish populations are much reduced in most of the limited habitat that they still occupy. Both the pupfish and the dace have been eliminated from Carson Slough where draining, plowing, and mining have eliminated the fish habitat.

PEC's long-term development plans call for direct alteration of many of these springs with construction to progress in 3 phases in the following areas: Phase I—Crystal Pool; Phase II—Point of Rocks Spring; Phase III—Fairbanks Spring complex. The Nye County Commission has already approved Phases I and II, and work has begun. Further, PEC, as principal owner of water rights, has made application to the State of Nevada to divert water from many of the other Ash Meadows springs, which will destroy more riparian habitat. Groundwater pumping may seriously deplete water levels (directly and indirectly) upon which the fish species depend. In the past, pumping of groundwater from near by wells for agriculture has lowered the water level in Devil's Hole in Ash Meadows, which caused a severe decline in the population of the Endangered Devil's Hole pupfish; continued pumping could have caused the extinction of the species. In 1976 the U.S. Supreme Court ruled (*United States* v. *Cappaert et al.*) that a minimum water level must be maintained to protect the Devil's Hole pupfish. Devil's Hole is the most sensitive spring in Ash Meadows and the springs are interconnected. The impact of groundwater pumping from wells south of Devil's Hole appears to be greater than from those located in the north. Because agricultural and municipal activities require large volumes of water, and pumping of groundwater from the northern areas may be necessary to supplement flows from the south, it is expected that the proposed development by PEC will create a demand for water throughout Ash Meadows.

Introduction of exotic fish and other aquatic species which compete with or prey upon native species have caused the extinction of the Ash Meadows killifish *(Empetrichthys merriami)* and reduced or extirpated other native fish population. Continued modification of habitat by construction activity can only exacerbate this problem.

B. *Overutilization for commercial, recreational, scientific or educational purposes.* Although taking endangered wildlife is prohibited, these activities could affect the tenuous existence of these fishes. If these species are not accorded Endangered status under the regular listing process, protection would cease leading to potential threat from taking.

C. *Disease or predation.* Numerous exotic organisms have been introduced into springs in Ash Meadows. Some of these exotics including largemouth bass *(Micropterus salmoides)*, crayfish *(Procambarus clarki)*, and bullfrogs (Rana catesbeiana), prey on the Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace. Large mouth bass have been introduced into Crystal Reservior and have subsequently gained access to Crystal Pool and its outflow. Crayfish and bullfrogs are common inhabitants in many springs and have significantly contributed to ther decline of the Ash Meadows pupfish (La Rivers, 1962, Miller, 1948).

D. *The inadequacy or existing regulatory mechanisms.* No permanent regulations exist to protect the two species of fish included in this rule. The existing emergency regulations will expire on January 5, 1983.

E. *Other natural or man-made factors affecting its continued existence.* The extremely small range and specialized habitats of these species make them especially vulnerable to all of the factors that adversely affect them.

Vandalism has been reported at a number of springs. Future acts of vandalism could cause the extinction of local populations of the fishes.

The Mexican mollie *(Poecilia mexicana)* and mosquitofish (*Gambusia affinis)* have been introduced into several Ash Meadows spring systems including Point of Rocks, Jack Rabbit, Big, and Bradford Spring and Crystal Pool. These (Deacon *et al.*, 1964) have replaced the pupfish and dace as the dominant species in the affected springs. Exotic snails have also become established in several springs where they compete with native fishes for food.

Critical Habitat

50 CFR part 424 defines "Critical Habitat" to include areas within the geographical area occupied by the species at the time the species is listed which are essential to the conservation of the species and which may require special management considerations or protection and specific areas outside the geographic area occupied by the species at the time, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Proposed Critical Habitat for the Ash Meadows speckled dace is as follows:

Nevada, Nye County: Each of the following spring and outflows plus surrounding land areas for a distance of 50 meters from the springs and outflows:

Bradford Springs in Section 11, T. 18 S., R 50 E., and their outflows for a distance of 300 meters from the springs.

Jack Rabbit Spring and its outflows flowing southwest to the boundary between Section 24 in T. 18 S., R. 50 E. and Section 19, T. 18 S., R. 51 E.

Big Springs and its outflow to the boundary between Section 19, T. 18 S, R. 51 E. and Section 24, T. 18 S., R. 50 E.

Proposed Critical Habitat for the Ash Meadows Amargosa pupfish is as follows:

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters from these springs and outflows:

Fairbanks Spring and its outflow to the boundary between Sections 9 and 10, T. 17 S., R. 50 E.

Rogers Spring and its outflow to the boundary between Sections 15 and 16, T. 17 S., R. 50 E.

Longstreet Spring and its outflow to the boundary between Sections 15 and 22, T. 17 S., R. 50 E.

Three unnamed springs in the northwest corner of Section 23, T. 17 S., R. 50 E. and each of their outflows for a distance of 75 meters from the spring.

Crystal Pool and its outflow for a distance of 400 meters from the pool.

Bradford Springs in Section 11, T. 18 S., R. 50 E., and their outflows for a distance of 300 meters from the springs.

Jack Rabbit Spring and its outflow southwest to the boudary between Section 24, in T. 18 S., R. 50 E. and Section 19, T. 18 S., R. 51 E.

Big Spring and its outflow to the boundary between Section 19, T. 18 S., R. 51 E. and Section 24, T. 18 S., R. 50 E.

Point of Rocks Springs and their entire outflows within Section 7, T. 18 S., R. 51 E.

These Critical Habitats include the springs and associated outflows that are the sole remaining habitat for these fishes. The Critical Habitats also include land areas immediately surrounding these aquatic land areas. These land areas provide vegetative cover that contributes to providing the uniform water conditions preferred by the pupfish and dace and provides habitat for insects and other invertebrates which constitute a substantial portion of their diet.

The activities that may adversely modify these Critical Habitats are described in the "Factors Affecting the Species" section of this proposed rule.

Effect of This Proposal if Published as a Final Rule

Endangered Species regulations already published in Title 50, § 17.21 of the Code of Federal Regulations, set forth a series of general prohibitions and exceptions which apply to all Endangered species. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export,

ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

This rule, by extending the protection provided by the emergency rule, would allow the threat of development by PEC to be met by enforcement action undertaken through Section 9 of the Endangered Species Act or civil injunction should such development jeopardize the existance of the fish. Alteration of the water levels in habitats supporting these species would likewise be countered by enforcement efforts.

If published as a final rule this proposal would require Federal agencies not only to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the Ash Meadows Amargosa pupfish and the Ash Meadows speckled dace, but also requires them to insure that their actions do not result in the destruction or adverse modification of Critical Habitats. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

Subsection 4(b)(8) of the Act requires that, to the maximum extent practicable, any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which in the opinion of the Secretary many adversely modify such habitat if undertaken or may be impacted by such designation. Activities that may adversely affect these Critical Habitats include the activities carried out and planned by PEC that would modify the springs and their outflows, disturb the land areas immediately surrounding these habitats, or draw down the water table to the extent that spring flows are reduced.

Subsection 4(b)(4) requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. Listing these species as Endangered does not specifically preclude in their entirety housing, commercial, intensive agricultural, or industrial development in Ash Meadows. Full protection of the two fish species may preclude a portion of the proposed PEC development; however, much of their proposed development is already precluded by the extent of their water ownership. The exact extent of possible water conflict is presently unknown.

At the time of formulation of the Determination of Effects, a Critical Habitat of 2,960 acres was expected. The presently proposed Critical Habitat is approximately 200 acres. It is believed, based on the best scientific and commercial data available, further reduction might result in the extinction of the species.

The Bureau of Land Management (BLM) has jurisdiction over two springs (Big and Jack Rabbit) that are included in these Critical Habitats Present BLM activities are consistent with the conservation of these fish and therefore will not be affected by this proposed action.

The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration in this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action.

Public Comments Solicited

The service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of these species should or should not be determined to be Critical Habitat as provided for by Section 7 of the Act.

(3) Additional information concerning the range and distribution of these species.

(4) Current or planned activities which may adversely modify the subject areas which are being considered for Critical Habitat; and

(5) The foreseeable economic and other impacts of the Critical Habitat designations on federally funded or authorized projects.

A public hearing on this action will be held on February 11, 1983 beginning at 7:00 p.m. at the U.S. Bureau of Land Management Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, Nevada.

National Environmental Policy Act

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of a final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (40 CFR Parts 1500–1508).

Primary Author: The primary author of these proposed rules is Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Phone: 703/235–1975.

Authority: This proposal is being published under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 96 Stat. 1411).

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

Accordingly, It is proposed to amend § 17.11(h), Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, by adding the following two entries alphabetically to the table (h) * * *

under the heading "Fishes" as set forth below.

§17.11 Endangered and threatened Wildlife

* * * * *

Species							
Common name	Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Fishes:							
Dace, Ash Meadows speckled.	*Rhinichtys osculus nevadensis.*	U.S.A. (NV).	Entire	E		17.95(e)	NA.
Pupfish, Ash Meadows Amargosa.	*Cyprinodon nevadensis mionectes.*	U.S.A. (NV).	Entire	E		17.95(e)	NA.

§ 17.95 [Amended]

2. It is further proposed that § 17.95(e), Fishes, be amended by adding Critical Habitat of the Ash Meadows speckled dace after that of the spotfin club as follows:

Ash Meadows Speckled Dace

(Rhinichtys osculus nevadensis)

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters from these springs and outflows:

Bradford Springs in Section 11, T. 18 S., R. 50 E., and their outflows for a distance of 300 meters from the springs.

Jack Rabbit Spring and its outflow flowing southwest to the boundary between Section 24 in T. 18 S., R. 50 E. and Section 19, 18 S., R. 51 E.

Big Spring and its outflow to the boundary between Section 19, T. 18 S., R. 51 E. and Section 24, T. 18 S., R. 50 E.

Known constituent elements include warm-water springs and their outflows and surrounding land areas that provide vegetation for cover and habitat for insects and other invertebrates on which the species feeds.

BILLING CODE 4310-55-M

ASH MEADOWS SPECKLED DACE

Nye County, NEVADA

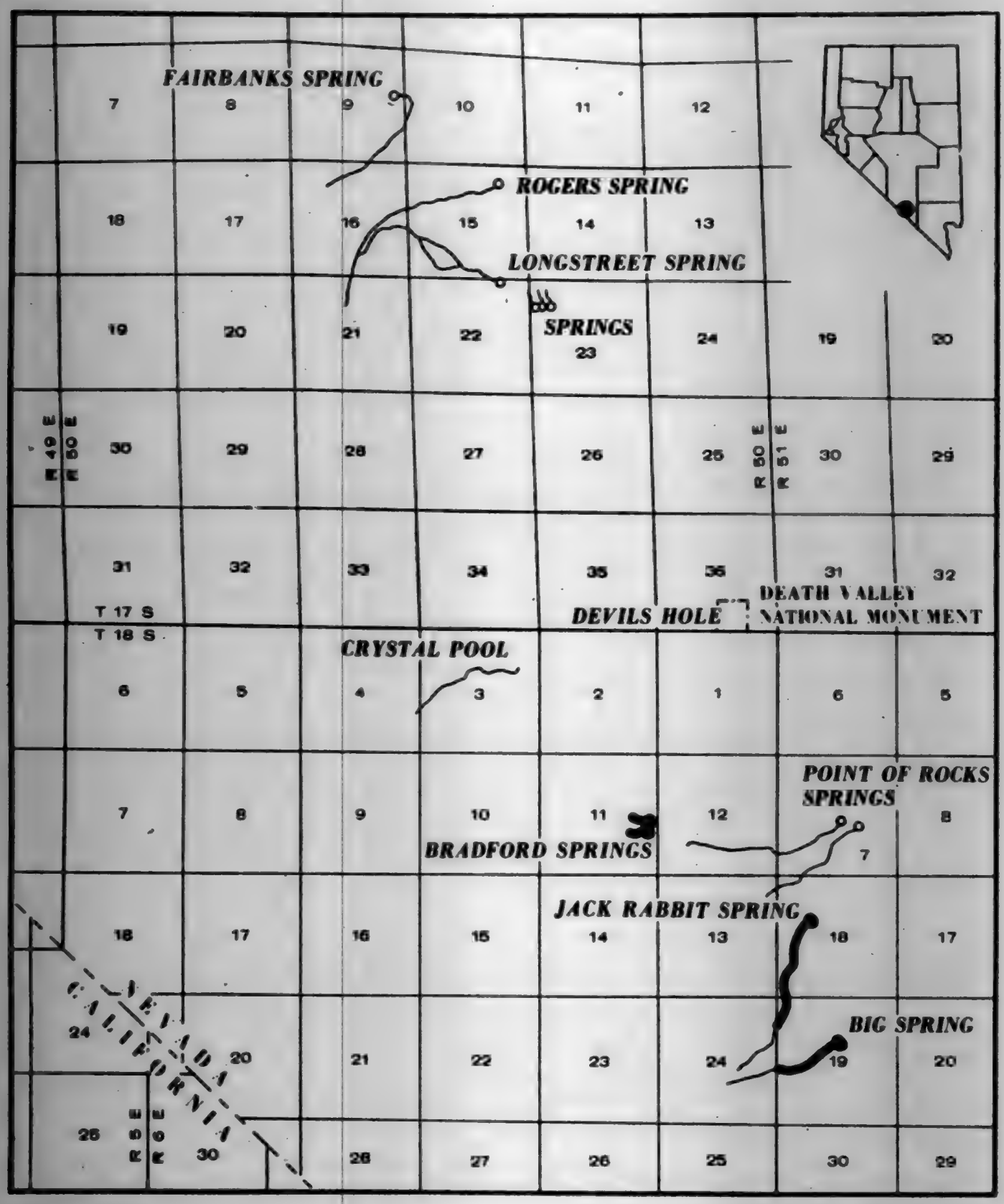

BILLING CODE 4310-55-C

3. It is further proposed that Section 17.95(e), Fishes, be amended by adding Critical Habitat of the Ash Meadows Amargosa pupfish after that of the leopard darter as follows:

Ash Meadows Amargosa Pupfish

(Cyprinodon nevadensis mionectes)

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters from these springs and outflows:

Fairbanks Spring and its outflow to the boundary between Sections 9 and 10, T. 17 S., R. 50 E.

Rogers Spring and its outflow to the boundary between Sections 15 and 16, T. 17 S., R. 50 E.

Longstreet Spring and its outflow to the boundary between Sections 15 and 22, T. 17 S., R. 50 E.

Three unnamed springs in the northwest corner of Section 23, T. 17 S., R. 50 E., and each of their outflows for a distance of 75 meters from the spring.

Crystal Pool and its outflow for a distance of 400 meters from the pool.

Bradford Springs in Section 11. T. 18 S., R. 50 E., and their outflows for a distance of 300 meters from the springs.

Jack Rabbit Spring and its outflow flowing southwest to the boundary between Section 24, T. 18 S., R. 50 E. and Section 19, T. 18 S., R. 51 E.

Big Spring and its outflow to the boundary between Section 19, T. 18 S., R. 51 E. and Section 24, T. 18 S., R. 50 E.

Point of Rocks Springs and their entire outflows within Section 7, T. 18 S., R. 51 E.

Know constituent elements include warm-water springs and their outflows and surrounding land areas that provide vegetation for cover and habitat for insects and other invertebrates on which this species feeds.

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ASH MEADOWS AMARGOSA PUPFISH

Nye County, NEVADA

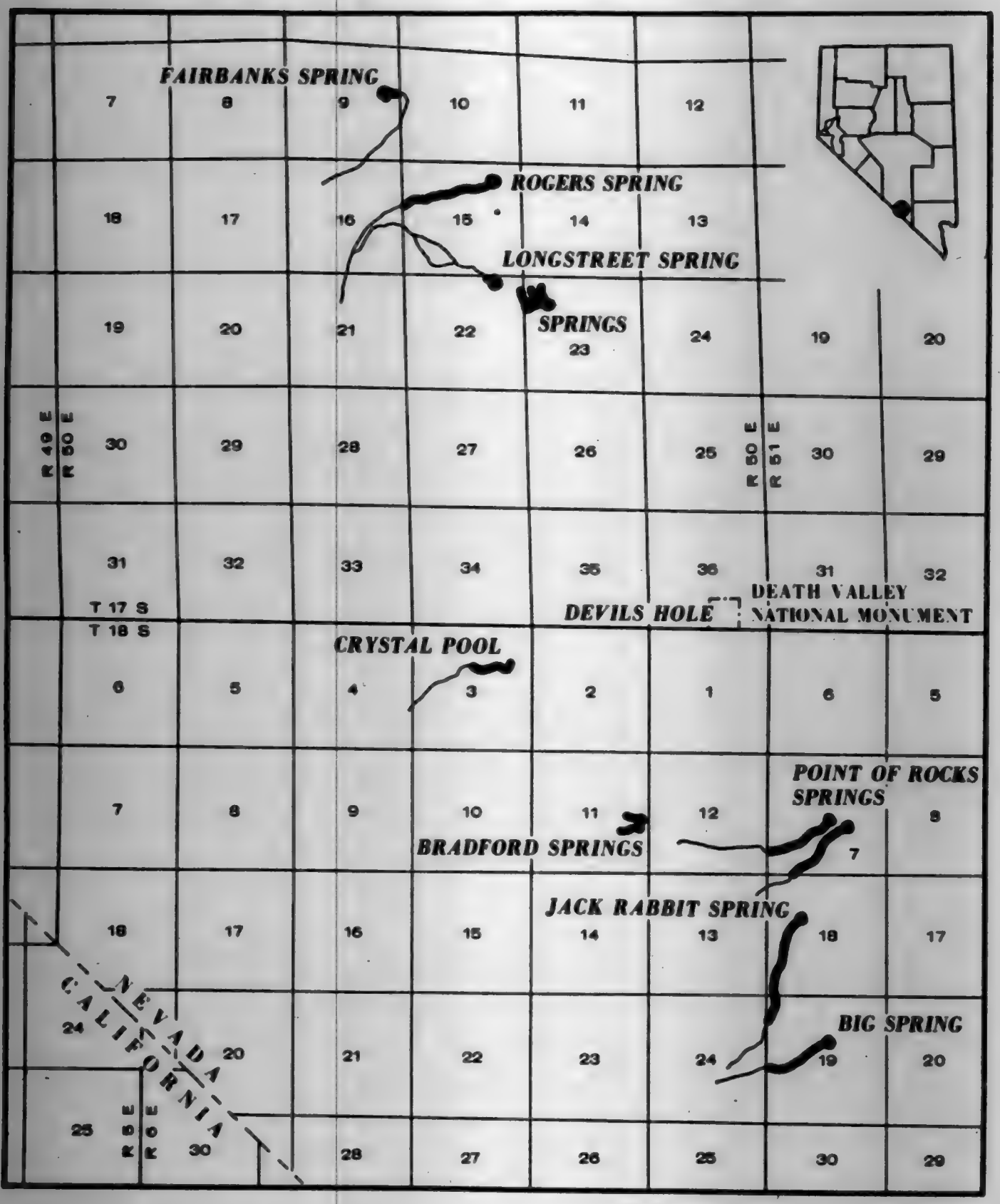

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Dated: December 7, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-205 Filed 1-4-83; 8:45 am]

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Wednesday
January 5, 1983

Part IV

Environmental Protection Agency

National Primary and Secondary Ambient Air Quality Standards; Hydrocarbons

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[Docket Number OAQPS A-80-60; AD-FRL-1983-5]

National Primary and Secondary Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: As a result of the review of the hydrocarbon criteria, EPA revokes the primary (health) and secondary (welfare) national ambient air quality standards (NAAQS) for hydrocarbons. The rule (40 CFR 50.10) has been found to be technically inadequate. The intended effect of this revocation is to eliminate unnecessary regulations pertaining to ambient air quality.

EFFECTIVE DATE: This action is effective January 5, 1983.

ADDRESSES: A docket (Number OAQPS A-80-60) containing information used by EPA in revising the standards is available for public inspection and copying between 8:00 a.m. and 4:30 p.m., Monday through Friday at EPA's Central Docket Section, West Tower Lobby, Gallery I, Waterside Mall, 401 M Street, S.W., Washington, D.C. A reasonable fee may be charged for copying. The final review document on hydrocarbons, *Review of Criteria for Vapor-Phase Hydrocarbons*, EPA-600/8-80-45 (August 1980) is now available from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. (PB 82-136516; A14 paper, $24; A01 micro, $4).

FOR FURTHER INFORMATION CONTACT: Dr. David McKee, Ambient Standards Branch, Strategies and Air Standards Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone: (919) 541-5655 (FTS 629-5655).

SUPPLEMENTARY INFORMATION: On May 8, 1981, EPA proposed to revoke the NAAQS for hydrocarbons (46 FR 25655). The proposal notice set forth the rationale for revoking the standards and detailed background information relating to the proposal.

Prior to proposal, EPA solicited public comments on a draft document, initially entitled *Facts and Issues Relating to the Need for a Hydrocarbon Criteria Document*. The final version of the document, entitled *Review of Criteria for Vapor-Phase Hydrocarbons*, was published in connection with the proposal to revoke the standards. As discussed in the proposal notice, the hydrocarbons review document was also discussed at a public meeting of the Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board on March 17, 1980 in Washington, D.C. At that meeting, CASAC members concluded that hydrocarbons, as a class, do not cause adverse health or welfare effects at or near ambient levels.

Summary of Rationale for Revocation of Primary and Secondary Standards

As more fully discussed in the proposal notice, the NAAQS for hydrocarbons are unique among the seven pollutants or classes of pollutants for which NAAQS have been established in the following respects: (1) The NAAQS were not based on direct health or welfare effects of hydrocarbons, either singly or as a class; (2) the NAAQS were intended to serve solely as a guide in helping States determine the extent of hydrocarbon emission reductions necessary for attainment of the original NAAQS for photochemical oxidants; and (3) they were not intended to have the same regulatory status and functions as other NAAQS. For these reasons, no State Implementation Plans for attainment of NAAQS for hydrocarbons have been required and only limited monitoring of ambient non-methane hydrocarbons has been required.

EPA's recent review of hydrocarbon criteria indicated that although hydrocarbons in ambient air are major precursors to ozone and other photochemical oxidants, no consistent quantitative relationship exists nationwide between ambient air ozone concentrations and hydrocarbon air quality levels. Accordingly, the original basis for the NAAQS for hydrocarbons can no longer serve to justify retaining them as a guide for attainment of the ozone standards.

A review of the literature since 1970 has confirmed that hydrocarbons, as a class, do not appear to cause adverse health or welfare effects at the present ambient air levels. Thus, there is presently no direct health or welfare basis for retaining the NAAQS for hydrocarbons. Nonetheless, hydrocarbons should continue to be controlled or restricted because of their contribution to the formation of ozone and the resultant health and welfare effects of this pollutant and other photochemical oxidant products. Specific hydrocarbons which are shown to cause adverse effects can be regulated separately.

Summary of Comments Received

Only fifteen comments have been received on the proposal to revoke the NAAQS for hydrocarbons, all of which supported the proposed action.

Final Action

For the reasons stated above and in the notice of proposed rulemaking published on May 8, 1981, EPA has decided to revoke the NAAQS for hydrocarbons. Because this action relieves a restriction, it will take effect immediately upon publication. As discussed in the proposal notice, this action will not restrict EPA or state authority to regulate emissions of hydrocarbons as a class, particular hydrocarbon compounds, or any other volatile organic compounds that may be found to pose a threat to public health or welfare, and it does not alter current monitoring requirements.

Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This action is *not* major because it involves revocation of a standard or guide, which itself has required only limited regulatory costs. Revocation will result in no increased regulatory costs. Revocation is also expected to have no effect on competition, employment, investment, productivity, innovation, or the competitive ability of United States-based enterprises.

EPA has also determined that this action will not have an economic impact on small entities. Accordingly, the Agency has determined that the preparation of a regulatory flexibility analysis, as defined by the Regulatory Flexibility Act, Pub. L. 96-354, 5 U.S.C. 601-602, is unnecessary.

This notice was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12291.

List of Subjects in 40 CFR Part 50

Air pollution control, Carbon monoxide, Hydrocarbons, Ozone, Sulfur oxides, Particulate matter, Nitrogen dioxide, Lead.

Dated: December 29, 1982.

John W. Hernandez,

Acting Administrator.

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

For the reasons set forth in the preamble, EPA amends Title 40, Chapter

I, Part 50, of the Code of Federal Regulations as follows:

1. The authority citation for Part 50 is revised to read as follows:

Authority: Sec. 109, Clean Air Act, as amended 42 U.S.C. 7409.

2. The table of contents for Part 50 is amended by revising the entry for § 50.10 to read as follows:

Sec.

* * * * *

50.10 [Reserved]

* * * * *

3. Section 50.10 is removed and reserved.

§ 50.10 [Removed and Reserved]

[FR Doc. 83-180 Filed 1-4-83; 8:45 am]
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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Last Listing December 28, 1982

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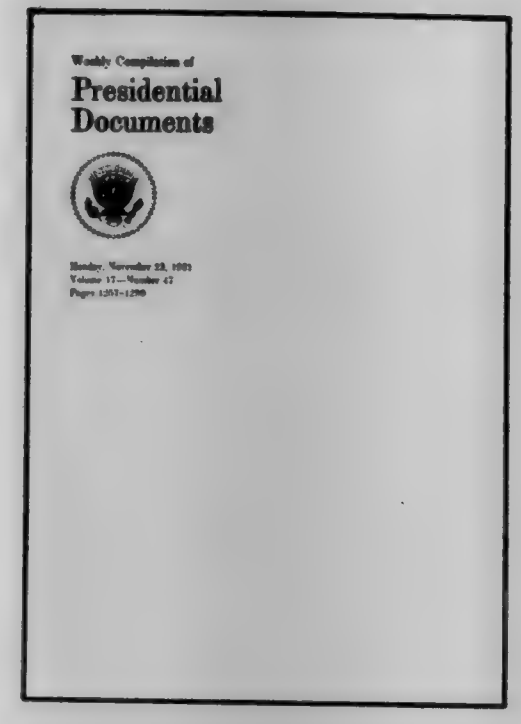

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The Administrative Committee of the Federal Register announces a new binding format for the daily Federal Register. The new adhesive binding and mailing cover increase efficiency in the handling and delivery of the Federal Register by the Government Printing Office and the Postal Service. It is done at no additional cost.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Rules and Regulations

Federal Register
Vol. 48, No. 4
Thursday, January 6, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 559]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 7–13, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: January 7, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on January 4, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. Section 907.859 is added as follows:

§ 907.859 Navel Orange Regulation 559.

The quantities of navel oranges grown in Arizona and California which may be handled during the period January 7, 1983, through January 13, 1983, are established as follows:

(1) District 1: 1,400,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 5, 1983.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-542 Filed 1-5-83; 11:37 am]
BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 27, 29, and 91

[Docket No. 14257; SFAR No. 29-4]

Special Federal Aviation Regulation No. 29; Limited IFR Operations of Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the effectivity of Special Federal Aviation Regulation (SFAR) No. 29–3, which allows limited operations under instrument flight rules (IFR) of certain normal and transport category rotorcraft that are limited by their type certificates to operations under visual flight rules (VFR). The extension is necessary to prevent imposing any economic burden upon those operators already authorized, equipped, and qualified to conduct operations under SFAR No. 29, which would occur if SFAR 29–3 were permitted to terminate before Amendment No. 1 of the Rotorcraft Regulatory Review Program is issued and effective.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mike Sacrey or Win Karish; Operations Branch (AFO–820); General Aviation & Commercial Division; Office of Flight Operations; Federal Aviation Administration; 800 Independence Ave., SW., Washington, D.C. 20591; telephone (202) 426–8194.

SUPPLEMENTARY INFORMATION:

Background

Under Part 27 or Part 29 of the Federal Aviation Regulations (FAR), a rotorcraft is certificated for VFR operation only, unless it has been shown that the rotorcraft fully complies with all of the airworthiness requirements for

instrument flight rules (IFR) operations. Since certain IFR operations can be safely conducted with rotorcraft that do not meet all of the present flight characteristic requirements, SFAR No. 29 was adopted by the Administrator on January 3, 1975 (40 FR 2420; January 13, 1975). SFAR No. 29 allowed the Administrator to issue approvals for such operators, on an interim basis, pending the conclusion of a study to determine whether a "limited" IFR category should be established for these rotorcraft, including flight characteristics and equipment requirements, operating procedures and limitations, flightcrew requirements, and training requirements. The expiration date of SFAR No. 29, as amended by SFAR No. 29–3 (45 FR 71919; October 30, 1980), is December 31, 1982.

The FAA has established a Rotorcraft Regulatory Review Program which will involve a comprehensive review and upgrading of requirements. This program will consider the development of IFR airworthiness standards for rotorcraft certification in Parts 27 and 29 of the FAR. It will not be concluded by the December 31, 1982, termination date of SFAR No. 29–3.

Discussion

If SFAR No. 29 were to expire before completing the rulemaking action generated by the Rotorcraft Regulatory Review Program, there would be no regulatory basis to allow continued IFR rotorcraft operations, thereby creating an undue burden for those operators of helicopters meeting the criteria specified in SFAR No. 29.

Pending the issuance and effectivity of new standards to be established by Amendment No. 1 of the Rotorcraft Regulatory Review Program, the FAA believes that it is in the public interest to allow continued IFR operations with certain rotorcraft that do not meet all of the present requirements of Parts 21, 27, 29, and 91 of the FAR. With the issuance of SFAR No. 29–4, operators may continue to apply for SFAR 29 approvals until Amendment No. 1 of the Rotorcraft Regulatory Review Program (Amendment No. 1) is effective. After Amendment No. 1 is effective, all applicants for certification of IFR rotorcraft operations will have to comply with the applicable provisions of that amendment. When Amendment No. 1 becomes effective, SFAR No. 29–4 (and approvals issued under SFAR Nos. 29 through 29–4) will remain effective for operators holding approvals obtained before the effective date of Amendment No. 1. SFAR 29–4 will terminate when all approvals issued under SFAR Nos. 29 through 29–4 are surrendered, revoked, or otherwise terminated.

Need for Immediate Adoption

Since this amendment temporarily extends the effectivity of a rule which permits continued IFR rotorcraft operations by operators equipped and qualified to comply with Special Federal Aviation Regulation No. 29 and therefore imposes no additional burden on any person, I find that notice and public procedure are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

List of Subjects

14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 27

Air transportation, Aircraft, Aviation safety, Safety, Tires, Rotorcraft.

14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Safety, Tires, Rotorcraft.

14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Aircraft pilots, Air traffic control, Pilots, Airspace, Air transportation, Airworthiness directives and standards.

Amendment

Accordingly, Special Federal Aviation Regulation No. 29, as amended by Special Federal Aviation Regulation No. 29–3 (14 CFR Parts 21, 27, 29, and 91), is reissued and amended to read as follows, effective January 1, 1983:

SPECIAL FEDERAL AVIATION REGULATION

SFAR No. 29–4

LIMITED IFR OPERATIONS OF ROTORCRAFT

1. Contrary provisions of Parts 21, 27, and 29 of the Federal Aviation Regulations notwithstanding, an operator of a rotorcraft that is not otherwise certificated for IFR operations may conduct an approved limited IFR operation in the rotorcraft when—

(a) FAA approval for the operation has been issued under paragraph 2 of this SFAR;

(b) The operator complies with all conditions and limitations established by this SFAR and the approval; and

(c) A copy of the approval and this SFAR are set forth as a supplement to the Rotorcraft Flight Manual.

2. FAA approval for the operation of a rotorcraft in limited IFR operations may be issued when the following conditions are met:

(a) The operation is approved as part of the FAA study of limited rotorcraft IFR operations.

(b) Specific FAA approval has been obtained for the following:

(i) The rotorcraft (make, model, and serial number).

(ii) The flightcrew.

(iii) The procedures to be followed in the operation of the rotorcraft under IFR and the equipment that must be operable during such operations.

(c) The conditions and limitations necessary for the safe operation of the rotorcraft in limited IFR operations have been established, approved, and incorporated into the operating limitations section of the Rotorcraft Flight Manual.

3. An approval issued under paragraph 2 of this Special Federal Aviation Regulation and the change to the Rotorcraft Flight Manual specified in paragraph 2(c) of this Special Federal Aviation Regulation constitute a supplemental type certificate for each rotorcraft approved under paragraph 2 of this SFAR. The supplemental type certificate will remain in effect until the approval to operate issued under the Special Federal Aviation Regulation is surrendered, revoked, or otherwise terminated.

4. Notwithstanding § 91.23(a)(3) of the Federal Aviation Regulations, a person may operate a rotorcraft in a limited IFR operation approved under paragraph 2(a) of the Special Federal Aviation Regulation with enough fuel to fly, after reaching the alternate airport, for not less than 30 minutes, when that period of time has been approved.

5. Expiration.

(a) New applications for limited IFR rotorcraft operations under SFAR No. 29 may be submitted for approval until, but not including, the effective date of Amendment No. 1 of the Rotorcraft Regulatory Review Program. On and after the effective date of Amendment No. 1 of the Rotorcraft Regulatory Review Program, all applicants for certification of IFR rotorcraft operations must comply with the applicable provisions of the Federal Aviation Regulations.

(b) This Special Federal Aviation Regulation will terminate when all approvals issued under Special Federal Aviation Regulation No. 29 are surrendered, revoked, or otherwise terminated.

(Secs. 313(a), 601(a), and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421(a), and 1423) and section 6(c) of the

Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—Since this document only extends the effectivity of a current regulation and does not impose a burden on the public or aviation industry, the FAA has determined that this document involves a regulation which is not a major rule under Executive Order 12291, is not a significant rule under Department of Transportation Regulatory Policies and Procedures (44 F.R. 11034; February 26, 1979), and does not warrant preparing a regulatory evaluation because the anticipated impact is minimal. For the same reason, I certify that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on December 28, 1982.

Michael J. Fenello,

Deputy Administrator.

[FR Doc. 82-35600 Filed 12-30-82; 2:58 pm]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-48; Amdt. 39-4521]

Airworthiness Directives; McCauley Accessory Division, C200, C300, and C400 Series Constant Speed Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain McCauley C200, C300, and C400 series propellers, which requires a one-time dye penetrant inspection of the propeller blades for cracks or forging "folds" in the shank area. The AD is necessary to prevent possible blade shank failure.

DATES: Effective—December 30, 1982.

Compliance required within the next 10 hours time in service after the effective date of the AD unless already accomplished.

Comments on the rule must be received on or before February 28, 1983.

ADDRESSES: The applicable service information may be obtained from McCauley Accessory Division, Cessna Aircraft Company, 3535 McCauley Drive, P.O. Box 430, Vandalia, Ohio 45377.

A copy of the applicable service information and a historical file on this AD are contained in the Rules Docket at the Office of Regional Counsel, FAA, New England Region, Attn: Rules Docket No. 82-ANE-48, 12 New England Executive Park, Burlington, Massachusetts 01803 and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Henry L. Weiss, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-7134

SUPPLEMENTARY INFORMATION: There have been reports of forging defects in certain propeller blades which have led to blade fatigue failure. The suspect blades are isolated to a group of propeller blades manufactured beginning in November 1979. Since this condition is likely to exist or develop in other propeller blades of the same type, an AD is being issued which requires a one-time dye penetrant inspection of the shank area for cracks for forging "folds" in the suspect group.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action which involves requirements affecting immediate flight safety is in the form of a final rule and thus was not preceded by notice and public comment, comments are now invited on the rule. When the comment period ends, the FAA will use the comments submitted together with other available information to review the regulation. Public comments are helpful in evaluating the effects of the rule and in determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule. Send comments to FAA, Office of Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

List of Subjects in 14 CFR Part 39

Propellers, Aircraft, and Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

McCauley Accessory Division: Applies to the following McCauley Accessory Division C200, C300, and C400 series constant speed propellers with blade serial numbers as identified below that are installed on, but not limited to, the aircraft listed below:

Aircraft	Propeller model/blade model
Cessna R172K	[illegible] 90DCA-10 or 90DCA-14
Cessna 177RG	[illegible] 75TCA-0.
Cessna 180G-J	[illegible] 90DA-8.
Cessna 180G-J	[illegible] 90DCA-2 or 90DCA-8
Cessna 180K	[illegible] 90DCB-8.
Cessna 182M-P	[illegible] 90DA-8.
Cessna 182M-P	[illegible] 90DCA-8.
Cessna 182Q	C2A34C204/90DCB-8.
Cessna R182 (pre-1980)	B2D34C214/90DHB-8.
Cessna R182 (1980-on)	B2D34C218/90DHB-8.
Cessna TR182 (pre-1980)	B2D34C217/90DHB-8.
Cessna TR182 (1980-on)	B2D34C219/90DHB-8.
Cessna T182	B2D34C219/90DHB-8.
Cessna A185F	D3A34C403/90NA-0.
Cessna T188C	D3A34C402/90DFA-10.
Cessna TU206G	D3A34C402/90DFA-10.
Cessna U206G	D3A34C404/90VA-0.
Cessna T207A	D3A34C401/90DFA-10.
Cessna P210R;T210M,N	D3A34C402/90DFA-10.
Cessna 210N	D3A34C404/90VA-0.
Cessna T337G,H;P337H	D2AF34C306/90DEA-12.
Cessna 337G,H	D2AF34C310/90DEA-12.
Mooney M20J (201)	B2D34C219/90DHB-10E.
Mooney M20K (231)	2A34C219/90DHB-10E.
Reims FR172K	[illegible] 90DCA-14.
Reims F177RG	[illegible] 75TCA-0.
Reims F182P	[illegible] 90DA-8.
Reims F182P	2A34C203/90DCA-8.
Reims F182Q	C2A34C204/90DCB-8.
Reims FR182 (pre-1980)	B2D34C214/90DHB-8.
Reims FR182 (1980-on)	B2D34C218/90DHB-8.
Reims F337G	D2AF34C310/90DEA-12.
Reims FT337GP	D2AF34C306/90DEA-12.

APPLICABLE BLADE SERIAL NUMBERS

Serial No.	Blade type
B117219 through B117249	90DEA-12 and 90DA-8.
B117280 through B117329	90DCB-8.
B117410 through B117529	90DHB-10E and 75TCA-0.
B117610 through B117649	90DCB-8.
B117730 through B117769	90DHB-8 and 75TCA-0.
B117890 through B117969	90DCB-8.
B118090 through B118109	90DHB-8.
B118254 through B118269	90DHB-8.
B119170 through B119249	90DHB-10E and 90DHB-8.
B119290 through B119449	90DCA-2, 90DCA-8, 90DCA-10, and 90DCA-14.
B119450 through B119459	90DA-8.
B119480 through B119529	90DEA-12.
B120345 through B120384	90DCB-14.
B120485 through B120524	90DEA-12.
B120667 through B120685	90DCA-10.
B120687 through B120835	90DHB-10E.
B121063 through B121262	90DCB-8 and 90DHB-10E.
B121450 through B121489	90DCB-8.
B121690 through B121969	90DHB-8.
B121970 through B122049	90DCA-14.
B122050 through B122089	90DCA-8.
B122090 through B122125	90DHB-10E.
B126956 through B126979	90DFA-10
BC551 through BC638	90VA-0.
BC719 through BC750	90VA-0.
BC752 through BC790	90VA-0.
BC815 through BC839	90VA-0.
BC893 through BC908	90VA-0.
BC910 through BC919	90VA-0.
BC951 through BC974	90VA-0.
BC991 through BC1030	90VA-0.
BK321 through BK362	90VA-0.
BK371 through BK400	90VA-0.
BK441 through BK460	90VA-0.
BK481 through BK560	90VA-0.

Note.—McCauley Accessory Division Service Bulletin 146 provides additional background information for identifying propeller applicability.

Compliance required, within the next 10 hours time in service after the effective date of this AD, unless already accomplished.

To prevent possible propeller blade shank failure, accomplish the following:

(a) Dye penetrant inspect the blade shank area for cracks or forging "folds" in accordance with McCauley Accessory Division Service Bulletin SB146 dated December 3, 1982, or FAA approved equivalent. Extreme caution must be exercised when removing paint and blade anodize to prevent corrosive liquids from entering the propeller hub. If evidence of cracks or forging "folds" is found replace the blade with a serviceable blade before further flight.

(b) A special flight permit may be issued in accordance with Federal Aviation Regulations (FARs) 21.197 and 21.199 to operate the aircraft to a base where this AD can be accomplished.

(c) Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA 2300 East Devon Avenue, Des Plaines, Illinois 60018.

This amendment becomes effective December 27, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); Sec. 1180 Federal Aviation Regulation (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule, since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise an evaluation is not required). A copy of it when filed may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on December 10, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-6 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 82-ACE-24]

Alteration of Transition Area; Cherokee, Iowa; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: This action corrects a rule appearing in FR Doc. 82-31919 on page 52409 in the issue of Monday, November 22, 1982. Subsequent to the issuance of this rule, it has been determined that the coordinates and name of the NDB were incorrectly cited.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dwaine Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: Subsequent to the issuance of this Final Rule on November 22, 1982, altering the transition area at Cherokee, Iowa, it has been determined that the geographical coordinates and the name of the NDB were incorrectly cited. Action is taken herein to make these corrections. Since the changes are editorial in nature, notice and public procedure thereon are not considered necessary.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Correction

[Airspace Docket No. 82-ACE-24]

FR Doc. 82-31919, appearing at page 52409 in the **Federal Register** of November 22, 1982, line 4 of the description of the transition alteration reading "(latitude 42°44'15"N, longitude 95°33'20"W)" is changed to read "(latitude 42°43'55"N, longitude 95°33'22"W)" and line 6 of said description reading "bearing from Cherokee NDB latitude" is changed to read "bearing from Pilot Rock NDB latitude)."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Section 11.69 of the Federal Aviation Regulations (14 CFR 11.69)

Note.—The FAA has determined that this correction of a regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this correction to a final rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on December 17, 1982.

John E. Shaw,

Acting Director, Central Region

[FR Doc. 83-78 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-56]

Alteration of Control Zone, Anderson, South Carolina

Correction

In FR Doc. 82-34928 beginning on page 57486 in the issue of Monday, December 27, 1982, make the following change on page 57487: In the middle column, the tenth line, the latitude should read "34° 29' 40" N.".

BILLING CODE 1505-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 323

[Amdt. No. 7; Docket 40916]

Terminations, Suspensions, and Reductions of Service

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB exempts, from the notice requirements of the Federal Aviation Act and 14 CFR Part 323 (Terminations, Suspensions, and Reductions of Service) airlines that are bumped from providing essential air service. This action is taken to conform the CAB's notice rule with its new procedures for replacing subsidized airlines at small communities, which are being issued simultaneously.

DATES: Adopted: December 22, 1982. Effective: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The Board's notice of termination rule (14 CFR Part 323) generally requires airlines to notify the Board and the community before ending service at a community or reducing service there below the essential level. The purpose of the notice is to give the Board and the community time to find a replacement. By PR-253, issued today, the Board adopted procedures under which an airline serving a community with subsidy may be replaced by another airline offering to provide better service or service at a lower subsidy cost. Since

under these procedures the incumbent carrier cannot leave until the new carrier has begun service (See § 326.8(b)), there appears to be no reason to require the incumbent to file notice or to delay its departure.

The Board is therefore exempting incumbent carriers that are "bumped" from the notice requirement of the Act and Part 323. This exemption will be good only for 90 days after the new carrier begins service. If the incumbent has not ended service at the community by that time, its notice obligations, if any, will come back into force. The reason for limiting the exemption period to 90 days is that after that time the community may have come to rely on the continuation of the incumbent carrier's service. This exemption period was chosen to be consistent with the grace period for a termination notice's effectiveness in § 323.17.

The exemption period begins when the new carrier actually begins providing the essential service, not when the Board grants the bumping application.

In PDR–81, 47 FR 37914, August 27, 1982, this exemption, with the 90-day grace period, was proposed and no adverse comments were received.

Since the bumping provisions of the Act take effect on January 1, 1983, the Board finds good cause for making this rule effective on less than 30 days' notice.

List of Subjects in 14 CFR Part 323

Air carriers, Essential air service.

PART 323—[AMENDED]

Accordingly, the Board revises 14 CFR Part 323, *Terminations, Suspensions, and Reductions of Service,* as follows:

1. Authority for Part 323 is:

Authority: Secs. 204, 401, 407, 411, and 419, Pub. L. 85–726, as amended, 72 Stat. 743, 754, 766, 769, 92 Stat. 1732; 49 U.S.C. 1324, 1371, 1377, 1381, 1389.

2. Sections 323.8 is amended by moving the "and" at the end of paragraph (a) to the end of paragraph (b), changing the period at the end of paragraph (b) to a semicolon, and adding a new paragraph (c) to read as follows:

§ 323.8 Exemptions.

* * * * *

(c) Sections 401(j) and 419 of the Act and all the provisions of this part to the extent that those provisions would otherwise require them to file a notice when terminating or suspending service at an eligible point at which they have been replaced under Part 326 of this chapter. This exemption shall apply only if the carrier terminates or suspends service on, or within 90 days after, the date that the new carrier begins service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–225 Filed 1–5–83; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 389

[Amdt. No. 30; Docket Nos. 30586, 30616]

Fees and Changes for Special Services

ACTION: Civil Aeronautics Board.

AGENCY: Final rule.

SUMMARY: The CAB is amending its fee schedule for performing services that benefit individual recipients. The revised schedule takes into account the changes in costs and performance of functions since the last revision. The rule eliminates license fees. It further sets up a mechanism by which those who paid for services since 1977 can obtain a refund of amounts paid that exceeded costs.

DATES: Effective: January 10, 1983.

Adopted: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: For financial information, Joseph L. Kull, Office of Comptroller, 202–673–5476; for legal information: Joseph A. Brooks, Office of the General Counsel, 202–673–5442, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking (ODR–25, 47 FR 7746, February 23, 1982), the Board proposed to revise its schedule of filing fees. The revision included eliminating the license fees charged for certificate proceedings, which have been suspended since 1977. It further included an updating of the filing fees schedule to take into account the changes in statutes and in Board policies and procedures since deregulation, the Board's increased costs, and a change in methodology for computing the fees.

The Board in this final rule has decided to adopt the revised schedule with certain modifications suggested by the commenters. The rule includes a provision for applying for refunds of fees paid since 1977 that exceeded the Board's cost. License fees are eliminated. The Board is denying refunds for those fees paid between 1967 and 1977 on two grounds: (1) The unreasonable delay by the carriers in seeking these refunds would be prejudicial to the government, and (2) the fees paid did not exceed the Board's costs at that time.

Comments in this rulemaking were filed by: the Air Transport Association (on behalf of Air California, Alaska Airlines, Braniff International, Continental Air Lines, Capital Airlines, Delta Air Lines, Eastern Air Lines, Evergreen International Airlines, Frontier Airlines, Hawaiian Airlines, Northwest Airlines, Ozark Air Lines, Piedmont Airlines, Republic Airlines, Texas International, Trans World Airlines, USAir, United Air Lines, and Western Air Lines), Air Midwest, Aspen Airways, Canadian Transport Commission, Cascade Airways, Evergreen International Airlines, Kodiak Western Alaska Airlines, Republic Airlines, Transamerica Airlines, and World Airways.

The comments in general challenged the Board's methodology under the various applicable court decisions, and its decision to deny refunds of fees paid between 1967 and the present. Some parts of those comments were well taken and changes have been made in the methodology and calculation of the fees. The Board has also excluded the costs of hearings in recalculating the past and existing fees. The issue of refunds of amounts paid above costs is fully discussed below.

Fee Development Guidelines

In ODR–25, the Board set forth the sources for the guidelines used to develop its fees. Those sources were the Independent Offices Appropriations Act of 1952 (IOAA) (31 U.S.C. 483a), the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*) (the Act), and the decisions of the U.S. Supreme Court and the U.S. Courts of Appeals interpreting the IOAA. The latest Court of Appeals decision is that in 1979, when the revised fee schedule of the Nuclear Regulatory Commission was upheld by the U.S. Court of Appeals for the Fifth Circuit, based in large part on the earlier court decisions. *Mississippi Power & Light Co.* v. *NRC,* 601 F.2d 233 (5th Cir. 1979).

In summary, the guidelines set by the courts are:

1. There must be a nexus, "a threshold level of private benefit, between the regulatee and the agency before a fee can be assessed." The private recipient must be identifiable, not obscure. The service must not primarily benefit the public as a whole.

2. The cost basis of the fee must be only those expenses that the agency incurs in order to confer value on the payor. It cannot exceed the cost of the service rendered and must only reflect those expenses that are necessary to service the applicant. The agency "is not

prohibited from charging an applicant * * * the full cost of services rendered to an applicant which also result in some incidental public benefit." The agency "is entitled to charge for services which assist a person in complying with * * * statutory duties." Although such a filing required by statute may result in a public benefit, "that result is only an incidental benefit from the *service* which is rendered by the agency, *i.e.*, assisting the carriers in complying with the statute." *Electronic Industries Association* v. *FCC*, 554 F.2d 1109 (D.C. Cir. 1976).

A number of specific requirements have been set by the Court to implement the value-to-the-recipient standard:

1. The agency must justify the assessment of a fee by a clear statement of the particular service or benefit for which it expects to be reimbursed.

2. The agency must calculate the cost basis for each fee, including:

a. An allocation of the specific expenses of the cost basis of the fee to the smallest practical unit.

b. The exclusion of expenses that serve an independent public interest.

c. A public explanation of the specific expenses included in the cost basis for a particular fee, and an explanation of the criteria used to include or exclude particular items.

3. The fee must be set to return the cost basis at a rate that reasonably reflects the cost of the service performed.

National Association of Broadcasters v. *FCC*, 544 F.2d 1118, 1133, (D.C. Cir. 1976).

The Board used these guidelines in developing its proposed fee schedule in ODR–25, and has, with the refinements suggested by the commenters, used them in adopting the fee schedule in this final rule.

Services Provided by the Board

In ODR–25, the Board described its organization and the various services that its staff components provide. It also stated which were primarily for a private benefit and which were not. Since that time, there have been several staff reorganizations along with some statutory changes that have occurred or are about to occur.

The major staff reorganization has involved the Bureaus of Domestic (BDA) and International Aviation (BIA). The Assistant Director, Fares, Rates & Tariffs, the Domestic Fares, Rates & Tariffs Division, and the Tariffs Division have shifted from BDA to BIA. Their functions remain unchanged.

BDA has been reorganized to eliminate the Associate Directors for Special Authorities and Administration and for Licensing Programs and Policy. The functions of those offices are now handled by the newly created Associate Director for Economic Affairs. The processing of agreements filed under section 412 of the Act is now done by the Competition Maintenance Division rather than the Special Authorities Division. Licensing matters are handled by the Special Authorities Division. The Competition Maintenance Division is under the Associate Director, Legal Affairs, and the Special Authorities Division is under the Associate Director, Economic Affairs.

The remaining descriptions of the Board's staff organization and their functions and services provided and their inclusion or exclusion in the cost basis for the fees remain the same as in ODR–25.

Because there will no longer be a statutory duty to file tariffs for interstate and overseas air transportation after January 1, 1983, the time for processing and the fee for tariff filings refer only to tariffs filed for foreign air transportation. The same principle applies to the fee for a tariff exemption for free and reduced-rate transportation and for tariff waivers and exemptions, such as special tariff permission.

The Air Transport Association of America (ATA) asked the Board to be more specific in its findings about the beneficiaries of the services for which fees were imposed. ATA and Republic mentioned several broad categories of services for which they thought the primary beneficiary was the public. Those categories included tariffs, charters, and notice filings.

In identifying whether a service is primarily performed for the benefit of the public, for a private person, or for an obscure beneficiary, the Board in preparing ODR–25 and in adopting this final rule looked to the IOAA itself, and to those court decisions interpreting it. The IOAA states that such categories as authority, use, franchise, license, permit, certificate, registration, or similar thing of value performed by the agency are among those matters that should be self-sustaining by means of collecting a fee. The Supreme Court quoted with approval a Budget Office Circular (No. A–25, issued on September 23, 1959) that specifically cited certificates for airline routes as requiring a fee, and set several guidelines for determining the beneficiary of a service. Within those references and the statutory duties imposed on U.S. and foreign air carriers by the Federal Aviation Act of 1958, as amended, the Board has looked at each of the services cited by ATA and Republic and at those services listed in the fee schedule to determine the primary beneficiary.

With respect to the filing of tariffs, the Board finds that the primary beneficiary is the airline filing the tariff, as it is required to do under the Act. The Court has specifically found that tariffs filed pursuant to a statutory duty, even though the statute was enacted in order to protect the public, primarily benefit the carrier. *Electronic Industries Association*, 554 F.2d at 1115. Tariff filings provide a means for a carrier to obtain revenues. The filing service assists the carriers in complying with their statutory duty (49 U.S.C. 1373). Neither the Airline Deregulation Act (Pub. L. 95–504) nor the International Air Transportation Competition Act (Pub. L. 96–192) changes this duty. The processing time listed for this fee is for ensuring technical compliance with the statute. It does not include investigation of the legality of the specific price or rule. Waivers and exemptions from tariff regulations and the filing duty fall within this finding. They are primarily to benefit the requesting carrier and are not generally given to all carriers.

Applications for certificates, permits, and other operating authority are also filed pursuant to a statutory duty (49 U.S.C. 1371, 1372). Again, even though there is an incidental or secondary public benefit to this service, this license granted by the Board provides the means for the carrier to operate, primarily benefiting that carrier. The service, like the acceptance of a tariff filing, helps the applicant to perform its statutory duty. The certificate or permit for direct carriers, especially in foreign air transportation, protects the operations of those carriers. The authority sought in such cases is a necessary and valuable license. Even in domestic transportation, the airline still must apply for a license to operate, and the Board must still find the carrier fit to operate. Further, the Court has found that regulatory licenses of the type issued by the Board are a service for which a fee may be charged. *National Cable Television Association* v. *FCC*, 554 F.2d 1094, 1101 (D.C. Cir. 1976). As with the tariff filing category, exemptions, amendments, and related activities, such as name changes, fall within this finding and are primarily for the benefit of the carrier applicant.

There are other types of authority to operate granted by the Board. Most of these authorizations, however, are derivative from sections 401 or 402. For example, air taxi operator, foreign air freight forwarder, tour operator, and other registration requirements are a substitute for section 401 or 402

proceedings. Also, charter operator prospectus filing is a condition to obtaining the exemptions from section 401, allowing such operations. Similar categories are Charter and Intermodal Statements of Authorization. The Board also issues Foreign Aircraft Permits and Special Authorizations (14 CFR Part 375) for commercial air operations using foreign aircraft not covered by section 402 of the Act. Another such type of authority is a Special Authorization (14 CFR Part 216) to foreign air carriers to carry blind sector traffic. As with certificates and permits, all of these operating authorizations are necessary and valuable, and in effect, are licenses required by statute. The Board finds that such authorizations primarily benefit the applicant, giving the applicant something not available to the general public or the industry at large—the authority to operate in air transportation or to conduct special operations—which is required by statute.

ATA in its comments makes reference to "notice-type filings." The Board is not sure what this refers to. The Board's fee schedule did include some notice filings among services requiring a fee. In reassessing those services (airport notice of authorization, notice of embargo, filing of schedules), the Board agrees that these are services that primarily benefit the public or where the beneficiary is obscure. The notices are required primarily to alert the public to a change that is taking place or to services that are being provided or, discontinued. Although the individual carrier may benefit, that benefit is incidental to the public notice being provided. These are the reasons that no charge was assessed for the notices required by section 401(j) and 419 of the Act with respect to service terminations and the essential air services programs. Furthermore, several of these notices have been discontinued since ODR–25. Thus, "notice-type" filings have been excluded from the new fee schedule.

With respect to the category of fees under "Change of Name," the Board believes that authority to use a trade name and a request to reissue a certificate primarily benefit the applicant. Both of these categories are tied to the statutory requirement for a certificate under section 401 of the Act. The carrier must have a certificate to operate in air transportation (or be exempt from it) and must operate under the name listed in the certificate. If it wants to change its name, the certificate must be changed. The carrier may not operate under the new name without a change in the certificate or authority from the Board. This service does not primarily benefit the public, nor is the beneficiary obscure. A fee must therefore be charged for this service.

Exemption requests concerning tariff filing (section 403 of the Act) and certification (section 401) have been discussed above as primarily benefiting the applicant. Requests for exemptions from other sections, waivers of the Board's regulations, and relief granted to indirect air carriers also primarily benefit the applicants. Their nature is a grant of authority to do something that other carriers may not do. The public may often secondarily benefit from such exemptions, but only incidentally to benefit received by the applicant. These services thus warrant a fee being assessed and have been included in the fee schedule.

Service mail rate petitions are requests from the carriers for the Board to set a rate for them to carry mail for the U.S. Postal Service. Without such a rate, the carrier may not provide this service. It is a means by which the carrier obtains an often guaranteed source of revenue, clearly benefiting that carrier. As with certificates, it is a necessary and valuable authorization. A fee has thus been charged for this service.

In ODR–25 the filing of agreements under section 412 of the Act is split between two categories, IATA resolutions (pertaining to international prices and rules) and Agreements (general). Carriers may file agreements with the Board for approval and for the grant of antitrust immunity. These agreements are not required to be filed. They are filed for the benefit of the parties to the agreement who seek to avoid any possible enforcement action under the antitrust laws. These agreements may have secondary public benefits, but such benefits do not overcome the primary benefits to the applicants. A fee is thus charged for these services.

Applications for approval of mergers and acquisitions of control under section 408 and of interlocking relationships under section 409 are services for which fee must be charged. They primarily benefit the parties to the application. It enables them to complete the transaction, the purpose of which normally is better management and increased efficiency to increase revenues.

Development and Calculation of Fees

In ODR–25, the Board explained the specific development and calculation of the fees. In general that explanation is the same for the fees adopted in this final rule. Both ATA and Republic criticized the method used by the Board in the fee calculations in ODR–25. Some of those criticisms were well taken and have been adopted; others were not, as explained below.

The Courts have stated that the fees charged for eligible services must be fair and equitable. Contrary to what ATA and Republic appeared to imply in their comments, the calculation need not be exact. The fee should be "a reasonable approximation of the attributable costs" that are "expended to benefit the recipient." *National Cable Television Association*, 554 F.2d at 1107. This the Board has done. The fee represents only the time used to process the document for those services that primarily benefit the recipient.

The supporting documents are being placed in the docket, so that it will be clear how the Board calculated its fees. The following explanation is in addition to that given in ODR–25.

When the basic document or application (the smallest practical unit) for a chargeable service is filed at the Board, the time and cost for its processing begins. It ends when the decision on the document is issued. Thus, each service includes initial docketing of the item, analysis of its content, recommendation to the decisionmaker (normally the Board Members), and issuance of the decision. Only part of that process primarily benefits the applicant. As explained in ODR–25, the Board has excluded from the cost basis of the fees the time and costs that primarily benefit the public, or whose beneficiary is obscure. For all work items listed in the fee schedule, the initial docketing of the item and analysis of it primarily benefit the applicant. The recommendations to the Board by supervisory personnel and the principal advisors to the Board Members, the Members' support staff, and the Members' operations are excluded, as explained in ODR–25.

The initial docketing and analysis of an item include review of the document to make sure that it complies with statutory standards and Board rules. An analysis is made of the arguments and facts presented by the applicant in relation to the Act and to Board precedent. The document with the draft analysis is then sent to supervisory personnel and the Board's advisors for review. At this point in its processing the beneficiary becomes obscure. For example, in a certificate/fitness case, after the item is docketed and the analysis is performed and drafted, the Board's principal advisors and the supervisor of the bureau receiving the document transmit the staff recommendation to the Board as to

whether the matter should be handled by an evidentiary hearing or by show-cause procedures. The time and costs expended until that recommendation is made and sent primarily confers value on the recipient. Beyond that point, the processing times and costs are not included in the fees.

In order to ensure that the processing times stated in ODR–25 were accurate and to take into account the criticisms of some of the proposed times by the commenters, each concerned Bureau and Office reviewed them, using the standards explained above. Their conclusions were contained in memos by the offices handling each item and have been placed in the docket. The Board believes that this study of the processing times complies with the Court guidelines.

Special criticism of processing times and structure of the fee categories were made by ATA and Transamerica. ATA argued that the processing time (.17 staff-hours) for tariff pages was overstated. ATA contended that the Airline Deregulation Act and the Board's tariff policies (*i.e.*, ER–1246) have removed most of the legal justification for in-depth review of airline tariffs. Further, the Board's stated processing time, ATA argued, would amount to 15 employees spending 100 percent of their time processing tariff pages. ATA is correct that the Deregulation Act and ER–1246 (Maximum Tariffs) have reduced the need for close review of as many tariffs as in the past, but only for domestic transportation. The processing time reflects that change. ATA, however, ignores the fact that tariffs for foreign air transportation must still be filed. Although the International Air Transportation Competition Act set up a similar no-suspend zone for certain passenger fares, as in domestic transportation, it did not do so for international cargo rates or for rules tariffs. ATA's projection of 15 employees spending 100 percent of their time on tariff review happens to be accurate. As of November 8, 1982, the Board had 15 nonsupervisory employees in its Tariff Division doing precisely that. This indicates that even using ATA's assumption, the Board's listed processing time is accurate. Because of the improved procedures of the staff in processing tariffs, the processing time for tariff pages has decreased. It has now been set at .1 staff-hour for each page.

ATA also argued that the fee for agreements filed at the Board for approval should be divided between those filed for prior approval and more routine filings, as it is in the existing schedule. ATA used the example of IATA Resolutions that are filed for approval. ATA stated that ODR–25 lists the processing time for that item as 2.5 staff-hours, while the processing time for other agreements (both prior-approval and others), which are often identical if not filed for prior approval, requires 15 staff-hours. ATA contended that the agreements not filed for prior approval should take less time to process than those that are so filed, whose times should be similar to those for IATA resolutions.

The Board agrees with ATA that there should be separate fees for the two types of agreements. The first type of agreement, similar to the IATA Conference Resolution, is processed at the Board as a nondocketed item. These agreements are generally routine in nature. The carriers filing them are not seeking prior approval of them. The staff processing time for such agreements averages 2.5 staff-hours, the same amount of time required to process IATA Conference Resolutions.

The second type of agreement, commonly referred to as prior-approval agreements, are often much more complicated in nature. They require more thorough initial analysis for anti-competitive effects, and to determine whether antitrust immunity is advisable. These agreements are always docketed when filed. The staff processing time for such agreements averages 40 staff-hours.

This breakdown of the agreements category into two parts eliminates the category for general agreements requiring 15 staff-hours as proposed in ODR–25. That figure included an average processing time for both the more numerous routine, nondocketed agreements and these docketed agreements for which the carriers ask for prior approval and antitrust immunity.

Transamerica argued that the Board's fee schedule for certificates for foreign air transportation should be changed, since certain applications, amendments to certificates and conforming applications, do not normally involve fitness determinations or require less information to be submitted in the application. The processing time for those types of applications, Transamerica contends, should be less than for an initial certificate application. First, Transamerica asked that the Board clarify whether the fee for an amendment to a certificate or for an initial certificate would be charged in the case of a carrier that receives new route authority in the form of a temporary experimental certificate without a fitness finding. The answer is that the category for certificate amendments has been eliminated, so that the fee charged in Transamerica's example would be for an initial certificate. Furthermore, hearing costs associated with fitness are not included in the fees, as explained above.

Second, Transamerica argued that conforming applications should not require the same amount of processing time as initial applications for certificates for foreign air transportation. We disagree. Although some data may not be required, it does not significantly alter the amount of time required to process the application. There is thus no need to split this category further.

Because of statutory and regulatory policy changes, several other revisions in the processing times have been made since the issuance of ODR–25. In the processing of commuter registrations, which require fitness determinations and therefore the submission of fitness data, the listed processing time has been increased from 10 to 24 staff-hours. This change is the result of more detail and data on the safety and financial position required of applicants, thus increasing the work of the analysts at the Board. When the initial determination of the processing time was made, it was based on the Board's experience with the applications of larger, more established carriers. Now, the applications are mostly for smaller or new carriers, requiring more staff work in helping the applicant to complete the application. Approximately 75 percent of the applications are deferred for more information from the applicant.

The listed processing time for Overseas Military Personnel Charter Operating Authorizations has been increased from 8 to 24 staff-hours. OMPC authorizations are similar to charter certificates in the processing required. They are operating authorizations, requiring financial and other data, unlike charter prospectuses for other types of charters. When the processing time listed in ODR–25 was calculated, the Board had little recent experience with these authorizations. Recently, the Board has processed two OMPC Authorizations. The processing time for each was approximately 24 staff-hours.

Another change in listed processing times is for the approval of mergers and acquisitions. In ODR–25, the processing time was listed as 15 staff-hours. The Board's more recent experience is that the cases coming before it now for approval are increasingly complex. They require in-depth analysis of both the

competitive effects and the application of the Clayton Act, thus requiring more data from the applicant and from respondents. The average initial processing time for these applications is now 40 staff-hours.

Two other listed processing times have also been increased. In ODR–25, the time for processing exemptions from section 419 of the Act was listed as 0.5 staff-hours. That time, however, only represented the processing of exemptions from the 90-day notice itself. Other exemption requests concerning section 419 are much more involved. They are usually for a deviation from the service pattern established by the Board for essential air service to a community. Such an application raises complex issues involving communities' needs as well as the subsidy to be paid. The average time for processing section 419 exemption requests is 5 staff-hours.

An application for change in name that involves use of a trade name was listed in ODR–25 as taking 5 hours. Since the period when those times were set, the nature of these applications has changed. They now are more likely to involve new carriers asking for names that are often closely related to the names of established carriers, thus resulting in objections from those carriers. These applications and objections to them are requiring more staff time to process, since more complicated issues are involved. The processing of objections has not been included. It is, however, the issues that are raised by those objections that increase the overall time. The time for processing these applications has thus been set at 10 staff-hours where no change in the carrier's certificate is involved and 1.75 staff-hours where the certificate is being reissued. The discrepancy is caused by the differences in the offices that handle these two types of name change proceedings. In order to prevent the filing fees from affecting a carrier decision whether to ask for a new certificate, the Board is combining the two categories, using the average costs and charges of the two offices in setting the fee.

The Board has found in its review that the listed processing times for applications for domestic certificates in ODR–25 did not include the time for the legal review. The Board has thus added 4 hours to the times for processing charter and scheduled service applications, making each 30 staff-hours. For all-cargo certificates issued under section 418, the Board has increased the processing time listed from 10 to 24 staff-hours. The reasons for this increase are the same as discussed above for the increase in commuter registration processing times. Because of policy changes, the Board is reviewing more closely the safety and financial data submitted by the applicants. Further, the applications now being received are from new carriers rather than from already established ones, thus requiring more staff work with the applicant to ensure that the application is complete.

Several categories in domestic transportation have had their processing times reduced or have been eliminated. The time for processing exemption requests from section 401 and from the Board's charter regulations has been reduced. This decrease is the result of improved processing procedures by the staff and in the case of section 401 exemptions, a change in character of the applications. No longer do they involve route and specific point and service matters, but rather more simple matters involving routine requests.

Because of statutory changes involving the Board's domestic route authority, the category for amendment of certificates and for applications for certificate restriction removals have been eliminated. These items are no longer filed with the Board. Also, the category for general waiver of regulations has been eliminated. Upon review it was found that this category duplicated specific categories elsewhere.

There are three changes in the listed processing times for items involving foreign air transportation. For foreign aircraft permits issued under Part 375, the processing time has increased from 0.75 to 1.5 staff-hours. The predominant type of permit sought is for industrial operations by Canadian aircraft. Stricter standards are now being applied to those permits because of the Canadian Government's persistent imposition of a first-refusal policy toward U.S. operators, which has been reasserted in recent negotiations. This has resulted in increased analyst time being spent on each application.

Two proposed processing times in foreign air transportation have been decreased. The time for processing exemption requests from section 403 with respect to tariff filing has been decreased from 4 to 2 staff-hours, and the time for processing filed tariff pages has been decreased from 0.17 to 0.1 staff-hour. Both of these reductions are the result of improved internal procedures at the Board.

Several changes have been made in the categories of fees in foreign air transportation. For certificates under section 401 of the Act, the category of amendment/restriction removal has been eliminated. Amending a certificate usually requires an amount of work roughly equal to that for a separate certificate. Further, the determination of whether to issue an amendment or a new certificate is usually not that of the applicant, but instead that of the Board. With respect to the restriction removal category, it is rarely requested except as part of applications for other changes in the certificate authority. Further, when they are separately requested, they can involve foreign policy considerations that make them no less time-consuming to process than other certificate requests.

Foreign air carrier permit renewals have now been grouped with amendments, since they, like certificate amendments, do not require such a time-consuming examination of fitness and ownership data as is required for initial applications. Also, section 401 and 402 exemption subheadings have been combined, since the processing times are the same. An exemption request that has the effect of extending a less-than-10-flight exemption to more than 10 flights will be charged the higher fee. Such a request requires the closer scrutiny and policy tests associated with the larger requests. To do otherwise would create an incentive for carriers to substitute several small applications for one large one, thereby increasing the Board's work.

Two new sub-categories of fees have been added to the fee categories in foreign air transportation. Amendments to applications for air carrier certificates and foreign air carrier permits that are initiated by the applicant or that are needed to complete the application will be charged a fee. The authority sought in these application amendments is generally to change the scope or nature of the authority sought or to supply or correct information needed to process the application. These items are primarily for the benefit of the applicant. They are an integral part of the license process, which has already been found to be a service for which a fee may be charged. Separate listings are made for amendments to certificate and permit applications.

The second sub-category is for requests for certain authority filed in less than the time required by the Board's rules. These requests are often by telephone and require additional staff processing time and analysis. They are normally asking for exemptions or for such undocketed matters as Foreign Aircraft Permits, Foreign air carrier charter statement of authorization, and other similar authority. These requests are merely another method of "filing"

such items. The beneficiary findings for those items discussed above thus continue to apply. The extra staff time required for these items is primarily to substitute for the lack of the customary written notice and opportunity to comment. The staff must therefore make telephone inquiries in order to complete, process, and analyze the applications. The average additional time required to process this type of application is 0.5 staff-hours. The fee for this type of item is listed as an additional charge on top of that for the basic application.

For each item that is docketed, whether in domestic or foreign air transportation, a processing time of 0.3 staff-hours is added for the initial processing of the item. This process involves reviewing the document to see that it complies with Board regulations for filing, assigning the docket number to the document, and date-stamping it upon arrival.

One of ATA's primary criticisms was the method used in ODR–25 to calculate the fees. ATA made seven specific criticisms of the fee calculation: (1) Administrative costs should be defined, (2) travel costs should be excluded, (3) the formula for figuring the indirect costs should be clarified, (4) the pro-rata distribution of support staff costs should be explained, (5) indirect costs should be specified, (6) costs should be figured from the "bottom up," and (7) the costs of BCAA should be excluded, as stated in ODR–25. The Board carefully reviewed ATA's comments and has made adjustments in its calculation of its expenses to answer ATA's criticisms.

In this rule, the Board will briefly summarize the methodology used to calculate the rate applied to the processing times to arrive at the fee. Supporting documents for specific items are being placed in the docket.

Basically there are three cost components to the hour rate charged to the applicable service: (1) Direct labor, (2) indirect labor, and (3) indirect operating expenses. The direct labor costs are based on a specific hourly rate for the grade level of the staff working directly on a particular service. Those rates are based on the Fiscal Year 1982 salary rate of government employees. The rates in ODR–25 were based on FY 1980 rates. In some cases, where there is a range of grade levels working on a specific service, the rates have been averaged. The grade ranges were reported by the operating bureaus to the Comptroller and the General Counsel. The grade levels reported were for non-supervisory personnel now working on those services.

Indirect labor costs are those salaries and benefits incurred by the Board to provide general services to the staff. Such administrative or support services include personnel, purchasing, finance, budget, supply distribution, and mailroom services. The Board reviewed each organizational component to determine whether it provides program services or administrative-type services. Thus, included in the indirect labor costs are the salaries and benefits of OASO, OHR, and certain components of OC, OMD, and OGC who provide administrative services, as shown in the supporting documents. All other staff salaries were excluded from the indirect labor category.

Indirect operating expenses are those primarily incurred to support the staff, and are not directly related to specific program activities. Typical indirect expenses include office space, machine rentals, telephone charges, postage, repairs and alterations, and materials. Certain operating expenses, such as those incurred for ADP operations, are for support staff activities as well as for program support. The Board has thus allocated such expenses between program (direct) and staff (indirect) operating expenses in the calculation. All other expenses, such as for travel, the **Federal Register**, and special studies, as well as direct ADP expenses, were excluded.

Since indirect labor and indirect operating expenses are incurred for all staff activities, the Board has distributed those expenses on a per-capita basis. The distribution was based on actual hours worked by the entire staff during Fiscal Year 1982.

The supporting documents for this calculation are in the docket and more fully answer ATA's criticisms.

Foreign Air Carriers

In ODR–25, the Board stated that under the IOAA it had no discretion to exempt foreign air carriers from paying fees for services conferring value on them. Under the Federal Aviation Act, however, the Board must act in accordance with agreements between the United States and foreign countries. On that basis, the Board stated that it will not charge fees for foreign air carriers whose home countries do not charge U.S. air carriers for similar services. The Board has adopted that approach in the final rule.

The Canadian Transport Commission filed a letter in this docket stating that Canada does not charge fees to U.S. carriers for applications made to it. This rulemaking is not the place to decide requests on behalf of foreign air carriers for waivers under § 389.24. The Board is now considering the request of the Canadian Transport Commission.

The Board will decide on its own initiative or upon application of foreign air carriers or their government whether to waive fees for services for other foreign carriers. The decision will depend on the Board's determination whether all categories of U.S. carriers are not charged fees by the foreign government involved.

License Fees

In ODR–25, the Board proposed not to charge "license fees" to recover the cost of hearings for certificate applications, as had been done in the past. The Board has adopted that policy in its final rule for the reason stated in ODR–25. Nor are air carriers liable for any unbilled license fees calculated under the previous fee schedule after April 8, 1977, the date the license fee schedule was suspended by the Board. (Order 77–4–42). With respect to Republic's contention that all license fees should be refunded that were collected before that date, the Board does not believe that refunds are warranted, as explained below.

Refunds

The commenters disagreed strongly with the Board's tentative decision in ODR–25 to deny refunds for *all* fees paid since 1967. These commenters have misinterpreted the court decisions on this point. The court has stated that only that part of a fee that exceeds the cost basis of a specific service is to be refunded, not the entire fee. *National Association of Broadcasters*, 554 F.2d at 1133. The Board is, therefore, denying the request for a refund of all fees paid. Further, it is denying the request for refunds of any fees paid between 1967 and April 28, 1977, the date on which the first request was received for refunds, challenging the validity of the fee schedule. For those fees paid between 1977 and the present, the Board will consider refunds of amounts paid that exceed the recalculated cost of the service. A mechanism has been set up in the final rule for persons to apply for refunds.

Fees Paid Between 1967 and 1977

ATA in its comments set forth the regulatory history of the Board's fee schedule. In summary: the Board first proposed filing fees in a notice of proposed rulemaking in 1967 (ODR–3, 31 FR 9841, July 6, 1967). ATA and other carriers commented in response to that notice, stating their objection to any fees being imposed and to the Board's methodology in calculating them. The Board responded to those comments, restating its legal authority to do so, and

issued a final rule establishing a fee schedule (OR–27, 33 FR 68, January 4, 1968). No petition for change in the rule was filed with the Board and no appeal was filed with the U.S. Court of Appeals as provided in section 1006 of the Act.

In 1973, the Board, after issuing a notice of proposed rulemaking revised its filing fee schedule (OR–80, 38 FR 31960, November 20, 1973). Again, no petitions for a rule change were filed with the Board and no appeals were filed with the Court of Appeals challenging the legality of the fees or asking for refunds.

Thus, at no time between 1967 and 1977 did the carriers ask for refunds or did the Board state that it was retaining its records to facilitate refunds or reviewing the legality of its fees. Nor have the funds collected during this period been kept in any type of suspense account awaiting review of the fee schedule.

In view of this background, the Board believes that the refund claims for this period must be denied on the legal ground of laches. In *National Association of Broadcasters* v. *FCC,* the Court cited two requirements for assertion of the defense of laches: (1) There must be unreasonable delay on the part of the person seeking a legal remedy, and (2) there must be prejudice to the person against whom the remedy is sought by allowing it at this late date. 554 F. 2d at 1128. In the case of fees paid between 1967 and 1977, a period of 10 years elapsed during which the carriers did not ask for a refund or contest the Board rules in the courts. Nor did the Board state during that period that it was reviewing its fee schedule in this regard. Refunds should not be made for fees collected and calculated over 15 years ago. Recalculations of those fees would necessarily be based on records of that time, which may or may not be complete for that purpose for all fee categories.

In determining whether the Supreme Court decisions on the IOAA (cited in ODR–25) should be made retroactive, the Court of Appeals in the *NAB* case looked to see whether there had been reliance on the old rule before that decision and whether there would be unfair surprise to apply it retroactively. The Board, like the carriers, certainly relied on the previous interpretation of the IOAA until the petitions in those dockets were filed in 1977, 2 years after the Supreme Court decision. There was never any statement by the Board that these fees were being contested or that the Board would review the fee schedules for other than technical corrections. It would now be impractical to refund those fees 15 years after they were established, when they were not contested during that period.

The Board has, however, attempted to recalculate the fees between 1967 and 1977, using the methodology explained above. The fees were recalculated based on 1967 costs for those fees assessed from 1967 through 1972, and on 1973 costs for fees between 1973 and 1977. This recalculation follows the Board's pattern of imposing fees in 1967 and then revising them in 1973 . Supporting documents have been placed in the docket.

When the Board calculated its fees in 1967 and in 1973 they were based on the staff-years, rather than staff-hours, needed to provide a particular service. The files of that time, which are 15 years old, do not, therefore, contain processing times in terms of staff-hours. The Board has, however, used the staff-year figures to give an approximate staff-hour time based on the total staff-hours that are included in 1 staff-year worked at the Board in 1967 and 1973. Those times have then been multiplied by the staff-hour rate (including both direct and indirect costs) for that year.

As explained in ODR–25, the Board based its 1967 and 1973 fees on 25 percent of the costs of providing the service. A re-calculation of the fees for that time, based on 15-year-old files, shows that even if refunds were legally permitted, some of the license and filing fees collected then were substantially less than the costs incurred. The discrepancies caused by using what turned out to be an incorrect billing method thus were undercharges, not overcharges. A complete breakdown of the old and recalculated fees is set forth in the docket.

Fees Paid Between 1977 and the Present

In 1977, the carriers and the Department of Justice questioned the validity of the Board's fee schedules under the law. The carriers asked for refunds of all fees paid since 1967. The Board stated in Order 77–4–42 that it would suspend the collection of the license fees while it reviewed its entire fee schedule, but that its filing fees would not be refunded during the review.

In recalculating the fees assessed between 1977 and the present, the Board faced the same problem as above in determining what processing times for those fees should be used. In order to take the most conservative approach, the Board used the times reported for processing those items today. The year 1977 was only 1 year before the Airline Deregulation Act took effect. Since the Deregulation Act, with its emphasis on expedited procedures and zones of reasonableness for domestic passenger prices, the Board's processing times for all work items have decreased. The times reported today in this rule are therefore shorter than they would have been in 1977. For that reason, the Board believes that those times provide a conservative retrospective approximation of the staff time needed to process those items for which fees were assessed over the last 5 years.

The Board has used the methodology explained above to recalculate the present fees. The cost figures used are based on 1977 amounts for direct and indirect costs. Since the fees assessed during that time have still been based on the old formula that only imposed 25 percent of the Board's costs, the fees that should have been charged are generally higher. The supporting documents showing the calculation and the recalculated fees for each item are in the docket.

Several arguments were raised by Republic questioning certain aspects of fees paid since 1977. In general, Republic's arguments were similar to ATA's in regard to the prospective fees proposed in ODR–25. The Board has used the same methodology in recalculating the past fees as it did for the prospective fees. For information on the organization of the Board and the services the staff components performed during that period until issuance of ODR–25, the Board's organization regulations, for those years in 14 CFR Part 384 show the individual bureaus and offices and the services they provide. The same principles as discussed above were used to redetermine which of those services benefited primarily the individual applicant and therefore should be charged for. The findings made for the present apply also to the earlier period. For those services which have now been found not to primarily benefit the applicant, refund applications can be made to the Board under the procedure set up in this final rule.

Because of statutory and regulatory policy changes, several services for which fees have been charged were eliminated in the new fee schedule. In making findings as to the primary beneficiary for those items, the Board looked to the law and policy in effect at that time. One such category was "Change in service pattern, approved service plan or flight pattern." The Board in the past issued certificates for foreign air transportation to provide unspecified service to a foreign country, with the carrier submitting a service plan as to how the service was to be provided. In order to change that service

pattern, the carrier had to receive permission from the Board, which in effect constituted an amendment of its certificate. Without such permission that carrier was not allowed to provide service to a specific destination by the specific route that it preferred. This operating authority granted by the Board was part of a necessary and valuable license and was primarily for the benefit of the carrier.

A second category of service no longer performed by the Board is "Approval of delay in inauguration of or temporary suspension of service." Under sections 401 (f) and (j) prior to amendment by the Deregulation Act, carriers were required to perform the air transportation authorized in their certificates or be subject to proceedings to revoke the certificate. The carriers therefore had to obtain approval of the Board if the start of their service was to be delayed or if they wanted to stop service temporarily. Again, the approvals were in effect exemptions from the statutory requirements, a service for the special benefit of the applicant. Today, under present law, when carriers in foreign air transportation seek a delay in the date by which their certificate requires them to start service, they must ask for an exemption from section 401. The fee for that category covers such services. The fee will be that for an exemption from section 401 involving 10 or fewer flights.

Under section 404(a) of the Act, carriers in domestic transportation, unless exempted by the Board, had a duty to carry persons or cargo on reasonable request. The Board in 14 CFR Part 228 granted a general exemption to carriers to embargo certain types of cargo on a temporary basis for up to 30 days on the condition that the carrier file a public notice with the Board to alert the shipping public. Beyond that initial 30 days, carriers were required to file an application for Board approval to extend the embargo. Although the public notice required during the initial 30 days primarily benefits the public, the application to extend the embargo is a special exemption primarily to benefit that carrier. It is not available to the general industry. While it is a service that secondarily benefits the public, the primary beneficiary is the applicant, thus entitling the Board to charge a fee for the service of processing that application.

The Board's fee schedule since 1973 has also included fees for certain motions and for waivers from the fee schedule. The motions for which fees have been charged are for leave to file an otherwise unauthorized document and for expedited action. These motions required processing of documents not normally part of a proceeding. They were for action beyond that given the general parties to the proceeding and primarily for the benefit of the filing party. Requests for waivers of fees were also primarily for the benefit of the applicant, given that person a benefit not given generally to the public.

Refund Procedure

In the rule adopted today, the Board, as asked by the commenters, is establishing a mechanism by which those who paid fees that exceeded costs, as recalculated, for that service can apply for refunds. Applications are to be filed with the Board's Comptroller. The application is to state the specific fee for which a refund is asked, the amount paid, and the total amount paid by the carrier in that calendar year for all fees. The Comptroller, under authority delegated by the Board, will review the application, offsetting any amounts overpaid by amounts underpaid during the calendar year of the payment in question, based on the recalculation of the fees as discussed above. If an amount is due to the applicant, the Comptroller will order the payment to be made. The Comptroller will state in detail the reasons for approval or disapproval of the request and any calculations used to make the decisions. Decisions under delegated authority may, of course, be appealed to the Board.

Miscellaneous

All documents and calculations used in preparing this rule have been placed in the docket for review.

So that no person will be disadvantaged or treated discriminatorily, and so that accurate fees can be paid, the Board finds for good cause that this rule should be effective on January 10, 1983.

The motion by ATA for expedited action in the proceeding is denied as moot.

Final Regulatory Flexibility Analysis

The discussion above constitutes the Board's final regulatory flexibility analysis of this rule pursuant to the Regulatory Flexibility Act (5 U.S.C. 604). Copies of this document can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673–5432, by referring to the "OR" number at the top of the document.

List of Subjects in 14 CFR Part 389

Archives and Records.

PART 389—[AMENDED]

Accordingly, the civil Aeronautics Board amends 14 CFR Part 389, *Fees and Charges for Special Services,* as follows:

1. The authority for Part 398 is:

Authority: Secs. 204, 1002, Pub. L. 85–726, as amended, 72 Stat. 743, 797; 49 U.S.C. 1324, 1502. Act of August 31, 1951, ch. 376, 65 Stat. 288; 31 U.S.C. 483a.

2. Subpart C is re-titled to read:

Subpart C—Filing and Processing Fees

3. Section 389.20 is revised to read:

§ 389.20 Applicability of subpart.

This subpart applies to the filing of certain documents at the Board by nongovernment parties, and prescribes fees for their processing.

4. Section 389.21 is amended by removing and reserving paragraph (b) and by revising paragraph (e) to read:

§ 389.21 Payment of fees.

* * * * *

(b) [Reserved]

* * * * *

(e) No fee shall be returned after the document has been filed with the Board, except as provided in §§ 389.23 and 389.27.

5. Section 389.23 is revised to read:

§ 389.23 Application for waiver or modification of fees.

(a) Applications may be filed asking for waiver or modification of any fee paid under this subpart. Each applicant shall set forth the reasons why a waiver or modification should be granted, and by what legal authority.

(b) Applications asking for a waiver or modification of fees shall be sent to the Managing Director of the Board, and shall accompany the document filed. Applicants may appeal the decision of the Managing Director to the Board under § 385.50 of this chapter. When no petition for review is filed with the Board, or when the Board reviews the Managing Director's decision, if the amount found due is not paid within 10 days after receipt of notification of the final determination, the document shall be returned to the filing party.

6. Section 389.24 is revised to read:

§ 389.24 Foreign air carriers.

A foreign air carrier, or such carriers, if from the same country, acting jointly, may apply for a waiver of the requirements of this part based on reciprocity for U.S. air carriers contained in the requirements of their home governments, or as provided in a treaty or agreement with the United States. To apply for a waiver under this

section, foreign air carriers shall follow the procedures in § 389.23. A copy of the waiver request shall be sent to the Director, Bureau of International Aviation. The request should include applicable official government rules, decisions, statements of policy, or comparable evidence concerning filing fees for U.S. air carriers, or for all carriers serving that country. Once a waiver has been granted for a specific country, no further waiver applications need be filed for that country.

7. Section 389.25 is revised to read:

§ 389.25 Schedule of processing fees.

Code	Document	
	Interstate and Overseas Air Transportation	
	Certificate of Public Convenience and Necessity:	
	Application under sec. 401:	
1	Charter	850
2	Scheduled Service	850
3	Dormant Authority	280
4	All-Cargo under sec. 418	670
5	Transfer	290
6	Air Taxi Registration	12
7	Scheduled Passenger Commuter Registration	670
8	Change of Name (Use of Trade Name or reissuance of certificate)	165
9	Exemption Request (General):	
10	Section 403	53
11	Section 401 (domestic)	280
12	Section 419	120
13	Service Mail Rate Petition	420
	Foreign Air Transportation (U.S. and Foreign Air Carriers)	
	Certificate of Public Convenience and Necessity (Sec. 401):	
14	Scheduled Service	900
15	Amendment to application	425
16	Charter Service	600
17	Amendment to application	200
18	Transfer	255
19	Change of Name (Use of Trade Name or reissuance of certificate)	125
	Foreign Air Carrier Permit (Sec. 402):	
20	Initial	760
21	Amendment/Renewal of permit	475
22	Amendment to application for a permit	215
	Exemption:	
23	Section 403	53
	Section 401/402:	
24	10 or fewer flights	77
25	More than 10 flights	360
26	Filed less than 10 days before effective date requested	[1]17
27	Other (U.S. and foreign air carriers)	360
28	Emergency cabotage (sec. 416(b)(7))	360
29	Relief for U.S. (sec. 101) and foreign (sec 416) indirect air carriers	370
	Undocketed Items:	
30	Canadian Charter Air Taxi Registration	30
31	Foreign Freight Forwarder Registration	11
32	Foreign Tour Operator Registration	10
33	Foreign Aircraft Permit (Part 375)	25
34	Special Authorization (Part 375)	12
35	Charter Statement of Authorization	8
36	Intermodal Statement of Authorization	10
37	Special Authority (Part 216)	37
38	Items 33–37 if filed less than time required before effective date	[1]11
39	IATA resolutions	61
	Other (U.S. and foreign air carriers)	
	Charters:	
40	Public Charter Prospectus	39
41	OMPC Operation Authorization	665
42	Waiver of Charter Regulations	39
	Tariffs:	
43	Pages	2
44	Special Tariff Permission	12
45	Waiver of Tariff Regulations	12
46	Approval of Interlocking Relationships	415
47	Merger or Acquisition of Control	1080
	Agreements filed under section 412:	
48	Prior Approval (docketed)	1080
49	Routine (nondocketed)	64
50	Application for free and reduced-rate transportation	16

[1] Additional.

8. A new § 389.26 is added to read:

§ 389.26 Special rules for tariff page filings.

(a) Tariffs issued by carriers. The filing fee for tariff pages filed by U.S. air carriers will be charged even if the tariff includes matters involving participating foreign air carriers. It will also be charged if the tariff is issued by a foreign air carrier and includes matters involving participating U.S. air carriers, unless the foreign air carrier has obtained a waiver under § 389.24. The fee will not be charged for a blank looseleaf page unless it cancels matter in the preceding issue of the page.

(b) Tariffs issued by publishing agents.

(1) If the tariff is issued for one or more air carriers exclusively, the fee will be charged for each page.

(2) If the tariff is issued for one or more air carriers and one or more foreign air carriers, the fee will be charged for each page, except for those pages that the issuing agent states contain only:

(i) Matters pertaining exclusively to foreign air carriers that have been granted a waiver, or

(ii) Changes in matters pertaining to foreign air carriers that have been granted a waiver and that are included on the same page with other matters that are reissued without change.

(3) The fee will not be charged for a blank looseleaf page unless it cancels matters in the preceding page.

(4) No fee will be charged when two pages are published back-to-back, one page is not subject to the fee under paragraph (b)(2), and the page on the reverse is issued without substantive change.

(5) The fee will be charged for two looseleaf pages containing a correction number check sheet unless all other pages of the tariff are exempt from the fee.

9. A new § 389.27 is added to read:

§ 389.27 Refund of fee.

(a) Any fee charged under this part may be refunded in full or in part upon request if the document for which it is charged is withdrawn before final action is taken. Such requests shall be filed in accordance with § 389.23.

(b) Any person may file an application for refund of a fee paid since April 28, 1977, on the grounds that such fee exceeded the Board's cost in providing the service. The application shall be filed with the Comptroller, and shall contain: the amount paid, the date paid, the category of service, and the total amount of fees paid by the applicant in that year regardless of category. The Board will, for the calendar year of the payment in question, offset the amount claimed by the amount owed in total fees and refund any amount overpaid, explaining its calculations.

10. The Table of Contents for Subpart C is revised to read:

Table of Contents

* * * * *

Subpart C—Filing and Processing Fees

Sec.
389.20 Applicability of subpart.
389.21 Payment of fees.
389.22 Failure to make proper payment.
389.23 Application for waiver or modification of fees.
389.24 Foreign air carriers.
389.25 Schedule of processing fees.
389.26 Special rules for tariff page filing.
389.27 Refund of fee.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-228 Filed 1-5-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 373

[Docket No. 21115-227]

Special Licensing Procedures; Change of Information Required on Form ITA-622P, and Correction of Cross-Reference

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends Part 373 of the Export Administration Regulations by changing the instructions to exporters on completing Form ITA-622P when submitting that Form in order to export spare and replacement parts for servicing U.S. equipment under the Service Supply licensing procedure. The instructions required exporters to list the names of all ultimate consignees in each country in addition to a list of the proposed countries of ultimate destination. However, many exporters have so many ultimate consignees that a complete list is impractical.

This rule amends the instructions to require exporters to submit only the list of the proposed countries of ultimate destination.

This rule also corrects a cross-reference in Part 373 regarding extension and amendments of Project Licenses.

DATE: This rule is effective January 6, 1983. Although there is no formal comment period, public comments are welcome on a continuing basis.

ADDRESS: Written comments (six copies) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-4811).

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 373

Exports.

PART 373—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Part 373) are amended as follows:

§ 373.2 [Amended]

1. Paragraph (e)(2)(iv) of § 373.2 is amended by revising the reference to "(c)(2)(ii)" to read "(c)(2)(iii)".

2. Paragraph (d)(1)(iv)(*b*)(*3*) of § 373.7 is revised to read as follows:

§ 373.7 Service supply (SL) procedure.

* * * * * *

(d) Types of Service Supply Authorizations. * * *

(1) * * *

(iv) * * *

(*b*) * * *

(*3*) Attach a list in duplicate of the proposed countries of ultimate destination, in alphabetical order.

* * * * * *

(Sec. 13 and 15, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980)

Dated: November 10, 1982.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 83-380 Filed 1-5-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271 and 276

[Docket No. RM82-36-000 Order No. 272]

Elimination of Reporting Requirements for Sales of Natural Gas Under Sections 105, 106(b) and 109 of the Natural Gas Policy Act of 1978

Issued: December 29, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is eliminating Part 276 of its regulations to reduce unnecessary paperwork burdens. Part 276 requires first sellers of natural gas under NGPA sections 105, 106(b), and 109 to file initial and annual reports using Form Nos. 122, 123 and 124, and to maintain appropriate records, books, and contracts. The elements of Part 276 being eliminated by the rule are the initial and annual reporting requirements, including Form Nos. 122, 123, and 124. The record retention requirements are being transferred to the appropriate sections of Part 271.

EFFECTIVE DATE: This final rule will be effective February 7, 1983.

FOR FURTHER INFORMATION CONTACT: Brooks Carter, Federal Energy Regulatory Commission, Office of General Counsel, 825 North Capitol Street, N.E., Room 6410K, Washington, D.C. 20426, (202) 357-8811.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its regulations by eliminating Part 276 and moving the record retention requirements of that Part to Part 271. Part 276 requires the filing of information concerning first sales of natural gas made under sections 105, 106(b), and 109 of the Natural Gas Policy Act of 1978 (NGPA) and prescribes FERC Form Nos. 122, 123, and 124 and affidavits. While eliminating these forms and the regulations requiring them, the Commission is keeping the requirement that sellers retain certain records, books, and contracts relating to sales of natural gas made under these sections of the NGPA. This final rule is part of the Commission's ongoing program to review its reporting requirements and reduce unnecessary paperwork burdens by eliminating collections of data that are not necessary to the performance of the Commission's regulatory responsibilities.

II. Background

Part 276 regulations created an initial and subsequent annual reporting obligation on first sellers of natural gas qualifying under sections 105, 106(b), and 109 of the NGPA.[1] To comply with this reporting obligation, first sellers were to use Form No. 123 for sales made under section 105 of the NGPA, Form No. 124 for sales made under section 106(b) of the NGPA, and Form No. 122 for sales made under section 109 of the NGPA. First sellers were required to report the dates and duration of contracts, volumes and price of gas sold, and the identity of the contracting parties.[2]

In the case of all three forms, annual reports were due by April 1 to cover sales made during the previous calendar year. These regulations also required affidavits to accompany the forms and permitted the filing of affidavits in lieu of the form in certain cases. In addition, § 276.108 of these regulations required persons who filed reports to retain

[1] *See* Docket No. RM79-30, 44 FR 18647 (March 29, 1979) for final regulations effective March 23, 1982. Final regulations extended the filing deadlines for the initial report to June 1, 1979. Prior to that order, interim regulations under Part 276 had been issued on December 1, 1978, 43 FR 56448 (December 1, 1978), and amended on February 2, 1979, to extend the filing deadline for initial reports under the Part 276 Interim Regulations from March 1, 1979 to May 1, 1979 (Docket No. RM79-3, 44 FR 18007 (March 26, 1979)).

[2] *See*, 18 CFR 276.103(a) (1982).

relevant records and books for three years after the filing date for the reporting period and to retain contracts for three years after the date they expired.

The Commission established these first sale reporting requirements to monitor NGPA sales and conduct compliance audits. A seller of natural gas under NGPA sections 105, 106(b), and 109 is not required to obtain a state or federal eligibility determination under section 503 of the NGPA prior to charging and collecting the prices authorized by those sections.[3] Accordingly, the reporting forms of Part 276 met the Commission's need for information concerning sales of natural gas which had not been regulated before the enactment of the NGPA.

The Commission extended the due date for filing of initial reports concerning the sale of natural gas under sections 105, 106(b) and 109 on two occasions and established June 1, 1979 as the filing deadline for initial reports for the period of December 1 through December 31, 1978.[4]

The Commission later suspended, until further notice, the reporting deadline for the annual reports to permit an evaluation of the regulatory need for them in light of the Commission's burden reduction program.[5] Following this evaluation, the Commission proposed to eliminate the reporting requirements of Part 276.[6] The notice pointed out that the Commission had concluded that the data reported on the forms is inadequate for determining if the price reported is in compliance with the NGPA without copies of the contracts and billing documents. The notice described that the Commission had considered the alternative of requiring the filing of such detailed contract information. The Commission, however, believed that this alternative would place unwarranted burdens on industry and Commission staff and that specific information requests and field audits would be adequate to monitor NGPA compliance.[7]

The Commission in that notice also proposed to keep the record and contract retention requirements but to locate then in appropriate pricing regulations of Part 271. This proposal provided that any person who collects a price under the pertinent NGPA sections would have to keep books and records related to each sale transaction for three years from the date of the sale and related contracts for three years after the date of their expiration. These provisions did not impose new record retention requirements or otherwise relieve any person from the obligation to retain relevant books, records, and contracts as required under current regulations. The three-year retention provision is consistent with general industry practice and does not impose additional burdens.[8]

By eliminating the reporting requirements of Part 276, the Commission believed that regulated entities would be relieved of the burden of filing approximately 5,000 annual oath statements and 300 annual reports containing approximately 25,000 lines of data. This elimination will reduce the total paperwork burden imposed by Part 276 on regulated entities by approximately ninety percent of the present burden. The remaining burden of ten percent would be attributable to continuing the record retention requirement.

III. Summary of Comments and Rule

The Commission received twelve comments concerning the proposals presented in the notice of proposed rulemaking. All commenters agreed with the Commission's proposals. First, all supported the Commission's exercising its NGPA compliance function concerning gas sold under sections 105, 106(b), and 109 by field audits, record and contract retention, and specific information requests. Second, all agreed with the Commission's notice that Form Nos. 122, 123, and 124 are burdensome and ineffective without the filing of detailed contract information with the Commission, a requirement which the Commission has rejected as imposing an even greater administrative burden. Accordingly, all commenters endorsed eliminating the forms and affidavits. Third, there was agreement that a record and contract retention provision, similar to that under Part 276, should be incorporated into Part 271.

As a result of these comments and the notice, the final rule is essentially the same as that noticed. It provides for the elimination of Part 276 and its annual reporting requirements. It also amends §§ 271.503, 271.603, and 271.903 to remove from these sections reference to the Part 276 filing requirement and to substitute a three-year record keeping requirement for those collecting first sale prices under sections 105, 106(b) and 109 of the NGPA.

The final rule differs from the notice in two minor respects, neither of which changes the substance of the proposal. The first change is in response to one commenter who sought clarification of the proposed requirement that books and records related to the sale be retained for three years from the "date of the sale." The commenter expressed uncertainty whether the Commission's intent was to require the retention of the relevant books and records from the date the sale began (when deliveries commenced or date of execution of the contract) or from a rolling period of three years from each individual day the sale existed. To remove any doubt about the intended meaning, the regulation has been amended to show that the Commission intends to require the retention of books and records for a rolling period of three years from the end of each billing period related to a particular sale. This rule would require the seller of natural gas to retain copies of billings and other business records customarily prepared for the sales transaction for the required period.

The second change is to the introductory language of proposed §§ 271.503, 271.603, and 271.903. This language has been changed to read "Any person who collects a price under this subpart for the first sale of natural gas * * *" This change is merely to conform the new regulation to the regulations in which they are inserted.

IV. Regulatory Flexibility Act Statement

The Regulatory Flexibility Act (RFA) requires the Commission to perform a

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[3] *See* 18 CFR 270.101(d)(2) (1982).

[4] The collection of the information submitted in the Part 276 reports on June 1, 1979 was a helpful initial step in the compliance process. The Commission will keep the reports initially filed to aid in determining which companies to audit. *See* note 1 for a discussion of the extensions granted.

Some sellers, however, may not have filed these initial reports as required by Part 276. Liability for such failure to file required reports will not be relieved by this rule eliminating the reporting requirements of Part 276. *Cf. United States v. Hark*, 320 U.S. 531, 536 (1944) (revocation of a regulation does not prevent indictment and conviction for violation of its provisions at a time when the regulation remained in force.); *United States v. Resnick*, 455 F. 2d 1127, 1134 (5th Cir. 1972) (revocation of a regulation before an indictment has been issued does not bar prosecution where the legislation authorizing the regulation has not been repealed); *see, generally*, NGPA section 504 dealing with enforcement and civil and criminal penalties for violating a rule of the Commission.

[5] Docket No. RM 79-30, 45 FR 19546 (March 26, 1980). While first sellers have been required to file initial reports, they have never been required to file annual reports with the Commission. The Commission suspended its reporting deadline for annual reports on March 14, 1980.

[6] Notice of Proposed Rulemaking, Elimination of Reporting Requirements for Sales of Natural Gas Under Sections 105, 106(b), and 109 of the Natural Gas Policy Act of 1978, Docket No. RM82-36, issued July 15, 1982, 47 FR 31582 (July 21, 1982).

[7] *Id.* at 31583, 47 FR (July 21, 1982).

[8] These recordkeeping requirements are, for the most part, the same or less than the requirements of the Internal Revenue Service. *See*, Records, Trees. Reg. § 1.6001-1 (1978) 26 CFR 1.6001-1 (1981).

regulatory flexibility analysis on proposed rules that will have "a significant economic impact on a substantial number of small entities." [9] The Commission is not required to make such an analysis if it certifies that the rule will not have "a significant economic impact on a substantial number of small entities."

The Commission's notice of proposed rulemaking in this docket made such a negative certification. This certification was based on a determination that the regulatory changes proposed in the notice would have a positive impact on small entities which are relieved of several first sale reporting requirements and that the elimination of Part 276 reporting requirements would result in an insignificant reduction in burden on an individual respondent basis. No adverse comments were filed with respect to the proposed negative certification.

Because this final rule is not significantly changed from that proposed, the Commission does not believe that this final rule will result in a significant economic impact on small entities. This final rule retains the requirement that relevant contracts, books, and records be kept for a three-year period. The rule, however, may change the starting point from which the record retention period begins from three years after the annual filing date of April 1 in the case of sales made during a previous calendar year to three years after the end of each billing period, which typically is a monthly period. As a result of this change, the period of record retention may be shortened thereby reducing the record retention burden. The Commission does not believe that these changes would constitute a significant economic impact. In view of these considerations and the absence of public comments on this issue, the Commission hereby certifies that the rule herein promulgated will not have a "significant economic impact on a substantial number of small entities."

V. Effective Date

In accordance with section 553 of the Administrative Procedure Act, this rule will be effective thirty days after publication in the **Federal Register**.

(Natural Gas Policy Act, 15 U.S.C. 3301–3432 (Supp. IV 1980))

List of Subjects

18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

18 CFR Part 276

Natural gas, Reporting requirements, Wage and price controls.

PART 271—[AMENDED]

In consideration of the foregoing, the Commission amends Parts 271 and 276, Title 18 of the Code of Federal Regulations, as set forth below.

By the Commission.

Lois D. Cashell,

Acting Secretary.

1. Part 271 of Subchapter H, Chapter I is amended in its Table of Contents and text by revising the title and text of §§ 271.503, 271.603, and 271.903, all to read as follows:

§ 271.503 Recordkeeping.

Any person who collects a price under this subpart for the first sale of natural gas shall keep:

(a) Any books and records related to the sale for three years from the end of each billing period; and

(b) Any contract related to the sale for three years after the expiration of the contract.

§ 271.603 Recordkeeping.

Any person who collects a price under this subpart for the first sale of natural gas shall keep:

(a) Any books and records related to the sale for three years from the end of each billing period; and

(b) Any contract related to the sale for three years after the expiration of the contract.

§ 271.903 Recordkeeping.

Any person who collects a price under this part for the first sale of natural gas shall keep:

(a) Any books and records related to the sale for three years from the end of each billing period;

(b) Any contract related to the sale for three years after the expiration of the contract.

PART 276—[RESERVED]

2. Subchapter H of Chapter I is amended in its Table of Contents and in its text by removing Part 276 in its entirety and reserving the same for future use.

[FR Doc. 83-370 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[9] 5 U.S.C. 603(a) (Supp. IV 1980).

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 42

[Dept. Reg. 108.829]

Spouse and Children of Certain Foreign Medical Graduates

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: A new § 42.28 is added to Part 42 to conform with amendments made to the Immigration and Nationality Act by the Act of December 29, 1981. Pub. L. 97–116. That law added a new paragraph (H) to section 101(a)(27) of the Act, which grants special immigrant status to certain classes of aliens in the United States and allows the issuance of visas abroad to the accompanying spouse and children of the new class of special immigrants.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Guida Evans-Magher, Consular Affairs Officer, Legislation and Regulations Division, Visa Services, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520. (202) 632–1900

SUPPLEMENTARY INFORMATION: The addition of paragraph (H) to section 101(a)(27) and the amendment of section 245(c)(2) of the Immigration and Nationality Act make it possible for certain foreign medical graduates or persons qualified to practice medicine in a foreign state to adjust status in the United States without regard to numerical limitations, labor certification requirements or the restrictions of section 245(c) relative to previous unauthorized employment. Their accompanying spouses and children in the United States would also be eligible for adjustment of status. In order to benefit from the provisions, however, the foreign medical graduates or persons qualified to practice medicine in a foreign state must have been fully and permanently licensed and practicing medicine in a State on January 9, 1978, and must have been continuously present in the United States in the practice or study of medicine since entering the United States before January 10, 1978 as temporary worker or exchange visitor nonimmigrants. The spouse and children of such special immigrants are also eligible to apply for visas as "accompanying" spouse and children of the special immigrant, as

that term is defined in this Part, upon establishing to the satisfaction of a consular officer, by appropriate evidence or confirmation of the Immigration and Naturalization Service, that the principal alien has been granted an adjustment of status by the Service to that of an alien lawfully admitted for permanent residence as a special immigrant under the provisions of section 101(a)(27) (H). Because this rule is necessary to implement changes made to the Immigration and Nationality Act by Pub. L. 97–116, compliance with the provisions of the Administrative Procedure Act (5 U.S.C. 553) as to notice of proposed rulemaking and delayed effective date is not practicable in this instance. Other conforming changes are made in the table of contents to Part 42.

List of Subjects in 22 CFR Part 42

Aliens, Special classes of immigrants.

PART 42—[AMENDED]

Therefore, Part 42 is amended by adding § 42.28 in the table of contents and immediately after § 42.27.

After § 42.27 add the following new undesignated center heading and section to read:

Spouse and Children of Certain Foreign Medical Graduates

§ 42.28 Accompanying spouse and children of certain foreign medical graduates.

The accompanying spouse and children of a graduate of a foreign medical school or of a person qualified to practice medicine in a foreign state, who has adjusted status as a special immigrant under the provisions of section 101 (a)(27)(H) of the Act, shall be classifiable as special immigrants under that section upon establishing to the satisfaction of a consular officer, by appropriate evidence or confirmation by the Immigration and Naturalization Service, that the principal alien has been granted such adjustment of status to that of an alien lawfully admitted for permanent residence.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104); 109(b)(1), 91 Stat. 847; 101 (a) (27), 95 Stat. 1614; 8 U.S.C. 1101 (a) (27))

Dated: December 10, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 83–258 Filed 1–5–83; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 6a

[T.D. 7866]

Temporary Income Tax Regulations Under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980; Penalties for Failure To Make a Return or Furnish a Statement Required Under Section 6039C

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to penalties for failure to make a return or furnish a statement required under section 6039C. Changes to the applicable tax law were made by the Foreign Investment in Real Property Tax Act of 1980. Temporary regulations setting the dates for filing returns required by section 6039C were published in the **Federal Register** on September 21, 1982, 47 FR 41532. Since penalties under section 6652(g) run from such date, it is necessary to have rules pertaining to penalties in place by these dates. Because of the need for immediate guidance in this regard, the Internal Revenue Service has found it to be impractical to issue these regulations with notice and public procedure under section 553(b) of title 5 of the United States Code. In addition, the text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the Proposed Rules section of this issue of the **Federal Register**.

DATES: The amendments are proposed to be effective for 1980 and subsequent calendar years. In applying the amendments to 1980, calendar year 1980 will be treated as beginning on June 19, 1980 and ending on December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Mary Elizabeth Dean of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations under section 6652(g) relating to penalties for failure to file information returns required by section 6039C. These temporary regulations provide rules under section 1123 of the Foreign Investment in Real Property Tax Act of 1980 (94 Stat. 2689) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Discussion; Statutory Provisions

Section 6039C requires that certain persons make returns or furnish statements relating to U.S. real property interests held by foreign persons. Section 6039C(a) requires domestic corporations that are U.S. real property holding corporations, as defined in section 897(c)(2), to make a return setting forth: (1) The name and address (if known by the corporation) of each shareholder known by the corporation to be a foreign person during the calendar year, (2) information with respect to transfers of stock to and from foreign persons during the calendar year, and (3) other information required by the Internal Revenue Service. If a nominee holds stock in a domestic corporation for a foreign person, and the foreign person does not furnish the information required by subsection (a), the nominee is required to make the return required under section 6039C(a).

Section 6039C(b) requires that if an entity (a foreign corporation or domestic or foreign partnership, trust, or estate) has a "substantial investor" it must make a return setting forth the name and address of each substantial investor, information with respect to its assets, and other information required by the Internal Revenue Service. In general, a substantial investor is a foreign person holding an interest in the entity whose pro rata share of the U.S. real property interest held by the entity exceeds $50,000. Under section 6039C(b)(3), the entity must also furnish each substantial investor with a statement showing the entity's name and the substantial investor's pro rata share of the U.S. real property interests held by the entity.

Under section 6039C(c), a separate reporting requirement applies to a foreign person holding U.S. real property interests who is not required to file a return under section 6039C(b) for the year. If such person did not engage in a U.S. trade or business at any time during the calendar year, and if the fair market value of the U.S. real property interests held by the foreign person equals or exceeds $50,000, then the foreign person must make a return setting forth his name, address, a description of his U.S. real property interests, and other information required by the Internal Revenue Service.

Section 6652(g) sets forth the penalties for each failure to meet the requirements of section 6039C.

Description of Regulations

These regulations would add a new 6a.6652(g)–1 to the temporary regulations under Subtitle C of title XI of Omnibus Reconciliation Act of 1981 implementing the penalties imposed by section 6652(g) of the Code.

Section 6a.6652(g)–1(a) provides that the penalty for each failure to meet the applicable requirements of section 6039C is $25 a day for each day the failure continues after the date prescribed for meeting such requirements (determined with regard to any extension of time for filing).

Section 6a.6652(g)–1(b) sets forth limitations on the amount of penalty to be imposed. For failure to meet any or all of the requirements of subsection (a) or (b) of section 6039C, for any calendar year, the penalty with respect to any person shall not exceed $25,000 with respect to each subsection. For failure to meet any or all of the requirements of subsection (c) of section 6039C, for any calendar year, the penalty with respect to any person shall not exceed the lesser of $25,000 or 5 percent of the aggregate of the fair market value of the U.S. real property interests owned by such person at any time during such calendar year.

Section 6a.6652(g)–1(c) defines the terms "fair market value," "failure," and "aggregate of the fair market value of U.S. real property interests" for purposes of § 6a.6652(g)–1. Under § 6a.6652(g)–1(c)(2), the failure to file a return for a calendar year or the omission from the return of any required information constitutes a failure to meet the requirements of section 6039C. Also, the failure to furnish a statement to each substantial investor, as required by section 6039C(b)(3), is a separate failure to meet the requirements of section 6039C from the failure to file a return under section 6039C(b)(1).

Section 6a.6652(g)–1(d) sets forth a rule of attribution of ownership for purposes of calculating the penalty limitation for failure to meet the requirements of section 6039C(c). For this purpose, U.S. real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

Section 6a.6652(g)–1(e) of the temporary regulations sets forth the three exceptions to the penalties required under § 6a.6652(g)–1(a). Section 6a.6652(g)–1(e)(1) provides that if security is filed in lieu of making a return for a calendar year in accordance with § 6a.6039C–5 of the regulations, no penalty will be imposed under § 6a.6652(g)–1(a) for failure to meet the requirements of section 6039C. Section 6a.6652(g)–1(e)(2) provides that no penalty will be imposed under § 6a.6652(g)–1(a) if it is established to the satisfaction of the director of the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania or in the case of returns concerning the Virgin Islands, the Commissioner of the Bureau of Internal Revenue, Tax Division, Charlotte Amalie, St. Thomas, V.I., that the failure to meet the requirements of section 6039C is due to reasonable cause and not to willful neglect. Since a person may furnish security instead of reporting, paragraph (e)(2) also provides that neither the fact that stock of a foreign corporation is registered in bearer form nor the fact that disclosure of ownership would contravene a secrecy law of any country constitutes reasonable cause for failure to comply with the requirements of section 6039C(b). Section 6a.6652(g)–1(e)(3) provides that if an individual's spouse or parent has filed a return under section 6039C(c) with respect to all U.S. real property interests held by such spouse or parent in accordance with § 6a.6039C–4(b), no penalty will be imposed on such individual for failure to file a return with respect to the same property under section 6039C(c).

Section 6a.6652(g)–1(g) provides examples illustrating the calculation of the penalty for failure to file under section 6039C (a), (b) and (c).

Drafting Information

The principal author of this regulation is Mary Elizabeth Dean of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and Treasury Department, however, participated in developing the regulations, both in matters of substance and style.

Regulatory Flexibility Act and Executive Order 12291

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule. The Commissioner of Internal Revenue has determined that this temporary regulation is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

List of Subjects in 26 CFR Part 6a

Bonds, Income taxes, Mortgages, Veterans, Foreign investments in United States real property interests.

Adoption of Temporary Regulations

The following new § 6a.6652(g)–1 is hereby added to 26 CFR Part 6a:

PART 6a—INCOME TAX, TEMPORARY INCOME TAX REGULATIONS UNDER SUBTITLE C OF TITLE XI OF THE OMNIBUS RECONCILIATION ACT OF 1980

§ 6a.6652(g)–1 Failure to make return or furnish statement required under section 6039C.

(a) *Amount imposed.* In the case of each failure to meet the requirements of—

(1) Section 6039C, relating to information returns with respect to United States real property interests, or

(2) Section 6039C(b)(3), relating to statements to be provided to substantial investors in United States real property interests,

on or before the date prescribed therefor (determined with regard to any extension of time for filing), the person failing to meet such requirement shall pay $25 for each day during which such failure continues.

(b) *Limitation.*—(1) *Domestic Corporations and Nominees.* The maximum penalty which may be imposed under paragraph (a) of this section on a domestic corporation or nominee for failure to meet the requirements of section 6039C(a) for any calendar year is $25,000.

(2) *Partnerships, Trusts, Estates and Foreign Corporations.* The maximum penalty which may be imposed on a partnership, trust, estate or foreign corporation for failure to meet the requirements of section 6039C(b) for any calendar year is $25,000.

(3) *Foreign persons holding U.S. real property interests and nominees.* The maximum penalty which may be imposed on a foreign person holding a U.S. real property interest or on a nominee holding a U.S. real property interest for a foreign person for failure to meet the requirements of section 6039C(c) for any calendar year is the lesser of $25,000 or 5 percent of the aggregate of the fair market value of the U.S. real property interests owned by such person at any time during such calendar year.

(c) *Definitions.*—(1) *Fair market value.* The term "fair market value" as used in this section is defined in § 6a.897–1 (in the **Federal Register** 47 FR 41541, Sept. 21, 1982).

(2) *Failure.* The term "failure to meet the requirements of section 6039C" includes the failure to file a return for any calendar year on the date prescribed therefor (determined with

regard to any extension of time for such filing), or the omission on a return of one or more items of information required by section 6039C and the regulations thereunder to be provided on the return. It also includes the failure to furnish a statement required by section 6039C(b)(3). The failure to furnish a return required under section 6039C(b)(1) and the failure to furnish a statement to a substantial investor as required by section 6039C(b)(3), are separate failures for purposes of paragraph (a) of this section. Also, each failure to provide a statement to each substantial investor is a separate failure for purposes of paragraph (a). Thus, if an entity has 100 substantial investors as defined in section 6039C and fails to furnish any of the required statements to substantial investors, there are 100 separate failures to furnish the required statement.

(3) *Aggregate of the fair market value of the United States real property interests.* The "aggregate of the fair market value of the U.S. real property interests" is the total of the fair market values of each U.S. real property interest owned at any time during the calendar year. Fair market value is determined as of December 31 of such year for property held at the end of the year and on the date of disposition for property disposed of during the year.

(d) *Attribution of ownership.* For purposes of calculating the penalty limitation under § 6a.6652(g)–1(b)(3) with respect to failure to meet the requirements of section 6039C(c), U.S. real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

(e) *Exceptions.*—(1) *Provision of security.* If a person otherwise required by section 6039C to file a return for a calendar year or furnish a statement to a substantial investor complies with the requirements of § 6a.6039C–5 relating to furnishing security in lieu of filing such return, or is exempt, by virtue of § 6a.6039C–5(f), from filing a return for such year with respect to its U.S. real property interests held, no penalty will be imposed under paragraph (a) of this section for failure to file such return or furnish such statement.

(2) *Showing of reasonable cause.* No amount shall be imposed under paragraph (a) of this section for a failure described in such paragraph if it is established to the satisfaction of the Director of the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155 or in the case of returns concerning the Virgin Islands, the Commissioner of the Bureau of Internal Revenue, Tax Division, Charlotte Amalie, St. Thomas, V.I. 00801, that such failure is due to reasonable cause and not to willful neglect. An affirmative showing of reasonable cause must be made in the form of a written statement, made under the penalties of perjury, containing a declaration by the person failing to make a return or furnish a statement under section 6039C setting forth all the facts alleged as reasonable cause. Whether reasonable cause is shown may depend upon the subsection of section 6039C under which the failure occurs. However, the fact that stock of a foreign corporation, or any other interest in any entity to which this section applies, is registered in bearer form does not constitute reasonable cause under this paragraph (e)(2) of this section for failure to comply with the requirements of section 6039C(b). Also, the fact that disclosure of ownership would contravene a secrecy law of any country does not constitute reasonable cause for failure to comply with the requirements of section 6039C(b). Where a return has been filed and there is an omission of one or more items of information required by section 6039C and the regulations thereunder, one of the facts to be considered in determining whether such failure is due to reasonable cause is the materiality of the item omitted.

(3) *Spouse or parent already filed with respect to same property.* If an individual files a return with respect to all U.S. real property interests held by such individual in accordance with § 6a.6039C–4(b), no penalty shall be imposed under this section on such individual's spouse or minor child for failure to file a return under § 6a.6039C–4 with respect to the same property.

(f) *Manner of payment.* The amount imposed under paragraph (a) of this section on any person shall be paid in the same manner as tax upon the issuance of a notice and demand therefor.

(g) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Domestic corporation X is required under section 6039C (a) to make a return for calendar year 1982. X does not file such return on or before May 15, 1983 as required under § 6a.6039C–1(c). The failure to file the return for calendar year 1982 continues throughout calendar years 1983, 1984, 1985, and 1986. The failure to file is not due to reasonable cause and no security has been furnished in lieu of filing. The maximum penalty which can be imposed on X for failure to file the 1982 return is $25,000, determined as follows:

	Penalty incurred in given year	Cumulative penalty for failure to file 1982 return
Total penalty incurred in 1983 ($25 per day × 230 days)	$5,750	$5,750
Total penalty incurred in 1984 (a leap year): ($25 per day × 366 days)	9,150	14,900
Total penalty incurred in 1985 ($25 per day × 365 days)	9,125	24,025
Total penalty incurred in 1986 (lesser of $25 per day × 365 days or $975 (remaining penalty which may be imposed))	975	25,000

Example (2). The facts are the same as in example (1) except that X also fails to file a return under section 6039C (a) for calendar year 1983. The failure to file its return for calendar year 1983 continues throughout calendar years 1984, 1985, 1986 and 1987. The total penalty which may be imposed on X for failure to file its return for calendar year 1983 is $25,000. The amount of penalty which can be imposed on X in calendar years 1984, 1985, 1986 and 1987 is determined as follows:

	Penalty for 1982 failure	Penalty for 1983 failure	Total penalty for given year
Penalty incurred in 1984 (a leap year)			
For failure to file 1982 return ($25 per day × 366 days)	$9,150		
For failure to file 1983 return ($25 per day × 230 days)		$5,750	
Total			$14,900
Penalty incurred in 1985:			
For failure to file 1982 return ($25 per day × 365 days)	9,125		
For failure to file 1983 return ($25 per day × 365 days)		9,125	
Total			18,250
Penalty incurred in 1986:			
For failure to file 1982 return (lesser of $25 per day × 365 days or $975 (remaining penalty which may be imposed))	975		
For failure to file 1983 return ($25 per day × 365 days)		9,125	
Total			10,100
Penalty incurred in 1987: For failure to file 1983 return (lesser of $25 per day × 365 days or $1,000 (remaining penalty which may be imposed))		1,000	
Total			1,000

Example (3). Foreign corporation Y is required under section 6039C(b)(1) to make a return for calendar year 1982. In addition, Y is required under section 6039C(b)(3) to furnish statements to each substantial investor in U.S. real property interests. Y has 10 such substantial investors. Y does not file such return on or before May 15, 1983 as required under § 6a.6039C–1(c), nor does it furnish the required statements on or before January 31, 1983 as required under § 6a.6039C–3(h). The failure to file the return for calendar year 1982 and to furnish the required statements for 1982 continues

throughout calendar years 1984 and 1985. The failure to meet the requirements of section 6039C(b) are not due to reasonable cause and no security has been furnished in lieu of filing. The total penalty which can be imposed on Y for failure to file the return and statements required under section 6039C(b) for calendar year 1982 is $25,000. The amount of penalty incurred by Y in calendar year 1983 for failure to file the return and statements for calendar year 1982 is $25,000, determined as follows:

Penalty incurred in 1982:	
For failure to file return ($25 per day×230 days)	$5,750
For each failure to furnish a statement required by section 6039C(b)(3) ($25 per day×10 statements×the 334 days from February 1, 1983 to December 31, 1983 ($83,500) but not more than $19,250 (which when added to $5,750 would total $25,000))	19,250
Total	25,000

Since Y has incurred the maximum penalty for failure to file its return and statements required for 1982 by the end of calendar year 1983, no further penalty for these failures is imposed.

Example (4). Under section 6039C(c) foreign person Y is required to make a return for calendar year 1982. Y does not file such return on May 15, 1983 and the failure is not due to reasonable cause. No security has been furnished in lieu of filing. All properties owned by Y in 1982 are U.S. real property interests. Y purchased property M in January 1982 when its fair market value was $10,000. In March, Y purchased property N when its fair market value was $15,000. In November, Y sold property M for $20,000. The fair market value of property N on December 31, 1982, was $20,000. The total of the fair market values of M and N (M as of the date of its sale and N as of December 31, 1982) is $40,000. The maximum penalty which may be imposed on Y for failure to meet the requirements of section 6039C(c) for any calendar year is the lesser of $25,000 or 5 percent of the aggregate of the fair market values of the U.S. real property interests owned by Y at any time during such calendar year. Since $2,000 (5 percent of $40,000) is less than $5,750 ($25 times 230 days, the number of days in calendar year 1983 for which the failure continues), the maximum penalty which may be imposed on Y in 1983 is $2,000. Since the maximum penalty for the failure to file the 1982 return is incurred in 1983, no amount may be imposed for Y's continuing failure to file the return for calendar year 1982 during calendar years after 1983.

(h) **Effective date.** This section shall apply to 1980 and subsequent calendar years. The calendar year 1980 shall be treated as beginning on June 19, 1980 and ending on December 31, 1980.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: December 30, 1982.

David G. Glickman,
Acting Assistant Secretary of the Treasury.

[FR Doc. 83-254 Filed 1-5-83; 8:45 am]
BILLING CODE 4830-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5122]

National Flood Insurance Program; Final Flood Elevation Determination; Texas

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Deletion of final rule for the City of Rosenberg, Fort Bend County, Texas.

SUMMARY: The Federal Emergency Management Agency has erroneously published the final base flood elevation (BFE) determination for the City of Rosenberg, Fort Bend County, Texas at 47 FR 47826, October 28, 1982. This notice will serve to delete that publication.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Ph.D., National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: As a result of ineffectual community notification and lack of the standard period for review of the proposed determination, the Federal Emergency Management Agency has determined that the notice of final flood elevation determination for the City of Rosenberg, Texas, published at 47 FR 47826 on October 28, 1982, should be deleted.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 15, 1982.

Dave McLoughlin,
Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-353 Filed 1-5-83; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for City of Mesa, Arizona; Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Mesa, Arizona. It has been determined by the Acting Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Mesa, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638-[illegible].

The map amendments listed below are in accordance with § 70.7(b):

Map No. 040048 Panel 0020B, published on October 6, 1980, in 45 FR 66116, indicates that Lots 44 through 48, 53 through 66, 100 through 105, and 108

through 124, Hohokam Trails, Unit Two, Mesa, Arizona, recorded as Instrument No. 417006 in Docket 15721, pages 1155 and 1156 in the Office of the Recorder, Maricopa County, Arizona, are located within the Special Flood Hazard Area.

Map No. 040048 Panel 0020B is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on May 15, 1980. These structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Acting Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 10, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-354 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Dade County, Florida; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Dade County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Dade County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number 125098, Panel 0275 D published on October 6, 1980 in 45 FR 66058 indicates that the property at 9721 S.W. 135 Avenue in Dade County, Florida, also known as Lot 25 of Block 9 of Third Addition to Calusa Club Estates, according to the plat thereof, recorded in Plat Book 103 at Page 78 of the Public Records of Dade County, Florida is located within the Special Flood Hazard Area.

Map Number 125098 Panel 0275 D is hereby corrected to reflect that the existing structure on the above property is not located within the Special Flood Hazard Area identified on November 14, 1980. The structure is located in Zone B. However, portions of the lot would still be inundated by the base flood.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 6, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-355 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5908]

Letter of Map Amendment for Hillsborough County, Florida; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Hillsborough County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Hillsborough County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number 120112, Panel 0376 B published on October 6, 1980 in 45 FR 66059 indicates that the Sabal Industrial Park, Phases 1–A, 1–B, and 2, located in Section 7, Township 29 South, Range 20 East, and in Section 12, Township 29 South, Range 19 East, recorded in Plat Book 46, Page 67; Plat Book 50, Page 17; and Plat Book 53, Page 29, respectively, are located within the Special Flood Hazard Area.

Map Number 120112, Panel 0376 B is hereby corrected to reflect that the portions of the above-mentioned property lying outside the limits of the drainage easements shown on the record plats are not within the Special Flood Hazard Area identified on June 18, 1980. These portions are located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 14, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83–356 Filed 1–5–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5923]

Letter of Map Amendment for City of Las Vegas, Nevada; Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Las Vegas, Nevada. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Las Vegas, Nevada, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 325276 Panel 0025B, published on October 21, 1980 in 45 FR 69451, indicates that Lot 1, Block 1, The Village at Washington, Las Vegas, Nevada, recorded as Document No. 1530678 in Book 28, page 9 of Plats, Book No. 1571 of Official Records, in the Office of the Recorder, Clark County, Nevada, is located within the Special Flood Hazard Area.

Map No. 325276 Panel 0025B is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on September 30, 1980. These structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 10, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83–357 Filed 1–5–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for Mequon, Wisconsin; Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Mequon, Wisconsin. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Mequon, Wisconsin, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for those structures as a condition or Federal of federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 555564B, Panel No. 077 published on October 6, 1980, in 45 FR 66089, indicates that the existing residential structures located on Lot No. 20, River Forest Park and Lots Nos. 21 through 24, River Forest Park Addition No, 1, City of Mequon, Ozaukee County, Wisconsin, as recorded in Volume O of Plats, Pages 40 and 41 and Volume R of Plats, Pages 5 and 6, respectively, in the Office of the Register of Deeds of Ozaukee County, Wisconsin, are located within the Special Flood Hazard Area.

Map No. H&I 555564B, Panel No. 07, is hereby corrected to reflect that the existing residential structures located on the above-mentioned property are not within the Special Flood Hazard Area identified on November 7, 1972. The structures are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 3, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83–350 Filed 1–5–83; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 2, 24, 25, 30, 31, 32, 70, 71, 77, 90, 91, 96, 113, 167, 175, 184, 185, 188, 189, and 195

[CGD 82–036]

Rules of Road and Navigational Equipment; Removal of References and Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing all references to the "Rules of the Road" and "western rivers" (See Definitions below) and requirements for navigational equipment from the merchant vessel inspection regulations of Title 46, Code of Federal Regulations. These references and requirements are redundant to, or conflict with, the Inland Navigational Rules Act of 1980 and the International and Inland Navigation Rules of Title 33, CFR. These removals are strictly editorial; they do not relieve vessel owners, operators, or masters from compliance with the applicable navigation statutes and rules.

DATES: This final rule becomes effective for all U.S.-flag vessels on international voyages and all vessels on United States waters other than the Great Lakes on January 6, 1983. On the Great Lakes, this Final Rule becomes effective on March 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Marine Technical and Hazardous Materials Division (G–MTH/12), Office of Merchant Marine Safety, Room 1216, U.S. Coast Guard Headquarters, 2100 2nd St. SW, Washington, DC 20593. (202) 426–2174.

SUPPLEMENTARY INFORMATION: Because the removal of these redundant and conflicting regulations is a nonsubstantive editorial action, the Coast Guard finds that notice and public procedure thereon are unnecessary and may be omitted under 5 U.S.C. 553(b)(3)(B), and that it may be made effective in less than 30 days after publication.

Definitions

"Rules of the Road" is the traditional term for the rules and regulations based on statutes and international agreements that govern the navigation of vessels so as to minimize the possibility of a collision between them. The term "Navigation Rules" is now preferred. The term "western rivers" as used in conjunction with "Rules of the Road" referred to the Mississippi, Missouri, and Ohio Rivers and their tributaries; the Atchafalaya River, and the Red River of the North. "Act" as used in the discussion following means the Inland Navigational Rules Act of 1980, Pub. L. 96–591, December 24, 1980 (94 Stat. 3415 *et seq.*, 33 U.S.C. 2001 *et seq.)*

Discussion

The new Inland Navigation Rules, modeled after the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) went into effect on all United States inland waters, except the Great Lakes, on December 24, 1981 (46 FR 62443, Dec. 24, 1981.). The Inland Navigation Rules will supersede the present Great Lakes Rules on March 1, 1983 (47 FR 15135, Apr. 8, 1982.). The International Navigation Rules are found in 33 CFR Part 81; the Inland Navigation Rules are found in the Act supplemented by 33 CFR Parts 84 through 89. These new Navigation Rules supersede the former "Rules of the Road".

The merchant vessel inspection subchapters (C, D, H, I, R, T, and U) of Title 46, Code of Federal Regulations, contain numerous references to the former "Rules of the Road" and to "western rivers" and requirements for navigational equipment such as navigation lights, whistles, bells, and foghorns which pertain to the international or inland navigation rules. With the coming into effect of the new Inland Navigation Rules, these references and requirements have become obsolete. In view of the goal of Executive Order 12291, February 17, 1981, to "minimize duplication and conflict of regulations", the Coast Guard is removing the definitions of, and references to "Rules of the Road" and "western rivers" and the requirements for navigation lights, whistles, bells, and foghorns wherever they appear in the merchant vessel inspection subchapters of Title 46, CFR. In a separate rulemaking action, Coast Guard docket number CGD 81-059, the Coast Guard is also revising the references to the "Rules of the Road" in the merchant vessel personnel licensing regulations (46 CFR Parts 10 and 187).

Removing these references and requirements is strictly an editorial action to eliminate redundant and obsolete regulations. The International and Inland Navigation Rules in the Act and Title 33, CFR, which govern the safe navigation of vessels, also contain the technical and performance requirements for navigational equipment.

Specific Removals

Section 2.20-5 required that a copy or copies of the applicable "Rules of the Road" publications be carried on board vessels over 65 feet in length operating on the western rivers, inland waters, and Great Lakes. The Act repealed the statutory requirements cited in that section. 33 CFR 88.05 now requires the operator of each self-propelled vessel 12 meters or more in length to have on board, after January 1, 1983, a copy of the Inland Navigation Rules.

The requirements in §§ 25.05-10 and 96.20-10 for lights and sound-signal devices on motorboats not over 65 feet in length operating on inland waters, the Great Lakes, and western rivers were based on Sections 3, 4, and 5 of the Motorboat Act of 1940, 54 Stat. 164 (46 U.S.C. 526b, 526c, and 526d). These sections were repealed by the Act, effective December 24, 1981. Motorboats must now comply with the applicable provisions in the Act and 33 CFR Parts 81, 84, and 88. It should be noted that the vessel length criteria and signal technical details in these parts differ from those in the removed sections. Racing boats, which formerly would have been exempt from the sound-signal device requirements under 46 CFR 25.05-10(b) may now obtain an exemption by applying for a "Certificate of Alternative Compliance" under either 33 CFR Part 81 (International) or 33 CFR Part 89 (Inland). Other general exemption provisions in the Act apply to vessels under 20 meters and under 12 meters in length and vessels built or under construction before December 24, 1980.

The removals described in the following paragraphs affect 46 CFR Subchapter H; the discussion, however, applies as well to similar removals in 46 CFR Subchapters C, D, I, R, T, and U.

Sections 70.10-37 defined "Rules of the Road" and listed the Coast Guard publications containing those rules. Section 70.10-47 defined "western rivers" by referring to Coast Guard Publication CG-184 "Rules of the Road—Western Rivers." Removal of Subparts 77.17, 77.23, and 77.25 obviates the need for these definitions. The term "Rules of the Road" is no longer used in either the Act or in 33 CFR Subchapter E. The term "Western Rivers" is defined in the Act, but that definition differs from the definition referred to in the removed section.

Subpart 77.17: Section 77.17-1(a) was a general restatement of the former requirements of 33 CFR Subchapter D. The design standards for light screens in § 77.17-5 have been superseded by technical performance requirements in Annex I of 33 CFR Part 81 and 33 CFR Part 84.

Subparts 77.20, 77.23, and 77.25: The requirements in these subparts for various types of sound-signaling devices are either redundant to, or conflict with, the requirements in Annex III of the 72 COLREGS and Annex III of the Inland Navigation Rules which are incorporated in Title 33 as Annex III of Part 81 and Part 88, respectively.

Drafting Information

The principal persons involved in drafting this final rule are Mr. Frank K. Thompson, Project Manager, Office of Merchant Marine Safety, and LT Walter J. Brudzinski, Project Counsel, Office of Chief Counsel.

Regulatory Evaluation

This final rule has been evaluated under Department of Transportation Order 2100.5 "Policies and Procedures for Simplification, Analysis, and Review of Regulations" dated May 22, 1980, and Exective Order 12291 and has been determined to be neither significant nor major. Since removal of redundant and conflicting regulations is merely editorial, it will have no effect on the economy in terms of domestic or international competition, cost or price increases, employment, investment, productivity, or innovation. For this reason also, the expected impact of this action is so minimal that no final evaluation has been prepared.

Regulatory Flexibility Analysis

This action has been evaluated under the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat 1164) and is certified to have no significant impact on a susbstantial number of small entities. This action has no significant impact because it is only editorial in nature.

List of Subjects in 46 CFR Parts 2, 24, 25, 30, 31, 32, 70, 71, 77, 90, 91, 96, 113, 167, 175, 184, 185, 188, 189, and 195

Marine safety, Vessels.

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations is amended as follows:

1. The following subparts, sections, and paragraph are removed:

§ 2.20-5
§ 24.10-25
Subpart 25.05 and heading
§ 30.10-62
§ 32.15-1
§ 32.15-3
§ 32.15-5(a)
§ 70.10-37
§ 70.10-47
Subpart 77.17 and heading
Subpart 77.20 and heading
Subpart 77.23 and heading
Subpart 77.25 and heading
§ 90.10-31
§ 90.10-39
Subpart 96.20 and heading
§ 167.40-10
§ 167.40-15
§ 175.10-35
Subpart 184.15 and heading
§ 185.20-5
§ 188.10-63
Subpart 195.20 and heading

PARTS 31, 71, 91, and 189—[AMENDED]

§§ 31.01-5, 71.20-15, 91.20-15, and 189.20-15 [Amended]

2. The last sentence of §§ 31.01-5(a), 71.20-15(a), 91.20-15(a), and 189.20-15(a) is revised to read "The inspection shall be such as to ensure that the workmanship of all parts of the vessel and its equipment is in all respects satisfactory and that the vessel is provided with lights, means of making sound signals, and distress signals as required by applicable statutes and regulations."

§§ 31.10–15, 71.25–10, 91.25–10, and 189.25–10 [Amended]

3. The last sentence of §§ 31.10–15(b), 71.25–10(a), 91.25–10(a), and 189.25–10(a) is revised to read "The lights, means of making sound signals, and distress signals carried by the vessel shall also be subject to the above-mentioned inspection for the purpose of ensuring that they comply with the requirements of the applicable statutes and regulations."

PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

4. The note following § 113.65–5 is revised to read as follows:

§ 113.65–5 General requirements.

* * * * *

Note.—The general requirements for whistles and foghorns are in Part D of Section 2 of the Inland Navigational Rules Act of 1980, Pub. L. 96–591, December 24, 1980 (94 Stat. 3429 *et seq.*; 33 U.S.C. 2032 *et seq.*), 33 CFR Part 81, and 33 CFR Part 86.

(91 Stat. 310, 94 Stat. 3433; 33 U.S.C. 1607, 2071; 49 CFR 1.46(c)(11), (n)(14))

Dated: December 27, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 83–59 Filed 1–5–83; 8:45 am]

BILLING CODE 4910–14–M

Research and Special Programs Administration

49 CFR Part 173

[Docket HM–139E; Amdt. No. 173–159]

Conversion of Individual Exemptions into Regulations of General Applicability

Correction

In FR Doc. 82–32905 beginning on page 54824 in the issue of Monday, December 6, 1982, make the following correction:

On page 54827, middle column, in § 173.1015 (a)(1) "not more than 2 grams" should have read "not more than 12 grams".

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

40 CFR Parts 1245 and 1246

[No. 37025]

Rail Carriers; Revisions to the Preliminary Report of Number of Employees of Class I Railroads and the Reports of Employees, Service, and Compensation, Filed by Class I Railroads

AGENCY: Interstate Commerce Commission.

ACTION: Notice of postponement of effective date of final rule.

SUMMARY: At 47 FR 53886, November 30, 1982, the Commission revised the monthly annual report forms pertaining to the compensation, service hours, and number of Class I railroad employees. Upon consideration of the comments filed by The Association of American Railroads (AAR) on behalf of its member railroads, the effective date of the final rule in the proceeding will be postponed from the reporting year beginning January 1, 1983 until January 1, 1984.

The AAR's request for postponement is being granted because of the substantial difference in reporting categories adopted in the final rule and those proposed in the notice of proposed rulemaking. The final rule was not served until November 18, 1982 and it did not leave sufficient time to implement programming changes for the revised reporting categories.

In order to provide for more accurate reporting of employees service and compensation data, the effective date of the final rule will be postponed until January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275–7448.

Decided: December 29, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–379 Filed 1–5–83; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 48, No. 4
Thursday, January 6, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1209

[Docket No. 82-18; Notice 4]

Incentive Grant Criteria for Alcohol Traffic Safety Programs

Note.—This document originally appeared in the Federal Register of Wednesday, January 5, 1983. It is reprinted in this issue to meet requirements for publication on the Monday–Thursday schedule assigned to the Department of Transportation.

AGENCY: National Highway Traffic Safety Administration, (NHTSA), DOT.

ACTION: Notice of proposed rulemaking and notice of public hearings.

SUMMARY: This notice proposes criteria for determining effective programs to reduce traffic accidents resulting from persons driving while under the influence of alcohol. This effort is undertaken pursuant to Pub. L. 97–364, which provides for two categories of federal incentive grants, basic grants and supplemental grants, to States that implement effective programs to reduce drunk driving. This rulemaking will also set forth the means by which a State may certify to NHTSA facts necessary to establish grant eligibility, and the procedure by which NHTSA will award such grants. This notice also announces a public hearing and invites submission of written comments to the public docket on this subject.

DATES: A public hearing will be held on January 11, 1983. All written comments must be received by January 14, 1983. The agency will isue a final rule on February 1, 1983. The criteria for a basic grant will go into effect upon publication of the final rule. The criteria for a supplemental grant are scheduled by statute to become effective on April 1, 1983.

ADDRESSES: The January 11, 1983, hearing will be held at the Omni International Hotel, Elizafield Room, 1 Omni International, Atlanta, Georgia. The hearing schedule will be from 9 a.m. to 12 p.m. and from 1:30 p.m. to 5 p.m.

Written comments should refer to the docket number and the number of the notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington D.C. 20590 (Docket hours are 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. George Reagle, Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration, 400 Seventh Street, SW. Washington, D.C. 20590 (202–426–0837). To schedule a time for appearing at the January hearing contact: Marian Tomassoni or Joe Jeffrey, Office of Associate Administrator for Traffic Safety Programs, NHTSA 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–1634).

SUPPLEMENTARY INFORMATION: On November 4, 1982, (47 FR 51152) the National Highway Traffic Safety Administration (NHTSA) issued an advance notice of proposed rulemaking seeking comments on possible ways to implement the alcohol traffic safety incentive grant program established by Pub. L. 97–364 (23 U.S.C. 408, the Act). NHTSA primarily sought comments on what definitions and criteria the agency should establish for States to be eligible for both basic and supplemental grants, which can total up to 50 percent of the amount apportioned to a State under Section 402 of the Highway Safety Act of 1966.

To provide an increased opportunity for public comment, NHTSA held a public hearing on December 13, 1982, in Washington, D.C. on the proposal. Persons representing numerous States, professional organizations, citizen groups, and others testified. In addition, many interested parties submitted written comments to the docket for this rulemaking.

The proposal being issued today is based on the agency's review of the hearing testimony, comments received on the advance notice of proposed rulemaking and the Interim Report to the Nation prepared by the Presidential Commission on Drunk Driving. The agency will hold a public hearing on this proposal on January 11, 1983 in Atlanta, Georgia to coincide with a meeting of the National Association of Governors' Highway Safety Representatives. Significant comments to the first notice are addressed below.

Basic Grant Criteria

The Act established four criteria that must be met by a State in order to be eligible for a basic grant in the amount of 30 percent of each State's fiscal year 1983 apportionment under section 402 of the Highway Safety Act. The agency notes again that because the four basic criteria are statutorily mandated by Congress, the agency does not have the authority to change, by deletion or addition, the substantive requirements for a basic grant, as was requested by some of the commenters. As was also previously noted, however, several of the terms used in the statutory language setting forth the basic grant criteria were undefined, and the agency sought comments on several possible definitions that the agency believed would be consistent with the legislative purpose of the Act. In addition, NHTSA sought comments on ways by which States might most easily and effectively demonstrate that the basic grant criteria have been met.

Criterion No. 1: Prompt License Suspension

The first criterion established by Congress for basic grant eligibility requires:

> The prompt suspension, for a period not less than ninety days in the case of a first offender and not less than one year in the case of any repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffice offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

Terms Used: "Prompt"

The agency proposed to define "prompt" as a mandatory suspension of the privileges of a driver's license which occurs no later than 30 days after a person is arrested for drunk driving. A number of States commented that in order to comply with such a stringent time requirement, they would have to implement entirely new programs to process driver license suspensions

administratively. A representative of the State of New Jersey estimated that adopting such a system, with all the necessary due process safeguards, would cost more than the value of any basic grant for which it might therefore become eligible, and noted that under its system of judicially administered suspension, the average license suspension occurs within 46 days. Based on a survey of its membership, the National Association of Governors' Highway Safety Representatives (NAGHSR) recommended the agency define prompt suspension as suspension within 45 days. NAGHSR noted that 19 of the 34 members responding to the survey currently take at least 60 or more days to suspend or revoke a license. NAGHSR said setting a 45-day period, would act as an incentive for States to accelerate their license suspension processes. Rhode Island recommended that the agency consider requiring States to process a certain percentage of all suspensions within the 30 day criterion.

The agency recognizes that currently most States impose a license suspension within 30 to 60 days after a person is convicted of an alcohol-related traffic offense, with the process of trial and conviction taking anywhere from 60 days to one year from the date of arrest. The legislative history of the Act emphasizes that Congress wanted to increase the deterrance effect of license suspension by cutting down on the long delays between arrest and subsequent license sanction.

The Presidential Commission on Drunk Driving (the Commission) in its Interim Report to the Nation also stressed the need to establish license suspension as a swift and certain penalty for drunk driving. The Commission's report cited examples of how such systems can be established either administratively or judicially.

Experience in such States as Minnesota and Iowa has shown that administrative license suspension can be effective. The agency recognizes that setting up the necessary administrative procedures can be costly, but believes that in carrying out its authority under the Act it would not necessarily be inappropriate to consider measures which may not be initially cost-effective, in and of themselves, or in comparison with the size of potential grants.

To accommodate these concerns, the agency proposes to define "prompt" as suspension of a license within 30 days of arrest for at least 60 percent of the suspension cases. In addition, the acency proposes that the overall average time to suspend a license cannot exceed 45 days.

The agency recognizes that if suspensions are judically imposed, there may be an increase in requests for jury trials and thus the average time to suspend a license may increase. The agency believes that permitting the average time to be 45 days will allow a sufficient margin of time to account for instances where trial backlogs prevent suspension within 45 days.

As discussed in the comments, the agency recognizes that all States may not be able to comply with a 30-day requirement, but that some already do. The agency believes that allowing 60 days to process a suspension, as requested by some States, would not require States to increase their efforts as required by the Act. Requiring States to suspend licenses within 30 days of arrest would require many States to significantly improve their judicial or administrative license suspension process. A 30-day period will also allow States that choose to use an administrative process sufficient time to provide license suspension appeal hearings that will satisfy the due process standard.

The agency cannot adopt the suggestion of the California Highway Patrol that the time period for suspension be measured from date of conviction, rather than the date of arrest. The Act specifically mandates that the time period is to be measured from date of arrest.

In the advance notice, NHTSA said that States which authorize the immediate suspension of driving privileges by physical confiscation of a license upon arrest would meet the prompt suspension criterion. One commentator has correctly noted that the physical taking of a license does not itself suspend a license, and that suspension only results from a subsequent action of the licensing authority in the State.

"Suspension"

Several of the commenters, such as the American Automobile Association (AAA), Florida Bureau of Highway Safety and the California Highway Patrol, requested the agency specifically to include within the definition of "suspension" the use of restricted licenses, i.e., a suspension of some, but not all, driving privileges for a stated period. Such restricted licenses commonly are used to permit driving for limited purposes, such as going to work and attending an alcohol education or treatment program. Several commenters, such an NAGHSR, also noted that the impact of a 90-day suspension can vary widely between rural areas, where public transportation is limited or unavailable, and urban areas, where a loss of driving privilege may not cause transportation difficulties. All commenters addressing the issue agreed that restricted licenses should only be used for first offenders.

Because the issue of restrictive licenses was not addressed by the majority of commenters the agency seeks additional comment on this issue. The principal intent of the draftsmen was as stated in the Act's full 90-day suspension of all driving privileges. Testimony was received by the Commission on both sides of the issue, and tended to show both lax and stringent enforcement of restrictions, depending on the jurisdictions and available enforcement resources involved. The Commission has tentatively recommended that strict uniform standards should be adopted to govern such sanctions, and that they be allowed only in exceptional cases.

The agency believes that the carefully controlled use, in exceptional circumstances specific to the offender, and under statewide published guidelines, of a 30-day full suspension of driving privileges followed by a 60-day period of enforced restricted driving, could fulfill the congressional purposes of using license suspension as a key deterrent to drunk driving. A promptly imposed 30-day period of full suspension impresses the drunken driver that punishment is swift and certain. Allowing the use of restricted license can help ensure that the driver can attend an appropriate education/rehabilitation program within a short time of committing the offense.

The agency believes that the use of restricted licenses would not in any event be warranted for repeat offenders or for those who refuse to take a chemical test under the implied consent statutes.

NHTSA therefore seeks comments on two alternative definitions of the term "suspension." The first would define suspension as including only a full loss of driving privileges for the statutory period of 90 days. The second would allow the use of a 30-day full suspension, followed by a 60-day period of restricted driving privileges, under State-wide published guidelines, in exceptional circumstances specific to each offender, and for the limited purpose of driving between a residence and a place of employment, and/or to and from an alcohol education or treatment program.

Repeat Offender

NHTSA's proposal to define a repeat offender as anyone convicted of DWI or

a similar alcohol-related traffic offense more than once in five years was supported by the commenters and therefore the agency is proposing to adopt the definition in the final rule.

Refusal of Second Test

The agency proposed that mandatory license suspension should apply to a refusal by a driver to take more than one chemical test, even if the driver consented to the first test. The California Highway Patrol support the use of a second test in instances where the officer has a reasonable belief that the driver is under the influence of drugs. North Carolina, however, suggested that the requirement for a second test is unnecessary and could be counterproductive by eroding public confidence in the alcohol breath test program.

One commenter who supported the proposed approach nevertheless suggested that the agency either delete the requirement or incorporate it as a criterion for a supplemental grant, on the asserted grounds that such a requirement could necessitate a change in every State law in a very short time for States to be eligible for a basic grant.

The statutory language does not permit such an interpretation. The agency's understanding of the Congressional intent in the language of the criterion is a desire to ensure that where a second test is authorized, and proposed to a driver under State law, a refusal should be grounds for mandatory suspension. The agency concurs and proposes no change.

Demonstrate Compliance

Commenters did not oppose the proposed showings that NHTSA set forth by which States might demonstrate compliance with this criterion. The agency therefore proposes to adopt a requirement in the final rule that States provide NHTSA with a copy of the law, regulation or guideline implementing mandatory license suspension, information on the number of licenses suspended, the average length of suspension for first-time and repeat offenders and for refusals to take chemical test and the average number of days between the offense and the sanctioning action.

Criterion No. 2: Mandatory Sentence

The second criterion established by Congress for basic grant eligibility requires:

> A mandatory sentence, which shall not be subject to suspension or probation, of (i) imprisonment for not less than 48 consecutive hours, or (ii) not less than ten days of community service, of any person convicted of driving while intoxicated more than once in any five-year period.

Commenters uniformly supported the imposition of mandatory sentences. Several commenters, such as New York and Missouri, requested the agency to more specifically define what is meant by "imprisonment". They pointed out that most States have a serious problem with jail overcrowding. To provide States with more flexibility, the agency is proposing that imprisonment be interpreted so as to include confinement (restriction of freedom to leave) not only in the traditional prison/jail environment, but also in such places as minimum security facilities or in-patient rehabilitation/treatment centers. Confinement in such facilities would provide the same deterrence as confinement in jail.

Several California agencies objected to the requirement that the period of minimum imprisonment be 48 *consecutive* hours. They pointed out that in California the sentence time does not have to consist of full 24-hour days nor does it have to be consecutive. The criteria of "48 consecutive hours" is statutorily mandated in the Act and therefore cannot be changed by NHTSA. Likewise, Massachusetts' suggestion that the penalty be more severe and Missouri's suggestion that requiring participation in a long-term rehabilitation program with supervised probationary conditions be adopted as an alternative to a mandatory sentence cannot be adopted, although more severe minimum penalties would of course establish eligibility.

Demonstrate Compliance

No commenter opposed the proposed requirement for demonstrating compliance with this criterion. Therefore, the agency proposes to adopt, in the final rule, a requirement that States provide NHTSA with copies of the existing legislation or regulations on the subject, and with information on the numbers of people convicted of an alcohol-related traffic offense more than once in any five year period, the places of confinement used and the average sentences imposed for those persons.

Criterion No. 3: Illegal Per Se Laws

The third criterion established by Congress for basic grant eligibility requires State to have a law that:

> Provides that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

The agency's proposal to accept a State *per se* law, which makes the act of driving with a blood alcohol concentration (BAC) of 0.10 percent an offense in and of itself as evidence of compliance with this criterion was uniformly supported and the agency therefore proposes to adopt the same interpretation in the final rule.

Criterion No. 4: Increased Enforcement/ Public Information Efforts

The fourth and final criterion established by Congress for the basic grant eligibility requires:

> Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

NHTSA proposed that States demonstrate increases in their levels of alcohol-related enforcement and public information efforts by comparing the levels of effort in fiscal year 1982 with fiscal year 1981. The use of 1981 and 1982 was viewed as reasonable by some commenters, such as Mississippi. Others, such as the International Association of Chiefs of Police (IACP), commented that the 1981–1982 time frame might not provide an accurate measure. IACP said that many law enforcement agencies have emphasized efforts to reduce drunk driving as a priority program for the past several years. The agency agrees that it may be more appropriate to use a baseline which takes into account a State's activities over a longer period of time. The agency therefore proposes that the baseline measurement consist of either the comparison of FY 82 (or later years) with the one preceding year, or with the average of the State's enforcement and public information activities over the three years preceding the year in which a State first applies for a grant. However, to qualify for subsequent year grants a State should demonstrate increased efforts over the preceding year program.

Several commenters, such as the California Highway Patrol and Illinois State Police, stressed that in determining whether a State is in compliance with this criterion, NHTSA should not emphasize specific indicators, such as arrest and conviction rates, but should instead look to whether the efforts have produced a reduction in drunk driving accidents, deaths and injuries. Other, such as the IACP and NAGHSR, said that the agency should not concentrate solely upon on-the-road inforcement efforts, but should also examine how a State implements a systems approach to the problem.

The purpose of this criterion is to deter drunk driving by increasing the public's perception of risk of being

caught and punished. The agency agrees that the emphasis should be on improvements to the total drunk driver control system that contribute to that purpose, and not only on one or more specific indications of success.

To provide the States with flexibility to demonstrate that they have increased their enforcement and public in information efforts, the agency has tentatively decided not to specify what data a State must provide. States would thus be able to determine which indicators they believe are most appropriate to demonstrate their increased efforts. Those indicators could include development of supportive administrative policy, increases in arrests and convictions, license suspensions/revocations, decrease in repeat offenders, increased training for law enforcement, prosecutors and judges, decreases in alcohol related crashes, increases in rehabilitation referral rates, changes in the public's perception of risk, number of PSA's, media support and citizen involvement in reporting drunk drivers.

Supplemental Grant Criteria

Need for Flexibility

Almost all of the commenters, including NAGHSR and the National Highway Safety Advisory Committee (NHSAC), urged the agency to provide States with maximum flexibility in determining which supplemental grant criteria they might choose to implement. They emphasized that each State should have the ability to tailor its program to fit its own situation. Several States, such as Idaho, Iowa and others, suggested that rather than setting specific minimum criteria a State must meet, the agency should create a list of criteria and specify that States have to meet a certain number or percentage of that list.

Some States, such as Wisconsin and New York, suggested that the agency develop a system that would give a State credit for incremental compliance. Thus, Wisconsin suggested that a State would receive some credit for proposing legislation, even if that legislation did not pass.

The agency recognizes that there is a legitimate need to provide States with flexibility in designing a program that will be effective in their State. At the same time, the agency must act in accordance with the Congressional mandate that the agency establish criteria for effective programs and the section 408 funds be used as an incentive to encourage States to significantly improve their alcohol traffic safety programs. The legislative history of the Act indicates that Congress was concerned that States not only adopt and implement new programs to combat drunk drivers, but that the States fully implement the programs and authority that they already have in place.

Based on the criteria proposed in the advance notice, criteria suggested by individual commenters and criteria contained in the Presidential Commission's Interim Report, the agency is proposing to establish a total of twenty-one eligibility criteria for receiving a supplemental grant. For the purpose of emphasis, NHTSA has ranked the supplemental criteria in what in its view is their general relative order of significance and potential impact on the total alcohol highway safety problem. While this may not mean that Criterion No. 3, for example, is necessarily of less importance than Criterion No. 2, it may be taken to indicate a belief that large scale differences in placement are considered important. Thus, early criteria may be considered to be greater in significance than lowest ranking criteria.

The agency is seeking comments on two alternative ways of establishing requirements on which criteria a State would have to have in place and implement or adopt and implement in order to receive a supplemental grant.

The first alternative on which the agency seeks comments would be to provide that States can receive a grant of less than 20 percent of its fiscal year 1983 section 402 funds if it implements some, but not all, of the twenty-one criteria. The agency requests comments on what proportion of the full 20 percent grant should be given to a State for each criteria that it adopts and implements. As demonstrated by the agency's ranking of the criteria, the agency recognizes that some criteria are of more significant than others. Thus, the agency seeks comments on the possibility of weighting the criteria so that implementation of the more important ones would mean that a State would receive a larger incentive grant. Finally, the agency requests comments on whether it should establish an upper limit on the number of criteria a State has to implement in order to be eligible for a full 20 percent supplemental grant.

The second alternative on which the agency seeks comments would require States to implement all of those criteria that the Governor of the State has the current authority to implement without requiring the concurrence of another branch of the State government. The agency believes that requiring a State to implement those criteria which it is administratively possible for the Governor to implement is consistent with Congress's concern about States fully implementing existing programs or authority. In instances where a Governor already has existing, but unused, authority to take an action such as establishing a State Task Force on alcohol traffic safety, the agency believes that the authority should be exercised before a State can be eligible for a supplemental grant. In instances where the administrative authority already exists to adopt a criterion, States can implement a program in a minimal time.

The agency recognizes that there may be variations between States in the number of criteria that it is administratively possible to implement. Thus, the agency will accept a State's certification of the number of criteria that it is administratively possible to implement solely on the basis of the Governor's authority.

Under this approach, in addition to taking those actions which can be administratively implemented, a State would also be required to implement a certain number of additional criteria to be eligible for additional supplemental grant funding. For each succeeding year additional criteria would be required as well. In meeting this eligibility requirement, States would have the flexibility of determining which specific criteria to implement.

The agency specifically requests comments on how the appropriate number of additional criteria might be established, relatively or absolutely.

The agency recognizes that in several States, either the legislature or the Governor, or both have recently taken action that would under this rule constitute implementation of a criterion, e.g., raising the drinking age or appointing a task force. On the other hand, it appears to have been the primary intent of the Congress to induce future action through the new program. The agency believes that the phenomenon of momentum and the need to capitalize on very recent widespread attention to the issue makes it unreasonable not to recognize very recent such efforts in determining eligibility. The agency thus proposes to recognize such actions as qualifying implementation of the criteria where such has taken place either in the legislative session current at the time of enactment of this Act (Pub. L. 97-364, October 25, 1982) or during the previous legislative session of the State.

To summarize, under each alternative, the agency is proposing that in order for a State to qualify for a supplemental grant in subsequent years, it must adopt and implement additional supplemental

criteria, and demonstrate enhanced performance in criteria adopted in prior years. The key to subsequent grants is progress towards achieving program goals and objective as outlined in the State's three year Alcohol Highway Safety Plan. The effectiveness of existing alcohol highway safety programs should rise each year in terms of improved performance, the public's perception of risk, system improvements, etc.

The agency has tentatively decided against creation of a system that would recognize attempted, but not actual, implementation of a criteria. The most frequent example suggested by commenters was introducing, but not passing, legislation to set the drinking age at 21. The Act provides that the agency is to award supplemental grants to States that "adopt and implement" effective programs to reduce drunk driving. Thus, we construe Congress as intending that States are to be rewarded for taking specific actions, not for merely proposing those actions. The agency does note that a systematic, aggressive program of legislative action and support for such enactment at the State level, and as part of a overall program, could qualify as an indicator of increased overall program support and emphasis, which itself could assist in satisfying other criteria.

1. Raising Drinking Age to 21 for All Alcoholic Beverages. As discussed in the advance notice, research has clearly established that raising the drinking age to 21 for all alcoholic beverage results in both a decrease in the number of alcohol-related crashes and a decrease in the number of alcohol-related fatalities. Raising the drinking age to 21 has been strongly endorsed by the Presidential Commission and the National Transportation Safety Board.

Although the commenters uniformly supported increasing the drinking age to 21, they were concerned about how States that have partially raised their drinking age would be treated. Wisconsin, Rhode Island and New York, for example, urged that States be given credit for incrementally raising their drinking age, e.g., from 18 to 19.

The agency believes that there is an important need for uniformity in the drinking age because of the substantial problems caused by teenagers in border communities who drive to neighboring States with a lower drinking age. The agency further concludes that in view of current State laws and the status of research into age related eligibility requirements, the strongly preferred uniform age is 21 years for all alcoholic beverages.

The agency has thus tentatively concluded that States should only be permitted to apply this criterion toward qualification for a supplemental grant if they enacted, whether or not fully implemented, legislation which would immediately or over limited period of time, (e.g. not to exceed three years) raise the drinking age to 21 for all alcoholic beverages. The agency is concerned that rewarding partial compliance would lessen the incentive further to move toward full compliance.

2. Designation of State Alcohol Highway Safety Coordinator. States generally supported the designation of a single individual as responsible for the coordination of a State's alcohol traffic safety program. The California Highway Patrol, however, objected that setting such a position would require "an entirely new bureaucracy." New York's Division of Alcoholism and Alcohol Abuse noted that because planning requires the integration of a number of disciplines and agencies, a group representing each of those disciplines should participate in and be responsible for program coordination.

Current experience in several States shows that designation of a single program coordinator does not require the establishment of an entirely new bureaucracy. NHTSA recognizes that people from many different disciplines must be consulted in order to successfully coordinate a State-wide program and that a panel or task force is an appropriate way to help coordinate the entire program. However, the agency still believes that it is important that a single individual be designated as overall coordinator to ensure all appropriate agencies are fully involved in the drunk driver control system.

3. Rehabilitation and Treatment. A substantial number of the commenters, such as the National Council on Alcoholism and State alcohol treatment agencies, urged the agency to require the use of rehabilitation and treatment as one of the supplemental criteria. They noted, and the agency fully recognizes, that rehabilitation and treatment are a necessary adjunct to an effective drunk driver control system.

In the advance notice, the agency expressed its concern about the need for uniform standards and procedures for creating and operating the program. Based upon an agency-funded demonstration project, the agency proposed that the program be at least one year in length. A number of commenters requested that a minimum time not be set, because of the variability in how different people respond to treatment. To provide States with increased flexibility the agency has decided not to propose a specific minimum time for a treatment program. It is important to note that the only treatment program for problem drinkers that has, in the agency's judgment, been statistically *proven* to be effective in reducing recidivism on a general basis was the comprehensive DWI Offender Treatment Project in Sacramento, California, where long term treatment (1 year) and follow-up (2 years) was required. The agency is concerned about the need for some State oversight of such programs to ensure that they are effectively planned and operated. The agency therefore proposes that each State set minimum standards for rehabilitation and treatment programs.

States can demonstrate compliance with this criterion by providing the agency with the law or regulations requiring or authorizing the treatment referral program along with information on the types and duration of their rehabilitation and treatment programs and a summary of their uniform standards and procedures for creating and operating their programs.

4. State and Local Task Forces. In its interim report, the Presidential Commission noted that:

> The development of State and local Task Forces has proved to be central to the development of more effective local and State responses to drunk driving. These Task Forces provide a mechanism to bring together governmental officials and non-governmental leaders in an effort to increase public awareness of the problem, develop more effective legal responses to it, and to develop governmental and non-governmental programs of drunk driving countermeasures.

Several States, such as California and North Carolina, noted in their comments the valuable role of Task Forces in examining new approaches for reducing drunk driving. NHTSA, therefore, proposes that creation of State and local Task Forces become one of the supplemental grant criteria. The agency has developed guidelines to assist States and local communities to establish Task Forces. Those guidelines are found in the agency's publication "Task Force Implementation Guidelines for the Development of State and Community Alcohol Highway Safety Programs." As a minimum a State should have a Task Force and active plans should be underway to encourage and assist in the establishment of county, city, or Regional Task Forces.

5. Statewide Driver Record System. Commenters, such as AAA and Citizens for Safe Drivers Against Drunk Drivers and Other Chronic Offenders (CSD), supported the need for an up-to-date,

readily accessible system of driver records to identify repeat offenders. The advance notice sought comments on a proposed requirement that the system be operated so that conviction information is actually recorded in the system within 30 days of conviction, license sanction or the completion of the appeals process. Mississippi, the only State to directly address the issue of timeliness, said that 90 days is needed to process conviction and license actions. The agency needs additional information from States on the current and potential capabilities of their records system before it can resolve the issue of what, if any, requirements it should set on timeliness. The agency specifically requests States to address this issue in their comments on this notice but proposes at this time to retain the 30-day requirement originally proposed.

The agency also sought comments on public access to the driver records. CSD strongly supported full public disclosure. Illinois recommended that statistical information on DWI charges that have been subsequently reduced should be part of the public record, but that the public should not have access to specific information on individual cases. The New York Division of Alcoholism and Alcohol Abuse stated its concerns about whether information would be disclosed that indicates that an individual is receiving or has received treatment for alcoholism. It said that such disclosures could be a violation of state law and Department of Health and Human Services' confidentiality regulations. The agency requests additional commenters to address the issue of public accessibility and the effect of State privacy laws on accessibility.

The Presidential Commission's Interim Report and CSD raised several important points concerning the operation of record systems, including the use of a uniform traffic ticket and participation in the National Driver Register. The agency is proposing to adopt those recommendations as a part of supplemental criterion No. 14.

One of CSD's recommendations, however, is crucial to the operation of the records system. CSD noted that some States expunge their records within two or three years, which makes it difficult to identify repeat offenders. The agency concurs with this concern, and therefore, proposes that States retain their records for a period of five years in order to meet the driver record supplemental criterion; such a requirement is consistent with the agency's proposed definition of "repeat offender" for the purposes of the basic grant, and with the agency's understanding of the intent of the Congress in enacting the National Driver Register Act, Title II of Pub. L. 97-364, signed by the President on October 26, 1982.

6. Locally Coordinated Programs. As emphasized in the advance notice, the agency believes that drunk driving has become a national problem by virtue of being first a local problem in every locality. The success of any alcohol traffic safety effort is dependent upon local communities recognizing, understanding and accepting the responsibility for solving this problem.

While endorsing the concept of locally-coordinated programs, a number of States, such as North Carolina and Connecticut, said that implementation of the local programs will be costly. A number of States pointed out statutory and administrative problems they have in implementing local programs. California, for example, said that currently it has no statutory provisions to allow fines to be funneled back to local programs.

The agency recognizes that implementation of programs that are locally coordinated may incur some increased costs and may necessitate enactment of new legislation. However, a number of States, such as New York and Virginia, have found that the costs of a local coordinator are minimal when compared to overall system improvements. These programs can be established by local jurisdictions and need not be restricted to a specific size community or region. The agency would prefer that communities decide the geographic area to be involved in a locally coordinated program. It can be a city, county or any combination of cities, towns or counties forming a regional alcohol traffic safety community. As discussed in more detail later in this notice, the agency believes that these programs can eventually become self-sufficient. Because of the overriding importance in having the primary drunk driver effort at the local level, the agency proposes to adopt the requirement for locally coordinated programs as one of the final supplemental criteria.

7. Prevention and Education. The commenters uniformly supported making a prevention and education program designed to change the societal norm relative to drunk driving a supplemental criterion. Many commenters discussed the need for a long-term program aimed at the pre-driver and young driver population. The agency agrees that the long-term success of any alcohol safety effort is, in large part, dependent upon establishing responsible attitudes toward alcohol use and driving among today's youth and, therefore, proposes to adopt prevention and education as one of the supplemental criteria.

States can demonstrate compliance with such a requirement by providing a brief description of their prevention and education program and discussing how it relates to changing societal attitudes and norms against drunk driving. This should include a comprehensive kindergarten through twelfth grade education program as well as involvement of the private sector groups and parents. In particular, a State should provide information on its youth alcohol traffic safety programs.

8. Screening. The use of pre-sentence screening was strongly supported by several commenters, including Oklahoma and AAA. New York agreed with the agency's proposal that the courts be given the authority to order such screening, but the use of the screening not be mandatory.

Florida suggested that the emphasis be placed on the use of screening and not on the pre-sentence timing of the screening. Florida noted that it currently uses screening as a part of its probation procedures and as a link to its education and treatment programs.

The agency agrees with Florida that the importance of the screening is to identify problem drinkers and to see that they receive appropriate education and rehabilitation. The agency proposes to adopt as a supplemental criterion the requirement that States have a screening procedure. States could demonstrate compliance with this criterion by submitting a copy of the law authorizing screening and providing a brief description of the screening process. The agency requests further comment on whether only pre-sentence screening should be included in this criterion.

9. Evaluation Systems. Individual alcohol countermeasures and the system as a whole require continual review and scrutiny in order to determine which of these measures work and which do not work. In order for States to be able to evaluate the progress and impact of their comprehensive alcohol programs, evaluation systems should be designed and implemented to measure performance of their counter-measures and overall impact of the program. Progress and impact should be made known and available to State and local governments, legislative committees, and citizen groups.

Minimum requirements for qualification of the system would be the demonstration of an adequate State-

wide data reporting collection system which could collect pertinent data elements, such as crashes, arrests, convictions, etc. In addition, an evaluation section as part of the Alcohol Safety Plan would be required that would specify the kind of data to be collected, and the appropriate disseminations of the data in terms of reports and analysis.

10. Self-Sufficiency. Although the advance notice discussed the importance of State and local program becoming self-sufficient, self-sufficiency was not proposed as a separate criterion. The agency believes that because of Congress' intent that the section 408 incentive grants be used as "seed money", more emphasis should be placed on State and local programs becoming self-sufficient.

As emphasized in the advance notice, the agency believes that making the drunk drivers who create the problem pay for its solution is sound policy. The agency recognizes, as stated by several commenters, that legislation may be needed in order to redistribute the offenders' fines, court fees and education and treatment program tuition back to State and local agencies to pay for the system. However, enactment of such legislation is one way of assisting those programs to become financially self-sufficient and self-sustaining.

The agency, therefore, proposes to adopt as one of the criteria a requirement that States take the necessary steps to ensure that their alcohol traffic safety programs will become self-sufficient. States can demonstrate compliance by providing a plan how they intend to make their programs self-sufficient. Specific progress toward implementation of the plan must be shown in future years to continue to claim this as a supplemental criterion.

11. Use of Roadside Sobriety Checks. There was a sharp difference of opinion among commenters on the use of roadside checks to detect drunk drivers. Both the California Highway Patrol and AAA opposed their use on constitutional grounds. Mississippi said that it widely uses them as an integral part of its alcohol safety program, and U.S. Representative Barnes, one of the sponsors of the Act, expressed his strong support for the use of roadside sobriety checks.

The agency believes that the selective use of reasonable roadside checks can be supported on constitutional grounds. An important effect of the checks is to increase the public's perception of the risk of being caught for drunk driving.

The agency proposes to adopt the use of roadside checks as one of the supplemental criteria in the final rule. States can demonstrate compliance with this criterion by providing information on the frequency and area where roadside checks are being used, the purpose of those checks and a copy of their regulation, law, or policy authorizing the use of roadside sobriety checks.

12. Citizen Reporting. In its Interim Report, the Presidential Commission recommended that states encourage citizens to report drunken drivers to the police. The Commission said that:

> This program of citizen involvement increases the public's perceived and actual risk of apprehension and adds to general deterrence. In Nebraska from June 1981 to May 1982, for example, 2,836 suspected drunk drivers were reported to the police and, as a result, police intercepted 1,827 potentially drunk drivers and arrested 1,428. Similar results have been achieved in several other States.

The agency believes that citizen reporting programs can contribute to the overall success of an alcohol traffic safety program by enhancing deterrence and therefore proposes to make such a program one of the supplemental criteria. States can demonstrate compliance by submitting a description of its citizen reporting guidelines or policy and the degree of participation, e.g., number of citizens reporting and number of arrests resulting therefrom.

13. Enactment of a BAC of 0.08 Percent as Presumptive Evidence. In the advance notice, the agency proposed that States enact a law making a .05 percent BAC presumptive evidence of driving under the influence of alcohol. Although Connecticut supported the proposal, several commenters argued that a BAC of 0.05 was too low a level at which to create a presumption that a driver is impaired.

The California Highway patrol said that there is "no general agreement among authorities that a BAC of 0.05 constitutes 'under the influence' or impairment." Wisconsin urged the agency to consider establishing a BAC of 0.08 percent as presumptive evidence of impairment.

The agency believes that the setting of a presumptive level of impairment can assist enforcement officials in making arrests and obtaining convictions where impairment is evident from the driving action in a particular case. Although there is uncertainty surrounding whether a BAC of 0.05 percent would constitute impairment for all drivers, the agency believes that there is sufficient research to show that a BAC 0.08 percent represents a level which can commonly produce driver impairment or physical effects which lead to conduct properly chargeable as driving under the influence. At this time, and for this purpose, the agency therefore proposes to retain the level of 0.05 percent as requisite for satisfaction of this criterion. States can demonstrate compliance by providing a copy of the applicable law.

14. Uniform Licensing Procedures. In its Interim Report, the Presidential Commission recommended that States fully participate in the National Driver Register and the Driver's License Compact and use a one-license/one-record policy. The Commission said that "Cooperation between States in sharing information on driver licensing and violations in order to stop those with revoked or suspended licenses from becoming licensed in another State is a necessity." Similar suggestions were made by CSD.

The Commission and CSD also suggested the need for a uniform traffic ticketing and disposition procedure. Such a system is needed in order to follow each charge from arrest through prosecution and back to the central State file. It also provides excellent system and financial accountability.

The agency recognizes that it is important to have States share driver licensing suspension and revocation information and therefore is proposing to adopt this suggestion as one of the supplemental criteria. States can demonstrate compliance by providing a copy of the executive order, regulation or law setting up a uniform traffic ticketing system. In addition, States would have to show that they have signed the Driver License Compact and are participating in use of the National Driver Register.

15. Preliminary Breath Tests. Use of preliminary breath tests (PBT's) was supported by a number of States, such as Wisconsin, Connecticut and Mississippi. Several States, including California and Florida, were concerned that use of the PBT's may place too much reliance on the use of the test device and not enough on the arresting officer's observation of the suspect's behavior. Florida also commented that the use of PBT's may encourage drunk drivers to refuse to take an evidential breath test, if they fail the preliminary test.

The agency believes that use of PBT's can contribute to the effectiveness of an alcohol enforcement program. The agency agrees that police officers must be trained in how to identify potentially drunk drivers based on the officer's observations, however, we believe the use of PBT's can complement the officer's observation. Research done by the agency and the experience of the

States, such as Minnesota, have shown that (1) wider use of preliminary breath tests can increase the effectiveness of any alcohol enforcement effort through increases in arrests and an overall lowering of the average BAC of persons arrested for DWI, (2) the PBT's are accepted by and useful to the police, and (3) the PBT devices function accurately and dependably. Twenty States currently have laws authorizing the use of PBT's. The potential problem of suspects refusing to take an evidential breath test can be combated by strengthing the penalties for refusing the test. Since the potential problems raised by the commenters can be solved and the benefits outweigh the efforts of solving these problems, the agency proposes to adopt the use of PBT's as a supplemental criterion.

18. Plea-bargaining. Many commenters, such as AAA, NHSAC, and IACP, suggested limitations on the use of plea-bargaining in alcohol-related driving cases. They pointed out that the principal problem is that an alcohol-related offense may be bargained down to a lesser non-alcohol-related offense, such as reckless driving. Thus, upon subsequent arrest, the offender's driving record might not contain any information to indicate that he or she has committed prior alcohol-related offenses.

Several States have already placed limits on plea-bargaining in alcohol-related traffic cases. California, for example, requires the reason for accepting the bargain to be placed on the public record. In addition, the lesser offense is entered on the driver's record as alcohol-related.

IACP commented that in some jurisdictions, courts can make a finding of probation without judgment. Once the defendant completes the probationary period, the record is expunged and thus no record of an alcohol-related offense would exist, according to IACP.

In its Interim Report, the Presidential Commission also recommended that prosecutors and courts not reduce driving under the influence charges. The Commission said that a charge should be reduced only if the prosecutor states in writing "why the interest of justice uniquely requires a reduction or why the charge cannot be proven beyond a reasonable doubt."

Based on those comments, the agency has decided to propose as a criterion that no charge be reduced or probation without judgment be entered without a written declaration of why the action is in the interest of justice. In addition, the agency proposes that if the charge is reduced, the defendant's driving record must reflect that the reduced charge is alcohol-related. States can demonstrate compliance by providing a copy of the law implementing these provisions.

17. Victim Assistance, Compensation and Impact Statements. The Presidential Commission's Interim Report refers to those injured by drunk drivers as the "forgotten victims of the legal system." The Commission recommended a number of programs to aid these victims. The Commission said that State and local governments should have victim assistance programs, which would inform the victim or the victim's family about the progress and ultimate disposition of the legal case against the drunk driver and provide information on available community services. The Commission also recommended that victim impact statements be required before sentencing in all cases where death or serious injury occurred. CSD also made the same recommendation to the agency.

Finally, the Commission recommended that any person convicted for driving under the influence should pay restitution. The Commission said that, "where feasible, courts should order offenders to pay for property damage, medical expenses, and lost wages."

The agency proposes to make the establishment of programs incorporating the elements recommended by the Commission (victim assistance programs, use of victim impact statement and victim restitution) a separate criterion. States can demonstrate compliance by providing a description of their program.

18. Impoundment. The proposal to impound the vehicle of a person whose driver's license has been suspended or revoked drew considerable comments. The Texas Department of Public Safety strongly supported the use of impoundment at the expense of the owner as a "significant sanction." Numerous other commenters, including NHSAC, Connecticut, Florida and Idaho, sharply questioned whether impoundment was cost-effective, given what they termed the large costs of administering the program. Florida suggested using the alternative of confiscating the vehicle's tags.

Given the successful use of impoundment in Texas and other States, the agency believes that it can be an effective deterrent. At the same time, the agency also recognizes that physical impoundment can create due process and administrative problems. Such problems, however, will commonly arise at the State level, and can be resolved there. To ensure that States who do wish to use this enforcement option may receive Federal assistance, the agency is proposing to include impoundment as a criterion and define impoundment as including the taking of the vehicle license plates or tags.

States can demonstrate compliance with this criterion by providing the agency with a copy of the law authorizing appropriate impoundment or license plate confiscation.

19. Choice of Test. Several States, including Mississippi and Connecticut, supported the proposal to allow the arresting officer the choice of chemical tests. The California Highway Patrol noted that California currently allows the suspected drunk driver to specify which test is to be used. It said that any action "which diminishes individual freedom of choice, without compelling reasons, would not receive legislative or public support."

The agency believes that there is a compelling reason for allowing States to authorize an officer to specify the test to be used and, under controlled circumstances, to require a second test. The use of breath tests is an accurate and appropriate way to determine if a person is driving under the influence of alcohol. Unlike urine and blood tests, however, breath tests do not indicate the presence of drugs other than alcohol. In situations where an officer administers a breath test that gives a negative or very low reading, the agency believes that the officer should have the authority to require the suspect to submit to another chemical test if, and only if, the officer has a reasonable belief that the suspect is impaired because of the use of drugs or drugs and alcohol. To ensure that the suspect will submit to the second test, the agency believes that States should have implied consent laws that make refusal to take the second test result in a license suspension for a greater period of time than for conviction of driving while under the influence.

The agency, therefore, proposes to adopt a supplemental criterion that provides that where State law authorizes the officer to specify not only the first but also the second or subsequent chemical tests to be used, refusal to take any such requested test should result in a license suspension. States can demonstrate compliance by providing copy of the applicable laws.

20. Dram Shop Laws. The Presidential Commission, in its interim report, recommended that States enact or implement dram shop laws. Those laws make dispensers of alcohol liable for injuries that occur when they serve alcohol to an obviously impaired driver and the driver is subsequently involved in a crash. The agency believes that

such a law can effectively motivate people to stop serving drivers who are visibly impaired and thus proposes to make enactment of dram shop laws one of the supplemental criteria. States can demonstrate compliance by providing a copy of the applicable law or regulation.

21. Use of Innovative Programs. In proposing supplemental criteria, the agency has attempted to draw upon its own research and demonstration projects, the interim recommendations of the Presidential Commission and the suggestions of the commenters. A review of the proposed supplemental criteria demonstrates the agency has attempted to provide States with maximum flexibility in designing their own alcohol traffic safety programs.

The agency recognizes that there are other potential countermeasures that have not been developed that may be effective in reducing drunk driving. In addition, there are some countermeasure programs that overlap several of the proposed criteria but are not specifically covered by any of them. For example, Oklahoma suggested the use of bartender education programs as a way to reduce drunk driving. Such a program contains elements of the proposed education and dram shop criteria, but does not fully fall within either of them.

The agency believes that States should have an incentive to develop new, unique, and innovative programs. Therefore, the agency proposes that States can meet this final criterion by using innovative alcohol safety programs that are as potentially effective as any of the programs mandated in the other criteria. This would reward States for experimenting with new programs. To demonstrate compliance, States would provide a description of the program and an explanation of why the State believes the program is as potentially effective as any of the other specified criteria as shown by an impact or administrative evaluation.

General Requirements

The Act requires that in order to be eligible for a basic grant, a State must maintain its aggregate level of funding from non-section 408 funds for existing alcoholic traffic safety programs "at or above the average level of such expenditures in its two fiscal years preceding the date of enactment . . . ." The purpose of this requirement is to ensure that States continue to maintain their prior level of expenditures for alcohol safety programs from section 402 and other monies. The new section 408 money would then serve to increase their prior efforts, rather than replace money previously spent on alcohol safety and now diverted elsewhere.

The agency proposal to permit States to select either Federal or State fiscal year in determining the level of expenditures that must be maintained was not opposed by any of the commenters. The agency therefore proposes to adopt that definition of fiscal year in the final rule.

Florida requested the agency to clarify what monies are to be considered in determining the funding base, e.g., should section 408, 154 and Federal Highway Administration 402 monies be included. In determining their prior levels of funding, States are to include any money expended for alcohol safety purposes, regardless of source.

Certification and Award Procedure

There are very few comments on the agency's proposed certification and awards procedures. Those that did comment supported the use of a section 402-like certification. NAGHSR supported the proposal to allow States to submit their alcohol safety plan as an expanded portion of the alcohol section of a State's section 402 Highway Safety Plan. NAGHSR and Oklahoma both supported the use of a so-called "soft match" in determining what States Expenditures are reimbursable under section 408.

Because there were only as few comments on this issue, the agency reproposes the certification and awards procedures set forth in the advance notice and requests States to specifically address the procedures.

The agency also requests comments on an alternative procedure. The purpose of the alternative is to save States from having to prepare unnecessary paperwork by determining a States's eligibility for a grant before a detailed alcohol safety plan is submitted. The alternative procedure would have the following three steps:

1. The State provides information to document and verify its eligibility for the basic and supplemental grant criteria.

2. Upon review by NHTSA, the State would be notified that it is or is not eligible for the grant award based upon the documentation submitted. If eligible for grant award, the State would also be advised of the amount of the grant to be awared subject to receipt and NHTSA formal approval of the State's Alcohol Highway Safety Plan. The Plan must be submitted within a specified period of time (90–120 days) to retain award eligibility.

3. Upon receipt and subsequent approval of the Plan, the grant will be awarded by execution of a Federal-Aid Agreement.

Procedures for Commenting on Proposal

Interested persons are invited to attend the public hearings and/or submit written comments on this proposal. It is requested but not required that 10 copies be submitted.

Anyone who wishes to make an oral statement at the January 11, 1983 public hearings should notify Marian Tomassoni or Joe Jeffrey at the address or telephone number listed at the beginning of this notice no later than seven days before the hearing. Oral statements should be limited to 10 minutes or less. Oral or written clarification on issues raised in the oral statements or in the docket submissions may also be requested by agency representatives conducting the hearing. As time permits, the formal statements may be followed by an open discussion. Written comments to the public docket must be received by January 14, 1983.

The comment period established for this notice is necessarily short in order to meet the February 1, 1983 deadline set by Congress for completion of this rulemaking process.

Comments should not exceed 15 pages in length. Necessary attachments may be added to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise manner.

All comments received before the close of business on January 14, 1983, the comment closing date, will be considered and will be available for examination in the docket at the above address before and after that date.

To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all written statements and comments will be placed in Docket 82–18; Notice 4 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. A verbatim transcript of the public hearing will be prepared and

placed in the NHTSA docket as soon as possible after the hearing.

Pursuant to the Paperwork Reduction Act, the agency will seek Office of Management and Budget Approval for any new reporting or recordkeeping requirements adopted in the final rule.

The agency has determined that this rulemaking should be classified as significant under the Department's regulatory policies and procedures. The agency has prepared a regulatory evaluation and placed it in the public docket for this rulemaking. The agency has determined that since this rule will not have an annual impact of $100 million on the economy, it is not a major rule within the meaning of Executive Order 12291.

To develop the benefit estimates, the agency determined the degree to which proposals in the notice are presently being implemented. Estimates of safety benefits were then based on satisfying the criteria in those States that presently are not doing so. The impact of the criteria in one or more of four areas was determined where applicable: (1) Drunk drivers on the road, (2) alcohol-related crashes, (3) DWI arrests, and (4) DWI convictions. The agency quantified benefits in terms of reduced numbers of fatalities, injuries, or accidents where possible. Lack of data, or the nature of the criteria themselves at times, precluded quantifying benefits in every criteria; however, in such cases where quantification of benefits is not possible, the general magnitude of the impact is assessed to the degree possible. In some instances, benefits are estimated for specified levels of safety measure effectiveness in order to gauge the potential of the measure for improving highway safety.

I hereby certify that the requirements that will be established by this rulemaking action will not have a significant economic impact on a substantial number of small entities because the States will be the recipients of any funds awarded under the regulation and, therefore, preparation of an Initial Flexibility Analysis is not necessary.

List of Subjects in 23 CFR Part 1209

Alcohol, Grant programs—Transportation, Highway safety.

In consideration of the foregoing, it is proposed to add a new Part 1209 to Title 23 of the Code of Federal Regulations to read as follows:

PART 1209—INCENTIVE GRANT CRITERIA FOR ALCOHOL TRAFFIC SAFETY PROGRAMS

Sec.

1209.1 Scope.
1209.2 Purpose.
1209.3 Definitions.
1209.4 General requirements.
1209.5 Requirements for a basic grant.
1209.6 Requirements for a supplemental grant.
1209.7 Award procedures.

Authority: 23 U.S.C. 408.

§ 1209.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 408, for awarding incentive grants to States that implement effective programs to reduce drunk driving.

§ 1209.2 Purpose.

The purpose of this part is to encourage States to adopt and implement alcohol traffic safety programs by legislation or regulations which will significantly reduce crashes resulting from persons driving while under the influence of alcohol. The criteria established are intended to ensure that the State alcohol traffic safety programs for which incentive grants are awarded meet or exceed minimum levels designed to reduce drunk driving.

§ 1209.3 Definitions.

(a) "Imprisonment" means confinement to a jail, minimum security facility or in-patient rehabilitation or treatment center.

(b) "Prompt suspension" means that mandatory driver license suspension takes place, in at least 60 percent of the cases, no later than 30 days after a person is arrested for an alcohol-related driving offense. In addition, the overall average time to suspend a drivers' license can not exceed 45 days.

(c) "Repeat offender" means any person convicted of an alcohol-related traffic offense more than once in five years.

(d) "Suspension" means:

(1) For first offenses—

Alternative A, the temporary debaring of all driving privileges for 90 days.

Alternative B, the temporary debaring of all driving privileges for 30 days and then the use for 60 days of a restricted license permitting a person to drive only for the purposes of going from a residence to or from a place of employment or to and from a mandated alcohol education or treatment program. Such restricted licenses can only be issued in accordance with Statewide published guidelines and in exceptional circumstances specific to the offender.

(2) For Refusal to take a chemical test, first offense, the temporary debaring of all driving privileges for 90 days.

(3) For Second and Subsequent offenses, including the refusal to take a chemical test, the temporary debaring of all driving privileges for one year.

§ 1209.4 General Requirements.

(a) *Certification Requirements.* To qualify for a grant under 23 U.S.C. 408, a State must:

(1) Meet the requirements of § 1209.5 and, if applicable, the requirements of § 1209.6;

(2) Submit a certification to the Director, Office of Alcohol Countermeasures, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590 that (i) it has an alcohol traffic safety program that meets those requirements, (ii) it will use the funds awarded under 23 U.S.C. 408 only for the implementation and enforcement of alcohol traffic safety programs, and (iii) it will maintain its aggregate expenditures from all other sources for its existing alcohol traffic safety programs at or above the average level of such expenditures in fiscal years 1981 and 1982; and

(3) Submit to the agency an alcohol safety plan for one, two or three years, as applicable, that describes the programs the State is implementing in order to be eligible for the grants and provides the necessary information, identified in §§ 1209.5 and 1209.6, to demonstrate that the programs comply with the criteria.

(b) *Limitations on Grants.* A State may receive a grant for up to three fiscal years subject to the following limitations:

(1) The amount received as a basic grant shall not exceed 30 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(2) The amount received as a supplemental grant shall not exceed 20 percent of a State's 23 U.S.C. 402 apportionment for fiscal year 1983.

(3) In the first fiscal year the State receives a grant, it shall be reimbursed for up to 75 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408;

(4) In the second fiscal year the State receives a grant, it shall be reimbursed for up to 50 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408; and

(5) In the third fiscal year the State receives a grant, it shall be reimbursed for up to 25 percent of the cost of its alcohol traffic safety program adopted pursuant to 23 U.S.C. 408.

§ 1209.5 Requirements for a basic grant.

To qualify for a basic incentive grant of 30 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must have in place and implement

or adopt and implement the following requirements:

(a)(1) The prompt suspension, for a period not less than 90 days in the case of a first offender and not less than one year in the case of a repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

(2) To demonstrate compliance, a State shall submit a copy of the law or regulation implementing the mandatory license suspension, information on the number of licenses suspended, the length of the suspension for first-time and repeat offenders and for refusals to take chemical tests and the average number of days it took to suspend the licenses from date of arrest.

(b)(1) A mandatory sentence, which is not subject to suspension or probation, of imprisonment for not less than 48 consecutive hours or community service for not less than 10 days, for any person convicted of driving while intoxicated more than once in a five year period.

(2) To demonstrate compliance a State shall submit a copy of its law adopting this requirement and data on the number of people convicted of DWI more than once in any five years and the sentences for those persons.

(c)(1) Establishment of 0.10 percent blood alcohol concentration (BAC) as sufficient evidence for finding that a person driving a motor vehicle is intoxicated.

(2) To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(d)(1) Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

(2) To demonstrate compliance, a State shall submit data showing that it has increased its enforcement and public information efforts.

§ 1209.6 Requirements for a supplement grant.

[The two alternative sets of proposed requirements for a supplemental grant are discussed in the preamble of this notice.] The twenty-one criteria proposed by the agency are as follows:

(a) Establishment of 21 years of age as the minimum age for drinking any alcoholic beverages. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(b) Designation of a single State official as the coordinator for the alcohol highway safety program in the State. To demonstrate compliance, a State shall submit information identifying the official who has been designated as the State coordinator and the extent of the coordinator's authority.

(c) Rehabilitation and treatment programs for persons arrested and convicted of alcohol-related traffic offenses. To demonstrate compliance, a State shall submit a copy of its law or regulation adopting this requirement.

(d) Establishment of State and local Task Forces of governmental and non-governmental leaders to increase awareness of the problem, to more effectively apply drunk driving laws and to involve governmental and private sector leaders in programs attacking the drunk driving problem. To demonstrate compliance a State shall submit a copy of the executive order, regulation, or law setting up the task force and a description of planned activities to assist and encourage the establishement of city, county or regional Task Forces.

(e) A Statewide driver record system readily accessible to the courts and the public which can identify drivers repeatedly convicted of drunk driving. To demonstrate compliance, a State shall submit a description of its record system discussing its accessibility to prosecutors, the courts and the public and providing data on the time required to enter DWI convictions into the system.

(f) Establishment in each major political subdivision of a locally coordinated alcohol traffic safety program, which involves enforcement, adjudication, licensing, public information, education, prevention, rehabilitation and treatment and management and program evaluation. To demonstrate compliance, a State shall submit a description of the number, type and percentage of the State population covered by such local programs.

(g) Prevention and long-term education programs on drunk driving. To demonstrate compliance, a State shall submit a description of its prevention and education program, discussing how it is related to changing societal attitudes and norms against drunk driving with particular attention to the implementation of a comprehensive youth alcohol traffic safety program.

(h) Authorization for courts to conduct screenings of convicted drunk dirvers. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement and a brief description of its screening process.

(i) Development and implementation of State-wide evaluation system to assure program quality and effectiveness. To demonstrate compliance, a State shall provide a copy of the executive order, regulation or law setting up the evaluation program and a copy of the evaluation plan.

(j) Establishment of a plan for acheiving self-sufficiency for the State's total alcohol traffic safety program. To demonstrate compliance, a State shall provide a copy of the plan. Specific progress toward achieving this criterion must be shown in subsequent years.

(k) Use of roadside sobriety checks as part of a comprehensive alcohol safety enforcement program. To demonstrate compliance, a State shall submit data on the frequency and area within a State where roadside checks are being used, purpose of the checks and a copy of its regulation or policy authorizing the use of roadside checks.

(l) Establishment of programs to encourage citizen reporting of alcohol-related traffic offenses to the police. To demonstrate compliance, a State shall submit a copy of its citizen reporting guidelines or policy and data on the degree of citizen participation, e.g., number of citizen reports and the number of related arrests.

(m) Establishment of a 0.08 percent BAC as presumptive evidence of driving while under the influence of alcohol. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(n) Adoption of a one-license/one-record policy. In addition, the State shall fully participate in the National Driver Register and the Driver License Compact. To demonstrate compliance, a State shall submit a copy of the order, regulation or law showing the State has signed the Driver License Compact and has adopted a one-license/one-record policy, and is participating in the National Driver Register.

(o) Authorization for the use of a preliminary breath test where there is probable cause to suspect a driver is impaired. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(p) Elimination of plea-bargaining to non-alcohol-related offenses in the prosecution of alcohol-related traffic offenses. To demonstrate compliance, a

State shall submit a copy of its law or court guidelines adopting this requirement.

(q) Provide victim assistance and victim restitution programs and require the use of victim impact statement prior to sentencing in all cases where death or serious injury results from an alcohol-related traffic offense. To demonstrate compliance, a State shall submit a copy of its law or court guidelines adopting this requirement.

(r) Mandatory impoundment or confiscation of license plate/tags of any vehicle operated by an individual whose license has been suspended or revoked for an alcohol-related offense. To demonstrate compliance a State shall submit a copy of its law adopting this requirement.

(s) Enactment of legislation or regulations authorizing the arresting officer to determine the type of chemical test to be used to measure intoxication and to authorize the arresting officer to require a second chemical test where the arresting officer has a reasonable belief that the driver is under the influence of drugs. To demonstrate compliance, a State shall submit a copy of its law adopting this requirement.

(t) Enactment of dram shop laws. To demonstrate compliance, a State shall submit a copy of its law or regulation adopting this requirement.

(u) Use of innovative programs to demonstrate compliance, a State shall submit a description of its program and an explanation showing that the program will be as effective as any of the programs adopted to comply with the other supplemental criteria.

§ 1209.7 Award procedures.

For each Federal fiscal year, grants under 23 U.S.C. 408 shall be made to eligible States upon submission of the alcohol safety plan and certification required by § 1209.4. Such grants shall be made until all eligible States have received a grant or until there are insufficient funds to award a full grant to a State. Time of submission shall be determined by the postmark for certifications delivered through the mail and by stamped receipt for certifications delivered in person.

(Sec. 101, Pub. L. 97–364; 96 Stat. 1738 (23 U.S.C. 408); delegation of authority at 49 CFR 1.50)

Issued on December 30, 1982.

Raymond A. Peck, Jr.,

Administrator.

[FR Doc. 83-310 Filed 1-3-83; 12:39 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-104-81]

Time for Determination of Relationship of Persons Transferring Depreciable Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document would amend the regulations under section 1239 to clarify the disallows capital gains treatment on the sale or exchange of depreciable property between related taxpayers as defined in section 1239(b). This section is designed to prevent the immediate payment of a capital gains tax for the elimination over a period of years of income taxes on an equivalent amount of ordinary income as a result of the additional depreciation deduction allowable on the increased basis of the transferred property. The proposed amendment to the regulations would provide the public with guidance as to the proper time for determining relatedness under section 1239.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 7, 1983. This amendment is proposed to be effective for transfers after January 5, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–104–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George T. Magnatta of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3459)

SUPPLEMENTARY INFORMATION:

Background

This document contains a proposed amendment of the Income Tax Regulations (26 CFR Part 1) under section 1239 of the Internal Revenue Code of 1954. This amendment does not reflect amendments to section 1239 made by the Installment Sales Revision Act of 1980 (Pub. L. 96–471; 94 Stat. 2225) (relating to the definition of "related persons"). This amendment is proposed to clarify the existing regulations and is to be issued under the authority contained in section 7805 of the Internal Revenue Code (68A Stat. 917).

Explanation of Provisions

Section 1239 disallows capital gains treatment on the sale or exchange of depreciable property between related taxpayers as defined in section 1239(b). This section is designed to prevent the immediate payment of a capital gains tax for the elimination over a period of years of income taxes on an equivalent amount of ordinary income as a result of the additional depreciation deduction allowable on the increased basis of the transferred property.

A taxpayer and an entity are considered related if there is 80-percent ownership before or immediately after the sale or exchange of depreciable property. Where there is a sale or exchange between two entities, there is relatedness if a shareholder has 80-percent ownership (either actual or constructive ownership) of the transferor before the sale or exchange of depreciable property and the same shareholder has 80-percent ownership (either actual or constructive ownership) of the transferee immediately after the sale or exchange of depreciable property.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed amendments do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Non-Application of Executive Order 12291

The Treasury Department has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of this proposed regulation is George T. Magnatta of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation both on matters of substance and style.

List of Subjects in 26 CFR 1.1201–1.1252–2

Income taxes, Capital gains and losses, Recapture.

Proposed amendments to the regulations

PART 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 are as follows:

Section 1.1239–1 is amended by redesignating paragraph (c)(3) as (c)(5) and inserting in lieu thereof new paragraphs (c)(3) and (c)(4). New paragraphs (c)(3) and (c)(4) read as follows:

§ 1.1239–1 Gain from sale or exchange of depreciable property between certain related taxpayers after October 4, 1976.

* * * * *

(c) *Rules of construction.* * * *

(3) *Relationship determination—taxpayer and an 80-percent owned entity.* (i) For purposes of paragraph (b)(2) of this section, the relationship of the transferor and transferee is determined before or immediately after the sale or exchange of depreciable property.

(ii) The provisions of (c)(3)(i) of this section may be illustrated by the following example:

Example. A owns 60 percent in value of the outstanding stock of M Corporation. On June 1, 1983, A enters into a binding contract to purchase on August 1, 1983, an additional 21 percent in value of the outstanding stock of M Corporation. On July 1, 1983, A sells to M Corporation property that is of a character which is subject to the allowance for depreciation in the hands of M Corporation. The additional shares that A is obligated to purchase are considered as owned by A before the sale for purposes of determining whether A and M Corporation are related. Thus, A is considered to own 80 percent or more of M Corporation before the sale. Therefore, the provisions of section 1239 apply, and A's gain recognized on the sale is treated as ordinary income.

(4) *Relationship determination—two 80-percent owned entities.* For purposes of paragraph (b)(3) of this section, two entities are related if the same shareholder both owns 80 percent or more in value of the stock of the transferor before the sale or exchange of depreciable property and owns 80 percent or more in value of the stock of the transferee immediately after the sale or exchange of depreciable property.

* * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.
December 27, 1982.

[FR Doc. 83–257 Filed 1–5–83; 8:15 am]
BILLING CODE 4830–01–M

26 CFR Part 1

[LR–228–76]

Tax Treatment of Capital Gains for Purpose of the Foreign Tax Credit Limitation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations prescribing rules for the tax treatment of capital gains for purposes of the foreign tax credit limitation with respect to changes made by the Tax Reform Act of 1976 and the Revenue Act of 1978.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 7, 1983. The regulations in general are proposed to apply for taxable years beginning after December 31, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–228–76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 904(b) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 1031(a), 1031(c), 1034(a) and 1034(b) of the Tax Reform Act of 1976 and section 403(c)(4) (A) and (B) and section 701(u)(2) (A), (B), (C), and (D), and (u)(3) (A) and (B) of the Revenue Act of 1978 and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of Provisions

Prior to the Tax Reform Act of 1976 a number of problems existed in the treatment of capital gains for purposes of computing the foreign tax credit limitation. Since there were no statutory rules for netting capital gains and losses where some gains were U.S. source and other gains were foreign source, (and where losses were allocable or apportionable to gains from different sources), foreign source capital gains were generally included as foreign source income in the numerator of the foreign tax credit limitation fraction without any reduction for capital losses allocable or apportionable to U.S. sources. This resulted in a distortion where a taxpayer had capital losses allocable or apportionable to U.S. sources which reduced foreign source capital gains since the amount of foreign tax credits which a taxpayer could use was increased without a corresponding increase in U.S. tax liability. In addition, there was no statutory requirement that the foreign tax credit limitation be adjusted to reflect the lower tax rate paid by corporations with respect to long-term capital gains. This likewise resulted in a distortion of the foreign tax credit limitation in cases where there were net capital gains.

Section 904(b)(2)(A) (i) and (ii) of the Internal Revenue Code of 1954 adjusts the numerator and denominator of the foreign tax credit limitation fraction in order to correct the distortions which existed under prior law. Section 1.904(b)–1 deals with corporations and § 1.904(b)–2 with other taxpayers.

Paragraph (a)(1) of section 1.904(b)–1 provides that taxable income from sources without the United States, *i.e.*, the numerator of the foreign tax credit limitation fraction, shall include foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain. Capital gain net income is defined in section 1222(9) of the Code as the excess of gains (both long and short-term) over losses (both long and short-term) from the sale or exchange of capital assets. Foreign source capital gain net income is defined as the lesser of capital gain net income from sources without the United States or capital gain net income from all sources. The definition of foreign source capital gain net income takes into account the effect of capital losses allocable or apportionable to U.S. sources which reduce foreign source capital gains, since, in such cases, capital gain net income from all sources would be less than capital gain net income from sources without the United States, and that smaller figure would be included in the numerator of the foreign tax credit limitation fraction. No such adjustment is required in computing the entire taxable income in the

denominator of the foreign tax credit limitation fraction and, therefore, the capital gain net income from all sources is used. Where capital losses allocable or apportionable to foreign sources reduce U.S. source capital gains, an adjustment is also made in the numerator. This adjustment will be explained in the discussion relating to paragraph (a)(3) of § 1.904(b)–1. With respect to the allocation and apportionment of losses, the rules under § 1.861–8(e)(7) dealing with the allocation and apportionment of losses are to be applied with respect to the sale, exchange, or other disposition of property.

Since capital gain net income includes long-term capital gains which are taxed at a reduced rate, some adjustment must be made to reflect this reduced rate. This is accomplished by reducing the numerator by the rate differential portion of foreign source net capital gain. The term "rate differential portion" was added by the Revenue Act of 1978 and is defined in paragraph (b)(5) of § 1.904(b)–1. The term reflects the reduced rate of taxation of long-term capital gains. The term "net capital gain" is defined in section 1222(11) and represents those gains which are taxed at a reduced rate, *i.e.*, net long-term capital gains minus net short-term capital losses. The term "foreign source net capital gain" is defined in paragraph (b)(4) as the lesser of net capital gain from sources without the United States or net capital gain from all sources. This definition parallels that of foreign source capital gain net income and reflects the necessary adjustment in the numerator to take into account capital losses allocable or apportionable to U.S. sources which offset foreign source long-term capital gains.

The computation of the entire taxable income under paragraph (a)(2) of § 1.904(b)–1, *i.e.*, the denominator of the foreign tax credit limitation fraction, includes capital gain net income reduced by the rate differential portion of net capital gain. Since in computing the capital gain net income from all sources, the capital gains and the capital losses allocable or apportionable thereto from United States and foreign sources will net out, the only adjustment required is to take into account the lower tax rate with respect to net capital gain.

With respect to the definitions of capital gain net income and net capital gain, the proposed regulation takes the position that the terms "capital gain net income" and "net capital gain" include net section 1231 gain and that those terms do not include any gain from the sale or exchange of a capital asset which is not treated as capital gain.

Section 904(b)(2)(A)(iii) deals with the situation in which capital losses allocable or apportionable to sources without United States offset U.S. source capital gains. In such a case, paragraph (a)(3)(i) of § 1.904(b)–1 requires that a reduction be made in the numerator of the foreign tax credit limitation fraction. The required reduction is the amount by which the net capital loss allocable or apportionable to sources without the United States offsets capital gain net income from sources within the United States. In addition, to the extent that the capital gain net income which is offset consists of net capital gain, a further adjustment is made under paragraph (a)(3)(ii) of § 1.904(b)–1. The is accomplished by reducing the adjustment in paragraph (a)(3)(i) (*i.e.*, by increasing the numerator) by the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain (from all sources). The rationale for the adjustment under paragraph (a)(3)(ii) of § 1.904(b)–1 is that to the extent capital losses allocable or apportionable to foreign sources reduce U.S. source long-term capital gains, an amount taxed at less than a full rate is eliminated from the denominator and an adjustment to reflect this should be made in the numerator.

Section 1.904(b)–2 sets forth rules dealing with noncorporate taxpayers. These rules follow the rules set forth in § 1.904(b)–1 for corporate taxpayers with certain modifications including substituting for the rate differential amount the applicable percentage specified in section 1202(a) as an adjustment with respect to net capital gain. Paragraph (b) of § 1.904(b)–2 defines the term "net capital loss" as it applies to noncorporate taxpayers and paragraph (c) of this section illustrates the application of section 904(b) to noncorporate taxpayers in a manner similar to paragraph (c) of § 1.904(b)–1 with respect to corporate taxpayers.

Section 1.904(b)–3 deals with special source rules relating to the sale of personal property. The general rule is that gain from the sale of personal property without the United States gives rise to U.S. source income for purposes of computing the foreign tax credit limitation fraction. There is a general exception if the gain (computed under the Internal Revenue Code) is subject to an income, war profits, or excess profits tax of the foreign country or possession of the United States in which the sale or exchange occurs (including a withholding tax) and the rate of tax applicable to such gain is 10 percent or more of the gain from the sale or exchange. The provision was added to prevent taxpayers from selling their assets abroad primarily to utilize any excess foreign tax credits which they have available from other activities. The 10 percent exception was included because it was believed that if the foreign government significantly taxes a sale, such sale probably did not take place in that country purely for tax purposes. (S. Rept. No. 94–938, 94th Cong., 2d Sess. 245 (1976))

For purposes of § 1.904(b)–3, gain from the sale or exchange of capital assets is defined to include net section 1231 gain (as provided for under section 904(b)(3)(E)) and to exclude gain which is not otherwise treated as capital gain even though it arises from the sale or exchange of a capital asset.

In addition, even if the foreign country or possession in which the sale or exchange occurred did not impose a tax of 10 percent or more, three additional exceptions are provided. These special exceptions are provided under paragraph (b) of § 1.904(b)–3. The first exception is in the case of an individual, if the property is sold or exchanged within the country or possession of the individual's residence. The second is in the case of a corporation, if the property is stock in a second corporation and is sold in a country or possession in which the second corporation derived more than 50 percent of its gross income for a specific 3-year period (or shorter period based on the corporation's existence). The third exception applies to corporate and noncorporate taxpayers and exempts the sale of personal property other than stock if it is sold or exchanged in a country or possession in which the property is used in a trade business of the taxpayer or in which the taxpayer derived more than 50 percent of its gross income for a specific 3-year period (or shorter period based on the taxpayer's existence).

Paragraph (d) of § 1.904(b)–3 provides that the exceptions under paragraphs (b) and (c) apply only for purposes of applying the special sources rules under paragraph (a), and that the general source rules under sections 861, 862, and 863 and the regulations thereunder are applicable in making the initial determination as to whether gain is from foreign or U.S. sources and in determining where gross income is derived for purposes of the exceptions provided by paragraphs (b)(2) and (b)(3). Paragraph (e) provides a special rule with respect to gain from the liquidation of foreign corporations to which Part II of subchapter C applies. Paragraph (f)

applies the rule under § 1.871–2(b) in defining the term "residence" for purposes of paragraph (b)(1) of § 1.904(b)–3. Paragraph (g) provides the method for determining the rate applicable to the gain on the sale of property for purposes of satisfying the general exception under paragraph (c). While the amount of the gain is computed under the Internal Revenue Code, the tax rate is to be determined by applying the laws of the foreign country and treating the gain as the only transaction occurring during the taxable year. Therefore, unrelated gains and losses are not taken into consideration in determining the tax rate imposed on the gain. However, if substantially all the assets of a trade or business are sold within any country within any taxable year, the gains and losses from the sale of such assets shall be netted before applying the source rule. In determining whether a foreign country imposes a 10 percent or greater tax on the gain, any reduction in tax rate under a treaty provisions is taken into consideration.

Paragraph (h) clarifies the application of the source rules (in determining whether the exceptions under paragraph (b)(2) and (b)(3) apply) in the case of dividends received by a foreign shareholder from a foreign corporation. The rule adopted in paragraph (h) is similar to the rule under paragraph (h) of § 1.902–1, which sources dividends paid by a foreign corporation.

Section 1.904(b)–4 contains the effective date. The general effective date of the amendments is for taxable years beginning after December 31, 1975. However, with respect to the sale of personal property, the special source rules described in § 1.904(b)–3 apply to sales and exchanges made after November 12, 1975.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

Drafting Information

The principal author of this regulation is Jacob Feldman of the Legislation and Regulations Division of the Office of Chief Counsel. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.861–1 Through 1.907–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Proposed Amendments to the Regulations

PART 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 are as follows:

The following sections are added immediately following § 1.904–5 to read as set forth below:

§ 1.904(b)–1 Treatment of capital gains for corporations.

(a) *In general.* For purposes of computing the foreign tax credit limitation of corporations, the following rules apply:

(1) *Inclusion in foreign source taxable income.* The taxable income of a corporation from sources without the United States includes gain from the sale or exchange of capital assets only in an amount equal to—

(i) Foreign source capital gain net income (as defined in paragraph (b)(2) of this section), reduced by

(ii) The rate differential portion (as defined in paragraph (b)(5) of this section) of foreign source net capital gain (as defined in paragraph (b)(4) of this section).

(2) *Inclusion in entire taxable income.* The entire taxable income of a corporation includes gain from the sale or exchange of capital assets only in an amount equal to—

(i) Capital gain net income (as defined in paragraph (b)(i) of this section), reduced by

(ii) The rate differential portion of net capital gain (as defined in paragraph (b)(3) of this section).

(3) *Treatment of capital losses.* The taxable income of a corporation from sources without the United States shall be reduced by an amount equal to—

(i) Any net capital loss (as defined in paragraph (b) (6) of this section) allocable or apportionable to sources without the United States to the extent taken into account in determining capital gain net income for the taxable year, less

(ii) An amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain (from all sources).

(b) *Definitions.* For purposes of section 904(b) and §§ 1.904 (b)–1 through (b)–3, the following definitions shall apply:

(1) *Capital gain net income.* The term "capital gain net income" means the excess of the gains from the sales or exchanges of capital assets over the losses from such sales or exchanges. Such term shall include net section 1231 gain, but shall not include gains from the sale or exchange of capital assets to the extent that such gains are not treated as capital gains.

(2) *Foreign source capital gain net income.* The term "foreign source capital gain net income" means the lesser of—

(i) Capital gain net income from sources without the United States, or

(ii) Capital gain net income (from all sources).

(3) *Net capital gain.* The term "net capital gain" means the excess of the net long-term capital gain (including net section 1231 gain) for the taxable year over the net short-term capital loss for such year, but shall not include gains from the sale or exchange of capital assets to the extent that such gains are not treated as capital gains.

(4) *Foreign source net capital gain.* The term "foreign source net capital gain" means the lesser of—

(i) Net capital gain from sources without the United States, or

(ii) Net capital gain (from all sources).

(5) *Rate differential portion.* The term "rate differential portion" of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).

(6) *Net capital loss.* Except as provided in § 1.904(b)–2 (b), the term "net capital loss" means the excess of the losses from sales and exchanges of capital assets over the sum allowed under section 1211. For purposes of paragraph (a) of this section, the term "net capital loss" includes any amounts which are short-term capital losses under section 1212(a). Net capital losses do not include losses from the sales or exchanges of capital assets which are not treated as capital losses under the Internal Revenue Code.

(7) *Allocation and apportionment.* For purposes of this section and §§ 1.904 (b)–2 and (b)–3, the rules under § 1.861–8 (e) (7) with respect to the allocation and apportionment of losses are to be applied with respect to losses on the sale, exchange or other disposition of property.

(8) *Computation of net section 1231 gain.* For purposes of this section and § 1.904(b)–2, the netting of section 1231 gains and losses is to be determined separately with respect to section 1231 gains from sources without the United States (and losses allocable or apportionable thereto) and section 1231 gains from all sources. Section 1231 gains from sources without the United States (and losses allocable or apportionable thereto) are not to be aggregated for purposes of determining the character of section 1231 gains from sources without the United States.

(c) *Illustrations.* The principles of paragraph (a) of this section may be illustrated by the following examples:

Example (1). Corporation A had the following business taxable income, capital gains and capital losses for 1979:

	In thousands		
	Foreign source	U.S. source	All sources
Business income	$1200	$2000	$3200
Long-term capital gain	300	200	500
Long-term capital loss	[illegible]	[illegible]	[illegible]
Short-term capital gain	[illegible]	[illegible]	500
Short-term capital loss	200	[illegible]	[illegible]

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of A are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	$300	$100
Net long-term capital loss	0	0
Net short-term capital gain	0	0
Net short-term capital loss	100	0

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources as follows:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	[illegible]$200	[illegible]$100
Net capital gain	[illegible]$200	[illegible](d)100

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain, which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is $100,000, and foreign source net capital gain is $100,000.

Step (4) Compute taxable income from sources without the United States, using 18/46 as the rate differential portion, as follows:

Foreign business income + Foreign source capital gain net income − 18/46 (foreign source net capital gain)
$1,200,000 + $100,000 − 18/46 ($100,000)
(39,130) = $1,260,870

Step (5) Compute the entire taxable income as follows:

Business income + Capital gain net income − 18/46 (net capital gain)
$3,200,000 + $100,000 − 18/46 ($100,000)
(39,130) = $3,260,870

Example (2). Corporation B had the following business taxable income, capital gains, and capital losses for 1979:

	In thousands		
	Foreign source	U.S. source	All sources
Business income	$1200	$2000	$3200
Long-term capital gain	300	200	500
Long-term capital loss	500	100	600
Short-term capital gain	600	200	800
Short-term capital loss	150	200	350

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of B are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	0	0
Net long-term capital loss	$200	$100
Net short-term capital gain	500	500
Net short-term capital loss	[illegible]	0

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources as follows:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) $300	(b) $400
Net capital gain	(c) 0	(d) 0

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is $300,000 and foreign source net capital gain is zero.

Step (4) Compute taxable income from sources without the United States, using 1/46 as the rate differential portion, as follows:

Foreign business income + Foreign source capital gain net income − 18/46 (foreign source net capital gain)
$1,200,000 + $300,000 − 18/46 (0) = $1,500,000

Step (5) Compute the entire taxable income as follows:

Business income + Capital gain net income − 18/46 (net capital gain)
$3,200,000 + $400,000 − 18/46 (0) = $3,600,000

Example (3). Corporation C had the following business taxable income, capital gains, and capital losses for 1979:

	In thousands		
	Foreign source	U.S. source	All sources
Business income	$1200	$2000	3200
Long-term capital gain	300	500	700
Long-term capital loss	600	100	700
Short-term capital gain	300	400	700
Short-term capital loss	500	100	600

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of C are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	0	0
Net long-term capital loss	[illegible]	0
Net short-term capital gain	0	$100
Net short-term capital loss	[illegible]	0

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) 0	(b) $100
Net capital gain	(c) 0	(d) 0

Step (3) Next calculate foreign source capital gain net income and foreign source net capitalgain which is the lesser of (a) or (b) and the lesser of (c) or (d) respectively. Foreign source capital gain net income is zero and foreign source net capital gain is zero.

Step (4) Under paragraph (a)(3)(i) of this section, the taxable income from sources without the United States is reduced by the amount by which the net capital loss allocable or apportionable to sources without the United States reduces capital gains (long and short-term) from sources within the United States when computing capital gain net income. This is determined by first computing the net capital loss allocable or apportionable to sources without the United States ($600,000) and the capital gain net income from sources within the United States ($700,000). In this case, $600,000 of net capital loss allocable or apportionable to sources without the United States reduces $600,000 of net long and short-term capital gains from sources within the United States in computing capital gain net income.

Step (5) Under paragraph (a)(3)(ii) of this section, the adjustment under paragraph (a)(3)(i) of this section is reduced by an amount equal to the rate differential portion of net capital gain from sources within the United States over net capital gain (from all sources). In this case, net capital gain from sources within the United States is $400,000 and net capital gain is zero, so an amount equal to 18/46 multiplied by $400,000 is added to the numerator of the foreign tax credit limitation fraction in computing taxable income from sources without the United States.

Step (6) Computation of foreign tax credit limitation fraction.

(i) Taxable income from sources without the United States is all follows:

$$\text{Foreign business income} + \text{Foreign source capital gain net income} - \tfrac{18}{46}\left(\text{foreign source net capital gain} - \begin{pmatrix}\text{paragraph (a)(3)(i) adjustment} \\ - \text{ paragraph (a)(3)(ii) adjustment}\end{pmatrix}\right)$$

$$\$1{,}200{,}000 + 0 - 0 - \$600{,}000 + \tfrac{18}{46}\left(\$400{,}000 - (\$156{,}522)\right) = \$756{,}522$$

(ii) The entire taxable income is as follows:

Business income + Capital gain net income − 18/46 (net capital gain)

$3,200,000 + $100,000 − 0 = $3,300,000

Note that no adjustment under paragraph (a)(3) is made with respect to the denominator.

Example (4). Corporation D had the following business taxable income, capital gains, and capital losses in 1979:

	In thousands		
	Foreign source	U.S. source	All sources
Business income	$2,000	$2,500	$4,500
Long-term capital gain	100	200	300
Long-term capital loss	100	100	200
Short-term capital gain	300	400	700
Short-term capital loss	500	[illegible]	[illegible]

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income are computed as follows:

Step (1) First compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	0	100
Net long-term capital loss	0	0
Net short-term capital gain	0	0
Net short-term capital loss	500	100

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) 0	(b) 0
Net capital gain	(c) 0	(d) 0

Step (3) Next compute foreign source capital gain net income and foreign source net capital gain, which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is zero and foreign source net capital gain is zero.

Step (4) Under paragraph (a)(3)(i) of this section, the taxable income from sources without the United States is reduced by the amount by which the net capital loss allocable or apportionable to sources without the United States reduces capital gains (long and- short-term) from sources within the United States when computing capital gain net income. This is determined by first computing the net capital loss allocable

or apportionable to sources without the United States ($500,000), and the capital gain net income from sources within the United States ($500,000). In this case, $500,000 of net capital loss allocable or apportionable to sources without the United States reduces $500,000 of net long- and short-term gains from sources within the United States in computing capital gain net income.

Step (5) Under paragraph (a)(3)(ii) of this section, the adjustment under paragraph (a)(3)(i) of this section is reduced by an amount equal to the rate differential portion of net capital gain (from all sources). In this case, net capital gain from sources within the United States over net capital gain (from all sources). In this case, net capital gain from sources within the United States is $100,000 and the net capital gain is zero, so an amount equal to 18/46 multiplied by $100,000 is added to the numerator of the foreign tax credit limitation fraction in computing taxable income from sources without the United States.

Step (6) Computation of foreign tax credit limitation fraction.

(i) Taxable income from sources without the United States is as follows:

Foreign business income	+	Foreign source capital gain net income	−	18/46 (foreign source net capital gain	−	(paragraph (a) (3) (i) adjustment − paragraph (a) (3) (ii) adjustment)
$2,000,000	+	0	−	$500,000	+	18/46 ($100,000) = $1,539,130 ($ 39,130)

(ii) The entire taxable income is determined as follows:

Business income + Capital gain net income − 18/46 (net capital gain)
$4,500,000 + 0 − = $4,500,000

Note that no adjustment under paragraph (a)(3) of this section is made with respect to the denominator.

§1.904(b)-2 Treatment of capital gains for other taxpayers.

(a) *In general.* For purposes of computing the foreign tax credit limitation of persons other than corporations, the following rules apply:

(1) *Inclusion in foreign source taxable income.* The taxable income from sources without the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income (as defined in paragraph (b)(2) of § 1.904(b)-1), reduced by an amount determined by multiplying foreign source net capital gain (as defined in paragraph (b)(4) of § 1.904(b)-1) by the percentage specified under section 1202 (a).

(2) *Inclusion in entire taxable income.* The entire taxable income of a taxpayer other than a corporation shall include gains from the sale or exchange of capital assets only to the extent of capital gain net income (as defined in paragraph (b)(1) of § 1.904(b)-1), reduced by an amount determined by multiplying net capital gain (as defined in paragraph (b)(3) of § 1.904(b)-1) by the percentage specified under section 1202 (a).

(3) *Treatment of capital losses.* The taxable income from sources without the United States shall be reduced by:

(i) Any net capital loss (as defined in paragraph (b) of this section) allocable or apportionable to sources without the United States to the extent taken into account in determining capital gain net income, less

(ii) An amount equal to the excess of net capital gain from sources within the United States over net capital gain, multiplied by the percentage specified under section 1202(a).

(b) *Definition of net capital loss.* For purposes of paragraph (a) of this section, the term "net capital loss" means the excess of the losses from the sale or exchange of capital assets and any carryforward as determined under section 1212 over the amount allowed under section 1211(b).

(c) *Illustrations.* The principles of paragraph (a) of this section are illustrated by the following examples:

Example (1). X, an individual, has $1,500,000 of foreign source taxable income and $2,500,000 of U.S. source taxable income (exclusive of capital gains and losses) for 1979 and the following capital gains and losses:

	In thousands		
	Foreign source	U.S. source	All sources
Long-term capital gain	$300	$500	$800
Long-term capital loss	100	500	600
Short-term capital gain	100	400	500
Short-term capital loss	150	200	300

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of X are computed as follows:

Step (1) First, compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the U.S.	All sources
Net long-term capital gain	$50	$300
Net long-term capital loss	0	0
Net short-term capital gain	0	200
Net short-term capital loss	0	0

Step (2) Next compute capital gain net income and net capital gain from sources without the United States and from all sources as follows:

	In thousands	
	Sources without the U.S.	All sources
Capital gain net income	(a) $200	(b) $450
Net capital gain	(c) 200	(d) 200

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain, which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is $200,000 and foreign source net capital gain is $200,000.

Step (4) Compute taxable income from sources without the United States, using 0.60 as the percentage specified in section 1202(a), as follows:

Foreign taxable income (exclusive of capital gains and losses) + Foreign source capital gain net income − 0.60 (foreign source net capital gain)
$1,500,000 + $200,000 − 0.60[$200,000] = $1,580,000

Step (5) Compute the entire taxable income as follows:

Taxable income (exclusive of capital gains and losses) + Capital gain net income − 0.60 (net capital gain)

$4,000,000 + $400,000 − 0.60 ($200,000) ($120,000) = $4,280,000

Example (2). Y, an individual, has $2,000,000 of foreign source taxable income and $3,000,000 of U.S. source taxable income (exclusive of capital gains and losses) for 1979 and the following capital gains and losses:

	In thousands		
	Foreign source	U.S. source	All sources
Long-term capital gain	$200	$800	$1,000
Long-term capital loss	700	100	800
Short-term capital gain	100	300	400
Short-term capital loss	800	200	500

For purposes of computing the foreign tax credit limitation, the foreign source taxable income and the entire taxable income of Y are computed as follows:

Step (1) First, compute the net long-term capital gain and net short-term capital gain and the net long-term capital loss and net short-term capital loss allocable or apportionable to such sources, from sources without the United States and from all sources, as follows:

	In thousands	
	Sources without the United States	All sources
Net long-term capital gain	0	$200
Net long-term capital loss	$500	0
Net short-term capital gain	0	0
Net short-term capital loss	200	100

Step (2) Next compute the capital gain net income and net capital gain from sources without the United States and from all sources as follows:

	In thousands	
	Sources without the United States	All sources
Capital gain net income	(a) 0	(b) $100
Net capital gain	(c) 0	(d) 100

Step (3) Next calculate foreign source capital gain net income and foreign source net capital gain, which is the lesser of (a) or (b) and the lesser of (c) or (d), respectively. Foreign source capital gain net income is zero and foreign source net capital gain is also zero.

Step (4) Under paragraph (a)(3)(i) of this section, the taxable income from sources without the United States is reduced by the amount by which the net capital loss allocable or apportionable to sources without the United States reduces capital gains (long and short-term) from sources within the United States when computing capital gain net income. This is determined by first computing the net capital loss allocable or apportionable to sources without the United States ($700,000) and the capital gain net income from sources within the United States ($800,000). In this case, $700,000 of net capital loss allocable or apportionable to sources without the United States reduces $700,000 of long and short-term capital gain in computing capital gain net income.

Step (5) Under paragraph (a)(3)(ii) of this section, the adjustment under paragraph (a)(3)(i) of this section is reduced by an amount equal to the difference between net capital gain from sources within the United States and net capital gain (from all sources), multiplied by the percentage specified under section 1202(a). In this case, the net capital gain from sources within the United States is $700,000 the net capital gain is $100,000 and the percentage specified under section 1202(a) is 0.60.

Step (6) Computation of foreign tax credit limitation fraction.

(i) Taxable income from sources without the United States is as follows:

$$\text{Foreign income (exclusive of capital gains and losses)} + \text{Foreign source capital gain net income} - 0.60(\text{foreign source net capital gain}) - \left(\text{paragraph (a) (3) (i) adjustment} - \text{paragraph (a) (3) (ii) adjustment}\right)$$

$$\$2,000,000 + 0 - 0 - \$700,000 + 0.60(\$600,000) (\$360,000) = \$1,660,000$$

(ii) The entire taxable income is as follows:

Taxable income (exclusive of capital gains and losses) + Capital gain net income − 0.60 (net capital gain)

$5,000,000 + $100,000 − $60,000 = $5,040,000

Note that no adjustment under paragraph (a)(3) of this section is made with respect to the denominator.

§ 1.904(b)-3 Sale of personal property.

(a) *General rule.* For purposes of section 904 and the regulation, thereunder, there shall be included as gain from sources within the United States any gain from sources without the United States arising from the sale or exchange of a capital asset which is personal property (as defined in § 1.1245-3(b)). For purposes of this paragraph, gain from the sale or exchange of a capital asset shall include net section 1231 gain, but shall not include gain from the sale or exchange of a capital asset which is not treated as capital gain. The special source rules provided under this section shall be applied on an item by item basis with respect to the sale of personal property within any taxable year, except that if substantially all the assets of a trade or business (within the meaning of section 368(a)(1)(C)) are sold within any one country within any taxable year, the gains and losses from such sales of such assets shall be netted before applying the source rules under this section.

(b) *Special rules.* Paragraph (a) of this section shall not apply in each of the following cases:

(1) In the case of an individual, if the property is sold or exchanged within the

country or possession of the individual's residence.

(2) In the case of a corporation if the property is stock in a second corporation, and is sold in a country or possession in which the second corportaion derived more than 50 percent of its gross income for the 3-year period ending with the close of such second corporation's taxable year immediately proceding the year during which the sale or exchange occurred (or for such part of such period as the corporation has been in existence, but in no event less than a 12-month period). For purposes of this paragraph (b)(2) of this section the gross income of any foreign corporation shall be computed in the same manner as if the foreign corporation were a domestic corporation. Thus, the gross income of a foreign corporation for this purpose includes income from all sources, which is not specifically excluded from gross income under any other provisions of the Code.

(3) In the case of any taxpayer, if the property is personal property (other than stock in a corporation) which is sold or exchanged in a country or possession in which the property is used in a trade or business of the taxpayer, or in which the taxpayer derived more than 50 percent of its gross income for the 3-year period ending with the close of its taxable year immediately preceding the year during which the sale or exchange occurred (or, in case of a taxpayer other than an individual, for such part of such period as the taxpayer has been in existence, but in no event less than a 12-month period). In the case of property sold or exchanged by a partnership, trust, or estate, the determination required by the preceding sentence shall be made at the level of the partnership, trust (other than a grantor trust), or estate. For purposes of this paragraph (b)(3) of this section, the gross income of any foreign corporation (or other entity) shall be computed in the same manner as if the foreign corporation were a domestic corporation (or a domestic entity).

(c) *Exception.* Paragraph (a) of this section shall not apply to a sale of personal property if the gain (determined under chapter 1 of the Internal Revenue Code) from the sale or exchange of the personal property is subject to an income, war profits, or excess profits tax (including a tax withheld with respect to nonresident aliens or foreign corporations) with respect to a foreign country or a possession of the United States in which the sale or exchange occurs, and the rate of tax imposed by such country or possession applicable to such gain is 10 percent or more. For purposes of this paragraph, the tax must be 10 percent or more of the total amount of gain (whether ordinary or capital) arising from the sale or exchange of the item of personal property.

(d) *Application of source rules.* In determining the foreign country or possession where property is sold or exchanged for purposes of paragraphs (b) and (c) of this section, and the foreign country or possession where gross income is derived for purposes of paragraphs (b)(2), (b)(3) and (e) of this section, the source of any gain or income shall be determined by applying the principles under section 861, 862, and 863 and the regulations thereunder.

(e) *Gain from liquidation of certain foreign corporations.* Paragraph (a) shall not apply with respect to a distribution in liquidation of a foreign corporation to which Part II of subchapter C applies, if such corporation derived less than 50 percent of its gross income from sources within the United States for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year during which the distribution occurred (or for such part of such period as the corporation has been in existence, but in no event less than a 12-month period). For purposes of paragraph (e) of this section, the gross income of the foreign corporation shall be computed in the same manner as if the foreign corporation were a domestic corporation.

(f) *Residence defined.* For purposes of paragraph (b)(1) of this section, the country of an individual's residence is to be determined by applying the rule under § 1.871–2(b).

(g) *Tax rate applicable to gain.* For purposes of paragraph (c) of this section, the tax rate applicable to the gain on the sale or exchange of personal property (as determined under Chapter 1 of the Internal Revenue Code of 1954) shall be dertermined by applying the tax laws of the foreign country or possession (and any applicable reduction under a tax treaty) to such gain and by treating the gain from such transaction as if such gain were the only income derived by the taxpayer during the taxable year (and the only deductions allowed are deductions directly attributable to such gain).

(h) *Country in which gross income derived.* Notwithstanding paragraph (d) of this section, for purposes of this section, dividends received by a shareholder who is not a U.S. person from a foreign corporation shall be deemed to be derived from sources within the foreign country under the laws of which the foreign corporation is created or organized.

§ 1.904 (b)–4 Effective date.

Sections 1.904(b)–(1) and 1.904(b)–2 shall apply to taxable years beginning after December 31, 1975 and § 1.904(b)–3 shall apply to sales and exchanges made after November 12, 1975.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–255 Filed 1–5–83; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 301

[LR–153–81]

Penalties for Failure to Make a Return or Furnish a Statement Required Under Section 6039C

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary income tax regulations relating to penalties for failure to make a return or furnish a statement required under section 6039C. The temporary regulations also serve as a notice of proposed rulemaking for final regulations on Procedure and Administration.

DATE: Written comments and requests for a public hearing must be delivered or mailed before March 7, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–153–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mary Elizabeth Dean of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR–153–81), 202–566–3209.

SUPPLEMENTARY INFORMATION: The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** add a new § 6a.6652 (g)–1 to CFR Part 6a containing Temporary Income Tax Regulations under Subtitle C of Title XI of the Omnibus Reconciliation Act of 1980. The final regulations that are proposed to be based on the temporary regulations would add a new § 301.6652–4 to 26 CFR Part 301.

For the text of the temporary regulations, see FR Doc. [T.D. 7866] published in the Rules and Regulations portion of this issue of the Federal Register.

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply Accordingly these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act [5 U.S.C. chapter 6]. The Commissioner of Internal Revenue has determined that this proposed rule is not a major regulation as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

List of Subjects in 26 CFR Part 301

Income taxes, Penalties, Filing requirement.

Comments and Request for a Public Hearing

Before adopting the temporary and proposed regulations referred to in this document as final regulations, consideration will be given to any written comments that are submitted [preferably seven copies] to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Mary Elizabeth Dean of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matter of substance and style.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-[illegible] Filed 1-6-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 115

[CCGD7-82-16]

Sunshine Skyway Bridge Pier Protection System; Tampa Bay, Gulf Intracoastal Waterway, Florida; Permit Amendment

AGENCY: Coast Guard, DOT.

ACTION: Public hearing on proposed pier protection system.

SUMMARY: The Commander, Seventh Coast Guard District, has authorized a joint public hearing to be held with the Florida Department of Transportation to receive comments on a proposed amendment to the Coast Guard permit approving location and plans of the new Sunshine Skyway Bridge across Tampa Bay, Gulf Intracoastal Waterway, Florida. The amendment concerns the addition of a pier protection system. This hearing is being held to gather information and data necessary to prepare the environmental documentation for the Coast Guard's decision regarding the permit amendment.

DATES: (a) The hearing will be held on 27 January 1983 at 7 p.m.; (b) Written comments may be submitted on or before 28 February 1983.

ADDRESSES: (a) The location of the hearing will be The Sheraton—St. Petersburg, Sun and Sea Rooms, 6800 34th Street South, St. Petersburg, Florida 33711.

(b) Written comments should be submitted to Mr. J. C. Kraft, Chief, Bureau of the Environment, Florida Department of Transportation, 605 Suwannee Street, M. S. 37, Tallahassee, Florida 32301 and will be made available for examination from 7:30 a.m. to 4:00 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Seventh Coast Guard District, Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130 and from 8:00 a.m. to 4:00 p.m. at the ofice of the Florida Department of Transportation, 801 North Broadway, Bartow, Florida 33830.

Comments may also be hand-delivered to the above Tallahassee address.

FOR FURTHER INFORMATION CONTACT: Mr. J. C. Kraft, Chief, Bureau of the Environment, Florida Department of Transportation, 605 Suwanee Street, M. S. 37, Tallahassee, Florida 32301. Telephone (904) 488-2911.

SUPPLEMENTARY INFORMATION: The hearing will be informal. The Florida Department of Transportation will preside over the hearing. A Coast Guard representative will also attend the hearing and make a brief opening statement describing the Coast Guard's involvement with the proposed action. Each person who wishes to make an oral statement should notify the Florida Department of Transportation, Bartow, Florida by 21 January 1983. Such notification should include the approximate time required to make the presentation.

A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this proposed action by submitting their comments in writing. Each comment should state reasons for support or opposition, suggest any proposed changes to the action, and include the name and address of the person or organization submitting the comment. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

All comments received will be considered before final action is taken on the proposed action. After the time set for the submision of comments, the Commander, Seventh Coast Guard District will determine a recommended final course of action. The District Commander will then forward the record, including all written comments and his recommendations to the Commandant, United States Coast Guard, for final action.

(33 U.S.C. 491; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 115.60(b)(2))

Dated: December 21, 1982.

D. C. Thompson,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 83-88 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 6

Solicitation of Social Security Numbers

AGENCY: Federal Emergency Management Agency [FEMA].

ACTION: Proposed rule.

SUMMARY: This proposed regulation change amends FEMA regulation 44 CFR 6.3(c) to reduce a restriction on solicitation of social security numbers.

The existing regulations prevent solicitation of social security numbers which are needed for Administration of training programs.

DATE: Comments received on or before March 7, 1983, will be considered.

ADDRESS: Comments should be sent to Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Room 835, 500 C Street SW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Ainora, Office of General Counsel, FEMA (202) 287–0379.

SUPPLEMENTARY INFORMATION: FEMA's Privacy Act Regulations, 44 CFR 6.3(c) presently reads as follows:

* * * * *

(c) Solicitation of Social Security Numbers: Before an employee of FEMA requests an individual to disclose his or her social security number, the employee of FEMA shall ensure that either:

(1) The disclosure is required by Federal statute, or;

(2) The disclosure of a social security number was required under statute or regulation adopted before January 1, 1975, to verify the identity of an individual, and the social security number will become a part of a system of records in existence and operating before January 1, 1975. If solicitation of the social security number is authorized under paragraph (c)(1) or (2) of this section, the FEMA employee who requests an individual to disclose the social security account number, shall first inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and the uses that will be made of it.

FEMA proposes to change this regulation as set out below:

This regulation deals with administrative matters and hence is categorically excluded from the requirement for an environmental assessment under 44 CFR Part 10. Further, it is not a major regulation under the Terms of Executive Order 12291 and, since it deals with individuals, does not have impact on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The regulation, as amended, does not require disclosure of any information and is not an information collection requirement. Any collection or attempt at collection of the social security number on any form or elsewhere must be justified in a separate process.

List of Subjects in 44 CFR Part 6

Privacy.

Accordingly, 44 CFR Part 6 is proposed to be amended by revising paragraph (c) of § 6.3 to read as follows:

PART 6—IMPLEMENTATION OF PRIVACY ACT OF 1974

* * * * *

§ 6.3 Collection and use of information (Privacy Act Statements).

* * * * *

(c) Solicitation of Social Security Numbers:

Before an employee of FEMA can deny to any individual right, benefit, or privilege provided by law because of such individual refusal to disclose his/her social security account number, the employee of FEMA shall ensure that either:

(1) The disclosure is required by Federal statute, or;

(2) The disclosure of a social security number was required under statute or regulation adopted before January 1, 1975, to verify the identity of an individual, and the social security number will become a part of a system of records in existence and operating before January 1, 1975. If solicitation of the social security number is authorized under paragraph (c)(1) or (2) of this section, the FEMA employee who requests an individual to disclose the social security account number shall first inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and the use that will be made of it.

* * * * *

Dated: December 23, 1982.

Louis O. Giuffrida,

Director.

[FR Doc. 83–333 Filed 1–5–83; 8:45 am]

BILLING CODE 6718–01–M

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44 CFR Part 67

[Docket No. FEMA–6384]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Tennessee

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; revision.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Springfield, Robertson County, Tennessee.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 47 FR 35799 on August 17, 1982, and in the *Robertson County Times* on October 7, and October 14, 1982, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and othe information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for inspection at City Hall, 123 Fifth Avenue West, Springfield, Tennessee 37172.

Send comments to: Mayor Dave Fisher or Mr. Art Garrett, City Planner, City Hall, 123 Fifth Avenue West, Springfield, Tennessee 37172.

FOR FURTHER INFORMATION CONTACT: Mr. Brian R. Mrazik, Ph.D., National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Springfield, Tennessee in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(A).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are

adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance; Flood plains.

The proposed base (100-year) flood elevations are:

[illegible]	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Tennessee	City of Springfield, Robertson County	Beaver Dam Creek	Just upstream of unnamed road (upstream crossing)	*568
		Wartrace Creek	Just downstream of Lake Wartrace Dam	*564
		do	Just upstream of Lake Wartrace Dam	*594
		do	Just upstream of Old Green Briar Pike	*632
		Carr Creek	Just upstream of New Chapel Road	*523
		do	Just upstream of Burr Road	*548
		do	Just upstream of State Highway 65 and U.S. Highway 431.	*568
		do	Just upstream of New Cut Road	*595
		Sulphur Fork	Just upstream of Main Street	*547
		do	Just downstream of 5th Avenue East	*558

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 40014128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 20, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-312 Filed 1-6-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6473]

Proposed Base Flood Elevation and Zone Designation Determinations for the Town of Goodyear, Maricopa County, Arizona; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already if effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the office of the Mayor, City Hall, 119 North Litchfield Road, Goodyear, Arizona.

Send comments to: Honorable Charles H. Salem, Mayor, Town of Goodyear, 119 North Litchfield Road, Goodyear, Arizona 85338.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the Town of Goodyear, Arizona in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base flood elevations and zone designations are as follows:

Source of flood and location	Elevation (feet) national geodetic vertical datum	Zone designation
Gila River and Agua Fna River:		
Just upstream of Sarival Avenue extended.	[illegible]	A5 and A14.
Just downstream of Reems Road.	910, 914	A14 and A5
Just downstream of Bullard Avenue.	918	A14.
At Broadway Road	933	A3.

All the remaining annexed areas have been identified as Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of

technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 14, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-362 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6474]

Proposed Based Flood Elevation and Zone Designation Determinations, Healdsburg, Sonoma County, California; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plan management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Department of Public Works, 550 West Side Road, Healdsbur, California.

Send comments to: Honorable Paul Dix, Mayor, City of Healdsburg, 126 Matheson Street, Healdsburg, California

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Managment Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Healdsburg, California in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minumum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation National geodetic vertical datum (feet)	Zone designation
Russian River:		
Just upstream of Old U.S. Highway 101.	88	A13.
Just upstream of Healdsburg Avenue.	96	A13.
At the easternmost corporate limits.	104	A13.

Along Foss Creek, in the area located south of Old U.S. Highway 101, the proposed zone designation has been revised from Zones A5 and A9 to Zone A. All the remaining annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities.

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 4, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-362 Filed 1-6-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6475]

Proposed Base Flood Elevation and Zone Designation Determinations for Ascension Parish, Louisiana; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Ascension Parish Courthouse East, 828 South Irma Boulevard, Gonzales, Louisiana.

Send comments to: Mr. J. Carey Frederic, President of the Policy Jury, Ascension Parish, P.O. Box 351, Donaldsonville, Louisiana 70346.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency

Management Agency, Washington, DC 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for Ascension Parish, Louisiana, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Bayou Conway:		
At the downstream limit of detailed study	5.0	A1.
Just downstream of Route 22	5.7	A1.
At a point located approximately 3400 feet downstream of Route 941	6.6	A1.
At a point located approximately 1700 feet downstream of Route 932	7.0	A1.

Also along Bayou Conway, the area generally located between Route 932 and the eastern corporate limits of the Town of Gonzales, the proposed zone designation is Zone AH with an elevation of 7 feet NGVD. In addition, the corporate boundaries for the Town of Gonzales have been revised to reflect the latest annexations.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 15, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-359 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6478]

Proposed Special Flood Hazard Area Determinations For Cascade County, Montana; Under National Flood INsurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed special flood hazard areas as described below.

The proposed special flood hazard areas are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program(NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed special flood hazard areas are available for review at the Office of the County Commissioner, Cascade County Courthouse, Great Falls, Montana.

Send comments to: Mr. Franklin H. Steyaert, County Commissioner, Cascade County Courthouse, Great Falls, Montana 59401.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed special flood hazard areas for Cascade County, Montana in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These special flood hazard areas, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed special flood hazard areas will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed special flood hazard areas, identified as Zone A, on Panel 710 of 1300, have been added along the Missouri River, between the Private Road located in Section 2 and the limit of detailed study. On Panel 409 of 1300, the reference mark elevations have been corrected.

Pursuant to the provisions of 5 U.S.C 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegted by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act

of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 17, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-360 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6479]

Proposed Special Flood Hazard Area Determinations for Hazen, Mercer County, North Dakota; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed special flood hazard areas as described below.

The proposed special flood hazard areas are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed special flood hazard areas are available for review at the Office of the City Auditor, Hazen, North Dakota.

Send comments to: Mr. Mel Beckler, President, City of Hazen, P.O. Box 717, Hazen, North Dakota 58545.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Natural Hazards Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed special flood hazard areas for the City of Hazen, North Dakota in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These special flood hazard areas, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed special flood hazard areas will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed special flood hazard areas, identified as Zone A, have been added along three unnamed streams. The first area is generally bounded by Main Street, Central Avenue, Burlington Northern Railroad and the western corporate limits. The second area is generally located just west of Third Avenue West. The third area is generally located in the northeasternmost portion of the City.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 17, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-361 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

[Docket No. FEMA-6477]

Proposed Base Flood Elevation and Zone Designation Determinations for the City of Carrollton, Dallas, Denton and Collin Counties, Texas Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the City Engineer, 1620 Denton Drive, Carrollton, Texas. Send comments to: Honorable Leddie Taylor, Mayor, City of Carrollton, 1002 Broadway, P.O. Box 535, Carrollton, Texas 75006.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the City of Carrollton, Texas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not

be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding and location	Elevation, National geodetic vertical datum (feet)	Zone designation
Stream 4Dn:		
At the point located approximately 800 feet upstream of Keller Springs Road.	509	A1.
At a point located just upstream of Springleaf Drive.	520	A1.
At the limit of detailed study...	537	A1.
Furneaux Creek: At Hebron Parkway.	553	A2.
Cooks Branch: Area generally located east of Wallace Road and north of the [illegible]	430	AH.

Also along Furneaux Creek, the proposed special flood hazard area, identified as Zone A, has been added upstream of Hebron Parkway. Along the Elm Fork of Trinity River, the proposed zone designations have been revised from Zone A5 to Zones A4 and A7, and the base flood elevations remain the same. Along Hutton Branch, between a point located approximately 1800 feet downstream of Interstate Route 35 and just downstream of Perry Road, the proposed zone designation has been revised from Zone A5 to Zone A3, and the base flood elevations remain the same. Additional annexed areas have been identified as Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 15, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-332 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[CGD 82-105]

Documentation of Vessels

AGENCY: Coast Guard, DOT.

ACTION: Extension of comment period for advance notice of proposed rulemaking.

SUMMARY: On November 12, 1982, the Coast Guard published in the **Federal Register** (47 FR 51170) an advance notice of proposed rulemaking seeking comments by January 11, 1983, concerning definition of the term "controlling interest" in relation to partnerships for purposes of vessel documentation. A request has been received for an extension of the comment period. Notice is hereby given that the closing date for comments concerning the advance notice of proposed rulemaking is extended to the close of business on January 24, 1983.

DATE: The comment period is extended to January 24, 1983.

ADDRESSES: Comments should be submitted to Commandant (G–CMC/24), (CGD 82–105), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered and will be available for inspection or copying at the Marine Safety Council (G–CMC/24), room 4402, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426–1477 between the hours of 7 a.m. and 5 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mrs. Phyllis D. Carnilla (Project Manager) or Lieutenant Robert R. Meeks (Staff Attorney), Office of Merchant Marine Safety, Room 1312, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426–1492, or (202) 426–1493. Normal office hours are between 7 a.m. and 5 p.m. Monday through Friday, except holidays.

Dated: December 30, 1982.

L. N. Hein,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 83-378 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-14-M

Notices

Federal Register
Vol. 48, No. 4
Thursday, January 6, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Prescott National Forest Grazing Advisory Board; Meeting

The Prescott National Forest Grazing Advisory Board will meet at 10:00 A.M. on March 4, 1983, at the Forest Supervisor's Office in Prescott, Arizona.

The purpose of this meeting is to review items of mutual interest to grazing permittees and the Forest Service. Discussion will be limited to use of range betterment funds and management planning.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Prescott National Forest, 344 South Cortez Street, Prescott, Arizona, telephone number (602) 445–1762. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation:

Members of the public will be given an opportunity for comments and questions following discussion by the Advisory Board.

December 23, 1982.

Donald H. Bolander,

Forest Supervisor.

[FR Doc.83–301 Filed 1–5–83; 8:45 am]

BILLING CODE 3410–11–M

CIVIL RIGHTS COMMISSION

Louisiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference of the Louisiana Advisory Committee to the Commission will convene at 10:00a and will end at 12 Noon, on February 3, 1983, at the Capitol House, Royal Rouge Room, 201 Lafayette Street, Baton Rouge, Louisiana 70801. The purpose of this press conference is to release the report on block grants.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dr. Louis C. Pendleton, 1514 Gary, Shreveport, Louisiana 71103, (318) 424–1297; or the Southwestern Regional Office, Hertiage Plaza, 418 South Main, San Antonio, Texas 78204, (512) 730–5570.

The press conference will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 3, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–334 Filed 1–5–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Anhydrous and Aqua Ammonia From Mexico; Postponement of Preliminary Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary countervailing duty determination.

SUMMARY: The preliminary countervailing duty determination involving anhydrous and aqua ammonia from Mexico is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the preliminary determination not later than March 28, 1983.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377–5498.

SUPPLEMENTARY INFORMATION: On November 17, 1982, we initiated a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Mexico of anhydrous and aqua ammonia receive any benefits that constitute bounties or grants (47 FR 53440). The notice stated that we would issue a preliminary determination by January 21, 1983.

The product covered by this investigation is anhydrous and aqua ammonia from Mexico. The imported merchandise is currently provided for in items 417.2000, 417.2200, 480.6540, and 480.6560 of the *Tariff Schedules of the United States Annotated.*

As detailed in the notice of initiation of the countervailing duty investigation, the petition alleges that the government of Mexico provides various programs which constitute bounties or grants to producers, manufacturers, or exporters in Mexico of anhydrous and aqua ammonia. The alleged subsidy practices are numerous and complex and present novel issues. The petitioners have made allegations concerning 14 different subsidy practices, which involve complex issues such as government-owned enterprises; export, regional, and indusfry sector programs; and tax, transportation, and other preferential incentives. In particular, the allegation of preferential prices on natural gas used to manufacture ammonia raises issues which have never been investigated before under the countervailing duty law. We have determined that the government of Mexico and the other parties concerned are cooperating and that additional time is necessary to make the preliminary countervailing duty determination.

For these reasons we determine that this case is extraordinarily complicated in accordance with section 703(c)(1)(B)(i) of the Tariff Act of 1930, as amended (the Act), and that additional time is necessary to make the preliminary determination in accordance with section 703(c)(1)(B)(ii) of the Act. We intend to issue the preliminary determination not later than March 28, 1983.

This notice is published pursuant to section 703(c)(2) of the Act.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

December 29, 1982.

[FR Doc. 83–326 Filed 1–5–83; 8:45 am]

BILLING CODE 3510–25–M

Management-Labor Textile Advisory Committee; Change of Room for Meeting

On December 8, 1982 a notice dated December 2, 1982 was published in the Federal Register (47 FR 55261),

announcing a meeting of the Management-Labor Textile Advisory Committee on January 19, 1983 at 1:00 p.m. in Room 4830, Main Commerce Department Building, 14th Street and Constitution Avenue, NW.

The purpose of this notice is to announce that the room for the meeting has been changed to Room 6802. The date, time, and agenda for the meeting remain the same as previously announced.

Paul T. O'Day,

Deputy Assistant Secretary for Trade Development.

[FR Doc. 83-374 Filed 1-5-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Bolt Beranek and Newman Inc.; Issuance of Permit To Take Endangered Species

On July 28, 1982, Notice was published in the **Federal Register** (47 FR 32558), that an application had been filed with the National Marine Fisheries Service by Bolt Beranek and Newman Inc., 10 Moulton Street, Cambridge, Massachusetts 02238 for a Scientific Research and Scientific Purposes Permit to take up to 400 gray whales by harassment.

Notice is hereby given that on December 29, 1982, the National Marine Fisheries Service issued a Scientific Research and Scientific Purposes Permit as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), to Bolt Beranek and Newman Inc., subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to Parts 220–222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 29, 1982.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-202 Filed 1-5-83; 8:45 am]

BILLING CODE 3510-22-M

[Modification No. 1 to Permit No. 363]

University of California; Marine Mammal Permit

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 363, issued to Drs. Jennifer Buchwald, Carl Shipley, and Robin Fisher, Department of Physiology and Brain Research Institute, University of California, Los Angeles, California 90024 on January 4, 1982, is modified to extend the period of authorized taking for one year.

Section B–6 is deleted and replaced by: "6. This Permit is valid with respect to the taking authorized herein until December 31, 1983."

This modification becomes effective upon publication in the **Federal Register.**

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 27, 1982.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-201 Filed 1-5-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board, Ad Hoc Committee on EF–111A Capability Upgrade; Meeting

December 15, 1982.

The USAF Scientific Advisory Board Ad Hoc Committee on EF–111A Capability Upgrade will meet at the Pentagon, Washington, DC on January 24–25, 1983. The purpose of the meeting will be to review possible subsystem concepts for the upgrade. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-200 Filed 1-5-83; 8:45 am]

BILLING CODE 3915-61-M

Office of the Secretary

Defense Science Board; Advisory Committee Meeting

The Defense Science Board will meet in closed session on 9–10 February 1983 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 9–10 February 1983 the Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communications, and Technology Issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

January 3, 1983.

[FR Doc. 83-367 Filed 1-5-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Adult Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: January 26, 1983, 8:00 to 12:00 noon, Program Visitation, 1:00 to 5:00 p.m., Committee Meetings; January 27–28, 1983, 8:00 a.m. to 5:00 p.m., Full Council Meeting.

ADDRESS: Ramada Valley Ho, 6850 Main Street, Scottsdale, Arizona.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council is open to the public. The proposed agenda includes:

Development of Recommendation on Consolidation.
Development of Format for 1982 Annual Report.
Program Visitation to Indian Reservations.
Committee Meetings.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C., 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on January 3, 1983.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 83–259 Filed 1–5–83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act (NEPA); Amendments to the DOE NEPA Guidelines

AGENCY: Energy Department.

ACTION: Amendments to Guidelines for Compliance with the National Environmental Policy Act.

SUMMARY: The Department of Energy is amending its guidelines for compliance with the National Environmental Policy Act (NEPA) by adding eight (8) new categorical exclusions to the list of typical classes of action and modifying one (1) existing typical class of action.

EFFECTIVE DATE: Date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Raymond P. Berube, Director, Compliance Policy Division, Office of Environmental Compliance, EP–361, U.S. Department of Energy, 1000 Independence Ave. SW., Room No. 4G–064, Washington, D.C. 20585, (202) 252–4600.

Henry Garson, Esq., Assistant General Counsel for Environment, GC–34, U.S. Department of Energy, 1000 Independence Ave. SW., Room No. 6D–033, Washington, D.C. 20585, (202) 252–6947.

SUPPLEMENTARY INFORMATION:

A. Background

On March 28, 1980 (45 FR 20694), the Department of Energy published in the **Federal Register** final guidelines for implementing the procedural provisions of NEPA as required by the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508). The guidelines are applicable to all organizational units of the Department of Energy, except the Federal Energy Regulatory Commission which is not subject to the supervision or direction of the other parts of the Department.

Section D of the Department's NEPA guidelines identifies typical classes of Department actions: Which normally do not require either an environmental assessment or an environmental impact statement; which normally require an environmental assessment but not necessarily an environmental impact statement; and which normally require an environmental impact statement. These classes of action were identified pursuant to 40 CFR 1507.3(b)(2).

The Department's NEPA guidelines state that the Department of Energy may add or remove actions from the categories in Section D based on experience gained during the implementation of the CEQ regulations and the guidelines. Pursuant to the guidelines, substantive revisions are to be published in the **Federal Register** and adopted only after opportunity for public review.

B. Adoption of Amendments Proposed on November 22, 1982 (47 FR 52499)

On November 22, 1982 (47 FR 52499), the Department of Energy proposed the addition of eight (8) new categorical exclusions, i.e., actions which normally require neither an environmental impact statement nor an environmental assessment. The new categorical exclusions are applicable to the Power Marketing Administrations within the Department, and are as follows:

1. Actions undertaken in order to bring an existing DOE transmission facility into compliance with changes in applicable Federal, state, or local environmental standards or to mitigate adverse environmental effects, where such actions do not impact environmental sensitive areas such as archeological sites, critical habitats, floodplains, wetlands, etc. Such actions include, for example, noise abatement measures, and the acquisition of additional rights-of-way to establish buffer areas.

2. Execution of contracts for the short-term (less than one-year) or seasonal acquisition of excess power from existing power resources which can be transmitted over existing transmission systems with no changes in the operations of the power resources.

3. Temporary adjustments to river operations to accommodate day-to-day river fluctuations, power demand changes, fish and wildlife conservation program requirements, and other external events where the adjustments result in only minor changes in reservoir levels and streamflows.

4. Contract interpretations, amendments, and modifications, including replacement, which are

clarifying or administrative in nature, and which do not extend the term or otherwise substantially change the contracts being amended.

5. Leasing or existing transmission facilities where the leases do not involve any change in operation.

6. Acquisition or minor relocation of existing access roads serving existing transmission facilities where the relocation does not impact environmentally sensitive areas such as archeological sites, critical habitats, floodplain/wetlands, etc.

7. Replacing conductors on existing transmission lines where the replacement conductors carry the same nominal voltage as the existing conductors and where the replacement work does not involve new support structures, new substations, or other new facilities.

8. Research, inventory, and information collection activities which are directly related to the conservation of fish and wildlife resources and which involve only negligible animal mortality or habitat destruction, and no introduction of either contaminants or exotic organisms.

A 30-day period was established for public comment on the categorical exclusions proposed on November 22, 1982. No comments were received during the public comment period. Accordingly, the Department hereby adopts the categorical exclusions as proposed.

C. Other Actions

As a result of adding the categorical exclusion for "Replacing conductors on existing transmission lines where the replacement conductors carry the same nominal voltage as the existing conductors and where the replacement work does not involve new support structures, new substations, or other new facilities," a modification to an existing typical class of action which normally requires an environmental assessment is necessary.

This typical class of action is "Upgrading (reconstructing or reconductoring) an existing transmission line", and should be modified by deleting the words "or reconductoring".

Issued in Washington, D.C., December 30, 1982.

William A. Vaughn,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83-360 Filed 1-5-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since December 22, 1982.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATE: Last Notice published Wednesday, December 22, 1982. (47 FR 57088)

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave., NW., Washington, DC 20585, (202) 252-2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395-3087

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., December 30, 1982.

Louis Gordon,

Acting Director, Statistical Standards, Energy Information Administration.

DOE Forms Review by OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA-67	Foreign Crude Oil Cost Report.	Revision	Monthly	Mandatory	Selected Crude Oil Dealers.	80	1,776	Data are used to develop weighted average costs for crude oil acquisitions from designated streams. Aggregated data are submitted to the International Energy Agency to monitor international petroleum market conditions and are used by DOE for analytical purposes.
EPA-781	International Import/ Export Data.	Reinstatement.	Annual	Mandatory	Electric Utilities	30	951	Data are used to monitor utilities authorized to export electric energy or to operate or construct facilities for the transmission of electric energy at international boundaries.
FERC-699	Application for Authority to Hold Interlocking Directorate Position.	Extension	On occasion	Mandatory	Individuals	100	100	Data are used to determine whether an applicant should be authorized to hold certain interlocking positions pursuant to section 305(b) of the Federal Power Act.

DOE FORMS REVIEW BY OMB—Continued

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
FPC–14	Annual Report for Importers and Exporters of Natural Gas.	Extension	Annual	Mandatory	Importers and Exporters of Natural Gas.	31	124	Data are used to assist the Federal Energy Regulatory Commission in the monitoring and regulation of imports and exports of natural gas.

[FR Doc. 83–270–Filed 1–5 83; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 82–002]

Alabama Power Co.; Application for Approval of Exhibit S

January 3, 1983.

Take notice that Alabama Power Company, Licensee for the Mitchell Project, FERC No. 82, on November 16, 1976, filed an application for approval of a revised Exhibit S, pursuant to the requirements of the license issued on November 26, 1975. The filing was supplemented on April 4, and May 10, 1977.

Correspondence with the Licensee should be directed to: Mr. F. L. Clayton, Jr., Senior Vice President, Alabama Power Company, P. O. Box 2641, Birmingham, Alabama 35291.

The Mitchell Project is located on the Coosa River in Chilton and Coosa Counties, Alabama. The revised Exhibit S provides for designating approximately 3,000 acres of project lands, located along the eastern side of Mitchell Lake, as a game reserve. The Licensee and the Alabama Department of Conservation and Natural Resources (DCNR) have entered into a Cooperative Wildlife Management and Public Hunting Area Agreement, whereby DCNR performs certain wildlife management activities and regulates public hunting in the area. Wildlife management activities include planting food and cover plants to maximize the production of white-tailed deer and eastern wild turkey.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before February 16, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–333 Filed 1–5–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ER83–206–000]

Allegheny Power Service Corp.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation (Allegheny) tendered for filing on December 22, 1982, an Agreement concerning limited power service dated December 21, 1982 among Monongahela Power Company (Monongahela), The Potomac Edison Company (Potomac), West Penn Power Company (West Penn) and Potomac Electric Power Company (Pepco).

Allegheny states that the Agreement sets forth terms pursuant to which Monongahela, Potomac and West Penn will deliver to Pepco from 200,000 to 300,000 kilowatts of limited term capacity and energy for the period January 1, 1983 through December 31, 1983.

Allegheny requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–386 Filed 1–5–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ER83–206–000]

American Electric Power Service Corp.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on December 23, 1982 tendered for filing on behalf of its affiliate Appalachian Power Company (APCO), which is an AEP operating subsidiary, Modification No.

18 dated December 1, 1982 to the Interconnection Agreement dated February 1, 1948 between Virginia Electric and Power Company and APCO. The Commission has previously designated the 1948 Agreement as APCO's Rate Schedule FERC No. 16.

AEP states that Section 1 of this Agreement modernizes the Billings and Payments Article of the Interconnection Agreement. Section 2 of this Agreement revises the Short Term Power Service Schedule to include provisions for the sale of Short Term Power on a daily basis. Section 3 of this Agreement revises the Interchange Power Service Schedule to include provisions for multi-party economy energy transactions. The changes made by APCO to the service schedules in this Agreement are to comply with the Commission's Order 84 and to modernize the language of these service Schedules with Service Schedules previously filed by American Electric Power Service Corporation and accepted for filing by the Commission.

AEP requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-337 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-384-001]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Notice of Petition To Amend

December 30, 1982.

Take notice that on November 22, 1982,[1] Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Petitioner), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP82-384-001 a petition to amend the order issued September 1, 1982, in Docket No. CP82-384-000 pursuant to Section 7 of the Natural Gas Act so as to permit Petitioner to use the prior notice procedure under Section 157.211 of the Commission's Regulations in connection with requests for retail sales taps to serve end users not currently receiving gas from Petitioner at another service location on Petitioner's system, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it is in the primary business of selling natural gas at retail and in the conduct of that business it operates an integrated gas system including company-owned gathering, transmission and distribution facilities in a five-state regional service area in Arkansas, Louisiana, Texas, Oklahoma, and Kansas. Petitioner requests authorization under its blanket certificate issued pursuant to § 157.211 of the Commission's regulations to provide new service to residential, commercial, and industrial customers located along its pipeline which request such service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-384 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-207-000]

Boston Edison Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that Boston Edison Company (Edison) on December 22, 1982, tendered for filing a specification of the contract demand service to be taken by the Town of Reading, Massachusetts (Reading) under Edison's contract demand tariff. Edison states that the filing does not change the terms and conditions of service or affect the rate level charged to Reading.

Edison requests an effective date of October 4, 1982, or within sixty days of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-338 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-205-000]

Central Illinois Light Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that on December 22, 1982, Central Illinois Light Company (CILCO) tendered for filing an Interconnection Agreement between CILCO and the City of Springfield, Illinois (new Interconnection Agreement) dated January 1, 1983.

CILCO states that the New Interconnection Agreement is intended to replace entirely the presently effective interconnection between CILCO and Springfield. The New Interconnection Agreement contains proposed reciprocal service schedules for Limited Term Power, Emergency Energy, Short Term Power, Maintenance Power and General Purpose Energy. Also included in the New Interconnection Agreement is a service schedule designed to bring the other service schedules into compliance with FERC Order No. 84 whenever "energy

[1] The application was initially tendered for filing on November 22, 1982; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until November 24, 1982; thus, filing was not completed until the latter date.

being supplied from CILCO to City is being purchased from a third party."

CILCO requests an effective date of March 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-390 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-192-000]

Central Illinois Public Service Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that on December 14, 1982, Central Illinois Public Service Company (CIPSCO) tendered for filing a Service Agreement between CIPSCO and Mt. Carmel Public Utility Company (Mt. Carmel) under which CIPSCO will provide transmission service in accordance with the Company's Rate Schedule W-5. The Service Agreement supersedes the W-3 agreement, FPC Schedule No. 75, between CIPSCO and Mt. Carmel.

CIPSCO requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-340 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-204-000]

Central Louisiana Electric Company, Inc.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that on December 20, 1982, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing an agreement among it and the other joint owners of Rodemacher Generating Station Unit No. 2, namely the Lafayette Public Power Authority and Louisiana Energy and Power Authority. The agreement allows each owner to use capacity and energy of Unit No. 2 that is owned but not used by the other owners.

CLECO requests an effective date of December 21, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-341 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-193-000]

Cleveland Electric Illuminating Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that on December 16, 1982, The Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A through E thereto, providing for the sale to the City of Cleveland, Ohio of 40 MW of power and associated energy generated by Big Rivers Electric Corporation, Henderson, Kentucky, at the cost to CEI of purchasing it from Ohio Power Company, and transmitted from the 345 kv interconnection point on CEI's Juniper-Canton Line with Ohio Power Company to the City in accordance with the terms and conditions of the CEI's FERC Transmission Service Tariff.

CEI has requested waiver of the FERC's 60-day notice requirement in order to permit commencement of transmission service on December 1, 1982.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-347 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-113-000]

Colorado Interstate Gas Co. and Michigan Wisconsin Pipe Line Co.; Notice of Application

December 30, 1982.

Take notice that on December 7, 1982, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, and Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-113-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term deferred exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that in accordance with a deferred exchange agreement entered

into by the Applicants on November 1, 1982, Michigan Wisconsin has agreed to make available to CIG up to 79,000 dekatherms (dt) equivalent of natural gas per day on a firm basis and additional quantities on a best-efforts basis through April 30, 1983. Deliveries of such gas are proposed to be made at existing interconnections between the Applicants' systems in central Wyoming and Beaver County, Oklahoma. Thermally equivalent quantities of deferred exchange gas received by CIG would be redelivered to Michigan Wisconsin at existing system interconnections prior to October 1, 1984, it is submitted.

It is stated that there would be no transportation charge pursuant to the deferred exchange; however, either party delivering/redelivering gas in excess of the quantity delivered/redelivered by the other party in a calendar month would receive $3.224 per million Btu the following month for the net difference. No facilities are proposed to effectuate the exchange, for existing interconnections between the Applicants would be used, it is asserted.

It is stated that the gas to be delivered to CIG by Michigan Wisconsin under the deferred exchange is currently a Michigan Wisconsin supply being transported by CIG pursuant to a gas transportation and exchange agreement. It is further stated that the exchange volumes would also include a new supply source to be delivered by Michigan Wisconsin to CIG at the Beaver delivery point located on CIG's Southern System. The exchange would, it is asserted, provide CIG with an additional supply of gas part of which would be on CIG's Southern System where capacity would be available during the delivery period. It is stated that although CIG has more than adequate gas supplies on its Wyoming System to satisfy its customers' requirements, its Wyoming System is constrained by capacity. Applicants state that Michigan Wisconsin has sufficient supplies which are surplus to the requirements of its customers to accommodate the subject exchange.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-285 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. GP83-6-000, 81-761—764; JD Nos. 8222170-8222174]

Colorado Oil & Gas Conservation Commission and Davis Drilling, Inc. (Baughman Farms No. 1-5 Well, Burchfield No. 1-4 Well, Ernsting No. 1-28 Well, Farmer No. 1-34 Well, Self No. 1-9 Well); Petition To Reopen Section 107(c)(5) NGPA Well Category Determination

December 30, 1982.

On November 18, 1982, Colorado Interstate Gas Company filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen the final well category determinations that gas produced from the five above-captioned wells qualifies for the maximum lawful price set by § 271.704 of the Commission's regulations and section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301, 3317(c)(5) (Supp. IV 1980), as qualified production enhancement gas. The Commission received notice of the determinations by the Colorado Oil & Gas Conservation Commission (Colorado) on March 30, 1982. The determinations became final on May 14, 1982.

CIG is the ultimate purchaser of the gas produced from wells operated by Davis Drilling, Inc. (Davis) and currently sold to Geo Dyne Resources (Geo Dyne), the gatherer and reseller of the gas. Geo Dyne is the successor in interest to Baca Gas Gathering System, Inc. (Baca). CIG alleges that in applying for the subject production enhancement determinations, Davis made "an untrue statement of material fact" that was relied on by the Commission or the jurisdictional agency, *see* § 275.205(a)(1) and "omitted a statement of material fact necessary in order to make the statements made not misleading, in light of the circumstances under which they were made to the jurisdictional agency or the Commission." *See* § 275.205(a)(2).

CIG notes that one filing requirement in § 274.205(f) is a sworn statement by the producer that "[b]ut for the availability of a price at least as high as the renegotiated contract * * * the production enhancement work would not have been performed." *See* § 274.205(f)(7)(iii). Moreover, the purchaser must file a statement under oath that it has no knowledge of any information not described in the application which is inconsistent with the statements made in that application. *See* § 274.205(f)(8)(ii).

CIG contends that Davis entered into a contract amendment with the then-gatherer Baca which provides for a renegotiated production enhancement inventive price higher than that required to perform the production enhancement work. CIG argues that a clause in the renegotiated contract whereby Davis would collect the section 109 based ceiling price for gas from the subject wells, but would pay Baca one-half of the difference between the production enhancement incentive price and the otherwise applicable ceiling price as a "gathering and compression fee" makes the full incentive price unnecessary to perform the production enhancement work since the producer actually performed the work for one-half of the price increase. CIG also claims that an additional clause requiring Davis to refund to Baca any and all portions of the increased price that Baca is unable to pass on to CIG further indicates the lack of need for the increased revenues.[1]

[1] CIG also alleges that these clauses may constitute "an effort on the part of Baca to collect an otherwise impermissible gathering fee by improperly circumventing the Commission's Order Nos. 68 and 68-A and the related regulations." *See* §§ 270.202(c), 271.505, and 271.1104(b).

CIG contends that Colorado would not have been able to make the requisite finding necessary for affirmative well category determinations on the subject wells had the above facts been included in the record supplied by Davis. CIG's petition therefore requests that the Commission reopen and vacate the determinations and order any necessary refunds.

Because the well category determinations have become final, the Commission may reopen the determination, pursuant to § 275.205(a) of the regulations, if "(1) in making the determination the Commission or the jurisdictional agency relied on any untrue statement of material fact; or (2) there was omitted a statement of material fact necessary in order to make the statements made not misleading, in light of the circumstances under which they were made * * *."

Notice is hereby given that, in the event the subject determinations are reopened, the question of whether the Commission will require refunds, plus interest computed under § 154.102(d) of the regulations, is a matter subject to the review and final decision of the Commission.

Any person desiring to be heard or to make any protest to CIG's request to reopen should, within 30 days after this notice is published in the **Federal Register**, file with the Federal Energy Regulatory Commission, 825 North Capitol St. N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Rules of Practice and Procedure. All protests filed will be considered in determining the appropriate action to be taken, but will not make protestants' parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-342 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-199-000]

Columbus and Southern Ohio Electric Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corportion on behalf of its affiliate Columbus and Southern Ohio Electric Company (CSOE) tendered for filing on December 17, 1982, the following:

Agreement, dated December 1, 1982, among City of Columbus, Ohio, American Municipal Power-Ohio, Inc., and CSOE.

The Agreement sets forth terms pursuant to which CSOE proposes to supply Transmission Service to City of Columbus, Ohio.

The parties have requested a waiver of the Commission's Rules and Regulations to permit the proposed sale to become effective on less than 60 days notice.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-272 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-198-000]

Consumers Power Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that Consumers Power Company (Consumers) on December 17, 1982, tendered for filing Consumer's Revision of Fixed-Rate Factor to the Transmission, Ownership and Operating Agreement (Agreement) with Northern Michigan Electric Cooperative, Inc. (Northern) and Wolverine Electric Cooperative, Inc. (Wolverine) dated as of August 15, 1980.

Consumers states that the Agreement provides for the yearly redetermination of the fixed-charge factor used in determining monthly payments by Consumers Power to each cooperative for each cooperative's planned available transmission capacity. The computation of the redetermination of Consumer's annual fixed-charge factor for the calendar year 1982 will be computed in accordance with Section 6.3 of the Agreement.

Consumers requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served on Northern, Wolverine and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-273 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-100-000]

Container Corporation of America; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 29, 1982.

On December 14, 1982, Container Corporation of America, One First National Plaza, Chicago, Illinois 60603, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility prusuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is located in Fernandina Beach, Florida. The facility consists of five boilers and three steam turbine generators. The primary energy sources are coal, wood-waste and black liquor. The capacity of the facility is 108 megawatts. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of

this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-274 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RIA83-3-000]

Edgington Oil Company, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

December 29, 1982.

Take notice that Edgington Oil Company, Inc. on December 23, 1982, filed a Petition for Review under 42 U.S.C. 7194(b) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a motion to intervene. However, any such person wishing to be a participant must file a notice of participation on or before January 12, 1983, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a motion to intervene on or before January 12, 1983, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.1005(c)).

A notice of participation or motion to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Assistant General Counsel for Regulatory Litigation, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-275 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-19-000]

El Paso Electric Co.; Notice of Application

December 29, 1982.

Take notice that on December 20, 1982, El Paso Electric Company (Applicant) filed a request with the Commission, pursuant to Section 204 of the Federal Power Act, requesting authorization to negotiate for the placement of up to 250,000 shares of Preferred Stock, no par value.

Any person desiring to be heard or to make any protest with reference to the application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.211 or 385.214 of the Commission's Rules of Practice and Procedure. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-276 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-191-000]

Mississippi Power Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that on December 13, 1982, Mississippi Power Company (Mississippi) tendered for filing a notice of cancellation of Supplement No. 4 to Rate Schedule FERC No. 25 between Mississippi and Municipal Energy agency of Mississippi (MEAM).

Mississippi proposes an effective date of November 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-277 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-194-000]

Mississippi Power Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that Mississippi Power Company (Mississippi) on December 15, 1982, tendered for filing a revision of the rates included in its FERC Electric Tariff, Original Volume Number 1. The revised rates would increase revenues from jurisidctional sales by $2,957,250 based on the 12-month period ending December 31, 1983. The charge per delivery point has been reduced, the KW and KWH charges increased.

Mississippi states that the estimates the rate of return on its properties devoted to serving the cooperative Electric Power Associations to be 9.44% from revenues which it would receive under the existing rates during the 12-month period ending December 31, 1983. Mississippi further states that such return would be increased to 11.88% with the increased revenue under the tendered rates.

Copies of the filing have been served upon the public utility's jurisdictional customers and Mississippi Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filling are on

file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-278 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-200-000]

Monongahela Power Co.; The Potomac Edison Co. and West Penn Power Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that on December 20, 1982, Allegheny Power Service Corporation tendered an Agreement concerning limited power service dated as of January 1, 1983 among Monongahela Power Company (Monongahela), The Potomac Edison Company (Potomac), West Penn Power Company (West Penn) and Public Service Electric and Gas Company (PSE&G).

The Agreement sets forth terms pursuant to which Monongahela, Potomac and West Penn will deliver to PSE&G 400,000 kilowatts of limited term capacity and energy for the period January 1, 1983 through December 31, 1983.

The parties have requested a waiver of the Commission's Rules and Regulations to permit the proposed sale to become effective on less than 60 days notice.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-343 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-201-000]

The Montana Power Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that on December 20, 1982, The Montana Power Co. (Montana), tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Montana and the Bonneville Power Administration (BPA).

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Public Law 96-501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

A copy of the filing was served upon BPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-279 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-122-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Notice of Application

December 30, 1982.

Take notice that on December 10, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-122-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas for Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that pursuant to an exchange and transportation agreement dated September 24, 1982, it proposes the exchange of certain volumes of natural gas with Alabama-Tennessee and the transportation of such gas to Northern Illinois Gas Company (NI-Gas) for Alabama-Tennessee's account. The agreement provides for Northern to deliver up to 2,000,000 Mcf of exchange gas per year at Ogden, Iowa, for the account of Alabama-Tennessee. It is asserted that the volumes at Ogden would be the thermal equivalent to the volumes Alabama-Tennessee would cause Tennessee Gas Pipeline Company, a Division of Tenneco Inc., to deliver to United Gas Pipe Line Company at Centerville, Louisiana. Northern further proposes to transport the volumes delivered in exchange from Ogden, Iowa, to East Dubuque, Illinois, where said volumes would be redelivered to NI-Gas for Alabama-Tennessee's account. The volumes would then be injected underground for storage until withdrawn by Alabama-Tennessee, it is stated.

Northern and Alabama-Tennessee agree not to charge a fee related to the exchange of gas. The rate Northern proposes to charge Alabama-Tennessee for the transportation service from Ogden, Iowa, to East Dubuque, Illinois, would be derived from Northern's system-wide transmission cost of service component at the time the proposed service commences. Northern states that it would also receive 1 percent of all the gas delivered at East Dubuque as reimbursement for fuel and unaccounted-for gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-280 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP72-236-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Petition To Amend

December 30, 1982.

Take notice that on December 9, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP72-236-000 a petition to amend the order issued December 4, 1972,[1] in Docket No. CP72-236 pursuant to Section 7(c) of the Natural Gas Act so as to authorize a charge for Petitioner's compression of natural gas for Westar Transmission Company, a Division of Pioneer Corporation (Westar), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued December 4, 1972, it was authorized to provide a transportation service to Pioneer Natural Gas Company (Petitioner's parent) of up to 5,000 Mcf of gas per day from the West Wellman Field in Terry County, Texas. Petitioner further states that the gas transportation agreement pursuant to which this transportation of natural gas is being made provides that Petitioner can charge a compression fee if Petitioner elects to lower the gathering line pressure below 500 psig. Petitioner asserts that it has elected to compress below such level and to that effect installed a 320 horsepower compressor unit in 1981. Petitioner requests that the order issued December 4, 1972, be amended to authorize a charge for Petitioner's compressor service. Petitioner asserts that Westar would pay a compression fee of 13.0 cents per Mcf less its proportionate share of compressor fuel.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Jan. 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-287 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ER83-195-000]

Northern States Power Co.; Notice of Filing

December 29, 1982.

The filing Company submits the following:

Take notice that on December 16, 1982, Northern States Power Company (NSP) tendered for filing Supplement No. 4 dated December 1, 1982 to the Twin Cities-Iowa-Omaha-Kansas City 345 kV Interconnection Coordinating Agreement executed with Interstate Power Company, Iowa Public Service Company, Omaha Public Power District, St. Joseph Light & Power Company, and Kansas City Power & Light Company.

NSP states that Supplement No. 4 increases the charges for Short-Term Power and System Participation Power.

NSP request an effective date of January 15, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-280 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-111-000]

Panhandle Eastern Pipe Line Co.; Notice of Application

December 30, 1982.

Take notice that on December 3, 1982, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP83-111-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Seward County Gas Company (Seward), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that Seward and Quinque Oil and Gas Production Company (Quinque) entered into a gas sales agreement dated July 30, 1982, which provides from Seward to buy up to 150 Mcf of gas per day from Quinque for three points in Seward County, Kansas. Applicant further states that Seward has requested that it transport such as on behalf of Seward from the point of receipt which are existing points of interconnection between Applicant and Quinque to a proposed point of interconnection between Applicant and Seward all in Seward County, Kansas.

Specifically Applicant requests authorization to implement a certain transportation agreement between Applicant and Seward dated July 30, 1982. Pursuant to this agreement Applicant proposes to transport for Seward up to 150 Mcf of gas per day on a firm basis. Applicant states that the transportation service would be initiated and the required facilities constructed and initially operated pursuant to Part 284 of the Commission's Regulations. Applicant asserts that the estimated cost of the facilities to be built by Applicant is $21,000 and that Seward

would reimburse Applicant for 50 percent of this cost up to a maximum of $9,000.

Applicant has proposed that the charge for the transportation service would be $183 per month with an excess or deficiency charge of 4.01 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Wahington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-266 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2814-002]

Paterson Municipal Utilities Authority; Application for Amendment of License

December 29, 1982.

Take notice that Paterson Municipal Utilities Authority (Licensee) of Paterson, New Jersey filed on December 13, 1982, an application for amendment of its license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for the Great Falls Hydroelectric Project located on the Passaic River in the City of Paterson, New Jersey. Correspondence with the Licensee should be directed to: Joseph C. Petriello, Paterson Municipal Utilities Authority, 100 Hamilton Plaza, Paterson, New Jersey 07505.

Licensee proposes to amend Article 30 of the license for the Great Falls Project issued March 11, 1981. Article 30 requires the Licensee to begin reconstruction of the hydroelectric project within two years from the effective date of the license. Licensee has requested that Article 30 be amended to require reconstruction work to begin within 4 years from the effective date. Additional time has been requested because of difficulties encountered in financing the project because of high interest rates. The Licensee expects more favorable market conditions to develop in 1983.

Anyone desiring to be heard or to make any protests about this application should file a motion to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be filed by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a motion to intervene in accordance with the Commission's Rules. Any comments, protest, or motion to intervene must be received on or before February 9, 1983. The Commission's address is: 825 North Capitol Street, N.W., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-261 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-203-000]

Public Service Company of Indiana, Inc.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc. (PSI) on December 20, 1982, tendered for filing a Modification to Rate Schedule FERC No. 232. Rate Schedule FERC No. 232 provides for the supply of the total electric requirements of the member systems of Wabash Valley Power Association, Inc. (WVPA).

On December 22, 1982, PSI will transfer to WVPA a proportionate ownership share of its Gibson Unit No. 5. On that date, WVPA will become a partial requirement customer of PSI and the modifications, as filed, will provide for the accounting and rate treatment of such transfer.

PSI has requested a waiver of the notice requirements in order that the modifications to Rate Schedule FERC No. 232 become effective on the designated date of the transfer.

Copies of the filing were served upon WAPA and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-244 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

Docket No. QF83-5-001]

Republic Geothermal, Inc.; Application for Modification of Certification of Qualifying Status of a Small Power Production Facility

December 29, 1982.

On November 29, 1982, Republic Geothermal, Inc. (RGI), 11823 East Slauson Avenue, Santa Fe Springs, California 90670, filed with the Federal Energy Regulatory Commission (Commission) an application for modification of certification of qualifying status of a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

By order of December 24, 1981, in Docket No. QF82-5-000, the Commission granted an Application for Certification of Qualifying Status filed by RGI. Under the original application RGI would have

been the sole owner and operator of the 49 megawatt geothermal small power production facility. RGI has requested the Commission to modify its order granting qualifying status to reflect a change in the ownership and operating arrangement. Under the new arrangement, the turbine, generator, switchgear and gathering lines will be owned and operated by a subsidiary of The Parsons Corporation (Parsons); the geothermal wells will be owned by a Parsons/RGI partnership which will also be vested with the lease hold interest in the geothermal resource.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-282 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2028-000]

Robert Allen Plane; Notice of Application

December 30, 1982.

The filing individual submits the following:

Take notice that on December 20, 1982, Robert Allen Plane filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director, New York State Electric & Gas Corp.
Director, General Signal Corp.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-345 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP80-37]

Ringwood Gathering Co.; Notice of Two-Party Protest

December 30, 1982.

On December 3, 1982, Ringwood Gathering Company (Ringwood) filed with the Federal Energy Regulatory Commission (Commission), pursuant to § 154.94(j)(2) of the Commission's regulations, a protest to Union Texas Petroleum Corporation's (Union) claimed contractual authority to charge and collect the maximum lawful price under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. IV 1980) for stripper well natural gas sold to Ringwood under Union's Rate Schedule 61.

Ringwood contends that the area rate clause voluntarily provided to Union by Ringwood in 1974 was not intended to provide for eventual payment of NGPA section 108 ceiling prices simply because of the availability of small daily volumes from a well.

Any person desiring to participate who is not already a party or participant in this proceeding shall file a petition to intervene, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 15 days after publication of the notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-289 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-6-000]

Southwestern Public Service Co. and New Mexico Electric Service Co.; Notice of Application

December 29, 1982.

The filing Company submits the following:

Take notice that on December 14, 1982, Southwestern Public Service Company (SPS) and New Mexico Electric Service Company (NME) filed an application seeking an order pursuant to Section 203 of the Federal Power Act authorizing the acquisition by SPS of the assets and electric utility business of NME.

SPS is an electric utility which serves areas contiguous to the area served by NME. NME is an electic utility providing service to the southern half of Lea County, New Mexico. SPS and NME are electrically interconnected.

Under the terms of the proposed acquisition, SPS would acquire all of NME's electric utility business in exchange for (i) 1,065,000 shares of SPS common stock, subject to adjustment for prospective changes in retained earnings of NME and (ii) the assumption, defeasance, or refunding by SPS of all liabilities of NME.

Upon consummation of the acquisition, SPS will continue to provide utility service to customers who reside within the area presently served by NME.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-288 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-81-000]

Superior Oil Co. and Superior Offshore Pipeline Co.; Notice of Application

December 30, 1982.

Take notice that on November 16, 1982, The Superior Oil Company (Superior), P.O. Box 1521, Houston, Texas 77001, and Superior Offshore Pipeline Company (SOPC), P.O. Box 1521, Houston, Texas 77001, jointly filed in Docket No. CP83-81-000 an application seeking: (1) A certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act to be issued to SOPC authorizing it to acquire and operate certain facilities and to transport natural gas, (2) permission and approval

pursuant to Section 7(b) of the Natural Gas Act for Superior to abandon and transfer facilities to SOPC, (3) authorization pursuant to § 284.107 of the Commission's Regulations to perform certain transportation services on a long-term basis, (4) waiver of certain reporting and accounting requirements, and (5) a blanket certificate pursuant to Section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for SOPC authorizing it to perform certain transportation of natural gas on behalf of other interstate pipelines. The subject proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

SOPC proposes to acquire from Superior, by transfer, Superior's West Cameron mainline, offshore Louisiana, consisting of the following:

(1) A 12-inch pipeline extending from Superior's platform in West Cameron Block 149 to Superior's West Cameron 72–4 platform,

(2) A 16-inch pipeline extending from Superior's West Cameron 72–4 platform onshore and to Superior's West Cameron reseperation and measurement station, and

(3) A 24-inch pipeline extending from Superior's West Cameron reseperation and measurement station and terminating at Superior's Lowry Gas processing plant.

SOPC further proposes to continue to provide transportation services for Michigan Wisconsin Pipe Line Company (Mich-Wis) and to provide long term transportation services for an interstate pipeline, Louisiana Resources Company (LRC), and other transportation services, under blanket authorization, for interstate pipelines purchasing natural gas supplies in and adjacent to the producing area traversed by the West Cameron Main Line.

SOPC petitions the Commission, pursuant to Rules 203 and 207 of the Commission's Rules of Practice and Procedure, for waiver and/or modification of the reporting and accounting requirements which would otherwise be applicable to it as a natural gas company in the following particulars:

(1) SOPC requests clarification that it is a Class C pipeline within the meaning of Part 204 of the Commission's Uniform System of Accounts Prescribed for Natural Gas Companies and that it be required to file FERC Form No. 2–A on an annual basis. Because SOPC would perform no services other than transportation, SOPC also requests a waiver which would permit it to continue to file FERC Form No. 2–A should its revenues increase to a level above the ceiling permitted to a Clas C pipeline.

(2) SOPC requests a declaration that SOPC has no obligation to file FERC Form No. 15 inasmuch as it would act only as a transporter of gas for others. Pursuant to Section 260.7(a) of the Commission's Approved Forms; Natural Gas Act SOPC would file in lieu of Form No. 15 an annual statement of gas transported by interstate pipelines for other interstate pipelines.

(3) Inasmuch as SOPC would not be a Class A pipeline, SOPC requests a declaration that it has no obligation to file annual system flow diagrams as specified in Section 260.8 of the Commission's Approved Forms; Natural Gas Act.

(4) SOPC requests specific waiver of any obligation to file FERC Form No. 8 inasmuch as it does not presently render or propose to render any underground storage service.

(5) SOPC requests waiver of obligation to file FERC Form No. 16 inasmuch as it does not propose to make any sales for resale in interstate commerce.

(6) SOPC requests waiver of any obligation to file EIA Form No. 50 (previously designated as FPC Form No. 69) inasmuch as it would make no direct sales in interstate commerce to customers consuming such gas.

(7) SOPC requests clarification from the Commission that it is obligated to keep its accounts in compliance with Part 204 of the Commission's Uniform System of Accounts Prescribed for Natural Gas Companies. Until such time, if ever, that SOPC seeks to implement a cost-based rate, SOPC requests waiver of this obligation in order that it may continue its present cost center accounting methodology.

Further, pursuant to §§ 154.61, *et seq.*, of the Commission's Regulations under the Natural Gas Act, SOPC submits its initial rate schedule establishing charges for the transportation service SOPC would perform relating to the natural gas sale from Superior to Mich-Wis. It is stated that under the terms of the rate schedule, Superior would pay to SOPC as the fee for the transportation service the applicable onshore delivery charge allowed by the Commission in conjunction with the sale. It is also stated that any charges for transportation services rendered to other interstate pipelines would be based upon the rate to be charged to Superior.

Superior also states that the proposed facilities are being acquired by SOPC as a contribution of capital by Superior in exchange for the entirety of SOPC's stock.

Further, SOPC proposes to render a long-term transportation service for LRC of up to 7,000 Mcf of gas per day from an input point on the West Cameron main line to the tailgate of Superior's Lowry plant. A proposed rate of 1.0 cent per Mcf would be charged for this service.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Superior and SOPC to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–290 Filed 1–5–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 405-015]

Susquehanna Power Co. and Philadelphia Electric Power Co.; Application for Change of Water Rights

December 29, 1982.

On November 17, 1981, the Susquehanna Power Company and the Philadelphia Electric Power Company (Licensees) filed an application for a change of water rights pursuant to Article 13 of the license for the Conowingo Project No. 405 issued on August 14, 1980.

The Licensees seek Commission approval of an agreement entered into by the Mayor and City Council of Baltimore, Maryland, the Licensees and their associated companies. This agreement is dated August 12, 1981, and was modified by a letter dated September 11, 1981. This agreement amends a previous agreement reached between the same parties on June 23, 1960, and approved by the Federal Power Commission on August 17, 1960.

This latest agreement provides that the City of Baltimore may withdraw from municipal purposes up to 250 million gallons of water per day from the project reservoir before permission must be obtained from the Licensees for further withdrawals.

No construction of any new facility would be required.

Any desiring to be heard or to make any protests about this application should file a motion to intervene or protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be filed by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party or to participate in any hearings, a person must file a motion to intervene in accordance with the Commission's Rules. Any comments, protest, or motion to intervene must be received on or before February 4, 1983. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-289 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-103-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Application

December 30, 1982.

Take notice that on November 23, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), filed in Docket No. CP83-103-000 an application pursuant to Section 3 of the Natural Gas Act for authorization to import from Canada on a best-efforts, interruptible basis, up to 84,000 Mcf of natural gas per day as more fully set forth in the application which is on file with the Commission and open to inspection.

Tennessee submits that the proposed importation of gas would pursuant to a gas purchase contract with Canadian-Montana Pipeline Company (Canadian-Montana). Tennessee proposes to import up to 84,000 Mcf of gas per day on an interim basis pending authorization to import up to 309,000 Mcf of gas per day which would be purchased from Canadian-Montana, KannGaz Producers Ltd., and Ocelot Industries Ltd.

Tennessee further states that the points of delivery for the gas being imported under the interim agreement would be the interconnection of the facilities of Tennessee and TransCanada PipeLines Ltd. (TransCanada) near Niagara, New York, or, at Tennessee's request the interconnection of another interstate pipeline system and TransCanada near Emerson, Manitoba. Should the Emerson delivery point be utilized, Tennessee states that self-implementing transportation arrangements with various pipelines would be utilized to move the gas to Tennessee's system.

Tennessee also states that under this proposed interim arrangement there would be no minimum obligations for Tennessee to take or pay for Canadian-Montana gas, that the price would be the price per million Btu's determined by the Government of Canada for gas exported to the U.S., and that Canadian-Montana has already received authorization from the National Energy Board of Canada to export and sell the above-described volumes to Tennessee at both the Emerson and Niagara delivery points.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-291 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-121-000]

Tennessee Gas Pipeline, a Division of Tenneco Inc., Midwestern Gas Transmission Co.; Notice of Application

December 30, 1982.

Take notice that on December 10, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP83-121-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) and the establishment of a new sales point for Alabama-Tennessee, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Alabama-Tennessee has entered into a storage agreement with Mid-Continent Gas Storage Company (Mid-Continent) wherein Mid-Continent has agreed to provide Alabama-Tennessee with an underground storage service utilizing storage fields located in northern Illinois.

In order to implement such storage agreement, it is asserted that Alabama-Tennessee would purchase for storage injection a portion of its contractual entitlement from Tennessee at a new sales delivery point at an existing interconnection between the pipeline facilities of Tennessee and United Gas Pipe Line Company located near Centerville, Louisiana. It is explained that Alabama-Tennessee and Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), would exchange equivalent volumes, the volumes purchased from Tennessee by Alabama-Tennessee at the Centerville interconnection becoming Northern's

while Northern would make available for Alabama-Tennessee's account equivalent volumes at Ogden, Iowa. It is stated that Northern would then transport and deliver such volumes for Alabama-Tennessee to Mid-Continent for Alabama-Tennessee's account at an existing Northern delivery point to Northern Illinois Gas Company (NI-Gas). Mid-Continent would accept such volumes for storage pursuant to its limited term storage leasing agreement with NI-Gas, it is explained.

It is asserted that on withdrawal Alabama-Tennessee would cause the withdrawal volumes to be made available to Midwestern for Alabama-Tennessee's account at Midwestern's existing sales delivery point to NI-Gas near Joliet, Illinois. Midwestern states that it would transport and deliver the withdrawal volumes to Tennessee at their systems' interconnection near Portland, Tennessee, for Alabama-Tennessee's account. Tennessee states that it would transport and make such withdrawal volumes available to Alabama-Tennessee at Tennessee's existing Barton sales delivery point to Alabama-Tennessee in Colbert County, Alabama. Tennessee and Midwestern request authorization to perform their responsibilities under this arrangement pursuant to the terms of precedent agreements dated October 4, 1982, and November 22, 1982, respectively.

Midwestern proposes to charge Alabama-Tennessee the product of 10.98 cents times the total volumes transported and made available by Midwestern to Tennessee for the account of Alabama-Tennessee. Tennessee proposes to charge 24.71 cents times the total volumes transported and made available to Alabama-Tennessee. Midwestern and Tennessee assert that those rates may be increased in accordance with current costs.

It is asserted that the proposed transportation of natural gas would assist Alabama-Tennessee in maintaining its system supply and in meeting high-priority requirements of its customers during the winter heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-392 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-112-000]

Valero Transmission Co.; Notice of Application

December 30, 1982.

Take notice that on December 3, 1982, Valero Transmission Company (Applicant), 530 McCullough Avenue, P.O. Box 500, San Antonio, Texas 78292, filed in Docket No. CP83-112-000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act and § 284.127 of the Commission's Regulations for authorization to transport gas for El Paso Natural Gas Company (El Paso) for a period contemporaneous with the term of a gas purchase agreement between El Paso and Valero Interstate Transmission Company dated January 28, 1981, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that since March 6, 1981, it has been providing the transportation service for El Paso pursuant to Subpart C of Part 284 of the Commission's Regulations on a two-year limited-term basis which would terminate on March 6, 1983. An extension report has been filed in accordance with §§ 284.125 and 284.126(c) of the Commission's Regulations which requests a two-year extension of this self implementing authorization, it is explained.

Applicant states that its contract with El Paso requires it to transport up to 25,000 Mcf of gas per day from receipt points in Webb and Kleberg Counties, Texas, to a redelivery point in Pecos County, Texas, for a term of ten years and from year to year thereafter.

It is stated that initially, El Paso would pay Applicant 16.5 cents for each Mcf redelivered. This tariff would escalate ⅛ cent per Mcf each February 1 during the term of the transportation service, it is explained. It is further submitted that system fuel equivalent to ⅛ of 1 percent of the volume transported would be retained by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 19, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-393 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF83-5131-000]

Western Area Power Administration; Notice of Filing

December 29, 1982.

The filing party submits the following:

Take notice that on November 30, 1982, the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy, by Rate Order No. WAPA-15, confirmed and approved on an interim basis, effective November 30, 1982, Rate Schedule RCP-1, a split-savings rate for sales of long term firm capacity with energy and seasonal or monthly firm capacity with energy from the Resource Coordination Program. The rate schedule shall remain in effect on an interim basis until final Commission action.

The interim rate schedule is submitted for confirmation and approval of this, or a substitute rate, on a final basis by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-294 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EF 83-5101-000]

Western Area Power Administration; Notice of Filing

December 29, 1982.

The filing agency submits the following:

Take notice that on December 13, 1982, the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy (the Assistant Secretary), by Rate Order No. WAPA-16, confirmed and approved on an interim basis, effective January 1, 1983, an extension of the current power rate for the Western Area Power Administration (Western) Falcon Project. The interim rate shall remain in effect until the date on which the Amistad Power plant is ready to deliver power, according to the Assistant Secretary.

Pursuant to the authority vested in the Commission by Delegation Order No. 0204-33, the rate is submitted for confirmation and approval on a final basis.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-295 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-202-000]

Wisconsin Electric Power Co.; Notice of Filing

December 30, 1982.

The filing Company submits the following:

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on December 20, 1982, tendered for filing an Amendment, effective June 1, 1982, to the Interconnection Agreement between Wisconsin Electric and Northern States Power Company, a Minnesota corporation, (Northern States-Minnesota) and Northern States Power Company, a Wisconsin corporation, (Northern States-Wisconsin).

This amendment modifies Service Schedules A-Emergency Energy and C-Short Term Power of the Interconnection Agreement, dated November 18, 1965 to provide for revised rates for transactions under said service schedules, between Wisconsin Electric and Northern States-Wisconsin and Northern States-Minnesota. Said Interconnection Agreement is on file with the Commission and designated as Wisconsin Electric Rate Schedule FERC No. 28 and Northern States-Minnesota Rate Schedule FERC No. 319, and Northern States-Wisconsin Rate Schedule No. 39. Wisconsin Electric and Northern States-Minnesota and Northern States-Wisconsin maintain that it is not practical to estimate with any degree of accuracy the quanties of power and/or energy which will be exchanged under the applicable rates.

Wisconsin Electric states that copies of the filing were served upon Northern States-Minnesota, Northern States-Wisconsin, Public Service Commission of Wisconsin, and the Minnesota Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-348 Filed 1-5-83; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 3, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-A & R COMPANY		RECEIVED: 11/29/82		JA: OH					
8311639		3416726486		103		CHAS D FOGLE TRUST #2 OH-45-3402	LAWRENCE	5.0	COLUMBIA GAS TRAN
8311640		3416726702		107-DV		RACHEL CARSON #1 OH-50-3701	GRANDVIEW	7.0	RIVER GAS CO
8311641		3416726703		103		RALPH CARSON #1 OH-49-3801	GRANDVIEW	0.0	RIVER GAS CO
-AMAC INC		RECEIVED: 11/29/82		JA: OH					
8311642		3416727272		103		DONALD RAUCH #1	MARIETTA	4.0	GAS TRANSPORT
-AMERICAN PETROEL INC		RECEIVED: 11/29/82		JA: OH					
8311643		3416726461		103		DREXEL PERRY #4	ADAMS	2.0	
-AMTEX OIL AND GAS INC		RECEIVED: 11/29/82		JA: OH					
8311644		3415122061		108		MINER #1		36.0	COLUMBIA GAS TRAN
8311645		3415122062		108		MINER #2		36.0	COLUMBIA GAS TRAN
-BARTLO OIL AND GAS COMPANY		RECEIVED: 11/29/82		JA: OH					
8311648		3415321251		103	107-TF	G MILLER UNIT #1	COPLEY	16.0	
8311646		3415323171		103	107-TF	HARVEST DEVELOPMENT #1	GRANGER	15.0	
8311647		3415321186		103	107-TF	WILEY UNIT #1	BATH	8.0	
-BELDEN & BLAKE & CO #79		RECEIVED: 11/29/82		JA: OH					
8311651		3415123732		103		MARVIN FRANK #2 - 1245	MARLBORO	36.5	
-BELDEN & BLAKE & CO 80		RECEIVED: 11/29/82		JA: OH					
8311649		3409921447		103	107-TF	L & M SPENCER #1-34-1218	GOSHEN	36.5	
8311650		3415123731		103	107-TF	R & R FISHER COMM #1-34-1246	NIMISHILLEN	36.5	
-BILL BLAIR INCORPORATED		RECEIVED: 11/29/82		JA: OH					
8311653		3402920909		103	107-TF	REICHENBACH #1	MANOVERTON	14.0	EAST OHIO GAS CO
8311654A		3402920913		103		SANOR #7	MANOVERTON	14.0	EAST OHIO GAS CO
8311654B		3402920913	D	107-TF		SANOR #7	MANOVERTON	14.0	EAST OHIO GAS CO
-BLUE CREEK GAS COMPANY		RECEIVED: 11/29/82		JA: OH					
8311656		3410521424		107-DV		WAYNE HOBACK #1	LEBANON	20.0	COLUMBIA GAS TRAN
-CHANSE PETROLEUM CORPORATION		RECEIVED: 11/29/82		JA: OH					
8311657		3406721935		103	107-TF	FRED HODGE #1	NEW LYME	3.5	
-CHARLES L WOOD		RECEIVED: 11/29/82		JA: OH					
8311781		3405921084		108		REDOVIAN #1		2.0	COLUMBIS GAS TRAN
-CHARLES O LIGHTHIZER		RECEIVED: 11/29/82		JA: OH					
8311714		3411926183		107-TF		SKINNER #4	MADISON	0.0	COLUMBIA GAS TRAN
-COLLINS-MCGREGOR OPERATING COMPANY		RECEIVED: 11/29/82		JA: OH					
8311658A		3408924468		103		BINCKLEY B-3	HOPEWELL	2.0	NEWZANE GAS CO
8311658B		3408924468	D	107-TF		BINCKLEY B-3	HOPEWELL	2.0	NEWZANE GAS CO
-CONTRACTORS SERVICE LEASING INC		RECEIVED: 11/29/82		JA: OH					
8311660		3412725443		107-TF		PHILO P-10	HARRISON	6.0	
8311661		3412725444		107-TF		PHILO P-11	HARRISON	7.5	
8311659		3412725437		107-TF		PHILO P-9	HARRISON	4.5	
-CUYAHOGA EXPLORATION & DEVELOPMENT		RECEIVED: 11/29/82		JA: OH					
8311662		3411122903		103		FRANK ROSE #1-13	WASHINGTON	20.2	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311662		3411122886		103		FRANK ROSE #2-13	WASHINGTON	24.1	
-DON MCKEE DRILLING ED INC				RECEIVED: 11/29/82 JA: OH					
8311721		3412720724		103		EARL LONG #1	ORRVILLE	10.0	NATIONAL GAS & OI
-DRILLEX INC				RECEIVED: 11/29/82 JA: OH					
8311664		3408520382		103	107-TF	TRESGER #8	PAINESVILLE	35.0	EAST OHIO GAS CO
-EARTH RESOURCES EXPL DEV CORP				RECEIVED: 11/29/82 JA: OH					
8311672		3415522098		103	107-TF	BERKHOUSE #1	BRISTOL	0.0	
8311665		3415522071		103	107-TF	HALL #1	BRISTOL	0.0	
8311666		3415522073		103	107-TF	KALISH #1	BRISTOL	0.0	
8311667		3415522075		103	107-TF	NOVICKI #1	BRISTOL	0.0	
8311671		3415522086		103	107-TF	SHIPMAN #1	BRISTOL	0.0	
8311668		3415522077		103	107-TF	ULRICH #1	BRISTOL	0.0	
8311669		3415522078		103	107-TF	WILLIAMS #1	BRISTOL	0.0	
8311670		3415522080		103	107-TF	WILSON #4	BRISTOL	0.0	
-EDCO DRILLING & PRODUCING INC				RECEIVED: 11/29/82 JA: OH					
8311674		3403123736		108		BICKEL SM-1A		18.0	COLUMBIA GAS TRAN
8311676		3403124201		108		CONNER BL-2A		18.0	COLUMBIA GAS TRAN
8311675		3403123789		108		CONNERS BL-1A		18.0	COLUMBIA GAS TRAN
8311677		3403124222		108		HOLESKI BL-2A		18.0	COLUMBIA GAS TRAN
8311673		3403123427		108		MCDONALD MO-1A		18.0	COLUMBIA GAS TRAN
-ELKHEAD GAS & OIL COMPANY				RECEIVED: 11/29/82 JA: OH					
8311678		3407322708		103		STRAIT #2	WASHINGTON	10.0	COLUMBIA GAS TRAN
8311679		3407322721		103		STRAIT #5	WASHINGTON	9.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED: 11/29/82 JA: OH					
8311681		3416320734		103	107-TF	B DAVIS #9	SWAN	27.3	COLUMBIA GAS TRAN
8311680		3405923343		103	107-TF	MID-OHIO COAL #25	RICHLAND	36.5	COLUMBIA GAS TRAN
-FORAKER PRODUCING COMPANY INC				RECEIVED: 11/29/82 JA: OH					
8311682		3408921859		103		HAYES #1	ROME	1.0	
8311683		3411924983		107-TF		NORMAN #1	NEWTON	20.0	
-FREDERICK PETROLEUM CORP				RECEIVED: 11/29/82 JA: OH					
8311684		3411122434		103		TUEL #1	JACKSON	55.0	
-FRONTIER PETROLEUM LTD				RECEIVED: 11/29/82 JA: OH					
8311685		3416726706		103		FRONTIER LOCAL SCHOOL DISTRICT #1	GRANDVIEW	10.0	RIVER GAS CO
-GREENLAND 81-1				RECEIVED: 11/29/82 JA: OH					
8311686		3407322552		107-TF		NORMAN/CASSELLS #2	STARR	20.0	COLUMBIA GAS TRAN
-HICKMAN ASSOCIATES #1				RECEIVED: 11/29/82 JA: OH					
8311687		3408924509		103		HICKMAN #1	FALLSBURY	6.0	NATIONAL GAS & OI
-J P WHITE				RECEIVED: 11/29/82 JA: OH					
8311780		3405520330		103	107-TF	JEWISH COMMUNITY CENTER #2	CLARIDON	0.0	COLUMBIA GAS TRAN
-JADOIL INC				RECEIVED: 11/29/82 JA: OH					
8311691		3407522019		107-TF		CHRIST & KATIE YODER #1	MECHANIC	30.0	EAST OHIO GAS CO
8311693		3408924402		103		GERALD & SYLVIA MCCLAIN #1	HANOVER	5.0	NATIONAL GAS & OI
8311690		3407521417		107-TF		LEVI N & ABIGAIL L YODER #1	CLARK	15.0	EAST OHIO GAS CO
8311692		3407522118		107-TF		MELVIN A & SUSIE RABER #1	CLARK	15.0	EAST OHIO GAS CO
8311689		3403124754		107-TF		PAUL & JOANNE NEWMAN #3	KILLBUCK	12.0	COLUMBIA GAS TRAN
-JAMES R BERNHARDT				RECEIVED: 11/29/82 JA: OH					
8311652		3410323117		103	107-TF	HAUTHAL-ALBERS #5	GRANGER	89.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED: 11/29/82 JA: OH					
8311726		3403124856		107-TF		ADEN N YODER UNIT #1-6209	NEW BEDFORD	4.0	COLUMBIA GAS TRAN
8311725		3403124347		107-TF		R MARTIN DAUGHERTY #3	NEW BEDFORD	3.0	COLUMBIA GAS TRAN
8311727		3403124887		107-TF		SAM E MAST #1-13A	NEW BEDFORD	2.0	COLUMBIA GAS TRAN
-JONSU OIL CORP				RECEIVED: 11/29/82 JA: OH					
8311694		3408924524		103		MCGUIRE #2	BOWLING GREEN	3.0	NATIONAL GAS & OI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-K S T OIL & GAS CO INC				RECEIVED: 11/29/82 JA: OH					
8311700		3415321174		103	107-TF	BLAIR #2	TWINSBURG	0.0	
8311702		3415321180		103	107-TF	CLEVETRUST #1	NORTHAMPTON	0.0	
8311701		3415321179		103	107-TF	CLEVETRUST #3	NORTHAMPTON	0.0	
8311703		3415321181		103	107-TF	CLEVETRUST #5	NORTHAMPTON	0.0	
8311697		3415321154		103	107-TF	FLETCHER #3	TWINSBURG	0.0	
8311706		3415321232		103	107-TF	HARRIS #1	TWINSBURG	0.0	
8311696		3415321129		103	107-TF	MARSICK #3	HUDSON	0.0	
8311704		3415321204		103	107-TF	PONDBROOK ESTATES #2	TWINSBURG	0.0	
8311705		3415321221		103	107-TF	PONDBROOK ESTATES #3	TWINSBURG	0.0	
8311699		3415321172		103	107-TF	TINKERS #4	TWINSBURG	0.0	
8311698		3415321171		103	107-TF	TINKERS INC #3	TWINBURG	0.0	
8311695		3415320621		103	107-TF	TROXELL #3	HUDSON	0.0	
-LANDPROVEST INC				RECEIVED: 11/29/82 JA: OH					
8311707		3405929400		107-TF		DICKINSON #1	BLOOMFIELD	25.0	
-LIBERTY OIL&GAS CORP				RECEIVED: 11/29/82 JA: OH					
8311713		3410522494		103		D E MILLER #2	OLIVE	18.0	COLUMBIA GAS TRAN
8311709		3410922598		103		FRANK GOEBEL #3	TROY	17.0	COLUMBIA GAS TRAN
8311711		3410522407		103		GARLAND CALDWELL #2	COOLVILLE	18.0	COLUMBIA GAS TRAN
8311710		3410522318		103		HARLESS-HAGAR #1	ORANGE	17.0	COLUMBIA GAS TRAN
8311708		3410922597		103		MOLLOHAN HEIRS #1	TROY	18.0	COLUMBIA GAS TRAN
8311712		3410522426		103		W R MANLEY #1	COOLVILLE	18.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED: 11/29/82 JA: OH					
8311715		3411926274		107-TF		RODGERS & ROSEN #15-L	BLUE ROCK	24.0	MOVI RESOURCES CO
8311716		3411926275		107-TF		RODGERS & ROSEN #16-L	BLUE ROCK	18.0	MOVI RESOURCE COR
8311717		3411926281		107-TF		RODGERS & ROSEN #22-L	BLUE ROCK	18.0	MOVI RESOURCES CO
8311718		3411926285		107-TF		RODGERS & ROSEN #26-L	BLUE ROCK	24.0	MOVI RESOURCES CO
-MAGNA-POWER LTD				RECEIVED: 11/29/82 JA: OH					
8311719		3416923178		103		MAGNA-POWER #1	EAST UNION	20.0	EAST OHIO GAS CO
8311720		3416923179		103		MAGNA-POWER #2	EAST UNION	25.0	EAST OHIO GAS CO
-MOHAWK SPARTA OIL CO				RECEIVED: 11/29/82 JA: OH					
8311725		3411122753		103		NALLEY #1	WASHINGTON	18.0	
-MONROE & KEUSINK INC				RECEIVED: 11/29/82 JA: OH					
8311724		3408323032		103		JAMES & MARY BLANCHARD #2	MILLWOOD NORTHWEST	12.0	COLUMBIA GAS TRAN
-MORMACK INDUSTRY INC				RECEIVED: 11/29/82 JA: OH					
8311729		3416922988		107-TF		CHARLES SHANE #2	MILTON	24.0	COLUMBIA GAS TRAN
8311728		3416922864		107-TF		JOSEPH GASSER #1	MILTON	24.0	COLUMBIA GAS TRAN
8311730		3416923189		107-TF		MARVIN DOTTERER #1A	MILTON	30.0	COLUMBIA GAS TRAN
-NATIONAL PETROLEUM CORP				RECEIVED: 11/29/82 JA: OH					
8311732		3411122416		103		E ACKERMAN JR #2	MALAGA	5.0	TEXAS EASTERN TRA
8311731		3411122069		103		R MESSIDENCE #1	SUMMIT	6.0	TEXAS EASTERN TRA
-OHIO PRODUCERS SERVICES INC				RECEIVED: 11/29/82 JA: OH					
8311733		3412724878		108		C & M COLLINS #1	READING TWP	5.0	COLUMBIA GAS TRAN
-OS AIR INC				RECEIVED: 11/29/82 JA: OH					
8311734		3408523372		103	107-TF	SCHULTZ #1	MENTOR	40.0	
-PAGE P BLAKEMORE				RECEIVED: 11/29/82 JA: OH					
8311655		3418724623		103		CORBETT #2	GRANDVIEW	25.0	COLUMBIA GAS TRAN
-PETROCON INC				RECEIVED: 11/29/82 JA: OH					
8311735		3415123782		103		BAIER UNIT #3	OSNABURG	75.0	
-PONDEROSA OIL COMPANY				RECEIVED: 11/29/82 JA: OH					
8311747		3416923350		107-TF		ABE J MILLER UNIT WELL #1	SALT CREEK	12.0	COLUMBIA GAS TRAN
8311743		3416923191		107-TF		DAN D MAST #1	SALT CREEK	12.0	COLUMBIA GAS TRAN
8311739		3416922794		103	107-TF	ELI J MAST WELL #1	SUGAR CREEK	18.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311744		3416923192		107-TF		ELI L MILLER WELL #1	SALT CREEK	10.0	COLUMBIA GAS TRAN
8311740		3416922795		103	107-TF	ELMER STEINER WELL #1	SUGAR CREEK	11.0	COLUMBIA GAS TRAN
8311745		3416923267		103	107-TF	HARLEN NEUENSCHWANDER WELL #1	SUGAR CREEK	11.0	COLUMBIA GAS TRAN
8311741		3416922796		103	107-TF	LELAND KRATZER WELL #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
8311742		3416922829		103	107-TF	LEVI SWARTZENTRUBER WELL #1	PAINT	12.0	COLUMBIA GAS TRAN
8311738		3416922793		103	107-TF	LLOYD LEHMAN WELL #1	SUGAR CREEK	10.0	COLUMBIA GAS TRAN
8311736		3416723079		103	107-TF	MARIE MAE SELDERS #1	SUGAR CREEK	11.0	COLUMBIA GAS TRAN
8311737		3416922792		107-TF		MERWYN BRENNER WELL #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
8311746		3416923268		103	107-TF	WILFRED NEUENSCHWANDER WELL #1	SUGAR CREEK	12.0	COLUMBIA GAS TRAN
-POWER RESOURCES INC				RECEIVED: 11/29/82 JA: OH					
8311748		3415723782		103		CONOTTON LAND #15	WARREN	9.0	M B OPERATING CO
-QUAKER STATE OIL REFINING CORP				RECEIVED: 11/29/82 JA: OH					
8311749		3401921682		108		CRAMBLETT-BAIRD #3		0.3	MB OPERATING CO I
8311754		3407322659		103		SUNDAY CREEK COAL #40	WARD	29.2	COLUMBIA GAS TRAN
8311752		3407322667		103		SUNDAY CREEK COAL #43	WARD	19.4	COLUMBIA GAS TRAN
8311751		3407322651		103		SUNDAY CREEK COAL #44	WARD	11.0	COLUMBIA GAS TRAN
8311750		3407322635		103		SUNDAY CREEK COAL #49	WARD	5.5	COLUMBIA GAS TRAN
8311753		3407322670		103		SUNDAY CREEK COAL #63	WARD	5.5	COLUMBIA GAS TRAN
-R & M WELL SERVICE CO				RECEIVED: 11/29/82 JA: OH					
8311755		3408720315		103		JOHN NELSON #1	LAWRENCE	0.0	COLUMBIA GAS TRAN
-REPUBLIC STEEL CORP				RECEIVED: 11/29/82 JA: OH					
8311758		3411925860		103	107-TF	CONSOLIDATION COAL CR #10	WASHINGTON	6.0	TENNECO
8311759		3411925863		103	107-TF	CONSOLIDATION COAL CR #16	WASHINGTON	8.0	TENNECO
8311761		3411926282		103	107-TF	CONSOLIDATION COAL CR #32	MADISON	7.0	TENNECO
8311762		3411926320		103	107-TF	CONSOLIDATION COAL CR #36	MADISON	6.0	TENNECO
8311756		3411925734		103	107-TF	CONSOLIDATION COAL CR #4	SALEM	8.5	TENNECO
8311757		3411925821		103	107-TF	CONSOLIDATION COAL CR #7	WASHINGTON	8.0	TENNECO
8311760		3411926035		103	107-TF	CONSOLIDATION COAL CR#13	SALEM	6.5	TENNECO
-SOUTHERN TRIANGLE OIL CO INC				RECEIVED: 11/29/82 JA: OH					
8311764		3405921012		108		KIRTLEY #1		11.2	COLUMBIA GAS TRAN
8311763		3405920981		108		MCDONALD-STILLION #1		4.7	COLUMBIA GAS TRAN
-STARK OILFIELD SERVICES INC				RECEIVED: 11/29/82 JA: OH					
8311765		3400720326		108		LOVEY #1	LENOX	0.0	EAST OHIO GAS CO
8311766		3400720397		108		ZACK #1	LENOX	2.0	EAST OHIO GAS CO
-STRATA CORP				RECEIVED: 11/29/82 JA: OH					
8311767		3400922301		103		R WILLIAMS #1	LODI	10.0	
-TIGER OIL INC				RECEIVED: 11/29/82 JA: OH					
8311768		3411122636		107-DV		M SHEETS #3	WASHINGTON	5.0	COLUMBIA GAS TRAN
8311769		3412725730		103		R JONES #1	HOPEWELL	5.0	COLUMBIA GAS TRAN
-TOWNER PETROLEUM CO				RECEIVED: 11/29/82 JA: OH					
8311771		3405923059		103	107-TF	BONIPHANT L #1	LONDONDERRY	27.0	TENNESSEE GAS PIP
-TRUMBULL RESOURCES				RECEIVED: 11/29/82 JA: OH					
8311772		3415522163		103	107-TF	SIMON #3	VIENNA	39.0	
-UNITED PETROLEUM CORP				RECEIVED: 11/29/82 JA: OH					
8311774		3409920787		107-RT		MARTY SHAFFER #1	GOSHEN	28.0	YANKEE RESOURCES
8311773		3409920785		107-RT		RUTHRAUFF-SHAFFER #1	GOSHEN	28.0	YANKEE RESOURCES
-VICTOR MCKENZIE				RECEIVED: 11/29/82 JA: OH					
8311722		3412725695		103		CHARLES HENDERSON #1	HOPEWELL	0.0	
-VICTOR PETROLEUM CORP				RECEIVED: 11/29/82 JA: OH					
8311775		3407523833		103	107-TF	AB D TROYER #1	CLARK	20.0	COLUMBIA GAS TRAN
-VIKING RESOURCES CORP				RECEIVED: 11/29/82 JA: OH					
8311779		3408520389		103	107-TF	BREWSTER #3	PERRY	30.0	
8311776		3408520339		103	107-TF	BROWN #2	PERRY	30.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311777		3408520351		103	107-TF	KLYN #1	PERRY	30.0	
8311778		3408520353		103	107-TF	KLYN #3	PERRY	30.0	
-WILLIAM F MILL				RECEIVED: 11/29/82 JA: OK					
8311688		3407523788		103		WAYNE E LEININGER #1	KNOX	8.0	
-WILLIAM N TIPKA				RECEIVED: 11/29/82 JA: OK					
8311770		3415723652		103	107-TF	MARVIN DAVIDSON #3	GASHEN	0.0	
-WOODLAND OIL & GAS CO				RECEIVED: 11/29/82 JA: OK					
8311782		3416700797		108		JERRY GRAHAM #1		0.0	RIVER GAS CO
8311783		3416700798		108		JERRY GRAHAM #2		0.0	RIVER GAS CO
8311784		3416700799		108		JERRY GRAHAM #3		0.0	RIVER GAS CO
8311785		3416700800		108		JERRY GRAHAM #4		0.0	RIVER GAS CO
-ZENITH OIL & GAS INC				RECEIVED: 11/29/82 JA: OK					
8311786		3411924983		103		MCKEE #1	NASHPORT	1.5	NATIONAL GAS & OI
8311788		3411925406		103		MCKEE #2	NASHPORT	1.5	NATIONAL GAS & OI
8311787		3411925359		103		WHEELER-MCKEE #1	NASHPORT	1.5	NATIONAL GAS & OI
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-A & P DRILLING CO INC				RECEIVED: 11/29/82 JA: OK					
8311623	17753	3507300000		103		FOPP #1	SOONER TREND	0.0	CONOCO INC
-ADAMS PETROLEUM ENTERPRISES CORP				RECEIVED: 11/29/82 JA: OK					
8311576	17906	3506321311		103		BACKSTABBER #1	GREASY CREEK	219.0	TRANSOK PIPE LINE
-AMERICAN ENERGY CORP				RECEIVED: 11/29/82 JA: OK					
8311588	17458	3512321413		102-2	103	KTSU #3-21		67.2	ARKANSAS LOUISIAN
-ANOCO PRODUCTION CO				RECEIVED: 11/29/82 JA: OK					
8311600	21347	3512900000		107-PE		F M SMITH UNIT #1	WEST DURHAM	160.0	DELHI GAS PIPELIN
8311601	21345	3512900000		107-PE		KELLER UNIT #1	WEST DURHAM	60.0	DELHI GAS PIPELIN
8311602	21344	3512900000		107-PE		STRICKLAND UNIT #1	WEST DURHAM	125.0	DELHI GAS PIPELIN
-ANDOVER OIL COMPANY				RECEIVED: 11/29/82 JA: OK					
8311620	17791	3501722254		103		PIATT #15-1		0.0	PHILLIPS PETROLEU
8311609	17708	3501722016		102-4		PONTER #32-1		180.0	DELHI GAS PIPELIN
-ATLAS OIL INC				RECEIVED: 11/29/82 JA: OK					
8311598	14494	3508321787		102-2		COMMISSIONERS OF LAND OFFICE 1-34	WEST GUTHRIE FIELD	50.0	EASON OIL CO
-BURKHART PETROLEUM CORP				RECEIVED: 11/29/82 JA: OK					
8311589	16712	3508720617		103		LAMAR 1-18	WASHINGTON	15.0	SUN EXPLORATION &
-CAYMAN EXPLORATION CORP				RECEIVED: 11/29/82 JA: OK					
8311610	17638	3507323412		103		TOMMY J GLAZIER #6-1	SOONER TREND	36.0	CITIES SERVICE GA
-CITIES SERVICE COMPANY				RECEIVED: 11/29/82 JA: OK					
8311574	17961	3508720601		103		DACUS B #2	GOLDEN TREND (BRADLEY	108.9	CITIES SERVICE GA
8311575	17962	3508720601		103		DACUS A #2	GOLDEN TREND (BRADLEY	60.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED: 11/29/82 JA: OK					
8311569	17951	3507323518		103		MURROW 29-1	SOONER TREND	110.0	CONOCO INC
8311570	17952	3507323577		103		RUTH 21-2	SOONER TREND	85.0	CONOCO INC
8311594	14949	3507323362		102-4		YEOMAN 19-1(LOWER)	SOONER TREND	40.0	CONOCO INC
-CLIFFORD RESOURCES INC				RECEIVED: 11/29/82 JA: OK					
8311565	17942	3507300000		103		MCALLISTER #1-24	SOONER TREND	1.5	PHILLIPS PETROLEU
-COQUINA OIL CORPORATION				RECEIVED: 11/29/82 JA: OK					
8311579	17921	3510321409		103		HOFFMAN #1	UNDESIGNATED	146.0	ARCO OIL & GAS CO
-CROUCH PETROLEUM COMPANY				RECEIVED: 11/29/82 JA: OK					
8311613	17439	3509120434		103		MARTIN #7	S E CHECOTAH	18.0	COLUMBIA GAS TRAN
-DAVIS OIL COMPANY				RECEIVED: 11/29/82 JA: OK					
8311621	17788	3501721714		103		LAUB #1	FORT RENO	0.0	PHILLIPS PETROLEU
-DOME PETROLEUM CORP				RECEIVED: 11/29/82 JA: OK					

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	
8311618	15595	351532?622		103		STOUT #1	
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	11/29/82	JA: OK	
8311596	15977	3504721815		103		LEO BRINKER #1-21	
-EARTH ENERGY RESOURCES INC				RECEIVED:	11/29/82	JA: OK	
8311616	16924	351190000?		103		RANDOLPH #2	
-FAY C WOOD				RECEIVED:	11/29/82	JA: OK	
8311614	17211	351190C00U		103		THOMPSON #6	
-GRACE PETROLEUM CORPORATION				RECEIVED:	11/29/82	JA: OK	
8311593	15345	3505120162		108		ASBURY 15-1	
-GUARDIAN OIL CO				RECEIVED:	11/29/82	JA: OK	
8311619	15493	3512120399		103		SANDERS #1-21	
-HINKLE ENGINEERING INC				RECEIVED:	11/29/82	JA: OK	
8311564	17784	3508321937		103		JONES #1	
-HPC INC				RECEIVED:	11/29/82	JA: OK	
8311590	16820	3501720723		103		CROUCH #1	
-J M HUBER CORPORATION				RECEIVED:	11/29/82	JA: OK	
8311599	12704	3500700010		108-SA		LIGHT "B" #1	
-JAKE L HAMON				RECEIVED:	11/29/82	JA: OK	
8311615	16991	3504321375		103		COLE #1-5	
-JET OIL COMPANY				RECEIVED:	11/29/82	JA: OK	
8311584	17603	3504722757		103		BIBY #2	
8311583	17607	3504722532		103		PHARES "C" #1	
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	11/29/82	JA: OK	
8311617	16819	3504721059		108-ER		FLOYD #1-2	
8311597	14334	3504720934		108-ER		SCHROEDER EST #1-23	
-LADD PETROLEUM CORPORATION				RECEIVED:	11/29/82	JA: OK	
8311573	17959	3509322297		103		WIENS "B" #2 (MISSISSIPPI)	
-MAJOR OIL CORP				RECEIVED:	11/29/82	JA: OK	
8311587	17535	3509322337		103		RINGWOOD #1	
-MAY PETROLEUM INC				RECEIVED:	11/29/82	JA: OK	
8311612	17536	3505120897		103		ROSS #1	
-MEWBOURNE OIL COMPANY				RECEIVED:	11/29/82	JA: OK	
8311622	17757	3500722325		103		BARNES "14" #1	
-MORAN EXPLORATION INC				RECEIVED:	11/29/82	JA: OK	
8311605	18588	3501722253		102-2		FRY #2	
8311607	18586	3501721802		102-2		JAY #1	
8311606	18587	3501721801		102-2		KIRKEGARD #1	
8311604	18589	3501721803		102-2		SULLIVAN #1	
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	11/29/82	JA: OK	
8311603	21841	3500920422		107-DP		ROBERTSON #1	
-NOVA ENERGY CORPORATION				RECEIVED:	11/29/82	JA: OK	
8311595		3502720547		103		POLK #1-11	
-OXXO INC				RECEIVED:	11/29/82	JA: OK	
8311585	17591	351330000?		102-3	103	REYNOLDS #1	
8311586	17590	351332178?		102-3	103	REYNOLDS #2	
-PLAINS PRODUCTION INC				RECEIVED:	11/29/82	JA: OK	
8311582	17610	3510523463		103		GLASS ESTATE #1	
8311581	17613	3510524901		103		GLASS ESTATE #5	
8311566	17614	3510524908		103		GLASS ESTATE #6	
8311567	17615	3510524909		103		GLASS ESTATE #7	
8311565	17621	3510524904		103		JORDAN #2	
8311611	17618	3510525555		103		JORDAN #4 (BD)	
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	11/29/82	JA: OK	

FIELD NAME	PROD	PURCHASER
NORTH MOORELAND	365.0	PANHANDLE EASTERN
SOONER TREND	300.0	UNION TEXAS PETRO
SOUTH MEHAN	25.0	CITIES SERVICE GA
SOONER TREND	0.0	ENTERPRISE DEVELO
E AMBER	14.0	MOBIL OIL CORP
NORTHWEST REAMS FIELD	275.0	ARKANSAS LOUISIAN
SOONER TREND	82.0	EASON OIL CO
N CALUMET	0.0	PHILLIPS PETROLEU
LIGHT FIELD	16.0	PANHANDLE EASTERN
CESTOS - MORROW "C"	91.0	PANHANDLE EASTERN
ELKHORN	0.0	EASON OIL CO
WILSON	0.0	EASON OIL CO
W SPRING VALLEY	24.0	GRACE PETROLEUM C
SPRING VALLEY	24.0	GRACE PETROLEUM C
OKEENE NW	68.4	OKLAHOMA NATURAL
RINGWOOD	75.0	PIONEER GAS PRODU
WATONGA-CHICKASHA TRE	18.3	ARKANSAS LOUISIAN
BALKO (BASAL CHESTER)	200.0	TRANSWESTERN PIPE
SOUTHWEST YUKON	0.0	PHILLIPS PETROLEU
SOUTHWEST YUKON	0.0	PHILLIPS PETROLEU
YUKON	0.0	PHILLIPS PETROLEU
YUKON	0.0	PHILLIPS PETROLEU
	1018.4	DELHI GAS PIPELIN
SW CORN	0.0	SUN GAS CO
	1386.6	
	372.4	
WOODY	25.0	ENICO PIPELINE CO
WOODY	0.0	ENICO PIPELINE CO
WOODY	25.0	ENICO PIPELINE CO
WOODY	25.0	ENICO PIPELINE CO
	25.0	ENICO PIPELINE CO
WOODY	25.0	ENICO PIPELINE CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	
8311602	18590	3501721804		102-2		WILLIAMS #1	
-PRIDE ENERGY COMPANY				RECEIVED:	11/29/82	JA: OK	
8311591	16822	3501720724		103		CROUCH #2	
-RAINBOW RESOURCES INC				RECEIVED:	11/29/82	JA: OK	
8311600	16821	3501720725		103		CROUCH #3	
-RAMCO OIL CO				RECEIVED:	11/29/82	JA: OK	
8311609	18591	3501721805		102-2		MCCLAIN #1	
-RAMSEY OIL CO				RECEIVED:	11/29/82	JA: OK	
8311608	18592	3501721806		102-2		MCCLAIN #2	
-RANCHO ENERGY INC				RECEIVED:	11/29/82	JA: OK	
8311610	17620	3510525554		103		JORDAN #3	
-RAPTOR RESOURCES INC				RECEIVED:	11/29/82	JA: OK	
8311594	15346	3505120163		108		ASBURY 15-2	
-RAYMOND OIL CO				RECEIVED:	11/29/82	JA: OK	
8311592	15344	3505120161		108		ASBURY 15-3	
-RED OAK ENERGY INC				RECEIVED:	11/29/82	JA: OK	
8311598	15976	3504721814		103		LEO BRINKER #1-20	
-SAMSON RESOURCES COMPANY				RECEIVED:	11/29/82	JA: OK	
8311601	18593	3501721807		102-2		MCCLAIN #3	
-SANTA FE ENERGY COMPANY				RECEIVED:	11/29/82	JA: OK	
8311588	17537	3509322338		103		RINGWOOD #2	
-SHELL OIL CO				RECEIVED:	11/29/82	JA: OK	
8311589	17538	3509322339		103		RINGWOOD #3	
-SOUTHWEST ROYALTIES INC				RECEIVED:	11/29/82	JA: OK	
8311571	17958	3509322296		103		WIENS "B" #1 (MISSISSIPPI)	
-TEXACO INC				RECEIVED:	11/29/82	JA: OK	
8311572	17960	3509322298		103		WIENS "B" #3 (MISSISSIPPI)	
-TEXAS OIL & GAS CORP				RECEIVED:	11/29/82	JA: OK	
8311570	17957	3509322295		103		WIENS "B" #4 (MISSISSIPPI)	
-TRIAD ENERGY CORP				RECEIVED:	11/29/82	JA: OK	
8311569	17956	3509322294		103		WIENS "B" #5 (MISSISSIPPI)	
-WESTERN OIL & GAS DEVELOPMENT				RECEIVED:	11/29/82	JA: OK	
8311568	17955	3509322293		103		WIENS "B" #6 (MISSISSIPPI)	
-WILLIAMS OIL CO				RECEIVED:	11/29/82	JA: OK	
8311576	15977	3504721815		103		LEO BRINKER #1-21	
-WILLIAMS OIL CO				RECEIVED:	11/29/82	JA: OK	

FIELD NAME	PROD	PURCHASER
WOODY	25.0	ENICO PIPELINE CO
WOODY	25.0	ENICO PIPELINE CO
WOODY	25.0	ENICO PIPELINE CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311592	15866	3501722153		103		HIGDON #1	EAST YUKON	109.0	CONOCO INC
8311580	17924	3501722246		103		LISA RA ANN #1	YUKON	91.3	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	11/29/82	JA: OK			
8311577	17919	3508520420		103		LITTLE GREEN "B" #2	S W ENVILLE	93.0	CIMARRON TRANSMIS
8311578	17920	3507330210		103		MARY JEAN YOUNG #1	OKARCHE NE	143.0	CONOCO INC
-TRANSIERRA EXPLORATION CORP				RECEIVED:	11/29/82	JA: OK			
8311571	17955	3510321573		103		EMMA HENTGES #1	TRANSIERRA-CINNAMON	51.0	AMINOIL USA INC
8311572	17956	3514723020		103		STATE SCHOOL LAND (LONG) #2	GARBER FIELD	47.6	ARCO OIL & GAS CO
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	11/29/82	JA: OK			
8311591	16769	3509322380		103		HENNEKE #1-9	NORTHEAST AMES	42.0	UNION TEXAS PETRO
8311608	17746	3509322362		102-2	103	WHITE #1-27	EAST CHESTER	219.0	PHILLIPS PETROLEU
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UTAH DIVISION OF OIL,GAS, & MINING									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	07/25/82	JA: UT			
8311632	K-121-11	4304330136		102-2		CHAMPLIN 458 AMOCO D #2	ANSCHUTZ RANCH EAST -	30.0	
-AMOCO PRODUCTION CO				RECEIVED:	11/07/82	JA: UT			
8311631	K-121-3	4304330139		102-2		ISLAND RANCHING "B" #1	ANSCHUTZ RANCH	554.0	COLORADO INTERSTA
**********									
VIRGINIA DEPARTMENT OF LABOR & INDUSTRY									
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-ASHLAND EXPLORATION INC				RECEIVED:	11/26/82	JA: VA			
8311638		4502719974		108-SA		CLINCHFIELD COAL CORP #4		0.0	CONSOLIDATED GAS
-PHILADELPHIA OIL COMPANY				RECEIVED:	11/26/82	JA: VA			
8311637		4505115826		107-TF		JOHN S ROSE # P-136D	NORA	101.6	KENTUCKY WEST VIR
8311634		4505120166		107-TF		JOSEPH KELLY - #P-20	NORA	38.7	KENTUCKY WEST VIR
8311633		4505120397		107-TF		W H ASTON - #P-122	NORA	18.5	KENTUCKY WEST VIR
8311635		4505120466		107-TF		WILMA C HELTON # P-123	NORA	107.7	KENTUCKY WEST VIR
8311636		4505120462		107-TF		WILMA C HELTON # P-124	NORA	35.8	KENTUCKY WEST VIR
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-JANICE E BROWN				RECEIVED:	11/29/82	JA: WV			
8311625		4703501180		108		BUFFINGTON #1	CENTER STAR BEREA	9.0	GAS TRANSPORT INC
8311628		4703501101		108		BUFFINGTON B-1	CENTER STAR BEREA	2.0	GAS TRANSPORT INC
8311624		4703501178		108		MEEKER #1	CENTER STAR BEREA	5.0	GAS TRANSPORT INC
8311629		4703501107		108		MICHAEL B-1	CENTER STAR BEREA	2.0	GAS TRANSPORT INC
8311626		4703501195		108		RARDIN #1	CENTER STAR BEREA	6.0	GAS TRANSPORT INC
8311627		4703501100		108		TIANO #1	CENTER STAR BEREA	1.0	GAS TRANSPORT INC
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
**********									
-AMERICAN RESOURCES MANAGEMENT CORPO				RECEIVED:	11/25/82	JA: CO 1			
8311630		0574506318		107-TF		C E 34-2	696 FEL 3479 FSL SEC	72.0	NORTHWEST PIPELIN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4838, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-949 Filed 1-6-83; 8:45 am]

BILLING CODE 6717-01-C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-TXO PRODUCTION CORP				RECEIVED:	11/29/82	JA: KS			
8311340	K-81-1236	1507720639		102-4		MUIR "D" #1	ZUERCHER	109.5	DELMI CORP
8311339	K-81-1235	1507720787		102-4		ZUERCHER #3	ZUERCHER	109.5	DELMI CORP
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AMERADA HESS CORPORATION				RECEIVED:	11/26/82	JA: ND			
8311480	642	3305300000		108		HAWKEYE MADISON UNIT #E609	HAWKEYE	0.1	MONTANA DAKOTA UT
8311481	643	3305300000		108		TIOGA MADISON UNIT #I133	TIOGA	5.6	MONTANA DAKOTA UT
8311482	644	3306100000		108		TIOGA MADISON UNIT M129	TIOGA	1.6	MONTANA DAKOTA UT
-ESTATE OF H L HUNT				RECEIVED:	11/26/82	JA: ND			
8311478	640	3310500790		102-4		PRICE #1-D	GRENORA	43.0	PHILLIPS PETROLEU
-PENNZOIL COMPANY				RECEIVED:	11/26/82	JA: ND			
8311479	641	3305300932		102-3		LITTLE TANK #19-21BN	WILDCAT	23.9	TRUE OIL CO
-RANGER OIL CO				RECEIVED:	11/26/82	JA: ND			
8311476	638	3305301314		102-4		WOLLAN #8-15	BERG FIELD	36.0	AMINOIL USA INC
-TEXACO INC				RECEIVED:	11/26/82	JA: ND			
8311477	639	3305301237		102-3		C M LOOMER #13	BLUE BUTTES	172.5	MONTANA DAKOTA UT
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ALPHA TWENTY-ONE PRODUCTION CO				RECEIVED:	11/26/82	JA: NM			
8311337		3002527710		103		TONI #2	NADINE DRINKARD ABO	50.0	PHILLIPS PETROLEU
-AMERADA HESS CORPORATION				RECEIVED:	11/26/82	JA: NM			
8311343		3002500000		108		SARAH PHILLIPS #1	EUMONT	9.3	WARREN PETROLEUM
-ARCO OIL AND GAS COMPANY				RECEIVED:	11/26/82	JA: NM			
8311346		3001523547		103		EMPIRE ABO UNIT "J" WELL #241	EMPIRE ABO	24.0	PHILLIPS PETROLEU
8311347		3001523548		103		EMPIRE ABO UNIT "K" WELL #211	EMPIRE ABO	100.0	PHILLIPS PETROLEU
8311329		3002526107		108		SINCLAIR STATE #2	EUMONT (YATES 7 RV QN	3.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION				RECEIVED:	11/26/82	JA: NM			
8311332		3002504759		108		HARRY LEONARD (NCT-A) #6	EUMONT	6.3	PHILLIPS PETROLEU
8311333		3002504401		108		R R BELL (NCT-I) #1	EUMONT	5.4	PHILLIPS PETROLEU
8311344		3002506288		108		SUNSHINE #1	EUNICE MONUMENT	3.8	PHILLIPS PETROLEU
-HONDO OIL & GAS COMPANY				RECEIVED:	11/26/82	JA: NM			
8311341		3001524005		102-4		FEATHERSTONE STATE #1	UNDESIGNATED MORROW	1825.0	CABOT PIPELINE CO
-INTERNORTH INC				RECEIVED:	11/26/82	JA: NM			
8311336		3001523587		102-4		POKER LAKE "32" - 1	SAND DUNES W	29.0	INTERNORTH INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/26/82	JA: NM			
8311331		3002510446		108		SIMS #4	DRINKARD	19.0	EL PASO NATURAL G
8311338		3002527768		103		SIMS #8	WANTZ GRANITE WASH	46.0	GETTY OIL CO
-POGO PRODUCING COMPANY				RECEIVED:	11/26/82	JA: NM			

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JD NO	JA DKT	API NO	U SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311342		3002500003	102-N		NBR #2	BOOTLEG RIDGE MONROW	255.0	LLANO INC
-WARREN PETR CO A DIV OF GULF OIL CO RECEIVED: 11/26/82 JA: NM								
8311345		3002527527	103		H T MATTERN (NCT-C) #15			
8311335	81610	3002508763	108		HARRY LEONARD (NCT-D) #12	BLINEBRY	0.0	EL PASO NATURAL G
831133A	81610	3002508755	108		HARRY LEONARD (NCT-D) #4	EUNICE SOUTH	6.8	EL PASO NATURAL G
-WOOD MCSHANE & THAMS RECEIVED: 11/26/82 JA: NM						EUNICE SOUTH	6.1	EL PASO NATURAL G
8311330		3002526103	108		LINEBERY #1	RHODES POOL	18.3	EL PASO NATURAL G
********** NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION **********								
-AMERICAN PENN ENERGY INC RECEIVED: 11/29/82 JA: NY								
8311548	2741	3101316226	107-TF		STATE REFORESTATION AREA 11 (1514)	STEBBINS CORNERS	0.0	COLUMBIA GAS TRAN
8311547	2739	3101316222	107-TF		STATE REFORESTATION AREA 2 #1510	STEBBINS CORNERS	16.0	COLUMBIA GAS TRAN
-BOUNTY OIL & GAS INC RECEIVED: 11/29/82 JA: NY								
8311525	3072	3101316546	107-TF		E SITTERLEY UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8311526	3074	3101316544	107-TF		LAWSON UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8311524	3076	3101316583	107-TF		LONG UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
-ENVIROGAS INC RECEIVED: 11/29/82 JA: NY								
8311553	2459	3101316215	107-TF		A GOGGIN #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311562	2684	3101316594	107-TF		A HENGERD #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311558	2676	3101316794	107-TF		C DANCOTT #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311552	2453	3101315906	107-TF		F HOWARD #1	WILDCAT	18.0	NATIONAL FUEL GAS
8311557	2674	3101316596	107-TF		J FAULKNER #2	CLYMER	18.0	COLUMBIA GAS TRAN
8311559	2678	3101316403	107-TF		LEGTERS BROS #2	CLYMER	18.0	COLUMBIA GAS TRAN
8311537	2690	3101316404	107-TF		LEGTERS BROS #3	CLYMER	18.0	COLUMBIA GAS TRAN
8311560	2680	3101316825	107-TF		N HOGENBOOM #1-A	CLYMER	18.0	COLUMBIA GAS TRAN
8311538	2688	3101316321	107-TF		N Y S REF AREA #3/WELL #10	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8311561	2682	3101316358	107-TF		N Y S REF AREA #3/WELL #12	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8311554	2461	3101316357	107-TF		N Y S REFORESTATION AREA 3/ #11	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8311551	2457	3101316381	107-TF		R AMBROSE #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8311535	2692	3101316616	107-TF		R BECKERINK #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311555	2463	3101316571	107-TF		R ROHM #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8311556	2465	3101316294	107-TF		R WASSINK #6	CLYMER	18.0	COLUMBIA GAS TRAN
8311536	2694	3101316436	107-TF		V LEGTERS #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311550	2544	3101316007	107-TF		V LICTUS #1	CLYMER	18.0	COLUMBIA GAS TRAN
8311563	2686	3101315893	107-TF		X WASSINK #1	CLYMER	18.0	COLUMBIA GAS TRAN
-POI ENERGY INC RECEIVED: 11/29/82 JA: NY								
8311523	3152	3101315447	107-TF		LAWRENCE #1		75.0	COLUMBIA GAS TRAN
8311520	3149	3101315450	107-TF		PAUL SAMUELSON #1		50.0	COLUMBIA GAS TRAN
8311521	3150	3101316044	107-TF		PETERSON #1		250.0	COLUMBIA GAS TRAN
8311522	3151	3101315451	107-TF		PHIL SAMUELSON #1		75.0	COLUMBIA GAS TRAN
8311519	3148	3101315449	107-TF		SKILLMAN #1		20.0	COLUMBIA GAS TRAN
-TRAMAN PETROLEUM INC RECEIVED: 11/29/82 JA: NY								
8311534	2467	3101316092	107-TF		A & H HASCHMANN #1 31-013-16092	KENNEDY	36.0	COLUMBIA GAS TRAN
8311528	2503	3101316319	107-TF		A & M MILLER #1 31-013-16319	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311531	2473	3101312519	107-TF		CARL H MILLER NY #23	LEON	36.0	COLUMBIA GAS TRAN
8311546	2535	3101316460	107-TF		CONDON NY #4, 31-013-16460	WILDCAT	36.0	COLUMBIA GAS TRAN
8311530	2501	3101316467	107-TF		E & M BENTLEY #1 31-013-16467	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311541	2537	3101316093	107-TF		G & L DARLING #2 31-013-16093	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311527	2471	3101316318	107-TF		G & M FOX #1 31-013-16318	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311540	2539	3101316468	107-TF		M & L REYNOLDS #1 31-013-16468	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311529	2469	3101315743	107-TF		J & R FALCONE #1 31-013-15743	WILDCAT	36.0	COLUMBIA GAS TRAN
8311542	2531	3101316469	107-TF		J & R FALCONE #2 31-013-16469	ELLINGTON	36.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311543	2533	3101316471		107-TF		J & R FALCONE #4 31-013-15471	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311544	2535	3101315744		107-TF		J & R FALCONE #5 31-013-15744	ELLINGTON	36.0	COLUMBIA GAS TRAN
8311532	2477	3101315748		107-TF		KENNETH C ANDERSON	WILDCAT	36.0	COLUMBIA GAS TRAN
8311518	2251	3101312517		107-TF		M & D LENT - N Y #55 31-013-12517	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8311533	2475	3101316094		107-TF		M & M WELLMAN #2	KENNEDY	36.0	COLUMBIA GAS TRAN
8311545	2633	3101315488		107-TF		RICE-CHAUT #1 31-013-15488	WILDCAT	36.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC		RECEIVED: 11/29/82 JA: NY							
8311549	2646	3101316841		107-TF		W LIND #1	GERRY	20.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP		RECEIVED: 11/29/82 JA: NY							
8311539	2484	3101316059		107-TF		ZAHM-FREDRICKSON #1	GERRY	20.0	COLUMBIA GAS TRAN

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OKLAHOMA CORPORATION COMMISSION

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-ANADARKO PRODUCTION COMPANY		RECEIVED: 11/24/82 JA: OK							
8311404	18228	3505320523		108		SCHUNEMAN A 1-33	RENFROW	18.0	PANHANDLE EASTERN
8311403	18227	3505320519		108		SUBERA A 1-30	RENFRO	19.0	PANHANDLE EASTERN
-ARCO OIL AND GAS COMPANY		RECEIVED: 11/24/82 JA: OK							
8311512	17833	3500722271		103		NORTHWEST CAMRICK UNIT #24-5	CAMRICK	21.9	NATURAL GAS PIPEL
-BARUCH-FOSTER CORP		RECEIVED: 11/24/82 JA: OK							
8311505	17845	3503723292		103		WOODROW CHILDERS "B"-1	WEST SHAMROCK	20.0	CITIES SERVICE GA
-BURKHART PETROLEUM CORP		RECEIVED: 11/24/82 JA: OK							
8311515	17800	3513921445		103		FLOWERS #1-25	EAST HARDESTY	64.2	PHILLIPS PETROLEU
8311516	17799	3513921504		103		GRAHAM 1-31	HARDESTY	33.0	PHILLIPS PETROLEU
-C W SMITH & ASSOCIATES INC		RECEIVED: 11/24/82 JA: OK							
8311402	18004	3508121461		103		HOPKINS/OLIVER #1	S E DAVENPORT	14.0	MERIDIAN ENERGY I
-CLARK RESOURCES INC		RECEIVED: 11/24/82 JA: OK							
8311502	17897	3507323477		103		IRVIN 1-1	SOONER TREND	230.0	CONOCO INC
-CN OPERATING CO		RECEIVED: 11/24/82 JA: OK							
8311392	18041	3503706000		108		ANNIE ROBERTS #1	CUSHING	1.1	ARCO OIL & GAS CO
8311393	18040	3503706000		108		ANNIE ROBERTS #2	CUSHING	1.1	ARCO OIL & GAS CO
8311394	18039	3503706000		108		ANNIE ROBERTS #3	CUSHING	1.1	ARCO OIL & GAS CO
8311395	18038	3503700000		108		ANNIE ROBERTS #4	CUSHING	1.1	ARCO OIL & GAS CO
8311396	18037	3503700000		108		HUGHES-RICKNER #3	CUSHING	0.5	ARCO OIL & GAS CO
8311397	18036	3503700000		108		HUGHES-RICKNER #5	CUSHING	0.5	ARCO OIL & GAS CO
8311398	18035	3503700000		108		JESSIE BRUNER (RYAN-SELLARS)	CUSHING	0.3	ARCO OIL & GAS CO
8311399	18034	3503700000		108		JESSIE BRUNER (RYAN-SELLARS) #2	CUSHING	0.3	ARCO OIL & GAS CO
8311389	18044	3503700000		108		JOHNNY JACOBS #4	CUSHING	0.5	ARCO OIL & GAS CO
8311390	18043	3503700000		108		JOHNNY JACOBS #5	CUSHING	0.5	ARCO OIL & GAS CO
8311391	18042	3503700000		108		JOHNNY JACOBS #6	CUSHING	0.5	ARCO OIL & GAS CO
8311400	18031	3503700000		108		REPLOGLE #1	CUSHING	8.4	ARCO OIL & GAS CO
-COTTON PETROLEUM CORPORATION		RECEIVED: 11/24/82 JA: OK							
8311411	21868	3501521381		107-DP		MCCLURE #1	COTTONWOOD SW	0.0	UNITED GAS PIPELI
-CROUCH PETROLEUM COMPANY		RECEIVED: 11/24/82 JA: OK							
8311483	17870	3509120335		103		CLEEN #1	S E CHECOTAH	108.0	COLUMBIA GAS TRAN
8311484	17860	3509120277		103		KOCH #1	S E CHECOTAH	36.0	COLUMBIA GAS TRAN
8311485	17859	3509120329		102-4		WYNN #1	S E CHECOTAH	30.0	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT GROUP INC		RECEIVED: 11/24/82 JA: OK							
8311500	17902	3511100000		103		SMITH-WELL #1-3	YOUNGSTOWN	0.0	SWAB CORP
-GETTY OIL COMPANY		RECEIVED: 11/24/82 JA: OK							
8311401	17908	3504321355		103		HASBROOK #24-2	RONDA	82.0	PHILLIPS PETROLEU
-GIN INC		RECEIVED: 11/24/82 JA: OK							
8311511	17835	3507323186		103		KING #1	SOONER TREND	0.0	PHILLIPS PETROLEU
-HARPER OIL COMPANY		RECEIVED: 11/24/82 JA: OK							

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311409	21881	3501521213		107-DP		ROMICK #1	WILDCAT	146.0	EL PASO NATURAL G
-HEFNER RESOURCES CORP				RECEIVED:	11/24/82	JA: OK			
8311489	17854	3513722992		103		KHOURY #1-12 137-75226	SHO-VEL-TUM	250.0	MOBIL OIL CORP
-INTERNORTH INC				RECEIVED:	11/24/82	JA: OK			
8311406	18543	3504563978		102-4		MCCLURE #1-1	MOCANE-LAVERNE	65.0	INTERNORTH INC
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	11/24/82	JA: OK			
8311488	17855	3500722245		103		CVANIGA #1	MOCANE LAVERNE	100.0	
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	11/24/82	JA: OK			
8311490	17957	3513900000		108		ELLIOTT #1	GUYMON-HUGOTON	32.0	KANSAS-NEBRASKA N
-MACKELLAR INC				RECEIVED:	11/24/82	JA: OK			
8311498	17926	3507323573		103		ANNA JECH #2	SOONER TREND	0.0	CONOCO INC
8311499	17925	3507323415		103		SOUDEK #1A	SOONER TREND	0.0	CONOCO INC
-MOBIL OIL CORP				RECEIVED:	11/24/82	JA: OK			
8311491	17944	3504900000		108		F H HARRIS #13	ROBBERSON	4.0	OKLAHOMA NATURAL
-MORGAN & STEINERT INC				RECEIVED:	11/24/82	JA: OK			
8311486	17858	3507323450		103		THELMA #1	SOONER TREND	250.0	ONG WESTERN INC
-NATOMAS NORTH AMERICA INC				RECEIVED:	11/24/82	JA: OK			
8311408	18570	3504321321		102-4		PAGE #1	SEC 18 T19N R19W	129.0	PANHANDLE EASTERN
-OIL LIFT INC				RECEIVED:	11/24/82	JA: OK			
8311407	18555	3510525716		102-2		HUSTON #1-14 (API 10525716)	SOUTH COFFEYVILLE	18.3	PELICAN PIPELINE
-OLD DOMINION OIL CORP				RECEIVED:	11/24/82	JA: OK			
8311517	17795	3512120906		103		DEBBIE #1	FEATHERSTON	235.0	ARKANSAS LOUSIANA
8311493	17794	3515321319		103		SELMAN #1	N W QUINLAN	1056.0	PRODUCER'S GAS CO
-PETROLEUM INC				RECEIVED:	11/24/82	JA: OK			
8311501	17901	3501121680		103		ACORD #1	SOUTH EAGLE CITY	250.0	ARKANSAS LOUISIAN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	11/24/82	JA: OK			
8311495	17941	3501721354		108		MCCARTHY "A" #1	N CONCHO	10.4	PANHANDLE EASTERN
8311496	17940	3501721366		108		MCCARTHY "D" #1	NORTH CONCHO	11.6	PANHANDLE EASTERN
8311497	17939	3505120852		108		MCCOMAS "A" #1	UNION CITY	13.6	TRANSOK PIPELINE
8311405	18240	3501720656		108		WILKERSON C #1	NW RICHLAND	9.4	OKLA GAS & ELECTR
-PORTS OF CALL OIL CO				RECEIVED:	11/24/82	JA: OK			
8311494	17793	3501726001		103		KM #20-2		146.0	PHILLIPS PETROLEU
-QUANAH COMPANY				RECEIVED:	11/24/82	JA: OK			
8311487	17857	3501722251		103		MEYER #1	SOONER TREND	35.0	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	11/24/82	JA: OK			
8311492	18195	3511900000		108		SCHUTKESTING #3	BROYLES	3.0	CITIES SERVICE GA
-SUNRISE EXPLORATION INC				RECEIVED:	11/24/82	JA: OK			
8311410	18551	3512900000		102-4		DEAN YOXSIMER #1-16	S W LEEDY	730.0	DELHI GAS PIPELIN
-TENNECO OIL COMPANY				RECEIVED:	11/24/82	JA: OK			
8311513	17852	3509120140		103		STORM #23-6	CHEOCAIAH SE	76.6	
-TXO PRODUCTION CORP				RECEIVED:	11/24/82	JA: OK			
8311507	17842	3509322299		103		SHULTESS #2	FAIRVIEW	0.0	DELHI GAS PIPELIN
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	11/24/82	JA: OK			
8311503	17853	3508720711		103		HOPKINS 1-11		0.0	ARKANSAS LOUISIAN
8311510	17836	3503720556		103		HUDSON 1-18		0.0	SUN GAS CO
-W J FORREST M D				RECEIVED:	11/24/82	JA: OK			
8311506	17844	3501722148		103		FORREST #1	OKLAHOMA CITY	180.0	PHILLIPS PETROLEU
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	11/24/82	JA: OK			
8311504	17852	3509322414		103		GIBSON #1-36	NORTH AMES	49.5	PIONEER GAS PRODU
8311509	17838	3503320907		103		MARY J #1-7	CHANEY DELL	26.3	UNION TEXAS PETRO
8311508	17839	3509322283		103		SCHOONOVER #1-19	SOONER TREND	67.9	PHILLIPS PETROLEU
-WHEATLAND OIL CO				RECEIVED:	11/24/82	JA: OK			
8311514	17831	3507323507		103		PARKER #1	SOUTH LACEY	91.3	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
WEST VIRGINIA DEPARTMENT OF MINES									
-CONSOLIDATED GAS SUPPLY CORPORATION RECEIVED: 11/24/82 JA: WV									
8311431		4710300749	108			A J WITCHERMAN WN-4897	GRANT	1.0	GENERAL SYSTEM PU
8311457		47[illegible]355	108			AVA F CRUM WN-10855	SANDY RIVER	20.0	GENERAL SYSTEM PU
8311464		47.6700217	108			BESSIE MAYS WN-10212	HAMILTON	21.0	GENERAL SYSTEM PU
8311462		4710900371	108			BUREN H TOLER WN-9712	BAILEYSVILLE	6.0	GENERAL SYSTEM PU
8311475		47[illegible]3847	108			CHARLES A HAMILL WN 11880	STAFFORD DISTRICT	9.0	GENERAL SYSTEM PU
8311465		47[illegible]0283	108			CHESSIE GROVES WN-11173	HAMILTON	8.0	GENERAL SYSTEM PU
8311472		47[illegible]534	108			CROZER LAND ASSOCIATION WN-11472	BROWNS CREEK	10.0	GENERAL SYSTEM PU
8311439		47[illegible]394	108			CYRUS TETRICK WN-5269	LINCOLN	5.0	GENERAL SYSTEM PU
8311412		47[illegible]300	108			ELEANOR T DONLEY WN-10862	CLINTON	3.0	GENERAL SYSTEM PU
8311469		47[illegible]014	108			FREEMANS A CLARKSON WN-11254	RENO	2.0	GENERAL SYSTEM PU
8311451		4704700282	108			GLADYS B COOK WN-10638	SANDY RIVER	21.0	GENERAL SYSTEM PU
8311424		4709700679	108			GRACE MCCUE WN-10396	MEADE	5.0	GENERAL SYSTEM PU
8311413		4706100317	108			GREER STEEL CO WN-11022	MORGAN	10.0	GENERAL SYSTEM PU
8311470		47[illegible]115	108			H G FARMER WN-9204	TRAPHILL	4.0	GENERAL SYSTEM PU
8311420		4704700449	108			IDA ROBERTS WN-11253	SANDY RIVER	17.0	GENERAL SYSTEM PU
8311422		4704700478	108			IDA ROBERTS WN-11320	SANDY RIVER	18.0	GENERAL SYSTEM PU
8311426		4709700532	108			J C REED WN-10119	WARREN	15.0	GENERAL SYSTEM PU
8311429		4710300656	108			J R CALVERT WN-3012	MANNINGTON	1.0	GENERAL SYSTEM PU
8311435		4781000117	108			JOSEPH CHAMBERS WN-9211	CLEAR FORK	5.0	GENERAL SYSTEM PU
8311418		4704700442	108			KANAWHA BANKING & TRUST WN-11213	SANDY RIVER	6.0	GENERAL SYSTEM PU
8311459		4710900533	108			LASH LITZ BEASLEY WN-10218	OCEANA	2.0	GENERAL SYSTEM PU
8311467		4706700297	108			LEE RADER WN-11500	HAMILTON	9.0	GENERAL SYSTEM PU
8311460		4710900475	108			LEOLA S DAMERON WN-10007	CLEAR FORK	16.0	GENERAL SYSTEM PU
8311427		4710900243	108			LILLIE BARRETT WN-9194	OCEANA	12.0	GENERAL SYSTEM PU
8311458		4710900537	108			LOUP CREEK COLLIERY CO WN-10236	OCEANA	7.0	GENERAL SYSTEM PU
8311466		4706700291	108			MARTHA L WHITE WN-11379	HAMILTON	7.0	GENERAL SYSTEM PU
8311428		4709701401	108			MAXINE M BENNETT WN-11404	UNION	8.0	GENERAL SYSTEM PU
8311454		4704700297	108			MCDOWELL POCAHONTAS COAL WN-10701	SANDY RIVER	19.0	GENERAL SYSTEM PU
8311440		4704700401	108			MCDOWELL POCAHONTAS COAL WN-10964	SANDY RIVER	19.0	GENERAL SYSTEM PU
8311417		4704700435	108			MCDOWELL POCAHONTAS COAL WN-11119	SANDY RIVER	8.0	GENERAL SYSTEM PU
8311419		4704700443	108			MCDOWELL POCAHONTAS COAL WN-11207	BIG CREEK	14.0	GENERAL SYSTEM PU
8311436		4706100398	108			MORTON VANVOORHIS WN-9950	CASS	3.0	GENERAL SYSTEM PU
8311438		4706100226	108			MYRTLE A PIXLER WN-10914	MORGAN	17.0	GENERAL SYSTEM PU
8311468		4706700298	108			N F RADER WN-11588	HAMILTON	16.0	GENERAL SYSTEM PU
8311434		4708702110	108			NICLOETE LUMBER CO WN-7122	SPENCER	3.0	GENERAL SYSTEM PU
8311433		4708702112	108			NICOLETE LUMBER CO WN-7124	SPENCER	2.0	GENERAL SYSTEM PU
8311441		4706100323	108			O HART WN-10963	MORGAN	8.0	GENERAL SYSTEM PU
8311442		4706700315	108			OKEY GROVES WN-10186	HAMILTON	10.0	GENERAL SYSTEM PU
8311443		4704700196	108			OLGA COAL CO WN-10274	BIG CREEK	16.0	GENERAL SYSTEM PU
8311444		4704700197	108			OLGA COAL CO WN-10275	WELCH	18.0	GENERAL SYSTEM PU
8311446		4704700237	108			OLGA COAL CO WN-10366	SANDY RIVER	13.0	GENERAL SYSTEM PU
8311447		4704700246	108			OLGA COAL CO WN-10452	BIG CREEK	11.0	GENERAL SYSTEM PU
8311453		4704700291	108			OLGA COAL CO WN-10453	BIG CREEK	8.0	GENERAL SYSTEM PU
8311449		4704700271	108			OLGA COAL CO WN-10555	SANDY RIVER	23.0	GENERAL SYSTEM PU
8311452		4704700264	108			OLGA COAL CO WN-10654	BIG CREEK	16.0	GENERAL SYSTEM PU
8311455		4704700300	108			OLGA COAL CO WN-10738	SANDY RIVER	7.0	GENERAL SYSTEM PU
8311414		4704700379	108			OLGA COAL CO WN-10898	SANDY RIVER	16.0	GENERAL SYSTEM PU
8311415		4704700394	108			OLGA COAL CO WN-10955	SANDY RIVER	13.0	GENERAL SYSTEM PU
8311416		4704700404	108			OLGA COAL CO WN-10980	SANDY RIVER	18.0	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DRT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311421		4704700469		108		OLGA COAL CO WN-11209	BIG CREEK	13.0	GENERAL SYSTEM PU
8311423		4704700513		108		OLGA COAL CO WN-11398	SANDY RIVER	6.0	GENERAL SYSTEM PU
8311471		4704705160		108		OLGA COAL CO WN-11397	SANDY RIVER	18.0	GENERAL SYSTEM PU
8311448		4704700247		108		OLGA COAL COMPANY WN-10464	SANDY RIVER	6.0	GENERAL SYSTEM PU
8311456		4704700347		108		OLGA COAL COMPANY WN-10843	SANDY RIVER	11.0	GENERAL SYSTEM PU
8311450		4704700277		108		OLGA COAL COMPANY WN-11454	BIG CREEK	9.0	GENERAL SYSTEM PU
8311445		4704700228		108		PEOPLES 1ST NATIONAL BANK WN-10367	SANDY RIVER	6.0	GENERAL SYSTEM PU
8311473		4704700603		108		POCAHONTAS LAND CORP WN 11606	NORTH FORK DISTRICT	21.0	GENERAL SYSTEM PU
8311463		4710900624		108		POCOHANTAS LAND 1-17 WN 12586	BARKERS RIDGE	20.0	GENERAL SYSTEM PU
8311432		4708702111		108		RADECKER & COMPANY WN-7125	SPENCER	4.0	GENERAL SYSTEM PU
8311425		4708700708		108		SAMPSON-MOORE WN-10343	BANKS	3.0	GENERAL SYSTEM PU
8311430		4709500493		108		SAMUEL STONEKING WN-5394	MCELROY	12.0	GENERAL SYSTEM PU
8311474		4705900507		108		W W MCDONALD LAND CO WN-9944	STAFFORD	13.0	GENERAL SYSTEM PU
8311437		4706100394		108		WM L TENNANT WN-5069	CLAY	5.0	GENERAL SYSTEM PU
8311461		4710900377		108		WYOMING MININS CORP WN-9761	OCEANA	18.0	GENERAL SYSTEM PU
-CONSOLIDATED GAS SUPPLY CORPORATION RECEIVED: 11/26/82 JA: WV									
8311351		4709300020		108		ARLIE W MEYERS WN-10097	LICKING	9.0	GENERAL SYSTEM PU
8311368		4709701601		108		B C RADABAUGH WN-10942	UNION	10.0	GENERAL SYSTEM PU
8311381		4709700663		108		B F WHITESCARVER WN-10362	BANKS	2.0	GENERAL SYSTEM PU
8311388		4710900358		108		BUREN H TOLER (UNIT) WN-9648	BAILEYVILLE	3.0	GENERAL SYSTEM PU
8311378		4709700842		108		D B MARTENEY WN-10637	UNION	11.0	GENERAL SYSTEM PU
8311370		4708503894		108		ELIAS CONNELLY WN-4889	MURPHY	3.0	GENERAL SYSTEM PU
8311354		4710900266		108		ELLA SHUMATE WN-9228	OCEANA	21.0	GENERAL SYSTEM PU
8311379		4709700822		108		ESTER WORKMAN WN-10533	UNION	16.0	GENERAL SYSTEM PU
8311376		4709700879		108		ETHEL WILSON WN-10727	UNION	7.0	GENERAL SYSTEM PU
8311385		4709700472		108		F O MARPLE WN-5977	WARREN	1.0	GENERAL SYSTEM PU
8311353		4710900264		108		G C HEDRICK WN-9289	OCEANA	22.0	GENERAL SYSTEM PU
8311382		4709700657		108		GRETA PROUDFOOT WN-10263	WARREN	14.0	GENERAL SYSTEM PU
8311369		4709701326		108		H C ALEXANDER WN-11280	UNION	10.0	GENERAL SYSTEM PU
8311380		4709700693		108		H H SAUNDERS WN-10418	BANKS	13.0	GENERAL SYSTEM PU
8311374		4708100285		108		HENRY BRYSON WN-11171	TRAP HILL	2.0	GENERAL SYSTEM PU
8311383		4709700605		108		J MARDEN IRELAND WN-10264	WARREN	6.0	GENERAL SYSTEM PU
8311372		4708503305		108		J S BEALL WN-11167	MURPHY	3.0	GENERAL SYSTEM PU
8311386		4709700403		108		JOHN DEAN WN-9711	WARREN	4.0	GENERAL SYSTEM PU
8311373		4708502542		108		JOHN M SUMMERS WN-10386	UNION	0.4	GENERAL SYSTEM PU
8311387		4709500485		108		LILLIE M MAPLE WN 12386	CENTERVILLE	5.0	GENERAL SYSTEM PU
8311365		4710900124		108		LOUP CREEK COLLIERY CO WN-9123	OCEANA	16.0	GENERAL SYSTEM PU
8311364		4710900134		108		LOUP CREEK COLLIERY CO WN-9141	OCEANA	11.0	GENERAL SYSTEM PU
8311363		4710900169		108		LOUP CREEK COLLIERY CO WN-9090	OCEANA	11.0	GENERAL SYSTEM PU
8311361		4710900195		108		LOUP CREEK COLLIERY CO WN-9120	OCEANA	16.0	GENERAL SYSTEM PU
8311360		4710900213		108		LOUP CREEK COLLIERY CO WN-9158	OCEANA	4.0	GENERAL SYSTEM PU
8311358		4710900224		108		LOUP CREEK COLLIERY CO WN-9160	OCEANA	12.0	GENERAL SYSTEM PU
8311356		4710900255		108		LOUP CREEK COLLIERY CO WN-9174	OCEANA	20.0	GENERAL SYSTEM PU
8311359		4710900222		108		LOUP CREEK COLLIERY CO WN-9176	OCEANA	14.0	GENERAL SYSTEM PU
8311357		4710900239		108		LOUP CREEK COLLIERY CO WN-9193	OCEANA	8.0	GENERAL SYSTEM PU
8311377		4709700844		108		NELL RADABAUGH WN-10635	UNION	6.0	GENERAL SYSTEM PU
8311362		4710900173		108		N RIVER & POCAHONTAS CONS CO WN9094	BAILEYSVILLE	21.0	GENERAL SYSTEM PU
8311366		4710900105		108		N RIVER & POCAHONTAS CONS CO WN9002	BAILEYSVILLE	15.0	GENERAL SYSTEM PU
8311355		4710900256		108		POCAHONTAS LAND CORP WN-9205	CENTER	5.0	GENERAL SYSTEM PU
8311352		4710900295		108		POCAHONTAS LAND CORP WN-9304	CENTER	4.0	GENERAL SYSTEM PU
8311367		4708900381		108		S J KILCOYNE WN-8847	GRANT	6.0	GENERAL SYSTEM PU
8311375		4709701658		108		SALLIE PAUGH WN-10932	UNION	13.0	GENERAL SYSTEM PU
8311371		47 9300314		108		W ASA STREETS WN-9943	LICKING	7.0	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311304		4709700535		108		W L KARICKOFF WN-10113	WARREN	5.0	GENERAL SYSTEM PU
-MONITOR PETROLEUM CORP				RECEIVED:	11/26/82	JA: WV			
8311349		4701212282		103		MONITOR #1 SNELLING	BARKER	54.0	COLUMBIA GAS TRAN
-WACO OIL AND GAS CO INC				RECEIVED:	11/26/82	JA: WV			
8311350		4702103767		103		WHITING #13A	GILMER	9.0	CONSOLIDATED GAS
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
-CIG EXPLORATION INC				RECEIVED:	11/24/82	JA: UT 1			
8311348	UD 0420-82	4304730869		103		107-YF CIGE 87D-34-9-21J	NATURAL BUTTES	392.0	COLORADO INTERSTA
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
-ANADARKO PRODUCTION COMPANY				RECEIVED:	11/26/82	JA: LA 3			
8311280	G2-2724	1772040073		102-5		WEST DELTA BLK 138 WELL #A-6	WEST DELTA	40.0	INTERNORTH INC
8311282	G2-2723	1772040063		102-5		WEST DELTA BLK 138 WELL NO A-1	WEST DELTA	729.0	INTERNORTH INC
-ARCO OIL AND GAS COMPANY				RECEIVED:	11/29/82	JA: LA 3			
8311307	G2-2836	1772140222		102-5		OCS-G 1608 E-3	SOUTH PASS	175.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	11/29/82	JA: LA 3			
8311310	G2-2694	1770640308		102-5		OCS-G-3136 #A-3	VERMILLION	53.0	COLUMBIA GAS TRAN
-CNG PRODUCING COMPANY				RECEIVED:	11/29/82	JA: LA 3			
8311299	G2-3229	1771240247		102-1		A-1S1	SHIP SHOAL	680.0	TEXAS EASTERN TRA
8311322	G2-3230	1771240247		102-1		A-1S2	SHIP SHOAL	2040.0	TEXAS EASTERN TRA
8311314	G2-3231	1771240252		102-1		A-2S1	SHIP SHOAL	1040.0	TEXAS EASTERN TRA
8311319	G2-3232	1771240263		102-1		A-3S1	SHIP SHOAL	1387.0	TEXAS EASTERN TRA
8311326	G2-3233	1771240263		102-1		A-4S1	SHIP SHOAL	3150.0	TEXAS EASTERN TRA
8311327	G2-3234	1771240256		102-1		A-5S1	SHIP SHOAL	875.0	TEXAS EASTERN TRA
8311291	G2-3235	1771240279		102-1		A-6S1	SHIP SHOAL	0.0	TEXAS EASTERN TRA
8311286	G2-3236	1771240274		102-1		A-8S1	SHIP SHOAL	810.0	TEXAS EASTERN TRA
8311288	G2-3237	1771240270		102-1		A-9S1	SHIP SHOAL	1400.0	TEXAS EASTERN TRA
-DAVIS OIL COMPANY				RECEIVED:	11/29/82	JA: LA 3			
8311311	G2-2726	1770040508		102-5		DAVIS OIL #9 OCS G-0763	WEST CAMERON	1200.0	TENNESSEE GAS PIP
-EXXON CORPORATION				RECEIVED:	11/29/82	JA: LA 3			
8311317	G2-2823	1771940174		102-5		OCS-G 3188 # B-1	WEST DELTA	1800.0	COLUMBIA GAS TRAN
-GETTY OIL COMPANY				RECEIVED:	11/29/82	JA: LA 3			
8311297	G2-3154	1770640396		102-1		VERMILION 264 A-1	VERMILION	1500.0	TEXAS EASTERN TRA
8311296	G2-3155	1770640495		102-1		VERMILION 264 A-2 (ST-1)	VERMILION	1500.0	TEXAS EASTERN TRA
8311298	G2-3156	1770640414		102-1		VERMILION 264 A-3 (ST-1)	VERMILION	1500.0	TEXAS EASTERN TRA
-GULF OIL CORPORATION				RECEIVED:	11/29/82	JA: LA 3			
8311312	G2-2824	1770940370		102-5		EUGENE ISL BLK 252 OCS-G-0983 WG-10	EUGENE ISLAND	1460.0	SEA ROBIN PIPELIN
-MARATHON OIL COMPANY				RECEIVED:	11/26/82	JA: LA 3			
8311281	G2-2672	1772240028		102-5		SOUTH PASS BLK 89 WELL #A-3	SOUTH PASS SOUTHEAST	46.0	TEXAS EASTERN TRA
-MARATHON OIL COMPANY				RECEIVED:	11/29/82	JA: LA 3			
8311305	G2-2669	1772240039		102-5		SOUTH PASS BLK 89 WELL A-7	SOUTH PASS SOUTHEAST	42.0	TEXAS EASTERN TRA
8311309	G2-2668	1772240038		102-5		SOUTH PASS BLK 89 WELL A-9	SOUTH PASS SOUTHEAST	92.0	TEXAS EASTERN TRA
-MESA PETROLEUM CO				RECEIVED:	11/29/82	JA: LA 3			
8311315	G2-3169	1771340071		102-1		SOUTH PELTO BLK 12 #A-18	SOUTH PELTO	1825.0	TRUNKLINE GAS CO
8311283	G2-2639	1770640389		102-5		VERMILION BLK 348 WELL #A-2	VERMILION BLOCK	230.0	TRUNKLINE GAS CO
8311284	G2-2721	1770640415		102-5		VERMILION BLK 348 WELL #A-5	VERMILION BLOCK	230.0	TRUNKLINE GAS CO
8311303	G2-2722	1770640415		102-5		VERMILION BLK 348 WELL #A-5D	VERMILION BLOCK	230.0	TRUNKLINE GAS CO
8311285	G2-2820	1770640437		102-5		VERMILION BLK 348 WELL #A-7	VERMILION BLOCK	1825.0	TRUNKLINE GAS CO
8311293	G2-2821	1770640437		102-5		VERMILION BLK 348 WELL #A-7D	VERMILION BLOCK	1825.0	TRUNKLINE GAS CO
8311313	G2-2589	1770640309		102-5		VERMILION BLK 348 WELL A-1	VERMILION BLOCK	1825.0	TRUNKLINE GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD,	PURCHASER

JD NO	JA DKT	API NO	D	SPCIAL	SEC(2)	WELL NAME	FIELD NAME	PROD,	PURCHASER
8311294	G2-3150	177064[illegible]502		102-1		VERMILION 381 #A-1	VERMILION	500.0	UNITED GAS PIPE L
8311292	G2-3161	177064[illegible]502		102-1		VERMILION 381 #A-1D	VERMILION	1200.0	UNITED GAS PIPE L
8311290	G2-3162	177064[illegible]504		102-1		VERMILION 381 #A-2	VERMILION	1200.0	UNITED GAS PIPE L
8311318	G2-3163	177064[illegible]504		102-1		VERMILION 381 #A-2D	VERMILION	500.0	UNITED GAS PIPE L
8311304	G2-3166	177064[illegible]509		102-1		VERMILION 381 #A-5	VERMILION	1200.0	UNITED GAS PIPE L
8311316	G2-3167	177064[illegible]509		102-1		VERMILION 381 #A-5D	VERMILION	1200.0	UNITED GAS PIPE L
-ODECO OIL & GAS CO				RECEIVED:	11/29/82	JA: LA 3			
8311289	G2-2815	177119[illegible]462		102-5		OCS-G[illegible] #6B	SHIP SHOAL 113 FIELD	1450.0	TRANSCONTINENTAL
-QUINTANA OFFSHORE INC				RECEIVED:	11/29/82	JA: LA 3			
8311295	G2-3157	177114[illegible]597		107-DP		OCS-G-3411 #2	SHIP SHOAL BLOCK	5500.0	TEXAS GAS TRANSMI
-TENNECO OIL COMPANY				RECEIVED:	11/29/82	JA: LA 3			
8311323	G2-3159	177044[illegible]421		102-5		EAST CAMERON 280 #C-2	EAST CAMERON	330.0	TENNESSEE GAS PIP
8311321	G2-2698	177044[illegible]429		102-5		EAST CAMERON 280 #C-4	EAST CAMERON	260.0	TENNESSEE GAS PIP
8311324	G2-2603	177114[illegible]50[illegible]		102-1		SHIP SHOAL 170 A-5	SHIP SHOAL	657.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:	11/29/82	JA: LA 3			
8311287	G2-2776	177104[illegible]67[illegible]		102-5		OCS-G-2608 E I 313 #B-9	EUGENE ISLAND	803.0	COLUMBIA GAS TRAN
8311302	G2-3171	17719[illegible].225		107-DP		OCS-G-2937 WEST DELTA 109 #A-5	WEST DELTA	1008.0	UNCOMMITTED
-UNION OIL COMPANY OF CALIF				RECEIVED:	11/29/82	JA: LA 3			
8311321	G2-3178	177054[illegible]491		107-DP		OCS [illegible]548 #7	VERMILION	1824.0	
8311300	G2-3190	17705[illegible]504		102-1		OCS-G 4787 #2	VERMILION	45.0	
8311320	G2-3189	177054[illegible]504		102-1		OCS-G 4787 #2-D	VERMILION	540.0	
-TENNECO OIL COMPANY				RECEIVED:	11/29/82	JA: TX 5			
8311308	G2-3152	427064[illegible]051		102-1		GALVESTON AREA BLK 393 #C-8	GALVESTON AREA	0.0	TENNESSEE GAS PIP
-TEXASGULF INC				RECEIVED:	11/29/82	JA: TX 5			
8311328	G2-2716	427034[illegible]043		102-5		OCS-G-3080 #A-1	MATAGORDA ISLAND	5475.0	SOUTHERN NATURAL
8311326	G2-2717	427034[illegible]084		102-5		OCS-G-3080 #A-2	MATAGORDA ISLAND	5475.0	SOUTHERN NATURAL
8311325	G2-2718	427034[illegible]091		102-5		OCS-G-3080 #A-5	MATAGORDA ISLAND	5475.0	SOUTHERN NATURAL

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8551.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). A (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old BCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 83–300 Filed 1–5–83; 8:45 am]
BILLING CODE 6717–01–M

Southeastern Power Administration

Proposed Rate Adjustement, Public Hearing, and Opportunities for Public Review and Comment

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice of proposed rate adjustment for Kerr-Philpott System, notice of public hearing and opportunity for review and comment.

SUMMARY: Southeastern proposes to replace Rate Schedules KP–1–B and JHK–1–D currently applicable to Kerr-Philpott Projects power, seek approval of replacement schedules KP–1–C and JHK–1–E for a 3½-year period, April 1, 1982, through September 30, 1986, and eliminate Rate Schedule KP–2–B.

Opportunities will be available for interested persons to review the present rates, the proposed rates and supporting studies, to participate in a hearing and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before February 25, 1983. A public information and public comment forum will be held in South Hill, Virginia, on February 8, 1983. Persons desiring to speak at the forum should notify Southeastern at least 4 days before the forum is scheduled, so that a list of forum participants can be prepared. Others may speak if time permits.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635. The public comment forum will begin at 10 a.m. on February 8, 1983, in the Holiday Inn, Atlantic Street, South Hill, Virginia 23970.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283–3261.

SUPPLEMENTARY INFORMATION: The Federal Power Commission by order issued February 18, 1976, in Docket No. E–7002, confirmed and approved Wholesale Power Rate Schedules KP–1–B, KP–2–B, and JHK–1–B applicable to Kerr-Philpott Projects' power for a period ending June 30, 1980.

Thereafter, on January 29, 1981, and March 19, 1982, in Docket Nos. EF80–3041 and EF81–3041, respectively, the Federal Energy Regulatory Commission extended through September 30, 1982, approvals of Rate Schedules KP–1–B and KP–2–B and approved Rate Schedule JHK–1–C as a substitute of JHK–1–B.

Subsequently, on September 2, 1982, Assistant Secretary, Conservation and Renewable Energy interimly approved through March 31, 1983, extension of Rate Schedules KP–1–B and KP–2–B and approved Rate Schedule JHK–1–D as a substitute for JHK–1–C. The rate schedules are now pending before the Federal Energy Regulatory Commission for approval on a final basis.

Discussion: Existing rate schedules are predicted upon a March 1975 repayment study and other supporting date all of which are contained in FPC Docket No. E–7002. The repayment studies prepared in April of 1980 and March of 1981 showed that existing rates were adequate through fiscal year 1981, and therefore two extensions were requested and allowed.

A June 1982 repayment study showed a need for a rate increase of up to 10 percent, however, a six-month extension was requested to allow negotiation of contracts to implement the interim power marketing policy.

Additionally, a revised repayment study with $4,408,000 revenue increase over the June 1982 repayment study in each future year demonstrates that all costs are paid within their repayment life. Therefore, Southeastern is proposing to raise the rates to a level which will recover that additional $4,408,000.

Of the increase, $3,427,000 is attributable to wheeling costs, which is caused by increased charges from investor-owned utilities and increased capacity wheeled. The remaining increase of approximately $981,000 is due to escalated costs at the generating projects. The overall increase amounts to 66 percent increase in revenues.

The wheeling rate was established to pass the exact charge of the investor-owned utility directly to the preference customers served by the utility. The wheeling rate for preference customers of the Government served by VEPCO will be $1.74/month. The wheeling rate for preference customers served by CP&L will be $1.99/month. The wheeling charges are proposed to be subject to automatic future adjustments to pass SEPA's adjusted wheeling cost from the investor-owned utility to the appropriate preference customers.

The demand charge applicable to preference customers has been increased by approximately 22 percent to $1.52/kilowatt of monthly demand and the energy charge has been increased by approximately 25 percent to 6.25 mills/kilowatt-hour. Sales to the utilities will be eliminated.

The referenced June 1982 system repayment study along with a revised repayment study dated December 1982 and previous system repayment studies are available for examination at the Samuel Elbert Building, Elberton, Georgia 30635. Proposed rate schedules KP–1–C and JHK–1–E, applicable to the extension period, are also available.

Issued at Elberton, Georgia, December 28, 1982.

Kenelm E. Rucker,
Acting Administrator.

[FR Doc. 83–271 Filed 1–5–83; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

[OPTS-42021; FRL 2262-7]

Antimony Metal; Antimony Trioxide; and Antimony Sulfide Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for comments.

SUMMARY: In the Fourth Report of the Interagency Testing Committee (ITC), published in the **Federal Register** of June 1, 1979 (44 FR 31878), the ITC designated antimony metal (Sb metal), antimony trioxide (Sb_2O_3), and antimony sulfide (Sb_2S_3) for priority testing consideration. After publication of the ITC report, the domestic manufacturers of these antimony substances formed the Antimony Oxide Industry Association (AOIA). This group presented a program to the Agency for monitoring and controlling occupational exposure and environmental release, performing medical surveillance, continuing epidemiology studies for exposed workers, and performing testing to characterize the health effects and chemical fate of these antimony substances. The Agency has tentatively accepted the proposed AOIA program in lieu of a test rule because the proposed AIOA program in lieu of a test rule because the proposed AOIA program will provide adequate test data more expeditiously than a test rule. In addition, the proposed program provides for interim control of exposure to these antimony substances while testing is being performed

Consequently, the EPA is not, at this time, initiating rulemaking under section 4(a) of the Toxic Substances Control Act (TSCA) to require testing of Sb metal, Sb_2O_3 or Sb_2S_3. EPA invites public comment on its conclusions as to the need to test the antimony substances and the adequacy of the AOIA's proposed program. This notice constitutes the Agency's statutory response to the ITC's designation of Sb metal, Sb_2O_3 and Sb_2S_3 for testing under section 4(e) of TSCA.

DATE: Written comments should be submitted on or before February 22, 1983.

ADDRESS: Written comments should bear the document control number OPTS-42021 and should be submitted in triplicate to: Document Control Officer, Management Support Division (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (544-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) authorizes the EPA to promulgate rules requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment. Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to the EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act.

The ITC designated Sb metal, Sb_2O_3 and Sb_2S_3 for testing and recommended that these antimony substances be considered for health effects testing (carcinogenicity, mutagenicity, other chronic effects including reproductive effects, and teratogenicity), for environmental effects testing, and that epidemiology studies be considered (44 FR 31878). These recommendations were based on: (1) Large production of Sb metal, Sb_2O_3 and Sb_2S_3; (2) anticipated occupational and consumer exposure to and environmental release of Sb metal, Sb_2O_3 and Sb_2S_3; (3) physical and chemical characteristics of Sb metal, Sb_2O_3 and Sb_2S_3 which suggested that these substances were persistent and might accumulate in soils and sediments; (4) existing human and animal data on the health effects of Sb metal, Sb_2O_3 and Sb_2S_3; and (5) existing chemical fate and environmental effects data for Sb metal, Sb_2O_3 and Sb_2S_3.

No known techniques are available to chemically distinguish among Sb metal, Sb_2O_3 and Sb_2S_3 in human tissue or environmental samples (air, water, soil, etc.). Sophisticated analytical techniques have been used to distinguish the Sb^{+3} and Sb^{+5} cations (the form of the anion is unknown) and to identify methylated antimony carboxylic acids in natural waters (Refs. 1, 28). The analytical limitations that prevent an investigator from distinguishing among Sb metal, Sb_2O_3 and Sb_2S_3 are important for several reasons: (1) Predicted occupational/environmental exposure to a specific antimony substance, e.g., Sb_2O_3, cannot be confirmed by existing analytical techniques; (2) predicted transformation products of antimony substances, e.g., Sb_2O_3 from Sb metal, cannot be confirmed by existing analytical techniques; and (3) the identity of a specific antimony substance deposited in an environmental/biological medium cannot be confirmed by existing analytical techniques. Throughout this Notice, careful attempts have been made to distinguish the production, predicted exposure and toxicological profiles for Sb metal, Sb_2O_3 and Sb_2S_3. However, where available information does not permit such a distinction, or where all three of the substances are intended to be covered by a statement, the term "antimony substances" is used rather than the name of the individual substance.

II. Analysis of the ITC's Concerns

A. Introduction

In analyzing of the ITC's concerns, EPA considered the available information on the production, human exposure to, and environmental release of Sb metal, Sb_2O_3 and Sb_2S_3, as well as information on the potential health and environmental effects of exposure to the antimony substances. This analysis reflects the facts that: (1) No techniques are available to chemically distinguish among Sb, Sb_2O_3 or Sb_2S_3 at very low levels; (2) these substances frequently are produced and used in the same facilities by the same workers; and (3) these substances are converted from one substance to another during some commercial and environmental processes. The ITC substantially overestimated the production and exposure to individual antimony substances, because they did not fully consider these relationships. EPA's analyses of the production, exposure, and release of antimony substances and of the needs for health and environmental effects testing of these substances are presented below.

B. Production, Processing, Use and Occupational Exposure

1. *Antimony Metal.* The ITC reported that in 1976 production of "antimony" was 29 million pounds from ore and 40 million pounds from recycled metal (Ref. 36). These production estimates were derived by the National Institute for Occupational Safety and Health (NIOSH), which used the term "antimony" to include "elemental antimony and all antimony compounds except the gas stibine (SbH_3)" (Ref. 30). The ITC substituted the term

"antimony" for Sb metal without taking into consideration NIOSH's definition of "antimony." The inclusion of all antimony compounds except stibine in the production estimate reported by the ITC for Sb metal accounts for the ITC's substantial overestimate of Sb metal production in 1976. The actual 1976 domestic production and importation of Sb metal was 6 million pounds (Ref. 26). In 1980, 5–7 million pounds of Sb metal were produced domestically or imported; the market for Sb metal is expected to remain stable for the next few years (Ref. 26).

NIOSH performed a National Occupational Hazard Survey (NOHS) in 1972–1974 and estimated that, in 1970, 1.35 million workers were potentially exposed to "antimony" (Ref. 29). This exposure estimate was cited by the ITC as the number of workers exposed to Sb metal. However, since NIOSH estimated exposure to "antimony" as described above, and not just to Sb metal, EPA has concluded that NIOSH figure cited by the ITC substantially overestimates the number of workers exposed to Sb metal. In fact, NIOSH states that "most occupational exposure is to Sb_2O_3" (Ref. 30).

The AOIA conducted a survey among their members and reported the following exposure estimates for antimony substances (Ref. 3). The AOIA found that between 230 and 240 production workers are exposed to measurable concentrations of the antimony substances; of these, about 100 workers were found to be potentially exposed to antimony substances at an 8–hour time-weighted average (TWA) of greater than 0.1 mg/m^3. Further, a maximum of 1,000–2,000 workers employed by users of antimony substances would be exposed to antimony substances at concentrations below 0.1 mg/m^3. The AOIA reports that these production and user workers represent the total occupational population potentially exposed to antimony substances. In their view, these figures provide a maximum estimate for the number of workers exposed to Sb metal, because these figures address potential exposure to all three antimony substances (Sb metal, Sb_2O_3 and Sb_2O_3).

In an independent effort for EPA, Mathtech, Inc. determined that there were a total of 2,249 employees at the three domestic facilities which produce and process Sb metal in 1979 (Ref. 26). One of these facilities (Bunker Hill) may close in 1982 (Ref. 6). Thus, the maximum number of workers that could currently be exposed to Sb metal is about 2,250 (Ref. 26).

The AOIA and Mathtech estimates include workers engaged in the production of Sb metal and its first level of processing into products containing Sb metal (e.g., battery grids and type metal). They do not include "downstream" workers who use such Sb metal-containing products. However, EPA expects exposure of such downstream workers to Sb metal to be small because Sb metal normally is used in alloys containing a substantially larger proportion of lead and exposure controls used to protect workers from lead will also control their exposure to Sb metal. Furthermore, any Sb metal which is volatilized (e.g., in casting the alloys into final products) is expected to oxidize to Sb_2O_3 (Ref. 26). Based on the information presented above, EPA concludes that fewer than 2,250 workers are potentially exposed to Sb metal, and that most of those workers will, in fact, be exposed principally to Sb_2O_3, rather than to Sb metal.

2. *Antimony Trioxide.* The ITC report cited a projection (Ref. 22) that domestic production of Sb_2O_3 for 1978 would be 70 million pounds (Ref. 36). Information available to EPA indicates that this estimate of 1978 production was not achieved and that the actual level of Sb_2O_3 imported and domestically produced in 1978 was 44 million pounds (Ref. 26). The quantity of Sb_2O_3 imported and domestically produced in 1980 was 47 million pounds; the market for Sb_2O_3 is expected to remain stable for the next few years (Ref. 26).

NIOSH estimated that of the 1.35 million workers exposed to "antimony", 81,793 workers were potentially exposed to Sb_2O_3 during 1970 (Ref. 29). EPA believes that NIOSH's figure overestimates actual exposure to Sb_2O_3 because NIOSH included workers that might handle textiles or plastics into which Sb_2O_3 had been incorporated as a flame retardant. Antimony trioxide is incorporated into these products in a tightly bound matrix from which release and consequent exposure is not expected during use. The AOIA estimated that the maximum number of workers exposed to any concentration of antimony substances is approximately 2,240 (Ref. 3). Mathtech estimated that there are a total of 1,710–1,880 employees at domestic facilities which produce and process Sb_2O_3 (Ref. 26).

3. *Antimony Sulfied* The ITC did estimate antimony sulfide production (Ref. 36). Sb_2S_3 produced domestically or imported in 1980 included both the refined Sb_2S_3 chemical and Sb_2S_3 ore (stibnite). All of the Sb_2S_3 chemical used domestically in 1980 (68,000 lb) was imported (Ref. 26). Ninety-four percent of the stibnite used domestically in 1980 (12 million pounds) was imported and used to produce Sb_2O_3. The remaining six percent of domestically-used stibnite (0.7 million pounds) was mined by the U.S. Antimony Corp. and used exclusively to produce sodium antimonate (Ref. 26).

As reported by the ITC, NIOSH estimated that of the 1.35 million workers potentially exposed to "antimony", 1,221,000 workers were potentially exposed to antimony sulfide in 1970. EPA believes that NIOSH's figure quite substantially overstimates actual exposure to Sb_2S_3. NIOSH included "downstream" workers that might use products containing Sb_2S_3. Antimony sulfide chemical is used as a fuel to volatilize the dyes in colored smokes of signalling devices and as an ingredient in the priming mixture that ignites explosives (Ref. 26). Actual exposure of "downstream" workers to Sb_2S_3 as a result of such uses is unlikely because of the small quantities of Sb_2S_3 used in these products and the oxidation of Sb_2S_3 during combustion.

The AOIA estimate that the maximum number of workers exposed to any concentration of antimony substances is approximately 2,240 provides an upper limit of the number of workers who may be exposed to Sb_2S_3 (Ref. 3).

Mathtech estimated that exposure to Sb_2S_3 could occur during mining of stibnite and the resultant production of sodium antimonate at the U.S. Antimony Corp., Thompson, MT facility (which employs a total of 11 workers) or at facilities which use Sb_2S_3 chemical, which employ a total number of 220 workers (Ref. 26). An additional 1,710–1,880 workers engaged in coverting imported stibinite into Sb_2O_3 could potentially be exposed to Sb_2S_3 (Ref. 26). Based on the information presented above, EPA concludes that from 200 to 2000 workers may be exposed to Sb_2S_3, although many of these workers will also be exposed to Sb_2O_3.

C. Distribution Disposal, General Population and Consumer Exposure and Environmental Release

The ITC expressed concern that environmental release of and non-worker exposure to "antimony" could result from the mining, hauling and smelting of ore, from the use and disposal of products containing "antimony", and from petroleum and petroleum products, coal and concrete (Ref. 36). The ITC further projected that, when released, Sb_2O_3 would largely accumulate in soil and in aquatic sediments.

Most of the antimony substances used in the U.S. are imported, smelted from imported ore, or recycled from scrap metals. Of the 22 million pounds of ore processed in the U.S. in 1980 to produce antimony substances, only 0.7 million pounds were mined domestically (Ref. 26). EPA expects mining and hauling of antimony-containing ores to be at most a minor contributor to environmental levels of antimony substances because of the small quantities of domestically-mined ore and the treatment of this ore to minimize dust generation e.g., crushing the ore in a closed system and mining, grinding and hauling the ore under wet conditions (Ref. 2).

Processing of antimony-containing ores can result in the atmospheric release of antimony substances and their subsequent settling in soil surrounding processing facilities. For example, antimony substances have been found in soil surrounding smelting facilities for antimony-containing ores at concentrations substantially above background soil levels (Refs. 7, 20).

The incineration of products containing antimony substances and the combustion of fossil fuels containing antimony substances result in atmospheric concentrations of only 1–10 ng/m^3 antimony substances (Refs. 14, 15), levels which are more than a million times lower than the lowest concentration reported to produce adverse effects in laboratory animals (Ref. 39). Therefore, EPA does not expect these activities to be of significance in assessing the general population exposure to antimony substances.

Concentrations of dissolved antimony substances in natural waters range from 1–100 ppt (Refs. 1, 28), while concentrations of antimony substances in aquatic sediments range from <1–11 ppm in Long Island Sound, NY (Ref. 16) and from <1–12,500 ppm in Puget Sound, WA (Ref. 8). Antimony substances also have been reported in municipal sewage sludge (3–16 ppm; Ref. 27) and in sludge-treated soil (1–11 ppm; Ref. 13).

Overall, EPA believes that the available data indicate that environmental releases of antimony substances from industrial production and processing can result in accumulation of antimony substances in soils and in aquatic sediments surrounding production and processing facilities.

EPA does not believe that the use of alloys containing Sb metal in consumer products (e.g., automotive batteries) or the use of Sb_2O_3 as a flame retardant in plastics or textiles will result in significant consumer exposure. The antimony substances contained in such products have negligible volatility, low water solubility, and are enclosed in a tightly bound matrix from which they are not expected to be released during use. Upon disposal, Sb metal contained in automotive batteries can be expected to be recovered through recycling of scrap metal. Incineration of consumer products containing antimony substances would result in atmospheric release (discussed above) and ultimately deposition of these substances to soil or aquatic sediments.

D. Health Effects

EPA has analyzed each of the ITC's health effects testing recommendations. The bases for EPA's conclusions with regard to each health effect are discussed below.

1. *Carcinogenicity.* The ITC recommended that Sb metal, Sb_2S_3 and Sb_2O_3 be tested for carcinogenicity based on a concern that workers exposed to antimony substances may be at increased risk to lung cancer (Ref. 36).

After publication of the ITC report, the Agency received a submission under TSCA section 8(e) from ASARCO, Inc., describing an inhalation study performed by William D. Watt of Wayne State University (Watt Study) (Ref. 39). TSCA section 8(e) requires companies to immediately notify EPA if they obtain information that suggests that a substance they manufacture, process, or distribute may present a substantial risk of injury to health or the environment. The Watt study demonstrated the formation of non-neoplastic (fibrot) and neoplastic lesions (lung tumors) in female rats (only females were used) after one year of observation following one year of exposure (6 h/day, 5 days/week) to Sb_2O_3 at exposure levels of 1.6+1.5 mg/m^3 (non-neoplasms) and 4.2+3.2 mg/m^3 (neoplasms). After receiving the Watt Study, the Agency received another TSCA section 8(e) submission from ASARCO, Inc. (the study sponsor) describing the results of histopathology studies performed on the tissues of animals exposed to Sb_2O_3 during the Watt study (Ref. 11). This second report confirmed the preliminary diagnosis of non-neoplastic and neoplastic lesions in female rats exposed to Sb_2O_3.

Recently, the Agency received a report from Midwest Research Institute (MRI) describing a study in which male and female rats were exposed to levels of 50+40 mg/m^3 Sb_2O_3 or Sb_2O_3 for one year (7 h/day, 5 days/week) and then held for one year of observation (Ref. 41). The histopathology report on this study confirmed development of neoplastic lesions in female rats exposed to Sb_2O_3 and reported development of neoplastic lesions in female rats exposed to Sb_2S_3 (Ref. 12). Male rats developed non-neoplastic lesions resulting from exposure to Sb_2O_3 or Sb_2S_3, but did not develop neoplastic lesions.

Although the Watt and MRI studies demonstrated that inhalation of Sb_2O_3 or Sb_2S_3 can produce oncogenic effects in female rats, the Agency finds neither study adequate to reasonably determine or predict the oncogenic risk to humans exposed to these substances. Use of only one sex in the Watt study, use of only one exposure level in the MRI study, and the lack of adequate control of exposure levels in both of these studies makes their use as a basis for risk estimation difficult. Therefore, EPA believes that further testing to characterize the oncogenic effects of exposure to Sb_2O_3 or Sb_2S_3 is warranted.

The Agency is aware of no data describing the oncogenic potential of Sb metal. There is no significant exposure to Sb metal because Sb metal is not present in the workplace as an airborne particulate (Ref. 3), because it is oxidized to Sb_2O_3 during processing (Ref. 26). Therefore, EPA would expect that the oncogenic risk of exposure to respirable particles of antimony substances as a result of production or processing of Sb metal is generally equivalent to that of exposure to a corresponding concentration of Sb_2O_3.

2. *Mutagenicity.* The ITC cited an abstract (Ref. 23) that Sb_2O_3 had produced a positive result in the Rec Assay (Ref. 36). EPA believes that this study provides weakly suggestive evidence that Sb_2O_3 may produce mutagenic effects in mammals because of the low water solubility of Sb_2O_3 (7–9 mg/L) compared to the high concentration of Sb_2O_3 (730–14, 600mg/L depending on diffusion rate) that proved necessary to produce a positive result in the Rec Assay (Ref. 24). The ITC also reported that an organic antimony salt, sodium antimony tartrate, with a water solubility of 8,000 mg/L, produced chromosomal aberrations *in vitro* in plant, insect and human cells (Ref. 31). The Agency does not believe these data are relevant to assessing the mutagenicity of Sb metal, Sb_2O_3 or Sb_2S_3 because of the differences in physical and chemical properties (including significant differences in water solubility) of sodium antimony tartrate and the antimony substances recommended for testing by the ITC. Taking these data into consideration, the Agency is unable to conclude that exposure to antimony substances might

present an unreasonable risk of mutagenicity.

In addition, EPA believes that further mutagenicity testing of the antimony substances would be difficult to perform because of the scarcity of validated *in vitro* methods to dissolve antimony substances for mutagenicity testing. EPA has concluded that further mutagenicity testing of Sb metal, Sb_2O_3 and Sb_2S_3 should not be required at this time, because of the weakly suggestive evidence of their possible mutagenicity, the unavalilbility of suitable *in vitro* test methods, and the high cost of *in vivo* testing. If these substances were to produce mutagenic effects, in EPA's judgement these effects would be produced at much higher levels than carcinogenic effects. Exposure controls to protect workers against carcinogenicity therefore would be likely to protect workers against mutagenic effects.

3. *Chronic Toxicity.* The ITC was concerned about chronic respiratory disorders and degeneration of the heart, kidneys, and liver resulting from exposure to "antimony" (Ref. 36).

The inhalation studies in rats conducted by Watt (Ref. 39) and Wong *et al.* (Ref. 41) substantiated the ITC concern regarding respiratory effects.

The histopathological examinations performed in the Watt and Wong *et al.* Studies detected no adverse effects of inhalation of Sb_2O_3 or Sb_2S_3 on the heart, kidneys, or liver of rats exposed for one year and observed for a second year (Refs. 11, 12). EPA believes that further tests to evaluate the effects of chronic inhalation exposure to antimony substances should evaluate the effects on the lungs and related tissues.

4. *Reproductive Effects.* The ITC's concern about reproductive effects resulting from chronic exposure to antimony substances (Ref. 36) was based on: (1) studies performed during 1962–1964 to compare the repoductive potential of women working in a U.S.S.R. antimony metallurgical plant with that of women working in the chemical laboratory of the same plant; and (2) experiments by the same investigator with female rats to evaluate the potential of Sb_2O_3 to produce reproductive effects (Ref. 5).

The exposure level in the animal study (250 mg/m^3) is 500 times higher than the current OSHA Threshold Limit Value (TLV) of 0.5 mg/m^3 for antimony substances (29 CFR 1910.1000) and 150 times higher than the mean level that produced non-neoplastic respiratory lesions in a more recent U.S. study (Ref. 39). Furthermore, the Agency believes that there were serious inadequacies in the protocols used for the Soviet studies (e.g., no measured exposure levels and selection of a questionable control in the human study, and employment of only one sex and one dose in the animal study). Therefore, there is at best a very weak basis for finding that antimony substances may present a risk of reproductive effects. Although the available data are inadequate to provide complete assurance that current U.S. exposures to anitmony substances present no unreasonable risk of reproductive effects, those data strongly suggest that control of exposure to antimony substances sufficient to protect against neoplastic and non-neoplastic respiratory injury also will reasonably protect against the risk of reproductive effects. Therefore, EPA does not believe that further testing of antimony substances for reproductive effects is needed at this time.

5. *Teratogenic Effects.* The ITC was concerned about teratogenic effects, citing the Soviet report of reproductive effects discussed above (Ref. 36). The Agency knows of no evidence which would suggest that effects on the reproductive system are indicative of teratogenic effects. In addition, EPA is not aware of any other data which suggest or provide evidence that Sb metal, Sb_2O_3 or Sb_2S_3 may be teratogenic. Therefore, the Agency has no basis for finding that antimony substances may present an unreasonable risk of teratogenic effects and thus, finds no basis to require teratogenicity testing of Sb metal, Sb_2O_3 and Sb_2S_3.

6. *Epidemiology Studies.* The ITC recommended that epidemiological studies be performed to evaluate the chronic human effects of exposure to antimony substances (Ref. 36). As discussed in Unit III, epidemiology, monitoring and medical surveillance programs are currently being conducted or are proposed by industry. EPA believes that these studies will provide appropriate epidemiological data to be considered in conjunction with the proposed health effects studies in assessing the human health effects of exposure to the anitmony substances.

E. Environmental Effects and Chemical Fate

The ITC was concerned that antimony substances would accumulate in the soil/sediment system and possibly cause environmental effects because of their hypothesized persistence (Ref. 36). The ITC also was concerned that antimony substances might be toxic to terrestrial plants and soil microorganisms and that they might have chronic effects on aquatic organisms at potential environmental concentrations. However, the ITC concluded that acute aquatic toxicity of antimony substances could only occur at concentrations higher than expected environmental levels and therefore did not recommend that additional acute aquatic toxicity tests be considered.

As discussed above (Unit II.C), EPA agrees that releases of antimony substances to the environment can be expected to accumulate in soil and sediment near production and processing facilities. EPA believes that testing should be performed to better characterize the potential for antimony substances deposited on soil to be transported by the movement of water through the soil and to be solubilized and/or converted to other antimony substances in aerobic and anaerobic aquatic sediment systems. Low levels (1–300 parts per trillion) of antimony cations (Sb+3 and Sb+5), methylstibonic acid and dimethylstibinic acid have been detected in fresh, estuarine and marine waters, suggesting that biotransformation of antimony substances may occur in the natural environment (Refs. 1, and 28).

As concluded by the ITC, existing information suggests that dissolved concentrations of antimony substances in natural waters (1–100 ppt; Refs. 1, 28,) are unlikely to cause acute toxicity in aquatic vertebrates, invertebrates or alga (Refs. 9, 25, 35). Moreover, experiments performed in hard and soft water, which would affect the solubility and bioavailability of Sb_2O_3, demonstrated that concentrations of Sb_2O_3 10–20 times higher than the water solubility did not produce any mortality in rainbow trout after 7 days exposure (Ref. 38). Information on bioconcentration of antimony substances for freshwater fish and benthic invertebrates suggests a bioconcentration factor of 1–100 (Refs. 21, 34, 35), a factor which is sufficiently low to suggest that no further aquatic toxicity testing is necessary (Ref. 4).

The Agency agrees with the ITC that the available data related to the chronic aquatic toxicity and bioconcentration of antimony substances may be insufficient to characterize the potential for chronic effects on aquatic organisms resulting from release of these substances to the aquatic system. However, the Agency believes that data to characterize the solubilization and bioavailability of antimony substances from soils and aquatic sediments must be developed before the need for and design of such aquatic toxicity testing can be resolved. Therefore, with respect

to chronic toxicity testing and bioconcentration testing, the Agency has concluded that such testing is not necessary at this time.

With respect to other environmental effects, the Agency believes there is sufficient information to characterize the risk resulting from the release of antimony substances to terrestrial environments. Soil levels of 5–500 ppm Sb_2O_3 were toxic to plants (Ref. 32); such levels of antimony substances may exist in limited areas near smelters which process antimony-containing ores but release of antimony substances from these smelters is expected to have a negligible ecological impact on plants outside their immediate vicinities because negligible quantities of antimony substances are expected to enter these soils (Refs. 7, 20). EPA has concluded that further terrestrial plant testing of antimony substances is not necessary because sufficient information exists to characterize this risk.

The ITC was concerned that antimony substances might be toxic to terrestrial microorganisms and might potentially interfere with nutrient cycling (Ref. 36). The Agency knows of no evidence which would suggest that antimony substances are toxic to terrestrial microorganisms and which would suggest that they might interfere with nutrient cycling. Therefore, the Agency has no basis for finding that antimony substances may present an unreasonable risk of effects to terrestrial microorganisms and their capacity to cycle nutrients, and thus, finds no basis to require testing the effects of Sb metal, Sb_2O_3 and Sb_2S_3 on terrestrial microorganisms.

Unless it is found that environmental transformation mechanisms increases the bioavailability of antimony substances contained in soil or aquatic sediments, antimony substances at existing environmental concentrations are not expected to present a risk to granivorous or omnivorous birds. These substances have limited absorption through the gastrointestinal tract (Refs. 18, 19) and potentially inhaled atmospheric environmental levels are about a million times lower than the lowest known toxic inhaled dose (see Unit II.C above). The EPA knows of no evidence which would suggest that antimony substances produce adverse effects in birds. Therefore, the Agency has no basis for finding that antimony substances may present an unreasonable risk of effects to birds and thus, finds no basis for requiring testing the effects of antimony substances in birds.

III. AOIA's Proposed Program

On July 2, 1982, the Agency received a proposal to develop a comprehensive monitoring, control, medical surveillance, epidemiology and testing program on antimony substances from the Antimony Oxide Industry Association (AOIA). The AOIA consists of the domestic manufacturers of Sb metal, Sb_2O_3 and Sb_2S_3: Anzon America, Inc., ASARCO, Inc., Harshaw Chemical Co., M & T Chemicals, Inc., McGean-Rohco, Inc., and PPG Industries, Inc.

The AOIA's proposed program would: (1) monitor and control workplace exposure to antimony substances; (2) initiate a medical surveillance program and continue existing epidemiology studies on such exposure; (3) develop additional animal toxicological data on the effects of inhalation exposure to Sb_2O_3; (4) monitor and control the atmospheric release of antimony substances; and (5) study the chemical fate of Sb_2O_3 in soils and sediments (Ref. 3).

The design of this program resulted from discussions between representatives of the AOIA and EPA's Office of Toxic Substances. Component parts of the program are briefly outlined below. A complete description of this program is in the public record (see Unit VI of this Notice). The AOIA will provide EPA with periodic reports on the program described below. These will be used by the Agency, in combination with plant visits, meetings and lab audits, to evaluate the AOIA's progress towards meeting the objectives of their proposed program.

A. Monitoring and Controlling Workplace Exposure

The AOIA has proposed a monitoring and control program which is designed to limit occupational exposure to antimony substances while data are developed to permit a more complete understanding of the potential health effects resulting from such exposure.

Sampling of air concentrations of antimony substances will be performed both annually and whenever there is a significant change in an antimony-related industrial process that can be expected to affect exposure levels. The purposes of such sampling will be twofold: (1) To determine the personal exposure of workers and (2) to ensure proper demarcation of mandatory respirator workzones by determining air concentrations of antimony substances in particular locations.

Sampling to determine the calculated employee exposure level of exposed workers will be conducted with portable sampling devices that are worn by the employee and which sample the concentration of respirable particles (capable of being inhaled and transported to the alveoli) of antimony substances in the air within the employee's personal breathing space. Sampling for the designation and periodic reevaluation of mandatory respirator workzones will be conducted using either portable or stationary sampling devices, as may be appropriate.

In clearly marked mandatory respirator workzones where levels of antimony substances exceed an 8-hour Time-Weighted Average (TWA) of 0.2 mg/m^3, respirators will be worn by employees to reduce exposure below 0.2 mg/m^3. The number 0.2 mg/m^3 is below the current OSHA permissable exposure level (PEL) of 0.5 mg/m^3 for antimony substances. A combination of engineering controls and administrative measures will be utilized in conjunction with the respirator program to monitor and control occupational exposure to antimony substances as described in the AOIA proposal. Each AOIA member firm will also take other steps to ensure the health of its employees, including: (1) Providing safety labels on packages of antimony substances; (2) issuing written work performance practices; (3) providing necessary protective clothing; (4) ensuring proper sanitation practices; (5) using proper storage procedures; and (6) having available emergency procedures for incidents of accidental over-exposure. Appropriate information will be made available to customers to apprise them of the possible risks associated with exposure to antimony substances and to assist them in assuring that their employees are not significantly exposed to such substances.

B. Performing Medical Surveillance and Epidemiology Studies

1. *Medical Surveillance Program.* Comprehensive medical and employment profiles (including annual physical examinations and clinical testing) will be developed for employees scheduled for assignment to job categories requiring their regular presence in mandatory respirator zones. Medical and employment profiles will be retained for at least 30 years after the last work-related exposure.

2. *ASARCO Epidemiology Study.* Epidemiological data concerning health effects of exposure to antimony substances have been developed as an adjunct to an epidemiology study of the effects of worker exposure to lead in the ASARCO lead smelter in East Helena, Montana. Since the lead concentrates

processed by the East Helena smelter contain, and have contained for many years, varying amounts of antimony substances, it appears that the lead smelter workers have been exposed to low levels of antimony substances throughout the period covered by the epidemiology study.

Personal monitoring data collected for antimony substances during 1977–1981 show average exposure levels (from 3 to 8 hours of exposure) generally in the range between 0.01 and 0.1 mg/m³, with some exposures ranging as high as 2.08 mg/m³. There are no data on the levels of exposure to antimony substances for the earlier period of the study, but it can be surmised that exposure levels may have been greater in the past when less stringent controls were employed for exposure to lead.

The study population is made up of 437 male employees who worked for at least one year during the period between January 1, 1946, to December 31, 1970. During the 7,871 man-years of observation between January 1, 1947, and December 31, 1975, 61 deaths were reported. To date, there have been two lung cancer deaths reported, with 3.4 expected in a control population; there have been four deaths due to non-neoplastic respiratory disease, with 2.9 expected.

3. *Anzon Epidemiology Study.* The most comprehensive epidemiology study to date for evaluating the chronic health effects of exposure to antimony substances is one sponsored by Anzon Limited in the United Kingdom. The Anzon study involves workers engaged in production of antimony substances and zircon in the Anzon Limited works at Newcastle-upon-Tyne. This study was initiated in 1961. Its objective is to record the work histories of persons exposed to antimony substances in production operations and to document the causes of any deaths that occur in this worker population.

Data have been collated for the first twenty years of the Anzon study. The total number of male workers in the study population is 2,104, of whom 453 joined before and 1,651 joined after January 1, 1961, the starting date of the study. The principal group of employees on which Anzon has developed epidemiology data consists of the 1,651 workers joining after the 1961 starting date of the study. It is only for this group that the full cohort is known and exposure data are available. The Agency has received interim reports describing preliminary results of this study and has requested additional information on causes of death, vocational history and smoking habits for the 98 workers who have died since joining Anzon Limited after 1961. The Agency believes that the Anzon study, as well as the ASARCO study described above, will provide useful information on the human health effects resulting from occupational exposure to antimony substances.

C. Developing Animal Toxicology Test Data for Sb_2O_3

The AOIA will sponsor two inhalation studies with Sb_2O_3. A subchronic inhalation study will expose groups of male and female rats to four exposure concentrations of Sb_2O_3 for 13 weeks followed by a 20–30 week observation period. This study is expected to: (1) establish the relationship between exposure levels and the rate of pulmonary retention and clearance of Sb_2O_3; (2) assess the pathogenesis and dose/response characteristics of histopathological changes in the rat lung resulting from such subchronic exposure to Sb_2O_3; (3) monitor tissue fluids and lung levels of antimony at different exposure levels and times; and (4) determine appropriate exposure levels for a chronic inhalation study.

A chronic inhalation study will expose groups of male and female rats to three exposure concentrations of Sb_2O_3 for 1 year followed by a 1 year observation period. This study will: (1) measure pulmonary retention and clearance of Sb_2O_3; and (2) assess the pathogenesis and dose/response characteristics of neoplastic and non-neoplastic lesions of the rat lung and other related tissues resulting from such chronic exposure.

D. Performing Environmental Monitoring and Control

The producers will conduct sampling of air concentrations of antimony substances at the property boundary of each production facility or in the nearest downwind residential area. Prior monitoring studies using 24-h high volume samplers found levels of atmospheric antimony substances that ranged from 0.05–0.64 ng/m³ (10^{-4}mg/m³) in pristine locations (Ref. 10) and 5.2–1,210 ng/m³ near smelting operations (Ref. 33). If the 90-day average air concentration level of respirable antimony substances exceeds 0.005 mg/m³ above background levels as measured in a clean local environment free of anthropogenic sources, the producer will expeditiously adopt the emission controls that are feasible and appropriate to meet the air concentration level that is 0.005 mg/m³ above background. The AOIA selected 0.005 mg/m³ as the threshold level for environmental release because it is 1/100th of the level determined to be safe for workers by the current OSHA PEL of 0.5 mg/m³ (Ref. 3).

E. Developing Environmental Fate Data for Sb_2O_3

Data on the transport of Sb_2O_3 in soil/sediment will be obtained using the TSCA Test Guideline for Soil Thin Layer Chromatography (Ref. 37). Data on the persistence, solubilization and biotransformation of Sb_2O_3 in aerobic and anaerobic aquatic environments will be obtained using: (1) the protocols described by Hallas *et al.* (1982) (Ref. 17) or Wong *et al.* (Ref. 40) for detection of volatile Sb_2O_3 biotransformation products; and (2) the process developed by Andreae *et al.* (Ref. 1) or Nakashima (Ref. 28) for detecting Sb^{+3}, Sb^{+5} and organic antimony substances. Data from these studies will be used to estimate the accumulation potential of antimony substances in soils and sediments and to estimate concentrations of dissolved antimony substances that might be bioavailable in natural waters contacting soils or sediments containing antimony substances.

F. AOIA Program Schedules

After EPA's consideration of public comments on their proposed program and based upon EPA's approval of their final program, the AOIA will initiate: (1) Programs to monitor and control exposure to antimony substances in the workplace and in the environment; (2) medical surveillance program; (3) chemical fate testing program; and (4) solicitation of competitive bids from contract testing laboratories to perform the toxicological testing. Interim results from the fate tests will be reported in AOIA's periodic reports. AOIA will submit final reports on the fate tests to the Agency in mid-1984.

The process of selecting a toxicological testing laboratory and completing a contract arrangement will take approximately four months. The schedule for conducting the toxicological testing is provided below.

The subchronic phase of testing can be expected to begin by mid-1983. The subchronic testing itself will be completed in 8–11 months i.e., early to mid-1984 (depending on the length of the observation period). An additional three months will be required for preparation of the study report and consultation among AOIA and EPA scientists concerning the implications of the results as they relate to selection of exposure levels for the next phase of the study.

It is anticipated that the chronic study will begin within 60 days of completion of these consultations on the subchronic

work. Therefore, exposures for the chronic study should commence in late-1984. The study would be completed in late 1986, and complete data would become available as soon as a final report could be prepared, i.e., in 3–6 months after completion of the study (early to mid-1987).

G. GLP's and Other Provisions

The AOIA will provide EPA with the names and addresses of laboratories conducting tests in its program as soon as they are available. The specific tests being performed by each laboratory will be indicated.

The AOIA will assure that testing is conducted in accordance with the FDA Good Laboratory Practice Standards (GLPs) (43 FR 59986, December 22, 1978).

The AOIA will arrange for EPA to have access to the laboratories where the research is being conducted for the purpose of performing quality assurance audits. These inspections (which may be authorized under TSCA section 11) may be conducted for purposes which include verification that testing has begun, that schedules are being met (or delays reported), that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted with adequate quality assurance procedures.

The AOIA has agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of the studies will be retained for at least 10 years from the date of the program's acceptance by EPA and will be made available during an inspection or submitted to EPA if requested by EPA or its authorized representative.

AOIA acknowledges that the data which will be developed under its program are health and safety studies, and that TSCA section 14(b)(1)(A)(i) will govern Agency disclosure of all test data that will be submitted to the Agency by the AOIA.

The Agency plans to publish quarterly in the **Federal Register** a notice of the receipt of any test data submitted to it by AOIA. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, such data will be made available by EPA for examination by any person.

If there are significant deviations from the testing proposal, EPA may consider the resulting data insufficient to evaluate the potential risks presented by antimony substances. In such cases, a data gap may still exist, and the Agency may decide to promulgate a test rule to fill this data gap.

IV. Basis for Decision Not To Initiate Rulemaking

As discussed below, EPA believes that the AOIA's proposed program will adequately meet the testing needs determined by the Agency for Sb metal, Sb_2O_3 and Sb_2S_3. For this reason, EPA has decided not to initiate rulemaking under section 4(a) of TSCA to require testing of Sb metal, Sb_2O_3 and Sb_2S_3.

EPA believes that the AOIA proposed program will provide the needed data more expeditiously than would a test rule and, in addition, will provide for reduced exposure to antimony substances at production and user facilities and limit airborne release of antimony substances from such facilities while additional health and environmental data are being developed. Although the available toxicological data are inadequate to provide complete assurance that the interim exposure and release levels provided by the AOIA program will fully protect against all possible health risks from exposure to antimony substances, the proposed controls will reduce exposure below the OSHA PEL of 0.5 mg/m^3 and will reduce exposure well below all known effect levels.

TSCA section 4(a)(1)(A) states that EPA must require testing if it finds that: (1) the manufacturing, distribution, processing, use or disposal of a chemical may present an unreasonable risk of injury to health or the environment; and (2) insufficient data exist to reasonably determine or predict the effects of such activities; and (3) testing is necessary. Under TSCA section 4(a)(1)(B) testing is to be required if a chemical substance: (1) is or will be produced in substantial quantities and it enters/may enter the environment in substantial quantities or there is or may be significant or substantial human exposure; and (2) insufficient data exist to reasonably determine or predict the effects of the substance's manufacturing, distribution, processing, use, and disposal; and (3) testing is necessary.

EPA has concluded that its determination of the need for health effects testing of Sb metal, Sb_2O_3 and Sb_2S_3 should be based on TSCA section 4(a)(1)(A) rather than section 4(a)(1)(B) because the analysis presented in Unit II of this Notice does not indicate to the Agency that there is either significant or substantial human exposure to the antimony substances as those terms are used in section 4(a)(1)(B). However, based on the information presented in Unit II, EPA has concluded that the antimony substances "may present an unreasonable risk" of chronic toxicity and oncogenicity. Available data do not support making such a finding for mutagenic, teratogenic and reproductive effects. In view of the ongoing industry epidemiology studies, EPA has concluded that further epidemiology studies are not "necessary" at this time in the context of section 4(a)(1)(A)(iii).

The studies proposed by the AOIA should provide the information necessary to perform an adequate risk assessment of the oncogenic and non-oncogenic chronic effects resulting from exposure to airborne antimony substances. Although the Agency normally would expect oncogenicity studies to be conducted for a minimum of two years, in this case EPA believes that one year of inhalation exposure followed by one year of observation will be adequate to detect chronic and oncogenic effects of Sb_2O_3 because the two previous studies have demonstrated significant development of non-neoplastic and neoplastic lesions using that exposure-observation schedule. Similarly, EPA believes that the data generated from testing one species (rat) will be adequate to provide an adequate risk assessment for fibrogenic and oncogenic effects resulting from inhalation exposure to antimony substances because the response of the rat to Sb_2O_3 in the previous studies demonstrated that species' sensitivity to the effects of concern and indicated that the dose-response relationship developed for Sb_2O_3 should also be protective against exposures to Sb_2S_3. As discussed in Unit II, inhalation exposures ostensibly to Sb metal are, in fact, expected to be to Sb_2O_3. Thus, the Agency proposes to accept the testing protocols of the AOIA *in lieu* of requiring the standard 2-year, 2-species oncogenicity bioassay. Complete details of the protocols for these studies are contained in the AOIA's proposed program (Ref. 3).

From the analysis presented in Unit II, EPA has also concluded that data related to the chemical fate and environmental effects of Sb metal, Sb_2O_3 and Sb_2S_3 should be developed to determine the accumulation potential of antimony substances in soil/sediment systems and to determine the biotransformation potential of antimony substances in aerobic and anaerobic aquatic sediment systems.

The Agency believes that the proposed AOIA biotransformation tests will provide sufficient information on the solubility and bioavailability of antimony substances and their biotransformation products to determine the need for and/or type of any additional environmental effects testing that may be necessary to assess the

effects of antimony substances on the environment. Furthermore, the Agency believes that the proposed AOIA soil/sediment tests will provide estimates of antimony substance's mobility in soil/sediment systems and as such provide adequate information on the accumulation potential of antimony substances in soil/sediment systems. The Agency believes there is a need to obtain information on this accumulation potential as it relates to the increased probability of enchancing the concentration of antimony substances to toxic levels which may present an unreasonable risk of effects to terrestrial and benthic organisms. The EPA has concluded that until such information on the solubility and bioavailability has been developed, that testing the effects of antimony substances on terrestrial and benthic organisms is unnecessary.

The Agency agrees with the AOIA proposal to use Sb_2O_3 as the test substance for chemical fate testing because among the three antimony substances recommended by the ITC it is released in the greatest quantities and is one of the most probable substrates for adsorption/desorption and transformation based on chemical thermodynamic equilibria (Ref. 1).

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VI. Public Record

The EPA has established a public record for this testing decision (docket number OPTS 42021). This record includes:

(1) **Federal Register** notice containing the designation of Sb metal, Sb_2O_3 and Sb_2S_3 to the priority list and all comments received relating to Sb metal, Sb_2O_3 and Sb_2S_3.

(2) Communications (letters, contact reports of telephone conversations, and meeting summaries of Agency-industry and Agency-public meetings.)

(3) Testing proposal and protocols.

(4) Published and unpublished data.

(5) **Federal Register** notice requesting comment on the negotiated testing proposal and comments received in response thereto.

This record, containing the basic information considered by the Agency in developing the decision, is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m., Monday through Friday in Rm. E-107, 401 M St., SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received.

[Sec. 4, 90 Stat. 2003; (15 U.S.C. 2061)]

Dated: December 23, 1982.

John W. Hernandez,

Acting Administrator.

[FR Doc. 83-326 Filed 1-3-83; 3:55 pm]

BILLING CODE 6560-50-M

[OPTS-47003B; FRL 2262-2]

Acrylamide; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is EPA's response to the Interagency Testing Committee's (ITC's) recommendation that EPA consider requiring environmental effects testing of acrylamide under section 4(a) of the Toxic Substances Control Act (TSCA). On November 2, 1982, the American manufacturers of acrylamide notified the Agency that they had initiated a program to test acrylamide for its acute toxic effects on a representative group of aquatic vertebrates and invertebrates and for its chronic effects on an aquatic invertebrate. EPA believes that the ongoing industry testing program is likely to provide adequate data to reasonably determine or predict the environmental effects of acrylamide. Alternatively, the program's results may raise concerns which might indicate a need for additional testing to characterize acrylamide's chronic effects on aquatic organisms. In either case, the Agency has concluded that it does not have a basis at this time to initiate rulemaking under section 4(a) to require environmental effects testing of acrylamide.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act. The ITC designated acrylamide for environmental and health effects testing in its Second Report, submitted to the Agency on April 10, 1978, as published in the **Federal Register** of April 19, 1978, (43 FR 16684).

EPA's response regarding the testing of acrylamide for health effects was published in the **Federal Register** of July 18, 1980 (45 FR 48510). Consideration of the environmental effects of acrylamide was deferred at that time pending the development of environmental effects test standards.

The reasons for the ITC's recommendation for environmental effects testing were: (1) The high production volume of acrylamide, (2) the uses of both acrylamide and polyacrylamide which bring acrylamide into direct contact with the environment, and (3) the knowledge that acrylamide is highly toxic to the nervous systems of mammals coupled with very little knowledge of its environmental release and ecological effects. The ITC expressed particular concern for acrylamide's effects on plant and animal life in the aquatic environment and its ability to be leached from polyacrylamide.

II. Acrylamide's Release to the Environment—Environmental Fate and Effects

Acrylamide is produced in the United States by three manufacturers at four locations (Ref. 21). It is also imported, mainly from Japan (Ref. 23). The 1979 production and importation figures for acrylamide were 66 million and 1.3 million pounds, respectively (Refs. 14 and 26). Eighty-eight percent of the acrylamide produced goes into the manufacture of polyacrylamide, with the remaining acrylamide used for soil grouting, as an intermediate in the synthesis of N-substituted monomers, in gel chromatography, and in electrophoresis (Ref. 26). Polyacrylamide is used primarily as a flocculant in the treatment of wastewater and drinking water. Another major market for polyacrylamide is the pulp and paper industry, where it is used, among other things, as a dry-strength additive, especially in the manufacture of high quality white paper (Refs. 14 and 24). From these uses, contamination of water by residual acrylamide monomer is possible; environmental contamination is also possible through its use as a chemical grout. Chemical grouts are used in a variety of applications including repair of sewer lines; waterproofing mines, tunnels, and foundations; and stabilizing rock and soil in mines, roadbeds, and dams (Refs. 14 and 24). Dow Chemcial Company has estimated that sources of acrylamide exposure (e.g. acrylamide manufacture, storage and transport, polyacrylamide manufacture and use, and acrylamide grouting operations) could provide up to 210,000 pounds of acrylamide monomer for release into the environment annually (Ref. 9). A draft contractor report prepared for EPA estimated a higher figure of 550,000 pounds of acrylamide monomer released annually into the environment (Ref. 14).

Acrylamide is a highly water-soluble compound (216 g/100 ml at 30°C) with a very low vapor pressure (0.007 mm Hg at 25°C) (Ref. 17). Based on its chemical-physical properties and experimental evidence, acrylamide does not adsorb to soils or sediments or bioaccumulate in organisms (Refs. 3, 6, and 15). Acrylamide's chemical-physical properties further indicate that this compound, whatever its release site, will tend to partition into and remain in the aquatic environment until it is degraded (Ref. 25). Acrylamide, under aerobic conditions, has been shown to be readily degraded in freshwater by bacteria with a reported half-life of 55 to 70 hours after acclimation of the bacteria to the compound for 33 to 50 hours (Ref. 4). Half-lives of acrylamide under estuarine or saltwater conditions were slightly longer. Anaerobic degradation, as would occur in sediments, is reported to be very slow, but, as acrylamide binds very poorly to sediments, accumulation in this compartment is unlikely (Refs. 3 and 16).

Environmental monitoring at sites of acrylamide and polyacrylamide

manufacture and use in the United States and Great Britain indicates that levels of acrylamide reaching surface waters from industrial effluents would generally be non-detectable (below 0.08 ppb) to up to 3.4 ppb (Refs. 2, 7, 11, and 12). However, an extreme value of 1,500 ppb was recorded by Going (1978) in a small stream receiving effluent directly downstream from a polyacrylamide producer in Virginia, and local concentrations of acrylamide in similarly high ranges have been found in the vicinity of local grouting operations (Refs. 11, 13, and 19). In the Going (1978) study acrylamide was not detected in water, soil, sediments or air during the course of monitoring other sampling locations either at that site or at sampling locations near four other industrial sites located in the Eastern, Southern and Midwestern United States. The limits of detection for acrylamide in that study were 0.1 to 3.4 ppb, 0.8 ppb and 80 ppb, for air, water, and soil and sediments, respectively.

Acrylamide is considered to be a potent neurotoxicant to mammals; a chronic no-effect level to mammals has been indicated to be an ingested dose of 0.3 to 1.0 mg/kg/day, based on a long term toxicity study on the domestic cat (Ref. 18). Limited information on birds indicates that birds are similarly affected by the chemical (Ref. 10). The Agency has only limited data concerning the effects of acrylamide on aquatic vertebrate species; the data indicate that fish are sensitive to the acute lethal effects of acrylamide in the 100 ppm range (Refs. 8, 10, and 22). The Agency has recently received one study indicating that acrylamide may be extremely toxic to aquatic invertebrates. Establishment of a concentration of approximately 50 ppb of acrylamide in a natural stream in England caused a reduced species diversity to occur among the invertebrate population within six hours after exposure (Ref. 5). Data on the toxicity of acrylamide to plants do not suggest a concern greater than that posed by the compound to animal species (Refs. 1 and 20).

Under present conditions of use and release of acrylamide, no unreasonable risk to the terrestrial or atmospheric environments is expected because exposure to these environmental compartments is expected to be insignificant. However, based on the foregoing information, EPA believes that acrylamide is of potential concern to the aquatic environment (especially the freshwater environment) given its chemical-physical properties and its present use and release pattern. Although the Agency also believes that the exposure of the aquatic environment to acrylamide will be on a local, short-term basis or at very low levels, as demonstrated by available monitoring data, the Agency is concerned that acrylamide may be especially toxic to aquatic invertebrates. The Agency is concerned that acrylamide is a neurotoxicant not only to mammals but also to aquatic organisms. Therefore, testing to evaluate the effects of acrylamide on aquatic organisms should be performed.

III. Testing Program Proposed by Representatives of the Acrylamide Industry

In the spring of 1982, the EPA began discussions with American Cyanamid, Dow Chemical Company, NALCO Chemical Company and the Standard Oil Company of Ohio (herein collectively referred to as Industry) regarding the need for testing of acrylamide to characterize its environmental effects. As a result of EPA's conclusion that aquatic testing was necessary, Industry has initiated a testing program which consists of acute, 96-hour, flow-through toxicity tests on three freshwater vertebrates (the bluegill, fathead minnow and rainbow trout), two freshwater invertebrates (the midge and waterflea) and one saltwater invertebrate (the mysid shrimp). Observations on swimming behavior will be made on the organisms during the testing. In addition, Industry is in the process of contracting to perform a chronic toxicity test on the mysid shrimp. The mysid was considered the best species to use in this case as it requires an intact behavioral response for reproductive success, unlike the midge and waterflea species which are parthenogenic. the protocols for these studies have been reviewed by EPA's scientists and found to be acceptable. They are available for examination in the public record of this proceeding.

Normally when EPA negotiates such a testing program with Industry, the Agency requests that initiation of testing be deferred until EPA can obtain and consider public comments on the proposed testing. However, in this instance the limited nature of the testing and certain contractual reasons led Industry to initiate testing without awaiting final approval by EPA of the program. The results should be available to the Agency early in 1983.

Industry has furnished EPA with the name and address of the laboratory conducting these tests. Industry has stated that it will adhere to the Good Laboratory Practice Standards (GLP's) issued by the U.S. Food and Drug Administration, as published in the Federal Register of December 22, 1978 (43 FR 59986). Industry also has offered to permit laboratory audits/inspections in accordance with the authority and procedures outlined in TSCA section 11 at the request of authorized representatives of the EPA. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to Good Laboratory Practices.

Industry has further committed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of each study will be retained as specified in the FDA Good Laboratory Practice Standards, except that all raw data will be retained by the testing laboratory for ten years rather than the two years specified by the FDA GLP's. In addition, the raw data will be made available during an inspection or submitted to EPA if requested by EPA or its authorized representative.

The Agency plans to issue in the Federal Register a notice of the receipt of all test data submitted by industry under this test program. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, any data submitted will be made available by EPA for examination by any person.

Should Industy fail to conduct the testing according to the specified protocols or fail to follow Good Laboratory Practices, such actions may invalidate the tests. In such cases, a data gap may still exist, and the agency may decide to promulgate a test rule or otherwise require further testing.

IV. Decision Not To Initiate Rulemaking

The Agency has concluded that there are sufficient data on acrylamide's release, fate and effects to indicate that any potential environmental risk presented by acrylamide given its manufacture, use and release pattern, would be limited to the aquatic environment.

EPA believes that the results of testing being undertaken by Industry, combined with existing data, are likely to provide sufficient data to reasonably predict the aquatic toxicity of acrylamide. Furthermore, the Agency believes that any additional testing should not be considered until EPA has had a chance to fully evaluate the testing being performed currently by industry. In view of these ongoing testing activities, EPA

does not believe that it can find that "testing is necessary" as would be a prerequisite for mandating testing under section 4 of TSCA. Therefore, EPA has decided not to initiate a rule to require further environmental testing of acrylamide at this time. It is conceivable that the results of these tests being performed by Industry may raise concerns which might indicate a need to perform additional testing for chronic effects to aquatic organisms (e.g., if the tests show acrylamide to be highly toxic). EPA will evaluate the need for additional testing when these results are available. If these or other new data reveal a need for further testing which Industry is unwilling to conduct, the Agency can require it through a section 4 test rule at that time.

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20. Sonoda Y et al. 1977. Behavior of polyacrylamide cohesive agents in the soil-plant system. Gifu Daigaku Nogakubu Kenkyu Hokoky. 40:61–69.

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V. Public Record

EPA has established a public record for this decision not to pursue testing under section 4, docket number OPTS–47003B, which is available for inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays, in Rm. E–107, 401 M St., SW., Washington, D.C. 20460. This record includes basic information considered by the Agency in developing this decision. This record includes the following information:

1. **Federal Register** notice containing the designation of acrylamide to the Priority List and any comments on acrylamide in response to that notice.

2. **Federal Register** notice containing the Agency's response to the ITC recommendation that acrylamide be considered for health effects testing under TSCA section 4(a).

3. Communications: (a) Public and inter-agency communications, including memoranda, comments and proposals.

(b) Contact reports of telephone conversations.

(c) Meetings.

4. Industry submitted protocols and testing schedules.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 20601)

Dated: December 27, 1982.

John W. Hernandez,

Acting Administrator.

[FR Doc. 83-433 Filed 1-5-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–42029; TSH–FRL No. 2246–7]

Isophorone; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is EPA's response to the Interagency Testing Committee's (ITC's) recommendation that isophorone be tested for health effects under section 4(a) of the Toxic Substances Control Act (TSCA). Following publication of the ITC report, the National Toxicology Program initiated a long-term bioassay of isophorone. In addition, the major U.S. manufacturers of isophorone have proposed to carry out mutagenicity and teratogenicity tests of isophorone. EPA believes that, together, these testing programs adequately respond to all of the ITC recommendations other than that for an epidemiology study. The Agency believes that requiring such a study is not warranted at this time. Consequently, the EPA is not, at this time, initiating rulemaking under section 4(a) to require health effects testing of isophorone. EPA seeks comments on its conclusions and on the adequacy of the proposed industry testing program.

DATE: Comments should be submitted on or before February 22, 1983.

ADDRESS: Written comments should bear the document control number OPTS–42029 and should be submitted in triplicate to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St., SW., Washington, D.C., 20460.

The administrative record supporting this action is available for public inspection in Rm. E–107 at the above address from 8:00 a.m. to 4:00 P.M.,

Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–511, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator 202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(a) (Pub. L. 94–467, 90 Stat. 2006; 15 U.S.C. 2601 *et seq.*) of the Toxic Substances Control Act (TSCA) authorizes the EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment. Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to the EPA a list of chemicals to be considered for promulgation of testing rules under section 4(a) of the Act.

The ITC placed isophorone on its priority testing list, as published in the **Federal Register** of June 1, 1979, (44 FR 31867). It recommended that isophorone be considered for testing for carciongenicity, mutagenicity, teratogenicity, and other chronic effects and that an epidemiology study be performed. The ITC recommended that isophorone be considered for carcinogenicity testing because of the large number of workers believed to be exposed to isophorone, its chemical structure, which suggests that isophorone has the potential to act as a direct alkylating agent, and because of the lack of carcinogenicity test data. The possible alkylating activity of isophorone and the lack of adequate test data were the reasons cited by the ITC in recommending mutagenicity testing. The ITC recommended that isophorone be considered for teratogenicity testing because no information was available on potential teratogenic effects. The ITC recommended that chronic effects testing be performed on isophorone because of its high exposure potential and the lack of information on its chronic toxicity. Finally, the ITC recommended that an epidemiology study be conducted due to the lack of information on chronic effects in humans from occupational exposure to low levels of isophorone. This notice provides EPA's response to the ITC's designation of isophorone for testing, as required by TSCA section 4(e).

II. Assessment of Exposure and Health Effects

Isophorone is an alpha, beta-unsaturated ketone with relatively low volatility. Its vapor pressure is 0.38 mm Hg at 20°C (Ref. 5). Its molecular formula is $C_9H_{14}O$.

The known chemical and physical data on isophorone include water solubility of 12,000 mg/l at 20°C (Ref. 5), an estimated octanol/water partition coefficient of 2.26 (Ref. 9), vapor density of 4.77 (Ref. 10) and a boiling point of 213–214°C (Ref. 11).

Isophorone is used chiefly as a solvent in the formulation of lacquers, and other surface coatings (Ref. 1). It is used in solvent mixtures for finishes, for polyvinyl and nitrocellulose resins, pesticides, and stoving lacquers (Ref. 4). Isophorone is an excellent solvent for many oils, fats, gums, and resins, and because of its chemical structure it is also used as a chemical intermediate for alcohols, and for synthesis of 3,5-dimethyl-aniline (Refs. 4, 11–13).

It is estimated that isophorone production is 20–30 million pounds per year and is decreasing because of its replacement, in some uses, with less costly compounds. Domestic sales account for 22–27 million pounds per year; exports, for 4–9 million pounds per year (Ref. 1). An estimated one million pounds were imported from the United Kingdom in 1981 (Ref. 2).

The National Institute for Occupational Safety and Health (NIOSH) estimated that 1,507,000 workers are potentially exposed to isophorone (Ref. 6). The CMA Ketones Panel believes NIOSH greatly overestimated exposure and that a more accurate estimate of exposure is 15,000–45,000 workers (Ref. 1). This estimate is still considered by EPA to indicate that a substantial number of workers may be exposed to isophorone. A recent study of worker exposure in a screen printing plant showed that workers were exposed to isophorone vapors in eight-hour time weighted average concentrations up to 23 parts per million (ppm) (Ref. 19). This is nearly five times the threshold limit value (TLV) for workplace exposure of five ppm (Ref. 17). NIOSH has recommended that this limit be reduced to four ppm as a result of a report that fatigue followed worker exposure to isophorone at levels of 5–8 ppm (Ref. 14). There does not appear to be any significant consumer exposure to isophorone covered by TSCA; however, isophorone may be present as an impurity in the drug clofibrate used to treat hyperlipidemia in humans and in some pesticides and plant growth retardants (Ref. 16).

Isophorone has been found in drinking water in Cincinnati, Ohio, at a level of 0.02 parts per billion (ppb) (Ref. 7), and in New Orleans, Louisiana, at 1.5–2 ppb (Ref. 24). It was also found at trace levels (less than 0.01 ppb) in water samples from the Delaware River (Ref. 23), and in wastewater from tire manufacturing, latex processing and chemical plants (Ref. 8).

In light of existing toxicity data on isophorone, the Agency does not expect isophorone to pose a significant health hazard at such low levels to the populations utilizing the drinking water supplies, nor accumulate in levels which result in significant environmental contamination.

Human case reports and studies indicate that isophorone is an eye and nose irritant (Ref. 15). Studies in animals exposed by inhalation, ocular and dermal routes also demonstrate that isophorone is an irritant. The oral LD_{50} for isophorone is reported to be 2,150 to 2,370 mg/kg in rats and 2,000 mg/kg in mice (Ref. 18).

Rats that died from inhalation exposure (1,800 ppm for 4 hours) exhibited the following gross pathologic changes: petechia and massive hemorrage of the lungs, congestion of stomach and liver, excess peritoneal fluid, a pale brownish color of the kidneys and orange-tinted spleens (Ref. 3).

No chronic or subchronic studies were found in the literature; however, the National Cancer Institute is currently performing a 2-year chronic bioassay for isophorone. The results are expected to be available by January, 1983. The range-finding subchronic study in Fisher 344 rats and B6C3F1 mice showed no gross pathology and no histopathologic lesions related to compound administration. Dosing was oral gavage at 62.5, 125, 250, 500 and 1,000 mg/kg/day for 90 days (Ref. 21).

The National Toxicology Program of the National Institutes of Health tested isophorone in the Ames assay. Four strains of bacteria were used with and without activation. All results were negative (Ref. 22).

EPA is aware of no data from teratogenicity testing of isophorone and of no epidemiology studies of persons exposed to isophorone.

III. Proposed Testing

The Ketones Program Panel and the Agency began discussion in 1981 regarding testing needs for isophorone. The Panel has submitted protocols for mutagenicity and teratology testing of isophorone (Ref. 20).

The Panel has proposed the following mutagenicity studies: a mouse lymphoma mutagenicity assay, an unscheduled DNA synthesis test, and a micronucleus test. The results of the mouse lymphoma and unscheduled DNA synthesis tests will permit an assessment of the potential of isphorone to cause gene mutations. The mouse lymphoma test will permit the evaluation of the mutagenic potential of isophorone by measuring the ability of isophorone to cause mutation at the thymidine kinase locus in the L5178 TK+/− mouse lymphoma cell line. The unscheduled DNA synthesis test will measure the ability of isophorone to induce genetic damage which will trigger DNA repair. The micronucleus tests, an *in vivo* cytogenetics test, is a test for the potential to induce chromosomal damage either through chromosomal breakage or interference with normal mitotic cell division.

The Panel also has proposed an inhalation teratology study for isophorone in two species (rat and mouse) using three dose levels, including a negative control. Standard experimental design procedures for teratology testing are proposed, including exposure during days 6–15 of the gestation period.

The Panel has agreed to adhere to the FDA Good Laboratory Practice Standards (43 FR 59986, Dec. 22, 1978), and has agreed to furnish EPA with names and addresses of laboratories conducting the tests described above as soon as they are available. The specific tests being performed by each laboratory shall be indicated.

The Panel has also agreed to permit laboratory audits/inspections at the request of authorized representatives of the EPA in accordance with the authority and procedures outlined in TSCA section 11. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to the FDA Good Laboratory Practice Standards cited above.

Finally, the Panel has agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of a study will be retained as specified in the FDA Good Laboratory Practice Standards cited above and made available during an inspection or submitted to EPA if required by EPA or its authorized representative.

The Agency plans to publish quarterly in the **Federal Register** a notice of the receipt of any test data submitted under this agreement. Subject to TSCA section 14, the notice will provide information similar to that described in TSCA section 4(d). Except as otherwise provided in TSCA section 14, such data will be made available by the EPA for examination by any person. The Panel understands that TSCA section 14(b)(1)(A) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA.

Finally, the Panel understands that failure to conduct the testing according to the test protocols agreed upon by the Panel and EPA or failure to follow Good Laboratory Practices may invalidate the tests. In such cases, a data gap may still exist, and the Agency may decide to promulgate a test rule or otherwise require further testing.

The Panel agreed to begin the teratology study within three months of publication of the final notice with final report submission within 12 months of study initiation. Mutagenicity testing would begin approximately one month after publication of the final notice with completion expected six months after initiation. Should the Panel fail to make a good faith effort to adhere to its testing schedule outlined above, EPA will initiate rulemaking to require testing.

IV. Decision Not To Initiate Rulemaking

When combined with the work ongoing at National Cancer Institute, EPA believes that the industry's proposed testing program will provide an adequate basis to evaluate the effects of concern to the ITC. Should information developed through this testing program or otherwise reveal a need for additional testing that industry is unwilling to perform, the Agency reserves the right to proceed with rulemaking under section 4(a). EPA's specific responses to the various recommendations of the ITC are set forth below.

1. *Carcinogenicity and Chronic Effects.* The National Cancer Institute (NCI) is currently performing a chronic bioassay that includes carcinogenicity testing for isophorone. The NCI chronic bioassay on isophorone is expected to provide sufficient data to reasonably predict or determine the potential of isophorone with respect to oncogenicity and chronic endpoints. In addition, the range-finding subchronic study showed no gross pathology or histopathologic lesions related to compound administration.

NCI is administering isophorone by oral gavage in its bioassays; however, the major route of human exposure is inhalation. EPA has considered the desirability of performing some basic toxicokinetic studies (compound uptake, distribution and elimination) using the route of administration used in testing (gavage) and the route of administration which mimics human exposure (inhalation) to provide a better basis for evaluating the NCI test data. EPA will consider toxicokinetics studies if they appear warranted based on the outcome of the NCI studies. The need for such data might be more acute if the NCI study shows significant effects. The Agency is requesting comments on the criteria under which toxicokinetic studies should be required.

2. *Mutagenicity.* The Panel has submitted protocols for three mutagenicity tests: a mouse lymphoma mutagenicity assay; an unscheduled DNA synthesis test; and a micronucleus test. Although the micronucleus test protocol is inconsistent with the TSCA and OECD test guidelines, EPA is working with the Panel to resolve these differences. Assuming successful resolution of this issue and no unresolvable issues are identified by commentors, the Agency will accept these protocols as satisfying the basic gene mutation and chromosomal aberration testing needs; therefore, additional mutagenicity testing is not being required at this time. If these studies indicate genotoxic potential, EPA will pursue further mutagenicity testing, either through negotiations or by rule.

3. *Teratology.* The Panel has submitted a protocol for an inhalation teratology study on isophorone which is expected to provide adequate data for determining teratogenic potential. Thus, there is no need to initiate rulemaking at this time to require teratogenicity studies.

4. *Epidemiology.* Because there are no documentable health hazards reported for isophorone, the Agency does not believe that it should require epidemiologic studies at this time. Should the NCI or CMA testing programs for isophorone identify such a hazard, EPA will reconsider the need for requiring an epidemiology study.

V. References

(1) Report of the Chemical Manufacturers Association, Ketones Program Panel. October 21, 1981. Exhibit 2.

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(16) Johansson E, Ryhage R. 1976. Gas chromatographic-mass spectrometric identification and determination of residual by-products in clofibrate preparations.

(17) American Conference of Governmental Industrial Hygienists. 1980. Threshold Limit Values for Chemical Substances in Workroom Air Adopted by ACGIH for 1980. ISBN: 0–936712–29–5.

(18) Bukhalovskii AA, Shugaev BB. 1976. Toxicity and hygienic standardization of isophorone, dihydroisophorone, and dimethylphenyl carbinol. Prom. St. Sint. Kauch. 76(2):4–5.

(19) Samini B. 1982. Exposure to isophorone and other organic solvents in a silk screen printing plant. American Industrial Hygiene Association Journal. Jan. 1, 1982; 43:43–48.

(20) Chemical Manufacturers Association. 1982. Ketones Program Panel. Proposed voluntary test program on isophornoe. Dated October 8, 1982.

(21) National Toxicology Program. 1979. Prechronic test review. Contract No. 600259. Papanicalou Cancer Research Center, Miami, Florida.

(22) National Toxicology Program. 1982. Mutagenesis testing results. *NTP Technical Bulletin, Issue 6, p. 6.*

(23) Sheldon LS, R.A. Hites. 1978. Organic compounds in Delaware River. Environ. Sci. Technol. 12:1188.

(24) Shackelford WM, L. H. Keith. 1976. Frequency of organic compounds identified in water. U.S. EPA. 600/4–76–062. Athens, Georgia, p. 626.

VI. Public Record

The EPA has established a public record for this testing decision (Docket Number OPTS–42029). This record includes:

(1) **Federal Register** notice containing the designation of isophorone to the priority list and all comments on isophorone received in response to that notice.

(2) Communications with industry.

(3) Letters.

(4) Contact reports of telephone conversations.

(5) Meeting summaries of Agency-industry and Agency-public meetings.

(6) Testing proposal.

(7) Published and unpublished data.

(8) **Federal Register** notice requesting comment on the negotiated testing proposal and all comments received in response to that notice.

This record, containing the basic information considered by the Agency in developing the decision, is available for inspection in the OPTS Reading Room 8:00 a.m. to 4:00 p.m., Monday through Friday (except legal holidays) in Room E–107, 401 M Street, SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003 (15 U.S.C. 2061))

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 83–327 Filed 1–3–83; 3:55 pm]

BILLING CODE 6560–50–M

[OPTS–59104C; BH–FRL 2279–3]

Reaction Product of Alkyl Isocyanate With 3-(Trimethoxysilyl)-1-Propanethiol; Approval of Test Marketing Exemption; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects the identification for test marketing exemption approval for the new chemical reaction product of alkyl isocyanate with 3-(trimethoxysilyl)-1-propanethiol.

FOR FURTHER INFORMATION CONTACT: Anna Coutlakis, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M St. SW., Washington, D.C. 20460, (202–382–3742).

SUPPLEMENTARY INFORMATION: In FR Doc. 82–32707, published in the **Federal Register** of November 30, 1982 (47 FR 53945), EPA issued a notice approving the test marketing of the new chemical reaction product of alkyl isocyanate with 3-(trimethoxysilyl)-1-propanethiol under section 5 of the Toxic Substances Control Act.

The TME identification number "TME 82–53", appearing at page 53945, third column, line fourteen, is corrected to read "TME 83–2".

Dated: December 28, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83–325 Filed 1–5–83; 8:45 am]

BILLING CODE 6560–50–M

[OLEC–FRL 2271–7]

Consent to the Entry of Consent Decrees and Final Findings of Administrator With Regard to Steel Industry Compliance Extension Act of 1981: United States Steel Corp.

AGENCY: Environmental Protection Agency.

ACTION: Notice of consent to the entry of new or amended consent decrees, and notice of final findings.

SUMMARY: The Administrator consents to the entry of new or amended consent decrees permitting certain extensions of compliance to the United States Steel Corporation under the Steel Industry Compliance Extension Act of 1981. The Administrator also makes final the findings required by the Act.

DATE: Effective December 29, 1982.

FOR FURTHER INFORMATION CONTACT: William Repsher, Attorney, Office of Enforcement Counsel (EN–329), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–2868.

Documents submitted by United States Steel Corporation with its application under the Steel Industry Compliance Extension Act and information otherwise available to the Administrator in connection with that application may be inspected at the following location between 9:00 a.m. and 4:00 p.m. weekdays: U.S. Environmental Protection Agency, Central Docket Section: West Tower, 401 M Street, SW., Washington, D.C. 20460, Docket No. EN–81–16B.

SUPPLEMENTARY INFORMATION: On August 10, 1982 (47 FR 35855), the Administrator announced findings

preliminary to the lodging of new or amended consent decrees under the Steel Industry Compliance Extension Act of 1981 ("SICEA") to extend compliance deadlines for certain facilities of the United States Steel Corporation. Subsequent to that announcement, the United States of America and United States Steel Corporation have negotiated new or amended consent decrees (hereafter, the "decrees") covering seven of the Company's major steel—producing facilities. These decrees comply with the requirements of the SICEA—in particular, with the requirements of Section 113(e)(1)(C). The first purpose of this notice is to announce that the Administrator consents to the entry of these decrees in the appropriate federal district courts.

In her announcement of August 10, 1982, the Administrator made eight findings required by the SICEA. During the course of negotiating the referenced consent decrees, United States Steel Corporation modified the list of sources for which it desired extended compliance schedules, as well as the list of offseting modernization projects. In addition, the parties reached agreement on the phased program of compliance, and new information was acquired by the Administrator regarding what controls were needed at the various sources and what those controls would cost. Accordingly, final findings reflecting appropriate modifications to the preliminary findings of Agust 10, 1982 need to be made.

The second purpose of this notice is to announce these final findings. The final findings consist of the findings of August 10, 1982, which findings are incorporated by reference herein, except as expressly modified below. The discussion which follows indicates the respects in which the final findings are different from the preliminary findings.

Manner in Which the Preliminary Findings Are Revised

A. Stretched Sources

During the course of negotiations, the company decided that it no longer desired to stretch the schedules for certain of the sources for which stretchout was originally sought. For example, the company recently took steps to reduce emissions at the Fairless Sinter Plant. The reductions have been sufficient to make it feasible for the company to pursue a "bubble" for the source. A "bubble" has been applied for and approved by the Pennsylvania Environmental Quality Board. The sinter lines have been shut down for business reasons and, under the amended decree, may not be reactivated unless controls are in place adequate to achieve and demonstrate compliance with the emission limitations specified in the SIP (whether or not the bubble is approved by EPA).

Another example is the Duquesne No. 6 Blast Furnace. During the course of negotiations, the company continued experimentation at that source with a new method for controlling blast furnace emissions. The new approach has been successful enough that the company has committed to achieve and demonstrate compliance with applicable emission limits by December 31, 1982.

During the course of negotiations, the company requested to add certain sources to the stretchout list. Finding Number 1 has been revised to reflect these decisions as well.

B. Modernization Projects

At the conclusion of the negotiations process, the dollar amount of obligations to be deferred was finally determined and the company selected the specific offsetting modernization projects to which it was willing to commit under the Stretchout Act. Finding Number 2 has been revised to specifically identify and briefly describe these projects.

C. Control Programs and Costs

In the August 10, 1982 findings, EPA estimated that United States Steel needed to spend an estimated $252.3 million on controls in order to bring all of the sources at its iron and steel-producing operations into compliance with the Clean Air Act. During the course of negotiations, the company presented information leading EPA to conclude the additional capital expenditures would not necessarily need to be incurred at certain sources. Finding Number 3 has been revised to delete such sources. Conversely, a number of sources have been added to the list where information obtained during the course of negotiations dictated.

With respect to a number of sources, the dollar amounts of capital expenditures estimated as remaining to be spent on control programs have been revised. The new figures are based on EPA's review of estimates provided by the Company's Engineering Division. Differences between the new figures and those set out in the August 10, 1982 findings are attributable to one or more of the following reasons:

—A different type of control program than originally envisioned by EPA has been determined to be adequate;

—The costs of a given control program have been determined to be less than those originally believed necessary;

—Some projects underway at the time of the August 10, 1982 findings were substantially more complete than the information then available to EPA indicated;

—Certain of the pollution control program costs identified in the August 10, 1982 findings are operating and maintenance expenses.

It should be noted that a number of the sources in Table II (where the costs are presented) are listed as "Temporary Shutdown" sources. Under the negotiated stretchout agreements, these sources will have to install controls only by such time as they are reactivated, whenever that may be. A number of sources appear in both portions of Table II. For such sources, the dollar figure specified in the first portion of the table represents the amount spent by the Company between August 10, 1982 and December 31, 1982; listing of the source in temporary shutdown reflects the fact that further controls and expenditures will be required to fully achieve compliance at the source.

D. Phased Program of Compliance

Finding Number 4, which deals with the "Phased Program of Compliance" defined in Section 113(e)(2) and required by Section 113(e)(1)(C) of the Act, has been amended in two respects. First, the dollar amounts have been revised to reflect the amounts actually to be spent on controls pursuant to the agreements reached in the negotiations. Second, the time frame of the phased program of compliance has been modified to include the period from the date of the preliminary findings to December 31, 1982. Given that the Company's expenditures on pollution controls during that period played an integral role in resolving the entire complex of issues between EPA and the Company at the time of the preliminary findings, inclusion of that period is appropriate.

Inclusion of this period, however, results in an uneven number of years covered by the stretchout decrees. Section 113(e)(2) requires that spending on pollution controls be such that by the end of the second and each succeeding year, cumulative expenditures will be at least equal to the amounts which would have been spent if expenditures were to be made in equal yearly increments. This mandate was implemented by determining the ratio of the number of days in the first two years of the program—August 10, 1982 through August 10, 1984—to the total number of days from August 10, 1982 to December 31, 1985. This ratio comes to

approximately 60%. The agreed-upon phased program requires that at least this proportion of the total dollars to be expended on controls be expended by August 10, 1984.

Under the agreed-upon phased program, the period between August 10, 1984 and December 31, 1985 was divided into equal increments, with cumulative spending phased proportionately. Thus, the phased program requires that 89% of the expenditures occur by April 20, 1985, with the balance to occur by December 31, 1985.

E. Integrated Expenditure Schedule

Finding Number 5, which integrates the expenditure and investment schedules for pollution control projects and modernization projects, has been revised to conform to the revisions in Findings 2, 3 and 4.

F. Financial Capability Finding

Finding Number 6, regarding the Company's financial ability to comply with applicable requirements, is revised to reflect the revisions to Findings 3, 4 and 5.

Final Findings

1. Finding number (1) is amended by deleting the first paragraph thereof, including the table, and substituting therefor the following:

(1) I find that the following compliance obligations (capital expenditures necessary to achieve compliance with SIP or RACT, as appropriate) may be extended:

[Dollars in millions]

Project	Cost
A. Fairless Works	
(i) Blast Furnace Casthouses (2)	$0.4
(ii) Coke Quenching	.15
B. Lorain Works	
(i) Coke Quenching	.4
(ii) Blast Furnace Casthouses (2)	.3
(iii) Basic Oxygen Process Shop	1.8
C. Gary Works	
(i) Sinter Plant No. 3	.15
(ii) O-BOP Shop	8.8
(iii) Blast Furnace Casthouses (4)	.03
D. Fairfield Works	
(i) Blast Furnace Casthouse	.15
E. South Works	
(i) AOD Electric Furnace	1.3
Total	13.68

2. Finding number 2 is amended by striking the language thereof in its entirety, and substituting the following therefor:

(2) I find, assuming continuation of the present business and financial conditions affecting the iron and steel operations of United States Steel Corporation, the granting of extended compliance schedules for air pollution control projects costing a total of Thirteen Million six hundred eighty thousand dollars ($13,680,000) is necessary to make available for investment by July 16, 1983 the corresponding amount of $13,680,000, to recommence and complete the modernization projects set forth below by the dates specified below, which projects will improve efficiency and productivity at the iron and steel operations of United States Steel Corporation and which projects were planned and authorized prior to November 24, 1982 [1] but were discontinued due to the lack of funds, and which projects will be implemented at Communities which already contain iron- and steel-producing facilities.

South Works

$2.1Mn Project Completion: May 31, 1984 Conversion of rolling mill equipment from 25 to 60 cycle power:

The Company shall convert the rolling mill equipment at South Works from 25 cycle to 60 cycle power to replace the obsolete and ineffective steam-driven turbogenerators which currently produce 25 cycle power. This conversion will permit the plant to take advantage of state-of-the-art electric controls and equipment that are not available for 25 cycle power.

Lorain Works

$9.86Mn Project Completion: May 30, 1984 Two additional billet grinders for Billet Conditioning Facility:

The company shall install two additional high capacity, fixed-head bar billet grinders at the Billet Conditioning Facility. The project includes a new building, billet handling equipment and air quality control equipment. The facilities will provide the necessary capability for quality bar shipments.

Homestead Works

$1.72 Mn Project Completion: June 30, 1984 Improvements to No. 4 Shear Unit:

The company shall install at its Homestead No. 4 Shear Unit a rotary shear for plates with entry and exit tables, scrap chopper, and plate positioner. The installation of this rotary shear, and the relocating and rearranging of the existing plate leveler, and shear, unpiler, marking table, etc., will permit the processing of more plates per turn with improved performance in meeting plate dimension tolerances.

3. Finding Number 3 is amended by striking the language thereof in its entirety, and substituting the following therefor:

(3) I find that in order to achieve compliance with applicable state implementation plans (or RACT, where applicable) at all sources in its iron- and steel-producing operations, the company will be required to have made approximately the following capital expenditures for sources to be controlled on fixed schedules after August 10, 1982, and either by December 31, 1982, or between January 1, 1983 and December 31, 1985:

[Dollars in millions]

Project	Cost
A. Fairfield	
Blast Furnace No. 7 Casthouse	$0.15
B. Geneva	
Open Hearth Tapping	.2
Blast Furnaces, Sinter Plant, Coke Quenching	1.1
Coke Batteries Nos. 1, 2, 3, 4 (Pushing)	.8
C. Lorain	
Coke Batteries G, H, I, J, (Push)	1.8
Coke Quenching	.4
Blast Furnaces Nos. 1, 4	.3
BOP Shop (Fugitives)	5.0
D. Fairfield	
Coke Batteries Nos. 1, 2 (Pushing)	1.3
Blast Furnaces Nos. 1, 2	.4
Coke Quenching	.15
E. Edgar Thompson	
BOF Shop	.4
Blast Furnace No. 3	.3
F. Saxonburg	
Sinter Lines Nos. 2 and 3	.7
G. Homestead	
Open Hearth	.1
H. South Works	
Electric Arc Vessels 411 and 412	.1
AOD Electric Arc (Fugitives)	1.3
I. Gary Works	
Coke Batteries Nos. 1, 2, 16 (Pushing)	.4
Coke Batteries (Topside)	3.5
Sinter Plant No. 3 (Windbox)	2.15
Blast Furnaces Nos. 4, 6, 8, 13	.8
BOF No. 1 Shop (Secondary and Hot Metal Transfer)	.25
Q-BOP (Secondary)	1.3
Q-BOP (Hot Metal Transfer)	1.5
J. Duquesne	
Blast Furnace No. 6 Casthouse	.1
Total	30.22

Under the negotiated decrees, the sources listed below are to be treated as "Temporarily Shutdown" sources. A "Temporary Shutdown" source, as that term is used in the decrees, refers to a source which has, or will have by December 31, 1982, ceased operations, and refers to one on which the Company has committed to install controls by the time of recommencement of operation, whenever that may occur. For these sources, the need to expend the monies required to achieve compliance is contingent upon resumption of operation.

A. Fairfield:
Coke Battery No. 2 (Pushing, Larry Car Purge)
Coke Batteries Nos. 5 and No. 6 (Pushing)
Blast Furnace No. 5 Casthouse
Blast Furnace No. 6 Casthouse
Sinter Line No. 4 (Windbox)

[1] The Company and the Government reached an agreement in principle in the stretchout negotiations on November 19, 1982.

B. Lorain:
Coke Battery "J"
Blast Furnace No. 2 Casthouse
C. Fairless:
Electric Arc Furnace Secondary
Open Hearth Furnace No. 5 (Tapping)
Sinter Plant
D. Edgar Thompson:
Blast Furnaces Nos. 1, 2, 3
D. Saxonburg:
Sinter Lines Nos. 2 and 3
F. Homestead:
Blast Furnace No. 3 Casthouse
Blast Furnace No. 4 Casthouse
Open Hearth Furnaces Nos. 67, 68, 69, 72, 73, 74, 75 (Tapping)
G. South Works:
Blast Furnaces Nos. 8, 11, 12 Casthouses
BOF (Tapping Suppression)
Sinter Plant (Windbox Stack)
H. Gary Works:
Coke Battery #2 (Topside)
Sinter Plant No. 2 Windbox/Discharge
Blast Furnaces No. 3, 5, 7, 9, 10, 11, 12 Casthouses
I. National-Duquesne Works:
Blast Furnace No. 1 Casthouse

4. Finding Number 4 is amended by striking the language thereof in its entirety, and substituting therefor the following:

(4) I find that a "phased program of compliance" (as defined in Section 113(e)(2) of the Act) requires the Company to make pollution control capital expenditures on the following schedule:
At least $16.54M by December 31, 1982.
At least $18.13M by August 10, 1984.
At least $24.17M by April 20, 1985.
At least $30.22M by December 31, 1985.

5. Finding Number 5 is amended by striking the language thereof in its entirety and substituting therefor the following:

(5) I find that an integration of the required schedules for pollution control expenditures and for modernization investments and expenditures results in the following required schedule of capital expenditures:
At least $16.54M by December 31 1982, for pollution control projects.
At least $13.68M in "investments" in projects for improving efficiency and productivity by July 16, 1983.
At least a total of $18.13M for pollution control projects by August 10, 1984.
At least a total of $24.17M for pollution control projects by April 20, 1985.
At least a total of $30.22M for pollution control projects by December 31, 1985.[2]

[2]Expenditures for controls to be installed subsequent to December 31, 1982 but prior to recommencement of operation on sources which are temporarily shut down are not included.

6. Finding Number 6 is amended by deleting the language thereof in its entirety, and substituting therefor the following:

(6) I find that the company will have sufficient funds to comply with the capital expenditure requirements set forth in Finding 5, to comply with the capital expenditure requirements respecting the Temporary Shutdown sources listed in Finding 3, and to comply with all other requirements of the decrees listed at the conclusion to these findings.

7. Finding Number 8 is amended by striking the language thereof in its entirety, and substituting therefore the following:

(8) I find that the extensions of compliance to which I am consenting will not result in degradation of air quality during the term of the extensions.

Conclusion

Based on the foregoing findings, I have decided to exercise my statutory discretion to consent to the entry of the following consent decrees or consent decree amendments, establishing schedules for compliance or extending compliance deadlines for certain sources beyond December 31, 1982:

Superceding Consent Decree—Alabama Air Pollution Control Commission, and the State of Alabama, ex rel. William J. Baxley, Attorney General, and Jefferson County Board of Health, and United States of America, and Administrator of the United States Environmental Protection Agency v. United States Steel Corporation, U.S. District Court for the Northern District of Alabama, Southern Division, C.A. No. 77–H–1630–S

Consent Decree, United States of America, Citizens for a Better Environment, and Save the Dunes Council vs. United States Steel Corporation, U.S. District Court for the Northern District of Indiana, Hammond Division, Civ. No. H 78–494.

Modification to Consent Decree, United States of America, and City of Bordentown, State of New Jersey, and Commonwealth of Pennsylvania, Department of Environmental Resources v. United States Steel Corporation, C.A. No. 79–3645; United States of America, and Commonwealth of Pennsylvania, Department of Environmental Resources v. United States Steel Corporation, C.A. No. 80–0743, U.S. District Court for the Eastern District of Pennsylvania.

Fourth Modification to Consent Decree, United States of America, and Commonwealth of Pennsylvania Department of Environmental Resources, and County of Allegheny and United Steelworkers of America Local Union No. 1397, and Group Against Smog and Pollution v. United States Steel Corporation, C.A. No. 79–709, U.S. District Court for the Western District of Pennsylvania.

Third Amendment to Consent Decree, United States of America v. United States Steel Corporation, Case No. C–79–225, U.S. District Court for the Northern District of Ohio, Eastern Division.

Superceding Consent Decree, United States of America and People of the State of Illinois v. United States Steel Corporation, U.S. District Court for the Northern District of Illinois, Eastern Division, C.A. Nos. 76 C 4545, 79 C 1118, 82 C ——.

Consent Decree, United States of America v. United States Steel Corporation, U.S. District Court for the Southern District of Texas, Houston Division, Civ. No. ——.

I have determined that each of the foregoing decrees or decree amendments meets the requirements of Section 113 (e) (1) (C) of the Clean Air Act.

These decrees have been lodged with the appropriate district courts. Interested parties may offer comments under the notice of lodging which has been published by the Department of Justice pursuant to 28 CFR 50.7.

Dated: December 29, 1982.

John W. Hernandez,
Acting Administrator.

[FR Doc. 83-182 Filed 1-6-83; 8:45 am]
BILLING CODE 4150-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-673-DR]

Arkansas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA–673–DR), dated December 13, 1982, and related determinations.

DATED: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

NOTICE: The notice of a major disaster for the State of Arkansas dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

For Individual Assistance: The Counties of Clay, Desha, Montgomery and Monroe.

John E. Dickey,

Acting Associate Director, State and Local Program and Support, Federal Emergency Management Agency.

[FR Doc. 83-306 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-673-DR]

Arkansas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA-673-DR), dated December 13, 1982, and related determinations.

DATED: December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: The notice of a major disaster for the State of Arkansas dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

For Public Assistance:

The Counties of Fulton, Howard, Marion, Polk, Sevier and Yell.
The City of East Camden in Ouachita County.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02.)

John E. Dickey,

Acting Associate Director, State and Local Program and Support, Federal Emergency Management Agency.

[FR Doc. 83-309 Filed 1-5-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL TRADE COMMISSION

Hart-Scott-Rodino Antitrust Improvement Act; Notification and Report Form; Information Collection Requirements

AGENCY: Federal Trade Commission.

ACTION: Notice of Application to OMB Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) for review and approval of an extension of an information collection requirement and form.

SUMMARY: The Commission is seeking OMB clearance for an extension for one year of the information collection requests made pursuant to provisions of the Hart-Scott-Rodino Antitrust Improvement Act, Title II (15 U.S.C. 18a), the approval for which was scheduled to expire on December 31, 1982.

Section 7A of the Clayton Act provides that certain persons proposing to make acquisitions or engage in mergers shall file with the Federal Trade Commission and the Attorney General a premerger notification report in a form prescribed by the Federal Trade Commission, with the concurrence of the Assistant Attorney General in charge of the Antitrust Division. The Commission has made and is continuing to make substantial efforts to reduce the reporting burden connected with the filing of such reports. In this regard, the Federal Trade Commission is applying for a limited extension for the use of its existing report form. The extension will provide additional time necessary for the Commission to complete its review. Approval is also sought for a number of non-substantive modifications in the instructions and the form which are being made to clarify and simplify the reporting requirements.

DATE: Comments on this clearance applications must be submitted on or before February 7, 1983.

ADDRESS: Send comments to Ms. Nell Minow, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503. Copies of the application may be obtained from Public Reference Branch, Room 103, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: John M. Sipple, Jr., Attorney, Bureau of Competition, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3404.

Michael A. Baggage

Acting Secretary.

[FR Doc. 83-361 Filed 1-5-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-82-1194]

Submission of Proposed Information Collections To OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information ; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what numbers of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OBM Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are are describer as follows;

Notice of Submission of Proposed Information Collection To OMB

PROPOSAL: Relocation Payment Claim Forms.

OFFICE: Community Development and Planning.

FORM NUMBER: HUD–4000, 4001, 4002, 4003, 4004 and 4004A.

FREQUENCY OF SUBMISSION: On Occasion.

AFFECTED PUBLIC: Individuals or Households.

ESTIMATED BURDEN HOURS: 15,000.

STATUS: Extension.

CONTACT: Mel Geffner, HUD, (202) 755–6336, Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 17, 1982.

PROPOSAL: Urban Renewal Program.

OFFICE: Community Planning and Development.

FORM NUMBER: HUD-693, 6000, 6004, 6004A, 6200, 6250 and 6251.

FREQUENCY OF SUBMISSION: On Occasion.

AFFECTED PUBLIC: State or Local Governments.

ESTIMATED BURDEN HOURS: 972.

STATUS: Extension.

CONTACT: Thomas Terrel, HUD, (202) 755–6935, Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 17, 1982.

PROPOSAL: Financial Assistance Program of the Solar Energy and Energy Conservation Bank.

OFFICE: Solar Energy and Energy Conservation Bank.

FORM NUMBER: None.

FREQUENCY OF SUBMISSION: Semiannually.

AFFECTED PUBLIC: Individuals or Households and Businesses or Other Institutions (except farms).

ESTIMATED BURDEN HOURS: 3,800.

STATUS: New.

CONTACT: Richard Francis, HUD, (202) 755–7166, Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 17, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83–287 Filed 1–5–83; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–82–1195]

Submission of Proposed Information Collection To OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

PROPOSAL: Request for Termination of Multifamily Mortgage Insurance.

OFFICE: Administration.

FORM NUMBER: HUD–9807

FREQUENCY OF SUBMISSION: On Occasion.

AFFECTED PUBLIC: Businesses or Other Institutions (except farms).

ESTIMATED BURDEN HOURS: 75.

STATUS: Extension.

CONTACT: Betty Belin, HUD, (202) 755–5747, Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535 (d).

Dated: October 27, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83–288 Filed 1–5–83; 8:45 am]
BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–82–1192]

Real Estate Settlement Procedures Act—Text Change in the Special Information Booklet

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice sets forth a change in the text of the Special Information Booklet, required by the Real Estate Settlement Procedures Act of 1974 (RESPA), dealing with the Truth in Lending Act.

FOR FURTHER INFORMATION CONTACT: John Coonts, Director, Single Family Development Division, Room 9270, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone number (202) 755–6270 [this is not a toll free number],

SUPPLEMENTARY INFORMATION: Notice is hereby given that the text of the Special Information Booklet required under RESPA, Section 5 (12 U.S.C. 2604), is being changed to reflect amendments to the Truth in Lending Act contained in the Truth in Lending Simplification and Reform Act of 1980 (Pub. L. 96–221) which went into effect October 1, 1982. The changes reflect that the disclosure statement required by the Truth in Lending Act must now be given a borrower in a home purchase

transaction at or within three days of receipt of a written loan application from the borrower. Other changes occasioned by the recent amendments are also discussed.

The text of the Special Information Booklet was originally published as a Notice in the **Federal Register** on June 10, 1976 at 41 FR 23620. References made below to organizational layout of the booklet are to that text. As of the effective date of this notice, the revised text below becomes the "currently prescribed" text for purposes of 24 CFR 3500.6. However, lenders may exhaust existing supplies of booklets before obtaining booklets with the revised language; provided, however, that all booklets distributed after July 1, 1983 must contain, as required in 24 CFR 3500.6, the revised language.

The Special Information Booklet required by the RESPA is amended by deleting the two paragraphs following the heading "Truth in Lending" which appears in Part I of the booklet, in the "Homebuyer's Rights" Section, after the "Escrow Closings" heading (and originally published at the top of 41 FR 23634), and substituting the following new text:

The lender is required, usually within three days of receiving your application, to give you or place in the mail to you a Truth in Lending statement that will disclose the "annual percentage rate" (APR). The APR reflects the cost of your mortgage loan as a yearly rate. This rate may be higher than the rate stated in your mortgage or deed of trust note because the APR includes, in addition to interest, loan discount (points), fees, and other credit costs. The Truth in Lending statement also discloses other useful information, such as the finance charge, schedule of payments, late payment charges, and whether or not additional charges will be assessed if you pay off the balance of your loan before it is due (prepayment penalty).

Some of the information that the lender is required to disclose may not be certain at the time the lender is required to give you the Truth in Lending statement. If so, the lender will indicate that the uncertain disclosures are estimates. Should the actual APR differ by more than a small amount from the lender's estimate, the lender must give you a corrected Truth in Lending statement no later than at settlement. However, if the estimated APR proves to be correct, the lender *need not* give you a new Truth in Lending statement, even if other disclosures have changed. For this reason, you may want to ask the lender shortly before settlement if all the Truth in Lending disclosures are still accurate.

(Sec. 5 and 19(a), the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604 and 2617(a)))

Dated: December 21, 1982.

Bernard Shriber,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-208 Filed 1-5-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Pyramid Lake Indian Irrigation Project, Nevada

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The purpose of public notice is to change the annual per acre assessment rates for the operation and maintenance of the irrigation facilities on the Pyramid Lake Indian Irrigation Project, to properly reflect the actual costs for labor, materials, equipment, and services. The change is from $20.00 to $29.00 per irrigable acre for non-Indian owned land and Indian owned land leased to non-Indians, and from $1.00 to $16.50 per irrigable acre for Indian owned land farmed and operated by Indians.

EFFECTIVE DATE: This notice will become effective on the date of publication of this document in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Robert L. Hunter, Superintendent, Western Nevada Agency, 5533 Mark Twain Avenue, Carson City, Nevada 89701, telephone number (702) 882–3411.

SUPPLEMENTARY INFORMATION: This notice is issued under authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by Deputy Assistant Secretary for Indian Affairs (Operations) to the Area Directors in 10 BIAM 3. The current operation and maintenance charges were established in 1978. The inflation rate on labor and materials has continued to increase each year until costs now exceed revenue from current charges.

Meetings were held with the Tribal Council and the Natural Resource Committee of the Tribe. The above charges were presented and comments were heard and evaluated. It was decided that the above charges have to be made in order that the operation and maintenance of the Pyramid Lake Indian Irrigation Project can be undertaken and water delivered to the water users.

The notice shall read as follows:

Pyramid Lake Indian Irrigation Project

Annual Operation and Maintenance Charges

Annual Per Acre Assessment—The annual assessment against land to which water can be delivered under the Pyramid Lake Indian Irrigation Project in Nevada for operation and maintenance of the Project, is hereby fixed at $29.00 per irrigable acre for non-Indian owned land and Indian owned land leased to non-Indians, and $16.50 per irrigable acre for Indian owned land farmed and operated by Indians.

Payment—The annual operation and maintenance assessment shall be due and payable on April 1 of each year and continued in effect thereafter until further notice. Water will not be delivered to the land until the assessment has been paid or arrangements have been made under 25 CFR Part 171.17 Operation and Maintenance Charges.

Dated: December 23, 1982.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-307 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-02-M

San Carlos Irrigation Project, Indian Works, Arizona

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The purpose of this public notice is to change the per acre assessment rate for the operation and maintenance of the irrigation facilities of the Indian Works of the San Carlos Irrigation Project to properly reflect the cost of labor, materials, equipment and services. The change is from $24.00 to $34.00 per acre per year.

EFFECTIVE DATE: This notice shall become effective on date of publication of this document in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Edmund L. Thompson, Superintendent, Bureau of Indian Affairs, Pima Agency, Sacaton, Arizona 85247, telephone number (602) 562–3326.

SUPPLEMENTARY INFORMATION: This notice is issued by authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by the Deputy Assistant Secretary for Indian Affairs (Operations) to the Area Directors in 10 BIAM 3.

An analysis of the costs of operation and maintenance of the Indian Works of the San Carlos Irrigation Project was presented to representatives of the Tribe

and Aw-Tham Farmers Association and published in three local newspapers. Comments received were carefully considered in arriving at the new rate.

The notice shall read as follows:

San Carlos Irrigation Project, Indian Works

Annual Operation and Maintenance Charges

Charges

The basic charge entitles each acre to have delivered two (2) acre-feet of water or its proportionate share of the available water supply. Charges for project operation and maintenance costs on land used by Indians shall not be imposed on the Indian owners of such land.

For water delivered in excess of two (2) acre-feet per acre of Indian land leased to a non-Indian, there shall be charged $0.50 per acre-foot per acre for the first acre-foot of excess water or fraction thereof delivered, and $1.50 per acre foot or fraction thereof per acre of water delivered in excess of three (3) acre-feet per acre. There shall be no charge for free water delivered in accordance with existing regulations. The diversion right of six acre feet per acre less system losses establishes the duty of water to the land.

Payment

Basic charges shall become due on January 1 of each year and shall be payable on or before March 1st. No water shall be delivered to lands leased to non-Indians prior to payment of said basic charge. Payment for excess water as provided shall be made at the time of request or prior to the delivery thereof. Payment of these assessments and charges shall be made at the office of the Pima Agency Superintendent, Sacaton, Arizona.

Delivery

An application for water service shall be made to and approved by the Superintendent prior to the first delivery of water. For all subsequent deliveries of water, the water user will notify the watermaster or ditchrider when delivery is desired.

Distribution and Apportionment

The stored and pumped water of the project is a common water supply in which all project lands are entitled to share equitably. Water users will be notified at the beginning of the season of the amount of stored and pumped water available and at later dates of additional apportionments as they are made. Waste of water by users must be avoided as far as physically possible in order that the supply shall be sufficient for the entire area in crop. When floods produce a supply of water in excess of demands or available storage facilities, free water shall be declared available and all water users will be promptly notified thereof. Such water shall not be counted as a part of the apportioned share to the lands on which it is used.

Water Users Responsibility

Water users will be required to keep their farm ditches in suitable condition to take water from project laterals and to carry it to the lands being irrigated. Failure to do so may result in refusal of delivery of water to lands on which the farm ditches are not in condition to take the water ordered if this condition prevents proper operation of project laterals and structures and causes waste of water.

Dated: December 23, 1982.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-306 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-02-M

Te-Moak Shoshone Indian Reservation, Nevada; Ordinance Providing for the Introduction, Possession, Use, Consumption, and Sale of Intoxicating Beverages

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Ordinance 82–ORD–TM–01 which relates to the application of the Federal Indian Liquor Laws on the Te–Moak Shoshone Indian Reservation, Nevada, was duly adopted on May 7, 1982 and readopted and amended by Ordinance 82–ORD–TM–03 on July 9, 1982 by the Te-Moak Band of Western Shoshone Tribal Council which has jurisdiction over the area of Indian country included in the ordinance. 82–ORD–TM–03 and Ordinance 82–ORD–TM–01 as amended by Ordinance 82–ORD–TM–03 read as follows:

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

Ordinance No. 82–ORD–TM–03

Be it enacted by the Te–Moak Western Shoshone Council, that whereas, Ordinance No. 82–ORD–TM–01, an ordinance governing the possession and sale of alcoholic beverages was passed by the Te-Moak Tribal Council on May 7, 1982, and approved by the Superintendent of the Eastern Nevada Agency of the Bureau of Indian Affairs, Allen Core, on May 14, 1982, subject to the review of the Secretary of the Interior, and

Whereas, on July 2, 1982, the Assistant Area Director of the Phoenix Area Office of the Bureau of Indian Affairs, LaFollette Butler, informed the Acting Superintendent of the Eastern Nevada Agency of the Bureau of Indian Affairs, Albert Racine, that Section 9 of the subject ordinance should contain specific language guaranteeing a licensee's right of review before revocation of a license, and

Whereas, this ordinance has not been rescinded, and

Whereas, there is an immediate need for an ordinance to regulate the possession and sale of alcoholic beverages on the reservations and colonies of the Te-Moak Bands of Western Shoshone and to ensure that this ordinance be reviewed expeditiously.

Now therefore be it resolved, that the Te-Moak Western Shoshone Council re-adopts and amends Ordinance No. 82–ORD–TM–01 so that Section 9 reads:

"Section 9: Any licensee violating any provision of this ordinance may have said licensee's license suspended or revoked by the Te-Moak Western Shoshone Council provided that the licensee is given a written notice of the proposed suspension of revocation and afforded an opportunity for a hearing."

Be it further resolved, that all other provisions of the Te-Moak Liquor Ordinance No. 82–ORD–TM–01 other than herein prescribed shall remain the same and in full force and effect.

It is further resolved and urgently and respectfully requested that early, favorable review and approval be made by the Phoenix Area Office which will enable early certifications and publication in the **Federal Register** of the ordinance as amended, a copy of which is attached hereto and incorporated by reference, and implementation of said Te-Moak Liquor Ordinance at the earliest possible date.

Certification

I, the undersigned, as Chairman of the Te-Moak Western Shoshone Council, do hereby certify that the Te-Moak Western Shoshone Council is composed of 5 members, of whom 3 constituting a quorum were present at a duly held meeting on the 9th day of July, 1982, and that the foregoing Ordinance was duly adopted and approved at such meeting by the affirmative vote of 3 for, 0 against, 0 abstentions, pursuant to Article VII 1 (f) of the Constitution of the Te-Moak Bands of Western Shoshone Indians, Nevada, approved August 24, 1938, and Article II, Section 1 of the By-

Laws of the Te-Moak Bands of Western Shoshone Indians, Nevada, approved August 24, 1938.

Charles Marlotte,

Chairman, Te-Moak Western Shoshone Council.

Approved:

Melvin A Core,

Superintendent, Eastern Nevada Agency.

Dated: July 13, 1982.

Ordinance No. 82–ORD–TM–01 as Amended by Ordinance No. 82–ORD–TM–03

Now therefore, be it enacted by the Te-Moak Western Shoshone Council of the Te-Moak Bands of Western Shoshone Indians, Nevada, that pursuant to the authority vested in it by Article VII, Section 1 (f) of the Constitution of the Te-Moak Bands of Western Shoshone Indians, Nevada, and Article II, Section 1 of the By-Laws of the Te-Moak Bands of Western Shoshone Indians, Nevada, that the introduction, possession, use and consumption of alcoholic beverages shall be lawful within the exterior boundaries of those lands in the State of Nevada under the territorial jurisdiction of the Te-Moak Bands of Western Shoshone Indians, Nevada. Provided that such introduction, possession, use and consumption shall be in accordance with the following:

Section 1

(a) It shall be unlawful to sell alcoholic beverages by the bottle, drink, can or other package within the exterior boundaries of those lands of the State of Nevada under the territorial jurisdiction of the Te-Moak Bands of Western Shoshone Indians, Nevada, without first obtaining a valid license issued by the Te-Moak Western Shoshone Council.

(b) Such tribal license will authorize the holder thereof to sell alcoholic beverages at retail in cans, bottles or other packages, or by the drink for consumption on the premises or within a defined area.

(c) Such tribal license shall set forth the location and description of the building and premises or defined area where such sales may be made and for which said license is issued.

(d) No such license shall be issued without the approval of the local governing body of the Colony or Reservation of the Te-Moak Bands of Western Shoshone, Nevada, upon the territory of which the proposed alcoholic beverage business is seeking to be licensed.

(e) No such license shall be transferred without the prior consent of the Te-Moak Western Shoshone Council.

(f) The different categories of licenses and the license fee schedules shall be established annually by the Te-Moak Western Shoshone Council by a duly passed resolution.

(g) Any such license fee collected by the Te-Moak Western Shoshone Council shall be transmitted to the local governing body of the Colony or Reservation of the Te-Moak Bands of Western Shoshone upon the territory of which the alcoholic beverage business has been licensed.

Section 2

It shall be unlawful to use or consume any alcoholic beverages in a motor vehicle while such vehicle is being driven.

Section 3

It shall be unlawful to possess any open bottle, can package or container or alcoholic beverage in the passenger compartment of a motor vehicle when such vehicle is being driven.

Section 4

It shall be unlawful for any person actually under the influence of alcoholic beverages to possess, use or consume alcoholic beverages.

Section 5

It shall be unlawful for any person to furnish any alcoholic beverage to any person under the age of twenty-one (21) years or to leave or to deposit any alcoholic beverages with the intent that the alcoholic beverages shall be procured by any person under the age of twenty-one (21) years.

Section 6

It shall be unlawful for any person under the age of twenty-one (21) years of age to introduce, possess, use or consume alcoholic beverages.

Section 7

Any Irdian who violates any of the provisions of the ordinance shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine of not more than $300.00 or by imprisonment of not more than sixty (60) days or both such fine and imprisonment: Provided, however, that any person under the age of eighteen (18) years may, in the discretion of the judge, be treated as a juvenile and have the charge(s) disposed of pursuant to applicable juvenile law and procedures.

Section 8

When any provision of this ordinance is violated by a non Indian, he or she shall be referred to the State and/or Federal authorities for prosecution under applicable law.

Section 9

Any licensee violating any provision of this ordinance may have said licensee's license suspended or revoked by the Te-Moak Western Shoshone Council provided that the licensee is given a written notice of the proposed suspension or revocation and afforded an opportunity for a hearing.

Section 10

All ordinances, resolutions or acts that have previously been enacted by the Te-Moak Western Shoshone Council which are in conflict with any provision of this ordinance are hereby repealed.

[FR Doc. 83–305 Filed 1–5–83; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

Chevron Phosphate Project, Vernal District, Utah, and Rock Springs District, Wyoming; Environmental Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the draft environmental impact statement (DEIS). Establishment of 60-day public review and comment period and location sites and dates for public meetings on the DEIS.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM and the State of Wyoming, Office of Industrial Siting Administration (ISA), have prepared a DEIS for a phosphate fertilizer plant project proposed for Sweetwater County in southwestern Wyoming. Components of the proposed project would also affect Uintah and Daggett Counties in northeastern Utah.

Chevron proposes to construct and operate a phosphate fertilizer plant approximately 4.5 miles southeast of Rock Springs in Sweetwater County, Wyoming. The plant would produce a combination of granular ammonium phosphate and liquid superphosphoric acid for agricultural purposes. In addition to the fertilizer plant complex, major components of the project would include a phosphate slurry pipeline extending from an existing phosphate mine north of Vernal, Utah, to the plant site; a water intake structure and pipeline from the Green River south of Green River, Wyoming; a railroad spur from Union Pacific's main line; and a county road relocation. Additional

facilities would consist of power substations, power transmission lines, and a microwave communications system. Water for the plant would be supplied from the Fontenelle Reservoir in Wyoming and, for the phosphate slurry pipeline, from an existing tailings pond at the mine site.

The required Federal actions include the issuance of rights-of-way for the linear facilities by the BLM and Forest Service and approval of a water sale contract between Chevron and the State of Wyoming by the Bureau of Reclamation.

The DEIS also analyzes the impacts of alternatives to the proposed location of the slurry pipeline, water supply line, water source, and no action.

The DEIS may require amendments to the BLM Vernal, Utah, District's Diamond Mountain and Brown's Park Management Framework Plans.

Dates

1. Comments will be accepted on the DEIS until March 15, 1983.

2. Public hearings will be held at the following places at 7 p.m.: February 15, 1983, Dutch John Conference Hall, Dutch John, Utah; February 16, 1983, Room C204, Western Wyoming Community College, Rock Springs, Wyoming.

ADDRESSES: Written comments, rquests for hearings information, summary description, and other information should be sent to Richard E. Traylor, Chevron EIS Project Leader, Bureau of Land Management, Division of EIS Services, First Floor East, 555 Zang Street, Denver, Colorado 80228, phone (303) 6737.

A limited number of single copies of the DEIS may be obtained from the above address. Copies are available for inspection at the following locations:

Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001

Bureau of Land Management, Rock Springs District Office, Highway 197 N. Rock Springs, Wyoming 82901

Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111

Bureau of Land Management, Vernal District Office, 170 South 500 East, Vernal, Utah 84078

Maxwell T. Lieurance,

State Director.

[FR Doc. 83-304 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-84-M

Carson City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Carson City District Advisory Council.

SUMMARY: The Council will meet at 9:00 a.m. Feb. 10, 1983, at the Carson City District BLM Office, 1050 E. William St., Suite 344, Carson City, Nevada.

SUPPLEMENTARY INFORMATION: The Council comprises ten members appointed by the Secretary of Interior to provide representative citizen advice to the Carson City District Manager on planning and managment of public lands and natural resources. The agenda for the meeting includes introductions, orientation of members to the Council and the Bureau, discussion of problems and issues, election of chairperson and vice chairperson, and public statements. The meeting is open to the public, and opportunity for anyone to present statements before the Council will be provided at 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Stephen A. Weiss, Public Affairs Officer, Bureau of Land Management, 1050 E. William St., Suite 335, Carson City, NV 89701; telephone (72) 882-1631.

Dated: December 28, 1982.

James W. Elliott,

Acting District Manager.

[FR Doc. 83-297 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-2763, AA-7005, AA-8228, AA-16841]

Alaska, Termination of Segregative Effect

Various Power Projects; Notice of Termination of Segregative Effect

1. In an order issued February 23, 1978, the Federal Energy Regulatory Commission vacated in its entirety the withdrawal created by the filing of S. M. Graff, of Seward, Alaska, on December 29, 1930, as amended on November 10, 1933, for the Power Project 1144.

Lowell Creek—Power Project 1144 (AA-8228)

Seward Meridian

T. 1S., R. 1W., Sec. 9,
all lands within 50 feet of the proposed and actual pipeline diverting from Lowell Creek, and west of U.S. Homestead Survey No. 703;
all lands within 100 feet of a line extending N. 79° W., 266 feet from the lower side of the intake house at the point where the center pipe emerges from the building.
(Containing approximately 10 acres.)

2. In an order issued January 8, 1973, the Federal Power Commission (now Federal Energy Regulatory Commission) vacated 38 power projects in their entirety. Power Project 297 is serialized AA-2763, Power Project 1315 is serialized AA-7005, the other 36 power projects are serialized AA-16841.

1. Project No. 63

Tongass National Forest, Alaska; Beardslee Creek, tributary to William Henry Bay, on the west side of Lynn Canal.

All lands enclosed by a line 200 feet outside the high water mark of the reservoir of approximately 175 acres formed by a log dam about 12 feet high, all lands within 100 feet of the center line of a conduit consisting of wood-stave pipe, 4,400 feet in length, extending from said dam, all lands within 100 feet of the powerhouse, and within 100 feet of a channel approximately 1,100 feet in length along North Fork of Beardslee Creek, by which water is returned from said powerhouse to Beardslee Creek, all as more fully shown and described on a map entitled "Alaska Endicott Mining and Milling Co.—Application for Preliminary Permit—Exhibit B," as filed in the office of the Federal Power Commission on January 3, 1922.

(Approximately 260 acres.)

2. Project No. 207

Little Susitna River Basin, near Palmer, Alaska.

All lands within one-fourth mile of Fishhook Creek lying between the 1400- and 1500-foot contours (datum mean sea level).

All lands within one-fourth mile of Little Susitna River lying between the 1000-and 1500-feet contours (datum mean sea level).

(Approximately 350 acres.)

3. Project No. 212

Tongass National Forest, Alaska; Chichagof Island.

All lands below the 150-foor contour, draining into two unnamed lakes and into a short stream connecting the two lakes, all located between one-half mile and 1½ miles inland from the head of Didrickson Bay; and all lands within 500 feet of the middle course of the stream approximately one-half mile long which forms the outlet of the lower of the two lakes and drains into the tidal arm at the northwest corner of Didrickson Bay; a strip of land 500 feet in width extending along the easterly shore of the tidal arm from its southerly point to the outlet of the above-mentioned creek. These features are shown on a map designated as "Exhibit 'A' " and entitled "Proposed Power Development, Hirst-Chichagof

Mining Co.," filed in the office of the Federal Power Commission on May 10, 1921.

(Approximately 250 acres.)

4. Project No. 241

Tongass National Forest, Alaska; Stream at head of Pavlof Harbor, Freshwater Bay, Chichagof Island.

All lands within the surveyed boundary of the reservoir or within 50 feet outside thereof, and all lands within 50 feet of the center line of the conduit location, all as shown and more particularly described on a map designated as "Exhibit F" and entitled "Map to Accompany Application to U.S. Forest Service for Final Permit for Water Power Project at Pavlof Harbor—Freshwater Bay—Alaska, by Freshwater Bay Lumber Co. of Douglas, Alaska," and filed in the office of the Federal Power Commission on August 16, 1921.

(Approximately 15 acres.)

5. Project No. 287 (AA–2783)

Craigie Creek, tributary to Willow Creek, Susitna River Basin, near Palmer, Alaska.

All lands within one-eighth of Craigie Creek between elevations 2,200 feet and 2,700 feet (datum mean sea level).

(Approximately 160 acres.)

6. Project No. 353

Tongass National Forest, Alaska.

All lands of the United States lying within 50 feet of the center line of the transmission line location 21,500 feet in length, extending from the town limits of Skagway, along the Skagway River, in a northerly direction to the powerhouse location, all as shown on a map designated "Exhibits J and K" and entitled "Home Power Co., Skagway, Alaska," and filed in the office of the Federal Power Commission on May 21, 1927.

(Approximately 29 acres.)

7. Project No. 402

Archangel Creek, tributary to Little Susitna River, near Palmer, Alaska.

All lands lying within one-fourth mile of Archangel Creek from the mouth of Reed Creek downstream to the junction of Archangel Creek with Little Susitna River.

(Approximately 480 acres.)

8. Project No. 404

Chugach National Forest, Alaska; Port Wells, Prince William Sound.

All lands within 50 feet of the center line of the pipeline, approximately 4,100 feet in length, extending westerly from the powerhouse on the west shore of Harrison Lagoon to the outlet of an unnamed lake on Lagoon Creek; all lands within a radius of 200 feet of the center of the powerhouse, all lands within 200 feet of the shores of the lake; all as shown on an amended map entitled "Preliminary Application for License for Minor Power Projects at Harrison Lagoon, Alaska"; filed in the office of the Federal Power Commission on December 8, 1924, and made a part of the license by Amendment No. 1, dated February 7, 1925.

(Approximately 20 acres.)

All lands of the United States lying within 50 feet of the center line of the constructed transmission line location, approximately 6,300 feet in length, extending southwesterly from the powerhouse on the west shore of Harrison Lagoon to the Granite mine stampmill as shown on the above-described map.

(Approximately 14 acres.)

9. Project No. 511

Tongass National Forest; Thumb Creek, tributary to Salmon River, near Hyder, Alaska.

Project No. 511 affected lands lying along Thumb Creek from its mouth to a point about three-fourths mile upstream. A precise boundary was not established for this project.

(Acreage not determined.)

10. Project No. 580

Tongass National Forest; Fish Creek, tributary to Salmon River, near Hyder, Alaska.

All lands within .2 of a mile of that section of Fish Creek between the south line of surveyed Fish Creek Lode Claim No. 5 (Survey No. 1482) and the Salmon River Highway, a distance of approximately .6 miles.

(Approximately 183 acres.)

11. Project No. 599

Archangel Creek, tributary to Little Susitna River, near Palmer, Alaska.

All lands lying within 100 feet of "Lower Lake" located approximately 2 miles up Archangel Creek from its confluence with Reed Creek; also all other lands lying within the project area shown on a map designated "Exhibit F" and entitled: "Map Accompanying Application of Fern Gold Mining Co., for License for Water Power Project, Archangel Creek, Willow Creek Mining District, Territory of Alaska," filed in the office of the Federal Power Commission on April 10, 1925.

(Approximately 6 acres.)

12. Project No. 731

Tongass National Forest, Alaska; Kupreanof Island, Gunnock Creek, near Kake.

All lands within the triangular shaped "Power Location" and all lands within 50 feet of the center line of the constructed conduit location 2,308 feet in length extending from said "Power Location" along Gunnock Creek northerly to the dam site; and all lands within 50 feet of the 1¼ acre storage reservoir above the dam, all as shown on a map entitled "Water Power Project, Sanborn-Cutting Co., Kake, Alaska," and filed in the office of the Federal Power Commission on July 28, 1926.

(Approximately 8 acres.)

All lands lying within 50 feet of the center line of the transmission line location extending approximately 3,740 feet between the powerhouse on Gunnock Creek and the north boundary of the patented tract known as U.S. Survey No. 963, as shown on the above-described map.

(Approximately 8 acres.)

13. Project No. 783

Tongass National Forest, Alaska; Prince of Wales Island.

All lands within 200 feet of the reservoir above the constructed dam on Chomly Creek and all lands within 50 feet of the center line of that portion of the constructed conduit extending 2,250 feet from said dam to the south boundary of the Chomly cannery site, all as shown on a certain map designated "Exhibit F" which formed a part of the license issued by the Federal Power Commission on may 24, 1927.

(Approximately 12 acres.)

14. Project No. 793

Tongass National Forest, Alaska; Baranof Island.

All lands lying within 200 feet of the marginal limits of Deep Lake, and all lands lying within 50 feet of the center line of the flume and conduit locations extending along Red Bluff Creek for a distance of approximately 1,200 feet to the Wakefield Fisheries cannery on Red Bluff Bay, all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundary Accompanying Application for License of Wakefield Fisheries, situated on north shore of Red Bluff Bay 1½ nautical miles northwest from entrance, Baranof Island," and filed in the office of the Federal Power Commission on April 12, 1927.

(Approximately 24 acres.)

15. Project No. 794 -

Tongass National Forest, Alaska; Chichagof Island.

All lands within 50 feet of the center line of the flume and conduit location extending from the 2-foot dam across

Margaret Creek for a distance of approximately 3,800 feet to the point of intersection of the pipeline with the south boundary of U.S. Survey No. 1657, the trade and manufacturing site for which patent has been applied for by the Deep Sea Salmon Co., all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundaries Accompanying Application for License of Deep Sea Salmon Co., situated on Margaret Creek, Port Althorp, No. end of Chichagof Island, Alaska," and filed in the office of the Federal Power Commission on April 12, 1927.

(Approximately 9 acres.)

16. Project No. 807

Chugach National Forest, Alaska; Knight Island.

All lands within 25 feet of the center line of the conduit location extending 1,300 feet upstream along the unnamed creek on south side of Drier Bay, Knight Island, as shown on a map designated "Exhibit E" and entitled "Map Accompanying Application of Gorman Parking Corporation for License for Water Power Project, Unnamed Creek on Drier Bay, Knight Island, Alaska," and filed in the office of the Federal Power Commission on May 18, 1927.

(Approximately 2 acres.)

17. Project No. 812

Tongass National Forest, Alaska; Prince of Wales Island.

All lands of the United States lying within 200 feet of the marginal limits of a reservoir formed by a 7-foot dam across Harris Creek, and all lands of the United States lying within 50 feet of the center line of the flume location extending 1,286 feet downstream from said dam along Harris Creek to the powerhouse location on the bank of the creek, all as shown on a map designated "Exhibit J" and entitled "Map Showing Project Boundaries Accompanying Application for License of Kasaan Gold Co., situated on Harris Creek, 1.7 miles southwest of Hollis, Twelve-mile Arm, Kasaan Bay, Prince of Wales Island, Alaska," and filed in the office of the Federal Power Commission on June 3, 1927.

(Approximately 10 acres.)

18. Project No. 840

Tongass National Forest; Spruce Creek, at the head of Windham Bay on the mainland of southeastern Alaska.

All lands within 50 feet of the center line of a proposed pipeline to extend 1,956 feet in a southerly direction from the point of intake (elevation 1,775 feet) at the 20-foot dam to be built at the outlet of a small basin in the creek valley, to the delivery point at the northwest corner of the Jacob Marty amalgamating and concentrating mill, and all lands within 50 feet of the maximum flow line of the reservoir to cover approximately 40 acres above said dam, all as shown on a map designated "Exhibit B" and entitled "Spruce Creek Power Project, Windham Bay, Tongass National Forest, Alaska, Map to Accompany Application of Jacob Marty Mines for License for Minor Project," and filed in the office of the Federal Power Commission on October 8, 1927.

(Approximately 57 acres.)

19. Project No. 876

Tongass National Forest, Alaska; Prince of Wales Island.

All lands within 50 feet of the maximum flow line of a small reservoir of 300 feet elevation, created by a constructed dam 5-feet long and 8-feet high on an unnamed creek entering the North Arm of Moira Sound, adjacent to the west side of applicant's salmon cannery at latitute 55°07' N., longitude 132°08' W., and all lands within 50 feet of the center line of the conduit line location extending 2,200 feet from said dam to a water wheel located at slightly more than tidewater elevation in the cannery building, all as shown on a map designated "Exhibit E" and entitled "The Starr Collinson Packing Co., North Arm Moira Sound, Tongass National Forest, Alaska, Map to Accompany Application for License for Minor Project," and filed in the office of the Federal Power Commission on February 4, 1928.

(Approximately 6 acres.)

20. Project No. 954

Tongass National Forest; Granite Creek, tributary to Salmon River, near Hyder, Alaska.

This project was redesignated as Project No. 1043 (described below) after a transfer of ownership.

(Acreage not determined.)

21. Project No. 1023

Tongass National Forest, Alaska; Baranof Island.

All lands within the powerhouse site and dam site; all lands within 25 feet of the center line of the pipeline location from the dam site to the powerhouse site, and approximately 1,000 feet in length; all lands within 50 feet of the maximum flow line of Cliff Lake Reservoir; all as shown on a map designated "Exhibit F" and entitled "Deep Cove Power Project, Baranof Island, Tongass National Forest, Alaska, Map to Accompany Application of the Atlas Packing Corporation for License for Minor Project, Surveyed October 3, 1928, by Wellman Holbrook," and filed in the office of the Federal Power Commission on October 3, 1929.

(Approximately 13 acres.)

22. Project No. 1043

Tongass National Forest; Granite Creek, tributary to Salmon River, near Hyder, Alaska.

All lands within the powerhouse site, 200 feet-square, and all lands within 50 feet of the constructed diversion dam on Granite Creek; all lands within 50 feet of the center line of the flume and pipeline extending from the diversion dam to the powerhouse; all lands lying within 50 feet of the center line of the transmission line location extending from the powerhouse to the town of Hyder; all as shown on a map designated "Exhibit F" and entitled "Granite Creek Project, Tongass Power and Light Co., Hyder, Alaska," and filed in the office of the Federal Power Commission on December 16, 1929.

(Approximately 33 acres.)

23. Project No. 1082

Tongass National Forest, Alaska; Prince of Wales Island.

All lands lying within the project boundaries surrounding the small diversion dam on Linkum Creek, and all lands lying within 50 feet of the center line of the pipeline location along said creek between the dam and the boundary line of U.S. Survey No. 280; all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundaries Accompanying Application for License of Booth Fisheries Co., situated on Linkum Creek, Kasaan Bay, East Coast of Prince of Wales Island, Southeast Alaska," and filed in the office of the Federal Power Commission on April 15, 1930.

(Approximately 1 acre.)

All lands of the United States on the North Shore of Kasaan Bay lying within 50 feet on either side of the pipeline location and extending approximately 200 feet beyond the diversion dam on Linkum Creek, all as shown on a map designated "Exhibit F" and entitled "Map Accompanying Application of the Pacific American Fisheries Inc., for Amendment of License No. 1082 for a Water Power Project on Linkum Creek, Kasaan Bay, East Coast of Prince of Wales Island—Territory of Alaska," and filed in the office of the Federal Power Commission on April 30, 1937.

(Approximately 7.00 acres.)

24. Project No. 1085

Tongass National Forest; Glory Creek, near Port Houghton on the mainland of southeastern Alaska.

All lands of the United States lying within 100 feet of Glory Creek from its mouth to the proposed dam site, a distance of approximately three-quarters of a mile; and all lands of the United States lying within 750 feet of Glory Creek from the proposed dam site to a point three-quarters of a mile above the dam site; all as shown on a map designated and entitled "Exhibits H and I, Glory Creek Project," and filed in the office of the Federal Power Commission on April 21, 1930.

(Approximately 154 acres.)

25. Project No. 1098

Snowbird Creek, a tributary of Anchorage Bay, an arm of Chignik Bay, on the south coast of the Alaska Peninsula.

All United States lands lying within 100 feet of the timber diversion dam on Snowbird Creek, and within 100 feet of the center line of a wood pipeline 1,480 feet in length from diversion dam to the boundary of trade and manufacturing site (U.S. Survey No. 306), all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundaries Accompanying Application for License of Booth Fisheries Co. Situated on Snowbird Creek, Anchorage Bay, an arm of Chignik Bay, Alaska Peninsula, Alaska," and filed in the office of the Federal Power Commission on June 5, 1930.

(Approximately 4 acres.)

26. Project No. 1162

Tongass National Forest, Alaska; Burnof Island.

All lands within 100 feet of the flume pipeline, and all lands within 100 feet of the unnamed creek between the diversion dam and a point 200 feet upstream, except lands included within the Northwestern Herring Company cannery site; all as shown on a map designated "Exhibits C & F" and entitled "Northwestern Herring Company, Port Conclusion, Alaska," and filed in the office of the Federal Power Commission on April 9, 1931.

(Approximately 7 acres.)

27. Project No. 1204

Chugach National Forest; Hanley Creek, a tributary to McClure Bay, Port Nellie Juan, Alaska.

All lands within 50 feet of the center line of the flume and pipeline extending from the present diversion dam to the east boundary of cannery site of the Copper River Packing Company, under special use permit by the Forest Service, and all lands within 50 feet of Hanley Creek between Hanley Lake and the present diversion dam; all as shown on a map designated "Exhibit F" and entitled "Map Showing Project Boundaries Accompanying Application for License (Minor Project) of Copper River Packing Company," and filed in the office of the Federal Power Commission on April 2, 1932.

(Approximately 5 acres.)

28. Project No. 1207

Chaugach National Forest; Sahlin Creek, Triubtary to Sheep Bay, about 13 miles northwest of Cordova, Alaska.

All lands within 25 feet of the center line of the flume and pipeline extending from Sahlin Creek to a sawmill on the shore of Sheep Bay, and all lands embraced in the powerhouse site on Sheep Bay adjacent to the mouth of Sahlin Creek; all as shown on a map designated "Exhibit E" and entitled "Sahlin Creek Power Power Project, Sheep Bay, Chugach National Forest, Alaska, Map to Accompany Application of H.G. Cloes for License for Minor Project," and filed in the office of the Federal Power Commission on May 9, 1932.

(Approximately 1 acre.)

29. Project No. 1230

Chugach National Forest; Stevens Creek, tributary to Orca Inlet, Alaska.

All lands within 50 feet of the center line of the tunnel, flume, and pipeline, extending from an intake on Stevens Creek to and beyond the shore of Orca Inlet, and all lands within 50 feet of the intake and main water wheel; all as shown on a map designated "Exhibit E" and entitled "Premier Salmon Company, Alaska, Chugach National Forest, Map to Accompany Application for License for Minor Project," and filed in the office of the Federal Power Commission on December 13, 1932.

(Approximately 2 acres.)

30. Project No. 1286

Tongass National Forest; Prince of Wales Island, Tunnel Creek, near Dolomi Bay, Alaska.

All lands of the United States lying within 200 feet of the normal water levels of Upper and Lower Lakes; and all lands of the United States lying within 1,000 feet of the normal water level of Paul Lake from the old mouth of the creek to a point 3,500 feet eastward therefrom; all as shown on a map entitled "General Map & Profile, Tunnel Creek Project, Dolomi, Alaska, of the B.C. Alaska Mines American Inc., Ketchikan, Alaska, dated July 1934," and filed in the office of the Federal Power Commission on August 6, 1934.

(Approximately 46 acres.)

31. Project No. 1315 (AA–7005)

Dahl Creek, near Hood Bay, Admiralty Island, Alaska.

All lands of the United States on the north shore of Hood Bay included within the project boundaries surrounding the powerhouse site and the intake dam on Dahl Creek; also all lands within 20 feet of each side of the center line of the pipeline location between the dam and powerhouse; all as shown on the project map designated "Exhibit A" and filed in the office of the Federal Power Commission on May 23, 1935.

(Approximately 1 acre.)

32. Project No. 1322

Unnamed Lake near Port Hobron, Sitkalidak Island, Alaska.

All lands of the United States lying within the project boundary as shown on a map designated "Exhibit H" and entitled "Map Accompanying Application of Chirikof Island Cattle Company for Preliminary Permit for Water Project on a Small Unnamed Lake on Sitkalidak Island, Alaska," and filed in the office of the Federal Power Commission on July 23, 1935.

(Acreage not determined.)

33. Project No. 1357

Tongass National Forest; Goemere Creek (Box Canyon), tributary to Washington Bay, Kuiu Island, Alaska.

All lands of the United States on the north shore of Washington Bay lying within 50 feet of the dam on Box Canyon and all lands lying within 50 feet of the center line of each of two pipeline locations leading from the diversion dam to the fish-packing plant, all as shown on a map designated "Exhibit F" and entitled "Storfold and Grondahl Packing Company, Kuiu Island, Alaska, Tongass National Forest, Map to Accompany Application for License for Minor Project, Survey by J.M. Wyckoff, P.R. May 25, 1932," and filed in the office of the Federal Power Commission on December 18, 1935.

(Approximately 1.5 acres.)

34. Project No. 1429

Kodiak Island, Alaska.

All lands of the United States on the west shore of Uyak Bay lying within 50 feet on either side of the pipeline location and extending 50 feet beyound the flood area above the diversion dam, as shown on a map entitled "Domenici Power Project, Uyak Bay, Kodiak Island, Alaska, Map to Accompany Application of Herbert T. Domenici for License for Minor Project, Surveyed July 20, 1936, by Harold E. Smith, Dist. Ranger," and filed

in the office of the Federal Power Commission on March 31, 1937.
(Approximately 3.26 acres.)

35. Project No. 1880

Chugach National Forest; Hanley Creek, tributary to McClure Bay, Port Nellie Juan, Alaska.

All lands lying within a strip 100 feet in width embracing the dam pipeline, powerhouse, and transmission line right-of-way locations, and all lands lying within a line parallel to and 50 feet distant, horizontal measurement, from the mean high water level of Hanley Lake, all as shown on a revised map designated "Exhibts J, K, and L" and entitled "Map Showing Project Boundaries Accompanying Application for License (Major Project) of Copper River Packing Company," and filed in the office of the Federal Power Commission on January 26, 1943.
(Approximately 45.9 acres.)

36. Project No. 1947

Gull Rock Creek (Johnson Creek), tributary to Turnagain Arm of Cook Inlet, about 6 miles Northwest of Hope, Alaska.

All lands of the United States lying within the project boundary surrounding the dam, flume, penstock, pipelines, powerplants, and tailraces, as shown on a map designated "Exhibit K" and entitled "Map to Accompany Application for License for Minor Project of E. M. Turpin on Gull Rock Creek—Turnagain Arm, Alaska," and filed in the office of the Federal Power Commission on March 15, 1946.
(Approximately 1.582 acres.)

37. Project No. 1969

Chena Slough, near Fairbanks, Alaska.

All lands of the United States lying within the project boundary as shown on a map designated "Exhibt K" and entitled "Power Project of Cline S. Koonz, Fairbanks, Alaska," and filed in the office of the Federal Power Commission on June 3, 1947.
(Acreage not determined.)

38. Project No. 2046

Unnamed Stream at the head of Bear Cove, an arm of Kachemak Bay, Kenai Peninsula, Alaska.

Project No. 2046 affected lands lying along the unnamed stream at the head of Bear Cove. A precise boundary was not established for this project.
(Acreage not determined.)

The above described lands are hereby relieved of the segregative effect of the withdrawal for the power projects, and are hereby restored to operation of the applicable public land laws, subject to valid existing rights and the provisions of existing withdrawals. If any of the above described lands are subject to Public Land No. 5418 of March 25, 1974 they are also made subject to the terms and conditions of, and are withdrawn by, Public Land Order No. 6092 of November 20, 1981 which made certain lands available for selection by the State of Alaska.

Robert E. Sorenson,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-300 Filed 1-5-83; 8:45 am]
BILLING CODE 4310-84-M

[Serial Number F-13951]

Alaska; Termination of Proposed Withdrawal and Reservation of Lands

The U.S. Fish and Wildlife Service filed application F-13951 on May 25, 1971, for the withdrawal of approximately 876 acres of public lands lying within the Arctic National Wildlife Range. The lands were formerly withdrawn for DEW line sites by the Department of the Air Force and later transferred to the Department of the Navy.

Notice was published in the **Federal Register** August 31, 1971 (Vol. 36, No. 169, FR Doc 71-12700 filed 8/30/71), and republished on June 23, 1977 (Vol. 42, No. 121, FR Doc. 77-17905 filed 6/22/77).

Pursuant to Section 303 "Additions to Existing Refuges" of Public Law 96-487 of December 2, 1980, these lands are now part of the Arctic National Wildlife Refuge. Therefore, this proposed withdrawal is no longer necessary and is hereby terminated. The lands remain part of the Arctic National Wildlife Refuge under the jurisdiction of the U.S. Fish and Wildlife Service.

Dated December 28, 1982.

Robert E. Sorenson,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-300 Filed 1-5-83; 8:45 am]
BILLING CODE 4310-84-M

[OR 24650 (Wash.)]

Realty Action—Sale; Public Land in Yakima County, Washington

The following described land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2743, 2750, 43 U.S.C. 1713), at no less than the appraised fair market value shown:

Willamette Meridian, Washington
T. 10 N., R. 22 E., Section 32

Parcel No.	Legal description	Acreage	Value
1	N½NW¼	80.00	$23,200
2	S½NW¼	80.00	18,000
3	SW¼NE¼, NW¼SE¼	80.00	11,100

The sale will be held on March 8, 1983, in Room 232 at the Yakima County Courthouse, North 1st and B Streets, Yakima, Washington. Registration of bidders will begin at 1:00 p.m. and the sale will start upon completion of registration.

These parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another federal agency. There are no significant resource values which will be affected by this disposal and the sale of these parcels will allow agricultural development of suitable portions. There is no legal access to these parcels. The sale is consistent with the BLM's planning for the land involved and the public interest would be served by offering this land for sale.

Patent reservations applicable to this sale are:

1. A reservation to the United States for ditches and canals (43 U.S.C. 945).

2. All mineral rights will be reserved to the United States (43 U.S.C. 1719).

3. Patent to Parcel No. 1 will be issued subject to power line right-of-way W-04068 to Benton Rural Electric Association.

The above described land will be offered for sale by sealed and oral bids using competitive bidding procedures (43 CFR 2711.3-1). No bid will be accepted for less than the appraised value, and bids for a parcel must include all the land in the parcel. Federal law requires that individuals be 18 years of age or over and U.S. citizens, and corporations be subject to the laws of any State of the United States.

Bids must be made by the principal or his duly qualified agent, by either: (1) Sealed bids mailed or delivered to the Spokane District Office, or (2) oral bids made at the sale. Bids delivered or sent by mail must be received at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202, before 4:00 p.m., March 4, 1983, to be considered. Each sealed bid must be accompanied by certified check, postal money order, bank draft, or cashier's check, made payable to the Bureau of Land Management for not less than one-fifth of the amount of each bid. The sealed envelope must be marked in the lower left-hand corner as follows: "Public Sale Bid Parcel No. —, Serial No. OR 24650. Sale held March 8, 1983."

If two or more envelopes are received containing valid bids of the same amount for the same parcel, the successful bid shall be determined by drawing. The highest qualifying sealed bid on each parcel will determine the base of the oral bidding conducted the day of the sale. The highest bid price, either sealed or oral, will be the sale price. The successful bidder will be required to pay one-fifth the full sale price immediately at the close of the sale and the remainder within 30 days. Failure to submit the full sale price within 30 days shall cancel sale of the specific parcel and the bidder's deposit will be forfeited. All unsuccessful bids will be returned within 30 days of the sale date.

Detailed information concerning the sale, including the planning documents, land report, environmental assessment, and fair market appraisal, is available for review at the Bureau of Land Management, Spokane District Office, at the above address.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Spokane District Manager, at the above address. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, the realty action will become the final determination of the Department of the Interior.

Date of issue: December 29, 1982.

Roger W. Burwell,
District Manager.

[FR Doc. 83-289 Filed 1-5-83; 8:45 am]
BILLING CODE 4310-84-M

[INT DES 82-50]

Arizona Strip Wilderness Study Areas Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of draft environmental impact statement (draft EIS).

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, BLM has prepared a draft EIS on the Proposed Wilderness Program for the Arizona Strip District, Coconino and Mohave Counties, Arizona. The EIS also addresses one wilderness study area in Washington County, Utah.

The draft EIS analyzes 41 WSAs and 3 ISAs (Instant Study Areas) which were not covered by an earlier EIS.

The Proposed Action (Preferred Alternative) recommends as suitable for inclusion in the National Wilderness Preservation System all or portions of 8 wilderness study areas (WSAs). The total public land in the 8 areas is 26,186 acres. The following table lists the WSAs and the total suitable and nonsuitable WSA acres.

There are 4 additional alternatives analyzed in the draft statement. They are: All Wilderness (41 WSAs and 3 ISAs, 774,148 acres), Wildland Preservation (21 WSAs, 531,268 acres), Enhanced Wilderness (13 WSAs, 175,107 acres) and No Wilderness (no action).

PROPOSED ACTION
[BLM's Preferred Alternative]

Wilderness study areas		Public land acres		
No.	Name	WSA	Suitable	Nonsuitable
005	Starvation Point	27,212	0	27,212
006A	Ferry Swale	7,370	0	7,370
006B	Judd Hollow	506	506	0
006C	Paria Rim	106	106	0
006D	Cedar Mountain	12	12	0
008A/19	Paria Plateau	104,986	2,880	102,106
008B	Overlook	7,346	0	7,346
009	Emmett Wash	12,913	0	12,913
031	Kanab Creek	39,242	0	39,242
033A	Heck Canyon	63,682	12,531	51,151
034	Robinson	9,441	0	9,441
050	Tonweap	5,312	0	5,312
051	Mt. Logan	5,503	0	5,503
052	Mt. Trumbull	7,285	7,285	0
091	Poverty Mountain	7,872	0	7,872
093	Parashaunt	26,938	0	26,938
095A	Denail Canyon	294	0	294
096C	Grassy Mountain	5,503	0	5,503
096D	Andrus Canyon	48,248	0	48,248
097	North Dellenbaugh	10,678	0	10,678
099	G & F	640	0	640
104A	Salt House	13,465	0	13,465
104B	Mustang Point	25,912	0	25,912
105A	Nevershine Mesa	19,457	0	19,457
105B	Snap Point	9,500	0	9,500
105C	Tincanebitts	2,715	0	2,715
107	Grand Gulch	8,141	0	8,141
109	Pigeon Canyon	33,348	0	33,348
111	Last Chance	33,065	0	33,065
112	Grand Wash Cliffs	31,503	0	31,503
114	Pakoon Springs	24,832	0	24,832
119	Hidden Rim	16,563	0	16,563
124	Hobble Canyon	11,825	0	11,825
127	Ide Valley	7,970	0	7,970
128	Sand Cove	40,061	0	40,061
129	Virgin Mountains	37,531	0	37,531
130	Virgin River	1,440	1,440	0
132	Purgatory	7,557	0	7,557
134	Lime Hills	12,610	1,426	11,184
135	Narrows	7,725	0	7,725
136	Mt. Emma	6,460	0	6,460
ISA-3	Vermilion Cliffs	14,671	0	14,671
ISA-4	Big Sage	166	0	166
ISA-5	Turbinella-Gambel Oak	154	0	154
Totals	44	774,148	26,186	747,962

SUPPLEMENTARY INFORMATION: BLM invites written comments on the draft EIS to be submitted within 60 days of its filing with the Environmental Protection Agency. Comments should be sent to the District Manager, Bureau of Land Management, Arizona Strip District Office, 196 East Tabernacle, P.O. Box 250, St. George, Utah 84770.

A limited number of draft EIS copies may be obtained upon request to the District Manager at the above address.

Public reading copies may be reviewed at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, Telephone (202) 343-5717

Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, Telephone (602) 261-3706

Arizona Strip District Office, Bureau of Land Management, 196 East Tabernacle, P.O. Box 250, St. George, Utah 84770, Telephone (801) 673-3545

BLM will receive oral and written comments at the formal public hearings to be held on February 1, 1983 in Flagstaff, Arizona, February 2, 1982 in Kingman, Arizona, and February 3, 1983 in St. George, Utah. The Flagstaff hearing will be set at 7:30 p.m. at the Evergreen Motel. The Kingman hearing

will be held at 7:30 p.m. at the Mohave County Fairgrounds. The St. George hearing will be held at 7:30 p.m. at the Four Seasons Convention Center.

A solicitor from the Department of the Interior will preside over the hearings. Witnesses presenting oral comments should limit their testimony to 10 minutes. Those wanting to testify should send a written request to the District Manager, Bureau of Land Management, Arizona Strip District, 196 East Tabernacle, P.O. Box 250, St. George, Utah 84770.

BLM will give written and oral comments on the draft EIS equal consideration during preparation of Final EIS.

Dated: December 29, 1982.

G. William Lamb,

District Manager.

[FR Doc. 83-345 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Gulf of Mexico Outer Continental Shelf; Availability of Final Regional Environmental Impact Statement Regarding Proposed Gulf of Mexico Oil and Gas Lease Sale Nos. 72, 74, and 79

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a final regional environmental impact statement (EIS) relating to proposed oil and gas lease Sale Nos. 72, 74, and 79. The proposal involves the offering of all unleased blocks on the Outer Continental Shelf (OCS) in the Gulf of Mexico.

Single copies of the final regional EIS can be obtained from the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, P.O. Box 7944, 3301 N. Causeway Boulevard, Metairie, Louisiana 70010.

Copies of the final regional EIS will also be available for review in the following public libraries: Austin Public Library, 401 West Ninth Street, Austin, TX; Houston Public Library, 500 McKinney Street, Houston, TX; Rosenberg Library, 2310 Sealy Street, Galveston, TX; Dallas Public Library, 1954 Commerce Street, Dallas, TX; Brazoria County Library, 410 Brazosport Boulevard, Freeport, TX; LaRatama Library, 505 Mesquite Street, Corpus Christi, TX; Texas Southmost College Library, 80 Fort Brown Street, Brownsville, TX; New Orleans Public Library, 219 Loyola Avenue, New Orleans, LA; Louisiana State Library, Baton Rouge, LA; Lafayette Public Library, 301 West Congress Street, Lafayette, LA; Calcasieu Parish Library, Downtown Branch, Lake Charles, LA; Harrision County Library, 21st Avenue and Beach Street, Gulfport, MS; Mobile Public Library, 701 Government Street, Mobile, AL; Montgomery Public Library, 445 South Lawrence Street, Montgomery, AL; St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg, FL; West Florida Regional Library, 200 West Gregory Street, Pensacola, FL; Northwest Regional Library System, 25 West Government Street, Panama City, FL; Leon County Public Library, 127 North Monroe Street, Tallahassee, FL; Lee County Library, 3355 Fowler Street, Fort Myers, FL; Charlotte-Glades Regional Library System, 801 NW Aaron Street, Port Charlotte, FL; and Tampa-Hillsborough County Public Library System, 800 North Ashley Street, Tampa, FL.

David C. Russell,

Deputy Director, Minerals Management Service.

Approved: December 30, 1982.

John H. Farrell,

Acting Director Environmental Project Review.

[FR Doc. 83-350 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-MR

National Park Service

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden National Recreation Area Advisory Commission will be held at 7:30 p.m. (PST) on Wednesday, January 19, 1983, at the GGNRA Headquarters, Building 201, Fort Mason, San Francisco, California.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin and San Francisco counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Berger Benson
Mr. Fred Blumberg
Ms. Margot Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Burr Heneman
Mr. John Jacobs
Ms. Gimmy Park Li
Mr. John Mitchell
Mr. Merritt Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

Major agenda items for this meeting will be Muir Woods concession expansion, Hyde Street Pier redevelopment, and an update on the Delta King proposal.

The meetings are open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact John H. Davis, General Superintendent of the Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123; telephone (415) 556-2920.

Minutes of this meeting will be available for public information by February 21, 1983 in the Office of the Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, California 94123.

Dated: December 16, 1982.

John D. Cherry,

Acting Regional Director, Western Region.

[FR Doc. 83-350 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-70-M

National Capital Memorial Advisory Committee; Committee Renewal

This notice is published in accordance with the provisions of Section 7(a) of the Office of Management and Budget Circular A63 (revised). Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), the Secretary of the Interior has determined that renewal of the National Capital Memorial Advisory Committee is necessary and in the public interest.

The purpose of the committee is to advise the Secretary of the Interior on broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital Region.

The General Services Administration concurred in the renewal of this committee on December 20, 1982.

Further information regarding this committee may be obtained from Shirley M. Luikens, Advisory Boards and

Commissions, National Park Service, Department of the Interior, Washington, D.C. 20240 (202–343–2012).

Dated: December 21, 1982.

Robert A. Ritsch,

Associate Director, Recreation Resources, National Park Service.

[FR Doc. 83-365 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

[INT-DES 82-81]

Lower Gunnison Basin, Unit, Colorado River Water Quality Improvement Program; Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a proposed feasibility report/draft environmental statement on a proposed salinity control project that would reduce salt loading to the Colorado River system by lining canals and laterals in Delta and Montrose Counties in western Colorado. Written comments may be submitted to the Regional Director by March 31, 1983.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, D.C. 20240, telephone: (202) 343–4501.

Division of Management Support, General Service, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, Colorado 80225, telephone: (303) 234–3019.

Regional Director, Bureau of Reclamation, Upper Colorado Regional Office, P.O. Box 11568, Salt Lake City, Utah 84147, telephone: (801) 524–5592.

Grand Junction Projects Office, Bureau of Reclamation, 764 Horizon Drive, Grand Junction, Colorado 81501, telephone: (303) 243–4892.

Montrose Projects Office, Bureau of Reclamation, P.O. Box 1390, Montrose, Colorado 81401, telephone: (303) 249–9687.

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, or the Regional Director at the above addresses. Copies will also be available for inspection in libraries in the project vicinity.

Dated: December 30, 1982.

Jed D. Christensen,

Acting Commissioner.

[FR Doc. 83-366 Filed 1-5-83; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the second meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on January 24 and 25, 1983.

The purpose of the meeting is to develop and adopt an agenda for JCARD activities in 1983; and consider issues related to AID policy on International Agricultural Research Centers.

The meeting will convene from 1:00 p.m. to 5:00 p.m. on January 24, and 9:00 a.m. to 5:00 p.m. on January 25. The meeting will be held in the Holiday Inn, 1850 N. Fort Myer Drive, Rosslyn, Virginia. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, D.C. 20523 or telephone him at (202) 632–8532.

Dated: January 3, 1983.

John Stovall,

A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Research and Development, Board for International Food and Agricultural Development.

[FR Doc. 83-373 Filed 1-5-83; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of; Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier,

motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team Four at (202) 275–7669.

Volume No. OP4–096

Decided: December 30, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 103967 (Sub-33), filed December 22, 1982. Applicant: CARRIER VAN SERVICE, INC., 3041 Paseo, Kansas City, MO 64109. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *household goods*, between points in the U.S. (except ME, AK and HI).

MC 115557 (Sub-45), filed December 21, 1982. Applicant: CHARLES A. McCAULEY, 308 Leasure Way, New Bethlehem, PA 16242. Representative: Verne T. Mahood (same address as applicant), (814) 385–5811. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 127306 (Sub-18), filed December 22, 1982. Applicant: M. W. McCURDY & CO., INC., 401 Nora's Lane, Houston, TX 77022. Representative: Daniel O. Hands, 104 S. Michigan Ave., Suite 410, Chicago, IL 60603, (312) 641–1944. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 154907 (Sub-7), filed December 14, 1982. Applicant: THE BUCK COMPANY, 631 W. Cherry St., Wayland, MI 49348. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Distributors Freight Brokers, Inc., of Wayland, MI.

MC 164177 filed December 21, 1982. Applicant: BRANDY SERVICE, INC., Rural Rt. 6, Box 116C, Shelbyville, IN 46176. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *food and related products*, between points in the IN, on the one hand, and, on the other, points in GA, IL, IN, KY, MI, MN, MO, OH, PA, TN, and WI.

MC 165328, filed December 21, 1982. Applicant: BUCKBOARD EXPRESS, INC., P.O. Box 527, Woodburn, OR 97071. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 271–2480. Transporting (1) *lumber and wood products*, (2) *food and related products*, and (3) *such commodities* as are dealt in or used by animal specialty businesses, between points in CA, OR, WA, on the one hand, and, on the other, points in AZ, ID, CO, IL, IN, MT, NM, NV, OH, UT, and WY.

For the following, please direct status calls to Team 5 (202) 275–7289.

Volume No. OP5–301

Decided: December 23, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF 638, filed December 13, 1982. Applicant: CARGO LINK EXPRESS, 4980 Amelia Earhart Drive, Salt Lake City, UT 84116. Representative: Eldon E. Bresee, 2881 East 3400 South, Salt Lake City, UT 84109, (801) 485–5154. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, IL, IN, LA, MA,MD, MT, NV, NM, NJ, NY, OK, OR, TX, UT, VA, WA, and WY.

MC 59679 (Sub-183), filed December 16, 1982. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW, Atlanta, Ga 30315. Representative: B.K. McClain, 125 Milton Ave., SE, Atlanta, GA 30315, (404) 622–5383. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kraft, Inc., of Glenview, IL.

MC 79658 (Sub-40), filed December 9, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424–2222. Transporting (1) *household goods*, (2) *computer, data processing and sensitive electronic equipment*, and (3) *office furniture, machines, and equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with The BFGoodrich Company, of Akron, OH.

MC 133478 (Sub-31), filed December 9, 1982. Applicant: INTERSTATE TRANSPORT, INC., 6700 SW Elligsen RD, Suite 10, P.O. Box 23727, Wilsonville, OR 97070. Representative: Peter H. Glade, 1 SW Columbia, Suite 555, Portland, OR 97258, 503–227–1661. Transporting *building materials*, between points in the U.S. (except AK and HI).

MC 147949 (Sub-8), filed December 15, 1982. Applicant: ROEDER CARTAGE COMPANY, INCORPORATED, 1979 N. Dixie Hwy, Lima, OH 45801. Representative: James Duvall, 220 W. Brides St., P.O. Box 97, Dublin, OH 43017 (614) 889–2531. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 148199 (Sub-4), filed December 12, 1982. Applicant: T. G. AND J. C. GARLAND d.b.a. AQUARIAN LINES, RT. 1 Box 261,Van Alstyne, TX 75095. Representative: T. G. Garland (Same address as applicant) 214–482–6304 or 405–235–8808. Over regular routes; Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between Tulsa, OK and Amarillo,

TX over U.S. Hwy 66, serving all intermediate points.

MC 151018, filed November 29, 1982. Applicant: H. C. BERGER TRUCKING CO., INC., 210 Kingston Dr., Pittsburgh, PA 15235. Representative: Harry C. Berger III (Same address as applicant) (412) 823–3345. Transporting (1) *building materials,* and *machinery,* between points in the U.S., under continuing contract(s) with (a) Consolidated Enterprises, Inc., of Bethel Park, PA, and (b) Koolvent Aluminum Products, Inc., of Pittsburgh, PA, and (2) *malt beverages* and *malt beverage containers,* between points in the U.S., under continuing contract(s) with Alfred M. Lutheran Distributors, of Munhall, PA.

MC 154019, filed December 16, 1982. Applicant: MICHAEL P. DUNN d.b.a. MILLER TRANSPORTATION, 750 No. Madison St., Rockford, IL 60017. Representative: Martin J. Kennedy, 120 West Madison St., Suite 1306, Chicago, IL 60602 (312) 726–0375. Transporting (1) *rubber abd plastic products* under continuing contract(s) with The Goodyear Tire & Rubber Company of Akron, OH, and The Kelly-Springfield Tire Company of Cumberland, MD, and (2) *pulp, paper and related products,* under continuing contract(s) with Longview Fibre Corporation of Rockford, IL between points in the U.S.

MC 156899 (Sub-1), filed December 13, 1982. Applicant: CAROL DIXON, d.b.a. CAD BUILDING SUPPLIES, 9715 N. E. Prescott, Portland, OR 97220. Representative: Carol Dixon (same address as applicant) (503) 253–9813. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, ID, MT, NV, OR, and WA, on the one hand, and, on the other, points in AL, AR, IL, IN, KY, MI, MT, MS, NV, PA, TN, UT, and WI.

MC 158069 (Sub-1), filed November 22, 1982. Applicant: DUPRE TRANSPORT, INC., I–49 South, Opelousas, LA 70580. Representative: David J. Holpern, 3636 N. Causeway, Suite 100, Metairie, LA 70002 (504) 835–6705. Transporting *petroleum products,* between points in LA, on the one hand, and, on the other, points in MS and TX.

MC 160279 (Sub-6), filed December 14, 1982. Applicant: MBPXL TRANSPORTATION, INC., P.O. Box 2519, Wichita, KS 67201. Representative: James T. Ferguson (same address as applicant) (316) 262–2066.Transporting *equipment, parts, and materials used in the* manufacture, assembling and repair of automotive buses, between points in the U.S. (except AK and HI), under continuing contract(s) with Transportation Manufacturing Corporation and Romex, Inc. Both of Rosewell, NM.

MC 161189, filed December 9, 1982. Applicant: MALLET'S GATEWAY TERMINAL, INC., Chartier's Industrial Park, 2150 Rosewell Drive, Pittsburgh, PA 15205. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219 (412) 471–1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, WV, MD, NY, and PA.

MC 163478, filed December 16, 1982. Applicant: MULTI-MODAL TRANSPORTS, INC., 3215 Tulane, Memphis, TN 38116. Representative: Warren A. Goff, 109 Madison Avenue, Memphis, TN 38103 (901) 526–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163618, filed December 7, 1982. Applicant: SAFEWAY CAB COMPANY, INC., 812 Bland St., Bluefield, WV 24701. Representative: J. W. Barringer, P.O. Box 1459, Bluefield, WV 24701, 304–327–8193. Transporting *railroad workers,* between Mercer County, WV and Wise, Buchanan, Lee, Dickinson, Tazewell, Bland, and Roanoke Counties, VA, and McDowell, Wyoming, Mingo, and Logan Counties, WV, under continuing contract(s) with Norfolk And Western Railway Company (Bluefield Division) Bluefield, WV.

MC 164218, filed December 13, 1982. Applicant: CONTAINER MAINTENANCE SERVICE, INC., P.O. Box 24781, Houston, TX 77029. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706 (713) 898–8086. Transporting *general commodities* (except classes A and B explosives and household goods), between Galveston and Houston, TX, on the one hand, and, on the other, points in TX.

MC 165138, filed December 9, 1982. Applicant: MLB DELIVERY, INC., 833 Main St., Carmel, IN 46032. Representative: Harold C. Jolliff, 3242 Beech Dr., Columbus, IN 47201, 812–379–2556. Transporting *motor vehicle cargo and passenger vans,* between points in the U.S. (except AK and HI), under continuing contract(s) with Century Motor Coach, Inc., and Citation Motor Coach, Inc., both of Elkhart, IN.

MC 165169, filed December 13, 1982. Applicant: JOHN A. RUFF d.b.a. JOHN RUFF DISTRIBUTORS, 7300 Thorpe Rd., Belgrade, MT 59714. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103 (605) 335–1777. Transporting *lumber and wood products,* between points in AR, CA, CO, ID, LA, MT, OK, OR, TX, WA, and WY, on the one hand, and, on the other, points in IA, IL, IN, KS, KY, MI, MN, MO, MT, ND, NE, SD, TN, WI, and WY.

MC 165189, filed December 14, 1982. Applicant: LARANETA TRUCKING CO., INC., 716 Tuna St., Terminal Island, CA 90731. Representative: L. Allan Songstad, Jr., 5190 Campus Drive, Newport Beach, CA 92660 (714) 752–8995. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CA under continuing contract(s) with Star Kist Foods, Inc., of Terminal Island, CA.

MC 165208, filed December 14, 1982. Applicant: LINDSEY TRANSPORT SERVICE, INC., 3465A Bayliss, Memphis, TN 38122. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103 (901) 526–2900. Transporting *petroleum products* between points in Crittenden County, AR, on the one hand, and, on the other, points in TN.

Volume No. OP5–303

Decided: December 27, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 79658 (Sub-43), filed December 15, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant) (812) 424–2222. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 165119, filed December 9, 1982. Applicant: DAVID J. MIZENIS, JOHN R. NOLAN and WILLIAM PETERSON, d.b.a. TIMBERLINE TRUCKING, 190 Timberland Rd. Clarksboro, NJ 08020. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, 215–561–1030. Transporting *farm products,* and *food and related products,* between Albany, and New York, NY, Philadelphia, PA, Wilmington, DE, Baltimore, MD, Norfolk, VA, and Charleston, SC, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, TN, and MS.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–316 Filed 1–5–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision-Notice

In the matter of; Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper *"under contract."*

Please direct status inquiries to Team Four at (202) 275–7669.

Volume No. OP4–097

Decided: December 30, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 58177 (Sub-9), filed December 21, 1982. Applicant: SOUTHERN COACH COMPANY, 1300 E. Pettigrew St., P.O. Box 11345, Durham, NC 27703. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers* , in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 158027 (Sub-1), filed December 22, 1982. Applicant: FRANKLIN CHARTER BUS, INC., 4115 Dorforth Dr., Fairfax, VA 22030. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th St., N.W., Washington, DC 20004, (202) 737–1030. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5-302

Decided: December 23, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 29839 (Sub-9), filed December 6, 1982. Applicant: EVERGREEN STAGE LINES, INC., P.O. Box 17306, Portland, OR 97217. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, 503–226–3755. Transporting *passengers*, in charter and special operations, between points in the U.S. (excluding HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 31558 (Sub-2), filed December 7, 1982. Applicant: McINTIRE TRANSPORTATION, INC., 24 Bennett Hwy., U.S. Route 1, Saugus, MA 01096. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *passengers*, in special or charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 34319 (Sub-13), filed December 13, 1982. Applicant: A.B.C. COACH LINES, INC., 316 W. Howard St., Muncie, IN 47305. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded special and charter transportation.

MC 52448 (Sub-1), filed December 16, 1982. Applicant: PARKLANE BUS COMPANY, INC., 50 Parkside Lane, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *passengers*, in charter operations, beginning and ending at New York, NY, and points in Bergen, Essex, Hudson, Middlesex, Passaic, and Union Counties, NJ, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 63838 (Sub-19), filed December 13, 1982. Applicant: BOLUS FREIGHT SYSTEMS, INC., 700 N. Keyser Ave., Scranton, PA 18508. Representative: Raymond Talipski, 121 S. Main St.,

Taylor, PA 18517, (717) 344–8030. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 123678 (Sub-1), filed December 13, 1982. Applicant: DEERFIELD-HIGHLAND PARK TRANSIT, INC., 1134 North Skokie Hwy, Route 41, P.O. Box 514, Gurnee, IL 60031. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *passengers*, in charter and special operations, beginning and ending at points in IL, IN, MI, and WI, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 141499 (Sub-2), filed December 15, 1982. Applicant: FLORIDA TRAILS, INC., d.b.a. ANNETT TRAILWAYS, P.O. Box 33, Sebring, FL 33870. Representative: Lawrence E. Lindeman, 4000 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 145169 (Sub-1), filed December 14, 1982. Applicant: THIELEN BUS LINES, INC., d.b.a. THIELEN TOURS, 1191 S. Ramsey St., Redwood Falls, MN 56283. Representative: Andrew J. Carraway, 1600 Wilson Boulevard, Suite 1301, Arlington, VA 22209, (703) 522–0900. Transporting *passengers*, in charter and special operations, beginning and ending at points in MN, SD, ND, IA, and WI, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 162618, filed December 14, 1982. Applicant: LANCASTER TOURS, INC., P.O. Box 521, Lancaster, SC 29720. Representative: James K. Davis, P.O. Box 966, Lancaster, SC 29720, (803) 283–3366. Transporting *passengers*, in special and charter operations, beginning and ending at points in Cherokee, Chester, Chesterfield, Darlington, Fairfield, Florence, Kershaw, Lancaster, Newberry, Union, and York Counties, SC, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 163308, filed November 29, 1982. Applicant: G & T TRUCKING, Rt. 4, Box 385, Coushatta, LA 71019. Representative: J. Phillip Goode, 1212 Mid South Towers, Shreveport, LA 71161, (318) 221–1601. Transporting *general commodities* (except classes A and B explosives), between Coushatta, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164788, filed November 22, 1982. Applicant: SENIORS UNLIMITED, INC., 53 W. Huron, Pontiac, MI 48058. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165019, filed December 6, 1982. Applicant: TOM C. PRICE, Route 1, Box 47C, Rose, OK 74364. Representative: Tom C. Price (same address as above), (918) 868–2201. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165069, filed December 7, 1982. Applicant: B & B CHARTER SERVICES, INC., 3216 Valley Dale Dr., Atlanta, GA 30311. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., Suite 520, Atlanta, GA 30326, 404–262–7855. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165108 filed December 9, 1982. Applicant: WESTMORELAND TOURS, INC., Box 110, Darragh, PA 15625. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165118, filed December 9, 1982. Applicant: JOHN WILLIAMS AND HARRIET WILLIAMS, d.b.a. H & D BROKERAGE, 2065 N. Temperance, Fresno, CA 93727. Representative: John Williams (same address as applicant), (209) 251–4790. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165158, filed December 13, 1982. Applicant: NATIONAL PIGGYBACK SERVICES, INC., 5545 Murray Ave., Memphis, TN 38117. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165198, filed December 14, 1982. Applicant: SHORTWAY SUBURBAN LINES, INC., 2121 West Chestnut St., Washington, PA 15301. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173, (212) 755–9500. Transporting *passengers*, in charter and special operations, between points in the U.S. **Condition:** The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of this filing to Team 5, Room 2414.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165228, filed December 16, 1982. Applicant: KENNETH J. VOGEL CHARTER SERVICE, R.D. #1, Box 41–A, Weatherby, PA 18255. Representative: Sander M. Bieber, 1730 Pennsylvania Ave., NW, Suite 1100, Washington, DC 20006, (202) 783–0200. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA and extending to points in CT, DE, ME, MD, MA, NH, NJ, NY, RI, TN, VT, VA, WV, and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP5–304.

Decided: December 27, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 36578 (Sub-18), filed December 7, 1982. Applicant: REEDER'S INC., Woodlawn Ave., Modena, PA 19358. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, 717–233–5731. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA and DE, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 138799 (Sub-2), filed December 7, 1982. Applicant: PENINSULA CHARTER LINES, INC., 160 Demeter St., East Palo Alto, CA 94303. Representative: Michael J. Demeter (same address as applicant), 415–322–4511. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-319 Filed 1-5-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30067]

Rail Carrier; Railroad Car Service Pooling Application; Filing and Proposed Special Rules of Procedure

December 29, 1982.

An application, as summarized below, has been filed by certain railroad companies under 49 U.S.C. 11342(a) for authority to enter into an agreement for the pooling of car service (pooling agreement) with respect to RBL cars (defined to be those cars designated by Association of American Railroads Car Type Code R106, R107, R206, R207, A140, A150, A240, A250, A340 or A350 in the Official Railway Equipment Register) and for prior approval of that agreement. The railroads listed as applicants are:

Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101
Consolidated Rail Corporation, Six Penn Center Plaza, Philadelphia, PA 19104
Denver and Rio Grande Western Railroad Company, 1515 Arapahoe Street, Park Central Tower, Denver, CO 80217
Detroit, Toledo and Ironton Railroad Company, 131 West Lafayette Boulevard, Detroit, MI 48226
Grand Trunk Western Railroad Company, 131 West Lafayette Boulevard, Detroit, MI 48226
Illinois Central Gulf Railroad Company, 233 North Michigan Avenue, Chicago, IL 60601
Missouri Pacific Railroad Company, 210 North 13th Street, St. Louis, MO 63101
Southern Pacific Transportation Company, One Market Plaza, San Francisco, CA 94104
Western Pacific Railroad Company, 526 Mission Street, San Francisco, CA 94104

Applicants' representatives are: Basil Cole, Esq., Charles A. Spitulnik, Esq., 1730 Pennsylvania Avenue, N.W., Suite 1100, Washington, D.C. 20006, (202) 783–0200.

Description of the Transaction

The proposed pool consists of an arrangement allowing Fleet Management, Inc. (FMI), a wholly-owned subsidiary of Fruit Growers Express Company (FGE), to manage a fleet of RBL cars that have been contributed to the pool by the participating carriers. As manager of the pool, FMI will act as agent for those carriers for the purpose of directing the routing of the empty RBL cars assigned to the pool.

Applicants assert that the proposed transaction involves no pooling of earnings. Rather, the proposed pool will be operated as a commercial venture, with each railroad participant compensating FMI for its services based on actual reduction in empty car-miles. Through FMI's management of the fleet, the participants expect to decrease the empty mileage for RBL cars by the reloading of empty cars at points closer to the original point of unloading than is feasible under the current common practice of returning each empty to its owner road or assigned loading point.

Participation in the pool will not be limited to the railroaods which have joined in the filing of the application, but will be open to other United States railroads who become signatories to the pooling agreement and comply with its provisions. If the application is approved, applicants have requested that the Commission adopt an expedited procedure for approval of other railroads' participation.

A copy of the application is on file and can be examined in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. A copy of the application may also be requested from applicants.

In the opinion of applicants, the requested Commission action will not significantly affect either the quality of the human environment or energy consumption. Any protest may include a statement indicating the presence or absence of any impact of the requested Commission action on energy conservation, energy efficiency or the environment. If any such impacts are alleged, the statement shall be accompanied by supporting data indicating the nature and degree of the anticipated impact.

Evidence will be received through written verified statements in accordance with the following provisions: (a) Applicants' verified statements are those accompanying their application; (b) other verified statements in support of the application shall be due on January 28, 1983; (c) any protests and supporting verified statements shall be filed with the Commission by February 7, 1983, with a copy to be served on applicants counsel at the address stated above; (d) reply statements by all parties shall be due on January 28, 1983; and (e) no oral hearing is contemplated.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-313 Filed 1-5-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC 156]

Motor Carrier Operating Authority by Railroads and Rail Affiliates; Applications

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement.

SUMMARY: The Commission is eliminating the "special circumstances" doctrine to make it easier for railroads and rail affiliates to obtain unrestricted motor carrier authority. This action is mandated by changes in the transportation industry since the passage of the 1935 Motor Carrier Act and recent revisions to the Interstate Commerce Act reducing entry requirements for obtaining motor carrier authority, requiring less restricted motor carrier operations, and encouraging intermodal transportation and competition between and among rail and motor carriers.

EFFECTIVE DATE: This policy statement applies to motor carrier authority applications filed on or after January 6, 1983.

FOR FURTHER INFORMATION CONTACT:

Alan Greenbaum (202) 275–7322
or
Howell I. Sporn (202) 275–7691

ADDRESS: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact T. S. Infosystems, Inc., Room 2227, Washington, DC 20423, or call 289–4357 in the DC Metropolitan area or toll free (800) 424–5403.

SUPPLEMENTARY INFORMATION: The Commission has issued a final policy statement eliminating the "special circumstances" doctrine, a policy which required the restriction to incidental rail service of motor carrier authority issued to railroads or rail affiliates in licensing proceedings unless special circumstances were shown that unrestricted authority was required to fulfill a compelling public need for

service not being offered by independent motor carriers.

The doctrine dates back to the earliest days of the Commission's regulation of motor carriers. The underlying policy of restricting rail-affiliated motor carrier authority to incidental rail service grew out of the restrictive rail-motor merger section 213(a)(1) of the Interstate Commerce Act as amended by the Motor Carrier Act of 1935 [now 49 U.S.C. 11344(c)] and the national transportation policy's requirement to maintain the "inherent advantages of each mode of transportation." The aim was to prevent rail carrier domination of the growing motor carrier industry. The "special circumstances" doctrine itself was developed to blunt the restrictive interpretation of these legislative requirements in motor carrier licensing cases so as to authorize unrestricted motor carrier service, albeit motor carrier service performed by a railroad or rail affiliate, for which a compelling need was demonstrated.

The final policy statement finds that the reduced motor carrier entry requirements and strong emphasis on competition expressed in the 1980 Motor Carrier Act and Staggers Rail Act have eliminated the legislative underpinnings of the "special circumstances" doctrine. Specifically, the statement finds that the presumption of rail anti-competitiveness which underlies the "special circumstances" doctrine is inconsistent with the pro-competitive policies expressed in the passage of the Staggers Act and Motor Carrier Act. The statement concludes that rail carrier applications for motor carrier authority will no longer be treated differently from other motor carrier authority applications.

The index of subjects involved in this proceeding are: Motor carriers, Railroads, Intermodal transportation.

(49 U.S.C. 10101, 10101a, 10922, 10923, and 5 U.S.C. 553.)

Decided: December 17, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons and Gradison. Commissioner Andre, joined by Commissioner Sterrett, concurred with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Andre, joined by Commissioner Sterrett, concurring:

I concur in the issuance of this policy statement. It marks a long overdue change in the Commission's attitude toward intermodal licensing. The only reservation that I have is that the statement does not announce a change in intermodal acquisition policy. As it now stands the Commission has cleared the way for interested railroads to expand into general trucking. But the method of expansion has been restricted to new operations under new authorities. The alternative of expansion through the acquisition of an existing trucking company remains largely foreclosed. The foreclosure is not based on any judgment about the relative impact on the public interest of new entry as opposed to acquisition. As far as I can discern, the foreclosure is caused by the fact that acquisitions are governed by a specific section of the Interstate Commerce Act. Because additional legal issues are raised, acquisitions are to be treated separately at some future time.

I think the separation of these investment alternatives is unwise. The Commission and the courts have long treated licensing and acquisition policies as if they were necessarily related. Continued reconciliation of these policies is required to avoid the charge that the Commission has arbitrarily reversed itself. Moreover, the choice between one type of entry and the next is not one that the Commission should make unless commanded to do so by law. There is no way of predicting the extent of commercial interest in integrated intermodal operation, but to the extent that there is some pent-up demand it has now been channeled into the formation of new operations which must compete with existing firms to gain market share. Maybe that is all to the good, but in the current slumping market there is the equally plausible argument that buying a struggling firm will be less expensive and no less effective. The latter course may also be less disruptive of existing labor and investor relationships. But in any case it is a judgment that the market is better suited to make correctly, since the Commission's deliberations center on the niceties of the law rather than the dictates of commercial efficiency.

Of course, if the Interstate Commerce Act forbids expansion through acquisition, then the best course is to proceed in the licensing area, as we have done, and hope for approval from the appellate courts. The law does not require that result however, or at least I do not read it to do so. A more detailed presentation will, I hope, make it very clear why a change in both licensing and acquisition policy is the natural outcome of recent commercial and legislative developments.

A railroad cannot lawfully acquire a regulated motor carrier without receiving approval from this Commission. In addition to general standards, the Interstate Commerce Act contains a provision which applies specifically to acquisitions of a motor carrier by a rail carrier.

When a rail carrier, or a person controlled by or affiliated with a rail carrier, is an applicant and the transaction involves a motor carrier, the Commission may approve and authorize the transaction only if it finds that the transaction is consistent with the public interest, will enable the rail carrier to use motor carrier transportation to public advantage in its operations, and will not unreasonably restrain competition.[1]

This provision was designed to give the Commission the power to protect the motor carrier industry from railroad domination. It was considered at the time to be

* * * important to the welfare and progress of the motor carrier industry that the acquisition of control of the carriers be regulated by the Commission so that the control * * * not get into the hands of other competing forms of transportation, who might use the control as a means *to strangle, curtail, or hinder progress in highway transportation for the benefit of other competing transportation.*[2] (Emphasis supplied.)

Consistent with the legislature's initial views, the Commission has normally declined to approve the acquisition of a motor carrier by a railroad unless it is shown that the motor carrier service will be either "auxiliary to or supplemental of" the acquiring carrier's rail service.[3] The Commission believed that it would not be conducive to

* * * future healthful competition between rail and truck service * * * to give the railroads free opportunity to go into the kind of truck service which is strictly competitive * * * rather than auxiliary to their rail services * * * (because) * * * the financial and soliciting resources of the railroads could easily be so used in this field that the development of independent service would be greatly hampered and restricted * * *[4]

The appellate courts ultimately declared that certain amendments passed in 1940 reflected Congressional knowledge of the Commission's restrictive interpretation of rail-motor entry policy and amounted to legislative

[1] The provision appeared first as Section 213 of the Motor Carrier Act of 1935; the Transportation Act of 1940 reincorporated the provision as Section 5(2)(b); and, as a result of the codification of the Interstate Commerce Act in 1978, Section 5(2)(b) became Section 11344. In the 1935 version rail carriers had to demonstrate that their applications would "promote the public interest"; this burden was relaxed to "consistent with the public interest" in the 1940 Act. The provision is now found in 49 U.S.C. 11344(c).

[2] 79 Congressional Record 12685, July 31, 1935.

[3] See *Pennsylvania Truck Lines, Inc.—Control—Barker M. Fri.*, 1 M.C.C. 101, 111 (1936) and 5 M.C.C. 9, 11 (1939); *Santa Fe Transp. Co.—Purchase—Spears*, 39 M.C.C. 59, 69.

[4] *Pennsylvania Truck Lines, Inc.—Control—Barker, supra*, 1 M.C.C. at 111–112.

approval of the Commission's course. The linchpin of this statutory argument for a protective approach to intermodal competition became the statement in 1940 National Transportation Policy to the effect that the Commission should regulate to preserve the inherent advantages of the differing modes.

Amendments to the Interstate Commerce Act have progressively reflected the profound changes in commercial circumstances that have taken place in the years since 1940. In particular, Congress has eliminated the intermodal protectionism that was once considered a near universal requirement of the National Transportation Policy. As the full Commission's statement notes, the 1976 Railroad Revitalization and Regulatory Reform Act altered the ICC ratemaking framework to allow sensible price reductions by railroads. Before enactment of the 4R Act, rail rates were typically held far above variable costs to protect what were then thought to be the inherent advantages of competing modes.[5] Congress reversed this approach in 1976 by precluding the Commission from finding a railroad rate unreasonable if it covers the variable cost of carrying the traffic. No otherwise rational rate of a railroad can now be denied simply to protect the markets of another mode.[6]

In effect the 4R Act eliminated the "inherent advantages" argument from railroad ratemaking. This development is not only a sensible one, but one with important implications for entry and acquisition policy as well. The Courts and the Commission have consistently emphasized that the Act must be read as a whole, meaning that some consistency should be sought in policy interpretation. Therefore, if the restraints have been taken off price competition, there is at least good reason to suspect that entry policy should not reflect a protectionist cast.

Whatever doubts the foregoing analysis might have met in 1976, the passage of the Motor Carrier Act and the Staggers Rail Act in 1980 confirm the fact that entry protection is no longer the hallmark of public transportation policy. The National Transportation Policy has been twice amended to elevate competition to the role of principal regulator of price and entry behavior. Specific enactments shift the burden of persuasion to those who seek to impose anti-competitive restrictions on motor licenses, and still other amendments promote intermodal operations. Most of the pertinent sections of the new laws have been examined in the Commission's principal statement and there is no need to dwell on them further. The crucial point is that reference to the preservation of inherent modal advantages in the National Transportation Policy has become far too slim a reed to support a prohibitive entry regime. It is too slim because the overall policy direction of the Interstate Commerce Act has changed markedly, and because technological advances in internal combustion, tire manufacture, road building and the like have been, in retrospect, more than sufficient guarantors of the real advantages of motor freight.

The problem now is whether the more specific provision in section 11344(c) commands a split in entry policy, establishing a statutory perference for new licenses over acquisition of existing operations. The Commission has announced its intention to look into the matter, but the announcement is problematical. It gives industry little information as to timing and even less indication as to how the Commission presently views rail-motor acquisitions. What is worse is the possibility that the pendency, or in this case the potential pendency, of a general investigation may foreclose a decision on some application that surfaces in the interim. Industry could be excused if it abandoned the planning of otherwise rational acquisitions because of the government's bias in favor of new licenses—a bias that is the creature of inaction.

To attempt to avoid this interference with investment planning I would like to offer some preliminary thoughts on the proper interpretation of 11344(c) in the post Staggers Act era. Certainly I cannot speak for the Commission, and even for myself I would like to reserve some room for reconsideration when a case in controversy comes up. Nevertheless, since I believe that 11344(c) is open to a pro-competitive interpretation it is important to make these observations now.

Section 11344(c) requires that rail-related motor acquisitions be examined (beyond the general requirements applicable to all acquisition applications) on the issues of whether the railroad can use the motor carrier to public advantage in its operations, and whether the acquisition threatens an unreasonable restraint of trade. The first issue seems to me straightforward up to the point of the phrase "in its operations". Clearly intermodal integration meets the criterion of public advantage. At least Congress thinks so, and has repeatedly so legislated. But would a general motor freight operation that never, or only occasionally exchanged traffic with a rail parent be used to public advantage "in its operations", meaning the operations of the railroad? One can see scholastics lining up to defend the proposition that "in its operations" requires a close physical connection with the running of trains. Admittedly it is just such an interpretation that has governed for decades.[7] But it is not the only satisfactory interpretation, nor even the interpretation that immediately commends itself to someone coming to the subject for the first time.

Obviously the issue is what are "its operations?" In an environment that is increasingly populated by integrated transportation companies the answer would seem to be "in the marketing and delivery of transportation service". Consider the fact that the Staggers Act gave the ICC the explicit authority to exempt intermodel operations provided by rail carriers.[8] The obvious implication is that Congress see railroad operations as increasingly integrated between truck and rail. Even more to the point is the litigation challenging the Commission's exercise of this exemption authority. The Commission's exemption was formulated so relief from regulation reached not only rail transportation, but transportation provided by trucks owned by the railroads. The trucking industry challenged this extension on literal grounds, arguing that under the statute the transportation had to be "provided by a rail carrier" and truck carriage could not qualify. The reviewing court affirmed the Commission's broader interpretation, stating that the truck portion of intermodal service is transportation provided by a rail carrier, the use of trucks notwithstanding.[9] While there is some roughness in the analogy, it is at least fair to say that the phrase "in its operations" is, as is the phrase "provided by a rail carrier," open to an interpretation that does not bind the freight to trains.[10]

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[5] See, *American Commercial Lines, Inc., v. Louisville & Nashville R. Co.*, 392 U.S. 571 (1968); *Interstate Commerce Comm. v. New York, New Haven and Hartford R. Co.*, 372 U.S. 744 (1963).

[6] See, Pub. L. 94–210, 94th Cong. 2nd Sess., Sections 202(b) and 206.

[7] It is not altogether clear whether this interpretation has been applied unfailingly. Cases such as *Burlington Truck Lines, Inc.—Purchase—Pire*, 85 M.C.C. 363 (1960) indicate that it has not.

[8] Pub. L. 96–486, section 213 amending 49 U.S.C. 10505.

[9] *American Trucking Associations, Inc. v. ICC*, 656 F. 2nd 1115 (5th Cir. 1981).

[10] Before leaving the Staggers exemption section another point is worth addressing by way of anticipation. Admittedly the provision prohibits the use of the exemption power to authorize intermodal ownership that would be unlawful under the terms of 11344(c). That prohibition does not, however,

Adopting this broader meaning will not result in reading "in its operations" out of the Act. There is no question that the Interstate Commerce Act does require a rail carrier to make beneficial use of a motor carrier if it buys one. This is not a surprising requirement since at the time of the 1935 enactment there was widespread concern that the railroads were inclined to use any available tactic to protect their markets. Buying up a competitor and selling off its assets piecemeal is, in hindsight, no more unlikely than others among the predatory strategies ascribed to railroads. Reading section 11344(c) to prohibit this kind of conduct preserves its prophylactic purpose, but avoids ascribing to it such scope that it prevents useful and efficient integration between companies that have many overlapping marketing, operational and administrative functions. If such a reading departs from precedent, it is an evolutionary departure which can be supported by many of the same legislative developments that lead to the conclusion that rail-motor licensing policy should be made less restrictive.

As to the requirement that the Commission avoid restraints of trade by denying such applications as threaten them, it might be enough to say that such is Commission policy regarding all motor carrier acquisitions cases.[11] Furthermore, since acquisitions are considered on a case by case basis, an adequate record can be developed to determine if any special anti-competitive potential exists. In short, the admonition to avoid restraints of trade, like the requirement of use in operations, can be given a meaningful interpretation without imposing on it the overwhelming restrictiveness that current policy implies.

These remarks have been offered in the hope that they will advance the Commission and the industry to a more rapid conclusion on the issue of rail-motor acquisitions. They are not intended to diminish the importance of the licensing policy statement on which there is unanimous accord. But the Commission's jurisdiction runs beyond licensing to mergers, consolidations, even exist from the marketplace. It is important to keep a coordinated view of these responsibilities to avoid the creation of distorted investment incentives. Market entry through the acquisition of an existing firm can be the fastest and most effective way of bringing new energy and new ideas into the marketplace. In some instances it may be the only cost-effective way.

I would offer one final observation. I am in complete agreement with the Commission's decision to permit the restriction removal procedures to be used by rail-affiliated motor carriers. Nevertheless, from an agency standpoint, the availability of restriction removal is completely severable from the issue of new licensing through the standard application process. No harm can come from proceeding with the consideration of new applications even if the availability of the restriction removal process cannot be guaranteed.

[FR Doc. 83-315 Filed 1-5-83; 8:45 am]
BILLING CODE 7035-01-M

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have any substantive impact on the meaning of 11344(c), or reflect a Congressional commitment to any single interpretation of that section—particularly an unnecessarily restrictionist interpretation that would run counter to the underlying purposes of the new law. As the House stated "This (limitation on the exemption provision) should not, however, be construed as a prohibition of the Commission's authority, to approve intermodal ownership consistent with Section 11344." See, *Comm. on Interstate and Foreign Commerce, Report on the Rail Act of 1980*, H.R. 96-1035, at 60, 96th Cong. 2nd Sess. (1980).

[11] See, *Red Ball Motor Freight, Inc.—Control and Merger—Spector Industries, Inc.*, 127 M.C.C. 737 (1977).

Motor Carriers; Permanent Authority Decisions; Decision-Notice

90-Day Intrastate Motor Common Carriers of Passengers.

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922(c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 3, (202) 275-5223.

Volume No. OP3-67

Decided: December 28, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 1515 (Sub-322), filed December 14, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower—Station 1510, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant), (602) 248-5016. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in No. MC-1515 (Sub-

Nos. 7, 71, 252, 269, 306, and 310) and in No. MC–1501 (Sub-Nos. 92, 97, 167, 207, and 236) acquired in No. MC–F–8531, as follows: (1) No. MC–1515 (Sub-252), over all of the routes which traverse New York, (2) No. MC–1515 (Sub-No. 269), over all of the routes which traverse New York (3) No. MC–1515 (Sub-No. 306), over all of the routes which traverse Colorado and Wyoming, (4) No. MC–1515 (Sub-No. 310), over all of the routes which traverse Indiana, (5) No. MC–1501 (Sub-No. 92), over all of the routes which traverse DE, IL, IN, KY, MD, MI, MO, NJ, NY, OH, PA and VA, (6) No. MC–1501 (Sub-No. 167), over all of the routes which traverse CT, NJ, and NY, (7) No. MC–1501 (Sub-No. 207) over all of the routes which traverse Virginia and Maryland, (8) No. MC–1515 (Sub-No. 7), in part, all of the routes on Third Revised Sheet No. 56 which traverse Idaho, (9) No. MC–1515 (Sub-No. 71), in part, (a) page 5, between Denver and the Colorado-New Mexico State Line, and(b) page 7, between Denver and the Colorado-Nebraska State Line northeast of Sterling, (10) No. MC–1501 (Sub-No. 97), in part, between Paris, IL and Evansville, IN, and (11) No. MC–1501 (Sub-No. 236), in part, (a) between New York, NY, and junction Interstate Hwy 287 and Interchange No. 13 of Interstate Hwy 95 at Port Chester, NY, and (b) between junction Interchange No. 8 of Interstate Hwy 87 and Interstate Hwy 287, and Suffern, NY.

Please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–305

Decided: December 23, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 59238 (Sub-70), filed December 8, 1982. Applicant: VIRGINIA STAGE LINES, INC., 1200 I St., NW, Washington, DC 20005. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, (214) 655–7937. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in No. MC–59238 (Sub-Nos. 57, 62, 63, and 66), as follows: (1) No. MC–59238 (Sub 57), over all of the routes in their entirety generally between Washington, DC, and Richmond, VA; (2) No. MC–59238 (Sub. 62), in part, between Waynesboro, VA, and Roanoke, VA, to provide intrastate service between junction Interstate Hwys 340 and 81 and Roanoke; (3) No. MC–50238 (Sub 63), in part, between Richmond, VA, and Staunton, VA, to provide intrastate service between junction Interstate Hwys 64 and 81 and Statunton; and (4) No. MC–59238 (Sub 66), over all of the routes in their entirety which extend between junction Interstate Hwys 64 and 81 and junction Interstate Hwy 81 and U.S. Hwy 340.

[FR Doc. 83-316 Filed 1-5-83; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 320]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: December 29, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 29 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

MC 381 (Sub 30)X, filed November 23, 1982. Applicant: GENOVA EXPRESS LINES, INC., 484 Clayton Road, (P.O. Box 386), Williamstown, NJ 08094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Lead and Subs 5, 8, 9, 10, 14F, 15F, 16, 18F and 20F: (1) broaden (a) glassware and plastic articles to "clay, concrete, glass or stone products and rubber and plastic products" and "materials, equipment, and supplies used, or useful, in the manufacture and sale of glassware and plastic articles (except commodities in bulk and limestone)" to "materials, equipment, and supplies used in the manufacture, sale, and/or distribution of clay, concrete, glass, or stone products and rubber and plastic products in Sub 5; (b) bakery supplies, canned goods, packed fruits, canned and processed foods, and bakery products to "food and related products" in Subs 9 and 16; (c) general commodities, with exceptions to "general commodities (except classes A and B explosives, household goods, and commodities in bulk)" in the lead and Sub 16; (d) non ferrous metals, powdered iron and tin cans to "metal products" in Subs 10, 15F, 16 and 18F and "materials, equipment and supplies used in the manufacture and distribution of non-ferrous metals to "materials, equipment, and supplies used in the manufacture, sale, and distribution of metal products" in Sub 18F; (e) baled textile waste to "waste or scrap materials not identified by producing industry" in Sub 14; (f) paper and paper products, cartons, and packing materials to "pulp, paper and related products" in Subs 14F and 16; (g) lime and limestone and glass bottles to "clay, concrete, glass or stone products" in Sub 16; and (h) batteries to "electrical machinery" and "equipment, materials, and supplies used in the manufacture and sale of batteries" to "materials, equipment, and supplies used in the manufacture, sale, and distribution of electrical machinery" in Sub 20F; (2) eliminate the facilities restrictions in Subs 5, 9, 10, 14F, 18F and 20F; (3) change one-way to radial authority in Subs 10, 14F, 15F, and 16; (4) broaden (a) off-route points of Almonesson and Sicklerville, NJ to Gloucester and Camden Counties, NJ in the lead; (b) within 5 miles of Hammonton and Hammonton, NJ to Atlantic, Camden and Gloucester Counties, NJ in the lead and Sub-16; (c) Williamstown to Gloucester County, NJ in Sub 5; (d) Philadelphia, PA to Montgomery, Philadelphia, Bucks, Chester and Delaware Counties, PA, Salem, Gloucester, Burlington, Camden, Mercer, Hunterdon and Monmouth Counties, NJ, and New Castle County, DE; in Subs 8 and 16; (e) King of Prussia, PA to Montgomery County, PA, and Tampa and Miami, FL to Hillsborough and Dade Counties, FL in Sub 9; (f) Columbia to Lancaster County, PA in Subs 10 and 18F; (g) Wellford, to Spartanburg County, SC, Dover to Kent County, DE, Landisville to Atlantic and Cumberland Counties, NJ, Chester, PA to Philadelphia and Delaware Counties, PA and New Castle County, DE; and Rogers, AR to Benton County, AR in Sub 14F; (h) Riverton, NJ to Burlington and Camden Counties, NJ and Philadelphia County, PA, and Coral Springs, FL to

Broward County, FL in Sub 15F; (i) Norristown, Plymouth Meeting, Malvern and Cedar Hollow, PA to Montgomery, Chester, Delaware, Philadelphia and Bucks Counties, PA, and Bridgeton and Cedarville, NJ to Cumberland County, NJ in Sub 16; and (j) Sumter, SC to Sumter County, SC in Sub 20F; and (5) remove the restriction (a) originating at and destined to Subs 5, 9, 10, 15F, 16, 18F, and 20F; (b) "except malt beverage containers" in Sub 5; (c) except in dump vehicles in Sub 10; and (d) except commodities in bulk, in tank and dump vehicles in Sub 18F.

MC 10115 (Sub-No. 15)X, Filed December 3, 1982. Applicant: C. D. ZIMMERMAN, INC., R. D. #3, P.O. Box 293, Mifflintown, PA 17059. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. Lead and Subs 9, 10F and 11F: (1) Broaden animal and poultry feed, and feed to "food and related products" in the lead; animal and poultry equipment, hand garden sprayers and hand dusters, and scales and signaling devices to "machinery" in the lead; germicides, fungicides, insecticides, disinfectants, herbicides, fertilizer and weed-killing compound to "chemicals and related products" in the lead; hay, straw, and agricultural commodities to "farm products" in the lead; lumber to "lumber and wood products" in the lead; radiators and boilers and parts thereof to "metal products" in the lead; refractory products, firebrick, fireclay, materials and supplies used in the installation of refactory products, when shipped in mixed loads with refractory products, clay, and refractories to "clay, concrete, glass or stone products" in the lead and Subs 9, 10F and 11F; and crude clay to "ores and minerals" in the lead; (2) eliminate the precisely located facility limitations in Subs 10F and 11F; (3) broaden to: lead, New Castle County, DE (Wilmington, DE and points within 1 of thereof); Bucks and Montgomery Counties, PA (Belfry, PA and points within 10 miles of Belfry); Baltimore, MD and Anne Arundel County, MD (Baltimore and points within 5 miles thereof); Camden County, NJ (Camden); Mercer County, NJ (Trenton); Middlesex County, NJ (Carteret); Bucks County, PA (Quakertown); Bucks, Lehigh and Montgomety Counties, PA (Quakertown and points within 15 miles of Quakertown); Caroline County, MD (Denton); Kent County, DE (Harrington); Montgomery County, PA (Skippack), Montgomery and Chester Counties, PA (Fairview Village and points within 5 miles of Fairview Village); Armstrong County, PA (Templeton); Fayette County, PA (Hayes); Clinton County, PA (Lock Haven); Blair County, PA (Claysburg and Sproul); Huntingdon County, PA (Mount Union); Elk County, PA (St. Marys); Westmoreland County, PA (Salina); Centre, Elk, Jefferson and Clearfield Counties, PA (Clearfield and points within 25 miles of Clearfield); Somerset County, NJ (Flagtown); Sub 9, Huntingdon County, PA (Mt. Union) Sub 10F, Trumbull County, OH (Warren); Sub 11F, Portage County, OH (Windham): Scioto County, OH (Portsmouth): Cecil County, MD (Leslie); (4) change one-way to radial authority; and (5) remove the restriction (a) in dump trailers in the lead, and (b) against transportation of traffic moving to or from Canada in Sub 10F.

MC 29647 (Sub-51)X, filed December 14, 1982. Applicant: CHARLTON BROS. TRANSPORTATION COMPANY, INC., P.O. Box 2097, Hagerstown, MD 21740. Representative: Edward J. Donohue (address same as applicant). Lead and Subs 11, 12, 15, 16, 17, 21, 24, 26, 29, 30, 31, 32, 37, 40, 41, 42, 46, 47, 48, and 49, (1) broaden to (a) "general commodities (except classes A and B explosives and household goods)", and remove exceptions such as commodities of unusual value, commodities in bulk, those requiring special equipment, alcoholic beverages, film, livestock, coin or currency, coal, sand, crushed stone and lime, bullion, and loose goods requiring special equipment, (lead and Subs 11, 12, 15, 16, 17, 29, 37, 42, 46, 47, and 49); (b) "clay, concrete, glass or stone products" from fire brick, fire clay, and high temperature bonding mortar, and plastic firebrick (Subs 21 and 24), (c) "food and related products" from edible vegetable oils, in bulk, in tank vehicles, (Sub 26); (d) "chemicals and related products" from skin creams, skin lotions, suntan preparations, cosmetics, antiseptic creams, shaving creams, shaving products, and other skin preparations (Sub 30), and from salt cake, in bulk (Sub 41); (e) "petroleum, natural gas and their products" from petroleum (except petro acids. . . and asphalt products) in bulk, in tank vehicles (Subs 31 and 32); (f) "lumber and wood products" from sawdust and wood chips, in bulk (Sub 40). (2) change one-way to two-way authority (lead, part (E), regular route), and authorize service to all intermediate points (lead and Sub 16, regular route). (3) change one-way to radial authority (Subs 21, 24, 26, 31, 32, 40 and 41, irregular routes). (4) remove facilities limitations, and expand cities to counties, irregular routes (a) Keyser, WV (Mineral County), Hancock, MD (Washington County), Cumberland, MD (Allegany County), (lead); (b) Jennings, MD (Garrett County) (Sub 21 and 24); (c) Chester, Columbia, Fairless, Manheim, Morrisville, Phoenixville, and Royersford, PA (Delaware, Lancaster, Bucks, Chester, and Montgomery Counties), Claymont and Wilmington, DE (New Castle County), (Sub 21); (d) Birdsboro, Blue Bell, Easton, Littletown and Marietta, PA (Berks, Montgomery, Northampton, Adams, and Lancaster Counties), Delaware City, DE (New Castle County), Phillipsburg and Roebling, NJ (Warren and Burlington Counties), (Sub 24); (e) Berlin, PA (Somerset County), (Sub-26); (f) Newington, VA (Fairfax County), (Sub 32); (g) Martinsburg, WV (Berkeley County), Williamsburg and Tyrone, PA (Blair County), (Sub 40); (h) Front Royal, VA (Warren County), Luke, MD (Allegany Countly), (Sub 41); (i) Newark, NJ (Essex County), Elizabeth, NJ (Union County). (5) expand off-route points to counties and remove facilities limitations, regular routes (a) Luke, Bloomington, and Vale Summit, MD (Allegany and Garrett Counties), (lead, part (A)); (b) Boyce and Millwood, VA (Clarke County, Leetown and Gerrardstown, WV (Jefferson and Berkeley Counties), Big Pool, Big Springs, Fort Frederick, and Security, MD (Washington County), Millville, WV (Jefferson County), Brunswick, Mt. Airy, St. James School, Sharpsburg, Keedysville, Boonsboro, and Ringgold, MD (Frederick, Carroll, and Washington Counties), Fishers Hill and Broadway, VA (Shenadoah and Rockingham Counties), Scotland, Mt. Holly Springs, and Mechanicsburg, PA (Franklin and Cumberland Counties), Waltersville, Roxbury, Security, and Williamsport, MD (Frederick and Washington Counties), Berkeley Springs, WV (Morgan County), Waynesboro, PA (Franklin County), Martinsburg, WV (Berkeley County), (lead, part (E)); (b) Middleway, WV (Jefferson and Berkeley Counties), (Sub 15); (c) Cockeysville, MD (Baltimore County), (Sub 30); (d) Fort George G. Meade, Annapolis, Jessup, and Bowie, MD (Anne Arundel, Prince Georges, and Howard Counties), (Sub 37); (e) Havre De Grace, MD (Harford County), (Sub 46). (6) remove the following restrictions: (a) joinder only (lead); (b) limiting service to the transportation of traffic moving from, to, or through specified points in Maryland, West Virginia, Pennsylvania and New Jersey (lead, parts (B), (C), and (D); (c) restrictions based on truckload or less than truckload lots, and truckload lots only (lead, part (E); (d) ex-rail, water or air (Subs 47 and 49).

MC 30067 (Sub-No. 14)X, filed November 18, 1982. Applicant: SOUTH BRANCH MOTOR FREIGHT, INC., P.O.

Box 287, Harrisonburg, VA 22801. Representative: Chester A. Zyblut, 366 Executive Building, 1030–15th St., NW., Washington, DC 20005 Lead and Subs 9 and 13F certificates: (1) broaden commodities in (a) lead certificate to: lumber and wood products (pulpwood, lumber, veneer products, rough lumber, dressed lumber, logs, and lumber); coal and coal products (coal); farm products and textile mill products (livestock and wool, and live poultry and wood); machinery and food and related products (light machinery and confectionery); farm products (livestock); transportation equipment, machinery, lumber and wood products, metal products, clay, concrete, glass or stone products, and rubber and plastic products (auto parts, agricultural machinery parts, agricultural implements parts, oil drums, and toilet seats); food and related products, farm products, lumber and wood products, rubber or plastic products, pulp, paper and related products, metal products (livestock, apples, empty drums and barrels, and tires); food and related products (coffee); clay, concrete, glass or stone products (brick); (b) Sub 13F, to: lumber and wood products, metal products, and clay, concrete, glass or stone products (poles, posts, piling, lumber, cross ties, and mine ties); and in (c) lead and Sub 9, remove the following exceptions from the general commodities authority: those of unusual value, commodities requiring special equipment, those injurious or contaminating to other lading, and those requiring tank truck or refrigerated equipment; (2) lead certificate, with respect to regular-route authority, (a) authorize service at all intermediate points, (b) change one-way authority to two-way, (c) eliminate the restrictions "for pick up or delivery only," and (d) broaden off-route points to: Grant, Hardy and Pendleton Counties, WV, and Rockingham and Shenandoah Counties, VA (points within 15 miles of Mathias, WV): Allegany and Garrett Counties, MD, and Mineral County, WV (points within 10 miles of Luke, MD): Rockingham County, VA (Timberville): and Hampshire and Mineral Counties, WV (Romney); Highland County, VA (those in Highland County on and north of U.S. Hwy 250); (3) broaden irregular-route points to countywide, and change one-way authority to radial: (a) lead certificate, to Hampshire, Mineral, Tucker, Grant and Randolph Counties, WV (Romney, Davis, Parsons, Gormania, and Elkins): Allegheny, Washington and Westmoreland Counties, PA (Pittsburgh): Garrett County, MD, and Somerset County, PA (Grantsville, MD): Blair, Lancaster, Somerset and York Counties, PA (Lancaster, York, and Columbia and points within 10 miles, Altoona, and Meyersdale): Allegany County, MD (Cumberland and Barton): Page, Rappahannock, Rockingham and Shenandoah Counties, VA (Timberville and Woodstock): Hardy County, WV (Moorefield): Hardy and Grant Counties, WV (Petersburg and Fisher): York County, PA (Red Lion and York): Carroll County, MD (Westminster): Iredell, Caldwell, Wilkes, Surry, McDowell, Davidson, Burke, Catawba, Forsyth, Guilford, Randolph and Yadkin, Counties, NC (Statesville, Lenoir, Wildesboro, North Wilkesboro, Mt. Airy, Marion, Thomasville, Hickory, Morganton, Drexel, High Point, and Elkin): Henry, Smyth and Pulaski Counties, VA (Bassett, Marion, and Pulaski): Bucks, Chester, Delaware, Montgomery, Philadelphia, Lehigh, Northampton, Berks, York and Centre Counties, PA, New Castle County, DE, and Burlington, Camden, Gloucester and Salem Counties, NJ (Philadelphia, Lester, Bethlehem, Allentown, Glen Rock, and Millheim, PA and Camden, NJ) Allegany and Garrett Counties, MD, and Mineral County, WV (Luke, MD); Washington County, MD (Hagerstown): Berkeley County, WV (Martinsburg): Loudon County, VA, and Montgomery County, MD (Leesburg, VA): Blair and Franklin Counties, PA (Altoona, Tyrone, and Mercersburg); (b) Sub 13F, Hampshire and Mineral Counties, WV, and Allegany County, MD (facilities at Green Spring, WV).

[FR Doc. 83-317 Filed 1-5-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-35]

Charles J. Gartland, R. Ph.; Hearing

Notice is hereby given that on October 29, 1982, the Drug Enforcement Administration, Department of Justice, issued to Charles J. Gartland, R. Ph., d.b.a. Manoa Pharmacy, Havertown, Pennsylvania, an Order To Show Cause as to why the Drug Enforcement Administration should not revoke the DEA Certificate of Registration AM7004613 issued to Manoa Pharmacy under 21 U.S.C. 823.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Thursday, January 13, 1983, in Courtroom 3–B Room, 309, U.S. Claims Court, 717 Madison Place, NW., Washington, D.C.

Dated: December 30, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-370 Filed 1-5-83; 8:45 am]
BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a), of Title 21 of the Code of Federal Regulations (CFR), this is notice that on June 18, 1982, Abbott Laboratories, 14th and Sheridan Road Attention: Customer Service D–345, North Chicago, Illinois 60064, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Pentobarbital (2270).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than February 7, 1983.

Dated: December 22, 1982.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-371 Filed 1-5-83; 8:45 am]
BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 9, 1982, Pharmaceuticals Division, Ciba-Geigy Corporation, 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II

controlled substance Phenylacetone (8501).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than February 7, 1983.

Dated: December 20, 1982.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-372 Filed 1-5-83; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Executive Committee; Meeting

Correction

In FR Doc. 82-34477 appearing on page 57384 in the issue of Thursday December 23, 1982, in the sixth line of the document, the meeting date given as "January 12, 1983" should have been "January 21, 1983".

BILLING CODE 1505-01-M

Federal Highway Administration

Supplemental Environmental Impact Statement and Section 4(f) Evaluation: Delaware and Montgomery Counties, Pennsylvania

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplemental Environmental Impact Statement and Section 4(f) Evaluation will be prepared for a proposed highway project in the Counties of Delaware and Montgomery, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: John R. Krause, Division Environmental Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108, Telephone: (717) 782-2276, or Robert L. Rowland, P.E., District Engineer, Pennsylvania Department of Transportation, 200 Radnor-Chester Road, St. Davids, Pennsylvania 19087, Telephone: (215) 687-1600.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation, will be preparing a Supplemental Environmental Impact Statement (EIS) and a Section 4(f) Evaluation on a proposal to construct a portion of the Mid-County Expressway (I-476) between the Schuylkill Expressway (I-76) on the north and the Delaware Expressway (I-95) on the south. The total length of limited access divided highway involved is 16.9 miles. Completion of the project will eliminate congestion and delay on the existing local highway system and adjacent arterial streets as well as provide better north-south access for the surrounding region. The project has been under consideration for many years and several corridors and alignments have previously been studied. A Final EIS/4(f) for this segment of I-476 was approved on August 8, 1980, and a Record of Decision was issued on March 31, 1981. A U.S. District Court Order on August 30, 1982, required a Supplemental EIS and new Section 4(f) Evaluation be processed for this project.

In the accompanying opinion to the Court Order, it was found that information which was developed by a Task Force assigned to downscope the project subsequent to the Draft EIS and used in both the FEIS and the Record of Decision was never circulated for public comment. Accordingly, it was the Court's finding that a Supplemental EIS be required for that purpose. The Supplemental EIS will present that information.

The Court also found that the original 4(f) Statement in its final form was inadequate in that it failed to establish there is no feasible and prudent alternative to the use of the parklands, recreational areas and historic sites. In accordance with that order, a new Section 4(f) evaluation will be prepared and circulated with the Draft Supplemental Environmental Impact Statement (DSEIS).

Further interagency and public involvement will be solicited at a public hearing on the DSEIS. To ensure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the EIS should be directed to the FHWA at the address provided above. No formal scoping meetings are proposed for this DSEIS.

Louis M. Papet,

Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 83-302 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Rulemaking, Research and Enforcement Programs; Public Meetings; Change

The location of the NHTSA/Industry Public meeting, scheduled for 2:00 p.m. until 4:30 p.m. on January 19, 1983, has been changed. The *new location is the Conference Room of the Great Lakes Fishery Laboratory, U.S. Fish and Wildlife Service, 1451 Green Road, Ann Arbor, Michigan.*

Issued in Washington, D.C. on December 28, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 83-136 Filed 1-5-83; 8:45 am]

BILLING CODE 4910-59-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, November 13-December 22, 1982

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between Nov. 14 and Dec. 22, 1982, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT:

John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1887

or

Sandy Fisher, Bob Seigel or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503, (202) 395-7313

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "FOR FURTHER INFORMATION CONTACT" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "FOR FURTHER INFORMATION CONTACT" Paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between Nov. 14 and Dec. 22, 1982:

DOT No: 2092
OMB No: 2125–0006
By: Federal Highway Administration
Title: Unit Maintenance Cost Index
Forms: None
Frequency: Annually
Respondents: State Highway Departments
Need/Use: For the Federal Highway Administration to develop national cost trends for labor, material, and equipment rental rates, and to assist State Highway Departments in preparing maintenance budgets

DOT No: 2093
OMB No: 2120–0056
By: Federal Aviation Administration
Title: Report of Inspection Required by Airworthiness Directives FAR 39
Forms: None
Frequency: On occasion
Respondents: Aircraft owners and operators
Need/Use: The airworthiness directive is the medium used by the Administrator to provide notice to aircraft owners and operators that an unsafe condition exists and prescribes the conditions and/or limitations, including inspections under which the product may continue to be operated

DOT No: 2094
OMB No: 2137–0522
By: Reseach & Special Programs Administration
Title: Leak Report, Distribution System
Forms: DOT Form F 7100.1
Frequency: Recurring, on occasion
Respondents: Gas pipeline operators
Need/Use: The report forms includes information on the nature of the failure, personal injury and property damage resulting from the failure, location and cause of failure. The information is used to evaluate the effectiveness of existing regulations and to plan modifications where appropriate

DOT No: 2095
OMB No: 2137–0524
By: Reseach & Special Programs Administration
Title: Leak Report: Transmission and Gathering Systems
Forms: DOT Form F 7100.2
Frequency: Recurring, on occasion
Respondents: Gas pipeline operators
Need/Use: The report form includes information on the nature of the failure, personal injury and property damage resulting from the failure, location and cause of failure. The information is used to evaluate the effectiveness of existing regulations and to plan modifications where appropriate

DOT No: 2096
OMB No: 2137–0524
By: Reseach & Special Programs Administration
Title: Annual Report: Transmission and Gathering Systems
Forms: DOT Form F 7100.2–1
Frequency: Recurring, annually
Respondents: Operators of gas pipelines
Need/Use: The report concerns the size and nature of the operator's gas system, total number of leaks repaired, total personal injury and property damage during year, and cause of failures. This information is used to evaluate the effectiveness of existing regulations and plan modifications where appropriate

DOT No: 2097
OMB No: 2137–0525
By: Research & Special Programs Administration
Title: Annual Report: Distribution System
Forms: DOT Form F 7100.1–1
Frequency: Recurring annually
Respondents: Operators of gas pipelines
Need/Use: The report concerns the size and nature of the operator's gas system, total leaks repaired, number of personal injuries and property damage, and cause of failures. This information is needed to evaluate the effectiveness of existing regulations and plan modifications where appropriate

DOT No: 2098
OMB No: 2120–0036
By: Federal Aviation Administration
Title: Notice of Landing Area Proposal
Forms: FAA Form 7480–1
Frequency: On occasion
Respondents: Airport/landing area owners
Need/Use: The FAA requires prior notice of construction, alteration, deactivation of airports not involving Federal funds. The information is collected to give public notice

DOT No: 2099
OMB No: 2127–0008
By: National Highway Traffic Safety Administration
Title: Vehicle Owner's Questionnaire
Forms: HS Form 350 and HS Form 350B
Frequency: On occasion
Respondents: Individuals or households
Need/Use: Solicits information from vehicle owners to determine whether a safety defect exists in motor vehicles, motor vehicle equipment or tires

DOT No: 2100
OMB No: 2125–0001
By: Federal Highway Administration
Title: Waiver—Initial and Renewal
Forms: None
Frequency: Biennial
Respondents: Individuals/Business
Need/Use: Persons not physically qualified to drive a commercial motor vehicle in interstate commerce can be issued a waiver. A copy of the waiver must be retained by the driver and the motor carrier

DOT No: 2101
OMB No: 2125–0073
By: Federal Highway Administration
Title: Records of violations and annual review of driving record
Forms: None
Frequency: Annual
Respondents: Individuals/Businesses
Need/Use: Drivers must furnish carriers a list of violations of traffic laws every 12 months for which they were convicted. Records are to be retained in the qualification file. Where there were none a certificate is to be retained. The object is to maintain only operators with safe driving records.

DOT No: 2102
OMB No: 2125–0065
By: Federal Highway Administration
Title: Driver Employment Application
Forms: None
Frequency: Occasionally
Respondents: Business/Individuals
Need/Use: Provides information on driver for use of FHWA and carriers in making determination of eligibility of driver. Application must be retained in file while employed and for 3 years thereafter

DOT No: 2103
OMB No: 2125–0067
By: Federal Highway Administration
Title: Investigations and inquiries of driving record and past employers
Forms: None
Frequency: Occasionally
Respondents: Individuals/Businesses
Need/Use: Requires motor carriers to retain a record regarding each driver applicant's driving record and employment record for the preceding 3 years. Used to eliminate dangerous drivers from operating on the highways

DOT No: 2104
OMB No. 2125–0064
By: Federal Highway Administration
Title: Road Test
Forms: None
Frequency: Occasionally
Respondents: Individuals/Businesses
Need/Use: Requires motor carriers testing or verification of drivers competency for operating the commercial motor vehicle they will be driving

DOT No: 2105
OMB No. 2125–0070
By: Federal Highway Administration
Title: Written Examination
Forms: None
Frequency: Occasionally
Respondents: Individuals/Businesses
Need/Use: Requirement that carriers maintain for 3 years documentation that drivers have basic knowledge of regulations pertaining to motor vehicles in order to ensure safe operations

DOT No: 2106
OMB No. 2125–0081
By: Federal Highway Administration
Title: Qualification Certificate
Forms: None
Frequency: Occasionally
Respondents: Individuals/Businesses
Need/Use: Certification permitted in lieu of documentation in 49 CFR 391 if driver is regularly employed by another motor carrier

DOT No: 2107
OMB No. 2125–0080
By: Federal Highway Administration
Title: Medical Examination
Forms: None
Frequency: Biennially
Respondents: Businesses
Need/Use: Medical examination required by 49 CFR 391.43 and possession of certificate by the driver while operating commercial motor vehicles. Copy to be filed by motor carriers in their driver qualification file, to ensure safe operations on highways

Issued in Washington, D.C. on December 29, 1982.

Robert L. Fairman,

Assistant Secretary for Administration.

[FR Doc. 83-363 Filed 1-5-83; 8:45 am]
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Research and Special Programs Administration

[Inconsistency Ruling, IR–6]

City of Covington Ordinance Governing Transportation of Hazardous Materials by Rail, Barge, and Highway Within the City

APPLICANT: General Battery Corporation (IRA–12).

CITY LAW AFFECTED: Commissioners' Ordinance No. 0–31–80 of the City of Covington, Kenton County, Kentucky, dated May 13, 1980, and requiring all commercial rail, barge and truck operators to give advance notification of their intent to transport hazardous, dangerous substances within the jurisdictional confines of the City.

APPLICABLE FEDERAL REQUIREMENTS: Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) sections 102–107 and 109; and Parts 171–174 and 176–177 of the Hazardous Materials Regulations (49 CFR Parts 171–179).

MODES AFFECTED: Rail, water and highway.

ISSUE DATE: December 29, 1982.

RULING: Commissioners' Ordinance No. 0–31–80 is set out in the appendix to this document. Sections (1) through (3) are inconsistent with the HMTA and the regulations issued thereunder and are, therefore, preempted. No conclusion is expressed regarding the procedural provisions set forth as Sections (4) through (6).

SUMMARY: This inconsistency ruling is the opinion of the Materials Transportation Bureau concerning whether Ordinance No. 0–31–80 of the City of Covington, Kentucky, is inconsistent with the HMTA and regulations issued thereunder and, thus, preempted as set forth in section 112(a) of the HMTA. This ruling was applied for and is issued pursuant to the procedures set forth at 49 CFR 107.201–107.209.

FOR FURTHER INFORMATION CONTACT: Elaine Economides, Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590, (Tel. (202) 755–4972).

I. Background

A. *Chronology.* By letter dated September 24, 1980, General Battery Corporation applied for an administrative ruling on the question of whether Ordinance No. 0–31–80 of the City of Covington, Kentucky, is inconsistent with the Hazardous Materials Transportation Act (HMTA) and regulations issued thereunder.

Pursuant to 49 CFR 107.205(a), the Office of the City Solicitor for the City of Covington, by letter dated November 26, 1980, submitted comments regarding the application for an inconsistency ruling.

On August 26, 1982, the Materials Transportation Bureau (MTB) published a notice and invitation to comment (47 FR 37737). In response to that invitation, comments were received from more than 150 individuals, companies and industry associations involved in transportation and affected by the Ordinance. With the exception of the Assistant City Solicitor for the City of Covington, all commenters asserted that Commissioners' Ordinance No. 0–31–80 is inconsistent with the HMTA and associated regulations. Nearly all commenters stressed the need for

uniform and consistent regulations. Many commented on the likelihood that emergency response would be impaired by the introduction of confusing definitions unique to Covington. Most commenters expressed concern that an intolerable burden would be imposed on interstate commerce by the proliferation of prenotification systems utilizing varying, inconsistent classification systems to describe hazardous materials. Several commenters relied on previous inconsistency rulings. Where appropriate, these comments and previous administrative decisions will be discussed in this ruling.

B. *General Authority and Preemption under the HMTA.* With certain exceptions, the HMTA imposes obligations to act only on the Secretary of Transportation. Obligations are imposed on members of the public only by substantive regulations issued under the HMTA. Known as the Hazardous Materials Regulations (HMR), they are codified at 49 CFR Parts 107–179, and mostly predate the HMTA. The HMR previously were authorized by the Explosives and Other Dangerous Articles Act (18 U.S.C. 831–835), which was repealed in 1979 (Pub. L. 96–129, November 30, 1979). The HMTA was enacted on January 3, 1975 and the HMR were reissued under its authority, effective January 3, 1977 (49 FR 39175, September 9, 1976). Subsequent amendments to the HMR have been issued under the authority of the HMTA and with the preemptive effect granted by that Act.

The HMR apply to persons who offer hazardous materials for transportation (shippers), those who transport the materials (carriers), and those who manufacture and retest the packagings and other containers intended for use with the materials. The scope of transportation activity affected includes the packaging of shipments of hazardous materials, package markings (to show content) and labeling (to show hazard), vehicle placarding (to show hazard), handling procedures, such as loading and unloading requirements, care of vehicle and lading during transportation, and the preparation and use of shipping papers to show the identity, hazard class and amount of each hazardous material being shipped. The HMR also require carriers to report in writing to DOT any unintentional release of a hazardous material during transportation. In some cases, an immediate report must be made in addition to the subsequent written report.

A discussion of the preemptive effects of the HMTA appears in previous inconsistency rulings. The discussions in IR–2 (44 FR 75566) and IR–3 (46 FR 18918) are extracted and summarized here.

The HMTA at section 112(a) (49 U.S.C. 1811(a)) preempts "* * * any requirement of a State or political subdivision thereof, which is inconsistent with any requirement set forth in (the HMTA) or regulations issued under (the HMTA)." This express preemption provision makes it evident that Congress did not intend the HMTA and its regulations to completely occupy the field of transportation so as to preclude any State or local action. The HMTA preempts only those State and local requirements that are "inconsistent."

In 49 CFR Part 107, Subpart C, the MTB has published procedures by which a State or political subdivision thereof having a requirement pertaining to the transportation of hazardous materials, or any person affected by the requirement, may obtain an administrative ruling as to whether the requirement is inconsistent with the HMTA or regulations under the HMTA. At the time these procedures were published, the MTB observed that "(t)he determination as to whether a State or local requirement is consistent or inconsistent with the Federal statute or Federal regulations is traditonally judicial in nature." (41 FR 38167, September 9, 1976). There are two principal reasons for providing an administrative forum for such a determination. First, an inconsistency ruling provides an alternative to litigation for a determination of the relationship of Federal and State or local requirements. Second, if a State or political subdivision requirement is found to be inconsistent, such a finding provides the basis for an application for a determination by the Secretary of Transportation as to whether preemption will be waived (49 U.S.C. 1811(b); 49 CFR 107.215–107.225).

Since the proceeding here is conducted pursuant to the HMTA, the MTB will consider only the question of statutory preemption. A Federal court may find a State requirement not statutorily preempted, but, nonetheless, preempted by the Commerce Clause of the U.S. Constitution because of an undue burden on interstate commerce. However, the Department of Transportation does not make such determinations.

Given the judicial character of the inconsistency ruling proceeding, the MTB has incorporated case law criteria for analyzing preemption issues into the preemption procedures at 49 CFR 107.209(c):

(1) Whether compliance with both the (State or local) requirement and the Act or the regulations issued under the Act is possible; and

(2) The extent to which the (State or local) requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

The first criterion is the dual compliance or direct conflict test and concerns those State or local requirements that are incongruous with Federal requirements; that is, compliance with the State or local requirement causes the Federal requirement to be violated, or vice versa. The second criterion, in a sense, subsumes the first and concerns those State or local laws that, regardless of conflict with a Federal requirement, stand as "an obstacle to the accomplishment and execution of the (HMTA) and the regulations issued under the (HMTA)." In determining whether a State or local requirement presents such an obstacle, it is necessary to look at the full purposes and objectives of Congress in enacting the HMTA and the manner and extent to which those purposes and objectives have been carried out through the MTB's regulatory program.

In enacting the HMTA, Congress recognized that the Department of Transportation's efforts in hazardous materials transportation regulation lacked coordination by being divided among the various transportation modes, and lacked completeness because of gaps in DOT's authority, most notably in the area of manufacturing and preparation of packagings used to transport these materials. In order to "protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce" (49 U.S.C. 1802), Congress consolidated and expanded the Department's regulatory and enforcement authority.

Specifically with respect to the preemption provision, the legislative history of the provision indicates that Congress intended it "to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation" (S. Rep. No. 1192, 93rd Cong., 2nd Sess. 37 (1974)).

II. Commissioners' Ordinance No. 0–31–80

A. *Advance Notification.* Section 1 of the Ordinance places an obligation to

act on "all commercial rail, barge and truck operators *within the City of Covington* which haul dangerous and hazardous substances". (Emphasis added.) The placement of the phrase "within the City of Covington" creates some confusion, as it could be understood either: (1) To limit coverage of the Ordinance to those operators located exclusively within the City of Covington; or (2) to describe the place where transportation activity must occur to trigger the Ordinance. If the latter interpretation is correct, then a further question arises as to whether the use of the word "within", rather than "through", is intended to limit the effect of the Ordinance to those shipments which occur completely within the boundaries of the City or is it, instead, intended to encompass any shipment which at some point in its transit can be found within the City. Since the Ordinance specifically includes rail and barge operations, transportation modes which are predominantly interstate in nature, it does not seem reasonable to interpret the Ordiance as being limited to intracity operators or shipments. Therefore, the Ordinance will be interpreted as placing an obligation to act on all commercial rail, barge and truck operators which haul dangerous and hazardous substances in or through the City of Covington.

The obligation placed on such operators is "to give advance notification to the Covington Fire Department whenever they intend to transport said substances within the jurisdictional confines of the City of Covington." The Ordinance fails to specify how the notification should be given, when it should occur, or what information should be provided. Conceivably, an operator could comply with the Ordinance by sending a notice on January 1 stating an intent to haul any and all hazardous and dangerous substances through Covington at some time during the new year. That this approach would be unacceptable, however, is apparent upon consideration of the City's purpose in enacting the Ordinance. As described in the City's supplementary response to Docket IRA–12, the City's purpose was "to ascertain exactly what hazardous materials are passing through its confines" in order to "prepare its emergency teams to adequately address a crisis." From this statement of purpose, it is possible to infer that the City seeks advance notification of the contents, time and general route of each shipment of dangerous and hazardous substances passing within its jurisdiction. Thus, it appears that notice must be given sometime after the contents of a shipment are identified and before it enters Covington or, in the case of cargoes on-loaded in Covington, before transportation is initiated within the City.

B. *Definitions.* Those items which the City deemed sufficiently hazardous to require advance notification are defined in Section 2 of the Ordinance. The items are referred to generically as "hazardous, dangerous substances" or, in Section 1, as "dangerous and hazardous substances." (Section 1 also specifically excepts gasoline from operation of the Ordinance.) For purposes of application of the Federal Hazardous Materials Regulations (HMR) (49 CFR Parts 107–179), the term "hazardous substance" is confined to those specifically named materials which are identified in the Hazardous Materials Table (49 CFR 172.101). Under the HMR, gasoline is a hazardous material, but not a hazardous substance. Thus, if the Ordinance's designation of hazardous substances were meant to embrace the Federal definition, the exception of gasoline in Section 1 of the Ordinance would be consistent with that usage. However, Section 2 of the Ordinance contains eight subsections which define the meaning of "dangerous, hazardous substances" as used therein and these demonstrate clearly that the drafters did not intend to adopt the Federal definition of hazardous substances.

Section 2 states that "(f)or the purposes of this ordinance, hazardous, dangerous substances measn any substance or mixture of substances which is" described in the following eight subsections. Each of the subsections (a-h) defining a category of hazardous, dangerous substances is set forth below and compared to the relevant Federal definition.

(a) Toxic and has the inherent capacity to produce bodily harm to man through ingestion, inhalation, or absorption through any body surface, including toxic substances which are poisonous;

Subsection 2(a) provides such a broad description of "toxic" that it would encompass many Federally-defined corrosives, flammables and gases. Similarly, the definition includes all toxic substances which are "poisonous", yet fails to define that term. Within the HMR materials designated as poison A are identified as either those specifically listed by name or with properties analogous to those listed (49 CFR 173.326). Materials designated as poison B are defined by specific test protocols for oral, inhalation and skin absorption toxicity (49 CFR 173.343). Subsection 2(a) provides no such standards for objective determination of whether a specific commodity must be considered toxic under the Ordinance. Since the Ordinance makes no distinctions with regard to the toxicity level, volume, packaging or intended use (e.g. consumer commodity) of the material being transported, its definition of "toxic" materials is so broad as to require advance notification of intent to transport such substances as table salt or aspirin (which can cause bodily harm when ingested in quantity).

(b) Corrosive on contact with living tissue causing substantial destruction of tissue by chemical action, but does not refer to action on inanimate surfaces;

Subsection 2(b) defines "corrosive", a term also used in the HMR to describe a class of hazardous materials. However, while the HMR provide for the identification of corrosive materials by means of a specific test protocol for destruction of living tissue or a specific rate of corrosion on steel (49 CFR 173.240), subsection 2(b) offers only the highly subjective standard of "substantial" destruction of living tissue. In the absence of any limiting language in the Ordinance, subsection 2(b) must be interpreted as requiring advance notification of intent to transport a single bottle of household drain cleaner.

(c) Irritant and not corrosive within the meaning of paragraph (b), which on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction;

Like subsections 2(a) and (b), subsection 2(c) provides a general definition of a class of materials without providing an objective standard for determining whether a specific material meets that definition. The HMR do not include "irritant" as a hazard class. However, the HMR do include a class of materials designated "irritating material" which is defined as a liquid or solid substance which upon contact with fire or when exposed to air gives off dangerous or intensely irritating fumes (49 CFR 173.381). Thus, the Ordinance uses a term similar to the Federal term but imbued with an entirely different meaning. Given the breadth of this definition and the absence of any limiting language in the Ordinance, subsection 2(c) must be interpreted to require advance notification of intent to transport a single tube of cosmetic depilatory.

(d) Strong sensitizer and will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of

the same substance and which is designated as such by the board;

Subsection 2(d) defines a hazard class which has no counterpart in the HMR. Indeed, it is difficult to deduce the meaning of "strong sensitizer". The definition relies on the test of causing an allergic reaction on normal living tissue, but an allergic reaction, by definition, is an abnormal reaction. In addition to meeting this somewhat contradictory test, a "strong sensitizer" must be designated as such by the Covington Board of Commissioners. However, the Ordinance does not indicate how (or whether) notice would be given of the decision to designate a material as a "strong sensitizer".

(e) Flammable with a flashpoint of eighty degrees (80°) Fahrenheit or below;

Unlike the prior definitions, subsection 2(e) attempts to provide an objective standard for determining whether specific materials meet the definition. According to the definition, flammable materials are those with a flashpoint of eighty degrees Fahrenheit or less. However, no indication is made of the test to be used in establishing a material's flashpoint, whether open cup, closed cup, or other. By relying on a flashpoint, the definition in this subsection would seem to refer only to those materials designated in the HMR as flammable liquids (49 CFR 173.115). However, the two designations are not identical, as the HMR defines flammable liquids as having flashpoints of less than one hundred degrees Fahrenheit under specific test conditions, while the Ordinane defines flammables as having a flashpoint of eighty degrees Fahrenheit or less without reference to the test conditions.

(f) Radioactive as a result of disintegration of unstable atomic nuclei and emits energy;

Virtually all matter emits energy as a result of naturally-occurring radionuclides. By contrast, the definition of "radioactive material" in the HMR specifically excludes material in which the specific activity is below a stated level and the radioactivity is essentially uniformly distributed.

(g) Capable of generating pressure through decomposition, heat or other means;

Subsection 2(g) offers another definition which is so broad as to encompass virtually all matter. In the absence of any baseline level of allowable pressure, it is impossible to determine which substances would not be covered by this definition. Milk, which expands when frozen, satisfies the definitional requirement of being capable of generating pressure. Thus, as defined in the Ordinance, milk is a hazardous, dangerous substance.

(h) Capable of causing substantial personal injury or illness during any customary or reasonably anticipated handling or use.

Subsection 2(h) appears to be a catch-all category which would include many substances not subject to the HMR. What substance is not capable of causing substantial personal injury or illness during any customary or reasonably anticipated handling or use? The law of torts is replete with personal injury cases which arose through the customary or reasonably anticipated handling or use of items as common as bar soap.

Taken as a whole, the definitional subsections constitute a system of classifying hazardous materials which is totally at variance with the system of hazard class definitions on which the Federal hazardous materials regulatory system is based.

III. Ruling

A. *Definitions.* In a recent inconsistency ruling, MTB expressed the view that "(t)he foundation of the Federal hazardous materials regulatory system is the definition of hazard classes" (IR–5, 47 FR 51993). In that proceeding, MTB found to be inconsistent a New York City regulation containing definitions of four classes of hazardous materials which differed substantively from the definitions contained in the HMR. That ruling is particularly germane to the subject of this proceeding, as Commissioners' Ordinance No. 0–31–80 sets forth a hazardous materials classification system in which all definitions differ substantively from the Federal scheme.

All compliance with the HMR is predicated upon the correct designation of a material's hazard class. If a material possesses the characteristics described in any of the DOT definitions, then it can be universally recognized as a member of that hazard class. The hazard class designation carries an explicit message to those involved in all aspects of the transportation of that material, putting them on notice of their obligation to comply with the applicable provisions of the HMR, including requirements for packaging, shipping papers, marking, labeling, placarding and handling. Furthermore, the correct hazard class designation conveys information about a material's characteristics which is vital to the effectiveness of emergency response efforts.

In establishing the hazard class definitions, DOT has exercised the express statutory authority created by Section 104 of the HMTA:

Upon a finding by the Secretary, in his discretion, that the transportation of a particular quantity and form of material in commerce may pose an unreasonable risk to health and safety or property, he shall designate such quantity and form of material or group or class of such materials as a hazardous material. (49 U.S.C. 1803).

By implication if a material does not possess the characteristics described in any of the hazard class definitions, then it is not a material which DOT considers as posing "an unreasonable risk to health and safety or property" and, accordingly, application of the HMR to its transportation is not deemed warrented. While the HMTA grants broad discretion to DOT in establishing these definitions, their adequacy as a system of hazard classification is attested by the fact that they have been adopted by a vast majority of the states, including Covington's own state, Kentucky.

To a much greater degree than the New York definitions which were considered in IR–5, the Covington definitions extend the scope of the Ordinance's impact to a wide range of materials that are not subject to the HMR. Moreover, the Ordinance classifies materials differently, for purposes of application of the City's requirements, from their classification for purposes of application of the HMR. Therefore, the first issue to be addressed in this ruling is whether the hazard class definitions contained in Section 2 of the Ordinance are "inconsistent" within the meaning of the HMTA. For the reasons set forth below, I find that the definitions and the resulting applications of the City's requirements are inconsistent with the HMTA and the regulations issued thereunder and are, therefore, preempted.

With regard to the "dual compliance" test, there is no information before MTB to indicate that compliance with the City's requirements which are made applicable by the City's definitions necessarily results in violation of the HMR, or vice versa. Therefore, I cannot conclude that the City's definitions are inconsistent under the "dual compliance" test.

With regard to the "obstacle" test, however, I reach the opposite conclusion. Under that test, the issue is "the extent to which the State or political subdivision requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act." As discussed above, in enacting the HMTA, Congress had two purposes that are relevant to

this proceeding. First, as stated in the policy section of the Act, the fundamental purpose is "to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce." (49 U.S.C. 1801). Second, as stated in the legislative history of the preemption provision (49 U.S.C. 1811), Congress' purpose in enacting that provision was "to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." (S. Rep. No. 1192, 93rd Cong., 2nd Sess. 37 (1974)).

These two purposes are closely interrelated. For example, in previous inconsistency rulings, MTB has expressed the view that overall public safety demands nationally uniform requirements relating to hazardous materials packaging and hazard warning systems. (IR–2; IR–3; IR–4; 47 FR 12341).

As was stated in IR–2:

> There are also certain areas where the need for national uniformity is so crucial and the scope of Federal Regulation is so pervasive that it is difficult to envision any situation where State or local regulation would not present an obstacle to the accomplishment and execution of the HMTA and the Hazardous Materials Regulations. (44 FR 75568).

In IR–5, the same conclusion was reached regarding hazard class definitions, as these are the starting point for determining the applicability of nationally uniform requirements:

> In addition to the fact that the City's differing hazard class definitions present an obstacle to the accomplishment of the general Congressional purpose of promoting uniformity in hazardous materials transportation, those definitions also present an obstacle to the accomplishment of the more specific purpose of achieving the maximum level of compliance with the HMR. The HMR are, in and of themselves, a comprehensive and technical set of regulations which occupy approximately 1000 pages of the Code of Federal Regulations * * *. For the City to impose additional requirements based on differing hazard class definitions adds another level of complexity to this scheme. Thus, shippers and carriers doing business in the City must know not only the classifications of hazardous materials under the HMR and the regulatory significance of those classifications, but also the City's classifications and their significance. Such duplication in a regulatory scheme where the Federal presence is so clearly pervasive can only result in making compliance with the HMR less likely, with an accompanying decrease in overall public safety. (47 FR 51324).

The likelihood of reduced compliance with the HMR and subsequent decrease in public safety is necessarily greater under the Covington Ordinance, in which all hazard class definitions differ from those in the HMR than under the New York regulations in which the differences involved only four hazard classes. Indeed, the likelihood of reduced compliance becomes even clearer upon consideration of the practical problems carriers face in attempting to comply with the requirements for advance notification which are triggered by the differing hazard class definitions.

Under the HMR, carriers are notified of the presence of Federally-regulated hazardous materials through shipping papers, placards and certificates of compliance which originate with the shipper and accompany the cargo to its destination (49 CFR Part 172). Carriers seldom have the technical capability for scientific analysis of the materials they transport and must rely on the shippers for information about the cargo. But the Ordinance requires carriers to provide advance notification on the basis of criteria which are unrelated to the Federal system on which all hazard communication is based. A carrier's only recourse is to obtain documentation from the shipper in addition to that provided by the shipping papers. The problem is compounded by the vagueness of the definitions in the Ordinance; neither shippers nor carriers could conclude with any degree of certainty that a given material was not a "dangerous and hazardous substance", except, of course, when the material was gasoline. As stated in prior rulings, it is DOT's view that the shipping paper requirements of the HMR are exclusive and that any additional shipping paper requirements are inconsistent under the HMTA. Furthermore, when shipping papers contain information relating to hazard class definitions other than those in the HMR, the resulting confusion can lead to deviations from DOT's uniform hazard warning systems. This, in turn, can have detrimental, and potentially catastrophic, effects during emergency response operations. As was stated in IR–2:

> The effectiveness of (hazard warning) systems depends to a large degree on educating the public, especially emergency response personnel. . . Additional, different requirements imposed by States or localities detract from the DOT systems and may confuse those to whom the DOT systems are meant to impart information. (44 FR 75568).

The key to hazardous materials transportation safety is precise communication of risk. The proliferation of differing State and local systems of hazard classification is antithetical to a uniform, comprehensive system of hazardous materials transportation safety regulation. This is precisely the situation which Congress sought to preclude when it enacted the preemption provision of the HMTA (49 U.S.C. 1811).

For the foregoing reasons, I find that Section 2 of Commissioners' Ordinance No. 0–31–80 is an obstacle to the accomplishment of the HMTA and its regulations. Accordingly, it is my opinion that, to the extent that the definitions contained in Section 2 are made applicable to the transportation of hazardous materials by other provisions of the Ordinance, they are inconsistent with the HMTA and the regulations issued under the HMTA and, in accordance with section 112(a) of the HMTA, are preempted.

B. *Advance Notification.* Commissioners' Ordinance No. 0–31–80 requires all commercial rail, barge and truck operators to give advance notification to the Covington Fire Department whenever they intend to transport hazardous, dangerous substances (as defined therein) within the jurisdictional confines of the City of Covington. Having expressed the opinion that the definitions contained in the Ordinance are inconsistent with the HMR, I shall now consider the question of advance notification independent of the definitional inconsistency. In other words, if the Ordinance were to incorporate the definitions of hazardous materials contained in the HMR, would the advance notification requirement contained in Section 1 of the Ordinance be inconsistent within the meaning of the HMTA? For the reasons set forth below, I find that the City's requirement of advance notification of intent to transport hazardous materials is inconsistent with the HMTA and the regulations issued thereunder and is, therefore, preempted.

With regard to the "dual compliance" test, neither the HMTA nor the regulations issued thereunder contain any prohibition of advance notification systems per se. Therefore, compliance with the Ordinance would not involve violation of any prenotification requirements under the HMTA. However, many commenters asserted that the transportation delays resulting from carriers' efforts to provide the required advance notification would result in violation of the Federal requirement that shipments of hazardous materials be transported without unnecessary delay (49 CFR 174.14; 49 CFR 177.853). The key word is "unnecessary," for it involves considerations which go beyond the

scope of the dual compliance test. While recognizing that compliance with the Ordinance would result in transportation delays, I cannot conclude on the basis of the available information that such delays would constitute an ipso facto violation under the HMR.

With regard to the "obstacle test", however, I reach the opposite conclusion.

Covington's purpose in enacting Ordinance No. 0–31–80 was described in the Assistant City Solicitor's response to the **Federal Register** notice on this matter:

> By enacting Ordinance 0–31–80, the city commission sought to ascertain exactly what hazardous materials are passing through its confines. Only with this information can the city properly prepare its emergency teams to adequately address a crisis. Preparation without knowing exactly what one is preparing for is not preparation. Only by being informed by the haulers of hazardous substances can the City adequately (sic) prepare a full and all-encompassing team to address any emergency.
>
> * * * Covington excluded gasoline haulers because the city is familiar with the fact that gasoline is hauled through the city and the city is prepared and trained to address an emergency involving that type substance.

Thus, the purpose of the Ordinance is to enable the city to identify what hazards it should be prepared to deal with and to ensure that it is capable of doing so. Both are valid local concerns. As stated in a previous inconsistency ruling (IR–2, 44 FR at 75568), "(a)lthough the Federal Government can regulate in order to avert situations where emergency response is necessary, and can aid in local and State planning and preparation, when an accident does occur, response is, of necessity, a local responsibility." Notwithstanding the validity of Covington's need to prepare for emergencies, there remains the issue of whether the device Covington has chosen to serve that need constitutes an obstacle to the accomplishment and execution of the HMTA.

In recent years, there has been a growing interest the prenotification as a means of hazardous materials management at the State and local level. However, there has been no apparent consensus on the meaning or even the objectives of prenotification. Therefore, MTB commissioned a study of the subject as part of a prenotification. Therefore, MTB commissioned a study of the subject as part of a comprehensive regional study of hazardous materials transportation performed by the Puget Sound Council of Governments. The report (*Analysis of Prenotification: Hazardous Materials Study, Final Report*, May 4, 1981) examined the need for and feasibility of prenotification and analyzed certain questions relating to implementation. Stated briefly, the major conclusion of the study was that, while there appeared to be some merit in alerting jurisdictions to the impending shipment of expecially hazardous materials in order to facilitate emergency response preparedness, the usefulness of the prior notice declined sharply as the number of substances subject to it increased.

This finding substantiates the position taken by Congress in enacting Pub. L. 96–295 (June 30, 1980) which required the Nuclear Regulatory Commission to issue regulations on prenotification for shipments of radioactive wastes posing a potentially significant hazard. This approach not only recognized that the effectiveness of prenotification depends on its being limited to a few high-risk commodities, but also reaffirmed the importance of national uniformity in hazardous materials transportation safety regulation.

Covington's approach to prenotification is to require advance notification of all hazardous materials shipments, not merely those posing an unusually high risk. Full compliance with the Ordinance by commercial rail, barge and truck operators would generate hundreds and possibly thousands of telephone calls daily to the Fire Department. While this tidal wave of information could provide the City with an inventory of the hazardous materials transported within its jurisdictional boundaries, its more probable effect would be to overwhelm the Fire Department's ability to respond by the sheer volume of information thus generated. While Covington is correct in asserting that the only way to protect the lives and property of its citizens is to identify the nature of the hazards they may face, the device chosen to provide the necessary information is neither the only nor the most effective method available. A survey could accomplish the same results more quickly and at less expense to both the City and the carriers. However, inefficiency will not require an ordinance to be deemed inconsistent unless it creates a situation which constitutes an obstacle to the accomplishment and execution of the HMTA.

Compliance wih the requirement for advance notification would necessarily involve some degree of delay in the transportation of hazardous materials. Covington has characterized the delay as de minimis: "All that is required by the Ordinance is that the dispatcher at the carriers (sic) point of origin give Covington advance notice of the intent to transport certain substances within the jurisdictional confines of the City of Covington." (Response to the Application, November 26, 1980, p.2). However, as many commenters were quick to point out, this assertion reflects a basic unfamiliarity with the complexity of motor carrier operations. An individual carrier seldom knows much in advance of any shipment precisely what is being shipped or what route it will follow. Furthermore, carriers frequently make pick-ups and deliveries enroute. In view of these practical considerations, the responsibility for providing advance notification would fall to the driver who, at some point short of the Covington border, would have to interrupt transportation in order to telephone the Fire Department. The prospect of large numbers of vehicles loaded with a variety of hazardous materials piling up at key locations in the surrounding jurisdictions while their drivers attempt to get through to the Covington Fire Department suggests that Covington's attempt to increase safety could operate to its neighbor's detriment. If the approach taken by Covington were deemed an appropriate local activity, it would be no less so for Covington's neighbors, and their neighbors, etc., to the point where a carrier would have to stop at every town line on its route. As was stated in IR–2:

> The manifest purpose of the HMTA and the Hazardous Materials Regulations is safety in the transportation of hazardous materials. Delay in such transportation is incongruous with safe transportation. (44 FR 75571).

Since safety risks are "inherent in the transportation of hazardous materials in commerce" (49 U.S.C. 1801), an important aspect of transportation safety is that transit time be minimized. This precept has been incorporated in the HMR at 49 CFR 177.853, which directs highway shipments to proceed without unnecessary delay, and at 49 CFR 174.14, which directs rail shipments to be expedited within a stated time frame.

While barge and rail operators have little or no alternative to passing through Covington and thereby becoming subject to Ordinance No. 0–31–80, operators of highway vehicles can choose to avoid the advance notification requirement by circumventing the City. As was noted in IR–3:

> The mere threat of delay may redirect commercial hazardous materials traffic into other jurisdictions that may not be aware of or prepared for a sudden, possibly permanent, change in traffic patterns. (46 FR 18921).

Where hazardous materials traffic is diverted to routes not normally used by

commercial vehicles, road conditions may be inadequate. Where it is diverted to routes which safely accommodate an established mix of commercial and private vehicles, the unplanned-for surge of traffic volume may create serious safety hazards which did not exist previously and for which emergency services are inadequate.

Covington asserts that a particularly hazardous situation exists within its borders:

> Covington is situated at the top of a geographical bottleneck, a portion of which is less than one (1) mile wide and contains over half of the city's population (50,000). Within this bottleneck lies interstate highway I–75 and I–71, one of the major north-south highways in our nation. . . . The portion of I–75 and I–71 within Covington is nationally known as "Death Hill" because of the numerous fatal accidents, the bulk of which involve large trucks. (Supplementary Response, p.1, October 2, 1982).

MTB recognizes that "State and local regulatory agencies obviously have and exercise transportation safety responsibilities, especially as regards traffic control" (IR–1, 43 FR 16956). However, when a State or local regulation has the effect of causing significant or unusual rerouting of hazardous materials traffic away from customary commercial routes, it can result in a serious degradation of overall safety. Avoiding this result requires thorough analysis of all relevant safety factors and thorough coordination by all affected jurisdictions. As was stated in IR–3, if a local rerouting scheme is to be consistent with the HMTA, the jurisdiction seeking to achieve rerouting "Must act through a process that adequately weighs the full consequences of its routing choices and ensures the safety of citizens in other jurisdictions that will be affected by its rules" (46 FR 18922). Nothing in the docket indicates that Covington made any attempt to assess the potential impacts of Ordinance No. 0–31–80 on transportation safety in adjacent jurisdictions.

As was stated previously in this ruling, Congress' dual purposes in enacting the HMTA were: (1) To protect the Nation against the risks inherent in hazardous materials transportation; and (2) to prevent a patchwork of varying and conflicting State and local regulations. Commissioners' Ordinance No. 0–31–80 impedes both purposes. By delaying hazardous materials shipments and causing traffic to be diverted from established routes, the Ordinance increases exposure tothe risks inherent in hazardous materials transportation; and to the extent that the Ordinance results in the diversion of hazardous materials traffic into adjacent jurisdictions, it constitutes a routing requirement adopted without consideration of the safety impacts on other affected jurisdictions. To the extent that the Ordinance creates a precedent for the establishment of independent and uncoordinated local prenotification systems, it contributes to the creation of the regulatory patchwork which Congress intended to preclude.

For the foregoing reasons, I find that Sections 1 (advance notification) and 3 (penalties) of Commissioners' Ordinance No. 0–31–80 constitute an obstacle to the accomplishment of the HMTA and its regulations. Accordingly, it is my opinion that they are inconsistent with the HMTA and the regulations issued thereunder and, in accordance with Section 112(a) of the HMTA, are preempted.

Any appeal to this ruling must be filed within thirty days of service in accordance with 49 CFR 107.211.

Issued in Washington, D.C. on December 29, 1982.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

Appendix

Commissioners' Ordinance No. 0–31–80

AN ORDINANCE REQUIRING ALL COMMERCIAL RAIL, BARGE AND TRUCK OPERATORS WITHIN THE CITY OF COVINGTON WHICH HAUL DANGEROUS AND HAZARDOUS SUBSTANCES TO GIVE ADVANCE NOTIFICATION TO THE COVINGTON FIRE DEPARTMENT WHENEVER THEY INTEND TO TRANSPORT SAID MATERIALS, EXCLUDING GASOLINE, WITHIN THE JURISDICTIONAL CONFINES OF THE CITY OF COVINGTON, AND PROVIDING PENALTY FOR THE VIOLATION THEREOF, AND REPEALING AND RESCINDING COMMISSIONERS' ORDINANCE 0–103–79.

* * * * *

Be it ordained by the Board of Commissioners of the City of Covington, Kenton County, Kentucky:

Section 1

That all commercial rail, barge and truck operators within the City of Covington which haul dangerous and hazardous substances, with the exception of gasoline, be and they are hereby required to give advance notification to the Covington Fire Department whenever they intend to transport said substances within the jurisdictional confines of the City of Covington.

Section 2

For the purposes of this ordinance, hazardous, dangerous substances means any substance or mixture of substances which is:

(a) Toxic and has the inherent capacity to produce bodily injury to man through ingestion, inhalation, or absorption through any body surface, including toxic substances which are poisonous;

(b) Corrosive on contact with living tissue causing substantial destruction of tissue by chemical action, but does not refer to action on inanimate surfaces;

(c) Irritant and not corrosive within the meaning of paragraph (b), which on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction;

(d) Strong sensitizer and will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the board;

(e) Flammable with a flashpoint of eighty (80°) degrees Fahrenheit or below;

(f) Radioactive as a result of disintegration of unstable atomic nuclei and emits energy;

(g) Capable of generating pressure through decomposition, heat or other means;

(h) Capable of causing substantial personal injury or illness during any customary or reasonably anticipated handling or use.

Section 3

That any person, firm or corporation in violation of any provision of this ordinance shall be fined in a sum not to exceed Five Hundred ($500.00) Dollars per occurrence and/or six (6) months in jail. Each occurrence shall constitute a separate offense.

Section 4

That all ordinance, or parts, thereof, in conflict herewith are, to the extent of such conflict, hereby repealed. Specifically repealed is Commissioners' Ordinance 0–103–79.

Section 5

That any section or part of a section or any provision of this ordinance which is declared by a court of appropriate jurisdiction, for any reasons, to be invalid, such decision shall not affect or invalidate the remainder of this ordinance.

Section 6

That this ordinance shall take effect and be in full force when passed, published and recorded according to law.

Bernard J. Moormon,

Mayor.

Attest:

Vivian Willman,

City Clerk.

Passed: first reading May 13, 1980.

[FR Doc. 83–136 Filed 1–5–83; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[Docket No. 82-27]

Termination of Closed Receivership Fund; Third Notice

Note.—This document originally appeared in the Federal Register of December 23, 1982. It is reprinted in this issue at the request of the agency.

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of termination.

SUMMARY: Notice is hereby given that all rights of depositors and other creditors of national banks which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation to collect liquidating dividends from the "closed receivership fund" shall be barred after twelve months following the date of the fourth publication of this notice.

FOR FURTHER INFORMATION CONTACT: Howard J. Finkelstein, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1880.

SUPPLEMENTARY INFORMATION: Pursuant to Section 409 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320 (October 15, 1982), notice is hereby given that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the "closed receivership fund" will be barred after twelve months following the date of the fourth publication of this notice.

Sections 721-723 of the Depository Institutions Deregulation and Monetary Control Act of 1980 clarified the status of the "closed receivership fund" by establishing a procedure for the satisfaction or cancellation of all outstanding claims for liquidating dividends and the termination of the fund. However, the 1980 law applied only to national banks closed on or before January 22, 1934. After the law was passed it came to the Office's attention that there had been at least one bank closed after the above date for which the Comptroller appointed a receiver other than the Federal Deposit Insurance Company. The Office therefore sought clarification of the 1980 law from Congress. Congress provided such clarification in Section 409 of Pub. L. 97-320 by striking the date of January 22, 1934 from the statute and substituting therefor the phrase "which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation."

Under the provisions of the amended law, the Office will publish notices in the Federal Register once each week for four consecutive weeks that all rights of depositors and creditors of the fund will be barred after twelve months following the last date of publication of such notice. This is the third such notice. During this twelve month period, the Office will accept claims for liquidating dividends from the fund. A claim should consist of a Proof of Claim form received from the receiver at the time of the bank's closing or other acceptable evidence of an unsatisfied claim. Claims should be sent to the attention of Mr. Robert L. Teets, Manager, Accounting Programs, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

Following the close of the twelve month period, all unclaimed dividends, together with income earned on liquidating dividends and other moneys remaining in the fund, will be covered into the general funds of the Office.

Dated: December 2, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-34793 Filed 12-22-82; 8:45 am]

BILLING CODE 4810-33-M

Office of the Secretary

Privacy Act of 1974; Consolidation of Nine Systems of Records

AGENCY: Office of the Secretary, Treasury.

ACTION: Consolidation of nine systems of records notices into one system notice: *Treasury/OS.003—OS Personnel Working Files*

SUMMARY: The Office of the Secretary is consolidating notices for the following nine systems of records into one system notice, Treasury/OS.003—Personnel Working Files:

Treasury/OS.041—Management Analysis Personnel Working Files
Treasury/OS.110—Foreign Assets Control Administrative Records
Treasury/OS.128—ORS Personnel Records
Treasury/OS.140—Annual Performance Rating and Annual Performance Analysis
Treasury/OS.147—Employee Promotion Information
Treasury/OS.152—General Counsel Personnel Files
Treasury/OS.191—Building Management Employee Folder
Treasury/OS.243—Personnel: Personnel; Recruitment, Personnel; Evaluations
Treasury/OS.300—Personnel Files

The records in these systems are all personnel-type records located in the various offices where the employees work. The information in the systems is used for (1) planning and managing staff development, (2) reviewing work performance levels, (3) assessing training needs, (4) recommending promotions, and (5) recruiting and evaluating job applicants. The consolidation will reduce the Department's total number of systems of records.

DATE: This system becomes effective upon publication.

FOR FURTHER INFORMATION CONTACT: Phyllis De Piazza, Disclosure Officer, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220, (202) 566-2789.

Dated: December 27, 1982.

Cora P. Beebe,

Assistant Secretary (Administration).

TREASURY/OS.003

SYSTEM NAME:

OS Personnel Working Files

SYSTEM LOCATION:

Office of Management and Organization.
Office of Revenue Sharing.
Office of General Counsel.
Office of Data Management, OASIA.
Office of the Assistant Secretary for Public Affairs.
Office of Foreign Assets Control.
Office of Facilities Maintenance Branch, OAP.

For addresses, see Systems Manager below.

CATEGORY OF INDIVIDUALS COVERED BY THE SYSTEM:

Past, present and prospective employees for the above-named offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel-type records such as the following: SF 50 and 52 (personnel action); 171 (Employment Qualifications); Résumés; 1012 (Travel Voucher); 1038 (Travel Advance); 3015 (Travel Authorization); Personnel Data Summary Sheet; employee training information; position descriptions; letters of appreciation, counseling, or reference; corrective actions; recommendations for promotions, suspensions; performance appraisals; evaluations; awards; and appointment; and worker's compensation forms.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in this system is used for (1) planning and managing staff development, (2) reviewing work performance levels, (3) assessing training needs, (4) recommending promotions, and (5) recruiting and evaluating job applicants. For former employees, the information is used for reference purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File Folders.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Secured file cabinet or locked safe with a limited number of authorized employees permitted access.

RETENTION AND DISPOSAL:

In some offices, files on present and former employees are kept for duration of employment and thereafter for reference purposes. In other offices, files are given to employees upon resignation or are destroyed. For prospective employees, files may be kept three to five years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Acting Director, Office of Management and Organization, Department of the Treasury, Room 4418, 1500 Pennsylvania Avenue, NW, Washington, DC 20220
Administrative Officer, Office of Revenue Sharing, Department of the Treasury, 2401 E Street, NW, 15th Floor, Washington, DC 20226
Administrative Officer, Office of the General Counsel, Department of the Treasury, Room 3006, 1500 Pennsylvania Avenue, NW, Washington, DC 20220
Acting Director, Office of Data Management, OASIA, Department of the Treasury, Room 5127, 1500 Pennsylvania Avenue, NW, Washington, DC 20220
Deputy Assistant Secretary for Public Affairs, Department of the Treasury, Room 3124, 1500 Pennsylvania Avenue, NW, Washington, DC 20220
Director, Office of Foreign Assets Control, Department of the Treasury, Room 504, 1331 G Street, NW, Washington, DC 20226
Chief, Facilities Maintenance Branch, Department of the Treasury, Room B-50, 1500 Pennsylvania Avenue, NW, Washington, DC 20220

NOTIFICATION PROCEDURE:

Individuals wishing to be notified if they are named in this system of records, or gain access to records maintained in the system, must submit a written request containing the following elements: (1) Identify the record system: (2) Provide at least two items of secondary identification (date of birth, employee identification number, dates of employment or similar information). Address inquiries to Chief, Disclosure Branch (See Access below). In some offices, indivduals may review their own record by verbal request to the system manager.

RECORD ACCESS PROCEDURES:

Chief, Disclosure Branch, Department of the Treasury, Room 5423, 1500 Pennsylvania Avenue, NW, Washington, DC 20220.

CONTESTING RECORD PROCEDURES:

See Access above.

Record source categories: Information in this system may have been provided by (1) the individual, (2) Personnel Office, (3) the employee's supervisors, (4) an interviewer (5) prior employers.

[FR Doc. 83-219 Filed 1-5-83; 8:45 am]
BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority, December 17, 1982, from the Director, USIA, I hereby determine that the thirteen (13) paintings and twenty-two (22) drawings by Oudry, loaned by the Schwerin Staatliches Museum, German Democratic Republic, in the exhibit of the work of Jean-Baptiste Oudry (1686–1755) (included in the list [1] filed as a part of this determination), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to an agreement among the foreign lenders, the Louvre, Paris, and the Kimbell Art Museum, Fort Worth, Texas. I also determined that the temporary exhibition or display of the listed exhibit objects at the Kimbell Art Museum, Forth Worth, Texas, beginning on or about February 26, 1983, to on or about June 6, 1983, and at the Nelson-Atkins Museum, Kansas City, Missouri, from on or about July 15, 1983, to on or about September 4, 1983, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: January 3, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison.

[FR Doc. 83-369 Filed 1-5-83; 8:45 am]
BILLING CODE 8230-01-M

[1] An itemized of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 48, No. 4
Thursday, January 6, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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	Items
Federal Election Commission	1
Federal Reserve System	2, 3
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Pacific Northwest Electric Power and Conservation Planning Council	5, 6

1

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, January 11, 1983 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, January 13, 1983, at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Proposed regulations on joint fundraising and collecting agents (11 CFR 102.16 and 102.7)
Commission appointment and promotion procedures (non-bargaining unit)
FY 1982 year-end management report
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Elland, Public Information Office; telephone 202–523–4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S–9–83 Filed 1–4–83; 4:01 pm]
BILLING CODE 6715–01–M

2

FEDERAL RESERVE SYSTEM
Board of Governors

TIME AND DATE: 10 a.m., Wednesday, January 12, 1983.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed amendments to Regulation K (International Banking Operations) regarding bank holding company investment in export trading companies.
2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–8204.

Dated: January 4, 1983.

James McAfee,
Associate Secretary of the Board.

[S–7–83 Filed 1–4–83; 4:00 pm]
BILLING CODE 6210–01–M

3

FEDERAL RESERVE SYSTEM
Board of Governors

TIME AND DATE: Approximately 11 a.m., Wednesday, January 12, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20651.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 4, 1983.

James McAfee,
Associate Secretary of the Board.

[S–8–83 Filed 1–4–83; 4:01 pm]
BILLING CODE 6210–01–M

4

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–2]

TIME AND DATE: 9 a.m., Thursday, January 13, 1983.

PLACE: NTSB Board Room, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first two items will be open to the public. The last two items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report:* Fire On Board the Cypriot Bulk Carrier *Protector Alpha,* Columbia River, near Kalama, Washington, February 14, 1982, and Recommendations to the U.S. Coast Guard.
2. *Pipeline Accident Report:* Gas Company of New Mexico, Natural Gas Explosion and Fire, Portales, New Mexico, June 18, 1982, and Recommendations to U.S. Department of Transportation; Gas Company of New Mexico; American Public Works Association; American Gas Association, National L.P. Gas Association, and American Public Gas Association.
3. *Opinion and Order:* Administrator v. Shoff, Dkt. SE–5212; disposition of respondent's appeal.
4. *Opinion and Order:* Administrator v. Escott, Dkt. SE–5382; disposition of appeals of both parties.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

January 3, 1983

[S–6–83 Filed 1–4–83; 12:54 pm]
BILLING CODE 4910–58–M

5

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL
(Northwest Power Planning Council)

ACTION: Meeting notice.

STATUS: Open.

TIME AND DATE: 9 a.m., January 7, 1983.

PLACE: The Hilton Hotel, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Model Conservation Standards—Decision.
- Resource Portfolio—Decision.
- Council Business.
- Public Comment.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong (503) 222–5161. The

Council determined, by majority vote on December 28, 1982, that agency business requires a meeting on January 7, 1983, even though it is not practicable to provide seven (7) days notice of the meeting.

Edward Sheets,

Executive Director.

[S-6-83 Filed 1-4-83; 12:53 pm]

BILLING CODE 0000-00-M

6

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL
(Northwest Power Planning Council)

ACTION: Meeting notice.

STATUS: Open.

TIME AND DATE: 9 a.m., January 26–27, 1983.

PLACE: The Hilton Hotel, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Adoption of Draft Energy Plan.
- Council Business.
- Public Comment.

FOR FURTHER INFORMATION CONTACT:
Ms. Bess Wong (503) 222–5161.

Edward Sheets,

Executive Director.

[S-5-83 Filed 1-4-83; 12:53 pm]

BILLING CODE 0000-00-M

federal register

Thursday
January 6, 1983

Part II

Department of Transportation

Federal Aviation Administration

Rotorcraft Structural Fatigue and Damage Tolerance; Advance Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. 23485; Notice No. 83-1]

Rotorcraft Structural Fatigue and Damage Tolerance

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM), invitation for interested persons to submit comments, and announcement of public meeting.

SUMMARY: This advance notice proposes to add damage tolerance requirements to the fatigue evaluation of rotorcraft structure. Also included in the advance notice are proposals to extend fatigue evaluations from flight structure to all critical structures, including landing gear, and to explicitly require consideration of operations having a high number of ground-air-ground, or power cycles, per hour. The proposal to add damage tolerance requirements results from an assessment of the potential for preventing crashes and saving lives by the use of redundant structure and other damage tolerant design features, and from an assessment of the current rotorcraft design "state-of-the-art." The proposals to add landing gear and increased frequency of ground-air-ground cycles to the fatigue substantiation resulted from the ongoing Rotorcraft Regulatory Review Program; these are based on two proposals submitted for consideration at the Rotorcraft Review Conference, which was held at New Orleans, Louisiana, in December 1979. The proposals would substantially increase the structural dependability of transport category rotorcraft with a resulting savings in equipment costs and lives.

DATES: A public meeting will be held at 9 a.m., on February 8, 1983. Comments must identify the docket number and comments must be received on or before March 7, 1983.

ADDRESSES: Comments on the advance notice may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23485; 800 Independence Avenue SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 23485. Comments may be inspected at Room 916, between 8:30 a.m. and 5:00 p.m. The meeting will be held in the FAA Southwest Regional Office training room, ground floor, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas, beginning at 9 a.m.

FOR FURTHER INFORMATION CONTACT: Mr. R. T. Weaver, Regulations Program Management (ASW-111), Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, commercial telephone (817) 624-4911, extension 505, or FTS 736-9505.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adopting the proposals contained in this notice are invited. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received, and a subsequent notice will be issued if the FAA decides to proceed further. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 23485." The postcard will be date/time stamped and returned to the commenter.

Availability of ANPRM

Any person may obtain a copy of this ANPRM by submitting a request to the FAA, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this ANPRM. Persons interested in being placed on a mailing list for future rulemaking documents should also request a copy of Advisory Circular No. 11-2, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

Damage due to structural fatigue has been a continuing problem with rotorcraft design and operations since the first civilian helicopter was issued a type certificate in 1946. This structural damage has had an adverse effect on occupant safety, operational schedules, maintenance programs, and economics of operations of rotorcraft fleets. The use of "safe life" (or fatigue life) structural programs has historically been used to prevent or minimize structural fatigue damage during rotorcraft operations. Although the "safe life" approach has been satisfactory in the majority of cases, it has failed to prevent a continuing series of structural failures in the civil rotorcraft fleet. The optional use of "fail safe" criteria has been provided for by Amendment 29-4, effective October 17, 1968, but its use has been limited due to factors such as continued civil production of designs dating back before Amendment 29-4 became effective and the cost of developing redundant or crack resistant structure.

In recent years, several occurrences have made changes in structural fatigue criteria for rotorcraft more desirable and practical. The worldwide search for energy resources has greatly expanded helicopter operations, which multiplies the economic benefits and/or safety effects of any improvements that might be made in helicopter design. Recent military aircraft programs, including rotorcraft, have included damage tolerance requirements. The United States Air Force uses Military Specification MIL-A-8444 for airplane programs, and the United States Army has included projectile strike damage requirements in recent military helicopter programs. Also, recent advances have been made in civil helicopter use of composite construction (with favorable crack retardation characteristics), redundant structural design techniques, and other crack retardation techniques. After consideration of the current state-of-the-art of damage tolerant design, and an evaluation of the potential effectiveness of damage tolerant design in increasing safety, the FAA believes that damage tolerant rotorcraft design is both practical and desirable. The FAA evaluation leading to this ANPRM included a review of rotorcraft accidents to determine the potential for saving lives, and it also included visits to the United States transport rotorcraft manufacturers to determine the current state-of-the-art in transport category

rotorcraft design (both civil and military).

Discussion

Based on the foregoing background information and preliminary investigations, the FAA is considering amending Part 29 of the Federal Aviation Regulations (FAR) to require that transport category rotorcraft, for which new type certificate applications are received after the effective date of this amendment, comply with damage tolerance requirements.

The FAA wishes to obtain the participation of all interested persons in resolving the regulatory issues that are involved in adding damage tolerance requirements to transport rotorcraft certification. The FAA believes that the most effective procedure to gain the maximum participation of interested persons is issuance of this advance notice of proposed rulemaking, requesting written comments and data, and scheduling of an associated public meeting. The comments from the ANPRM and the dialogue from the associated meeting will be used in finalizing a draft damage tolerance section, § 29.571, and accompanying AC 29.571–1 to be published in a Notice of Proposed Rulemaking (NPRM). The follow-on NPRM may be supplemented with a second public meeting if found necessary.

Accordingly, interested persons are invited to review the proposed rule of this advance notice, answer the questions asked, and submit any proposed change to the notice along with wording for an accompanying advisory circular.

Scope of the Advance Notice

The scope of the advance notice of proposed rulemaking, is limited to the transport category rotorcraft airworthiness requirements of Part 29 of the Federal Aviation Regulations (FAR).

Advisory Circular Issuance

The issuance of an advisory circular, concurrently with a new damage tolerance rule, to provide policy guidance for the application of damage tolerance criteria to rotorcraft design is considered appropriate. In the development of an advisory circular to support a transport category rotorcraft damage tolerance rule, responses to the following questions are requested:

1. How explicitly should the advisory circular be in identifying structure for which damage tolerance is impractical?

2. How explicitly should the rule and advisory circular define the areas and the damage to be considered?

3. Should the allocation of substantiation between tests and analyses be explicitly specified, partially specified, or not specified (in an advisory circular or in the rule)?

4. What has been industry experience between redundant structure, structure with crack-stopper design features, and single load path structure designed for slow crack growth?

Economic Impact and Benefits

Public comments concerning the economic impact and benefits are sought in addition to comments on the technical aspects of airworthiness standards to implement damage tolerance design in transport category rotorcraft. Therefore, the FAA solicits information, data, views, etc., regarding the following:

1. Cost estimates pertaining to additional analyses required to comply with the proposed rule.

2. Cost estimates associated with the production of damage tolerant structure (increased material and labor cost estimates are solicited).

3. Estimates of costs associated with increased testing (or estimates of decreased costs of testing if improved damage tolerance design features warrant).

4. Estimates of weight increases, if any, that may result from the new requirements.

5. Suggestions pertaining to alternate methods of accomplishing the objectives of the proposal (to improve safety and decrease equipment losses caused by structural fatigue failures).

The FAA invites comments on the economic factors contained in the above requests. All information provided will be used in the final evaluation of benefits and costs. If it is determined that further rulemaking is appropriate, an NPRM and full regulatory evaluation will be issued containing an economic evaluation relating to its cost and benefits.

Public Meeting

In addition to seeking comments on the proposed damage tolerance requirements of a change to § 29.571 and on a proposed new Advisory Circular 29.571–1, a public meeting will be held in the FAA Southwest Regional Office training room, ground floor, Building 3B, 4400 Blue Mound Road, Fort Worth, Tex., on February 8, 1983, at 9 a.m. for the purpose of allowing interested parties to verbally deliver their written comments.

List of Subjects in 14 CFR Part 29

Air transportation, Aircraft, Aviation safety, Safety, Rotorcraft.

The Proposed Amendment

Accordingly, the FAA proposes to revise § 29.571 of Part 29 of the Federal Aviation Regulations (14 CFR) to read as follows:

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

§ 29.571 Damage-tolerance and fatigue evaluation of structure.

(a) *General.* An evaluation of the strength, detail design, and fabrication must show that catastrophic failure due to fatigue, corrosion, or accidental damage will be prevented throughout the operational life of the rotorcraft. This evaluation must be conducted in accordance with the provisions of paragraph (b) of this section, except as specified in paragraph (c) and (d) of this section, for each part of the structure which could contribute to a catastrophic failure. These parts include but are not limited to rotors, rotor drive systems between the engines and rotor hubs, controls, fuselage, fixed and movable control surfaces, engine and transmission mounting, landing gear, and their related primary attachments. Advisory Circular AC No. 29.571–1 contains guidance information relating to the requirements of this section (copies of the Advisory Circular may be obtained from U.S. Department of Transportation, Publications Section M–443.1, Washington, D.C. 20590). In addition the following apply:

(1) Each evaluation required by this section must include:

(i) The identification of principal structural elements and detail design points, the failure of which could cause catastrophic failure of the helicopter.

(ii) In-flight measurement in determining the following:

(A) Loads or stresses in all critical conditions throughout the range of limitations in § 29.309, except that maneuvering load factors need not exceed the maximum values expected in operations.

(B) The effect of altitude upon loads or stresses.

(iii) Loading spectra as severe as those expected in operation based on loads or stresses determined under paragraph (a)(i)(ii) of this section; including external load operations, if applicable, and other high frequency power cycle operations; and

(iv) The effects of temperatures and humidity expected in service.

(2) The service history of rotorcraft of similar design taking due account of differences in operating conditions and

procedures, may be used in the evaluations required by this section.

(3) Based on the evaluations required by this section, inspections or other procedures must be established as necessary to prevent catastrophic failure; these inspections or other procedures must be included in the airworthiness limitations section of the Instructions for Continued Airworthiness required by § 29.1529.

(b) *Damage-tolerance (fail-safe) evaluation.* (1) The evaluation must include a determination of the probable locations and modes of damage due to fatigue, corrosion, or accidental damage. The determination must be by analysis supported by test evidence and (if available) service experience.

(2) The evaluation must incorporate repeated load application and static analysis supported by test evidence.

(3) For single load path structure the effects of a flaw equivalent to a semicircular crack with a 0.125 inch radius and depth must be considered unless shown to be not applicable.

(4) It must be shown that all partial failures will become readily detectable.

(5) The interval of time between when any partial failure becomes readily detectable under paragraph (b)(4) of this section and the time when any such failure is expected to reduce the remaining strength of the structure to limit or maximum attainable loads (whichever is less) must be longer than the inspection intervals furnished under Section A29.4 of Appendix A to this part.

(6) If significant changes in structural stiffness or geometry, or both, follow from a structural failure or partial failure, the effect on damage tolerance must be further investigated.

(c) *Fatigue (safe-life) evaluation.* Compliance with the damage-tolerance requirements of paragraph (b) of this section is not required if the applicant establishes that their application for particular structure is impractical. This structure must be shown by analysis, supported by test evidence, to be able to withstand the repeated loads of variable magnitude without detectable cracks for the following time intervals:

(1) Life of the rotocraft, or

(2) Within a replacement time furnished under Section A29.5 of Appendix A to this part.

(d) Combination of replacement time and damage-tolerance evaluations. A component may be evaluated under a combination of paragraphs (b) and (c) of this section. For each component it must be shown that the probability of catastrophic failure is extremely remote with an approved combination of replacement time, inspection intervals, and related procedures furnished under Section A29.4 of Appendix A to this part.

(Sec. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

Note: This advance notice proposes regulations which the FAA believes will substantially reduce the number of rotocraft accidents caused by catastrophic structural fatigue failures. Preliminary evaluation indicates that this ANPRM is not significant under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A full regulatory evaluation will be prepared with the assistance of comments received as a result of this Advance Notice.

Issued in Fort Worth, Texas, on December 16, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 83-425 Filed 1-5-83; 8:45 am]

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H.R. 3942 / Pub. L. 97–389 Fisheries Amendments of 1982. (Dec. 29, 1982) Price $2.00.

H.R. 6204 / Pub. L. 97–390 To provide for appointment and authority of the Supreme Court Police, and for other purposes. (Dec. 29, 1982) Price $1.75.

H.R. 6588 / Pub. L. 97–391 Cow Creek Band of Umpqua Tribe of Indians Recognition Act. (Dec. 29, 1982) Price $1.75.

H.R. 6758 / Pub. L. 97–392 To authorize the sale of defense articles to United States companies for incorporation into end items to be sold to friendly foreign countries. (Dec. 29, 1982) Price $1.75.

S. 816 / Pub. L. 97–393 To amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws. (Dec. 29, 1982) Price $1.75.

H.R. 7356 / Pub. L. 97–394 Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes. (Dec. 30, 1982) Price $4.25.

S. 823 / Pub. L. 97–395 To provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes. (Dec. 30, 1982) Price $1.75.

H.R. 1952 / Pub. L. 97–396 Authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1983, 1984, and 1985, and for other purposes. (Dec. 31, 1982) Price $1.75.

H.R. 5204 / Pub. L. 97–397 To authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians. (Dec. 31, 1982) Price $1.75.

H.R. 6946 / Pub. L. 97–398 To amend title 18 of the United States Code to provide penalties for certain false identification related crimes. (Dec. 31, 1982) Price $1.75.

H.R. 7155 / Pub. L. 97–399 Florida Indian Land Claims Settlement Act of 1982. (Dec. 31, 1982) Price $2.00.

H.R. 7377 / Pub. L. 97–400 To designate the Lakeview Lake project, Mountain Creek, Texas, as the "Joe Pool Lake". (Dec. 31, 1982) Price $1.75.

S. 187 / Pub. L. 97–401 To authorize the Secretary of the Interior to convey certain lands near Miles City, Montana, and to remove certain reservations from prior conveyances. (Dec. 31, 1982) Price $1.75.

S. 1340 / Pub. L. 97–402 To provide for the use and distribution of Clallam judgment funds in docket numbered 134 before the Indian Claims Commission, and for other purposes. (Dec. 31, 1982) Price $1.75.

S. 1735 / Pub. L. 97–403 To provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims. (Dec. 31, 1982) Price $1.75.

S. 3113 / Pub. L. 97–404 To make certain minor and technical amendments to the Job Training Partnership Act. (Dec. 31, 1982) Price $1.75.

S. 625 / Pub. L. 97–405 To revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes. (Jan. 3, 1983) Price $1.75.

S. 1501 / Pub. L. 97–406 Educational Mining Act of 1982. (Jan. 3, 1983) Price $1.75.

S. 1965 / Pub. L. 97–407 Paddy Creek Wilderness Act of 1981. (Jan. 3, 1983) Price $1.75.

S. 1986 / Pub. L. 97–408 To provide for the use and distribution of funds awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of Fort Belknap Indian Community, in certain dockets of the United States Court of Claims and of funds awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, and for other purposes. (Jan. 3, 1983) Price $1.75.

S. 2059 / Pub. L. 97–409 Ethics in Government Act Amendments of 1982. (Jan. 3, 1983) Price $1.75.

S. 2355 / Pub. L. 97–410 Telecommunications for the Disabled Act of 1982. (Jan. 3, 1983) Price $1.75.

S. 2955 / Pub. L. 97–411 Cheaha Wilderness Act. (Jan. 3, 1983) Price $1.75.

S. 3103 / Pub. L. 97–412 To amend section 1304(e) of title 5, United States Code. (Jan. 3, 1983) Price $1.75.

S.J. Res. 270 / Pub. L. 97–413 To designate 1983 as the "Bicentennial of Air and Space Flight". (Jan. 3, 1983) Price $1.75.

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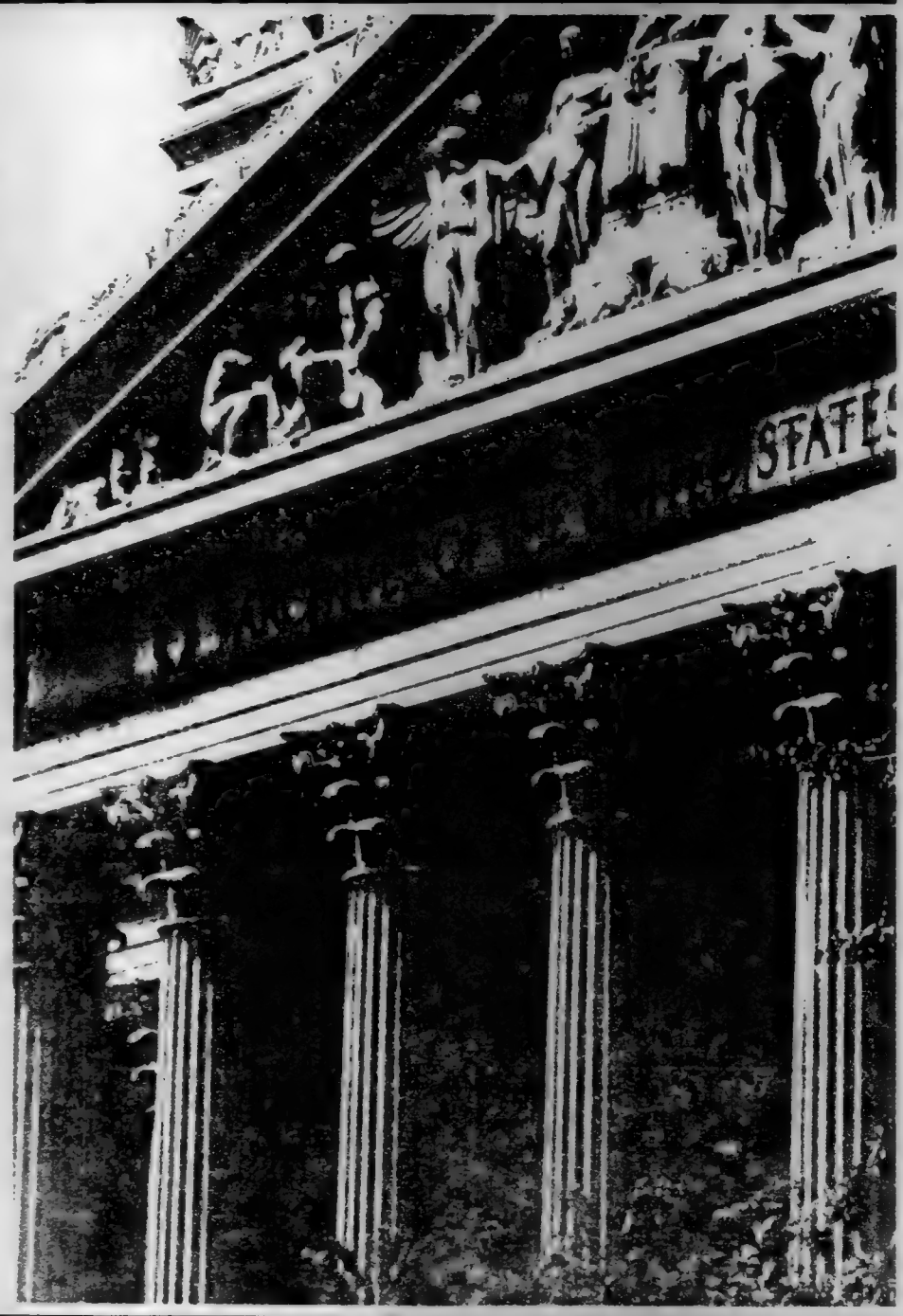

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The Administrative Committee of the Federal Register announces a new binding format for the daily Federal Register. The new adhesive binding and mailing cover increase efficiency in the handling and delivery of the Federal Register by the Government Printing Office and the Postal Service. It is done at no additional cost.

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federal register

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Food Assistance Programs
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Rules and Regulations

Federal Register
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Friday, January 7, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 225, and 226

Vegetable Protein Products; Used in Child Nutrition Programs

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends Appendix A of the National School Lunch Program Regulations, and adds a new Appendix A to the Summer Food Service Program for Children Regulations, and the Child Care Food Program Regulations to allow program administrators greater flexibility in the use of vegetable protein products. Vegetable protein products have been authorized as an alternate food for the child nutrition programs since 1971, although the authorization was not stated in the program regulations. The Department is issuing these regulations because of developments in food technology, rising food costs, and the need to simplify federal administrative procedures. This rule: (1) Adopts the naming and nutritional requirements for vegetable protein products used to resemble and substitute, in part, for meat, poultry, and seafood developed by the Food and Drug Administration (FDA), (2) establishes a 30 percent maximum level of substitution by hydrated vegetable protein products, (3) allows for vegetable protein products in the dry form or partially hydrated form, (4) allows for the appropriate hydration of all forms of vegetable protein products by setting the protein quantity requirements for a product "when hydrated or formulated," (5) establishes a requirement that vegetable protein products fortified for use in the child nutrition programs be identified as meeting USDA–FNS specifications, (6) eliminates the "texture" requirement for vegetable protein products as defined in FNS Notice 219.

EFFECTIVE DATE: February 7, 1983. Implementation period: During the one year period following the effective date of this regulation, vegetable protein products used as an alternate food in the child nutrition programs may meet all the requirements of either FNS Notice 219 or all of the new requirements presented in this final rule. However, after this one year implementation period, vegetable protein products used as an alternate food in the child nutrition programs must meet the requirements set forth in this rule.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Ford, Branch Chief, Technical Assistance Branch, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756–1556.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12291 and has been classified nonmajor because it does not meet any of the three criteria of the Executive Order. It will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant impact on competition, employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete. Vegetable protein products have been allowed to be used as an alternate food in the child nutrition programs since 1971; this rule would merely increase the flexibility for their use in child nutrition programs and expand on the types of vegetable protein products that are currently authorized.

The rule has also been reviewed with regard to the provisions of Pub. L. 96–354. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that the rule does not have a significant economic impact on a substantial number of small entities.

The rule does not contain reporting and recordkeeping requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act.

Background

In February of 1971, the Department issued FNS Notice 219 which permitted the use of hydrated textured vegetable protein products as an alternate food to provide up to 30 percent (uncooked basis) of meat, poultry, or seafood used to meet the meat/meat alternate requirement of meal patterns for the various child nutrition programs. The Department permitted the use of these products because they were nutritious, helped school food service directors to cope with the high cost of meats, and helped to provide more flexibility in menu planning.

The Department designed the nutrient specifications for textured vegetable protein products outlined in FNS Notice 219 to be nutritionally equivalent to raw ground beef containing no more than 30 percent fat. The dry textured vegetable protein was to contain at least 50 percent protein and when hydrated have a maximum moisture content of 65 percent. FNS Notice 219 was clearly designed around soy flour which was the vegetable protein product available at that time. Other vegetable protein products were still in the initial stages of development.

Due to recent advances in food technology, several new types of vegetable protein products have been developed and made available—isolates and concentrates. On July 23, 1982, the Department issued a proposed rule which would allow wider choices than than those described by FNS Notice 219 in the types of vegetable protein products used. The proposal, however, did not expand the amount of vegetable protein products allowed to substitute for meat, poultry, and seafood beyond what is currently allowed.

The proposed rule adopted portions of tentative final regulations for vegetable protein products published by the FDA in the **Federal Register** of July 14, 1978, (43 FR 30472). FDA reviewed the proposed rule and agreed that it did not conflict with their tentative final regulations. A total of 60 days was afforded to the general public in which it could comment on the proposed rule.

Comment Analysis

On September 21, 1982, the proposed rule comment period closed. One hundred and ninety-eight comments were received during the sixty day comment period. Comments were received from district food service directors, local school and child nutrition program personnel,

manufacturers of vegetable protein products, other industry groups, trade associations, State directors and State staff, universities and colleges, nutrition professionals, and nutrition advocacy and public interest groups. Of the 198 comments received, 192 were in favor and 5 were opposed to the proposal. One hundred and sixty-three of these comments were received from school food service directors and personnel supporting the proposed rule as a group.

One comment was received which is not applicable to the proposed rule. This commentor recommended that the Department include highly nutritious dairy proteins as substitutes for meat. This rule relates only to vegetable protein sources; thus, it is not appropriate to address this issue at this time.

Comments in Favor

Commentors favoring the proposal agreed that revisions in FNS Notice 219 were needed. In general, these commentors agreed that the proposal would: (1) Allow for greater flexibility in the use of vegetable protein products, (2) allow the use of improved products, and (3) permit greater economy. At the same time the high quality and high nutritional content of meat, poultry, and seafood products served in the child nutrition programs would be maintained. One commentor also stated that the proposal would rectify a number of long standing discrepancies in the use of vegetable protein products in the child nutrition programs which some in the industry have called discriminatory.

Comments in Opposition

Commentors opposing the proposal were concerned that the nutritional integrity of the child nutrition programs would not be maintained. These commentors contended that even if vegetable protein products are fortified they will not be nutritionally equivalent to meat. Some commentors also expressed concern that the amount of meat used in the child nutrition programs would be significantly reduced.

Discussion

There are a number of issues surrounding the use of vegetable protein products as an alternate food in the child nutrition programs which were addressed in the July 23, 1982, proposal. Twenty-one of the commentors favoring and three of the commentors opposing the proposal presented substantive comments on one or more of these specific issues. The following is a discussion of comments received on pertinent issues addressed in the proposal and the Department's response. It should be noted that a thorough understanding of these issues requires reference to the July 23, 1982, proposal.

1. *Nutritional Requirements for Vegetable Protein Products Used in the Child Nutrition Programs.* In the proposed rule, the Department adopted the nutrient profile set forth by the FDA (in tentative final regulations) for vegetable protein products used to resemble and substitute, in part, for meat, poultry, and seafood. The nutrient profile established nutrient levels for various vitamins and minerals. In establishing these nutrient levels, bioavailability considerations were taken into account for specific nutrients. The nutrient profile also established that the biological quality of protein for the vegetable protein product be at least 80 percent that of casein. The proposal continued the use of the Protein Efficiency Ratio (PER) assay as the basis for determining this protein quality, but also allowed consideration of exceptions to this method when adequately supported.

Nutrient Levels

Five commentors favored the nutrient levels established in the proposed rule. These commentors agreed that the use of these nutrient levels would maintain the nutritional value of meals served in the child nutrition programs. One commentor did note, however, that the nutrient profile is based on FDA's tentative final regulations and emphasized that these are subject to change.

Three commentors expressed opposition to the nutrient levels established in the proposed rule. These commentors believed that even if fortified a vegetable protein product cannot be evaluated as nutritionally equivalent to the whole food (meat, poultry, seafood) it is replacing based only on a quantification of known nutrients. They stated that meat contains unidentified nutrients for which recommended dietary allowances have not been determined.

The Department believes that the nutrient levels established in the proposed rule will reasonably ensure that vegetable protein products are nutritionally equivalent to the food they replace. Extensive analysis and comparison by FDA have shown that the proposed levels of vitamins and minerals for vegetable protein products closely approximates the final vitamin—mineral content of all meat products. In fact, levels have been established for some nutrients, such as zinc and copper, that are not in FNS Notice 219. Additionally, any unidentified nutrients which may not be provided in the vegetable protein product itself, will be provided when the product is combined as required with the food it is replacing and served in combination with other components of the meal. Therefore, the proposed nutrient levels are being retained in the final rule. However, if any revisions should be made in the nutrient profile when FDA publishes a final rule, the Department will review such changes for suitability in meeting the needs of the child nutrition programs and amend the regulations as appropriate.

Bioavailability of Nutrients

Questions as to the nutritional soundness of using vegetable protein products in light of their impact on absorption of iron were raised by two commentors. One commentor cited studies which indicated that the addition of soy products reduced the bioavailability of iron in a meal.

In the proposal, the Department stated that the effect of certain factors present in soy products on the absorption of iron were taken into consideration in establishing the nutrient profile. However, at that time there was insufficient evidence to alter the level of this nutrient. It was also stated that the Department would continue to monitor research in this field. We now have available to us a report completed in June 1982 by the International Nutritional Anemia Consultative Group (INACG) which reports additional findings in this area. This report stated that, in general, it appears that there are certain factors present in soy products and other cereals and legumes that depress iron absorption. However, recent studies have shown that there are foods such as meat and/or ascorbic acid which enhance the percentage of iron absorbed from cereals and legumes. The report stated that the use of up to 30% soy substitution for several meals per week is justifiable if there are adequate amounts of meat, fish, poultry, and ascorbic acid in the diet. Since vegetable protein products are used in combination with meats, poultry or seafood in the child nutrition programs at or below the level recommended in the report, the Department intends to continue the use of vegetable protein products; however, it will continue to review studies in this area.

Biological Quality of Protein

Five commentors believed that a biological quality of protein for vegetable protein products of at least 80

percent that of casein was unnecessarily high. They stated that this 80 percent level would prevent utilization of soy isolates and products derived from peanuts. Additionally, in accordance with FDA's regulations, 21 CFR 172.320 (c) (2), amino acids may not be added to a vegetable protein product to raise the protein quality unless the quality is raised to a level equivalent to casein. Two alternatives were offered by these commentors. Three commentors recommended lowering the biological quality of protein to at least 60 percent that of casein. Two commentors recommended that the biological quality of protein in the total extended product be specified rather than that of the vegetable protein product itself.

The Department believes that the biological quality of protein for vegetable protein products of at least 80 percent that of casein should be maintained in the final rule. This is consistent with FDA's tentative final regulations. FDA received similar comments on their proposed regulations, but felt that lowering the 80 percent level or specifying the biological quality of protein on the total extended product in their tentative final regulations was not warranted. FDA's analysis and rationale supporting this position is presented in their tentative final regulations on pages 30484–30487 of the July 14, 1978, (Vol 43, No. 136) **Federal Register**. The Department concurs with the rationale presented by FDA on this issue and incorporates by reference the FDA justification.

One commentor did state that he recognized the limitations placed upon the Department in considering substantive changes that would be in conflict with FDA's tentative final regulations and would pursue this and other issues directly with them. If any changes concerning the biological quality of protein are made by FDA when they publish a final rule, the Department will reconsider this issue at that time.

Protein Efficiency Ratio (PER) Assay

Three commentors were in favor of allowing methods other than the PER assay to be used to determine protein quality. These commentors agreed that the PER assay is just a yardstick and PER, which is based on the growth response of a rat to the protein in the diet, is not a good indicator of the biological quality of the protein product for humans. One commentor, however, did qualify his support for use of other methods for determining protein quality. He believed that at this time all reference to the requirement of any PER value should be deleted until such time as a well-recognized, acceptable procedure has been developed as an alternative to the PER assay. Work is currently being done in this area. He also stated that any tests or exceptions approved by the Food and Nutrition Service, unless generally available to all producers, would be discriminatory.

The Department recognizes that the scientific community is currently studying other methods for determining protein quality which would be acceptable alternatives to the PER assay. However, until work is completed in this area, a need exists for considering exceptions to the PER assay on an individual basis. Therefore, the final rule allows requests for exceptions to the PER assay to be considered by the Food and Nutrition Service for any producer of vegetable protein products when adequately supported.

2. *Labeling.* The proposed rule eliminated the requirement for manufacturers to apply for inclusion of their products on an approved list maintained by the Food and Nutrition Service. However, the proposal did require that vegetable protein products for use in the child nutrition programs as an alternate food be labeled, as other alternate foods, as meeting USDA-FNS requirements for such use. The proposal also recommended that information be provided on the percent protein contained in dry vegetable protein products labeled as specified above. It was also recommended that manufacturers provide information on how to hydrate and use vegetable protein product mixes.

The proposed rule also stated that a commercially prepared meat, poultry or seafood product combined with vegetable protein products may be used to meet all or part of the meat/meat alternate requirement if the product bears a label containing a statement that "this product contains vegetable protein product(s) which can be used to meet a portion of the meat/meat alternate requirement of the child nutrition programs."

Vegetable Protein Products and Mixes

Three commentors favored the elimination of the approval list for vegetable protein products and supported the labeling requirement. Only one commentor recommended that vegetable protein products continue to be monitored by the Food and Nutrition Service through the use of the approval list.

The recommendation that information be provided on the percent protein contained in a dry vegetable protein product was supported by three commentors. One of these commentors, however, stated that this should be a requirement rather than a recommendation. The recommendation that manufacturers provide information on how to hydrate and use vegetable protein products mixes was supported by four commentors. Three of these commentors, however, stated that this information should be required on the label.

The Department believes that the labeling requirement for vegetable protein products eliminates the need to continue the monitoring of these products by the Food and Nutrition Service through an approval list. However, the Department does not believe that there is a need to require, rather than recommend, additional label information for vegetable protein products and vegetable protein product mixes. It is expected that manufacturers will comply with the Department's recommendations to provide information on the percent protein in a vegetable protein product and how to use and hydrate vegetable protein product mixes. Manufacturers are generally aware that such information is needed in order for purchasers to properly use their products. This view was supported by a commentor representing soy manufacturers, who stated that such information for usage is currently provided through labels or technical brochures and will continue to be provided.

Combination Products

Six comments were received on the label statement pertaining to commercially prepared meat, poultry, and seafood products containing vegetable protein products. All of these commentors expressed a need for clarification of what the statement is intended to designate. There was concern that the label statement might be accepted by local food service personnel as a claim that the product meets the meat/meat alternate requirement of the child nutrition meal pattern requirements, when in fact only a part of this requirement may be met. Three of the six commentors also expressed concern that the statement could be perceived by the Food Safety and Inspection Service of the U.S. Department of Agriculture (the agency responsible for labeling and inspection of meat and poultry products) as a child nutrition claim and would trigger a requirement that the product bear a statement on the label pertaining to its contribution toward meal pattern requirements. Two other commentors, however, did recommend that such

additional information be required on the label.

It is not the Department's intention, nor the authority of this rule, to require that a commercially prepared meat, poultry or seafood product containing vegetable protein products bear a statement on the label pertaining to its contribution toward child nutrition meal pattern requirements. Based on the comments received, the statement has been revised in the final rule. The statement now reads: "This item contains vegetable protein product(s) which is authorized as an alternate food in the child nutrition programs." Additional clarification is also presented in the final rule.

3. *"Texture" of Vegetable Protein Products.* FNS Notice 219 required vegetable protein products used in the child nutrition programs to have texture, that is, "structural integrity and identifiable texture such that each unit will withstand hydration and cooking and other procedures used in preparing the food for consumption." This requirement was eliminated in the proposed rule due to recent advances in the technology of vegetable protein products.

Five comments were received on the elimination of the texture requirement—four favored the elimination and one opposed it. The four commentors favoring the provision agreed that the elimination of the texture requirement would enable new forms of products to be considered for use in the child nutrition programs. Two of these four commentors, however, felt that requiring texture for products with less than 65 percent protein should be considered. They stated that the functional and organoleptic properties differ vastly between textured and non-textured products with less than 65 percent protein. One commentor also stated that the requirement that a vegetable protein product "resemble the product for which it substitutes" should also be eliminated, stating that this appears to be in conflict with the elimination of the texture requirement and would prohibit functional uses of vegetable protein products.

The commentor opposing the elimination of the texture requirement felt that texture needed to be required in order to ensure that the hydrated product resembles the physical characteristics of the major protein food it replaces.

The final rule will not require that vegetable protein products be textured as defined in FNS Notice 219. Other methods are, and may be, used to provide structure where appropriate. Additionally, it is believed that product competition and acceptability will demand that a product be "texturized" where applicable. The elimination of the texture requirement, however, is not intended to be in conflict with the requirement that a vegetable protein product resemble the major protein food for which it substitutes. We believe that confusion on this provision resulted from the proposed rule inappropriately referencing functional uses such as binders as a basis for eliminating the texture requirement. FDA specifically excluded vegetable protein products used as functional ingredients such as binders in meat products from the "naming" and "nutrient" provisions of their tentative final regulations. Vegetable protein products used in this manner do not resemble or substitute for a major protein food. FDA recognized these products as substituting for an ingredient such as a starch rather than the major protein food. In other words, the use of a vegetable protein product as a binder in a meat product does not result in the presence of a smaller amount of meat, poultry or seafood than is customarily expected or appears to be present in that food. Accordingly, vegetable protein products used strictly as functional ingredients and not resembling or substituting for meat, poultry or seafood can not be used to meet part of the meat/meat alternate requirement of the child nutrition programs.

4. *Usage.* The proposed rule allowed the use of vegetable protein products in the dry form (non-hydrated), partially hydrated as well as fully hydrated with meat, poultry, or seafood only when used to meet part of the meat/meat alternate component of the child nutrition meal pattern requirements. The proposal required that vegetable protein products used in this manner be prepared in combination with raw or cooked meat, poultry or seafood and resemble as well as substitute for one of these major protein foods. In this regard, the vegetable protein product is not allowed to meet part of the meat/meat alternate requirement when used in such items as pizza crust or breading on a meat, poultry or seafood product. In essence, a vegetable protein product used in this manner is substituting for a starch and not the major protein food. However, comments were requested on establishing a nutrient profile for breading containing vegetable protein products which would allow it to be used as an alternate food with meat, poultry or seafood for the purposes of the child nutrition programs.

The proposal also addressed the basis for determining the contribution toward meal pattern requirements of a product containing meat, poultry or seafood and vegetable protein products. The Department proposed that in making this determination, the vegetable protein product be evaluated as having the same preparation yield applied to the major protein food with which it is combined.

Limiting Use of Vegetable Protein Products With Meat, Poultry or Seafood

Four commentors expressed some confusion as to what was meant by this requirement and requested clarification. These commentors perceived that this requirement could be interpreted as meaning that all other uses of vegetable protein products, even if not used to meet part of the meal pattern requirements, were precluded in the child nutrition programs. The requirement that vegetable protein products must be used with meat, poultry or seafood applies only to those products which are used to meet part of the meat/meat alternate component in the child nutrition programs. This does not preclude other uses of vegetable protein products in these programs. Vegetable protein products may be used for functional purposes in bread products or for other purposes deemed appropriate in any food served in the child nutrition programs. However, unless used in accordance with all requirements set forth in this final rule, they may not be used to meet part of the meat/meat alternate component. This has been clarified in the final rule.

Use of Vegetable Protein Products in the Dry Form, Partially Hydrated, and Fully Hydrated

Two commentors favored allowing vegetable protein products to be allowed in the dry form and partially hydrated as well as fully hydrated. They believed that this would provide for greater flexibility.

One commentor was opposed to allowing the use of vegetable protein products in the dry form, stating that this could easily lead to errors in usage. This commentor felt that untrained cooks could use more vegetable protein product than allowed.

The Department believes that flexibility in the use of vegetable protein products warrants allowing their use in the dry form, and partially hydrated as well as fully hydrated in the final rule. The Department recognizes, however, that allowing the use of vegetable protein products in the dry or partially hydrated form may present some problems in assuring proper usage. To provide additional training in this area, guidance materials will be prepared by

the Department. Additionally, it is expected that manufacturers will supply needed information on how to use their products through label instructions or brochures.

Use of Vegetable Protein Products as a Breading

One commentor favored establishing a nutrient profile for breading containing vegetable protein products to allow it to be used as an alternate food with meat, poultry or seafood to meet part of the meal pattern requirements. This commentor felt that this was a viable concept which is both nutritionally and economically sound.

Four commentors were strongly opposed to the use of vegetable protein products in this manner. One of these commentors stated that this would represent a step toward total fabrication of the food supply and would conflict with nutrition education principles. The Department believes that this issue warrants further consideration and will not take any action at this time.

Yield Factor for Vegetable Protein Products

This issue was addressed by two commentors. One commentor supported evaluating the vegetable protein product as having the same preparation yield as the product with which it is combined. The other commentor recognized the basis for this concept, but believed that this is an area which should remain under further study and consideration. This commentor felt that there should be a non-complex mechanism by which accurate, but greater, yields may be supported and adopted.

The method outlined in the proposed rule for evaluating the contribution of a product containing vegetable protein products toward meal pattern requirements will be retained in the final rule. This method is consistent with the Department's policy for determining the contribution toward meal pattern requirements of all meat/meat alternate products. Additionally, it is believed that this method will help assure that a product containing a vegetable protein product, as served (cooked), is nutritionally equivalent to a similar product formulated without the addition of such product. The Department does, however, continue to review and study yield data for meat/meat alternates and other food items served in the child nutrition programs and, when warranted, policy changes will be considered.

5. *Hydration.* The proposed rule allowed for the appropriate hydration of all forms of vegetable protein products by setting the protein quantity requirements for a product "when hydrated or formulated." The proposal stated that a vegetable protein product shall contain at least 18 percent protein by weight when hydrated or formulated to be used to resemble and substitute for meat, poultry or seafood. This 18 percent level was adopted from FDA's tentative final regulations.

Eleven commentors addressed the hydration requirement. Ten of these commentors agreed that by setting the protein quantity requirements for a product when hydrated would allow for the appropriate use of all types of vegetable protein products. This concept was opposed by one commentor who stated that it would be confusing to local food service personnel in determining the appropriate hydration for vegetable protein products they use.

Seven of the eleven commentors specifically addressed the 18 percent protein level. Three of the seven commentors agreed that the 18 percent protein level was acceptable. However, two of these three commentors, felt that this level may be high relative to certain products used in the child nutrition programs, such as ground beef which contains 15 percent protein. They also stated that the 18 percent protein level may not be optimal for taste purposes.

Opposition to the 18 percent protein level was expressed by four of the seven commentors. Three of these four commentors recommended reducing the level of protein to 15 percent which is consistent with the protein level of many meat products. The fourth commentor recommended varying the level of protein required for the hydrated product commensurate with the type of product being produced.

The final rule retains the 18 percent protein level for hydrated vegetable protein products. This requirement is consistent with FDA's tentative final regulations which established this level of protein for the hydrated product based on the average percent protein provided by meat, poultry, and seafood. FDA indicated that this was the most appropriate method to use in view of other alternatives available. FDA's analysis and rationale supporting this position is presented in their tentative final regulations on pages 30461 and 30482 of the July 14, 1978, (Vol 43, No. 136) **Federal Register.** The Department has reviewed the rationale and findings presented by FDA on this issue and adopts their position as supported in their tentative final regulations. If any revisions should be made on the hydration requirement when FDA publishes a final rule, the Department will reconsider this issue at that time.

To assist users in implementing the hydration requirement, the Department will publish guidance materials. Manufacturers are also expected to provide users with information needed to properly hydrate their products.

6. *Allowable Levels of Substitution for Meat, Poultry, and Seafood.* The proposed rule states that a fully hydrated vegetable protein product shall not exceed 30 parts to 70 parts meat, poultry or seafood on an uncooked basis when used as an alternate food in the child nutrition programs.

Six commentors favored this provision, agreeing that the 30 percent maximum level of substitution was acceptable. Only one commentor expressed opposition to this provision, stating that rapidly advancing technology is expected to render the 30 percent maximum level of substitution too restrictive. The final rule will retain the 30 percent maximum level of substitution. First, the Department understands that this level is consistent with normal use. Second, at a level greater than 30 percent, FDA makes a distinction on nutritional requirements for protein quality; that is, vegetable protein products used at levels greater than 30 percent must have a biological quality of protein of 100 percent that of casein. Additionally, studies have indicated a distinction between bioavailability of iron in products containing vegetable protein products at the 30 percent level and those above this level.

Other Comments

A few commentors expressed concern that the proposed rule would significantly reduce the use of meat in the child nutrition programs. As was stated previously, the proposed rule did not expand the amount of vegetable protein product allowed to substitute for meat beyond the 30 percent maximum level of substitution currently allowed. This level is being retained in the final rule. The intent of the proposal was to allow greater flexibility in the use of improved vegetable protein products; thus, improving the acceptability of meat products that contain vegetable protein products.

Some commentors recommended clarification of specific terms and sections presented in the proposed rule which they felt caused some confusion. One commentor recommended that applicable sections of FDA's tentative final regulations adopted in the proposed rule be specifically referenced by the actual numerical number used by FDA. Other comments were received recommending that specific terminology

used in the proposed rule including the use of the terms substitute and dry vegetable protein product be more clearly defined. In response to these and other comments addressed previously, minor revisions have been made in the final rule for clarification only; the content has not been changed. The Department will provide additional clarification of the provisions set forth in the final rule through guidance materials.

List of Subjects

7 CFR Part 210

Food assistance programs, National School Lunch Program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 225

Food assistance programs, Grant programs—Health, Infants and children, Reporting requirements.

7 CFR Part 226

Day care, Food assistance programs, Grant programs—Health, Infants and children, Surplus agricultural commodities.

PART 210—[AMENDED]

Accordingly, a new section, Vegetable Protein Products, is added to Appendix A of 7 CFR Part 210 to read as follows:

Appendix A: Alternate Foods for Meals

* * * * *

Vegetable Protein Products

1. Schools, institutions, and service institutions may use a vegetable protein product, defined in paragraph 2, as a food component meeting the meal requirements specified in § 210.10, § 225.10 or § 226.21 under the following terms and conditions:

(a) The vegetable protein product must be prepared in combination with raw or cooked meat, poultry or seafood and shall resemble as well as substitute, in part, for one of these major protein foods. Substitute refers to a vegetable protein product whose presence in another food results in the presence of a smaller amount of meat, poultry or seafood than is customarily expected or than appears to be present in that food. Examples of items in which a vegetable protein product may be used include, but are not limited to, beef patties, beef crumbles, pizza topping, meat loaf, meat sauce, taco filling, burritos, and tuna salad.

(b) Vegetable protein products may be used in the dry form (nonhydrated), partially hydrated or fully hydrated form in combination with meat, poultry or seafood. The moisture content of the fully hydrated vegetable protein product shall be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

(c) The quantity, by weight, of the fully hydrated vegetable protein product must not exceed 30 parts to 70 parts meat, poultry or seafood on an uncooked basis. The quantity by weight of the dry or partially hydrated vegetable protein product must not exceed a level equivalent to the amount (dry weight) used in the fully hydrated product at the 30 percent level of substitution. The dry or partially hydrated product's replacement of meat, poultry or seafood will be based on the level of substitution it would provide if it were fully hydrated.

(d) A vegetable protein product may be used to satisfy the meat/meat alternate requirement when combined with meat, poultry or seafood and when it meets the other requirements of this section. The combination of the vegetable protein product and meat, poultry or seafood may meet all or part of the meat/meat alternate requirement specified in §§ 210.10, 225.10 or 226.21.

(e) The contribution vegetable protein products make toward the meat/meat alternate requirement specified in §§ 210.10, 225.10, 226.21 shall be determined on the basis of the preparation yield of the meat, poultry or seafood with which it is combined. When computing the preparation yield of a product containing meat, poultry or seafood and vegetable protein product, the vegetable protein product shall be evaluated as having the same preparation yield that is applied to the meat, poultry or seafood it replaces.

(f) When vegetable protein products are served in a meal with other alternate foods authorized in Appendix A, each individual alternate food shall be used as specifically directed.

2. A vegetable protein product to be used to resemble and substitute, in part, for meat, poultry or seafood, as specified in paragraph 1 must meet the following criteria:

(a) The vegetable protein product (substitute food) shall contain one or more vegetable protein products which are defined as follows:

(1) Vegetable (plant) protein products are foods which are processed so that some portion of the nonprotein constituents of the vegetable is removed. These vegetable protein products are safe and suitable edible products produced from vegetable (plant) sources including, but not limited to, soybeans, peanuts, wheat, and corn.

(b) The types of vegetable protein products described in paragraph 2(a)(1) above shall include flour, concentrate, and isolate as defined below:

(1) When a product contains less than 65 percent protein by weight calculated on a moisture-free basis excluding added flavors, colors, or other added substances it is a " flour", the blank is to be filled with the name of the source of the protein, e.g., "soy" or "peanut".

(2) When a product contains 65 percent or more but less than 90 percent protein by weight calculated on a moisture-free basis excluding added flavors, colors, or other added substances, it is a " protein concentrate", the blank to be filled with the name of the source of the protein, e.g., "soy" or "peanut".

(3) When a product contains 90 percent or more protein by weight calculated on a moisture-free basis excluding added flavors, colors or other added substances, it is a " protein isolate" or "isolated protein," the blank to be filled in with the name of the source of the protein, e.g., "soy" or "peanut".

(c) Compliance with the moisture and protein provisions of paragraph 2(b)(1)(2) and (3) above shall be determined by the appropriate methods described in "Official Methods of Analysis of the Association of Official Analytical Chemists" (latest edition).

(d) Vegetable protein products which are used to resemble and substitute, in part, for meat, poultry or seafood shall be labeled in conformance with applicable sections of 102.76, tentative final regulations published by the Food and Drug Administration in the Federal Register of July 14, 1978 (43 FR 30472). Adopted for the purpose of this regulation are the following:

(1) The common or usual names for a vegetable protein product used to resemble and substitute, in part, for meat, poultry or seafood shall include the term "vegetable protein product" and may include the term "textured" or "texturized" and/or a term e.g., "granules," when such term is appropriate. The term "plant" may be used in the name in lieu of the term "vegetable."

(2) The vegetable protein products used as ingredients in the substitute food shall be listed by source (e.g., soy or peanut) and product type (i.e., flour, concentrate, isolate) in the ingredient statement of the label. Product type(s) listed shall comply with the appropriate definition(s) set forth in paragraph 2(b)(1) (2) and (3), and may include a term which accurately describes the physical form of the product, e.g., "granules" when such term is appropriate.

(e) Vegetable protein products which are used to resemble and substitute, in part, for meat, poultry or seafood shall meet the following nutritional specifications adopted from § 102.76(f)(1)(ii)(*a*)(*b*) tentative final regulations, published by the Food and Drug Administration in the Federal Register of July 14, 1978 (43 FR 30472).

(1) The biological quality of the protein in the vegetable protein product shall be at least 80 percent that of casein, determined by performing a Protein Efficiency Ratio (PER) assay or unless FNS grants an exception by approving an alternate test.

(2) The vegetable protein product shall contain at least 18 percent protein by weight when hydrated or formulated to be used in combination with meat, poultry or seafood. ("When hydrated or formulated" refers to a dry vegetable protein product and the amount of water, fat or oil, colors, flavors or any other substances which have been added in order to make the resultant mixture resemble the meat, poultry or seafood).

(3) The vegetable protein product must contain the following levels of nutrients per gram of protein:

[illegible]	Amount
Vitamin A (IU)	13
Thiamine (milligrams)	0.02
Riboflavin (milligrams)	.01

Nutrient	Amount
Niacin (milligrams)	.3
Pantothenic acid (milligrams)	.14
Vitamin B_6 (milligrams)	.02
Vitamin B_{12} (micrograms)	.1
Iron (milligrams)	.15
Magnesium (milligrams)	1.15
Zinc (milligrams)	.5
Copper (micrograms)	25
Potassium (milligrams)	17

(4) Compliance with the nutrient provisions set forth in paragraph 2(e)(1) (2) and (3) above shall be determined by the appropriate methods described in "Official Methods of Analysis of the Association of Official Analytical Chemists" (latest edition).

(f) Vegetable protein products to be used in the child nutrition programs to resemble and substitute, in part, for meat, poultry or seafood that comply with the labeling and nutritional specifications set forth in paragraph 2(d) (1) and (2) and paragraph 2(e)(1) (2) and (3) shall bear a label containing the following statement: "This product meets USDA–FNS requirements for use in meeting a portion of the meat/meat alternate requirement of the child nutrition programs." This statement shall appear on the principal display panel area of the package.

(g) It is recommended that for vegetable protein products to be used to resemble and substitute, in part, for meat, poultry or seafood and labeled as specified in paragraph 2(f) above, manufacturers provide information on the percent protein contained in the dry vegetable protein product (on an as is basis).

(h) It is recommended that for a vegetable protein product mix, manufacturers provide information on (1) the amount by weight of dry vegetable protein product in the package, (2) hydration instructions, and (3) instructions on how to combine the mix with meat, poultry or seafood. A vegetable protein product mix is defined as a dry product containing vegetable protein products that comply with the labeling and nutritional specifications set forth in paragraphs 2(d) (1) and (2) and paragraph 2(e)(1) (2) and (3) along with substantial levels (more than 5 percent) of seasonings, bread crumbs, flavorings, etc.

3. Schools, institutions, and service institutions may use a commercially prepared meat, poultry or seafood product combined with vegetable protein products to meet all or part of the meat/meat alternate requirement specified in §§ 210.10, 225.10 or 226.21 if the product bears a label containing the statement: "This item contains vegetable protein product(s) which is authorized as an alternate food in the child nutrition programs." (outlined in paragraph 2 above). This would designate that the vegetable protein product used in the formulation of the meat, poultry or seafood item complies with the naming and nutritional specifications set forth in paragraph 2 above. The presence of this label does not insure the proper level of hydration, ratio of substitution nor the contribution that the product makes toward meal pattern requirements for the child nutrition programs.

A new Appendix A is added to Parts 225 and 226 to read as follows:

Appendix A: Alternate Foods for Meals

Vegetable Protein Products

1. Schools, institutions, and service institutions may use a vegetable protein product, defined in paragraph 2, as a food component meeting the meal requirements specified in § 210.10, § 225.10 or § 226.21 under the following terms and conditions:

(a) The vegetable protein product must be prepared in combination with raw or cooked meat, poultry or seafood and shall resemble as well as substitute, in part, for one of these major protein foods. Substitute, refers to a vegetable protein product whose presence in another food results in the presence of a smaller amount of meat, poultry or seafood than is customarily expected or than appears to be present in that food. Examples of items in which a vegetable protein product may be used include, but are not limited to, beef patties, beef crumbles, pizza topping, meat loaf, meat sauce, taco filling, burritos, and tuna salad.

(b) Vegetable protein products may be used in the dry form (nonhydrated), partially hydrated or fully hydrated form in combination with meat, poultry or seafood. The moisture content of the fully hydrated vegetable protein product shall be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

(c) The quantity, by weight, of the fully hydrated vegetable protein product must not exceed 30 parts to 70 parts meat, poultry or seafood on an uncooked basis. The quantity by weight of the dry or partially hydrated vegetable protein product must not exceed a level equivalent to the amount (dry weight) used in the fully hydrated product at the 30 percent level of substitution. The dry or partially hydrated product's replacement of meat, poultry or seafood will be based on the level of substitution it would provide if it were fully hydrated.

(d) A vegetable protein product may be used to satisfy the meat/meat alternate requirement when combined with meat, poultry or seafood and when it meets the other requirements of this section. The combination of the vegetable protein product and meat, poultry or seafood may meet all or part of the meat/meat alternate requirement specified in §§ 210.10, 225.10 or 226.21.

(e) The contribution vegetable protein products make toward the meat/meat alternate requirement specified in §§ 210.10, 225.10, 226.21 shall be determined on the basis of the preparation yield of the meat, poultry or seafood with which it is combined. When computing the preparation yield of a product containing meat, poultry or seafood and vegetable protein product, the vegetable protein product shall be evaluated as having the same preparation yield that is applied to the meat, poultry or seafood it replaces.

(f) When vegetable protein products are served in a meal with other alternate foods authorized in Appendix A, each individual alternate food shall be used as specifically directed.

2. A vegetable protein product to be used to resemble and substitute, in part, for meat, poultry or seafood, as specified in paragraph 1 must meet the following criteria:

(a) The vegetable protein product (substitute food) shall contain one or more vegetable protein products which are defined as follows:

(1) Vegetable (plant) protein products are foods which are processed so that some portion of the nonprotein constituents of the vegetable is removed. These vegetable protein products are safe and suitable edible products produced from vegetable (plant) sources including, but not limited to, soybeans, peanuts, wheat, and corn.

(b) The types of vegetable protein products described in paragraph 2(a)(1) above shall include flour, concentrate, and isolate as defined below:

(1) When a product contains less than 65 percent protein by weight calculated on a moisture-free basis excluding added flavors, colors, or other added substances it is a " " flour", the blank is to be filled with the name of the source of the protein, e.g., "soy" or "peanut".

(2) When a product contains 65 percent or more but less than 90 percent protein by weight calculated on a moisture-free basis excluding added flavors, colors, or other added substances, it is a " protein concentrate", the blank to be filled with the name of the source of the protein, e.g., "soy" or "peanut".

(3) When a product contains 90 percent or more protein by weight calculated on a moisture-free basis excluding added flavors, colors or other added substances, it is a " protein isolate" or "isolated protein," the blank to be filled in with the name of the source of the protein, e.g., "soy" or "peanut."

(c) Compliance with the moisture and protein provisions of paragraph 2(b)(1)(2) and (3) above shall be determined by the appropriate methods described in "Official Methods of Analysis of the Association of Official Analytical Chemists" (latest edition).

(d) Vegetable protein products which are used to resemble and substitute, in part, for meat, poultry or seafood shall be labeled in conformance with applicable sections of § 102.76, tentative final regulations published by the Food and Drug Administration in the Federal Register of July 14, 1978 (43 FR 30472). Adopted for the purpose of this regulation are the following:

(1) The common or usual names for a vegetable protein product used to resemble and substitute, in part, for meat, poultry or seafood shall include the term "vegetable protein product" and may include the term "textured" or "texturized" and/or a term e.g., "granules," when such term is appropriate. The term "plant" may be used in the name in lieu of the term "vegetable."

(2) The vegetable protein products used as ingredients in the substitute food shall be listed by source (e.g., soy or peanut) and product type (i.e., flour, concentrate, isolate) in the ingredient statement of the label. Product type(s) listed shall comply with the appropriate definition(s) set forth in paragraph 2 (b)(1)(2) and (3), may include a term which accurately describes the physical form of the product, e.g., "granules" when such term is appropriate.

(e) Vegetable protein products which are used to resemble and substitute, in part, for meat, poultry or seafood shall meet the following nutritional specifications adopted from § 102.76 (f)(1)(ii)(*a*)(*b*) tentative final regulations, published by the Food and Drug Administration in the Federal Register of July 14, 1978 (43 FR 30472).

(1) The biological quality of the protein in the vegetable protein product shall be at least 80 percent that of casein, determined by performing a Protein Efficiency Ratio (PER) assay or unless FNS grants an exception by approving an alternate test.

(2) The vegetable protein product shall contain at least 18 percent protein by weight when hydrated or formulated to be used in combination with meat, poultry or seafood. ("When hydrated or formulated" refers to a dry vegetable protein product and the amount of water, fat or oil, colors, flavors or any other substances which have been added in order to make the resultant mixture resemble that meat, poultry or seafood).

(3) The vegetable protein product must contain the following levels of nutrients per gram of protein:

Nutrient	Amount
Vitamin A (IU)	15
Thiamine (milligrams)	0.02
Riboflavin (milligrams)	.01
Niacin (milligrams)	.3
Pantothenic acid (milligrams)	.04
Vitamin B_6 (milligrams)	.02
Vitamin B_{12} (micrograms)	1
Iron (milligrams)	.15
Magnesium (milligrams)	1.15
Zinc (milligrams)	.5
Copper (micrograms)	24
Potassium (milligrams)	17

(4) Compliance with the nutrient provisions set forth in paragraph 2(e)(1) (2) and (3) above shall be determined by the appropriate methods described in "Official Methods of Analysis of the Association of Official Analytical Chemists" (latest edition).

(f) Vegetable protein products to be used in the child nutrition programs to resemble and substitute, in part, for meat, poultry or seafood that comply with the labeling and nutritional specifications set forth in paragraph 2(d) (1) and (2) and paragraph 2(e)(1) (2) and (3) shall bear a label containing the following statement: "This product meets USDA–FNS requirements for use in meeting a portion of the meat/meat alternate requirement of the child nutrition programs." This statement shall appear on the principal display panel area of the package.

(g) It is recommended that for vegetable protein products to be used to resemble and substitute, in part, for meat, poultry or seafood and labeled as specified in paragraph 2(f) above, manufacturers provide information on the percent protein contained in the dry vegetable protein product (on an as is basis).

(h) It is recommended that for a vegetable protein product mix, manufacturers provide information on (1) the amount by weight of dry vegetable protein product in the package, (2) hydration instructions, and (3) instructions on how to combine the mix with meat, poultry or seafood. A vegetable protein product mix is defined as a dry product containing vegetable protein products that comply with the labeling and nutritional specifications set forth in paragraphs 2(d) (1) and (2) and paragraph 2(e) (1) (2) and (3) along with substantial levels (more than 5 percent) of seasonings, bread crumbs, flavorings, etc.

3. Schools, institutions, and service institutions may use a commercially prepared meat, poultry or seafood product combined with vegetable protein products to meet all or part of the meat/meat alternate requirement specified in §§ 210.10, 225.10 or 226.21 if the product bears a label containing the statement: "This item contains vegetable protein product(s) which is authorized as an alternate food in the child nutrition programs." (outlined in paragraph 2 above). This would designate that the vegetable protein product used in the formulation of the meat, poultry or seafood item complies with the naming and nutritional specifications set forth in paragraph 2 above. The presence of this label does not insure the proper level of hydration, ratio of substitution nor the contribution that the product makes toward meal pattern requirements for the child nutrition programs.

(National School Lunch Act Sections 9, 13, 17, 42; U.S.C. 1758, 1761, 1766; 7 CFR 210.10, 225.10, 226.21)

Dated: January 3, 1983.

Mary C. Jarratt,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 83-522 Filed 1-6-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 393]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 9 through January 15, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 9, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on January 4, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.693 is added as follows:

§ 910.693 Lemon regulation 398.

The quantity of lemons grown in California and Arizona which may be handled during the period January 9, 1983, through January 15, 1983, is established at 215,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 5, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-691 Filed 1-6-83; 12:45pm]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-106]

Horses From South and Central America

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the import regulations by requiring that horses intended for importation from South America or Central America or that have transited South America or Central America within 7 days immediately preceding importation into the United States be quarantined at the New York Animal Import Center (NYAIC), Newburgh, New York, the Miami Animal Import Center, Miami, Florida, or the Hawaii Animal Import Center, Honolulu, Hawaii. This document prohibits the use of quarantine facilities provided by the importer for such horses. This action is necessary because Venezuelan equine encephalitis occurs in all countries of South and Central America and horses from these countries present a potential source for introducing this disease into the United States. The intended effect of this action is to decrease the probability of the introduction of Venezuelan equine encephalitis into the United States by amending the regulations to restrict the quarantine of such horses to quarantine facilities maintained by Veterinary Services.

DATES: Effective date: January 3, 1983. Written comments must be received on or before March 7, 1983.

ADDRESS: Written comments should be submitted to the Deputy Administrator, VS, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782

Comments submitted should bear a reference to the date and page number of this issue in the Federal Register.

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 728, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Dr. M. P. Dulin, Import/Export Staff, VS, APHIS, USDA, Room 844, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been determined to be not a "major rule." The Department has determined that this action will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The emergency nature of this action makes it impractical for the Agency to follow the procedures in Executive Order 12291 with respect to this action.

Dr. George P. Pierson, Acting Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this interim rule because of the danger of the introduction of Venezuelan equine encephalitis into the United States from horses which are from South America or Central America within 7 days immediately preceding importation into the United States.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency action are impractical and contrary to the public interest; and good cause is found for making this emergency action effective less than 30 days after publication of this document in the Federal Register. Comments are being solicited for 60 days after publication of this document, and this emergency action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the Federal Register as soon as possible.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. In the past three years, approximately 18 shipments of horses totaling approximately 179 horses have been imported from South and Central American Countries into the United States through quarantine facilities provided by importers. Therefore, this emergency action will not have a significant economic impact on a substantial number of small entities.

Alternatives Considered

The following alternatives were considered in making this decision:

1. Continue to permit horses imported from any part of the world, except horses from or which have transited any country in which African horsesickness is declared to exist, to be quarantined in quarantine facilities provided by the importer which have received prior approval of the Deputy Administrator, Veterinary Services.

2. Amend the regulations to require that horses from South America or Central America or horses that have transited South America or Central America within 7 days preceding their importation be quarantined at quarantine facilities maintained by Veterinary Services located at Newburgh, New York; Miami, Florida; and Honolulu, Hawaii.

Alternative No. 1 is not adopted because of the danger of the spread of Venezuelan equine encephalitis from quarantine facilities over which this Department does not have complete control and responsibility.

Alternative No. 2 is adopted because horses which are from South or Central America or which have transited South America or Central America within 7

days preceding their importation, can be quarantined at quarantine facilities maintained by Veterinary Services without a significant risk of introducing Venezuelan equine encephalitis into the United States.

Background

The regulations in § 92.11(d)(2) provide that horses presented for entry into the United States at any additional port for horses as provided in § 92.3(g) shall be quarantined in facilities provided by the importer and approved by the Deputy Administrator, Veterinary Services. However, the Department has reconsidered its previous position regarding the quarantine of horses which are from South America or Central America or have transited South America or Central America within 7 days of their importation into the United States, because of the existence of Venezuelan equine encephalitis in these countries. The Department does not believe that the security and biological safeguards at a quarantine facility provided by the importer is equal to the conditions at quarantine facilities maintained by Veterinary Services at Newburgh, New York; Miami, Florida; or Honolulu, Hawaii.

Further, the owners of horses in quarantine often want to take the horses outside the quarantine barn before the 7-day quarantine has been completed. This Department is unable to continually monitor quarantine facilities provided by importers to assure that owners of horses will not remove the horses from the barn prematurely due to their desire to keep the horses in training. The Department's regulations prohibit such removal and provide procedures for withdrawal of approval from such facilities if horses are removed from quarantine prior to the completion of the 7-day quarantine. This sanction is not sufficient to prevent the introduction of Venezuelan equine encephalitis into the United States. Therefore, the regulations are amended to prohibit the importation of horses which are from South America or Central America or which have transited South America or Central America within 7 days of their importation through quarantine facilities provided by importers. Horses which become infected with Venezuelan equine encephalitis exhibit clinical symptoms within 7 days of infection and can be detected. Therefore, infected horses imported into the United States which transited South America or Central America prior to 7 days immediately preceding importation would be detected upon entry into the United States, and it is not necessary to restrict the importation of such horses to quarantine facilities maintained by Veterinary Services.

Present § 92.3(a) designates New York, New York, Miami, Florida, Los Angeles and San Francisco, California, and Honolulu, Hawaii, as ports having inspection and quarantine facilities necessary for quarantine stations and requires that all animals enter through said stations, except as otherwise provided in the regulations. This document amends § 92.3(a) to limit the importation of horses which are from South America or Central America or which have transited South America or Central America within 7 days of the importation to Newburgh, New York, Miami, Florida, and Honolulu, Hawaii. This amendment is necessary because, as stated above, these are the only places at which there are located quarantine stations maintained by Veterinary Services with the security and biological safeguards necessary to prevent the introduction of Venezuelan equine encephalitis into the United States.

Present § 92.3(g) allows the importation of horses, except those from or which have transited any country where African horsesickness is declared to exist, through any additional port designated as an international port or airport by the United States Customs Service provided that certain specified provisions of the regulations are met. This document amends § 92.3(g) of the regulations to prohibit the importation of horses which are from South America or Central America or which have transited South America or Central America within 7 days of the importation through such additional ports. This amendment is necessary to ensure that such horses are imported through quarantine stations maintained by Veterinary Services.

In § 92.11, paragraphs (d)(1)(iii), and (d)(1)(iv) are renumbered (d)(1)(iv), and (d)(1)(v), respectively, and a new paragraph (d)(1)(iii) is added to provide that horses from South America or Central America or that have transited any country in South America or Central America within 7 days preceding importation shall be quarantined for 7 days at Newburgh, New York, Miami, Florida, or Honolulu, Hawaii.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

1. Section 92.3 (a) and (g) is revised to read:

§ 92.3 Ports designated for the importation of animals.

(a) *Air and ocean ports.* (1) The following ports have inspection and quarantine facilities necessary for quarantine stations and all animals, except horses which are from South America or Central America or which have transited South America or Central America within 7 days immediately preceding the importation, shall be entered through said stations, except as provided in paragraphs (b), (c), (d), (e), and (g) of this section, §§ 92.11(d) and 92.24: Newburgh, New York; Miami, Florida; Los Angeles and San Francisco, California; and Honolulu, Hawaii.

(2) Newburgh, New York; Miami, Florida; and Honolulu, Hawaii, are designated as quarantine stations for the entry of horses which are from South America or Central America or which have transited South America or Central America within 7 days immediately preceding importation into the United States.

* * * * *

(g) *Additional ports for horses.* In addition to other ports designated for the importation of animals in this section, horses from any part of the world, except: (i) Horses from or which have transited any country in South America or Central America within 7 days immediately preceding importation into the United States and (ii) horses from or which have transited any country in which African horsesickness is declared to exist, * may be entered into the United States at any port designated as an international port or airport by the U.S. Customs Service provided that applicable provisions of §§ 92.2(i), 92.8(a), 92.11(d), and 92.17 are met.

3. In § 92.11, paragraphs (d)(1)(iii) and (d)(1)(iv) are renumbered (d)(1)(iv) and (d)(1)(v), respectively, and a new paragraph (d)(1)(iii) is added to read:

§ 92.11 Quarantine requirements.

* * * * *

(d) * * *

(1) * * *

(iii) Horses intended for importation from South America or Central America, or that have transited any country in South America or Central America, within 7 days immediately preceding importation, shall be quarantined for 7 days at a quarantine facility operated and maintained by Veterinary Services.

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 4, and 11, 76 Stat. 129, 130, 132 (21 U.S.C. 111, 134a, 134c, and 134f); 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 3rd day of January 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-399 Filed 1-4-83; 11:30 am]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 221 and 296

[Order 82-12-24]

Tariffs and Indirect Air Transportation of Property; Waiver of Certain Rules for Indirect Cargo Air Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Waiver of rule by Order 82-12-24.

SUMMARY: The CAB is waiving provisions of its rules to the extent necessary to permit indirect cargo air carriers to participate in joint tariffs filed by direct air carriers and direct foreign air carriers for the foreign air transportation of cargo, with certain conditions. In response to a request by Emery Air Freight the Board takes this action to provide greater operating flexibility for indirect and direct carriers and to continue its policy of removing itself from the regulation of cargo pricing practices.

DATES:

Adopted: December 9, 1982.

Effective: December 9, 1982, however this order may be amended at any time at the Board's discretion without hearing.

FOR FURTHER INFORMATION CONTACT: Lawrence Myers, Office of the General Counsel, Pricing & Entry Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20420; (202) 673-5205.

SUPPLEMENTARY INFORMATION: The Board is granting a waiver from the provisions of Part 296 of its Economic Regulations, 14 CFR Part 296, which prevent U.S. airfreight forwarders and cooperative shippers associations ("indirect cargo air carriers") from participating in through cargo service on an "interline" basis with direct carriers. The principal relief granted would permit indirect carriers such as Emery to participate in through joint tariffs, published where required by law, as if they were direct carriers, and to divide the revenues with their interline partners pursuant to unfiled prorate agreements. The Board's regulations prohibit the division of primary transportation responsibility inherent in direct/indirect carrier interlining and also prohibit indirect cargo air carriers from filing or participating in any tariffs. The waiver is subject to the conditions that the shipper be provided actual advance notice that the shipment will be interlined and that the shipment not be consolidated by the indirect carrier for rating purposes. As in the case of direct carrier interlining, the arrangements permitted by the Board's action are not accorded antitrust immunity. The Board takes this action to provide greater operating flexibility for indirect and direct carriers and to continue its policy of removing itself from the regulation of cargo pricing practices.

By the Civil Aeronautics Board: December 8, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-406 Filed 1-6-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 21117-232]

Reformat of the Commodity Control List

Correction

In FR Doc. 82-34908 beginning on page 58122 in the issue of Wednesday, December 29, 1982 some material was inadvertently omitted. On page 58135, at the bottom of the first column, preceding paragraph (a) add the following material:

3261A Neutron generator systems, including tubes, designed for operation without an external vacuum system, and utilizing electrostatic acceleration to induce a tritium-deuterium nuclear reaction; and specially designed parts therefor.

Controls for ECCN 3261A

Unit: Report systems and tubes in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $0 for all destinations.

Processing Code: EE.

Reason for Control: National security, nuclear non-proliferation.

Special Licenses Available: None.

Advisory Notes: 1. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of neutron generator systems, including tubes, as defined in ECCN 3261A.

2. Licenses are likely to be approved for export to satisfactory end-users in Country Groups PQSWY of tubes and systems whose technical specifications are essentially the same as those for previously approved exports, provided that they are for civil uses.

4261B Particle accelerators having all of the specifications described in the List below.

Controls for ECCN 4261B

Unit: Report in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups PQSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T and V; $0 for all other destinations.

Processing Code: EE.

Special Licenses Available: None.

List of Specifications for Particle Accelerators Controlled by ECCN 4261B

* * * * *

BILLING CODE 1505-01-M

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15 CFR Part 399

[Docket No. 21223-258]

Clarification of Commodity Interpretation 29 of Supp. No. 1 to § 399.2, General Industrial Equipment

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule

SUMMARY: This rule makes one clarification of the change in controls on the U.S.S.R. and Poland published in the Federal Register on November 18, 1982. The definition of "seismograph thumper mounted trucks" in Interpretation 29 of Supp. No. 1 to section 399.2 is clarified to read " seismograph thumper/vibrator mounted trucks."

DATE: Effective January 7, 1983.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-4811).

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. This rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act by section 13(a) of the Export Administration Act of 1979 (Pub. L. 97–72, 50 U.S.C. app. 2401 *et seq.*). This rule does not impose new controls on exports, and it is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in CFR Part 399

Exports.

PART 399—[AMENDED]

Accordingly, the Export Administration Regulations (15 CFR Part 368, *et seq.*) are amended as follows:

§ 399.2 [Amended]

Commodity Interpretation 29: General Industrial Equipment, of Supplement No. 1 to § 399.2, is amended by revising the listing "Special purpose vehicles, n.e.s. * * *" to read: Special purpose vehicles, n.e.s., non-military, *e.g.* cement mixers, street and airfield cleaning equipment, asphalt mixers, mine shuttle vehicles, trucks with derrick assemblies, and similar equipment mounted integral to the truck frame, seismograph thumper/vibrator mounted trucks and oil/gas well drilling rigs.[1]

(Secs. 4, 6, 13, 15, 16, and 21, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended; E.O. No. 12002 (42 FR 35623, July 11, 1977); and E.O. No. 12214 (45 FR 29783, May 6, 1980)

Dated: December 22, 1982.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 83-465 Filed 1-6-83; 8:45 am]

BILLING CODE 3510-25-M

[1] * * *

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, 15, 16, 18, 21, 32, 33, 145, 147, 155, 170 and 180

Domestic Exchange-Traded Commodity Options; Expansion of Pilot Program To Include Options on Physicals

Correction

In FR Doc. 82–34538 beginning on page 56996 in the issue of Wednesday, December 22, 1982, make the following changes:

1. On page 57007, the third column, the paragraph designated "(D)", the ninth line, the word "the" should be removed.

2. On page 57017, the third column, the paragraph designated "(c)", the seventeenth line, the word "officer" should read "offer".

3. On page 57018, the third column, the thirty-seventh line, the word "or" should read "of".

4. On page 57019, the first and second columns, the paragraphs designated "(2)", "(3)", "(5)" and "(6)", the italicized material immediately following the numbers should be capitalized.

5. On the same page, the second column, the paragraph designated "(7)", the italicized material immediately following the number and before "(i)" should be capitalized.

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 1b, 2, 3, 3a, 4, 12, 16, 25, 32, 33, 34, 35, 41, 45, 131, 152, 153, 154, 156, 157, 158, 250, 270, 271, 275, 281, 282, 284, 286, 292, 375, 385, and 388

[Docket No. RM78-22-000]

Revision of Rules of Practice and Procedure To Expedite Trial-Type Hearings; Correction

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; correcton.

SUMMARY: This document makes corrections to: (1) The final rule revising the Commission's Rules of Practice and Procedure that was published on May 3, 1982 (47 FR 19014), and (2) corrections of the final rule that were published on August 18, 1982 (47 FR 35952). This action is necessary to correct certain typographical, cross-reference, and editorial errors.

FOR FURTHER INFORMATION CONTACT: Fredric D. Chanania, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D. C. 20426, (202) 357–8033.

Kenneth F. Plumb,

Secretary.

A. The following corrections are made in FR Doc. 82–11675 appearing on 19014 in the issue of May 3, 1982:

1. On page 19022, in § 1.101(c), "means" is corrected to read "mean".

2. On page 19057, in § 157.10, "§ 385.209" is corrected to read "§ 385.211".

3. On page 19058, in § 375.307(g), "§ 385.214" is corrected to read "§ 385.216".

4. On page 19026, column three, in § 385.214(b), the last subparagraph, which is erroneously designated as subparagraph "(2)" is redesignated as subparagraph "(3)".

5. On page 19026, in § 385.213(d)(2) (i) and (ii) add "notice of" after the word "If", so that both introductory clauses begin "If notice of the pleading . . .".

6. On page 19028, in § 385.504(b)(14)(iii), "approprite" is corrected to read "appropriate".

7. On page 19042, in § 385.1110(c), the last six words "grant on denial of that adjustment" are corrected to read "grant or denial of that adjustment".

8. On page 19046, in § 385.1902, open and closed parentheses are inserted respectively in lieu of the first and fourth commas; thus, the first sentence, as corrected, reads as follows: "Any staff action (other than a decision or ruling of a presiding officer, as defined in Rule 102(e)(1), made in a proceeding set for hearing under Subpart E of this part) taken persuant to authority delegated to the staff by the Commission that would be final, but for the provisions of this section, may be appealed to the Commission by a party."

9. On page 19049, in § 385.2006, paragraphs (1) and (2) are redesignated as paragraphs (a) and (b) respectively.

10. On page 19052, in § 388.101, the last paragraph, which now is erroneously designated as paragraph "(b)", is redesignated as paragraph "(f)".

11. On page 19053, in § 388.105(a)(15)(iii), a second closed parentheses is added after "(other than 5 U.S.C. 552(b)" and before the following comma.

12. On page 19054, in § 388.108, third line, the word "for" that precedes "material" is removed.

B. The following correction is made in FR Doc. 82–22510 appearing on 35952, in the issue of August 18, 1982:

1. On page 35956, column one, the amendatory language in paragraph (1) is corrected to read: "1. On page 19025, column three, the period at the end of paragraph (a)(2) of § 385.212 is changed to a semicolon and a new paragraph (a)(3) is added to read as follows:".

Dated: December 30, 1982.

[FR Doc. 83–377 Filed 1–6–83; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 429

[Docket No. 82N–0221]

Fees for Certifying Insulin Drugs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the insulin regulations by increasing the fees for certification services. The increases are needed to maintain an adequate insulin certification program, as required by the Federal Food, Drug, and Cosmetic Act (the act).

DATES: Effective March 8, 1983; comments by February 7, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David Petak, Division of Financial Management, Accounting Branch (HFA–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1768.

SUPPLEMENTARY INFORMATION: Section 506(b)(5) of the act (21 U.S.C. 356(b)(5)) requires that fees adequate to maintain an insulin certification program be specified in agency regulations. The current fee schedule specified in § 429.55(b) (21 CFR 429.55(b)) was published as a final regulation in the **Federal Register** of May 27, 1977 (42 FR 27227). An internal agency review of the costs and revenues associated with insulin certification was completed in 1980, and at that time it was determined not to alter the schedule that had been established in 1977. Another review of the insulin certification activities and associated revenues and costs was completed in 1982. It concluded that current fees are now insufficient to provide, equip, and maintain an adequate certification service, and that a revised fee structure is necessary.

Program costs associated with insulin certification have been altered in four ways:

1. A dramatic increase in the number of samples requiring bioassay analysis is occurring and is projected to be sustained for the foreseeable future. These bioassay analyses are required for each master lot of insulin manufactured. In the past, firms produced very large master lots and maintained large inventories of insulin crystals. Recently, firms have been found to be producing much smaller master lots more frequently, reportedly to reduce the costs associated with carrying large inventories. This practice substantially increases the number of master lots that FDA must bioassay. In addition, two other factors are also increasing the number of master lots that FDA must bioassay—new insulin manufacturers have entered the market and there is occurring an increase in the types of insulin being manufactured.

2. New techniques in the manufacture of insulin, such as recombinant DNA technology, make it essential to increase the resources devoted to insulin research and the development of testing methodology.

3. The insulin program will need to carry the full costs of certification support activities that in the past were shared with the recently terminated antibiotic certification program.

4. Inflation since 1977 would make it necessary to increase the fees required to support the existing certification program even if the increased costs in the program described above had not occurred.

These factors taken together require the raising of fees to ensure adequate funding for the insulin certification program. Unlike the statutory provision on antibiotic certification (21 U.S.C. 357), the provision on insulin certification (21 U.S.C. 356) does not provide for regulations granting exemptions from certification. Moreover, FDA believes there is a need to continue the independent replication of manufacturer tests that has in the past comprised the agency's insulin certification program. Diabetic patients depend not only on a continuing supply of insulin, but on a supply whose quality generally, and particularly whose potency, have been determined with precision. Independent replication ensures best that quality has not been subject to variation and that potency remains within safe limitations. In all, maintaining an adequate certification service will require increases in the laboratory and equipment needs associated with the insulin certification program and an increase in the staff associated with the program from 10 to 16 positions.

The new fee schedule for the insulin certification program is as follows. The fee for each master lot is raised from $195 to $450, for each trial dilution from $3,177 to $7,000, and for each trial mixture of Protamine Zinc Insulin from $2,754 to $5,000. These changes reflect FDA's true cost of performing these tests as well as the cost of expanding the agency's capability to perform bioassay analysis. The amendment also increases the fee on each vial contained in the sample of the final batch from $16 to $100 per vial. The manufacturer is required to submit for analysis one vial for each 10,000 vials in the batch, with a minimum of 10. The amendment eliminates the administrative fee of $85 per batch, the facsimile fee of $1.25 per certificate, and the fees for a trial mixture of globin zinc insulin ($2,754) and globin hydrochloride ($386). The latter two products are no longer produced. The total cost of FDA's fees, after the changes made in this regulation, will amount to about 2 cents for each vial of insulin produced. Documents supporting the need for increased fees and which set forth the basis on which the agency has established the new fee schedule are available for review in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required. Because this provision is issued as a final rule without being preceded by general notice of proposed rulemaking, a final regulatory analysis under section 604 of the Regulatory Flexibility Act (94 Stat. 1167) is not required. In any event, the rule will not have a significant economic impact on a substantial number of small entities. Only a small number of large companies will be affected, and the costs involved are minuscule in relation to the revenues affected. Accordingly, the agency certifies that a regulatory flexibility analysis is not required. In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule and has determined that it is not a major rule as defined by that Order.

List of Subjects in 21 CFR Part 429

Administrative practice and procedure, Drugs, insulin, Labeling, Packaging and containers.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 506, 55 Stat. 851 as amended (21 U.S.C. 356)) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), Part 429 is amended in § 429.55 by revising the introductory text of paragraph (b), by revising paragraph (b)(1)(i), (2)(ii), and (3)(ii), by removing paragraph (b)(6), (7), and (10) and marking it "reserved", and by revising paragraph (b)(9), to read as follows:

PART 429—DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

§ 429.55 Fees.

* * * * *

(b) The fee for such services is the sum of the fees for all services rendered with respect to the samples submitted under § 429.40(d), as follows:

(1) * * *

(i) $450 if the master lot or mixture has not been previously approved by the Commissioner.

* * * * * *

(2) * * *

(ii) $7,000 if the results referred to in paragraph (b)(2)(i) of this section are not submitted and are not to be submitted.

(3) * * *

(ii) $5,000 if the results referred to in paragraph (b)(2)(i) of this section are not submitted and are not to be submitted.

* * * * * *

(6) [Reserved]

(7) [Reserved]

* * * * * *

(9) $100 for each package in the sample of the finished batch submitted for all tests except sterility; $68 for all packages in the sample submitted for the initial sterility test in accordance with § 429.40(d)(10); and $136 for all packages in the sample submitted for any repeat sterility test, if necessary, in accordance with the U.S.P.

(10) [Reserved]

* * * * * *

The establishment of fees necessary to provide, equip, and maintain an adequate certification service for insulin has been mandated by Congress under section 506(b) of the act (21 U.S.C. 356(b)). As certification services are provided to manufacturers directly by FDA, the setting of a fee schedule to pay for these services is a matter particularly within the purview and expertise of the agency. The fees established by this regulation have been based on cost-accounting methods using data compiled and fully analyzed by the agency. The cost-accounting methods used are the same as those used in support of the fee schedule set in the 1977 final rule, on which FDA invited comments but received none. Furthermore, if the new fee schedule is not put in place soon, FDA will not be able to respond to the increased industry demands for insulin certification services as described above, with resulting delays, added costs to industry and patients, and possible product shortages. For all of these reasons, FDA finds, for good cause, that providing for notice and public comment prior to the establishment of these fees is neither practicable nor necessary, and may be dispensed with under 5 U.S.C. 553(b)(B). Under § 10.40(e) (21 CFR 10.40(e)), however, interested persons may on or before February 7, 1983, submit to the dockets Management Branch (address above), written comments regarding this regulation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. This amendment becomes effective March 8, 1983.

(Sec. 506, 55 Stat. 851 as amended (21 U.S.C. 356))

Mark Novitch,

Deputy Commissioner of Food and Drugs.

Richard S. Schweiker,

Secretary of Health and Human Services.

Dated: December 13, 1982.

[FR Doc. 83-418 Filed 1-6-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 430, 436, and 442

[Docket No. 82N-0362]

Antibiotic Drugs; Sterile Cefoperazone Sodium

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for a new antibiotic drug, sterile cefoperazone sodium. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective January 7, 1983; comments, notice of participation, and request for hearing by February 7, 1983; data, information, and analyses to justify a hearing by March 8, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new antibiotic drug, sterile cefoperazone sodium. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 430, 436, and 442 (21 CFR Parts 430, 436, and 442) to provide for the inclusion of accepted standards for the product.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 430

Administrative practice and procedure, Antibiotics.

21 CFR Part 436

Antibiotics.

21 CFR Part 442

Antibiotics, Cepha.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701(f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 430, 436, and 442 are amended as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended:

a. In 430.4, by adding new paragraph (a)(49) to read as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(49) *Cefoperazone.* Cefoperazone is a semi-synthetic antibiotic substance produced by the acylation of the amino group at the 7 position of 7-aminocephalosporanic acid with α-(4-ethyl-2,3-dioxo-1-piperazinecarboxamido)-α-(4-hydroxyphenyl) acetic acid and introduction of a methylthiotetrazol group at the 3 position.

b. In § 430.5, by adding new paragraphs (a)(76) and (b)(76) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(76) *Cefoperazone.* The term "cefoperazone master standard" means a specific lot of cefoperazone that is designated by the Commissioner as the standard of comparison in determining the potency of the cefoperazone working standard.

(b) * * *

(76) *Cefoperazone.* The term "cefoperazone working standard" means a specific lot of a homogeneous preparation of cefoperazone.

c. In § 430.6, by adding new paragraph (b)(77) to read as follows:

§ 430.6. Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(77) *Cefoperazone.* The term "microgram" applied to cefoperazone means the cefoperazone activity (potency) contained in 1.056 micrograms of the cefoperazone master standard.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended by adding new § 436.338 to read as follows:

§ 436.338 High-pressure liquid chromatographic assay for cefoperazone.

(a) *Equipment.* A suitable high-pressure liquid chromatograph equipped with:

(1) A low dead volume cell 8 to 20 microliters;

(2) A light path length of 1 centimeter;

(3) A suitable ultraviolet detection system operating at a wavelength of 254 nanometers;

(4) A suitable recorder of at least 25.4 centimeter deflection;

(5) A suitable integrator;

(6) A 30-centimeter column having an inside diameter of 4.0 millimeters and packed with octadecyl silane chemically bonded to porous silica or ceramic microparticles, 5 to 10 micrometers in diameter, United States Pharmacopeia XX.

(b) *Mobile phase.* Mix 1.2 milliliters 1*M* triethylammonium acetate, 2.8 millileters 1*M* acetic acid, and 120 milliliters acetonitrile in a one liter flask and dilute to volume with distilled water. Filter the mobile phase through a suitable glass fiber filter or equivalent that is capable of removing particulate contamination to 1 micron in diameter. Degas the mobile phase just prior to its introduction into the chromatographic pumping system.

(c) *Operating conditions.* Perform the assay at ambient temperature with a typical flow rate of 2.0 milliliters per minute. Use a detector sensitivity setting that gives a peak height for the working standard that is at least 50 percent of scale.

(d) *Preparation of working standard solution.* Dissolve approximately 40 milligrams of working standard, accurately weighed, with sufficient 1 percent potassium phosphate buffer, pH 1.0 (Solution 1) as described in § 436.101(a)(1) of this chapter, to obtain a solution containing 1 milligram of cefoperazone per milliliter. Further dilute to a concentration of 0.16 milligram of cefoperazone activity per milliliter with mobile phase.

(e) *Preparation of sample solutions—*(1) *Product not packaged for dispensing (micrograms of cefoperazone per milligram).* Dissolve an accurately weighed sample in sufficient distilled water to obtain a stock solution containing 1.0 milligram of cefoperazone per milliliter. Further dilute an aliquot of the stock solution with mobile phase to a concentration of 0.16 milligram of cefoperazone per milliliter. Using this sample solution, proceed as directed in paragraph (f) of this section.

(2) *Product packaged for dispensing.* Determine both micrograms of cefoperazone per milligram of the sample and milligrams of cefoperazone per container. Use separate containers for preparation of each sample solution as described in paragraph (e)(2)(i) and (ii) of this section.

(i) *Micrograms of cefoperazone per milligram.* Dissolve an accurately weighed sample in sufficient distilled water to obtain a stock solution containing 1.0 milligram of cefoperazone per milliliter. Further dilute an aliquot of the stock solution with mobile phase to a concentration of 0.16 milligram of cefoperazone per milliliter. Using this sample solution, proceed as directed in paragraph (f) of this section.

(ii) *Milligrams of cefoperazone per container.* Reconstitute the sample as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Further dilute an aliquot of this solution with distilled water to obtain a stock solution containing a concentration of 1.0 milligram of cefoperazone per milliliter. Further dilute an aliquot of the stock solution with mobile phase to a concentration of 0.16 milligram of cefoperazone per milliliter. Using this sample solution, proceed as directed in paragraph (f) of this section.

(f) *Procedure.* Using the equipment, reagents, and operating conditions as listed in paragraphs (a), (b), and (c) of this section, inject 10 microliters of the working standard solution into the chromatograph. Allow an elution time sufficient to obtain satisfactory separation of the expected components. After separation of the working standard solution has been completed, inject 10 microliters of the sample solution prepared as described in paragraph (e)(1) of this section into the chromatograph and repeat the procedure described for the working standard solution. If the sample is packaged for dispensing, repeat the procedure for each sample solution prepared as described in paragraph (e)(2)(i) and (ii) of this section.

(g) *Calculations*—(1) Calculate the micrograms of cefoperazone per milligram of sample as follows:

$$\text{Micrograms of cefoperazone per milligram} = \frac{A_u \times P_s \times 100}{A_s \times C_u \times (100-m)}$$

where:

A_u = Area of the cefoperazone sample peak (at a retention time equal to that observed for the standard);

A_s = Area of the cefoperazone working standard peak;

P_s = Cefoperazone activity in the cefoperazone working standard solution in microgram per milliliter;

C_u = Milligrams of sample per milliliter of sample solution; and

m = *Percent moisture content of the sample.*

(2) Calculate the cefoperazone content of the vial as follows:

$$\text{Milligrams of cefoperazone per vial} = \frac{A_u \times P_s \times d}{A_s \times 1{,}000}$$

where:

A_u = Area of the cefoperazone sample peak (at retention time equal to that observed for the standard);
A_s = Area of the cefoperazone working standard peak;
P_s = Cefoperazone activity in the cefoperazone working standard solution in micrograms per milliliter; and
d = Dilution factor of the sample.

PART 442—CEPHA ANTIBIOTIC DRUGS

3. Part 442 is amended:

a. By adding new § 442.12a to read as follows:

§ 442.12a Sterile cefoperazone sodium.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sterile cefoperazone sodium is the sodium salt of (6*R*, 7*R*)-7-[(*R*)-2-(4-ethyl-2,3-dioxo-1-piperazinecarboxamido)-2-(*p*-hydroxyphenyl)acetamido]-3-[[(1-methyl-1*H*-tetrazol-5-yl)thio]methyl]-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylate. It is a white to off-white crystalline powder or it may be a lyophilized powder. It is so purified and dried that:

(i) If the cefoperazone sodium is not packaged for dispensing, its cefoperazone content is not less than 870 micrograms and not more than 1,015 micrograms of cefoperazone per milligram on an anhydrous basis. If the cefoperazone sodium is packaged for dispensing, its cefoperazone content is not less than 870 micrograms and not more than 1,015 micrograms of cefoperazone per milligram on an anhydrous basis and also, each container contains not less than 90 percent and not more than 120 percent of the number of milligrams of cefoperazone that it is represented to contain.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) Its moisture content is not more than 5.0 percent, except if it is the lyophilized powder, its moisture content is not more than 2.0 percent.

(v) Its pH in an aqueous solution containing 250 milligrams per milliliter is not less than 4.5 and not more than 6.5.

(vi) It gives a positive identity test.

(vii) It is crystalline, except if it is the lyophilized powder, it is not crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for cefoperazone content, sterility, pyrogens, moisture, pH, identity, and crystallinity (if it is not the lyophilized powder).

(ii) Samples, if required by the Director, National Center for Drugs and Biologics:

(*a*) If the batch is packaged for repacking or for manufacturing use:

(*1*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(*2*) For sterility testing: 20 packages, each containing equal portions of approximately 300 milligrams.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 10 immediate containers of the batch.

(*2*) For sterility testing: 20 immediate containers collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Cefoperazone content.* Proceed as directed in § 436.338 of this chapter.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 10 milligrams of cefoperazone per milliliter.

(4) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 250 milligrams per milliliter.

(6) *Identity.* From the high-pressure liquid chromatograms of the sample and the cefoperazone working standard determined as directed in paragraph (b)(1) of this section, calculate the adjusted retention times of the cefoperazone in the sample and standard solutions as follows:

Adjusted retention time of cefoperazone = $\pm - \pm_s$ where:

$\pm$ = Retention time measured from point of injection into the chromatograph until the maximum of the cefoperazone sample or working standard peak appears on the chromatogram; and
$\pm_s$ = Retention time measured from point of injection into the chromatograph until the maximum of non-retarded solute appears in the chromatogram.

The sample and the cefoperazone working standard should have corresponding adjusted cefoperazone retention times:

(7) *Crystallinity.* Proceed as directed in § 436.203(a) of this chapter.

b. By adding new § 442.212 to read as follows:

§ 442.212 Sterile cefoperazone sodium.

The requirements for certification and the tests and methods of assay for sterile cefoperazone sodium packaged for dispensing are described in § 442.12a.

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this regulation is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective January 7, 1983. However, interested persons may, on or before February 7, 1983, submit written comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before February 7, 1983, a written notice of participation and request for hearing, and (2) on or before March 8, 1983 the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that require a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact preclude the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall be effective January 7, 1983.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: December 28, 1982.

James C. Morrison,

Acting Assistant Director for Regulatory Affairs.

[FR Doc. 83-203 Filed 1-6-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 522 and 556

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Tolerances for Residues of New Animal Drugs in Food; Gentamicin Sulfate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering Corp. providing for safe and effective use of gentamicin sulfate injection for intramuscular use in piglets for treatment of porcine colibacillosis and to establish tolerances for residues of gentamicin in edible tissues of swine.

EFFECTIVE DATE: January 7, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–133), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Schering Corp., Galloping Hill Rd., Kenilworth, N.J. 07033, filed NADA 103–037 providing for use of gentamicin sulfate injection for intramuscular use as a single-dose treatment of piglets up to 3 days old for porcine colibacillosis (weanling pig scours) caused by strains of *E. coli* sensitive to gentamicin. Schering has submitted data from safety studies and well-controlled experiments supporting the safety and effectiveness of gentamicin for this use. The NADA is approved and the regulations are amended accordingly.

The stepwise data collection procedures prescribed in the agency's proposal of March 20, 1979 (44 FR 17070) on chemical compounds in food-producing animals were not applied to approval of this NADA. The approval is based on alternative criteria, which assure that the products are safe and on factors which justify the equitable treatment of the sponsor, who adequately completed drug development testing in accordance with scientific standards in existence before March 20, 1979.

Schering submitted data related to human safety from radiotracer tissue residue depletion, drug residue depletion studies using the regulatory method of analysis, and laboratory toxicology and pathology studies which support a preslaughter withdrawal period of 40 days for the labeled conditions of use. The agency has accepted, for regulatory purposes, Schering's drug residue methods. Therefore, the regulations are further amended to establish tolerances for gentamicin in swine of 0.1 part per million (ppm) in muscle, 0.3 ppm in liver, and 0.4 ppm in kidney and fat.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects

21 CFR Part 522

Animal drugs, injectable.

21 CFR Part 556

Animal drugs, Foods, Residues.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. Part 522 is amended in § 522.1044 by revising paragraphs (a), (b), and (c) and by adding new paragraph (d)(4), to read as follows:

§ 522.1044 Gentamicin sulfate injection.

(a) *Specifications.* Each milliliter of sterile aqueous solution contains the equivalent of either 5 or 50 milligrams of gentamicin.

(b) *Sponsors.* (1) See No. 000085 in § 510.600(c) of this chapter for use of 5 milligram-per-milliliter solution in swine as in paragraph (d)(4) of this section and for use of 50 milligram-per-milliliter solution in dogs, cats, and chickens as in paragraph (d) (1) and (3) of this section.

(2) See No. 000138 for use of 5 milligram-per-milliliter solution in turkeys as in paragraph (d)(2) of this section.

(c) *Related tolerances.* See § 556.300 of this chapter.

(d) * * *

(4) *Swine*—(i) *Amount.* 5 milligrams of gentamicin as a single intramuscular dose using 5 milligram-per-milliliter solution.

(ii) *Indications for use.* In piglets up to 3 days old for treatment of porcine colibacillosis caused by strains of *E. coli* sensitive to gentamicin.

(iii) *Limitations.* For single intramuscular dose in pigs up to 3 days of age only. Do not slaughter treated animals for food for at least 40 days following treatment.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOODS

2. Part 556 is amended by revising § 556.300, to read as follows:

§ 556.300 Gentamicin sulfate.

(a) A tolerance of 0.1 part per million is established for negligible residues of gentamicin sulfate in the uncooked edible tissues of turkeys.

(b) Tolerances are established for total residues of gentamicin in edible tissues of swine as follows: 0.1 part per million in muscle, 0.3 part per million in liver, and 0.4 part per million in fat and kidney. A microbiological determinative procedure and an HPLC confirmatory procedure for gentamicin have been developed to assay gentamicin in kidney at 0.4 ppm. Since residues of gentamicin

as the parent compound and total residues are equal, the marker (parent drug) residue concentration of 0.4 ppm in kidney corresponds to 0.4 ppm of total residue.

Effective date. January 7, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 30, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 83-263 Filed 1-6-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Penicillin G Procaine-Novobiocin Sodium Intramammary Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by The Upjohn Co. providing for intramammary use of a penicillin G procaine-novobiocin sodium suspension in dry cows for treating subclinical mastitis caused by susceptible strains of *Staphylococcus aureus* and *Streptococcus agalactiae*.

EFFECTIVE DATE: January 7, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, Mich. 49001, filed NADA 55-098 providing for the use of Albadry Plus Suspension (200,000 International Units of penicillin G procaine with 400 milligrams of novobiocin sodium per 10 milliliters) for intramammary use in dry cows for treating subclinical mastitis caused by susceptible strains of *Staphylococcus aureus* and *Streptococcus agalactiae*.

The firm submitted data from well-controlled clinical field trials demonstrating the combination product's effectiveness, dose-response, and the contribution of each ingredient. Tissue irritation, drug toxicity, and tissue residue depletion studies demonstrate animal and consumer safety when the drug is used in accordance with label directions.

The NADA is approved and the regulations are amended accordingly.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 540

Animal drugs, Antibiotics, penicillin.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n) 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 540 is amended in § 540.874f by revising the second sentence in paragraph (a)(1) and by revising paragraph (c) (1) and (3), to read as follows:

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 540.874f Procaine penicillin G-novobiocin for intramammary infusion.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* * * * It contains in each 10-milliliter dose 100,000 units of procaine penicillin G and 150 milligrams of novobiocin as sodium novobiocin or 200,000 units of procaine penicillin G and 400 milligrams of novobiocin as sodium novobiocin. * * *

* * * * * *

(c) *Conditions of marketing*—(1) *Specifications.* The drug contains a suspension of procaine penicillin G, 100,000 units, and novobiocin sodium, equivalent to 150 milligrams of novobiocin, in 10 milliliters of peanut oil vehicle for use in lactating cattle, or procaine penicillin G, 200,000 units, and novobiocin sodium equivalent to 400 milligrams of novobiocin in 10 milliliters of oil for use in dry cows, and conforms to the certification requirements of paragraph (a) of this section.

* * * * * *

(3) *Conditions of use*—(i) *Lactating cows*—(*a*) *Indications for use.* Use for treating lactating cows for mastitis caused by susceptible strains of *Staphylococcus aureus, Streptococcus agalactiae, Streptococcus dysgalactiae,* and *Streptococcus uberis.*

(*b*) *Amount.* Infuse 10 milliliters in each infected quarter after milking. Repeat once after 24 hours.

(*c*) *Limitations.* For udder instillation in lactating cattle only. Do not milk for at least 6 hours after treatment; thereafter, milk at regular intervals. Milk taken from treated animals within 72 hours (6 milkings) after the latest treatment must not be used for food. Treated animals must not be slaughtered for food for 15 days following the latest treatment. If redness, swelling, or abnormal milk persists, discontinue use and consult a veterinarian.

(ii) *Dry cows*—(*a*) *Indications for use.* For the treatment of subclinical mastitis caused by susceptible strains of *Staphlococcus aureus* and *Streptococcus agalactiae.*

(*b*) *Amount.* Infuse 10 milliliters in each quarter at time of drying off.

(*c*) *Limitations.* For udder instillation in dry cows only. Do not use less than 30 days prior to calving. Milk from treated cows must not be used for food during the first 72 hours after calving. Treated animals must not be slaughtered for food for 30 days following udder infusion.

Effective date. January 7, 1983.

(Sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n)))

Dated: December 30, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 83-264 Filed 1-6-83; 8:45 am]

BILLING CODE 4160-01-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange-Visitor Program

AGENCY: United States Information Agency.

ACTION: Interim rule.

SUMMARY: The United States Information Agency is modifying the effective date on which certain rules concerning this Part become final from January 1, 1983 to February 15, 1983. This part will establish criteria for the lengths of availability of the J-1 visa used by certain alien physicians as

exchange-visitors for graduate medical education and training.

DATE: This rule shall become final on February 15, 1983 unless sooner revoked or modified.

FOR FURTHER INFORMATION CONTACT: Richard L. Fruchterman, (202) 724–9055, Rm. 917, 1750 Pennsylvania Ave., Washington, D.C. 20547.

SUPPLEMENTARY INFORMATION:

Background

The United States Information Agency published in Volume 47, No. 197 of the **Federal Register** on October 12, 1982 (47 FR 44726) an interim rule amending Section 514.13 of Part 514 of Chapter V, Title 22 of the Code of Federal Regulations. The rule was to become final on January 1, 1983 unless sooner revoked or modified. This part will establish criteria for the lengths of availability of the J–1 visa used by certain alien physicians as exchange-visitors for graduate medical education and training. Comments on the rule were due by November 15, 1982. The United States Information Agency is reviewing the comments and proposes to delay the date on which the rule becomes final to February 15, 1983.

List of Subjects in 22 CFR Part 514

Exchange-visitor program.

Action

The interim rule published in Volume 47, No. 197 of the **Federal Register** on October 12, 1982 (47 FR 44726) which amended Part 514 of Chapter V, title 22 of the Code of Federal Regulations shall become final on February 15, 1983 unless sooner revoked or modified.

Dated: December 30, 1982.

Gilbert A. Robinson,

Acting Director, United States Information Agency.

[FR Doc. 83–394 Filed 1–6–83; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 32

[T.D. 7867]

Temporary Employment Tax; Withholding Social Security or Railroad Retirement Tax From Sick Pay

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains an amendment to the temporary employment tax regulations under §§ 32.1 and 32.2 governing withholding depositing, and paying social security or railroad retirement taxes on payments made on account of sickness or accident disability. The amendment affects States making payments under a State temporary disability insurance program and employees receiving such payments.

DATE: The regulations apply to payments made on account of sickness or accident disability on or after January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Pamela F. Olson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3590).

SUPPLEMENTARY INFORMATION:

Background and General Explanation

This document amends the temporary income tax regulations published in the **Federal Register** on Tuesday, July 6, 1982 (47 FR 29224), relating to withholding, depositing, and paying social security or railroad retirement taxes on payments made on account of sickness or accident disability under the Act of December 29, 1981 (Pub. L. 97–123, 95 Stat. 1662, 1663). Those temproary regulations provide that State temporary disability insurance payments are not wages to the extent that they are attributable to contributions of the employee. The regulations adopted by this Treasury decision make it clear that a tax which is paid by the employee to fund a State temporary disability insurance program is considered a contribution by the employee for purposes of this section.

Non-applicability of Executive Order 12291

The Treasury Department has determined that this temporary regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these regulations is Pamela F. Olson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR Part 32

Employment taxes, Social security, Railroad retirement.

Adoption of Amendments to the Regulations

Accordingly, the following amendments are made to Part 32 of the Code of Federal Regulations:

PART 32—[AMENDED]

Paragraph 1. Section 32.1 is amended by revising the last sentence of paragraph (d) to read as follows:

§ 32.1 Social security taxes with respect to payments on account of sickness or accident disability.

* * * * *

(d) *Sickness or accident disability.* * * * A tax which is paid by an employee to fund a State temporary disability insurance program is considered a contribution by the employee for purposes of paragraph (d)(3) of this section.

* * * * *

Par. 2. Section 32.2 is amended by revising the last sentence of paragraph (d) to read as follows:

§ 32.2 Railroad retirement taxes with respect to payments on account of sickness or accident disability.

* * * * *

(d) *Sickness or accident disability.* * * * A tax which is paid by an employee to fund a State temporary disability insurance program is considered a contribution by the employee for purposes of paragraph (d)(3) of this section.

* * * * *

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. The amendments contained in this Treasury decision are based on written and oral comments received, pursuant to the notice and public procedure requirement under subsection (b) of section 553 of title 5 of the United Stated Code, with respect to the notice of proposed rulemaking published by cross-reference to the temporary regulations amended by this Treasury decision (47 FR 29286). Because there is a need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it subject to the effective date limitation of section

553(d) of title 5 of the United States Code.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 30, 1982.

David G. Glickman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 83-400 Filed 1-6-83; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 51

[T.D. 7844]

Crude Oil Windfall Profit Tax Act of 1980; Excise Tax Regulations

Correction

In FR Doc. 82-30524 beginning on page 50215 in the issue of Friday, November 5, 1982, make the following corrections:

(1) On page 50219, middle column, in paragraph (b)(1) of § 51.4988-1, in the third line from the bottom of the page, insert a parenthesis before the clause beginning with the word "regardless".

(2) On page 50220, first column, in § 51.4991-1(b), paragraph (b)(2) should read "(2) The taxable period,", and the rest of the text should start on a new line flush with the margin.

(3) On page 50227, middle column, in § 51.4995-3(g)(2)(i)(B), paragraph (*2*) should end in the sixth line from the bottom of the page with the words "(or month)." The rest of the text beginning "The preceding * * *" should start on a new line flush with the margin.

BILLING CODE 1505-01-M

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations; Bank Interest Payments to Iran

Correction

In FR Doc. 82-35601 beginning on page 252 in the issue of Tuesday, January 4, 1983, make the following correction.

§ 64.6 List of eligible communities.

On page 253, second column, the file line should read as set forth below:

[FR Doc. 82-35601 Filed 12-30-82; 5:12 pm]

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6480]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

Pursuant to the provisions of 5 USC 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Arizona: Yavapai County	Clarkdale, town of	040095	Sept. 23, 1975, emergency; Dec. 1, 1982, regular.	Aug. 23, 1974.
[illegible]: Fresno County	Fresno County*	065029	June 30, 1970, emergency; Dec. 1, 1982, regular.	Jan. 9, 1979.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Do	Fresno, city of	060048	Oct. 30, 1975, emergency; Dec. 1, 1982, regular.	Oct. 18, 1974.
Do	Sanger, city of	060054	July 7, 1975, emergency; Dec. 1, 1982, regular.	June 28, 1974.
Colorado:				
Otero County	La Junta, city of	080133	June 13, 1975, emergency; Dec. 1, 1982, regular.	Apr. 12, 1974.
Jefferson County	Morrison, town of	080002	Sept. 11, 1975, emergency; Dec. 1, 1982, regular.	Sept. 13, 1974.
Connecticut: Middlesex County	Westbrook, town of	090070	Mar. 9, 1973, emergency; Dec. 1, 1982, regular.	Nov. 23, 1973.
Indiana:				
Blackford County	Hartford City, city of	180009	Aug. 6, 1976, emergency; Dec. 1, 1982, regular.	Do.
Huntington County	Roanoke, town of	180096	July 28, 1982, emergency; Dec. 1, 1982, regular.	Dec. 28, 1973.
Rush County	Rush County*	180421	May 7, 1975, emergency; Dec. 1, 1982, regular.	June 3, 1977.
Maryland: Montgomery County	Gaithersburg, city of	240050	Feb. 2, 1973, emergency; Dec. 1, 1982, regular.	Jan. 23, 1974.
Michigan: Oakland County	Keego Harbor, city of	260173	June 20, 1975, emergency; Dec. 1, 1982, regular.	May 24, 1974.
Montana:				
Fergus County	Fergus County*	300019	Apr. 13, 1978, emergency; Dec. 1, 1982, regular.	Apr. 18, 1978.
Do	Grass Range, town of	300021	Oct. 7, 1981, emergency; Dec. 1, 1982, regular.	Dec. 27, 1974.
New Jersey:				
Cumberland County	Commercial, township of	340166	July 23, 1975, emergency; Dec. 1, 1982, regular.	Aug. 23, 1974.
Gloucester County	East Greenwich, township of	340200	Mar. 27, 1975, emergency; Dec. 1, 1982, regular.	Sept. 6, 1974.
Camden County	Gloucester, township of	340133	July 24, 1975, emergency; Dec. 1, 1982, regular.	Dec. 13, 1974.
Bergen County	Hackensack, city of	340039	Oct. 2, 1974, emergency; Dec. 1, 1982, regular.	June 28, 1974.
Monmouth County	Hazlet, township of	340298	Feb. 11, 1974, emergency; Dec. 1, 1982, regular.	Jan. 9, 1974.
New York:				
Greene County	Hunter, village of	360293	Oct. 1, 1976, emergency; Dec. 1, 1982, regular.	Aug. 16, 1974.
Columbia County	Kinderhook, town of	361321	Oct. 18, 1978, emergency; Dec. 1, 1982, regular.	Oct. 22, 1978.
Do	Kinderhook, village of	361048	Apr. 4, 1974, emergency; Dec. 1, 1982, regular.	Nov. 5, 1976.
Cortland County	McGraw, village of	360184	Mar. 13, 1975, emergency; Dec. 1, 1982, regular.	Mar. 29, 1974.
Albany County	New Scotland, town of	360013	July 31, 1975, emergency; Dec. 1, 1982, regular.	May 10, 1974.
Columbia County	Valatie, village of	361508	May 27, 1976, emergency; Dec. 1, 1982, regular.	
Albany County	Voorheesville, village of	360015	June 11, 1975, emergency; Dec. 1, 1982, regular.	Apr. 12, 1974.
Oregon: Yamhill County	McMinnville, city of	410255	July 22, 1975, emergency; Dec. 1, 1982, regular.	Feb. 15 1974.
Pennsylvania: Erie County	Springfield, township of	421369	Dec. 2, 1975, emergency, Dec. 1, 1982, regular.	Nov. 1, 1974.
Tennessee:				
Shelby County	Memphis, city of	470177	Aug. 8, 1974, emergency; Dec. 1, 1982, regular.	Aug. 23, 1974.
Do	Shelby County	470214	May 15, 1974 emergency; Dec. 1, 1982, regular.	Aug. 4, 1978.
Texas: Tarrant County	Colleyville, town of	480590	Jan. 29, 1975, emergency; Dec. 1, 1982, regular.	May 10, 1974.
Utah: Davis County	Layton, city of	490047	Dec. 13, 1974, emergency; Dec. 1, 1982, regular.	Aug. 9, 1974.
Washington: Thurston County	Thurston County	530188	Sept. 13, 1974, emergency; Dec. 1, 1982, regular.	Sept. 13, 1977.
Wisconsin:				
Waukesha County	Hartland, village of	550481	July 25, 1975, emergency; Dec. 1, 1982, regular.	Nov. 30, 1973.
Walworth County	Lake Geneva, city of	550466	Nov. 13, 1974, emergency; Dec. 1, 1982, regular.	Dec. 28, 1973.
Waukesha County	Lannon, village of	550482	July 18, 1975, emergency; Dec. 1, 1982, regular.	Do.
Green County	Monroe, city of	550162	May 1, 1975, emergency; Dec. 1, 1982, regular.	May 31, 1974.
West Virginia: Hancock County	Chester, city of	540048	June 23, 1975, emergency; Dec. 1, 1982, regular.	June 7, 1974.
New York:				
Cattaraugus County	New Albion, town of	360007	May 6, 1975, emergency; Dec. 3, 1982, regular.	May 17, 1974.
Ontario County	Phelps, town of	361302	May 14, 1975, emergency; Dec 3, 1982, regular.	Nov. 8, 1974.
Steuben County	Rathbone, town of	360781	Oct. 3, 1980, emergency; Dec. 3, 1982, regular.	Aug. 2, 1974.
Pennsylvania: Wayne County	Sterling, township of	422175	May 13, 1975, emergency; Dec. 3, 1982, regular.	Nov. 22, 1974.
Virginia: Mecklenburg County	Boydton, town of	510269	Oct. 18, 1978, emergency; Dec. 3, 1982, regular.	Feb. 11, 1977.
California: Mendocino County	Fort Bragg, city of	060184	May 23, 1975, emergency; Dec. 7, 1982, regular.	May 10, 1974.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area	Hazard area identified
Nevada: Elko County	Wells, city of	320024	Aug. 15, 1975, emergency; Dec. 7, 1982, regular.	July 26, 1974.
Texas:				
Comanche County	Comanche, city of	480151	June 9, 1975, emergency; Dec. 7, 1982, regular.	July 26, 1974.
Morris County	Daingerfield, city of	480493	June 11, 1975, emergency; Dec. 7, 1982, regular.	May 31, 1974.
Wood County	Winnsboro, city of	480680	Apr. 24, 1975, emergency; Dec. 7, 1982, regular.	June 28, 1974.
Michigan: Wayne County	Grosse Pointe Farms, city of	[illegible]	Feb. 9, 1973, emergency; Dec. 10, 1982, regular.	May 17, 1974.
New York: Delaware County	Hancock, village of	360202	June 19, 1975, emergency; Dec. 10, 1982, regular.	May 31, 1974.
Oregon: Malheur County	Nyssa, city of	410151	Jan. 16, 1975, emergency; Dec. 14, 1982, regular.	Nov. 30, 1973.
Florida: Leon County	Leon County*	120143	June 4, 1973, emergency; Dec. 15, 1982, regular.	Dec. 20, 1974.
Iowa:				
Linn County	Cedar Rapids, city of	190187	Aug. 13, 1971, emergency; Dec. 15, 1982, regular.	Aug. 2, 1974.
Do	Central City, city of	190188	Jan. 8, 1976, emergency; Dec. 15, 1982, regular.	Apr. 23, 1976.
Do	Linn County*	190829	Jan. 5, 1979, emergency; Dec. 15, 1982, regular.	June 3, 1977.
Kansas: McPherson County	Moundridge, city of	200218	Apr. 14, 1975, emergency; Dec. 15, 1982, regular.	Mar. 8, 1974.
[illegible]				
Norfolk County	Bellingham, town of	250232	July 25, 1975, emergency; Dec. 15, 1982, regular.	June 28, 1974.
Plymouth County	Hanover, town of	250268	July 9, 1975, emergency; Dec. 15, 1982, regular.	July 26, 1974.
Michigan:				
Monroe County	Milan, township of	260152	Oct. 2, 1975, emergency; Dec. 15, 1982, regular.	May 24, 1974.
Grand Traverse County	Traverse City, city of	260082	Aug. 8, 1975, emergency; Dec. 15, 1982, regular.	Do.
Minnesota: Marshall County	Argyle, city of	270268	Apr. 24, 1974, emergency; Dec. 15, 1982, regular.	May 3, 1974.
[illegible]				
Rankin County	Flowood, town of	280289	May 28, 1975, emergency; Dec. 15, 1982, regular.	Nov. 11, 1977.
Do	Pearl, city of	280145	May 15, 1974, emergency; Dec. 15, 1982, regular.	June 21, 1974.
Do	Rankin County*	280142	July 1, 1974, emergency; Dec. 15, 1982, regular.	Dec. 13, 1974.
New Jersey:				
Ocean County	Barnegat, township of	340396	Dec. 17, 1973, emergency; Dec. 15, 1982, regular.	May 31, 1974.
Bergen County	Hackensack Meadowlands Commission.	340570	Jan. 3, 1975, emergency; Dec. 15, 1982, regular.	Jan. 8, 1976.
Ocean County	Lakehurst, borough of	340377	June 25, 1975, emergency; Dec. 15, 1982, regular.	June 28, 1974.
Salem County	Pennsville, township of	340512	Aug. 5, 1974, emergency; Dec. 15, 1982, regular.	Sept. 13, 1974.
Morris County	Roxbury, township of	340362	June 12, 1975, emergency; Dec. 15, 1982, regular.	Mar 29, 1974.
New York:				
Columbia County	Chatham, town of	361314	Oct. 26, 1979, emergency; Dec. 15, 1982, regular.	June 10, 1977.
Do	Chatham, village of	361523	Nov. 13, 1975, emergency; Dec. 15, 1982, regular.	Dec. 6, 1974.
Washington County	Fort Edward, town of	360685	Apr. 16, 1974, emergency; Dec. 15, 1982, regular.	Feb. 7, 1975.
Onondaga County	Manlius, town of	360584	Nov. 8, 1973, emergency; Dec. 15, 1982, regular	Feb. 22, 1974.
Saratoga County	Northumberland, town of	360725	July 2, 1975, emergency; Dec. 15, 1982, regular.	June 21, 1974.
[illegible]				
Licking County	Hebron, village of	390333	July 23, 1975, emergency; Dec. 15, 1982, regular.	May 3, 1974.
Do	Utica, village of	390338	June 18, 1975, emergency; Dec. 15, 1982, regular.	Apr. 2, 1976.
Pennsylvania: Lackawanna County	South Abington, township of	421758	July 29, 1975, emergency; Dec. 15, 1982, regular.	Jan. 24, 1975.
[illegible]				
Wichita County	Burkburnett, city of	480658	Feb. 7, 1975, emergency; Dec. 15, 1982, regular.	June 7, 1974.
Do	Iowa Park, city of	480660	July 9, 1975, emergency; Dec. 15, 1982, regular.	Apr. 5, 1974.
Virginia: Southampton County	Southhampton County*	510315	Sept. 18, 1974, emergency; Dec. 15, 1982, regular.	Apr. 11, 1975.
Wisconsin: Pierce County	River Falls, city of	550330	Mar. 30, 1972, emergency; Dec. 15, 1982, regular.	Jan. 12, 1973.

NOTE: Total is: 81.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 22, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-311 Filed 1-6-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Part 522

Filing of Agreements by Common Carriers and Other Persons Subject to the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Notice of OMB clearance.

SUMMARY: The Federal Maritime Commission hereby gives notice that 46 CFR 522, Filing of Agreements by Common Carriers by Water and Other Persons Subject to the Shipping Act, 1916 (General Order 24) (47 FR 46284, October 18, 1982, 47 FR 49648, November 2, 1982, has received OMB clearance through November 30, 1985, under Control No. 3072-0040, pursuant to the Paperwork Reduction Act of 1980 (44 USC 3501, et seq.). The Commission's revised rules developed in Docket No. 76-63 set forth clear, consistent and standardized procedures whereby ocean carriers may file Section 15 agreements for approval. The rule contains procedures for filing agreements, modifications, supporting statements, comments and protests, as well as policies and procedures relating to the disposition of agreement requests. The final rule was approved by the Commission on October 6, 1982, to become effective on January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 83-62 Filed 1-6-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 80-632; FCC 82-547]

Overseas Communications Services

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This document removes restrictions on the international service offerings of American Telephone & Telegraph (AT&T) and the International Record Carriers (IRCs). It is anticipated that elimination of *TAT-4* voice/record dichotomy will provide additional service options for users, promote efficiency and create a downward pressure on rates.

DATE: Effective December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Stuart Chiron, Common Carrier Bureau, (202) 632-3214.

SUPPLEMENTARY INFORMATION:

Adopted: December 8, 1982.

Released: December 22, 1982.

By the Commission: Commissioner Fogarty concurring and issuing a statement in which Commissioner Quello joins.

I. Background

1. On October 28, 1980, we released a Notice of Proposed Rulemaking (NPRM) soliciting comments on whether the regulatory limitations on the provision of international non-voice services on a primary basis by the American Telephone and Telegraph Company (AT&T) should be removed.[1] The NPRM also requested comments on the merits of authorizing the international record carriers (IRCs) to provide international voice services on a primary basis.[2]

2. AT&T currently provides international voice services such as international message toll service (IMTS) and private line voice service.[3] The IRCs currently offer a variety of international record services including telegram, telex, private line, alternate voice-data (AVD), facsimile and high speed data.[4]

3. The voice/record dichotomy in international service offerings evolved from the historical differences in international voice and record technologies and the provision of these services by different carriers over separate networks. With respect to the prohibition on AT&T's provision of international record services, the general policy was codified in our 1964 *TAT-4* decision.[5] In *TAT-4* we preserved the developing alternate voice-data market for the IRCs at a time when technology (submarine cables) made separate networks and service providers for international voice and record transmissions unnecessary. This protectionist decision insulated the IRCs from competition with AT&T and assisted them in making the transition from an older and less desirable technology (radio) to a newer and more desirable technology (cable).[6] The origin of any Commission imposition of a prohibition on IRC provision of international voice services is less clear. It appears to be loosely rooted in the Commission's radio-telegraph rules (Part 6) and decisions that the Commission made on a case-by-case basis involving Hawaii-Mainland, Caribbean and trans-Atlantic high frequency (HF) radio and cable system applications. In these cases references are made to a general policy direction and then a waiver is granted or an exception made. In a more recent decision the Commission indicated that AT&T is "restricted" to voice services while the IRCs "primarily provide" record services.[7]

4. In our NPRM we raised both policy issues. There we traced the history of the international voice/record dichotomy, cited cases concerning IRC and AT&T service offerings, analyzed the *TAT-4* decision, and discussed the current international market structure. We noted the existing high rates of return on international services, the evolving technology and, consistent with our numerous procompetitive policy decisions, tentatively concluded that removing regulatory constraints on AT&T and IRC service offerings would be in the public interest. We indicated our belief that unrestrained operations by these carriers would improve service, enhance efficiency and potentially lead to lower rates for users.

5. Comments on our tentative conclusions were filed by AT&T, ITT, RCA, WUI, TRT, Satellite Business Systems (SBS), the American Petroleum

[1] Overseas Communications Services, 84 FCC 2d 622 (1980).

[2] The major IRCs are: ITT World Communications Inc. (ITT), RCA Global Communications, Inc. (RCA), Western Union International, Inc. (WUI), TRT Telecommunications Corporation (TRT), and FTC Communications, Inc. (FTC). We note that several small carriers, and most recently Western Union, have also been authorized to provide international record services.

[3] AT&T also provides international Dataphone service over its IMTS facilities on a secondary basis.

[4] The IRCs also provide international voice service over their Datel facilities on a secondary basis.

[5] AT&T, 37 FCC 1151 (1964).

[6] The development of the indefeasible right of user (IRU) concept in 1964 and the 1966 Authorized Users decision also aided the IRCs during this transitional period. *See* Mackay Radio and Telegraph Company, Inc., FCC 64-41 (adopted January 22, 1964) and Authorized Users, 4 FCC 2d 421 (1966).

[7] Datel, 78 FCC 2d at 179 (1980).

Institute (API), Aeronautical Radio, Inc. (ARINC), and the National Telecommunications and Information Agency (NTIA). As part of their comments, the IRCs jointly submitted a consultant's study on the effects of AT&T entry into the international record market. Additionally, NTIA presented a two volume analysis of fifteen recent Commission actions relating to international issues and their combined effect on users, carriers and market structure.[8] Replies were filed by AT&T, ITT, RCA, WUI, TRT, FTC and the Department of Defense (DoD).

6. Below we outline the pleadings of the parties, analyze the submissions, affirm our tentative conclusion that the public interest would be best served by removing the barriers to full market entry by both AT&T and the IRCs.

II. The Pleadings

7. The focus of the submitted pleadings is our tentative conclusion that AT&T be permitted to provide international record services on a primary basis. This order therefore gives particular attention to the issue of AT&T's full market entry.

A. IRC Comments

8. The IRCs argue that competition between themselves and AT&T in the provision of international record services is not reasonably feasible and will jeopardize their ability to retain a meaningful share of the international market. Pointing to AT&T's vast nationwide domestic network, large sales force, financial resources and control of bottleneck facilities, the IRCs contend that AT&T will monopolize and dominate the entire international market if it is authorized to provide international record services. The IRCs conclude that AT&T's provision of international record services will stifle rather than promote competition, will increase rather than decrease market concentration, and will ultimately not be in the public interest. The IRCs therefore request that we retain the *TAT–4* prohibition on AT&T provision of international record services.

9. The IRCs agree, however, with our tentative conclusion that they should be authorized to provide international voice services. Stating that they have neither control of bottleneck facilities nor market power, the IRCs indicate that additional competition in the international voice arena would be consistent with our procompetitive philosophy and past decisions. Additionally, the IRCs aver that such expanded service would benefit users by creating a choice of carriers and offering the prospect of new services and substantially lower rates. To this end the IRCs have filed applications to provide private line voice-only service between the U.S. and the U.K.[9] In seeking authority to provide voice services the IRCs particularly reject the concept that full market entry by both AT&T and the IRCs in symmetrical or represents a *quid pro quo*.

10. Specifically, as to AT&T provision of international record services, the IRCs contend that: (1) AT&T's relative market position in the telecommunications market *vis a vis* the IRCs has not materially changed since the 1964 *TAT–4* decision; (2) exclusion of AT&T from the international record market would not adversely effect AT&T; (3) AT&T entry would seriously jeopardize the ability of the IRCs to provide essential services; (4) AT&T entry could result in disadvantageous operating agreements being imposed on all carriers other than AT&T by foreign correspondents; and (5) AT&T will not compete fairly with the IRCs. The IRCs further state that the existing international record market is competitive and meets customer needs in a reliable and innovative manner. These contentions are more fully described below.

11. In support of their argument that AT&T entry into the international record arena on a primary basis should not be permitted, the IRCs emphasize that the relative market position of AT&T and the IRCs which existed at the time of the Commission's 1964 *TAT–4* decision continues to exist today. The IRCs present a substantial amount of data to demonstrate that AT&T continues to be the overwhelmingly dominant telecommunications entity in this country in terms of revenues, market penetration, employees, plant, expenditures and percentage of Gross National Product. While recognizing, in the words of the NPRM, that they are now "firmly established businesses with significant market shares, substantial rate bases, and impressive rates of return" (NPRM para. 16), the IRCs aver that such development has been negated by proportionate AT&T expansion. In short, the IRCs contend that the same factors which prompted the *TAT–4* decision continue to exist and warrant the preservation of the *TAT–4* policy. The IRCs therefore conclude that our *TAT–4* policy decision was farsighted, continues to be correct and should not be modified.

12. The IRCs argue that excluding AT&T from the international record market would have only a minimal impact on AT&T. They state that AT&T's revenues from overseas voice services are approximately 2% of its total revenues. Since international voice services account for approximately 67% of all (both voice and record) international revenues, the IRCs conclude that AT&T exclusion from the international record market would not adversely effect AT&T's future earnings.[10]

13. Concomitant with above position, the IRCs emphasize their dependence on revenues derived from international record services and state that AT&T entry into the international record arena would greatly effect their revenues. The IRCs argue that AT&T entry would seriously jeopardize their viability and impair their ability to provide essential services. Pointing to our characterization in the *TAT–4* decision of international telegram service as an essential offering the provision of which should not be placed in risk, the IRCs contend that their telex service is now comparably essential. The IRCs concede

[8] The IRC sponsored study was prepared by Dr. Walter G. Bolter and is titled International Communications Industry Policy: A Study of Competition, New Entry, and the TAT–4 "Voice-Record Dichotomy." The two volume study presented by NTIA was prepared by MarTech Strategies, Inc. and is titled Competition and Deregulation in International Telecommunications: An Analysis of Fifteen FCC Actions and Their Combined Effects.

[9] File Nos. I–T–C–82–007 (FTC), I–T–C–82–109 (WUI), I–T–C–82–139 (ITT), I–T–C–82–151 (RCA) and I–T–C–82–232 (TRT). These applications request authority to lease satellite facilities from Comsat and provide voice-only private line (leased channel) service between the United States and the United Kingdom. All of these applications are now ripe for our consideration. The IRCs indicate in their applications that this service: (a) will be tariffed at a rate approximately 30% less than that presently charged by the IRCs for alternate voice-data circuits and nearly 50% less than that presently charged by AT&T for private line voice circuits; (b) will utilize new multiplexing techniques to increase facility efficiency; (c) will not economically injure AT&T; and (d) has already been coordinated with the U.K. correspondent, British Telecommunications International. In response to submissions from AT&T recommending that no action be taken on these applications until Docket 80–632 is fully resolved, the IRCs emphasize that these authorizations will provide immediate benefits to users. The IRCs also argue that *TAT–4* does not apply to IRC voice offerings and, in the alternative, that a grant of these applications would not prejudge the *TAT–4* proceeding. We note that Comsat, which did not file comments in Docket No. 80–632, generally supports the IRCs' requests for voice-only authority. However, Comsat's support is not unequivocal. Comsat indicates that technical problems may arise regarding the proposed multiplexing equipment. Comsat therefore recommends that we authorize this new offering on a developmental basis. In a separate order we today grant these applications.

[10] Thus, even if AT&T captured one half of the international record market, its revenues from international services would only increase from 2% to 2.5% of its total revenues.

that it is unlikely AT&T will offer a relatively low speed and mature service such as telex. While therefore not offering an exactly identical service to the IRCs' main source of revenue, the IRCs indicate that AT&T will no doubt provide an interchangeable or substitutable service. Such an offering by AT&T would, according to the IRCs, divert substantial revenues, severely impact their viability and eventually impair their ability to provide essential service to the public.[11] The IRCs argue that this result is contrary to the explicit competitive policy of the *TAT–4* decision.

14. The IRCs fear that a foreign administration's preference to deal with as few U.S. carriers as possible may result in the bulk of inbound record traffic being routed through AT&T. Additionally, the IRCs anticipate that foreign administrations may negotiate more favorable operating agreements with AT&T and perhaps whipsaw the IRCs.[12] Such actions, the IRCs argue, would negate any possible safeguards to assure fair competition that could be attached to AT&T's authorization to enter the international record arena. Moreover, the IRCs state that such actions by foreign carriers would be difficult to correct since our jurisdiction does not reach foreign shores.

15. The IRCs do not believe that fair competition with AT&T in the provision of international record services is possible. They emphasize that AT&T controls facilities which are essential to their record offerings. These essential facilities include local loops, most access lines (interoffice links and terrestrial extensions) and submarine cables. The IRCs also cite cases in which AT&T's competitive tactics have been called into question.[13] The IRCs argue that AT&T's track record, i.e., alleged past anticompetitive actions in the areas of facility access, interconnection and pricing tactics, clearly indicates that it will employ its dominant position to engage in unfair and unlawful practices. They therefore recommend that we defer any final decision on AT&T entry until pending legislation is enacted and until the current antitrust proceeding is completed. The IRCs are skeptical that even the imposition of regulatory restraints and the threat of sanctions, ordinarily sufficient safeguards to anticompetitive practices, would be sufficient here. The IRCs generally reject the effectiveness of requiring a separate subsidiary, establishing a moratorium period, implementing closer rate base regulation, imposing service limitations, prescribing interconnection requirements and pursuing traditional antitrust remedies. They contend that only market exclusion will permit the international record market to remain competitive. Nevertheless, the IRCs argue that such restraints and checks must be imposed if we do decide to permit AT&T entry.

16. Finally, the IRCs contend that the present international record market is competitive and encourages innovation, provides efficient service and permits users to make carrier/offering decisions according to price and quality of service. The IRCs state that the international record market is the most competitive regulated telecommunications market in the United States. They conclude that this market structure is exactly the type desired by the Commission and should not be altered. In short, the IRCs claim that there is no need to tinker with a market which is already competitive and serves the public interest.[14]

B. Major Users and SBS

17. Major users of international communications services submitted filings which support our tentative conclusions that the IRCs should be authorized to provide international voice services and AT&T should be authorized to provide international record services. DoD, the largest single user of leased international facilities, supports our tentative conclusions and states that "with the increasing use of digital technology, the voice/record dichotomy is increasingly artificial." DoD states that a continuation of the dichotomy will create unnecessary uncertainty as to whether a service is a voice or record offering and will adversely affect service availability and customer costs. API states that it would be in the public interest "to have available the greatest number of services offered by the greatest number of providers." API further characterizes the present dichotomy as creating for users "serious inconveniences and inefficiencies in the transmission of their overseas communications." API concludes by indicating that the IRCs and AT&T should be permitted to offer all international services and that the Commission should assure service compatibility and facilitate carrier interconnection.[15] ARINC, which serves members of the air transport industry, states that AT&T and the IRCs should be encouraged to expand their international services. ARINC views the existing bar as increasingly artificial and as inhibiting competition to the detriment of users. SBS, a carrier, also supports our tentative conclusions. It states that removal of the artificial distinction between voice and record services "will facilitate the development of innovative telecommunications networks offering international services, similar to those authorized within the United States."[16]

C. NTIA

18. NTIA characterizes the existing voice/record dichotomy as an artificial bar to the operation of market forces and states that such a barrier may result in system suboptimization and forestall, delay or inhibit the fullest development of new technologies and services. While indicating its belief that the relative market position between AT&T and the IRCs has not significantly changed since 1964, NTIA emphasizes that the dichotomy is inconsistent with the evolution of Integrated Services Digital Networks (ISDNs) which make no distinction between voice and record transmissions. NTIA concludes by stating that the elimination of this dichotomy would serve the public

[11] The IRCs argue that AT&T's secondary international record service (Dataphone) already adversely impacts on their revenues.

[12] Whipsawing is the term used to describe the ability of a foreign correspondent to utilize its monopoly power to play one U.S. international carrier against another to gain concessions and benefits. These concessions and benefits ordinarily would relate to settlement and accounting rates.

[13] *See* Hush-a-Phone Corp. v. United States, 238 F. 2d 226 (D.C. Cir. 1956), Carterfone, 13 FCC 2d 420 (1968), *recon. denied* 14 FCC 2d 571 (1968), Bell System Tariff Offerings, 46 FCC 2d 413 (1974), *aff'd sub nom.* Bell Telephone Company of Pennsylvania v. FCC, 503 F. 2d 1250 (3rd Cir. 1974), *cert. denied*, 442 U.S. 1026 (1975), AT&T, 60 FCC 2d 939 (1976), MCI Telecommunications Corp. v. FCC, 561 F. 2d 365 (D.C. Cir. 1977) *cert. denied*, 434 U.S. 1040 (1978); 580 F. 2d 590 (D.C. Cir. 1978) *cert. denied*, 439 U.S. 980 (1978), MCI Communications Corp. v. AT&T, — F. Supp — (N. D. Ill. 1980).

[14] The IRCs note our authorizations of several new carriers. They also speculate as to the amendment of Section 222, Western Union's re-entry into the international record market, and Comsat's possible entry into the international record market as a result of the Authorized Users proceeding, events which have subsequently occurred. They also argue that AT&T entry would discourage the entry of any other carrier.

[15] API's pleading indicates that the Central Committee on Telecommunications of the American Petroleum Institute is composed of representatives of forty-five of the nation's leading petroleum and natural gas companies. The filing also states that API has nearly six hundred member companies and that its members are major users of international telecommunications facilities.

[16] SBS is a domestic satellite carrier jointly owned by Comsat, IBM and Aetna. SBS offers its customers a digital network within the United States integrating voice, data, video teleconferencing and high-speed document distribution services. While primarily a domestic satellite carrier, SBS has been authorized to provide international service between the United States and Canada as well as the United Kingdom. *See* 88 FCC 2d 195 (1981), 88 FCC 2d 258 (1981) and FCC 82–422 (released October 1, 1982).

interest. NTIA also concludes that the Commission should consider and address various other issues related to marketplace competition. One such issue identified by NTIA is interconnection terms and conditions.

D. AT&T Comments

19. AT&T supports our tentative conclusion that the *TAT–4* restriction on its service offerings should be set aside. It also raises no objection to the provision of international voice services by the IRCs. AT&T makes three major arguments. First, it states that full market entry by all carriers would be consistent with Commission decisions which have found that the public interest is best served by the introduction of competition into the provision of telecommunications services. AT&T argues that our current regulatory philosophy is based in large part on the premise that the statutory public interest standard can be met by allowing marketplace forces to control entry, exit and the extent of competition. Secondly, AT&T contends that the rationale for the *TAT–4* decision has been dissipated by the IRCs' new service offerings, domestic expansion, increased earnings, and substantial revenues. AT&T also references the size of the IRCs' parent corporations, the declining role of international telegram service and the substantial growth of the entire international record market. Finally, AT&T argues that technological advancements make the categorization of services as either voice or record impractical. AT&T states that the development of ISDNs evidences that the arbitrary distinction between voice and record offerings will create inefficiencies, curtail carrier offerings and limit customer options. Moreover, AT&T indicates that foreign administrations are instituting digital networks which will interconnect with U.S. carriers and users. The effectiveness of U.S. carriers is therefore related, according to AT&T, to their ability to provide all services through an integrated digital network both here and overseas.

E. IRC Replies

20. In their reply filings the IRCs reiterate their position that the *TAT–4* rationale is still valid since AT&T continues to have the capacity and resources to overwhelm the IRCs. The IRCs urge us to recognize, as they assert NTIA has done, that AT&T remains the dominant service provider and has the ability to exploit its telephone monopoly to substantially reduce competition in the international record market if it is permitted to enter that market. The IRCs conclude that only continued market exclusion will preserve the competitive nature of the international record market. The IRCs also question NTIA's basis for supporting our tentative conclusion that AT&T entry into the international record market will be in the public interest. (NITA states that retention of the voice/record dichotomy in view of technical advancements and the development of ISDNs would create inefficiencies and hinder further technological progress). The IRCs state that new technology may not necessarily blur the voice/record dichotomy, that NTIA misunderstands the relationship between analog and digital systems, and that some efficiencies may reasonably be sacrificed to preserve the competitiveness of the international record market. On other issues the IRCs: (a) Indicate the two provisions of Title III of the Communications Act, Sections 313 and 314 relating to antitrust laws and competitive markets, are applicable to this rulemaking; (b) suggest that a separate proceeding on international competition and new technologies be initiated and completed prior to any further action in this proceeding; and (c) aver that any AT&T entry must be accompanied by real restraints and safeguards to preserve the viability of the IRCs and to assure fair competition.

F. AT&T Reply

21. In its reply filing AT&T notes that its support for our tentative conclusions is shared by major users of international services, SBS and NTIA. In response to the issues raised by the IRCs, AT&T states that substantial changes have occurred in the telecommunications industry since 1964, that the changes proposed in the NPRM are in the public interest, that foreign administrations will not act to preclude effective competition, and that advancements in technology are inconsistent with retention of the artificial voice/dichotomy. AT&T also argues that its entry should not be conditioned upon the resolution of all interconnection issues and that requiring a separate subsidiary is unnecessary.

22. Specifically, AT&T states that: (a) The IRCs now provide established services, have experienced substantial revenues/earnings growth, and are no longer in need of protection; (b) the IRC study does not provide substantiation for the IRCs' claim of significant adverse impact; (c) retention of the *status quo* in the provision of international record services will perpetuate an oligopoly and deny real benefits to users; (d) competition between AT&T and the IRCs is reasonably feasible in the international market just as competition between AT&T and OCCs, resellers and other entities, most of which are smaller than the IRCs, exists in the domestic market; (e) foreign administrations will not refuse to operate with multiple carriers and many foreign administrations are adopting a more positive attitude toward the competitive offering of facilities and services; and (f) the voice/record dichotomy is inconsistent with technological advancements and the worldwide development of integrated digital networks. AT&T further states that its entry into the international record market should not be delayed until all interconnection issues relating to the IRCs' voice services are resolved. AT&T notes that interconnection negotiations regarding the ICRs' nonprimary voice service (Datel) are ongoing. AT&T also notes that Datel is a relatively small revenue earner for the IRCs. In response to the IRC's anticompetitive concerns, AT&T indicates that the *Computer II* decision requires a separate subsidiary for enhanced services. AT&T argues that a basic/enhanced dichotomy has replaced the voice/record dichotomy and that the imposition of a further structural separation requirement would be unnecessary and inconsistent with the evolving regulatory scheme. Finally, AT&T suggest that the Commission continues to have jurisdiction to resolve any other problems which may arise. It therefore concludes that the Commission should affirm its tentative conclusions and set aside the *TAT–4* voice/record dichotomy.

III. Discussion

23. The Communications Act requires this Commission to promote "a rapid, efficient, Nation-wide and world-wide wire and radio communication service with adequate facilities at reasonable charges . . . 47 U.S.C. 151. This statutory direction does not require the continuation of policies which do not serve this end. Our analysis of the history of the voice/record dichotomy, the *TAT–4* decision, the past and future industry structure, and the filings in this proceeding lead us to conclude that AT&T should be permitted to provide international record services and that the IRCs should be authorized to provide international voice services.[17]

[17] This order eliminates a policy which unnecessarily restricted the international service offering of carriers. New international service offerings by AT&T and the IRCs will be implemented through the filing of appropriate applications and/or tariffs, such as the filings already made by the IRCs for additional facilities to provide leased channel voice service to the United Kingdom. *See also* Dataphone, 75 FCC 2d 682 (1980) and Datel, 76 FCC 2d 166 (1980).

This action is consistent with the Act, the *RCA* public interest standard,[16] our many recent procompetitive decisions, the desires of major users, and changed circumstances. We anticipate that eliminating restrictions on IRC and AT&T service offering will promote new choices for consumers, enhance the efficient use of facilities, and create a downward pressure on rates in an area where charges have been historically high. Moreover, this decision is compatible with technological advancements and the development of digital systems. We further believe that the Communications Act contains sufficient safeguards to assure fair competition.

24. In reaching our decision to unfetter the international operations of AT&T and the IRCs we have analyzed the dynamics of the international market. Below we discuss: (a) the Act; (b) the *RCA* standard; (c) the voice/record dichotomy; (d) our regulatory approach; (e) the structure of the international record market (changed circumstances, including technological developments); (f) the IRC study as it relates to Western Union and AT&T entry; (g) other concerns raised by the IRCs and public benefits; and (h) IRC voice service.

A. The Act

25. There is no dispute among the parties submitting pleadings that clarification of the existing policy relating to AT&T and IRC international service offerings may be made by the Commission in this rulemaking proceeding. Neither congressional action nor a separate inquiry, as suggested by the IRCs, on the feasibility of international competition is required. In this proceeding we are changing a policy that was established in 1964 under our broad public interest mandate. After a thorough analysis of this policy and the significant changes which have occurred in the telecommunications industry in the last eighteen years, we believe that the public interest will be best served by eliminating the voice/record dichotomy in the provision of international services.[19]

B. The RCA Standard

26. The standard governing additional competitive entry in a given market is set forth in *FCC v. RCA Communications, Inc.* 346 U.S. 86 (1953).[20] Under *RCA* the Commission must determine whether competition is reasonably feasible in those markets sought to be served and that added competition is in the public interest. Feasibility of competition "* * * depends on whether there is sufficient traffic to support the addition of another competing direct circuit and upon the effect of the opening of such circuit upon the applicant as well as all other carriers providing service to the public." *Mackay Radio and Telegraph Co.*, 28 FCC 231 (1960). In determining whether added competition is in the public interest, "the Commission is not required to make specific findings of tangible benefit * * * but the Commission must at least warrant * * * that competition would serve some beneficial purpose such as maintaining good service and improving it." 346 U.S. at 96–7.

27. This standard has recently been summarized by a reviewing court as follows:

> [T]he Commission may lawfully allow, and indeed encourage, entry of multiple carriers offering overlapping services, if it has reviewed the characteristics of the particular communications field involved and rationally concludes that competition in that field predictably would further the public interest in larger, more economical, and more effective service. Essentially, the Commission must be able reasonably to forecast, first, that new entry will not so severely impair the economic base of existing carriers that the industry would experience an incidence of failure so high as to impair provision of service to the public and, second, that injection of new providers will probably result in better, cheaper, or more innovative communications offerings. These forecasts must have some ascertainable foundation in the record; at the same time, however, conclusions on the future conduct of licensees, the anticipated reaction of investors, the expected course of technological development, and other assumptions about the functioning of tomorrow's communications market are unavoidably exercises in prediction. For such prognoses, we can require only that the agency's decisional memoranda reveal that it identified all relevant issues, gave them thoughtful consideration duly attentive to comments received, and formulated a judgment which rationally accommodates the facts capable of ascertainment and the policies slated for effectuation (footnotes omitted).[21]

28. The public interest considerations discussed below lead us to the conclusion, under the *RCA* standard, that we should set aside the *TAT–4* policy which limits AT&T's international service offerings and that we should also set aside any policy which may exist which limits the IRCs' offerings.

C. Voice/Record Dichotomy

29. The existing voice/record dichotomy in the provision of international services is rooted in the historical differences between international voice and record technologies, the provision of international voice and record services by different carriers, and the employment by these carriers of separate networks. The pre-1964 history of the international industry is traced in the NPRM and various pleadings, and need not be repeated here. What is important to emphasize here is that prior to 1964 no definitive policy existed as to IRC and AT&T service offerings. In our 1964 *TAT–4* decision we clearly limited the service offerings of AT&T. The *TAT–4* decision did not place any limitation on the offerings of the ICRs. In fact, no clear policy ban on IRC voice offerings has ever been enunciated by this Commission. Reference to a general policy of service separation appears as dictum in at least one Commission order prior to 1964. However, this and similar decisions did not establish a clear barrier to the provision of international voice services by the IRCs.[22] In sum, we believe that the bar on AT&T is clearly stated in our *TAT–4* decision while the existence of any bar on the IRCs is less clear.

D. Regulatory Approach

30. We anticipate that the introduction of established carriers into new markets will bring users better services, new offerings, more options and lower charges. We have in recent years adopted a number of orders which reflect our belief that the public interest is best served by removing unnecessary restrictions which bar or inhibit the operations of carriers. These initiatives in the domestic voice, domestic record and international record markets have been based on the premise that the

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[16] *See* para. 28, *infra*.

[19] *See* Geller v. FCC, 610 F.2d 973 (D.C. Cir. 1979) and Greater Boston Television Corporation v. FCC, 444 F.2d 841 (D.C. Cir. 1971), *cert. denied*, 403 U.S. 923 (1971).

[20] This standard has been modified by the Record Carrier Competition Act of 1981 (RCCA) for "record carriers" providing "record communications service." However, this statute does not specifically apply to the provision of record services by AT&T or to the provision of voice services by the IRCs. *See* P. L. 97–130, 95 Stat. 1687.

[21] Telocator Network of America v. FCC, No. 78–2218, slip op. at 40–41 (D.C. Cir. Oct. 5, 1982).

[22] *See* AT&T, 27 FCC 113 (1959). The exact reasons surrounding the IRCs' failure to provide international voice services over existing facilities or to request authority for additional facilities to provide international voice services can only be the subject of speculation. Policy misconceptions, high start up operating costs, anticipated operating losses, perceived difficulties in modifying or obtaining new operating agreements, technical and engineering difficulties (facility access, interconnection arrangements, numbering plans, etc.) or fear of an AT&T response requesting symmetrical entry into the international record market may have contributed to the business decision apparently made by the IRCs not to provide international voice services.

statutory public interest standard can be best met by allowing marketplace forces to control entry, exit and the extent of competition. In allowing firms greater flexibility to enter new markets and to align their services to respond to user requirements, we have removed artificial barriers to entry, mandated structural changes to assure fair competition, and simplified filing requirements.[23] In so doing we have consistently found that additional competition in an expanding market is reasonably feasible and will serve some beneficial purpose.[24]

31. Concomitant with the adoption of this regulatory approach is the acknowledgement that not every new entrant will succeed and that not every existing carrier will remain competitive. There should be no doubt that our responsibility is to the public interest, not to the private financial interests of any particular carrier or group of carriers. This regulatory approach was stated with abundant clarity in our *Authorized User* decision.[25] If a carrier cannot compete after the establishment of a fair competitive environment, it will likely be because its customers have selected a competitor which offers a better service, a lower price or additional conveniences. Better services, lower prices or additional conveniences for the customer are results that we expect to occur through additional market entry and increased competition. The issue of adverse impact on revenues or market shares where competition is fair is unimportant unless it can be clearly demonstrated that such an impact will adversely effect services to the public and outweigh the anticipated benefits of additional competition.

E. Industry Structure

32. The IRCs argue that the relative size and market positions of AT&T and the IRCs have not significantly changed since 1964. Employing data from their study, the IRCs state that the structure of the international telecommunications market has not significantly changed and that no modification of the *TAT–4* policy is warranted. AT&T does not refute the data, all of which are public information from IRC and AT&T filings or Commission tabulations.

33. We do not question the market comparison data presented by the IRCs for the 1964–1980 period. We agree with the IRCs that AT&T was and continues to be the major U.S. carrier in terms of revenues, earnings, plant, employees, and percentage of Gross National Product. We also agree with the IRCs that on merely percentage terms the relative position of the carriers has not substantially changed since 1964. However, we believe that the approach taken by the IRCs ignores the dynamic changes that have occurred in the telecommunications industry in the last eighteen years. These changes can be demonstrated by: (a) analyzing data relating to IRC growth; and (b) surveying the development of digital technology.

34. *IRC Growth.* The data presented by the IRCs actually reflect a situation greatly different from that which existed in 1964. The data show an industry experiencing strong growth and vitality. The data also show the carriers serving this industry to be viable and stable entities. As we stated in the NPRM:

> The IRCs are no longer struggling enterprises with dubious financial futures which must be kept afloat because they are the sole providers of a crucial service. The IRCs are now firmly established businesses with significant market shares, substantial rate bases, and impressive rates of return.

We also pointed out that:

> IRC gross plant investment has grown from nearly $200 million in 1964 to approximately $700 million in 1978, a 12% growth rate in 1972 dollars * * *. Revenues from message, telex and private line services have increased from $89.9 million in 1964 to $397.8 million in 1978, a 15.1% growth rate in 1972 dollars.

Data available since the release of the NPRM reflect continued growth of the international record market and the revenues of the carriers which provide international service. By year-end 1981, IRC revenues had increased to aproximately $578 million and plant investment stood at $939 million. Thus the IRCs, the majority of which are affiliated with large corporate entities, have grown rather than stagnated during the last seventeen years. During this time period, plant investment has increased by over 500% and revenues have grown by over 600%. Most importantly, the international record market will continue to expand, thus providing the IRCs with the opportunity to compete from solid bases.[26]

35. Disparity of size cannot alone be a basis to preclude or limit competition. Many carriers much smaller than the IRCs now compete with AT&T domestically. The key is establishing an environment in which competition can survive or at least in which entities can compete fairly. Additionally, unlike in 1964, the IRCs now provide wholly domestic record services, are no longer limited to a few gateway cities, and may interconnect with their domestic affiliates and other carriers. As stated by the United States Court of Appeals for the District of Columbia in affirming our *Datel* and *Dataphone orders:*

> The IRCs, it seems clear, are no longer an infant industry in special need of extraordinary protection. Through the Datel order and related decisions, (footnote omitted) the FCC strengthened the position of the IRCs by securing to them expanded domestic operation centers and enhanced voice capacity.[27]

36. *Digital Technology.* Major improvements in the performance and cost-effectiveness of solid state electronics have played a major role in revolutionizing telecommunications facilities and networks. These improvements, which were spurred in part by the enormous demand for information transfers, have resulted in the development of digital switches, loops and lines. Digital technology is becoming more cost efficient for a significant portion of telephone interoffice trunks and circuits as well as switches. Digital transmissions are also critically important to computer processing and the efficient transmission of data.

37. Digital networks economically employ resources, provide users with broad flexibility as to service options and promote facility efficiency. Digital signals are compatible with the data signals of computers as well as with voice signals, and can be stored and processed in convenient and sophisticated ways. They can be transmitted economically be reducing the bandwidth requirements or by

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[23] *See* Specialized Common Carrier Services, 29 FCC 2d 870, *recon. denied*, 31 FCC 2d 1106 (1971), *aff'd sub nom. Washington Utilities and Transportation Commission* v. *FCC*, 513 F. 2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975); International Record Carriers' Scope of Operations (Gateways), 76 FCC 2d 115 (1980), *aff'd sub nom. Western Union Telegraph Company* v. *FCC*, 665 F.2d 1126 (D.C. Cir. 1981); Domestic Public Message Services (PMS), 71 FCC 2d 471 (1979), *aff'd sub nom. Western Union Telegraph Company* v. *FCC*, No. 79–1352, slip op (D.C. Cir. Sept. 3, 1981); American Telephone and Telegraph Company (Dataphone), 76 FCC 2d 662 (1980), and Western Union International, Inc., *et al.* (Datel), 76 FCC 2d 166 (1980), *aff'd sub nom.* Western Union International, Inc., 673 F 2d 539 (D.C. Cir. 1982); RCA Global Communications, Inc. *et al.*, 86 FCC 2d 905 (1982); Western Union Telegraph Company, FCC 82–378 (released August 12, 1982); Second Computer Inquiry, 77 FCC 2d 384 (1980), *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom., C.C.I.A.* v. *FCC*, No. 80–1471, slip op. (D.C. Cir. Nov. 12, 1982); Competitive Common Carrier Services, 77 FCC 2d 308 (1979), 85 FCC 2d 1 (1980), 84 FCC 2d 445 (1982), and FCC 82–187 (1982).

[24] *See FCC* v. *RCA Global Communication, Inc.* 346 U.S. 86 (1953) and Mackay Radio and Telegraph Company, 28 FCC 231 (1960).

[25] *See* Authorized User, FCC 82–357 (released August 19, 1982) at para. 56.

[26] Data on future market growth indicates continued expansion. *See* Docket Nos. 18875, 70–184 and 81–343 (Atlantic and Pacific Planning).

[27] *Western Union International, Inc.* v. *FCC*, 673 F. 2d at 543 (D.C. Cir. 1982).

sharing communications circuits using techniques such as time division multiplexing and packet switching. They can also be transmitted with more accuracy than previously possible since error detection techniques and error correction codes are now used, and since wide dynamic ranges can be handled. Greater flexibility is another characteristic of digital signalling because it permits a trade-off between distortion and noise immunity. Digital bitstreams can also be encrypted to provide greater security and privacy. Finally, digital technology is compatible with evolving services such as videotex and teletex, and we anticipate that digital equipment will continue to replace analog apparatus as digital networks expand.

38. Unlike circuits in existing analog systems which are usable for voice and data transmissions, but which are ordinarily conditioned for either voice or data, circuits in a digital network can be viewed as transparent pipelines which make no distinction between such transmissions. In a digital network, both voice and data transmissions are transformed into pulses (bits), transmitted through the pipeline to the desired phone/terminal/computer, and then reconstructed. In view of the deployment of transparent pipelines and digital networks, it makes little sense for a user of international services to acquire a transparent pipeline from a voice carrier for only voice requirements and a second transparent pipeline from a record carrier for only data requirements. We do not require this possibly wasteful duplication of facilities of domestic users and we see no reason to continue to require it of international users. As ITT points out, the existing dichotomy could be preserved. However, the cost to society in terms of money, convenience and system efficiency would, as emphasized by NTIA and the commenting users, be substantial. Moreover, the transparency of the digital pipeline would make enforcement of this dichotomy impossible. Our view of evolving technology is shared by DoD, SBS, AT&T and NTIA. We particularly point to the comments of NTIA and to its declaration that:

> An artificial voice/record dichotomy will be meaningless in the evolving digital environment leading to an ISDN. Furthermore, any attempt at maintaining artificial market distinctions despite advances in technology would involve system suboptimization and could prove costly in terms of higher facility costs and consumer rates with resultant service constraints. (NTIA comments, pages 7–8).

39. We therefore find that the existing market structure and industry have substantially changed or will substantially change in the not too distant future. Thus, the rationale for the *TAT–4* decision has been dissipated by the growth of the IRCs and the development of digital networks.[28]

F. IRC Study

40. We note that the IRC study does not recommend a moratorium or bar on Commission authorization of new entrants to provide international record services. First, the study advocates the entry of non-dominant carriers. Secondly, as to the possible entry of Western Union and AT&T, the study states:

> Entry by Western Union could be permitted, but only after establishment of appropriate structural and regulatory safeguards. These would assure that any overseas Western Union services would not be cross subsidized by domestic services and that Western Union could not use its control of essential ("bottleneck") facilities to the detriment of competitors. Appropriate and fair interconnection arrangements should be worked out beforehand between Western Union and the IRCs.
>
> Only after other alternatives have been tested, should the Commission consider permitting AT&T to enter the overseas record industry generally, and then only under special terms and conditions. Before such entry is permitted, issues related to the IRCs' interconnection arrangements with AT&T should be resolved. Additionally, structural separation of Bell's overseas services into facilities and services subsidiaries shoud be required as a condition precedent to entry.[29]

The RCCA coupled with our Interim Order[30] and tariff decision[31] establish competitive safeguards and interconnection arrangements generally consistent with the study's recommendations regarding Western Union entry. As to AT&T entry, it is not clear from the record before us that a similar approach is appropriate.[32] Certainly the record here is insufficient to prescribe any interconnection arrangements. Indeed, the carriers do not describe with any degree of specificity the arrangements that they desire. Most importantly, we regard interconnection as a separate matter which requires an initial request under Section 201 or 222 of the Act by the carrier desiring interconnection prior to any Commission action.[33] If interconnection proves necessary or desirable and is not readily forthcoming, we will entertain requests from the IRCs and may consider such issues in conjunction with any applications filed by AT&T pursuant to Section 214 for additional facilities to provide new international services.[34]

41. In analyzing the IRC study we must emphasize that we do not subscribe to the study's stated conclusions regarding future IRC revenue trends due to AT&T's or Western Union's entry into the record market.[35] The study contains several speculative assumptions regarding projected IRC revenue diversion. These assumptions seriously undermine the study's value as a predictive model. For example, the study estimates that during the year 1985, 94% of IRC Telex profits (net income) will be diverted to AT&T if it is authorized to enter the record market. This estimate, however, is based upon a combination of three underlying assumptions each of which could well prove to be inaccurate. These assumptions are as follows: First, that the average annual growth rate of telex revenues and IRC profits during the 1981–1986 period will equal the average annual growth rate during the previous five year period. Second, that the IRCs have accurately estimated the future revenue diversions which could occur through 1985 if AT&T or Western Union entered the record market. Third, that these projected dollar losses in revenue would translate into an identical dollar loss in profits (net income). In the telex example cited in the study, it is

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[28] The AT&T divestiture supports our finding that circumstances have significantly changed since 1964. Under the divestiture plan, which is now scheduled to be implemented in early 1984, AT&T will divest its twenty-two operating companies which currently account for most of its plant and employees and which generate a substantial percentage of its revenues. In accordance with the divestiture plan AT&T will gain facility access from the divested entities on terms and conditions and at rates equal to that offered to other common carriers. AT&T will therefore have to compete on equal terms with other interexchange carriers, including the IRCs.

[29] IRC study at pages xviii and 138.

[30] Interconnection Arrangements, 89 FCC 2d 928 (1982).

[31] Interconnection Arrangements, FCC 82–284 (released June 11, 1982).

[32] For example, the facilities used to provide record communications services which Western Union and the IRCs were required to fully interconnect pursuant to the RCCA were already in existence, were known to be technically compatible and were already interconnected for international transmissions. The same situation does not exist as to AT&T record or IRC voice services. Since any new switched record services of AT&T and any new switched voice services of the IRCs are not now in existence, the feasibility of interconnection, i.e. whether these future services would be technically compatible with existing networks and therefore possibly suitable for interconnection with those existings networks, can only be the subject of speculation at the present time.

[33] *See* para. 56, infra.

[34] We note that the initiation of any new service offering between the United States and a particular foreign point requires the cooperation and agreement of that foreign administration.

[35] IRC study, Chart 25.

estimated that IRC revenues from telex would decline 7% from $373 million in 1981 to $347 million in 1985, were AT&T to enter the market. The study, however, translates this 7% revenue decline into a 94% decline in profits based upon the three aforementioned assumptions: (a) IRC telex revenues might have grown to $656 million by 1985 assuming a growth rate equal to the previous five year period. Thus, the decline in revenues is expressed not as the actual decrease from $373 million to $347 million but rather as a decline from hypothesized future revenues of $656 million to $347 million; (b) this $309 million revenue diversion estimate is based upon unspecified IRC projections regarding the recasting of market shares; and (c) it is assumed that the estimated $309 million revenue loss would result in an identical $309 million loss in net income (profits).

42. We cannot conclude that any of these assumptions are valid for decisional purposes. In particular, we cannot accept the IRCs' projections of revenue diversion which are unsupported by any factual information. Further, we cannot agree that the projected revenue decline would translate to an identical net income decline. In fact, such a scenario would be atypical since it presumes that expenses would remain constant rather than decline in the face of falling revenues. Additionally, we cannot accept the study's analysis of future market shares and trends because it does not evaluate the effect of the interconnection, transiting and pro rata requirements of the RCCA and the Interim Order, and does not consider IRC domestic expansion, IRC competitive responses and IRC new service offerings.

43. Even if we were to accept the conclusions of the study, they do not provide a basis for altering our tentative decision regarding AT&T entry into the record market.[36] The study indicates that AT&T entry would reduce the IRCs' expected future revenues by approximately 31% for the 1981–1985 period. Such a diversion, it is claimed, would curtail the IRCs' growth and eventually result in a negative growth trend. However, in view of the telex market's projected annual growth rate of 15.1%, and accepting the estimates of revenue diversion to AT&T, IRC telex revenues in 1985 would decline by only 7% from current (1981) levels. In short, any revenue diversion from the IRCs to AT&T would largely be offset by the growth in the market demand for telex or telex type services. Stated differently, the IRC's revenues from telex would be 31% less than they would otherwise be absent AT&T entry, but by 1985 they would actually have declined only 7% from current (1981) levels. Thus, even assuming the accuracy of the study's assumptions, we cannot conclude that the revenue diversion would be so great as to threaten service to the public in a manner which would outweigh the benefits of increased competition.

44. Furthermore, the IRC study appears to ignore the probability that increased competition within a market will expand the market. That is, there is not a set amount of record revenues, any gain of which by AT&T can be claimed by the IRCs as a loss. Rather, vigorous marketing by new entrants often increases the demand for service i.e., increases the size of the revenue pie. Thus the IRCs could have a smaller share of a growing pie and still experience revenue growth. We recognize that the IRC study does not consider the effects of the combined entry of Western Union, AT&T and possibly other carriers, including Comsat. Entry of these carriers would place in the market entities with considerable resources and customer bases, thus making vigorous competition all the more likely and the evolution of increased market concentration less likely. We view these probable effects of combined entry to be consistent with our regulatory approach and to be beneficial to users. We do not believe, and the IRCs have not demonstrated, that combined entry by Western Union, AT&T and Comsat will result in increased market concentration and the offering of less desirable service. In short, even assuming a worse case scenario, it does not appear likely that the IRCs will suffer irreparable injury and, most importantly, that service to the public will be adversely effected by additional entry. To the contrary, we believe that there will be significant benefits to the public as a result of our decision.

G. Other IRC Concerns and Public Benefits

45. The IRCs call our attention to Sections 313 (application of antitrust laws) and 314 (preservation of competition) of the Act. To the extent that these Title III sections are applicable to the subject matter of this proceeding, we believe that we have adequately considered these points. Section 313 relates to unlawful restraints and monopolies in the manufacture and sale of and trade in radio apparatus and devices. Section 314 relates to control of wireline and radio facilities for the purpose and/or effect of substantially lessening competition. We believe full market entry by AT&T and the IRCs will stimulate competition, particularly in view of the AT&T divestiture and the safeguards which will be established. We further do not believe that full market entry by AT&T and the IRCs will have any significant effect on the manufacture, sale or trade of telecommunications equipment. We therefore reject the IRCs' contention that lifting the *TAT–4* bar would be contrary to either the language or spirit of these two sections.

46. The IRCs contend that the international record market is presently competitive, that the carriers providing international record service are efficient and innovative, and that additional entrants are not needed. The IRCs view their industry as competitively balanced and particularly claim that AT&T's entry will destroy rather than promote competition. We disagree. First, the fact that more than one service provider is in a market does not necessarily mean that there is effective competition. In fact, price competition has rarely existed in the international record market.[37] The IRC filings, historically high rates of return, and the eagerness on new entities to gain market entry support this view of the international record market.[38] Secondly, we have already outlined and will discuss further below the benefits that removing operating restrictions will bring to users. Finally, the IRCs' argument that a competitive market exists into which additional competition should not be introduced is similar to the argument made by RCA and rejected by the Supreme Court in the previously cited *RCA* decision. In the *RCA* decision the Court clearly indicated that duplicating authorizations are in the public interest wherever competition is reasonably feasible and would serve some beneficial purpose.[39]

[36] As to Western Union entry, we have already determined that the provision of international service by Western Union would be consistent with the RCCA's direction to promote the development of fully competitive domestic and international markets in the provision of record communications services. In employing the *RCA* standard as an alternative basis for our decision, we found that entry into the expanding international record market was reasonably feasible, would not adversely effect the IRCs, and would be beneficial to users.

[37] The IRCs compete, on a limited basis, on service and convenience terms rather than on price. *See* Preliminary Audit and Study of Operations of International Carriers and Their Communications Services Between the United States and Overseas and Foreign States, 75 FCC 2d 726 (1980).

[38] The IRCs themselves point to the large number of new entrants.

[39] 346 U.S. at 98–97 (1953).

Moreover, if the IRCs are as innovative and efficient as they claim, they should not be adversely effected by new entry. In view of these factors, the anticipated benefits of competition, and the reasonable feasibility of additional competition, we must reject the IRCs' contention that additional competition would not be in the public interest.[40].

47. The IRCs also contend that AT&T entry will lead to the imposition of disadvantageous operating agreements by foreign administrations on the IRCs. In response, AT&T suggests that several foreign correspondents have recently shown interest in developing more competitive domestic networks. AT&T also suggest that overseas entities have recently shown more willingness to deal with multiple U.S. carriers. No evidence has been presented by the IRCs to demonstrate that existing operating agreements or procedures will be unfairly modified or terminated. We believe, however, that this is an area that will require strict carrier adherence to Commission policies relating to whipsawing. Moreover, we have the power under the Act to coordinate the positions of U.S. international service carriers and to take action against any U.S. carrier that operates in a manner inconsistent with the public interest.

48. As to the relationship between our *Computer II* orders and our decision to remove restraints on the non-voice service offerings of AT&T, our decision today permits AT&T to provide basic record and data services on a primary basis between the United States and foreign points. The provision of enhanced services by AT&T between the United States and foreign points is governed by our *Computer II* policy.[41]

49. The IRCs have suggested that any AT&T entry into the international record market be done through a separate subsidiary. Under the IRC scheme AT&T would continue to provide international voice service while a new entity would be created to provide international record services. We reject this proposal. The IRC plan would substantially negate the evolving advantages of digital networks and transparent pipelines. Upon the deployment of digital networks a user with both international voice and record requirements could select service from AT&T or an IRC which would provide a transparent circuit for both voice and record requirements. However, under the IRC plan, a user could not satisfy both voice and record requirements in getting service from AT&T. Instead, the user would have to obtain record services from an AT&T subsidiary. This arrangement would substantially reduce for AT&T and its customers the anticipated benefits of evolving technology. An AT&T customer would be required under the IRC plan to obtain and pay for two separate circuits where one circuit could suffice. We view the IRC proposal to require AT&T to establish a separate subsidiary for its Title II record and data services offered between the United States and foreign points as unnecessary, as promoting inefficiency, as contrary to technological developments, as increasing user costs and as therefore not in the public interest.

50. We are confident that the removal of the *TAT–4* policy restriction on the international service offerings of AT&T will have beneficial results. The removal of unnecessary operating restrictions and the introduction of additional competitors into expanding markets has previously resulted in real benefits for users in the domestic voice, domestic record and international record arenas. We anticipate that these same benefits—additional user choice as to carriers, more service options, added conveniences and lower rates—will also result from AT&T's entry into the international record market. We also anticipate that the further development of digital networks will augment these benefits.

H. IRC Voice Services

51. There can be little doubt that IRC entry into the expanding international voice arena is reasonably feasible. International voice service, measured in terms of circuits, minutes or revenues, has shown dramatic growth. Revenue growth and profitability are two of the most important measurements of competitive feasibility. Between 1975 and 1981 revenues from international voice services increased approximately threefold. While most of the revenue growth in this period is attributable to IMTS ($576 million to $1.67 billion), steady growth also occurred in private line revenues (11.7 million to $13.7 million). International voice services have also been quite profitable. AT&T, the largest provider of international voice services, earned rates of return during the last several years generally above its permitted overall rate of return.[42] The IRCs are established carriers with customer bases and the operating expertise to provide new services, additional conveniences for users, or duplicative offerings at lower rates. AT&T's revenues from international voice services are substantial but are not a significant percentage of its overall income. AT&T does not argue adverse impact on its financial status and we do not anticipate such a result. We therefore conclude that competition in the provision of international voice services is reasonably feasible.

52. Furthermore, voice-only service by the IRCs will broaden their service offerings, increase their operating flexibility and potentially promote a more efficient use of their plant. This could reduce costs and lead to lower rates. In a separate item before us today we grant several pending IRC applications for facilities to provide leased channel voice service. In their applications the IRCs indicate that they have secured customers and the agreement of at least one major overseas entity, and are ready to provide service at a rate substantially below that now available from AT&T. Thus, our action here will have immediate tangible benefits. The provision of international voice services by the IRCs thus satisfies the standard for entry established by the Supreme Court in its *RCA* decision,[43] will be in the public interest and justifies a clarification of Commission policy.

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[40] Full market entry by both AT&T and the IRCs is also consistent with the Record Carrier Competition Act of 1981, Congress' most recent legislative pronouncement regarding the international telecommunications market. Although the focus of the RCCA is record carrier provision of record communications services and does not specifically apply to either AT&T entry into the international record market or IRC entry into the international voice market, our action here relating to international services is a natural extension of the philosophy of that Act. Section 222(b)(1) states:

> The Commission shall, to the maximum extent feasible, promote the development of fully competitive domestic and international markets in the provision of record communications services, so that the public may obtain record communications service and facilities (including terminal equipment) the variety and price of which are governed by competition.

Additionally, the House Committee Report emphasizes that the Commission is instructed to promote the development of fully competitive markets and to rely on market forces to protect the public interest. Energy and Commerce Committee Report of the House of Representatives, Report No. 97–356, 97th Cong., 1st Sess. (Dec. 3, 1981).

[41] As offerings not subject to Title II regulation, enhanced services provided by AT&T must be offered through a separate subsidiary such as American Bell. *See* Amendment to Section 64.702 of the Commission's Rules and Regulations (Computer II), 77 FCC 2d 384 (1980), *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom., C.C.I.A.* v. *FCC*, No. 80–1471 slip op. (D.C. Cir. Nov. 12, 1982).

[42] AT&T's rate of return for international services was 15.5% in 1977, 23.0% in 1978, and 36.5% in 1979. Although exact data is unavailable for 1980 and 1981, we believe that AT&T's rate of return for 1980 was nearly 20% and that its rate of return for 1981 was somewhat less due to tariff revisions.

[43] FCC v. RCA Global Communications, Inc., 346 U.S. 86 (1953).

I. TAT–4 Conclusions

53. Based on the record in this proceeding and the additional information described above, we warrant that the elimination of the voice/record dichotomy in the provision of international services is required by the public convenience and necessity. Consistent with the *RCA, Mackay* and *Telocator* decisions we find that full market entry by AT&T and the IRCs is reasonably feasible and will serve beneficial purposes. This decision is based on our findings that the international telecommunications market has experienced substantial growth in both the voice and record segments; that this strong growth pattern will continue; that AT&T has been and continues to be the major U.S. provider of telecommunications services/facilities; that the IRCs earnings and revenues have increased significantly since 1964; that the IRCs are no longer struggling enterprises with dubious financial futures which must be protected from competition; that the removal of all restrictions on the service offerings of carriers is consistent with evolving technology; that additional competition will not irreparably harm either AT&T or the IRCs; and that the removal of service restrictions will enhance efficiency, consumer options and price competition.

54. Our action today is an important step in achieving our goal of providing users with greater carrier and service options as well as establishing an environment to stimulate lower rates. IRC entry into the expanding international voice arena will neither impair AT&T's economic viability nor adversely effect service to the public. Moreover, the IRC applications which we grant today will result in tangible financial benefits to users. We anticipate that future IRC applications will provide similar benefits to users. AT&T entry into the growing international record market will clearly impact the future revenues of the IRCs, but will neither threaten the economic viability of the IRCs nor adversely effect service to the public. Additionally, we expect that AT&T entry into the international record market will provide users with additional service options and create a downward pressure on existing rates.

55. Lastly, the full market entry by both AT&T and the IRCs is consistent with evolving technology and permits these carriers to utilize facilities in the most efficient manner possible. The development of digital technology and the deployment of digital networks are important occurrences in the telecommunications industry. Digital networks permit carriers to employ their resources and facilities with greater efficiency and flexibility, advantages that are transferred to users in the form of additional options and conveniences as well as lower charges. Retention of an artificial market segmentation would be inconsistent with full utilization of digital networks and with the public interest.

IV. Interconnection

56. Having found that removing service restrictions on carriers' international operations will serve the public interest, we now turn to the separate issue of carrier interconnection. Several parties have identified interconnection arrangements as an issue which should be resolved. However, as we have noted, the existing record is insufficient for us to prescribe any interconnection arrangements and/or tariff revisions for either voice or record services which may be necessary. While we may at some future date have to resolve an interconnection dispute relating to the elimination of the voice/record dichotomy, this is an issue upon which the carriers ordinarily have initial responsibility under the Act. Pursuant to Section 201(a) of the Act, a carrier is required to provide interconnection upon reasonable request. We may order interconnection if, after an opportunity for hearing, we find such action to be necessary or desirable. In the circumstances presented here where the technical characteristics and compatibility of the new services are unknown, an approach based other than on Section 201 would be clearly premature.[44]

V. Ordering Clause

57. Accordingly, IT IS ORDERED that the voice/record dichotomy in the provision of international services is eliminated, that full market entry by AT&T and the IRCs will be permitted, and that the restrictions on AT&T service offerings enunciated in the *TAT–4* decision are removed.

58. It is further ordered that this proceedings is terminated.

[44] Section 201(a) states: It shall be the duty of every common carrier engaged in interstate or foreign communication by wire or radio to furnish such communication service upon reasonable request therefor; and, in accordance with the orders of the Commission, in cases where the Commission, after opportunity for hearing, finds such action necessary or desirable in the public interest, to establish physical connections with other carriers, to establish through routes and charges applicable thereto and the divisions of such charges, and to establish and provide facilities and regulations for operating such through routes.

FEDERAL COMMUNICATIONS COMMISSION.

William J. Tricarico,

Secretary.

Concurring Statement of Commissioner Joseph R. Fogarty in Which Commissioner James H. Quello Joins

In Re: Overseas Communications Services.

I concur in this decision because of the reasons stated in my dissent in *GTE Telenet Communications Corporation et al.*, — FCC 2d — (1982). In this Order the Commission has once again, on the strength of a footnote, declared a policy which it has never considered. The dictum contained in the "mysterious" footnote 4 of the *Computer II Reconsideration Order* [45] cannot serve as an adequate basis to deregulate international enhanced services and, thereby, establish resale internationally. To reaffirm this policy in another footnote serves only to compound the original error in an effort at intellectual bootstrapping which fails.

[FR Doc. 83–398 Filed 1–6–83; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–565; RM–4154]

Radio Broadcast Services; FM Broadcast Station in Arcata, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Class C Channel 226 for FM Channel 228A at Arcata, California, and modifies the license accordingly, in response to a petition filed by the licensee, Record Plant Broadcasting, Inc.

DATE: Effective February 22, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: December 15, 1982.
Released: December 23, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Arcata, California); BC Docket 82–565, RM–4154; report and order (Proceeding Terminated).

1. In response to a petition filed by *Record Plant Broadcasting, Inc.*

[45] *See* Second Computer Inquiry, on reconsideration, 84 FCC 2d 50, 53 n.4 (1980).

("petitioner")[1], the Commission adopted a notice of proposed rule making, 47 FR 38931, published September 3, 1982, proposing to substitute Class C Channel 226 for Channel 228A at Arcata, California. The notice also proposed to modify the Class A license for Station KXGO (FM) to specify operation on Channel 226. Comments supporting the proposal were filed by the petitioner. No oppositions were received.

2. The commission believes that the public interest would be served by the proposed substitution of channels which would provide Arcata with a wide-coverage area station. We have authorized in paragraph 4 a modification of petitioner's license for Station KXGO (FM) to specify operation on Channel 226, since there has been no other expression of interest in the Class C channel.

3. In view of the foregoing and pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective February 22, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Arcata, California	226

4. It is further ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Record Plant Broadcasting, Inc., for Station KXGO(FM), Arcata, California, is modified, effective February 22, 1983, to specify operation on Channel 226 instead of Channel 228A. Station KXGO(FM) may continue to operate on Channel 228A for one year from the effective date of this action or until it is ready to operate on Channel 226, whichever is earlier, unless the Commission sooner directs, subject to the following conditions:

(a) The licensee shall file with the Commission, a minor change application for a construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202) 632-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-388 Filed 1-6-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Record Plant Broadcasting, Inc. is the licensee of Station KXGO (FM), Arcata, California.

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47 CFR Part 73

[BC Docket No. 82-555; RM-4156]

Radio Broadcast Services; FM Broadcast Station in Delta Junction, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 228A to Delta Junction, Alaska, in response to a petition filed by Delta Broadcasters. The assignment could provide Delta Junction with its first local FM service.

DATE: Effective February 22, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Delta Junction, Alaska); BC Docket No. 82-555, RM-4156; report and order (Proceeding Terminated).

Adopted: December 13, 1982.

Released: December 23, 1982.

1. Before the Commission for consideration is the notice of proposed rule making, 47 FR 35998, published August 18, 1982, proposing the assignment of Channel 228A to Delta Junction, Alaska, as that community's first FM assignment, in response to a petition filed by Delta Broadcasters ("petitioner"). Supporting comments were filed by petitioner in which it reaffirmed its intention to apply for the channel, if assigned. No oppositions to the proposal were received. The channel can be assigned consistent with the minimum distance separation requirements of § 73.207 of the Commission's rules.

2. In view of the expressed interest in the proposed channel allocation, and based upon the fact that Delta Junction does not presently have any local radio service, we find that public interest considerations warrant the assignment of Channel 228A to that community.

3. Canadian concurrence in the assignment has been obtained.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204 and 0.281 of the Commission's Rules, it is ordered, That effective February 22, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to Delta Junction, Alaska, as follows:

City	Channel No.
Delta Junction, Alaska	228A

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-389 Filed 1-6-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-492; RM-82-492]

Radio Broadcast Services; FM Broadcast Station in Fresno, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes Class B Channel 239 for Class B Channel 238 at Fresno, California, and modifies the license of Station KYNO-FM to specify operation on Channel 239, in response to a petition filed by Radio KYNO, Inc. The change in channels was requested by Radio KYNO in order to permit it to relocate its transmitter.

DATE: Effective February 22, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: December 13, 1982.

Released: December 23, 1982.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Fresno, California); BC Docket No. 82–492, RM–4134; report and order (Proceeding Terminated).

1. The Commission has under consideration a notice of proposed rule making, 47 FR 34591, published August 10, 1982, proposing the substitution of Class B Channel 239 for Class B Channel 238 at Fresno, California, and modification of the license for Station KYNO–FM to specify operation on Channel 239 in response to a petition filed by Radio KYNO, Inc. ("petitioner"). Petitioner filed comments reaffirming its interest in the modification. The substitution was requested by petitioner to permit it to relocate its transmitter out of downtown Fresno and into an area that would offer greater flexibility for maximizing coverage. The channel can be substituted in compliance with the minimum distance separation requirements. No opposing comments were received.

2. The Commission has determined that the public interest would be served by substituting Class B Channel 239 for Class B Channel 238 at Fresno, California, and by modifying the license of Station KYNO–FM to specify operation on Channel 239, to permit its planned transmitter relocation.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, that effective February 22, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Fresno, California	229, 239, 250, 266, 270, 274, and 300.

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–390 Filed 1–6–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–622; RM–4162]

Radio Broadcast Services; FM Broadcast Station in Houma, Louisiana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes Class C FM Channel 298 for Channel 296A at Houma, Louisiana, and modifies the license for Station KCIL (FM) to specify operation on Class C Channel 298 at the request of South Louisiana Broadcasters, Inc.

DATE: Effective February 23, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: December 14, 1982.

Released: December 23, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Houma, Louisiana); BC Docket No. 82–622, RM–4162; report and order (Proceeding Terminated).

1. The Commission has under consideration the notice of proposed rule making, 47 F.R. 40456, published September 14, 1982, proposing the substitution of Class C FM Channel 298 for Channel 296A at Houma, Louisiana, in response to a petition filed by South Louisiana Broadcasters, Inc. ("petitioner"), licensee of Station KCIL(FM). The notice also proposed modification of the license for Channel 296A to specify operation on Class C Channel 298. Petitioner submitted comments in support of the proposal and reaffirmed its interest in the Class C channel. Jack A. Pelligrin also filed comments in support and expressed an interest in Channel 298 in Houma, Louisiana. However, he later withdrew his comments. No oppositions to the proposal were received.

2. After consideration of the proposal, we believe that the public interest would be served by the substitution of channels inasmuch as it would provide service to a larger area. We have also authorized, in paragraph 5 herein, a modification of the petitioner's license for Station KCIL(FM) to specify operation on Channel 298 since the only other expression of interest in the Class C channel has been withdrawn. See *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). A site restriction of 12.3 miles south of the city is required for Channel 298.

3. In view of the foregoing and pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective February 22, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Houma, Louisiana	281,298

4. It is further ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by South Louisiana Broadcasters, Inc., for Station KCIL(FM), Houma, Louisiana, is modified, effective February 22, 1983, to specify operation on Channel 298 instead of 296A. Station KCIL(FM) may continue to operate on Channel 296A for one year from the effective date of this action or until it is ready to operate on Channel 298, whichever is earlier, unless the Commission sooner directs, subject to the following:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301) specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-391 Filed 1-6-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-563; RM-4153]

Radio Broadcast Services; FM Broadcast Station in Panama City, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 292A to Panama City, Florida, in response to a petition filed by WANM, Inc. The assigned channel could provide a fifth local FM service to Panama City.

DATE: Effective February 22, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: December 13, 1982.

Released: December 28, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Panama City, Florida); BC Docket No. 82-563, RM-4153; report and order (Proceeding Terminated).

1. The Commission has under consideration the notice of proposed rule making, 47 FR 37935, published August 27, 1982, proposing the assignment of Channel 292A to Panama City, Florida, as that community's fifth FM assignment, in response to a petition filed by WANM, Inc. ("petitioner"). Petitioner filed comments in support of the proposal and restated its intention to apply for the channel, if assigned. Gulf Property and Investment Company also filed comments in support and stated its intention to apply for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

2. The Commission has determined that the public interest would be served by assigning Channel 292A to Panama City, Florida, since it could provide a fifth local service to that community.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, that effective February 22, 1983, § 73.202(b) of the Commission's Rules is amended with respect to the following community:

City	Channel No.
Panama City, Florida	223, 253, 278, 292A, and 301

4. It is further ordered, That this proceeding is terminated.

5. For further information contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-392 Filed 1-6-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-491; RM-4128]

Radio Broadcast Services; FM Broadcast Station in Paris, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 280A to Paris, Texas, in response to a petition filed by the Gene Sudduth Company, Inc. The assigned channel could provide a second FM service to Paris.

DATE: Effective February 22, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: December 13, 1982.

Released: December 23, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Paris, Texas); BC Docket No. 82-491, RM-4128; *report and order* (Proceeding Terminated).

1. The Commission has under consideration the notice of proposed rule making, 47 FR 34596, published August 10, 1982, proposing the assignment of Channel 280A to Paris, Texas, as that community's second FM assignment, in response to a petition filed by the Gene Sudduth Company, Inc. ("petitioner"). Petitioner filed comments in support of the proposal and reaffirmed its interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. No oppositions to the proposal were received.

2. The Commission has determined that the public interest would be served by assigning Channel 280A to Paris, Texas, since it could provide a second local FM assignment to that community.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective February 22, 1983, § 73.202(b) of the Commission's Rules is amended with respect to the following community:

City	Channel No.
Paris, Texas	257A, 280A

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-393 Filed 1-6-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 30104-02]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of continuation of fishing restriction.

SUMMARY: This notice announces continuation of the reduction in the level of fishing for widow rockfish in the

Pacific Ocean off Washington, Oregon, and California by imposition of a trip limit (of 75,000 pounds, round weight, per vessel per fishing trip) and requests public comment. This action, which extends the trip limit imposed on October 13, 1982, is authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan. This action continues to be necessary because several signs of biological stress to the stock have been identified. This action allows the fishery to continue operating, but at a somewhat reduced level.

DATE: This extended action is effective 0001 PST January 1, 1983, until modified, superseded, or rescinded. Comments will be accepted until January 24, 1983.

ADDRESSES: H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982, and implementing final regulations were published October 5, 1982 (47 FR 43964). The regulations at 50 CFR 663.22 allow the Secretary of Commerce (Secretary) to reduce fishing levels if it is determined that continued fishing at current levels would cause biological stress to any species.

At the August meeting of the Pacific Fishery Management Council (Council) in Portland, Oregon, the Council's Groundfish Management Team (Team) presented a stock assessment of widow rockfish (*Sebastes entomelas*) and stated that the updated acceptable biological catch (ABC) levels had been, or soon would be, surpassed in four of five regulatory subareas. The Team identified several signs of biological stress, and recommended that this fishery be closed for the remainder of 1982. After extensive public review the Council recommended that the Secretary impose a trip limit of 75,000 pounds of widow rockfish per vessel per fishing trip. The Secretary concurred and imposed this trip limit on October 13, 1982, effective for the rest of the year (47 FR 46287).

Subsequent review by the Team at the Council's November 17–18 meeting revealed that the signs of stress identified in August were evident still and were expected to persist into 1983: Catch for the 1983 calendar year was projected to exceed the best current estimate of ABC; previously fished grounds had become markedly less productive, diverting effort to new grounds (which, consequently, have become less productive); and increasing proportions of juvenile fish (juvenescence) were reported in areas where effort had been high. The Team indicated that it is unlikely that any large unexploited concentrations of widow rockfish will be found off Washington, Oregon, and California in 1983. The Team also lowered its 1983 coastwide estimates for ABC and optimum yield (OY) to 10,500 metric tons, less than half the 1982 levels. The Team and Council both recommended that the trip limit be extended until January 31, 1983, to keep fishing levels down and to allow time for a Council-appointed task force to develop alternate management regimes for review at the January Council meeting. The public was alerted when notice of the trip limit was first published (47 FR 46287) that more restrictive catch levels were certain to be required in 1983.

The Secretary concurs with the Team's finding that widow rockfish will continue to be biologically stressed in 1983 and that extension of the trip limit is necessary. However, the Secretary believes that, because an alternate management regime may not be in place by January 31, 1983, it is necessary to extend the current trip limit indefinitely, with the understanding that it may be modified, superseded, or rescinded at any time.

The Secretary hereby announces a trip limit allowing no more than 75,000 pounds (round weight) of widow rockfish to be taken and retained, or landed, per fishing trip.

The determination to impose and extend the 75,000 pound trip limit of widow rockfish is based on the most recent data available. The aggregate data upon which this determination is based are available for public inspection at the Regional Director's office during business hours until the end of the comment period.

This action is taken under the authority of 50 CFR 663.23 and is taken in compliance with Executive Order 12291. The action is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Section 663.23 of the groundfish regulations states that the Secretary will publish a notice of proposed regulatory action before taking such action unless he determines that such notice and public review are impracticable, unnecessary, or contrary to the public interest. Because of the immediate need to extend the trip limit for widow rockfish (the initial trip limit expires 2359 PST December 31, 1982), and thereby reduce the level of overharvest that will otherwise occur, this extended regulatory action is taken without prior notice in the **Federal Register** and is made effective 0001 PST January 1, 1983. The public had an opportunity to comment on the initial trip limit at both the August an September Council meetings and at the industry meeting in Newport, Oregon in September. In addition, the public reviewed and commented on the extended trip limit at the November Council meeting and comments will be received for 15 days after publication of this notice.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

(16 U.S.C 1801 *et seq.*)

Dated: January 4, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83–497 Filed 1–5–83; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 48, No. 5
Friday, January 7, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 581

Processing Garnishment Orders for Child Support and/or Alimony

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is proposing a revision of its regulations concerning the processing of garnishment orders for child support and/or alimony. At the suggestion of the Veterans Administration, OPM is revising the section which affects the garnishment of disability compensation payments disbursed by the Veterans Administration. The revision is intended to prevent possible misinterpretations. OPM is also revising the regulations to provide for the exclusion from garnishment of amounts payable as a result of the obligor's death and to expressly provide that agencies will not be required to ascertain whether the court or other authority which issued the garnishment order had obtained personal jurisdiction over the obligor prior to its issuance of the order. In addition, the proposed revisions make certain technical and typographical corrections.

DATE: Comments should be received by February 7, 1983.

ADDRESSES: Send or deliver comments to: Joseph A. Morris, General Counsel, United States Office of Personnel Management, Room 5H30, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Murray Meeker, Office of the General Counsel, (202) 254–8586.

SUPPLEMENTARY INFORMATION: On May 23, 1977, Congress enacted the Tax Reduction and Simplification Act of 1977 (Pub. L. 95–30). One section of Public Law 95–30, subsequently codified at 42 U.S.C. 662(f)(2), provides that disability compensation paid by the Veterans Administration is not subject to garnishment except where a military retiree has waived a portion of his/her retired (military) pay in order to receive disability compensation from the Veterans Administration.

Section 581.103(c)(4)(iv) of the regulations, published July 22, 1980 (45 FR 48847–48864), reiterated the statutory exception. However, it has since become clear that the statutory and regulatory provisions are subject to more than one interpretation. This amendment will clarify the exception and ensure a more uniform interpretation of the statutory provision.

Section 581.104(i) is added to exclude from garnishment amounts payable as a result of the obligor's death as provided by 5 U.S.C. 5581 and 5582.

Section 581.305 is being amended to provide expressly that governmental entities need not ascertain whether the court or other authority which issued the garnishment order had obtained personal jurisdiction over the obligor and to provide further guidance where the obligor contests either the garnishment order or the underlying support order.

The remainder of the revisions are technical or typographical in nature, including changes in § 581.105(f) which were necessitated by a recent amendment of the Federal Employee's Group Life Insurance Act (Pub. L. 96–427, October 10, 1980).

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federl Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

In accord with 1 CFR Part 18, the following subject terms identify major topics and categories of persons affected by the rulemaking:

List of Subjects in 5 CFR Part 581

Alimony, Child welfare, Government employees, Wages.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM is proposing to amend 5 CFR Part 581 as set out below:

PART 581—PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

1. In § 581.102, paragraph (f)(1)(ii) is revised to read as follows:

§ 581.102 Definitions.

* * * * *

(f) * * *

(1) * * *

(ii) A court of competent jurisdiction in any foreign country with which the United States has entered into an agreement that requires the United States to honor such process; or

* * * * *

2. In § 581.103, paragraph (c)(4)(iv) is revised to read as follows:

§ 581.103 Moneys which are subject to garnishment.

(c) * * *

(4) * * *

(iv) Any payments by the Veterans Administration as compensation for a service-connected disability or death, except any compensation paid by the Veterans Administration to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his/her retired pay in order to receive such compensation. In this case, only that part of the Veterans Administration payment which is in lieu of the waived retired/retainer pay is subject to garnishment. Payments of disability compensation by the Veterans Administration to an individual whose entitlement to disability compensation is greater than his entitlement to disability compensation is greater than his entitlement to retired pay, and who has waived all of his retired pay in favor of disability compensation, are not subject

to garnishment or other attachment under this part.

3. In § 581.104, the introductory text of paragraph (h) and paragraphs (h)(2)(xiii) and (h)(2)(xiv) are revised, and paragraph (h)(2)(xv) and (i) are added to read as follows:

§ 581.104 Moneys which are not subject to garnishment.

* * * * *

(h) Reimbursement for expenses incurred by an individual in connection with his/her employment, or allowances in lieu thereof, and other payments and allowances, including, but not limited to:

* * * * *

(2) * * *

(xiii) Clothing allowances for enlisted personnel;

(xiv) Uniform allowances; and

(xv) Personal money allowances for General and Flag officers, and for the Surgeon General of the United States.

* * * * *

(i) Moneys payable as a result of the obligor's death as provided for under sections 5581 and 5582 of title 5 of the United States Code.

4. In § 581.105, paragraph (f) is revised to read as follows:

§ 581.105 Exclusions.

* * * * *

(f) Are deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. Both Servicemen's Group Life Insurance and "Basic Life" Federal Employees' Group Life Insurance premiums are considered to be normal life insurance premiums; all optional Federal Employees' Group Life Insurance premiums and life insurance premiums paid for by allotment, such as National Service Life Insurance, are considered to be supplementary.

5. Section 581.301 is revised to read as follows:

§ 581.301 Suspension of payment.

Upon proper service of legal process, together with all supplementary documents and information as required by §§ 581.202 and 581.203, the head of the governmental entity, or his/her designee, shall identify the obligor to whom that governmental entity holds moneys due and payable as remuneration for employment and shall suspend, i.e., withhold, payment of such moneys for the amount necessary to permit compliance with the legal process in accordance with this part.

6. In 581.304, paragraph (a) is revised to read as follows:

§ 581.304 Nonliability for disclosure.

(a) No Federal employee whose duties include responding to interrogatories pursuant to § 581.303(b), shall be subject to any disciplinary action or civil or criminal liability or penalty for any disclosure of information made by him/her in connection with the carrying out of any duties pertaining directly or indirectly to answering such interrogatories.

* * * * *

7. In § 581.305, paragraph (a)(6) is revised and paragraph (f) is added:

§ 581.305 Honoring legal process

(a) * * *

(6) Where notice is received that the obligor has appealed either the legal process or the underlying alimony and/or child support order, payment of moneys subject to the legal process shall be suspended until the governmental entity is ordered by the court, or other authority, to resume payments. However, no suspension action shall be taken where the applicable law of the jurisdiction wherein the appeal is filed requires compliance with the legal process while an appeal is pending. Where the legal process has been issued by a court in the District of Columbia, a motion to quash shall be deemed equivalent to an appeal.

* * * * *

(f) If a governmental entity receives legal process which, on its face, appears to conform to the laws of the jurisdiction from which it was issued, the entity shall not be required to ascertain whether the authority which issued the legal process had obtained personal jurisdiction over the obligor.

8. In § 581.306, paragraph (a) is revised to read as follows:

§ 581.306 Lack of moneys due from, or payable by, a governmental entity served with legal process.

(a) When legal process is served on a governmental entity, and the individual identified in the legal process as the obligor is found not to be entitled to moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the governmental entity, the entity shall follow the procedures set forth in the legal process for that contingency or, if no procedures are set forth therein, shall return the legal process to the court, or other authority from which it was issued, and advise the court, or other authority, that no moneys, the entitlement to which is based upon remuneration for employment, are due from, or payable by, the governmental entity to the named individual.

* * * * *

9. In § 581.402, paragraphs (a) and (b) are revised to read as follows:

§ 581.402 Maximum garnishment limitations.

* * * * *

(a) Fifty (50) percent of the obligor's aggregate disposable earnings for any workweek, where the obligor asserts by affidavit, or by other acceptable evidence, that he/she is supporting a spouse and/or dependent child, other than the former spouse and/or child for whose support such order is issued, except that an additional five (5) percent will apply if it appears on the face of the legal process, or from other evidence submitted in accordance with § 581.202(d), that such earnings are to enforce a support order for a period which is twelve (12) weeks prior to that workweek. An obligor shall be considered to be supporting a spouse and/or dependent child only if the obligor provides over half of the spouse's and/or dependent child's support.

(b) Sixty (60) percent of the obligor's aggregate disposable earnings for any workweek, where the obligor fails to assert by affidavit or establishes by other acceptable evidence, that he/she is supporting a spouse and/or dependent child, other than a former spouse and/or child with respect to whose support such order is issued, except that an additional five (5) percent will apply if it appears on the face of the legal process, or from other evidence submitted in accordance with § 581.202(d), that such earnings are to enforce a support order for a period which is twelve (12) weeks prior to that workweek.

* * * * *

(42 U.S.C. 659, 661–662; 15 U.S.C. § 1673; E.O. 12105)

[FR Doc. 83-460 Filed 1-6-83; 8:45 am]
BILLING CODE 4325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1001

[Docket No. AO–14–A59]

Milk in the New England Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider industry proposals to amend the New England milk order. One proposal would remove Dukes County, Massachusetts, from the definition of the New England marketing area. The handler proposing the amendment manages a dairy herd and operates a fluid milk processing and distribution business on the island of Martha's Vineyard. The handler confines its business to Dukes County and wishes to be exempt from regulation under the New England milk order.

Another proposal, by a handler located in Danbury, Connecticut, would change the pricing zone designation of the westernmost portion of Fairfield County, Connecticut, to make the minimum prices under the order more comparable to prices in the adjacent New York-New Jersey order area.

DATE: The hearing will convene January 26, 1983.

ADDRESS: The hearing will be held at the JFK Federal Building, Room 505, Government Center, Boston, Massachusetts 02203, beginning at 9:30 a.m., local time.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Spcialist, Dairy Division, Agricultural Marketing Service U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–6273.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the JFK Federal Building, Room 505, Government Center, Boston, Massachusetts 02203, beginning at 9:30 a.m., local time, on January 26, 1983, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New England marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96–354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business.

Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of the proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Part 1001

Milk marketing orders, Milk, Dairy products.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

Proposed by Seaside Dairy, Inc.:

Proposal No. 1. Revise § 1001.2, definition of the New England marketing area, to remove Dukes County, Massachusetts.

Proposed by Marcus Dairy, Inc.:

Proposal No. 2. Revise § 1001.52, Plant location adjustments, so that the portion of Fairfield County, Connecticut, consisting of those towns and cities located within 15 miles of the New York/Connecticut state border and located north of a line forming the northern boundary of the towns of Wilton, Weston, Easton, and Trumbull would be rezoned from existing Zone 5 to Zone 8.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 1476, Boston, Massachusetts 02205, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington Office only).
Office of the Market Administrator, New England Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on January 3, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-501 Filed 1-6-83; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Parts 3, 6, 7, and 32

[Docket No. 82-25]

National Bank Lending Limits

Correction

In FR Doc. 82–34445 beginning on page 56862 in the issue of Tuesday, December 21, 1982, the following change should be made on page 56866: In the first column, the fifteenth line, the figure "10" should read "100".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270 and 274

[Release Nos. 33-6447; IC-12927; File No. S7-957]

Registration Form Used By Open-End Management Investment Companies; Proposed Guidelines

AGENCY: Securities and Exchange Commission.

ACTION: Proposed form, guidelines and proposed rules.

SUMMARY: The Commission is publishing for comment a proposed revision of the registration form used by open-end management investment companies ("mutual funds") under the Investment Company Act of 1940 and the Securities Act of 1933. Specifically, the

Commission is proposing for comment: (1) Proposed form N–1A, a new registration statement form for open-end investment companies other than registered separate accounts of insurance companies; (2) certain related new rules; and (3) staff guidelines for the preparation of proposed Form N–1A. Proposed Form N–1A would establish a two-part format for disclosure to prospective investors consisting of: (1) A relatively short prospectus that could be used to satisfy the prospectus delivery requirements of the Securities Act of 1933, and (2) a statement of additional information that would be available to prospective investors upon request and without charge. The Commission is proposing Form N–1A and certain related rules for disclosure in order to shorten and simplify the prospectus provided to investors, while making available more extensive information to those who desire it.

DATE: Comments must be received on or before March 25, 1983.

ADDRESS: Persons wishing to submit written comments should file five copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Jane A. Kanter, Special Counsel (202–272–2115); Larry L. Greene, Attorney (202–272–7320); Aviva L. Grossman, Attorney (202–272–7321); or with respect to insurance company separate accounts, Mary K. Crook, Attorney (202–272–3010), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is today publishing for comment:

(1) Proposed Form N–1A, a registration form that would replace Form N–1 (17 CFR 274.11) under the Securities Act of 1933 (15 U.S.C. 77a et seq.), (the "1933 Act"), and the Investment Company Act of 1940 (15 U.S.C. 80a et seq.), (the "1940 Act"), for use by open-end management investment companies other than registered separate accounts of insurance companies. Proposed Registration Form N–1A is divided into three parts: (i) Part A, the simplified prospectus, would consist of information that meets the requirements of section 10(a) of the 1933 Act (15 U.S.C. 77j(a)); (ii) Part B, the "Statement of Additional Information," would provide additional and more detailed information and would be available to prospective investors upon request, and (iii) Part C would contain other information that is required to be in the registration statement. The text of proposed Form N–1A is published herewith as Appendix A to this release;

(2) Proposed new rules 404A(a), (c) and (d) (17 CFR 230.404A(a), (c) and (d)), and 472A(17 CFR 230.427A) to be added to Regulation C under the 1933 Act (17 CFR 230.400–494);

(3) Proposed new rules 8b–11A (17 CFR 270.8b–11A) and 8b–12A (17 CFR 270.8b–12A) under the 1940 Act;

(4) Proposed staff guidelines for the preparation of Registration Form N–1A which is Appendix B to this release and may be obtained directly from the Commission through the above-mentioned contact persons. In addition, the proposed staff guidelines will be published in the SEC Docket. All comments and suggestions received concerning the staff guidelines will be considered in the development of this rulemaking proposal.

Background and Purpose

Under existing requirements prospectuses provide extensive disclosure about all aspects of an investment company's operations. The Commission believes, however, that in practice investment company prospectuses may not be effective disclosure documents for most investors. Although the inclusion of most disclosures that currently appear in these prospectuses can be defended as being of material interest to at least some investors, the size and complexity of the present investment company prospectuses may discourage many fund investors from reading and understanding the entire document. In addition, current prospectuses appear to contain more detail than is necessary for most investors to make an informed investment decision.[1] The commission believes, therefore, that investors would be better served if they were provided with a prospectus that is substantially shorter and simpler, so that the prospectus clearly discloses the fundamental characteristics of the particular investment company they are considering.

Investment companies register under the 1940 Act and register their shares under the 1933 Act. Management investment companies may use a single form to accomplish registration under both statutes. Open-end management investment companies, including mutual funds, currently use Form N–1 to register under the 1933 Act and the 1940 Act, and closed-end investment companies, use Form N–2 [17 CFR 274.11a–1]. Unit investment trusts register on Form N–8B–2 [17 CFR 274.12] and register their securities on Form S–6 [17 CFR 239.16]. Since mutual funds constitute the largest segment of the investment company industry, the Commission has determined to initiate the process of simplifying investment company prospectuses with the registration form applicable to mutual funds, *i.e.*, Form N–1. The Commission plans to develop prospectus simplification proposals with respect to other types of investment companies at a future date. In doing so, the Commission will take into consideration comments received in response to the present proposal relating to mutual funds.

In order to shorten and simplify the prospectus for mutual funds, the Commission has concluded that it is necessary to eliminate certain types of information from the prospectus, so that only matters of fundamental importance to most mutual fund investors will be included in the prospectus. On the other hand, the Commission is aware that some investors might have use for the more extensive information that is now included in fund prospectuses. For example, institutional investors or financial analysts may want more information about an investment company than do most individual investors. In order to meet the needs of these investors, while at the same time providing more useful disclosure to the majority of individual investors, the Commission has developed proposed new Form N–1A, under which all investors would receive a greatly simplified prospectus, but more extensive information would be available upon request and free of charge to those investors who desired it.

Form N–1A—An Overview

The proposed new form for disclosure, Form N–1A, would establish a three part registration statement: Part A would be the simplified prospectus; Part B would be the Statement of Additional Information; and Part C would contain other information required by the registration statement.

Part A, the simplified prospectus, is intended to provide a concise presentation of certain information now in Part I of current Form N–1. This simplified prospectus would meet the requirements of section 10(a) under the 1933 Act, and could, therefore, be used to satisfy the prospectus delivery requirements of section 5(b)(2) of the

[1] *See* in this regard the speech by Commissioner Barbara S. Thomas, Town Hall of California, Los Angeles, California (July 7, 1981) advocating simplified disclosure in a two-part format for all issuers. *See also* the speech by Philip A. Loomis, Jr., Mutual Funds and Investment Management Conference, San Diego, California (March 23, 1979).

1933 Act (15 U.S.C. 77e(b)(2)). The proposed form seeks to achieve the goal of prospectus simplification in several ways. First, many specific items of disclosure that must be in the prospectus under current Form N–1 would simply be transferred to the Statement of Additional Information. Second, with respect to general matters that would be discussed in the prospectus, but amplified in the Statement of Additional Information, the items of Parts A and B attempt to delineate with specificity what information should be in the prospectus and what information should be in the Statement of Additional Information, in order to provide guidance to registrants and their counsel who may be concerned about potential liability for material Commissions from the prospectus. The Commission's expectation is that this degree of specificity will encourage registrants to be more concise in describing the fundamental characteristics of the fund than they might be if the items in the form were couched in more general and open-ended terms. In addition, the instructions emphasize brevity, greater prominence to more significant information, and minimizing or eliminating technical and legal detail. At the same time, in order to preserve registrants' flexibility, registrants would, for the most part, not be required to present information in a particular order or format and would be free to include in the prospectus information in addition to that required by the specific items.

Part B of proposed Form N–1A, the Statement of Additional Information, would consist primarily of information that is currently required in Form N–1, but which does not appear to be of fundamental importance to most investors. In Part B, registrants would have the opportunity to provide more detailed discussions of matters described in the prospectus, as well as discussions of certain matters that are not required to be in the prospectus, but which may be of interest to at least some investors. Registrants would be required to disclose on the cover page of the simplified prospectus that the Statement of Additional Information is available free of charge to any investor.

Part C of proposed Form N–1A pertains to information that is not required to be in the prospectus, but is required by the registration statement. Such information is almost identical to that currently required in Part H of Form N–1.

Synopsis of the Proposals

Form N–1A

1. Part A: Prospectus. Part A of proposed Form N–1A contains instructions for preparation of the prospectus. (The General Instructions, particularly General Instruction G, contain additional guidance.)

Item 1—Cover Page

Certain technical requirements are applicable to prospectus cover pages for all issuers, whether or not they are investment companies, and such requirements have not been altered for proposed new Item 1.[2] The cover page would have to contain specific identifying information including a brief statement of the registrant's investment objective and a notification of the availability, without charge, of the Statement of Additional Information. The registrant could include on the cover page information other than that listed in the instructions to proposed Form N–1A, but not information so detailed or complex as to prevent understanding of the basic required information.

Items 2—Synopsis

Proposed Form N–1A requires a synopsis of the salient features of the offering only if the prospectus in printed form is longer than twelve pages. It appears to the Commission that a synopsis would be unnecessary if the prospectus were sufficiently brief and that twelve pages is a reasonable cutoff point. In this regard, it appears that mutual fund prospectuses, which now average 25–30 pages in length, would under normal circumstances not need to exceed 12 pages in length under proposed Form N–1A. However, the Commission requests comment on this question and on the question of whether estimating the length of the prospectus would involve undue costs of other burdens.

The information that would be required in the synopsis is similar to that which is presently required in Form N–1, although less detail would be required. Specifically, the synopsis would have to include a brief description of the registrant, including: How the registrant proposes to achieve its investment objectives; the principal speculative or risk factors associated with investment in the registrant; registrant's total expenses for the past year, if registrant has been in operation for a full year, or if not, the maximum investment advisory fee or other asset based fee that may be charged and a list of other significant expenses of the registrant; and the nature of the securities being offered.

The synopsis would also have to include the name of the investment adviser, provide a cross-reference as to where in the prospectus investors can find a description of how to purchase the securities being offered, and any additional information that will not "impede understanding of the information required to be presented."[3]

Item 3—Condensed Financial Information

Item 3 is identical to current Item 3 of Form N-1 and requires certain financial information to be presented in tabular form on a per share basis for a ten year period or the life of the fund.

Item 4—General Description of the Registrant's Business

Item 4 requires a concise discussion of the organization and operation of the registrant. Specifically, this item calls for: (i) Basic identifying information about the registrant; (ii) a concise description of the investment objectives and policies of the registrant, including: if these objectives may be changed without a majority shareholder vote, a statement to that effect; a brief discussion of how the registrant proposes to achieve these investment objectives, noting in particular the types of securities and special investment practices or techniques to be used by the registrant and whether the registrant will concentrate in a particular industry or group of industries; (iii) identification of any other policies of the registrant that may not be changed without a majority shareholder vote; and (iv) a concise description of those significant investment policies or techniques not described above that registrant intends to employ.

The instructions for Item 4 call for giving prominence in the prospectus to registrant's principal types of investments and placing less emphasis on less significant policies. To encourage brevity in discussing activities that will not be central to the registrant's operation, the form provides that disclosure of policies or practices

[2] All prospectuses must include: (1) The date of the prospectus; (2) a legend warning that the securities have not been approved by the Commission; and (3) other information that may be required by the Commission or by any other governmental agency.

[3] See rule 421(a) under the Securities Act of 1933 (17 CFR 230.421(a)) which states that the information required in a prospectus shall not "be set forth in such fashion as to obscure any of the information or any information necessary to keep the required information from being incomplete or misleading."

that the registrant will not follow in a way that will place more than 5 percent of the registrant's assets at risk should be limited to that which is necessary to identify the practice. Discussions of so-called negative policies, that is, policies that prohibit the registrant from engaging in certain activities and of policies the registrant has not followed in the past year and does not intend to follow in the future should not be included. In seeking concise disclosure generally, and limited or no disclosure of certain policies, proposed Form N-1A differs substantially from Form N-1.

Finally, the registrant should discuss briefly the principal risk factors associated with investment in the registrant.

Item 5—Management of the Fund

Item 5 collects and shortens a number of items that are included in current Form N-1 in an attempt to elicit a concise but coherent discussion of the management of the fund. The instructions to Item 5 concerning the role of the board of directors specifically state that information regarding the board may be limited to a general statement that the directors are responsible for the overall supervision of the affairs of the registrant. The identities of the board of directors and other information about them would be in the Statement of Additional Information. However, if any director or other affiliated person of the registrant is or has been subject, within the last ten (10) years, to the provisions of section 9(a) of the 1940 Act or an order pursuant ot section 9(b) of the 1940 Act, identifying information about such person should be provided together with a brief description of the relevant circumstances.

Item 5 also requires identification of the investment adviser and a statement that the adviser is responsible for portfolio management. The instructions to Item 5 state that, if the investment adviser is also responsible for administration of the fund, a general statement to that effect, rather than a specific discussion of the various management services provided by the adviser, will be sufficient. Item 5 would also require disclosure as to the adviser's compensation. New funds and funds that pay their advisers on some basis other than a percentage of net assets would have to describe briefly the basis on which the adviser's fee would be calculated. However, with respect to existing funds that pay their advisers a percentage of net assets, if the adviser has served in that capacity for a full fiscal year and the basis for the adviser's compensation did not change during the most recent fiscal year, the fund would have to disclose only the compensation actually paid during the most recent fiscal year as a dollar amount and as a percentage of net assets. Other detailed information about the investment adviser that is required by current Form N–1 would be in the Statement of Additional Information.

The prospectus would also have to provide information about any person who provides the types of services normally provided by an investment adviser, as well as identification of the transfer agent and dividend paying agent for the fund. This item also calls for identification of individuals and companies which are controlling persons of the registrant. Further, the prospectus would have to provide information concerning the fund's overall expense ratio. Finally, Item 5 of Part A requires that, if the registrant engages in certain brokerage allocation practices, a statement to that effect must be included in the prospectus. However, much of the detailed discussion of brokerage practices that is in the prospectus currently would be transferred to the Statement of Additional Information.

Item 6—Capital Stock and Other Securities

This item calls for a concise description of the nature and significant attributes of the security being offered, including: (i) A brief discussion of any restrictions on shareholder voting rights; and (ii) any obligations or liabilities shareholders might incur, excluding investment risks. Certain other factors would have to be discussed, if present, but in general Form N–1A would require significantly less detail in the prospectus about the security being offered than does current Form N–1. However, the prospectus would have to have one item of information that is not required now, a description of how shareholder inquiries should be made.

In addition, Item 6 calls for a brief description of the registrant's dividend and distribution policy, and a description of the tax consequences of an investment in the registrant. The item emphasizes that the statement on tax consequences should not include detailed discussion of the law. The item is intended to require disclosure only of the tax *effect* of the registrant's policies on the shareholders.

Item 7—Purchase of Securities Being Offered

Item 7 requires a brief description of the procedures to be followed by an investor in purchasing securities of the fund. By placing the emphasis on how to purchase securities, the Commission intends to avoid the technical descriptions of the requirements applicable to pricing and selling securities that are generally in current prospectuses. However, because the manner in which the public offering price is determined is a particular attribute of a mutual fund, the prospectus would have to include a brief explanation of this aspect of the offering. The prospectus would also include the name and address of any principal underwriter for the registrant. Item 7 also requires that the prospectus state whether there are any special purchase plans, and, if so, from whom additional information may be obtained. Finally, the registrant would have to include information about any plan to pay distribution expenses pursuant to rule 12b–1 under the 1940 Act (17 CFR 270.12b–1).

Item 8—Redemption or Repurchase

Item 8 requires a brief description of the procedures for redeeming the registrant's shares or having shares repurchased by the registrant, including any charges or restrictions thereon. In order to illustrate such procedures, the registrant may provide examples in response to Item 10 of the Statement of Additional Information. In addition, Item 8 requires brief discussions of provisions for involuntary redemptions, delays in redemptions, and reinvestment privileges for persons who redeem.

Item 9—Pending Legal Proceedings

Item 9 is identical to current Item 8 of Form N–1. Accordingly, registrants would not have to discuss pending legal proceedings unless those proceedings were likely to have a materially adverse effect on the registrant or impair the ability of the investment adviser or principal underwriter to perform its contractual obligations.

2. *Part B: Statement of Additional Information.* General speaking Part B of Form N–1A is designed to elicit additional information about the matters discussed in the prospectus (as well as to provide guidance as to what is not required in the prospectus). The specific items are generally identical or closely related to items in Form N–1 and therefore most are not discussed herein. However, certain matters merit separate mention.

Disclosure as to Portfolio Manager

Some institutional investors have expressed an interest in more disclosure about individuals who have direct responsibility for portfolio management. In light of this interest, Item 5 of Part B

of proposed Form N–1A would require the registrant to identify any individual or committee that manages 25 percent or more of the fund's portfolio and to state the date on which such duties were assumed.

Yield Quotations for Money Market Funds

Form N–1 provides for prospectus disclosure with respect to seven-day yield quotations of money market funds. The primary purpose of this item is to provide a mechanism to permit money market funds to quote current yield figures in mass media advertisements pursuant to rule 482 under the 1933 Act. Since it does not appear essential to supply this information routinely to all investors, proposed Form N–1A would require that it be in Part B (Item 13). If the Commission adopts this proposal, corresponding amendments to rule 482 will be necessary. Such amendments are not proposed herein because the Commission is considering proposing other amendments to rule 482 in the future and believes that any such amendments to rule 482 should be proposed at the same time. The Commission does not expect proceeding in this manner to result in any delays in necessary technical amendment of the rule.

Financial Statements

Under proposed Form N–1A the condensed financial information required by Item 3 of Part A would be the only financial information in the prospectus, and the full financial statements of the fund would be in the Statement of Additional Information. Eliminating the full financial statements would significantly reduce the size of prospectuses, and the Commission believes that the condensed financial information that would continue to be in the prospectus would be sufficiently comprehensive to satisfy the needs of most investors. The full financial statements would, of course, be available free of charge to any prospective investor who desired them. However, the Commission invites specific comment on whether it is appropriate for the prospectus to omit full financial statements and, in particular, the schedule or portfolio securities. Commentators are requested to support their position by supplying dollar figures, if possible, where the reasons relate to costs.

3. *Part C.* Part C of proposed Form N–1A concerns information that is required in the registration statement, but is not required to be in either the prospectus or the Statement of Additional Information. Proposed Part C requires information that is essentially the same as that now required in Part II of Form N–1.

Proposed Staff Guidelines

Over the years there have been numerous releases setting forth the views of the Commission and the staff on matters affecting investment company disclosure. In addition, the staff has developed certain policies that have not been formally enunciated. Generally speaking these releases and policies deal with discrete subjects, although the Commission in 1972 issued comprehensive guidelines for the completion of the registration forms then applicable to investment companies (Investment Company Act Release Nos. 7220 and 7221 (June 9, 1972) 37 FR 12790 (June 24, 1972)). In order to assist registrants in preparing Form N–1A, the Commission proposes to issue a set of staff guidelines. The Commission is publishing the proposed guidelines as Appendix B to this release so that the Commission and the staff may have the benefit of public comment. Generally speaking the proposed guidelines adapt existing policies to the proposed new disclsoure format; however, in certain areas (*e.g.*, commodities and options), it appears necessary to update past positions. Accordingly, comment is invited on these and other subjects not covered by the proposed guidelines in order to assist the Commission and the staff in developing appropriate guidelines in these areas.

Proposed New Rules

The disclosure format for the proposed Form N–1A substantially differs from other formats currently in use. Consequently, certain changes would have to be made in a number of rules under the various securities laws that are applicable to investment company prospectuses. The Commission is proposing to implement the necessary changes by adding certain new rules to Regulation C under the 1933 Act and under section 8(b) of the 1940 Act [15 U.S.C. 80a-8(b)] relating to new Form N–1A. The proposed new rules to be added to Regulation C involve technical changes from existing rules and are intended to provide clarification of how certain rules should be applied to the three-part registration format of Form N–1A, as well as to delete inappropriate references to Form N–1. The proposed new rules under section 8(b) also involve minor technical changes from existing rules and are intended to provide clarification of how certain existing rules should be applied to the proposed three-part format of Form N–1A.

Insurance Company Separate Accounts

Proposed Form N–1A would not be available for insurance company separate accounts registered under the 1940 Act as management investment companies ("management accounts"). These accounts currently use Form N–1 to register under the 1940 Act and use that form to register securities under the 1933 Act. The Commission believes that the characteristics of separate accounts and of the variable products they offer warrant disclosure different from that of the open-end management investment companies, and therefore that there should be separate registration forms designed for such accounts. Until such forms are adopted, Form N–1 will be retained for use by management accounts. However, Form N–1A, as proposed, would be available for use by open-end investment companies that serve as the underlying portfolio companies for separate accounts registered under the 1940 Act as unit investment trusts.

Transition Period

If the Commission adopts Form N–1A as proposed or modified, that Form will eventually supplant Form N–1. However, in order to permit both the Commission and the industry to adjust to the new form in an orderly way, the Commissiom would expect to provide for transition period of one year during which all registrants could use either form. Thereafter, until revised registration forms for insurance company separate accounts are adopted, Form N–1 will be retained for use only by such separate accounts.

Legal Considerations

The Commission proposes to adopt Form N–1A pursuant to section 10 of the 1933 Act, which sets forth the Commission's authority with respect to the content of prospectuses. Section 10(a)(1) generally requires that prospectuses include most of the information referred to in Schedule A under the 1933 Act. However, section 10(a)(4) authorizes the Commission to permit any of that information to be omitted, and section 10(c) authorizes the Commission to require other information in the prospectus, in both cases to the extent that the Commission determines that doing so is "necessary or appropriate in the public interest or for the protection of investors." In addition, sections 10(d) and(e) give the Commission certain authority with respect to prospectus format. Although section 10 does not specifically authorize requiring that a Statement of Additional Information be provided in

addition to the prospectus, the Commission believes that such authority is implicit. Since the Commission could, in light of its broad authority to determine the form and content of prospectuses, require that all of the information in the Statement of Additional Information be included in the prospectus, the Commission believes that it is consistent with its authority under section 10, as well as its general rulemaking authority set forth in section 19(a) of the 1933 Act (15 U.S.C. 77s(a)), to permit such information to be omitted from the prospectus, subject to the condition that it be provided to prospective investors upon request.

Section 19(a) of the 1933 Act provides that no provision of that Act "imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule of the Commission," and, as stated, Form N–1A is intended to provide guidance as to what information the Commission believes should be in the prospectus. Nevertheless, the Commission recognizes that some registrants using Form N–1A may be concerned that omitting information from the prospectus could expose them to liability for the use of a prospectus that fails to state a material fact. Section 11 (15 U.S.C. 77k) of the 1933 Act provides security holders with a civil remedy for false or misleading statements in a registration statement and for material omissions to state facts required to be stated therein. This provision concerns the registration statement as a whole, so presumably there would be no potential liability for the registrant and others in omitting information from Part A (the prospectus) when that information is in Part B. Section 12(2) (15 U.S.C. 77b(2)) of the 1933 Act, however, provides security holders with a civil remedy with respect to the use of a prospectus or oral communication that includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements, in light of the circumstances under which they were made, not misleading.[4] This provision applies notwithstanding the Commission's authority under Section 10 to prescribe the form and content of prospectuses. Accordingly, while the Commission believes in light of Section 19(a) that, under ordinary circumstances, the registrant's discussion of the various disclosure items of Form N–1A (as designated in Parts A and B) "in good faith in conformity with" the form would not result in liability under Section 12(2), the Commission recognizes that there may be concern that a court could impose liability if it found that certain information in Part B constituted a material fact necessary to make the statements required in the prospectus not misleading.

The Commission requests comments as to whether this concern is valid and, if so, how it should be addressed. One possibility is to permit incorporation by reference of the Statement of Additional Information into the prospectus. The Commission has not heretofore permitted such incorporation in mutual fund prospectuses unless the information so incorporated is actually delivered with the prospectus. Taking this approach to incorporation of Part B would obviously vitiate the Commission's attempt to provide for shorter, simpler prospectuses. On the other hand, based on past experience, the Commission anticipates that some commentators may argue that permitting incorporation by reference of Part B without delivery could adversely affect the legal rights of fund investors, to the extent that they might be deemed to have received information which was not in fact supplied to them. Moreover, this practice might raise, rather than eliminate, questions of issuer liability. Commentators might assert that incorporation by reference of Part B into Part A could be construed as an admission by the issuer that without Part B the prospectus does not contain information sufficient to meet the requirements of section 12(2), and, if the prospectus is delivered without the incorporated material, questions might be raised as to whether an adequate prospectus has been delivered.

In light of the foregoing concerns, the Commission has not provided in Form N–1A for incorporation of Part B into the prospectus by reference. However, the Commission's tentative view is that it would not object if registrants did so.

Because the Commission's action on this matter will depend on its evaluation of the comments received, the instructions to the proposed form relating to incorporation by reference have not been changed from the corresponding instructions to Form N–1, except to update references to various Commission rules on the subject and to reflect the changes in prospectus requirements for financial information. After the Commission's determination of the policy to be applied with respect to incorporation by reference, appropriate technical amendments will be made to the relevant rules and instructions to the proposed form.

Costs and Benefits

The proposed revision of the registration form used by mutual funds released today for public comment is intended to shorten and simplify the prospectus provided to investors, while making more extensive information available. Although implementation of this revised reporting system will initially result in additional costs to both the Commission and the investment company industry, the Commission believes that the potential benefits of such a system to the Commission, the industry and the investor will in time far exceed those additional initial costs. The Commission would, however, like to develop specific data concerning this matter. Therefore, the Commission is seeking specific comment concerning the cost savings or cost burdens to investment companies of all sizes affected by this proposal. In this regard, pursuant to the Regulatory Flexibility Act, the Commission requests specific comment on the effect which this proposal might have on the costs of smaller investment companies.

Text of Proposed New Rules

The proposed new rules, discussed above, relating to new Form N–1A are set forth below. The Commission proposes that rules relating to the use of Form N–1A be adopted in addition to existing rules, which also remain in effect as long as current Form N–1 is still in use by some types of management investment companies. In substance, the new rules would be amendments to existing rules and would have corresponding rule numbers; they would be distinguished from their counterpart existing rules by the addition of a capital A to the rule number.

List of Subjects

12 CFR Part 239

Reporting requirements, Securities.

12 CFR Part 270

Investment companies, Reporting requirements, Securities.

12 CFR Part 274

Investment companies, Reporting requirements, Securities.

[4] In addition to the specific private rights of action provided in sections 11 and 12 of the 1933 Act, section 17(a) (15 U.S.C. 77q(a)) of the 1933 Act and rule 10b–5 (15 U.S.C. 78j(b)) under the Securities Exchange Act of 1934 may also need to be considered if a person includes in a prospectus an untrue statement of a material fact or omits to state a material fact that is necessary in order to make the information required in the prospectus not misleading.

Text of Proposed Rules and Form

The Commission is proposing to amend Chapter II, Title 17 of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By adding § 230.404A to read as follows:

§ 230.404A Preparation of registration statement.

(a) A registration statement on Form N–1A shall consist of the facing sheet of the applicable form cross-reference sheet; a prospectus containing the information called for by such form: the information, list of exhibits, undertakings and signatures required to be set forth in such form; financial statements and schedules; exhibits; any other information or documents filed as part of the registration statement; and all documents or information incorporated by reference in the foregoing (whether or not required to be filed).

(b) All general instructions, instructions to items of the form, and instructions as to financial statements, exhibits, or prospectuses are to be omitted from the registration statement in all cases. (c) In the case of a registration statement filed on Form N–1A, Parts A and B shall contain the information called for by all of the items of the applicable form, except that unless otherwise specified, no reference need be made to inapplicable items, and negative answers to any item may be omitted. Copies of Parts A and B may be filed as a part of the registration statement in lieu of furnishing the information in item-and-answer form. Wherever such copies are filed in lieu of information in item-and-answer form, the text of the items of the form is to be omitted from the registration statement, as well as from Parts A and B, except to the extent provided in paragraph (d) of this rule. (d) In the case of a registration statement filed on Form N–1A, where any items of Form N–1A call for information not required to be included in Parts A and B, (generally Part C of such form) the text of such items, including the numbers and captions thereof, together with the answers thereto shall be filed with Parts A and B under cover of the facing sheet of the form as a part of the registration statement. However, the text of such items may be omitted provided the answers are so prepared as to indicate the coverage of the item without the necessity of reference to the text of the item. If any such item is inapplicable or the answer thereto is in the negative, a statement to that effect shall be made. Any financial statements not required to be included in Parts A or B shall also be filed as a part of the registration proper, unless incorporated by reference to Rule 411 (§ 230.411).

2. By adding § 230.427A to read as follows:

§ 230.427A Contents of prospectus used after nine months.

In the case of a registration statement filed on Form N–1A, there may be omitted from any prospectus or Statement of Additional Information, used more than 9 months after the effective date of the registration statement any information previously required to be contained in the prospectus or Statement of Additional Information, insofar as later information covering the same subjects, including the latest certified financial statement, as of a date not more than 16 months prior to the use of the prospectus or Statement of Additional Information, is contained therein.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

3. By adding § 270.8b–11A to read as follows:

§ 270.8b–11A Number of copies-signature-binding.

(a) In the case of a registration stetement filed on Form N–1A, three complete copies of each part of the registration statement (including exhibits and all other papers and documents filed as part of Part C of the registration statement) shall be filed with the Commission.

(b) At least one copy of the registration statement or report shall be manually signed in the manner prescribed by the appropriate form. If the registration statement or report is typewritten, one of the signed copies filed with the Commission shall be the original "ribbon" copy. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the registration statement or report.

(c) Each copy of a registration statement or report filed with the Commission shall be bound in one or more parts, without stiff covers. The binding shall be made on the left-hand side and in such manner as to leave the reading matter legible.

4. By adding 270.8b–12A to read as follows:

§ 270.8b–12A Requirements as to paper, printing and language.

(a) In the case of a registration statement file on Form N–1A, Part C of the registration statement shall be filed on good quality, unglazed, white paper, no larger than 8½x11 inches in size, insofar as practicable. The prospectus and Statement of Additional Information, however, may be filed on smaller sized paper provided that the size of paper used in each document is uniform.

(b) The registration statement or report and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed or typewritten. However, the registration statement or report or any portion thereof may be prepared by any similar process which, in the opinion of the Commission, produces copies suitable for permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(c) The body of all printed registration statements and reports and all notes to financial statements and other tabular data included therein shall be in roman type at least as large as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other statistical or tabular data, including tabular data in notes, may be set in type at least as large and as legible as 8-point modern type. All type shall be leaded at least 2 points.

(d) Registration statements and reports shall be in the English language. If any exhibit or other paper or document filed with a registration statement or report is in a foreign language, it shall be accompanied by a translation into the English language.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

5. By adding § 239.15A to read as follows:

§ 239.15A Form N–1A, registration statement of open-end management investment companies.

Form N–1A shall be used for the registration under the Securities Act of 1933 of securities of open-end management investment companies other than registered separate accounts of insurance companies registered under the Investment Company Act of 1940 (on form N–1) (§ 274.11 of this chapter). This

form is also to be used for the registration statement of such companies pursuant to Section 8(b) of the Investment Company Act of 1940 (§ 274.11A of this chapter). This form is not applicable for small business investment companies which register pursuant to § 239.24 and § 274.5 of this chapter.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

6. By adding § 274.11A to read as follows:

§274.11A Form N–1A, registration statement of open-end management investment companies.

Form N–1A shall be used as the registration statement to be filed pursuant to Section 8(b) of the Investment Company Act of 1940 by open-end management investment companies other than registered separate accounts of insurance companies or companies which issue periodic payment certificates or which are sponsors or depositors of companies issuing such certificates. This form shall also be used for registration under the Securities Act of 1933 of the securities of all open end management investment companies other than registered separate accounts of insurance companies. This form is not applicable for small business investment companies which register pursuant to § 293.24 and 274.5 of this chapter.

Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding Form N–1A proposed herein. The Analysis notes that the proposed three-part form will substantially simplify and shorten the present fund prospectus making it more comprehensible to prospective investors while at the same time enabling more sophisticated investors to receive more extensive information upon request.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Aviva L. Grossman, Office of Disclosure Legal Services, Securities and Exchange Commission, Room 5136, 450 Fifth Street, N.W., Washington, D.C. 20549.

Statutory Authority

The Commission hereby publishes for comments proposed Form N–1A and rules 404A and 427A of the Securities Act of 1933 and rules 8b–11A and 8b–12a of the Investment Company Act of 1940, pursuant to the provisions of sections 7 and 10 of the Securities Act of 1933 (15 U.S.C. 77g and 77j) and sections 8 and 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–8 and 80a–29). By the Commission.

Shirley E. Hollis,

Assistant Secretary.

December 27, 1982.

Appendix A

Form N–1A

SECURITIES AND EXCHANGE COMMISSION, Washington, D.C. 20549

Form N–1A

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933 ☐
Pre-Effective Amendment No. —— ☐
Post-Effective Amendment No. —— ☐
and/or
REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940 ☐

Amendment No. ——

(Check appropriate box or boxes.)

(Exact Name of Registrant as Specified in Charter)

(Address of Principal Executive Offices) (Zip Code)

Registrant's Telephone Number, including Area Code——

(Name and Address of Agent for Service)

Approximate Date of Proposed Public Offering ——

It is proposed that this filing will become effective (check appropriate box)

—immediately upon filing pursuant to paragraph (b)

—on (date) pursuant to paragraph (b)

—60 days after filing pursuant to paragraph (a)

—on (date) pursuant to paragraph (a) of rule (485 or 486)

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of Securities Being Registered	Amount Being Registered	Proposed Maximum Offering Price per Unit	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee

If the Registration Statement or an amendment thereto is being filed under only one of the Acts, reference to the other Act should be omitted from the facing sheet. The "Approximate Date of Proposed Public Offering" and the table showing the calculation of the registration fee under the Securities Act of 1933 should be included only where shares are being registered under the Securities Act of 1933. Registrants that are registering an indefinite number of shares under the Securities Act of 1933 in accordance with the provisions of Rule 24f–2 under the Investment Company Act of 1940 [17 CFR 270.24f–2] should include the declaration required by Rule 24f–2(a)(1) on the facing sheet, in lieu of the table showing the calculation of the registration fee under the Securities Act of 1933 or in combination therewith, as appropriate.

Investment Company Act—Forms

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Summary Prospectus

General Instructions

A. Rule as to Use of Form N–1A

Form N–1A shall be used by all open-end management investment companies except small business investment companies licensed as such by the United States Small Business Administration and insurance company separate accounts as defined in Section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3)) for filing: (1) An ititial registration statement required by Section 8(b) (15 U.S.C. 80a–8(b)) of the 1940 Act, (2) an annual amendment thereto, (3) a registration statement required under the Securities Act of 1933 ("1933") and any amendments thereto, or (4) any combination of the above 1940 Act and 1933 Act filings.

B. Registration Fees

Section 6(b) of the 1933 Act and Rule 457 (17 CFR 230.457) thereunder set forth the fee requirements under the 1933 Act. Rule 8b–6 (17 CFR 270.8b–6) under the 1940 Act sets forth the fee requirements for filing an initial registration statement under that Act. The 1940 Act fee is in addition to the fee required to be paid under the 1933 Act. Registrants that are registering an indefinite number of their shares are also directed to Rule 24f–2 under the 1940 Act (17 CFR 270.24(f)–2) for purposes of computing the filing fee.

C. Application of General Rules and Regulations

If the registration statement is being filed under both Acts or under only the 1933 Act, the General Rules and Regulations under the 1933 Act, particularly those comprising Regulation C (17 CFR 230.400–494), shall apply, and compliance therewith will be deemed compliance with the corresponding Rules pertaining to Registration Statements under the 1940 Act. However, if the registration statement is being filed under only the 1940 Act, the General Rules and Regulations under that Act, particularly those comprising Regulation 8(b) (17 CFR 270..8b–1 to 8b–32), shall apply, except as noted in General Instruction D below.

D. Amendments

1. Attention is specifically directed to Rule 8b–16 (17 CFR 270.8b–16) under the 1940 Act which requires annual amendments of Registration Statements filed pursuant to Section 8(b) of the 1940 Act. Where Form N–1A has been used to file a registration statement under both the 1933 and 1940 Acts, any amendment of that registration statement shall be deemed to be filed under both Acts unless otherwise indicated on the facing sheet. Irrespective of the purpose for which an amendment is filed, the number of copies of amendments specified in Rule 472 (17 CFR 230.472) under the 1933 Act shall be filed with the Commission.

E. Incorporation by Reference

Attention is directed to Rule 411, under the 1933 Act (17 CFR 230.411), and Rules 0–4, 8b–23 and 8b–32 under the 1940 Act (17 CFR 270.0–4, 270.8b–23 and 270.8b–32) for guidelines governing incorporation by reference of information into a registration statement filed on Form N–1A contained in other statements, applications or reports filed with the Commission. In general, a Registrant may incorporate by reference, in answer to any item in a registration statement on Form N–1A not required to be included in a prospectus, any information contained elsewhere in the registration statement or any information contained in other statements, applications or reports filed with the Commission.

Attention is also directed to Rule 24 of the Commission's Rules of Practice (17 CFR 201.24). The above incorporation by reference rules under both the 1933 Act and the 1940 Act are subject to the limitations of rule 24. Since the provisions of Rule 24 may be amended from time to time, Registrants are advised to review the Rule as in effect at the time the Registration Statement is filed prior to incorporating by reference any document as exhibit to such Registration Statement.

Subject to the above rules, a registrant may incorporate by reference, in response to Item 3(a) of Part A of this Form, "Condensed Financial Information", the information contained in any report to shareholders meeting the requirements of Section 30(d) of the 1940 Act (15 U.S.C. 80a–29(d)) and Rule 30d–1 (17 CFR 270.30d–1) thereunder, provided the following additional conditions are satisfied:

1. The material that is incorporated by reference is prepared in accordance with, anbd covers the periods specified by, this Form;

2.The registrant includes a statement at the place in the prospectus where the information required by Item 3(a) would otherwise appear that the information is incorporated by reference from a report to shareholders. The registrant, at its option, may also specifically discribe, in either the prospectus or both the prospectus and Part C of the Registration Statement (in response to Item 1(a)), those portions of the report to shareholders that are not incorporated by reference and are not a part of the Registration Statement; and

3. The material incorporated by reference is provided along with the prospectus to each person to whom the prospectus is sent or given, unless the person to whom such prospectus is provided currently holds securities of the registrant and otherwise has received a copy of the material incorporated by reference, in which case the registrant shall state in the prospectus that it will furnish, without charge, a copy of such report on request, and the name, address and telephone number of the person to whom such a request should be directed.

F. Documents Comprising Registration Statement or Amendment

1. A registration statement or an amendment thereto filed under both the 1933 and 1940 Acts shall consist of the facing sheet of the Form, Part A, Part B, Part C, required signiatures, and all other documents which are required or which the Registrant may file as a part of the registration statement.

2. Except for an amendment to a 1933 Act registration statement filed only pursuant to the provisions of Sections 24(e) or (f) of the 1940 Act, (15 U.S.C. 80a–24(e), 80a–24(f)) a registration statement or an amendment thereto which is filed under only the 1933 Act shall contain all the information and documents specified in paragraph 1 of this Instruction F.

3. An amendment to a 1933 Act registration statement filed only pursuant to the provisins of Section 24(e) or (f) of the 1940 Act to register additional securities need only consist of the facing sheet of the Form, required signatures, and, if filed pursuant to Section 24(e) of the 1940 Act, an opinion of counsel as to the legality of the securities being registered. Registrants are remined that an opinion of counsel is required to accompany a Rule 24f–2 notice that must be filed by registrants that have registered an indefinite number of their shares.

4. A registration statement or an amendment thereto which is filed under only the 1940 Act shall consist of the facing sheet of the Form, responses to all Items of Parts A and B except Items 1, 2, and 3 of Part A thereof, responses to all items of Part C except Items 1 (b)(6), 1(b)(10), 1(b)(11) and 1(b)(12), required signatures, and all other documents which are required or which the Registrant may file as part of the registration statement.

General Instruction

G. Preparation of the Registration Statement or Amendment

Instructions for the completion of Form N–1A are divided into three parts. Part A pertains to information that must be in the prospectus required by Section 10(a) of the Securities Act of 1933. Part B pertains to information that must be in the statement of additional information that must be provided upon request to recipients of the prospectus. Part C pertains to other information that is required to be in the registration statement.

Part A: The Prospectus

The purpose of the prospectus is to provide essential information about the Registrant in a way that will assist investors in making informed decisions about whether to purchase the securities being offered. Because investors who rely on the prospectus may not be sophisticated in legal or financial matters, care should be taken that the information in the prospectus is set forth in a clear, concise, and understandable manner. Extensive use of technical or legal terminology or complex language and the inclusion of excessive detail may make the prospectus difficult for many investors to understand and may, therefore, detract from its usefulness. Accordingly, Registrants should adhere to the following guidelines in responding to the items in Part A:

1. Responses to these items, particularly those that call for a brief description, should be as simple and direct as reasonably possible and should include only as much information as is necessary to an understanding of the fundamental characteristics of the Registrant. Brevity is particularly important in describing practices or aspects of the Registrant's operations that do not differ materially from those of other investment companies.

2. Descriptions of practices that are necessitated or otherwise affected by legal requirements should generally not include detailed discussions of such requirements.

3. Responses to those items that use terminology such as "list" or "identify" should include only a minimum or explanation or description of the matters being listed or identified.

Part B: Statement of Additional Information

The items in Part B are designed to elicit additional information about Registrants that the Commission has concluded it is not necessary or appropriate in the public interest or for the protection of investors to require in the prospectus but which may be of material interest to at least some investors. In addition, Part B affords Registrants an opportunity to augment discussions of the matters described in the prospectus by including additional information about such matters that Registrants believe may be of material interest to at least some investors.

In most cases it should not be necessary for Registrants to duplicate in Part B, information that is required to be contained in the prospectus. However, it should be noted that the prospectus and the statement of additional information are independent documents. Therefore, Part B of this Form N–1A, the statement of additional information, should be prepared so as to be comprehensible standing alone.

General Instructions for Parts A and B

1. The information contained in the prospectus and the statement of additional information should be organized in such a way as to enhance understanding of the organization and operation of the Registrant. However, the information required by the items need not be set forth in the prospectus or statement of additional information in any particular order, with the following exceptions:

(a) Items 1, 2 and 3 of Part A must be set forth in the prospectus in the same order in which the Items appear in this form.

(b) Item 3 of Part A, "Condensed Financial Information," should not be further back in the prospectus than the fifth page thereof and should not be preceded by any other chart or table (except for the table of contents required by Rule 481(c) (17 CFR 230.481(c)) under the 1933 Act).

2. The prospectus or statement of additional information may include information in addition to that called for by the applicable items of this form, provided that such information is not incomplete, inaccurate, or misleading. However, care should be taken that inclusion of such information does not, by virtue of its nature, quantity, or manner of presentation, obscure or impede understanding of the information that is required to be included.

3. Appropriate cross-references should be used within the prospectus or statement of additional information or between the prospectus and statement of additional information whenever necessary or desirable to call attention to information that is included elsewhere that is useful to an understanding of a particular matter being discussed.

4. The statutory provisions relating to the dating of the prospectus apply equally to the dating of the statement of additional information for purposes of Rule 423 under the 1933 Act (17 CFR 230.423). Furthermore, the statement of additional information should be made available to investors as of the same time that the prospectus becomes available for purposes of Rules 430 and 460 under the 1933 Act (17 CFR 230.430, 230.460).

Part A Information Required in a Prospectus

Item 1. *Cover Page*

(a) The outside cover page is required to contain the following information:

(i) The registrant's name;

(ii) Identification of the type of fund (e.g., money market fund, bond fund, balanced fund, etc.) or a brief statement of the Registrant's investment objectives;

(iii) A statement or statements that (A) the prospectus sets forth concisely information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be retained for future reference; (C) additional information about the Registrant has been filed with the Commission and is available upon request and without charge (This statement should include appropriate instructions about how to obtain such additional information.);

(iv) The date of the prospectus;

(v) The statement required by Rule 481(b)(1) (17 CFR 230.481(b)(1)) under the 1933 Act; and

(vi) Such other items of information as are required by rules of the Commission or of any other governmental authority having jurisdiction over the Registrant for the issuance of its securities.

(b) The cover page may include other information, but care should be taken that such additional information does not, either by its nature, quantity, or manner of presentation, impede understanding of the information required to be presented.

Item 2. *Synopsis*

(a) If the prospectus without a synopsis would be twelve pages or less when printed in the manner in which it was to be delivered to investors, the synopsis may be omitted.

(b) If included in the prospectus, the synopsis should be a clear and concise description of the salient features of the offering and the Registrant, with appropriate cross-references to relevant disclosures elsewhere in the prospectus or in the statement of additional

information required by Part B of the registration statement. The information required to appear in the synopsis need not be set forth in the same order or manner as described herein and it may be presented in question-and-answer format.

(c) The synopsis must include:

(i) A brief description of the Registrant including at least the following:

(A) A brief description of how the Registrant proposes to achieve its investment objectives, including identification of the types of securities in which the Registrant proposes to invest primarily and a statement as to whether the Registrant proposes to operate as a diversified or non-deversified investment company;

(B) A summary of the principal speculative or risk factors associated with investment in Registrant, including factors peculiar to the Registrant as well as those generally attendant to investment in an investment company with objectives and policies similar to Registrant's;

(C) If the Registrant has an operating history of at least one full fiscal year, a statement of the total expenses incurred by the Registrant in the previous fiscal year as a dollar amount and as a percentage of net assets and any statement of any direct charges made by the Registrant to shareholder accounts during such fiscal year. If the Registrant does not have an operating history of one full fiscal year, the maximum investment advisory or other asset based fee that may be charged and a list of the other significant types of expenses the Registrant expects to incur including any direct charges to shareholder accounts;

(D) The nature of the securities being offered;

(ii) The name of the investment adviser; and, if any other person provides services of the type customarily provided by an investment adviser, the identity of such person and the services so provided;

(iii) Provide a cross-reference to the description in the prospectus of how to purchase the securities being offered;

(iv) Provide a cross-reference to the description in the prospectus of how a shareholder may effect redemption and, if applicable, a repurchase transaction.

(d) The synopsis may include other information, but care should be taken that such additional information does not, either by its nature, quantity, or manner of presentation, impede understanding of the information required to be presented.

Item 3. *Condensed Financial Information*

(a) Furnish the following information for the Registrant, or for the Registrant and its subsidiaries consolidated as prescribed in Rule 6-02 (17 CFR 210.6-02) of Regulation S-X.

PER SHARE INCOME AND CAPITAL CHANGES

(for a share outstanding throughout the year)

1. Investment income;
2. Expenses;
3. Net investment income;
4. Dividends from net investment income;
5. Net realized and unrealized gains (losses) on securities;
6. Distributions from net realized gains on securities;
7. Net increase (decrease) in net asset value;
8. Net asset value at beginning of period;
9. Net asset value at end of period;

RATIOS

10. Expenses to average net assets;
11. Net investment income to average net assets;
12. Portfolio turnover rate;
13. Number of shares outstanding at end of period.

Instructions

1. The information shall be presented in comparative columnar form for each of the last ten fiscal years of the Registrant (or for the life of the Registrant and its immediate predecessors, if less) but only for periods subsequent to the effective date of Registrant's first 1933 Act Registration Statement. In addition, the information shall be presented for the period between the end of the latest fiscal year and the date of the latest balance sheet or statement of assets and liabilities furnished.

2. Per share amounts shall be given at least to the nearest cent. If the computation of the offering price is extended to tenths of a cent or more, then the amounts on the table shall be given in tenths of a cent.

3. Appropriate adjustments shall be made and indicated in a footnote to reflect any stock split-up or stock dividend during the period.

4. If the investment adviser has been changed during the period covered by this Item, the date(s) of such change(s) should be shown in a footnote.

5. The condensed financial information for not less than the latest five fiscal years shall be audited.

6. The amount of be shown at caption 3 is derived by adding (deducting) the increase (decrease) per share in undistributed net income for the year to dividends from net investment income per share for the year (caption 4). Such increase (decrease) may be derived from a comparison of the per-share figures obtained by dividing the undistributed net income at the beginning and end of the year by the number of shares outstanding on those respective dates. (Any other acceptable method should be explained in a footnote to this table.) The amounts to be shown at captions 1 and 2 are derived by applying to the net investment income on a per-share basis the ratio of such items, as shown in the financial statements prepared under Rule 6-04 (17 CFR 210.6-04) of Regulation S-X, to the net income as shown in such statements.

7. "Epenses," as used in caption 2 above, include the expenses described in captions 2 and 3 of Rule 6-04 of Regulation S-X. If there were income deductions such as those described in captions 4 and 6 of that Rule, compute the per-share amounts thereof and state them separately immediately after caption 2 above.

8. The amount to be shown at caption 5, while mathematically determinable by the summation of amounts computed for as many periods during the year as shares were sold or repurchased (which could be as often as twice daily) is also the balancing figure derived from the other figures in the statement and should be so computed. The amount shown at this caption for a share outstanding throughout the year may not accord with the change in the aggregate gains and losses in the portfolio securities for the year because of the timing of sales and repurchase of Registrant's shares in relation to fluctuating market values for the portfolio.

9. Distributions not exceeding the capital gains computed on the Federal tax basis may be treated as distributions from net realized profits on securities for purposes of the above table, even though they exceed such profits on a book basis.

10. If any distributions were made from capital sources other than net realized profits on securities, state the per share amounts thereof separately immediately below caption 6. In a footnote indicate the nature of such distributions.

11. The "average net assets," as used in captions 10 and 11, shall be computed upon the basis of the value of the net assets determined no less frequently than as of the end of each month.

12. The portfolio turnover rate to be shown at caption 12 shall be calculated in accordance with the following instructions:

a. The rate of portfolio turnover shall be calculated by dividing (A) the lesser of purchases or sales of portfolio securities for the particular fiscal year by (B) the monthly average of the value of the portfolio securities owned by the Registrant during the particular fiscal year. Such monthly average shall be calculated by totaling the values of the portfolio securities as of the beginning and end of the first month of the particular fiscal year and as of the end of each of the succeeding eleven months, and dividing the sum by 13.

b. For the purposes of this Item, there shall be excluded from both the numerator and the denominator all U.S. Government securities (short-term and long-term) and all other securities, including options, whose maturities or expiration dates at the time of acquisition were one year or less. Purchases shall include any cash paid upon the conversion of one portfolio security into another. Purchases shall also include the cost of rights or warrants purchased. Sales shall include the net proceeds of the sale of rights or warrants. Sales shall also include the net proceeds of portfolio securities which have been called, or for which payment has been made through redemption or maturity.

c. If during the fiscal year the Registrant acquired the assets of another investment company or of a personal holding company in exchange for its own shares, it shall exclude from purchases the value of securities so acquired, and from sales all sales of such securities made following a purchase-of-assets transaction to realign the Registrant's portfolio. In such event, the Registrant shall also make appropriate adjustment in the denominator of the portfolio turnover computation. The Registrant shall make appropriate disclosure of such exclusions and adjustments in its answer to this item.

d. Short sales, and put and call options expiring more than one year from date of acquisition, are included in purchases and sales for purposes of this Item. A short sale should be treated as an increase in sales and the covering of a short sale should be treated as an increase in purchases.

13. The number of shares outstanding at the end of each period may be shown to the nearest thousand (000 omitted), provided it is indicated that such has been done.

(b) Furnish the following information as of the end of each of the Registrant's last ten fiscal years with respect to each class of senior securities (including bank loans) of the Registrant. If consolidated statements were prepared as of any of the dates specified, the information shall be furnished on a consolidated basis:

Year	Amount of Debt outstanding at end of period	Average amount of debt outstanding during the period	Average number of registrant's shares outstanding during the period	Average amount of debt per share during the period
(1)	(2)	(3)	(4)	(5)

Instructions

1. Instructions 1, 2 and 5 to Item 3(a) shall also apply to this sub-item.

2. The method used to determine the averages shown above (e.g., weighted, monthly, daily, etc.) shall be appropriately set forth.

3. Column 5 is derived by dividing the amount shown in column 3 by the number shown in column 4.

Item 4. *General Description of Registrant*

(a) Concisely discuss the organization and operation or proposed operation of the Registrant. Include the following:

(i) Basic identifying information, including:

(A) The date and form of organization of the Registrant and the name of the state or other soverign power under the laws of which it is organized; and

(B) The classification and subclassification of the Registrant pursuant to Sections 4 and 5 of the 1940 Act (15 U.S.C. 80a–4, 80a–5);

(ii) A concise description of the investment objectives and policies of the Registrant, including:

(A) If those objectives may be charged without a vote of the holders of the majority voting securities, a brief statement to that effect;

(B) A brief discussion of how the Registrant proposes to achieve such objectives including:

(1) A short description of the types of securities in which Registrant invests or will invest principally and, if applicable, any special investment practices or techniques that will be employed in connection with investing in such securities; and

(2) If the Registrant proposes to have a policy of concentrating in a particular industry or group of industries; identification of such industry or industries. (Concentration, for purposes of this item, is deemed to be 25% or more of the value of Registrant's total assets invested or proposed to be invested in a particular industry or group of industries. The policy on concentration should not be inconsistent with Registrant's name.);

(C) Subject to subparagraph (b) of this Item, identification of any other policies of Registrant that may not be changed without the vote of the majority outstanding voting securities, including those policies which Registrant deems to be fundamental within the meaning of Section 8(b) of the 1940 Act;

(D) Subject to subparagraph (b) of this Item, a concise description of those significant investment policies or techniques (such as risk arbitrage, repurchase agreements, forward delivery contracts, investing in foreign securities or currency, or investing for control or managment) that are not described pursuant to subparagraphs (B) or (C) above that Registrant employs or has the current intention of employing in the foreseeable future.

(b) Discussion of types of investments that will not constitute Registrant's principal portfolio emphasis, and of related policies or practices should generally receive less emphasis in the prospectus, and under the circumstances set forth below may be omitted or limited to information necessary to identify the type of investment, policy, or practice. Specifically, and notwithstanding paragraph (a) above:

(i) If the effect of a policy is to prohibit a particular practice, or, if the policy permits a particular practice but the Registrant has not employed that practice within the past year and has no current intention of doing so in the foreseeable future, do not include disclosure as to that policy; and

(ii) If such a policy has the effect of limiting a particular practice in such a way that no more than 5% of Registrant's net assets are at risk, if Registrant has not followed that practice within the last year in such a manner that more than 5% of Registrant's assets were at risk, and does not have a current intention of following such practice in the foreseeable future in such a manner that more than 5% of Registrant's net assets will be at risk, disclosure of information in the prospectus about such practice should be limited to that which is necessary to identify the practice.

(c) Discuss briefly the principal risk factors associated with investment in Registrant, including factors peculiar to the Registrant as well as those generally

attendant to investment in an investment company with investment policies and objectives similar to Registrant's.

Item 5. *Management of the Fund*

Describe concisely how the business of the Registrant is managed, including:

(a) A brief description of the responsibilities of the board of directors with respect to management of the Registrant. (In responding to this item, it is sufficient to state that the directors have overall responsibility, in the absence of special circumstances, for the managment of the Registrant and to include cross-references to Part B of the registration statement for the identity of and other information about the directors.)

(b) For each investment adviser of the Registrant:

(i) The name and address of the investment adviser and a brief description of its experience as an investment adviser, and, if the investment adviser is controlled by another person, the name of that person and the general nature of its business (If the investment adviser is subject to more than one level of control, it is sufficient to give the name of the ultimate control person.);

(ii) A brief description of the services provided by the investment adviser. (If in addition to providing investment advice the investment adviser or persons employed by or associated with the investment adviser are, subject to the authority of the board of directors, responsible for overall management of Registrant's business affairs, it is sufficient to state that fact in lieu of listing all services provided.);

(iii) A brief description of the investment adviser's compensation. (If the registrant has been in operation for a full fiscal year, provide the compensation paid to the adviser for the most recent fiscal year as a dollar figure and as a percentage of average net assets. No further information is required in response to this item if the adviser is paid on the basis of a percentage of net assets and if the Registrant has neither changed investment advisers nor changed the basis on which the adviser is compensated during the most recent fiscal year. If the fee is paid in some manner other than on the basis of average net assets, briefly describe the basis of payment. If the registrant has not been in operation for a full fiscal year, state generally what the investment adviser's fee will be as a percentage of average net assets, including any breakpoints, but it is not necessary to include precise details as to how the fee is computed or paid.)

(c) The identity of any other person who provides significant administrative or business affairs management services (e.g., an "Administrator"), and a brief description of the services provided and the compensation to be paid therefor.

(d) The name and principal business address of the transfer agent and the dividend paying agent.

(e) A statement as to the Registrant's expenses. (If the Registrant has been in existence for a full year, it is sufficient to set forth the Registrant's total expenses for the most recent full fiscal year as a dollar amount and as a percentage of average net assets unless the Registrant expects fo incur a material amount of extraordinary expenses in the next year. If the Registrant has not been in operation for a full year, list the types of expenses for which Registrant will be responsible.)

(f) If Registrant engages in any of the following practices, a statement to that effect and a cross-reference to an augmented description in Part B:

(i) Paying brokerage commissions to any broker—

(A) Which is an affiliated person of the Registrant, or

(B) Which is an affiliated person of such person, or

(C) An affiliated person of which is an affiliated person of the Registrant, its investment adviser, or its principal underwriter; and

(ii) Allocating brokerage transactions in a manner that takes into account the sale of investment company securities.

(g) If any affiliated person of the Registrant is or has in the last 10 years been subject to the provisions of Section 9(a) of the 1940 Act (15 U.S.C. 80a–9) or to an order pursuant to Section 9(b) of the 1940 Act, identify such person and provide a brief description of the relevant circumstances.

Item 6. *Capital Stock and Other Securities.*

(a) Describe concisely the nature and most significant attributes of the security being offered, including: (i) A brief discussion of voting rights; (ii) restrictions, if any, on the right freely to retain or dispose of such security; (iii) and any material obligations or potential liability associated with ownership of such security (not including investment risks). If any information is required in response to subparagraphs (ii) and (iii), include a cross-reference to a fuller discussion in Part B.

(b) Identify each person who as of a specified date no more than 30 days prior to the date of filing of this registration statement, controls the registrant. (For purposes of this Item, the term "control" is defined in the instruction to Item 6(a) of Part B of Form N–1A.)

(c) If the rights of holders of such security may be modified otherwise than by a vote of a majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(d) If Registrant has any other classes of securities outstanding (other than bank borrowings or borrowings that are not senior securities under Section 18(g) of the 1940 Act), (15 U.S.C. 80a–18(g)), identify them; indicate whether they have any preference over the security being offered, and include a cross-reference to Part B.

(e) Describe how shareholder inquiries should be made.

(f) Describe briefly the Registrant's policy with respect to dividends and distributions, including any options shareholders may have as to the receipt of such dividends and distributions.

(g) Describe briefly the tax consequences to investors of an investment in the securities being offered. Such description should not include detailed discussions of applicable law. If the Registrant intends to qualify for treatment under Subchapter M, it is sufficient in the absence of special circumstances to state briefly that in that case the Registrant will not pay taxes; that shareholders will be proportionately liable for taxes on income and gains of the Registrant; and that Registrant will inform shareholders of the amount and nature of such income or gains.

Item 7. *Purchase of Securities Being Offered*

Describe briefly how the securities being offered may be purchased. The description should emphasize the procedures to be followed and should minimize discussion of applicable legal requirements. Include:

(a) The name and principal business address of any principal underwriter for Registrant (if any affiliated person of Registrant is an affiliated person of the principal underwriter, so state and identify such person);

(b) A concise explanation of the way in which the public offering price is determined, including: (i) An explanation that the price is based on net asset value and identification of the method used to value the assets (e.g., market value, good faith determination, amortized cost); (ii) a statement as to when calculations of net asset value are made and that the price at which a purchase is effected is based on the next

calculation of net asset value after the order is placed, (iii) the sales charge, if any, as a percentage of the public offering price and as a precentage of the net amount invested for each break-point; (iv) the sales load reallowed to dealers as a percentage of the public offering price (the percentages in (iii) and (iv) should be shown in a tabular presentation); and (v) if any person, such as a broker-dealer or bank, may with Registrant's knowledge impose any charges in connection with purchases, a statement to that effect;

(c) If there are any special purchase plans or methods (e.g., letters of intent, accumulation plans, withdrawal plans, exchange privileges services in connection with retirement plans), list them and state from whom additional information may be obtained;

(d) Any minimum initial or subsequent investment; and

(e) If Registrant pays distribution expenses pursuant to Rule 12b–1 under the 1940 Act (17 CFR 270.12b–1), list the principal types of activities for which payments are or will be made, and: (i) If the plan has been in effect for a full fiscal year, give the total amount spent in the most recent fiscal year as a dollar figure and as a percentage of net assets; or (iii) otherwise briefly describe the basis on which payments will be make (e.g., percentage of net assets, etc.).

Item 8. *Redemption or Repurchase*

(a) Describe briefly all procedures for redeeming the Registrants's shares, any restrictions thereon, and any charges that may be attendant upon redemption. State whether the investor will receive cash or portfolio securities upon redemption.

(b) Describe briefly any procedure whereby a shareholder can sell his shares to the Registrant or its underwriter through a broker-dealer and, if charges may be made for such service, so note.

(c) If the Registrant is permitted to redeem shares involuntarily in accounts below a certain number or value of shares, describe briefly.

(d) If the Registrant may refuse to honor a request for redemption for a certain time after a shareholder's investment, discribe briefly.

(e) If, pursuant to Rule 22d–2 under the 1940 Act [17 CFR 270.22d–2], Registrant provides reinvestment privileges for persons who redeem, briefly describe the terms and procedures for exercising such privileges.

Item 9. *Pending Legal Proceedings*

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the Registrant, any subsidiary of the Registrant, or the investment adviser or principal underwriter of the Registrant is a party. Include the name of the court in which the proceedings are pending, the date instituted, and the principal parties thereto. Include similar information as to any proceedings instituted by a governmental authority or known to be contemplated by governmental authorities.

Instruction

Legal proceedings, for purposes of litigation or governmental proceedings to which the investment adviser or principal underwriter of Registrant is a party, are material only to the extent that: (1) They are likely to have a material adverse effect upon the ability of the investment adviser or principal underwriter to perform its contract with the Registrant; or (2) they are likely to have a material adverse effect on the Registrant.

Part B—Information Required in a Statement of Additional Information

Item 1. *Cover Page*

(a) The outside cover page is required to contain the following information:

(i) The Registrant's name;

(ii) A statement or statements (A) that the statement of additional information is not a prospectus; (B) that the statement of additional information should be read in conjunction with the prospectus; and (C) from whom a copy of the prospectus may be obtained.

(iii) The date of the prospectus to which the statement of additional information relates and such other identifying information as the registrant deems appropriate.

(iv) The date of the statement of additional information.

(b) The cover page may include other information, but care should be taken that such additional information does not, either by its nature, quantity, or manner of presentation, impede understanding of the information required to be presented.

Item 2. *Table of Contents*

Set forth under appropriate captions (and sub-captions) a list of the contents of the statement of additional information and, where useful, provide cross-references to related disclosure in the prospectus.

Item 3. *General Information and History*

If the Registrant has engaged in a business other than that of an investment company during the past five years, state the nature of the other business and give the approximate date on which the Registrant commenced business as an investment company. If the Registrant's name was changed during that period, state its former name and the approximate date on which it was changed. If the change in the Registrant's business or name occurred in connection with any bankruptcy, receivership or similar proceeding or any other material reorganization, readjustment or succession, briefly describe the nature and results of the same.

Item 4. *Investment Objectives and Policies*

(a) Describe clearly the investment policies of the Registrant. It is not necessary to repeat information contained in the prospectus, but, in augmenting the disclosure with respect to those types of investments, policies, or practices that are briefly discussed or identified in the prospectus, Registrant should make sufficient reference to the prospectus to clarify the context in which the additional information called for by this Item is being provided.

(b) To the extent that the prospectus does not do so, describe fully any fundamental policy of the Registrant with respect to each of the following activities:

(1) The issuance of senior securities.

(2) Short sales, purchases on margin and the writing of put and call options.

(3) The borrowing of money. Describe the fundamental policy which limits or restricts the extent to which the Registrant may borrow money and state the purpose for which the proceeds will be used.

(4) The underwriting of securities of other issuers. Include any fundamental policy with respect to the acquisition of restricted securities (i.e., securities that must be registered under the 1933 Act before they may be offered or sold to the public).

(5) The concentration of investments in a particular industry or group of industries.

(6) The purchase or sale of real estate and real estate mortgage loans.

(7) Purchase or sale of commodities or commodity contracts including futures contracts.

(8) The making of loans. For purposes of this Item the term "loans" shall not include the purchase of a portion of an issue of publicly distributed bonds, debentures or other securities, whether or not the purchase was made upon the

original issuance of the securities. However, the term "loan" includes the fundamental policy which permits the loaning of cash or portfolios securities to any person.

(9) Any policy not recited above with respect to matters which the Registrant deems matters of fundamental policy.

Instructions

1. For purposes of this Item, the term "fundamental policy" is defined as any policy which the Registrant has deemed to be fundamental or any policy which may not be changed without the approval of a majority of the Registrant's outstanding voting securities.

2. The Registrant may reserve freedom of action with respect to any of the foregoing activities, but in such case, shall express definitely, in terms of a reasonable percentage of assets to be devoted to the particular activity or otherwise the maximum extent to which the Registrant intends to engage therein. For purposes of (7) above, attention is directed to the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(c) To the extent that the prospectus does not do so, describe fully any significant investment policies of the Registrant which are not deemed fundamental and which may be changed without shareholder approval (for example, investing for control of management, investing in foreign securities or arbitrage activities).

Instruction

In responding to this Item the Registrant should disclose the extent to which it may engage in the above policies and the risks inherent in such policies.

(d) *Portfolio Turnover:* Explain any significant variation in the Registrant's portfolio turnover rates over the last two fiscal years. If the Registrant for any reason anticipates a significant variation in the portfolio turnover rate from that reported for its most recent fiscal year in Item 3(a)(12) of Part A, so state. In the case of a new registration, the Registrant should state its policy with respect to portfolio turnover.

Item 5. *Management of the Fund*

(a) Furnish the information required by the following table as to each director and officer of the Registrant, and if Registrant has an advisory board, as to each member of such board. Also state the nature of any family relationship between persons listed.

Name and address	Position(s) held with registrant	Principal occupation(s) during past 5 years
(1)	(2)	(3)

Instructions

1. For purposes of this Item, the term "officer" means the president, vice-president, secretary, treasurer, controller and any other officers who perform policy-making functions for the Registrant. The term "family relationship" means any relationship by blood, marriage or adoption, not more remote than first cousin.

2. The principal business of any corporation or other organization listed under column (3) should be stated unless such principal business is implicit in its name.

(3) If the Registrant has an executive or investment committee, the members should be identified and there should be a concise statement of the duties and functions of such committee.

4. Indicate the directors who are interested persons within the definition set forth in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a–2(a)(19)) by an asterisk.

(b) In the table required by paragraph (a) of this Item or in separate text following the table, describe any positions held with affiliated person or principal underwriters of the Registrant by each individual listed in column (1) of the table.

(c) In the table required by paragraph (a) of this item or in separate text following the table, identify each individual who supervises the management of 25% or more of the Registrant's portfolio and state the date on which such duty was assumed or, if the portfolio is managed by committee, identify the four most senior members of such committee and state the date on which each member identified assumed such duty.

(d) Furnish the information required by the following table as to each of the persons specified below who received from the Registrant and its subsidiaries during the Registrant's last fiscal year aggregate remuneration in excess of $40,000 for services in all capacities:

(i) Each director, each of the highest paid officers, and each advisory board member of the Registrant;

(ii) Each affiliated person of the Registrant not included in subparagraph (i) except investment advisers;

(iii) Each affiliated person of an affiliate or principal underwriter of the Registrant; and

(iv) All directors, officers and members of the advisory board of the Registrant as a group without naming them.

Name of person	Capacities in which remuneration received	Aggregate remuneration	Pension or retirement benefits accrued during registrant's last fiscal year	Estimated annual benefits upon retirement
(1)	(2)	(3)	(4)	(5)

Instructions

1. This item applies to any person who was a director, officer or member of the advisory board of the Registrant at any time during the last fiscal year. The information is to be given on an accrual basis if practicable.

2. If the Registrant has not completed its first full fiscal year since its organization, the information shall be given for the current fiscal year, estimating future payments that would be made pursuant to an existing agreement or understanding.

3. Columns (4) and (5) should be answered only for those persons named in response to paragraph (a) of this item and should include all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the Registrant or any of its subsidiaries to each such person.

4. Column (4) need not be answered with respect to payments computed on an actuarial basis pursuant to any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

5. The information called for by column (5) may be given in a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

6. In the case of any plan (other than those specified in instruction 3) where the amount set aside each year depends upon the amount of earnings of the issuer or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated annual benefits upon retirement, there shall be set forth, in lieu of the

information called for by column (5), the aggregate amount set aside or accured to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

Item 6. *Control Person and Principal Holders of Securities*

Furnish the following information as of a specified date no more than 30 days prior to the date of filing of the instant registration statement or amendment thereto.

(a) State the name and address of each person who controls the Registrant and explain the effect of such control on the voting rights of other security holders. As to each such control person, state the precentage of the Registrant's voting securities owned or any other basis of control. If such control person is a company, give the state or other sovereign power under the laws of which it is organized. List all parents of such control person.

Instruction

For purpose of this Item, "control" shall mean (i) the beneficial ownership, either directly or through one or more controlled companies, of more than 25 percent of the voting securities of a company; (ii) the acknowledgement or assertion by either the controlled or controlling party of the existence of control; or (iii) an adjudication under Section 2(a)(9) of the 1940 Act [15 U.S.C. 80a–2(a)(9)], which has become final, that control exists.

(b) State the name, address and percentage of ownership of each person who owns of record or is known by the Registrant to own of record or beneficially 5 percent or more of any class of the Registrant's outstanding equity securities.

Instructions

1. The percentages are to be calculated on the basis of the amount of securities outstanding.

2. If securities are being registered in connection with or pursuant to a plan of acquisition, reorganization, readjustment or succession, indicate, as far as practicable, the status to exist upon consummation of the plan on the basis of present holdings and commitments.

3. If to the knowledge of the Registrant or any principal underwriter of its securities, 5 percent or more of any class of voting securities of the Registrant are or will be held subject to any voting trust or other similar agreement, this fact should be disclosed.

4. Indicate whether the securities are owned both of record and benficially, or of record only, or beneficially only, and show the respective percentage owned in each manner.

(c) Show all equity securities of the Registrant owned by all officers, directors and members of the advisory board of the Registrant as a group, without naming them. In any case where the amount owned by directors and officers as a group is less than 1 percent of the class, a statement to that effect is sufficient.

Item 7. *Investment Advisory and Other Services*

(a) Furnish the following information with respect to each investment adviser:

(i) The names of all controlling persons of the investment adviser and the basis of such control; and if material, the business history of any organization that controls the adviser;

(ii) The name of any affiliated person of the Registrnt who is also an affiliated person of the investment adviser and a list of all capacities in which such person named is affiliated with the Registrant and with the investment adviser; and

Instruction

If an affiliated person of the Registrant either alone or together with others is a controlling person of the investment adviser, Registrant must disclose such fact but need not supply the specific amount of percentage of the outstanding voting securities of the investment adviser which is owned by such a controlling person.

(iii) The method of computing the advisory fee payable by the Registrant including:

(A) The total dollar amounts paid to the adviser by the Registrant under the investment advisory contract for the last three fiscal years;

(B) If applicable, any credits which reduced the advisory fee for any of the last three fiscal years; and

(C) Any expense limitation provision.

Instructions

1. If the advisory fee payable by the Registrant varies depending on the Registrant's investment performance in relation to some standard, such standard must be set forth along with a fee schedule in tabular form. Registrant may include examples showing the fees the adviser would earn at various levels of performance, but such examples must include calculations showing the maximum and minimum fee percentages which could be earned under the contract.

2. Each type of credit or offset should be stated separately in response to this item.

3. Where a Registrant is subject to more than one expense limitation provision, only the most restrictive of such provisions must be described.

4. If Registrant has more than single class of capital stock or is otherwise organized as a "series" investment company the response to paragraph (a)(3) of this item should describe the methods of allocation and payment of advisory fees for each class or series.

(b) Furnish a description of all services performed for or on behalf of the Registrant, which services are supplied or paid for wholly or in substantial part by the investment adviser in connection with the investment advisory contract.

(c) Furnish a description of all fees, expenses and costs of the Registrant which are to be paid by persons other than the investment adviser or the Registrant, and identify such persons.

(d) Furnish a summary of the substantive provisions of any management-related service contract not otherwise disclosed in connection with an item of the form which may be material to a purchaser of securities of the Registrant, under which services are provided to the Registrant, indicating the parties to the contract, the total dollars paid and by whom, for the past three years.

Instructions

1. The term "management-related service contract" includes any agreement whereby another person contracts with the Registrant to keep, prepare, or file such accounts, books, records, or other documents as the Registrant may be required to keep under federal or state law, or to provide any similar services with respect to the daily administration of the Registrant, but does not include the following: (i) Any contract with the Registrant to provide investment advice; (ii) any agreement whereby another person contracts with the Registrant to perform as custodian, transfer agent or dividend-paying agent for the Registrant; and (iii) bona fide contracts with the Registrant for outside legal or auditing services, or bona fide contracts for personal employment entered into with the Registrant in the ordinary course of business.

2. No information need be given in response to this Item with respect to the service of mailing proxies or periodic reports to shareholders of the Registrant.

3. In summarizing the substantive provisions of a management-related service contract, include the following: the name of the person providing the

service; the direct or indirect relationships, if any, of such person with the Registrant, its investment adviser or its principal underwriter; the nature of the services provided, and the basis of the compensation paid for the services for the last three fiscal years.

(e) If any person (other than a bona fide director, officer, member of an advisory board or employee of the Registrant, as such, or a person named as an investment adviser in response to paragraph (a) above), pursuant to any understanding, whether formal or informal, regularly furnishes advice to the Registrant or to the investment adviser of the Registrant with respect to the desirability of the Registrant's investing in, purchasing, or selling securities or other property, or is empowered to determine what securities or other property should be purchased or sold by the Registrant, and receives direct or indirect remuneration, furnish the following information:

(i) The name of such person.

(ii) A description of the nature of the arrangement, and the advice or information furnished.

(iii) Any remuneration (including, for example, participation, directly or indirectly, in commissions or other compensation paid in connection with transactions in portfolio securities of the Registrant) paid for such advice or information, and a statement as to how such remuneration was paid and by whom it was paid for the last three fiscal years.

Instruction

Information need not be included in response to this item with respect to any of the following: (i) Persons whose advice was furnished to the investment adviser or the Registrant solely through uniform publications distributed to subscribers thereto; (ii) persons who furnished the investment adviser or the Registrant with only statistical and other factual information, advice regarding economic factors and trends, or advice as to occasional transactions in specific securities, but without generally furnishing advice to them or making recommendations to them regarding the purchase or sale of securities by the Registrant; (iii) a company which is excluded from the definition of "investment adviser" of an investment company by reason of Section 2(a)(20)(iii) of the 1940 Act [15 U.S.C. 80a–2(a)(20)(iii)]; any person the character and amount of whose compensation for such service must be approved by a court; or (v) such other persons as the Commission has by rules and regulations or order determined not to be an "investment adviser" of an investment company.

(f) Furnish a summary of the material aspects of any plan pursuant to which the Registrant incurs expenses related to the distribution of its shares, and of any agreements related to the implementation of such a plan. The summary should include, among other material information, the following:

(i) The amounts paid by the Registrant under the plan during the last fiscal year, as a total dollar amount and a percentage of Registrant's average net assets during that period;

(ii) The manner in which such amount was spent on:

(A) Advertising,

(B) Printing and mailing of prospectuses to other than current shareholders,

(C) Compensation to underwriters,

(D) Compensation to dealers,

(E) Compensation to sales personnel, and

(F) Other (specify);

(iii) Whether any of the following persons had a direct or indirect financial interest in the operation of the plan or related agreements:

(A) Any interested person of the Registrant; or

(B) Any director of the Registrant who is not an interested person of the Registrant; and

(iv) The benefits, if any, to the Registrant resulting from the plan.

Instruction

In responding to this item the Registrant should take note of the requirements of Rule 12b–1 under the 1940 Act.

(g) If the portfolio securities of the Registrant are held by a person other than a commercial bank, trust company or depository registered with the Commission as custodian, state the nature of the business of each such person.

(h) Furnish the name and principal business address of the Registrant's Custodian and independent public accountant and provide a general description of the services performed by each.

(i) If an affiliated person of the Registrant or an affiliated person of such an affiliated person acts as custodian, transfer agent or dividend-paying agent for the Registrant, furnish a description of the services performed by such person and the basis for remuneration.

Item 6. *Brokerage Allocation*

(a) Describe how transactions in portfolio securities are effected including a general statement about brokerage commissions and mark-ups on principal transactions and the aggregate amount of any brokerage commissions paid by the Registrant during the three most recent fiscal years. If during either of the two years preceding the Registrant's most recent fiscal year, the aggregate dollar amount of brokerage commissions paid by the Registrant differed materially from the amount paid during the most recent fiscal year, state the reason(s) for the difference(s).

(b) (i) State the aggregate dollar amount, if any, of brokerage commissions paid by the Registrant during the three most recent fiscal years to any broker: (A) Which is an affiliated person of the Registrant; (B) which is an affiliated person of such person; or (C) an affiliated person of which is an affiliated person of the Registrant, its investment adviser, or principal underwriter, and the identity of each such broker and the relationships that cause the broker to be identified in this Item.

(ii) State for each broker identified in response to paragraph (b)(i) of this item:

(A) The percentage of Registrant's aggregate brokerage commissions paid to each broker during the most recent fiscal year; and

(B) The percentage of Registrant's aggregate dollar amount of transactions involving the payment of commissions effected through each broker during the most recent fiscal year.

(iii) Where there is a material difference in the percentage of brokerage commission paid to, and the percentage of transactions effected through, any broker identified in response to paragraph (b)(i) of this Item, state the reasons for such difference.

(c) Describe how brokers will be selected to effect securities transactions for Registrant and how evaluations will be made of the overall reasonableness of brokerage commissions paid, including the factors considered in connection with these determinations.

Instructions

1. If the receipt of products or services other than brokerage or research services is a factor considered in the selection of brokers, this description should specify such products and services.

2. If the receipt of research services is such a factor in selecting brokers, this description should identify the nature of such research services.

3. State whether persons acting on behalf of Registrant are authorized to pay a broker a brokerage commission in excess of that which another broker might have charged for effecting the

same transaction, in recognition of the value of (a) brokerage or (b) research services provided by the broker.

4. If applicable, this description should explain that research services furnished by brokers through whom Registrant effects securities transactions may be used by Registrant's investment adviser in servicing all of its accounts and that not all such services may be used by the investment adviser in connection with the Registrant; or, if other policies or practices are applicable to Registrant with respect to the allocation of research services provided by brokers such policies and practices should be explained.

(d) If, during the last fiscal year, Registrant or its investment adviser, pursuant to an agreement or understanding with a broker or otherwise through an internal allocation procedure, directed Registrant's brokerage transaction to a broker because of research services provided, state the amount of such transactions and related commissions.

Item 9. *Capital Stock and Other Securities*

To the extent that the prospectus does not do so, provide the following information:

(a) With respect to each class of capital stock of the Registrant,

(i) The title of each such class; and

(ii) A full discussion of the following provisions or characteristics of each class of capital stock, if applicable: (A) dividend rights; (B) voting rights; (C) liquidation rights; (D) pre-emptive rights; (E) conversion rights; (F) redemption provisions; (G) sinking fund provisions; and (H) liability to further calls or to assessment by the Registrant.

Instruction

1. If any class of securities described in response to this Item possesses culmulative voting rights, disclose the existence of such rights and explain the operation of cumulative voting.

2. If the rights evidenced by any class of securities described in response to paragraph (a) or (b) of this Item are materially limited or qualified by the rights of any other class of securities, include such information regarding such other securities as will enable investors to understand the rights evidenced by the securities being described.

(b) If the Registrant has any authorized securities other than capital stock, describe the rights evidenced thereby. If the securities are subscription warrants or rights, state the title and amount of securities called for, the period during which and the prices at which the warrants or rights are exercisable.

Item 10. *Purchase, Redemption and Pricing of Securities Being Offered*

(a) Provide a full description of the manner in which registrants are securities offered to the public. The description should include any special purchase plans or methods not described in the prospectus such as letters of intent, accumulation plans, withdrawal plans, exchange privileges and services in connection with retirement plans.

(b) Describe the method followed or to be followed by the Registrant in determining the total offering price at which its securities may be offered to the public and the method or methods used to value the Registrant's assets.

Instructions

1. The valuation procedure used by the Registrant in determining net asset value and public offering price must be described.

2. The response should state how the excess of offering price over the net amount invested is distributed among the Registrant's principal underwriters or others and the basis for determining the total offering price.

3. To the extent this information is not included in the prospectus, state the time (or times) each day when the net asset value is calculated for the purpose of pricing shares.

4. Explain fully any difference in the price at which securities are offered to the public, as individuals and as groups, and to officers, directors or employees of the Registrant, its adviser or underwriter.

5. Furnish a specimen price-make-up sheet showing the computation of the total offering price per unit and using as a basis the value of the Registrant's portfolio securities and other assets and its outstanding securities as of the date of the balance sheet filed by the Registrant.

6. If the Registrant uses either the penny-rounding pricing or the amortized cost valuation methods to calculate its price per share, pursuant to either an order of exemption from the Commission or Rule 2a-7 under the 1940 Act, the response to paragraph (a)(1) of this item should describe fully, the nature, extent and effect of the exemption.

(c) If the Registrant has received an order of exemption from Section 18(f) of the 1940 Act (15 U.S.C. 80a-18(f)), from the Commission or has filed a notice of election pursuant to Rule 18f-1 (17 CFR 270.18f-1), under the Act which has not been withdrawn, the nature, extent and effect of the exemptive relief should be fully described.

Item 11. *Tax Status*

Set forth any information about Registrant's tax status that is not required to be in the prospectus but that Registrant deems material including, but not limited to, an explanation of the legal basis for the Registrant's tax status and any special or unusual tax aspects of the Registrant such as taxation resulting from foreign investment or from status as a personal holding company, or any tax loss carry-forward to which Registrant may be entitled.

Instruction:

If Registrant has more than a single class of capital stock or is otherwise organized as a "series" investment company, any special tax consequences resulting therefrom should be described in response to this Item.

Item 12. *Underwriters*

(a) With respect to the public distribution of securities of the Registrant state:

(i) For each principal underwriter distributing securities of the Registrant, the nature of the obligation to distribute the Registrant's securities;

(ii) Whether the offering is continuous; and

(iii) The aggregate dollar amount of underwriting commissions and the amount retained by the principal underwriter for each of the last three fiscal years.

(b) Furnish the information required by the following table with respect to all commissions and other compensation received by each principal underwriter, who is an affiliated person of the Registrant or an affiliated person of such an affiliated person, directly or indirectly from the Registrant during the Registrant's last fiscal year:

Name of principal underwriter	Net underwriting discounts and [illegible]	Compensation on redemption and repurchases	Brokerage [illegible]	Other compensation
(1)	(2)	(3)	(4)	(5)

Instruction

Indicate in a note, or otherwise, the nature of the services rendered in consideration of the compensation set forth under column (5). Include under this column any compensation received by an underwriter for keeping the Registrant's securities outstanding in the hands of the public.

(c) If during the Registrant's last fiscal year any payments were made by the Registrant to an underwriter or dealer in the Registrant's shares other than: (i) Payments made through deduction from the offering price at the time of sale of securities issued by the Registrant, (ii) payments representing the purchase price of portfolio securities acquired by the Registrant, (iii) commissions on any purchase or sale of portfolio securities by the Registrant, or (iv) payments for investment advisory services pursuant to an investment advisory contract, furnish the following information:

(A) The name and address of the underwriter or dealer;

(B) A description of the circumstances surrounding payments;

(C) The amount paid;

(D) The basis on which the amount of the payment was determined and the consideration received for it.

Instructions

1. Do not include in answer to this Item any information furnished in answers to Items 7(d) or 12(b) above. Do not include any payment for a service excluded by Instructions 1 and 2 to Item 7(c) above or by Instruction 2 to Item 8 of Part C of this Form.

2. If the payments were made pursuant to an arrangement or policy applicable to dealers generally, it will be sufficient to describe such arrangement or policy.

Item 13. *Calculation of Yield Quotations of Money Market Funds*

(a) Furnish the following information with respect to any yield quotation included in the prospectus to which this statement of additional information relates:

(i) A description of the method by which the yield is computed including:

(A) That the yield quotation is based on the seven days ended on the date of the most recent financial statements included in the prospectus (e.g. the per share table) and state the dates on which the yield quotation is based; and

(B) That the yield is computed by dividing the Registrant's average daily net investment income per share earned during the seven calendar day period described by its average daily price per share for the same period and multiplying the result by 365 with the resulting yield figure carried to at least the nearest hundredth of one percent; and

(b) For purposes of the calculation described in subsection (a), above, Registrant's average daily net investment income per share shall include its accrued interest income plus or minus amortized purchase discount or premium less accrued expenses, but shall not include realized gains and losses or unrealized appreciation and depreciation. For purposes of this computation fees charged to all shareholder accounts must be included in the accrued expenses of the fund, and the Registrant's average price per share must include any charges in net asset value during the seven day period.

Instructions

In connection with the presentation of the yield figure, the prospectus must disclose:

(1) If applicable, that the Registrant follows the practice of reflecting changes in portfolio values in its daily dividend; and

(2) If material, the net amount of any change in the yield figure which would result from:

(a) The inclusion in the determination of net investment income of realized gains or losses and unrealized appreciation or depreciation recognized by the Registrant but excluded from the computation pursuant to Item 17(b).

(b) Any change in net asset value during the period used for computing yield.

Item 14. *Financial Statements*

Instructions

1. Part B of this Form shall contain, in a separate section following the responses to the foregoing Items, the financial statements and schedules required by Regulation S–X [17 CFR 210]. The specimen price-make-up sheet required by Item 10(b) of part B of this Form may be furnished as a continuation of the balance sheet or statement of assets and liabilities specified by Regulation S–X (17 CFR 210.6–01).

2. Notwithstanding the requirements of instruction 1. above, the following statements and schedules required by Regulation S–X may be omitted from Part B of the registration statement and included in Part C of such registration statement:

(i) The statements of any subsidiary which is not a majority-owned subsidiary; and

(ii) all schedules in support of the most recent balance sheet or statement of assets and liabilities, except the following: (a) Schedule I [17 CFR 210.12–12]; (b) columns A, E, and G of Schedule II [17 CFR 210.12–13]; and (c) columns A, B, and D of Schedule III [17 CFR 210.12–14], omitting the information called for by paragraph (c) of footnote 1 to column A.

3. Notwithstanding the requirements of Instruction A above, the following information may be omitted from any Registration Statements:

(i) Column C of Schedule I (17 CFR 210.12–12).

(ii) Column F of Schedule II (17 CFR 210.12–13); and

(iii) Column C of Schedule III (17 CFR 210.12–14).

4. In addition to the requirements of Rule 3–18 of Regulation S–X (17 CFR 210.3–18), any company registered under the 1940 Act which has not previously had an effective Registration Statement under the 1933 Act shall include in its initial Registration Statement under the 1933 Act such additional financial statements and condensed financial information (which need not be audited) as is necessary to make the financial statements and condensed financial information included in the registration statement as of a date within 90 days prior to the date of filing.

5. Every annual report to shareholders required pursuant to Section 30(d) of the 1940 Act and Rule 30d–1 thereunder (17 CFR 270.30d–1) shall contain the following information:

(i) The audited financial statements required by Regulation S–X, as modified by Instructions 2 and 3 above, for the periods specified by Regulation S–X;

(ii) The condensed financial information required by item 3(a) of this Form, for the five most recent fiscal years, with at least the most recent fiscal year audited; and

(iii) Unless shown elsewhere in the report as part of the financial statements required by (i) above, the aggregate remuneration paid by the company during the period covered by the report (A) to all directors and to all members of any advisory board for regular compensation; (B) to each director and to each member of an advisory board for special compensation; (C) to all offices; and (D) to each person of whom any officer or director of the company is an affiliated person.

6. Every report to shareholders required by Section 30(d) of the 1940 Act and Rule 30d–1 thereunder (17 CFR 270.30d–1), except the annual report, shall contain the following information (which need not be audited).

(i) The financial statements required by Regulation S–X, as modified by

Instructions B and C above, for the period commencing either with (A) the beginning of the company's fiscal year (or date or organization, if newly organized) or (B) a date not later than the date after the close of period included in the last report conforming with the requirements of Rule 30d–1 and the most recent preceding fiscal year;

(ii) The condensed financial information required by Item 3(a) of this Form, for the period of the report as specified by (1) above, and the most recent preceding fiscal year; and

(iii) Unless shown elsewhere in the report as part of the financial statements required by (i) above, the aggregate remuneration paid by the company during the period covered by the report (A) to all directors and to all members of any advisory board for regular compensation; (B) to each director and to each member of an advisory board for special compensation; (C) to all officers; and (D) to each person of whom any officer or director of the compnay is an affiliated person.

7. Reference is made to General Instruction E regarding incorporation by reference.

Part C. Other Information

Item 1. *Financial Statements and Exhibits*

List all financial statements and exhibits filed as part of the Registration Statement.

(a) Financial statements:

Instruction

Designate those financial statements included in Parts A and B of the Registration Statement.

(b) Exhibits:

(1) Copies of the charter as now in effect;

(2) Copies of the existing bylaws or instruments corresponding thereto;

(3) Copies of any voting trust agreement with respect to more than 5 percent of any class of equity securities of the Registrant;

(4) Specimens or copies of each security issued by the Registrant, including copies of all constituent instruments, defining the rights of the holders of such securities, and copies of each security being registered;

(5) Copies of all investment advisory contracts relating to the management of the assets of the Registrant;

(6) Copies of each underwriting or distribution contract between the Registrant and a principal underwriter, and speciments or copies of all agreements between principal underwriters and dealers;

(7) Copies of all bonus, profit sharing, pension or other similar contracts or arrangements wholly or partly for the benefit of directors or offices of the Registrant in their capacity as such; any such plan is not set forth in a formal document, furnish a reasonably detailed description thereof;

(8) Copies of all custodian agreements and depository contracts under Section 17(f) of the 1940 Act (15 U.S.C. 80a–17(f)), with respect to securities and similar investments of the Registrant, including the schedule of remuneration;

(9) Copies of all other material contracts not made in the ordinary course of business which are to be performed in whole or in part at or after the date of filing the Registration Statement;

(10) An opinion and consent of counsel as to the legality of the securities being registered, indicating whether they will when sold be legally issued, fully paid and nonassessable;

(11) Copies of any other opinions, appraisals or rulings, and consents to the use thereof relied on in the preparation of this Registration Statement and required by Section 7 of the 1933 Act;

(12) All financial statements omitted from Item 17 of Part I;

(13) Copies of any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, the underwriter, adviser, promoter or initial stockholders and written assurances from promoters or initial stockholders that their purchases were made for investment purposes without any present intention of redeeming or reselling;

(14) Copies of the model plan used in the establishment of any retirement plan in conjunction with which Registrant offers its securities, any instructions thereto and any other documents making up the model plan. Such form(s) should disclose the costs and fees charged in connection therewith.

(15) Copies of any plan entered into by Registrant pursuant to Rule 12b–1 under the 1940 Act, which describes all material aspects of the financing of distribution of Registrant's shares, and any agreements with any person relating to implementation of such plan.

Instruction

Subject to the Rules regarding incorporation by reference, the foregoing exhibits shall be filed as a part of the Registration Statement. Exhibits numbered 10–12 above are required to be filed only as part of a 1933 Act Registration Statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits required above.

Item 2. *Persons Controlled by or Under Common Control With Registrant*

Furnish a list or diagram of all persons directly or indirectly controlled by or under common control with the Registrant and as to each such person indicate: (1) If a company, the state or other sovereign power under the laws of which it is organized, and (2) the percentage of voting securities owned or other basis of control by the person, if any, immediately controlling it.

Instructions

1. The list or diagram shall include the Registrant and shall be so prepared as to show clearly the relationship of each company named to the Registrant and to the other companies named. If the company is controlled by means of the direct ownership of its securities by two or more persons, so indicate by appropriate cross-reference.

2. Designate by appropriate symbols: (i) Subsidiaries for which separate financial statements are filed; (ii) subsidiaries included in the respective consolidated financial statements; (iii) subsidiaries included in the respective group financial statements filed for unconsolidated subsidiaries; (iv) other subsidiaries, indicating briefly why statements of such subsidiaries are not filed.

Item 3. *Number of Holders of Securities*

State in substantially the tabular form indicated, as of a specified date within 90 days prior to the date of filing, the number of record holders of each class of securities of the Registrant.

Title of class	Number of record holders
(1)	(2)

Item 4. *Indemnification*

State the general effect of any contract, arrangements or statute under which any director, officer, underwriter or affiliated person of the Registrant is insured or indemnified in any manner against any liability which may be incurred in such capacity, other than insurance provided by any director, officer, affiliated person or underwriter for their own protection.

Instruction

In responding to this Item the Registrant should take note of the requirements of Rule 460 (17 CFR

230.460) under the 1933 Act and Section 17 of the 1940 Act (15 U.S.C. 80a–17).

Item 5. *Business and Other Connections of Investment Adviser*

Describe any other business, profession, vocation or employment of a substantial nature in which each investment adviser of the Registrant, and each director, officer or partner of any such investment adviser, is or has been, at any time during the past two fiscal years, engaged for his own account or in the capacity of director, officer, employee, partner or trustee.

Instructions

1. State the name and principal business address of any company with which any person specified above is connected in the capacity of director, officer, employee, partner or trustee, and the nature of such connection.

2. The names of investment advisory clients need not be given in answering this item.

Item 6. *Principal Underwriters*

(a) Furnish the name of each investment company (other than the Registrant) for which each principal underwriter currently distributing securities of the Registrant also acts as a principal underwriter, depositor or investment adviser.

(b) Furnish the information required by the following table with respect to each director, officer or partner of each principal underwriter named in the answer to Item 12(a) of Part B:

Name and principal business address	Positions and offices with underwriter	Positions and offices with registrant
(1)	(2)	(3)

(c) Furnish the information required by the following table with respect to all commissions and other compensation received by each principal underwriter who is *not* an affiliated person of the Registrant or an affiliated person of such an affiliated person, directly or indirectly, from the Registrant during the Registrant's last fiscal year:

Name of principal underwriter	Net underwriting discounts and [illegible]	Compensation on redemption and repurchase	Brokerage [illegible]	Other compensation
(1)	(2)	(3)	(4)	(5)

Instructions

1. Indicate in a note, or otherwise, the nature of the services rendered in consideration of the compensation set forth under column (5). Include under this column any compensation received by an underwriter for keeping the Registrant's securities in the hands of the public.

2. Instruction 1 to Item 12(c) of Part B shall also apply here.

Item 7. *Location of Accounts and Records*

With respect to each account, book or other document required to be maintained by Section 31(a) of the 1940 Act (15 U.S.C. 80a–30(b)) and the Rules (17 CFR 270.31a–1 to 31a–3) promulgated thereunder, furnish the name and address of each person maintaining physical possession of each such account, book or other document.

Item 8. *Management Services*

Furnish a summary of the substantive provisions of any management-related service contract not discussed in Part A or Part B of this Form (because the contract was not believed to be material to a purchaser of securities of the Registrant) under which services are provided to the Registrant, indicating the parties to the contract, the total dollars paid and by whom, for the last three fiscal years.

Instructions

1. The instructions to Item 7(d) of Part B of this From shall also apply to this Item.

2. No information need be given in response to this item with respect to any service for which aggregate payments of less than $5,000 were made during each of the last three fiscal years.

Item 9. *Undertakings*

Furnish the following undertakings in substantially the following form in all initial registration statements filed under the 1933 Act:

(a) An undertaking to file an amendment to the registration statement with certified financial statements showing the initial capital received before accepting subscriptions from any persons in excess of 25 if Registrant proposes to raise its initial capital pursuant to Section 14(a)(3) of the 1940 Act (15 U.S.C. 80a–14(a)(3));

(b) An undertaking to file a post-effective amendment, using financial statements which need not be certified, within four to six months from the effective date of Registrant's 1933 Act registration statement.

Instructions

1. Such amendment may be filed earlier only if at least one-half the dollar amount of securities registered has been raised from a public offering and has been substantially invested pursuant to Registrant's investment objectives.

2. The financial statements included in such post-effective amendment should be as of and for the time period reasonably close or as soon as practicable to the date of the amendment.

Signatures

Pursuant to the requirements of the Securities Act of 1933 (and) (or) the Investment Company Act of 1940 the Registrant (certifies that it meets all of the requirements for effectiveness of this Registration Statement prusuant to Rule (485(b) or 486(b)) under the Securities Act of 1933 and) has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereto duly authorized, in the City of ———, and State of ——— on the —— day of ———, 19—.

Registrant ———

By (Signature and Title)———

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed below by the following persons in the capacities and on the date indicated.

(Signature) ———

(Title) ———

(Date) ———

Instructions as to Summary Prospectuses

The summary prospectus to be used pursuant to Rule 431 (§ 230.431 of this chapter) for companies whose securities are registered on Form N–1A shall be available only if (1) a registration statement relating to these securities has been filed, (2) the response to Items 3(a) and 3(b) of Part B is "Not Applicable," and (3) if at such time Registrant intends to meet the requirements of Subchapter M, Sections 851–855 of the Internal Revenue Code during the current taxable year. No sales literature may be used unless preceded or accompanied by the full statutory prospectus. The summary prospectus shall at the time of its use contain such of the information specified below as is then included in the Registration Statement. All other information and documents contained in

the Registration Statement may be omitted.

(a) The information contained in Item 2 of Part A must be included in the summary prospectus.

(b) The information called for by Item 3 of Part A shall be set forth not further back in the summary prospectus than the third page thereof and shall not be preceded by any other chart or table.

(c) The information in Item 4(a)(ii) and 4(b) of Part A must be contained herein.

(d) The summary prospectus must contain the legends required by Rules 481(b)(1) and 431(e) under Securities Act of 1933, and the following legend should be placed on the cover page:

All Interested Persons Should Send for and Examine the Full Prospectus Before Purchasing Shares of the Fund

Instructions

1. If Registrant chooses to present the information required by Item 13 of Part B, it must be set forth in complete and uncondensed form, except insofar as Item 3 of Part A constitutes such a condensation.

2. The Commission may, upon the request of the Registrant, and where consistent with the protection of investors, permit the omission of any of the information herein required or the furnishing in substitution therefor of appropriate information of comparable character. The Commission may also require the inclusion of other information in addition to, or in substitution for, the information herein required in any case where such information is necessary or appropriate for the protection of investors.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 80N-0218]

Citric Acid and Certain Citrates; Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that citric acid, dibasic ammonium citrate, calcium citrate, potassium citrate, sodium citrate, isopropyl citrate, stearyl citrate, and triethyl citrate are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATE: Comments by March 8, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vivian Prunier, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of citric acid, diabasic ammonium citrate, calcium citrate, potassium citrate, sodium citrate, isopropyl citrate, stearyl citrate, and triethyl citrate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients. Among the uses that the agency is affirming for calcium citrate is as a nutrient supplement in conventional food [1] and infant formula.

The GRAS status of the use of calcium citrate in dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using the ingredient in dietary supplements. The use of this ingredient in dietary supplements will continue to be permissible under Subpart F of Part 182 (21 CFR Part 182).

Citric acid (2-hydroxy-1,2,3-propanetricarboxylic acid) and its salts and natural constituents and common metabolites in plants and animals. Citric acid is an intermediate compound in the Krebs cycle in which the metabolites of carbohydrates, proteins, and fats are oxidized in human metabolism of food. The concentration of naturally occurring citrate in fruits, particularly citrus fruits and juices, is higher than that in vegetables or animal tissues. Typical concentrations of citrates are about 1 percent in orange juice and up to 8 percent in unripe lemon juice. Peas, corn, and cabbage contain less than 1 percent citrate, and human milk contains about 0.1 percent citrate.

Citric acid and its ammonium (dibasic) [2], calcium, potassium, and sodium salts occur as water-soluble, white or colorless powders or crystals which are odorless and have a tart taste.

The citric acid esters share some of the properties of the citric acid salts and yield citrate upon hydrolysis. Isopropyl citrate and stearyl citrate occur as mixtures of the mono-, di-, and triesters of the acid. Mono-isopropyl citrate is a form of isopropyl citrate. Commercially available isopropyl citrate is composed of 65 to 80 percent monoisopropyl, 15 to 30 percent diisopropyl, and 5 to 10 percent triisopropyl citrate. Searyl citrate is composed of 10 to 15 percent monostearyl, 70 to 80 percent distearyl, and 10 to 15 percent tristearyl citrate. Triethyl citrate is the triethyl ester of citric acid. It occurs naturally in extremely low concentrations in sour cherries and red currants and is an odorless, nearly colorless, oily liquid.

A regulation (formerly § 121.101(d) (21 CFR 121.101(d))) published in the **Federal Register** of November 20, 1959 (24 FR 9368), listed citric acid, citrates, and citrate esters as GRAS for direct use in food as follows: calcium citrate, citric acid, potassium citrate, and sodium citrate as buffers and neutralizing agents; citric acid for miscellaneous use; calcium citrate, citric acid, monoisopropyl citrate, potassium citrate, and sodium citrate as sequestrants; triethyl citrate for use in egg whites at 0.25 percent; and isopropyl citrate and stearyl citrate as sequestrants at 0.02 percent and 0.15 percent, respectively.

In a final rule published in the **Federal Register** of January 31, 1961 (26 FR 938), and subsequently recodified in the **Federal Register** of March 15, 1977 (42 FR 14302), FDA listed certain of these substances as GRAS for direct use in food as miscellaneous or general purpose ingredients and sequestrants, respectively, as follows: critic acid in §§ 182.1033 and 182.6033 (21 CFR 182.1033 and 182.6033), calcium citrate in §§ 182.1195 and 182.6195 (21 CFR 182.1195 and 182.6195), potassium citrate in §§ 182.1625 and 182.6625 (21 CFR 182.1625 and 182.6625), and sodium citrate in §§ 182.1751 and 182.6751 (21 CFR 182.1751 and 182.6751). This final rule also listed triethyl citrate as a miscellaneous or general purpose

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

[2] This proposal only addresses the GRAS status of dibasic ammonium citrate. The food additive status of other ammonium citrates is not affected by this proposal.

ingredient in egg whites at 0.25 percent in § 182.1911 (21 CFR 182.1911) and listed isopropyl citrate in § 182.6386 (21 CFR 182.6386) at 0.02 percent, and stearyl citrate, in § 182.6851 (21 CFR 182.6851), as sequestrants. Additionally, calcium citrate was listed under GRAS nutrients/dietary supplements. However, in a final rule published in the **Federal Register** of September 5, 1980 (45 FR 58837), FDA divided the nutrient/dietary supplement category into separate listings for GRAS dietary supplements (21 CFR Part 182, Subpart F) and for GRAS nutrients (21 CFR Part 182, Subpart I). As a consequence, calcium citrate is currently listed in §§ 182.5195 and 182.8195 (21 CFR 182.5195 and 182.8195) for use as a dietary supplement and as a nutrient supplement, respectively.

Prior-sanctioned uses of monoisopropyl citrate, triethyl citrate, and mono-, di-, and tristearyl citrate as plasticizers in food packaging are listed in § 181.27 (21 CFR 181.27). Also, prior-sanctioned uses of ammonium citrate, mono-, di-, and tripotassium citrate, and mono-, di-, and trisodium citrate as stabilizers in food packaging are listed in § 181.29 (21 CFR 181.29).

Citric acid is listed as a component in the production of caramel (21 CFR 73.85) and stearyl monoglyceridyl citrate (21 CFR 172.755) and may also be used as an acidifying agent in wine (27 CFR 240.1051). The U.S. Department of Agriculture permits (9 CFR 318.7) the use of citric acid and stearyl, monoisopropyl, and sodium citrates as follows: citric acid in retort and cooling water, as a flavoring agent in chili con carne, and as a synergist in combination with antioxidants in lard, shortening, dry and fresh sausage, and dried meats; citric acid and stearyl citrate as flavor protectors in oleomargarine; monoisopropyl citrate as a synergist in combination with antioxidants in lard, shortening, oleomargarine, fresh pork sausage, and dried meats; citric acid and sodium citrate as anticoagulants in fresh blood and as curing accelerators in cured pork and beef cuts and comminuted meat products. Citric acid, isopropyl citrate, and stearyl citrate are included in the U.S. Department of Agriculture's standard of identity for oleomargarine (9 CFR 319.700).

FDA's standards of identity permit the use of citric acid or certain citrates as optional ingredients in several foods.

Specific indirect uses of the citrate salts and esters are regulated as follows: ammonium citrate in § 175.105 *Adhesives* (21 CFR 175.105); ammonium citrate, monoisopropyl citrate, mono-, di-, and tristearyl citrate, potassium citrate, sodium citrate, and triethyl citrate in § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300); triethyl citrate in § 175.320 *Resinous and polymeric coatings for polyolefin films* (21 CFR 175.320); mono-, di-, and tristearyl citrate in § 178.3910 *Surface lubricants used in the manufacture of metallic articles* (21 CFR 178.3910); and sodium citrate in § 179.45 *Packaging materials for use during the irradiation of prepackaged foods* (21 CFR 179.45).

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which citric acid and citrates were used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these ingredients. The NAS/NRC survey revealed that citric acid and its salts are most frequently used in foods as pH control agents and as flavoring agents of flavor enhancers. The metal complexing properties of citrates make them useful as sequestrants, antioxidants, and preservatives. FDA estimates from the NAS/NRC survey that in 1970 the approximate poundage of citric acid and citrates used in foods in the United States was: citric acid, 60 million pounds; sodium citrate, 26 million pounds; potassium citrate, 970 thousand pounds; isopropyl citrate, 66 thousand pounds; calcium citrate, 31 thousand pounds; and triethyl citrate, 18 thousand pounds. The NAS/NRC survey did not report any poundage data for stearyl citrate. Dibasic ammonium citrate was not included in the list of GRAS substances surveyed in the 1971 survey.

The NAS/NRC survey reported that calcium citrate and potassium citrate are used in infant formula as nutrients for sources of calcium and potassium, respectively. Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists calcium and potassium as required nutrients in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formula under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient levels of calcium and potassium in infant formula will be proposed in a separate rulemaking under section 412(a)(2) of the act. Calcium and potassium also may be used to fortify foods as described in Part 104 (21 CFR Part 104).

Citric acid and citrates have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 2,685 abstracts on citric acid was reviewed, and 85 particularly pertinent reports from the literature survey have been summarized in a scientific literature review. A total of 625 abstracts on citrates also was reviewed, and 77 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature reviews and other studies has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all available safety information on citric acid and citrates.[3] In the Select Committee's opinion:

> The citrate ion is widely distributed in plants and animals and is a naturally occurring component of the diet. It is a common metabolite in oxidative metabolism and an important component of bone. Exogenous citrate administered to infants and adults as a component of commonly consumed diets is considered completely metabolizable. The addition of citric acid to foods is considered equivalent to adding citrate salts except in foods of very high acidity. The amount of citrate added to foods by food processors is about 500 mg per person per day. This amount occurs naturally in 2 ounces of orange juice and does not constitute a significant addition to the total body load. Although data on acute and chronic effects of orally administered sodium citrate, calcium citrate and potassium citrate are limited, no biological effects of the citrate-containing substances evaluated in this report cause concern about the safety of

[3] "Evaluation of the Health Aspects of Citric Acid, Sodium Citrate, Potassium Citrate, Calcium Citrate, Ammonium Citrate, Triethyl Citrate, Isopropyl Citrate, and Stearyl Citrate as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1977, pp. 7–15. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with the current good manufacturing practice.

these GRAS substances used in reasonable amounts and in accordance with prescribed tolerances and limitations.[4]

The Select Committee concludes that no evidence in the available information on citric acid, sodium citrate, potassium citrate, calcium citrate, dibasic ammonium citrate, isopropyl citrate, stearyl citrate, and triethyl citrate demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when these substances are used at levels that are now current or that might reasonably be expected in the future.[5]

FDA has undertaken its own evaluation of all available information on these ingredients and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of citric acid, calcium citrate, isopropyl citrate, potassium citrate, sodium citrate, stearyl citrate, and triethyl citrate is justified. Therefore, the agency proposes that these ingredients be affirmed as GRAS. FDA is also of the opinion, based on its review of the data, that the use of calcium citrate and potassium citrate as nutrient supplements in infant formula is safe, and the agency is also proposing to affirm these uses. Although most nutrients are also used as dietary supplements, FDA is unaware of any such use of potassium citrate. In addition, because the NAS/NRC survey did not specifically request data on dietary supplement use, FDA does not have adequate data upon which to judge exposure from the use of calcium citrate as a dietary supplement. Without such exposure data, the agency cannot evaluate the safety of the use of this substance in dietary supplements. Therefore, FDA is taking no action on the GRAS status of this use of calcium citrate.

Although dibasic ammonium citrate is not listed as GRAS in Part 182, industry reported that it is used in the manufacture of cheese. This use results in a maximum residual level of 0.005 percent. The Select Committee evaluated information on this ingredient and found that its use in food presents no hazard to human health. Therefore, on the basis of the Select Committee's report and its own review of the data, the agency has tentatively concluded that the reported use of dibasic ammonium citrate should also be affirmed as GRAS.

The agency has also considered the need to establish a separate GRAS affirmation regulation for monoisopropyl citrate. FDA finds no evidence that monoisopropyl citrate is commercially available in pure form and concludes that any monoisopropyl citrate present in food occurs as part of a mixture of mono-, di-, and triisopropyl citrate. Because proposed § 184.1386 defines isopropyl citrate as the mono-, di-, and triisopropyl esters of citric acid or any mixture of these esters, the use of monoisopropyl citrate in food would be covered by this regulation. Therefore, the agency is not proposing a separate GRAS affirmation regulation for monoisopropyl citrate and is proposing to remove the listing for this ingredient in § 182.6511 (21 CFR 182.6511).

In the **Federal Register** of September 23, 1974 (39 FR 34188) and October 21, 1975 (40 FR 49080), FDA issued food additive regulations (21 CFR 173.165 and 173.280) that describe a microorganism and an extraction method for the manufacture of citric acid. The agency deferred judgment about the GRAS status of citric acid produced in accordance with these regulations until it could evaluate the safety of citric acid under the general GRAS review program. In these **Federal Register** documents, FDA did not state that citric acid produced by these methods and meeting the specifications in the Food Chemicals Codex is the same as any other food grade citric acid. FDA has found that citric acid that meets the Food Chemicals Codex specifications does not present a public health hazard. Therefore, citric acid produced according to the above regulations, or according to 21 CFR 173.160 (see the **Federal Register** of October 15, 1976 (41 FR 45546)), that meets the specifications in the Food Chemicals Codex and its supplements in GRAS.

Because no food-grade specifications exist for ammonium (dibasic), isopropyl, and stearyl citrates at the present time, the agency will work with the Committee on Codex Specifications of the National Academy of Sciences (the NAS Committee) to develop acceptable specifications for these ingredients. In so doing, FDA and the NAS Committee will consider the specifications for isopropyl and stearyl citrates that were developed and issued recently by the Joint FAO/WHO Expert Committee on Food Additives (copies are available from UNIPUB, Inc., Box 433, Murray Hill Station, New York, NY 10016). If acceptable specifications are developed, the agency will incorporate them into these regulations at a later date. Until any such specifications are developed, FDA has determined that the public health will be adequately protected if commercial ammonium (dibasic), isopropyl, and stearyl citrates comply with the description in the proposed regulation and are of food-grade purity (21 CFR 170.30(h)(1) and 182.1(b)(3)).

FDA is proposing to affirm the GRAS status of these ingredients when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). The agency is proposing not to include in the GRAS affirmation regulations for these substances the levels of use reported in the 1971 NAS/NRC survey. Both FASEB and the agency have concluded that a large margin of safety exists for the use of these substances, and that a reasonably foreseeable increase in the level of consumption of these substances will not adversely affect human health.

In addition, for isopropyl citrate, stearyl citrate, and triethyl citrate, the agency is proposing not to include in the GRAS affirmation regulations the tolerance levels specified in §§ 182.6386, 182.6851, and 182.1911, respectively. The 1971 NAS/NRC survey indicated that there are several uses of triethyl citrate in addition to its use in egg whites at 0.25 percent that is listed in § 182.1911. Both FASEB and the agency have evaluated the safety of these additional uses of triethyl citrate and concluded that there is no reason to specify that triethyl citrate be used in egg whites only or to establish a use level for this ingredient. The tolerances for stearyl citrate and isopropyl citrate merely are repititive of the maximum levels listed in § 166.110 (21 CFR 166.110) for optional ingredients in margarine. The maximum levels in the standard of identity were imposed to assure current good manufacturing practice and are not upper limits for safe use of the ingredients. As the proposed regulations state, FASEB and the agency only evaluated this use of these ingredients. The agency is of the opinion that the limits in the standard of identity for margarine prescribed by § 166.110 are adequately enforceable and need not be repeated in the proposed GRAS regulations.

Because the affirmation of the GRAS status of dibasic ammonium citrate, calcium citrate, isopropyl citrate, stearyl citrate, and triethyl citrate is based on the evaluation of limited uses, however, the proposed regulations for these ingredients set forth the technical effects and food categories that FDA evaluated. On the other hand, because citric acid, potassium citrate, and sodium citrate are used in numerous food categories and have a large number of technical effects, FDA has concluded that, in addition to not including levels of use, it is not necessary to include a description

[4] *Ibid.*, p. 16.
[5] *Ibid.*

of technical effects of food categories in the proposed GRAS affirmation regulations for these ingredients.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practices only when the agency determines that it is appropriate to do so.

Copies of the scientific literature reviews on citric acid and citrates, teratologic evaluation of citric acid, mutagenic evaluations of citric acid, potassium citrate, sodium citrate, and triethyl citrate, and the report of the Select Committee are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price[1]
Citrates (scientific literature review)	PB223-850/AS	A08	$9.00
Citric acid (scientific literature)	PB241-967/AS	A07	10.00
Citric acid and citrates (Select Committee report)	PB280-954/AS	A03	6.00
Citric acid (teratologic evaluation)	PB223-814/AS	A04	7.00
Citric acid (mutagenic evaluation)	PB245-483/AS	A07	10.00
Potassium citrate (mutagenic evaluation)	PB254-518/AS	A03	6.00
Sodium citrate (mutagenic evaluation)	PB254-510/AS	A03	6.00
Tnethyl citrate (mutagenic evaluation)	PB257-366/AS	A03	6.00

[1] Price subject to change.

This proposed action does not affect the current use of citric acid and citrates in pet food or animal feed.

The format of the proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1033, 184.1140, 184.1195, 184.1386, 184.1625, 184.1751, 184.1851, and 184.1911 to make clear the agency's determination the GRAS affirmation is based upon current good manufacturing practice conditions of use, including, when appropriate, both the technical affects and food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742), that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.1033, 182.1195, 182.1625, 182.1751, 182.1911, 182.6033, 182.6195, 182.6386, 182.6511, 182.6625, 182.6751, 182.6851, 182.8195 [Removed]

1. Part 182 is amended by removing § 182.1033 *Citric acid,* § 182.1195 *Calcium citrate,* § 182.1625 *Potassium citrate,* § 182.1751 *Sodium citrate,* § 182.1911 *Triethyl citrate,* § 182.6033 *Citric acid,* § 182.6195 *Calcium citrate,* § 182.6386 *Isopropyl citrate,* § 182.6511 *Monoisopropyl citrate,* § 182.6625 *Potassium citrate,* § 182.6751 *Sodium citrate,* § 182.6851 *Stearyl citrate,* and § 182.8195 *Calcium citrate.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1033, to read as follows:

§ 184.1033 Citric acid.

(a) Citric acid ($C_6H_8O_7$, CAS Reg. No. 77–92–9) is the compound 2-hydroxy-1,2,3-propanetricarboxylic acid. It is a naturally occurring metabolite in plant and animal tissues. It occurs as colorless crystals or a white powder and may be anhydrous or contain one molecule of water of hydration. Citric acid may be produced by mycological fermentation using *Candida* spp., described in §§ 173.160 and 173.165 of this chapter, or *Aspergillus niger.* In addition, the solvent extraction process described in § 173.280 of this chapter may be employed for the recovery of citric acid from *Aspergillus niger* fermentation liquor. Citric acid may also be recovered from lemon or pineapple juice.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 86, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L. St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

b. By adding new § 184.1140, to read as follows:

§ 184.1140 Ammonium citrate, dibasic.

(a) Ammonium citrate, dibasic (CAS Reg. No. 3012–65–5) is the diammonium salt of citric acid. It is prepared by neutralizing citric acid with ammonia and occurs as granules or crystals.

(b) The Food and Drug Administration, in cooperation with the National Academy of Sciences, is developing food-grade specifications for isopropyl citrate. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the

following current good manufacturing practice conditions of use:

(1) The ingredient is used as a pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in cheeses as defined in § 170.3(n)(5) of this chapter at levels not to exceed current good manufacturing practice.

c. By adding new § 184.1195, to read as follows:

§ 184.1195 Calcium citrate.

(a) Calcium citrate ($Ca_3(C_6H_5O_7)_2 \cdot 4H_2O$, CAS Reg. No. 813–94–5) is the calcium salt of citric acid. It is prepared by neutralizing citric acid with calcium hydroxide. It occurs as a fine, white, odorless powder and usually contains four molecules of water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 49, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an emulsifier as defined in § 170.3(o)(8) of this chapter; firming agent as defined in § 170.3(o)(10) of this chapter; and nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: cheeses as defined in § 170.3(n)(5) of this chapter; fats and oils as defined in § 170.3(n)(12) of this chapter; gelatins and puddings as defined in § 170.3(n)(22) of this chapter; jams and jellies as defined in § 170.3(n)(28) of this chapter; and processed vegetables and vegetable juices as defined in § 170.3(n)(36) of this chapter. Calcium citrate may also be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

d. By adding new § 184.1386, to read as follows:

§ 184.1386 Isopropyl citrate.

(a) Isopropyl citrate is the mono-, di-, and trisopropyl esters of citric acid or any mixture of these esters. It is prepared by esterifying citric acid with isopropanol.

(b) The Food and Drug Administration, in cooperation with the National Academy of Sciences, is developing food-grade specifications for isopropyl citrate. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a sequestrant as defined in § 170.3(o)(26) of this chapter.

(2) The ingredient is used in margarine at levels not to exceed current good manufacturing practice.

e. By adding new § 184.1625, to read as follows:

§ 184.1625 Potassium citrate.

(a) Potassium citrate ($C_6H_5K_3O_7 \cdot H_2O$, CAS Reg. No. 866–84–2) is the potassium salt of citric acid. It is prepared by neutralizing citric acid with potassium hydroxide. It occurs as transparent crystals or a white granular powder, is odorless and deliquescent, and contains a molecule of water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 242, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. Potassium citrate may also be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

f. By adding new § 184.1751, to read as follows:

§ 184.1751 Sodium citrate.

(a) Sodium citrate ($C_6H_5Na_3O_7 \cdot 2H_2O$, CAS Reg. No. 68–04–2) is the sodium salt of citric acid. It is prepared by neutralizing citric acid with sodium hydroxide. The product occurs as colorless crystals or a white crystalline powder. It is anhydrous or contains two molecules of water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 283, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

g. By adding new § 184.1851, to read as follows:

§ 184.1851 Stearyl citrate.

(a) Stearyl citrate is the mono, di-, and tristearyl esters of citric acid or any mixture of these esters. It is prepared by esterifying citric acid with stearyl alcohol.

(b) The Food and Drug Administration, in cooperation with the National Academy of Sciences, is developing foodgrade specifications for stearyl citrate. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter.

(2) The ingredient is used in margarine at levels not to exceed current good manufacturing practice.

h. By adding new § 184.1911 to read as follows:

§ 184.1911 Triethyl citrate.

(a) Triethyl citrate ($C_{12}H_{20}O_7$, CAS Reg. No. 77–93–0) is the triethyl ester of citric acid. It is prepared by esterifying citric acid with ethyl alcohol and occurs as an odorless, practically colorless, oily liquid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 339, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for

inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent as defined in § 170.3(o)(12) of this chapter; solvent and vehicle as defined in § 170.3(o)(27) of this chapter; and surface-active agent as defined in § 170.3(o)(29) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; alcoholic beverages as defined in § 170.3(n)(2) of this chapter; nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter; chewing gum as defined in § 170.3(n)(6) of this chapter; frozen dairy desserts as defined in § 170.3(n)(20) of this chapter; gelatins and puddings as defined in § 170.3(n)(22) of this chapter; hard candy as defined in § 170.3(n)(25) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before March 8, 1983 submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 15, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-202 Filed 1-6-83; 8:45 am]

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21 CFR Part 886

[Docket No. 82N-0180]

Proposed Reclassification of Daily Wear Spherical Contact Lenses Consisting of Rigid Gas Permeable Plastic Materials

Correction

In FR Doc. 82-32332 beginning on page 53402 in the issue of Friday, November 26, 1982, make the following correction:

On page 53409, third column, in the first complete paragraph, in the third line from the bottom, "increase of 0.2" should have read "increase of −0.2".

BILLING CODE 1505-01-M

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21 CFR Part 886

[Docket No. 82N-0179]

Proposed Reclassification of Daily Wear Optically Spherical Hydrogel (Soft) Contact Lenses

Correction

In FR Doc. 82-32333 beginning on page 53411 in the issue of Friday, November 26, 1982, make the following corrections:

(1) On page 53412, middle column in the ninth line of the first full paragraph, "amendments because" should have read "amendments became"

(2) On page 53417, middle column, eleven lines from the bottom of the page, "107 patients (39 females)" should have read "107 patients (39 males, 68 females)".

(3) On page 53418, first column, in the eighth line from the bottom of the page, "90 percent 100 preselected patients" should have read "90 percent of 100 preselected patients".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[A-3-FRL 2280-3]

State and Federal Administrative Enforcement of Implementation Plan Requirements After Statutory Deadlines; Proposed Delayed Compliance Order for the Department of the Navy, Naval Ordnance Station, Indian Head, Goddard Power Plant

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection agency proposes to modify the administrative Order issued to the Department of the Navy's Naval Ordnance Station, Goddard Power Plant on October 28, 1981. This Order will require Boilers Nos. 1, 2, and 3, in Indian Head, Maryland to achieve compliance with air pollution requirements under the Maryland State Implementation Plan by March 1, 1985.

DATE: Written comments and request for a public hearing (and reasons therefore) must be received no later than February 7, 1983.

ADDRESS: All comments and request for a public hearing should be submitted to: U.S. Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, Attn: Director, Air & Waste Management Division (3AW00).

FOR FURTHER INFORMATION CONTACT: Copies of the Order and additional information can be obtained from Denis M. Zielinski, Environmental Scientist, Environmental Protection Agency, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone number (215) 597-0804.

SUPPLEMENTARY INFORMATION: The original proposed Order was published in the **Federal Register** on July 30, 1981 (42 FR 39039). During the 30-day public comment period that ended August 30, 1981 no comments were received by EPA and an Order, Numbered R-III-CC-007 was promulgated on October 28, 1981.

In December, 1981, as required by the Order the Naval Ordnance Station, Indian Head ("NOSIH") conducted particulate emission tests at its boilers. The results of these tests indicated emissions far in excess of what was allowed by the ORDER and indicated that the NOSIH would have to perform major unforeseen maintenance on the boilers and multiclone collection system

to achieve compliance with the Order. Because of these unforeseen maintenance problems, the NOSIH, in a July 13, 1982, letter to EPA, requested certain modifications to the Order. These modifications follow:

(1) Final compliance with the applicable provisions of the Maryland SIP will be achieved by June 1, 1984, for one boiler and March 1, 1985 for the remaining two boilers. The original dates were January 1, 1984 for two boilers and October 1, 1984, for the remaining boiler.

(2) The boilers shall burn coal with an ash content less than ten percent (10%) instead of twelve percent (12%).

(3) A maximum of one boiler may operate on coal instead of two.

(4) Any boiler operating on coal shall not at any time emit in excess of four hundred eighty (480) pounds of particulate matter per hour. The original emission limitation was two hundred fifty (250) pounds of particulate matter per hour per boiler with two instead of one boiler operating on coal at any one time.

(5) All reporting and monitoring must be submitted to EPA on or before the effective date of this Order.

List of Subjects in 40 CFR Part 55

Air pollution control, Energy.

Therefore, if the subject Order is issued by EPA, 40 CFR Part 55 would be amended based upon the actual terms of this amended Order Number R–III–CC–007.

Stanly Laskowski,

Acting Regional Administrator.

[FR Doc. 83–451 Filed 1–6–83; 8:45 am]

BILLING CODE 6560–50

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6475]

Proposed Base Flood Elevation and Designation Determinations for Butler County, Kansas; Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at the Office of the County Engineers, Butler County Courthouse, El Dorado, Kansas.

Send comments to: Mr. J. W. Simmons, Chairman, Board of County Commissioners, Butler County Courthouse, El Dorado, Kansas 67042.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Office of Natural and Technological Hazards, Federal Emergency Management Agency, Washington, DC 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for Butler County, Kansas, in accordance with Section 110 of the Flood Disaster protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These base flood elevations and zone designations together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for he second layer of insurance on existing buildings and their contents.

The proposed base flood elevations and zone designations are as follows:

Source of flooding	Location	Elevation in feet (NGVD)	Zone designation
Walnut River	At the confluence of Constant Creek	1,270	A8.
	Just upstream of the Missouri Pacific Railroad	1,282	A8.
	At a point located approximately 1,000 feet downstream of Route 177	1,288	A8
	At the upstream limit of detailed study	1,291	A8
West Branch Walnut River	Just downstream of the Atchison Topeka and Santa Fe Railway	1,293	A8.
	At a point located approximately 1,200 feet downstream of the confluence of Tributary "B".	1,299	A8.
	At a point located approximately 3,300 feet upstream of the confluence of Tributary "B".	1,304	A6.
Constant Creek	At the confluence of the Walnut River	1,270	A8.
	Just upstream of the Atchison Topeka and Santa Fe Railway.	1,274	A8.
	At a point located approximately 400 feet upstream of Douglas Road	1,278	A3
	At the upstream limit of detailed study	1,335	A2
Tributary "A"	At the westernmost corporate boundary of the City of El Dorado.	1,300	A3.
	At the upstream limit of detailed study	1,313	A3
Tributary "B"	Just upstream of U.S. Route 77	1,302	A4.
	Just downstream of the confluence of Tributary "B1".	1,320	A2.
	At the upstream limit of detailed study	1,343	A2
Tributary "B1"	At a point located approximately 500 feet upstream of the confluence of Tributary "B".	1,323	A2.
	At the upstream limit of detailed study	1,337	A2

The corporate boundaries for the City of El Dorado have been revised to reflect recent annexations.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: December 10, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-351 Filed 1-6-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-333; RM-3997]

FM Broadcast Station in Del Rio, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Channel 242 to Del Rio, Texas instead of Channel 249A, as previously proposed in this docket in response to a request from Grande Broadcasting, Inc. The proposed channel could produce a second FM service to Del Rio.

DATES: Comments must be filed on or before February 10, 1983, and reply comments on or before February 25, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations. (Del Rio, Texas); BC Docket 82–333, Rm–3997.

Further Notice of Proposed Rule Making

Adopted: December 15, 1982.

Released: December 27, 1982.

By the Chief, Policy and Rules Division:

1. In response to a petition filed by Grande Broadcasting, Inc. ("petitioner"), the Commission adopted a notice of proposed rule making 47 FR 29291, published July 6, 1982, which proposed assigning Channel 249A to Del Rio, Texas, as its second FM assignment.

2. In the notice we stated that the proposed assignment required concurrence with the Mexican Government. Mexico objected to the proposed assignment as being short-spaced to adjacent Channel 248B at Jiminez, New Mexico. In accordance with the provisions of the U.S.–Mexico FM Broadcasting Agreement, 46 F.C.C. 2d 293 (1973) and 46 F.C.C. 2d 153 (1974), FM channel assignments and related matters for the use of FM facilities in the border area are subject to the provisions of the respective agreements which provide for consultation and the right to object to any particular proposal.

3. According to a staff study, no other Class A channel is available for assignment to Del Rio. However, we have determined that Class C Channel 242 can be assigned with a site restriction of approximately 16 miles northwest of the city. This restriction is necessary to avoid short-spacing to Station KSLR (FM), San Antonio, Texas, and unused Channel 244C at Piedras Negras, Colima, Mexico. Thus, we seek comments on the desirability of a Class C assignment to Del Rio. The proposal would create an intermixture of channels in the community. However, in view of the action taken in *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982) this issue is no longer relevant to this type of proceeding.

4. Since Del Rio is located within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment will be negotiated with the Mexican Government.

5. In view of the foregoing the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with regard to Del Rio, Texas as follows:

City	Channel No.	
	[illegible]	Proposed
Del Rio, Tex.	232A	232A, 242

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before February 10, 1983, and reply comments on or before February 25, 1983, and are advised to read the Appendix for the proper procedures.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes and *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix follows.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix follows. Proponent(s) will be expected to answer

whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix follows. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-396 Filed 1-6-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-825; RM-4226]

FM Broadcast Stations in Hamlin and Anson, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of Class C FM Channel 279 to Hamlin, Texas, in response to a petition filed by Grande Broadcasting Company. Additionally, the substitution of Channel 252A for unused Channel 276A at Anson, Texas, will be necessary.

DATES: Comments must be filed on or before February 10, 1983, and reply comments on or before February 25, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Hamlin and Anson, Texas); MM Docket No. 82-825, RM-4226.

Adopted: December 15, 1982.

Released: December 27, 1982.

By the Chief, Policy and Rules Division:

1. A petition for rule making was filed on October 19, 1982, by Grande Broadcasting Company (petitioner), proposing the assignment of Channel 279 [1] to Hamlin, Texas, as its first FM assignment. Petitioner expressed its desire to apply for an FM channel at Hamlin, if assigned.

2. The proposed assignment of Channel 279 to Hamlin can be made in conformity with the minimum distance separation requirements, provided the transmitter site is located approximately 6.8 miles southwest of the city. This restriction is necessary to avoid short-spacing to Channel 279 at Anadarko, Oklahoma.

3. In view of the foregoing and the fact that the proposed assignment would provide a first FM service to Hamlin, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to the following cities:

City	Channel No.	
	Present	Proposed
Anson, Tex	276A	252A
Hamlin, Tex		279

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before February 10, 1983 and reply comments on or before February 25, 1983, and are advised to read the Appendix for the proper procedures.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning

[1] The petition as filed sought the assignment of Channel 253 to Hamlin, Texas, which required a site restriction of 15.3 miles southeast of the city, due to the assignment of Channel 252A at Ralls, Texas. The Hamlin proposal is mutually exclusive with a request to assign Channel 254 to San Angelo, Texas (the distance between the cities is 90 miles, 150 miles is required). As an alternative, we are proposing the substitution of FM Channel 252A for unused Channel 276A at Anson, Texas, in order to assign Channel 279 to Hamlin, Texas.

the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s), who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix follows.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making which this Appendix follows. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making which this Appendix follows. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-397 Filed 1-6-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-826; RM-4221]

TV Broadcast Stations in Paris, Texas, and Hugo, Oklahoma; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF TV Channel 36 to Paris, Texas, as its second television assignment, in response to a petition filed by Holt Robinson of Texas, Inc.

DATES: Comments must be filed on or before February 10, 1983, and reply comments must be filed on or before February 25, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Paris, Texas and Hugo, Oklahoma); MM Docket No. 82-826, RM-4221.

Adopted: December 14, 1982.

Released: December 27, 1982.

By the Chief, Policy and Rules Division:

1. The Commission herein considers a petition for rule making filed October 18, 1982, by Holt Robinson of Texas, Inc. ("petitioner") which seeks the assignment of UHF Television Channel 36 to Paris, Texas. Petitioner expressed an interest in applying for the channel, if assigned.

2. Paris (population 25,298),[1] the seat of Lamar County (population 42,156), is located approximately 94 miles northeast of Dallas, Texas. It has local television broadcast service (Station KLPH) on Channel 42 (permit issued to KLMB-TV, Inc.).

3. Petitioner states that Paris has a mayor/city council form of government, adequate police and fire departments, and numerous churches, and schools. The economy of this community is based mainly on diverse manufacturing. We are also told that Paris is conveniently located to air, rail and motor freight transportation.

4. The current Paris channel assignment (Channel 42) is actually assigned to Paris (Texas)-Hugo (Oklahoma). The hyphenated assignment was made in 1970 primarily for economic reasons. However, a permit was recently issued to specify Paris as the city of license. Thus, we believe that it would be appropriate to reflect the usage of the channel at Paris by amending the Table of Assignments.

5. In view of the foregoing, the Commission finds that it would be in the public interest to seek comments of the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Rules, with respect to the city of Paris, Texas, as follows:

[1] Population figure was obtained from 1980 U.S. Census.

City	Channel No.	
	Present	Proposed
Hugo, Oklahoma-Paris, Tex	42+	
Paris, Texas-Hugo, Okla	42+	
Paris, Tex		36+, 42+

6. The Secretary of the Commission shall send a copy of this notice of proposed rule making to KLMB-TV, Inc., P.O. Box 38620, Houston, Texas 77088.

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before February 10, 1983, and reply comments on or before February 25, 1983, and are advised to read the Appendix for the proper procedures.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules. See, *Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 634–6530. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the notice of proposed rule making to which this Appendix follows.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the notice of proposed rule making to which this Appendix follows. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rule making to which this Appendix follows. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-395 Filed 1-6-83; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 82-813; FCC 82-550]

Obligations of Cable Television Systems To Maintain Public Inspection Files and Retain Subscriber Records

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission issues a Notice of Proposed Rule Making which proposes to modify the cable television public inspection file requirements in order to simplify the burdens imposed on cable operators.

DATES: Comments are due by February 2, 1983 and replies by February 17, 1983.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Stephen A. Bailey, Cable Television Bureau (202) 632–6468.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 76

Cable television.

In the matter of amendment of Part 76 of the Commission's Rules and Regulations Relative to the Obligations of Cable Television Systems to Maintain Public Inspection Files and Retain

Subscriber Records, MM Docket No. 82–813.

Adopted: December 8, 1982.

Released: December 27, 1982.

1. Notice of proposed rule making is hereby given in the above-entitled matter concerning the public inspection file and subscriber records retention requirements that pertain to cable television systems under §§ 76.305 and 76.306 of the Commission's Rules and Regulations.

2. In 1974, the Commission adopted *Report and Order in Docket 19948,* FCC 74–831, 48 FCC 2d 72 (1974), amending § 76.305 of the Rules and Regulations to require that cable systems maintain for public inspection a file of records and other information relating to their cable television operations and proposals. In addition, the Commission, in amending § 76.305, specified the location where the records had to be maintained, the period of record retention and required that cable operators make provision for the copying of these records by the public. These provisions were patterned after the public inspection rule for broadcast licensees and, therefore, followed the general thrust and specific language of the public inspection requirement for broadcast licensees. In proposing and subsequently adopting public inspection requirements for cable systems, the Commission observed that "if the public is to play an informed role in the regulation of cable television, it must have at least basic information about a local system's operations and proposals." *Id.*

3. Throughout our regulatory involvement, we have undertaken periodic reviews of our rules and regulations to determine whether they continue to be justified from a public interest standpoint in terms of the benefits they confer upon the public versus the burdens they place upon the regulatees and upon the agency's resources in administering and enforcing them. This proceeding is a continuation of that process of review. The above mentioned provisions have been in force for almost eight years and, although they have undergone some minor change in connection with other rule making proceedings,[1] they have not been reviewed since their adoption and, for this reason, they are, in our estimation, ripe for re-examination.

4. Our preliminary view is that these requirements can be substantially simplified and indeed that the requirements can be entirely eliminated except for those requirements relating to the equal employment opportunity rules, the cablecast "equal time" and sponsorship identification rules. We are of the preliminary view that most of the information that the rule requires be kept in the public inspection file is either readily available from other sources or is so rarely put to any practical use that its continued retention is no longer justified. In particular, it appears that the most significant information in the file relates to matters primarily of local regulatory concern which should be made available for public use in accordance with the generally applicable local precedures. Although these rules have been in effect for some time, it is our impression that the files in question have been consulted by the public on only the rarest of occasions.

5. When the Commission adopted the *Cable Television Report and Order,* FCC 72–108, 36 FCC 2d 143 (1972), it embarked on the administration and implementation of a major and comprehensive regulatory program for cable television which was new to cable operators, franchising authorities, and the public. As part of that program, we instituted a certification process "to assure that effective public notice of new proposals is given; assure that applications contain full information on the details of system operations; and assure that new cable proposals are, without exception, reviewed for consistency with our rules." *Id.* at 185. This particular process required a wide array of documentation and information on the part of cable operators including material from cable systems about signal carriage, franchise standards, and access channels and services. In addition, cable operators were required to make a copy of this information available to appropriate franchising authorities. In order to enhance the local public's opportunities to participate in the certification process and other cable television proceedings, the Commission adopted the requirements in *Docket 19948* in an effort to complement the information available through the certification process and make the information locally available to the public.[2]

6. There have been a number of changes which have occurred since the adoption of both the *Cable Television Report and Order* and our action in Docket 19948 which suggest to us less of a need for imposition of these requirements at the federal level. To begin with, we have abandoned the certification process and have replaced it with a simpler, more efficient registration process which minimizes the burdens on the Commission and cable operators, and reduces the delays of service to the public that attended the certification process. *Report and Order in CT 78–206,* FCC 78–690, 69 FCC 2d 697 (1978). We have eliminated, either partially or completely, regulations in such areas as signal carriage, franchise standards, and access channels and services. For example, in 1977, we decided to eliminate, with the exception of our franchise fee limitation,[3] the mandatory aspect of our federal franchise standards and, as result, we no longer require that cable operators file copies of their franchises or other appropriate authorizations from state or local authorities with us. *Report and Order in Docket 21002,* FCC 77–530, 66 FCC 2d 380 (1977). We also no longer have mandatory program origination rules, *see Report and Order in Docket 19988,* FCC 74–1279 49 FCC 2d 1090 (1974); mandatory access rules, *see Midwest Video Corp. v. FCC,* 571 F. 2d 1025 (8th Cir. 1978), *aff'd,* 440 U.S. 689 (1979); or major restrictions on carriage of distant signals or of syndicated programming on these signals, *see Report and Order in Docket 20988 and 21284, supra aff'd, Malrite TV of New York, Inc. v. FCC,* 625 F. 2d 1140 (2d Cir. 1981), *cert. denied* 50 U.S.L.W. 3535 (January 12, 1982). In sum, as a result of

[1] *See, e.g., First Report and Order in Docket 20561,* FCC 77–205, 63 FCC 2d 956 (1777), exempting from these as well as other requirements cable systems with less than 1,000 subscribers and also *Report and Order in Dockets 20988 and 21284,* FCC 80–443, 79 FCC 2d 652 (1980), deleting Section 76.305(a)(5) relating to information about cable systems' signal carriage.

[2] Records and other information required to be included in a cable operator's public inspection file are those relating to: state or local franchises or other similar authorizations (Section 76.305(a)(1)); applications for certificates of compliance or alternative signal carriage notifications (Section 76.305(a)(2)); petitions for special relief, declaratory rulings or issuances of cease and desist orders of orders to show cause and copies of Commission decisions in connection with such filings (Section 76.305(a) (3) and (8)); copies of FCC Form 325 "Annual Report of Cable Television System" (Section 76.305(a)(4)); copies of any transfer of control of a Cable Television Relay Station application (Section 76.305(a)(6)); records relating to network nonduplication agreements, political cablecasts, sponsorship identification, and equal employment opportunities (Section 76.305(a)(7)) and registration statements (Section 76.350(a)(9)).

[3] Even the franchise fee limitation, however, is the subject of possible Commission repeal as a result of the issuance of *Memorandum Opinion and Order and Further Notice of Proposed Rule Making in Docket 21002,* FCC 79–228, 71 FCC 2d 569 (1979).

review either by this agency or by the courts, many of the major elements of our 1972 cable television regulatory program are no longer the subject of specific rules and regulations at the federal level. As a consequence of these actions, the importance of much of the information in the above-mentioned areas has diminished and the opportunities for participation by the public in proceedings involving local cable systems' proposals and operations is in general restricted at the federal level to special relief or enforcement proceedings. Federal requirements, therefore, directing the retention and availability of this information at the local level would not longer appear to be warranted.[4]

7. Our proposal to simplify the public inspection file requirements in § 76.305 also takes cognizance of the fact that state and local governments have acquired more responsibility in cable regulatory matters and of the fact that an increasing number of local governments now seek and view the advice from organizations and individuals with special expertise in these matters as an important adjunct to informed local decisions. In our opinion, the increased participation of state and local authorities in cable television matters indicates that local governments and local law are capable of insuring that citizens are informed of cable operations and proposals and that they have the information necessary to participate meaningfully in proceedings involving the local cable system.[5] In any event, even if this information is not made available for local inspection by state or local franchising authorities, much of this information will nevertheless continue to remain available for public inspection in the Commission's files pursuant to the provisions of §§ 0.451–0.461 of the Rules and Regulations. Those provisions of the rules that we are not proposing to delete, relating to equal employment opportunity, political cablecasts, and sponsorship are more intimately related to the substantive rules that they support and, at this point, appear more properly reviewed in connection with those specific substantive rules.

8. We are also proposing to delete in this proceeding the requirement contained in § 76.306 that cable television systems maintain certain specified subscriber records. These rules were adopted, without benefit of any rule making proceeding (See *Memorandum Opinion and Order*, FCC 74–206 (released March 5, 1974)), in order to assure that information would be available to assist the Commission in verifying that the annual fees of cable television to the Commission were properly calculated. Such fees had been calculated on a per subscriber basis. Fees of this type are no longer collected and it therefore appears that this record retention requirement should be eliminated.

9. In view of the foregoing, we are interested in comments from all interested persons on the overall utility to the general public of the public inspection file requirements under § 76.305 and in any reasons why such requirements should not be discontinued at the federal level. We would hope that those favoring retention of the requirement in the present form would provide us with data concerning the actual use of the files and the benefits that have resulted therefrom. We also welcome comments from any state or local governments on the practices or procedures which they have adopted or anticipate adopting to facilitate public participation in cable television matters either at the federal or state/local levels. We also invite comments on any other proposals or recommendations interested persons may have with respect to the retention, modification, or elimination of the present requirements.[6]

10. As we stated at the outset, we are under an obligation to assess periodically our rules and regulations from a public interest standpoint and eliminate those which no longer serve their intended purpose and therefore are not longer necessary. In addition, we, and all government agencies, are under a mandate to review the paperwork burdens imposed by our regulations with an eye toward the elimination of unnecessary or duplicative requirements.[7]

11. Authority for the proposed rule making instituted herein is contained in Section 1, 2, 3, 4 (i) and (j), 301, 303(r), 307, 308, 309 and 403 of the Communications Act of 1934, as amended.

12. All interested parties are invited to file written comments on or before February 2, 1983, and reply comments on or before February 17, 1983. All relevant and timely filed comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

13. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, Section 1.1231

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[4] Indeed, in some cases, § 76.305 required certain information to be retained for fifteen years, which, prior to our action in Docket 21002, was the maximum permissible length of time for cable franchises awarded subsequent to the 1972 *Cable Report and Order*. This lengthy retention period was justified on the basis that this information would enable the public to have adequate information in franchise renewal proceedings and Commission recertification proceedings. Because we no longer have a certification process, we do not believe that the filing of information primarily for use in franchise proceedings should be the subject of a federal requirement any longer. Such a requirement is more appropriately the subject of state and/or local requirements.

[5] As we noted in *Docket 19948*, many local governments already require that the documents specified in § 76.305 be made available for public inspection or allow a cable system to locate its public inspection file in a "public registry". 45 FCC 2d at 671.

[6] One possible alternative might be to adopt a requirement that requires the cable operator to provide the state or local franchising authority with a copy of any filing or communications to or from the Commission. In this way, the community would be advised of any communications relating to the system's operations and therefore be in a position to notify or inform its citizens of such information.

[7] *See, e.g.*, section 3504 of the *Federal Paperwork Reduction Act of 1980* (Pub. L. 96–511).

of the Commission's Rules, 47 CFR 1.1231.

14. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an initial Regulatory Flexibility Analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth herein as Attachment A. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall cause a copy of this Notice, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(A) of the Regulatory Flexibility Act.

15. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, an original and 5 copies of all comments, reply comments, pleadings, briefs or other documents shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in the rule making proceeding may do so by submitting one copy of the comments, without regard to form, provided only that the Docket number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters, 1919 "M" Street, N.W., Washington, D.C. 20554. Further information on the procedures to be followed or the status of this proceeding may be obtained by contacting Stephen A. Bailey Cable Television Bureau, Federal Communications Commission, (202) 632-6468.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment A—Regulatory Flexibility Act

Initial Analysis

I. Reason for Action

The proposed action would simplify Section 76.305 which requires cable system operators to maintain public inspection files and make such files available for copying by the public. The importance of this information at the federal level has diminished as a result of a number of deregulatory actions and court decisions and the function served by the present requirements can be readily and easily achieved by state and/or local governments. Moreover, much of this information is already available to the public through the provisions of Sections 0.451–0.461 of the Rules and Regulations. In addition, elimination of these requirements would minimize the paperwork burdens on cable operators without adverse consequences on the public. The proposed action would also eliminate the requirement in Section 76.305 of the Rules that cable systems retain certain subscriber records. This requirement was originally imposed in furtherance of an annual cable television fee process which is no longer utilized and is therefore now obsolete.

II. Objective

The Commission proposes to eliminate many of the public inspection file requirements and the subscriber records retention requirements for cable television operators.

III. Legal Basis

Action as proposed for this rule making is authorized by Sections 1, 2, 3, 4 (i) and (j), 303(r), 307, 308, 309 and 403 of the Communications Act of 1934, as amended.

IV. Description, Potential Impact and Number of Small Entities Affected

The proposed elimination of public file requirements would affect all cable systems which have 1,000 or more subscribers. Those systems serving fewer than 1,000 subscribers are already generally exempt from these requirements. The proposed deletion of the subscriber records retention requirement would affect all cable systems, regardless of size. The proposed action if adopted should result in less paperwork obligations on the part of cable operators and should also reduce to some extent the administrative or operating costs of cable systems. The elimination of this requirement at the federal level may result, however, in the assumption by state and/or local governments of the public file obligations now imposed on cable operators.

V. Recording, Record Keeping and Other Compliance Requirements

The proposed action would reduce the recording and record keeping requirements of cable systems.

VI. Federal Rules Which Overlap, Duplicate or Conflict With This Rule

Sections 0.451 and 0.455 of the Rules specify the documents, records, and information relating to cable television that are available for public inspection at the Commission. These rules overlap the provisions of Section 76.305 to the extent that they make available to the public, albeit not on a local level, many of the same documents.

VII. Any Significant Alternatives Minimizing Impact on Small Entities and Consistent With Stated Objectives

None.

VIII. Conclusions

The Commission seeks to eliminate any unnecessary burdens on those it regulates. Its preliminary review of the public inspection requirements indicates that the original objectives for their adoption at the federal level may no longer be justified but that responsibility for such requirements might more appropriately rest within the discretion of state and/or local governments. Accordingly, the Commission seeks comments from all interested persons regarding the elimination of many of these requirements. With respect to retention of subscriber records, since this requirement was adopted in support of a fee obligation which no longer applies to cable operators, it is clearly unnecessary and should be deleted.

[FR Doc. 83-462 Filed 1-6-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 81

[PR Docket No. 82-828; FCC 82-575]

Licensing and Availability of Narrow-Band Direct-Printing Radioteletypewriter Frequencies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is adopting a Notice of Proposed Rule Making and Order to review the present assignments of narrow-band direct-printing (NB–DP) frequencies in the maritime mobile services. This action was prompted by a petition for reconsideration in Docket 20813 and by the Commission's recent receipt of several applications for these frequencies, and is intended to obtain comments on assignment of these frequencies.

DATES: Comments must be filed on or before February 7, 1983, reply comments must be filed on or before February 22, 1983.

ADDRESS: Submit comments or reply comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 81

Coast stations, Radio, Telegraph.

In the matter of licensing and availability of narrow-band direct-printing radiotelotypewriter frequencies, PR Docket No. 82-828.

Adopted: December 22, 1982.

Released: December 30, 1982.

Introduction

1. In December, 1979, the Commission submitted to the Congress of the United

States a Report entitled *A Study of Maritime Public Coast Station Operations, Services and Industry* (Report). In that Report, among other things, we stated our intention to initiate a proceeding dealing with the use of narrow-band direct-printing (NB–DP) communications.[1] Our purpose in issuing this *Notice* is to seek public comments on proposed rule amendments which would improve NB–DP service to maritime radio users.

2. This document also addresses three other, related matters: a petition for reconsideration filed by Mobile Marine Radio (MMR) in Docket 20813 [2]; a petition by Brown & Root Inc. that it be authorized to conduct limited coast station NB–DP operations; and applications from public coast stations seeking to expand NB–DP frequency assignments.

Background

3. Licensing and operation of land radiocommunication stations in the maritime mobile service is governed by Part 81 of the Commission's rules. There, the Commission separates these stations into two categories: public coast stations and limited coast stations.

4. Public coast stations are licensed to entities which provide common carrier, ship-to-shore, communication services to third parties on a profit-making basis. Public coast stations are allowed to interconnect with the public switched networks (PSN) and can be authorized to provide voice and telegraphy communication services. Public coast stations must file tariffs and the Commission must approve the rates charged for the communication services provided. In § 81.204(c) of our rules, NB–DP frequencies are assigned exclusively to public coast telegraphy stations by call sign.

5. Limited coast stations are licensed to entities which provide radio service for the operational and business needs of ships. Limited coast stations are licensed for voice communications only. They are permitted radiotelephone communications concerning a specific scope of service. Many of these stations use the PSN for message forwarding. Their communications must be associated with the operational and business needs of the ships they serve. They are not authorized to provide communication services to third parties. Therefore, limited coast stations do not file tariffs.

6. In the international Radio Regulations, frequencies in the 4, 6, 8, 12, 16 and 22 MHz bands are grouped in series and allocated on a global basis for NB–DP communications. Propagation characteristics enable frequencies in these bands to be used for long range communications, from a few tens of miles to world-wide. The same frequencies are available to all countries (some 155 of them), which countries are urged by the ITU Radio Regulations to coordinate their use of NB–DP frequencies. Stations using the same frequencies must be separated by distances varying with the band in order to prevent co-channel interference.

7. In the U.S., the Commission has assigned the available NB–DP frequencies, other than those used by Government stations, for use by public coast radiotelegraph (PCRT) stations providing high-seas telegraphy service. Series of frequencies have been assigned to each PCRT station in § 81.204(c) of our Rules. The same frequencies are also assigned to coast stations of other countries. Reuse of a frequency series by U.S. coast stations is permitted only by public coast stations whose geographic separation is believed to cause minimal co-channel interference to other U.S. stations. Each public coast radiotelegraph station, however, is required to submit a license application to the Commission before it can be granted authority to operate on its assigned series of NB–DP frequencies.

8. NB–DP is a relatively new[3] maritime service, and in the U.S. it has been slow in developing.[4] In § 81.204(c) of our Rules, 15 public coast stations are assigned NB–DP frequencies for their exclusive use. Of these, only five stations have applied to the Commission and received authorization to provide NB–DP service. Accordingly, we believe that the manner in which NB–DP frequencies are made available to public coast stations should be revised to encourage full development of this service.

9. In our report to Congress, we mentioned that we would consider whether or not limited coast stations should be authorized use of these frequencies. At this time, we believe that limited coast station use of these frequencies should not be authorized unless all public coast station requirements can be met. Consequently, we will not grant the pending request of Brown & Root that these frequencies be made available to limited coast stations. However, we specifically solicit comment on this approach and will reserve judgement pending further review of the matter.

Possible Methods of Assignment

Existing Method

10. The current method of assigning these frequencies is embodied in § 81.204(c) of our rules. In essence, this method assigns discrete frequencies in designated series to public coast radiotelegraph stations by specific station call sign and geographic location. This method was developed through informal coordination with existing licensees of public coast radiotelegraph (PCRT) stations. At the time of development of this method only one station (WLO at Mobile, AL) was actually providing NB–DP service. The objective was to distribute the available frequencies as equitably as practicable among existing PCRT station licensees, in the absence of knowledge as to when and where service to the public would be initiated, and to encourage the carriers to provide NB–DP service as early as economically feasible. There are problems with the current plan because certain stations listed have closed and others have elected not to provide the service. Still others desire to expand their service beyond their allotment of series. In contrast to the present assignment scheme, there are alternative methods discussed below.

Alternative No. 1

11. Under this scheme, series of NB–DP frequencies would be allotted by geographic area. That is, they would be designated for use in specified geographic areas by rule. There are two variations to this scheme: (1) Designation by geographic (coastal) area in which the coast station is located; or (2) designation by area to which service is to be provided, that is, area in which ship stations are located. This scheme would be comparable to that currently set forth in Part 81, § 81.306. It would be necessary to develop a basis for determining the quantity of frequencies which would be allotted to the respective geographic areas. The problem with this method is making such a determination in the absence of a showing of a need for frequencies in a

[1] Narrow-band direct-printing (NB–DP) is an electro-mechanical system utilized by the maritime mobile service which operates on radio frequencies below 25 MHz and permits communication between distant terminals fitted with teletypewriters, which may or may not include error detection and correction capability.

[2] We are simultaneously with the initiation of this proceeding, separately terminating the proceeding in Docket 20813. Among other items this proceeding responds to MMR's petition in that it reviews our assignment policy and rules governing NB–DP frequencies.

[3] Service was initiated in the U.S. by Mobile Marine Radio in 1974.

[4] On a world-wide basis, there are now approximately 3000 to 3500 vessels fitted with NB–DP and error detection/correction equipment.

given area. Furthermore, this method, like the existing method, would "lock" the frequency assignments in the rules without regard to shifting traffic patterns or pending applications for their use elsewhere.

Alternative No. 2

12. Under this scheme, the Commission's Rules would list all available NB–DP series as a pool and assign them to applying PCRT stations solely on a first-come, first-served basis.[5] The problem with this method is that it would allow an early applicant to request frequencies without any showing of need and would allow an existing provider of NB–DP service to "oust" a public coast station which may now wish to provide the service but has not done so in the past. In the interest of competition in providing this service, we would like as many stations as possible to offer it. Yet under this method, the first applicant would theoretically be able to obtain all of the available frequencies.

Alternative No. 3

13. Under this scheme, available (currently unlicensed) NB–DP series would be made available on a first-come, first-served basis, to new or existing public coast stations not currently providing NB–DP service. New public coast stations providing only NB–DP service could be authorized. Existing providers of NB–DP service would be eligible for additional series of frequencies based on a showing of need.

14. The advantages of this method are that it would maximize the number of stations offering the service and assign remaining available frequencies where traffic indicates they are needed. It would also maximize our ability to license frequencies (at least in the lower megacycle orders) to more than one station while avoiding or minimizing potential interference.

15. Because this is the method of assignment we are proposing, we have developed a set of criteria which must be met by an existing provider of the service in order to qualify for additional series. We specifically invite comment with regard to these criteria. In order to ensure that all series licensed are actually placed in operation, we are proposing a "cut-off" rule which will require all licensees of NB–DP frequencies to place them in service within eight months of the effective date of the Report and Order terminating this proceeding or within eight months of the receipt of a license, whichever date is later. On or before the end of this period, licensees will certify by letter that the licensed NB–DP series have been placed in service. This certification will be placed in the public file. Licensees who fail to do so would automatically forfeit those frequencies not placed in operation, which would then be made available to other applicants.

16. For the reasons set forth above, it is Ordered, That this Notice of Proposed Rule Making and Order is adopted.

17. Because of the pending applications of existing coast stations and the expressed desire of some applicants to expand service as soon as possible, we are disinclined to hold these applications in a pending status during this proceeding. Consequenlty, we hereby authorize the Chief of the Private Radio Bureau to grant such applications, in whole or in part, on an interim basis, to applicants who expressly agree to modify their authorizations as may be necessary to conform them to whatever allocation scheme is eventually adopted in this proceeding.

18. Authority for this Notice of Proposed Rule Making is contained in Sections 1, 4(i) and 303 (b), (c), (e), (f), (g), and (r) of the Communications Act of 1934, as amended. Pursuant to procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before February 7, 1983, and reply comments on or before February 22, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in its Report and Order.

19. In accordance with the provisions of § 1.419 of the Commission's rules, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All findings will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

20. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

21. The licensees in this service are few in number and are typically large business entities. Consequently, the Commission has determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

22. For questions on matters covered in this document contact Robert P. DeYoung at 202/632–7197.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[5] This method was proposed by one of the petitioners in Docket 20813.

Federal Communications Commission
William J. Tricarico,
Secretary.

Appendix

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICE

In § 81.204, paragraph (c) is revised and paragraph (d) is added to read as follows:

§ 81.204 Assignable frequencies—Narrow-band direct-printing radiotelegraph and data transmission systems.

* * * * *

(c) Subject to the provision of subsections (a) and (b) of this section, public coast stations will be licensed NB–DP series on the following basis:

(1) NB–DP series will be assigned to new entrants (public coast applicants who do not or have not offered NB–DP service in the past) based on the date of the Commission's receipt of such applications.

(2) Series will be assigned to applicants for additional NB–DP frequencies who make a substantial showing based on the following factors:

(i) the schedule of service of each currently licensed series of frequencies;

(ii) the number of minutes each series is in use or is unavailable for use due to interference by other stations or other use. This showing shall be made for the 3 busiest hours of each of any four days within a consecutive 10 day period in each of the 3 months immediately preceding the filing of the application; and

(iii) how many of the minutes shown in (ii) above were used for message set-up time and how many of the minutes were used for message handling.

(d) Licensed NB–DP series which are not placed in operation within eight months of authorization will be forfeited and the station license will be modified accordingly.

[FR Doc. 83–463 Filed 1–6–83; 8:45 am]
BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 48, No. 5
Friday, January 7, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding Management of Lithic-Dominated Archeological Sites Affected by Timber Management Activities on Seven National Forests in Oregon

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to Section 800.6 of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the Forest Service, U.S. Department of Agriculture, and the Oregon State Historic Preservation Officer, providing for the management of archeological properties affected by the Forest Service's timber management activities on the Winema, Fremont, Deschutes, Ochoco, Malheur, Wallowa-Whitman, and Umatilla National Forests in Oregon. The proposed Programmatic Memorandum of Agreement will establish mechanisms by which archeological properties will be identified, evaluated, and protected in order to meet the requirements of Section 106 of the National Historic Preservation Act (16 US.C. 470f).

Comments Due: February 7, 1983.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, Western Division of Project Review, 730 Simms Street, Room 450, Golden, CO 80401.

For further information contact: Louis S. Wall, Chief, Western Division of Project Review, 730 Simms Street, Room 450, Golden, CO 80401.

Dated: January 4, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83-475 Filed 1-6-83; 8:45 am]

BILLING CODE 4310-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

National Advisory Committee for Tobacco Inspection Services; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name: National Advisory Committee for Tobacco Inspection Services.
Dates: January 25-26, 1983.
Place: The Churchill Room of The Hilton Inn, 1938 Stanton Way, Lexington, Kentucky 40575.
Time: 9 a.m.
Purpose: To review various regulations issued pursuant to the Tobacco Inspection Act (49 Stat. 7 U.S.C. 511 *et seq.*), to observe grading and sales of burley tobacco on the auction floor, to hear from individuals who have requested to address the Committee and who have been prescheduled to do so, and to discuss the level of tobacco inspection and related services and the fees and charges associated with providing these services.

The meeting is open to the public though space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless otherwise requested by the Committee Chairperson. Persons, other than members, who wish to address the Committee at the meeting should contact J. T. Bunn, Deputy Director, Tobacco Division, Agricultural Marketing Service, 300 12th Street, S.W., U.S. Department of Agriculture, Washington, D.C., 20250, (202) 447-7235.

Dated: January 5, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-603 Filed 1-6-83; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Humboldt National Forest Grazing Advisory Board; Meeting

The Humboldt National Forest Grazing Advisory Board will meet on February 23, 1983 at 10:00 PST, at the Supervisor's Office, 976 Mountain City Highway, Elko, Nevada.

The meeting is open to the public.

The purpose of the meeting is to discuss:

1. Allotment Management Planning.
2. Utilization of Range Betterment Fund.

Dated: December 22, 1982.

B. J. Graves,

Forest Supervisor.

[FR Doc. 83-521 Filed 1-6-83; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Swan Creek Watershed, Nebraska; Availability of a Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: A. E. Sullivan, responsible Federal Offical for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Nebraska, is hereby providing notification that a record of decision to proceed with the installation of the Swan Creek Watershed Project is available. Single copies of this record of decision may be obtained from A. E. Sullivan at the address shown below.

FOR FURTHER INFORMATION CONTACT: A. E. Sullivan, State Conservationist, Soil Conservation Service, 100 Centennial Mall North, P. O. Box 82502, Lincoln, Nebraska, telephone 402-471-5302.

Dated: December 28, 1982.

B. Clayton Graham,

Deputy State Conservationist.

[FR Doc. 83-285 Filed 1-6-83; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended December 30, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Dec. 30, 1982	41189	United Air Lines, Inc., P.O. Box 66100, Chicago, Illinois 60666. Application of United Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests an amendment of its Certificate of Public Convenience and Necessity for Route 57 so as to authorize it to perform scheduled foreign air transportation (of mail, passengers and property) between (1) Los Angeles, California, in the United States, and the coterminal points of Toronto, Ontario and Montreal, Quebec in Canada via the intermediate point of Denver, Colorado; and (2) San Francisco, California, in the United States, and the coterminal points of Toronto, Ontario and Montreal, Quebec in Canada via the intermediate point of Denver, Colorado. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 27, 1983.
Do	41190	Trans Caribbean Air, Inc., c/o Robert M. Hausman, Hausman and Rosenthal, 2020 K Street, N.W., Suite 350, Washington, D.C. 20006. Application of Trans Caribbean Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests amendment of its certificate (1) so as to engage in scheduled foreign air transportation of passengers, property and mail between a point or points in the United States, on the one hand, and additional points, as follows: Shannon, Ireland, and points in the Netherlands, Belgium, France, Switzerland, Austria, Egypt, Greece, Israel, and Jordan, on the other hand; and (2) integration on a geographic basis of all of its already-authorized foreign points on Route 189–F and any new points into a single integrated route. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 27, 1983.
Do	41191	Michigan Peninsula Airways, Ltd. d/b/a MPA International Airways, c/o Robert M. Hausman, Hausman and Rosenthal, 2020 K Street, N.W., Suite 350, Washington, D.C. 20006. Application of Michigan Peninsula Airways, Ltd. d/b/a MPA International Airways pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to engage in the charter air transportation of property and mail between: (a) any point in the United States, its territories and its possessions, on the one hand, and any other point in the United States, its territories and its possessions, on the other; and (b) the interstate and oversees air transportation of property and military mail pursuant to contracts with the Department of Defense. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 27, 1983.
Do	41192	Michigan Peninsula Airways, Ltd. d/b/a MPA International Airways, c/o Robert M. Hausman, Hausman and Rosenthal, 2020 K Street, N.W., Suite 350, Washington, D.C. 20006. Application of Michigan Peninsula Airways, Ltd. d/b/a MPA International Airways pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to engage in the charter air transportation of property and mail between: (a) any point in the United States, on the one hand, and any point or points outside the United States on the other; and (b) the foreign air transportation of property and military mail pursuant to contracts with the Department of Defense. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 27, 1983.
Dec. 27, 1982	41071	Akron/Canton Airlines, Inc., c/o Edmond L. Sikorovsky, Callee, Halter & Griswold, 1800 Central National Bank Bldg., Cleveland, Ohio 44114. Information Response of Akron/Canton Airlines, Inc. with respect to Board Order 82–11–94. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 24, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-488 Filed 1-6-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

California Institute of Technology; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR 301 as amended by 47 FR 32517). A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00328. Applicant: California Institute of Technology, 1201 E. California Street, Pasadena, CA 91125. Instrument: Accessories for Ion Microanalyzer System (IMS 3F) consisting of Primary Beam Mass Filter and Cesium Gun and other Sole Source Accessories. Manufacturer: Cameca, France. Intended use of instrument: See Notice on page 41410 in the Federal Register of September 20, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The instruments are being furnished by the manufacturer which produced the instrument with which the instruments are intended to be used. We are advised by the National Bureau of Standards in its memorandum dated December 14, 1982 that the accessories are pertinent to the applicant's intended uses and that it knows of no comparable domestic instruments.

The Department of Commerce knows of no similar accessories being manufactured in the United States which are interchangeable with or can be readily adapted to the instrument with which the foreign instruments are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 83-510 Filed 1-6-83; 8:45 am]
BILLING CODE 3510-25-M

Cornell University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of scientific a instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00263. Applicant: Cornell University, Department of Chemistry, Baker Laboratory, Ithaca, New York 14853. Instrument: Excimer-Multi-Gas Laser, Model EMG 101. Manufacturer: Lambda Physik GmbH, Company, West Germany. Intended use of instrument: See notice on page 33528 in the **Federal Register** of August 3, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides an average power of 6 watts, a peak power of 10 megawatts and thyratron switching. The National Bureau of Standards advises in its memorandum dated November 22, 1982 that (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

FR Doc. 83–1513 Filed 1–6–83; 8:45 am]

BILLING CODE 3510–25–M

Eastman Dental Center; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00292. Applicant: Eastman Dental Center, 625 Elmwood Avenue, Rochester, New York 14620. Instrument: Automated Animal Feeder. Manufacturer: Andreas Hofer, Switzerland. Intended use of instrument: See Notice on page 36686 in the **Federal Register** of August 23, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can feed seventy-two experimental animals simultaneously at as many as seventeen programmed times per day. The Department of Health and Human Services advises in its memorandum dated November 10, 1982 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83–517 Filed 1–6–83; 8:45 am]

BILLING CODE 3510–25–M

Harvard University et. al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles published pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Decision: Applications Denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles for such purposes as the foreign articles are intended to be used are not being manufactured in the United States.

Reasons: The requirements for the resubmission of applications that have been denied without prejudice to resubmission are contained in Section 301.5(e) of the regulations. Each of the applicants has failed to resubmit its application within the specified time period. Pursuant to Subsection 301.5(e)(4), this failure shall result in a denial of the application.

In accordance with § 301.5(f), notice of these decisions is forwarded to the **Federal Register** for publication.

Docket No. 81–00147. Applicant: Harvard University, 12 Oxford Street, Cambridge, MA 02138. Instrument: Excimer Pumped-Dye Laser System. Date of denial without prejudice to resubmission: October 9, 1981.

Docket No. 81–00176. Applicant: Harvard University, Purchasing Department, 75 Mount Auburn Street, Cambridge, MA 02138. Instrument: WM-300 High Resolution NMR Spectrometer with Multinuclear Observation and Accessories. Date of denial without prejudice to resubmission: April 16, 1982.

Docket No. 81–00221. Applicant: Brookhaven National Laboratory, Upton, New York 11973. Instrument: Minature Toroidal Grating Monochromator with Slit Mechanism. Date of denial without prejudice to resubmission: June 3, 1982.

Docket No. 81–00257. Applicant: Ellis Hospital, 1101 Nott Street, Schenectady, NY 12308. Instrument: Linear Accelerator, Model Therac 6/Neptune and Accessories. Date of denial without

prejudice to resubmission: April 14, 1982.

Docket No. 81–00277. Applicant: The Cleveland Clinic Foundation, 9500 Euclid Avenue, Cleveland, OH 44106. Instrument: Automated Ultrasonic Body Imager. Date of denial without prejudice to resubmission: March 11, 1982.

Docket No. 81–00293. Applicant: NASA, Lewis Research Center, Energy Section, MS 500–305, 21000 Brookpark Road, Cleveland, OH 44135. Instrument: Organometallic Vapor-Phase Epitaxial Reactor System and Epitaxial Growth Process. Date of denial without prejudice to resubmission: May 28, 1982.

Docket No. 81–00302. Applicant: Texas Tech University, Texas Tech Campus, Lubbock, TX 79409. Instrument: Architectural Lux Meter. Date of denial without prejudice to resubmission: April 23, 1982.

Docket No. 81–00329. Applicant: University of Illinois at Chicago Circle, Department of Physics, P.O. Box 4348, Chicago, IL 60680. Instrument: Excimer Laser Pumped Laser System with Accessories. Date of denial without prejudice to resubmission: April 16, 1982.

Docket No. 81–00336. Applicant: University of New Orleans, Biological Sciences, Lakefront Drive, New Orleans, LA 70122. Instrument: Diamond Knife #263. Date of denial without prejudice to resubmission: June 1, 1982.

Docket No. 81–00371. Applicant: Baptist Regional Health Services, 1000 W. Moreno Street, Pensacola, FL 32501. Instrument: Therac 20/Saturne Linear Accelerator with Accessories. Date of denial without prejudice to resubmission: April 1, 1982

Docket No. 81–00392. Applicant: University of Colorado, Department of Chemistry, Campus Box 215, Boulder, CO 80309. Instrument: Excimer Laser, EMG 101. Date of denial without prejudice to resubmission: April 20, 1982.

Docket No. 81–000397. Applicant: National Aeronautics and Space Administration, Mail Stop 160, Langley Research Center, Hampton, VA 23665. Instrument: NaCl Laser Window. Date of denial without prejudice to resubmission: April 20, 1982.

Docket No. 81–00398. Applicant: University of Southern California, University Park, Los Angeles, CA 90007. Instrument: Quartz Rear Reflector, 503 RX. Date of denial without prejudice to resubmission: April 20, 1982.

Docket No. 81–00014. Applicant: SUNY at Stony Brook, Stony Brook, New York 11794. Instrument: Diffraction Grating on Fused Silica. Date of denial without prejudice to resubmission: June 3, 1982.

Docket No. 82–00017. Applicant: University of Rochester, Cancer Center, 601 Elmwood Avenue, Box 704, Rochester, NY 14642. Instrument: Therac 20/Saturne Linear Accelerator with Accessories. Date of denial without prejudice to resubmission: April 16, 1982.

Docket No. 82–00021. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 S. Cass Avenue, Argonne, IL 60439. Instrument: Excimer Laser, Model TE–861T with Optics Sets. Date of denial without prejudice to resubmission: April 16, 1982.

Docket No. 82–00031. Applicant: Massachusetts Institute of Technology, RM: E18–360, Cambridge, MA 02139. Instrument: Projection Aligner, FPA–141, with a Wafer Disc, Rubber Wafer Chuck, and two Seal Glasses. Date of denial without prejudice to resubmission: April 30, 1982.

Docket No. 82–00036. Applicant: Regents of the University California, Riverside, Materiel Management Department, Riverside, CA 92521. Instrument: Organ Perfusion Apparatus, Model KM–1A. Date of denial without prejudice to resubmission: May 26, 1982.

Docket No. 82–00048. Applicant: The Regents of the University of California, Riverside, Materiel Management Department, Riverside, CA 92521. Instrument: Saddle Field Neutral Source. Date of denial without prejudice to resubmission: June 11, 1982.

Docket No. 82–00051. Applicant: Baylor University Medical Center, 3500 Gaston Avenue, Dallas, TX 75246. Instrument: TP–11 Radiotherapy Planning System. Date of denial without prejudice to resubmission: June 30, 1982.

Docket No. 82–00057. Applicant: Medical College of Ohio Hospital, C. S. 10008, Toledo, OH 43699. Instrument: Radiation Therapy Special Simulator. Date of denial without prejudice to resubmission: June 30, 1982.

Docket No. 82–00059. Applicant: Brookhaven National Laboratory, Associated Universities, Inc., Upton, NY 11973. Instrument: Hydrogen Thyratrons (53 each). Date of denial without prejudice to resubmission: July 14, 1982.

Docket No. 82–00061. Applicant: University of California, Los Alamos National Laboratory, P.O. Box 990, Los Alamos, NM 87545. Instrument: Excimer Laser, EMG 101. Date of denial without prejudice to resubmission: June 17, 1982.

Docket No. 82–00089. Applicant: SUNY College of Environmental Science and Forestry, Syracuse, NY 13210. Instrument: Modelscope w/Mount and Brace. Date of denial without prejudice to resubmission: June 17, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83–504 Filed 1–6–83; 8:45 am]

BILLING CODE 3510–25–M

Lucile Reid Cancer Institute; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00293. Applicant: Lucile Reid Cancer Institute, 2920 "H" Street, Suite R, P.O. Box 24711, Bakersfield, CA 93303. Instrument: Automated Ultrasonic Body Imager. Manufacturer: Ausonics Pty., Australia. Intended use of instrument: See Notice on page 39547 in the **Federal Register** of September 8, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 30, 1981).

Reasons: This application is a resubmission of Docket Number 81–00339 which was denied without prejudice to resubmission on March 11, 1982 for informational deficiencies. The foreign instrument provides radial breast scanning, lesion volume measurement, and abdominal scans. The most closely comparable domestic instrument available at the time the foreign article was ordered was either the Model L1135 or the Model SM–120 manufactured by Life Instruments Corporation and Technicare respectively. These domestic instruments did not provide equivalent radial scan capability, abdominal scans and lesion volume measurement at the time the foreign instrument was ordered. The Department of Health and Human Services advises in its memorandum

date November 10, 1982 that (1) The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-514 Filed 1-6-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00299. Applicant: National Bureau of Standards, Washington, D.C. 20234. Instrument: Field Emission Ion Source System. Manufacturer: Dubilier Scientific Limited, United Kingdom. Intended use of instrument: See Notice on page 39547 in the **Federal Register** of September 8, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 81-00369 which was denied without prejudice to resubmission on March 31, 1982 for informational deficiencies. The foreign instrument provides an ion current density of 20 microamperes per square centimeter and an ion beam diameter (at 100 millimeters from the lens exit for ions of gallium and argon) of 150 microns. The Department of Health and Human Services advises in its memorandum dated November 10, 1982 that (1) The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-506 Filed 1-6-83; 8:45 am]

BILLING CODE 3510-25-M

Ohio State University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00304. Applicant: The Ohio State University, College of Pharmacy, 500 West 12th Avenue, Columbus, Ohio 43210. Instrument: Circular Dichroism Spectropolarimeter, Model J-500A and Accessories. Manufacturer: Japan Spectroscopic Company Limited, Japan. Intended use of instrument: See Notice on page 39547 in the **Federal Register** of September 8, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides high frequency switching (50,000 times per second) between right and left polarized light and circular dichroism spectral data. The Department of Health and Human Services advises in its memorandum dated November 10, 1982 that: (1) The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-508 Filed 1-6-83; 8:45 am]

BILLING CODE 3510-25-M

Texas A&M University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00251. Applicant: Texas A&M University, Mechanical Engineering Department, College Station, Texas 77843. Instrument: Closed Loop Crystal Driver. Manufacturer: Solid State Equipment, New Zealand. Intended use of instrument: See Notice of page 33527 in the **Federal Register** of August 3, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign

instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign article measures elastic modulus and internal friction simultaneously. The National Bureau of Standards advises in its memorandum dated December 3, 1982 that (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory, Import Programs Staff.

[FR Doc. 83-512 Filed 1-6-83; 8:45 am]

BILLING CODE 3510-25-M

Texas Tech University; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00318. Applicant: Texas Tech University, Textile Research Center, P.O. Box 5217, Lubbock, TX 79417/5217. Instrument: Fiberblender. Manufacturer: Shirley Development Limited, United Kingdom. Intended use of instrument: See Notice on page 41798 in the **Federal Register** of September 22, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can open, clean, blend and randomize samples. The National Bureau of Standards advises in its memorandum dated December 8, 1982 that (1) The capability of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-516 Filed 1-6-83; 8:45 am]

BILLING CODE 3510-25-M

Texas Tech University; Decision on Application, for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00303. Applicant: Texas Tech University, Textile Research Center, P.O. Box 5217, 7th & Boston Street, Lubbock, TX 79417. Instrument: IIC-Shirley Fineness Maturity Tester, Mark 2. Manufacturer: Shirley Developments Limited, United Kingdom. Intended use of Instrument: See Notice on page 39547 in the **Federal Register** of September 8, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument measures the fineness and maturity of cotton fiber. The National Bureau of Standards advises in its memorandum dated November 16, 1982 that: (1) The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-507 Filed 1-6-83; 8:45 am]

BILLING CODE 3510-25-M

University of California et al.; Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a)(3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calender days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, Room 2097, 14th and Constitution Avenue. NW., Washington, D.C. 20230.

Docket No. 82-00125R. Applicant: University of California, Los Angeles, School of Engineering and Applied Science, 405 Hilgard Avenue, Los

Angeles, CA 90024. Instrument: Carcinotron Power Supply. Application is a resubmission, notice of which was published in the **Federal Register** of April 13, 1982.

Docket No. 82–00174R. Applicant: U.S. Department of Energy, Laramie Energy Technology Center, P.O. Box 3395, Laramie, WY 82071. Instrument: Model MMZAB1F Ultra High Resolution Mass Spectrometer with Accessories. Application is a resubmission, notice of which was published in the **Federal Register** of May 20 1982.

Docket No. 82–00295R. Applicant: York Hospital, 1001 S. George Street, York, PA 17405. Instrument: Linear Accelerator Therac–6 with Accessories. Application is a resubmission of 82–00007, notice of which was published in the **Federal Register** of November 18, 1981.

Docket No. 83–90. Applicant: The University of Texas Health Science Center, P.O. Box 20036, Houston, TX 77025. Instrument: McArthur Medical Microscope with Accessories. Manufacturer: The McArthur Microscope, United Kingdom. Intended use of instrument: The instrument is intended to be used in the screening of blood samples for *Trypanosoma cruzi*, the etiologic agent of Chagas' Disease. The following parasitologic and immunological tests will be performed on the sera, direct Giemsa-stained blood smear, smear following Strout's method of parasite concentration, dark-field microscopy, oil immersion, immunofluorescence technique. Dissection and examination of triatomidae will be accomplished when specimens are submitted. Blood specimens will be obtained from patients in various clinics and facilities throughout Houston. Application Received by Commissioner of Customs: December 14, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83–505 Filed 1–6–83; 8:45 am]

BILLING CODE 3510–25–M

University of Chicago; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00271, Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Instrument: Vacuum System. Manufacturer: ISA Riber, France. Intended use of instrument: See Notice on page 36685 in the **Federal Register** of August 23, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such pruposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign article can prepare various combinations of semiconductor-semiconductor, metal-metal, and metal-semiconductor layered ultra-thin coherent structures and can be used to conduct x-ray, neutron and light scattering; electrical resitivity; hall effect; magneto resistance, sound propagation; and superconductivity experiments on them. The National Bureau of Standards advises in its memorandum dated December 8, 1982, that it knows of no comparable domestic system scientifically equivalent to the foreign instrument for its intended purposes. We find that (1) The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) we know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83–515 Filed 1–6–83; 8:45 am]

BILLING CODE 3510–25–M

University of Massachusetts; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82–00240. Applicant: University of Massachusetts, Department of Civil Engineering, Marston Hall, Room 30, Amherst, MA 01003. Instrument: Electronic Hydraulic Controller, Triaxial Cell. Manufacturer: Geotechnical Digital, United Kingdom. Intended use of instrument: See Notice on page 30536 in the **Federal Register** of July 14, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The application is a resubmission of Docket Number 81–00376 which was denied without prejudice to resubmission on April 30, 1982 for informational deficiencies. The foreign instrument provides independent control of (1) axial load, (2) confining pressure and (3) pore water pressure with its associated volume change. The National Bureau of Standards advises in its memorandum dated November 2, 1982 that (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff

[FR Doc. 83-519 Filed 1-6-83; 8:45 am]

BILLING CODE 3510-25-M

University of Wisconsin-Osh; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. Law 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00284. Applicant: University of Wisconsin-Osh, 800 Algoma Boulevard, Oshkosh, Wisconsin 54901. Instrument: VLF Resistivity Meter, EM-16, EM-16R, and EM-31. Manufacturer: Geonics Limited, Canada. Intended use of Instrument: See Notice on page 39546 in the **Federal Register** of September 8, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument measures very low frequency wavefront orientation and electromagnetic ground resistivity (from 10 to 30,000 ohm-meters). The National Bureau of Standards advises in its memorandum dated November 10, 1982 that (1) The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-518 Filed 1-6-83; 8:45 am]

BILLING CODE 3510-25-M

University of Tennessee; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00307. Applicant: University of Tennessee, Knoxville, Tennessee 37996. Instrument: Excimer-Pumped Dye Laser System. Manufacturer: Lambda Physik GmbH, & Company, West Germany. Intended use of instrument: See Notice on page 39548 in the **Federal Register** of September 8, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (June 15, 1981).

Reasons: This application is a resubmission of Docket Number 81-00391 which was denied without prejudice to resubmission on April 23, 1982 for informational deficiencies. The foreign instrument provides a peak power of one megawatt when pumped at 308 nanometers. The National Bureau of Standards advises in its memorandum dated December 1, 1982 that (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-509 Filed 1-6-83; 8:45 am]

BILLING CODE 3510-25-M

National Technical Information Service

Government-Owned Inventions; Notice of Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

George Kudravetz,

Program Manager, Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

SN 6-279,443 LTR-Vectors, Department of Health & Human Services

SN 6-360,424 Human Use for the Compound 4-Carboxyphthalato (1,2-Diaminocyclohexane)-Platinum (II) and Alkali Metal Salts Thereof, Department of Health & Human Services

SN 6-417,625 Method of Inhibition of Neural Decline with Aging by Retardation or Counter-Action, Department of Health & Human Services

SN 6-330,959 Monoclonal Antibodies Reactive with Human Breast Cancer, Department of Health & Human Services

SN 6-335,155 1,4-Bis (2'-Chloroethyl)-1,4-Diazabicyclo (2.2.1)-Heptane Salts and Method of Preparation Thereof, Department of Health & Human Services

SN 6–367,470 Antileukemic 1,4-Bis(2'-Chloroethyl)-1,4-Diazabicyclo (2.2.1)-Heptane Salts and Method of Preparation Thereof, Department of Health & Human Services
SN 6–423,241 Inosine-5'-Monophosphate (IMP) Dehydrogenase Inhibitors, Department of Health & Human Services
SN 6–443,682 Monoclonal Antibodies to Herpes Simplex Virus Type I Polypeptides, Department of Health & Human Services
SN 6–389,118 Polymer Bound Dyes Prepared by Diazo Coupling Reactions with Poly (Organophosphazenes), Department of Health & Human Services
SN 6–352,599 Antiviral Activities of Dansylcadayerine and Closely Related Compounds, Department of Health & Human Services
SN 6–426,440 Detection of Agricultural Contraband in Baggage, Department of Agriculture
SN 6–408,569 Synthetic Pheromone 8-Methy1-2-deconol Propanoate and Its Use in Controlling Corn Rootworms, Department of Agriculture
SN 6–423,404 Treatment of Rice Flour to Obtain Improved Quality Baked Products, Department of Agriculture
SN 6–340,919 Heat Absorbing Jacket For High Intensity Lamps, Department of Agriculture

[FR Doc. 83–405 Filed 1–6–83; 8:45 am]
BILLING CODE 3510-04-M

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[Docket No. CRT 81–1]

1980 Cable Royalty Distribution Proceeding

Correction

In FR Doc. 82–35130 beginning on page 57748, in the issue of Tuesday, December 28, 1982, make the following corrections:

On page 57749, first column, third line, "4.25%" should read "4.50%". In the same column, fifth line, "4.50%" should read "4.25%".

BILLING CODE 1505-01-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1983 commodities and military resale commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before: February 9, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities, military resale commodities, and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities, military resale commodities, and service to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 4820

Valve, Ball
4820–00–052–4651
4820–00–052–4653

Class 8465

Cover, Field Pack
8465–00–001–6478

Military Resale Item Nos. and Names

No. 068 Pencil, Mechanical, .5mm lead
No. 520 Fabric Softener, Reusable
No. 564 Scrubber, Stainless Steel
No. 568 Board, Ironing, Table Top

SIC 0782

Grounds Maintenance, USAR Facility, Mann Hall, N. 4415 Market Street, Spokane, Washington
Grounds Maintenance, USAR Facility, N. 3800 Sullivan Road, Trentwood, Washington

C. W. Fletcher,
Executive Director.

[FR Doc. 83–472 Filed 1–6–83; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1983; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1983 services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: January 7, 1983.

ADDRESS: Committee for Purcahse from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On September 30, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (47 FR 43107) of proposed additions to Procurement List 1983, November 18, 1982 (47 FR 52101).

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government uner 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the services listed.

c. The actions will result in authorizing small entities to provide services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1983:

SIC 0782

Grounds Maintenance, Vancouver Army Barracks, Vancouver, Washington

SIC 7349

Janitorial Service, Marine Corps Development and Education Command, Buildings: 3098, 2079, 3035, 2034, 3400, Quantico, Virginia
Janitorial Service, Survival School Buildings 1212, 1228, 1324, 1334, 1342, 1207, Fairchild Air Force Base, Washington

C. W. Fletcher,
Executive Director.

[FR Doc. 83–473 Filed 1–6–83; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1983; Correction of Proposed Additions

In FR Doc. 82–34828, published December 23, 1982 (47 FR 57324), the NSN for the item under Mask, Extreme

Cold Weather is corrected to read 8415–01–006–3468.

C. W. Fletcher,

Executive Director.

[FR Doc. 83–474 Filed 1–6–83; 8:45 am]

BILLING CODE 6355–35–M

CONSUMER PRODUCT SAFETY COMMISSION

Public Meeting Concerning Kerosene Heaters

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public meeting.

SUMMARY: The Commission has scheduled a public meeting to obtain additional information about the safety of kerosene heaters. Participation by members of the public is invited.

DATES: (1) The meeting will begin at 9:30 a.m., January 27, 1983. (2) Requests from members of the public who desire to make presentations should be received by the Office of the Secretary not later than January 20, 1983.

ADDRESS: The meeting will be in the third floor conference room at 1111 18th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: (1) For information about the interests of the Commission in the safety of kerosene heaters, Sandra Eberle, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492–6957. (2) To request opportunity to make a presentation at the meeting, Sheldon Butts, Deputy Secretary, Office of the Secretary, Consumer Products Safety Commission, Washington, D.C. 20207; (301) 492–6800.

SUPPLEMENTARY INFORMATION: During Fiscal Year 1983, the Commission has selected two projects involving kerosene heaters for priority attention. One concerns the possible fire hazard which kerosene heaters may present. The other concerns the potential hazard of indoor air pollutants which may be emitted by these heaters.

To obtain current information about these two areas of potential risk which may be associated with kerosene heaters, the Commission has scheduled a public meeting on January 27, 1983. One portion of the meeting will be devoted to a briefing by the Commission staff on the status of the two priority projects involving kerosene heaters. The other part of the meeting will consist of presentations by members of the public, followed by questions from the Commissioners. The Commission is primarily interested in presentations from the public that will provide new test data about the performance of kerosene heaters, and recently developed technical data and other information about the potential risks of fire and indoor pollution that these heaters may present.

Members of the public who desire to make presentations at this meeting should call or write Sheldon Butts, Deputy Secretary, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492–6800 not later than January 20, 1983.

Presentations from members of the public should be limited to approximately ten minutes. Persons desiring to make presentations are encouraged to submit a written text or summary of their presentations to the Office of the Secretary not later than January 20, 1983.

The Commission reserves the right to impose further time restrictions on all presentations from members of the public, and to limit duplicative presentations.

The public meeting will begin at 9:30 a.m. on January 27, 1983, in the third floor conference room, 1111 18th Street NW., Washington, D.C. and will conclude on the same day.

Dated: January 4, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83–503 Filed 1–6–83; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement for Norfolk Harbor, Virginia (1973)

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a Draft Supplement.

SUMMARY: 1. The Port of Hampton Roads consists of the main navigation channels: Elizabeth River and its branches, Newport News, Norfolk Harbor and several lesser navigation channels, anchorges and turning basins. Maintenance dredging of these channels has produced material which has been continuously deposited in the Craney Island Disposal Area since 1957. The channels and disposal site have been studied extensively from engineering, economic and environmental viewpoints since the final Norfolk Harbor Environmental Impact Statement was filed in 1973. This has produced a vast amount of significant data pertinent to these projects. The continued maintenance dredging of these channels is heavily dependent on the long-term storage capacity of the existing site. A management plan has been developed to address both present and future requirements.

2. Because the Craney Island Disposal Area has been in continuous operation since 1957, the "no action" alternative has been eliminated from serious consideration. However, options to ongoing and future management will be discussed. During this process, alternative measures or modifications to the proposed management plan may be considered which will more effectively accomplish project goals.

3. a. The Supplement will be coordinated with and reviewed by appropriate Federal, State, and local agencies as well as other interested groups and individuals. Anyone wishing to comment at any time during development of the Draft Supplement should write the District Engineer, Norfolk District.

b. Significant Issues which will be addressed include, but are not limited to: the impacts of dredging and disposal methods, impact of effluent from the disposal site, navigation, economics, and the effects to the environment of alternatives.

4. *Public Meetings:* No public meetings are planned.

5. It is anticipated that the Draft Supplement will be available for public comment by 1 April 1983.

ADDRESS: Questions about the proposed action and Draft Supplement can be answered by: Mr. Terrence Getchell, Engineering Division, Norfolk District, 803 Front Street, Norfolk, Virginia 23510. Phone: (804) 441–3616 or FTS 827–3616.

Leonard G. Hassell,

Major, Corps of Engineers, Assistant District Engineer.

[FR Doc. 83–490 Filed 1–6–83; 8:45 am]

BILLING CODE 3710–EN–M

Office of the Secretary

Defense Science Board Task Force on Close Air Support; Change in Advisory Committee; Meeting

The date of the meeting of the Defense Science Board Task Force on Close Air Support scheduled for 4–5 January 1983

as published in the **Federal Register** (Vol. 47, Wednesday, December 1, 1982, FR Doc. 82–32781) has been postponed until 20–21 January 1983. In all other respects the original notice cited above remains the same.

Dated: January 4, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83–489 Filed 1–6–83; 8:45 am]

BILLING CODE 3810-01-M

President's Commission on Strategic Forces; Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed session on January 7, 1983 at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. To meet the stringent deadline imposed by the President, the first meeting of the Commission is being held on January 7, 1983. Subsequent meetings will be called by the Commission Chairman on very short notice. However, every effort will be made to give timely notice of future meetings.

Discussions during the meeting will involve classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separate classified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with Section 10(d) of Pub. L. 92–463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer Department of Defense.

January 6, 1983.

[FR Doc. 83–635 Filed 1–6–83; 10:19 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Brownlie, Wallace, Armstrong & Bander, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Brownlie, Wallace, Armstrong & Bander, Inc. (BWAB) of Denver, Colorado. This Proposed Remedial Order charges BWAB with pricing violations in the amount of $370,234.34 connected with the sale of crude oil at prices in excess of those permitted by 10 CFR 212, Subpart D during the time period January 1, 1979 through December 31, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Deputy Director, Crude and NGL & Litigation Support Group, Econmic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767–7401. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Tex., on the 22d day of December 1982.

Ben L. Lemos,

Director, Dallas Field Office, Economic Regulatory Administration.

[FR Doc. 83–477 Filed 1–6–83; 8:45 am]

BILLING CODE 6450-01-M

Transco Trading Co. and Refiners & Producers Marketing, Inc., Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Transco Trading Company and Refiners and Producers Marketing, Inc. of Midland, Texas. This Proposed Remedial Order charges Transco and Refiners and Producers Marketing with violations in the amount of $21,187,493 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart L, during the time period July 1978 through May 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Deputy Director, Crude Reseller Audit & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas Texas 75235, or by calling 214/767–7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR 206.193.

Issued in Dallas, Tex., on the 21st day of December 1982.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83–476 Filed 1–6–83; 8:45 am]

BILLING CODE 6450-01-M

United Petroleum Distributors, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to United Petroleum Distributors, Inc. of Houston, Texas. This Proposed Remedial Order charges United with pricing violations in the amount of $1,735,366.27 plus interest, connected with the sale of No. 2 heating oil for the period from December, 1973 through April, 1974 and No. 6 residual fuel oil during November and December, 1974.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J. McKee, Jr., Director, Philadelpha Field Office, ERA (215) 597–2633. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelpha, Pa., on the 22d day of December 1982.

Robert J. McKee, Jr.

Director, Philadelpha Field Office, Economic Regulatory Administration.

[FR Doc. 83–478 Filed 1–6–83; 8:45 am]

BILLING CODE 6450-01-M

Zephyr Oil & Trading Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Zephyr Oil and Trading Company of Houston, Texas. This Proposed

Remedial Order charges Zephyr with pricing violations in the amount of $618,827 plus interest, connected with the sale of motor gasoline from July 1, 1978 through October 30, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Robert J. McKee, Jr. Director, Philadelphia Field Office, ERA (215) 597–2633. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia, Pa., on the 21st day of December 1982.

Robert J. McKee, Jr.

Director, Philadelphia Field Office, Economic Regulatory Administration.

[FR Doc. 83-479 Filed 1-6-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51448; TSH-FRL 2280-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of thirteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83–338, 83–339, 83–340, 83–341, 83–342, 83–343, 83–344, 83–345 and 83–346—March 26, 1983.

PMN 83–347, 83–348 and 83–349—March 27, 1983.

PMN 83–340—March 28, 1983.

Written comments by:

PMN 83–338, 83–339, 83–340, 83–341, 83–342, 83–343, 83–344, 83–345 and 83–346—February 24, 1983.

PMN 83–347, 83–348 and 83–349—February 25, 1983.

PMN 83–350—February 26, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS–51448]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107.

PMN 83–338

Importer. Confidential.

Chemical. (G) Substituted-1,8-triphenodioxazinedisulfonic acid, sodium salt.

Use/Import. (G) Textile dye. Import range: 10,000–50,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; TL_m, 96 hr.(zebra fish): >1,000 mg/l; Irritation: Skin—2.3/8 Eye—0/110; BOD_5—0 g/g O_2; COD—0.722 g/g O_2; Ames Test: Negative; Treatment plant bacterial inhibition=No inhibition up to 300 mg/1.

Exposure. Processing: a total of 200 workers, up to 1,200 man hrs/yr.

Environmental Release/Disposal. Minimal release. Disposal by plant water treatment system.

PMN 83–339

Importer. Confidential.

Chemical. (S) 5-[4-chloro-6-[3-[2-(hydroxysulfonyloxy) ethylsulfonyl]anilino]-1,3,5-triazin-2-ylamino]-3-(1,5-disulfo-2-naphthylazo)-4-hydroxy-2,7-naphthalenedisulfonic acid, pentasodium salt.

Use/Import. (S) Dyestuff. Import range. 500–10,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83–340

Importer. Confidential.

Chemical. (S) 3-[4-[4-chloro-6-[3-[2-(hydroxysufonyloxy) ethylsufonyl]anilino]-1,3,5-triazin-2-ylamino]-5-sulfonaphthylazo]-6-sulfonaphthylazo]-1,5-naphthalenedisulfonic acid, pentasodium salt.

Use/Import. (S) Dyestuff. Import range: 500–10,000 kG/yr.

Toxicity Data. Acute oral: 5,000 mg/kg; irritation: skin—Non—irritant, Eye—Moderate.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83–341

Importer. Confidential.

Chemical. (S) 7-[4-[4-chloro-6[3-[2-(hydroxysulfonyloxy) ethyl sulfonyl]anilino]-1,3,5-triazin-2-ylamino]-2-ureidophenylazo]-1,3,6-napthalenetrisulfonic acid, tetrasodium salt.

Use/Import. (S) Dyestuff. Import range: 500–10,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Slight, Eye—Mild.

Exposure. No data submitted.

Toxicity Data.

Environmental Release/Disposal. No data submitted.

PMN 83–342

Importer. Confidential.

Chemical. (S) 3-[5-[4-chloro-6-[3-[2-hydroxysulfonyloxy) ethylsulfonyl]anilino]-1,3,5-triazin-2-ylamino]-2-sulfophenyl-azo[-4-hydroxy-5-propionylamino-2,7-napthalenedisulfonic acid, tetrasodium salt.

Use/Import. (S) Dyestuff. Import range: 500–10,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non—irritant, Eye—Mild.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83–343

Importer. Confidential.

Chemical. (S) 4-amino-6-[5-[4-chloro-6-[3-[2-(hydroxysulfonyloxy)ethylsufonyl]anilino]-1,3,5-triazin-2-ylamino]-2-sulfophenylazo]-5-hydroxy-3-(4-sulfophenylazo)-2,7-napthalenedisulfonic acid, pentasodium salt.

Use/Import. (S) Dyestuff. Import range: 500–10,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non—irritant, Eye—Mild.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83–344

Manufacturer. Confidential.

Chemical. (G) Mercapto-substituted, heterocyclic nitrogen compound.

Use/Production. (S) Photographic emulsion component. Prod. range: 500 g/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: a total of 6 workers, up to 48 hrs/yr.

Environmental Release/Disposal. Disposal by incineration.

PMN 83–345

Manufacturer. Confidential.

Chemical. (G) Alky thiocyanate.

Use/Import. (S) Site-limited intermediate. Prod. range: 500 g/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, and processing: a total of 1 worker, up to 6 hrs/da, up to 1 da/yr.

Environmental Release/Disposal. Disposal by incineration.

PMN 83–346

Manufacturer. Confidential.

Chemical. (S) Polymer of 2-propenoic acid, 2-methyl-, methyl ester and 1,3-butyleneglycol diacrylate.

Use/Production. (G) Industrial Coating. Prod. range: Confidential.

Toxicity Data. Acute oral: Low inherent toxicity: Irritation: Skin—Low, Eye—0.3/110; Ames Test: Non-mutagenic.

Exposure. Manufacture and processing: dermal, a total of 12 workers, up to 8 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. Disposal by incineration.

PMN 83-347

Manufacturer. Monsanto Company.

Chemical. (S) Partially hydrogenated polybenzylated toluene.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames Test: Negative; 48 hr, (daphnia magna): >100 mg/l; 96 hr, (fathead minnow): >100 mg/l; 96 hr, (rainbow trout): >100 mg/l.

Exposure. Manufacture, processing, use and disposal: dermal, and inhalation, a total of 20 workers, up to 250 hrs/employee/yr.

Environmental Release/Disposal. Disposal by approved landfill.

PMN 83-348

Manufacturer. Monsanto Company.

Chemical. (S) Polybenzylated toluene.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: inhalation, a total of 6 workers, up to 52 hrs/employee/yr.

Environmental Release/Disposal. Disposal by approved landfill.

PMN 83-349

Manufacturer. Confidential.

Chemical. (G) Polyol polymethacrylate.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. Acute oral: >4.9 gm/kg; Acute dermal: >2 g/kg; Irritation: Skin—Severe. Eye—Slight; Ames Test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. 50-5,000 kg/yr released to environment.

PMN 83-350

Manufacturer. Eastman Kodak.

Chemical. (S) 2-propoxyethyl acetate.

Use/Production. (S) Solvent for coatings and finishes. Prod. range: Confidential.

Toxicity Data. Acute oral: 9.5 g/kg; Acute dermal: >19 g/kg; COD: 2.1 g/ml; Irritation: Skin—Slight, Eye—Slight; Inhalation: LC_{50}, 6 hrs.: >934 part per million (ppm); Skin sensitization: None.

Exposure. Manufacture and processing: dermal and inhalation, a total of 42.512 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Minimal release to air, water and land.

Dated: December 30, 1982.

Ronald A. Stanley,

Acting Director, Management Support Division.

[FR Doc. 83-452 Filed 1-6-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2261-1]

Availability of Environmental Impact Statements Filed December 27 Through December 30, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information, 382-5075 or 382-5076.

Corps of Engineers:
- EIS No. 820825, Report, COE, OH, Report—Conneaut Harbor Maintenance/ Dredging, Lake Erie, Ashtabula County

Department of Energy:
- EIS No. 820826, Draft, DOE, TX, Pantex Plant Site, Continued Operation, Carson County, Due: Mar. 15, 1983

Department of the Interior:
- EIS No. 820824, Draft, BLM, CA, Otay Area Grazing Management Plan, Los Angeles/ Riverside/San Diego Counties, Due: Feb. 21, 1983
- EIS No. 820827, Draft, BLM, SEV, AZ, UT, Arizona Strip Wilderness Study Areas, Wilderness Designation, Due: Mar. 7, 1983

Department of Transportation:
- EIS No. 820822, Final, FAA, NH, Lebanon Airport Runway Ext./Industrial Park Development, Grafton County, Due: Feb. 7, 1983
- EIS No. 820817, Draft, FHW, PA, Mid-County Expressway (I-476/LR-1010) Completion, Montgomery County, Due: Feb. 28, 1983
- EIS No. 820766, Draft, FHW, IL, North End Bridge Construction, Big Timber Rd. to Summit St., Kane County, Due: Feb. 25, 1983
- EIS No. 820823, Final, FHW, MT, West Valley Highway/US 10A Reconstruction, Deer Lodge County, Due: Feb. 7, 1983

Department of Housing and Urban Development:
- EIS No. 820821, Final, HUD, TX, San Antonio North-NW Growth Corridor Areawide Study, Bexar County, Due: Feb. 7, 1983

Department of Agriculture:
- EIS No. 820820, Draft, AFS, SEV, OR, CA, Klamath National Forest Land and Resource Management Plan, Due: Mar. 31, 1983
- EIS No. 820828, Final, SCS, KS, Diamond Creek Watershed Flood Protection Plan, Chase and Morris Counties, Due: Feb. 7, 1983
- EIS No. 820829, Final, SCS, KS, Middle Creek Watershed Flood Control Plan, Chase, Marion & Morris Counties, Due: Feb. 7, 1983

Amended Notices:
- EIS No. 820815, Final, FHW, AR, AR-29 Relocation, I-30 to AR-29, Hope, Hempstead County, Due: Feb. 7, 1983 [1]
- EIS No. 730509, Draft, NPS, AK, Glacier Bay National Monument General Management Plan, Officially withdrawn [1]
- EIS No. 721514, Draft, NPS, CA, Joshua Tree National Monument Wilderness General Management Plan, Officially withdrawn [1]
- EIS No. 740306, Draft, NPS, CA, Death Valley Wilderness Area, Officially withdrawn [1]
- EIS No. 731915, Draft, FWS, OR, Hart Mountain National Antelope Refuge, Officially withdrawn [1]
- EIS No. 740427, Draft, FWS, SEV, MD, VA, Assateague Island/Chincoteague Wilderness Area, Officially withdrawn [1]
- EIS No. 740262, Draft, BLM, REG, OCS, Hard Mineral Regulations, Leasing, Officially withdrawn [1]

Dated: January 4, 1983.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 83-471 Filed 1-6-83; 8:45 am]

BILLING CODE 6560-50-M

[1] Published FR Dec. 30, 1982—Review period reestablished due to noncompletion of distribution.

FEDERAL COMMUNICATIONS COMMISSION

[FCC 82-576]

Prescription of Revised Percentages of Depreciation Pursuant to the Communications Act of 1934, as Amended; American Telephone & Telephone Co., Long Lines Department, et al.

AGENCY: Federal Communications Commission.

ACTION: Depreciation rate prescription order.

SUMMARY: Pursuant to Sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), the Federal Communications Commission has ordered eleven Bell System operating companies to apply the percentages of depreciation which are set forth in the Appendix. These eleven companies filed for revised depreciation rates for various accounts and submitted studies and data to substantiate their requests. The intended effect of this action is to charge, as accurately as circumstances will allow, the cost of the consumption of depreciable assets to the periods in which the assets are useful in the production of revenues.

EFFECTIVE DATE: The companies are to apply the depreciation rates as of the date or dates set forth in the Appendix. In no case is an effective date prior to January 1, 1982.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moran, Chief, Depreciation Rates Branch,(202) 634-1861.

SUPPLEMENTARY INFORMATION: In the matter of the Prescription of Revised Percentages of Depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended for: American

Telephone and Telegraph Company, Long Lines Department, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, The Southern New England Telephone Company, and Wisconsin Telephone Company.

Adopted December 22, 1982.
Released December 30, 1982.

I. Introduction

1. Section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), states that the Commission shall, as soon as practicable, prescribe classes of property for which depreciation charges may be included in operating expenses and the percentages of depreciation which shall be charged to each of the classes. It also states that the Commission may, when it deems necessary, modify the classes and percentages so prescribed.

2. By this order we prescribe revised percentages of depreciation (depreciation rates) for the eleven Bell Operating Telephone Companies (BOTC's) listed above using the straight line equal life group (SLELG) method.

II. Background

A. Straight Line Equal Life Group Method

3. In FCC Docket No. 20188, 83 FCC 2d 267 (1980), *reconsideration*, 87 FCC 2d 916 (1981), we amended our rules to permit the use of the SLELG depreciation method for new additions to plant as an alternative to the straight line vintage group (SLVG) method, provided that adequate data is available for the proper application of the method.

4. The primary differences between the SLELG and SLVG methods lie in the definition of the basic depreciation groups and in the approach each takes in spreading the original cost of assets comprising the basic groups over their estimated average service lives. While SLVG forms its basic groups by combining all units placed in one year (i.e., a vintage group), SLELG creates its basic groups by combining all units within each vintage group which share an equal life expectancy (i.e., an equal life group). While the SLVG method is designed to depreciate 100% of the original cost of a vintage on average over the life cycle of each vintage, the SLELG method is designed to depreciate 100% of the original cost of each plant unit over its life. As a consequence, if projections are accurate, the SLELG method should allow for depreciation at a rate more representative of the actual consumption of units of property than SLVG. We concluded in Docket No. 20188 that the proper application and monitoring of this method would not only enhance the carriers' cash flow and present to all interested parties a more accurate and objective financial picture of the carriers operations and capital requirements, but would also benefit their customers by encouraging innovation and the introduction of new technology.

5. Under both the SLVG and SLELG methods, retirement projections, service life estimates, and depreciation rates are normally determined, in part, through the use of survivor curves. These survivor curves define the relationship between the age of plant investment and the relative percentage expected to remain in service. Under the SLELG methodology, the survivor curves assume an added significance—that of defining the basic (equal life) groups. Under the SLVG method, most survivor curves have been selected only after the staff has completed detailed statistical analysis of historical retirement data. With the added significance of the survivor curves in the SLELG method, the availability and analysis of historical retirement data becomes even more important.

6. We recognized the importance of adequate data in Docket No. 20188 where we found that the SLELG method is acceptable, provided that:

> * * * it is assured that adequate data is available for proper application of the method; that record keeping and reporting practices will enable monitoring of the reasonableness of the rate of allocation of both original cost and provisions for salvage and removal; that such allocation of original cost will achieve allocation over the service life of the property neither more nor less than 100% of the investment net of salvage value.

Accordingly, we directed the staff to take such measures as may be necessary to insure the measurability and accountability of the results under the SLELG method.

We further directed the staff to phase in the implementation of SLELG depreciation rates beginning with the outside plant accounts, followed by the central office equipment accounts and concluding with all other plant accounts. In accordance with this directive, this year the staff reviewed SLELG rates for the outside plant accounts for all of the BOTC's. As a result of that review, we adopted SLELG rates for new additions to most of the outside plant accounts for fifteen of these companies in July (*see* FCC 82-353, 90 FCC 2d 964 (1982)) and for nine additional companies in December (*see* FCC 82-542, Mimeo No. 32468). Our findings and conclusions regarding the SLELG rates for AT&T Long Lines outside plant accounts are discussed below (see paragraph 26 ff). With the adoption of this order, the prescription of SLELG rates for the outside plant accounts is complete for the Bell System.

8. This year the staff also reviewed SLELG rates for the central office equipment accounts for most of the BOTC's. As a result of that review, we adopted SLELG rates for new additions to most of the central office equipment accounts for nine of these companies in December (*see* FCC 82-542, Mimeo No. 32468). Our findings and conclusions regarding the SLELG rates for ten of the eleven BOTC's listed in the caption of this proceeding are discussed below (see paragraph 26 ff).[1] With the adoption of this order, the prescription of SLELG rates for the central office equipment accounts is complete for the BOTC's which have requested such rates.

B. Review Procedures

9. Since the late 1940's, the Commission has reviewed and prescribed the depreciation rates of approximately one-third of the larger FCC-subject telephone companies each year. In most cases we have prescribed rates for a carrier only after the following actions have been completed:

(1) Submittal of depreciation studies by the carrier.

(2) Staff review of the carrier's filings and studies in support of its proposed life and salvage factors.

(3) Independent staff analysis of such information as the carrier's plant mortality data and equipment retirement plans.

(4) Preparation of preliminary staff recommendations.

(5) Discussion of the carrier's filings and the preliminary Commission staff proposals at a conference in which representatives of the carrier and the staffs of the respective state commissions and the FCC participate (i.e., a three-way meeting).

10. During the past year, in addition to the filings in conjunction with the staff's normal triennial represcription cycle, we received SLELG proposals from the

[1] AT&T Long Lines is scheduled for a complete review of depreciation rates in 1983; as a result, it did not file for SLELG rates for central office equipment this year.

BOTC's listed in the caption of this proceeding. The need to resolve the issues raised by these filings in a timely manner required the staff to depart from its traditional procedures. Because it was apparent that there were insufficient staff resources to allow the complete review of life and salvage factors for the carriers requesting SLELG rates, the staff chose to omit portions of steps 2 and 3 above and instead use the life and salvage factors which underlie currently prescribed rates. In addition, time and resource constraints precluded the discussion of SLELG rates with the carriers and respective state commissions at three-way meetings. Instead, comments regarding the carrier filings and preliminary staff proposals were solicited from the carriers and respective state commissions via correspondence and telephone conversations.

11. On August 13, 1982, the staff sent review letters to the BOTC's and the respective state commissions outlining its assessment of the BOTC's SLELG studies and its own recommendations for SLELG rates. Comments were solicited from the carriers and the respective state commissions regarding the carrier and FCC staff recommendations. Subsequently, in September the BOTC's formally filed for SLELG rates for the central office equipment accounts. At that time, six BOTC's whose depreciation rates are scheduled for review in 1983 notified the staff of their intention not to file for SLELG rates for central office equipment. The staff analyzed the BOTC filings and arrived at its recommendations and, on October 12, 1982, issued a public notice (Report No. 2969) entitled, "Depreciation Rate Prescriptions Proposed For Domestic Telephone Companies." This public notice summarized the FCC staff's proposals for revised depreciation rates and the change in depreciation expense that would result if those proposed depreciation rates were approved. On October 13, 1982, the staff transmitted to each company and respective state commission a copy of the October 12 public notice, schedules containing the proposed SLELG rates and the staff analysis underlying the proposed SLELG depreciation rates.

III. Summary of Comments

A. August 13, 1982, Review Letters

12. Responses to the staff's August 13, 1982, review letters were received from AT&T, each of the BOTC's whose rates are under consideration here, and two of the BOTC's who decided not to file for SLELG rates this year. In addition the following state commissions responded: Indiana, Iowa, Kentucky, Louisiana, Maryland, Mississippi, North Dakota, South Carolina and Virginia.

13. AT&T, the BOTC's, and the Indiana and Mississippi commissions were in substantial agreement with the FCC staff position that SLELG rates should be used. On the other hand, the Iowa, Kentucky, Louisiana, Maryland, and Virginia commissions were opposed to the use of SLELG rates. The North Dakota and South Carolina commissions did not state whether they supported or opposed the use of SLELG rates.

14. AT&T, the BOTC's and the Indiana Commission agreed with most of the SLELG rates proposed by the FCC staff; however, they disagreed with the FCC staff position that SLELG treatment should not be allowed for the COE-Step-by-Step and COE-Crossbar accounts on the grounds that they are "dying" accounts that will be almost fully retired within a few years. AT&T stated that, although these are "dying" accounts, significant investment will be added to these accounts over the next several years and that remaining-life rates would provide first year accruals of only one-half those provided by SLELG rates. AT&T also asserted that its detailed retirement plans for these accounts provide a sound basis on which to determine SLELG depreciation rates. Additionally, it stated that the FCC, in approving the SLELG method, left room for judgment as to what constitutes adequate data, and that, in the exercise of this judgment, weight should be given to the Commission's decision that SLELG is a preferred method. AT&T also contended that the use of the SLELG method in "dying" accounts is important in that it helps prevent the deferral of capital recovery beyond the physical life of the property. AT&T also stated that the FCC staff's proposals regarding future net salvage and interim retirement patterns warrant further investigation. Finally, AT&T stated that the life estimates underlying currently prescribed rates for COE-ESS are too long.

15. The Mississippi Commission also generally agreed with the use of SLELG rates; however, it stated that additional information would have to be relieved before it could form an opinion as to the appropriateness of the staff's proposed curve shape for COE-Electronic.

16. The Kentucky Commission stated that it does not believe the use of SLELG is necessary in order to provide adequate capital recovery. It stated that the use of the remaining-life technique will allow proper recovery, but that, if SLELG rates are to be used, the rates proposed by the FCC staff are appropriate. The staff of the Kentucky Commission also endorsed the FCC staff's proposal to continue to use the remaining-life method for the COE-Step-by-Step and COE-Crossbar accounts. It stated that retirement dispersion patterns for these "dying" accounts could not be determined for new additions in these subaccounts, and that, therefore, SLELG rates could not be properly implemented.

17. The Iowa Commission had no comments regarding the proposed changes in depreciation rates for Northwestern Bell Telephone Company's interstate operations; however, it stated that it would retain exclusive jurisidiction over the establishment of depreciation practices for the intrastate operations of Northwestern Bell Telephone Company and that it, therefore, did not concur in such changes for the intrastate plant in Iowa. The Louisiana Commission stated that it has not authorized South Central Bell to use the SLELG method for intrastate ratemaking purposes. The Maryland Commission contended that the benefits associated with the SLELG procedure are illusory because estimated service lives will always be inaccurate and, therefore, proper matching of capital consumption and recovery will not occur. It also claimed that SLELG depreciation methods have not been shown to be superior to the SLVG procedure. The Virginia Commission reiterated its comments made in response to an earlier public notice; i.e., that SLELG is neither necessary nor in the best interests of Virginia telephone companies or customers.

18. The North Dakota Commission stated that it believed Northwestern Bell would not file for SLELG rates for central office equipment until 1983, and that it would reserve comment until the filing.

19. The South Carolina Commission stated that it was concerned about several assumptions made by the staff as well as the underlying methodologies the staff used. It requested that the FCC postpone consideration of the implementation of SLELG for central office equipment in South Carolina until after the scheduled three-way meeting in 1983. It stated that the three-way meeting is the appropriate forum for a complete enunciation of all its concerns and alternative proposals.

B. October 12, 1982, Public Notice

20. Responses to the staff's October 12, 1982 public notice were received from AT&T and the staffs of the

Louisiana, Maryland and Virginia commissions.

21. AT&T and the Maryland and Virginia commissions reiterated their earlier comments in response to the staff's August review letters (see paragraphs 14 and 17). AT&T again stated that it supports the staff's proposals with the exception of the denial of SLELG treatment for the COE-Step-by-Step and COE–Crossbar accounts. Virginia expressed the concern that its comments with regard to AT&T's SLELG filings for outside plant were dismissed without sufficient consideration in FCC Order 82–353, *supra*. The Virginia Commission also questioned why our staff requested comments when we have already stated that the question of whether or not the SLELG method should be used was decided in Docket No 20188.

22. AT&T Long Lines stated that it did not request SLELG treatment for accounts in which it did not maintain vintage retirement data. In addition, it agreed with the rates proposed by the staff in the October 12, 1982 public notice.

IV. Discussion of Issues

A. Use of SLELG

23. In our decision in Docket No. 20188, we considered the arguments expressed by the parties for and against the use of the SLELG method and determined that the use of SLELG rates is appropriate, provided adequate data is available. In the discussion in the Final Report and Order, we found that the use of SLELG comports with the mandate of Section 1 of the Communications Act, "to make available * * * a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges * * *" 47 U.S.C. 151. We reaffirmed our decision allowing the use of SLELG in our Order on Reconsideration as well as in five prescription orders approved this year (viz., FCC 82–53, 88 FCC 2d 1567 (1982), FCC 82–353, *supra*, FCC 82–354, 90 FCC 2d 997 (1982), FCC 82–542, Mimeo No. 32468, and FCC 82–543, Mimeo No. 32469). Nevertheless, several states have again questioned whether the use of SLELG rates is warranted. Inasmuch as these states have not raised any new arguments or evidence regarding the use of SLELG rates, we have no basis to reverse our decision on this matter. Our rules, as amended in Docket No. 20188, clearly allow the use of SLELG for accounts in which adequate data is available to properly apply and monitor it. Therefore, we will allow its use.

24. Although the Virginia Commission is correct that the issue of whether or not the SLELG method may be used has already been decided, this does not mean that it was meaningless to solicit comments. The primary purpose of the October 12, 1982, public notice was not to bring into question our rules, which clearly allow the use of the SLELG method, but rather to solicit comments regarding the effective dates proposed by the carriers and the life and net salvage factors that were under consideration for use in determining SLELG rates. Virginia did not respond to these issues. However, several respondents did and their comments are considered in this order (see paragraphs 26–28).

B. Preemption of States

25. Several state commissions stated that they have not approved SLELG procedures for their jurisdictions. The presence or absence of state commission approval of SLELG rates does not control the prescription of SLELG rates in this order. The prescription of depreciation rates is plainly a matter within the Commission's jurisdiction under Section 220(b) of the Communications Act. We have today ruled that such depreciation orders are binding at both the federal and state levels. *See* Amendment of Part 31, FCC 82– , Mimeo No. —— (adopted December 22, 1982).

C. Life and Net Salvage Factors

26. Our staff has stated that SLELG rates should be based upon the life and salvage factors determined in conjunction with the staff's last complete review of these companies' rates, because these companies are not scheduled for a complete review of depreciation rates until 1983 or 1984, and staff resources did not permit a complete review of life and salvage factors this year. In the October 12, 1982 public notice, the staff clearly stated its preference for the use of current life and salvage factors, and there were no comments to the contrary in response to that public notice. Furthermore, the BOTC's agreed with the staff and filed for SLELG rates based upon the factors determined in the last complete depreciation rate review. In this instance, we find that the benefits derived from implementing the new methods in a timely manner outweigh any advantages that may be derived from improving the precision of the estimates through the preparation and review of new studies of life and salvage. Furthermore, any inaccuracies that may result will be identified and resolved in the regularly scheduled reviews in 1983 and 1984.

27. The South Carolina Commission contended that SLELG rates should not be prescribed until it has had an opportunity to discuss the rates at a three-way meeting. We agree with South Carolina that it would be preferable to prescribe rates only after all the steps outlined in paragraph 9 are completed; however, we believe that the completion of all the steps outlined in that paragraph would have resulted in an unacceptable delay in the implementation of SLELG rates. We, therefore, believe the staff's departure from the traditional review procedures (i.e., especially the decision not to hold three-way conferences) was justified. Furthermore, we find that, with the staff review letters having been sent to the carriers and respective state commissions in August and with the public notice having been issued in October, South Carolina and all other parties had a reasonable opportunity to review the company and FCC staff prosals and submit their views for our consideration.

28. In FCC 82–353, *supra*, we pointed out that, when there is a strong relationship between the age of retirements and net salvage, future net salvage estimates for embedded plant do not apply to future additions of plant. In the companies' most recent depreciation studies for the COE-circuit and COE-Radio accounts, net salvage percentages and the age of retirements were demonstrated to be highly correlated. As a result, the future net salvage estimates used in determining the remaining-life rates for embedded plant are not appropriate for use in determining SLELG rates for new additions to plant. The staff analyzed these accounts and made the necessary adjustments to convert future net salvage factors originally derived for embedded plant to future net salvage factors for use with new additions to plant. The proposed adjustments were provided to the carriers and state commissions in October, and no responses objecting to these proposals were received. Therefore, we support the staff's proposals for SLELG future net salvage percentages in these accounts.

D. Accounts for Which SLELG Rates Are Not Recommended

29. In our final decision in Docket No. 20188, we found that the SLELG method is acceptable if adequate data is available for the proper application of the method and if the carriers' record keeping practices will allow for the

monitoring of the reasonableness of the rates. In each of the SLELG prescription orders approved to date, we have concluded that vintage retirement data is a minimum requirement for the proper application and monitoring of SLELG rates. In this proceeding, AT&T commented that it believes SLELG rates should be allowed for all accounts regardless of whether vintage retirement data is maintained; however, it offered no new argument or evidence to support this contention. There is, therefore, no basis on which to rescind the reporting requirements established in Docket No. 20188. We conclude that it is inappropriate to prescribe SLELG rates for accounts in which vintage retirement data is not maintained.

30. The staff proposes that new additions to the COE-Step-by-Step and COE-Crossbar accounts not be depreciated using the SLELG method. The staff argues that it is impractical to determine reasonable future survivor curves for these additions because these accounts consist of classes of equipment which are being rapidly retired from service. The staff proposes that new additions, as well as embedded plant, in these accounts be depreciated using the remaining-life method, and asserts that the remaining-life method will assure timely and complete recovery of capital. AT&T disagreed and argued that the objectives of the FCC, as stated in our decision in Docket No. 20188, would be frustrated by not applying SLELG rates to these accounts.

31. Both the FCC staff and the Kentucky Commission stated that estimated servivor curves for COE-Step-by-Step and COE-Crossbar have *not* been determined in previous depreciation studies and that it is impractical to do so at this time. This is because it has not been demonstrated that the companies can accurately estimate future additions or retirements for individual switching units. With the majority of remaining lives for electromechanical equipment in the three to seven year range, the error of these estimates will likely be significant. New additions to these accounts will clearly have very short and volatile estimated remaining lives, making the development of reliable survivor curves virtually impossible. Without reliable survivor curves, the development of an SLELG depreciation rate is illusory. This is because the remaining life "corrections" and curve shape changes would rapidly alter the overall depreciation rate for the account. We previously stated that SLELG rates should be used if adequate data exists to properly apply the method. Inasmuch as the future survivor curves cannot be practically determined, we agree with the staff that the proper application of the method cannot be accomplished for these accounts.

32. Additionally, as noted by AT&T, the current Bell System investment in the electromechanical accounts is approximately $13 billion, virtually all of which will be retired over the next ten years. The current annual additions to central office equipment are nearly $7 billion. In this context we find that the $600 million being added annually to the electromechanical accounts, which consists largely of reused (i.e., previously installed) equipment and associated labor, is not significant.

33. AT&T is probably correct that the current remaining-life rates may be only one-half the first year SLELG rates. However, an examination of this by the staff revealed that, if remaining lives were updated annually, the resultant remaining-life rates would be comparable to the first year SLELG rates for COE-Step-by-Step and would average one-third lower for COE-Crossbar. In most cases remaining-life rates are *higher* than SLELG rates by the end of the second year. Considering the aforementioned volatility of the life and curve shape estimates underlying the SLELG method, we find that the additional accruals provided by the SLELG method are insignificant even over the fisrt two years of application.

34. We do not agree with AT&T that the use of the remaining-life method risks any deferral of capital recovery beyond the remaining-lives of the assets. Remaining-life rates are designed to completely depreciate invested capital over the remaining life of a group of assets. This feature was the primary reason that we changed our rules in Docket No. 20188 to allow the use of the remaining-life method. We concur with the staff's reasoning and find that the remaining-life method should be used for depreciation of the COE-Step-by-Step and COE-Crossbar accounts.

35. While we agree with the staff's reasoning on the use of the remaining-life method for the electromechanical accounts, we also believe that some special measure is required to assure full and timely capital recovery on these short remaining life assets. We, therefore, direct the staff to update remaining-life depreciation rates for these accounts on an annual basis as requested by the companies or as is deemed necessary by the staff. These updates will assure that capital recovery is not unnecessarily deferrred.

E. Original Cost and Net Salvage Rates for ELG

36. We are only prescribing SLELG rates for the original cost of investment for the first four years of new additions to most central office and outside plant accounts. These rates will be applied until the next triennial review of depreciation for these companies. At that time the actual results of the use of the SLELG method will be evaluated, and methods and rates will be modified as necessary.

37. Present carrier accounting practices do not allow carriers to accumulate net salvage data by vintage for all classes of plant. For example, retirement of a complete bay of central office equipment may involve removal of equipment of several vintages, but would normally result in a single aggregate cost of removal and salvage. In this situation it is not feasible to allocate that cost of removal or salvage among the vintages in a meaningful manner. For this reason, instead of prescribing net salvage depreciation rates for each vintage, we are prescribing a single net salvage depreciation rate which is to be applied to all new vintages until the next regular review. *See* FCC 82-53, FCC 82-353, and FCC 82-354.

F. Conclusion

38. Having considered the responses to the staff's review letters and public notice, the recommendations of the staff, and the proposals of the companies, we find the resulting SLELG rates listed in the Appendix to be apropriate rates to be applied, unless modified by further order of this Commission.

V. Ordering Clause

39. Pursuant to Sections 4(i) an 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), it is ordered, That the percentages of depreciation set forth in the Appendix to this order are prescribed effective on the dates listed.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Due to the continuing effort to minimize publishing costs, the Appendix of this document (Shedules of Annual Percentages will not be pointed herein. However, copies of this document in its entirety are available from any of the distribution centers listed in the FCC Office of Public Affairs, Rm. 202, 1919 M St., N.W., Washington, D.C. 20554, (202) 254-7674. Also, a copy is available for inspection in the FCC Dockets Branch, Rm. 239, and the FCC

Library, Rm. 639, both located at 1919 M St. N.W.

[FR Doc. 83-413 Filed 1-6-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-673-DR]

Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA-673-DR), dated December 13, 1982, and related determinations.

DATED: December 28, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Arkansas dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

For Individual Assistance:

The Countries of Craighead, Hempstead, Hot Spring, and Miller.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-412 Filed 1-6-83; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-674-DR]

Illinois; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA-674-DR), dated December 13, 1982, and related determinations.

DATED: December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Illinois dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

In addition to Individual Assistance under Pub. L. 93-288, La Salle County is also designated eligible for Federal assistance to disaster-damaged public schools under Pub. L. 81-815 and Pub. L. 81-874, as appropriate.

For Public Assistance:

Brown, Calhoun, Jersey, Schuyler, Scott and Tazewell Couties.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-413 Filed 1-6-83; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-674-DR]

Illinois; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA-674-DR) , dated December 13, 1982, and related determinations.

DATED: December 27, 1982.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Illinois dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

For Individual Assistance:

The Townships of Mascoutah and Engelmann in St. Clair County.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-414 Filed 1-6-83; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-672-DR]

Missouri; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri (FEMA-672-DR), dated December 10, 1982, and related determinations.

DATED: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Missouri dated December 10, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 10, 1982:

The City of Times Beach in St. Louis County for debris clearance and emergency protective measures.

For Public Assistance:

The Counties of Bollinger, Carter, Iron and Wayne.

The City of Thayer in Oregon County.

The City of Waynesville in Pulaski County.

The City of Valley Park in St. Louis County.

The City of Fenton in St. Louis County.

The Town of Ste. Genevieve in Ste. Genevieve County.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-415 Filed 1-6-83; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-211]

Continental Federal Savings & Loan Association, Oklahoma City, Oklahoma; Final Action; Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Notice is hereby given that on December 30, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Continental Federal Savings and Loan Association, Oklahoma City, Oklahoma ("Association"). The application had been approved by the Board by Resolution No. 82-90, dated February 5, 1982. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

Dated: January 4, 1983.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-498 Filed 1-6-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-211]

First Federal Savings & Loan Association of Front Royal, Front Royal, Virginia; Final Action; Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Notice is hereby given that on December 30, 1982, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of First Federal Savings and Loan Association of Front Royal, Front Royal, Virginia ("Association"). The application had been approved by the Board by Resolution No. 81-148, dated March 31, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

Dated: January 4, 1983.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-499 Filed 1-6-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-210]

Shenandoah Federal Savings & Loan Association, Martinsburg, West Virginia; Final Action; Approval of Conversion Applications

Notice is hereby given that on December 30, 1982, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Shenandoah Federal Savings and Loan Association, Martinsburg, West Virginia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Pittsburgh, Eleven Stanwix Street, Fourth Floor, Gateway Center, Pittsburgh, Pennsylvania 15222.

Dated: January 4, 1983.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-500 Filed 1-6-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Alpine Bancorporation, Inc.*, Belvidere, Illinois; to acquire 80 percent of the voting shares of The Bank of Cherry Valley, Cherry Valley, Illinois. Comments on this application must be received not later than February 2, 1983.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Hopkins Financial Corporation*, Mitchell, South Dakota; to acquire 97 percent of the voting shares or assets of Leola State Bank, Leola, South Dakota. Comments on this application must be received not later than January 26, 1983.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Victoria Bankshares, Inc.*, Victoria, Texas; to acquire 100 percent of the voting shares or assets of the successor by merger to First National Bank of Ingleside, Ingleside, Texas. Comments on this application must be received not later than February 1, 1983.

D. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Michigan National Corporation*, Bloomfield Hills, Michigan; to acquire 100 percent of the voting shares of State Bank of Standish, Standish, Michigan. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than February 2, 1983.

2. *Texas American Bancshares, Inc.*, Fort Worth, Texas; to acquire 100 percent of the voting shares or assets of Heritage Bank, Houston, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 2, 1982.

Board of Governors of the Federal Reserve System, January 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-436 Filed 1-6-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or

assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *ACNB Corporation*, Gettysburg, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Adams County National Bank, Gettysburg, Pennsylvania. Comments on this application must be received not later than February 2, 1983.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *FNH Corporation*, Herminie, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Herminie, Herminie, Pennsylvania. Comments on this application must be received not later than January 21, 1983.

2. *Mountain Bancorp, Inc.*, West Liberty, Kentucky; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of the Mountains, Inc., West Liberty, Kentucky. Comments on this application must be received not later than January 31, 1983.

C. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *The Planters Corporation*, Rocky Mount, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of The Planters National Bank and Trust Company, Rocky Mount, North Carolina. Comments on this application must be received not later than February 2, 1983.

D. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia, 30303:

1. *First Acadian Bancshares, Inc.*, Thibodaux, Louisiana; to become a bank holding company by acquiring 92.5 percent of the voting shares of Acadian Bank, Thibodaux, Louisiana. Comments on this application must be received not later than February 1, 1983.

E. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *F.A.B. Bancorp, Inc.*, Aurora, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares (less director's qualifying shares) of the successor by merger to First American Bank of Aurora, Aurora, Illinois. Comments on this application must be received not later than February 2, 1983.

2. *Port Bancshares, Inc.*, Port Washington, Wisconsin; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Port Washington State Bank, Port Washington, Wisconsin. Comments on this application must be received not later than February 1, 1983.

3. *Starr Ban Company*, Lamoni, Iowa; to become a bank holding company through merger with Lamoni Bancshares, Inc., Lamoni, Iowa and thereby indirectly acquire 100 percent of the voting shares of the successor by merger to State Bank of Lamoni, Lamoni, Iowa. Comments on this application must be received not later than January 26, 1983.

F. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *GAB Bancorp*, Jasper, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The German American Bank, Jasper, Indiana. Comments on this application must be received not later than February 2, 1983.

2. *Lookingglass Banc Corp.*, Albers, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank of Albers, Albers, Illinois. Comments on this application must be received not later than January 31, 1983.

G. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *H & L Investments, Inc.*, Manhattan, Kansas; to become a bank holding company by acquiring indirectly 100 percent of the voting shares of The First National Bank of Manhattan, Mahattan, Kansas through the acquisition of 80 per cent or more of First Manhattan Bankshares, Inc., Manhattan, Kansas. Comments on this application must be received not later than January 31, 1983.

H. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President, 400 South Akard Street, Dallas, Texas 75222:

1. *Giddings Citizens State Bancshares, Inc.*, Giddings, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens State Bank, Giddings, Texas. Comments on this application must be received not later than February 2, 1983.

2. *Ouachita National Bancshares, Inc.*, Monroe, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Ouachita National Bank in Monroe, Monroe, Louisiana. Comments on this application must be received not later than January 31, 1983.

Board of Governors of the Federal Reserve System, January 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-436 Filed 1-6-83; 8:45 am]

BILLING CODE 6210-01-M

Pennbancorp; Merger of Bank Holding Companies

Pennbancorp, Titusville, Pennsylvania, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with First Seneca Corporation, Oil City, Pennsylvania. As a result of the merger, Pennbancorp's indirect ownership will exceed 5 per cent of the outstanding voting shares of the following banks: The Cheltenham Bank, Cheltenham, Pennsylvania (8.58 per cent); Penn Central National Bank of Huntingdon, Huntingdon, Pennsylvania (6.38 per cent); The Russell National Bank, Lewistown, Pennsylvania (7.48 per cent); and Commonwealth National Financial Corporation, Harrisburg, Pennsylvania (5.96 per cent). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 28, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-437 Filed 1-6-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Philip F. Anschultz et al.; Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) Philip F. Anschultz' proposed acquisition of certain voting securities of Pennwalt Corporation.	Dec. 23, 1982.
(2) CUNA Mutual Insurance Society's proposed acquisition of all voting securities of League Life Insurance Company.	Do.
(3) Netter International Ltd.'s proposed acquisition of substantially all voting securities of Independence Holding Company.	Do.
(4) McLean Securities, Inc.'s proposed acquisition of all voting securities of Moore McCormack Lines, Incorporated	Do.
(5) Founders Financial Corporation's proposed acquisition of all voting securities of American Defenders Life Insurance Company.	Do.
(6) American Brands, Inc's proposed acquisition of all voting securities of Pinkerton's, Inc.	Do.
(7) Simplicity Manufacturing Company's proposed acquisition of all assets of Simplicity Division of Allis-Chalmers	Do.
(8) Republic Health Corporations's proposed acquisition of all voting securities of Hospital Corporation of America	Dec. 27, 1982.
(9) Stone Container Corporation's proposed acquisition of all voting securities of Samson Paper Bag Company, Inc.	Dec. 15, 1982.
(10) Masco Corporation's proposed acquisition of all voting securities of Baldwin Hardware Manufacturing Corporation.	Do.
(11) American Savings and Loan Association of Florida's proposed acquisition of all voting securities of General Homes Consolidated.	Do.
(12) First Continental Life Group, Incorporated's proposed acquisition of all voting securities of Consolidated American Life Insurance Co.	Dec. 16, 1982.
(13) The Southland Corporation's proposed acquisition of all voting securities of Ranger Energy Company, Incorporated.	Do.
(14) Hunt Financial Corporation's proposed acquisition of all voting securities of National Savings Corporation.	Dec. 17, 1982.
(15) David L. Paul's proposed acquisition of voting securities of Dade Savings and Loan Association.	Dec. 16, 1982.
(16) Milton Petrie's proposed acquisition of all voting securities of Winkelman Stores Incorporated.	Dec. 22, 1982.
(17) Sandoz Ltd.'s proposed acquisition of all voting securities of Zoecom Corporation.	Dec. 21, 1982.
(18) Anchor Hocking Corporation's proposed acquisition of certain voting securities of Towle Manufacturing Company.	Do.
(19) Siebe Gorman Holdings, PLC's proposed acquisition of substantially all voting securities of NEWCO.	Dec. 22, 1982.
(20) William S. Morris, III's proposed acquisition of all voting securities of Florida Publishing Company.	Dec. 21, 1982.
(21) Freedom Newspapers, Inc.'s proposed acquisition of certain assets of WLNE-TV Inc.	Dec. 22, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 83-382 Filed 1-6-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Hubbard Milling Co.; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Hubbard Milling Co. providing for use of Furazolidone Mixture in Red "A" Special Broiler Crumbles for treating chickens and turkeys for fowl typhoid, pullorum, and paratyphoid. The sponsor requested the withdrawal of approval.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3163.

SUPPLEMENTARY INFORMATION: Hubbard Milling Co., 424 N. Front St., Mankato, MN 56001, is the sponsor of NADA 9-184, which provides for use of furazolidone medicated feed for treating fowl typhoid, pullorum, and paratyphoid in chickens and turkeys.

Originally sponsored by Aubrey Feed Mills, the product became effective January 7, 1954. Aubrey Feed Mills and its applications have subsequently been acquired by Hubbard Milling Co. Approval of this NADA had not been codified in the Code of Federal Regulations. In its submission of July 27, 1982, to the Bureau of Veterinary Medicine, Hubbard Milling Co. requested withdrawal of approval of the NADA under 21 CFR 514.115(d).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 9-184 and all supplements for Hubbard Milling Co.'s Furazolidone Mixture in Red "A" Special Broiler Crumbles is hereby withdrawn, effective January 17, 1983.

Dated: December 29, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 83-174 Filed 1-6-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82M-0377]

Medtronic, Inc.; Premarket Approval of Versatrax ™ Model 7000 Pulse Generator and Censys ™ Model 9701A Programmer

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Versatrax ™ Model 7000 Pulse Generator and the Censys ™ Model 9701A Programmer sponsored by Medtronic, Inc., Minneapolis, MN. After reviewing the recommendation of the Circulatory System Devices Panel, FDA

notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 7, 1983

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Docket Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, National Center for Devices and Radiological Health (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On March 22, 1982, Medtronic, Inc., submitted to FDA an application for premarket approval of the Versatrax ™ Model 7000 Pulse Generator and of the Censys ™ Model 9701A Programmer. The application was reviewed by the Circulatory System Devices Panel, and FDA advisory committee, which recommended approval of the application for use of this device as a cardiac pacemaker system. On November 10, 1982, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in bracket in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 306e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A peititioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the peitition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue(s) to be reviewed, the form of reveiw to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 7, 1983, file with the Dockets Management Branch (address above), two copies of each petition and supporting data and information identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 29, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–209 Filed 1–6–83; 8:45 am]

BILLING CODE 4160–01–M

Norwich-Eaton Pharmaceuticals; Furoxone Aerodust; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Norwich-Eaton Pharmaceuticals providing for use of Furoxone Aerodust (25 percent Furoxone, brand of furazolidone) for flock treatment of chronic respiratory disease (CRD or air sac infections) in chickens. The firm requested the withdrawal of approval.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV–218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4093.

SUPPLEMENTARY INFORMATION: Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich Products, Inc., P.O. Box 191, Norwich, NY 13815, is the holder of NADA 011–016, which provides for use of the antimicrobial product Furoxone Aerodust (25 percent Furoxone, brand of furazolidone) for flock treatment of chronic respiratory disease (CRD or air sac infections) in chickens.

The application was approved on October 28, 1957. Approval of this NADA has not been codified in the Code of Federal Regulations. The product is one of several that were listed in a notice of opportunity for a hearing published in the **Federal Register** of May 13, 1976 (41 FR 19907). By letter dated May 11, 1982, Norwich-Eaton requested withdrawal of approval of the NADA under 21 CFR 514.115(d) because the product is not being manufactured or marketed and waived the opportunity for a hearing under the provisions of § 514.115 (21 CFR 514–115).

Section 514.115(d) allows the voluntary withdrawal of an approved NADA. Section 514.115(d) normally does not apply if the holder of the application whose withdrawal has been requested already has been afforded an opportunity for hearing on a proposal to withdraw approval of the NADA. In this case, however, Norwich-Eaton's request is being granted because of the extended time that has elapsed since the notice of opportunity for hearing was published and also because the public interest will be served and the firm's interests will not be prejudiced by the withdrawal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications*, notice is given that approval of NADA 011–016 and all supplements for Norwich-Eaton's Furoxone Aerodust is hereby withdrawn, effective January 17, 1983.

Dated: December 29, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 83–173 Filed 1–6–83; 8:45 am]

BILLING CODE 4160–01–M

Board of Tea Experts; Rechartering

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) is announcing the rechartering of the Board of Tea Experts by the Commissioner of Food and Drugs for an additional period of 2 years beyond

January 3, 1983. The charter for this committee will expire January 3, 1985.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: January 3, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-416 Filed 1-6-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N–0220; DESI 7366]

Drugs for Human Use; Drug Efficacy Study Implementation; Oral Prescription Drugs Offered for Relief of Symptoms of Cough, Cold, or Allergy Which Contain Cyclopentamine Hydrochloride; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of those parts of the new drug applications (NDA's) that pertain to Hista-Clopane Pulvules, Co-Pyronil Pulvules, and Pediatric Pulvules and Co-Pyronil Suspension, all held by Eli Lilly & Co. The basis of the withdrawal is that there is a lack of substantial evidence that the fixed-combination drugs are effective in the relief of symptoms of cough, cold, or allergy.

EFFECTIVE DATE: February 7, 1983.

ADDRESS: Requests for an opinion of the applicability fo this notice to a specific product should be identified with the reference number DESI 7366 and directed to the Division of Drug Labeling Compliance (HFN–310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 17, 1982 (47 FR 35872), the Director of the National Center for Drugs and Biologics revoked the temporary exemption for the four drug products described below which permitted these products to remain on the market beyond the time limit scheduled for the implementation of the Drug Efficacy Study. That notice also proposed to issue an order withdrawing approval of the new drug applications, or parts thereof, that provide for these drug products. The four combination products all contain cyclopentamine hydrochloride as one of the ingredients. The proposal was based on the lack of substantial evidence of effectiveness as required by section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) and 21 CFR 300.50.

In response to that notice, Eli Lilly & Co. (Lilly) filed a hearing request for Co-Pyronil Pulvules and Pediatric Pulvules (NDA 8–305) and Co-Pyronil Suspension (NDA 9–234). However, Lilly subsequently withdrew its hearing request on October 18, 1982. Neither Lilly nor any other interested party requested a hearing for Hista-Clopane Pulvules (NDA 7–366).

Accordingly, the Director of the National Center for Drugs and Biologics withdraws approval of the new drug applications (or appropriate parts thereof) listed below.

1. NDA 7–366; those parts that provide for Hista-Clopane Pulvules containing chlorpheniramine maleate and cyclopentamine hydrochloride; Eli Lilly & Co., 307 E. McCarty St., Indianapolis, IN 46285.

2. NDA 8–305; those parts that provide for Co-Pyronil Pulvules and Pediatric Pulvules containing pyrrobutamine phosphate and cyclopentamine hydrochloride; Eli Lilly & Co.

3. NDA 9–234; Co-Pyronil Suspension containing pyrrobutamine naphthalene disulfonate and cyclopentamine hydrochloride; Diste Products Co., Division of Eli Lilly & Co.

Any drug product that is identical, related, or similar to these products and is not the subject of an approved new drug application is covered by the new drug applications reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1051–1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (see 21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982) finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications were approved, there is lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of those parts of NDA 7–366 and NDA 8–305 that provide for the drug products named above, and approval of NDA 9–234, and all amendments and supplements thereto, are withdrawn effective February 7, 1983.

Shipment in interstate commerce of the above products, or any identical, related, or similar product that is not the subject of an approved new drug application, will then be unlawful.

Dated: December 29, 1982.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-417 Filed 1-6-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Cancer Therapeutics Program Project Review Committee; Establishment

The Director, National Institutes of Health, announces the establishment of the Cancer Therapeutics Program Project Review Committee by the Director, National Cancer Institute, under the authority of section 405(a)(2) of the Public Health Service Act (42 U.S.C. 286(a)(2)). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) setting forth standards governing the establishment and use of advisory committees.

This committee shall advise the Director, National Cancer Institute, and the directors of the divisions of the NCI, concerning the merit review of applications requesting support for clinical and laboratory program project proposals. The committee also provides advice on related cancer research programs, identifies areas for future emphasis and for exploration of alternative approaches.

Authority for this committee shall terminate two years from the date of establishment, unless renewed by appropriate action as authorized by law.

Dated: December 29, 1982.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 83-418 Filed 1-6-83; 8:45 am]

BILLING CODE 4140-01-M

National Diabetes Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Diabetes Advisory Board on January 17, 1983, 8:00 a.m. to 5:00 p.m., at the Dulles Marriott, Dulles International Airport, Virginia. The Meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat diabetes. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the Hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, Natonal Diabetes Advisory Board, P.O. Box 30174, Bethesda, Maryland 20814, (301) 496–6045, will provide an agenda and roster of members. Summaries of the meeting may be obtained by contacting Barbara Shapiro, Secretary, National Diabetes Advisory Board, National Institutes of Health, P.O. Box 30174, Bethesda, Maryland 20814, (301) 496–6045.

Dated: January 3, 1983.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 83–438 Filed 1–6–83; 8:45 am]

BILLING CODE 4140–01–M

Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on February 17–18, 1983 at the National Institutes of Health, Building 31, Room 5A–16, 9000 Rockville Pike, Bethesda, Maryland.

The entire meeting, from 8:30 a.m. on February 17 to adjournment on February 18, will be open to the public. The Committee will discuss the plans for fiscal year 1984. Attendance by the public will be limited to the space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Suzanne S. Hurd, Acting Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Dated: January 3, 1983.

Betty J. Beveridge,

Committee Management Officer.

[FR Doc. 83–440 Filed 1–6–83; 8:45 am]

BILLING CODE 4140–01–M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the list was last published.

Public Health Service

- *Food and Drug Administration*

Subject: Reclassification Petitions of Medical Devices (0910–0138)—Extension
Respondents: Medical device establishments
Subject: Good Manufacturing Practices for Finished Pharmaceuticals; Recordkeeping Requirements (0910–0139)—Extension
Respondents: Drug manufacturers
OMB Desk Officer: Fay S. Iudicello

- *National Institutes of Health*

Subject: Evaluation of Responses to Public Inquiries—New
Respondents: Individuals, Hospitals
Subject: National Eye Institute Construction Application (0925–0129)—Extension
Respondents: Eye research institutes
OMB Desk Officer: Richard Eisinger

- *Health Resources and Services Administration*

Subject: Record of State and Local Action Under Section 1122 of the Social Security Act (0935–0003)—Revision
Respondents: State Health Planning and Development Agencies
OMB Desk Officer: Richard Eisinger

- *Office of Human Development Services*

Subject: Program Review Manual For Child Welfare Services (0980–0052)—Extension
Respondents: State and local agencies administering Child Welfare Services Programs
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer)

Dated: December 30, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83–386 Filed 1–6–83; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Agua Caliente Indian Reservation; Ordinance Regulating the Introduction, Possession and Sale of Intoxicating Beverages

January 3, 1983.

This Notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C § 1161. I certify that Resolution No. 68–82, and the Tribal Liquor Control Ordinance relating to the application of the Federal Indian Liquor Laws on the Agua Caliente Indian Reservation, California, were duly adopted on December 21, 1982, by the Agua Caliente Tribal Council which has jurisdiction over the area of Indian country included in the ordinance, reading as follows:

Kenneth Smith,

Assistant Secretary—Indian Affairs.

Agua Caliente Band of Cahuilla Indians Resolution No. 68–82

Whereas, the introduction, possession and sale of liquor on Indian reservations have always been clearly recognized as matters of special concern to Indian tribes and to the United States, and the control of liquor on reservations remains exclusively subject to their legislative enactments; and

Whereas, ever since at least 1953, when the Agua Caliente Band enacted

its first ordinance on the subject of the application of the federal Indian liquor laws on the Agua Caliente Indian Reservation and the Secretary of the Interior approved that ordinance, the federal government has respected this Tribe's determinations regarding liquor-related transactions and activities on the Agua Caliente Indian Reservation. Federal law currently prohibits the introduction of liquor into Indian Country (18 U.S.C. 1154), leaving to tribes the decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. 1161); and

Whereas, present day circumstances make a complete ban of liquor within the Agua Caliente Indian Reservation ineffective and unrealistic. At the same time, a need exists for strict tribal regulation and control over liquor sales and distribution; and

Whereas, the enactment of a tribal ordinance governing liquor sales on the Reservation providing for reasonable restrictions on liquor transactions occurring on the Agua Caliente Indian Reservation will increase the ability of the tribal government to control Reservation liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation of the tribal government and delivery of governmental services; and

Whereas, in order to provide for increased tribal control over liquor distribution and possession on the Agua Caliente Indian Reservation and to provide for urgently needed additional revenue, the Tribal Council wishes to replace, repeal, and supersede the Tribe's previous Ordinance, adopted on September 24, 1953, on the same subject, by the accompanying Ordinance, which will become fully effective on the date when it is certified by the Secretary of the Interior, or his authorized representative, and is also published in the **Federal Register;**

Now, therefore, be it resolved by the Tribal Council of the Agua Caliente Band of Cahuilla Indians that the accompanying ordinance, entitled the "Tribal Liquor Control Ordinance," is hereby adopted and enacted according to its terms.

Certification

The foregoing resolution adopting and enacting the "Tribal Liquor Control Ordinance" was passed by a vote of *4* in favor, *0* opposed, and *0* not voting at a regular duly called meeting of the Tribal Council of the Agua Caliente Band of Cahuilla Indians at which a quorum was present on December 21, 1982 at Palm Springs, California.

Barbara Gonzales,
Chairman.

Attest:
Richard Milanovich,
Secretary.

Agua Caliente Band of Cahuilla Indians; Tribal Liquor Control Ordinance

Section 1. Title

This Ordinance shall be known and referred to as the Agua Caliente Liquor Control Ordinance.

Section 2. Applicability

This ordinance shall apply to all transactions, as noted below, occurring on the lands of the Agua Caliente Indian Reservation, which are now or may in the future be held in trust by the United States for either the Auga Caliente Band or any individual Indians. The Agua Caliente Indian Reservation, as used herein, includes all lands included in the Executive Orders of President Grant of May 15, 1876 and of President Hayes of September 29, 1877, and as patented to the Band by patent no. 168071 issued by President Taft on January 5, 1911 under the authority of the Mission Indian Relief Act of January 12, 1891, Plus any additional lands which may be added to the Agua Caliente Indian Reservation in the future.

Section 3. Findings and Purpose.

1. The introduction, possession and sale of liquor on Indian reservations have always been clearly recognized as matter of special concern to Indian Tribes and to the United States. The control of liquor on reservations remains exclusively subject to their legislative enactments.

2. Ever since at least 1953, when the Agua Caliente Band enacted its first ordinance on the subject of the application of the federal Indian liquor laws on the Agua Caliente Indian Reservation and the Secretary of the Interior approved that ordinance, the federal government has respected this Tribe's determinations regarding liquor-related transactions and activities on the Agua Caliente Indian Reservation. Federal law currently prohibits the introduction of liquor into Indian Country (18 U.S.C. 1154), leaving to tribes the decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. 1161).

3. Present day circumstances make a complete ban of liquor within the Agua Caliente Indian Reservation ineffective and unrealistic. At the same time, a need exists for strict tribal regulation and control over liquor distribution.

4. The enactment of tribal ordinance governing liquor sales on the reservation providing for reasonable restrictions on liquor transactions occurring on the Agua Caliente Indian Reservation will increase the ability of the tribal government to control reservation liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation of the tribal government and delivery of governmental services.

5. In order to provide for increase tribal control over liquor distribution and possession on the reservation and to provide for urgently needed additional revenue, the Tribal Council adopts this liquor ordinance.

6. This ordinance is intended to replace, repeal, and supersede the Tribe's previous ordinance, adopted on September 24, 1953, on the same subject and this ordinance will do so and become fully effective on the date when it is certified by the Secretary of the Interior, or his authorized representative, and is also published in the **Federal Register.**

7. Nothing in this ordinance will operate or be construed to limit or restrict the terms of any existing lease of trust land or to impair the ability of the Bureau of Indian Affairs to discharge its duties regarding such leases.

Section 4. Definitions

Unless otherwise required by the context, the following words and phrases shall have the designated meanings:

1. *Sale and Sell* includes exchange, barter, and traffic; and also the selling or supplying or distribution by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also includes a sale or selling within the state to a foreign consignee or his/her agent in the state.

2. *Wholesale Price* shall mean the established price for which liquor, beer and wine products are sold to the Agua Caliente Band of Cahuilla Indians or any licensed operator by the manufacturer or distributor, exclusive of any discount or other reduction.

3. *Alcohol* is that substance known as ethyl alcohol, hydrated oxide or ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of those substances.

4. *Liquor or Liquor Products* includes the four varieties of liquor herein

defined (alcohol, spirits, wine and beer) and all fermented, spirituous, vinous or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor or otherwise intoxicating and every liquid or solid or semisolid or other substance patented or not containing alcohol, spirits, wine or beer and all drinks of drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

5. *Spirits* means any beverage which contains alcohol obtained by distillation, including wines exceeding seventeen (17%) percent of alcohol by weight.

6. *Wine* means any alcoholic beverage obtained by fermentation of fruits, grapes, berries, apples, et cetera or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than seventeen (17%) percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen (17%) percent of alcohol by weight.

7. *Liquor Outlet* means any retail or wholesale business licensed by the Tribe to engage in the on-premises or off-premises sale of liquor, beer, or wine.

8. *Tribe* or *Band* means the Agua Caliente Band of Cahuilla Indians, a federally-recognized Indian tribe, acting through its duly elected and duly serving Tribal Council.

Section 5. Prohibitions

The introduction, purchase, sale, and dealing in liquor, other than through the licensees of the Tribe, within the Agua Caliente Indian Reservation, is hereby prohibited, except as provided herein.

Federal Indian liquor laws shall remain applicable to any act or transaction which is not authorized by this ordinance and violators of this ordinance shall be subject to federal prosecution as well as to legal action in accordance with applicable law.

Tribally authorized liquor transactions shall comply with California State Liquor law standards to the extent required by 18 U.S.C. 1161.

Section 6. Transition Period

All persons who, from the date that this Ordinance becomes effective and until five years thereafter, hold a valid license issued by the State of California Department of Alcoholic Beverage Control pursuant to California Business and Professions Code section 23,000 et seq. may present to the Tribal Council evidence of his or her possession of such license. If the Tribal Council is satisfied that such person does have such a valid license, and if that person also satisfies the Tribal Council that he/she also holds a valid federal Indian trader's license issued pursuant to 25 U.S.C. 261–264 and 25 CFR 251, then the Tribal Council will issue to such person a tribal license equivalent in scope and duration to that person's previous state-issued license. Each such person shall pay a nominal fee to the Tribal Council for the privilege of the issuance of such an equivalent license in the amount equal to the Tribal Council's administrative expense in processing the request, which amount will be set by resolution of the Tribal Council. Each such tribal licensee may retain his previously-issued state license or dispose of it as he or she wishes. Such tribal licenses will be equally available to Indians and non-Indians, members of the Tribe and non-members. If a holder of such a previously-issued state license does not so obtain a tribal license during the said five-year period, then he or she will be deemed, at the expiration of that five year period, to be in violation of this Ordinance.

During this transition period, the Tribal Council will actively solicit the assistance and support of the California Department of Alcoholic Beverage Control in implementing and, if necessary, amending this ordinance to produce a regulatory scheme for liquor on the Agua Caliente Indian Reservation which will resemble that already in place and operating under the authority of the said Department to the extent feasible, so that the only essential difference between the two schemes will be that the source of licenses will be the Agua Calente Band, rather than the said Department, with issues regarding the number of new licenses, the location of new outlets, the identity of new licensees, the transferability of present and new licenses, the method and conditions of conducting transactions, etc., to be resolved cooperatively so as to produce a tribal regulatory scheme which not only resembles that of the state, as noted above, but is also coordinated with and integrated with that of the Department. One goal of such cooperation will be to eliminate the possibility that any licensee, present or future, will be able to exploit the transition from state to tribal licensing and control to his financial, competitive, or regulatory advantage. To this end, the Tribal Council will seek to enter into a contractual or similar relationship with the said Department by which the Tribal Council would designate the said Department as the Tribal Council's agent for administration of this ordinance, with ultimate control in the Tribal Council, as assisted and supported by the said Department and its staff.

Section 7. Issuance of New Licenses

Subject to the limitations described below, the Tribal Council may issue new licenses, according to procedures and on application forms to be prescribed by resolution of the Tribal Council, for the sale, distribution, and other aspects of liquor transactions according to the categories of such licenses now described by California Business and Professional Code section 23,000 et seq. In considering all such applications for new licenses, the Tribal Council will take into account the following factors:

1. *Number of New Licenses.* Either by its own research or in cooperation with the California Department of Alcoholic Beverage Control, the Tribal Council shall determine the number of each kind of new license which the said Department has historically issued annually for businesses or operations located on the trust lands subject to this ordinance, and will issue no greater number of each such kind of license annually than that historic number.

2. *Identity and Location of New Licensees.* In selecting which applicants for new licenses will be granted such new licenses, the Tribal Council will employ standards and take into account the same considerations as the California Department of Alcoholic Beverage Control employs, pursuant to California Business and Professions Code section 23,000 et seq. for each kind of new license. However, if the Tribal Council deems it desirable to protect the public health, safety, or welfare, it may employ standards or criteria more restrictive than those employed by the California Department of Alcoholic Beverage Control. In no event will the Tribal Council employ less restrictive standards or criteria. In addition, all applicants must present evidence that they hold federal Indian trader's licenses issued pursuant to 25 U.S.C. 261–4 and 25 CFR Part 251.

3. *Allocation of New Licenses.* If the number of qualified applicants for a kind of license for any year exceeds the number of new licenses of that kind to be issued for that year, the Tribal Council may refer the question of the selection of which applicants will be issued new licenses to the Indian Planning Commission for its

recommendation as to which applications, if granted, would be most consistent with principles of sound planning and the public health, safety, and welfare. The Indian Planning Commission's recommendation may be in the form of a ranking of qualified applicants or the results of a lottery conducted according to procedures to be established by resolution of the Tribal Council. In no event will a new or substitute license be issued if such issuance would result in a use of land which violates or is inconsistent with land use regulations established by the Tribal Council, either by contract with a local non-Indian government or directly by the Tribal Council.

4. *Coordination with Interested Parties.* In all decisions regarding licensing, the Tribal Council will solicit and give due weight to the views and recommendations of interested local non-Indian governments, the Bureau of Indian Affairs, the California Department of Alcoholic Beverage Control, local and federal law enforcement, and others with a special interest or expertise in the subject. To the extent deemed useful by the Tribal Council, public hearings will be held by either the Tribal Council or the Indian Planning Commission.

5. *Fees.* In order to maintain the stability of the market in licenses, the Tribal Council may charge a fee for the issuance of a license comparable to that charged in free-market sales of particular kinds of licenses. The amount of the fee to be charged for each kind of license will be determined by resolution of the Tribal Council and will not disrupt the market.

Section 8. Transfers of Licenses

Each license issued by the Tribal Council will be freely transferable from person to person and from premises to premises on the following conditions:

1. The application for a transfer must be approved in advance by the Tribal Council and must be accompanied by a non-refundable fee sufficient to defray the administrative expense of processing the application. The amount of the fee will be set by resolution.

2. Transfers of existing tribal licenses to new persons will be on applications similar to those for new licenses. The Tribal Council and/or the Indian Planning Commission will review such applications under the same criteria and standards as it uses for selecting qualified new licensees.

3. Transfers of existing licenses to new premises will be on application referred to the Indian Planning Commission for its views regarding the suitability of the new premises. In reviewing such applications, the Indian Planning Commission will evaluate the new premises according to the same standard and criteria as it uses for new licenses.

Section 9. Renewals, Suspensions, and Revocations

All licenses shall be issued for a period of one year and shall be automatically renewable on application to the Tribal Council when accompanied by a fee to be set by resolution of the Tribal Council to defray the Tribal Council's expenses in processing an application, the amount of which will be set by resolution of the Tribal Council.

However, a license will not be automatically renewed if any person has raised a serious question as to the violation by the licensee of any California state law standard regarding liquor transactions, or any other matter regarding the suitability of the licensee or licensed premises for a renewal. In such case, the Tribal Council will take such steps as are necessary to investigate, evaluate, and verify the charges, according to procedures to be established by resolution of the Tribal Council, and may impose such conditions, or deny the application for renewal, as the findings may justify.

For charges of serious violations of state standards of behavior or suitability of the licensee or premises occurring during the term of a license, the Tribal Council will take steps similar to those noted above and, as its findings warrant, may suspend or revoke a license on adequate notice and hearing. In all such proceedings, the Tribal Council will solicit the views and assistance of the California Department of Alcoholic Beverage Control, local law enforcement officials, and others with reliable information in order for its decision to be fair to the licensee while still protecting the public health, safety, and welfare.

Section 10. Coordination With California Department of Alcoholic Beverage Control

The Tribal Council recognizes the experience and expertise of the California Department of Alcoholic Beverage Control in matters regarding liquor transactions. To the extent that that Department is willing to cooperate with the Tribe, the Tribal Council will take all appropriate steps to coordinate its liquor control program and its actions under this Ordinance with the Department, including delegating certain staff and investigative functions to the Department by contract.

Section 11. Tribal Liquor Enterprise

In addition to issuing licenses of various kinds to private parties under this Ordinance, the Tribal Council may, by amendment of this Ordinance, establish a Tribal liquor enterprise on such terms and conditions as may be appropriate.

Section 12. Taxes

The Tribal Council may, by ordinance or resolution, levy taxes (excise and otherwise) on the retail and/or wholesale of liquor, beer, or wine by licensees under this Ordinance. All such taxes shall be on the buyer, shall be paid by the buyer, shall be collected by the seller, and shall be remitted by the seller to the Tribal Council. All such taxes shall be devoted to the following purposes.

a. Strengthening tribal government, which shall include but not be limited to, strengthening the tribal justice system enforcing this ordinance.

b. Health, education, and other social service programs.

c. Alcohol and drug abuse community services.

d. Preserving and increasing the tribal trust land base.

Section 13. Sovereign Immunity Preserved

Nothing in this Ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Tribe. No agent, officer, or employee of the Tribe shall be authorized, nor attempt, to waive the immunity of the Tribe.

Section 14. Penalty

Any person, whether licensee or not, who violates this ordinance, or any part of it, will be deemed to have violated 18 U.S.C. 1161, and will be referred to the appropriate authorities for prosecution.

Section 15. Authority for Adoption of Ordinance

This Ordinance is adopted pursuant to Article V, parts (a), (b), (i), (k), and (l) of the Constitution of the Agua Caliente Bank of Cahuilla Indians, as amended, approved by the Commissioner of Indian Affairs on April 18, 1957.

Certification

The foregoing ordinance was duly adopted and enacted by a vote of 4 to 0 in favor, 0 opposed, and 0 not voting at a duly called and noticed regular meeting of the Tribal Council of the Agua Caliente Band of Cahuilla Indians at which a quorum was present on the 21st day of December, 1982 at the offices of

the Tribal Council at Palm Springs, California.

Barbara Gonzales,
Chairman.
Morsino Palancio,
Vice-Chairman.
Richard Milanovich,
Secretary.
Belinda Sue Short,
Member.
Lucille Grace Belardo Torro,
Member.

[FR Doc. 83-487 Filed 1-6-83; 8:45 am]
BILLING CODE 4310-02-M

Pyramid Lake Indian Reservation, Nevada; Ordinance Providing for the Introduction, Possession, Use, Consumption and Sale of Intoxicating Beverages

December 28, 1982.

This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8 and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Ordiance No. XXV which relates to the application of the Federal Indian Liquor Laws on the Pyramid Lake Reservation, Nevada, was duly adopted on August 6, 1982 by the Pyramid Lake Paiute Tribal Council which has jurisdiction over the area of Indian country included in the ordinance . Ordinance No. XXV reads as follows:

Ken Smith,
Assistant Secretary—Indian Affairs.

Resolution No. PL-63-82

Whereas, the pyramid Lake Paiute Tribal Council in the duly constituted governing body of the Pyramid Lake Paiute Tribe by the authority of the Constitution and By-Laws of the Pyramid Lake Paiute Tribe approved by the Secretary of the Interior on January 15, 1936; and

Whereas, the Pyramid Lake Paiute Tribal Council has the duty and responsibility of regulating the possession and use, consumption and sale of liquor on the Pyramid Lake Indian Reservation.

Now therefore, be it resolved, that the Pyramid Lake Paiute Tribal Council does hereby adopt the attached Pyramid Lake Liquor Ordinance; and

Be it further resolved, that the Tribal Chariman and Tribal Secretary are hereby authorized and directed to execute the Ordinance.

Certification

It is hereby certified that the foregoing resolution of the Pyramid Lake Paiute Tribal Council, governing body of the Pyramid Lake Paiute Tribe, composed of 10 members of whom *7* constituting a quorum were present at a meeting duly held on *August 6*, 1982, was adopted by the affirmative vote of *7* for and *0* against, pursuant to authority contained in the Constitution and By-Laws of the Pyramid Lake Paiute Tribe.

Della John,
Secretary, Pyramid Lake Paiute, Tribal Council.

Ordinance No. XXV

Governing the introduction, possession and sale of liquor on the Pyramid Lake Indian Reservation.

Pyramid Lake Tribal Code, Title 5, Liquor Ordinance

Chapter 5.01 General Provisions

5.01.010 *Title.* This ordinance shall be known as the Pyramid Lake Indian Reservation Liquor Ordinance.

5.01.020 *Authority.* This Ordinance is adopted by the Pyramid Lake Paiute Tribal Council pursuant to the provisions of 18 U.S.C. 1161 and Article VI, Section 1(i), (j) and (m) of the Constitution of the Pyramid Lake Paiute Tribe.

5.01.030 *Policies.*

5.01.031 The introduction, possession and sale of liquor on Indian reservations have always been clearly recognized as matters of special concern to Indian tribes and to the United States Government. The control of liquor on reservations remains exclusively subject to their legislative enactments.

5.01.032 Beginning with the creation of the Pyramid Lake Indian Reservation in 1859, the Federal Government has respected the Pyramid Lake Tribe's determinations and activities on the Pyramid Lake Indian Reservation. Historically, the Pyramid Lake Tribe has desired to carefully control the introduction, possession and sale of liquor on their reservation. Federal law currently prohibits introduction of liquor into Indian country (18 U.S.C. 1154), leaving tribes the decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. 1161).

5.01.33 Present day circumstances make a complete ban on liquor within the Pyramid Lake Indian Reservation ineffective and unrealistic. However, a need still exists for strict regulation and control over liquor transactions within the reservation because of the many potential problems associated with the unregulated or inadequately regulated sale, possession and consumption of liquor. The Tribal Council finds that exclusive tribal control and regulation of liquor is necessary to achieve maximum economic benefit to the Tribe, to protect the health and welfare of tribal members, and to address specific tribal concerns relating to alcohol use on the reservation.

5.01.034 The enactment of a tribal ordinance governing liquor sales on the reservation will increase the ability of the tribal government to control reservation liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation of the tribal government and delivery of tribal governmental services.

5.01.035 In order to provide for increased tribal control over liquor distribution and possession on the reservation and to provide for an urgently needed additional revenue source, the Tribal Council of the Pyramid Lake Indian Reservation hereby adopts this Liquor Ordinance.

Chapter 5.02 Pyramid Lake Liquor Commission

5.02.010 *Establishment.* There is hereby established a Pyramid Lake Liquor Commission. The members of the Pyramid Lake Paiute Tribal Council shall serve as the Pyramid Lake Liquor Commission.

5.02.020 *Powers.* The Pyramid Lake Liquor Commission shall have the following powers:

5.02.021 Administer this Ordinance by exercising general control, management and supervision of all liquor sales, places of sale and sales outlets, as well as exercising all powers necessary to accomplish the purposes of this Ordinance.

5.02.022 Adopt and enforce rules and regulations in furtherance of the purposes of this Ordinance and the performance of administrative functions.

5.02.023 Employ such persons as reasonably necessary to allow the Commission to perform its duties under this Ordinance.

5.02.024 Bring suit in the appropriate court to enforce the provisions of this Ordinance.

5.02.025 The Pyramid Lake Liquor Commission shall conduct business pursuant to this Ordinance at regular of special Council meetings and shall keep records of all proceedings of the Pyramid Lake Liquor Commission.

5.02.026 Any person Subject to the provisions of this Ordinance who is injured or aggrieved by any final regulations issued by the Pyramid Lake Liquor Commission may petition the Commission for a revision of the regulations.

5.02.027 The Pyramid Lake Paiute Tribal Council shall have the authority to establish by separate Ordinance the Pyramid Lake Liquor Agency. This agency, like Pyramid Lake Indian Tribal Enterprises, shall be constituted as a separate agency and department of the Pyramid Lake Paiute Tribe with its own charter. The purpose of the Pyramid Lake Liquor Agency shall be to purchase and sell liquor for the benefit of the Pyramid Lake Paiute Tribe.

Chapter 5.03 Appeals

5.03.010 *Sovereign Immunity Not Waived.* Nothing in this Liquor Ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Pyramid Lake Paiute Tribe. The Pyramid Lake Paiute Tribe does not consent to be sued in any court with respect to this Ordinance. No employee or agent of the Pyramid Lake Paiute Tribe or of the Pyramid Lake Liquor Commission shall be authorized, nor shall he attempt to waive the sovereign immunity of the Tribe.

5.03.020 *The Challenges to the Validity of This Liquor Ordinance.* All challenges to the validity of this Liquor Ordinance either generally, or as applied to any person, shall be presented to the Pyramid Lake Tribal Council. The decision of the Council on the matter is final.

5.03.030 *No Other Actions Created.* No private right of action by any person or group of persons, either directly against any person subject to this Ordinance, or indirectly against any Pyramid Lake Tribe Official or body to compel the enforcement of the provisions of this Ordinance shall be deemed created by this Ordinance, or be within the subject matter jurisdiction of the Pyramid Lake Tribal Court or any other court. No injunction or restraining order shall issue from the Pyramid Lake Tribal Court or any other court to enforce the provision of this Ordinance.

Chapter 5.04 Severability

5.04.010 If any provision of this Ordinance or its application to any person or circumstances is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application and to this end the provisions of this Ordinance are severable.

Chapter 5.05 Definitions

5.05.010 As used in this Ordinance, the following words shall have the following meanings unless the context clearly requires otherwise.

5.05.011 "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance.

5.05.012 "Beer" means any beverage obtained by the alcoholic fermentation of any infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than 4% of alcohol by volume. For the purpose of this title, any such beverage, including ale, stout and porter, containing more than 4% of alcohol by weight shall be referred to as "strong beer."

5.05.13 "Liquor" includes the four varities of liquor herein defined (alcohol, spirits, wine, and beer) and all fermented spiritous, vinous, or malt liquor or combinations thereof, and mixed liquor, a part of which is fermented, spiritous, vinous, or malt liquor, or otherwise intoxicating; and every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine, or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, semi-solid, solid substance, which contains more than 1% of alcohol by weight shall be conclusively deemed to be intoxicating.

5.05.014 "Malt Liquor" means beer, strong beer, ale, stout and porter.

5.05.015 "Sale" and "Sell" include exchange, barter and traffic, and also include the selling or supplying or distributing by any means whatsoever of liquor or of any liquid known or described as beer, or by any name whatsoever commonly used to describe malt or brewed liquor or wine by any person to any person.

5.05.016 "Spirits" means any beverage which contains alcohol obtained by distillation, including wines exceeding 17% of alcohol by weight.

5.05.017 "Wine" means any alcohol beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural products containing sugar to which any saccharine substances may have been added before, during or after fermentation and containing not more than 17% of alcohol by weight, including sweet wines fortified with wine spirits such as port, sherry, muscatel and angelica not exceeding 17% of alcohol by weight.

Chapter 5.06 Tribal License Required

5.06.010 Any person desiring to sell liquor within the boundaries of the Pyramid Lake Indian Reservation must first obtain a license from the Pyramid Lake Liquor Commission. Every license issued under this Ordinance shall be subject to all conditions and restrictions imposed by this Ordinance and by the regulations in force from time to time.

5.06.020 *Application for License.* Any person may apply for a Pyramid Lake Liquor License. Application shall be made on an approved form provided by the Pyramid Lake Liquor Commission. The application shall be filed with the Secretary of the Pyramid Lake Paiute Tribal Council. The application shall show the following:

5.06.021 Proof satisfactory that the applicant is a person of good moral character and reputation.

5.06.022 Proof satisfactory that the applicant is financially responsible.

5.06.023 Proof satisfactory that the applicant is over 21 years of age.

5.06.024 The location and description of the premises where the sales will take place.

5.06.024 That the applicant agrees to accept and abide by the conditions of the Pyramid Lake Liquor License as set forth in Section 5.06.030 of this Ordinance and any other Ordinance or Resolution of the Pyramid Lake Paiute Tribal Council.

5.06.026 That a fee as set by resolution of the Pyramid Lake Tribal Council accompanies the application.

5.06.030 *Conditions of Pyramid Lake Liquor License.* Any Pyramid Lake Liquor License issued under this Ordinance shall be subject to the following conditions:

5.06.031 Licenses shall be issued for one calendar year or the portion remaining thereof at the time the license is issued, starting with 1982.

5.06.032 If the terms of the license or location of the business so require, the licensee shall at his own expense, engage some suitable person who qualifies as eligible for employment as a law enforcement officer to maintain law and order in and about the premises where alcohol is sold.

5.06.033 The licensee shall at all times maintain an orderly, clean and neat establishment both inside and outside the premise.

5.06.034 All acts and transactions relating to the operating standards of the establishment licensed under the authority of the Pyramid Lake Liquor License shall be in conformity with the operating laws of the State of Nevada to the extent required by 18 U.S.C. 1161. A state license, however, is not required. More stringent standards of operation may be imposed upon 30 days notice to

licensees by duly enacted ordinances of the Tribal Council.

5.06.035 The licensed premises shall be subject to inspection during reasonable business hours by members of the Pyramid Lake Liquor Commission or authorized representatives in order to insure that the licensee is complying with the terms of tribal ordinances and the conditions of the license.

5.06.040 *Consideration of application.* The Pyramid Lake Liquor Commission may, within its sole discretion, refuse to issue a license. The Commission may, within its sole discretion and subject to this Ordinance, issue a license. For purposes of considering an application, the Commission may cause an inspection of the premises to be made and may inquire into all matters in connection with the construction and operation of the premises. Before the Commission shall issue a license, it shall give due consideration to the location of the business to be conducted under such license.

5.06.050 *Posting.* Every licensee shall post and keep its license in a conspicuous place on the premises.

5.06.060 *Fees.* License applications must be accompanied by an annual fee paid in advance. The Pyramid Lake Liquor Commission shall promulgate regulations establishing the annual fee for a Pyramid Lake Liquor License. Taxes or fees of the State of Nevada shall not apply. No licensee shall be required to maintain a liquor license from the State of Nevada.

5.06.070 *Expiration.* Unless sooner cancelled, every license shall expire at midnight on the 31st day of December of the year in which it was issued.

5.06.080 *Suspension and Cancellation.* The Pyramid Lake Liquor Commission may suspend or cancel any license for violation of this Ordinance. Upon suspension of cancellation, all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated as the case may be. At least ten days prior to the cancellation or suspension, the Commission shall provide notice to the licensee of its intent to cancel or suspend the license. The licensee shall have the right prior to the cancellation or suspension date, to apply to the Pyramid Lake Tribal Council for a hearing to determine whether the license was rightly suspended or cancelled. The decision of the Pyramid Lake Tribal Council on the matter shall be final. Upon suspension or cancellation of the license, the licensee shall forthwith deliver up the license to the Pyramid Lake Tribal Council. Where the license has been suspended only, the Council shall return the license to the licensee at the expiration or termination of the period of suspension.

Chapter 5.07 Taxation

5.07.010 The Pyramid Lake Paiute Tribal Council shall have the authority, through separate ordinance, to levy and collect a tax on each retail sale of liquor within the exterior boundaries of the Pyramid Lake Indian Reservation. Any tax imposed by the Tribal Council shall apply to all retail sales of liquor on the Reservation and shall preempt any tax imposed on such liquor sales by the State of Nevada. No municipality, city, town, county or the State of Nevada shall have the power to impose any excise tax on liquor or alcoholic beverages as defined by this title, or to govern or license the sale or distribution thereof, in any manner within the Pyramid Lake Indian Reservation.

Chapter 5.08 Illegal Activities

5.08.010 No person shall engage in the manufacture or sale of liquor within the boundaries of the Pyramid Lake Indian Reservation except in conformity with this Ordinance. No person shall engage in the sale or manufacture of liquor within the boundaries of the Pyramid Lake Reservation unless duly licensed by the Tribe.

5.08.020 *Illegal Sale of Liquor by Drink or Bottle.* It shall be a violation of this Ordinance for any person to sell by the drink or bottle any liquor, except as otherwise provided in this Ordinance.

5.08.030 *Illegal Transportation, Still or Sale without Permit.* It shall be violation of this Ordinance for any person to sell or offer for sale or transport in any manner, any liquor in violation of this Ordinance or to operate or have in his possession without a permit any mash capable of being distilled into liquor.

5.08.040 *Illegal Purchase of Liquor.* It shall be a violation of this Ordinance for any person within the boundaries of the Pyramid Lake Indian Resrvation to buy liquor from any person other than at a store having a Pyramid Lake Liquor License.

5.08.050 *Illegal Possession of Liquor, Intent to Sell.* It shall be a violation of this Ordinance for any person to keep or possess liquor upon his person or in any place, or on premises conducted or maintained by him as a principal or agent, with the intent to sell it contrary to the provisions of this Ordinance.

5.08.060 *Sales to Persons Apparently Intoxicated.* It shall be a violation of this Ordinance for any person to sell liquor to a person apparently under the influence of liquor.

5.08.070 *Sale to Minors.* It shall be unlawful:

5.08.071 For a licensee or any other person to sell, deliver, give or otherwise furnish liquor to any person under the age of 21 years, or leave or deposit any such liquor in any place with the intent that the same shall be procured by any person under the age of 21 years, or for a person under the age of 21 years to buy, receive, have in his possession, or consume liquor. It shall be the responsibility of the licensee or his employee and of anyone acting in his behalf to ascertain that the purchaser of any liquor, either by the drink or by the bottle, or any other container is 21 years of age or older.

5.08.072 For a licensee to employ a person under the age of 21 years to manufacture, sell or dispose of liquor.

5.08.073 For a licensee to employ a person under the age of 21 years in any capacity connected with the handling of liquor.

5.08.074 For a person under 21 years of age to offer or present to a licensee, employee or other person a fraudulent or false certificate of birth or other written evidence of age which is not actually his own, or to otherwise misrepresent his age for the purpose of inducing a licensee or employee to give, sell, serve or furnish liquor contrary to law.

5.08.075 To influence or attempt to influence the sale, giving or serving of liquor to any person under 21 years of age by misrepresenting the age of such person or to order, request, receive or procure liquor from any licensee, employee or other person for the purpose of selling, giving, or serving it to a person under 21 years of age.

5.08.076 For any person under the age of 21 years to buy, sell, give, possess, deliver, serve, or to be employed for any of the foregoing or to consume any liquor within the exterior boundaries of the Pyramid Lake Indian Reservation.

5.08.080 *Identification—Proof of Minimum Age.* Where there may be a question of a person's right to purchase liquor by reason of his or her age, such person shall be required to present any one of the following officially issued cards of identification which shows correct age and bears his or her signature and photograph:

(1) Liquor Control Authority Card of Identification.

(2) Driver's License of any State.

(3) United States Active Duty Military Identification.

(4) Passport.

(5) Tribal Identification or Enrollment Card.

5.08.090 *Defense to Action for Sale to Minors.* It shall be a defense to a suit for serving liquor to a person under 21 years of age if such a person has presented a card of identification as set forth in Section 5.08.080 and the licensee of his employee took reasonable care to verify the card of identification.

Chapter 5.09 Penalties

5.09.010 *Civil Fine.* Any person or entity selling, bartering or manufacturing liquor without a tribal license or otherwise violating this Ordinance shall be subject to a civil fine of not more than $500.00 for each violation. The Pyramid Lake Tribal Council may adopt by resolution a schedule of lesser fines for each type of violation taking into account its seriousness and the threat it may pose to the general health and welfare of tribal members.

5.09.020 *Criminal Penalties.* Any person or entity subject to criminal prosecution by the Pyramid Lake Tribe who sells, barters or manufactures liquor without a Pyramid Lake Liquor License shall be subject to a fine of not more than $500.00 and/or six months imprisonment for each separate violation at the discretion of the Tribal Court and pursuant to all appropriate provisions of the Law and Order Code of the Pyramid Lake Paiute Tribe. The penalties provided herein shall be in addition to any criminal penalties which may be imposed by the provisions of the Pyramid Lake Law and Order Code.

5.09.030 In no event shall the same person or entity be subject to both civil and criminal sanctions simultaneously.

5.09.040 The Federal Indian liquor laws remain applicable to any act or transaction which is not authorized by this Ordinance and violators of this Ordinance may be subject to federal prosecution as well as legal action in accordance with Tribal Law.

5.09.050 *Illegal Items Declared Contraband.* All liquor within the reservation held, owned or possessed by any person or liquor outlet operating in violation of this Ordinance is hereby declared to be contraband and subject to forfeiture to the Tribe. Upon application of the Tribe, the Tribal Court Judge shall issue an order directing the appropriate law enforcement office to seize contraband liquor within the Pyramid Lake Reservation and deliver it to the Pyramid Lake Tribal Council. A copy of the Court Order shall be delivered to the person from whom the property was seized.

5.09.051 Within two weeks following the seizure of the contraband, a hearing shall be held in Tribal Court at which time the owner or operator of the contraband shall be given an opportunity to present evidence in defense of his or her activities.

5.09.052 Adequate notice of the hearing shall be given to the person from whom the property was seized, if known. If the person is unknown, notice of the hearing shall be posted at the place where the contraband was seized and at some other public place. The notice shall describe the property seized and the time, place and cause of seizure, and give the name and place of residence, if known, of the person from whom the property was seized.

5.09.053 If, upon the hearing, the evidence warrants or no person appears as the claimant, the Tribal Court shall thereupon enter a judgment of forfeiture and order such articles turned over to the Pyramid Lake Tribal Council for disposition.

5.09.060 *Injunctive Relief.* The Tribal Court may, in addition to other penalties set forth in this Ordinance, grant such other relief as is necessary and proper to enforce this Ordinance including but not limited to injunctive relief against acts in violation of this Ordinance.

5.09.070 *Exclusion.* Any person not a member of the Pyramid Lake Paiute Tribe who shall be found in violation of this Ordinance shall be subject to exclusion from the Pyramid Lake Indian Reservation purusant to Chapter 3.18 of the Law and Order Code of the Pyramid Lake Paiute Tribe.

Chapter 5.10 Miscellaneous Provisions

5.10.010 *Jurisdiction.* The jurisdiction of this ordinance shall extend to all activities conducted within the exterior boundaries of the Pyramid Lake Indian Reservation except activities conducted on fee patented lands in non-Indian communities or rights of way through the Pyramid Lake Indian Reservation. Nothing in this Ordinance shall be construed to require or authorize the criminal trial and punishment by the Pymraid Lake Tribal Court of any non-Indian except to the extent allowed by any applicable present or future act of Congress or any applicable decision of a United States Federal Court.

5.10.020 *Application of 18 U.S.C. 1161.* All liquor transactions within the Pyramid Lake Reservation shall conform to this Ordinance and to the laws of the State of Nevada to the extent required by 18 U.S.C. 1161.

5.10.030 *Amendments.* All provisions of this Ordinance are subject to proper revision, repeal or amendment in accordance with the Constitution and By-Laws of the Pyramid Lake Paiute Tribe.

5.10.040 *Repeal of Ordinances.* Ordinance No. IX as amended is hereby repealed effective the date of this Ordinance. All previous tribal resolutions in any way dealing with the sale of liquor are hereby repealed. No other tribal ordinance or resolution shall be applied in a manner inconsistent with the provisions of this Ordinance.

5.10.050 *Effective Date.* This Ordinance shall be effective on such date as the Secretary of the Interior certifies this Ordinance and publishes the same in the **Federal Register.**

Certification

It is hereby certified that the foregoing Ordinance of the Pyramid Lake Paiute Tribal Council, governing body of the Pyramid Lake Paiute Tribe, composed of 10 members whom 7 constituting a quorum were present at a meeting duly held on the 6th day of August, 1982, was adopted by the affirmative vote of 7 for and 0 against, pursuant to the authority vested in it by Article VI, Section 1 of the Constitution of the Tribe.

Roy Garcia,

Chairman, Pyramid Lake Paiute Tribal Council.

Della John,

Secretary, Pyramid Lake Paiute Tribal Council.

Approved:

Robert L. Hunter,

Superintendent.

Dated: August 12, 1982.

[FR Doc. 83-488 Filed 1-6-83; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

Shoshone District Advisory Council; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the sechedule and proposed agenda for a meeting of the Shoshone District Advisory Council.

DATE: Thursday, March 3, 1983, at 9:00 a.m.

ADDRESS: BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: Terry Costello, Planning and Environmental Coordinator, Shoshone District Office, P.O. Box 2 B, Shoshone, Idaho 83352. Telephone (208) 886–2206 or FTS 554–6576.

SUPPLEMENTARY INFORMATION: The approved agenda for the meeting includes the following topics or issues: BLM organization and background, Council duties and expectations, Land-

use planning, Asset management, Election of officers, Future plans.

The Shoshone District Advisory Council is established under Section 309 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94–579; 43 U.S.C. 1701 et seq.), as amended. Operation and administration of the Council will be in accord with the Federal Advisory Committee Act of 1972 (Pub. L. 92–463; 5 U.S.C. Appendix 1) and Department of Interior and BLM regulations, including 43 CFR 1784.

The meeting will be open to the public. Anyone may present an oral statement before the Council between 2:00 and 3:00 p.m. or may file a written statement with the Council regarding matters on the agenda. Oral statements will be limited to ten minutes. Anyone wishing to make an oral statement must notify the Shoshone District Manager by March 1, 1983. Records of the meeting will be available in the Shoshone District Office for public inspection or copying within 30 days after the meeting.

Charles J. Hassler,

District Manager.

[FR Doc. 83–409 Filed 1–6–83; 8:45 am]

BILLING CODE 4310–84–M

Nevada; Order Providing for Opening of Public Lands

1. In a donation of land made under Section 205 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2755; 43 U.S.C. 1715) the following land, including minerals, has been conveyed to the United States:

Mount Diablo Meridian

T. 36 N., R. 20 E.
Sec. 31, SE¼NE¼.

Containing 40 acres in Washoe County, Nevada.

2. At 9 a.m. on February 7, 1983 the land described above shall be open to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable laws. All valid applications received from the date of this publication until February 7, 1983 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on February 7, 1983 the land will be open to location and entry under the United States mining laws and to applications and offers under the mineral leasing and material sale laws.

4. Inquiries concerning the land should be addressed to the District Manager, Bureau of Land Management, 705 E. 4th Street, Winnemucca, Nevada 89445.

Dated: December 28, 1982.

Richard G. Morrison,

Acting Chief, Division of Operations.

[FR Doc. 83–770 Filed 1–6–83; 8:45 am]

BILLING CODE 4310–84–M

Boise District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Boise District, Idaho, Advisory Council Meeting.

SUMMARY: In accordance with Pub. L. 92–463, the Federal Advisory Committee Act, and Pub. L. 94–579, the Federal Land Policy and Management Act, notice is hereby given that the Boise District Advisory Council will meet on February 1 and 2, 1983, from 9:00 a.m. to 4:00 p.m.

SUPPLEMENTARY INFORMATION: The meeting will begin at 9:00 a.m. each day in the lower conference room at the Bureau of Land Management, Boise District Office, at 3948 Development Avenue in Boise, Idaho. This is the first meeting of the Advisory Council. The agenda includes an orientation of the Boise District on the first day, and a discussion of the Bruneau/Kuna EIS and Jacks Creek Pipeline on the second day. A public comment period is scheduled from 2:00 p.m. to 3:00 p.m. each day.

FOR FURTHER INFORMATION CONTACT: Further information is available from the Boise District, Bureau of Land Management, 3948 Development Avenue Boise, Idaho 83705, phone (208) 334–1582. Minutes of the meeting will be available for public inspection at the District Office.

Martin J. Zimmer,

District Manager.

[FR Doc. 83–408 Filed 1–6–83; 8:45 am]

BILLING CODE 4310–84–M

Craig District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463, that a meeting of the Craig District Grazing Advisory Board will be held on February 24, 1983, at the Craig District Office of the Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81626. The meeting will convene at 10:00 a.m.

The agenda for the meeting will include: (1) A discussion of new grazing policies and regulations; (2) a priority listing of range projects which need feasibility and survey and design done so that they may be constructed in FY' 84 and FY' 85; (3) status of rnge improvement projects being constructed in FY' 83; (4) the expenditure of advisory board funds for range improvements; (5) status of the Kremmling Resource Management Plan; (6) status of the SVIM forage inventory in Little Snake Resource Area.

The meeting is open to the public. Interested persons may make oral statements to the board between 10:00 and 11:00 a.m. on February 24, 1983, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 248, Craig, Colorado 81626, by February 21, 1983. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Lee Carle,

District Manager.

[FR Doc. 83–406 Filed 1–6–83; 8:45 am]

BILLING CODE 4310–84–M

OR–9041, OR–9041–B, OR–9041–C, OR–9041–D, OR–22432 (WASH)

Oregon and Washington; Rescission of Orders Providing for the Opening of Public Lands

This notice rescinds five orders which provided for the opening of public lands in the States of Oregon and Washington. The orders had no force and effect. They are identified as follows:

OR–9041 appearing at Pages 39905 and 39906 of the **Federal Register** of Friday, September 10, 1982 (FR Doc. 82–24906);

OR–9041–A appearing at Pages 37708 and 37709 of the **Federal Register** of Thursday, August 26, 1982 (FR Doc. 82–23473);

OR–9041–B appearing at Pages 37708 and 37709 of the **Federal Register** of Thursday, August 26, 1982 (FR Doc. 82–23477);

OR–9041–C appearing at Page 39723 of the **Federal Register** of Thursday, September 9, 1982 (FR Doc. 82–24712);

OR–9041–D appearing at Page 29886 of the **Federal Register** of Friday, July 9, 1982 (FR Doc. 82–18584);

OR–22432 (WASH) appearing at Page 37710 of the **Federal Register** of Thursday, August 26, 1982 (FR Doc. 82–23471).

Dated: December 23, 1982.

Harold A. Berends

Acting State Director.

[FR Doc. 83–407 Filed 1–6–83; 8:45 am]

BILLING CODE 4310–84–M

[U-50845]

Realty Action; Agriculture Lease; Public Lands in Uintah County, Utah

The following described lands have been determined to be suitable for agriculture lease under Section 302 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1732:

T. 4 S., R. 22 E., Salt Lake Meridian,
Sec. 26, S½SW¼;
Sec. 27, SW¼, SE¼SE¼;
Sec. 34, NE¼NW¼, E½E½;
Sec. 35, W½.
Total 800 acres.

The lands will be leased to the Ashley Valley Sewer Management Board to be used as part of the new sewage treatment system. The lands adjoin other private and public lands containing the lagoons and a storage reservior. The lease is consistent with the Bureau's planning system and county zoning.

The terms and conditions applicable to the lease are:

1. The lease would be issued for 20 years with the right to renew.
2. The lands would be used for production of alfalfa hay and other small grains.
3. Rental will be determined by fair market value.

Detailed information concerning the lease, including the environmental assessment, is available for review at the Vernal District Office, 170 South 500 East, Vernal, Utah 84078.

For period of 30 days, interested parties may submit comments to the Utah State Director, 136 East South Temple, Salt Lake City, Utah 84111. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department.

Dated: December 30, 1982.

[FR Doc. 83-406 Filed 1-6-83; 8:45 am]
BILLING CODE 4310-84-M

[W-81125]

Realty Action; Noncompetitive Sale of Public Lands in Sweetwater County, Wyoming

December 30, 1982.

The following described lands have been determined to be suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy Management Act of 1976, 43 U.S.C. 1713, at fair market value.

Sixth Principal Meridian, Wyoming
T. 18 N., R. 107 W.,
Sec. 34, NE¼SE¼NE¼.
Containing 10.00 acres.

The land is to be sold noncompetitively to the Joint Powers Board, Green River, Wyoming, at the fair market value of $110,000.00. The purpose of this sale is to provide land for construction of a city/school public recreation complex. The sale is consistent with Bureau and local government plans for the area. The public interest will be well served by offering these lands for direct sale to the Joint Powers Board.

The terms and conditions applicable to the sale are as follows:

1. All minerals in the lands will be reserved to the United States in Accordance with Section 209 (a) of the Federal Land Policy and Management Act of 1976.
2. Right-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.
3. Patents will be issued subject to all valid existing rights and reservations of records.

Detailed information concerning the sale is available for review at the Salt Wells Resource Area Office, Rock Springs District, Highway 191 North, P.O. Box 1869, Rock Springs, Wyoming 82901 (307/382-5350).

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Gene C. Herrin,
Acting District Manager.

[FR Doc. 83-454 Filed 1-6-83; 8:45 am]
BILLING CODE 4310-84-M

Initial Land Classifications

Correction

In FR Doc. 82-33491 beginning on page 55523 in the issue OF Friday, December 10, 1982, make the following corrections:

(1) On page 55524, middle column, under **Classification Decision**, "(Suitable)" should have read "(Unsuitable)".

(2) Also on page 55524, third column, Attachment I is corrected as follows:

Under Application No. I-8654, T. 6 S., R. 8 E., in the entry for Sec. 12, "E½N½" should have read "E½NE¼"; in the entry for Sec. 14, "SE¼SEW¼" should have read "SE¼NE¼" in the entry for Sec. 14, "SE¼SEW¼" should have read "SE¼SE¼", and in the entry for Sec. 24, "N½SW¼"should have read "N½SE¼".

(2) Under Application No. I-11838,T. 6., R. 9E., the entry for Sec. 22, now reading "W½NE¼, W½, W½, W½SE¼," should have read "W½NE¼, W½, W½SE¼", and in the entry for Sec 28, "N½," should be added to the beginning of the description.

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. Parent corporation and address of principal office: Browning-Ferris Industries, Inc., Post Office Box 3151, Houston, Texas 77253 (Delaware Corp.)

B. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(1) Active Disposal Company, 32800 Five Mile Road, Livonia, Michigan 48154

(2) BFI Waste Systems of Indiana, Inc., 10 North West Street, Crown Point, Indiana

(3) BI Acquisition Company, Post Office Box 3151, Houston, Texas 77001

(4) Browning-Ferris, Inc., Post Office Box 3151, Houston, Texas 77001 (Delaware Corp.)

(5) Woodlake Sanitary Service, Inc., 9813 Flying Cloud Drive, Eden Prairie, Minnesota 55344

(6) American Waste Removal, Inc., 979 Channel Avenue, Memphis, Tennessee

(7) Browning-Ferris, Inc., Post Office Box 8733, BWI Airport; Maryland 21240 (Maryland Corp.)

(8) Browning-Ferris Industries Chemical Services, Inc., Post Office Box 3151, Houston, Texas 77001

(9) Browning-Ferris Industries Chemical Services de Caribe, Inc., Urbanization Industrial, El Tuque, Ponce, Puerto Rico 00731

(10) Browning-Ferris Industries, Inc., 100 Hallet Street, Boston, Massachusetts 02124 (Massachusetts Corp.)

(11) Resource Recovery Corporation, 115 Washington Street, Holliston, Massachusetts 01746

(12) Browning-Ferris Industries of Alabama, Inc., 31 First Avenue North, Birmingham, Alabama 35202

Also 4649 Commercial Drive, N.W., Huntsville, Alabama 35805

Also 920 Navco Road, Mobile, Alabama 36600

(13) Browning-Ferris Industries of Arizona, Inc., 2240 W. Shangri-la, Phoenix, Arizona 85029

(14) Browning-Ferris Industries of Arkansas, Inc., Post Office Box 157, Jacksonville, Arkansas 72076

(15) Browning-Ferris Industries of California, Inc., 1245 South Winchester Boulevard, Suite 115, San Jose, California 95128

(16) Dallas Refuse Service, Inc., 2617 Willowbrook Road, Dallas, Texas 75220

(17) Browning-Ferris Industries, Remedial Services, Inc., P.O. Box 3151, Houston, Texas 77253

(18) Browning-Ferris Industries of Colorado, Inc., 3001 Walnut, Denver, Colorado 80205

(19) Highway 36 Land Development Company, 3001 Walnut, Denver, Colorado 80205

(20) Browning-Ferris Industries of Connecticut, Inc., 100 Hallet Street, Boston, Massachusetts 02124

(21) Browning-Ferris Industries of Florida, Inc., Post Office Box 16986, 7580 Phillips Highway, Jacksonville, Florida 32216

Also Post Office Box 908, 1610 NW 55th Place, Gainesville, Florida 32604

(22) Browning-Ferris Industries of Georgia, Inc., 910 Marietta Boulevard, N.W., Atlanta, Georgia 30318

(23) Browning-Ferris Industries of Idaho, Inc., Post Office Box 1037, 117 East 37th, Boise, Idaho 83701

Also Post Office Box 985, Nampa, Idaho 83651

(24) Browning-Ferris Industries of Illinois, Inc., 1827 Walden Office Square, Suite 107, Schaumburg, Illinois 60195

(25) Browning-Ferris Industries of Indiana, Inc., Post Office Box 2269, 801 East Michigan, Evansville, Indiana 47714

(26) Browning-Ferris Industries of Iowa, Inc., 112 9th Street, Des Moines, Iowa 50265

(27) Browning-Ferris Industries of Oregon, Inc., P.O. Box 3151, Houston, Texas 77001

(28) Browning-Ferris Industries of Kansas City, Inc., Post Office Box 15200, 3150 North 7th, Kansas City, Kansas 66115

(29) Jeffco Land Reclamation, Inc., 11506 Bowling Green, Creve Coeur, Missouri 63141

(30) Browning-Ferris Industries of Kentucky, Inc., 2805 Nonconnah Boulevard, Suite 165, Memphis, Tennessee 38132

(31) Browning-Ferris Industries of Tennessee, Inc., Post Office Box 18149, 3840 Homewood, Memphis, Tennessee 38118

(32) Browning-Ferris Industries of Michigan, Inc., 12001 Mack Avenue, Detroit, Michigan 48215

(33) Browning-Ferris Industries of Minnesota, Inc., 9813 Flying Cloud Drive, Eden Prairie, Minnesota 55344

(34) Browning-Ferris Industries of Mississippi, Inc., 402 McDonnell Avenue, Biloxi, Mississippi 39531

Also Post Office Box 1638, 1035 Old Brandon Road, Jackson, Mississippi 39205

(35) Browning-Ferris Industries of Montana, Inc., Post Office Box 3151 Houston, Texas 77001

(36) Browning-Ferris Industries of Nebraska, Inc., 1118 South 11th Street, Omaha, Nebraska 68108

(37) Browning-Ferris Industries of New Hampshire, Inc., Tolles Street, Hudson, New Hampshire 03051

(38) Browning-Ferris Industries of New Jersey, Inc., 1075 Central Avenue, Clark, New Jersey 07066

(39) Browning-Ferris Industries of Central Jersey, Inc., Post Office Box 3151, Houston, Texas 77001

(40) Browning-Ferris Industries of Elizabeth, N.J., Inc., Post Office Box 508, 714 Division Street, Elizabeth, New Jersey 07207

(41) Browning-Ferris Industries of North Jersey, Inc., 54 Montesano Road, Fairfield, New Jersey 07006

(42) Browning-Ferris Industries of Paterson, N.J., Inc., 155 Michigan Avenue, Paterson, New Jersey 07503

(43) Browning-Ferris Industries of South Jersey, Inc., Cranbury Station Road, Post Office Box 437, Cranbury, New Jersey 08512

(44) Browning-Ferris Industries Waste Control, Inc., Post Office Box 3151, Houston, Texas 77001

(45) Browning-Ferris Industries of New York, Inc., 136 Sicker Road, Latham, New York 12110

(46) Robbins Refuse Service, Inc., 136 Sicker Road, Latham, New York 12110

(47) Browning-Ferris Industries of Ohio and Michigan, Inc., Post Office Box 5069, Pt. Place Station, Toledo, Ohio 43611

(48) Comet Enterprises, Inc., Post Office Box 3151, Houston, Texas 77001

(49) Browning-Ferris Industries of Ohio, Inc., 33 N. Wickliffe Circle, Youngstown, Ohio 44515

(50) Browning-Ferris Industries of Pennsylvania, Inc., West Noblestown Road, Post Office Box 448, Carnegie, Pennsylvania 15106

(51) Browning-Ferris Industries of Puerto Rico, Inc., Post Office Box 29499, 65th Infantry Station, Rio Piedras, Puerto Rico 00929

(52) Browning-Ferris Industries of Quincy, Illinois, Inc., Post Office Box 3124, 1704 North 24th, Quincy, Illinois 62301

(53) Browning-Ferris Industries of Rochester, Inc., 2117 Marion Road, S.E., Rochester, Minnesota 55901

(54) Browning-Ferris Industries of St. Louis, Inc., 11506 Bowling Green, Creve Coeur, Missouri 63141

Also Post Office Box 250, 91 Shady Lane, Valley Park, Missouri 63088

(55) Jeffco Land Reclamation, Inc., 11506 Bowling Green, Creve Coeur, Missouri 63141

(56) Rick's Repair and Mfg. Co., 2805 Nonconnah Boulevard, Suite 165, Memphis, Tennessee 38132

(57) Orchard Mesa Landfill, Inc., c/o Valley Refuse Removal, Inc., 2724 Highway 50, Grand Junction, Colorado 81503

(58) Browning-Ferris Industries of South Atlantic, Inc., 7820 Silas Creek, Parkway Extension, Suite 201, Winston-Salem, North Carolina 27106

(59) Browning-Ferris Industries of Utah, Inc., Post Office Box 26333, Salt Lake City, Utah 84125

(60) Browning-Ferris Industries of Vermont, Inc., Post Office Box 121, Springfield, Vermont 05156

(61) Browning-Ferris Industries of West Virginia, Inc., Post Office Box 3151, Houston, Texas 77001

(62) Browning-Ferris Industries of Wisconsin, Inc., 1827 Walden Office Square, Suite 107, Schaumburg, Illinois 60195

(63) Browning-Ferris Industries of Wyoming, Inc., Post Office Box 3151, Houston, Texas 77001

(64) Browning-Ferris Services, Inc., Post Office Box 3151, Houston, Texas 77001

(65) Cardinal Land Corp., 32600 Five Mile Road, Livonia, Michigan 48154

(66) Disposal Specialists, Inc., Post Office Box 121, Springfield, Vermont 05156

(67) Dooley Equipment Corporation, 164 Market Street, Brighton, Massachusetts 02135

(68) ECCO Contractors, Inc., 1417 North Harper Street, Santa Ana, California 92703

(69) Environmental Equipment Corp., Post Office Box 3151, Houston, Texas 77001

(70) ESI, Inc., Post Office Box 3151, Houston, Texas 77001

(71) Indoco, Inc., Post Office Box 3151, Houston, Texas 77001

(72) International Disposal Corp., Post Office Box 3151, Houston, Texas 77001 (Delaware Corp.)

(73) International Disposal Corp., Post Office Box 3151, Houston, Texas 77001 (Texas Corp.)

(74) International Disposal Corp. of California, Post Office Box 1987, San Jose, California 95109

(75) International Disposal Corporation of Indiana, Post Office Box 3151, Houston, Texas 77001

(76) RWCGP, Inc., Post Office Box 3151, Houston, Texas 77001

(77) International Disposal Corporation fo Kansas, Post Office Box 3151, Houston, Texas 77001 (Missouri Corp.)

(78) Landfill, Inc., Post Office Box 15200, Kansas City, Kansas 66115

(79) Landfill, Inc., Post Office Box 188 Commerce City, Colorado 80022 (Colorado Corp.)

(80) Lanham Waste Control, Inc., Post Office Box 3151, Houston, Texas 77001

(81) Louis Kmito & Son, Inc., 95 Liberty Street, Randolph, Massachusetts 02368

(82) Lyon Development Company, 32600 Five Mile Road Livonia, Michigan 48154

(83) Modern Waste Removal, Inc., 12001 Mack Avenue, Detroit, Michigan 48215

(84) National Dispsal Service of Nebraska, Inc., 212 South 24th Street, Omaha, Nebraska 68108

(85) Browning-Ferris Industries of Brooklyn, Inc., P.O. Box 3151, Houston, Texas 77253

(86) Phoenix, Inc., 9813 Flying Cloud Drive, Eden Prairie, Minnesota 55344

(87) Waste Disposal, Inc., Post Office Box 15200, Kansas City, Kansas 66115

(88) West Roxbury Crushed Stone Co., 10 Grove Street, West Roxbury, Massachusetts 02132

1. Parent corporation and address of principal office: Goodall Rubber Company, PO Box 8237, Trenton, NJ 08650

2. Wholly—owned subsidiaries which will participate in the operations and state(s) of incorporation:

(i) Goodall Transportation Company, Inc., PO Box 8237, Trenton, NJ 08650: A Delaware corporation

(ii) Rubberhide, Inc., PO Box 8237, Trenton, NJ 08650; A New Jersey corporation

(iii) Goodall Rubber Company of Canada, Ltd., Pretty River Parkway, Collingwood L9Y 3Z5, Ontario, Canada; An Ontario corporation

1. The parent corporation and address of its principal office is: Guardian Industries Corp., 43043 West Nine Mile Road, Northville, Michigan 48167

2. Wholly—owned subsidiaries which will participate in the operations, and their State(s) of incorporation are:

(i) Double Seal Glass Company, Inc., Incorporated in Michigan

(ii) Glass Guard Industries, Inc., Incorporated in Massachusetts

(iii) Guardian Glass Commapany, Incorporated in Ohio

(iv) Guardian Industries Distribution Center, Inc., Incorporated in California

(v) Guardian Industries Distribution Center, Inc., Incorporated in Georgia

(vi) Guardian Industries Distribution Center, Inc., Incorporated in Illinois

(vii) Guardian Industries Distribution Center, Inc., Incorporated in Kansas

(viii) Guardian Industries Distribution Center, Inc., Incorporated in Maryland

(ix) Guardian Industries Distribution Center, Inc., Incorporated in Massachusetts

(x) Guardian Industries Distribution Center, Inc., Incorporated in Michigan

(xi) Guardian Industries Distribution Center, Inc., Incorporated in New York

(xii) Guardian Industries Distribution Center, Inc., Incorporated in Oregon

(xiii) Guardian Industries Distribution Center, Inc., Incorporated in Texas

(xiv) Sitelines, Inc., Incorporated in California

1. Parent corporation and address of principal office: High Industries, Inc., 1905 Old Philadelphia Pike, Lancaster, Pennsylvania 17604.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation

(i) High Steel Structures, Inc. (Pennsylvania)

(ii) High Concrete Structures, Inc. (Pennsylvania)

(iii) Kurtz Bros., Concrete, Inc. (Pennsylvania)

(iv) Kurtz Transport, Inc. (Pennsylvania)

(v) Kurtz Materials Corporation (Delaware)

(vi) Lancaster Lime & Stone Corporation (Pennsylvania)

(vii) High Realty Corporation (Pennsylvania)

(viii) High Associates, LTD. (Pennsylvania)

(ix) Lantz Builders, Inc. (Pennsylvania)

(x) High Steel Service Center, Inc. (Pennsylvania)

(xi) Formigli Corporation (Delaware)

1. Parent Corporation and principal address: Hollowell Oil Transport of Winfall, Inc., N.C. Highway #37, Winfall, NC 27985

2. Wholly-owned subsidiaries: (both incorporated in State of North Carolina)

(i) Joel F. Hollowell Oil Co., Inc., Winfall, NC

(ii) Winfall Ready Mix, Inc., Winfall, NC

1. Parent corporation and address of principal office: Hoover Universal, Inc., 825 Victors Way, Ann Arbor, Michigan 48104

2. Wholly-owned subsidiary which will participate in the operations, and State(s) of incorporation: American Welding & Manufacturing Company, Dietz Road, Warren, Ohio 44482 (State of incorporation: Ohio)

1. Parent corporation and address of principal office: Southern Commodity Corporation, 3595 NW. 125th St., Miami, FL 33167

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation.

i. Liquid Foods, Inc.—Florida

ii. Southern Food Brokers, Inc.—Florida

iii. Southern Charters, Inc.—Florida

iv. Sun Light Transport, Inc.—Florida

v. Florida Sweeteners, Inc.—Florida

vi. Rodhill Corp.—Florida

vii. Southern Commodity International, Inc.—Florida

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-449 Filed 1-6-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before

the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is so ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquires to Team 1 at 202–275–7992.

Volume No. OP1–FC–243

Member Krock not participating.

MC–FC–81004. By decision of December 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3, approved the transfer to Wolverine Expediting Inc., of Wayne, MI, of that portion of Certificate No. MC–158620, issued June 24, 1982, to Clifford Sweet Trucking, Inc., of Yale, MI, authorizing the transportation of automobile and tank parts, between points in the U.S. (except AK and HI). Applicants' representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801.

Note.—Transferee holds authority under MC–150858.

MC–FC–81033. By decision of December 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to Tetco Petroleum Carriers, Inc., of Houston, TX, of certificate No. MC–157880, issued September 27, 1982, to Mission Petroleum Carriers, Inc., of Houston TX, authorizing the transportation of commodities in bulk, between points in TX, NM, OK, AR, LA, MS, AL, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Applicants' representative: Mike Cotten, Box 1148, Austin, TX 78767.

MC–FC–81034. By decision of December 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to Tetco Steel Carriers, Inc., of Houston, TX, of Certificate No. MC–121633 (Sub-No. 2), issued November 30, 1982, to Mission Steel Carriers, Inc., of Houston, TX, authorizing the transportation of (1) Mercer commodities, (2) pipe, and (3) those commodities which because of their size or weight require the use of special equipment or handling, between points in TX. Applicants' representative: Mike Cotton, Box 1148, Austin, TX 78767.

Volume No. OP2–008

Please direct status inquiries to Team 2 at 202–275–7030.

MC–FC–81032. By decision of December 28, 1982 issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR 1181, Review Board Number 3 approved the transfer to transferee National School Bus Service, Inc., Buffalo, NY, of Certificates No. MC–69623, and (Sub-Nos. 2 and 3), issued June 21, 1949, April 10, 1973, and June 2, 1977, respectively, to transferor, Ritzenthaler Bus Lines, Inc., Mundelein, IL, authorizing the transportation of passengers and their baggage, (1) in charter operations from Chicago, IL, to points in 26 States, (2) over regular routes between Chicago, IL and named points in IL and WI, this authority includes intermediate points service and incidental charter rights, and (3) special operations beginning and ending at Lombard, IL and points in Cook (except Chicago), Lake, and McHenry Counties, IL and Walworth and Kenosha Counties, WI and extending to points in the U.S. (excpet HI). Representatives: Frederick G. Attea, 3400 Marine Midland Center, Buffalo, NY, 14203 for transferor, and Jeremy Kahn 1511 K Sat., NW, Suite 733 Investment Bldg., Washington, DC 20005 for transferee.

MC–FC–81046. By decision of December 28, 1982 issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR 1181, Review Board Number 3 approved the transfer to transferee. Grandview Enterprises, Inc., Portland, OR, of Permit No. MC–136283 (Sub-No. 5X), issued May 18, 1981, to transferor Deron, Inc., Portland, OR, authorizing the transportation of (1) *floor coverings*, and (2) *materials and supplies* used in the manufacture of (a) mobile homes, (b) sectional buildings, and (c) recreational vehicles, between points in the U.S., under continuing contract(s) with LaSalle-Deitch Co., Inc., of Elkhart, IN. Transferee holds authorities under Docket No. MC–139588. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, for transferor and transferee.

Condition: The permits under No. MC–136283 (Sub-Nos. 1, 3, and 4) will be cancelled as requested by the parties.

Volume No. OP3–MC–FC–71

Please direct status inquiries to Team 3 at 202–275–5223.

MC–FC–81048. By decision of December 28, 1982, issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR 1181, Review Board Number 3 approved the transfer to Overland Transport, Inc., of Baltimore, MD, of Certificate No. MC–151785 Sub 5, issued August 2, 1982, to Contract Cartage Corporation, of Jessup, MD, authorizing the transportation of *wood and metal fencing and accessories, metal products, lumber and wood products*, between Capitol Heights, Gambrills, Baltimore, and Sparrows Point, MD, Fairfax and Norfolk, VA, Camden, NJ, Bethlehem and Philadelphia, PA, points in Pennsylvania on and west of Route 219, Joliet, Harvey, and Chicago, IL, Gary, IN, Pine Bluff, AR, and Lackawanna, NY, on the one hand, and, on the other, points in the United States (except AK and HI). Representative: James W. Patterson, 1200 Ave. of the Arts Bldg., Broad & Chestnut Sts., Philadephia, PA 19107.

[FR Doc. 83–446 Filed 1–6–83; 8:45 am]

BILLING CODE 7035–01–M

[Decision-Notice Volume OP3–MCF–74]

Motor Carriers; Finance Application

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub.-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and

payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: December 29, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Note.—Please direct status inquiries to Team 3 (202) 275–5223.

MC–F–15026, filed December 9, 1982. PROPANE TRANSPORT, INC. (PTI) (P.O. Box 232, Milford, OH 45150)—merger—Petroleum Transportation Corporation (PTC) (9717 East 42nd Street, Tulsa, OK 74145). Representatives: Daryl A. Gault, P.O. Box 28397, Sacramento, CA 95828; and, James R. Stiverson, P.O. Box 12241, Columbus, OH 43212.

PTI seeks authority to merge all of the operating rights and property of PTC into PTI for ownership, management, and operation. PTI and PTC are both wholly-owned motor carrier subsidiaries of Cal Gas Corporation, a non-carrier. Control of both carriers by Cal Gas Corporation and, in turn, Dillingham Corporation, was authorized in MC–F–10604 and MC–F–14748. Pursuant to an agreement of merger, Cal Gas, Inc., will be merged into Cal Gas-East, Inc., which is presently a subsidiary of Cal Gas, Inc. Thus, Cal Gas-East, Inc., will be the parent of PTI. The necessary parties has joined in the application, seeking control of the merged operating rights.

PTI is a motor common carrier pursuant to certificates in No. MC–114989 and sub-numbers thereunder.

The operating authority to be merged into PTI is contained in PTC's restriction removal certificate No. MC–142905 (Sub-No. 14)X, which supersedes former certificates No. MC–142905 and Sub-Nos. 4F, 5F, 9F, 10F, and 13F, and which authorizes, collectively, *petroleum products, animal feeds,* and agriculture fertilizers and ingredients, (a) between points in Woodward County, OK, on the one hand, and, on the other, points in AR, CO, IA, KS, LA, MO, NE, NM, SD, and TX; (b) between points in Gage County, NE, on the one hand, and, on the other, points in CO, KS, IA, MN, NE, MO, OK, SD, and WY; (c) between points in Rogers County, OK, on the one hand, and, on the other, points in AR, KS, MO, OK, and TX; (d) between points in Cowley, Reno, McPherson and Rice Counties, KS, on the one hand, and, on the other, points in OK; and (e) between points in OK, on the one hand, and, on the other, points in AR.

Condition: Dillingham Corporation, a noncarrier holding company shall be considered a carrier within the meaning of 49 U.S.C. 11343 and is subject to the Commission's reporting requirements for the issuance of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries.

Note.—(1) An application for temporary authority has been filed. (2) Dillingham Corporation, a non-carrier, also controls Foss Launch & Tug Co., a water carrier operating pursuant to authority in W–587.

[FR Doc. 83–447 Filed 1–6–83; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. OP2–009]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 29, 1982.

In the matter of: Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the Federal Register on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1160.251, published in the Federal Register December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the Federal Register on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifing grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as

indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating).

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 2, (202) 275–7030.

MC 112713 (Sub-335), filed December 10, 1982. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: William F. Martin, Jr. (same address as applicant) (913) 383–3000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Borden, Inc., of Columbus, OH.

MC 124212 (Sub-116), filed December 14, 1982. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Rd., P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114 (216) 566–5639. Transporting *Chemicals and commodities in bulk,* between points in the U.S., under continuing contract(s) with Elkem Metals Company, of Pittsburgh, PA.

MC 143933 (Sub-2), filed December 20, 1982. Applicant: ABCO MOVING & STORAGE, INC., 1700 Atlantic Ave., Chesapeake, VA 23324. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW, Suite 1200, Washington, DC 20036 (202) 785–0024. Transporting *household goods,* between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY and DC.

MC 144502 (Sub-4), filed December 10, 1982. Applicant: ATKINSON-INTERMODAL SYSTEMS, INC., 144 Pennsylvania Ave., P.O. Box 144, Kearny, NJ 07032. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048 (212) 466–0220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and west of MN, IA, MO, AR, and LA. (except AK and HI).

MC 145593 (Sub-12), filed December 10, 1982. Applicant: HAROLD SHULL TRUCKING, INC., P.O. Box 15333, Hickory, NC 28601. Representative: Harold Shull (same address as applicant) (704) 397–5564. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NC, SC, TN, VA, WV, OH, MI, WI, IL, IN, KY, and PA.

MC 145603 (Sub-8), filed December 21, 1982. Applicant: B & H TRUCKING CO., INC., 570 West 17th St., Indianapolis, IN 46202. Representative: Edward H. Instenes, P.O. Box 670, 128½ Plaza East, Winona, MN 55987 (507) 454–3914. Transporting *pulp, paper and related products, and printed matter,* between those points in the U.S. in the east of MN, IA, MO, AR, and TX (except CT, MA, ME, NH, VT and RI).

MC 147242 (Sub-16), filed December 7, 1982. Applicant: PLAZA FREIGHT TRANSPORT, INC., 12–90 Plaza Rd., Fair Lawn, NJ 07410. Representative: Arthur Liberstein, 888 Seventh Ave., New York, NY 10106 (212) 757–8025. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Agway, Inc., of Syracuse, NY.

MC 147832 (Sub-11), filed December 9, 1982. Applicant: J & J CATTLE COMPANY, 3395 Wright St., Wheatridge, CO 80033. Representative: Manuel Andrade, 770 Grant St., Suite 228, Denver, CO 80203 (303) 861–4273. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, AR, AZ, CA, CO, FL, GA, IA, IN, ID, IL, KS, KY, LA, MI, MN, MO, MS, MT, NE, ND, NM, NV, OK, OH, OR, SD, TN, TX, UT, WA, WI and WY.

MC 151723 (Sub-3), filed December 13, 1982. Applicant: SIMMCO CARRIERS, INC., 920 S.W. 2nd St., Oklahoma City, OK 73102. Representative: Joyce A. Simms (same address as applicant) (405) 239–7118. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153082 (Sub-4), filed December 10, 1982. Applicant: TRANS CONTINENTAL TRANSPORT, INC., 2661 Federal Way, P.O. Box 7583, Boise, ID 83707. Representative: Paul R. Blomberg (same address as applicant) (208) 343–6400. Transporting (1) *lumber and wood products,* (2) *building materials* (3) *forest-products,* (4) *metal products,* (5) *rubber and plastic products,* and (6) *clay, concrete, glass or stone products,* between points in the U.S. (except AK and HI).

MC 154683 (Sub-2), filed December 10, 1982. Applicant: COASTAL TRANSPORTATION, INC., P.O. Box 902, Pensacola, FL 32594. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, Al 35209–4786 (205) 942–9116. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in VA, NC, SC, TN, AR, LA, MS, AL, GA, FL, KY, and TX.

MC 156962 (Sub-2), filed December 10, 1982. Applicant: MOVE AMERICA, 8411 Old Marlboro Pike, Unit 2, Upper Marlboro, MD 20870. Representative:

Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902 (310) 649-5074. Transporting *household goods*, between points in the U.S. (except AK and HI).

MC 161283, filed December 7, 1982. Applicant: NEMC TRANSPORTATION, INC., 35 Keeler St., Huntington, NY 11743. Representative: George Carl Pezold, 120 Main St., Huntington, NY 11743 (516) 427-0100. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NY, CT, ME, MA, NH, NJ, PA, VT, RI, OH, KY, NC, TN, MD, and VA.

MC 164052, filed December 9, 1982. Applicant: L.C.M. TRANSPORT, E. 11401 Alki, Spokane, WA 99206. Representative: Lloyd Mourning (same address as applicant) (509) 926-2965. Transporting (1) *metal products*, and (2) *roofing sand and building materials*, between points in WA, CA, MT, ID, OR, UT, and NV, (3) *scrap metals, scrap autos, and srap batteries*, between points in WA, OR, CA, MT, and ID, (4) *micro-waves, refregerators, freezers, stoves, dishwashers, and stereo equipment*, between points in WA, ID, MT, and OR, and (5) *liquid asphalt and fuel oil*, between points in WA, ID, and MT.

MC 165203, filed December 14, 1982. Applicant: HORIZON AIR SERVICES, INC., General Aviation Bldg., Logan International Airport, East Boston, MA 02128. Representative: Herbert J. Lynch, Suite 2810, One Boston Place, Boston, MA 02108 (617) 723-4488. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in MA, ME, NH, CT, RI, VT, NY, NJ, PA, FL, and DE.

MC 165223, filed December 16, 1982. Applicant: DUANE E. WITT d.b.a. DUANE WITT TRUCKING, 14363 S.E. 312th, Boring, OR 97009. Representative: Duane E. Witt (same address as applicant) (503) 668-4906. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, MT, NM, NV, OK, OR, TX, UT, WA, and WY.

[FR Doc. 83-448 Filed 1-6-83; 8:45 am]
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[Volume No. OP-2-010]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: December 29, 1982.

In the matter of; Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rule of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplfying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49 Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 2, (202) 275-7030.

MC 58522 (Sub-18), filed November 23, 1982. Applicant: RIVER TRAILS TRANSIT LINES, INC., Highway 20, West, Galena, IL 61036. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5066, Madison, WI 53705-0066, 608-238-3119. Transporting *passengers*, in special and charter operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 109743 (Sub-10), filed December 10, 1982. Applicant: FILM TRANSPORTATION COMPANY, 35 Church St., Boston, MA 02116. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, 617-742-3530. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds,

between points in the U.S. (except AK and HI).

MC 130513 (Sub-1), filed December 6, 1982. Applicant: CARTER TOURS, LTD., 4606 Strathmore Ave., Garrett Park, MD 20896. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave.—Suite 1203, Alexandria , VA 22304, 703–751–2441. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 157813 (Sub-1), filed December 16, 1982. Applicant: LEISURE-WAY TRAVELERS LTD., 109 South 17th Ave., Wausau, WI 54401. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165073, filed December 7, 1982. Applicant: HERBERT L. CRAWFORD, d.b.a. CRAWFORD BUS SERVICE, 807 S. Second St., Watseka, IL 60970. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, 217–544–5468. Transporting *passengers,* in charter and special operations, beginning and ending at points in IL and IN, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165193, filed December 14, 1982. Applicant: MELVIN LADSON & HERBERT HANSEN, d.b.a. LADSON & HANSEN CHARTER SERVICES, Box 297, Wakonda, SD 57073. Representative: Herbert Hansen (same address as applicant), (605) 267–2750. Transporting *passengers,* in charter operations, between points in the U.S. (including AK, but excluding HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. 11343(e) to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) or petition for exemption for common control to team 2, room 2379.

MC 165202, filed December 13, 1982. Applicant: FRANK LEE, d.b.a. LEE TRUCKING, 800 Cheshire Lane, La Habra, CA 90631. Representative: Rusty Burks, 1600 W. Camelback Rd., Ste. 2–S, Phoenix, AZ 85015, (602) 264–7403. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165302, filed December 21, 1982. Applicant: DAVID ESCHBACH, JR., d.b.a. ESCHBACH BUS SERVICE, R.D. 2, Holtwood, PA 17532. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter or special transportation.

[FR Doc. 83-445 Filed 1-6-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Rail Carriers; Atchison, Topeka & Sante Fe Railway Co. et al.; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Douglas Galloway, (202) 275–7277
or
Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the folowing conditions:

These grants neither shall be constued to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No	Name of railroad, contract No. and specifics	Review Board [1]	Decided date
558	The Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0121 (wheat-corn, grain sorghums, and soybeans)	2	1-3-83
559	Southern Pacific Transportation Co., ICC-SP-C-0317 (beet pulp pellets)	3	12-30-82
560	Consolidated Rail Corp. ICC-CR-C-0122, Supplement 1 (bituminous coal) via the Port of Philidelphia	1	1-3-83
561	Consolidated Rail Corp., ICC-CR-C-0033 (all freight)	1	1-3-83
562	Consolidated Rail Corp., ICC-CR-C-0279 (bituminous coal), via the Port of Ashtabula Harbor, OH	II	1-3-83
563	Consolidated Rail Corp., ICC-CR-C-0273 (cereal preparations)	II	12-30-82
564	Seaboard Coast Line Railroad Co., ICC-SCL-C-0085 (corn syrup), via the Port of Jacksonville, FL	1	1-3-83
565	Consolidated Rail Corp., ICC-CR-C-0260 (sheet steel)	II	1-3-83
566	Consolidated Rail Corp., ICC-CR-C-0275 (iron and steel products)	3	12-30-82
567	Missouri-Kansas-Texas Railroad Co., ICC-MKT-C-0132, Supplement 1 (soybean meal)	1	1-3-83
568	Union Pacific Railroad Co., ICC-UP-C-0209 (frozen foodstuffs)	II	1-3-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Fortier not participating.
Review Board No. 2 Members Carleton, Williams, and Ewing.
Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources. (49 U.S.C. 10505)

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-442 Filed 1-6-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30018]

Rail Carriers; Great Northern Nekoosa Corp.—Control—Old Augusta Railroad Co.; Exemption

December 30, 1982.

Great Northern Nekoosa Corporation (GNN) filed a notice of exemption of its proposed acquisition of control of Old Augusta Railroad Company (Old Augusta). GNN, through its wholly-owned subsidiary, the Chattahoochee Industrial Railroad, operates over a 15.4-mile line between Saffold and Hilton, GA. Old Augusta is a Mississippi corporation organized for the purpose of

providing common carrier rail service to the facilities of Leaf River Forest Products, Inc., at New Augusta, MS. Old Augusta is constructing a 2.5-mile line from the Leaf River facilities to the line of the Illinois Central Gulf Railroad Company at New Augusta. GNN through a wholly-owned subsidiary owns 95 percent of the common stock of Leaf River. By decision in Finance Docket No. 30017, *Old Augusta Railroad Company—Exemption from 49 U.S.C. 11301* (not printed), served September 22, 1982, the Commission granted Old Augusta's request for exemption under 49 U.S.C. 11301 to issue 1,000 shares of common stock to Leaf River. Thus, GNN has acquired indirect control of Old Augusta.

This is a transaction within a corporate family and will not result in adverse changes in service levels, significant operational changes or a change in the competitive balance with carriers outside the corporate family. Therefore, the proposed transaction is the type specifically exempted from the necessity for prior review and approval, 49 CFR 1180.2(d)(93) [formerly 49 CFR 1111.2(d)(93)]. As a condition to use of the exemption any employees affected by this transaction shall be protected pursuant to *New York Dock Ry-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-444 Filed 1-6-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15024]

Rail Carriers; Victor Marano—Continuance in Control Exemption—Falcon Express, Inc. and Marty's Express, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97-261 (September 20, 1982), Falcon Express, Inc. (Falcon) (No. MC-164199), Marty's Express, Inc. (Marty's Express) (No. MC-39249), and Victor Marano (Marano), seek an exemption from the requirement under section 11343 of prior regulatory approval for their common control. Falcon, a recipient of new motor common carrier authority, is partially owned by Marano, who is also a minority shareholder and officer of Marty's Express.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representatives Leonard A. Jaskiewicz, and Robert R. Harris, 1730 M Street, NW., Washington, D.C. 20036

Comments should refer to No. MC-F-15024.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: December 15, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-450 Filed 1-6-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-96)]

Rail Carriers Illinois Central Gulf Railroad Co., Abandonment—Between Dickerson and Rantoul, Il; Findings

The Commission has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon its 13.54-mile line of railroad between Dickerson (milepost 17.50) and Rantoul (milepost 31.04) in Champaign County, IL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued, and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27 [formerly 49 CFR 1121.38].

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-446 Filed 1-6-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

Missouri Pacific Railroad Co. et al.; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713 (e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESSES: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

or

Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505 (a) and granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdication to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided Date
544	Missouri Pacific Railroad Co., ICC-MP-C-0194, Supplement 1, (Plastics)	1	12-29-82
545	Norfolk and Western Railway Co., ICC-NW-C-0034, Supplement 1, (Grain products)	2	12-29-82
546	Southern Railway Co., ICC-SOU-C-0081, Supplement 2, (Terephthalic acid)	3	12-29-82
547	Missouri-Kansas-Texas Railroad Co., ICC-MKT-C-0220, (Soybean meal)		12-29-82

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
548	The Atchison, Topeka, and Santal Fe Railway Co., ICC-ATSF-C-0170, (Canned goods)	II	12-[illegible]
549	Union Pacific Railroad Co., ICC-UP-C-0186 through 0197 and ICC-UP-C-0200 through 0201, (Grain) Via Pacific Northwest ports	3	12-29-82
550	Chesapeake and Ohio Railway Co., ICC-CO-C-0048, (Coal)	1	12-29-82
551	Grand Trunk Western Railroad Co., ICC-GTW-C-0048, Supplement 1, (Equipment use charge)	1	12-[illegible]-82
552	Chicago, Milwaukee, St Paul and Pacific Railroad Co., ICC-MILW-C-0057, Supplement 1, (Rack sale)	II	12-[illegible]-82
553	Burlington Northern Railroad Co., ICC-BN-C-0220, (Vegetable oil)	3	12-[illegible]-82
554	Burlington Northern Railroad Co., ICC-BN-C-0202, Supplement 1, (Aluminum coiled sheet and can stock)	1	12-[illegible]-82
555	Grand Trunk Western Railroad Co., ICC-GTW-C-0048, Supplement 1, (Equipment use charge)	2	12-[illegible]-82
556	Burlington Northern Railroad Co., ICC-BN-C-0221, (Soybean oil)	II	12-[illegible]-82
557	Burlington Northern Railroad Co., ICC-BN-C-0198, (Motor vehicles) Via Ports of Portland, Oregon, Seattle, Aberdeen (Gray's Harbor), and Tacoma, WA	1	12-[illegible]-82

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Fortier not participating.
Review Board No. 2, Members Carleton, Williams, and Ewing.
Review Board No. 3, Members Krock, Joyce, and Dowell. Member Krock not participating.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-[illegible] Filed 1-6-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Agency Forms Under Review

January 4, 1983.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96-511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telepone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer—Larry E. Miesse—202-633-4312

New (Not previously approved or expired more than 6 months ago)

• National Institute of Justice
Office of Justice Assistance, Research and Statistics
Department of Justice
National Needs Assessment Study
Biennially
State or local governments
State and local criminal justice practitioners: 1,355 responses; 655 hours; not applicable under 3504(h).
David Reed—395-7231

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice.

[FR Doc. 83-484 Filed 1-6-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-82-120-C]

Beckley Lick Run Co.; Petition for Modification of Application of Mandatory Safety Standard

Beckley Lick Run Company, P.O. Box 112, Mount Hope, West Virginia 25880 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Bonny Mine (I.D. No. 46-04388) located in Raleigh County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return air courses be examined in their entirety on a weekly basis.

2. Numerous roof falls in the return entry at spad 326 have rendered this entry too hazardous to travel and examine safely. Rehabilitation of this area would expose miners to extremely hazardous conditions.

3. As an alternative method, petitioner proposes to establish and maintain two specified check point stations underground. Methane and air quality readings will be made weekly by a certified, competent person, with results recorded on a date board at each location, as well as in a book located at the mine office.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627,4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 7, 1983. Copies of the petition are available for inspection at that address.

Dated: December 28, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-486 Filed 1-6-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-105-C]

Cannelton Industries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Cannelton Industries, Inc., 1250 One Valley Square, Charleston, West Virginia 25301 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Maple Meadow Mine (I.D. No. 46-03374) located in Raleigh County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that there is an area of the return airway 400 feet long that cannot be supported adequately to

be considered safe to travel the entire length.

3. As an alternative method, petitioner proposes to establish a monitoring station at the inby and outby end of the area involved from which air readings and a visual examination can be conducted. These examinations will be conducted weekly and a record of the readings and examinations will be maintained in an approved record book. Air readings and examinations will be made by a certified person.

4. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 7, 1983. Copies of the petition are available for inspection at that address.

Dated: December 28, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-484 Filed 1-6-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-123-C]

Chapperal Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Chapperal Coal Corporation, 441 Marion Branch Road, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.330 (sealing abandoned sections) to its Chapperal No. 3 Mine (I.D. No. 15-08257) and its Chapperal No 3-A Mine (I.D. No. 15-10428), both located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each abandoned section of the mine be isolated from active workings with explosion-proof seals or bulkheads.

2. Petitioner states that neither mine has ever been considered gaseous nor have methane or other explosive gases ever been detected.

3. As an alternative method to sealing abandoned pillar areas of the mines, petitioner proposes to establish check points off the immediate return entries at the mouths of the panels in question. These checkpoints will be checked weekly for air quality, and the results of these examinations will be recorded in an approved book at each mine site.

4. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 7, 1983. Copies of the petition are available for inspection at that address.

Dated: December 28, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-483 Filed 1-6-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-118-C]

Gateway Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Gateway Coal Company, 1200 First Security Plaza, Lexington, Kentucky 40507 has filed a petition to modify the application of 30 CFR 75.1707 (escapeways; intake air; separation from belt and trolley haulage entries) to its Gateway Mine (I.D. No. 36-00906) located in Greene County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the escapeway ventilated with intake air be separated from the belt and trolley haulage entries of the mine for the entire length of such entries to the beginning of each working section.

2. The longwall development sections employ three entries. Entry No. 1 is for the conveyor belt, entry No. 2 contains the supply track and is used for the intake escapeway, and entry No. 3 is used for the return during development.

3. As an alternative method, petitioner proposes to use the No. 2 entry as both the intake escapeway and the supply track, with the following safeguards:

a. The No. 2 track entry will have a lock on the trolley wire cut out switch assuring de-energization while workers are inby;

b. The trolley wire lock key will be under the control of designated employees;

c. Battery-powered mantrips and jeeps will be used to transport personnel; and

d. Section supplies will be handled with battery-operated equipment with the trolley wire de-energized.

4. During off-shifts, non-production shifts and between shifts, petitioner proposes that when necessary to energize the trolley wire to move equipment, only those employees involved in equipment moving will be permitted in the section. Red warning lights, operating from the trolley wire will be strategically placed along the length of the wire to warn that the wire is energized.

5. Petitioner states that the alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 7, 1983. Copies of the petition are available for inspection at that address.

Dated: December 28, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-485 Filed 1-6-83; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-106-C]

Jewell Ridge Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Jewell Ridge Coal Corporation, P.O. Box 26, Jewell Ridge, Virginia 24622 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Seaboard No. 1 Mine (I.D. No. 44-02253) located in Tazewell County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petition's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on electric face equipment.

2. Petitioner states that the installation of cabs or canopies on its electric face equipment would result in a diminution of safety for the miners affected because the canopies cause the equipment to hang-up and foul into the top due to the length of the equipment and undulations of the coal seam. The canopies have torn out roof bolts when those canopies have contacted the roof. In addition, the canopies restrict the operator's visibility and severely confine the space of the operator's compartment, increasing the chances of an accident.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 7, 1983. Copies of the petition are available for inspection at that address.

Dated: December 29, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-481 Filed 1-6-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-130-C]

Lobo Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Lobo Coal Company, P.O. Box 64, Terra Alta, West Virginia 26764 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 2 (I.D. No. 46-06471) located in Preston County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mining height of the Upper Freeport coal seam meaures between 43 and 48 inches in height from the roof to pavement.

3. Petitioner states that the installation of canopies on the mine's electric face equipment would result in a diminution of safety because the canopies tear out roof bolts, wooden headers, and steel plates, causing roof falls. Further, the equipment operator's visibility is reduced by the canopy, forcing the operator to lean out from the canopy, increasing the chances of an accident and injury.

4. For these reasons, petitioners requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 7, 1983. Copies of the petition are available for inspection at that address.

Dated: December 28, 1982.

Patricia W. Silvery,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-482 Filed 1-6-83; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

Lists of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in. Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for the uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Norman Frumkin, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Employment Standards Administration.

Office of Federal Contract Compliance Programs Recordkeeping and Reporting Requirements.

CC-60-22.

On occasion, annually, quarterly, monthly.

Businesses or other institutions.

Small business.

SIC: All.

2,560,000 responses; 8,532,000 hours.

The recordkeeping and reporting requirements imposed by the current rules and regulations published in Title 41 CFR Chapter 60 are needed to assess the compliance of Federal contractors with Executive Order 11246 as amended, Section 503 of the Rehabilitation Act of 1973 and Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974.

Signed at Washington, D.C., this 4th day of January, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-480 Filed 1-6-83; 8:45 am]

BILLING CODE 4510-27-M

Pension And Welfare Benefit Programs

[Prohibited Transaction Exemption 83-1; Application Nos. D-2789 and D-3060]

Amendments to Prohibited Transaction Exemption 81-7 for Certain Transactions Involving Mortgage Pool Investment Trusts

AGENCY: Department of Labor.

ACTION: Grant of class exemption.

SUMMARY: This document contains amendments to Prohibited Transaction Exemption 81-7 (PTE 81-7). Prohibited Transaction Exemption 81-7 exempts from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code) certain transactions related to the origination, maintenance and termination of mortgage pool investment trusts (mortgage pools), and the acquistion and holding of certain mortgage-backed pass-through certificates (certificates) of mortgage pools under prescribed conditions by employee benefit plans (investing plans). The amendments adopted today expand the coverage of PTE 81-7 to include: (1) pools containing loans secured by mortgages or deeds of trust which are other than first lien loans; and (2) forward delivery commitments by investing plans to purchase pool certificates under certain circumstances.

EFFECTIVE DATE: January 1, 1975.

FOR FURTHER INFORMATION CONTACT: William J. Flanagan, Esq., Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 523-8610. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On May 18, 1982, notice was published in the **Federal Register** (47 FR 21325) of the pendency before the Department of Labor (the Department) of a proposal to amend PTE 81-7 (46 FR 7520, January 23, 1981) for certain transactions involving mortgage pool investments trusts. The proposal was based in part on two individual applications filed on behalf of Transamerica Financial Corporation (D-2789) and Merrill Lynch MBS Inc. (D-3060). The notice set forth a summary of facts and representations contained in these applications and in other materials submitted to the Department. This information has been available for public inspection at the Department in Washington, D.C.

Public comments with regard to the proposal were received pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Upon consideration of these comments, the Department has determined to adopt the proposed amendments to PTE 81-7, subject to certain modifications. These comments and modifications are discussed below.

In the interest of clarity, the Department has determined that the exemption as modified should be redesignated and supersede the existing prohibited transaction numbered PTE 81-7.

I. Description of the Proposal

The Department proposed to amend PTE 81-7 in two ways. First, the Department proposed to expand the coverage of the class exemption to include pools containing either first or second lien loans. As originally granted, the term "mortagage pool" was defined in the exemption as an investment pool the corpus of which consisted of "interest bearing obligations secured by first mortgages or deeds of trust on single-fimily residential property." The Department proposed to amend this difinitional section to include interest bearing obligations secured by either first or second mortgages or deeds of trust. The Department took this action because the applications demonstrated substantial similarities in the operation of pools of first and second mortgages and deeds of trust.

Second, the proposal contained two new sections to be added to PTE 81-7 to provide relief for the making of forward delivery commitments by an investing plan for the purchase of mortgage pool certificates. Under the proposal, a forward delivery commitment would be defined as a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date which is more than thirty days after the contract's trade date. This definition was based upon the use of this term in the mortgage pool industry, and includes both mandatory and optional delivery contracts. Relief for such commitments would be provided by defining the term "sale" for the purposes of the class exemption to include a forward delivery commitment provided that certain conditions are met. The first condition relates to section I(A) of the class exemption, which provides relief from the prohibitions of section 406(a) of the Act for the direct or indirect sale of certificates between a plan and a pool sponsor when the pool sponsor, trustee or insurer is a party in interest with respect to the plan. This proposed condition provides that such relief will be available only if the terms of the forward delivery commitment are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party. The second condition relates to section I(B) of the class exemption, which provides relief from the prohibitions of section 406(b)(1) and (2) for the direct or indirect sale of certificates between a plan and a pool sponsor when the pool sponsor, trustee or insurer is a fiduciary with respect to the plan assets being invested in the certificates. The proposal provides that such relief will be available for forward delivery commitments if: (1) the forward delivery commitment is approved by a fiduciary independent of the pool sponsor, trustee or insurer who has authority to manage and control those plan assets being committed for investment in the certificates; (2) the forward delivery commitment is not an optional or standby commitment unless performance is optional on the part of the investing plan; and (3) at the time the plan is called upon to perform pursuant to its commitments, and the sale of certificates is executed, all of the conditions of section I(B) of the exemption (relating to sales of certificates) are met.

II. Discussion of the Comments

The Department received six comments regarding this proposal. These comments, and the Department's actions with regard to them, are discussed below.

A. *Pools of Junior Lien Loans.* The Department received three comments regarding the proposal to amend section III(B)(2)(a) to include pools of loans secured by second mortgages or second deeds of trust. Two of these comments supported the adoption of this amendment as proposed. The third comment, while supporting the Department's intentions, stated that the Department should not seek to establish a minimum lien priority requirement for mortgage pools to qualify for relief under PTE 81-7. This commentator argued that insurance provided by private pool sponsors, as well as market forces affecting the investment quality of certificates, would provide sufficient security for potential investors.

In proposing to expand the coverage of PTE 81-7 to include pools of second mortgages or deeds of trust, the Department relied on the applicants'

facts and representations that second lien loans closely resembled first lien loans with respect to form, default rate, and loan to value ratio, and that pools of second lien loans would operate in the same way as pools of first lien loans. These similarities are important because PTE 81–7 was designed to reflect industry practices with regard to first lien loan pools. In particular, the Department might require different safeguards for junior lien loan pools which very markedly in form or content from the model upon which PTE 81–7 is based. In the absence of any detailed information with regard to loans junior to second lien loans, or the structure of or market for pools of such junior loans, the Department is not prepared, at this time, to expand the exemption in this regard. However, the Department is adopting amended section III(B)(2)(a) as proposed, so that the relief provided by PTE 81–7 will apply to pools of interest bearing obligations secured by either first or second mortgages or deeds of trust on single-family, residential property.

B. *Forward Delivery Commitments.* The Department received four comments relating to proposed sections III(G) and III(H), which would have the effect of extending the relief provided in PTE 81–7 to forward delivery commitments made by plans for the purchase of mortage pool certificates. None of the commentators objected to proposed section III(H), which defines the terms "forward delivery commitment" and "forward delivery commitment contract." As a result, the Department is adopting that provision as proposed.

One commentator addressed the Department's inclusion of forward delivery commitments within the definition of the term "sale" in proposed section III(G). This commentator noted that such commitments could be viewed in a number of different ways, such as, for example, an indirect extension of credit between the investing plan and an originator of loans included in the pool. However, the information received by the Department indicates that forward delivery commitments are an integral part of the process by which mortgage pools are formed and their certificates marketed. As a result, the Department extended exemptive relief to such commitments in that context. In any event, the amendments to PTE 81–7 are designed to give full relief for forward delivery commitments and for transactions involving certificates purchased pursuant to such commitments if all of the conditions of the exemption are met.

One commentator, while strongly supporting the Department's effort to bring relief to this area, questioned the condition in section III(G)(2)(a), which states that the relief contained in section I(B) of PTE 81–7 is available for a forward delivery commitment only if that commitment has been expressly approved by a fiduciary independent of the pool sponsor, trustee or insurer who has authority to manage and control those plan assets being committed for investment in pool certificates. The commentator stated that this condition should be applied only when the pool sponsor is also a fiduciary with respect to plan assets being committed to the purchase of pool certificates. The condition in proposed section III(G)(2)(a) is already limited to precisely the situation outlined by this commentator. Proposed section III(G)(2) contains conditions applicable to relief for forward commitments under section 406(b)(1) and (2) of the Act when the pool sponsor, trustee or insurer is a fiduciary with respect to the plan assets being invested in pool certificates. Thus, the independent fiduciary requirement in section III(G)(2)(a) applies only in such situations of fiduciary conflict of interest. As a result, it is not necessary to change this provision in order to accommodate this commentator's concerns.

Three commentators expressed concern with regard to the condition in proposed section III(G)(2)(b), which states that the relief in section I(B) of PTE 81–7 will apply to an optional or standby commitment only if performance is optional on the part of the investing plan. These commentators noted that in periods of fluctuating interest rates, pool sponsors need an optional delivery vehicle to guard against situations in which mortgage lenders fail to make loans for inclusion in a pool due to changes in the interest rate. The commentators further indicated that the fee typically paid for a stand-by commitment is given in consideration for the plan's promise to accept delivery if the terms of the commitment are met. In the event that the pool sponsor cannot deliver certificates meeting these criteria, this fee often acts as liquidated damages for the investing plan. For these reasons, the commentators asked that this condition be eliminated.

It should be noted that the Department originally proposed this condition to apply only to stand-by commitments made by plans when the pool sponsor, trustee or insurer is a fiduciary with respect to the plan assets being committed for investment in pool certificates. Absent such fiduciary involvement, a plan would be free to make such stand-by commitments as are consistent with the other conditions and requirements of the Act, and of PTE 81–7 and the amendments thereto. It was this concern about the possibility of fiduciary conflict of interest which caused the Department to include all of the conditions in section III(G)(2).

However, upon consideration of the comments discussed above, the Department has decided to modify proposed section III(G)(2)(b). The other conditions in section III(G)(2) (a) and (c) are designed to provide extra protection for plans when dealing with fiduciaries. The payment of a fee in such transactions adds to these protections. As a result, the Department has decided to drop section III(G)(2)(b) as originally proposed. In its place, and at the suggestion of one of the commentators, the Department will adopt an arm's length standard similar to the one contained in section III(G)(1). Thus, final section III(G)(2)(b) states that the terms of the forward delivery commitment contract (including any fee paid to the investing plan) must be no less favorable to the plan than they would be in an arm's length transaction with an unrelated party. Section III(G)(2)(c), which elicited no comments, is adopted as proposed.

C. *Other Comments.* A number of the commentators raised issues not germane to the proposed amendments. Many of these comments request changes in portions of PTE 81–7 not opened for public comment in the notice of May 18, 1982. In addition, some of these comments requested changes in the relief given from the prohibitions of section 406(b) of the Act. Because section 408(a) of the Act states that the Department may not grant relief from section 406(b) without an opportunity for a hearing, the Department cannot adopt these requested changes at this time. However, since these comments relate generally to PTE 81–7, and, in many cases, reflect misunderstandings of that class exemption, the Department believes that these comments bear discussion.

The first set of such non-germane comments deal with the limitation of PTE 81–7 to pools of loans secured by mortgages or deeds of trust on single-family residential housing. Three commentators requested the deletion of this restriction so that PTE 81–7 could provide relief to pools of loans on multi-family dwellings. None of the commentators offered any information with regard to such loans. Indeed, as noted by the Department when

originally granting PTE 81–7, the restriction to single-family residential property reflected the request of the applicants and was defined to follow the industry definition of that term. 46 FR 7520, 7525. This provision was not opposed by any commentator when it was properly presented for public comment. Therefore, the Department is not amending the exemption in this regard. However, the commentators may apply for exemptive relief within the terms of section 408(a) of the Act and ERISA Procedure 75–1 (40 FR 18471).[1]

The second area raised by the commentators relates to the conditions in section I(B)(1) of PTE 81–7, which apply to the sale of certificates when the pool sponsor, trustee or insurer is a fiduciary with respect to the plan assets invested in the certificates. One commentator requested the deletion of the requirement in section I(B)(1)(a) that such a sale be approved by an independent fiduciary. This commentator stated that such a condition should be limited to cases of possible fiduciary conflict of interest. This condition is already limited to such situations, and thus no changes are necessary.

In addition, two commentators requested deletion of the percentage limitations in sections I(B)(1) (d) and (e), stating that existing market safeguards were sufficient. Those limitations were adopted at the suggestion of commentators to the original proposal of PTE 81–7 (46 FR 7520, 7522), and are based on the definition of the term "marketable obligation" in section 407(e)(2) of the Act. These conditions are designed, therefore, to assure that the market forces relied upon by the commentators are free to work with regard to pool certificates sold to a plan when the pool sponsor, trustee or insurer is a fiduciary with respect to the plan assets invested in the certificates.

The third area raised in the comments concerns the extent of the coverage of PTE 81–7. One commentator questioned whether the class exemption would apply to pools of loans made to employees of an employer whose employees are covered by the investing plan. The commentator noted that PTE 81–7 does not specifically address the issue. While it is true that the class exemption does not contain a detailed list of exempted transactions, the Department adopted this generalized approach in response to comments elicited by its original proposal. 46 FR 7520, 7521. In particular, section I(C) of PTE 81–7 was designed to apply to all transactions in connection with the servicing and operation of a mortgage pool, and was not limited to those transactions listed specifically in the proposal. *Id.* at 7523. With regard to the commentator's particular concern, the Department, in the preamble to the original proposal of class relief, discussed the issues raised when a mortgage pool contains employee loans. 45 FR 29937, 29942 (May 6, 1980). It was, therefore, the Department's intention that the relief in PTE 81–7 apply to pools comprised of employee loans provided the conditions of the exemption are met.

Another commentator asked if PTE 81–7 covered pools of shared appreciation mortgages. PTE 81–7, as amended, requires only that the mortgage loans comprising a pool be interest bearing obligations secured by either first or second mortgages or deeds of trust on single-family, residential property. This provision is intentionally general in order to provide coverage to a variety of so-called "creative financing" loans. Indeed, the Department noted in the preamble to its adoption of PTE 81–7 that variable rate mortgages were included within the exemption's coverage. 46 FR 7520, 7523 n.1. The Department believes that the provisions of PTE 81–7 are broad enough to deal with specific issues raised by shared appreciation mortgages.

The final area raised by the commentators was the relationship between PTE 81–7 and the so-called "plan asset" regulation. On May 18, 1982, the Department adopted regulation 29 CFR 2550.401b–1 which describes the assets that an employee benefit plan is considered to acquire when it invests in certain governmental mortgage pools. 47 FR 21241. The Department described the mortgage pool programs of the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), and the Federal Home Loan Mortgage Corporation (FHLMC). Based on an analysis of these descriptions, the Department determined that when a plan purchases a GNMA certificate, the plan actually looks to the GNMA guarantee, rather than the mortgages comprising the pool, for assurance that the amounts due on its investment will be paid. In the case of a FNMA or FHLMC certificate, a plan will rely on the creditworthiness of the issuing governmental or quasi-governmental corporation. As a result, the final regulation states that when a plan invests in a governmental mortgage pool, the plan's assets include its investment, but do not, solely by reason of such investment, include any of the underlying mortgages. This would be true irrespective of the type of mortgage or the nature of the property secured by a mortgage contained in a governmental mortgage pool.

In the case of a plan investing in a governmental mortgage pool such as those discussed above, regulation 29 CFR 2550.401b–1 operates to obviate the need for much of the relief provided in PTE 81–7. Specifically, the relief in section I(C) for transactions in connection with the servicing and operation of the pool would be unnecessary since the pooled mortgages are not plan assets. Similarly unnecessary is the relief in section I(D) for transactions prohibited merely because a person is deemed to be a party in interest solely due to a plan's investment in a mortgage pool. Under 29 CFR 2550.401b–1, the plan's only asset would be the certificate and the rights embodied therein. Where a plan purchases a mortgage pool certificate which the Department interprets as conveying no interest in assets of such pool, the fact that a person provides services in connection with such pool will not, in and of itself, render such person a party in interest with respect to the investing plan.

Regulation 29 CFR 2550.401b–1 also affects the application of section I(A) and I(B) of PTE 81–7. Section I(A) provides relief from the prohibitions of sections 406(a) and 407 of the Act for the sale of certificates between a plan and the pool sponsor when the pool sponsor, trustee or insurer is a party in interest with respect to the plan. Section I(B) provides relief from the prohibitions of section 406(b) (1) and (2) of the Act for the sale of certificates between a plan and the pool sponsor when the pool sponsor, trustee or insurer is a fiduciary with respect to the plan assets invested in such certificates. Since none of the governmental mortgage pool programs utilize separate pool trustees or pool insurers, those provisions are irrelevant here. In the case of FNMA and FHLMC, the governmental corporation is itself the pool sponsor since it purchases loans, organizes the pool, and issues certificates for marketing. Because of regulation 29 CFR 2550.401b–1, FNMA and FHLMC will never become parties in interest (including fiduciaries) with respect to plans solely as a result of plan

[1] It should be noted that, in Prohibited Transaction Exemption 82–87 (47 FR 21331, May 18, 1982), which provides relief for transactions involving certain residential mortgage financing arrangements, the Department, after consideration of public comments, decided not to expand that class exemption to include mortgage loans on multiple unit rental structures because such loans differ, both in magnitude and complexity, from loans on one to four unit structures included within the definition of "single-family residential property." *Id.* at 21336.

investments in their pools. Since FNMA and FHLMC are unlikely to deal with plans except through their mortgage pool programs, the relief in sections I(A) and I(B) of PTE 81–7 is unnecessary with respect to plan investments in FNMA and FHLMC pools.[2]

The situation of GNMA is somewhat different, GNMA is not the pool sponsor since it does not organize the mortgage pool. Rather, other entities, called issuers, gather loans into a pool and present the pool to GNMA. If the pool meets GNMA standards, GNMA will guarantee payments to holders of the certificates backed by the pool. Upon issuance of the GNMA-guaranteed cerificates, GNMA succeeds to ownership of the pooled loans while the issuer's interest is reduced to the right to receive a fee for continuing to service the loans. As noted above, GNMA will not become a party in interest (including a fiduciary) with respect to a plan solely because the plan has purchased a GNMA certificate. Because of this, and because GNMA is not a pool sponsor, sections I(A) and I(B) are irrelevant to GNMA as a result of the purchase by a plan of a GNMA certificate.

However, the issuer of GNMA certificates may be deemed to be a pool sponsor under section III(A) of PTE 81–7 since the issuer organizes the pool and continues to service the mortgages therein. Because of the effect of regulation 29 CFR 2550.401b–1, and issuer of certificates from a GNMA pool will not become a party in interest (including a fiduciary) with respect to a plan solely by reason of the plan's investment in such pool. However, an issuer may be a party in interest (including a fiduciary) with respect to one or more plans for reasons independent of the GNMA pool. If such an issuer sells GNMA certificates to a plan with respect to which the issuer is a party in interest, the issuer would have to look to sections I(A) and I(B) of PTE 81–7 for exemptive relief.[3]

Despite this need for relief in a limited category of cases, GNMA, in its comment to the Department's May 18, 1982 proposal, noted the possibility that PTE 81–7 may not apply to GNMA certificates because section III(C) of the class exemption defines the term "certificate" to include only those certificates representing a beneficial individual fractional interest in a mortgage pool. Unlike FNMA and FHLMC, GNMA maintains that its certificates convey no such beneficial interest in the underlying pool of mortgages. As a result, issuers may be foreclosed from relief under sections I(A) and I(B) of PTE 81–7. GNMA suggested that some clarification of this area was necessary in light of the Department's adoption of regulation 29 CFR 2550.401b–1.

By adopting regulation 29 CFR 2550.401b–1, the Department indicated that, with regard to certificates issued for governmental mortgage pools, the Department was concerned not with the beneficial interest, if any, conveyed by such certificates, but rather with the government guarantee (or creditworthiness of the governmental corporation) to which a plan would look to assure payments on its investment. The Department's effort in that regulation was directed only toward identifying, for the purposes of the Act, the plan asset in such situations. The Department was not then and is not now in a position to define, as a general matter, the legal status of the rights conferred by a GNMA certificate.

The Department is, however, concerned with providing comprehensive relief in this area. At the same time, the Department wishes to avoid making significant changes in section III(C) of PTE 81–7 since the definition contained therein was based on the suggestions of applicants and elicited no adverse response when properly open for public comment. Therefore, the Department has decided to add a sentence to section III(C) stating that the terms "mortgage pool pass-through certificate," or "certificate" shall also include certificates guaranteed by the Government National mortgage Association. The sole purpose of the modification is to assure relief to GNMA issuers in the limited circumstances outlined above.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to, and not in derogation of, any other provision of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction;

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notice of May 18, 1982, the Department makes the following determinations:

(a) The amended class exemption as set forth herein is administratively feasible;

(b) it is in the interests of plans and of their participants and beneficiaries; and

(c) it is protective of the rights of participants and beneficiaries of plans.

Accordingly, the following amended exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1.

I. Transactions

A. Effective January 1, 1975, the restrictions of sections 406(a) and 407 of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transactions involving mortgage pool investment trusts (mortgage pools) and pass-through certificates evidencing interests therein (certificates):

(1) The direct or indirect sale, exchange or transfer of certificates in

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[2] It appears that FNMA and FHLMC certificates are often marketed through brokers, dealers, banks or other marketmakers. In situations where such an entity is a party in interest with respect to an investing plan, Prohibited Transaction Exemption 75–1 (PTE 75–1) may provide relief from the prohibitions of section 406 of the Act for the sale of such government securities. 40 FR 50845 (October 31, 1975).

[3] As in the case of FNMA and FHLMC certificates, if the issuer of GNMA certificates markets such certificates through brokers, dealers, or similar entities, PTE 75–1 *supra is available to provide relief from the prohibitions of section 406 of the Act.*

the initial issuance of certificates between the sponsor of a mortgage pool and an employee benefit plan when the sponsor, trustee or insurer of such pool is a party in interest with respect to such plan, provided that the plan pays no more than fair market value for such certificates, and provided further that the rights and interests evidenced by such certificates are not subordinated to the rights and interests evidenced by other certificates of the same mortgage pool;

(2) The continued holding of certificates acquired pursuant to subparagraph (1), above, by an employee benefit plan.

B. Effective January 1, 1975, the restrictions of section 406(b) (1) and (2) of the Act the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to the following transactions involving mortgage pools and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor of a mortgage pool and an employee benefit plan when the sponsor, trustee or insurer of such pool is a fiduciary with respect to the plan assets invested in such certificates provided:

(a) Such sale, exchange or transfer is expressly approved by a fiduciary independent of the pool sponsor, trustee or insurer who has authority to manage and control those plan assets being invested in such certificates;

(b) The plan pays no more for the certificates than would be paid in an arm's length transaction with an unrelated party;

(c) No investment management, advisory, or underwriting fee or sales commission or similar compensation is paid to the pool sponsor with regard to such sale, exchange or transfer;

(d) The total value of certificates purchased by a plan does not exceed 25% of the amount of the issue; and

(e) At least 50% of the aggregate amount of the issue is acquired by persons independent of the pool sponsor, trustee or insurer.

C. Effective January 1, 1975, the restrictions of section 406 (a) and (b) of the Act and the Taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) of the Code shall not apply to transactions in connection with the servicing and operation of the mortgage pool provided that:

(1) such transactions are carried out in accordance with the terms of a binding pooling and servicing agreement; and

(2) such pooling and servicing agreement is made available to investors before they purchase certificates issued by the pool.

D. Effective January 1, 1975, the restrictions or sections 406 (a) and 407 of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to any transactions to which such restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or who has a relationship to such service provider described in section 3 (14) (F), (G), (H) or (I) of the Act), solely because of the ownership of a certificate evidencing an interest in a mortgage pool by such plan.

II. General Conditions

A. The relief provided under section I, above, is available only if the following conditions are met:

(1) The sponsor and trustee for each mortgage pool must maintain a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregate principal balance of all covered pooled mortgage, or the principal balance of the largest covered mortgage;

(2) Except in the case of a governmental or quasi-governmental entity such as the Federal National Mortgage Association, the trustee for each mortgage pool must not be an affiliate of the sponsor of such pool, provided, however, that the trustees shall not be considered to be an affiliate of the pool sponsor solely because the trustee has succeeded to the rights and responsibilities of the pool sponsor pursuant to the terms of the pooling and sevicing agreement providing for such succession upon the occurrence of one or more events of default by the pool sponsor; and

(3) The sum of all payments made to and retained by the pool sponsor in connection with a mortgage pool, and all funds inuring to the benefit of the pool sponsor as a result of the administration of the mortage pool, must represent not more than adequate consideration for selling the mortgage loans plus reasonable compensation for services provided by the pool sponsor to the pool.

III. Definitions

A. For the purpose of this exemption the term "sponsor" or "pool sponsor" means:

(1) the entity which organizes, and either continues to service or supervises the provision of services to, a mortgage pool comprised of mortgage loans either made or purchased by such entity; and

(2) any successor thereto.

B. For the purposes of this exemption, the term "mortgage pool" means an investment pool the corpus of which:

(1) Is held in trust; and

(2) Consists solely of

(a) Interest bearing obligations secured by either first or second mortgages or deeds of trust on single-family, residential property;

(b) Property which had secured such obligations and which has been acquired by foreclosure; and

(c) Undistributed cash.

C. For the purpose of this exemption, the terms "mortgage pool pass-through certificate," or "certificate" mean a certificate representing a beneficial undivided fractional interest in a mortgage pool and entitling the holder of such certificate to pass-through payment of principal and interest from the pooled mortgage loans, less any fees retained by the pool sponsor. Also for the purposes of this exemption, these terms shall include certificates guaranteed by the Government National Mortgage Association.

D. For the purposes of this exemption, the term "affiliate" of another person means:

(i) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such other person;

(ii) Any officer, director, partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and

(iii) Any corporation or partnership of which such other person is an officer, director or partner.

For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

E. For the purposes of this exemption, the term "single-family, residential property" means non-farm property comprising one to four dwelling units, and also includes condominiums.

F. For the purposes of this exemption, a person will be "independent of the pool sponsor, trustee, or insurer" only if:

(1) Such person is not an affiliate (as defined in paragraph III(D) of this exemption) of the pool sponsor, trustee, or insurer; and

(2) neither the pool sponsor, trustee, insurer, nor any affiliate thereof, is a fiduciary who has investment management authority or renders investment advice with respect to any of the assets of such person.

G. For the purposes of this exemption, the term "sale" includes a forward delivery commitment (as defined in paragraph H, below) by an investing plan, provided:

(1) For the purposes of section I(A), the terms of the forward delivery commitment contract are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party; and

(2) For the purposes of section I(B)

(a) The forward delivery commitment has been expressly approved by a fiduciary independent of the pool sponsor, trustee or insurer who has authority to manage and control those plan assets being committed for investment in such certificates;

(b) The terms of the forward delivery commitment contract (including any fee paid to the investing plan) are no less favorable to the plan than they would in an arm's length transaction with an unrelated party; and

(c) At the time of delivery, all of the conditions of section I(B) of this exemption are met.

H. For the purposes of this exemption, the terms "forward delivery commitment," and "forward delivery commitment contract" means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date, which is more than thirty calendar days after the contract's trade date. The terms include both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

Signed at Washington, D.C. this 3rd day of January 1983.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-491 Filed 1-6-83; 8:45 am]

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Office of Pension and Welfare Benefit Programs

Aigner Company Employee Benefit Plan, et al.; Proposed Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Aigner Company Employee Benefit Plan (the Plan) Located in Chicago, Illinois

[Application No. D-2952]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the sale by the Plan of 247,686 shares of G. J. Aigner Company common stock for cash and certain notes of Avery Holding Corporation (Avery Holding), a wholly-owned subsidiary of Avery International Corporation (Avery); and (2) other transactions consummated and continuing in accordance with terms of the agreements between the Plan, Avery Holding and Avery, provided the terms of the transactions were no less favorable to the Plan than those obtainable in arm's-length transactions with unrelated parties.

Effective Date: If granted, the exemption will be effective July 23, 1981.

Summary of Facts and Representations

1. The Plan was formerly known as the G. J. Aigner Company Employee Benefit Plan and was funded by two trusts, a qualified profit sharing trust and an employee stock ownership trust (ESOT). The Plan currently has approximately 523 participants. As of September 30, 1980, the Plan had a net participant's equity of $3,046,436.

2. On July 23, 1981, an Agreement and Plan of Merger (the Agreement) was made and entered into between Avery,

Avery Holding, Avery Merger Corporation (Avery Merger) and G. J. Aigner Company (Aigner), the sponsor of the then G. J. Aigner Company Employee Benefit Plan. The Agreement provided for the proposed merger of Aigner into Avery Merger (a wholly-owned subsidiary of Avery Holding), whereby Avery Merger would be subsequently merged into Avery Holding. Avery Holding is a wholly-owned subsidiary of Avery and Aigner now operates as a wholly-owned subsidiary of Avery.

3. Aigner was incorporated under the laws of the State of Delaware, and specialized in the design and production of custom-made index guides and other business forms. As of September 30, 1980, Aigner had a net worth of $10,718,620. Mr. C. W. Clemen (Mr. Clemen), the chief executive officer and chairman of the board of the corporation, served as the trustee of the Plan.

4. Avery is a worldwide manufacturer of self-adhesive labels and labeling systems. As of May 31, 1981, Avery had current assets of $223,790,000 and a net worth of $177,976,000. Mr. Charles D. Miller (Mr. Miller) is the president, chief executive officer and a director of Avery. Mr. Miller is the sole director of Avery Holding and Avery Merger.

5. As of the record date with regard to the Agreement, August 31, 1981, 1,973,104 shares of Aigner common stock (the Stock) were authorized and outstanding of which 70,542 shares were held in Aigner's treasury. As of that date the Plan held 247,686 shares which constituted 13.02% of the outstanding shares. The Stock has never been traded publicly and no market for it exists. The Stock has never been registered under the Securities Act of 1933, as amended. As of June 30, 1981, the Stock had a book value per share of $8.29. The Chicago Corporation (Chicago), a member of the New York, Midwest and American Stock Exchanges, an unrelated party, rendered an appraisal of the value of the Stock and determined that, as of September 30, 1980, its fair market value was $9.00 per share because of its limited marketability. Chicago represents that the Stock's fair market value would be $10.00 per share if freely traded in the public market.

6. On July 23, 1981, Aigner stockholders owning approximately 65% of its outstanding Stock, including all of the then nine directors of Aigner, entered into agreements with Avery to vote the Stock held by them in favor of the merger. Twenty-three of the shareholders involved were officers, directors, or relatives of officers or directors, who together directly held 689,536 shares representing 36.2% of the total shares of Aigner. The remaining shares involved were the 247,686 shares held by the trustee of the Plan (13.02%), and shares held by non-officers, directors or their relatives representing 16% of the shares of Aigner. These figures indicate that, without the shares held by the Plan on that date, approximately 52% of the shareholders of Aigner, a majority of the shareholders, agreed to vote in favor of the merger.

7. On October 27, 1981, a shareholder meeting was held to vote on the proposed merger. At that meeting approximately 98% of the outstanding shares of Stock, including all of the shares held by the trustee of the Plan were voted in favor of the merger and no dissenters' rights were exercised. As of the record date with regard to the Agreement, Aigner's shares were held by 224 different individual shareholders. The Agreement was closed on October 28, 1981, as each share of outstanding Stock was converted into the right to receive cash and certain notes of Avery Holding.

8. Pursuant to the Agreement, shareholders owning less than 500 shares of Stock received $16.29 in cash for each share held; shareholders owning 500 or more shares received $9.46 in cash and $6.83 in principal amount of notes due in three years (the Three-Year Notes) for each share held; and shareholders owning 500 or more shares had the election to receive $9.46 in short-term notes and $6.83 in the Three-Year Notes per share. Additionally, all shareholders were required to contribute $0.10 per share in cash to the G. J. Aigner Stockholders' Protection Trust (the Protection Trust). The Plan elected not to receive the short-term notes, and elected to receive cash and the Three-Year Notes. This is the same consideration that was received by all other shareholders holding 500 or more shares of Stock who did not elect to receive the short-term notes.

9. The applicant represents that the short term notes bearing interest at 13% represented a then below market interest rate, but provided certain tax advantages to individual shareholders. Therefore, the applicant represents that the election to receive the short-term notes by the Plan would not have presented the Plan with any financial advantage since it was able to invest the cash portion of the proceeds of the merger at a higher rate of interest than the rate paid on the short-term notes.

10. The Three-Year Notes have been issued under an Indenture dated October 28, 1981, (the Indenture) between Avery, Avery Holding and the Security Pacific National Bank (the Bank) established in accordance with the Trust Indenture Act of 1939. The Bank serves as the trustee under the Indenture. The Three-Year Notes are general unsecured obligations of Avery Holding and are limited, as described in a prospectus filed by Avery Holding with the Securities and Exchange Commission dated September 30, 1981, to $13,000,000 principal amount. The Three-Year Notes are guaranteed by Avery. Avery Holding pays interest on the Three-Year Notes quarterly at the rate of 13% per annum and the entire principal amount of each Three-Year Note will be due on October 31, 1984.

11. The Three-Year Notes are subject to the withholding of interest and/or principal up to the aggregate amount of $1,000,000 by Avery Holding as indemnification for the breach of the representations, warranties and agreements of Aigner under the terms of the Agreement. The Indenture provides that if Avery Holding wishes to withhold certain payments it must first provide notice to each holder of a Three-Year Note.

12. The Protection Trust allows former Aigner shareholders to participate in the defense and/or settlement of any claims which may result from a claim for indemnification and withholding by Avery Holding on the Three-Year Notes. The amounts held in the Protection Trust will be invested in an interest-bearing account. The trustees of the Protection Trust, Messrs. Clemen, Howard Lee, Aigner's former president, and John Colmar, a former director of Aigner, have sole discretion to use the principal and income of the Protection Trust. The Protection Trust will terminate upon the expiration of all representations, warranties and covenants of Aigner under the Agreement. Upon termination the trustees will distribute the remaining assets of the Protection Trust to the former shareholders on a pro rata basis.

13. Pursuant to the Agreement, on August 3, 1981, employment agreements were entered into between the three executive officers of Aigner, Messrs. Cleman, Lee and Clyde J. Aigner, and Avery. Additionally, a consulting agreement involving a partnership substantially owned by Mr. Colmar and Avery was entered into. The agreements provide for certain base salaries and terms of employment for the individuals involved. Such agreements were made known to all shareholders prior to the date the merger was voted upon.

14. The Bank served as the exchange agent with respect to the merger as it

effected the exchange of the shares of Stock for the cash, the Three-Year Notes and the short-term notes (collectively, the Notes), and made the required cash transfers to the Protection Trust. The Bank may enforce the obligations of Avery Holding under the Notes and may declare all of the Notes due and payable immediately upon a continuing event of default by Avery Holding. The Bank maintains certain banking relationships with Avery, and Mr. H. Russell Smith, the chairman of the board of Avery is a director of the Bank.

15. In accordance with the Agreement, the Plan was amended on October 1, 1981, to provide for the merger of the ESOT into the profit-sharing trust thereby converting the Plan into a profit sharing plan in its entirety. Mr. Clemen has remained as the trustee of the Plan.

16. The applicant requests and exemption for the transactions consummated and continuing between the Plan, Avery Holding and Avery. Because participants in the Plan are employees of Aigner, a wholly-owned subsidiary of Avery, Avery may be considered a party in interest with respect to the Plan as described in section 3(14)(C) of the Act. Accordingly, the decision to enter into the Agreement and the execution of the merger pursuant to the terms of the Agreement by the parties may constitute certain prohibited transactions as described in section 406 of the Act.

17. Aigner's directors, including Mr. Clemen, negotiated the Agreement on an arm's-length basis with Avery prior to its adoption on July 23, 1981. Aigner's directors believe that the merger will result in certain business benefits to the corporation and will provide Aigner shareholders a degree of liquidity which was unattainable through the holding of the Stock. The decision to sell Aigner was made by the directors only after a full consideration of a number of alternatives, such as having the corporation go public, and raising additional capital through bank debt to finance expansion.

18. In analyzing the terms of the Agreement and the value of Avery's offer, Aigner's board of directors were assisted and advised by Warburg Paribas Becker Incorporated (Becker). Becker had been retained by Aigner since 1979 to act as its exclusive agent in negotiations with prospective buyers. Becker rendered an opinion, dated August 20, 1981, stating that the consideration to be received by the Aigner stockholders under the Agreement is, from a financial standpoint, fair to such stockholders. Mr. John A. Griner III, a managing director of Becker, was a director of Aigner at the time of the approval of the Agreement, but abstained from voting on the merger.

19. On March 22, 1982, the Trust Company of California (the Trustee) was appointed to serve as the subtrustee under the trust agreement establishing the Plan. The Trustee has no banking or commercial relationships with either Avery or Aigner. The Trustee will be empowered to monitor the prompt payment of interest and/or principal due upon the Three-Year Notes and in the event of default enforce the performance of any obligation due the Plan under the Three-Year Notes.

20. In summary, the applicant represents that the transactions satisfy the statutory criteria of section 408(a) of the Act because (a) the board of directors of Aigner, including the trustee of the Plan, Mr. Clemen, negotiated the Agreement with Avery on an arm's-length basis and voted all of their shares of Stock held individually in favor of the merger; (b) the Plan received the same consideration for its Stock as all other shareholders, including numerous individual shareholders unrelated to Aigner; (c) the Plan received consideration for its Stock in an amount not less than its fair market value as determined by an independent appraiser, Chicago; and (d) an independent investment banker, Becker, determined that the consideration received by all Aigner stockholders for the Stock was fair from a financial viewpoint.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

[Application No. D-3710]

Radiology Associates P.C. Money Purchase Pension Plan (the Plan) Located in Vienna, Virginia

Proposed exemption

The department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406 (a), (b)(1 and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed transfer of a note by the Radiology Associates Retirement Plan and Trust (the Prior Plan) to the Plan resulting in an extension of credit between the Plan and VIP Associates (VIP), a party in interest with respect to the Plan, provided the terms of the transaction are no less favorable to the Plan than those available in an arm's length transaction with an unrelated party.

Summary of Facts and Representations

1. On August 7, 1981, the Department published in the Federal Register (46 FR 40355) an exemption granting relief for a loan by the Prior Plan to VIP. Since that time, the Prior Plan's sponsor, Kirschner, Chung and Mero Radiology Associates, Ltd., has undergone a tax-free corporate reorganization which has resulted in the transfer of certain of its assets to Radiology Associates, P.C. (the Employer), the present sponsor of the Plan. Pursuant to the reorganization, the Plan will receive certain assets from the Prior Plan including the note evidencing the loan which was the subject of the prior exemption. The applicant represents that the partition of the Prior Plan's assets will be consummated in accordance with applicable Code requirements. The note has not yet been transferred to the Plan.

2. The transfer of the note to the Plan will result in an extension of credit (the Loan) which is not subject to the prior exemption because certain provisions of the Loan, as described below, are different than those with respect to the prior loan. In addition, the decision to allocate certain assets to the Plan, and the resulting transfer of the note to the Plan may involve certain prohibited transactions as described in the Act.

3. The Plan, which was established April 1, 1982, currently has 12 participants. Drs. Robert A. Ferris, Dennis J. McCabe, James H. Mero, Morton L. Moss, and Michael A. Weiss are the trustees (the Trustees) of the Plan and exercise investment discretion with respect to Plan investments. The Trustees are the principal shareholders of the Employer, and each maintains a 20% capital and profits interest in VIP.

4. The Employer is engaged in the practice of medicine in the metropolitan Washington, D.C. area. VIP is presently comprised of the 5 partners who together have a net worth in excess of $2.5 million. The Employer had a net worth, as of April 1, 1982, of approximately $150,000.

5. The applicant proposes to transfer the Loan to the Plan at its current outstanding principal balance of $198,750. After transfer the Loan will represent approximately 34.3% of the Plan's assets. The terms of the Loan will be substantially the same as the terms of the prior loan, i.e., the Loan will be for a term of 10 years from August 14, 1981, and will be amortized on a twenty year schedule. The Loan will bear interest at

a rate of 15¼% for an initial three year period, and will be adjusted annually thereafter to the greater of 15¼% or the average bond equivalent yield of one-year United States Treasury bills as of the auction next preceding the August 1 prior to the interest adjustment date.

6. The Loan will be secured by a duly recorded first deed or trust on the same property (the Property) securing the prior loan. Based upon an assignment of the original lease from the prior corporation, the Employer is currently the lessee of the Property. Mr. John Hamman, an appraiser of W.S. Kidwell Associates, Inc., performed an updated appraisal of the Property and determined, as of September 24, 1982, that the Property had a fair market value of $300,000. The Property therefore has an appraised valued greater then 150% of the amount of the Loan. VIP, at its own expense, will provide fire and hazard insurance on the Property in an amount not less than the outstanding principal balance of the Loan, and will execute a loss-payee clause providing for the full payment of any insurance proceeds to be made directly to the Plan.

7. As provided for in the prior exemption, a full recourse note against all of the partners of VIP will be executed rendering each partner personally liable to the Plan in the event of default. Additionally, VIP intends to assign rents due under the lease between VIP and the Employer enabling the Plan to receive rental payments directly in the event of default. The Employer will execute a written commitment to purchase the Loan for its outstanding principal balance plus any accrued interest in the event of a default by VIP which is not cured by VIP within 90 days.

8. Ms. Barbara Fried, an attorney in Springfield, Virginia, has agreed to serve as the fiduciary of the Plan with respect to the Loan. Ms. Fried is completely independent of and unrelated to VIP and/or the Employer. Ms. Fried has had past experience in the administration and operation of employee benefit plans, is familiar with real estate investments in the Washington, D.C. area, and understands her duties, liabilities and obligations as a fiduciary to the Plan.

9. Ms. Fried has examined the decision by the trustees of the Prior Plan and the Plan to distribute the note to the Plan and has determined that the allocation of this particular asset to the Plan is appropriate, and in the best interests of the Plan. Ms. Fried has examined the allocation procedures involved in transferring certain assets to the Plan and has determined that such partition will be in accordance with applicable requirements of the Code. Ms. Fried represents that the transfer value of the Loan is not greater than its fair market value.

10. In addition to reviewing the appropriateness of the transfer of the note to the Plan from the Prior Plan, Ms. Fried has (1) examined the overall investment portfolio and investment funding policy of the Plan; (2) considered the ongoing cash flow and liquidity needs of the Plan and its participants and beneficiaries; (3) considered the need to sell any of the assets of the Plan in relationship to the Loan as part of the portfolio of the Plan; (4) examined the diversification requirements of Plan assets in light of the proposed Loan; and (5) reviewed the terms of the proposed transaction as such terms comport with the overall investment performance and funding policy of the Plan. After such a review Ms. Fried represents that the Loan is an appropriate and suitable investment for the Plan.

11. Ms. Fried will continuously monitor the Loan to ensure that all proceeds are repaid at the appropriate time, and will be empowered to take all necessary legal and equitable actions in the event of any default on the payment of principal and/or interest of the Loan by VIP. Ms. Fried will keep accurate Loan records, will report at least annually on the performance of the Loan, will call the Loan at any time if she determines that such action is appropriate, will determine the specific interest rate which the Loan will bear after the initial three years of the Loan's term; and will ensure that throughout the term of the Loan the Property or other collateral securing the Loan remains equal to at least 150% of the outstanding Loan balance.

12. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because (a) a qualified, independent party, Ms. Fried, has determined that the transfer of the note to the Plan is appropriate, suitable and in the best interests of the Plan; (b) Ms. Fried has determined that the allocation of the Prior Plan's assets will be in accordance with applicable Code requirements; (c) Ms. Fried has determined that the terms of the Loan are fair and reasonable and that the Loan is an appropriate investment for the Plan; and (d) Ms. Fried will completely monitor and enforce the provisions of the Loan.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Superior Wine & Spirits, Inc. Profit Sharing Plan (the Plan)

[Application No. D–3711]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed loans of money for a period of 5 years by the Plan to Superior Wine & Spirits, Inc. (the Employer), provided that the terms of the transactions are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of each transaction.

Temporary Nature of Exemption

This proposed exemption is temporary and, if granted, will expire 5 years after the date of grant. Should the applicant wish to continue entering into loan transactions beyond the 5 year period, the applicant may submit another application for exemption.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 16 participants and total assets as of June 30, 1982 of $1,088,669. The Plan trustees are Myron Waxman and Edward Sacks, the president and secretary of the Employer, respectively.

2. The Plan proposes to enter into a loan agreement (the Agreement) with the Employer. The Agreement will provide that the Plan may periodically lend money to the Employer, up to a maximum amount of $125,000. Each loan made under the Agreement will mature in 120 days and all loans made must be repaid within 5 years of the effective date of the Agreement.

3. The loans made would bear an interest rate of 1% above the prime rate charged by Continental Bank of Philadelphia, but not less than 12% per annum. Upon maturity of each loan, the entire principal amount and accrued interest will be paid.

4. Each loan will be secured by a lien on the Employer's inventory and accounts receivable (the Collateral).[1] As

[1] Inventory is represented by the applicant to mean all goods now or at any time during the term of this Agreement held for sale or being processed

of August 31, 1982, the value of the Collateral totaled $511,320. Under the terms of the Agreement, the value of the Collateral will at all times be maintained at an amount not less than 200% of the outstanding principal balance of the loan.

5. The Employer represents that there are no present encumbrances on the Collateral and that the Employer will execute a security agreement and financing statement to perfect the Plan's first lien on the Collateral. The Employer will maintain fire, hazard and theft insurance on its inventory, which insurance will name the Plan as loss payee. The inventory is composed exclusively of bottled liquors and wines. With respect to its accounts receivable, the Employer represents that its only customers are the Commonwealth of Pennsylvania and the United States Armed Services and, therefore, there is essentially no risk of uncollectibility.

6. Mr. Harvey D. Groner (Mr. Groner) Of Wyndmoor, Pennsylvania, has agreed to act as independent fiduciary in connection with the proposed transactions. Mr. Groner is a certified public accountant, and is familiar with secured lending transactions. Mr. Groner is the accountant servicing the Plan and the Employer, however, less than 2% of Mr. Groner's annual gross receipts from his accounting practice are derived from such service. Mr. Groner has been advised by legal counsel with regard to his duties, liabilities and responsibilities as independent fiduciary under the Act.

Mr. Groner has examined the terms of the Agreement and has initially determined that they are appropriate an suitable for the Plan. Mr. Groner will examine all future requests for loans by the Employer under the Agreement and must determine that each loan is appropriate and suitable for the Plan before being consummated. He will be empowered and directed to enforce the terms of the Agreement between the Plan and the Employer, including making demand for timely payment, bringing suit or other appropriate process against the Employer in the event of default, keeping accurate records, and reporting at least annually to the Plan's trustees on the performance of the loans specifically including whether the value of the Collateral securing the loans remains equal to at least 200% of the outstanding balance of the loans. He will be entitled to such information from the Employer and the Plan as may be necessary to fulfill his responsibilities.

7. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The loans will be approved and monitored by an independent fiduciary;

(b) The loans will be secured by the Collateral, which at all times will be equal to at least 200% of the outstanding loan balance;

(c) The exemption will be limited to a five year period; and

(d) The independent fiduciary has determined that the transactions are appropriate for the Plan and are in the best interests of and protective of the Plan's participants and beneficiaries.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

[Application No. D-3712]

The Miami Rug Company Employees Profit Sharing Plan and Trust (the Plan) Located in Miami, Florida

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, effective January 1, 1975, to the loan of $125,000 made on December 1, 1974, by the Plan to Miruco Corporation (Miruco), provided the terms of the loan were not less favorable to the Plan then those obtainable in an arm's-length transaction with an unrelated party at the time the loan was made.

Effective Date: If the proposed exemption is granted, it will be effective January 1, 1975.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with approximately 281 participants. The Plan had approximately $860,000 in assets as of June 30, 1982. Mrs. Ruth E. Baros owns over 50 percent of the stock in the Miami Rug Company and also owns 100 percent of the issued and outstanding stock of Miruco.

2. On December 1, 1974, the Plan loaned $125,000 to Miruco. The loan was to be for a term of 20 years, and bore an interest rate of 9 percent. The applicant represents that the officers of Miruco had considered acquiring the loan through local savings and loan institutions and had discussed the terms and mortgage rates with them. The prevailing rate of interest customarily charged in the area at the time the loan was made was 9 percent, and the term of 20 years was also customary at that time.

3. The loan was secured by a duly recorded first mortgage on a parcel of real property in Dade Country, Florida (the Property). The Property was appraised by Mr. J. N. Lummus, Jr., an independent appraiser in Miami, Florida, as having a fair market value of $167,000 as of December 2, 1974. The applicant represents that the Property has appreciated and is presently worth approximately $290,000.

4. All payments on the loan have been made in full and on schedule by Miruco to the Plan. As of June 30, 1982, the loan represented approximately 11.76% of the Plan's assets. On November 8, 1982, Miruco repaid the loan in full to the Plan.

5. In summary, the applicant represents that the statutory criteria contained in section 408(a) of the Act have been satisfied as follows: (1) The interest rate paid to the Plan for the loan was the prevailing rate charged by local financial institutions for similar loans at the time the loan was entered into; (2) the loan was at all times adequately secured by a first mortgage on real property having a fair market value, as determined by an independent appraiser, well in excess of the principal amount of the loan; and (3) all payments on the loan were made on schedule, and the loan has now been repaid in full to the Plan.

Finally, the applicant represents that the loan was entered into prior to the effective date of the Act without knowledge that the transaction would become prohibited on January 1, 1975. As soon as the applicant realized that the loan had become a prohibited transaction, the applicant submitted a good faith request for an exemption instead of terminating the loan transaction.

Notice to Interested Persons

Notice will be provided to interested persons in the manner agreed upon by the Department and the applicant within 30 days of the date of publication of this

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for sale in the Employer's business, including all materials, goods in process, finished goods and supplies customarily classified as inventory.

Accounts Receivable is represented by the applicant to mean any account, now in existence or which may come into existence during the term of this agreement, arising from the performance of services or an outright sale of goods by the Employer, which goods have been or will be shipped to an account debtor of the Employer.

notice of proposed exemption. Comments and requests for a public hearing must be received by the Department within 60 days of the date of publication.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

The Greiver, Skolnick, Stoler & Lloyd Profit Sharing Plan (the Profit Sharing Plan) and the Greiver, Skolnick, Stoler & Lloyd Retirement Plan (the Retirement Plan; collectively, the Plans), Located in Louisville, Kentucky

[Application Nos. D-3716 and D-3717]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed loan of $30,000 by the Profit Sharing Plan to Greiver, Skolnick, Stoler & Lloyd, P.S.C. (the Employer), the sponsor of the Profit Sharing Plan; (2) the proposed loan of $70,000 by the Retirement Plan to the Employer, the sponsor of the Retirement Plan; and (3) the guarantee of such loans (the Loans) by the seven principals of the Employer provided that the terms and conditions of the Loans are at least as favorable to the Plans as those which the Plans could receive in a similar transaction with an unrelated party.

Summary of Facts and Representations

1. The Plans, each of which has 15 participants, are qualified plans maintained by the Employer. The Employer is a company engaged in a medical practice specializing in internal medicine and pulmonary care and treatment. Prior to its incorporation in 1978, the Employer had operated as a partnership since 1961. The Employer currently employs 7 physicians (the Physicians) and 11 other employees. The capital stock of the Employer is owned by the Physicians. The assets of the Plans are held in a master trust for which the Liberty National Bank and Trust Company (the Bank) located in Lousville, Kentucky serves as the trustee. The Bank's only relationship to the Employer and the Plans is that of trustee to the Plans.

2. The Employer is requesting an exemption which will permit the Loans, the proceeds of which will be used by the Employer to renovate and equip a new office facility for use as its primary business location. The term of each Loan would be for seven years with a floating interest rate of 1% over the prime rate of the Bank. In addition, the Loans will have an interest rate floor of 10%. The interest rate will be adjusted on the same day as the Bank makes any change in its prime rate. The Loans will provide for 84 monthly payments of principal and interest. The Loans will be secured by all present and future accounts receivable, inventory, equipment and furnishings of the Employer. The applicant represents that the Employer's accounts receivable have averaged approximately $379,929 for the six month period immediately prior to this exemption request and that during the term of the Loans the accounts receivable should remain at a level equal to at least 200% of the amount of the outstanding balances of the Loans. If the accounts receivable should fall below such 200% level, the Employer will provide additional collateral such that the Loan will be secured by collateral at least equal to 200% of the outstanding balances of the Loans. The applicant has submitted an appraisal performed on September 30, 1982 by Mr. Darrell Smith (Smith), of the Whittaker General Medical Corp. located in Louisville, Kentucky of certain medical equipment which is owned by the Employer. Smith represents that such equipment on that date had a value of $25,520.08. The applicant represents that such equipment will be adequately insured with the Plans being the named cobeneficiary of such insurance. In addition, the Loans will be personally guaranteed jointly and severally by the Physicians who the applicant represents have a combined net worth in excess of $1,000,000. The applicant also represents, that at the time the Loans are entered into, the Loan made by the Profit Sharing Plan will not exceed 25% of the assets of the Profit Sharing Plan and the Loan made by the Retirement Plan will not exceed 28% of the assets of the Retirement Plan.

3. The Bank, acting as an independent fiduciary, has examined the Loans. The Bank represents that: (1) The Loans will be in the best interests of the participants and beneficiaries of the Plans; (2) the terms and conditions of the Loans were determined at arm's length; and (3) the Bank will monitor the terms and conditions of the Loans on behalf of the Plans. In addition, the applicant represents that the Citizens Fidelity Bank and Trust Company located in Louisville, Kentucky has offered to make a loan of $100,000 to the Employer which would have the same terms and conditions as those of the Loans. The Employer represents that it is in the best interests of the Plans to receive the high interest payments on the Loans rather than have the Employer make such payments to a financial institution.

4. In summary, the applicant represents that the Loans will meet the statutory criteria of section 408(a) of the Act as follows: (1) The trustee of the Plans represents that the Loans will be in the best interests of the participants and beneficiaries of the Plans; (2) the Loans will be approved and monitored by an independent fiduciary; (3) the Employer could receive the funds from a financial institution under the same terms and conditions as the Loans; and (4) the Plan will receive a high rate of interest on the Loans.

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

The Wendel Gann Corporation Employees' Defined Benefit Pension Plan (the Plan), Located in Downey, California

[Application No. D-3520]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to a loan (the Loan) by the Plan to Wendel Gann Corporation (the Employer) of $150,000, provided the terms and conditions of the Loan are at least as favorable to the Plan as those obtainable in a similar transaction with an unrelated party.

Summary of Facts and Representations

1. The Employer, which does business as Gann Products Co., Inc., is a company located in Downey, California and engaged in the manufacture and warehousing of liquid propane gas conversion equipment. The Employer is owned entirely by members of the Wendel Gann family (the Ganns). Mr. Wendel Gann is the president of the Employer corporation. Both he and his spouse, Mrs. Irma Gann, serve on the Employer's Board of Directors. A son,

Mr. Lawrence Gann, is the vice president and a director of the Employer corporation and is also the Plan administrator.

2. The Plan is a defined benefit plan established on July 1, 1980 by the Employer for the benefit of its employees. The Plan replaced a profit sharing plan which had been in effect since 1971. As of June 30, 1982, the Plan had seven participants and total assets of approximately $566,000. The Ganns serve as the Plan trustees (the Trustees) and as such, they are responsible for making investment decisions for the Plan.

3. To expand its operations, the Employer intends to move from its present location to larger facilities. The Employer has entered into a written agreement with an unrelated party, Feeser and Walker Company (Feeser) of Downey, California, in order to purchase certain improved real property (the Real Property) located at 9540 Stewart and Gray Roads, Downey, California. The Real Property consists of a parcel of land, a large industrial-type building and certain improvements. The Employer has agreed to pay $365,000 for the Real Property. This price is less than Feeser's original asking price of $405,000. It is also less than the $429,000 fair market value price as determined on March 20, 1982 by the independent appraisal firm Allied Appraisers, Inc. of Rowland Heights, California.

4. The Employer has obtained short-term financing from Community Bank (Community) of Downey, California to facilitate its purchase of the Real Property. The financing consists of an unsecured loan of $150,000 made by Community to the Employer. The loan bears interest at the rate of one percent above the prime rate, calculated on a daily basis. The loan is payable on demand or at the end of 90 days and it is quaranteed by the Ganns.

5. Although Community has expressed its willingness to enter into a longer-term financing arrangement with the Employer by lending up to 70 percent of the appraised value of the Real property, the Trustees have determined that it would be a very desirable investment for the Plan to make a loan to the Employer. Therefore, exemptive relief is requested.

6. The Loan will be made in the amount of $150,000 or approximately 26 percent of the Plan's total assets. The Loan will be for a term of ten years with principal and interest payable monthly. The interest rate for the loan will be one percent over the prime rate, adjusted monthly, based upon the prime rate as published in the money Rate Table of *The Wall Street Journal*. However, in no event will the annual interest rate be less than 12 percent. The Loan will be secured by a first mortgage on the Real Property which will be kept fully insured against theft, fire and other casualty loss throughout the term of the Loan, and all of the proceeds of such insurance will be payable to the Plan. The Real Property will have a value at all times at least equal to 150 percent of the outstanding Loan balance.

7. A branch of Bank of America National Trust and Savings Association (the Bank) located in Los Angeles, California has agreed to serve as the independent fiduciary for the Loan. The Bank has no pre-existing commercial relationship with the Employer and as such, is a completely independent entity. The Bank believes the Loan is an appropriate transaction for the Plan given its rate of return and stability. With respect to the Loan's interest rate of one percent over prime, the Bank feels it is proper in light of the security pledged and terms offered in the Loan package. The Bank has also considered the safeguards relative to the Loan and it states the risks involved are no greater than in transactions normally acceptable to such plans. In addition, the Bank states that it has investigate the overall portfolio for the Plan, considered the Plan's cash flow requirements and the assets which might have to be liquidated to satisfy these requirements, considered the diversification of the Plan's assets in light of the proposed investment and assessed the manner in which the Loan fits into the plan's investment scheme.

As the independent fiduciary, the Bank will review and monitor the terms and conditions of the Loan and enforce collection procedures in the event of a default. The Bank will ensure that the value of the Real Property is at least equal to 150 percent of the outstanding Loan balance. This will require the Bank to demand, at its discretion, that the Employer obtain independent appraisals of the Real Property. If the value of the Real Property is below the 150 percent level, the Bank may demand that the Employer post additional collateral or prepay a portion of the Loan.

8. In summary, it is represented that the proposed transaction represents the statutory criteria of section 408(a) of the Act because: (a) The Bank states that the Loan is an appropriate investment for the Plan; (b) the Bank will review and monitor the terms of the Loan to ensure its repayment; (c) the Loan will carry an interest rate of one percent over the prime rate with a guaranteed minimum interest rate of 12 percent per annum; (d) the Loan will be secured by a first mortgage on the Real Property which will at all times have a value of at least 150 percent of the outstanding Loan balance; (e) the Real Property will be appraised by an independent appraiser at the discreation of the Bank to ensure its value falls within the acceptable level and it it does not, the Bank will demand that the Employer post additional colleteral or prepay a portion of the Loan; and (f) the Real Property will be insured by the Employer and the Plan named the beneficiary of the insurance policy.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-fee number.)

The Texas State Optical of Capital Plaza Pension Plan (the Plan), Located in Austin, Texas

[Application No. D–3630]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a) 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) A loan (the Loan) by the Plan of approximately $96,732 to Texas State Optical of of New Braunfels (the Partnership), provided the terms and conditions of the Loan are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; and (2) the guarantee of repayment of the Loan by the partners (the Partners) of the Partnership who are principals of Drs. Taylor, Watson, Knowles and Associated Optometrists, P.C. (the Employer).

Summary of Facts and Representations

1. The Plan is a defined benefit plan with thirty-eight participants and total assets having a market value of $576,561 as of June 30, 1982. The trustee of the Plan is American National Bank (American) of Austin, Texas. American has responsibility for making investment decisions for the Plan.

2. The Employer is a Texas corporation engaged in providing retail optometric services to the general public. The Employer, which operates under the trade name "Texas State Optical of Capital Plaza" (TSO), maintains its principal place of business

at 5449 North Interregional Highway, Austin, Texas. The Employer is 95 percent owned by Drs. A. Troy Taylor, J. Fred Watson and John L. Knowles. These individuals are also the Partners of the Partnership.

3. The Partnership, which has been in existence since October 1980, is engaged in the optometry business. Approximately one year ago, the Partnership opened an office in the Courtyard Shopping Center in New Braunfels, Texas after having purchased franchise rights (the Franchise Rights) in the TSO trade name from Dr. C. R. McClintick, an unrelated party. The office is leased for a term of five years, at a monthly rental of $1,206, from Allied Development, an unrelated leasing and construction firm.

4. Prior to opening the New Braunfels office, the Partners were able to obtain a loan in June 1981 of approximately $109,604 from the First National Bank of New Braunfels (First National) of New Braunfels, Texas. [First National was subsequently acquired by the Texas Commerce Bank (Texas Commerce) and thereafter payments have been made to Texas Commerce.] The loan bears interest at ½ percent above New York prime; the interest rate is adjusted monthly. The loan is being repaid in monthly installments of principal and interest totaling $2,723 over a five-year period. the loan is secured by leasehold improvements (the Improvements), inventory (the Inventory), furniture and fixtures (the Furniture and Fixtures) and accounts receivable (the Receivables) of the Partnership. As of October 28, 1982, the principal outstanding balance of the loan was $96,732.

5. The Partners propose to borrow approximately $96,732 from the Plan in order to repay Texas Commerce for the pre-existing obligation. The Partners plan to execute a new promissory note with the Plan for the amount remaining on the original note and adopt the same terms and conditions. The Loan will be secured by first lien interests in the Inventory (which totals between $14,000 to $15,000 annually and consists of contact lenses, frames for eyeglasses, lenses, solutions for contact lenses and contact lens care kits), the improvements, Furniture and Fixtures as well as the Franchise Rights of the Partnership. Appropriate security agreements and financing statements will be executed by the parties and filed in Comal County, Texas, the county of record for New Braunfels. At all times, the collateral will represent at least 150 percent of the outstanding Loan balance. If the collateral falls below this level, an independent fiduciary designated to oversee the Loan will demand additional security from the Partnership or call the Loan. In addition, the collateral will be adequately insured with the Plan named as the beneficiary of the insurance policy. As further security for the Loan, the Partners will personally guarantee specific performance of the terms of the promissory note. As of July 1982, the Partners had a combined net worth in excess of $3.9 million.

6. Mr. Jack M. Puryear (Mr. Puryear), an independent appraiser, has valued the collateral for the Loan as of September 16, 1982. Mr. Puryear is a partner in the real estate and insurance firm of Nieman, Hanks and Puryear, located in Austin, Texas. He states that he has reviewed eight sales of TSO franchises over the past two years. Mr. Puryear believes the Franchise rights, exclusive of the Receivables, Improvements, Inventory, Furniture and Fixtures have a fair market value of approximately $160,000.

With respect to the lease, Mr. Puryear notes that it is for a five-year period with two five-year renewal options. Considering the favorable terms of the lease, it is his opinion that the Improvements, Furniture and Fixtures in the office have a current value of $105,132, exclusive of stock. This, he says, takes into consideration a 12 percent depreciation factor and a 9 percent inflation factor. Thus, the combined value of the collateral, excluding the Inventory, is $265,132.

7. American has offered to serve as the independent fiduciary for the Loan. In a letter of September 16, 1982, American represents that there is no affiliation between it and Texas Commerce or their respective parent holding companies. American also states that the Employer, the Partnership and the Partners do not maintain a commercial, advisory or directorship relationship with the bank and its only relationship with the parties is as the current Plan trustee. In determining that the Loan is appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries, American has analyzed the following factors: (a) The size, diversity and soundness of the existing account portfolio; (b) the excellent credit history of the Partnership with regard to the existing indebtedness; (c) the strong professional reputation and integrity of the Partners; (d) the strong, high liquidity personal financial statements of the Partners; (e) the strong collateral position of the Plan as a secured note holder; (f) the strength, longevity, stability and track record of the Partnership; (g) the current high rate of return available on promissory note indebtedness as well as the hedged position provided by the floating interest rate provision of the note; (h) the demographic strength of New Braunfels as a growing market needing professional optometric services; and (i) the liquidity of the investment. American also believes that notwithstanding the fact that the Partnership's Receivables have not been pledged as collateral for the Loan, the security and personal guarantees are more than adequate to collateralize the Loan within the 150 percent ratio.

As the independent fiduciary, American will monitor the Loan to ensure payments are made by the Partnership on a monthly basis. American will also see to it that the collateral is kept insured and that ad valorem personal property taxes are paid. American will also ensure that the value of the collateral is at all times at least 150 percent of the outstanding Loan balance and will demand a pledge of additional collateral from the Partnership if the value falls below the stated percentage or call the Loan.

8. In summary, it is represented that the proposed transactions will satisfy the criteria of section 408(a) of the Act because: (a) American states that the Loan is in the best interests of the Plan and its participants and beneficiaries; (b) American, as the independent fiduciary, will monitor the Loan on behalf of the Plan; (c) the Loan will be secured by perfected first security interests in the Inventory, Improvements, Furniture, Fixtures and Franchise Rights of the Partnership which have an appraised value of over twice the amount of the Loan; (d) the collateral will be kept insured throughout the Loan duration and the Plan will be named the beneficiary of the insurance policy; (e) the collateral will not be allowed to fall below 150 percent of the outstanding Loan balance, and if it does, American can demand additional security from the Partnership or call the Loan; and (f) the Partners will guarantee the Loan in the event of a default.

For Further Information Contact: Ms. Jan Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

[Application No. D-3875]

Proposed Extension of Part IX of PTE 77-11, for Certain New Transactions Involving the Central States, Southeast and Southwest Areas Pension Fund, Located in Chicago, Illinois

Proposed exemption

The Department is considering granting an extension of Part IX of

Prohibited Transaction Exemption (PTE) 77–11 (42 FR 54041, October 4, 1977) under section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the extension is granted, subject to the conditions contained in Part IX of PTE 77–11, the restrictions of sections 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of sections 4975(c)(1) (A) through (D) of the Code shall continue not to apply to new transactions between the Fund and certain non-fiduciary parties in interest and disqualified persons. It would be effective October 3, 1982, and would expire with respect to each independent asset manager when the manager ceases to have responsibility for Fund assets under the current asset management agreements that have been in effect since October 3, 1977.

Summary of Facts and Representations

This extension of Part IX of PTE 77–11 was requested in an application filed on October 21, 1982 by The Equitable Life Assurance Society of the United States (Equitable) on behalf of itself and the other independent investment managers of the Central States, Southeast and Southwest Areas Pension Fund. The application incorporated by reference a letter dated September 28, 1980 and Exemption Application No. D–850, which was part of the record underlying PTE 77–11. The representations made in those submissions and the entire record relating to Part IX of PTE 77–11, including the findings by the Department of Labor and the Internal Revenue Service relating to the requirements of section 408 (a) of the Act for the granting of an exemption, are incorporated by reference into the record relating to this application. Exemption Application No. D–850 (July 29, 1977) contained requests by Equitable and Victor Palmieri and Company Incorporated (VPCO) that the Department and the Internal Revenue Service issue exemptions from the prohibited transaction provisions of the Act and the Code for various transactions entered into on behalf of the Fund by the independent asset managers of the Fund under the asset manager agreements made between the applications and the Fund as of June 30, 1977, effective October 3, 1977 (1977 agreements). In response to that application and after the required publication of notice in the **Federal Register** and provision of notice to interested parties, the Department and the Service granted PTE 77–11. Part IX of that exemption permitted the applications to engage in new transactions with various categories of parties in interest subject to the terms and conditions contained in the exemption. In general, Part IX provided relief only in situations where the party dealing with the Fund was a service provide or an employer who was not, and was not related to, a fiduciary of the Fund. It was granted based on, among other things, representations of the applications regarding the nature and history of the Fund and the terms of the exemption. It was effective for a period of five years from the closing date of the 1977 agreements, which was October 3, 1977; thus, it expired on October 2, 1982.[1]

On September 21, 1982, the Secretary of Labor announced that the Department had entered into a consent decree with the Trustees of the Fund. Under the consent decree, the Fund may continue to have Equitable and VPCO manage its assets under the terms of the 1977 agreements, which remain in effect, or the Fund may enter into new asset management arrangements, provided the Fund complies with all relevant provisions of the consent decree. These new asset management arrangements may be with Equitable or VPCO, or they may be with other asset managers that meet the criteria of the consent decree. At the present time, no new asset management arrangements have been entered into by the Fund, the 1977 agreements remain in effect, and Equitable and VPCO, as well as the other Fund asset managers appointed by Equitable, are continuing to perform their functions under the 1977 agreements. The consent decree allows for the termination of the asset managers' services only upon appropriate prior written notice to them, as well as to the Department of Labor, from the Trustees, subject to approval by the court that entered the decree, and the selection of a successor named fiduciary, approved by the court, that meets the selection criteria of the consent decree. No termination notice has as yet been provided. Accordingly, Equitable, VPCO, and the other Fund asset managers appointed by Equitable have continued to manage the assets of the Fund under the 1977 agreements since October 2, 1982, and will continue to have these responsibilities until new asset management arrangements have been made.

In its application, Equitable states that it is essential that Part IX of PTE 77–11 be extended beyond October 2, 1982 for the life of the 1977 agreements to avoid unnecessary disruption of the management of the Fund's assets. The Department will consider all the representations and findings in the application, including those related to Part IX of PTE 77–11, in determining whether the requirements of section 408(a) of the Act for the granting of an exemption have been met.

For Further Information Contact: David A. Rood of the Department, telephone (202) 523–8368. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

[1] On August 18, 1981, Equitable requested "reaffirmation" of PTE 77–11 and other exemptions and opinions based on proposed new investment management agreements which, it was anticipated at that time, would be implemented by Equitable and the Fund (Exemption Application No. D–2834). On December 4, 1981 the Department proposed certain of the requested exemptions in the **Federal Register** (46 FR 59334). An extension of Part IX of PTE 77–11 was proposed as Part (2) of that proposed exemption. It was identical in substance to this proposed exemption. The Department received no written comments on that proposed exemption during the comment period, which expired January 4, 1982.

On March 11, 1982, the Secretary of Labor denied Equitable's request, submitted under section 9.01 of the June 30, 1977 master independent asset management agreement, that he consent to the proposed new long-term independent asset management agreements that were under consideration by the Trustees, Equitable and VPCO, and upon which the December 4, 1981 proposed exemption was based. As a result, the proposed new agreements have never been implemented, and the proposed exemption has never been granted.

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction;

(4) The proposed exemptions, if granted, will be subject to the express conditions that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 4th day of January 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

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KRJ, Ltd. Profit Sharing Plan and Trust et al.; Grant of Individual Exemptions

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests (for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

[Prohibited Transaction Exemption 83-2; Exemption Application Nos. D-3154, D-3155, D-3156 and D-3157]

KRJ, Ltd. Profit Sharing Plan and Trust, KRJ, Ltd. Pension Plan and Trust, LCM, Ltd. Profit Sharing Plan and Trust and LCM, Ltd. Pension Plan and Trust (the Plans), Located in Sioux Falls, S.Dak.

Exemption

The restrictions of section 406(a), 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The purchase by the Plans of an addition (the Addition) to a parcel of real property (collectively, the Properties) from KRJ, Ltd. (KRJ), the sponsor of the Plans and the owner of LCM, Ltd., provided the purchase price is not more than the fair market value of the Addition on the date of sale; (2) the lease of the Properties by the Plans to KRJ; (3) the assignment of two subleases by KRJ to the Plans; and (4) the potential purchase of the Properties by KRJ, provided that the terms and conditions of transactions (2) through (4) are at least as favorable to the Plans as those obtainable from an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 13, 1982 at 47 FR 35376.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

The Automotive Industries Pension Trust Fund (the Plan) Located in San Francisco, Calif.

[Prohibited Transaction Exemption 83-3; Exemption Application No. D-3452]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to: (1) The past sale to the Plan of a 50% interest in certain real property (the Property) for $1,053,500 by Safeway Stores, Inc. (Safeway), a party in interest with respect to the Plan; and (2) the subsequent leasing of the Property by the Plan to Safeway provided that the terms and conditions of such transactions were at least as favorable to the Plan as those which the Plan could have received in similar transactions at that time with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 19, 1982 at 47 FR 46595.

Effective date: The exemption will be effective September 4, 1975.

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll free number.)

Ingles Markets, Incorporated Employees Stock Bonus Plan (the Plan) Located in Asheville, N.C.

[Prohibited Transaction Exemption 83-4; Exemption Application No. D-3614]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of a party improved parcel of real property, as described in the notice of proposed exemption, to Ingles Markets, Inc., the sponsor of the Plan, for $1,850,000, provided that this amount is not less than the fair market value of the property as of the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of

proposed exemption published on October 19, 1982 at 47 FR 46594.

Written Comments and Hearing Requests: Two public comments including a hearing request were received. One commentator stated that she did not want any assets of the Plan to be sold, and the other commentator stated that he didn't completely comprehend the notice, objected to the granting of an exemption, and requested a hearing. The Department contacted the commentators and discussed the proposed exemption. The commentators have withdrawn their coments and hearing request.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 4th day of January 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-492 Filed 1-6-83; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3894]

Proposed Exemption for Certain Transactions Involving the Robert Corum & Associates, Inc. Money Purchase Pension Plan Located in Louisville, Ky.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of a parcel of land and the improvements thereon to the Robert Corum & Associates, Inc. Money Purchase Pension Plan (the Plan) by Robert Corum & Associates, Inc. (the Employer), and the subsequent lease of a portion of the subject property by the Plan to the Employer. Since Robert Corum (Corum) is the sole shareholder of the Employer and the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code. The proposed exemption, if granted, would affect the Employer, the Plan and Corum.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 7, 1983.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-3894. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution plan with one participant, Corum. Corum is also the trustee of the Plan and responsible for the investment decisions of the Plan.

2. On April 15, 1981, the Employer purchased from YAR Realty Co., Inc., an unrelated party, a two-story office building (the Property), located at 2416 Frankfort Avenue, Louisville, Kentucky, for a purchase price of $120,000 cash. The Property is unencumbered by any mortgage, and contains approximately 5,000 square feet of rentable space. It is 100% occupied by thirteen tenants, pursuant to unwritten month-to-month leases, and the Employer who is now occupying 708 square feet. All leases with unrelated tenants have been negotiated at arm's-length.

3. Corum as trustee for the Plan has decided that the purchase of the Property by the Plan from the Employer would be in the best interests of the Plan. The transaction would benefit the Plan by diversifying assets of the Plan by acquiring income-producing property. The Employer would continue to occupy 708 square feet of the Property pursuant to an unwritten month-to-month lease, in the same manner as the unrelated tenants. An appraisal dated May 10, 1982 prepared by Ronnie L. Galloway, M.A.I. (Mr. Galloway), an independent

appraiser in Louisville, Kentucky, projects an annual net income from the Property of $17,925, which represents a yield of 11.2% per annum on the purchase price to be paid by the Plan, although the actual yield may turn out to be lower or higher depending on actual rents and expenses. This yield does not include any amount for appreciation in the value of the Property as a Plan asset. Corum as Plan trustee represents that an additional advantage to the Plan is the ability to adjust rents on a timely basis to reflect changes in inflation and any impact on projected expenses.

4. The sale price for the Property to the Plan will be $160,000. This is the fair market value for the Property as established by Mr. Galloway. The applicant represents that the Plan will charge all tenants of the Property, including tenants that are parties in interest, rent based on the fair market rental value of such tenant's leased premises. Mr. Galloway has appraised the fair market rental value of the premises to be leased to the Employer to be $400 per month. The Employer will pay such rent initially for its leased premises. The Employer's rent will be adjusted periodically in the same manner as the leases to the unrelated tenants to reflect changes in the fair market rental value. Corum represents that he presently intends to make such adjustments on an annual basis. Prior to making such adjustments in the rent, Corum as Plan trustee represents that he will consult with Mr. Galloway as to the proper adjustments necessary to maintain rents at the fair market rental value.

5. The applicant represents that the Property will only be held in Corum's individual account in the Plan, even if additional participants are later admitted to the Plan.

6. In summary, the applicant represents that the transactions meet the statutory criteria for an exemption under section 4975(c)(2) of the Code because: (1) The sale is a one-time transaction for cash; (2) the Plan will pay a sales price determined by an independent appraiser, and will receive rental payments from the Employer that have been established as the fair market rental value by an independent appraiser; and (3) the only Plan participant to be affected by the transactions is Corum, and he as Plan trustee desires that the transactions be consummated.

Notice to Interested Persons

Because Corum is the only participant in the Plan and the sole shareholder of the Employer, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the code shall not apply to the sale of the Property by the Employer to the Plan for $160,000, provided that this amount is not more than the fair market value of the Property on the date of sale, and the lease of a portion of the Property by the Plan to the Employer, under the terms described in this notice, provided such terms are as favorable to the Plan as those available in an arms-length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 27th day of December, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-1499 Filed 1-6-83; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3120]

Proposed Exemption for a Certain Transaction Involving the Rosen's Furniture Co., Inc. Profit Sharing Plan Located in Stroudsburg, Pa.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the lease of a warehouse by the Rosen's Furniture Company, Inc. Profit Sharing Plan (the Plan) to Rosen's Furniture Company, Inc. (the Employer) for a five year period, with the option to renew the lease for an additional five-year period. The proposed exemption, if granted, would affect the Employer and the Plan and its participants and beneficiaries.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before February 28, 1983.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Appplication No. D–3120. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a profit sharing plan with 25 participants. The Plan was established by the Employer in 1963. The trustee of the Plan is the Hazleton National Bank (the Trustee).

2. The Employer is a small, closely held corporation engaged in the business of selling furniture to a retail market.

3. In 1966 the Employer conveyed a warehouse (the First Warehouse) to the Plan for the consideration of $12,500. The Employer then entered into a lease agreement with the Plan which provided for an annual rental payment to the Plan for the Employer's exclusive use and possession of the first Warehouse.

4. This lease agreement, involving the First Warehouse, continued until approximately April 18, 1974, when the First Warehouse was condemned by the Redevelopment Authority of Monroe County, Pennsylvania. The condemnation resulted in the Plan's receiving $35,000 in condemnation proceeds.

5. During 1974, a new warehouse (the New Warehouse) which represents 18% of the total assets of the Plan as of June 16, 1982, was constructed by the Plan at a cost of $183,850. The New Warehouse is occupied by the Employer pursuant to a lease agreement which became effective on February 15, 1975 and which provided for a rental payment of $2,000 per month. The applicant represents that the lease agreement which presently exists between the Plan and the Employer does not constitute a prohibited transaction by reason of the transitional rules contained in section 414 of the Act.[1]

6. The applicant requests an exemption to permit the Employer to lease the New Warehouse from the Plan effective from the date of the granting of this requested exemption and extending for a five-year period, with the option to renew the lease for an additional five-year period. The option to renew the lease requires the mutual consent of both parties to the lease.

7. The Employer will pay to the Plan an annual rental of $26,400, payable in monthly installments of $2,200. This rental rate has been determined to represent the fair market rental value of the New Warehouse as determined by an appraisal performed by Ray Roberts, Supervisory Broker and Appraiser, of the Country Cousins Realty Sales, Inc., East Stroudsburg, Pennsylvania. The lease will be a triple net lease with the Employer paying all real estate taxes and assessments and other governmental charges relating to the New Warehouse.

8. If the lease is extended for an additional five years, the annual rental value of $26,400 will be adjusted. This adjustment will be based upon an appraisal to be performed by an independent real estate appraiser which will determine the then current fair market rental value of the New Warehouse. In no event, however, shall the amount of the rental payment be reduced during the additional five-year term.

[1]The Department expresses no opinion as to the applicability of section 414 of the Act in this instance.

9. The Trustee, which is independent of the Employer, has represented that it has reviewed the proposed lease of the New Warehouse and has determined that it is favorable to the Plan. Further, the Trustee has agreed to enforce all of the terms and conditions of the lease of the New Warehouse.

10. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) The Plan will retain unencumbered title to a fixed, appreciating and income producing asset while incurring no expenses;

(2) The Plan will receive the fair market rental value for its property as determined by an independent real estate appraiser;

(3) The independent Trustee, having reviewed all of the terms of the proposed lease, has determined that it is favorable to the Plan; and

(4) The Trustee will enforce the terms and conditions of the lease.

Notice to Interested Persons

Notice of the proposed exemption as published in the **Federal Register** will be furnished to all Plan participants. The notice will be prominently posted in the Employer's various business locations in areas frequented by the Plan participants, and each Plan participant will receive written notification of the Notice of Pendency. Interested persons will also be informed of their rights to comment and request a hearing. The notice will be provided within 20 days of publication in the **Federal Register.**

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the lease of the New Warehouse by the Plan to the Employer, as described herein, so long as the rental amount received by the Plan represents the fair market value of the New Warehouse.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 27th day of December, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-494 Filed 1-6-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday, Tuesday, and Wednesday, January 24–26, 1983. The meeting on Monday and Tuesday will be held in Rooms 6802 and B–841 at the Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. The panel meeting scheduled on Wednesday will be held in Room B–100, Page Building #1, 2001 Wisconsin Avenue, NW., Washington, D.C. The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government, was established by Congress by Pub. L. 95–63, on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth and assessment, on a selective basis, of reports as may from time to time be requested by the President or Congress.

The tentative agenda is as follows:

Monday, January 24, 1983

Department of Commerce, 14th St. and Constitution Avenue, NW., Washington, D.C. Rooms 6802 and B–841
9:00 a.m.–12:30 p.m.—Plenary
9:00 a.m.–9:30 a.m.—Announcements, Room 6802
9:30 a.m.–12:30 a.m.—Sea Grant, Chairman: Jack R. Van Lopik, Room 6802
Speakers: Ned Ostenso, National Sea Grant College Program; Athelstan Spilhaus; James Curlin; Others To Be Announced
12:30 p.m.–1:30 p.m.—Lunch
1:30 p.m.–5:00 p.m.—Panel Meetings
1:30 p.m.–3:30 p.m.—Hydrology, Chairman: Paul Bock, Room B–841
Topic: Panel Work Session
1:30 p.m.–5:00 p.m.—Radioactive Waste Disposal, Chairman: John A. Knauss, Room 6802
Speakers: Loring Mills, Edison Electric Institute; Susan Wiltshire, Research and Planning, Inc.; Christopher Roosevelt, The Oceanic Society; Others To Be Announced
5:00 p.m.—Recess

Tuesday, January 25, 1983

Department of Commerce, 14th St. and Constitution Avenue, NW., Washington, D.C.; Rooms 6802 and B–841
8:30 a.m.–12:00 Noon—Panel Meeting
8:30 a.m.–10:30 a.m.—Sea Grant, Chairman: Jack R. Van Lopik, Room 6802
Topic: Panel Works Session
10:30 a.m.–12:00 Noon—Plenary
Hydrology, Chairman: Paul Bock, Room B–841
Topic: Tentative Recommendations from Panel Report
12:00 Noon–1:00 p.m.—Lunch
1:00 p.m.–3:30 p.m.—Plenary
Action Items—Review and Approval of Marine Transportation Report, Panel Chairman: Don Walsh
Review and Approval of Coast Guard Report, Panel Chairman: Michael R. Nacos
Panel Reports
3:30 p.m—Adjourn Regular Meeting

Wednesday, January 26, 1983

Page Building #1, Room B–100, 2001 Wisconsin Avenue, NW., Washington, D.C.
9:00 a.m.–3:00 p.m.—Panel Meeting
9:00 a.m.–3:00 p.m.—Undersea Technology, Chairman: Sylvia Earle
Topic: Initiate Panel Review
Speakers: TBA
3:00 p.m—Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concering this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235.

Dated: January 4, 1983.
Steven N. Anastasion,
Executive Director.
[FR Doc. 83-487 Filed 1-6-83; 8:45 am]
BILLING CODE 8010-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12940]

Chatsworth Investments, Inc., Order Application

December 30, 1982.

In the matter of Chatsworth Investments, Inc., c/o Rosemary T. Berkery, Esq., Shearman & Sterling, 153 East 53rd Street, New York, New York 10022 (812–5354). Notice is hereby given that Chatsworth Investments, Inc., a Delaware corporation, filed an application on October 25, 1982, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all of the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant states that it was organized on October 21, 1982 for the sole purpose of engaging in the business of issuing and selling commercial paper notes and using the net proceeds of sale thereof to purchase participations in certain loans made by Citibank, N.A. ("Citibank"), a national banking association organized and existing under the laws of the United States.

Applicant represents that payment of principal of, and interest on, Applicant's commercial paper will be guaranteed by The Travelers Indemnity Company ("Travelers"), a Connecticut corporation, pursuant to commercial paper bonds of indemnity to be issued by Travelers with respect to such commercial paper. It is further stated that substantially all of Applicant's assets will consist of participations purchased from Citibank in loans made or otherwise owned by Citibank meeting certain eligibility criteria.

Applicant represents that none of its outstanding common stock is, or in the future is proposed to be, owned by Citibank or by Travelers or by any of their respective affiliates, but that, Citibank has agreed that, upon the entry of a decree or order for relief of an involuntary bankruptcy of Applicant, the stockholders of Applicant may, after notice and receipt of any requisite regulatory approvals, require Citibank to purchase the common stock of Applicant held by them, in which case Applicant would cease to conduct the activities described herein. Applicant further states that it is expected that approximately 40% of Applicant's outstanding common stock will be held in a voting trust, the trustee of which will be a designee of Travelers, pursuant to which Travelers will have veto power over certain corporate matters which, as provided in Applicant's certificate of incorporation, require the affirmative vote of two-thirds of the holders of Applicant's common stock. Applicant represents that there has been, and undertakes that in the future there will be, no public offering of Applicant's common stock or of any other equity security of Applicant.

Applicant states that it proposes to issue and sell in the United States short-term negotiable promissory notes generally referred to as commercial paper ("Notes"). It is stated that the Notes will be offered and sold without registration under Section 5 of the Securities Act of 1933, as amended ("Securities Act"), in reliance upon an opinion of counsel to the effect that the offering and sale of the Notes will be entitled to the exemption from the registration requirements of the Securities Act afforded by Section 3(a)(3) thereof. Applicant represents that the Notes will not be issued or sold until Applicant has received such an opinion.

Applicant states forther that the Notes will be sold in denominations of $100,000 or more, will mature not more than 90 days from the date of issuance and will not be payable on demand prior to maturity or include any provisions for extension, renewal or automatic "roll-over" at the option of either the holder or applicant. Applicant further represents that the Notes, prior to issuance, will have received one of the three highest ratings from at least one of the nationally recognized statistical rating organizations.

Applicant further states that the net proceeds of the sale of the Notes will be used by Applicant to purchase participations ("Participations") from Citibank in loans meeting specified eligibility criteria. It is stated, in addition, that the maturity date and the principal amount of each Participation purchased by Applicant shall be identical to the maturity date and principal amount of each issuance of Notes, the proceeds of which are used to purchase such Participation. Each issuance of Notes shall, applicant further states, be made on the same business day on which the Participation to which such issuance relates is purchased. it is further stated that it is intended that Applicant will not purchase any Participation unless the "participation rate" thereon will be sufficient to pay all related costs and expenses of Applicant, including but not limited to, all costs and expenses of the related note issuance, a proportionate share of the premium payments on the bonds of indemnity (as defined hereinbelow) and Applicant's general operating costs, and to provide Applicant with income at a specified rate of return.

Applicant represents that payment of the principal of, and interest on, the Notes will be unconditionally guaranteed by Travelers pursuant to its obligations under the commercial paper bonds of indemnity ("Bonds of Indemnity") to be issued with respect to the Notes. Applicant undertakes, moreover, to not issue any Notes other than Notes the full payment of which is guaranteed by Travelers pursuant to the Bonds of Indemnity. It is further stated that, in order to secure the performance of Applicant's covenants to pay Travelers the premiums on the Bonds of Indemnity when due and to indemnify Travelers for certain losses Travelers may incur as a consequence of the performance of its obligations under the Bonds of Indemnity, Applicant shall transfer, pledge and assign to a trustee ("Trustee") in trust for the benefit of Travelers, and at all times maintain in the trust estate, "eligible collateral" (consisting of the Participations, evidenced by a master Participation certificate, and/or cash in an amount at least equal to the amount of principal, plus interest to maturity (or the face amount, in the case of Notes sold on a discount basis) of all Notes then outstanding. Applicant represents that it shall also assign to the Trustee, with respect to any Participation included in the trust estate, all its rights under the loan agreement pertaining to its purchase of Participations from Citibank, including the right to have certain Participations repurchased by Citibank.

Applicant further represents that the Notes will be offered publicly to the types of sophisticated investors who ordinarily participate in the commercial paper market and that, although an announcement of the establishment of the commercial paper may be made as a matter of record, the Notes will not be advertised or otherwise offered for sale to the general public.

Applicant undertakes to ensure that each dealer in the Notes will furnish each offeree a memorandum describing the Notes and the businesses of Travelers and Applicant. Applicant represents that such memoranda will be updated to reflect material adverse changes in the financial condition of

Travelers or Applicant and will be at least as comprehensive as memoranda customarily used in offering commercial paper in the United States. Applicant further undertakes to select a major commercial bank to act as issuing and paying agent for the Notes, and it is stated that it is anticipated that Citibank will initially be selected to perform this function.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or conditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that the exemption requested should be granted as being appropriate in the public interest, and consistent with the protection of investors and with the purposes underlying the Act. In support of this assertion, it is stated that the sole business of Applicant is to purchase Participations from Citibank, thereby making available to Citibank an additional source of funding for high-quality, short-term loans to its creditworthy, domestic corporate customers. Therefore, it is further asserted that Applicant's purpose and operations would be virtually identical to the purpose and operations of domestic banks, which are specifically excepted by Section 3(c)(3) from the definition of investment company contained in the Act, and to the operations of foreign banks and foreign subsidiaries of domestic banks which the Commission has heretofore exempted from all provisions of the Act pursuant to Section 6(c) of the Act. Applicant further states that Participations, its only investment, are the obligations of a national bank which is a member of the Federal Reserve System, and that Citibank will be under an obligation to repurchase such Participations under specified circumstances. Applicant's Notes, it is further stated, will be unconditionally guaranteed by Travelers, an insurance company subject to the supervision of the insurance commissioners of each of the 50 states in which it is licensed to conduct its surety and insurance business. Thus, Applicant maintains that although Applicant itself is neither a bank, as defined in Section 2(a)(5) of the Act, nor an insurance company as defined in Section 2(a)(17) of the Act, Applicant's business operations will, by reason of the limitation of its investments to Participations and the unconditional guaranty of its Notes by Travelers, provide safeguards against the abuses sought to be eliminated by the Act's provisions equivalent to the safeguards which are provided by the operations of banks and insurance companies. Similarly, it is argued, the foregoing factors together with certain additional factors, obviate the need for the regulatory protections afforded by the Act. Such other factors, Applicant states, are: (i) The comprehensive federal bank regulation to which Citibank is subject, (ii) the extensive state regulation to which Travelers is subject, and (iii) the disclosure and periodic reporting requirements to which Citicorp and The Travelers Corporation, the parent companies of Citibank and Travelers, respectively, are subject under the Securities Exchange Act of 1934. Applicant also alleges that the type of operations in which it will engage do not give rise to the types of abuses, such as insider loans and other forms of self-dealing, which Applicant believes the Act was principally designed to remedy. Therefore, it is stated, exemption of Applicant pursuant to Section 6(c) of the Act would not diminish investor protection against such abuses.

Finally, Applicant contends that the limited purpose for which it has been created, the nature of its assets, and the dependence by investors upon entities other than Applicant for repayment of Applicant's commercial paper indicate that Applicant is a different type of entity from that to which Congress intended the Act to apply. Section 6(c) of the Act, Applicant further states, was designed to implement Congressional intent by providing the Commission with a basis for exempting persons who fall within the Act's definition of investment company where such status under the Act, or the unusual circumstances attending such status, were not foreseen by Congress at time it framed the investment company definition set forth in the Act. Thus, Applicant believes that in view of the facts and circumstances summarized herein, exemption of Applicant from all provisions of the Act pursuant to Section 6(c) would be consistent with the purposes and intent of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 24, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-455 Filed 1-6-83; 8:45 am]

BILLING CODE 8210-01-M

[Release No. 19366; SR-CBOE-80-16]

Chicago Board Options Exchange, Inc.; Proposed Rule Change

December 30, 1982.

In the matter of Chicago Board Options Exchange, Inc., LaSalle at Jackson, Chicago, IL 60604, (SR-CBOE-80-16), order extending partial approval of proposed rule change on a summary and temporary basis and notice of extended public comment period.

On June 9, 1980, the Chicago Board Options Exchange, Incorporated ("CBOE"), filed with the Commission, pursuant to the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to modify its operations and procedures relating to options market makers.[1] That rule change was approved by the Commission on February 12, 1982,[2] but its approval order was vacated by the United States Court of Appeals for theSeventh Circuit in *Clement* v. *Securities and Exchange Commission* on April 5, 1982, and the

[1] Notice of the proposed rule change was published in Securities Exchange Act Release No. 16919 (June 24, 1980), 45 FR 43914 (1980). Subsequently, on July 9, 1980, the CBOE filed an amendment to the proposed rule change excluding certain closing transactions from the calculations of transactions required to be executed in person by market makers and requiring the recording of additional information on market maker orders. Notice of the amendment to the proposed rule change was published in Securities Exchange Act Release No. 17012 (July 25, 1980), 45 FR 51325 (1980).

[2] Securities Exchange Act Release No. 17535 (February 12, 1981), 46 FR 13055 (1981).

matter was remanded to the Commission.[3]

On May 11, 1982, the Commission reviewed the rule filing and approved, on a summary basis and for a 90-day period, those portions of the proposed rule change not in contention in the judicial proceeding.[4] That approval was extended for an additional 90 days on August 16, 1982 in anticipation of an amendment to the proposed rule change.[5] CBOE filed a substantive amendment to the proposed rule change on October 19 1982. To permit the Commission to review this amendment, the Commission on November 1, 1982, exended its temporary approval for an additional 60 days from that date.[6]

The amended proposed rule change requires, among other things, that for each month in a quarter and except in unusual circumstances, 75 percent of a market maker's total options contract volume must be in his appointed options classes and 25 percent of this total options transactions must be executed in person.

The Commission has received a letter of comment concerning the proposed rule from the Chicago Board of Trade ("CBT"), which asserts that the rule would have anticompetitive and discriminatory effects, particularly as applied to CBT members who are also CBOE members.[7] The CBT also requested that the Commission extend the comment period on the proposed rule change. In addition, six comment letters have been submitted to the CBOE, which has forwarded the comments to the Commission.[8] The Commission is interested in receiving further public comment on the rule proposal and is therefore extending the public comment period to January 31, 1983. At the same time, in order to allow the Commission adequate time to review the rule proposal, as well as any additional public comment that may be received, the Commission is extending its temporary approval of those portions of the proposed rule change not at issue in *Clement* v. *Securities and Exchange Commission* that previously were approved on a temporary and summary basis.[9]

In order to assist the Commission in determining whether to approve the proposed rule change as amended or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning any portion of the proposed rule change by January 31, 1983. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR–CBOE–80–16.

Copies of the original submission, all subsequent amendments, all written statements with respect to the proposed changes which are filed with the Commission and all written communications relating to the proposed changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

It is therefore ordered, that the proposed rule change referenced above, and to the extent indicated above, be, and it hereby is, approved until March 30, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–459 Filed 1–6–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12938]

Cralin Money Market Fund, Inc.; Application

December 30, 1982.

In the matter of; Cralin Money Market Fund, Inc.; 220 East 51st Street, New York, New York 10022, (811–3157); notice of filing of an application for an order pursuant to section 8(f) of the Act declaring that applicant has ceased to be an investment company.

Notice is hereby given that Cralin Money Market Fund, Inc. ("Appicant"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application pursuant to Section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Organized as a corporation under Maryland law, Applicant made its initial public offering on May 17, 1982. Applicant states that, at a meeting held on July 30, 1982, its board of directors directed the officers to effect a complete redemption of all outstanding shares of Applicant as soon thereafter as possible. At the annual meeting of shareholders held on August 26, 1982, Applicant states that its shareholders unanimously approved the proposed termination of Applicant as an investment company. Applicant states that on August 27, 1982, it distributed all of its assets, which aggregated $8,500,765, pro rata to its shareholders.

Applicant declares that when it filed its application it had no assets and was not engaged nor did it propose to engage in any business activity other than that necessary for the winding-up of its affairs, that it has no outstanding liabilities, that it is not a party to any litigation or administrative proceeding, that it has no securityholders, and that it intends to file a certificate of dissolution under the Maryland General Corporation Law.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company under the Act shall terminate.

Notice is further given that any interested person may, no later than January 24, 1982, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his/her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or such person may request to be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application herein will be issued as a

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[3] *Clement* v. *Securities and Exchange Commission*, 674 F.2d 641 (7th Cir. 1982).

[4] *See* Securities Exchange Act Release No. 18727 (May 11, 182), 47 FR 21169 (1982).

[5] Securities Exchange Act Release No. 18963 (August 16, 1982), 47 FR 37020 (1982).

[6] Securities Exchange Act Release No. 19203 (November 1, 1982), 47 FR 50790.

[7] Letter from Thomas R. Donovan, Chairman, Chicago Board of Trade to George A. Fitzsimmons, December 10, 1982.

[8] *See* File No. SR–CBOE–80–16.

[9] CBOE has requested by letter that the Commission extend its temporary approval for 90 days. *See* letter from Anne Taylor to Thomas G. Lovett, December 20, 1982. File No. SR–CBOE–80–16.

matter of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-457 Filed 1-6-83; 8:45 am]

BILLING CODE 8010-01-M

[Release NO. 12937]

Oxford Cash Management Fund; Order Application

December 30, 1982.

In the matter of; Oxford Cash Management Fund; 200 Park Avenue, New York, New York 10017, (812-5359); notice of filing of application for an order pursuant to section 6(c) of the act exempting applicant from the provisions of section 2(a)(41) of the act and rules 2a-4 and 22c-1 thereunder.

Notice is hereby given that Oxford Cash Management Fund ("Applicant"), registered under the Investment Company of 1940 ("Act") as an open-end diversified, management investment company filed an application requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share, for the purposes of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all respects, portfolio securities held by Applicant will be valued in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("Release No. 9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is organized as a Massachusetts business trust, and that it is a "money market" fund, the investment objective of which is to achieve as high a level of current income as is consistent with high stability and liquidity of capital, through investment in a portfolio of "money market" securities meeting specified quality standards. According to the preliminary prospectus filed on October 8, 1982, with Applicant's N-1 registration statement under the Securities Act of 1933, Applicant proposes to invest in (1) Obligations issued or guaranteed by the United States government or its agencies or instrumentalities ("U.S. Government Securities"); (2) time deposits, certificates of deposit, bankers' acceptances and other bank instruments, if they are obligations of a domestic bank subject to regulation by the U.S. Government and having total assets of at least $1.5 billion (but not including obligations issued by foreign branches of these banks), and instruments secured by any such obligation; (3) commercial paper, including variable amount master demand notes, rated A-1 by Standard Poor's Corporation ("S&P") or Prime-1 by Moody's Investors Service, Inc. ("Moody's") or, if not rated, issued by a corporation the debt obligations of which Applicant is permitted to acquire; (4) corporate debt obligations if they are rated AAA or aA by S&P, or Aaa or Aa by Moody's; and (5) certain other obligations acompanied by a guarantee of prinicpal and interest by either a bank the obligations of which Applicant may acquire, or by a corporation the commercial paper of which Applicant may acquire; and (6) repurchase agreements relating to the foregoing classes os securities. Applicant's preliminary prospectus states that the collateral under any repurchase agreement will be marked to market every business day so that the value of the collateral is at least equal to the value of the loan, including the accrued interest earned thereon, plus sufficient additional market value as is considered necessary to provide a margin of safety. The preliminary prospectus also states that Applicant's investment adviser will regularly review the financial strength of all vendors of repurchase agreements to Applicant. Finally, Applicant's preliminary prospectus states that Applicant will not enter into any repurchase agreement which will cause more than 10% of its assets to be subject to repurchase agreements having a maturity of more than seven days.

Applicant states that its net asset value per share will remain constant at $1.00 except under extraordinary circumstances, as capital changes are reflected in dividends declared rather than in net asset value. Applicant states further that the maintenance of constant net asset value per share is a crucial factor in attracting and retaining investors. Applicant believes that by valuing its shares in accordance with the "penny-rounding" valuation method it will be able to maintain a constant share value for its shareholders together with full liquidity and a satisfactory investment yield.

Rule 22c-1 provides, in pertinent part, that no registered investment company or principal underwriter therefor, issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Section 2(a)(41) of the Act defines value to mean (i) with respect to securities for which market quotations are readily available, the market value of such securities and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount that reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further provides that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors. The Commission has expressed the view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent generally, with the provisions of Rule 2a-4 for a "money market" fund using a "floating" net asset value to "round off" calculations of its net asset value per share to the nearest one cent on a share value of $1.00 (Release No. 9786). Although Applicant does not use a floating net asset value, it believes that an exemption from the above-cited provisions is necessary to enable Applicant to use the penny-rounding method of valuation in circumstances in which Applicant's capital depreciation on a particular day exceeds its current income for that day. Under such circumstances, Applicant would want to be able to maintain its net asset value per share at $1.00 notwithstanding the effect which capital depreciation would have upon the net asset value for that day.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Aot.

In support of the exemptions requested, Applicant states that the issuance of the requested order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is asserted that shareholders who purchase Applicant's shares with the expectation of receiving high current income and stability of principal would be unfairly treated should there be a deviation from the $1.00 price per share. Applicant represents that prior to adopting the penny-rounding valuation method, Applicant's Board of Trustees shall have determined, in good faith based upon a full consideration of all material factors, that, absent unusual circumstances, such valuation method will fairly reflect the value of each shareholder's interest in Applicant; and Applicant has agreed that it will continue to use the penny-rounding valuation method only so long as its Board of Trustees believes that such method fairly reflects the value of each shareholder's interest. In addition, Applicant submits that by adhering to the conditions set forth immediately hereinafter it will substantially reduce the likelihood of significant variations from a constant share price and of any dilution of the assets and returns of incoming or outgoing shareholders:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees, undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objective, that Applicant's price per share as computed for the purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity [1] appropriate to its objective of maintaining a stable price per share. Applicant will not purchase any instrument with a remaining maturity of more than one year; nor will it maintain a dollar-weighted average portfolio maturity that exceeds 120 days.[2]

3. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments that the Board of Trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Trustees.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 24, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-486 Filed 1-6-83; 8:45 am]

BILLING CODE 8010-01-M

[1] In determining the dollar-weighted average portfolio maturity and the maturity of any individual instrument, Applicant will use the definition of "maturity of an instrument" contained in proposed Rule 2a-7 set forth in Release No. IC-12206 (January 29, 1982), whether or not the proposed rule is withdrawn, or upon the effectiveness of a final rule, the definition contained in such final rule. Applicant will also treat instruments called for redemption in one year or less as maturing within one year.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 19385; SR—PSE—82—15]

Pacific Stock Exchange, Inc.; Proposed Rule Change

December 30, 1982.

In the matter of: Pacific Stock Exchange, Inc., 618 South Spring Street, Los Angeles, CA 90014 (SR–PSE–82–15); notice of filing of proposed rule change and order granting accelerated and temporary approval of proposed rule change.

The Pacific Stock Exchange, Inc. ("PSE") submitted on December 22, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to adopt certain amendments to PSE's pilot program for the appointment and evaluation of specialists and the creation of new specialist posts (the "program") [1] and to extend the program, as amended, to December 31 1983. The proposed rule change would amend PSE Rule II, Section 1 to codify existing rules and procedures for the appointment and registration of new specialists and the creation of new specialist posts. In addition, the proposed rule change would modify the various methods used to measure specialist's performance, and add new PSE Rule II, Section 11 to provide specific standards for determining when a specialist's performance is considered below acceptable performance levels and authorize the cancellation of a specialist's registration in selected stocks where his performance has been found to be substandard.

Publication of notice of the proposed rule change is expected to be made in the **Federal Register** during the week of January 3, 1982. Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–PSE–82–15.[3]

[1] The Commission approved the program on a one year pilot basis on May 27, 1981. Securities Exchange Act Release No. 17818, May 27, 1981; 46 FR 30016, June 4, 1981. The program has been extended several times since time to formulate and file this proposed rule change. Most recently the Commission approved an extension of the program through February 23, 1983. Securities Exchange Act Release No. 19276, November 26, 1982; 47 FR 54887, December 6, 1982.

[2] The Commission in this release approves on an accelerated basis the effectiveness of the amended

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that temporary approval of the program, as amended, for a limited three month period, from January 1, 1983 to March 31, 1983, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.[3]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The proposed amendments to the program serve to strengthen the exchange's regulation of specialists and thus should help the exchange assure that its specialists maintain fair and orderly markets and fulfill their other obligations as well. By making the program, as amended, effective as of January 1, 1983, the accelerated and temporary approval permits the amended pilot program to commence during the first calendar quarter of 1983 rather than to delay implementation until the second quarter. The Commission believes it is appropriate to extend the program, as amended, pending comment upon, and Commission consideration of, approval of the program, as amended, through December 31, 1983.[4] Accordingly, the Commission finds that notice for 30 days prior to approval of the proposed rule change on a temporary basis is unnecessary and that accelerated temporary approval is in the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-458 Filed 1-6-83; 8:45 am]

BILLING CODE 8010-01-M

program from January 1, 1983 to March 31, 1983. Thus, this release notices both the amended program's effectiveness from January 1, 1983 to March 31, 1983, and its proposed effectiveness through December 31, 1983. Comments are invited on both proposals.

[3] This three-month period of effectiveness gives interested persons an opportunity to comment and affords the Commission an opportunity to consider these comments as well as any other relevant material in deciding whether or not to approve the proposed extension of the program, as amended, through December 31, 1983.

[4] If, in response to public comment, PSE specialist performance evaluation measures or exchange procedures under proposed Rule II, Section 11 are modified, any specialist performance evaluations covering the period prior to final Commission approval of the proposed rule change until December 31, 1983 could not form the basis for a hearing or reallocation proceeding pursuant to proposed Rule II, Section 11.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan No. 2069; Amdt. No. 1]

California; Declaration of Disaster Loan Area

The above numbered Declaration (See 47 FR 51838) is amended by changing the filing date on applications for loans for Economic Injury until the close of business August 5, 1983. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on January 6, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: December 30, 1982.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-429 Filed 1-6-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan No. 2073; Amdt. No. 1]

Illinois; Declaration of Disaster Loan Area

Declaration #2073 (See 47 FR 57185) is amended in accordance with FEMA's designation of December 28, 1982, to include Engelmann Township and Mascoutah Township in St. Clair County. All other information remains the same, i.e., the termination dates for filing applications for physical damage is close of business on February 11, 1983, and for economic injury until the close of business on September 13, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: December 29, 1982

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-428 Filed 1-6-83; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Richmond, Virginia, will hold a public meeting on Wednesday, January 19, 1983, from 10:00 a.m. to 7:00 p.m. at the Holiday Inn, 301 West Franklin Street, to discuss such business as may be presented by members, and staff of the U.S. Small Business Administration, or others present.

For further information, write or call M. Hawley Smith, the District Director, U.S. Small Business Administration, P.O. Box 10126, Richmond, Virginia 23240, (804) 771-2741.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

December 30, 1982.

[FR Doc. 83-430 Filed 1-6-83; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council Meeting; Public Meeting Notice

The U.S. Small Business Administration Region IX will hold a public meeting at 10:00 a.m., on Friday, February 25, 1983, at the U.S. Courthouse and Federal Building, 450 Golden Gate Avenue, Room 13216c (13th Floor), San Francisco, California, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Miss Irenemaree Castillo, Regional Administrator, U.S. Small Business Administration, 450 Golden Gate Avenue, Box 36044, San Francisco, California 94102 telephone: Area Code 415 556-7487.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

December 30, 1982.

[FR Doc. 83-431 Filed 1-6-83; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Fresno, California, will hold a public meeting on February 4, 1983, at 9:00 a.m., at the Fresno District Office, 2202 Monterey

Street, Suite 108, Fresno, California, to discuss such business as may be presented by members, and staff of the U.S. Small Business Administration, or others present.

For further information, write or call Peter J. Bergin, the District Director, U.S. Small Business Administration, 2202 Monterey Street, Suite 108, Fresno, California 93721 (209) 487–5791.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

December 30, 1982.

[FR Doc. 83–431 Filed 1–6–83; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Phoenix, Arizona, will hold a public meeting on January 25, 1983, at the DoubleTree Inn at 10:30 a.m., break for lunch at 12:00 noon and resume at 12:45 p.m., to discuss such business as may be presented by members, and staff of the U.S. Small Business Administration, or others present.

For further information, write or call Walter Fronstin, the District Director, U.S. Small Business Administration, 3030 N. Central Avenue, Phoenix, Arizona 85012 (602) 261–2206.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

December 30, 1982.

[FR Doc. 83–432 Filed 1–6–83; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, California, will hold a public meeting at 10:00 a.m. Thursday, February 3, 1983, 211 Main Street, 5th Floor, Conference Room 543, San Francisco, California 94105, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call the Office of the District Director, San Francisco District Office, 211 Main Street, 4th Floor, San Francisco, California 94105 (415) 974–0642.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

December 30, 1982.

[FR Doc. 83–434 Filed 1–6–83; 8:45 am]

BILLING CODE 8025–01–M

United States Information Agency

U.S. Advisory Commission on Public Diplomacy; meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on January 18, 1983 from 9:30 a.m. to 12:15 p.m. and from 1:30 p.m. to 4:00 p.m. in Room 600, 400 C Street, SW., Washington, D.C. In the morning there will be a discussion of USIA's budget; in the afternoon there will be a discussion on East Asia.

Since space is limited, please call Elizabeth Fahl (202) 724–9244, if you are interested in attending the meeting.

Mary Jane Winnett,

Management Analyst, Management Plans, Analysis, Directives Staff, Bureau of Management, United States Information Agency.

[FR Doc. 83–410 Filed 1–6–83; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 5
Friday, January 7, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, January 14, 1983.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–17–83 Filed 1–5–83; 3:32 pm]

BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, January 21, 1983.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–18–83 Filed 1–5–83; 3:35 pm]

BILLING CODE 6351–01–M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Equal Employment Opportunity Commission

DATE AND TIME: 9:30 a.m. (Eastern Time), Tuesday, January 11, 1983.

PLACE: Commission Conference Room No. 5240 on the fifth floor of the Columbia Plaza Office Building, 2401 E Street N.W. Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Votes.
2. Report on Commission Operations (Optional).

CLOSED:

1. Litigation Authorization; General Counsel Recommendations.
2. Commission Decision; Charge No. OGCH–75–001.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This notice issued January 4, 1983.

[S–11–83 Filed 1–5–83; 9:24 am]

BILLING CODE 6750–06–M

4

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., January 11, 1983.

PLACE: Hearing Room One—1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 10453: Sailing and Chartering Agreement between Empresa Lineas Maritimas Argentinas, S.A. and Bottacchi, S.A. de Navegacion C.F.I.I.
2. Agreement No. 10407: The Nigeria United States Discussion Agreement.
3. Docket Nos. 82–32 and 82–33: Filing and Service fees—Consideration of comments and proposed final rules.

Portion closed to the public:

1. Docket No. 82–54: Agreements Nos. 9718–7, 9718–8, 9731–8, 9835–5, 9975–7, 10116–4 and 10274–1—Space Charter and Cargo Revenue Pooling Agreements in the United States/Japan Trades—Petition for reconsideration or clarification of order of investigation and hearing.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Assistant Secretary, (202) 523–5725.

[S–10–83 Filed 1–6–83; 9:00 am]

BILLING CODE 6730–01–M

5

INTER-AMERICAN FOUNDATION

TIME AND DATE:

6–8 p.m., January 17, 1982.
9 a.m.–12 p.m., January 18, 1982.

PLACE: 1515 Wilson Boulevard, Fifth Floor, Rosslyn, Virginia 22209.

STATUS: Open.

MATTERS TO BE CONSIDERED:

January 17, 1982

1. Transition to Chairman:
   a. Farewell Remarks by Outgoing Chairman Peter T. Jones.
   b. Comments by President Peter D. Bell.
   c. Introductory Remarks by Incoming Chairman Victor Blanco.

January 18, 1982

2. President's Report.
3. Minutes of the September 20–21, 1982, Board Meeting.
4. Report by the Audit Committee.
5. Other Business.

CONTRACT PERSON FOR MORE INFORMATION: Lawrence E. Bruce, Jr., (703) 841–3812.

[S–12–83 Filed 1–5–83; 10:12 am]

BILLING CODE 7025–01–M

6

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 10 a.m., Tuesday, January 11, 1983.

PLACE: Hyatt Regency Dallas, 300 Reunion Boulevard, Dallas, TX 75207, Reunion Ballroom.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.
2. Proposed Corporate Federal Credit Union Standard Bylaws.
3. Policy Regarding Credit Union Membership for Members of Immediate Families.
4. Clarification of Current Chartering Policy Applicable to Multiple Group Fields of Membership Expansions.

TIME AND DATE: 4 p.m., Monday, January 10, 1983.

PLACE: Hyatt Regency Dallas, 300 Reunion Boulevard, Dallas, TX 75207.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Adjudication under sections 120 and 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(a)(ii) and (10).

2. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-13-83 Filed 1-5-83; 10:56 am]

BILLING CODE 7535-01-M

7

NUCLEAR REGULATORY COMMISSION

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Week of January 10, 1983.

PLACE: Commissioner's Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Monday, January 10

1:30 p.m.
Discussion and Possible Vote on Proposed Safety Goals and Staff Evaluation Plan (Public Meeting)

Tuesday, January 11

10:00 a.m.:
Discussion/Possible Vote on Human Factors Program Plan (Public Meeting)
2:00 p.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 & 6)

Wednesday, January 12

10:00 a.m.:
Discussion and Possible Vote on Waste Confidence Order (Open/Portion Closed—Exemption 10)
2:00 p.m.:
Briefing on Status of Litigation in PANE vs. NRC and Staff Actions Regarding Psychological Stress (Closed—Exemption 10)

Thursday, January 13

10:00 a.m.:
Discussion of Immediate Effectiveness Issues in TMI-1 Restart Proceeding (Closed—Exemption 10)
3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule on OL Applications (Tentative)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

[S-14-83 Filed 1-5-83; 11:31 am]

BILLING CODE 7590-01-M

8

SECURITIES AND EXCHANGE COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (To be published)

STATUS: Closed meeting.

PLACE: 450 5th Street NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, December 30, 1982.

CHANGES IN THE MEETING: Rescheduling/additional items.

The following closed items previously scheduled for Tuesday, January 4, 1983, at 10:30 a.m. have been rescheduled for Wednesday, January 5, 1983, at 9:30 a.m:

Institution of injunctive actions.
Litigation matter.
Regulatory matter regarding financial institutions.
Opinions.

The following additional item also will be considered at the closed meeting scheduled for Wednesay, January 5, 1983, at 9:30 a.m:

Settlement of administrative proceeding of an enforcement nature.

Chairman Shad and Commissioners Evans, Thomas, Longstreth and Treadway determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Catherine McGuire at (202) 272-2400.

January 4, 1983.

[S-15-83 Filed 1-5-83; 1:06 pm]

BILLING CODE 8010-01-M

9

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1304]

TIME AND DATE: 10:15 a.m. (EST), Wednesday, January 12, 1983.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda Item:

C—Power Items

* C1. Uranium loan agreement with Saskatchewan Mining Development Corporation for the loan of up to 1,750,000 pounds of uranium concentrates.

C2. Letter agreement with East Kentucky Power Cooperative providing for TVA to wheel up to 100 MW across TVA's system to Mississippi Power & Light Company.

C3. Proposed temporary program to meet the requirements of the Residential Conservation Service under the National Energy Conservation Policy Act.

D—Personnel Items

D1. Renewal of consulting contract with Jack E. Gilleland, Signal Mountain, Tennessee, for advice and assistance in connection with TVA's power and energy-related programs, requested by the Office of Power.

D2. Supplement to personal services conctract with EDS Nuclear Inc., San Francisco, California, for advice and assistance in piping system analysis and related services, requested by the Office of Engineering Design and Construction.

E—Real Property Transactions

E1. Grant of permanent easement to Tennessee Department of Transportation and deed modification to Tennessee Wildlife Resources Agency for improvement of U.S. Route 11 W affecting Cherokee Reservoir land located in Hawkins County, Tennessee—Tract Nos. XTCK-58H and -27.

F—Unclassified

F1. Changes in designation of officers to certify vouchers.

F2. Revised TVA policy code relating to the disposition of delinquent accounts.

DATED: January 5, 1983.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

[S-16-83 Filed 1-5-83; 3:24 pm]

BILLING CODE 8120-01-M

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*Item approved by individual Board members. This would give formal ratification to the Board's action.

federal register

Friday
January 7, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Idaho: ID82-5128	Nov. 26, 1982.
New York: NY81-3018	Mar. 27, 1981.
Oregon: OR82-5100	Mar. 12, 1982.
Washington: WA82-5117	Aug. 13, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas: AR81–4060 (AR83–4008)	July 24, 1981.
Indiana: IN80–2065 (IN82–2072)	Sept. 19, 1980.
Louisiana: LA82–4050 (LA83–4001)	Oct. 15, 1982.
Tennessee: TN81–1314 (TN82–2071)	Dec. 18, 1981.
Texas:	
TX82–4001 (TX82–4002)	Jan. 29, 1982.
TX82–4002 (TX83–4007)	Jan. 15, 1982.
TX82–4024 (TX83–4006); TX82–4026 (TX83–4005); TX82–4027 (TX83–4003); TX82–4033 (TX83–4004)..	June 18, 1982.

Signed at Washington, D.C., this 30th day of December 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

SUPERSEDEAS DECISION
STATE: ARKANSAS
DECISION NO. AR83-4008
COUNTY: STATEWIDE
DATE: Date of Publication
SUPERSEDES DECISION #AR81-4060 dated July 24, 1981 in 46 FR 38249
MODIFICATION PAGE 1
DECISION NO. ID82-5128 - Mod #2
DECISION NO. WA82-5117 - Mod #6

MODIFICATION PAGE 1

DECISION NO. ID82-5128 - Mod #2
(47 FR 53612 - Nov. 26, 1982)
Statewide Idaho

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS:		
Area 1	$19.67	$3.96
ELECTRICIANS:		
Area 1:		
Electricians	18.95	3%+2.58
Cable Splicers	19.35	3%+2.58
PLUMBERS:		
Area 2	16.30	4.01
ROOFERS:		
Area 2:		
Roofers and Kettlemen	13.46	2.05
Roofers working with coal tar and pitch products	15.46	2.05
SHEET METAL WORKERS:		
Area 2	17.36	1.95
SOFT FLOOR LAYERS:		
Area 3	13.66	1.19

DECISION NO. OR82-8100 - Mod #11
(47 FR 10984 - March 11, 1982)
Statewide Oregon

CHANGE:		
BOILERMAKERS	$19.67	$3.96
ELECTRICIANS:		
Area 1:		
Electricians	15.05	4%+2.00
Cable Splicers	16.56	4%+2.00
Area 5:		
Electricians	22.55	3%+4.13
Cable Splicers	23.45	3%+4.13

DECISION NO. WA82-5117 - Mod #6
(47 FR 35433 - Aug. 13, 1982)
Statewide Washington

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS:		
Area 1	$21.53	$2.84
BOILERMAKERS	19.67	3.96
ELECTRICIANS:		
Area 1:		
Electricians	18.95	3%+2.58
Cable Splicers	19.35	3%+2.58
Area 4:		
Electricians	22.12	3%+3.38
Cable Splicers	24.33	3%+3.38
Area 5:		
Electricians	22.55	3%+4.13
Cable Splicers	23.45	3%+4.13
Area 7:		
Electricians	18.72	11%+2.28
Cable Splicers	20.59	11%+2.25
Area 8:		
Electricians	22.80	3%+2.93
Cable Splicers	25.08	3%+2.93
SOFT FLOOR LAYERS:		
Area 2	15.72	2.99

DECISION NO. NY81-3018 - MOD. #5
(46 FR 19174 - March 27, 1981)
ALBANY, RENSSELAER, SARATOGA & SCHENECTADY COUNTIES, NEW YORK

CHANGE:
Heading which reads "MOD. #3" and appeared in the Federal Register on December 11, 1981, to read "MOD. #4"

Heading which reads "MOD #4" and appeared in the Federal Register on December 17, 1982, to read "MOD. #5"

SUPERSEDEAS DECISION

STATE: ARKANSAS
DECISION NO. AR83-4008
SUPERSEDES DECISION #AR81-4060 dated July 24, 1981 in 46 FR 38249
DESCRIPTION OF WORK: Construction, alteration, and/or repair of streets, highways, runways & water & sewer utilities, (but does not include structures on highway rest areas).

COUNTY: STATEWIDE
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
Bricklayers	$6.40	
Carpenters	6.40	
Concrete finishers	6.40	
Electricians	7.75	
IRONWORKERS:		
Structural	5.60	
Reinforcing	4.80	
LABORERS:		
Air tool operator	4.55	
Asphalt heater operator	4.55	
Asphalt raker	5.20	
Carpenter helper	4.65	
Chain saw operator	4.65	
Checker grade	4.80	
Concrete finisher helper	4.65	
Concrete joint sealer	4.65	
Concrete saw operator	4.65	
Form setter	4.80	
Laborer	3.60	
Pipelayer	4.80	
Powderman	5.60	
Vibratorman	4.55	
Painter	5.60	
Pile driver leadman	5.60	
POWER EQUIPMENT OPERATOR:		
Aggregate spreader op.	5.10	
Asphalt plant fireman	4.30	
Asphalt plant drier op.	4.30	
Batch plant operator	5.10	
BULLDOZER OPERATORS:		
Finish	6.15	
Rough	5.35	
Bull float operator	4.95	
Concrete curing machine op.	5.20	
CONCRETE MIXER OPERATOR:		
Less than 5 sacks	4.65	
5 sacks or over	5.60	
Backhoe op.-rubbertired (1 yard or less)	5.35	
Cherry picker operator	5.35	
Concrete paver operator	5.90	
Concrete spreader operator	5.90	
CRANES-DERRICKS-DRAGLINE, SHOVEL-BACKHOE OPERATORS:		
1-1/2 yard or less	6.15	
Over 1-1/2 yard	6.40	
Crusher operator	4.95	
POWER EQUIPMENT OP.(cont'd)		
Distributor operator	$4.95	
Drill operator (wagon or truck)	5.35	
Elevating grader operator	5.90	
Euclid or like equip. op. (bottom or end dump)	4.80	
Finishing machine op.	5.35	
Forklift operator	4.45	
Form grader operator	4.45	
FRONT END LOADER OP.:		
Finish	5.90	
Rough	5.35	
Hydro seeder operator	4.80	
Mechanic	6.15	
Mechanic helper	4.80	
MOTOR PATROL OPERATOR:		
Finish	6.15	
Rough	5.35	
Mulching machine op.	4.80	
Oiler and greaser	5.60	
Pug Mill operator	4.55	
Roller op.(self-propelled)	4.80	
SCRAPER OPERATORS:		
Finish	6.15	
Rough	5.35	
Sod slicing machine op.	4.40	
Stabilizer mixing machine	4.95	
TRACTOR OPERATORS:		
Crawler type	4.80	
Farm and wheel	4.55	
Wheel type (with attachments 1 yd. or under)	4.95	
Trenching machine op.	4.95	
STONEMASONS	6.40	
TRUCK DRIVERS:		
Distributor truck driver	4.80	
Semi-trailer	4.80	
Lowboy driver	5.35	
Transit mix truck driver	4.80	
TD-Heavy max. pay load in excess of 3000 lbs.	4.55	
TD-Light max. pay load 3000 lbs.	4.30	
WELL DRILLERS	6.15	

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Indiana COUNTY: See Below *
DECISION NUMBER: IN82-2072 DATE: Date of Publication
Supersedes Decision No. IN80-2085, dated September 19, 1980 in 45FR 62664
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

*Allen, DeKalb, Huntington, Noble, Steuben, & Whitley Counties	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 8.80	
CARPENTERS	7.40	
CEMENT MASONS	7.50	
DRYWALL FINISHER/TAPERS	7.80	
DRYWALL HANGERS	8.40	
ELECTRICIANS	7.63	
INSULATORS	8.50	
LABORERS	6.07	
PAINTERS	7.41	
PLUMBERS	9.00	

	Basic Hourly Rates	Fringe Benefits
REFERS	7.00	
SHEET METAL WORKERS	6.88	
TRUCK DRIVERS	6.65	
POWER EQUIPMENT OPERATORS		
FRONT END LOADER	9.92	
PAVER OPERATOR	10.00	
BACKHOE OPERATOR	8.30	
BULLDOZER OPERATOR	8.75	
CRANE	10.20	

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses (29 CFR (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Louisiana PARISHES: ZONE 1-Jefferson & Orleans; ZONE 2-Bossier & Caddo; ZONE 3-Calcasieu; ZONE 4-Beauregard, Cameron, & Jefferson Davis; ZONE 5-Allen; ZONE 6-Plaquemines; ZONE 7-St. Bernard; ZONE 8-St. Charles
DECISION NO.: LA83-4001 DATE: Date of Publication
Supersedes Decision No. LA82-4050, dated 10/15/82 in 47 FR 46231.
DESCRIPTION OF WORK: Highway Projects (does not include building structures in rest area projects).

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS & STONEMASONS:		
ZONES 1, 6, 7 & 8	$14.35	1.84
ZONE 2	13.30	1.70
ZONES 3, 4 & 5	15.65	2.12
CARPENTERS & PILEDRIVERMEN:		
ZONE 1	14.10	2.16
ZONE 2	13.02	1.63
ZONE 3	14.10	1.60
ZONE 4	8.93	1.60
ZONE 5	10.97	1.60
ZONE 6	10.97	2.16
ZONES 7 & 8	12.11	2.16
CEMENT MASONS:		
ZONE 1	13.02	1.58
ZONE 2	12.65	.85
ZONE 3	14.38	
ZONE 4	7.91	
ZONE 5	9.95	
ZONE 6	9.95	1.58
ZONES 7 & 8	11.08	1.58
ELECTRICIANS:		
ZONES 1, 6, 7 & 8:		
Electricians	16.45	1.35+3%
Cable splicers	16.45	1.35+3%
ZONE 2:		
Electricians	14.80	2.40+4%
Cable splicers	15.30	2.40+4%
ZONES 3, 4 & 5:		
Electricians	17.70	2.00+ 3-5/10%
Cable splicers	18.20	"
IRONWORKERS:		
ZONE 1	14.24	2.08
ZONE 2	13.15	2.36
ZONE 3	14.46	1.62
ZONE 4	8.93	1.62
ZONE 5	10.97	1.62
ZONE 6	10.97	2.08
ZONES 7 & 8	12.11	2.08
LABORERS:		
ZONE 1-GROUP 1	9.40	.95
GROUP 2	9.60	.95
GROUP 3	10.00	.95
GROUP 4	10.25	.95

	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D):		
ZONE 2 - GROUP 1	$ 8.68	.80
GROUP 2	8.78	.80
GROUP 3	9.23	.80
GROUP 4	9.48	.80
ZONE 3 - GROUP 1	10.29	.94
GROUP 2	10.49	.94
GROUP 3	10.84	.94
GROUP 4	11.09	.94
ZONE 4 - GROUP 1	5.87	.94
GROUP 2	6.07	.94
GROUP 3	6.47	.94
GROUP 4	6.62	.94
ZONE 5 - GROUP 1	7.40	.94
GROUP 2	7.60	.94
GROUP 3	8.00	.94
GROUP 4	8.25	.94
ZONES 6 & 8 - GROUP 1	7.40	.95
GROUP 2	7.50	.95
GROUP 3	7.95	.95
GROUP 4	8.15	.95
ZONE 7 - GROUP 1	7.99	.95
GROUP 2	8.19	.95
GROUP 3	8.59	.95
GROUP 4	8.84	.95
LINE CONSTRUCTION:		
ZONES 1, 6, 7 & 8:		
GROUP 1 - Linemen	16.45	1.35+3%
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derricks working hot lines	75%JR	1.35+3%
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines)	65%JR	1.35+3%
GROUP 4 - Op. using truck without winch	45%JR	1.35+3%
GROUP 5 - Groundmen	50%JR	1.35+3%

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D):		
ZONE 2:		
GROUP 1 - Linemen	15.80	1.35+3%
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derricks working hot lines	70%JR	1.35+3%
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines)	60%JR	1.35+3%
GROUP 4 - Op. using truck without winch	40%JR	1.35+3%
GROUP 5 - Groundmen	45%JR	1.35+3%
ZONES 3, 4 & 5:		
GROUP 1 - Linemen	16.45	1.35+3%
GROUP 2 - Op. hole digging equip.; op. tractor with winch & derrick; op. line truck with winch & derricks working hot lines	75%JR	1.35+3%
GROUP 3 - Op. using hole truck & trailer or pole hauling & setting truck (not in energized lines)	65%JR	1.35+3%
GROUP 4 - Op. using truck without winch	45%JR	1.35+3%
GROUP 5 - Groundmen	50%JR	1.35+3%
PAINTERS:		
ZONE 1	13.02	1.58
ZONE 2	12.65	.85
ZONE 3	14.38	
ZONE 4	7.91	
ZONE 5	9.95	
ZONE 6	9.95	1.58
ZONES 7 & 8	11.08	1.58
PLUMBERS & PIPEFITTERS:		
ZONE 1	14.24	2.08
ZONE 2	13.15	2.36
ZONE 3	14.46	1.62
ZONE 4	8.93	1.62
ZONE 5	10.97	1.62
ZONE 6	10.97	2.08
ZONES 7 & 8	12.11	2.08
POWER EQUIPMENT OPERATORS:		
ZONE 1	14.24	2.08
ZONE 2	13.15	2.36
ZONE 3	14.46	1.62
ZONE 4	8.93	1.62
ZONE 5	10.97	1.62
ZONE 6	10.97	2.08
ZONES 7 & 8	12.11	2.08
TRUCK DRIVERS:		
ZONE 1	14.24	2.08
ZONE 2	13.15	2.36
ZONE 3	14.46	1.62
ZONE 4	8.93	1.62
ZONE 5	10.97	1.62
ZONE 6	10.97	2.08
ZONES 7 & 8	12.11	2.08

	Basic Hourly Rates	Fringe Benefits
WELDERS:		
ZONE 1	14.24	2.08
ZONE 2	13.15	2.36
ZONE 3	14.46	1.62
ZONE 4	8.93	1.62
ZONE 5	10.97	1.62
ZONE 6	10.97	2.08
ZONES 7 & 8	12.11	2.08

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses (29 CFR (a)(1)(ii)).

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
ZONE 2:		
GROUP 1 - Linemen; ops.	$14.60	2.40+ 3-3/4%
GROUP 2 - Cable splicer	15.10	"
GROUP 3 - Groundmen	12.60	"
ZONES 3, 4 & 5:		
GROUP 1 - Linemen; ops.	17.70	2.00 + 3-1/10%
GROUP 2 - Cable splicer	18.20	"
GROUP 3 - Groundmen	15.70	"
PAINTERS:		
ZONE 1, 6, 7 & 8:		
GROUP 1 - Painters	12.055	1.895
GROUP 2 - Spray	12.43	1.895
GROUP 3 - Industrial	14.005	1.895
ZONE 2 - All painters	11.25	1.25
ZONES 3, 4 & 5 (Allen Par. except northeast corner):		
GROUP 1 - Brush	15.795	.45
GROUP 2 - Spray, sandblasting, hydroblasting, spider op., rubberizing & pyroflexing, steam jennies	16.17	.45
Allen Par. (northeast most corner, north of Rt. 10):		
GROUP 1 - Painters	10.75	
GROUP 2 - Spray	11.60	
GROUP 3 - Industrial	12.10	
PLUMBERS & PIPEFITTERS:		
ZONES 1, 6, 7 & 8	15.80	2.43
ZONE 2	13.94	3.04
ZONES 3, 4 & 5	17.48	2.00
POWER EQUIPMENT OPERATORS:		
ZONE 1:		
Asphalt or overlay projects:		
GROUP 1	12.51	2.20
GROUP 2	12.86	2.20
GROUP 3	12.36	2.20
GROUP 4	10.30	2.20
GROUP 5	9.27	2.20
GROUP 6	7.73	2.20
GROUP 7	10.30	2.20
GROUP 8	10.55	2.20
GROUP 9	7.98	2.20
Other work:		
GROUP 1	14.21	2.20
GROUP 2	14.46	2.20
GROUP 3	13.96	2.20
GROUP 4	11.34	2.20
Other work (cont'd):		
GROUP 5	10.06	2.20
GROUP 6	8.48	2.20
GROUP 7	11.39	2.20
GROUP 8	11.64	2.20
GROUP 9	8.73	2.20
ZONE 2 - GROUP 1	13.33	2.20
GROUP 2	13.58	2.20
GROUP 3	13.08	2.20
GROUP 4	10.87	2.20
GROUP 5	9.49	2.20
GROUP 6	8.47	2.20
GROUP 7	11.25	2.20
GROUP 8	11.50	2.20
GROUP 9	8.72	2.20
ZONE 3 - GROUP 1	14.42	2.20
GROUP 2	14.67	2.20
GROUP 3	14.17	2.20
GROUP 4	11.68	2.20
GROUP 5	10.25	2.20
GROUP 6	8.02	2.20
GROUP 7	12.02	2.20
GROUP 8	12.27	2.20
GROUP 9	8.27	2.20
ZONE 4 - GROUP 1	9.19	1.95
GROUP 2	9.44	1.95
GROUP 3	8.93	1.95
GROUP 4	7.60	1.95
GROUP 5	6.74	1.95
GROUP 6	5.77	1.95
GROUP 7	7.66	1.95
GROUP 8	7.91	1.95
GROUP 9	6.02	1.95
ZONE 5 - GROUP 1	11.23	1.95
GROUP 2	11.48	1.95
GROUP 3	10.97	1.95
GROUP 4	9.39	1.95
GROUP 5	8.32	1.95
GROUP 6	7.09	1.95
GROUP 7	9.44	1.95
GROUP 8	9.70	1.95
GROUP 9	7.35	1.95
ZONE 6 - GROUP 1	11.23	2.20
GROUP 2	11.48	2.20
GROUP 3	10.97	2.20
GROUP 4	9.39	2.20
GROUP 5	8.32	2.20
GROUP 6	7.09	2.20
GROUP 7	9.44	2.20
GROUP 8	9.70	2.20
GROUP 9	7.35	2.20

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPS. (CONT'D)		
ZONE 7:		
Asphalt or overlay projects :		
GROUP 1	$12.51	2.20
GROUP 2	12.86	2.20
GROUP 3	12.36	2.20
GROUP 4	10.30	2.20
GROUP 5	9.27	2.20
GROUP 6	7.73	2.20
GROUP 7	10.30	2.20
GROUP 8	10.55	2.20
GROUP 9	7.98	2.20
Other work		
GROUP 1	12.37	2.20
GROUP 2	12.63	2.20
GROUP 3	12.11	2.20
GROUP 4	10.36	2.20
GROUP 5	9.17	2.20
GROUP 6	7.84	2.20
GROUP 7	10.41	2.20
GROUP 8	10.67	2.20
GROUP 9	8.09	2.20
ZONE 8:		
GROUP 1	12.37	2.20
GROUP 2	12.63	2.20
GROUP 3	12.11	2.20
GROUP 4	10.36	2.20
GROUP 5	9.17	2.20
GROUP 6	7.84	2.20
GROUP 7	10.41	2.20
GROUP 8	10.67	2.20
GROUP 9	8.09	2.20
SHEET METAL WORKERS:		
ZONES 1, 6, 7 & 8	14.25	2.32+3%
ZONE 2	13.04	1.62+3%
ZONE 3	14.75	1.74+3%
ZONES 4 & 5	14.12	1.81
TRUCK DRIVERS:		
ZONE 1:		
Asphalt or overlay projects:		
GROUP 1	8.34	.95
GROUP 2	8.47	.95
GROUP 3	8.53	.95
GROUP 4	8.65	.95
GROUP 5	8.84	.95
Other work:		
GROUP 1	9.83	.70
GROUP 2	9.96	.70
GROUP 3	10.02	.70
GROUP 4	10.10	.70
GROUP 5	10.29	.70
TRUCK DRIVERS (Cont'd)		
ZONE 2 - GROUP 1	10.14	
GROUP 2	10.19	
GROUP 3	10.43	
GROUPS 4 & 5	11.05	
ZONE 3 - GROUP 1	10.37	.70
GROUPS 2, 3, 4 & 5	10.86	.70
ZONE 4	6.89	.70
ZONES 5 & 6	8.93	.70
ZONE 7:		
Asphalt or overlay projects:		
GROUP 1	8.34	.95
GROUP 2	8.47	.95
GROUP 3	8.53	.95
GROUP 4	8.65	.95
GROUP 5	8.84	.95
Other work	10.05	.70
ZONE 8	10.05	.70

WELDER - receive rate prescribed for craft performing operation to which welding is incidental

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LABORERS CLASSIFICATION DEFINITIONS
GROUP 1 - Laborers, including but not limited to foundation driller & demolishing & dismantling man
GROUP 2 - Raker, concrete spreader, carpenter tenders, distributor man, finisher tenders, formsetter tenders, jackhammer op., jetting laborer, painter tenders, pit man, pipelayer or tile layer, power monkey tender, tamper, tree pruner, stonemason tenders, stoker, asphalt raker, concrete shovelers, power tool op. & motorized buggy op.
GROUP 3 - Formsetter, head or master--high type pavement
GROUP 4 - Powderman

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - 60 ton crane & over; crane with 125 ft. boom
GROUP 2 - Crane with 175 ft. boom
GROUP 3 - Crane all types; derricks; deck winches (2); hi-ho & similar type equipment; 3 drums (or more) stabilizers; pulls all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; well point system; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers, bulldozers, rubber-tired or track other than farmtype; scoopmobiles; motor patrol; gradall; rollers on hot mix; asphalt paving machines, front end loaders, other than farmtype, 1 cu. yd. or over; shovels & backhoes, all types & equivalent equipment; piledrivers; sideboom cats;
GROUP 4 - 2 drums & single drum stabilizers; front end loaders under 1 cu. yd.; A-frame truck except when handling steel or pipe; finishing machines (concrete); power subgraders; 2 tractor (crawler type); 1 drum hoist under 40 vertical ft.; firemen; concrete spreader; pugmill; bituminous distributor on surface treatment & equivalent equipment; bullfloats & equivalent equipment; job grease man; unit op.; work boats not requiring licensed ops.; inboard-outboard motored crew boats; concrete mixer under 1 yd.; spray curing machines; roller on subgrade; 1 air compressor over 125 cu. ft.; form graders; asphalt finisher screed man; pump over 4"; scale op.; crusher op.; concrete jointing machines; concrete saw; tack machines & equivalent equipment; pumpcrete; electric elevator (inside); oiler-driver; farmtype rubber tired tractor, with attachment, except backhoes; kolum buff & similar equipment; fork lifts 10 ton capacity & under
GROUP 5 - Batch plant operator
GROUP 6 - Oiler
GROUP 7 - Firemen
GROUP 8 - Fireman operating steam valve
GROUP 9 - Oiler on crane using air to drive piles

TRUCK DRIVERS CLASSIFICATION DEFINITIONS
GROUP 1 - 1 ton & under; warehouseman, material checker, receiving clerk, spotter & dumper
GROUP 2 - 1-1/2 tons to & including 2 tons (exclusive of dump trucks)
GROUP 3 - Single axle dump trucks, single axle water trucks
GROUP 4 - Heavy equipment, tandem axle dump & tandem axle water trucks, winch lift, transit mix, floats, pole trailers, 4 axle trailers & truck mechanic
GROUP 5 - Special equipment, semis & 5 axle moving equipment

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Tennessee COUNTY: Statewide
DECISION NUMBER: TN82-2071 DATE: Date of Publication
Supersedes Decision Number TN81-1314, dated December 18, 1981 in 46 FR 618815
DESCRIPTION OF WORK: Heavy Construction Projects (except Hamilton County), Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	10.47		PAINTERS & SANDBLASTERS	7.11	
CARPENTERS OR LEAD PERSONS	7.52		POWDER PERSON (Blaster)	6.99	
CONCRETE FINISHER	7.21		TRUCK DRIVER 2 or 3 Axle	5.96	
ELECTRICIANS	12.67		TRUCK DRIVER 4 or 5 Axle (Heavy Duty)	6.27	
IRONWORKERS:			POWER EQUIPMENT OPERATORS		
Reinforcing	7.22				
Structural	7.57		CLASS A	7.62	
LABORERS:			CLASS B	7.38	
Class A	5.38		CLASS C	7.13	
Class B	6.00		CLASS D	6.33	
MECHANIC (Class I)			CLASS E	6.10	
Heavy Duty	7.84		CLASS F	5.86	
MECHANIC (Class II)					
Light Duty	7.28				

CLASSIFICATION DEFINITIONS

LABORERS:

Class A - Unskilled Laborers

Class B - Skilled Laborers - Air Tool Operator, Asphalt Raker, Chain Saw Operator, Concrete Mixer Operator (Less than 1 yard), Concrete Rubber/Edger, Fence Erector, Form Setter (Steel Road), Guard Rail Erector, Mechanic's Helper (Tire Changer or Oiler), Mortar Mixer, Nozzleman or Gun Operator (Gunnite), Pipelayer, Sign Erector

POWER EQUIPMENT OPERATORS:

Class A - Backhoe.Hydraulic Excavator (3/4 Yard & over), Crane, End Loader (3 yards & over), Motor Patrol (Finish), Pile Driver

Class B - Backhoe/Hydraulic Excavator (Less than 3/4 yard), Bull Dozer or Push Dozer, End Loader (Less than 3 yards), Motor Patrol Operator (Rough), Tractor (Crawler/Utility), Scraper, Shovel, Trenching Machine

CLASS C - Asphalt Paver, Concrete Finishing Machine, Concrete Paver, Scale, Spreader (Self-Propelled)

DECISION NO. TN82-2071

STATE: Texas

SUPERSEDEAS DECISION

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts,

DECISION NO. TN82-2071

CLASS D - Bobcat, Central Mixing Plant, Concrete Pump, Concrete Saw , Curb Machine (Automatic or Manual), Dozer or Loader Operator (Stockpile), Drill Operator (Piling), Mulcher or Seeder, Rock Drill (Truck Mounted), Roller (Asphalt), Roller (Compaction Self-Propelled), Soil Stabilization Machine, Tractor (Boom and Hoist)

CLASS E - Bituminous Distributor Machine, Boring Machine (Horizontal), Ditch Paver Machine, Pump, Track Drill

CLASS F - Farm Tractor

Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses (29 CFR (a)(1)(ii)).

SUPERSEDES DECISION

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler.

DECISION NO.: TX83-4002 DATE: Date of Publication

Supersedes Decision No. TX82-4001, dated 1/29/82 in 47 FR 4463

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.20	2.37
BOILERMAKERS	16.60	2.41%
BRICKLAYERS & STONEMASONS	14.15	1.00
CARPENTERS:		
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter Randall, Roberts, Sherman, Swisher & Wheeler Cos.:		
Carpenters	14.15	.71
Millwrights	14.50	.71
ZONE 2 - Childress Co.:		
Carpenters	13.45	1.78
Millwrights	13.95	1.78
CEMENT MASONS	13.80	
ELECTRICIANS:		
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:		
Electricians	14.48	1.90+ 3-1/2%
Cable Splicers	15.93	1.90+ 3-1/2%
ZONE 2 - Childress Co.:		
Electricians	14.30	.80 + 3-1/10%
Cable splicers	14.55	.80 + 3-1/10%

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS:		
ZONE 1 - Armstrong, Carson, Castro, Childress (excluding southeastern 1/4), Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.	$13.50	3.00
ZONE 2 - Childress Co. (southeastern 1/4)	12.625	2.95
LABORERS:		
GROUP 1 - General or construction laborers	8.00	1.25
GROUP 2 - Air or electric tool ops., jackhammers, vibrator tampers, chipping hammers, pipe wrappers, asphalt rakers, sand blasterers, riprap stone pavers, cutting torch op. (demolition), mortar mixer (hand or machine), mason tenders, plasterer tenders, hod carriers, loader & placer, chuck tenders, timberman, collapsible form setters, concrete buggy ops.; carpenter tenders, pipe layers: main, sewer & drainage; make-up man, powderman & blasters; gunite op or concrete operators	8.15	1.25
LATHERS	15.95	

DECISION NO. TX83-4002 Page 2

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
ZONE 1-Childress Co.:		
Lineman; Operators	$13.10	.60+3½%
Cable splicers	13.35	.60+3½%
Groundman	70%JR	.60+3½%
ZONE 2 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:		
Linemen	13.98	1.10+3½%
Cable splicers	15.38	"
Groundmen	9.24	"
Operator-hole digger, line truck	10.73	"
Flat bed truck driver	8.11	"
MARBLE MASONS (EXTERIOR)	$14.15	1.00
PAINTERS:		
GROUP 1 - Brush & roller, paperhanger; perfa-taper	11.95	.50
GROUP 2 - Structural steel; swinging stage or chair below 50 ft.	12.07	.50
GROUP 3 - Spray & sandblaster	12.70	.50
GROUP 4 - Perfa-tape mach	12.20	.50
PLASTERERS	15.95	.01
PLUMBERS & PIPEFITTERS	15.15	2.56
POWER EQUIPMENT OPERATOR:		
GROUP 1	13.85	1.30
GROUP 2	13.35	1.30
GROUP 3	11.40	1.30
ROOFERS	8.00	
SHEET METAL WORKERS	14.72	1.39
SPRINKLER FITTERS	16.17	2.83
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Blade grader, self-propelled; Clam shells; Cable ways; Cranes, power operated (all types); Air compressors, pumps, welding machines & light plants (7 to 12 machines); Derricks, power operated (all types); Draglines; Elevating graders, self-propelled; Hoist, 2 drums or more; Locomotive; Mixermobiles; Paving mixers, all types; Piledrivers; Scrapers; Bulldozers; Side boom; Cherry pickers - 12-1/2 tons & over; Shovels; Heavy duty mechanic; All welders; All tractors with power attachments; Ditching machines - crawler type; Farm-type tractor (loader, 1 yd. & over) with backhoe

GROUP 2 - Air compressors, pumps, welding machines, throttle valves, light plants (3 to 6 machines); Cherry pickers - under 12-1/2 tons; Ditch witch - J30 & under; Farm-type tractor (loader under 1 yd.) with backhoe; Go-devil; Mixers, 14 cu. ft. or over; Rollers over 10 tons; Air compressor and one tugger; Boilers, 2 or more; Winch trucks; Front end scoopmobile, loader, payloader; Blade grader, towed; Elevators, building; Fork lifts; Hoist, single drum or 1 line hoisting (1 tugger); Mixers less than 15 cu ft.; Rollers; Screening plants; Crushing plants; Tractors - wheel type except when hauling material

GROUP 3 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: TEXAS COUNTY: Wichita
DECISION NUMBER: TX83-4007 DATE: Date of Publication
Supersedes Decision No. TX82-4002, dated 1/15/82 in 47 FR 32472.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to and including 4 stories). (Use current heavy and highway general wage determination for Paving and utilities incidental to building construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.29	2.885
BOILERMAKERS	14.60	2.415
BRICKLAYERS & STONEMASONS	14.30	.70
CARPENTERS:		
Carpenters	13.45	1.78
Millwrights	13.95	1.78
CEMENT MASONS	10.94	
ELECTRICIANS:		
Electricians	14.30	.80 + 3-1/10%
Cable splicers	14.55	.80 + 3-1/10%
ELEVATOR CONSTRUCTORS:		
Mechanics	14.99	2.465+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
IRONWORKERS:		
Structural; Ornamental; Reinforcing	12.50	2.95
Ironworkers on jobs 30 miles or more from the City of Wichita Falls	12.625	2.95
LABORERS:		
Group 1: General Laborer	7.85	.57
Group 2: Pipelayer (concrete and clay); Power buggy operator; Gunite mixer; cement work mixer; power tool operator; bell hole man (piers)	7.98	.57
Group 3: Mason tender; mason mortar mixer) plasterer tender, Hod carrier; plasterer mortar mixer; Gunite over 1-1/2" thick; Nozzlemen & machine operator	8.10	.57
Group 4: Powderman, blaster	8.35	.57
LINE CONSTRUCTION:		
Lineman; Lineman Operator	$13.10	.60 + 3-1/2%
Cable splicers	13.35	.60+ 3-1/2%
Groundman	70%JR	.60+ 3-1/2%
MARBLE SETTERS	8.61	
PAINTERS:		
Brush	7.50	
Spray	8.50	
PLASTERERS	13.50	.01
PLUMBERS & PIPEFITTERS:		
Zone 1 - within 25 miles of Wichita Falls City limits	15.10	1.90
Zone 2 - over 25 miles of Wichita Falls City limits	15.60	1.90
SHEET METAL WORKERS	12.84	.09
TERRAZZO WORKERS	7.50	
TILE SETTERS	6.50	
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 months - none; 6 months to 5 years - 6% over 5 years - 8% of basic hourly rate
b - Paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A - New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day.

DECISION NO. TX83-4002 PAGE 2

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Travis
DECISION NO: TX83-4006 DATE: Date of Publication
Supersedes Decision No. TX82-4024, dated 6/18/82, in 47 FR 26548.

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	12.325	1.425
Group 2	13.225	1.425
Group 3	13.625	1.425

Group 1: Oiler - Fireman

Group 2: Air Compressors, Pumps, Welding Machine, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators, building; Form Graders; Hoist, single drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cu. ft.; Screening Plants; Crushing Plant; Fork Lifts (short, under 25 ft.); Concrete Pumps (all Types); Bobcat type equipment; Ford Tractor or like with any attachments (except blade and mower on rear)

Group 3: Backhoe;Drilling Machines (all Types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 ft.); Winch Trucks; Six wheel Truck when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cu. ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 ft. of boom); Derricks, power operated (all types; Gradall; Hy-Ho; Hop-to; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressor and Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Travis
DECISION NO: TX83-4006 DATE: Date of Publication
Supersedes Decision No. TX82-4024, dated 6/18/82, in 47 FR 26548.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.90	$2.94
BOILERMAKERS	16.60	2.415
BRICKLAYERS & STONEMASONS	13.84	2.21
CARPENTERS:		
Carpenters	14.36	1.82
Millwrights	14.61	1.82
CEMENT MASONS	13.94	1.30
ELECTRICIANS & CABLE SPLICERS	15.60	.80+ 8-8/100
ELEVATOR CONSTRUCTORS:		
Mechanics	14.48	2.6[illegible]+a
Helpers	70%JR	2.6[illegible]+a
Helpers (Pro[illegible].)	50%JR	
GLAZIERS	13.[illegible]	1.37
IRONWORKERS	13.60	2.97
LABORERS:		
GROUP I - General laborer & pier hole men	9.18	.75
GROUP 2 - Mason tender; Pipelayer (conc. & clay); Cement finisher tender; Scaffold builder; Gunnite & cement work mixer & power tool op.	9.33	.75
GROUP 3 - Plaster tender; hod carrier; Mortar mixer; lather tender	9.505	.78
GROUP 4 - Gunnite over 1 - 1/2" thick; Nozzlemen; Machine op.; Powderman, Sandblaster, & Blaster	9.58	.78
LATHERS	14.38	1.88
LINE CONSTRUCTION:		
Linemen	16.59	.80 + 3-1/2%
Groundmen	9.12	"
MARBLE, TILE & TERRAZZO WORKERS	12.68	.78
MARBLE, TILE & TERRAZZO FINISHERS:		
Marble, tile, terrazzo	8.62	.67
Floor machine operator	8.82	.67
Base machine operator	8.97	.67

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
GROUP I - Journeyman painters, taping & floating of Sheetrock	$12.80	
GROUP 2 - Spray; sand-blasting swing stage	13.30	
PLASTERERS	14.79	1.61
PLUMBERS & PIPEFITTERS	16.60	1.27
ROOFERS:		
Roofers; deckmen	9.24	.50
Kettlemen	8.19	.50
Waterproofers	8.69	.50
SHEET METAL WORKERS	14.87	2.09 + 3%
SOFT FLOOR LAYERS	14.90	2.06
SPRINKLER FITTERS	16.17	2.83
POWER EQUIPMENT OPERATORS:		
GROUP I	14.75	.95
GROUP 2	13.50	.95
GROUP 3	12.15	.95
GROUP 4	12.05	.95
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. 6%; over 5 yrs. - [illegible]% of basic hourly rate. Also 7 paid holidays A thru G

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy duty mechanic; blade grader - self-propelled; Crawler dozers or loaders; derricks, power operated (all types); Dragline; cableway; backhoe; crane, power operated (all types); elevating grader, self-propelled; hoist, motor driven, two drums or more; mix mobile; high-lifts and loaders, over 1/3 cu. yd. capacity; winch truck; locomotive; mixer, 14 cu. ft. or over; paving mixer (all sizes); scraper; trenching machines (all sizes); gradall; foundation boring machine; scoopmobile; shovel power operated; pump crete machine; rock crusher operated on job; well points including installations; riding compactor; forklift over 1500 lbs. capacity; flat wheel rollers (60" & over); Pneumatic rollers (10 tons & above)

GROUP 2 - Blade grader, towed; flex plane; form grader; mixer, less than 14 cu. ft.; pulsometer; conventional truck crane driver and oiler; combination man; hoist, single drum; pneumatic roller; high-lifts and loaders, 1/3 cu. yd. or less; forklift 1500 lbs. capacity or less

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Lubbock
DECISION NO.: TX83-4005 DATE: Date of Publication
Supersedes Decision No. TX82-4026, dated 6/18/82, in 47 FR 26547.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.20	2.37
BOILERMAKERS	16.60	2.415
BRICKLAYERS & STONEMASONS	13.12	.33
CARPENTERS	12.60	1.83
CEMENT MASONS	8.15	
ELECTRICIANS:		
Electricians	14.85	.80 + 3-1/10%
Cable splicers	15.18	"
IRONWORKERS:		
Structural, ornamental & reinforcing	12.50	2.95
All ironworkers on jobs 30 miles or more from the city of Lubbock	12.625	2.95
LABORERS:		
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tender, reinforcing, shoring, digging, loading & unloading materials, wrecking bldgs. & all structures & all construction laborers except those named below	7.31	.57
GROUP 2 - Air tool op. (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (conc. & clay & all non-metallic pipe); handling, laying & cleaning pumpcrete pipe	7.58	.57
GROUP 3 - Mortar mixers, mason tenders, plasterers tenders, cement finisher tender, lather tender	7.51	.57
GROUP 4 - Wagon drill	7.68	.57
GROUP 5 - Blasters & powderman	7.91	.57
LINE CONSTRUCTION:		
Lineman	$14.85	.80+ 3-1/10%
Operators	80%JR	"
Groundmen	55%JR	"
Truck drivers	70%JR	"
PAINTERS:		
Brush	10.45	
Spray, sandblasters	11.20	
PLUMBERS & STEAMFITTERS	14.40	1.34
SHEET METAL WORKERS	14.72	1.39
POWER EQUIPMENT OPERATOR:		
GROUP 1	12.325	1.425
GROUP 2	13.225	1.425
GROUP 3	13.625	1.425
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Bexar
DECISION NO.: TX83-4003 DATE: Date of Publication

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cu. ft.; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 ft.); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear)
GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixer, 14 cu. ft. or over; Blade Graders, self-propelled; Cableways; Cranes - power operated (to 100 ft. of boom); Derricks, power operated, all types; Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractorvators; Scrapers and Pulls; Welders; Trenching Mamhines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressors & Air Tugger; Boilers, two or mose fired by one man; Heavy Duty Mechanic

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Bexar
DECISION NO.: TX83-4003 DATE: Date of Publication
Supersedes Decision No. TX82-4027, dated 6/18/82, in 47 FR 26551
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.90	$2.94
BOILERMAKERS	16.60	2.415
BRICKLAYERS & STONEMASONS	13.28	1.52
CARPENTERS:		
Carpenters	12.90	2.33
Millwrights	13.20	2.33
CEMENT MASONS	13.22	1.15
ELECTRICIANS:		
Electricians	15.49	.80+6%
Cable splicers	15.74	.80+6%
ELEVATOR CONSTRUCTORS:		
Mechanics	14.455	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
IRONWORKERS	12.55	3.57
LABORERS:		
GROUP 1 - General laborer	8.24	1.50
GROUP 2 - All power tools & equipment ops.; cutting torch man; power buggy op.; wagon drill; well driller; drilling rig tender; cement finisher tender; handling creosoted materials; scale man on batch plants; asphalt raker; concrete & clay & all non-metallic pipe laying; plasterer tender; brick tender; lather tender	8.49	1.50
GROUP 3 - Mortar mixer; grout machines; pumpcrete machines; gunnite mixing machines; running sand dryer & loading; operating sandblaster; bell hole man; blaster, powderman; gunnite nozzleman	8.47	1.50
LINE CONSTRUCTION:		
Lineman	15.85	.80+ 3-1/2%
Cable splicer	16.10	"
Groundman	8.72	"

	Basic Hourly Rates	Fringe Benefits
MARBLE, TILE & TERRAZZO WORKERS	$12.97	1.47
MARBLE, TILE & TERRAZZO FINISHERS:		
Marble, tile & terrazzo	8.62	.67
Floor machine operators	8.82	.67
Base machine operators	8.97	.67
PAINTERS:		
Brush; paperhanger; taper & floater; roller Brush on all structural steel; spray on any other surface other than steel	11.25	.65
	11.50	.65
PLUMBERS & PIPEFITTERS	17.10	1.73
ROOFERS:		
Roofers; deckman	9.24	.50
Kettlemen	8.19	.50
Waterproofers	8.69	.50
SHEET METAL WORKERS	14.87	2.09+3%
SPRINKLER FITTERS	16.17	2.83
POWER EQUIPMENT OPERATORS		
GROUP 1	13.35	2.50
GROUP 2	11.80	2.50
GROUP 3	9.90	2.50
GROUP 4	9.50	2.50
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs 6%; over 5 yrs. - 8% of basic hourly rate. Also 7 Paid Holidays A thru G

Unlisted classification needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - All foundation drilling rigs; all rollers (5 tons or over); backfiller; backhoe; blade graders (self-propelled); bull clam; bulldozers; cableway; clamshell; crane (power operated, all types); derricks (power operated, all types); draglines; DW-10 caterpillar and similar tractors; elevating graders (self-propelled); euclid; fork lift used on construction; gasoline or diesel-driven welding machines (7 to 12); gradall; heavy duty mechanic; high lifts; hoist (two drums or more); locomotives; mixer (14 cu. ft. or over); mixmobile; paving mixers (all sizes); piledriver; pumpcrete machine; rock crusher on job; scoopmobile; scrapers; shovel, power operated; turnapulls; trenching machines (all sizes); winch truck

GROUP 2 - Air compressor (any time there are three or more attachments operating on a 125 cu. ft. air compressor or less, a light equipment operator shall be employed. Any compressor over 125 cu. ft. shall have a light equipment operator); blade graders (towed); building elevator used on construction; flex planes; form graders; hoist (single drum); mixer (less than 14 cu. ft.); pneumatic roller; pulsometers; pump (2½ or larger shall require a light equipment operator); three to six welding machines or any three pieces of equipment of equal or similar nature

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas COUNTIES: Galveston & Harris
DECISION NO.: TX83-4004 DATE: Date of Publication
Supersedes Decision No. TX82-4033 dated 6/18/82, in 47 FR 26549
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current highway general wage determination for Paving & Utilities Incidental to Building Construction For Galveston (excluding Galveston Island) & Harris Counties).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.70	2.71
BOILERMAKERS	16.60	2.415
BRICKLAYERS & STONEMASONS	16.45	2.25
CARPENTERS:		
Carpenters	16.25	2.27
Piledrivermen	16.25	2.27
Millwrights	16.635	2.27
CEMENT MASONS:		
Galveston County	15.85	2.05
Harris County	15.80	2.13
ELECTRICIANS:		
Galveston County:		
Electricians	17.57	1.10 + 12%
Cable splicers	18.57	"
Harris County	17.57	1.08 + 12%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.34	2.465+a
Helpers	70%JR	2.465+a
Helpers (Prob.)	50%JR	
GLAZIERS	13.39	1.575
IRONWORKERS	15.46	3.50
LABORERS:		
GROUP 1 - Common	10.95	1.56
GROUP 2 - Air tool op. (jackhammer-vibrator); mason tender;pipelayer (conc. & clay);Sand blasterer;power buggy	11.135	1.56
GROUP 3 - Lather tender; mortar mixers;plaster tenders & hod carriers	11.245	1.56
GROUP 4 - Well driller	11.54	1.56
GROUP 5 - Well driller tender	11.085	1.56
GROUP 6 - Blaster,powderman	11.405	1.56
LATHERS(Harris Co. only)	16.25	2.27
LINE CONSTRUCTION:		
ZONE 1-Galveston Co. & that part of Harris Co. from Loop 610 east to State Hwy. 59,north on State Hwy. 59,Hwy. 1960 west on Hwy 1960 to Hwy. 6,south on Hwy. 6 to State Hwy. 59, southeast on State Hwy. 59 to Loop 610 around Loop 610 to State Hwy. 59 North:		
Linemen & cable splicer	$18.10	.80+3½%
Groundman	10.50	.80+3½%
ZONE 2 - Remainder of Harris Co.:		
Linemen & cable splicer	17.70	.80+3½%
Groundman	10.27	.80+3½%
MARBLE, TILE & TERRAZZO WORKERS: Galveston Co.	14.81	
Harris Co.	14.82	1.75
MARBLE, TILE & TERRAZZO FINISHERS	9.76	1.05
PAINTERS:		
EAST HARRIS COUNTY:		
GROUP 1-All brush,hand rolling & all other work other than that below	17.53	
GROUP 2-All pneumatic & elec. tools & steam cleaning	17.885	
GROUP 3-All tape & float on drywall	17.635	
GROUP 4-All paper & vinyl hanging	17.78	
GROUP 5 - All spray, sandblasting & waterblasting	17.975	
GROUP 6-Steeple jack work,hot materials	18.19	
REMAINDER OF HARRIS CO.		
GROUP 1-All brush,hand roller,steam cleaning all pneumatic tools	15.535	2.725
GROUP 2-All spray,sandblasting,waterblasting	15.91	2.725
GROUP 3-Tape,float & drywall	15.66	2.725
GROUP 4-Steeple jack work,hot materials	16.16	2.925

	Basic Hourly	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
GROUP 1	15.34	2.465+a
GROUP 2	14.34	2.465+a
GROUP 3	13.34	2.465+a
GROUP 4	12.34	2.465+a
ROOFERS	13.39	1.575
SHEETMETAL WORKERS	15.46	3.50
TERRAZZO WORKERS: Galveston Co.	14.81	
Harris Co.	14.82	1.75
TERRAZZO FINISHERS	9.76	1.05
TILE SETTERS: Galveston Co.	14.81	
Harris Co.	14.82	1.75
TILE FINISHERS	9.76	1.05
TRUCK DRIVERS:		
GROUP 1	10.95	1.56
GROUP 2	11.135	1.56
GROUP 3	11.245	1.56
GROUP 4	11.54	1.56
GROUP 5	11.085	1.56
GROUP 6	11.405	1.56
WELDERS:		
Galveston County	15.85	2.05
Harris County	15.80	2.13

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	Basic Hourly Rates	Fringe Benefits
PAINTERS (CONT'D):		
GALVESTON COUNTY:		
GROUP 1 - Painters on new work	$14.945	3.05
GROUP 2 - Painters on swinging stage work or using materials injurious to the skin	15.245	3.05
GROUP 3 - Painters on rework & repaint	14.19	3.05
PIPEFITTERS	16.80	2.28
PLASTERERS	15.20	1.69
PLUMBERS	18.81	1.75
ROOFERS:		
Composition	13.86	1.58
Slate & tile	14.61	1.58
Kettlemen	12.90	1.58
SHEET METAL WORKERS	16.64	2.09+3%
SOFT FLOOR LAYERS	14.90	2.06
SPRINKLER FITTERS	16.17	2.83

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
GROUP 1 - Under 1½ tons	$10.79	
GROUP 2 - 1½ thru 2½ tons; dump less 7 yds.	11.21	
GROUP 3 - Over 2½ tons	11.61	
POWER EQUIPMENT OPERATORS:		
GROUP 1	16.39	2.39
GROUP 2	14.53	2.39
GROUP 3	13.90	2.39
GROUP 4	13.69	3.39

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate. Also Seven Paid Holidays A thru G

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Heavy duty mechanic;blade grader,self-propelled;bull clam;back filler;derrick-powered(all types);clamshell;draglines;push cat;bulldozer & all types cat tractors;cableway;backhoe;shovel,power operated;crane,power operated(all types);elevating grader,self-propelled;hoist,motor-driven,two drums or more;mixmobile;water well drilling machines, used on construction; building elevator, used on construction;tug boat op.,assigned to constructimn; winch truck;locomotive crane;concrete mixer, 14 cu. ft. or more;paving mixer(all types);piledriver;scraper,heavy type,over 3 cu. yds.; trenching machine(all sizes);gradall;high-lift;foundation boring machine;gasoline or diesel-driven welding machines,7 or more;pumpcrete machine;turnapulls; DW-10 Caterpillar,S-18 euclid & similar tractors;asphalt plant mixer on job;crusher op. on job;scoopmobiles;forklift used on construction (not including warehousing);well point pump;concrete batch plant;pneumatic rollers, self-propelled.
GROUP 2 - Air compressors;blade grader,towed;flex plane;form grader;concrete mixer,less than 14 cu. ft.;pumps;pulsometer;truck crane driver;gasoline or diesel driven welding machines(on 3 or more, up to 6 machines);hoist,single drum;scraper,3 cu. yd. or less;wagon drill;conveyor;generator gasoline or diesel driven, over 1500 watts;rubber tired farm tractor with attachment; light equipment op. may run 1 or 2 150 cfm compressors
GROUP 3 - Fireman
GROUP 4 - Oiler

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Part III

Panama Canal Commission

Privacy Act of 1974; Annual Publication of Systems of Records

PANAMA CANAL COMMISSION

Privacy Act of 1974; Systems of Records; Annual Publication, Deletions, Revisions.

AGENCY: Panama Canal Commission.

ACTION: New System of Records, Deletions and Revisions, and Panama Canal Commission systems of records Annual Publication.

SUMMARY: The Panama Canal Commission is maintaining a new system of records called "Administrative Reports, GSCX–1." A description of the system is published below. The Administrative Reports will record activities of the Support Services Branch and activities of the designees of the U.S. Representative to the binational Coordinating Committee. The function of the Support Services Branch is to assist employees of the Commission and their dependents, and other eligible persons, who have been arrested by or who are otherwise involved with Government of Panama authorities. The reports and supporting material in the system may be used by the Commission to evaluate circumstances of an arrest, to determine the need for diplomatic action, and to prepare communications that may be necessary. The Branch also assists the Government of Panama and U.S. military authorities by reviewing cases of shoplifting and other misconduct which are referred to it by those authorities for the purpose of counselling or other administrative action to be carried out by the appropriate Commission officials. In addition, the Branch serves as the initial point of contact for cases of abuse of purchase and importation privileges which are referred to the Commission.

The Panama Canal Commission is also required by the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), to give annual notice in the **Federal Register** of the existence and character of the systems of records it maintains. This agency last published such a notice at 46 FR 62768 (December 28, 1981). In addition this agency gave notice of an amended system, Marine Accident Investigation Reports/Statistics, PCC/MRBL–2 at 47 FR 18979 (May 3, 1982), and notice of a new system, Personnel Management System, PR–4, at 47 FR 32671 (July 28, 1982). The purpose of this document is to fulfill the annual notice requirement of the Privacy Act for 1982 by publishing in full all systems which the Commission maintains, and to give notice of the new system of records.

DATES: This document fulfills the Privacy Act annual notice requirement for 1982. Written comments by any member of the public concerning the intended routine uses of the information in the new system, Administrative Reports, GSCX–1, is invited. To be considered comments must be received by February 7, 1983. If no comments requiring modification of the routine uses are received, the routine uses will become effective February 8, 1983.

ADDRESS: The public should address comments to K.E. Goldsberry, Agency Records Officer (Chief, Administrative Services Division), Panama Canal Commission, APO Miami 34011. Mark all comments "GSCX–1."

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Fuller, Assistant to the Secretary for Commission Affairs, Panama Canal Commission, Suite 312, Pennsylvania Building, 425 13th St., NW., Washington, D.C. 20004 (Telephone: 202–724–0104.)

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Panama Canal Act of 1979, Pub. L. 96–70, 93 Stat. 452 and the Panama Canal Treaty of 1977, the Canal Zone Government was disestablished and the Panama Canal Company was replaced by the Panama Canal Commission on October 1, 1979. The period between October 1, 1979, and March 31, 1982, referred to as the "transition period" concluded with the disestablishment of all police functions previously performed by the Canal agency, and certain other functions intended primarily to assist employees of the Canal organization. Subsequently, the Support Services Branch was organized for the purpose of assisting Commission employees and their dependents and other eligible persons who are arrested by or otherwise become involved with Government of Panama authorities. The channel for communication and information concerning the transfer of custody of individuals in these circumstances is the Coordinating Committee, which was specifically established by Article II of the Agreement in Implementation of Article III of the Panama Canal Treaty. With the establishment of the Support Services Branch, a new system of records came into existence. Notice of the existence and character of the system has not previously been given due to the reorganization which took place and the ensuing administrative workload involved in setting up procedures for unprecedented activities. In many instances agreement between the two countries is required at the diplomatic level concerning procedures to be followed. Because this system contains copies of investigatory material originated by Government of Panama or U.S. military law enforcement authorities, and copies of disposition of cases, (some of which if disclosed would reveal the identity of confidential sources), compiled for the purpose of assisting employees or their dependents, the agency proposes to exempt the records in the system from mandatory disclosure under the Privacy Act. A proposed rule to exempt the system will be published at a future date. Suspension of this system would adversely affect the functions of the Support Services Branch in assisting employees or dependents to exercise their procedural rights under the Treaty; therefore, this agency has requested a waiver of the 60-day advance notice period required before implementation of a system by OMB Circular A–108 and Transmittal Memoranda 1 and 3. In accordance with the provisions of 5 U.S.C. 552a(o) of the Privacy Act and Office of Management and Budget (OMB) Circular A–108 (Transmittal Memoranda Nos. 1 and 3), a report on the new system has been submitted to the Congress and to the Director, Office of Management and Budget.

Because of organizational changes within the Panama Canal Commission, editorial modifications have been made to a number of systems to reflect changes in system name, location, system manager, and notification and access procedures, where applicable. Minor changes have also been made for the purpose of completeness, clarity and correctness, where applicable, to the routine uses, categories of records in the system, and storage.

In addition, this agency is deleting eight systems of records as follows.

Six systems, listed below, are being deleted because they have been discontinued and the records destroyed:

Cash Register Receipt Shortages, PCC–CZG/FVGA–2
Detective Confidential Files, PCC/GSPL–3
Pending Detective Investigation Records, PCC/GSPL–8
Informant Name File, PCC/GSPL–9
Youth Unit Name Index File, PCC/GSPL–12
Poor Risk/Delinquent Citation/Warrant File, PCC/GSPL–19

Two systems are being deleted because they have been discontinued and the records transferred to other U.S. Government agencies:

U.S. Army Element, Panama Canal Commission Military Administration System, PCC/MIL–1, was transferred to the Headquarters Command, 193d Infantry Brigade (Panama), APO Miami 34004; and Student Record System,

PCC–CZG/CASC–1, was transferred to the Department of Defense Dependents Schools (Panama Area).

Three additional systems are being deleted because they are being incorporated into another already existing system with which they are compatible in purpose, categories of individuals, and categories of records in the system. They are General Identification, Photo-Identification and Purchase Authority Records, PCC/AMSA–1; U.S. Government Vehicle Operator's Identification and Material Handling Card Application Files, PCC/AMSA–4; and Application for Exoneration, PCC/AMSE–1. These three systems have been incorporated into the Documents Control System, AMSE–2, which is being redesignated as the ID Card and Documentation Control System, AMSA–1.

Fifteen systems, listed below, are being placed in an inactive status. These systems became inactive at the conclusion of the "transition period" on March 31, 1982, provided for by the Panama Canal Treaty of 1977. With the disestablishment of all police, probation/parole, and other functions, the applicable systems of records were discontinued, and the records transferred to the Agency Records Center for storage and eventual disposition in accordance with Federal records retention schedules. These systems will continue to be described in the Commission's notice of Privacy Act systems of records as inactive. An updated alphabetical listing of this agency's inactive systems appears in the latter part of this notice.

Postal Claims and Inquiries, PCC/AMRM–6
Probation and Parole Unit Child Custody Reports, PCC/AEPR–1
Presentence and Pre-Parole Investigation Reports, PCC/AEPR–2
Probation and Parole Unit Statistical File, PCC/AEPR–3
Law Enforcement Case Report Files, PCC/GSPL–1
Convict Files, PCC/GSPL–4
Prisoner Record Cards, PCC/GSPL–5
Police Photo Files, PCC/GSPL–6
Fingerprint File, PCC/GSPL–7
Master Name File, PCC/GSPL–10
Arrest Record File, PCC/GSPL–13
Complaints Against Policemen File, PCC/GSPL–15
Traffic Accident Reports, PCC/ GSPL–16
Prisoner Property Record, PCC/GSPL–18

The revisions and editorial corrections to the Panama Canal Commission's systems of records do not affect the general character or purpose of any systems described, nor do they expand the population of individuals to whom the systems apply or change any individual rights. Since the modifications merely provide a more accurate description of this agency's systems of records, the revisions are not deemed to be within the purview of the provisions of 5 U.S.C. 552a(o) of the Privacy Act and Office of Management and Budget (OMB) Circular A–108 (Transmittal Memoranda Nos. 1 and 3), which require submission of a report on a new system.

The descriptions of the systems of records maintained by the Panama Canal Commission appear below, preceded by the text of the new system, Administrative Reports, PCC/GSCX–1; a listing of systems deleted; an alphabetical listing of all of this agency's active systems of records; and a prefatory statement of the general routine uses applicable to all systems.

Dated: December 17, 1982.

K. E. Goldsberry,

Chief, Administrative Services Division, Agency Records Officer, Panama Canal Commission.

New System:

PCC/GSCX–1

SYSTEM NAME:

Administrative Reports, PCC/GSCX–1

SYSTEM LOCATION:

Support Services Branch, Pacific Area Office, Bldg. 729 Balboa, Republic of Panama; and Atlantic Area Office, Bldg. 8040, Margarita, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM:

Commission employees, their dependents, and other eligible persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on individuals who have been provided assistance by or have requested assistance from the Support Services Branch, or designees of the U.S. Representative to the Coordinating Committee, as a result of having been arrested by or having had some other manner of involvement with authorities of the Government of Panama. Also records of shoplifting cases or other misconduct referred to the Support Services Director by either the U.S. military or Government of Panama law enforcement authorities for review for the purpose of counselling and/or administrative action to be carried out by the appropriate Commission officials. Copies of records of the disposition of cases involving abuse of purchase or importation privileges for reference purposes.

Records may include: Name of person report is about, identification number, citizenship, date of birth, residence, home and office telephone numbers, occupation and address. Information may include descriptive information concerning various offenses, arrests, and incidents, including witnesses and other persons involved, and may include copies of reports prepared by U.S. military and Government of Panama law enforcement authorities, and Panamanian court documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 3622 (Supp. III 1979); Articles III, V, and IX of the Panama Canal Treaty of 1977; Articles XVI and XIX and Annex C of the Agreement in Implementation of Article III of the Panama Canal Treaty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

May be released to U.S. military law enforcement agencies, the U.S. Embassy, and Government of Panama law enforcement authorities as necesary to report arrests, assist employees or assist in investigations. See also the general routine uses in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Typed reports, printed forms 8 X 10½ inches, computer printouts, magnetic tapes, and log books.

RETRIEVABILITY:

By name of person assisted or primarily about.

SAFEGUARDS:

Active files maintained in locked file cabinets or in safes when not in use; computer timesharing data accessible through use of code names and numbers, restricted to authorized personnel.

RETENTION AND DISPOSAL:

Reports will be held for six years and then destroyed. Computer timesharing data will be expunged simultaneously.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Support Services Branch, Community Services Division, General Services Bureau, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Panama Canal Commission, APO Miami 34011. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORDS PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual or from reports from U.S. military or Government of Panama authorities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material obtained from or related to the law enforcement sources of the U.S. military or Government of Panama authorities, or records created which would reveal the contents or substance of such records, or would reveal the identity of confidential sources, is exempted from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the Agency's regulations. See 35 CFR 10.22. Certain reports in the system may be classified under Executive Order 12356, National Security Information.

Systems Deleted:

The following systems, identified by their alphanumerical designation and system name, have been discontinued and deleted.

PCC/AMSA–1, General Identification, Photo-Identification and Purchase Authority Records
PCC/AMSA–4, U.S. Government Vehicle Operator's Identification and Material Handling Card Application Files
PCC/AMSE–1, Application for Exoneration
PCC–CZG/CASC–1, Student Record System
PCC–CZG/FVGA–2, Cash Register Receipt Shortages
PCCc/GSPL–3, Detective Confidential Files
PCC/GSPL–6, Pending Detective Investigation Records
PCC/GSPL–9, Informant Name File
PCC/GSPL–12, Youth Unit Name Index File
PCC/GSPL–19, Poor Risk/Delinquent Citation/Warrant File
PCC/MIL–1, U.S. Army Element, Panama Canal Commission Military Administration System

The following systems have been discontinued and have been added to the Commission's list of inactive systems.

PCC/AMRM–6, Postal Claims and Inquiries
PCC/AEPR–1, Probation and Parole Unit Child Custody Reports
PCC/AEPR–2, Presentence and Pre-Parole Investigation Reports
PCC/AEPR–3, Probation and Parole Unit Statistical File
PCC/GSPL–1, Law Enforcement Case Report Files
PCC/GSPL–4, Convict Files
PCC/GSPL–5, Prisoner Record Cards
PCC/GSPL–6, Police Photo Files
PCC/GSPL–7, Fingerprint File
PCC/GSPL–10, Master Name File
PCC/GSPL–13, Arrest Record File
PCC/GSPL–15, Complaints Against Policemen File
PCC/GSPL–16, Traffic Accident Reports
PCC/GSPL–18, Prisoner Property Record

Alphabetical Title Listing of Panama Canal Commission's Notice of Systems of Records

Accounts Payable Disbursement Records, PCC/FMAC–8
Accounts Receivable Records, PCC/FMAC–2
Admeasurer Examination File, PCC/MRPA–1
Appeals, Grievances, Complaints, and Assistance Records, PCC/PB–2
Biographical Data, PCC/ADSA–1
Canal Protection Division Incident Report Files, PCC/GSCP–2
Canal Commission Awards and Service Contracts Control Records, PCC/FMAC–7
Cash Audit Files, PCC/FMGA–1
Cash Collection Agents and Subagents, PCC/FMAC–6
Claims Files, PCC/FMAK–1
Delegation of Authority for Procurement, PCC/FMAC–5
Directory of Forwarding Addresses, PCC/AMRM–5
Disability Relief, Retirement andGroup Supplementary Life Insurance Records, PCC/PR–1
Embezzlements, Burglaries, and Cash Shortages, PCC/FMAC–1
Emergency Preparedness Records (Civil Defense/Emergency Management, PCC/GSCE–1
Employee Benefits Records, PCC/PR–2
Employees' and Dependents' Travel Orders, PCC/AMTR–1
Equal Employment Opportunity Complaint File, PCC/EO–2
General Files of the Panama Canal Commission, AMRM–1
Grievances, Appeals, and Adverse Actions Records, PCC/IR–2
Housing Complaints File, PCC/GSCS–2
Housing Files, PCC/GSCS–1
ID Card and Documentation Control System, PCC/AMSA–1
Incentive Awards Program Files, PCC/PR–9
Industrial Accident Prevention Supervisor/Unit Awards Files, PCC/PR–12
Injury Compensation Payroll Records, PCC/FMAP–3
Internal Revenue Service Notice of Levy Files, PCC/FMTR–2
Land Utilization Records, PCC/AMSA–3
Library Services Branch Registration Records, PCC/GSCL–1
Marine Accident Reports and Investigations, PCC/MRBL–2
Marine Accident Reference Cards, PCC/MRNV–1
Marine License Files, PCC/MRBL–1
Master Name File, PCC/GSPL–10
Merit System Recruiting, Examining, and Placement Records, PCC/PB–1
News Morgue Records, PCC/PA–1
Occupational Health Records, PCC/PR – 10
Office of Personnel Management Systems Applicable to the Panama Canal Commission: (1) General Personnel Records (Official Personnel Folder and records related thereto); (2) Retirement, Life Insurance, and Health Benefits Records Systems; (3) Ethics in Government Financial Disclosure Records, OPM/GOVT–4; (4) Confidential Statements of Employment and Financial Interest, OPM/GOVT–6. (See PCC/PR–6).
Ombudsman Investigation Files, PCC/OM–1
Operating Unit Employment Inquiry Files, PCC/OPR–2
Operating Unit Personnel Records, PCC/OPR–1
Panama Canal Commission Board of Directors Biographical and Correspondence Files, PCC/WO/AE–2
Payroll Deductions, PCC/FMAP/AC–4
Payroll Master File for Panama Canal Commission Employees, PCC/FMAP–1
Personal Data Records, PCC/PR–3
Personnel Investigation Records, PCC/PB–3
Personnel Management System, PCC/PR–4
Personnel Reference Unit Files, PCC/PR–7
Pilot Workload Statistics, PCC/MRNV–2
Plumbing and Welding License Files, PCC/ECCN–1
Quarterly Report of Employee Union Dues Deductions, PCC/IR–1
Racial/National Origin Category Data, PCC/EO–1
Racial/National Origin Code Records, PCC/PR–11
Recruiting and Placement Records, PCC/PR–5
Resident Advisory Committee Files, PCC/OM–2
20/30/40-Year Safety Key Awards Files, PCC/PR–13
Suspension of Check Cashing Privileges Files, PCC/FMTR–3

Telephone Exchange Directory, PCC/ECLE–1
Termination of Employment Actions Records, PCC/FMTR–1
Training and Employee Development Records, PCC/PR–6
Trust Fund Records, PCC/FMAC–3
Unnegotiated Checks Over One Year Old, PCC/FMAC–9

Prefatory Statement of General Routine Uses (35 CFR Part 10, Appendix A)

Information about an individual which is maintained in any system of records under the control of the Panama Canal Commission is subject to disclosure, as a routine use of such information, to any of the following persons or agencies under the circumstances described:

1. Information indicating a violation or potential violation of law (whether civil, criminal, or regulatory in nature, and whether involving a statute or regulation or a rule, or order issued pursuant thereto) may be referred to the federal, state, local, foreign, or international agency charged with investigating or prosecuting such violations or charged with implementing or enforcing the particular statute, or regulations, rule or order, which is pertinent thereto.

2. Information which has a bearing on matters which may be in dispute may be disclosed in the course of presenting evidence or argument to a court or administrative tribunal, a judicial official, or counsel for a party in connection with litigation or administrative proceedings in which the agency, or its officers or employees, are or may become involved.

3. Information may be provided to persons or agencies from whom information is solicited, to the extent necessary to elicit facts which may be relevant to a financial audit or an agency decision to hire or retain an employee, issue a security clearance, award a contract, grant a license, or otherwise provide a benefit or incur an obligation.

4. Information may be disclosed to a federal agency, in response to its request in a particular case or in a category of cases, in connection with that agency's (a) decision in a personnel matter; (b) financial audits and accounting; (c) issuance of a security clearance; (d) investigation of an individual employed or formerly employed by the Panama Canal Commission (or its predecessors); or (e) decision to award a contract, grant a license, or otherwise provide a benefit or incur an obligation.

5. Information may be supplied in response to an inquiry from a Member of Congress on behalf of an individual or, at any stage of the legislative coordination and clearance process, to the Office of Management and Budget in connection with the review of private relief legislation.

6. Information which has a bearing on the qualifications of professional personnel (such as architects, attorneys, engineers, medical practitioners, pilots, and teachers) who have been employed by the agency or have had professional dealings with the agency may be provided to the appropriate authorities such as professional licensing and certifying boards and grievance committees.

7. To the extent necessary for implementation of the Panama Canal Treaty of 1977 and related agreements, information may, upon approval by the Agency Records Officer (Chief, Administrative Services Division) or that official's designee, be disclosed to officials of the Government of the Republic of Panama and to U.S. Government agencies which, under the Treaty, assumed functions formerly performed by the Panama Canal Company or the Canal Zone Government.

PCC/WO/AE–2

SYSTEM NAME:

Panama Canal Commission Board of Directors Biographical and Correspondence Files, PCC/WO/AE–2.

SYSTEM LOCATION:

Office of Executive Administration, Administration Building, Balboa Heights, Republic of Panama; and Office of the Secretary, 312 Pennsylvania Building, 425 13th Street, N.W., Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present members of the Panama Canal Commission Board of Directors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in Office of Executive Administration contain names and address, newspaper clippings, general biographical information, minutes of Board meetings, and offical correspondence between Commission officials and Board members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 and 3612 (Supp. III 1979) and Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in Office of the Secretary disclosed to Excutive agencies, to members of Congress and to news media for press releases. See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed by name of board member.

SAFEGUARDS:

Lockable file cabinets. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER (S) AND ADDRESS:

Director, Office of Executive Administration, Panama Canal Commission, APO Miami 34011; Assistant to the Secretary, Panama Canal Commission, 312 Penn. Bldg., 425 13th St., N.W. Washington, D.C. 20004.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Managers or the Agency Records Officer, Administration Building, Balboa Heights, R. P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to any of the addresses designated in Notification Procedures, preceding.

CONTESTING RECORDS PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, public media and protocol sources.

PCC/ADSA–1

SYSTEM NAME:

Biographical Data, PCC/ADSA–1

SYSTEM LOCATION:

Office of the Staff Assistant Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Administrator, Deputy Administrator, Administrator's staff, and members of their families; Board of Directors; local military and Diplomatic Corps officials; visiting officials including Congressional and high ranking military personnel; Secretary of the Army and members of his staff; local Panama Canal

Commission employees; local businessmen and officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information on individuals including names, identification numbers, dates of birth, number of children and their names, education, honors bestowed, telephone numbers, addresses, job titles, marital status, citizenship, employing unit photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 22 U.S.C. 3611 and 3614 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General biographical data may be provided to interested members of Congress, diplomatic corps, public media, etc., consistent with official protocol functions. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Standard 8 by 10½ inch paper.

RETRIEVABILITY:

Filed and indexed by name.

SAFEGUARDS:

Records maintained in lockable file cabinets. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Maintained indefinitely. Fowarded to Agency Records Center for disposition according to established procedures and where applicable to libraries of the National Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Assistant Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

PCC/AMRM–1

SYSTEM NAME:

General Files of the Panama Canal Commission, PCC/AMRM–1

SYSTEM LOCATION:

Records Management Branch, Panama Canal Commission, Administration Building, Balboa Heights, Republic of Panama

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subject of correspondence or who correspond with the Office of the Administrator and staff offices on a variety of subjects related to the operation, maintenance, and protection of the Panama Canal.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files retrievable by reference to individuals include records on subjects such as eligibility to purchase goods and services, and use Canal facilities; Congressional inquiries about or on behalf of individuals; certificates of good conduct; contracts with individuals, and inquiries and answers on Canal operations, laws and regulations pertaining to the Panama Canal Commission and policies related thereto, generally. System also includes inactive records on subjects such as eligibility to engage in private business; licenses and permits in connection with utilization of land, water, resources and facilities; biographical data on former Governors of the Canal Zone; reports of Court dispositions of cases; and Coroner reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.SC. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977; 44 U.S.C. 3101 and 3102.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders or on backers and card indexes.

RETRIEVABILITY:

Filed by subject subdivided alphabetically by name, or file alphabetically by name only.

SAFEGUARDS:

Stored in metal file cabinets in file room locked when not in use in a building with around-the-clock guard. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Certificates of good conduct 6 months; eligibility files, 3 years after last entry; general inquiries and answers, 3 years. Other transfer to Agency Records Center after 8 years and retained permanently. General files prior to 1935 have been accessioned by the National Archives of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individuals, Canal officials, and information from records.

PCC/AMRM–5

SYSTEM NAME:

Directory of Forwarding Addresses, PCC/AMRM–5.

SYSTEM LOCATION:

Mail System offices at Bldg. 440, Albrook, and Bldg. 8040, Margarita, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Canal Zone Post Office boxholders; former Commission employees who have given notice of change of address.

CATEGORIES OF RECORDS IN THE SYSTEM:

Former Boxholder's name, employee identification number, former and current mailing addresses; and the names of persons other than the boxholder authorized to receive mail at the assigned box. Former Commission employee's name, employee identification number, former APO box number, and forwarding address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3741 (Supp. III 1979); and Article III and Annex of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards in Kardex file.

RETRIEVABILITY:

Filed alphabetically.

SAFEGUARDS:

Maintained in metal Kardex file drawers, in facility locked when not in use.

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Maintained until no longer needed, then retired to agency storage facility for eventual disposition in accordance with applicable retention schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building Balboa Heights R.P. Rules are published in 35 CFR Part 10.

RECORDS ACCESS PROCEDURE:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individuals whose addresses appear in the system.

PCC/AMSA-1

SYSTEM NAME:

ID Card and Documentation Control System PCC/AMSA-1

SYSTEM LOCATION:

Employee and Cargo Documentation Section, Bldg. 5140, Diablo, Republic of Panama; Cristobal Administration Bldg., Cristobal, R.P.; and Data Processing Division, Administration Building, Balboa Heights, R.P.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commission employees, contractors, dependents, annuitants, visitors of Commission employees, and other persons the PCC is responsible for in administering the agency's identification, purchase authority, or other type documentation programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in connection with applications for photo-identification and/or purchase authority cards; subsystem in connection with applications for U.S. Government Vehicle Operator's identification and Material Handling card; subsystem in connection with application for exoneration of customs duty to import goods into the Republic of Panama; and subsystem in connection with administrative investigations on persons reported to be, or suspected of involvement in activities which are violations of treaty provisions governing identification documentation and importation, purchase, use, transfer of goods or services, including but not limited to transfer of duty free goods and services into the Republic of Panama without proper Panama customs clearances; shoplifting in military retail facilities; and abuse of APO mailing privileges. Records include: Applicant's name, identifying number, social security number, home address, postal address, birthdate, citizenship, employment status and/or employing unit, position title, marital status, purchase authority status, medical privilege status, work, and home telephone number. Name, date of birth, relationship, physical impairments and citizenship of dependents of applicant, and history of identification cards issued.

Subsystem containing photomat cards reflecting card holder's name, sponsor's name, date of birth of card holder, social security number, identification number, citizenship, employing agency or agency retired from, separation date, card expiration date, residence address and card control number.

Types of identification cards maintained by this office include, but are not limited to, Form 737, Photo ID privilege card for U.S. citizen and eligible third-country national employees; Form 738, Photo ID card for dependents of U.S. citizens and eligible third-country national employees; Form 739, Photo ID for non-U.S. citizen employees; Form 740, Photo ID for contractor employees and their dependents; Form 748, Annuitant ID card; Form 691, Application for Visitors Card; Form 1680, Recreational Facilities Identification; Form 5295, Resident Identification; Form 37, Application for Official Government Driver's License; Form 332, Material Handling Equipment Operator's License; Form 46, U.S. Government Motor Vehicle Operator's ID card. Computer listings reflecting name, identification number, tenure, duty station, social security number, leave balance, gross pay and social security payments to the Government of Panama, of active Panama Canal Commission employees eligible for medical benefits. Name, identification number, passport number, date of birth, birthplace, nationality of Panama Canal Commission employees and their dependents who have been issued official U.S. passports. For persons who have been issued visitor identification cards, photocopies of their passport, tourist card, and their sponsor's Commission identification card are maintained.

Subsystem containing records in connection with abuse of documentation reflecting name, number, address, place of employment, case numbers, charge or violation, administrative action taken and name of investigator. Other information as may be uncovered by investigating officers, including the name, dates and places of violations, names of accessories, etc.

Subsystem containing applications for exoneration of customs duty reflecting name, identity number, citizenship, residence, place of employment, signature, and commodity description.

Subsystem reflecting applications for U.S. Government vehicle operators and material handling IDs reflecting application forms containing name, identification number, position, date of birth, place of birth, citizenship, color of hair, color of eyes, height, weight, employment information, qualification statements. Letters or revocation, suspension, or cancellation, and/or medical evaluation material. Computer-produced list of current license-holders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); Articles III and VIII of the Panama Canal Treaty of 1977; and Articles XIII, XIV and XVI of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977; 5 CFR Part 930, Subpart A; Panama Canal Personnel Manual, Chapter 930; 40 U.S.C. 491.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to officials of the U.S

Embassy, U.S. Armed Forces and the Government of Panama, with a need to know. Disclosure as required to U.S. military component investigators, and Panamanian Customs officials having an interest in such information in connection with law enforcement or regulatory procedures. See also general routine uses in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms, standard photomat cards and paper records. Cards, logbooks (chronological), case reports and supporting documentation maintained by the Employee and Cargo Documentation Section which are accessible by the cardex system. Paper records in file folders; computer printouts; magnetic disks.

RETRIEVABILITY:

Accessible by name, application number; identification number; and case number on cardex forms. Backup data, including case reports accessed by cardex designators, otherwise filed by investigator's name.

SAFEGUARDS:

Paper records maintained in lockable file cabinets and card file drawers. Magnetic disks stored in locked room when not in use. Access and use restricted to authorized personnel.

RETENTION AND DISPOSAL:

Records related to violations and abuse of documentation, destroyed after 10 years. Exoneration records destroyed after 3 years. General photo ID card, purchase authority records, and passport records destroyed six years after inactive, cancelled, or termination of employee.

Motor vehicle ID, application forms, and related records destroyed 3 years after expiration of license or termination of employee or other recision of authority. Computer printouts held up to three months after printing and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Staff and Administrative Support Branch, Administrative Services Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the system manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of the addressees designated in notification procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From individuals; employees; supervisors; U.S. military authorities and Government of Panama officials; U.S. Embassy; and Data Processing.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in the subsystem concerning violations and abuse of documentation is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.21 and 10.22.

PCC/AMSA-3

SYSTEM NAME:

Land Utilization Records, PCC/AMSA-3.

SYSTEM LOCATION:

Administrative Services Division, Panama Canal Commission, Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have been issued revocable licenses to occupy or use tracts of land in the Canal area for residential, commercial, agricultural, recreational or boat repair purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records showing the status of land licenses issued containing information such as the following:

Name of licensee, street and postal address, date of birth, citizenship, identification number, type of employment, photographs, signature, dependent information, police records, and letters of complaint (if any). Also contains signed copies of licenses, boundary information, area maps, rental rates, census reports, and types of structures on the site and conditions of licensing and date of revocation, if any.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977; and Article IV of the Agreement in Implementation of Article III of the Panama Canal Treaty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be released to such agencies as the Bureau of Census, Office of Personnel Management and the Internal Revenue Service. Information may also be disclosed to local U.S. military officials when such licenses are located adjacent to or within areas used by the military. Information may also be disclosed to Government of Panama officials. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICE FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

10 by 12 inch file folders, and cardex files.

RETRIEVABILITY:

Filed by name, recovered manually.

SAFEGUARDS:

Records maintained in lockable file. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retained as a permanent record.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Staff and Administrative Support Branch, Administrative Services Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

PCC/AMTR-1

SYSTEM NAME:

Employees and Dependents Travel Orders, PCC/AMTR-1.

SYSTEM LOCATION:

Transportation Branch, Building 5140, Diablo Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and designated dependents of Panama Canal Commission and other agencies whose travel arrangements are performed by the Transportation Branch of the Panama Canal Commission

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain traveler's names, relationship to employee, identification number, occupation, dates and places of birth, orgin and destination of travel as well as other pertinent travel information required to complete United States Government Bills of Lading.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701–42 and 5924, and such other authorities as are cited in 572.1–1 and 1–2, PCPM; 22 U.S.C. 3611, 3647 and 3671 (Supp. III 1979) and Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

U.S. Government agencies, commercial carriers, U.S. and foreign customs, Immigration and diplomatic personnel, and others with a need to know; and for use in adjudicating claims relating to employee travel. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and index cards.

RETRIEVABILITY:

Indexed by employee's name and travel order numbers.

SAFEGUARDS:

Records maintained in file cabinets. Office is locked and protected by security alarms after office hours—access and use of records restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed when 3 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Transportation Branch, Panama Canal, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, employing unit, and by the Personnel Bureau, Panama Canal Commission as necessary.

PCC/ECLE–1

SYSTEM NAME:

Telephone Exchange Directory, PCC/ECLE–1.

SYSTEM LOCATION:

Electrical Division, Building 69, Balboa, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Panama Canal Commission telephone service subscribers, including persons or organizations requesting residential, office, and/or pay phone installations, directory listing, repair services, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, employee identification and/or customer number, of all persons and organizations having listed and unlisted telephone numbers. Dates of installation, work order numbers, types of equipment and numbers of installation, location, etc. are also included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977 and Annex thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system is used to compile listings used to produce the Panama Canal Commission Telephone Directory (available to the public), answer requests for telephone directory assistance etc. Telephone numbers which are requested to be kept unlisted, while a part of the system, are maintained under lock and key. Such numbers are only divulged to the party to whom they pertain, and only upon positive face-to-face identification. Information from this system may also be used to provide assistance to INTEL for the collection of outstanding charges for long distance services. For other routine uses see general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained on printed cards, diskettes, and word processing equipment.

RETRIEVABILITY:

Filed by name and telephone district.

SAFEGUARDS:

Cards maintained in lockable revolving files.

RETENTION AND DISPOSAL:

Maintained for five years after individual cancels or terminates service, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Electrical Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of address designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From employee on whom record is maintained.

PCC/ECIN–1

SYSTEM NAME:

Plumbing and Welding License Files, PCC/ECIN–1.

SYSTEM LOCATION:

(Plumbing License Files) Director's Office, Engineering and Construction Bureau, Administration Building, Balboa Heights, R.P.; (Welding License Files) Industrial Division, Building 5062, Mt.Hope, R.P.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have welding licenses on file with the Industrial Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

License numbers, name of licensee, date license issued, test results, category of license, name of certification board or examiner.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977; 35 CFR Parts 251 and 253.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

License information routinely released to contractors, employers, and license examining and review boards. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by type and number of license.

SAFEGUARDS:

Records maintained in file cabinets. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

No retention and disposal schedule established. Actively maintained as long as licensee is known to be actively engaged in employment. Retained permanently for record purposes.

SYSTEM MANAGER(S) AND ADDRESS:

For plumbing license file, Director, Engineering and Construction Bureau, Panama Canal Commission, APO Miami 34011. For welding license file, Chief, Industrial Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Examining officials and licensee.

PCC/EO-1

SYSTEM NAME:

Racial/National Origin Category Data, PCC/EO-1.

SYSTEM LOCATION:

Office of Equal Opportunity and Data Processing Division, Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active employees of the Panama Canal Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

A racial/national origin designator, together with information in the payroll system of the Panama Canal Commission, including such information as name, employee identification number, date hired, roll and gang, position number, occupation, pay level, base rate, work week, social security code and number, residence, citizenship, sex, marital status, birth date, Federal service date, PCC service date and employee status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 554; 22 U.S.C. 3611 (Supp. III 1979); 42 U.S.C. 2000 e–16; E.O. 11478 of August 8, 1969; Articles III and X of the Panama Canal Treaty of 1977; the Statistical Policy Handbook, U.S. Department of Commerce, Office of Federal Statistical Policy and Standards, Directive 15; Uniform Guidelines on Employee Selection Procedures; 29 CFR 1607 et seq. (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A. The System Manager is prohibited, by the provisions of 29 CFR 1613.302, from disclosing racial/national origin group data in the system except in the form of gross statistics (except insofar as an individual is entitled, under the Privacy Act, to access to information pertaining to him which is contained in the system.)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes or discs, computer printouts and Panama Canal forms No. 2823, used for computer input.

RETRIEVABILITY:

By any or all of the categories of records in the system.

SAFEGUARDS:

Printouts containing names or other personal identities together with the racial/national origin designator code maintained in locked file cabinet and accessible only to the Director of the Office of Equal Opportunity or that official's designated representative. Magnetic tapes stored in locked rooms when not in use; access and use restricted to authorized personnel. Printouts will be produced only upon written request from the Director of the Office of Equal Opportunity.

RETENTION AND DISPOSAL:

Printouts retained up to five years and then destroyed. Records on magnetic tape retained until six weeks after the end of the calendar year in which the employee terminates. Tapes and discs erased and reused. Panama Canal forms No. 2823 destroyed after racial/national origin group information entered in computer and checked for accuracy.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Equal Opportunity, Office of Equal Opportunity, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of the officials designated in Notification Procedure, preceding.

CONTESTING RECORD PROCEDURES:

Rules governing how an individual may request the amendment of any information about him in this system are published in 35 CFR 10.12.

RECORD SOURCE CATEGORIES:

Racial/national origin designator code: A visual identification of the employee's race and ethnic category made by the employee's supervisor for those employed as of June 30, 1977 and, for those entering service after June 10, 1977, by staff of the Employee Processing Unit of the Office of Personnel Administration, and for those employees entering service on January 1, 1981, voluntary self identification will be employed. All other data: Subject employee, personnel actions forms (SF 50), employing unit, time reports, computer-generated and manual calculations from varied input data.

PCC/EO-2

SYSTEM NAME:

Equal Employment Opportunity Complaint File, PCC/EO–2.

SYSTEM LOCATION:

Office of Equal Opportunity, Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and applicants for employment who complain of discrimination based on race, color, sex, age, religion, national origin, or physical and mental handicap.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Pre-complaint record, consisting of informal complaint, final report from the Equal Employment Opportunity Counselor, and related documents.

B. Investigative file, consisting of formal complaint; acceptance of formal complaint; sworn statements from complainant, witnesses, and alleged discriminatory official(s), environmental survey for comparison purposes (depersonalized); and summary made by Investigator, and related documents.

C. Complaint file, consisting of proposed disposition of complaint, transcript of EEO hearing, hearing examiner's recommended decision, final decision by agency head, documents forwarded to the Office of Review and Appeals of the Equal Employment Opportunity Commission and the Commissioners, and related papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2000e–16; 5 U.S.C. 554; E.O. 11478 of August 8, 1969; E.O. 11590 of April 23, 1971; 22 U.S.C. 3611 (Supp. III 1979); Articles III and X of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosed to the Equal Employment Opportunity Commission in connection with their conducting a hearing or rendering a decision on an appeal of this agency's decision; and to the U.S. courts in connection with the filing of a civil action related to your complaints. (See also General Routine Use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Field alphabetically by name of complainant.

SAFEGUARDS:

Stored in locked file cabinets; office locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retained in office for 2 years after final disposition of case and transferred to Agency Records Center for destruction 4 years after final disposition of case. Tapes of EEO hearings are erased and reused.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Equal Opportunity, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager. See Chapter 713 of Panama Canal Personnel Manual (PCPM 713).

RECORD ACCESS PROCEDURES:

Requests should be addressed to the System Manager. Ivestigatory records are not released until investigation has been completed. Hearing records are not released until final decision has been made.

CONTESTING RECORD PROCEDURES:

See Panama Canal Personnel Manual 713.

RECORDS SOURCE CATEGORIES:

Complainant; individuals involved in complaint; other witnesses; investigator; examiner; and officials making determinations in the case.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material compiled for law enforcement purposes or would reveal the identity of confidential sources is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in agency's regulations. See 35 CFR 10.22.

PCC/FMAX–1

SYSTEM NAME:

Embezzlements, Burglaries, and Cash Shortages, PCC/FMAC–1.

SYSTEM LOCATION:

Agents Accounts Branch, Building 365, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Panama Canal Commission employees and former employees under investigation for embezzlements, burglaries, and cash shortages.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records collected and maintained in connection with investigations of embezzlements, burglaries, and cash shortages, such as, police reports, audit reports, statements by individuals involved and their employers, decisions made about liability and responsibility, statements of actions taken to recover, and court decisions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

6 Panama Canal Code 502–6, 1341–58, 1361–93, 76 A Stat. 428–29, 458–63; 5 U.S.C. 5511–12; 22 U.S.C. 3611 and 3721 (Supp. III 1979) and Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure is authorized to the General Accounting Office for decision on responsibility for losses sustained and method of recovery or forgiveness and to the Office of Personnel Management for recovery from retirement annuities or contributions. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Stored in locked desk in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Agents Accounts Branch, Accounting Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R. P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Employers, agents, investigators, witnesses, and the courts.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material compiled for law enforcement purposes or would reveal the identity of confidential sources is exempt from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC/FMAC-2

SYSTEM NAME:

Accounts Receivable Records, PCC/FMAC-2.

SYSTEM LOCATION:

Agents Accounts Branch, Bldg. 365, Ancon, Republic of Panama; Panama Canal Commission, 4400 Dauphine St., New Orleans, Louisiana; and Data Processing Division, Administration Building, Balboa Heights, R.P.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals billed by the former Canal agencies for services and purchases, and individuals billed by the Panama Canal Commission for services, housing, etc. Included are: all former employees of the Canal agencies, and all present and former employees of the Commission, employees and active duty personnel of U.S. military commands, employees of other U.S. Government agencies, including U.S. Embassy and State Department personnel located in the Republic of Panama, Civil Service annuitants and all other persons having charges or unpaid balances payable to the Panama Canal Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained to support and effect customer billings, collections, and credit standing, including customer listings and data files (name, address, account number and balance, roll and gang, history of debit and credit transactions, etc.), charge account applications, transaction detail and analysis and statistical accumulations, active and inactive credit accounts, schedules of advance payments and security deposits, and account written off. Information relates to such charges as former retail store and storehouse sales, hospital services, other services provided by the former Canal agencies, and housing, electricity, etc., currently provided by the Commission to DOD personnel and other individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 5 U.S.C. 5511-14; 22 U.S.C. 3721 (Supp. III 1979); 31 U.S.C. 65 et seq. and 951-3; 42 U.S.C. 2651-3; 44 U.S.C. 3101; Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure is authorized to General Accounting Office for audit and collection assistance; Department of Justice for collection assistance; Internal Revenue Service for determination of tax liability; Veterans Administration for its administration of laws pertaining to veterans; and other U.S. Government organizations, private employers, labor unions, lending and credit institutions, foreign consulates and embassies, foreign governments, insurance carriers, attorneys, courts, and executors of estates for collection assistance, credit information, offset of accounts receivable against amounts due customers, and possible litigation. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in folders, index cards; magnetic tapes/disks and punched cards; computer printouts; 10 mm rolls of silver halide microfilm.

RETRIEVABILITY:

Paper records and microfilm retrievable alphabetically by name; information retrieved from computer and microfilm by customer/account number.

SAFEGUARDS:

Paper records filed in locked and unlocked metal file cabinets, shell files, tub files, desks, and table tops in building locked when not in use. Magnetic tapes/disks and punched cards filed in locked rooms when not in use. Two microfilm silver copies made simultaneously. One security copy stored in Treasurer's Vault in locked fireproof film file cabinet. Second copy used for retrieval of information and is stored in a fireproof, film file cabinet, which is locked when not in use. Access and use restricted to authorized personnel.

RETENTION AND DISPOSAL:

Paper records destroyed six years and three months after account closed, except those pertaining to accounts written off (destroyed after fifteen years) and customer listings (destroyed when superseded by new listings). Information retained on computer for one year after closing of account. Microfilm retain six years and three months. Request pending to destroy paper copies which have been microfilmed in three years.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Agents Accounts Branch, Accounting Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Units providing chargeable services, billing offices, collection agents, subject individuals, officials authorized to forgive debts and to authorize adjustments of existing charges, and offices making inquiries or to which inquiries are directed.

PCC/FMAC-3

SYSTEM NAME:

Trust Fund Records, PCC/FMAC-3.

SYSTEM LOCATION:

Agents Accounts Branch, Building 365, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Estates escheated to the former Canal Zone Government by court order.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained on funds held for persons incapable of handling their own affairs. The records show the beneficiary's name, amounts received and earned, dates received and earned, account and receipt.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611, 3721 (Supp. III 1979); 31 U.S.C. 65 et seq.; Articles III and XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure of information is authorized to the Public Administrator, for use in the performance of duties. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed or retrievable alphabetically by name.

SAFEGUARDS:

Stored in locked desk in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed when 3 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Agents Accounts Branch, Accounting Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Fund administrators and agent cashiers.

PCC/FMAC–4 (See PCC/FMAP/AC–4)
PCC/FMAC–5

SYSTEM NAME:

Delegation of Authority for Procurement, PCC/FMAC–5.

SYSTEM LOCATION:

Agents Accounts Branch, Building 365, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Panama Canal Commission personnel authorized to procure and/or approve payments, and personnel of the District Court and other government agencies that approve payments and are made by the Panama Canal Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained to show individuals and positions authorized to procure goods or services and approve disbursements. Records contain such information as name; organization; title; type of authority; dollar limitations; payment authorization and limitations; letters of additions, deletions and revisions; and sample signatures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); 31 U.S.C. 65 et seq.; Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure is authorized to officials of the District Court and other government agencies for which the Panama Canal Commission makes disbursements. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Cards and papers in file folders.

RETRIEVABILITY:

Filed or retrievable alphabetically by name.

SAFEGUARDS:

Stored in locked desk in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed 10 years after authorization cancelled or obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Agents Accounts Branch, Accounting Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Officials of the Canal agencies and subject individuals.

PCC/FMAC–6

SYSTEM NAME:

Cash Collection Agents and Subagents, PCC/FMAC–6.

SYSTEM LOCATION:

Agents Accounts Branch, Building 365, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees responsible for handling cash.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained to identify personnel responsible for cash, their location, the authorized amount of their cash banks, and limitations as to the use of the banks.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3721 (Supp. III 1979); 31 U.S.C. 65 et seq.; Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure is authorized to insurance companies for bonding purposes. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records

RETRIEVABILITY:

Filed by agent cashier number and retrievable by name.

SAFEGUARDS:

Stored in locked desks in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed one year after superseded.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Agents Accounts Branch, Accounting Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Administrative Officers of operating divisions, Personnel Bureau records, and the Treasurer.

PCC/FMAC–7

SYSTEM NAME:

Canal Commission Awards and Service Contracts Control Records, PCC/FMAC–7.

SYSTEM LOCATION:

Agents Accounts Branch, Building 365, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and organizations that have personal service contracts and sale agreements with the Panama Canal Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Control records on Canal Commission Awards and service contracts showing transaction history, payment history, history of orders placed against awards, modifications to initial agreement, amount contracted for, and undelivered orders placed against awards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977; Article XI of the Agreement in Implementation of Article III of the Panama Canal Treaty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure is authorized to contractors in reviewing the status of their accounts, the General Accounting Office and the Office of Management and Budget in the performance of their functions, and the District Court and other Government agencies for which the Panama Canal Commission makes disbursements. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Cards.

RETRIEVABILITY:

Filed alphabetically by name and cross-reference to contract and award numbers.

SAFEGUARDS:

Stored in locked desk in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed 6 years and 3 months after final payment.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Agents, Accounts Branch, Accounting Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Contracting officers, budget officers, disbursement records, and contractors.

PCC/FMAC–8

SYSTEM NAME:

Accounts Payable Disbursement Records, PCC/FMAC–8.

SYSTEM LOCATION:

Agents Accounts Branch, Building 365, Ancon, Republic of Panama. New Orleans Office, Panama Canal Commission, 4400 Dauphine Street, New Orleans, Louisiana.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons to whom payments have been made by the former Canal agencies and the Panama Canal Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained to show payments from accounts of the former Canal agencies and the Commission including such documentation as purchase orders, vendors invoices, payment authorizations and approvals, check follow copies, and accounting classifications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611, 3721 (Supp. III 1979); 31 U.S.C. 65 et seq.; Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure is authorized to freight carriers and rate making institutions in connection with the determination of rates, other Federal agencies gathering statistical information, contracting officers, banks with which the Commission maintains checking accounts, and the District Court and other Government organizations for which the Panama Canal Commission disburses funds. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in folders and individual forms. Microfilmed on 16 mm rolls of silver halide film.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Paper records stored in metal file cabinets in building locked when not in use. Two silver halide rolls of microfilm made simultaneously. One security copy filed in Treasurer's Vault in locked fireproof film file cabinet. Second copy kept in Agents Accounts Branch for retieval of information and stored in locked metal, fireproof film file cabinet. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Paper copies and microfilm destroyed 6 years and 3 months after the period of the account.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Agents Accounts Branch, Accounting Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURES:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Procurement Officer, contracting officer, officials authorized to incur liabilities and approve payments disbursed by the Panama Canal Commission, and subject individuals.

PCC/FMAC–9

SYSTEM NAME:

Unnegotiated Checks Over One Year Old, PCC/FMAC–9.

SYSTEM LOCATION:

Agents Accounts Branch, Building 365, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons issued Panama Canal Company and Commission checks for which there is no record of their having been cashed for over one year.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained on unnegotiated checks over one year old used to investigate claims for funds, determine if funds are available which can be offset against accounts receivable, and investigate alleged liabilities. Records contain information such as payee name, identification number, check number, check date, name of bank drawn on, amount of check, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611, 3721 (Supp. III 1979): Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure is authorized to individuals and organizations affected by the nonnegotiation of the check. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards and papers in file folders.

RETRIEVABILITY:

Filed alphabetically by name of payee.

SAFEGUARDS:

Filed in metal file cabinets in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed 10 years after date of issue, except retain summary lists of unpaid checks.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Agents Accounts Branch, Accounting Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Disbursements system, payees, and other persons concerned.

PCC/FMAK-1

SYSTEM NAME:

Claims Files, PCC/FMAK-1.

SYSTEM LOCATION:

Claims Branch, Building 38, Balboa, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons making or filing claims against the former Canal agencies, and the Commission; and/or persons and companies who are subjects of claims by the former Canal agencies, and the Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents needed to audit and settle claims for pay and allowances, uncollectible debts, amounts due estates of deceased employees, travel expense reimbursement, personal injury or death (including injury occurring in the performance of duty), and personal property loss and/or damage. The records consist of documentation of the circumstances giving rise to the claim and basis of the claim; claimant's or individual's name, names and relationship of immediate family, address, identification number, occupation, date of birth; when, where and how the loss of or damage to property occurred; when and how individual was injured, nature and extent of injury, medical treatment, diagnosis and prognosis; payroll information; travel orders and other travel information, investigative, police, fire, autopsy, accident and medical reports, and various other materials placed into the record to perfect the claim and relating to the actions, decisions, or determinations made by the Agency or claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 5 U.S.C. 5581 et seq.; 5 U.S.C. 5701 et seq.; 5 U.S.C. 8101 et seq.; 22 U.S.C. 3611 and 3721 (Supp. III); 31 U.S.C. 240–243; 31 U.S.C. 951–953; 46 U.S.C. 1300 et seq.—Bill of Lading Contract of Carriage; Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information or a record from this system may be furnished to and information acquired from federal, state, local or foreign agencies, the claimant and other parties of interest in connection with the audit and settlement of claims and demands by or against the former Canal agencies, and the Commission, such as the following:

1. Physicians and medical facilities for the purpose of medical treatment, examination, opinions and evaluations of claimants.

2. Insurance companies in connection with claims for or against their insured under subrogation rights or in connection with the bonding of employees of the former Canal agencies, and the Commission.

3. Lawyers representing claimants or the agency.

4. Labor unions representing claimants.

5. Steamship agencies and/or their legal representatives for furnishing services or adjusting cargo and other claims from the former Canal agencies, and the Commission or other claimants.

6. Contractors who furnish services to the Panama Canal Commission such as the packing, crating, and transportation of household goods and personal effects of employees under recruitment and repatriation.

7. Consultants who furnish services to the Panama Canal Commission, i.e., doctors, engineers, management firms, etc.

8. Transportation companies such as airlines, steamship companies, railroads, buses, and car rental agencies who furnish services to the Panama Canal Commission.

9. National Safety Council for safety purposes.

10. Department of Labor for advice on a particular case and appeals to the Employees' Compensation Appeals Board.

11. Social Security Administration for verification of earnings record of beneficiaries under the Federal Employees' Compensation Act.

12. Office of Personnel Management for furnishing record of compensation payments to beneficiaries under the Federal Employees' Compensation Act.

13. Department of Justice for the defense or prosecution of cases on behalf of the agency.

See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10. Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders.

RETRIEVABILITY:

Filed alphabetically by name of claimant, etc.

SAFEGUARDS:

Records maintained in lockable file cabinets in office locked other than during office hours. Access and use of records limited to authorized personnel only.

RETENTION AND DISPOSAL:

Disposal not authorized. Retention period pending further discussion with GSA/NARS.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Claims Branch, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Claimants, officials of Panama Canal Commission, other government officials, physicians, medical facilities, private individuals and companies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material compiled for law enforcement purposes or would reveal the identity of confidential sources is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the Agency's regulations. See 35 CFR 10.22.

PCC/FMAP–1

SYSTEM NAME:

Payroll Master File for Panama Canal Commission Employees, PCC/FMAP–1.

SYSTEM LOCATION:

Payroll Branch, Building 365, Ancon, Republic of Panama; and Data Processing Division, Administration Building, Balboa Heights, R.P.; and New Orleans Office, Panama Canal Commission, 4400 Dauphine Street, New Orleans, Louisiana.

CATEGORIES OF RECORDS IN THE SYSTEM:

Present and former employees of the Panama Canal Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Master payroll system consisting of payroll-related or employment-related information necessary to compute gross and net pay, retirement credit, leave balances, overtime, etc., and to account for payments. Includes such information as name, employee identification number, rate number, rate of pay deductions, date hired, where hired, roll and gang, position number, occupation, pay level, base rate, frozen or saved rate, tropical differential code, annual premium compensation, security classification, step due date, labor distribution accounts, work week, retirement code, tenure, rehired annuitant, part-time hours, social security code and number, FEHBA plan, FEGLI income tax data, Fair Labor Standards Act code, medical identification card, residence, citizenship, sex, marital status, veterans preference, physical examination, suspended leave, employee address, birth date, Federal service date, Canal service date, travel leave, check distribution code, employee status, and Combined Federal Campaign pledges.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapter 55; 22 U.S.C. 3611 and 3721 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

Information may be disclosed to the following agencies and organizations, in connection with their authorized functions: Office of Personnel Management; Internal Revenue Service; Social Security Agency; General Accounting Office; U.S. military agencies; state unemployment compensation offices; city, county, and state tax offices, employee credit union; banks; labor unions; insurance carriers; and Combined Federal Campaign. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape/disks, punched cards, computer printouts, and microfilm of printout.

RETRIEVABILITY:

Retrievable by employee's name, identification number, and pay rate code.

SAFEGUARDS:

Paper record and microfilm stored in building locked when not in use. Magnetic tape/disks and punched cards filed in locked rooms when not in use. Access and use restricted to authorized personnel.

RETENTION AND DISPOSAL:

Paper records or microfilm destroyed sixty years after individual's first day of employment, provided individual has been separated from service for five years. Terminated employees are carried on the computer until six weeks after the end of the calendar year in which they terminate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Payroll Branch, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of addresses designated in Notification Procedures preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject employee, personnel action form (SF–50), employing unit, time reports, and computer-generated and manual calculations from varied input data.

PCC/FMAP–3

SYSTEM NAME:

Injury Compensation Payroll Records. PCC/FMAP–3.

SYSTEM LOCATION:

Payroll Branch, Panama Canal Commission, Bldg. 365, Ancon; Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Beneficiaries under the Federal Employees Compensation Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained to account for payments of awards and as the basis for a variety of reports on payments of injury compensation, containing

information on beneficiaries, such as name, identification number, address, amount of payment, amount of insurance premiums, and miscellaneous hospital bills.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and 8101 et seq.; 22 U.S.C. 3611 and 3658 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Submission of reports to Office of Personnel Management and insurance carriers for use in their functions related to the Federal Employees Compensation Act. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Journals and cards.

RETRIEVABILITY:

Filed by identification number and retrievable by name.

SAFEGUARDS:

Stored in shelf or tub files in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed after 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Payroll Branch, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Branch, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Panama Canal Commission Personnel Bureau and Claims Branch.

PCC/FMAP/AC–4

SYSTEM NAME:

Payroll Deductions, PCC/FMAP/AC–4.

SYSTEM LOCATION:

Payroll Branch, Building 385, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active and retired employees of the Panama Canal Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained by the Payroll Branch as part of the Payroll Master File for Panama Canal Commission employees and used also by Agents Acounts Branch as part of the Accounts Receivable Records System For accounts collectible by payroll deduction. Records contain individual's gross pay, net pay, and payroll deduction detail and support data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5511–27; 22 U.S.C. 3611 and 3645 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure is authorized to insurance carriers in connection with payments of health insurance benefits. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards, ledgers, and papers in file folders.

RETRIEVABILITY:

Filed and retrievable alphabetically by name and by identification number.

SAFEGUARDS:

Stored in metal file cabinets and ledger buckets in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed 4 years after fiscal year involved.

SYSTEM MANAGER(S) AND ADDRESS:

For Payroll Master File use; Chief, Payroll Branch, Accounting Division, Panama Canal Commission, APO Miami 34011. For accounts receivable use; Chief, Agents Accounts Branch, Accounting Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Billing units and subject individuals.

PCC/FMGA–1

SYSTEM NAME:

Cash Audit Files, PCC/FMGA–1.

SYSTEM LOCATION:

General Audit Division, Building 6530, Corozal, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Panama Canal Commission collecting agents whose accounts are audited by the General Audit Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of cash audits to evaluate internal controls over cash and determine whether the custodian is carrying out his responsibilities with respect to Government property and to identify weaknesses in cash controls and to make necessary changes in those controls. In case of cash shortages, records are used to determine amount recoverable from agent. Records contain information such as the identifying agent number, employee's name, employing unit, and employee's accountability at the time the audit was performed. In instances where cash shortages are found, the records will also contain information on the recovery of these amounts from the agents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 and 3721 (Supp. III 1979) and Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Payee records in file folders.

RETRIEVABILITY:

Filed by fiscal year and agent number audited. Retrievable by name.

SAFEGUARDS:

Stored in locked file cabinets in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed by burning after ten years.

SYSTEM MANAGER(S) AND ADDRESS:

General Auditor, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individuals, auditors, and employees of Agents Accounts Branch.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All Information in this system which is investigatory material compiled for law enforcement purposes or would reveal the identity of confidential sources is exempt from certain subsections of 5 U.S.C. 552a and from the procedures of access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC/FMTR–1

SYSTEM NAME:

Termination of Employment Actions Records, PCC/FMTR–1.

SYSTEM LOCATION:

Treasurer's Office, Building 287, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the Panama Canal Commission terminating their employment with this agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, identification number, position and grade, post office address, house number and town, office and home telephone number, date of termination, future mailing address, nature of termination, reason for termination, disposition of final pay, date of travel, transportation request, members of family with whom traveling, final destination, destination of household effects, signature of employee, employee's position number, roll and gang, whether recruited from states and whether replacement is required.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 22 U.S.C. 3611, 3652 and 3654 (Supp. III 1979); 44 U.S.C. 3101; article III and X of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

8 by 10½ printed form 194–T.

RETRIEVABILITY:

Indexed by name and identification number.

SAFEGUARDS:

Records maintained in locked file. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed after 4 years.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From employee and employing Unit, Division, or Bureau.

PCC/FMTR–2

SYSTEM NAME:

Internal Revenue Service Notice of Levy Files, PCC/FMTR–2.

SYSTEM LOCATION:

Treasurer's Office, Building 287, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Panama Canal Commission whose salaries are being levied by the U.S. Internal Revenue Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, address and social security number, amount of Federal income tax owed to Internal Revenue Service, tax period ended, date and amount of assessment, unpaid balance of assessment and statutory additions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapter 64, Internal Revenue Code of 1954; 22 U.S.C. 3611 (Supp. III 1979) and Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To disclose to the Internal Revenue Service that the employee has been notified of his or her indebtedness, and to collect amounts owed and forward same to Internal Revenue Service to satisfy levy. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed form, 8 by 10½ inches.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records maintained in locked file. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed when 3 years old.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Buildings, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Internal Revenue Service, Panama Canal Commission payroll records and the individual on whom record is maintained.

PCC/FMTR-3

SYSTEM NAME:

Suspension of Check Cashing Privileges Files, PCC/FMTR–3.

SYSTEM LOCATION:

Treasurer's Office, Building 287, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have cashed unnegotiable checks, and persons who request cancellation or suspension of their own check-cashing privilege.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained to assist in attempts to recover losses from bad checks and to aid in the determination of whether a person's checks are acceptable or whether credit may be extended to a person. Records may show the individual's name, social security number (optional) and identification number (if any), employer, telephone number, dates the checks were returned, dates of checks, number of checks returned, and monetary value of each check.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 and 3721 (Supp. III 1979) and Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Listings disclosed to U.S. Government check-cashing facilities in the Canal area, including Army, Navy, and Air Force Exchanges, Information may be disclosed to commercial banks, credit agencies, labor unions, and employers consistent with collection practices. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards and listings.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Stored in locked file in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Lists are destroyed when superseded by new lists. Cards are destroyed when no longer required for control purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Treasurer, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Banks or clearing houses to which checks are sent for negotiation and the subject individual.

PCC/GSCE-1

SYSTEM NAME:

Emergency Preparedness Records (Civil Defense/Emergency Management), PCC/GSCE–1.

SYSTEM LOCATION:

Various locations in the Commission as may be designated by the Agency Records Officer, Personnel Director, or other appropriate officials.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those persons to whom, and by whom, emergency services would be rendered in times of emeregency or natural disaster.

CATEGORIES OF RECORDS IN THE SYSTEM:

As may be required, the names addresses, ages, employment, citizenship, next of kin and other information needed to identify persons who may provide, or required, temporary housing assistance, medical care, etc., in times of emergency or natural disaster.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979) and Article III of the Panama Canal Treaty of 1977; E.O. 11490 of October 28, 1969.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Forms in file folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Stored in lockable file cabinets. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retained until revised or no longer required.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Emergency Preparedness Officer, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

The individual, employer and, Housing and Personnel Bureau records as required.

PCC/GSCL-1

SYSTEM NAME:

Library Services Branch Registration Record, PCC/GSCL–1.

SYSTEM LOCATION:

Library Services Branch, Bldg. 0610, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals authorized to borrow material from Library.

CATEGORIES OF RECORDS IN THE SYSTEM:

Borrower's name, identification number or Serial number, mailing address, citizenship, dependents, employer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 22 U.S.C. 3611 (Supp. III 1979); and Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card file cabinets of forms.

RETRIEVABILITY:

By borrower's name and card number.

SAFEGUARDS:

Records are maintained in locked file cabinets. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed one year after borrowing privilege has been cancelled. Destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Library Services Branch, Clerk Typist, Panama Canal Commission Library-Museum, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From individual on whom record is maintained.

PCC/GSCP-2

SYSTEM NAME:

Canal Protection Division Incident Report Files, PCC/GSCP-2.

SYSTEM LOCATION:

Canal Protection Division Pacific and Atlantic Area Chiefs' Offices, at Building 729, Balboa, Republic of Panama and Bldg. 40, Gatun R.P. respectively.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are or have been subjects of investigation by Canal Protection Division personnel, including those detained and those who have committed, or are alleged to have committed, violations of laws or regulations in areas protected by the Canal Protection Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incident reports, index cards and logbooks containing information such as subject's name identification number, occupation and employing unit and, when a subject has been barred from vital areas, a notation to that effect; date and time of incident and report; name of person making the report; information concerning the incident or detention; and witnesses or victims' names, identification numbers and employing units.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977; and Article III, paragraph 8, of the Agreement in the Implementation of Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A. Information in connection with actual or potential violations of the security of areas guarded by the Canal Protection Division may also be disclosed to intelligence units or agencies of the United States Government including the State the Department and Department of Defense, and officials of the Government of Panama.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms 8½ by 11 inches and index cards.

RETRIEVABILITY:

Alphabetical card file of names of subjects gives cross-reference to incident reports filed in numerical order.

SAFEGUARDS:

Active files maintained in file cabinets in Area Chiefs' offices. File cabinets locked when not in use. Inactive files maintained at Agency Records Center, a building locked when not in use. Access to files and filing areas restricted to authorized personnel.

RETENTION AND DISPOSAL:

Activity reports retained at Area Chiefs' offices for two years, subsequently held at Agency Records Center for three more year, then destroyed Index cards retained for up to ten years after date of last entry.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Canal Protection Division, Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system is exempt from certain subsections of the Privacy Act of 1974, 5 U.S.C. 552a, and from the procedures for access and contest set forth in the agency's regulations, See 35 CFR 10.21 and 10.22

PCC/GSCS-1

SYSTEM NAME:

Housing Files, PCC/GSCS-1.

SYSTEM LOCATION:

Housing Offices, Community Services Division, Balboa Heights and Margarita, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons residing in Panama Canal Commission quarters and in housing maintained by religious, commercial and charitable organizations in the Canal area.

CATEGORIES OF RECORDS IN THE SYSTEM:

Assignment and occupancy of Panama Canal Commission quarters, including information on assignee's name, eligibility, service date, identification number, address, family, size, and citizenship; name of spouse and dependents; dates of occupancy; rental and other related information; persons allowed to reside or visit with assignees; investigations of misconduct in quarters; and reports of violations of quarters regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977 and Articles III and VI of the Agreement in Implementation of Article III of the Panama Canal Treaty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statements or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed or retrievable alphabetically by name.

SAFEGUARDS:

Stored in locked metal file cabinets in buildings locked when not in use or with around-the-clock guard. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed three years after occupants' termination of service.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Community Services Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager of the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individuals, official personnel files, entry permits, dependency determinations, housing personnel, maintenance personnel, neighbors, and officials of other organizations maintaining housing in the Canal Area.

PCC/GSCS-2

SYSTEM NAME:

Housing Complaints File, PCC/GSCS-2.

SYSTEM LOCATION:

General Services Bureau, General Services Building, No. 729 Balboa, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Occupants of Panama Canal Commission quarters whose cases have been referred to the Quarters Retention Committee.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complaints, investigations, testimonies, hearings, and decisions bearing on an occupant's eligibility to retain Panama Canal Commission quarters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977; and Articles III and VI of the Agreement in Implementation of Article III of the Panama Canal Treaty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed or retrievable alphabetically by name.

SAFEGUARDS:

Stored in locked metal file cabinets in buildings locked when not in use or with around-the-clock guard. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed by burning or shredding five years after occupant is no longer eligible for residence in the Commission housing.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, General Services Bureau, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individuals; complainants investigatory personnel, including police and customs officials; officials of the Canal agencies; witnesses; Quarters Retention Committee; and court officials and records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material compiled for law enforcement purposes or would reveal the identity of confidential sources is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC/GSCX-1

SYSTEM NAME:

Administrative Reports, PCC/GSCX-1.

SYSTEM LOCATION:

Support Service Branch, Pacific Area Office Bldg, 729 Balboa, Republic of Panama; and Atlantic Area Office Bldg, 8040 Margarita, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commission employees, their dependents, and other eligible persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on individuals who have been provided assistance by or have requested assistance from the Support Services Branch, or designees of the U.S. Representative to the Coordinating Committee, as a result of having been arrested by or having had some other manner of involvement with authorities of the Government of Panama. Also records of shoplifting cases or other misconduct referred to the Support Services Director by either the U.S. military or Government of Panama law enforcement authorities for review for the purpose of counselling and/or administrative action to be carried out by the appropriate Commission officials. Copies of records of the disposition of cases involving abuse of purchase or importation privileges for reference purposes.

Records may include: Name of person report is about, identification number, citizenship, date of birth, residence, home and office telephone numbers, occupation and address. Information may include descriptive information concerning various offenses, arrests, and incidents, including witnesses and other persons involved, and may include copies of reports prepared by U.S. military and Government of Panama law enforcement authorities, and Panamanian court documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611, 3622 (Supp. III 1979); Articles III, V, and IX of the Panama Canal Treaty of 1977; Articles XVI and XIX and Annex C of the Agreement in Implementation of Article III of the Panama Canal Treaty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

May be released to U.S. military law enforcement agencies, the U.S. Embassy, and Government of Panama law enforcement authorities as necessary to

report arrests, assist employees or assist in investigations. See also the general routine uses in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

.Typed reports, printed forms 8 x 10½ inches, computer printouts, magnetic tapes, and log books.

RETRIEVABILITY:

By name of person assisted or primarily about.

SAFEGUARDS:

Active files maintained in locked file cabinets or in safes when not in use; computer timesharing data accessible through use of code names and numbers, restricted to authorized personnel.

RETENTION AND DISPOSAL:

Reports will be held for six years and then destroyed. Computer timesharing data will be expunged simultaneously.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Support Services Branch, Community Services Division, General Service Bureau, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Panama Canal Commission, APO Miami 34011. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORDS PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual or from reports from U.S. military or Government of Panama authorities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material obtained from or related to the law enforcement sources of the U.S. military or Government of Panama authorities, of records created which would reveal the contents or substance of such records, or would reveal the identity of confidential sources, is exempt from certain subsections of 5 U.S.C 552a and from the procedures for access and contest set forth in the Agency's regulations. See 35 CFR Part 10.22. Certain reports in the system may be classified under Executive Order 12356, National Security Information.

PCC/IR-1

SYSTEM NAME:

Quarterly Report of Employee Union Dues Deductions, PCC/IR–1.

SYSTEM LOCATION:

Office of Industrial Relations, Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Panama Canal Commission employees who pay union dues through payroll deductions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of employee, identification number and dues deduction amounts. Payroll information cross-referenced with payroll dues deduction requests received from unions and individual employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5525 and 7115; 22 U.S.C. 3611 and 3701; Articles III and X of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer printout provided upon request by the Data Processing Division, Panama Canal Commission.

RETRIEVABILITY:

Reported by employee identification number and name.

SAFEGUARDS:

Maintained in locked cabinet. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed every three months upon receipt of updated quarterly listings.

SYSTEM MANAGER(S) AND ADDRESS:

Industrial Relations Officer, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Office, Administration Building, Balboa Heights, R.P.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

The employee's payroll dues deduction request.

PCC/-IR-2

SYSTEM NAME:

Grievances, Appeals, and Adverse Actions Records, PCC/IR–2.

SYSTEM LOCATION:

Office of Industrial Relations, Adverse Actions Section, Bldg. 0610, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Panama Canal Commission who have filed a grievance, appealed a disciplinary action to the agency or an adverse action to the agency or the Office of Personnel Management, or submitted to the agency or the Panama Canal Board of Appeals a position classification appeal, insofar as personal information has been incorporated into the position classification file.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files and indexes on employee grievances and adverse or disciplinary action appeals containing the formal grievance or appeal; background, supporting, and investigatory information; record of hearing, when conducted; decision or determination; and related documents. Information of a personal nature which may have been submitted in conjunction with a position classification review or appeal procedure.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, 5 CFR 752, 754, 771; and Chapters 71 and 75; 22 U.S.C. 3611, 3671 (Supp. III 1979); Articles III and X of Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in the file folders, index cards.

RETRIEVABILITY:

Filed alphabetically by name of employee or by an identification number.

SAFEGUARDS:

Stored in metal file cabinets and desks in rooms locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Grievance records disposed of 3 years after closing of the case. Adverse actions records disposed of 4 years after closing of the case. Disposal is by shredding or burning. Index cards showing status of action on current cases are destroyed when cases are completed. Exceptions: Some case files of a precedential nature are retained beyond retention period for study and reference.

SYSTEM MANAGER(S) AND ADDRESS:

Industrial Relations Officer, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Individuals who have filed appeals or grievances are aware of that fact and have been provided a copy of the record. They may, however, contact the Systems Manager regarding the existence of such records pertaining to them. Individuals should provide to the Systems Manager their name, date of birth, identification number, and the approximate date and kind of action taken by the agency when making inquires about records.

RECORD ACCESS PROCEDURES:

Requests should be addressed to the Systems Manager.

CONTESTING RECORD PROCEDURES:

The contest, amendment, or correction of an appeal or grievance record is permitted during the prosecution of the appeal or grievance by the individual to whom the record pertains. For contest after case has been closed, see rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains; officials of the Canal agencies, Office of Personnel Management, and Board of Appeals; witnesses; official documents related to the appeal or grievance; hearing examiners; and others involved in the grievance or appeal procedure.

PCC/MRBL-1

SYSTEM NAME:

Marine License Files, PCC/MRBL-1.

SYSTEM LOCATION:

Board of Local Inspectors, Bldg. 5140, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All permanent employees of the Panama Canal Commission in positions for which a Panama Canal marine license is required. Subsystem include individual applications and examination papers filed in license file, Records Section, Records Management Branch, Administration Building.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, identification number, employing unit, work area, size and type of license, competence of applicant, examination grades promotions, salaries, license serial number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 and 3778 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Book shelf for license stubs, file cabinet for file folders with correspondence and card file for license cards.

RETRIEVABILITY:

Indexed by name; by license serial number.

SAFEGUARDS:

File folders in lockable file cabinet. Cards and license stubs available for unit personnel screening. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retain 5 years after termination of employee and then transfer to FRC-Atlanta. Destroy 55 years after first entry in records.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman, Board of Local Inspectors, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From individual; Proctors for examinations; Port Captains, examination graders; Board of Local Inspectors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is testing or examination material is exempt from certain subsections of 5 U.S.C. 552a and from the procedure for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC/MRBL-2

SYSTEM NAME:

Marine Accident Reports and Investigations, PCC/MRBL-2.

SYSTEM LOCATION:

Board of Local Inspectors, Bldg. 5140, Diablo, Republic of Panama, and Data Processing Division, Administration Bldg., Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Panama Canal Commission pilots involved in marine accidents during transit operations; and persons injured in marine accidents during transit operations (since 1960).

CATEGORIES OF RECORDS IN THE SYSTEM:

Findings of marine accidents that are investigated include: Pilot's name, case number, vessel description (name, type, length, beam), date, time and location of accident, type of accident (grounding, collision, sinking, injury, etc.), direction vessel was traveling, damage type and [dollar estimate, fault or no fault, transcript of hearing held by the Board of Local Inspectors name of injured parties, medical report on injured parties, and other information which may be pertinent to the Board's

investigation. Administrative reports prepared by Navigation Division for marine accidents not investigated include: Pilot's name, report number, date and time of accident, vessel description (name, type, length, and beam), accident location, direction vessel was traveling, accident type, signed release (if provided by vessel making no claim).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3777–3778 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977; 35 CFR Parts 115 and 117.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The final published report of findings of an investigation is available to the public. Information about an accident under investigation may be disclosed to parties having a legitimate interest therein, such as owners or operators of vessels, insurance underwriters, legal counsel. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tapes and disks, paper printouts, logs, charts, cassette tapes, paper files, transcripts of Board proceedings with original exhibits and appendices, cassette tapes, and shorthand notes.

RETRIEVABILITY:

Pilot's name code, case number, and most other data elements in the system.

SAFEGUARDS:

On-line access restricted to a limited number of authorized personnel who use a confidential identifying code and access code. One person has been designated to maintain control of all input documents and issuance of report information. All paper records and computer tapes/disks are kept in a locked cabinet or secure area when not in use.

RETENTION AND DISPOSAL:

No retention schedule established. Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman, Board of Local Inspectors, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Panama Canal Commission, APO Miami 34011. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individuals involved in accident, administrative reports from Marine Transit Operations Division personnel, investigations by the Board.

PCC/MRNA–1

SYSTEM NAME:

Admeasurer Examination File, PCC/MRNA–1.

SYSTEM LOCATION:

Admeasurement Office, Bldg. 28, Balboa, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Boarding Inspectors, Admeasurer assistants, and Admeasurers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Examinations, answer sheets, scoring sheets, evaluation sheets.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Presidential Proclamation 2248, August 28, 1937, continued in force by virtue of Sec. 19 of Act, October 18, 1962, 76A Stat. 1,700; 22 U.S.C. 3811 (Supp. III 1979); 35 CFR 133.32 and 135.441; Article III of the Panama Canal Treaty of 1977.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine uses paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Maintained in lockable file cabinet. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed upon employee termination.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Admeasurement, Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is testing or examination material is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC/MRNV–1

SYSTEM NAME:

Marine Accident Reference Cards, PCC/MRNV–1.

SYSTEM LOCATION:

Navigation Division, 2nd floor, Building 28, Balboa Industrial Area, Balboa, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Panama Canal Commission. Pilots employed by the Navigation Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, identification number, date of birth, dates of promotion, and ship accident data; including the ship's name, description, date of occurrence and fault or no fault of employee involved. When a ship incident does not require a Board of Local Inspector's investigation, an administrative report noting the date, ship's name and description is included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3777–3778 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977; 35 CFR Part 117.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper cards and sheets.

RETRIEVABILITY:

Filed alphabetically by last name.

SAFEGUARDS:

Kept in lockable file cabinet or desk. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

No retention schedule established. Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Navigation Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Chairman, Board of Local Inspectors, Deputy for Support Operations.

PCC/MRNV-2

SYSTEM NAME:

Pilot Workload Statistics, PCC/MRNV-2.

SYSTEM LOCATION:

Navigation Division, Transit Operations, Marine Traffic Control Center, Bldg. 910, La Boca, Republic of Panama; and Data Processing Division, Administration Building, Balboa Heights, R.P.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Panama Canal pilots.

CATEGORIES OF RECORDS IN THE SYSTEM:

A pilot master file and information for producing reports on the workload of the pilot force. The master file contains information such as pilot's name, identification number, mailing address, home telephone number, residence, education level, professional licensing data, and officer and maritime experience. Also included is such Panama Canal Commission employment information as employee status, pilot's home district, qualification and group numbers, seniority number and date, and termination dates and reasons. Reports produced include, for each pilot, such information as daily details of transits, hours worked, travel hours, and available time.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3811 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977; 35 CFR Part 105.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and punched cards; computer printouts; computer input forms.

RETRIEVABILITY:

By name of pilot.

SAFEGUARDS:

Computer printouts and input forms kept in lockable cabinets in rooms locked when not in use. Magnetic tapes kept in locked rooms when not in use. Access and use restricted to authorized personnel.

RETENTION AND DISPOSAL:

Input forms kept at Marine Traffic Control Center up to three months then sent to Agency Records Center, where retained for three years and then destroyed. Pilot master file purged and updated weekly; workload data retained on magnetic tape indefinitely. Computer printouts retained up to one year at Transit Operations Center, then sent to Agency Records Center, where retained for three years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Navigation Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the system Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Pilots.

PCC/OM-1

SYSTEM NAME:

Ombudsman Investigation Files, PCC/OM-1.

SYSTEM LOCATION:

Office of the Ombudsman, Building 37, Balboa, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM:

Employees and former employees, and dependents of the Panama Canal Commission, Department of Defense, Smithsonian Tropical Research Institute, Federal Aviation Administration, and any other U.S. Government agency operating prior to October 1, 1979 in the former Canal Zone, who have submitted complaints, grievances, requests, or suggestions to the Ombudsman.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's or dependent's name, identifying number, residence, citizenship, employing unit, mailing address, description or history of problem, facts and observations of investigation, and other materials placed into the record to complete the case file and to document the actions, decisions, findings, or recommendations of the Ombudsman.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 and 3623 (Supp. III 1979); Article III of the Panama Canal Treaty of 1979.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system may be disclosed to other U.S. Government agencies or Government of Panama officials as necessary to investigate the matter under review by the Ombudsman. See also the general routine uses in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; and logs.

RETRIEVABILITY:

Filed by case number; reference to log enables retrieval by individual's name.

SAFEGUARDS:

Records maintained in locked security filing cabinet or safe in building which is locked after duty hours. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retained 5 years after final disposition of case, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Ombudsman, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records

Officer, Panama Canal Commission, AOP Miami 34011. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to either of addressees designated in Notification Procedure, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Information is obtained from the complainant/suggestor, and from various other sources in the course of investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material compiled for law enforcement purposes or would reveal the identity of confidential sources is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC/OM-2

SYSTEM NAME:

Resident Advisory Committee Files, PCC/OM-2.

SYSTEM LOCATION:

Residents' Advisory Committee Liaison, Gatun Community Center, Bldg. 206, Gatun, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Residents' Advisory Committee Officers; Panama Canal Commission employees and officials; local officials; officers of local organizations; official visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Telephone numbers; addresses; photographs; stenographic transcriptions of Residents' Advisory Committee meetings, recordings, speeches, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To establish appointment schedules, contact protocol counterparts in other agencies. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Standard 8 by 10½ inch paper, index cards.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records maintained in lockable file cabinets. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Maintained indefinitely. Forwarded to Agency Records Center for disposition according to established procedures, and where applicable to libraries and the National Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Ombudsman, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained.

PCC/OPR-1

SYSTEM NAME:

Operating Unit Personnel Records, PCC/OPR-1.

SYSTEM LOCATION:

May be maintained in Section, Branch, Division, Independent Unit, Staff Office, Bureau or other employing unit to which employee is assigned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former and present employees with category of full-time permanent, part-time permanent, full-time temporary, part-time temporary, and intermittent.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained by operating officials and used in administering employees and organizational segments under their technical and administrative control. They include office copies of documents kept in the official personnel folder and documents pertaining to the administration of individual employees which are not appropriate for inclusion in the official personnel folder. The records may contain information such as: Employee's name, Panama Canal Commission identification number; mail address; home address and telephone number; social security number (optional); birth date; marital status; position number and title; position descriptions; employment history; educational qualifications; professional qualifications; performance review and evaluation; including date and rating; training and management development records, including types of courses taken and completion dates; special assignments; counseling interview record; award data; commendations; oral admonishments; disciplinary, adverse, and other personnel actions; grievances; leave and travel records, including official business travel vouchers; accident or injury records; attendance and absenteeism records; relief assignment records; job equipment checkout listings; U.S. Government vehicle and equipment operators license records; work, overtime and shift schedules; timekeeping records; tuition refund agreements; key and equipment inventory control listings; potential retirement date listings; native and foreign languages; blood donor information; copies of W–4, employee withholding statements; names, addresses and telephone numbers of next of kin for notification in emergency situations; participation in civic, welfare, recreational and union activities; eligibility for tropical differential.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 22 U.S.C. 3611 (Supp. III 1979); 44 U.S.C. 3101; Articles III and X of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To have as ready reference for use in compiling training reports required by the Office of Personnel Management; referrals to promotion boards; in responding to inquiries from professional and medical societies, bar associations, prospective employers, employment agencies, etc., concerning personal characteristics and qualifications, employment background, job performance and advancement potential, etc. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files maintained in file folders stored in desk drawers or filing cabinets, records also entered and stored in word processing equipment and on magnetic disks utilized with word processing equipment.

RETRIEVABILITY:

Employee name, identification number, or position number.

SAFEGUARDS:

Paper records maintained in lockable file cabinets or supervisor's desk. Magnetic disks and word processing equipment kept in locked rooms when not in use. Access and use restricted to authorized personnel.

RETENTION AND DISPOSAL:

Records reviewed at end of calendar year and documents which have been superseded or are no longer applicable are to be destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Head of Section, Branch, Division, Independent Unit, Staff Office, Bureau of other employing unit where employee works.

NOTIFICATION PROCEDURE:

Information may be otained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual to whom information applies; personnel actions; performance review or personnel evaluation reports; letters of commendation or reprimand; travel orders; college transcripts; training records; and other related papers.

PCC/OPR-2

SYSTEM NAME:

Operating Unit Employment Inquiry Files, PCC/OPR-2.

SYSTEM LOCATION:

May be maintained in Section, Branch, Division, Independent Unit, Staff Office, Bureau or other unit receiving informal inquiries or requests for employment.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public and employees of other units or agencies who anticipate, or are in the process of applying for jobs with the Panama Canal Commission unit maintaining the record.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained by operating officials to whom applicants have applied directly for employment. The records may contain copies of SF-171, application for Federal employment, showing applicant's name, address, telephone number, social security number, employment experience, school transcripts, educational, professional or skilled craft history and background, native or foreign languages, other skills, awards or special commendations, references, statements from previous employers, resumes, etc. May also contain record of interviews, if any, name of interviewer, and evaluation of applicant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); Articles III and X of the Panama Canal Treaty of 1979.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders stored in desk drawers of file cabinets.

RETRIEVABILITY:

Filed alphabetically by name of applicant.

SAFEGUARDS:

Maintained in lockable file cabinet or operating unit official's desk. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Records may be sent to Panama Area Personnel Board for determination of applicant's eligibility and consideration for employment under the Canal Zone Merit System (and the Panama Canal Employment System when it replaces the Canal Zone Merit System, pursuant to the Panama Canal Act of 1979); directly for consideration of vacancy is excluded from Canal Zone Merit System (and the Panama Canal Employment System) returned to applicant; or destroyed twelve months after initial inquiry.

SYSTEM MANAGER(S) AND ADDRESS:

Official in Section, Branch, Division, Independent Unit, Staff Office or Bureau maintaining such records.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORDS ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From individual to whom information applies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which would reveal the identity of confidential sources is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations as part of systems PCC/PB-1 or, if position is exempt from Canal Zone Merit System, (and the Panama Canal Employment System), PCC/PR-5.

PCC/PA-1

SYSTEM NAME:

News Morgue Records, PCC/PA-1.

SYSTEM LOCATION:

Office of Public Affairs, Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Newsworthy and potentially newsworthy individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained as a ready reference from which to obtain background information for news stories and articles about individuals for publication in house organs and news media. Records include biographical sketches, press releases, media clippings, interview notes, and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 22 U.S.C. 3611; 44 U.S.C. 1108 and 3101; Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to news media and other publishers for publication is authorized. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Index cards, individual forms, and paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name of individual.

SAFEGUARDS:

Stored in file cabinets in building with around-the-clock guards. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Office of Public Affairs, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained for the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, proceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individuals, individuals interviewed about subject individuals, and information published about subject individuals.

PCC/PB-1

SYSTEM NAME:

. Merit System Recruiting, Examining, and Placement Records, PCC/PB-1

SYSTEM LOCATION:

Panama Area Personnel Board, Bldg. 6531, Corozal, Republic of Panama, and Central Examining Office, Building 363, Ancon. R.P., and personnel and other offices of Federal agencies in Republic of Panama authorized to make appointments to positions and to act for the Board by delegated authority.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals seeking eligibility for positions with Federal agencies in the Republic of Panama and current and former employees of Federal agencies in the Republic of Panama.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records compiled for determining an individual's suitability, qualifications, and ratings to establish status for eligibility for employment: for referring and placing individuals for employment, transfer, promotion, reassignment, and reappointment; and for providing statistical information for conducting personnel research and management studies. They contain information concerning education and training: employment history and earnings; appraisal of past performance by current and previous employers, educators, and personal references; convictions for offenses against the law; responses to test items and questionnaires; results of tests; rating sheets; appraisals of potential; honors, awards, or fellowships; military service and veterans preference; birthdate and birthplace; citizenship; identification numbers; legal residence; home addresses and telephone numbers; general suitability and medical fitness for Federal employment; applicant's conditions and preferences for employment; special qualifications; registers and certificates of eligibles; actions taken; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3652, 3654, 3661–3664 [Supp. III 1979]; Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement of in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSEM.

STORAGE:

Paper records in file folders, individual forms and cards, and computer printouts.

RETRIEVABILITY:

Filed or retrievable alphabetically by name of individual and by date of birth.

SAFEGUARDS:

Sensitive information is stored in locked metal file equipment and other records are stored in metal file cabinets in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Applications and supporting documents:

a. Transferred to employing agency when applicant is selected for permanent appointment.

b. Transferred to designated U.S. Civil Service Commission area office on transfer of eligibility.

c. Eligible applicants; Destroyed 10 years after termination of register.

d. Canceled or ineligible applicants; Destroyed two years after date register is established or upon termination of the register, whichever is earlier.

e. Vouchers and correspondence are filed with applications. Index Cards:

a. Permanent Examination Records Cards: Destroyed 10 years after termination of register.

b. Pending Record Cards are destroyed upon completion of processing and rating of applications.

Certificates of eligibles: Destroyed 2 years after date of certificate. Register of eligibles destroyed 10 years after termination of register Routine Examining Program Test Answer Sheets.

a. Eligibles answer sheets are destroyed after three years.

b. Ineligibles answer sheets are destroyed after six months.

Other records, permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Panama Area Personnel Board, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager, his delegate the Manager, Central Examining Office, Balboa Heights, R.P., or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Individual should provide name, date of birth, approximate date of record, and title of examination or announcement with which concerned. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to one of the addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10

RECORD SOURCE CATEGORIES:

Subject individuals, employers, schools, references, neighbors, associates, credit bureaus, law enforcement agencies, probation officials, prison officials, personnel managers, medical officers and records, government agencies, and others.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT.

All information in this system which would reveal the identity of confidential sources or is testing or examination material is exempt from certain subsections of 5 U.S.C. 552a and from the procedures set forth in the agency's regulations. See 35 CFR 10.22.

PCC/PB-2

SYSTEM NAME:

Appeals Grievances, Complaints, and Assistance Records, PCC/PB-2.

SYSTEM LOCATION:

Panama Area Personnel Board, Bldg. 6531, Corozal, Republic of Panama and Central Examining Office, Building 363, Ancon, R.P., and personnel and other offices of Federal agencies in the Republic of Panama authorized to make appointments to positions and act for the Board by delegated authority.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Federal employment and current and former Federal employees in the Republic of Panama who have appealed a qualification or rating or who have registered complaints or made requests for assistance on any phase of the operations of the board and the Central Examining Office.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to a decision, process, determination or reply made by the Board on an appeal, grievance, complaint, or request for assistance affecting an individual's consideration for employment through the Merit System, and used also to provide statistical information for conducting personnel research and management studies. The records consist of the initial appeal or complaint; letters or notices from and to the individual; records of hearings when conducted; documentation supporting a decision or determination; affidavits or statements; testimonies of witnesses; investigative reports; instructions to an agency about action to be taken to comply with decisions; related correspondence, opinions, and recommendations; and results of rating panels.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3652, 3654, 3661–3664 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and binders, and index cards.

RETRIEVABILITY:

Filed or retrievable alphabetically by name of individual and by date of birth.

SAFEGUARDS:

Stored in locked metal file cabinets in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Panama Area Personnel Board, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Individual should provide name, date of birth, and approximate date and kind of action taken. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individuals; agency and Board officials; affidavits of employees; testimonies of witnesses; documents in file related to the appeal, grievance, complaint, or request for assistance; and correspondence from organizations or persons with pertinent knowledge.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which would reveal the identity of confidential sources is exempt from certain subsections of 5 U.S.C. 552a and from the procedures set forth in the agency's regulations. See 35 CFR 10.22.

PCC/PB-3

SYSTEM NAME:

Personnel Investigation Records, PCC/PB-3.

SYSTEM LOCATION:

Panama Area Personnel Board, Bldg. 6531, Corozal, Republic of Panama, and Central Examining Office, Building 363, Ancon, R.P., and personnel and other offices of Federal agencies in the Republic of Panama authorized to make appointments to positions and to act for the Board by delegated authority.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former applicants for employment in the Federal service and current and former Federal employees in the Republic of Panama.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative records compiled to evaluate applications for employment and to provide statistical information for conducting personnel research and management studies. They contain information regarding an individual's physical and mental health, character, conduct, and behavior in the community where the individual has lived; arrests and convictions for any violations against the law; reports of interviews with former supervisors, co-workers, associates, educators, etc.; reports about the overall qualifications of an individual for a specific position; reports from law enforcement or corrective/parole agencies, former employers, educational institutions, and medical officers and institutions; veterans' preference claims for veterans' wives, widows, widowers, and mothers; lists of persons barred from military installations and pier areas; lists of police checks; police records; and penitentiary predischarge reports, parole officers' postdischarge statements, and wardens' postdischarge statements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3652, 3654, 3661–3664 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and individual forms and cards.

RETRIEVABILITY:

Filed or retrievable alphabetically by name of individual and by date of birth.

SAFEGUARDS:

Stored in locked file equipment in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Lists of persons barred from military installations and piers are destroyed when the bar or restriction is lifted. Penitentiary predischarge reports, parole officer and warden statements are transferred to:

1. The application file when a decision is made to permit the individual to compete for Federal employment.

2. To the Suitability Investigations Index Card (Personal Data Card) when a decision is made to suspend the individual from competition for Federal employment.

Panama Canal Commission or United States police records and check lists are destroyed when the data is transferred to the Suitability Investigation Index Card (Personal Data Card) subsequent to receipt. Police records received from the Republic of Panama which are owned by the individual are returned to the owner after transfer of the data to the Suitability Investigation Index Card (Personal Data Card). Statements from the individual and from other sources are transferred to the application file when the individual is cleared for Federal employment. Suitability Investigation Index Cards (Personal Data Cards) and other records are destroyed upon death, retirement or at age 70 of the individual.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Panama Area Personnel Board, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager, his delegate, the Manager, Central Examining Office, Balboa Heights, or the Agency Records Officer, Administration Building, Balboa Heights. Individual should provide name, date of birth, and the approximate date and kind of action taken. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to one of the addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individuals, employers, schools, references, neighbors, associates, credit bureaus, law enforcement agencies, probation officials, prison officials, personnel managers, medical officers and records, government agencies, and others.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material compiled for law enforcement purposes or would reveal the identity of confidential sources is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC/PR-1

SYSTEM LOCATION:

Personnel Operations Division, Bld. 5553, Diablo, Republic of Panama, and Management Information Systems, Administration Building, Balboa Heights, Republic of Panama.

SYSTEM NAME:

Disability Relief, Retirement and Group Supplementary Life Insurance Records, PCC/PR-1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Disability Relief annuitants and surviving widows; Civil Service Retirement annuitants; employees who died while in service; survivors of deceased employees and annuitants; and employees and annuitants enrolled in the Supplementary Life Insurance Program sponsored by the Group Insurance Board (Panama Canal Area).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information used in the administration of the Cash Relief Act of July 8, 1937, as amended, and in the application of related policies on medical treatment and care, annuitants' group life insurance, and the eligibility of widows of deceased annuitants for annuities.

Reference files from which information or statistical data may be furnished quickly on employees who retired under the Civil Service Retirement Act, employees who died while in service, and survivors who submitted applications or claims for death benefits and unpaid compensation.

Identification of employees and annuitants enrolled in the Group Supplementary Life Insurance Program and their beneficiaries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapters 83 and 87; 22 U.S.C. 3658, 3681–3683 (Supp. III 1979); Articles III and X of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, cards, and individual forms, and magnetic tapes and disks, and computer printouts.

RETRIEVABILITY:

Filed alphabetically by name or filed by identification number.

SAFEGUARDS:

Stored in metal file cabinets in building locked when not in use. Access and use are restricted to authorized personnel. A combination of standard physical security measures, appropriate management information practices, and computer system/network security controls are used to protect these records. The stringent safeguards required by Office of Management and Budget (OMB) Circular A.71, Transmittal No. 1 are applied. Safeguards include: batch controls; computer processing controls; access to both hard copy documents and computer files restricted to authorized personnel; reestricted on line access, with authorization limited in accordance with user-entered confidential identifying code and access code: A special coordinating group in the Personnel Operations Division called the Personnel Data Control Center has been designated by the system manager to maintain control of all input documents and issuance of report information. Printouts are produced automatically and upon written request from the system manager. Reports, tapes, and disks are kept in a locked cabinet or secure area when not in use.

RETENTION AND DISPOSAL:

Index cards on persons designated to act as the agents of Disability Relief

annuitants are destroyed when annuitant dies. Other records: Permanent. Records on active employees in the automated data base are retained as long as they are employed. Paper forms used for inputing information into the computer system are maintained for one year. Records on terminated employees are retained for two years and then are deleted from magnetic tapes or disks. Tapes and disks are erased and reused. Printouts of various reports will be kept as long as needed, for example, weekly reports are destroyed when the weekly update is produced. Some reports produced annually or biannually may be kept up to three years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Administration, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individuals, official personnel files, and medical and welfare personnel.

PCC/PR-2

SYSTEM NAME:

Employee Benefits Records, PCC/PR-2.

SYSTEM LOCATION:

Personnel Operations Division, Bldg. 366, Ancon, Republic of Panama, and Management Information Systems, Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees and their dependents or other members of their household.

CATEGORIES OF RECORDS IN THE SYSTEM:

Determinations of employees' eligibility for, or entitlement to, the tropical differential, home leave and repatriation travel, Commission housing and other employee benefits. Determination of an individual's status as dependent or member of household of employee to establish his or her eligibility for residence in Commission housing, medical treatment, education, purchase authority, and transportation benefits. These records are maintained in addition to and interfiled with the records in Official Personnel Folders belonging to the Office of Personnel Management. See PCC/PR-8.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701-42 and 5942; 22 U.S.C. 3641-3658 (Supp. III 1979); Articles III and X of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These paper records are maintained in addition to and interfiled with the records in Official Personnel Folders belonging to the Office of Personnel Management, and magnetic tapes and disks, and computer printouts. See PCC/PR-8.

RETRIEVABILITY:

Filed alphabetically by name of employee.

SAFEGUARDS:

Stored in metal file cabinets in buildings locked when not in use. Access and use are restricted to authorized personnel. A combination of standard physical security measures, appropriate management information practices, and computer system/network security controls are used to protect these records. The stringent safeguards required by Office of Management and Budget (OMB) Circular A.71, Transmittal No. 1 are applied. Safeguards include: batch controls; computer processing controls; access to both hard copy documents and computer files restricted to authorized personnel; restricted on-line access, with authorization limited in accordance with user-entered confidential identifying code and access code. A special coordinating group in the Personnel Operations Division called the Personnel Data Control Center has been designated by the system manager to maintain control of all input documents and issuance of report information. Printouts are produced automatically and upon written request from the system manager. Reports, tapes, and disks are kept in a locked cabinet or secure area when not in use.

RETENTION AND DISPOSAL:

Paper records in file folders retained for three years and then destroyed. Records on active employees in the automated data base are retained as long as they are employed. Paper forms used for inputting information into the computer system are maintained for one year. Records on terminated employees are retained for two years and then are deleted from magnetic tapes or disks. Tapes and disks are erased and reused. Printouts of various reports will be kept as long as needed, for example, weekly reports are destroyed when the weekly update is produced. Some reports produced annually or biannually may be kept up to three years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Administration, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of the addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURE:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject employees and officials of the Canal agencies.

PCC/PR-3

SYSTEM NAME:

Personal Data Records, PCC/PR-3.

SYSTEM LOCATION:

Personnel Operations Divisions, Bldg. 366, Ancon, Republic of Panama, and Management Information Systems, Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, dependents of employees, and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal data maintained for reference and statistical purposes, such as employment history of U.S. citizen employees of Canal agencies and Panama Area Personnel Board; identification of U.S. citizens who would

be evacuated from residence in the event of civil disturbance or natural disaster; identification of employees who are earning a special or retained rate of pay which must be adjusted manually; documentation of employees' leave-without-pay to determine periods for within-grade step advancement, conversion to career status, or completion of probationary period; documentation of eligibility for medical services at U.S. Armed Forces hospitals; identification of reemployed Civil Service annuitants; identification of employees who are retired members of the U.S. Armed Forces; authorizations for disposition of pay; and indexes of employees for counseling on retirement, and disciplinary actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); Articles III and X of the Panama Canal Treaty of 1977; 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to court officials for the purpose of compiling jury duty rosters. See also General Routine Use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; cards; lists; and individual forms, and magnetic tapes and disks, and computer printouts.

RETRIEVABILITY:

Filed alphabetically by name of employee of filed by identification number.

SAFEGUARDS:

Stored in metal file cabinets in building locked when not in use. Access and use are restricted to authorized personnel. A combination of standard physcial security measures, appropriate management information practices, and computer system/network security controls are used to protect these records. The stringent safeguards required by Office of Management and Budget (OMB) Circular A–71, Transmittal No. 1 are applied. Safeguards include: batch controls; computer processing controls; access to both hard copy documents and computer files restricted to authorized personnel; restricted on-line access, with authorization limited in accordance with user-entered confidential identifying code and access code. A special coordinating group in the Personnel Operations Division called the Personnel Data Control Center has been designated by the system manager to maintain control of all input documents and issuance of report information. Printouts are produced automatically and upon written request from the system manager. Reports, tapes, and disks are kept in a locked cabinet or secure area when not in use.

RETENTION AND DISPOSAL:

Paper records, manually maintained: At the end of the entry, add: Records on active employees in the automated data base are retained as long as they are employed. Paper forms used for inputting information into the computer system are maintaned for one year. Records on terminated employees are reatained for two years and then are deleted from magnetic tapes or disks. Tapes and disks are erased and reused. Printouts of various reports will be kept as long as needed, for example, weekly reports are destroyed when the weekly update is produced. Some reports produced annually or biannually may be kept up to three years. Employment history cards are retained permanently. Legal dependent and leave-without-pay records are transferred to official personnel folder upon employee's separation from service. Other records are destroyed when they are no longer pertinent to the employee's current status.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Administration, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information be obtained from System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of the addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject employees and officials of the Canal agencies.

PCC/PR–4

SYSTEM NAME:

Personnel Management System, PCC/PR–4.

SYSTEM LOCATION:

Office of Personnel Administration, Panama Canal Commission, Administration Building, Balboa Heights, and Ancon, Republic of Panama; and Management Information Systems, Panama Canal Commission, Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All current employees of the Panama Canal Commission in permanent and temporary positions. Data on terminated employees will be kept on the automated data base for two years after termination date.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee records include name, PCC identification number, birthdate, U.S. Social Security number, Republic of Panama Social Security number, Republic of Panama cedula number, citizenship, bi-national status, veterans preference code, Vietnam veteran status, position number, pay level (wage category, level, grade, and step), salary, sex, blood type, marital status, former name, spouse's PCC identification number, number of dependents, mailing address, pay rate determination status, physical exam requirements, pay basis, annual premium compensation, differential type and amount, step increase due date, tenure code, tenure conversion date, target pay level, occupation code, work week status, roll and gang, outstanding performance rating, status of employment, eligibility for repatriation, eligibility for home leave, APRTE (actual place of residence at the time of employment), educational level, date of degree, academic discipline, qualifications by occupation code, RIF code, qualifying date, outstanding award code and date, previous pay level for employees that were RIFed, RPL and PPL codes, rehired annuitant indicator, FEHBA plan, FEGLI information, eligibility for early retirement indicator, retirement plan code, rotation date, on/off Isthmus hire code, PCC constructed service time, constructed federal service time leave type, entry-in-force status code, constructed FLSA coverage code, service date for retired military employees, effective date of the employee's current grade, last held occupation code, position, promotional occupation code and pay level, starting occupation code and pay level, target occupation and pay level and developmental position identifier, promotion due date, due date for promotion to target grade, probation

ending date, beginning date for retirement deduction, position title and functional classification of employee's position.

The position records in the new system include: labor cost distribution data such as primary and secondary account numbers and chargeable percentages; developmental position data such as starting and target pay levels, and occupation codes; position related data including the position title, functional classification code, the functional title code; and supervisory position code; position control data such as manpower number and date of manpower authorization; and pay related data including current pay rates, timing code, and unit pay rates.

The employee service history records contain data on all Requests for Personnel Actions (RPA's) processed during the last three years. Data maintained in this file includes: employee IP, effective date of the action, nature of action code, process date and pay-related data such as pay rates, pay level, work week, and position data.

Training history records provide a detail of employee training including: completed course data such as course code and description, date of course, purpose, cost, duty and non-duty hours, and course grade, training requirements by job responsibility level and official PCC training data is also maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 5 U.S.C. Chapters 35, 41, 45, 55, 57, 83, 87; 22 U.S.C. 3611 (Supp. III 1979); Articles III and X of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be:

a. Disclosed to the following agencies and organizations, in connection with their authorized functions: Office of Personnel Management; Merit Systems Protection Board; Internal Revenue Service; Social Security Administration; General Accounting Office; U.S. military agencies; state unemployment compensation offices; city, county, and state tax offices; employee credit unions; banks; insurance carriers; employee and professional organizations; and Combined Federal Campaign.

b. Disclosed to officials of labor organizations when relevant and necessary to their duties concerning personnel policies, practices, and matters affecting working conditions.

c. Used to promote the incentive awards program through the local news media.

d. Disclosed to prospective employers or other organizations, at the request of the individual.

e. Used in the selection process by the agency in connection with appointments, transfers, promotions or qualifications determinations. To the extent relevant and necessary, it will be furnished upon request to other agencies for the same purpose.

f. Used to provide statistical reports to Congress, U.S. Government agencies, the Government of Panama, and the public on characteristics of the Federal work force.

g. Used in the production of summary descriptive statistics and analytical studies; may also be used to respond to general requests for statistical information (without personal indentifier) under FOIA; or to locate individuals for personnel research or other personnel research functions.

h. Disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular NO. A–19.

i. Disclosed in accordance with the general routine uses listed in the "Prefatory Statement of General Routine Uses" published at 45 FR 85256 and in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes and disks; computer printouts; and paper records.

RETRIEVABILITY:

By employee identification number, by name, position number and code, and occupation code. Personal information on individuals can also be accessed indirectly by use of almost any data element in the system.

SAFEGUARDS:

A combination of standard physical security measures, appropriate management information practices, and computer system/network security controls are used to protect these records. The system's design incorporates the stringent safeguards required by Office of Management and Budget (OMB) Circular A–71. Transmittal No. 1. Safeguards include: batch controls; computer processing controls; access to both hard copy documents and computer files restricted to authorized personnel; restricted on-line access, with authorization limited in accordance with user-entered confidential indentifying code and access code. A special coordinating group in the Personnel Operations division called the Personnel Data Control Center has been designated by the system manager to maintain control of all input documents and issuance of report information. Printouts are produced automatically on a daily, weekly, monthly basis, and upon written request from the system manager. Reports, tapes, and disks are kept in a locked cabinet or secure area when not in use.

RENTENTION AND DISPOSAL:

Records on active employees in the automated data base are retained as long as they are employed. Paper forms used for inputing information into the computer system are maintained for one year. Records on terminated employees are retained for two years and then are deleted from magnetic tapes or disks. Tapes and disks are erased and reused. Printouts of various reports will be kept as long as needed, for example, weekly reports are destroyed when the weekly update is produced. Some reports only produced annually or biennually may be kept up to three years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Administration, Panama Canal Commission, APO Miami 34011, or Administration Building, Balboa Heights, Republic of Panama.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Panama Canal Commission, APO Miami 34011, or Administration Building, Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of the officials designated in Notification Procedure, preceding.

CONTESTING RECORD PROCEDURES:

Rules governing how an individual may request the amendment of any information about him in this system are published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject employee; Requests for Personnel Action forms; Official Personnel Folders, Incentive Award Files; the agency payroll master file; Office of Health and Safety records; and computer-generated and manual calculations from varied input data.

PCC/PR-5

SYSTEM NAME:

Recruiting and Placement Records, PCC/PR-5.

SYSTEM LOCATION:

Personnel Operations Division, Bldg. 366, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for employment or are employed with the Panama Canal Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for employment and records related thereto; overseas recruitment processing records; special placement and program records, such as records on the excluded appointments of mentally retarded applicants, the appointment of handicapped persons, the student assistant program, the upward mobility program, and the worker-trainee program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3841–3854, 3671, 3672 (Supp. III 1979); Articles III and X of the Panama Canal Treaty of 1977; E.O. 11478, August 8, 1969; 42 U.S.C. 2000e–16; E.O. 11171, August 18, 1964; 29 U.S.C. 791.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folder, index cards, lists, and individual forms.

RETRIEVABILITY:

Filed alphabetically by name of subject individual or by an identification number.

SAFEGUARDS:

Stored in metal file cabinets in building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Applications for employment and records related thereto are transferred to recruitment folder if applicant is selected for employment from overseas. When applicant is employed, documentation is transferred to Official Personnel Folder. Applications are destroyed if applicants fail to update in one year from date of acknowledgment of application. U.S. recruitment data cards are retained indefinitely for statistical purposes. Miscellaneous correspondence and listings pertaining to employees under recruitment are destroyed after two years. Vouchers from references listed by applicant are destroyed after one year. Individual special placement and program records are destroyed when employee terminates or individual's participation in program ends.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Administration, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of the addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individuals, medical personnel, police officials, officials of the Canal agencies, schools attended by applicant, and individuals listed as references by applicant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which would reveal the identity of confidential sources is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC/PR-6

SYSTEM NAME:

Training and Employee Development Records, PCC/PR-67.

SYSTEM LOCATION:

Human Resources Development Staff, Office of Personnel Administration, Bldg. 0602, Balboa Heights, Republic of Panama, and Management Information Systems, Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Canal and other Federal agencies on the Isthmus who have participated in training or development programs sponsored or conducted by the Canal agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on training and development of employees under a variety of programs such as apprentice program; the tuition refund program; and various executive, managerial, supervisory, administrative, Spanish and English language, technical, and professional training and development programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4101–18; E.O. 11348 of April 20, 1967; E.O. 11171, August 18, 1964; 22 U.S.C. 3611 (Supp. III 1979); Articles III and X of the Panama Canal Treaty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file holders, cards, and individual forms, and magnetic tapes and disks, and computer printouts.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Stored in metal file cabinets in building locked when not in use. Access and use are restricted to authorized personnel. A combination of standard physical security measures, appropriate management information practices, and computer system/network security controls are used to protect these records. The stringent safeguards required by Office of Management and Budget (OMB) Circular A–71, Transmittal No. 1 are applied. Safeguards include: batch controls; computer processing controls; access to both hard copy documents and computer files restricted to authorized personnel; restricted on-line access, with authorization limited in accordance with user-entered confidential identifying code and access code. A special coordinating group in the Personnel Operations Division called the Personnel Data Control Center has been designated by the system manager to maintain control of all input documents and issuance of report information. Printouts are produced automatically and upon written request from the system manager. Reports,

tapes, and disks are kept in a locked cabinet or secure area when not in use.

RETENTION AND DISPOSAL:

Paper records manually maintained: At the end of the entry, add: "Records on active employees in the automated data base are retained as long as they are employed. Paper forms used for inputting information into the computer system are maintained for one year. Records on terminated employees are retained for two years and then are deleted from magnetic tapes or disks. Tapes and disks are erased and reused. Printouts of various reports will be kept as long as needed, for example, weekly reports are destroyed when the weekly update is produced. Some reports produced annually or biannually may be kept up to three years. Apprentice enrollment and grade records are retained permanently. Other records are retained for three years after termination of the session of the program in which the trainee was enrolled, except summary records for management development program are maintained until employee terminates or is dropped from the program.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Administration, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Request should be addressed to either of the addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individual, official personnel records, instructors, agency officials, program officials, and Veterans Administration.

PCC/PR-7

SYSTEM NAME:

Personnel Reference Unit Files, PCC/PR-7.

SYSTEM LOCATION:

Personnel Reference Unit, Office of Personnel Administration, Bldg. 729, Balboa, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Panama Canal Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal history statements, security clearance, results of background investigations, and documents containing information obtained under a pledge of confidentiality.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 10450; E.O. 10865; Part 60.14, Sub Chapter B of Chapter 1, Title 35 CFR; PCPM Chapters 732 and 736; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms, 8 by 10½ inches, microfilm.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in lockable file cabinets. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroy 20 years after date of last action.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Administration, Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations, See 35 CFR 10.21.

PCC/PR-6

SYSTEM NAME:

Systems of records noticed by the Office of Personnel Management and applicable to the Panama Canal Commission, as follows:

(1) General Personnel Records (Official Personnel Folder and records related thereto).*

(2) Retirement, Life Insurance, and Health Benefits Records Systems.

(3) Ethics in Government Financial Disclosure Records, OPM/GOVT-4.

(4) Confidential Statements of Employment and Financial Interest, OPM/GOVT-6.

*As an exception to standard practice on retention of out-of-service Official Personnel Folders, the Canal agencies are authorized to retain the Official Personnel Folders of their former non-U.S. citizen employees for two years, thereafter they are sent to the National Personnel Records Center in St. Louis, Missouri (35 CFR 253-292). Some of these former employees now may be U.S. citizens or resident aliens of the United States who are granted access to the records under provisions of the Privacy Act, Questions from such individuals regarding notification procedures, access, and contest in connection with these records should be addressed to the Director, Office of Personnel Administration, Panama Canal Commission, APO Miami 34011, who is the Systems Manager, or to the Agency Records Officer, Administration Building, Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

PCC/PR-9

SYSTEM NAME:

Incentive Awards Program Files, PCC/PR-9.

SYSTEM LOCATION:

Incentive Awards Office, Bldg. 5553, Diablo Heights, Republic of Panama, and Management Information Systems, Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of Panama Canal Commission who have filed suggestions or received honorary awards under the Incentive Awards Program since 1954. Supervisors of suggesters since 1974. Career Service awards since 1973.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, identifying number, grade, occupation, employing unit, type of career service award and date granted, suggestion number, rejection or approval date, amount awarded, card control number. Supervisor's name, employing unit, number of suggestions submitted by his employees, amount awarded, and savings to the Commission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4501 et seq.; 22 U.S.C. 3611 (Supp. III 1979) and Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system of records may be used to: (a) prepare reports for the Office of Personnel Management; (b) promote the awards program through the local news media; and (c) respond to inquiries from labor unions, award recipients, employee and professional organizations.

See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3 by 5 inch cards; suggestion forms; related documents, and magnetic tapes and disks, and computer printouts.

RETRIEVABILITY:

Filed or indexed by name.

SAFEGUARDS:

Records maintained in metal card files and lockable metal filing cabinets. Access and use are restricted to authorized personnel. A combination of standard physical security measures, appropriate management information practices and computer system/network security controls are used to protect these records. The stringent safeguards required by Office of Management and Budget (OMB) Circular A–71, Transmittal No. 1 are applied. Safeguards include: batch controls; computer processing controls; access to both hard copy documents and computer files restricted to authorized personnel; restricted on-line access, with authorization limited in accordance with user-entered confidential identifying code and access code. A special coordinating group in the Personnel Operations Division called the Personnel Data Control Center has been designated by the system manager to maintain control of all input documents and issuance of report information. Printouts are produced automatically and upon written request from the system manager. Reports, tapes, and disks are kept in a locked cabinet or secure area when not in use.

RETENTION AND DISPOSAL:

Paper records manually maintained. At the end of the entry, add: "Records on active employees in the automated data base are retained as long as they are employed. Paper forms used for imputing information into the computer system are maintained for one year. Records on terminated employees are retained for two years and then are deleted from magnetic tapes or disks. Tapes and disks are erased and reused. Printouts of various reports will be kept as long as needed, for example, weekly reports are destroyed when the weekly update is produced. Some reports produced annually or biannually may be kept up to three years. Held three years after employee's termination and then destroyed by fire.

SYSTEM MANAGER(S) AND ADDRESS:

Incentive Awards Secretary, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R. P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From suggestion forms prepared by employees to whom the record pertains and from honorary award recommendations submitted by authorized management officials, and from monthly computer listings showing due date of service awards.

PCC/PR–10

SYSTEM NAME:

Occupational Health Records, PCC/PR–10.

SYSTEM LOCATION:

Occupational Health Division, Bldg. 721, Balboa, Republic of Panama; and at Occupational Health Centers in Balboa (Bldg. 10), Miraflores (Bldg. 11), Pedro Miguel (Bldg. 6), Gamboa (Bldg. 63), Mt. Hope (Bldg. 5106), Gatun (Bldg. 122), Coco Solo Army Hospital (Building (8906), Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Panama Canal Commission

CATEGORIES OF RECORDS IN THE SYSTEM:

Pre-employment and periodic physical examinations; medical examinations to determine continuing fitness for duty consistent with job qualifications and requirements. Documentation of medical treatment received by an individual on an outpatient basis from hospitals, clinics, occupational health centers, and other health facilities. Also may contain abstracts in inpatient hospitalizations, information on communicable diseases, or information on participation in alcohol rehabilitation program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

21 U.S.C. 1175 and 1180 (1976 and Supp. III 1976); 22 U.S.C. 3611 (Supp. III 1979); 42 U.S.C. 4561; Article III of the Panama Canal Treaty of 1977 and Annex thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information that does not relate to alcohol or drug abuse may be released from these records to the extent needed as follows: To the Communicable Disease Center, Atlanta, Georgia, other Federal agencies, or Government of Panama health officials. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, individual forms, and cards.

RETRIEVABILITY:

Records of cross-reference index cards providing access to records are filed alphabetically by name.

SAFEGUARDS:

Stored in metal file cabinets in buildings locked when not in use, or buildings with around-the-clock guards. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retained until employee terminates employment with the agency. Thereafter retired to the Agency Records Center for disposition in accordance with Federal retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Occupational Health Division, Office of Personnel Administration, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained as appropriate from the System Manager or the Agency Records Officer, Panama Canal Commission, APO Miami 34011.

Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of the officials designated in Notification Procedure, preceding. Procedure for disclosure of information from the medical records of the individual requesting access are set forth in 35 CFR 10.9.

RECORD SOURCE CATEGORIES:

The individual to whom the occupational health record pertains, attending physicians and allied health personnel involved in the individual's treatment.

PCC/PR-11

SYSTEM NAME:

Racial/National Origin Code Records, PCC/PR-11.

SYSTEM LOCATION:

Personnel Operations Division, Panama Canal Commission, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. citizen employees of the Canal agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lists of accessions of U.S. citizen employees containing a racial/national origin designator code submitted to Office of Personnel Management (OPM), error lists from OPM, and tanscript form and/or SF 50 (or equivalent) submitted to OPM to correct errors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7204, E.O. 11478 of August 8, 1969; 22 U.S.C. 3611 (Supp. III 1979); Articles III and X of the Panama Canal Treaty of 1977; 29 CFR 1613.301 and 1613.302.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Forms, sheets of paper, and computer runs.

RETRIEVABILITY:

Lists of accessions filed by employee identification number; computer runs and SF 50, filed alphabetically by name; and monthly report of Office of Personnel Management and update transcript form filed by Social Security Number.

SAFEGUARDS:

Stored in a locked a steel desk in a building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Monthly report of Office of Personnel Management and error listing for that month are destroyed six months after error listing is received. Correction to monthly error listing destroyed after error list for following month is received and corrected.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel Administration Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this sytem is maintained and used solely for statistical reports and is not used in making any nonstatistical determinations about identifiable individuals. It is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC/PR-12

SYSTEM NAME:

Industrial Accident Prevention Supervisor/Unit Awards File, PCC/PR-12.

SYSTEM LOCATION:

Safety Division, Building 721, Balboa, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Commission supervisors classified in high hazard positions who have completed a year of supervision without a disabling injury incurred to himself or his unit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Supervisor's name, Division, Bureau, identification number and Unit Supervised, year supervised.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902; 22 U.S.C. 3611 (Supp. III 1979); 29 U.S.C. 668; 33 U.S.C. 941(b)(1) and (b)(4); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

5 by 8 inch cards.

RETRIEVABILITY:

Filed by Bureau-Division, indexed by name.

SAFEGUARDS:

Records maintained in filing drawers. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Maintained while employee is in a hazardous-supervisory capacity.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Safety Division, Office of Personnel Administration, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Supervisor/Unit records.

PCC/PR-13

SYSTEM NAME:

20/30/40 Year Safety Key Awards Files. PCC/PR-13.

SYSTEM LOCATION:

Safety Division, Building 721, Balboa, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Commission employees classified in a high hazard position who have completed their 20-30-40 years of service with no disabling injury. Records are also maintained of employees in low hazard positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, identification number, roll and gang, functional code, occupational service code, service date and number of years of employment. Subsystem stamp containing date of last disabling injury (if any) and employee's position hazard code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902, 8101 et seq.; 22 U.S.C. 3611 (Supp. III 1979); 29 U.S.C. 668; PCPM Chapter 452; Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer strip size 12⅛ by 3½ inches.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records maintained in lockable file cabinets. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Held until termination, destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Safety Division, Office of Personnel Administration, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Employees on whom record is maintained.

Title Listing of Inactive Panama Canal Commission Systems of Records

Advance Authorizations to Enter the Canal Zone, PCC–CZG/ADRM–2
Arrest Record File, PCC/GSPL–13
Canal Zone Board of Registration for Architects and Professional Engineers Directory, PCC–CZG/BRAE–2
Canal Zone Board of Registration for Architects and Professional Engineers Reference Files, PCC–CZG/BRAE–1
Case Investigations, PCC–CZG/CAPS–2
Cash Register Receipt Shortages, PCC–CZG/FVGA–2
Civil and Amateur Radio Operator and Station License Files, PCC–CZG/CALS–4
Complaints Against Policemen File, PCC/GSPL–15
Contractor Employee Payroll Records, PCC/ECCN–2
Convict Files, PCC/GSPL–4
Driver's License Investigatory File, PCC–CZG/CALS–7
Driver's License Revocation Lists, PCC–CZG/CAPL–20
Employee Application for Outside Employment, PCC/AMSA–2
Expert and Consultant Records, PCC/GSSP–1
Fingerprint File, PCC/GSPL–7
Fishing Pass Application File, PCC–CZG/CALS–3
Health, Medical, Dental, and Veterinary Records Systems, PCC–CZG/HL–1
Hunting Permit Application File, PCC–CZG/CALS–2
Immigration Detention Orders, PCC–CZG/CAUC–12
Inmate Trust Fund File, PCC–CZG/CAPL–14
Law Enforcement Case Report Files, PCC/GSPL–16
Master Name File, PCC/GSPL–10
Medical Administration System-Exempt, PCC–CZG/HL–2
Medical Administration System-Nonexempt, PCC–CZG/HL–3
Motor Vehicle and Motorboar Registration and Operator's License Files, PCC–CZG/CALS–8
Official Permits to Have or Carry Firearms, PCC–CZG/CALS–11
Payroll System for Vessel Employees, PCC/FM–2
Philatelic Program, PCC–CZG/CAPS–5
Police Photo Files, PCC/GSPL–6
Postal Claims and Inquiries, PCC/AMRM–6
Presentence and Pre-Parole Investigation Reports, PCC/AEPR–2
Prisoner Property Record, PCC/GSPL–18
Prisoner Record Cards, PCC/GSPL–5
Probation and Parole Unit Child Custody Reports, PCC/AEPR–3
Probation and Parole Unit Statistical File, PCC/AEPR–3
Purchase Authority Cards, PCC–CZG/ADGS–1
Records of Births, Deaths, and Marriages That Occurred in the Former Canal Zone, PCC/AMSE–3
Refugee Records, PCC–CZG/SC–4
Runners, Peddlers, and Solicitors Application and License Files, PCC–CZG/CALS–10
Traffic Accident Reports, PCC/GSPL–16
U.S. Immigration and Naturalization Service, U.S. Citizenship Certificate Application and Appointment Records, PCC–CZG/CACU–10
Vehicle Registration for RP Series License Plates, PCC–CZG/CACU–9
Vessel Employee Records, PCC/GSSS–1
Visa Records, PCC–CZG/GE–1 (STATE–39)

PCC–CZG/ADGS–1

SYSTEM NAME:

Purchase Authority Cards, PCC–CZG/ADGS–1

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of private companies, organizations, and certain other government agencies, and other individuals that qualify for purchase authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, employment status, residence, mailing address, purchase-authority status, marital status, citizenship, age, names and ages of dependents, and history of identification cards issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Article III, 1936 General Treaty of Friendship and Cooperation, 53 Stat. 1807; Articles XI and XII, 1955 Treaty of Mutual Understanding and Cooperation 6 U.S.T. 2273; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from this system may be disclosed to court officials for the purpose of compiling jury duty rosters. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms, 8 by 10½ inches.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Minimum of 5 years after individual ceases to qualify for purchase authority. Shredded.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of addresses designatred in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From individuals.

PCC/CZG/ADRM-2

SYSTEM NAME:

Advance Authorizations to Enter the Canal Zone, PCC-CZG/ADRM-2

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals issued advance authorization to enter the Canal Zone.

CATEGORIES OF RECORDS IN THE SYSTEM:

Advance authorizations to enter the Canal Zone and related papers, such as extensions to stay and changes in Canal Zone immigration status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 841, 76A Stat. 32: E.O. 11305; 35 CFR 59.22-3; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records on backers.

RETRIEVABILITY:

Filed alphabetically by name of entrant.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

After 2 years, transferred to Agency Records Center; then destroyed after 2 more years.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Sponsors of entrant.

PCC/AEPR-1

SYSTEM NAME:

Probation and Parole Unit Child Custody Reports, PCC/AEPR-1.

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Parent or custodian of minor child when custody of the child is contested.

CATEGORIES OF RECORDS IN THE SYSTEM:

All background information available to the Probation and Parole Officer that would be helpful in determining appropriate custody of the child.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Judicial request under 7 Panama Canal Code 2807 or 8 Panama Canal Code 338, 76A Stat. 647, 689; 22 U.S.C. 3831 (Supp. III 1979); Article XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to officials of U.S. District Court for the District of the Canal Zone. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Reports 8 by 10½ inches.

RETRIEVABILITY:

Alphabetized.

SAFEGUARDS:

Records maintained in Records Center building that is locked when not in use. Access and use restricted to authorized personnel only.

RETENTION AND DISPOSAL:

Maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.21.

PCC/AEPR-2

SYSTEM NAME:

Presentence and Pre-Parole Investigation Reports, PCC/AEPR-2.

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons convicted of crimes and referred to the Probation and Parole Unit for investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

All background information available to the Probation Officer, including full identity of the person and his family, police history, employment history, financial status, military history, and details of the offense in which the person was involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 3651-53, 3655; 6 Panama Canal Code 4491-92, 6621-25 (76A Stat. 533, 558); 22 U.S.C. 3831 and 3852 (Supp. III 1979); Article XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to officials of U.S. District Court for the District of the Canal Zone and Administrative Office of the U.S. Courts. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Typed reports and printed forms 8 by 10½ inches.

RETRIEVABILITY:

Indexed by name and kept in alphabetized individual jackets.

SAFEGUARDS:

Records maintained in Records Center building that is locked when not in use. Access and use restricted to authorized personnel only.

RETENTION AND DISPOSAL:

Maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.21.

PCC/AEPR-3

SYSTEM NAME:

Probation and Parole Unit Statistical File, PCC/AEPR–3.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons convicted of crimes and referred to the Probation and Parole Unit for investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, age, residence, category of crime and Court disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3831 and 3852 (Supp. III 1979): Article XI of the Panama Canal Treaty of 1977; and Federal Probation Manual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to officials of the U.S. District Court for the District of the Canal Zone and Administrative Office of the U.S. Courts. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Printed form 5 by 8 inches.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Records maintained in Records Center building that is locked when not in use. Access and use restricted to authorized personnel only.

RETENTION AND DISPOSAL:

Maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system is exempt from certain subsections of 5 U.S.C. 552a and from the Procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.21.

PCC/AMRM-6

SYSTEM NAME:

Postal Claims and Inquiries, PCC/AMRM–6.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons requesting tracing of undelivered mail or parcels, or presenting claims for loss or damaged of registered mail or insured parcel post.

CATEGORIES OF RECORDS IN THE SYSTEM:

The record contains the information necessary to properly examine, prepare, process and adjudicate claims for loss or damage of registered mail or insured parcel post or tracing of ordinary articles, including: names and addresses of senders and addresses, date of mailing, description of article's value, the registration, insured, or certified number or description of an unnumbered ordinary article, purpose of claim, post office disposition and any other pertinent information relating to the claim or inquiry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3741 (Supp. III 1979), and Article III and Annex of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Referred to Foreign Postal Administrations or law enforcement agencies when applicable. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Individual file folders.

RETRIEVABILITY:

Filed alphabetically by name of addressee.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rulels published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

The sender, addressee, and, as applicable, the Postal Service or Administration officials of the country of origin or destination.

RETENTION AND DISPOSAL:

Destroyed two years after disposition of claims.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

PCC/AMSE-3

SYSTEM NAME:

Records of Births, Deaths, and Marriages that occurred in the former Canal Zone, PCC/AMSE–3.

SYSTEM LOCATION:

Employee and Cargo Documentation Section, Building 5140, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who were born and their parents, individuals who died, individuals who were married, parents

who experienced fetal deaths, in the former Canal Zone, and/or in a U.S. Government Hospital in the Republic of Panama, from 1904 to September 30, 1979.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and characteristics of the individuals associated with each event (i.e., birth, death, stillbirth, marriage, delayed registration, legitimacy, adoption) such as dates of birth, death, marriage, age, sex, color or race: relationship of individuals; occupation; residence and/or mailing address; place of birth, death, marriage; marital status; legitimacy; adoption; delayed registration; citizenship. Stillbirth and death records also contain medical information relating to cause of death. System also contains records concerning legitimacy, adoptions, delayed birth registration; birth and death registry books dating back to 1904; reference indexes and card files containing name, date of event and certificate or registry number. Certificates for each birth and death are serially numbered and indexed by month.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

1. Upon written request to Federal Agencies and other organizations responsible by statute or other competent authority for programs to which the information is pertinent, such as the Social Security Administration, National Center for Health Statistics, components of the U.S. Armed Forces.
2. To officials of other agencies, foreign governments, in connection with adoptions and other social service programs.
3. To law enforcement officials when such disclosure is essential for investigations.
4. U.S. Embassy upon request, usually for issuing visas.
5. Civilian Personnel Offices, Retirement Branch, and Agents Accounts Branch (new deaths).
6. Parents or legal guardians, or next of kin, if the agency's Vital Statistics Registrar is satisfied that the applicant has a direct and legitimate interest in the matter recorded or that the information therein contained is necessary for the determination of personal or property rights.
7. Records concerning adoption or legitimation may be opened only upon the demand of the person involved or the adopted person if of legal age or by an order of the Court.
8. See also the general routine uses in prefatory statement or listed in 35 CFR part 10, Appendix A. Authority for maintenance of the system: 7 P.C.C. 576; 8 P.C.C. 4, 5, 6, and 8, and 335, 387; 76A Stat. 571, 672, 689, 691, and 88 Stat. 1417; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977 and related agreements.

STORAGE:

Paper certificates in 5-drawer filing cabinet; 3 × 5 index cards; registry books, microfilm. All certificates for births, deaths, and marriages are on microfilm. All index cards for births and deaths are also on microfilm.

RETRIEVABILITY:

By name, date of birth, date of death, date or marriage, and number of certificate.

SAFEGUARDS:

Records kept in locked cabinets in a room which is locked after duty hours. Access is restricted to authorized personnel only.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER:

Chief, Staff and Admin. Support Branch, Administrative Services Division, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Parents of subject of the birth certificate, individual applicant, physicians, hospital charts, next of kin, neighbors or relatives.

PCC/AMSA-2

SYSTEM NAME:

Employee Application for Outside Employment, PCC/AMSA–2.

SYSTEM LOCATION:

Administrative Services Division, Administration Building, Balboa Heights, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or former employees who have applied for permission to engage in outside employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of employee, name of outside employer, location of outside employment, number of hours employed weekly, nature of work performed, beginning and ending dates of outside employement, and conditions placed on employee concerning outside employment permission. Also may include letters from the Government of Panama stating there is no objection to the proposed employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 and 3622 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977; E.O. 11222 of May 8, 1965.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Released to Internal Revenue Service and government of Panama officials upon request to inform them which employees engage in outside employment. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed form 8 by 10½ inches.

RETRIEVABILITY:

Filed by expiration date. Separate index maintained by name.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Minimum of 5 years after expiration of permit. Disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From individual to whom application pertains.

PCC-CZG/BRAE-1

SYSTEM NAME:

Canal Zone Board of Registration for Architects and Professional Engineers Reference Files, PCC-CZG/BRAE-1.

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active and inactive individuals certified as Engineers-In-Training (EIT) or registered as Professional Engineer (PE) or Architect (RA) in the Canal Zone.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complete applications detaining personal history, educational record and references and record of professional practice; reference letters from individuals, verification letters from schools, State Boards, National Council of Engineering Examiners (NCEE)/ National Council of Architectural Registration Boards (NCARB), etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

35 CFR 69(A) and 2 C.Z.G. 1171-75; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to National council of Engineering Examiners (NCEE), National Council of Architectural Registration Boards (NCARB) and all State Board jurisdictions in connection with Publication of Roster, 35 CFR 69.141. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder 8½ by 11 inches.

RETRIEVABILITY:

Alphabetically by status of certification and registration.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention proposed to NARS; pending approval.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual applicant, personal references, NCEE, NCARB, State Boards.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material compiled for law enforcement purposes or would reveal the identify of confidential sources, or is testing or examination material is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC-CZG/BRAE-2

SYSTEM NAME:

Canal Zone Board of Registration for Architects and Professional Engineers Directory, PCC-CZG/BRAE-2.

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All certified Engineers-in-Training (EIT) and registered Professional Engineers (PE) and Architects (RA).

CATEGORIES OF RECORDS IN THE SYSTEM:

Numerical listing of Engineers-in-Training, Professional Engineers and Architects by number, name and methods or registration

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

35 CFR 69 and 2 C.Z.C. 1171-75 76-A Stat. 40-41; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For routine use by the Board and for preparation of the annual report (35 CFR 69.232); and the Roster (35 CFR 69.141); Board members, Executive Secretary to the Board, and each architect and professional engineer and architect-in-training and engineer-in-training and other persons upon request as set forth in 35 CFR 69.144. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

8½ by 11 inch papers in file folders.

RETRIEVABILITY:

Numerically by certification/ registration number; cross referenced by name.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Permanent retention proposed to NARS; pending approval.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR, Part 10.

RECORD SOURCE CATEGORIES:

From applicant and other sources.

PCC/CZG/CACU-9

SYSTEM NAME:

Vehicle Registration for RP-Series License Plates, PCC-CZG/CACU-9.

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Government employees, military personnel and dependents resident in Panama but entitled to Canal Zone duty free entry of vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, number, citizenship, personal description, address, and vehicle description.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

35 CFR Part 57; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards—3 by 5 inches.

RETRIEVABILITY:

Name and number.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retained for 5 years after close of calendar year in which records were created, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg. Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From individual applicant.

PCC-CZG/CACU-10

SYSTEM NAME:

U.S. Immigration and Naturalization Service U.S. Citizenship Certificate Application and Appointment Records, PCC–CAG/CACU–10.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons born outside the United States who are requesting United States citizenship certificates issued by the Immigration and Naturalization Service pursuant to one or more or the statutes referred to in the authority portion of this notice.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence relating to applications for certificates of citizenship; index cards containing the applicant's name and address, the date the application was received locally, and the certificate number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 u.s.c. 1101 note, 1443–4, 1451–4; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine use includes the transmittal of the application and accompanying documents to the U.S. Immigration and Naturalization Service for processing. See also general routine use paragraphs in prefatory statement or in CFR part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

8 by 10½ application form and paper certificates and documents; 3 by 5 inch file cards.

RETRIEVABILITY:

Name and address.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed by paper shredder at end of useful life.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of addressees as designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains.

PCC/CZG/CACU–12.

SYSTEM NAME:

Immigration Detention Orders, PCC–CZG/CACU–12.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Stowaways, deserters, crewmembers and passengers in violation of Canal Zone Immigration Regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, number, date and place or birth, nationality, and facts relating to issuance or enforcement of the detention order.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 841–3, 76A Stat. 32; 22 U.S.C. 3611 (Supp. III 1979); article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routinely sent to local law enforcement officials as necessary to direct the apprehension, detention and repatriation of such persons. Information may also be disclosed to commercial carriers when such persons were passengers or crewmen/employees of a shipping company, airline, etc. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Maintained for two years then burned.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURES:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From ship's documents and/or individual.

PCC-CZG/CALS-2

SYSTEM NAME:

Hunting Permit Application File, PCC-CZG/CALS-2

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants and holders of permits to engage in hunting in the Canal Zone.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, place of employment, rank, photograph, signature.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 1471, 76A Stat. 49; 6 C.Z.C. 2573, 76A Stat. 495; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

8½ by 10 inch printed form and 3 by 7 inch card.

RETRIEVABILITY:

Recovered manually.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retained three years after expiration and thereafter forwarded to the Panama Canal Company Agency Records Center for disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

PCC-CZG/CALS-3

SYSTEM NAME:

Fishing Pass Application File, PCC-CZG/CALS-3.

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons applying for, or holding valid Canal Zone fishing passes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank, street and postal address, date of birth, citizenship, occupation, identification number, place of employment and signature.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 1491, 76A Stat. 50; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

8½ by 10 inch printed form and 3 by 7 inch card.

RETRIEVABILITY:

Filed by pass number and name, recovered manually.

SAFEGUARDS:

Access and use are restricted to authorized personnel

RETENTION AND DISPOSAL:

Forwarded to Agency Records Center three years after expiration of license.

SYSTEM MANAGER(S) AND ADDRESS:

Agency Records Officer, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Agency Records Officer, Admin., Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to addressee designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

PCC-CZG/CALS-4

SYSTEM NAME:

Civil and Amateur Radio Operator and Station License files, PCC-CZG/CALS-4.

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons applying for, or issued Canal Zone Amateur, Citizen's Band and maritime Mobile Radio Operator and/or Station Licenses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of licensee or applicant, street and postal address, date of birth, citizenship, operator's qualification test scores and statements, phone number, station location, call sign, organization or affiliation. Also includes similar information on other persons who may be regularly operating radios licensed to other individuals, such as student or guest operators.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 31-33, 76A Stat. 7; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosed upon request to the Federal Communications Commission, local U.S. military frequency control coordinators, Government, State and local radio licensing authorities. Information may also be disclosed to licensing agencies of foreign governments where the applicant is claiming reciprocal licensing privileges in order to obtain a Canal Zone or foreign radio operator's license. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms, questionnaires and cards.

RETRIEVABILITY:

Filed by name, call sign or license number.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Call sign logbook retained as a permanent record. Other materials retained for five years after expiration of the license.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Agency Records Officer, Admin. Bldg. Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and the Federal Communications Commission.

PCC–CZG/CALS–7

SYSTEM NAME:

Driver's License Investigatory File, PCC–CZG/CALS–7.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have had their Canal Zone license or privilege to operate motor vehicles in the Canal Zone revoked, suspended, cancelled, or have a medical problem related to driving.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, street and postal address, date of birth, citizenship, identification number, color of hair, color of eyes, height, weight, type and place of employment, grade or rank, qualification statements, photographs, and legal documents pertaining to arrests, court actions, hearings and/or related investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 1001, 76A Stat. 37; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be released to the U.S. Department of Transportation, State licensing agencies, courts and others having a need to know. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

8½ by 10 inch file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retain record until operator dies or license is restored. Restored license material retained for the life of the license record. Non-renewed license records transferred to Agency Records Center, retained for ten years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material compiled for law enforcement purposes or would reveal the identity of confidential sources is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC–CZG/CALS–8

SYSTEM NAME:

Motor Vehicle and Motorboat Registration and Operator's License File, PCC–CZG/CALS–8.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons registering motor vehicles, motorcycles, trailers, motorboats, etc., with the License Section, Ancon, Canal Zone. Persons who have been issued, or applied for, licenses or permits to operate motor vehicles, boats, etc. in the Canal Zone, or in Canal Zone waters

CATEGORIES OF RECORDS IN THE SYSTEM:

Owner/operator information normally includes the following: Name, identification number, home address, post office Box, date of birth, citizenship, height, weight, hair color. Certificate of Eligibility for active-duty members of U.S. Armed Forces who take advantage of special registration rates provided by law for such classes of persons. Information on the vehicle or craft includes engine number, manufaoturer, model and color, license plate or registration number, and date of inspection.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 1001, 76A Stat. 37; 2 C.Z.C. 1331 and 1358–9, 76A Stat. 46–48; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

As necessary, vehicle and boat operator and registration information may be provided to:

1. Law enforcement agencies, court officials, and local military commands in connection with the investigation of violations of highway and vehicle regulations and the identification and apprehension of criminals;

2. Local air and sea rescue coordinators and local yacht clubs when a boat is overdue;

3. Officials of the Republic of Panama in connection with law enforcement and regulatory procedures;

4. Hospitals and dispensaries treating traffic accident victims;

5. The U.S. Department of Transportation, state licensing agencies, and other agencies to the extent of their need.

See also the general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Application for—forms, and related documentation; photomat cards; magnetic tapes/disks and punched cards; and computer printouts.

RETRIEVABILITY:

Retrievable by registration number; license plate number; operator/owner's name and identifying number.

SAFEGUARDS:

Access and use restricted to authorized personnel.

RETENTION AND DISPOSAL:

Paper records other than computer printouts retained for three years after expiration of current license, then transferred to Agency Records Center; disposed of at end of ten-year retention period. Computer-produced reports destroyed when updated reports are issued.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Canal Commission Records, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records officer Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained, and/or military command if the applicant is an active member of U.S. Armed Forces.

PCC-CZG/CALS-10

SYSTEM NAME:

Runners, Peddlers, and Solicitors—Application and License Files, PCC-CZG/CALS-10.

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons applying for, or issued licenses to act as runners, peddlers, and solicitors (Definitions of these terms set forth in 35 CFR 63.1).

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, street and postal address, date of birth, parents' names, citizenship, Sanitation certificate (if required), and facts of employment or affiliation with commercial concerns being represented. Also contains information as to color of hair, color of eyes, weight, height, cedula number, etc., needed for identification purposes when applying for licenses authorizing access to certain vital installations in the Canal Zone.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 1441, 76A Stat. 49; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Local U.S. military authorities, and others responsible for the prevention of crime or the apprehension of criminals. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms 8 by 11 inches.

RETRIEVABILITY:

Filed by license number, retrieved manually.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Disposed of three years after expiration of license, excluding records retained for security reasons.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained, police, employer.

PCC-CZG/CALS-11

SYSTEM NAME:

Official Permits to Have or Carry Firearms, PCC-CZG/CALS-11

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who apply for, or are issued official permits to have or carry firearms in the Canal Zone.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, citizenship, identification number, place of employment, weapon serial number and description, and other information as may be required by the licensing officials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 1471, 76A Stat. 49; 6 C.Z.C. 2572-3, 76A Stat. 495; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disclosed or referred rountinely to Law enforcement agencies; courts, military agencies of the U.S. Government. See also general

routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Forms, correspondence, 3 by 7 inch cards.

RETRIEVABILITY:

Filed by name of permit holder.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Records routinely disposed of three years after expiration of permit. Certain records may be retained longer to record the circumstances leading to a revocation or cancellation of a permit.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

System Manager or the information may be obtained from the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained, police officials, and at times the applicant's employer if certification is required that the permit may be essential for personal safety, etc.

PCC–CZG/CAPL–14

SYSTEM NAME:

Inmate Trust Fund File, PCC–CZG/CAPL–14.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons actively serving sentences in the Canal Zone Penitentiary who are enrolled in the Inmate Trust Fund program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inmate's name, convict number, date of debit or credit to his account and the account balance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

6 C.Z.C. 6501–7, 76A Stat. 555–6; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosed as required to courts, probation, parole and pardon board officials, federal penal institutions. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms 8 by 10 ½ inches.

RETRIEVABILITY:

By convict number.

SAFEGUARDS:

Delete. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

After discharge of inmate, these records were filed in convict record and transferred with record to Agency Records Center for storage. Scheduled for destruction December 31, 1999.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR, Part 10.

RECORD SOURCE CATEGORIES:

From inmate and Trust Fund Officer.

PCC-CZG/CAPL-20

SYSTEM NAME:

Driver's License Revocation Lists, PCC–CZG/CAPL–20.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have had their driving privileges revoked in the Canal Zone.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, identifying number, residence, date of revocation, photograph and police number, and copy of order revoking driving privileges issued by the License Section.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 1001–3, 76A Stat. 7, 37; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed form 8 by 10 inches.

RETRIEVABILITY:

Filed by date received, cross-referenced by name of driver.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed once revocation is suspended.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Police reports, license files.

PCC-CZG/CAPS-2

SYSTEM NAME:

Case Investigations, PCC–CZG/CAPS–2.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons involved in, witnesses to, or suspected of activities related offenses involving narcotics, obscene literature, fraud, prohibited mail matter, rifling of mails, tampering of mail boxes, theft of mail, threatening letters, theft of money orders, theft of postal keys, vandalism of mail boxes, wrong payment of money orders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, dates and facts of case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 1131–32, 76A Stat. 38–39; 6 CZC, 2001, 76A Stat. 481; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in folders.

RETRIEVABILITY:

Filed by Case number, name of individual and/or offense or irregularity.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses as designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Individuals, employees, witnesses, law enforcement agencies, courts, postal patrons, U.S. and Foreign Postal Administrations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material compiled for law enforcement purposes or would reveal the identity of confidential source is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC-CZG/CAPS-5

SYSTEM NAME:

Philatelic Program, PCC–CZG/CAPS–5.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Stamp collectors and others making inquiries of a philatelic nature.

CATEGORIES OF RECORDS IN THE SYSTEM:

The record normally contains correspondence showing the names and addresses of persons ordering stamps, first day covers, etc. through the philatelic program. Records of, the date and amount of payment, items shipped, and related information is also contained in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 1031–1143, 76A Stat. 38.40; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Individual file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed two years after file becomes inactive.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

PCC/ECCN-2

SYSTEM NAME:

Contractor Employee Payroll Records. PCC/ECCN–2.

SYSTEM LOCATION:

Construction Management Branch, Bldg. 29–X, Balboa, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of contractors working on Panama Canal Commission contracts when such employees are working in the Canal area and being paid hourly wages.

CATEGORIES OF RECORDS IN THE SYSTEM:

The contract number, contractor, employee's name, cedula number, hourly rate of pay, hours worked, total hours worked, total amount paid and other information as required to assure contractor's compliance with the Hours and Safety Standards Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3611 (Supp. III 1979); 40 U.S.C. 327 et seq.; Article III of the Panama Canal Treaty of 1977, and Articles IX and XI of the Agreements in Implementation of Article III of the Panama Canal Treaty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

US Department of Labor, US Court of Claims, US Army Corps of Engineers Board of Contract Appeals, insurance companies (sureties), GOP Department of Labor, US Embassy and others as required to assure contractor's compliance with above Acts regarding minimum wage, and maximum daily and weekly hours of work. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10. Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

Individual pay data and hours of work retrieved chronologically by date.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retained by contracting officer for one year after final payment of contract, then transferred to Agency Records Center. Destroyed three years later unless claim pending.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Provided by the contractor.

PCC/FMAP-2.

SYSTEM NAME:

Payroll System for Vessel Employees, PCC/FMAP-2.

SYSTEM LOCATION:

Payroll Branch, Panama Canal Commission. Bldg. 365, Ancon, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former vessel employees on Panama Canal Commission steamships.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained to accumulate pay-related data, calculate pay, and account for payments former to crew members of Commission steamships, including such information as name, Social Security number, article number, rate, and position title.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 22 U.S.C. 3611 and 3721 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In connection with their authorized functions, disclosure is authorized to the Office of Personnel Management; Internal Revenue Service, Federal Social Security Administration; municipal county and state tax offices in the United States, employee credit unions, financial institutions, labor unions, insurance carriers, state unemployment compensation offices. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Journals and cards, and 16 mm rolls of silver halide microfilm.

RETRIEVABILITY:

Filed by Social Security number and retrievable by name.

SAFEGUARDS:

Stored in building locked when not in use. Two microfilm silver copies made simultaneously. One security copy stored in Treasurer's Vault in locked, fireproof, film file cabinet. Second copy used for retrieval of information and is stored in a fireproof, film file cabinet, which is locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Paper records and microfilm destroyed sixty years after first day of employment of vessel employee by Panama Canal Commission.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Payroll Branch, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individual and ship's purser, and captain.

PCC-CZG/FVGA-2

SYSTEM NAME:

Cash Register Receipt Shortages, PCC-CZG/FVGA-2.

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who experience cash register shortages.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained to determine potential weakness in cash controls and may be referred to in routine cash audits or as the basis for a cash audit. Records contain information such as employee's name, cash register number, retail unit, date and amount of cash shortage.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 65, 66, 76A Stat. 11; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Forms in file folders.

RETRIEVABILITY:

Filed by retail area in chronoligical sequence. Retrievable by employee name.

SAFEGUARDS:

Stored in locked file cabinets in building locked when not in use. Access

and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed by shredding after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Agency Records Officer, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Agency Records Officer, Admin. Bldg. Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to addressee designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Retail unit managers.

PCC-CZG/GE-1 (STATE-39)

SYSTEM NAME:

Visa records, PCC-CZG/GE-1 (STATE-39).

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for visas aliens who may be eligible to receive visas.

CATEGORIES OF RECORDS IN THE SYSTEM:

Visa applications accompanied by documents such as birth certificates, marriage certificates, spouses' birth certificates, affidavits of support, police records, and medical examinations; letters from interested parties; and communications between the Visa Office and the Visa Office, Department of State, consulates, other U.S. Government agencies, international organizations, and foreign missions regarding the eligibility, issuance, revalidation, and extension of visas.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1101–1503; see in particular 8 U.S.C. 1101(a)(9); 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records may be released to the Visa Office, Department of State, other U.S. consular offices, and the Immigration and Naturalization Service to coordinate the issuance of visas; to other government agencies that have statutory or other lawful authority to maintain such information; and to interested parties inquiring as to the statute of a particular case. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, cards, and individual forms.

RETRIEVABILITY:

Filed alphabetically by name of applicant.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retention of these records varies from one year to an indefinite period of time, depending upon the specific type of record involved. They are retired or destroyed in accordance with published schedules of the Department of State.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of addresses in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

The individual; members of Congress; the public interested in the visa applicant's case; Department of State and other U.S. Government agencies; U.S. Consular offices; foreign missions; international organizations; and local sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Certain records contained within this system of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (h), and (I), and (f) by the Department of State. See 22 CFR 6a.6 (i), and (j)(1)–3.

PCC/GSPL-1

SYSTEM NAME:

Law Enforcement Case Report Files, PCC/GSPL-1.

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are or have been subjects of police investigations, including persons who have committed crimes or are alleged to have committed crimes; persons witnessing or reporting criminal activities; missing persons; and persons filing official complaints about the conduct of other persons when such conduct is not a violation of law.

CATEGORIES OF RECORDS IN THE SYSTEM:

Subject's and/or suspect's name, witness' or witnessess' names, complainant's name, identification or cedula number, residence, birth date, age, sex, citizenship, occupation, employer, date and time of incident, name of the investigating/arresting officer, investigative facts concerning the case. Subsystem contains subject's name, identification number, residence, birth date, age, sex, citizenship, photograph number, fingerprint classification date and time of incident, location of case report, and notations of arrests and outstanding warrants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

6 Panama Canal Code 3701–44, 76A Stat. 503–5; 22 U.S.C. 3831 (Supp. III 1979); Article XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Released to law enforcement agencies, court officials, and local military commands as necessary to assist in the apprehension and identification of criminals, and to conduct investigations related therto. See also general routine use paragraphs in prefatory statement or in 35 FR Part 10 Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms 8½ by 11 inches; computer printouts; magnetic tape; punch cards; logbooks; and index cards.

RETRIEVABILITY:

Logbooks and index cards permit retrieval of case report by name of

arrestee, complainant, or person about whom complaint has been made. Information on computer not retreivable by personal identifier.

SAFEGUARDS:

Inactive files maintained in Agency Records Center, a building locked when not in use. Case files in Agency Records Center normally released only to designated Commission Support Services Branch officials. Magnetic tapes stored in locked rooms when not in use. Access to and use of all records restricted to authorized personnel.

RETENTION AND DISPOSAL:

Held for seven yars at Agency Records Center, and then destroyed. Case information and arrest records on magnetic tape automatically expunged five years after date of report unless longer retention specifically requested. Computer produced reports retained at Support Services Branch up to ten years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.21 and 10.22.

PCC/GSPL–4

SYSTEM NAME:

Convict Files, PCC/GSPL–4.

SYSTEM LOCATION:

Agency Records Center, Bldg. 42–D, Diablo, R.P.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have been sentenced and have served any length of time in the Panama Canal Commission Penitentiary.

CATEGORIES OF RECORDS IN THE SYSTEM:

Convict's number, name, fingerprint classification, entrance and discharge dates, charge against convict, residence, citizenship, names of family, and related personal information. Also has history record of stay in penitentiary, disciplinary comments, brief case history of arrest and conviction, other pertinent information concerning case involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

6 Panama Canal Code 6501–7, 76A Stat. 555–6; 22 U.S.C. 3831 (Supp. III 1979); Article XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to provide historical data and reference information, regarding release, parole, probation, pardon, and other pertinent data on former and present inmates of the Panama Canal Commission penal facilities; to police, courts, and investigatory agencies, with a legitimate interest in such information. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms and typed pages.

RETRIEVABILITY:

Filed by convict number.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Original records maintained indefinitely in the Agency Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.21 and 10.22.

PCC/GSPL–5

SYSTEM NAME:

Prisoner Record Cards, PCC/GSPL–5.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have been arrested by the Panama Canal Commission Police.

CATEGORIES OF RECORDS IN THE SYSTEM:

Subject's name, identifying number, residence, birth date, age, citizenship, occupation, employer, date and time of arrest, arresting officer, sex, convict number, alias, arrest charge, name of complainant, final disposition received, and brief account of activities while individual was incarcerated.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

6 Panama Canal Code; 22 U.S.C. 3831 and 3852 (Supp. III 1979); Article XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Released to law enforcement agencies, courts, and investigatory agencies. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A–6.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms, 8 by 10 inches and micro-film cassettes.

RETRIEVABILITY:

Filed by name of prisoner, and date of arrest.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retained indefinitely, no disposition schedule in effect.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See CFR 10.21 and 10.22.

CC/GSPL–6.

SYSTEM NAME:

Police Photo Files, PCC/GSPL–6.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have been arrested, booked, and photographed by the Panama Canal Commission Police.

CATEGORIES OF RECORDS IN THE SYSTEM:

Subject's photo number, height, date of arrest, and the district in which the arrest occurred.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

6 Panama Canal Code 3701–44, 76A Stat. 503–5; 22 U.S.C. 3831 (Supp. III 1979); Article XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosed to civilian and military investigative and law enforcement department of the U.S. Government, and Government of Panama courts, and other parties, including eye-witnesses to crimes as required to assist in identification of known or alleged criminal offenders. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendiex A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3 by 5 inch photographs.

RETRIEVABILITY:

By photo number, and by number entered on the arrest record.

SAFEGUARDS:

Maintained in Agency Records Center, a building locked when not in use. Access and use are restricted to authorized personnel only.

RETENTION AND DISPOSAL:

Indefinitely. No disposition schedule established.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.21 and 10.22.

PCC/GSPL–7

SYSTEM NAME:

Fingerprint File, PCC/GSPL–7

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons having been fingerprinted by, or whose prints have been provided to the Panama Canal Commission Police in the process of authorized law enforcement activities in the Canal Zone.

CATEGORIES OF RECORDS IN THE SYSTEM:

Subject's name, occupation, age, fingerprint classification, offense or reason for printing, actual prints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

6 Panama Canal Code 3701–44, 76A Stat. 503–5; 22 U.S.C. 3831 (Supp. III 1979); Article XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosed upon request to other law enforcement agencies and to courts consistent with the identification and/or apprehension of criminal offenders. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Printed forms 4 by 6 inches.

RETRIEVABILITY:

By fingerprint classification.

SAFEGUARDS:

Maintained in Agency Records Center, a building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.21 and 10.22.

PCC/GSPL–10

SYSTEM NAME:

Master Name File, PCC/GSPL–10.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have been arrested; reported offenses to the police; been involved in an incident coming to the attention of the Panama Canal Commission Police; been reported missing; and, persons who have outstanding warrants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, identifying number, residence, birth date, citizenship, occupation, employer, photograph number, fingerprint classification, convict number, alias, sex, type of warrant, violations of law committed, date and time of the arrest/incident, investigating/arresting officer, notations about the arrest/incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

6 Panama Canal Code 3701–44, 76A Stat. 503–5; 22 U.S.C. 3831 (Supp. III 1979); Article XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Released to investigatory agencies and law enforcement agencies as required to assist in the apprehension and/or identification of known or alleged criminals, to prevent crime, locate witnesses etc. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3 by 5 inch cards, including reference cards to the fingerprint files.

RETRIEVABILITY:

Filed by name of person.

SAFEGUARDS:

Maintained in Agency Records Center, a building locked when not in use. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Maintained indefinitely on persons who have been arrested and prosecuted for a felony. All others destroyed by burning ten years after reported incident.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.21 and 10.22.

PCC/GSPL–13

SYSTEM NAME:

Arrest Record File, PCC/GSPL–13.

SYSTEM LOCATION:

Support Services Branch, Building 729, Balboa, R.P.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have been arrested, fingerprinted, photographed for violations of law. Also includes those persons required to appear in Magistrates Court for traffic violations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, alias, age, birth date, marital status, color, sex, felony or misdemeanor charge, type of arrest, convict number, photograph number, nationality, residence, occupation, employer, drivers license number, identifying numbers, complainant, location of arrest, court dates and disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

6 Panama Canal Code 1691–1716, 3701–44, 76A Stat. 474–6, 503–5; 22 U.S.C. 3831 (Supp. III 1979); Article XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide statistical data, to identify criminal offenders, and to index such information for use by law enforcement agencies, courts, consular and diplomatic officials and others with a valid need to know. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed cards 4 by 6 inches and microfilm cassettes.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained in locked Kard-Veyer (rotary file) and locked micro-film file cabinet. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Maintained indefinitely, no disposition schedule established.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Support Services Branch, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of addressees designated on Notificaton Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Compiled from individual arrest reports, from person arrested, and from identifying case report serial numbers.

PCC/GSPL–15

SYSTEM NAME:

Complaints Against Policemen File, PCC/GSPL–15.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All police personnel about whom written complaints have been submitted from citizens.

CATEGORIES OF RECORDS IN THE SYSTEM:

Subjects's name, badge number, date and time of the complaint, facts of the complaint as stated by the complainant, officer's statement as to his actions, decision on complaint, actions taken by person investigating the complaint, results of the complaint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3831 (Supp. III 1979); Article XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Original letter of complaint.

RETRIEVABILITY:

By name of subject-police officer.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Maintained indefinitely. No disposition schedule established.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Request should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From person making complaint; from employee; witnesses; investigating officer(s).

PCC/GSPL–16

SYSTEM NAME:

Traffic Accident Reports, PCC/GSPL–16

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons involved in traffic accidents occurring in the Canal area.

CATEGORIES OF RECORDS IN THE SYSTEM:

Driver's name, identifying number, license number, residence, birth date, age, sex, citizenship, occupation, employer, address of employer, description of vehicle or vehicles involved, name, address and telephone number of owner of vehicle, violations committed, notations of court proceedings and dispositions, investigating officer's name, and facts and observations of the investigation. Subsystem contains driver's name,

identifying number or date of birth, and traffic accident number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 3831 (Supp. III 1979); Article XI of the Panama Canal Treaty of 1977; 6 Panama Canal Code 1691.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routinely released to court officials, owners of vehicles, insurance companies, and law enforcement agencies with a need to know. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10. Appendix A

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms 8½ by 11 inches; index cards; punch cards;' magnetic tape; and computer-produced reports.

RETRIEVABILITY:

Accident reports filed by accident number and date, cross-indexed by name of driver. Information on magnetic tape not retrievable by personal identifier.

SAFEGUARDS:

Inactive files maintained in Agency Records Center, a building locked when not in use. Accident report files in Agency Records Center normally released only to designated Panama Canal Commission Police officials. Access to and use of all records restricted to authorized personnel.

RETENTION AND DISPOSAL:

Manual files destroyed five year after final disposition of case. Information on magnetic tape automatically expunged three years after date of report unless longer retention is specifically requested. Computer-produced reports retained at Support Services Branch up to ten years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Compiled from information provided by the vehicle operator, witnesses, and the investigating officer.

PCC/GSPL-18

SYSTEM NAME:

Prisoner Property Record, PCC/GSPL-18

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose personal property is held or seized by the police at the time of arrest or incarceration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consists of the receipt number, prisoner's name, money, and other property seized or held; the name of the receiving officer, and the receipt for return of the property.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

6 Panama Canal Code 4901–7, 76A Stat. 544–5; 22 U.S.C. 3831 and 3852 (Supp. III 1979); article XI of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printed forms

RETRIEVABILITY:

Filed and retrieved by receipt number.

SAFEGUARDS:

Maintained in Agency Records Center, a building locked when not in use. Access and use restricted to authorized personnel.

RETENTION AND DISPOSAL:

Held 3 years after property is returned. Destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are Published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

From prisoner, and officer completing the form.

PCC/GSSP-1

SYSTEM NAME:

Expert and Consultant Records, PCC/GSSP-1

SYSTEM LOCATION:

Chief, Purchasing and Contracts Branch, Storehouse Division, Panama Canal Commission, APO Miami 34011.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Experts and consultants procured by contract to furnish services to the Panama Canal Commission.

CATEGORIES OF RECORDS IN THE SYSTEM:

Curriculum vitae of individuals, copies of contracts and charges, and related papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3109; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977 and Article XI of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed or retrievable alphabetically by name.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Destroyed by shredding or burning six years after final payment.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the Systems Manager or the Agency Records Officer, Administration Building, Balboa Heights, R.P. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individual, references provided by individual and peers; and the component of the Canal Commission requesting expert or consultant services.

PCC/GSSS-1

SYSTEM NAME:

Vessel Employee Records, PCC/GSSS-1.

SYSTEM LOCATION:

Logistical Support Branch, Bldg. 601-5-A, Panama Canal Commission, 4400 Dauphine Street, New Orleans, Louisiana 70146.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Formal crew members of the S.S. Cristobal.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal data on former crewmembers of S.S. Cristobal, including information on qualifications, positions occupied, "Z" number, next of kin, and adverse and disciplinary action record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 22 U.S.C. 3611 (Supp. III 1979); 46 U.S.C. Chapter 18; Articles III and X of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cards.

RETRIEVABILITY:

Filed or retrievable alphabetically by name.

SAFEGUARDS:

Stored in locked metal file cabinets in building with around-the-clock guard. Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Logistical Support Branch, Bldg. 601-5-A, Panama Canal Commission, 4400 Dauphine Street, New Orleans, Louisiana 70146.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Administration Building, Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addresses designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individual, supervisors, union officials, and U.S. Coast Guard.

PCC-CZG/HL-1

SYSTEM NAME:

Health, Medical, Dental, and Veterinary Records Systems,PCC-CZG/HL-1.

SYSTEM LOCATION:

Agency Records Center, Building 42-D, Diablo, Republic of Panama; Federal Records Center, East Point, Georgia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Canal agencies; individuals in the service of and sponsored by a U.S. Government agency (U.S. Armed Forces, State Department, Veterans Administration, U.S. Public Health Service, Federal Aviation Administration; Federal Highway Administration; Smithsonian Institute); retired U.S. Government employees; district dentists and their employees; concessionaires of the Canal organization; Canal Zone land licensees; Canal Zone religious, social, charitable, and educational workers; U.S. Government contractors and their employees; Canal Zone commercial company employers; and the dependents of individuals in the preceding categories who reside with the individuals. Persons other than dependents who are U.S. Government authorized Canal Zone visitors or residents; merchant seamen in transit and unsponsored individuals from ocean-going vessels; prisoners at the Canal Zone Penitentiary; charity cases sponsored by the Canal Zone United Way and teaching cases; non-resident private pay patients; and noneligible, nonsponsored individuals receiving emergency treatment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Qualification physical examinations: Pre-employment, and periodic medical examinations to determine fitness for duty consistent with job qualifications and requirements. Inpatient hospital medical charts: All medical information and records relating to an individual's hospitalization. Outpatient medical charts: Documentation of medical treatment received by an individual on an outpatient basis from hospital, clinics, first aid stations, and other health facilities. Also may contain abstracts of inpatient hospitalizations. Public health records: Information on individuals in community health programs for control of communicable diseases, industrial health, school health, quarantine, sanitation, and environmental quality control. Mental health records: All medical information and records which pertain to an individual's outpatient and/or inpatient treatment for psychiatric services, drug and alcohol rehabilitation, and other social service or psychological support. Dental care records: Information relating to an individual's history of dental care as documented in separate and distinct dental care records. Animal care and hospitalization records: Information which pertains to the quarantine, care and treatment of animals. Mortuary service records: Information regarding mortuary services furnished.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 911 and 912, 76A Stat. 36; 5 C.Z.C. 1631-56, 76A Stat. 353-360; 6 C.Z.C. 1101, 2, and 9, 76A Stat. 448 and 450; 6 C.Z.C. 4784, 76A Stat. 540; 21 U.S.C. 1171-5 and 1180; 42 U.S.C. 257 and 4561; P.L. 93-282; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information that does not relate to alcohol or drug abuse may be released from these records to the extent needed, as follows:

1. To other Federal agencies and offices that are responsible by statute or other competent authority for Federal programs to which the records are pertinent, such as the components of the U.S. Armed Forces, the Social Security Administration, the Veterans Administration, the Civil Service Commission, retired military pay centers.

2. To the Communicable Disease Center, Atlanta, Georgia, and private contractors providing benefits under the auspices of the Canal or other Federal agencies.

3. To the police or other competent authority when the director of the hospital or other Health Bureau unit determines that prompt release of such information is essential for the apprehension of a criminal, protection of the patient, or protection of the public. Examples would be cases involving suspected child abuse, death from unnatural causes, or communicable disease.

Information may be released from these records to the extent needed, as follows:

1. To officials of other Federal agencies when requested in writing for purposes of determination of cause of death, compilation of vital statistics, management or financial audits or program evaluation, and approved scientific research in which patient identity wil not be disclosed.

2. Respond to general requests for statistical information, under the Freedom of Information Act while maintaining individual anonymity.

3. To provide documentation to sponsoring agencies or other foreign governments as regards their patients consistent with the need-to-know rules of confidentiality, and procedural security in the release of information.

4. To provide basis for administrative and professional decisions regarding the coordination with U.S. foreign, and international health agencies in disease prevention and control, including information related to zoonotic and agricultural disease; inspection, surveillance, and control of food products; and intenational quarantine measures.

5. To medical personnel to the extent necessary to meet a bona fide emergency.

6. To a court of competent jurisdiction if authorized by an appropriate order granted after application showing good cause therefor.

See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Apendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, individual forms, and cards.

RETRIEVABILITY:

Records or cross-reference index cards providing access to records are filed alphabetically by name.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Physical examination records except for those held for transfer into official personnel folder destroyed after 6 years; hospital inpatient medical charts destroyed 25 years after patient's discharge from hospital; outpatient medical charts destroyed 6 years after year of last entry in file; medical x-ray and radiographic reports filed separately from medical charts destroyed after 6 years except for selected items held indefinitely for teaching or claims purposes; veterans; case files destroyed 6 years after date of last papers in folder; venereal disease charts filed separately from medical charts destroyed 6 years after last entry mental health patient records destroyed 25 years after patient's discharge; animal patient records destroyed 6 years after last entry; patient index cards are permanent; program files are permanent; and duplicate records are destroyed after 3 years. (Note: Destruction suspended until further notice.)

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama.

Individuals requesting information should provide full name, date of birth, social security number (optional), agency affiliation at time of medical treatment inclusive dates, when medical treatment was rendered, or other specific information applicable to the inquiry that might assist in identification. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of the addresses in Notification Procedures, preceding. Procedures for disclosure of information from the medical records of the individual requesting access are set forth in 35 CFR 10.9.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

The individual to whom the medical record pertains; attending physicians and allied health personnel involved in the patient's treatment; medical records and information received from outside sources; and information from sponsoring agencies.

PCC–CZG/HL–2

SYSTEM NAME:

Medical Administration System Exempt, PCC–CZG/HL–2.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Canal agencies; individuals in the service of and sponsored by a U.S. Government agency (U.S. Armed Forces, State Department, Veterans Administration, U.S. Public Health Service, Federal Aviation Administration; Federal Highway Administration; Smithsonian Institute, etc.); retired U.S. Government employees; district dentists and their employees; concessionaires of the Canal organization; Canal Zone land licensees; Canal Zone religious, social, charitable, and eductional workers; U.S. Government contractors and their employees; Canal Zone commercial company employees; and the dependents of individuals in the preceding categories who reside with the individuals. Persons other than dependents who are U.S. Government authorized Canal Zone visitors or residents; merchant seamen in transit and unsponsored individuals from ocean-going vessels; prisoners at the Canal Zone Penitentiary; charity cases sponsored by the Canal Zone United Way and teaching cases; nonresident private pay patients; noneligible, nonsponsored individuals receiving emergency treatment; and children placed for adoption or in foster homes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medico-legal: Documentation and correspondence which relates to medical records and is obtained in the processing of blood alcohol and urine drug screening procedures, rape cases, injury and claim cases, deaths and other unusual incidences. Investigation

records: Detailed audits, special and routine investigations and inquiries regarding Health Bureau activities. Child abuse program: Files relating to the administrative and professional management of suspected and actual cases of child abuse. Social Services files: Files containing personal information resulting from case studies and social work counseling. Adoption program: Background information on social services management of pre-adoption home studies, child placement, counseling and follow-up actions. Foster home program: Personal data and background studies on persons interested in participation in the Foster Home Program. Complaints: Background information and investigative correspondence promulgated by complaints regarding medical care rendered. Utilization and peer review files: Sensitive information regarding the quality of care provided to patients, reasons for length of stay of patients, and other monitoring requirements as specified by accrediting agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 31–33, 911 and 912, 76A Stat. 7, 76A Stat. 36; 5 C.Z.C. 1631–56, 76A Stat. 353–360; 6 C.Z.C. 541 and 4784, 76A Stat. 429 and 540; 8 C.Z.C. 381–7, 76A Stat. 690–1; 21 U.S.C. 1171–5 and 1180; 42 U.S.C. 257 and 4561; and P.L. 91–513, and 93–282; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be released from these records to the extent needed, as follows:

1. To the Joint Commission for Accreditation of Hospitals for hospital accreditation.

2. To officials of other Governments and private organizations in the Canal Zone to coordinate the medical treatment of victims of child abuse and the provision of professional assistance for those involved in such cases.

3. To members of the community and other Government organizations who are serving on committees or are assigned to adoption, foster home, and other social service programs.

See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed or cross-referenced alphabetically by name.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

Individuals requesting information should provide full name, date of birth, social security number (optional), agency affiliation at time of medical treatment, inclusive dates when medical treatment was rendered, or other specific information applicable to the inquiry that might assist in identification. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURE:

Requests should be addressed to either of the addresses designated in Notification Procedures, preceding. Procedures for disclosure of information from the Medical records of the individual requesting access are set forth in 35 CFR 10.9.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

The individual to whom the medical record pertains; attending physicians and allied health personnel involved in the patient's treatment; medical records and information received from outside sources; administrative, professional, and investigatory personnel and records; testimonies and statements of individuals concerned with case; court, police, and personnel records; and information from sponsoring agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in this system which is investigatory material compiled for law enforcement purposes or would reveal the identity of confidential sources is exempt from certain subsections of 5 U.S.C. 552a and from the procedures for access and contest set forth in the agency's regulations. See 35 CFR 10.22.

PCC–CZG/HL–3

SYSTEM NAME:

Medical Administration System—Nonexempt, PCC–CZG/HL–3.

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Panama Canal Company and Canal Zone Government; individuals in the service of and sponsored by other U.S. Government agencies (U.S. Armed Forces, State Department; Veterans Administration; U.S. Public Health Service; Federal Aviation Administration; Federal Highway Administration; Smithsonian Tropical Research Institute, etc.); retired U.S. Government employees; district dentists and their employees; concessionaries of the Canal Zone organization; Canal Zone land licensees; Canal Zone religious, social, charitable, and educational workers; U.S. Government contractors and their employees; Canal Zone commercial company employees; and the dependents of individuals in the preceding categories who reside with the individuals. Persons other than dependents who are U.S. Government-authorized Canal Zone visitors or residents; merchant seamen in transit and unsponsored individuals from ocean-going vessels; prisoners at the Canal Zone Penitentiary; charity cases sponsored by the Canal Zone United Way and teaching cases; nonresident private pay patients; and noneligible, nonsponsored individuals receiving emergency treatment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual registration, licensure, and certification records: Information maintained in connection with the monitoring of medical specialty training programs and certification of accreditation, including information on state and Canal Zone medical licenses held by individuals. Curriculum vitae: Comprehensive information on qualifications and background of key Health Bureau employees and visiting consultants. Drug and controlled substances records: Administrative files maintained in accordance with regulations relating to the control of narcotics. Program accreditation and certification records: Correspondence and reports relating to the management and control of activities by the professional and administrative staff, including identification of deficiencies. Medical treatment indices: Records

maintained by patient, disease code, physician, patient age, patient length of stay, discharge, diagnoses, and operative procedures to meet requirements of the Joint Commission for Accreditation of Hospital. Hospitals billing and bill reduction and cancellation records: Billings to insurance companies and through Agents Accounts and Payroll Branches and information obtained to make determinations regarding the ability of individuals to pay for medical treatment. Housing exceptions records: Medical backup information used in evaluating formal written requests from employees for assignment for medical reasons to government housing for which they are otherwise ineligible. Fiscal accounting records: Information regarding medical treatment rendered and tariff charges, including patient invoices. Blood bank and donor records: Information specifying donors' blood types, addresses, telephone numbers, and blood donations. Locator records: Information on location, status, and assignments of patients and employees. Hospital population records: Listings of patient. Veterans Administration data: Information pertinent to the hospitalization and of Veteran Administration beneficiaries. Medical evaluation boards: Information on the composition and administration of medical evaluation boards. Aeromedical evacuation records: Information obtained for making determinations of the necessity of evacuating patients by air. Incident reports on such evacuations. Radiation exposure records: Data on individuals exposed to radiation. Community health and environmental reports. Medical Correspondence records.

The following portions of the system are on computer.

a. Hospital Census Program: Persons who are inpatients at Canal Zone medical facilities at the time the report is compiled. Includes the patient's name and/or name of sponsoring employee or agency; the patient's sex, marital status, religion, citizenship, residence, dates of admission, treatment and discharge.

b. Hospital Inpatient Billing and Statistical Information, including name of patient, name of employee/sponsor or sponsoring agency, employing unit, address, telephone number citizenship, insurance carrier, etc. of persons who are obtaining inpatient service at Canal Zone Government medical facilities.

c. Hospital Outpatient Billing Program: Information, including name of person receiving treatment during the period for which the report is compiled, the name of employee/sponsor or his sponsoring agency, employing unit, address, citizenship, telephone number, insurance carrier, etc. of persons obtaining outpatient services at Canal Zone Government medical facilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 31–33, 911 and 912 76A Stat. 7, 76A Stat. 36: 5 C.Z.C. 1631–56, 76A Stat. 353–360; 6 C.Z.C. 1101, 2 and 9, 76A Stat. 448 and 450; 6 C.Z.C. 4784, 76A Stat. 540; 21 U.S.C. 1171–5 and 1180; 42 U.S.C. 257 and 4561; and P.L. 91–513, and 93–282; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information that does not relate to alcohol or drug abuse may be released from these records to the extent needed. as follows:

1. To Federal agencies and other organizations responsible by statute or other competent authority for programs to which the information is pertinent, such as components of the U.S. Armed Forces, the Social Security Administration, the Veterans Administration, the Civil Service Commission, retired military pay centers, and the Joint Commission for Accreditation of Hospitals;

2. To law enforcement officials when Health Bureau officials determine that such disclosure is essential for the apprehension of a criminal, protection of the patient, or protection of the public;

3. To insurance companies and sponsoring agencies, organizations, or foreign governments for the purpose of documenting treatment or billings;

4. To officials of other agencies, foreign governments, and private organizations in the Canal Zone in connection with treatment and professional assistance in child abuse cases and in connection with adoption, foster home, and other social service programs; and

5. To United States, foreign and international health officials and agencies, including the Communicable Disease Center, in connection with the reporting of human and animal communicable diseases.

See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; cards; individual forms; magnetic tape/disks and punched cards; and computer printouts.

RETRIEVABILITY:

Paper records or cross-reference index cards providing access to records are filed alphabetically by name. Information retrievable from computer by patient's or employee's number.

SAFEGUARDS:

Access and use restricted to authorized personnel.

RETENTION AND DISPOSAL:

Accounting and billing records destroyed after four years; blood donor cards, when donor no longer available or able to give blood; location records, when superseded; Veterans Administration beneficiaries, six years after date of last paper in folder; aeromedical evacuation records, after three years. Curriculum vitaes and individual registration, licensure, and certification records: for civilians, destroyed 1 year after separation; for military, retained 7 years after departure, transferred to Agency Records Center for 3 additional years, then destroyed. Drug and controlled substances records destroyed after 2 years. Program accreditation and certification records retained at least 3 years. Medical correspondence records retained 10 years before transfer to Agency Records Center. Computer produced reports: Hospital Census Report destroyed when updated report issued; Hospital Inpatient and Statistical Report destroyed when updated report issued; Hospital Outpatient Billing Report retained for 2 months after processing by billing personnel. Other records permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg., Balboa Heights, Republic of Panama. Rules are published in 35 CFR Part 10.

Individuals requesting information should provide full name, date of birth, social security number (optional), agency affiliation at time of medical treatment, inclusive dates when medical treatment was rendered, or other specific information applicable to the inquiry that might assist in identification. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Requests should be addressed to either of addressees designated in Notification Procedures, preceding.

Procedures for disclosure of information from the Medical records of the individual requesting access are set forth in 35 CFR 10.9.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains, medical and other administrative records, physicians and allied health personnel, other offices of the Canal agencies, schools and colleges, certifying and accrediting officials, the United States Armed Forces and the Veterans Administration, and other hospitals, physicians, boards, and committees.

PCC–CZG/SC–4

SYSTEM NAME:

Refugee Records, PCC–CZG/SC–4

SYSTEM LOCATION:

Agency Records Center, Building 42–D, Diablo, Republic of Panama.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons granted temporary refuge in the Canal Zone because of civil disturbance or natural disaster or because they are seeking political asylum.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information about refugees and their families; documentation establishing refugee status, conduct agreements, housing arrangements, information on entry and departure, and related papers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 C.Z.C. 841, 76A Stat. 32; E.O. 11305; 22 U.S.C. 2601–5; E.O. 11077; 22 U.S.C. 3611 (Supp. III 1979); Article III of the Panama Canal Treaty of 1977.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be released from these records on a need-to-know basis to officials of the U.S. and foreign governments in connection with the rehabilitation or relocation of refugees. See also general routine use paragraphs in prefatory statement or in 35 CFR Part 10, Appendix A.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name of refugee.

SAFEGUARDS:

Access and use are restricted to authorized personnel.

RETENTION AND DISPOSAL:

Permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Records Management Branch, Panama Canal Commission, Records Management Branch, APO Miami 34011.

NOTIFICATION PROCEDURE:

Information may be obtained from the System Manager or the Agency Records Officer, Admin. Bldg. Balboa Heights, Pepublic of Panama. Rules are published in 35 CFR Part 10.

RECORD ACCESS PROCEDURES:

Request should be addressed to either of addressees designated in Notification Procedures, preceding.

CONTESTING RECORD PROCEDURES:

See rules published in 35 CFR Part 10.

RECORD SOURCE CATEGORIES:

Subject individuals and members of their families; personnel of the Community Services Division, and officials of the canal agencies, other U.S. Government agencies and foreign governments concerned with the rehabilitation or relocation of refugees.

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Part IV

Department of the Interior

Minerals Management Service

Outer Continental Shelf, Central Gulf of Mexico; Proposed Oil and Gas Lease Sale No. 72

Billing Code: 4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR-
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Central Gulf of Mexico
Proposed Oil and Gas Lease Sale No. 72

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to Sec. 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed notice of sale. The following is a proposed notice of sale for Sale No. 72 in the offshore waters of the Central Gulf of Mexico. This notice is hereby published as a matter of information to the public.

DEPUTY Director, Minerals Management Service
David C. Russell

Date: JAN 3 1983

Approved:

Secretary of the Interior
Jim Watt

4. Bidding Systems. All bids submitted at this sale must provide for a cash bonus in the amount of $150 or more per acre or fraction thereof. All leases awarded for this sale will provide for a yearly rental payment

Proposed Notice of Sale
Outer Continental Shelf, Central Gulf of Mexico
Oil and Gas Lease Sale No. 72

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (30 CFR Part 256, formerly 43 CFR Part 3300; see the Federal Register at 47 FR 47006, October 22, 1982). A revision of those regulations appeared in the Federal Register of June 16, 1982, at 47 FR 25967 and 26031. The revisions became effective on July 16, 1982, and will therefore apply to this sale.

2. Filing of Bids. Sealed bids will be received by the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Boulevard, Metairie, Louisiana 70002. Bids may be delivered in person to the above address until 10:00 a.m., c.s.t., May 24, 1983. Because of new streamlining procedures, bids will not be accepted on May 25, 1983, the day of the sale, at the sale site specified in paragraph 6, below. Delivery by mail should be addressed to P.O. Box 7944, Metairie, Louisiana 70010. Bids received by the Regional Manager later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the Regional Manager prior to 10:00 a.m., c.s.t., May 24, 1983. Bids may not be withdrawn unless written withdrawal is received by the Regional Manager prior to 9:00 a.m., c.s.t., May 25, 1983. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale was published in the Federal Register, _____ FR _____.

3. Method of Bidding. Tract numbers will not be used. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert sale number, map name(s), and block number(s)), not to be opened until 10:00 a.m., c.s.t., May 25, 1983," must be submitted for each block or prescribed bidding unit bid upon. For those blocks which must be bid on together as a bidding unit*, all block numbers of blocks comprising the bidding unit must appear in the label on the sealed envelope. A suggested bid form appears in 30 CFR Part 256, Appendix A. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Minerals Management Service. No bid for less than all of the unleased portions of a block or bidding unit will be considered. Bidders are advised to use the description "All the Unleased Federal Portion" for those blocks having only aliquot portions currently available for leasing. Partnerships also need to submit a list of signatories authorized to bind the partnership. All documents must be executed in conformance with signatory authorizations on file. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point, e.g., 50.12345%. Other documents may be required of bidders under 30 CFR 256.46. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

*See paragraph 12 below.

4. Bidding Systems. All bids submitted at this sale must provide for a cash bonus in the amount of $150 or more per acre or fraction thereof. All leases awarded for this sale will provide for a yearly rental payment of $3 per acre or fraction thereof. The bidding systems to be utilized for this sale apply to blocks or bidding units as shown on the map entitled "Sale No. 72 - Central Gulf of Mexico Stipulations, Lease Terms and Bidding Systems," available from the Gulf of Mexico OCS Regional Office. Specific requirements of the various systems are as follows:

(a) Bonus Bidding With a Fixed Sliding Scale Royalty. Bids on blocks or bidding units offered under this system must be submitted on a cash bonus basis with the percent royalty due in amount or value of production fixed according to the sliding scale formula described below. This formula fixes the percent royalty at a level determined by the value of lease production during each calendar quarter. For purposes of determining the royalty percent due on production during a quarter, the value of production during the quarter will be adjusted for inflation as described below. The determination of the value of the production on which royalty is due will be made pursuant to 30 CFR 250.64.

The fixed sliding scale formula operates as follows:

When the quarterly value of production, adjusted for inflation, is less than or equal to $20.873434 million, a royalty of 12.50000 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $20.873435 million, but less than or equal to $37,740.054115 million, the royalty percent due on the unadjusted value or amount of production is given by:

$$Rj = b[\ln (Vj/S)]$$

where Rj = the percent royalty that is due and payable on the unadjusted amount or value of all production in quarter j

b = 7.0

ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.1

When the adjusted quarterly value of production is equal to or greater than $37,740.054116 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.56224 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., the nearest dollar; for example, $49.625834 million.

The form of the sliding scale royalty schedule is illustrated in Figure 1. Note that the effective quarterly royalty rate depends upon the inflation adjusted quarterly value of production. However, this rate is applied to the unadjusted quarterly value of production to determine the royalty payments due.

Figure 1
Form of the Sliding Royalty Schedule

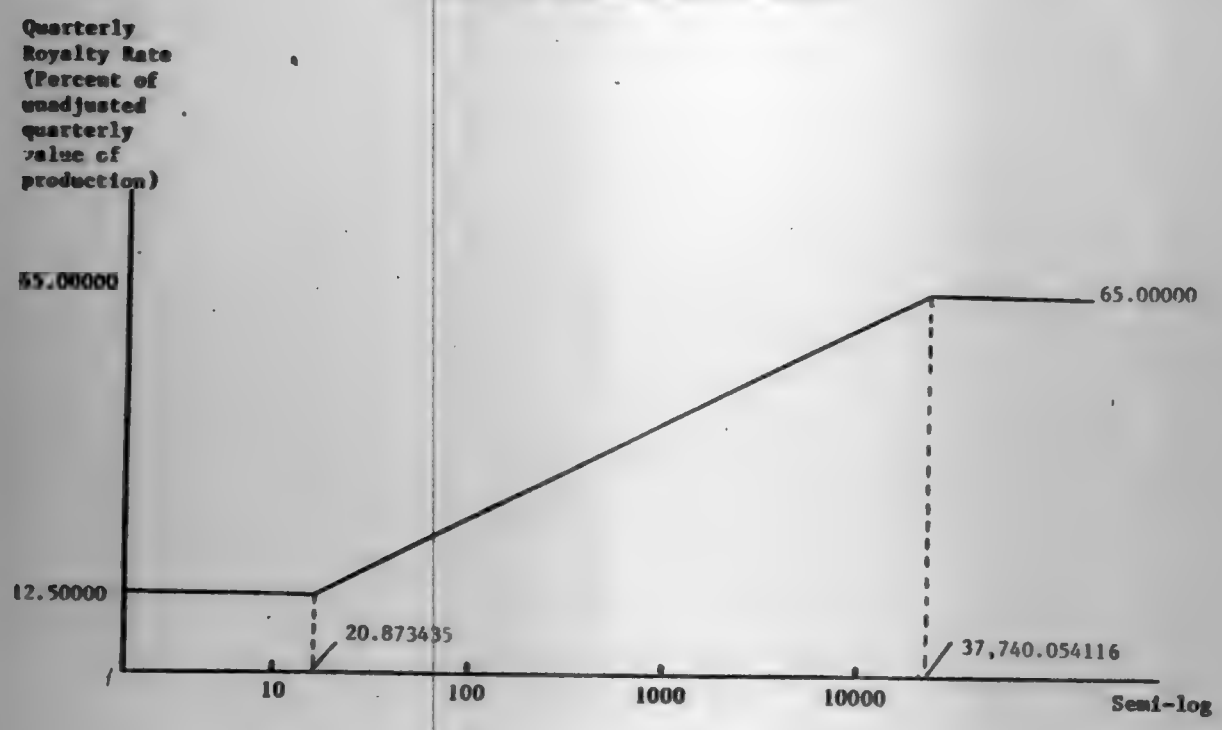

TABLE 1. HYPOTHETICAL QUARTERLY ROYALTY CALCULATIONS

(A)	(B)	(C)	(D)	(E)	(F)
Actual Value of Quarterly Production (Millions of Dollars)	GNP Fixed Weighted Price Index	Inflaction Factor[1]	Adjusted Value of Quarterly Production[2] (Vj, Millions of $)	Percent Royalty Rate (Rj)	Royalty Payment[3] (Millions of Dollars)
10.000000	200.0	4/3	7.500000	12.50000	1.25000
30.000000	200.0	4/3	22.500000	13.02527	3.90758
90.000000	200.0	4/3	67.500000	20.71555	18.64400
270.000000	200.0	4/3	202.500000	28.40584	76.69577
810.000000	200.0	4/3	607.500000	36.09612	292.37857
10.000000	250.0	5/3	6.000000	12.50000	1.25000
30.000000	250.0	5/3	18.000000	12.50000	3.75000
90.000000	250.0	5/3	54.000000	19.15355	17.23820
270.000000	250.0	5/3	162.000000	26.84383	72.47834
810.000000	250.0	5/3	486.000000	34.53412	279.72637

1 Column (B) divided by 150.0 (assumed value of GNP fixed weighted price index at time leases are issued).

2 Column (A) divided by Inflation Factor.

3 Column (A) times Column (E) divided by 100. All values are rounded for display purposes only.

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of

In adjusting the quarterly value of production for use in calculating the percent royalty due on production during the quarter, the actual value of production will be adjusted to account for the effects of inflation by dividing the actual value of production by the following inflation adjustment factor. The inflation adjustment factor used will be the ratio of the GNP fixed weighted price index for the calendar quarter preceding the quarter of production to the value of that index for the quarter preceding the issuance of the lease. The GNP fixed weighted price index is published monthly in the Survey of Current Business by the Bureau of Economic Analysis, U.S. Department of Commerce. The percent royalty will be due and payable on the actual amount or value of production as determined pursuant to 30 CFR 250.64. The timing of procedures for inflation adjustments and determinations of the royalty due will be specified at a later date. Table I provides hypothetical examples of quarterly royalty calculations using the sliding scale formula just described under two different values for the quarterly price index.

(b) Bonus Bidding with a 12-1/2 Percent Royalty. Bids on the blocks or bidding units offered at this sale under this system must be submitted on a cash bonus basis with a fixed royalty of 12-1/2 percent. All leases awarded under this system will provide for a minimum royalty payment of $3 per acre or fraction thereof.

(c) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the blocks or bidding units offered at this sale under this system must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent. All leases awarded under this system will provide for a minimum royalty payment of $3 per acre or fraction thereof.

(d) Bonus Bidding with a Fixed Net Profit Share. Bids on blocks or bidding units offered under this system must be submitted on a cash bonus basis with the fixed net profit share rate and the capital recovery factor indicated on the map entitled "Sale No. 72 - Central Gulf of Mexico, Stipulations, Lease Terms and Bidding Systems" as applicable to the block(s) bid upon. The net profit share payment shall be calculated according to regulations currently codified in 10 CFR 390 (originally promulgated by the Department of Energy, 45 FR 36784, May 30, 1980). The Department of the Interior is in the process of redesignating these regulations.

5. Equal Opportunity. Each bidder must have submitted by 10:00 a.m., c.s.t., May 14, 1983, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982) and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See Item 14, "Information to Bidders."

6. Bid Opening. Bids will be opened on May 25, 1983, beginning at 10:00 a.m., c.s.t., at the Louisiana Superdome, Gate "C", Hyatt Ramp Level, Rooms 3, 4, and 5, 1500 Poydras St., New Orleans, Louisiana. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, May 25, 1983, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this sale prior to issuance of a written acceptance of a bid for the block.

9. Acceptance, Rejection or Return of Bids. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted and no lease for any block or bidding unit will be awarded to any bidder unless:

(a) the bidder has complied with all requirements of this notice and applicable regulations;
(b) the bid is the highest valid bid; and
(c) the amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $150 or more per acre or fraction thereof. Any bid submitted which does not conform to the requirements of this notice of sale, the OCS Lands Act, as amended, or applicable regulations, may be returned to the person submitting that bid by the Regional Manager, and not considered for acceptance.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's annual rental, and satisfy the bonding requirements of 30 CFR Subpart I within the time provided in 30 CFR 256.47, as amended. A modification of payments procedures for successful bidders appeared in the latest revision of the regulations discussed in paragraph 1, above. The changes do not apply to the submission of the one-fifth bonus with bids, described in paragraph 3, above.

11. Leasing Maps/Official Protraction Diagrams. Blocks or bidding units offered for lease may be located on the following Leasing Maps/Official Protraction Diagrams which may be purchased from the Gulf of Mexico OCS Regional Office:

(a) Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for $17.
(b) Outer Continental Shelf Official Protraction Diagrams:
NH 16-4 Mobile
NH 16-7 Viosca Knoll
NH 15-12 Ewing Bank
NH 16-10 Mississippi Canyon
NG 15-3 Green Canyon
NG 16-1
NG 15-6 Walker Ridge
NG 16-4
These sell for $2 each.

12. Description of the Areas Offered for Bids.

(a) Acreages of the following types of blocks offered for bid appear on the documents indicated. Acreages of full blocks and partial blocks occurring at the meeting of map borders appear on Leasing Maps and Official Protraction Diagrams (see paragraph 11, above). Acreages of split blocks on the Federal/State boundary appear on the set of drawings entitled "Split Blocks - Central Gulf of Mexico," available from the Gulf

of Mexico OCS Regional Office (see paragraph 14, below). Where part of any of the above full, partial or split blocks is under lease (as indicated in (c) below), the bidder must determine the acreage of the unleased portion available for bidding by subtracting from the original Federal acreage of the block the acreage leased. The acreage leased is officially recorded at and available from the Gulf of Mexico OCS Regional Office.

(b) In several instances two or more blocks have been joined together into bidding units totaling less than 5760 acres. The total acreage for a bidding unit consists of the sum of the acreages appearing in the documents listed in (a) above. Any bid submitted for a bidding unit having more than one block must be for all of the unleased Federal acreage within all of the blocks in that bidding unit. The list of those bidding units is contained on the map entitled "Sale No. 72 - Central Gulf of Mexico Stipulations, Lease Terms and Bidding Systems," available from the Gulf of Mexico OCS Regional Office.

(c) The areas offered for leasing include all those blocks shown on the OCS Leasing Maps and Official Protraction Diagrams listed in paragraph 11, (a) and (b), except for those blocks or parts of blocks described as follows:

(1) Central Gulf of Mexico Leased Lands:

Descriptions of Blocks Listed Represent All Federal Acreage Leased Unless Otherwise Noted

Sabine Pass	West Cameron (continued)	West Cameron (continued)	West Cameron West Addition (continued)	West Cameron, South Addition (continued)	West Cameron, South Addition (continued)
3					
5	81	205			
6	83	206	332	510	618
7	90	211	333	513	619
8	91	212	342	518	620
9	92	214	343	519	622
10	94	215	352	522	623
11	95	216	359	523	624
12	96	222	363	525	625
13	97	225	369	528	630
14	101	229	370	530	631
15	102	233	374	531	633
16	106	236	376	532	636
	107	237	379	533	637
West Cameron	109	238	380	534	638
	110	239	392	535	639
17	111	240	393	536	642
18–	112	247	405	537	643
(SW¼)	113	248	406	538	645
20	115	249	409	540	646
21–	116	250	425	541	648
(E½; SW¼SW¼)	118	252	426	542	
22	128	253	427	543	East Cameron
23	131	261	428	547	
27	132	264	431	548	2
28-	135	265	432	549	9--
(N½; N½N½S½	136	266	436	551	(E½SW¼;
Zone 2)	137	277	437	552	SE¼ Zone 2)
33	143	279	443	553	13
34	144	280		560	14–
35	145	281	West Cameron,	561	(N½; NW¼SW¼;
36	146	282	South Addition	563	S½S½)
40	147	283		564	16
41 (E½)	148	284	446	565	23
42	149		447	569	24
44–	150	West Cameron,	459	570	25
(NW¼NW¼)	153	West Addition	463	571	26
45	165		464	573	29
47	166	157	470	574	30
48	167	161	472	575	31
49	170	164	473	576	32
53	171	287	478	586	33
54	172	290	479	587	34
55	173	291	480	593	35
56 (N½)	176	293	485	594	36
58	177	294	487	595	38
59	180	295	489	597	40
63	181	296	490	601	42
64	182 (N½)	300	491	605	43
65	192	305	492	606	44
66	193	311	493	608	45
67	194 (S½)	312	494	609	46
68	197	315	498	610	47
69 (N½)	198	317	499	612	48
70	199	318	504	613	49
71	201	320	507 (N½)	615	50
72	202	330	508	616	51
79	203	331	509	617	56
	204				

East Cameron (continued)	East Cameron South Addition (continued)	Vermilion (continued)	Vermilion (continued)	Vermilion South Addition (continued)	S. Marsh Island, North Addition (continued)
57		52	178 (cont'd)		
58	267	54	N½NW¼SW¼)	296	229

S. Marsh Island (continued)	S. Marsh Island, South Addition (continued)	Eugene Island (continued)	Eugene Island (continued)	Eugene Island South Addition (continued)	Ship Shoal (continued)
33		88	231		61
41	150	89	237	320	62

East Cameron (continued)

57
58
63
64
65
66
67
71
72
76
81
82
83 (NW¼)
88
89
90
94
96
97
104
105
106
118
119 (N½)
125
129
130
131
142
160 (E½)
194–
(E½E½SE¼)
195 (S½)
204–
(N½N½)
213
215
220
222
229
231
232

East Cameron, South Addition

237
239
240
245
249
254
255
257
258
259
260
261
262
263
264
265

East Cameron South Addition (continued)

267
270
272
273
278
280
281
286
294
321
322
323
330
331
334
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339
340
347
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349
351
352
353
354
359
365
370
371

Vermilion

17
21
22
23
24
25
26
27
28
30
31
33
34
35
36
37
38
39
40
42
43
44
45
46 (N½)
47
50
51

Vermilion (continued)

52
54
56
57
58
59
60
61
64
65
66
67
69
71
72
73
75
76
77
78
79
83
84
86
91
100
101 (S½)
102
103
104
114
115
118
119
120
122
124
131
144
145
146
147
152
153
155
156
159
161
164–
(E½NE¼SW¼;
NE¼SE¼SW¼;
S½NE¼SE¼;
W½SE¼;
SE¼SE¼)
166
167
170
171
175
178–
(W½NW¼NW¼;
SW¼NW¼;

Vermilion (continued)

178 (cont'd)
N½NW¼SW¼)
179
182
190
191
201
202
213
214
215
217–
(SW¼;
W½W½SE¼)
218–
(F½SE¼;
E½NW¼SE¼;
NE¼SW¼SE¼)
221
222
225–
(E½NE¼;
NE¼SE¼)
226
228
241
242
245
246
248
250
251

Vermilion South Addition

253
255
256
257
258
260
261
262
263
264
265
267
268
271
273
276
277
280
282
287
288
289
292
295

Vermilion South Addition (continued)

296
297
302
303
306
310
311
313
315
318
320
321
325
326
329
330
331
332
336
337
338
339
340
348
350
369
370
372
375
380
381
386
392
397
407

S. Marsh Island, North Addition

207
208
209
210
211
212
213
214
215
216
217
218
219
220
221*
222
223
224
225
226
227
228

S. Marsh Island, North Addition (continued)

229
230–
(Landward of lease 0310 stip. line)
231
232
234
235
236
237
238
239
240
241–
(Landward of lease 0310 stip. line)
242
243
244
245
246
249
250
252
253–
(Landward of lease 0310 stip. line)
255
256
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288

S. Marsh Island

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*Landward of the lease 0310 stip. line.

S. Marsh Island (continued)

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S. Marsh Island, South Addition

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S. Marsh Island, South Addition (continued)

150
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156
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Eugene Island

9
10
19–
(W½; W½SE¼; W½E½SE¼) *
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39
41
42
43
44
45
46
47
49
50
51
52
53
56
57
58
62
63
64
65 (E½)
71
72
74
76
77
79
80
84

*seaward of the 1975 Decree line.

Eugene Island (continued)

88
89
90
92
93 (E½)
95
99
100
105
106
107
108
113A
116
119
120
125
126
128
128A
129
129A
133
135
136
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204
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206
208
214–
(W½W½E½; W½)
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219
227
230

Eugene Island (continued)

231
237
238
239
240
241
242
243
244
245
246
247 (S½)
251
252
253–
(W½SW¼NW¼)
254 (S½)
255 (S½)
256
257
258
259
260 (SE¼)
261
266

Eugene Island South Addition

267
269
272
273
274
275
276
278
279
284
285
286
287–
(S½; S½N½)
289
292
293
294
295
296
297
298
299
300
301 (S½)
303
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Eugene Island South Addition (continued)

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Ship Shoal

13
14
15
25–
(Seaward of Zone 2)
26 (SE¼)
27
28
29
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31
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33
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35
37
50
55

Ship Shoal (continued)

61
62
63
64 (W½)
68
69
71 (W½)
72
73
78
81
84
86
87 (N½)
91
93
94–
(S½NE¼; SE¼ Zone 3)
99
102
108
112
113
114
115
117 (N½)
118
119
120 (E½)
128
130
133
134
135
136
145
146
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204

Ship Shoal (continued)	Ship Shoal, South Addition (continued)	South Timbalier (continued)	South Pelto (continued)	Grand Isle, South Addition	West Delta (continued)
205		161	12	90	91
206	343	162	13	91	92
207	356	163	15	93	93
208		164	18	94	94
209	South Timbalier	165	19 (W½)	95	95
210		166	20	96	96
211	11	169	21		99
214	16	170	23	West Delta	100
215	21	171	24		102
216	22	172	25	21–	103
217	23	173		(S½N½S½;	104
218	24	175	Bay Marchand	S½S½)	105
219	26	176		22 (E½)	107
222	27–	177	2	23	109
223	(N½; N½SW¼)	182	3	24	
224	28	183		26	West Delta,
225 (N½)	29	184	Grand Isle	27	South Addition
229	31	185		28	
230	34	186	16	29	117
232	35	188 (NW¼)	17	30	118
233	36	189	18	31	132
	37	190	19	32	133
Ship Shoal,	38	192	20	34	134
South Addition	47	195	21	35	137
	48	196	22	36 (NE¼)	138
237	50	200	23	40	143
238	51–	203	25	41	147
239	(Seaward of	209	29 (N½)	42	148
240	Zone 3)		30	43	152
241	52	South Timbalier,	32	44	
242	53	South Addition	33	45	South Pass
246	54		34	46	
247	55	217	37	47	6
248	59	220	38	50	17
249	63	225	39	57–	27
250	66	228	40	(SW¼SW¼)	28
251	67	251	41	58	33
252	68	263	42	61	36
253	69	264	43	62	37
259	70	266	44 (N½)	63	38
266	71	270	45	67	42
269	72	274	46	68 (S½)	43
270	75	284	47	69	44
271	76	287	48	70	45
272	77	292	49	71	46
274	86	293		72	48
278	87	297	51	73	49
290	128	298	52	74	50
291–	129	299	53 (W½)	75	51
(N½; SE¼)	130	300	54	76	54
292	131	301	63	79	55–
293	133	314	75	80 (N½,	(Seaward of 1965
295	134		76	N½S½	Decree Line)
296	135	South Pelto	77	SW (SW¼)	56
302	146		78 (SW¼)	85	57
319	147	1	81 (NW¼)	86	58
320	148	2	82 (NE¼)	87 (S½)	59
321	151	8	83	88	60
322	152	9	85	89	61
323	156	10		90	
332	160	11			

South Pass, South & East Addition	Main Pass (continued)	Main Pass, South & East Addition (continued)	Viosca Knoll	Mississippi Canyon (continued)
			24	
62	100		68	354
64	102	277	204	355
65	103	278	249	397
66–	104–	288	250	398
(Seaward of 1965	(NW¼; N½SW¼)	289	251	399
Decree Line)	106–	290	294	441
67	(N½N½;	293	295	485
69	N½S½N½;	296	816	487
70	SE¼SE¼NE¼;	298	817	663
73	E½E½SE¼)	299	863	707
75	107–	300	864	751
77	(NW¼NE¼NE¼;	301	899	
78	NE¼NW¼NE¼;	303	900	Green Canyon
83	W½W½E½; W½)	304	907	
89	108	305	908	18
93	110	306	942	19
94	111	310	987	62
	112	311		63
Main Pass	113–	312	Ewing Bank	89
	(E½E½NE¼;	313		90
6	E½NE¼SE¼)		304	91
7–	114	Breton Sound	305	97
(N½; N½S½;	115		306	98
Seaward of 1975	116	39	349	104
Decree Line)	117	40	350	105
18 (S½)	118	41	438	133
19	120	42	482	134
27	121	53	525	135
28	122	54	526	136
29	125	55	828	137
30	126	56	872	138
37	127 (N½)		Mississippi Canyon	139
38	128	Chandeleur		140
39	129		20	142
40	132	17	21	148
41	133	25	28	179
42	140	32	63	180
43–	141		64	181
(N½; W½NE¼SW¼,	142	Mobile	148	182
NW¼SW¼)	144		149	183
44–	145	778	150	184
(SE¼NE¼;	148	779	151	192
NE¼SE¼)	150	821	192	428
55	151	822	193	471
56	152–	823	194	472
57	(Seaward of 1965	824	195	
58 (N½)	Decree Line)	827	198	NG 16-1
59–	153	861	267	
(Portion Landward		862	268	Open
of Zone 3 Line)	Main Pass, South	864	280	
60	& East Addition	866	281	Walker Ridge
64		867	282	
69	235	868	309	Open
72	236	870	310	
73	237	906	311	NG 16-4
74	253	908	312	
77	254	909	324	Open
78	265		325	
91	266		326	
92	273			

(ii) Although currently unleased and shown on the OCS Official Protraction Diagram Mobile NH 16-4 (Approved October 10, 1972; Revised December 21, 1977), no bids will be accepted on the following blocks

Mobile—Blocks 629 through 633
671 through 678

13. Lease Terms and Stipulations. Leases resulting from this sale will have initial terms as shown on the map entitled "Sale No. 72 - Central Gulf of Mexico Stipulations, Lease Terms and Bidding Systems," and will be on Form MMS-2005 (August 1982) (formerly Form 3300-1). Copies of the map

(ii) Although currently unleased and shown on the OCS Official Protraction Diagram Mobile NH 16-4 (Approved October 10, 1972; Revised December 21, 1977), no bids will be accepted on the following blocks

Mobile—Blocks	629 through 633
	671 through 679
	681
	686 through 688
	718 through 720
	722
	729 through 732
	765 through 768
	809 through 816
	818 through 820
	825
	860

13. Lease Terms and Stipulations. Leases resulting from this sale will have initial terms as shown on the map entitled "Sale No. 72 - Central Gulf of Mexico Stipulations, Lease Terms and Bidding Systems," and will be on Form MMS-2005 (August 1982) (formerly Form 3300-1). Copies of the map and forms are available from the Gulf of Mexico OCS Regional Office.

(a) For leases resulting from this sale for blocks offered on a cash bonus basis with a fixed net profit share, Form MMS-2005 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first net profit share payment becomes due."
Sec. 5 Minimum Royalty. Hereby deleted.
Sec. 6 Royalty on Production. Hereby replaced by Net Profit Share. The lessee agrees to pay a net profit share rate of ___ percent with a ____ capital recovery factor, calculated pursuant to 10 CFR 390.

(b) For leases resulting from this sale for blocks offered on a cash bonus basis with a fixed sliding scale royalty, Form MMS-2005, will be amended as follows:

Sec. 6 Royalty on Production. The lessee agrees to pay the lessor a royalty of that percent in amount or value of production from the leased area as determined by the sliding scale royalty formula as follows. When the quarterly value of production, adjusted for inflation, is less than or equal to $20.873434 million, a royalty of 12.50000 percent in amount or value of production will be due on the unadjusted value or amount of production. When the adjusted quarterly value of production is equal to or greater than $20.873435 million, but less than or equal to $37,740.054115 million, the royalty percent due on the unadjusted value or amount of production is given by

$$Rj = b\,[Ln\,(Vj/S)]$$

where

Rj = the percent royalty that is due and payable on the unadjusted amount or value of production in quarter j

b = 7.0

Ln = natural logarithm

Vj = the value of production in quarter j, adjusted for inflation, in millions of dollars

S = 3.5

When the adjusted quarterly value of production is equal to or greater than $37,740.05+116 million, a royalty of 65.00000 percent in amount or value of production will be due on the unadjusted quarterly value of production. Thus, in no instance will the quarterly royalty due exceed 65.00000 percent in amount or value of quarterly production.

In determining the quarterly percent royalty due, Rj, the calculation will be carried to five decimal places (for example, 18.56224 percent). This calculation will incorporate the adjusted quarterly value of production, Vj, in millions of dollars, rounded to the sixth digit, i.e., to the nearest dollar (for example, 49.625834 millions of dollars). Gas of all kinds (except helium) is subject to royalty. The lessor shall determine whether production royalty shall be paid in amount or value.

(c) The text and applicability of four stipulations that will be included in leases resulting from this sale are as shown on the map entitled "Sale No. 72 - Central Gulf of Mexico Stipulations, Lease Terms and Bidding Systems," available from the Gulf of Mexico OCS Regional Office. In those stipulations the term RM refers to the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service. In addition to those four stipulations, the following two stipulations will be included in leases resulting from this sale as indicated below:

Stipulation 5.

(To be included only in the leases resulting from this sale with the sliding scale royalty bidding system, as indicated on the map entitled "Sale No. 72 - Central Gulf of Mexico Stipulations, Lease Terms and Bidding Systems.")

(a) The royalty rate on production from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.21). The Director, Minerals Management Service, may grant a reduction for only one year at a time and reduction of royalty rates will not be approved unless production has been under way for one year or more.

(b) Although the royalty rate specified in section 6(a) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16-2/3 percent of the production from the lease area may be taken as royalty in amount, except as provided in section 15(d) of this lease; the royalty on any portion of the production from the lease in excess of 16-2/3 percent may only be taken in value of the production from the lease.

Stipulation No. 6.

(To be included only in the leases resulting from this sale under the net profit share bidding system, as indicated on the map entitled "Sale No. 72 - Central Gulf of Mexico Stipulations, Lease Terms and Bidding Systems.")

The net profit share payment specified in section 6 of this lease may be satisfied in whole or in part by the lessor taking production in amount rather than in value. However, not more than 16-2/3 percent of the production from the lease area may be taken as a net profit share payment in amount, except as provided in section 15(d) of this lease; additional net profit share payments shall be calculated to include the value of such production in excess of 16-2/3 percent.

14. Information to Bidders. (a) There is available from the Gulf of Mexico OCS Regional Office a set of drawings entitled "Split Blocks - Central Gulf of Mexico," depicting the State-Federal boundary, including the acreage on the Federal side of the line. For complete information on any of the subjects mentioned in this notice, including copies of the various documents identified as available from the Gulf of Mexico OCS Regional Office, prospective bidders should contact the Regional Supervisor for Leasing, Environment and Studies, at the address stated in paragraph 2, either in writing or by phone (504) 837-4720.

(b) Operations on some of the blocks offered for lease may be restricted by designation of fairways, precautionary zones, anchorages, safety zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et. seq.), as amended; or in connection with the Louisiana Offshore Oil Port (LOOP), for blocks 57 and 59, Grand Isle area. Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4 (e) of the OCS Lands Act, as amended.

(c) Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

(d) Bidders are advised that in accordance with Section 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate, a royalty rate based on a sliding scale, or a net profit share payment.

(e) For those blocks identified as having lease terms with an initial period of more than five years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to MMS either an exploration plan, where required, or a general statement of exploration intention prior to the end of the ninth lease year.

(f) Revisions of Department of Labor regulations on affirmative action requirements for government contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form, Form MMS-2005 (August 1982), would be

deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 9 of this notice contain language that would be superseded by the revised regula-

deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1). Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing affirmative action forms.

(g) Bidders are cautioned as to the existence of two inactive ordnance disposal areas in the Mississippi Canyon area, shown on the map entitled "Sale No. 72 - Central Gulf of Mexico Stipulations, Lease Terms and Bidding Systems." These areas were used to dispose of ordnance of unknown composition and quantity. The westernmost area has not been used for over 15 years. Water depths in this area range from 185 to 675 meters. The easternmost area was last used for ordnance disposal in 1970. Water depths in this area range from 750 to 1,525 meters. Bottom sediments in both areas are generally soft, consisting of silty clays. Exploration and development activities in these areas require precautions commensurate with the potential hazards.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

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Part V

Environmental Protection Agency

Procedures for Implementing the National Environmental Protection Act; Interim Final Rule and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 6

[FA-FRL 2097-8a]

Categorical Exclusion From EPA Procedures Implementing the National Environmental Policy Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule revisions and extension to comment period.

SUMMARY: This document: (1) Extends the public comment period on amendments to EPA's Procedures Implementing the National Environmental Policy Act (NEPA) (40 CFR Part 6) as published in the **Federal Register** on March 8, 1982 (These amendments created a process for excluding certain categories of actions from the substantive environmental review requirements of EPA's NEPA procedures.); (2) revises the categories of actions eligible for exclusion and the criteria for not granting an exclusion in § 6.506; and (3) corrects a factual error in §6.507 on the responsibility for preparation of a final environmental assessment. A related action involving additional changes to 40 CFR Part 6 is published elsewhere in this issue of the **Federal Register.**

DATES: Effective Date: Revisions to interim final rule effective January 7, 1983.

Comment Date: Comments on amendments to Categorical Exclusion from EPA Procedures Implementing the National Environmental Policy Act published in the **Federal Register** March 8, 1982 (47 FR 9827) and on the revisions and correction made herein must be received on or before February 7, 1983.

ADDRESS: Comments may be mailed to the Office of Federal Activities (A–104), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. Attention: Paul C. Cahill, Director.

FOR FURTHER INFORMATION CONTACT: John Gerba, Office of Federal Activities, telephone: (202) 382–5910.

SUPPLEMENTARY INFORMATION:

OMB Control Number

2000–0422.

Background

An interim-final rule amending EPA's NEPA regulations to include categorical exclusion procedures, authorized by CEQ regulations (40 CFR 1508.4), was published on pp. 9827–9831 in the March 8, 1982 **Federal Register.** These procedures largely apply to the environmental reviews of the Agency's Municipal Wastewater Treatment Construction Grants program and the National Pollution Discharge Elimination System (NPDES). EPA invited public comment on these procedures for 30 days ending April 7, 1982.

Since publication of the categorical exclusion procedures, several related regulatory actions have occurred. The EPA's Office of Water published amendments to its Construction Grants regulations (40 CFR Part 35) in the May 12, 1982 issue of the **Federal Register** which reference NEPA requirements. Also, in a separate document elsewhere in this issue of the **Federal Register,** the OFA has published proposed amendments to Subpart E of its NEPA regulations (40 CFR Part 6) "Environmental Review Procedures for the Wastewater Treatment Construction Grants Program", which incorporate many of the interim final categorical exclusion amendments. In response to these regulatory actions, and to recommendations received from several commentors on the March 8, 1982 NEPA amendments, the Agency has made a decision to extend the comment period on the interim final rule as revised by this document.

Included in this document are revisions necessary to make the categorical exclusion process consistent with the Construction Grants regulations, and to correct a factual error. Comments and suggestions received during the initial public comment period and not discussed in this document, and others received during the extended public comment period, will be considered together during final rule development.

Publication of the final rule on categorical exclusions will be consolidated with the amendments to Subpart E of 40 CFR Part 6 as mentioned above. The consolidation of these two documents for the final rule will permit making all changes to Subpart E needed to make it consistent with changes to the Municipal Construction Grants Amendments of 1981 at one time.

Interested parties wishing to comment on the categorical exclusion amendments to EPA's NEPA procedures are encouraged to review the following **Federal Register** documents for related issues: the amendments establishing the procedures published March 8, 1982; the amendments to the Wastewater Treatment Construction Grants regulations published as interim final in the **Federal Register** May 12, 1982; and the proposed amendments to 40 CFR Part 6 Subpart E published elsewhere in this issue of the **Federal Register.**

Classification

The Office of Federal Activities has determined that these revisions are not considered to be a "major" rule within the meaning of Executive Order (E.O.) 12291.

This amendment was submitted to the OMB for clearance as required by E.O. 12291 as well as for its information collection burden on the public. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the Document Control Office, EPA, Room 107, 401 M Street, S.W., Washington, D.C. 20460

Because these revisions are not "major", it is effective immediately as a corrected interim final rule.

Regulatory Analysis

Since EPA believes that these revisions are not "major", they are not subject to the Regulatory Impact Analysis procedures as outlined under E.O. 12291

Paperwork Reduction

Information collection requirements contained in this regulation (Section 6.506(c)) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2000–0422.

Discussion of Issues

Though there were other suggestions and issues raised in the comments received in response to the interim final rule published March 8, the following discussion focuses on those issues needed to make the interim final rule consistent with regulations for Municipal Wastewater Treatment Construction Grants.

Categories and Criteria

Past experience with the Municipal Wastewater Treatment Facility Construction Grants (WWTCG) program has indicated that full EISs are rarely undertaken on projects involving service populations under 10,000. Projects of this size, as a general rule, have not involved significant long term impacts on the human environment. therefore the Office of Water suggested that the population limit in § 6.506(c)(1)(ii) and (iii) be revised upward from 3,500 to 10,000. This would allow more projects to be considered for an exclusion and reduce the regulatory burden on many grant applicants. Adequate protection exists within the regulation to ensure that full environmental reviews will be

undertaken for projects that are likely to have significant environmental impacts.

The Office of Water also recommended that the growth capacity in § 6.506(c)(2)(iii) should correspond to the increment used by State's in screening generic facilities under WWTCG's small communities program. OFA agrees with this position and has revised the allowable capacities upward from 20% to 30% to be consistent with the screening criterion.

The Office of Water also pointed out that the inclusion of "alternative" technologies in § 6.506(c)(1)(iii) was inappropriate because "alternative" technologies include many off-site as well as on-site technologies. Since the intent of this section is limited to consideration of on-site technologies, deleting the term "alternative" from the paragraph removes this inconsistency without precluding the use of those on-site technologies that are either "alternative" or "innovative" from consideration.

The effect of the suggestions discussed above would be to permit a greater number of projects to be considered for an exclusion.

Responsibility for Environmental Assessment

In the March 8, 1982 Federal Register publication of the interim final rule, the preparation of a formal environmental assessment § 6.507(a) was erroneously identified as a grantee responsibility. Although delegated States are frequently involved in preparing preliminary assessments, the final assessment preparation is an IPA responsibility. This action corrects that error. Changes necessary to make this section consistent with the Municipal Construction Grants Amendments of 1981 are published elsewhere in this issue of the Federal Register.

Actions taken

In response to regulatory developments in the MWTCG program and to several related comments and suggestions provided during the original public comment period, the following generally describes the changes made to the interim final rule published in the Federal Register March 8, 1982: 1) Changing the community size criterion used in § 6.506(c)(1) (ii) and (iii) from 3,500 to 10,000 population; 2) removal of the reference to alternative technologies from § 6.506(c)(1)(iii); and 3) increasing the excess capacity in § 6.506(c)(2)(iii) from 20% to 30%. The change to correct the factual error on responsibility for preparing an environmental assessment is found in § 6.507(a).

List of Subjects in 40 CFR Part 6

Environmental impact statements, Foreign relations.

Dated: November 5, 1982.

Anne M. Gorsuch,

Administrator.

PART 6—[AMENDED]

For the reasons set out in the preamble, 40 CFR Part 6 is amended as follows:

1. Section 6.506 is corrected by revising paragraph (c)(1) (ii) and (iii); and revising (c)(2)(iii) to read as follows:

§ 6.506 Criteria for preparing EIS's and granting categorical exclusions.

* * * * *

(c) * * *

(1) * * *

(ii) Actions in sewered communities of less than 10,000 persons which are for minor upgrading and minor expansion of existing treatment works. This category does not include actions that directly or indirectly involve the extension of new collection systems funded with Federal or other sources of funds.

(iii) Actions in unsewered communities of less than 10,000 persons where onsite technologies are proposed.

(iv) * * *

(2) * * *

(iii) The facilities would provide capacity to serve a population 30% greater than the exising population.

* * * * *

2. Section 6.507 is amended by revising paragraph (a) to read as follows:

§ 6.507 Environmental review process.

* * * * *

(a) *Facilities planning (Step 1).* Early in facilities planning, the grantee should evaluate the likely project alternatives and the existence of environmentally sensitive areas in the facilities planning area, including those identified in § 6.506(c)(2)(v) of this Subpart. This evaluation is intended to be brief and concise and should draw on existing information from EPA, State agencies, regional planning agencies, areawide water quality management agencies, and the potential grant applicant. The evaluation and any additional analysis deemed necessary may be used by EPA to determine whether the action is eligible for a categorical exclusion from the substantive environmental review requirements of this Part. It is recommended that the potential applicant submit the information to EPA or a delegated State at the earliest possible time to allow EPA to determine if the action is eligible for a categorical exclusion. If a categorical exclusion is granted, the grantee will not be required to prepare a formal environmental information document nor will EPA need to prepare a formal envirnomental assessment during facilities planning. If an action has not been granted a categorical exclusion this evaluation may be used to determine the scope of the environmental information document required of the grantee. It also should be used to make an early determination of the need for an EIS. Whenever possible, the potential grant applicant should discuss this initial evaluation with EPA or a delegated State, whichever is appropriate.

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[FR Doc. 83-186 Filed 1-6-83; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 6

[FA–FRL 2097–8]

National Environmental Policy Act; Environmental Review Procedures for the Wastewater Treatment Construction Grants Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document provides procedural and minor substantive amendments to EPA's Procedures Implementing the National Environmental Policy Act (NEPA) for the Wastewater Treatment Construction Grants Program (40 CFR Part 6 Subpart E). The procedural amendments accommodate recent changes in EPA's regulations for the Construction Grants Progran (40 CFR Part 35) which have been modified to incorporate the Municipal Wastewater Treatment Construction Grants Amendments of 1981 (Pub. L. 97–117). The modifications in the grant program change the process recipients of EPA grants follow in the planning and construction of wastewater treatment facilities. The minor substantive amendments to Subpart E streamline the criteria for preparing an EIS. Further recommendations for additional substantive changes will be proposed in the near future and will comprehensively apply to all of 40 CFR Part 6.

DATE: Comments on this proposed rule must be received by February 7, 1983.

ADDRESSES: Comments may be mailed to the Office of Federal Activities, A–104, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: Paul Cahill, Director.

FOR FURTHER INFORMATION CONTACT: John Gerba, Office of Federal Activities, (202) 382–5910.

SUPPLEMENTARY INFORMATION:

Classificaton

The Office of Federal Activities has determined that this revision is not a "major" rule within the meaning of Executive Order (E.O.) 12291. This is because the revision will not: (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local government agencies; or (3) have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The purpose and effect of this amendment to the environmental review process for the Construction Grants Program is to accommodate recent changes in the grant program and to make minor substantive changes. No increased paperwork burdens are imposed by the amendments.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291. Any OMB comments on its reporting or information collection requirements will be addressed in the Final Rule.

This amendment is being published as a proposed rule to allow for public comment. Comments must be received by the Office of Federal Activities (OFA) before February 7, 1983.

Regulator Analysis

Under E.O. 12291, EPA must determine if a regulation is "major" and therefore subject to a Regulatory Impact Analysis. Since EPA believes that this amendment is not "major", it is not subject to such an analysis.

Background

On December 29, 1981 President Reagan signed the Municipal Wastewater Treatment Construction Grants Amendments of 1981 (Pub. L. 97–117). The amendments reflect Congressional and Administration objectives to: (1) Reduce the Federal cost and involvement in the construction of municipal wastewater treatment facilities; (2) streamline the construction grants process; and (3) to maintain the environmental integrity of the program. They also express the Administration's policy to delegate the operation of Federal programs to the appropriate level of government and to provide both States and municipalities with more flexibility in carrying out this responsibility. Although the amendments do not alter EPA's responsibility to make NEPA determinations, they do substantially affect how NEPA is applied by eliminating Step 1 and Step 2 Federal grant assistance.

Meeting NEPA Requirements

NEPA reviews have been most effective when they addressed environmental issues during the facility planning phase. With the elimination of Step 1 and Step 2 grants, official Federal involvement does not occur until after the completion of facilities planning and design. This effectively postpones the "major Federal action" which would trigger NEPA involvement until much of the planning and design phases are completed. The application of NEPA at this point in the development process could cause unnecessary waste and delay if potential Step 3 grantees propose environmentally unsuitable alternatives for Federal funding. The interim final amendments to 40 CFR Part 35 in the May 12, 1982 Federal Register address this issue by requiring that NEPA requirements (40 CFR Part 6) be met before submission of an application for a Step 3 (construction) grant. More specifically the regulations at Section 35.2113 encourages potential applicants to work with the State and EPA as early as possible in the facility planning process to "ascertain the appropriateness of a categorical exclusion, a finding of no significant impact, or an environmental impact statement." They also allow a potential applicant to request a NEPA review early in the facilities planning or design stages. The amendments proposed here reflect this approach.

Categorical Exclusions

On March 8, 1982, an interim final regulation was printed in the Federal Register establishing the process for granting categorical exclusions from NEPA procedures for certain categories of wastewater treatment construction grant projects. This process will likely exclude 20 percent of the EPA funded projects from substantive environmental review. The interim final regulation (as revised by a document published in this issue of the Federal Register) will be combined with the proposed amendments to Subpart E and together they will be published as a final regulation.

Action Being Taken: Subpart E Amendments

EPA is proposing to amend its procedures for implementing the National Environmental Policy Act (NEPA) to: (1) Be consistent with the Municipal Wastewater Treatment Construction Grant Amendments of 1981 (Pub. L. 97–117); (2) be consistent with changes in the Wastewater Treatment Construction Grants Program's regulations (40 CFR Part 35); (3) reorder the sections of Subpart E to more closely reflect the sequence of the steps undertaken in the environmental review process; and (4) make minor substantive changes to the criteria for deciding whether to prepare an EIS. The proposed amendments also provide that

a decision by the responsible official to issue a finding of no significant impact or to prepare an EIS shall not be subject to administrative appeal before the EPA Board of Assistance Appeals. This provision is intended to reflect a proposed change in the Agency's general grant regulations (40 CFR Part 30) which excludes NEPA determinations under 40 CFR Part 6 from the Board's jurisdiction.

Pre- and Post-December 29, 1981 Grants

There are approximately 5,000 wastewater treatment facility planning projects at various stages of development that received Step 1 grants from EPA on or before December 29, 1981. Except as noted in the revised § 6.504 (b) and (c), the requirements of these proposed amendments apply to those projects and to projects subject to the Municipal Wastewater Treatment Construction Grant Amendments of 1981 (projects that did not receive a Step 1 grant on or before December 29, 1981). Although these proposed amendments include provisions for projects that received Step 1 grants on or before December 29, 1981, they do not substantively change the environmental review process for such projects and thus avoid the imposition of retroactive requirements.

Reordering and Clarifying of Subpart E Sections

The existing order of the sections and subsections of Subpart E does not follow the sequence of the environmental review process. In order to make the regulation more understandable, the order of the sections has been revised to follow the process. Tables provided below are a guide to the reordering of the text.

DISTRIBUTION TABLE—SUBPART E

Old Section	New Section
6.500 Purposes.	6.500.
6.501 Definitions.	6.501.
6.502 Applicability. [interim final*].	Obsolete.
6.503 Consultation during the environmental review process. [revised interim final†].	6.512 Segmenting projects.
6.504 Public participation. [interim final].	6.513.
6.505 Limitations. [interim final]	Obsolete.
6.506(c) [interim final] and (b); Criteria for preparing EISs.	6.508 Criteria for initiating EISs.
6.506(c) *Categorical exclusions.* [revised interim final].	6.505.
6.507(a) *Categorical exclusions.* [revised interim final].	6.505.
6.507(a) [interim final] and (b); *Award of a facilities grant (Step 1). And Mid-course review.*	6.504 Consultation during the facility planning process.
6.507(c) and (d) *Review of completed facilities plan. And Environmental review.*	6.506 Environmental review process.
6.507(e) *Finding of No Significant Impact.*	6.507 . . . (FNSI) determination.
6.507(f), (g) and (h) *Notice of intent., Scoping., and IES method*	6.509 Environmental Impact Statement (EIS)—preparation.
6.508 Limits on delegation to States. [interim final].	6.514.
6.509 Identification of mitigation measures.	6.510 Record of decision and . . .
6.510 Monitoring	6.511 Monitoring compliance.

* FR, March 8, 1982, pp. 9829–32.
†FR, of this date, following this action.

DERIVATION TABLE—SUBPART E

New Section	Old Section
6.500 Purposes	6.500.
6.501 Definitions. (a)–(f)	6.501(a)–(f).
6.501(g)	New.
6.502 Applicability and limitations.	New.
6.503 Overview of the environmental review process.	New.
6.504(a) Consultation during the facility planning process.	6.507 introductory paragraph.
6.504(b)(1) and (2)	6.507(a) [interim final*] and (b); new title.
6.504(c)	New.
6.505(a) Categorical exclusions.	6.506(c) introductory paragraph [interim final].
6.505(b)	6.506(c)(1) [revised interim final].
6.505(c)	6.506(c)(2) [revised interim final].
6.505(d)	6.506(c)(3) [interim final].
6.506(a) and (b) Environmental review process.	6.507(c).
6.506(c)	6.507(d).
6.507 Finding of No Significant Impact (FNSI) determination.	6.507(e).
6.508 Criteria for initiating EISs.	6.506(a) [interim final] and (b).
6.509 Environmental Impact Statement (EIS) preparation. (introductory paragraph).	New.
6.509(a)	6.507(f).
6.509(b)	6.507(g).
6.509(c)	6.507(h).
6.510 Record of decision and indentification of mitigation measures.	6.509.
6.511 Monitoring compliance.	6.510.
6.512 Segmenting projects	6.503 [revised interim final].
6.513 Public participation	6.504 [interim final].
6.514 Delegation to States	6.508 [interim final].

* FR, March 8, 1982, pp. 9829–32.
†FR of this date, following this action.

Minor Substantive Changes

EPA's Office of Water suggested a revision to the criteria for preparing an EIS (§ 6.508(a)(1)). The revision removes examples of land use related criteria that are currently recommended as a basis for preparing an EIS. In practice, these criteria have not been used as a basis for preparing EISs and are covered in other paragraphs of the same section. The revised language more succinctly states the land use related circumstances which require the preparation of an EIS.

Public and Agency participation

These amendments were developed by a work group with representatives from EPA headquarters and regional offices. Their efforts followed the extensive public and regional comment process carried out by the Construction Grant program in developing amendments to 40 CFR Part 35 during which NEPA implementation was considered.

List of Subjects on 40 CFR Part 6

Environmental Impact Statements, Foreign relations.

Dated: October 27, 1982.

John W. Hernandez,

Acting Administrator.

For the reasons set out in the preamble, 40 CFR Part 6 is proposed to be amended as follows:

1. The authority citation for Part 6 reads as follows:

Authority: Sections. 101, 102, and 103 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); also, the Council on Environmental Quality Regulations dated November 29, 1978 (40 CFR Part 1500).

2. The title to 40 CFR Part 6 is revised to read as follows:

PART 6—PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

3. Subpart E is revised to read as follows:

Subpart E—Environmental Review Procedures for the Wastewater Treatment Construction Grants Program.

Sec.

6.500 Purpose.
6.501 Definitions.
6.502 Applicability and limitations.
6.503 Overview of the environmental review process.
6.504 Consultation during the facility planning process.
6.505 Categorical exclusions.
6.506 Environment review process.
6.507 Finding of No Significant Impact (FNSI) determination.
6.508 Criteria for initiating Environmental Impact Statements.
6.509 Environmental Impact Statement (EIS) preparation.
6.510 Record of decision and identification of mitigation measures.
6.511 Monitoring for compliance.
6.512 Segmenting projects
6.513 Public participation.
6.514 Delegation to States.

Note.—To facilitate the identification of proposed changes for the reader, the text of both proposed Revised and New sections or paragraphs are enclosed by arrows (►).◄

Subpart E—Environmental Review Procedures for the Wastewater Treatment Construction Grants Program

§ 6.500 Purpose.

This subpart amplifies the procedures described in Subparts A through D with detailed environmental review procedures for the wastewater treatment works construction grants program under Title II of the Clean Water Act.

§ 6.501 Definitions.

►(a) "Step 1 facilities planning" means preparation of a plan for facilities as described in 40 CFR Part 35, Subpart E or I.

(b) "Step 2" means preparation of design drawings and specifications as described in 40 CFR Part 35, Subpart E or I.

(c) "Step 3" means building of a publicly owned treatment works as described in 40 CFR Part 35, Subpart E or I.

(d) "Step 2 + 3" means a project which combines preparation of design drawings and specifications as described in § 6.501(b), and building as as described in § 6.501(c).◄

(e) "Applicant"►means any individual, agency, or entity which has filed an application for grant assistance under 40 CFR Part 35, Subpart E or I.◄

(f) "Grantee"►means any individual, agency, or entity which has been awarded wastewater treatment construction grant assistance under 40 CFR Part 35, Subpart E or I.◄

►(g) "Responsible official" means the Federal or State decision maker authorized to fulfill the requirements of this subpart. The responsible Federal official is the EPA Regional Administrator and the responsible State official is as defined in a delegation agreement under § 205(g) of the Clean Water Act subject to the limitations in § 6.514 of this subpart.◄

►§ 6.502 Applicability and limitations.

(a) *Applicability.* This Subpart applies to the following actions:

(1) Projects that received Step 1 grant assistance on or before December 29, 1981;

(2) Approval of grant assistance for a project involving Step 3 or Step 2 + 3; and

(3) Award of grant assistance for a project where significant change has occurred in the project or its impact since compliance with this Part.

(b) *Limitations.* Recipients of Step 1 grant assistance must comply with the requirements, steps, and procedures described in this Subpart. As specified in 40 CFR 35.2113, projects that have not received Step 1 grant assistance must comply with the requirements of this subpart prior to submission of an application for Step 3 or Step 2 + 3 grant assistance.◄

►§ 6.503 Overview of the environmental review process.

The process for conducting an environmental review of wastewater treatment construction grant projects includes several steps whose procedures are described in subsequent sections of this subpart. The steps are:

(a) *Consultation.* The Step 1 grantee or the potential Step 3 or Step 2 + 3 applicant is encouraged to consult with EPA early in project formulation or facilities planning stage to determine whether a project is eligible for a categorical exclusion from the remaining substantive environmental review requirements of this part (§ 6.505) and to identify potential environmental issues.

(b) *Determining categorical exclusion eligibility.* At the request of a potential Step 3 or Step 2 + 3 grant applicant or a Step 1 facilities planning grantee, EPA determines the eligibility of the project for a categorical exclusion. A Step 1 facilities planning grantee awarded a Step 1 grant on or before December 29, 1981 may request a categorical exclusion at any time during Step 1 facilities planning or Step 2 design work. A potential Step 3 or Step 2 + 3 grant applicant may request a categorical exclusion at any time before the submission of a Step 3 or Step 2 + 3 grant application.

(c) *Documenting environmental information.* If the project is determined to be ineligible for a categorical exclusion, the potential Step 3 or Step 2 + 3 applicant or the Step 1 grantee subsequently prepares an Environmental Information Document (EID) (§ 6.506) for the project.

(d) *Preparing environmental assessments.* Except as provided in § 6.506(c)(3) and following a review of the EID by EPA or by a State with delegated authority, EPA prepares an environmental assessment (§ 6.506), or a State with delegated authority (§ 6.514) prepares a preliminary environmental assessment. EPA reviews and finalizes any preliminary assessments. EPA subsequently:

(1) prepares and issues a Finding of No Significant Impact (FNSI); or

(2) prepares and issues an Environmental Impact Statement (EIS) (§ 6.509) and record of decision (§ 6.510).

(e) *Monitoring.* The construction and post-construction operation and maintenance of the facilities is monitored (§ 6.511) to ensure the implementation of mitigation measures (§ 6.510) identified in the FNSI, final EIS or record of decision.

►§ 6.504 Consultation during the facility planning process.

(a) *General.* Consistent with 40 CFR 1501.2, EPA shall initiate the environmental review process as early as possible in order to identify environmental effects, avoid delays, and resolve conflicts. The environmental review process should be integrated throughout the facilities planning process (Step 1). Two processes for consultation are described in this section to meet this directive. The first addresses projects which were awarded Step 1 grant assistance on or before December 29, 1981. The second applies to projects which did not receive grant assistance for facilities planning on or before December 29, 1981 and are, therefore, subject to the regulations implementing the Municipal Wastewater Treatment Construction Grant Amendments of 1981 (40 CFR Part 35 Subpart I).

(b) *Projects that received Step 1 grant assistance on or before December 29, 1981.* (1) Early in facilities planning, the grantee should evaluate the likely project alternatives and the existence of environmentally sensitive areas in the facilities planning area, including those identified in § 6.508 of this Subpart. This evaluation is intended to be brief and concise and should draw on existing information from EPA, State agencies, regional planning agencies, areawide water quality management agencies, and the Step 1 grantee. The evaluation and any additional analysis deemed necessary may be used by EPA to determine whether the action is eligible for a categorical exclusion from the substantive environmental review requirements of this Part. It is recommended that the Step 1 grantee submit the information to EPA or a delegated State at the earliest possible time to allow EPA to determine if the action is eligible for a categorical exclusion. If a categorical exclusion is granted, the grantee will not be required to prepare a formal EID nor will EPA need to prepare an environmental assessment. If an action has not been granted a categorical exclusion this evaluation may be used to determine the scope of the EID required of the grantee. It also should be used to make an early determination of the need for an EIS. Whenever possible, the Step 1 grantee should discuss this initial evaluation with EPA or a delegated State, whichever is appropriate.

(2) A review of environmental information developed by the grantee should be conducted to the extent practicable whenever meetings are held to assess the progress of facilities plan development. These meetings should be held after completion of the majority of the EID document and before a preferred alternative is selected. Since any required EIS must be completed before the approval of a facility plan for a project which received a Step 1 grant on or before December 29, 1981, a decision whether to prepare an EIS is encouraged early during the facilities planning process. These meetings may assist in this early determination. EPA should inform interested parties of the following:

(i) The preliminary nature of the Agency's position on preparing an EIS;

(ii) The relationship between the facilities planning and environmental review processes;

(iii) The desirability of public input; and

(iv) A contact person for further information.

(c) *Projects that did not receive grant assistance for Step 1 facility planning on or before December 29, 1981.* Potential Step 3 or Step 2+3 grant applicants are encouraged to consult with EPA or the State during the facilities planning process. In accordance with § 35.2030(c), the potential applicant should work with the State and EPA as early as possible in the facilities planning process to determine the appropriateness of a categorical exclusion, the scope of an EID, or the appropriateness of the early preparation of a FNSI or an EIS. The consultation wuld be most useful if initiated during the evaluation of project alternatives and prior to the selection of a preferred alternative. This consultation may also assist the potential applicant in resolving any identified environmental problems.◄

►§ 6.505 Categorical exclusions.

(a) *General.* At the request of an existing Step 1 facilities planning grantee or of a potential Step 3 or Step 2+3 grant applicant, the responsible official, as provided for in § 6.107(b) and § 6.504(a), shall determine from existing information whether an action is consistent with the categories eligible for exclusion identified in § 6.505(b). The responsible official shall document this determination as provided for in § 6.107(b).◄

(b) *Categories of actions eligible for exclusion.* For this subpart, actions consistent with the following categories are eligible for a categorical exclusion:

►(1) Actions for which the facilities planning is solely directed toward minor rehabilitation of existing facilities, functional replacement of equipment, or towards the construction of new ancillary facilities adjacent or appurtenant to existing facilities which do not affect the degree of treatment or capacity of the existing facility. Such actions include but are not limited to infiltration and inflow corrections, grant eligible replacement of existing mechanical equipment or structures, and the construction of new small on-site structures.◄

►(2)◄ Actions in sewered communities of less than 10,000 persons which are for minor upgrading and minor expansion of existing treatment works. This category does not include actions that directly or indirectly involve the extension of new collection systems funded with Federal or other sources of funds.

►(3)◄ Actions in unsewered communities of less than 10,000 persons where onsite technologies are proposed.

►(4) Other actions developed in accordance with paragraph (d) of this section.

(c) *Criteria for not granting a categorical exclusion.* (1) The full environmental review procedures of this part must be followed if undertaking an action consistent with the categories described in § 6.505(b) may involve serious local or environmental issues, or meets any of the criteria listed below:◄

(i) The facilities to be provided will create a new discharge to surface or ground waters;

(ii) The facilities will result in substantial increases in the volume of discharge or the loading of pollutants from an existing source or from new facilities to receiving waters;

(iii) The facilities would provide capacity to serve a population 30% greater than the existing population;

(iv) The action is known or expected to have a significant effect on the quality of the human environment, either individually, cumulatively over time, or in conjunction with other Federal, State, local, or private actions;

(v) The action is known or expected to directly or indirectly affect sensitive environmental resources or areas, such as floodplains, wetlands, prime or unique agricultural lands, aquifer recharge zones, archaeological and historic sites, endangered or threatened species, or other areas identified in guidance issued by the OFA; or

(vi) The action is known or expected not to be cost-effective or to cause significant public controversy.

►(2) Notwithstanding the provisions of § 6.505(b), if any of the above conditions exist, the responsible official shall ensure:

(i) That a categorical exclusion is not granted;

(ii) That an adequate EID and environmental assessment are prepared.

(iii) That either a FNSI or an EIS and record of decision is prepared and issued.◄

►(d)◄ *Developing new categories of excluded actions.* The responsible official or other interested parties may request that a new category of excluded actions be created, or that an existing category be amended or deleted. The request shall be made in writing to the Director, OFA and shall contain adequate information to support the request. Under the direction of OFA, proposed new categories shall be developed through EPA's "non-major" rule-making process (E.O. 12291), including publication as an interim final rule in the Federal Register and a subsequent thirty (30) day public comment period. The following shall be considered in evaluating proposals for new categories:

►(1) Actions in the proposed category should seldom result in the effects identified in § 6.505(c);

(2) Based upon previous environmental reviews, actions consistent with the proposed category have not required the preparation of an EIS; and◄

►(3)◄ Whether information adequate to determine if a potential action is consistent with the proposed category will normally be available when needed.

►§ 6.506 Environmental review process.

(a) *Review of completed facilities plans.* EPA, or the State where the program is delegated, shall review the completed facilities plan with particular attention to the EID and its utilization in the development of alternatives and the selection of a preferred alternative. An adequate EID shall be an integral part of any facilities plan submitted to EPA or to a State. The EID shall be of sufficient scope to enable the responsible official to prepare an environmental assessment.

(b) *Environmental assessment.* The environmental assessment shall cover all potentially significant environmental impacts. For those State where the review of facilities plans has been delegated, State personnel shall prepare a preliminary environmental assessment which serves as an adequate basis for EPA's decision to issue a FNSI or an EIS. Each of the following subjects shall be critically reviewed to identify potentially significant environmental

concerns and shall be addressed in the environmental assessment.

(1) *Description of the existing environment.* For the delineated facilities planning area, the existing environmental conditions relevant to the analysis of alternatives or to determinating the environmental impacts of the proposed action shall be considered.

(2) *Description of the future environment without the project.* The relevant future environmental conditions shall be described. The no action alternative should be discussed.◄

(3) *Purpose and need.* This should include a summary discussion and demonstration of the need for wastewater treatment in the facilities planning area, with particular emphasis on existing public health or water quality problems and their severity and extent.

►(4) *Documentation.* Sources of information used to describe the existing environment and to assess future environmental impacts should be clearly referenced. These sources should include regional, State, and Federal agencies with responsibility or interest in the types of conditions listed in § 6.508 and in Subpart C.

(5) *Evaluation of Alternatives.* This discussion shall include a comparative analysis of feasible alternatives, including the no action alternative, throughout the study area. The alternatives shall be screened with respect to capital and operating costs; significant direct and indirect environmental effects; physical, legal, or institutional constraints; and compliance with regulatory requirements. Special attention should be given to long term, irreversible, and induced impacts. The reasons for rejecting any alternatives shall be presented in addition to any significant environmental benefits precluded by rejection of an alternative. The analysis should consider when relevant to the project:◄

(i) Flow and waste reduction measures, including infiltration/inflow reduction;

(ii) Appropriate water conservation measures;

(iii) Alternative locations, capacities, and construction phasing of facilities;

(iv) Alternative waste management techniques, including treatment and discharge, wastewater reuse, land application, and individual systems;

(v) Alternative methods for management of sludge, other residual materials, including utilization options such as land application, composting, and conversion of sludge for marketing as a soil conditioner or fertilizer;

(vi) Improving effluent quality through more efficient operation and maintenance;

(vii) Appropriate energy reduction measures; and

(viii) Multiple use, including recreation and education.

(6) *Environmental consequences.* Relevant impacts of the proposed action shall be considered, steps to mitigate significant adverse impacts, any irreversible or irretrievable commitments of resources to the project and the relationship between local short term uses of the environment and the maintenance and enhancement of long term productivity. Any specific requirements, including grant conditions and areawide waste treatment management plan requirements, should be identified and referenced. In addition to these items, the responsible official may require that other analyses and data which are needed to satisfy environmental review requirements, be included with the facilities plan. Such requirements should be discussed whenever meetings are held with Step 1 grantees or potential Step 3 or Step 2 + 3 applicants. The responsible official also may require submission of supplementary information before the award of grant assistance if needed for compliance with environmental review requirements. Requests for supplementary information shall be made in writings.◄

(7) *Steps to minimize significant adverse effects.* (i) This section shall describe structural and nonstructural measures, if any, in the facilities plan, or additional measures identified during the review, to mitigate or eliminate significant adverse effects on the human and natural environments. Structural provisions include changes in facility design, size, and location; non-structural provisions include staging facilities as well as developing and enforcing land use regulations and environmental protection regulations.

►(ii) The responsible official shall not award grant assistance if the grantee has not made, or agreed to make, pertinent changes in the project, in accordance with determinations made in a FNSI or EIS. The responsible official shall condition a grant to seek other ways of compliance, to ensure that the grantee will comply with such environmental review determinations.

(c) *FNSI/EIS determination.* The responsible official shall apply the criteria under § 6.508 to any of the following:◄

(1) A complete facilities plan and the EID, whenever review of facilities plan has not been delegated;

(2) A complete facilities plan, the applicant's EID, information document and the preliminary environmental assessment prepared by the State, for a State which has been delegated authority for facilities plan review; or

(3) Other documentation, deemed necessary by the responsible official or submitted by a State with delegated review authority, adequate to make an EIS determination by EPA. Where EPA determines that an EIS is to be prepared, there is no need to prepare a formal environmental assessment.

►If EPA or the State identifies deficiencies in the EID, preliminary environmental assessment, or other supporting documentation, necessary corrections shall be made before the conditions of the Step 1 grant are considered satisfied or before the Step 3 or Step 2+3 application is considered complete. The responsible official's determination to issue a FNSI or to prepare an EIS shall constitute final Agency action and shall not be subject to administrative appeal to the EPA Board of Assistance Appeals under 40 CFR Part 30.◄

►§ 6.507 Findings of No Significant Impact (FNSI) determination.

If, after completion of the environmental review, EPA determines that an EIS will not be required, the responsible official shall prepare and distribute a FNSI in accordance with § 6.104 and Subpart D of this Chapter. The FNSI will be based on EPA's independent review and the environmental assessment which will either be incorporated into or attached to the FNSI. In accordance with 40 CFR 1508.2, the FNSI shall list any mitigation measures necessary to make the recommended alternative environmentally acceptable. Once an environmental assessment and a FNSI have been prepared for the facilities plan for a certain area, grant awards may proceed without preparation of additional FNSIs, unless the responsible official determines that the project has changed significantly from that which underwent environmental assessment.◄

►§ 6.508 Criteria for Initiating Environmental Impact Statements (EIS).

(a) *Conditions requiring EISs.* The responsible official shall assure that an EIS will be prepared and issued when he determines that any of the following conditions exist:

(1) The treatment works in and of itself will significantly affect the pattern and type of land use (industrial, commercial, agricultural, residential) or the potential effects resulting from the

construction or operation of the treatment works will conflict with established land use plans or policies;◄

(2) The treatment works or collector system will have significant adverse effects on wetlands, including indirect effects, or any major part of the treatment works will be located on wetlands;

(3) The treatment works or collector system will significantly affect a habitat identified on the Department of the Interior's or a State's threatened and endangered species lists, or the treatment works will be located on the habitat;

(4) Implementation of the treatment works or plan may directly cause or induce changes that significantly:

(i) Displace population;

(ii) Alter the character of an existing residential area;

(iii) Adversely affect a floodplain; or

(iv) Adversely affect significant amounts of prime or unique agricultural land, or agricultural operations on this land as defined in EPA's Policy to Protect Environmentally Significant Agricultural Land.

(5) The treatment works will have significant adverse direct or indirect effects on parklands, other public lands or areas of recognized scenic, recreational, archeological, or historic value; or

(6) The treatment works may directly or through induced development have a significant adverse effect upon local ambient air quality, local ambient noise levels, surface or groundwater quality or quantity, fish, wildlife, and their natural habitats.

(7) The treated effluent is being discharged into a body of water where the present classification is too lenient or is being challenged as too low to protect present or recent uses; and the effluent will not be of sufficient quality or quantity to meet the requirements of these uses.

►(b) *Other conditions.* The responsible official shall consider preparing an EIS if it is determined that the treatment works may threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment.◄

►§ 6.509 Environmental Impact Statement (EIS) Preparation.

In addition to the requirements specified in subpart B, C, and D of this part, EPA will conduct the following activities:

(a) *Notice of intent.* If a determination is made that an EIS will be required, the responsible official shall prepare and distribute a notice of intent as required in Subpart D in accordance with § 6.104.

(b) *Scoping.* As soon as possible, after the publication of the notice of intent, the responsible official will convene a meeting of affected Federal, State and local agencies, the grantee and other interested parties to determine the scope of the EIS. A notice of this scoping meeting will meet the requirements of Subpart D. As part of the scoping meeting EPA will as a minimum:◄

(1) Determine the scope and the significant issues to be analyzed in depth in the EIS;

(2) Identify those issues which are not significant;

(3) Determine what information is needed from cooperating agencies or other parties;

(4) Discuss the method for EIS preparation and the public participation strategy;

(5) Identify consultation requirements of other environmental laws, in accordance with subpart C; and

(6) Determine the relationship between the EIS and the completion of the facilities plan and any necessary coordination arrangements between the preparers of both documents.

►(c) *Methods for preparing EISs.* EPA shall prepare this EIS by any one of the following means:◄

(1) Directly by its own staff;

(2) By contracting directly with a qualified consulting firm; or

(3) By utilizing a joint EIS process, whereby the grantee contracts directly with a qualified consulting firm. In this case the draft EIS serves the purpose of and satisfies the requirement for an EID. in this instance, the following selection requirements shall be fulfilled:

(i) A Memorandum of Understanding shall be developed between EPA, the grantee, and where possible, the State, outlining the responsibilities of each party and their relationship to the EIS consultant;

(ii) EPA shall approve evaluation criteria to be used in the consultant selection process;

(iii) EPA shall review and approve the selection process; and

(iv) EPA shall approve the consultant selected for EIS preparation.

►§ 6.510 Record of decision and identification of mitigation measures.

(a) *Record of decision.* When a final EIS has been issued, the responsible official shall prepare a record of decision in accordance with 40 CFR 1505.2 prior to the submission of an application for grant assistance (40 CFR Part 35.2113). The record of decision shall include identification of mitigation measures derived from the EIS process which are necessary to make the recommended alternative environmentally acceptable.

(b) *Specific mitigation measures.* Prior to the approval of grant assistance, the responsible official must ensure that effective mitigation measures identified in the FNSI, final EIS, or record of decision are implemented by the grantee. This should be done by revising the facilities plan, initiating other steps to mitigate adverse effects, or agreeing to conditions in grants requiring actions to minimize effects. Care should be exercised if a condition is to be imposed in a grant document to assure that the applicant possesses the authority to fulfill the conditions.◄

►§ 6.511 Monitoring for compliance.

(a) *General.* The responsible official shall ensure there is adequate monitoring of mitigation measures and other grant conditions identified in the FNSI, final EIS, and record of decision.

(b) *Enforcement.* The responsible official may consider taking the following actions consistent with 40 CFR 35.965 and 30.430 if the grantee fails to comply with grant conditions:◄

(1) Terminating or annulling the grant;

(2) Disallowing project costs related to noncompliance;

(3) Withholding project payments;

►(4) Finding the grantee to be nonresponsible or ineligible for future Federal assistance or for approval for future contract awards under EPA grants;

(5) Seeking an injunction against the grantee; or

(6) Instituting such other administrative or judicial action as may be legally available and appropriate.◄

►§ 6.512 Segmenting projects.

(a) *Criteria for segmenting.* When there are overiding considerations of costs or impaired program effectiveness, a Step 3 grant for the building of a discrete segment of the treatment works may be awarded before the environmental review is completed if the segmented portion of the treatment works:

(1) is noncontroversial;

(2) is necesary to correct water quality or other immediate environmental problems; and

(3) will not, by its completion, foreclose any reasonable options being considered in the environmental review.

(b) *EIS determination.* If a treatment works is to be segmented, the entire treatment works shall be evaluated to determine if an EIS is required. In applying the criteria to determine if an EIS is required, the regional EIS preparation staff shall be consulted.

(c) *Steps in segmenting.* In no case may grant assistance for a segmented Step 3 project be awarded unless:

(1) the OFA has been consulted;

(2) a FNSI on the segment permitted to proceed has been issued at least 30 days prior to grant award; and

(3) the grant award contains a specific agreement prohibiting the building of additional or different segments of the treatment works for which the environmental review is not complete.◄

►§ 6.513 Public participation.

(a) *General.* It is EPA policy that optimum public participation be achieved during the environmental review process as deemed appropriate by the responsible official. Compliance with public participation activities require under this part, Part 25, and Part 35 Subpart E or I constitutes compliance with the requirements for public participation under this subpart.

(b) *Coordination.* NEPA related public participation activities undertaken in connection with the environmental review process should be coordinated with any applicable public participation program wherever possible.

(c) *Scope.* Consistent with 40 CFR 1506.6, the responsible official may institute such additional NEPA-related public participation procedures as is deemed necessary during the environmental review process.◄

►§ 6.514 Delegation to States.

(a) *General.* In cases where the authority for facilities plan review has been delegated to the State under section 205(g) of the Clean Water Act, the State may be delegated the responsibility for carrying out all EPA activities under this part except for the following responsibilities:◄

(1) The determination of whether or not to prepare an EIS shall be solely that of EPA. EPA shall consider a State's recommendations, but the ultimate decision under NEPA cannot be delegated;

(2) Categorical exclusions, Findings of No Significant Impact and the environmental assessment shall be approved, finalized and issued by EPA; and

(3) Notices of intent shall be prepared and issued by EPA.

(b) *Elimination of duplication.* ►The responsible official shall assure that maximum efforts are undertaken to minimize duplication within the limits described under § 6.508 and under paragraph (a) of this section. In carrying out requirements under this subpart, maximum consideration shall be given to eliminating duplication in accordance with 40 CFR 1506.2. Where there are State or local procedures comparable to NEPA, EPA should enter into memoranda of understanding with a State concerning workload distribution and responsibilities for implementing the environmental review and facilities planning process.◄

[FR Doc. 83-193 Filed 1-6-83; 8:45 am]
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H.R. 5238/Pub. L. 97–414 Orphan Drug Act. (Jan. 4, 1983; 96 Stat 2049) Price: $2.75.

H.R. 2330/Pub. L. 97–415 To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes. (Jan. 4, 1983; 96 Stat 2067) Price: $2.75.

H.R. 6120/Pub. L. 97–416 To reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984. (Jan. 4, 1983; 96 Stat 2084) Price: $1.75.

H.R. 6804/Pub. L. 97–417 To provide subsistence allowances for members of the Coast Guard Officer candidate program, and for other purposes. (Jan. 4, 1983; 96 Stat 2085) Price: $1.75.

H.R. 6254/Pub. L. 97–418 To amend title 3, United States Code, to clarify the function of the United States Secret Service Uniformed Division with respect to certain foreign diplomatic missions in the United States, and for other purposes. (Jan. 4, 1983; 96 Stat 2089) Price: $1.75.

S.J. Res. 258/Pub. L. 97–419 To authorize and request the President to designate the month of December 1982 as "National Closed-Captioned Television Month". (Jan. 4, 1983; 96 Stat 2091) Price: $1.75.

H.J. Res. 619 /Pub. L. 97–420 Designating January 17, 1983, as "Public Employees' Appreciation Day". (Jan. 4, 1983; 96 Stat 2093) Price: $1.75.

H.J. Res. 630/Pub. L. 97–421 To commemorate the one hundred and fiftieth anniversary of the founding of Greene County, Missouri. (Jan. 4, 1983; 96 Stat 2094) Price: $1.75.

H.R. 7420/Pub. L. 97–422 To name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, California project as the Don H. Clausen Fish Hatchery. (Jan. 4, 1983; 96 Stat. 2095) Price: $1.75.

H.R. 7406/Pub. L. 97–423 To designate a certain Federal building in Springfield, Illinois the "Paul Findley Building". (Jan. 4, 1983; 96 Stat. 2096) Price: $1.75.

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Rules and Regulations

Federal Register
Vol. 48, No. 6
Monday, January 10, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Late Planting Agreement Option Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith issues a new subpart in its general administrative regulations that prescribes procedures for the implementation of a Late Planting Agreement Option of insurance on certain crops. The intended effects of this interim rule is to be responsive to insured producers who are unable to plant their crop(s) due to adverse weather conditions before the final planting date contained in the regulations for insuring such crop(s).

DATES:

Effective January 10, 1983, for the 1983 and succeeding crop years.

Comment date: Written comments, data, and opinions on this interim rule must be submitted not later than March 11, 1983, to be sure of consideration.

ADDRESS: Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option are available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION:

Information collection requirements contained in the regulations to which this interim rule applies (7 CFR Parts 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, and 438, have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined in Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (5 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action to promulgate regulations for the implementation of FCIC's Late Planting Agreement constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). The sunset review date established for these regulations is October 1, 1987.

It has also been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

Merrit W. Sprague, Manager, FCIC, has determined that an emergency situation exists which warrants publication of this rule without the normal 60-day public comment period prior to implementation because these regulations will be applicable to 21 crops effective with the 1983 crop year and the regulations for each of those crops specifies that any amendment to the regulations must be placed on file 15 days prior to the cancellation date. The earliest such cancellation date would not provide sufficient time for the normal 60-day comment period and still comply with the regulations with respect to placing these regulations on file by such time. There are no changes to the regulations affected by the Late Planting Agreement Option, but producers must be given sufficient time to decide on their insurance plans in light of this new plan.

FCIC is soliciting comments on this interim rule for 60 days following the date of publication in the **Federal Register**. These regulations will be scheduled for review so that any amendment made necessary by such comments may be published in the **Federal Register** as soon as possible thereafter. All comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

Background

In the past, many insured producers have been unable to plant their crop(s) due to adverse weather conditions, and in some special cases of hardship, FCIC has extended that time for planting certain crops. In order to meet insured producers' needs as to obtaining additional time to plant their crop(s) beyond the final planting date indicated in the individual crop insurance regulations of the 21 crops affected, FCIC has developed a Late Planting Agreement Option. In view of past administrative problems involved with extending planting dates, the development and use of the Late Planting Option provides the flexibility necessary for insuring acreage when planting is delayed due to adverse weather conditions, while maintaining the actuarial integrity of the insurance program. Insurance will be available to individual insureds who do not finish planting by the final planting date. At the same time, any additional risk or reduced production potential will be recognized by reducing the coverage 10 percent for each five days planting continues after the final planting date while maintaining the premium based on the guarantee or amount of insurance which was applicable on the final planting date.

List of Subjects in 7 CFR Part 400

Crop insurance, Late Planting Agreement Option.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby adds a new Subpart A to Part 400 of Title 7 of the Code of Federal Regulations, effective upon publication in the **Federal Register**, for the 1983 and succeeding crop years, as set forth below:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart A—Late Planting Agreement Option; Regulations for the 1983 and Succeeding Crop Years

Sec.
400.1 Availability of the Late Planting Agreement Option.
400.2 Definitions.
400.3 Responsibilities of the insured.
400.4 Applicability to crops insured.
400.5 The Late Planting Agreement Option.

Authority: Sec. 506, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506).

Subpart A—Late Planting Agreement Option; Regulations for the 1983 and Succeeding Crop Years

§ 400.1 Availability of the Late Planting Agreement Option.

The Late Planting Agreement Option shall be offered under the provisions contained in 7 CFR Parts 402 through 499 within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), only on those crops identified in § 400.4 of this part. All provisions of the applicable contract for the insured crop apply, except those provisions which are in conflict with this part.

§ 400.2 Definitions.

For the purposes of the Late Planting Agreement Option:

"Final planting date" means the final planting date for the insured crop contained in the actuarial table on file in the service office.

"Late Planting Agreement Option" means that agreement between the FCIC and the insured producer whereby the insured producer elects, and FCIC provides, insurance on planted acreage for 20 days after the applicable final planting date on file in the service office, under which the production guarantee applicable on the final planting date will be reduced 10 percent for each 5 days that acreage is planted after the final planting date.

"Production guarantee" means the guarantee level of production under the provisions of the applicable contract for crop insurance (sometimes expressed in amounts of insurance).

"Service office" means the office servicing the insured's contract as shown on the application for insurance, or such other approved office as may be selected by the insured or designated by FCIC.

§ 400.3 Responsibilities of the insured.

The insured is solely responsible for the completion of the Late Planting Agreement Option and for the accuracy of the data provided. The provisions of this subsection shall not relieve the insured of responsibilities applicable under the provisions of the insurance contract.

§ 400.4 Applicability to crops insured.

The provisions of this subpart shall be applicable to the provisions of FCIC policies issued under the following regulations for insuring crops:

7 CFR Part 416 Peas
7 CFR Part 417 Sugarcane
7 CFR Part 418 Wheat
7 CFR Part 419 Barley
7 CFR Part 420 Grain Sorghum
7 CFR Part 421 Cotton
7 CFR Part 422 Potatoes
7 CFR Part 423 Flax
7 CFR Part 424 Rice
7 CFR Part 425 Peanuts
7 CFR Part 426 Combined Crop
7 CFR Part 427 Oats
7 CFR Part 428 Sunflowers
7 CFR Part 429 Rye
7 CFR Part 430 Sugar Beets
7 CFR Part 431 Soybeans
7 CFR Part 432 Corn
7 CFR Part 433 Dry Beans
7 CFR Part 434 Tobacco (Dollar Plan)
7 CFR Part 435 Tobacco (Quota Plan)
7 CFR Part 436 Tobacco (Guaranteed Production Plan)
7 CFR Part 437 Sweet Corn
7 CFR Part 438 Tomatoes

The Late Planting Option shall be applicable in all States and Counties thereof, approved by the Board of Directors of the Corporation, and attached to each of the regulations listed above as Appendix A.

§ 400.5 The Late Planting Agreement Option.

The provisions of the Late Planting Agreement Option are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Late Planting Agreement Option

Insured's Name _____

Contract No. _____
Address _____
Crop Year _____

_____

Crop _____

Notwithstanding the provisions of Section 2 of the policy regarding the insurability of crop acreage after the final planting date on file in the service office, I elect to have insurance provided on acreage planted for 20 days after such date. The delay in planting has been caused by excess moisture conditions. Upon making this election, the production guarantee, or amount of insurance, will be reduced 10 percent for each five days or a portion thereof that acreage is planted after the final planting date. Each 10 percent reduction will be applied to the production guarantee or amount of insurance applicable on the final planting date. The premium will be computed based on the guarantee or amount of insurance applicable on the final planting date, and that therefore, no reduction in premium will occur as a result of my election to exercise this option. If planting continues after the acreage reporting date on file in the service office, an acreage report will be filed no later than 5 days after the completion of planting the acreage to which insurance will attach under this option.

Insured's Signature _____
Date _____
Corporations Representative's Signature and Code Number _____
Date _____

Done in Washington, D.C., on December 15, 1982.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: January 3, 1983.

[FR Doc. 83–574 Filed 1–7–83; 8:45 am]

BILLING CODE 3410–08–M

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7 CFR Part 400

General Administrative Regulations; Application for Crop Insurance

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby issues a new subpart in its general administrative regulations that prescribes new procedures for applying for crop insurance protection. The intended effect of this rule is: (1) To issue the application as a separate regulation to simplify the method of amending the application as a document dealing with all crop insurance regulations issued by FCIC, and (2) to correct a portion of the present application which provides for

automatic acceptance if no rejection of the application is made within 30 days.

DATES: Comment Date: Written comments, data, and opinions on this interim rule must be submitted not later than March 11, 1983, to be sure of consideration. Effective Date: January 10, 1983.

ADDRESS: Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981).

Information collection requirements contained in these regulations (7 CFR Part 400) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have assigned OMB Nos. 0563–0003 and 0563–0007.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981). (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other person, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as defined by Executive Order No. 12372 (July 14, 1982), was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

It has also been determined that this action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). The sunset review date established for these regulations is October 1, 1987.

Merritt W. Sprague, Manager, FCIC, has determined that an emergency situation exists which warrants implementation of the regulations without the normal 60-day period for public comment because the regulations issued by FCIC for insuring crops to which this rule applies, or any amendments thereto, must be placed on file 15 days prior to the cancellation date. The earliest cancellation date is December 15. There would not be sufficient time for notice and public comment prior to implementation of this rule and still comply with the regulations with respect to placing this rule on file in order for it to become effective for the 1983 crop year.

FCIC is soliciting comments on this rule for 60 days after publication in the **Federal Register**. This rule will be scheduled for review so that any amendments made necessary by comments received can be published as soon as possible thereafter. All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

Background

In order for a producer to secure crop insurance, an application is completed which provides data on the crop to be insured, the price election, coverage level, name and address of the applicant and several other data. The present application (FCI–12) contains a provisions that the application is accepted unless the applicant is notified of rejection within 30 days of the date of the application. In several cases, the Corporation has been in receipt of applications which, for a variety of reasons including non-payment of premium under a previous contract in another state or county, should normally have been rejected. However, due to excess time the applications have taken to clear the acceptance process, or has been delayed in reaching FCIC for acceptance, the 30 days has elapsed resulting in FCIC being obliged to accept the applications which otherwise would have been rejected for cause.

Block No. 23 on the application has been changed to indicate that the insured has no other insurance of a like nature, rather than to state that the insured has received the policies and appendixes for the crop(s) shown on the application. The procedure for providing the insured with the policy and appendix has been changed and such material is forwarded to the insured upon acceptance of the application by the Corporation, rather than being given to the applicant at the time the application is made.

The application contained in this rule provides for an entry titled Alpha Election. This is for administrative purposes within FCIC and is used for calculating groups of elections to determine liability.

The Private Act Statement, printed on the reverse side of the application has been amended to clarify the use made of the information provided, and is reproduced in this rule.

The application, as contained in this rule, is applicable to all crop insurance regulations issued by FCIC to date (7 CFR Parts 400–442) and to all future regulations issued by FCIC.

List of Subjects in 7 CFR Part 400

Crop Insurance, Application for Crop Insurance.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby adds a new Subpart D to Part 400 of Title 7 of the Code of Federal Regulations, effective upon publication in the **Federal Register**, for the 1983 and succeeding crop years, as set forth below:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

* * * * *

Subpart D—Application for Crop Insurance; Regulations for the 1983 and Succeeding Crop Years

Sec.

400.37 Applicability.

400.38 The Crop Insurance application.

Authority: Secs. 506, 507, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516).

Subpart D—Application for Crop Insurance; Regulations for the 1983 and Succeeding Crop Years

§ 400.37 Applicability.

The Crop Insurance application contained herein shall be applicable to all crop insurance regulations issued by the Corporation (7 CFR Part 400 *et seq.*), effective with the 1983 and succeeding crop years.

BILLING CODE 3410-08-M

§ 400.38 The Crop insurance application.

UNITED STATES DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

CROP INSURANCE APPLICATION

CONTINUOUS CONTRACT

1. Name of Applicant — [ ][ ] -[ ][ ][ ] -[ ][ ][ ][ ][ ]
6. State County 7. Contract Number

2. Authorized Representative — 8. County — 9. State

3. Street or Mailing Address — [ ][ ][ ][ ][ ][ ][ ][ ][ ] [ ] [ ]
10. Identification Number 11. SSN--Tax

4. City and State — 5. Zip Code — 12. Type of Entity

13. Applicant is over 18: Yes___ No___ — If no, Date of Birth

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the crop(s) shown below planted on insurable acreage as shown on the county actuarial table. The applicant elects from the actuarial table the coverage level, and where applicable, a price election or plan of insurance. THE PREMIUM RATE AND APPLICABLE PRODUCTION GUARANTEE OR AMOUNT OF INSURANCE PER ACRE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILE IN THE SERVICE OFFICE FOR EACH CROP YEAR.

14. Effective Crop Year	15. Crop	16. Type, Class Plan of Ins.	17. Alpha Election	18. Price Election	19. Level Election	20. 21. 22. For Agency Use Only (A) (P)
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____
						[ ]____ ____

23. N S I O T-F U R

24. [ ] Crop(s) NOT insured the first year: _____ _____ _____

BILLING CODE 3410-08-C

B. This application is hereby accepted by the Corporation except that the Corporation may reject the application on the basis that: (1) The Corporation has determined that the risk is excessive under the provisions of paragraph 7(b) of the individual crop insurance regulations; (2) any material fact is concealed or misrepresented or fraud occurs in the application, or submission of the application; (3) the applicant is indebted to any United States Government Agency and that indebtedness is delinquent; (4) the applicant previously had crop insurance terminated for violation of the terms of the contract or the regulations, or for failure to pay the applicant's indebtedness; (5) the applicant is debarred by any United States Government Agency; or (6) the applicant has failed to provide complete and accurate information to material requests in this application.

Rejection shall be accomplished by depositing notification thereof in the United States Mail, Postage Paid, to the above address. Unless rejected as provided above or the time for filing applications has passed at the time this application is filed, the contract shall be in effect for the crops and crop years specified. AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the insurance policy(ies), the applicable appendix(es), and the provisions of the county actuarial table showing the insurable and uninsurable acreage, coverage levels, premium rates, and wherever applicable, the production guarantees, amounts of insurance, or plan of insurance shall constitute the contract. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

25. [ ] Applicant does not have other like insurance on any of the above crops.

26. [ ] Previous Carrier_____ 27. Policy Number_____

28. _____ _____, 19__ [ ] [ ] [ ] [ ] [ ] [ ] [ ]
Applicant's Signature 29. Date 30. Code Number

31. _____
Witness to Signature

32. Location of Farm Headquarters	33. Address of Your Service Office
Phone:	Phone:
SEE REVERSE SIDE OF FORM FOR STATEMENT REQUIRED BY PRIVACY ACT OF 1974	34. Page ___of___pages

Following is the Privacy Act Statement found on the reverse side of the Application for Crop Insurance:

COLLECTION OF INFORMATION AND DATA (PRIVACY ACT)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and the regulations promulgated thereunder (7 CFR 400 *et seq.*). The information requested is necessary for FCIC to consider and process the application for insurance; to assist in determining the correct premium and indemnity; and to determine the correct parties to the insurance contract. The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S. Department of Agriculture Agencies, Internal Revenue Service, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court, magistrate, or administrative tribunal.

Furnishing the Social Security number is voluntary and no adverse action will result from failure to do so. Furnishing the information, other than the Social Security number, is also voluntary; however, failure to furnish the correct, complete information requested may result in rejection of the application and/or subsequent denial of any claim for indemnity which may be filed. The failure to supply correct, complete information will also invalidate the automatic acceptance provisions of Section B hereof and may substantially delay acceptance of the application and processing of any claim for indemnity.

Done in Washington, D.C. on January 3, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Dated: January 3, 1983.

[FR Doc. 83-573 Filed 1-7-83; 8:45 am]
BILLING CODE 3410-08-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Reporting of Changes to the Quality Assurance Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require each holder of a nuclear power plant or fuel reprocessing plant construction permit or operating license (1) to inform the Commission in writing of quality assurance program changes that affect the description of the quality assurance program described or referenced in its Safety Analysis Report and accepted by the Commission, and (2) to clarify the requirement concerning implementation of the accepted quality assurance program. In the past, existing regulations did not specifically include a requirement that changes to the accepted quality assurance program be reported and some licensees changed their quality assurance programs without informing the Commission. This resulted in some unacceptable quality assurance programs. The amendments will assure that when licensees and construction permit holders reduce their commitments in their quality assurance program descriptions accepted by the Commission, they submit the changes to the Commision and receive its approval before implementing the changes.

EFFECTIVE DATE: March 11, 1983.

FOR FURTHER INFORMATION CONTACT: William L. Belke, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 492–4512.

SUPPLEMENTARY INFORMATION: The quality assurance (QA) requirements of 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," constitute a cornerstone of the Commission's "defense-in-depth" concept for ensuring safe operation of nuclear power plants and fuel reprocessing plants.

Because of the importance of the QA program as a management tool to attain objectives important to nuclear safety, the NRC staff conducts extensive reviews during the licensing process to ensure that the applicant's QA program description satisfies 10 CFR Part 50, Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants." Once the NRC staff has accepted it, the QA program description becomes a principal inspection and enforcement tool in ensuring that the permit holder or licensee is in compliance with all NRC quality assurance requirements for protecting the public health and safety.

As indicated in 10 CFR 50.34(a)(7), "Contents applications; technical information," the Preliminary Safety Analysis Report (PSAR) must include "a description of the quality assurance program to be applied to the design, fabrication, construction, and testing of the structures, systems, and components of the facility." Similarly, § 50.34(b)(6)(ii) requires that the Final Safety Analysis Report (FSAR) describe "managerial and administrative controls to be used to assure safe operation" and that it "include a discussion of how the applicable requirements of Appendix B [Quality Assurance Criteria] will be satisfied." The QA programs described in the Safety Analysis Reports are intended to represent the QA programs actually being applied in practice.

Because existing regulations do not specifically include a requirement that changes to the accepted QA program be reported to the Commission, some licensees have been changing their QA programs without informing the Commission. In a few cases this has resulted in QA programs which were not acceptable to the NRC staff and which did not conform to all aspects of the NRC regulations. The primary concern with the current situation is that unreported changes to the QA program might diminish the scope of the program permitting significant deficiencies to arise in the design, fabrication, construction, or operation of the facility. This could result in increased risk to the public health and safety.

The final amendments require that nuclear power plant and fuel reprocessing plant construction permit holders and licensees implement the accepted QA program described or referenced in the Safety Analysis Report, provide a current description of the program as it is implemented, and submit all changes to the accepted program description (as required by 10 CFR 50.34(a)(7) or 50.34(b)(6)(ii)) to the NRC for review.

Although NRC presently reviews QA topical report program descriptions of the licensee's or construction permit holder's principal contractors (architect-engineer, nuclear steam supply system vendor, constructor, and construction manager when other than the constructor) submitted to it, the requirements of Appendix B of 10 CFR Part 50 clearly state that the licensee or permit holder has responsibility for the establishment and execution of the QA program. Therefore, commensurate with the requirements of Appendix B of 10 CFR Part 50, licensees and construction permit holders must ensure that their principal contractors' QA program description changes are reported to NRC in writing. In addition, when subcontractors make significant changes that amount to changes in the construction permit holder's or licensee's QA program or in the principal contractor's QA program, the NRC is to be notified in writing.

Licensees must submit to the NRC at least annually (under 10 CFR 50.71), and permit holders within 90 days, those changes to the QA program description that do not reduce the commitments in the program description previously accepted by the NRC. In all cases, licensees and permit holders making changes to the QA program description that do reduce the commitments, must submit the changes to NRC and receive NRC approval before implementing the changes.

The Commission will evaluate submitted changes to determine if the revised QA program description is in accord with the Commission's QA requirements in Appendix B of 10 CFR Part 50 and Safety Analysis Report QA program description commitments previously accepted by the NRC. The Commission normally will inform the construction permit holder, licensee, or QA topical report organization within 60 days of receipt of the change about the result of this evaluation commensurate with the 10 CFR 50.71 annual reporting requirement for licensees or 90-day reporting requirement for permit holders. Licensees, permit holders or QA topical report organizations submitting changes requiring NRC approval before implementation will also normally be informed of the results of the evaluation within 60 days.

Discussion of Comments

On July 2, 1981, the NRC published in the **Federal Register** (46 FR 34595) proposed amendments to 10 CFR 50.54 and 50.55 for reporting of changes to QA programs. Numerous comments were received, all of which were evaluated in developing the final rule. The following discussion highlights the major issues that were raised by the commenters and their resolution (the comments received, and a fuller discussion of their resolution—are available for review in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555).

One commenter recommended that the rule be revised to clarify that licensees may make changes to a previously submitted QA program description provided the change does

not decrease the scope of the program or effectiveness of the program's controls.

To preclude potential confusion or misinterpretation of the terms "scope" or "effectiveness," §§ 50.54 and 50.55 of the rule have been revised to require licensees to submit to the NRC at least annually (under 10 CFR 50.71), and permit holders within 90 days, those changes to the quality assurance program description that do not reduce the commitments in the program description previously accepted by the NRC. In all cases, changes to the Safety Analysis Report quality assurance program description that do reduce those commitments must be submitted to NRC and receive NRC approval before implementation.

Some commenters suggested that the 10 CFR 50.54 and 50.55 rule changes should be consolidated into section II of Appendix B to 10 CFR Part 50 and that the existing regulations in §§ 50.34, 50.59, and 50.71 be allowed to satisfy the intent of the rule's reporting requirements.

No changes to the rule were made in response to these comments. The Commission believes that to consolidate the § 50.54 and § 50.55 rule changes or to rely on the existing reporting requirements of §§ 50.34, 50.59, or § 50.71 would leave a regulatory gap because there would be no requirement for the reporting of QA program changes as a condition of the construction permit or operating license.

10 CFR 50.71 now requires the submittal of all changes necessary to reflect information and analyses submitted to the Commission by the licensee (or prepared by the licensee pursuant to Commission requirements) since the submission of the original Final Safety Analysis Report (FSAR) or, as appropriate, the last updated FSAR. The updated FSAR is to be revised to include the effects of: All changes made in the facility or procedures as described in the FSAR; all safety evaluations performed by the licensee either in support of requested license amendments or in support of conclusions that changes did not involve an unreviewed safety question; and all analyses of new safety issues performed by or on behalf of the licensee at the Commission's request. The updated information is to be appropriately located within the FSAR.

Under 10 CFR 50.71, it would be acceptable to submit annual revisions to the QA program for plants already licensed for operation, provided the changes do not reduce the commitments in the program description. However, if a licensee does make changes to the QA program description that reduce the commitments in the program description, these changes must be submitted to NRC and receive NRC approval before implementation.

In accordance with the Commission's licensing review policies, the acceptance criterion in effect since issuance of Revision 1 of the Standard Review Plan in early 1979 applies to new applications for construction permits and operating licenses and to the periodic review of QA topical reports. It is not applicable to all permit holders and to all operating plant licensees whose construction permits or operating license applications were reviewed before 1979, nor is such a commitment, once made, subject to the full range of enforcement options. This lack of enforceability exists because current regulations do not specifically include a requirement that changes to the QA program that affect the description of the QA program in the Safety Analysis Report be submitted to the NRC for review. Additionally, other than in footnote 1 to Appendix B of 10 CFR Part 50, there is no explicit requirement that the accepted QA program be implemented as a condition of the construction permit or license.

One commenter suggested that the proposed amendment to 10 CFR 50.55 be modified to be consistent with the advance notice of proposed rulemaking published December 11, 1980 (45 FR 81602), dealing with design and other changes in nuclear power plant facilities after issuance of a construction permit.

The amendment to § 50.55 will precede the amendment noted above being developed through the advance notice of proposed rulemaking. However, the Commission will act to assure consistency between the two with respect to facility QA program description reporting requirements.

One commenter recommended that the final rule be applicable to fuel reprocessing plants.

The Commission has accepted this suggestion in order that it be commensurate with the intent and requirements of Appendix B to 10 CFR Part 50. The rule has been revised to state that it is applicable to fuel reprocessing plants.

Several commenters suggested that the final rule be applicable to QA topical report descriptions accepted by NRC from a licensee's or construction permit holder's prime contractors.

Although NRC presently reviews QA topical reports submitted to it, the requirements of Appendix B of 10 CFR Part 50 clearly state that the licensee or permit holder has responsibility for the establishment and execution of the QA program. Thus, commensurate with the requirements of Appendix B of 10 CFR Part 50, licensees and construction permit holders must ensure that their principal contractors' (architect-engineer, nuclear steam supply system vendor, constructor, and construction manager when other than the constructor) QA program description changes are reported to NRC in writing. In addition, when subcontractors make significant changes that amount to changes in the construction permit holder's or licensee's QA program or in the principal contractor's QA program, NRC must be notified in writing. This should not impose a heavy burden on a licensee or construction permit holder because, if a change has been made to a QA topical report description by a licensee's or construction permit holder's principal contractor and submitted to NRC by the principal contractor together with an explanation of the reasons for the change, the licensee or construction permit holder need only notify NRC that the referenced principal contractor's QA topical report has been changed and submitted to NRC by the principal contractor and need not forward a letter explaining the change.

It was also suggested that NRC Resident Inspectors be allowed to review QA program changes in order to determine whether the program has been weakened.

Because of the Resident Inspectors' diversified and demanding workloads, the Commission believes that its best interests would be expeditiously served by having reviews of QA program description changes performed in designated NRC Regional Offices or Office of Inspection and Enforcement, as necessary and appropriate.

It was also suggested that QA program description changes should be reviewed by the NRC's Office of Nuclear Reactor Regulation (Quality Assurance Branch) in lieu of the NRC Regional Offices, since licensees initially obtain approval of their quality assurance program descriptions from that NRC unit.

The Commission has not accepted this suggestion. The Commission will develop internal review procedures to ensure that QA program description changes will be reviewed by the NRC office possessing the necessary QA expertise and resources. In all cases, copies of all QA program description changes will be provided to the appropriate NRC Regional Office, appropriate NRC Resident Inspector, and NRC Office of Inspection and Enforcement for their review and to solicit their input regarding the changes.

Finally, several commenters suggested that the rule be clarified to avoid the specific misinterpretation that written evaluations could be required for every revision of QA implementing methods and procedures, and for changes that correct spelling, punctuation, or items that are editorial in nature.

The rule has been revised to clarify the requirement for written evaluations. Generally, changes to quality assurance program implementing procedures, instructions, methods, and other documents do not require evaluations or submittal to NRC. Only when these changes involve a change to the QA program as described in the Safety Analysis Report would NRC have to be notified and would a forwarding letter have to be submitted. This forwarding letter will provide the basis for a Commission determination concerning compliance with the criteria in Appendix B of 10 CFR Part 50. Consequently, all affected pages of the Safety Analysis Report that describe the quality assurance program must be submitted to NRC in order to ensure that the copy of the quality assurance program description retained by NRC remains current.

Paperwork Reduction Act

The application, reporting, and recordkeeping requirements contained in this Regulation have been approved by the Office of Management and Budget; OMB approval No: 3150–0011.

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This final rule affects only the licensing and operation of nuclear power plants and fuel reprocessing plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. No small entity commented that the proposed rule would affect it.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50 are published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 50.54 is amended by adding a new paragraph (a) to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(a)(1) Each nuclear power plant or fuel reprocessing plant licensee subject to the quality assurance criteria in Appendix B of this part shall implement, pursuant to § 50.34(b)(6)(ii) of this part, the quality assurance program described or referenced in the Safety Analysis Report, including changes to that report.

(2) Each licensee described in paragraph (a)(1) of this section shall, by June 10, 1983, submit to the appropriate NRC Regional Office shown in Appendix D of Part 20 of this chapter the current description of the quality assurance program it is implementing for inclusion in the Safety Analysis Report, unless there are no changes to the description previously accepted by NRC. This submittal must identify changes made to the quality assurance program description since the description was submitted to NRC. (Should a licensee need additional time beyond June 10, 1983 to submit its current quality assurance program description to NRC, it shall notify the appropriate NRC Regional Office in writing, explain why additional time is needed, and provide a schedule for NRC approval showing when its current quality assurance program description will be submitted.)

(3) After March 11, 1983, each licensee described in paragraph (a)(1) of this section may make a change to a previously accepted quality assurance program description included or referenced in the Safety Analysis Report, provided the change does not reduce the commitments in the program description previously accepted by the NRC. Changes to the quality assurance program description that do not reduce the commitments must be submitted to the NRC at least annually in accordance with the requirements of § 50.71 of this part. Changes to the quality assurance program description that do reduce the commitments must be submitted to NRC and receive NRC approval before implementation, as follows:

(i) Changes made to the Safety Analysis Report must be submitted for review to the appropriate NRC Regional Office shown in Appendix D of Part 20 of this chapter; to the Resident Inspector; and to the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Changes made to NRC-accepted quality assurance topical report descriptions must be submitted to the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the NRC Region IV Vendor Program Branch.

(ii) The submittal of a change to the Safety Analysis Report quality assurance program description must include all pages affected by that change and must be accompanied by a forwarding letter identifying the change, the reason for the change, and the basis for concluding that the revised program incorporating the change continues to satisfy the criteria of Appendix B of this part and the Safety Analysis Report quality assurance program description commitments previously accepted by the NRC (the letter need not provide the basis for changes that correct spelling, punctuation, or editorial items).

(iii) A copy of the forwarding letter identifying the changes must be maintained as a facility record for three years.

(iv) Changes to the quality assurance program description included or referenced in the Safety Analysis Report shall be regarded as accepted by the Commission upon receipt of a letter to this effect from the appropriate reviewing office of the Commission or 60 days after submittal to the Commission, whichever occurs first.

* * * * *

3. Section 50.55 is amended by adding a new paragraph (f) to read as follows:

§ 50.55 Conditions of construction permits.

* * * * *

(f)(1) Each nuclear power plant or fuel reprocessing plant construction permit holder subject to the quality assurance criteria in Appendix B of this part shall implement, pursuant to § 50.34(a)(7) of this part, the quality assurance program described or referenced in the Safety Analysis Report, including changes to that report.

(2) Each construction permit holder described in paragraph (f)(1) of this section shall, by June 10, 1983, submit to the appropriate NRC Regional Office shown in Appendix D of Part 20 of this chapter the current description of the quality assurance program it is implementing for inclusion in the Safety Analysis Report, unless there are no changes to the description previously accepted by NRC. This submittal must identify changes made to the quality assurance program description since the description was submitted to NRC. (Should a permit holder need additional time beyond June 10, 1983 to submit its current quality assurance program description to NRC, it shall notify the appropriate NRC Regional Office in writing, explain why additional time is needed, and provide a schedule for NRC approval showing when its current quality assurance program description will be submitted.)

(3) After March 11, 1983, each construction permit holder described in paragraph (f)(1) of this section may make a change to a previously accepted quality assurance program description included or referenced in the Safety Analysis Report, provided the change does not reduce the commitments in the program description previously accepted by the NRC. Changes to the quality assurance program description that do not reduce the commitments must be submitted to NRC within 90 days. Changes to the quality assurance program description that do reduce the commitments must be submitted to NRC and receive NRC approval before implementation, as follows:

(i) Changes made to the Safety Analysis Report must be submitted for review to the appropriate NRC Regional Office shown in Appendix D of Part 20 of this chapter; to the Resident Inspector; and to the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Changes made to NRC-accepted quality assurance topical report descriptions must be submitted to the Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the NRC Region IV Vendor Program Branch.

(ii) The submittal of a change to the Safety Analysis Report quality assurance program description must include all pages affected by that change and must be accompanied by a forwarding letter identifying the change, the reason for the change, and the basis for concluding that the revised program incorporating the change continues to satisfy the criteria of Appendix B of this part and the Safety Analysis Report quality assurance program description commitments previously accepted by the NRC (the letter need not provide the basis for changes that correct spelling, punctuation, or editorial items).

(iii) A copy of the forwarding letter identifying the changes must be maintained as a facility record for three years.

(iv) Changes to the quality assurance program description included or referenced in the Safety Analysis Report shall be regarded as accepted by the Commission upon receipt of a letter to this effect from the appropriate reviewing office of the Commission or 60 days after submittal to the Commission, whichever occurs first.

Dated at Bethesda, Md., this 21st day of December 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-630 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 140

Modification of Indemnity Agreements

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission's regulations presently provide that if the Commission intends to enter into an indemnity agreement with provisions different from those in a standard form indemnity agreement or intends to modify a standard form indemnity agreement, then the Commission must publish notice of this intent in the **Federal Register** and allow 15 days for interested persons to file petitions for leave to intervene with respect to the proposed amendment. The Commission is amending its regulations to retain the public notice provision but to delete the opportunity for public intervention and comment. The Commission is adopting this amendment because the scope of public comment appropriate for an action of this type is so restricted that the opportunity for public comment is unnecessary.

EFFECTIVE DATE: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Eric E. Jakel, Esq., Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492-8691.

SUPPLEMENTARY INFORMATION: The Commission's regulations (in 10 CFR 140.9) presently provide that if the Commission intends to enter into an indemnity agreement with provisions different from those in a standard form indemnity agreement or intends to modify a standard form indemnity agreement, then the Commission must publish notice of this intent in the **Federal Register** and allow 15 days for interested persons to file petitions for leave to intervene with respect to the proposed amendment. On July 23, 1982, the Commission published in the **Federal Register** (47 FR 31887) a proposed rule to amend its regulations to retain the public notice provision but to delete the opportunity for public intervention and comment. The Commission proposed amending 10 CFR 140.9 by removing the second sentence of that section. Currently, § 140.9 provides:

§ 140.9 Modifications of indemnity agreements.

The Commission will publish in the **Federal Register** a notice of its intent to enter into an indemnity agreement, or agreement amending an indemnity agreement, which contains provisions different from the form of the applicable indemnity agreement set forth in the appendices to this part, as such appendices may be amended from time to time. Such notices will provide at least a fifteen-day period following the date of publication in the **Federal Register** in which interested persons may file petitions for leave to intervene with respect to the proposed agreement.

The Commission has interpreted § 140.9 to mean that it only need solicit and consider written public comments on whether the language proposed to modify the indemnity agreements effectively implements the Commission's policy decision to exercise its descretionary authority to extend Price-Anderson indemnity coverage in any given situation. See 42 FR 44617, September 6, 1977; and 46 FR 55024, November 5, 1981. Comments addressing any other issue are not considered relevant.

Because granting a hearing or requesting public comment on such an insubstantial point, as the precise wording of an amendment to the standard indemnity agreement, is not meaningful, the Commission proposed to

delete the second sentence of this section as unnecessary.

Two letters of comment were received in response to the notice of proposed rulemaking. Both letters expressed support for the proposed rule. One letter of comment recommended deleting all of the appendices to 10 CFR Part 140. Deletion of these appendices is an action that the Commission favors. In the near future, the Commission will publish a proposed rule soliciting public comment on this action. A rulemaking action resulting in deletion of these appendices would necessitate a conforming change to Part 140 deleting § 140.9 in its entirety.

No significant adverse comments or questions were received on the notice of proposed rulemaking, nor were any substantial changes in the text indicated. Therefore, the final rule being adopted by the Commission is identical to the proposed rule published for public comment.

Paperwork Reduction Act Statement

Pursuant to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the NRC has made a determination that this rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule affects the licensing and operation of nuclear reactors. The companies and institutions who own these reactors do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or in the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since the companies that will be affected by this rule are dominant in their service areas, this rule does not fall within the purview of the Act.

List of Subjects in 10 CFR Part 140

Extraordinary nuclear occurrence, Insurance, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting requirements.

Under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the following amendment to 10 CFR Part 140 is published as a document subject to codification.

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

1. The authority citation for Part 140 is revised to read as follows:

Authority: Secs. 161, 170, 68 Stat. 948, 71 Stat. 576, as amended (42 U.S.C. 2201, 2210); secs. 201, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 140.11(a), 140.12(a), 140.13 and 140.13a are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and § 140.6 is issued under sec. 161o, 68 Stat. 905, as amended (42 U.S.C. 2201(o)).

2. Remove the authority citations following §§ 140.2, 140.3, 140.5, 140.6, 140.7, 140.10, 140.11, 140.13a, 140.14, 140.18, 140.20, 140.21, 140.22, 140.91, 140.92, 140.93, 140.94, 140.95, 140.107, and 140.108.

3. Section 140.9 is revised to read as follows:

§ 140.9 Modification of indemnity agreements.

The Commission will publish in the Federal Register a notice of its intent to enter into an indemnity agreement, or agreement amending an indemnity agreement, which contains provisions different from the form of the applicable indemnity agreement set forth in the appendices to this part, as such appendices may be amended from time to time.

Dated at Bethesda, Maryland, this 23d day of December, 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83–625 Filed 1–7–83; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 523 and 544

[No. 82–869]

Charter and Bylaws Available to Federal Associations, and Related Amendments; Processing of Applications; Corrections

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; corrections.

SUMMARY: This document corrects certain changes contained in Board Resolution No. 82–791 that determined the types of charters available to federal associations.

FOR FURTHER INFORMATION CONTACT: David A. Permut, (202–377–6962), Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On December 8, 1982, the Federal Home Loan Bank Board promulgated final amendments to its regulations governing the types of charters available to federal associations. Board Resolution No. 82–791 (December 8, 1982); 47 FR 56985, (December 22, 1982). The regulations implemented statutory revisions contained in Pub. L. 97–320, the Garn-St Germain Depository Institutions Act of 1982. In adopting these amendments, some provisions that should have been amended inadvertently were left unchanged, and the numbering of a new section was incorrect. By its action today, the Board corrects the subject language.

Accordingly, the Board is correcting FR Doc. 82–34448, appearing at 47 FR 56985 as set forth below:

PART 523—[CORRECTED]

1. On page 56989, paragraph 1, the amendatory language and section heading are corrected by changing "§ 523.3–2" to "§ 523.3–3".

PART 544—[CORRECTED]

2. On page 56991, paragraph 17, the amendatory language is corrected to read:

"17. Amend § 544.1(a) by revising the first sentence of that paragraph; removing the term "CHARTER N" as the heading at the beginning of the charter form and replacing it with the term "CHARTER N (REV.)"; removing the term "savings" wherever it appears in section 4 of the charter, other than in the first sentence, wherever it appears in sections 6, 7, and 10 thereof, other than the last sentence of section 10; and substituting the word "an" for "a" where appropriate in sections 4, 6 and 7 thereof; and revising the introductory text and paragraph (6) of section 3, the first sentence of section 4, and the last sentence of section 10 of the charter; as follows:"

3. On page 56991, paragraph 18, § 544.1(b) is corrected to read:

"§ 544.1 Issuance of charter.

* * * * *

(b) *Charter L.* If expressly requested

in the Application for Permission to Organize, or in the Application for Conversion to a Federal Association, the Board will issue, in lieu of Charter N (Rev.), a Charter L. The form of Charter L is the same as the form of Charter N (Rev.), except that the heading states "CHARTER L" instead of "CHARTER N (Rev.)" and in lieu of the provision in Charter N (Rev.) designated " 6. *Withdrawals,"* the following provision is substituted:

6. *Withdrawals.* The association shall have the right to pay the withdrawal value of its accounts at any time upon application therefor and to pay the holders thereof the withdrawal value thereof. Upon receipt of a written request from any holder of an account of the association for the withdrawal from such account of all or any part of the withdrawal value thereof, the association shall within 30 days pay the amount requested; *Provided,* That if the association is unable to pay all withdrawals requested at the end of 30 days from the date of such requests, it shall then proceed in the following manner while any withdrawal request remains unpaid for more than 30 days:

Withdrawal requests shall be paid in the order received and if any holder of an account or accounts has requested the withdrawal of more than $1,000, he shall be paid $1,000 in order when reached and his withdrawal request shall be charged with such amount as paid and shall be renumbered and placed at the end of the list of withdrawal requests, and thereafter, upon again being reached, shall be paid a like amount, but not exceeding the withdrawal value of his account, and until such withdrawal request shall have been paid in full, shall continue to be so paid, renumbered, and replaced at the end of the withdrawal requests on file: *Provided,* That when any such request is reached for payment, the association shall so advise the holder of such account by registered mail to his last address as recorded on the books of the association and, unless such holder shall apply in person or in writing for the payment of such withdrawal request within 30 days from the date of the mailing of such notice, no payment on account of such withdrawal request shall be made and such request shall be cancelled: *And provided further,* That the board of directors shall have absolute right to pay on an equitable basis an amount not exceeding $200 to any holder of an account or accounts in any calendar month and without regard to any other provision of this section.

When the association is unable to pay all withdrawal requests within a period not exceeding 30 days from the date of receipt of written request therefor it shall allot to the payment of such requests the remainder of the association's receipts from all sources after deducting from total receipts appropriate amounts for expenses, required payments on indebtedness, earnings distributable in cash to holders of accounts, and a fund for general corporate purposes equivalent to not more than 20 percent of the association's receipts from holders of its accounts and from its borrowers. Holders of accounts for which application for withdrawal has been made shall remain holder of accounts until paid and shall not become creditors.

4. On page 56991, the amendatory language in paragraph 19 is corrected to read:

"19. Amend § 544.1 by adding a new paragraph (c) entitled *Charter B (Rev.)* and inserting the text and charter form of § 577.1 thereto; removing the term "CHARTER B" as the heading at the beginning of the charter form and replacing it with the term "CHARTER B (REV.)"; and amending that charter by removing the phrases "established for the primary purpose of providing people with a convenient and safe place to invest their funds and to provide for the financing of homes," and "*General Objects and*" contained in section 3, revising section 5 as set forth below, revising the first sentence of section 6 as set forth below and removing the word "savings" from section 6 wherever it appears other than in the first sentence and substituting the word "an" for "a" where appropiate, removing the phrase "in Board Resolution No. —, dated ———, ——," in section 7 and substituting therefor the phrase "by the Board or its delegatee in connection with action", removing the phrase "charter: *Provided, however,* That the bank's equity, corporate bond, and consumer loan investments may in no event exceed — percent of its assets." contained in section 10 and substituting therefor the phrase "charter."; removing in section 10 the phrase "Board Resolution No. —, dated ———," and substituting therefor the phrase "action of the Board or its delegatee in connection with action", removing from the third paragraph of section 11 the word "savings" and the phrase "[and checking accounts]" wherever they appear, and removing from section 11 the phrase "Board, such reserves shall include the reserve required for insurance of accounts." and inserting in its place the phrase "Board."; as follows:

(Sec. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464); Sec. 401, 402, 403, 404, 405, 406, 407, 48 Stat. 1255, 1256, 1257, 1259, 1260, as amended (12 U.S.C. 1724, 1725, 1726, 1727, 1728, 1729, 1730); Sec. 408, 52 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947; 3 CFR 1943–1948 Comp p. 1071)

Dated: December 30, 1982.

By the Federal Home Loan Bank Board.

Thomas P. Vartanian,

General Counsel.

[FR Doc. 83–530 Filed 1–7–83; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82–ANE–10; Amdt. 39–4528]

Airworthiness Directives; Garrett Turbine Engine Company Engine Models TSE331–3 and TPE331–1, –2, –3, –5, and –6 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment supersedes a currently effective airworthiness directive (AD) which: Clarified the requirement that turbine wheels failing a required inspection be removed from service; established that normal cyclic life limits would be listed in a Garrett service bulletin (SB); identified and limited by specific part number (P/N) affected third stage turbine wheels; and made less restrictive the turbine wheel replacement option. This AD requires: removal of an additional suspect machining lot of P/N 868630 third stage turbine wheels; a fluorescent penetrant inspection in lieu of a visual inspection; a reduced inspection interval for P/N 895539 third stage turbine wheels; and installation of a third stage turbine stator assembly incorporating new P/N inner and outer seals. This AD also revises hourly and cyclic lives for all turbine wheels based on commuter or executive service use.

DATES: Effective January 7, 1983. Comments must be received on or before March 7, 1983. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Garrett Turbine Engine Company, Post Office Box 5217, Phoenix, Arizona 85010, Telephone: (602) 267–3011.

A copy of the service information is contained in the FAA Rules Docket, New England Region, Office of the Regional Counsel, Attn: Docket No. 82–ANE–10, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Bill Moring, Aerospace Engineer, ANM–174W, Western Aircraft Certification Field Office, Northwest Mountain Region, Post Office Box 92007, Worldway Postal Center, Los Angeles, California 90009; telephone: (213) 536–6381.

SUPPLEMENTARY INFORMATION: AD No. 82–10–05, Revision 1, Amendment 39–4457, (47 FR 39136) made effective on

September 9, 1982, provided clarification to operators of TSE331–3 and TPE331–1, –2, –3, –5, and –6 series engines which had the cyclic life limit of their third stage turbine wheels reduced by a previously issued AD. This earlier action was required because failures of the Part Number 868630 turbine wheel occurred at less than the published cyclic life limit. Since issuance of AD82–10–05, Revision 1, the FAA has been made aware of four additional failures of the third stage turbine wheel, Part Number 895539. This has shown the need for a more critical inspection of the rivet hole area of all turbine wheels. The visual inspection for rivet hole cracking of all turbine wheels is being superseded by a fluorescent penetrant inspection requirement. The hourly and cyclic life limits for each wheel are reduced to be consistent with the service history of turbine wheels which have experienced premature cracking at rivet holes. The retirement life for additional P/N 868630 third stage turbine wheels, now suspected to contain manufacturing errors and identified by serial number is reduced. FAA has also determined that the failure probability of a third stage turbine rotating knife seal may be reduced by incorporating a newly designed third stage turbine seal assembly. Further, evaluation of an uncontained wheel failure has revealed the cause to be low cycle fatigue cracking of the third stage turbine stator assembly. Consequently, high time (cycle) third stage turbine stator assemblies need to be reworked or replaced at a specified time. The remaining compliance requirements of AD82–10–05, Revision 1, Amendment 39–4457, remain unchanged.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule which was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Send comments to the FAA Rules Docket listed under "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety.

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Garrett Turbine Engine Company (formerly AiResearch Manufacturing Company of Arizona): Applies to Garrett Engine Models TSE331–3 and TPE331–1, –2, –3, –5, and –6 series engines.

Compliance required as indicated, unless already accomplished.

To reduce the possibility of rapid destruction of the engine turbine, accomplish the following:

(a) P/N 868630–1, –2, –3, –4, and –7 third stage turbine wheels identified by serial number (S/N) below must be removed from service in order to accomplish the inspection provided in paragraph (d) of this AD prior to accumulating 1500 total wheel cycles:

S/N 0–01345–419, 420, 421, 422, 423, 424, 425, 426, 428, 430, 431, 432, 433, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 458, 459, 461, 463, 1296, 1298, 1299, 1301, 1302, 1304, 1305, 1306, 1307, 1308, 1309, 1311, 1312, 1313

S/N 0–01345–1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1328, 1329, 1330, 1331, 1332, 1335, 1336, 1338, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2364, 2365, 2366, 2367, 2369, 2371, 2372

S/N 0–01345–2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2529, 3106, 3107, 3109, 3110, 3111, 3112, 3113, 3114, 3118, 3119, 3121, 3122, 3123, 3124, 3125, 3126, 3127, 3128, 3129, 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3140, 3141, 3145, 3146, 3147, 3149, 3150, 3152, 3153, 3737

S/N 9–01345–15426, 15427, 15428, 15429, 15432, 15433, 18246, 18247, 18248, 18250, 18251, 18252, 18253, 18256, 18258, 18259, 18260, 18262, 18263, 18264, 18265, 18266, 18286, 18287, 18288, 18289, 18302, 18304, 18305, 18310, 18311, 18316, 18317, 18318, 18320, 18321, 18323, 18324, 18325, 18326, 18328, 18329, 18330, 18414, 18415

Note.—For purposes of this AD, an operating cycle is defined as any operating sequence involving an engine start, aircraft takeoff and landing, followed by engine shutdown and one cycle shall be counted for each such operational sequence.

(b) P/N 868630–1, –2, –3, –4, and –7 third stage turbine wheels identified by serial number (S/N) below must be removed from service according to the following schedule:

Wheel total cycles	Remove [1]
Less than 1,300	Before accumulation of 1,500 cycles.
1,300 or more and less 2,550.	Before accumulation of 2,600 cycles or within the next 200 cycles whichever occurs first.
2,550 or more	Within the next 50 cycles.

[1] No wheel listed below may exceed 1,500 total cycles in service after June 1, 1983.

S/N 0–01345–18350, 18623, 18659, 18660, 18663, 18669, 18672, 18673, 18674, 18676, 18677, 18678, 19294, 19295

S/N 0–01345–20025, 20026, 20130, 20588, 20589, 20590, 20591, 20592, 20593, 20594, 20595, 20596, 20597, 20598

S/N 0–01345–21873, 21874, 21875, 21876, 21877, 21878, 21879, 21880, 21881, 21882, 21883, 21884, 21885, 21886

S/N 0–01345–19321, 19980, 19983, 19984, 19985, 19986, 19987, 19988, 19989, 19990, 19991, 19992, 19993, 19994, 19995, 19996, 19997, 19998, 19999, 20000, 20001, 20002, 20003, 20004, 20008, 20009, 20010, 20011, 20012, 20013, 20014, 20015, 20016, 20017, 20018, 20019, 20020, 20021, 20022, 20023, 20024

S/N 0–01345–20599, 20600, 20601, 20602, 20603, 20604, 20605, 20606, 20607, 20609, 20611, 20612, 20613, 20614, 20615, 20616, 20617, 20618, 20619, 20620, 20621, 20622, 20623, 20624, 20625, 20626, 20627, 20628, 20629, 20630, 20631, 20632, 20633, 20634, 20635, 20637, 20779, 21869, 21870, 21871, 21872

S/N 0–01345–21887, 21888, 21889, 21890, 21891, 21892, 21893, 21894, 21895, 21896, 21897, 21898, 21899, 21900, 21903, 21904, 21905, 21906, 21907, 21908, 21909, 21910, 21911, 21914, 22332, 22333

Note.—The inspection provided in paragraph (d) of this AD does not apply to the third stage turbine wheels listed in paragraph (b).

(c) P/N 868630–1, –2, –3, –4, and –7 third stage turbine wheels introduced into service after March 24, 1978, and not listed by serial number in paragraph (a) or (b) of this AD must be removed from service in order to accomplish the inspection provided in paragraph (d) of this AD prior to accumulating 2600 total wheel cycles.

Note.— P/N 868630–1, –2, –3, and –4 third stage turbine wheels introduced into service prior to March 24, 1978, are not required to have the inspection provided in paragraph (d) of this AD.

(d) Except for those wheels listed by serial number in paragraph (b) of this AD, P/N 868630–1, –2, –3, –4, or –7 third stage turbine wheels which comply with the inspection requirements of paragraph 2 of Garrett Service Bulletin No. TPE/TSE331–72–0351, dated April 14, 1982, or later FAA approved revisions, may be operated to the life limits provided in paragraph (e) or (f) of this AD. Third stage wheels which do not meet the inspection limits of this service bulletin may not be returned to service.

Note.—Turbine wheels which comply with paragraph 2 of Garrett Service Bulletin No. TPE/TSE331–72–0351 or later FAA approved revisions have the service bulletin annotated on the life limited parts log card which is located either with the third stage wheel assembly or with the engine log book.

(e) The following turbine wheels which are or have been installed only in engines used exclusively by Domestic, Flag, and Supplemental Air Carriers operating under Part 121 or Air Taxi and Commercial Carriers operating under Part 135 of the Federal Aviation Regulation, may be continued in service to the cyclic or hourly life limits, whichever occurs first, specified below:

Wheel stage	Part number	Cycle and hour life
First	867569–1, –7	4,900 cycles or 3,000 hours.
Second	868272–1, –2, –3, –4	4,900 cycles or 3,000 hours.
Third	895539–1, –2, –3, –4	2,000 cycles or 1,400 hours.
Third	868630–1, –2, –3, –4, –7.	3,600 cycles or 3,000 hours.
Third	868630–8	4,300 cycles or 3,000 hours.

Turbine wheels which exceed these limits on the effective date of this AD must be removed prior to accumulating an additional 100 hours in service.

(f) The following turbine wheels which have been operated in engines used in service other than the type service designated in paragraph (e) of this AD, may be continued in service to the cyclic or hourly life limits specified below provided they meet the inspection standards contained in paragraph (g) or (h) of this AD as applicable:

Wheel stage	Part number	Cycle and hour life
First	867569–1, –7	3,600 hours.
Second	868272–1, –2, –3, –4	3,600 hours.
Third	895539–1, –2, –3, –4	2,000 cycles or 3,500 hours whichever occurs first.
Third	868630–1, –2, –3, –4, –7.	3,600 cycles or 3,600 hours whichever occurs first.
Third	868630–8	4,300 cycles or 3,600 hours whichever occurs first.

Turbine wheels which exceed these limits on the effective date of this AD must be removed prior to accumulating an additional 100 hours in service.

Note.—Turbine wheels introduced into service prior to March 24, 1978, are not required to have their cyclic lives recorded.

(g) P/N 867569–1 and –7; P/N 868272–1, –2, –3, and –4; and P/N 868630–1, –2, –3, –4, –7, and –8 turbine wheels operated to the life limits authorized by paragraph (f) of this AD must be inspected for cracks by fluorescent penetrant inspection procedures contained in the existing FAA approved maintenance manual for the applicable TPE/TSE331 engine before accumulating 1800 hours since new or 1800 hours since last inspected for cracks by fluorescent penetrant or visual inspection procedures contained in these same FAA approved maintenance manuals in effect prior to the issuance of this AD and before accumulating 1900 hours in service thereafter. Turbine wheels which exceed either this time for initial inspection or this inspection interval must be fluorescent penetrant inspected prior to accumulating an additional 100 hours in service. Wheels found to have cracks may not be returned to service.

(h) P/N 895539–1, –2, –3, and –4 third stage turbine wheels operated to the life limits authorized by paragraph (f) of this AD must be inspected for cracks by fluorescent penetrant inspection procedures contained in the existing FAA approved maintenance manual for the applicable TPE/TSE331 engines before accumulating 1500 hours since new or 800 hours since last inspected for cracks by fluorescent penetrant or visual inspection procedures contained in these same FAA approved maintenance manuals in effect prior to the issuance of this AD and before accumulating 800 hours in service thereafter. Turbine wheels which exceed either this time for initial inspection of this inspection interval must be fluorescent penetrant inspected according to the following schedule. Wheels found to have cracks may not be returned to service.

Wheels hours	Inspect [1]
Less than 1,400 since new.	Before accumulation of 1,500 hours since new.
1,400 or more and less than 1,800 since new.	Before accumulation of 1,600 hours since new or within the next 100 hours whichever occurs first.
1,800 or more since new.	Before further flight.
Less than 600 since last inspection.	Before accumulating 800 hours since last inspection.
600 or more and less than 1,000 since last inspection.	Before accumulating 1,200 hours since last inspection or within the next 300 hours whichever occurs first.
1,000 or more and less than 1,300 since last inspection.	Before accumulating 1,400 hours since last inspection or within the next 200 hours whichever occurs first.
1,300 or more and less than 1,600 since last inspection.	Before accumulating 1,600 hours since last inspection or within the next 100 hours whichever occurs first.
1,600 or more since last inspection.	Before further flight.

[1] No P/N 895539–1, –2, –3, or –4 turbine wheel may exceed either 1500 hours since new or 800 hours since last inspection after December 31, 1982.

(i) Prior to accumulating an additional 1800 operating hours after February 11, 1982, on all affected engines containing P/N 868630–1, –2, –3, or –4 or P/N 895539–1, –2, –3, or –4 third stage turbine wheels, or upon next removal of the third stage turbine wheel, after September 9, 1982, whichever occurs earlier, either:

(1) Remove curvic coupling gasket, P/N 868892–2, located forward of third stage turbine wheel, and replace it with a serviceable P/N 868892–9 curvic coupling gasket or subsequently approved part number gasket as prescribed in paragraph 2 of Garrett Service Bulletin TPE331–72–0300, dated September 9, 1981, or FAA approved equivalent; or,

(2) Replace the third stage turbine wheel with a P/N 868630–7, P/N 868630–8, or FAA approved equivalent third stage turbine wheel.

Note.—The P/N 868630–1, –2, –3, or –4 turbine wheel may be modified to the P/N 868630–7 third stage turbine wheel design by compliance with instructions provided in Garrett Service Bulletin TPE331–72–0327, dated December 14, 1981, or FAA approved equivalent.

(j) Upon next removal of the third stage turbine wheel from all affected engines after February 1, 1983, but not later than February 1, 1984, which have been installed on airplanes operated under Part 121 or Part 135 of the Federal Aviation Regulations, remove the third stage turbine stator P/N 868379–1 and third stage turbine seal P/N 868259–1 and replace with a serviceable P/N 868379–3 or subsequently approved part number stator as prescribed in paragraph 2 of Garrett Service Bulletin TPE331–22–0384, dated November 17, 1982, or FAA approved equivalent, and with a serviceable P/N 868259–2 or subsequently approved part number seal as prescribed in paragraph 2 of Garrett Service Bulletin TPE331–72–0380, dated November 17, 1982, or FAA approved equivalent.

Note.—Operating time and cycles are to be recorded in the Engine Log Book for P/N 868379–3 turbine stators.

(k) Upon next removal of the third stage turbine wheel from all affected engines, after February 1, 1983, which have been installed on airplanes operated exclusively in service other than that defined in paragraph (j) of this AD, remove the third stage turbine seal P/N 868259–1 and replace with a serviceable P/N 868259–2, or subsequently approved part number seal as prescribed in paragraph (j) of this AD.

(l) Within 1800 hours after February 1, 1984, on all affected engines which have been installed on airplanes operated exclusively in service other than that defined in paragraph (j) of this AD, remove the third stage turbine stator P/N 868379–1 and replace with a serviceable P/N 868379–3 or subsequently approved part number stator as prescribed in paragraph (j) of this AD.

(m) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate aircraft to a base for the accomplishment of inspections or modifications required by this AD.

(n) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, Western Aircraft Certification Field Office, FAA Northwest Mountain Region.

This AD supersedes AD 82–10–05, Revision 1, Amendment 39–4457. Amendment 39–4457 became effective September 9, 1982.

This Amendment 39–4528 becomes effective January 7, 1983.

(Secs. 313(a), 601, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11035; February 26, 1979). If this

action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

Issued in Burlington, Massachusetts, on December 22, 1982.

Robert E. Whittington,
Director, New England Region.

[FR Doc. 83-423 Filed 1-7-83; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-CE-39-AD; Amendment 39-4534]

Airworthiness Directives; Piper PA-31 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule superseding existing AD.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 82-08-06, which requires repetitive inspections of the wing flap transmission, and limits the extension angles of the wing flaps and requires related corresponding changes in the published Operating Limitations and Procedures on certain Piper PA-31 series airplanes incorporating a Dukes flap actuating system. The superseding AD continues in effect these requirements, extends the compliance time, requires the installation of a supplementary flap travel stop and incorporates in the AD a previously approved means of compliance. This action reduces the possibility of a large asymmetric wing flap condition and precludes the potential for flap damage on airplanes modified per AD 82-08-06.

DATE: Effective January 11, 1983; Compliance: As prescribed in the body of the AD.

ADDRESSES: Piper Aircraft Corporation Service Bulletins No. 739 dated March 1, 1982, No. 741 dated March 1, 1982, No. 494B dated July 17, 1979, Piper Aircraft Corporation Service Letters No. 958 dated October 25, 1982, and No. 764A dated July 17, 1979, applicable to this AD may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: W. H. Trammell, ACE-130A, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 763-7781.

SUPPLEMENTARY INFORMATION: To prevent asymmetric flap extention and possible loss of airplane control, the FAA issued AD 82-08-06, Amendment 39-4366 (47 FR 16615, 16616), as revised by Amendment 39-4456 (47 FR 39135), applicable to certain Piper PA-31 series airplanes. This AD superseded ADs 76-10-06 and 81-11-03 and incorporated, with changes, the repetitive inspections and flap operations limitations contained therein. A part of the action required by this AD was the installation of Flap Travel Restriction Kits 764 396 or 764 397, as applicable to the specific airplane in accordance with Piper Aircraft Corporation Service Bulletin No. 739.

Subsequent to the issuance of this AD, flap damage occurred because of a malfunction of the flap down limit switch which allowed the flap actuator to continue to apply extending force to the flap after it was against a stop installed on the flap track when incorporating the above kits. As a result of this condition, the manufacturer incorporated an additional flap travel stop on all Kits 764 396 and 764 397 shipped from the factory subsequent to September 9, 1982. Concurrently, it made parts and instructions available in Supplementary Flap Travel Restrictions Kit 764 920L for incorporating this stop on airplanes modified with earlier kits.

In addition, the manufacturer is unable to supply sufficient kits to allow modification of all airplanes prior to the present compliance date of November 1, 1982, for AD 82-08-06.

The FAA has also approved in several instances the installation of a 40:1 gear ratio Dukes wing flap transmission, Piper P/N 489-627, Dukes P/N 1215-00-1(L.H.), Piper P/N 489-428, Dukes P/N 1216-00-1(R.H.) or modification of the existing 20:1 gear ratio wing flap transmission as an equivalent means of compliance with AD 82-08-06. The FAA finds that sufficient interest exists in this means of compliance with the AD to warrant inclusion of this method of compliance in the superseding AD.

Accordingly, since the conditions described herein are likely to exist or develop on other airplanes of the same type design, the FAA is superseding AD 82-08-06 as revised by Amendment 39-4456, applicable to Piper PA-31 series airplanes. The superseding AD continues in effect the provisions of AD 82-08-06, requires installation of the additional flap travel stop if not already incorporated and includes an equivalent means of compliance with this AD which has been already approved for some operators.

Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Piper Aircraft Corporation: Applies to Models PA-31 (S/Ns 31-2 thru 31-7812129), PA-31-300 (S/Ns 31-2 thru 31-511), PA-31-325 (S/Ns 31-7300932 thru 31-7812129), PA-31-350 (S/Ns 31-5001 thru 31-7852171), PA-31T (S/Ns 7400002 thru 31T-7820092, except 31T-7820067), PA-31T1 (S/Ns 31T-7804001 thru 31T-7804011) and PA-31P (S/Ns 31P-1 thru 31P-7730012) airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished. To prevent loss of control due to flap asymmetric conditions caused by failure of the flap extension system, accomplish the following:

a) On Models PA-31 (S/Ns 31-2 thru 31-7812129), PA-31-300 (S/Ns 31-2 thru 31-511), PA-31-325 (S/Ns 31-7300932 thru 31-7812129), PA-31-350 (S/Ns 31-5001 thru 31-7852171) and PA-31P (S/Ns 31P-1 thru 31P-7730012) airplanes:

1. Within 25 hours time-in-service after April 22, 1982, restrict maximum flap extension to 25 degrees by installation of temporary instrument markings and placards and incorporation of pen and ink changes in the applicable "Airplane Flight Manuals" or "Pilot's Operating Handbook and FAA Approved Flight Manual" in accordance with Part I of Piper Service Bulletin No. 739, dated March 1, 1982. The installation of permanent kits prescribed in paragraph a)4 below meets these requirements.

2. Within 100 hours time-in-service after April 22, 1982, and thereafter at intervals not exceeding 500 hours time-in-service, visually inspect the flap flexible drive shaft assemblies for alignment, wear and security of attachment of end fittings to the flexible shaft. Prior to further flight, replace unsatisfactory parts in accordance with Part II of Piper Service Bulletin No. 739, dated March 1, 1982.

3. Within the next 100 hours time-in-service after April 22, 1982, or when last

accomplished under AD 76-10-06 or AD 81-11-03 and thereafter at intervals not exceeding 100 hours time-in-service, visually inspect the wing flap transmission for excessive wear. Prior to further flight, rework or replace this assembly, as necessary, in accordance with "Instructions No. 1" of Piper Service Bulletin 494B dated July 17, 1979.

4. On or before March 31, 1983, install Piper Flap Travel Restrictions and Placard Kit, P/N 764 396 in Model PA-31, PA-31-300, PA-31-325 and PA-31-350 airplanes, P/N 764 397 in Model PA-31P airplanes, and Flap Travel Restriction Supplementary Kit, P/N 764 920L, in accordance with Piper Service Letter 958 dated October 25, 1982, which includes additional stops and modification instructions to preclude the possibility of flap damage.

Note.—Service Letter 958 applies only to those aircraft listed in paragraph a) of this AD which have installed Piper Kit 764 396 or 764 397 with an issue date of March 5, 1982 (820305) in compliance with Piper Service Bulletin 739, Part III, dated March 1, 1982.

All Piper Kits 764 396 and 764 397 shipped from the factory on or after September 9, 1982 will be identified with a revision date of September 21, 1982, (R820921), and will incorporate the supplementary material and instructions referenced in this Service Letter.

The installation of these later kits can be determined by examination of the center flap tracks for presence of a P/N 71887-02 upper flap stop as shown on page 3 of Piper Service Letter 958 dated October 25, 1982.

b) On Model PA-31T (S/Ns 31T-7400002 thru 31T-7520013) airplanes:

1. Within 25 hours time-in-service after April 22, 1982, restrict maximum flap extension to 15 degrees by installation of temporary instrument markings and placards and incorporation of pen and ink changes in the "Pilot's Operating Handbook and FAA Approved Airplane Flight Manual" in accordance with Part I of Piper Service Bulletin No. 741, dated March 1, 1982. The installation of permanent placards and manual revisions prescribed by paragraph b)4 below meets this requirement.

2. Within the next 100 hours time-in-service after April 22, 1982, and thereafter at intervals not exceeding 500 hours time-in-service, visually inspect the flap flexible drive shaft assemblies for alignment, wear and security of attachment of end fittings to the flexible shaft. Prior to further flight, replace unsatisfactory parts in accordance with Part I B, Piper Service Bulletin No. 741, dated March 1, 1982.

3. Within the next 100 hours time-in-service after April 22, 1982, or since last accomplished under AD 76-10-06 or AD 81-11-03 and thereafter at intervals not to exceed 100 hours time-in-service, visually inspect the wing flap transmission for excessive wear. Prior to further flight, rework or replace this assembly as necessary in accordance with "Instructions No. 1" of Piper Service Bulletin No. 494B, dated July 17, 1982.

4. On of before August 1, 1982, install a permanent Autopilot/Flap Operation Placard, Piper P/N 810009-02 and permanent "Pilot's" Operating Handbook and FAA Approved Airplane Flight Manual" revisions incorporating the same information specified in paragraph b)1.

5. Upon installation of Piper Kit 764-398, Wing Flap Transmission Modification Kit, the restrictions and inspections required by paragraphs b) 1 and 2 are no longer required and temporary markings and manual revisions may be removed and the requirements of paragraph c) below become applicable.

c) On Model PA-31T (S/Ns 31T-7520014 thru 31T-7820066, 31T-7820068 thru 31T-7820092) and those airplanes having S/N 31T-7400002 thru 31T-7520013 if Piper Kit 764 398 is installed and Model PA-31T1 (S/Ns 31T-7804001 thru 31T-7804011) airplanes:

1. Within the next 25 hours time-in-service after April 22, 1982, install a Temporary Autopilot/Flap Operating Placard and make temporary changes in the "Airplane Flight Manual" or "Pilot's Operating Handbook and FAA Approved Airplane Flight Manual" in accordance with Part II of Piper Service Bulletin No. 741, dated March 1, 1982. The installation of a permanent placard and manual revisions prescribed by paragraph c)3 below meets these requirements.

2. Within the next 100 hours time-in-service after April 22, 1982, or when last accomplished under AD 76-10-06 or AD 81-11-03 and thereafter at intervals not exceeding 100 hours time-in-service, visually inspect the wing flap transmission for excessive wear. Prior to further flight, rework or replace this assembly as necessary in accordance with "Instructions No. 1" of Piper Service Bulletin 494B, dated July 17, 1979.

3. On or before August 1, 1982, install a permanent Autopilot/Flap Operation Placard, Piper P/N 81169-02 and permanent "Pilot's Operating Handbook and FAA Approved Flight Manual" revisions incorporating the same information specfied in paragraph c)1.

d) Upon submission of substantiating data by an owner or operator, through an FAA Maintenance Inspector, the Manager, Atlanta Aircraft Certification Office, FAA, may adjust the inspection intervals and compliance times specified in this AD.

e) An equivalent method of compliance with this AD when used must be approved by the Manager, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320. The following has been approved as an equivalent method of compliance with paragraphs A1, A2, and A4:

1. Remove wing flap transmissions (20:1 gear ratio):
   Piper P/N 489-425 (L.H.), Dukes P/N 1209-00-1
   Piper P/N 489-426 (R.H.), Dukes P/N 1210-00-1
2. Install transmissions (40:1 gear ratio)
   Piper P/N 489-427 (L.H.), Dukes P/N 1215-00-1
   Piper P/N 489-428 (R.H.), Dukes P/N 1216-00-1 or alternatively:
3. Convert the transmissions to 40:1 gear ratio by use of Piper Kit No. 755 050 or No. 764 398 (Dukes Kit No. 1215-1000). The converted units are then identified as:
   Piper P/N 489-427 (L.H.) Dukes P/N 1215-00-1
   Piper P/N 489-428 (R.H.) Dukes P/N 1216-00-1
4. Remove flexible drive shaft, Piper P/N 486-597 and install flexible drive shaft Piper P/N 486-631.
5. Change the Autopilot/Flap Operation Placard located on the pilot's side window molding to read:
   "OPERATE FLAP CONTROL IN SMALL INCREMENTS TO ASSURE FLAP SYMMETRY. NO FLAP SELECTION WITH AUTOPILOT ENGAGED".
6. Remove red full flap radial position mark on flap position indicator at 25 degrees as required by Part I of Piper Service Bulletin No. 739 dated March 1, 1982.
7. Install a Supplement to the POH which reflects appropriate revisions to the pages and paragraphs listed in Piper Service Bulletin No. 739, dated March 1, 1982, paragraph 6e(1) on pages 10 and 11. Delete the limitations imposed by the 25 degree flap setting and insert those applicable to the 40 degree flap setting. However, retain the instructions for incremental flap extension and retraction. This Supplement must be approved by the Manager, Atlanta Aircraft Certification Office located at the address specified in paragraph (e) of this AD.

Note.—In the event replacement flexible drive shafts are not available for the PA-31, PA-31-300, PA-31-325 and PA-31-350 airplanes, the airplane may be operated with flaps secured in the full-up position provided appropriate performance data is used.

This amendment becomes effective January 11, 1983.

This amendment supersedes AD 82-06-06 (Amendment 39-4389 as revised by Amendment 39-4456).

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.89, Federal Aviation Regulations (14 CFR 11.89)).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on December 27, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-420 Filed 1-7-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASO-59]

Alteration of Control Zone, Birmingham, Alabama

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Birmingham, Alabama, control zone by (1) revoking an arrival extension, (2) correcting the airport geographical coordinates, (3) correcting the name of a navigational aid and redescribing the arrival extension which is predicated upon it, and (4) increasing the size of the basic control zone.

DATES: Effective 0901 GMT, February 17, 1983. Comments must be received on or before January 27, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves increasing the basic radius of the Birmingham control zone from five to six miles and correcting the technical description of the zone and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description and size of the Birmingham, Alabama, control zone so that it will be of adequate size and shape to accommodate Instrument Flight Rule (IFR) aeronautical activities in the vicinity of the airport. The control zone is presently described as a five-mile radius of the airport and includes arrival extensions northeast and southwest of the airport. A six-mile radius zone is required to contain military Category E aircraft while they are executing circling instrument approach procedures to the airport. The southwest extension will no longer be required when the zone is expanded to a six-mile radius area as the airspace involved will be encompassed by the new radius area. The extension to the northeast is predicated upon the Roebuck RBN and this airspace is required for containment of aircraft executing various instrument approach procedures to Birmingham's Runway 23. The name "Roebuck" has been changed to "Roeby" and this change will be reflected in the new description of the control zone and associated arrival extension. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to amend the Birmingham control zone to accommodate the changes outlined above. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and since Category E aircraft are already operating at the airport that good cause exists for making this amendment effective in less than 60 days after its publication in the Federal Register.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, February 17, 1983, as follows:

Birmingham Municipal Airport, AL—Revised

Within a 6-mile radius of Birmingham Municipal Airport (Lat. 33°33'50"N., Long. 86°45'16"W.); within 3-miles each side of the ILS localizer northeast course, extending form the 6-miles radius zone to 8.5 miles northeast of the Roeby RBN.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, threrefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on December 23, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 83-424 Filed 1-7-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-62]

Alteration of Control Zone; Gulfport, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Gulfport, Mississippi, control zone by revoking two arrival extensions which are no longer required. This action will reduce the size of the control zone by approximately 95 square miles.

DATES: Effective 0901 GMT, February 17, 1983. Comments must be received on or before February 1, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves raising the floor of controlled airspace northeast and southwest of the Gulfport-Biloxi Regional Airport from the surface to 700 feet above the surface and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Gulfport, Mississippi, control zone by revoking arrival extensions which are no longer required. Runway 4/22 at the Gulfport-Biloxi Regional Airport has been permanently closed and the instrument approach procedures, which formerly served the runway, have been cancelled. This negates the need for the control zone arrival extensions. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to alter the Gulfport control zone by revoking the extensions which are no longer required. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register**.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, February 17, 1983, as follows:

Gulfport-Biloxi Regional Airport, MS—Revised

Within a 5-mile radius of Gulfport-Biloxi Regional Airport (Lat. 30°24'25"N., Long. 89°04'12"W.) within 3.5 miles each side of Gulfport VORTAC 126° and 319° radials, extending from the 5-mile radius zone to 9.5 miles southeast and northwest of the VORTAC; excluding that portion within the Biloxi, MS, control zone. This control zone is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on December 27, 1982.

Jonathan Howe,

Director, Southern Region.

[FR Doc. 83-422 Filed 1-7-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 82-ACE-22]

Alteration of Transition Area; Russell, Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Russell, Kansas, to provide additional controlled airspace for aircraft executing instrument approach procedures to the Russell, Kansas, Municipal Airport, utilizing the Hays, Kansas, VORTAC as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Airspace and Procedures Section, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance safety, the existing instrument approach procedure to the Russell, Kansas, Municipal Airport, is being modified by changing the 9 DME fix to a 13 DME fix utilizing the Hays, Kansas, VORTAC as a navigational aid. The modification of this instrument approach procedure entails alteration of the transition area at Russell, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On pages 49978 and 49979 of the **Federal Register** dated November 4, 1982, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Russell, Kansas. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, April 14, 1983, by altering the following transition area:

Russell, Kansas

The airspace extending from 700 feet above the surface within a 5-mile radius of the Russell, Kansas Municipal Airport (Latitude 38°52'22"N; Longitude 98°48'48"W); and within 4.5 miles each side of the Hays, Kansas VORTAC 066° radial, extending from the 5-mile radius area to 7.5 miles west of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and § 11.69 of the Federal Aviation Regulations (14 CFR 11.69).

Note.—The FAA has determined that this regulation only involves an established body

of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on December 27, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-421 Filed 1-7-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 95

[Docket No. 23487; Amdt. No. 95-308]

Air Traffic and General Operating Rules; IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 GMT December 23, 1982.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore— (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on December 28, 1982.

John M. Howard,

Manager, Aircraft Programs Division.

BILLING CODE 4910-13-M

FROM	TO	MEA
§95.1001 DIRECT ROUTES-U.S.		
IS ADDED TO READ		
FORNEY, MO VOR	TIGER, MO VOR	2900 MAA-17500
IS AMENDED TO READ IN PART		
KANSAS CITY, MO VORTAC *2900 - MOCA	LINCOLN, NE VORTAC	*3500 MAA-35000
WILLISTON, ND VORTAC VIA ISN VORTAC 340	U.S. CANADIAN BORDER COP, 95 ISN	8500 MAA-17500
IS AMENDED TO DELETE		
CEVIL, MO FIX *2500 - MOCA	FLIPPIN, AR VOR	*3800
CEVIL, MO FIX *2500 - MOCA	WALNUT RIDGE, AR VORTAC	*3800
DOGWOOD, MO VORTAC *2800 - MOCA	CEVIL, MO FIX	*3800
MAPLES, MO VORTAC *2900 - MOCA	CEVIL, MO FIX	*3800
BAHAMA ROUTES		
IS AMENDED TO READ IN PART		
*BASIL, FL FIX *2500 - MRA **1200 - MOCA	MIAMO, FL FIX	**2500
§95.6002 VOR FEDERAL AIRWAY 2		
IS AMENDED TO DELETE		
DICKINSON, ND VORTAC VIA N ALTER.	BISMARCK, ND VOR/DME VIA N ALTER.	4300
BISMARCK, ND VOR/DME VIA N ALTER. *4100 - MRA	*LAKES, ND FIX VIA N ALTER.	3900
LAKES, ND FIX VIA N ALTER. *4500 - MRA	*TOVAR, ND FIX VIA N ALTER.	3900
TOVAR, ND FIX VIA N ALTER. *3200 - MOCA	JAMESTOWN, ND VOR/DME VIA N ALTER.	*3900
JAMESTOWN, ND VOR/DME VIA N ALTER.	FARGO, ND VORTAC VIA N ALTER.	3300
FARGO, ND VORTAC VIA N ALTER. *2900 - MOCA	ALEXANDRIA, MN VORTAC VIA N ALTER	*2500
GOPHER, MN VORTAC VIA N ALTER.	BODJE, WI FIX VIA N ALTER.	3500
BODJE, WI FIX VIA N ALTER.	RODINE, MN VORTAC VIA N ALTER.	3000
RODINE, MN VORTAC VIA S ALTER.	LONE ROCK, WI VORTAC VIA S ALTER.	3000

FROM	TO	MEA
§95.6002 VOR FEDERAL AIRWAY 2—Continued		
BADGER, WI VORTAC VIA S ALTER.	SQUIB, MI FIX VIA S ALTER.	2900
SQUIB, MI FIX VIA S ALTER. *2100 - MOCA	MUSKEGON, MI VORTAC VIA S ALTER.	*2700
MUSKEGON, MI VORTAC VIA S ALTER.	JAKES, MI FIX VIA S ALTER.	2600
JAKES, MI FIX VIA S ALTER.	GRAND RAPIDS, MI VOR VIA S ALTER.	2700
GRAND RAPIDS, MI VOR VIA S ALTER.	LANSING, MI VORTAC VIA S ALTER.	2700
LANSING, MI VORTAC VIA N ALTER.	QUBEE, MI FIX VIA N ALTER.	2900
QUBEE, MI FIX VIA N ALTER.	SALEM, MI VORTAC VIA N ALTER.	2800
BUFFALO, NY VORTAC VIA N ALTER.	ROCHESTER, NY VORTAC VIA N ALTER.	2500
§95.6004 VOR FEDERAL AIRWAY 4		
IS AMENDED TO READ IN PART		
LEXIN, MO FIX *2300 - MOCA	HALLSVILLE, MO VORTAC	*3500
IS AMENDED TO DELETE		
CENTRALIA, IL VORTAC VIA S ALTER.	POCKET CITY, IN VORTAC VIA S ALTER.	2400
POCKET CITY, IN VORTAC VIA N ALTER.	HOLAN, IN FIX VIA N ALTER	2500
HOLAN, IN FIX VIA N ALTER. *4000 - MRA **2000 - MOCA	*CODEY, IN FIX VIA N ALTER.	**3500
CODEY, IN FIX VIA N ALTER. *2000 - MOCA	SACKO, IN FIX VIA N ALTER.	*3500
SACKO, IN FIX VIA N ALTER. *2000 - MOCA	LOUISVILLE, KY VORTAC VIA N ALTER.	2700
LOUISVILLE, KY VORTAC VIA N ALTER.	CLEGG, KY FIX VIA N ALTER.	2900
CLEGG, KY FIX VIA N ALTER.	LEXINGTON, KY VORTAC VIA N ALTER.	2800
LOUISVILLE, KY VORTAC VIA S ALTER. *2200 - MOCA	MCFEE, KY FIX VIA S ALTER.	*2600
MCFEE, KY FIX VIA S ALTER.	LEXINGTON, KY VORTAC VIA S ALTER.	2800
CHARLESTON, WV VORTAC VIA S ALTER.	SWIFT, WV FIX VIA S ALTER.	3000
SWIFT, WV FIX VIA S ALTER.	ELKINS, WV VORTAC VIA S ALTER.	5000
§95.6005 VOR FEDERAL AIRWAY 5		
IS AMENDED TO READ IN PART		
*AWSON, GA FIX *5000 - MRA **5000 - MRA	**NELLO, GA FIX	MAA

FROM	TO	MEA
§95.6005 VOR FEDERAL AIRWAY 5—Continued		
IS AMENDED TO DELETE		
CHATTANOOGA, TN VORTAC VIA E ALTER.	NASHVILLE, TN VORTAC VIA E ALTER.	4000
NASHVILLE, TN VORTAC VIA E ALTER.	BARRY, KY FIX VIA E ALTER.	2700
BARRY, KY FIX VIA E ALTER.	NEW HOPE, KY VORTAC VIA E ALTER.	3000
§95.6007 VOR FEDERAL AIRWAY 7		
IS AMENDED TO READ IN PART		
FORT MYERS, FL VORTAC VIA E ALTER.	BRONK, FL FIX VIA E ALTER.	2500
BRONK, FL FIX VIA E ALTER.	LAKELAND, FL VORTAC VIA E ALTER.	2000
§95.6008 VOR FEDERAL AIRWAY 8		
IS AMENDED TO READ IN PART		
DOYLE, CA FIX	LIMBO, CA FIX	3000
SEAL BEACH, CA VORTAC *2200 - MOCA	AHEIM, CA FIX	*3000
AHEIM, CA FIX *4000 - MRA *4100 - MCA OLLIE FIX, NE BND	*OLLIE, CA FIX	3000
OLLIE, CA FIX	PARADISE, CA VORTAC	5000
LUCER, CA FIX *8000 - MOCA	BULGY, CA FIX	*9000
BULGY, CA FIX	HECTOR, CA VORTAC	9000
DAGGETT, CA VORTAC VIA N ALTER.	LAS VEGAS, NV VORTAC VIA N ALTER.	9800
MORMON MESA, NV VORTAC	SAINT GEORGE, UT VOR/DME NE BND SW BND	12000 9000
SAINT GEORGE, UT VOR/DME	BRYCE CANYON, UT VORTAC	12000
BRYCE CANYON, UT VORTAC VIA N ALTER. *10000 - MRA **12800 - MOCA	*GRIEL, UT FIX VIA N ALTER.	**16000
GRIEL, UT FIX VIA N ALTER. *14000 - MCA SAKES FIX, W BND **12800 - MOCA	*SAKES, UT FIX VIA N ALTER.	**16000
§95.6009 VOR FEDERAL AIRWAY 9		
IS AMENDED TO READ IN PART		
MALDEN, MO VORTAC *2500 - MOCA	FARMINGTON, MO VORTAC	*3000
FARMINGTON, MO VORTAC *2500 - MOCA	GLASS, MO FIX	*3000
GLASS, MO FIX *2100 - MOCA	ARNOL, MO FIX	*3000

FROM	TO	MEA
§95.6013 VOR FEDERAL AIRWAY 13		
IS AMENDED TO READ IN PART		
NASHE, MO FIX *3000 - MRA **2200 - MOCA	*DIZZI, MO FIX	**2700
§95.6014 VOR FEDERAL AIRWAY 14		
IS AMENDED TO READ IN PART		
ADAIR, OK FIX	NEOSHO, MO VORTAC	3000
STOVI, MO FIX *2300 - MOCA	REBEL, MO FIX	*3000
IS AMENDED TO DELETE		
TERRE HAUTE, IN VORTAC VIA S ALTER.	INDIANAPOLIS, IN VORTAC VIA S ALTER.	2700
§95.6015 VOR FEDERAL AIRWAY 15		
IS AMENDED TO READ IN PART		
*PRYOR, OK FIX *2900 - MRA	NEOSHO, MO VORTAC	3000
§95.6018 VOR FEDERAL AIRWAY 18		
IS AMENDED TO READ IN PART		
ROME, GA VORTAC VIA N ALTER. *5000 - MRA	*NELLO, GA FIX VIA N ALTER.	5600
§95.6020 VOR FEDERAL AIRWAY 20		
IS AMENDED TO READ IN PART		
ROME, GA VORTAC VIA N ALTER. *5000 - MRA	*NELLO, GA FIX VIA N ALTER.	5600
§95.6021 VOR FEDERAL AIRWAY 21		
IS AMENDED TO READ IN PART		
SEAL BEACH, CA VORTAC *2200 - MOCA	AHEIM, CA FIX	*3000
OLLIE, CA FIX	PARADISE, CA VORTAC	5000
LUCER, CA FIX *8000 - MOCA	BULGY, CA FIX	*9000
BULGY, CA FIX	HECTOR, CA VORTAC	9000
MORMON MESA, NV VORTAC VIA E ALTER.	SAINT GEORGE, UT VOR/DME VIA E ALTER. NE BND SW BND	12000 9000
SAINT GEORGE, UT VOR/DME VIA E ALTER. *11400 - MCA CEDAR CITY VOR, S BND	*CEDAR CITY, UT VOR VIA E ALTER.	12000

FROM	TO	MEA
§95.6037 VOR FEDERAL AIRWAY 37—Continued		
CEDAR CITY, UT VOR VIA E ALTER.	MILFORD, UT VORTAC VIA E ALTER.	10000
§95.6026 VOR FEDERAL AIRWAY 26		
IS AMENDED TO READ IN PART		
REDWOOD FALLS, MN VORTAC *2500 - MOCA	FARMINGTON, MN VORTAC	*3000
FARMINGTON, MN VORTAC *2400 - MOCA	EAU CLAIRE, WI VORTAC	*3000
IS AMENDED TO DELETE		
REDWOOD FALLS, MN VORTAC VIA S ALTER.	FARMINGTON, MN VORTAC VIA S ALTER.	2800
FARMINGTON, MN VORTAC VIA S ALTER. *2400 - MOCA	EAU CLAIRE, WI VORTAC VIA S ALTER.	*3000
§95.6035 VOR FEDERAL AIRWAY 35		
IS AMENDED TO DELETE		
BLUEFIELD, WV VORTAC VIA E ALTER.	CHARLESTON, WV VORTAC VIA E ALTER.	6000
§95.6036 VOR FEDERAL AIRWAY 36		
IS AMENDED TO READ IN PART		
SAULT STE MARIE, MI VORTAC *2800 - MOCA	U.S. CANADIAN BORDER	*5000
§95.6050 VOR FEDERAL AIRWAY 50		
IS AMENDED TO DELETE		
PAWNEE CITY, NE VORTAC VIA S ALTER.	NEXTE, MO FIX VIA S ALTER.	3000
NEXTE, MO FIX VIA S ALTER.	SAINT JOSEPH, MO VORTAC VIA S ALTER.	2900
§95.6051 VOR FEDERAL AIRWAY 51		
IS AMENDED TO READ IN PART		
*AWSON, GA FIX VIA W ALTER. *5000 - MRA **5000 - MRA	**NELLO, GA FIX VIA W ALTER.	5600

FROM	TO	MEA
§95.6051 VOR FEDERAL AIRWAY 51—Continued		
IS AMENDED TO DELETE		
LIVINGSTON, TN VORTAC VIA W ALTER	NEW HOPE, KY VORTAC VIA W ALTER.	3000
NEW HOPE, KY VORTAC VIA W ALTER.	LOUISVILLE, KY VORTAC VIA W ALTER.	2700
§95.6052 VOR FEDERAL AIRWAY 52		
IS AMENDED TO DELETE		
CENTRAL CITY, KY VORTAC VIA N ALTER.	BRIDY, KY VIA N ALTER	3000
BRIDY, KY VIA N ALTER.	NASHVILLE, TN VORTAC VIA N ALTER.	2700
§95.6061 VOR FEDERAL AIRWAY 61		
IS AMENDED BY ADDING		
PAWNEE CITY, NE VORTAC	GOLDN, MO FIX	3000
§95.6063 VOR FEDERAL AIRWAY 63		
IS AMENDED TO READ IN PART		
HALLSVILLE, MO VORTAC	QUINCY, IL VORTAC	2700
MOLINE, IL VORTAC	DAVENPORT, IA VORTAC	3000
§95.6065 VOR FEDERAL AIRWAY 65		
IS AMENDED BY ADDING		
GOLDN, MO FIX	SAINT JOSEPH, MO VORTAC	2900
§95.6067 VOR FEDERAL AIRWAY 67		
IS AMENDED TO DELETE		
WATERLOO, IA VORTAC VIA E ALTER.	ROCHESTER, MN VOR/DME VIA E ALTER.	3600
§95.6071 VOR FEDERAL AIRWAY 71		
IS AMENDED TO DELETE		
HOT SPRINGS, AR VOR VIA W ALTER *2500 - MOCA	HIDER, AR FIX VIA W ALTER.	*3000
HIDER, AR FIX VIA W ALTER. *3200 - MOCA	ROVER, AR FIX VIA W ALTER.	*5500
ROVER, AR FIX VIA W ALTER. *2500 - MOCA	DANIL, AR FIX VIA W ALTER.	*9500
DANIL, AR FIX VIA W ALTER. *3300 - MRA **3800 - MOCA	*SCRAN, AR FIX VIA W ALTER.	**9500

FROM	TO	MEA
§95.6071 VOR FEDERAL AIRWAY 71—Continued		
SCRAM, AR FIX VIA W ALTER. *3500 - MOCA	CASKS, AR FIX VIA W ALTER.	*6500
CASKS, AR FIX VIA W ALTER. *3500 - MOCA	RAZORBACK, AR VORTAC VIA W ALTER.	*4000
RAZORBACK, AR VORTAC VIA W ALTER.	GAMPS, AR FIX VIA W ALTER.	3000
GAMPS, AR FIX VIA W ALTER. *2700 - MOCA	BILIE, MO FIX VIA W ALTER.	*3300
BILIE, MO FIX VIA W ALTER.	SPRINGFIELD, MO VORTAC VIA W ALTER	3000
§95.6072 VOR FEDERAL AIRWAY 72		
IS AMENDED TO READ IN PART		
RAZORBACK, AR VORTAC	REEDS, MO FIX	3300
§95.6073 VOR FEDERAL AIRWAY 73		
IS AMENDED TO DELETE		
WICHITA, KS VORTAC VIA E ALTER.	WAIVE, KS FIX VIA E ALTER.	3400
WAIVE, KS FIX VIA E ALTER.	SALINA, KS VORTAC VIA E ALTER.	3300
§95.6074 VOR FEDERAL AIRWAY 74		
IS AMENDED TO DELETE		
PIONEER, OK VORTAC VIA N ALTER.	TULSA, OK VORTAC VIA N ALTER.	3000
TULSA, OK VORTAC VIA N ALTER. *2900 - MRA	*PRYOR, OK FIX VIA N ALTER.	2700
PRYOR, OK FIX VIA N ALTER. *2600 - MOCA	SWALL, OK FIX VIA N ALTER.	*5500
SWALL, OK FIX VIA N ALTER.	SHORN, OK FIX VIA N ALTER.	3300
SHORN, OK FIX VIA N ALTER.	FORT SMITH, AR VORTAC VIA N ALTER.	3000
FORT SMITH, AR VORTAC VIA N ALTER.	DRANO, AR FIX VIA N ALTER.	2500
DRANO, AR FIX VIA N ALTER. *3300 - MRA	*SCRAN, AR FIX VIA N ALTER.	2500
SCRAN, AR FIX VIA N ALTER. *3000 - MOCA	BIBBS, AR FIX VIA N ALTER.	*4500
BIBBS, AR FIX VIA N ALTER	LITTLE ROCK, AR VORTAC VIA N ALTER.	3500
PIONEER, OK VORTAC VIA S ALTER.	OKMULGEE, OK VOR VIA S ALTER.	3000
OKMULGEE, OK VOR VIA S ALTER. *2200 - MOCA	AKINS, OK FIX VIA S ALTER.	*2800
AKINS, OK FIX VIA S ALTER.	FORT SMITH, AR VORTAC VIA S ALTER	2500
FORT SMITH, AR VORTAC VIA S ALTER. *4000 - MCA BLIMP FIX, SE BND	*BLIMP, AR FIX VIA S ALTER.	2700

FROM	TO	MEA
§95.6074 VOR FEDERAL AIRWAY 74—Continued		
BLIMP, AR FIX VIA S ALTER. *3500 - MRA **3600 - MOCA	*PARON, AR FIX VIA S ALTER.	**4000
PARON, AR FIX VIA S ALTER.	LITTLE ROCK, AR VORTAC VIA S ALTER.	2500
LITTLE ROCK, AR VORTAC VIA N ALTER.	PINE BLUFF, AR VORTAC VIA N ALTER.	2000
PINE BLUFF, AR VORTAC VIA N ALTER. *1500 - MOCA	GREENVILLE, MS VOR/DME VIA N ALTER.	*2900
GREENVILLE, MS VOR/DME VIA N ALTER. *1700 - MOCA	YAZOO, MS FIX VIA N ALTER.	*3000
YAZOO, MS FIX VIA N ALTER.	JACKSON, MS VORTAC VIA N ALTER.	2000
§95.6081 VOR FEDERAL AIRWAY 81		
IS AMENDED TO READ IN PART		
DENVER, CO VORTAC	GILL, CO VORTAC	7000
GILL, CO VORTAC	HAMER, WY FIX	7900
HAMER, WY FIX	CHEYENNE, WY VORTAC	8000
CHEYENNE, WY VORTAC	VIDEE, WY FIX	8000
VIDEE, WY FIX	ALBIN, WY FIX	7900
ALBIN, WY FIX	SCOTTSBLUFF, NE VORTAC	7800
SCOTTSBLUFF, NE VORTAC	CHADRON, NE VOR	6900
§95.6088 VOR FEDERAL AIRWAY 88		
IS AMENDED TO READ IN PART		
NARCI, OK FIX *3100 - MOCA	WACCO, MO FIX	*6500
DELMA, MO FIX *2200 - MOCA	GLASS, MO FIX	*3500
IS AMENDED TO DELETE		
STEME, MO FIX VIA S ALTER.	FORNEY, MO VOR VIA S ALTER.	3000
FORNEY, MO VOR VIA S ALTER.	VICHY, MO VORTAC VIA S ALTER.	3000
§95.6089 VOR FEDERAL AIRWAY 89		
IS AMENDED TO DELETE		
DENVER, CO VORTAC VIA E ALTER.	GILL, CO VORTAC VIA E ALTER.	7000
GILL, CO VORTAC VIA E ALTER.	HAMER, WY FIX VIA E ALTER.	7900
HAMER, WY FIX VIA E ALTER.	CHEYENNE, WY VORTAC VIA E ALTER.	8000
CHEYENNE, WY VORTAC VIA E ALTER.	VIDEE, WY FIX VIA E ALTER.	8000
VIDEE, WY FIX VIA E ALTER.	ALBIN, WY FIX VIA E ALTER.	7900
ALBIN, WY FIX VIA E ALTER.	SCOTTSBLUFF, NE VORTAC VIA E ALTER.	7800

FROM	TO	MEA
§95.6089 VOR FEDERAL AIRWAY 89—Continued		
SCOTTSBLUFF, NE VORTAC VIA E ALTER	CHADRON, NE VOR VIA E ALTER.	6900
§95.6132 VOR FEDERAL AIRWAY 132		
IS AMENDED TO READ IN PART		
NASHE, MO FIX	SPRINGFIELD, MO VORTAC	*3000
§95.6175 VOR FEDERAL AIRWAY 175		
IS AMENDED TO READ IN PART		
MALDEN, MO VORTAC	BUNKS, MO FIX	*4000
§95.6218 VOR FEDERAL AIRWAY 218—Continued		
IS AMENDED TO DELETE		

FROM	TO	MEA
§95.6089 VOR FEDERAL AIRWAY 89—Continued		
SCOTTSBLUFF, NE VORTAC	CHADRON, NE VOR	
VIA E ALTER.	VIA E ALTER.	6900
§95.6097 VOR FEDERAL AIRWAY 97		
IS AMENDED TO DELETE		
KNOXVILLE, TN VORTAC	MALIN, TN FIX	
VIA E ALTER.	VIA E ALTER.	3800
MALIN, TN FIX	LONDON, KY VORTAC	
VIA E ALTER.	VIA E ALTER.	5200
LONDON, KY VORTAC	LOGIC, KY FIX	
VIA E ALTER.	VIA E ALTER.	3300
LOGIC, KY FIX	FALMOUTH, KY VOR/DME	
VIA E ALTER.	VIA E ALTER.	2800
FALMOUTH, KY VOR/DME	CINCINNATI, OH VORTAC	
VIA E ALTER.	VIA E ALTER.	2700
LEXINGTON, KY VORTAC	GRATZ, KY FIX	
VIA W ALTER.	VIA W ALTER.	2800
GRATZ, KY FIX	CINCINNATI, OH VORTAC	
VIA W ALTER	VIA W ALTER.	2700
§95.6104 VOR FEDERAL AIRWAY 104		
IS AMENDED TO READ IN PART		
U.S. CANADIAN BORDER	MASSENA, NY VORTAC	1600
§95.6116 VOR FEDERAL AIRWAY 116		
IS AMENDED TO READ IN PART		
MACON, MO VORTAC	QUINCY, IL VORTAC	*2700
*2000 - MOCA		
§95.6120 VOR FEDERAL AIRWAY 120		
IS AMENDED TO DELETE		
MASON CITY, IA VORTAC	WATERLOO, IA VORTAC	
VIA N ALTER.	VIA N ALTER.	3000
§95.6129 VOR FEDERAL AIRWAY 129		
IS AMENDED TO READ IN PART		
GENSO, IL FIX	DAVENPORT, IA VORTAC	3000
DUBUQUE, IA VORTAC	QUEST, WI FIX	*3100
*2600 - MOCA		
IS AMENDED TO DELETE		
DUBUQUE, IA VORTAC	WAUKON, IA VORTAC	
VIA W ALTER	VIA W ALTER.	3000
WAUKON, IA VORTAC	RODNE, MN VORTAC	
VIA W ALTER.	VIA W ALTER.	3000

FROM	TO	MEA
§95.6132 VOR FEDERAL AIRWAY 132		
IS AMENDED TO READ IN PART		
NASHE, MO FIX	SPRINGFIELD, MO VORTAC	*3000
*2400 - MOCA		
FORNEY, MO VOR	LENOX, MO FIX	3000
§95.6140 VOR FEDERAL AIRWAY 140		
IS AMENDED TO DELETE		
NASHVILLE, TN VORTAC	GRILL, TN FIX	
VIA S ALTER.	VIA S ALTER.	*3000
*2400 - MOCA		
GRILL, TN FIX	LIVINGSTON, TN VORTAC	
VIA S ALTER	VIA S ALTER	3400
§95.6159 VOR FEDERAL AIRWAY 159		
IS AMENDED TO READ IN PART		
DOGWOOD, MO VORTAC	SPRINGFIELD, MO VORTAC	4000
IS AMENDED TO DELETE		
OMAHA, NE VORTAC	SIOUX CITY, IA VORTAC	
VIA W ALTER	VIA W ALTER	3000
§95.6161 VOR FEDERAL AIRWAY 161		
IS AMENDED TO READ IN PART		
ROCHESTER, MN VOR/DME	GOPHER, MN VORTAC	4800
IS AMENDED TO DELETE		
MASON CITY, IA VORTAC	ROCHESTER, MN VOR/DME	
VIA W ALTER.	VIA W ALTER.	3000
§95.6171 VOR FEDERAL AIRWAY 171		
IS AMENDED TO DELETE		
LOUISVILLE, KY VORTAC	MAIZE, IN FIX	
VIA E ALTER.	VIA E ALTER.	3000
MAIZE, IN FIX	HONOS, IN FIX	
VIA E ALTER.	VIA E ALTER.	*2700
*2100 - MOCA		
HONOS, IN FIX	BLOOMINGTON, IN VORTAC	
VIA E ALTER.	VIA E ALTER.	*2800
*2200 - MOCA		
BLOOMINGTON, IN VORTAC	LEWIS, IN VORTAC	
VIA E ALTER.	VIA E ALTER	*2800
*2100 - MOCA		

FROM	TO	MEA
§95.6175 VOR FEDERAL AIRWAY 175		
IS AMENDED TO READ IN PART		
MALDEN, MO VORTAC	BUNKS, MO FIX	*4000
*2700 - MOCA		
BUNKS, MO FIX	VICHY, MO VORTAC	3000
IS AMENDED TO DELETE		
VICHY, MO VORTAC	JEFFERSON CITY, MO VOR	
VIA W ALTER.	VIA W ALTER.	*2900
*2300 - MOCA		
JEFFERSON CITY, MO VOR	HALLSVILLE, MO VORTAC	
VIA W ALTER	VIA W ALTER	2800
§95.6178 VOR FEDERAL AIRWAY 178		
IS AMENDED BY ADDING		
HALLSVILLE, MO VORTAC	JEFFERSON CITY, MO VOR	2800
JEFFERSON CITY, MO VOR	VICHY, MO VORTAC	*2900
*2300 - MOCA		
IS AMENDED TO DELETE		
FARMINGTON, MO VORTAC	TAMMS, IL FIX	
VIA N ALTER.	VIA N ALTER	3500
TAMMS, IL FIX	CUNNINGHAM, KY VORTAC	
VIA N ALTER.	VIA N ALTER.	2300
FARMINGTON, MO VORTAC	CUNNINGHAM, KY VORTAC	
VIA S ALTER.	VIA S ALTER.	*3000
*2400 - MOCA		
§95.6190 VOR FEDERAL AIRWAY 190		
IS AMENDED TO READ IN PART		
SPRINGFIELD, MO VORTAC	MAPLES, MO VORTAC	3000
§95.6192 VOR FEDERAL AIRWAY 192		
IS AMENDED TO READ IN PART		
TERRE HAUTE, IN VORTAC	INDIANAPOLIS, IN VORTAC	2700
§95.6203 VOR FEDERAL AIRWAY 203		
IS AMENDED TO READ IN PART		
MASSENA, NY VORTAC	U.S. CANADIAN BORDER	*2000
*1500 - MOCA		
§95.6218 VOR FEDERAL AIRWAY 218		
IS AMENDED TO READ IN PART		
GOPHER, MN VORTAC	ELMTS, MN FIX	*4500
*2800 - MOCA		

FROM	TO	MEA
§95.6218 VOR FEDERAL AIRWAY 218—Continued		
IS AMENDED TO DELETE		
CANFA, MN FIX	CHATS, MN FIX	*4500
*2800 - MOCA		
§95.6219 VOR FEDERAL AIRWAY 219		
IS AMENDED TO READ IN PART		
NORFOLK, NE VOR	SIOUX CITY, IA VORTAC	3600
§95.6234 VOR FEDERAL AIRWAY 234		
IS AMENDED TO READ IN PART		
DELMA, MO FIX	GLASS, MO FIX	*3500
*2200 - MOCA		
GLASS, MO FIX	CENTRALIA, IL VORTAC	*3000
*2100 - MOCA		
§95.6253 VOR FEDERAL AIRWAY 253		
IS AMENDED TO READ IN PART		
MC CALL, ID VORTAC	LEWISTON, ID VOR/DME	
	SE BND	12000
	NW BND	*7400
§95.6256 VOR FEDERAL AIRWAY 256		
IS AMENDED BY ADDING		
TULSA, OK VORTAC	PIONEER, OK VORTAC	3000
§95.6275 VOR FEDERAL AIRWAY 275		
IS AMENDED TO READ IN PART		
DAYTON, OH VORTAC	SONIL, MI FIX	*6000
*3000 - MOCA		
SONIL, MI FIX	SALEM, MI VORTAC	*3000
*2300 - MOCA		
§95.6289 VOR FEDERAL AIRWAY 289		
IS AMENDED TO READ IN PART		
HARRISON, AR VOR	DOGWOOD, MO VORTAC	3400
§95.6304 VOR FEDERAL AIRWAY 304		
IS AMENDED TO DELETE		
BORGER, TX VORTAC	BRAKR, OK FIX	
VIA W ALTER	VIA W ALTER.	4800
BRAKR, OK FIX	LIBERAL, KS VORTAC	
VIA W ALTER	VIA W ALTER	*5700
*4700 - MOCA		

FROM	TO	MEA
§95.6307 VOR FEDERAL AIRWAY 307 IS AMENDED TO READ IN PART		
OMAHA, NE VORTAC *3500 - MRA	*DECKA, NE FIX	3000
DECKA, NE FIX	SIOUX CITY, IA VORTAC	3000
§95.6313 VOR FEDERAL AIRWAY 313 IS AMENDED TO READ IN PART		
MALDEN, MO VORTAC	CAPE GIRARDEAU, MO VOR	2300
§95.6316 VOR FEDERAL AIRWAY 316 IS AMENDED TO READ IN PART		
SAULT STE MARIE, MI VORTAC *2800 - MOCA	U.S. CANADIAN BORDER	*5000
§95.6335 VOR FEDERAL AIRWAY 335 IS AMENDED TO READ IN PART		
ARNOL, MO FIX *2100 - MOCA	GLASS, MO FIX	*3000
GLASS, MO FIX *2100 - MOCA	ENGEN, IL FIX	*3500
§95.6341 VOR FEDERAL AIRWAY 341 IS AMENDED TO READ IN PART		
CEDAR RAPIDS, IA VORTAC	DUBUQUE, IA VORTAC	2900
§95.6362 VOR FEDERAL AIRWAY 362 IS AMENDED TO READ IN PART		
MACON, GA VORTAC *3000 - MOCA	NORCROSS, GA VORTAC	*5000 MAA- 7000
NORCROSS, GA VORTAC *5000 - MRA	*NELLO, GA FIX	4900 MAA- 7000
§95.6410 VOR FEDERAL AIRWAY 410 IS ADDED TO READ		
GOPHER, MN VORTAC	EAU CLAIRE, WI VORTAC	3400

FROM	TO	MEA
§95.6411 VOR FEDERAL AIRWAY 411 IS ADDED TO READ		
FARMINGTON, MN VORTAC	ROCHESTER, MN VOR/DME	3000
§95.6412 VOR FEDERAL AIRWAY 412 IS ADDED TO READ		
REDWOOD FALLS, MN VORTAC *2500 - MOCA	FLYING CLOUD, MN VOR/DME	*2800
§95.6413 VOR FEDERAL AIRWAY 413 IS ADDED TO READ		
GOPHER, MN VORTAC	BRAINERD, MN VORTAC	3400
§95.6414 VOR FEDERAL AIRWAY 414 IS ADDED TO READ		
ALEXANDRIA, MN VORTAC *2700 - MOCA	GOPHER, MN VORTAC	*8000
§95.6416 VOR FEDERAL AIRWAY 416 IS ADDED TO READ		
ALEXANDRIA, MN VORTAC	GOPHER, MN VORTAC	5000
§95.6418 VOR FEDERAL AIRWAY 418 IS ADDED TO READ		
GOPHER, MN VORTAC	DODJE, WI FIX	5500
§95.6424 VOR FEDERAL AIRWAY 424 IS AMENDED TO READ IN PART		
NAPOLEON, MO VORTAC	MACON, MO VORTAC	2700
§95.6429 VOR FEDERAL AIRWAY 429 IS AMENDED TO READ IN PART		
CAPE GIRARDEAU, MO VOR	MARION, IL VOR	3000

FROM	TO	MEA
§95.6505 VOR FEDERAL AIRWAY 505 IS AMENDED TO READ IN PART		
DES MOINES, IA VORTAC GUMBO, IA FIX	GUMBO, IA FIX FORT DODGE, IA VERTAC	2700 3000
§95.6506 VOR FEDERAL AIRWAY 506 IS AMENDED TO READ IN PART		
VINTA, OK FIX	NEOSHO, MO VORTAC	3000
§95.6510 VOR FEDERAL AIRWAY 510 IS AMENDED BY ADDING		
DICKINSON, ND VORTAC	BISMARCK, ND VOR/DME	4300
BISMARCK, ND VOR/DME *4100 - MRA	*LAKES, ND FIX	3900
LAKES, ND FIX *4500 - MRA	*TOVAR, ND FIX	3900
TOVAR, ND FIX *3200 - MOCA	JAMESTOWN, ND VOR/DME	*3900
JAMESTOWN, ND VOR/DME	CHAFE, ND FIX	3300
CHAFE, ND FIX	FARGO, ND VORTAC W BND E BND	3300 2700
FARGO, ND VORTAC *2900 - MOCA	ALEXANDRIA, MN VORTAC	*3500
ALEXANDRIA, MN VORTAC	GOPHER, MN VORTAC	3000
GOPHER, MN VORTAC	DODJE, WI FIX	3500
DODJE, WI FIX	NODINE, MN VORTAC	3000
NODINE, MN VORTAC #MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.	LONE ROCK, WI VORTAC	#3000
MUSKEGON, MI VORTAC	JAKES, MI FIX	2600
JAKES, MI FIX	GRAND RAPIDS, MI VOR	2700
GRAND RAPIDS, MI VOR	LANSING, MI VORTAC	2700
LANSING, MI VORTAC	QUBEE, MI FIX	2900
QUBEE, MI FIX	SALEM, MI VORTAC	2800
BUFFALO, NY VORTAC	ROCHESTER, NY VORTAC	2500
§95.6512 VOR FEDERAL AIRWAY 512 IS ADDED TO READ		
POCKET CITY, IN VORTAC	HOLAN, IN FIX	2500
HOLAN, IN FIX *4000 - MRA **2000 - MOCA	*CODEY, IN FIX	**3000
CODEY, IN FIX *2000 - MOCA	SACKO, IN FIX	*3500

FROM	TO	MEA
§95.6512 VOR FEDERAL AIRWAY 512—Continued		
SACKO, IN FIX	LOUISVILLE, KY VORTAC	2700
LOUISVILLE, KY VORTAC	CLEGG, KY FIX	2900
CLEGG, KY FIX	LEXINGTON, KY VORTAC	2800
LEXINGTON, KY VORTAC	NEWCOMBE, KY VORTAC	3000
NEWCOMBE, KY VORTAC	CHARLESTON, WV VORTAC	3000
CHARLESTON, WV VORTAC	SWIFT, WV FIX	3000
SWIFT, WV FIX	ELKINS, WV VORTAC	5000
§95.6513 VOR FEDERAL AIRWAY 513 IS ADDED TO READ		
LIVINGSTON, TN VORTAC	NEW HOPE, KY VORTAC	3000
NEW HOPE, KY VORTAC	LOUISVILLE, KY VORTAC	2700
§95.6514 VOR FEDERAL AIRWAY 514 IS ADDED TO READ		
LOUISVILLE, KY VORTAC	MAIZE, IN FIX	3000
MAIZE, IN FIX *2100 - MOCA	HONOS, IN FIX	*2700
HONOS, IN FIX *2200 - MOCA	BLOOMINGTON, IN VORTAC	*2800
BLOOMINGTON, IN VORTAC *2100 - MOCA	LEWIS, IN VORTAC	*2800
§95.6515 VOR FEDERAL AIRWAY 515 IS ADDED TO READ		
CHATTANOOGA, TN VORTAC	NASHVILLE, TN VORTAC	4000
NASHVILLE, TN VORTAC	BARRY, KY FIX	2700
BARRY, KY FIX *2300 - MOCA	NEW HOPE, KY VORTAC	*3000
NEW HOPE, KY VORTAC	LOUISVILLE, KY VORTAC	2700
§95.6517 VOR FEDERAL AIRWAY 517 IS ADDED TO READ		
KNOXVILLE, TN VORTAC	MALIN, TN FIX	3800
MALIN, TN FIX	LONDON, KY VORTAC	5200
LONDON, KY VORTAC	LOGIC, KY FIX	3300
LOGIC, KY FIX	FALMOUTH, KY VOR/DME	2800
FALMOUTH, KY VOR/DME	CINCINNATI, OH VORTAC	2700
§95.6519 VOR FEDERAL AIRWAY 519 IS ADDED TO READ		
KNOXVILLE, TN VORTAC	TAMPI, TN FIX	3500

FROM	TO	MEA
§95.6540 VOR FEDERAL AIRWAY 540—Continued		
TAMPI, TN FIX	YUMMY, VA FIX	4500
YUMMY, VA FIX	GLADE SPRING, VA VORTAC	6000

FROM	TO	MEA
§95.6532 VOR FEDERAL AIRWAY 532—Continued		
PARON, AR FIX *3600 - MOCA	BLIMP, AR FIX	*4500

FROM	TO	MEA	MAA
§95.7030 JET ROUTE NO. 30 IS AMENDED BY ADDING			
MUSKEGON, MI VORTAC	JAKES, MI FIX	2600	
JAKES, MI FIX	GRAND RAPIDS, MI VOR	2700	
GRAND RAPIDS, MI VOR	LANSING, MI VORTAC	2700	
LANSING, MI VORTAC	QUBEE, MI FIX	2900	
QUBEE, MI FIX	SALEM, MI VORTAC	2800	
BUFFALO, NY VORTAC	ROCHESTER, NY VORTAC	2500	

FROM	TO	MEA
§95.6540 VOR FEDERAL AIRWAY 540—Continued		
TAMPI, TN FIX	YUMMY, VA FIX	4500
YUMMY, VA FIX	GLADE SPRING, VA VORTAC	6000
GLADE SPRING, VA VORTAC	BLUEFIELD, WV VORTAC	6600
§95.6527 VOR FEDERAL AIRWAY 527 IS ADDED TO READ		
HOT SPRINGS, AR VOR	HIDER, AR FIX	3000
HIDER, AR FIX	ROVER, AR FIX	*5500
*3200 - MOCA		
ROVER, AR FIX	DANIL, AR FIX	*9500
*2500 - MOCA		
DANIL, AR FIX	*SCRAN, AR FIX	**9500
*3300 - MRA		
**3800 - MOCA		
SCRAN, AR FIX	CASKS, AR FIX	*6500
*3500 - MOCA		
CASKS, AR FIX	RAZORBACK, AR VORTAC	*4000
*3500 - MOCA		
RAZORBACK, AR VORTAC	GAMPS AR FIX	3000
GAMPS, AR FIX	BILIE, MO FIX	*3300
*2700 - MOCA		
BILIE, MO FIX	SPRINGFIELD, MO VORTAC	3000
§95.6532 VOR FEDERAL AIRWAY 532 IS ADDED TO READ		
LITTLE ROCK, AR VORTAC	*PARON, AR FIX	2500
*3500 - MRA		

FROM	TO	MEA
§95.6532 VOR FEDERAL AIRWAY 532—Continued		
PARON, AR FIX	BLIMP, AR FIX	*4500
*3600 - MOCA		
BLIMP, AR FIX	FORT SMITH, AR VORTAC	2700
FORT SMITH, AR VORTAC	AKINS, OK FIX	2500
AKINS, OK FIX	OKMULGEE, OK VOR	*2800
*2200 - MOCA		
OKMULGEE, OK VOR	PIONEER, OK VORTAC	3000
PIONEER, OK VORTAC	WICHITA, KS VORTAC	3400
WICHITA, KS VORTAC	WAIVE, KS FIX	3400
WAIVE, KS FIX	SALINA, KS VORTAC	3300
§95.6534 VOR FEDERAL AIRWAY 534 IS ADDED TO READ		
LITTLE ROCK, AR VORTAC	BIBBS AR FIX	3500
BIBBS AR FIX	*SCRAN, AR FIX	**4500
*3300 - MRA		
**3000 - MOCA		
SCRAN, AR FIX	FORT SMITH, AR VORTAC	2500
§95.6540 VOR FEDERAL AIRWAY 540 IS ADDED TO READ		
CUNNINGHAM, KY VORTAC	TAMMS, IL FIX	2300
TAMMS, IL FIX	FARMINGTON, MO VORTAC	3500

FROM	TO	MEA	MAA
§95.7030 JET ROUTE NO. 30			
IS AMENDED BY ADDING			
FARMINGTON, MN VORTAC	NODINE, MN VORTAC	18000	45000
§95.7058 JET ROUTE NO. 58			
IS AMENDED TO READ IN PART			
WILSON CREEK, NV VORTAC	MILFORD, UT VORTAC	18000	45000
MILFORD, UT VORTAC	FARMINGTON, NM VORTAC	18000	45000
§95.7107 JET ROUTE NO. 107			
IS AMENDED TO READ IN PART			
MILFORD, UT VORTAC	ROCK SPRINGS, WY VORTAC	18000	45000
ROCK SPRINGS, WY VORTAC	CASPER, WY VORTAC	#18000	45000
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE			
CASPER, WY VORTAC	DUPREE, SD VORTAC	18000	45000
DUPREE, SD VORTAC	PEMBINA, ND VORTAC	21000	45000
§95.7113 JET ROUTE NO. 113			
IS AMENDED TO READ IN PART			
DUBUQUE, IA VORTAC	GOPHER, MN VORTAC	18000	45000
§95.7149 JET ROUTE NO. 149			
IS AMENDED TO READ IN PART			
BICOL, WV FIX	HACKS, WV FIX	27000	45000

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
V-210			
IS AMENDED BY ADDING			
POMONA, CA VORTAC	HECTOR, CA VORTAC	16	POMONA

[FR Doc. 83-428 Filed 1-7-83; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 97

[Docket No. 23484; Amdt. No. 1233]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

EFFECTIVE DATE: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591: telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory descriptions of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Material incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendments also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendment may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for

Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Standard instrument approaches, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

Effective February 17, 1983

Camden, AR—Harrell Field, VOR/DME Rwy 18, Amdt. 3
Camden, AR—Harrell Field, VOR/DME Rwy 36, Amdt. 4
Needles, CA—Needles, VOR–A, Amdt. 2
Augusta, GA—Bush Field, VOR–A, Amdt. 20
Augusta, GA—Daniel Field, VOR–B, Amdt. 14
Thomson, GA—Thomson-McDuffie County, VOR/DME Rwy 27, Amdt. 1
Champaign-Urbana, IL—University of Illinois-Williard, VOR Rwy 4, Amdt. 8
Champaign-Urbana, IL—University of Illinois-Williard, VOR/DME Rwy 22, Amdt. 5
Chicago/Wheeling, IL—Pal-Waukee, VOR Rwy 16, Amdt. 18
Monmouth, IL—Monmouth Muni, VOR–A, Amdt. 2
Houma, LA—Houma-Terrebonne, VOR Rwy 12, Amdt. 1
Houma, LA—Houma-Terrebonne, VOR/DME Rwy 12, Amdt. 1, cancelled
Houma, LA—Houma-Terrebonne, VOR/DME Rwy 30, Amdt. 8
Ashtabula, OH—Ashtabula County, VOR Rwy 8, Amdt. 6
Ashtabula, OH—Ashtabula County, VOR/DME Rwy 26, Amdt. 5
Bucyrus, OH—Port Bucyrus-Crawford County, VOR Rwy 22, Amdt. 1
Elyria, OH—Elyria, VOR–A, Amdt. 7
Mansfield, OH—Mansfield Lahm Muni, VOR Rwy 14, Amdt. 9
Mansfield, OH—Mansfield Lahm Muni, VOR Rwy 32, Amdt. 2
Middlefield, OH—Geauga County, VOR–A, Amdt. 5
Mt. Gilead, OH—Morrow County, VOR–A, Amdt. 1
Norwalk, OH—Norwalk-Huron County, VOR–A, Amdt. 1
Sandusky, OH—Griffing Sandusky, VOR Rwy 27, Amdt. 4
Willard, OH—Willard, VOR–A, Amdt. 3
Knoxville, TN—Mc Ghee Tyson, VOR Rwy 22L, Amdt. 3
Knoxville, TN—Mc Ghee Tyson, VOR Rwy 22R, Amdt. 5
Knoxville, TN—Mc Ghee Tyson, VOR/DME Rwy 4R, Amdt. 3
Knoxville, TN—Knoxville Downtown Island, VOR/DME–B, Amdt. 2
Sevierville, TN—Sevier-Gatlinburg, VOR/DME Rwy 10, Amdt. 3
San Antonio, TX—Stinson Muni, VOR Rwy 32, Amdt. 12

Effective December 23, 1982

Pittsburgh, PA—Greater Pittsburgh Intl, VOR Rwy 28L/C, Amdt. 1

Effective December 22, 1982

St. Louis, MO—Weiss, VOR–A, Amdt. 3

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

Effective February 7, 1983

Anniston, AL—Anniston-Calhoun County, LOC Rwy 5, Amdt. 8
Petersburg, AK—Petersburg, LDA/DME–D, Amdt. 4
Kailua-Kona, HI—Ke-ahole, LOC BC Rwy 35, Amdt. 4
Champaign-Urbana, IL—University of Illinois-Willard, LOC BC Rwy 13, Amdt. 5
Somerset, KY—Somerset-Pulaski County, SDF Rwy 4, Amdt. 1
Mansfield, OH—Mansfield Lahm Muni, LOC BC Rwy 14, Amdt. 3
Duncan, OK—Halliburton Field, LOC BC Rwy 17, Original
Knoxville, TN—Knoxville Downtown Island, LOC Rwy 26, Amdt. 1
Morristown, TN—Moore-Murrell, SDF Rwy 5, Amdt. 1

3. By amending § 97.27 NDB/ADR SIAPs identified as follows:

Effective February 17, 1983

Anniston, AL—Anniston-Calhoun County, NDB Rwy 5, Amdt. 14
Camden, AR—Harrell Field, NDB Rwy 18, Amdt. 7
Malvern, AR—Malvern Muni, NDB Rwy 21, Original
Rialto, CA—Rialto Muni-Miro Field, NDB–A, Amdt. 3
Augusta, GA—Bush Field, NDB Rwy 17, Amdt. 12
Augusta, GA—Bush Field, NDB Rwy 35, Amdt. 25
Thomson, GA—Thomson-McDuffie County, NDB Rwy 27, Amdt 3
Champaign-Urbana, IL—University of Illinois-Willard, NDB Rwy 31, Amdt. 8
Savanna, IL—Franklin U. Stransky Memorial, NDB Rwy 14, Original, cancelled
Somerset, KY—Somerset-Pulaski County, NDB Rwy 4, Amdt. 1
Detroit, MI—Detroit-Metropolitan Wayne County, NDB Rwy 21R, Amdt. 9, cancelled
Detroit, MI—Detroit-Metropolitan Wayne County, NDB Rwy 21C, Amdt. 10, cancelled
Cleveland, OH—Cleveland-Hopkins Intl, NDB Rwy 23L, Amdt. 1

Cleveland, OH—Cleveland-Hopkins Intl, NDB Rwy 23R, Amdt. 1
Columbus, OH—Bolton Fld, NDB Rwy 4, Amdt. 5
Mansfield, OH—Mansfield Lahm Muni, NDB Rwy 32, Amdt. 7
Wauseon, OH—Fulton County, NDB Rwy 27, Amdt. 5
Aiken, SC—Aiken Muni, NDB Rwy 24, Amdt. 4
Jacksboro, TN—Campbell County, NDB Rwy 23, Amdt. 1
Knoxville, TN—McGhee Tyson, NDB Rwy 4L, Amdt. 2
Knoxville, TN—McGhee Tyson, NDB Rwy 4R, Amdt. 2
Morristown, TN—Moore-Murrell, NDB Rwy 5, Amdt. 1

Effective December 17, 1982

Madison, SD—Madison Muni, NDB Rwy 14, Amdt. 3

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

Effective February 17, 1983

Valdez, AK—Valdez No. 2, MLS/STOL-1 Rwy 6, Original
Miami, FL—Miami Intl, ILS Rwy 9R, Amdt. 5
Augusta, GA—Bush Field, ILS Rwy 17, Amdt. 4
Augusta, GA—Bush Field, ILS Rwy 35, Amdt. 24
Champaign-Urbana, IL—University of Illinois-Williard, ILS Rwy 31, Amdt. 9
Chicago/Wheeling, IL—Pal-Waukee, ILS Rwy 16, Amdt. 4
Detroit, MI—Detroit Metropolitan Wayne County, ILS Rwy 21R, Amdt. 18
Cleveland, OH—Cleveland-Hopkins Intl, ILS Rwy 23L, Amdt. 9
Columbus, OH—Bolton Fld, ILS Rwy 4, Amdt. 3
Mansfield, OH—Mansfield Lahm Muni, ILS Rwy 32, Amdt. 10
Knoxville, TN—McGhee Tyson, ILS Rwy 4L, Amdt. 5
Knoxville, TN—McGhee Tyson, ILS Rwy 22R, Amdt. 7

Effective December 23, 1982

Pittsburgh, PA—Greater Pittsburgh Intl, ILS Rwy 10L, Amdt. 20
Pittsburgh, PA—Greater Pittsburgh Intl, ILS Rwy 10R, Amdt. 1
Pittsburgh, PA—Greater Pittsburgh Intl, ILS Rwy 28L, Amdt. 1
Pittsburgh, PA—Greater Pittsburgh Intl, ILS Rwy 28R, Amdt. 2
Pittsburgh, PA—Greater Pittsburgh Intl, ILS Rwy 32, Amdt. 5
Norfolk, VA—Norfolk Intl, ILS Rwy 23, Amdt. 4

Effective December 21, 1982

Auburn-Lewiston, ME—Auburn-Lewiston Muni, ILS Rwy 4, Amdt. 1

5. By amending § 97.31 RADAR SIAPs identified as follows:

Effective February 17, 1983

Augusta, GA—Bush Field, RADAR-1, Amdt. 8
Augusta, GA—Daniel Field, RADAR-1, Amdt. 4
Champaign-Urbana, IL—University of Illinois-Willard, RADAR-1, Amdt. 4
Mansfield, OH—Mansfield Lahm Muni, RADAR-1, Amdt. 1
Knoxville, TN—McGhee Tyson, RADAR-1, Amdt. 20

Note.—The FAA published an amendment in Docket No. 23456, Amdt. No. 1231 to Part 97 of the Federal Aviation Regulations (Vol. 47 FR No. 239 page 55861; dated December 13, 1982) under section 97.31 effective January 20, 1983, which is hereby amended as follows: St. Louis, Mo—Lambert-St. Louis Intl, RADAR-1, Amdt. 28 cancellation is rescinded. St. Louis, Mo—Lambert-St. Louis Intl, RADAR-1, Amdt. 28 remains in effect.

6. By amending § 97.33 RNAV SIAPs identified as follows:

Effective February 17, 1983

Augusta, GA—Daniel Field, RNAV Rwy 10, Amdt. 4
Ashtabula, OH—Ashtabula County, RNAV Rwy 20, Amdt. 5
Mansfield, OH—Mansfield Lahm Muni, RNAV Rwy 23, Amdt. 3
Jacksboro, TN—Campbell County, RNAV-A, Amdt. 2

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on December 31, 1982.

John M. Howard,

Manager, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

[FR Doc. 83-419 Filed 1-7-83; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 419

Games of Chance in the Food Retailing and Gasoline Industries; Petition for Partial Exemption From Advertising Disclosure Provision, 419.1(b)

AGENCY: Federal Trade Commission.

ACTION: Rule related notice.

SUMMARY: This document grants a temporary partial exemption from § 419.1(b), which prohibits certain acts or practices in connection with the advertising of games of chance. The Commission believes that it is in the public interest to grant a temporary industry-wide exemption from the operation of paragraph 1(b) and permit all marketers and users of games of chance to use broadcast media without the necessity of disclosing full prize and odds-of-winning information. The exemption will remain in effect pending Commission review of the Trade Regulation Rule Relating to Games of Chance to determine whether or not the Rule should be permanently amended.

DATE: The exemption shall become effective January 10, 1983.

FOR FURTHER INFORMATION CONTACT: Noble F. Jones, Consumer Protection Specialist, Federal Trade Commission, Cleveland Regional Office, Suite 500, The Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114. Telephone: (216) 522-4207.

SUPPLEMENTARY INFORMATION: On August 19, 1969, the Federal Trade Commission published, at 34 FR 13,302, the Trade Regulation Rule Relating to Games of Chance in the Food Retailing and Gasoline Industries. On August 10, 1981, the Commission received a petition from the American Advertising Federation, the National Association of Broadcasters, and Telecom Productions, Inc., requesting an exemption from the disclosure requirements of paragraph 1(b) of the Trade Regulation Rule for Games of Chance.

The Commission is temporarily exempting all marketers and users of games of chance subject to the Rule from the necessity of disclosing full prize and odds-of-winning information in radio and television advertising. The Trade Regulation Rule for Games of Chance in the Food Retailing and Gasoline Industries, 16 CFR Part 419, was promulgated in 1969. The advertising provision (16 CFR 419.1(b)) currently mandates that all advertisements clearly and conspicuously disclose:

(1) The exact number of prizes in each category or denomination to be made available during the game program and the odds of winning each such prize made available;

(2) The geographic area covered by the game;

(3) The total number of retail outlets participating in the game; and

(4) The scheduled termination date of the game.

The petition filed on behalf of the American Advertising Federation, the National Association of Broadcasters, and Telecom Productions, Inc., requests that marketers and users of games-of-chance promotions be exempted from the necessity of disclosing the full prize and odds-of-winning information in radio and television advertising. The petitioners believe that the Rule unfairly discriminates by requiring the full disclosures for games run by supermarkets and retail gasoline stations, yet other retail establishments involved in identical chance promotions are under no obligation to make such disclosures. Additionally, the petition argues that, because of the requirement to disclose visual and audio information simultaneously in a clear and conspicuous manner, the Commission's 1970 *Enforcement Policy Statement in Regard to Clear and Conspicuous Disclosure in Television Advertising* virtually forecloses the use of television as a medium for game advertising which is subject to the Trade Regulation Rule.

Based on arguments raised in the petition and an examination of the original rulemaking record, the Commission is at this time persuaded to grant a temporary industry-wide exemption from the advertising disclosure provisions of 16 CFR Part 419, and, further, to initiate a review of § 419.1(b) to determine whether or not it should be permanently amended. The Commission has also determined not to receive comments on the granting of the exemption under 5 U.S.C. 553(b) and 553(c) because to do so would require the companies involved to sustain the very delay and competitive injury from which they seek relief. The effective date of the exemption is the date of publication of this Notice. 5 U.S.C. 553(d).

Accordingly, all marketers and users of games of chance covered by the Rule are temporarily exempted from disclosing full odds-of-winning and prize information in broadcast media advertisements. The exemption is only for broadcast media, and all marketers and users are still bound by the disclosure requirements which apply to media other than broadcast media.

The petition requesting the exemption will be available for public inspection in the Public Reference Room, Room 130, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

List of Subjects in 16 CFR Part 419

Advertising, Foods, Games, Gasoline, Trade practices.

By direction of the Commission.

Issued: December 2, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 83-000 Filed 1-6-83; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 16

Commercial Categories for Option Traders

AGENCY: Commodity Futures Trading Commission.

ACTION: Rule related notice.

SUMMARY: On August 27, 1982, the Commission published in the **Federal Register** notification of the availability of a list of occupational categories. 47 FR 37880 (August 27, 1982). This list forms a basis from which the Commission will measure commercial participation in its pilot program for domestic exchange traded commodity options through marketwide surveys of option customers' accounts. Futures commission merchants and members of contract markets are required under Commission Rule 1.37(a), 17 CFR 1.37(a) (1982), to record for each option customer account which they carry an appropriate occupation category from a list of such categories set forth by the Commission and a symbol indicating whether the option customer is commercial or noncommercial. Due to the concerns of a number of FCMs, the Commission has determined to revise its list of occupational categories as originally promulgated.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Associate Director, Market Surveillance Section, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION: The Commission has revised its list of occupational categories for determining commercial participation in its pilot program for options to be as follows:

Commodity	Occupational categories
Sugar	1. Producer. 2. Merchant or dealer. 3. Refiner. 4. Manufacturer or processor. 5. Other commercial.
Gold	6. Producer. 7. Refiner. 8. Dealer. 9. Commercial end user. 11. Other commercial.
Heating oil	12. Refiner. 13. Distributor. 14. End user.
Financial instruments	15. Other commercial. 16. Savings and loan, mortgage bank and thrift institutions. 17. Commercial Bank. 18. Insurance Company. 19. Pension and Retirement Fund. 20. Mutual Fund. 21. Broker/Dealer. 22. Foundation and Endowment. 23. Other Commercial.

This list reflects the following changes to the original list published by the Commission on August 27, 1982:

1. There are no longer separate categories for both options on bond futures and options on stock index futures. A single list of categories will apply to options traded on any financial instrument futures.

2. The occupation list for options on financial futures has been revised to include a category for savings and loans, mortgage banks and thrift institutions. In addition, the category "Bank" has been changed to "Commercial Bank," and the category "Government Entity" has been deleted.

3. For options on gold, the category "Miner" has been changed to "Producer," and the categories "Manufacturer" and "Retail Gold Merchant" combined into a single category entitled "Commercial End User."

Issued by the Commission in Washington, D.C., on January 4, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-000 Filed 1-7-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 625 and 655

[FHWA Docket Nos. 79-35, 79-37, and 80-10]

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices; Corollary Amendment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; Amendments to the Manual on Uniform Traffic Control Devices.

SUMMARY: This document contains amendments to the Manual on Uniform Traffic Control Devices (MUTCD) which are being adopted by the Federal Highway Administrator for inclusion therein and a corollary Code of Federal Regulations amendment. The MUTCD is

incorporated by reference in the design standards for Federal-aid highways in 23 CFR Part 625. It is also recognized in Part 655 as the national standard for traffic control devices on all public roads. The amendments affect various parts of the MUTCD and are intended to expedite traffic, improve safety and provide a more uniform application of highway signs, signals, and markings.

DATES: Effective February 9, 1983. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 1, 1982, and the amendments are approved as of February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Partlow, Office of Traffic Operations, (202) 426-0411, or Mr. Lee J. Burstyn, Office of the Chief Counsel, (202) 426-0754, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The MUTCD is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($20.00).

This document contains the dispositions of requests for changes in the MUTCD which were received or orignated by the FHWA and published as notices of proposed amendments on January 24, 1980, under FHWA Docket No. 79-35 (45 FR 5750) and on February 4, 1982, under FHWA Docket No. 79-37, Notice 2 (47 FR 5238). One request, No. IV-21 was published as an advance notice on June 19, 1980, under Docket No. 80-10 (45 FR 41600). The FHWA had previously reviewed the proposed amendments and provided recommendations for their disposition in the notices. Comments and recommendations from the National Advisory Committee on Uniform Traffic Control Devices (NACUTCD) were also included in the previous notices.

These amendments are being processed in accordance with the informal rulemaking procedure of the Administrative Procedure Act (5 U.S.C. 553) and the Department of Transportation's regulatory policies and procedures.

Each request is assigned an identification number which indicates, by Roman numeral, the primary organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received.

A total of 183 responses were received in the dockets for the two notices. All but four of the responses were from highway agencies, technical associations or business entities.

Based upon a review of the comments received in response to the notices, the FHWA is amending the MUTCD by adopting the following changes:

1. Request II-4—Placement of Warning Signs
2. Request II-12—CHANNEL 9 MONITORED Sign
3. Request II-26—Application of Advance Street Name Signs
4. Request II-27—Prioritized Listing of Basic Sign Groups
5. Request II-29—Application of Winding Road Sign
6. Request II-36—Advance Rest Area Signs
7. Request III-7—Object Markers
8. Request III-16—Permissive Use of Wrong-Way Pavement Marking Arrows
9. Request III-18—Mandatory Marking of Interchange Ramps
10. Request Sg-96—Pedestrian WALK Color
11. Request IV-21—Required Location of Traffic Signals
12. Request VI-11—Reflectorization of Signs
13. Request VI-12—Color of Reflectorized Material for Cones
14. Request VI-13—Advance Warning Flashing Arrow Panels
15. Request VI-15—Use of Street Name Signs With Detour Signs
16. Request VI-16—Use of DETOUR ENDS Sign
17. Request VIII-2—Warning Signs on Roads Parallel to Railroads
18. Request VIII-5—Use of STOP Signs at Railroad-Highway Grade Crossings
19. Request IX-2—Bike Parking Sign

Advanced copies of the actual text of the changes to the MUTCD for all of these requests will be distributed to everyone currently appearing on the FHWA mailing list for MUTCD matters. Those wishing to be added to the mailing list and receive copies of the text changes should write to the Federal Highway Administration, Office of Traffic Operations, 400 Seventh Street, SW., Washington, D.C. 20590. Subscribers to the MUTCD will receive loose leaf text changes automatically from the Government Printing Office as part of the subscription service for which they have already paid. The following summarizes each approved request and the comments received with respect thereto:

1. Request II-4—Placement of Warning Signs

This amendment revises Section 2C-3 of the MUTCD to provide more specific guidance on the placement of warning signs, relating the prevailing speed and conditions to warning sign location. Seventy-five percent of the respondents were opposed to adoption of this request. Reasons cited were: The possibility of increased liability, the table would restrict engineering judgment, or the table is not applicable to the urban situation. Those in favor of the amendment cite the proposal as providing better information and guidance for those agencies who have not developed their own guidance.

To mitigate the concerns of those in opposition, additional language has been added to indicate that the table and accompanying text is an aid for warning sign placement that should be used with engineering judgment.

This amendment will not impose any additional costs, but provides additional guidance in locating warning signs.

2. Request II-12—CHANNEL 9 MONITORED Sign

This amendment revises Section 2D-46 and 2F-33 of the MUTCD to standardize the sign used to inform motorists that the citizen band emergency channel is monitored by responsible agencies. The present use of various formats for this type of signing and the increasing use of signs for this purpose has demonstrated the need for standardization in order to heighten the recognition potential and increase the effectiveness of the message by establishing and maintaining sign uniformity.

Fifty percent of the respondents to this request opposed adoption, primarily because the need for such signing was questioned or that the proposed criterion for signing was too restrictive. The FHWA has changed the criterion to include monitoring agencies designated by an official governmental agency. This change will satisfy much of the expressed concern.

This amendment will impose some additional costs for nonconforming jurisdictions to come into compliance. A 5-year transition period is provided to minimize the impact of the cost by accommodating normal replacement schedules.

3. Request II-26—Application of Advance Street Name Signs

This amendment revises Section 2D-39 of the MUTCD to permit the installation of advance street name signs below the Stop Ahead, Yield Ahead, Signal Ahead, etc., signs on intersection approaches. It eliminates the need for independent sign supports in the applicable cases, thereby reducing costs and roadside hazards. Eighty-two

percent of the respondents to this request favored adoption. Most of those opposing the request commented that the proposed use might detract from the message of the warning sign.

This amendment will not impose any additional costs.

4. Request II–27—Prioritized Listing of Basic Sign Groups

This amendment revises Section 2A–4 of the MUTCD to provide guidance for establishing the priority of sign placement in areas where the number of signs that may practically be installed is limited. Additional guidance on prioritizing signs will be included in the Traffic Control Devices Handbook.[1] Over 80 percent of the respondents to this request favored adoption.

This amendment will not impose any additional costs and should improve efficiency in selection and effectiveness of signs.

5. Request II–29—Application of Winding Road Sign

This amendment revises Section 2C–8 of the MUTCD to permit the use of the Winding Road sign (W1–5) to warn of a series of three or more curves in lieu of installing a series of Reverse Curve or Reverse Turn signs. All of the responses to this proposal were favorable.

This amendment will not impose any additional costs, but will encourage cost reduction by decreasing the number of signs used on winding sections of road.

6. Request II–36—Advance Rest Area Signs

This amendment revises Sections 2E–38 and 2F–35 of the MUTCD to encourage and support the installation of informational signs in the interest of highway users, and provides guidance on advance signing for rest areas. All but two of the respondents to this proposal favored adoption.

This amendment will not impose any additional costs.

7. Request III–7—Object Markers

The MUTCD has permitted the use of both white and black, and yellow and black object markers since 1971. This amendment revises Sections 3C–1 and 3C–2 of the MUTCD to phase out the use of black and white object markers. Permitting two different warning signs for the same purpose is neither necessary nor desirable. The NACUTCD reviewed this issue and recommended that, since the Type 3 object marker is a warning device, it should conform to the standard color code of black and yellow established in the MUTCD for warning devices. The FHWA concurs with this recommendation. Uniformity of design and use of a warning device should lead to easier recognition by motorists thereby improving safety, and should reduce costs by reducing sign inventories.

Although 75 percent of the respondents to this request agreed with the recommendation to approve Request III–7—Object Markers, a number objected that the time allowed for compliance was not adequate. A compliance date of December 31, 1984, was recommended in the notice. The commenters pointed out that some highway agencies have large inventories of white and black object markers and that the useful service life of many white and black object markers now installed will extend beyond the recommended compliance date. In consideration of these comments, a 5-year period for compliance is provided.

This amendment will impose some additional costs; however, the extended date for compliance should provide ample mitigation.

8. Request III–16—Permissive Use of Wrong-Way Pavement Markings Arrows

Since research data concerning the effectiveness of wrong-way pavement marking arrows is inconclusive, the requirement for the use of the markings is being changed to an advisory use and Sections 2E–41 and 3B–11 of the MUTCD are revised accordingly. Almost 85 percent of the respondents favored the amendment. The three respondents opposing the change cited the inconclusiveness of the research and the severity of wrong-way accidents as justification for retaining the mandate. The FHWA believes further evidence of effectiveness is necessary to justify mandatory use.

This change will not impose any additional costs.

9. Request III–18—Mandatory Marking of Interchange Ramps

In order to adjust the pavement marking standards to current accepted practices in the field, this amendment revises Section 3B–11 of the MUTCD to provide for the use of channelizing lines and extension of the dashed lines for parallel deceleration lanes at exit ramps. About 70 percent of the respondents to this request favored adoption. Those opposing the request commented primarily that this type of marking is not needed at all exit ramps and that the proposal limits the use of engineering judgment.

This amendment will impose virtually no additional costs on highway agencies since most exit ramps are already marked in this manner. Exits not already so marked may be brought into conformity during routine pavement marking operations.

10. Request Sg–06—Pedestrian WALK Color

This amendment revises Sections 4D–4 and 7D–23 of the MUTCD to delete the word "lunar" from the color description "lunar white" in the MUTCD thereby allowing the colors lunar white, clear white, or white to be used for pedestrian WALK indications after appropriate standards for these colors have been adopted. The proposal also recommended deletion of the reference to the Institute of Transportation Engineers (ITE) Standard for Adjustable Face Pedestrian Signal Heads, 1975, which contains the standards for the color lunar white. All respondents to this request favored deleting the word "lunar". However, concern was expressed that deletion of the reference to the ITE standard would eliminate the only standard in the MUTCD for the WALK indication color until appropriate new standards for the three proposed colors are adopted. In its response to the docket, the ITE commented that it will incorporate standards for the necessary color limits in the next revision of the ITE Standard for Adjustable Face Pedestrian Signal Head if the proposed change, that is, deletion of the word "lunar", is adopted. As a result of these comments, the reference to the ITE standard is amended in the MUTCD to accommodate both the current standard and the revised ITE standard when adopted.

This amendment does not require any changes in existing pedestrian signal installations or impose any costs on highway agencies.

11. Request IV–21—Required Location of Traffic Signals

This amendment revising Sections 4B–8 and 4B–13 of the MUTCD was originally published in an advance notice of proposed amendments on June 19, 1980, under FHWA Docket No. 80–10 (45 FR 41600). FHWA has decided to publish the amendment in final form for the following reasons: (1) The proposal was published in sufficient detail in the advance notice to elicit specific comments, (2) the amendment to the MUTCD accurately reflects comments received, (3) the amendment is virtually unchanged from the proposal and (4) the proposal was reviewed in detail by the National Committee on Uniform Traffic

[1] To be available form purchase in 1983 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

Control Devices where it underwent considerable scrutiny. Most of the 31 comments in the public docket, including that of the National Transportation Safety Board were supportive and fully considered. It imposes no mandatory action, and several jurisdictions have already made investments in the installations which are permitted under this proposal, but which, in its absense would place those jurisdictions in technical nonconformity with the current standard. Other jurisdictions are prepared to make installations according to the now permitted standard, but have been delaying any action pending final adoption. This is causing unnecessary inconvenience, economic loss and hazard exposure. The amendment permits an alternative deployment of signals at intersections by providing for the use of 12-inch lenses in all signal installations between 120 and 150 feet beyond the stop line in lieu of the requirement of an additional near-side signal. The near-side signal may still be used, but is no longer required when the nearest signal face is more than 120 feet and less than 150 feet beyond the stop line.

12. Request VI–11—Reflectorization of Signs

This amendment revises Sections 6B–2 and 2A–18 of the MUTCD to prohibit the use of inferior methods of providing sign reflectorization by requiring the reflectorizing material, other than reflector buttons, or similar units, to have a smooth sealed outer surface. All but one respondent to this request favored adoption.

This amendment will impose some additional costs. A 5-year period for compliance is provided to reduce the transition cost.

13. Request VI–12—Color of Reflectorized Material for Cones

The MUTCD requires reflectorization of cones and tubular markers when used at night, but fails to specify the color of the reflectorized material. This amendment revises Section 6C–3 to correct this oversight by specifying white bands. Ninety-six percent of the responders to this request favored adoption.

Since this amendment will impose some additional costs on highway agencies, the FHWA is providing a 3-year compliance period to minimize the transition costs.

14. Request VI–13—Advance Warning Flashing Arrow Panels

This amendment adds Sections 6E–7, 6E–8, and 6E–9 to the MUTCD to provide better definitions of both the proper and improper use of arrow panels and establishes critieria for use of the different modes of displaying arrows and chevrons. Sixty-six percent of the respondents favored adoption. Generally, the comments against adoption disapproved the limitations on the use of the chevron mode. These limitations have been removed from the amended language.

This amendment will impose negligible costs and a 3-year compliance period is provided.

15. Request VI–15—Use of Street Name Signs With Detour Signs

In order to provide improved directional guidance for motorists using only a portion of a detour from an unnumbered route, this amendment revises Section 6B–38 of the MUTCD to recommend the use of street name signs with Detour signs enabling a highway agency to identify by name the street for which the detour was established. All responses were favorable.

This amendment will not impose any additional costs.

16. Request VI–16—Use of DETOUR ENDS Signs

This amendment adds to Section 6B–38 a DETOUR ENDS sign for recommended use in providing improved guidance to motorists along detours. All responses were favorable.

This amendment will not impose any additional costs.

17. Request VIII–2—Warning Signs on Roads Parallel to Railroads

This amendment substitutes a new Section 8B–3 to the MUTCD to add a standard sign for warning motorists on roads parallel to railroads that a specified turn from the parallel road will place the motorist on the approach to a railroad-highway grade crossing. All but four of the 36 respondents to this request favored adoption. The four opposing adoption commented that the MUTCD already provides signing combinations that are adequate for this purpose.

This amendment will impose some additional costs. A 5-year compliance period is provided to reduce the transition costs.

18. Request VIII–5—Use of STOP Signs at Railroad-Highway Grade Crossings

The MUTCD provides for the use of STOP signs at railroad highway grade crossings only where the need for the signs has been determined by a detailed traffic engineering study. This amendment revises Section 2B–5 and 8B–9 to provide additional guidelines for determining this need. Over 65 percent of the respondents to this request favor adoption. Most of those opposing the request indicated that STOP signs at railroad crossings are not generally obeyed; are, therefore, ineffective; and should not be permitted under any circumstances. A number of respondents in favor of the request noted that some of the terms used in the amendment are vague and should be defined. The amendment uses relative terms which describe characteristics, but not criteria.

This amendment will not impose any additional costs.

19. Request IX–2—Bike Parking Sign

This amendment adds Section 9B–23 to the MUTCD to provide for a standard sign to designate bicycle parking areas. Almost all respondents to the proposal concurred with the need for this sign. There were no objections to the design of the sign as described in the notice.

This amendment does not mandate any action or impose any costs.

For the reasons provided in the previous notices of proposed amendments, the following requests for changes are not being adopted:

1. Request II–16/Sn–241—Accessibility to Handicapped Persons for Logo Businesses
2. Request II–18—Use of Terms Parking, Standing and Stopping
3. Request II–19—Spacing of Chervon Alignment Sign
4. Request II–20—Symbol for Police Assistance
5. Request II–21,—Mortorcycle and/or Trail Bike Symbol
6. Request II–22—Noise Ordinance Sign
7. Request II–23—Signing for Bypass Lanes
8. Request II–24—Modified Parking Area Sign
9. Request II–28—911 Emergency Sign
10. Request II–39—Dead End Signs on Intersecting Streets
11. Request II–41—Grooved Pavement Sign
12. Request II–42—Use of the Color Coral for Mass Transit Signs
13. Request II–43—Anti-Litter Symbol Sign
14. Request III–14—Marking Bypass Lanes
15. Request III–17—Standard Markings for Angle Parking Spaces
16. Request IV–9/Sg–80—Flashing Red Signals Facing the Median Crossover
17. Request IV–10—Prohibit Straight Ahead Green Arrow
18. Request IV–11—Left-Turn Lane Signal Displays for Permissive Left Turn
19. Request IV–13—Dual Circular Indication Traffic Signals on Limited Use Roadways

20. Request IV–17—Flashing Signal Display for Fire Preemption
21. Request IV–18—No Turn On Walk
22. Request Sg–104—Pedestrian Indication at T-Intersection
23. Request VI–8—Orange Stop Ahead and Yield Ahead Symbol Signs
24. Request VI–9—Prohibit Use of Metal Drums
25. Request VI–10—Use of Yellow Background Signs in Work Zones
26. Request VIII–1—Lateral Clearance for Flashing Lights and Gates
27. Request IX–3—Hostel Signs

Although Requests Nos. II–23, III–14, and III–17 are not being adopted, some of the more pertinent material developed concerning these requests will be considered for inclusion as guidance in the Traffic Control Devices Handbook. The majority of the respondents concurred in the recommendations not to adopt these requests.

Action on the following requests is being deferred pending availability of additional research or study data:

1. Request II–5—Recreational and Cultural Interest Area Signs
2. Request II–33—Hazardous Material Routing Sign
3. Request II–37—YIELD Signs in Conjuction with STOP Signs
4. Request II–55—Symbolic PUSH BUTTON FOR WALK SIGNAL Sign
5. Request II–56—Symbolic CROSS ON WALK SIGNAL ONLY Sign
6. Request III–3—Reduced Edgeline Width to 2 Inches
7. Request III–5/M–46—No-Passing Zone Markings
8. Request III–9—Use and Spacing of Raised Pavement Marker
9. Request III–12—Mandatory Center Lines
10. Request III–13—Mandatory Lane Lines
11. Request IV–8—Alternative to Full Signalization at School Pedestrian Crossings
12. Request IV–15—Strobe Light Traffic Control Device
13. Request VI–1—Spacing of Channelization Devices
14. Request VI–3—Temporary Markings for Construction and Maintenance Areas
15. Request VI–14—Two-Way Traffic on Normally Divided Highway
16. Request VIII–3—Crossbuck Border

In consideration of the foregoing and under the authority of 23 U.S.C. 109(d), 315 and 402(a), and the delegation of authority in 49 CFR 1.48(b), the Federal Highway Administration hereby adopts the Manual on Uniform Traffic Control Devices as amended herein and amends Part 625 of title 23, Code of Federal Regulations, by revising § 625.3(c)(1) to read as set forth below.

The Federal Highway Administration has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the Department of Transportation's regulatory policies and procedures. As stated herein the economic impact of these amendments is so minimal as not to require preparation of a full regulatory evaluation. For the same reasons, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 23 CFR Parts 625 and 655

Design standards, Grant programs—transportation, Highways and roads, Signs, Traffic regulations, Incorporation by reference.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on December 29, 1982.

R. D. Morgan,

Executive Director, Federal Highway Administration.

PART 625—DESIGN STANDARDS FOR HIGHWAYS

The FHWA revises § 625.3(c)(1) to read as follows:

§ 625.3 Standards, specifications, policies, guides, and references.

* * * * *

(c) *Traffic Control.* (1) Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA, 1978, as amended, 1983.[5]

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[FR Doc. 83–320 Filed 1–7–83; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 249

Off-Reservation Treaty Fishing; Extension of Deadline for Issuance of Fishing Identification Cards

December 14, 1982.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: Temporary off-reservation fishing identification cards may be issued to any member of a tribe whose tribal roll is not yet current and approved, providing the member submits appropriate evidence of entitlement to membership. Under the present regulations, the expiration date for issuance of identification cards is December 31, 1982. The BIA is amending its regulations to continue issuance of identification cards to members of tribes whose roll is not yet current and complete. This extension will allow the BIA to continue issuing the temporary identification fishing cards until further notice.

DATE: This regulation is effective January 10, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph R. Jojola, Division of Fish, Wildlife and Recreation, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

SUPPLEMENTARY INFORMATION: On January 19, 1981, the Bureau of Indian Affairs published a Final Rule (46 FR 4873) extending the issuance of temporary identification cards to tribal members in connection with treaty fishing rights. That expiration date for issuing temporary identification cards is currently December 31, 1982. This amendment extends that date for issuing temporary identification cards to tribal members to be used in connection with treaty fishing rights until further notice. Advance notice and public procedure for rulemaking documents would delay issuance of the identification cards to those entitled to receive them and this delay is deemed contrary to the public interest; therefore, advance notice and public procedure are dispensed with under the exception provided in 5 U.S.C. 553(b)(B)(1970). Furthermore, the only change made by this amendment is to extend the date of expiration for issuance of tribal identification cards in § 249.3(b) until further notice. This change is deemed to be minor and technical in nature. For the above reasons, the Department has also determined that this amendment will be effective upon publication.

The authority for issuing this amendment is contained in 5 U.S.C. 301, and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9), and 209 DM 8.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number

of small entities under the criteria established by the Regulatory Flexibility Act.

The primary author of this document is Joseph R. Jojola, Division of Fish, Wildlife and Recreation, Office of Trust Responsibilities, Bureau of Indian Affairs, telephone number (202) 343–5574.

List of Subjects in 25 CFR Part 249

Fisheries, Fishing, Indians, Reporting requirements.

PART 249—OFF-RESERVATION TREATY FISHING

Paragraph 249.3(b) of Subchapter J of Chapter I of title 25 of the Code of Federal Regulations is hereby revised to read as follows:

§ 249.3 Identification cards.

* * * * *

(b) No such card shall be issued to any Indian who is not on the official membership roll of the tribe which has been approved by the Secretary of the Interior. *Provided*, That until further notice, a temporary card may be issued to any member of a tribe not having an approved current membership roll who submits evidence of his/her entitlement thereto satisfactory to the issuing officer and, in the case of a tribally issued card, to the countersigning officer. Any Indian claiming to have been wrongfully denied a card may appeal the decision in accordance with Part 2 of this chapter.

* * * * *

Dated: December 14, 1982.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 83-556 Filed 1-7-83; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35

[T.D. 7850]

Temporary Employment Tax Regulations Under the Tax Equity and Fiscal Responsibility Act of 1982; Reporting by Certain Large Food or Beverage Establishments With Respect to Tips

Correction

In FR Doc. 82-33458 beginning on page 55215 in the issue of Wednesday, December 8, 1982, make the following corrections:

(1) On page 55215, first columns, the third sentence of the **SUMMARY** paragraph should have read "These regulations affect employers at large food or beverage establishments and their food or beverage employees and provide them with guidance necessary to comply with the law."

(2) On page 55217, third column, in the last line of (5) under § 35.6053–1(b), "by employee's allocation" should have read "by such employee's allocation".

(3) On page 55220, middle column, the last sentence of (6) under § 35.6053–1(j) should have read "For example, a restaurant that records the gross receipts from its cafeteria style lunch operation separately from the gross receipts of its full service dinner operation may be treated as two separate food or beverage operations."

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Demand for Repayment, Offset, Refund and Committee on Waivers and Compromises Authority

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is changing the procedures it uses to collect debts owed to it by beneficiaries of VA programs. These changes are necessary to comply with recent court decisions and legislation which afford greater procedural protections to these beneficiaries. Some of these changes have already been implemented in order to afford beneficiaries an opportunity to exercise their legal rights. These regulations will principally affect the manner and timing of recoupment of an overpayment from other VA benefits. In addition, the procedures for considering a request for waiver of an indebtedness are revised to comply with recent court decisions which require that an agency afford a beneficiary the right to request an oral hearing on their waiver request.

EFFECTIVE DATE: December 17, 1982.

FOR FURTHER INFORMATION CONTACT: Peter T. Mulhern (202) 389–3405, Office of Budget & Finance (047C5), 810 Vermont Avenue, N.W., Wash., D.C. 20420.

SUPPLEMENTARY INFORMATION: On page 62296 through 62298 of the **Federal Register** of December 23, 1981, there was published a notice of proposed rulemaking to issue regulations concerning demand for repayment, offset of indebtedness, refund of recouped indebtedness, and revision of Committee on Waivers and Compromises authority. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

We received one set of comments, submitted jointly by the Legal Aid Society of Cleveland and the National Veterans Law Center. Although the comments refer to specific subsections of proposed § 1.911, it is clear that the primary concern is with the impact of recovery by offset from a debtor's future benefit payments, which is covered in proposed section 1.912.

In analyzing and responding to the comments, we have borne in mind the need to assure fairness in our procedures as we carry out our obligation to collect debts owed to the Federal Government. As indicated below, we have revised and clarified certain parts of the proposed regulations in light of the comments, and we have also reorganized the proposed regulations to make them more coherent, to eliminate unnecessary duplication, and to assure consistency with our dual objectives of fairness and effectiveness.

The Veterans Administration believes that its procedures, as set forth in these regulations, will result in the avoidance of unnecessary delay and administrative expense as well as the means for full protection of these debtors' statutory rights.

Note.—The references that follow are to §§ 1.911 and 1.912 as originally proposed. A summary of the two sections as reorganized follows our discussion of the comments.

The comments begin by asserting that paragraph (a) of § 1.911 is misleading and inconsistent with the purpose and intent of 38 U.S.C. 3102(a) and 3114. The commentators contend that demand for payment should not be made until after there has been notice of the debt and notice of the various rights that may be exercised by the debtor. We do not agree that § 1.911(a) is misleading or inconsistent with the purpose and intent of 38 U.S.C. 3102(a) and 3114. As a reading of proposed § 1.911 in its entirety makes clear, we provide notice of the debt and notice of the debtor's various rights together with the first demand for payment as soon as possible after the debtor has been notified of the overpayment. To postpone the demand for payment until after the debtor has been notified of the debt and the various rights would be inconsistent with the VA's duty to collect debts owed to the Federal Government by reason of the debtor's participation in a VA benefits program. Moreover, unless the debtor is aware that a demand for payment has been made, he or she may not fully recognize the consequences of delay in

exercising the rights of dispute and request for waiver. Postponing the demand for payment could be confusing with respect to those who do not dispute the existence or amount of the debt and who have no grounds for requesting waiver. Finally, nothing in section 3102(a) or 3114 of title 38 United States Code, suggests that a written demand for payment of the debt should await the debtor's pursuit of rights provided for under those sections.

The comments also suggest that specific language be added to proposed § 1.911(b)(2) to the effect that the reason or reasons for the indebtedness be stated in the notice in simple language that is sufficiently specific to enable the debtor to marshal evidence in his or her behalf. Further, proposed § 1.911(b)(4) should specify that the notice explain in simple terms what "waiver" is and what the requirements for waiver are. We agree generally with these comments and have made pertinent revisions.

The comments urge that § 1.911(b)(5) be revised to provide authority for "a pre-hearing determination in cases where such a decision would be favorable to the claimant." This comment implies that an initial determination based on a "paper" review (that is, a review on the record prior to hearing) is necessary in all cases where a request for waiver is received, in order to determine whether the information of record is insufficient for a decision on the request or adverse to the debtor. Nothing in title 38, United States Code, mandates such a pre-hearing "paper" review as part of our procedures. Rather, we afford to a debtor who has requested waiver and a hearing on the request, a hearing opportunity as early as possible. Our procedures thus differ from those of the Social Security Administration (SSA), the agency involved in *Califano v. Yamasaki*, 442 U.S. 682 (1979); SSA procedures permit an initial "paper" review prior to an oral hearing and prior to an offset.

Under our procedures, if the debtor requests the hearing in timely fashion, no recovery will begin until after the hearing and after the decision on the waiver. If the debtor requests the hearing at a later point, recovery will begin as originally scheduled; if waiver is later granted, amounts recovered will be refunded in accordance with 38 CFR 1.967. The purpose of the hearing opportunity is not to provide debtors with a means of delaying the collection of debts legitimately owed, but rather to give those debtors who request waiver the opportunity to offer testimony and other evidence that bears on the issues involved in the waiver decision. A "paper review" that, if adverse, must be followed by a hearing opportunity prior to offset would provide no greater due process protection to the debtor than is already provided by affording the debtor a hearing opportunity on the waiver request as early as possible.

The comments also suggest that § 1.911(b)(7) is deficient, in terms of meeting the due process requirements of the Fifth Amendment and the requirements of section 3114 of title 38, in a case in which the debtor requests waiver within the allotted thirty-day period but does not request a hearing within that period. Under proposed § 1.911(b)(7), if the waiver is then denied, recovery by means of offset would begin thereafter. The comments urge that in such a case offset must be delayed until after the debtor has been afforded a further opportunity for a pre-recovery hearing. Neither the Due Process Clause nor section 3102(a) or 3114 of title 38 mandates multiple pre-recovery hearing opportunities. We do not believe that we are obligated to extend a further opportunity for hearing prior to offset when a decision against waiver has already been reached and the debtor had previously been extended the opportunity for a hearing prior to such decision. As previously indicated, our procedures grant the debtor a hearing opportunity as early as possible. Moreover, we notify the debtor that, if waiver is requested within thirty days and a hearing is requested on the waiver request, offset will not be initiated until after the hearing and after a decision is reached on the waiver request. We believe these procedures are adequate in the light of *Califano v. Yamasaki*, 442 U.S. 682 (1979) and the Due Process Clause, and consistent with the VA's duty to collect debts owed to the Federal Government, within the constraints imposed by section 3114 of title 38.

The comments urge further that § 1.911(b)(8) is deficient, in a situation in which the debtor disputes in timely fashion the existence or amount of the indebtedness but does not request waiver. The commentators argue that, if the decision on the dispute is adverse to the debtor, "he or she should be given additional notice of waiver and hearing rights, and a reasonable opportunity (i.e. thirty days) in which to exercise those rights."

In the event the claimant disputes the existence or amount of the debt, we would of course correct as soon as feasible an administrative error brought to our attention. In the case of a dispute that goes to a substantive issue of entitlement, the panoply of appellate rights is available to the claimant. Although we disagree with the commentators' suggestion, we have revised the proposed regulations to clarify that a claimant may dispute the existence or amount of the debt at the same time he or she requests waiver, and, as long as the claimant files his or her dispute and waiver request within thirty days of the initial notification, offset will not begin until after decisions are reached respecting both. We see no necessity to provide a second thirty-day period. Section 3114(b) of title 38 does not require successive efforts to notify a debtor of his or her rights to dispute the debt and to request waiver. We recognize, however, that some claimants may believe that pursuing their right to dispute the debt is inconsistent with pursuit of their right to request waiver. Thus, our revision requires that the notice spelling out these rights clearly state that a claimant may pursue both rights simultaneously without prejudice to either.

Finally, the comments contend that 38 U.S.C. 3115 does not authorize the initial notice to state that failure to repay the debt in full within thirty days will result in the charging of interest or administrative costs or both, as would be required by proposed § 1.911(b)(9). According to the commentators, section 3115 is "clearly not intended to penalize those who exercise their due process rights * * *", and they note that, in some cases, the charging of interest and administrative costs would hurt those least able to afford such burdens.

The commentators appear to be proposing that VA refrain from charging interest on debts in situations where the debtor has filed a waiver request or a substantive appeal as well as in situations where the debt is to be collected by offset. They suggest that the "reasonable period of time" set forth in section 3115(b)(1)(B) of title 38, during which interest is not to be charged if the amount due is paid within such period, should be expanded to cover the period during which a debtor is exercising his or her rights or during which recovery is taking place by offset.

The commentators overlook the fact that section 3115(b)(1) grants authority to the VA to determine what constitutes a "reasonable period of time." By amendment to 38 CFR 1.919, published for public comment on August 26, 1981 (46 FR 43058), and approved by the Administrator on December 3, 1981 (46 FR 62057, Dec. 22, 1981), the VA has established, in subsection (e) of section 1.919, 30 days as a "reasonable period of time."

Nothing in the legislative history materials cited by the commentators suggests that VA can, by reason of the debtor's hardship or for any other reason, ignore the statutory directive to assess interest and administrative costs on outstanding debts in accordance with the law and regulations. Of course, such amounts can be waived, in whole or in part, in accordance with procedures applicable to waivers of other debts. (38 CFR 1.919(f)).

We also disagree with the commentators' proposal that § 1.911(b)(2), to the extent that it refers to the assessment of administrative costs, should be rescinded. The commentators incorrectly suggest that the VA's authority to assess administrative costs is limited to the "costs of collection on delinquent amounts." Rather, section 3115(c) of title 38 grants authority to the VA determine, by regulation, reasonable and appropriate administrative costs to be assessed. 38 CFR 1.919, referred to above, provides in paragraph (g) for the assessment of administrative costs in situations involving repayment agreements only where the debtor becomes delinquent in meeting the terms of the agreement. Although that section does not specifically so state, VA has no plans to assess administrative costs in situations where collection is being made by offset. Nevertheless, to the extent that a debtor not subject to collection by offset may be assessed administrative costs in accordance with 38 CFR 1.919, the notice described in the proposed regulations would include information to that effect.

Preparations are currently underway to implement the statutory mandate to assess interest and, under certain circumstances, administrative costs. Assessment of simple interest at a specified annual rate on debts owed the Federal Government in connection with the educational assistance programs is scheduled for April 1983 and, in connection with the home loan and compensation and pension programs, for March 1984. Initial demand letters will be revised to assure adequate notice regarding interest and possible administrative costs. As described in 38 CFR 1.919, the annual rate of interest will be based on the Treasury's cost of borrowing and updated annually. Once established for a particular debt, however, the rate will not change thereafter. Payments, including payments by offset, will be applied first to interest for that year and then to principal. Debtors will be advised that no interest will be charged if the balance is paid in full within 30 days of the notification.

As noted above, we have reorganized the proposed regulations. As proposed, § 1.911 would have been captioned "Demand for repayment" and § 1.912, "Collection by offset." In the course of reviewing the proposed regulations preparatory to final publication, it became clear that the content of § 1.911 encompassed matters beyond the purview of "demand for repayment" and also that certain matters originally proposed to be included in that section more properly belonged to proposed § 1.912. Hence, both sections have been reorganized.

Reorganized § 1.911a would be captioned "Collection of debts owed by reason of participation in a benefits program." Paragraph (a) clarifies that the section does not apply to the Agency's other collection activities and gives cross-references to regulations governing such other activities.

Paragraph (b), subtitled "Written demands," sets forth the same matters contained in § 1.911(a) as originally proposed, but clarifies that follow-up demand letters will not be required if collection by offset under § 1.912a can be made.

Paragraph (c), subtitled "Rights and remedies," expressly sets forth rights and remedies available to debtors. Formerly, these were implied as necessary components of the written demand letters. This paragraph explicitly assures that a debtor can exercise the rights separately or simultaneously.

Paragraph (d), subtitled "Notification," expressly sets forth the content of the written notice which debtors have the right to receive and paragraph (e) provides a rule to govern sufficiency of such notification. Paragraph (f) sets forth important cross-references, including those pertinent to appellate rights, waiver requests, and the potential assessment of interest and administrative costs.

Reorganized § 1.912 retains the same caption, "Collection by offset," but is internally revised. Paragraph (a) enunciates the Agency's statutory obligation to collect debts owed to the Federal Government, by reason of an individual's participation in a VA benefits program, by offset against current or future VA benefits payments to that debtor. This paragraph also clarifies that offset shall commence promptly after proper notice to the debtor, with certain exceptions specifically provided for by the governing statute that are described in paragraphs (c) and (d). The first of those exceptions, in paragraph (c), is that offset can be deferred if the debtor exercises, in timely fashion, certain rights such as the right to dispute or the right to request a waiver. The remaining exceptions are described in paragraph (d): Offset is not subject to deferral if collection of the debt would be jeopardized; in such case, notification pursuant to § 1.911(d) (as reorganized) is proper at the time offset begins or as soon thereafter as possible. Notification in advance of offset is not required if the United States has already obtained a judgment against the debtors.

Sections 1.911 and 1.912, as reorganized, have been renumbered as §§ 1.911a and 1.912a. These two sections will eventually be applicable to all debts which are the result of a debtor's participation in a Veterans Administration benefit program. At this time, however, these sections apply only to those debts subject to collection by offset against the debtor's monthly compensation or pension benefits. Notice will be published in the **Federal Register** when these sections become applicable to debts not subject to collection by offset against compensation or pension benefits, and §§ 1.911a and 1.912a will be republished as §§ 1.911 and 1.912.

We believe that the reorganized regulations are adequate to achieve our dual objectives of fairness to the Agency's debtors and effective collection of debts.

The Administrator hereby certifies that these rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these rules are therefore exempt from the final regulatory flexibility analysis requirement of sections 603 and 604. The reason for this certification is that the rules affect only those individuals indebted to the U.S. Government as a result of participation in Veterans Administration benefit payment programs. These rules have been reviewed under E.O. 12291 and have been determined to be non-major because they only revise Veterans Administration debt collection, refund, and waiver procedures, and do not have any adverse economic impact on or increase costs to consumers, individual industries, Federal, State, and local government agencies geographic regions.

There is no Catalog of Federal Domestic Assistance Number.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Claims.

The proposed regulations, as amended, are hereby adopted as final and are set forth below.

Approved: December 17, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 1—[AMENDED]

38 CFR Part 1—General is amended as follows:

1. New § 1.911a is added to read as follows:

§ 1.911a Collection of debts owed by reason of participation in a benefits program

(a) *Scope.* This section applies to the collection of debts resulting from an individual's participation in a benefits program administered by the Veterans Administration. It does not apply to the Agency's other claims collection activities. (Note: School liability debts are governed by § 21.4009; financial institution debts are subject to Chapter II, Parts 209, 210, and 240 of title 31, Code of Federal Regulations; and other debts are governed by Chapter II of Title 4 of the Code of Federal Regulations.)

(b) *Written demands.* When the Veterans Administration has determined that a debt exists by reason of an administrative decision or by operation of law, the Veterans Administration shall promptly demand, in writing, payment of the debt. The Veterans Administration shall notify the debtor of his or her rights and remedies in connection with the debt and the consequences of failure to cooperate with collection efforts. Ordinarily, no more than three demand letters, at intervals of not more than thirty days, will be sent, but letters subsequent to the initial letter will not be necessary if:

(1) The Administrator determines that further demand would be futile;

(2) The debtor has indicated in writing that he or she does not intend to pay the debt;

(3) Judicial action to protect the Government's interest is indicated under the circumstances; or

(4) Collection by offset pursuant to § 1.912a can be made.

(c) *Rights and remedies.* Subject to limitations referred to in this paragraph, the debtor has the right to informally dispute the existence or amount of the debt, to request waiver of collection of the debt, to a hearing on the waiver request, and to appeal the Veterans Administration decision underlying the debt. These rights can be exercised separately or simultaneously. Except as provided in § 1.912a (collection by offset), the exercise of any of these rights will not stay any collection proceeding.

(1) *Informal dispute.* This means that the debtor writes to the Veterans Administration and questions whether he or she owes the debt or whether the amount is accurate. The Veterans Administration will, as expeditiously as possible, review the accuracy of the debt determination. If the resolution is adverse to the debtor, he or she may also request waiver of collection as indicated in paragraphs (c)(2) and (c)(3) of this section.

(2) *Request for waiver; hearing on request.* The debtor has the right to request waiver of collection, in accordance with § 1.963 or § 1.964, and the right to a hearing on the request. Requests for waivers must be filed in writing. A waiver request under § 1.963 must be filed within two years of the initial notification to the debtor. If waiver is granted, in whole or in part, the debtor has a right to refund of amounts already collected up to the amount waiver.

(3) *Appeal.* The debtor may appeal, in accordance with Part 19 of this title, the decision underlying the debt.

(d) *Notification.* The Veterans Administration shall notify the debtor in writing of the following:

(1) The exact amount of the debt;

(2) The specific reasons for the debt, in simple and concise language;

(3) The rights and remedies described in paragraph (a) of this section, including a brief explanation of the concept of, and requirements for, waiver;

(4) That collection may be made by offset from current or future Veterans Administration benefits, subject to § 1.912a; and

(5) That interest and administrative costs may be assessed, in accordance with § 1.919, as appropriate.

(e) *Sufficiency of notification.* Notification is sufficient when sent by ordinary mail directed to the debtor's last known address and not returned as undeliverable by postal authorities.

(f) *Further explanation.* Further explanation may be found for—

(1) Appellate rights, in Part 19 of this title;

(2) Notification of any decision affecting the payment of benefits or granting relief, in § 3.103(e);

(3) Right to appeal a waiver decision, in § 1.958;

(4) Refund to a successful waiver applicant of money already collected, in § 1.967; and

(5) The assessment of interest and administrative costs, in § 1.919. (38 U.S.C. 3102, 3114).

2. New § 1.912a is added to read as follows:

§ 1.912a Collection by offset.

(a) *Authority and scope.* The Veterans Administration shall collect debts governed by § 1.911a by offset against any current or future Veterans Administration benefit payments to the debtor. Unless paragraphs (c) or (d) of this section apply, offset shall commence promptly after notification to the debtor as provided in paragraph (b) of this section. The collection by offset of all other debts is governed by Part 102, Chapter II, of Title 4, Code of Federal Regulations.

(b) *Notification.* Unless paragraph (d) of this section applies, offset shall not commence until the debtor has been notified in writing of the matters described in § 1.911a(c) and (d) and paragraph (c) of this section.

(c) *Deferral of offset.* (1) If the debtor, within thirty days of the date of the notification required by paragraph (b) of this section, disputes, in writing, the existence or amount of the debt in accordance with § 1.911a(c)(1), offset shall not commence until the dispute is reviewed as provided in § 1.911a(c)(1) and unless the resolution is adverse to the debtor.

(2) If the debtor, within thirty days of the date of notification required by paragraph (b) of this section, requests, in writing, waiver of collection in accordance with §§ 1.963 or 1.964, as applicable, offset shall not commence until the Veterans Administration has made an initial decision on waiver.

(3) If the debtor, within thirty days of the notification required by paragraph (b) of this section, requests, in writing, a hearing on the waiver request, no decision shall be made on the waiver request until after the hearing has been held.

(d) *Exceptions.* (1) Offset may commence prior to the resolution of a dispute or a decision on a waiver request if collection of the debt would be jeopardized by deferral of offset. In such case, notification pursuant to § 1.911a(d) shall be made at the time offset begins or as soon thereafter as possible.

(2) If the United States has obtained a judgement against a debtor whose debt is governed by § 1.911a, offset may commence without the notification required by paragraph (b) of this section. However, a waiver request filed in accordance with the time limits and other requirements of §§ 1.963 and 1.964,

will be considered, even if filed after a judgement has been obtained against the debtor. If waiver is granted, in whole or in part, refund of amounts already collected will be made, in accordance with § 1.967, up to the amount waived. (38 U.S.C. 3114, Ch. 37).

§ 1.916 [Amended]

3. Section 1.916 is amended by changing the word "his" to the words "his/her".

§ 1.930 [Amended]

4. Section 1.930 is amended by changing the word "his" to the words "his/her."

5. In §1.955, paragraph (d) is revised to read as follows:

§ 1.955 Regional office committees on waivers and compromises.

* * * * *

(d) *Single signature authority.* Where a request is for waiver of collection of a debt of $1,000 or less, exclusive of interest, the Chairperson shall designate from members and/or alternates one person, with special competence in the program area where the debt arose, to consider the question. His/her signature alone to the decision will suffice. In compromise cases, however, three person panels are always required regardless of the amount of the debt. (38 U.S.C. 210(c)(1))

§ 1.966 [Amended]

6. In § 1.966, paragraph (b)(2)(ii) is removed.

7. Section 1.967 is revised to read as follows:

§ 1.967 Refunds.

(a) Except as provided in paragraph (c) of this section, any portion of an indebtedness resulting from participation in benefits programs administered by the Veterans Administration which has been recovered by the U.S. Government from the debtor may be considered for waiver, provided the debtor requests waiver in accordance with the time limits of § 1.963(b). If collection of an indebtness is waived as to the debtor, such portions of the indebtedness previously collected by the Veterans Administration will be refunded. In the event that waiver of collection is granted for either an education, loan guaranty, or direct loan debt, there will be a reduction in the debtor's entitlement to future benefits in the program in which the debt originated.

(b) The Veterans Administration may not waive collection of the indebtedness of an educational institution found liable under 38 U.S.C. 1785. Waiver of collection of educational benefit overpayments from all or a portion of the eligible persons attending an educational institution which has been found liable under 38 U.S.C. 1785 shall not relieve the institution of its assessed liability. (See 38 CFR 21.4009(f)).

(c) Any portions of indebtedness collected by the Veterans Administration arising from erroneous payment of pay or allowances shall be considered for waiver regardless of the date of request for waiver, as long as such request is filed timely in accordance with § 1.963a(c)(1). If collection is waived refund will be made to the employee provided that application for refund is made no later than two years following the date of waiver.

(d) Refund of the entire amount collected may not be made when only a part of the debt is waived or when collection of the balance of a loan guaranty indebtedness by the Veterans Administration from obligors, other than a husband or wife of the person requesting waiver, will be adversely affected. Only where the amount collected exceeds the balance of the indebtedness still in existence will a refund be made in the amount of the difference between the two. Otherwise, refunds will be made in accordance with paragraph (a) of this section. (38 U.S.C. 1785, 3102; 5 U.S.C. 5584).

[FR Doc. 83-461 Filed 1-6-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2070-6]

Standards of Performance for New Stationary Sources—Graphic Arts Industry: Publication Rotogravure Printing

Correction

In FR Doc. 82-30410 beginning on page 50644 in the issue of Monday, November 8, 1982, make the following corrections:

(1) On page 50644, third column, in the 17th line from the top of the page, "solvent-borne are" should have read "solvent-borne inks are".

(2) On page 50655, middle column, in paragraph 2.3 of **Method 24A** under Appendix A, in the sixth line, "D_o" should have read "$\overline{D}_o$".

(3) On the same page, in the third column, the equation at the top of the page should have been labeled "Equation 24A-1", and "Report the weight fraction VOC W_o" should have read "Report the weight fraction VOC $\overline{W}_o$".

(4) In the same column, the second equation should have been labeled "Equation 24A-2", and the plus sign should have been an equal sign.

BILLING CODE 1505-01-M

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40 CFR Part 60

[AD-FRL-2070-7]

Standards of Performance for New Stationary Sources; Metal Coil Surface Coating Operations

Correction

In FR Doc. 82-29693 beginning on page 49606 in the issue of Monday, November 1, 1982, make the following corrections:

(1) On page 49606, first column, in the 12th and 13th lines of the **SUMMARY** paragraph, "to all pollution" should have read "to air pollution".

(2) On page 49615, in § 60.463(c)(4)(vii), in the seventh line from the bottom of the third column, "which is" should have read "whichever is".

(3) On page 49616, in § 60.463(c)(4)(ix), "which is greater" should have read "whichever is greater".

(4) In the same column, under § 60.464, in the ninth line of paragraph (c), "±2.5°" should have read "±2.5°C."

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

41 CFR Part 13-1

Procurement Regulation; Debarment, Suspension and Ineligibility of Government Contractors

AGENCY: Commerce Department.

ACTION: Final rule.

SUMMARY: This notice prescribes the Department of Commerce policy and procedures for: (1) Distribution, use, and maintenance of the General Services Administration's (GSA) consolidated Government-wide list of debarred, suspended and ineligible contractors, and (2) debarment and suspension of Government contractors. The intended effect of this stated policy and procedures is to ensure that Government contracts are awarded to responsible contractors.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: John H. Dammeyer (Chief, Procurement Policy Division), Office of Procurement Services, Room 6411, Herbert C. Hoover Building, 14th & Constitution Ave NW.,

Washington, D.C. 20230, Area Code 202–377–4248.

SUPPLEMENTARY INFORMATION: (a) FPR Temporary Regulation 65 requires agencies to establish procedures to provide for the effective use of GSA's consolidated list to ensure that agencies do not solicit offers from, award contracts to, or consent to subcontracts with listed contractors, except as provided in this subpart.

(b) The FPR Temporary Regulation requires the debarring official to make certain determinations relating to debarment and suspension actions. These procedures specify the designated official responsible for granting informal fact-finding discussions, and taking other actions related to the debarment or suspension of concerns and individuals.

(c) The Temporary Regulation also requires agencies to establish internal procedures for effecting the policies and procedures of the FPR regarding the debarment, suspension, and placement in ineligibility status of concerns and individuals. The policy and procedures set forth in 41 CFR Part 13–1.6 will implement the FPR debarment and suspension policies and procedures.

(d) The Agency has not invited public comments on these procedures since they relate to Government contracts. The Department's internal procedures are referenced to the pertinent sections of the FPR revision. However, references to FPR Temporary Regulation 65 shall be deemed to refer to the appropriate Superseding Parts and Subparts of the FPR Amendment when issued.

List of Subjects in 41 CFR Part 13–1

Government procurement.

41 CFR Part 13–1 is amended as follows:

PART 13–1—GENERAL

1. The table of contents for Subpart 13–1.6—Debarred, Suspended and Ineligible Bidders is revised to read as follows:

Subpart 13–1.6—Debarred, Suspended and Ineligible Bidders

Sec.

13–1.600 Scope of Subpart.
13–1.601 Policy.
13–1.602 Definitions.
13–1.603 Establishment, maintenance and distribution of the consolidated Government-wide list of debarred, suspended, and ineligible contractors, and maintenance of agency records.
13–1.603–1 Consolidated list of debarred, suspended and ineligible contractors.
13–1.603–2 Agency records.
13–1.604 Treatment to be accorded listed contractors.
13–1.604–1 General.
13–1.604–2 Review procedures.
13–1.604–3 Continuation of current contracts.
13–1.605 Debarment.
13–1.605–1 General
13–1.605–2 Causes for debarment.
13–1.605–3 Procedures.
13–1.605–4 Period of debarment.
13–1.605–5 Imputed conduct.
13–1.606 Suspension.
13–1.606–1 General.
13–1.606–2 Causes for suspension.
13–1.606–3 Procedures.
13–1.606–4 Period of suspension.
13–1.606–5 Scope of suspension.
13–1.607 Agency procedures.

Authority: Sec. 205(c), 63 Stat. 390 as amended (40 U.S.C. 486(c)), unless otherwise noted.

2. The text of revised Subpart 13–1.6 reads as follows:

Subpart 13–1.6—Debarred, Suspended and Ineligible Bidders

§ 13–1.600 Scope of subpart.

This subpart prescribes the Department of Commerce DOC) policy and procedures for: (a) Distribution, use, and maintenance of GSA's consolidated Government-wide list of debarred, suspended and ineligible contractors, and (b) debarment and suspension of Government contractors.

§ 13–1.601 Policy.

(a) It is the policy of DOC to solicit bids and proposals only from, award contracts to, and approve or consent to subcontracts with, responsible business concerns and individuals. Debarment and suspension are discretionary actions which, when accomplished in accordance with these procedures, are appropriate means to effectuate this policy.

(b) Due to the serious nature of debarment and suspension, they will be imposed only to protect the Government's interest (not for purposes of punishment), and only for the causes referenced in this subpart.

§ 13–1.602 Definitions.

Refer to § 1–1.602 of Temporary Regulation 65 which is incorporated into this subpart.

§ 13–1.603 Establishment, maintenance and distribution of the consolidated Government-wide list of debarred, suspended, and ineligible contractors, and maintenance of agency records.

§ 13–1.603–1 Consolidated list of debarred, suspended and ineligible contractors.

(a) Section 1–1.603–1 (a) of Temporary Regulation 65, which is incorporated into this subpart, requires GSA to compile and maintain a current, consolidated list of contractors debarred, suspended, or declared ineligible by agencies or by the General Accounting Office (GAO), and to revise and distribute the list to agencies and the GAO.

(b) For the purpose of the requirements of § 1–1.603–1 (b)(1) through (4) which are also incorporated into this subpart:

(1) The Executive Director for Operations (referred to as the Executive Director throughout the remainder of this subpart) is responsible for notifying GSA of any DOC imposed debarments or suspensions of a contractor, or modifications or rescissions of these actions.

(2) The consolidated list will be distributed to procurement activities by the Office of Small and Disadvantaged Business Utilization.

(3) Preliminary inquiries concerning additional information desired on contractors included on the consolidated list shall be made by the respective reviewing procurement official directly to the agency or other authority that took the action. Unique or complex situations should be elevated to the Department's Procurement Policy Division within the Office of Procurement Services (OPS), and eventually to the Executive Director, as felt necessary.

(4) All procurement officials are responsible for familiarity with, and review of, the consolidated Government-wide list of contractors debarred, suspended or declared ineligible. Review of the continuing updates of the list is necessary to ensure that DOC solicits bids or offers from, performs pre-award surveys of, continues existing contracts with, and renews contracts or approves subcontracts for, only responsible business concerns and individuals.

§ 13–1.603–2 Agency records.

The minimum record requirements pertaining to each contractor debarred or suspended by DOC are incorporated into this subpart as contained in § 1–1.603–2 of the Temporary Regulation. These records shall be maintained for the Executive Director by the Office of Procurement Services.

§ 13–1.604 Treatment to be accorded listed contractors.

§ 13–1.604–1 General.

(a) *Actions after August 30, 1982.* If a listed contractor has been debarred or suspended by another agency based on policies and procedures in effect after August 30, 1982, that contractor will be excluded from receiving DOC contracts.

and DOC procurement officials shall not knowingly solicit offers from, award contracts to, renew or otherwise extend the duration of an existing contract with, or consent to subcontracts (which require Government approval) with these contractors, unless the Executive Director determines, in writing, that there is a compelling reason for such action.

In the event a procurement official identifies a prospective contractor or subcontractor (involved with a subcontract subject to Government consent) as being debarred or suspended on the consolidated list, and initially determines that there are compelling reasons for soliciting offers from or awarding contracts to this firm, the specific reasons supporting this determination shall be prepared by the chief of the procurement activity, in writing, and, after review by the Office of the Assistant General Counsel for Administration, submitted to the Executive Director for a decision. The Executive Director shall make a decision on the request within 30 working days of receipt. No contract solicitation, award, renewal or extension action shall be initiated unless, and until, the Executive Director has determined in writing that compelling reasons warrant such action.

(b) *Actions prior to August 30, 1982.* If a contractor has been debarred or suspended by DOC in accordance with policies and procedures in effect prior to August 30, 1982, that contractor shall be afforded the same treatment as explained in § 13–1.604–1(a). If a contractor has been debarred or suspended by another agency in accordance with policies and procedures in effect prior to August 30, 1982, there is no accompanying requirement for Government-wide debarment or suspension. Nevertheless, procurement officials within the Department shall consider such actions in determining contractor responsibility, and may recommend that debarment or suspension procedures be initiated based on the original action in accordance with § 1–1.605–2(d) and 1–1.606–2(d) of the Temporary Regulation which are incorporated into this subpart.

(c) *Ineligible Contractors.* The identification of ineligible contractors on the consolidated list will include specific information concerning the treatment to be accorded these contractors. Contractors declared ineligible on the basis of statutory or other regulatory procedures shall be excluded from receiving contracts and, if applicable, subcontracts, under the conditions and for the period set forth in the statute or regulation. Procurement officials shall not solicit offers from, award contracts to, renew or otherwise extend the duration of an existing contract with, or consent to subcontracts with these contractors under those conditions and for that period. No waiver procedures exist which enable the Department to accord ineligible contractors treatment other than that specifically contained in the consolidated list.

§ 13–1.604–2 Review procedures.

Prior to initiating a pre-award survey or any procurement action set forth in § 13–1.604–1, the appropriate procurement officials shall review the consolidated list. If the prospective contractor or subcontractor is listed, it shall receive the treatment deemed proper according to the basis for its listing.

§ 13–1.604–3 Continuation of current contracts.

It is the responsibility of procurement officials, through the chief of the procurement activity, to notify the Executive Director, in writing, whenever it is determined that DOC has existing contracts or subcontracts with contractors which have been debarred or suspended. This notification shall contain recommendations and supporting information regarding whether or not existing contracts or subcontracts should continue, since these agreements may be continued unless the Executive Director determines that termination of the contract is in the Government's best interest. The Executive Director's resulting decision for continuation or termination of existing contracts or subcontracts shall be made within 30 working days of receipt of the recommendation data, and only after review by appropriate contracting and technical personnel and by legal counsel to assure the propriety of the proposed action. No termination actions shall be instituted by contracting personnel unless, and until, the Executive Director has formally determined in writing that termination is in the Government's best interest.

§ 13–1.605 Debarment.

§ 13–1.605–1 General.

Section 1–1.605–1 of Temporary Regulation 65, which is incorporated into this subpart, refers to the debarring official; references the causes for debarment; explains the necessity for determining whether business dealings should be continued with a firm even when a cause for debarment has been identified; discusses the extent and scope of debarment; and advises that debarment is effective throughout the executive branch of the Government unless the head of the agency taking the procurement action or an authorized representative states in writing the compelling reasons justifying continued business dealings between that agency and the contractor. Within DOC, the Executive Director is designated as the debarring official and the authorized representative for determining whether there are compelling reasons justifying continued business dealings with a debarred contractor.

§ 13–1.605–2 Causes for debarment.

Refer to § 1–1.605–2 of Temporary Regulation 65 which is incorporated into this subpart.

§ 13–1.605–3 Procedures.

(a) *Investigation and referral.* Procurement officials shall become familiar with the causes for debarment in § 1–1.605–2 of the Temporary Regulation, and shall be alert to information which indicates that a contractor (to which the Department routinely awards, or plans to award, contracts) has committed an action which is properly includable as a cause for debarment. If it is learned (through dealings with the Office of the Inspector General, Departmental program or finance personnel, etc.) that an appropriately described contractor, not already on the consolidated list, has committed an action which can be identified as a cause for debarment, procurement officials shall determine to the extent possible which other agencies award contracts to this firm, and if any of these agencies have initiated, or plan to initiate, debarment actions.

(1) If debarment is being considered by another agency, the specific circumstances shall be promptly reported by the chief of the procurement activity, in writing, after review by the Office of the Assistant General Counsel for Administration, to the Executive Director, with an explanation as to why debarment actions may be considered by DOC, but are not being recommended. Within 30 working days of receipt of this information, the Executive Director shall make a decision regarding the necessity for additional action, which may involve further coordination with the lead agency which is pursuing debarment, or the preference for DOC to act as the lead agency in imposing debarment. If the decision is made that DOC debarment action is unnecessary, at a minimum, the Executive Director shall advise the Procurement Policy Division of the Office of Procurement Services of the specifics of the case to ensure

Department-wide dissemination for consideration in current responsibility determinations.

(2) If debarment actions are not being considered by another agency, the chief of the procurement activity shall advise the Executive Director, in writing, after review by the Office of the Assistant General Counsel for Administration, of the debarment considerations and shall provide a specific recommendation for debarment of the reasons for not recommending debarment, and all available documentary evidence for supporting the recommendation. It is emphasized that the mere existence of a cause for debarment does not require that a contractor be debarred. The seriousness of the contractor's acts or omissions and any mitigating factors shall be considered in making any debarment decision.

(b) *Decisionmaking process.* Upon receipt of a debarment consideration request, the Executive Director shall review all available documentary evidence and shall promptly make a decision as to whether debarment actions shall be pursued. The matter may be referred to the Department's Inspector General for further investigation if determined necessary. However, after completion of this additional review or investigation, the Executive Director shall make a written determination as to whether debarment procedures are to be initiated. A copy of this determination shall be promptly sent to the initiating procurement activity.

(c) *Notice of proposal to debar.* If the Executive Director determines that formal debarment procedures are to be initiated, he shall promptly notify the contractor and any specifically named affiliates, by certified mail, return receipt requested, of the proposal to debar. The notification shall be reviewed by the Office of the Assistant General Counsel for Administration prior to submittal to the contractor. Section 1–1.605–3(c) of the Temporary Regulation, which is incorporated into this subpart, contains a list of information which shall be included in this notice. The contractor shall be provided 30 calendar days to submit information and argument in opposition to the proposed debarment, and shall also be advised that pending a debarment decision, no contracts will be awarded to, and no subcontracts will be consented to or approved for, the contractor.

(d) *Debarring official's decision.* (1) For debarment actions proposed as a result of conviction or civil judgment, or debarment by another agency based on policies and procedures in effect prior to August 30, 1982, or as a result of other actions for which there is no dispute over material facts, the Executive Director shall make the final debarment decision on the basis of all information in the administrative record, including any response to the notification of the proposal to debar. If a suspension is not already in effect, the decision shall be made within 30 working days after receipt of information or argument submitted in response to the proposed debarment notification. This decision time requirement may be extended by the Executive Director for good cause.

(2) For proposed debarment actions which are not based upon a conviction, judgment, or debarment by another agency based on policies and procedures in effect prior to August 30, 1982, if the Executive Director determines that the contractor's response to the proposed debarment raises a genuine dispute over facts material to the proposed debarment, fact-finding shall be conducted. The Executive Director shall ensure that such fact-finding shall: (i) Afford the contractor an opportunity to appear with counsel, submit documentary evidence, present witnesses, and confront any person presented by the Department, and (ii) include a transcribing of the fact-finding discussions which shall be made available at cost to the contractor upon request, unless the contractor and the Department mutually agree to waive the requirement for a transcript. The Executive Director shall also ensure that written findings of fact are prepared, and shall base his debarment decision on the facts as found, after considering information and argument submitted by the contractor and any other information in the administrative record.

(A) The Executive Director may refer debarment matters involving disputed material facts to another official for findings of fact. The Executive Director may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary and capricious or clearly erroneous.

(B) Fact-finding meetings shall be conducted as soon as practicable after a determination that there is a genuine dispute over material facts. The Executive Director's final debarment decision shall be made within 30 working days (unless extended for good cause) after the conclusion of the fact-finding meetings held to discuss disputed facts.

(C) The Office of the Assistant General Counsel for Administration shall represent the Department at any fact-finding proceedings under this paragraph (d)(2), and may present witnesses for the Department and may confront any witnesses presented by the contractor.

(3) In any action in which the proposed debarment is not based upon a conviction, civil judgment or debarment by another agency, the cause for debarment must be established by a preponderance of the evidence.

(e) *Notice of debarring official's decision.* (1) A decision to impose debarment also requires prompt notice (within 5 working days after the decision is made) by the Executive Director to the contractor and any affiliates involved by certified mail, return receipt requested. This notice shall contain the elements identified in § 1–1.605–3(e)(1) of the Temporary Regulation which is incorporated into this subpart.

(2) If the decision is not to impose debarment, the Executive Director shall promptly (again, within 5 working days) notify the contractor and any affiliates involved of the decision by certified mail, return receipt requested.

(3) Prompt notice of the debarment decision should additionally be made to the procurement activity which initiated the debarment action.

§ 13–1.605–4 Period of debarment.

At the time a decision is made to impose debarment, the Executive Director shall also determine the period of debarment. This period shall be commensurate with the seriousness of the cause, but generally should not exceed 3 years. If suspension precedes debarment, the suspension period shall be considered in determining the debarment period. Additional guidance regarding extension or termination of the debarment period is contained in § 1–1.605–4 of Temporary Regulation 65 which is incorporated into this subpart.

§ 13–1.605–5 Imputed conduct.

Refer to § 1–1.605–5 of the Temporary Regulation, which is incorporated into this subpart, for an explanation as to the extent to which: improper acts of individuals may be imputed to the contractor (including affiliates and subsidiaries), improper acts of a contractor may be imputed to individuals, and the improper acts of a joint venture may be imputed to participating contractors.

§ 13–1.606 Suspension.

§ 13–1.606–1 General.

Section 1–1.606–1 of Temporary Regulation 65, which is incorporated into this subpart, refers to the suspending official; references the causes for suspension; discusses the

information to be considered in determining whether suspension is appropriate and the scope of the suspension; and advises that a contractor's suspension is effective throughout the executive branch of the Government, unless the head of the agency taking the procurement action, or an authorized representative, states in writing the compelling reasons justifying continued business dealings between that agency and the contractor. Within DOC, the Executive Director is designated as the suspending official and the authorized representative for determining whether there are compelling reasons justifying continued business dealings with a suspended contractor.

§ 13–1.606–2 Causes for suspension.

Refer to § 1–1.606–2 of Temporary Regulation 65 which is incorporated into this subpart.

§ 13–1.606–3 Procedures.

(a) *Investigation and referral.* Any procurement official, based on information gained on his own or on recommendations or information gained from other sources, may recommend suspension of a firm or individual for the causes set forth in § 1–1.606–2 of the Temporary Regulation. The procedures to be followed are the same as those contained in § 13–1.605–3(a), after substituting the word "suspension" for "debarment" and the causes for suspension instead of debarment. Any preliminary determination for recommending suspension should also consider the information presented in § 1–1.606–1 (b) and (c) of the Temporary Regulation which are also incorporated into this subpart.

(b) *Decision-making process.* (1) The procedures to be followed in the suspension decision-making process are again similar to those for debarment, as contained in § 13–1.605–3(b). One major difference between the processes is that an initial decision by the Executive Director regarding debarment results in a proposal to debar, whereas the initial decision for suspension purposes results in immediate suspension.

(2) In actions not based on an indictment, or actions based on a suspension by another agency based on policies and procedures in effect prior to August 30, 1982, if the Executive Director determines that the contractor's submission in opposition (refer to § 13–1.606–3(c)) raises a dispute over facts material to the suspension, and if the Department of Justice or a state prosecuting official advises that substantial interests of the Government in pending or contemplated legal proceedings, based on the same facts as the suspension, would not be prejudiced, fact-finding shall be conducted. Where the advice of the Department of Justice or state prosecuting officials is to be solicited, requests shall be made through the Department's Assistant General Counsel for Administration. Fact-finding shall be conducted in accordance with the procedures contained in § 13–1.605–3(d)(2).

(c) *Notice of suspension.* When the Executive Director decides to impose suspension of a firm or individual, the Executive Director shall immediately notify the contractor or person and affected affiliates by certified mail, return receipt requested. The notice shall contain the information included in § 1–1.606–3(c) of the Temporary Regulation which is incorporated into this subpart. The information includes advising the contractor that it has 30 days after receipt of the notice to submit information and argument in opposition to the suspension, and that fact-finding to determine disputed material facts will be conducted unless the action is based on an indictment or another agency's suspension based on policies and procedures in effect prior to August 30, 1982, or that substantial interests of the Government or a state in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced. The initiating procurement activity shall also be promptly notified of the suspension decision.

(d) *Suspending official's decision.* (1) In actions: (i) Based on an indictment or a suspension by another agency based on policies and procedures in effect prior to August 30, 1982; (ii) in which the contractor's submission in response to the suspension notice does not raise a dispute over material facts; or (iii) in which fact-finding to determine disputed material facts has been denied on the basis of the advice of the Department of Justice or a state prosecuting official, the Executive Director's decision shall consider the information in the administrative record, including any submission made by the contractor. The decision shall be made within 30 working days after receipt of information or argument submitted in response to the notice of suspension, unless extended for good cause by the Executive Director.

(2) In actions in which fact-finding is determined appropriate, the Executive Director shall ensure that a fact-finding meeting is held and that written findings of fact are prepared. The Executive Director shall base the decision of continuing suspension on the facts as found, together with any information and argument submitted by the contractor and any other information in the administrative record.

(i) The Executive Director may refer suspension matters involving disputed material facts to another official for findings of fact. The Executive Director may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary and capricious or clearly erroneous.

(ii) Fact-finding meetings shall be conducted as soon as practicable after a determination is made that such meetings are appropriate. The Executive Director shall make the ultimate decision to continue or discontinue imposition of suspension within 30 working days (unless extended for good cause) after the conclusion of the meetings held to discuss disputed facts.

(iii) The Office of the Assistant General Counsel for Administration shall represent the Department at any fact-finding proceedings under this paragraph (d)(2), and may present witnesses for the Department and may confront any witnesses presented by the contractor.

(3) The Executive Director may modify or terminate the initially imposed suspension or leave it in force for the same reasons for terminating or reducing the period or extent of department, (refer to § 1–1.605–4(c) of the Temporary Regulation which is incorporated into this subpart). However, a decision to modify or terminate the suspension shall be without prejudice to the subsequent imposition of suspension by any other agency or the imposition of debarment by any agency.

(4) After the Executive Director has received and reviewed the contractor's response to the initially imposed suspension, ensured that fact-finding discussions, as appropriate, were held, and made a decision as to the appropriateness of continuing the suspension, he shall promptly notify the contractor of his decision by certified mail, return receipt requested.

§ 13–1.606–4 Period of suspension.

The Executive Director shall establish the period of suspension when he determines that continuation of the initially imposed suspension is appropriate. Suspension shall be for a temporary period pending the completion of investigation and any ensuing legal proceedings, unless sooner terminated by the Executive Director or as provided in § 1–1.606–4 (b) and (c) of the Temporary Regulation which are incorporated into this subpart.

§ 13-1.606-5 Scope of suspension.

The scope of suspension shall be the same as that for debarment, (see §1-1.605-5 of the Temporary Regulation which is incorporated into this subpart).

§ 13-1.607 Agency procedures.

The Executive Director is responsible for complying with the provisions of Temporary Regulations 65 and this subpart. Coordination with the Office of Procurement Services, Office of General Counsel, Office of Inspector General and the Office of Security and Investigations shall be made as deemed appropriate.

Thomas M. Schultz,

Procurement Analyst.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR PART 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0237.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opporunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Mendocino County (unincorporated areas) FEMA-6401.	Russian River	At the center of intersection of Howell St. and Hopland Road.	*456
			100 feet upstream from the center of Vicky Springs Road.	*597
			100 feet upstream from the center of School Way	*707
		Forsythe Creek	50 feet upstream from the center of Uva Drive	*711
		Mill Creek (at Redwood Valley)	450 feet upstream from confluence with Forsythe Creek.	*704
		York Creek	At the center of U.S. Highway 101 and stream crossing.	*640
		Hensley Creek	100 feet upstream from the center of U.S. Highway 101.	*629
		Ackerman Creek	50 feet upstream from the center of North state Street	*623
		East Fork Russian River	At the center of Main Street and stream crossing	*654
		Eel River	100 feet upstream of Cape Horn Dam	*1,514
		Anderson Creek	50 feet upstream from the center of State Highway 128.	*347
		Mill Creek (near Talmage)	30 feet upstream from the center of Park Lane	*648
		North Fork Mill Creek	50 feet upstream from the center of Guidiville Reservation Road.	*732
		Robinson Creek	At the center of State Highway 253 and stream crossing.	*627
		Feliz Creek	At the center of Old Hopland Yorkville Road and stream crossing.	*622
		Tenmile Creek	At the center of Sherwoodn Road and stream crossing	*1,610
		Town Creek	At the State Highway 162 and stream crossing	*1,391
		Davis Creek	75 feet upstream from the center of Hearst-Willits Road.	*1,360
		Orrs Creek	At the center of intersection of Orrs Street and Brush Street.	*610
		Doolin Creek	At center of Betty Street and stream crossing	*601

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Hewitt/Baechtel Creek	50 feet upstream from the center of Hearst/Willits Road.	*1,353
		Mill Creek (near Willits)	At the City of Willits corporate limit at the stream crossing.	*1,348
Maps available for inspection at County Planning Office, 890 N. Bush, Ukiah, California.				
	Woodlake (city) Tulare County FEMA–6401	St. Johns River	50 feet upstream from center of Valencia Boulevard	*425
		Antelope Creek	Center of intersection of Pine Street and Kaweah Avenue.	*449
		East Overflow Antelope Creek	Center of intersection of Sevillano Street and Antelope Avenue.	*435
		West Overflow Antelope Creek	Center of intersection of Palm Street and Sierra Avenue.	*441
Maps available for inspection at City Department of Public Works, 350 North Valencia Boulevard, Woodlake, California.				
Florida	Clearwater (City), Pinellas County, FEMA–6333	Alligator Creek	Intersection of Beachwood Avenue and Park Trail	*21
			Center of Logan Street, 100 feet west of its intersection with Belcher Road.	*44
		Gulf of Mexico	Intersection of Mandalay Avenue and Baymont Street	*11
			Intersection of Engman Street and Fairburn Avenue	*11
			Intersection of Edgewater Drive and Sunset Point Road.	*14
		Tampa Bay	Intersection of Bayshore Boulevard (County Road 30) and San Mateo Street.	*10
		Alligator Lake	Intersection of Perry Drive and Shinto Drive	*10
			Intersection of Arlie Avenue and Rose Road	*10
Maps available for inspection at Public Works Department, 10 S. Missouri Avenue, Clearwater, Florida.				
Florida	Oldsmar (City), Pinellas County FEMA–6333	Old Tampa Bay	Intersection of Lake Way and Dolphin Drive South	*10
			Intersection of Buckingham Avenue and Lafayette Boulevard.	*10
		Lake Tarpon	Intersection of Lake Tarpon Outfall Canal and McMullen Booth Road (State Highway 593 and County Road 77).	*7
Maps available for inspection at Planning Department, 150 Sellers Lane, Oldsmar, Florida.				
Florida	Pinellas County (unincorporated areas), FEMA–6333	Alligator Creek	50 feet downstream from the center of McMullen-Booth Road (State Highway 593) over the channel.	*21
			50 feet upstream from the center of Northeast Coachman Road (State Highway 580) over the channel.	[illegible]
		Joe Creek	Intersection of Westchester Boulevard and Ashford Court	*12
		Boca Ciega Bay	Intersection of creek and 62nd Street North	*18
			Intersection of Heron Drive and 94th Street	*11
			Intersection of Oakhurst Drive and Walker Avenue	*11
			Intersection of Pinehurst Drive and Burning Tree Drive	*11
			Intersection of Seagull Drive South and Debbie Lane South.	*12
		Gulf of Mexico	Intersection of Harbor View Lane and Royal Drive	*10
			Intersection of Bay Shore Drive and 81st Avenue North.	*10
			Intersection of Monte Cristo Boulevard and Desoto Drive.	*11
			Intersection of Seaford Street and Iowa Avenue	*12
		Tampa Bay	Intersection of Snug Harbor Road and Gandy Crest Drive.	*9
			Intersection of Shore Boulevard and Phoenix Avenue	*10
			Intersection of Roberta Lane and Summerdale Drive	*10
			Intersection of Evergreen Avenue and Ulmerton Road (State Highway 688).	*10
		Anclote River	Intersection of Salt Lake Drive and Bayou Drive	*10
			Intersection of Anclote Road (County Road 47) and Brady Road (County Road 84).	*11
		Lake Tarpon	Intersection of Cypress Drive and Freshwater Drive	*7
			Intersection of Sandy Point Road and Anchorage Lane	*7
		Alligator Lake	Intersection of Seaboard Coast Line Railroad and a tributary to Alligator Lake, approximately 1500 feet northeast along the railroad from its intersection with McMullen-Booth Road (State Highway 593).	*10
Maps available for inspection at Zoning Department, 440 Court Street, Clearwater, Florida.				
Florida	Safety Harbor (City), Pinellas County, FEMA–6333	Old Tampa Bay	Intersection of Birch Creek Drive and Honeysuckle Court.	*10
			Intersection of Hamilton Avenue and Spring Boulevard	*10
		Alligator Lake	Intersection of Division Street and Rome Avenue	*10
Maps available for inspection at Engineering Department, 750 Main Street, Safety Harbor, Florida.				
Florida	Tarpon Springs (City), Pinellas County, FEMA–6333	Gulf of Mexico	Intersection of Holiday Drive and Pinecrest Circle	*12
			Intersection of Ventor Avenue and Beach Drive	*16
		Lake Tarpon	Intersection of Jasmine Avenue and Oakwood Street	*7
		Anclote River	Intersection of Safford Avenue and Cedar Street	*10
Maps available for inspection at Building Department, South Pinellas and Court Street, Tarpon Springs, Florida.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(Unincorporated areas), Peoria, County, (Docket No. FEMA-6394)	Illinois River	At downstream county boundary	*455
			At upstream county boundary	*460
		Kickapoo Creek	About 2.2 miles downstream of State Route 116	*501
			About 0.6 mile downstream of Taylor Road	*511
			Just upstream of Interstate 74	*529
			Just downstream of Grange Hall Road	*555
		Spoon River	About 1,700 feet downstream of Township Road	*[illegible]
			At upstream county boundary	*[illegible]
		Dry Run Creek	Just downstream of Swords Avenue	*460
			About 0.27 mile upstream of West Farmington Road	*511
		Boyds Hollow Creek	About 750 feet downstream of Chicago, Rock Island and Pacific Railroad.	*460
			At upstream corporate limits of the City of Peoria	*544
		Springdale Creek	At downstream corporate limits of the City of Peoria	*520
			At upstream corporate limits of the City of Peoria	*573
		North Fork Tributary Big Hollow Creek.	At downstream corporate limits of the City of Peoria	*669
			Just upstream of West Willow Knolls Drive	*[illegible]
			About 100 feet upstream of West Willow Knolls Drive	*712
			At upstream corporate limits of the City of Peoria	*731
		Big Hollow Creek	About 1,200 feet downstream of Old Big Hollow Road	*569
			At upstream corporate limits of the City of Peoria (About 600 feet upstream of Chicago and North Western railroad).	*586
		Poppet Hollow Creek	About 900 feet downstream of Chicago, Rock Island and Pacific Railroad.	*460
			At upstream corporate limits of the City of Peoria (0.6 mile upstream of State Route 29).	*[illegible]
		Unnamed Tributary to Kickapoo Creek.	At downstream corporate limits of the City of Bartonville.	*474
			At upstream of corporate limits of the City of Bartonville.	*501
	Maps available for inspection at the County Zoning Department, Peoria County Courthouse, 300 Main Street, Room 504, Peoria, Illinois.			
Indiana	(Unincorporated), Wells County (Docket No. FEMA-6401).	Wabash River	At western county boundary	*800
			At the confluence of Fleming Ditch	*[illegible]
		Griffin Ditch	About 5,000 feet above Six Mile Creek	*814
			At mouth	*[illegible]
			Just downstream of 100 West Road	*[illegible]
	Maps available for inspection at the County City Area Planning Office, Wells County courthouse, 4th Floor, Bluffton, Indiana.			
Iowa	(C), Algona, Kossuth County (Docket No. FEMA-6401).	East Fork Des Moines River	About 200 feet upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*1,122
			About 3,760 feet upstream of U.S. Highway 18	*1,124
	Maps available for inspection at City Clerk's Office, City Hall, Algona, Iowa.			
Iowa	(Unincorporated), Story County (Docket No. FEMA-6431).	Skunk River	About 2.05 miles downstream of U.S. Highway 30 Bypass.	*[illegible]
			About 700 feet downstream of 13th Street	*[illegible]
			Just downstream of State Highway 221	*[illegible]
			At upstream county boundary	*[illegible]
		Fourmile Creek	Just upstream of Northwest 166th Avenue	*1,005
			About 0.28 mile upstream of County Highway R38	*1,013
		Indian Creek	Downstream county boundary	*[illegible]
			Just upstream of County Road (About 5.8 miles upstream of county boundary).	*[illegible]
		West Branch Indian Creek	Just downstream of County Road (About 5.26 miles downstream of City of Nevada corporate limit).	*[illegible]
			About 0.55 mile upstream of Chicago and Northwestern Railroad.	*[illegible]
		Walnut Creek	About 550 feet downstream of County Highway R63	*[illegible]
			About 3830 feet upstream of U.S. Highway 69	*[illegible]
		Ballard Creek	About 500 feet downstream of Interstate 35	*[illegible]
			Just downstream of U.S. Highway 69	*[illegible]
			About 200 feet downstream of County Road (About 1.43 miles upstream of U.S. Highway 69).	*[illegible]
			About 200 feet upstream of County Road (About 1.49 miles upstream of U.S. Highway 69).	*[illegible]
		Worle Creek	About 0.85 mile downstream of U.S. Highway 30	*[illegible]
			About 250 feet downstream of County Road	*[illegible]
			About 450 feet upstream of County Road	*[illegible]
			Just downstream of County Highway R38	*[illegible]
			About 150 feet upstream of County Highway R38	*[illegible]
			At upstream county boundary	*1,018
		Onion Creek	Mouth at Squaw Creek	*[illegible]
			Just upstream of County Road (About 1.7 miles upstream of mouth).	*935
		Squaw Creek	About 650 feet downstream of county boundary	*[illegible]
			Mouth at Skunk River	*[illegible]
			About 0.69 mile downstream of confluence of Onion Creek.	*[illegible]
			About 0.61 mile upstream of County Road (About 3.5 miles upstream of confluence of Onion Creek).	*[illegible]
		Bear Creek	About 600 feet downstream of Interstate 35	*[illegible]

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 1.08 miles downstream of County Highway R77	*1,017
			About 600 feet upstream of County Highway E15	*1,037
		Long Dick Creek	Mouth at Skunk river	*960
			About 0.20 mile upstream of County Road	*994
		Rock Creek	At confluence with Indian Creek	*862
			About 1000 feet downstream of County Highway E63	*879
			Just downstream of County Road (About 1.7 miles upstream of County Highway E63).	*906
		Rock Creek Tributary	About 900 feet upstream of mouth	*870
			About 0.94 mile upstream of mouth	*902
		Keigley Branch	Mouth at Skunk River	*926
			About 600 feet upstream of County Road	*942
		Lateral A	About 0.77 mile upstream of mouth	*887
			About 1.85 miles upstream of mouth	*927
Maps available for inspection at the Planning and Zoning Office, Story County Courthouse, Nevada, Iowa.				
Massachusetts	Uxbridge, Town, Worcester County (Docket No. FEMA-6356).	Blackstone River	Downstream corporate limits	*216
			Downstream South Main Street	*224
			At confluence of West River	*226
			Upstream of Mendon Street	*226
			Downstream Hartford Avenue	*233
			Upstream corporate limits	*241
		Mumford River	Confluence with Blackstone River	*227
			Upstream of Caprons Pond Dam	*236
			Downstream of Factory Dam	*247
			Upstream corporate limits (first crossing)	*259
			Upstream corporate limits (second crossing)	*318
			Upstream corporate limits	*321
		West River	Confluence with Blackstone River	*226
			Upstream of Mendon Street Dam	*236
			Upstream of Hartford Avenue	*238
			Upstream West Hill Dam	*241
Maps available for inspection at the Office of the Selectman, Uxbridge Town Hall, Uxbridge, Massachusetts.				
Michigan	(Twp.), Emmett, Calhoun County (Docket No. FEMA-6354).	Kalamazoo River	At downstream corporate limit	*832
			Just upstream of Interstate 94	*848
		Minges Brook	At confluence with Kalamazoo River	*833
			About 2,600 feet upstream of Golden Avenue	*837
			About 150 feet upstream of Interstate 194	*864
		Harper Creek	Mouth at Minges Brook	*844
			Just upstream of Beadle Lake Road (downstream crossing)	*853
			Just upstream of E Drive South	*880
			Just upstream of D Drive North (Hoover Drive)	*867
			About 1,660 feet upstream of D Drive North (Hoover Drive)	*871
		Beadle Lake	Within the community	*901
Maps available for inspection at the Township Hall, 620 Cliff Street, Battle Creek, Michigan.				
Minnesota	(C), Canby, Yellow Medicine County (Docket No. FEMA-6333).	Canby Creek	At downstream corporate limit	*1,200
			Just downstream of U.S. Highway 75	*1,230
			Just upstream of U.S. Highway 75	*1,235
			At upstream corporate limit	*1,237
		Shallow Flooding (overflow from Canby Creek).	Area Southeast of the intersection of State Highway 3 and St. Olaf Avenue, North, North of Canby Creek.	#3
Maps available for inspection at the Administrative Assistant's Office, City Hall, 110 Oscar Avenue, North, Canby, Minnesota.				
New Jersey	South Amboy, City Middlesex County (Docket No. FEMA-6401).	Raritan Bay	Shoreline from southern coporate limits to confluence of Raritan River.	*19
		Raritan River	Shoreline from confluence with Raritan Bay to approximately 2,000 feet downstream of Conrail bridge.	*18
			Shoreline from 2,000 feet downstream of Conrail bridge to downstream side of Conrail bridge.	*17
			Shoreline from downstream side of Conrail bridge to upstream corporate limits.	*16
Maps available for inspection at the City Hall, 140 North Broadway, South Amboy, New Jersey.				
New York	Brookhaven, Town, Suffolk County (Docket No. FEMA-6401).	Atlantic Ocean	Entire shoreline within community	*14
		Great South Bay	Entire shoreline within community	*6
			Carmans River at Long Island Railroad crossing	*8
			Swan River downstream of Swezey Street	*5
			Beaver Dam Creek at Beaver Dam Road crossing	*5
		Narrow Bay	Shoreline at Bay Fair Drive (extended)	*8
			At Pattersquash Island	*8
			Shoreline approximately .50 mile southwest of Pattersquash Island.	*11
			Shoreline at Floyd Point	*9
		Moriches Bay	Entire northern shoreline within community	*9
			Entire southern shoreline within community	*11
			Forge River shoreline at Island Point	*8
			Seatuck Creek at Long Island Railroad crossing	*8
		Long Island Sound	Shoreline at Cedar Beach	*15
			Shoreline at eastern corporate limits	*15
			Shoreline at confluence with Mount Sinai Harbor	*16

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Shoreline north of McAllister County Park	*16
		Smithtown Bay	Entire shoreline within community	*16
		Conscience Bay	Shoreline at Conscience Bay Road (extended)	*14
			Shoreline at Four Winds Road (extended)	*12
			Shoreline at Oak Road (extended)	*14
		Port Jefferson Harbor	Shoreline at Preston Lane (extended)	*14
			Little Bay shoreline at Youngs Lane (extended)	*13
			Setauket Harbor shoreline south of Abandoned Bridge Road	*13
			Shoreline south of McAllister County Park	*11
		Mount Sinai Harbor	Shoreline east of Sandy Path	*16
			Shoreline north of intersection of Cedar Drive and Pipe Stave Hollow Avenue.	*12
			Shoreline at Harbor Beach Road (extended)	*16

Maps available for inspection at the Town Hall, 205 South Ocean Avenue, Patchogue, New York.

New York	East Hampton, Village Suffolk County (Docket No. FEMA-6401).	Atlantic Ocean	Entire shoreline	*14
		Georgica Pond	From the southern corporate limits to Daniels Hole Road extended.	*12
			From Daniels Hole Road extended to Montauk Highway.	*11

Maps available for inspection at the Village Hall, 27 Main Street, East Hampton, New York.

New York	Manorhaven, Village, Nassau County, (Docket No. FEMA-6401).	Manhasset Bay	Entire shoreline	*15

Maps available for inspection at the Village Hall, 33 Manorhaven Boulevard, Port Washington, New York.

New York	Southampton, Town, Suffolk County, (Docket No. FEMA-6401).	Atlantic Ocean	Entire shoreline within community	*14
			Shoreline of Sagaponack Pond at Bridge Lane crossing.	*10
		Noyack Bay	Entire shoreline within community	*11
		Little Peconic Bay	Entire shoreline within community	*11
			Entire shoreline of North Sea Harbor	*10
			Entire shoreline of Fish Cove	*9
			Entire shoreline of Scallop Pond	*10
		Great Peconic Bay	Entire shoreline within community	*11
			Entire shoreline of Little Sebonac Creek	*10
			Entire shoreline of Bullhead Bay	*10
			Entire shoreline of Cold Spring Pond	*10
			Entire shoreline of Red Creek Pond	*10
		Flanders Bay	Entire shoreline within community	*11
			Shoreline of Hubbard Creek at confluence with Flanders Bay.	*10
			Shoreline of Hubbard Creek at Red Creek Road crossing.	*9
			Peconic River shoreline at Cross River Drive crossing	*8
		Macon Bay	Entire shoreline within community	*8
			Entire shoreline of Mill Creek	*7
			Entire shoreline of Hayground Cove	*7
		Heady Creek	Shoreline at East Point Road (extended)	*8
		Shinnecock Bay	Entire southern shoreline within community	*10
			Entire northern shoreline within community	*9
			Entire shoreline of Middle Pond	*8
		Quantuck Bay	Entire shoreline within community	*9
			Shoreline of Aspatuck River just north of Main Street crossing.	*8
			Shoreline of Aspatuck River at Brook Road crossing	*9
			Shoreline of Quantuck Creek at Alden Lane (extended).	*8
			Shoreline of Quantuck Creek at Long Island Railroad crossing.	*7
		Moriches Bay	Entire northern shoreline within community	*9
			Seatuck Creek shoreline at Long Island Railroad crossing.	*8
			Shoreline at Gunning Point	*10
			Shoreline south of Swan Island	*11

Maps available for inspection at the Town Hall, 116 Hampden Road, Southampton, New York.

New York	Woodsburgh, Village, Nassau County, (Docket No. FEMA-6247).	Brosewere Bay	Entire coastline within community	*8
		Woodmere Channel	Entire shoreline within community	*8

Maps available for inspection at the Village Hall, 30 Piermont Avenue, Hewlett, New York.

New York	Yorkville, Village, Oneida County, (Docket No. FEMA-B401).	Mohawk River	Downstream corporate limits	*414
			Upstream corporate limits	*414
		Sauquoit Creek	Upstream of Conrail	*417
			Upstream corporate limits	*422

Maps available for inspection at the Village Hall located between Calder and Sixth Streets, Yorkville, New York.

Pennsylvania	East Fallowfield, Township, Chester County (Docket No. FEMA-6262).	West Branch of Brandywine Creek	Downstream corporate limits	*250
			Upstream of Strasburg Road	*253
			Approximately 4,800' upstream of Strasburg Road	*296
			Upstream corporate limits	*575
		Buck Run	Upstream of State Route 82	*326

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Corporate limits (1st crossing)	*337
			Corporate limits (2nd crossing)	*344
			Upstream of Conrail (downstream crossing)	*356
			Upstream of Buck Run Road	*364
			Upstream of Conrail (3rd crossing)	*391
			Upstream of West Glenrose Road	*404
			Upstream of Timacula Road	*413
			Upstream of Conrail (7th crossing)	*427
			Upstream of Conrail (9th crossing)	*446
Maps available for inspection at the East Fallowfield Township Municipal Building, R. D. 1, Coatesville, Pennsylvania.				
Pennsylvania	Parkesburg, Borough, Chester County (Docket No. FEMA-6254).	Little Buck Run	Approximately 200' downstream corporate limits	*470
			Downstream corporate limits	*471
			Upstream Church Street (Route 10) first crossing	*486
			Approximately 1,400' upstream of Church Street first crossing.	*502
			Upstream CONRAIL	*520
			Approximately 750' upstream of CONRAIL	*536
			Upstream Church Street third crossing	*559
			Approximately 900' upstream of Church Street third crossing.	*576
			Upstream corporate limits	*592
Maps available for inspection at the Borough Hall, 329 West First Avenue, Parkesburg, Pennsylvania.				
Pennsylvania	West Pikeland, Township, Chester County (Docket No. FEMA-6262).	Pickering Creek	Upstream of Pikeland Road	*245
			Upstream of Chester Springs Road	*262
			Upstream of 2d Private Road	*290
			Upstream of Conestoga Road	*311
			Upstream of Private Road	*324
			At upstream corporate limits	*337
		Pine Creek	Downstream of Conestoga Road	*346
			Approximately 1,845' upstream of Conestoga Road	*359
			Approximately 400' upstream of downstream corporate limits	*366
Maps available for inspection at the residence of the Township Secretary, Routes 113 and 401, Chester Springs, Pennsylvania. Please call (215) 827-9218.				
Pennsylvania	Windsor, Township, York County (Docket No. FEMA-6401).	Kreutz Creek	Meadow Road (upstream)	*467
			State Route 124 (Orchard Road) upstream	*484
			Riddle Road (upstream)	*493
			Miller's Mill Road (upstream)	*514
			At Dietz Road	*528
			Windsor Road (upstream)	*553
			Ruppert Road (upstream)	*575
		Fishing Creek	Bahns Mill Road (upstream)	*578
			Private Road (upstream)	*600
			Gebhart Road (upstream)	*606
			Maryland Avenue (downstream)	*620
		North Branch Muddy Creek	Confluence of North Branch Muddy Creek Tributary No. 1.	*597
			Township Route 658 (Grove Road) (upstream)	*603
			Grimm Hollow Road (upstream)	*625
		North Branch Muddy Creek Tributary No. 1.	Confluence with North Branch Muddy Creek	*599
			Husson Road—2nd crossing (downstream)	*595
			Husson Road—3rd crossing	*630
			Dull Road—upstream	*690
Maps available for inspection at the Windsor Township Building, R.D. 3, Red Lion, Pennsylvania.				
Rhode Island	Bristol, Town, Bristol County (Docket No. FEMA-6401).	Walker Brook	Upstream Word Street	*14
			Upstream Richmond Street	*25
			Upstream Mount Hope Avenue	*31
		East Branch Silver Creek	At confluence with Silver Creek	*14
			Upstream Chestnut Street	*43
			Downstream Gooding Avenue	*63
		West Branch Silver Creek	At confluence with Silver Creek	*14
			Upstream Chestnut Street	*31
			Downstream Verndale Avenue (extended)	*65
		Narragansett Bay	From Mount Hope bridge to Curtis Road extended	*18
			From Curtis Road to Warren/Bristol corporate limits	*19
		Mount Hope Bay	Entire shoreline within community	*18
		Kickamuit River	Approximately 2,125' upstream of Bristol Narrows Road extended to Smith Avenue (extended).	*5
			Smith Avenue (extended) to northern corporate limits	*16
Maps available for inspection at the Town Clerk's Office, Town Hall, 10 Court Street, Bristol, Rhode Island.				
Rhode Island	East Providence, City, Providence County (Docket No. FEMA-6401).	Ten Mile River	At Omega Pond Dam	*16
			Upstream Pawtucket Avenue	*20
			Upstream Hunts Mill Dam	*37
			Upstream Newman Avenue	*52
			Upstream corporate limits	*52
		Runnins River	At Mobile Company Dam	*10
			Upstream Highland Avenue	*13
			Upstream Leonard Street	*17
		Willett Pond Brook	Upstream Francis Avenue (extended)	*16
			Upstream Willett Pond Dam	*34
		Seekonk River	Norfolk Avenue (extended) to Henderson Bridge	*19

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Providence River	Henderson Bridge to Waterman Avenue	*18
			Bold Point to Wilkesbarre Pier	*18
			Wilkesbarre Pier to Watchemoket Cove	*19
			Watchemoket Cove to Bullock Cove	*20
	Maps available for inspection at the City Clerk's Office, City Hall, 145 Taunton Avenue, East Providence, Rhode Island.			
Rhode Island	Warren, Town, Bristol County (Docket No. FEMA-6401).	Palmer River	Entire shoreline within community	*12
		Warren River	Shoreline from North Main Street to School Street [extended].	*18
			Shoreline from School Street extended to approximately 530 feet south of Locust Terrace.	*19
			Shoreline from approximately 530 feet south of Locust Terrace to downstream corporate limits.	*20
		Kickamuit River	From approximately 1,100 feet south of Child Street to Chase Cove.	*17
			Chase Cove to Bristol Narrows	*18
		Warren Reservoir	Entire shoreline	*10
		Mount Hope Bay	Shoreline from northeastern corporate limits to approximately 1,700 feet north of Calder Drive (extended).	*18
			Shoreline from approximately 1,700 feet north of Calden Drive (extended) to Calden Drive (extended).	*19
			Shoreline from Calden Drive (extended) to southern corporate limits	*18
	Maps available for inspection at the Town Clerk's Office, Town Hall, 514 Main Street, Warren, Rhode Island.			
Texas	Unincorporated Areas of Jefferson County (FEMA-6384)	Mayhaw Bayou	Just upstream of State Highway 124	* 15
		Walker Branch Tributary	Just upstream of Tram Road	* 22
		Hillebrandt Bayou	At Hillebrandt Road	* 9
			At the corporate limits of the City of Beaumont	* 10
		Willow Marsh Bayou	Just upstream of Walden Road	* 19
		Pine Island Bayou	At the confluence of Hughes Gully	* 23
		Rhodair Gully	Just upstream of Port Arthur Road	* 10
		Taylor Bayou	Just downstream of La Belle Road	* 11
		Bayou Din	Just upstream of Interstate Highway 10	* 26
			Just upstream of the First Dirt Road located approximately 4000 feet upstream of Mack Road.	* 27
		Bayou Din Tributary	Approximately 300 feet upstream of Timber Bridge	* 18
		Kid Gully	Just upstream of state Highway 124	* 19
		Cotton Creek	Approximately 1000 feet upstream of 3rd Street	* 42
		Crane Bayou (Ponding)	At the intersection of Trit Avenue and State Highway 73.	* 3
		Gulf of Mexico	Intersection of West Basin Intracoastal Waterway and Sabine Neches Canal.	* 10
			The intersection of Big Hill Road and a Private Drive 1.2 miles North of Big Hill.	* 11
			South of the intersection of Taylor and Hillebrandt Bayous.	* 12
			Just north of the intersection of the Intercoastal Waterway with Salt Bayou.	* 15
			South of the Clam Lake Shoreline	* 17
			Along State Highway 87 near the Jefferson Chambers County Line.	* [illegible]
		Gulf of Mexico/Neches River	Approximately 200 feet upstream of State Highway 73, at a point where State Highway 81 joins Highway 73 before crossing the river.	* 8
			At McFadden Bend Cutoff and Smith Bluff Cutoff	* 8
			At the Horseshoe Bend located at 3,500 feet downstream of Interstate Highway 10 and U.S. Highway [illegible].	* [illegible]
		Gulf of Mexico/Hillebrandt Bayou	North of Good Hope Chapell, along the right bank	* 9
		Gulf of Mexico/Rhodair Gully	Just upstream of State Highway 365	* 9
		Gulf of Mexico/Taylor Bayou	Just south of the confluence of Hillebrandt Bayou, along the Right Bank.	* 12
	Maps available for inspection at County Clerk's Office, Jefferson County Courthouse, 1149 Pearl Street, Beaumont, Texas 77704.			
Vermont	Berkshire, Town, Franklin County (Docket No. FEMA-6401).	Missisquoi river	Downstream corporate limits	*409
			Upstream State Route 118	413
			Approximately 100' upstream of State Route 105	*420
			Upstream corporate limits	*429
	Maps available for inspection at the Berkshire Town Clerk's Office, Enosburg Falls, Vermont.			
Vermont	Cambridge, Village, Lamoille County (Docket No. FEMA-6401)	Lamoille River	Downstream corporate limits	*446
			Upstream of State Route 15	*447
		Seymour River	Abandoned Covered Bridge	*447
			Upstream of Town Highway 1	*451
			Upstream corporate limits	*467
	Maps available for inspection at the Cambridge Village Offices, Jeffersonville, Vermont.			
Washington	Ferndale (City), Whatcom County, FEMA-6401	Nooksack River	100 feet upstream from center of Interstate 5	*34
	Maps available for inspection at City Hall, 936 Ferndale Street, Ferndale, Washington.			

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Wisconsin	(Unincorporated) Portage County, (Docket No. FEMA-6401).	Wisconsin River	At downstream county boundary	*1037
			Just downstream of Whiting Plover Dam	*1047
			Just upstream of Whiting Plover Dam	*1054
			Just downstream of Wisconsin River Division Dam	*1054
			Just upstream of Wisconsin River Division Dam	*1069
			At upstream City of Stevens Point corporate limit	*1089
			Just downstream of Lake Dubay Dam	*1104
		Rocky Run	Mouth at Wisconsin River	*1041
			About 1.3 miles upstream of West River Drive	*1048
			About 0.5 mile downstream of County Highway P	*1071
			Just downstream of Soo Line Railroad	*1086

Maps available for inspection at the Zoning Administrator's Office, 1513 Church Street, Stevens Point, Wisconsin.

Wisconsin	(C) Stevens Point, Portage County (Docket No. FEMA-6401).	Wisconsin River	At downstream corporate limit	*1072
			Just downstream of Stevens Point Dam	*1080
			Just upstream of Stevens Point Dam	*1087
			At upstream corporate limit	*1089
		Rocky Run	About 2.0 miles downstream of County Highway C	*1076
			About 0.3 mile upstream of County Highway C	*1085

Maps available for inspection at the City Administrator's Office, 1515 Stronge Avenue, Stevens Point, Wisconsin.

(National Flood Insurance Act of 1968 [Title XIII of Housing and Urban Development Act of 1968], effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: December 16, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-323 Filed 1-7-83; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 6

[OST Docket No. 71]

Implementation of the Equal Access to Justice Act

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department of Transportation (DOT) is publishing this final regulation to implement the Equal Access to Justice Act (EAJA) (Pub. L. 96-481, 94 Stat. 2325). The Act, which took effect October 1, 1981, provides for the award of attorney fees and other expenses to parties who prevail over the Federal Government in certain administrative and court proceedings under section 554 of the Administrative Procedure Act (APA). It requires agencies conducting proceedings under section 554 to establish uniform procedures for making awards after consultation with the Chairman of the Administrative Conference of the United States (ACUS).

These final regulations, generally, will set uniform procedures under the EAJA for any adversary adjudications conducted pursuant to section 554 by this Department or any of its operating administrations. They will presently apply to Coast Guard license, certificate or document suspension and revocation proceedings, National Highway Traffic Safety Administration (NHTSA) fuel economy enforcement proceedings, and the Federal Highway Administration (FHWA) driver qualification and compliance order proceedings.

EFFECTIVE DATE: January 10, 1983.

FOR FURTHER INFORMATION CONTACT: Lynne Adams-Whitaker, Office of General Counsel, C-50, Department of Transportation, 400 Seventh Street, SW., Room 10421, Washington, D.C. 20590, (202) 426-4723.

SUPPLEMENTARY INFORMATION:

Background

The Equal Access to Justice Act (EAJA), authority for these rules, was enacted by the 96th Congress (Pub. L. 96-481, 94 Stat, 2325, 5 U.S.C. 504 et seq.). It provides for the award of attorney fees and other expenses to eligible individuals and entities that are parties to certain administrative proceedings (proceedings conducted under section 554 of the APA before government agencies) and prevail over the government. Eligible prevailing parties are entitled to awards of fees and expenses, unless the presiding officer or judge of the proceeding finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

Under the EAJA, eligible parties include individuals with a net worth of no more than $1 millon; sole owners of unincorporated businesses, partnerships, corporations, associations, or organizations with a net worth of no more than $5 million and no more than 500 employees; and tax-exempt charitable, educational or religious organizations and cooperative associations as defined by the Agricultural Marketing Act with no more than 500 employees regardless of net worth. The Act directs agencies to establish uniform procedures for the submission and consideration of fee and expense applications. Section 554 of the APA applies in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing.

In the Department of Transportation, at this time, three operating administrations are statutorily required to conduct certain proceedings to which § 554 of the APA applies. The Coast Guard conducts hearings in all cases involving acts of incompetency or

misconduct committed by any licensed officer or holder of a certificate of service (46 U.S.C. 239; 46 CFR Part 5). These hearings are conducted in order to investigate the alleged acts of misconduct or incompetency and to determine if a licensee or certificate holder should have the license or certificate revoked. NHTSA conducts hearings in cases involving the enforcement of automotive fuel economy standards, gas mileage guide availability, reporting and other requirements of Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.; 49 CFR Part 511). FHWA conducts driver qualification and compliance order proceedings authorized by the Interstate Commerce Act (49 U.S.C. 1655(e)(6), (f)(2), 11701(a); 49 CFR Part 386).

The Department of Transportation published an interim final rule on this subject on October 8, 1981 (46 FR 49878). The rule was published on an interim final basis, without publication of a prior notice, so that we might meet the statutory deadline of October 1, 1981. Comments from the public were solicited in the interim rule. However, no comments were received.

Shortly before the statutory deadline the DOT became aware that the Department of Justice (DOJ) had prepared a draft rule to implement the EAJA which differed in some respects from the DOT interim rule. DOT, therefore, stated, in the preamble to the interim rule, that it would consider these differences carefully and, where it believed it best to defer to DOJ's expertise and interpretation of the EAJA's provisions, would adopt changes to the interim rule. On April 13, 1982, DOJ issued its final rules governing the implementation of the EAJA in DOJ Administrative Proceedings, 47 FR 15774. DOT has accordingly, modified its regulations in several areas.

§ 6.5 Proceedings covered.

DOT has added two types of proceedings to its listing of those covered under the EAJA in § 6.5(a). These are: NHTSA fuel economy enforcement proceedings under 15 U.S.C. 2000 et seq. (49 CFR Part 511); FHWA driver qualification and compliance order proceedings authorized by the Interstate Commerce Act (49 CFR Part 386). Each of the above constitutes an adjudication under 5 U.S.C. 554 in which the position of an operating administration of the Department of Transportation is represented by an attorney or other representative who enters an appearance and participates in the proceeding.

§ 6.9 Standards for awards.

The Department has added a sentence in § 6.9 stating that the fact that an applicant prevails does not create a presumption that the agency's position was not substantially justified. This language is also contained in the DOJ regulations, and was derived directly from the House and Senate Committee Reports, in which the following language appears:

> (t)he standard, however, should not be read to raise a presumption that the government position was not substantially justified, simply because it lost the case. "See Rep. No. 96-253, 96th Cong. 1st Sess., at 7; H.R. Rep. No. 96-1418, 96th Cong. 2d Sess., at 11.

This language has been restated in the regulations in order to make perfectly clear that the test is not whether the government lost the case, but whether the government can show that its case had a reasonable basis both in law and in fact.

§ 6.19 Information required from applicants.

DOT has added a requirement that, unless the applicant is an individual, the application shall state that the applicant did not have more than 500 employees at the time the proceeding was initiated. This provision is suggested by the EAJA and is included in the DOJ final rule.

§ 6.21 Net worth exhibit.

DOT has added a sentence to § 6.21(a) requiring that an applicant's net worth exhibit must include a showing of the net worth of all individuals, corporations, or other entities who directly or indirectly control or own a majority of the voting shares or other interest of the applicant. Or, if the applicant directly or indirectly owns or controls a majority of the voting shares or other interest of any corporation or other entity, the exhibit must include a showing of the net worth of the applicant including the affiliates. This requirement will ensure full disclosure of the applicant's and any affiliates' assets and liabilities and a correct determination as to whether the applicant qualifies under the standards of 5 U.S.C. 504(b)(1)(B)(i).

DOT has also added a new § 6.21(b) which requires that the net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate, occurring in the one-year period prior to the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth ceiling. This requirement has been added in order to facilitate a close examination by the administrative law judge to determine whether such transfers were made for legitimate business or other purpose. A similar provision is contained in the DOJ final rule.

Finally, DOT has added § 6.21(c), which requires that the net worth exhibit be included in the public record of the proceeding.

Section 6.21(b) of the DOT interim final rule provided applicants with the opportunity to demonstrate that their net worth information is entitled to confidential treatment. A similar provision was included in the model rules issued by ACUS to ensure that applicants who could make a showing that their net worth information was entitled to confidential treatment would not be deterred from applying for Equal Access to Justice awards.

The confidentiality has been omitted from the DOT final rule since it is neither required nor suggested by EAJA. DOJ believes, and we agree, that a confidentiality provision would have a restrictive effect on the activities of Department attorneys in investigating the truth of the information included in the net worth statement.

Further, we believe that an applicant's knowledge that its net worth statement may become public should discourage false statements. In addition, the courts have not adopted any kind of confidentiality procedure for applications, regardless of whether the proceeding involves an action originally initiated in the courts or an appeal from an agency adjudication. Thus, different treatment at the administrative level is not warranted.

§ 6.23 Documentation of fees and expenses.

In lieu of the itemized statement showing hours spent, specific services performed, and rate at which fees are computed by professional firms or individuals required under the interim final rule, DOT has modified its final rule to require that such information be supplied in the form of an affidavit. Thus, applicants will have sworn to the truth of the documentation of their fees and expenses. In addition, a section has been added that requires an attorney or agent, to whom no hourly rate is paid by the majority of his or her other clients, to provide information about rates paid to attorneys or agents with similar experience, who perform similar work. This would primarily affect those attorneys or agents who represent clients on a contingency basis.

§ 6.29 Answer to application.

Section 6.29(b) was not in the interim final rule. It provides for the filing of a statement of intent to negotiate by Department counsel where Department counsel and applicant believe a settlement can be reached concerning the award. Filing such a statement will extend the time for filing an answer an additional 30 days. This provision has been included in the DOJ final rule implementing the EAJA and is intended to promote negotiated settlements of awards.

§ 6.31 Reply.

DOT's reply provision has been deleted from the final rule. The provision would have permitted the applicant to file a reply within 15 days after service of an answer. Instead, DOT has provided at § 6.37 that the administrative law judge may sua sponte or on the motion of any party require further proceedings. We do not believe it is necessary to specifically provide for reply pleadings since they frequently will not be necessary.

§ 6.45 Payment of award.

DOT has deleted the 60 day time limit set out in the interim final rule within which it was to have paid the amount awarded to the applicant. We believe it would be inappropriate to bind the Department to an inflexible time period without first having some experience in this area.

Regulatory Flexibility Act Determination

Notwithstanding that the Regulatory Flexibility Act (RFA) does not require an analysis of the economic impact on small entities for final rules issued without prior notices, it is certified that this final regulation will not have a significant economic impact on a substantial number of small entities. In that connection, it should be noted that these rules have been specially developed to implement an Act which has as its primary purpose a reduction in the financial burden of Federal litigation on small partnerships, corporations, associations and public and private organizations as well as individuals. While the rule will create an impact on these small entities, the impact will be positive. The impact will not be significant since the volume of covered Departmental proceedings is small and, thus, there is no expectation that small entities will have a need to invoke these procedures often, if at all. Further, because of the expectation that few entities will file claims under these procedures, the Department expects to be required to reimburse few, if any, small entities under these procedures.

Regulatory Evaluation

This regulation is classified as a "nonmajor" regulation under Executive Order 12291. This regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures; the regulation is not significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Environmental Impact

This regulation will have no environmental impact.

List of Subjects in 49 CFR Part 6

Claims, Equal access to justice, Lawyers.

Issued in Washington, D.C., on December 29, 1982.

Andrew L. Lewis,

Secretary of Transportation.

49 CFR Part 6 is revised to read as follows:

PART 6—IMPLEMENTATION OF EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Subpart A—General Provisions

Sec.

6.1 Purpose of these rules.
6.3 When the Act applies.
6.5 Proceedings covered.
6.7 Eligibility of applications.
6.9 Standards for awards.
6.11 Allowable fees and expenses.
6.13 Delegations of authority.
6.15 [Reserved]

Subpart B—Information Required from Applicants

6.17 Contents of application.
6.19 Net worth exhibit.
6.21 Documentation of fees and expenses.

Subpart C—Procedures for Considering Applications

6.23 Filing and service of documents.
6.25 Answer to application.
6.27 Comments by other parties.
6.29 Settlement.
6.31 Further proceedings.
6.33 Decision.
6.35 Agency review.
6.37 Judicial review.
6.39 Payment of award.

Authority: Pub. L. 96-481, 94 Stat. 2325.

Subpart A—General Provisions

§ 6.1 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (called "the Act" in this part), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications":) before government agencies, such as the Department of Transportation or any of its operating administrations. An eligible party may receive an award when it prevails over the Department of Transportation or any of its operating administrations unless the agency's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that this agency will use to make them. The use of the term "Department", in this rule, will be understood to mean the Department of Transportation or any of its operating administrations, unless otherwise specified. The term "agency counsel" will be understood to mean counsel for the Department of Transportation or any of its operating administrations.

§ 6.3 When the Act applies.

The Act applies to any adversary adjudication pending before this agency at any time between October 1, 1981, and September 30, 1984. This includes proceedings begun before October 1, 1981, if final agency action has not been taken before that date, and proceedings pending on September 30, 1984.

§ 6.5 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by the Department of Transportation. These are adjudications under 5 U.S.C. 554 in which the position of the Department is represented by an attorney or other representative who enters an appearance and participates in the proceeding. Coverage of the Act begins at designation of a proceeding or issuance of a charge sheet. Any proceeding in which the Department may prescribe or establish a lawful present or future rate is not covered by the Act. Proceedings to grant or renew licenses are also excluded, but proceedings to modify, suspend, or revoke licenses are covered if they are otherwise "adversary adjudications." For the Department of Transportation, the types of proceedings generally covered include: Coast Guard suspension or revocation of licenses, certificates or documents under 46 U.S.C. 239; 46 CFR Part 5; National Highway Traffic Safety Administration (NHTSA) fuel economy enforcement under 15 U.S.C. 2001; (49 CFR Part 511); Federal Highway Administration

(FHWA) driver qualification and compliance order proceedings under 49 U.S.C. 655; (49 CFR Part 386).

(b) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 6.7 Eligibility of applications.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to an adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart and in paragraph (b) of this section.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $1 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees.

(3) A charitable or other tax-exempt organization as described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with a net worth of not more than $5 million and not more than 500 employees.

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than $5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was designated.

(d) An applicant who owns an unincorporated business will be considered an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The number of employees of an applicant includes all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the administrative law judge determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the administrative law judge may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

(h) An applicant who appears *pro se* in a proceeding is ineligible for award of attorney fees. However, eligibility for other expenses is not affected by *pro se* representation.

§ 6.9 Standards for awards.

(a) An eligible applicant may receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the agency over which the applicant has prevailed was substantially justified or special circumstances make the award sought unjust. The burden of proof that an award should not be made to an eligible prevailing applicant is on the Department of Transportation, where it has initiated the proceeding, or on the appropriate operating administration, such as Coast Guard. No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding.

§ 6.11 Allowable fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents or expert witnesses.

(b) No award for the fee of an attorney or agent under these rules may exceed $75.00 per hour. This amount shall include all other expenses incurred by the attorney or agent in connection with the case. No award to compensate an expert witness may exceed the highest market rate at which the Department pays expert witnesses, or $24.09 per hour, whichever is less.

(c) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the administrative law judge shall consider the following:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

(e) Fees may be awarded only for work performed after designation of a proceeding.

§ 6.13 Delegations of authority.

The Secretary of Transportation delegates to the head of each operating administration of this Department the authority to take final action, other than rulemaking, on matters pertaining to the Act in actions that require section 554 proceedings. The head of each operating administration may redelegate this authority.

§ 6.15 [Reserved]

Subpart B—Information Required From Applicants

§ 6.17 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of an agency or agencies in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state that it did not have more than 500 employees at the time the proceeding was initiated, giving the number of employees of the applicant and describing briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net

worth does not exceed $1 million (if an individual) or $5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if—

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 114j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes this agency to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

(f) If the applicant is a partnership, corporation, association, or organization, or a sole owner of an unincorporated business, the application shall state that it did not have more than 500 employees at the time the proceeding was initiated, giving the number of its employees and describing briefly the type and purpose of its organization or business.

§ 6.19 Net worth exhibit

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in this part) when the proceeding was designated. If any individual, corporation, or other entity directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or if the applicant directly or indirectly owns or controls a majority of the voting shares or other interest of any corporation or other entity, the exhibit must include a showing of the net worth of all such affiliates or of the applicant including the affiliates. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this subpart. The administrative law judge may require an applicant to file additional information to determine its eligibility for an award.

(b) The net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate, occurring in the one-year period prior to the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth ceiling. If there were no such transactions, the applicant shall so state.

(c) The net worth exhibit shall be included in the public record of the proceeding.

§ 6.21 Documentation of fees and expenses.

(a) The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought.

(b) The documentation shall include an affidavit from any attorney, agent, or expert witness representing or appearing in behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed and describing the specific services performed.

(1) The affidavit shall state the services performed. In order to establish the hourly rate, the affidavit shall state the hourly rate which is billed and paid by the majority of clients during the relevant time periods.

(2) If no hourly rate is paid by the majority of clients because, for instance, the attorney or agent represents most clients on a contingency basis, the attorney or agent shall provide information about two attorneys or agents with similar experience, who perform similar work, stating their hourly rate.

(c) The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided.

(d) The administrative law judge may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

(e) The administrative law judge may, within his or her discretion, make a determination as to whether a study, conducted by the applicant, was necessary to the preparation of the applicant's case.

Subpart C—Procedures for Considering Applications

§ 6.23 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding.

§ 6.25 Answer to application.

(a) Within 30 calendar days after service of an application, the agency counsel may file an answer to the application. Unless the agency counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award request.

(b) If agency counsel and applicant believe that they can reach a settlement concerning the award, the agency counsel may file a statement of intent to negotiate. The filing of such a statement shall extend the time for filing an answer an additional 30 days.

(c) The answer shall explain in detail any objections to the award requested an identify the facts relied on in support of the Department's position. If the answer is based on any alleged facts not already in the record of the proceeding, the Department shall include with the answer either supporting affidavits or a request for further proceedings under § 6.3.

§ 6.27 Comments by other parties.

Any party to a proceeding, other than the applicant and the Department may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application.

§ 6.29 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded, in accordance with the agency's standard settlement procedure. If a prevailing party and the agency counsel agree on a proposed settlement of an award before an application has been filed the application shall be filed with the proposed settlement.

§ 6.31 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel, or on his or her own initiative, the administrative law judge may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing.

Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the administrative law judge order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 6.33 Decision.

The administrative law judge shall issue an initial decision on the application as soon as possible after completion of proceedings on the application. The decision shall also include, if at issue, findings on whether the Department's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment or any award made among the agencies, and shall explain the reasons for the allocation made.

§ 6.35 Agency review.

Where Department review of the underlying decision is permitted, either the applicant or agency counsel, may seek review of the initial decision on the fee application, or the Department may decide to review the decision on its own initiative. If neither the applicant nor the agency counsel seeks review within 30 days after the decision is issued, it shall become final.

§ 6.37 Judicial review.

Judicial review of final agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 6.39 Payment of award.

An applicant seeking payment of an award from the Department of Transportation or any of its operating administrations under this part shall submit a copy of the Department of Transportation's or any of its operating administration's final decisions granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The copy of the decision and the statement should be submitted to the head of the affected operating administration or the Secretary of Transportation, where the Department of Transportation, Office of the Secretary, has initiated the proceedings.

[FR Doc. 83-632 Filed 1-7-83; 8:45 am]

BILLING CODE 4910-62-M

Proposed Rules

Federal Register
Vol. 48, No. 6
Monday, January 10, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL LABOR RELATIONS AUTHORITY; GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY; AND FEDERAL SERVICE IMPASSES PANEL

5 CFR Part 2423

Informal Resolution of Unfair Labor Practice Allegations

AGENCY: Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority.

ACTION: Proposed amendment of rules and regulations.

SUMMARY: These proposed amendments would, in pertinent part: (1) Reaffirm the existing policy of the Authority and the General Counsel to encourage the informal resolution of unfair labor practice allegations both prior and subsequent to the filing of an unfair labor practice charge; and (2) reinforce this policy by affording the parties an opportunity to resolve among themselves unfair labor practice allegations after the filing of an unfair labor practice charge but prior to the commencement of an investigation of the charge.

DATE: Written comments will be considered if received by February 25, 1983.

ADDRESS: Send written comments to the Office of the General Counsel, Federal Labor Relations Authority, 500 C Street, SW., Washington, D.C. 20424.

FOR FURTHER INFORMATION CONTACT: David L. Feder, Assistant General Counsel, Office of the General Counsel, (202) 382–0834.

SUPPLEMENTARY INFORMATION: Effective January 20, 1980, the Authority, the General Counsel of the Authority and the Federal Service Impasses Panel published, beginning at 45 FR 3482, final rules and regulations principally to govern the processing of cases by the Authority, General Counsel and Panel under chapter 71 of title 5 of the United States Code (5 CFR Part 2400 et. seq. (1982)). The rules and regulations are required by 5 U.S.C. 7134. The part of the final rules and regulations affected by the amendments here proposed is Part 2423 which governs the processing of unfair labor practice cases.

Section 2423.2(a) of the rules and regulations sets forth the policy of the Authority and of the General Counsel "to encourage all persons alleging unfair labor practices and persons against whom such allegations are made to meet and, in good faith, attempt to resolve such matters prior to the filing of unfair labor practice charges with the Authority." Noting the six (6) month period of limitation in 5 U.S.C. 7118(a)(4), paragraph (b) of § 2423.2 of the rules and regulations further sets forth the "policy of the Authority and the General Counsel to encourage the informal resolution of unfair labor practice allegations subsequent to the filing of a charge and prior to the issuance of a complaint by the Regional Director." Section 2423.11 of the rules and regulations reiterates the above noted general settlement policy and established informal and formal settlement procedures at various stages of the processing of a charge; *i.e.*, pre-complaint, post complaint—prehearing, post complaint—after the opening of the hearing.

Although recognizing the current settlement policy of the Authority and the General Counsel, the General Accounting Office in its November 5, 1982, Report (GAO/FPCD–83–5) entitled *Steps Can Be Taken To Improve Federal Labor-Management Relations And Reduce The Number And Costs Of Unfair Labor Practice Charges* recommends that the Authority "require the parties involved in alleged ULPs to hold discussions to try to informally resolve issues before having a formal ULP charge investigated by FLRA."

In order to afford the parties an opportunity to attempt to informally resolve an unfair labor practice allegation among themselves without the intervention of an Authority agent occasioned by the commencement of an investigation, these amendments propose that normally, an unfair labor practice investigation will not commence until the parties have had a reasonable period of time *after* the filing of a charge, not to exceed fifteen (15) days, to informally resolve their dispute. It was determined that a fifteen (15) day time period would provide a reasonable opportunity for the parties to explore settlement while not unduly delaying the investigation and disposition of an unfair labor practice charge. In this regard, as noted by the General Accounting Office, the number of unfair labor practice charge filings in Fiscal Year 1982 has declined somewhat from previous levels. This has allowed Regional Offices, in many instances, to commence their investigations approximately fifteen (15) days after the filing of an unfair labor practice charge. Moreover, as indicated above, parties are still strongly encouraged by the Authority and the General Counsel to attempt to resolve their dispute *prior* to the filing of a charge and to continue settlement efforts at all stages of the processing of a charge.

List of Subjects in 5 CFR Part 2423

Administrative practice and procedure, Government employees, Labor management relations.

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

Accordingly, it is proposed that the final rules and regulations of the Authority and the General Counsel of the Authority be amended as follows:

Section 2423.2 is amended by adding a new paragraph (c) as follows:

§ 2423.2 Informal proceedings.

* * * * *

(c) In order to afford the parties an opportunity to implement the policy referred to in paragraphs (a) and (b) of this section, the investigation of an unfair labor practice charge by the Regional Director will normally not commence until the parties have been afforded a reasonable amount of time, not to exceed fifteen (15) days from the filing of the charge, during which period the parties are urged to attempt to informally resolve the unfair labor practice allegation

2. Section 2423.7(a) is revised to read as follows:

§ 2423.7 Investigation of charges.

(a) The Regional Director, on behalf of the General Counsel, shall conduct such investigation of the charge as the Regional Director deems necessary. Consistent with the policy set forth in section 2423.2, the investigation will normally not commence until the parties

have been afforded a reasonable amount of time, not to exceed fifteen (15) days from the filing of the charge, to informally resolve the unfair labor practice allegation.

* * * * *

(5 U.S.C. 7134)

Note.—In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, the Federal Labor Relations Authority and the Acting General Counsel of the Federal Labor Relations Authority have determined that this document does not require preparation of a Regulatory Flexibility Analysis.

Dated January 4, 1983.

Federal Labor Relations Authority:

Ronald W. Haughton,

Chairman.

Henry B. Frazier III,

Member.

Leon B. Applewhaite,

Member.

S. Jesse Reuben,

Acting General Counsel.

[FR Doc. 83-556 Filed 1-7-83; 8:45 am]

BILLING CODE 6727-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82-ASO-29]

Proposed Alteration of VOR Federal Airways V-3, V-35, V-51, V-157, V-267, V-295, and V-492

Correction

In FR Doc. 82-34235 beginning on page 56655 in the issue of Monday, December 20, 1982, make the following changes on page 56656:

1. In the first column, the second complete paragraph, after the fourteenth line, add the following language: "and Orlando, FL; V-492 north alternate between LaBelle, FL, and Palm Beach, FL;".

2. In the second column, under the amendments to § 71.123, in the third line of *V-267 [Amended],* "Biscayne Bay 40°" should have read "Biscayne Bay 340°".

BILLING CODE 1505-01-M

Federal Highway Administration

23 CFR Parts 625 and 655

[FHWA Docket No. 82-15]

National Standards for Traffic Control Devices; Request for Comments on Proposed Amendments to the Manual on Uniform Traffic Control Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices; request for comments.

SUMMARY: The FHWA is inviting comments on proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD is incorporated by reference in the design standards for Federal-aid highways found in Part 625 of Title 23, Code of Federal Regulations. It is also recognized in 23 CFR Part 655 as the national standard for traffic control devices on all public roads.

DATE: Comments must be received on or before March 11, 1983.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 82-15, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard. The MUTCD is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($20.00).

FOR FURTHER INFORMATION CONTACT: Mr. James C. Partlow, Office of Traffic Operations, (202) 426-0411, or Mr. Lee J. Burstyn, Office of the Chief Counsel, (202) 426-0754, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA both receives and initiates requests for changes (i.e. amendments) to the MUTCD. Each request is assigned an identification number which indicates, by Roman numeral, the organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received.

This notice is being issued to provide the public an opportunity to participate in the processing of proposed amendments to the MUTCD. Based upon comments received in response to this notice and upon its own experience, the FHWA will consider final amendments for inclusion in the MUTCD which will be published in the **Federal Register** and incorporated by reference in the CFR.

Forty-six of the requests for amendments contained in this notice were published in advance notices of proposed amendments on June 19, 1980, under FHWA Docket No. 80-10 (45 FR 41600), on January 7, 1981, under FHWA Docket No. 81-2 (46 FR 2020), and on June 25, 1981, under FHWA Docket No. 81-5 (46 FR 32880).

Request III-4 is being published initially in this notice of proposed amendments, but the subject was addressed in Request III-5 published under FHWA Docket No. 79-35 (45 FR 5750). Request II-20 also appeared in Docket No. 79-35.

Discussion of Requests and Major Comments

A total of 4,892 comments were received in the docket for the three advance notices. About 4,700 of these responded solely to Request II-50, which concerned the use of NO PASSING ZONE pennant signs. Nearly all of the 200 other responses were from State and local highway agencies, related industries and technical associations. Except for Request II-50, which is discussed below in the Requests Deferred for Later Action section of this notice, there were no more than 44 responses to any one request.

After a review of the comments received in response to the advance notices, the FHWA proposes to amend the MUTCD by adopting the following requests for changes.

1. *Request II-7—Signing Public Median Crossovers.* (80-10, 45 FR 41600) Many divided highways have crossovers (openings) in the median for public use. These crossovers enable motorists to reverse their direction of travel via a U-turn without proceeding an undue distance to the next interchange or intersection. The MUTCD does not provide guidance on standard signs for public crossovers. The FHWA originated this request and suggested that highway safety could be improved by providing signing for those public median crossovers that are inconspicuous to the motorist.

A majority of the 32 responders to this request agree that there is a need for signing at some public crossovers. A few commenters suggested that signing would encourage U-turns at both public crossovers and crossovers limited to official and emergency vehicles. Two commenters said that the crossovers should be marked with reflectors (delineators) instead of signs, as visibility is a problem only at night. Most commenters agreed that any proposed signing should not be mandatory.

Since public crossovers are constructed specifically to permit motorists to make U-turns, the FHWA believes that problems with excessive turns at a particular location should be resolved by methods other than

allowing the crossover to remain inconspicuous. Additionally, signing for public crossovers should help motorists distinguish between public crossovers and a crossover restricted (by regulatory signs) to the use of official or emergency vehicles.

Section 3D–4 of the MUTCD provides for the use of double yellow delineators to identify official/emergency vehicle crossovers. In a previous review of an earlier request concerning this subject (Request M–49), the FHWA determined that delineation alone is too subtle a method to inform motorists of the difference between a public crossover and an official/emergency vehicle crossover. As a result of this previous determination, the FHWA originated Request II–7.

The FHWA proposes to adopt this request and amend the MUTCD by adding a new section entitled "Crossover Signs" as follows:

The CROSSOVER sign may be erected on divided highways to mark median openings not otherwise marked by Warning or Guide signs. It shall not be used to mark median openings that are restricted to the use of official or authorized vehicles. The sign shall be a horizontal rectangle of appropriate size to carry the word CROSSOVER and a horizontal directional arrow. If used, it should be erected immediately beyond the median opening either on the right side of the roadway or in the median.

The Advance Crossover sign may be erected in advance of the CROSSOVER sign to provide advance information of the crossover. The sign shall be a horizontal rectangle of appropriate size to carry the word CROSSOVER and a distance. The distance shown should be either 1, ½, or ¼ mile, unless unsual conditions require some other distance. If used, the sign should be erected on the right side of the roadway at approximately the distance shown.

CROSSOVER signs shall have a white reflectorized legend and border on a green background.

This proposed change would not impose any additional costs, but provides highway agencies with a voluntary method of providing guidance for public median crossovers.

2. *Request II–10—Signing at Signalized Intersections.* (80–10, 45 FR 41600)

Several separate requests have been made to clarify the MUTCD on the placement of signs at intersections. Since these requests are interrelated and primarily concern changes in the MUTCD, they were combined into one request.

Many of the responders to this request commented separately on one or more of the individual parts of the request. In general, the majority of responders favor clarification of the MUTCD concerning ONE WAY sign location, elimination of the mandatory provision for the location of No Right Turn signs, and placement of signs near the appropriate signal faces. Adoption of these parts of the request would clarify the use of Turn Prohibition signs at signalized and nonsignalized intersections. Most of the responders did not favor adoption of the part of the request concerning the location of No Left Turn signs. A number of responders also commented that too many signs near a signal head would reduce the effectiveness of a signal.

After careful consideration of the comments, FHWA believes that clarification of sign placement at intersections, particularly signalized intersections, is required, but that sufficient flexibility should be afforded to permit the use of options based on sound engineering judgment in special circumstances. Consequently, the FHWA proposes to adopt portions of this request as indicated above and to amend the MUTCD as follows:

a. Section 2B–29: Replace the first two sentences of the second paragraph with the following:

One Way signs shall be placed on the near right-hand and the far left-hand corners of the intersection at nonsignalized intersections so as to face traffic entering or crossing the one-way street (Fig. 2–3, page 2A–11). Where the intersection is signalized the signs shall be placed either near the appropriate signal faces or at the locations specified for nonsignalized intersections.

b. Section 2B–15: Delete the third paragraph and replace it with the following two paragraphs:

Turn Prohibition signs should be placed where they will be most easily seen by drivers intending to turn. Where No Right Turn signs are needed, at least one should be placed either over the roadway or at a right-hand corner of the intersection. If signals are present, the sign may be installed adjacent to a signal face viewed by motorists in the right lane.

Where No Left Turn signs are needed, at least one should be placed over the roadway or at a left-hand corner of the intersection where viewing motorists are approaching on a one-way street. If signals are present, the sign may be installed adjacent to a signal face viewed by motorists in the left lane. Where No Turns signs are needed, two should be used, one at a location specified for a No Left Turn sign and one at a location specified for a No Right Turn sign. If signals are present, the sign may be placed adjacent to a signal face viewed by all motorists on that approach.

c. Section 2B–15: Replace the words "with a one-way street" in the second sentence of the fourth paragraph with the words "where one or more approaches to the intersection are limited to one-way traffic."

These proposed changes would not impose any additional costs and should benefit both highway agencies and highway users.

3. *Request II–20—Symbol for Police Assistance.* (79–35, 45 FR 5750)

This request was for the development of a standard symbol for police assistance to replace the different terms used in sign legends for police agencies such as trooper, patrol, police, etc.

Only one of the 22 responders supported the request for a symbol. A variety of word messages are currently being used for the police assistance sign, but the most appropriate message is the word POLICE. Therefore, the word POLICE is being proposed for the following reasons:

1. The Symbol Task Force of the National Advisory Committee on Uniform Traffic Control Devices (NACUTCD) and the International Association of Chiefs of Police reviewed several different symbols, but determined that the word message POLICE is the most appropriate legend to use.

2. The word POLICE is fairly well understood in any language.

3. The letters of the word POLICE are recognizable in whatever language used.

Since it is desirable to standarize signs that have a widespread use, FHWA is proposing that a police assistance sign with the word legend POLICE be added to the MUTCD.

This proposed addition imposes no additional costs, but should encourage uniformity in the use of this type of sign.

4. *Request II–31—Mandatory Use of LEFT TURN PROTECTED ON ARROW ONLY SIGN (Revised).* (80–10, 45 FR 41600)

The City of Baton Rouge, Louisana, requested a revision of the MUTCD that would require the installation of signs with the legend LEFT TURN PROTECTED ON ARROW ONLY at those intersections that have both protected and permitted left turns.

The green arrow signal has been used for a number years, yet its use in conjunction with the circular green indication still creates uncertainty for some motorists. Because of this, more and more jurisdictions have already developed special signs for the purpose suggested by the City of Baton Rouge. Although the MUTCD provides for the use of special signs for special situations, signing for protected/permitted left turns appears to have become sufficiently widespread to warrant the development of a standard sign. As many responders expressed concern about possible confusion with the proposal as presently constituted,

the FHWA is revising Request II–31, Mandatory Use of LEFT TURN PROTECTED ON ARROW ONLY Sign to Request II–31, Signing for Left turns Protected on Arrow Signal.

The FHWA proposes adoption of the revised request and that Section 2B–37 be amended to permit, but not require, the use of a sign with the legend LEFT TURN YIELD ON GREEN BALL (symbolic green ball).

This proposed change would not mandate any direct action or impose immediate additional costs on highway agencies. The FHWA proposes a 5-year period for implementation to reduce transition costs to a negligible amount.

5. *Request II–38—Identifying Left-Hand Exit on Interchange Sequence Signs.* (81–2, 46 FR 2020)

The Michigan Department of Transportation requested a change in the MUTCD to provide a method of identifying left-hand exits on Interchange Sequence signs for urban freeways.

All 23 responders to this request agree that there is a need to identify left-hand exits on urban freeways and expressways. Although some responders suggested that modifications should be made in overhead guide signs, most responders suggested modifying the interchange sequence signs. Approximately one-half of the responders recommended that a separate panel with the legend LEFT in black letters on a yellow background be used on sequence signs adjacent to the exit name to indicate a left-hand exit.

Since left-hand exits are infrequent on freeways and expressways, it is at times desirable to use unique signing to alert motorists to this unusual condition. The MUTCD recommends the use of diagrammatic signs for left-hand exits at the advance guide sign locations which are normally ¼, 1, and 2, miles in advance of the exit. These recommended distances are not available at closely spaced interchanges in urban areas. Typically, there is only one advance guide sign per exit (at the ½-mile location) and the additional advance information for the exit is shown on a series of three interchange sequence signs. In order to display the left exit designation a suitable number of times, especially at locations where diagrammatic signs are not used, it is reasonable to display this information on the sequence signs. The format suggested by the responders is simple, reasonable in cost, and in many instances may be accomplished by affixing a supplementary plate to an existing sign.

The FHWA proposes to amend the MUTCD by adding the following paragraph after the last paragraph of Section 2E–34:

> Where appropriate, interchange names or route numbers shown on such signs may be followed by the legend LEFT in black letters on a yellow rectangular background when the exit direction is to the left. Separate panels may be attached to the sign panels for this purpose.

This proposed amendment would not impose any additional costs, but provides highway agencies with a voluntary and standard method of identifying left-hand exits on urban expressways and freeways.

6. *Request II–45—School Trip Safety.* (80–10, 45 FR 41600) Based on completed research,[1] the FHWA believes that additional language should be provided in the MUTCD concerning school speed zones and protective clothing for school crossing guards and patrols. The NACUTCD recommended denial of this request on the basis that school speed limit signing is already adequately provided for in the MUTCD and that the MUTCD is not the place to incorporate traffic safety messages.

Section 2B–13 of the MUTCD requires the posting of Speed Limit signs at the points of change from one speed limit to another. Although this provision applies to the signing for speed limits at school zones, the FHWA believes that for emphasis, specific provisions for this requirement should also be included in Section 7B–12 of Part VII of the MUTCD, Traffic Controls for School Areas. The FHWA also believes that emphasis for the need for protective clothing and devices for school crossing guards and patrols similar to that provided for construction zone flaggers in Section 6F–3, should be added to Sections 7E–5 and 7E–11.

Most responders to this request commented separately on each item. The majority agreed with the need to add to the MUTCD additional language on end of school zones, reflective clothing, and flagging devices, although some responders believe that the latter two items might better be presented in a handbook. However, other responders favoring these latter two items commented that this material is appropriate since the MUTCD already includes provisions concerning clothing and flags used in construction and maintenance areas.

A number of responders noted that the suggested change in Section 2B–13 from "speed limits" to "permanent speed limit" could cause confusion in the posting of Speed Limit signs in construction zones since speed limits in such areas may not be permanent. The FHWA agrees that more appropriate wording is desirable.

The FHWA proposes that Request II–45 be adopted and the MUTCD be amended to include a standard rectangular sign with a black legend END SCHOOL ZONE and border on a white reflectorized background and that the MUTCD be further amended as follows:

a. Add to Section 2B–13 at the end of the second paragraph: In school areas, the END SCHOOL ZONE sign may be used as an alternate to the Speed Limit sign.

b. Replace the last paragraph of the Section 7B–12 with the following paragraph:

> The end of an authorized and posted school speed zone shall be marked with an END SCHOOL ZONE sign or a standard Speed Limit sign showing the speed limit for the section of highway which follows.

c. Add to Section 7E–5 a new paragraph:

> During periods of twilight or darkness, adult guards and student patrols should wear either reflective material or reflective clothing.

d. Add to Section 7E–11 after the last sentence:

> Flagging devices used during periods of twilight or darkness shall be reflective or illuminated.

These proposed changes would not impose any significant costs on highway agencies. Any existing applicable Speed Limit signs may continue to be used. At the end of the normal replacement interval, the END SCHOOL ZONE sign may replace the existing Speed Limit sign. The cost of reflectorizing or illuminating flagging devices is not substantial.

7. *Request II–46—Emergency Medical Services Symbol.* (80–10, 45 FR 41600)

Section 2F–33 of the MUTCD provides for the legend HOSPITAL or the symbol H to be used on general service signs to indicate the availability of medical services at a hospital facility.

Since hospitals may be widely dispersed, motorists seeking emergency medical assistance sometimes must go or be taken excessive distances to reach the facility indicated on the HOSPITAL service sign. Available data [2] indicate

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[1] "School Trip Safety and Urban Play Areas," Volumes I through VII, Reports No. FHWA–RD–75–104 through 110, November 1975. Available for inspection and copying in accordance with procedures prescribed in 49 CFR Part 7, Appendix D. May be purchased from the National Technical Information Service, Springfield, Virginia 22161.

[2] Emergency Medical Services Highway Sign Evaluation, 1980; Pabon, Sims, Smith and Associates, Inc. Available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590.

that a significant number of fatalities due to automobile accidents may have been prevented with prompt or proper emergency medical attention. Report findings [3] point out that a substantial number of deaths could have been prevented if standardized information and identification aids, indicating the location and methods for obtaining adequate medical care at or near the onset of need, had been available. The nationwide Emergency Medical Service (EMS) system was established to provide emergency medical aid to accident victims. The EMS system is comprised of pre-hospital, hospital (with emergency department), critical care, and recuperative elements that provide the capability to intervene in life-threatening medical emergencies.

Some of the essential elements of the EMS system are:

1. Hospitals with Emergency Departments or Trauma Centers.
2. A network of ambulance stations which provide immediate emergency medical treatment both at emergency incident sites and during transit to definitive care.
3. A developing network of qualified free-standing emergency medical treatment centers.
4. The emergency response network provided by fire, police and other units that assist in the delivery of medical and other aid in emergency situations.
5. Access points where motorists can obtain information on how to get access to the medical response network in an emergency including telephones and Citizens Band (CB) radios.

Under the present provisions of the MUTCD, hospitals (meeting the MUTCD criteria) are the only element of the EMS system eligible for signing. Although many States have developed and are utilizing various highway signs to advise motorists of the EMS system, these signs are inconsistent, and no design criteria have been established. In response to this problem, the National Highway Traffic Safety Administration (NHTSA) developed a "Star of Life" design and later requested an amendment to the MUTCD to designate this design as the standard symbol for signs providing information for access to the EMS system. The symbol consists of a stylized, six-pointed star with the snake symbol associated with the medical profession. The symbol is presently displayed on all emergency medical response vehicles purchased with participating Federal funds and/or meeting Federal Specifications. It also may be worn by qualified emergency medical technicians.

[3] *Ibid.*

Almost 70 percent of the responders to this request favor adoption of the "Star of Life" design as a standard symbol for use with signing for the EMS system. Many responders stated that a system to promote rapid response to emergencies is very much needed and that the signing system should be standardized.

Some of the responders opposed to the request commented that the proposed symbol is not widely known. Others suggested that it would be unnecessarily costly to replace a similar signing system that is already in place. One-fourth of those opposed to the request commented that a study should be made of HOSPITAL service signing and the proposed EMS signing and a complete uniform signing system be developed.

After reviewing the responses, the FHWA, with the cooperation of the NHTSA, reviewed the basic purposes of this request and the effect an integrated signing system would have on those purposes. It was concluded that the intended goals could be achieved by using the proposed symbol as a supplement to the existing service signing system. In this manner, the EMS symbol (Star of Life) could be used on a separate panel supplementing the standard HOSPITAL or H symbol signs for qualified facilities. The EMS symbol could also be used on separate signs identifying ambulance stations, and free-standing emergency treatment centers. It would be necessary to identify telephone, CB monitoring, or POLICE signs with the symbol.

The FHWA proposed the adoption of this request and that the following new paragraph be added at the end of Section 2D–46:

> The Emergency Medical Services (EMS) Symbol sign (D9–13) may be used to identify medical service facilities that have been included in the EMS system under criteria established by the National Highway Traffic Safety Administration. The EMS Symbol sign shall not be used to identify services other than qualified hospitals, ambulance stations, and qualified free standing emergency medical treatment centers. The EMS Symbol sign may be used above the HOSPITAL or H symbol sign or above a panel with either the legend AMBULANCE STATION or EMERGENCY MEDICAL CARE. The legend EMERGENCY MEDICAL CARE shall not be used for services other than qualified free standing emergency medical treatment centers.

This proposed change would not impose any substantial additional costs or require immediate direct action by highway agencies. It would provide for a gradual, inexpensive and voluntary transition from the present hospital service signing system to uniform signing for a comprehensive, integrated, and easily recognized EMS system.

8. *Request II–48—Application of Warrants for STOP Signs.* (80–10, 45 FR 41600)

The MUTCD provides general warrants (conditions) for the use of STOP signs. However, the FHWA believes that application of these warrants has resulted in a proliferation of unnecessary STOP signs, and proposed revising Section 2B–5 of the MUTCD.

Approximately 75 percent of the responders to this request favor adoption. Many agree that more restrictive warrants for STOP signs are needed to discourage the installation of unnecessary STOP signs. A few responders commented that the proposed recommendations could impose additional legal liabilities on the highway agencies, such as present proof of periodic reviews of all existing installations. Most of those approving the proposal concurred without comment.

In view of the comments received, the FHWA has modified the proposal. The FHWA proposes to amend Section 2B–5 of the MUTCD by adding the following to the end of the first paragraph:

> Prior to the application of these warrants, consideration should be given to less restrictive measures, such as the YIELD sign (2B–7) where a full stop is not necessary at all times. Periodic reviews of existing installations may be desirable to determine whether, because of changed conditions, the use of a less restrictive control or no control could accommodate traffic demands safely and more effectively.

This proposed change would not impose any additional costs and should result in the installation of fewer new STOP signs with potential savings for both highway agencies and motorists.

9. *Request II–54—Add Percent Grade Within Hill Signs.* (81–2, 46 FR 2020)

The Utah Department of Transportation (UDOT) requested an amendment to the MUTCD to permit the display of the percent of grade within the Hill so that when supplemental signs such as NEXT 5 MILES or 5 MILES AHEAD are installed a more complete message will be conveyed. The UDOT suggested that this usage of the proposed sign and supplementary signs would encourage motorists to maintain a slower speed in the short level section.

Almost 70 percent of the responders to this request favor adoption of an amendment to the MUTCD to permit the optional display of the percent of grade within the Hill symbol sign.

Contrary to the view of several commenters, the FHWA believes that the proposed sign will serve a useful purpose, that the existing sign sizes can accommodate the proposed additional legend, and that any adverse effect on sign legibility will be more than offset by the improved message and the reduction in number of signs needed to convey the message.

The FHWA proposes to amend Section 2C–26 of the MUTCD by adding the following sentence after the first sentence in the first paragraph:

A sign with the same symbol accompanied by a number indicating the percent of grade (W7–1b) may be used as an alternate to the Hill sign.

This proposed amendment would not impose any additional costs. It would enable highway agencies at their option to provide additional warning information without using additional signs.

10. *Request II–63—Use of the Chevron Alignment Sign on Conventional Roads.* (81–5, 46 FR 32880)

This request was developed in order to clarify the use of the Chevron Alignment sign in conjunction with the use of the standard delineators of Section 3D of the MUTCD and with pavement markings, which are a type of standard delineation. Since Section 2C–10 does not provide for the use of the Chevron Alignment sign an an alternate to standard delineation treatments, use of the sign is severely restricted on highways which have neither pavement markings nor delineators. Additionally, when used in conjunction with delineators, both the delineators, at uniform spacing, and the signs, must be used.

Twenty four of the 28 responders to this request commented that the MUTCD should be amended to permit the independent use of the Chevron Alignment sign. Many of these responders stated that since the sign is very effective, broader application would be beneficial to motorists. Two responders believe that standard delineators are better than the sign for defining the edge of the roadway and two commented that since the sign is so effective, its use should be reserved for problem areas.

The FHWA agrees that the Chevron Alignment sign is a very effective device and believes that its independent use should be permitted. This would allow its use on roads with neither pavement markings nor delineators, and would eliminate the requirement to use both the sign and standard delineators when defining the edge of certain roadway alignment changes.

The FHWA proposes to amend Section 2C–10 of the MUTCD by deleting the word "additional" from the second sentence of the second paragraph and by deleting the first sentence of the second paragraph and substituting the following:

A Chevron Alignment sign may be used as an alternate or supplement to standard delineators and to the Large Arrow sign.

This proposed amendment would not impose any additional costs, but provide for improved delineation of alignment changes and eliminate some duplication of delineation treatment.

11. *Request III–4—Reduced Eye Height Dimensions from 3.75 feet to 3.50 feet.* (79–35, 45 FR 5750)

This proposal would lower eye height dimensions in Section 3B–5 from the current 3.75 feet to 3.50 feet to accommodate the influx of smaller cars on the passenger vehicle fleet. Two requests proposed reducing the eye height to 3.0 and 3.28 feet (1 meter) respectively.

The present height criteria were established in 1965 shortly after there was a drastic change in vehicle characteristics. At that time, the eye height changed from 4.5 feet to 3.75 feet. Since 1962 only a slight decrease in eye height and vehicle height has occurred. Recent studies show that the average eye height is approximately 3.5 feet and the vehicle height is 4.3 feet. Studies also indicate that about 85 percent of all drivers would have an eye height above 3.5 feet.

To determine the impact reduced eye height would have on no passing zones and marking requirements, the FHWA analyzed approximately 100 miles of highway in each of three classifications (level, rolling, mountainous) at eye heights of 3.75 feet, 3.50 feet, and 3.28 feet. The following table shows the results of that analysis.

Terrain	Level 109.89 mi			Rolling 109.13 mi			Mountainous 102.25 mi		
Eye height	3.75	3.50	3.28	3.75	3.50	3.28	3.75	3.50	3.28
Total feet of solid line (no passing)	241,869	252,338	263,990	507,472	534,066	562,295	496,799	508,226	518,137
Increase in solid line (feet)		10,469	21,612		26,594	54,823		8,517	22,428
Increase in solid line (percent)		4	8		5	10		2	4
Total feet of broken line (passing)	524,324	523,027	519,984	428,984	419,194	406,133	387,330	384,394	380,157
Decrease in broken line (feet)		−1,297	−4,340		−9,790	−22,851		−2,936	−7,173
Decrease in broken line (percent)		−½	−1		−2	−5		−1	−2
Average percent of passing	79	78	77	55	52	49	53	52	51
Decrease in percent of passing		−1	−2		−3	−6		−1	−2
Total gallons of paint	1,350	1,378	1,404	1,943	1,998	2,057	1,862	1,888	1,913
Change in paint (gallon)		28	54		55	114		22	51
Change in paint (percent)		2	4		3	6		1	3

As expected the greatest changes occur in rolling terrain where vertical curves are most predominant. Rolling terrain frequently produces hidden dips or sag vertical curves that are sufficiently deep to conceal the presence of an opposing vehicle. Rolling terrain represents the most hazardous for a passing driver because in many cases the roadway geometry is not apparent to the driver. It is this same type of terrain that produces a hazardous situation for vehicles of lower heights.

The analysis shows that there are only minor changes in the effect on the percentage of opportunities to pass. Also, the increase in the amount of paint that would be required for lower eye heights is similarly small.

Based upon the current documented results of vehicle and driver eye heights, and the analysis of impact of eye height on no passing zone markings, the FHWA proposes that the MUTCD eye height/object height criteria for establishing no passing zones be changed to 3.50 feet.

This change will impose some additional costs. No passing zone markings would increase slightly with an approximate 3 percent increase in cost to stripe a two-lane, two-way roadway using an eye height/object height of 3.50 feet. The FHWA proposes a 5-year period of implementation to minimize transition costs.

12. *Request III–10—Lane Drop Marking.* (80–10, 45 FR 41600)

The California Department of Transportation (CALTRANS) found that lane drops may present a traffic operational problem and requested a change in the MUTCD to adopt a special pavement marking pattern as a national standard.

Observations have shown that with the use of normal lane lines on lane drops, many motorists involuntarily exit or make a last second lane change to avoid exiting. Because interchange lane drops are unexpected conditions, it is essential to get the driver's attention and to provide advance information of a potentially hazardous situation. The task group that worked on lane drop provisions of the MUTCD believed that

a special pavement marking for lane drops could be helpful to the motorist at these locations and, therefore, other jurisdictions should be alerted to the possible benefits.

Almost 90 percent of the responders to this request agree that the CALTRANS system of marking lane drops is not inconsistent with the requirements of the MUTCD. Certainly the primary information is provided to the driver by the lane drop signing. The FHWA believes however, that a special marking pattern can reinforce the signing at these locations and that inclusion of this special marking pattern in the MUTCD will encourage its use, and is, therefore, seeking further comment on a specific amendment.

Based on this information, the FHWA proposes to include an illustration in the MUTCD and to add a paragraph to Section 3B–11 as follows:

In advance of lane drops at off ramps a special marking pattern may be used to distinguish the lane drop situation from a normal exiting ramp or an auxiliary lane. A typical special marking for lane drops consists of 8-inch wide by 3-foot long white stripes separated by 12-foot gaps. If used, this special marking should begin ½ mile in advance of the theoretical gore point. Where last minute lane changes may cause conflicts, an 8-inch wide solid white channelizing line should extend approximately 300 feet upstream from the theoretical gore point.

This proposed change would not impose any significant costs and will provide highway agencies with a voluntary method of identifying lane drop situations to motorists.

13. *Request III–21—Lateral Placement of Delineators.* (80–10, 45 FR 41600)

Based upon extensive damage to delineators on narrower highways, the Idaho Transportation Department (ITD) requested that the lateral placement requirement of the MUTCD for delineators either be: (1) Changed from a requirement to a recommendation, or (2) changed to require placement from 2 feet to 8 feet outside the outer edge of the shoulder.

Over 95 percent of the reponders to this request agree that a change should be made in the MUTCD to remedy the condition reported by the ITD. Most responders did not identify which of the proposed options was preferred. Of those indicating a preference, a slight majority favored changing the MUTCD to require delineators to be placed between 2 and 8 feet from the outer edge of the roadway shoulder.

The FHWA believes that a change in the MUTCD is necessary. Changing the presently "required" location to a "recommended" location would go beyond the needs described by the ITD and would permit a wide variance from what is presently accepted practice.

The FHWA proposes that the second sentence of Section 3D–5 of the MUTCD be amended to read:

They shall be placed not less than 2 nor more than 8 feet outside the outer edge of the shoulder or, if appropriate, in the line of the guardrails.

This proposed change would not impose any additional costs, and in Idaho and other States having a similar problem, the proposed change should reduce highway maintenance costs.

14. *Request III–23—Mounting Height of Object Markers.* (81–2, 46 FR 2020)

The MUTCD presently does not specify mounting heights for object markers adjacent to the roadway. The FHWA suggested a height of 4 feet above the pavement edge to the bottom of the object marker when used within the roadway or within 6 feet of the shoulder or curb, and a height of 4 feet above the ground when used 6 feet or more from the shoulder or curb.

All except two of the 24 responders to this request agree that additional guidance on the mounting heights of object markers is needed in the MUTCD. Two respondents opposed the request on the basis that it would be too restrictive.

Additional guidance on object markers will be beneficial and 4 feet is the optimum mounting height based on available information. Latitude should be provided in the standards to accommodate a wide variety of objects. The lateral offset referred to in the proposal should be changed from 6 feet to 8 feet to be consistent with Request III–21 regarding roadway delineators.

The FHWA proposes to amend Section 3C of the MUTCD as follows:

1. Add the following after Section 3C–1:

Section 3C–1.1 Mounting Height

When used for marking objects in the roadway or within 8 feet of the shoulder or curb, the mounting height to the bottom of the object marker should normally be 4 feet above the pavement edge. When used to mark objects 8 feet or more from the shoulder or curb, the mounting height to the bottom of the object marker may be 4 feet above the ground.

When object markers or markings are applied to a hazardous object which by its nature requires a lower or higher mounting, the vertical mounting height may vary according to need.

2. Delete the last sentence in the second paragraph of Section 3C–2.

This proposed amendment would not impose any additional costs.

15. *Request III–24—Delineators on Truck Escape Ramps.* (81–2, 46 FR 2020)

The Institute of Transportation Engineers (ITE) requested an amendment to the MUTCD to provide a standard for the color and spacing of delineators used to indicate the edge of truck escape ramps. The ITE stated that different States are using a variety of colors on delineators to identify the edge of the ramps and that it is important that a standard color be established for this function.

All of the 22 responders to this request agree that there is a need to standardize the delineation of truck escape ramps. Most responders concurred that the delineation should be neither white nor yellow. About 50 percent of the responders suggested the use of red for the proposed delineation. Although one-half of the responders intimated that delineation solely along the truck ramp would be sufficient, others suggested that some treatment with signs and delineators would be necessary along the main roadway.

The FHWA agrees that the delineation of truck ramps should be standardized and that colors other than white and yellow should be used if possible. The FHWA proposes to revise the MUTCD by adding the following sentence to the end of the seventh paragraph of Section 3D–4.

Red delineators should be used to delineate the roadway of truck escape ramps.

This proposed change would impose some additional costs on those agencies using other color delineators. To minimize these costs the FHWA proposes a 5–year period for implementation.

16. *Request IV–27—Rules for Phasing and Sequencing of Traffic Signals.* (81–2, 46 FR 2020)

The Signals Technical Committee of the National Committee on Uniform Traffic Control Devices (NCUTCD) requested that the MUTCD be revised to incorporate the results of its comprehensive review of Part 4B so as to meet the need for a well defined set of parameters and improved uniformity relative to the phasing and sequencing of traffic signals.

All but one of the 25 responders generally concur with most of the recommended changes outlined by the NCUTCD. Incorporating some of the exceptions raised by the commenters, the FHWA proposes to adopt this request, as revised, and to amend Part IV as follows:

a. Revise paragraph 5 of Section 4B–6 by deleting subparagraph (a); By renumbering subparagraphs (b) through (f) as (a) Through (e) respectively; by adding the words "or yellow" between

the words "green" and "indication" in renumbered subparagraph (d); and by substituting a new subparagraph (a) in place of former subparagraph (b) and adding a new subparagraph (f). New subparagraphs (a) and (f) read as follows:

(a) A steady YELLOW ARROW indication shall be used following a GREEN ARROW indication which has been displayed simultaneously with a CIRCULAR RED indication in the same signal face. A GREEN ARROW need not be terminated by a displayed interval if a CIRCULAR GREEN permitting the turn to continue on a permissive basis is displayed in the same signal face simultaneously with the GREEN ARROW or immediately following the GREEN ARROW termination.

(f) A YELLOW ARROW shall not be displayed when any conflicting movement has a CIRCULAR GREEN or CIRCULAR YELLOW.

b. Revise paragraph 6 of Section 4B–6 by deleting "(e) CIRCULAR GREEN with RED ARROW," and by adding the following at the end of paragraph 6:

The following signal indications shall not be displayed on any signal face, either alone, or in combination with any other indication:

(a) Straight-through RED ARROW

(b) Straight-through YELLOW ARROW

c. Revise Section 4BN–9 by deleting from paragraphs 1 and 2 the words "Straight-through YELLOW ARROW," and changing Arrangement "t" in Figure 4–1 on Page 4B–9 to show the following:

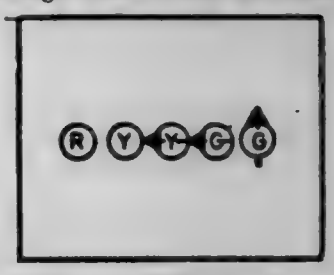

d. Revise section 4B–12 by inserting, after paragraph 12, paragraph 13 to read as follows:

13. If a signal face(s) displays control for a particular vehicular movement during any interval of a sequence, it must display control for that same movement during all intervals of the sequence.

e. Revise Section 4B–15 by adding a new paragraph at the end to read as follows:

A YELLOW ARROW shall not be terminated by a GREEN ARROW. It may be terminated by a CIRCULAR GREEN if the movement controlled by the arrow is to continue on a permissive basis, or by a CIRCULAR YELLOW, CIRCULAR RED or RED ARROW.

f. Revise Section 4B–16 by changing the title to Unexpected Conflicts During Green or Yellow Interval, and adding to the first paragraph the words "or yellow" after "green." In paragraph 2 of Section 4B–7, add the words "or Yellow" after the word "Green" to reflect the change in title of Section 4B–16.

g. Revise Section 4B–18 by adding a new paragraph at the end to read as follow:

The initiation of flashing displays which are a part of a stop and go operation shall be as follows:

1. Flashing yellow may follow any steady or flashing indication.

2. Flashing red may follow any steady yellow or red indication.

The termination of flashing displays which are a part of a stop and go operation shall be as follows:

1. Flashing yellow shall not be terminated with a steady or flashing red indication.

2. Flashing red may be terminated with an allowable steady or flashing indication.

h. Revise Section 4B–19, in the third paragraph, by deleting the words "in the usual (stop-and-go) manner" and amending the first paragraph to read as follows:

A traffic signal installation, except as provided below, shall be operated as a stop and go device, as a flashing device, or as a combination stop and go and flashing device.

i. Revise Section 4B–22 by adding a new paragraph at the end to read as follows:

When a priority sequence is initiated, the display may proceed from steady yellow to steady green. This exception does not apply to the termination of priority or to any display during priority operation.

This proposed amendment provides for fewer restrictions in the operation of traffic signals and would not impose any additional costs.

17. *Request IV–29—Warrants for Freeway Entrance Ramp Control Signals (Interim).* (81–5, 46 FR 32880)

Several years ago the Transportation Research Board (TRB) Committee on Freeway Operations prepared material on Warrants for Freeway Ramp Control Signals. These were incorporated into the MUTCD. The Committee has subsequently reviewed these warrants in the light of continuing, broader experience, and has recommended revisions to 4E–23 as a result of the review.

All of the 20 responders favor adoption of the proposed changes. The NCUTCD and three other responders commented that since no specific numerical values are proposed and considerable judgment will be needed in using this section, the term "Warrants" should be changed to "Guidelines."

The FHWA proposes to adopt this request as modified and to amend the MUTCD by revising Section 4E–23 to read as follows:

Section 4E–23, Application of Freeway Entrance Ramp Control Signals (Interim).

There are too may variables that influence freeway capacity (number of lanes, trucks, gradients, merging, weather, etc.) to permit developing numerical volume warrants that are applicable to the wide variety of conditions found in practice. However, general guidlines have been identified for successful application of ramp control.

The installation of ramp control signals should be preceded by an engineering analysis of the physical and traffic conditions on the highway facilities likely to be affected. The study should include the ramps and ramp connections and the surface streets which would *be affected by the ramp control,* as well as the freeway section concerned. Types of traffic data which should be obtained include but are not limited to traffic volumes, traffic accidents, *freeway operating speeds,* travel time and delay on the freeway and on alternate surface route.

Capacties *and demand/capacity relationships* should be determined *for each freeway section.* The locations and causes of capacity restrictions *and those sections where demand exceeds capacity* should be identified. From these and other data, estimates can be made of desirable metering rates, probable reductions in delay of freeway traffic, likely increases in delay to traffic on ramps, and *the potential impact on* surface streets. *The analysis should include an evaluation of storage capacities on the ramp for vehicles delayed at the signal, the impact of queued traffic on the local street intersection, and the availability of suitable alternate surface routes having adequate capacity to accommodate any additional traffic volume.*

Before installing ramp control signals, consideration should be given to *public acceptance potential and enforcement requirements or ramp control, as well as* alternate means of increasing the capacity, *reducing the demand,* or improving characteristics of the freeway.

Installation of freeway entrance ramp control signals may be justified in the following instances:

1. *The total expected delay to traffic in the freeway corridor, including freeway ramps and local streets, is expected to be reduced with ramp control signals.*

2. There is recurring congestion on the freeway due to traffic demand in excess of the capacity; or there is recurring congestion or a severe accident hazard at the freeway entrance because of inadequate ramp merging area. *A good measure of recurring freeway congestion is freeway operating speed. An early indication of a developing congestion pattern would be freeway operating speeds less than 50 mph, occurring regularly for a period of half an hour. Freeway operating speeds less than 30 mph for a half-hour period would be an indication of severe congestion.*

3. The signals are needed to accomplish transportation system management objectives identified locally for freeway traffic flow, such as: (a) maintenance of a specified freeway level of sevices, or (b) priority treatments with higher levels of service, for mass transit and carpools.

4. The signals are needed to reduce (predictable) sporadic congestion on isolated sections of freeway caused by short-period peak traffic loads from special events or from servere peak loads of recreational traffic..

This proposed amendment would not impose any additional costs.

18. *Request VI–17—Simulated Drums.* (80–10. 45 FR 41600)

This request, which originated within the FHWA, was for an amendment to the MUTCD permitting the use of simulated drums as an alternative to standard channelizing devices.

Over 65 percent of the responders to this request favor adoption. The consensus of those favoring the proposal is that simulated drums cost less than actual drums, have better visibility when properly placed, and will cause less damage to vehicles if hit. Those opposing the request generally commented that (1) simulated drums are really a nonstandard version of a vertical panel. (2) the MUTCD already permits a sufficient variety of devices for channelization in work zones, and (3) simulated drums do not look as formidable as drums and, presumably, would not be as effective.

The FHWA believes that the advantages of simulated drums are sufficient to authorize their voluntary use by highway agencies. The FHWA proposes to adopt Request VI–17 and to amend the MUTCD by adding a third paragraph to Section 6C–6as follows:

Simulated drums may be used as an alternate for drums for all purposes specified for drums in this Manual. Simulated drums shall be flat and rectangular in shape with the long side vertical, and shall be approximately 36 inches in height and 18 inches in width. They shall have alternating, horizontal, reflectorized orange and white stripes of the material specified for drums. The stripes shalll be 4 inches to 8 inches wide and shall completely cover at least one side of the simulated drum. If used for traffic in two directions, back to back simulated drums shall be used. Breakaway type supports should be used. The use of warning lights should be in accordance with Section 6C–7.

This proposed change would not impose any additional costs and would permit highway agencies an option to reduce construction costs and decrease the potential for damage to vehicles.

19. *Request VI–18—Standards for Flashing and Steady Burn Warning Lights.* (80–10, 45 FR 41600)

The Institute of Transportation Engineers (ITE) and American Traffic Services Association (ATSA) jointly proposed changes to Part VI of the MUTCD dealing with flashing and steady burn warning lights. This request consists of two separate parts: (1) Modify Section 6E–5 so that it will be a purchase specification, and (2) add a field performance specification using the distance and visibility criteria.

Eighty percent of the responders favor modifying Section 6E–5 to refer to the ITE Purchase Specification for Flashing and Steady Burn Warning Lights and deleting Table VI–2.

Almost 90 percent of the responders to this request favor adoption of performance specifications for warning lights. Forty percent of those favoring this part of the request object to the proposed wording on the basis that it is subjective and/or that the specified viewing distances may not always be available in hilly terrain. The FHWA acknowledges that the proposed performance specifications are needed and that objective specifications will not be feasible until such time as inexpensive light intensity measuring devices are sufficiently available to verify quantitative specifications accurately in the field. Similar subjective performance specifications are presently used for delineators (Section 3D–2) and illuminated arrow panels (Section 6E–7). In regard to the suggested viewing distances, the devices may be moved to locations with adequate viewing distances for testing. The purpose of the proposed specifications is to eliminate the need for sophisticated measuring devices.

The FHWA proposes to adopt Request VI–18 and amend the MUTCD as follows:

a. Section 6E–5. Revise the fourth sentence of the first paragraph to read: Warning lights shall be in accordance with the current ITE Purchase Specification for Flashing and Steady Burn Warning Lights.

b. Delete Table VI–2.

c. Add a new paragraph at the end of Section 6E–5:

Type A Low Intensity Flashing Warning Lights and Type C Steady Burn Warning Lights shall be maintained so as to be capable of being visible on a clear night from a distance of 3000 feet. Type B High Intensity Flashing Warning Lights shall be maintained so as to be capable of being visible on a sunny day when viewed without the sun directly on or behind the device from a distance of 1000 feet.

These proposed amendments would mandate a procedural change for highway agencies, but the required physical characteristics of warning lights would not be modified. There would be no additional costs for the manufacture or purchase of these devices. The field performance specifications are intended primarily to provide a simple method to verify that the devices are kept clean when in operation and that an adequate power source is maintained. Providing for adequate maintenance and power are not new requirements.

Requests Deferred for Later Action

The following requests are being deferred at the present time pending further study or research, or the receipt of additional data.

1. Request II–57—Non-Illuminated Opaque Background Overhead Guide Signs (81–5, 46 FR 32880)

2. Request II–58—Median Mounted One-Way Signs (81–5, 46 FR 32880)

3. Request II–60—Preferential Lane Signing and Marking (81–5, 46 FR 32880)

4. Request II–61—Traffic Control for Reversible/Two-Way Left Turn Lanes (81–5, 46 FR 32880) 81–26

5. Request IV–25—Speed Limit Sign Beacon (81–2, 46 FR 2020)

6. Request VIII–6—Modification of the Railroad Crossing Pavement Marking Symbol (80–10, 45 FR 41600)

7. Request II–50—Mandatory Use of NO PASSING ZONE PENNANT SIGN (80–10, 45 FR 41600)

Of the large volume (4700) of comments on request II–50, well over 95 percent were in the form of postcards indicating an organized campaign in favor of its adoption. The MUTCD currently recommends the use of the NO PASSING ZONE pennant sign as advance warning of passing restriction identified by pavement markings or DO NOT PASS signs or both. This proposal would upgrade the use to mandatory.

The NCUTCD is gathering additional information on this matter and has requested that no final action be taken until its effort is completed. There is also research under way on issues related to no passing zones that may bear upon recommended final action. Because of this, the FHWA is deferring any decision on this request at this time.

Withdrawn Requests

The FHWA has determined that the following requests for changes should not be adopted and is withdrawing these requests without further action.

1. *Request II–44—Addition of Language for Handicapped Parking Sign.* (80–10, 45 FR 41600)

2. *Request II–51—Additional Warrants for Multiway STOP Signs.* (80–10, 45 FR 46100)

3. *Request II–52—Beginning of Pavement Width Transition Sign.* (81–2, 46 FR 2020)

4. *Request II–53—Mandatory Movement Signs.* (81–2, 46 FR 2020)
5. *Request II–59—Temporary Attention Getting Devices.* (81–5, 46 FR 32880)
6. *Request II–62—Alternate NEXT RIGHT Legend for ½ Mile Advance Guide Sign.* (81–5, 46 FR 32880)
7. *Request II–64—Symbol Sign for NOAA Weather Information.* (81–5, 46 FR 32880)
8. *Request III–20—Pavement Markings for a Standardized System of Highway Speed Control.* (80–10, 45 FR 41600)
9. *Request III–22—Pavement Marking Symbol for School Crossing.* (81–2, 46 FR 2020)
10. *Request III–25—Marking of Pedestrian Curb Ramps.* (81–5, 46 FR 32880)
11. *Request IV–22—Single Portable Traffic Light.* (81–2, 46 FR 2020)
12. *Request IV–31—Periodic Darkening of Hazard Identification Beacons.* (81–5, 46 FR 32880)
13. *Request IV–32—Flashing Operation of Newly Installed Traffic Signals.* (81–5, 46 FR 32880)
14. *Request VI–2—Minimum Reflectivity Requirements.* (80–10, 45 FR 41600)
15. *Request VI–6—Detour Design Criteria.* (80–10, 45 FR 41600)
16. *Request VI–7—Maintained Visibility Level for Channelizing Devices.* (80–10, 45 FR 41660)
17. *Request VIII–6—Details on Railroad Bells.* (80–10, 45 FR 41600)
18. *Request VIII–7—Required Use of Crossbucks on Bikeways.* (80–10, 45 FR 41600)
19. *Request VIII–9—Elevation of Top of Foundation for Flashing Lights and Gates.* (81–2, 46 FR 2020)

These requests for being withdrawn for one or more of the following reasons.

(a) The provisions of the MUTCD adequately cover the request or there is sufficient latitude within the MUTCD to permit the requested change without modifying the national standards.

(b) The problem identified is not significant enough or of such a widespread nature as to warrant changing the national standards.

(c) The request is not conducive to improved traffic operations.

(d) The design of the traffic control device does not communicate its intended message.

(e) The request proposes information inappropriate for inclusion in the national standards.

Editorial Amendments

Request I–1—Legal Authority (81–5, 46 FR 32880) is also being withdrawn as it involves no substantive change in the MUTCD. The requirement that traffic control devices be placed only under the authority of a public body or official having jurisdiction presently appears in Parts II, V, VII, and IX of the MUTCD. Although it is intended that authority for the placement of all traffic control devices be required, no specific reference to it is included in Parts III, IV, VI, and VIII. This request was to make such requirements applicable to all parts. The FHWA will delete Sections 2A–3, 5A–2, 7A–8, and 9A–6, and add a consolidated "Placement Authority" Section (1A–3.1) in Part I.

Request IV–33—Lane Use Control Signals (81–5, 46 FR 32880) is withdrawn because it also is merely an editorial change which cross-references two requirements of the Manual respecting the control of reversible lanes. It was never intended that the overhead signals provided in Section 4E–8 be used in lieu of markings provided in Section 3B–12. Therefore, no substantive change is contemplated. A cross-reference will be incorporated in Section 4E–8.

These changes will be accomplished in routine publication of editorial amendments.

This notice of proposed amendments to the MUTCD is issued under the authority of 23 U.S.C. 109(d), 315, and 402(a), and the delegation of authority in 49 CFR 1.48(b).

The Federal Highway Administration has determined that this document contains neither a major rule under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation. For the reasons stated herein, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. Due to the preliminary nature of this inquiry, a full regulatory evaluation has not been prepared at this time. For the reasons stated herein, the expected impact of the changes requested is so minimal that a full evaluation does not appear to be warranted. The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this notice.

List of Subjects in 23 CFR Parts 625 and 655

Design standards, Grant programs—transportation, Highway and roads, Signs, Traffic regulations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: December 29, 1982.

R. D. Morgan,

Executive Director, Federal Highway Administration.

[FR Doc. 83–322 Filed 1–7–83; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 251

Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule

SUMMARY: This proposed rule would provide for monthly, rather than weekly, status reports to be submitted to the Minerals Management Service (MMS) with respect to activities conducted under a permit for geological and geophysical (G&G) exploration for mineral resources or G&G scientific research in the Outer Continental Shelf (OCS). The Department of the Interior (DOI) has determined that the submission of these reports on a monthly basis would be adequate to meet the purposes for which the information is used while significantly reducing the burden imposed on these permittees required to submit the reports.

DATES: Comments must be hand delivered or postmarked no later than February 9, 1983.

ADDRESSES: Written comments must be mailed or hand delivered to the Minerals Management Service, U.S. Department of the Interior, Room 6A110, 12203 Sunrise Valley Drive, Mail Stop 646, Reston, Virginia 22091, Attention: David A. Schuenke. Copies of all written comments submitted will be available for public review at the same address.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, Chief, Branch of Offshore Rules and Procedures, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 646, Reston, Virginia 22091, Telephone: (703) 860–7916, (FTS) 928–7916.

SUPPLEMENTARY INFORMATION: Executive Order (E.O.) 12291 (issued February 17, 1981) directed all Executive Branch Agencies to "initiate reviews of currently effective rules in accordance with the purposes" of that Order (E.O. 12291, 3(i)). One stated purpose of that

Order is "to reduce the burdens of existing * * * regulations" (E.O. 12291, preamble).

The MMS has identified 30 CFR 251.7–2 as a regulation which warrants revision under the criteria of E.O. 12291. That section presently requires the weekly submission of status reports with respect to all activities conducted under a permit for G&G exploration of the OCS.

The MMS has determined that the submission of monthly, rather than weekly, reports would be adequate to meet the purposes for which the information is used. The MMS has further determined that such a reduction in frequency would significantly reduce the regulatory burden imposed on those permittees required to comply with 30 CFR 251.7—2. Thus, this proposed revision is consistent with the purposes of E.O. 12291 (cited above) and furthers the Secretary of the Interior's regulatory reform effort.

The current regulations shall remain in effect pending final promulgation of this proposed rule.

The DOI has determined that this document is not a major rule under E.O. 12291 and certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This rule is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects.

Paperwork Reduction Act

The information collection requirements contained in 30 CFR 251.7–2 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 et seq.

Drafting Information

This document was drafted by Neil Stoloff, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR 251.7–2

Continental shelf, Permittees for Federal Government Outer Continental Shelf tracts, Reporting requirements.

Dated: November 8, 1982.

James G. Watt,

Secretary.

PART 251—[AMENDED]

§ 251.7–2 [Amended]

For the reasons set forth above, it is proposed that § 251.7–2 be amended as follows:

1. Section 251.7–2 is proposed to be amended by replacing the word "weekly" with "monthly."

[FR Doc. 83-600 Filed 1-7-83; 8:45 am]
BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 464

[OW-FRL 2281-8]

Metal Molding and Casting (Foundry) Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of Comment Period.

SUMMARY: On November 15, 1982, EPA proposed a regulation under the Clean Water Act to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in metal molding and casting (foundry) operations (47 FR 51512). EPA is extending the period for comment on the proposed regulation from January 14, 1983 to February 13, 1983.

DATE: Comments on the proposed regulation for the metal molding and casting (foundry) category (47 FR 51512) must be submitted to EPA by February 13, 1983.

ADDRESSES: Send comments to Mr. Edward L. Dulaney, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Attention: Docket Clerk, Proposed Metal Molding and Casting (Foundry). The supporting information and all comments on this proposal are available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM–213). The comments will be added to the record as they are received. The EPA Information Regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ernest P. Hall, (202) 382–7126.

SUPPPLEMENTARY INFORMATION: On November 15, 1982, EPA proposed a regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works form facilities engaged in metal molding and casting (foundry) operations (47 FR 51512). The November 15, 1982 notice stated that comments on the proposal were to be submitted on or before January 14, 1983.

The Agency has received numerous complaints from the metal molding and casting industry that additional comment time is needed to allow them to comment fully and to supply data to support their comments. Given the size and diversity of the industry, the complexity of issues raised by this rulemaking, and the fact that there were delays of several weeks in the printing of the technical development document and in making the complete rulemaking record available to the public, EPA has determined that it is necessary to extend the comment period 30 days to allow the public adequate time to review and comment on this proposed regulation. This extension will give all members of the public adequate time to comment fully on this regulation.

Dated: January 3, 1983.

Frederic A. Eidaness, Jr.,

Acting Assistant Administrator for Water.

[FR Doc. 83-561 Filed 1-7-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

40 CFR Ch. II

Natural Resources Damage Assessment

AGENCY: Department of the Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document serves as public notice of intent to develop proposed regulations pursuant to Section 301(c) of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA). Executive Order 12316 delegates to this Department the responsibility to prepare regulations for assessing damages for injury to, destruction of, or loss of natural resources resulting from release of oil or hazardous substances.

The Department needs to assemble information from many sources to develop sound and consistent methodologies for assessing and quantifying injury or loss to natural resources, types and degrees of destruction, short- and long-term effects of damages, and the value of the damaged natural resource.

The Department is aware that State governments, research instutions, non-profit organizations, individual citizens and other Federal agencies possess significant information and experience which may aid in developing

appropriate natural resource damage assessment regulations. The Department welcomes all comments, recommendations or ideas which may help fulfill its responsibilities under the Act and the Executive Order. Technical information is needed, as well as advice on policies and procedures. Information is particularly sought on methods which have been demonstrated in research or actual incidents to be useful for governmental entities, as well as response technicians.

DATE: Comments are requested on or before the close of business February 15, 1983. Please supply material as soon as possible rather than waiting until the final deadline.

Also, please identify relevant material which cannot be available by the February 15, 1983 target date. Such items as annotated bibliographies and advance descriptions of material now in preparation, which is expected to become available during the months scheduled for drafting regulations, could be of considerable assistance in the Department's planning and review of the total input. Please estimate schedules for completion of any work in progress.

ADDRESS: Written comments are to be submitted to Cecil Hoffmann, Office of Environmental Project Review, Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Cecil Hoffmann, Office of Environmental Project Review, Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240, telephone (202) 343–3811 or 343–3891.

SUPPLEMENTARY INFORMATION:

Background

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 provides for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment, and for the cleanup of inactive hazardous waste disposal sites. It further implements the authorities provided by Sections 311(f)(4) and 311 (f)(5) of the Clean Water Act (3 U.S.C. Section 1321(f)(4), (5)) which deal with restoration or replacement of natural resources damaged by a discharge of oil prohibited by that Act. As mandated by Section 105 of CERCLA and Executive Order 12316, the Environmental Protection Agency promulgated revisions to the National Contingency Plan (NCP) for oil and hazardous substances into the environment (47 FR 31180 (July 16, 1982), effective date: December 10, 1982). The revised NCP contains procedures for the coordination of response actions to releases of oil and hazardous substances into the envoronment. Subpart G of the NCP identifies Federal and State trustees authorized to assess damages, pursue claims, and recover and apply damage awards for natural resources, under authority of CERCLA and the Clean Water Act.

Pursuant to Executive Order 12316, the Department of the Interior has the responsibility mandated by Section 301(c)(1) of CERCLA to study and promulgate regulations for the assessment of damages from a release of oil or hazardous substance resulting in injury to, destruction of, or loss of natural resources. The Act defines these as "land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (or) any State * * *." Section 301(c)(2) requires that the regulations—

> Shall specify (A) standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of discharge or release or units of affected area, and (B) alternative protocols for conducting assessments in individual cases to determine the type and extent of short- and long-term injury, destruction, or loss. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss, and shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover.

Further, Section 301(c)(3) provides that "such regulations shall be reviewed and revised as appropriate every two years."

Guided by the Act, as well as current Federal policy, the Department's regulations must ensure that the damage assessment responsibilities of the Federal and State trustees for natural resources are carried out efficiently in a timely and cost-effective manner.

Through this notice, the Department wants to establish contact with those who have expertise in any facet of these regulations which will govern natural resource damage assessment. The Department's call for information, comments, and recommendations divides into four broad areas: (1) The process and schedule which the Department should follow in developing regulations to insure input from interested and affected sources; (2) the procedures which the final regulations will establish governing activities and reports following incidents covered by the Act; (3) the necessary technical basis for damage assessments themselves, including data on the natural resources, effects of oil and hazardous material spills, extent and degree of damage, resource values, and rehabilitation and restoration costs; and (4) the procedures necessary to maintain, monitor, and evaluate the process established. Information on methods and standards available or needed for measurement of values and damages will be important in both the procedural and substantive categories of the Department's request for input.

To help respondents to focus on the Department's needs, some discussion points are suggested below. They are intended as examples of the kinds of issues that the regulations will address, and the kinds of questions that must be answered on the way to publication of final rulemaking for damage assessment. The list of discussion points is not complete or exhaustive; it is to suggest the nature of the concerns and the range of input that can be useful.

I. Procedures for Developing Regulations

The Department seeks suggestions and comments on the most effective ways to solicit input, and then to review and evaluate both the technical information and the procedural recommendations received for development of damage assessment regulations. The regulations will need to reflect the current state-of-the-art of various technologies relevant to the natural resources affected, including such disciplines as biology, hydrology, geology, and also economics, among others. Additional kinds of material which may be helpful include legal precedents, examples of effective procedures used by other levels of government for addressing similar incidents, and methodology which might effectively be interpreted for the purposes of this Act. (Examples: Damages are assessed by regulations for Workman's Compensation programs. Aesthetic values are included in certain kinds of real estate appraisals, especially for second homes, and land offered or developed for leisure-time purposes. Damage appraisals after flood or other disasters may offer useful parallels.)

- In developing regulations under CERCLA, the Department seeks effective ways to tap the existing knowledge of States, other Federal Agencies, other public entities, industry, agriculture, environmental and other interest groups, colleges and universities, and the general public.

Comments are sought from those who have expertise in areas to be covered by damage assessment regulations, as well as an interest in both the form and the substance of regulations as they will be published in final.

Discussion Items

—What are effective methods for obtaining the basic data, the best of current experience, and the best thinking on the necessary range of subjects?

—How can we task those outside the Department so material can be developed which is focused on, or tailored to the present needs?

—What are the most effective methods of sharing information supplied so that it undergoes sufficient expert review and validation? Open meetings, open house, open files, structured seminars, panel discussions, other?

—How can we carry on an effective, but not burdensome, literature search throughout the regulation development process?

—Where information sharing meetings and public hearings are held, are there regional or other differences that would suggest the sites, as well as the numbers, of such meetings?

—What factors might affect the schedule for the Department's development of proposed regulations? For example, are there definitive research projects, demonstrations of methodology, or other specific information which may be completed or developed in the future and which would be useful in development of these rules?

—What kind of interaction would be necessary and useful between this Department and other governmental entities, both on this rulemaking and on any other official guidance developed, to implement natural resources damage assessments and claims?

II. Procedures for Carrying Out Damage Assessment and Claims

The Department seeks information and comment on the kinds of procedures for conducting damage assessment which can result in orderly, appropriate, timely, and consistent actions, including identification of natural resource damage, fact finding, decision making, and reporting. The Department must design a process for damage assessment which can (1) support Superfund reimbursement or liability claims brought by the trustee in administrative or judicial proceedings, (2) cover voluntary implementation of clean-up responsibilities, or (3) cover reimbursement in situations where there was an emergency restoration. This process must occur routinely without undue or excessive administrative expense.

It will be necessary to establish a process which proceeds in steps for assessing damage to natural resources from the time of incident through presentation of a claim for damages to the point that recovered funds are put to work. The regulations must also standardize the basis on which judgments are made by officials throughout the process of damage assessment and require a record which will support values so determined.

• The Department's regulations must be designed so that Federal and State officials operate effectively in conjunction with each other's existing procedures and activities.

Discussion Items

—Should or need there be a single contact in each State for communication and coordination regarding natural resources damage assessment that will assure appropriate communications with all State agencies at interest? (Concerning natural resources, land, air, water, fish, and game, etc., may be under separate divisions of State government.) What mechanisms will State trustees use to coordinate with Federal trustees? Should the Department's rules identify State trustee designations?

—Which States have, or are planning, procedures which can be used as models for damage assessment procedures?

—Where there are multiple trustees involved, because of co-existing or contiguous natural resources or concurrent jurisdictions, what standard procedures will assist them, and assure that they coordinate and cooperate in carrying out these responsibilities?

—What burdens may be imposed on State and local officials as a result of these damage assessment regulations? What corollary benefits might or could be made to result?

—What procedures can be adopted, in these rules or elsewhere, to ensure that natural resources damage and restoration claims are assessed and included in State and Federal mandamus and liability cases, case settlements, and Superfund claims?

• As soon as possible after discovery of an incident covered by CERCLA or the Clean Water Act, a preliminary survey would lead (among other decisions) to a determination of whether natural resources are affected, a determination of the trustee(s) of those natural resources, and a determination of whether the circumstances warrant proceeding with a damage assessment.

Discussion Items

—Who should be responsible for such a preliminary survey? What guidance should be given as to what to observe at a given site about the basic natural resource and the specific effects of the incident? How should this guidance be provided; e.g., regulations, manuals, handbooks, etc? What are necessary levels of detail, formats, and channels for recording and reporting?

—Who is responsible for making each of the above determinations, who keeps the record, who communicates these determinations, and where, when, and to whom are communications expected or necessary?

—Is it possible to determine early in the process that the cost of assessing the damages and prosecuting the claims will exceed the damages themselves or the benefit to be gained from damage claims?

—Since the costs of assessing damages are to be included in damage claims, what factors do we include in regulations to ensure that these costs are kept to the minimum necessary?

—How do we identify and avoid procedural problems which themselves increase costs; for example, by delaying the process significantly?

• Damages sought against the Superfund may include the costs of a plan to restore, rehabilitate, replace, or acquire the equivalent of damaged natural resources. However, CERCLA provides that funds received in liability cases, or from the Superfund, "* * * may not be used (to restore, replace, acquire, etc.) * * * until a plan for the use of such funds for such purposes has been developed and adopted by affected Federal agencies and the Governor or Governors of any State having sustained damage to natural resources within its borders, belonging to, managed by or appertaining to such State, after adequate public notice and opportunity for hearings and consideration of all public comments."

Discussion Items

—What are the elements to be included in a restoration plan?

—What level of detail should the plans address to insure restoration of natural resource values without unnecessary time and paperwork in the planning, review, and monitoring process?

—Are there existing formats that can be used as models—checklists, action plans, other?

—What should be the procedure for allocating responsibilities for development of the plan? What is the

process by which necessary input is gathered from all appropriate sources? Who reviews the plan (Federal, State, other) before and during the public review process?

—What are necessary steps for effective public review?

—What are necessary steps for Governors' approvals?

—In what instances where the Governor's approval may not be required would it, nevertheless, be useful or desirable?

—How do we assess what timeframes are realistic for preparation and implementation of restoration plans?

—What procedures can be adopted to ensure that plans can be assessed and approved in time to support liability or Superfund claims for related response actions involving EPA or Federal or State prosecuting agencies?

• Throughout the proposed regulations, indications of reasonable time frames for carrying out the proposed protocols will be critical, since a goal of the Act is timely attention to damage assessment and any subsequent claims settlements. Increased certainty as to timing of procedures will help insure cost-effective operations.

Discussion Items

—Are commentors who suggest alternative protocols also able to indicate what are reasonable time frames for the actions being suggested? For example, how long a period of observation is necessary to determine indirect as well as direct injury or the ability of the ecosystem to recover? How much time is likely to be necessary for collecting data on an individual case? With what certainty can time frames be established as a general rule by type of case, type of resource affected, type of injury, destruction or loss, etc.?

III. Natural Resources Damage Assessment

The core of damage assessment must be the substantive data about the natural resources affected, the measurement of damages, and the determination of values. Information needs fall into three subcategories: (1) Overall or general natural resources damage assessment information requirements; (2) Type A standard procedures (as mandated by the Act) for "simplified assessments requiring minimal field observation * * *"; and, (3) type B "alternative protocols for conducting assessments in individual cases."

(1) General Natural Resources Damage Assessment

• The Act defines natural resources as "land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources * * *."

Discussion Items

—What method (charts, tables, checklists, matrices, other) would best serve to identify all natural resources, not only the individual species or types of natural resources, but also the ecosystems or habitats in which the individual resources are found?

—Should the regulations be oriented to types of environments? For example, forest, grassland, tundra, desert, floodplain, others? What level of detail is necessary or useful?

—Should the regulations be oriented to specific natural resources (air, water, lands, biota, fish and wildlife, minerals, timber, others)? What level of detail is necessary or useful?

—Combination or alternate approaches?

• Under the Act, procedures to determine damages are to include "both direct and indirect injury and destruction, or loss * * *."

Discussion Items

—Will one standard procedure for measuring damages adequately cover all natural resource types?

—What constitutes direct and indirect "damage" to a particular natural resource? To what confidence limits or level of detail can and should criteria be developed for each? What degree of damage should be indicated to justify a claim?

—What data exists on damages to natural resources from oil spills? Or from releases of hazardous substances?

—What are reasonable indicators and measures of the extent of injury, for both the short- and long-term impacts, of the damage on the affected natural resource?

—What type of procedures will insure timely and appropriate measurement of the severity or degree of damage to the resource?

—How do we "measure" quantifiable losses, injury, or destruction; e.g., destruction of a forest, or loss of a herd of deer?

—How do we "measure" unquantifiable losses such as loss of a beautiful landscape, or an area of recreation opportunity? What experience with valuing donated easements for tax purposes is relevant and useful in this contex? Alternatives?

• Section 301(c)(2) of CERCLA states that the regulations "* * * shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover."

Discussion Items

—How do we measure the values of damaged natural resources equitably?

—Are there existing methods for calculating unit value which are applicable, or could be adapted for each damaged natural resource?

—What are the necessary elements of a technically sound process for natural resource value determination which can be developed so as to sustain damage claims adequately and consistently?

—What are the "values" to be considered in determination of damage assessment costs: aesthetic values, recreational values, use values, economic, commercial, or replacement values? Others? How do we develop a valuation process which incorporates all relevant types of values?

—To what extent can we standardize natural resource values?

—How much will the value of a natural resource (e.g., fish, birds, trees) vary from one geographical location to another?

—What is the value of endangered species in an area subject to natural resource damages? Are there certain resources or situations that require a special protocol or special attention in the regulations and procedures?

—Should there be minimum and maximum damage assessment costs established? If so, what criteria should be used to determine them?

—How do we determine the value of a non-recoverable resource?

—How do we ensure flexibility in the valuation process to establish standard and timely procedures leading to fair and equitable damage claim settlements in similar damage situations?

• ". . . sums recovered shall be available for use to restore, rehabilitate, or acquire the equivalent of damaged natural resources."

Discussion Items

—What specific measurements or activities are called for to restore and rehabilitate natural resources damaged by incidents covered under the Act?

—How are the costs of restoration, rehabilitation, etc., determined?

—What factors support replacement or acquisition of the equivalent rather than restoration or rehabilitation? What are the threshold measurements of effect that rustees should use in making such determinations?

• States and other entities have had actual experience with natural resources

damage assessment, in scientific research about damages and values, and in applications of State-developed procedures for determining natural resource values.

—What information is available about numbers and types of damage incidents affecting any or all of the natural resources indicated in the Act?

What data exists on actual uses of any assessment procedures, in the form of statistics, analysis, and/or case studies?

(2) Type A Assessments

• The Act specifically says "simplified assessments, requiring minimal field observation" and directs "establishing measures of damages based on units of discharge or release or units of affected area."

Discussion Items

—How much field observation constitutes "minimal field observation?"

—What guidance and qualification of observers will insure consistently usable observations?

—What units of discharge and units of affected area are now in use, or otherwise proven acceptable to expert reviewers? Are units of measure for oil in aquatic environments identical or comparable to units applicable to hazardous material? How much of this work has been done? Who can provide further data on such units of measurement?

—Some private organizations have been working with the expertise of their membership to develop tables or indices of fishery values. Are these ready for practical application? Is development of a comparable chart or matrix under way or possible for other species? Where does the available methodology exist, and how can the Federal effort access it?

—Some States have utilized look-up tables for specific resource values. Which States have or are working on such systems, and how can our effort capitalize on existing data? Can experience with fish tables, for example, be readily translated to other forms of life (birds, animals, vegetation) and to other contaminated natural resource media (air, land, and ground water)?

—Once values for particular resources are calculated, how can valid combined values be calculated?

—Where does the expertise reside to develop methodologies not yet in use, and how can such efforts be inspired and expedited?

(3) Type B Assessments

• The language of the Act amplifies the mandate for in-dept assessments by saying that "regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss, and shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover."

Discussion Items

—At what point is a Type A assessment superceded by Type B? Who makes the determination? What criteria apply to the determination? Size of incident? Quantity and quality of damage? Quantity and quality of affected environment? Other?

—What is the state-of-the-art with regard to damage mesurement or determinations of quantity and quality for natural resouces as named in the Act? What are acceptable baseline measures, or indicators for natural resources before incident?

—What are standards, measures, or precedents for replacement values? Can standard geographical limitations be established as the general rule for considering replacement values? With exceptions to be justified for particular cases?

—What are acceptable measures, standards, or precedents in establishing use values for each resource?

—Will a consensus among experts be possible in determining the ability of the resource to recover? What analytical techniques are available? What are appropriate time frames for recovery?

IV. Revision and Update

The Act mandates that regulations be reviewed and revised, as appropriate, every two years.

Discussion Items

—In accessing necessary information now, do we make sure it is updated at reasonable intervals in support of the continuing requirement for review and revisions of the regulations?

—What reporting or other methods will assist us in the periodic review of damage assessment regulations, taking into account inflation and other influences on monetary values for natural values?

—Where States or others produce baseline data on natural resources in the course of their damage assessment procedures, how can this data be periodically tapped to augment and update the national data base for damage assessment processes?

For the reasons set out in the preamble and under authority given the Administrative Committee of the Federal Register by 44 U.S.C. 1506, it is proposed to add a new Chapter II to Title 40 of the *Code of Federal Regulations*, as follows:

CHAPTER II—OFFICE OF THE SECRETARY, DEPARTMENT OF THE INTERIOR

(Sec. 301(c), Pub. L. 96-510 (42 U.S.C. 9601 et seq.), E.O. 12316, FR Doc. 81-24411)

Dated: January 4, 1983.

Wm. D. Bettenberg,

Deputy Assistant Secretary—Policy, Budget and Administration.

[FR Doc. 83-601 Filed 1-7-83; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 124

Evaluation of the Administrative Compliance Costs and the Impact of the Inflation Factor for Titles VI and XVI Assisted Facilities

AGENCY: Health Resources and Services Administration, PHS, HHS.

ACTION: Proposed rule related notice.

SUMMARY: The purpose of this notice is to solicit comments on an evaluation plan which has been developed to examine the impact of the administrative compliance costs and the inflation factor on health facilities obligated under Titles VI and XVI of the Public Health Service Act to provide a reasonable volume of services to persons unable to pay.

DATE: The Department will consider comments received on or before February 9, 1983

ADDRESS: Interested persons may request copies of the evaluation plan from, and submit comments to: Florence B. Fiori, Dr. P.H., Acting Associate Director for Health Facilities, Bureau of Health Maintenance Organizations and Resources Development, 3700 East-West Highway, Room 5-44, Hyattsville, Maryland 20782.

All comments received in timely response to this notice will be considered and will be available for public inspection at the above address between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles A. Wells, Ph.D., Chief, Assurance Data and Analysis Branch, Division of Facilities Compliance, Bureau of Health Maintenance Organizations and Resources Development, 3700 East-West

Highway, Room 5–44, Hyattsville, Maryland 20782, (301) 436–6893.

SUPPLEMENTARY INFORMATION: Health facilities which received assistance under Titles VI and XVI of the Public Health Service Act provided an assurance that they would make available a reasonable volume of services to persons unable to pay. On May 18, 1979, the Secretary published regulations (42 CFR 124.501 *et seq.*) governing the assurance to provide uncompensated services. In the preamble to the rules (44 FR at 29374), the Secretary announced the Department's intent to develop a plan to evaluate the administrative compliance costs and the impact of the inflation factor, and to seek public comment on the plan. This notice implements the Secretary's directive.

Dated: December 19, 1982.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83-600 Filed 1-7-83; 8:45 am]

BILLING CODE 4165-16-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82–21; Notice 1]

Evaluation Report on Federal Motor Vehicle Safety Standard No. 301 Fuel System Integrity; Passenger Cars; Request for Public Comment

AGENCY: National Highway Traffic Safety Administration (NHTSA); DOT.

ACTION: Request for comments.

SUMMARY: This notice announces the publication by NHTSA of an Evaluation Report concerning Safety Standard No. 301, *Fuel System Integrity*. This staff report evaluates the safety effectiveness and costs of the current performance requirements for 301–75 in new passenger cars. The report was developed in response to Executive Order 12291 which provides for government-wide review of existing major Federal regulations. The NHTSA seeks public review and comment on this evaluation. Comments received will be used to complete the review required by Executive Order 12291.

DATE: Comments must be received no later than March 11, 1983.

ADDRESSES: Interested persons may obtain a copy of the report free of charge by contacting Mr. Robert Hornickle, Office of Management Services, National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–0875). All comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours, 8:00 a.m.–4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, Director, Office of Program Evaluation, Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1574).

SUPPLEMENTARY INFORMATION: Safety Standard No. 301–75 (49 CFR Part 571 sets static and dynamic performance requirements for the fuel system of passenger cars. The requirements have resulted in a variety of vehicle modifications intended to limit the amount of fuel leakage during and immediately following a crash. The reduction in fuel leakage is, in turn, intended to reduce the occurrence of post-crash fires and the attendant fatalities and injuries. The standard became effective in January 1968, and was significantly upgraded in 1975.

Pursuant to Executive Order 12291, NHTSA recently conducted and evaluation of Standard No. 301 to determine the effectiveness of the technology selected by the manufacturers to comply with the standard (in preventing deaths and injuries), and to determine the costs of the technology to consumers. Under the Executive Order, agencies are to review existing regulations to determine whether the regulations are achieving the order's policy goals (i.e., achieving legislative goals effectively and efficiently and without imposing unnecessary burdens on those affected).

The principal findings and conclusions of the report are as follows:

- Standard 301 annually prevents approximately 400 fatalities, 520 serious injuries, and 110 moderate injuries resulting from passenger car crash fires. The paramount effectiveness of the standard is in the more severe crashes where severity is measured by the extent of vehicle deformation sustained.
- Standard 301 annually prevents 6,500 passenger car crash fires per year.
- Standard 301 adds $8.50 (in 1982 dollars) to cost of purchasing and operating an automobile over its lifetime.

The Evaluation was developed using accident data from five States and the Agency's Fatal Accident Reporting System and National Accident Sampling System, and vehicle modification and cost-related information obtained from the motor vehicle manufacturers.

NHTSA welcomes public review of this Standard No. 301 Evaluation Report and invites the public to submit comments.

It is requested but not required that 10 copies of comments be submitted.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(Secs. 103, 112, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50 and 501.8)

Issued on: January 5, 1983.

Barry Felrice,

Associate Administrator for Plans and Programs.

[FR Doc. 83-607 Filed 1-7-83; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 48, No. 6
Monday, January 10, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Foster Grandparents Program; Request for Project Proposals in New York State

AGENCY: ACTION.

ACTION: Notice of request for proposals.

SUMMARY: The purpose of this notice is to solicit proposals from public and private non-profit organizations in the state of New York, interested in sponsoring Foster Grandparent Program (FGP) projects. Included in this notice is basic information regarding application requirements and contacts for technical assistance.

SUPPLEMENTARY INFORMATION: ACTION is currently in the process of converting a large Statewide Foster Grandparent Program project into smaller, cost effective community-based projects. The process has been divided into two phases. Phase I will be the augumentation of existing ACTION/Older American Volunteer Programs sponsors where service areas of the Statewide and community based projects coincide or overlap. Phase II, which this request for proposal (RFP) describes, will be the awarding of several FGP project grants to new sponsors in other areas currently covered by the Statewide project. We are encouraging all interested community agencies/organizations that are either public or private non-profit to apply. Those with experience operating programs for older adults and/or developmentally disabled children are especially encouraged to apply.

Application

To apply for one of these grants, the applicant should complete and submit to ACTION a finished proposal by February 1, 1983. The basis for the application will be ACTION Forms A-1017, Application for Federal Assistance, and A-1018, *Project Narrative*, which can be obtained by contacting the office listed below.

More detailed information regarding eligibility requirements, the application and award process and other programmatic provisions is contained in the Catalog of Federal Domestic Assistance under program identification number 72.001.

In developing the proposal, there are several conditioning constraints to keep in mind.

1. It is ACTION's intention and firm commitment that the volunteers, volunteer stations, and assigned children currently part of the Statewide Office of Mental Retardation and Development Disabilities (OMRDD) FGP project continue to be served by the local projects.

2. The budget and project size will vary in each area. Our intent is to fund at least the number of volunteers that currently exist in a given area, and hopefully augment the volunteer strength and number of children served. A minimum of ten percent of total project costs are required from non-federal sources. Favorable consideration will be given to applications reflecting an amount greater than the minimum required non-federal share.

3. In keeping with our commitment to continue with the current volunteer stations, each applicant will need to approach the current volunteer stations in their area to develop Memoranda of Understanding. The Memoranda should be signed and included in the proposal.

For further information or technical assistance, please contact ACTION at the number listed below.

Region II Office

Claire M Wojno, (212) 264-5710,
ACTION, Jacob K. Javits Federal Building, 26 Federal Plaza, 16th Floor, Suite 1611, New York, New York 10278

Applications should be submitted to the Regional Office and postmarked no later than February 1, 1983.

(42 U.S.C. 5011; 5012; 5042(14))

Dated in Washington, D.C., on January 5, 1983.

Thomas W. Pauken,
Director, ACTION.

[FR Doc. 83-608 Filed 1-7-83; 8:45 am]
BILLING CODE 8050-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Brookhaven National Laboratory; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00197. Applicant: Brookhaven National Laboratory, Upton, New York 11973. Instrument: Neutron Monochromator Crystals, (Cu_2MnAl). Manufacturer: Cristal Tec., France. Intended use of instrument: See Notice on page 41409 in the **Federal Register** of September 20, 1982.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is a set of identical Cu_2MnAl crystals each capable of producing monoenergetic polarized neutron beams. The National Bureau of Standards advises in its memorandum dated December 2, 1982 that (1) the capability of the foreign insturment described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-511 Filed 1-7-83; 8:45 am]

BILLING CODE 3510-25-M

Exporters' Textile Advisory Committee; Change of Date for Meeting

December 29, 1982.

On December 14, 1982 a notice dated December 3, 1982 was published in the **Federal Register** (47 FR 55986), announcing a meeting of the Exporters' Textile Advisory Committee on January 13, 1983 at 10:00 a.m. in Room 6802, Main Commerce Department Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The purpose of this notice is to announce that the date, time, and room for the meeting have been changed. The meeting has now been rescheduled for January 18 at 1:30 p.m. in Room 4830, Main Commerce Department Building.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-627 Filed 1-7-83; 8:45 am]

BILLING CODE 3510-25-M

Numerically Controlled Machine Tool Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to numerically controlled machine tool, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: January 26, 1983, at 10:00 a.m. The meeting will take place at the Main Commerce Building Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Committeee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: January 5, 1983.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 83-617 Filed 1-7-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Conference on Weights and Measures; Meeting

Notice is hereby given that the interim meetings of the National Conference on Weights and Measures will be held January 16-21, 1983, at the National Bureau of Standards, Gaithersburg, Maryland.

The National Conference on Weights and Measures is an organization of weights and measures enforcement officials of the States, counties, and cities of the United States together with associated industry and interested private sector individuals. The interim meetings of the Conference, as well as the annual meeting to be held next July (a notice will be published in the **Federal Register** prior to such meeting), brings together the enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer organizations for the purpose of hearing about the discussing subjects that relate to the fields of weights and measures technology and administration.

Pursuant to authority in its Organic Act (15 U.S.C. 272(5)), the National Bureau of Standards sponsors the National Conference on Weights and Measures in order to promote uniformity among the States in laws, regulations, inspection methods, and testing equipment applied to commercial weights and measures regulation and practices.

The meetings are open to the public. Additional information concerning the Conference program and arrangements may be obtained from Mr. Albert D. Tholen, Executive Secretary, National Conference on Weights and Measures, P.O. Box 3137, Gaithersburg, Maryland 20878; telephone: (301) 921-3677.

Dated: January 4, 1983.

Ernest Ambler,

Director.

[FR Doc. 83-548 Filed 1-7-83; 8:45 am]

BILLING CODE 3510-13-M

Membership of General and Limited Performance Review Boards

This notice announces certain changes in the membership of the National Bureau of Standards (NBS) General and Limited Performance Review Boards. The purpose of the General Performance Review Board (GPRB) is to review performance agreements, performance appraisals and ratings, recommendations for certain personnel actions and other related material, and to make appropriate recommendations to the Director of NBS as the Appointing Authority for the Senior Executive Service at NBS concerning such matters in such a manner as will assure the fair and equitable treatment of senior executives and the organizations of which they are members and instill in the minds of such senior executives confidence in the integrity, competence, and impartiality of the GPRB. The GPRB performs its review functions for all NBS senior executives except those who are members of the NBS Executive Board and those who are members of the GPRB.

The purpose of the Limited Performance Review Board (LPRB) is the same as the GPRB. However, the LPRB performs its review functions for all NBS

senior executives who are members of the NBS Executive Board (except the NBS Deputy Director) and those senior executives who are members of the NBS GPRB.

The individuals who have been newly appointed by the Director of NBS to membership on the GPRB and the LPRB or have had their term of membership extended, and the term of their appointment or extension, are listed below.

BPRB

Dr. John K. Taylor, Voluntary Standards Coordinator, Center for Analytical Chemistry, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234. Term: January 1, 1983 to December 31, 1984.

Dr. George A. Sinnott, Associate Director for Technical Evaluation, National Engineering Laboratory, National Bureau of Standards, Washington, D.C. 20234. Term: January 1, 1983 to December 31, 1983.

Mr. Robert A. Kamper, Director, Boulder Laboratories, National Bureau of Standards, Boulder, Colorado 80303. Term: January 1, 1983 to December 31, 1984.

LPRB

Dr. William P. Raney, Assistant Associate Administrator for Space and Terrestrial Applications (Programs), National Aeronautics and Space Administration, Washington, D.C. 20546. Term extended to December 31, 1983.

Dr. Richard H. Kropschot, Associate Director for Basic Energy Sciences, Office of Energy Research, Department of Energy, Washington, D.C. 20545. Term: January 1, 1983 to December 31, 1984.

The full membership and expiration dates of the GPRB and the LPRB as now constituted, including the changes made by this notice, are set out below.

GPRB

Dr. Howard E. Sorrows, Chair, Technology Adviser to the Director, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1984.

Mr. Karl E. Bell, Deputy Director of Administration, Office of the Director of Administration, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1983.

Mr. Robert A. Kamper, Director, Boulder Laboratories, National Bureau of Standards, Boulder, Colorado 80303. Expiration of appointment—December 31, 1984.

Dr. Richard I. Schoen, Senior Staff Associate, Division of Chemistry, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550. Expiration of appointment—December 31, 1983.

Dr. George A. Sinnott, Associate Director for Technical Evaluation, National Engineering Laboratory, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1983.

Dr. John K. Taylor, Voluntary Standards Coordinator, Center for Analytical Chemistry, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1984.

Dr. Howard T. Yolken, Chief, Office of Nondestructive Evaluation, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1983.

LPRB

Dr. Edward L. Brady, Chair, Associate Director for International Affairs, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1984.

Dr. Richard H. Kropschot, Associate Director for Basic Energy Sciences, Office of Energy Research, Department of Energy, Washington, D.C. 20545. Expiration of appointment—December 31, 1984.

Dr. William P. Raney, Assistant Associate Administrator for Space and Terrestrial Applications (Programs), National Aeronautics and Space Administration, Washington, D.C. 20546. Expiration of Appointment—December 31, 1983.

Persons desiring any further information about the GPRB, the LPRB, or the membership of either, may contact Mrs. Elizabeth W. Stroud, Chief, Personnel Division, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3555.

Dated: January 4, 1983.

Ernest Ambler,

Director.

[FR Doc. 83-545 Filed 1-7-83; 8:45 am]

BILLING CODE 3510-13-M

Office of the Secretary

Census Advisory Committees on Population Statistics, and the American Economic, American Marketing, and American Statistical Association; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A–63 of March 1974, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Census Advisory Committee on Population Statistics, and those of the American Economic, American Marketing, and American Statistical Associations are in the public interest in connection with the performance of duties imposed on the Department by law.

These committees were originally established in 1965, 1960, 1946, and 1919, respectively. Each was last renewed on December 19, 1982.

The committees will continue to provide advice to the Director, Bureau of the Census on such matters as conceptual problems concerning the economic censuses and surveys; decennial census of population; statistical needs of data users concerned with marketing the Nation's products and services; and numerous other aspects of the Bureau's programs.

As currently chartered, each committee will continue with a balanced representation of 15 members. The committees will continue to report and be responsible to the Director, Bureau of the Census and will function solely as an advisory body in compliance with the Federal Advisory Committee Act.

Copies of the committees' revised charters will be filed with appropriate committees in Congress.

Inquiries or comments may be addressed to Mr. Alfred Tella, Special Advisor to the Director, Bureau of the Census, Room 3061–3, Washington, D.C. 20233, telephone (301) 763–7914, or Mrs. Yvonne Barnes, Committee Management Analyst, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–4217.

Dated: December 30, 1982.

Dennis C. Boyd,

Executive Director, Information Resources Management.

[FR Doc. 83-628 Filed 1-7-83; 8:45 am]

BILLING CODE 3510-CW-M

DEPARTMENT OF EDUCATION

National Board of the Fund for Improvement of Postsecondary Education; Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming

meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463, Section 10(a)(2).

DATE: January 27, 1983 at 5:00 p.m. through January 29, 1983 at 2:00 p.m.

ADDRESS: University of Maryland, Adult Education Building of University College, College Park, Maryland.

FOR FURTHER INFORMATION CONTACT: Sven Groennings, Director, Fund for the Improvement of Postsecondary Education, 7th & D Streets, SW., Washington, D.C. 20202 (202–245–8091).

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under Section 1003 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1135a–1). The National Board of the Fund is established to "advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education . . . and on the selection of projects under consideration for support by the Fund in its competitions."

The meeting of the National Board will be open to the public. The proposed agenda include advising on significant issues and policies in postsecondary education. Specifically: the economy and higher education, science and math education, and educational technology.

Records shall be kept of all Board proceedings, and shall be available for public inspection at the Fund for the Improvement of Postsecondary Education, 7th and D Streets, S.W., Room 3100, Washington; D.C. 20202 from the hours of 8:00 a.m. to 4:30 p.m. weekdays, except Federal Holidays.

Dated: January 4, 1983.

Edward M. Elmendorf,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 83–847 Filed 1–7–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. G–18671–005, et al.]

Natural Gas Companies; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]; Dorchester Gas Producing Co., et al.

January 4, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G–18671–005, D, Dec. 14, 1982	Dorchester Gas Producing Company, P.O. Box 750, Amarillo, Texas 79105.	Northern Natural Gas Company, Bernard No. 1 Well, Carson County, Texas.	(1)	
CI68–1022–001, Dec. 13 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Ship Shoal Blocks 167, 168, 182, Offshore Louisiana.	(1)	
CI69–794–000, C, Dec. 16, 1982	ARCO Oil and Gas Company Division of Atlantic Richfield Company, P.O. Box Dallas, Texas 75221.	Trunkline Gas Company, Vermilion Block 120, Offshore Louisiana.	(1)	
CI73–248–000, D, Dec. 17, 1982	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kansas 67201.	The Louisiana Land and Exploration Company, Jefferson Island Field, Iberia Parish, Louisiana.	(1)	
CI75–19–002, C, Dec. 8, 1982	Texas Eastern Exploration Co., P.O. Box 2521, Houston, Texas 77252.	Texas Eastern Transmission Corporation, Block 201, Vermilion Area, Offshore Louisiana.	(1)	
CI83–82–000 (CI69–222), B, Dec. 6, 1982.	Anadarko Production Company, P.O. Box 1330, Houston, Texas 77251.	Phillips Petroleum Company, Panhandle West Field, Hutchinson County, Texas.	(1)	
CI83–83–000, A, Dec. 8, 1982	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Company, Brazos Block 451 Field, Offshore Texas.	(1)	
CI83–84–000, A, Dec. 9, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Sabine Pass Block 11, Offshore Louisiana.	(1)	
CI83–85–000 (G–14411), B, Dec. 8, 1982.	Farmland Industries Inc., (Successor to CRA Inc.), P.O. Box 7305, Kansas City, Missouri 64116.	Kansas-Nebraska Natural Gas Company, Hugoton Field, Finney County, Kansas.	(1)	
CI83–86–000 (CI60–441), B, Dec. 8, 1982.	..... do.....	Texas San Juan Oil Corporation, Miller and Fox Fields, Duvall County, Texas.	(1)	
CI83–87–000 (G–13870), B, Dec. 8, 1982.	..... do.....	United Gas Pipe Line Company, North Indian Hills Field, Montgomery County, Texas.	(1)	
CI83–88–000 (CI63–431), B, Dec. 8, 1982.	..... do.....	Northern Natural Gas Company, Gate Area, Beaver County, Oklahoma.	(1)	
CI83–89–000 (CI63–719), B, Dec. 8, 1982.	..... do.....	El Paso Natural Gas Company, Mesa County, Colorado.	(1)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI83-90-000 (CI83-625), B, Dec. 8, 1982.	..... do.....	El Paso Natural Gas Company, East Bar-X Field, Mesa County, Colorado.	(4).....	.....
CI83-91-000 (G-6321), B, Dec. 8, 1982.	..... do.....	Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Magner-Withers Field, Wharton County, Texas.	(4).....	.....
CI83-92-000 (G-15080), B, Dec. 8, 1982.	..... do.....	El Paso Natural Gas Company, West Bar-X Area, Grand County, Utah.	(4).....	.....
CI83-93-000 (CI67-1738), B, Dec. 13, 1982.	..... do.....	United Gas Pipe Line Company, North Indian Hills Field, Montgomery County, Texas.	(4).....	.....
CI83-95-000 (CI78-887), B, Dec. 13, 1982.	Texaco Inc., P.O. Box 60252, New Orleans, Louisiana 70160.	Columbia Gas Transmission Corp., South Marsh Island 267, Offshore Louisiana.	(10).....	.....
CI83-96-000, A, Dec. 13, 1982	Texoma Production Company, P.O. Box 90996, Houston, Texas 77090.	Natural Gas Pipeline Company of America, Main Pass Area, Blocks 148 and 151 Field, Offshore Louisiana.	(11).....	15.025
CI83-97-000, A, Dec. 20, 1982	Mesa Petroleum Co., One Mesa Square, P.O. Box 2009, Amarillo, Texas 79189.	United Gas Pipe Line Company, South Marsh Island Blocks 155 and 156, Offshore Louisiana.	(12).....	14.73
CI83-98-000, B, Dec. 20, 1982	Goulds' Electric Motor Repair Incorporated	Southeastern Gas Company, Clay County, West Virginia.	(13).....	.....
CI83-99-000, B, Dec. 14, 1982	Bill J. Graham	The Permian Corporation, Donham (Grayburg) Field, Crockett County, Texas.	(14).....	.....
CI83-100-000, A, Dec. 20, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Panhandle Eastern Pipe Line Company, Elk City Field, Beckham and Washita Counties, Oklahoma.	(15).....	14.65
CI83-101-000, A, Dec. 20, 1982	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	United Gas Pipe Line Company, Mayo Romero Well No. 2, Iberia Field, Iberia Parish, Louisiana.	(16).....	15.025
CI83-102-000, B, Dec. 21, 1982	Kaiser-Francis Oil Company, P.O. Box 35528, Tulsa, Oklahoma 74135.	Phillips Petroleum Company, Section 14, Township 26N, Range 15W, Woods County, Oklahoma.	(17).....	.....
CI83-103-000, A, Dec. 22, 1982	Pan Eastern Exploration Company, P.O. Box 1642, Houston, Texas 77001.	Panhandle Eastern Pipe Line Company, Brazos Block A-47 Field, Offshore Texas.	(18).....	14.73
CI83-104-000, A, Dec. 22, 1982	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Tennessee Gas Pipeline Co., South Marsh Island Block 106 (N/2 "A" Platform), Offshore Louisiana.	(19).....	15.025
CI82-411-000, C, Aug. 30, 1982	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	Trunkline Gas Company, South Marmentau Field, Acadia Parish, Louisiana.	(20).....	15.025
CI85-26-001, Jan. 2, 1978 [21]	Supron Energy Corporation, Bldg. V., Fifth Floor, 10300 North Central Expressway, Dallas, Texas 75231.	Champlin Petroleum Company, Logan County, Oklahoma.	(22).....	.....

[1] The Barnard No. 1 Well has been plugged and abandoned on October 21, 1982.
[2] Applicant is filing under Gas Purchase Agreement dated November 20, 1967, amended by Supplemental Gas Purchase Agreement dated October 1, 1982.
[3] Applicant is filing under Gas Purchase Contract dated December 23, 1968, amended by amendment dated November 1, 1982.
[4] Gas contract expired of its own terms January 1, 1980.
[5] Applicant is filing under Gas Purchase Contract dated August 24, 1973, amended by Letter Agreement dated August 23, 1982.
[6] The Johnson No. 1 well is no longer covered under the June 29, 1960 contract. It is dedicated under a percentage type contract dated July 6, 1960 which is not required to be filed with the Commission.
[7] Applicant is filing under Gas Purchase Contract dated December 3, 1982.
[8] Applicant is filing under Gas Purchase and Sales Agreement dated December 6, 1982.
[9] No gas has been produced for a number of years.
[10] Production for the 6300' sand has ceased. OCS-G-2309 Well No. 1 has been plugged and abandoned. Seller's OCS-G-2309 Lease has expired.
[11] Applicant is filing under Gas Sales Contract dated July 30, 1982.
[12] Applicant is willing to accept the applicable rate under Section 104 of the Natural Gas Policy Act of 1978.
[13] Non-economical.
[14] Well no longer produces gas. Will be plugged and abandoned.
[15] Applicant is filing under Rollover Contract dated October 28, 1982.
[16] Applicant is filing under Gas Purchase Contract dated October 29, 1982.
[17] Well was capable of producing very low volumes (less than 10 mcfd average). Phillips Petroleum advised that it was uneconomic to maintain connection and removed meter.
[18] Applicant is filing under Gas Purchase Contract dated November 8, 1982.
[19] Applicant is filing under Gas Purchase Contract dated December 14, 1892.
[20] Applicant is filing under Gas Purchase Contract (rollover contract) dated June 15, 1982.
[21] Termination of certificate and FERC G.R.S. No. 12
[22] Gas to be sold under percentage of proceeds type contract.
Filing Code: A—Initial Service B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Sucession. F—Partial Succession.

[FR Doc. 83-587 Filed 1-7-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. EF81-2021-002 and E-9563-004]

U.S. Department of Energy—Bonneville Power Administration; Order Extending Period for Comments and Extending Interim and Final Rates for a Limited Period of Time

Issued: December 30, 1982.

On November 29, 1982, the Bonneville Power Adminstration (Bonneville) filed a request for an extension of interim approval of Bonneville's transmission rates in Docket No. EF81-2021-001 pending review of its request for final confirmation and approval of these rates by the Commission. The Commission's prior interim approval of Bonneville's transmission rate schedules FPT-2, UFT-2, ET-2 and IR-1 [1] will expire on January 1, 1983. 19 FERC ¶61,281.

Bonneville requests that the Commission grant further interim approval of the transmission rate schedules for twelve months, until January 1, 1984. Bonneville also requests a twelve month extension of Set A and Set B of its General Transmission Rate Schedule Provisions, which are incorporated by reference into the four schedules.

Bonneville additionally requests that the Commission extend the effectiveness of its FPT-1, UFT-1 and ET-1 transmission rate schedules that were confirmed and approved on a final basis in Docket No. E-9563-000. 20 FERC ¶61,142. In its Order Confirming and Approving Transmission Rates in that docket, the Commission granted final confirmation and approval of the FPT-1, UFT-1 and ET-1 rate schedules for the period June 10, 1977, through June 30, 1981. While the transmission rate schedules in Docket No. EF81-2021-000 were intended to supersede these rates, Bonneville states that some of its transmission contracts did not permit the rates to be collected. Bonneville therefore requests that the Commission extend the effectiveness of these rate schedules until January 1, 1984, with respect to those existing contracts under which the rates are presently being applied.

Notice of Bonneville's request for extension of interim and final rate approval did not appear in the **Federal Register** until December 21, 1982. The notice provided, however, that interested parties were to submit comments on or before December 22, 1982. In light of the lateness of the

[1] Formula Power Transmission, Use-of-Facilities, Energy Transmission, and Integration of Resources, respectively.

published notice, the Commission believes it would be in the public interest to further extend the December 22, 1982 date for comments.

In order to afford the parties a sufficient time to comment on Bonneville's request, we shall extend the period for comments until January 14, 1983. We shall also allow Bonneville's rates to remain in effect on an interim basis for an additional 60 days. This additional time will provide the Commission with an opportunity to consider Bonneville's request for a one-year extension of the transmission rates in light of the comments of the parties.

The Commission orders:

(a) The Bonneville Power Administration's request for an extension of prior Commission approval of its transmission rates in Docket Nos. EF81–2021–002 and E–9563–000 is hereby granted through February 28, 1983.

(B) Any person desiring to be heard or to protest Bonneville's request for a rate extension to January 1, 1984, should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol St. N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

(C) The Secretary shall promptly publish this order in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–579 Filed 1–7–83 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–78–000]

Central Illinois Public Service Co.; Order Accepting for Filing and Suspending Rates in Part, Noting Intervention, Denying Motions To Reject and To Appoint a Settlement Judge, Granting Waiver, and Establishing Hearing and Price Squeeze Procedures

Issued: December 30, 1982.

On December 1, 1982, Central Illinois Public Service Company (CIPSCO) completed its filing [1] of an increase in rates for firm power service provided to 24 wholesale customers.[2] Nineteen of the affected customers have executed settlement agreements consenting to the proposed rate increase and CIPSCO's proposed January 1, 1983 effective date. The proposed rates to the settling customers would increase revenues by approximately $15,377,000 (22.5%) during the calendar year 1983 test period. The proposed rates to the five customers that have not executed settlement agreements, the Illinois Municipal Group (IMG),[3] would increase revenues by about $1,269,000 (19.8%).

CIPSCO requests to be excused from filing, pursuant to sections 35.13(a) and 385.207 of the Commission's regulations, the monthly contributions to system peak of each customer. That information, CIPSCO asserts, has been filed for each customer class. Additional, CIPSCO requests immediate appointment of a settlement judge if the W–2 (NS) rates are suspended.

Notice of the instant filing was published in the **Federal Register** with comments due on or before November 24, 1982. In response to a motion by IMG, the comment periods was extended until December 6, 1982. IMG filed a timely motion to intervene, protest, and motion to reject.

IMG requests rejection of the filing with respect to the Cities of Casey, Flora, Greenup, and Newton (the Casey Group) on the grounds that those cities' contracts with CIPSCO contain *Mobile-Sierra* [4] protection from unilateral rate changes. If the Commission does not reject the filing, IMG requests that the Commission suspend the proposed rate schedule changes for five months, initiate a hearing, and deny the company's request to make the W–2 (NS) rates effective prior to a final Commission order. In support of its request for a five month suspension, IMG raises several issues regarding improper adjustments or treatment in the company's wholesale cost of service.[5]

IMG also requests that CIPSCO's request for a settlement judge be denied as premature, at least insofar as the Casey Group is concerned. IMG asserts that CIPSCO's request represents a violation of Commission settlement procedure. In addition, IMG alleges price squeeze and requests that phased price squeeze procedures be established.

On December 17, 1982, CIPSCO filed an answer to IMG's intervention. CIPSCO asserts that the contracts with the Casey Group are not fixed rate contracts, and that for several reasons those contracts do not preclude rate changes prior to final Commission approval. CIPSCO also opposes various of IMG's cost of service objections.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR § 385.214), IMG's timely motion to intervene serves to make it a party to this proceeding absent opposition within 15 days of its pleading.

As noted, IMG contends that the rates as applied to the Casey Group should be rejected on the basis of *Mobile-Sierra* contracts with CIPSCO. IMG also contends that the strict *Mobile-Sierra* burden of proof should apply. However, the Commission found in Opinion Nos. 142 and 142–A, *Central Illinois Public Service Company*, 20 FERC ¶ 61,043 and ¶61,435 (1982), that a rate change to these cities could become effective prospectively upon final Commission order and that the contracts at issue were not "fixed rate" contracts calling for application of the heavy burden of proof enunciated in the *Sierra* case, *supra*. There is no reason to revisit these issues at this time and we shall therefore deny IMG's motion to reject.

With respect to the proposed W–1, W–2, and W–3 rates to the customers that have executed settlement agreements, our analysis indicates that the rates are cost justified. Therefore, we shall accept these rates for filing without suspension to become effective

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[1] Although CIPSCO originally tendered its rates on November 1, 1982, the filing was completed by the submittal of additional information concerning the company's proposed make-up provision associated with its unfunded tax liability under the normalization requirements of section 35.25 of the Commission's regulations.

[2] *See* Attachment A for rate schedule designations. The proposed rates consist of a rate W–1 for full requirements service to cooperatives, a rate W–2 for full requirements service to municipalities which have executed settlement agreements, a rate W–2 (NS) for full requirements service to municipalities that have not executed settlement agreements and a rate W–3 for partial requirements service to municipalities. The rate W–2 (NS) differs from rate W–2 in that the monthly demand charge is $0.40/kW higher.

[3] The Illinois Municipal Group consists of the Cities of Casey, Flora, Greenup, Metropolis, and Newton.

[4] *United States Gas Pipeline Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *Federal Power Commission* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1956).

[5] These issues include: (1) improperly estimated allocation of demand and energy costs; (2) excessive test period reserved capacity; (3) unsubstantiated increases in Period II expenses over Period I expenses; (4) excessive rate of return on common equity; (5) normalization accounting; and (6) improper rate design for the W–2 (NS) rates.

on January 1, 1983, as requested and as agreed to by the affected customers.

Having reviewed the information provided by the company, we further find that good cause exists to grant the request for waiver of any outstanding data requirements of section 35.13. Our preliminary review of CIPSCO's filing and the pleadings indicates that the proposed W–2(NS) rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept these rates for filing and suspend them, in part, as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for five months where preliminary review indicates that the proposed increase may be unjust and unreasonable and may generate substantially excessive revenues, as defined in *West Texas*. Our preliminary review suggests that the proposed W–2(NS) rates may yield substantially excessive revenues. Accordingly, insofar as those rates apply to the City of Metropolis (the only non-settling customer whose contract permits unilateral rate changes in advance of a Commission order), we shall suspend the W–2(NS) rates for five months from sixty days after completion of the filing, to become effective on July 1, 1983, subject to refund. Because CIPSCO's contracts with the Casey Group have been construed to provide that rate changes may become effective prospectively only following a final Commission order, the proposed rates to those customers will be set for hearing with any change to become effective upon final Commission order in this docket.

Based on the information available thus far, the Commission is not in a position to determine the prospects for settlement in this case or the appropriateness of designating a settlement judge. Because we believe that the Chief Administrative Law Judge will be better able to resolve this question following an initial conference and any recommendation by the presiding judge, we shall deny CIPSCO's request, without prejudice, and leave this matter to the discretion of the Chief Judge.

In light of IMG's price squeeze allegations, we shall institute price squeeze procedures and phase those procedures in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company, Docket No. ER79–339 (August 6, 1979).*

As a final matter, the Commission observes that CIPSCO has utilized full tax normalization with respect to Accelerated Cost Recovery System (ACRS) property. According to our review, the instant filing reflects a normalization method of accounting for all post-1980 property additions, CIPSCO's cost of service correctly reflects the effects of normalization, and CIPSCO's submittal satisfies the requirements of the Economic Recovery Tax Act of 1981.

The Commission orders:

(A) The motions to reject CIPSCO's filing and to appoint a settlement judge are hereby denied. The request for waiver of the outstanding requirements of section 35.13 of the Commission's regulations is hereby granted.

(B) CIPSCO's proposed rates are hereby accepted for filing; the settlement rates W–1, W–2, and W–3 are accepted without suspension, to become effective on January 1, 1983, as requested; the W–2 (NS) rates as applicable to the City of Metropolis are suspended for five months from 60 days after completion of filing, to become effective, subject to refund, on July 1, 1983; the W–2 (NS) rates for the Casey Group will not become effective, except prospectively following a final Commission order in this docket.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of CIPSCO's rates.

(D) The Commission staff shall serve top sheets in this proceeding on or before January 12, 1983.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A.—Central Illinois Public Service Company Rate Schedule Designations (Docket No. ER83–78–000)

FERC Electric Tariff Original Volume No. 1

Rate Schedule W–1 for Wholesale Electric Service to Cooperatives

(1) 5th Revised Sheet No. 1, Supersedes 4th Revised Sheet No. 1.

(2) 2nd Revised Sheet No. 3, Supersedes 1st Revised Sheet No. 3.

FERC Electric Tariff Original Volume No. 2

Rate Schedule W–2(NS) for Wholesale Electric Service to Municipalities

(1) 6th Revised Sheet No. 1, Supersedes 5th Revised Sheet No. 1.

(2) 3rd Revised Sheet No. 2, Supersedes 2nd Revised Sheet No. 2.

FERC Electric Tariff Original Volume No. 2

Rate Schedule W–2 for Wholesale Electric Service to Municipalities

(1) Original Sheet No. 3.

(2) Original Sheet No. 4.

FERC Electric Tariff Original Volume No. 3

Rate Schedule W–3 for Wholesale Electric Service to Customers Purchasing Partial Requirements to Supplement Generation

(1) 4th Revised Sheet No. 1, Supersedes 3rd Revised Sheet No. 1.

(2) 2nd Revised Sheet No. 3, Supersedes 1st Revised Sheet No. 3.

[FR Doc. 83–584 Filed 1–7–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–212–000)

Delmarva Power & Light Co.; Filing

January 4, 1983.

The filing Company submits the following:

Take notice that Delmarva Power & Light Company (Delmarva) on December 27, 1982, tendered for filing a Supplemental Agreement dated as of May 31, 1981, to the Interconnection Agreement dated May 26, 1970, with the City of Dover, Delaware. The purpose of

the Supplemental Agreement is to recognize in certain operational provisions of the Interconnection Agreement that Delmarva became a full member of the Pennsylvania-New Jersey-Maryland Interconnection on June 1, 1981. Prior to that time, Delmarva had been an associate member of the Interconnection.

Delmarva proposes an effective date of May 31, 1981, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served on the City of Dover, the Delaware Public Service Commission, and each of Delmarva's other resale customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. PLumb,

Secretary.

[FR Doc. 83-585 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-197-000]

Missouri Power & Light Co.; Order Granting Waiver of Notice, Accepting and Suspending Settlement Rates, and Finding ERTA Compliance

Issued: December 30, 1982.

On December 20, 1982, Missouri Power & Light Company (MPL) submitted for filing proposed changes in its Electric Service Tariffs, Rate Designation MESWR. MPL states that the proposed changes would increase revenues from jurisdictional sales and service by $151,074.44 based on the twelve month period ending December 31, 1983. Accompanying the filing was a Motion for Waiver of Notice Requirements in order to allow an effective date of December 31, 1982.

On the same date, MPL tendered for filing a Settlement Agreement dated December 16, 1982. The proposed settlement agreement would resolve all issues in the proceedings as to the five signatory customers. MPL stated that its primary purpose in making the filing was to secure a rate order, effective prior to January 1, 1983, to comply with the requirements of the Economic Recovery Tax Act of 1981 with regard to full normalization of tax-timing differences for post-1980 property. MPL has reserved its rights to pursue the proposed tariffs with regard to the sole nonsignatory customer, the City of Centralia, Missouri. The Settlement Agreement is stated to be supported by the five signatory customers and MPL.

Also on December 20, MPL transmitted to the Commission for filing a Motion to Collect Settlement Rates Pending Decision of the Commission.

The terms and conditions of the Settlement Agreement are summarized as follows: The settlement rates (designated Exhibit A) are effective for service rendered to signatory customers commencing on December 31, 1982 and replace those schedules currently in effect.

Discussion

We have not had time to evaluate MPL's proposed changes in its Rate MESWR and time for notice and comments has not passed. We shall therefore defer action on this filing. However, in light of the agreement of the five signatories to the settlement agreement, we shall grant waiver of notice and allow the settlement rates to go into effect, subject to refund, as of December 31, 1982. We further find that those rates reflect a method of normalization accounting and that the rates finally approved in this docket shall reflect normalization of all method and tax timing differences to conform to the requirements of ERTA. Accordingly, we find that MPL has complied with the Economic Recovery Tax Act of 1981.

The Settlement Agreement provides for the settlement rate to become effective as of December 31, 1982, for only the signatory customers. However, we find good cause to permit the settlement rate to be collected, subject to refund, from the City of Centralia, Missouri, a non-signatory customer, as well. We think that the tax benefits flowing from ERTA compliance accrue to MPL's customers as well as to the utility, and that such future tax benefits justify waiver of the full sixty-day notice requirement in this case.

Since the settlement rates have not yet been shown to be just and reasonable, a hearing shall be ordered below. Our action is without prejudice to action on the Rate MESWR filing itself.

The Commission Orders

(A) Waiver of notice to permit the settlement rates to become effective December 31, 1982, subject to refund, is hereby granted as to all six of MPL's customers.

(B) MPL's settlement rates are hereby accepted for filing, suspended and made effective, subject to refund, on December 31, 1982.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of MPL's settlement rates. The rates to the five signatories to the settlement agreement shall be subject to Commission action on that agreement.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately sixty (60) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Such conference shall be held for purposes of establishing a procedural schedule, including coordination with any hearing ordered on the MESWR rate. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-586 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER83-110-000, ER83-112-000, and ER83-126-000]

Montaup Electric Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Granting Waiver, Consolidating Dockets, and Establishing Hearing Procedures

Issued: December 30, 1982.

This order deals with three separate filings made by Montaup Electric Company (MEC). On November 8, 1982, MEC tendered for filing (Docket No. ER83-110-000) a proposed rate increase

for firm power service (M–8 rates)[1] to two affiliated and three non-affiliated wholesale customers.[2] The proposed M–8 rates would increase revenues by approximately $18 million (9 percent) for the calendar 1983 test period. MEC seeks the inclusion (through a supplemental demand charge) of 6 percent of its otherwise non-qualifying 1983 construction work in progress (CWIP) in rate base under the severe financial difficulty exception set forth in section 2.16(b) of the Commission's regulations. In addition, MEC requests waiver of the prospective-only requirement under section 2.16(b) with respect to the inclusion of CWIP in rate base.[3] MEC requests a January 8, 1983 effective date for the M–8 rates.

In Docket No. ER83–112–000, MEC Submitted for filing on November 9, 1982, rate schedule supplements which would add an Oil Conservation Adjustment provision (OCA) to its wholesale rate schedules. The OCA is proposed as a means of financing the conversions of MEC's Somerset Unit Nos. 5 and 6 (194 MW) from oil to coal-fired generation at a cost of approximately $57 million, to be recovered by 1986. Under the OCA, MEC's Customers would receive one-third of the fuel cost savings resulting from the use of coal rather than oil. MEC expects to utilize the remaining two-thirds (after any taxes) to help reduce 40% of its 1983 cash construction requirement. In the event that the OCA is not allowed to become effective, MEC proposes an alternate supplemental demand charge for the M–8 rates that would reflect the inclusion of $82.6 million of non-qualifying CWIP in rate base (44% of average 1982 CWIP). MEC requests that the OCA become effective on the later of sixty days after filing or the date on which coal-fired generation commences at the Somerset Units.

On November 18, 1982, MEC tendered for filing in Docket No. ER83–136–000, a revised fuel adjustment clause. MEC seeks waiver of section 35.14 of the Commission's regulations to recover capacity reservation charges through the proposed fuel adjustment clause when power is purchased solely for purposes of reducing energy costs and where the total cost per kilowatt hour is below MEC's incremental fuel cost. The company requests a January 8, 1983 effective date for the revised fuel clause.

Notice of MEC's filings were published in the **Federal Register** with comments due on or before December 1, 1982. The Attorney General of Rhode Island and the Rhode Island Division of Public Utilities and Carriers (Rhode Island) filed a timely protest, motion to intervene, and motion for maximum suspension. Rhode Island raises cost of service issues including (1) excessive return on equity; (2) substantial increases in certain maintenance items that should allegedly be capitalized rather than charged to expenses; (3) excessive cash working capital, O&M, and A&G expenses; and (4) test period load projections.[4] With regard to the issue of the inclusion of CWIP in rate base, Rhode Island claims that the Commission's findings in MEC's previous rate case [5] are inapplicable here because MEC's financial condition and the Circumstances relied upon in that proceeding have changed.

On December 1, 1982, MEC's three Non-affiliated customers, the Town of Middleboro, Massachusetts, Newport Electric Corporation, and the Pascoag Fire District (Customers) filed a protest, motion to intervene, and a request for maximum suspension and rejection of that portion of MEC's filing requesting the inclusion of non-qualifying CWIP in rate base. In addition to the cost of service issues raised by Rhode Island, the Customers also challenge MEC's (1) stated fuel stock levels; (2) certain load management expenses included in the cost of service; (3) continued use of a 100% demand ratchet; and (4) recovery of abandonment losses associated with Pilgrim Unit No. 2.

The Customers seek rejection of MEC's proposed CWIP-based supplemental charge on the basis that MEC is currently collecting CWIP-related revenues because the Commission found that MEC's bond rating might decline below investment grade. The Customers maintain that, because the financial problems have now subsided, MEC's proposed CWIP-related supplemental charge should be rejected and any CWIP-related revenues should be collected, if at all, only prospectively after a proceeding pursuant to section 2.16 of the Commission's regulations. However, the Customers support the proposed OCA, and request that the Commission approve the OCA subject to a one day suspension, while directing MEC to exclude from its rate base in all future proceedings the facilities financed by OCA revenues.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions of Rhode Island and Customers serve to make them parties to this proceeding.

Consistent with recent Commission decisions,[6] in Docket No. ER83–136–000, we shall grant waiver of section 35.14 of the regulations to allow MEC to recover capacity-reservation costs through its fuel clause where power is purchased solely to reduce energy costs and where the total cost per kilowatt hour is below MEC's incremental fuel cost. However, this waiver is granted on a preliminary basis only and the issue is to be investigated during the hearing ordered below.

We believe that MEC has demonstrated a preliminary showing of continued financial difficulty under section 2. 16(b). Although the company's internal cash flow has improved from 13% to about 24% and its market-to-book ratio has recently improved from 70% to 84%, we note that (1) CWIP as a percentage of net plant in service has increased from 106% at the end of 1981 to 164% ($158 million) at the end of 1982 and is projected to further increase to 234% ($281 million) by the end of the 1983 test period; (2) the improvement in market-to-book ratio appears to be largely a result of the recent market surge and still leaves Eastern Utilities Associates system (EUA) in poor standing relative to the industry as a whole; (3) MEC's internal cash flow will likely drop in the face of rising construction outlays absent further relief; (4) EUA's bonds continue to carry the lowest investment grade rating; and (5) the relief granted in Docket No. ER82–325–000, while sufficient to prevent a bond downgrading in 1982, may well be insufficient to prevent the

[1] *See* Attachment A for rate schedule designations.

[2] The two affiliated customers are Blackstone Valley Electric Company and Eastern Edison Company. MEC's non-affiliated customers are Newport Electric Corporation, Pascoag Fire District, and the Town of Middleboro, Massachusetts.

[3] By order issued April 20, 1982, the Commission ruled that MEC had made a preliminary showing of severe financial stress in Docket No. ER82–325–000. The Commission waived the prospective-only requirement of section 2.16(b) with respect to MEC's requested surcharge to become effective, subject to refund, and set the surcharge for hearing.

[4] On December 10, 1982, MEC filed a pleading in Docket Nos. ER83–110–000 and ER83–112–000 answering the protests filed by its customers and Rhode Island. In its pleading, MEC has acceded to several cost of service adjustments: reduction of the requested return on equity from 18.6% to 18.0% and elimination of expenses associated with a remote control hot water heating study and certain Somerset boiler expenses. The company has further agreed to submit compliance rates within ten days of this order. Given the company's agreement to reflect these adjustments in its rates, we shall accept these modifications.

[5] *See Montaup Electric Company,* Docket Nos. ER82–325–000, *et al.,* 18 FERC ¶61,189 (1982).

[6] *E.g., Gulf States Utilities Company,* Docket No. ER82–357–000, 20 FERC ¶ 61,037 (1982); *Delmarva Power & Light Company,* Docket No. ER82–751–000 (October 29, 1982).

possibility of a 1983 downgrading in the face of the considerable increase in MEC's construction outlays. Therefore, we believe that the small improvement in MEC's financial condition could quickly erode in the event that continued CWIP relief were denied by this Commission.[7] Thus, we shall deny the Customers' request for rejection of MEC's CWIP charges, grant waiver of the Commission's prospective-only requirement, and set the CWIP charges for hearing.

With respect to MEC's proposed OCA in Docket No. ER83–112–000, we shall accept the OCA for filing in light of customer support of the financing mechanism, the company's apparent inability to secure external financing for the project, and the benefit of reduced fuel costs to be derived under the proposal.[8] However, we shall grant the Customers' request for refund protection and suspend the OCA to become effective, subject to refund, on the later of sixty days after filing or the date that coal-fired generation commences at the Somerset Units.

Our preliminary examination of the filing and the pleadings indicates that MEC's submittals in these dockets have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, and we shall suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary review suggests that increased rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas*, we will ordinarily suspend the rates for one day. Because our preliminary examination indicates that MEC's rates may not yield substantially excessive revenues, we shall suspend the M–8 rates for one day to become effective, subject to refund, on January 9, 1983.

Also, we find that Docket Nos. ER83–110–000, ER83–112–000, and ER83–136–000 present common questions of law and fact; therefore we shall consolidate the proceedings for hearing purposes.

The Commission Orders

(A) MEC's proposed OCA in Docket No. ER83–112–000 is hereby accepted for filing and suspended to become effective, subject to refund, on the later of sixty days after filing or on the date that coal-fired generation commences at the Somerset Units.

(B) The Customers' motion to reject the CWIP portion of MEC's filing in Docket No ER83–110–000 is hereby denied.

(C) MEC's request for waiver of the prospective-only provision of section 2.16(b) is hereby granted as noted in the body of this order.

(D) MEC's request for waiver of the Commission's fuel clause regulations is granted on a preliminary basis to permit fuel clause recovery, subject to refund, of capacity-related costs when such costs are incurred solely to reduce the overall energy costs. The issue of fuel clause recovery of capacity payments incurred to reduce energy costs shall be addressed at hearing.

(E) MEC's proposed rates (reflecting the inclusion of $11.3 million of non-qualifying CWIP in rate base), as modified pursuant to ordering paragraph (F) below, are hereby accepted for filing and suspended for one day to become effective, on January 9, 1983, subject to refund.

(F) MEC's rate adjustments described in footnote 4 of this order are hereby accepted and MEC is required to file compliance rates within ten (10) days of the date of this order.

(G) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning MEC's rates, including its requested CWIP relief, its OCA, and its proposed fuel adjustment provisions.

(H) Docket Nos. ER83–110–000, ER83–112–000, and ER83–136–000 are hereby consolidated for purposes of hearing and decision.

(I) The Commission staff shall serve top sheets in this proceeding on or before January 10, 1983.

(J) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(K) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A.—Montaup Electric Company, Rate Schedule Designations

Docket No. ER83–112–000

Oil Conversion Adjustment

Designation and Other Party

(1) Original Sheet No. 6.1 under FPC Electric Tariff Original Volume No. 1—Tariff Customers

(2) Supplement No. 1 to Supplement No. 6 to Rate Schedule FPC No. 15—Taunton, Massachusetts

(3) Supplement No. 19 to Rate Schedule FPC No. 33—Newport Electric Corporation

(4) Supplement No. 26 to Rate Schedule FPC No. 36—Middleboro, Massachusetts

(5) Supplement No. 5 to Rate Schedule FPC No. 40—Middleboro, Massachusetts

(6) Supplement No. 2 to Supplement No. 2 to Rate Schedule FERC No. 64—Pascoag Fire District

(7) Supplement No. 8 to Rate Schedule FPC No. 64—Pascoag Fire District

Docket No. ER83–110–000 and ER83–136–000

Designation and Description

(1) Thirteenth Revised Sheet No. 4 under FPC Electric Tariff, Original Volume No. 1 (Supersedes Twelth revised sheet No. 4 & Original Sheet No. 4.1)—Base Rates

(2) Third Revised Sheet No. 5 under FPC Electric Tariff Original Volume No. 1 (Supersedes Second Sheet No. 5)—Determination of Billing Demand & Energy

(3) Thirteenth Revised Sheet No. 6 under FPC Electric Tariff, Original Volume No. 1 (Supersedes Twelfth revised sheet No. 6)—Fuel Cost Adjustment Clause (Docket No. ER83–136–000)

(4) First Revised Sheet No. 4.2 under FPC Electric Tariff Original Volume No. 1 (Supersedes Original Sheet No. 4.2)—Supplemental CWIP-charge with OCA Fund

(5) Supplement No. 20 to Rate Schedule FPC No. 33 (Supersedes Supplement Nos. 16 &

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[7] We note further that the current proposal is to include $11.3 million of non-qualifying CWIP in rate base (6% of average 1983 CWIP) as compared to the currently effective rates which are based on $18.9 million of non-qualifying CWIP (10% of average 1982 CWIP).

[8] MEC's OCA is similar to oil conversion adjustments accepted for filing in *Northeast Utilities Service Company*, Docket No. ER81–105–000 (January 14, 1981), and *New England Power Company*, Docket No. ER81–308–000 (June 26, 1981). We note that MEC will credit the funds realized under to OCA to construction work orders until the conversion work order balances are reduced to zero, at which time all cost savings will be passed on to the affected customers. This procedure should assure that the customers are not charged for OCA-financed plant outlays and appears to moot the request to direct MEC to exclude from rate base facilities which are financed through the OCA.

17)—Base Rates and Fuel Adjustment Clause (Docket No. ER83–136–000)
(6) Supplement No. 21 to Rate Schedule FPC No. 33 (Supersedes Supplement No. 18)—Supplemental CWIP-charge with OCA Fund
(7) Supplement No. 27 to Rate Schedule FPC No. 36 (Supersedes Supplement Nos. 22 & 23)—Base Rates and Fuel Adjustment Clause (Docket No. ER83–136–000)
(8) Supplement No. 28 to Rate Schedule FPC No. 36 (Supersedes Supplement No. 24)—Supplement CWIP-charge with OCA Fund
(9) Supplement No. 9 to Rate Schedule FERC No. 64 (Supersedes Supplement Nos. 5 & 6)—Base Rates and Fuel Adjustment Clause (Docket No. ER83–136–000)
(10) Supplement No. 10 to Rate Schedule FERC No. 64 (Supersedes Supplement No. 7)—Supplemental CWIP-charge with OCA Fund

[FR Doc. 83-380 Filed 1-7-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83–115–000]

Mountain Fuel Supply Co.; Request Under Blanket Authorization

January 4, 1983.

Take notice that on December 8, 1982, Mountain Fuel Supply Co. (Mountain Fuel), 180 East First South Street, Salt Lake City, Utah 84111, filed in Docket No. CP83–115–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Mountain Fuel proposes to establish additional delivery points for natural gas transported on behalf of Natural Gas Pipeline Company of America (NGPL) under the authorization issued in Docket No. CP82–490 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Mountain Fuel states it is authorized by Commission order of June 8, 1981, in Docket No. CP80–160 to deliver, pursuant to its Rate Schedule X–25 up to 30,000 Mcf of natural gas per day to Colorado Interstate Gas Company for NGPL's account at Mountain Fuel's Kanda Exchange Point located in Sweetwater County, Wyoming. Mountain Fuel further states that pursuant to Section 157.212 of the Regulations, it intends to deliver such volumes to Wyoming Interstate Company (WIC) for NGPL's account at points of interconnection between the facilities of Mountain Fuel and WIC at the Kanda Exchange Point for NGPL's account as an alternate to the existing delivery point. Mountain Fuel asserts that no new facilities would be required to effect the delivery of NGPL's gas to WIC for the account of NGPL, nor would the proposed additional delivery points have an impact on Mountain Fuel's peak day or annual deliveries since the instant request proposes no increase in the volumes to be delivered and the facilities to be utilized are immediately adjacent to those through which such volumes are currently being delivered.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-381 Filed 1-7-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83–73–000]

New England Power Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Granting Waiver, and Establishing Hearing Procedures

Issued: December 30, 1982.

On October 29, 1982, New England Power Company (NEP) tendered for filing a proposed increase in rates for the sale of specified amounts of unit capacity to the Massachusetts Municipal Wholesale Electric Company (MMWEC) and the Town of Templeton, Massachusetts (Templeton).[1] The proposed rates would increase revenues by approximately $4.4 million (21.34%) during the calendar year 1983 test period. NEP requests an effective date of January 1, 1983, and also requests waiver of section 35.13 of the Commission's regulations to incorporate in the instant filing Statements AA through BL as submitted previously by NEP in Docket No. ER82–702–000.

Notice of the filing was published in the **Federal Register** with comments due on or before November 22, 1982. MMWEC and Templeton (Customers) filed a timely protest and motion to intervene. The Customers request a hearing but do not oppose a January 1, 1983 effective date, provided that the rates are collected subject to refund. In support of their request for a hearing, the Customers assert (1) that NEP's proposed rate of return on common equity is excessive, and (2) that NEP should be required to amortize over a five year period certain "extraordinary" expenses related to an overhaul of one of the generating units from which unit sales are being made (Salem Harbor Unit No. 2).

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the Customers' timely motion to intervene serves to make them parties to this proceeding.

Our preliminary examination of NEP's filing and the Customers' pleading indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that revised rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas*, we will ordinarily suspend the rates for a nominal period. Our review of the instant submittal suggests that NEP's proposed rates may not produce substantially excessive revenues. Furthermore, as noted above, the affected customers do not oppose NEP's proposed effective date of January 1, 1983. Therefore, we shall suspend the rates to become effective, subject to refund, on January 1, 1983.

Finally, we note that the proposed rates are based on substantially the same cost of service as that which is at issue in Docket No. ER82–702–000. We shall, therefore, grant NEP's request for waiver of section 35.13(h) of our regulations so as to permit the incorporation by reference of cost of service data presented in the earlier docket.

The Commission Orders

(A) Waiver of section 35.13(h) of the Commission's regulations is hereby granted as discussed in the body of this order.

[1] The rate schedule designations are as follows:
New England Power Company, Supplement No. 3 to Rate Schedule FERC No. 310 [other party: MMWEC]
Supplement No. 3 to Rate Schedule FERC No. 311 [other party: Templeton]

(B) NEP's submittal is hereby accepted for filing and suspended to become effective, subject to refund, on January 1, 1983.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure, and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of NEP's rates.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days from the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20416. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-502 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-217-000]

Northern Indiana Public Service Co.; Filing

January 4, 1983.

The filing Company submits the following:

Take notice that on December 29, 1982, Northern Indiana public Service Co. (NIPSCO) tendered for filing as initial rate schedules, service schedules to an interconnection agreement with the Indiana municipal Power Agency (IMPA) providing for:

Service Schedule A—Transmission and Distribution Substation Service
Service Schedule C-1—Short Term Power NIPSCO to IMPA
Service Schedule D-1—Emergency Energy NIPSCO to IMPA
Service Schedule E-1—Interchange Energy NIPSCO to IMPA
Service Schedule F—Operating Reserves

NIPSCO requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20428, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-503 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-89-000]

Northern States Power Co. (Minnesota); Order Accepting for Filing and Suspending Rates, Denying Request for Waiver, Granting Intervention, and Initiating Hearing Procedures

Issued: December 30, 1982.

On November 1, 1982, Northern States Power Company (Minnesota) (NSP-M) filed an amendment to the Coordinating Agreement among NSP-M, Northern States Power Company (Wisconsin) (NSP-W), and Lake Superior District Power Company (LSDP).[1] The amendment is intended to modify the methodology for determing capital structures and cost rates (including an increase in the return on equity) to be used in calculating the fixed charges shared among the three companies. NSP-M, on behalf of the three companies, requests that the notice requirements be waived so that the amendment may become effective as of June 30, 1982, the effective date of the Coordinating Agreement and the inclusion of LSDP as a party to that Agreement. NSP-M states that the amendment will yield a net annual decrease in charges of approximately $982,000 to NSP-M, a net increase of approximately $808,000 to NSP-W, and a net increase of approximately $174,000 to LSDP.

Notice of the amendment was published in the **Federal Register** with comments due on or before November 24, 1982. On November 12, 1982, the municipalities of Anoka, Arlington, Brownton, Buffalo, Chaska, Granite Falls, Kasota, Kasson, Lake City, North Saint Paul, Saint Peter, Shakopee, Waseca, and Winthrop, Minnesota (Minnesota Cities) filed a motion to intervene. The Minnesota Cities state that they have not had sufficient time to evaluate the filing, but question whether the amendment will produce just and reasonable rates. On November 24, 1982, the municipalities of Bangor, Barron, Bloomer, Medford, and Spooner, Wisconsin, and the Wisconsin Public Power Incorporated System (Wisconsin Cities) filed a timely motion to intervene and request for a hearing. The Wisconsin Cities also state that they have not had time to fully evaluate the filing. They question both the methodology and the claimed rate of return. Also on November 24, 1982, the Minnesota Public Utilities Commission filed a timely notice of intervention. The Minnesota Commission questions whether capital costs may be allocated by the Coordinating Agreement, states that it has jurisdiction over the return on investment used and useful to retail ratepayerp, and adds that these costs may be unreasonable.

On November 29, 1982, December 3, 1982, and December 13, 1982, respectively, the Public Utilities Commission of the State of South Dakota, the Public Service Commission of Wisconsin, and the Attorney General of Minnesota filed untimely interventions. The Minnesota Attorney General, like the Minnesota Commission, suggests that the cost of capital lies properly before the Minnesota Commission, but that, alternatively, the costs should be scrutinized to ensure that they are not unreasonable.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure, the timely motions to intervene serve to make the Minnesota Cities and the Wisconsin Cities parties to this proceeding. Under Rule 214(a)(2), the Minnesota Commission is a party by virtue of the timely notice of intervention. The South Dakota and Wisconsin Commissions and the Minnesota Attorney General failed to seek intervention in a timely fashion. Nevertheless, given their interest in this proceeding, the early stages of the case, the fact that their intervention should neither delay the proceeding nor prejudice any party, and as a matter of

[1] *See* Attachment A for rate schedule designations.

county, we shall permit them to intervene.

We disagree with the Minnesota Public Utiity Commission and Attorney General that capital costs are somehow different from the other costs allocated under the Coordinating Agreement and are therefore not subject to this Commission's jurisdiction.

The return on capital is as much a part of the cost of service as any other cost, and this cost and its allocation is subject to our jurisdiction under the Coordinating Agreement. The Minnesota Public Utility Commission and Attorney General, along with the other parties, may present their views as to the proper cost of capital in the hearing ordered below.

Our preliminary review of the instant filing and the pledings indicates that the amendment proposed by NSP–M has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the amendment for filing and suspend its operation as ordered below.

As noted, NSP–M seeks an effective date of June 30, 1982, and so has requested waiver of the notice requirements. inasmuch as (1) the proposed amendment will redistribute charges among the parties and ultimately affect rates to customers of the parties, (2) our preliminary review suggests that the proposed amendment may yield rates which are unjust and unreasonable, and (3) the only stated basis for waiver is to coincide with the date on which LSDP became a party to the Coordinating Agreement, we find that good cause has not been shown to permit waiver. NSP–M's request will therefore be denied.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC 61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. In the instant proceeding, our examination suggests that the amendment may not result in substantially excessive revenues. Accordingly, we shall suspend the proposed amendment for one day from sixty days after filing, to become effective, subject to refund, on January 2, 1983.

The Commission Orders

(A) NSP–M's request for waiver of the notice requirements is hereby denied.

(B) NSP–M's proposed amendment is hereby accepted for filing and suspended for one day from sixty days after filing, to become effective, subject to refund, on January 2, 1983.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the proposed amendment.

(d) The untimely interventions are hereby granted subject to the Commission's Rules of Practice and Procedure.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately thirty (30) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Such conference shall be held for purposes of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A.—Northern States Power Company (Minnesota), Docket No. ER83–89–000

Rate Schedule Designations

Designation and Description

(1) *Northern States Power Company (Minn.).* Supplement No. 2 to Rate Schedule FERC No. 416—Amendment to Coordinating Agreement to Determine Return on Investment
(2) Supplement No 3 to Rate Schedule FERC No. 416— Exhibit "B"—Derivation of Capital Structure For Use In Determining Return on Investment
(3) Supplement No. 4 to Rate Schedule FERC No. 416—Exhibit "C"— Cost of Common Equity Included in Fixed Charges
(4) *Northern States Power Company (Wisconsin)* Supplement No. 2 to Rate Schedule FERC No. 67—Same as (1) above
(5) Supplement No. 3 to Rate Schedule FERC No. 67—Same as (2) above
(6) Supplement No. 4 to Rate Schedule FERC No. 67—Same as (3) above
(7) *Lake Superior District Power Company* Supplement No. 2 to Rate Schedule FERC No. 30—Same as (1) above
(8) Supplement No. 3 to Rate Schedule FERC No. 30—Same as (2) above
(9) Supplement No. 4 to rate Schedule FERC No. 30—Same as (3) above

[FR Doc. 83–594 Filed 1–7–83; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. ER83–90–000]

Northern States Power Co. (Minnesota); Order Accepting for Filing and Suspending Rates, Noting Interventions, and Establishing Hearing Procedures

Issued: December 30, 1982.

On November 1, 1982, Northern States Power Company (Minnesota) (NSP–M) tendered for filing a two-phase increase in its rates for wheeling service to fifteen customers.[1] The first step rates would provide for an increase in revenues of approximately $330,000 (32.8%) for the calendar year 1983 test period. The second step rates would further increase revenues by approximately $40,000. NSP–M proposes effective dates of December 31, 1982, and January 1, 1983, for the first and second step rates, respectively.

Notice of NSP–M's rate increase was published in the **Federal Register** with comments due on or before November 23, 1982. On November 10, 1982, twelve affected wheeling customers (Customers) filed a motion to intervene, briefly noting several cost of service issues,[3] and requesting a maximum suspension.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motion to intervene serves to make the Customers parties to this proceeding.

Our preliminary review of the instant filing and the Customers' pleading indicates that the rates proposed by NSP–M have not been shown to be just and reasonable and may be unjust, unreasonable unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the two phase rate increase for filing and suspend the rates as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 81 FERC ¶ 61,189 (1982), we explained that where

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[1] *See* Atttachment A for customers and rate schedule designations.

[2] The municipalities of Oliva, Sauk-Centre, St. James, Melrose, Marshall, Sleepy Eye, Granite Falls, East Grand Forks, Ada, and Fairfax, Minnesota, the Renville-Sibley Co-op Power Association, and the municipality of Hillsboro, North Dakota.

[3] The Customers question the stated cost of capital, the calculation of transmission losses, claimed transmission operating and maintenance costs, inclusion of a late payment provision, and the claimed rate base and allocation factors.

our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive as defined in *West Texas*, we would generally impose a nominal suspension. In this proceeding, our review indicates that the first and second step rates may not yield excessive revenues. Accordingly, we shall suspend both the first and second step rates for one day to become effective, subject to refund, on January 1, 1983, and January 2, 1983, respectively.

Finally, we note that NSP–M has requested that the Commission issue an order approving the use of tax normalization with respect to Accelerated Cost Recovery System (ACRS) property in order to satisfy the requirements of the Economic Recovery Tax Act of 1981 (ERTA). According to our review, the instant filing reflects a normalization method of accounting for post-1980 property additions, NSP–M's cost of service correctly reflects the effects of normalization, and NSP–M has satisifed the requirements of ERTA.

The Commission Orders

(A) NSP–M's proposed first rates are hereby accepted for filing and suspended for one day, to become effective, subject to refund, on January 1, 1983. NSP–M's proposed second step rates are hereby accepted for filing and suspended for one day, to become effective, subject to refund, on January 2, 1983.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of NSP–M's rates.

(C) The Commission staff shall serve top sheets in this proceeding on or before January 6, 1983.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A.—Northern States Power Company (Minnesota) Rate Schedule Designations

Docket No. ER83–90–000

Designation and Other Party

I. Transmission Service—First Step Rates

1. Supplement No. 3 to Supplement No. 4 to Rate Schedule FPC No. 331 (Supersedes Supplement No. 2 to Supplement No. 4)—Renville-Sibley Cooperative Power Association
2. Supplement No. 8 to Rate Schedule FERC No. 388 (Supersedes Supplement No. 3)—City of Olivia
3. Supplement No. 9 to Rate Schedule FERC No. 389 (Supersedes Supplement No. 4)—City of Sauk Centre
4. Supplement No. 10 to Rate Schedule FERC No. 390 (Supersedes Supplement No. 4)—City of Ada
5. Supplement No. 4 to Rate Schedule FERC No. 393—City of Sleepy Eye
6. Supplement No. 8 to Rate Schedule FERC No. 400—City of Fairfax
7. Supplement No. 8 to Rate Schedule FERC No. 401—City of Melrose
8. Supplement No. 4 to Rate Schedule FERC No. 403—City of Marshall
9. Supplement No. 3 to Rate Schedule FREC No. 412 (Supersedes Supplement No. 1)—City of St. James
10. Supplement No. 4 to Rate Schedule FERC No. 414 (Supersedes Supplement No. 2)—City of Hillsboro

II. On Line Transmission Service—First Step Rates

1. Supplement No. 19 to Rate Schedule FPC No. 355 (Supersedes Supplement No. 17)—City of Granite Falls
2. Supplement No. 2 to Rate Schedule FPC No. 385 (Supersedes Supplement No. 1)—State of South Dakota
3. Supplement No. 6 to Rate Schedule FERC No. 387 (Supersedes Supplement No. 3)—City of East Grand Forks
4. Supplement No. 3 to Rate Schedule FERC No. 404 (Supersedes Supplement No. 2)—University of North Dakota
5. Supplement No. 5 to Rate Schedule FERC No. 413 (Supersedes Supplement No. 2)—City of Sioux Falls

III. Transmission Service—Second Step Rates

1. Supplement No. 4 to Supplement No. 4 to Rate Schedule FPC No. 331 (Supersedes Supplement No. 3 to Supplement No. 4)—Renville-Sibley Cooperative Power Association
2. Supplement No. 9 to Rate Schedule FERC No. 388 (Supersedes Supplement No. 8)—City of Olivia
3. Supplement No. 10 to Rate Schedule FERC No. 389 (Supersedes Supplement No. 9)—City of Sauk Centre
4. Supplement No. 11 to Rate Schedule FERC No. 390 (Supersedes Supplement No. 10)—City of Ada
5. Supplement No. 5 to Rate Schedule FERC No. 393 (Supersedes Supplement No. 4)—City of Sleepy Eye
6. Supplement No. 9 to Rate Schedule FERC No. 400 (Supersedes Supplement No. 8)—City of Fairfax
7. Supplement No. 9 to Rate Schedule FERC No. 401 (Supersedes Supplement No. 8)—City of Melrose
8. Supplement No. 5 to Rate Schedule FERC No. 403 (Supersedes Supplement No. 4)—City of Marshall
9. Supplement No. 4 to Rate Schedule FERC No. 412 (Supersedes Supplement No. 3)—City of St. James
10. Supplement No. 5 to Rate Schedule FERC No. 414 (Supersedes Supplement No. 4)—City of Hillsboro

IV. On Line Transmission Service—Second Step Rates

1. Supplement No. 20 to Rate Schedule FPC No. 355 (Supersedes Supplement No. 19)—City of Granite Falls
2. Supplement No. 3 to Rate Schedule FPC No. 385 (Supersedes Supplement No. 2)—State of South Dakota
3. Supplement No. 9 to Rate Schedule FERC No. 387 (Supersedes Supplement No. 8)—City of East Grand Forks
4. Supplement No. 4 to Rate Schedule FERC No. 404 (Supersedes Supplement No. 3)—University of North Dakota
5. Supplement No. 6 to Rate Schedule FERC No. 413 (Supersedes Supplement No. 5)—City of Sioux Falls

[FR Doc. 83-595 Filed 1-7-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER83–213–000]

Pacific Power & Light Co.; Filing

January 4, 1983.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (PP&L) on December 27, 1982, tendered for filing a Letter Agreement between Pacific Gas and Electric Company and PP&L.

PP&L requests an effective date of October 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were supplied to Pacific Gas and Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 20, 1983. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-586 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1588-000]

Donald G. Raymer; Application

January 4, 1983.

The filing individual submit the following:

Take notice that on December 17, 1982, Donald G. Raymer filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

President and Director—Central Illinois Public Service Company
Director: Electric Energy, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-588 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER 83-211-000]

Southern California Edison Co.; Filing

January 4, 1983.

The filing Company submits the following:

Take notice that on December 27, 1982, Southern California Edison Company (Edison) Tendered for filing a Notice of Cancellation of Rate Schedule FPC No. 43 and all its amendments.

Edison states that the aforementioned rate schedule includes a contractual agreement executed on November 18, 1966, between the State of California Department of Water Resources (CDWR) and Pacific Gas and Electric Company, and the Department of Water and Power of the City of Los Angeles (Suppliers), for the Sale, Exchange, and Transmission of Electric Capacity and Energy for the Operation of State Water Project Pumping Plants. Edison requests an effective date of March 31, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-587 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-215-000]

Southern Indiana Gas and Electric Co.; Filing

January 4, 1983.

The filing Company submits the following:

Take notice that on December 29, 1982, Southern Indiana Gas and Electric Company (Southern Indiana) tendered for filing proposed changes in its FPC Electric Service Tariff.

Southern Indiana states that the purpose of this filing is to revise Service Schedule D—Short Term Power, Exhibit IV (5th Revision).

Southern Indiana further states that the proposed revisions and addition reflect a desire on the part of both parties to provide for present and anticipated future increases in services and costs to attain the maximum benefit from the interconnection of their systems.

Southern Indiana requests an effective date as of the date of this filing, and therefore requests waiver of the Commission's notice requirements.

A copy of this filing has been served upon Big Rivers, the Public Service Commission of the State of Indiana and the Public Service Commission of the Commonwealth of Kentucky.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-598 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-209-000]

Tapoco, Inc.; Filing

January 4, 1983.

The filing Company submits the following:

Take notice that Tapoco, Inc., (Tapoco) on December 23, 1982, tendered for filing proposed changes in its FERC Electric Service Rate Schedule No. 3. The proposed change consists of a new power and energy exchange agreement between Tapoco, Inc. and the Tennessee Valley Authority to replace in its entirety the current Tapoco-FERC Rate Schedule No. 3.

According to Tapoco, Tapoco-FERC Rate Schedule No. 3 expires by its terms on December 31, 1982. On December 22, 1982, the Tennessee Valley Authority Board approved the new exchange agreement between Tapoco and the Tennessee Valley Authority to supersede the expiring arrangement. Tapoco states that the new agreement provides for an effective date of January 1, 1983 and has an effective term of a period of twenty years. The new agreement provides that over the twenty year term of the agreement, there will be

an equal exchange of kilowatt hours by the two parties. Tapoco asserts that the existence of this power coordination and exchange agreement will permit a more efficient utilization of the Tennessee Valley Authority and Tapoco hydroelectric facilities on the Little Tennessee River than would otherwise be possible under independent operation.

Tapoco requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before Janauary 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-583 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-210-000]

Virginia Electric and Power Co.; Filing

January 4, 1983.

The filing Company submits the following:

Take notice that Virginia Electric and Power Company (VEPCO) tendered for filing on December 23, 1982, revised rates for transmission service contained in a revised contract with the Southeastern Power Administration. (SEPA).

Vepco states that the increase in the transmission service charge is necessary to place the charge on a compensatory basis.

Vepco requests an effective date of December 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon SEPA, upon the Vepco preference customers of SEPA and upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-580 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-214-000]

Virginia Electric and Power Co.; Filing

January 4, 1983.

The filing Company submits the following:

Take notice that on December 27, 1982, Virginia Electric and Power Company (VEPCO) tendered for filing a Contract Supplement to the Agreement between VEPCO and the Town of Culpeper, Virginia.

Said Supplement requests Commission authorization for changes in the location of the delivery point, a change in the Contract minimum, and an inclusion of the current facilities charge rate.

VEPCO requests an effective date of August 18, 1981, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-581 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1566-001]

Michael R. Whitley; Application

January 4, 1983.

The filing individual submit the following:

Take notice that on December 16, 1982, Michael R. Whitley filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President and Secretary—Kentucky Utility Company
Vice President and Secretary—Old Dominion Power Company
Director—Old Dominion Power Company

Any person desiring to be heard or to protest said filing should filed a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). All such motions or protests should be filed on or before January 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-586 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-216-000]

Wisconsin Power and Light Co.; Filing

January 4, 1983.

The filing Company submits the following:

Take notice that on December 29, 1982, Wisconsin Power and Light Company (WP&L) tendered for filing a revised Service Schedule A dated June 1 1982, between the Madison Gas & Electric Company and WP&L. WP&L states that this supplemented and amended schedule to the Interconnection Agreement between the parties is tendered for the purposes of bringing the instant agreement into conformity with its counterpart

agreements between WP&L and other Wisconsin Power Pool companies.

WP&L requests an effective date of June 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Madison Gas & Electric Company and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should filed a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-582 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[SAB-FRL 2280-4]

Science Advisory Board, ORD Laboratory Review Group; Open Meeting

Under Pub. L. 92-463, notice is hereby given of a meeting of the Science Advisory Board's Office of Research and Development (ORD) Laboratory Review Group. The meeting will be held January 25-26, 1983 starting at 9:15 a.m. on January 25 in Room 1101 West Tower, EPA Headquarters, 401 M Street, S.W., Washington, D.C.

The purpose of the ORD Laboratory Review Group is to provide advice and comment to the Administrator and the Agency on the management of the Agency's research laboratories within the Office of Research and Development. This particular meeting will consist of an orientation session for members of the review group, a discussion of the mission and charge to the review group, and development of a time schedule and method of organization for carrying out the review group's activities.

The meeting is open to the public. Any member of the public wishing to obtain information should contact Dr. Terry F. Yosie, Acting Director, Science Advisory Board (202) 382-4126 by close of business January 18, 1983.

Terry F. Yosie,

Acting Director, Science Advisory Board.

December 30, 1982.

[FR Doc. 83-580 Filed 1-7-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Loose-Leaf Publication of "FCC Rules"

December 22, 1982.

FCC currently publishes a loose-leaf edition of its rules called "FCC Rules" in eleven volumes. This publication in the past has been typeset separately from the Code of Federal Regulations (CFR) publication of FCC's rules in Title 47. Beginning in January 1983, FCC will produce "FCC Rules" using magnetic media created for the Office of the Federal Register's most recent edition (i.e. October 1, 1982) of Title 47 of the CFR.

The CFR material will be reformatted into our current loose-leaf or pamphlet styles by the Government Printing Office. The rules will be identical to Title 47 of the Code in terms of content. After initial production, a complete set of revised FCC Rules will be produced each year in accordance with the **Federal Register's** updating schedule. The present volumes will remain available to subscribers until the new system is implemented or until GPO's stock is depleted. Upon implementation of the automated system, all subscriptions will be discontinued and the rules volumes made available through individual purchases. Once GPO is out of stock of a particular volume or transmittal sheet, it will not be reprinted.

In addition, transmittal sheets will no longer be included in the cost of a specific volume. Although the capacity exists for issuing transmittal sheets, because of budgetary constraints, these will be issued only when absolutely necessary. On the rare occasions a transmittal is prepared, it may be purchased as a separate publication.

A change in the production system of the "FCC Rules" has provided an opportunity to review each volume and its parts for 'compatibility' and to determine if utilizing a pamphlet format rather than a loose-leaf format for a particular rules part would be less costly to consumers. The attached chart illustrates the composition of each volume and includes *estimated* selling prices.

Currently subscribers will receive notification of the availability of rules volumes and an order form from the Superintendent of Documents, Government Printing Office. As a supplement to GPO's notification, the Commission will issue a public notice, intended primarily for non-subscribers, when the rules become available. An order form will be included at that time. The FCC anticipates that the automated system will reduce the costs of "FCC Rules" volumes to the public, and, in many instances, improve the timeliness of the volumes.

Questions and comments may be directed to Callie E. Holder at 1919 M Street, N.W., Room 224, Washington, D.C. 20554, (202) 632-4178.

Federal Communications Commission.

William J. Tricarico,

Secretary.

	Estimated selling price
Loose-Leaf Rules	
Volume I	$5.50
Part 0—Commission organization	
Part 1—Practice and procedure.	
Part 19—Employee responsibilities and con-	
Volume II	7.00
Part 2—Frequency allocations and radio treaty matters; general rules and regulations.	
Part 5—Experimental radio services (other than broadcast).	
Part 15—Radio frequency devices	
Part 18—Industrial, scientific and medical equipment.	
Volume III	11.00
Part 73—Radio broadcast services	
Part 74—Experimental, auxiliary, special broadcast and other program distributional serv-	
Part 100—Direct broadcast satellites.	
Volume IV	8.50
Part 17—Construction, marking and lighting of antenna structures (*formerly in volume II*).	
Part 81—Stations on land in the maritime services.	
Part 83—Services on shipboard in the maritime services	
Part 87—Aviation services (*formerly in volume V*).	
Volume V	5.50
Part 90—Private land mobile radio services.	
Part 94—Private operational-fixed microwave	
Volume VII	5.50
Part 21—Domestic public fixed radio services.	
Part 22—Public mobile radio services.	
Part 23—International fixed public radiocommunications services	
Part 25—Satellite communications.	
Volume VIII	5.50
Part 31—Uniform system of accounts for class A and class B telephone companies (*formerly in volume IX*).	
Part 33 Uniform system of accounts for class C telephone companies (*formerly in volume IX*)	
Part 35—Uniform system of accounts for wire-telegraph and ocean-cable carriers.	
Pamphlets	
Part 13—Commercial radio operators (*formerly in volume II*)	2.00

	Estimated selling price
Part 95:[1]	
Subpart A—General mobile radio	2.75
Subpart C—Radio control	2.25
Subpart D—Citizens band radio	4.00
Subpart E—Technical regulations	2.25
Part 97 [2]—Amateur radio service (*formerly in volume VI*)	3.25
Part 99 [2]—Disaster communications service (*formerly in volume VI*)	2.25
Part 41 [2]—Telegraph and telephone franks	
Part 51 [2]—Occupational classification and compensation of employees of telephone companies	
Part 52 [2]—Classification of wire-telegraph employees	2.50
Part 66 [2]—Applications relating to consolidation, acquisition or control of telephone companies	
Part 42 [2]—Preservation of records of communication common carriers	
Part 43 [2]—Reports of communication common carriers and certain affiliates	4.25
Part 63 [2]—Extension of lines and discontinuance of service by carriers	
Part 64 [2]—Miscellaneous rules relating to common carriers	
Part 61 [2]—Tariffs	
Part 62 [2]—Applications to hold interlocking directorates	3.50
Part 67 [2]—Jurisdictional separations	
Part 68 [2]—Connection of terminal equipment to the telephone network (*formerly in volume X*)	4.50
Part 76 [3]—Cable television service	
Part 78 [3]—Cable television relay service	4.00
Part 83:	
Subpart CC—How to use your VHF marine radio (*also included in volume IV*)	3.75

[1] Subparts A–E were formerly in volume VI.
[2] Parts 41–43, 51, 52, 61–64, 66–68 were formerly in volume X.
[3] Parts 76, 78 were formerly in volume XI.

[FR Doc. 83–557 Filed 1–7–83; 8:45 am]
BILLING CODE 6712–01–M

[Report No. 1389]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

January 6, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

SUBJECT: Amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L). (CC Docket No. 82–85)

FILED BY: Kenneth E. Hardman, Attorney for Telocator Network of America on 12–10–82.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83–562 Filed 1–7–83; 8:45 am]
BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. CC 81–351; Transmittal No. 13663 (6–17–81; 46 FR 31747)]

American Telephone & Telegraph Co.; Revisions to Tariff FCC Nos. 258 and 260, and the Establishment of Tariff FCC No. 269, for Series 7000 Terrestrial Television Transmission Services; Order

Adopted: December 16, 1982.

Released: December 22, 1982.

By the Deputy Chief, Common Carrier Bureau:

1. We have before us an Interim Settlement Proposal of User Parties [1] which addresses major issues in the above-captioned investigation of the American Telephone and Telegraph Company's Series 7000 terrestrial transmission offerings. Also before us is a concamitant request by these parties that we seek prompt comment on this proposal, and defer other procedural dates set in this proceeding in the meantime. For reasons to be explained, we will grant the User Parties' requests.

Background and Proposal

2. These are basically two groups of customers for Series 7000 service: The three major television networks which require regular, long term service to their network affiliates, and small users who need occasional service for sporting events, news, and entertainment programming. Since its inception in the 1940's, AT&T's rate structure for this service has contained separate full time and part time for (or occasional use) offerings to meet these needs, but AT&T has never adequately justified the rate disparity between the two offerings.

3. Since the networks are virtually the only users of full time service, the apparently lower full time rate has been perceived by the Commission as a possibly unreasonable discrimination against occasional users, despite the fact that the networks also are large users of occasional service. In 1970, for example, the Review Board concluded after a hearing that some Series 7000 tariff provisions did in fact discriminate against small or occasional users.[2]

4. The present rate structure was adopted in 1973 as a stipulation by parties to a Commission designated investigation of a proposed increase in part time rates.[3] Subsequently, in 1978, the Commission rejected yet another proposal to increase part time rates and reduce full time rates, because AT&T had not even attempted to provide cost justification for the possibly discriminatory rate structure.[4]

5. Thereafter, in 1981, AT&T presented a new filing which purported to unify part time and full time service into a single offering with a single set of rates. In response, the Commission instituted the instant investigation.[5] After extensive comment, it concluded, *inter alia*, that the proposed rate structure was merely the full-time/part-time structure in a different guise and that the substantial rate disparity remained unjustified.[6] In order to resolve this long-standing controversy once and for all, the Commission requested additional comments on whether it should tentatively prescribe a replacement unified rate structure based more directly on costs. In particular, AT&T was directed to file initial comments on how the unified structure might be implemented under guidelines suggested by the Commission. Moreover, at the direction of the Bureau, in response to a request by users, AT&T was put to the task of answering extensive questions concerning the specific application of a unified service offering, and of submitting an illustrative tariff. Then, on August 26, 1982, the User Parties requested that we delay the September 2, 1982 date for reply comments because they believed it might be possible to reach a negotiated solution to the issues in this proceeding. Finding good cause, we granted that request as well as one additional extension. As matters now stand, reply comments to AT&T's proposal are due to be filed no later than January 17, 1983.

6. As a result of negotiations among themselves, the User Parties now present the following proposed interim settlement.

1. The rate for part-time interexchange service would be reduced from the current $.93 to $.70 per channel mile hour.

2. The rate for full-time interexchange service would be increased from the current $68.15 to $75.00 per channel mile month.

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[1] The User Parties are: American Broadcasting Companies, Inc. (ABC), CBS Inc. (CBS), National Broadcasting Company, Inc. (NBC), Cable News Network, Inc., Association of Independent Television Stations, Inc., the Commissioner of Baseball and Huges Television Network.
[2] Hughes Sports Network v. AT&T, 25 FCC 2d 580, 580 (1970).
[3] AT&T, Docket No. 18984, 44 FCC 2d 525 (1973).
[4] AT&T, 67 FCC 2d 1134 (1978), *affirmed sub nom.*, ABC v. FCC, 663 F.2d 136 (D.C. Cir. 1980).
[5] AT&T, 86 FCC 2d 861 (1981).
[6] AT&T, 89 FCC 2d 1656 (1982).

3. The charges for the station connections and local channel service elements would remain unchanged.

4. No additional new elements such as service charges or cancellation charges would be imposed.

5. AT&T would revise its tariff to permit customers the election of providing their own local channels.

6. The User Parties assert that an interim settlement for a period of 18 months would be in the interests of the parties and the public in view of the scheduled divestiture of the Bell Operating Companies from AT&T on January 1, 1984.

Discussion

7. From our examination to date, we believe the Users' proposal may well represent a useful framework for resolution of the major issues in this proceeding. As pointed out above, the primary issue in the lengthy procedural history of this service has been the possibility of discrimination among groups of users. In this regard, the User Parties' proposed settlement includes as signatories all major full-time users as well as the more important part-time users. Since the users now agree, as a compromise, that the existing rate structure is basically acceptable to them all, the Commission's concern that it might discriminate among them could be obviated. If the rate structure allows recovery of the revenue requirement, as the User Parties claim, it may well allow us to terminate the pending investigation. We also note that the User Parties suggest that in the future any necessary increases in the interexchange revenue requirement might be apportioned approximately 60 percent to full-time and 40 percent to part-time. Thus, the proposal could provide a means for resolving future rate issues as well, even if the overall revenue requirement for this service changes.

8. Under these circumstances, we think it appropriate to grant the User Parties' request and set the Interim Settlement Proposal for comment. AT&T and any other interested parties are directed to submit their comments within 10 days of the publication of this order in the **Federal Register**. In addition, AT&T is specifically requested to state its views on how it can best recover its revenue requirement for the service while apportioning that revenue requirement along the lines recommended by the User Parties in their proposed interim settlement. The other procedural dates in this investigation are deferred until further order.

9. Accordingly, it is ordered that the request for a deferral of the date for reply comments in this investigation is granted.

10. It is further ordered that the Secretary shall cause this Order to be published in the **Federal Register**.

11. It is further ordered that this Order is effective upon adoption.

Leon M. Kestenbaum,

Deputy Chief (Policy), Federal Communications Commission.

[FR Doc. 83-569 Filed 1-7-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 82-831, File Nos. 26092-CL-P-(12)-82; 26166-CL-P-(12)-82; 26153-CL-P-(15)-82; 26102-CL-P-(16)-82]

Cellcom, Inc. et al.; for a Construction Permit To Establish a Cellular System Operating on Frequency Block A in the Domestic Public Cellular Radio Telecommunications Service To Serve the Minneapolis-St. Paul Minnesota and Wisconsin, Modified Standard Metropolitan Statistical Area

Memorandum Opinion and Order Designating Applications for Hearing

Adopted: December 23, 1982

Released: December 30, 1982.

By the Chief, Common Carrier Bureau:

1. Presently before the Chief, Common Carrier Bureau, under delegated authority are the captioned applications, filed by Cellcom, Inc. (Cellcom), Cellular Mobile Systems of Minnesota, Inc. (CMS), Metro Mobile CTS (Metro Mobile) and MCI Cellular Telephone Company (MCI). The applicants propose to contruct cellular systems to serve the Minneapolis-St. Paul, Minnesota-Wisconsin, Standard Metropolitan Statistical Area (SMSA).[1] Petitions to Deny have been filed against all the applications and responsive pleadings have been filed.

2. As discussed below, we find that the petitions fail to raise any substantial and material issues requiring designation for hearing. The applications are electrically mutually exclusive; accordingly, we are designating the applications for a comparative hearing in accordance with the Commission's *Report and Order* in CC Docket No. 79-318, 86 FCC 2d 469 (1981), *modified, Memorandum Opinion and Order on Reconsideration*, 89 FCC 2d 58 (1982), and *further modified, Memorandum Opinion and Order on Further Reconsideration*, 90 FCC 2d 571 (1982).

Cellcom Application

3. Metro Mobile filed a petition arguing that Cellcom is not financially qualified to construct and operate its cellular system and requesting that its application be denied or a financial issue designated against Cellcom. First, Metro Mobile alleges that Cellcom's commitment letter from the First National Bank of Minneapolis omits the terms of the loan and, without this information, the amount and date of the interest payments due cannot be reasonably determined. Second, Metro Mobile alleges that Cellcom relies on subscriber revenues to cover its construction and first-year costs without providing a revenue estimate or data in support of the revenue estimate, thus, it is argued, the revenues cannot be considered for demonstrating financial qualifications. Finally, Metro Mobile asserts that Cellcom has underestimated its costs and expense projections (*i.e.*, personnel,[2] training and site rentals) and that the expenses will, in fact, exceed Cellcom's resources.

4. *Financial Qualifications.* Cellcom estimated its construction and operating expenses for one year at $9,876,349. In order to finance its system, Cellcom relies on a loan of $10,000,000 from the First National Bank of Minneapolis. This loan is evidenced by a letter of commitment from the bank. Under applicable precedents, we find that Cellcom has demonstrated reasonable assurances of the availability of this loan. *See Advanced Mobile Phone Service, Inc., et al., (Chicago Order)* FCC 82-452, released November 1, 1982 and cases cited therein at para. 9. As to Metro Mobile's first point, Cellcom asserts that the terms of the loan are irrelevant to the interest payment for the first year of operation since the level of interest payments for this period will be calculated solely on the funds actually borrowed. Thus, the bank loan commitment is not deficient. The bank's letter contained in Exhibit 7 of the application states "we contemplate calculating interest on any loan made at the rate of approximately ½ of 1% above

[1] Three applications were also filed requesting the wireline allocation (frequency block B) in this SMSA. On November 2, 1982, the three applicants filed a settlement agreement for this SMSA. *See* Public Notice, Mimeo 737, Report No. CL-6, released November 10, 1982. We will consider the wireline allocation in a separate order.

[2] In support of this allegation Metro Mobile submitted a document entitled "affidavit" from E. D. Tyree, Director of National Sales of CP National Consulting and Engineering, a management and engineering firm, which relied on salary ranges in the telephone industry in Minneapolis provided by Cybersearch, Inc., a national placement firm. We find that this document does not comply with § 22.30 of the Rules, since it was not signed by the purported affiant and affiant does not have personal knowledge of the facts represented therein.

the prime rate of this bank (floating) at the time of each advance of funds." In addition, Cellcom asserts that it has projected in its first year operational costs an interest expense of $1,140,618 based on funds actually borrowed during that period. (Cellcom's application at Exhibit 6). Therefore, we find Metro Mobile's allegations in this regard are without merit. Second, Exhibit 7 of Cellcom's application demonstrates that Cellcom is not relying on subscriber revenues to cover its construction and/or operating expenses for one year. Thus, Metro Mobile's allegations with respect to Cellcom's reliance on revenues are without merit. Under these circumstances, we will not designate a financial issue for hearing. We also find that Cellcom is financially qualified to construct and operate its proposed system.

5. Turning to Metro Mobile's final point, we find that Metro Mobile has failed to raise a substantial question as to Cellcam's costs estimates; the estimates are not unreasonable on their face and Cellcam has adequately responded to the allegations in its reply. *See Chicago Order, supra,* at para. 13.

CMS Application

6. Cellcam and Metro Mobile filed petitions to deny CMS' application, alleging that CMS is not financially qualified; that it has underestimated its costs; that it failed to present a proper direct case because the sponsoring witness affidavits are defective; that the application as originally filed failed to contain a frequency plan in violation of § 22.913 of the Rules; and that the amendment filed to cure this defect should not be accepted.[3]

7. *Financial qualifications:* CMS' projected costs of construction and operation of its system for one year are estimated at $8.024 million. To finance the system, it relies on a letter of commitment from its parent, Graphic Scanning Corp. (Graphic) of $8.9 million. The letter of commitment from Graphic to CMS specifically states that none of the funds have been committed to other cellular system applications or to other projects. We find that this satisfies Rule Section 22.917(b) which requires that resources used to demonstrate financial ability regarding one cellular system may not include funds committed elsewhere. In the *Chicago Order, supra,* the Commission found that Graphic and its cellular subsidiaries have provided reasonable assurance that they will have sufficient funds available to cover construction of 30 cellular systems in the top 30 markets.[4] The Commission further concluded that no financial issues should be designated for hearing against any Graphic subsidiary based on the ability of Graphic to finance the construction and operation for one year of 30 cellular systems. Those findings control the disposition of Cellcam's and Metro Mobile's arguments here. Thus, we find CMS financially qualified.

8. It was also argued that CMS understated its costs in the instant application. CMS estimates are not unreasonable on their face, and it has adequately responded to this allegation in its opposition; thus, we find that a substantial and material issue has not been raised. The general allegation that one applicant's estimated costs are lower than another's is insufficient to warrant the addition of a financial issue in hearing. See *Chicago Order,* at para. 13.

9. *Direct Case.* CMS complied with Section 22.916(b)(1) of the Rules since it submitted its direct case exhibits together with its application. We will not address the allegations concerning the sufficiency of the sponsoring witnesses' affidavits. This is an evidentiary issue which may be properly raised before the Administrative Law Judge in the hearing phase of this proceeding.

10. *Frequency Plan.* We find the allegations in this regard without merit. CMS' application, at Vol. 1, Ex. IV, Section E.2, contains the frequency plan for the system. The exhibit referred explicitly to a table which was, in fact, missing from the applicaton. CMS' subsequent amendment to add a table to the Exhibit which was obviously left out by mistake, was accepted as a minor amendment. *See* Section 22.31(e)(5) of the Rules; *Continental Telephone Company of Illinois,* Mimeo 4166, released May 21, 1982; *Order,* FCC 82–409, released September 3, 1982.

Metro Mobile Application

11. CMS filed a petition to deny Metro Mobile's application.[5] In its petition CMS alleges that Metro Mobile failed to demonstrate reasonable assurance of the availability of its proposed antenna sites, did not make a proper showing of how it will determine when system expansion is warranted, and Metro Mobile failed to offer the requisite assurance of continuous service because it failed to introduce adequate redundancy into the proposed system and failed to adequately provide for the failure of essential equipment. Finally, CMS contends that Metro Mobile is not financially qualified because the letter of commitment from the First National Bank of Chicago does not identify the other participating banks and does not contain a notice provision to the FCC before repossession of cellular equipment.

12. *Site availability.* Metro Mobile has demonstrated reasonable assurance that its proposed sites will be available. In its application Metro Mobile stated that it had received for each site proposed a commitment to lease or to negotiate a lease for the land. On July 29, 1982, Metro Mobile tendered an amendment containing written evidence of site availability. The amendment was accepted as a minor amendment because it did not modify in any manner Metro Mobile's proposal but merely supplied the site lease commitments previously referenced in the application. CMS did not demonstrate that any of the sites would not be available to Metro Mobile. An applicant need not have a binding agreement or absolute assurance of the availability of a proposed site but rather must show that it has obtained reasonable assurance that its proposed site is available. *See Alabama Citizens for Responsive Public Television, Inc.,* 59 FCC 2d 1 (1976). Also, we note that the statements from the lessors submitted by Metro Mobile which indicate the sites would be available are dated prior to the June 7, 1982 filing date.[6] Based on these circumstances, we find no reasons to designate a site availability issue.

13. *System Expansion.* Metro Mobile's description of its plans for system expansion, contained in Exhibits 5 and 6 of its application, fulfills our filing requirements contained in § 22.913(a)(4). Whether the proposal is sufficient to meet anticipated demand for service is an issue to be examined in the comparative portion of this proceeding. *Report and Order, supra,* at 502–03. Accordingly, we decline to designate a basic qualifying issue with respect to this matter.

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[3] Metro Mobile requested that official notice be taken of an ongoing proceeding in which the qualifications of Graphic Scanning Corporation, CMS' parent, may be in issue. For our treatment of this matter, see footnote 14, and paragraph 30, *infra.*

[4] The allegations against CMS and Graphic here are essentially the same as those raised in the Chicago Order, *supra.*

[5] Cellcom filed a Motion for Discovery requesting that Metro Mobile be ordered to produce copies of all its site commitments or leases. This motion is hereby denied. Section 22.916 of the Rules limits the pleadings filed with respect to Cellular applications to petitions to deny and replies. We discuss the issue of site availability at para. 12, *infra.*

[6] One of the sites was lost and a new site was negotiated so the letter itself is dated after the filing date. Metro Mobile informed the Commission of these facts and subsequently filed a minor amendment in this regard. This amendment was also accepted as a minor amendment. *See* § 22.31 of the Rules and Order, FCC 82–409, *supra.*

14. *Continuous and Reliable Service.* CMS' allegations in this regard are without merit. In its application Metro Mobile submitted exhibits describing its service and maintenance proposals which meet the requirements of our rules. *See* Legal Exhibits 7 and 8 of Metro Mobile's application. Again, these proposals will be examined in the comparative portion of this proceeding. *Id.* Accordingly, we will not designate a basic qualifying issue with respect to this matter.

15. *Financial Qualifications.* Allegations concerning Metro Mobile's financial ability have been raised in the nine markets in which it applied.[7] Although we deal here specifically with Minneapolis, we will also consider Metro Mobile's ability to finance construction of all nine systems. We do this to avoid relitigating issues concerning Metro Mobile's basic financial qualifications common to the nine markets in which it has applied. Any financial issues relevant to specific markets will, of course, be resolved in subsequent orders.

16. Metro Mobile estimates its construction costs and first year operating expenses for Minneapolis at $10,835,758. The aggregate construction costs and operating expenses for the nine applications is estimated at $99,284,429.[8] To finance these obligations Metro Mobile relies on a loan for $115 million from the First National Bank of Chicago (First National). A letter of commitment dated June 1, 1982, from First National was included in legal Exhibit 6 to the application. The letter stated that First National is prepared to make available to Metro Mobile a total credit package of $115,000,000, in the form of a revolving credit/term loan, for the purpose of constructing and operating cellular radio systems. First National's letter indicates that it will lead a bank syndicate which will make the funds available. The letter also described the terms of the loan and stated that the bank shall have a security interest in the borrower's cellular radio facilities as allowed by law. Another letter from First National dated July 29, 1982, attached to Metro Mobile's ply, states that it would be the intention of the First National Bank of Chicago to syndicate portions of the $115,000,000 credit package as is usual in credit packages of that size, but if syndication was not accomplished, the Bank would be capable of providing the entire loan as outlined. The bank also stated that to the extent that any chattel mortgages or secured interests in cellular equipment are required, the bank would provide for a minimum of ten days' prior written notification to the Commission before actual repossession of any equipment. Under applicable precedent, we find that Metro Mobile has demonstrated reasonable assurance of the availability of this loan to finance its nine cellular applications including its Minneapolis proposal. *See Chicago Order, supra; Advanced Mobile Phone Service, Inc. et al., (Boston Order)*, Mimeo 896, released November 19, 1982.[9] Accordingly, we conclude that there is no basis for designating for hearing any financial issue against Metro Mobil based on its ability to finance its commitments for nine cellular systems.

MCI Application

17. Metro Mobile and CMS filed petitions to deny MCI's application. Metro Mobile alleges that MCI has not complied with § 22.903(a) and(d) because its predicted 39 dbu contours are actually smaller than calculated by MCI. According to Metro Mobile, MCI's proposed Cellular Geographic Service Area (CGSA), is not covered as required by the Rules.[10] CMS alleges also that MCI is not financially qualified and that it failed to adequately describe its basis for system congestion in violation of § 22.913(a)(5) of the Rules. MCI filed replies to the petitions.[11]

18. *Section 22.903 (a) and (d).* We find this allegation to be without merit. MCI has calculated its 39 dBu contours based on the height and power calculations along each of the eight cardinal radials. MCI, in its reply, asserts that it has used the gain from the manufacturer's radiation pattern in calculating its ERP along each radial. Thus, each antenna and radiation pattern was considered separately and the 39 dBu contours do not reflect a cumulative effect. Metro Mobile has not shown that the pattern is in error. Accordingly, we find that MCI has calculated its 39 dBu contours in accordance with accepted engineering and Commission practice and therefore has demonstrated that they cover at least 75% of the CGSA.[12]

19. *Financial Qualifications.* The principal argument raised is that MCI has not demonstrated its financial qualifications to construct and operate its proposed system. We find this argument to be without merit. MCI Communications Corporation, MCI's parent company, has committed itself to finance the estimated construction costs and first year operating expenses for the Minneapolis system of $17,116,000. In *Advanced Mobile Phone Service, Inc., et al., (Pittsburgh Order)*, Mimeo 1169, released December 6, 1982, we found that MCI had demonstrated reasonable assurance that it will have sufficient funds available to construct its twelve cellular systems. We further concluded that no financial issues should be designated for hearing against any MCI Communications Corporation subsidiary based on its ability to finance commitments for twelve cellular applications in the top-30 markets. Those findings are fully dispositive of CMS' arguments here.[13]

20. *System Congestion.* MCI's application contained exhibits describing its system expansion plans which meet our requirements. See Application Vol. 2, Exhibit 16; Exhibit 5 and Exhibit 6. In addition, system expansion is an issue to be examined in the comparative portion of this

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[7] Metro Mobile has filed cellular applications in Miama/Fort Lauderdale-Hollywood; Minneapolis-St. Paul; San Diego; Phoenix; Tampa-St. Petersburg; Cincinnati; Denver; Kansas City and Houston.

[8] Exhibit 8.1 contained a detail cost estimate for each system. The total construction cost and operating expenses for one year are: $8,355,682 for Cincinnati; $10,960,514 for Denver; $16,762,957 for Houston; $8,818,738 for Kansas City; $12,632,157 for Miami; $10,835,758 for Minneapolis; $9,754,815 for Phoenix; $10,616,527 for San Diego; and $10,528,281 for Tampa.

[9] CMS also alleged that only limited reliance could be placed on the partners' ability to raise $25 million as a supplemental source of financing. Since we have found Metro Mobile financially qualified independent of any possible additional contributions from its partners, this source of possible financing is not relevant to our disposition of the financial issues.

[10] Metro Mobile submitted an affidavit from Frederic G. Griffin, P.E. who recalculated MCI's 39 dbu contours using the data in MCI's application except the ERP figures, which he alleges are erroneous. Mr. Griffin concludes that MCI only covers 68% of its CGSA. Mr. Griffin asserts that MCI assumed a cumulative effect (greater power level) of three directional antennas at a single cell in arriving at the ERP figure in calculating its contours, but the sectoring of cells in a cellular system calls for using different channels in the sectors. As a result, Mr. Griffin argues that the cumulative power effect will not occur.

[11] MCI filed a Motion to Accept Late Filed Pleadings with regard to its reply to CMS' petition to deny. Good cause having been shown, and since the pleading was only one day late, we will grant MCI's petition. Acceptance of this late pleading will not be contrary to our policies concerning expedited processing of cellular applications since it will help in resolving the issues alleged in the petition to deny.

[12] In its reply, MCI attached an affidavit from Charles I. Gallagher, P. E. which refutes the engineering affidavit submitted with the petition to deny. MCI's engineer asserts that MCI's proposal would result in 82% of its CGSA being included within the 39 dBu contours of its base stations.

[13] CMS also alleged that MCI could not rely on revenues to finance its system since it did not demonstrate the basis for the projected revenues; and MCI had not detailed its expected construction cost. These arguments are without merit. First, MCI is not relying on revenues to finance its proposal. Second, MCI gave a detailed breakdown of its construction costs; Exhibits 13 and 14 of the application.

proceeding. *Report and Order, supra,* at 502–03. Accordingly, we will not designate a basic qualifying issue with respect to this matter.

Conclusion

21. Based on our analysis of the applications and our resolution of the contested issues in this order, we find the applicants to be legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems.

22. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Cellcom, Inc., File No. 26092–CL–P–(12)–82; Cellular Mobile Systems of Minnesota, Inc., File No. 26166–CL–P–(12)–82; Metro Mobile CTS, File No. 26153–CL–P–(15)–82; and MCI Cellular Telephone Company, File No. 26102–CL–P–(16)–82, are designated for hearing in a consolidated proceeding upon the following issues:[14]

(a) To determine on a comparative basis the geographic area and population that each applicant proposes to serve;[15] to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(b) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;[16]

(c) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities); and[17]

(d) To determine in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

23. It is further ordered, That the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[18]

24. It is further ordered, That the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register.**

25. It is further ordered, That the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted here, at a time and place and before an Administrative Law Judge to be specified in a later order.

26. It is further ordered, That exceptions to the initial decision of the Administrative Law Judge under § 1.76 of the Commission's Rules shall be taken directly to the Commission.

27. It is further ordered, That all applicants are directed to file rebuttal cases under § 22.916(b)(4) of the Rules within 30 days after publication of this order in the **Federal Register.**

28. It is further ordered, That the Motion to accept late filed pleadings filed by MCI Cellular Telephone Company is Granted.

29. It is further ordered, That, the Petitions to Deny filed by Cellular Mobile Systems of Minnesota, Inc.; Metro Mobile CTS and MCI Cellular Telephone Company are denied, and the Motion for Discovery filed by Cellcom, Inc. is dismissed.

30. It is further ordered, That any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following a decison in the hearing designated in *A.S.D. Answering Service, Inc., et al.,* FCC 82–391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

31. It is further ordered, That any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances.

32. This order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority,* FCC 82–435, released October 6, 1982, and is effective on its release date. Applications for review under Section 1.115 of the Rules may be filed within the time limits specified in this section. See also Rule 1.4(b)(2).

33. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Gary M. Epstein

Chief, Common Carrier Bureau.

[FR Doc. 83–886 Filed 1–7–83; 8:45 am]

BILLING CODE 6712–01–M

[14] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). We have found all of the applicants included in the comparative hearing to be financially quaified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Minnesota, Inc. or its parent Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing. A.S.D. Answer Service, Inc. *et al.* (*ASD*), FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 30, *infra,* the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Minnesota, Inc. to hold a cellular license should *ASD* be resolved adversely to any of CMS' affiliate or parent companies or to any of their principals. *See* Chicago Order, at n. 19.

[15] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant New England County Metropolitan Area. Consideration should be given to the presence of densely populated regions, highways, and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[16] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502–503.

[17] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[18] Members of the separated trial staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with the other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. *See* Communications Act of 1934 as amended section 409(c) (47 U.S.C. 409(c)); Administrative Procedure Act section 554(d) (5 U.S.C. 554(d)); § 1.1221 of the Commission's Rules.

National Industry Advisory Committee; Long Range Planning Subcommittee; Meeting

Pursuant to the provisions of Pub. L. 92–463, announcement is made of a public meeting of the Long Range Planning Subcommittee of the National Industry Advisory Committee (NIAC) to be held on Thursday, January 27, 1983. The Subcommittee will meet at the FCC Commission Meeting Room (Room 856) located at 1919 M Street, N.W., Washington, D.C. at 2:00 P.M.

Purpose: To initiate activities of the Subcommittee; to consider defense

preparedness and emergency communications matters.

The meeting agenda is a follows:

1. Welcome by Defense Commissioner Mimi Weyforth Dawson.
2. Opening remarks by Chairman Mark S. Fowler.
3. Introduction of members of the Subcommittee and of other attendees.
4. Selection of Subcommittee Chairman and Vice Chairman.
5. Briefing by FCC staff on defense preparedness and emergency communications activities of the Commission.
6. Discussion of the functions of the National Industry Advisory Committee and the role of the Long Range Planning Subcommittee.
7. Other business by the Subcommittee.
8. New business.
9. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Those desiring more specific information about the meeting may telephone the Executive Secretary at the Emergency Communications Division, FCC, (202) 634–1600.

William J. Tricarico,

Secretary, Federal Communications Comission.

[FR Doc. 83-[illegible] Filed 1-7-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group, Plant Accounts Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Plant Accounts Subcommittee scheduled to meet on Wednesday and Thursday, January 19 and 20, 1983. The meeting will begin on January 19 at 9:30 a.m. in the offices of MCI Telecommunications Corporation (2nd Floor Meeting Room) at 1133 19th Street, N.W., Washington, D.C., and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Report by Subcommittee Members
IV. Discussion of Reports
V. Further Assignments
VI. Other Business
VII. Presentation of Oral Statements
VIII. Adjournment

With prior approval of Subcommittee Chairman Gyles Norwood, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Norwood (202/887–3266) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-[illegible] Filed 1-7-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12) CFR 115.4(b)(1)), for permission to engage de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to product benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (finance company and credit-related insurance activities; Arizona, Nevada and New Mexico): To expand the activities and service area of an existing office of Citicorp Person-to-Person Financial Center, Inc., located in Tucson, Arizona, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Tucson, Arizona location. The activities in which the *de novo* office of Citicorp Homeowners, Inc., proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of Citicorp Homeowners, Inc. shall comprise the entire states of Arizona, Nevada and New Mexico. The new activities in which the office of Citicorp Person-to-Person Financial Center, Inc. proposes to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the office of Citicorp Person-to-Person Financial Center, Inc. shall be the entire states of Arizona, Nevada, and New Mexico for all the aforementioned proposed activities, and for the following activities previously approved for Citicorp Person-to-Person Financial Center, Inc.: The making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer

oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners Inc. Comments on this application must be received not later than January 28, 1983.

2. *Citicorp,* New York, New York (commercial lending and leasing activities; California): To engage through a *de novo* office of Citicorp (USA), Inc., in making or acquiring, for its own account or for the account of others, commercial loans and other extensions of credit; and leasing personal or real property or acting as agent, broker or advisor in leasing such property and servicing such leases, subject to all qualifications specified in 12 CFR 225.4(a)(6) (a) and (b), where the leases serve as the functional equivalent of an extension of credit to the lessee of the property. Such activities would be conducted from an office in San Diego, California, serving the State of California. Comments on this application must be received not later than January 28, 1983.

3. *Norstar Bancorp Inc.,* Albany, New York (mortgage banking and servicing activities; States of New York and Maine): Engaging generally in the business of a mortgage banker, mortgage broker and mortgage servicing firm, including but not limited to: making, acquiring, buying, selling and otherwise dealing in mortgage loans as principal or agent; servicing mortgage loans for affiliated or nonaffiliated entities; second mortgage financing; and acting as an adviser in mortgage loans and second mortgage loans transactions. These activities would be conducted from an office in Albany, New York, serving New York and Maine. Comments on this application must be received not later than February 2, 1983.

4. *The Chase Manhattan Corporation,* New York, New York (mortgage banking and related lending and insurance activities; Maryland): To make or acquire, for its own account or for the account of others, loans and other extensions of credit secured by real estate, including but not limited to, first and second mortgage loans secured by mortgages on one-to-four family residential properties, to service loans and other extensions of credit for any person, to sell mortgage loans in the secondary market, and to offer mortgage term life insurance, accident and health insurance and disability insurance directly related to such lending and servicing activities. These activities will be conducted from an office of Chase Home Mortgage Corporation located in Towson, Maryland. Comments on this application must be received not later than February 3, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Barnett Banks of Florida, Inc.,* Jacksonville, Florida (trust company activities; Florida): To engage, through its subsidiary, Barnett Banks Trust Company, N.A., Jacksonville, Florida, in activities that may be performed by a trust company, including activities of a fiduciary, agency or custodial nature, in the manner authorized by federal and state law. These activities would be conducted from an office in Sarasota, Florida, serving Sarasota County and contiguous counties of Florida. Comments on this application must be received not later than January 21, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Irwin Union Corporation,* Columbus, Indiana (mortgage banking activities; Texas): To engage, through its subsidiary, Inland Mortgage Corporation, in mortgage banking activities, including the direct extension of residential mortgage loans to individuals and the servicing of such loans for investors. These activities would be conducted from offices in Houston, Corpus Christi, and San Antonio, Texas, serving the State of Texas. Comments on this application must be received not later than January 26, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Beemer Corporation,* Beemer, Nebraska (leasing activities; Cuming County, Nebraska): To engage, through its proposed *de novo* subsidiary, First Beemer Leasing Corporation, in making leases of real and personal property in accordance with the Board's Regulation Y. These activities would be conducted from an office at First National Bank, Beemer, Nebraska, serving Cuming County, Nebraska. Comments on this application must be received not later than February 1, 1983.

Board of Governors of the Federal Reserve System, January 3, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-524 Filed 1-7-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets or a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected a the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *DNB Financial Corporation,* Downingtown, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of the Downingtown National Bank, Downington, Pennsylvania. Comments on this application must be received not later than February 3, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *RHNB Corporation,* Rock Hill, South Carolina; to become a bank holding company by acquiring 99.08 percent of the voting shares of Rock Hill National Bank, Rock Hill, South Carolina. Comments on this application must be received not later than February 3, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Cass Commercial Corporation,* St. Louis; to become a bank holding company by acquiring 100 percent of the voting shares of Cass Bank & Trust Company, St. Louis, Missouri. Comments on this application must be received not later than February 2, 1983.

Board of Governors of the Federal Reserve System, January 4, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-523 Filed 1-7-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Health Service Corps, Health Professions Education, and Nurse Training; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of August 25, 1982, by the Assistant Secretary for Health to the Administrator, Health Resources Administration (47 FR 29868), the Administrator, Health Resources and Services Administration (successor of the Administrator, HRA, effective September 1, 1982), has delegated to the Health Resources and Services Administration officials indicated below, with authority to redelegate, all of the authorities delegated to the Administrator under Title XXVII of Pub. L. 97–35, the Omnibus Reconciliation Act of 1981:

1. Director, Bureau of Health Professions:

a. Authority under Title XXVII, Chapter 1, Section 2702(c) of Pub. L. 97–35 (42 U.S.C. 254e note), to evaluate the criteria pertaining to the designation of health manpower shortage areas.

b. Authority under Title XXVII, Chapter 2, section 2747 of Pub. L. 97–35 (42 U.S.C. 295h note), providing for a physician study.

2. Director, Bureau of Health Maintenance Organizations and Resources Development:

a. Authority under Title XXVII, Chapter 2, Section 2724(b) and Section 2724(c) of Pub. L. 97–35 (42 U.S.C. 293a), to release all recipients of grants, loan guarantees, and interest subsidies under Sections 720(a) and 726 of the Public Health Service Act from any contractual obligation to fulfill enrollment increases.

b. Authority under Title XXVII, Chapter 3, Section 2751 of Pub. L. 97–35 (42 U.S.C. 296a note), to waive the enforcement of assurances given by any nursing school under Section 802(b)(2)(D) of the Public Health Service Act.

The delegation to the Director, Bureau of Health Professions, and the Director, Bureau of Health Maintenance Organizations and Resources Development, became effective on

Dated: December 21, 1982.

Robert Graham,

Administrator, Health Resources and Services Administration.

[FR Doc. 83-575 Filed 1-7-83; 8:45 am]

BILLING CODE 4110-15-M

Public Health Service

Intent to Issue an Exclusive Patent License

Pursuant to 45 CFR 6.3 of the Department of Health and Human Services Patent Regulations and 41 CFR 101–4 of the Federal Procurement Regulations, notice is hereby given of an intent to issue to Cornell Research Foundation Incorporated, an exclusive license to manufacture, use, and sell an invention of Dr. Brian Murphy, Dr. Leroy Coggins, Dr. Dorothy F. Holmes, Ms. Lynne J. Brundage (Anguish) and Dr. James Gillespie, entitled "Temperature Sensitive Reassortant Viruses and a Vaccine Against Equine Influenza." United States Patent Application Serial No. 369,319 was filed April 16, 1982.

Copies of the above United States patent application may be obtained upon written request to Mr. Leroy B. Randall, Chief, Patent Branch, Department of Health and Human Services, c/o National Institutes of Health, Room 5A03 Westwood Building, Bethesda, Maryland 20205.

The proposed license will have a duration of five (5) years from the date of first commercial sale in the United States of America, or eight (8) years from the date of the license, whichever occurs first, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with the Department of Health and Human Services (HHS) Patent Regulations. The Department of Health and Human Services will grant the license unless, within sixty (60) days of this Notice, the Chief of the Patent Branch, named hereinabove, receives in writing any of the following, together with supporting documents:

A. A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

B. An application for a nonexclusive license to manufacture, use, or sell the invention in the United States is submitted in accordance with 41 CFR 101–4 of the Federal Procurement Regulations, and 45 CFR 6.3 of the Department of Health and Human Services Patent Regulations, and the applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health and Human Services will review all written responses to this Notice.

(45 CFR 6.3 and 41 CFR 101–4)

Dated: December 30, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83-544 Filed 1-7-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Meeting of Elko District Grazing Advisory Board

In accordance with the Federal Advisory Committee Act and the Federal Land Policy and Management Act, notice is hereby given that the Elko District Grazing Advisory Board will meet on February 3, 1983. The meeting will begin at 8:00 a.m. at the Ranchinn, 852 Idaho Street, Elko, Nevada.

The agenda for the meeting will include: (1) Approval of the last meeting's minutes; (2) changes in the new Grazing Regulations; (3) discussion of the final Rangeland Improvement Policy; and an update of (4) FY 1983 range improvement projects; (5) district Selective Management Category criteria; (6) Wells Resource Area RMP; (7) current water policy; (8) Asset Management; and (9) monitoring.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:00 and 3:30 p.m. or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, BLM, 2002 Idaho Street, Elko, Nevada 89801, by January 28, 1983. Depending upon the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Rodney Harris,

District Manager.

[FR Doc. 82-543 Filed 1-7-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Berlinski Bros. Inc., Metairie, LA.

The applicant requests a permit to export 566 untanned hides of the American alligator (*Alligator mississippiensis*) to Tanneries des Cuirs d'Indochine et de Madagascar, Paris,

France for enhancement of survival. These hides were illegally taken in Alabama in 1980, seized by U.S. Fish and Wildlife Service and subsequently sold at bid by the state of Alabama.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-9894. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: January 5, 1983.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-616 Filed 1-7-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf; Notice of Interpretation of Section 8(b)(7) of the Outer Continental Shelf Lands Act Concerning the 20 Percent Small Refiner Offer Provision

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of interpretation.

SUMMARY: Under Section 8(b)(7) of the Outer Continental Shelf Lands Act (OCSLA), the Secretary of the Interior is authorized to grant oil and gas leases on submerged lands of the Outer Continental Shelf (OCS). Among other requirements, a lease must provide that the lessee offer 20 percent of oil and gas produced on the lease to small or independent refiners. This Notice sets forth the policy of the Department of the Interior (DOI) concerning that requirement.

SUPPLEMENTARY INFORMATION: Questions have arisen as to the DOI's responsibilities under Section 8(b)(7) of the OCSLA, which reads:

> (b) An oil and gas lease issued pursuant to this section shall—
>
> * * * * *
>
> (7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced on such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.

The questions have centered around what action the DOI must take to implement this section. This Notice sets forth the DOI's policy in relation to the requirement of section 8(b)(7).

Secretary's Duty To Regulate

While the Secretary is charged with enforcing the OCSLA, it is generally within his discretion as to the method of enforcement. In the exercise of his discretion, the Secretary has caused the following clause to be stated in every lease issued since the enactment of the 1978 Amendments.

> As provided in Section 8(b)(7) of the Act, the Lessee shall offer 20 percent of the crude oil, condensate, and natural gas liquids produced on the lease, at the market value and point of delivery as provided by rgulations applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.

Certain members of the public have suggested that the Secretary must also promulgate specific regulations to implement Section 8(b)(7) of the OCSLA. We disagree. Congress specified in sections 5(a) and 8(a) the regulations that the Secretary is required to issue, and none of the specified regulations relate to the section 8(b)(7) set-aside program.

Neither the OCSLA nor the legislative history indicate that the Secretary is required to do more than put the clause in the lease. According to the House Report (H.R. Rep. No. 95-590, 95th Congress, First Session 14 (1977)), the procedures would be the same as those applied to Federal royalty oil. While the report talks about "procedures," the OCSLA refers solely to the "market value and point of delivery applicable to royalty oil." These are apparently the only "procedures" contemplated. Had Congress intended to mandate a specific scheme, it would have included more specific language as it did in section 27(b)(2) relative to royalty oil.

It is therefore the policy of the DOI to consider the clause in the lease form as self executing and its presence to be the necessary and sufficient implementation of Section 8(b)(7) of the OCSLA.

Secretary's Duty To Assure Equitable Allocation

Some commenters have suggested that the Secretary has a statutory duty to adopt rules directing lessees to offer their production for sale on a general "open-market" basis to eligible refiners. This obligation is said to arise under one of the stated purposes of the OCSLA Amendments, i.e., the need to "preserve and maintain free enterprise competition." 43 U.S.C. 1802(2). Section 1802(2) has been judicially interpreted as a statement of general principles which are commended to the Secretary's attention, not to require specific actions. *Watt* v. *Energy Action Educational Foundation*, 454 U.S. 151 (1981). The Secretary could lawfully find that the purposes of section 1802(2) are satisfied by letting lessees offer the production on the basis of first come, first serve. The OCSLA does not require further regulation.

Definitions

Some members of the public have asked that the Secretary fill in the gaps in the language of the statute. They request that the Secretary define terms involved in the procedure. We see no need at this time to provide definitions beyond those provided in the statute itself. Congress has specified that the production be offered "at the market value and point of delivery applicable to Federal royalty oil." 43 U.S.C. 1337(b)(7). The Department of Energy (DOE) has already issued regulations defining "fair market value" and "point of delivery." 10 CFR 391.102 (1981). (The DOI will propose the redesignation of those DOE regulations as DOI regulations in the near future.) While these definitions apply to sales of oil, they provide standards which could be applied to sales of condensate and natural gas liquids.

Relationship to Royalty Oil

Some commenters have questioned whether the 20 percent of production of oil and gas to be set aside for small or independent refiners is in addition to the amounts of oil and gas available to such refiners under the Federal royalty oil program.

We believe it is clear from the legislative history of section 8(b)(7) that the 20 percent set aside authorized by that section is in addition to the amounts available under the Federal royalty oil program.

Executive Order No. 12291

In keeping with the spirit of Executive Order 12291 (1981) and the DOI's policy to avoid the proliferation of new regulations where such avoidance is consistent with our statutory duties, regulations for the implementation of section 8(b)(7) are considered to be unnecessary and undesirable. We believe that the requirements of section 8(b)(7) can be achieved by OCS lessees and small and independent refiners without the intervention of Federal regulations.

Dated: January 3, 1983.
Harold Doley,
Director.
[FR Doc. 83-660 Filed 1-7-83; 8:45 am]
BILLING CODE 4310-BR-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 19]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by 49 CFR Part 1161 of the Commission's Rules of Practice which provide, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

By the Commission.
Agatha L. Mergenovich,
Secretary.

New York Docket No. T-1840, filed November 16, 1982. Applicant: TRACY TRANSPORTATION LINES, INC., 70 Sheldon Ave., Depew, NY 14043. Representative: James E. Brown, Esq., 36 Brunswick Road, Depew, NY 14043. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities* between points in the Counties of Allegany, Cattaragus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans and Wyoming. Intrastate, interstate and foreign commerce authority sought. HEARING: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T-10110, filed December 21, 1982. Applicant: BESLO TRUCKING INC., 104-19 Merrick Blvd., Jamaica, NY 11433 Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *Paper products.* between all points in the State. Intrastate, interstate and foreign commerce authority sought. HEARING: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

[FR Doc. 83-649 Filed 1-7-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. for compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States code, and the Commission's regulations. The presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 day after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.
Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

For the following, please direct status calls to Team 3 at (202) 275-5223.

Vol. No. OP3–86

Decided: December 30, 1982.

MC 94565 (Sub-7), filed December 7, 1982. Applicant: B.K.W. COACH LINE, P.O. Box 254, Hummels Wharf, PA 17831. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 821–1305. Transporting *passengers*, in special and charter operations, beginning and ending at points in PA, and extending to points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 109685 (Sub-22), filed December 13, 1982. Applicant: VALLEY TRANSPORTATION, INC. d.b.a. CONNECTICUT AMERICAN CHARTERS, 516 Oxford Rd., Oxford, CT 06483. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 117274 (Sub-4(a)), filed December 9, 1982. Applicant: EARLE'S MOVING & STORAGE CO., INC., 2062 Generals Highway, P.O. Box 789, Annapolis, MD 21037. Representative: James J. Fratino, P.O. Box 82, Edgewater, MD 21037, (301) 261–7227. Transporting, (1) for or on behalf of the U.S. Government, *general* commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (2) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 142684 (Sub-4), filed December 14, 1982. Applicant: B. C. LINES, INC., 10 Lodge St., Worcester, MA 01604. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 155985 (Sub-1), filed December 9, 1982. Applicant: FAMILYTREE, INC., 707 E. Texas Ave., Baytown, TX 77520. Representative: Kenneth R. Hoffman, 1600 W. 38th St., Suite 410, Austin, TX 78731; (512) 451–7409. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 159215 (Sub-2), filed December 13, 1982. Applicant: WELLS BUS SERVICE, INC., 121 Terrace Drive, Jackson, MN 56143. Representative: Thomas Wells, (same address as applicant), (507) 847–2380. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165204, filed December 14, 1982. Applicant: BROADWAY CAB COOPERATIVE, INC., 234 N.W. First Avenue, Portland, OR 97209. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205, (503) 224–4840. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 165205, filed December 13, 1982. Applicant: SCOTTSVILLE BUS LINES, INC., E. Main Street, P.O. Box 355, Scottsville, VA 24590–0355. Representative: Hamill D. Jones, Jr., 815 Mutual Building, Richmond, VA 23219, (804) 643–5351. Transporting *passengers* in special and charter operations, beginning and ending at points in VA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165214, filed December 15, 1982. Applicant: BAUSH TRANSPORT, P.O. Box 394, 3282 Independence St., Grove City, OH 43123. Representative: Larry R. McDowell, 1200 Ave., of the Arts Bldg., Philadelphia, PA 19107, (215) 735–3090. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at (202) 275–7669.

Vol. No. OP4–098

Decided: January 3, 1983.

MC 61396 (Sub-408), filed December 20, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 165306, filed December 21, 1982. Applicant: DEPENDABLE COURIER SERVICE, INC., 2116–A Defoors Ferry Rd. N.W., Atlanta, GA 30318. Representative: Kim G. Meyer, P.O. Box 56282, Atlanta, GA 30343, (404) 523–1717. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except Ak and HI).

MC 165337, filed December 22, 1982. Applicant: STOCKYARD SHIPPING & TERMINAL CORPORATION, 210 E. Lombard St., Suite 200, Baltimore, MD 21202. Representative: Rita J. Manfuso (same address as applicant), (301) 727–2607. As a *broker of general commodities* (except household goods), between points in the U.S.

[FR Doc. 83–580 Filed 1–7–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

[Volume No. 321]

Decided: December 30, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or brroadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Agatha L. Mergenovich,
Secretary.

MC 95607 (Sub-6)X, filed December 10, 1982. Applicant: JAMES D. CADDEN d.b.a. CADDEN'S MOVING AND STORAGE, 620 Beech St., Scranton, PA 18505. Representative: Raymond Talipski, 121 South Main St., Taylor, PA 18517. Lead certificate, broaden (1) commodity descriptions to (a) household goods and furniture and fixtures (household goods as defined by the Commission), and (b) commercial display cases and related products (commercial display cases, accessories and parts, uncrated); (2) named points to countywide authority: Lackawanna, Luzerne and Wyoming Counties, PA (Scranton and Dunmore), Lackawanna County, PA (Jessup), and Luzerne County, AP (Duryea); and, (3) one-way service to radial authority.

MC 107409 (Sub-40)X, filed November 29, 1982. Applicant: RATLIFF & RATLIFF, INC., P.O. Box 1018, Clarksville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Lead and Sub-Nos. 4, 7, 10, 12, 14, 18, 21, 22, 27, 31, 33, 35, 36, 37F, 38F, and 39F certificates. (1) Broaden commodities: (a) lead certificate, to: metal products (empty oil drums), textile mill products (cotton), food and related products (canned goods, dried fruits, and vegetables), Chemicals (fertilizer and fertilizer materials), food and related products (malt beverages and wine), containers (empty malt beverage containers, and empty wine containers), petroleum products (petroleum products, in packages or containers), building materials (roofing and screen wire), clay, concrete, glass or stone products (concrete pipe), ores and minerals (sand and gravel), chemicals (fertilizer), building materials (iron and steel building materials), lumber and wood products (lumber), chemicals (oyster shells and ingredients used in the manufacture of fertilizer), textile mill products (cotton bagging and sheets), food and related products (flour and feed, and vinegar), metal products (steel shot), lumber and wood products (lumber, plywood, and wood boxes), metal products (reinforcing steel), and, textile mill products (cotton, in bales); (b) Sub 4, to: food and related products (canned goods), pulp, paper and related products (paper and paper products), textile mill products (cotton yarn, silk, rayon, and cotton hose); (c) Sub 7, lumber and wood products (lumber, millwork, and wood blocks); (d) Subs 10 and 14, lumber and wood products (lumber, except plywood, veneer, built-up wood, and flooring); (e) Subs 12 and 21, metal products (empty oil drums, and manufactured iron and steel products and articles); (f) Subs 18, 33, 35, and 36, clay, concrete, glass or stone products (brick and tile, ceramic wall and floor tile, structural glazed tile, clay products, and stone); (g) Sub 22, building materials (hardboard sheets and boards); (h) Sub 27, metal products (iron and steel and iron and steel articles, as described in the *Descriptions* case, 61 M.C.C 209, except size or weight commodities); (i) Subs 31 and 39, lumber and wood products (plywood, and lumber and lumber products); and, (j) Sub 37, clay, concrete, glass or stone products (tile and materials and supplies, except in bulk); (2) replace one-way service with radial authority in all certificates; (3) broaden the named points and plantsites to countywide authority: (a) Lead certificate: Middlesex County, NJ (Sewaren), New Hanover County, NC (Wilmington), Charleston, Berkeley and Dorchester Counties, SC (Charleston), Anson County, NC (Wadesboro), Anson County, NC (Morven), Northampton County, PA (Northampton), Dillon County, SC (Little Rock), Essex, Middlesex, Hudson, Union and Bergen Counties, NJ (Newark), York County, PA (York), Anson County, NC (points within 2 miles of Lilesville), Mecklenburg County, NC (those within 1 mile of Charlotte), Richland County, SC (points within 1 mile of Columbia), Marlboro County, SC (Bennettsville), Richmond County, NC (Rockingham), Spartanburg County, SC (Spartanburg), Augusta County, VA (Weyers Cave), Hillsboro County, NH (Manchester), Anson County, NC (Wadesboro and points within 3 miles thereof), Anson County, NC (Lilesville), Mecklenburg, Union and Gaston Counties, NC (Charlotte), and Richland County, SC (Columbia); (b) Sub 4, Essex, Middlesex, Hudson, Union and Bergen Counties, NJ (Newark), Durham, Forsyth, Rowan, Mecklenburg, Guilford and Buncombe Counties, NC (Durham, Winston-Salem, Salisbury, Charlotte, Greensboro, and Asheville), Greenville, Spantanburg, Richland, Anderson and Darlington Counties, SC (Greenville, Spartanburg, Columbia, Anderson, and Hartsville), Richmond County, GA (Augusta), Gloucester County, NJ (Swedesboro), Cabarrus County, NC (Midland), Lancaster, Montgomery, Philadelphia, Bucks, Chester, Delaware and Potter Counties, PA, Gloucester, Burlington, Salem and Camden Counties, NJ, and New Castle County, DE (Lancaster, Philadelphia, and Austin, PA) New Haven County, CT (New Haven), Union, Mecklenburg, Gaston, Stanly, Cabarrus and Catawba Counties, NC (Monroe, Charlotte, Albemarle, Concord, and Newton), Chesterfield, Marlboro, Darlington, York and Chester Counties, SC (Pageland, Cheraw, Bennettsville, Hartsville, Rock Hill, and Chester), Suffolk, Norfolk, Plymouth, Middlesex and Essex Counties, MA (Boston), New Haven County, CT (Wallingford), Cecil County, MD (Elkton), York, Cherokee and Spartanburg Counties, SC (Rock Hill, Gaffney, and Spartanburg), Cabarrus County, NC (Midland), Philadelphia, Montgomery, Bucks, Chester and Delaware Counties, PA, Gloucester, Burlington, Salem and Camden Counties, NJ, and New Castle County, DE (Philadelphia); (c) Sub 7, Anson County, NC (Wadesboro); (d) Sub 12, Essex, Middlesex, Hudson, Union and Bergen Counties, NJ (Newark); (e) Sub 14, Tippecanoe County, IN (Lafayette); (f) Sub 18, Rowan County, NC (Salisbury), and Stark County, OH (Canton); (g) Sub 21, Boyd County, KY (plantsite near Ashland); (h) York County, SC (Catawba and points within 5 miles thereof); (i) Sub 27, Boyd County, KY (plantsite near Coalton, Boyd County, KY); (j) Sub 31, York County, SC (plantsite near Catawba); (k) Sub 33, Mecklenburg, Union and Gaston Counties, CN (Charlotte); (l) Sub 35, Stark County, OH (East Canton); (m) Sub 37, Davidson County, NC (Lexington), and Montgomery County, NC (Mt. Gilead); and, (n) Sub 39, Vanderburgh County, IN (Evansville); and (4) (a) remove the dump vehicle restriction, in Sub 36; (b) change the territorial description in Sub 38 to radial authority "between the facilities used by Ralston Purina Company at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI)," from existing nonradial authority which reads between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Ralston Purina Company; and (c) remove the restriction to traffic originating at or destined to the facilities used by C. L. Krug Lumber Company to allow radial authority between Vanderburgh County, IN, on the one hand, and, on the other, points in eleven States.

MC 134592 (Sub-28)X, filed December 17, 1982. Applicant: HERB MOORE AND HAZEL MOORE, d.b.a. H & H TRUCKING CO., 7739 SE 21st Ave., Portland, OR 97211. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR, 97201. Subs 2, 4, 9, 16F, 23F, and 24F; (1) broaden (a) bananas and commodities, the transportation of

which is partially exempt from regulation under section 203(b) (6) of the Interstate Commerce Act, when moving in the same vehicle with bananas (Sub 2), and wine and malt beverages (Subs 9 and 16F) to "food and related products"; (b) shakes, shingles, and ridge trim to "lumber and wood products" (Sub 4), (c) furniture to "furniture and fixtures" (Sub 23F), and (d) pulp and paper mill products to "pulp, paper and related products" (Sub 24F); (2) remove the "except Modesto" restriction (Sub 9); (3) change one-way to radial authority (Subs 2, 4, 9, 16F, 23F, and 24F); (4) broaden ports of entry on the U.S.-Canada Boundary line located at or near (a) Blaine and Oroville, WA (Subs 2 and 4), and (b) Sumas and Port Angeles, WA (Sub 4) to ports of entry in Washington; and (5) remove facilities limitations and change cities to county-wide authority: (a) Los Angeles and Long Beach, CA (Los Angeles County), San Diego, CA (San Diego County) and Seattle, WA (King and Pierce Counties), Sub 2; (b) facilities of Sid Eland Company at Seattle, WA (Pierce and King Counties), Bremerton, WA (Kitsap County), Kirkland, WA (King County) and Raymond, WA (Pacific County) and the facilities of Standard Distributing Co., at Longview, WA (cowlitz County), Sub 9; (c) Los Angeles and Van Nuys, CA (Los Angeles County), Fairfield, CA (Solano County), Everette, WA (Snohomish County), Rutherford and St. Helena, CA (Napa County), Sonoma, CA (Sonoma County), Union City and Livermore, CA (Alameda County), Menlo Park, CA (San Mateo County), Saratoga and San Jose, CA (Santa Clara County), Lodi, CA (San Joaquin County), and Madera, CA (Madera County), Sub 16F; (d) facilities of Sageland Manufacturing, Inc., at Bend, OR (Deschutes County); and (e) Bellingham, WA (Whatcom County), Sub 24F.

MC 138052 (Sub-4)X, filed December 17, 1982. Applicant: MOORE TRANSPORTATION, INC., 7739 NE 21st Avenue, Portland, OR 97211. Representative: David C. White, 2400 SW Fourth Avenue, Portland, OR 97201. Sub 1: (1) Broaden malt beverages and wine to "food and related products"; (2) broaden Los Angeles to Ventura, Los Angeles and Orange Counties, CA; and Phoenix to Maricopa County, AZ; and (3) change one-way to radial authority.

MC 146771 (Sub-3)X, filed December 6, 1982. Applicant: TRANS WEST CARRIERS, INC., 10051 Beech, Fontana CA 92335. Representative: Miles L. Kavaller, Suite 315, 315 South Beverly Drive, Beverly Hills, CA 90212. Permits No. MC-143058 and Sub-Nos. 1, 2, 4F, 7F, and 8F, broaden the territorial descriptions to "between points in the U.S.," under continuing contract(s) with the named shippers.

MC 150879 (Sub-5)X, filed December 14, 1982. Applicant: MARVIN MCINTOSH, 2212 Jefferson St., Omaha, NE 68107. Representative: Michael J. Ogborn, P. O. Box 82028, Lincoln, NE 68501–2028. Sub 4; broaden (1) to "food and related products" form beverages, and materials, equipment, and supplies used in the manufacture, packaging, and distribution of beverages; and (2) Ottumwa to Wapello County, IA.

[FR Doc. 83-551 Filed 1-7-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers Of Property

NOTICE NO. F-228

The following applications were filed in region I:

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 134806 (Sub-1-50 TA) filed December 16, 1982. Applicant: B-D-R-TRANSPORT, INC., P.O. Box 1277, Vernon Drive, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* Irregular routes: *Metal concrete retaining forms and iron or steel fittings with covers,* between Westminster, VT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, under continuing contract (s) with Burt Equipment Company, Inc., Westminster Station, VT. SUPPORTING SHIPPER: Burt Equipment Company, Inc., Box 40, Westminster Station, VT 05159.

MC 65491 (Sub-1-8 TA), filed December 17, 1982. Applicant: GEORGE W. BROWN, INC., Rt. 33 East, Box 1208, Hightstown, NJ 08520, Representative: Lawrence Caruso (same as applicant). *Pulp, Paper or Allied Products and materials, equipment and supplies used in the manufacture thereof,* between Lock Haven, PA to points in IN and IL. Supporting Shipper: Hammermill Paper Co., P.O. Box 288, Lock Haven, PA 17745.

MC 165284 (Sub-1–1TA), filed December 17, 1982. Applicant: CURTIS L. MORRIS t.a., C. L. M. TRUCKING, Route 130—Old Georges Road, South Brunswick, NJ 08852. Representative: Adolph Zieseniss, P. O. Box 52, North Brunswick, NJ 08902. *Malt Beverages* from Schlitz Brewery, Winston Salem, NC to Pennsauken, NJ. SUPPORTING SHIPPER: Burns Beverage, 425 North 37th Street, Pennsauken, NJ.

MC 161033 (Sub-1–4TA), filed December 17, 1982. Applicant: CARDINAL CONTAINER, INC., 500 Nordhoff Place, Englewood, NJ 07440. Representative: Jack L. Schiller, 111–56 76th Drive, Forest Hills, NY 11375. *Contract carrier:* irregular routes: *Liquid chemicals* from Norfolk, VA to Huntington, WV and Pikeville, KY, under continuing contract(s) with Allied Colloids, Inc., of Fairfield, NJ. SUPPORTING SHIPPER: Allied Colloids, Inc., 161 Dwight Place, Fairfield, NJ 07006.

MC 165316 (Sub-1–1TA), filed December 22, 1982. Applicant: JOE CUTRONA'S QUALITY CARS INC., 6878 Transit Road, Williamsville, NY 14221. Representative: James E. Brown, 36 Brunswick Road, Depew, NY 14043. *Used cars (except in driveaway service)* between points in NY, on the one hand,

and, on the other, points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, AND WI. Supporting Shipper (S): There are 15 statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 164773 (Sub-1–1TA), filed December 17, 1982. Applicant: GONZALEZ TRANSPORTATION SERVICE, INC., 3514 Palisade Avenue, Union City, NJ 07087. Representative: Larsh B. Mewhinnery, Esq., Moore, Berson, Lifflander & Mewhinney) 555 Madison Avenue, New York, NY 10022. *Contract carrier:* irregular routes: *Passengers and their baggage* between New York, NY, and Hudson County, NJ, under continuing contract(s) with Galaxy Towers Condominium Association, Guttenberg, NJ. Supporting Shipper: Galaxy Towers Condominium Association, 7000 Boulevard East, Guttenberg, NJ 07093.

MC 165261 (Sub-1–1TA), filed December 17, 1982. Applicant: J & J WAREHOUSING AND BISTRIBUTION, INC., 117 Fourth Street, Pittsfield, MA 01201. Representative: James M. Burns, 1365 Main Street, Suite 403, Springfield, MA 01103. *Contract carrier:* irregular routes: *Electrical cable and related material,* between points in Berkshire County, MA, on the one hand, and, on the other, points in VT, under continuing contract(s) with Cornish Wire General Cable Company, Williamstown, MA. Supporting Shipper: Cornish Wire General Cable Company, 161 Water Street, Williamsburg, MA 01267.

MC 136643 (Sub-1–1TA), filed December 16, 1982. Applicant: JENI TRUCKING, INC., 30 Lancaster Drive, Suffern, NY 10901. Representative: William Curelio (same as applicant). *Contract carrier:* irregular routes: *New Furniture* from Yonkers, NY to NY, CT and NJ, under continuing contract(s) with J. H. Harvey, Inc., of White Plains, NY. Supporting Shipper: J. H. Harvey, Inc., Tarrytown Road, White Plains, NY.

MC 164696 (Sub-1–1TA), filed December 22, 1982. Applicant: MARK CARRIERS CO., OF NEW JERSEY INC., 63 Pollock Avenue, Jersey City, NJ 07305. Representative: Paul W. Assenza, 22 Savin Court Staten Island, NY 10304. *General commodities (except Class A and B explosives, household goods as defined by the Commission, and commodities in bulk in tank vehicles)* between points in the New York, NY Commercial Zone, as defined by the Commission, New Haven, CT, Fall River, MA, and points in PA within 100 miles of Philadelphia, PA, having a prior or subsequent movement by water. Applicant intends to interline at New York, NY. Supporting Shipper: S. Rothchild & Co. Inc., 40 County Street, Fall River, MA 02723.

MC 147573 (Sub-1–6TA), filed December 22, 1982. Applicant: OAK ISLAND EXPRESS, 2 Sixth Street, Jersey City, NJ 07302. Representative: Peter Wolff, 722 Pittston Avenue, Scranton, PA 18505. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, commodities in bulk, and household goods)* (1) Between Jersey City, NJ, on the one hand, and, on the other, points in CT, MA, NJ, NY, PA and RI; (2) Between CT, MA, NJ, NY, PA and RI, on the one hand, and, on the other, points in AR, CA, IL, IN, IA, MN, TN, TX, and WI, under continuing contract(s) with Target Stores, Minneapolis, MN. Supporting Shipper(s): Target Stores, 777 Nicollet Mall, P.O. Box 1392, Minneapolis, MN 55440–1392.

MC 138146 (Sub–1–1 TA) filed December 17, 1982. Applicant: OLYMPIA TRAILS BUS COMPANY, INC., Rear 30–116 Port Street, Newark, NJ 07105. Representative: Eric Meierhoefer, 915 Pennsylvania Building, 425 13th Street, NW, Washington, DC 20004. *Common carrier:* regular routes: *Passengers* between Newark International Airport, Newark, NJ, and John F. Kennedy International Airport, New York, NY, from Newark International Airport to junction U.S. Highways 1 and 9, then over U.S. Highways 1 and 9 to junction Holland Tunnel, then through Holland Tunnel to Manhattan city streets, then over Manhattan city streets to junction Queens Midtown Tunnel, then through Queens Midtown Tunnel to junction Interstate Highway 495, then over Interstate Highway 495 to junction Interstate Highway 678, then over Interstate Highway 678 to John F. Kennedy International Airport, and return serving all intermediate points. Supporting Shippers (s): There are six statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 134625 (Sub-1–1TA), filed December 21, 1982. Applicant: R.S.D. TRANSPORTATION, INC., 128 South Main Street, West Lebanon, NH 03784. Representative: Albert J. Cirone, Jr., Decato & Cirone, P.A., 23 Bank Street, Lebanon, NH 03766. *Contract carrier:* irregular routes: *Such merchandise as is dealt in by wholesale, retail, chain grocery, and food business houses* between points in CT, MA, ME, NH, VT, NY, NJ, PA and OH, under continuing contract(s) with P & C Food Markets, Inc., White River Junction, VT. Supporting Shipper: P & C Food Markets, Inc., P.O. Box 938, White River Junction, VT 05001.

MC 165260 (Sub-1–1TA), filed December 17, 1982. Applicant: SUPERIOR FREIGHT FORWARDERS, INC., 266 Kellogg Street, P.O. Box 2469, Port Newark,. NJ 07114. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Stereo, video, and television supplies* between points in the U.S. (except AK and HI), under continuing contract(s) with Maxell Corp. of America, Moonachie, NJ. Supporting Shipper: Maxell Corp. of America, 60 Oxford Drive, Moonachie, NJ 07074.

MC 165074 (Sub-1–1TA), filed December 17, 1982. Applicant: DAPHNE TEMBELIS & SONS TRUCKING CORP., 22–55 77th Street, Jackson Heights, NY 11370. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Cleaning compounds, fuel oil additives, and plastic garden hose,* between points in the U.S. (except AK and HI), under continuing contract(s) with Petrocon Marine & Industrial Chemical Corp., Brooklyn, NY; Plymouth Apex Co., Inc., Brooklyn, NY. Supporting Shipper(s): Petrocon Marine & Industrial Chemical Corp., 243 44th Street, Brooklyn, NY 11232; Plymouth Apex Co., Inc., 110 Bridge Street, Brooklyn, NY 11201.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 86690 (Sub-II–13TA), filed December 20, 1982. Applicant: BOND TRANSFER CO., INC., 1301 Towson St., Baltimore, MD 21230. Representative: Leonard W. Smith III, (same as above) Contract, irregular: *General commodities, except class A & B explosives,* from Charlotte, NC, Baltimore, MD, and Wierton, WV to pts. in CT, ME, MA, NJ, NH, PA, RI, VT, DE, NY, and NC, under continuing contract with Signode Corp., Glenview, IL, for 270 days. Supporting Shipper: Signode Corp., 3610 W. Lake Ave., Glenview, IL 60025.

MC 136585 (Sub-II–2TA), filed December 20, 1982. Applicant: BUD COFER, INC., 4210 Weckerly Road, Monclova, OH 43542. Representative: Keith D. Warner, 5732 W. Rowland Rd., Toledo, OH 43613. Contract, irregular: *Iron and steel articles, and materials and supplies used in the manufacturing and preparation for transportation thereof (except commodities in bulk or in tank vehicles),* between Anniston, AL, Fort Madison, IA, Hurst, TX, Sequin,

TX, and pts. in GA, MS, and TX, under continuing contract with Anchor Metals Inc., Anniston, AL, for 270 days. Supporting Shipper: Anchor Metals, Inc., P.O. Box 1786, Anniston, AL 36201.

MC 145930 (Sub-II–9TA), filed December 29, 1982. Applicant: WILLIAM E. MOROG, d.b.a. JONICK & CO., 1840 Idaho Ave., Lorain, OH 44052. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Materials and supplies used by the steel and foundry industries,* between Monroe, MI, on the one hand, and, on the other, points in the U.S., except AK and HI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Hickman, Williams & Company, P.O. Box 872, Monroe, MI. 48161.

MC 107012 (sub-II–253TA), filed December 20, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S.C. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *general commodities (except Classes A and B explosives and commodities in bulk)* between points in the US, except AK and HI, under continuing contract(s) with ITOFCA, Inc. and ITOFCA Consolidators, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: ITOFCA, Inc. and ITOFCA Consolidators, Inc., 1011 W. 31st Street, Downers Grove, IL 60515.

MC 152840 (Sub-II–4TA), filed December 20, 1982. Applicant: PATRICIA AND JAMES KELLER d.b.a. P & J TRANSPORTATION CO., Route 295, Berkey, OH 43504. Representative: John P. Diel (same as applicant). *Automobile Parts and Accessories* from points in IL, MO, OK, PA, KY and GA to points in OH and MI, for 270 days. Supporting shipper: A.T.I. Warehouse, Inc., 2051 Sylvania Ave., Toledo, OH 43613.

MC 140300 (Sub-TA–2TA), filed December 15, 1982. Applicant: PHILLIPS FEED SERVICE, INC., 7642 Beth-Bath Pike, Bath, PA 18014. Representative: LaVern R. Philips (same address as applicant). *Such commodities as are dealt in by food and feed business houses and materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between pts in CT, DE, IL, IN, KY, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Ralston Purina Co., Camp Hill, PA.

MC 154240 (Sub-II–2TA), filed December 20, 1982. Applicant: HEIL WINDERMERE STORAGE AND MOVING CO., 8649 Freeway Drive, Macedonia, OH 44056. Representative: Richard J. Heil (same as applicant). Contract, irregular: *General commodities,* between pts. in the US, under continuing contract with National Transportation Consultants Corp. of Brecksville, OH, for 270 days. Supporting Shipper: National Transportation Consultants Corp., 7650 Chippeward, Brecksville, OH.

MC 164687 (Sub-II–1TA), filed November 29, 1982. Applicant: COUNTRY LINES, INC., P.O. Box 1717, Salisbury, MD 21801. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Petroleum and petroleum products, chemicals and related products, materials, equipment and supplies used in the manufacture and distribution thereof,* between points in CT, DE, MA, MD, NJ, NY, NC, PA, RI, VA, WV, and DC for 270 days. An underlying eta seeks 120 days authority. Supporting Shipper(s): George L. Ralph, Inc., 315 Lake St., Salisbury, MD 21801; National Seafood Dist., Inc., 215 High St., Seaford, DE 19973. Application was originally published in the Federal Register of December 15, 1982. The purpose of the republication is the 2nd supporting shipper was not listed.

MC 165128 (Sub-II–1 TA), filed December 20, 1982. Applicant: B-BEST TRUCKING, INC., 5742 St. Rt. 38 E, Box 321, Delaware, OH 43015. Representative: A. Charles Tell, 100 E. Broad St., Columbus OH 43215. *Contract Irregular: scrap and sheet copper and materials and supplies* used in the manufacture thereof (1) between Chandler, AZ and McConnellsville, OH, and (2) between McConnellsville, OH and points in CT, MA, NY, PA and RI under continuing contract(s) with Gould, Inc., Chandler, AZ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s) Gould, Inc., Drawer M, Chandler, AZ.

MC 164166 (Sub-II–1 TA), filed December 27, 1982. Applicant: A & S TRUCKING SERVICE, 108 Aylesbury Road, Timonium, MD 21093. Representative: William D. Schmidt (same address as applicant). *Contract Irregular: General Commodities* (except household hoods as defined by the Commission, Classes A and B explosives and commodities in bulk) between points in CT, DE, MD, MA, NJ, NY, PA and RI under continuing contract(s) with Noxell Corp., Baltimore, MD for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Noxell Corporation, P.O. Box 1799, Baltimore, MD 21203.

MC 144434 (Sub-II–4 TA), filed December 27, 1982. Applicant: APOLLO TRUCKING, INC., 1951 Dryden Rd., Dayton, OH 45439. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017. *Coal,* from points in Perry County, KY, to points in Erie and Shelby Counties, OH for 270 days. Supporting shipper: Johnson Energy Company, 32 N. Main St., Dayton, OH 45402.

MC 107012 (Sub-II–254 TA), filed December 22, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract Irregular: *General Commodities* (except Classes A and B explosives and commodities in bulk) between points in the United States under continuing contract(s) with R. R. Donnelley & Sons Company, Chicago, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: R. R. Donnelley & Sons Company, 2223 Martin Luther King Drive, Chicago, IL 60616.

MC 107012 (Sub-II–255TA), filed December 27, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the United States, under continuing contract(s) with Hughes Aircraft Company, Los Angeles, CA for 270 days. Supporting Shipper: Hughes Aircraft Company, Building 103, Mail Station 5735, P.O. Box 90515, Los Angeles, CA 90009.

MC 107012 (Sub-II–256TA), filed December 28, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant). Contract, irregular: *General commodities (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with W. W. Grainger, Inc., Chicago, IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: W. W. Grainger, Inc., 5959 W. Howard St., Chicago, IL 60648.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 159434 (Sub-3–2TA), filed December 28, 1982. Applicant: FEDERAL TRANSPORT, INC., 5658 Elmore Road, Bartlett, TN 38134. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. *Meat, meat products, meat by-products, and articles*

distributed by meat packing houses, as described in Sections A and C of Appendix I to the Report and Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the facilities of Hyplains Dressed Beef, Inc., at or near Dodge City, KS to Memphis, TN; Atlanta and Hawkinsville, GA; Louisville, KY; Dallas and Fort Worth, TX; New Orleans, LA; Gulfport and Biloxi, MS; Montgomery, AL; and points in their respective commercial zones. Supporting Shipper: Hyplains Dressed Beef, Inc., P.O. Box 539, Dodge City, KS, 67801.

MC 165015 (Sub-3–1TA), filed December 28, 1982. Applicant: CHARLES E. WILLIS, d.b.a. CHARLES WILLIS & SONS TRUCKING COMPANY, 2523 Old Savannah Road, Augusta, GA 30906. Representative: Michael B. Hagler, Post Office Box 1477 (13), Augusta, GA 30913. *Contract:* Irregular: (1) *Food and Related Products,* between Richmond County, GA and AL, AR, CA, CO, CT, DC, DE, FL, IL, IN, KS, KY, LA, MA, MD, MI, MO, MS, NC, NJ, NM, NY, OH, OK, PA, RI, SC, TN, TX, VA, WV under continuing contract with Beatrice Foods, Inc., Murray Biscuit Company Division, P.O. Box 2207, Augusta, GA 30913 and Southern Beverage Packers, Inc., 1850 Grant Boulevard, Augusta, GA 30902; (2) *Textile Mill Products,* between Richmond County, GA and AL, FL, KS, MS, NC, OK, SC, TX under continuing contract with Augusta Bag and Burlap Company, 1835 Old Savannah Road, Augusta, GA 30906.

MC 165322 (Sub-3–1TA), filed December 28, 1982. Applicant: MONARCH EQUIPMENT COMPANY, 3001 Crittenden Drive, Louisville, KY 40209. Representative: Robert L. Hallenberg, 2500 First National Tower, Louisville, KY 40202. *Contract:* Irregular: *Household Goods,* points between Louisville, KY, including its commercial zone, and points in IN, IL. Supporting Shipper: Roth Distributing Co., Inc., 3001 Crittenden Drive, Louisville, KY 40209.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 165287 (Sub-6–1TA), filed December 21, 1982. Applicant: ALASKA OILFIELD SPECIALTIES, INC., P.O.B. 74650, Fairbanks, AK 99707. Representative: Clifton D. Firestone, SRA Box 1629 W, Anchorage, AK 99507. *Contract;* irregular, *Cement, cement additives, cement compounds and related oilwell drilling commodities, in bulk, and oilwell related materials, machinery, equipment and supplies,* between points in AK, for 270 days. Supporting shipper: Dowell Company, Div. of Dow Chemical, P.O.B. 4370, Houston, TX 77210.

MC 165345 (Sub-6–1TA), filed December 22, 1982. Applicant: AURORA SERVICE, INC., 24160 Silver Spray Dr., Diamond Bar, CA 91765. Representative: Dale Wood, (same address as applicant). *Contract Carrier,* Irregular routes: (1) *Meat and meat products,* from points in IA to points in CA, for the account of Dolores Canning Co., and (2) *Flour and Not Exempt Grains* (excluding grains for brewing and commodities in bulk), from points in IL, IA, KS and MO to points in CA, for the account of Honeyville Grain Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Dolores Canning Co., 1020 N. Eastern Ave., Los Angeles, CA 90063: Honeyville Grain Co., 6416 Flotilla St., City of Commerce, CA 90040.

MC 158618 (Sub-6–3TA), filed December 21, 1982. Applicant: BOB BOYD, d.b.a. BOB BOYD TRUCKING, 417 North M, Livingston, MT 59047. Representative: Charles A. Murray, Jr., 2822 Third Ave. N, Billings, MT 59101. *Tree or Weed Killing Compounds (Nos. 2,4-dichlorophenoxyacetic acid and MCPA acid 2,4-methchlorophenoxacetic)* from Kent, WA and Portland, OR to Billings, MT, for 270 days. Supporting shipper: Yellowstone Valley Chemical, Inc., 1525 Lockwood Road, P.O. Box 957, Billings, MT, 59103.

MC 128862 (Sub-6–1TA), filed December 20, 1982. Applicant: B. J. CECIL TRUCKING, INC., P.O.B. C, Claypool, AZ 85532. Representative: Chris L. Cecil, (same as applicant). *Grinding media used in milling processes* between points in AZ. Restricted to the transportation of traffic having a prior or subsequent movement by rail. Applicant intends to tack. For 270 days. Supporting shipper: Armco Inc., 7000 Roberts St., Kansas City, MO 64125.

MC 165344 (Sub-6–1TA), filed December 21, 1982. Applicant: WAYNE A. LOVE, d.b.a. LOVE TRANSPORTATION, 1799 Harvey Ave., Kelowna, B.C., CD, V1Y 6G4. Representative: Wayne A. Love (same as applicant). *Passengers and their baggage* in special and charter operations between ports of entry on the U.S.–Canadian border and points in the U.S. (except HI), for 180 days. Supporting shipper: Love Tours and Travel Ltd., 1799 Harvey Ave., Kelowna, B.C. Canada V1Y 6G4.

MC 143060 (Sub-6–4TA), filed December 20, 1982. Applicant: PENN–PACIFIC, INC., 20815 Currier Road, Walnut, CA 91789. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Truck and trailer parts and parts components,* from the ports of entry between the U.S. and CD in WA, ID, and MT, to points in AZ, CA, ID, MT, NV, NM, OR, UT, and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: McCoy Bros. Group, 14820 112 Avenue, Edmonton, Alberta, CD T5M 2V2.

MC 153559 (Sub-6–3TA), filed December 21, 1982. Applicant: PLAZA EXPRESS, INC., 21115 Devonshire St., #110. Chatsworth, CA 91311. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Plastic articles,* from City of Industry, CA, to Lyndhurst, NJ, for 270 days. Supporting shipper: A & E Plastics, Inc., 14505 Proctor Ave., PO Box 1268, City of Industry, CA 91749.

MC 153559 (Sub-6–4TA), filed December 27, 1982. Applicant: PLAZA EXPRESS, INC., 21115 Devonshire St., Suite 110, Chatsworth, CA 91311. Representative: William J. Monheim, P.O.B. 1756, Whittier, CA 90609. *Plastic articles,* from City of Industry, CA, to points in CO and points in and east of ND, SD, NE, OK, and TX (except Lyndhurst, NJ), for 270 days. Supporting Shipper: A & E Plastics, Inc., P.O.B. 1268, City of Industry, CA 91749.

MC 148791 (Sub-6–17TA, filed December 21, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84116. *Contract Carrier,* Irregular routes: *Such commodities as are dealt in or used by department, discount or variety stores,* from Palestine, TX and Bentonville, AR to points in LA, for the account of Wal-mart Stores, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Wal-mart Stores, Inc., 720 S.W. 8th St., Bentonville, AR 72712.

MC 148791 (Sub-6–18TA), filed December 21, 1982. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. REPRESENTATIVE: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84116. *Contract Carrier,* Irregular routes: *Such commodities as are dealt in or used by department, discount or variety stores,* from Maumelle, AR to points in CO, for the account of Target Stores for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Target

Stores, 777 Nicollet Mall, Minneapolis, MN 55440.

MC 52793 (Sub-6–26TA), filed December 27, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant). *Contract* irregular: *Household goods* between points in the U.S., except AK and HI for 270 days. Restricted to traffic moving under continuing contract with Honeywell, Inc. Supporting shipper: Honeywell, Inc. of Minneapolis, MN.

MC 165368 (Sub-6–1TA), filed December 28, 1982. Applicant: THOMAS CHARLES CLARK AND PAMELA LYNN CLARK, a partnership d.b.a. T.C. CLARK'S TRANSPORTATING, 21195 Bentley Dr., Perris, CA 92370. Representative: Donald R. Hedrick, POB 4334, Santa Ana, CA 92702. *Furniture, restaurant equipment and sundry items used in motels and hotels,* and, *building materials,* between points in CA, OR, WA, ID, MT and NV, for 270 days. Supporting shippers: C&C Lumber Brokers, 1015 N.E. 64th St., Vancouver, WA 98665; Thunderbird-Redlion Corporation, 4001 Main St., Vancouver, WA 98663; and, Halstead Enterprises Incorporated, 2855 Metropolitan, Pomona, CA 91767.

MC 16362 (Sub-6–2TA), filed December 28, 1982. Applicant: DWP TRUCKING, INC, Building 18 Spokane Industrial Park, Spokane, WA 99216. Representative: James E. Wallingford, POB 2647, Spokane, WA 99220. *Building materials, roofing supplies, lumber, wood and forest products* between points in; AZ, CA, CO, ID, IL, IN, MI, MN, MT, ND, NM, NV, OH, OR, SD, TX, UT, WA, WI, and WY; for a period of 270 days. Supporting shippers: There are 6, their statements may be examined at the regional office above.

MC 161250 (Sub-6TA), filed December 28, 1982. Applicant: C. VERN WEST, d.b.a. EXECUTIVE LIMOUSINE, 7525 Vista View Dr., Reno, NV 89506. Representative: C. Vern West (same as applicant). *Passengers and their baggage,* in charter and special operations, in vehicles having a passenger capacity of not more than seven persons, between points in Washoe, Storey, Lyon and Douglas Counties, NV, and Carson City, NV, on the one hand, and Placer, El Dorado, Lassen, Nevada, and Alpine Counties, CA, on the other hand, for 270 days. Supporting shippers: Reno-Tahoe Tour Co. Inc., 2503 E. 2nd St., Reno, NV 89502

MC 1515 (Sub-6–25 TA), filed December 27, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ. Representative: R. L. Wilson (same address as applicant). *common carrier,* by motor vehicle, over regular routes, *passengers and their baggage and express and newspapers, in the same vehicle with passengers,* between Tekonsha, MI and Coldwater, MI: from Tekonsha, MI over Hwy 60 to junction Interstate Hwy 69, then over Interstate Hwy 69 to junction U.S. Hwy 12, then over U.S. Hwy 12 to Coldwater, MI, serving all intermediate points, and return over the same route for 270 days. An underlying E.T.A. seek 120 days authority. Supporting shipper: Debra Quimby, 430 S. Byron, Homer, MI 49245; Katherine Carl, 119 W. Main Street, Homer, MI 49245; Marsha Cronkhite, 120 W. Main Street, Homer, MI; Village Stove Shop, 404 Clinton Street, Homer, MI 49245.

MC 165369 (Sub-6–1 TA), filed December 28, 1982. Applicant: PAPER-PAK PRODUCTS, INC., 1941 White Ave., La Verne, CA. 91750. Representative: (same as applicant). *Contract carrier,* irregular route; *pulp paper and related products,* between OR, OK, AZ and CA for the account of Orchids Paper Products, Inc, for 270 days. Supporting shipper: Orchids Paper Products Concel, Inc., 5911 Fresca Dr. La Palma, CA 90623.

MC 154328 (Sub-6–7TA), filed December 27, 1982. Applicant: SMOKEY POINT DISTRIBUTING, INC., P.O. Box 189, Arlington, WA 98223. Representative: Matt Berry (same as above). *Lumber and Building Materials,* From points of entry at the U.S/CD boundry line at Blaine, Lynden, Sumas WA, and other points in WA, OR, MT, CA, IL, TX, NJ, GA, and OH to points in the U.S. and Ports of Export at Vancouver, Tacoma, and Seattle WA., for 270 days. Supporting shippers: There are five supporting shippers. Their statements may be examined at the Regional Office listed.

MC 165365 (Sub-6–1TA), filed December 23, 1982. Applicant: SORORITY, INC., P.O. Box 1767, Salt Lake City, UT 84110. Representative: Jon R. Michelitch (same as applicant). *Foodstuffs and related items* between Points in Salt Lake County, UT, on the one hand and on the other, points in the U.S. (except AK and HI) for 270 days. Supporting shippers: Muir Roberts Company, P.O. Box 328, Salt Lake City, UT; Maycock Brokerage, 1419 West Indiana Ave., Salt Lake City, UT.

MC 164913 (Sub-6–1TA), filed December 27, 1982. Applicant: WILSON R. AND VIRGINIA E. BRANT d.b.a. VEB COMPANY, 22725 De Soto, Grand Terrace, CA 92324. Representative: Terry E. Morgan, 2131 Almanor St., Oxnard, CA 93030. *General Commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (exceptAK and HI), under continuing contract(s) with Pier 1 Imports, Inc. of Anaheim, CA., for 270 days. Supporting shippers: Pier 1 Imports, Inc., 5455E. La Palma, Anaheim, CA 92807.

MC 165360 (Sub-6–1TA), filed December 27, 1982. Applicant: WESTERN STATES ENERGY, INC., 300 S. 415 W., Salt Lake City, UT 84101. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. *Contract,* irregular: *blasting agents* (1) from Joplin, MO to Marion, IL and Romney, WV; (2) from St. Louis, MO to Romney, WV; and (3) from Romney, WV to Salyersville, KY and Dewey, OK under continuing contract(s) with Angus Chemical Company of Northbrook, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Angus Chemical Company 2211 Sanders Rd. Northbrook, IL.

MC 99908 (Sub-6–2TA), filed December 29, 1982. Applicant: C-LINE EXPRESS, INC., PO B. 540, Napa, CA 94559. Representative: George James (same as applicant). *Newsprint* between San Francisco, Oakland, Richmond, San Leandro, and Antioch CA; and Yuba, Sacramento, San Juaquin, Butte, Sutter, and Yolo counties, CA, for 270 days. Restricted to shipments having prior or subsequent movement via rail or water. Applicant intends to tack to existing authority. Supporting shippers: There are five supporting shippers. Their statements may be examined at the Regional office listed.

MC 165403 (Sub-6–1TA), filed December 29, 1982. Applicant: ROGER T. ROOT, d.b.a. CITY PICK-UP & DELIVERY SERVICE, P.O. B. 9222, Moscow, ID 83843–1722. Representative: Roger T. Root (same as applicant). *Used household goods for the account of the U.S. Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense* between the ID counties of Benewah, Clearwater, Idaho Latah, Lewis and Nez Pierce; and the WA Counties of Asotin, Garfield, and Whitman for the account of the Department of Defense for 270 days. An underlying ETA seeks authority for 120 days. Interline privileges requested. Supporting shipper: Traffic Management Officer, P.O. B. 1330, Spokane, WA. 99011.

MC 163368 (Sub-G–2TA), filed December 28, 1982. Applicant: DONNA MURRAY d.b.a. DAME TRANSPORTATION, 515 N. E. 6th St., Grants Pass, OR 97526. Representative:

Lawrence M. Cobb, 5743 Power Inn Road, Ste. A, Sacramento, CA 95824. *General commodities (except classes A and B explosives, hazardous wastes, and household goods), restricted to the transportation of traffic moving under Government Bills of Lading or traffic handled for the U.S. Government or on behalf of the U.S. Government where the government contractor (consignee or consignor) is directly reimbursed by the government for the transportation costs,* between points in the U.S., for 270 days. An underlying ETA seeks 120 days. Supporting shippers: Department of Defense, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, VA 22041.

MC 41098 (Sub-6-15TA), filed December 28, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006. *Contract carrier,* irregular routes, *household goods* and *machinery* between points in the U.S. under continuing contract(s) with Compugraphic Corporation and its subsidiaries of Wilmington, MA for 270 days. Supporting shipper: Compugraphic Corporation, Wilmington, MA 01887

MC 165384 (Sub-G-1TA), filed December 28, 1982. Applicant: DIANE L. MOODY d.b.a. MERCURY TRANSFER & WAREHOUSE, 841 N. China Lake Blvd., Ridgecrest, CA 93555. Representative: Diane L. Moody (same as applicant). *U.S. Government used household goods, which transportation is incidental to a pack and crate service* on behalf of U.S. Department of Defense between points in CA for 270 days; An underlying ETA seeks 120 days authority. Interline privileges requested Supporting shipper: Naval Weapons Center, China Lake, CA 93555.

MC 110149 (Sub-6-4TA), filed December 28, 1982. Applicant: PAN AMERICAN VAN LINES, INC., P. O. Box 923, Long Beach, CA 90801. Representative: W. C. Fogle (same as applicant). *General Commodities (including household goods but excluding Class A and B explosives),* between points in the U.S. (except AK and HI) for 270 days. Supporting shipper: Hughes Aircraft Company, P.O. B. 90515, Los Angeles, CA 90009.

MC 161606 (Sub-6-1TA), filed December 27, 1982. Applicant: STANLEY M. SHIPP, d.b.a. SHIPP TRANSPORT, 404 W. Cochiti, Hobbs, NM 88240. Representative: Stanley M. Shipp (same as applicant). *Petroleum products,* in bulk, in tank vehicles, from points in Lea and Eddy Counties, NM to points in NM, TX, OK, CO, UT and AZ, for 270 days. Supporting shipper: U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, VA 22041.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-583 Filed 1-7-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree Lodging Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7 (38 FR 19029, July 17, 1973), notice is hereby given that the following documents were lodged at the places and times indicated:

(1) *Fairless Works.* Modification to Consent Decree in *United States, et al.* v. *United States Steel Corporation,* Consolidated Civil Action Nos. 79-3645 and 80-0743, Eastern District of Pennsylvania (Lodged December 30, 1982).

(2) *Mon Valley,* Fourth Modification to Consent Decree in *United States, et al.* v. *United States Steel Corporation,* Civil Action No. 79-709, Western District of Pennsylvania (Lodged December 30, 1982).

(3) *Fairfield Works.* Consent Decree in *Alabama Air Pollution Control Commission, et al.,* and *United States* v. *United States Steel Corporation,* Civil Action No. 77-H-1630-S, Northern District of Alabama (Lodged December 30, 1982).

(4) *Lorain Works.* Third Amendment to Consent Decree in *United States* v. *United States Steel Corporation,* Civil Action No. C-79-225, Northern District of Ohio (Lodged January 4, 1983).

(5) *Gary Works.* Consent Decree in *United States, et al.* v. *United States Steel Corporation,* Civil Action No. H-78-494, Northern District of Indiana (Lodged December 30, 1982).

(6) *South Works.* Consent Decree in *United States, et al.* v. *United States Steel Corporation,* Consolidated Civil Action Nos. 76-C-4545, 79-C-1118, and 83-C-0022, Northern District of Illinois (Lodged January 4, 1982).

(7) *Texas Works. United States* v. *United States Steel Corporation,* Civil Action No. H-82-3945, Southern District of Texas (Lodged December 30, 1982).

The foregoing documents, *inter alia,* implement the provisions of the Steel Industry Compliance Extension Act of 1981 (42 U.S.C. 7143(e)) as to the United States Steel Corporation.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree and consent decree modifications. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *United States Steel Corporation.* D.J. Ref. 90-5-2-3-1034.

The documents may be examined at the following locations:

All documents

(a) Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, Room 1515, Tenth and Pennsylvania Ave., NW., Washington, D.C. 20530.

(b) U.S. Environmental Protection Agency, Office of Enforcement Counsel, Attn: William Repsher, 401 M Street, SW., Washington, D.C. 20460.

Documents pertaining only to a particular plant in question may be examined at the following locations:

(1) *Fairless Works:*

(a) Office of the United States Attorney, Attn: John Sheehan, 3310 U.S. Courthouse, 601 Market Street, Independence Mall West, Philadelphia, Pennsylvania 19106.

(b) U.S. Environmental Protection Agency, Region III, Attn: Roger Frye, 6th & Walnut Streets, Philadelphia, PA 19106.

(2) *Mon Valley:*

(a) Office of the United States Attorney, Attn: Craig McKay, 633 U.S. Post Office & Courthouse, 7th Avenue and Grant Streets, Pittsburgh, PA 15219.

(b) U.S. Environmental Protection Agency, Region III, Attn: Roger Frye, 6th & Walnut Streets, Philadelphia, PA 19106.

(3) *Fairfield Works:*

(a) Office of the United States Attorney, Attn: Henry Frohsin, 200 Federal Building, 1800 Fifth Avenue North, Birmingham, Alabama 35203.

(b) U.S. Environmental Protection Agency, Region IV, Attn: John Johnson, 345 Courtland Street, NW., Atlanta, Georgia 30308.

(4) *Lorain Works:*

(a) Office of United States Attorney, Attn: Solomon Oliver, Suite 500, 1404 East Ninth Street, Cleveland, Ohio 44414.

(b) U.S. Environmental Protection Agency, Region V, Attn: Peter Kelly, 230 South Dearborn Street, Chicago, Illinois 60604

(5) *Gary Works:*

(a) Office of United States Attorney, Attn: Andrew Baker, Room 312, Federal Building, 507 State Street, Hammond, Indiana 46320.

(b) U.S. Environmental Protection Agency, Region V, Attn: Peter Kelly, 230 South Dearborn Street, Chicago, Illinois 60604.

(6) *South Works:*

(a) Office of United States Attorney, Attn: Jim Hines, Room 1500 S, 219 South Dearborn Street, Chicago, Illinois 60604.

(b) U.S. Environmental Protection Agency, Region V, Attn: Peter Kelly, 230 South Dearborn Street, Chicago, Illinois 60604.

(7) *Texas Works:*

(a) Office of United States Attorney, Attn: Frances Stacy, Courthouse & Federal Building, 515 Rusk Avenue, Houston, Texas 77202.

(b) U.S. Environmental Protection Agency, Region VI, Attn: Jan Horn, 1201 Elm Street, Dallas, Texas 75270.

A copy of the proposed documents may be obtained in person or by mail from the environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Tenth and Pennsylvania Ave., NW., Washington, D.C. 20530. In requesting copies, please enclose a check in the amount of $31.90 (10 cents per page reproduction charge) payable to the Treasurer of the United States. Individual documents are also available at the indicated costs: Fairless ($2.80), Mon Valley ($3.80), Fairfield ($9.90), Lorain ($4.70), Gary ($6.00), South ($3.80), Texas ($.90).

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-618 Filed 1-7-83; 8:45 am]

BILLING CODE 4410-01-M

Consent Decree Lodging Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7 (38 FR 19029, (July 17, 1973)), notice is hereby given that on December 16, 1982 a proposed Second Amendment to Consent Decree in *United States* v. *United States Steel Corporation,* Civil Action No. 79-225 was lodged with the United States District Court for the Northern District of Ohio, Eastern Division. This amendment contingently incorporates a pending revision to the Ohio State Implementation Plan concerning the operation of Batteries D and J at U.S. Steel's Lorain Works.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed amendment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *United States Steel Corporation,* D.J. Ref. 90-5-2-3-1034.

The proposed amendment may be examined at the office of the United States Attorney, Northern District of Ohio, Suite 500, 1404 East Ninth Street, Cleveland, Ohio, and at the Region 5 Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois. Copies of the amendment may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed amendment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-619 Filed 1-7-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Recommendations; Availability

Reports Issued

Railroad Accident Reports—Brief Format, Issue Number 4—1980 (NTSB-RAB-82-3).

Railroad Accident Reports—Brief Format, Issue Number 1—1981 (NTSB-RAB-82-4).

Aircraft Accident Reports—Brief Format, U.S. Civil Aviation, Issue Number 7 of 1981 Accidents (NTSB-BA-82-9).

Railroad/Highway Accident Report—Long Island Railroad Commuter Train/Ford Van Collision, Mineola, New York, March 14, 1982 (NTSB-TSR-RHR-82-2).

Recommendations to

Aviation—*Federal Aviation Administration: Dec. 20: A-82-146:* Cancel immediately the waiver of the FAA Handbook "Air Traffic Training," 3120.4F, Chapter 3, Section 2, Paragraph 100.C(c), which requires instructor techniques training prior to being assigned to conduct on-the-job training. *A-81-147:* Provide air traffic control facility managers with guidance and criteria to govern the use of newly certified developmental controllers as on-the-job instructors to ensure that the instructors are experienced, proficient and trained in instructor techniques before being assigned to conduct training. A-81-148: Provide air traffic control facility managers with guidance and procedures to place a more measured control on the amount of on-the-job training that controllers are assigned to conduct commensurate with workload and the complexity of the traffic being handled at the control position. *A-82-149:* Develop and adopt the team-assigned Evaluations, Proficiency and Procedures Specialist concept, based on that in use at the LaGuardia Tower, or a similar concept, in place of the existing staff-assigned Evaluations, Proficiency and Development Specialist/Planning and Procedures Specialist concept in use at appropriate air traffic control facilities. *Dec. 27: A-82-150:* Review and revise as necessary the Federal Aviation Administration approved Nihon YS-11 operations manual, the Reeve Aleutian Airlines, Inc. training manual, and the YS-11 before-landing checklist to incorporate more specific information and guidance to enable YS-11 crews to decide when fuel deicing may be safely terminated. *A-82-151:* Issue an Operations Bulletin requiring Principal Operations Inspectors to inform all air carrier and commercial operators of Nihon HS-11 airplanes under their cognizance of the need to mark the catches on all emergency exits so that they are easily located and distinguishable from the exit handles and other components. *Dec. 23: A-82-152:* Amend 14 CFR 139.31 and CFR 139.33 to require that airports certificated under 14 CFR 139 and located in areas subject to snow or freezing precipitation have an adequate snow removal plan, which includes criteria for closing, inspecting, and clearing contaminated runways following receipt of "poor" or "nil" braking action reports and to define the maximum snow or slush depth permissible for continued flight operation. *A-82-153:* Use a mechanical friction measuring device to measure the dry runway coefficient of friction during annual certification inspections at full certificate airports and require that a Notice of Airmen (NOTAM) be issued when the coefficient of friction falls below the minimum value reflected in Advisory Circular 150/5320-12, Chapter 2. *A-82-154:* Require that full certificate airports have a plan for periodic inspection of dry runway surface condition which includes friction measuring operations by airport personnel or by contracted services and which addresses the training and qualification of operators, calibration and maintenance of the equipment, and procedures for the use of the friction measuring equipment. *A-82-155:* Convene an industry-government group to develop standardized criteria for pilot braking action assessments and guidance for pilot braking action reports for incorporation into pilot training programs and operations manuals. *A-82-156:* Amend air traffic control procedures to require that controllers make frequent requests for pilot braking action reports which include an assessment of braking action along the length of the runway whenever weather conditions are conducive to deteriorating braking conditions and that the requests be made well before the pilot lands. *A-82-157:* Amend air traffic control porcedures to require that controllers disseminate "poor" and "nil" braking action reports promptly to airport management and to all departing and arriving flights until airport management reports that the braking action is "good". *A-82-158:* Stress in initial and recurrent air traffic controller training programs, the importance of transmitting all known contaminated runway condition information to departing and arriving flights,

that a "fair" or "poor" braking report from a pilot may indicate conditions which are hazardous for a heavier airplane, and that departing and arriving pilots should be informed when no recent landing by a comparable airplane has been made. *A–82–159:* Amend air traffic control procedures to require that Automatic Terminal Information Service broadcasts: (1) be updated promptly after receipt of reports of braking conditions worse than those reported in the current broadcast, and (2) when conditions are conducive to deteriorating braking action, include a statement that braking action advisories are in effect. *A–82–160:* At such time as air traffic control procedures are amended to require Automatic Terminal Information Service (ATIS) broadcasts to be modified, amend the Airman's Information Manual to alert pilots that when advised on ATIS that braking action advisories are in effect they should be prepared for deteriorating braking conditions, that they should request current runway condition information if not volunteered by controllers, and that they should be prepared to provide a descriptive runway condition report to controllers after landing. *A–82–161:* Require that air carrier principal operations inspectors review the operating procedures and advisory information provided to flightcrews for landing on slippery runways to verify that the procedures and information are consistent with providing minimum airplane stopping distance. *A–82–162:* Require that airplane manufacturers and air carriers provide advisory information and recommended procedures for flightcrew use during a landing approach with the autothrottle speed control system engaged when there is a disparity between the minimum speed the autothrottle speed control system will accept and the flight manual reference speed. *A–82–163:* Amend 14 CFR 25.107, 25.111, and 25.113 to require that manufacturers of transport category airplanes provide sufficient data for operators to determine the lowest decision speed (V_1) for airplane takeoff weight, ambient conditions, and departure runway length which will comply with existing takeoff criteria in the event of an engine power loss at or after reaching V_1. *A–82–164:* Amend 14 CFR 121.189 and 14 CFR 135.379 to require that operators of turbine engine-powered, large transport category airplanes provide flightcrews with data from which the lowest V_1 speed complying with specified takeoff criteria can be determined. *A–82–165:* Amend 14 CFR 25.109 and 14 CFR 25.125 to require that manufacturers of tranport category airplanes provide data extrapolated from demonstrated dry runway performance regarding the stopping performance of the airplane on surfaces having low friction coefficients representative of wet and icy runways and assure that such data give proper consideration to pilot reaction times and brake antiskid control system performance. *A–82–166:* Amend 14 CFR 25.735 to require that manufacturers of transport category airplanes determine and demonstrate the efficiency of brake control systems on surfaces with low friction coefficients representative of wet and icy runways by using simulation techniques incorporating dynamometer tests and actual brake system components, or by actual flight test. *A–82–168:* Amend 14 CFR 121.135 to require that air carriers and other commercial operators of large transport category airplanes include in flightcrew operations manuals takeoff acceleration retardation data in accordance with guidance provided in Advisory Circular 91–6A and stopping performance data on surfaces having low friction coefficients, beginning immediately when such data are available from airplane manufacturers. *A–82–168:* In coordination with the National Aeronautics and Space Administration, expand the current research program to evaluate runway friction measuring devices which correlate friction measurements with airplane stopping performance to examine the use of airplane systems such as antiskid brake and inertial navigation systems to calculate and display in the cockpit measurements of actual effective braking coefficients attained. *A–82–169:* Convene an industry-government group which includes the National Aeronautics and Space Administration to define a program for the development of a reliable takeoff acceleration monitoring system. *Dec. 29: A–82–170:* Include in the next monthly issue of the General Aviation Airworthiness Alert (Advisory Circular 43–16) information concerning the engine control cable seizures on Cessna 300 and 400 series airplanes and the availability of Cessna Service Information Letter ME80–45 and its revision which provides information to correct the problem.

Highway—*Upper Southampton Township, Pennsylvania: Nov. 29: H–82–57:* Work jointly with the Commonwealth of Pennsylvania's Department of Transportation to consider the establishment of hazardous material routes through Southampton with the necessary geometric changes that would eliminate the need for hazardous material trucks to cross the rail-highway grade crossing on Second Street Pike.

Pennsylvania Department of Transportation: Nov. 29: H–82–58: Work jointly with the Upper Southampton Township to consider the establishment of hazardous material routes through Southampton with the necessary geometric changes that would eliminate the need for hazardous material trucks to cross the rail-highway grade crossing on Second Street Pike.

Governors or Governors-elect of Alaska, Arizona, Arkansas, Colorado, Georgia, Hawaii, Idaho, Indiana, Iowa, Louisiana, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Vermont, Washington, and Wyoming, and (with modifications) Mayor of the District of Columbia: Dec. 7: H–82–59: Include in your 1983 legislative program, legislation to require use of child safety seats for child passengers from infancy through age 4 to reduce the likelihood of death, disability, or disfigurement in motor vehicle crashes. *H–82–60:* Develop a Statewide child passenger safety program including aggressive enforcement of laws requiring use of child safety seats, public information and education programs on their need and proper use, child safety seat loan or similar programs, and ongoing evaluation of such activities.

Marine—*Massachusetts Maritime Academy: Nov. 26: M–82–43:* Conduct training drills on a regular basis to acquaint all cadets and those officers whose duties involve going on board the training ship with the various routes available to exit from the engineroom and other spaces on the training ship. *M–82–44:* Conduct a study prior to the next training cruise to determine the maximum number of persons that could be safely evacuated from the engineroom of the BAY STATE at any time in the event of fire or other emergency, and limit the number of persons in the engineroom to that number until additional means of exiting the engineroom are provided. *M–82–45:* Conduct a study, in conjunction with the Maritime Administration, to determine what immediate improvements, such as additional exits or modifications of ladders and walkways, are feasible and necessary to facilitate safe, effective evacuation of personnel from the engineroom of the BAY STATE in the event of fire or other emergency. *M–82–46:* Establish a program to investigate and analyze casualties and accidents occurring on board the training ship in order to develop means to prevent their recurrence. *M–82–47:* Establish and enforce a policy of keeping the doors to the engineroom and stair towers on the training ship closed at all times except for the passage of personnel. *M–82–48:* Develop standing orders for inport cadet engineering watches in the engineroom on the training ship similar to the standing orders for the underway watches and afford the cadets an opportunity to read the orders ahead of time, and require the cadets to certify by signature and data that the orders have been read and understood. *M–82–49:* Develop standing orders for licensed engineer officer watches on the training ship both underway and import when the engineering plant is in operation, and require assigned licensed engineer officers to certify by signature and date that the order have been read and understood.

U.S. Maritime Administration: Nov. 26: M–82–50: Install a fixed halon fire protection system in the engineroom of the training ship BAY STATE. *M–82–51:* Study the manning conditions and configuration of enginerooms on other training ships owned by the Maritime Administration to determine if installation of halon fire protection systems in these enginerooms is warranted. *M–82–52:* Repair or replace the diesel fire pumps on the BAY STATE. M–82–53: Conduct a study in conjunction with the Massachusetts Maritime Academy to determine what improvements, such as additional exits or modifications of ladders and walkways, are feasible and necessary to facilitate safe, effective evacuation of personnel from the engineroom of the BAY STATE in case of fire or other emergency. *M–82–54:* Make such improvements as are found to be feasible and necessary to facilitate safe, effective evacuation of the number of personnel that may be in the engineroom of the BAY STATE

at any time during regular watchstanding and training sessions. *M–82–55:* Study the manning conditions and configuration of enginerooms on other training ships owned by the Maritime Administration to determine if improvements to facilitate evacuation of personnel from enginerooms of other training ships are warranted. *M–82–56:* Pending possible relocation of the highpressure fuel oil strainer in the engineroom of the BAY STATE to a location where escaping fuel would be removed from sources of ignition, install a new duplex strainer equipped with a spray shield and steel vent fittings.

Pipeline—*American Gas Association: Dec. 10: P–82–43:* Advise member companies of the circumstances of the September 7, 1982, natural gas accident in Dublin, Georgia, and urge that they review their operating and maintenance procedures and, if necessary, initiate changes to discontinue any practices involving cutting gas mains while under pressure except in the case of an emergency when required for public safety. *P–82–44:* Reemphasize the importance of using proper procedures such as the cordoning off of the work area, the placement of warning signs to alert the public, the use of breathing equipment, belts and ropes, and having operable fire extinguishers accessible at the work site when performing maintenance and/or construction work in which escaping gas may pose a safety hazard to the public or to employees.

American Public Gas Association and National L.P. Gas Association: Dec. 10: P–82–45: Advise member companies of the circumstances of the September 7, 1982, natural gas accident in Dublin, Georgia, and urge that they review their operating and maintenance procedures and, if necessary, initiate changes to discontinue any practices involving cutting gas mains while under pressure except in the case of an emergency when required for public safety. *P–82–46:* Reemphasize the importance of using proper procedures such as the cordoning off of the work area, the placement of warning signs to alert the public, the use of breathing equipment, belts and ropes, and having operable fire extinguishers accessible at the work site when performing maintenance and/or construction work in which escaping gas may pose a safety hazard to the public or to employees.

American Society of Mechanical Engineers: Dec. 10: P–82–47: Revise the American Society of Mechanical Engineers Gas Guide provided for compliance with Part 192.751, Prevention of Accidental Ignition, of Title 49, Code of Federal Regulations, to advise against cutting gas mains under pressure unless specific conditions can be identified wherein such a practice can be performed safely. If such conditions exist, identify them in the guide and describe the safeguards necessary for safely cutting gas pipelines under pressure.

City of Dublin, Georgia: Dec. 10: P–82–48: Review its operating and maintenance procedures and, if necessary, initiate changes to discontinue any practices involving cutting gas mains while under pressure except in the case of an emergency when required for public safety. *P–82–49:* Review its training procedures and modify them as necessary so that all supervisors and employees are recurrently made fully aware of the correct procedures to be followed in cutting gas lines. *P–82–50:* Have air breathing equipment, safety belts and ropes, and operable fire extinguishers readily accessible at the work site before beginning any operations in which escaping gas amy pose a safety hazard to the public or to employees. *P–82–51:* Cordon off work sites during maintenance and/or construction activities and, through the placement of warning signs, alert the public about the potentially hazardous conditions.

Railroad—*Southeastern Pennsylvania Transportation Authority: Nov. 29: R–82–110:* Modify the automatic grade crossing protection systems to eliminate the momentary loss of shunt in order to assure that all rail cars approaching grade crossings cause the crossing warning device to operate as intended. *R–82–111:* Modify the inward opening passenger doors in the existing diesel rail cars to facilitate passenger evacuation in emergency situations. *R–82–112:* Enhance your training and education program by bringing the circumstances of the January 2, 1982, passenger train/gasoline truck accident to the attention of its employees in order to reduce the likelihood and severity of railroad/highway grade crossing accidents.

State of Alabama: Dec. 29: R–82–113: Install STOP and STOP AHEAD signs immediately on County Road 42 where it intersects the tracks of the Southern Railway Company. *R–82–114:* Immediately repaint the STOP line east of the tracks and the centerline on both approaches of County Road 42 to the Southern Railway Company track. *R–82–115:* Complete the review of the recommendations of the diagnostic team that examined the Southern Railway System, County Road 42 crossing on October 4, 1982, and develop appropriate additional action as necessary.

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630.

Single copies of recommendation letters (identified by recommendation number) are free on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

January 4, 1983.

[FR Doc. 83–427 Filed 1–7–83; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 3d day of January, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James R. Shea,

Director, Office of International Programs.

FEDERAL REGISTER (EXPORT)

Name of applicant, date of application, date received, application NO.	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., Dec. 6, 1982, Dec. 6, 1982, XSNMO1098.	3.35 pct enriched uranium	79,005.000	2,647.170	5 reloads of fuel for [illegible] Power Reactor	Netherlands.
Mitsubishi Internat'l Dec. 6, 1982, Dec. 13, 1982, XSNMO1099.	3.45 pct enriched uranium	21,188	732	Routine reload of fule for Ikata No. 1	Japan.

FEDERAL REGISTER (EXPORT)—Continued

Name of applicant, date of application, date received, application No.	Material type	Material in kilograms: Total element	Material in kilograms: Total isotope	End-use	Country of destination
Exxon Nuclear Co., Dec. 16, 1982, Dec. 20, 1982, XSNMO2001.	3.40 pct enriched uranium	29,248	995	Reload fuel for Biblis A	West Germany.
Transnuclear, Inc., Dec. 22, 1982, Dec. 22, 1982 XSNMO2002.	3.35 pct enriched uranium	8,041.00	269.374	Routine reload of fuel for Kernkraftwerk Obrigheim GmbH.	West Germany.
GA Technologies, Inc., Dec. 23, 1982, Dec. 27, 1982, XSNM2003.	93.2 pct enriched uranium	1.1	1.0	For use at Badan Tenga Atom National to produce radioisotopes.	Indonesia.
Marubeni America, Dec. 27, 1982, Dec.29, 1982, XSNM2004.	3.95 pct enriched uranium	51,180	1,542	First reload of fuel for Fukushima II, Unit 2	Japan.
Marubeni America, Dec. 27, 1982, Dec. 29, 1982, XSNM2005.	3.95 pct enriched uranium	8,002	249	First reload of fuel for Fukushima II, Unit 2	Japan.

[FR Doc. 83-525 Filed 1-7-83; 8:45 am]
BILLING CODE 7590-01-M

Application for License To Export Nuclear Material

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" notice is made that the Nuclear Regulatory Commission has received an application from Nuclear Metals, Inc., Concord, Massachusetts, for a license authorizing the export of 15,804.5 kilograms of depleted uranium to the United Kingdom Ministry of Defense (MOD) where it will be used in the manufacture of ammunition cores for experimental (test firing) purposes only. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

Nuclear Metals, Inc. requested that the normal 30-day period between the notification of the receipt of an application in the **Federal Register** and the issuance of the license be waived in this instance in order that the shipment might be completed in early January 1983. The firm's request was based on the fact that Nuclear Metals inadvertently had applied for a license to export this material in October 1982 to the Office of Munitions Control (OMC), U.S. Department of State, rather than to NRC. In this regard, Nuclear Metals advised NRC staff that it was not aware that NRC was the appropriate licensing agency.

This proposed export, in the judgment of the NRC staff, is authorized by law, does not constitute and unreasonable risk to the public health and safety, and will not be inimical to the common defense and security. In light of the urgency expressed by the applicant and the time that has elapsed since the applicant submitted the license application (to the Office of OMC), under the provisions of 10 CFR 110.10(a), the subject license application has been exempted from the normal 30-day waiting period between the date of notice of receipt in the **Federal Register** and issuance of the license and the requested license has been granted to Nuclear Metals, Inc.

Dated this 3rd day of January at Bethesda, Md.

For the Nuclear Regulatory Commission.

James R. Shea,

Director, Office of International Programs.

[FR Doc. 83-526 Filed 1-7-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

Baltimore Gas & Electric Co.; Granting of Relief From ASME Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted a relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Baltimore Gas and Electric Company (the licensee), which revised the inservice inspection program for Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The NRC has provided a relief from the ASME Boiler and Pressure Vessel Code, Section XI, regarding the requirement to calibrate bearing thermocouples on specified Class 2 and Class 3 pumps.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the licensee's request for relief from code requirements dated August 30, 1982 and (2) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Calvert County Library, Prince Frederick, Maryland. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md. this 22nd day of December, 1982.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-527 Filed 1-7-83; 8:45 am]
BILLING CODE 7590-01-M

Cleveland Electric Illuminating Co., et al.; Perry Nuclear Power Plant, Units 1 and 2; Order Extending Construction Completion Dates

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, and the Toledo Edison Company (collectively, the applicants) are the holders of Construction Permits Nos. CPPR-148 and CPPR-149 issued by the Nuclear Regulatory Commission on May 3, 1977 for construction of the Perry Nuclear Power Plant, Units 1 and 2 which is presently under construction at the Permittees' site located on Lake Erie in Lake County, about 11 km (7 miles) northeast of Painesville, Ohio. On July 21, 1982 the applicants filed a request pursuant to the Code of Federal Regulations, Title 10, Part 50, Section 50.55(b) for an extension of the

construction completion dates for Perry Nuclear Power Plant, Units 1 and 2 because construction has been delayed due to the following factors:

1. Projections of the growth rate in the demand for electricity have been significantly reduced as a result of the slowdown in industrial growth, increased availability of natural gas, and conservation efforts by customers. This reduced growth rate has delayed the need for the capacity to be supplied by the Perry units.

2. Numerous changes and additional requirements for plant design and analysis have been incorporated, including those required by the Commission as a result of the Three Mile Island accident and during the course of the NRC's regulatory review.

3. Increasing financing requirements caused by changes in plant design, increased plant construction costs and the sustained high rates of inflation during the past several years, have increased the difficulties in obtaining capital funds.

This action involves no significant hazards consideration; good cause has been shown for the delays; and the requested extension is for a reasonable period, the bases for which are set forth in the staff's safety evaluation of the request for extension.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 50.54(d)(4), an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with this action.

The applicants' letters, dated July 21, 1982 and December 1, 1982, and the NRC staff's safety evaluation supporting the Order for extension of the latest construction completion dates are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Perry Public Library, 3735 Main Street, Perry, Ohio 44081.

It is hereby ordered that the latest construction completion dates for the Perry Nuclear Power Plant be extended from December 31, 1982 to November 30, 1985 for Unit 1 (CPPR–148) and from June 30, 1984 to November 30, 1991 for Unit 2 (CPPR–149).

Date of Issuance: December 29, 1982.

Darrell G. Eisenhut,
Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83–528 Filed 1–7–83; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–335]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. DPR–67, issued to Florida Power & Light Company (the licensee), which revised Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of the date of issuance.

The amendment incorporates into the operating license technical specifications to provide for decay heat removal. Specifically, this amendment requires the operability of a second system, in addition to an operational system for decay heat removal in modes 3–6.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 30, 1980, (2) Amendment No. 56 to License No. DPR–67 and (3) the Commission's letter dated December 21, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 21st day of December, 1982.

For the Nuclear Regulatory Commission.

Charles M. Trammell,
Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83–529 Filed 1–7–83; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–458]

Gulf States Utilities Co. and Cajun Electric Power Cooperative; River Bend Station, Unit 1; Order Extending Construction Completion Date

Gulf States Utilities Co. and Cajun Electric Power Cooperative are the holders of Construction Permit No. CPPR–145, issued by the Nuclear Regulatory Commission on March 25, 1977 for construction of the River Bend Station, Unit 1. This facility is presently under construction at a site in Southeastern Louisiana in the Parish of West Feliciana, LA.

On November 5, 1982, the applicants requested an extension of the latest completion date from March 31, 1983 to December 31, 1985 because construction has been delayed as a result of applicants reducing capital outlays consistent with the reduction in anticipated revenues. This reduction in capital outlays was for good cause beyond the applicants' control; specifically, high interest rates, inadequate rate relief, a delay in the purchase of an ownership share of the unit by Cajun Electric Power Cooperative and the continuing delay in ownership by Sam Rayburn G & T, resulting in reduced manpower levels in both engineering and construction.

Prior public notice of this extension was not required since this action involves no significant hazards consideration; good cause has been shown for the delays; and the requested extension is for a reasonable period, the bases for which are set forth in the staff's evaluation of the request for extension.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, or negative declaration and environmental impact appraisal, need not be prepared in connection with this action.

The NRC staff evaluation of the request for extension of the construction permit is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

It is hereby ordered that the latest completion date for Construction Permit No. CPPR–145 is extended from March 31, 1983 to December 31, 1985.

Date of Issuance: December 27, 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83–530 Filed 1–7–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Granting of Relief From Certain Requirements of ASME Code Section XI Inservice (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules and Inservice Inspection of Nuclear Power Plant Components" to the Tennessee Valley Authority (the licensee). The relief relates to the preservice hydrostatic tests for the Sequoyah Nuclear Plant, Unit 1 and 2 (the facilities) located in Hamilton County, Tennessee. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief relates to certain inservice examination requirements, pursuant to the Commission's regulations in 10 CFR 50.55a(g)(6)(i). The licensee will perform a system functional test at 115 psig versus 176 psig as required by the code and will perform a liquid penetrant examination on each weld.

The requests for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I.

The Commission has determined that the granting of relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) the licensee's letters dated October 13, November 18, and December 3, 1982, (2) the Commission's letter to the licensee dated December 23, 1982, and, (3) the Commission's related Safety Evaluation Report. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 23rd day of December 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83–531 Filed 1–7–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating License Nos. DPR–77 and DPR–79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 17 to Facility Operating License No. DPR–77 and Amendment No. 8 to Facility Operating License No. DPR–79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plants, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments change the diesel generator battery float voltage and the isolation times for containment isolation values. The amendments are effective as of their dates of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any signficant environmental impact and that pursuant to 10 CFR 51.5(d)(4) environmental impact statements, or negative declarations and environmental impact appraisals need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the Tennessee Valley Authority letter dated September 17, 1982, (2) Amendment No. 17 to Facility Operating License No. DPR–77 with Appendix A Technical Specification page changes; (3) Amendment No. 8 to Facility Operating License No. DPR–79 with Appendix A Technical Specification page changes; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tenn. 37402. A copy of Amendment No. 17 and Amendment No. 8 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 23rd day of December 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83–532 Filed 1–7–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating License Nos. DPR–77 and DPR–79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR–77 and Amendment No. 9 to Facility Operating License No. DPR–79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments change the containment ventilation system Technical Specifications to clarify the time period for purging and venting and correct typographical errors in an earlier amendment. The amendments are effective as of their dates of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) environmental impact statements, or negative declarations and environmental impact appraisals need not be prepared in connection with issuance of these amendments.

For futher details with respect to this action, see (1) Tennessee Valley Authority letter dated July 22, 1982, (2) Amendment No. 18 to Facility operating License No. DPR–77 with Appendix A Technical Specification page changes; (3) Amendment No. 9 to Facility Operating License No. DPR–79 with Appendix A Technical Specification page changes; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H street, N.W., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tenn. 37402. A copy of Amendment No. 18 and Amendment No. 9 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 23d day of December 1982

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83–533 Filed 1–7–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–327]

Tennessee Valley Authority; Issuance of Amendment; Facility Operating License No. DPR–77

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR–77, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Unit 1 (the facility) located in Hamilton County, Tennessee. This amendment changes the Technical Specifications to accommodate the Unit 1 Cycle 2 reload operations. The amendment is effective as of its date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Tennessee Valley Authority letter dated September 17, 1982, (2) Amendment No. 19 to Facility Operating License No. DPR–77 with Appendix A Technical Specification page changes; and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 19 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 23rd day of December 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83–534 Filed 1–7–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating License Nos. DPR–77 and DPR–79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR–77 and Amendment No. 10 to Facility Operating License No. DPR–79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments change the maximum isolation time for containment isolation valves, modify the surveillance requirements for testing of containment penetration protective fuses, and correct a typographical error in Table 4.4–5. The amendments are effective as of their dates of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) environmental impact statements, or negative declarations and environmental impact appraisals need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) Tennessee Valley Authority letter dated August 16, 1982, (2) Amendment No. 20 to Facility Operating License No. DPR–77 with Appendix A Technical Specification page changes; (3) Amendment No. 10 to Facility Operating License No. DPR–79 with Appendix A technical specification page changes; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 20 and Amendment No. 10 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 23d day of December 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-536 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating License Nos. DPR-77 and DPR-79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR-77 and Amendment No. 11 to Facility Operating License No. DPR-79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments change certain aspects of the surveillance requirements associated with Emergency Gas Treatment System and the diesel generator. The amendments are effective as of their dates of issuance.

The application for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) environmental impact statements, or negative declarations and environmental impact appraisals need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) Tennessee Valley Authority letters dated December 23, 1982 (two letters), (2) Amendment No. 21 to Facility Operating License No. DPR-77 with Appendix A Technical Specification page changes; (3) Amendment No. 11 to Facility Operating License No. DPR-79 with Appendix A Technical Specification page changes; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tenn. 37402. A copy of Amendment No. 21 and Amendment No. 11 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 23rd day of December 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-535 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating License Nos. DPR-77 and DPR-79

The U.S. Nuclear Regulatory Commssion (the Commission) has issued Amendment No. 22 to Facility Operating License No. DPR-77 and Amendment No. 12 to Facility Operating License No. DPR-79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments change the winter flood level and the surveillance requirements for flood protection. The amendments are effective as of their dates of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant evironmental impact and that pursuant to 10 CFR 51.5(d)(4) environmental impact statements, or negative declarations and environmental impact appraisals need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) Tennessee Valley Authroity letter dated August 16, 1982, (2) Amendment No. 22 to Facility Operating License No. DPR-77 with Appendix A technical Specification page changes; (3) Amendment No. 12 to Facility Operating License No. DPR-79 with Appendix A Technical Specification page changes; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tenn. 37402. A copy of Amendment No. 22 and Amendment No. 12 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md, this 27th day of December 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-537 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-327]

Tennessee Valley Authority; Issuance of Amendment; Facility Operating License No DPR-77

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 23 to Facility Operating License No. DPR-77, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Unit 1 (the facility) located in Hamilton County, Tennessee. This amendment revises implementation dates of several items from no later than startup following the first refueling outage to no later than startup following the second refueling outage.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5 (d) (4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Tennessee Valley Authority letters dated May 25, August 6, August 12, September 9, and November 22, 1982, (2) Amendment No. 23 to Facility Operating License No. DPR-77, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 23 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attenation: Director, Division of Licensing.

Dated at Bethesda, Md., this 27th day of December 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-338 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-327]

Tennessee Valley Authority; Issuance of Amendment; Facility Operating License No. DPR-77

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. DPR-77 issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Unit 1 (the facility) located in Hamilton County, Tennessee. The amendment changes the license condition related to hydrogen control measures and also changes the Technical Specifications to reflect the installation of a permanent hydrogen mitigation system. The amendment is effective as of its date of issuance.

Issuance of the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) Nuclear Regulatory Commission Secretary's Memorandum dated December 23, 1982, (2) Tennessee Valley Authority letter dated September 17 and December 23, 1982, (3) Amendment No. 24 to Facility Operating License No. DPR-77; (4) the Commission's related Safety Evaluation; and (5) Supplement No. 6 to the Commission's Safety Evaluation Report dated December 1982 (NUREG-0011).

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of Amendment No. 24 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, MD., this 29th day of December 1982.

Elinor G. Adensam,

Chief, Licensing Branch, No. 4.

[FR Doc. 83-339 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-327 and 50-328]

Tennessee Valley Authority; Issuance of Amendments; Facility Operating License Nos. DPR-77 and DPR-79

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR-77 and Amendment No. 13 to Facility Operating License No. DPR-79, issued to Tennessee Valley Authority (licensee) for the Sequoyah Nuclear Plant, Units 1 and 2 (the facilities) located in Hamilton County, Tennessee. These amendments incorporate downscale failure alarms and change the surveillance requirements for ice condenser doors. The amendments are effective as of their dates of issuance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) environmental impact statements, or negative declarations and environmental impact appraisals need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) Tennessee Valley Authority letter dated August 12, 1982, (2) Amendment No. 25 to Facility Operating License No. DPR-77 with Appendix A Technical Specification page changes; (3) Amendment No. 13 to Facility Operating License No. DPR-79 with Appendix A Technical Specification page changes; and (4) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tenn. 37402. A copy of Amendment No. 25 and Amendment No. 13 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 29th day of December 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-340 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-134]

Worcester Polytechnic Institute Renewal of Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. R-61 to the Worcester Polytechnic Institute (the licensee), which renews the license for operation of the pool-type reactor (the facility) located on the Institute's campus in Worcester, Massachusetts. The facility is a research reactor that has been operating at power levels not in excess of 10 kilowatts (thermal).

The amendment extends the duration of Facility License No. R-61 for twenty years from the date of issuance of this amendment.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I. Those findings are set forth in the license amendment. Notice of the proposed issuance of this action was published in the Federal Register on November 16, 1979 at 44 FR 66115. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the renewal of the Facility Operating License and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendment dated July 16, 1979, as supplemented by filings dated July 20, 1979, September 27, 1979, October 26, 1979, May 22, 1980, June 12, 1980, November 20, 1980, January 19, 1981, March 3, 1982 and October 26, 1982. (2) Amendment No. 7 to License R-61, and (3) the Commission's related Safety Evaluation Report and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

A copy of items (2) and (3) may be obtained upon request from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 30th day of December 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 83-541 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-70 SC]

General Electric Co. (Vallecitos Nuclear Center—General Electric Test Reactor, Operating License No. TR-1); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this show cause proceeding. As reconstituted, the Appeal Board for this proceeding will consist of the following members: Alan S. Rosenthal, Chairman, Stephen F. Eilperin, Howard A. Wilber.

Dated: January 4, 1983.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-521 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al, Issuance of Amendment Facility Operating License Nos. NPF-10 and NPF-15

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. NPF-10, and Amendment No. 2 to Facility Operating License NPF-15 to Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Units 2 and 3 (the facility) located in San Diego County, California. These amendments are effective December 30, 1982.

The amendments change the Units 2 and 3 technical specifications to delete the requirement for automatic closing of the ECCS miniflow valves upon receipt of a Recirculation Actuation Signal or Test Signal.

Issuance of these amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Southern California Edison Company's letters dated December 29, 1982, (2) Amendment No. 13 to Facility Operating License No. NPF-10, and Amendment No. 2 to Facility Operating License NPF-15 and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of December 1982.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-522 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445, 50-446]

Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of December 30, 1982, oral argument on the issues presented by the NRC staff's appeal from the Licensing Board's September 30, 1982 order in this operating license proceeding will be heard at 9:30 a.m., on Wednesday, January 19, 1983, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: January 4, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-523 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Corp., Wisconsin Power and Light Co., and Madison Gas and Electric Co.; Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-43, issued to Wisconsin Public Sevice Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensees), which revised Technical Specifications for operation of the Kewaunee Nuclear Plant (the facility) located in Kewaunee, Wisconsin. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to reflect recent reorganization of the Nuclear Department.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.55(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 27, 1982, (2) Amendment No. 48 to License No. DPR-43 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Kewaunee Public Library, 822 Juneau Street, Kewaunee, Wiisconsin 54216. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of January 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-624 Filed 1-7-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Acid Rain Peer Review Panel Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Acid Rain Peer Review Panel
Dates, times, and location: January 27, 1983, 7:30 PM, Room 114, Administration Bldg.; January 28 and 29, 1983, 9:00 AM, Martin Johnson House (T29); Scripps Institution of Oceanography, La Jolla, CA
Type of meeting: Part Open: January 28, 9:00 AM to 4:30 PM; January 29, 9:00 AM to Noon.

Part Closed: January 27, 7:30 PM to 10:00 PM; January 29, 1:00 PM to 3:00 PM.
Proposed agenda:

(1) Committee organization, personnel policies.

(2) Review of draft critique assembled from individual panelist's comments.

(3) Review of draft assessment and recommendations.

(4) Review of public written comments.

Reason for closed meeting: Discussion of personnel policies and panel staff composition require discussion of internal personnel procedures of the Executive Office of the President and will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (2) and (6).

Public participation: Parts of the meeting, as indicated above, are open to the public. Due to limited meeting room capacity, individuals wishing to attend should contact Mrs. Patti Parsons at (619) 452-2828, prior to 4:30 PM on January 27, 1983. Written comments addressing the MOI working group reports under consideration and other issues in the Panel's charter should be submitted to the Panel by March 1, 1983 at the address below: Dr. John K. Robertson, Executive Secretary, Acid Rain Peer Review Panel, Office of Science & Technology Policy, Room 5002, New Executive Office Building, Washington, D.C. 20500.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

January 4, 1983.

[FR Doc. 83-615 Filed 1-7-83; 8:45 am]

BILLING CODE 3170-01-M

POSTAL RATE COMMISSION

[Docket No. A83-12; Order No. 474]

Bladon Springs, Alabama; Order of Filing of Appeal

January 5, 1983.

On December 20, 1982, the Commission received a letter from Mrs. Jessie B. McDowell (hereinafter "Petitioner"), concerning the United States Postal Service's decision to close the Bladon Springs, Alabama 36902, post office. Subsequently, Mrs. McDowell informed the Commission that she intended that her letter be a request for the review provided for by section 404(b) of the Postal Reorganization Act (39 U.S.C. 404(b)).[1]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views."[2] The petition set forward a number of reasons why the decision to close the Bladon Springs post office should be reconsidered.

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities.[3]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the closing of post offices.[4]

Upon preliminary inspection, this case appears to involve the following issues of law:

1. Whether the Postal Service's actions are consistent with the statutory requirement that the Postal Service provide a maximum degree of effective

[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 U.S.C. 404(b)(1).

[3] 39 U.S.C. 101(b).

[4] 42 FR 59079-85 (November 17, 1977). The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining [39 U.S.C. 404(b)(2)(C)].

Other issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on the issue described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be filed within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioners by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Commission orders:

(A) The appeal letter from the Bladon Springs post office be accepted as a petition for review pursuant to section 404(b) of the Act (39 U.S.C. 404(b)).

(B) The Secretary of the Commission shall publish this Notice and Order in the **Federal Register.**

By the Commission.

David F. Harris,

Secretary.

Appendix

December 20, 1982: Filing of Petition
January 5, 1983: Notice and Order of Filing of Appeal
January 10, 1983: Filing of Record by Postal Service [*see* 39 CFR 3001.113(a)].
January 10, 1983: Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)]
January 19, 1983: Petitioners' Initial Brief (*see* 39 CFR 3001.115(a))
February 3, 1983: Postal Service Answering Brief (*see* 39 CFR 3001.115(b))
February 18, 1983:
(1) Petitioners' Reply Brief should petitioners choose to file one [*see* 39 CFR 3001.115(c)]
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument
April 19, 1983: Expiration of 120 day decisional schedule [*see* 39 U.S.C. 404(b)(5)]

[FR Doc. 83-567 Filed 1-7-83; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed Form N-1A, a new registration form under the Securities Act of 1933 and the Investment Company Act of 1940 for open-end management investment companies other than registered separate accounts of insurance companies.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395-4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

New.
Form N-1A.
No. 270-21.

Shirley E. Hollis,

Assistant Secretary.

December 27, 1982.

[FR Doc. 83-570 Filed 1-7-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-19388; File No. SR-DTC-82-9]

Self-Regulatory Organizations; Proposed Rule Change by Depository Trust Co. Relating to Its Institutional Delivery System

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 30, 1982, the Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change involves the Institutional Delivery System (ID System) of The Depository Trust Company (DTC) and consists of the procedures attached as Exhibit 2 to DTC's filing on Form 19b-4, File No. SR-DTC-82-7 (including the forms of agreements attached as Exhibits 23 and 24 to those procedures), which constitute Section M of DTC's Participant Operating Procedures. The proposed rule change provides for consolidation of the three existing ID System agreements into a single contract, which will be set forth as part of that Section M, and for changes in existing procedures as to the form in which DTC delivers copies of ID System confirmations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to combine the three existing agreements utilized in connection with the ID System into a single simplified contract, which will be set forth as part of Section M of DTC's Participant Operating Procedures, and to change existing procedures as to the form in which DTC delivers copies of ID System confirmations to institutions (ID Institutions) and their agent banks, brokers (ID Brokers) and interested parties participating in the ID System. Significant future growth of the ID

System is anticipated, particularly in view of the recent amendment to the the New York Stock Exchange's Rule 387 on "COD Orders" and similar amendments adopted by other exchanges and the National Association of Securities Dealers, Inc. The proposed rule change will facilitate growth of the ID System by substantially reducing the ID System documentation. The new consolidated contract will eliminate all agreements between ID Institutions and ID Brokers and will eliminate one of the two agreements between each ID Broker and DTC. With ID Institutions numbering in the thousands and ID Brokers numbering in the hundreds, it would be exceedingly burdensome to require an agreement between each ID Institution and each of the ID Brokers with which it deals and to require two agreements between DTC and each ID Broker. The change in the procedures regarding the delivery of ID System confirmations will enable every party receiving a confirmation through the ID System to select the method of receipt and preservation most economic for it and most in keeping with its business requirements.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder applicable to DTC because the proposed rule change will facilitate utilization of the ID System which significantly reduces deliveries not known ("Don't Know" or "DK") between a broker and its institutional customer or the institution's agent bank and produces operational efficiencies in settlement activity among brokers, institutions and agent banks. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible since utilization of the ID System offers convenient electronic. automated methods to effect deliveries of securities and payments therefor between a broker and its institutional customer or the institution's agent bank.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change from DTC Participants or others have not been solicited or received. The proposed rule change was developed after discussions with participants in the ID System concerning consolidation of the ID System agreements and methods of delivering ID System confirmations.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to the delegated authority.

Dated: January 3, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83–571 Filed 1–7–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–19362; File No. SR–NASD–82–24]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Proposed Rule Regarding Pre-Membership Interviews

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 2, 1982, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends Schedule C of the NASD By-Laws to provide that a pre-membership interview shall be held with each applicant for membership and to provide specific procedures for the conduct of such interviews.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This proposed rule change establishes a procedure for determining the qualifications of applicants for membership. The Association believes this proposed rule change will provide a significant step for the protection of investors and the public interest by providing the Association the authority to impose restrictions on the firm's business consistent with those qualifications. This proposed rule change is consistent with Section 15A(g)(3)(A) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes that any burden on competition presented by this rule change is consistent with the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

In connection with the original submission of this proposed rule change (File No. 75–6), comments were solicited from members and other interested parties. No comments were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory orgaization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 29, 1982.

Shirley E. Hollis,

Assistant Secertary.

[FR Doc. 83–569 Filed 1–7–83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–19391; File No. SR–NASD–82–28]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Amendments to Code of Procedure

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 22, 1982, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purose of the proposed rule change is to delete Article I, Section 13 of the By-Laws.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to delete Article I, Section 13 of the By-Laws on the date that the Securities and Exchange Commission approves the Association's proposed Code of Procedure. Article V of the proposed Code of Procedure directly incorporates the bulk of Article I, Section 13 of the By-Laws and the proposed rule change is designed to avoid redundancy.

The proposed amendments to the Code of Procedure for Handling Trade Practice Complaints are designed to fulfill the responsibility of the Association under Section 15A of the Secrutires Exchange Act of 1934, as amended, to "provide a fair procedure for the disciplining of members and persons associated with members, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the Association of any person with respect to access to services offered by the Association or a member thereof." The proposed Code would reflect more accurately current policies and codify into the Code of Procedure all procedural provisions governing disciplinary matters, NASDAQ matters and eligibility deficiencies which are now found in various sections of the NASD Manual, in the Association's By-Laws, Rules of Fair Practice and Code of Procesure of Handling Trade Practice Complaints.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were received by the Association.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Association consents to an extension of the time period specified in Section 19(b)(2) of the Act until such time as the Association shall file an amendment which specifically states that the time period specified in Section 19(b)(2) shall begin to run on the date of filing such amendment.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchance Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission

and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 3, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-572 Filed 1-7-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Los Angeles, will hold a public meeting at 10:00 a.m., on Thursday, February 3, 1983, at the Small Business Administration Los Angeles District Office, 350 South Figueroa Street, Suite 600, Los Angeles, California, to discuss such business as may be presented by members, and staff of the U.S. Small Business Administration, or others present.

For further information, write or call Gerold Y. Morita, District Director, U.S. Small Business Administration, 350 South Figueroa Street, Suite 600, Los Angeles, California.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

January 3, 1983.

[FR Doc. 83-631 Filed 1-7-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 83-002]

Houston/Galveston Navigation Safety Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, January 27, 1983, at the Houston Pilots Office, 8150 South Loop East, Houston, Texas.

The meeting is scheduled to begin at 9:00 A.M. The agenda for the meeting consists of the following items:

1. Call to Order
2. Reports of Subcommittees
   - A. Houston/Galveston Vessel Traffic Service
   - B. Aids to Navigation
   - C. Inshore Waterway Management
   - D. Offshore Waterway Management
   - E. Environmental
3. Discussion of Subcommittee Reports
4. Presentation of any additional items for consideration to the Committee
5. Adjournment

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander W. A. Monson, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eight Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA., 70130, telephone number (504) 589-6901.

Dated: January 3, 1983.

J. M. Fournier,

Acting Captain U.S. Coast Guard Commander, 8th Coast Guard District.

[FR Doc. 83-629 Filed 1-7-83; 8:45 am]

BILLING CODE 4910-14-M

[CGD 83-001]

Towing Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of The Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given to a meeting of the Towing Safety Advisory Committee. The meeting will be held on Wednesday and Thursday, February 9, and 10, 1983 in room 3201, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington D.C. On both days the meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m. The agenda for the meeting consists of the following items:

1. Revision of Rules for Barges Carrying Bulk Liquid Cargoes; Revision of 46 CFR Part 151 (CGD 81-082).
2. Unmanned Barges Carrying Certain Bulk Dangerous Cargoes; Electrical Hazard Class and Group Ratings (CGD 82-096).
3. Tank Vessels Carrying Noxious Liquid Substances in Bulk; MARPOL Requirements (CGD 81-101).
4. Requirements for Benzene and Benzene Hydrocarbon Mixtures (CGD 80-001).
5. Compatibility of Cargoes; Periodic Review (CGD 82-100a).
6. Subdivision and Stability Regulations consolidation into a new Subchapter "S" in Title 46 (CGD 70-023).
7. Non-Ferrous Flanges on Cargo Transfer Hoses; 33 CFR 154.500.
8. Blind Bend Whistle Signal on Rivers.
9. Marine Sanitation Devices Regulations, Priority Review (CGD 81-097).
10. Advance Notice of Arrival Regulations, Priority Review.
11. Port and Tanker Safety Act Delegations (CGD 79-026).
12. Modification of Subchapter "O" Concerning Inspection of Double Hull Vessels (CGD 82-005).
13. Internal Examination of Cargo Tanks under Subchapter "D" and "E" Double-Skinned Barges.
14. Marine Safety Regulations; Boundary Lines (CGD 82-058).
15. Licensing of Pilots; Manning of Vessels—Pilots (CGD 77-084).
16. Qualifications of Persons in Charge of Oil Transfer Operations; Tankerman Requirements (CGD 79-116).

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Captain C. M. Holland, Executive Secretary, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC/44), Washington, D.C. 20593, (202) 426-1477.

Dated: January 15, 1983.

C.M. Holland,

Captain, U.S. Coast Guard, Executive Secretary, Marine Safety Council.

[FR Doc. 83-602 Filed 1-7-83; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.1) notice is hereby given of a meeting of the Executive Steering Committee of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows:

Opening Remarks
Presentation of Task Group Staff Studies, including recommendations:
- Task Group 1–1.2: Temporary Special Use Airspace
- Task Group 1–2.2: Terminal Radar Service Areas
- Task Group 1–2.3: Control Zones, Airport Traffic Areas and Transition Areas
- Task Group 1–3.1: Random Routes
- Task Group 1–6.2: RF Charts

Discussion

DATE: January 25, 1983, 10:00 a.m. to 4:00 p.m.

ADDRESS: The meeting will be held at the Federal Aviation Administration, room 1010, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, S.W., AAT–30 Washington, D.C. 20591 (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, S.W., Washington, D.C. 20591, by January 18, 1983. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C., on January 4, 1983.

R. J. Van Vuren,
Executive Director, NARAC.

[FR Doc. 83–548 Filed 1–7–83; 8:45 am]
BILLING CODE 4910–13–M

Maritime Administration

[Docket No. S–729]

United States Lines, Inc./Moore-McCormack Lines, Incorporated/Moore-McCormack Bulk Transport, Inc.; Application

Notice is hereby given that in letter applications dated December 8 and 9, 1982, United States Lines, Inc. (U.S. Lines) and Moore McCormack Resources, Inc. (MMR) have requested authority for U.S. Lines' parent company, McLean Securities, Inc. to acquire all the capital stock of Moore-McCormack Lines, Incorporated (MML). U.S. Lines is a party to Operating-Differential Subsidy Agreement MA/MSB–483 and MML is a party to Operating-Differential Subsidy Agreement MA/MSB–338. MML parent company, MMR is also the parent company of Moore-McCormack Bulk Transport, Inc. (MMBT). MMBT is a party to Operating-Differential Subsidy Agreement MA/MSB–295.

Notice regarding certain permissions to be required for MML in the event of approval of the sale of stock above described was published in the **Federal Register** of December 16, 1982 (47 FR 56431), Docket S–728.

Mr. Robert O'Brien, President of MML, is a stockholder, officer and director of MMR, and MMR has connections with companies which participate in domestic service on the Great Lakes with dry bulk cargo vessels, namely Interlake Steamship Company and Pickands Mather and Company.

In the event of approval of the sale of stock described, USL will require written permission pursuant to section 805(a) of the Act for the activities of Interlake and Pickands Mather, and USL and MML will need written permission pursuant to section 805(a) of the Act for Mr. O'Brien to continue to be a director and officer of MMR.

Interested parties may inspect the foregoing letter applications in the Office of the Secretary, Maritime Subsidy Board/Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Any person, firm, or corporation having any interest in such letter applications and desiring to submit comments thereon must file comments in triplicate with the Secretary, Maritime Subsidy Board/Maritime Administration by close of business of January 13, 1983. The Maritime Subsidy Board/Maritime Administration will consider such comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board/Maritime Administrator.

Dated: January 6, 1983.

Murray A. Bloom,
Assistant Secretary.

[FR Doc. 83–738 Filed 1–7–83; 8:45 am]
BILLING CODE 4910–81–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Reestablishment of Art Print Panel of the Commissioner of Internal Revenue

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of determination of necessity for reestablishment of the Art Print Panel.

SUMMARY: It is in the public interest to continue the Art Print Panel.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:C:E:V, 1111 Constitution Avenue, N.W., Room 5545, Washington, D.C. 20224, Telephone No. 202–566–4196 (not a toll free number).

Title. The Art Print Panel of the Commissioner of Internal Revenue.

Purpose. The Panel assists the Internal Revenue Service by reviewing and evaluating the acceptability of appraisals and value allocations on art prints, related property and property rights submitted by taxpayers in support of fair market value claimed in Federal income, estate and gift taxes in accordance with sections 1012, 1011, 48, 167, 170, 2031, and 2512 of the Internal Revenue Code of 1954.

Providing this assistance requires Panel records and discussions to include tax return information. Therefore, the Panel meetings will be closed to the public since all portions of the meetings will concern matters that are exempted from disclosure under the provisions of section 552b(c) (3), (4), (6) and (7) of Title 5 of the U.S. Code. This determination, which is in accordance with section 10(d) of the Federal Advisory Committee Act, is necessary to protect the confidentiality of tax returns and return information as required by section 6103 of Title 26 of the U.S. Code.

Statement of public interest. It is in the public interest to continue the Art Print Panel. The Secretary of Treasury, with the concurrence of the Office of Management and Budget, and the General Services Administration, has also approved the reestablishment of the Panel.

The membership of the Panel is to be balanced by the inclusion of publishers, distributors, and retailers of art prints and related commercial exploitation of art images, and by museum print curators.

Authority for this Panel will expire two years from the date the Charter is approved by the Assistant Secretary of the Treasury for Administration and filed with the appropriate congressional

committees unless, prior to the expiration of its Charter, the Panel is renewed.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122).

Roscoe L. Egger, Jr.,

Commissioner.

[FR Doc. 83-606 Filed 1-7-83; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 6
Monday, January 10, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M–371, 1/5/83]

TIME AND DATE: 10:00 a.m., January 12, 1983.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket 40551, Draft final rules to reduce reporting for certificated and foreign air carriers. (Memo 1170–A, OC, OEA, BDA, BIA, BCAA, OCCCA, OGC)
3. Docket 39498, Draft final rules reducing the amount of fuel cost and consumption data reported by air carriers, granting limited confidential treatment to such data, and granting delegated authority to the Chief, Information Management Division, OC to grant or deny access to the restricted data. (OC, OEA, BDA, BIA, BCAA, OCCCA, OGC)
4. Docket, Exemption from Title IV of the act to all indirect air carriers engaging in air ambulance operations. (BDA)
5. Dockets 40378, EAS–543 and EAS–545, Essential air service determinations for Devils Lake and Jamestown, North Dakota, and notice of intent of Big Sky to terminate service at the points. (Memo 1132–B, BDA, OCCCA)
6. Docket 41126, Renewal of the designation of Big Sky Airlines to provide essential air service at Glasgow, Glendive, Havre, Lewistown, Miles City, Sidney and Wolf Point, Montana, and Williston, North Dakota. (BDA, OCCCA)
7. Docket 39788, *Air Florida Systems-Western Show Cause Proceeding. (OGC)*
8. Docket 40627, *Dallas/Ft. Worth-London Case,* Order on Discretionary Review. (OGC)
9. Docket 40627, Houston-Acapulco Route Proceeding. (OGC)
10. Elimination of Tariff Filing Requirements for Credit Terms. (OGC)
11. Amendment to Part 305 to remove the requirement that orders list the names of the Enforcement Division attorneys. (OGC)
12. Override of OMB Disapproval of the DBC Reporting Requirement. (OGC, OC)
13. Conforming changes to Part 250 to prepare for the end of the Board's domestic tariff authority. (OGC, BDA, OCCCA)
14. Docket 37444, International Cargo Rate Flexibility. (BIA, OGC)
15. Docket 40986, *Michael Arnone, et al.* v. *Tiger International and The Flying Tiger Line:* Docket 41013, *Paul Stamm and Erwin Zimmermann* v. *Tiger International and The Flying Tiger Line;* Docket 41046, *Sam Fishchel* v. *Tiger International and The Flying Tiger Line,* petitions for arbitration under Tiger International-Seaboard World labor protective provisions. (OGC)
16. Docket 38623, Arreement C.A.B. 28912 R–1 through R–20, IATA agreement proposing a new Europe-South West Pacific passenger fare structure. (BIA)
17. Docket 38961, Intra-Alaska Class Service Mail Rates. (BIA)
18. Dockest 40623, 40680, Capital Air, Inc., and United Air Lines, Inc., for issuance or amendment of certificate of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended, to add authority to serve various Caribbean and Latin American points. (Memo 1642, BIA, OGC, BALJ)
19. Dockets 41110, 41128, Applications of Northwest Airlines, Inc. and Western Air Lines, Inc. for Los Angeles-Calgary/Edmondton certificate authority. Dockets 41111 and 41099, Applications of Northwest and United Air Lines, Inc. for San Francisco-Calgary/Edmonton certificate authority. (Memo 1645, BIA, OGC, BALJ)
20. Docket 41062, Transatlantic Certificate Amendments Show Cause Proceeding. (BIA, OGC)
21. Docket 40887, *U.S.-People's Republic of China Service Proceeding. (Phase II)* Request for Instructions. (OGC)
22. Report on the United Kingdom Capacity Talks. (BIA)
23. Discussion on Scandinavia. (BIA)
24. Discussion on Peru. (BIA)

STATUS: 1–21 Open, 22–24 Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S–25–83 Filed 1–6–83; 3:13 pm]

BILLING CODE 6320–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 AM, Thursday, January 13, 1983.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Kansas City Board of Trade Value Line Options Contract.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–23–83 Filed 1–6–83; 2:49 pm]

BILLING CODE 6351–01–M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, Wednesday, January 12, 1983, 10:00 a.m.

LOCATION: Third Floor Hearing Room, 1111–18th Street, N.W., Washington, D.C.

STATUS: Open to the public.

Pressed Wood Products: Status Report

The staff will brief the Commission on a Status Report on formaldehyde Emissions from Pressed Wood Products Manufactured with Urea Formaldehyde Resins.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207, 301–492–6800.

[S–26–83 Filed 1–6–83; 3:43 pm]

BILLING CODE 6355–01–M

4

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10:00 A.M., Thursday, January 13, 1983.

PLACE: Board Room, 6th Floor, 1700 G St., N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

MATTERS TO BE CONSIDERED:

Request for Further Extensions to Comply with Conditions for Commitment to Insure Accounts—(Proposed) Franklin Savings and Loan Association, Southfield, Michigan.

Applications for Bank Membership and Insurance of Accounts—Unified Savings and Loan Association, Los Angeles, California (In Organization).

Bank Membership—The Greater New York Savings Bank, Brooklyn, New York.

Applications for Bank Membership and Insurance of Accounts—Saratoga Savings

and Loan Association, Saratoga, California (In Organization).

No. 1, January 5, 1982.

[S-20-83 Filed 1-6-83; 9:27 am]

BILLING CODE 6720-01-M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 5, 1983.

TIME AND DATE: 10:00 a.m., Wednesday, January 12, 1983.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The Commission will consider and act upon the following:

1. UMWA v. Secretary of Labor, Docket No. CENT 81-223-R. (Issues include whether the judge erred in concluding that a representative of miners lacks statutory authority to contest a citation issued under the Mine Act.)

2. Secretary of Labor *ex rel.* Bennett, Cox, et al. v. Emery Mining Corporation, Docket No. WEST 80-469-D(A). (Issues include whether the judge erred in concluding that the operator's qualifications for hire regarding miner training violated sections 105(c)(1) and 115 of the Mine Act.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

[S-21-83 Filed 1-6-83; 11:23 am]

BILLING CODE 6735-01-M

6

FEDERAL RESERVE SYSTEM, Committee on Employee Benefits

TIME AND DATE: 11:00 a.m., Friday, January 7, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to (a) the general administrative policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans; (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations of each of such Plans; (e) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal, actuarial, accounting, administrative, and other services as the Committee deems necessary to carry out the provisions of the Plans.

Specific items will include proposed changes to the Retirement Plan for Employees of the Federal Reserve System. (This matter was originally announced for a meeting on December 10, 1982.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: January 5, 1983.

James McAfee,

Associate Secretary of the Board.

[S-2463 Filed 1-6-83; 3:13 pm]

BILLING CODE 6210-01-M

7

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Tuesday, January 11, 1983.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Emergency meeting—less than ten days' prior notice. Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 731-TA-88 [Final] (Carbon Steel Wire Rod from Venezuela)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-19-83 Filed 1-6-83; 9:13 am]

BILLING CODE 7020-02-M

8

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-1]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 370, January 4, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, January 11, 1983.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below:

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Automobile/Missouri Pacific Railroad Freight Train Collision, Woodland Drive, Lake View, Arkansas, July 9, 1982, and Recommendations to State of Arkansas and Missouri Pacific Railroad.

2. *Letter* to Union Pacific Railroad Company regarding its petition for reconsideration of probable cause of railroad accident involving the rear-end collision of trains Extra 3119 and Extra 6044 West, near Kelso, California, November 17, 1980 and its response to the Safety Board's recommendations.

3. *Board Position* on Ultralight Vehicle Accidents.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382-6525.

January 6, 1983.

[S-22-83 Filed 1-6-83; 2:23 pm]

BILLING CODE 4910-58-M

9

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 10, 1983, at 450 5th Street, N.W., Washington, D.C.

A closed meeting will be held on Thursday, January 13, 1983, at 9:30 a.m. An open meeting will be held on Thursday, January 13, 1983, at 10:30 a.m. in Room 1C30.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas, Longstreth, and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Thursday, January 13, 1983, at 9:30 a.m., will be:

Formal order of investigation.

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive action.

Chapter XI proceeding.

The subject matter of the open meeting scheduled for Thursday, January 13, 1983, at 10:30 a.m., will be:

Consideration of whether to publish for comment, as part of the Commission's Proxy Review Program, proposed amendments to Item 402 of Regulation S-K, governing the disclosure of management remuneration, and conforming amendments to Schedule 14A. The proposed amendments would comprehensively revise Item 402 by limiting the Remuneration Table to

disclosure of certain cash remuneration; by permitting other forms of remuneration to be disclosed pursuant to a narrative, tabular or other format; and by focusing on remuneration received or vested rather than including contingent remuneration. For further information, please contact Susan P. Davis or Arthur H. Miller at (202) 272–2580.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

January 6, 1982.

[S–27–83 Filed 1–6–83; 3:44 pm]

BILLING CODE 8010–01–M

federal register

Monday
January 10, 1983

Part II

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, HHS.

ACTION: Notice of Actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth actions taken by the Director, National Institute of Allergy and Infectious Diseases, by authority of the Director, NIH, under the August 1982 NIH Guidelines for Research Involving Recombinant DNA Molecules (47 FR 38048).

EFFECTIVE DATE: January 10, 1983.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Dr. William J. Gartland, Office of Recombinant DNA Activities (ORDA), National Institutes of Health, Bethesda, Maryland 20205 (301) 496–6051.

SUPPLEMENTARY INFORMATION: Several major actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules are being promulgated today. These proposed actions were published for comment in the **Federal Register** of September 22, 1982 (47 FR 41924), and reviewed by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on October 25, 1982. In accordance with Section IV–C–1–b of the NIH Guidelines, these actions have been found to comply with the Guidelines and to present no significant risk to health or the environment.

Part I of this announcement provides background information on the actions. Part II provides a summary of the actions and an additional announcement of the Director, NIAID.

I. Decisions on Actions Under Guidelines

A. Revision of Appendix F

NIH staff proposed to revise Appendix F, Section F–1, second sentence, to clarify that the subject experiments are not in fact "prohibited," but rather fall under Section III–A of the Guidelines, which requires that the experiments receive RAC review and NIH and IBC approval before initiation. The current language is inaccurate.

The relevant sentence in Appendix F currently reads as follows:

> Cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} of less than 100 nanograms per kilogram body weight [e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin] is prohibited.

NIH staff proposed that this sentence be amended to read as follows:

> The cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} of less than 100 nanograms per kilogram bodyweight [e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin] is covered under Section III–A–1 of the Guidelines and requires RAC review and NIH and IBC approval before initiation.

The proposal was published in the September 22, 1982, **Federal Register** (47 FR 41924). During the comment period, no comments were received.

At its October 25, 1982, meeting, the RAC, by a vote of one in favor, thirteen opposed, and no abstentions, rejected a proposal to add additional wording to this section to indicate that such experiments would not ordinarily be allowed. The RAC then agreed by a vote of fourteen in favor, none opposed, and no abstentions, to recommend the change as published in the **Federal Register** on September 22, 1982, to make Appendix F consistent with the main text of the Guidelines.

I accept this recommendation to revise Appendix F.

B. Request for Permission To Clone a Shiga-like Toxin Structural Gene from E. coli

In a letter dated September 29, 1982, Dr. Alison O'Brien of the Uniformed Services University of the Health Sciences requested permission, in collaboration with Dr. Randall Holmes, to clone in *Escherichia coli* K–12 the structural gene of the Shiga-like toxin from clinically isolated strains of *E. coli*. The *E. coli* Shiga-like toxin has activity similar to the activity of *Shigella dysenteriae* neurotoxin. The investigators proposed to clone the Shiga-like toxin gene in *E. coli* EK1 host-vector systems using plasmid, cosmid, or lambda cloning vectors under P1 conditions. In support of their proposal, Drs. O'Brien and Holmes offered the following arguments:

1. Clinical isolates of *E. coli* have already been demonstrated to elaborate large amounts of toxin indistinguishable from that produced by *Shigella dysenteriae* 1 (Shiga). Therefore, the genes for Shiga-like toxin production are present in the *E. coli* gene pool found in nature.

2. Human volunteers fed large numbers of *Shigella dysenteriae* 1 organisms that produced Shiga toxin but could not colonize the bowel did not become ill. Therefore, any accidental ingestion of the organism to be manufactured, a toxin-producing *E. coli* K–12 strain that cannot colonize the human intestinal tract, should pose little hazard to man.

3. Purification of Shiga toxin in several laboratories and *E. coli* Shiga-like toxin in the investigators' laboratory has not identified any excessive risk from the aerosolization of toxin that probably occurs during the process of toxin preparation. In one laboratory, toxin was isolated from 500 liters of culture with only P1 physical containment.

4. Shiga toxin is a potent cytotoxin for a subline of HeLa cells (a human cervical carcinoma tissue culture cell line) but the toxin has no effect on many other human, monkey, and rodent tissue culture cells. Therefore, the toxin is quite cell-type specific, and this limited spectrum of activity suggests that it would be non-toxic for most cells in the human body.

5. Contrary to the old literature, Shiga toxin is not a neurotoxin. By 1955, it was established that the paralysis observed in rabbits and mice (but *not* monkeys, guinea pigs, hamsters, or rats) when toxin is given intravenously is a reflection of the effect of toxin on the endothelium of small blood vessels, not a direct effect on nerve cells.

The request was summarized in the **Federal Register** of September 22, 1982 (47 FR 41924). One comment on a related issue was received during the comment period. Dr. K. N. Timmis of the Universite de Geneve, suggested that the NIH Guidelines for Research Involving Recombinant DNA Molecules, as they relate to the cloning of the Shiga toxin gene, be revised. Dr. Timmis argued that *Shigella* and *Escherichia* are closely related, and that the NIH recognizes the high degree of relatedness by including these two genera in Sublist A, Appendix A, of the Guidelines. Dr. Timmis, therefore, argued that no NIH review should be required (as now specified by Section III–A and Appendix F) when the Shiga toxin gene is to be cloned in *E. coli* K–12.

The RAC discussed the request submitted by Dr. O'Brien at the October 25, 1982, meeting. During that meeting, it was stated that taxonomically *Shigella* and *Escherichia coli* are so close that in the future they may be classified as the same organism. The toxin administered intravenously to rabbits and monkeys is very toxic; it is not very toxic to mice when administered intravenously. Many *E. coli* isolates, both pathogenic and nonpathogenic, express some toxin; therefore, shotgun cloning of *E. coli* into *E. coli* has undoubtedly already resulted in cloning of the toxin gene. One RAC member pointed out that in *Shigella* the

Shiga toxin gene is chromosomal, and he questioned what effect introducing that gene into a high copy number plasmid would have. Finally, questions were raised concerning the relationship of invasiveness to pathogenicity and to toxin toxicity. Most of these questions could not be answered as inadequate data exist. However, there was general agreement that P4 containment would be adequate. After hearing the arguments, the committee, by a vote of twelve in favor, none opposed, and one abstention, recommended that the initial experiments be performed under P4+EK1 containment conditions. A motion to approve the experiments at P3+EK1 failed by a vote of five in favor, seven opposed, and one abstention. A motion to approve the experiments using P3 laboratory practices and containment equipment in a P4 faculty failed to pass by a vote of five in favor, seven opposed, and one abstention.

I accept the RAC recommendation that P4+EK1 containment is adequate to contain safely the experiments proposed by Drs. O'Brien and Holmes and appropriate language has been added to Appendix F of the Guidelines. If the investigators wish to proceed with the experiments in the NIH P4 facility, a prior review will be conducted by an *ad hoc* group to advise NIH whether the proposal has sufficient scientific merit to justify the use of the NIH P4 facility.

C. Request for Permission To Clone a Hybrid Gene Involving the Gene Encoding Diphtheria Toxin

Dr. John Murphy of Harvard Medical School, in a letter dated October 5, 1982, requested permission to construct a hybrid molecule in which the gene coding for the melanocyte stimulating hormone (MSH) is joined to a segment of the gene encoding diphtheria toxin. The diphtheria toxin gene segment would encode the A subunit and portions of the B subunit. The segment would be devoid of the diphtheria toxin binding domain. The MSH gene would be a synthetic oligonucleotide. The MSH-diphtheria toxin hybrid gene would be introduced into poorly mobilizable plasmids such as pBR322, PUC9, or PUC8, and cloned in *E. coli* EK1 host-vector systems. Dr. Murphy proposed that work leading up to the gene fusion would be conducted under P1 + EK1 containment. P1 + EK1 containment would be appropriate for cloning the diphtheria toxin segment, as without a binding domain the polypeptide has very low toxicity. Dr. Murphy proposed that propagation of the hybrid gene in *E. coli* K–12 be conducted in the high containment Building 550 at the Frederick Cancer Research Facility (FCRF), since the specific toxicity of the hybrid gene product is unknown.

Dr. Murphy's request was summarized in the **Federal Register** of September 22, 1982. During the comment period, no comments were received.

This request was discussed at the October 25, 1982, meeting of the RAC. Immediately preceding this discussion, the RAC discussed a previous request from Dr. Murphy to clone in *E. coli* K–12 restriction fragments of *Corynephage Beta* carrying the structural gene for diphtheria toxin (i.e., not joined to MSH). This previous request of Dr. Murphy's had been recommeded on two previous occasions by the RAC (meetings of April 24, 1981, and September 11, 1981) and approved each time by NIH (**Federal Register** of July 1, 1981, and October 30, 1981). Because of a letter received urging against conducting this experiment, it was brought back to the RAC for reconsideration at this meeting. During a long discussion by the RAC, it was stated that this letter did not raise any issues of risk that were not previously considered by the RAC. A motion that the previous approval for this experiment be rescinded, was not seconded. Appendix F, Section F–IV–C, has been amended to indicate that the previous decision still stands that the P4 facility is judged to be adequate to contain safely the experiment; however, if the investigators wish to proceed with the experiment in the NIH P4 facility, a prior review will be conducted by an *ad hoc* group to advise the NIH whether the proposal has sufficient scientific merit to justify the use of the NIH P4 facility.

The RAC now turned to Dr. Murphy's new proposal to construct and propagate a hybrid molecule in which the gene coding for MSH is joined to a segment of the gene encoding diphtheria toxin. A motion was made that the experiment be allowed as requested by Dr. Murphy, i.e., work leading up to the gene fusion (with the separate fragments of the diphtheria toxin gene and of the synthetic MSH) could be done at P1 containment, but that the propagation of the hybrid toxin gene be done at P4 containment at the Frederick Cancer Research Facility. The motion passed by a vote of thirteen in favor, none opposed, and no abstentions. I accept the RAC recommendation as to the containment necessary to contain safely this experiment and appropriate language has been added to Appendix F of the Guidelines. If the investigators wish to proceed with the experiment in the NIH P4 facility, a prior review will be conducted by an *ad hoc* group to advise the NIH whether the proposal has sufficient scientific merit to justify the use of the NIH P4 facility.

The committee agreed that data on the characteristics of the recombinant organisms expressing the MSH-diphtheria toxin hybrid gene should be evaluated before the strains are permitted to leave the facility. By a vote of thirteen in favor, none opposed, and no abstentions, the RAC recommended that the *ad hoc* Working Group on Toxins be charged with review of the data on the *E. coli* strains carrying the MSH-diphtheria toxin hybrid gene and recommend whether the strains may be removed from P4 containment; the recommendation of the Working Group could be acted upon by NIH without action necessary by the full RAC although a report of the Working Group recommendations should be sent to the RAC. I accept this recommendation, and appropriate language has been added to Appendix F.

D. Request To Field-Test Transformed Tomato and Tobacco Plants

In a letter dated June 9, 1982, Dr. John Sanford of Cornell University requested permission to field-test tomato and tobacco plants transformed with bacterial (*E. coli* K–12) and yeast DNA using pollen as a vector. Plants would then be screened in the field to detect transformation events. Dr. Sanford argued that P1 containment is impractical when the screening of thousands of whole seedlings becomes necessary.

The proposal was summarized in the September 22, 1982, **Federal Register** (47 FR 41925). During the comment period, no comments were received.

The RAC discussed the proposal at the October 25, 1982, meeting. There was doubt expressed as to whether the experiments would actually work, since no one has yet reported transformation via pollen. There was some discussion about the introduction of kanamycin resistance into plants. A representative of the USDA said that antibiotics are used in agriculture to control bacterial diseases, particularly in citrus crops. Antibiotics are not used in the cultivation of tobacco. She noted that the plants will be tested in New York State under controlled conditions in a controlled access field.

The RAC then voted ten in favor, one opposed, with three abstentions, to recommend approval of the experiments as proposed.

Final action on this recommendation is being deferred pending a review of the proposal by the United States

Department of Agriculture Recombinant DNA Committee.

E. Request To Release Strains Of Pseudomonas Syringae and Erwinia Herbicola

Drs. Nickolas Panopoulos and Steven Lindow of the University of California, Berkeley, requested permission to construct and release *Pseudomonas syringae pv. syringae* and *Erwinia herbicola* carrying *in vitro* generated deletions of all or part of the genes involved in ice nucleation.

The aim of the experiments is to investigate possibilities for biological control of frost damage in plants.

The proposal was summarized in the September 22, 1982, **Federal Register** (47 FR 41925). During the comment period, no comments were received.

Certain bacteria, such as *Pseudomonas syringae* and *Erwinia herbicola* cause nucleation of ice crystals. These bacteria are common plant epiphytes. A causal relationship has been established between frost damage on frost-sensitive crop plants, in the temperature range 0° to -5°C, and the populations of ice nucleation active bacteria present on the plants. There are chemically induced mutants of *P. syringae* and and *E. herbicola* that do not cause ice nucleation, and their effectiveness under field conditions has been demonstrated. The investigators now propose to construct deletion mutants for ice nucleation activity in prototype strains of *P. Syringae* and *E. Herbicola* and to evaluate their efficacy as biological competitors of naturally occurring populations of these bacteria. The investigators state that the advantages of such mutants compared to chemically-induced equivalents are genetic stability and the absence of silent mutations which may adversely effect competitive fitness. Prior to the field applications, the investigators plan to test the mutant strains in a contained environment, such as growth chambers and greenhouse, to verify that they do not induce frost or other injury to plants, and that they are capable of colonizing leaves. It was pointed out that fields have already been sprayed with the chemically induced mutant organisms.

The RAC reviewed the proposal at the October 25, 1982, meeting. Several members of the RAC expressed concern about the lack of data on these organisms, including the host range of the constructed organisms, and the broad approval being requested. One RAC member expressed concern about marking the strains with resistance to antibiotics such as rifamycin in the absence of more information about these organisms. The necessity for releasing the organisms in six different field and experiment stations was questioned. In addition, it was noted that ice nucleation active bacteria can enter the atmosphere as aerosols and may be important in atmospheric precipitation processes. What effect might these experiments have on rainfall patterns in California? On the other hand, it was pointed out that field testing of (non-recombinant-DNA) mutants of these bacteria is already being done.

The RAC then passed a motion noting that similar (non-recombinant-DNA) field tests are already being done, and recommending approval of the requested field tests, by a vote of seven in favor, five opposed, with two abstentions.

Because of concerns raised at the RAC meeting, approval of the proposed field tests is being withheld. The investigators may bring this or a modified proposal back for consideration at a future RAC meeting and may at that time wish to submit additional data resulting from experiments conducted in the laboratory or greenhouse.

II. Summary of Actions Under the Guidelines

Revision of Appendix F of the Guidelines

A. Appendix F, Section F–I, second sentence, is amended to read as follows:

"The cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} of less than 100 nanograms per kilogram body weight [e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin] is covered under Section III–A–I of the Guidelines and requires RAC review and NIH and IBC approval before initiation."

B. A new Section, Appendix F–IV–H, is added to Appendix F as follows:

"Appendix F–IV–H. The structural gene of the Shiga-like toxin from clinically isolated strains of *E. coli* may be safely cloned in *E. coli* K–12 under P4 + EK1 containment conditions. If the investigators wish to proceed with the experiments in the NIH P4 facility, a prior review will be conducted by an *ad hoc* group to advise NIH whether the proposal has sufficient scientific merit to justify the use of the NIH P4 facility."

C. Appendix F, Section F–IV–C, is amended to read as follows:

"Restriction fragments of *Corynephage Beta* carrying the structural gene diphtheria toxin may be safely cloned in *E. coli* K–12, in high containment Building 550 at the Frederick Cancer Research Facility. Laboratory practices and containment equipment are to be specified by the IBC. If the investigators wish to proceed with the experiments, a prior review will be conducted by an *ad hoc* group to advise NIH whether the proposal has sufficient scientific merit to justify the use of the NIH P4 facility."

D. A new Section, Appendix F–IV–I, is added to Appendix F as follows:

"A hybrid gene in which the gene coding for the melanocyte stimulating hormone (MSH) is joined to a segment of the gene encoding diphtheria toxin may be safely propagated in *E. coli* K–12, under P4 containment in high containment building 550 at the Frederick Cancer Research Facility. If the investigators wish to proceed with the experiment, a prior review will be conducted by an *ad hoc* group to advise NIH whether the proposal has sufficient scientific merit to justify the use of the NIH P4 facility. Before any of the strains may be removed from the P4 facility, data on their safety shall be evaluated by the RAC Working Group on Toxins, and the Working Group recommendation shall be acted upon by NIH."

Additional Announcement of the Director, NIAID

To correct a typographical error, Section Appendix F–IV–B is amended to read as follows:

"Appendix F–IV–B. The pyrogenic exotoxin type A (Tox A) gene of *Staphylococcus aureus* may be cloned in an HV2 *Bacillus subtilis* host-vector system under P3 containment conditions."

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: December 22, 1982.

Richard M. Krause,

Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health.

[FR Doc. 83–441 Filed 1–7–83; 8:45 am]

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federal register

Monday
January 10, 1983

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Permanent Regulatory Program; Erosion Control

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 816 and 817

Permanent Regulatory Program; Erosion Control

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is amending its rules which previously regulated air pollution from surface coal mining and reclamation operations. The final rules will instead regulate erosion and air pollution related to erosion, in accordance with the statutory language authorizing these performance standards.

OSM is also amending its rules which relate to stabilizing rills and gullies associated with surface coal mining and reclamation operations. OSM has amended the rules to require the stabilization of rills and gullies if they (1) disrupt the approved postmining land use or the reestablishment of the vegetative cover; or (2) cause or contribute to a violation of water quality standards for receiving streams.

EFFECTIVE DATE: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Barbara Berschler, Division of Surface Mining, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, 202–343–5207.

SUPPLEMENTARY INFORMATION:

I. Background and Rules Adopted
II. Responses to Public Comments on Proposed Rules
III. Procedural Matters

I. Background and Rules Adopted

On February 18, 1982 (47 FR 7384), OSM published a notice of proposed rulemaking (1) to amend 30 CFR 816.95 and 817.95 [1] relating to air resources protection for surface coal mining and reclamation operations and (2) to remove 816.106 and 817.106 relating to regrading or stabilizing rills and gullies. A public hearing was scheduled for March 15, 1982, but no one requested to testify. During the 30-day comment period, OSM received 12 comments from State agencies, industry, and environmental groups.

The relevant provisions of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, are Sections 515(b)(4) and 516(b)(10), 30 U.S.C. 1265(b)(4) and 1266(b)(10). Section 515(b)(4) requires that all surface coal mining and reclamation operations:

> [S]tabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution.

Under Section 516(b)(10) of the Act, similar requirements apply to underground mining operations.

In *In re: Permanent Surface Mining Regulation Litigation*, CA 79–1144 (D.D.C., May 16, 1980), §§ 816.95 and 817.95 of the rules were remanded by the trial judge to the Secretary of the Interior for revision because the Act's legislative history "indicates that the Secretary's authority to regulate [air] pollution is limited to activities related to erosion." *Id.*, slip op. at 28. The Secretary appealed this decision to the U.S. Court of Appeals. No decision has yet been rendered on that appeal.

OSM has reconsidered this entire issue in the context of the rulemaking. The final rule reflects OSM's decision to concur in the conclusions of the U.S. District Court and is consistent with that decision. This reconsideration consisted of both a review of the public comment on the proposed rule and a careful search of the Act's legislative history. As the U.S. District Court points out, the language of Section 515(b)(4) of the Act, 30 U.S.C. 1265(b)(4), is not without its ambiguities. Section 515(b)(4) could be read to require the Secretary to regulate air pollution as well as erosion or to control erosion, alone with air pollution which is only attendant to erosion. As the U.S. District Court notes: "the statutory construction argument may turn either way." *Id.*

Suspended particulates are the primary air pollutants associated with coal mining. Emissions of particulates from a duct or stack at a stationary source are subject to comprehensive regulation under the Clean Air Act, as amended (42 U.S.C. 8157 *et seq.*) and related State laws. Other particulate contributions result from wind erosion and the operation of nonstationary sources. This background is important for it refocuses the primary inquiry: Did Congress in enacting Section 515(b)(4) of the Act intend to create a program for the regulation of pollution that may result from the operation of nonstationary sources related to coal mining. OSM believes that the legislative history resolves any statutory ambiguity in favor of the more narrow interpretation.

An early version of the Act contained a provision substantially the same as Section 515(b)(4). (See H.R. 11500, 93d Cong., 2d Sess., 211(b)(6), 1974). The report of the House Committee on Interior and Insular Affairs explained that Section 211(b)(6) of H.R. 11500 required operators "to stabilize and protect all surface areas including spoil piles to control air and water pollution." H.R. Rep. No. 93–1072, 93d Cong., 2d Sess. 134 (1974). The same House committee reported a subsequent bill, H.R. 13950, 94th Cong., 2d Sess. (1976), which contained a provision identical to Section 515(b)(4) that required operators to "stabilize and protect all surface areas including spoil piles to control air and water pollution." H.R. Rep. No. 94–1445, 94th Cong., 2d Sess. 118 (1976). Finally, the House Interior and Insular Affairs Committee Report for H.R. 2, the bill which was enacted, when highlighting the "major provisions" of the environmental performance standards of Section 515, made no reference to the regulation of air quality. H.R. Rep. No. 95–218, 95th Cong., 1st Sess. 173–174 (1977). However, the report did say that "[s]tandards to assure the stability of spoil mass as well as to control surface erosion are prescribed for surplus soil from all types of mining operations." *Id.*

Thus, the language of these three reports dealt with erosion and its effects rather than air quality control. OSM believes that the absence of any reference to the major undertaking of air quality control in these committee descriptions of the environmental performance standard is most telling and supports the direction of the final rule. [2]

After reviewing Section 515(b)(4) of the Act and its legislative history, OSM has decided to adopt the interpretation of the U.S. District Court in this final rule. In making this decision, it should be noted that the EPA, under the Clean Air Act, has developed a complex system of regulation to protect air quality in each State. Under this program, each State must develop a comprehensive State Implementation Plan designed to bring the State into compliance or to assure continued compliance with National Ambient Air Quality Standards for public health and welfare and to prevent significant deterioration of clean-air areas. Such plans can include consideration of pollution from coal mines in the particular region or locale. As the District Court observed, "if Congress

[1] Sections 816.95 and 817.95 were suspended by the Department on August 4, 1980 (45 FR 51549).

[2] *See also* S. Rep. 95–128, 95th Cong., 1st Sess. 82 (1977). (In the section-by-section analysis the Senate Committee on Energy and Natural Resources did not include air quality control as one of the 22 listed environmental protection standards to be enacted.)

wanted the Secretary to develop regulations protecting air quality, it could have done so in a straightforward manner." *In re: Permanent Surface Mining Regulations Litigation, supra.*, p. 29. Accordingly, the final rule will require operators to take steps to stabilize and protect all exposed surface areas in order to effectively control erosion and air pollution related to erosion; but it will not regulate fugitive dust emissions from the operation of equipment and trucks.

In a related vein, OSM is aware that roads can be a major source of fugitive dust from surface coal mining and reclamation operations. The classification and maintenance of these roads are governed by §§ 816.150–816.176 and §§ 817.150–817.176 of the permanent program rules. OSM suspended those sections in response to Judge Flannery's decision, in *In re: Permanent Surface Mining Reclamation Litigation, supra*, p. 32–36, to remand those rules to the Secretary. 45 FR 51547 (August 4, 1980). OSM has proposed revisions to the road rules which include provisions for road maintenance and more specific standards with respect to erosion control. The relevant sections are proposed §§ 816.150(a), 816.180(a)(1), 817.150(a), and 817.180(a)(1), which are discussed at 47 FR 16594 and 16595 (April 16, 1982).

Additionally, OSM had proposed to remove §§ 816.106 and 817.106 of the permanent regulatory program which required the regrading and stabilizing of rills and gullies deeper than 9 inches. OSM was of the opinion that the proposed erosion control rules requiring protection and stabilization of all exposed surface areas would include stabilization of rills and gullies. OSM continues to believe that a separate design criterion for rills and gullies is not needed to assure erosion stabilization of rills and gullies and that such a problem will be governed by the general performance standard for the section. However, in response to public comment which pointed out that rills and gullies can create reclamation problems separate from erosion problems, OSM has developed a performance standard for their control which incorporates other specific reclamation requirements of the Act and rules. The new rules will require the operator to take remedial action if rills and gullies develop which (1) disrupt the approved postmining land use or the reestablishment of a vegetative cover or (2) cause or contribute to a violation of water quality standards for receiving streams. The revised standard will be included as §§ 816.95(b) and 817.95(b).

Finally the titles of §§ 816.95 and 817.95 have been changed to reflect more accurately their content.

II. Responses to Public Comments on Proposed Rules

Section 816.95(a) and 817.95(a)

Two commenters found that the proposed §§ 816.95 and 817.95 merely restated the statutory language and provided no guidance for implementation. Another commenter thought the rules were so vaguely worded that they would require no specific minimum level of action and could result in discriminatory enforcement by the regulatory authority.

OSM believes that the new rules succinctly set out the required performance standards. Most of the measures specified in the previous rules pertained to the control of fugitive dust. Their retention would not be appropriate in the revised rules. As with other performance standards proposed by OSM, regulatory authorities will have flexibility to develop stabilization measures consistent with local terrain, climate, soils, and other conditions existing within the State. Appropriate techniques to stabilize exposed areas can be determined by the regulatory authority and operators in conjunction with local Soil Conservation Districts and air quality agencies, as appropriate. Furthermore, in order for a State program to be approved, the State must satisfy OSM that it has the capability to carry out the provisions and purposes of the Act. 30 U.S.C. 1253. During implementation these programs will be subject to OSM oversight.

One commenter was concerned that after OSM deleted the air quality control measures from the rules, they would simply be placed in a guidance manual which would still be considered by OSM for permit approval. The commenter's concern appears misplaced for two reasons: First, permit approval will be based upon standards included in the State regulatory programs and implemented as legally enforceable in that State, and not guidelines that may be developed by OSM. And second, any OSM guidance manual would simply provide advice and not mandatory direction for State regulatory authorities. For these reasons the comment is rejected.

Several commenters generally supported the proposal but added recommendations that would limit the rule's coverage or clarify its application. These suggestions included limiting stabilization efforts to exposed areas of 1 percent or more of the permit area; controlling the surface areas only as required; and stabilizing only those surface areas that are exposed from mining operations. These comments are rejected. The Act's language is clear on this matter. Section 515(b)(4) applies to the entire area that has been disturbed by mining and includes spoil piles. The extent of the stabilization and erosion control activities required is to be determined on the basis of local conditions and may include such techniques as prompt revegetation of disturbed areas or other surface stabilization techniques.

Related to the concern over the breadth of the rules was a comment on whether operators, particularly in the West, would have to create better conditions than those which exist naturally in the surrounding area. As previously indicated, effective erosion control may vary from State to State. The intent of the rule is to ensure that surface areas are protected from erosion and to minimize air pollution resulting from such erosion. These actions should be consistent with the approved postmining land use and the plan for revegetation. Comparisons with surrounding areas may be used by the regulatory authority in determining whether such standards are met.

One commenter recommended that the rule provide for erosion control by meeting applicable Federal and State air quality laws and regulations and suggested that Section 515(b)(4) did not extend OSM's erosion control authority or air pollution control authority. The commenter's interpretation of Section 515(b)(4) as not providing general erosion control authority is not accepted. The Act does provide for control of erosion, which these rules address. As indicated above, however, these rules are not intended to cover all aspects of air pollution or to provide a means of regulating ambient air quality. Although some particulate omissions may not be regulated by OSM under the final rule, they can be regulated by a State as necessary under a State Implementation Plan adopted pursuant to the Clean Air Act.

One commenter believed it was necessary to amend the permit application rules found at §§ 780.15 and 784.26 for consistency. These provisions require fugitive dust control plans in accordance with §§ 816.95 and 817.95 as part of a permit application. Because the revised §§ 816.95 and 817.95 will no longer specify fugitive dust control practices, OSM agrees that it will be necessary to amend the permit application rules related to erosion. OSM will consider this as a future independent rulemaking.

One commenter objected to OSM proposing a rule which was not consistent with the position taken by it before the District and Appellate Courts in the litigation challenging the 1979 permanent program rules. The court in *In re: Permanent Surface Mining Reclamation Litigation, supra,* remanded the air resources protection rules to the Secretary. As indicated above, OSM has reviewed the legislative history and the comments received on the proposed rule and has decided to adopt a final rule consistent with the District Court's ruling in that case.

One commenter thought that the coverage of the proposed rules did not extend far enough and that OSM should propose new rules to include impacts on air quality that are unrelated to erosion. As indicated above, this interpretation has been rejected in the final rule which has been developed in accordance with the District Court's opinion in *In re: Permanent Surface Mining Regulation Litigation, supra.* In that case, Judge Flannery ruled that Section 514(b)(4) of the Act, which is the statutory authority for §§ 816.95 and 817.95 of the rules, is limited to the control of erosion and air pollution resulting from erosion-related sources.

In a related vein, a Midwestern State agency expressed the opinion that it was not logical to assume that the intent of Congress in drafting Section 515(b)(4) was to control air pollution only attendant to erosion. In the State agency's experience, the primary sources of fugitive dust were from excavation, blasting, haul roads, and preparation plants, rather than from erosion. Therefore, the commenter believed that the emphasis of the rules should be on the source of air pollution. OSM disagrees that it is not logical to regulate air pollution attendant to erosion. OSM believes that the stabilization of disturbed surface areas to control erosion can be effectively integrated with other aspects of the regulatory program.

One commenter believed that the proposed rule changes were being examined out of context with closely related rules also being proposed for revision. OSM completed an environmental assessment which analyzed the cumulative impacts of adopting these rules in relation to other proposed rules. In that analysis, this rule was identified as a rule that did not have a significant interrelationship with the other proposals and that it could proceed independently. If it develops that regulatory adjustments are necessary due to subsequent rulemakings, then proposed revisions will be made as needed.

The same commenter thought that the proposed rules were ambiguous as to which sources of air pollution were covered and what air quality goals must be reached. This commenter was concerned that there would be little preplanning to take a preventative approach to air pollution control and that enforcement would depend on citizen complaints and the attitude of individual inspectors rather than on an objective and uniform program. The commenter recommended adopting a flexible approach to air quality control which would base the level of control on the proximity of the minesite to sensitive areas such as residential communities, transportation routes, and recreation areas.

OSM thinks that the performance standards are sufficiently clear as to the standards to be imposed to control erosion. These can be expanded upon by individual regulatory authorities as necessary on the basis of local conditions. As previously explained, the final rule reflects the interpretation of Section 515(b)(4) that limits the applicability to the stabilization of exposed surface areas, erosion control, and control of air pollution attendant to erosion. It is not intended to regulate air quality in general or establish air quality goals. Development of an approach for general air quality controls are the responsibility of the State and EPA as the enforcers of National Ambient Air Quality Standards and of MSHA as the enforcer of the Federal Mine Safety and Health Act of 1977. This can be accomplished as necessary through individual State Implementation Plans.

A commenter thought that if the final rules are to be limited to air pollution attendant to erosion, then the removal of specific control measures would prevent the regulatory authority from requiring additional and enumerated measures, especially in light of the restriction in some State programs against the adoption of rules that are more stringent than those prescribed by OSM.

OSM believes that the performance standards have been written so that States can develop the necessary specifics. OSM's role in reviewing State programs and amendments for consistency with the Subchapter K performance standards, provided under the procedures of 30 CFR Part 732, ensures that State program provisions will adequately meet the OSM standard. This rule is intended to implement the requirements of Section 515(b)(4). Under Section 505 of the Act, 30 U.S.C. Section 1255, a State may adopt provisions in addition to the requirements of the Act, including provisions specifically related to air quality if authorized under State law. These rules are not intended to preclude State legislatures from adopting or not adopting provisions more stringent than those required under the Act.

The same commenter felt that the final rules should contain measures to minimize air pollution from erosion in all phases of mining and reclamation operations. OSM believes that the final rules will be broad enough to control air pollution originating from erosion in all phases of mining and reclamation operations as necessary based on local conditions.

One commenter recommended including language in the rule that measures to stabilize surface areas not conflict with approved State Implementation Plans adopted to meet the requirements of the Clean Air Act. These rules are not expected to conflict with approved State Implementation Plans. The Act (Sections 503 and 702) specifically requires that these rules not conflict with laws such as the Clean Air Act. Because general compliance with Federal and State air quality laws is accounted for in the regulations of the air pollution control agencies, OSM does not believe it is necessary to reference such requirements in §§ 816.95 and 817.95.

The same commenter recommended defining key terms such as "attendant air pollution" and "effective control measures." By "attendant air pollution," OSM means generally any air borne particulates or fugitive dust directly caused by erosion associated with a surface mining and reclamation operation. OSM does not believe it is necessary at this time to include specific regulatory definitions of these terms because these words' meanings will vary depending upon local and site specific conditions. If at a future point significant problems are identified in the interpretation of these terms, OSM will consider providing additional guidance.

Sections 816.95(b) and 817.95(b)

In the opinion of one commenter, the proposed removal of §§ 816.106 and 817.106 concerning rills and gullies would reduce uncertainty and ambiguity

between existing sections and other applicable requirements. For a number of reasons, other commenters opposed removing the provision mandating the regrading of rills and gullies. One thought the requirement to regrade rills and gullies that are deeper than 9 inches was a specific and enforceable performance standard. Others believed that the language of the rules relating to erosion and attendant air pollution was not adequate to assure a land surface without large rills and gullies. One State felt that the rills and gullies themselves posed a serious impediment to the maintenance of water quality and the establishment of postmining land uses as required by the Act.

After reviewing the specific comments concerning the nature of rills and gullies and the reclamation problems which they can create, OSM has decided to remove §§ 816.106 and 817.106 and, in their stead, to incorporate provisions for regrading rills and gullies in §§ 816.95 and 817.95. Specifically, the amendments will require operators to fill, regrade, or otherwise stabilize rills and gullies, to replace lost topsoil, and to reseed or replant if the rills and gullies disrupt the approved postmining land use or the reestablishment of a vegetative cover or if they cause or contribute to the violation of water quality standards for receiving streams. The amended language will be a general performance standard. States may continue to include specific size limitations on rills and gullies as appropriate.

III. Procedural Matters

Federal Paperwork Reduction Act

The Department of the Interior (DOI) has determined that this final rule does not require the collection of information as defined under 44 U.S.C. 3501 *et seq.*

Executive Order 12291

The DOI has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291.

Regulatory Flexibility Act

The DOI certifies that this document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under Pub. L. 96–354.

National Environmental Policy Act

An environmental assessment (EA) was prepared analyzing the individual impacts on the human environment which the amendments to §§ 816.95, and 817.95, will have. On the basis of this EA, it was determined that adopting these rules will not constitute a major Federal action significantly affecting the quality of the human environment. In addition, an EA was prepared which analyzed the cumulative impacts of adopting these rules in relation to certain other proposed revised rules. In a Finding of No Significant Impact (FONSI) based on this latter EA, the amendments to §§ 816.95 and 817.95 were considered to be in category I, a category of revisions for which the analysis of impacts was sufficiently certain to support a finding of no significant impact. Both EAs and FONSIs are on file in the Administrative Record located at 1100 L Street, NW., Room 5315, Washington, D.C.

List of Subjects

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

For the reasons set forth in the preamble, Parts 816 and 817 of Chapter VII, Title 30, of the Code of Federal Regulations are amended as set forth herein.

Dated: October 1, 1982.

Wm. P. Pendley,

Assistant Secretary, Energy and Minerals.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

1. Section 816.95 is revised to read as follows:

§ 816.95 Stabilization of surface areas.

(a) All exposed surface areas shall be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

(b) Rills and gullies, which form in areas that have been regraded and topsoiled and which either (1) disrupt the approved postmining land use or the reestablishment of the vegetative cover, or (2) cause or contribute to a violation of water quality standards for receiving stream; shall be filled, regraded, or otherwise stabilized; topsoil shall be replaced; and the areas shall be reseeded or replanted.

§ 816.106 [Removed]

2. Section 816.106 is removed.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

3. Section 817.95 is revised to read as follows:

§ 817.95 Stabilization of surface areas.

(a) All exposed surface areas shall be protected and stabilized to effectively control erosion and air pollution attendant to erosion.

(b) Rills and gullies which form in areas that have been regraded and topsoiled and which either (1) disrupt the approved postmining land use or the reestablishment of the vegetative cover, or (2) cause or contribute to a violation of water quality standards for receiving streams; shall be filled, regraded, or otherwise stabilized; topsoil shall be replaced; and the areas shall be reseeded or replanted.

§ 817.106 [Removed]

4. Section 817.106 is removed.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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Last Listing January 7, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 6211 / Pub. L. 97–424 Surface Transportation Assistance Act of 1982. (Jan. 6, 1983; 96 Stat. 2097) Price $4.75.

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Presidential Documents

Title 3—

The President

Proclamation 5011 of January 7, 1983

National Jaycee Week, 1983

By the President of the United States of America

A Proclamation

For more than sixty years, the Jaycees have brought together outstanding young members of communities throughout the Nation to help meet the vital needs of our ever-changing and increasingly complex society. Motivated by their creed "Service to humanity is the best work of life," hundreds of thousands of Jaycees have voluntarily contributed their energy to a wide variety of humanitarian projects and have thereby enriched their country, their communities and their own lives.

As a training ground for new leaders, the Jaycees have made their most valuable and lasting contribution to our society. This organization has for generations launched young Americans on careers of leadership in every field of endeavor.

In recognition of the accomplishments of this organization, the Congress of the United States, by Senate Joint Resolution 240, has authorized and requested the President to issue a proclamation designating the week beginning on January 16, 1983, as "National Jaycee Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning January 16, 1983, as National Jaycee Week, and I call upon the people of the United States to observe that period with appropriate programs, ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of January, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-922
Filed 1-10-83; 11:52 am]
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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegations of Authority by the Secretary of Agriculture and General Officers of the Department

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document supplements the delegation of authority to the Assistant Secretary of Agriculture for Natural Resources and Environment, and the Chief, Soil Conservation Service, relating to implementation of a Resource Conservation and Development Program, Title XV, Subtitle H, of the Agriculture and Food Act of 1981, Pub. L. 97–98.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Peterson, Director, Project Development and Maintenance, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, 202–447–3527.

SUPPLEMENTARY INFORMATION: A Resource Conservation and Development Program is currently administered through regulations and policies of the Department of Agriculture, issued under the general authority to conduct this type of activity set forth in Title III of the Bankhead-Jones Farm Tenant Act, 7 U.S.C. 1010–1011, the Soil Conservation and Domestic Allotment Act, 16 U.S.C. 590a–f, and in annual appropriations. This Program has continually evolved since the early 1960's. The current Program is carried out in 194 areas approved by the Secretary of Agriculture. An area typically covers several adjacent counties.

Local people from the area volunteer their time to form an organization usually referred to as an "RC&D Area Council." This organization is comprised of representatives of local sponsoring organizations and other interested persons. Official sponsors of RC&D areas include State and local units of government and other groups such as counties, cities, towns, and soil conservation districts.

Technical and financial assistance to the local organization in preparing and carrying out its area plan is provided by the Soil Conservation Service. The local organization is a focal point for individuals and groups seeking assistance in solving local problems. Personnel of the Soil Conservation Service and other agencies work with the local organizations to explore the availability of assistance from the Department of Agriculture and other sources.

Subtitle H, Title XV of the Agriculture and Food Act of 1981, Pub. L. 97–98, 16 U.S.C. 3451–3461, provides specific supplemental authority to carry out the Resource Conservation and Development Program in light of declared congressional objectives and purposes, which are to provide State and local governments and local nonprofit organizations with the technical and financial assistance needed to operate and maintain planning and implementation processes "needed to conserve and improve the use of land, develop natural resources, and improve and enhance the social, economic, and environmental conditions in rural areas of the United States." The Secretary of Agriculture is delegating the authority for implementation to the Assistant Secretary for Natural Resources and Environment, and the Assistant Secretary is redelegating this authority to the Chief, Soil Conservation Service.

This rule relates to internal agency management and organization. Therefore, pursuant to 5 U.S.C. 553, it is found that it is impractical and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register**. Since this rule relates to internal agency management and organization, it is exempt from provisions of Executive Order 12291 and Secretary's Memorandum 1512–1.

List of Subjects in 7 CFR Part 2

Organization and functions (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries.

1. In § 2.19, paragraph (f)(6) is revised to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Natural Resources and Environment.

* * * * *

(f) * * *

(6) Administer the Resource Conservation and Development Program under Pub. L. 46, 74th Congress, 16 U.S.C. 590a–f; Pub. L. 87–703, as amended, 7 U.S.C. 1010–1011; and Pub. L. 97–98, 16 U.S.C. 3451–3461; except for responsibilities assigned to the Under Secretary for Small Community and Rural Development.

* * * * *

Subpart G—Delegation of Authority by the Assistant Secretary for Natural Resources and Environment

§ 2.62 [Amended]

2. In § 2.62, paragraph (a)(6) is revised to read as follows:

(a) * * *

(6) Administer the Resource Conservation and Development Program under Pub. L. 46, 74th Congress, 16 U.S.C. 590a–f; Pub. L. 87–703, as amended, 7 U.S.C. 1010–1011; and Pub. L. 97–98, 16 U.S.C. 3451–3461; except for responsibilities assigned to the Farmers Home Administration.

* * * * *

For Subpart C:

Dated: January 6, 1983.

John R. Block,

Secretary of Agriculture.

For Subpart G:
Dated: January 3, 1983.
John B. Crowell, Jr.,
Assistant Secretary for Natural Resources and Environment.
[FR Doc. 83-752 Filed 1-10-83; 8:45 am]
BILLING CODE 3410-01-M

Food and Nutrition Service

7 CFR Part 254

Food Distribution Program on Indian Reservations; Oklahoma Tribes Eligibility

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim regulations.

SUMMARY: These interim regulations based on existing Food Distribution Program regulations and on the specific provisions of Pub. L. 97-98 regarding Oklahoma, set requirements for eligibility of tribes to operate the Food Distribution Program (FDP) in Oklahoma. These regulations enable Indian tribes in Oklahoma to operate the FDP. The intent of the regulations is to allow Indian households in Oklahoma to participate in the FDP. The rules incorporate pertinent parts of existing regulations, 7 CFR Part 253, and set procedures for the tribal application process.

EFFECTIVE DATE: These regulations are effective January 11, 1983. Comments will be considered if received on or before April 11, 1983.

ADDRESS: Send comments to: Joseph E. Shepherd, Director, Food Distribution Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302.

Comments will be available for public inspection at the above address from 8:30 to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development Branch, (703) 756-3660.

SUPPLEMENTARY INFORMATION:

Classification. This interim rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been classified "not major." The interim rule will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions. Because this interim rule would not affect the business community, it would not result in significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-54, 94 Stat. 1164, September 19, 1980). Mr. Samuel J. Cornelius, Administrator, Food and Nutrition Service, has certified that this action has no economic impact on small entities.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting or recordkeeping provisions that are included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation. The regulations are issued as Interim Regulations. Mr. Samuel J. Cornelius has determined that the receipt of public comments prior to the issuing of these Interim regulations is not necessary and would be contrary to the public interest.

The Food Distribution Program (FDP) is already operating under regulations (7 CFR Part 253) issued through extensive proposed and final regulations. Many Oklahoma tribes provided detailed comments regarding the food distribution proposal published on December 8, 1978 (43 FR 57798-57820). These rules, for the most part, require certain exceptions or modifications to the current FDP based on Pub. L. 97-98. Nevertheless, in case there is some point which has not been thoroughly addressed previously, the Department will carefully review comments on these rules even though these rules are effective upon publication. Only a few tribes in Oklahoma have currently applied for the program. Therefore, FNS changes based on comments will be easy to put into effect without changing the ongoing and extensive system.

Additionally, Pub. L. 97-98 allows the benefits of the Food Distribution Program to be provided to Oklahoma. The Program is already operational in many States and was designed based on public comment. It is thus in the public interest that these rules be effective upon publication.

Background

On June 19, 1979, the Department published regulations (originally Part 283; now designated as Part 253) to implement the Food Distribution Program on Indian Reservations (FDPIR) (44 FR 35904) throughout the nation. In the supplementary information published with those regulations, the eligibility of tribes to run the FDPIR was addressed. However, the unique status of Oklahoma Indian land holdings made it difficult to apply the FNS rules designed for the United States as a whole.

Much of the discussion about Oklahoma in the June 19, 1979, final regulations centered on the definition of a reservation (44 FR 35904-35906). Pub. L. 97-98 resolved those difficulties by specifically authorizing an FDP for Oklahoma based on special standards for Oklahoma. Pub. L. 97-98 allows the Secretary to determine program eligibility using any or all of the following criteria:

(a) The extent and nature of the governmental jurisdiction which a tribal organization exercises or has authority to exercise over the land on which the household resides;

(b) Whether the household resides in "Indian Country" as defined in Section 1151 of Title 18, United States Code;

(c) Whether the household resides within an Indian service area designated by the Bureau of Indian Affairs (BIA), United States Department of the Interior;

(d) The tribal membership or Indian status of persons in the household; and

(e) Whether the household resides in an urban area.

The Department's interim regulations use the criteria in the statutory Amendments in Pub. L. 97-98 in combination with existing regulations (Part 253) to meet the unique needs of low-income Indian households in Oklahoma. These interim regulations incorporate all of Part 253, except where specifically modified. The major areas where the Part 253 regulations are modified in these Part 254 regulations for Oklahoma tribes are in determining eligibility of tribes to operate a food distribution program and in the definition of a reservation.

Definitions. Section 254.2 uses the definitions contained in Part 253, with the following additions or modifications.

"FNS service area" means the area over which FNS has approved the food distribution program. FNS service areas may include the tribal reservation lands either held in trust or allotted to Indians. This area may differ from BIA service areas. FNS service areas will generally be the geographic area claimed by a tribe within the BIA service area and also within the historic reservation boundaries. FNS will not approve service to urban places with 10,000 people or more in population. Therefore, cities like Tulsa or Oklahoma City would be excluded. The Department believes that the Food Distribution

Program on Indian Reservations should provide benefits to rural households on Indian reservations where the lack of retail stores may hinder food stamp program operations. Low-income Indians who live in urban places have reasonable access to the Food Stamp Program. The FNS service area will also include small geographically defined areas approved by FNS adjacent to the reservation where service to Indians may be extended.

FNS service areas will encompass, but not be strictly limited to, the Tribal trust or allotment lands. The definition of "Indian trust or allotment lands" is based on the "Indian Country" definition in Section 1151 of Title 18, U.S. Code. The full Section 1151 of Title 18, U.S. Code, of which "c" is relevant to these rules, defines Indian country as:

(a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, not withstanding the issuance of any patent, and, including rights-of-way running through the reservation,

(b) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and

(c) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running throught the same.

"BIA Indian service area" means an area in Oklahoma where the Bureau of Indian Affairs has, by regulation, approved the provision of its services to Indians. The areas are generally the historical tribal reservations boundaries and some ares near the reservation.

Applicant tribes must supply maps and descriptions of their boundaries for FNS to determine the FNS approved service areas. Tribes must also give certification from the BIA area office that the boundaries they wish to service are within a recognized Indian service area.

"Indian tribal household" means a household in which at least one adult houlehold member is recognized as an Indian by an ITO. The definition of "Indian" can vary considerably. Under current FNS regulations the Department relies on Indian Tribal Organizations (ITO) operating programs to determine the status of individuals as Indians. Since there is no compelling reason the Department is aware of for changing this approach, the definition of who is an Indian person will be determined by the ITOs in Oklahoma as well.

The definition of "Indian tribal household" and "FNS service area" together allow tribal households to receive commodities if they live within the FNS service area. The Secretary has determined that non-Indian households will not be eligible for the Food Distribution Program in Oklahoma. This limit is within the legislative authority given to the Department by Congress in allowing participation by Oklahoma tribes. All households must, of course, be eligible based on income and other factors in the regulations before receiving benefits. These rules will also allow for the distribution of benefits to Indian households which reside near an Indian area, but within an FNS service area, where determined necessary by FNS and in conformity with the program's intent.

"Exercise governmental jurisdiction" in the Part 253 regulations means that a tribe must actively use a legislative, executive or judicial power. Many, or most of the Indian Tribal Oranizations in Oklahoma do exercise, or have authority to excercise, some degree of governmental jurisdiction.

Most tribes in Oklahoma do have elective tribal councils which are vested with at least limited legislative and executive functions relative to their tribal members. The Oklahoma Indian Welfare Act of 1936 recognized the Oklahoma tribes as political units and permitted the formation of tribal organizations subject to BIA approval. Under this Act, these tribal organizations may "enjoy rights or privileges secured to an organized Indian tribe" living on a reservation. They administer various Federal programs and are Federal-recognized governmental units for the purposes of certain Federally-funded programs. Most of these tribes have developed constitutions outlining their governmental structure and powers. We have been informed by BIA officials that most of the Indian tribes in Oklahoma have organized and obtained recognition under this Act.

The definition of "exercise governmental jurisdiction", for Oklahoma has therefore been somewhat changed from the 253 regulations. To qualify, tribes must show they have been organized under the Oklahoma Indian Welfare Act of 1936 or show that they are organized and approved under BIA regulations.

Administration. Section 254.3 incorporates all of the current Part 253 rules to apply to Oklahoma, except as modified by the interim regulations. Therefore, Oklahoma tribes must file agreements, submit budgets and State plans of operations, certify households, and agree to follow the regulations for program operations just as any other ITO in the nation. Due to their special circumstances, however, eligibility criteria are modified for Oklahoma tribes. In Section 254.3, the interim regulations replace Section 253.4 with the eligibility and application procedures that fit Oklahoma ITOs.

Section 254.3 states that within the Department, the Food and Nutrition Service (FNS) is responsible for the Food Distribution Program. Based on Pub. L. 97–98 qualified tribes in Oklahoma, acting as State agencies, will be responsible for the program. The regulations also give the qualifications of an Indian Tribal Organization. The ITO must show that it is organized under the Oklahoma Indian Welfare Act of 1936 or that it meets the requirements of BIA regulations as an approved tribe.

Application Procedures. Section 254.4 gives the procedures for ITOs to follow to apply for the Food Distribution Program in FNS service areas. The procedures are similar to those in current regulations. The ITO must file an application with the FNS Regional Office, which currently is the Southwest Regional Office in Dallas, Texas. The application must have the information needed by FNS to determine if an ITO is eligible for the program. Properly addressed applications must be acknowledged by FNS within 5 days of receipt. FNS also will advise ITOs promptly when an application is incomplete, so that the ITO can supply any missing information or needed clarification without undue delay.

A determination of whether the ITO is capable of program adminstration is required by Pub. L. 97–98 and these regulations. Normally, the determination is required within 60 days of receipt of a completed application. However, due to the unique circumstances found in Oklahoma, FNS may extend the period for capability determination beyond 60 days if this is necessary. It is likely that the determination will be completed within 60 days. However, FNS will advise any tribe when an extension for the capability study may be needed.

Household Eligibility. Section 254.5 gives the requirements for household eligibility. In order to be eligible, households must have low income and meet the existing eligibility standards in §§ 253.6 and 253.7. In addition, only Indian households, as defined in § 254.2, may be eligible for program benefits.

Households living in urban places, defined as cities or towns of 10,000 or more population, are excluded from the Food Distribution Program on Indian Reservations. Households who live in urban places should have more than adequate access to the Food Stamp Program. Extending the FDP to urban

places is therefore not appropiate. This rule is similar to the current requirement in regulations that urban places near a reservation may not be served.

List of Subjects in 7 CFR Part 254

Administrative practice and procedure, Food assistance programs, Grant programs/social programs, Indians, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR is amended by adding Part 254 as follows:

PART 254—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM TO HOUSEHOLDS ON INDIAN RESERVATIONS IN OKLAHOMA

Sec.
254.1 General purpose.
254.2 Definitions.
254.3 Administration by an ITO.
254.4 Application by an ITO.
254.5 Household eligibility.

Authority: Pub. L. 97–98, Section 1336; Pub. L. 95–113. (Catalog of Federal Domestic Assistance No. 10.550)

§ 254.1 General purpose.

This part sets the requirements under which commodities (available under Part 250 of this chapter) may be distributed to households residing in FNS Service areas in Oklahoma. This part also sets the conditions for administration of the Food Distribution Program by eligible Oklahoma tribes determined capable by the Department.

§ 254.2 Definitions.

(a) "BIA Indian service area" means the areas in Oklahoma where the Bureau of Indian Affairs has by regulation approved the provision of its service(s) to Indians.

(b) "Exercises governmental jurisdiction" means the exercise of authorities granted to ITOs under the Oklahoma Indian Welfare Act of 1936 or exercise of authority approved under BIA regulations.

(c) "FNS service area" means the areas over which FNS has approved the food distribution program in Oklahoma, excluding urban places.

(d) "Food Distribution Program" means a food distribution program for households on Indian reservations operated pursuant to Sections 4(b) and 1304(a) of Pub. L. 95–113 or Section 1336 of Pub. L. 97–98.

(e) "Indian allotments or trust lands" in Oklahoma means "Indian allotments" as defined at 18 U.S.C. 1151(c), which states "Indian allotments, the Indian titles to which have not been extinguished, including rights of way running through the same" and Indian lands held in trust for Indian tribes by the United States.

(f) "Indian tribal household" means a household in which at least one adult household member is recognized as an Indian by an ITO.

(g) "Indian tribal organization (ITO)" means (1) any Indian tribe, band, or group organized under the Oklahoma Indian Welfare Act of 1936, and which has a tribal organization approved by the Bureau of Indian Affairs; (2) a tribal organization established and approved under Federal regulations issued by the Bureau of Indian Affairs; or (3) an intertribal council authorized by eligible tribes to act in behalf of the tribes to operate the program.

(h) "State agency" means the ITO of an Indian tribe, determined by the Department to be capable of effectively administering a Food Distribution Program, or an agency of State government, which enters into an agreement with FNS for the distribution of commodities on an Indian reservation.

(i) "Urban place" means a town or city with a population of 10,000 or more.

§ 254.3 Administration by an ITO.

(a) *Applicability of Part 253.* All of the provisions of Part 253 are herein incorporated and apply to Part 254, except as specifically modified by Part 254.

(b) Section 253.4 *Administration,* does not apply and is replaced by § 254.3.

(c) *Federal Administration.* Within the Department of Agriculture, the Food and Nutrition Service (FNS), shall be responsible for the Food Distribution Program. FNS shall have the power to determine the amount of any claim and to settle and adjust any claim against an ITO.

(d) *ITO Administration.* The ITO, acting as State agency, shall be responsible for the Food Distribution Program within the approved FNS Service Areas if FNS determines the ITO capable of effective and efficient administration.

(e) *Qualification as an ITO.* The ITO of a tribe in Oklahoma must document to the satisfaction of FNS that the ITO meets the definition of an ITO in § 254.2, is organized under the provisions of the Oklahoma Indian Welfare Act of 1936 or has a tribal organization established and approved under BIA regulations.

§ 254.4 Application by an ITO.

(a) *Application to FNS Regional Office.* An ITO which desires to participate in the Food Distribution Program shall file an application with the FNS Regional Office. The application shall also provide other information requested by FNS, including, but not limited to, the tribe's qualification as a reservation as described in § 254.2, paragraph (g). Properly addressed applications shall be acknowledged by the FNS Regional Office in writing within five working days of receipt. FNS shall promptly advise ITOs of the need for additional information if an incomplete application is received.

(b) *Tribal capability.* (1) In determining whether the ITO is potentially capable of effectively and efficiently administering a Food Distribution Program in an FNS service area, allowing for fulfillment of that potential through training and technical assistance FNS shall consult with other sources such as the BIA, and shall consider the ITO experience, if any, in operating other government programs and its management and fiscal capabilities. Other factors for evaluation include, but are not limited to, the ITO's ability to:

(i) Order and properly store commodities,

(ii) Certify eligible households,

(iii) Arrange for physical issuance of commodities,

(iv) Keep appropriate records and submit required reports,

(v) Budget and account for administrative funds,

(vi) Determine the food preferences of households, and

(vii) Conduct on-site reviews of certification and distribution procedures and practices.

(2) FNS shall make a determination of potential ITO capability within 60 days of receipt of a completed application for the Food Distribution Program. FNS may, however, extend the period for determination of ITO capability if FNS finds that a given ITO's eligibility under § 254.3 is difficult to establish.

(3) FNS shall, if requested by an ITO which has been determined by FNS to be potentially capable of administering a Food Distribution Program, provide the ITO's designees with appropriate training and technical assistance to prepare the ITO to take over program administration. In determining what training and technical assistance are necessary, FNS shall consult with the ITO and other sources, such as the BIA.

§ 254.5 Household eligibility.

(a) *Certification Procedures.* All applicant households shall be certified in accordance with the eligibility and certification provisions in § 253.6 and § 253.7.

(b) *Urban places.* No household living in an urban place in Oklahoma shall be

eligible for the Food Distribution Program on Indian Reservations.

(c) *Eligible Households.* Only Indian tribal households, as defined in § 254.2, may be eligible for the Food Distribution Program in FNS service areas.

Dated: January 3, 1983.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 83-802 Filed 1-10-83; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Parts 272 and 273

[Amdt. No. 240]

Food Stamp Program; Reimbursing Workfare's Administrative Costs

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: The Department is providing an additional financial incentive to food stamp workfare programs whose participants find regular jobs. The Food Stamp Act Amendments of 1982 require this change. This change will share benefit reductions with the agencies that administer workfare.

DATE: Effective Date: This interim rule is effective retroactively to October 1, 1982. *Comment Date:* To be assured of consideration, comments must be received by April 11, 1983.

ADDRESS: Please submit comments to Mr. Thomas O'Connor, Supervisor, Policy and Regulations Section, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302; (703) 756-3429. Comments will be open to public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) in Room 708, 3101 Park Center Drive, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. O'Connor at the mailing address and telephone number given above.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

This rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The Department has classified this rule as a non-major rule. The rule's effect on the economy will be less than $100 million. The rule will have no effect on costs or prices. Competition, employment, investment, productivity, and innovation will remain unaffected. There will be no effect on the competition of United States-based enterprises with foreign-based enterprises.

Regulatory Flexibility Act

Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this proposal does not have a significant economic impact on a substantial number of small entities. The rule would slightly increase the Federal funding given to the political subdivisions which operate workfare programs.

Paperwork Reduction Act

The reporting and recordkeeping requirements contained in this regulation are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and are not effective until approved by OMB.

Publication

This rulemaking is being published as an interim rule, effective October 1, 1982. Section 188 of Pub. L. 97-253 dealing with reimbursement for workfare's administrative costs was among provisions which, under section 193 of that law, were scheduled to become effective on that date. The 1982 provisions were signed into law September 8, 1982. The Department has no discretion to delay the effectiveness of the law in order to permit prior public comment on this rulemaking. At the same time, we believe it is necessary for the Department to provide guidance to the political subdivisions as soon as possible so that they may know the reimbursement provisions under which they must operate. For these reasons, Samuel J. Cornelius, Administrator, Food and Nutrition Service has determined, pursuant to 5 U.S.C. 553, that prior public comment on this rulemaking is impracticable and contrary to public interest and that good cause exists for making this rule effective less than 30 days after publication. Public comment is solicited on this rule for 90 days. All comments received will be analyzed and any appropriate changes in the rule will be incorporated in a subsequent publication.

Introduction

The Department has published a final rule (47 FR 44692, October 6, 1982) which authorizes political subdivisions to administer a workfare program in relation to the Food Stamp Program. In brief, certain food stamp participants could be required to perform public service work, without pay, as a condition of receiving food stamps. The amount of work a participant would perform would be directly related to the amount of food stamps received by the participant's household.

As described by the final rule on workfare, the Department reimburses a political subdivision for one-half of the costs of administering the workfare program. This interim rule would provide for extra reimbursement for these political subdivisions, as required by the Food Stamp Act Amendments of 1982, Pub. L. 97-253, section 188.

Entitlement

Beginning Employment

Extra reimbursement becomes available when a workfare participant begins regular, non-workfare employment. The employment must begin while the participant is also participating in workfare or within thirty days after participation in workfare ends. This restriction is required by Section 188 of Pub. L. 97-253.

The Department defines beginning employment as the date on which the participant actually begins working at the job. The beginning is not the date of notification, nor is it the date on which the participant receives the first pay check.

First Participation

The statutory amendment permits extra reimbursement only when the workfare participant begins employment during, or immediately after, first participation in a workfare program.

The Department defines first participation as the original, uninterrupted participation in a particular political subdivision's workfare program. Any break in workfare participation would end first participation, with one exception. A participant may leave workfare because of a new job, but lose the job before an entire month's wages could affect the household's allotment. If the participant returns to workfare, the first participation shall be considered as continuing without a break. The Department has included this exception so as not to penalize the political subdivision by precluding enhanced reimbursement. Participation in workfare means actually working at the workfare site. It does not mean attending an interview, being screened or being referred to the workfare program by the local food stamp office.

The Department would not limit "first participation" to the first participation in any workfare program, anywhere. Such a requirement could not be effectively monitored.

Method

Section 188 of Pub. L. 97–253 requires that the extra reimbursement be based upon food stamp benefit reductions which result from the participant's employment. Because the participant is working, the household would have higher income, and thus receive lower benefits. This is a reduction in food stamps. The political subdivision's share of the benefit reduction is 50% of three times the amount of the benefit reduction in the first allotment which accounts for an entire month's wages.

In general, the benefit reduction is presumed to be the difference between two allotments. The larger allotment is the last one which the workfare participant's household received before the new employment began. The smaller allotment is the first one which accounts for an entire month's wages from the new job. A participant has an entire month's wages when the participant is employed on all days of a single month.

If the political subdivision has no other knowledge of changes in the household circumstances, it should presume that the benefit reduction is the difference just described. However, the political subdivision may be aware of other changes which could affect benefits. Charges in household composition, other income, and shelter expenses are examples of such changes.

If the political subdivision is aware of such changes, it should calculate the benefit reduction in the following way. First, the political subdivision would obtain the allotment which accounted for an entire month's wages from the new job. If this allotment was never issued, the political subdivision would reconstruct it. This allotment represents the smaller allotment. Then, the political subdivision would recalculate this allotment by removing the wages, the earned income deduction, and the dependent care deduction attributable to the new job. In recalculating the allotment, the political subdivision would also replace the Aid to Families with Dependent Children (AFDC) grant which was used to determine the household's allotment. In place of this new AFDC grant, the political subdivision would use the last AFDC grant received by the household before the new job began. This procedure will more accurately calculate the real benefit reduction. This recalculated allotment represents the larger allotment. The difference between the two allotments is the benefit reduction.

Correct Allotment

The third issue in calculating the reduction concerns the accuracy of the allotments already issued to the workfare participant. When an agency is calculating the reduction, it may become apparent that an error was made. The error may be in arithmetic, in the application of policy, or in the reporting of information by the participant.

The issue is whether to calculate the reduction using the allotment that the participant actually received, or the allotment the participant should have received. The Department is using the latter, the correct allotment that the household should have received.

Accounting

Documentation

The Department is placing general requirements on the political subdivision concerning documentation of the claimed reimbursement. Different political subdivisions and State welfare agencies will make different arrangements concerning who will calculate the reimbursement and in what manner. Therefore, the Department is not requiring special forms or reporting procedures concerning the enhanced reimbursement. The procedures for claiming and receiving the enhanced reimbursement are the same as those for reimbursing workfare's regular expenses. Nevertheless, the political subdivision is required to make available, for review, documentation which supports its claim for enhanced reimbursement. This documentation would be in sufficient detail to permit an auditor to determine the accuracy of the claim. At a minimum, this would include documentation of the household's identity, the existence of the job, the employer's name and telephone number, the new wages, and the calculation of the savings.

Period of Time for Reimbursement

As required by statute (section 20(g) of the Food Stamp Act of 1977, as amended, 7 U.S.C. 2029) the saving from workfare are to be shared with the political subdivisions by reimbursing them for their administrative costs beyond the usual 50% but only up to their actual, unreimbursed costs. It is conceivable that the amount of the claimed reimbursement could exceed the reimbursement to which the political subdivision is entitled in any fiscal quarter or fiscal year. This could happen if many workfare participants with high food stamp benefits suddenly begin to work at a new or reopened factory, for example. If the reimbursement exceeds the unreimbursed expenses for the year, the Federal government could remain indebted to the political subdivision indefinitely, with little or no control over the funding. If the period of time is too short, such as a quarter, the political subdivision might lose some of the reimbursement.

To avoid this problem, the Department is limiting reimbursement to the political subdivision's actual unreimbursed expenses in the fiscal year in which the participant begins the job which results in savings. For example, if a participant begins working in August, 1983, the Department would reimburse the project area's unreimbursed administrative expenses for fiscal year 1983.

Miscellaneous Provisions

The Department is not changing the definition of reimbursable expenses contained in 7 CFR 273.22(g)(1). Nor does the Department propose any additional reporting requirements for political subdivisions. The claim for enhanced funding would be combined with the request for normal reimbursement from the Department.

Correction

The Department is also correcting three errors which it made in its recent publication of the Optional Workfare Program final rule (47 FR 44692, October 8, 1982). First, at 7 CFR 273.22 (b)(3), there is a requirement that a workfare plan be combined with the State agency's State Plan of Operation. The Department's intention was to have the workfare plan incorporated into the plan of operation when the State agency sponsors workfare. The Department also intended to have the workfare plan appended to the plan of operation when the political subdivision sponsors workfare.

The distinction is a necessary one. A State agency is liable for compliance with its plan of operations. However, the Department cannot require the State agency to be liable when a political subdivision does not comply with its own plan.

However, in writing the final rule, the Department inadvertently made the State agency liable for the political subdivision's compliance, and removed the State agency's liability for its own compliance. To correct this error, the Department is revising 7 CFR 273.22 (b)(3).

This error also appeared in the amending of 7 CFR 272.2(a)(2) in the October 8, 1982 rulemaking. The Department further erred in its November 19, 1982 rulemaking by deleting the incorrect, newly added provision altogether. The Department is

therefore adding the corrected provision to the regulations in this rulemaking.

A third revision is being made at 7 CFR 273.22(e)(1)(i). The previous language could have been interpreted as permitting those recipients who were subject to the work incentive program (WIN) under Title IV of the Social Security Act but otherwise exempt from workfare to be subject to workfare. The paragraph has been revised to clarify the legislative intent that only those WIN registrants who would not otherwise be exempt from workfare might be subject to workfare under certain conditions. This revision precludes those WIN registrants who are younger than 18 years of age, 60 years or older, or responsible for the care of a child under six years of age from being subject to workfare.

Implementation

In accordance with Pub. L. 97–253, section 193(b), the enhanced funding is available back to October 1, 1982. If a political subdivision is otherwise entitled, it can claim enhanced reimbursement if a workfare participant begins a regular, nonworkfare job, on or after October 1, 1982.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs/social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Food stamps, Fraud, Grant programs/social programs, Penalities, Reporting and recordkeeping requirements, Social security, Students.

For the reasons set forth in the preamble, the Department is amending Parts 272 and 273 of Chapter II, Subtitle B, Title 7, Code of Federal Regulations, as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. A new paragraph (g)(57) is added to § 272.1 as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(57) The provisions of Amendment 240 shall be effective on January 11, 1983. The enhanced funding, which the amendment implements, is available to political subdivisions retroactive to October 1, 1982. The enhanced funding is available to a political subdivision for a workfare participant who begins working on or after October 1, 1982.

2. In § 272.2, two new sentences are added to the end of paragraph (a)(2) to read as follows:

§ 272.2 Plan of operation.

(a) *General Purpose and Content.* * * *

(2) *Content.* * * * The State agency shall either include the Workfare Plan in its State Plan of Operation or append the Workfare Plan to the State Plan of Operation, as appropriate, in accordance with § 273.22(b)(3) of this chapter. The Workfare Plan shall be submitted separately, in accordance with § 273.22(b)(1) of this chapter.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.22, paragraph (b)(3) is revised, paragraph (e)(1)(i) is revised, and a new paragraph (g)(4) is added. The amendments read as follows:

§ 273.22 Optional workfare program.

* * * * *

(b) *Program Administration.* * * *

(3) When a State agency chooses to sponsor a workfare program by submitting a plan to FNS, it shall incorporate the approved plan into its State Plan of Operations. When a political subdivision chooses to sponsor a workfare program by submitting a plan to FNS, the State agency shall be responsible as a facilitator in the administration of the program by disbursing Federal funding and meeting the requirements identified in paragraph (d) of this section. Upon notification that FNS has approved a workfare plan submitted by a political subdivision in its State, the State agency shall append that political subdivision's workfare plan to its own State Plan of Operations.

* * * * *

(e) *Household Responsibilities.*

(1) * * *

(i) Those recipients exempt from work registration requirements due to being subject to the work incentive program (WIN) under Title IV of the Social Security Act shall be subject to workfare if they are currently involved less than 20 hours a week in WIN. Those recipients involved 20 hours a week or more may be subject to workfare at the option of the political subdivision.

* * * * *

(g) *Federal Financial Participation.*

* * *

(4) *Sharing workfare savings.*

(i) *Entitlement.* A political subdivision is entitled to share in the benefit reductions which occur when a workfare participant begins employment while participating in workfare for the first time, or within thirty days of ending the first participation in workfare.

(A) To begin employment means to appear at the place of employment and to begin working.

(B) First participation in workfare means performing work for the first time in a particular workfare program. The only break in participation which shall not end first participation shall be due to the participant's taking a job which does not affect the household's allotment by an entire month's wages and which is followed by a return to workfare.

(ii) *Calculating the benefit reductions.* The political subdivision shall calculate benefit reductions from each workfare participant's employment as follows.

(A) Unless the political subdivision knows otherwise, it shall presume that the benefit reduction equals the difference between the last allotment issued before the participant began the new employment and the first allotment which reflects a full months wages, earned income deduction, and dependent care deduction attributable to the new job.

(B) If the political subdivision knows of other changes beside the new job, which affect the household's allotment after the new job began, the political subdivision shall obtain the first allotment affected by an entire month's wages from the new job. The political subdivision shall then recalculate the allotment to account for the wages, earned income deduction, and dependent care deduction attributable to the new job. In recalculating the allotment the political subdivision shall also replace any AFDC grant received after the new job with the one received in the last month before the new job began. The difference between the first allotment that accounts for the new job and the recalculated allotment shall be the benefit reduction.

(C) The political subdivision's share of the benefit reduction is three times this difference, divided by two.

(D) If, during these procedures, an error is discovered in the last allotment issued before the new employment began, that allotment shall be corrected before the savings are calculated.

(iii) *Accounting.* The reimbursement from workfare shall be reported and paid as follows:

(A) The political subdivision shall report its enhanced reimbursement to the State agency in accordance with paragraph (g)(3) of this section.

(B) The Food and Nutrition Service shall reimburse the political subdivision

in accordance with paragraph (g)(2) of this section.

(C) The political subdivision shall, upon request, make available for review sufficient documentation to justify the amount of the enhanced reimbursement.

(D) The Food and Nutrition Service shall reimburse only the political subdivision's reimbursed administrative costs in the fiscal year in which the workfare participant began new employment and which are acceptable according to paragraph (g)(1) of this section.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalogue of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: January 5, 1983.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 83-555 Filed 1-10-83; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Parts 274 and 282

[Amdt. No. 226]

Food Stamp Program; New York City Food Stamp Replacement Issuance Procedures and Rapid Access Reconciliation System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rulemaking.

SUMMARY: This final rule would continue until further notice the authority for operation of New York City's Food Stamp Replacement Authorization to Participate (ATP) Issuance Procedure and Rapid Access Reconciliation System. The Food and Nutrition Services' October 17, 1980, emergency final rules implemented this system as an unfunded demonstration project (45 FR 69169) which would operate for two years. Proposed rules for an ongoing system were published October 15, 1982 (47 FR 46099). The system has virtually eliminated ATP losses caused by recipients fraudulently requesting and negotiating replacement ATP's. This final rule is necessitated because of the two-year limit that was placed on the demonstration project.

EFFECTIVE DATE: This rule is effective January 11, 1983.

FOR FURTHER INFORMATION CONTACT: James I. Porter, Supervisor, Mid-Atlantic/Northeast Section, State Evaluation Branch, State Operations Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia, 22302; (703) 756–3951.

SUPPLEMENTARY INFORMATION:

Classification: This rule has been reviewed with regard to the requirements of Excutive Order 12291, and it had been determined that this is not a major rule as defined by that order. It is not likely to result in an annual effect on the economy of $100 million or more. The State agency, when continuing the operation of the Rapid Access System, will not incur any increase in program administration costs.

This rule is not likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State or local Government agencies or geographic regions. Because this final rule will not affect the business community, it would not result in significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Regulatory Flexibility Act

This rule has also been reviewed with regard to the requirement of Pub. L. 96–354, and the Administrator of the Food and Nutrition Service has determined it does not have a significant economic impact on a substantial number of small entities. The rule has no impact whatsoever on small businesses or small organizations. The primary impact is on the New York State agency which operates the program in New York City and on individuals requesting replacement of a nondelivered, stolen or destroyed ATP. Since the system has been in operation for almost two years, there will be no increased economic costs.

Introduction

On October 15, 1982, the Department issued proposed regulations for the New York City Food Stamp Replacement Issuance Procedures and Rapid Access System. This system commonly referred to as Rapid Access was developed as the result of the Department's concern over the amount of Federal dollars being lost due to the fraudulent issuance of food stamp ATP's. The system was first demonstrated in New York City as a two-year test project. Regulations creating the test project were published on October 17, 1980.

Comments

Only five comments were received as the result of the October 15, 1982, proposed rulemaking. Four comments strongly favored the system. Two of these came from New York State and New York City which both went into detail as to the effectiveness of Rapid Access. The City also detailed how the system's effect on recipients was minimal. Two other comments came from the Food and Nutrition Service's Midwest and Southeast Regional Offices. These offices both recommended that the proposed rules be amended to allow other State agencies to adopt Rapid Access, if a State agency considered it useful in reducing ATP issuance fraud.

This suggestion has not been adopted since it was not contemplated in the proposed rule. The Department is considering proposing rules under which other jurisdictions could implement special procedures to prevent replacement issuance losses.

One comment from a citizen in California opposed Rapid Access on the grounds that the system was injurious to recipients. As stated in the preamble to the proposed rules, the survey conducted into the effect Rapid Access has on recipients did not indicate that it placed an excessive burden on recipients.

The Food and Nutrition Service has made two minor clarifications in the final rules. These clarifications are designed to add greater precision to some timeframes. Two sections are affected. In Section 7 CFR 274.2(j)(1)(iv)(D) it has been specified that, if appropriate, a replacement will be immediately authorized by the Fraud Prevention Unit.

Section 7 CFR 274.2(j)(1)(iii) has been clarified to state that by the closure of the fifth business day following the date a recipient requested replacement, the State agency shall check the affidavit against a listing of redeemed ATP's for recipients served by a particular office. This clarification allows the State agency five full business days to check the list of redeemed ATP's.

A full discussion of the system operations and regulatory variances can be obtained from the proposed rules which were published on October 15, 1982 (47 FR 46099).

New York City recipients and food stamp officials are fully familar with the operation of the Rapid Access System because it has been in effect as a demonstration project for the past two years. No significant changes in the procedures or requirements are brought about by this rulemaking. In addition, it is necessary to provide uninterrupted authority to continue the System in order to avoid a costly interruption of System's operation. For these reasons, good cause is found pursuant to 5 U.S.C. 553(d) for the publication of this rule

less than 30 days prior to the effective date.

Note.—This action does not contain reporting and recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act.

List of Subjects

7 CFR Part 274

Administrative practice and procedure, Food stamps, Grant programs/social programs, Reporting and recordkeeping requirements.

7 CFR Part 282

Food stamps, Government contracts, Grant program/social programs, Research.

Accordingly, 7 CFR Parts 274 and 282 are amended as follows:

PART 274—ISSUANCE AND USE OF FOOD COUPONS

1. A new paragraph (j) is added to § 274.2 as follows:

§ 274.2 Issuance systems.

* * * * *

(j) New York City Food Stamp Replacement Issuance Procedures and Rapid Access Reconciliation System. Due to New York City's particularly severe problem with excessive losses caused by food stamp fraud, this unique food stamp issuance and reconciliation system has been developed for use in New York City.

(1) *Replacement of a stolen or destroyed ATP.* ATP's will be valid for eight calendar days from the scheduled date of delivery. The recipients can only request a replacement ATP after four business days following the scheduled date of delivery of the ATP.

(i) On or after the fourth business day following the date the ATP was scheduled to be delivered, the recipient may request a replacement ATP at the local certification office by completing an affidavit reporting nonreceipt or destruction of his/her ATP.

(ii) The local certification office shall check the affidavit against a listing of ATP's that were issued to recipients served by that office.

(A) If the listing shows that the recipient has not been issued an ATP, and the household is certified to receive benefits, the certification office shall determine why the ATP was not issued and provide immediate authorization for issuance of an ATP.

(B) If the listing shows that the recipient was issued an ATP, the certification office shall hold the affidavit in suspense for five business days to allow for the original ATP to expire. The recipient shall be instructed to return to the certification office after the passage of five business days.

(iii) By the close of the fifth business day following the date a recipient requested the replacement, the certification office shall check the affidavit against a listing of redeemed ATP's for recipients served by that office.

(A) If the recipient's ATP is not on the listing, a replacement shall be authorized immediately by the certification office.

(B) If the recipient's ATP is on the listing (i.e. the ATP is shown to have been redeemed), the recipient shall be referred to New York City's central Fraud Prevention Unit.

(iv) The Fraud Prevention Unit shall compare the signature of the recipient requesting the replacement against the signature on a photocopy of the redeemed ATP.

(A) If the signatures match, the replacement request shall be denied. The recipient may request an immediate review by the Fraud Prevention Unit supervisor. If the recipient is dissatisfied with the supervisor's determination, he/she may request a fair hearing.

(B) If the signatures do not match, the Fraud Prevention Unit shall check a photocopy of the redeemed ATP for the reconciliation number written on the back of the ATP by the issuance agency at the time of redemption. This number is taken from the recipient's food stamp identification card.

(C) If the reconciliation number on the identification card of the recipient requesting the replacement is the same as the reconciliation number on the redeemed ATP, the request for replacement shall be denied, again subject to supervisory review and a fair hearing at the request of the recipient as provided in paragraph (j)(iv)(A) of this section.

(D) If neither the signature nor the reconciliation number match, a replacement shall be immediately authorized by the Fraud Prevention Unit.

(v) In instances in which a recipient reports both his/her ATP as nondelivered, or destroyed and food stamp identification card as lost, stolen, or destroyed the requirement that the reconciliation number on the identification card of the recipient must be different from the reconciliation number on the redeemed ATP may be waived.

(vi) In cases where a recipient's eight-day ATP card has expired, the recipient may exchange the expired ATP for immediate replacement by the eligibility worker. That replacement ATP shall be valid to the end of the month or for 20 days if issued after the 25th of the month.

(2) *Right of Appeal.* Recipients being denied a replacement ATP shall be informed of their right of appeal.

(i) When denied a replacement for an ATP reported as lost or stolen, the recipient may request an internal supervisory examination of the determination.

(ii) If dissatisfied with the review, the recipient may request a fair hearing.

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

§ 282.15 [Removed and Reserved]

2. The text of § 282.15 is removed and the number is reserved for future use.

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Program No. 10.551 Food Stamps)

Dated: January 5, 1983.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 83-554 Filed 1-10-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 987

Domestic Dates Produced or Packed in Riverside County, California; Amendment of Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the container requirements prescribed for pitted DAC dates of any variety handled in the United States under the Federal marketing order for California dates. This action will allow handlers to pack and sell pitted DAC dates in 7-ounce plastic containers. This action is based upon a unanimous recommendation of the California Date Administrative Committee. The Committee works with the USDA in administering the date marketing order program.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been

classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the 17 regulated handlers.

It is found that good cause exists for not postponing the effective time of this action unitil 30 days after publication in the Federal Register (5 U.S.C. 553) because: (1) A recent test-marketing conducted by the Committee demonstrated that the 7-ounce containers would be well received by consumers and had the potential for increasing pitted date sales; (2) this action relieves restrictions on handlers by allowing them to market pitted dates in the United States in another plastic container, and must be effective promptly to achieve its objective of increasing pitted date sales; (3) no useful purpose would be served by delaying the effective date of this action; and (4) handlers have been aware of this action and have had ample time to prepare for operation thereunder.

Notice inviting written comments on this action was published in the Federal Register on December 2, 1982 (47 FR 54307). None were received.

This action would amend § 987.112a(b)(3)(ii) of Subpart—Administrative Rules (7 CFR 987.101–987.172; 47 FR 4489; 23416) to authorize the marketing of pitted DAC dates in the United States in 7-ounce plastic containers. This section is issued under §§ 987.12, 987.43, and 987.48 of the marketing agreement and Order No. 987 (7 CFR Part 987), both as amended, regulating the handling of domestic dates produced or packed in Riverside County, California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Section 987.112a(b)(3) prescribes consumer sizes of plastic containers, in terms of net weight content, that handlers must use when they package DAC dates in such containers for handling in U.S. markets.

Section 987.112a was amended May 28, 1982 (47 FR 23416) by the addition of a new paragraph (4) to paragraph (b) providing for market testing of container types and sizes. The purpose of that action was to allow the Committee to implement market research projects on new container types and sizes and evaluate the market effects of these new containers in a timely fashion.

Pursuant to that authority, the Committee test-marketed 7-ounce plastic containers of pitted DAC dates to determine consumer acceptance for a period which ended September 30, 1982. The new container was well received by consumers and the industry believes its continued use could further pitted date sales. Acceptance by consumers of the 7-ounce plastic containers was sufficient to support a change in the container regulations for pitted DAC dates to include this size along with the current container sizes prescribed in § 987.112a(b)(3)(ii).

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Committee, and other available information, it is further found that the amendment of § 987.112a(b)(3)(ii) of Subpart—Administrative Rules (7 CFR 987.101–987.172; 47 FR 4489; 23416) to add the 7-ounce plastic container along with the current container sizes prescribed in that subparagraph, will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 987

Marketing agreements and orders, Dates, California.

PART 987—[AMENDED]

§ 987.112a [Amended]

Therefore, § 987.112a(b)(3)(ii) of Subpart—Administrative Rules (7 CFR 987.101–987.172; 47 FR 4489; 23416) is amended by inserting the words "seven ounces", between the words "for pitted dates, of either", and "ten ounces,".

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 5, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83–711 Filed 1–10–83; 8:45 am]
BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1945

Emergency Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to clarify the emergency loan (EM) disaster designation/authorization process. This action is needed to implement administrative changes desired by FmHA. The intended effect of this action is to correct deficiencies and to restore fiscal integrity to the program.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Keith L. Smalley, Emergency Loan Officer, Emergency Division, Farmers Home Administration, USDA, Room 5344–S, Washington, D.C. 20250, Telephone 202–382–1632.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (Sections 1945.19(c), 1945.20(b), 1945.20(c), 1945.20(d), 1945.20(e) and 1945.25(b)) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0575–0054. This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291 and has been determined to be nonmajor. It has been determined to be nonmajor because there is not an annual effect on the economy of $100 million or more; or a major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance number for emergency loans is 10.404.

This action does not directly affect any FmHA programs or projects that are subject to A–95 clearinghouse review.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statement". It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Need for Governmental Action

The method of EM disaster designation/authorization needs revision to provide for more uniform coordination of the process. Clarification is needed in the methodology used to establish eligibility for EM loans. Under the present system State Directors may authorize EM loans

even though a request has been made to the President for a disaster declaration or to the Secretary for a disaster designation for the area.

The present regulations do not define the criteria to be used to determine when a county has been substantially affected by a natural disaster. These amendments to the regulations will define "substantially affected" as physical losses or as an overall 30 percent production loss in the county. The 30 percent requirement is based on a review of the annual fluctuations in the national gross crop receipts for the previous 10-year period, i.e., 1970 through 1979, as provided by the Economic Research Service of the USDA. Those figures indicate a range of total gross crop receipts from $20.976 billion to $62.820 billion per year, a variation of 33.2 percent from the 10-year average of $41.946 billion. Based on this documented history of fluctuation from year to year in the annual gross crop production receipts, the Secretary has determined that a reasonable definition for "substantially affected" is not less than a 30 percent loss in annual gross dollar volume.

This revision will clarify when the Secretary will make EM loans available in a county which has been substantially affected by a disaster.

In addition, these revisions to the regulations will authorize the Administrator who is more in touch with designation requests than State Directors, to make EM loans available after the President or the Secretary has made a determination.

The Administrator's authority to make EM loans available in a county may be exercised when less than 10 percent of the farmers in a county have suffered qualifying losses and adequate credit is not available to them. A county does not have to be substantially affected in order for the Administrator to make EM loans availabe in that county. Informal surveys made by FmHA in recent months indicate that when more than 10 percent of the farmers in a county are affected by a natural disaster, it is probable that the overall production loss in the county will exceed 30 percent. However, in order to make loans available in counties where a county has not sustained an overall 30 percent loss but more than 10 percent of the farmers have qualifying losses, these revisions to the regulations allow the Administrator to call such counties to the Secretary's attention and to ask that the Secretary make an exception to the designation criteria and consider such counties for designation.

The time frames for receiving EM designation/authorization requests and applications for EM loans presently do not allow for the decisions in regard to such requests to be made based on current timely information. Therefore, these time frames need to be shortened.

These amendments to the regulations will clarify the designation/authorization process and provide for a uniform method of administering the Emergency Natural Disaster Assistance program in a more effective, efficient manner.

A proposed rule was published in the **Federal Register** (47 FR 39532) on September 8, 1982. That proposal provided for a 60-day comment period. The comment period ended November 8, 1982. In response to the notice of proposed rulemaking, only one written comment was received, which was considered in this final rule.

The comment was from another Federal Agency and called attention to the Memorandum of Understanding between the Small Business Administration (SBA) and Farmers Home Administration (FmHA) and the provision that SBA will accept an application to restore agricultural losses only when accompanied by a proper referral letter from an FmHA County Office. This comment is valid and therefore reference to accepting EM applications from those who have previously applied to SBA is deleted.

The following Sections of Part 1945 Subpart A are amended as follows:

1. Section 1945.5 is revised to add the Statistical Reporting Service (SRS) to the list of abbreviations.

2. Section 1945.6 is revised to add the definition of a county and to define "substantially affected" as it applies to damage in a county by a natural disaster. The definition as it applies to production losses to individual farmers is removed. Paragraph (a) through (g) are redesignated. The dates for receiving EM applications have been changed from 9 to 6 months and the reference to accepting applications from applicants who have previously applied to SBA is removed.

3. Section 1945.18 is revised to remove the reference to a comparable political subdivision.

4. Section 1945.19(b) is revised to clarify County Emergency Board's (CEB's) and State Emergency Board's (SEB's) responsibility for assessing and reporting the occurrence of a natural disaster. The Boards will no longer make recommendations regarding the implementation of USDA disaster programs.

5. Section 1945.20 is revised to give the Administrator the authority to authorize State Directors to make EM loans available and to establish the criteria for such authorizations.

6. Section 1945.20(a)(1)(i) is revised to remove paragraph (G).

7. Section 1945.20(a)(2)(i) is revised to reflect change in § 1945.20(a)(1)(i).

8. Section 1945.20(a)(3)(v) is removed to delete reference to Exhibit A.

9. Section 1945.20(b) is revised to provide that the Secretary may designate a county for EM loans when the county(ies) has been substantially affected by a natural disaster.

10. Section 1945.20(b)(1)(i) is revised by adding the word "and" at the end of the sentence.

11. Section 1945.20(b)(1)(ii) is revised to delete confirmation of the Governor's request in writing.

12. Section 1945.20(b)(1)(iii) is removed.

13. Section 1945.20(c) is completely revised and titled, "Reconsideration by the Secretary." State Director authority to authorize EM loans is deleted.

14. Section 1945.20(d) is completely revised to delete reference to subsequent natural disasters. This paragraph is retitled, "Request for Secretary to make an exception to designation criteria," and provides that the Administrator may request the Secretary to make an exception to the designation requirements for a Secretarial designation as set forth in this regulation where unusual circumstances exist as a result of the natural disaster.

15. Section 1945.20(e) is completely revised and titled, "Authorization by the Administrator." This paragraph provides the criteria under which the Administrator may authorize that EM loans be made available in a county.

16. Section 1945.20 (f), (g), and (h) are redesignated from (e), (f) and (g), respectively, and are revised to reflect the other changes in § 1945.20.

17. Section 1945.21(a) is revised to provide that the Administrator or designee will provide weekly reports of declaration/designation/authorization actions to those listed.

18. Section 1945.21(a)(3), (4) and (5) are removed.

19. Section 1945.21(b)(3) is revised to reflect current terminology being used by FCIC.

20. Section 1945.27(b) and (c) are revised to change the title of "FCIC Regional Director" to "FCIC Field Operations Office Director." Paragraph(d) is revised to change the term "FCIC staff" to "FCIC Insurance Representative."

21. Section 1945.31 is revised to provide a follow-up for corrective

actions needed as identified by Emergency Loan Assessment Teams.

22. Section 1945.35(e) is added to this section to establish information that will be provided to the Budget Division to obtain funding for EM training.

List of Subjects in 7 CFR Part 1945

Agriculture, Disaster assistance, Intergovernmental relations.

Part 1945, Subpart A of Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1945—EMERGENCY

Subpart A—Disaster Assistance—General

1. In § 1945.5, paragraph (o) is redesignated as (p) and a new paragraph (o) is added to read as follows:

§ 1945.5 Abbreviations.

* * * * *

(o) SRS—State Statistical Office of the USDA Statistical Reporting Service.

* * * * *

2. In § 1945.6, paragraphs (a) through (g) are redesignated as (b) through (h), a new paragraph (a) is added and (f) and (g) are revised to read as follows:

§ 1945.6 Definitions.

* * * * *

(a) *County.* A local administrative subdivision of a State or a similar political subdivision of the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Nothern Mariana Islands.

* * * * *

(f) *Substantially affected.* A county is substantially affected by a disaster when the following kinds of losses occur:

(1) *Production losses.* A reduction of at least 30 percent in the normal year dollar value of all cash crops, including hay and pasture, produced in a county. Normal year value will be determined by establishing a normal year yield and price. Normal year yield will be the average yield of the 5 years immediately preceding the disaster year for each cash crop, including hay and pasture, grown in the county. The price will be the average commodity prices for the 36 months immediately preceding the disaster year for each crop. Yields and prices used to establish the value of normal year production will be obtained from the Statistical Reporting Service (SRS). Yields used to establish the disaster year's production will be obtained from Damage Assessment Reports (DAR) which are prepared by the USDA County and State Emergency Boards. Prices used to establish the value of disaster year production will be the same as used to establish normal year values. In cases where crops produced and/or prices are not available from SRS, the information will be obtained from other reliable sources. Production losses to livestock and poultry enterprises will usually be based on loss of feed crops grown on the farm and pasture to be grazed. In isolated cases, natural disasters can cause reductions in quantity and/or quality of products produced per animal or in weight gain and/or natural increase in numbers of animals. In such cases, production losses will be determined as set forth in this paragraph.

(2) *Physical losses.* Damage to or destruction of physical farm property including farmland (except sheet erosion); structures on the land such as buildings fences, dams, etc.; machinery, equipment, and tools; livestock; livestock products; poultry; poultry products; harvested crops; and supplies, which, if not repaired or replaced, would make it impossible for farmers affected by the disaster to continue operating their farms on a sound basis.

(g) *Termination date.* The date specified in a disaster declaration/designation/authorization which establishes the final date after which EM actual loss loan applications can no longer be accepted. For both physical and production losses, the termination date will be 6 months from the date of the disaster declaration/designation/authorization.

* * * * *

3. In § 1945.18, the introductory paragraph is revised to read as follows:

§ 1945.18 United States Department of Agriculture (USDA) Emergency Boards.

There is a USDA Emergency Board established by the Secretary to serve every State and every county in the United States. The Boards are responsible for reporting the occurrence of and assessing the damage caused by natural disasters as required to ensure that the Department's disaster programs are implemented where needed; to coordinate the Department's emergency disaster programs with those of other Federal Departments and Agencies; and to provide personnel, as needed and requested by FEMA, to help staff disaster assistance centers in major disaster areas.

* * * * *

4. In § 1945.19, paragraph (b) is revised to read as follows:

§ 1945.19 Reporting natural disasters.

* * * * *

(b) *Responsibility for assessing and reporting disasters.* USDA SEBs and CEBs representing their member agencies are best qualified at the State and County levels to accomplish the assessment of rural property and agricultural production losses resulting from a disaster. These Boards are charged with the responsibility of reporting the occurrence of and assessing the damage caused by natural disasters and will perform this responsibility under policies and procedures as set forth in the Emergency Operations Handbook (EOH).

* * * * *

5. In § 1945.20 paragraphs (a)(1)(i)(G), (a)(3)(v), and (b)(1)(iii) are removed and the introductory paragraph to the section, paragraphs (a)(1)(i), (a)(1)(i) (E) and (F), (a)(2)(i), (a)(3) (iii) and (iv), the introductory paragraph to paragraph (b), paragraphs (b)(1) (i) and (ii), the introductory paragraph to paragraph (b)(3), paragraphs (b)(3)(i), (c), and (d), are revised, paragraphs (e), (f), and (g) are redesignated as (f), (g), and (h) respectively and revised, and a new paragraph (e) is added to read as follows:

§ 1945.20 Making EM loans available.

EM loans are made available in counties named by: FEMA as eligible for Federal assistance under a major disaster or emergency declaration by the President; the Secretary of Agriculture in any county where unusual and adverse weather conditions have substantially affected agriculture; and the FmHA Administrator when fewer than 10 percent of the farmers in any given county have suffered qualifying losses.

(a) *Declaration by the President.* * * *

(1)* * *

(i) Notify the State Director and the Director of the Finance Office by telephone and confirm by electronic mail. The notification will contain:

* * * * *

(E) The termination date for accepting applications; and

(F) The disaster declaration number (Examples: Major Disaster, M491; or Presidential Emergency, E061).

* * * * *

(2)* * *

(i) Notify the appropriate County Supervisor (s) to make EM loans available in the declared counties, and confirm this notification by a State Supplement containing information listed in subparagraphs (a)(1)(i) (A) through (F) of this section;

* * * * *

(3)* * *

* * * * *

(iii) Arrange and conduct meetings with local agricultural lenders and agricultural leaders within 10 working days after the disaster declaration/designation/authorization date to explain the purpose of and the assistance available under the EM loan program; and

(iv) Be available to help staff the FEMA disaster assistance centers, when requested to do so.

(b) *Designation by the Secretary of Agriculture.* When a natural disaster has affected farmers and the farmers affected want a County (ies) designated by the Secretary, a written request from the Governor or Indian Tribal Council must be received by the Secretary within 3 months from the last day of the occurrence of the natural disaster. The Governor or Tribal Council should send a copy of the request to the FmHA State Director. When the Secretary finds that unusual and adverse weather conditions have substantially affected agriculture, the Secretary may designate a county (ies) as a disaster area.

(1)* * *

(i) Acknowledge the Governor's request on behalf of the Secretary and if any delay is anticipated in processing the request, state the reasons for such delay and when action will be taken; and

(ii) Notify the State Director by phone of the Governor's request.

* * * * *

(3) The National Office will immediately analyze and verify losses reported on the DAR along with the State Director's recommendations and promptly forward a written report to the Secretary along with supporting information for approving, denying, or delaying making a decision on the requested designation. The Administrator may ask the Secretary to make an exception to the designation criteria in accordance with paragraph (d) of this section.

(i) If the Secretary denies the designation request, the Governor and the Administrator will be notified and the notice will set forth the reason(s) for denial. The National Office will provide the same information to the State Director. If a Governor or Tribal Council wants the Administrator to consider authorizing loans in an area which the Secretary has declined to designate, a separate request must be received by the Administrator, in accordance with paragraph (e) (2) of this section.

* * * * *

(c) *Reconsideration by the Secretary.* When a Governor's or Tribal Council's request for designation has been rejected by the Secretary because the county did not suffer substantial losses, the Governor or Tribal Council may request the Secretary to reconsider the decision. The request for reconsideration must be made within 30 days from the date of rejection of the initial request by the Secretary. Designation after reconsideration will be based on a finding that:

(1) 10 percent or more of the farmers in said county have suffered qualifying losses. (The farmers in a county will be the total number of farm operators indicated in the most recent U.S. Census of Agriculture. Subpart D of this Part explain how to determine if a farmer has suffered a qualifying loss.); and

(2) Adequate credit from other sources is not available. The documentation necessary for reconsideration will be obtained as set forth in § 1945.20 (e) (2) (i) of this Subpart.

(d) *Request for Secretary to make an exception to designation criteria.* When a Governor's request to the Secretary for designation has been reviewed and it has been determined that the county did not suffer substantial losses, the Administrator may request the Secretary to make an exception to the "substantial loss" requirement and the Secretary may do so, if the following conditions exist:

(1) Unusual and extenuating circumstances have been found to exist, i.e., farmers producing only a single crop have suffered disaster-related losses; and

(2) Such farmers are unable to get credit from other sources; and

(3) The number of such farmers must be equal to 10 percent or more of the farmers in the county (ies) and must have suffered qualifying losses. The documentation necessary for an exception request will be obtained as set forth in § 1945.20 (e) (2) (i) of this Subpart.

(e) *Authorization by the Administrator.* (1) The Administrator may authorize the State Director to make EM loans available when it is determined that unusual and adverse weather conditions have resulted in the following:

(i) Less than 10 percent of the farmers (the farmers will be the total number of farm operators in the latest U.S. Census of Agriculture) in the county have sustained qualifying losses as defined in Subpart D of this Part; and

(ii) Adequate credit is not available to farmers in the county.

(2) The authority of the Administrator to authorize EM loans will be exercised only after the Governor, county governing body, or an Indian Tribal Council has requested the Administrator to make EM assistance available. In order for the request to be considered by the Administrator, the request must be received within 3 months from the last day of the occurrence of the natural disaster. A copy of the request should be sent to the FmHA State Director.

(i) The Administrator upon receipt of a request from a Governor, county governing body, or Indian Tribal Council, will request the State Director to survey farmers and lending institutions in the county to determine the following:

(A) The number of farmers who have sustained qualifying losses; and

(B) The number of farmers other lenders in the county cannot continue to finance.

(ii) The State Director upon receipt of the Administrator's request for a survey will expeditiously gather and compile the information requested and submit it to the Administrator along with his/her recommendation. The survey will be conducted in a manner jointly agreed upon by the Administrator and the State Director.

(iii) The National Office will review the results of the survey and notify the State Director by electronic mail of the Administrator's decision as to whether or not EM loans will be made available. The Administrator's authorization will not be given until the Secretary has made a decision if it is anticipated that the Secretary will receive or has received a request from a Governor for designation for the same or similar disasters which occurred at the same time or during the same period of time. State Directors will be authorized in most cases to make EM loans available when localized disasters such as hail, wind, floods, etc., occur in a county(ies) not being considered by the Secretary.

(3) In cases where the Administrator has authorized the State Director to make loans available in a county where it was determined at the outset that less than 10 percent of the farmers suffered qualifying losses, and the State Director later finds after processing of applications begins that 10 percent or more of the farmers are eligible for an EM loan(s), the State Director must send the Administrator a list of additional farmers (10 percent or more) who have sustained qualifying losses and have been determined to be eligible for EM loans. The Administrator without further review of the situation will acknowledge receipt of the list by electronic mail and the State Director may then make EM loans to the listed farmers.

(4) The Administrator, upon authorizing the State Director to make EM loans available, will issue the following:

(i) The State Director authorization number (SDAN) (Example: N161);

(ii) The incidence period for the disaster; and

(iii) The termination date for accepting applications.

(5) The State Director upon receiving written authorization by electronic mail from the Administrator will notify:

(i) Appropriate County Supervisor(s) to commence processing EM loan applications in the authorized county(ies);

(ii) The SEB chairperson; and

(iii) The news media with appropriate announcements.

(6) The National Office will notify the Secretary of Agriculture and the Director of the Finance Office of the action taken by the Administrator.

(7) Upon notification from the State Director that EM loans are authorized in a county, the County Supervisor will pursue the course of action described in paragraph (a)(3) of this section.

(f) *Continuing disaster conditions.* EM actual loss loans will be available when there is a continuation of the disaster conditions beyond the incidence period originally established for the disaster(s), such as, drought, flood, etc., in any area eligible for EM actual loss loans under paragraphs (a), (b) or (c) of this section. When a disaster(s) continues, the actions required by paragraph (g) of this section will be taken.

(g) *Extension of termination dates.* Termination dates originally established at the time EM loans are made available by the Secretary or the Administrator may be extended by the Administrator when justified. When continuing disasters, or losses or damages resulting from the original disaster which were not readily determinable at the time, are confirmed at a later date, the termination date may be extended. Extensions may be authorized for specified periods as determined appropriate by the Administrator based on the State Director's recommendations; and will usually not exceed 60 days. Extensions of termination dates will be processed as follows:

(1) The County Supervisor will notify the State Director of the need for an extension.

(2) The State Director will make his/her recommendation to the Administrator along with a request for an extension of the termination date; and

(3) The Administrator will provide the State Director with a new incidence period and termination date, when justified.

(h) *Limitations.* Actions authorized by paragraphs (b), (c), (d), (e), (f), and (g) of this seciton cannot be taken if more than 6 months have passed since the original natural disaster occurred, except when the actions required by paragraph (b)(2) of this section have been delayed. Then the authorization must be no later than 9 months after the natural disaster. However, if the Administrator finds that there are circumstances which prevented a timely response to a request for a disaster designation/authorization, requests for designation/authorization may be accepted by the Secretary or Administrator up to 12 months after the occurrence of the natural disaster.

6. In § 1945.21 paragraphs (a)(3), (a)(4), and (a)(5) are removed and paragraphs (a) and (b)(3) are revised to read as follows:

§ 1945.21 Notification and coordination requirements.

* * * * *

(a) *By the National Office.* The Administrator or designee will:

(1) Submit weekly reports to the following, informing them of the past week's disaster declaration/designation/authorization actions taken by FmHA. If no actions are taken in any particular week, negative reports will be made:

(i) The Secretary of Agriculture or the Secretary's designee;

(ii) The Director of the FmHA Finance Office;

(iii) The FEMA;

(iv) The SBA Central Office;

(v) The ASCS National Office;

(vi) The FCIC National Office;

(vii) The OMB;

(viii) The National Oceanic and Atmospheric Administration; and

(ix) The Office of Governmental and Public Affairs.

(2) The weekly reports will contain the following information:

(i) The date of the declaration, designation, or authorization;

(ii) The name(s) of the county(ies) determined eligible for the EM loan program;

(iii) The nature of the damages and losses; and

(iv) The termination date for accepting EM loan applications.

(b) *By the State Director.*

* * * * *

(3) Contact the FCIC Field Operations Office Director to review the Memorandum of Understanding between FCIC and FmHA, Exhibit A of Subpart N of Part 2000 of this Chapter (a copy of which is available in any FmHA office), and arrive at a mutual understanding as to how FCIC indemnity payments are to be handled in conjunction with the processing of EM actual loss loans so that duplication of benefits for the same losses are not received by disaster victims;

* * * * *

7. In § 1945.27 paragraphs (b), (c), and (d) are revised to read as follows:

§ 1945.27 Relationship between FCIC and FmHA.

* * * * *

(b) *Annual meeting with FCIC.* FmHA State Directors will meet with FCIC Field Operations Office Directors at least once each year to review the Memorandum of Understanding and rededicate their efforts and those of their respective Agency employees to comply with the agreements contained in the Memorandum of Understanding.

(c) *Contact after EM actual loss loans are made available.* After each disaster when EM Loans are made available, State Directors are required to promptly contact the FCIC Field Operations Office Director to review the Memorandum of Understanding and agree on how each agency will fulfill its responsibilities in dealing with the disaster situation.

(d) *Notification to County Offices.* State Directors will provide instructions for actions to be taken by County Supervisors in maintaining a good working relationship with FCIC Insurance Representatives.

8. Section 1945.31 is revised to read as follows:

§ 1945.31 FmHA Emergency Loan Assessment Teams (ELAT).

The State Director will deploy ELATs on a continuing basis to the designated areas to monitor EM loan processing activities in order to minimize loan errors, especially in loss calculations and eligibility determinations. Such teams will be composed of State Office Farmer Programs staff members, District Directors or Assistant District Directors, Office Management Assistants/Program Review Assistants, and auditors from the Office of Inspector General if they desire to participate. The team leader will keep the State Director informed by telephone and by submission of weekly written reports, setting forth the problems discovered and the corrective actions taken or to be taken. The State Director will keep all County and District offices in the designated area of the State informed of the common problems found by the team and require appropriate corrective action to be taken by the county offices. Such actions will be monitored by the District Director and reported to the State Director when corrective measures have been completed. State Directors will monitor the handling of this quality

control measure and will forward a copy of the ELAT team leader's report to the Administrator, attention EM Division.

9. Section 1945.35 is amended by adding paragraph (e) to read as follows:

§ 1945.35 Special EM loan training.

* * * * *

(e) *Funding.* Travel for the two-day session required in paragraph (b) of this section may be funded from a special purpose account with advance approval from the Budget Division. The following information must be provided to the Budget Division when a request is made for these additional travel funds:

(1) Number of sessions.

(2) Categories, by number, of personnel attending each session.

(3) Estimated cost per session.

(7 U.S.C. 1989: 7 CFR 2.23; 7 CFR 2.70)

Dated: December 6, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 83-704 Filed 1-10-83; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

10 CFR Parts 375, 376, 378, 390 and 391

30 CFR Parts 259, 260, 261, 262 and 263

Transfer and Redesignation of Department of Energy Regulations Governing Minerals Leasing

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule; transfer and redesignation of regulations.

SUMMARY: This rule transfers to 30 CFR Chapter II minerals leasing regulations which were promulgated by the Department of Energy (DOE) pursuant to the authority of the DOE Organization Act (DOE Act) but which are not the responsibility of the Department of the Interior (DOI). These changes are made necessary by the repeal of DOE's authority in the area of minerals leasing. Substantive changes to newly redesignated 30 CFR Part 260 are proposed in a separate rulemaking document published elsewhere in this issue of the Federal Register.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, telephone (703) 860-7916, (FTS) 928-7916.

SUPPLEMENTARY INFORMATION: Section 302(b) of the DOE Act, Pub. L. 95-91, 42 U.S.C. 7152(b), had transferred to the Secretary of Energy certain authority previously held by the Secretary of the Interior under the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331 *et seq.*, as amended by Pub. L. 95-372, 92 Stat. 462, and other statutes. As a result, the Secretary of Energy was authorized to promulgate minerals leasing regulations that (1) foster competition, (2) implement alternative bidding systems, (3) establish diligence requirements relating to energy resource development on federal lands, (4) set rates of production, and (5) specify the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind. In exercising its authority under the DOE Act, DOE promulgated regulations codified at Title 10 of the Code of Federal Regulations (CFR). (See 45 FR 9530, 9532, 9539, February 12, 1980; 45 FR 84932, December 23, 1980, and 45 FR 36800, May 30, 1980.)

Congress passed Pub. L. 97-100 on December 23, 1981, which, among other things, repealed section 302(b) of the DOE Act, thus revesting in the Secretary of the Interior all authority to implement and administer the regulations described above. In response to the transfer of statutory authority back to DOI, this rule is being issued to transfer to DOI 10 CFR Parts 375 (Mineral Leasing: General), 376 (Outer Continental Shelf Oil and Gas Leasing), 390 (Accounting Procedures for Determining Net Profit Share Payment for Outer Continental Shelf Oil and Gas Leases), 391 (Acquistion and Disposition of Federal Royalty Interests Taken in Kind), and 378 (Coal Leasing) and redesignate them as 30 CFR Parts 259, 260, 261, 262, and 263, respectively.

Newly redesignated Part 259 (formerly 10 CFR Part 375), which contains a general description of DOE's authority in the minerals leasing area, also is being revised in this rule to remove unnecessary provisions and retain only the definitions which remain applicable. Since Congress repealed DOE's authority, the "Applicability" and "Authority" sections describing DOE's general authority are being removed from this part.

Newly redesignated Part 263 (formerly 10 CFR Part 378) is also removed since corresponding provisions have already been adopted by the Bureau of Land Management, DOI. (See 47 FR 819, January 7, 1982; and 47 FR 33114, July 30, 1982.) All substantive provisions contained in newly redesignated Part 263 already are incorporated in 43 CFR Part 3400 and 30 CFR Part 211, and Part 263 would be duplicative and unnecessry.

Other minor, nonsubstantive changes have been made as necessary to effect the transfer of functions from DOE to DOI. Substantive provisions remain unaffected by this document.

Procedural Matters

Administrative Procedure Act

The DOI for good cause finds that it is unnecessary under the Administrative Procedure Act, 5 U.S.C. 553(b)(B), to propose these changes for public comment. Substantive provisions of the regulations are unaffected by their transfer from Title 10 to Title 30 of the CFR. Accordingly, proposed rulemaking is unnecessary.

Pursuant to 5 U.S.C. 553(d), DOI has determined to make this rule effective immediately upon publication in the Federal Register. No substantive changes are being effected by the transfer of these regulations from Title 10 to Title 30 of the CFR.

Substantive changes to newly redesignated Part 260 (formerly 10 CFR Part 376) are proposed in a separate rulemaking document published elsewhere in this issue of the Federal Register.

Executive Order 12291; Regulatory Flexibility Act of 1980; National Environmental Policy Act (NEPA)

The DOI has determined that because this rule is principally a redesignation of existing regulations and initiates no substantive changes, it is not a major action for purposes of Executive Order 12291. Because no proposed rulemaking was issued with respect to this matter, a regulatory flexibility analysis is not required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The DOI has also determined that pursuant to NEPA 42 U.S.C. 4321 *et seq.*, an environmental impact statement is not required.

Paperwork Reduction Act of 1980

The information collection requirements contained in newly redesignated 30 CFR Parts 259, 260, 261, 262, and 263 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3502 *et seq.*

Drafting Information

This document was drafted by Neil Stoloff, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects

30 CFR Part 259

Continental shelf, Mineral royalties, Oil and gas exploration.

30 CFR Part 260

Continental shelf, Mineral royalties, Oil and gas exploration.

30 CFR Part 261

Accounting, Continental shelf, Mineral royalties, Oil and gas exploration.

30 CFR Part 262

Continental shelf, Mineral royalties, Oil and gas exploration, Small businesses.

30 CFR Part 263

Coal, Mineral royalties, Public lands.

Dated: December 3, 1982.

Daniel N. Miller,

Assistant Secretary.

Redesignation of Regulations

10 CFR Parts 375, 376, 390, 391, and 378—[Redesignated as 30 CFR Parts 259, 260, 261, 262, and 263 respectively].

1. Parts 375, 376, 390, 391, and 378 of 10 CFR Chapter II are transferred to 30 CFR Chapter II and redesignated as Parts 259, 260, 261, 262, and 263, respectively.

PART 263 [REMOVED]

2. Newly redesignated Part 263 is removed.

3. Newly redesignated Part 259 is revised to read as follows:

PART 259—MINERAL LEASING: DEFINITIONS

Sec.

259.001 Purpose and scope.

259.002 Definitions.

Authority: Pub. L. 83–212, 67 Stat. 462, 43 U.S.C. 1331 *et seq.*, as amended by Pub. L. 95–372, 92 Stat. 629.

§ 259.001 Purpose and scope.

The purpose of this Part 259 is to define various terms appearing in Parts 260, 261 and 262 of this chapter.

§ 259.002 Definitions.

For purposes of Parts 260, 261, and 262 of this chapter:

"Area" or "region" means the geographic area or region over which the MMS designated official has jurisdiction, unless the context in which those words are used indicates that a different meaning is intended.

"Designated Official" means a representative of DOI subject to the direction and supervisory authority of the Director, MMS, and the appropriate Regional Manager of the MMS authorized and empowered to supervise and direct all oil and gas operations and to perform other duties prescribed in 30 CFR Part 250 (offshore).

"Director" means Director, MMS, DOI.

"DOI" means the Department of the Interior, including the Secretary of the Interior, or his or her delegate.

"Federal lease" means an agreement which, for any consideration, including, but not limited to, bonuses, rents or royalties conferred, and convenants to be observed, authorizes a person to explore for, or develop, or produce (or to do any or all of these) oil and gas, coal, oil shale, tar sands, and goethermal resources on lands or interests in lands under Federal jurisdiction.

"Gas" means natural gas as defined by the Federal Energy Regulatory Commission.

"MMS" means Minerals Management Service.

"OCS" means the Outer Continental Shelf, which includes all submerged lands (1) that lie seaward outside of the area of lands beneath navigable waters as defined in the Submerged Lands Act (Pub. L. 31–35, 67 Stat. 29, [43 U.S.C. 1301]) and (2) of which the subsoil and seabed appertain to the United States are subject to its jurisdiction and control.

"OCSLA" means the Outer Continental Shelf Lands Act, as amended (Act of August 7, 1953, Ch. 345, 67 Stat. 462, 43 U.S.C. 1331 *et seq.*, as amended by Pub. L. 95–372, 92 Stat. 629).

"Oil" means a mixture of hydrocarbons that exists in a liquid or gaseous phase in an underground reservoir and which remains or becomes liquid at atmospheric pressure after passing through surface separating facilities, including condensate recovered by means other than a manufacturing process.

PARTS 260, 261, and 262—[AMENDED]

4. All references to "Executive Order 12009" and "Pub. L. 95–91, 42 U.S.C. 7152 *et seq.*" (the DOE Organization Act) contained in the Authority citations for newly redesignated Parts 260, 261 and 262, are removed.

5. All references to "Pub. L. 95–91, 42 U.S.C. 7152 *et seq.*" and "the DOE Act" in newly redesignated Parts 260, 261 and 262, are replaced by "OCSLA, 43 U.S.C. 1331 *et seq.*, as amended by Pub. L. 95–372, 92 Stat. 629" wherever they appear.

6. All references to "DOE", "USGS" or "Bureau of Land Management" in newly redesignated Parts 260, 261 and 262 (except in newly redesignated §§ 262.002, 262.110(c)(1), 262.140(a)(2) and (b)(2)) are revised to read "MMS" wherever they appear.

§ 260.111 [Amended]

7. Section 260.111 is amended as follows:

a. The first sentence in newly redesignated § 260.111(a) is amended by removing the language:

(a) * * * and making recommendations to DOI regarding" and "and in reviewing lease terms and conditions prior to determining whether to exercise its section 303(c)(1) DOE Act disapproval authority.

* * * * *

b. Newly redesignated §260.111(b) is revised to read as follows:

* * * * *

(b) In performing the analysis referred to in paragraph (a), MMS may, in its discretion, take into account the following in relation to their impact upon the purposes and policies enumerated in paragraph (a) of this section.

* * * * *

c. Newly redesignated paragraph 260.111(c) is amended by removing the language "after consultation with DOE,".

§ 262.110 [Amended]

8. The first sentence in newly redesignated § 262.110(a) is amended by removing the following language:

(a) * * *, after consultation with the Secretary of Energy.

* * * * *

[FR Doc. 83–663 Filed 1–10–83; 8:45 am]

BILLING CODE 4310–MR–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Eligibility for NOW Accounts; Amendment

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: Applicable provisions of the Garn-St Germain Depository Institutions Act of 1982 amended existing federal law to allow public units that are not operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes to hold interest-bearing deposits subject to withdrawal by negotiable or transferable instrument for the purpose of making transfers to third parties ("NOW accounts"). Therefore, the FDIC's regulations are being amended to reflect this statutory change.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Counsel or Fredric H. Karr, Attorney, (202) 389–4171, Federal Deposit Insurance Corporation,

550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Section 706 of the Garn-St Germain Depository Institutions Act of 1982 allows all public units to maintain NOW accounts. Since Part 329 of FDIC's regulations currently prohibits the establishment of NOW Accounts by public units as such, it is necessary to amend the relevant provisions of Part 329 to conform the regulations to the new law. However, the amendments go only to NOW account eligibility for public units. They have no effect on other eligibility restrictions.

The proposed amendment which would permit the maintenance of NOW accounts by public units merely conforms FDIC regulations to the provisions of existing law enacted as section 706 of the Garn-St Germain Depository Institutions Act of 1982. Accordingly, the Board of Directors of the Federal Deposit Insurance Corporation finds that the notice and public procedure provisions of 5 U.S.C. 553(b) are unnecessary and that said amendment may be adopted without general notice of proposed rule making and public participation.

The Board of Directors further finds that the proposed amendments relieve restrictions and that deferral of the effective date pursuant to 5 U.S.C. 553(d) is therefore unnecessary.

List of Subjects in 12 CFR Part 329

Banks, banking.

PART 329—INTEREST ON DEPOSITS

Part 329 of chapter III of title 12 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 329 reads as follows:

Authority: Secs. 9 and 18, Pub. L. 797, 64 Stat. 881, 891 (12 U.S.C. 1819 and 1828); sec. 303, Pub. L. 96-221, 94 Stat. 146 (12 U.S.C. 1832).

2. Section 329.1 is amended by revising paragraph (e)(2)(ii) to read as follows:

§ 329.1 Definitions.

* * * * *

(e) * * *

(2) * * *

(ii) No insured nonmember bank or insured nonmember mutual savings bank shall maintain an interest-bearing deposit for a corporation, partnership, association, or other organization under paragraph (e)(1)(ii) of this section if such deposit is subject to withdrawal by negotiable or transferable instrument for the purpose of making transfers to third parties.

* * * * *

§ 329.103 [Amended]

3. In Part 329, § 329.103 is amended by removing paragraph (d) thereof, and redesignating paragraph (e) as paragraph (d).

* * * * *

By Order of the Board of Directors, December 20, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-710 Filed 1-10-83; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 19

Federal Interaction With Voluntary Standards Bodies; Procedures

AGENCY: Office of the Secretary, Commerce.

ACTION: Withdrawal of previously published procedures on federal interaction with voluntary standards bodies.

SUMMARY: The Department of Commerce published in the **Federal Register** on January 6, 1981 (46 FR 1574), "Procedures on Federal Interaction With Voluntary Standards Bodies," to become effective on February 5, 1981. The effective date of these procedures was postponed several times and then in a notice published on June 29, 1981 (46 FR 33238), the effective date was postponed until further notice. The procedures were published in response to paragraph 7a of Office of Management and Budget (OMB) Circular A-119, entitled "Federal Participation in the Development and Use of Voluntary Standards," issued on January 17, 1980.

On August 12, 1981, the President's Task Force on Regulatory Relief identified the Circular as a candidate for review to assure that it imposed no unnecessary burdensome or counterproductive requirements. As a result of the review, a proposed revision of Circular A-119 was published on April 20, 1982, (47 FR 16919) and was issued in final form by OMB on October 26, 1982 (47 FR 49496, dated November 1, 1982). The revised Circular has eliminated the need for the procedures previously published by the Department. Therefore, the Department is withdrawing the procedures published on January 6, 1981 (46 FR 1574), identified as 15 CFR Part 19.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Stanley I. Warshaw, Director, Office of Product Standards Policy, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-3751.

SUPPLEMENTARY INFORMATION: The Department of Commerce issued, on December 31, 1980, Part 19 of Title 15 CFR, entitled "Federal Interaction With Voluntary Standards Bodies; Procedures." The procedures set out in Part 19 were published in the **Federal Register** on January 6, 1981 (46 FR 1574). These procedures were issued in response to paragraph 7a of OMB Circular A-119, entitled "Federal Participation in the Development and Use of Voluntary Standards." The procedures covered the listing and delisting of voluntary standards bodies and their standards developing groups as well as a voluntary dispute resolution service for the rapid handling of procedural complaints by interested parties against voluntary standards bodies listed by the Department of Commerce. In response to President Reagan's memorandum of January 29, 1981, entitled "Postponement of Pending Regulations," a notice published in the **Federal Register** on February 10, 1981, announced that the effective date of the procedures was postponed to March 30, 1981 (46 FR 11657).

During the period of postponement ordered in the President's memorandum of January 29, 1981, comments were received questioning the appropriateness of the procedures. A decision was therefore made to reexamine the procedures and the effective date was postponed again until April 29, 1981, in order to consider the comments received. Notice of this decision was published in the **Federal Register** on March 30, 1981 (46 FR 19227). In the same issue of the **Federal Register**, the Department solicited public comment on two alternatives concerning the final effective date of the procedures (46 FR 19266). The first alternative involved the indefinite suspension of the procedures pending completion of the reexamination, while the second alternative involved the implementation of the procedures on an interim basis during the period of reexamination.

The Department received 130 comments in response to the March 30, 1981, notice. In order to allow sufficient time for the analysis of these comments, the Department delayed the effective date of the procedures until June 29,

1981, in a notice published in the **Federal Register** on April 29, 1981 (46 FR 23922).

The Department, after considering all of the comments filed in response to the March 30 notice, announced, in a notice published in the **Federal Register** on June 29, 1981 (46 FR 33238), that the procedures were being suspended pending the completion of the reexamination of those procedures.

On August 12, 1981, the President's Task Force on Regulatory Relief identified the Circular as a candidate for review to assure that it imposed no unnecessary burdensome or counterproductive requirements. As a result of the review, a revision of Circular A–119 was proposed on April 20, 1982 (47 FR 16919), and issued in final form on October 26, 1982 (47 FR 49496, dated November 1, 1982).

The revised Circular has deleted the provisions that were in the earlier version of the Circular that called for the establishment of procedures for listing of voluntary standards bodies and their standards-developing groups, and for the establishment of a voluntary dispute resolution service for the handling of procedural complaints by interested parties against voluntary standards bodies listed by the Department. Therefore, there is no longer any justification for these procedures and they are hereby withdrawn.

Dated: January 6, 1983.

D. Bruce Merrifield,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 83–750 Filed 1–10–83; 8:45 am]

BILLING CODE 3510–18–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Monthly and Confirmation Statements

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has amended § 1.33(a) of its regulations (17 CFR 1.33(a)) to provide that a futures commission merchant ("FCM") no longer is required to furnish monthly statements to a commodity futures or option customer whose account has neither open positions at the end of the statement period nor any credits or debits to its account balance since the prior statement period, provided that such customer still receives, at least once every three months, an account statement containing the information specified in § 1.33(a). The Commission is also making a minor technical revision to § 1.33 to reflect this rule amendment.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Bruce A. Beatus, Esq., Legal Section, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: On October 26, 1982, the Commission published a proposal to amend § 1.33(a) of its regulations which requires FCMs to furnish monthly statements containing certain specified information to their customers (47 FR 47418).[1] Specifically, the proposal would amend § 1.33(a) to provide that FCMs no longer be required to furnish monthly statements to a commodity or option customer whose account has neither open positions at the end of the statement period nor any credits or debits to the account balance since the previous statement period, provided that such customer still receives, at least once every three months, an account statement containing the information specified in § 1.33(a).

In response to the proposal, the Commission received four comments: one from a commodity exchange; one from a futures industry trade association; one from a securities industry trade association; and one from an FCM. All four commentators agreed with the Commission's proposal and requested the Commission to adopt the amendment to § 1.33(a) promptly in the form proposed. In this connection, the commentators all stated that the cost of compliance with § 1.33(a) in regard to accounts which have experienced no trading activity nor any credits or debits to the account balance since the previous reporting period is substantial, and that amending the rule as proposed would result in streamlining the reporting requirements for FCMs without diminishing customer protection in any way.

The Commission has carefully considered these comments and as a result has determined to amend § 1.33(a) in the form proposed. The Commission is adopting this amendment because it believes that its recordkeeping requirements for FCMs should be designed to provide meaningful information on a timely basis to the Commission and should not impose unwarranted burdens. The receipt of an account statement as prescribed by §1.33(a) on at least a quarterly basis will enable customers to verify the accuracy of the FCMs accounting and to inform themselves of any balance which the FCM might be carrying in their accounts. In addition, this modification will conform the Commission's monthly statement requirements to those currently existing in the securities industry.[2] Finally, the amendment to § 1.33(a) will not interfere with a customer's ability to detect unauthorized trading in its account because the Commission's proposal does not alter the existing requirement contained in paragraph (b) of § 1.33 that FCMs promptly confirm all commodity futures or option transactions effected for customers. Accordingly, the Commission is hereby adopting the proposed amendment to § 1.33(a), as well as making a minor technical revision to § 1.33(e) to reflect this rule amendment.

I. Regulatory Flexibility Act

In the proposal, the Chairman of the Commission certified that if the proposed amendment to § 1.33(a) where adopted, it would not have a significant economic impact on a substantial number of small entities. Therefore, based upon the reasons previously enumerated in the proposal, pursuant to Section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1168 (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that § 1.33(a), as amended, will not have a

[1] The Commission notes that it has recently amended § 1.33 in connection with its adoption of final rules to expand the three-year commodity option pilot program to permit and govern the trading of options on physicals on domestic exchanges. While most of these changes are technical in nature, § 1.33(a) has been amended to require FCMs to provide to their futures customers a monthly activity statement which contains, among other items, information relating to financial charges and credits during the preceding month. *See* 47 FR 56996, 57008 (December 22, 1982). The Commission further notes that it has published a notice of proposed rulemaking in the **Federal Register** requesting public comment as to whether it should further amend § 1.33(a)(1)(iv) to require the inclusion of commissions and fees in the monthly statements provided to futures customers. *See* 47 FR 57055 (December 22, 1982).

[2] *See, e.g.*, Rule 15c3–2 of the Securities and Exchange Commission's regulations which provides that, in connection with customers' free credit balances, statements of account be sent not less frequently than once every three months. 17 CFR 240.15c3–2(1982).

significant economic impact on a substantial number of small entities.

II. Paperwork Reduction Act

As noted in the proposal,[3] Commission regulation 1.33(a) was previously issued a control number, 3038–0024, pursuant to the Paperwork Reduction Act of 1980 Pub. L. 96–511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*). As stated then, rather than increasing a paperwork burden, this amendment reduces an existing recordkeeping obligation. A discussion of this fact and a copy of the proposal was provided to the Office of Management and Budget.

List of Subjects in 17 CFR Part 1

Records, Futures commission merchants.

PART 1—[AMENDED]

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 2(a)(1), 4b, 4c, 4g and 8a, thereof, 7 U.S.C. 2, 6b, 6c, 6g and 12a, the Commission hereby amends Chapter I, Part 1 of Title 17 of the Code of Federal Regulations by amending § 1.33 by revising paragraph (a) introductory text and paragraph (e) as follows:

§ 1.33 Monthly and confirmation statements.

(a) Monthly Statements. Each futures commission merchant must promptly furnish in writing to each commodity customer and to each option customer, as of the close of the last business day of each month or as of any regular monthly date selected, except for accounts in which there are neither open positions at the end of the statement period nor any changes to the account balance since the prior statement period, but in any event not less frequently than once every three months, a statement which clearly shows:

* * * * *

(e) *Recordkeeping.* Each futures commission merchant shall retain, in accordance with § 1.31, a copy of each statement and confirmation required by this § 1.33.

* * * * *

Issued in Washington, D.C., on January 6, 1983 by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83–719 Filed 1–10–83; 8:45 am]

BILLING CODE 6351–01–M

[3] 47 FR at 47419.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T. D. 83–11]

Special Tonnage Tax and Light Money; Payment Exemption; Republic of Vanuatu

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations by adding the Republic of Vanuatu to the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. Satisfactory evidence has been furnished by the Department of State that no discriminating duties of tonnage or imposts are imposed in ports of the Republic of Vanuatu upon vessels belonging to citizens of the United States or on their cargoes. This document provides reciprocal privileges to vessels registered in the Republic of Vanuatu.

EFFECTIVE DATE: July 30, 1980.

FOR FURTHER INFORMATION CONTACT: John A. Mathis, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as "light money," on all foreign vessels which enter United States ports (46 U.S.C. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof satisfactory to the President that no discriminatory duties of tonnage or imposts are imposed by that foreign nation on United States vessels or their cargoes (46 U.S.C. 141). The President has delegated the authority to grant this exemption to the Secretary of the Treasury. Further, under Treasury Department Order No. 165–25, dated August 5, 1982, the Secretary of the Treasury has delegated to the Commissioner of Customs the authority to grant this exemption and prescribe regulations relating to § 4.22, Customs Regulations (19 CFR 4.22), which lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. Subsequently, by Customs Delegation Order No. 66 (T.D. 82–201), dated October 13, 1982, the Commissioner delegated this authority to the Assistant Commissioner (Commercial Operations). Authority to grant this exemption and to amend § 4.22 was delegated from the Assistant Commissioner (Commercial Operations), to the Director, Office of Regulations and Rulings who then redelegated this authority to the Director, Regulations Control and Disclosure Law Division.

By letter dated July 28, 1982, the Department of State advised Customs that satisfactory evidence exists that no discriminating duties of tonnage or imposts are imposed or levied in ports of the Republic of Vanuatu upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported into the Republic of Vanuatu on vessels from the United States. Consequently, the Department of State recommended that the Republic of Vanuatu be added, effective July 30, 1980, the date it came into existence, to the list of nations whose vessels are exempted from the payment of the U.S. special tonnage tax and light money.

Declaration

Therefore, by virtue of the authority vested in the President by section 4228 of the Revised Statutes, as amended (46 U.S.C. 141), and delegated to the Secretary of the Treasury By Executive Order No. 10289, September 17, 1951, as amended by Executive Order No. 10882, July 18, 1960 (3 CFR, Parts 1959–1963 Comp., Ch. II), and pursuant to the authorization provided by Treasury Department Order No. 101–5 (47 FR 2449), Treasury Department Order No. 165–25, (47 FR 37993), Customs Delegation Order No. 66 (T.D. 82–201), and further delegated to the Director, Regulations Control and Disclosure Law Division, I declare that the foreign discriminating duties of tonnage and imposts within the United States are suspended and discontinued, in respect to vessels of the Republic of Vanuatu and the produce, manufactures, or merchandise imported into the United States in such vessels from the Republic of Vanuatu or from any other foreign country.

This suspension and discontinuance shall take effect from July 30, 1980, in respect to vessels of the Republic of Vanuatu, and shall continue only for so long as the reciprocal exemptions of vessels wholly belonging to citizens of the United States and their cargoes shall be continued.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Cargo vessels, Maritime carriers, Vessels.

Amendment to the Regulations

To reflect the reciprocal privileges granted to vessels registered in the Republic of Vanuatu, the list in § 4.22, Customs Regulations (19 CFR 4.22), of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money, is amended by adding the Republic of Vanuatu in appropriate alphabetical order.

(R.S. 251, as amended, 4219, as amended, 4255, as amended, 4228, as amended, section 3, 23 Stat. 119, as amended, section 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 5, 121, 128, 141))

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely implements a statutory requirement and involves a matter in which the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unecessary. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

Inapplicability of The Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub. L. 96–354, the "Regulatory Flexibility Act." That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and Treasury participated in its development.

Dated: January 4, 1983.

B. James Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 83-727 Filed 1-10-83; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 24

[T.D. 83-14]

Customs Regulations Amendments Relating to Due Date of Customs Bills

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: The Customs Regulations presently provide that a bill for duties, taxes, or other charges owed to the Customs Service is payable upon receipt by the debtor. However, the United States Court of Customs and Patent Appeals recently affirmed a lower court decision holding, in effect, that payment of additional Customs duties are no longer due upon receipt of the bill, but can be delayed until certain administrative remedies have expired. Accordingly, it is necessary to amend the Customs Regulations in light of this holding.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Robert B. Hamilton, Accounting Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–2596).

SUPPLEMENTARY INFORMATION:

Background

Part 24, Customs Regulations (19 CFR Part 24), contains the Customs financial and accounting procedures. Specifically, § 24.3(e), Customs Regulations, (19 CFR 24.3(e)), states that a bill for duties, taxes, or other charges is due and payable upon receipt thereof by the debtor.

However, the United States Court of International Trade in *Heraeus-Amersil, Inc.*, v. *United States*, 2 CIT ——, 515 F. Supp. 770 (1981), held that any liquidated duties, charges, or exactions are not due and payable at liquidation, but rather at the time of the filing of the action or at the expiration of the statute of limitations if no action is filed. The United States Court of Customs and Patent Appeals affirmed this decision in *United States* v. *Heraeus-Amersil, Inc.*, Appeal No. 81–19 (February 18, 1982). Therefore, it is necessary to amend § 24.3(e) in light of this holding to provide that bills for supplemental duty shall be due upon the expiration of the protest period when no protest is filed, or 180 days after the denial of a protest.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this is a technical amendment required to be made in light of the holding of a court, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are impracticable, unnecessary, and contrary to public interest. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code, as added by section 3 of Pub. L. 96–354, the "Regulatory Flexibility Act." That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), or any other statute.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Federal Register Thesaurus

On January 22, 1981, the Office of the Federal Register published a final rule (47 FR 7162) which requires agencies to identify major topics and categories of persons affected in their regulations by using standard terms established in the **Federal Register** Thesaurus of Indexing Terms.

Accordingly, the index term listed below is applicable to this regulatory project:

List of Subjects in 19 CFR Part 24

Accounting.

Amendments to the Regulations

Parts 24, Customs Regulations (19 CFR

Part 24), is amended as set forth below:

William von Raab,

Commissioner of Customs.

Approved December 20, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURES

Section 24.3(e) Customs Regulations (19 CFR 24.3(e), is revised to read as follows:

§ 24.3 Bills and accounts; receipts.

* * * * *

(e) A bill for duties, taxes, or other charges is due and payable upon receipt thereof by the debtor, except for a bill for supplemental duties which shall be due upon the expiration of the protest period when no protest is filed, or 180 days after the denial of the protest.

(R.S. 251 as amended, R.S. 3009, 3473, section 1, 36 Stat. 985, as amended, section 648, 48 Stat. 762, as amended (19 U.S.C. 66, 197, 198, 1648))

[FR Doc. 83-723 Filed 1-10-83; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 177

[T.D. 83-13]

Customs Regulations Amendments Relating to Country-of-Origin Determinations

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the Government procurement provisions of the "Trade Agreements Act of 1979." The amendments establish a procedure whereby any party-at-interest to a Government procurement may request the issuance of country-of-origin advisory rulings and final determinations relating to Government procurement for the purpose of granting waivers of certain "Buy American" restrictions for products of eligible countries.

EFFECTIVE DATE: This rule is effective on February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin Mahoney, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5778).

SUPPLEMENTARY INFORMATION:

Background

The "Trade Agreements Act of 1979," Pub. L. 96-39, 93 Stat. 144 (the "Act"), approves and implements the trade agreements negotiated by the United States in the Tokyo Round of Multilateral Trade Negotiations. The Act consists of 11 separate titles. This document relates only to those aspects of Title III of the Act, "Government Procurement," which affect Customs activities (section 301 *et seq.*, 93 Stat. 236 *et seq.*, 19 U.S.C. 2511 *et seq.*)

Title III of the Act, which implements the Agreement on Government Procurement, permits the President to waive those portions of U.S. law or practice, most notably the Buy American Act (41 U.S.C. 10a *et seq.*) which discriminate against the procurement of products of designated countries. Designated countries are those which are parties to the Agreement on Government Procurement, which provide reciprocal procurement benefits to the United States, or which are least developed countries. The Act permits the President to prohibit Federal Government procurement of products from non-designated countries. Furthermore, the Act authorizes the President to withdraw or to limit waivers or designations previously granted.

A waiver can only apply to goods which are the products of a country designated by the President under section 301(b) of the Act. In order to implement this provision, section 305(b) of the Act provides that the Secretary of the Treasury shall provide country-of-origin advisory rulings and final determinations on whether a product is or would be a product of a designated country. The rule of origin to be applied is specified in section 308(4)(B) of the Act. Judicial review of these final determinations is provided for in section 1001 of the Act (28 U.S.C. 1581(e)).

On April 9, 1981, Customs published a notice in the **Federal Register** (46 FR 21194), proposing to amend Part 177, Customs Regulations (19 CFR Part 177), to implement Title III of the Act. The only comment received in response to the notice was from the embassy of a foreign government. During the course of the interagency evaluation of this comment, the United States Trade Representative (USTR) raised questions which necessitated significant changes to the proposed rule. Because of the substantial modifications, Customs determined that the proposed rule should be republished thereby providing another opportunity for public comment. Accordingly, on June 16, 1982, a second notice of proposed rulemaking was published in the **Federal Register** (47 FR 25975). The comments received and the changes made as a result are discussed below.

Discussion of Public Comments and Changes

Who May Request Rulings and Determinations

The commenter on the first proposed rule objected to proposed section 177.24 which would have limited the parties who could file a ruling request to "a foreign manufacturer, producer, or exporter, or a United States importer of merchandise, or by a duly authorized attorney or agent on their behalf." The commenter believed that the proposed rule should be broadened to include interested parties so that a foreign embassy could intervene on behalf of one of its nationals.

The USTR was of the opinion that proposed §§ 177.23 and 177.24 were too narrow in their coverage and should be amended to include all "parties-at-interest" as defined in section 1001(b)(4)(B) of the Act. Section 1001(b)(4)(B) (codified at 28 U.S.C. 1581(e), 2631(e), and 2631(k)(2)) relates to the jurisdiction of the Court of International Trade to review final determinations made under the provisions of section 305(b)(1) of the Act. Section 1001(b)(4)(B) in pertinent part states that:

> * * * The Customs Court (the Court of International Trade was substituted by the "Customs Courts Act of 1980," Pub. L. 96-417) shall have exclusive jurisdiction of any civil action brought by a party-at-interest to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979. For purposes of this subsection, the term "party-at-interest" means—
>
> (1) A foreign manufacturer, producer, or exporter, or a United States importer of merchandise which is the subject of a final determination under section 305(b) of the Trade Agreements Act of 1979,
>
> (2) A manufacturer, producer, or wholesaler in the United States of a like product,
>
> (3) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, and
>
> (4) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

After publication of the first proposed rule, the USTR advised Customs that section 1001 was intended to cover any party-at-interest. The second proposed rule modified the definition to conform to USTR's position. None of the commenters objected to the interpretation of the term "party-at-interest" set forth in the second notice. Accordingly, the definition is adopted in the final rule as it was set forth in § 177.22(d) of the second notice.

Fraudulent Claims

Traditionally, Customs has not gone beyond the facts presented in a ruling request to verify the truth of the claims presented therein. In the second notice it was stated that Customs does not intend to alter this procedure for country-of-origin final determinations. Although Customs recognizes that disputes may arise as a result of allegations or complaints that certain processing or manufacturing claimed to have been performed in a designated country is not, in fact, being done there, it was stated that Customs position would be that a party raising such a claim was not requesting a final determination within the meaning of the Act but alleging a fraudulent practice. Customs authority under the Act relates only to issuing rulings and not to investigating complaints of a factual nature such as verifying that processing or manufacturing is or is not being done in a designated foreign country. Accordingly, it was Customs position in the second notice that alleged claims of fraudulent practices will be referred to the procuring agency involved for appropriate processing.

All of the commenters addressing the problem of fraudulent claims stated that Customs should help ascertain facts as to whether a party-at-interest's claim of origin is, in fact, true. In fact, one commenter asserted that Customs is required to undertake a factual investigation of whether processing or manufacturing is or is not being done in a designated foreign country. Customs does not agree with this commenter. The relevant provision of the Act provides that:

> * * * the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether * * * an article is or would be a product of a foreign country or instrumentality * * * (19 U.S.C. 2515 (b)(1)).

The Act does not specify the manner in which Customs must make these determinations. Under the proposed regulations the requester would verify that his claims are truthful and the procuring agency would be responsible for investigating allegations of fraud. Nowhere does the Act tie the imposition of civil or criminal penalties with Customs responsibility for investigating such violations. Customs does not believe the procuring agencies assumption of the responsibility for investigating allegations of fraudulent practice contravenes the Act. Therefore, Customs does not believe any change to the proposed regulation is required. The fact that under the proposed regulations the procuring agency would have the primary responsibility for investigating allegations that the facts presented to Customs relating to the country of origin are false (*i.e.* fraudulent claims) does not prevent Customs from cooperating with procuring agencies in uncovering fraudulent claims. As a matter of policy Customs will cooperate with the procuring agencies in every way possible to uncover fraudulent claims and assist in the investigation of fraudulent claims that are uncovered.

Issuance of Rulings—Time Period—Insufficient Information

The commenter on the first notice stated that proposed section 177.28, relating to advisory rulings, and proposed section 177.29, relating to appeals, provided that the failure of the Director, Entry Procedures and Penalties Division, Headquarters, U.S. Customs Service, to issue an advisory ruling within 25 days or to render a final determination on an appeal within 30 days, would automatically result in a decision that the article is not or would not be considered to be a product of the claimed country. The commenter concluded that such a procedure would leave the party requesting a ruling or appeal with no knowledge of why the request or appeal had been denied. The commenter believed that in some cases the requester could be subject to an adverse ruling as a result of delay or oversight on the part of Customs. The commenter felt that a written response outlining the specific reasons why Customs does not consider the merchandise to be a product of the foreign country would provide the requester with an opportunity to make adjustments in its process of manufacture so that a favorable ruling could be obtained. The USTR echoed the commenters views and suggested that the time frames set forth in the proposed rule be deleted.

Since international obligations of the U.S. do not require the time constraints Customs originally proposed, and budgetary limitations would render them unrealistic in any event, Customs deleted the time constraints in the second notice.

Several commenters on the second notice recommended that the final rule include a 25 day time period in which Customs must issue an advisory ruling or final determination. The Act (19 U.S.C. 2515) requires that Customs promptly issue advisory rulings and final determinations but does not impose a specific time limit. Since the time required to promptly issue an advisory ruling or a final determination will depend on the circumstances and issues raised by the requester, Customs still does not believe a specific time limit would be appropriate. However, section 177.28 of the final rule has been revised to indicate that Customs will "promptly" issue advisory rulings and final determinations.

The same commenters stated that an exemption to the "Buy America" provisions should not be granted if there is insufficient information to issue an advisory ruling or a final determination. Under the proposed regulations Customs would not issue a final determination if the request does not include the information required. Since neither an advisory ruling nor a refusal on Customs part to issue a final determination would bind the United States on a determination of products eligible for a Presidential waiver under 19 U.S.C. 2511(a), Customs refusal to issue final determinations would not constitute waivers of the Buy American Act. Therefore, the concerns of the commenters do not appear to be relevant to the regulations as currently drafted.

After consideration of the comments received and further review of the matter, it has been determined to adopt the proposal, with a single modification noted above.

Executive Order 12291

These amendments do not meet the criteria for a major rule as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule will not have a significant economic impact on a substantial number of small entities. Any economic impact flows directly from the Trade Agreement Act of 1979 and not the proposed implementation regulations. The implementing regulations are not expected to have significant secondary or incidental effects on a substantial number of small entities or impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices, the Treasury Department, and the USTR participated in its development.

List of Subjects in 19 CFR Part 177

Administrative practices and procedures, Country-of-origin rulings, Government procurement.

Amendments to the Regulations

Part 177, Customs Regulations (19 CFR Part 177), is amended as set forth below.

George C. Corcoran, Jr.,
Acting Commissioner of Customs.

Approved December 23, 1982.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

PART 177—ADMINSTRATIVE RULINGS

1. Part 177 is amended by adding a subpart designation before § 177.1 to read as follows:

Subpart A—General Ruling Procedure

2. A new Subpart B is added to Part 177 to read as follows:

Subpart B—Government Procurement; Country-of-Origin Determinations

Sec.
177.21 Applicability.
177.22 Definitions.
177.23 Who may request a country-of-origin advisory ruling of final determination.
177.24 By whom request is filed.
177.25 Form and content of request.
177.26 Where request filed.
177.27 Oral discussion of issues.
177.28 Issuance of advisory rulings and final determinations.
177.29 Publication of notice of final determinations.
177.30 Review of final determinations.
177.31 Reexamination of final determinations.

Authority: R.S. 251, as amended (19 U.S.C. 66), Sec. 624, 46 Stat. 759 (19 U.S.C. 1624); Pub. L. 96–39, 93 Stat. 144.

§ 177.21 Applicability

This subpart applies to the issuance of country-of-origin advisory rulings and final determinations relating to Government procurement under Title III, "Trade Agreements Act of 1979," Pub. L. 96–39, 93 Stat. 144, for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products for eligible countries. This subpart is intended to be applied consistent with the Federal Procurement Regulations (41 CFR Part 1–6) and the Defense Acquisition Regulation (32 CFR Section VI).

§ 177.22 Definitions.

(a) *Country of origin.* For the purpose of this subpart, an article is a product of a country or instrumentality only if (1) it is wholly the growth, product, or manufacture of that country or instrumentality, or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term "instrumentality" shall not be construed to include any agency or division of the government of a country, but may be construed to include such arrangements as the European Economic Community.

(b) *Advisory ruling.* An advisory ruling is a non-binding, non-reviewable written statement issued by the Director, Entry Procedures and Penalties Division, Headquarters, U.S. Customs Service, which does no more than call attention to a well established interpretation or principal of law relating to the country of origin, without applying it to a particular set of facts. Customs will issue an advisory ruling in response to a request for a final determination if:

(1) The request suggests that general information, rather than a final determination, is actually being sought,

(2) The request is incomplete or otherwise fails to meet the requirements set forth in § 177.25(a), or

(3) The ruling requested cannot be issued for any other reason, and Customs believes that the general information supplied by an advisory ruling may be of some benefit to the party making the request. An advisory ruling is not a ruling issued prior to importation under 28 U.S.C. 1581(h).

(c) *Final determination.* A final determination is a binding judicially reviewable statement issued by the Director, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, in response to a written request submitted under the provisions of this subpart that interprets and applies the provisions of law and regulation relating to the country of origin to a specific set of facts. A final determination may be issued to a party-at-interest prior to actual entry of the merchandise.

(d) *Party-at-interest.* For purposes of this subpart the term party-at-interest means—

(1) A foreign manufacturer, producer, or exporter, or a United States importer of merchandise which is the subject of a final determination under this subpart,

(2) A manufacturer, producer, or wholesaler in the United States of a like product,

(3) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, and

(4) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

§ 177.23 Who may request a country-of-origin advisory ruling or final determination.

A country-of-origin advisory ruling or final determination may be requested by:

(a) A foreign manufacturer, producer, or exporter, or a United States importer of merchandise,

(b) A manufacturer, producer, or wholesaler in the United States of a like product,

(c) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product, or

(d) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

§ 177.24 By whom request is filed.

A request may be filed by an individual or organization listed in § 177.23 or by a duly authorized attorney or agent on behalf of the individual or organization. A request filed by a corporation shall be signed by a corporate officer, and a request filed by a partnership shall be signed by a partner.

§ 177.25 Form and content of request.

(a) A request for an advisory ruling shall be in writing and shall contain such information as will enable Customs to provide the requester with the applicable principle of law or well established interpretation relating to the particular country of origin.

(b) A request for a final determination shall be in writing and shall contain the following information:

(1) The name of the requester, the requester's principal place of business, and a statement that the requester is authorized to file the request under the provisions of § 177.24;

(2) a description of the existing article for which a country-of-origin determination is requested;

(3) The country or instrumentality an article is claimed to be the product of;

(4) Such further information as will enable Customs to determine if an article is a product of a specific country or instrumentality, and;

(5) If applicable, the specific procurement for which the final determination is requested.

§ 177.26 Where request filed.

The request shall be filed with the Director, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

§ 177.27 Oral discussion of issues.

Any party authorized to request a ruling under the provisions of § 177.23 may request an opportunity for oral discussion of the issues presented in the request. The oral discussion of issues will be governed by the provisions of § 177.4

§ 177.28 Issuance of advisory rulings and final determinations.

(a) Pursuant to a request for an advisory ruling which meets the requirements of this subpart, Customs will promptly issue an advisory ruling.

(b) Pursuant to a request for a final determination which meets the requirements of this subpart, Customs will promptly issue a final determination. If the request does not meet the requirements of this subpart Customs may decline to issue a final determination or may issue instead an advisory ruling.

(c) Requests for final determinations which include the information set forth in § 177.25(b)(5) (relating to a specific procurement) will be considered by Customs before all other requests (advisory rulings and final determinations).

§ 177.29 Publication of notice of final determinations.

Notice of all final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued.

§ 177.30 Review of final determinations.

Any party-at-interest listed in § 177.22(d) may seek judicial review of a final determination within 30 days after publication of such determination in the **Federal Register**, and may seek judicial review of a refusal to issue a final determination within 30 days after such refusal. The Court of International Trade shall have exclusive jurisdiction to review a final determination or a refusal to issue a final determination made under this subpart.

§ 177.31 Reexamination of final determinations.

A party-at-interest, other than the party-at-interest which requested and received the initial final determination, may ask Customs to consider the matter anew and issue, on an expedited basis, a new final determination. Such a request shall specifically identify the previous final determination. Upon receipt of such a request, Customs will issue a new final determination within five working days of receipt of the request unless (a) the previous final determination was the subject of a contested lawsuit timely filed in the Court of International Trade under 28 U.S.C. 1581(e) or, (b) the merchandise at issue in the initial final determination was tendered and deemed responsive to the request for proposals or an invitation for bids in a competitive procurement subject to the Buy American Act (41 U.S.C. 10a *et seq.*) and a contract under such procurement was let. Any new final determination issued under this section shall be published in accordance with § 177.29 and is reviewable under § 177.30.

[FR Doc. 83-722 Filed 1-10-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 135

[Docket No. 79P-0441]

Frozen Desserts; Standards of Identity for Goat's Milk Ice Cream, Goat's Milk Frozen Custard, and Goat's Milk Ice Milk; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with the standards of identity for goat's milk ice cream, goat's milk frozen custard, and goat's milk ice milk.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance may have begun November 22, 1982.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 21, 1982 (47 FR 41525), FDA issued a final rule establishing standards of identity for goat's milk ice cream and goat's milk frozen custard (21 CFR 135.115), and for goat's milk ice milk (21 CFR 135.125) cross-referenced to the standards of identity for ice cream and frozen custard (21 CFR 135.110), and for ice milk (21 CFR 135.120), respectively. Any person who would be adversely affected by the regulation could have, at any time on or before October 21, 1982, filed written objections to the final regulation and requested a hearing on the specific provisions to which there were objections. No objections or requests for a hearing were received.

List of Subjects in 21 CFR Part 135

Food standards, Frozen desserts, Ice cream.

Therefore, under the Federal Food, Drug, amd Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the effective date for compliance with the standards of identity for goat's milk ice cream and goat's milk frozen custard (21 CFR 135.115), and for goat's milk ice milk (21 CFR 135.125) as established in the **Federal Register** of September 21, 1982 (47 FR 41525) is July 1, 1985. Voluntary compliance may have begun November 22, 1982.

Dated: December 30, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-620 Filed 1-10-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. R-83-984]

Recognition of Substantially Equivalent Laws

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Final rule.

SUMMARY: This rule amends 24 CFR Part 115 which provides for recognition by the Department of those State and local fair housing laws which provide rights and remedies substantially equivalent to those provided by Title VIII of the Civil Rights Act of 1968. The amendment

grants recognition to one additional jurisdiction that meets the legal and performance standards for recognition.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Steven J. Sacks, Director, Federal, State and Local Programs Division, Room 5214, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 426–3500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On May 12, 1982, the Department of Housing and Urban Development published in the **Federal Register** (47 FR 20317) a notice of proposed rulemaking that pursuant to Section 810(c) of Title VIII of the Civil Rights Act of 1968, as amended, it was proposing to grant recognition to the fair housing laws of one State and twenty-one localities as being substantially equivalent to Title VIII. The evaluation of the fair housing laws of these jurisdictions was conducted in accordance with the provisions of 24 CFR Part 115, with particular reference to §§ 115.2(a), 115.3 and 115.6. In the notice of proposed rulemaking on May 12, 1982, those sections were set forth to give appropriate information to all parties with an interest in HUD's proposed action.

All interested persons and orgranizations were invited to submit written comments on or before June 11, 1982. Only one comment was received within the comment period, with respect to the City of New Haven, Connecticut, which raised two primary concerns: the limits on jurisdiction of the City of New Haven under State law when the Connecticut Commission on Human Rights and Opportunities is involved, and the performance capability of the City of New Haven to effectively administer its law in accordance with HUD standards. Inasmuch as this comment raised unresolved issues, the City of New Haven, Connecticut was not included for recognition in the final rule published August 4, 1982. On June 18, 1982, the Office of General Counsel reaffirmed its concurrence in the Regional Counsel's conclusion that the Ordinance of New Haven was legally sufficient and the issues raised did not affect their initial determination of legal sufficiency.

On August 9, 1982, the HUD Office of Regional Fair Housing and Equal Opportunity conducted an on-site performance reassessment and determined that the New Haven, Connecticut Commission on Equal Opportunities had taken actions necessary to correct deficiencies cited in HUD's original performance assessment and in the respondent's comments. On the basis of the above, it has been determined that the issues have been resolved in favor of New Haven, Connecticut as a substantially equivalent jurisdiction. Therefore, this amendment grants recognition to the City of New Haven, Connecticut.

This rule does not constitute a "major rule" as that term is defined in section 1 (b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with 24 CFR 50.30 (c), that implements Section 102 (2) (C) of the National Environmental Policy Act 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the office of the Rules Docket Clerk, Room 10278, 451–7th Street, S.W., Washington, D.C. 20410.

Pursuant to the provisions of 5 U.S.C. 605 (b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. It imposes no requirements on the jurisdiction, nor will its issuance have any impact on the private sector.

This rule was listed as item FH&EO–5–82 under the Office of FH&EO in the Department's Semiannual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act on October 28, 1982 (47 FR 48443).

The Catalog of Federal Domestic Assistance Program Titles and numbers are Equal Opportunity in Housing and Fair Housing Assistance Program, 14.400, 14.401.

List of Subjects in 24 CFR Part 115

Fair housing, Intergovernmental relations.

PART 115—RECOGNITION OF SUBSTANTIALLY EQUIVALENT LAWS

Accordingly, 24 CFR 115.11 is revised to read as follows:

§ 115.11 Jurisdictions with substantially equivalent laws.

The following jurisdictions are recognized as providing rights and remedies for alleged discriminatory housing practices substantially equivalent to those in the Act, and complaints will be referred to the appropriate State or local agency as provided in § 115.6.

States

Alaska	Montana
California	Nebraska
Colorado	Nevada
Connecticut	New Hampshire
Delaware	New Jersey
Illinois	New Mexico
Indiana	New York
Iowa	Oregon
Kansas	Pennsylvania
Kentucky	Rhode Island
Maine	South Dakota
Maryland	Virginia
Massachusetts	Washington
Michigan	West Virginia
Minnesota	Wisconsin

Localities

Phoenix, AR	Minneapolis, MN
New Haven, CT	Kansas City, MO
District of Columbia	Lincoln, NE
Clearwater, FL	Omaha, NE
Jacksonville, FL	New York City, NY
Orlando, FL	Charlotte, NC
St. Petersburg, FL	Mecklenburg County, NC
Bloomington, IL	New Hanover County, NC
Evanston, IL	Raleigh, NC
Springfield, IL	Philadelphia, PA
Columbus, IN	Pittsburgh, PA
Fort Wayne, IN	Sioux Falls, SD
Gary, IN	Knoxville, TN
South Bend, IN	Seattle, WA
Iowa City, IA	Tacoma, WA
Kansas City, KS	Beckley, WV
Salina, KS	Charleston, WV
Wichita, KS	Huntington, WV
Howard County, MD	Beloit, WI
Montgomery County, MD	
Prince George's County, MD	

(Sec. 810(c) of the Civil Rights Act of 1968 (42 U.S.C. 3610); Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: January 3, 1983.

Antonio Monroig,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 83-784 Filed 1-10-83; 8:45 am]

BILLING CODE 4210-28-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-82-962]

Method of Computing Interest on Defaulted Loans

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing claims collection to require that interest on all claims held by the Federal Housing Commissioner be calculated in accordance with the so called "U.S. Rule". Under the existing regulations, the "U.S. rule" is not applicable to interest on defaulted Title I Property improvement loans.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, but not before further notice of the effective date is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Room 9160, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, Telephone (202) 755-6680. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This final rule permits HUD to calculate interest on all claims held by the Federal Housing Commissioner, including interest on defaulted property improvement loans insured under Title I of the National Housing Act, in accordance with the "U.S. Rule". After this rule's effective date, application of payments in accordance with the "U.S. Rule" will affect not only Title I loans which are assigned to the Commissioner prospectively, but also those defaulted loans which were assigned before the effective date of this rule. However, amounts already paid on loans assigned before the effective date of this rule will not be recomputed according to the "U.S. Rule".

Regulations issued jointly by the General Accounting Office and the Department of Justice, pursuant to the Federal Claims Collection Act of 1966, prescribe the so-called "U.S. Rule" for the calculation of interest on delinquent debts and debts being paid in installments (4 CFR 102.12).

HUD's regulations currently make these standards applicable to all administrative claims collection activity of the Federal Housing Commissioner, except for defaulted property improvement loans under Title I of the National Housing Act which are assigned to the Commissioner.

Under the "U.S. Rule", installment payments are applied first to accrued interest and then to principal. 24 CFR 200.905 provides a different method for calculating interest on defaulted Title I property improvement loans assigned to the Commissioner where collection is made under a payment plan providing for regular installment payments. The regulation requires that "In such instances, amounts received shall be applied first to satisfy the principal of the debt. Subsequent payments shall be applied to the interest obligation, calculated on the basis of declining principal balances without charging interest on interest balances."

Property improvement loans were excepted from the "U.S. Rule" because of the manual accounting system in use and the high volume of loans and payments. However, HUD is now in the process of contracting for an automated commercial loan accounting system which will eliminate the justification for the present exception of Title I loans from the preferred "U.S. Rule".

Accordingly, on February 17, 1982, HUD published a proposed rule (at 47 FR 6893) to remove the exception for Title I loans. No comments were received during the public comment period. HUD is now adopting this final rule to effect the proposed amendment, without any substantial change.

Even though this rule will become effective on a certain date (as provided above under "Effective Date"), its implementation will be phased in over a period of time, as the automated loan accounting system becomes operational in each HUD Region. The contractor who will operate the new loan accounting system is under contract with HUD to begin operation on January 31, 1983. The effect of the phased implementation is that for a period of several months payments made by borrowers in some geographical areas will be applied under the "U.S. Rule" while payments made by borrowers in other areas will be applied in accordance with the procedures in effect before this final rule. This has been determined to be most cost effective way to implement this rule. It is anticipated that the "U.S. Rule" will be applied nationwide to all assigned loans by September, 1983. All debtors will be notified in advance of the new method of applying their payments.

Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in effectiveness for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. The Secretary has requested such waivers by the Chairmen and Ranking Minority Members but, at the time of publication of this final rule, it is not known whether or when such waivers will be granted. Further notice of the effective date will be published in the **Federal Register**.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Envrionmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 milllion or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities.

The Catalog of Federal Domestic Assistance program numbers and titles are: 14:110, Mobile Home Loan Insurance—Financing Purchase of Mobile Homes as Principal Residence of Borrowers; and 14.142, Property Improvement Insurance for Improving All Existing Structures and Building of New Non-Residential Structures.

This rule was listed as Item C 31, H-43-81 under the Office of Housing in the Department's Semiannual Agenda of Regulations published in the **Federal Register** on August 17, 1981 (46 FR

41708), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards.

PART 200—INTRODUCTION

Subpart R—Claims Collection Standards

Accordingly, 24 CFR Part 200, Subpart R, is amended by revising § 200.900 and § 200.905, as follows:

§ 200.900 General Collection Standards.

The general standards and procedures governing the collection, compromise, termination, and referral to the Department of Justice of claims for money and property are prescribed in the regulations issued jointly by the General Acounting Office and the Department of Justice pursuant to the Federal Claims Collection Act of 1966 (4 CFR Parts 101–105). These standards are applicable to the administrative claims collection activities of the Commissioner. (Also see 24 CFR Part 17, Subpart B, for Departmental collection regulations.)

§ 200.905 Collection of Title I accounts.

Amounts received in connection with Title I claims which have been or will be assigned to the United States of America pursuant to § 201.11 of this chapter shall be applied according to the so-called "U.S. Rule" as prescribed in § 102.10 of the joint regulations of the General Accounting Office and the Department of Justice (4 CFR 102.10). However, amounts already paid on loans assigned prior to [the effective date of this rule] will not be recomputed according to the "U.S. Rule". The implementation of this section will be accomplished in phases, so that conversion to the "U.S. Rule" will occur as the automated loan accounting system becomes operational in each HUD Region. Prior to such implementation, amounts received under payment plans providing for regular installment payments will be applied in accordance with the formula stated in 24 CFR 200.905 as in effect prior to [the effective date of this rule]. All debtors will receive timely advance notice regarding the method of applying their payments on assigned Title I loans.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: December 28, 1982.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83–709 Filed 1–10–83; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[T.D. 7868]

Employment Taxes; Applicable on or After January 1, 1955; Deposit of Taxes; Department of Defense

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document removes obsolete Employment Tax Regulations which extended until September 30, 1982, the time by which the Department of Defense was required to make deposits of employment taxes.

DATE: Removal of the regulations is effective February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Barry L. Wold of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3828).

SUPPLEMENTARY INFORMATION:

In General

On Tuesday, August 31, 1982, the **Federal Register** published amendments to the Employment Tax Regulations (26 CFR Part 31) under section 6302 of the Internal Revenue Code of 1954 (47 FR 38284). Those regulations extended until September 30, 1982, the time by which the Department of Defense was required to make deposits of certain withheld income taxes, FICA taxes, Railroad retirement taxes, and FUTA taxes which, without those regulations, would have been required to be deposited before September 30, 1982. This regulation removes those regulations, which became obsolete on October 1, 1982, from the Employment Tax Regulations.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this final regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this final regulation as it will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this regulation is Barry L. Wold of the Legislation and Regulation Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation on matters of both substance and style.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Lotteries, Railroad retirement, Social security, Unemployment tax, Withholding.

PART 31—[AMENDED]

Adoption of Amendments to the Regulations

§ 31.6302(c)–5 [Removed]

Accordingly, the Employment Tax Regulations (26 CFR Part 31) are amended by removing § 31.6302(c)–5 (relating to use of Government depositaries by the Department of Defense).

This Treasury decision is issued under the authority contained in sections 6302 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 775, 26 U.S.C. 6302; 68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 28, 1982.

David G. Glickman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 83–608 Filed 1–10–83; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

Correction

In FR Doc. 82–33881, beginning on page 56334 in the issue for Thursday,

December 16, 1982, please note the following correction:

On page 56341, in the third column, the table "Salient Factor Score (SFS 81)" contains several errors. The corrected text is published below.

SALIENT FACTOR SCORE (SFS 81)

Item A: Prior Convictions/Adjudications [Adult or Juvenile]	
None	=3
One or two	=2
Three or more	=1
Four or more	=0
Item B: Prior Commitment(s) of More Than 30 Days (Adult or Juvenile)	
None	=2
One or two	=1
Three or more	=0
Item C: Age at Current Offense/Prior Commitments	
Age at commencement of the current offense:	
26 years of age or more	=* 2
20–25 years of age	=* 1
19 years of age or less	=0
Item D: Recent Commitment Free Period (3 years)	
No prior commitment of more than thirty days (adult or juvenile) or released to the community from last such commitment at least three years prior to the commencement of the current offense	=1
Otherwise	=0
Item E: Probation/Parole/Confinement/Escape Status Violator This Time	
Neither on probation, parole, confinement, or escape status at the time of the current offense; nor committed as a probation, parole, confinement, or escape status violator this time	=1
Otherwise	=0
Item F: Heroin/Opiate Dependence	
No history of heroin/opiate dependence	=1
Otherwise	=0
Total Score	

* EXCEPTION: If five or more prior commitments of more than thirty days (adult or juvenile), place an "x" here ____ and score this item ....=0.

NOTE.—For purpose of the Salient Factor Score, an instance of criminal behavior resulting in a judicial determination of guilt or an admission of guilt before a judicial body shall be treated as a conviction, even if a conviction is not formally entered.

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 850

Information Security Program

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its security regulations by removing Part 850—Information Security Program of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 205–1 has been revised. It is intended for internal guidance and has limited applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: SMSgt Dvorak, HQ Air Force Office of Security Police, SPIB, Kirtland AFB, NM 87117, (505) 264–9446.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 850

Classified informtion, Photographs, Recordings, Defense communications, National security information.

PART 850—[REMOVED]

Accordingly, 32 CFR is amended by removing Part 850.

(10 U.S.C. 8012)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83–669 Filed 1–10–83; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Acadia National Park, Maine; Snowmobile Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: On March 15, 1982, the National Park Service, Department of the Interior, published in the **Federal Register** (47 FR 11040) a proposed rule to designate those routes within Acadia National Park where snowmobiles may be used for recreational purposes. This proposal was made available for public review and comment for a period of thirty (30) days following publication in the **Federal Register**, ending on April 14, 1982. All comments received were considered during preparation of the final rule. As a result of this rulemaking process, the final regulation is published to provide for the preservation and enjoyment of Acadia National Park, in a way that is consistent with both the snowmobile policy of the National Park Service and the off-road policy of the Department of the Interior.

EFFECTIVE DATE: February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald N. Wrye, Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, Telephone: (207) 288–3338.

SUPPLEMENTARY INFORMATION:

Background

Executive Order 11644 (Use of Off-Road Vehicles on Public Lands), issued on February 9, 1972, 37 FR 2877, directed Federal land managing agencies to develop unified regulations and to designate areas of use for off-road vehicles. Such areas must meet criteria which minimize resource damage, harassment of wildlife, disruption of wildlife habitat, and in the case of national parks, not adversely affect scenic, natural, and aesthetic values. In response to Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) the Secretary of the Interior issued a Departmental Memorandum of May 5, 1972, to assure full compliance with the Order and to provide policies and procedures for its implementation. The National Park Service, as required by the above directive, promulgated 36 CFR 2.34 on April 1, 1974, which closed all National Park System areas to snowmobile use except those specifically designated as open by **Federal Register** notice of special regulation.

In order to comply with the requirements of Executive Order 11644 and 36 CFR 2.34, the National Park Service developed a Servicewide policy revision which was published in the **Federal Register** on August 13, 1979 (44 FR 47412). This policy provides for the use of snowmobiles in units of the National Park System as a mode of transportation to provide the opportunity for the visitors to see, sense, and enjoy the special qualities of the park in winter. Snowmobiling must be consistent with the park's natural, cultural, scenic, and aesthetic values; safety considerations; park management objectives, and not disturb the wildlife or damage other park resources.

The policy further provides that, where permitted, snowmobiles shall be confined to properly designated routes and water surfaces which are used by motorized vehicles or motorboats during other seasons. The policy also states that: "In those very limited places where unique local conditions prevail, snowmobiling for limited distances on abandoned roads, fire breaks or trails may continue only if necessary as connectors between routes or areas that are otherwise in accord with the policy." This exemption will apply at Acadia National Park in those two locations where snowmobiles will be permitted on short sections of the historic carriage road system normally closed to motorized travel in order to bypass a section of plowed roadway on the main

loop road and in the second instance to permit safe travel around a lake during those periods when there may be insufficient ice on the lake to support snowmobiles safely. Routes and water surfaces to be designated for snowmobile use shall be promulgated as special regulations in the Code of Federal Regulations.

Snowmobiles have been used for transportation and recreation in Acadia National Park since they first became generally available to the public in the early 1960's. Levels of snowmobile use in the park have varied markedly from winter to winter due to the great variance in snow cover from year to year. This situation is typical of coastal areas in Maine. Snowmobiling grew rapidly in popularity in the park through the sixties and reached a peak in the early seventies. Since the early seventies snowmobiling has diminished significantly in popularity. This is due, presumably, to the higher costs associated with buying and operating the machines today. Undoubtedly the "newness" or novelty of the sport which caused the rapid growth of the sixties is now diminished, and in turn this circumstance is accounting for a slower rate of recruitment into this form of recreation.

A companion development to the decline of snowmobiling has been the tremendous increase in popularity of cross-country skiing. During the past several winters skiers have increasingly outnumbered snowmobilers in the park. This trend is expected to continue for the immediate future due to the relatively low expense of skiing and the present rapid recruitment into the sport which can be attributed at least in part to the same "novelty" attraction that snowmobiling enjoyed in the sixties.

Snowmobiles and cross-country skiers have historically shared many of the same routes on the roadways of the park. There have been no serious conflicts or incidents resulting from this mixing of motorized and non-motorized sport. A significant proportion of cross-country skiers do have a definite preference to ski where there are no snowmobiles with the resultant noise and disturbance.

Acadia National Park offers an ideal opportunity to meet the desires of both snowmobilers and those skiers who prefer to go where there are no snow machines. This opportunity is presented by the 46-mile network of well maintained historic carriage roads. With the exception of the two sections mentioned earlier amounting to 2.4 miles this road system is closed to all motorized travel and available for the quieter pursuits of skiing, snowshoeing, and hiking. In summary, under the proposed regulation, there will be a total of 57 miles of roads available for both snowmobiling and skiing and an additional 43 miles of road for skiers from which snowmobiles are excluded. Public reaction to this arrangement indicates that it is a circumstance which is satisfactory to both the skiing and snowmobiling communities.

The use and impacts of snowmobiles in Acadia National Park have been monitored by rangers in the field for approximately twenty years. During this period there have been no recorded instances of disturbance of wildlife by snowmobiles traveling on designated routes. In some instances there has been minor injury to small trees and shrubs growing on or near road shoulders. This vegetative damage has been deemed to be insignificant and infrequent.

Snowmobiles are widely used on both public and private lands surrounding the park. They may be driven both on and of roads, and in the case of private lands, permission must be obtained by the landowner. Snowmobiles may not be operated on plowed public roads except to cross or to bypass bridges and culverts. Most of the snowmobile use outside the park is off-road use with some special trails maintained for this purpose.

This regulation is necessary to comply with Servicewide policy. Its promulgation also responds to public interest in the continuation of the use of snowmobiles as a means of viewing and enjoying Acadia National Park when weather conditions are such that the motor roads are closed to public automobile travel.

Information on designated routes will be available to the public by handouts and maps available at Park Headquarters and on a large wooden map layout erected in the Visitor Center Park Area.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. During the thirty (30) day public review and comment period, the National Park Service received two written comments regarding the proposed rule both supporting the proposal. Favorable comments were received from the International Snowmobile Industry Association and the State of Maine Department of Conservation. Consequently, the rule promulgated here is the same as the one proposed.

Drafting Information

The following persons participated in the writing of this regulation: Norman H. Dodge, Chief Ranger and W. Lowell White and Warner M. Forsell, respectively the former Superintendent and Operations Supervisor of Acadia National Park.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.*

Compliance with Other Laws

The Department of the Interior has determined that this document is not a "major rule" under E.O. 12291, and certifies that this document will not have a "significant economic effect on a substantial number of small entities" under the Regulatory Flexibility Act, (5 U.S.C. 601 *et.seq.*) Snowmobiling is not an extensive activity in this area. The majority of use is expected from a local snowmobiling population who are the owners of some 500 registered snowmobiles in the Hancock County/Acadia area. These rules impose no substantial costs on small entities. There may be a limited positive effect on local repair shops, filling stations, parts stores, and retail outlets for snowmobiles.

In accordance with the National Environmental Policy Act, 42 U.S.C. 4332, the National Park Service has prepared an environmental assessment, which is available at the address noted above.

Authority

Section 3 of the Act of August 25, 1916, 39 Stat. 535 as amended (16 U.S.C. 3).

List of Subjects in 36 CFR Part 7

National park.

In consideration of the foregoing, Part 7 of Title 36 of the Code of Federal Regulations is amended by adding § 7.56 to read as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SERVICE

§ 7.56 Acadia National Park.

(a) *Designated Snowmobile Routes*—The designated routes for snowmobile shall be:

(1) Park Loop Road (except section from Stanley Brook intersection north to the gate at Penobscot Mountain Parking Area) and connecting roads as follows: Paradise Hill Road (Visitor Center to Junction Park Loop Road); Stanley Brook Road; Ledgelawn Extension Road; Sieur

de Monts (gate to Loop Road); West Street; Cadillac Mountain Summit Road; entrance roads to Wildwood Stable.

(2) Portions of Carriage Paths as follows: A section of Carriage Path 1.8 miles in length from the parking area at the north end of Eagle Lake down the east side of the lake to connection with Park Loop Road at Bubble Pond Rest Area. A section of Carriage Path 0.6 miles in length from Wildwood Stable to connection with Park Loop Road south of the entrance road to Penobscot Mountain Parking Area.

(3) Hio Truck Road from Seawall Campground north to State Route 102.

(4) The paved camper access roads within Seawall Campground.

(5) Marshall Brook Truck Road from Seal Cove Road to Marshall Brook.

(6) Seal Cove Road from Park Boundary in Southwest Harbor to State Route 102 in Seal Cove.

(7) Western Mountain Road from Park Boundary west of Worcester Landfill to Seal Cove Pond.

(8) The two crossroads connecting Western Mountain Road and Seal Cove Road.

(9) Long Pond Truck Road including Spur Road to Pine Hill.

(10) Lurvey Spring Road from Junction with Long Pond Road in Southwest Harbor to intersection with Echo Lake Beach Road.

(11) The Echo Lake Entrance Road from State Route 102 to Echo Lake Beach Parking Area.

Dated: December 6, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-716 Filed 1-10-83; 8:45 am]
BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Additional Eligibility Period

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These final regulations implement some sections of the Veterans' Health Care, Training and Small Business Loan Act of 1981 and the Veterans' Compensation, Education and Employment Amendments of 1982. These laws provide an additional period of eligibility for some Vietnam Era veterans with basic eligibility for educational assistance under chapters 34 and 36, title 38, United States Code.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: On pages 50925 and 50926 of the **Federal Register** of November 10, 1982 there was published a notice of intent to amend Part 21 to provide an additional period of eligibility for educational assistance allowance for some Vietnam Era veterans.

Interested people were given 30 days in which to submit comments. The Veterans Administration received one oral comment from the staff of the Senate Veterans' Affairs Committee. The staff suggested that § 21.1044(e) be rewritten to make it clearer. The Veterans Administration has adopted the suggestion.

Section 21.1042 is amended to show that § 21.1044 provides an exception to the general rule that veterans have 10 years from their date of discharge to use their entitlement to educational assistance allowance.

Section 21.1044 is added to state the criteria a Vietnam Era veteran must meet in order to get an additional period of eligibility. This policy change is required by law.

The Veterans Administration has determined that these regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The regulations will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. These regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This certification is based on the fact that these regulations will affect only individual benefit recipients. They will have no significant impact on small entities, i.e., small businesses, small private and non-profit organizations, and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.111.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Veterans' Administration, Vocational education, Vocational rehabilitation.

Approved: December 28, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration amends 38 CFR Part 21 as follows:

1. In § 21.1042, paragraphs (a) and (b) are revised to read as follows:

§ 21.1042 Ending dates of eligibility.

The ending date of eligibility will be determined as follows:

(a) *General.* Except as otherwise provided in this section and as provided by §§ 21.1043 and 21.1044, the Veterans Administration will not provide educational assistance to a veteran after the earlier of the following:

(1) Ten years from his or her last discharge or release from active duty after January 31, 1955, or

(2) December 31, 1989. (38 U.S.C. 1662; Pub. L. 97-72, 95 Stat. 1047)

(b) *Correction of military records.* If the veteran becomes eligible for educational assistance as the result of a correction of military records under 10 U.S.C. 1552, or a change, correction or modification of a discharge or dismissal under 10 U.S.C. 1553, or other corrective action by competent military authority, the Veterans Administration will not provide educational assistance later than 10 years after the date his or her discharge or dismissal was changed, corrected or modified (except as provided by § 21.1043 or § 21.1044), or December 31, 1989, whichever is the earlier. (38 U.S.C. 1662; Pub. L. 97-72, 95 Stat. 1047)

* * * * * *

2. Section 12.1044 is added to read as follows:

§ 21.1044 Additional period of eligibility.

A veteran who meets the basic eligibility criteria found in § 21.1040 has an additional period of eligibility if he or she also meets the requirements of this section. (38 U.S.C. 1662(a); Pub. L. 97-72, 95 Stat. 1047)

(a) *Service requirements. (1) The veteran must have*

(i) Served at least 1 day on active duty after August 4, 1964 and before May 8, 1975, and

(iii) Received an unconditional discharge or release under conditions other than dishonorable from the period of service upon which the additional eligibility period is based.

(2) In determining whether this requirement is met, the Veterans Administration will use the criteria stated in § 21.1040(d). (38 U.S.C. 1662(a); Pub. L. 97–72, 95 Stat. 1047)

(b) *Entitlement requirement.* The veteran must have unused entitlement to educational assistance allowance. (38 U.S.C. 1662(a); Pub. L. 97–72, 95 Stat. 1047)

(c) *Time and length of additional eligibility period.* (1) If the ending date of the veteran's period of eligibility or extended period of eligibility as determined by § 21.1042 or § 21.1043 is before January 1, 1982, the beginning date of the additional eligibility period will be—

(i) The first date of attendance or training as certified by the school or training establishment, or

(ii) January 1, 1982, whichever is later.

(2) If the ending date of the veteran's period of eligibiity or extended period of eligibility as determined by § 21.1042 or § 21.1043 is after December 31, 1983, the beginning date of the additional eligibility period will be—

(i) The first date of attendance or training as certified by the school or training establishment, or

(ii) The first day following the end of the veteran's period of eligibility or extended period of eligibility, whichever is later.

(3) The ending date of an additional eligibility period is—

(i) The last day of attendance or training as certified by the school or the training establishment, or

(ii) December 31, 1984, whichever is earlier. (38 U.S.C. 1662(a); Pub. L. 97–72, 95 Stat. 1047; Pub. L. 97–306)

(d) *Permissible programs.* (1) During the period or eligibility the veteran may only pursue—

(i) A program of apprenticeship or other on-job training;

(ii) A course pursued in residence leading to a vocational objective;

(iii) A correspondence course leading to a vocational objective;

(iv) A correspondence-residence course leading to a vocational objective; or

(v) A program of secondary education.

(2) During this period of additional eligibility the veteran may not pursue—

(i) A flight training course;

(ii) A course leading to a standard college degree; or

(iii) A program of secondary education if he or she already has a secondary school diploma or an equivalency certificate.

(3) If the veteran pursues a program of secondary education, his or her monthly educational assistance allowance must be based upon the tuition and fees charged to the veteran for the course as provided in 38 U.S.C. 1691(b)(2). (38 U.S.C. 1662(a); Pub. L. 97–72, 95 Stat. 1047)

(e) *Need requirements—vocational or occupational objective.* (1) The Veterans Administration may disallow a claim for an additional eligibility period to permit the veteran to pursue an approved vacational objective or a program of apprenticeship or other on-job training only if—

(i) The veteran does not meet the requirements of either § 21.1040 or the requirements of paragraph (a) or (b) of this section, or

(ii) The veteran's course or program does not meet the requirements of paragraph (d) of this section, or

(iii) The Veterans Administration determines, based upon an examination of the veteran's employment and training history, that the veteran is not in need of the program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes.

(2) The Veterans Administration will determine that a veteran does not need his or her selected program or course only if—

(i) The veteran, on the day he or she files an application—

(A) Is employed in an occupation which requires more than 2 years of specific vocational preparation or training; and

(B) Has maintained that employment for a period of 6 or more consecutive months immediately preceding the day he or she filed an application for the additional period of eligibility; and

(ii) The Veterans Administration finds the veteran's current employment is consistent with his or her aptitudes and abilities. (38 U.S.C. 1662(a); Pub. L. 97–72, 95 Stat. 1047, Pub. L. 97–306)

(f) *Requirements—secondary school diploma.* The veteran may pursue a program of secondary education during the additional eligibility period provided he or she does not have a secondary school diploma or an equivalency certificate. (38 U.S.C. 1662(a); Pub. L. 97–72, 95 Stat. 1047)

(g) *Limitations.* If a veteran becomes disabled during the additional eligibility period, he or she may not qualify under § 21.1043 for an extension of the additional eligibility period past December 31, 1984. (38 U.S.C. 1662(a); Pub. L. 97–306)

[FR Doc. 83-680 Filed 1-10-83; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[SW-9-FRL 2283-1]

California; Phase II, Component A; Interim Authorization of the State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Final approval.

SUMMARY: The State of California has applied for Interim Authorization Phase II, Component A to operate a permit program in lieu of the Federal program for hazardous waste tank, container, and waste pile storage facilities. EPA has reviewed California's application for Phase II Interim Authorization, Component A, and has determined that California's hazardous waste program is substantially equivalent to the Federal program covered by Component A except for hazardous waste surface impoundments. The State of California is hereby granted Interim Authorization for Phase II, Component A, to operate the State's hazardous waste program covered by this component in lieu of the Federal program for hazardous waste tank, container, and waste pile storage facilities.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Alexis Strauss, Toxics and Waste Programs Branch, U.S.E.P.A., Region 9, 215 Fremont Street, San Francisco, CA 94105, Telephone: (415) 974–8126.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended) to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which became effective November 19, 1980, were provisions for a transitional stage in which States would be granted interim program authorization. The interim authorization program is being implemented in two phases, corresponding to the two stages in which an underlying Federal program has taken effect.

The State of California received Interim Authorization for Phase I on June 4, 1981.

In the January 26, 1981, Federal Register (46 FR 7965), the Environmental Protection Agency announced the availability of portions of the second phase of Interim Authorization. EPA made available the second phase of Interim Authorization in components, in order to proceed with authorizing State programs as expeditiously as possible, and because some of the standards for hazardous waste treatment, storage and disposal facilities (40 CFR Part 264) have been promulgated at different times. On June 2, 1982, EPA published a notice in the Federal Register (47 FR 23955) inviting the public to comment on the California application for Phase II Component A Interim Authorization at a public hearing of July 8, 1982. This notice also invited the public to submit written comments on the California application to Region 9 by the close of the public hearing. At the hearing, the written comment period was extended to July 16, 1982.

Discussion

The State of California submitted its draft application for Phase II Component A Interim Authorization on Decemer 22, 1981. The draft application did not include coverage of surface impoundments. EPA has announced in the Federal Register on July 24, 1981 (46 FR 38313) that it proposed to temporarily suspend the regulations for existing storage surface impoundments, pending EPA review of their cost effectiveness. Based upon the uncertainties regarding the federal program, the State elected not to cover this category of facilities in its Phase II Component A application. On July 26, 1982, EPA formally amended its regulations to allow States to apply for Phase II Component A Interim Authorization without addressing surface impoundments.

EPA reviewed the State's draft application and prepared comments. Several issues were identified to assist the State in preparing its final Phase II Component A application. The issues were: how trade secret permit information would be forwarded to EPA; the possible involvement of the State Water Resources Control Board in the development and enforcement of permit conditions; how the State would handle permits by-rule and permit variances; the need for a specific commitment in the Authorization Plan to develop equivalent standards to 40 CFR Part 264 Subparts A–H; how the State would handle the granting of interim-status to facilities which do not qualify under RCRA Section 3005; how the State would impose financial responsibility requirements on facilities; and modification of permits when new information is received. The State submitted its complete application on May 14, 1982. In the final application, and subsequent clarifications and errata sheets, California addressed EPA's concerns in the following manner.

1. Trade secret permit information: the State modified its permit procedures to ensure EPA will receive the complete permit application, including any information declared a trade secret. EPA will handle the information in accordance with 40 CFR Part 2.

2. Role of State Water Resources Control Board: the Department of Health Services will be solely responsible for the issuance and enforcement of RCRA permits issued to Phase II Component A facilities. Any permit condition developed by the State Water Resources Control Board would address issues or requirements beyond those required by RCRA.

3. Permit-by-rule and permit variances: the California Attorney General's statement clarified that the State did not use permits-by-rule; the Memorandum of Agreement was amended to include a commitment from the State to use its variance procedure in a manner consistent with federal requirements.

4. Authorization Plan: the plan was amended to include a specific commitment to develop regulations equivalent to 40 CFR Part 264, Subparts A–H.

5. Interim status: the Memorandum of Agreement was amended, such that the State will follow equivalent procedures to the federal requirements in granting interim-status to facilities which would not qualify under Section 3005 of RCRA.

6. Financial responsibility requirements: under the statutory mandate of the California Health and Safety Code § 25159.6, the State sent a letter to all facilities on August 1, 1982, informing them of its intent to commence enforcement of the federal financial responsibility requirements on September 1, 1982, pending adoption of state regulations.

7. Modification of permits: this issue was clarified with the submittal of additional information in the revised statement from the Attorney General.

Responsiveness Summary

Region 9 conducted a public hearing on the California application for Phase II Component A authorization on July 8, 1982, in San Francisco. The hearing was attended by approximately 40 persons, of which only one person made a presentation at the hearing and subsequently submitted written comments. Four additional written comments were received during the public comment period. All comments were reviewed and considered in reaching the decision on California's application.

All persons who submitted comments favored the delegation of regulatory authority to States, however, four persons felt the State's current program was not adequate to provide for effective, efficient control over hazardous waste, and that approval of the application would be premature. The general areas of concern were: The universe of hazardous waste covered by the State's program was broader than that covered by the federal program, and did not include a degree-of-hazard scheme; the State program did not contain specific regulatory standards for the issuance of permits to facilities; and the State's implementation of its Phase I program needed improvement. EPA's response to these general concerns is as follows:

1. Universe of waste: federal regulations clearly allow State programs to be more stringent than the federal program. In addition, the degree-of-hazard scheme is not a mandatory requirement for Phase II interim authorization, as the federal program has no such requirement.

2. Specific regulatory standards: state programs may be authorized to operate components of the RCRA permit program even if they do not have explicit regulatory standards comparable to 40 CFR Part 264 for permit issuance. According to the RCRA Phase II State Interim Authorization Guidance Manual (dated November 3, 1981), the state must demonstrate adequate authority and regulations to issue and enforce permits with terms and conditions substantially equivalent to those that would be issued under the Federal program. In order to meet this test, the state's application must include the six conditions specified in the above-referenced manual. EPA's review of the State's application indicated that the State of California has met all conditions specified.

3. Phase I program: EPA believes that implementation of the California program remains substantially equivalent to the Federal program, and the problems to date have been relatively minor in scope. EPA has continued to work extensively with the State, since its receipt of Phase I authorization, to remedy some of the difficulties encountered and to improve implementation of the Phase I program. The implementation criticisms

mentioned in the public comment would not warrant denial of the Phase II, Component A application.

Decision

I have determined that California's program is substantially equivalent to the Federal program for hazardous waste tank, container, and waste pile storage facilities as defined in 40 CFR Part 123, Subpart F. In accordance with Section 3006 (c) of RCRA, the State of California is hereby granted Interim Authorization to operate its hazardous waste program in lieu of Phase II, Component A of the Federal hazardous waste program for the permitting of storage and treatment facilities except for surface impoundments which will remain under the Federal program.

Authority

This notice is issued under the authority of Section 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify this authorization will not have a significant economic impact upon a substantial number of small entities. The authorization effectively suspends the applicability of certain federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: December 10, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 83-600 Filed 1-10-83; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 48, No. 7
Tuesday, January 11, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Parts 456 and 458

[Docket Nos. CAS-RM-80-123 and CAS-RM-80-125]

Residential Conservation Service Federal Standby Plan and Commercial and Apartment Conservation Service Program; Cancellation of Public Hearing

AGENCY: Energy Department.

ACTION: Cancellation of public hearing.

SUMMARY: The Department of Energy hereby cancels the public hearing on the proposed rules for the Residential Conservation Service Federal Standby Plan and Commercial and Apartment Conservation Service Program scheduled for January 13 and 14, 1983 in Portland, Oregon. The hearing is cancelled due to lack of public interest in making oral presentations at that particular hearing. The hearings scheduled for Dallas, Texas (January 10–11) and Washington, D.C. (January 19–21) will be held as scheduled. Interested persons who are affected by this cancellation are encouraged to submit written comments.

DATES: As stated in the notices of proposed rulemaking published on November 24, 1982 (47 FR 53236) and on November 26, 1982 (47 FR 53634) written comments on these two notices must be received by 4:30 p.m., February 2, 1983.

ADDRESS: Send Comments to the Department of Energy, Conservation and Renewable Energy, Office of Hearings and Dockets, Mail Stop 6B–025, Room 5F–078, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Attention: CAS–RM–80–123 or CAS–RM–80–125, (202) 252–9319.

FOR FURTHER INFORMATION CONTACT: Mark Friedrichs, Building Services Division, CE–115, Office of Buildings Energy Research and Development, Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–1650.

Issued in Washington, D.C., January 6, 1983.

Joseph J. Tribble,
Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 83-611 Filed 1-10-83; 8:45 am]
BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9146]

Xidex Corp.; Proposed Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 82–34924, appearing at pages 32–37 in the issue for Monday, January 3, 1983, make the following changes:

1. In the **DATE** line, the comment deadline should be "March 4, 1983".

2. On page 32, middle column, the third line of **SUPPLEMENTARY INFORMATION**, after the figure "46", add "and §".

3. On page 33, in the first column, add "II" just before the last paragraph begins.

4. On page 34, in the third column, the 9th line from the bottom, add "to" after the word "transmitted".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 260

Outer Continental Shelf Oil and Gas Bidding Systems

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would remove provisions relating to the use of variable net profit share and work commitment bidding systems in the award of Federal oil and gas leases on the Outer Continental Shelf (OCS). The Department of the Interior (DOI) has determined that the purposes of the OCS Lands Act would not be served by the use of these bidding systems.

DATE: Comments must be hand delivered or postmarked no later than February 10, 1983.

ADDRESSES: Written comments must be mailed or hand delivered to the Minerals Management Service, U.S. Department of the Interior, Room 6A110, 12203 Sunrise Valley Drive, Mail Stop 646, Reston, Virginia 22091, Attention: David A. Schuenke. Copies of all written comments submitted will be available for public review at the same address.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, telephone (703) 860–7916, (FTS) 928–7916.

SUPPLEMENTARY INFORMATION: Section 8(a) of the OCS Lands Act, 43 U.S.C. 1331 *et seq.*, as amended, 92 Stat. 629, authorizes the Secretary of the Interior (Secretary) to implement alternative bidding systems for the award of Federal oil and gas leases on the OCS. This authority had been transferred to the Secretary of Energy by section 302(b) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(b), 91 Stat. 578.

On December 19, 1980, the U.S. District Court for the District of Columbia (D.C.) issued an order, in compliance with an opinion of the U.S. Court of Appeals for the D.C. Circuit (*Energy Action Educational Foundation v. Andrus*, 654 F. 2d 735, 1980), requiring DOE to promulgate regulations implementing the bidding systems described at 43 U.S.C. 1337(a)(1) (E) and (G). Pursuant to the court order, DOE promulgated regulations (46 FR 29680, June 2, 1981, and 46 FR 35614, July 9, 1981) which were codified at 10 CFR Parts 376 and 390. Those regulations established two new bidding systems for use in lease sales of oil and gas tracts on the OCS: "variable net profit share" and "variable work commitment" bidding systems.

The variable net profit share bidding system would use a percentage of net profits as the bid variable (the basis for award of Federal OCS oil and gas leases) and would require payment of a fixed cash bonus for each tract. This system also would require payment of an annual rental and make use of accounting procedures codified at 10 CFR Part 390 (since redesignated as described below), established to

determine net profit share payments due the United States.

The variable work commitment bidding system would use a dollar value exploration work commitment as the bid variable. The system would require payment of a fixed royalty, a fixed cash bonus, and an annual rental for each tract and make use of the accounting procedures codified at 10 CFR Part 390 (since redesignated as described below) to identify, measure, and allocate the exploration expenditures to be applied in satisfaction of the work commitment.

To date, neither of these bidding systems has been used in the award of Federal oil and gas leases on the OCS.

On December 1, 1981, the U.S. Supreme Court issued a decision (*Watt* v. *Energy Action Educational Foundation*, 454 U.S. 151 (1981)) reversing the order of the U.S. Court of Appeals insofar as that order required the Secretary of the Interior to experiment with the bidding systems described above.

On December 23, 1981, Congress passed Public Law 97–100, 95 Stat. 1391, repealing section 302(b) of the DOE Organization Act, cited above. Repeal by Congress of section 302(b) revests in the Secretary of the Interior all authority to implement and administer alternative bidding systems for Federal leases on the OCS. In a final rulemaking document published elsewhere in this issue of the **Federal Register**, DOI redesignated and transferred to 30 CFR Title II the regulations which had been promulgated by DOE pursuant to the authority of section 302(b) of the DOE Organization Act, cited above. Accordingly, former 10 CFR Parts 376 and 390 have been redesignated as 30 CFR Parts 260 and 261.

On the basis of detailed internal analysis and review of the public comments submitted in the DOE rulemaking described above, DOI has determined that the two bidding systems which incorporate work commitment and net profit share as bid variables are costly, inefficient, and counterproductive. (For a detailed discussion of the issues surrounding these bidding systems, see "II. Analysis of Public Comments", 46 FR 29682, June 2, 1981, and 46 FR 35615, July 9, 1981.) Consequently, in order to ensure that the Secretary's choices of bidding systems include only those which will best accomplish the purposes and policies of the OCS Land Act, DOI is proposing to remove the provisions relating to work commitment and variable net profit share bidding systems. Specifically, DOI is proposing to remove paragraphs (a)(5) and (a)(6) from 30 CFR 260.110.

The current regulations shall remain in effect pending final promulgation of these proposed rules.

The DOI has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This determination is based on the fact that oil and gas operations on the OCS are complex undertakings generally engaged in by enterprises that are not considered small entities. Accordingly, no small entities of any type are likely to be significantly affected by the proposed rules.

Because the choice of bidding systems is within the sole discretion of the Secretary and DOI believes it would not constitute prudent management of the Nation's resources to utilize either of the bidding systems proposed to be removed, neither of these bidding systems has been nor is intended to be selected. The proposed rule would therefore have no effect on the selection of bidding systems nor any effect on costs, prices, competition, employment, investment, productivity, innovation, or the ability of domestic producers to compete with foreign-based enterprises.

Paperwork Reduction Act

As proposed, 30 CFR Part 260 does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Drafting Information

This document was drafted by Neil Stoloff, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 260

Continental shelf, Mineral royalties, Oil and gas exploration.

Dated: December 3, 1982.

Daniel N. Miller,

Assistant Secretary.

PART 260—[AMENDED]

For the reasons set forth in the preamble, 30 CFR Part 260 is proposed to be amended as follows:

§ 260.110 [Amended]

Section 260.110 *Bidding systems*, is proposed to be amended by removing paragraphs (a)(5) and (a)(6).

[FR Doc. 83-694 Filed 1-10-83; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Public Comment Period and Opportunity for Public Hearing on a Modification to the Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment to Virginia's reclamation bonding regulations submitted by Virginia.

This notice sets forth the times and locations that the Virginia program and proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and information pertinent to the public hearing.

DATES: Written comments must be received on or before 4:00 p.m. on February 10, 1983, to be considered in the Director's decision on whether to approve the proposed amendment. A public hearing on the modification will be held from 10:00 a.m.–12:00 p.m. on February 7, 1983.

Any person interested in making an oral or written presentation at the hearing should contact Mr. Ralph Cox at the address and phone number below by the close of business on January 24, 1983.

ADDRESSES: Written comments should be mailed or hand delivered to: Ralph Cox, Director, Virginia Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 628, Big Stone Gap, Virginia 24219, Telephone: (703) 523–4303.

The public hearing will be held at the Lebanon Area office, Office of Surface Mining Reclamation and Enforcement, Conference Room, Flannagan and Carroll Streets, Lebanon, Virginia 24266.

Copies of the Virginia program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM Offices and the Office of State regulatory authority listed below,

Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Highway 23, South, Big Stone Gap, Virginia 24219

Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266

Virginia Division of Mined Land Reclamation, 622 Powell Avenue, Drawer U, Big Stone Gap, Virginia 24219

FOR FURTHER INFORMATION CONTACT: Ralph Cox, Director, Virginia Field Office, Office of Surface Mining, P.O. Box 628, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303.

SUPPLEMENTARY INFORMATION: If no one has contacted Mr. Cox to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Cox, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

On March 3, 1980, the Secretary of the Interior received a proposed regulatory program from the Commonwealth of Virginia. On October 22, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved in part and disapproved in part the proposed program (45 FR 69977–70000). Virginia resubmitted its proposed regulatory program on August 13, 1982, and after a subsequent review, the Secretary approved the program subject to the correction of nineteen minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the December 15, 1981 Federal Register (46 FR 61088–61115).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Virginia program can be found in the December 15, 1981 Federal Register (46 FR 61088–61115).

On July 8, 1982, Virginia submitted to OSM a proposed program amendment consisting of a General Assembly bill passed on an emergency basis creating the Coal Surface Mining Reclamation Fund (Fund) and promulgated regulations to implement the legislation (Administrative Record No. VA 401). The proposed program amendment creates and implements an alternative reclamation bonding system in the Virginia program. On September 21, 1982, the Director of OSM approved the program amendment (47 FR 41556–41558).

On December 20, 1982, Virginia submitted to OSM, a proposed program amendment to its reclamation bonding regulations (Administrative Record No. VA 450). The proposed amendment to the Virginia regulations would suspend Section V800.11(c)(i). This suspension would allow incremental bonding under the Fund as is already allowed under Virginia's standard bonding system.

The Director now seeks public comment on the adequacy of this program amendment.

Additional Determinations

Pursuant to Section 702(d) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1292(d), no environmental impact statement need be prepared for this rulemaking.

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all State program actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, this rule is exempt from a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: January 4, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 83-604 Filed 1-10-83; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF EDUCATION

34 CFR Part 510

Bilingual Education: Training Projects Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend regulations for the Bilingual Education Training Projects Program to provide for further consideration of the need for the proposed activities in making grant award decisions under the Training Projects Program. Section 721(c) of the Bilingual Education Act provides that, in determining the distribution of funds under the Act, the Secretary gives priority to areas having the greatest need for programs assisted under the Act. The proposed amendments wuld add new factors that the Secretary would consider in determining the need for programs proposed by applicants under the Training Projects Program.

DATE: Comments must be received on or before February 25, 1983.

ADDRESSES: Comments should be addressed to Mr. Jesse M. Soriano, Director, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Harry G. Logel, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 447–0273.

SUPPLEMENTARY INFORMATION: The authority for the Bilingual Education Training Projects Program is the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act, as amended by the Education Amendments of 1978, Pub. L. 95–561.

Section 721(c) of the Bilingual Education Act (the Act) provides that, in determining the distribution of funds under the Act, the Secretary gives priority to areas having the greatest need for programs assisted under the Act. The regulations published on September 2, 1981 explain how the Secretary implements the priority to assist areas with the greatest need.

The Secretary proposes to amend the regulations to establish additional factors that the Secretary would consider in determining the need for the proposed activities. Under the proposed regulations, the Secretary would consider the past and present assistance provided under the Training Projects Program to address the needs of the language group(s) and area(s) that the applicant proposes to serve. The Secretary also would consider the absence of training programs in the area which address the needs of the language group(s) that the applicant proposes to serve. Finally, the Secretary would consider the extent to which the proposed project addresses a specific need for training not addressed by existing projects. The reader should

review the proposed regulations for a complete list of the factors that the Secretary would consider in determining the need for the training project in the area to be served by the applicant.

The Secretary also proposes to establish a cut-off score, as in the regulations governing the Bilingual Education Basic Projects Program (34 CFR 501.31(a)), to ensure the quality of the applications selected for funding.

The entire § 510.34 has been republished for the reader's better understanding of the new provisions.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Approximately 200 applicants sought assistance in fiscal year 1982. These regulations establish additional factors for consideration in making awards. They will not have a significant economic impact on any applicants or grantees.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before February 25, 1983, will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 421, Reporters Building, 7th and D Streets, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by, or is available from, any other agency or authority of the United States.

List of Subjects in 34 CFR Part 510

Bilingual education, Colleges and universities, Education, Elementary and secondary education, Grant programs—education, Teachers.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance No. 84.003, Bilingual Education Program)

Dated: January 5, 1983.

T. H. Bell,

Secretary of Education.

The Secretary proposes to amend Part 510 of Title 34 of the Code of Federal Regulations as follows:

PART 510—BILINGUAL EDUCATION: TRAINING PROJECTS PROGRAM

Section 510.34 is revised to read as follows:

§ 510.34 What factors does the Secretary consider in awarding grants?

(a) The Secretary establishes a cut-off score which an application must meet, based on the applicable selection criteria in 34 CFR 510.31 (for applications proposing to provide training programs at institutions of higher education), 34 CFR 510.32 (for applications proposing to provide short-term or year-round training institutes), or 34 CFR 510.33 (for applications proposing to provide training projects for SEA personnel), to be considered for a grant. The cut-off score for each separate competition is announced annually in the application notice published in the **Federal Register.**

(b) In determining the distribution of funds under this part, the Secretary shall give priority to areas having the greatest need for programs assisted under this part.

(c) In determining need under paragraph (b) of this section, the Secretary considers—

(1) The number and native language of children of limited English proficiency who would benefit from the training to be provided to persons participating in the project;

(2) The number and kinds of personnel currently participating in or preparing to participate in programs of bilingual education for these children, compared to the number and kinds of personnel needed;

(3) The number and kinds of personnel that the applicant proposes to train under this program and other programs supported under the Act;

(4) Past and present assistance provided under the Training Projects Program to address the need of the language group(s) and area(s) proposed to be served;

(5) The absence of training programs in the area addressing the needs of the language group(s) proposed to be served by the applicant; and

(6) The extent to which the project addresses a specific need for training not addressed by existing projects.

(20 U.S.C. 3231(c), 3233(a)(1))

[FR Doc. 83-730 Filed 1-10-83; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 233

Aid to Families With Dependent Children; Proration of Shelter, Utilities, and Similar Need Items for AFDC Children Living With Ineligible Relatives

AGENCY: Social Security Administration, HHS.

ACTION: Withdrawal of notice of proposed rule making.

SUMMARY: The Social Security Administration is withdrawing the proposed amendments to the regulations entitled "Proration of Shelter, Utilities, and Similar Need Items for AFDC Children Living with Ineligible Relatives" which were published on October 30, 1981 (46 FR 53720).

EFFECTIVE DATE: The withdrawal will be effective, January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Marval L. Cazer, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7463.

SUPPLEMENTARY INFORMATION: These proposed amendments were published as a Notice of Proposed Rule Making to implement section 412 of the Social Security Act as added by Pub. L. 96-272 and amended by Pub. L. 97-35. Subsequent to publication of the Notice of Proposed Rule Making, section 155 of Pub. L. 97-248, which became effective on October 1, 1982, revised section 412

of the Social Security Act. Interim regulations to implement section 155 were published on September 17, 1982 (47 FR 41114). These interim regulations amended 45 CFR 233.20(a)(5) with respect to the proration of shelter, utilities, and similar needs for an AFDC assistance unit that lives with other individuals as a household.

Since section 155 of Pub. L. 97-248 and the interim regulations amending 45 CFR 233.20(a)(5) have the effect of superseding the Notice of Proposed Rule Making published in the Federal Register on October 30, 1981 (46 FR 53720) we are withdrawing the notice.

Dated: November 23, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: January 4, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 83-721 Filed 1-10-83; 8:45 am]

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Notices

Federal Register
Vol. 48, No. 7
Tuesday, January 11, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Situk Wild and Scenic River Study; Intent To Prepare an Interim Management Plan and To Extend the Review Period for Comments on the Draft Environmental Impact Statement

The Department of Agriculture, Forest Service, released to the public on April 15, 1982, a Draft Environmental Impact Statement (DEIS) and Study Report for the Situk Wild and Scenic River. A notice of availability of the DEIS and Study Report was published in the April 30, 1982, issue of the Federal Register. The review period, published in the May 7, 1982, Federal Register, expired July 28, 1982.

As a result of recommendations by reviewers of the DEIS, the Alaska Region of the Forest Service is currently engaged in the development of an interim management plan for the Situk River in cooperation with the State of Alaska and the Community of Yakutat. This plan is intended to clarify the management of the river while it is under Congressional consideration for Wild and Scenic classification. The interim management plan will be specifically designed to protect the values of the river that warranted its study for Wild and Scenic classification. No actions will be permitted that would preclude Congressional prerogatives for classification. The interim plan is expected to be completed by February 1983 and will be available for public distribution. It will also be provided to the Alaska Land Use Council. This management plan will only be in effect until Congress has taken action.

If the Situk is not classified as wild and scenic, the interim management plan will be re-evaluated, including public review, and ultimately incorporated into the Tongass National Forest Land and Resource Management Plan. Any modifications would occur after Congressional review and consideration of the Study Report has been completed. The purpose of the re-evaluation would be to address the protection of the Situk River and its associated environment, to address important management issues, and be coordinated with the Yakutat Coastal Zone Management Plan.

In closing, the public comment period for the Situk Draft Environmental Impact Statement and Study Report is hereby extended until February 11, 1983. If you have any new or additional comments, please send them to William P. Gee, Forest Supervisor, Chatham Area, P.O. Box 1980, Sitka, Alaska 99835.

Dated: January 4, 1983.

J. Lamar Beasley,
Deputy Chief.

[FR Doc. 83-709 Filed 1-10-83; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

South River Subwatershed, Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the South River Subwatershed, Augusta County, Virginia.

FOR FURTHER INFORMATION CONTACT: Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, P.O. Box 10026, Richmond, Virginia 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns the stabilization of a 46 acre critically eroding area, a plan for flood control and watershed protection. The planned works of improvement include land smoothing and seeding.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Gerald P. Bowie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: January 3, 1983.

Manly S. Wilder,
State Conservationist

[FR Doc. 83-699 Filed 1-10-83; 8:45 am]
BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 41007]

Air National Fitness Investigation; Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-titled matter will be held on January 13, 1983, at 10:00 a.m. (local time), in Room 1012, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 6, 1983.

William A. Kane, Jr.,
Administrative Law Judge.

[FR Doc. 83-738 Filed 1-10-83; 8:45 am]
BILLING CODE 6320-01-M

[Order 83-1-8]

Atlantic Express, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83-1-8, Order To Show Cause.

SUMMARY: The Board is proposing to find that Atlantic Express, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than January 17, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to Order 83-1-8.

FOR FURTHER INFORMATION CONTACT: Mr. Peter M. Bloch, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-1-8 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-1-8 to that address.

By the Civil Aeronautics Board: January 6, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-734 Filed 1-10-83; 8:45 am]

BILLING CODE 6320-01-M

Order Concerning Mail Rates

Order 83-1-3, January 4, 1983, Docket 40751, establishes increased intra-Hawaii service mail rates for the period January 1 through June 30, 1983.

Copies of this order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-736 Filed 1-10-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Steel Pipes and Tubes From Japan; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value.

SUMMARY: We have determined that certain steel pipes and tubes (CSPT) from Japan are being, or are likely to be, sold in the United States at less than fair value. The U.S. International Trade Commission (ITC) will determine within 45 days of publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry. We have also determined that three of the four manufacturers investigated should be excluded from this determination. Nippon Kokan K.K. is excluded, because we found no margins for exports of that firm. Kobe Steel, Ltd. and Sanyo Special Steel, Ltd., are excluded, because we found margins of 0.02 percent and 0.27 percent, respectively, on exports of those firms. These margins are *de minimis*.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Stuart Keitz, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-1769).

SUPPLEMENTARY INFORMATION:

Case History

On January 20, 1982, we received a petition in proper form from counsel for the Babcock & Wilcox Company, filed on the behalf of the U.S. industry producing CSPT. The petitioner alleged that CSPT from Japan are being or are likely to be sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930 (the Act) (19 U.S.C. 1673), and that such sales are materially injuring, or are threatening to materially injure, a U.S. industry. The petitioner also alleged that seamless stainless tube sales in the home market were being made at prices below the cost of production.

On August 18, 1982, we preliminarily determined that CSPT from Japan are being, or are likely to be, sold in the United States at less than fair value (47 FR 37283-86). Our preliminary notice gave interested parties an opportunity to submit views in writing and on November 17, 1982, we held a public hearing.

On October 1, 1982, following a request by the largest responding firm, we extended the date for a final determination to January 3, 1983.

Scope of Investigation

For the purpose of this investigation, the term "certain steel pipes and tubes" covers seamless heat-resisting pipes and tubes, and seamless stainless pipes and tubes. The products are fully described in Appendix A which follows this notice.

This investigation covers the period from August 1, 1981 to January 31, 1982.

We investigated four manufacturers: Kobe Steel Ltd. (Kobe), Nippon Kokan K.K. (NKK), Sanyo Special Steel, Ltd. (Sanyo), and Sumitomo Metal Industries, Ltd. (SMI). These firms manufactured approximately 90 percent of all the CSPT exported to the United States during the period of investigation.

Methodology of Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

We used purchase price, as defined in section 772(b) of the Act, to represent the United States price for sales by all four companies, because the merchandise was sold to unrelated purchasers prior to its importation into the United States. Prices to unrelated exporters who resell the merchandise to the United States importers were used to represent purchase price, since the manufacturers knew at the time of sale that the merchandise was destined for the United States.

We calculated purchase price based on the f.o.b. or f.a.s. Japan packed price, to unrelated exporters who resell the merchandise to the United States customer. We made deductions, where appropriate, for inland freight in Japan, insurance, stowing and trimming charges, and customs clearance charges.

Foreign Market Value

There were sufficient sales in the home market to allow the use of home market prices as the basis for foreign market value. For the purposes of

determining such or similar merchandise under section 771 of the Act, where possible, we made comparisons using CSPT of the same finish, grade, specification, and dimension to those of the product sold in the United States. In instances where items of the same dimension were not available, we selected items within specified dimensional parameters for comparison, as detailed in the section of this notice devoted to comments by interested parties.

The petitioner alleged that sales in the home market of seamless stainless tubes were at prices below the cost of production. For Kobe, Sanyo and SMI, the three firms with sales to the United States of seamless stainless tubes during the period of investigation, there were sufficient sales above the cost of production over an extended period of time to provide a basis for the determination of foreign market value. Therefore, for all manufacturers and products investigated, we used home market sales prices to determine foreign market value.

The home market prices were based on delivered, packed prices to unrelated purchasers. From these prices we deducted inland freight and insurance. We also made adjustments, where appropriate, for differences in warehousing expenses, credit costs, commissions, physical differences in the cost of materials, direct labor, and direct factory overhead.

We verified the information used in making this final determination. We were granted access to the books and records of the Japanese firms investigated. We used standard verification procedures, including on-site inspection of the manufacturer's operations and examination of accounting records and randomly selected documents containing relevant information.

Results of Investigation

We made fair value comparisons on virtually all of the sales to the United States made by NKK, Sanyo and SMI. For Kobe, we made comparisons on all sales to the United States, except those made to Shinsho Corporation, a related trading firm responsible for less than 6 percent of Kobe's sales during the period. Since sales to Shinsho were small in comparison to Kobe's overall sales of CSPT, it was deemed appropriate to eliminate those sales from consideration rather than expand the investigation to include exporter's sales price for that firm. We found margins on 26.16 percent of the sales compared. The margins range from 0 to 252.8 percent. The overall weighted-average margin on all sales compared is 11.57 percent.

Comments by Interested Parties

Comment 1

Petitioner

The Department of Commerce (DOC) should not have made a circumstance of sale adjustment for higher commissions paid by the Japanese manufacturers in domestic sales than in U.S. sales. The commission differential is artificially created through cooperation of producers and their associated trading firms by virtue of either financial relationships or a shared export philosophy which exists between producers and trading firms who have a long-standing business relationship.

Further, these conditions make possible the concealment of sales by trading firms below the cost of acquisition.

Respondents

Under the Act, no relationships were found to exist between producers and trading firms involved in the export sales under investigation. No evidence has been presented which supports the "shared export philosophy" alleged by the petitioner.

DOC Position

The only known relationship, within the meaning of the Act, between producer and trading firm, is that between SMI and Sumiken Bussan in the domestic sales of CSPT which were investigated. However, verified sales data indicate that sales are made at arms length. DOC has also investigated a possible relationship between SMI and Sumitomo Corporation in sales to the U.S. However, these sales also proved to have been made at arms length. Further, the investigation did not reveal evidence to support the "shared export philosophy" allegation. The verification of data submitted by the respondents did, however, support the claimed commissions.

Comment 2

Petitioner

Japanese producers incur greater liability costs in the United States than in Japan by virtue of the differences in legal and social standards between the two countries.

Respondents

All respondents claim no product liability costs during the period of investigation. All state that they have had no products returned for defects during the period and that they carry no liability insurance and keep no reserves for this purpose.

DOC Position

The investigation did not reveal any unreported costs associated with warrantees or any other form of product liability.

Comment 3

Petitioner

DOC should not have made an adjustment for differences in credit costs claimed by producers in U.S. and domestic sales. All sales are made to trading companies which perform essentially the same services in sales to both markets. Further, the apparent differences in credit costs are artifically created through cooperation between producers and trading firms.

Respondents

Differences in credit costs beteen the two markets exist and are not artificially created. However, DOC did not compute those differences correctly in the preliminary determination. Fair value computations did not take account of the "benefit" derived from the advance of funds at preferential interest rates by trading firms on U.S. sales. Since the advanced funds make it unnecessary to borrow operating funds at the higher commercial rates the producers receive a net "benefit" equal to the difference between the preferential rate paid and the commercial rate they would have paid had the funds been borrowed at market rates.

DOC Position

DOC regards the "benefit" of not borrowing at market rates as a theoretical or imputed value and, as such, it does not represent the actual cost of extending credit in U.S. sales. Initially, DOC was willing to allow an offset to the cost of the advanced funds on the assumption that they may have been invested by the producers. It is now clear that the advanced funds are used to finance operations and so are not invested by the producers. Consequently, DOC now regards the credit cost associated with advance payments by trading firms as being solely equal to the actual interest paid on those funds.

Comment 4

Petitioner

A circumstance of sale adjustment should be made for legal fees paid in connection with litigation resulting from an earlier antidumping investigation

involving some of these companies and products which include those presently being investigated.

Respondents

Legal fees resulting from that litigation have no relation to the exports subject to this investigation. An adjustment for those legal fees would effectively punish the respondents for retaining counsel.

DOC Position

The legal fees associated with that litigation bear no direct relation to the sales under consideration.

Comment 5

Petitioner

DOC should not grant the respondents an adjustment for differences in quantity in the sales being compared, because the claimed adjustments do not satisfy the requirements of section 353.14(b)(1) of the Commerce Regulations. In addition, SMI, and NKK have failed to justify a quantitiy discount on a cost basis. Additionally, quantity is only one factor in many which influence the negotiated prices of the respondents.

Respondents

SMI and NKK contend that cost analyses they submitted subsequent to the preliminary determination support a quantity adjustment.

DOC Position

Both SMI and NKK cost analyses have been verified to have been based on data from their actual records. However, while SMI's data roughly supports its claimed schedule of mark-ups for small quantities, adherence to the schedule is not evident in the negotiated prices to customers in either market. Examination of sales data reveals that, while quantity appears to have some effect on price, it rarely, if ever, conforms to the scheduled mark-ups. It is evident that other factors also influence price; and there is no way to demonstrate that the scheduled factors are actually used. Consequently, we denied the adjustment for SMI.

In the case of NKK, the submitted cost data demonstrate that different quantities result in differences in processing time and other expense related factors. The methodology of NKK's computation appears to be sound and it relates to the actual quantities being compared. Therefore, we made the adjustment for NKK.

Comment 6

Petitioner

DOC should only compare pipes or tubes whose sizes are within a plus or minus 10 percent variation in dimension without adjustment. When sizes of greater dimensional variation are being compared, adjustment should be made on the basis of actual cost differences between the specific sizes. In lieu of data defining those differences, adjustments should be made on the basis of the ratio of the weights between the two products.

Respondents

Kobe argued that it cannot furnish the cost of production of individual sizes because its standard accounting procedures make development of such data impossible.

Therefore, the firm has provided cost data for size groupings within which it contends the cost variation is extremely small. By furnishing, in this manner, cost for one representative "standard" size within that group, Kobe claims it has provided a cost which reasonably applies to any size in the group. Additionally, the firm has furnished data which demonstrates that, for two size groupings, cost data for six sizes within each group do not vary from that of the "standard" size by more than a small percentage. Kobe is further willing to accept comparison of its products of differing dimensions, with an adjustment equal to this "maximum" deviation, in whichever direction is least advantageous. Kobe contends, alternatively, that if an adjustment is not made on the basis of its size-group cost data, no adjustment should be made.

NKK contends that the petitioner's suggested comparison of products within a plus or minus ten percent variance in dimensional characteristics without adjustment would distort reality. The same is claimed for petitioner's suggested use of weight ratios in comparisons of products which exceed the suggested parameter.

NKK and Sanyo have also provided cost data which they contend supports adjustments for use in comparison of their products which are of different dimensions.

SMI has not provided data to support adjustments for differences in dimension.

DOC Position

The "size grouping" cost methodology is not acceptable. Adjustment for differences in size should only be made on the basis of cost for the specific sizes being compared. NKK and Sanyo have provided such data, which has been verified. Consequently, adjustment for differences in the dimensions of the products compared for these firms has been made. Similar adjustment for Kobe and SMI has been denied. In lieu of specific size/cost differentials, the petitioner's suggested range is the most acceptable benchmark available. Therefore, comparisons have been made on the basis of identical grade of steel, finish and least advantageous match within the petitoner's suggested 10 percent dimensional range. Where no products are available for comparison within the 10 percent parameter, the least advantageous selection has been made from the closest larger and smaller sizes.

Comment 7

Petitioner

SMI and Sanyo have submitted cost-of-production data which, on petitioner's analysis and combined with petitioner's experience, suggest that both firms are selling CSPT in Japan at prices below their cost of production.

Respondents

SMI states simply that DOC has verified their cost of production data and has found no sales below cost.

Sanyo claims that the petitioner misunderstands the cost information furnished and that perhaps they have made their judgment without consideration of additional data furnished subsequent to the original response.

DOC Position

Cost submissions by both SMI and Sanyo have been verified and are supported by records examined at the producer's respective premises. DOC analysis of those submissions indicates that there have been some sales in Japan by both firms at less than the cost of production. However, there were sufficient sales above cost upon which to base foreign market value.

Comment 8

Petitioner

Japanese producers are selling cold-finished CSPT in the United States as hot-finished products, thereby understating their true value. Under the circumstances, hot-finished products sold to the United States should not be compared to hot-finished products sold in Japan.

Respondents

Japanese producers have not sold cold-finished CSPT in the United States as hot-finished CSPT.

DOC Position

DOC has no substantiated evidence of the practice alleged by the petitioner.

Comment 9

Kobe

DOC used an improperly high profit component in computing constructed value for Kobe's sales of seamless stainless tubes in the home market, when it concluded that it did not have sufficient data to establish the cost of production for Kobe's home market sales.

DOC Position

In establishing the constructed value of seamless stainless tubes sold by Kobe, DOC had to use verified data from Kobe's cost of production submission. Since only a limited number of sales could be verified, we could not establish a comprehensive figure which would represent Kobe's profit experience on an average basis. We did, however, have several verified sales from which profit data could be obtained. Since we were establishing constructed value on a "best information available" basis, it was reasonable to select the verified profit figure which was least advantageous to Kobe.

However, this point is moot since Kobe has, subsequent to the preliminary determination, provided the missing data to complete its cost of production information. Using this data, it had been determined that there were sufficient sales over an extended period of time, above the cost of production, to provide a basis for the determination of foreign market value. Consequently, constructed value has not been used in making comparisons for our final determination with respect to Kobe's sales of seamless stainless tubes.

Comment 10

Sanyo

An adjustment should be made when comparing sales of CSPT which have been cut to length with sales of CSPT in random lengths. Sanyo has furnished cost data to support such and adjustment.

Petitioner

No adjustment should be made when comparing cut-to-length CSPT to random-length CSPT. DOC should, instead, compare only sales of products which have been manufactured to the same standards.

DOC Position

Comparison of sales with the same production standards is not always possible because most U.S. sales are random length and most home market sales are cut-to-length. In order to treat all sales in a consistent manner, home market price was based on a weighted-average of identical sizes which are either manufactured to the same production standards or are adjusted for the difference according to verified cost data furnished by Sanyo.

Comment 11

Sanyo

DOC should allow an adjustment for differences in the level of trade with regard to U.S. sales made to Kanematsu-Gosho (KG). KG is a "wholesaler's wholesaler" who sells to Kanematsu-Gosho, U.S., who is turn, stocks the products and resells them to U.S. wholesalers. Sanyo sets prices with knowledge of KG's status.

DOC Position

Sanyo does sell CSPT to KG at prices lower than those to any other trading firm. KG usually, but not always, buys CSPT in larger quantities than other trading firms. When KG does buy in larger quantities, they are often not significantly greater than those to other trading firms for the same merchandise. In addition, DOC cannot be certain without an extensive new investigation that KG's function in the marketplace is as claimed, nor can we be certain that its status is unique among trading firms. If other firms are purchasing the same standard, stockable products as KG, it is entirely possible that they are selling them in a similar capacity. Consequently, DOC did not allow an adjustment for differences in level of trade.

Comment 12

Sanyo

The Department must allow an adjustment for differences in merchandise when comparing sales of polished pipe in the home market to sales of non-polished pipe in the United States.

DOC Position

Sanyo made only one sale of polished pipe in the home market during the period of investigation. No sales of polished pipe were made to the United States. Consequently, the Department excluded the sale of polished pipe from the calculation of foreign market value for the final determination.

Comment 13

Sanyo

The Department must allow a circumstance of sale adjustment for technical services and differences in selling expenses associated with the sales under consideration.

DOC Position

Sanyo failed to establish a direct relationship between technical services and the sales under consideration. Adjustments for differences in selling expenses associated with sales to the United States may be made when comparing foreign market value with United States price based on exporters sales price, in accordance with section 353.15(c) of the Commerce Regulations. Such an adjustment is inappropriate for comparisons where United States price is based on purchase price.

Comment 14

SMI

DOC should use SMI's overall borrowing rate in its computation of credit costs. Exclusive use of short-term borrowing rates to measure SMI's cost is improper since SMI does not borrow short-term to finance individual sales.

DOC Position

DOC recognizes that firms do not finance receivables on an individual basis. However, it attempts to quantify credit costs associated with the extension of credit to customers. Since the extension of credit under consideration relates to short-term receivables, it is deemed appropriate to use the commercial rates applicable to short-term financing.

Comment 15

SMI

Oil country tubular goods (OCTG) should not have been included in the investigation, since the petitioner amended the original petition to exclude them.

Petitioner

OCTG sold by SMI should not be omitted from the Commerce Department investigation of CSPT, because they are difficult to identify and would compromise the enforcement of any potential antidumping duty order.

DOC Position

During the initiatin of this case, the petitioner had amended the petition to exclude OCTG. DOC included certain OCTG in its investigation because of a concern that, in the event of an affirmative determination of dumping, exclusion of these items might complicate enforcement. However, DOC is now convinced that an alternative enforcement method is available through the use of mill certificates which identify the imported pipes and tubes and the use of inspection methods which have been worked out with the U.S.

Customs Service. Consequently, OCTG have been excluded from the investigation.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that certain steel pipes and tubes from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act.

Continuation of Suspension of Liquidation

Liquidation will continue to be suspended on all entries of CSPT for manufacturers, producers or exporters other than Kobe, NKK and Sanyo, that are entered into the United States, or withdrawn from warehouse, for consumption. The U.S. Customs Service will continue to require a cash deposit or the posting of a bond, equal to the estimated weighted-average margin by which the foreign market value exceeds the United States price for SMI and manufacturers, producers or exporters other than Kobe, NKK and Sanyo. The weighted-average margins are as follows:

Manufacturer/product	Weighted-average margin (percent)
Seamless Heat-Resisting CSPT:	
Nippon Kokan K.K.	0.00
Sumitomo Metal Industries, Ltd.	2.83
Other Manufacturers/Producers/Exporters	2.83
Seamless Stainless CSPT:	
Kobe Steel, Ltd.	1.02
Sanyo Special Steel, Ltd.	1.27
Sumitomo Metal Industries, Ltd.	22.95
Other Manufacturers/Producers/Exporters	22.95

[1] This margin is *de minimis*, therefore, these firms are excluded from this determination, as is NKK. Therefore, any cash deposit made or bonds posted by those companies pursuant to our preliminary determination will be refunded or released, as appropriate.

The security amounts established in our preliminary determination of August 18, 1982, will no longer be in effect.

ITC Notification

We are notifying the ITC and making available to it all nonprivileged and nonconfidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on certain steel pipes and tubes from Japan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price for each firm. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Lawrence J. Brady,

Assistant Secretary.

January 3, 1983.

Appendix A

The merchandise covered by this investigation includes the following two categories of products:

1. Seamless heat-resisting pipes and tubes classifiable under item numbers 610.5209, 610.5229, and 610.5234 of the Tariff Schedules of the United States Annotated (TSUSA).

2. Seamless stainless pipes and tubes classifiable under item numbers 610.5205, 610.5229, and 610.5230 of the TSUSA.

The products exclude, however, oil country tubular goods of seamless heat-resisting or seamless stainless steel suitable for use as oil or gas well casing or tubing, oil or gas field drill pipe or oil or gas line pipe, and having a tensile strength of at least 95,000 pounds per square inch (psi) and a yield strength of at least 75,000 psi.

The products are generally used in the chemical, petrochemical and oil refining industries and by electric utilities for conveyance of gases and liquids at high pressures and/or at high tempertures in heat exchangers, boilers and other industrial equipment. Additional uses may also include mechanical applications such as structurals and bicycle wheel spokes.

[FR Doc. 83-708 Filed 1-10-83; 8:45 am]

BILLING CODE 3510-25-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Bee Fiberglass, Inc., 198 Airport Road, Fall River, Mass. 02720, producer of pipes, tanks, gratings and ducts (accepted December 8, 1982); (2) Superior Moulding Company, Inc., 910 Brundidge Boulevard, Troy, Alabama 36081, producer of furniture and cabinet parts and tables (accepted December 8, 1982); (3) The Telescope Folding Furniture Company, Inc., Church Street, Granville, New York 12832, producer of furniture (accepted December 8, 1982); (4) Philadelphia Gasket Manufacturing Company, Inc., "F" and Atlantic Streets, Philadelphia, Pennsylvania 19134, producer of metal stampings, gaskets, washers and shims (accepted December 9, 1982); (5) Forgflo Corporation, P.O. Box 636, Sunbury, Pennsylvania 17801, producer of magnetic recording heads and machined parts (accepted December 9, 1982); (6) Julie Hat Company, Inc., P.O. Box 186, Patterson, Georgia 31557, producer of caps (accepted December 9, 1982); (7) Chateau Esperanza Winery, Ltd., Box 76 Route 54A, Bluff Point, New York 14417, producer of wine (accepted December 9, 1982); (8) Texpur Industries, Inc., P.O. Box 78, Judson, Texas 75660, producer of pipe couplings (accepted December 10, 1982); (9) Gutstein-Tuck, Inc., 2215 Washington Street, Boston, Massachusetts 02119, producer of women's slacks, skirts and shorts; and men's trousers, shorts and swimsuits (accepted December 10, 1982); (10) Bomatic, Inc., 1841 E. Acacia Street, Ontario, California 91761, producer of plastic containers (accepted December 10, 1982); (11) Gilmore Steel Corporation, P.O. Box 2760 Portland, Oregon 97208, producer of steel plates (accepted December 10, 1982); (12) Chromex Chemical Corporation, 19 Clay Street, Brooklyn, New York 11222, producer of writing instruments and parts, ink and cosmetics (accepted December 10, 1982); (13) G.H.R. Manufacturing Company, Inc., P.O. Box 347, Ponca City, Oklahoma 74601, producer of men's and women's jackets (accepted December 13, 1982); (14) Apollo Metals, Inc., 6650 South Oak Park Avenue, Chicago, Illinois 60638, producer of plated metal sheets and coils (accepted December 16, 1982); (15) Barton Products, Inc., 214 West 29th Street, New York, New York 10001, producer of sports racket grips (accepted December 20, 1982); (16) Wammock Industries, Inc., P.O. Box 689, Louisburg, North Carolina 27549, producer of household furniture and girls' jackets, coats and skirts (accepted December 21, 1982); (17) Belleville Wire Cloth Company, Inc., 135 Little Street, Belleville, New Jersey 07109, producer of wire cloth (accepted December 22, 1982); (18) Hornady Manufacturing Company, P.O. Box 1848, Grand Island, Nebraska 68801, producer of bullets, shot, ammunition, reloading tools and parts (accepted December 22, 1982); (19) The Model Bride, Inc., 318 West 39th Street, New York, New York 10018, producer of apparel accessories (hats, purses, veils, belts, vests and handkerchiefs), (accepted December 27, 1982); (20) National Bedding and Furniture Industries, Inc., 1700 Channel Avenue, Memphis, Tennessee 38113, producer of household furniture and fabrics (accepted December 27, 1982); (21)

Dalemark Industries, Inc., 950 Airport Road, Lakewood, New Jersey 08801, producer of marking, coding and imprinting machinery and accessories (accepted December 28, 1982); (22) DVB Enterprises, Inc., 1400 East 40 Highway, Blue Springs, Missouri 64015, producer of men's and boys' jackets, shirts and shorts; and tote bags (accepted December 28, 1982); (23) Moose Industries, Inc., 1510 Tate Boulevard, Hickory, North Carolina 28601, producer of burglar alarm components and accessories (accepted December 28, 1982); (24) Cedar Valley Growers, Inc., R.D. #2, Maloney Lane, Goshen, New York 10924, producer of onions and lettuce (accepted December 30, 1982); (25) Charles Gratz Farms, Inc., Newport Bridge Road, Pine Island, New York 10969, producer of onions, lettuce and celery (accepted December 30, 1982); (26) G & U, Inc., R.D. #2, Goshen, New York 10924, producer of onions, lettuce, celery, radishes and carrots (accepted December 30, 1982); (27) Myruski Farms, Inc., R.F.D. 2, Box 208, Goshen, New York 10924, producer of onions and lettuce (accepted December 30, 1982); (28) Shuback Farms, Inc., P.O. Box 377, Goshen, New York 10924, Producer of onions and sod (accepted December 30, 1982); (29) W.K.W. Farms, Inc., Route Number 2, Goshen, New York 10924, producer of onions (accepted December 30, 1982); and (30) Tennessee Bolt and Screw Company, Inc., 2700 Summer Avenue, Memphis, Tennessee 38112, producer of screws (accepted December 30, 1982).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the Program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do no apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 83–751 Filed 1–10–83; 8:45 am]

BILLING CODE 3510–25–M

National Bureau of Standards

Announcing a Workshop for Local Area Networks; Implementors of the ISO/NBS Transport Class 4 Protocol

The Institute for Computer Sciences and Technology at the National Bureau of Standards (NBS) announces a two-day workshop to discuss implementations for local area networks of the Transport Class 4 Protocol of the International Organization for Standardization according to the NBS design specification. The workshop will be held on February 1 and 2, 1983 at the Marriott Hotel, 620 Lakeforest Blvd., Gaithersburg, Maryland, (301) 977–8900.

The first day of the workshop, geared specifically to the needs of local area networking vendors, will focus on Class 4 Transport techniques and implementation strategies. The second day will focus on specific implementations leading to a multi-vendor protocol demonstration in 1983.

Attendance at the workshop is limited due to space requirements and the size of the conference facility; therefore, registration is on a first come, first served basis with a strict limitation of two participants per company. A nominal registration fee will be charged for attending the workshop. Participants are expected to make their own travel arrangements and accommodations. NBS reserves the right to cancel any part of the workshop.

To register, companies should send a request on company letterhead to: LAN/Transport Workshop, Attn: Robert Rosenthal, National Bureau of Standards, Bldg. 225, Room B–226, Washington, D.C. 20234.

The registration request must name the company representative(s) and specify the business address and telephone number for each participant. Registration requests must be received by close of business January 24, 1983. An NBS representative will confirm workshop registration reservations by telephone. For additional information, contact Robert Rosenthal (301) 921–3516.

Dated: January 6, 1983.

Ernest Ambler,

Director.

[FR Doc. 83–715 Filed 1–10–83; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of experimental fishing permit applications and request for comment.

SUMMARY: This notice acknowledges receipt of four experimental fishing permit applications and announces a public comment period as required in the regulations implementing the Pacific Coast Groundfish Fishery Management Plan. The applicants propose to harvest groundfish with set nets in the fishery conservation zone (3–200 nautical miles from shore) off Washington, Oregon, and California north of 38° N. latitude. An experimental fishing permit allows a fishery which otherwise would be prohibited by Federal regulation.

DATE: Comments on these applications must be received by January 14, 1983.

ADDRESS: H. A. Larkins, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, 206–527–6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the Secretary of Commerce (Secretary) on January 4, 1982, and implementing regulations were published on October 5, 1982 (47 FR 43964). The FMP specifies that experimental fishing permits (EFPs) may be issued to authorize fishing which otherwise would be prohibited. The procedures for issuance of EFPs appear in the regulations at 50 CFR 663.10. A notice published on December 1, 1982 (47 FR 54135), stated that EFP applications to use set nets for groundfish in 1983 must be received by December 15, 1982, to assure consideration at the January 12–14, 1983, meeting of the Pacific Fishery Management Council (Council). The notice stressed that these applications

might be the only ones considered for set netting in 1983.

Four applications to use set nets for groundfish in 1983 were received by December 15, 1982. One application was incomplete. Clarification of applications and additional information were requested from each applicant. In the interest of making this information available for public review at the earliest possible date, each application is summarized here with the incomplete sections noted. The Council will discuss these applications at its January 12–14, 1983 meeting at the Cosmopolitan Motel, 1030 N.E. Union Avenue, Portland, Oregon (503–235–8433).

The regulations at 50 CFR 663.26(c) prohibit fishing for groundfish with set nets in the fishery management area north of 38°00′ N. latitude. Although this restriction was based on limited data, the Council was concerned with the demonstrated efficiency of set nets for salmon and the abundance of salmon in the fishery conservation zone (3–200 nautical miles from shore), lack of information on other incidentally-caught species, the 1957 understanding with Canada to ban net fishing for salmon in the ocean, the ability of set nets to fish indefinitely if lost or unattended, and the considerable history of conflict between mobile and fixed gears when they occur together. This restriction also is consistent with State regulations.

In 1982, one EFP was granted to allow set netting for groundfish in the fishery conservation zone. The EFP authorized fishing in the fishery conservation zone north of 38°N. latitude with set nets no more than 400 fathoms long and 25 meshes deep, and with a minimum mesh size of six inches. Because the regulations were implemented late in the year, only one fishing trip was conducted under the EFP and the data obtained are inconclusive. Only two sets were made on that trip and about 6,000 pounds of sablefish, 2,000 pounds of lingcod, and 1,500 pounds of rockfish were landed. One halibut and no salmon were found in the two sets. An observer was aboard the permitted vessel and submission of a logbook was required.

The four applications to use set nets for groundfish are summarized below. The applications are available for public review at the Regional Director's office during the public comment period (see Address section). The decision to grant or deny an EFP application will be based on information in the completed application, additional information requested for each applicant (such as the applicant's experience fishing for groundfish and fishing with set nets, the requested fishing area, and willingness to comply with the conditions of an EFP), information provided at the Council's January meeting, and comments received during the public comment period.

(1) *Purposes and significance.* The applicants believe that set netting for groundfish is more efficient, selective, and profitable than other methods of fishing, and that it produces a higher quality product. They seek to establish a data base from which to evaluate the benefits and liabilities of set netting for groundfish.

(2) *Vessel.* Each applicant wanted to permit only one vessel. The vessels range from 42 to 71 feet in length, 16 to 44 net tons, and 24 to 64 gross tons.

(3) *Species.* Each applicant intends to target on sablefish. Three also indicated a desire for limited targeting on rockfish; two on lingcod, and one on shark. Incidental catches of lingcod, rockfish, flatfish, dogfish, and true cod are expected. All would be delivered to local processors. Amounts harvested depend on the conditions imposed in an EFP.

(4) *Time.* Two applicants requested a year-long season, one requested a May-through-September season, and the fourth applicant would take whatever was offered.

(5) *Place.* Three of the four applicants requested to operate off the Washington coast; one of these wanted to fish between 60 and 120 fathoms and the other two gave no depth preference. The fourth applicant did not request any particular area of the fishery conservation zone, but wanted to fish along the 100 fathom curve.

(6) *Gear.* Three applicants requested to use set nets with a minimum of a 6-inch mesh and no more than 30-meshes deep. Two of these specified that monofilament twine would be used. One applicant wanted to use a bottom set net. One requested a total net length of 5,000 feet but was unclear whether this would be one or several nets. One proposed using a total net length of 9,600 feet, four nets no more than 400 fathoms (2,400 feet) each. The fourth applicant did not submit detailed gear specifications. The third also specified using 400-fathom nets. Clarification of the net specifications has been requested and each applicant also has been asked if he would use biodegradable twine to lash the mesh to the cork line.

(16 U.S.C. 1801 *et seq.*)

Dated: January 6, 1983.

Carmen Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-738 Filed 1-6-83; 4:02 pm]

BILLING CODE 3510-22-M

Receipt of Application for General Permit

Notice is hereby given that the following applications have been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the regulations thereunder.

1. The VEB Fischfang Rostock of the German Democratic Republic has applied for a Category 1: "Towed or Dragged Gear" general permit to incidentally take 8 otariid seals, 8 phocid seals, and 8 cetaceans, in 1983.

2. Hochseefischeri Nordstern A.G., West Germany, has applied for a Category 1: "Towed or Dragged Gear" general permit to incidentally take 60 otariid seals, 60 phocid seals, and 60 cetaceans in 1983.

The applications are available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Interested parties may submit written views on the applications within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235.

Dated: January 4, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservational, National Marine Fisheries Service.

[FR Doc. 83-728 Filed 1-10-83; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Mr. M.J. Hameedi, Acting Director (P312), Outer continental

Shelf Environmental Assessment Program.

b. Address: National Ocean Service, NOAA, P.O. Box 1808, Juneau, AK 99802.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Ringed Seals, (Phoca hispida), up to 5,000.

4. Type of Take: Direct and potential harassment.

5. Location of Activity: Bering, Chukchi and Beaufort Seas Alaska.

6. Period of Activity: 3 years.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be apropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C. ; and
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: January 4, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-729 Filed 1-10-83; 8:45 am]
BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Flood Control Project on the Fox River in Kane, McHenry and Lake Counties, Illinois

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed project involves a combination of nonstructural flood damage reduction measures and the modification of various existing low-head dams on the Fox River. In addition, the placement of canoe portages or bypasses at various dam locations is being considered.

2. Alternatives studied in detail are:

a. No action.

b. A nonstructural plan consisting of elevating or relocating structures, use of brick facing, or the addition of a utility room at various locations along the Fox River, and a separate basin-wide flood warning and flood forecasting system.

c. Modifications of the existing low-head dams at St. Charles, Elgin, Algonquin and McHenry, Illinois, consisting of the installation of gates with widths of 50, 100 or 150 feet. The gates would allow lowering of the dam pools in anticipation of flood events. Gate operation would be used in conjunction with the flood warning and flood forecasting system.

d. Canoe bypasses at existing dams at Geneva, St. Charles, South Elgin, Elgin and Carpentersville, Illinois. The bypasses would consist of either portages, chutes or a series of stair-stepped pools around the dams.

3. Public workshops to discuss the alternative plans for the Fox River have been held in September 1981 and November 1982. Affected Federal, State and local agencies, municipalities, and interested private organizations and individuals have been involved in all aspects of project planning and plan selection. Coordination has been undertaken with the following: U.S. Fish and Wildlife Service, Illinois Division of Water Resources, Illinois Department of Conservation, Illinois State Historic Preservation Office, Northeastern Illinois Regional Planning Commission, Kane, McHenry and Lake Counties, and the municipalities of Geneva, St. Charles, South Elgin, Elgin, Carpentersville and Algonquin, Illinois.

4. Significant issues to be analyzed in depth include effects of the alternative plans on sedimentation, water quality, vegetation, wildlife, fisheries, human resources, and the potential for hydropower redevelopment.

5. No scoping meeting will be held. The scoping process has been undertaken as part of the on-going public participation and coordination program.

6. The DEIS is expected to be available to the public in June 1983.

7. Questions about the proposed action and DEIS can be answered by Mr. Tom Slowinski, U.S. Army Corps of Engineers, Chicago District, Environmental and Social Analysis Section, 219 South Dearborn Street, Chicago, Illinois 60604 (phone: 312/353-7805).

Christos A. Dovas.

LTC, Corps of Engineers District Engineer.

[FR Doc. 83-636 Filed 1-10-83; 8:45 am]
BILLING CODE 3710-HN-M

Defense Communications Agency

Privacy Act of 1974; Amendment of a System of Records

AGENCY: Defense Communications Agency, Defense.

ACTION: Notice of amendment to a system of records notice.

SUMMARY: The Defense Communications Agency proposes to amend a notice for a systems of records subject to the Privacy Act of 1974. The specific changes are set forth below.

DATES: This systems notice shall be amended as proposed without further notice on February 10, 1983.

ADDRESS: Any public comments should be addressed to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Wheelen, General Counsel, Defense Communications Agency; Washington, D.C. 20305, Telephone: 202/692-2009.

SUPPLEMENTARY INFORMATION: The Defense Communications Agency inventory of systems of records subject

to the Privacy Act of 1974, Title 5, United States Code 552a (Pub. L. 93–579; 44 Stat. 1896, *et. seq.*) has been published in the **Federal Register** at: FR Doc. 81–697 (46 FR 6696) January 21, 1981.

This change does not require an altered system report as prescribed by 5 U.S.C. 552a(o).

M.S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
January 5, 1983.

Amendments

K700.03

System Name:

Personnel Information System [PERMIS]

Changes:

System Name:

Change to "Manpower and Personnel System (MAPS)"

Categories of records in the system:

Delete entire entry and substitute:
"System contains personal information in several categories; biographical data (Name, SSAN, Sex, Minority Group Indicator, Birth Date, Citizenship; DCA employment) DCA Start Date, Recruitment Source, DCA Service Computation Date, Geographic Location, Submitting Office Number, DCA Area, Office Code, Salary, Appointment Type, Work Schedule, Pay Plan, Grade, Step, Date of grade, Pay Determinant, Pay Basis, Date of Last Within Grade, Competitive Level, Tenure-Excepted, Reemployed Employee Code, Position Code, Position Description Number, Job Title, Career Field, Civilian Job Code, Function Code for Scientists and Engineers, Rotation Date, Not-to-Exceed Code, Not-to-Exceed Date, Nature of Action Code, Nature of Action Date, Performance Rating Date, Performance Rating Code, Supervisor Code, Reason for Departure Code, Type of Promotion, Vietnam Era Indicator; Military Service Information, Service Component, Branch of Service, Date of Commission, Primary Job Code, Secondary Job Code, Tertiary Job Code, Added Job Code, Permanent Grade, Date of Permanent Grade, Military Education Level, Rating Official, Military Performance Rating, Military Job Code, Office Assignment of Military Rater, Indorsing Official, Official Assignment of Military Indorser, MOS Prefix, MOS Suffix; Civilian Federal Employment (Service Computation Date, Date Entered Federal Service, Veterans Preference, Reduction-in-Force Code, Tenure Group, Probation Start Date, Career Start Date, Leave Category, Handicap Code, Position Occupied Code); Education (Education Level, Academic Speciality, Year of Degree, (Type of Training, Purpose of Training, Training Facility, Course Number, Course Name, on-Duty Training Hours, Off-Duty Training Hours, Direct Training Costs, Indirect Training Costs, Date of Training, Training Status, Training Sponsor, Special Interest Training, Degree Program School, Type of Degree Program, Academic Speciality of Degree Program, Total Training Cost, Total Training Hours, Type of Competitive Training; Awards and recognition (Type of Award, Date of Award, Amount of Award, Tangible Award, Intangible Award); Benefits (Federal Employees Group Life Insurance Coverage, Federal Employees Health Benefits Plan, Federal Employees Health Benefits Carrier; Locator Information (Home Phone Number, Office Phone Number, DCA Building Number, Room Number).

K700.03

SYSTEM NAME:

Manpower and Personnel System (MAPS).

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

"System contains personal information in several categories; biographical data (Name, SSAN, Sex, Minority Group Indicator, Birth Date, Citizenship; DCA employment) DCA Start Date, Recruitment Source, DCA Service Computation Date, Geographic Location, Submitting Office Number, DCA Area, Office Code, Salary, Appointment Type, Work Schedule, Pay Plan, Grade, Step, Date of grade, Pay Determinant, Pay Basis, Date of Last Within Grade, Competitive Level, Tenure-Excepted, Reemployed Employee Code, Position Code, Position Description Number, Job Title, Career Field, Civilian Job Code, Function Code for Scientists and Engineers, Rotation Date, Not-to-Exceed Code, Not-to-Exceed Date, Nature of Action Code, Nature of Action Date, Performance Rating Date, Performance Rating Code, Supervisor Code; Reason for Departure Code, Type of Promotion, Vietnam Era Indicator; Military Service Information, Service Component, Branch of Service, Date of Commission, Primary Job Code, Secondary Job Code, Tertiary Job Code, Added Job Code, Permanent Grade, Date of Permanent Grade, Military Education Level, Rating Official, Military Performance Rating, Military Job Code, Office Assignment of Military Rater, Indorsing Official, Official Assignment of Military Indorser, MOS Prefix, MOS Suffix; Civilian Federal employment (Service Computation Date, Date Entered Federal Service, Veterans Preference, Reduction-in-Force Code, Tenure Group, Probation Start Date, Career Start Date, Leave Category, Handicap Code, Position Occupied Code); Education (Education Level, Academic Speciality, Year of Degree, (Type of Training, Purpose of Training, Training Facility, Course Number, Course Name, on-Duty Training Hours, Off-Duty Training Hours, Direct Training Costs, Indirect Training Costs, Date of Training, Training Status, Training Sponsor, Special Interest Training, Degree Program School, Type of Degree Program, Academic Speciality of Degree Program, Total Training Cost, Total Training Hours, Type of Competitive Training; Awards and recognition (Type of Award, Date of Award, Amount of Award, Tangible Award, Intangible Award); Benefits (Federal Employees Group Life Insurance Coverage, Federal Employees Health Benefits Plan, Federal Employees Health Benefits Carrier; Locator Information (Home Phone Number, Office Phone Number, DCA Building Number, Room Number).

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[FR Doc. 83–697 Filed 1–10–83; 8:45 am]
BILLING CODE 3810–05–M

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

Discretionary Grant Programs; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1983 Applications

AGENCY: Education Department.

ACTION: Application notice establishing closing dates for transmittal of certain Fiscal Year 1983 applications.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for awards under certain programs administered by the Department of Education.

Organization of Notice

This notice contains two parts. Part I includes, in chronological order, the list of all application closing dates for new projects and noncompeting continuations covered by this notice. Part II consists of individual application announcements for each program.

The budget estimates in the individual application notices are based on the continuing resolution enacted by Congress on December 21, 1982 (Pub. L. 97–377). The actual amounts available and are subject to further change by Congress and the President.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications: Applications for new projects must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document. Each late applicant for a new project will be notified that its application will not be considered.

To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document. If an application for a noncompeting continuation is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: Applications must be addressed to the Department of Education Application Control Center, *Attention:* (insert appropriate CFDA Number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated Shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: Hand-delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

CFDA	Program	Closing date
84.003A	Desegregation support program (noncompeting continuations).	Mar. 4, 1983.
84.003J	Training projects program (activities A, B, and C) (new projects).	Mar. 11, 1983.
84.003K	Training projects program (activity D) (new projects).	Do.
84.003N	Training projects program (activity E) (new projects).	Do.
84.003P	Support services program evaluation, dissemination, and assessment centers (noncompeting continuations).	Mar. 21, 1983.
84.003R	Materials development projects program (noncompeting continuations).	Do.

84.003A Bilingual Education Act—Desegregation Support Program

Closing Date: March 4, 1983.

Requests are invited for transmittal of noncompeting continuations under the Bilingual Education Act—Desegregation Support Program

Authority for this program is contained in Section 751 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561).

Current recipients of grants under this program which have approved project periods in excess of one year may request continuation of their present projects.

The purpose of the awards is to develop curricula for, or to implement, instructional programs of bilingual-bicultural education to meet the special educational needs of minority group children who because of language barriers and cultural differences, do not have equal educational opportunity. The curricula developed and the instructional programs implemented under this program must be designed to complement the local educational agency's qualifying desegregation plan.

Closing Date for Transmittal of Requests: To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by March 4, 1983.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Available funds: It is expected that approximately $2,400,000 will be available for 19 noncompeting continuations under the Desegregation Support Program in fiscal year 1983. However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grants unless that amount is otherwise specified by statute or regulations.

Request Forms: Request packages will be mailed to grantees eligible for a noncompeting continuation. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Requests for funding must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program request package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. The Secretary urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Desegregation Support Program, 34 CFR Parts 500 and 520.

(2) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, and 78.

(3) The regulations governing Emergency School Aid Act Programs, 34 CFR Part 280.

Further Information: For further information contact the Desegregation Support Program Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–2600.

(20 U.S.C. 3291)

84.003J—Bilingual Education Act—Training Projects Program (Activities A, B, and C)

Closing Date: March 11, 1983.

Applications are invited for new projects under the Bilingual Education Act—Training Projects Program, that propose any one or combination of activities described in 34 CFR 510.10(a), (b), and (c).

Authority for this program is contained in Section 723 of the Elementary and Secondary Education

Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

This program issues awards to local educational agencies, State educational agencies, institutions of higher education, and nonprofit private organizations which apply after consultation with, or jointly with, one or more local educational agencies or a State educational agency.

The purpose of the awards is to establish, operate, and improve programs of bilingual education at institutions of higher education for persons who are participating in, or preparing to participate in, programs of bilingual education and bilingual education training.

Closing Date for Transmittal of Applications: An application must be mailed or hand delivered by March 11, 1983.

Program Information: As stated in 34 CFR 510.34(a) of the proposed rules, the Secretary annually establishes a cut-off score based on the selection criteria in 34 CFR 510.31, which an application must meet to be considered for a grant. The Secretary establishes 40 points as the cut-off score for applications under the Training Projects Program (Activities A, B, and C) for fiscal year 1983.

The maximum project period which a local educational agency, applying as either a sole or joint applicant, may propose is three years. The maximum project period which an applicant other than a local educational agency may propose is five years. An applicant that proposes a project period of more than one year must justify the need for the proposed project period.

To be eligible for assistance, an applicant must meet the requirements found in regulations applicable to this program, including the following:

(1) A local educational agency, applying as either a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations (34 CFR 75.139–75.141).

The local educational agency must complete the certification form in the program information package. This requirement must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(2) Joint applicants must complete a special certification form in the program information package.

(3) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

(4) Certain applicants must establish an advisory council to assist in the development of an application. Requirements pertaining to advisory councils are contained in 34 CFR 510.21.

Available Funds: It is expected that approximately $6,000,000 will be available for new grants under the Training Projects Program (Activities A, B, and C) in fiscal year 1983.

It is estimated that these funds could support 60 projects.

The anticipated award for each project is between $50,000 and $150,000.

However, these estimates do not bind the Department of Education to specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: A copy of the application form and program information package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510 published as a notice of proposed rulemaking in this issue of the Federal Register.

If there are any significant changes when these regulations are published in final form, the applicant will be advised by a notice in the Federal Register and given sufficient time to amend the application.

(2) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, and 78.

Further Information: For further information contact the Training Projects (Activities A, B, and C) Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 447–9273.

(20 U.S.C. 3233)

84.003L—Bilingual Education Act—Training Projects Program (Activity D)

Closing Date: March 11, 1983.

Applications are invited for new projects under the Bilingual Education Act—Training Projects Program, that propose the activity described in 34 CFR 510.10(d).

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561).

(20 U.S.C. 3233)

This program issues awards to local educational agencies, State educational agencies, institutions of higher education, and nonprofit private organizations which apply after consultation with, or jointly with, one or more local educational agencies or a State educational agency.

The purpose of the awards is to improve the skills of parents in carrying out their responsibilities in programs of bilingual education.

Closing Date for Transmittal of Applications: An application must be mailed or hand delivered by March 11, 1983.

Program Information: As stated in 34 CFR 510.34(a) of the proposed rules, the Secretary annually establishes a cut-off score based on the selection criteria in 34 CFR 510.31, which an application must meet to be considered for a grant. The Secretary establishes 50 points as the cut-off score for applications under the Training Projects Program (Activity D) for fiscal year 1983.

The maximum project period which a local educational agency, applying as either a sole or joint applicant, may propose is three years. The maximum project period which an applicant other than a local educational agency may propose is five years. An applicant that proposes a project period of more than one year must justify the need for the proposed project period.

To be eligible for assistance, an applicant must meet the requirements found in regulations applicable to this program, including the following:

(1) A local educational agency, applying as either a sole or joint applicant, is required to hold a least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations (34 CFR 75.139–75.141).

The local educational agency must complete the certification form in the program information package. This requirement must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(2) Joint applicants must complete a special certification form in the program information package.

(3) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

(4) Certain applicants must establish an advisory council to assist in the development of an application. Requirements pertaining to advisory councils are contained in 34 CFR 510.21.

Available funds: It is expected that approximately $1,200,000 will be available for new grants under the Training Projects Program (Activity D) in fiscal year 1983.

It is estimated that these funds could support 18 projects.

The anticipated award for each project is between $50,000 and $150,000.

However, these estimated do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Allocation of Funds: Under 34 CFR 510.30, the Secretary holds separate competitions for applications proposing the activities described in 34 CFR 510.10(d) that are designed exclusively for parents and for applications proposing the activites described in 34 CFR 510.10(d) that are designed for any participants including parents. The applicant must identify in its application which activity is being proposed. Applications compete only against other applications proposing the same activities.

For fiscal year 1983, the Secretary anticipates that $900,000 will be allocated for applications proposing activities designed exclusively for parents. The Secretary anticipates that $300,000 will be allocated for applications proposing activities designed for any participants, including parents.

However, these amounts are only estimates and do not bind the Department of Education. The Secretary may reallocate funds if two applications are received under a competition.

Application Forms: A copy of the application form and program information package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510 published as a notice of proposed rulemaking in this issue of the Federal Register.

An applicant should base its application on the NPRM. If material changes are made in the final publication, the Secretary may extend the closing date to permit an applicant to amend its application.

(2) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, and 78.

Further Information: For further information contact the Training Projects (Activity D) Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 447–0273.

(20 U.S.C. 3233)

84.003N—Bilingual Education Act—Training Projects Program (Activity E)

Closing Date: March 11, 1983.

Applications are invited for new projects under the Bilingual Education Act—Training Projects Program, that propose the activity described in 34 CFR 510.10(e).

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561). (20 U.S.C. 3233)

This program issues awards to local educational agencies, State educational agencies, institutions of higher education, and nonprofit private organizations which apply after consultation with, or jointly with, one or more local educational agencies or a State educational agency.

The purpose of the awards is to increase the skills of State educational agency personnel in carrying out their responsibilities with regard to programs of bilingual education.

Closing Date for Transmittal of Applications: An application must be mailed or hand delivered by March 11, 1983.

Program Information: As stated in 34 CFR 510.34(a) of the proposed rules, the Secretary annually establishes a cut-off score based on the selection criteria in 34 CFR 510.33, which an application must meet to be considered for a grant. The Secretary establishes 50 points as the cut-off score for applications under the Training Projects Program (Activity E) for fiscal year 1983.

The maximum project period which a local educational agency, applying as either a sole or joint applicant, may propose is three years. The maximum project period which an applicant other than a local educational agency may propose is five years. An applicant that proposes a project period of more than one year must justify the need for the proposed project period.

To be eligible for assistance, an applicant must meet the requirements found in regulations applicable to this program, including the following:

(1) A local educational agency, applying as either a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations (34 CFR 75.139–75.141).

The local educational agency must complete the certification form in the program information package. This requirement must be met regardless of whether the local educational agency is designated as the apoplicant under 34 CFR 75.128.

(2) Joint applications must complete a special certification form in the program information package.

(3) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

(4) Certain applicants must establish an advisory council to assist in the development of an application. Requirements pertaining to advisory councils are contained in 34 CFR 510.21.

Available Funds: It is expected that approximately $415,000 will be available for new grants under the Training Projects Program (Activity E) in fiscal year 1983.

It is estimated that these funds could support 9 projects.

The anticipated award for each project is between $50,000 and $150,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: A copy of the application form and program information package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510 published as a notice of proposed rulemaking in this issue of the Federal Register.

An applicant should base its application on the NPRM. If material changes are made in the final publication, the Secretary may extend the closing date to permit an applicant to amend its application.

(2) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, and 78.

Further Information: For further information contact the Training Projects (Activity E) Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 447-0273.

(20 U.S.C. 3233)

84.003P—Bilingual Education Act—Materials Development Projects Program

Closing Date: March 21, 1983.

Requests are invited for noncompeting continuation projects under the Bilingual Education Act—Materials Development Projects Program.

Authority for this program is contained in Section 721 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561). (20 U.S.C. 3231)

Current recipients of grants under this program which have an approved project period in excess of one year may request continuation of their present projects.

The purpose of the awards is to develop instructional and testing material for use in programs of bilingual education and bilingual education training.

Closing Date for Transmittal of Requests: To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by March 21, 1983.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Available Funds: It is expected that approximately $400,000 will be available for 1 noncompeting continuation grant under the Materials Development Projects Program in fiscal year 1983.

Request Forms: A request package will be mailed to the grantee eligible for a noncompeting continuation. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Room 421, Reporters Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Requests for funding must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the request package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. The Secretary urges that a grantee not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Materials Development Projects Program, 34 CFR Parts 500 and 505.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Further Information: For further information contact the Materials Development Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 245-9061.

(20 U.S.C. 3231)

84.003P—Bilingual Education Act—Support Service Program: Evaluation, Dissemination, and Assessment Centers (EDACs)

Closing Date: March 21, 1983.

Requests are invited for noncompeting continuations under the Bilingual Education Act—Support Services Projects Program: Evaluation, Dissemination, and Assessment Centers (EDACs).

Authority for this program is contained in Section 721 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

Current recipients of grants under this program which have an approved project period in excess of one year may request continuation of their present projects.

The purpose of the awards is to provide services to programs of bilingual education and bilingual education training within designated service areas for the evaluation, dissemination, and assessment of bilingual education materials.

Closing Date for Transmittal of Requests: To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by March 21, 1983.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuation and may decline to accept it.

Available Funds: It is expected that approximately $1,400,000 will be available for 2 noncompeting continuation grants under the Support Services Projects Program: EDACs in fiscal year 1983.

Application Forms: Request packages will be mailed to grantees eligible for a noncompeting continuation. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Requests for funding must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations. The Secretary urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations for the Support Services Projects Program, 34 CFR Parts 500 and 504.

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Further Information: For further information contact the EDAC Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–2595.

(20 U.S.C. 3231)

Dated: January 6, 1983

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 83-740 Filed 1-10-83; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Bilingual Education; Hearing

AGENCY: National Advisory Council on Bilingual Education, Department of Education.

ACTION: Notice of hearing.

SUMMARY: This notice sets forth the Schedule and proposed agenda of a forthcoming hearing of the National Advisory Council on Bilingual Education. Notice of this hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: January 28, 1983—Public Hearing—8:00 a.m.–4:30 p.m.

ADDRESS: Public Hearing will be held at the Classic Hotel in the Ambassador Room—Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporters Building, 400 Maryland Avenue, SW., Washington, DC 20202 (202–245–2922).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations.

January 28, 1983, in consonance with the Council's mission to advise the preparation of regulations under the Bilingual Education Act, testimony will be heard on the following topics which impact on the Rural Bilingual/ Multicultural Community:

(1) 1983 Reauthorization
(2) Research
(3) Reports of the Effectiveness of Bilingual Education
(4) Interrelations and Interdependency of Bilingual Education and Modern Language Teachers
(5) Importance of Bilingual Education on International Trade and Commerce.

Witnesses should notify Ramon Ruiz (see address above) of their intention of testifying.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis
(2) Witnesses shall limit their testimony to twenty minutes
(3) All testimony shall be tape recorded
(4) Exceptions to the aforementioned procedures shall be at the discretion of the Chairperson.

Records are kept of all Council proceedings, and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Room 421, Reporters Building, 400 Maryland Avenue, SW., Washington, DC 20202 from the hours of 9:00 a.m. to 5:00 p.m.

Dated: December 21, 1982.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 83-085 Filed 1-10-83; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Bilingual Education, Hearing

AGENCY: National Advisory Council on Bilingual Education, Department of Education.

ACTION: Notice of hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming hearing of the National Advisory Council on Bilingual Education. Notice of this hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: January 25, 1983—Public Hearing—1:30 p.m.–9:00 p.m.

ADDRESS: Public Hearing will be held at the Marriott Hotel, Grand Ballroom, Salon "G", 700 W. Convention Way, Anaheim, California

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporters Building, 400 Maryland Avenue, SW., Washington, DC 20202 (202–245–2922).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations.

January 25, 1983, in consonance with the Council's mission to advise in the preparation of regulations under the Bilingual Education Act, testimony will be heard on the following topics which impact on the Refugee Bilingual Community:

(1) 1983 Reauthorization
(2) Research

(3) Reports of the Effectiveness of Bilingual Education
(4) Interrelations and Interdependency of Bilingual Education and Modern Language Teachers

Witnesses should notify Ramon Ruiz (see address above) of their intention of testifying.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis
(2) Witnesses shall limit their testimony to twenty minutes
(3) All testimony shall be tape recorded
(4) Exceptions to the aforementioned procedures shall be at the discretion of the Chairperson

Records are kept of all Council proceedings, and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Room 421, Reporters Building, 400 Maryland Avenue, SW., Washington, DC 20202 from the hours of 9:00 a.m. to 5:00 p.m.

Dated: December 21, 1982.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 83-684 Filed 1-10-83; 8:45 am]
BILLING CODE 4000-01-M

National Advisory Council on Bilingual Education; Hearing

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice of hearing.

SUMMARY: This notice sets forth the Schedule and proposed agenda of a forthcoming Hearing of the National Advisory Council on Bilingual Education. Notice of this hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: February 4, 1983—Public Hearing—12:30–4:45 p.m.

ADDRESS: Public Hearing will be held at the Sheraton Anchorage Hotel, Room 301, 401 E. 6th Avenue, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporters Building, 400 Maryland Avenue, SW., Washington, DC 20202 (202–245–2922).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations.

On February 4, 1983, in consonance with the Council's mission to advise in the preparation of regulations under the Bilingual Education Act, testimony will be heard on the following topics which impact on Athabascan, Yup'ik, Inupiag & Aluet Bilingual Communities.

(1) 1983 Reauthorization
(2) Research
(3) Reports of the Effectiveness of Bilingual Education
(4) Interrelations and Interdependency of Bilingual Education and Modern Language Teachers
(5) Importance of Bilingual Education on International Trade and Commerce.

Witnesses should notify Ramon Ruiz (see address on front page) of their intention of testifying.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis
(2) Witnesses shall limit their testimony to twenty minutes
(3) All testimony shall be tape recorded
(4) Exceptions to the aforementioned procedures shall be at the discretion of the Chairperson.

Records are kept of all Council proceedings, and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Room 421, Reporters Building, 400 Maryland Avenue, SW., Washington, DC 20202 from the hours of 9:00 a.m. to 5:00 p.m.

Dated: December 21, 1982.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 83-683 Filed 1-10-83; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of the Assistant Secretary for Fossil Energy

Solicitation To Operate the Bartlesville Energy Technology Center

AGENCY: Office of the Assistant Secretary for Fossil Energy.

ACTION: Notice of Solicitation and Preproposal Conference.

SUMMARY: The Department of Energy (DOE) is issuing a final solicitation for a single cost-shared cooperative agreement proposal (SCAP), number DE–SCO–1–82FE60149, to operate the Bartlesville Energy Technology Center in Bartlesville, Oklahoma to be referred to as the National Institute for Petroleum Research. DOE also announces its intention to sponsor a preproposal conference. The solicitation anticipates the performance of Federally-assisted petroleum research utilizing the Government-owned Bartlesville Energy Technology Center. The selected participant will be encouraged to carry out related energy research work for others. It is anticipated that the Government will share the cost of research for a five-year period beginning in Summer 1983, subject to annual appropriations.

Competition is now restricted by legislation to Nonprofit Organizations. The Cooperative Agreement must reflect the interests of the Federal Government and the States in conducting such research and development and the research results shall be available to the public. The one-day conference will be held at: Bartlesville Energy Technology, Virginia and Cudahay Streets, Engineering Building Auditorium, Bartlesville, Oklahoma.

ADDRESSES: Single copies of the solicitation document and further information on the conference can be obtained from: U.S. Department of Energy, Office of Fossil Energy, ATTN: Mr. F. A. Leone, FE–35, FORSTL, MS–5A–114, Washington, DC 20585, (202) 252–9680.

SUPPLEMENTARY INFORMATION: The date and time of the conference will be announced in the solicitation package. Interested parties will be given an opportunity to submit written questions, comments and suggestions to DOE at the scheduled conference. Attendance at

the solicitation conference is encouraged. However, attendance is neither required nor is it a prerequisite for receiving the solicitation or for making application for the award.

Issued in Washington, D.C., on January 7, 1983.

Hilary J. Rauch,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 83-612 Filed 1-11-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ID-2029-000]

Howard P. Allen; Filing

January 5, 1983.

Take notice that on January 4, 1983, Howard P. Allen submitted an application pursuant to Section 305 (b) of the Federal Power Act to hold the following positions:

President and Director, Southern California Edison Company; Public Utility

Director, International Telephone & Telegraph Corporation; Supplying electrical equipment

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-644 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-114-000]

Columbia Gas Transmission Corp.; Application

January 5, 1983.

Take notice that on December 7, 1982, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP83-114-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for new delivery points to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to construct 57 interconnecting tap facilities to provide additional points of delivery.

Columbia estimates that the average cost of an interconnecting tap facility necessary for a point of delivery would be $300 for the proposed taps. It is further asserted that the total cost would be approximately $17,200, which cost would be financed through internally generated funds.

The proposed new delivery points are as follows:

1. Columbia Gas of Kentucky, Inc., 9 taps for residential service—Estimated annual usage of 1,350 Mcf.

2. Columbia Gas of Ohio, Inc., 30 taps for residential service; 2 taps for commercial service; 1 tap for industrial service—Estimated annual usage or 5,730 Mcf.

3. Columbia Gas of Pennsylvania, Inc., 4 taps for residential service—Estimated annual usage of 600 Mcf.

4. Columbia Gas of West Virginia, Inc., 11 taps for residential service—Estimated annual usage of 1,650 Mcf.

Columbia states that the additional deliveries through the proposed facilities are within its currently authorized level of sales.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission of its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-645 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-220-000]

Elkem Metals Co. and Monongahela Power Co.; Filing

January 5, 1983.

Take notice that Elkem Metals Company ("Elkem"), on December 30, 1982, tendered for filing with the Commission as initial rate schedules pursuant to § 35.12 of the Commission's regulations the following: i) a Power Interchange and Facilities Agreement between Elkem and Monongahela Power Company ("Monongahela"), a member of the Allegheny Power System ("APS") and ii) a Power Resale Agreement between APS and Atlantic City Electric Company ("Atlantic").

The agreements set forth terms pursuant to which (i) Elkem and Monongahela provide for periodic energy interchanges and facilities coordination; and (ii) Elkem will sell to Monongahela 30 MW of capacity and energy for resale by Monongahela to Atlantic. The agreement has an effective date of January 1, 1983, and a term of two years, which may be renewed thereafter.

Copies of the filing were served by Elkem upon what will be its sole jurisdictional customer, Monongahela Power Company, as well as upon Atlantic City Electric Company.

The parties have requested a waiver of the Commission's Rules and Regulations to permit the proposed sale to become effective on less than 60 days notice.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance

with §§ 385.211 and 385.214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-848 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-360-001]

El Paso Natural Gas Co.; Petition To Amend Order

January 5, 1983.

Take notice that on December 14, 1982, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP81-360-001 a petition to amend the order issued March 17, 1982, in Docket No. CP81-360-000 pursuant to Section 7(c) of the Natural Gas Act so as to conform its modification authorization to the modification actually performed, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued March 17, 1982, Petitioner was authorized to modify five existing meter stations located on its interstate pipeline system. The proposed modifications were necessary to improve measurement capabilities and to reduce the incidence of damaged and improperly recording measurement facilities caused by peak hour flow rates that exceeded the original design specifications of each affected meter station, it is explained. Among the modifications authorized in the March 17, 1982, order was the replacement of the existing positive displacement meter at the Joseph City meter station, Navajo County, Arizona, with one American 500B positive displacement meter, it is stated.

It is stated that subsequent to the receipt of the order in Docket No. CP81-360-000, Petitioner performed a further evaluation respecting the forecasted peak hour requirements to be served through each meter station authorized to be modified including the Joseph City meter station. As a result of this evaluation, it was determined that accurate measurement of peak hour loads could be accomplished more economically at the Joseph City meter station through the installation of auxiliary regulating equipment at such site in lieu of replacing and upgrading the existing positive displacement meter. Since Petitioner states it would not perform the modifications to the Joseph City meter station, Petitioner proposes amending the March 17, 1982, order by deleting the authorizations applicable to the replacement of the existing positive displacement meter at the Joseph City meter station.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Jan. 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-846 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP83-101-000 and CP83-101-001]

El Paso Natural Gas Co.; Application and Amendment

January 5, 1983.

Take notice that on November 22, 1982, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas, 79978, filed in Docket No. CP83-101-000 an application as amended November 29, 1982, in Docket No. CP83-101-001 pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 (NGPA) and § 284.107(a) of the Regulations for authorization to transport and deliver natural gas to Phelps Dodge Corportation's (Phelps Dodge) Morenci Smelter located in Greenlee County, Arizona, for the account of El Paso Hydrocarbons Company (Hydrocarbons), all as set forth in the application, as amended, which is on file with the Commission and open to public inspection.

Hydrocarbons, El Paso asserts, is an intrastate pipeline company as defined by the NGPA which owns and operates a gas pipeline transmission system within Texas and is engaged in the purchase, transportation and sale of natural gas in Texas. El Paso states that the transportation arrangement to be provided by El Paso for Hydrocarbons is subject to and conditioned upon the availability of capacity in El Paso's existing interstate pipeline transmission system sufficient to provide the transporation and delivery service without detriment or disadvantage to El Paso's existing customers dependent on El Paso's general system supply. El Paso represents that the natural gas to be transported by El Paso for the account of Hydrocarbons will not be delivered directly or indirectly, to an interstate pipeline, intrastate pipeline or local distribution company, which receives such natural gas for its system supply for resale. Accordingly, El Paso requests Commission authorization to transport and deliver natural gas for the account of Hydrocarbons.

El Paso states further that El Paso and Hydrocarbons are parties to a gas transportation agreement dated November 16, 1982 (agreement), which agreement provides, *inter alia*, for the transportation by El Paso for the account of Hydrocarbons of natural gas up to a maximum of 10,000 Mcf per day from El Paso's Shafer Plant located in Carson County, Texas, to the Phelps Dodge Morenci Smelter for a primary term of two years. El Paso explains that Phelps Dodge would use the quantities of natural gas transported by El Paso for the generation of electric power for the operation of Phelps Dodge's Morenci Smelter.

El Paso proposes a transportation rate in effect and reflected from time to time as the "Mainline Transmission Charge—Arizona" set forth on Sheet No. 1-D.2 of El Paso's FERC Gas Tariff, Third Revised Volume No. 2, or superseding tariff. El Paso further proposes a five percent reduction of natural gas deliveries for gas lost and unaccounted for and for mainline fuel requirements.

El Paso states that its agreement with Hydrocarbons dated November 16, 1982, has been revised to provide for redeliveries to Phelps Dodge at a thermal equivalent of the volumetric quantities transported by El Paso on behalf of Hydrocarbons.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a

protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-647 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA82-27-000]

Industrial Fuel & Asphalt of Indiana, Inc.; Scheduling Filings

Issued January 5, 1983.

On August 17, 1982, Industrial Fuel and Asphalt of Indiana, Inc. (IFAI) filed a petition for review under Section 504 of the Department of Energy Organization Act, 42 U..S.C § 7194. By motion filed September 22, 1982, the Secretary of Energy (DOE) urged that the petition be dismissed for lack of jurisdiction. On December 14, 1982, petitioner filed a supplement to the petition, which responded to the motion to dismiss.

The DOE orders allegedly involved in this case were issued January 27, 1981, July 14, 1981, and September 28, 1981. Under the Commission's regulations, appeals under 42 U.S.C. § 7194 must be filed within 30 days of the issuance of the contested DOE order.[1] By January 17, 1983 the parties may file statements as to whether the petition for review should be dismissed as untimely. Any additional filings concerning the issues of the timeliness of the petition and the Commission's jurisdiction to consider the petition must be completed by January 24, 1983.

In addition, IFAI has not yet complied with the requirement of Rule 1004(a)(2) of the Commission's regulations,[2] that the petition for review be accompanied by a copy of the DOE order contested by the petitioner. When IFAI filed its petition, it stated [3] that it sought review of DOE's July 14, 1981 and September 28, 1981 orders denying its petition for Special Redress, but in its December 14, 1982 supplement to the petition, IFAI states that it does not seek—and has never sought—Commission review of DOE's denial of its Petition for Special Redress. Accordingly, by January 17, 1983, IFAI shall file a copy of the contested order.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-649 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

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[1] 18 CFR 385.1004(b).

[2] 18 CFR 385.1004(a)(2).

[3] Letter requesting extension, filed August 16, 1982.

[Docket No. ER83-219-000]

Nantahala Power & Light Co.; Filing

January 5, 1983.

Take notice that Nantahala Power & Light Company (Nantahala) on December 30, 1982, tendered for filing proposed changes in its FPC Electric Service Schedule No. 1. The proposed changes consist of a new agreement between Nantahala and the Tennessee Valley Authority to replace in its entirety the current Nantahala FPC Rate Schedule No. 1.

According to Nantahala, its FPC Rate Schedule No. 1 expires by its terms on December 31, 1982. The Nantahala and Tennessee Valley Authority Board of Directors approved a new interconnection agreement on December 22, 1982. The new agreement has an effective date of January 1, 1983 and is to remain effective until December 31, 1992. Thereafter, until December 31, 2002, the agreement is to be effective from year to year. The new agreement provides that either party may terminate the agreement after 5 years written notice. Under the new agreement Nantahala will use the generation of all its hydroelectric facilities on the Little Tennessee River (or its tributaries) and will purchase from the Tennessee Valley Authority additional energy according to a schedule as required to serve its public load.

Nantahala requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Town of Highlands, Haywood Electric Membership Corporation, Western Carolina University, and upon the Tennessee Valley Authority.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 24, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-650 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-446-001]

Natural Gas Pipeline Company of America; Petition To Amend

January 5, 1983.

Take notice that on November 29, 1982,[1] Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80-446-001 a petition to amend the order issued December 30, 1980, in Docket No. CP80-446 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the acquisition and continued operation of a 3,250 shaft horsepower compressor unit located at Petitioner's Station 139 in Lea County, New Mexico, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Specifically, Petitioner contends that the above order authorized the installation and operation of two leased compressor units in Lea and Eddy Counties, New Mexico. The two compressor units were to provide needed additional capacity to Petitioners Permian Basin system during the winter months, it is explained. Such order limited the operation of the two leased compressor units for a period of two years from the date the order was issued, Petitioner states. Petitioner avers that there is still a need to continue the operation of the 3,250 horsepower compressor unit at Lea County, New Mexico, in order to retain the capability to move large volumes of gas through Petitioner's Amarillo system from the Gulf Coast gas producing areas. Petitioner also contends that continuation of operations of the leased compressor unit at Station 139 under the authorized leasing agreement is economically inferior to the acquisition of the compressor unit from the lessor.

Any person desiring to be heard or to make any protest with reference to said

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[1] The petition to amend was initially tendered for filing on November 29, 1982; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until December 2, 1982; thus, filing was not completed until the latter date.

petition to amend should on or before Jan. 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-661 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-322-003]

Northwest Pipeline Corp.; Petition To Amend

January 5, 1983.

Take notice that on October 25, 1982, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 8411, filed in Docket No. CP82-322-003 a petition to amend the order issued September 30, 1928, in Docket No. CP82-322-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for the account of J. R. Simplot Company (Simplot) via an alternate route, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Northwest states that on September 30, 1982, it was authorized to transport up to 10,000 Mcf of natural gas per day for the account of Simplot on a best-efforts basis.

Northwest proposes herein to add a new receipt point under the March 30, 1982, gas transportation agreement between Northwest, Simplot and Gas Company of New Mexico (GCNM). The new receipt point is located at a point near Spokane, Washington. The proposed alternate route would involve delivery of gas by El Paso Natural Gas Company to Pacific Gas & Electric Company (PG&E), transportation by PG&E to Pacific Gas Transmission Company (PGT), displacement by PGT to Northwest near Spokane, Washington, and transportation by Northwest from Spokane to Simplot for use by the latter at its ammonia plant in Pocatello, Idaho.

Northwest's rate for the proposed alternate transportation service would be computed, it is stated, using 6 billing mileage units. Northwest submits that its currently effective mainline rate is 1.5 cents per million Btu per billing mileage unit plus retention of 1 percent of the gas received for transportation as compensation for fuel and losses.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-662 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-218-000]

Pacific Gas and Electric Co.; Filing

January 5, 1983.

The filing Company submits the following:

Take notice that Pacific Gas and Electric Company (PGandE) on December 30, 1982, tendered for filing a signed letter agreement dated December 28, 1982, stipulating to an amendment to the United States Power Contract No. 14-06-200-2948A (Contract) between the Western Area Power Administration (Western) and PGandE dated July 31, 1967. (FPC Volume No. 4)

The letter agreement further defers review of certain rates and charges pursuant to Article 32 of the Contract from December 31, 1982, to February 28, 1983. Review of these rates was first deferred from April 1, 1981, to July 1, 1981, pursuant to a letter agreement dated January 27, 1981; from July 1, 1981, to December 31, 1981, pursuant to a letter agreement dated June 25, 1981; from December 31, 1981, to July 1, 1982, pursuant to a letter agreement dated December 21, 1981; and from July 1, 1982, to December 31, 1982, pursuant to a letter agreement dated June 14, 1982.

The January 27, 1981, June 25, 1981, December 21, 1981, and June 14, 1982, letter agreements were filed with and accepted by FERC in FERC Docket Nos. ER81-245-000, ER81-584-000, ER82-191-000, and ER82-623-000, respectively. The rates and charges, review of which is deferred by the December 28, 1982, letter agreement, are provided under the following articles:

Article 22(c)(1)(i)—Sales from Capacity Account; Article 22(c)(2)(ii)—Sales from Energy Account No. 2; Article 28(b)(1), 28(b)(2), 28(b)(3)—Meter Rental.

The parties have agreed to further deferment of the April 1, 1981, rate review date to allow the parties sufficient time to complete their joint review of the rates in a more thorough manner.

This proposed effective date for the December 28, 1982, letter agreement is the date of filing hereof. Pacific requests a waiver of the notice requirements in order to avoid a possible hiatus in the effective rate review period agreed upon by the parties.

Copies of the filing have been served upon Western and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-663 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-118-000]

Panhandle Eastern Pipe Line Co.; Application

January 5, 1983.

Take notice that on December 8, 1982, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas, 77001 filed in Docket No. CP83-118-000 an application pursuant to

Section 7 of the Natural Gas Act for permission and approval to abandon by sale to the Toledo Edison Company (Toledo Edison) Panhandle's Defiance #1 measuring and regulating station, and for a certificate of public convenience and necessity authorizing the construction and operation of a new measuring and regulating station for deliveries to Toledo Edison, and the acquisition by purchase and operation of 0.7 mile of 4-inch pipeline from Toledo Edison, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that this proposed sale, purchase and construction of facilities represent transactions that are necessary to clarify operating responsibilities and would improve operating flexibility and safety for both companies. It is stated that the book value of Toledo Edison's facilities is $28.900 and the book value of Panhandle's facilities is $15,023. It is further asserted that pursuant to a letter agreement between Applicant and Toledo Edison dated March 4, 1982, as amended June 30, 1982, Panhandle would pay Toledo Edison $13,877, the difference between the book values.

Applicant further states that it would construct the new measuring and regulating station at an approximate cost of $100,000, which would be financed with funds currently available to the company.

It is explained that all facilities are located in Defiance County, Ohio.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-656 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-125-000]

Southern Natural Gas Co., Application

January 5, 1983.

Take notice that on December 13, 1982, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP83-125-000 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon certain horizontal compressor units and to construct and operate certain reciprocating compressor units, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon in place four 1,300 horsepower Worthington horizontal compressor units located at Applicant's Louisville Compressor Station in Winston County, Mississippi. Applicant states that the horizontal units which were installed in 1937 and 1938 are physically deteriorated and have become obsolete.

As a result of the proposed abandonment, Applicant further proposes the construction and operation of replacement horsepower. Applicant proposes to install two 2,600 horsepower reciprocating compressor units near the junction of Applicant's Gwinville-Pickens Lines and North Main Lines, Madison County, Mississippi. According to Applicant, relocation of the replacement horsepower at the proposed location would result in a substantial reduction in Applicant's fuel consumption, would improve Applicant's ability to receive gas supplies on its North Main Line System, and would increase the quantity of gas Applicant is able to deliver in emergency situations from its North Main Line System to its South Main Line System. The installation of the reciprocating compressor units at the proposed location would not, however, affect the salable capacity of Applicant's pipeline system, it is asserted.

The total cost of the proposed compressor facilities is estimated to be $12,212, as which would be financed initially by short-term financing and/or cash from current operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission By Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-664 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-119-000]

Texas Gas Transmission Corp.; Application

January 5, 1983

Take notice that on December 6, 1982, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP83-119-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing modifications to an existing compressor engine in order to reduce fuel requirements, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to uprate an existing gas turbine at its Jeffersontown compressor station in Jeffersontown, Kentucky, from 11,000 horsepower to 12,090 horsepower through the installation of turbine parts. It is maintained that the sole reason for this uprating is to reduce compressor fuel requirements and not to increase Applicant's system capacity. Applicant states that the uprating would result in a decrease in the specific fuel rate of the compressor and that the additional 1,090 horsepower would be more fuel efficient than other existing reciprocating horsepower at the Jeffersontown compressor station.

Applicant estimates the total cost of the modifications to be $248,600, which would be financed by funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-668 Filed 1-10-83; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Forms Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection packages for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Ch. 35). Each list describes the type of request, the title of information collection, with OMB number, if any, abstract of the data collection, the type of respondents, number of respondents per year, and estimated burden hours per year.

Type: Revision
Title: Application for Temporary Housing Assistance 3067-0008
Abstract: Form is required to establish a disaster victim's request for temporary housing assistance under the Disaster Relief Act of 1974. Also used in identification of damaged residence, development of temporary housing plans, establishing priorities, making availability determinations.
Type of respondents: Individuals or households
Number of respondents: 19,000
Burden hours: 4,750
Type: Extension (No change)
Title: National Flood Insurance Annual Report 3067-0018
Abstract: FEMA requires communities participating in the National Flood Insurance Program submit an annual report or progress made in local floodplain management. The use of a simple, standard format facilitates reporting of responses. Thus enhancing the report's value as a management tool. See 44 CFR 59.22.
Type of respondents: State and local governments
Number of respondents: (bi-annual) 17,300
Burden hours: (annual) 4,325
Type: Extension (no change)
Title: Federal Crime Insurance Program Crime Insurance Applications—Proof of Loss 3067-0031
Abstract: Application forms are needed to process Federal Crime Insurance policies. Proof of Loss required by regulations before claims under policy can be processed.
Type of respondents: Individuals or household, business or other institutions
Number of respondents: (per year) 21,500
Burden hours: 5,375

OMB Desk Officer: Ken Allen (202) 395-3786

Copies of the above information collection clearance package can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley (202) 287-9906, Federal Plaza Centre, 500 C Street, SW., Washington, DC 20472.

Written comments and recommendations for the proposed information collection packages should be sent both to Linda Shiley, FEMA Reports Clearance Officer, Federal Plaza Center, 500 C Street, SW., Washington, DC 20472 and to Ken Allen, Desk Officer, OMB Reports Management Branch, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: January 3, 1983.

Charles M. Girard,

Associate Director.

[FR Doc. 83-636 Filed 1-10-83; 8:45 am]

BILLING CODE 6715-01-M

[Docket No. FEMA-REP-9-AZ-1]

Arizona, Radiological Emergency Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of receipt of plan.

SUMMARY: This is a notice that the State of Arizona has submitted their radiological emergency plan to the Federal Emergency Management Agency (FEMA) for its review and approval. The Plan is developed for State and local governments surrounding the Arizona Public Service Company's Palo Verde Nuclear Power Plant in Maricopa County, Arizona.

DATE: November 26, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Vickers, Regional Director, FEMA Region IX, Building 105, Presidio

of San Francisco, California, 94129 (415) 556–0981.

NOTICE: This provides notice pursuant to 44 CFR 350.8 of the proposed FEMA Regulations, "Review and Approval of State Radiological Emergency Plans and Preparedness." 45 FR 42341. That the State Radiological Emergency Plan was received on November 26, 1982, by the Federal Emergency Management Agency, Region IX office.

The Palo Verde Nuclear Generating Station offsite plan includes both the State and the Maricopa County plan.

Copies of the plan are available for review and duplication at the FEMA Region IX Office. Copies will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests. This schedule which covers exemptions from the fee is set out in Subpart C of 44 CFR Part 5. Reproduction fees are $.10 a page for this document. As the cost will exceed $25.00 the fee will be paid in advance.

Comments on the Plan may be submitted in writing to Mr. Robert L. Vickers, Regional Director, at the above address, within 30 days. FEMA Regulation 44 CFR 350.10 calls for a public meeting in advance of FEMA approval. This meeting will be held in May, 1983. An announcement will be made advertising the scheduled date.

Dated: December 14, 1982.

Robert L. Vickers,

Regional Director, FEMA Region IX.

[FR Doc. 83-637 Filed 1-10-83; 8:45 am]

BILLING CODE 6718-01-M

Privacy Act of 1974; Proposed New Routine Use to Existing System of Records

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed addition of a new routine use to an existing system of records entitled, "FEMA/RMA–9, Claims Collection Files."

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, notice is hereby given that the Federal Emergency Management Agency (FEMA) proposes to add a routine use to permit disclosure of information on individuals who are indebted to FEMA to commercial credit bureaus to expedite and facilitate the collection of monies owed to FEMA.

EFFECTIVE DATE: The new routine use will become effective, without further notice, on February 10, 1983, unless comments necessitate otherwise.

ADDRESS: Written comments may be sent or delivered to Rules Docket Clerk, Federal Emergency Management Agency, (Room 835), 500 C Street, S.W., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Linda M. Keener, FOIA/Privacy Specialist, (202) 287–0313.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency last published its annual notices of systems of records on November 26, 1982, 47 FR 53483. For convenience, we are republishing the affected system of records in its entirety.

Dated: December 9, 1982.

James Holton,

Director, Office of Public Affairs, Federal Emergency Management Agency.

FEMA/RMA–9

SYSTEM NAME:

Claims Collection Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Primary system is located in the Office of Comptroller, Resource Management and Administration, Federal Emergency Management Agency, Washington, D.C. Secondary systems will be maintained by the Claims Collection Officers designated for the following offices: Federal Insurance Administration, National Preparedness Programs, State and Local Programs and Support, National Emergency Training Center, U.S. Fire Administration, and each FEMA Regional Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are indebted to FEMA.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Claims Collection Officers' file will contain the name and address of the debtor, amount of claim or delinquent amount; basis of claim; date claim arose; office referring claim to the Claims Collection Officer; record of each collection made; credit report or financial statement reflecting the net worth of the debtor; date by which the claim must be referred to the Agency Collections Officer for further collection action; citation of basis on which claim was terminated or compromised; and the appropriation number under which the Accounts/Notes Receivable was established.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 951–953 (Federal Claims Collection Act of 1966), Pub. L. 90–616, and Pub. L. 92–453.

PURPOSE(S):

Information is used for the purpose of collecting monies owed FEMA arising out of any administrative or program activities or services administered by FEMA. The Claims Collection Officers' file represents the basis for the claim and amount of claim and actions taken by FEMA to collect the monies owed under the claim. The credit report or financial statement provides an understanding of the individual's financial condition with respect to requests for deferment of payments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

If debtors do not enter into satisfactory arrangements or demonstrate a legitimate dispute within a specific period, the debt may be reported to a commercial credit bureau for further attempted collection of the debt. The debtor will be notified by FEMA prior to turning the debt collection matter over to a commercial credit bureau.

When debts are uncollectable, copies of the FEMA Claims Collection Officers' file regarding the claim and actions taken to attempt to collect the monies is forwarded to the U.S. General Accounting Office, Department of Justice, or a United States Attorney for further collection action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on lists and forms, and in computer processible storage media.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Personnel screening; hardware and software computer security measures. Paper records are retained in a locked container and/or locked room. Records are maintained in areas that are secured by building guards during non-business hours. Records are retained in areas accessible only to authorized personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

The file on each claim on which administrative collection action has

been completed shall be retained by Claims Collection Officers' respective program office not less than one year after the applicable statute of limitations has run out. The file is then transferred to the National Archives and Records Service for a period of six years and three months after the end of the fiscal year in which the claim was closed out by means of the claims being paid, terminated, compromised, or the statute of limitations had run out.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Resource Management and Administration, Federal Emergency Management Agency, Washington, D.C. 20472. Notification procedure: Individuals wishing to inquire whether this system of records contains information about them should contact the system manager identified above.

RECORD ACCESS PROCEDURE:

Same as Notification procedure above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager. Written requests should be clearly marked "Privacy Act Amendment" on the envelope and letter. The letter should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

FEMA Privacy Act Regulations are promulgated in 44 CFR Part 6, published in the Federal Register.

RECORD SOURCE CATEGORIES:

Directly from the debtor, the initial loan application, credit report from the commercial credit bureau, administrative or program offices within FEMA, or other Federal, State, or local agencies which are involved in programs or services administered by FEMA.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-725 Filed 1-10-83; 8:45 am]
BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1971]

Cargo, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Cargo, Inc., 9942 West Bryn Mawr Avenue, Rosemont, IL 60018 was cancelled effective December 3, 1982.

By letter dated November 9, 1982, Cargo, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1971 would be automatically revoked unless a valid surety bond was filed with the Commission.

Cargo, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1971 be and is hereby revoked effective December 3, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 1971 issued to Cargo, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Cargo, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing

[FR Doc. 83-666 Filed 1-10-83; 8:45 am]
BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

IFF, Inc., 2675 Cumberland Parkway, Suite 275, Atlanta, GA 30339
Officers: Jurgen Lantzsch, President/Director, Peter Halpaus, Vice President, Michael A. McLaughlin, Vice President

Interglobal Forwarding Services, Inc., c/o G & B Packing Co., Inc., Eight Hook Road, Bayonne, NJ 07002
Officers: Luke Ambrose, Vice President, Lee Schiller, President

Lombard Shipping Forwarding, Inc., Two Allen Center, Suite 3070, Houston, TX 77002
Officers: Jeffrey Woollen, President, Graham James Kelly, Vice President, Dennis Wayne McCormick, Secretary, Ronald Bainbridge, Treasurer

By the Federal Maritime Commission.

Dated: January 6, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-642 Filed 1-10-83; 8:45 am]
BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2526]

Louis C. Perez d.b.a. Perez Correal International Services; Order of Revocation

On December 30, 1982, Louis C. Perez d.b.a. Perez Correal International Services, P.O. Box 1211, Homestead, FL 33030 surrendered his Independent Ocean Freight Forwarder License No. 2526 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2526 issued to Louis C. Perez d.b.a. Perez Correal International Services be revoked effective December 30, 1982, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Louis C. Perez d.b.a. Perez Correal International Services.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing

[FR Doc. 83-668 Filed 1-10-83; 8:45 am]
BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 553]

L. F. Surillo & Co., Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of L. F. Surillo & Co., Inc., 160 Broadway, New York, NY 10038 was cancelled effective December 29, 1982.

By letter dated December 2, 1982, L. F. Surillo & Co., Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 553 would be automatically revoked unless a valid surety bond was filed with the Commission.

L. F. Surillo & Co., Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 553 be and is hereby revoked effective December 29, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 553 issued to L. F. Surillo & Co., Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon L. F. Surillo & Co., Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 83-667 Filed 1-10-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

January 4, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submissions—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829)

OMB Reviewer—Richard Sheppard—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Request for Approval of a Temporary Report

1. Report title: Monthly Survey of Number of Accounts in, and Sources of Funds for, "Super NOW" Accounts

Agency form number: FR 2071d

Frequency: Monthly

Reporters: Sample of commercial banks that offer ATS and NOW accounts

SIC Code: 602

Small businesses are affected.

General description of report: Respondent's obligation to respond is voluntary [12 U.S.C. 248(a)]; a pledge of confidentiality is promised [5 U.S.C. 552 (b)(4) and (b)(8)].

The report will provide information on "Super NOW" accounts that is essential for monitoring their expansion. Such information is critical to interpreting shifts in the monetary aggregates. The new "Super NOW" account will be effective January 5, 1983 pursuant to DIDC action.

Board of Governors of the Federal Reserve System, January 5, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-668 Filed 1-10-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of Plans, Programs, and Financial Management; Announcement of Organizational Changes

This general notice publicizes changes in the location and telephone numbers of the Office of Transportation Audits, General Services Administration. It is published to facilitate contact of key personnel and minimize disruptions in the conduct of the transportation audit function.

The Office of Transportation Audit has been relocated in the General Services Building, 18th and F Streets, NW., Washington, D.C 20405.

The following is a list of key offices:

Office	Symbol	Room No.	Telephone No.
Director	(BW)	GS-6026	202-786-3000
Deputy Director	(BWD)	GS-6030	202-786-3000
Collection, Accounts and Procedure Division.	(BWC)	GS-6032	202-786-3005
Regulations, Procedures and Claims Branch.	(BWCP)	GS-6040	202-786-3014
Regulations and Procedures Section.	(BWCPR)	GS-6036	202-786-3014
Carrier Claims Section.	(BWCPC)	GS-G-138.	202-786-3068
Government Claims Section.	(BWCPG)	GS-G-127.	202-786-3068
Accounts Management Branch.	(BWCA)	GS-G-117.	202-786-3052
Transportation Audits Division.	(BWA)	GS-G-105.	202-786-3002

Paid vouchers should be submitted to: Chief, Paid Voucher Receiving Unit, Attention: BWAA, Room GS-G-342, 18th and F Streets, NW., Washington, D.C. 20405.

Dated: December 22, 1982

Raymond A. Fontaine,

Assistant Administrator.

[FR Doc. 83-718 Filed 1-10-83; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers For Disease Control

Workshop on Occupational Safety and Health Engineering Control Technology; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Date: January 26–27, 1983.

Time: January 26, 8:30 a.m. to 5:00 p.m., January 27, 8:30 a.m. to 12 noon.

Place: C Ballroom, Carolina Inn University of North Carolina, South Columbia and Cameron Street, Chapel Hill, North Carolina 27514.

Purpose: To develop specific recommendations and plans for future actions concerning occupational safety and health engineering research, education, and practice.

Additional information may be obtain from: Mr. John T. Talty, Division of Training and Manpower Development, National Institute for Occupational Safety and Health, Centers for Disease Control, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: (513) 684–8241.

Dated: January 3, 1982.

William C. Watson, Jr.,

Acting Director, Centers for Disease Control.

[FR Doc. 83–702 Filed 1–10–83; 8:45 am]

BILLING CODE 4160–19–M

Food and Drug Administration

[Docket No. 82F–0375]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of trimellitic anhydride adducts as cross-linking agents, and to revise the temperature limitation currently set under § 175.300 for trimellitic anhydride.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3634) has been filed by Ciba-Geigy Corp., Hawthorne, NY 10532, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) be amended to provide for the safe use of trimellitic anhydride, ethylene glycol, glycerol adducts as cross-linking agents for epoxy resins, and to revise the temperature limitation currently set for trimellitic anhydride under § 175.300(b)(3)(viii)(*b*).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: December 29, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83–577 Filed 1–10–83; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: Newark District Office, chaired by Matthew H. Lewis, District Director.

DATE: Tuesday, January 25, 1983, 10 a.m. to 12 p.m.

ADDRESS: New Jersey State Department of Health, Health and Agriculture Bldg., John Fitch Plaza, Trenton, NJ 08625.

FOR FURTHER INFORMATION CONTACT: Joan A. Godal, Consumer Affairs Officer, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201–645–6365.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decision on vital issues.

Dated: January 4, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–576 Filed 1–10–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0385]

Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of vinylidene chloride/methyl acrylate/methyl methacrylate polymers as articles or components of articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3685) has been filed by Dow Chemical Co., Midland, MI 48640, proposing that Part 177 (21 CFR Part 177) be amended to provide for the safe use of vinylidene chloride/methyl acrylate/methyl methacrylate polymers as articles or components of articles intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: December 29, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83–578 Filed 1–10–83; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Establishment of Secretary's Council on Health Promotion

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 94–463, 86 Stat. 770–776) the Office of the Assistant Secretary for Health announces the establishment by the Secretary, Health and Human Services, with the concurrence of the Committee Management Secretariat, General Services Administration, of the following advisory committee:

Designation: Secretary's Council on Health Promotion.

Purpose: The Committee shall advise the Secretary and Departmental officials regarding health promotion initiatives by providing advice to the Secretary, outreach to and coordination with, the efforts of the private sector to promote good health. Included in these tasks would be the following:

- Advising the Department on the conduct of its efforts to promote the health of the American people;
- Providing important links with the private sector for the recruitment of resources to stimulate health promotion initiatives and activities;
- Enhancing the prospects of tying together similar health promotion efforts throughout the private and voluntary sectors;
- Developing a pool of individuals, through its membership, who could be drawn upon by the Department to play prominant roles in Departmental health promotion efforts, such as the media based component of the National Health Promotion program;
- Encouraging its members to serve as private sector sponsors for important benefits and events which can help recruit participation in Departmental health promotion efforts.

Authority for this Committee will expire two years from the date of the filing of the charter, unless the Secretary, Health and Human Services, with the concurrence of the Committee Management Secretariat, General Services Administration, formally determines that continuance is in the public interest.

Dated: December 30, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 83-720 Filed 1-10-83; 8:45 am]

BILLING CODE 4160-17-M

Office of the Secretary

Office of the Assistant Secretary for Health; Statement of Organization, Functions and Delegations of Authority

Part H of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services is amended to reflect revisions in Chapter HA (Office of the Assistant Secretary for Health), and in Chapter HS (Health Resources and Services Administration). Specifically:

(1) The statement for the Office of the Assistant Secretary for Health (42 FR 61318, December 2, 1977, as amended most recently at 47 FR 38409, August 31, 1981) is amended to reflect a consolidation of the Public Health Service Act Title X and Title XX responsibilities in the Office of the Assistant Secretary for Health (OASH). The changes in OASH will:

(a) Establish an Office of Family Planning (OFP) in the Office of Population Affairs with the responsibility for family planning functions transferred from the Health Resources and Services Administration, Bureau of Health Care Delivery and Assistance;

(b) Retitle the Office of Adolescent Pregnancy Programs (OAPP) to the Office of Adolescent Family Life (OAFL) and revise the functions to reflect requirements of Title XX of the Public Health Service Act;

(c) Transfer the retitled Office of Adolescent Family Life into the Office of Population Affairs; and

(d) Revise the statement for the Office of Population Affairs to reflect the new responsibilities.

(2) The statement for the Health Resources and Services Administration (47 FR 39409, August 31, 1982) is amended to reflect the transfer of the responsibility for Title X, Population Research and Voluntary Family Planning Programs, from the Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, to the Office of Population Affairs, OASH.

The consolidation of the responsibilities and functions supporting vital health programs into one office will provide consistency in management for the interpretation and direction of Administration policy.

1. Part H. Chapter HA, Office of the Assistant Secretary for Health, Section HA-10 Organization is amended by deleting item 11 "Office of Adolescent Pregnancy Programs (HA4)." Renumber items 12, 13, 14, 15 and 16 as items 11, 12, 13, 14 and 15 respectively.

2. Chapter HA, Office of the Assistant Secretary for Health, Section HA-20 Functions is amended as follows:

(a) Delete the functional statement for the Office of Population Affairs and substitute the following:

Office of Population Affairs (HA5). The Office is under the direction of the Deputy Assistant Secretary for Population Affairs (DASPA) who is the principal advisor to the Assistant Secretary for Health (ASH) on population affairs and is charged to carry out the provisions of Title X, Population Research and Voluntary Family Planning Programs; and Title XX, Adolescent Family Life Demonstration Projects, of the Public Health Service Act. Specifically, the Office:

(1) Assumes responsibility for the overall planning, oversight, coordination, monitoring and evaluation of population research and voluntary family planning programs, adolescent family life programs, population education programs and health-related programs in the PHS and other elements of the Department;

(2) Serves as the departmental focus for the administration of grants and contracts related to family planning and adolescent family life programs;

(3) Maintains liaison to oversee Department programs and coordinates matters related to population research, adolescent pregnancy and family planning;

(4) Reviews and coordinates to assure consistency of regulations and guidelines developed in other program areas with the policies and objectives of programs of the Office of Population Affairs;

(5) Provides the policy direction and coordination necessary for the development of informational and educational programs on population research, adolescent pregnancy and family planning;

(6) Acts as a clearinghouse for information pertaining to domestic and international population research and family planning programs for use by all interested public and private entities;

(7) Develops or clears reports to Congress on achievements of all family planning programs in the Department; and

(8) Provides a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to population research and family planning.

Office of Adolescent Family Life Programs (HA52). The Office:

(1) Reviews all HHS programs related to prevention or care services to assure their consistencies with the requirements of Title XX of the PHS Act;

(2) Coordinates Federal policies and programs providing services relating to prevention of adolescent pregnancies and to the care services for pregnant adolescents;

(3) Coordinates, as appropriate, research and dissemination activities with NIH;

(4) Consults with other Federal agencies facilitating the development of services and activities and to make recommendations, as appropriate, for legislation supporting the use and accessibility of adolescent family life programs;

(5) Develops national policies and long and short range program goals and objectives;

(6) Developes requirements for grant approval, program regulations, and national policy in coordination with other OASH staff offices, PHS agencies, and appropriate HHS components;

(7) Interprets policies, requlations, guidelines, standards and priorities under Title XX of the PHS Act;

(8) Administers a system of application, review and award for demonstration grant projects;

(9) Establishes and implements a system of scientific peer review of the application for research grants and contracts;

(10) Evaluates grantee activities to assure compliance with Title XX; and

(11) Provides technical assistance to facilitate coordination of State and local recipients of Federal assistance.

Office of Family Planning (HA53). The Office:

(1) Directs nationwide efforts to improve the organization and delivery of family planning services, training, information and education, and services delivery improvement research;

(2) Develops national policies and long and short range program goals and objectives;

(3) Develops requirements for grant approval, program regulations and national policy in coordination with other OASH staff offices, PHS agencies and appropriate HHS components;

(4) Provides through project grants to State, local, voluntary, public and private grants to State, local, voluntary, public and private entities, funds to help them meet the needs of those eligible for voluntary family planning services;

(5) Ensures that delegated responsibilities are being carried out;

(6) Interprets policies, regulations, guidelines, standards, and priorities and provides support to RHAs or regional staff as appropriate;

(7) Provides coordination with other programs providing health services including voluntary, official, and other community agencies;

(8) Establishes and provides liason in program matters with other programs;

(9) Participates in the development of legislative proposals and budgets; and

(10) Assesses performance of Title X grantee operations and determines those areas where improvement is needed.

(b) Delete the title and functional statement for the Office of Adolescent Pregnancy Programs (HA4) in its entirety.

3. Chapter HB, Health Resources and Services Administration, the Section title *"Bureau of Health Care Delivery and Assistance,"* subsection titled "Division of Family Planning" is deleted in its entirety.

Dated: January 7, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-928 Filed 1-10-83; 11:43 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A-17600]

Arizona; Realty Action Competitive Sale of Public Land in Pinal County

The following described land has been identified as suitable for disposal under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value.

GILA AND SALT RIVER MERIDIAN

Parcel	Legal description	Acreage	Dollar value
T. 8 S., R. 17 E., Section 31: S½ (parcels within).			
A	Lot 5	5.00	7,750
B	Lot 7	4.96	7,750
C	Lot 10	5.00	7,500
D	Lot 13	4.96	7,000
E	Lot 15	5.00	8,500
G	N½NE¼NE¼SW¼	5.00	8,000
J	N½SE¼SE¼SW¼	5.00	7,850
L and M	S½SW¼NE¼SE¼ and N½NW¼SE¼SE¼	10.00	10,500
N	S½NW¼SE¼SE¼	5.00	7,750
O and P	SE¼NE¼SE¼	10.00	10,500
Q	N½NE¼SE¼SE¼	5.00	7,750
R	N½SE¼NE¼SE¼	5.00	8,500

The above land aggregates 69.94 acres.

The land is zoned GR—General Rural. The land will be sold at public auction by competitive bidding. The sale will be held at the Mammoth Town Hall, 617 Clark Street, Mammoth, Arizona, Wednesday, March 16, 1983, at 1:00 p.m.

Bidding Information and Instructions: The Federal Land Policy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or, in the case of a corporation, be subject to the laws of any state of the United States. Bids may be made by a principal (the one desiring to purchase the land) or his duly qualified agent. Each bid must be for all the land in a specified parcel.

Method of Bidding: Bids may be made either by sealed bids or personally at the sale. Bids sent by mail will only be considered if received by the Bureau of Land Management, Safford District Office, 425 East Fourth Street, Safford, Arizona 85546, prior to 2:00 p.m., Monday, March 14, 1983. Bids, accompanied by a certified check, postal money order, bank draft or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid, must be in a separate sealed envelope within the transmittal envelope. The sealed envelopes must be marked in the lower left-hand corner "Sealed Bid, Public Land Sale A–17600, Parcel Number ——, Sale to be March 16, 1983." All sealed bids will be opened at 1 p.m. on the day of the sale. Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest sealed bid will be the base for oral bids. If the highest bid is an oral bid, the successful bidder will be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, bank draft, or any combination of these. The successful high bidder, whether by sealed or oral bid, will be required to submit the remainder of the land payment by cash, certified check, bank draft, money order, or any combination of these at the time of the sale or 30 days after the determination of the highest bid.

Post Sale Instructions: If final payment is not received within the specified 30 days, the high bid is rejected, the deposit is forfeited, and the land will be offered to the second highest bidder, subject to the same terms and conditions. All unsuccessful sealed bids will be returned within 30 days of the sale.

Detailed information concerning the parcels can be obtained from the Safford District Office.

Patents will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1980, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary of the Interior may prescribe.

3. A right-of-way under Serial Number AR–010881 for highway purposes under the Act of November 9, 1921 (42 Stat. 216; 23 U.S.C. 18); for parcels E, G, and R.

And will be subject to:

1. Those rights granted by Oil and Gas Lease A–11402, made under Section 29 of the Act of February 25, 1920, 41 Stat. 437 and the Act of March 4, 1933, 47 Stat. 1570. This patent is issued subject to the right of the prior permittee or lessee to use so much of the surface of said land as is required for oil and gas exploration and development operations without compensation, resulting from proper oil and gas operations, for the duration of the Lease A–1042, and any authorized extension of the lease. Upon termination or relinquishment of said oil

and gas lease, this reservation shall terminate. This lease applies to all parcels.

2. The Federal Emergency Management Agency (FEMA) 100-year floodplain maps developed for this area, and the Pinal County planning and zoning regarding any flood hazard potential of the land.

Publication of the Notice will segregate the subject lands from all appropriations under public land laws, including the mining laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent or two years from the date of this Notice, or upon publication of a Notice of Termination.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Safford District Office. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action, and issue a final determination. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Department of the Interior.

Dated: January 4, 1983.

Lester K. Rosenkrance,

District Manager, Safford District Office.

[FR Doc. 83-662 Filed 1-10-83; 8:45 am]

BILLING CODE 4310-84-M

[C-35988]

Colorado; Invitation for Coal Exploration License Application; Getty Mining Company

All interested parties are hereby invited to participate with Getty Mining Company in its proposed exploration of certain Federal coal deposits in the following described lands in Moffat County, Colorado:

Sixth Principal Meridian, Colorado:

T. 5 N., R. 91 W.,
- Sec. 18, lot 17;
- Sec. 19, lots 8 to 20, inclusive;
- Sec. 30, lots 5 to 12, inclusive, and lot 16.

T. 5 N., R. 92 W.,
- Sec. 2, lot 13;
- Sec. 3, lots 13, 15, and 17, and SE¼SE¼;
- Sec. 8, SW¼NE¼, SE¼SW¼, and SE¼;
- Sec. 9, S½;
- Sec. 10, lots 1 and 3, NE¼, SE¼NW¼, and S½;
- Sec. 11, lots 3 to 6, inclusive, SW¼NW¼, and S½;
- Sec. 12, S½;
- Sec. 13, all;
- Sec. 14, all;
- Sec. 15, all;
- Sec. 17, E½, and E½W½;
- Sec. 20, NE¼, NE¼NW¼, and NE¼SE¼;
- Sec. 21, N½, N½SW¼, and SE¼;
- Sec. 22, lot 1, E½NE¼, and N½NW¼;
- Sec. 23, N½, NW¼SW¼, and SE¼;
- Sec. 24, all;
- Sec. 25, N½N½;
- Sec. 26, N½NE¼.

The area described contains 8,026.70 acres.

Any party participating in this exploration license will share all costs on a pro rata basis with Getty Mining Company and with any other participants. The exploration plan, as submitted to the Bureau of Land Management, is available under serial number C-35988 for public review during normal business hours at the Colorado State Office, 1037 20th Street, Denver, Colorado. Additional copies of the exploraiton plan are available for review at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado, and at the District Mining Office, The Mart, 2135 East Main Street, Grand Junction, Colorado.

Any party seeking to participate in the exploration program described in the application must notify both the Bureau of Land Management and Getty Mining Company in writing within 30 days after the publication of this Notice of Invitation in the **Federal Register**. Such written notice must be addressed to:

Chief, Mineral Leasing Section,
Colorado State Office, Bureau of Land Management, 1037 20th Street,
Denver, Colorado 80202, and

Mr. J. D. Spaulding, Vice-President,
Getty Mining Company—Suite 200,
5250 South 300 West, Salt Lake City,
Utah 84107.

This Notice of Invitation is published in the **Federal Register** pursuant to 43 CFR 3410.2-1(c) (47 FR 33135, July 30, 1982).

Satchiko Nakazono,

Acting Chief, Mineral Leasing Section.

[FR Doc. 83-667 Filed 1-10-83; 8:45 am]

BILLING CODE 4310-84-M

[C-36445]

Colorado; Invitation for Coal Exploration License Application; Getty Coal Company

All interested parties are hereby invited to participate with Getty Coal Company in its proposed exploration of certain Federal coal deposits in the following described lands in Moffat County, Colorado:

Sixth Principal Meridian, Colorado

T. 3 N., R. 90 W.,
- Sec. 2, lots 1 to 4, inclusive, S½N½, SW¼, and N½SE¼;
- Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
- Sec. 4, lots 1 to 4, inclusive, S½N½, and S½;
- Sec. 5, lots 1 and 2, and S½NE¼.

T. 4 N., R. 90 W.,
- Sec. 19, lots 1 to 4, inclusive, SW¼NE¼, and SE¼;
- Sec. 20, S½N½, and S½;
- Sec. 21, S½NW¼, SW¼, and S½SE¼;
- Sec. 28, SW¼SW¼;
- Sec. 27, S½NW¼, and S½;
- Sec. 28, all;
- Sec. 29, all;
- Sec. 30, lots 1 and 2, E½, and E½W½;
- Sec. 31, lots 1 and 2, E½, and E½W½;
- Sec. 32, all;
- Sec. 33, all;
- Sec. 34, all;
- Sec. 35, SW¼NE¼, NW¼, and S½.

T. 4 N., R. 91 W.,
- Sec. 23, lots 1 to 16, inclusive;
- Sec. 24, lots 1 to 12, inclusive, N½NE¼, SW¼NE¼, and NE¼NW¼;
- Sec. 25, lots 1 to 16, inclusive;
- Sec. 26, lots 1 to 16, inclusive;
- Sec. 35, lots 1, 2, 7, and 8;
- Sec. 36, lots 1 to 8, inclusive.

The area described contains 11,238.13 acres.

Any party participating in this exploration license will share all costs on a pro rata basis with Getty Coal Company and with any othef participants. The exploration plan, as submitted to the Bureau of Land Management, is available under serial number C-36445 for public review during normal business hours at the Colorado State Office, 1037—20th Street, Denver, Colorado. Additional copies of the exploration plan are available for review at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado, and at the District Mining Office, The Mart, 2135 East Main Street, Grand Junction, Colorado.

Any party seeking to participate in the exploration program described in the application must notify both the Bureau of Land Management and Getty Coal Company in writing within 30 days after the publication of this Notice of Invitation in the **Federal Register**. Such written notice must be addressed to:

Chief, Mineral Leasing Section,
Colorado State Office, Bureau of Land Management, 1037 20th Street,
Denver, Colorado 80202, and

Mr. J. D. Spaulding, Vice-President,
Getty Coal Company — Suite 200,
5250 South 300 West, Salt Lake City,
Utah 84107.

This Notice of Invitation is published in the **Federal Register** pursuant to 43 CFR 3410.2-1(c) (47 FR 33135, July 30, 1982).

Satchiko Nakazono,

Acting Chief, Mineral Leasing Section.

[FR Doc. 83-668 Filed 1-10-83; 8:45 am]

BILLING CODE 4310-84-M

Miles City District Advisory Council Meeting

January 4, 1983.

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Miles City District Advisory Council will be held February 15, 1983. The meeting will begin at 10:00 a.m. in the conference room at the Miles City District, Bureau of Land Management Office, Highway 10–12 at Garryowen Road, Miles City, Montana.

The agenda is as follows:

1. Asset Management.
2. Meridian Land and Mineral Co. Proposed Coal Exchange.
3. Access Statement for Recreation Maps.

The meeting is open to the public. The public may make oral statements before the Advisory Council or file written statements for the council's consideration. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For futher information, contact District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Robert A. Toegarden,

Associate District Manager.

[FR Doc. 83-666 Filed 1-10-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-7317]

Idaho; Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 82–24844 beginning on page 39897 in the issue of Friday, September 10, 1982, make the following correction:

On page 39898, first column, the ninth line in the legal description is corrected to read: "T. 24 N., R. 5 E.,"

BILLING CODE 1505-01-M

Fish and Wildlife Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk officer at 202–395–7340.

Title: Timber Harvest Permit Application, to issue permits for such operations on national wildlife refuges.

Bureau Form Number: N/A.

Frequency: On occasion.

Description of Respondents: Saw mills (individuals and small businesses).

Annual Responses: 620.

Annual Burden Hours: 310.

Service Clearance Officer: Arthur J. Ferguson, 202–653–7499.

Robert E. Gilmore,

Acting Associate Director—Wildlife Resources.

January 3, 1983.

[FR Doc. 83-666 Filed 1-10-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4464, Block 200, South Timbalier Area, offshore Louisiana

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44) FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 4, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-670 Filed 1-10-83; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Summary: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1447, Block 21, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Mineral Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147 Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records 147, open Weekdays, 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 30, 1982.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-671 Filed 1-10-83; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that SONAT Exploration Company has submitted a Development and production Plan describing the activities it proposes to conduct on Leases OCS–G 4777 and 4203, Blocks 32 and 25, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 7002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 30, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-672 Filed 1-10-83; 8:45 am]

BILLING CODE 4310-31-M

Advisory Committee on Minerals Accountability; Meeting

AGENCY: Minerals Management Service (MMS) Interior.

ACTION: Notice of meeting.

SUMMARY: The purpose of the Committee is to develop over a 1-year period an expanded policy of cooperation with States and Indian tribes in the royalty management area and to develop a detailed plan for carrying out Federal/State/Indian cooperation on a comprehensive basis. The purpose of the meeting is to establish the initial organization of the Committee, set the agenda, and discuss how the charter of the Committee will be fulfilled.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first come, first served basis. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Notice of subsequent meetings will be published 15 days before the next monthly meeting.

DATE: Wednesday, January 26, 1983, 1:30 p.m.

ADDRESS: Department of the Interior, 18th & C Streets, N.W., Room 5160, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Department of the Interior, 18th & C Streets, N.W., Room 4216, Washington, D.C. 20240, telephone: (202) 343–3516.

SUPPLEMENTARY INFORMATION: The Advisory Committee was created by the Secretary of the Interior on November 15, 1982.

Dated: January 10, 1983.

Harold E. Doley, Jr.,

Director, Minerals Management Service.

[FR Doc. 83-667 Filed 1-10-83; 10:59 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 30, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 26, 1983.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Elmore County

Wetumpka vicinity, *Fort Toulouse/Fort Jackson*, SW of Wetumpka off AL 231

Jefferson County

Birmingham, *Hotel Redmont*, 2101 Fifth Ave., N.

Lee County

Salem, *McLain Dr. Andrew D., Office and Drug Store*, Main and Crawford Sts.

Morgan County

Decatur, *Albany Heritage Neighborhood Historic District*, Roughly bounded by Gordon Dr., Summerville Rd., Jackson, 8th Ave., Moulton, 6th Ave., and 4th Ave.

INDIANA

Marion County

Indianapolis *Columbia Club*, 121 Monument Circle

IOWA

Buchanan County

Independence, *Illinois Central Railroad Depot*, Second Ave., N.E.

Cerro Gordo County

Clear Lake, *Etzel, John, L., House*, 214 N. Third St.

Des Moines County

Burlington, *Burlington, Cedar Rapids & Northern Freight House*, Front and High Sts.

Burlington, *Starker-Leopold Historic District*, 101, 111 Clay and 110 Grand Sts.

Fayette County

Oelwein, *Hotel Mealey*, 102 S. Frederick Ave.

Floyd County

Rockford, *Rockford Mill*, Shell Rock River at 4th and Main St.

Henry County

Mount Pleasant, *Brazelton House*, 401 N. Main St.

Ida County

Ida Grove, *Bell, Alvin Bushnell, House*, 310 Quimby St.

Jefferson County

Fairfield, *Burnett-Montgomery House*, 605 N. Third St.

Fairfield, *Wells, George A., House*, 304 S. Main St.

Johnson County

Iowa City, *Boerner-Fry Company/Davis Hotel*, 322 E. Washington St.

Iowa City, *Van Patten House*, 9 S. Linn St.

Louisa County

Columbus City vicinity, *Springer, Judge Francis, House*, S of Columbus City

Muscatine County

Muscatine, *Clark-Blackwell House*, Cherry St.

Polk County

Des Moines, *Crawford House*, 2203 Grand Ave.

Scott County

Bettendorf, *Bettendorf, Joseph E., House*, 1821 Sunset Dr.
LeClaire, *Stone House*, 817 N. Second St.

Tama County

Toledo, *Hope Fire Company Engine House*, 109 S. Broadway

Van Buren County

Bonaparte, *Meek's Flour Mill*, First St.

Washington County

Washington, *Smouse, Winfield, House*, 321 S. Iowa Ave.

Winneshiek County

Burr Oak, *Burr Oak House/Masters Hotel*, State St.

Woodbury County

Sioux City, *Martin Hotel*, 410 Pierce St.

KENTUCKY

Boyle County

Danville vicinity, *Spring Hill (Thomas Lillard House)*, S. of Danville on U.S. 150

Jefferson County

Louisville, *Ford Motor Plant*, 1400 Southwestern Pkwy.
Louisville, *Highlands Historic District*, Roughly bounded by Barrett Ave., Eastern Pkwy., Frenwood, Bardstown, Woodbourne, Ellerbe, and Sherwood Aves.

Washington County

Springfield, *Covington Institute Teachers' Residence*, 333 E. Main St.

LOUISIANA

Orleans Parish

New Orleans, *Fort St. John*, Bayou St. John off Robert E. Lee Blvd.

MARYLAND

Anne Arundel County

Millersville vicinity, *Cross Roads Church*, 911 Old Generals Highway
Baltimore (Independent City)
Continental Trust Company Building, 1 S. Calvert St.

Howard County

Columbia vicinity, *Woodlawn*, 9254 Old Annapolis Rd.
Glenelg vicinity, *Glenelg Manor*, SE of Glenelg on Folly Quarter Rd.

MASSACHUSETTS

Dukes County

Tisbury, *Willaim Street Historic District*, Williams St. from Wood Lawn Ave. to 24 Williams St.

Franklin County

Colrain vicinity, *Smith, Arthur A., Covered Bridge*, W of Colrain on Lyonsville Rd.

Middlesex County

Concord, *Brown, Col. Roger, House*, 1694 Main St.

Suffolk County

Boston, *Gardner, Isabella Stewart, Museum*, 280 The Fenway

MINNESOTA

Clay County

Moorhead, *Fairmont Creamery Company*, 810 2nd Ave., N.

Koochiching County

Littlefork vicinity, *White, Francis, Homestead (Forsythe Post Office)*, N of Littlefork off US 71
Northome, *Scenic Hotel*, Main and Third Sts.
Ranier, *Finsted's Auto Marine Shop*, Sand Bay between Oak Ave. and Spruce St.
Rauch vicinity, *St Peter and St. Paul Russion Orthodox Church*, S. of Rauch on MN 65

Lake of the Woods County

Baudette, *Spooner Public School*, First St. N. and Eight Ave. E.

Micollet County

North Mankato, *North Mankato Public School*, 442 Belgrade Ave.

Ramsey County

St. Paul, *Armstrong House*, 233–235 W. 5th St.
St Paul, *St. Paul City Hall and Ramsey County Courthouse*, 15 W. Kellogg Blvd.

Stevens County

Alberta, *Alberta Teachers House*, Main St.
Morris, *Morris Carnegie Library*, Nevada and 6th Sts.

NEW YORK

Kings County

New York, *Lincoln Club*, 65 Putnam Ave.

New York County

New York, *Fourteenth Ward Industrial School*, 256–258 Mott St.

Richmond County

New York, *Scott-Edwards House*, 752 Delafield Ave.

OHIO

Hamilton County

Cincinnati, *Over-the-Rhine Historic District*, Roughly bounded by Dorsey, Sycamore, Liberty, Reading, Central Pkwy, McMicken Ave., and Vine Sts.

OKLAHOMA

Logan County

Guthrie, *Guthrie Historic District (Amendment)*, Are a roughly bounded by Pine St. College, 14th, Cottonwood Creek and University Ave.

SOUTH CAROLINA

Chester County

Chester, *Kumler Hall (Brainerd Institute)*, Lancaster and Cemetery Sts.

Darlington County

Hartsville, *Coker, J.L., Company Building*, 5th St. and Carolina Ave.

Spartanburg County

Spartanburg, *Hampton Heights Historic District*, Roughly bounded by Spring, Henry, Hydrick, Peronneau Sts., Hampton Dr., and Hampton Ave., (both sides)

TENNESSEE

Jefferson County

Jefferson City vicinity, *Cox's Mill*, N of Jefferson City on Fielden's Store Rd.

Knox County

Knoxville, *Knoxville Business College*, 209 W. Church St.
Knoxville, *Mabry House*, Kingston Pike and Mabry-Hood Rd.
Knoxville, *Mechanics' Bank and Trust Company Building*, 612 S. Gay St.

Madison County

Jackson, *Ross-Sewell House*, 909 Highland Ave.

Madison/Chester Counties

Pinson vicinity, *Pinson Mound*, NE of Pinson off US 45

Marshall County

South Berlin vicinity, *Harris, Robert C., House*, W of South Berlin on TN 50

Obion County

South Fulton, *Morris, W.W., House*, 305 W. State Line Rd.

Roane County

Kingston, *Morgan, Col. Gideon, House*, 149 Kentucky St.

Shelby County

Memphis, *South Parkway—Heiskell Farm Historic District*, S. Parkway E. and E. Parkway S.

UTAH

Cache County

Mendon, *Baker, George Washington, House*, 115 N. 100 West

VERMONT

Windsor County

Barnard vicinity, *Aiken Stand Complex*, E of Bernard off VT 12
South Woodstock vicinity, *Moon, Owen, Farm*, S of South Woodstock off VT 106

COLORADO

Douglas County

Waterton vicinity, *Roxborough State Park Archaeological District*, S of Waterton3

FLORIDA

Orange Couty

Maitland, *Waterhouse, William H., House*, 820 S. Lake Lily Dr.

Volusia County

DeLand, *DeLand Hall*, Stetson University Campus

IDAHO

Clearwater County

Pierce vicinity, *Moore Gulch Chinese Mining Site (10–CW–159),*

INDIANA

St. Joseph County

Mishawaka, *Eller-Hosford House,* 722 Lincoln Way E.

KENTUCKY

Bourbon County

Paris vicinity, *Buckner Site (15BB12),*

Christian County

Hopkinsville vicinity, *McRay Site (15 Ch 139),*

Lyon County

Kuttawa vicinity, *Whalen Site (125–Ly–48),*

Madison County

Richmond vicinity, *Noland Mound (15–Ma–14),*

Marshall County

Benton vicinity, *Archaeological Site 15 M1 100*

MAINE

Androscoggin County

Lewiston, *Atkinson Building,* 220 Lisbon St.

Cumberland County

Portland, *Deering Street Historic District,* Congress, Deering, Mellen, and State Sts.

Hancock County

Deer Isle vicinity, *Sellers, Salome, House,* S of Deer Isle on ME 172

MARYLAND

Baltimore (Independent City)
Chamber of Commerce Building, 17 Commerce St.
Null House, 1037 Hillen St.

Baltimore County

Brooklandville vicinity, *Rockland,* 10214 Falls Rd.

Montgomery County

Dawsonville vicinity, *Susanna Farm,* 17700 White Grounds Rd.

NEBRASKA

Colfax County

Schuyler, *Oak Ballroom, Colfax St.*

Dixon County

Wakefield, *Swedish Evangelical Lutheran Salem Church,* Off NE 35

Otoe County

Nebraska City, *St. Benedict's Catholic Church, 411 5th Rue*

Saunders County

Ashland, *Ashland Public Library (Carnegie),* 207 N. 15th St.
Ashland, *National Bank of Ashland,* 1442 Silver St.
Wahoo, *Hanson, Howard, House,* 12th and Linden Sts.

NEW MEXICO

Mora County

Watrous vicinity, *Kroenig, William Jr., Hay Barns (Watrous MRA),* S of Watrous on I–25
Watrous vicinity, *Kroenig, William Ranch (Watrous MRA),* SW of Watrous off I–25
Watrous vicinity, *La Junta Grist Mill (Watrous MRA),* E of Watrous
Watrous vicinity, *Lynam, Walter W., Ranch House (Watrous MRA),* E of Watrous near Mora River
Watrous vicinity, *Tipton, Enoch, Ranch House (Watrous MRA),* E of Watrous at Mora River
Watrous vicinity, *Tipton, Martha Jane, House (Watrous MRA),* E of Watrous at Mora River
Watrous vicinity, *Watrous, Joseph B., Ranch (Watrous MRA),* S of Watrous on US 85
Watrous vicinity, *Wildenstein, Carl W., House (Gleenwood Farm) (Watrous MRA),* N of Watrous near jct of Mora and Sapello Rivers
Watrous, *Watrous Historic District (Watrous MRA),* US 85

San Miguel County

Watrous vicinity, *Kroenig, William Jr., Hay Barns (Watrous MRA),* S of Watrous off I–25

OKLAHOMA

Hughes County

Holdenville, *Turner, John E., House,* 401 E. 10th St.

SOUTH DAKOTA

Brown County

Aberdeen, *Great Northern Railway Passenger and Freight Depot,* One Court St.
Groton, *Trinity Episcopal Church,* 3rd Ave. E. and 3rd St. N.

Charles Mix County

Platte, *Farmers State Bank of Platte,* 404 N. Main St.

Custer County

Custer vicinity, *Custer State Game Lodge,* E of Custer on US 16–A
Hermosa vicinity, *Custer State Park Museum,* W of Hermosa on US 16–A

Hughes County

Pierre, *Hyde Buildings,* 101½, 105, 106½, and 109 S. Pierre St; and 105½ Capitol Ave.
Pierre, *Soldiers & Sailors World War Memorial,* Capitol Ave.

Moody County

Flandreau, *St. Vincent's Hotel,* 100 North Wind

Tripp County

Winner, *Barnum, E. G., House,* 205 Van Buren

Walworth County

Mobridge, *Brown Palace Hotel,* 301 Main St.

TENNESSEE

Monroe County

Eve Mills, *Fowler, William J., Mill and House,* Sweetwater Rd.

WASHINGTON

King County

Seattle, *Hull Building,* 2401–2405 First Ave.
Seattle, *Queen Anne Club,* 1530 N. Queen Anne Ave.
Seattle, *Times Building,* 414 Olive Way
Seattle, *Wallingford Fire and Police Station,* 1629 N. 45th St.

Pierce County

Tacoma, *Haddaway Hall,* 4301 N. Stevens
Tacoma, *Rhodesleigh,* 10815 Greendale Dr., S.W.
Tacoma, *Y.M.C.A. Building,* 714 Market St.

Spokane County

Spokane, *Hutton Building,* 9 S. Washington St.

Whatcom County

Bellingham, *Donovan, J. J., House,* 1201 Garden St.
Bellingham, *Eldridge Homesite and Mansion,* 2915 Eldridge Ave.
Bellingham, *Flatiron Building,* 1311–1319 Bay St.

[FR Doc. 83–717 Filed 1–10–83; 8:45 am]
BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Research Advisory Committee; Determination

The A.I.D. Research Advisory Committee performs necessary and important functions in connection with the formulation of A.I.D. research policy in evaluating and providing necessary advice concerning the progress and future potential of Agency funded research activities. There continues to be a need for such advisory functions.

Accordingly, I hereby determine, pursuant to the provisions of Section 14(a)(1)(a) of the Federal Advisory Committee Act (Pub. L. 92–463) and paragraph 7 of OMB Circular A–63 (Revised) that renewal of the Research Advisory Committee for a two year period beginning December 24, 1982, is in the public interest.

Dated: November 5, 1982.

M. Peter McPherson,

Administrator.

[FR Doc. 83–694 Filed 1–10–83; 8:45 am]
BILLING CODE 8116–01–M

Advisory Committee on Voluntary Foreign Aid; Determination

The Advisory Committee on Voluntary Foreign Aid serves as an important link between the U.S. Government and the private and voluntary organization community

engaged in foreign assistance activities. The Committee advises A.I.D. on policies and procedures concerning the private and voluntary community; provides a forum for the exploration of topics of mutual concern; provides information, counsel and assistance to private and voluntary organizations; and fosters public interest in the field of voluntary foreign aid. There continues to be a significant need for such liaison and the related functions of the Committee.

Accordingly, I hereby determine, pursuant to the provisions of Section 14(c) of the Federal Advisory Committee Act (Pub. L. 92–463), that continuation of the Advisory Committee for a two-year period, beginning December 31, 1982, is in the public interest.

Dated: November 17, 1982.

M. Peter McPherson,

Administrator.

[FR Doc. 83-665 Filed 1-10-83; 8:45 am]

BILLING CODE 8116-01-M

INTERSTATE COMMERCE COMMISSION

[Docket AB-18 (Sub-45)]

Chesapeake and Ohio Railway Company—Abandonment in City of Hampton, VA; Findings

The Commission has issued a decision approving the Chesapeake and Ohio Railway Company's application to abandon the 1.98 mile segment of its Hampton Branch rail line between milepost 0.66 at or near Fort Monroe to milepost 2.64 in Hampton, all in the City of Hampton, VA. An abandonment certificate will be issued unless the Committee also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued, and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Committee and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Committee, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27 [formerly 49 CFR 11221.38].

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-669 Filed 1-10-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 367]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Douglas Galloway (202) 275–7276
or
Tom Smerdon (202) 275–7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board.[1]	Decided Date
569	The Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0008, Supplement 3, (Copper and copper products)	3	1-4-83
570	Delaware and Hudson Railway Co., ICC-DH-C-0012, (Newsprint and ground wood paper)	1	1-4-83
571	Southern Pacific Transportation Co., ICC-SP-C-0319, (Aluminum Sulphate, liquid)	1	1-4-83
572	Union Pacific Railroad Co., ICC-UP-C-0210, 0211, 0212 and 0213, (Grain)	2	1-4-83
573	Louisville and Nashville Railroad Co., ICC-LN-C-0074, (Grain Products) via Port of Mt Vernon, IN	3	1-4-83
574	Pittsburgh and Lake Erie Railroad Co., ICC-PLE-C-23, (Bituminous steam coal)	1	1-4-83
575	Union Pacific Railroad Co., ICC-UP-C-0165, Supplement 1, (Assembled motor vehicles)	2	1-4-83
577	Missouri Pacific Railroad Co., ICC-MP-C-0158, Supplement 2, (Grain sorghums)	1	1-4-83
578	Atchison, Topeka, and Santa Fe Railway Co., ICC-ATSF-C-0173, (Wheat and sorghum grains) via Ports of Beaumont, Galveston, Houston and Texas City, TX; ICC-ATSF-C-0174 (Wheat and sorghum grains) via Port of Ft. Worth, TX; ICC-ATSF-C-0179, (Wheat, corn, sorghum grains and soybeans) via Ports of Beaumont, Galveston, Houston, and Texas City, TX	2	1-4-83
579	Missouri Pacific Railroad Co., ICC-MP-C-0154, Supplement 6, (Corn grain sorghum, soybeans and wheat) via Gulf ports	3	1-4-83
580	Baltimore and Ohio Railroad Co., ICC-BO-C-0099, 0100, 0101, 0102 and 0103, (Grain and soybeans)	2	1-4-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell. Member Dowell not participating.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-662 Filed 1-10-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30085]

International Telephone & Telegraph Corp.—Control Exemption—O M Scott & Sons

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Interstate Commerce Commission exempts the acquisition of control of O M Scott & Sons by International Telephone & Telegraph Corporation from the requirements of prior approval under 49 U.S.C. 11343.

DATES: This exemption will be effective on February 10, 1983. Petitions for reconsideration must be filed by January 31, 1983, and petitions for stay must be filed by January 21, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Daniel J. Sweeney, 1750 Pennsylvania Ave., N.W., Washington, D.C. 20006

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's Decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423 (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: January 4, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–696 Filed 1–10–83; 8:45 am]

BILLING CODE 7035–01–M

[MC–F–14959]

Itel Corporation—Continuance in Control; Exemption and Application To Control—Itel Transportation Services Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), Itel Corporation, a non-carrier owning 100 percent of the stock of one Class III rail carrier and controlling one Class II and two additional Class III rail carriers, seeks an exemption from the requirement under Section 11343 of prior regulatory approval for its continuance in control of its wholly owned motor carrier subsidiary, Itel Transportation Services Corp. (ITS) (No. MC–162425). Contemporaneously filed with this petition for exemption is an application pursuant to 49 U.S.C. 11343 to control (ITS) and a request for dismissal of that application if the petition for exemption is granted.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: Martin J. Flynn,1800 Massachusetts Avenue, N.W., Washington, D.C. 20036

Comments should refer to No. MC–F–14959.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: December 22, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–706 Filed 1–10–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket 30071]

Waterloo Railroad Company—Abandonment—Waterloo, IA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.* the abandonment by the Waterloo Railroad Company of 1.78 miles of track between milepost 2.20 and milepost 3.98 in Waterloo, IA, subject to conditions for the protection of employees.

DATES: This exemption will be effective on February 10, 1983. Petitions to stay the effectiveness of the decision must be filed by January 21, 1983, and petitions for reconsideration of the decision must be filed by January 31, 1983.

ADDRESSES: Send pleadings to: Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423.

Petitioner's representative: Howard D. Koontz, Waterloo Railroad Company, 233 North Michigan Ave., Chicago, IL 60601.

Pleadings should refer to Finance Docket No. 30071.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: January 4, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–695 Filed 1–10–83; 8:45 am]

BILLING CODE 7035–01–M

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) S.C. (Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell, (202) 275–7236. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Robert Siegel, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395–7313.

Type of Clearance—Extension
Bureau/Office—Bureau of Accounts
Title of Form—Annual Report of Class I and II Motor Carriers of Household Goods
OMB Form No.:—3120–0033
Agency Form No.—Form M–H
Frequency:—Annually
Respondents—Class I and II Motor Carrier of Household Goods
No. of Respondents—188
Total Burden Hrs.—6,580

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–698 Filed 1–10–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume OP4-099]

Motor Carriers; Permanent Authority Decisions; Decision—Notice

Decided: January 3, 1983.

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, Published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision in neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted. Please direct status inquiries to Team Four at (202) 275-7669.

Volume No. OP4-095

Decided: January 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 161447 (Sub-1), filed December 20, 1982. Applicant: CARA-LINES, 500 Devon Ct., Rio Rancho, NM 87124. Representative: Veronica F. DiZinno (same address as applicant), (505) 892-8723. Transporting *lumber and building products*, between points in the U.S. (except AK and HI).

Please direct status inquires about the following to Team 5 at (202) 275-7289.

Volume No. OP5-307

Decided: December 29, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 104149 (Sub-220), filed December 17, 1982. Applicant: OSBORNE TRUCK LINE, INC., 516 North 31st St., Birmingham, AL 35202. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, 703-525-4050. Transporting *such commodities* as are dealt in or used by manufacturers of metal products, between points in the U.S. (except AK and HI) under continuing contract(s) with Copperweld Corporation, of Chicago, IL.

MC 114028 (Sub-53), filed December 17, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Blvd., Dubuque, IA 52001. Representative: Carl L. Steiner, 135 South LaSalle St., Chicago, IL 60603, 312-236-9375. Transporting *pulp, paper and related products*, between points in the U.S. (except AK and HI) under continuing contract(s) with Badger Paper Mills, Inc., of Peshtigo, WI.

MC 128798 (Sub-11), filed September 20, 1982. Applicant: GALASSO TRUCKING, INC., 8 Kilmer Rd., Larchmont, NY 10538. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, 212-838-0800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (excpet AK and HI) under continuing contract(s) with Purex Corporation of Lakewood, CA.

MC 135069 (Sub-8), filed December 17, 1982. Applicant: ROCKAWAY TRUCKING, INC., Rt. 46, P.O. Box 45, Rockaway, NJ 07866. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, 301-797-6060. Transporting *metal products*, between points in the U.S. (except AK and HI) under continuing

contract(s) with Worthington Steel Co., Inc. of Columbus, OH.

MC 145058 (Sub-10), filed December 17, 1982. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., P.O. Box 16707, Greensboro, NC 27406. Representative: Michael F. Morrone, 1150 17th St. N.W., Washington, DC 20036, 202–457–1124. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Armstrong World Industries, Inc., of Lancaster, PA and its subsidiary Thomasville Furniture Industries of Thomasville, NC.

MC 148769 (Sub-7), filed December 13, 1982. Applicant: SHELDON J. GOLDFIN, d.b.a. NEVADA PRODUCE, 2235 Glendale Rd., Sparks, NV 89431. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *building materials*, (1) between points in Lyon County, NV, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, ND, NM, OR, SD, UT, WA, and WY, and (2) between points in Washoe County, NV, on the one hand, and, on the other, points in AZ, CA, ID, OK, OR, TX, UT, and WA.

MC 151299 (Sub-3), filed December 17, 1982. Applicant: DEPPE LUMBER CO., INC., d.b.a. DEPPE ENTERPRISES, 300 Water St., Baraboo, WI 53913. Representative: Richard A. Westley, 4506 Regent St, Suite 100, P.O. Box 5066, Madison, WI 53705–0066, 608–238–3119. Transporting *printed matter*, between points in the U.S. (except AK and HI) under continuing contract(s) with Perry Printing Corporation, of Baraboo, WI.

MC 154629 (Sub-4), filed December 17, 1982. Applicant: GLOBAL DISTRIBUTORS, INC., P.O. Box 335, Riverside Dr., Fultonville, NY 12072. Representative: Vincent Gramuglia (same address as applicant), 518–835–3476. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163068 (Sub-1), filed December 7, 1982. Applicant: H.C. WILLIAMS, JR. TRUCKING CO., INC., P.O. Box 1621, Wilmington, NC 28402. Representative: Henry Clayton Williams, Jr. (same address as applicant), 919–791–5744. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NC, SC, FL, GA, TN, VA, KY, and AL.

MC 163619 (Sub-1), filed December 6, 1982. Applicant: EXECUTIVE AIR COURIER, INC., d.b.a. NATIONAL EXPEDITED DATA EXPRESS, P.O. Box 42338, Philadelphia, PA 19101. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., N.W., Washington, DC 20005, 202–296–5188. Transporting *such commodities* as are dealt in or used by manufacturers distributors, or users of data processors and data processing materials, equipment, and supplies between points in the U.S. (except AK and HI) under continuing contract(s) with manufacturers, distributors, and users of data processors and data processing materials equipment, and supplies.

MC 165179, filed December 10, 1982. Applicant: CHAPARRAL TRUCKING COMPANY, INC., 3003 Titleist St., Spring, TX 77373. Representative: Robert L. Russell, 201 Plaza Verde No. 607, Houston, TX 77038, (713) 447–0424. Transporting (1) *lumber and wood products*, and (2) *metal products*, between those points in the U.S. in and west of MI, OH, KY, TN, GA, and FL (except AK and HI).

MC 165219, filed December 17, 1982. Applicant: JAMES REDMAN, d.b.a. REDMAN AUTO TRANSPORT, 4640 W. 135th St., Crestwood, IL 60445. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, 312–726–6525. Transporting *transportation equipment*, between points in the U.S. (except HI).

MC 165229, filed December 16, 1982. Applicant: W–R TRANSPORT, INC., P.O. Box 828, McPherson, KS 67460. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting (1) *food and related products*, (a) between points in Talladega County, AL, on the one hand, and, on the other, points in KS, MO, OK, and TX; (b) between point in Sedgwick, Reno and McPherson Counties, KS, on the one hand, and, on the other, points in the U.S. (aexcept AK and HI); (2) *paper and paper products, textile mill products* and *rubber and plastic products*, between Kansas City, MO and points in Sedgwick, Reno and McPherson Counties, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165259, filed December 17, 1982. Applicant: HOOVER UNIVERSAL, INCORPORATED, 825 Victors Way, Ann Arbor, MI 48104. Representative: Terrence D. Jones, 2033 K St., NW., Suite 300, Washington, DC 20006, 202–429–9090. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Volume No. OP–5–310

Decided: December 30, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

MC 107339 (Sub-1), filed December 21, 1982. Applicant: DUNLO TRANSFER CO., R.D. No. 7, Box 188, Johnstown, PA 15904. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *metal products*, between points in AL, IL, NJ, OH, and PA on the one hand, and, on the other, points in AL, IL, IN, KY, MI, MN, PA, TN, VA, and WI.

MC 128759 (Sub-5), filed December 21, 1982. Applicant: RICHARDS MOTOR SERVICE, INC., 5040 West 39th St., Cicero, IL 60650. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, 312–298–1094. Transporting *chemicals or allied products, petroleum or coal products*, and *commodities in bulk*, between points in the U.S. (except AK and HI).

MC 143259 (Sub-7), filed November 26, 1982. Applicant: TOM DURKIN, d.b.a. TOM DURKIN TRUCKING, 36 East Chestnut St., Walla Walla, WA 99362. Representative: Steve Van Wyk, 12012 NE. Lonetree, Poulsbo, WA 98370, (206) 779–5789. Transporting *building materials, metal products, insulation, and floor covering materials*, between points in the U.S. (except AK and HI).

MC 145768 (Sub-8), filed December 20, 1982. Applicant: KREILKAMP TRUCKING, INC., Route No. 1, Allenton, WI 53002. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge No. 832, Portage, WI 53901, (608) 742–3579. Transporting *buildings and building materials*, between points in Wayne, Knox, Montgomery, Effingham and Lee Counties, IL, Fayette, Story, Union and Johnson Counties, IA, Scott County, MO, Warren and Anderson Counties, KY, St. Joseph County, IN, Lawrence County, AR, Washington, County, LA, Dodge County, MN, and points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145779 (Sub-3), filed December 20, 1982. Applicant: OIL SERVICE COMPANY, INC., Route 3, Petty Lane, Columbia, TN 38401. Representative: Edward C. Blank II, P.O. Box 1004, Columbia, TN 38401, (615) 388–3200. Transporting *Petroleum and petroleum products*, between points in Fort Bend, Brazaria, Galveston, Harris, Chambers, Montgomery, Liberty, Hardin, Jacinto, Orange and Jefferson Counties, TX,

Cameron, Calcasieu, Jefferson Davis, East Baton Rouge, West Baton Rouge, Lafayette, and Acadia Parishes, LA, and points in AL, TN, and KY.

MC 146889 (Sub-7), filed December 20, 1982. Applicant: CARRIER FREIGHT LINES, INC., P.O. Box 812, Hickory, NC 28601. Representative: William P. Farthing, Jr., 1100 Cameron–Brown Bldg., Charlotte, NC 28204, 704–372–6730. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ingersoll-Rand Company of Mockville, NC.

MC 148939, filed December 20, 1982. Applicant: AREA WHOLESALE TIRE CO., INC., P.O. Box 2723, Baton Rouge, LA 70821. Representative: C. R. Potter (same address as applicant), 504–356–2548. Transporting *crude synthetic rubber*, between Baton Rouge, LA, on the one hand, and, on the other, points in Madison County, AL, under continuing contract(s) with Dunlop Tire Company, Division of Dunlop Tire and Rubber Corporation, of Buffalo, NY.

MC 149288 (Sub-4), filed December 21, 1982. Applicant: TRIPLE A DELIVERY SERVICE, INC., 244 W. Main St., Groveport, OH 43125. Representative: Philip B. Cochran, 50 W. Broad St., Columbus, OH 43215, 614–464–4103. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 150589 (Sub-9), filed December 17, 1982. Applicant: J & K TRANSPORTATION COMPANY, INC., 1600 Industrial, Dearborn, MI 48120. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, DC 20036, 202–457–1124. Transporting *cleaning and scouring compounds*, between points in the U.S. (except AK and HI), under continuing contract(s) with The Korex Company, of Wixom, MI.

MC 150618 (Sub-4), filed December 21, 1982. Applicant: SUSQUEHANNA TRANSPORTATION, INC., 7400 So. Alton Ct., Englewood, CO 80112. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 151139 (Sub-2), filed December 21, 1982. Applicant: CELESTIAL TRANSPORT, INC., 1780 55th St., Boulder, CO 80301. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202–3357, (303) 892–6700. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of solar products, between points in the U.S. (except AK and HI), under continuing contract(s) with Terra-Light, Division of Butler Manufacturing Co., Inc., of Danvers, MA.

MC 151899 (Sub–7), filed December 20, 1982. Applicant: BLACKHAWK EXPRESS, INC., 235 Hake St., Fort Atkinson, WI 53538. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, 312–782–8880. Transporting *such commodities* as are used or dealt in by manufacturers and distributors of shelving and storage systems, between points in the U.S. (except AK and HI), under continuing contract(s) with Spacesaver Corporation of Fort Atkinson, WI and Andrew Wilson Co., of Lawrence, MA.

MC 159639 (Sub–3), filed December 21, 1982. Applicant: FLA–TEX, INC., 195 North Riflerange Rd., Bartow, FL 33830. Representative: David Thompson, P.O. Box 631, Pharr, TX 78577, (512) 787–5951. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 165289, filed December 20, 1982. Applicant: QUALITY COAL CORPORATION, P.O. Box 1966, Greenville, SC 29602. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, (803) 288–6000. Transporting (1) *coal*, between points in Bell, Clay, Harlan, and Knox Counties, KY, and Scott County, TN, on the one hand, and, on the other, points in NC and SC, and (2) *sand*, between points in Lexington County, SC, on the one hand, and, on the other, points in KY and TN.

MC 165329, filed December 21, 1982. Applicant: CAL–USA TRUCKING, 1720 Cumbre Dr., San Pedro, CA 90732. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006, (202) 466–3778. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–701 Filed 1–10–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82–33358 beginning on page 55329 in the issue of Wednesday, December 8, 1982, on page 55331, in the first column, in paragraph "MC 162575 (Sub-4), in the fifth line "1619 Pennsylvania" should read "1919 Pennsylvania".

BILLING CODE 1505–01–M

DEPARTMENT OF JUSTICE

Justice-Treasury Advisory Committee on State and Local Law Enforcement Training

The Justice-Treasury Advisory Committee on State and Local Law Enforcement Training will conduct its final meeting on Thursday, January 20, 1983, from 8:30 am until 4:30 pm in the Tom Steed Building, Room S–9, at the Federal Law Enforcement Training Center (FLETC), Glynco, Georgia.

The meeting will review the pilot of the State and Local Law Enforcement Training Program conducted by FLETC and participating Federal agencies. Also, the Committee will review the draft final report of the pilot training program. A status report on National Association of State Directors of Law Enforcement Training certification of pilot training. Review the announced establishment of the National Center of State and Local Law Enforcement at FLETC.

The meeting will be open to the public. Approximately 100 seats will be available for the public and the media representation on a first-come first-served basis.

Inquiries or comments may be addressed to the Committee Management Liaison Officer, Justice-Treasury State and Local Law Enforcement Training Program, Office of the Associate Attorney General, U.S. Department of Justice, Room 4119, Washington, DC 20530. (Committee Management Liaison Officer's telephone number is 202/566–4086 or the FLETC Coordinator's telephone number is 912/267–2226.

George H. Bohlinger III,

Executive Director, Justice-Treasury Advisory Committee.

[FR Doc. 83–720 Filed 1–10–83; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-13,990]

Clark Equipment Co., Jackson, Mich., Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 30, 1982 in response to a petition received on November 19, 1982 which was filed by the Allied Industrial Workers of America on behalf of workers at the Jackson, Michigan plant of Clark Equipment Company. Workers at the Jackson, Michigan plant produce heavy vehicle transmissions, torque converters and winches.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-13,579). Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 4th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-747 Filed 1-10-83; 8:45 am]

BILLING CODE 4510-30-M

Certifications Regarding Illinois and Massachusetts Under the Federal Unemployment Tax Act

The Secretary of Labor has certified to the Secretary of the Treasury the States of Illinois and Massachusetts and their unemployment compensation laws under Sections 3304 and 3303 of the Federal Unemployment Tax Act for the taxable year 1982. The certifications were made in a letter of December 31, 1982 to the Secretary of the Treasury, which is printed below.

Albert Angrisani,

Assistant Secretary for Labor.

December 31,1982.

Honorable Donald T. Regan,
Secretary of the Treasury, Washington, D.C.

Dear Don: On October 31, 1982, I forwarded to you the 1982 certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 et seq., listing the States that were certified under Section 3304(c) of the Act and the States whose unemployment compensation laws were certified under Section 3303(b)(1) of the Act.

Among the States omitted from the listings in those certifications were Illinois and Massachusetts. I have determined that the State of Illinois and its unemployment compensation law are now certifiable for 1982 under Sections 3304(c) and 3303(b)(1) of the Federal Unemployment Tax Act, and I hereby so certify to you effective October 31, 1982.

I have also determined that the State of Massachusetts and its umemployment compensation law are now cetifiable for 1982 under Sections 3304(c) and 3303(b)(1) of the Federal Unemployment Tax Act, and I hereby so certify to you as of this date.

Sincerely,

Raymond J. Donovan.

[FR Doc. 83-748 Filed 1-10-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like to directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,352; Rob-Anne Sportswear, Chester, PA

TA-W-13,343; Carnivale Bag Co., Inc., Brooklyn, NY

TA-W-13,174; May Knitting Co., Inc., New York, NY

In the following case the investigation revealed that criterion (3) had not been met for the reason specified.

TA-W-13,394; United Technologies Corp., Automotive Products Div., Picayune, MS

Imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-13,393; United Speaker Systems, East Orange, NJ

A certification was issued in response to a petition received on April 7, 1982 covering all workers separated on or after May 1, 1982 and before October 1, 1982.

TA-W-13,383; Schwinn Bicycle Co., Chicago, IL

A certification was issued in response to a petition received on March 29, 1982 covering all workers separated on or after March 15, 1981 and before November 30, 1981.

TA-W-13,338; Webster Manufacturing Co., Tiffin, OH

A certification was issued in response to a petition received on February 10, 1982 covering all workers separated on or after January 1, 1982.

TA-W-13,184; SKW Alloys, Inc., Calvert City, KY

A certification was issued in response to a petition received on January 13, 1982 covering all workers producing ferrosilicon who became separated on or after April 1, 1981 and all workers producing silicomanganese who become separated on or after October 1, 1981.

TA-W-13,275; J.F. McElwain Co., C. Factory, Nashua, NH

A certification was issued in response to a petition received on February 10, 1982 covering all workers separated on or after September 27, 1981 and before May 15, 1982.

I hereby certify that the aforementioned determinations were issued during the period December 27, 1982–December 31, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 4, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-746 Filed 1-10-83; 8:45 am]

BILLING CODE 4510-30-M

Wage and Hour Division

Certificates Authorizing the Employment of Learners at Special Minimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and

Administrative Order No. 1–76 (41 FR 18949), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

The following certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.20 to 522.25, as amended). The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Flushing Shirt Mfg. Co., Inc., Frostburg, MD; 9–24–82 to 9–23–83; 10 learners. (Men's shirts)

Franklin Ferguson Co., Inc., Florala, AL; 12–19–82 to 12–18–83. (Men's and boys' shirts)

McCreary Mfg. Co., Stearns, KY; 12–8–82 to 12–7–83. (Men's shirts)

Monticello Mfg. Co., Inc., Monticello, KY; 12–8–82 to 12–7–83 (Men's and boys' shirts)

The following certificate was issued under the knitted wear industry regulations (29 CFR 522.1 to 522.9, as amended and 522.30 to 522.35, as amended.)

Junior Form Lingerie Inc., Boswell, PA; 10–11–82 to 10–10–83; 5 percent of the total number of factory production workers for normal labor turnover purpose. (Ladies' underwear and sleepwear)

The following certificate was issued under the glove industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.60 to 522.65 as amended).

Burnham-Edina Mfg. Co., Edina, MO; 11–8–82 to 11–7–83; 5 learners for normal labor turnover purposes. (Work gloves)

Each learner certificate has been issued upon the representations of the employer which, among other things were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available.

The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before January 26, 1983.

Signed at Washigton, D.C., this 6th day of January 1983.

Arthur H. Korn,

Authorized Representative of the Administrator.

[FR Doc. 83–749 Filed 1–10–83; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83–4]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety advisory Panel.

DATE AND TIME: February 8, 1983, 2 p.m. to 4 p.m.

ADDRESS: National Aeronautics and Space Administration, Review Center Room 7002, 400 Maryland Avenue SW., Federal Building 6, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert L. Roth, Code LB–4 National Aeronautics and Space Administration, Washington, DC 20546 (202/755–8380).

SUPPLEMENTARY INFORMATION: The Panel will present its annual report to the NASA Administrator. This is pursuant to carrying out its statutory duties for which the Panel reviews, evaluates, and advises on those program activities, systems, procedures, and management policies that contribute to risk and the identification and assessment of these for management. Priority is given to those programs that involve the safety of manned flight. The major subjects will be the Space Shuttle Program, Space Flight Operations, and Aeronautical Operations.

TYPE OF MEETING: Open.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

January 4, 1983.

[FR Doc. 83–639 Filed 1–10–83; 8:45 am]

BILLING CODE 7510–01–M

[Notice 83–5]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Subcommittee on Aviation Safety Reporting System (ASRS).

DATE AND TIME: February 2, 1983, 9 a.m. to 5 p.m.; February 3, 1983, 9 a.m. to 12 noon.

ADDRESS: National Aeronautics and Space Administration, Ames Research Center, Building 245, Auditorium, Moffett Field, CA.

FOR FURTHER INFORMATION CONTACT: Mr. William Reynard, National Aeronautics and Space Administration, Ames Research Center, Code LMS, Moffett Field, CA 94035 (415/965–6467).

SUPPLEMENTARY INFORMATION: The Subcommittee on ASRS was established to review the ASRS Operations and NASA actions taken in response to Subcommittee recommendations. The Subcommittee, chaired by Mr. John Winant, is comprised of nine members. The meeting will be open to the public up to the seating capacity of the room (approximately 90 persons including the Subcommittee members and participants).

TYPE OF MEETING: Open.

Agenda

February 2, 1983

9 a.m.—Chairperson's Remarks.
10 a.m.—Operations Report.
11 a.m.—Research Report.
1 p.m.—Federal Aviation Administration Comments.
2 p.m—Research Workshop Proposal.
3 p.m.—Review Proposed FAA/NASA Memorandum of Agreement.
4 p.m—Advisory Subcommittee Membership.
5 p.m.—Adjourn.

February 3, 1983

9 a.m.—Discussion of Database Modifications.
11 a.m.—New Business.

12 p.m.—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

January 4, 1983.

[FR Doc. 83-640 Filed 1-10-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice 83-3]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force for the Study of the Mission of NASA.

DATE AND TIME: January 26, 1983, 9 a.m. to 4 p.m.

ADDRESS: NASA Headquarters, Room 7002, 400 Maryland Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code LB–4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–8383).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force for the Study of the Mission of NASA was established under the NASA Advisory Council to conduct a study of the directions NASA should take in the future (including goals, programmatic objectives, and possible missions) and to report its findings and recommendations to the Council. The Task Force is chaired by Dr. George E. Solomon, and has a total of 14 members.

The meeting will be closed to the public because, throughout its extent, the members will be discussing the qualifications of candidates to participate in the study either as additional Task Force members or as other contributors, along with completing plans for the conduct of the balance of the study. Because this session will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this session should be closed to the public.

TYPE OF MEETING: Closed.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

January 5, 1983.

[FR Doc. 83-688 Filed 1-10-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice 83-2]

NASA Advisory Council (NAC), Life Sciences Advisory Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life Sciences Advisory Committee (LSAC).

DATE AND TIME: January 17–18, 1983, 8:30 a.m. to 5 p.m. each day, and January 19, 8:30 a.m. to 12 noon.

ADDRESS: National Aeronautics and Space Administration, Johnson Space Center, Bldg. 1, Room 860, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Dr. William P. Bishop, Code EB–3, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–8220).

SUPPLEMENTARY INFORMATION: The Life Sciences Advisory Committee consults with and advises the Council and NASA on the accomplishments and plans of NASA's Life Sciences Programs. The Committee, chaired by Peter Dews is comprised of 12 members. The meeting will be open to the public up to the seating capacity of the room (approximately 30 persons including Committee members and participants).

This meeting must be held at this time in order to facilitate the start of a new program in Space Adaptation Syndrome. The Committee will review Johnson Space Center (JSC) in-house work and give advice for the next phase of planned activities. The Committee will also review the NASA-wide program plan and give advice to the Headquarters division regarding priorities and ways to strengthen the plan. The start of this program is of immediate importance to the Agency.

No other time in the month of January would allow a suitable number of participants to attend.

TYPE OF MEETING: Open.

January 17, 1983

8:30 a.m.—Welcome.
8:45 a.m.—Committee Business.
9:15 a.m.—JSC Life Sciences Program.
5 p.m.—Adjourn.

January 18, 1983

8:30 a.m.—Space Adaptation Syndrome.
11 a.m.—Vestibular Laboratory Tour.
1 p.m.—Plans for Vestibular Program.
3 p.m.—STS–5/6 Detailed Technological Objectives (DTO's).
5 p.m.—Adjourn.

January 19, 1983

8:30 a.m.—Tours of JSC STS Facilities.
12 noon—Adjourn.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

January 4, 1983.

[FR Doc. 83-641 Filed 1-10-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services

Museum Services Program; General Operating and Special Project Support Awards

AGENCY: Institute of Museum Services.

ACTION: Application notice for fiscal year 1983.

This program announcement applies only to General Operating and Special Project Support grants.

Applications are invited by the Institute of Museum Services (IMS) for General Operating and Special Project Support awards under the Museum Services Program for Fiscal Year 1983.

IMS makes awards to museums to maintain, increase, or improve museum services and to carry out exemplary projects. The purpose of these awards is to ease the financial burden borne by museums as a result of their increased use by the public and to help them carry out their educational and conservation roles, as well as other functions. Section 206 of the Museum Services Act, Title II of Pub. L. 94–462, as amended, contains authority for this program.

(20 U.S.C. 965)

Deadline Date for Transmittal of Applications

An application for a new grant must be mailed or hand-delivered by March 15, 1983.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 45.301, Washington, D.C. 20202.

An applicant must be prepared to show one of the following as proof of timely mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director of IMS.

If an application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not date-cancelled by the U.S. Postal Service.

Applications Delivered by Hand

An application that is hand-delivered must be taken to: Application Control Center, GSA Regional Office Building 3, 7th and D Streets, S.W., Room 5673, Washington, D.C. 20202.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the deadline date.

Program Information

Program information is contained in the proposed regulations published on December 21, 1982 in 47 FR 56871 and in the application forms and accompanying instructions in the Application Packet. See paragraph on *Application Forms*.

For Fiscal Year 1983; in the case of Special Project applications, priority is given to applications for (1) projects involving innovative fund raising and financial development activities, and (2) projects involving innovative cooperative endeavors among groups of museums (45 CFR 1180.12(b)).

Available Funds

An appropriation for the Institute of Museum Services for Fiscal Year 1983 is contained in the Department of the Interior and Related Agencies Appropriation Act, 1983, Pub. L. 87–394 (December 30, 1982). This Act appropriates $10,800,000 for the IMS for Fiscal Year 1983 of which $10,154,000 is available for General Operating Support grants. In addition, Pub. L. 97–257, the Supplemental Appropriations Act, 1982, makes available, through Fiscal Year 1983, $720,000. Accompanying report language indicates that at least $645,000 of this amount is intended for Special Project grants. S. Rept. 97–516, 97th Congress, 2d Sess. 117 (1982).

The proposed regulations provide that, in view of limited funds, it is anticipated that no museum will receive more than $50,000 under the Act for Fiscal Year 1983 and that most museums which are funded will receive a smaller amount (45 FR 1180.9). In addition, the regulations provide that IMS normally does not make grants for more than 10 percent of a museum's most recently completed fiscal year's actual operating budget. (See 45 CFR 1180.16(b))

Application Forms

IMS is mailing application forms and program information in an Application Packet to museums and other institutions and service organizations on its mailing list. Applicants may obtain Application Packets by writing to the Institute of Museum Services, Mary Switzer Building, 330 C Street, S.W., Room 4006, Washington, D.C. 20202.

Applicable Regulations

Proposed regulations for the General Operating Support and Special Project Support grant programs were published in the **Federal Register** on December 21, 1982 in 47 FR 56871. These regulations, together with applicable statutory provisions, and the requirements set forth in the Application Packet will constitute the frame of reference for considering applications for Fiscal Year 1983 grants. It is anticipated that the regulations will be published in final form prior to the end of Fiscal Year 1983 and before grants are awarded.

Further Information

For further information contact Mary Kahn, Grants Director, Institute of Museum Services, Mary Switzer Building, Room 4006, 330 C Street, S.W., Washington, D.C. 20202. Telephone: (202) 426–6577.

(Catalog of Federal Domestic Assistance No. 45.301 Institute of Museum Services)

Dated: January 5, 1983.

Lilla Tower,

Director, Institute of Museum Services.

[FR Doc. 83–737 Filed 1–10–83; 8:45 am]

BILLING CODE 4000–01–M

National Council on the Arts, Office for Partnership Panel (State Programs); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Office for Partnership Panel (State Programs) to the National Council on the Arts will be held on January 26–28, 1983 from 9:00 a.m.–5:00 p.m. Columbia Plaza Office Building, 2401 E Street, NW., room 1422, Washington, D.C.

A portion of this meeting will be open to the public on Wed., January 26, 1983 from 9:00–10:00 a.m.; Thursday, Jan. 27, 1983 from 9:00–10:30 a.m. & Friday, Jan. 28, 1983 from 9:00 a.m.–5:00 p.m. Topics for discussion will include orientation, discussion of applications referred by subgroups, application review of service organizations & guidelines.

The remaining sessions of this meeting on Wed., Jan. 26, 1983 from 10:00 a.m.–5:00 p.m. and Thurs., Jan. 27, 1983 from 10:30 a.m.–5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–709 Filed 1–10–83; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–324, 50–325; License Nos. DPR–62, DPR–71; EA–82–106]

Carolina Power and Light Co., Brunswick Steam Electric Plant (Units 1 and 2); Confirmatory Order

I

The Carolina Power and Light Co. (CP&L, the "licensee") is the holder of Facility Operating License Nos. DPR–62, and DPR–71 (the "licenses") which authorize the operation of the Brunswick Steam Electric Plant, Units 1 and 2, at steady state reactor core power levels not in excess of 2436 megawatts thermal (rated power). The licenses were originally issued on December 27, 1974 for Unit 2 and September 8, 1976 for Unit 1, and will expire on February 6, 2010 and February 7, 2010 respectively. The facility consists of two boiling light water moderated and cooled reactors (BWRs), located at the licensee's site at Southport, North Carolina.

II

On June 28, 1982, while operating at 80% power, Unit 1 reactor lost voltage to certain emergency electrical busses and

tripped. It was returned to power on June 29. The licensee's post-trip evaluation of the event revealed that certain relays associated with the emergency electrical busses of Units 1 and 2, although they functioned properly, had not been tested or calibrated as required by the NRC. On June 30, the licensee requested and was granted, NRC approval for continued operation of Unit 1 while the required tests and calibrations were being performed. On July 2, NRC Region II issued a Confirmation of Action Letter confirming the licensee's commitment to review Technical Specification testing and calibration requirements and the control systems for assuring that these NRC requirements were met.

On July 15, 1982, Region II was informed that the licensee's review of Technical Specification requirements revealed that additional NRC testing requirements were not met. The testing requirements involved limiting conditions for operation which require plant shutdown within a certain time period if the tests are not conducted satisfactorily. Upon detection of these missed tests, the licensee wrote the necessary procedures and conducted the required tests. The test results showed that the equipment would have functioned properly if called upon to operate.

On July 16, 1982, NRC inspectors on site informed CP&L that containment leakage tests of certain penetrations and valves had not been conducted at the required frequency on Unit 1. On receipt of this information, CP&L determined that the required surveillance testing could not be conducted in a timely manner and Unit 1 was shut down. The licensee had identified in June 1982 its failure to perform the same leakage tests on the same valves on Unit 2. The Region II Administrator and the Executive Vice President of CP&L discussed the situation by telephone. It was agreed that neither unit would be operated until the licensee had completed a comprehensive review of Technical Specification requirements, corrected such violations as might be disclosed by the review, identified the root causes of the violations, and presented the NRC with a proposed revision of its programs to prevent recurrence of similar violations.

On July 20, 1982, NRC Region II issued a Confirmation of Action Letter which confirmed the broad commitments made by the licensee in several previous communciations. This letter covered: certain specific assignments of responsibility for the Corporate Nuclear Safety and Corporate Quality Assurance (QA) staffs; implementation of an extensive training program; assignment of a full-time corporate representative on site; establishment of a special corporate panel to review the adequacy of committed corrective actions; and formal notification of Region II before resumption of Unit 1 or Unit 2 power operation.

On August 24, 1982, an Enforcement Conference was held at the Region II office. The Region II Administrator, together with senior Inspection and Enforcement (IE) and Nuclear Reactor Regulation (NRR) officials, reviewed with senior CP&L representatives the NRC inspection findings relating to the facts disclosed since June 28, 1982, expressed NRC concerns about the failure of CP&L controls to prevent the violations indicated by the findings, and asked the licensee what actions had been taken or were planned to establish effective management systems to control safety-related activities. The Executive Vice President of CP&L presented recommendations and conclusions developed by its staff and reviewed by a panel of senior management officers from the nuclear power industry, retained by CP&L to review the adequacy and completeness of actions taken and planned by CP&L and to recommend additional management actions which may be appropriate to assure future compliance with NRC requirements. The Executive Vice President detailed the actions taken by CP&L to implement these recommendations and described actions taken or planned to meet each item identified in Region II Confirmation of Action Letters dated July 2 and July 20, 1982. Beyond the commitments previously made, the licensee described a longer range program involving extensive reassignments of corporate and facility staff responsibilities for achieving early and long-range improvement in overall management and operations. The management structure for monitoring the improvement program was presented in detail. The individual responsible for each program objective was named; his task was stated and the expected date of task completion was specified. The current status of achievement of the program objectives was also described. The licensee stated that commitments made during the conference and its improvement program would be further developed to assure completeness, and that the program would be submitted in a report to the Region II Administrator by November 1, 12982.

By letter dated October 29, 1982, the licensee described the improvement program and provided the implementation plan for: Ensuring safety and operating efficiency at Brunswick; strengthening management control; reinforcing discipline of operations, procedural compliance, and regulatory sensitivity, focusing attention and resources on long-term needs; and ensuring implementation of specific improvements. In view of the importance of these issues to safe operation, I have determined that these commitments are required in the interest of public health and safety and, therefore, should be confirmed by an immediately effective Order.

III

Accordingly, pursuant to Sections 103, 161i(3), and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Part 2 and 10 CFR Part 50, it is hereby ordered effective immediately that:

1. The licensee shall implement the Brunswick Improvement Program described in the enclosure to its October 29, 1982, letter to the NRC; a copy of the enclosure is included herein as Attachment 1. The scheduled times for completing specific action item tasks described in the enclosure may be shortened, but shall not be extended without prior written approval by the Region II Administrator. The licensee shall notify the Region II Administrator, within 20 days following the effective date of this Order, of any action item tasks for which scheduled completion dates preceding the date of this Order were not met and establish new completion dates, which are acceptable to the Region II Administrator, for those tasks.

2. Following completion of the reviews and assessments identified in Action Items V–5 and VII–1 through VII–5 of the Brunswick Improvement Program, the licensee shall promptly provide copies of all applicable reports on such studies and assessments to the NRC Region II Administrator. Within 60 days from the date that such reports are available to the license, the licensee shall inform the Regional Administrator, in writing, of its assessment of each recommendation provided in the reports. The licensee shall include its plans and schedules for implementing each recommendation and, for any recommendation which the licensee decides not to implement, an evaluation which supports that decision. The licensee's plans and schedules for implementation of the recommendations shall be subject to the approval of the Regional Administrator. The scheduled times for completion of actions may be shortened, but shall not be extended

without prior written approval by the Region II Administrator.

IV

The licensee may request a hearing on this Order within 30 days of its issuance. A request for a hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address. Any request for a hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be:

Whether, on the basis of the matters set forth in Sections II and III of this Order, this Order should be sustained.

In the event that a need for further action becomes apparent, either in the course of proceedings on this Order or at any other time, the Director will take appropriate action.

It is so ordered.

Dated at Bethesda, Md., this 22nd day of December 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-741 Filed 1-10-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261-OLA; ASLBP No. 83-484-03 LA]

Carolina Power and Light Co.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Carolina Power and Light Co., H.B. Robinson Steam Electric Plant, Unit No. 2, Facility Operating License No. DPR-23

This Board is being established pursuant to a notice published by the Commission on November 24, 1982, in the **Federal Register** (47 FR 53157-58) entitled, "Proposed Issuance of Amendment to Facility Operating License." The proposed amendment would revise the conditions of the operating license to permit repair of steam generators.

The Board is comprised of the following Administrative Judges:

Morton B. Margulies, Chairman, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Jerry R. Kline, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. David L. Hetrick, Professor of Nuclear Engineering, University of Arizona, Tuscon, Arizona 85721

Issued at Bethesda Md., this 5th day of January, 1983.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 83-745 Filed 1-10-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331; License No. DPR-49; EA 82-90]

Iowa Electric Light and Power Co. (Duane Arnold Energy Center); Order Imposing Civil Monetary Penalties

I

Iowa Electric Light and Power Co. (the "licensee") is the holder of Operating License No. DPR-49 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). This license authorizes the operation of the Duane Arnold Energy Center near Palo, IA. This license was issued on February 22, 1984.

II

As a result of a special inspection of the licensee's facilities by the Nuclear Regulatory Commission's Region III Office during the period March 15 through May 12, 1982, the NRC staff determined that the licensee did not adequately ensure that post-maintenance testing was completed after maintenance was performed on safety-related equipment. As a result, the inoperability of an emergency diesel generator that resulted from the change of fuel oil filters went undetected for 18 days. The NRC served the licensee a written Notice of Violation and Proposed Imposition of Civil Penalties by letter dated August 13, 1982. The Notice stated the nature of the violations, the provisions of the Atomic Energy Act, the Nuclear Regulatory Commission's regulations or license conditions that were violated, and the amount of the civil penalty proposed for each violation. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties by letter dated September 13, 1982.

III

After consideration of Iowa Electric Light and Power Company's response (September 13, 1982) and the statements of fact, explanation, and argument in denial or mitigation contained therein as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement determined that, with the exception of Item A.2, the violations did occur as set forth in the Notice of Violation. The proposed civil penalty for Items A.1, A.2, A.3, and A.4 was based on serious weaknesses in the management systems that are designed to ensure post-maintenance testing is performed on a safety-related system. After consideration of the licensee's response to Item A.2, this item is being withdrawn. However, in view of the significance of Items A.1, A.3, and A.4 that were based on the primary finding of the diesel generator inoperability, the amount of civil penalties proposed in the Notice of Violation has not changed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, Pub. L. 96-295, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the total amount of Forty Thousand dollars within thirty days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may within thirty days of the date of this Order request a hearing. Such request shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Should the licensee fail to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties dated August 13, 1982, as amended by this Order, and

(b) Whether on the basis of such violations this Order should be sustained.

Dated at Bethesda, Md., this 27th day of December 1982.

For the Nuclear Regulatory Commission.

James H. Sniezek,

Acting Director, Office of Inspection and Enforcement.

APPENDIX—EVALUATIONS AND CONCLUSIONS

I

Each item of noncompliance and associated civil penalty identified in the Notice of Violation (dated August 13, 1982), which was denied by the licensee, is restated below. The NRC's evaluation of the licensee's response is presented, followed by conclusions regarding the occurrence of the noncompliance and the proposed civil penalty.

Item A

Statement of Noncompliance

Technical Specification 3.5.G.1 requires in part that, during any period when one diesel generator is inoperable, continued reactor operation is permissible only during the succeeding seven days unless such diesel generator is sooner made operable, provided that all the low-pressure core and containment cooling subsystems and the remaining diesel generator shall be operable. If this requirement cannot be met, an orderly shutdown shall be initiated and the reactor shall be placed in the cold shutdown condition within 24 hours.

Technical Specification 3.5.A.3 requires in part that the low-pressure coolant injection (LPCI) subsystems shall be operable whenever irradiated fuel is in the reactor vessel, and before reactor startup from a cold condition.

Technical Specification 3.7.B.1 requires in part that both trains of the standby gas treatment system and the diesel generators required for operation of such trains shall be operable at all times when secondary containment integrity is required.

Technical Specification 3.5.D.2 requires that from and after the date that the high-pressure coolant injection (HPCI) subsystem is made inoperable or is found to be inoperable for any reason, continued reactor operation is permissible only during the succeeding seven days unless such subsystem is sooner made operable, provided that during these seven days all active components of the automatic depressurization system (ADS) subsystem, the reactor core isolation cooling (RCIC) system, the LPCI subsystem and both core spray subsystems are operable.

Contrary to the above:

1. From February 25 to March 15, 1982, the 1G–21 diesel generator was inoperable because its start time was 30 seconds, as compared with the design value of 10 seconds.

2. On February 25, 1982, from 11:00 a.m. to 10:58 p.m., both LPCI subsystems were inoperable (hangers were taken out of service in "A" train; 1G–21 diesel generator, which supplies emergency power to "B" train was inoperable).

3. From March 2 to March 8, 1982, both standby gas treatment systems were inoperable (wet charcoal in "A" train; 1G–21 diesel generator, which supplies emergency power to "B" train, was inoperable).

4. From 1:49 p.m. on March 5, 1982 to 10:04 p.m. on March 6, 1982, HPCI was inoperable and the "B" core spray subsystem was inoperable because the 1G–21 diesel generator was inoperable.

This is a Severity Level III violation (Supplement I). (Civil Penalty—$30,000)

Evaluation of Licensee's Response

The licensee admits that Items A.1 and A.3 did occur as stated in the Notice of Violation. The licensee contends that Items A.2 and A.4 are not violations of the Technical Specifications.

The Staff agrees with the licensee's contention concerning Item A.2. No violation of Technical Specification 3.5.A.3 took place because a 24–hour limiting condition for operation (LCO) was declared at 3:23 a.m. on February 25, 1982 lasting until 10:58 p.m., and a power reduction was initiated as required by Technical Specification 3.5.A.6.

Concerning Item A.4, the licensee focused its response on the definitions of operable and LCO which were contained in Amendment No. 77 to the facility's operating license. The licensee contends that this license amendment allows the "B" core spray subsystem to be considered operable for purposes of the applicable LCO, and thus, Technical Specification 3.5.D.2 was not violated. Amendment No. 77 to Operating License No. DPR–49 was issued in June 1982. Item A.4 which occurred in March 1982 violated the Tehnical Spectifications that were in effect at the time of the event.

The licensee further contends that the severity level for Items A.1 and A.3 should be downgraded to Severity Level IV on the basis that the degraded condition of the emergency power system did not result in a loss of safety function. 10 CFR 2, Appendix C. Supplement I.C.1 defines Severity Level III violations for reactor operations as those (1) exceeding an LCO, (2) where the appropriate Action Statement was not satisfied, (3) which resulted in a degraded condition, and (4) for which sufficient information existed to alert the licensee that an Action Statement had to be satisfied. Items A.1, A.3, and A.4 meet these criteria. Maintenance had left the diesel generator in a degraded condition and the licensee failed to detect the problem due to inadequate postmaintenance testing. Had be conducted adequate post-maintenance testing he would have been aware of the degraded conditions.

The civil penalty was proposed for this event in order to emphasize the need for the licensee to improve its controls over licensed activities. This event occurred as a result of the lack of adequate management controls to ensure that post-maintenance testing would be performed following maintenance on a diesel generator. Items A.2, A.3, and A.4 were the result of the disel generator inoperability, Item A.1. Retraction of Item A.2 does not provide a basis for mitigating the civil penalty.

Conclusion

Information supplied in the licensee's response provides a basis for retracting Items A.2; however, it provides no basis for downgrading the severity level of Items A.1, A.3, and A.4 or for mitigating the proposed penalty.

Item B

Statement of Noncompliance

Technical Specification 6.8.1 states in part, "Detailed written procedures involving nuclear safety. . . covering areas listed below shall be adhered to." Item 1 requires procedures for "Normal startup, operation, and shutdown of systems and components of the facility." Item 5 requires procedures for "Preventative and corrective maintenance operations which could have an effect on the nuclear safety of the facility."

Administrative Control Procedure 1401.4, "Control of Plant Work," Item 6.20.5.1 states, "Describe the reason for deferring testing on Line 8 of the inspection and test report."

Administrative Control Procedure 1404.4, "Operating Logs," Item 6.3.4.2

requires that entries made during each shift shall include all plant maintenance.

Administrative Control Procedure 1406.2, "Maintenance Procedures," Item 5.1 states, "Maintenance that can affect the performance of safety-related equipment shall be properly pre-planned and performed in accordance with written procedures, documented instructions, or drawings appropriate to the circumstances (for example, skills possessed by qualified maintenance personnel may not require detailed step-by-step delineation in a written procuedure) which conform to applicable codes, standards, specifications, and criteria. Where appropriate sections of related vendor manuals, equipment operating and miantenance instructions, or approved drawings with acceptable tolerances, do not provide adequate instruction to ensure the required quality of work, a suitable documented procedure shall be prepared."

10 CFR, Appendix B, Criterion V states in part, "Activities affecting quality shall be prescribed by documented instructions, procedures of a type appropriate to the circumstances. . . ."

Contrary to the above:

1. Logs of the Shift Supervising Engineer contain no entries with respect to the maintenance performed on the 1G–21 diesel generator on February 25, 1982.

2. No entries were made on Line 8 of Safety-Related Inspection and Test Report No. 82–118 associated with the change of the 1G–21 diesel generator's fuel oil fitlers.

3. There is no procedure that governs the change of diesel generator fuel oil filters. There are also inadequate instructions contained in the vendor's technical manual. In addition, the change of fuel oil filters does not fall within the normal or routine duties of personnel. Interviews with personnel indicate that operators and maintenance personnel were not adequately familiar with requirements for maintenance of fuel oil filters.

4. Administrative Control Procedure 1404.1; "Shift Organization Operation and Turnover," is not appropriate to the circumstances in that it does not contain adequate direction to ensure that plant operations and maintenance receive engineering evaluation and that shift relief turnovers encompass all items necessary to ensure operation of the plant safely as demonstrated by the following:

a. Section 4.3 "Responsibilities and Authorities, The Shift Technical Advisor," states in part, "Routine duties should include matters involving engineering evaluations of day-to-day plant operations from a safety point of view." The evaluation is not mandatory, and no specific guidelines are provided on what is to be accomplished.

b. Section 6.7, "Shift Turnover," states in part, "shift change shall be accomplished by having each incoming shift operator relieve each outgoing shift operator. . . ." There are no guidelines or procedures that clearly specify what shall be reviewed during shift turnover. This is a Severity Level IV violation (Supplement I). (Civil Penalty—$10,000)

Evaluation of Licensee's Response

The licensee admits that Items B.1, B.2, and B.3 did occur as stated in the Notice of Violation. the licensee contends that Items B.4.a and B.4.b do not represent violations.

Concerning Item B.4.a, the licensee contends that its Administrative Control Procedure (ACP) 1201.6 adequately delineates the duties and responsibilities of the shift technical advisor (STA). ACP 1201.6 does not contain an adequate or comprehensive delineation of the duties and responsibilities of the STA. As stated in the inspection report, the STAs do not appear to have any standard approach to the evaluation and review of the safety of plant operations. In fact, some of the STAs were not aware of the existence of the deferred testing file.

Concerning the licensee's response for Item B.4.b, the licensee contends that Sections 5.5 and 5.6 of ACP 1404.4 provide specific guidance on what should be reviewed during shift turnover. We have reviewed this procedure and find that Sections 5.5 and 5.6, ACP 1404.4 merely require that the Nuclear Station Operating Engineer (NSOE) and the Shift Supervising Engineer (SSE) review the previous 24 hours of logbook entries; no detailed guidance is given about the purpose of the review or about how to evaluate other items that reflect the status of plant equipment and safety of the plant.

The licensee's basis for mitigation of the civil penalty has provided no new information regarding these violations. The licensee contends that these violations do not warrant a civil penalty under the NRC guidelines. These violations, taken by themselves, would not normally warrant a civil penalty. However, they are in fact contributory factors which resulted in the licensee being unaware that the emergency power system was in a degraded condition for an extended period of time. Since these violations contributed to the occurrence of the Severity Level III violation and were part of the same event, the assessment of a $40,000 civil penalty for this problem area was divided between violations A and B.

Conclusion

These violations did not occur as originally stated. The information in the licensee's response does not provide a basis for modifying the enforcement action.

II

Pursuant to the provisions of 10 CFR 2.205, the licensee filed a request for remission and mitigation of civil penalties. The licensee's request addressed the five factors for adjusting civil penalties from the base values. These five factors are set forth in 10 CFR 2, Appendix C, Paragraph IV.B. The NRC's evaluation of the licensee's request is presented, followed by conclusions regarding the proposed civil penalty.

Evaluation of Licensee's Request for Mitigation

Factor 1—Prompt Identification and Reporting. The licensee contends that the civil penalties should be appropriately adusted on the basis that the licensee identified the basic violation and reported it to the NRC. Although we agree that the licensee identified and reported the inoperability of the diesel generator, this violation existed for 18 days before it was discovered. The licensee should have discovered the violation because the licensee was aware that maintenance had been performed and should have conducted a test of the generator after maintenance. No adjustment to the proposed civil penalties is warranted on the basis of prompt identification and reporting.

Factor 2—Corrective Action to Prevent Recurrence. The licensee contends that the degree of its initiative in dealing with the violations and the comprehensiveness of the actions taken warrant reduction in the proposed civil penalties. Although we agree that the corrective action was adequate, it was not extraordinary. The adequacy and timeliness of corrective actions and the relative safety significance of the event were factors in determining not to propose daily civil penalties for the continuing violation of the requirement for diesel generator operability. No further reduction in the proposed civil penalties is warranted on the basis of corrective action to prevent recurrence.

Factor 3—Enforcement History. The licensee contends that the proposed civil penalties should be mitigated on the basis that it does not have a history of extensive enforcement actions.

Generally, the enforcement policy does not provide for mitigation based on licensee's enforcement history. A poor enforcement history may lead to imposition of greater penalties. No adjustment to the proposed civil penalties is warranted.

Factor 4—Prior Notice of similar Events. The licensee contends that there was no prior notice of this type of problem and that the proposed civil penalties should not be increased on this basis. No adjustments were made to the base civil penalty value for prior notice of similar events.

Factor 5—Multiple Occurrences. The licensee acknowledges that this was not a factor in the proposed civil penalties. Although the diesel generator was inoperable for 18 days and information was available for the licensee to identify this violation, a daily civil penalty was not proposed on the basis of the adequate corrective actions and relative safety significance of the event.

Conclusion

The licensee has not provided a basis for modification of the proposed enforcement action.

[FR Doc. 83-742 Filed 1-10-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-289 (Design Issues)]

Metropolitan Edison Co. et al. (Three Mile Island Nuclear Station, Unit No. 1); Evidentiary Hearing

Notice is hereby given that, in accordance with the Appeal Board's memorandum and order of December 29, 1982 (ALAB-708), evidentiary hearing on the matters specified therein related to the issue of core decay heat removal in the event of a loss of main feedwater or a small break loss of coolant accidents will be heard at *9:00 a.m., on Tuesday, February 8, 1983,* in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: January 4, 1983.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-743 Filed 1-10-83; 8:46 am]
BILLING CODE 7590-01-M

[Docket No. 50-266-OLA 2]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Unit 1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license amendment proceeding (to permit repair of steam generators by replacement of major components including the tube bundles): Thomas S. Moore, Chairman, Dr. W. Reed Johnson, Dr. Reginald L. Gotchy.

Dated: January 5, 1983.

C. Jean Shoemaker,

Secretary of the Appeal Board.

[FR Doc. 83-744 Filed 1-10-83; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-685]

The Bank of Nova Scotia; Application

January 5, 1983.

Notice is hereby given that The Bank of Nova Scotia ("Applicant"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an exemption from certain of the periodic reporting requirements under Section 15(d) of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to said application which is on file at the Offices of the Commission, 450 Fifth Street N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than January 31, 1983 may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of the fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-738 Filed 1-10-83; 8:45 am]
BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Unlisted Trading Privileges in Certain Securities

January 5, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Dorsey Corp., Common Stock, $.50 Par Value (File No. 7-6410)
Dover Corp., Common Stock, $1 Par Value (File No. 7-6411)
Dreyfus Corp., Common Stock, $33⅓ Par Value (File No. 7-6412)
Energy Exchange, Class A Common Stock, $.01 Par Value (File No. 7-6413)
Gulfstream Land and Development Corp., Common Stock, $.10 Par Value (File No. 7-6414)
KDI Corp., Common Stock, $.35 Par Value (File No. 7-6415)
Nicolet Instrument Corp., Common Stock, $.25 Par Value (File No. 7-6416)
Regal International Inc., Common Stock, $.10 Par Value (File No. 7-6417)
Sun Chemical Corp., Common Stock, $1 Par Value (File No. 7-6418)
Gulf United Corp., Common Stock, $1 Par Value (File No. 7-6419)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 26, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-730 Filed 1-10-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22812; (70-6629)]

Columbia Gas System, Inc.; Proposed Charter Amendment and Solicitation of Proxies

January 4, 1983.

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed a declaration with this Commission pursuant to Sections 6(a), 7 and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 62 thereunder.

Columbia proposes to amend its Certificate of Incorporation ("Charter") to eliminate provisions for preemptive rights for common stockholders. It is stated that even though the preemptive rights granted are severely limited, they do restrict Columbia's ability to use certain very appropriate and acceptable techniques to issue new shares of common stock. For instance, if Columbia wished to expand its dividend reinvestment program to permit the investment of interest by debenture holders, if it wished to permit the purchase of stock by employees pursuant to employee benefit plans such as the Employee's Thrift Plan, if it wished to adopt a stock purchase program for customers of the utility subsidiaries, or if it wished to issue stock in a private placement, further amendments and exceptions to preemptive rights would be required. It is further stated that the elimination of preemptive rights will not adversely affect common shareholders, but will benefit those shareholders by enabling management to meet changing conditions in financial markets with greater flexibility.

Columbia also proposes to solicit proxies with respect to the proposed Charter amendment for voting at Columbia's next regular annual meeting of stockholders to be held on April 21, 1983.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 31, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-680 Filed 1-10-83; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Unlisted Trading Privileges in Certain Securities; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 4, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Cowles Broadcasting, Inc., Common Stock, $1 Par Value (File No. 7-6407)

Sabine Royalty Trust, Units of Beneficial Interest (File No. 7-6408)

Americana Hotel and Realty Corporation, Common Stock, $1 Par Value (File No. 7-6409)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 25, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-682 Filed 1-10-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19402; ISR-MSE-82-7]

Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 4, 1983.

The Midwest Stock Exchange, Inc. ("MSE") 120 South LaSalle Street, Chicago, Illinois 60603, submitted on November 3, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend MSE's Constitution to: (1) Increase the size of MSE's Board of Governors from 24 to 26 by adding two additional positions for non-member, public governors; and (2) allow one public governor to be a former officer of the exchange who is not affiliated with any broker or dealer but who may continue to be affiliated with the Exchange in a non-management function.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19267, November 22, 1982) and by publication in the **Federal Register** (47 FR 54387, December 2, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.[1]

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[1] Under the proposed revision to Article III, Section II of the MSE Constitution, eight of the 23 Governors serving on the Board would be non-member public governors, one of whom may be a former officer of the MSE unaffiliated with any broker or dealer in securities. The Commission believes it is consistent with the purposes of Section 6(b)(3) of the Act for a former Exchange officer that was unaffiliated with a broker or dealer to be deemed a "public governor," in view of the proportion of public governors serving on the MSE Board. The Commission does not conclude, however, that it would be appropriate in all cases for a former exchange officer to be deemed a public governor of the exchange (e.g., where representation by public governors on an exchange's Board of Governors was proportionately less than the MSE's).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-681 Filed 1-10-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19390; (SR-MSRB-82-13)]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

January 3, 1983.

The Municipal Securities Rulemaking Board ("MSRB") 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, submitted on November 16, 1982, a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend MSRB Rule G-12(e)(v) to permit delivery of tax-exempt notes in denominations smaller than those specified in an inter-dealer trade confirmation if the notes delivered can be aggregated to constitute the denominations specified, Under current MSRB rules, a delivery of notes must be made in the denomination specified on the inter-dealer confirmation and a dealer may reject a delivery of non-conforming denominations. The MSRB states that the industry, in order to facilitate the completion of transactions in notes, informally has developed the practice of accepting deliveries in denominations smaller than those specified in the confirmation if the delivered notes can be aggregated to constitute the specified denominations. The MSRB believes it appropriate to codify this widespread practice and avoid unnecessary rejections of such non-conforming deliveries of municipal notes.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release no. 19293, December 2, 1982) and by publication in the **Federal Register** (47 FR 55557, December 10, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-677 Filed 1-10-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-684]

Unilever Capital Corp. and Unilever United States, Inc.; Application and Opportunity for Hearing

Notice is hereby given that Unilever Capital Corporation and Unilever United States, Inc. ("Applicants") have filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting Applicants an exemption from the periodic reporting requirements of Sections 13 and 15(d) of the 1934 Act.

The Applicants state, in part that:

(1) Applicants intend to issue debt securities (the "Securities") in the United States, the proceeds of which will be lent to the Applicants parent corporations, Unilever N.V., a Netherlands corporation ("N.V.") and Unilever P.L.C., an English corporation ("P.L.C.") or to other subsidiaries of N.V. and P.L.C.;

(2) The shares of N.V. and P.L.C. are registered pursuant to Section 12(b) of the 1934 Act and are listed for trading on the New York Stock Exchange;

(3) The Securities to be issued by the Applicants will be fully guaranteed, jointly and severally, as to interest and principal, by N.V. and P.L.C.;

(4) The summary financial and business information to be included in the registration statement for the Securities will relate principally to N.V. and P.L.C. rather than the Applicants.

The Applicants contend that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons referred to said application which is on file in the offices of the Commission at 450 5th Street, N.W., Washington, D.C. 20459.

Notice is further given that any interested person no later than January 31, 1983 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20458, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-732 Filed 1-10-83; 8:45 am]

BILLING CODE 8010-01-M

[1] 17 CFR 200.30-3(a)(12).

[Release No. 34-19387; File No. SR-AMEX-82-20]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 5, 1982, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III, below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" or the "Exchange") proposes to amend Rule 462 as set forth below. Italics indicate material proposed to be added; brackets [ ] indicate material proposed to be deleted.

Rule 462. Minimum Margins

[(a) through (d)(2)(B)—no change]

(C) For purposes of this paragraph (d)(2), obligations issued by the United States Government shall be referred to as United States Government obligations. Mortgage pass-through obligations guaranteed as to timely payment of principal and interest by the Government National Mortgage Association shall be referred to as GNMA obligations.

The terms "stock index group", "stock index option", "current index group

value", "exercise price", and "index multiplier", when used with reference to a stock index option, shall have the meanings set forth in Rule 900C.

The terms "current market value" *and "current market price"* [of], *when used with reference to an option contract,* shall mean the total cost or net proceeds of the option [transaction] *contract* on the day [the option] *it* was purchased or sold and at any other time shall [be] *mean* the preceding business day's closing price of that option *contract* [as shown by] *indicated by* any regularly published reporting or quotation service.

(D) Subject to the exceptions set forth in subparagraphs (F) through (K) of this paragraph (d)(2) the minimum margin on any put or call issued, guaranteed or carried "short" in a customer's account shall be:

[(i)—No change]

[(ii)—No change]

[(iii) In the case of puts and calls *listed or traded on a registered national securities exchange and representing options on stock index groups, 100% of the current market value of the option contract plus 10% of the product of the current index group value and the index multiplier applicable to the option contract.*

(iv) * * *

Notwithstanding the foregoing:

[(I)] *(a)* If the option contract provides for the delivery of obligations with different maturity dates or coupon rates, the computation of the "out of the money" amount, if any, where required by this Rule, shall be made in such a manner as to result in the highest margin requirement on the short option position.

[(ii)] *(b)* The minimum margin on any and each put or call issued, guaranteed or carried "short" in a customer's account shall be not less than $250, in the case of an option on equity securities, or $500, in the case of an option on:

* * * * *

[(v)—no change]

(E)(i) Except as provided below, each put or call *option* issued, guaranteed or carried "short" in a customer's account shall be margined separately and any difference between the *current* market [price] *value or the current index group value* of the underlying security and the exercise price of a put or call (if the underlying security is a stock *or a stock index group*) or the aggregate exercise price of a put or call (if the underlying security is a United States Government obligation) shall be *given no* [considered to be of] value [only in providing] *except for the purposes of determining* the amount of margin required on that particular put or call option. Substantial additional margin must be required on options issued, guaranteed or carried "short" with an unusually long period of time to expiration, or written on securities which are subject to unusually rapid or violent changes in value, or which do not have an active market, or where the securities subject to the option cannot be liquidated promptly.

(ii) Except as provided in subparagraph (G) of this paragraph (d)(2), no margin need be required on any "covered" put or call.

(F)(i) If both a put and a call [for] *specifying* the same number of shares of the same equity security [or], the same principal amount of the same United States Government obligation, *or the same index multiplier for the same stock index group* are issued, guaranteed or carried "short" for a customer, the amount of margin required shall be the margin on the put or the call whichever is greater, as required pursuant to subparagraph (D) of this Paragraph (d)(2) increased by the amount of any unrealized loss on the other option. The minimum margin requirements, however, shall not apply to the other option.

[(ii)—No change]

(G)(i) When a call that is dealt in on a registered national securities exchange is carried "short" for a customer's account and the account is also "long" a call dealt in on an exchange, expiring on or after the expiration date of the "short" call and [written on] *specifying* the same number of shares of the same equity security [or], the same principal amount of the same United States Government obligation, *or the same index multiplier for the same stock index group,* the minimum margin which must be maintained in respect of the "short" position shall be the lesser of (1) the margin required pursuant to subparagraph (D)(ii) of this paragraph (d)(2), in the case of equity securities, *subparagraph (D)(iii) above in the case of stock index groups,* or subparagraph (D)(iv) above in the case of United States Government obligations or (2) the amount, if any, by which the exercise price of the "long" call exceeds the exercise price of the "short" call (if the *calls related to an* underlying [security is an] equity security *or an underlying stock index group*) or by which the aggregate exercise price of the "long" call exceeds the aggregate exercise price of the "short" call (if the underlying security is a United States Government obligation). When a put that is dealt in on a registered national securities exchange is carried "short" for a customer's account and the account is also "long" a put dealt in on an exchange, expiring on or after the expiration date of the "short" put and [written on] *specifying* the same number of shares of the same underlying equity security [or], the same principal amount of the same United States Government obligation *or the same index multiplier for the same stock index group,* the minimum margin which must be maintained in respect of the "short" put shall be the lesser of (1) the margin required pursuant to subparagraph (D)(ii) of this paragraph (d)(2), in the case of equity securities, *subparagraph (D)(iii) above in the case of stock index groups,* or subparagraph (D)(iv) above in the case of United States Government obligations, or (2) the amount, if any, by which the exercise price of the "short" put exceeds the exercise price of the "long" put, (if the *puts relate to an* underlying [security is an] equity security *or an underlying stock index group*) or by which the aggregate exercise price of the "short" put exceeds the aggregate exercise price of the "long" put (if the underlying security is in a United States Government obligation).

[(iii)—No change]

[(H) through (K)—no change]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The slef-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule changes is to establish minimum margin requirements for stock index options. The Exchange believes that the proposed system of setting the minimum margin for a stock index option at an amount equal to the option premium plus 10% of the product of the current index group value and the index multiplier applicable to the option contract would further two objectives. First, it would be more than adequate to provide credit protection. Second, it would provide a simple and easily

understood method of calculating margin.

The proposed rule changes are consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and the rules and regulations thereunder applicable to the Exchange, and, in particular, Section 6(b)(5) of the 1934 Act, in that they would promote just and equitable principles of trade and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 4, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-731 Filed 1-10-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19385; File No. SR-PSE-82-15]

Self-Regulatory Organization; Proposed Rule Change; the Pacific Stock Exchange Inc.; the Pilot Program for the Appointment and Evaluation of Specialists and the Creation of New Specialist Posts

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 22, 1982, the Pacific Stock Exchange Incorporated ("PSE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[1]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board of Governors of the PSE adopted certain amendments to the Pilot Program for the Appointment and Evaluation of Specialists and the Creation of New Specialists Posts which are intended to modify various methods of measuring specialist performance, provide specific standards for determining when a specialist's performance is considered below acceptable performance levels, authorize the cancellation of a specialist's registration in selected stocks where his performance has been found to be substandard, and codify existing rules and procedures for the Appointment and Registration of new Specialists and the Creation of New Specialist Posts. The PSE has proposed a one-year extension of the Pilot Program, as amended.

The proposed new rules authorize the Equity Allocation Committee ("EAC") to evaluate specialist performance based upon established standards and define unacceptable levels of performance. The EAC is authorized to withdraw approval of registration of a specialist in one or more selected stocks with the approval of the Board of Governors when a specialist's performance is below acceptable levels. Each specialist subject to a reallocation proceeding is entitled to all due process rights provided for in the proposed new rules, including the right to a hearing and the right to appeal an adverse determination to the Board of Governors. The EAC will recommend reallocation in one or more stocks only when it believes that the quality of the markets in those stocks could be improved by transfer to another specialist.

Under the proposed amendments, a PSE registered specialist would be required to meet with the EAC on an informal basis if such specialist is in the bottom 10% of all registered specialists on his trading floor as determined by the overall performance evaluation scores received by each specialist in any one quarterly evaluation. The EAC shall consider a registered specialist's performance to be below acceptable performance levels if such specialist is in the bottom 10% of all registered specialists on his trading floor as determined by the overall evaluation scores received by each specialist in any two out of four consecutive quarterly evaluations. A second informal meeting would be required if the registered specialist was in the bottom 10% of all registered specialists on his trading floor in any two out of four consecutive quarterly evaluations. If, during the second informal meeting the Committee finds no mitigating circumstances which would demonstrate substantial improvement of or reasonable justification for the most recent performance evaluation score, the Committee may request a formal hearing which could result in the withdrawal of Exchange approval to act as a registered specialist or alternate specialist in one or more stocks.

Specialists will continue to be evaluated on a quarterly basis in each of three measures of performance, all three of which will then be consolidated into one overall evaluation score. The Pilot Program will continue to evaluate: (1) The percentage of time in a given quarter that a specialist's bid and/or offer is equal to or greater than the bid

[1] The Commission has approved on an accelerated basis the effectiveness of the proposed rule change from January 1, 1983 to March 31, 1983. Securities Exchange Act Release No. 19385, December 30, 1982. This release serves as notice for the pilot program's proposed effectiveness from January 1, 1983 to March 31, 1983 as well as notice of the proposed effectiveness of the pilot program through December 31, 1983. The timing for Commission action on this second period of effectiveness is described in Item III below. Comments are invited on both proposals.

and/or offer in the primary market for each dually traded security; (2) a specialist's performance based upon written responses solicited and received in connection with the Specialist Evaluation Questionnaire Survey; and (3) a specialist's SCOREX Limit Order Acceptance Performance. These three measures are afforded different weight in determining the specialist overall grade; measure (1) carrier 45% weight, measure (2) 40% and measure (3) 15%.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purposes of the proposed amendments to the PSE Pilot Program are: (1) To revise established procedures for the periodic review and evaluation of specialist performance based upon the experience gained during the first year of the Pilot Program; (2) to define the basis upon which the EAC may cancel a specialist's registration in selected stocks where the specialist's performance has been found to be substandard; (3) to codify the due process and appellate rights of specialists and applicant specialists in connection with both informal and formal specialist evaluation proceedings for the appointment of registered specialists; and (4) to extend the Pilot Program for one additional year. The Pilot Program and the rules and procedures established as part of that Program are intended to improve the quality of the PSE marketplace through non-disciplinary proceedings. The proposed new rules will not replace nor impair the PSE's authority to cancel a specialist's registration or impose other sanctions through disciplinary proceedings for violations of Exchange Rules.

The proposed amendments to the Pilot Program are consistent with Section 6(b) of the Act, in general, and further the objectives of Section 6(b)(5) of the Act, in particular, in that they would promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, remove impediments to, and perfect the mechanism of, a free and open market, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission has found good cause for approving the proposed rule change on a temporary basis, from January 1, 1983 to March 1, 1983, prior to the thirtieth day after the date of publication of filing thereof in that the proposed amendments to the Pilot Program serve to strengthen the Exchange's regulation of specialists and thus should help the Exchange assure that its specialists maintain fair and orderly markets and fulfill their other obligations as well. The Commission found additional good cause for accelerated and temporary approval in that such approval permits the Pilot Program to commence during the first calendar quarter of 1983, rather than delaying the implementation until the second quarter.

As noted above,[2] this release also serves as notice of the proposal to amend the Pilot Program and extend the program, as amended, through December 31, 1983. Within 35 days of the date of the publication in the **Federal Register** of this notice or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 30, 1982.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-678 Filed 1-10-83; 8:45 am]

BILLING CODE 8010-01-M

[2] See note 1, supra.

[Release No. 34-19387; File No. SR PHLX 82-19]

Self-Regulatory Organizations; Proposed Rule Change; Philadelphia Stock Exchange, Inc.; New Fees and Charges

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 23, 1982, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

1. *Floor Brokerage Transaction Fee.* Commencing January 3, 1983, the Exchange shall charge a floor brokerage transaction fee measured by the number of shares or contracts per transaction done by a partner, officer or employee of a member organization, who acts as

floor broker for such member organization. This fee will be set at $.05 for each 100 shares or each options contract, provided that the maximum fee per transaction on the equity floor shall be $5.00, and provided further, that there shall be no maximum fee limit per transaction on the options floor.

2. *Foreign Currency Options Fees and Charges.* (a) Retail fees and charges:

Transaction Fee—$.30 per contract
Value Charge on Premiums:
$0–$9,999,000—$.12 per contract
$10,000,000 to $50,000,000—$.10 per $1,000
over $50,000,000—$.08 per $1,000

(b) Firm transaction fee—$.05 per contract.

The above fees and charges are effective as of the commencement of foreign currency options trading on the PHLX on December 10, 1982.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

The PHLX currently charges a floor brokerage fee which is based on a fixed percent of floor brokerage income earned. This fee is set at five percent of such earned income. Floor brokers executing on behalf of member organizations by which they are employed do not pay this fee. The number of member organizations executing through use of their own floor brokers is increasing and, consequently income from the floor brokerage fee on earned commissions can be expected to decrease. In order, to offset this decrease in revenue and steadily increasing expenses and provide for equitable allocation of fees, the PHLX is proposing to charge a fee on transactions executed by floor brokers for member organizations by which they are employed.

2. *Foreign Currency Options Fees and Charges.* The purpose of this portion of this rule change is to establish fees for foreign currency options transactions in order to offset the PHLX's costs.

The basis under the Securities Exchange Act of 1934 ("Act") for this rule change concerning floor brokerage and foreign currency options fees is Section 6(b)(4) which requires that reasonable fees be allocated equitably.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the porposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments on this proposed rule change have been solicited or received from members.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submission should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 30, 1982.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-679 Filed 1-10-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-0155]

Pathfinder Venture Capital Corp.; License Surrender

Notice is hereby given that Pathfinder Venture Capital Corporation, One Corporate Center, 7300 Metro Boulevard, Suite 585, Minneapolis, Minnesota 55435 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Pathfinder Venture Capital Corporation was licensed by the Small Business Administration on September 10, 1981.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender was accepted on December 27, 1982, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 5, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-758 Filed 1-10-83; 8:45 am]

BILLING CODE 8025-01-M

Region IX—Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Honolulu, Hawaii, will hold a public meeting at 9:00 a.m. on Thursday, February 3, 1983, at the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Room 7323 (7th Floor), Honolulu, Hawaii, to discuss such business as may be presented by members, and staff of the U.S. Small Business Administration, or others present.

For further information, write or call David K. Nakagawa, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2213, Honolulu, Hawaii 96850, (808) 546–8950.

Dated: January 5, 1983.

Joan M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 83-739 Filed 1-10-83; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 02/02-0458]

Venray Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an Application with the Small Business Administration (SBA), pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1982)) by Venray Capital Corporation, 961 Route 22, Somerville, New Jersey 08876, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder of the Applicant are:

Raymond J. Skiptunis, President, Director, General Manager, RD 2, Box 49 H, Ringoes, New Jersey 08551

James W. MacDonald, Vice President, Director, RD 2, Box 218, Fox Hunt Road, Ringoes, New Jersey 08551

Thomas P. Smyth, Vice President, Director, 1 Evergreen Drive, Marlboro, New Jersey 07746

Richard K. Greene, Director, 1810 Mountain Top Road, Bridgewater, New Jersey 08807

Venray Capital Management, Sole shareholder, Corporation (VCMC), 961 Route 22, Somerville, New Jersey 08870

Mr. Skiptunis owns approximately 35 percent of the voting securities of VCMC and Mr. Greene owns approximately 15 percent. No other individual will own as much as 10 percent of the voting securities of VCMC. Substantially all of VCMC's assets will be accounted for by securities issued by the Applicant.

There is one class of stock authorized: 1,000 shares of common stock. Initially, all of those shares will be issued with a resultant private capital of $1,500,000.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed officers, directors, and shareholder, and the probability of successful operation of the Applicant in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Somerville, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 5, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-737 Filed 1-10-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-81593]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on January 20, 1983 at 9:30 a.m. in Room 1205, of the Department of State, 2201 C Street, N.W., Washington, D.C. This Study Group relates to the worldwide telephone network and the international telecommunications questions concerning telephone transmission, switching, signaling, operations and maintenance as embraced by various Study Groups in the CCITT.

This meeting of Study Group C will concentrate entirely on the Study Group XVIII Expert Group which was chartered to recommend a single method of PCM coding at 32 kilobits/second. The U.S. participants will discuss the objectives and work program of this Expert Group and the progress of the CCITT-sponsored laboratory evaluations in the United States and France. Owing to the quickened pace of international activity and the urgent requirement for assembling expert opinion in the United States on an accelerated schedule, it has not been possible to provide the normal advance two-week public notice of this meeting.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is suggested that prior to January 20 members of the general public who plan to attend the meeting contact the Office of International Communications Policy, Department of State, Washington, D.C. 20520, telephone (202) 632-6583. All non-Government attendees must use the C Street entrance to the building.

Dated: January 7, 1983.

Arthur L. Freeman,

Director, Office of International Communications Policy.

[FR Doc. 83-820 Filed 1-10-83; 8:45 am]

BILLING CODE 4710-07-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459) and Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), I hereby determine that the objects in the exhibit, "Italian Still-Life Painting from Three Centuries" (included in the list [1] filed as a part of this determination) imported from aboard for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the foreign lenders and the International Exhibitions Foundation. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Academy of Design, New York, New York, beginning on or about February 1, 1983, to on or about March 20, 1983; the Philbrook Art Center, Tulsa, Oklahoma, beginning on or about April 9, 1983, to on or about June 30, 1983; and the Dayton Art Institute, Dayton, Ohio, beginning on or about July 30, 1983, to on or about September 11, 1983, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: January 7, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison.

[FR Doc. 83-847 Filed 1-10-83; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

New Directions Advisory Committee

New Directions Advisory Committee will meet Tuesday, February 8, 1983, from 2 p.m. to 4:30 p.m. in Conference Room 600, 1750 Pennsylvania Avenue, NW., Washington, D.C. The purpose of this meeting is to review USIA activities and advise on political, military, economic, social and other trends.

Dated: January 5, 1983.

Mary Jane Winnett,

Management Analyst, Management Plans, Analysis, Directives Staff, Bureau of Management.

[FR Doc. 83-643 Filed 1-10-83; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 7
Tuesday, January 11, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Federal Election Commission	2
Federal Deposit Insurance Corporation	3
Federal Energy Regulatory Commission	4
Federal Reserve System	5, 6
International Trade Commission	7

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, January 13, 1983.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Kansas City Board of Trade Value Line Options Contract.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-30-83 Filed 1-7-83; 11:22 am]

BILLING CODE 6351-01-M

2

FEDERAL ELECTION COMMISSION:002

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, January 13, 1983 at 10:00 a.m.

CHANGE IN MEETING:

The following matter has been added for the open meeting scheduled for this date:

Threshold submission and letter of candidate certifications and agreements received from Mondale for President Committee, Inc.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Elland, Public Information Officer, telephone: 202-523-4065.

Marjorie W. Emmons

Secretary of the Commission.

[S-29-83 Filed 1-7-83; 10:06 am]

BILLING CODE 6715-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:45 a.m. on Thursday, January 6, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a personal matter.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Dated: January 6, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-31-83 Filed 1-7-83; 12:12 pm]

BILLING CODE 6714-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION

Meeting

January 6, 1983.

TIME AND DATE: January 13, 1983, 1:00 p.m.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda, 762nd Meeting, January 13, 1983, Regular Meeting (1:00 p.m.)

CAP-1. Project No. 2149-010, Public Utility District No. 1 of Douglas County, Washington

CAP-2.
Project Nos. 67-000 and 2868-000, Southern California Edison Company
Project No. 2904-000, the Cities of Anaheim and Riverside, California

CAP-3. Project No. 6628-000, Waterfall Electric Company

CAP-4. Project No. 6617-000, Olypmus Energy Corporation

CAP-5. Project No. 6635-000, New Generation Power Company

CAP-6. Project No. 4059-001, South Fork Irrigation District

CAP-7.
Project Nos. 4190-000 and 4329-000, Consolidated Hydroelectric, Inc.
Project Nos. 4830-000 and 4973-000, City of Rohnert Park, California
Project Nos. 4953-001 and 5224-000, Modesto Irrigation District
Project Nos. 5232-001 and 5375-002, Tehama County Flood Control and Water Conservation District

CAP-8. Project No. 1984-010, Wisconsin River Power Company

CAP-9. Project No. 2930-003, Idaho Power Company

CAP-10. Project Nos. 2849-002 and 3295-000, East Columbia Basin Irrigation District, Quincy-Columbia Basin Irrigation District and South Columbia Basin Irrigation District

CAP-11. Project No. 2100-023, Califorina Department of Water Resources

CAP-12. Project No. 5906-002, North Canal Waterworks

CAP-13. Project No. 344-001, Southern California Edison Company

CAP-14. Project No. 3342-003, New Hampshire Hydro Associates

CAP-15. Project No. 289, Louisville Gas and Electric Company

CAP-16. Docket No. ER83-152-000, Union Light, Heat and Power Company

CAP-17. Docket No. ER83-138-000, Cleveland Electric Illuminating Company

CAP-18. Docket No. ER83-154-000, Pacific Gas and Electric Company

CAP-19. Docket Nos. ER83-21-001 and ER82-79-001, Ohio Edison Company

CAP-20. Docket Nos. ER82-673-003 and ER82-673-004, Kentucky Utilities Company

CAP-21.
Docket No. ER82-774-002, Tapoco, Inc.
Docket No. ER82-829-002, Nantahala Power & Light Company

CAP-22. Docket No. EL80-25-002, Village of Winnetka, Illinois v. Commonwealth Edison Company

CAP-23. Docket No. EL82-20-001, Town of Highlands, et al. v. Nantahala

CAP-24. Docket No. ER77-578-003, Kansas Gas and Electric Company

CAP–25. Docket Nos. ER77–175–002 and ER78–19–000 (Phase II), *et al.*, Florida Power & Light Company
CAP–26. Docket No. ER82–579–000, Southern Company Services, Inc.
CAP–27. Docket No. ER76–532–004, Pacific Gas & Electric Company
CAP–28. Docket No. ER81–504–003, Delmarva Power and Light Company
CAP–29. Docket No. ER82–423–000, Virginia Electric and Power Company
CAP–30. Docket No. ER82–128–000, Mississippi Power and Light Company
CAP–31. Omitted.
CAP–32.
Docket No. EL80–19–003, Massachusetts Municipal Wholesale Electric Company v. Power Authority of the State of New York
Docket No. EL80–24, Connecticut Municipal Electric Energy Cooperative v. Power Authority of the State of New York
CAP–33. Project No. 2796–002, Siskiyou County Flood Control and Water Conservation District

Consent Miscellaneous Agenda

CAM–1. Docket No. RM79–76–119 (New Mexico—2 Addition), High-Cost Gas Produced From Tight Formations
CAM–2. Docket No. RM79–76–138 (New Mexico—17), High-Cost Gas Produced From Tight Formations
CAM–3. Omitted.
CAM–4. Docket No. RM79–76–120 (Oklahoma—2), High-Cost Gas Produced From Tight Formations
CAM–5. Docket No. GP82–28–000, Minerals Management Service, El Paso Natural Gas Company, Section 108 NGPA Determination, San Juan 27–4 Unit No. 71 Well, FERC No. JD81–49860
CAM–6. Docket No. GP82–37–000, New Mexico Department of Energy and Minerals Oil, Conservation Department, Getty Oil Company, Section 108 NGPA Determination, Mexico "D" Well No. 1, FERC No. JD79–12361
CAM–7. Docket No. GP82–53–000, Railroad Commission of Texas, Getty Oil Company, Section 108 NGPA Determination, J. M. Treadwell Well No. 5–U, FERC No. JD81–33905
CAM–8. Docket No. GP80–12–002, Consolidated Gas Supply Corporation
CAM–9. Docket No. RO82–16–000, Vic and Lou's Union
CAM–10. Docket No. RO81–73–001, Sierra Petroleum Company, Inc.
CAM–11. Docket No. RO82–81–000, Beacon Bay Enterprises
CAM–12. Docket Nos. RO82–85–000 and RA83–1–000, Meeker and Company
CAM–13. Docket No. RA82–28–000, MGPC, Inc.

Consent Gas Agenda

CAG–1. Docket No. OR78–1–011, Trans-Alaska Pipeline System
CAG–2. Docket Nos. RP79–6–006 and RP80–6–001, Kansas-Nebraska Natural Gas Company, Inc.
CAG–3. Docket No. RP82–71–005, Northern Natural Gas Company
CAG–4. Docket No. RP83–13–001, El Paso Natural Gas Company
CAG–5. Docket No. TA82–2–33–015, El Paso Natural Gas Company
CAG–6. Docket Nos. TA82–2–42–000, TA82–2–42–001, RP81–130–000, and TA83–1–42–000, Transwestern Pipeline Company
CAG–7.
Docket Nos. TA83–1–33–007 and TA83–2–33–002, et al., El Paso Natural Gas Company
Docket No. RP82–33–000, El Paso Natural Gas Company
CAG–8. Docket Nos. RP83–35, RP81–109–000 and RP74–41–000, Texas Eastern Transmission Corporation
CAG–9. Docket No. RP83–32–000, Eastern Shore Natural Gas Company
CAG–10. Docket No. TA83–1–44–003, Commercial Pipeline Company, Inc.
CAG–11. Docket No. RP83–30–000, Transcontinental Gas Pipe Line Corporation
CAG–12. Docket No. RP82–79–000, Louisiana-Nevada Transit Company
CAG–13. Docket No. RP82–82–000, Honeoye Storage Corporation
CAG–14. Docket No. RP82–7–000, Gas Gathering Corporation
CAG–15. Docket No. IS80–83, et al., Mid-Valley Pipeline Company
CAG–16. Docket No. IS80–74, et al., Sun Pipe Line Company
CAG–17. Docket No. IS80–189–000, et al., Southern Pacific Pipe Lines, Inc.
CAG–18.
Docket Nos. CI68–1027–002, CI68–1027–003 and CI83–20–001, Eugene Shoal Oil Company
Docket Nos. CI83–7–001 and CI83–8–001, Arco Oil and Gas Company, Division of Atlantic Richfield Company
Docket No. CI83–18–001, Amoco Production Company
Docket Nos. CI83–23–001, CI83–25–001 and CI83–26–001, Mesa Petroleum Company
Docket No. G–7183–003, Union Oil Company of California
CAG–19. Docket No. TC82–10–000, El Paso Natural Gas Company
CAG–20. Docket No. CP82–360–001, Transcontinental Gas Pipe Line Corporation
CAG–21. Docket No. CP82–532–001, Michigan Consolidated Gas Company
CAG–22. Docket No. CP82–37–001, Galaxy Energies, Inc.
CAG–23.
Docket No. CP82–460–000, Mountain Fuel Supply Company
Docket No. CP82–483–000, Colorado Interstate Gas Company
CAG–24.
Docket Nos. CP75–23–006 and CP75–23–008, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
Docket No. CP81–243–000, Tenneco Oil Company and El Paso Natural Gas Company
Docket No. CP81–320–000, Tennessee Gas Pipe Company, a Division of Tenneco, Inc.
CAG–25. Docket No. CP82–437–000, Trunkline Gas Company
CAG–26. Docket No. CP83–74–000, Texas Eastern Transmission Corporation
CAG–27. Omitted.
CAG–28. Docket No. CP83–72–000, El Paso Natural Gas Company
CAG–29.
Docket No. CP77–376, Northwest Pipeline Corporation
Docket No. CP77–381, Pacific Interstate Transmission Company
Docket No. CP77–407, El Paso Natural Gas Company
CAG–30.
Docket No. CP83–38–000, Transcontinental Gas Pipe Line Corporation
Docket No. CP83–52–000, Consolidated Gas Supply Corporation
CAG–31. Omitted.
CAG–32. Docket No. CP83–89–000, Arkansas Louisiana Gas Company, a Division of Arkla, Inc.
CAG–33. Docket No. CP75–83–006 (Remand), Black Marlin Pipeline Company
CAG–34. Docket No. CP82–440–000, J–W Gathering Company

I. Licensed Project Matters

P–1. Reserved

II. Electric Rate Matters

ER–1. Docket No. ER83–257–003, Kansas Gas and Electric Company
ER–2. Docket Nos. ER81–70–000 and ER81–71–000 (Consolidated), New England Power Company
ER–3. Docket No. QF82–181–000, United States Army Corps of Engineers Pittsburgh District

Miscellaneous Agenda

M–1. Docket No. RM83–6–000, Exemption From, and Revisions to Procedures Governing Collection and Reporting of Information Concerning Cost of Providing Retail Electric Service
M–2. Reserved.
M–3. Reserved.
M–4.
(A) Docket No. RM80–47, Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act
(B) Docket No. RM80–73–000, Gathering Allowances Under Section 110 of the Natural Gas Policy Act of 1978
Docket No. RM80–74–000, Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978
(C) Docket No. RM80–14, Regulations Implementing Sections 105, 106(b), and 110 of the Natural Gas Policy Act of 1978
(D) Docket No. RM83–6–000, Regulations Implementing Refund and Enforcement Provisions Under Subpart K of Part 271 for Recovering Production-Related Costs
(E) Docket No. CI77–412–000, Phillips Petroleum Company
M–5.
Docket No. CP79–70, Transcontinental Gas Pipe Line Corporation and United Gas Pipe Line Company
Docket No. CP80–217, Transcontinental Gas Pipe Line Corporation
Docket No. CP80–218, Transcontinental Gas Pipe Line Corporation and United Gas Pipe Line Company
Docket No. CP80–236, Transcontinental Gas Pipe Line Corporation
Docket No. CP80–82, Michigan Wisconsin Pipe Line Company, Texas Eastern Transmission Corporation and

Transcontinental Gas Pipe Line Corporation
Docket Nos. CP80–227, CP80–251, CP80–286 and CP80–384, Michigan Wisconsin Pipe Line Company
Docket No. CP80–267, Columbia Gulf Transmission Company and Southern Natural Gas Company
Docket No. CP80–375, Consolidated Gas Supply Corporation, Northern Natural Gas Company, Division of Internorth, Inc., Michigan Wisconsin Pipe Line Company and El Paso Natural Gas Company

M–8.
Docket No. GP82–50–000, Indicated Producers—Shell Oil Company, et al., in the Matter of the Transportation of Liquid and Liquefiable Hydrocarbons by Natural Gas Pipelines [RM81–32]
Docket No. GP82–51–000, Associated Gas Distributors, Transportation by Natural Gas Pipelines of Producer-Owned Liquids and Liquefiable Hydrocarbons Under Title I of the Natural Gas Policy Act of 1978 [RM81–39]
Docket No. GP82–52–000, Texas Eastern Transmission Corporation, Transportation by Natural Gas Pipelines of Producer-Owned Liquids and Liquefiable Hydrocarbons [RM81–43]

M–7.
Docket Nos. RM80–50–003, 004 and 005, High-Cost Natural Gas: Production Enhancement Procedures

M–8
Docket No. RM82–34–000, High-Cost Gas Produced From Tight Formations; Recompletion Tight Formation Gas

M–9. Omitted

M–10.
(A) Docket No. RM79–76–089 (Louisiana-3 Addition), High-Cost Gas Produced From Tight Formations
(B) Docket No. RM79–76–124 (Louisiana-8), High-Cost Gas Produced From Tight Formations

Gas Agenda

I. Pipeline Rate Matters

RP–1. Omitted
RP–2. Docket No. RP80–106–010, Trunkline Gas Company
RP–3. Docket Nos. RP80–91–000 and RP80–93–000, Arkansas-Louisiana Gas Company
RP–4. Docket No. OR82–2–000, Tipco Crude Oil Company v. Shell Pipe Line Company

II. Produced Matters

CI–1. Reserved

III. Pipeline Certificate Matters

CP–1. Omitted

CP–2.
Docket No. CP80–22–004, Northern Natural Gas Company, Division of Internorth, Inc.
Docket No. CP78–124–007, Northern Border Pipeline Company
Docket Nos. CP80–43–002 and CP66–110, et al., Great Lakes Gas Transmission Company

CP–3.
Docket No. CP82–531–000, Consolidated Gas Supply Corporation
Docket No. CP82–550–000, Transcontinental Gas Pipe Line Corporation

CP–4. Docket No. CP82–355–000, Natural Gas Pipeline Company of America

CP–5. Omitted

CP–6. Docket Nos. CP82–403–000, CP82–418–000 and CP82–419–000, Texas Gas Transmission Corporation

CP–7.
Docket No. CP80–435–000, Alaskan Northwest Natural Gas Transportation Company
Docket No. CP78–123–000, et al., Northwest Alaskan Pipeline Company

Kenneth F. Plumb,
Secretary.

[S–32–83 Filed 1–7–83; 3:09 pm]
BILLING CODE 6717–01–M

5

FEDERAL RESERVE SYSTEM,
(Board of Governors)

TIME AND DATE: 10:00 a.m., Monday, January 17, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Conceptual design plan and budget estimate for proposed renovation of certain areas of the Federal Reserve Bank of Kansas City.
2. Proposed changes to the Plans administered under the Federal Reserve System's employee benefits program.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: January 7, 1983.

William W. Wiles,
Secretary of the Board.

[S–33–83 Filed 1–7–83; 3:56 pm]
BILLING CODE 6210–01–M

6

FEDERAL RESERVE SYSTEM
(Board of Governors)

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 769, Thursday, January 6, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Approximately 11:00 a.m., Wednesday, January 12, 1983, following a recess at the conclusion of the open meeting.

CHANGES IN THE MEETING:

Addition of the following closed item(s) to the meeting:

Proposed changes to the employee benefits program to implement the Omnibus Reconciliation Act of 1982.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: January 7, 1983.

James McAfee,
Associate Secretary of the Board.

[S–34–83 Filed 1–7–83; 3:57 pm]
BILLING CODE 6210–01–M

7

INTERNATIONAL TRADE COMMISSION

Government in the Sunshine: Emergency Notice of the Commission Meeting for Tuesday, January 11, 1983.

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on Tuesday, January 11, 1983, beginning at 2:30 p.m., in Room 117 of the United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436. The Commission plans to consider the following agenda item in open session:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 731–TA–88 [Final] (Carbon Steel Wire Rod from Venezuela)—briefing and vote.
6. Any items left over from previous agenda.

Commissioners Eckes, Stern, and Haggert determined by recorded vote that Commission business requires that the meeting of Janaury 11, 1983, be called with less than ten days' prior notice and directed the issuance of this notice at the earliest practicable time.

If you have any questions concerning the agenda for the January 11, 1983, Commission meeting, please contact the Secretary to the Commission at (202) 523–0161. Access to documents to be considered by the Commission at the meeting is provided for by access to the

public files of the Commisson, or when such documents are not in such files, as provided for in Subpart C of the Commission's rules (19 CFR 201.17–201.21).

In conformity with 19 CFR 201.38(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

Issued: January 6, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[S–29–83 Filed 1–7–83; 11:08 am]

BILLING CODE 7020-02-M

VOL
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federal register

Tuesday
January 11, 1983

Part II

Office of Management and Budget

Budget Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith report four deferrals totaling $38,897,952 and a revision to a previous deferral, increasing the amount deferred by $10,000,000.

The deferrals affect programs in the Departments of Agriculture, Commerce, Housing and Urban Development, and Interior.

The details of the deferrals are contained in the attached reports.

Ronald Reagan.

THE WHITE HOUSE,
January 5, 1983.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Department of Agriculture	
	Agricultural Stabilization and Conservation Service	
D83-36	Dairy indemnity program	7,000
	Department of Commerce	
	Economic Development Administration	
D83-37	Economic development revolving fund	25,350
	National Bureau of Standards	
D83-38	Scientific and technical research and services	6,500
	Department of Housing and Urban Development	
	Community Planning and Development	
D83-32A	Urban development action grants	244,000
	Department of Interior	
	Minerals Management Service	
D83-39	Payments for proceeds, sale of water mineral leasing	48
	Total, Deferrals	282,898

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SUMMARY OF SPECIAL MESSAGES
FOR FY 1983
(in thousands of dollars)

	Rescissions	Deferrals
Fourth special message		
New items	---	38,898
Change to amount previously submitted	---	10,000
Effects of Fourth special message	---	48,898
Amounts previously submitted that were changed by this message	---	234,000
Total, rescissions and deferrals	---	282,898
Amounts previously submitted that were not changed by this message	2,000	3,130,781
Total amount proposed to date in all special messages	2,000	3,413,679 1/

1/ All amounts listed represent budget authority except for $14,446,000 in one general revenue sharing deferral of outlays only.

Deferral No: D83-36

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: U.S. Department of Agriculture
Bureau: Agricultural Stabilization and Conservation Service
Appropriation title & symbol: Dairy Indemnity Program 1233314 1/
CMB identification code: 12-3314-0-1-351
Grant program: ☐ Yes ☒ No
Type of account or fund: ☒ Annual ☐ Multiple-year _____ (expiration date) ☐ No-year

New budget authority (P.L. 97-370): $ 7,000,000
Other budgetary resources: _____
Total budgetary resources: 7,000,000
Amount to be deferred: Part of year: 7,000,000 Entire year: _____
Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other _____
Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: The Dairy indemnity program compensates dairy farmers and dairy product manufacturers who, through no fault of their own, suffer losses caused by removal of milk or milk products from the market because of chemical contamination or nuclear radiation or fallout. The funds being deferred were provided to address a problem that is of limited scope and that developed subsequent to the transmittal of the FY 1983 Budget to the Congress. Hawaiian dairy farmers and manufacturers suffered losses due to contamination. The source of the contamination has been identified and recourse is being sought by several damaged parties through the courts.

In addition, a number of legal questions regarding eligibility would have to be resolved before any claims could be approved for payment. The complex structure of milk marketing in Hawaii has made it extremely difficult to determine which milk is eligible for payment. To date, no claims have been certified for payment.

Accordingly, the situation will be monitored to determine later in the fiscal year whether or not the $7 million provided by this appropriation is needed for the purposes intended. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: Any indemnity to dairy farmers and manufacturers for FY 1982 losses in Hawaii under the Dairy indemnity program will be delayed for part of the fiscal year.

Outlay Effect: This deferral action will have no effect on FY 1983 outlays.

1/ This account was the subject of a deferral in FY 1982 (D82-88).

Deferral No: D83-37

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce
Bureau: Economic Development Administration
Appropriation title & symbol: Economic Development Revolving Fund 13X4406
CMB identification code: 13-4406-0-3-452
Grant program: ☒ Yes ☐ No
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year

New budget authority (P.L. _____): $ _____
Other budgetary resources: 289,543,053
Total budgetary resources: 289,543,053
Amount to be deferred: Part of year: 25,350,000 Entire year: _____
Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other _____
Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other Fund balances

Justification: Interest on loans, principal repayments from loans made under the Area Redevelopment Act and the Public Works and Economic Development Act of 1965, and proceeds from the sale of collateral are deposited in the Economic Development Revolving Fund. Interest payments are made to the Treasury from the fund.

This deferral reflects action taken during the period of the continuing appropriations for FY 1983 (Public Law 97-276) to preserve these funds pending Congressional interest in their transfer to the Salaries and expenses and Economic development assistance program accounts. These funds were subsequently transferred by Congress in the act making further continuing appropriations for FY 1983 (Public Law 97-377).

Estimated Effects: The deferral has no programmatic or budgetary effects.

Outlay Effect: There is no effect on outlays in 1983 resulting from this deferral.

Deferral No: D83-38

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

D83-32A

SUPPLEMENTARY REPORT
Report Pursuant to Section 1014(c) of P.L. 93-344

Deferral No: D83-32

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 97-377): $ 24,142,000
Bureau: National Bureau of Standards	Other budgetary resources: 11,643,933
Appropriation title & symbol: Scientific and Technical Research and Services (13X0500) 1/	Total budgetary resources: 35,785,933
	Amount to be deferred: Part of year: 6,500,000
	Entire year:
OMB identification code: 13-0500-0-1-376	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: This deferral is a continuation of the deferral of NBS central computer replacement funds approved in fiscal year 1982. These funds will be deferred for part of fiscal year 1983 and will allow the Department of Commerce time to do a comprehensive study on the feasibility of establishing a department-wide scientific computer center to provide for a large-scale scientifically oriented computer capability. This computer facility, recommended in a GAO Report, would improve service at lower costs to its users. The study is planned for completion by December 31, 1982. Pending recommendations of the study, deferred funds can then be released in January, 1983. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: The effects of the deferral would be to delay the procurement of the NBS computer until the summer of 1983.

Outlay Effect: This deferral action will have no effect on 1983 outlays.

1/ This account was the subject of a similar deferral in FY 1982 (D82-253).

D83-32A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D83-32 transmitted to the Congress on December 7, 1982.

This revision to a deferral for the Department of Housing and Urban Development's Urban Development Action Grants increases the amount previously deferred from $234,000,000 to $244,000,000. This increase of $10,000,000 is attributable to a more recent and higher estimate of the unreserved and unobligated funds carried forward into FY 1983 that are deferred to maintain program levels proposed and approved for the FY 1983 budget.

Deferral No: D83-32A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Housing and Urban Development	New budget authority (P.L. 97-272) $ 440,000,000
Bureau: Community Planning and Development	Other budgetary resources 370,000,000*
Appropriation title & symbol: Urban Development Action Grants 1/ 862/30170 862/40170 2/* 862/50170 3/ 863/60170	Total budgetary resources 810,000,000*
	Amount to be deferred: Part of year $ ____ Entire year 244,000,000*
OMB identification code: 86-0170-0-1-451	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other ____
Grant program: ☒ Yes ☐ No	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____
Type of account or fund: ☐ Annual (September 30, 1983 / September 30, 1984 / September 30, 1985) ☒ Multiple-year (September 30, 1986) (expiration date) ☐ No-year	

Justification:* Urban Development Action Grants provide localities with discretionary funding to be used in conjunction with private and other public funds to promote local economic development. In order to be more consistent with the levels proposed and approved for the FY 1983 Budget, $234 million of the FY 1982 appropriation was deferred and reported to Congress (see Deferral No. D83-32). However, it is now estimated that $244 million, not $234 million, in unreserved and unobligated funds were carried over into FY 1983. Hence, the deferral has been increased to account for this higher estimate.

Estimated Effects:* This deferral action will result in a program level and new grant announcements during FY 1983 more consistent with the proposed and approved 1983 budget. This could result in approximately 190 fewer grant announcements being made in FY 1983 than would otherwise be announced without this deferral, if all available resources were in fact used in FY 1983.

Outlay Effect:* This deferral action will shift an estimated $12 million in FY 1983 outlays to FY 1984, $49 million in FY 1984 outlays to FY 1985, and $61 million in each FY 1985, 1986, and 1987 to FY 1986, 1987, and 1988.

1/ This account was subject of a deferral in FY 1982, D82-113.
2/ The deferral applies to these accounts.
* Revised from previous report.

[FR Doc. 83-820 Filed 1-10-83; 8:45 am]
BILLING CODE 3110-01-C

Deferral No: D83-39

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. ____) $ ____
Bureau: Minerals Management Service	Other budgetary resources 47,952
Appropriation title & symbol: Payments for Proceeds, Sale of Water Mineral Leasing Act of 1920, Sec. 40(d) 14X5662	Total budgetary resources 47,952
	Amount to be deferred: Part of year ____ Entire year 47,952
OMB identification code: 14-5662-0-2-301	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Grant program: ☐ Yes ☒ No	Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other receipts
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	

Justification: Section 40(d) of the Mineral Leasing Act of 1920 (30 U.S.C. 229(a)) provides that when lessees or operators drilling for oil or gas on public lands strike water, water wells may be developed by the Department from the proceeds from sale of water from existing wells. Receipts have been accruing to this permanent account at the rate of about $3,000 per year. At the start of fiscal year 1965, the account had an unobligated balance of $16,000. At the start of fiscal year 1983 the unobligated balance was $47,952. None of these receipts have been obligated over the past ten years and none are planned for obligation in fiscal year 1983 because the total available is too small to be put to practical use for the purpose designated by law. Deferral is planned because funds could not be used effectively during the current period even if made available for obligation. This reserve action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Effects: There will be no programmatic or outlay impact in fiscal year 1983 since the receipts will continue to accrue but will remain unobligated until such time as an amount is available which can be used for effective purposes.

Outlay Effect: This deferral will have no effect on FY 1983 outlays.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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Presidential Documents

Title 3—

The President

Proclamation 5012 of January 10, 1983

Public Employees' Appreciation Day, 1983

By the President of the United States of America

A Proclamation

January 1983 marks the one hundredth anniversary of the signing of the Pendleton Act which created the Federal civil service system. The Act established the principle of hiring according to merit in the Federal service, and although the system has been modified and refined through the years, it continues to play an essential role in ensuring the stability of the world's largest and most successful democracy. Our ability to function effectively in times of trial and upheaval and to prosper when various national crises have passed depends in no small degree upon the contributions of those who make up our civil service system.

The American civil service system succeeds because of several factors. It is built upon the concept that selection of career government employees must be based upon merit principles, the goal being to hire the most capable and qualified people to do the public's work. It also provides for a vital partnership between political leaders, who bring with them policies and programs endorsed by the electorate, and career civil servants, who provide the expertise and continuity which are essential to the effective operation of a government as large and varied as ours.

To commemorate the Centennial and to show our appreciation to Federal employees past and present, public agencies and private groups throughout America will sponsor events highlighting the history and accomplishments of the civil service system during January 1983 and in succeeding months.

In recognition of the tremendous contributions of public employees to our Nation's government, the Congress, by House Joint Resolution 619, has designated January 17, 1983, as "Public Employees' Appreciation Day" and has requested the President to issue a Proclamation in observance of that day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in recognition of the Centennial of the Federal civil service system, do hereby proclaim January 17, 1983, as Public Employees' Appreciation Day.

I urge all Americans to join with members of the Federal civil service system, and the many professional associations and employee unions which represent them, in commemorating the centennial anniversary of the institution to which they belong and in appreciation of the countless contributions they have made on behalf of all Americans over the past one hundred years.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of January, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-1040
Filed 1-11-83; 10:58 am]
Billing code 3195-01-M

Editorial Note: A memorandum for heads of executive departments and agencies, dated Jan. 10, 1983, on the centennial of the Federal civil service is printed in the *Weekly Compilation of Presidential Documents* (vol. 19, no. 2)

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7 CFR Pa

**Developm
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ACTION: F

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Rules and Regulations

Federal Register
Vol. 48, No. 8
Wednesday, January 12, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1942

Development Grants for Community Domestic Water and Waste Disposal Systems

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to the method for determining grant assistance for water and/or waste disposal systems. The intended effect of this action is to provide grant assistance to communities based on the median family income in the applicant service area as a percentage of the nonmetropolitan median family income of the State, rather than based on fixed median family income categories. This action is necessary to establish a more equitable method of providing the greatest amount of grant assistance to low income communities that can least afford water and/or waste disposal services and to allow flexibility to make necessary median family income adjustments as updated income data becomes available.

DATES: January 12, 1983. However, grants proposed for any application where the letter of conditions was issued prior to this effective date will continue to be processed under the regulations in effect on January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Howard Henderson, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, Room 6328, South Agricultural Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-9586.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be nonmajor. The reasons for this designation are that the rule will not have:

(a) An annual effect on the economy of $100 million or more; or

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Charles W. Shuman, Administrator, Farmers Home Administration (FmHA), has determined that the rule will not have a significant economic impact on a substantial number of small entities, since FmHA is currently projecting that only 350 grants would be made a year.

Clearinghouse Review

The FmHA programs and projects which are affected by this instruction are subject to State and local clearinghouse review in the manner delineated in FmHA Instruction 1901-H.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Programs Affected

CFDA No. 10.418, Water and Waste Disposal Systems for Rural Communities.

Background

The objective of the FmHA water and waste disposal grant program is to provide the greatest amount of grant assistance to low income communities that can least afford water and/or waste disposal services in order to reduce user costs to a reasonable level. This present method for accomplishing this goal is to consider applicants for grant assistance only when the debt service portion of the average annual user cost exceeds an established percentage of median family income in the service area. This percentage varies depending on which fixed median family income category the community falls into. Specifically, grant assistance will be considered only when the debt service portion of the average annual user cost exceeds the following percentages of median family income (MFI) in the service area:

(1) 0.75 percent when the MFI is under $6,000.

(2) 1.00 percent when the MFI is $6,000-$10,000.

(3) 1.25 percent when the MFI is over $10,000.

In no case may FmHA grants exceed 75 percent of eligible project development costs, according to statutory limitations. With the reduction in the water and waste disposal grant program allocation, an equitable method of assisting those communities most in need is essential. The grant determination method described above became obsolete as a result of using outdated fixed median family income categories for determining the amount of assistance. These fixed median family income categories were developed based on 1970 census data. When FmHA State and District Offices were instructed recently to begin using 1977 updated census information in determining median family incomes for communities, the substantial increases in the median family incomes since 1970 resulted in a high percentage of communities falling into only one category, the category that would provide the least grant assistance. Thus, varying levels of assistance were not provided as effectively as had been previously.

Alternatives

The major alternatives considered and a brief evaluation of each are as follows:

1. Update the fixed median family income levels of the three categories now in use. The less than $6,000, $6,000-$10,000, and over $10,000 could be

increased to less than $10,000, $10,000–$15,000, and over $15,000. This alternative would require periodic updates as income levels rose and would result in inequalities on an area by area basis since national standards are set.

2. Abolish the present grant determination method entirely and substitute a similar system user cost method. Using such a method, FmHA would provide grant funds in an amount necessary to reduce average annual user costs of a system to a reasonable level, as determined by the applicable FmHA State Director. This alternative was rejected because there would be no objective criteria to determine a reasonable user rate. In addition, there would be no assurance that grant funds would be directed to those communities most in need.

3. Replace the fixed median family income categories with categories based on the median family income in the applicant service area as a percentage of the nonmetropolitan median family income of the State. This alternative would provide three levels of grant assistance using identical criteria as the present three-tiered interest rate structure for community program loans. Thus, grant assistance would be considered only when the debt service portion of the average annual user cost exceeded the following percentages of median family income (MFI) in the service area:

(a) 0.50 percent when the MFI of the service area is below the poverty line.

(b) 1.00 percent when the MFI of the service area is not more than 85 percent of the nonmetropolitan median family income (NMFI) of the State.

(c) 2.00 percent when the MFI of the service is more than 85 percent of the NMFI of the State.

This alternative would not need to be updated as median family incomes change since the categories are based on percentages. However, it would still not ensure that grant assistance would be delivered to low income communities that can least afford water and/or waste disposal services.

4. Establish the same debt service percentages as in the first two categories of Alternative 3, but prohibit the use of grant funds in any project where the median family income of service area is more than 85 percent of the nonmetropolitan median family income of the State. With this alternative, grant assistance would be considered only when the debt service portion of the average annual user cost exceeded the following percentages of median family income (MFI) in the service area:

(a) 0.50 percent when the MFI of the service area is below the poverty line.

(b) 1.00 percent when the MFI of the service area is not more than 85 percent of the nonmetropolitan median family income (NMFI) of the State.

(c) No FmHA grant funds will be used in any project when the MFI of the service area is more than 85 percent of the MFI of the State.

This alternative would not need to be updated as median family incomes change since the categories are based on percentages. Moreover, with the limited amount of FmHA grant funds, it would ensure compliance with the Conference Report to the Omnibus Budget Reconciliation Act of 1981 which intends that 75 percent of all water and waste disposal grant funds be used in communities in which a significant percentage of the persons to be served are of low income.

Comments

A proposed rule based on selection of Alternative 4 was published in the **Federal Register**, (47 FR 13364) dated March 30, 1982. During the 60 day comment period, 74 letters of comments were received. Eleven additional letters were received later, making a total of 85 comment letters that have been considered in the development of this final rule. The major issues contained in the comment letters are summarized as follows:

Twenty-nine commentors recommended another grant determination formula. A grant determination method other than one of the alternatives presented in the proposed rule was suggested by 15 commentors. These formulas were reviewed and found to be too subjective in nature, or would be too difficult to administer. The other 14 commentors recommended one of the proposed alternative methods or continuance of the existing method. The limitations of these alternative methods have already been pointed out.

Fourteen commentors felt that the threshold income figure of 85 percent of Statewide nonmetropolitan median family income for eligibility for grant consideration was too low. Suggested alternative threshold figures were 100 percent and 125 percent of Statewide nonmetropolitan median family income. FmHA selected the 85 percent thereshold figure to ensure that grant funds would be directed to lower income communities.

Eleven commentors thought that the criterion for assessing need for a community, median family income, used alone was inadequate. Other need factors were suggested, such as unusually high construction costs, population, and other social and economic factors. It is felt that use of other need factors would be too arbitrary and that objective criteria would not be possible to develop.

Ten commentors believed that use of the Statewide nonmetropolitan median family income as a comparison against community median family income would unfairly benefit certain States or regions of the Country. FmHA believes that community needs can be better evaluated against State standards. Such an evaluation would be more relevant and would include any unique situation within a State.

Seven commentors suggested that a similar system rule be applied to communities with incomes above 85 percent of the Statewide nonmetropolitan median family income. That is, if a reasonable user cost could not be provided, FmHA could proceed with a grant to reduce user costs to not below reasonable level. FmHA believes that such an exception would become the rule in actual practice, thus circumventing the intent of excluding higher income communities from grant consideration in order to provide grant assistance to the lowest income communities.

Five commentors believed that eligibility for grant assistance should be based on a comparision of the community's median family income to a Nationwide standard rather than the Statewide nonmetropolitan median family income. FmHA believed the use of a Nationwide standard creates unfair disadvantages for communities in States with higher-overall incomes, construction costs, operating costs, and living expenses.

List of Subjects in 7 CFR Part 1942

Community development, Grant programs—Housing and community development, Rural areas, Waste treatment and disposal—Domestic, Water supply—domestic.

PART 1942—[AMENDED]

Accordingly, FmHA amends Subpart H of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations as follows:

1. Section 1942.355 is amended by adding a new paragraph (a)(12) to read as follows:

§ 1942.355 Grant limitations.

(a) * * *

(12) Pay any costs of a project when the median family income of the service area is more than 85 percent of the

nonmetropolitan median family income of the State.

* * * * *

2. Section 1942.356 is amended by redesignating paragraphs (b)(3) through (b)(7) to (b)(4) through (b)(8) respectively, by adding a new paragraph (b)(3), and by revising paragraphs (a), (b)(2), (b)(5), (b)(6), and (b)(7) to read as follows:

§ 1942.356 Determining the need for development grants.

(a) FmHA District Directors are responsible for determining applicant eligibility for grants and the amount of such grants. Form FmHA 1942–51, "Water and Waste Disposal Development Grant Summary," will be used to determine the amount of FmHA grant assistance for which the applicant qualifies. A separate form will be used to record the determination of FmHA grant assistance for each water, sewer collection and treatment, solid waste, and storm drainage project. A copy of each such form along with the letter of conditions and Form FmHA 1942–45, "Project Summary—Water and Waste Disposal and Other Utility-Type Projects," will be submitted to the National Office, Attention: Water and Waste Disposal Division by the State Director not later than the time of issuance of the letter of conditions.

(b) * * *

(2) Ordinarily, an applicant will be considered for grant assistance only when the debt service portion of the average annual user cost for either water or waste service, for only those users in the applicant service area, exceeds the following percentage of median family income (MFI):

(i) .5 percent when the MFI of the service area is below the poverty line. The poverty line will be that income prescribed by the Office of Management and Budget for a nonfarm family of four, as adjusted under Section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d).

(ii) 1.0 percent when the MFI of the service area is not more than 85 percent of the nonmetropolitan median family income (NMFI) of the State.

(iii) No FmHA grant funds will be used in any project when the MFI of the service area is more than 85 percent of the NMFI of the State.

(3) The median family income of the service area and the nonmetropolitan median family income for the State will be determined in accordance with paragraph (b)(7) of this section. Except as provided for in paragraphs (b), (b)(5), and (b)(6) of this section, the grant will not exceed an amount necessary to reduce the debt service portion of the average annual user cost to the applicable percent level listed above. This procedure shall not be used to result in a rate below that deemed to be reasonable as defined in paragraph (b) of this section. However, an exception to the reasonable user rate may be authorized by the FmHA National Office in accordance with paragraph (b) of this section.

* * * * *

(5) If, after applying the formula described in paragraph (b)(2)(i) or (b)(2)(ii) of this section, FmHA determines that a reasonable user cost has not been achieved due to unusually high operation and maintenance costs, construction or water acquisition costs, or other factors, FmHA may proceed with a grant in an amount necessary to reduce the user cost to not below a reasonable level as defined in paragraph (b) of this section. However, an exception to the reasonable user rate may be authorized by the FmHA National Office in accordance with paragraph (b) of this section.

(6) If, after applying the formula described in paragraph (b)(2)(i) or (b)(2)(ii) of this section, FmHA determines that a reasonable average annual cost to the applicant for delivery of service to residential type users has not been achieved, FmHA may proceed with a grant in an amount necessary to reduce such cost to not below a reasonable user rate as defined in paragraph (b) of this section, provided this option is only available to an applicant that imposes uniform user charged for similar classes of service throughout their service area. Reasonable average annual cost to the applicant is defined as that which is not less than existing prevailing costs in communities, being served by an established system, having similar economic conditions.

(7) The income data used to determine median family income should be that which most accurately reflects the income of the service area. The service area is that area reasonably expected to be served by the facility being financed by FmHA. The median family income of the service area or those reference communities used in comparing the proposed system with similar systems, and the nonmetropolitan median family income for the State will be determined from the U.S. Department of Commerce, Bureau of Census, Publication PC (1)–C Series, or from unpublished Bureau of Census data for individual enumeration districts. If there is reason to believe that the census data is not an accurate representation of the median family income within the area to be served, the reasons will be documented and the applicant may furnish, or FmHA may obtain, additional information regarding such median family income. Such information will consist of reliable data from local, regional, State or Federal sources or from a survey conducted by a reliable impartial source. The nonmetropolitan median family income of the State should be updated, using reliable data from State or Federal sources as such data becomes available.

* * * * *

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: December 3, 1982.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 83–813 Filed 1–11–83; 8:45 am]

BILLING CODE 3410–07–M

CIVIL AERONAUTICS BOARD

14 CFR Part 389

[Amdt. No. 30; Docket Nos. 30586, 30616]

Fees and Changes for Special Services

Correction

In FR Doc. 83–228, beginning on page 635, in the issue of Thursday, January 6, 1983, on page 642, in the third column, correct line 5 to read "1. The authority for Part 389 is:"

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket Nos. RM82–2–000, RM82–2–001, RM82–2–002, and RM82–2–003]

Case-by-Case Exemption From All or Part of Part I of the Federal Power Act for Small Hydroelectric Power Projects With an Installed Capacity of 5 Megawatts or Less

Issued: December 29,1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing, denying leave to add party on rehearing, and denying stay of final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an order that denies three petitions for rehearing of Order No. 255. Order No. 255 is the final rule amending the definition of "small hydroelectric power project" to provide the criteria for a natural water feature project, a type of

small hydroelectric power project, that may be exempted from certain provisions, including licensing provisions, of Part I of the Federal Power Act. The order also denies the requests for a stay of the final rule and the request for leave to add a party on rehearing. The reasons for this action are detailed in the Commission's order.

FOR FURTHER INFORMATION CONTACT: Fredric D. Chanania, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8033.

Order No. 255-A.—Order Denying Rehearing, Denying Addition of a Party on Rehearing, and Denying Stay of Final Rule.

I. Introduction

On August 27, 1982, the Federal Energy Regulatory Commission (Commission) issued a final rule amending the definition of "small hydroelectric power project" to provide specific guidance on what constitutes a "natural water feature" project.[1] Under the 1980 amendments to the Public Utility Regulatory Policies Act (PURPA),[2] any small hydroelectric power project that utilizes, for electric power generation, a natural water feature may be exempted from certain provisions of Part I of the Federal Power Act, including licensing requirements. As provided in the final rule, these natural water feature projects must meet certain criteria to qualify for exemption under existing case-specific exemption procedures.[3]

II. Petitions for Rehearing, Stay of Final Rule, and for Leave To Add a Party

The Commission has received timely petitions for rehearing of the final rule from the following petitioners: Tulalip Tribes of Washington, (Docket No. RM82-2-001); Upper Skagit Indian Tribe, Swinomish Tribal Community, Sauk-Suiattle Indian Tribe, Skagit System Cooperative, and Point No Point Treaty Council (Docket No. RM82-2-002); and National Wildlife Federation, Idaho Wildlife Federation, Montana Wildlife Federation, Natural Resources Defense Council, Inc., Friends of the River, Trout Unlimited, Inc., Tulalip Tribes of Washington, and Columbia River Inter-Tribal Fish Commission (Docket No. RM82-2-003). The rehearing petitions in Docket Nos. RM82-2-001 and RM82-2-002 also contained requests for stay of the final rule pending final action, ostensibly including judicial review if any.

The Commission also received a Petition for Leave to Add Friends of the Earth, Inc. as a party to the rehearing petition filed in Docket No. RM82-2-003. The petition to add this additional party was filed after the 30-day statutory period for requesting rehearing had elapsed. The Commission cannot alter the 30-day jurisdictional parameters set by statute.[4] For that reason, the Commission is not permitting the inclusion of Friends of the Earth, Inc. as a party on rehearing.

III. Discussion

A. *Implementation of the Energy Security Act of 1980 (ESA).* All three rehearing petitions take issue with the manner in which the final rule implements, in part, the exemptions provided for in the 1980 ESA amendments to PURPA. Petitioners argue that the Commission has exceeded its statutory authority under the ESA by defining a natural water feature project to allow it to include a diversion structure. Petitioners also argue that the final rule, in considering the "gradient of a natural stream" as a type of natural water feature under sections 405 and 408 of PURPA, makes diversion-type hydroelectric projects eligible for exemption contrary to the intent of Congress.

1. *Statutory Framework.* When the 1980 amendments to PURPA were enacted, Congress did not provide guidance on the meaning of the term "natural water feature." Instead, Congress authorized the Commission, in its discretion, to determine by rule or order which projects may be exempted.[5] In doing so, the Commission is directed by the ESA to ensure that a natural water feature project generates electricity "without the need for any dam or impoundment" in a manner that will achieve the purposes of Title IV of the Energy Security Act and in a manner which will do so "without any adverse effect upon such natural water features."

2. *Nature of the Exemption Process.* The case-specific exemption procedures that the Commission adopted on November 7, 1980, did not define the term "natural water feature." Absent experience with specific natural water feature project proposals at that time, the Commission could not provide generic guidance on what types of natural water feature projects should be exemptible. The Commission instead elected to consider applications for natural water feature projects on an *ad hoc* basis under the case-specific exemption procedures. This rule is intended to provide the generic guidance on natural water feature projects that has not heretofore been included in these exemption procedures.

Under these procedures, of which this final rule is a part, any exemption (including one for a natural water feature project) that is granted will contain appropriate terms and conditions prescribed by the relevant state and federal fish and wildlife agencies.[6] This is a statutory requirement.[7] These types of terms and conditions can address the various environmental considerations raised in the rehearing petitions. These include, among other things, fish migration, fish habitat, spawning gravel, stream flows, sediment and other natural bedload movement, water quality, and water temperature.

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[1] Docket No. RM82-2-000, Order No. 255, 47 FR 38,508 (Sept. 1, 1982). The final rule also contains a number of procedural clarifications for filings related to small hydroelectric power projects. These procedural elements of the final rule are not at issue on rehearing.

Also, the final rule inadvertently bore an erroneous order number (No. 225) when it was issued. This was corrected on September 10, 1982. In keeping with the petitioners' request, the Commission is treating all references to Order No. 225 in the rehearing petitions as being references to Order No. 255.

[2] Sections 405 and 408 of PURPA, 16 U.S.C. 2705, 2708, were amended by section 408 of the Energy Security Act of 1980 (ESA), Pub. L. 96-294, 94 Stat. 611.

[3] The procedures for case-specific exemption were established in Final Rule, "Exemption From All or Part of Part I of the Federal Power Act of Small Hydroelectric Power Projects With an Installed Capacity of Five Megawatts or Less," issued November 7, 1980, Docket No. RM80-0-65, Order No. 108, 45 FR 76,115 (Nov. 18, 1980).

[4] The courts have held that the 30-day filing requirement is jurisdictional and that the Commission is without authority to extend the time period. *E.g.*, Boston Gas Company v. FERC, 575 F.2d 975 (1st Cir. 1978); Southern Union Gathering Company v. FERC, NO. 81-4464, 5th Cir., Slip Opinion (September 27, 1982). To permit the addition of a party after 30 days is to confer upon that party the ability to seek rehearing and judicial review when the governing statute would otherwise foreclose such rights.

[5] Section 408(b) of the ESA states that:

The Commission may in its discretion (by rule or order) grant an exemption in whole or in part from the requirements (including the licensing requirements) of part I of the Federal Power Act to small hydroelectric power projects having a proposed installed capacity of 5,000 kilowatts or less, on a case-by-case basis or on the basis of classes or categories of projects * * *.

In addition, section 408(c) of the ESA states, in pertinent part, that "small hydroelectric power projects" are to include:

* * * any project which utilizes or proposes to utilize natural water features for the generation of electricity, without the need for any dam or impoundment, in a manner which (as determined by the Commission) will achieve the purposes of this title and will do so without any adverse effect upon such natural water features.

[6] 18 CFR 4.105(b)(3), 4.106(b), 4.107(e)(3).

[7] *See* section 30(c) of the Federal Power Act, 16 U.S.C. 823a(c); section 405(d) of PURPA, 16 U.S.C. 2705(d).

In any case, each exemption application is examined by the Commission to determine whether the project will cause any adverse environmental effects not otherwise remedied by terms and conditions proposed by the state and federal fish and wildlife agencies. If potential adverse impacts are identified, the Commission includes in the exemption additional environmental terms and conditions designed to avert those adverse impacts.[8]

3. *The "Natural Water Feature" Rule.* The final rule at issue here provides specific criteria for determining whether a project that uses a "natural water feature" for electric power generation qualifies for consideration under the case-specific exemption procedures. The rule, in practical terms, restricts the eligibility of projects for exemption by imposing criteria on natural water feature projects where no generic limitations previously existed in the exemption procedures. These criteria mandate, among other things, that a small hydroelectric power project, to qualify for exemption as a natural water feature project: (1) Must use a natural water feature such as a waterfall, natural lake, or gradient of a natural stream without the need for a dam or man-made impoundment; (2) must not retain water behind any structure for storage and release operations; and (3) must not have a diversion structure which is higher than two times the diameter of the penstock or intake pipeline (not to exceed ten feet in height), which retains over two acre-feet of water, and which increases the naturally-occurring head more than five percent.

The rehearing petitions misconstrue the procedural nature of this final rule. Apparently, petitioners believe the final rule, by itself, leads inevitably to the approval of many more natural water feature projects. This is not the case. The various criteria for natural water feature projects are standards used in determining whether a project can be exempted from licensing, assuming that all the other substantive and procedural requirements in 18 CFR 4.101–4.106 are met. Under this final rule, falling within the physical or operational criteria does not ensure the approval of any project on its merits.

The petitioners also do not provide adequate support for their claims that the environmental analyses attendant to the exemption process are insufficient. To the extent that petitioners' general assertions reflect their apprehension about the environmental consequences of projects that may qualify for exemption, it is important to consider the following aspects of the exemption process: (1) The pre-application consultation between the applicant and appropriate state and federal fish and wildlife agencies [§ 4.107(e)(3)]; (2) the environmental impact information submitted as Exhibit E is an exemption application [§ 4.107(e)]; (3) the post-application opportunity for any appropriate state and federal fish and wildlife agency to recommend further environmental terms and conditions for a proposed project [§ 4.105(b)(3)]; (4) the Commission's environmental analysis for each project, based upon the environmental information submitted by the applicant and upon the comments of state and federal fish and wildlife agencies [§§ 4.105(b)(3) and (6), 4.106(b)]; and (5) the mandatory compliance with the environmental terms and conditions contained in the order granting exemption [§ 4.106].

The petitioners' objections to the rule are directed at matters of statutory interpretation rather than specific shortcomings in the rule or its application. The petitioners argue that the rule, by including diversion structures among those acceptable in natural water feature projects, ignores the statutory language requiring that natural water feature projects generate electricity "without the need for any dam impoundment." Therefore, petitioners claim, the Commission has exceeded its authority under the ESA.

The terms "dam" and "impoundment," as used in the ESA and its legislative history, are viewed by the Commission as referring to structures that perform the conventional role of a dam or impoundment—the artificial creation or increase of hydraulic head needed to generate electricity or needed for the storage and release of water.[9] There are fundamental differences between a project requiring the artificial creation of head to generate electricity and a project located at a site where the gradient of a natural stream is itself steep enough to provide the necessary hydraulic head. In the case of this latter type of project, only a diversion structure is needed to direct a portion of the natural stream flow into an intake pipe or penstock. The diversion structure's purpose is not to create a hydraulic head at the dam or impoundment. Moreover, no scheme of periodic storage and release of water is involved. The criteria in the final rule are drafted to incorporate this important distinction between dam projects and diversion-type projects. The Commission adheres to the view that diversion structures which meet the criteria in the final rule are not dams or impoundments in the conventional sense.[10]

Nothing in the ESA or its legislative history indicates that the water feature at which natural hydraulic head most frequently occurs—"the gradient of a natural stream"—should not be included among those natural water features that can be used in projects otherwise eligible for exemption. Consequently, any definition of natural water feature projects should include diversion-type projects that are capable of utilizing this type of natural hydraulic head.[11]

The distinction between natural water feature projects and those other types of projects using artificially-created head exists also as a matter of engineering and economics. While all streams have some degree of natural gradient, the use of a diversion structure for electrical generation is economically infeasible absent a precipitate gradient. In addition, projects on lowhead streams

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[8] This may include any terms and conditions necessary to protect legally recognized treaty rights of Indian tribes, particularly with respect to anadromous fish. *E.g.*, United States v. Washington (Phase II), 506 F. Supp. 187 (W.D. Wash. 1980). The Commission's review is not, however, limited solely to environmental matters. It includes, for example, the subjects mentioned in 18 CFR 4.105(b)(6).

[9] This view of "dam" and "impoundment" under the ESA versus "diversion stucture" is consistent with other definitions of "dam," which stress that the use and effect of the structure are important elements of any definition. For example, one preferred definition of a dam states that it is a "barrier * * * built across a watercourse to *confine and keep back flowing water.*" *Webster's Third New International Dictionary* 571 (1976) (emphasis added). Diversion-type structures are not built for these purposes.

Petitioners cite Lake Ontario Land Dev. & Beach Prot. Ass'n v. FPC, 212 F.2d 227, 232 (D.C. Cir. 1954) for the proposition that a barrier that extends only partially across a stream is a "dam". The court's dictum on this point is inapposite since it was offered merely as an analog to the real issue before the court: whether the FPC could license only part of the structures that extend completely across the St. Lawrence River into Canada. The dams in *Lake Ontario* are, in fact, the kinds of structures designed to create hydraulic head artificially and to store and release water on a periodic basis.

[10] The petitioners' suggestions that flumes, simple intake boxes, or Raney wells could be used at natural water feature sites, rather than diversion structures, are not feasible from an engineering point of view for the vast majority of small hyrdoelectric power projects. In addition, limiting exemptions only to waterfall sites and elevated natural lakes would significantly affect the Commission's ability to carry out the mandate in section 402 of the ESA to encourage hydropower development.

[11] To ensure the distinction between natural water feature projects and those using hydraulic head that is artificially created by a dam or impoundment, the final rule contains a limitation on any increase in the naturally-occurring hydraulic head at the site of a natural water feature project. 18 CFR 4.102(1)(2)(iii)(C).

could not use diversion structures under ten feet in height and still be within the other criteria established in this rule, such as the five percent limitation on the increase in the naturally-occurring head at the site. These natural limitations and the other safeguards in the final rule help to ensure that exemptions are available only to a select group of natural water feature projects and not, as petitioners imply, to a variety of conventional projects that use dams and man-made impoundments.

The Commission believes that the final rule meaningfully implements the Energy Security Act, taking into account the purpose of Congress in establishing the natural water feature project exemption and the actual statutory language of section 408 of the ESA. The petitioners have not raised any arguments on rehearing with respect to the provisions of the ESA that demonstrate that the rule exceeds the authority granted to the Commission in the ESA.

B. *National Environmental Policy Act (NEPA).* The petitioners also argue that the Commission has failed to meet its responsibilities under NEPA[12] to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) prior to the promulgation of this rule. As stated above, this rule is procedural in nature. It does not constitute any proposed action by the Commission with respect to any exemptible project.[13]

On the other hand, Commission approval of an exemption for a natural water feature project may constitute a "major federal action" that could significantly affect the quality of the human environment. The "proposal" for such action is the actual filing of a project application by a project developer.[14] Thus, the Commission's approval of exemptions for small hydroelectric power projects are, of course, subject to NEPA. Therefore, under the procedures established to administer the exemption process, the Commission examines such exemption applications when filed, both in terms of their individual environmental impacts and, to the extent necessary, in terms of any cumulative impacts. However, the actual establishment of those exemption procedures is not the type of action which requires an EA or EIS, given the procedural nature of that "action" and the environmental analyses which are performed in connection with the exemption applications that are actually filed.

Under NEPA, therefore, the appropriate state for environmental analysis in connection with natural water feature project exemptions is after an application is filed with the Commission. To attempt to invoke NEPA at an earlier point would be meaningless since it would, at best, involve pure speculation on where potential developers might decide to build these types of projects. This would also divert Commission resources away from the critical project-related environment analyses.[15] The Commission, therefore, declines to accept petitioners' contention that a programmatic environmental assessment is required for this procedural regulation.[16]

C. *Waiver Provision.* Petitioners also object that the waiver provisions in 18 CFR 4.103(d) in the final rule are open-ended and too ambiguous. Section 4.103(d)(2) permits a developer to file for an exemption where the project in question exceeds, to some degree, specific criteria which would otherwise apply. Given the limitations specifically enumerated in § 4.103(d)(2), the waiver provision cannot, in any way, be construed to absolve a potential developer from taking either the necessary fish and wildlife protection measures mandated by the state or federal agencies involved or the other terms and conditions imposed by the Commission.

The Upper Skagit Indian Tribe, *et al.* argue that the waiver provisions in §4.103(d)(1) can be used to waive any part of the regulations, including the specific waiver provisions in § 4.103(d)(2). This is not so. Various statutes provide definite parameters within which the Commission must act. Section 4.103(d)(1) expressly recognizes this restriction and requires that any waiver must be consistent with the ESA. Obviously, the Commission cannot waive other statutorily-based obligations, including those arising under NEPA. Finally, the waiver provisions of § 4.103(d)(2) are specific in nature and the general provisions of § 4.103(d)(1) are not to be used to undo what the Commission has accomplished in this rule. As stated in the final rule and its preamble, waivers will be granted only where a petitioner can demonstrate both that it is reasonable to waive otherwise applicable criteria and that the waiver would not cause new, significant environmental impacts.

Based upon the arguments in the rehearing petitions, the Commission cannot agree that providing a degree of procedural flexibility through the limited waiver provisions in § 4.103(d)(2) will precipitate adverse effects on the environment, given the other protective measures built into the exemption process.

D. *Other Arguments.* Petitioners present a number of other arguments in their rehearing petitions with respect to the adequacy of notice, the sufficiency of the administrative record, and delegation of certain NEPA obligations. The Commission believes that the rulemaking procedures used in this proceeding and the final rule itself sufficiently meet all such other arguments without the need for further explication or amendment of the regulations.

E. *Requests for Stay of Final Rule.* Both the Tulalip Tribes of Washington and the Upper Skagit Indian Tribe, *et al.* (Docket Nos. RM82–2–001 and RM82–2–002 respectively) request a stay of the final rule. In their requests, neither petitioner has met the burden of demonstrating that such extraordinary action is warranted. Petitioners, in summary fashion, allude to the expense of intervention with respect to exemption applications that are filed and to the "expanded class" of projects that can qualify for exemption.

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[12] 42 U.S.C. 4321 *et seq.* Since the petitioners also cite regulations of the Council on Environmental Quality, the Commission would note that, as an independent regulatory agency, it is not bound by such regulations.

[13] A major federal action must be proposed before NEPA applies. *See, e.g.*, Andrus v. Sierra Club, 442 U.S. 347 (1979); Kleppe v. Sierra Club, 427 U.S. 390 (1976).

[14] The Supreme Court has recognized a distinction between agencies which license the activities of other persons and agencies which themselves put forth a program for development. *E.g.*, Kleppe v. Sierra Club, 427 U.S. 390, 399–404, 419 n.1 (1976); Flint Ridge Dev. Co. v. Scenic River Ass'n, 426 U.S. 776, 791 n.23 (1976). As Justice Marshall, author of the *Flint Ridge* opinion, stated in *Kleppe*:

"In *Flint Ridge*, in considering whether an agency should begin work on an impact statement arguably necessary for federal approval of certain private action by a real estate developer, we rejected the claim that the agency should begin work before the private action was submitted to the agency. The agency could not fruitfully begin the impact statement until the developer's plans were fully or largely worked out." "

390 U.S. at 419, n.1 (separate opinion concurring in part and dissenting in part).

[15] *Kleppe, supra* note 14; *Flint Ridge, supra* note 14.

[16] Only on rehearing has the issue of NEPA been raised. In that regard, the Upper Skagit Tribe petition claims that they were not informed of the "real environmental impacts" of the rule. The tribes can only be informed of the real environmental impacts of this rule in the context of the projects which are sought to be developed through the procedures established. Conceivably, there would be very little impact if very few applications for exemptions are filed. On the other hand, where a massive number of applications are filed, the environmental impacts would become more obvious. There is nothing inherent in this procedural rule that would reveal, by any length of study, what the "real environmental impacts" would be for future projects that are now known only to potential developers.

The decision on whether to grant a stay of a final rule is a matter within the sound discretion of the Commission.[17] As discussed earlier, a natural water feature project exemption will become effective only after state and federal environmental reviews. Even then, the exemption will be subject to the standard terms and conditions set forth in § 4.106 and may contain other terms and conditions imposed under section 30(c) of the Federal Power Act. In the absence of a more concrete demonstration by petitioners that there is a reasonable potential for actual and irreparable harm from this procedural rule and that the balance of equities favors such a stay, the Commission declines to exercise its discretion and order a stay.

For the foregoing reasons, the Commission orders that:

(1) The Petitions for Rehearing in Docket Nos. RM82–2–001, RM82–2–002, RM82–2–003 are hereby denied;

(2) The Petition for Leave to Add Friends of the Earth, Inc. as a Party is hereby denied; and

(3) The two requests for a stay of the final rule are also hereby denied.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 83-375 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Parts 154, 270, 273, 284, and 340

[Order No. 273; Docket No. RM77-22-000]

Rate of Interest on Amounts Held Subject to Refund for Oil Pipelines, and Eliminating the Undertaking Requirements for Gas Pipelines and Producers

Issued: December 28, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is establishing regulations at 18 CFR Part 340 for oil pipeline companies under its jurisdiction. These regulations (1) provide requirements for refund payments, with interest that is tied to the prime rate charged by banks for short-term commercial loans, (2) require quarterly compounding of interest on the funds held subject to refund, and (3) provide for the sharing of a refund obligation by carriers which operate under a joint tariff. The Commission is establishing these regulations under the authority of section 402(b) of the Department of Energy Organization Act which transferred to this Commission from the Interstate Commerce Commission the authority respecting the establishment of rates and charges for the transportation of oil by pipeline and the establishment of the valuation of such pipelines.

The Commission is also eliminating the undertaking requirements in 18 CFR 154.67 and 154.102 for gas pipelines and producers. This is because the Commission no longer needs these requirements to assure that refunds will be made as prescribed by the Commission.

EFFECTIVE DATE: This final rule is effective February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Cathy Ciaglo, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol St. N.E., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

The Federal Energy Regulatory Commission (Commission) is amending its regulations to provide the requirements for refund payments, with interest, by oil pipeline companies under the Commission's jurisdiction. The refund interest rate is the prime rate charged by commercial banks for short-term business loans. It applies to all amounts held on or after the effective date of this final rule including those in the *Trans Alaska Pipeline System* (*TAPS*) case (Docket No. OR78–1). In addition, this final rule provides for the compounding of interest rates on a quarterly basis and provides the procedures for refunds in the case of joint tariffs. In regard to natural gas pipelines and producers, the final rule revises the requirements for a motion and eliminates the requirements for an undertaking that must be complied with before a suspended rate may become effective.

The Commission's authority to establish refunds with interest for oil pipelines is provided in section 402(b) of the Department of Energy Organization Act (DOE Act) (42 U.S.C. 7172(b)) and Executive Order No. 12009 (issued September 13, 1977, 42 FR 46267 (September 15, 1977)). Section 402(b) of the DOE Act provides that all functions and authority of the Interstate Commerce Commission (ICC) relating to the establishment of rates and charges for the transportation of oil by pipeline, or the valuation of oil pipelines, is vested in this Commission. Included in this transfer of functions and responsibilities is the authority to compel refunds, with interest, of unjustified rates or charges for such transportation, as required in section 15(7) of the Interstate Commerce Act (49 U.S.C. 15(7))[1]

Section 705(a) of the DOE Act provides that all rules and regulations relating to functions transferred to this Commission and all orders in effect at the time the DOE Act takes effect shall continue in effect until otherwise altered by the Commission. Pursuant to section 705(a), the Commission, on October 1, 1977, issued a final rule providing that the ICC regulations in Title 49 of the Code of Federal Regulations (CFR) that related to jurisdiction over oil pipelines would remain in effect until modified by the Commission (Order No. 1, "Order Providing for the Continuation of Functions Vested in, or Delegated to, the Federal Energy Regulatory Commission", Docket No. RM78–1, 42 FR 55450 (October 17, 1977)). By a final rule issued on December 19, 1980, the Commission transferred these ICC regulations from Title 49 of the CFR to Title 18 of the CFR (Order No. 119, "Regulations of Interstate Oil Pipelines", Docket No. RM81–6 (46 FR 9043, January 28, 1981)). The Commission is hereby modifying its regulations respecting its oil pipeline jurisdiction by adding a new Part 340 to specifically provide requirements for refunds with interest for oil pipeline companies.[2]

On September 10, 1979, the Commission issued a final rule in this docket which established, for natural gas pipelines and producers and electric utilities, *inter alia*, a new, self-adjusting interest rate on refunds that would be compounded quarterly (Order No. 47, 44 FR 53493, September 14, 1979). This interest rate was based on the prime rate for short-term business loans.[3] Both Order No. 47 and this final rule were preceded by a Notice of Proposed Rulemaking issued on March 9, 1979 (44 FR 18046, March 26, 1979). That notice proposed to revise the interest rate on carrying charges and refunds paid by jurisdictional electric utilities and gas

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[17] Under the Administrative Procedure Act, the Commission may grant a stay when it determines that "justice so requires." 5 U.S.C. 705.

[1] Pursuant to Pub. L. 95–473 (October 17, 1978, 92 Stat. 1337), the Interstate Commerce Act was re-codified under Subtitle IV of Title 49. Section 15(7) is now section 10708(b) in pertinent part. Section 15(8)(e), which is referenced in Part II. A. of this rule, appears in pertinent part as section 10707(d)(1).

[2] Because the notice in this docket was issued prior to the 1980 transfer of regulations from 49 CFR to 18 CFR, the notice provided for refunds by oil pipelines at 49 CFR Part 1095. These regulations appear at 18 CFR Part 340 in this final rule.

[3] Order No. 47 was reaffirmed by the United States Courts of Appeals in *United Gas Pipe Line Company v. FERC*, 687 F.2d 780 (5th Cir. 1981).

pipelines and producers to reflect the prime interest rate charged by commercial banks for short-term business loans, require monthly compounding of interest on funds held subject to refund, reduce certain reporting requirements, and impose definitive refund obligations on jurisdictional oil pipelines, including an interest rate equivalent to the prime rate.[4]

Certain commenters to the notice suggested that, because of important differences between them, a different refund interest rate should be applied to oil pipelines than to gas and electric companies. However, the Commission stated in Order No. 47 that it was not persuaded that the circumstances surrounding the transportation of oil by pipeline warranted treatment different from that accorded other utilities. Nevertheless, because the regulation of oil pipelines was still a relatively new endeavor for the Commission at that time, it decided to postpone the issuance of any oil pipeline refund regulations until it acquired more information on the subject. The Commission stated in Order No. 47 that it would provide for an oral argument on the issue.

The notice of the oral argument, issued September 10, 1979 (44 FR 53530, September 14, 1979), requested the participants to specifically address why oil pipeline refund interest rates and procedures should or should not be identical to those applicable to gas pipelines and producers and electric utilities. The notice also requested suggestions for changes to the final rule respecting oil regulation in contrast to provisions in Order No. 47 for electric and gas companies. The oral argument was held at the Commission on October 9, 1979. Following is a summary and analysis of the comments made at the oral argument and other written comments concerning the oil pipeline refund interest rate that were submitted in response to the Notice of Proposed Rulemaking.[5]

[4] The notice also provided that the requirements would apply to all pending and future petroleum pipeline proceedings within the Commission's jurisdiction, including the *Trans-Alaska Pipeline System* proceeding (Docket No. OR78-1).

[5] Participants in the oral argument were: The Association of Oil Pipelines, Williams Pipe Line Company, ARCO Pipe Line Company, and the State of Alaska and Mid-Continent Petroleum Shippers Group. Of these, the Association of Oil Pipelines filed a written statement of its position at the oral argument. Additional written comments were also filed by those named above, Shell Pipe Line Corporation, Butte Pipe Line Company, the owners of the Trans Alaska Pipeline System, the Artic Slope Regional Corporation, and the Oil Pipeline Board.

II. Summary and Analysis of Comments Applicable Generally to Pipeline Refunds.

Of the nine entities that submitted oral or written comments about the proposed rule to establish an oil pipeline refund interest rate, two generally favored the proposal and seven expressed concerns about various aspects of the rule.[6] The greatest concerns pertained to the actual rate of interest that the Commission would require from oil pipelines. The commenters also made suggestions concerning (1) the authority of the Oil Pipeline Board to prescribe an interest rate on refunds by oil pipelines, (2) the future and retrospective applicability of the refund provisions to oil pipelines, (3) the requirement to compound interest and the frequency of calculating compounded interest, (4) the application to oil pipelines of the undertaking requirements that apply to gas pipelines and producers, and (5) the application of a refund rule to pipeline carriers that operate under a joint tariff.

A. Appropriate Interest Rate for Oil Pipeline Refunds

1. *Comments on the Appropriate Rate.* The Association of Oil Pipelines (AOPL), Williams Pipeline Company (Williams) and ARCO Pipe Line Company stated that the refund interest rate (*i.e.*, prime rate) and procedures adopted in Order No. 47 for the other utilities should not be made applicable to oil pipelines. Rather, they urged that the Commission adopt the Treasury bill interest rate on refunds specified in section 15(8)(e) of the Interstate Commerce Act (49 U.S.C. 15(8)(e)). According to AOPL, it was the "intent of Congress" that this rate apply to all common carriers regulated under Part I of the Interstate Commerce Act, including oil pipelines. As support, AOPL noted that on April 14, 1977 the ICC adopted procedures applying the Treasury bill standard to all carriers under Part I.[7]

The Commission is not persuaded that section 15(8)(e) mandates the Treasury bill interest rate. First, the Treasury bill standard was specifically formulated by Congress for use in railroad rate cases. It was only one of many provisions incorporated in the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 31) for the express purpose of regenerating and strengthening the troubled railway system. Although the railroad and oil pipeline industries are both governed by the Interstate Commerce Act, there is no evidence that Congress intended to apply the standard to oil pipelines.

Second, while the ICC's April 1977 notice applied the Treasury bill standard to oil pipelines, this is a similarly unconvincing reason to apply it here. The ICC adopted the Treasury bill procedures pursuant to section 15(8)(e) of the Interstate Commerce Act and stated that it would calculate refund interest rates in railroad cases in accordance with the new Treasury bill standard. It also announced that this policy would be applicable "in all other proceedings concerning carriers subject to Part I of the [Interstate Commerce] Act * * *" and this apparently included oil pipeline companies. The ICC, however, provided no reasons for its decision respecting oil pipelines.[8]

This Commission believes that it can and should make an independent determination of which interest rate should apply. In this regard, the Commission believes that it must address the same considerations for establishing a proper rate of interest on refunds for oil pipelines that it addressed in determining the interest rate in Order No. 47. Thus, the interest rate should: (1) Provide just compensation for the losses or costs imposed upon those who have paid excessive rates; (2) reflect the benefits available to companies which collected excessive rates; and (3) not provide incentives for any party to prolong litigation. (*See* 44 FR 53494.)

As part of their recommendation to apply the Treasury bill standard to oil pipeline refunds, AOPL, Williams and other commenters alleged several differences between the oil pipeline industry and the gas transmission, gas producing, and electric utility industries regulated by the Commission. These included a contrast of each of the industries' roles as sellers of service; a contrast of oil pipeline shippers in comparison to large corporate customers of the other two industries; and a contrast of the ultimate customers of each of the industries. According to the commenters, these differences support a refund interest rate for oil pipelines different from and lower than the prime rate proposed in the notice.

[6] Comments pertaining to the refund interest rate applicable to the Trans Alaska Pipeline System are discussed in Part III of this rule.

[7] "Revised Procedures to Calculate Interest Rates", 42 FR 20701 (April 21, 1977).

[8] The ICC adopted the Treasury bill standard by order in one oil pipeline case. "Investigation and Suspension Docket No. 9104", *TAPS*, 355 I.C.C. 60 (1977) (the forerunner of the Commission's Docket No. OR78-1) issued June 28, 1977. *See* the detailed discussion about the refund issues applicable to the *TAPS* case at Part III of this final rule.

a. The Oil, Electric, and Gas Industries as Sellers of Service. First, with respect to the sellers of service in the various industries, AOPL states that only oil pipelines are common carriers, with an obligation to provide service to all customers upon reasonable demand and upon nondiscriminatory terms. In addition, AOPL notes that oil pipelines are not suppliers of energy in that they do not own the commodity they transport. In contrast, AOPL argues that gas and electric utilities are not common carriers. They supply their energy to captive customers who are effectively locked in to their supplier. Moreover, gas and electric utilities are purchasers or providers of energy which, in turn, sell their energy directly to consumers or suppliers of consumers.

Even if AOPL's characterizations of the oil pipeline, gas and electric industries are true, they are distinctions without a difference as far as the refund interest rate is concerned. Ownership of the commodity or the common carrier status of the utility has no impact on the question of benefits which accrue to the collecting company or the costs which accrue to the shippers as a result of overpayments and, thus, should have no bearing on the Commission's decision about the refund interest rate. Rather, the benefits and costs in question here are related to the period of time during which the overpayments are held by the collecting company and the uses to which the overpayments may be or could have been put.

The benefits from excessive rate payments are virtually the same for oil pipeline carriers and for natural gas pipelines and electric utilities as discussed in detail in Order No. 47. (*See* 44 FR 53494.) One of these benefits is the ability to reduce the need for borrowings, both short- and long-term, and to eliminate the costs associated with them.

None of the commenters seriously argues that excessive rate payments could not be used as a substitute for short-term borrowing by the companies. (Oral Argument, at 61; Comments of AOPL, filed May 23, 1979, at 3–4) Although neither gas nor oil pipelines make extensive use of short-term borrowing, this type of borrowing is at least a part of the typical oil pipeline's financial picture. Short-term borrowing is generally achieved by issuing commercial paper (at three to six month prime commercial paper rates) or by borrowing from banks at rates equal to or higher than the prime rate. Moreover, as can be expected, many of the smaller oil pipelines, similar to smaller gas pipelines and electric utilities, can only borrow from the banks at relatively high rates of interest. (Oral Argument, at 106–107; Appendix A)

An oil pipeline's ability to reduce its dependence on longer-term, or higher-cost borrowings by using excessive rate payments is also similar to the situation for electric and natural gas companies. That is, the sellers in each of the industries may retain and use overpaid monies in place of amounts that they may otherwise have to borrow.

Oil pipelines, like electric and natural gas companies, may also use these excess funds for investment and for other purposes during the entire effective period of a rate case, which can amount to several months or years. The sellers also have an opportunity to use their surplus cash to make a variety of short-term investments, including U.S. Government and other marketable securities, time deposits, certificates of deposit, commercial paper and Eurodollar deposits.[9] The return on these investments can vary widely, but it will probably be equal to or better than the commercial paper rate, but less than the prime rate charged by commercial banks. (*See* Appendix B.)

b. Comparison of the Oil Pipeline Shippers to Other Large Corporate Customers. One difference cited by commenters as warranting an interest rate lower than the prime rate concerns the nature of shippers in contrast to large customers of the other industries.

AOPL states that oil pipeline shippers are unique in that they are not tied to any pipeline or supplier. Customers of electric utilities and gas transmission companies, on the other hand, are "locked in" to these companies, according to AOPL. However, this characterization represents another distinction without a difference. We see no necessary correlation between the presumed ability of a shipper to divert his oil shipments to other carriers and the losses incurred by that shipper or benefits received by the carrier as a result of charges which are later determined to be excessive.

AOPL also emphasizes that, unlike the residential customers of gas and electric utilities who may pay in excess of the prime rate on their borrowings, oil pipeline shippers are large corporations which can borrow at interest rates below the prime rate.[10] Again, the Commission does not believe that some shippers' ability to borrow at a rate below prime warrants an interest rate different from that for electric utilities and natural gas companies. Some wholesale customers of jurisdictional gas pipelines and electric utilities can also borrow below the prime rate. On the other hand, many oil pipeline shippers, like some customers of natural gas companies and electric utilities, are unable to obtain funds at even the prime rate.

AOPL's argument is significant, however, in that it highlights the inadequacy of AOPL's proposed Treasury bill standard. Specifically, we note that 90-day commercial paper rates are generally always higher than the yield on 91-day Treasury bills.[11] Therefore, to the extent that shippers sell additional commercial paper (*i.e.*, borrow funds) due to increased oil pipeline tariffs, refunds based on the Treasury bill standard will consistently fail to compensate the cost of these borrowings.

Williams also recommends a lower interest rate based on the relationship between an increase in transportation costs of petroleum products charged by a pipeline company and the price that is ultimately received for the oil. According to Williams, if one considers pipeline transportation charges as a percentage of total commodity value, the amount per gallon is *de minimus*. Thus, says Williams, an increase in oil pipeline transportation charges would not force any shipper to go to the credit market for additional funds or forego use of the tranportation service and reduce production.

We do not, however, agree that pipeline transportation costs will always be insignificant. In the *TAPS* case, for example, the weighted average transportation tariff charged shippers was $6.20 per barrel.[12] That represented more than 28 percent of the April, 1980 delivered West Coast price of Alaskan North Slope oil of $21.71.[13] Moreover, although higher transportation charges may not, by themselves, cause a large shipper to issue new debt, the Commission believes that anything which increases the total pool of costs to a shipper may well result in higher overall levels of borrowings and correspondingly higher costs to the eventual consumers.

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[9] *See:* Comments on AOPL, filed May 23, 1979, at 4. In addition, Williams recognizes long-term bonds as a potential use for excessive rate payments. (Comments of Williams, filed May 3, 1979, at 3.)

[10] For example, according to AOPL, in early October, 1979, some shippers could borrow at commercial paper rates for unsecured 30–60 day notes of major corporations that ranged from 11.8–12.0 percent, as compared with a prime rate at that time of 13.5 percent. (Statement of AOPL at Oral Argument, dated October 9, 1979, at 10.)

[11] *See* Appendix B.

[12] Initial Decision in Docket No. OR78-1, issued February 1, 1980, at 2, n. 1.

[13] *Oil & Gas Journal*, April 21, 1980, at 37.

If, however, Williams is correct in its assumption that excessive transportation charges do not typically require shippers to go to the credit market or forgo production, the question arises as to where the money comes from to pay excessive tariffs. The only source remaining is the shipper' sretained earnings, *i.e.*, stockholder equity. Therefore, we should rightfully take into consideration the lost or foregone returns on that equity which had to be paid out in the form of an excessive transportation charge. As Appendix B indicates, earned returns on book equity for the intergated petroleum industry (of which most shippers are part) are consistently at or above the prime rate.

We believe, further, that the situation is not unlike that which exists for large corporate consumers of gas and electricity. There, as here, the focus of our attention is on the opportunity cost of the investments foregone, not the use to which the customer was forced to put his money.[14] A prudent company which has funds available that it does not have to pay out for higher transportation tariffs could make a low-risk, short-term investment expected to yield a return at the low end of the range of possible returns, or it could invest in a high-risk, long-term venture from which a yield at the high end of the range could be expected, or anything in-between.[15]

As with the customers of natural gas companies and electric utilities, it clearly would not be proper to limit the returns a shipper could expect from alternative investments to those earned on short-term, risk-free investments, as argued by AOPL and Williams. To do so denies management's prerogative to participate in, and expect the higher returns commensurate with, a wider variety of investments and risks.[16]

In view of the foregoing, it is not unreasonable to assume that excessive rate payments can result in investment income losses to the shippers at a rate at least as great as that earned by oil pipeline carriers on their various short- and long-term investments.

In contrast to some commenter's recommendations that the interest rate be set lower than prime, the State of Alaska and Mid-Continent Petroleum Shippers Group (Alaska/MCPS) states that an interest rate in excess of prime is warranted since many shippers, unlike gas and electric wholesale customers, are affiliates of oil pipelines. Alaska/MCPS contends that this factor is at least as important as the relative size of the transportation cost overcharge, because to the extent a non-owner shipper is paying excessive charges to an oil pipeline, the shippers affiliated with that pipeline will get a distinct competitive advantage over these non-owner shippers. According to the commenters, the larger the overcharge and the longer it remains in effect, the greater will be that competitive advantage. To compensate for that advantage, somewhat, the commenters recommend the adoption of an interest rate on refunds that is higher than the prime rate.[17] A higher interest rate would allegedly have a more positive economic effect on independent shippers than on the owner-shippers.

The Commission has considered these competitive issues in devising an equitable refund interest rate. Competition, however, is only one of many considerations that must be balanced with other cost and benefit considerations in determining the appropriate rate. Moreover, the Commission notes that similar effects may occur no matter what the interest rate is.

c. Comparison of the Ultimate Consumer in the Oil, Electric and Gas Industries. APOL and Williams further argue that a lower refund interest rate should be applied to oil pipelines than was applied to gas and electric utilities in Order No. 47 because the oil pipeline industry differs from the gas pipeline or electric utility industries with respect to the role of the ultimate customer. These commenters said that oil pipeline shippers are not required to flow refunds on to the ultimate consumer, and, as a result, the ultimate consumers of petroleum products will likely never see any refunds the Commission orders.[18]

The Commission realizes that its regulation of oil pipelines has a less significant effect on the ultimate consumer than does its regulation of the electric and gas industries.[19] That is, the ultimate consumer of natural gas and electricity is more likely to experience directly the effects of both jurisdictional rate increases and refunds than is the ultimate oil consumer. As a result, the Commission agrees that the ultimate consumer should play a less significant role in the Commission's determination of a refund interest rate for oil pipelines. However, the Commission does not believe, as discussed more fully below, that the fact of a lesser impact on the ultimate consumer necessarily means that an interest rate less than that imposed on natural gas companies and electric utilities is warranted. The Commission must still balance the benefits and costs of the excessive

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[14] Even AOPL recognizes that the shippers could use the money paid by them in excessive rates to invest in capital projects or other speculative ventures and achieve rates of return perhaps in excess of the benefits which oil pipeline carriers could derive from those same funds. This is because the pipelines which face a possible refund order cannot prudently invest as freely as shippers which are not required to make refunds. The returns on such investments are often in excess of the prime rate. (Comments of AOPL, filed May 23, 1979, at 2.)

[15] Even though funds held subject to refund may not be considered by some to be risky, long-term investments in and of themselves, it is clear that excessive payments could force a shipper to delay or reduce other long-term or high risk investments (including the concomitant returns expected from such investments). As Appendix B indicates, the range of possible returns one could expect from various types of investments historically falls on both sides of the prime rate. In this context, we note that two of the oil pipeline tariffs before Commission, the *Williams Pipeline Company* and *Trans Alaska Pipeline System* cases, were in effect since 1971 and 1977, respectively, and proceedings with respect to other tariffs under investigation have been held in abeyance indefinitely until at least one of these two lead cases is determined. See Order Staying Proceedings and Terminating a Rulemaking Inquiry", issued on January 9, 1980 in *Association of Oil Pipelines, et al.*, Docket No. OR79-5, *et al.* The Commission issued a decision in *Williams* on November 30, 1982 (Opinion No. 154).

[16] This is analogous to our determination in Order No. 47 that, while a portion of refunable monies replaces the seller's need to issue commercial paper, it is not unreasonble to assume that money held subject to refund also affects the timing and variety of all types of financing and investments made by the seller. (44 FR 5394) *See also United, supra* at 795.

[17] Alaska/MCPS advocate a refund interest rate for oil pipelines equal to the rate of return allowed by the Commission to the carrier or, in the alternative, the prime rate used by the Commission in Order No. 47. (Joint Comments of State of Alaska and Mid-Continent Petroleum Shippers, filed May 23, 1982, at 10.) However, the carrier's rate of return has nothing to do with the cost of equity to the shipper or the costs of overpayments to the shipper, which are the factors the Commission considers important in deriving an equitable interest refund rate.

[18] Alaska/MCPS correctly notes that at least some oil shippers belong to co-operatives which, by their very nature, pass all earnings and refunds through to their farmer/consumer owners. Alaska/MCPS also emphasizes that savings of all types and sizes are important to shippers because they reduce costs of production. In the competitive environment, it is logical to assume that lower operating costs will sooner or later be evidenced in increased productivity and generally lower prices to the consumer for the resulting products and services.

[19] As we stated in *Buckeye Pipe Line Company* (Docket Nos. IS80-76 & IS80-47, *et al.*, 13 FERC ¶ 61,267 (December 24, 1980, at 61,594):

In electric power and natural gas we regulate the interstate wholesale aspects of industries whose intrastate and retail branches are subject to all-pervasive state regulation. (footnote omitted.) That regulation is "cost-based". So, as we have already noted, wholesale rate increases "flow through" to retail bills in short order. Conversely, a postponement of a wholesale increase delays the correlative price boost at retail.

In oil, however, we deal with a relatively small regulated portion (pipeline transit) of a vast unregulated whole (oil). (footnote omitted.) Hence the prices people pay for gasoline, for heating oil, and for other petroleum-based products are determined not by regulatory concepts, but by market forces.

rates, including lost or foregone opportunities for investments of the funds that have to be used to pay the excessive transportation costs.

d. Effects of Taxes on Interest Rate. Williams also addressed the effect of federal and state taxes upon the consumers of each industry. Residential users of natural gas and electricity, who experience more directly the effects of gas and electric rate changes, cannot deduct their utility bills when computing taxes. Williams stated, however, that most oil pipeline shippers, who are more directly affected by rate changes, may deduct transportation expenses for income tax purposes. Thus, according to Williams, the oil pipeline shippers' income taxes are diminished by the effect of their actual costs for pipeline transportation, and if they receive interest on the full amount of the overcharge it will amount to a windfall. On the other hand, according to Williams, because the oil pipelines must pay income taxes on all revenues received, including those which are eventually refunded, they actually have the use of only approximately one-half of the money they eventually refund. In view of these tax implications, Williams suggests that the refund interest rate should apply only to those revenues received by the carrier on an after-tax basis.

As we said in Order No. 47, the Commission recognizes the effects of income taxes. However, these factors alone do not warrant applying the refund interest rate on an after-tax basis and giving the oil pipelines treatment different from that given gas and electric companies. The Commission notes that the tax impacts associated with oil transportation overcharges are no different from those which affect many customers of gas and electric companies.

B. The Commission's Determination of the Applicable Resulting Interest Rate

After fully considering the comments in this rulemaking proceeding, the Commission has determined that the appropriate rate of interest for refunds by oil pipelines in the prime rate charged by commercial banks for short-term business loans, the same rate applied to refunds by electric and gas utilities in Order No. 47.

As the Commission stated earlier, a determination of an interest rate for oil pipeline refunds necessarily requires a balancing of all of the cost and benefit considerations discussed in this rule. The Commission also adopted this balancing approach in Order No. 47, and this method was specifically approved by the court in the *United* case.[39]

A key to the balancing approach in Order No. 47 lay in the fact that the many different potential costs and benefits associated with the excessive charges created, in effect, a range of interest rates from which the Commission could choose. As in the analysis in Order No. 47, here there is also a range of interest rates which reflect the various benefits and costs of overcharges. At the low end of the range are short- and longer-term, low interest rates that may be available to certain shippers who are forced to finance the overcharges they pay the pipelines or other higher expenses that result, in part, from the overcharges. Other shippers will probably borrow at the prime rate if they are preferred customers of major banks. Smaller shippers may only be able to borrow at rates above prime. Finally, the ultimate oil customer may be forced to borrow at the highest rates.

The investment opportunities flowing from the pipeline's overcharging also cluster around the prime rate. They range from the return on short-term investments available to the pipelines for use of the overcharges generally at a rate below prime, to the rates at or above prime for longer-term, higher-risk investments. Also relevant are the foregone investment opportunities to the shippers and ultimate customers which can be at a rate above prime.

While the Commission agrees with some commenters that the overall range is somewhat narrower than in Order No. 47 because the ultimate consumer of petroleum products is not likely to be as affected by the Commission's jurisdictional ratemaking process as is the ultimate consumer of gas and electricity, this does not necessarily require the selection of a rate lower than prime. As we have shown, the range of possible interest rates falls on both sides of the prime rate.

Moreover, as was stated in Order No. 47, there are two factors the Commission must consider that affect all customers (shippers) to some extent, (1) the impact of inflation, and (2) the immediacy of a rate increase. The higher the inflation rate, the greater is the overall burden on a shipper as a result of an overcharge. However, a pipeline can use or invest amounts from overcharges to better weather periods of high inflation. These considerations must be balanced in arriving at a fair interest rate. Furthermore, it is the pipeline, not the shipper, which determines when and in what amount a rate increase will be filed. Presumably, such an increase will begin as a time that is most advantageous to the financial needs of the pipeline, but this may not be a time when the shipper will be able to withstand it easily. (*See* 44 FR at 53495.) The court in the *United* case also noted that the interest rate is only applied to excessive charges that are determined to be unlawful, and that the Commission must constantly keep in mind that it is dealing with unlawful charges. (657 F.2d at 795) In consideration of all of these factors, the Commission believes that it is equitable for the burdens associated with excessive charges to weigh heavily on the pipeline, which decides the amount of a particular rate increase, since the shipper has little choice but to pay the excessive charges until they are determined to be unjustified.

On balance, the Commission does not believe that these industries are so different as to require the application of a refund interest rate to oil pipelines that is different from the prime rate applied to gas and electric utilities in Order No. 47. As the Commission stated in Order No. 47, and the court reiterated in the *United* case, no one standard can perfectly reflect all of the costs and benefits associated with excessive payments. However, we believe that the prime rate comes as close as possible to providing just compensation to shippers and consumers, reflecting the benefits to the pipelines for use of excessive charges, and avoiding an incentive to prolong the ratemaking proceeding.

The Commission noted in Order No. 47 that application of the prime rate to gas and electric refunds will generally understate the costs to the ratepayer and overstate somewhat the benefits to the company associated with excessive charges. (44 FR at 53495) This is also the case in applying the prime rate to oil refunds because of the overall similarities between customers in the gas and electric industries and in the oil industry. In any event, neither side should be unduly prejudiced or advantaged by the application of the prime rate.

C. Authority of the Oil Pipeline Board To Prescribe an Interest Rate on Refunds

Alaska/MCPS suggested that the proposed regulations in the notice could be interpreted to mean that oil pipelines currently operating under suspended tariffs have no obligation whatsoever to pay interest for the period between the time those suspended tariffs became

[39] 657 F.2d at 795-797.

effective and the effective date of a final rule in this proceeding.[21]

The Commission disagrees with this interpretation because the Commission has, through the Oil Pipeline Board (OPB), provided for the eventual refund with interest of overcharges collected in pending cases prior to the effective date of this final rule. As noted in Part I of this final rule, this Commission acquired authority under the DOE Act to regulate the rates and charges of oil pipeline companies. In 1978, the Commission issued a final rule to establish the OPB to which it delegated the authority to exercise its responsibility over oil pipeline companies.[22] In accordance with this delegation from the Commission, the OPB has reviewed oil pipeline rate filings to determine whether they meet statutory standards. However, early in 1980, the Commission directed the OPB to postpone scheduling hearings on any such rate filings until the Commission decided the *Williams Pipe Line Company* and *TAPS* cases.

Since that time, the OPB has accepted oil pipeline rate filings, suspended their effectiveness for a period of time, and allowed the rates to go into effect subject to refund. In its suspension orders, the OPB has routinely set forth the procedures which the oil pipeline companies are required to follow to implement a rate increase:

> [The company] shall keep accurate accounts of all amounts received by reasons of [the instant filing], specifying when, by whom, and in whose behalf such amounts are paid. The accounts shall be in sufficient detail so that refunds *with interest as prescribed in 18 CFR 154.67(d)* can be ordered of any portion of the rates ultimately found unjustified (emphasis added). *See e.g.* "Order Accepting for Filing and Suspending Proposed Rate Increase Subject to Refund", issued on January 17, 1980 in *Hydrocarbon Transportation, Inc. et al.*, (Docket Nos. IS80-10, *et al.*)

Thus, the OPB has ordered that any rates which have been allowed to go into effect and which are later determined to be unjustified will be refunded with an interest rate equal to that prescribed for gas pipelines and producers.

Several commenters also challenge the OPB's authority to require an interest rate other than the one adopted by the ICC. The OPB's authority prior to issuance of this final order is not in issue here, because this rule affects only overcharges held on or after its effective date. However, we believe it will be helpful to clarify the Commission's position on this matter.

First, the commenters assert that the appropriate interest rate for refunds is the rate established by section 15(8)(e) of the Interstate Commerce Act, which was made applicable to oil pipelines by the ICC in its notice of April 14, 1977.[23] The Commission has already stated that it does not believe that the Treasury bill rate should be applied to oil pipeline refunds. (*See* Part II. B., above.)

The commenters raise as their second argument that the savings provision of section 705(a) of the DOE Act continues the effectiveness of all orders, rules, and regulations of the ICC which were issued in the performance of the functions transferred to the Commission until acted upon in accordance with law by the Commission. They argue that, as yet, the Commission has taken no action to effect a different interest rate and has declined explicitly in Order No. 47 to adopt the rate established in § 154.67(d) for oil pipeline companies. They say that, by operation of the savings provision of section 705(a), the ICC notice regarding interest rates is the effective rate until changed by the Commission. Therefore, they conclude that, prior to a change in interest rate by a Commission rule, the OPB is without legal authority to impose an interest rate other than the rate established in the ICC notice.

The oil pipeline companies' assertion and supporting arguments are based on an incorrect assumption that the ICC notice carries the legal effect of a rule under section 4 of the Administrative Procedure Act (5 U.S.C. 551) (APA) and, therefore, is binding on the Commission until amended by a rulemaking proceeding. To the contrary, the ICC specifically provided that the purpose of the notice was no more than to clarify Commission policy with respect to interest rates for refunds applicable to regulated carriers. The ICC notice states the following with regard to its effect:

> Accordingly, pursuant to section 15(8)(e) of the Interstate Commerce Act and section 4 of the Administrative Procedure Act, 5 U.S.C. 553(b)(A), this notice is served to clarify Commission policy with respect to interest rates. (42 FR 20701)

This notice can be interpreted either as a policy statement or an interpretive rule under section 553(b)(A). However, it is clearly not a rulemaking[24] and, thus, it has no binding effect on this Commission.

Because the ICC said that notice was designed to clarify the ICC's "policy" lends evidence that it was intended to be a policy statement. The courts have held that policy statements issued under section 553(b)(A) have no legal binding effect.[25] In addition, the Attorney General's Manual on the Administrative Procedure Act, which is the interpretative tool for the APA, states that the effect of a general statement of policy is "to advise the public prospectively of the manner in which the agency proposes to exercise a discretionary power." (Manual, p. 30, n. 3) The notice could also be termed an interpretive rule because it stated that it was designed to "clarify" the ICC's policy. However, an interpretive rule likewise does have any binding effects.[26]

Therefore, because the ICC notice is not legally binding on this Commission, the Commission (through the OPB) had the authority to order in each case whatever interest rate it found appropriate.

The commenters also argue that the Commission explicitly declined in Order No. 47 to establish the interest rate in §154.67(d) as the rate for oil pipeline refunds. The Commission, however, did not rule out the adoption of this or any other rate. We merely declined to consider the adoption of a rule setting an interest rate for all oil pipeline refunds at the time Order No. 47 was issued. Prior to and during this rulemaking, however, the OPB has had the authority, as delegated by the Commission, to prescribe any interest rate it found appropriate. The decision by the OPB to prescribe the same interest rate as that applicable to gas pipelines under §154.67(d) comports with direction given by the Federal judiciary to consider the Commission's long history of regulating rates in establishing a regulatory scheme for oil pipeline companies.[27]

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[21] Similar questions have been raised in petitions for rehearing from numerous oil pipeline companies in their individual rate proceedings.

[22] Docket No. RM78-6, Order No. 3 (issued February 10, 1978, 43 FR 6765, February 16, 1978). The regulations implementing this final rule were at 18 CFR 3.4(d) and 3.5(e). The delegation regulations were transferred to § 375.308 in a final rule issued on March 28, 1980 (Docket No. RM80-45, Order No. 73, 45 FR 21216 (April 1, 1980)).

[23] *See* n. 7.

[24] The general rulemaking provisions of the APA (5 U.S.C. 553) require an agency to provide notice (subsection (b)) and an opportunity for public comment, and to consider the relevant matters presented in the comments during its preparation of the rulemaking (subsection (c)). Subsection 533(b)(A) specifically exempts "general statements of policy" and "interpretive rules" from these procedures. The fact that the ICC did not follow these general rulemaking procedures when it issued its notice is further evidence that the ICC did not consider its notice to be a rule.

[25] *E.g., American Bus Ass'n* v. *United States*, 627 F.2d 525 (D.C. Cir. 1980); *Pacific Gas and Electric Co.* v. *FPC*, 506 F.2d 33 (D.C. Cir. 1974).

[26] *Eastern Kentucky Welfare Rights* v. *Simon*, 506 F.2d 1278, 1290 (D.C. Cir. 1974), rev'd. on other grounds (426 U.S. 26, 1976) (plaintiff lacked standing to sue); *National Helium Corp.* v. *FEA*, 569 F.2d 1137 (Em. Ct. App.; 1977).

[27] *Farmers Union Central Exchange* v. *FERC*, 584 F. 2d 408 (D.C) Cir.) *cert. denied, sub nom., Williams Pipe Line Co.* v. *FERC*, 439 U.S. 966 (1978).

D. The Applicability of the New Refund Rule

AOPL suggests that because of the "uncertainty" currently surrounding the regulation of oil pipelines, no new refund interest rate standard should be allowed to become effective until after the Commission has determined which ratemaking principles will apply to oil pipelines. This would include resolving the *Williams* and *TAPS* cases. The Commission notes, however, that a determination of the appropriate refund interest rate for oil pipelines is based on our evaluation and balancing of the costs and benefits associated with excessive charges as expressed in the Notice of Proposed Rulemaking and in Order No. 47, adjusted, as necessary, for those unique circumstances surrounding the oil pipeline transportation industry. Ratemaking principles such as those in the *TAPS* and *Williams* cases do not affect the accuracy of that determination.Therefore, it was not necessary for all ratemaking principles to be resolve before a new refund interest standard could become effective.[28]

AOPL also argues that the aforementioned "uncertainty" puts oil pipelines at an unfair disadvantage when preparing rate filings and does not permit them to follow a "more conservative approach" to such filings as recommended by the Commission in Order No. 47.[29] Our reference to a "more conservative approach" is little more than a general axiom that is true for every rate filing (*i.e.*, gas, electric or oil) accepted by the Commission, subject to refund. Whether a company follows a more or less conservative approach is that company's choice and risk. The axiom itself should have no impact on the number or size of rate filings made with the Commission. Again, the Commission believes that so long as the oil refund interest rate that is chosen reflects a fair balancing of the costs and benefits associated with oil pipeline overcharges, it would be unfair to postpone the application of such a rate until decisions are made about the other ratemaking principles. Thus, the Commission will apply the new interest rate upon the effective date of this final rule.

AOPL suggests that the Commission apply the provisions of this final rule only to new filings made after the date of its issuance. The only justifications given by AOPL for such prospective application are that the Treasury bill standard has been applied by the ICC to the *TAPS* case, and that this standard conforms to the Commission's own "no profit" and "no incentive" objectives. However, as the Commission has already noted in this rule in Part II. A. and B., it does not believe the Treasury bill rate is the appropriate rate for oil pipeline refunds. Because this rate has been applied to the *TAPS* case [30] is not sufficient reason to apply it to other pending oil refund cases for prospective overcharges. Moreover, the OPB has already ordered in all other pending oil pipeline rate cases a refund interest rate equal to that for natural gas companies, (*i.e.*, the prime rate). Since this final rule addresses only the overcharges held on and after the effective date of this rule, it does not affect the earlier OPB orders for the period of time prior to this rule's effective date.

E. Compounded Interest

While Williams generally supported the Commission's proposal to compound refund interest rates, [31] AOPL objected to the compounding concept. AOPL raised the same arguments as those addressed in Order No. 47 (44 FR 53495–53496).[32] As the Commission stated in Order No. 47, compounding has been accepted as a reasonable means of allowing interest on accumulated interest. The Commission finds no differences between the oil industry and the gas and electric industries to warrant different treatment for oil pipelines with respect to compounding. Therefore, a compounding feature is retained in this final rule. However, in order to reduce the burden associated with the frequency of calculating compounded interest, the Commission here, as in Order No. 47, is adopting a quarterly compounding requirement instead of the monthly compounding requirement that was proposed.

F. Motion and Undertaking Requirements

In the Notice of Proposed Rulemaking in this docket, we proposed that oil pipeline carriers be required to comply with undertaking requirements that are similar to those in effect for gas pipelines and producers.[33] However, in Order No. 47, the Commission stated that it was considering deleting the motion and undertaking requirements for gas pipelines and producers. This is because of the consistency with which gas pipelines and producers have made their required refunds over the years, which led the Commission to believe that these requirements are no longer necessary to assure that refunds will be made as prescribed by the Commission. (44 FR. 53498)

The Commission requested written comments on this proposal to delete the requirements for the gas industry in that final rule. As expected, the comments received in response to the proposal were favorable. Thus, the Commission is deleting entirely the undertaking requirements from its regulations. This should result in a reduction in the reporting burden of the gas pipelines and producers as part of their rate applications. With respect to the motion requirement, however, some commenters expressed concern over the Commission's authority to eliminate it since section 4(e) of the Natural Gas Act appears to give the Commission no discretion to do so.[34] In contrast to the undertaking requirement, which the Commission "may" require, these comments suggest that the Commission has no choice but to require some form of motion before suspended rates may go into effect.

One commenter suggested that the Commission permit the company the option of filling a "conditional" motion, simultaneously with the filing of its request for a change in rates, requesting that the increased rates be effectuated at the end of any suspension period. Another commenter suggested that the regulations be revised to provide that the filing of any proposal under section

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[28] *See* n. 15.

[29] The full context of our remarks in Order No. 47 is as follows:

[O]ur selection of a rate of interest on refunds represents a compromise of all the cost and benefit considerations. We believe it is of importance to note that it is the filing company which makes the determination as to what rates it will propose. A more conservative approach will expose it to less risk of refunds, therefore, less risk of loss due to the effects of income taxes, and vice versa. (44 FR. 53495)

[30] *See* Part III for a discussion of the *TAPS* case.

[31] Comments on Williams filed May 3, 1979, at 4.

[32] Comments of AOPL, filed May 23, 1979, at 5. Essentially, AOPL alleged that compounding only adds costs and economic penalty to the carrier without any compensation, thereby increasing the refund burden.

[33] Section 154.67 and 154.102 of the Commission's regulations require jurisdictional gas pipelines and producers, respectively, to file a motion to put a suspended rate into effect and an undertaking to comply with the refund and reporting procedures described in the refund regulations, before the suspended rate may become effective. Only the undertaking requirement would have been applied to oil pipelines.

[34] Section 4(e) of the Natural Gas Act provides, in pertinent part, that

"If the proceeding has not been concluded and an order made at the expiration of the suspension period, on motion of the natural-gas company making the filing, the proposed change of rate, charge, classification, or service shall go into effect. Where increased rates or charges are thus made effective, the Commission may, by order, require the natural-gas company to furnish a bond, to be approved by the Commission to refund any amounts ordered by the Commission * * *." (15 U.S.C. 717c(e))

4(e) of the Natural Gas Act would constitute the required motion.

In response to these comments, the Commission is retaining a motion requirement for gas pipelines and producers. However, the Commission is providing that the motion may be filed at the same time as a proposed rate change. This will eliminate the necessity for companies to submit the motion as a separate document and should reduce their filing burden.

AOPL responded negatively to the proposal in the notice to apply the undertaking requirements to oil pipelines. AOPL argued at length that these provisions are inconsistent with the express terms of section 15(7) of the Interstate Commerce Act and cannot be used to bar the effectiveness of tariffs at the end of the statutory suspension period.[35] In addition, numerous oil pipeline companies expressed opposition to the oil undertaking requirements in their petitions for rehearing of individual rate proceedings.

The Commission does not believe that there are any unique circumstances warranting treatment for the oil industry that is different from that afforded the gas industry with respect to the undertaking requirements. Nor does the Commission have any reason to expect that the oil pipelines will be any less diligent than the gas pipelines and producers in their payment of refunds. Therefore, we are not adopting the proposed undertaking requirement in this final order.

G. Refunds Under Joint Tariffs

Williams stated that it is common in the oil pipeline industry for two or more carriers to operate under a joint tariff, although only one carrier actually publishes the tariff and collects it.[36] Williams recommends that, where increased revenues that are subject to refund are shared between carriers, all the sharing carriers should be required to refund according to the portion shared, along with the appropriate interest. Williams suggested that the refunds be made to the issuing carrier, not less than five days prior to the refund date ordered by the Commission. According to Williams, the issuing carrier would, in turn, make refunds to the appropriate shippers.

This proposal appears to be a reasonable and equitable means of dealing with the joint tariff situation. Therefore, the Commission adopts regulations in this final rule to provide that rates or charges shared by two or more carriers must be proportionately refunded to the pipeline company that filed the tariff, not less than five days prior to the refund date ordered by the Commission. We point out that this requirement will shift the burden of paying interest for the last five days before the end of the refund period entirely to the issuing carrier.

III. The Interest Rate Applicable to Refunds in the Trans Alaska Pipeline System Case

The owners of the Trans Alaska Pipeline System, AOPL, the State of Alaska and the Arctic Slope Regional Corporation (ASRC) submitted comments with respect to the applicability of the Commission's general refund interest rate regulations to the *TAPS* case (Docket No. OR78–1). As discussed in Part II. B. of this final rule, the ICC applied the Treasury bill standard in section 15(8)(e) of the Interstate Commerce Act to TAPS tariffs in its suspension order of June 28, 1977. Some of the commenters challenged whether the Commission may now change the rate of interest from that rate specified in the ICC's suspension order.

A. Background

In 1977, seven of the eight TAPS owners filed tariff schedules at the ICC to become effective in June, 1977. The schedules contained rates applicable to the transportation of crude oil through TAPS.[37] The initial rates were protested by the ICC Bureau of Investigations and Enforcement, the Department of Justice, State of Alaska, and ASRC. On June 27, 1977, oral argument was held before the ICC on the protests. In an order issued June 28, 1977, the ICC suspended the proposed tariffs and prescribed interim tariffs (to be effective during the seven-month suspension period) subject to certain conditions, including an interest rate on refunds in accordance with the section 15(8)(e) standard.[38] The ICC required the oil pipeline carriers in TAPS to file refund provisions applicable to both the interim and originally proposed tariffs in accordance with that standard. Jurisdiction over this proceeding and the governing regulation was transferred to this Commission in October, 1977 under the DOE Act.

B. Discussion

The State of Alaska and ASRC have petitioned the Commission to make the interest rate in Order No. 47 (*i.e.*, the prime rate) applicable to the TAPS owners.[39] However, the TAPS owners and AOPL oppose that petition, alleging, *inter alia*, that the Commission does not have the authority to change the interest rate set by the ICC and that the existing rate represents a contractual agreement between the owners and the Commission.[40] These comments raise essentially three issues respecting the interest rate on refunds in the *TAPS* proceeding.

1. Does the Commission have the legal authority to change the *TAPS* refund interest rates prospectively?

2. Was the refund interest rate specified in the ICC suspension order fixed permanently?

3. Does the Commission have the legal authority to change the *TAPS* refund interest rate retroactively?

1. *The Commission's Legal Authority To Change the Refund Interest Rate Prospectively.* The TAPS owners first argue that the interest rate on refunds for oil pipelines is statutorily mandated by section 15(8)(e) of the Interstate Commerce Act and that the transfer to the Commission of regulatory authority over oil pipelines was not intended to change the substantive rules governing oil pipelines, including the ICC rule on the applicable interest rate on refunds.[41] However, in Part II. A. of this final rule, we have noted that the refund interest rate mandated by section 15(8)(e) of the Interstate Commerce Act pertains solely to railroads and that this rate was applied to oil pipelines only by virtue of the ICC's notice of April 14, 1977. We have also stated that such a notice is not legally binding upon the Commission. However, even if the section 15(8)(e) rate and the corresponding ICC regulations had been legally enforceable with respect to oil pipelines prior to this rulemaking, the Commission, in this final rule, has formulated a new interest rate to be applied prospectively to oil pipeline refunds.

Their second argument, that a rule changing a prior rule cannot be made to apply prospectively, is directly contradicted by case law. The Supreme Court, in a landmark case that interpreted a Securities and Exchange Commission rule, found that:

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[35] Comments of AOPL, filed October 9, 1979, at 15, and Attachment B to those comments.

[36] Comments of Williams, filed May 3, 1979, at 5.

[37] See "Joint Reply of TAPS Owners to the Petition of the State of Alaska and the Arctic Slope Regional Corporation For Declaratory Order Concerning TAPS Refund Interest Rates", Docket No. OR78–1 and Docket No. RM77–22, filed on February 19, 1981. (Hereinafter, Joint Reply of TAPS Owners).

[38] "Investigation and Suspension Docket No. 9104", *Trans Alaska Pipeline System*, 355 ICC 60 (hereinafter, "Investigation and Suspension").

[39] *See* "Renewal of the Petition of the State of Alaska for Declaratory Order Concerning TAPS Refund Interest Rates", filed May 28, 1982.

[40] Joint Reply of TAPS Owners at 2–3.

[41] Joint Reply of TAPS Owners at 9.

[t]he Commission, unlike a court, does have the ability to make new law prospectively through the exercise of its rulemaking powers * * *. In other words, problems may arise in a case which the administrative agency could not reasonably foresee, problems which must be solved despite the absence of a relevant general rule. Or the agency may not have had sufficient experience with a particular problem to warrant rigidifying its tentative judgment into a hard and fast rule.[42]

Aside from these general grants of authority, the savings provisions of the DOE Act (section 705(a)) states that the rules and regulations which existed at the time of the transfer of authority from the ICC to the Commission were expressly continued "in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law * * *." (42 U.S.C. 7295(a)). The Commission's adoption of a refund interest rate in this final rule which applies to all prospective overcharges by oil pipelines is made in compliance with that provision.

Thus, the Commission believes there is no legal bar to its decision to apply these refund obligations to amounts held after the effective date of this rule by the TAPS owners, as they are applied to other oil pipelines.

2. *Permanency of the Refund Interest Rate Specified in the ICC Suspension Order.* The TAPS owners further argue that, even if the Commission has the legal authority generally to change conditions, the ICC's *TAPS* suspension order cannot be amended. They state that, in oral argument before the ICC prior to the issuance of the suspension order, they offered to accept a higher refund interest rate than that provided for in section 15(8)(e) in return for an agreement by the ICC not to suspend the proposed tariffs.[43] They allege that the ICC's "rejection" of that offer constitutes evidence that the provisions of the suspension order were "bargained" for, and, therefore, cannot now be changed by the Commission in this rulemaking proceeding.

There is no evidence on the record of a settlement between the pipelines and the ICC. In fact, the record shows that the so-called offer did not even have the unanimous support of the pipelines.[44] In addition, the ICC's deliberations on this matter are not recorded. Therefore, the only indication of its consideration of the issues is the suspension order itself. The order does not mention any negotiations, and it does not indicate which arguments the ICC found most persuasive, or which provisions may have been revised or deleted in favor of others. The Commission, therefore, does not believe this argument has merit.

The TAPS owners also argue that, once the ICC had issued its suspension order in the *TAPS* case, any conditions which were imposed in that suspension order could not be altered.[45] Two of the cases they cited to support this proposition are *United States* v. *Chesapeake of Ohio Railway Co., et al.,* and the *Trans Alaska Pipeline Rate Cases.*[46] According to the TAPS owners, these cases provide that the authority to set interest rates on refunds is ancillary to the suspension power and cannot be exercised apart from that power, as the Commission was attempting to do in this rulemaking.

However, the Commission does not interpret this case law as precluding it from changing conditions in a prior order. The Court in the *Chesapeake* case said that the purpose of the suspension power in section 15(7) of the Interstate Commerce Act is to protect the public from irreparable harm resulting from payments for unjustified transportation costs by giving the Commission the power to fully investigate the rates before the tariff becomes effective. (426 U.S. at 513) The Court also found that the Commission may, as a condition for not suspending and subsequently investigating the lawfulness of proposed rates, require certain uses of revenues by regulated entities. (*See* 426 U.S. at 514–515. *See also* 436 U.S. at 655–656.) The power to impose conditions on the implementation of the rate increase was described as a "legitimate, reasonable, and direct adjunct to the Commission's explicit statutory power to suspend rates pending investigation." (*See* 426 U.S. at 514. *See also,* 436 U.S. at 655.) Further, the Court specifically found that Congress did not intend the language of section 15(7) of the Interstate Commerce Act to limit the Commission's ancillary power. (436 U.S. at 656–57) There was no indication in the case that once the suspension power is exercised, an ancillary condition could not be changed. Therefore, the Commission is not barred from changing conditions, such as the refund interest rate, that are ancillary to the suspension order in the *TAPS* case.

3. *The Commission's Legal Authority to Change the TAPS Refund Interest Rate Retroactively.* The TAPS owners also objected to the State of Alaska and ASRC's recommendation that the revised interest rate should apply to refunds for any excess charges in the *TAPS* proceedings that were collected prior to the effective date of this final rule. The TAPS owners said that this is not a case of first impression, to which retroactivity could be applied. Rather, they say that a change in the interest rate applicable to refunds here would be an abrupt departure from established practice.[47] The TAPS owners also said that the current unsettled regulatory environment for oil pipelines does not support the retroactive application of refund requirements. Finally, they said that there is no statutory interest served in applying a new refund standard to the TAPS owners because the ICC tariff rates were filed in compliance with a well-established ratemaking methodology and the rates were reasonable under that methodology.

The applicable case law makes it clear that changes may be made retroactively in certain circumtances. In *SEC* v. *Chenery Corp.,*[48] the Supreme Court established the principle that administrative agencies may give retroactive effect to an overruling or subsequent decision. The Court established a balancing test for retroactivity, stating that:

> such retroactivity must be balanced against the mischief of producing a result which is contrary to a statutory design or to legal and equitable principles. If that mischief is greater than the ill effect of the retroactive application of a new standard, it is not the type of retroactivity which is condemned by law. (332 U.S. at 203)

The D.C. Circuit Court also examined the retroactivity issue in the case of *American Public Gas Association* v. *Federal Power Commission,* (546 F. 2d 983 (D.C. Cir. 1976)). The FPC had issued a final rule on October 10, 1974 (Docket No. RM74–18, Order No. 513, 39 FR 37357, October 21, 1974) which established a 9% refund interest rate on all natural gas refunds where the rate filings were made on or after October 10, 1974. The petitioner's primary objection to the final rule was that the order was unreasonable and discriminatory in providing that the lower 7% refund interest rate would continue to apply to all refunds in cases in which the rate increases were *filed before* the rule's effective date and that the 9% rate would be applied to only those rate increases *filed* by the company *on or after* the effective date. The petitioners also objected to the Commission's failure to apply the 9%

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[42] *SEC* v. *Chenery,* 332 U.S. 194, 202–03 (1974).

[43] Joint Reply of TAPS Owners at 11–12.

[44] Tr. 165. There is also discussion on the record that eight percent interest rate would not, in fact, represent an increase over the interest rate that the ICC had previously applied. Tr. 175–176. *See also* "Investigation and Suspension" at 7.

[45] Joint reply of TAPS Owners at 10–11.

[46] 426 U.S. 500 (1976), and 436 U.S. 631 (1976), respectively.

[47] Joint reply of TAPS Owners at 17.

[48] *See* n. 42, above.

refund interest rate "retroactively", *i.e.*, to all refunds *ordered* after October 10, 1974, regardless of the date the increase was filed. The court upheld the Commission's decision not to apply the 9% interest rate retroactively, *i.e.*, to excess charges actually collected prior to October 10th. The court stated that:

> It was not unreasonable for the Commission to refrain from imposing a 9% refund interest rate on any excess charge which was collected prior to October 10, 1974, for any period prior to that date. Not until October 10, 1974, did the Commission determine that the fair and reasonable refund rate of interest should be 9%. Prior to October 10, 1974, the Commission had fixed the fair and reasonable refund at 7%. (546 F. 2d at [illegible])[49]

In balancing the considerations in favor of and against retroactive application of the new interest rate to the *TAPS* case, the Commission believes that applying the rule retroactively would be inappropriate here. Although the Commission has expressed its objections to the general application of an interest rate that is computed in accordance with section 15(8)(e) of the Interstate Commerce Act, this rate has already been applied specifically to the TAPS companies in the ICC's June 28, 1977 suspension order. The TAPS companies have acted in accordance with that ICC order, and they should not now be subjected to a new refund interest rate with respect to any excess charges held prior to this final rule. We find, therefore, that on balance, the unfairness of applying a higher interest rate retroactively to the companies in this particular case would be greater than the benefit of such an action.[50] The Commission stresses, however, that the new refund interest rate in this rule still applies prospectively to the TAPS companies for charges held on or after the effective date of this final rule which are later determined by the Commission to be unjustified.[51]

[49] *See also City of Chicago* v. *Federal Power Commission*, 385 F. 2d 629, 641–642 (D.C. Cir. 1967), *cert. denied*, 390 U.S. 945 (1968). ("The Commission acted sensibly and reasonably in making its new policy effective as of the date it was announced to the industry".)

[50] *See Lodges 743 and 1746, International Association of Machinists* v. *United Aircraft Corp.* 534 F. 2d 422, 453 (2d Cir. 1975) citing the balancing test in *Retail Wholesale and Department Store Union*, 466 F. 2d at 390.

[51] The Commission notes that the court in *American Public Gas Association* agreed with the petitioners that the Commission's order was unreasonable because it retained the previously-required 7% rate of interest for overcollections occurring after October 10, 1974 in those cases where the company filed for the rate increase prior to the effective date of the rule.

IV. Summary of Changes to the Commission's Regulations

The Commission has adopted the proposed regulations respecting the interest rate on refunds by oil pipelines, except for the changes discussed in this final rule.[52] Essentially, these changes include (1) eliminating the proposed requirements for oil pipelines to file an undertaking before the suspended rate may become effective; (2) adding a provision respecting refunds in the case of joint oil pipeline tariffs, and (3) providing that oil pipeline interest rates shall be compounded on a quarterly basis. This final rule also eliminates the existing requirements for natural gas pipelines and producers to file an undertaking and revises the motion requirements that are prescribed pursuant to section 4(e) of the Natural Gas Act.

In addition to these revisions, Alaska/MCPS, the Oil Pipeline Board and AOPL suggested minor revisions to the oil pipeline refund regulations proposed in the notice to reflect more accurately the relationship between oil shippers and oil pipeline carriers and to clarify generally the extent of the refund obligation. These changes, which the Commission has adopted, include: (1) Revising § 340.1(a) to eliminate "unless otherwise ordered by the Federal Energy Regulatory Commission" (to correspond to the provisions of section 15(7) of the Interstate Commerce Act); (2) revising § 340.1(b) to change the word "customer" to "shipper"; (3) revising § 340.1(b)(1), (2) and (3) to provide that the Commission's regulation is applicable only to the transportation of oil, and not to its sale; (4) revising § 340.1(b)(1) to provide for keeping accounts on monthly billing determinants of petroleum or petroleum by-products transported to each *consignee* (instead of "purchaser") under the suspended *tariffs* (instead of "suspended agreements or tariffs"); and (5) revising § 340.1(c)(2) to provide that interest shall be "computed from the date of the collection until the date refunds are made" (instead of being "paid on all amounts to be refunded") to clarify that pipelines must pay interest for the period between the time they began collecting the additional revenues as a result of the expiration of the suspension period and the date refunds are actually made.

V. Effective Date

This final rule is effective February 11, 1983.

[52] As noted in Part I of this final rule, the regulations in 18 CFR Part 340 were provided in 40 CFR Part 1605 in the notice of proposed rulemaking.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 43 CFR 142; Interstate Commerce Act, 49 U.S.C. 1, *et seq.*; Natural Gas Act, 15 U.S.C. 717–717w)

List of Subjects

18 CFR Parts 154, 273, and 284

Natural gas.

18 CFR Part 270

Natural gas wage and price controls.

18 CFR Part 340

Pipeline rates and tariffs.

In consideration of the foregoing, the Commission amends Part 154 of Subchapter E, Parts 270 and 273 of Subchapter H, Part 284 of Subchapter I and Part 340 of Subchapter P), Chapter I of Title 18 of the Code of Federal Regulations as set forth below, effective 30 days after date of publication in the **Federal Register**.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PARTS 154, 270, 273, AND 284—[AMENDED]

§§ 154.38, 270.101, 273.302, and 284.2 [Amended]

1. In § 154.38(d)(iv)(*c*), all references to "§ 154.67(d)" including subdivisions of that paragraph should read as "§ 154.67(c)" including subdivisions of that paragraph. In § 270.101(e), all references to "§ 154.102(d)" should read as "§ 154.102(c)". In § 273.302, all references to "§ 154.102(d)" should read as "§ 154.102(c)". In § 284.2, all references to "§ 154.102(d)" should read as "§ 154.102(c)".

PART 154—[AMENDED]

2. In § 154.67, paragraph (a) is revised to read as follows:

§ 154.67 Suspended changes in rate schedules; motions to make effective at end of period of suspension; procedure.

(a) *Effect of suspended changes in rate schedules.* If a rate suspension proceeding initiated under section 4(e) of the Natural Gas Act has not been concluded and an order issued by the Commission at the expiration of the suspension period, the proposed change of rate, charge, classification, or service shall go into effect pursuant to motion of the pipeline company proposing the change, so long as the pipeline company complies with all requirements of this section. The pipeline company may file such motion concurrently with the proposed change of rate, charge, classification, or service, at which time the pipeline company may request that

the proposed change be effectuated at the expiration of the suspension period. The proposed rate, charge, classification, or service shall become effective as of the date of receipt of such motion by the Commission or the expiration of the suspension period, whichever is later. Three copies of the motion shall be filed with the Commission. (OMB Control No. 19020070)

* * * * *

§ 154.67 [Amended]

3. Section 154.67 is amended by removing paragraphs (b) and (d)(4), and by redesignating paragraphs (c) and (d) as paragraphs (b) and (c) respectively.

4. In § 154.102, paragraph (a) is revised to read as follows:

§ 154.102 Suspended changes in rate schedules; motions to make effective at end of period of suspension; procedure.

(a) *Effect of suspended changes in rate schedules.* If a rate suspension proceeding initiated under section 4(e) of the Natural Gas Act has not been concluded and an order issued by the Commission at the expiration of the suspension period, the proposed change of rate, charge, classification, or service shall go into effect pursuant to motion of the independent producer proposing the change so long as the independent producer complies with all requirements of this section. The independent producer may file such motion concurrently with the proposed change of rate, charge, classification, or service, at which time the independent producer may request that the proposed change be effectuated at the expiration of the suspension period. The proposed rate, charge, classification, or service shall become effective as of the date of receipt of such motion by the Commission or the expiration of the suspension period, whichever is later. Three copies of the motion shall be filed with the Commission. The Secretary, upon receipt of such motion, shall, if the motion is legally adequate for the purpose, notify the movant that the proposed rate change shall be effective as provided in this section: *Provided,* That the Secretary shall refer to the Commission any motion requesting that a change in rate, charge, classification, or service be made effective, if in his judgement the motion should receive the specific attention of the Commission. (OMB Control No. 19020070)

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5. Section 154.102 is further amended by removing paragraphs (b) and (d)(4), and by redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

6. Part 340, Subchapter P is added to 18 CFR Chapter I to read as follows:

SUBCHAPTER P—REGULATIONS UNDER THE INTERSTATE COMMERCE ACT

PART 340—RATE SCHEDULES AND TARIFFS

§ 340.1 Suspended rate schedules; procedure; refund requirement; administered by the Federal Energy Regulatory Commission

(a) *Effectiveness of suspended rate schedules.* If a rate suspension proceeding initiated under section 15(7) of the Interstate Commerce Act has not been concluded and an order has not been issued by the Commission at the expiration of the suspension period, the proposed rate, charge, classification, or service shall go into in effect so long as the pipeline company complies with all of the requirements of this section.

(b) *Recordkeeping.* Any pipeline company whose proposed rates or charges were suspended and have gone into effect pending final order of the Commission pursuant to section 15(7) of the Interstate Commerce Act shall keep accurate accounts in detail of all amounts received by reason of the rates or charges made effective as provided in the Commission's order, for each billing period, including the following information by billing period, and by shipper:

(1) The monthly billing determinants of petroleum or petroleum by-products transported to each consignee under the suspended tariffs;

(2) The revenues which would result from such transportation services if they were computed under the rates in effect immediately prior to the date the proposed change became effective, if applicable;

(3) The revenues resulting from such transportation services as computed under the proposed increased rates or charges that became effective after the suspension period; and

(4) The difference between the revenues computed in paragraphs (b)(2) and (3) of this section, if applicable.

(c) *Refunds.* (1) Any pipeline company that collects charges pursuant to this section shall refund at such time, in such amounts, and in such manner as may be required by final order of the Commission, the portion of any rates and charges found by the Commission in that proceeding not to be justified, together with interest as required in paragraph (c)(2) of this section.

(2) Interest shall be computed from the date of collection until the date refunds are made as follows:

(i) At an average prime rate for each calendar quarter on amounts held on or after February 11, 1983. The applicable average prime rate for each calendar quarter shall be the arithmetic mean, to the nearest one-hundredth of one percent, of the prime rate values published in the *Federal Reserve Bulletin,* or in the Federal Reserve's "Selected Interest Rates" (Statistical Release G. 13) for the most recent three months preceding the beginning of the calendar quarter; and

(ii) The interest required to be paid under paragraph (2)(i) of this section shall be compounded quarterly.

(3) Any pipeline company required to make refunds pursuant to this section shall bear all costs of such refunding.

(4) If any rate or charge described in paragraph (a) that is found not to be justified by the Commission is shared between two or more pipeline companies, each pipeline company which shared in the unjustified rates or charges is required to refund to the pipeline company that published the tariff, not less than five days prior to the refund date ordered by the Commission under paragraph (c)(1) of this section,

(i) That portion of the unjustified rates or charges shared, and

(ii) The appropriate interest as required in paragraph (c)(2) of this section for the period during which the refundable amounts were held.

The pipeline company that published the tariff shall, on the date set by the Commission in its final order, make refunds with interest to the appropriate shipper for the full period during which the refundable amounts were held. (OMB Control No. 19020069)

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 43 CFR 142; Interstate Commerce Act; 49 U.S.C. 1, et seq.; Natural Gas Act, 15 U.S.C. 717–717w)

Note.—This Appendix A will not appear in the Code of Federal Regulations.

APPENDIX A.—ANALYSIS OF SHORT-TERM BORROWINGS AND INVESTMENTS FOR THE OIL PIPELINE INDUSTRY

	Notes payable	Notes payable [1] total assets (percent)	Temporary investments	Temporary investments [2] total assets (percent)
(1)	(2)	(3)	(4)	(5)
Number of companies	16	NA	46	NA
Percent of total studied	17	NA	49	NA
High	$153,901,000	71.0	$340,000,000	53
Low	$6,246	.2	$20,424	.04
Median	$6,750,000	28.0	$2,679,843	8
Mean	$26,946,306	28.0	$25,587,255	11

[1] The percentages in this column do not match the numbers in Column 2.
[2] The percentages in this column do not match the numbers in Column 4.
Source: 1981 Form P of 93 Oil Pipelines.

Note.—This Appendix B will not appear in the Code of Federal Regulations.

APPENDIX B.—SHORT- AND LONG-TERM INTEREST RATES AND EARNED RETURNS ON BOOK EQUITY

Year	3-mo Treasury bills	Prime commercial paper 4–6 mo	(3 mo) Certificates of deposit	(3 mo) Eurodollars	Bank prime rate
(1)	(2)	(3)	(4)	(5)	(6)
1970	6.458	7.72			7.91
1971	4.348	5.11			5.72
1972	4.071	4.69			5.25
1973	7.041	8.15			8.03
1974	7.886	9.87	10.27	10.96	10.81
1975	5.838	6.33	6.43	6.97	7.86
1976	4.989	5.35	5.26	5.57	6.84
1977	5.265	5.60	5.64	6.05	6.83
1978	7.221	7.99	8.22	8.74	9.06
1979	10.041	10.91	11.22	11.96	12.67
1980	11.506	12.29	13.07	14.00	15.27
1981	14.077	14.76	15.91	16.79	18.87
1982	12.895	13.70	14.24	14.96	16.27

Source: Federal Reserve Bulletin.

Year	10-year constant maturity bonds [1] (percent)	Moody's Aaa corporate bonds [2] (percent)	Moody's Baa corporate bonds [2] (percent)	Value line petroleum industry [3] (integrated) (percent)	Compustat petroleum industry [3] (integrated) (percent)
1974	7.56	8.57	9.50	18.36	18.87
1975	7.99	8.83	10.61	12.66	12.83
1976	7.61	8.43	9.75	13.95	14.18
1977	7.42	8.02	8.97	13.76	13.73
1978	8.41	8.73	9.49	13.04	13.48
1979	9.41	9.63	10.69	23.02	21.61
1980	11.46	11.94	13.67	20.43	22.14
1981	13.91	14.17	16.04	16.44	16.80

[1] Source: Economic Report of the President, transmitted to the Congress, February 1982.
[2] Source: The Value Line Investment Survey, July 16, 1982, p. 401 (1978–1981).
[3] Source: Standard & Poor's Compustat Services, Inc.

[FR Doc. 83-131 Filed 1-4-83; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 7

[T.D. 83-7]

Customs Regulations Amendment Relating to Articles Imported From Insular Possessions of the United States Other Than Puerto Rico

Correction

In FR Doc. 83-46 beginning on page 228 in the issue of Tuesday, January 4, 1983, make the following correction:

On page 230, second column, paragraph (g) beginning with "Guam" and ending with "uninhabited." was incorrectly designated. It should have been designated footnote 5, the reference to which appears on page 229, third column, paragraph (a), seventeenth line.

BILLING CODE 1505-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 19

[T.D. ATF-123; Ref; T.D. ATF-62 and Notice No. 329]

Distilled Spirits Plants; Elimination of Marking Requirement for Devices Used as Alternatives To Strip Stamps

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Temporary rule; Treasury decision.

SUMMARY: This temporary rule revokes 27 CFR 19.613 to eliminate the requirement that alternative devices used in lieu of strip stamps be marked with the State and plant number of the bottler. This action is being taken to allow distilled spirits plant proprietors to use approved alternative devices without encountering the operational problems or cost of new equipment attendant with that coding requirement.

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Richard C. Langford, Rulings Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202–566–7531).

SUPPLEMENTARY INFORMATION: Public Law 94–569 amended 26 U.S.C. 6801 to permit the Secretary to authorize alternatives to strip stamps required by Sections 5205 and 5235. The Department published notices of proposed rulemaking 308 and 312 to implement this change in the law. Accordingly, temporary regulations, issued pursuant to the Distilled Spirits Tax Revision Act of 1979 and published as T.D. ATF–62 and a notice of proposed rulemaking No. 329, provided procedures and criteria for the approval of alternative devices in 27 CFR 19.663. Among the requirements for the approval of such devices is that it be marked in accordance with the provisions of 27 CFR 19.613, that is, with the State and plant number of the bottler.

Comments on the temporary rule have shown that compliance with this marking requirement causes various operational difficulties and necessitates the purchase of costly additional equipment on the bottling line of distilled spirits plants. Further, the Department has determined this coding requirement does not significantly contribute to the accountability of alternative devices. By this temporary rule, the Department therefore revokes that requirement in 27 CFR 19.613 and makes technical conforming amendments to the table of contents and 27 CFR 19.663.

Executive Order 12291

It has been determined that this temporary regulation is not a "major rule" within the meaning of Executive Order 12291, published February 17, 1981, in the **Federal Register**, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Further, this temporary regulation is liberalizing in nature and will aid in reducing industry costs.

Regulatory Flexibility Act

This temporary rule relates to a notice of proposed rulemaking published prior to January 1, 1981, and therefore, is not subject to the requirements of the Regulatory Flexibility Act. The applicable notice was published in the **Federal Register** on December 11, 1979, at 44 FR 71612.

List of Subjects in 27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Custom duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Reporting requirements, Research and Security measures, Spices and flavorings, Surety bonds, Transportation, U.S. possessions, Warehouses, Wine.

Effective Date

Because the Department has determined that the marking requirement on alternative devices is unnecessary and since this burden on the regulated industry should be eliminated as soon as possible, the 30-day delay of effective date of 5 U.S.C. 553(d) is found to be impracticable and contrary to the public interest.

Accordingly, the effective date of this rule is the date of publication. It will remain in effect until superseded by final regulations.

Drafting Information

The principal author of this document is Richard C. Langford, Rulings Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Under the authority contained in 26 U.S.C. 7805 (68A Stat. 917, as amended) Title 27, Code of Federal Regulations is amended as follows:

PART 19—DISTILLED SPIRITS PLANTS

Paragraph 1. The table of contents for Part 19 is amended by removing the entry for § 19.613.

§ 19.613 [Removed]

Par. 2. Section 19.613 is removed.

§ 19.663 [Amended]

Par. 3. Section 19.663 is amended by removing paragraph (b)(2)(i) and by renumbering paragraphs (b)(2) (ii) and (iii) as paragraphs (b)(2) (i) and (ii), respectively.

Signed: December 2, 1982.

Stephen E. Higgins,

Acting Director.

Approved: December 15, 1982.

Robert E. Powis,

Acting Assistant Secretary, Enforcement and Operations).

[FR Doc. 83-673 Filed 1-11-83; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[T.D. ATF–124; Ref: Notice No. 395]

Establishment of Rocky Knob Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco, and Firearms, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This final rule establishes a viticultural area in parts of Floyd and Patrick Counties in southern Virginia to be known as "Rocky Knob." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of Rocky Knob as a viticultural area and its subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers better to identify the wines they may purchase.

EFFECTIVE DATE: February 11, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226. (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4 allowing the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR for the listing of approved viticultural areas.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical characteristics. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any

interested person may petition ATF to establish a grape-growing region as a viticultural area.

Woolwine Winery in Woolwine, Virginia, petitioned ATF to establish a viticultural area to be named "Rocky Knob."

In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 395, in the **Federal Register** on November 19, 1981 (46 FR 56827), proposing the establishment of the Rocky Knob viticultural area.

Historical and Current Evidence of the Name

The name of the area, Rocky Knob, was well documented in the petition. Historical use of the name dated from 1770. The name is shown currently on maps of the area. The petitioner submitted evidence showing the Rocky Knob viticultural area has a unique identity because of the Rocky Knob Recreational Area in the boundary. Rocky Knob Recreational Area appears on State maps on both sides of the Blue Ridge Parkway which is the main highway through the scenic Blue Ridge Mountains.

Geographical Features

The proposed Rocky Knob viticultural area was approximately 15,000 acres. Woolwine Winery is the only winery in the area and has about 10 acres of grapes located in two locations within the area. While there was sufficient historical evidence for the viticultural area name, there was little evidence that the proposed area had geographical features to distinguish the area from the surrounding area. Since comments received did not give sufficient data on geographical distinctions, the petitioner was requested to review the geographical factors of the area to determine if this requirement in establishing a viticultural area could be met.

The petitioner submitted data to establish a geographically significant viticultural area by reducing the previously proposed area to about 9,000 acres. The new boundary is generally the mountainous area east of the Blue Ridge Parkway. This area is colder in the spring which forces a later bloom set and causes a growing season about one week later than the surrounding area. This later bloom set allows vines to survive the erratic early spring cold. Also, there is more wind in the revised area which reduces the chance of a severe frost accumulation. The soil in the revised area is mostly silt loam combined with gravel which provides the drainage necessary for good grape production. The soils in the area east of the revised boundary is mostly clay which does not provide drainage.

Comments

There were only three comments submitted during the comment period. The two comments supporting the Rocky Knob viticultural area came from the petitioner and an individual in Florida who has property in the area. The other commenter objected to the Rocky Knob viticultural area because of the potential for increased traffic on a private road and the possibility that Woolwine Winery would be entitled to Government grant money. ATF is not aware of Government grant money being available to an enterprise because a viticultural area is established. Also, we do not consider the potential of increased traffic on a private road to be a factor when evaluating the merits of a viticultural area.

Boundaries

As discussed earlier, the boundaries as originally proposed were reduced in size to delineate an area with similar characteristics from surrounding areas. ATF is not aware of any new vineyards being proposed outside of the Rocky Knob viticultural area boundary. However, because grape production is new to this area, it is possible the approved boundary could be expanded in the future by a petition with supporting geographical evidence.

Miscellaneous

ATF does not wish to give the impression by approving the Rocky Knob viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being viticulturally distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Rocky Knob wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Disclosure

A copy of the petition and the comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Room 4405, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is James A. Hunt, Research and Regulations Branch, Bureau of Alcohol, Tobacco, and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (45 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to include the title of § 9.43 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.43 Rocky Knob.

Par. 2. Subpart C is amended by adding § 9.43 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.43 Rocky Knob.

(a) *Name.* The name of the viticultural area described in this section is "Rocky Knob."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Rocky Knob viticultural area are two 1968 U.S.G.S. maps. The maps are entitled: "Willis Quadrangle Virginia" 7.5 minute series and "Woolwine Quadrangle Virginia" 7.5 minute series.

(c) *Boundaries.* The Rocky Knob viticultural area is located in Floyd and Patrick Counties in southern Virginia. The boundaries are as follows:

The starting point is the intersection of Virginia State Route Nos. 776 and 799 at Connors Grove. Follow State Route No. 799 south and east to the Blue Ridge Parkway and then south on the Parkway to its first intersection with State Route No. 758. Follow State Route No. 758 east to the intersection of State Route No. 726 at the southern boundary of the Rocky Knob Recreation Area. Follow the boundary of the Rock Knob Recreation Area south and then in a northeastern direction to where the boundary first intersects State Route No. 8. From that point at State Route No. 8, proceed northeast in a straight line to State Route No. 719 and Widgeon Creek at a point about 0.7 of a mile west of the intersection of State Route Nos. 719 and 710. Proceed northwest in a straight line to the intersection of State Route No. 710 and the Blue Ridge Parkway. Follow the Parkway southwest to the intersection with State Route No. 726 turn right on State Route 726 and proceed 0.6 of a mile to a roadway at the 3308 elevation point on the map. From that point, proceed west in a straight line back to the starting point at Connors Grove.

Signed: December 8, 1982.

Stephen E. Higgins,

Acting Director.

Approved: December 20, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-674 Filed 1-11-83; 8:45 am]

BILLING CODE 4810-31-M

CENTRAL INTELLIGENCE AGENCY

32 CFR Part 1900

Public Access to Documents and Records and Declassification Requests

AGENCY: Central Intelligence Agency.

ACTION: Final rule.

SUMMARY: Part 1900 of Title 32 CFR was last published in full text in the **Federal Register** on February 19, 1975 (Vol. 40, No. 34, p. 7294). Since then, there have been several amendments. With the issuance of Executive Order 12356 in April 1982 and ISOO Directive No. 1 in June 1982, certain substantive changes are required relating to mandatory review for declassification. For the benefit of the public, Part 1900 is being republished with all current amendments and revisions.

EFFECTIVE DATE: February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Larry R. Strawderman, Information and Privacy Coordinator. Telephone: 703-351-2770.

SUPPLEMENTARY INFORMATION: This final rule amends certain sections of Part 1900 of Title 32 of the Code of Federal Regulations (CFR) in order to conform this regulation with Executive Order 12356 which was published in the **Federal Register** on April 6, 1982 (Vol. 47, No. 66, P. 14874) and the implementing directive issued by the Information Security Oversight Office (ISOO) which was promulgated in the **Federal Register** on June 25, 1982 (Vol.47, No. 123, p. 27836). The affected sections are: 1900.1, 1900.21, 1900.31, 1900.45, 1900.51, and 1900.53. In addition, certain non-substantive editorial amendments have been made throughout the text.

List of Subjects in 32 CFR Part 1900

Freedom of information, Classified information.

For the reasons set out in the preamble, Part 1900 Chapter XIX of Title 32, CFR is revised as set forth below.

PART 1900—PUBLIC ACCESS TO DOCUMENTS AND RECORDS AND DECLASSIFICATION REQUESTS

Sec.

General

1900.1 Purpose and authority.
1900.3 Definitions.
1900.5 Organization: requests and submittals.

Requesting Records

1900.11 Freedom of information communications: requirements as to form.
1900.21 Identification of persons requesting information under the provisions of the Executive Order.
1900.23 Pre-request option: estimates of charges.
1900.25 Fees for records services.

Processing Freedom of Information Communications

1900.31 Screening communications.
1900.33 Processing expressions on interest.
1900.35 Processing requests for records.

Actions on Requests

1900.41 Searching for requested records.
1900.43 Reviewing records.
1900.45 Expeditious action: extension of time.
1900.47 Allocation of manpower and resources: agreed extension of time.
1900.49 Notification and payment: furnishing records.

Appeals

1900.51 Appeal to CIA Information Review Committee.
1900.53 [Reserved]

Miscellaneous

1900.61 Access for historical research
1900.63 Suggestions and complaints.

Authority: National Security Act of 1947, the Central Intelligence Agency Act of 1949, the Freedom of Information Act (5 U.S.C. 552), and Executive Order 12356.

General

§ 1900.1 Purpose and authority.

This part is issued under the authority of, and in order to implement, section 102 of the National Security Act of 1947, as amended (50 U.S.C. 403), the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a et seq.). Executive Order 12356 (3 CFR April 2, 1982) and the Freedom of Information Act, as amended (5 U.S.C. 552). It prescribes procedures for:

(a) Requesting records pursuant to the Freedom of Information Act;

(b) Requesting the declassification of documents pursuant to Executive Order 12356;

(c) Filing an administrative appeal of a denial of a mandatory review request under Executive Order 12356 or an initial request under the Freedom of Information Act;

(d) The prompt and expeditious processing of such requests and appeals; and

(e) Requesting estimates and advice prior to actually requesting records, thus affording protection against unanticipated fees.

This part is also designed to assist Central Intelligence Agency management at all appropriate echelons, to allocate resources to perform the functions, duties and responsibilities of the Central Intelligence Agency prescribed by and pursuant to law, including in particular those situations where it is deemed necessary to choose among conflicting requirements, duties and responsibilities.

§ 1900.3 Definitions.

For the purpose of this part, the following terms have the meanings indicated:

(a) "Agency" includes any executive department, military department or other establishment or entity included in the definition of agency in subsection

552(e) of Title 5 of the United States Code;

(b) "Coordinator" means the CIA Information, Privacy and Mandatory Declassification Review Coordinator;

(c) "Expression of interest" means a written communication submitted by a potential requester pursuant to § 1900.23 to indicate an interest in requesting records;

(d) "Freedom of Information Act" means section 552 of Title 5 of the United States Code, as amended;

(e) "Executive Order" means Executive Order 12356 (3 CFR, April 2, 1982);

(f) "Potential requester" means a person, organization or other entity who submits an expression of interest in accordance with § 1900.23;

(g) "Records," with reference to records of the Central Intelligence Agency, includes all papers, maps, photographs, machine readable records, and other documentary materials regardless of physical form or characteristics made or received by the Central Intelligence Agency in pursuance of federal law or in connection with the transaction of public business and appropriate for preservation by the Central Intelligence Agency as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Agency or because of the informational value of data contained therein. But the term does not include:

(1) Index filing and museum documents made or acquired and preserved solely for reference, indexing, filing or exhibition purposes;

(2) Routing and transmittal sheets and notes and filing instructions and notes which do not also include information, comment or statement of substance or policy;

(3) Books, newspapers, magazines, and similar publications and clippings and excerpts from any such publications;

(4) Records not originated by the CIA and subject to the continued control of the originator: Such records will be referred to the originator for disposition pursuant to § 1900.43;

(h) "Records of interest" means records which are the subject of an expression of interest or of a request;

(i) "Work days" means calendar days other than Saturdays and Sundays and legal public holidays.

§ 1900.5 Organization; requests and submittals.

The headquarters of the Central Intelligence Agency is located in Fairfax County, Va. Functions are channeled and determined by regular chain-of-command procedures. Except as provided by this part, there are no formal or informal procedural requirements regarding public access to Agency records. Requests and other submittals may be addressed to the CIA Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505.

Requesting Records

§ 1900.11 Freedom of Information Act and Executive Order communications; requirements as to form.

(a) Any communication to the CIA or to the Director of Central Intelligence under the Freedom of Information Act or the Executive Order should be addressed to: CIA Information and Privacy Coordinator Central Intelligence Agency, Washington, D.C. 20505.

That address should appear on the envelope or other folder or package in which the communication is transmitted. It should also be included as the addressee of the letter or other communication or be clearly set forth in the text of the communication.

(b) Any request for records under the Freedom of Information Act (§ 1900.21), expression of interest in requesting records (§ 1900.23) or request for declassification of records under the Executive Order shall be in writing and shall be addressed as prescribed by paragraph (a). The Coordinator may, but need not, waive the requirements as to address.

(c) The request or expression of interest shall reasonably describe the records of interest and, in the case of mandatory declassification review, requests shall be of sufficient particularity to allow agency personnel to locate the records containing the information sought with a reasonable amount of effort.

(d) Any request or communication to an agency other than the Central Intelligence Agency which requests or concerns documents or records originated by the CIA, and which is transferred by that agency to the CIA, shall be considered a Freedom of Information request to the CIA for that referred document as of date of receipt by the CIA of the referral, and shall be processed pursuant to regulations. CIA will respond directly to the requester.

§ 1900.21 Identification of persons requesting information under the provisions of the Executive Order.

Pursuant to section 3.4(a)(1) of Executive Order 12356, a mandatory declassification review request can be made only by a United States citizen or permanent resident alien, a federal agency, or a State or local government. This Agency shall require sufficient identifying information to be submitted by any person or entity making a request under these provisions.

§ 1900.23 Pre-request option: estimates of charges.

(a) In order to avoid being faced with unanticipated sizeable charges, interested persons and entities may defer the submission of requests for records and first submit a written request, in accordance with the procedures prescribed by § 1900.11, for an estimate of charges likely to be incurred if the records are requested.

(b) Notice is hereby given that a requester may be liable for the payment of search charges, in accordance with the fee schedule and provisions of § 1900.25, even if search for requested records locates no such records and even if some or all of requested records which are located are denied the requester under one or more exemptions of the Freedom of Information Act or the Executive Order. In determining which of options §§ 1900.21 and 1900.23(a) to exercise, interested persons and entities are urged to take into consideration the fact of possible liability.

§ 1900.25 Fees for records services.

(a) Search and duplication fees shall be charged according to the schedule set forth in paragraph (c) of this section for services rendered in responding to requests for Agency records under this part. Records shall be furnished without charge or at a reduced rate whenever the Coordinator determines that a waiver or reduction of the charge is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Thus, the Coordinator shall determine the existence and extent of any identifiable benefit which would result from furnishing the requested information and he shall consider the following factors in making this determination:

(1) The public or private character of the information sought:

(2) The private interest of the requester;

(3) The numbers of the public to be benefited;

(4) The significance of the benefit to the public;

(5) The usefulness of the information to the public; and

(6) The quantity of similar or duplicative information already in the public domain.

In no case will the assessment of fees be utilized as an obstacle to the

disclosure of the requested information. The Coordinator may also waive or reduce the charge whenever he determines that the interest of the government would be served thereby. Fees shall not be charged where they would amount in the aggregate, for a request, or a series of related requests, to less than $6. Denials of requests for fee waivers may be appealed by writing to the Executive Secretary of the Information Review Committee, via the Coordinator

(b) In order to protect the requester and the Agency from large, unexpected fees, when it is anticipated that the charges will amount to more than $25, the processing of the request shall be suspended until the requester indicates his willingness to pay. The requester shall be notified and asked for his commitment to pay all reasonable search and duplication fees. At his option, the requester may indicate in advance a dollar limitation to the fees. In such an event, the Coordinator shall initiate a search of the system or systems of records deemed most likely to produce relevant records, instructing the system managers to discontinue the search as soon as the stipulated amount has been expended. Where an advance limit has not been stipulated, the Coordinator may, at his discretion or at the behest of the requester, compile an estimate of the search fees likely to be incurred in processing a request, or of such portion thereof as can readily be estimated. The requester shall be promptly notified of the amount and be asked to approve its expenditure. In those cases where the Coordinator estimates that the fees will be substantial, an advance deposit of 50 percent of the estimated fees will be required; in those cases where there is reasonable evidence that the requestor may possibly fail to pay the fees which would be accrued by processing his request, an advance deposit of 100 percent of the estimated fees will be required. The notice or request for an advance deposit shall extend an offer to the requester whereby he is afforded an opportunity to revise the request in a manner calculated to reduce the fees. Dispatch of such a notice or request shall suspend the running of the period for response by the Agency until a reply is received from the requester.

(c) The schedule of fees for services performed in responding to requests for Agency records is established as follows:

(1) For each one quarter hour, or fraction thereof, spent by clerical personnel in searching for a record, $1.50;

(2) For each one quarter hour, or fraction thereof, spent by professional personnel in searching for a record, $3.50;

(3) For each on-line computer search, $11.00;

(4) for each off-line (batch) computer search of Central Reference Files, $27.00;

(5) For all other off-line computer searches of Agency files, $8.00 per minute of Central Processing Unit (CPU) time;

(6) For copies of paper documents in sizes not larger than 8½ X 14 inches, $0.10 per copy of each page;

(7) For duplication of non-paper media (film, magnetic tape, etc.) or any document that cannot be reproduced on a standard office copier, actual direct cost; and

(8) For extra copies of reports, maps, reference aids, and other Agency publications, actual cost.

(d) Inasmuch as the Agency's systems of records are highly decentralized, several computer searches may be required to process a request, depending upon its scope. The computer search costs given in paragraph (c), of this section, do not include whatever professional/clerical search time is needed to determine whether the records located are in fact responsive to the request.

(e) Search fees are assessable even when no records pertinent to the requests, or no releasable records are found, provided the requester has been advised of this fact and he has, that notwithstanding agreed to incur the costs of search.

(f) For requests which have accrued substantial search and duplication fees, or for requests for records which have been previously released, or where there is reasonable evidence that the requester may possibly fail to pay the accrued fees, then, at the discretion of the Coordinator, the requester may be required to pay the accrued search and duplication fees prior to the actual delivery of the requested records; otherwise, the requester shall be billed for such fees at the time that the records are provided. Payment shall be remitted by check or money order, made payable to the Treasurer of the United States, and shall be sent to the Coordinator. No appeals or additional requests shall be accepted for processing until the requester has paid all outstanding charges for services rendered under this part.

Processing Freedom of Information and Executive Order Communications

§ 1900.31 Screening communications.

(a) If any Agency employee receives a written communication which the employee believes to be an apparent or intended communication under the Freedom of Information Act or the mandatory declassification review provisions of the Executive Order, he shall expeditiously transmit the communication to the Coordinator.

(b) Upon receipt of a communication in accordance with § 1900.11 or paragraph (a) of this section, the Coordinator shall promptly consult with such Agency components as he may deem appropriate and:

(1) Determine the nature of the communication—an intended expression of interest (§ 1900.21), an intended request (§ 1900.23) or other; and

(2) If he determines the communication to be an intended expression of interest or intended request, he shall further determine whether it fails to qualify as an expression of interest or request only because it fails to reasonably describe the records of interest.

(c) The Coordinator thereupon shall take the appropriate one of the following actions.

(1) If he determined that the communication was not an intended expression of interest or an intended request, he shall take such action with respect to the communication as he may deem appropriate.

(2) If he determined that the communication was an intended expression of interest or an intended request but failed to reasonably describe the records of interest, he shall so inform the originator of the communication promptly, in writing, and he may offer to assist the originator in revising and perfecting the description of the records of interest.

(3) The Coordinator shall determine whether any communication not acted on under subparagraph (1) or (2) is an expression of interest, or is a request made in accordance with published rules stating the procedures to be followed, as required by subsection (a)(3) of the Freedom of Information Act or the Executive Order. The Coordinator's determination in this regard shall be based on and shall reflect the clear intent of the originator of the communication insofar as the Coordinator is able to determine that intent. When the originator's intent is not apparent to the Coordinator and when the Coordinator deems it desirable

and feasible, he shall promptly communicate with the originator in order to ascertain the latter's intent.

(d) The Coordinator shall inform the requester, in writing, of his determination made under subparagraph (c)(3) and, in the case of a determination that the communication is a request, of the date of such determination. Such notification shall be given promptly and, in any case, within five work days of the date of such determination. The ten work days within which the Agency must determine whether to comply with a request, as provided by subsection (a)(6)(A)(i) of the Freedom of Information Act, shall begin as of the date of such determination.

(e) The Coordinator shall promptly process under the procedures prescribed by § 1900.33 those communications which he determines to be expressions of interest. He shall promptly process under the procedures prescribed by § 1900.35 those communications which he determines to be requests.

§ 1900.33 Processing expressions of interest.

(a) Upon determining, in accordance with paragraph (c)(3) of § 1900.31, that a communication is an expression of interest, and after promptly consulting with such Agency components as he may deem appropriate, the Coordinator, to the extent feasible, shall determine the search and duplication charges likely to be incurred by the potential requester if the potential requester ultimately requests such records. In determining such charges, the Coordinator shall take into account the nature and quantity of the work and services of people and computers and other equipment which may be required, and the applicable rates set out in the fee schedule prescribed by paragraph (c) of § 1900.25. If feasible at this stage, the Coordinator also shall determine whether to waive or reduce the fee in accordance with paragraph (a) of § 1900.25.

(b) The Coordinator thereupon shall advise the potential requester, in writing, of the likely search and duplication charges. He shall explain the bases and reasons for the charges and he shall make clear that the amounts indicated are estimates only, if such be the case, and, if there is a possibility that the charges to be incurred may be in larger amounts, he shall so inform the potential requester. If the amounts indicated are not estimates but are the amounts which in fact are to be charged if the potential requester makes a request, he shall inform the potential requester of that fact. In either event and if such be the case, he shall also inform the potential requester that search charges will be levied upon the requester even if no records fitting the description are located or if any or all records which do fit the description are denied the requester.

(c) When he deems it appropriate or when the potential requester so requests, the Coordinator shall consult with and advise the potential requester with the view to assisting the latter to determine whether and, if so, how to revise the description of the records of interest so as to cause or permit a reduction in the likely and actual search and duplication charges.

(d) Upon receipt of such estimate and advice concerning likely charges, the potential requester may:

(1) In accordance with § 1900.21, submit a request for records, either the records of interest indicated in his expression of interest or records encompassed in a less-inclusive description;

(2) Advise the Coordinator that he does not intend to request records; or

(3) Take no additional action.

(e) If, as a result of his consultations with the Coordinator or otherwise, the potential requester wants to request records additional to or other than those described in his expression of interest, he may submit an expression of interest with respect to such records, in accordance with § 1900.23, or a request for such records, in accordance with § 1900.21.

§ 1900.35 Processing requests for records.

(a) Upon determining that a communication is a request for records, the Coordinator, after consulting with such Agency components as he may deem appropriate, shall promptly transmit a copy of the request to the component or components believed responsible for the records, if any exist, inform the components of the date of receipt of the request as determined by him pursuant to paragraph(c)(3) of § 1900.31, and alert the components to the action required of them by § 1900.41 through § 1900.47 with respect to the request.

(b) Notwithstanding paragraph (a) of this section, the Coordinator may determine that there is no basis for searching for the requested records or that the Agency's required response to the request obviates the need to conduct any search (since the fact of the existence or non-existence of records responsive to the request would itself be classified). Whenever the Coordinator makes such a determination, he shall respond to the requester accordingly, and the requirements of paragraph (a) of this section and of §§ 1900.41 through 1900.47 shall not apply as to that particular request.

Actions on Requests

§ 1900.41 Searching for requested records.

(a) Upon receipt of a copy of a request and an alert pursuant to § 1900.35, the components responsible for requested records (hereinafter the "responsible components"), shall, with such assistance as may be appropriate from the Coordinator and from such reference, indexing or filing components as may have reference, indexing or filing responsibilities with respect to any such records, undertake to locate the requested records.

(b) If no records described by the request are located, the responsible components shall so inform the Coordinator who shall promptly so inform the requester, in writing. The Coordinator also shall determine the charges, if any, for which the requester shall be liable, in accordance with the fee schedule and provisions of § 1900.25. He shall inform the requester of the amount charged, explain the basis of commutation and request prompt payment thereof.

§ 1900.43 Reviewing records

(a) The responsible components shall review any located records in accordance with the provisions of the Freedom of Information Act and the Executive Order and on the basis of other applicable law, regulations and policy, and determine which if any, requested records, or reasonably segregable portions of records, are to be furnished the requester and which are to be denied or withheld. Any decision to furnish or to deny or withhold requested records shall be made only by employees and officials to whom authority to make such decisions has been duly delegated.

(b) In the event records require review by more than one Agency component or by more than one agency, the Coordinator or the responsible component, as may be appropriate, shall expeditiously coordinate such review.

(c) In the event located records are determined to have originated with another government agency, the Coordinator shall notify the requester of such fact and shall expeditiously forward such records or a description thereof to the originating agency for their determination and direct response to the requester.

(d) Pursuant to subsection 3.4(f)(1) of Executive Order 12356, this Agency shall

refuse to confirm or deny the existence or non-existence of information requested whenever the fact of its existence or non-existence is itself classifiable under this Order.

§ 1900.45 Expeditious action: extension of time.

(a) Concerning Freedom of Information Act requests, whenever feasible under the standards prescribed by § 1900.47, the search and review functions prescribed by §§ 1900.41 and 1900.43 and notice to the requester of the Agency action on the request, as prescribed by paragraph (a) of § 1900.49, shall be completed within ten days of the date of Agency receipt of the request as determined by the Coordinator pursuant to paragraph (c)(3) of § 1900.31. Whenever the Coordinator determines that "unusual circumstances." as defined by subsection (a)(6)(B) of the Freedom of Information Act, exist, he may, by written notice to the requester, authorize an additional period for completion of Agency action, but no such extension shall be for more than ten work days. His notice shall also set forth the reasons for the extension.

(b) Concerning mandatory declassification review requests, Agency responses shall be governed by the amount of search and review time required to process the request under §§ 1900.41 and 1900.43. If unusual circumstances prevent a final Agency determination from being reached within one year of the date of receipt, the Agency shall inform the requester of the additional time needed to process the request.

§ 1900.47 Allocation of manpower and resources; agreed extension of time.

(a) Agency components shall devote such manpower and other resources to searching for, locating and reviewing records in accordance with §§ 1900.41 and 1900.43 as may be appropriate and expedient in the circumstances, taking into account:

(1) The manpower and resources available for those purposes;

(2) The right of a requester submitting a request under the Freedom of Information Act to resort to litigation if the Agency decision on the request is not made within ten work days; and

(3) All functions, duties and responsibilities assigned to those components by, or pursuant to, a law.

(b) The responsible components shall consult with the Coordinator with regard to the need to allocate resources and establish priorities, and the latter with the requester, as may be appropriate, in order to accomplish such arrangements and agreements with the requester as may be acceptable to the requester concerning the Agency's efforts and ability to act on his request expeditiously. In particular, when the Coordinator deems it feasible and of possible benefit to the requester, the public or the Agency, he shall inform the requester that more thorough or extensive search or review, or both, could be accomplished, which might be of benefit to the requester, if additional time were to be available. When appropriate in such cases, the Coordinator shall also advise the requester of the effect on charges and fees such additional search might cause. Any extensions arranged or agreed to under this section may be in addition to any extension under § 1900.45.

§1900.49 Notification and payment; furnishing records.

(a) The Coordinator shall promptly inform the requester, in writing, which of the requested records, or portions thereof, if any, are to be furnished the requester and those, if any, which are denied, as determined pursuant to paragraph (a) of § 1900.43. With respect to the latter, he shall also explain the reasons for the denial and he shall furnish the names and titles or positions of the persons responsible for the decision to deny access.

(b) Upon receipt of payment of all fees and charges, or upon the completion of arrangement satisfactory to the Coordinator that payment will be made promptly, the Coordinator shall promptly prepare copies of the records, or portions of records, which are to be made available and transmit them to the requester. The Coordinator shall do likewise with respect to any records or portions of records made available to a requester by the action of the Central Intelligence Agency Information Review Committee under paragraph (e)(1) or (2) of §1900.51.

(c) As an alternative to any requester receiving any records from the Agency by mail, a requester may arrange to inspect the records at a CIA Reading Room. The requester may be the person who initially requested the records or the requester may be someone who was not a party to that request. The Coordinator will designate a Reading Room for the purposes of records inspection, and the requester may select whatever records the requester wishes to purchase at a cost set forth in § 1900.25. Access to the Reading Room will be granted only after the fees that accumulated from the search to produce the requested records have been paid, or waived by the Coordinator pursuant to § 1900.25(a). Upon receipt of a written statement from the requester exercising this option, the Coordinator will advise the requester of the location of the Reading Room and provide directions thereto. Unless otherwise designated, the Reading Room location will be in the metropolitan Washington, DC. area. Records that the Agency will release will be available for inspection in the Reading Room on a date or dates mutually agreed upon by the Coordinator and the requester, not more than seven days from the Agency's receipt of the written request or from completion of the processing of the request for records, whichever is later. The requester may agree to a date or dates more than seven days from such time. On the days the Reading Room is open, it will be available to requesters from 9:30 a.m. to 3:30 p.m.

Appeals

§ 1900.51 Appeal to CIA Information Review Committee.

(a) *Establishment of Committee.* The Central Intelligence Agency Information Review Committee is hereby established pursuant to the Freedom of Information Act and section 3.4(d) of the Executive Order. The Committee shall be composed of the Deputy Director for Administration, the Deputy Director for Operations, the Deputy Director for Science and Technology, the Deputy Director for Intelligence, and the Inspector General. The Director of Central Intelligence shall appoint a chairman. The Committee, by majority vote, may delegate to one or more of its members the authority to act on any appeal or appeals under this section, and may authorize the chairman to delegate such authority. The chairman may call upon appropriate components to participate when special equities or expertise are involved

(b) *Right of appeal; Notice.* Whenever access to any requested record or any portion thereof is denied, the requester shall be apprised, in writing, of his or her right to appeal the denial to the CIA Information Review Committee through the Coordinator.

(c) *Appeal procedures.* Any such appeal or request to the Committee shall be in writing, addressed to the Coordinator. The appeal or request may present such information, data and argument in support thereof as the requester may desire. The Committee shall not permit a requester to appear before the Committee or to make an oral presentation.

(d) *Time for appeal: expiration of appeal.* An right of appeal under the Freedom of Information Act shall be submitted within thirty days of the date of receipt of notification of the right to

appeal and the right of appeal shall cease as of the expiration of that period. But the Committee, for good cause shown, may permit an additional thirty days for the submission of an appeal. Pursuant to the mandatory declassification review provisions of the Executive Order, an administrative appeal must be filed within sixty days of receipt of the denial of the initial request.

(e) *Committee action on appeals and requests.* (1) The Committee shall promptly consider any appeal, together with any submissions in support thereof, and shall grant or deny the appeal or take such other action thereon as it may deem appropriate. The Committee's review, decision and action shall be based on and shall be in conformance with the Freedom of Information Act, Executive Order 12356 and other applicable law, directives, regulations and policy.

(2) The Committee shall promptly consider any requests for declassification under paragraph (a) of this section and shall declassify any such records or reasonably segregable portions or coherent segments of such records as it deems appropriate in accordance with the Executive Order.

(3) Committee action on appeals of FOIA determinations shall be completed within twenty work days of receipt of the appeal, and appeal of mandatory declassification review determinations shall be completed within thirty (30) workdays, except that the Committee may, in accordance with the provisions of § 1900.45, avail itself of an additional period of time for completion of its work on the appeal. But no such extension shall be available with respect to an appeal of a denial of a request which was the subject of an extension of time for Agency action by the Coordinator under that paragraph. In the event the Committee is unable to complete its review of an appeal within the time prescribed by the two preceding sentences it may, by agreement with the requester, extend the period for completion of such review.

(4) Concerning appeals under the FOIA, the Committee shall promptly inform the requester of its decisions and, with respect to any decision to withold or deny records, it shall furnish the names and titles or positions of the persons responsible for the decision. If any record or portion thereof is denied the requester by the Committee's action, the Committee shall also inform the requester of the provision for judicial review of that determination under subsection (a)(4) of the Freedom of Information Act.

(5) Concerning appeals under the mandatory declassification review provisions of the Executive Order, Committee decisions are final.

§ 1900.53 [Reserved]

Miscellaneous

§ 1900.61 Access for historical research.

(a) Any person engaged in a historical research project may submit a request, in writing, to the Coordinator to be given access to information classified pursuant to an Executive Order for purposes of that research. Any such request shall indicate the nature, purpose, and scope of the research project. It is the policy of the Agency to consider applications for historical research privileges only in those instances where the researcher's needs cannot be satisfied through requests for access to reasonably described records under the Freedom of Information Act or the Executive Order.

(b) The Coordinator may authorize access, under such conditions and at such time and place as he may deem feasible. But the Coordinator shall authorize access only with respect to documents and records prepared or originated not less than ten years prior to the date of such request and only upon the prior written approval by the Agency Director of Security of a current security clearance of the requester and of persons associated with him in the project, in accordance with Executive Order 10450, and upon the Coordinator's further determination that:

(1) A serious professional or scholarly research project is contemplated;

(2) Such access is clearly consistent with the interests of national security;

(3) Appropriate steps have been taken to assure that classified information will not be published or otherwise compromised;

(4) The information requested is reasonably accessible and can be located and compiled with a reasonable amount of effort;

(5) The historical researcher agrees to safeguard the information in a manner consistent with Executive Order 12356, and signs an agreement to safeguard the classified material to which access is granted in accordance with Agency security requirements; and

(6) The historical researcher agrees to authorize a prior review of his notes and manuscript by the Agency for the sole purpose of determining that no classified information is contained therein.

(c) An authorization shall be valid for the period required for the research project, as the Coordinator may determine, but in no event for more than two years. But upon renewed request in accordance with paragraph (a) of this section, authorization may be renewed in accordance with paragraph (b) of this section and this paragraph.

(d) The Coordinator shall cancel any authorization whenever the Director of Security cancels the security clearance of the requester or of any person associated with the requester in the research project or whenever the Coordinator determines that continued access would not be in compliance with one or more of the requirements of paragraph (b) of this section.

§ 1900.63 Suggestions and complaints.

Any person may direct any suggestion or complaint with respect to the Agency administration of Executive Order 12356 to the CIA Information Review Committee. The Committee shall consider such suggestions and complaints and shall take such action thereon as it may deem feasible and appropriate.

Harry E. Fitzwater,

Deputy Director for Administration.

[FR Doc. 83-863 Filed 1-11-83; 8:45 am]
BILLING CODE 6310-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP3F2779/R511; PH-FRL 2281-6]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Hexazinone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the herbicide hexazinone and its metabolites in or on the raw agricultural commodity pasture grasses. This regulation to establish the maximum permissible level for hexazinone in or on the commodity was requested, pursuant to a petition, by E. I. du Pont de Nemours and Company.

EFFECTIVE DATE: January 12, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Rm. 3708, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm.

237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of December 22, 1982 (47 FR 57127) that E. I. du Pont de Nemours and Company, Wilmington, DE 19898, had submitted pesticide petition 3F2779 to EPA proposing to amend 40 CFR 180.396 by establishing a tolerance for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4 (1*H*,3*H*)-dione) and its metabolites (calculated as hexazinone) in or on the raw agricultural commodity pasture grasses at 10 parts per million (ppm).

No comments were received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The data considered in support of the tolerance included plant and animal metabolism studies; 90-day dog and rat feeding studies with a no-observed-effect level (NOEL) of 1,000 ppm for each study; a rat teratology study with no teratogenic effects observed at 5,000 ppm (highest level tested); a rabbit teratology study with a NOEL of 125 milligrams (mg)/kilograms (kg); a 2-year rat feeding/oncogenicity study with no oncogenic effects observed at any level tested and a NOEL of 200 ppm; a 2-year mouse feeding/oncogenicity study with no oncogenic effects observed at any level tested (highest dose was 10,000 ppm) and a NOEL of 200 ppm; a 3-generation rat reproduction study with a NOEL of 2,500 ppm and a negative Ames mutagenicity test.

Tolerances have previously been established for residues of hexazinone ranging from 0.1 ppm in meat, milk, and eggs to 10.0 ppm in range grasses. The established meat and milk tolerances will adequately cover the secondary residues resulting from this use. Previously established tolerances utilize 1.31 percent of the acceptable daily intake (ADI) and will not change as a result of establishing the tolerance in pasture grasses.

There are no regulatory actions pending against the registration of this chemical. The metabolism of hexazinone in plants and animals is adequately understood and an adequate analytical method, nitrogen selective gas chromatography, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: December 28, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.396 is amended by adding and alphabetically inserting the commodity grasses, pasture to read as follows:

§ 180.396 Hexazinone; tolerances for residues.

* * * * *

Commodities	Parts per million
Grasses, pasture	10

[FR Doc. 83–610 Filed 1–11–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP9F2163/R506A; PH-FRL #2281–7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Glyphosate; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice; correction.

SUMMARY: This notice corrects the acceptable level in potable water for residues of the herbicide glyphosate contained in a regulation establishing tolerances for the herbicide in or on certain commodities.

FOR FURTHER INFORMATION CONTACT: Robert Taylor (PM–25), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: In the FR Doc. 82–33371 published December 15, 1982 (47 FR 53136), EPA issued a regulation establishing tolerances for the combined residues of the herbicide glyphosate (*N*–phosphonomethylglycine) and its metabolite aminomethylphosphonic acid in or on certain agricultural commodities.

Under the **SUPPLEMENTARY INFORMATION** appearing at page 56137, the reference to the acceptable residue level in potable water contained in the fourth paragraph, second column, beginning on lines 9 through 10, is corrected to read from "0.05 ppm" to "0.5 ppm".

Dated: December 29, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 83–611 Filed 1–11–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[OPP–300063A; PH–FRL 2281–5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Alpha-(p-Nonylphenyl)-Omega-Hydroxypoly(Oxyethylene)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an expanded upper range of moles of

ethylene oxide in alpha-(*p*-nonylphenyl)-omega-hydroxypoly (oxyethylene) when used as an inert ingredient in pesticide formulations. This regulation was requested by the GAF Corporation.

EFFECTIVE DATE: Effective on January 12, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., NW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Roland Blood, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of November 3, 1982 (47 FR 49873) which announced that at the request of the GAF Corporation, 1361 Alphs Road, Wayne, NJ 07470, the Administrator proposed to amend 40 CFR 180.1001 (c) and (d) by expanding the upper range of moles of ethylene oxide in the exempted inert ingredient, alpha-(*p*-nonylphenyl)-omega-hydroxypoly(oxyethylene) from 30-90 moles to 30-100 moles.

There were no comments or requests for referral to an advisory committee received in response to the notice of proposed rulemaking.

The pesticide is considered useful for the purpose for which the regulation is sought. It is concluded that the regulation will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: December 28, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(c) and (d) are amended by revising the listing for alpha-(*p*-nonylphenyl)-omega-hydroxypoly (oxyethylene) to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Alpha-(*p*-nonylphenyl)-omega-hydroxypoly (oxyethylene); produced by the condensation of 1 mole of nonylphenol-(nonyl group is a propylene trimer isomer) with an average of 4-14 or 30-100 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4-14 or 30-100.		Surfactant.
* * * * *		

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Alpha-(*p*-nonylphenyl)-omega-hydroxypoly(oxyethylene); produced by the condensation of 1 mole of nonylphenol-(nonyl group is a propylene trimer isomer) with an average of 4-14 or 30-100 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range 4-14 or 30-100.		Surfactant.
* * * * *		

[FR Doc. 83-608 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-47

[FPMR Amdt. H-136]

Surplus Real Property Disposal; Airport Disposals:

AGENCY: General Services Administration.

ACTION: Final rule

SUMMARY: In order to avoid confusion that has been experienced in the past, this regulation clarifies the proper statute under which to dispose of federally owned real property, for airport purposes.

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Pitts, Office of Real Property (202-535-7067).

SUPPLEMENTARY INFORMATION: This regulation informs Federal agencies that excess real property should be reported to the General Services Administration (GSA) for disposition under the Federal Property and Administrative Services Act of 1949 (1949 Property Act), as amended, rather than disposed of to a State or local governmental agency for airport development under section 23 of the Airport and Airway Development Act of 1970 (1970 Airport Act).

GSA received three responses to the proposed rule which was published in the **Federal Register** on December 23, 1981. The respondents included the Department of Agriculture; the Department of the Army, and the Division of Aeronautics, Department of Transportation of the State of Washington. The agencies recommended that the proposed regulation be reconsidered for the following reasons, which are abstracted as follows:

1. The proposed regulation goes beyond the intent of section 13 (g) of the Surplus Property Act of 1944 and is contrary to the 1949 Property Act, the 1970 Airport Act and the regulations issued by the Secretary of Transportation.

2. The 1970 Airport Act under the jurisdiction of the Secretary of Transportation is the logical and most economical and efficient choice for all airport related real property transfers.

3. The split jurisdiction of regulations to accomplish basically the same purpose is not in conformance with Executive Order 12291.

After careful consideration of these responses, the General Services Administration's position remains

unchanged. It was the intent of Congress in enacting the 1949 Property Act to establish an overall system for the economic and efficient use and disposal of the Government's real property. In order to accomplish this purpose section 602 (c) of the 1949 Property Act vested in the Administrator of General Services paramount authority to prescribe polices and methods to promote maximum use of excess property and to supervise and direct the disposition of surplus property. In response to the comment suggesting this regulation is contrary to the 1970 Airport Act and regulations issued by the Secretary of Transportation, it should be noted that the Secretary of Transportation did not offer comments or objections to the regulation.

This regulation supports the Administration's initiative to improve Federal assets management. The principal objective of this initiative is to accelerate the release of unneeded property and to increase the monetary return to the Federal Government from its sale; thereby assisting in a reduction of the national debt. Conveyances of real property under the 1970 Airport Act are contrary to this objective and would permit a public benefit disposal without guidance from the Property Review Board as established by Executive Order 12348.

In section 202 of the 1949 Property Act, as well as Executive Order 12348, Federal agencies are directed to survey property under their control to determine whether any property is excess to their needs and to promptly report such property to GSA for appropriate disposition. This property is screened against the requirements of other Federal agencies and, if determined surplus to all Federal needs, is generally made available for disposal to State and local governmental bodies prior to being offered for public sale.

Any property that is excess to the requirements of a Federal agency should be promptly reported to GSA for disposal under the 1949 Property Act, and therefore, would not be available for direct conveyance by the holding agency under section 23 of the 1970 Airport Act. Only property that the holding agency determines cannot be reported excess to GSA for disposition under section 202 of the 1949 Property Act, but which, nevertheless, may be made available for use by a State or local public body for public airport development purposes without being inconsistent with the Federal program of the holding agency, may be conveyed directly under section 23 of the 1970 Airport Act. To do otherwise would preclude normal consideration of other Federal, State, and local requirements and would not be in the best interest of the Government.

Under section 23 of the 1970 Airport Act, the head of a Federal department or agency, at the request of the Secretary of Transportation, is authorized and directed to transfer nonexcess Federal lands under its jurisdiction to a local public agency for public airport development purposes provided such real property does not constitute an entire airport. In his letter of November 20, 1970, to the Federal Aviation Agency, the Assistant Attorney General, Office of Legal Counsel, Department of Justice, rendered a legal opinion that section 23 is not applicable to the transfer of entire, existing and established airports to State and local agencies, and that such transfers may be made only under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)). This legal opinion was outlined in GSA Bulletin FPMR H–12, dated December 23, 1970. As noted in the responses, the split jurisdiction of regulations to accomplish basically the same purpose is not in conformance with Executive Order 12291. This regulation merely clarifies the GSA authority to avoid any further confusion.

In summary, while GSA views interagency cooperation with the Secretary of Transportation as desirable and often necessary in the disposition of Federal real property for airport purposes, it must also be emphasized that GSA is governed in this case by existing provisions of law set forth in section 602(c) of the Federal Property and Administrative Services Act of 1949 and Executive Order 12348.

GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

GSA Bulletin FPMR H–12, dated December 23, 1970, is hereby canceled.

List of Subjects in 41 CFR Part 101–47

Surplus government property, Government property management.

PART 101–47—[AMENDED]

Accordingly 41 CFR Part 101–47 is amended as follows:

Section 101–47.308–2 is amended by adding a new paragraph (i) to read as follows:

§ 101–47.308–2 Property for public airports.

* * * * *

(i) Section 23 of the Airport and Airway Development Act of 1970 (Airport Act of 1970) is not applicable to the transfer of airports to State and local agencies. The transfer of airports to State and local agencies may be made only under section 13(g) of the Surplus Property Act of 1944 which is continued in effect by the Act. Only property which the holding agency determines cannot be reported excess to GSA for disposition under the Act, but which, nevertheless, may be made available for use by a State or local public body for public airport purposes without being inconsistent with the Federal program of the holding agency, may be conveyed under section 23 of the Airport Act of 1970. In the latter instance, section 23 may be used for the transfer of nonexcess land for airport development purposes providing that such real property does not constitute an entire airport. An entire, existing and established airport can only be disposed of to a State or eligible local government under section 13(g) of the Surplus Property Act of 1944.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 8, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–781 Filed 1–11–83; 8:45 am]

BILLING CODE 6820–06–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 110

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Interim rule with request for comments.

SUMMARY: This notice amends the Public Health Service regulations on Federal qualification of health maintenance organizations (HMOs). The purpose is to provide greater flexibility for already existing prepaid health care delivery systems to become transitionally qualified HMOs. Adoption of this amendment will allow entities

operating these systems to satisfy the requirement that basic health services be provided to members by demonstrating that members enrolled at the time of transitional qualification receive hospital services or are insured for hospital services through an arrangement not made by the HMO. The Secretary invites public comments on this regulation as described below in "SUPPLEMENTARY INFORMATION."

DATES: This interim regulation is effective on January 12, 1983. Comments should be submitted by March 14, 1983.

ADDRESS: Comments should be submitted to: Frank H. Seubold, Ph.D., Bureau of Health Maintenance Organizations and Resources Development, Parklawn Building, Room 905, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, 301–443–4106.

SUPPLEMENTARY INFORMATION: Regulations amending 42 CFR Part 110, Subpart F, Qualification of Health Maintenance Organizations, were published in the **Federal Register**, 47 FR 31666–8, on July 21, 1982. Those regulations prescribe the procedural requirements for HMOs to apply for Federal qualification. They also provide in some cases for transitional qualification to allow operating HMOs to meet gradually, and without undue disruption, all the requirements for operational qualification.

This amendment to the regulations, set forth below, makes a minor change in 42 CFR 110.603(b)(2)(i) to provide greater flexibility to operating prepaid health care delivery systems to meet the requirements for Federal transitional qualification. The regulation being amended required a transitionally qualified health maintenance organization (HMO) to provide directly or arrange for the provision of at least those services that are specified at § 110.603(b)(2)(i) to its members enrolled at the time of qualification. The Secretary is changing this provision to allow HMOs to become transitionally qualified if they make a showing to the Secretary that these members are receiving inpatient or outpatient hospital services, or both, or are insured for such hospital services through arrangements made by others. In recent years, several long operating HMOs seeking qualification found it necessary to reorganize their legal structure to place in a separate organization enrollees who were not provided hospital services by the HMO. The amended provision would enable such organizations to become transitionally qualified without this legal burden and facilitate less disruptive movement to full qualification.

The amended regulation leaves in place the requirement that transitionally qualified HMOs must implement a time-phased plan acceptable to the Secretary, which specifies definite steps for meeting, at the time of contract renewal, all of the requirements for full qualification as an operationally qualified HMO. Also, since the amended regulation requires the HMO to provide all services other than hospital services, the HMO's physicians, by providing medical services to hospitalized HMO members, will assure appropriate continuity of care and provide utilization controls.

In implementing this amended regulation, the Secretary intends to scrutinize the relationship between the applicant, other providers, and current members to assure that the required services are being delivered.

By making the transitional qualification requirements more flexible, this amendment will permit more entities to become so qualified, and at the same time, minimize the burden of transition for these HMOs whose current members are, in fact, provided the basic health services under § 110.603(b)(2)(i).

This regulation will have an insignificant impact on the public and existing HMOs. Current members of the HMO will not be affected by the change because the regulation requires that the HMO demonstrate that they receive hospital services or are insured for these services. In addition, since § 110.603(b)(2)(i) applies only to services received by those members under contracts existing at the time of transitional qualification, this amendment has no effect on the services the HMO will provide to members later enrolled through new group and individual contracts.

For the reasons given above, the Secretary has determined that public participation in rulemaking prior to issuance of the amended rule and delay in its effective date would be unnecessary; therefore, good cause exists for making this regulation effective on January 12, 1983.

Costs to existing prepaid health care delivery systems seeking transitional qualification will be somewhat lessened as a result of this rule, in that it will no longer be necessary for these entities to reorganize their structure to receive qualification. There will be no cost increases to either applicants, States, or local governments. Therefore, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities and a regulatory Flexibility Analysis under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) is not required. Further, since these regulations do not meet any criteria for a major regulation under Executive Order 12291, a regulatory impact analysis is not required.

List of Index Terms for the Federal Register Thesaurus

In accordance with 1 CFR 18.20 the Secretary sent the Director of the **Federal Register** a list of index terms for 42 CFR Part 110. These terms, which have been included in the **Federal Register** Thesaurus of Indexing Terms, follow:

List of Subjects in 42 CFR Part 110

Grant programs—health, Health care, Health facilities, Health insurance, Health maintenance organizations, Loan programs—health.

The Assistant Secretary for Health of the Department of Health and Human Services, with the approval of the Secretary of Health and Human Services, amends 42 CFR 110.603(b)(2)(i), as set forth below.

(Sec. 215 of the Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); secs. 1301–1318 of the Public Health Service Act, as amended, 95 Stat. 572–578 (42 U.S.C. 300e–300e–17))

Dated: September 2, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: December 23, 1982.

Richard S. Schweiker,

Secretary.

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

42 CFR 110.603(b)(2)(i) is amended as follows:

Subpart F—Qualification of Health Maintenance Organizations

In § 110.603, revise paragraph (b)(2)(i) to read as follows:

§ 110.603 [Amended]

* * * * *

(b) * * *

(2) * * *

(i) Provide at least those services specified in the following sections of this part (except that these services may be limited as to time and cost): Section 110.102(a)(1) (physician services); § 110.102(a)(2) (outpatient services and inpatient hospital services except that inpatient hospital services or outpatient services by a hospital, or both, need not be provided, or paid for by the HMO if the HMO can show that these services

are, or insurance for these services is, being provided through arrangements made by entities other than the HMO; § 110.102(a)(3) (medically necessary emergency health services); and § 100.102(a)(6) (diagnostic laboratory and diagnostic and therapeutic radiologic services);

* * * * *

[FR Doc. 83-615 Filed 1-11-83; 8:45 am]
BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3000, 3410, 3420, 3430, 3450

[Circular No. 2518]

Interim Final Rulemaking Amending the Coal Management Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim final rulemaking.

SUMMARY: This interim final rulemaking amends provisions of the existing regulations in 43 CFR Group 3400, Federally Owned Coal, which were published as final regulations in the **Federal Register** July 30, 1982 (47 FR 33114). The Department of the Interior has determined that the provisions of the regulations concerning consultation with state governments were not sufficiently articulated in the July 30, 1982 regulations and that these provisions should be clarified, which is the purpose of this interim final rulemaking. These revisions are administrative and procedural in nature but are essential for the effective management of the Bureau of Land Management's coal leasing program. For these reasons, the Department of the Interior has determined that the most effective way to implement the regulations at the earliest possible time, while minimizing interference with the Department of the Interior's coal leasing schedule, and at the same time to assure a full public review, is to publish them as interim final rules while soliciting public comments.

DATES: Effective January 12, 1983. Comments will be accepted until February 28, 1983.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ryan Dudley, (202) 343-4537.

SUPPLEMENTARY INFORMATION: This interim final rulemaking modifies and clarifies provisions of the Department of the Interior's coal management regulations which were published July 30, 1982 (47 FR 33114). The provisions primarily relate to consultation processes between the Department of the Interior and State governments and Governor's offices in States affected by coal leasing decisions made by the Bureau of Land Management. The provisions also relate to consultation and coordination between the Department of the Interior and regional coal teams, and procedures for appeal of surface ownership determinations made by the Bureau of Land Management.

Many of the changes made by this interim final rulemaking were the subject of comments from the public concerning the proposed rulemaking for coal management published in the **Federal Register** on December 16, 1981 (46 FR 61390), and subsequently published as final regulations on July 30, 1982 (47 FR 83114).

Comments made on the December 16, 1981 proposed rulemaking were again considered in the development of this interim final rulemaking. The experience gained implementing the final rulemaking was also reviewed and considered as part of the development of this interim final rulemaking. Based upon both of these reviews, the Department of the Interior has determined that additional changes will make the rulemaking more responsive to expressed public need. The Department has further determined that the policy of close cooperation and consultation with affected State governments will be enhanced by more explicitly describing processes and procedures for consulting with Governors of states affected by Federal coal leasing. This interim final rulemaking incorporates those changes.

Specific Changes

Subpart 3410—Exploration Licenses. The changes made to § 3410.3-4 clarify the rights of private surface owners whose lands are supporting activities under exploration licenses. The existing regulations do not specifically require that the authorized officer seek written comments of private surface owners concerning the adequacy of the reclamation accomplished under exploration licenses, prior to terminating or adjusting the period or amount of liability under a bond. This interim final rulemaking requires the authorized officer to request such written comments. These changes respond to comments submitted on the December 16, 1981, proposed rulemaking that objected to the deletion of the provision from the existing regulations that were published in July 1979.

The comments expressed the view that the change made by the proposed rulemaking would deprive surface owners of split estate lands of adequate protection because they could not present their views on the adequacy of the reclamation effort on the lands after completion of the exploration activity. While nothing in the existing regulations precludes requesting written comments from affected private surface owners, this interim final rulemaking requires the authorized officer to request written comments from private surface owners.

Subpart 3420—Competitive Leasing. This interim final rulemaking makes changes to the existing regulations in §§ 3420.2 and 3420.3. The language in § 3420.2(a)(1) has been modified to state clearly that input and advice from State Governors are among the pertinent factors to be considered by Bureau of Land Management State Directors who are members of regional coal teams, as they prepare the initial range of regional leasing levels. The regional coal teams will continue to recommend alternative leasing levels given in ranges of tons. In addition, § 3420.2(a)(4) is modified to state that regional coal teams shall recommend a preferred leasing level to the Secretary.

Language in 43 CFR 3420.2(f) is modified by this rulemaking to reflect suggestions made by commenters on the December 16, 1981 proposed rulemaking.

This modification removes the requirement that the sale schedule for tracts shall not be constrained by the established leasing level and clarifies that the Secretary of the Interior will be guided by the established leasing level as well as the quantity and quality of other information available to him when making a final decision concerning which coal lease tracts to offer for sale within a region.

Section 3420.3-4(b)(1). This section is expanded by the interim final rulemaking to require that every regional environmental impact statement identify a preferred alternative. Council on Environmental Quality regulations at 40 CFR Group 1500 require that all environmental impact statements identify and study a preferred alternative. The amendment to this section now clearly reflects this requirement.

Section 3420.4-3. To further the Department of the Interior's policy of consultation and coordination with affected State governments, this section is revised to state more clearly that the

Secretary of the Interior will solicit detailed recommendations from Governors of affected States concerning which tracts to lease. Language has also been added to this section to provide for sending written notice to Governors of affected States concerning acceptance or rejection of their recommendation regarding lease sales in their States. Provision has also been made for publication of this decision in the Federal Register in addition to the written notification.

Section 3420.6. This section has been added by the interim final regulations. Existing regulations do not discuss procedures for reoffering tracts not sold in previous regional lease sales, prior to a new round of regional activity planning. This authority always existed, but was never expressed, and questions have arisen about the procedures to be employed. This new section describes the entities involved and the actions to be taken in reoffering unsold coal lease tracts.

Subpart 3425—Leasing on application. A new paragraph is added by this rulemaking at 43 CFR 3425.1–4 to provide for notifying Governors of the receipt by the Bureau of Land Management of emergency lease applications. Several comments on the December 16, 1981, proposed regulations requested that this provision be included. The Department of Interior has determined that this section should be included as part of its policy of maintaining close cooperative relations with affected State governments.

Section 3425.1–6. This section has been revised by adding a new paragraph which provides for notification of Governors of affected States when emergency lease applications are rejected.

Subpart 3427—Split estate leasing.—Section 3427.2. This section is revised by the addition of a new subsection (k) which modifies the existing appeals process for surface owners whom the surface managing agency has determined to be unqualified, that is, whose written consent is not required before the Secretary of the Interior may issue a Federal coal lease for surface mining of the reserved coal underlying the lands they own. To avoid the existing lengthy Department of the Interior appeal process and to render a Departmental decision on qualifications as quickly as possible, this rulemaking provides for an initial decision from the authorized officer, an appeal to the State Director, and a final appeal to the Director, Bureau of Land Management, whose decision will be considered the final administrative action.

Part 3430—Noncompetitive leasing.—Subpart 3430. Several comments on the December 16, 1981, proposed rulemaking requested that the Secretary of the Interior be authorized to initiate exchange procedures at the request of the regional coal team or the Governor of the affected State in cases where the exchanges are authorized by statute. The interim final rulemaking adds language to that effect at 43 CFR 3430.5–4(b).

Language has also been added at §§ 3435.3–1(b) and 3435.3–3(a) providing that Governors of affected States be sent copies of exchange notices and that regional coal teams be consulted before initiating and again before completing negotiations on exchanges.

Part 3450—Management of Existing Leases. Changes are made in §§ 3451.1, 3452.2–2, and 3453.3–3, to add provisions for notifying Governors of affected States of coal lease readjustments, lease cancellations, and lease transfers. Several comments on the December 16, 1981, proposed rulemaking requested these regulatory additions. They were not adopted by the July 30, 1982, final rulemaking because they appeared to be redundant to existing channels of communication. Upon reconsideration, the Department of the Interior has determined that the public interest is best served by having a clear, established, visible procedure for notifying Governors of changes in leases, cancellation of leases, and lease transfers. This has been accomplished by adding a new paragraph (e) to § 3451.1 and additional sentences to § 3452.2–2 and to § 3453.3–3.

The principal authors of this interim final rulemaking are Ryan Dudley and Carole Smith, Division of Coal, Tar Sands and Oil Shale, Bureau of Land Management assisted by staff of the Office of Legislation and Regulatory Management, Bureau of Land Management and other Department of the Interior staff.

It is hereby determined that these rules do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The changes made here are also within the scope of the proposals and impacts discussed in the Bureau of Land Management's 1979 Final Environmental Impact Statement (FES 79–19) on adoption of federal coal leasing rules (promulgated July 19, 1979) and the environmental assessment prepared on the July 30, 1982, amendments to the July 1979 program rules.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because the changes that are made by this interim final rulemaking are administrative and procedural in nature, small entities will not be significantly affected. No significant economic impacts are expected from this rulemaking. In all cases, the notice or consultation requirements will be integrated into existing processes, and should result in no delays in processing Federal coal leases and making lease-related decisions.

The information collection requirements contained in 43 CFR Group 3400, Parts 3410, 3420, 3430, and 3450, have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0073.

List of Subjects

43 CFR Part 3000

Public lands—Classification, Public lands—mineral resources.

43 CFR Part 3410

Coal, Environmental protection, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Parts 3420 and 3430

Administrative practice and procedure, Coal, Environmental protection, Intergovernmental relations, Mines, Public lands—mineral resources, Public lands—rights-of-way.

43 CFR Part 3450

Coal, Mines, Public lands and mineral resource, Surety bonds.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 *et seq.*) and the Multiple Mineral Development Act (30 U.S.C. 521–531), Part 3000 and Group 3400, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: December 21, 1982.

James G. Watt,

Secretary of the Interior.

PART 3000—[AMENDED]

§ 3000.4 [Amended]

1. Section 3000.4 is amended by removing from the beginning of the section the word "Any" and replacing it with the phrase "Except as provided in § 3427.2 of this title, any".

PART 3410—[AMENDED]

2. Section 3410.3–4 is amended by adding a new paragraph (d) to read:

§ 3410.3–4 Surface protection and reclamation.

* * * * *

(d) Where the surface of the land being explored is privately owned, the authorized officer shall have the authority to terminate or adjust the period of liabilty and/or the amount of liability under the bond. The authorized officer shall provide, 30 days prior to the effective date of termination of the period of liability under the bond, a notice of termination to enable the surface owner to inspect the property and notify the authorized officer, in writing, of any deficiencies in reclamation. Should the licensee and any surface owner be unable to agree on the adequacy of the reclamation, the authorized officer shall make the final determination.

PART 3420—[AMENDED]

§ 3420.2 [Amended]

3. Section 3420.2 is amended by:

A. Amending paragraph (a)(1) by removing the words "pertinent factors" and the semicolon at the end of paragraph (a)(1) and adding the phrase "considerations, including input and advice from the Governors of the affected States regarding assumptions, data, and other factors pertinent to the region;";

B. Amending paragraph (a)(4) by revising the fourth sentence to read "The regional coal team shall consider the State Director's review and shall transmit to the Secretary alternative leasing levels and a preferred leasing level presented in ranges of tons to be offered for lease."; and

C. Amending paragraph (f) by removing from the last sentence the words "shall not be constrained by the established leasing levels but rather".

§ 3420.3–4 [Amended]

4. Section 3420.3–4(b)(1) is amended by removing the period at the end of the second sentence and adding the phrase "and shall identify the preferred alternative in the environmental impact statement."

5. Section 3420.4–3 is amended by adding a new paragraph (c) to read:

§ 3420.4–3 Preliminary tract delineation.

* * * * *

(c) Before determining whether to conduct a lease sale, the Secretary shall seek the recommendation of the Governor of the State(s) in which the lands proposed to be offered for lease are located as to whether or not to lease such lands and what alternative actions are available and what special conditions could be added to the proposed lease(s) to mitigate impacts. The Secretary shall accept the recommendations of the Governor(s) if he determines that they provide for a reasonable balance between the national interest and the State's interests. The Secretary shall communicate to the Governor(s) in writing and publish in the **Federal Register** the reasons for his determination to accept or reject such Governor's recommendations.

6. A new § 3420.6 is added to read:

§ 3420.6 Reoffer of tracts not sold in previous regional lease sales.

Following the offering of tracts in accordance with the procedures outlined in §§ 3420.2, 3420.3, 3420.4 and 3420.5, any tracts not sold in accordance with the above listed provisions may be reoffered for sale by the Department provided a lease sale schedule has been reviewed by the regional coal team and, after consultation with the Governor, adopted by the Secretary. Provisions of Subpart 3422 shall apply to these tracts.

7. Section 3425.1–4 is amended by adding a new paragraph (c) to read:

§ 3425.1–4 Emergency leasing.

* * * * *

(c) The authorized officer shall provide the Governor of the affected State(s) a notice of an emergency lease application when it is filed with the Bureau of Land Management.

8. Section 3425.1–8 is amended by adding a new paragraph (c) to read:

§ 3425.1–8 Rejection of applications.

* * * * *

(c) The authorized officer shall transmit reasonable notice of the rejection of an emergency lease application to the Governor of the affected State(s).

9. Section 3427.2 is amended by adding a new paragraph (k) to read:

§ 3427.2 Procedures.

* * * * *

(k) Any surface owner determined to be unqualified by decision of the field official of the surface management agency shall have 30 days from the date of receipt of such decision in which he/she may appeal the decision to the appropriate State Director of the Bureau of Land Management. The surface owner shall have the right to appeal the State Director's decision to the Director, Bureau of Land Management, within 30 days of receipt of that decision. Both appeals under this paragraph shall be in writing. As an exception to the provisions of § 3000.4 of this title, the decision of the Director shall be the final administrative action of the Department of the Interior.

PART 3430—[AMENDED]

§ 3430.5–4 [Amended]

10. Section 3430.5–4(b) is amended by adding after the words "authorized officer" the phrase "or at the request of the regional coal team or the Governor of the affected State(s),".

11. Section 3435.3–1(b) is revised to read:

§ 3435.3–1 Exchange notice.

* * * * *

(b) The exchange notice shall also be provided to the Governor of the affected State(s) concurrent with notice to the lessee or preference right lease applicant stating why the Secretary believes an exchange may be in the public interest.

* * * * *

12. Section 3435.3–3(a) is amended by adding at the end of the section the following sentence:

§ 3435.3–3 Agreement to terms.

* * * The authorized officer shall consult with the regional coal team prior to initiation of such negotiations and shall consult again prior to finalization of the negotiated exchange.

PART 3450—[AMENDED]

13. Section 3451.1 is amended by adding a new paragraph (e) to read:

§ 3451.1 Readjustment of lease terms.

* * * * *

(e) The Governor of the affected State(s) shall be notified prior to the readjustment of lease terms.

14. Section 3452.2–2 is amended by adding at the end of the section the following sentence:

§ 3452.2–2 Cancellation procedure.

* * * The Governor of the affected State(s) shall be given reasonable notice of action taken by the Department of the

Interior to initiate cancellation of the lease.

15. Section 3453.3–3 is amended by adding at the end of the section the following sentence:

§ 3453.3–3 Effective date.

* * * The Governor of the affected State(s) shall be given reasonable notice of any lease transfer.

[FR Doc. 83–855 Filed 1–11–83; 8:45 am]
BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5481]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed properety insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 3429, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553 (b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Pennsylvania: Berks	Wyomissing Hills, borough of	422237	Dec. 1, 1982, emergency	
Illinois: Tazewell	Marquette Heights, city of	170650	Dec. 2, 1982, emergency	Mar. 8, 1974.
Pennsylvania: Cambria	Munster, township of	422263	Dec. 3, 1982, emergency	Nov. 22, 1974.
Washington: Skagit	Mount Vernon, city of	530158	Jan. 2, 1975, emergency; Aug. 2, 1982, suspended; Dec. 2, 1982, reinstated.	May 7, 1976.
California: Los Angeles	West Covina, city of	060666	Dec. 9, 1982, emergency	
Texas: Fort Bend	First colony levee improvement district	481583—New	do	
Arkansas: Clark	Caddo Valley, town of	050567A	Dec. 10, 1982, emergency	Mar. 20, 1979.
Ohio: Erie	Kelleys Island, village of	390736A	Apr. 30, 1975, emergency; Aug. 17, 1981, regular; Aug. 17, 1981, suspended; Dec. 9, 1982, reinstated.	Apr. 18, 1975.
Wisconsin: Waukesha	Muskego, city of	555456B	Apr. 12, 1974, emergency; Dec. 1, 1982, regular; Dec. 1, 1982, suspended; Dec. 13, 1982, reinstated.	June 21, 1974, and Aug. 6, 1976.
Tennessee:				
Dickson	Dickson, city of	470335	Dec. 16, 1982, emergency; Dec. 16, 1982, regular.	
Gibson	Unincorporated areas	470359	Dec. 16, 1982, emergency	
Pennsylvania: York	Yoe, borough of	420944B	July 29, 1975, emergency; Dec. 1, 1982, regular; Dec. 1, 1982, suspended; Dec. 16, 1982, reinstated.	June 28, 1974, and Aug. 27, 1976.
Arkansas: Sharp	Cave City, city of	050313	Dec. 10, 1982, emergency	July 18, 1975.
Illinois:				
McLean	Carlock, village of	170491	Dec. 23, 1982, emergency	Dec. 3, 1976.
Edwards	Unincorporated areas	170937	do	Oct. 27, 1978.
Washington: Columbia	Starbuck, city of	530031	do	Jan. 3, 1975.
Illinois: Will	Elwood, village of	170849A	Dec. 23, 1982, emergency; Dec. 23, 1982, regular.	Feb. 21, 1975, and Nov. 3, 1982.
Michigan: Oakland	Oakland, township of	260476B	Dec. 23, 1982, emergency; Dec. 23, 1982, regular.	Apr. 1, 1977, and Dec. 1, 1982.
Arkansas:				
Cleburne	Quitman, city of	050280	Dec. 22, 1982, emergency	Apr. 9, 1976.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Lawrence	Ravenden, city of	050470	do	Apr. 2, 1976.
New York: Cattaraugus	South Valley, town of	360100	Dec. 30, 1982, emergency	Sept. 6, 1974.
North Dakota: Richland	Barnie, township of	380661—New	do	
Arkansas:				
Lawrence	Imboden, town of	050120A	Dec. 28, 1982, emergency	May 3, 1974, and Oct. 10, 1975.
Van Buren and Faulkner	Damascus, town of	050404	do	Apr. 18, 1975.
New Jersey:				
Burlington	Bordentown, city of	340067B	May 18, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended; Dec. 20, 1982, reinstated.	Dec. 20, 1974, and May 28, 1976.
Morris	Chester, township of	340555B	Jan. 28, 1976, emergency; Apr. 1, 1982, regular; Apr. 1, 1982, suspended; Dec. 20, 1982, reinstated.	Dec. 6, 1974, and Dec. 15, 1978.
Arizona: Yavapai	Clarkdale, town of	040095B	Dec. 1, 1982, suspension withdrawn	Aug. 23, 1974, and Nov. 28, 1975.
Connecticut: Middlesex	Westbrook, town of	090070B	do	Nov. 23, 1973, and Oct. 15, 1976.
Illinois: Scott	Naples, village of	170609B	do	Apr. 2, 1976, and Jan. 9, 1974.
Indiana:				
Blackford	Hartford City, city of	180044B	do	Nov. 23, 1973, and Mar. 5, 1976.
Rush	Unincorporated areas	180421B	do	June 3, 1977.
Dearborn	Unincorporated areas	180038B	do	Apr. 7, 1978.
Michigan: Oakland	Keego Harbor, city	260173B	do	May 24, 1974, and Feb. 18, 1976.
Montana:				
Fergus	Unincorporated areas	300019B	do	Apr. 13, 1978.
Do	Grass Range, town of	300021A	do	Dec. 27, 1974.
New Jersey:				
Cumberland	Commercial, township of	340166B	do	Aug. 23, 1974, and Mar. 19, 1976.
Gloucester	East Greenwich, township of	340000B	do	Sept. 6, 1974, and July 28, 1978.
Camden	Gloucester, township of	340133A	do	Dec. 13, 1974.
Bergen	Hackensack, city of	340039B	do	June 28, 1974, and Oct. 31, 1975.
Monmouth	Hazlet, township of	340296B	do	Jan. 9, 1974, and Apr. 30, 1976.
New York:				
Greene	Hunter, village of	360293	do	Aug. 16, 1974.
Columbia	Kinderhook, town of	361221B	do	
Do	Kinderhook, village of	361045C	do	Apr. 4, 1974, and Jan. 20, 1978.
Cortland	McGraw, village of	360154B	do	Sept. 3, 1976, and Mar. 29, 1974.
Albany	New Scotland, town of	360013B	do	May 10, 1974, and July 16, 1976.
Do	Voorheesville, village of	360015B	do	Apr. 12, 1974, and July 2, 1976.
Oregon: Yamhill	McMinnville, city of	410255C	do	Feb. 15, 1974, Dec. 20, 1974, and Sept. 19, 1978.
Pennsylvania: Erie	Springfield, township of	421396C	do	June 25, 1976, and Mar. 21, 1980.
Tennessee:				
Shelby	Memphis, city of	470177B	do	Aug. 28, 1974, and Feb. 9, 1979.
Do	Unincorporated areas	470214B	do	Aug. 4, 1978.
Wisconsin:				
Waukesha	Hartland, village of	550481C	do	Nov. 30, 1973, May 14, 1976, and Apr. 15, 1977.
Walworth	Lake Geneva, city of	550466B	do	Dec. 28, 1973, and May 14, 1976.
Waukesha	Lannon, village of	550482B	do	Dec. 28, 1973, and May 21, 1976.
Green	Monroe, city of	550102C	do	May 31, 1974, May 28, 1976, and June 12, 1981.
Florida: Leon	Unincorporated areas	120143A	Dec. 15, 1982, suspension withdrawn	Dec. 20, 1974.
Iowa:				
Linn	Cedar Rapids, city of	190187B	do	Aug. 2, 1974, and Jan. 28, 1982.
Do	Unincorporated areas	190629B	do	June 3, 1977.
Michigan:				
Norfolk	Bellingham, town of	250232B	do	June 28, 1974, and Apr. 8, 1977.
Plymouth	Hanover, town of	550266B	do	July 26, 1974, and Aug. 23, 1977.
Monroe	Milan, township of	260152B	do	May 24, 1974, and June 25, 1976.
Grand Traverse	Traverse City, city of	260052B	do	May 24, 1974, and Nov. 14, 1975.
Minnesota: Marshall	Argyle, city of	270268B	do	May 3, 1974, and June 11, 1976.
New Jersey:				
Ocean	Barnegat, township of	340396C	do	June 4, 1976, May 31, 1974, and Mar. 14, 1981.
Bergen and Hudson	Hackensack Meadowlands district	340570A	do	Oct. 8, 1976.
Morris	Roxbury, township of	340362B	do	Mar. 29, 1974, and Aug. 6, 1976.
New York:				
Columbia	Chatham, village of	361523B	do	Dec. 6, 1974, and May 21, 1976.
Washington	Fort Edward, town of	360885A	do	Feb. 7, 1975.
Columbia	Valatie, village of	361508B	do	Nov. 15, 1974.
Saratoga	Northumberland, town of	360725B	do	June 21, 1974, and July 30, 1976.
Ohio:				
Licking	Hebron, village of	390078B	do	May 3, 1974, and May 21, 1976.
Licking and Knox	Utica, village of	390338A	do	Apr. 2, 1976.
Pennsylvania: Lackawanna	South Abington, township of	421758A	do	Jan. 24, 1975.
Texas: Wichita	Iowa Park, city of	480660B	do	Apr. 5, 1974, and Mar. 12, 1976.
Wisconsin:				
Pierce and Croix	River Falls, city of	550330C	do	Oct. 12, 1973, and May 19, 1981.
Rock	Beloit, city of	555544B	do	July 10, 1971, and Apr. 23, 1976.
Minnesota: Marshall	Grygla, city of	270269A	do	Aug. 8, 1975.
Indiana: Dearborn	Unincorporated areas	180038B	Dec. 30, 1982, suspension withdrawn	Apr. 7, 1978.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 4, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-634 Filed 1-11-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 6482]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

DATES: The effective date shown at the top right of the table or 30 days after the date of this **Federal Register** publication, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information or regarding the completed stages of engineering tasks in delineating the special flood hazard areas of the specified community. This rule imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

BILLING CODE 6718-03-M

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

§ 65.3 List of communities with special hazard areas (FHBMs in effect).

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF		10 PREVIOUS MAP DATES		11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
								FHBM	FIRM	FHBM	FIRM				
													EFFECTIVE DATE: December 14, 1982		
MT	300159	Mineral County (Unincorporated Areas)	0006B	I	FL	B	4	3	1	2-14-78	N/A	9	N/A	N/A	John Hamill, Supervisor Flood Plain Management Sec. Dept. of Natural Resources & Conservation 32 South Ewing St. Helena, MT 59620
													EFFECTIVE DATE: December 17, 1982		
NJ	340526	Frankford, Township of Sussex County	0005A 0010A	I	FL	B	1	3	1	1-31-75	N/A	9 10	N/A	N/A	Howard Hill, Mayor RD 1 Box 101 Augusta, NJ 07822
													EFFECTIVE DATE: January 3, 1983		
ND	380622	Brandenburg, Township of, Richland Co.	0001A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Elroy Stein, Chairman Rt. 2, Box 103 Wahpeton, ND 58075
ND	380169	Fairmount, Township of Richland County	0001A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Francis Rubish, Chairman Rt. 2; Box 5 Fairmount, ND 58030
													EFFECTIVE DATE: January 7, 1983		
IN	180488	Liberty, Township of White county	0001A 0002	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	Bob Zerth, Township Trustee & Assessor Route 4 P.O. Box 145 Monticello, IN 47960
													EFFECTIVE DATE: January 21, 1983		
NC	370435	Walnut Creek, Village Wayne County	0001A	I	FI	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Roy Lane, Mayor P. O. Box 10911 Goldsboro, NC 27530

EFFECTIVE DATE January 28, 1983

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 50.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
PA	421464	Township of Howard (Centre County)	INDEX 0001 A 0002 A 0003 A	I	FL	B	1	3	1	11/22/74	N/A	9 10 16	N/A	N/A	Paul Gardner Chairman of Township Supervisors Box 5-7, R.D. #2 Howard, PA 16841 814-625-2811
NY	361177	Fine, Town of St. Lawrence Co.	0003A 0005A 0006A	I	FL	B	1	3	1	1-10-75	N/A	10	N/A	N/A	Ronald Frank, Supervisor Starlake, New York 13690

BILLING CODE 6718-03-C

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*Dual entries may be used for Columns 6 and 8 to indicate changes in both flood hazard and program status.

Community Map Actions

(Codes: Where No Entry Is Necessary Use N/A)

Column Code:

1. Two letter state designator.
2. FIA Community 6-digit identity number.
3. Community name; County(ies) name.
4. Four digit number and suffix of each FIRM and FHBM panel printed.
5. INL/COAST:

I=INLAND
C=COASTAL
W=WAVE HEIGHT

6. HAZARD:

FL=FLOOD
MS=MUDSLIDE
ER=EROSION
NF=NON FLOOD PRONE
MF=MINIMALLY FLOOD PRONE

7. 60.3 CODE:

A=Special Hazard not defined, no elevation data (No FHBM)
B=Special Hazard Designated, no elevation data (FHBM)
C=FIRM, No floodway or Coastal High Hazard
* D=FIRM, Regulatory Floodway Designated
* E=FIRM, Coastal High Hazard

8. PROGRAM STATUS:

1=EMERGENCY
2=REGULAR
3=NOT PARTICIPATING, NO MAP
4=NOT PARTICIPATING, WITH MAP
5=WITHDREW
6=SUSPENDED

9. FHBM STATUS:

1=NEVER MAPPED
2=ORIGINAL
3=REVISED
4=RESCINDED
5=SUPERCEDED BY FIRM

10. FIRM STATUS:

1=NEVER MAPPED
2=ORIGINAL
3=REVISED
4=RESCINDED
5=ALL ZONE C—NO PUBLISHED FIRM
6=ALL ZONE A AND C—NO ELEVATIONS DETERMINED

11. DATES OF ALL PREVIOUS MAPS.

12. REVISION CODES:

1. 67 BFE (Base Flood Elevation) Decrease
2. 67 BFE Increase
3. 65 SFHA (Special Flood Hazard Area) Change
4. Change of Zone Designation; revised FIRM
5. Curvilinear
6. 64 Incorporation
7. 64 Discorporation
8. 64 Annexation
9. SFHA Reduction
10. Non-67 SFHA Increase Without Numbered Zones
11. Non-67 SFHA Increase With Numbered Zones
12. Drafting Correction; Printing Errors
13. Suffix Change ONLY
14. Change to Uniform Zone Designations (7/1/74)
15. Revisions Withdrawn
16. Refunds Possible
17. Letter of Map Amendment (70)
18. Letter of Map Amendment (70 without Federal Register publication)
19. Federal Register Ommission
20. Attention: A previous may (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.
21. Miscellaneous

13. List of Numbered Floodway Panels Printed.

14. Address of Community Map Repository.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 3, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-633 Filed 1-11-83; 8:45 am]

BILLING CODE 6718-03-M

*Dual entry is available.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Institutes of Health

45 CFR Part 3

Conduct of Persons and Traffic on Certain Federal Enclaves

AGENCIES: Health Resources and Services Administration (HRSA). National Institutes of Health (NIH) HHS.

ACTION: Final rule.

SUMMARY: The Health Resources and Services Administration and the National Institutes of Health amend the regulations governing the conduct and traffic on certain federal enclaves to remove coverage of the former Staten Island PHS Hospital, which has been transferred to Bayley Seton Hospital, a private non-profit New York corporation. The definition of a law enforcement officer in § 3.1 is also clarified.

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: William G. Ketterer, Senior Attorney, NIH, Office of the General Counsel, Room 2B–50, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, Telephone (301) 496–6043.

SUPPLEMENTARY INFORMATION: On June 20, 1980, the National Institutes of Health and the Health Services Administration of the U.S. Public Health Service published a Final Rule (45 FR 41820) for 45 CFR Part 3. At that time applicability of the regulations was extended to the U.S. Public Health Service Hospital, Staten Island, over which the United States had exclusive criminal jurisdiction. This was necessary in order to implement the delegation of authority under 40 U.S. Code 318–318d from the Administrator of General Services, to the Secretary of Health and Human Services, and redelegated to the Administrator, Health Services Administration. Effective November 25, 1981 the Staten Island facility was transferred to Bayley Seton Hospital, a New York non-profit corporation, pursuant to the mandate in Pub. L. 97–35 to transfer or close PHS hospitals, thus necessitating a technical amendment to these regulations to delete the reference to the Staten Island Hospital.

In addition, the definition of "law enforcement officer" § 3.1 is clarified to explicitly cover nonuniformed as well as uniformed U.S. Special Police Officers.

Public rulemaking procedures and delayed effective date are omitted as unnecessary, because HRSA and NIH find good cause for the waiver of these procedures, as follows:

(1) Federal conduct and traffic regulations for the Staten Island Hospital are being removed, because they have no legal effect as a result of the transfer of the Staten Island Hospital to a private organization pursuant to the mandate in Pub. L. 97–35 to transfer or close Public Health Service hospitals. The regulation of conduct and traffic within these jurisdictions while under private control is the responsibility of State and local governments, not that of the Federal government.

(2) The amendment to the definition of "law enforcememt officer" is a technical, clarifying change to make it explicit that this term includes both nonuniformed and uniformed officers. This is not a substantive change, because the definition presently

includes "any other Federal law enforcement officer."

The following statements are provided for the information of the public:

1. As required by Executive Order 12291, Section 3(g)(1), the proposal has been reviewed against the criteria in Executive Order 12291, Section 1(b), and does not meet that directive's test for "a major rule."

2. These regulations do not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354, since these regulations are technical in nature and simply revise existing regulations governing the conduct and traffic of Federal enclaves to implement statutory changes.

List of Subjects in 45 CFR Part 3

Federal buildings and facilities, Government property, Traffic regulations.

Thus, Part 3 of Title 45 of the Code of Federal Regulations is hereby amended as set forth below:

Dated: December 15, 1982.

Robert Graham,

Administrator, Health Resources and Services Administration.

Dated December 6, 1982

James B. Wyngaarden,

Director, National Institutes of Health.

1. The authority citation for Part 3 is revised to read as follows:

Authority: Sec. 1-5, 62 Stat. 281, as amended, 75 Stat. 574 (40 U.S.C. 318-318d); Sec. 205, 63 Stat. 389, as amended, 64 Stat. 591, 76 Stat. 414 (40 U.S.C. 486); Delegation of Authority, 33 FR 604.

2. The title to Part 3 is amended to read as follows:

PART 3—CONDUCT OF PERSONS AND TRAFFIC ON THE NATIONAL INSTITUTES OF HEALTH FEDERAL ENCLAVE

3. Section 3.1 is revised to read as follows:

§ 3.1 Definitions.

"Director" means the Director, National Institutes of Health, or other officer in charge of an enclave covered by this part.

"Enclave" means the area, containing about 307 acres, acquired by the United States in several parcels in the years 1935 through 1949, comprising the National Institutes of Health (NIH) located in Montgomery County, Maryland, over which the United States acquired exclusive criminal jurisdiction under the Act of March 31, 1953, chapter 158 (Maryland Code Annotated, Article 96, section 34 (1979)).

"Law enforcement officer" means a uniformed guard or uniformed or nonuniformed Special Police Officer appointed under a delegation of authority under 40 U.S. Code 318 or 318d; any other Federal law enforcement officer; and any other person whose law enforcement services are secured by contract or upon request from a State or local law enforcement agency.

[FR Doc. 83-614 Filed 1-11-83; 8:45 am]
BILLING CODE 4160-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1310

[Ex Parte No. MC-145 [1]]

Cancellation of Motor Carrier Joint Rates and Through Routes

AGENCY: Interstate Commerce Commission.

ACTION: Removal of final rules—change of procedures.

SUMMARY: The Commission is removing 49 CFR 1310.8(d) which requires the filing of a justification statement with proposed cancellations of motor carrier joint rates and through routes. The "justification statement" requirement, as well as requirements proposed in the notice of this proceeding, are found not to be consistent with the public interest. Motor carrier joint rate and through route cancellation proceedings will be handled on a case-by-case basis under the provisions of 49 U.S.C. 10705 consistent with the considerations outlined in the decision.

EFFECTIVE DATE: The decision will be effective on February 11, 1983.

FOR FURTHER INFORMATION CONTACT: Leonard Arnaiz, (202) 275-7831.

SUPPLEMENTARY INFORMATION: The Commission has issued a decision which eliminates the provisions of 49 CFR 1310.8(d) requiring the filing of a justification statement with each proposed cancellation of joint rates or through routes by motor common carriers of property. The decision also declined to adopt new requirements for joint-line cancellations proposed in the notice of this proceeding at 45 FR 81798 (December 12, 1980).

Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact T.S. Infosystems, Inc., Room 2227, Washington, DC 20423 or call 289-4357 (D.C. Metropolitan Area) or toll-free (800) 424-5043.

(49 U.S.C. 10321 and 10705, and 5 U.S.C. 553)

List of Subjects in 49 CFR Part 1310

Motor carriers, Joint rates and through routes.

It is ordered:

§ 1310.8 [Amended]

The regulations at 49 CFR 1310.8(d) are removed. Otherwise, the proposed revisions are not adopted.

Decided: December 28, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-786 Filed 1-11-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 10

Law Enforcement; Updating Areas of Responsibility and Addresses of District Offices

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service amends 50 CFR Part 10, General Provisions, to reflect an administrative update of the areas of responsibility and addresses of district offices of the Service's Division of Law Enforcement. A recent realignment of law enforcement districts reduced the number of districts from twelve to seven.

EFFECTIVE DATE: This rule is effective on January 12, 1983.

FOR FURTHER INFORMATION CONTACT: John T. Webb, Division of Law Enforcement, Fish and Wildlife Service, Washington, D.C. 20240, Telephone: (202) 343-9242.

SUPPLEMENTARY INFORMATION: The Department of the Interior has determined that Executive Order 12291 and the Regulatory Flexibility Act do not apply to this action, since only addresses of the Services law enforcement offices are being updated.

Also this amendment's effect is administrative and does not change agency procedure, the "notice" requirements of 5 U.S.C. 553(b) are not applicable. In addition, it is not a

[1] Embraces also *Restrictions on Service by Motor Common Carriers*, 129 M.C.C. 71 (1978).

substantive rule requiring a delayed effective date under 5 U.S.C. 553(d).

This amendment was prepared by Margaret C. Cash, Regulations Coordinator, Division of Law Enforcement.

List of Subjects in 50 CFR Part 10

Exports, Fish, Imports, Law enforcement officers, Wildlife.

PART 10—[AMENDED]

Accordingly, Part 10, Subchapter B, Chapter I of Title 50, *Code of Federal Regulations*, is amended by revising § 10.22 to read as follows:

§ 10.22 Law enforcement offices.

Service law enforcement offices and their areas of responsibility follow. Mail should be addressed: "Special Agent in Charge, U.S. Fish and Wildlife Service, [appropriate address below]":

Areas of Responsibility and Office Addresses

California, Hawaii, Idaho, Nevada, Oregon, Washington, American Samoa, Guam, the Marshall Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands (District 1):
Lloyd 500 Bldg., Suite 1490, 500 NE. Multnomah Street, Portland, OR 97232, Telephone: 503–231–6125

Arizona, New Mexico, Oklahoma, and Texas (District 2):
P.O. Box 329, Albuquerque, NM 87103, Telephone: 505–766–2091

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin (District 3):
P.O. Box 45, Twin Cities, MN 55111, Telephone: 612–725–3530

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands (District 4):
P.O. Box 4839, Atlanta, GA 30302, Telephone: 404–221–5872

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia (District 5):
P.O. Box E, Newton Corner, MA 02158, Telephone: 617–965–2298

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming (District 6):
P.O. Box 25486, Denver Federal Center, Denver, CO 80225, Telephone: 303–234–4612

Alaska (District 7):
P.O. Box 42597, Anchorage, AK 99509, Telephone: 907–276–3800

Any foreign country (Washington Office):
P.O. Box 28006, Washington, D.C. 20005, Telephone: 202–343–9242

Dated: January 4, 1983.

P. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-781 Filed 1-11-83; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 14

Wildlife Import/Export Licenses—Recordkeeping Requirements; Availability to Non-Residents

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; interpretation.

SUMMARY: Under authority of the Endangered Species Act of 1973, the Service requires everyone engaged in business as an importer or exporter of fish or wildlife to obtain an import/export license issued by the Service, unless by regulation an exception to that requirement applies. Recently, two questions about the license have been raised which need clarification.

First, what records are required to be kept? Normal business records should satisfy the recordkeeping requirements. A separate or duplicate set for the Service is *not* required. Second, can non-residents (especially foreign fur buyers) obtain a license? Yes, residence in the U.S. is *not* required.

FOR FURTHER INFORMATION CONTACT: John T. Webb, Branch of Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, D.C. 20005, telephone: (202) 343–9242.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 1980 (45 FR 56668), the Service published a final rule revising 50 CFR Part 14 (Importation, Exportation, and Transportation of Wildlife) to implement provisions of a number of wildlife laws enforced by the Service. As part of that rulemaking and under authority of section 9(d) of the Endangered Species Act of 1973 [16 U.S.C. 1538(d)], an import/export license requirement was imposed on any person who engages in business as an importer or exporter of fish or wildlife unless that person imports or exports certain excepted wildlife or falls within one of the categories of persons excepted from the requirement. A person is engaged in business as an importer or exporter of wildlife if he/she devotes time, attention, labor, or effort to any activity for gain or profit that involves the importation or exportation of wildlife. The license requirement, which is found in §§ 14.91–14.93, went into effect January 1, 1981.

Licensees must: (1) Pay $50 for a two-year license, (2) keep certain records and retain them for five years, (3) allow the Service to inspect records and inventories of imported wildlife, and (4) file any requested reports. Certain persons excepted from the license requirement by 50 CFR 14.92(b) must still: (1) Keep records which fully and correctly disclose each importation or exportation of wildlife by them, (2) keep records which fully and correctly disclose the subsequent disposition by them of the imported or exported wildlife, and (3) allow the Service to inspect records and inventories of imported wildlife.

Before the effective date of the license requirement, however, the Service received considerable comment that the requirement would impose disproportionately burdensome demands on small entities, particularly small businesses and individuals who only occasionally import or export wildlife for gain or profit. Therefore, on December 31, 1980 (45 FR 86496) the Service published a final rule, effective immediately, which excepted any person from the license requirement if the value of the wildlife that person imports and exports during a calendar year totals less than $25,000 [as declared on the Declaration for Importation or Exportation of Fish or Wildlife (Form 3–177)]. This exception now appears in § 14.92(b)(6).

The licensing requirement was recently addressed by Congress while considering reauthorization of the Endangered Species Act of 1973. In the Senate Report accompanying the Endangered Species Act Amendments of 1982, the Committee on Environment and Public Works stated:

> As part of the Administration's ongoing review of many Federal regulations and requirements that are based upon numerous laws, the Department of the Interior should review the licensing requirements that have been promulgated pursuant to section 9(d) of this Act. The paperwork and regulatory burden imposed by any such requirement should be the minimum necessary to accomplish the purposes of the law and to ensure proper administration of the law. [Report of the Committee on Environment and Public Works of the United States Senate to accompany S. 2309, S. Rep. 418, 97th Cong., 2d Session 1982, p. 28.]

Need for Interpretation

Mr. Stephen S. Boynton, a representative for various groups within the U.S. fur industry, has requested a clarification from the Service on two issues related to the licensing requirement: What records are required to be kept? Can non-residents (especially foreign fur buyers) obtain a license?

1. *Recordkeeping requirements.* The recordkeeping requirements for licensees are found in § 14.93(d) (1) and (2) under additional license conditions, and those for persons excepted from the license requirement are found in § 14.92(b). The business records normally maintained by a legitimate business satisfy these requirements. A separate or duplicate set maintained for the Service is not required. As stated in the preamble to this final rule when the licensing requirement was promulgated:

> The rulemaking does not direct either licensees or excepted persons to keep an additional set of records; it merely requires as a condition of licensing or as a requirement for certain persons to be excepted that certain information, as set forth in § 14.93(c) [sic.] or § 14.92(b), be included as a part of whatever business records are presently maintained, and that such records be retained for a period of five years, which is consistent with the statute of limitations for laws administered by the Service. The requirement that the records fully and correctly disclose the subsequent disposition by the licensee or excepted person of the wildlife imported or exported may be met by records which are specimen-specific, on an inventory basis, or a combination of the two depending upon the normal business practice of the importer or exporter. 45 FR 56670 (1980).

Specifically, the recordkeeping requirements are met by maintaining the following records:

(1) A copy of the Declaration for Importation or Exportation of Fish or Wildlife (USFWS Form 3–177) that is filed for each importation or exportation. The declaration must be both complete and accurate.

(2) Copies of other documents associated with an importation or exportation. These documents may include the following: commercial invoices, pro forma invoices, special invoices, U.S. import permits, foreign export permits, Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) documents, captive-bred certificates, arrival notices, carrier certificates, airway bills, bills of lading, manifests, General System of Preference (GSP) certificates, and U.S. Customs documents. (NOTE: Licensees are required to maintain a copy of any permit required by the laws or regulations of the U.S. or by the country of origin or export.)

(3) Internal records, such as sales receipts or invoices, that are used to prepare Federal or State income tax returns, to maintain inventory control, or to satisfy State or local business license requirements. For imported wildlife, these records should indicate the disposition of the wildlife, i.e., what the importer did with the wildlife after it was imported if it is no longer possessed by the importer.

2. Non-resident licensees. Non-residents may obtain an import/export license if their activities in the U.S. require them to obtain one (i.e., if in the U.S. they engage in business as importers or exporters of fish or wildlife). Residence in the U.S. is not required. Therefore, foreign buyers, including fur buyers, may obtain an import/export license.

Non-residents should submit inquiries about the license, requests for application forms or completed applications to the following address: Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, D.C. 20005, Telephone: (202) 343–9242.

Dated: December 28, 1982.

P. Craig Potter,

Assistant Secretary for Fish and Wildlife and Parks

[FR Doc. 83–762 Filed 1–11–83; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol 48, No. 8
Wednesday, January 12, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 445]

Dry Creek Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in Sonoma County, California, to be known as "Dry Creek Valley." This proposal is the result of a petition submitted by the Dry Creek Valley Association, Inc., a local grape/wine industry member group. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will permit wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they purchase.

DATE: Written comments must be received by February 11, 1983.

ADDRESSES: Send writen comments or requests for a public hearing to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385, (Attn: Notice No. 445).

Copies of the petition, the proposed regulations, maps with the boundaries of the proposed viticultural area marked, and any written comments will be available for public inspection during normal business hours at the: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 1200 Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. The revised regulations permit the establishment of definite viticultural areas and also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October, 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which amended Title 27, CFR, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all approved American viticultural areas which may be used as appellations of origin on wine labels and in wine advertisements.

Section 4.25a(a)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on the features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition

ATF has received a petition proposing an area in north central Sonoma County, California, as a viticultural area. The proposed viticultural area is to be known as "Dry Creek Valley." The petition was submitted by the Dry Creek Valley Association, Inc., a local organization representing the interests of most grape/wine industry members in the area, and was signed by nine (9) members.

The proposed viticultural area is located northwest of the town of Healdsburg. A valley arm of the Russian River Valley and uplands immediately surrounding and to the west are encompassed. The proposed boundaries correspond, as much as possible, to the watershed of the area. The total area encompassed is approximately 80,000 acres or 125 square miles.

The inverted "U"-shaped valley arm extends southeasterly from just east of the Warm Springs Creek/Dry Creek confluence to the Dry Creek/Russian River confluence south of Healdsburg. From the northern beginning point, it gradually widens and eventually opens into a delta-like plain just east of Healdsburg. It is approximately 16 miles long and two (2) miles wide at the widest point. Dry Creek traverses the entire length of the valley arm. Approximately 20,500 acres or 32 square miles of the proposed viticultural area consists of the valley area.

The uplands surrounding the valley area are generally composed of rolling hills that range from 300 to 1,000 feet in elevation. These uplands surround the valley area on three sides. The upland area extending to the west of the valley area is composed primarily of fairly rugged small mountains that range from 1,000 to over 2,000 feet in elevation.

There are 21 bonded wineries in the proposed viticultural area. Also, six (6) wineries that are currently in the planning stage will probably locate in the proposed viticultural area in the near future. Currently, there are approximately 5,000 acres devoted to grape-growing. This acreage is situated primarily in the valley area. However, some vineyards have recently been developed in the upland areas. In addition, many more small upland areas capable of grape production may be developed into vineyards in the future.

The boundaries of the proposed viticultural area may be found on six (6) U.S.G.S. quadrangle (Topographic) maps, 7.5 minute series, scale 1:24,000, entitled—Geyserville, Jimtown, Healdsburg, Guerneville, Cazadero, an Warms Springs Dam (formerly Skaggs Springs). The specific boundaries

proposed are detailed in the regulation portion of this document at § 19.64(c).

Viticultural/Geographical Features

The petitioner contends the proposed viticultural area is distinguishable from the surrounding area on the basis of climate, soil, geology and other physiographical features. The petitioner submitted evidence on the following to support this claim.

(a) *Climate.* The proposed viticultural area possesses two distinct seats of climatic conditions. The valley area has an annual rainfall of 25–50 inches, temperature of 58–60 degrees F., and a frostfree season of 240–270 days. The upland area has an annual rainfall of 30–70 inches, temperature of 54–58 degrees F., and a frostfree season of 230–270 days. The main Russian River Valley area to the south has an annual rainfall or 25–40 inches temperature of 54–60 degrees F., and frostfree season of 240–260 days. The proposed viticultural area is generally wetter, warmer, and has a longer growing season than the main Russian River Valley area.

The petitioner submitted a temperature comparison study, prepared by the Cooperative Extension, University of California, Sonoma County. It indicates the valley area is warmer than the main Russian River Valley area and cooler than the area to the north as a result of the moderating effect of fog on temperature. The study indicates the breakpoint in Sonoma County for intrusion of fog of sufficient intensity to significantly affect temperatures is generally the area in the vicinity of Healdsburg. This area includes the southern portion of the proposed viticultural area.

In addition, under the climatic region concept developed by Amerine and Winkler, the proposed viticultural area is generally classified as Region 3 and the main Russian River Valley area is generally classified as Region 2. That is, the sum of the mean daily temperature above 50 degrees F., expressed in temperature-time values of degree days, for each day in the period April-October of any given year is generally 3,001–3,500 for the proposed viticultural area and 2,501–3,000 for the main Russian River Valley area.

To summarize, the petitioner contends the proposed viticultural area possesses a unique set of growing conditions which distinguish it from the surrounding area. In addition, the petitioner claims these conditions have a marked influence on the amount and distribution of heat and moisture received by grapes during the growing season. This, in turn, directly affects the development and balance of sugar, acid, and other constituents of grapes grown in the proposed viticultural area.

(b) *Geological Features.* The geomorphological characteristics of the proposed viticultural area generally correspond to distinguishable geological features which define a valley and an upland area.

The valley area is delineated on three sides by contact between geologically younger alluvial material with older indurated rock. These geological boundaries are generally continuous. However, there are gaps at the northern end of the valley where Dry Creek enters and along the eastern edge of the valley near the town of Geyserville. The valley area merges with the main Russian River Valley area near Healdsburg. Consequently, the southern boundary of the valley is less distinct and not as distinguishable as the other boundaries of the valley.

The alluvial material in the valley is composed of interbedded clay, sand and silt under the central floor; poorly stratified clay, silt and gravel near the edges which has formed alluvial fans; and poorly sorted clay, sand and gravel adjacent to and slightly above modern stream courses. The same type of alluvial material, distributed primarily in the same manner, is found in the adjacent Alexander Valley area. However, the two valleys are generally separated by an intervening area of uplands.

The upland areas are generally underlaid with indurated bedrock. This bedrock is part of the "Franciscan Formation" and is composed of graywacke, sandstone, chert, greenstone, pillow lava, shale, and serpentine. However, the upland area separating the valley area from the Alexander Valley area is composed of "Dry Creek Conglomerate." This consists of "Franciscan Formation" bedrock which has been sheared and ground by faulting action.

(c) *Soils.* The soils found in the valley area are distinct from the soils found on the surrounding uplands. This is due to the different parent material, i.e., alluvial in the valley and indurated rock in the uplands, from which the soils were formed. The soils found throughout the valley area are primarily of the Yolo-Cortina-Pleasanton association. The soils in the upland areas are of the Hugo-Josephine-Laughlin association west and north of the valley, Spreckels-Felta association southeast of the valley, and Los Gatos-Henneke-Maymen association northeast of the valley. The contrast in soils allows an easy distinction between the valley and upland areas. In addition, the upland soils generally distinguish the valley area from adjacent viticultural areas.

(d) *Watershed.* The proposed viticultural area is served by Dry Creek, a major Russian River tributary. The proposed boundaries correspond, as much as possible, with the boundaries of the Dry Creek drainage basin. As a result, all of the valley area drained by Dry Creek and a large upland area drained by tributaries of Dry Creek are encompassed. The petitioner contends the proposed viticultural area encompasses an area which is geographically associated and distinguishable from the surrounding area on the basis of watershed criteria.

Evidence Relating to Name and Boundaries

The petitioner claims the viticultural area proposed in the petition is locally and/or nationally known by the name "Dry Creek Valley" and the boundaries are as specified in the petition. The petitioner submitted historical or current evidence consisting of the following to support these claims.

(a) Excerpts from various 19th century and contemporary, local and national publications which refer to the "Dry Creek Valley" as a grape-growing and wine-producing area.

(b) Excerpts from articles by 19th century and contemporary authors which generally describe the valley area included in the proposed viticultural area.

(c) Statements concerning the use of watershed criteria as a basis for including the large upland area in the proposed viticultural area.

(d) A collection of labels used by local wineries on various wines which refer to "Dry Creek Valley" as being the source of the grapes from which the wines were made.

(e) Statements concerning consumer recognition of the name "Dry Creek Valley" as applying to the proposed viticultural area.

Discussion

ATF feels the evidence submitted by the petitioner indicates establishment of "Dry Creek Valley" as a viticultural area may be warranted. Accordingly, the establishment of this grape-growing region as a viticultural area is proposed in this document.

However, we are not entirely convinced the boundary proposed is the most appropriate for the viticultural area. The petitioner states watershed criteria was used as a basis for the boundary since the area encompassed is geographically associated, well defined, and commonly understood. Furthermore,

vineyards recently developed in upland areas and areas suitable for future development as vineyards are encompassed by the boundary. Notwithstanding this, we feel the boundary may be inappropriate since a relatively high proportion of the upland area encompassed is either viticulturally unsuitable or currently used for purposes other than viticulture. On the other hand, we recognize the viticulturally suitable areas encompassed are widely dispersed and may preclude the use of alternative boundaries which vary significantly from that proposed. Nevertheless, other boundaries may be more appropriate. Accordingly, consideration will be given to other possible boundaries.

Public Participation

All interested persons are invited to participate in this proposed rulemaking by submitting written comments. Comments should be specific, pertain to the issue proposed in this rulemaking, and provide the factual basis supporting the data, views, or recommendations presented. Comments received before the closing date will be carefully considered prior to a final decision by ATF on this proposal. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

We are particularly interested in receiving comments which provide historical or current evidence as to whether the viticultural area boundaries are as specified in the petition. In addition, comments are invited on alternative boundaries. These comments should include data on the geographical and viticultural characteristics which distinguish the area encompassed from the surrounding area.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. All materials and comments received will be available for public inspection during normal business hours.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Director, within the comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in the light of all circumstances, whether a public hearing should be held.

ATF reserves the option to determine, on the basis of written comments, our own research, and in the light of any other circumstances, whether this viticultural area should be established. In addition, ATF may modify, through the rulemaking process, the viticultural area which may be established as a result of this proposed rulemaking when in the judgment of the Director such action is determined to be warranted.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not expected to apply to this proposed rule because the proposal, if promulgated as a final rule, is not expected to have a significant economic impact on a substantial number of small entities. Since the benefits to be derived from using a new viticultural area appellation of origin are intangible, ATF cannot conclusively determine what the economic impact will be on the affected small entities in the area. However, from the information we currently have available on the proposed Dry Creek Valley viticultural area, ATF does not feel that the use of this appellation of origin will have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Drafting Information

The principal author of this document is Jim Whitley, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, personnel of other offices of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority

Accordingly, under the authority in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.64. As amended, the table of sections reads as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.64 Dry Creek Valley.

Par. 2. Subpart C is amended by adding § 9.64 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.64 Dry Creek Valley.

(a) *Name.* The name of the viticultural area described in this section is "Dry Creek Valley."

(b) *Approved maps.* The appropriate maps for determing the boundaries of the Dry Creek Valley viticultural area are six U.S.G.S. topographic maps. They are—

(1) "Geyserville Quadrangle, California—Sonoma County," 7.5 minute series, 1955 (Photorevised 1975);

(2) "Jimtown Quadrangle, California—Sonoma County," 7.5 minute series, 1955 (Photorevised 1975);

(3) "Healdsburg Quadrangle, California—Sonoma County," 7.5 minute series, 1955 (Photorevised 1980);

(4) "Guerneville Quadrangle, California—Sonoma County," 7.5 minute series, 1955;

(5) "Cazadero Quadrangle, California—Sonoma County," 7.5 minute series, 1978; and

(6) "Warm Springs Dam Quadrangle, (formerly 'Skaggs Springs Quadrangle'), California—Sonoma County," 7.5 minute series, 1978.

(c) *Boundaries.* The Dry Creek Valley viticultural area is located in north central Sonoma County, California. From the beginning point lying at the intersection of latitude line 38 degrees 45 minutes and the east line of Section 4, Township 10 North (T. 10 N.), Range 10 West (R. 10 W.) on the "Geyserville Quadrangle" map, the boundary runs—

(1) Southeasterly in a straight line to the northeast corner of Section 9, T. 10 N., R. 10 W;

(2) Then southerly along the east line of Section 9 to the southeast corner thereof;

(3) Then S. 74 degrees, E. 2,800 feet in a straight line to the northeasterly tip of a small lake;

(4) Then N. 57 degrees, E. 2,300 feet in a straight line to the southeast corner of Section 10, T. 10 N., R. 10 W;

(5) Then S. 16 degrees, E. 1,800 feet in a straight line to the point on a peak identified as having an elevation of 664 feet;

(6) Then S. 55 degrees, E. 7,900 feet in a straight line to the most northerly point on the northeasterly line of "Olive Hill" cemetery lying on the easterly side of Canyon Road;

(7) Then southeasterly along the northeasterly line of "Olive Hill" cemetery to the most easterly point thereon;

(8) Then S. 2 degrees, E. 3,100 feet in a straight line to the point in the westerly fork of Wood Creek lying at the westerly terminus of a dirt road;

(9) Then southerly 3,100 feet along the west fork or Wood Creek to the point lying 400 feet north of the point on a peak identified as having an elevation of 781 feet;

(10) Then southerly 400 feet in a straight line to the point on a peak identified as having an elevation of 781 feet;

(11) Then S. 50½ degrees, E. 15,500 feet in a straight line to the point lying at the intersection of Lytton Creek and the township line common to T. 9 N. and T. 10 N. in R. 9 W.;

(12) Then southerly along Lytton creek to Lytton Springs Road in T. 9. N., R. 9 W. on the "Jimtown Quadrangle" map;

(13) Then easterly along Lytton Springs Road to the point of intersection with U.S. Highway 101 (a.k.a. Redwood Highway);

(14) Then southerly along U.S. Highway 101 to the point of interesction with an unnamed light duty road (known locally as Chiquita Road) on the "Geyserville Quadrangle" map;

(15) Then easterly along the unnamed light duty road to the point of intersection with an unnamed heavy duty road (known locally as Healdsburg Avenue) on the "Jimtown Quadrangle map";

(16) Then southerly along the unnamed heavy duty road through the town of Healdsburg to the centerline of the Russian River on the "Healdsburg Quadrangle" map;

(17) Then southerly along the centerline of the Russian River to the confluence of Dry Creek;

(18) Then west-southwesterly in straight line to an unnamed light duty road (known locally as Foreman Lane);

(19) Then westerly along the unnamed light duty road, crossing West Dry Creek Road and passing Felta School, to the point of intersection with Felta Creek on the "Guerneville Quadrangle" map;

(20) Then southwesterly 18,000 feet along Felta Creek to the point lying at the intersection of three springs in T. 8 N., R. 10 W., approximately 300 feet east from the word "Springs";

(21) Then S. 58 degrees, W. 15,000 feet in a straight line to the southwest corner of Section 9, T. 8 N., R. 10 W;

(22) Then northerly along the west line of Sections 9 and 4, T. 8 N., R. 10 W., continuing along the west line of Section 33, T. 9 N., R. 10 W. to the northwest corner thereof;

(23) Then westerly along the south line of Sections 29 and 30, T. 9 N., R. 10 W. to the southwest corner of Section 30 on the "Cazadero Quadrangle" map;

(24) Then northerly along the south line of Section 13, T. 9 N., R. 11 W. to the northwest corner of Section 19;

(25) Then westerly along the south line of Section 13, T. 9 N., R. 11 W. to the southwest corner thereof;

(26) Then southwesterly 14,200 feet in a straight line to the northeast corner of Section 20, T. 9 N., R. 11 W;

(27) Then westerly along the north line of Section 20 to the northwest corner thereof;

(28) Then northerly along the east line of Sections 18, 7, and 6, T. 9 N., R. 11 W., continuing along the east line of Sections 31, 30, 19, 18, 7, and 6, T. 10 N., R. 11 W. to the point of intersection with latitude line 38 degrees 45 minutes on the "Warm Springs Dam Quadrangle" map; and

(29) Then easterly along latitude line 38 degrees 45 minutes to the point of beginning.

Signed: December 6, 1982.

W. T. Drake,

Acting Director.

Approved: December 20, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-676 Filed 1-11-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 9

[Notice No. 446]

Willow Creek Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the establishment of a viticultural area in portions of Humboldt and Trinity Counties, California, to be known as "Willow Creek." This petition was submitted by the Willow Creek Viticultural Area Committee under the signature of Mr. Dean Williams of Willow Creek Winery.

ATF believes the establishment of American viticultural areas and their subsequent use as appellations of origin allows wineries to better designate the specific grape-growing areas where their wines come from and allows consumers to better identify the wines they purchase.

DATE: Comments must be received on or before February 11, 1983.

ADDRESS: Comments should be addressed to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 446).

FOR FURTHER INFORMATION CONTACT: Roger L. Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20266 (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising the wine regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas, and allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertising.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) adding a new Part 9 to 27 CFR for the listing of approved American viticultural areas.

27 CFR 9.11 defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. 27 CFR 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed area is locally and/or nationally known as referring to the area specified in the petition.

(b) Historical or current evidence that the boundaries of the proposed area are as delineated in the petition.

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.),

which distinguish the viticultural features of the proposed area from the surrounding areas.

(d) A description of the proposed boundaries of the proposed viticultural area, based on features found on United States Geographical Survey (U.S.G.S.) maps of the largest applicable scale.

(e) A copy of the appropriate U.S.G.C. maps with the proposed boundaries prominently marked.

Petition for Willow Creek

The petition for the establishment of the "Willow Creek" viticultural area was filed by the Willow Creek Viticultural Area Committee. ATF believes the petition contains sufficient evidence to warrant a notice proposing the establishment of "Willow Creek" as a viticultural area.

Evidence Relating to the Name

"Willow Creek" was first named in 1851 by miners and pack train drivers traveling from towns along the coast to the interior valleys. The name was given to this area because of the heavy growth of willows at the confluence of the creek, now named Willow Creek, and the Trinity River. Other miners in 1852 named the area "China Flat" because of the heavy Chinese influence in the area. The name "China Flat" remained until 1912 when it was discovered that another area was called China Flat in the mother lode area. The name then reverted to Willow Creek in honor of the pack train drivers and miners.

Presently, there is a town named "Willow Creek" located within the proposed boundaries of the area. Further, the U.S.G.S. map on which the boundaries are marked is entitled "Willow Creek Quadrangle."

Historical and Current Evidence

The petition states that the Willow Creek area has long been known as a small geographic agricultural area. This area is located approximately 31 miles inland from the Pacific Ocean at the confluence of the Trinity River and the south fork of the Trinity River.

The main crops of the area are peaches, apples and tomatoes, widely sought after by Humboldt County residents. In the 1920's, the Gambi family brought grape vines from Santa Cruz, mostly muscats, and proceeded to make wine from these early vines. Other families in the area followed this example, and in the 1930's approximately 150 acres of peaches, apples, and grapes were in production.

In 1974, the first commercial vineyard was planted. Today, there are five such vineyards comprising a total of approximately 30 acres in grapes. The predominant varieties grown are Cabernet, Riesling, Gewurztraminer, Chardonnay, Zinfandel, and Merlot. Prior to 1976, there was one winery in Humboldt County. Due to the availability of locally grown grapes, there are now four wineries. Two of these four wineries, Fieldbrook Winery and Willow Creek Vineyards, use the term "Willow Creek" in conjunction with the varietal designation on labels of wines produced from this area. Further, all of the growers in the area are members of the petition committee. Although the other two wineries did not sign the petition submitted for the establishment of this area, the petitioner stated that they are not opposed to the petition.

Geographical Characteristics

The proposed area is influenced primarily by two major forces; the proximity to the Pacific Ocean, 31 miles inland, and the warmer climate of the Sacramento Valley approximately 100 miles eastward. These influences create easterly winds keeping the Willow Creek area fairly cool in the summer, while only infrequent freezes occur in the winter. The average high and low temperatures are moderate at 82.85 degrees and 47.04 degrees during the growing months of April through October. These figures are based on data collected during the past five growing seasons.

One reference book, The Sunset New Western Garden Book, pp. 8–35, compares the proposed area, microclimatically, to other grape-growing regions in California; St. Helena and Napa in Napa County; Healdsburg and Cloverdale in Sonoma County; and Hopland and Ukiah in Mendocino County. This reference also describes the climate as being moderated by the effect of marine air on inland areas which makes for warmer winter and cooler summer temperatures.

The proposed area's heat degree days average 3005.62, based on climatic data gathered during the last three years. These heat units correspond to the top range of an Area II and the bottom range of an Area III. Rainfall, based on data gathered during the last 38 years, averages 39.9 inches per year.

The soil composition of the proposed area is primarily Quarternary terrace gravels, which provide excellent drainage for the vineyards. The vineyards of the area are situated on plateaus and benches at elevations varying from 461 feet to 1,500 feet.

Generally, the proposed area is situated in and around the confluence of the Trinity River and the South Fork of the Trinity River, approximately 31 miles inland from the Pacific Ocean. The area surrounding the proposed area is mountainous, at times rising sharply to high elevations. The area is approximately 7⅞ miles in length and 3⅝ miles at its widest point. The area encompasses approximately 16 square miles, or slightly more than 10,000 acres.

Proposed Boundaries

The proposed boundaries are found on a 15 minute series U.S.G.S. map entitled "Willow Creek Quadrangle." The boundary begins at the point where Kirkham Creek crosses Highway 96; then in a straight line east to the point where Coon Creek intersects the 800-foot contour line; then to the fork of Bremer Creek at the 700-foot contour line; then in a straight line to where the 1,500-foot contour line intersects the county lines; then along the 1,500-foot contour line to where it intersects the unnamed branch of Sharber Creek in section 2, T.6.N./R.5E.; then in a straight line southeasterly to where the 1,500-foot contour line intersects the east section line of section 12, T.6N./R.5E.; then in a southerly direction along the section lines to where the 1,500-foot contour line intersects the east section line of section 24, T.5N./R.5E.; then in a straight line southwesterly to the 1,500-foot contour line intersecting the section line between sections 27, T.5N./R.5E. and section 28, T.5N./R.4E.; then in a straight line northwesterly to where the 1,500-foot contour line crosses China Creek in section 5, T.6N./R.5E.; then in a straight line northwesterly to where Boise Creek crosses Highway 299; then in a straight line to the fork of Kirkham Creek; then along Kirkham Creek to the point of beginning.

Public Participation

ATF requests comments from all interested persons. Comments are requested on whether the proposed area is viticulturally distinct from the surrounding area, whether the proposed boundary delineates a specific grape-growing area, and whether the delineated area is historically and currently known as "Willow Creek." ATF also welcomes any additional data and information concerning the proposed area, particularly on geographical features that distinguish the area from surrounding areas.

All comments received on or before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action.

ATF will not recognize any material as confidential. Comments may be

disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

Any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

Disclosure

Copies of the petition, the map, this notice, and all comments are available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this notice of proposed rulemaking, if promulgated as a final rule, will not be a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) Major increases in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographical regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is certified under the provisions of 5 U.S.C. 604(b) of the Regulatory Flexibility Act that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document is Roger L. Bowling, Research and Regulations Branch.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural area, Wine.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205, 27 C.F.R. Part 9 is proposed to be amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections for Subpart C is amended to add § 9.85 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.85 Willow Creek.

Par. 2. Subpart C is amended to add a new section, § 9.85 to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.85 Willow Creek.

(a) *Name.* The name of the viticultural area described in this section is "Willow Creek."

(b) *Approved map.* The map showing the boundary of the Willow Creek viticultural area is: "Willow Creek Quandrangle," California, U.S.G.S. 15 minute series (1952).

(c) *Boundaries.* The Willow Creek viticultural area is located within portions of Humboldt and Trinity Counties, California. From the point of beginning where Kirkham Creek and the undesignated highway (Highway 96) intersect, the boundary line runs, in a straight easterly line to:

(1) The point of intersection of Coon Creek and the 800-foot contour line;

(2) Then in a straight southerly line to the fork of Bremer Creek near the 700-foot contour line;

(3) Then in a south-southwesterly straight line to the point of intersection of the Humboldt-Trinity County line and the 1,500-foot contour line;

(4) Then following the 1,500-foot contour line, beginning in a southeasterly direction, to the point where the 1,500-foot contour line intersects with the unnamed branch of Sharber Creek in section 2, T.6N./R.5E.;

(5) Then in a southeasterly straight line to the point of intersection of the east section line of section 12, T.6N./R.5E. and the 1,500-foot contour line;

(6) Then in a southerly direction along the east section lines of sections 12 and 13 to the point of intersection of the east section line of section 24, T.5N./R.5E. and the 1,500-foot contour line;

(7) Then in a straight west-southwesterly line to the point of intersection of the east line of section 21, T.5N./R.4E., the north section line of section 28, T.5N./R.4E., the north section line of section 27, T.5N./R.5E., and the west section line of section 22, T.5N./R.5E.;

(8) Then in a straight northwesterly line to the point of intersection of China Creek in the 1,500-foot contour line in section 5, T.6N./R.4E.;

(9) Then in a straight northwesterly line to the point of intersection of Boise Creek and Highway 299 in the southern half of section 30, T.6N./R.4E.;

(10) Then in a straight northerly line to the fork of Kirkham Creek; and

(11) Then along Kirkham Creek, beginning in a southeasterly direction, to the point of beginning.

Signed: November 30, 1982.

Stephen E. Higgins,

Acting Director.

Approved: December 16, 1982.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-675 Filed 1-11-83; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2E2682/P262; PH-FRL 2282-1]

Chlorpyrifos; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity cranberries. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before February 11, 1983.

ADDRESS: Written comments to: Emergency Response Section, Process

Coordination Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2682 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Massachusetts, New Jersey, and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide chlorpyrifos (*O-O*-diethyl-*O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity cranberries at 1.0 ppm.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were a 2-year rat feeding study with a red blood cell (RBC) cholinesterase (ChE) no-observed-effect level (NOEL) of 0.1 milligram (mg)/kilogram (kg)/day, a systemic NOEL of 3.0 mg/kg/day, (highest dose tested) and no observed oncogenicity; a 2-year dog feeding study with an RBC ChE NOEL of 0.1 mg/kg/day and systemic NOEL of 3.0 mg/kg/day (highest dose tested); a 2-year mouse oncogenicity study with no observed oncogenicity at 15 ppm (highest dose tested); a 3-generation rat reproduction study with a NOEL for reproductive effects at 1.0 mg/kg/day (highest dose tested); an acute delayed neurotoxicity (hen) study which was negative for neurotoxic potential at 100 mg/kg; and a mouse teratogenicity study with no observed teratogenic effects up to 25 mg/kg/day (highest dose tested).

The acceptable daily intake (ADI), based on the 2-year rat feeding study (RBC ChE NOEL of 0.1 mg/kg/day) and using a 10-fold safety factor, is calculated to be 0.01 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60/kg human is calculated to be 0.6 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.5328 mg/day; the current action will increase the TMRC by 0.00045 mg/day (0.08 percent). Published tolerances utilize 88.76 percent of the ADI; the current action will utilize an additional 0.08 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Since there are no animal feed items involved, there will be no secondary residues in meat, milk, poultry, or eggs. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.342 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 2E2682/P262]. All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 29, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.342 be amended by adding and alphabetically inserting the raw agricultural commodity cranberries to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * *	*
Cranberries	1.0
* * * *	*

[FR Doc. 83-613 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

42 CFR Part 37

Specifications for Medical Examinations of Underground Coal Miners

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, PHS, HHS.

ACTION: Proposed rule.

SUMMARY: NIOSH proposes to adopt the 1980 revision of the International Labor Office (ILO) system for classifying radiographs (X-rays) of the pneumoconioses. The 1980 system has now become the recognized international standard for classifying this type of disease. Adoption of the revised classification system will enable X-ray readers in the Department's medical surveillance program for underground coal miners to classify miners' chest X-rays more accurately in accord with the latest standards.

DATE: Comments on the proposed rule must be received on or before February 11, 1983.

ADDRESSES: Comments should be mailed or delivered to: Mary L. Flint,

Regulations Specialist, NIOSH, 5600 Fishers Lane (Rm. 8–11), Rockville, MD 20857—Phone: (301) 443–3745.

FOR FURTHER INFORMATION CONTACT: Ms. Mitzie Martin, Chief, Receiving Center Section, Examinations Processing Branch, Division of Respiratory Disease Studies, NIOSH, 944 Chestnut Ridge Rd., Morgantown, WV 26505. Phone: (304) 291–4301 or FTS 923–4301.

SUPPLEMENTARY INFORMATION: NIOSH administers an X-ray surveillance program for coal miners as mandated by the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801). This program has been conducted since 1970 under the provisions of the Federal Coal Mine Health and Safety Act of 1969 which was amended by the 1977 Act. Section 203 of the Act directs that operators of underground coal mines shall cooperate with the Secretary of Health and Human Services to provide miners with an opportunity for periodic X-ray examinations at intervals not to exceed 5 years. All X-ray examinations are to be made, submitted, and interpreted according to specifications developed by the Secretary of HHS. Underground miners who, based upon their chest X-rays, show evidence of the development of pneumoconiosis are afforded the option of transferring to a less dusty area of the mine, with no reduction in pay, for such periods as may be necessary to prevent further development of the disease.

The current regulations for administering this program (42 CFR Part 37) provide for the use of the ILO-U/C system for classifying pneumoconioses which was devised in 1971 by an international committee of the International Labor Office. Several years ago, another ILO international committee of experts undertook the task of revising the classification system. In 1980 the system was revised by the committee as a result of its deliberations and tests of reliability and validity. The revised system retained the basic classification system, clarified ambiguities in the 1971 system, extended the classification of abnormalities of the lining of the lung, and provided improved standard radiographs based on extensive international reading trials. Updated standard radiographs have been produced using new radiographic photocopying methods. The 1980 revised system has now become the recognized international standard for classifying the pneumoconioses, replacing the 1971 classification system. It has been adopted by the Department of Labor in its compensation program for Black Lung Disease (20 CFR Part 718).

Because the 1980 classification system does not change the procedure and categorization process for the profusion of small or large opacities of the lung, the area that is of most concern to the X-ray surveillance program for coal miners, adoption would not alter the number or proportion of miners who would otherwise receive transfer rights to less dusty areas in the mines.

The Department of Health and Human Services has determined that this proposed rule will not significantly impact on a substantial number of small entities and, therefore, does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96–354.

The Department also has determined that this proposal is not a "major rule" under Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more, result in significant adverse effects in competition, nor otherwise meet the thresholds established in the Executive Order. Therefore, preparation of a regulatory impact analysis is not required.

The reporting and recordkeeping requirements in Part 37 have been reviewed and approved by the Office of Management and Budget (OMB Approval No. 0920–0020). This program is not subject to OMB Circular A–95 (revised) nor to Health Systems Agency review.

List of Subjects in 42 CFR Part 37

Health care, Lung diseases, Medical research, Mine safety and health, Miners, X-rays.

For the reasons stated in the preamble, it is proposed to amend Part 37 of Title 42, Code of Federal Regulations, as set forth below:

Date: October 15, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: December 16, 1982.

Richard S. Schweiker,

Secretary.

PART 37—[AMENDED]

42 CFR Part 37 is amended as follows:

1. The authority citation for Part 37 reads as follows:

Authority: Sec. 203, 83 Stat. 763; 30 U.S.C. 843.

2. In the Table of Contents, the title of § 37.51 is revised to read as follows:

Sec.

* * * * *

37.51 Proficiency in the use of systems for classifying the pneumoconioses.

* * * * *

3. In § 37.2, paragraph (f) is revised to read as follows:

§ 37.2 Definitions.

* * * * *

(f) "ILO–U/C Classification" means the classification of radiographs of the pneumoconioses devised in 1971 by an international committee of the International Labor Office and described in "Medical Radiography and Photography," volume 48, No. 3, December 1972. "ILO Classification" means the classification of radiographs of the pneumoconioses revised in 1980 by an international committee of the International Labor Office and described in "Medical Radiography and Photography," volume 57, Nov. 1, 1981.

* * * * *

4. In § 37.3, paragraph (b)(3) is revised to read as follows:

§ 37.3 Chest roentgenograms required for miners.

* * * * *

(b) * * *

(3) A third chest roentgenogram 2 years following the second chest roentgenogram if the miner is still engaged in underground coal mining and if the second roentgenogram shows evidence of category 1, category 2, category 3 simple pneumoconiosis, or complicated pneumoconiosis (ILO Classification).

* * * * *

5. In § 37.7, paragraph (a) is revised to read as follows:

§ 37.7 Transfer of affected miner to less dusty area.

(a) Any miner who, in the judgment of the Secretary based upon the interpretation of one or more of the miner's chest roentgenograms, shows category 1 (1/0, 1/1, 1/2), category 2 (2/1, 2/2, 2/3), or category 3 (3/2, 3/3, 3/4) simple pneumoconiosis, or complicated pneumoconiosis (ILO Classification) shall be afforded the option of transferring from his or her position to another position in an area of the mine where the concentration of respirable dust in the mine atomsphere is not more than 1.0 mg/m³ of air, or if such level is not attainable in the mine, to a position in the mine where the concentration of respirable dust is the lowest attainable below 2.0 mg/m³ of air.

* * * * *

6. Section 37.50 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 37.50 Interpreting and classifying chest roentgenograms.

(a) Chest roentgenograms shall be interpreted and classified in accordance with the ILO Classification system and recorded on a Roentgenographic Interpretation Form (Form CDC/NIOSH (M)2.8).

(b) Roentgenograms shall be interpreted and classified only by a physician who regularly reads chest roentgenograms and who has demonstrated proficiency in classifying the pneumoconioses in accordance with § 37.51.

(c) All interpreters, whenever interpreting chest roentgenograms made under the Act, shall have immediately available for reference a complete set of the ILO International Classification of Radiographs for Pneumoconioses, 1980.

Note.—This set is available from the International Labor Office, 1750 New York Avenue, NW., Washington, D.C. 20006.

* * * * *

7. Section 37.51 is amended by revising the section title and paragraphs (a)(2), (a)(2) (ii), and (b)(2) to read as follows:

§ 37.51 Proficiency in the use of systems for classifying the pneumoconioses.

(a) * * *

(2) Physicians who desire to be "A" readers must demonstrate their proficiency in classifying the pneumoconioses.

(i) * * *

(ii) Satisfactory completion, since June 15, 1970, of a course approved by ALOSH on the ILO or ILO-U/C Classification systems or the UICC/Cincinnati classification system. As used in this subparagraph, "UICC/Cincinnati classification" means the classification of the pneumoconioses devised in 1968 by a Working Committee of the International Union Against Cancer.

(b)* * *

(2) Proficiency in evaluating chest roentgenograms for roentgenographic quality and in the use of the ILO Classification for interpreting chest roentgenograms for pneumoconiosis and other diseases shall be demonstrated by those physicians who desire to be "B" readers by taking and passing a specially designed proficiency examination given on behalf of or by ALOSH at a time and place specified by ALOSH. Each physician must bring a complete set of the ILO standard reference radiographs when taking the examination. Physicians who qualify under this provision need not be qualified under paragraph (a) of this section.

* * * *

8. In § 37.52, paragraph (b) is revised to read as follows:

§ 37.52 Method of obtaining definitive interpretations.

* * * * *

(b) Two interpreters shall be considered to be in agreement when they both find either stage A, B, or C complicated pneumoconiosis, or their findings with regard to simple pneumoconiosis are both in the same major category, or are within one minor category (ILO Classification 12-point scale) of each other. The higher of the two interpretations shall be reported.

[FR Doc. 83-616 Filed 1-11-83; 8:45 am]
BILLING CODE 4160-19-M

Public Health Service

42 CFR Parts 51a, 51d, and 51f

Project Grants

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) revised Title V of the Social Security Act (Act) to establish the Maternal and Child Health Services Block Grant. Section 502(a) of the Act, as amended, provides that between 10 and 15 percent of the appropriation for Title V in each fiscal year shall be retained by the Secretary for the purpose of carrying out, through grants, special projects of regional and national signficance, maternal and child health research and training, genetic disease testing, counseling and information and hemophilia diagnostic and treatment centers. This document contains the Secretary's proposed rules for implementing this program of project grants.

DATE: Comments on the proposed rules must be received by February 11, 1983.

ADDRESS: Send comments on the proposal to: Director, Office of Policy Coordination, Bureau of Health Care Delivery and Assistance, 5600 Fishers Lane, Room 7A-20, Rockville, Maryland 20857.

All commenters received in timely response to this document will be considered and will be available for public inspection at the above address between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: James J. Corrigan, Associate Bureau Director for Legislation and Policy, Bureau of Health Care Delivery and Assistance, 5600 Fishers Lane, Room 7-05, Rockville, Maryland 20857 (301) 443-2380.

SUPPLEMENTARY INFORMATION:

As noted above, Pub. L. 97-35 revised Title V of the Act to establish the Maternal and Child Health Services Block Grants. Between 10 and 15 percent of the funds appropriated for Title V in each fiscal year are to be retained by the Secretary for the award of grants for the purposes specified above. These programs were previously supported under sections 503(2) and 504(2), 511 and 512 of the Act as in effect prior to the enactment of Pub. L. 97-35.

On June 25, 1982, the Secretary of Health and Human Services amended the regulations issued under the previous authorities to make them applicable to grants for the same purposes awarded under the new section 502(a) authority (47 FR 27824-27825). Those regulations were to be applicable until regulations governing projects to be funded under the new section 502(a) could be published.

The regulations contained herein propose to revise 42 CFR Parts 51a, 51d and 51f by eliminating repetitive and unnecessary provisions in the existing regulations and providing for a single regulation to govern the previously categorical authorities contained in the Maternal and Child Health (MCH) Services Federal Set-Aside program. The regulations as proposed impose fewer burdens on grantees and are less restrictive in scope. The proposed rules will allow grantees more flexibility in applying for and operating grants funded from the MCH Services Federal Set-Aside program.

It should be noted that, while not specifically referenced in the proposed rules, certain requirements in existing regulations apply to all grants awarded by the Department. These include, but are not limited to: nondiscrimination (45 CFR Parts 80, 84 and 90); and administration of grants (45 CFR Part 74). In addition, the provisions of section 1128A of the Act, "Civil Monetary Penalties" for cases of fraud and abuse, apply to grants made from the new section 502(a) authority.

Section 51a.4 of this proposed rule contains information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of

Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, D.C. 20503, ATTN: Desk Officer for HHS.

The NPRM allows more flexibility and imposes fewer requirements on grantees; therefore, the Department has determined that this notice of proposed rulemaking does not require preparation of a Regulatory Flexibility Analysis under the Regulatory Flexibility Act, Pub. L. 96-354. The Department also has determined that this notice of proposed rulemaking is not a "major rule" under Executive Order 12291 and thus does not require a regulatory impact analysis.

List of the Subjects in 42 CFR Parts 51a, 51d and 51f [1]

Colleges and universities, Grant programs—Health, Infants and children, Maternal and child health, Blood diseases, Genetic diseases, Health care, Health facilities.

Dated: November 8, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Dated: November 23, 1982.

Richard S. Schweiker,

Secretary.

1. Part 51a of 42 CFR is added to read as follows:

PART 51a—GRANTS FOR MATERNAL AND CHILD HEALTH SERVICES FEDERAL SET-ASIDE PROGRAM

Sec.

51a.1 To whom do these regulations apply?
51a.2 Definitions.
51a.3 Who is eligible to apply for a grant?
51a.4 How is application made for a grant?
51a.5 What criteria will HHS use to decide which projects to fund?
51a.6 What confidentiality requirements must be met?

Authority: Section 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302); section 502(a) of the Social Security Act, 95 Stat. 819-20 (42 U.S.C. 702(a)).

§ 51a.1 To whom do these regulations apply?

The regulations of this part apply to grants under section 502(a) of the Social Security Act, as amended (42 U.S.C. 702(a)), for special projects of regional and national significance, maternal and child health or cripple children's research and training projects, genetic disease testing, counseling and information projects and comprehensive hemophilia diagnostic and treatment centers.

[1] The Public Health Service is providing this list in compliance with 1 CFR 18.20. That regulation requires agencies to include a list of index terms for each CFR part affected in Rules and Proposed Rules documents published in the Federal Register beginning April 1, 1982.

§ 51a.2 Definitions.

"Act" means the Social Security Act, as amended.

"Genetic diseases" means inherited disorders caused by the transmission of certain aberrant genes from one generation to another.

"Hemophilia" means a genetically transmitted bleeding disorder resulting from a deficiency of a plasma clotting factor.

"Institution of higher learning" means any college or university accredited by a regionalized body or bodies approved for such purpose by the Secretary of Education, and any teaching hospital which has higher learning among its purposes and functions and which has a formal affiliation with an accredited school of medicine and a full-time academic medical staff holding faculty status in such school of medicine.

"Secretary" means the Secretary of Health and Human Services or his designee.

§ 51a.3 Who is eligible to apply for a grant?

Any public or private entity is eligible to apply for a grant under this part, except that only public or nonprofit private institutions of higher learning may apply for training grants, and only public or nonprofit institutions of higher learning and public or private nonprofit agencies engaged in research relating to maternal and child health or crippled children's service programs may apply for a grant for research in maternal and child health services or crippled children's services.

§51a.4 How is application made for a grant?

An application for a grant under this part must be submitted to the Secretary at the time, and contain the information and assurances, required by the Secretary. The application must include a budget and narrative plan of the manner in which the project has met, or plans to meet, each of the requirements prescribed by the Secretary. The plan must describe the project in sufficient detail to identify clearly the nature, need, and specific objectives of, and methodology for carrying out, the project.

§ 51a.5 What criteria will HHS use to decide which projects to fund?

(a) The Secretary will determine the allocation of funds available under section 502(a) of the Act for each of the activities described in § 51a.1.

(b) Within the limit of funds determined by the secretary to be available for each of the activities described in § 51a.1, the Secretary may award grants under this part to applicants which will, in his judgment, best promote the purpose of Title V of the Social Security Act taking into account:

(1) The need for the services and the number of persons proposed to be served.

(2) The extent to which the project will contribute to the advancement of maternal and child health and crippled children's services.

(3) The extent to which rapid and effective use of grant funds will be made by the project.

(4) The extent to which the project will be integrated with the administration of the Maternal and Child Health Services Block grants and other block grants made to the appropriate State(s).

(5) The soundness of the project's management.

§ 51a.6 What confidentiality requirements must be met?

All information as to personal facts and circumstances obtained by the grantee's staff about recipients of services shall be held confidential, and shall not be disclosed without the individual's consent except as may be otherwise required by applicable law or as may be necessary to provide for medical audits by the Secretary with appropriate safeguards for confidentiality of patient records. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.

PARTS 51d AND 51f—[REMOVED]

2. Part 51d and Part 51f of Title 42, CFR, are removed.

[FR Doc. 83-625 Filed 1-11-83; 8:45 am]
BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2710

Sales—Federal Land Policy and Management Act; Intent To Propose Rulemaking

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to propose rulemaking.

SUMMARY: The Bureau of Land Management intends to propose amendments to its regulations regarding (1) methods for determining fair market value in sales of public lands, and (2)

procedures for payment of purchase price in public land sales. As part of the development process for the proposed rulemakings, the Bureau solicits public comment on the regulations proposed for amendment.

DATE: In order to be available for consideration in the proposed rulemaking process comments and suggestions must be received by the Bureau of Land Management by February 15, 1983.

ADDRESS: Comments and suggestions should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Ralph Conrad, (202) 343–8693

or

Henry Beauchamp, (202) 343–8693.

SUPPLEMENTARY INFORMATION: 1. Existing regulations at 43 CFR 2710.0–6 provide that sale of public lands shall be made at no less than fair market value using the principles set forth in the interagency publication, *Uniform Appraisal Standards for Federal Land Acquisition*, 1973. The Bureau of Land Management is soliciting public comments and suggestions for methods for valuation of public lands which would be an alternative to those methods outlined in the *Uniform Appraisal Standards for Federal Land Acquisitions*. The Bureau is particularly interested in receiving suggestions as to ways to facilitate the appraisal and sale process.

2. Existing regulations at 43 CFR 2711.3–1(d) provide that the full purchase price for public lands sold by the Bureau of Land Management be paid by the purchaser prior to expiration of 30 days from the date of the sale. The Bureau solicits comments and suggestions for alternative methods for payment of the purchase price for public lands, including suggestions for financing (including long-term financing).

List of Subjects in 43 CFR Part 2710

Administrative practice and procedure, Grazing, Public lands—Mineral resources, Public lands—Sale.

David G. Houston,

Acting Assistant Secretary of the Interior.

January 6, 1983.

[FR Doc. 83–780 Filed 1–11–83; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

50 CFR Parts 13, 17, and 21

Implementation of the Endangered Species Act Exemption for Certain Raptors; Raptor Propagation Permits; Federal Falconry Standards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes documentation requirements which must be satisfied to exempt a raptor (bird of prey) listed as endangered or threatened under the Endangered Species Act of 1973 from the Act's prohibitions. Only raptors that were held in captivity or in a controlled environment on November 10, 1978, and their progeny qualify for this exemption. Also, a raptor propagation permit is proposed as an additional permit available under the Migratory Bird Treaty Act. Since 1972 the Service has authorized the propagation of raptors under a special purpose permit, but the new permit would allow raptor propagators and certain other persons to purchase, sell, or barter captive-bred raptors that are banded with a numbered seamless leg marker, including captive-bred "exempt" raptors, for scientific, educational, or falconry purposes. The Federal falconry standards would be amended to allow falconers to purchase, sell, or barter these captive-bred birds as well. Finally, Apprentice Class falconers would be authorized to possess captive-bred Harris' hawks. Together these actions should alleviate some of the human pressures on wild raptor populations, increase genetic diversity in captive populations, and encourage captive production of raptors for recreational, conservation, scientific, and breeding purposes.

DATE: Comments on this notice must be received by February 11, 1983.

ADDRESSES: Comments may be mailed to Director (LE), Fish and Wildlife Service, P.O. Box 28006, Washington, D.C. 20005, or delivered weekdays to the Division of Law Enforcement, Fish and Wildlife Service, 3rd Floor, 1375 K Street, N.W., Washington, D.C., between 7:45 a.m. and 4:15 p.m. Comments should bear the identifying notation REG 21–02–13. All materials received may be inspected weekdays during normal business hours at the Service's Division of Law Enforcement, 3rd Floor, 1375 K Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John T. Webb or William B. Zimmerman, Branch of Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, D.C. 20005, telephone: (202) 343–9242.

SUPPLEMENTARY INFORMATION:

Implementation of the Endangered Species Act Exemption for Certain Raptors

1. Legislative Background

The Endangered Species Act of 1973 (ESA) prohibits a number of activities involving species listed under the Act's provisions as endangered or threatened, unless an exception applies or a permit is granted. Included among the Act's prohibitions are those which make it unlawful to take, import or export, or sell in interstate or foreign commerce any endangered species. Two raptors (birds of prey), the Arctic peregrine falcon (*Falco peregrinus tundrius*) and the American peregrine falcon (*Falco peregrinus anatum*), were listed as threatened with extinction (i.e., endangered) under the Endangered Species Conservation Act of 1969, a predecessor of the ESA, and remain listed as endangered under the ESA. The ESA's prohibitions are believed to have impeded the captive breeding of these raptors by responsible falconers, conservationists, and biologists.

During 1978 section 9 of the ESA (16 U.S.C. 1538), which contains the general prohibitions, was amended by Congress to address this problem. The raptor amendment provides:

(2)(A) This section [Section 1538] shall not apply to—

(i) Any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978 [November 10, 1978]; or

(ii) Any progeny of any raptor described in clause (i); until such time as any such raptor or progeny is intentionally returned to a wild state.

(B) Any person holding any raptor or progeny described in subparagraph (A) must be able to demonstrate that the raptor or progeny does, in fact, qualify under the provisions of this paragraph, and shall maintain and submit to the Secretary, on request, such inventories, documentation, and records as the Secretary may by regulation require as being reasonably appropriate to carry out the purposes of this paragraph. Such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary. Pub. L. 95–632, 92 Stat. 3760 [16 U.S.C. 1538(b)(2)].

The raptor amendment, by its terms, exempts holders of qualifying raptors from the prohibitions of section 9 of the ESA, 16 U.S.C. 1538.

The legislative history of the raptor amendment indicates that its purpose was to:

Alleviate some of the human pressures on wild raptors, * * * increase genetic diversity in captive populations, and * * * further encourage captive production of raptors for conservation, recreation, scientific and breeding purposes. H. Conf. Rept. No. 95-1084 at 23 (95th Cong. 2nd Sess. 1978).

Congress intended that the raptor amendment facilitate the exchange of captive-bred raptors through the elimination of certain ESA permit requirements that were criticized before Congress by representatives of raptor breeders. These representatives argued that restrictions on the movement of raptors inhibited ready exchange among breeders, thereby reducing the ability to breed raptors. They also argued that certain ESA restrictions prevented the exercise of falconry with endangered raptors, thus reducing the incentive to breed them. *See* Sen. Hearings before the Subcommittee on Resource Protection of the Committee on Environment and Public Works, (1978), testimony of Frank Bond, at 28–30; testimony of Roger Thacker at 550–559, 671–682; House Hearings before a Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries on H.R. 10883 (1978), testimony of Richard Graham at 834–846.

2. Captive-breeding of Raptors in the U.S.

Professional and amateur aviculturists have successfully bred raptors in captivity for more than 100 years. This activity largely was limited to the breeding of smaller, common species resulting from accidental or opportunistic mating rather than scientific inquiry or deliberate efforts by aviculturists. There was little economic or scientific incentive to conduct this activity because falconers had almost unrestricted access to wild stocks, wildlife management agencies had little interest in nongame species, and propagation of large raptors was thought to be impractical.

By 1964, severe population declines of peregrine falcons, ospreys, and bald eagles had occurred in portions of the U.S. and in other industrialized countries. Field and laboratory studies strongly implicated organochlorine pesticides as the causative agent. In that year the Fish and Wildlife Service first established a colony of American kestrels at the Patuxent Wildlife Research Center for the purpose of determining the effects of DDT an dieldrin on the reproductive success of that species. This effort demonstrated that large numbers of kestrels could be produced in captivity with total production exceeding 1,000 falcons between 1965 and 1981. Concurrently, the falconry community became concerned over the future availability of peregrine falcons for falconry and in 1964 initiated a small number of privately-funded studies. By 1968 these studies resulted in the first production of captive-bred peregrine and prairie falcons in the U.S. Between 1965 and 1972, successful propagation techniques had been developed for at least 11 species of raptors. Techniques were also developed to maximize captive production through manipulation of photoperiods and clutches.

Since 1973, raptor propagation has emphasized the production of captive-bred peregrine falcons as a source of stock to restore or bolster wild populations. This became practical because of new propagation techniques and a ban on the use of DDT, known to be largely responsible for peregrine reproductive failures in the U.S. The Peregrine Fund, a publicly-supported nonprofit organization, was the single most significant contributor to this effort having fledged 765 of the 947 peregrines produced in the U.S. between 1973 and 1981. Captive production of peregrine falcons, other large falcons, and Harris' hawks for falconry also increased markedly because of the limited availability of these species from the wild. At least 229 captive-bred peregrine falcons were fledged in the U.S. in 1981—a number believed greater than the annual production in the wild east of the Mississippi River before the widespread use of DDT in the 1940's.

Now falconry and captive propagation of raptors are inexorably intermeshed. Falconers and their associates have been solely responsible for the successful development of captive breeding techniques and production of large falcons and most other hunting species. This has been due primarily to their sustained motivation and technical skills. Irrespective of whether this motivation was directed to the production of hunting stock for falconry or to the restoration of wild populations, it has resulted in the development of management techniques and enhancement of wild populations for several high interest species.

3. Raptors Which Qualify for the Exemption Under the Raptor Amendment

The Service proposes to rely upon pre-existing documentation to determine a particular bird's qualifications. Since 1972 raptors have been protected under the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703–712. Possession of a live raptor is permitted only with a valid permit issued under 50 CFR Part 21, unless one of two exceptions applies: the raptor was lawfully acquired before the effective date of Federal protection under the MBTA (i.e., pre-act) or the person who possesses it is excepted from the permit requirements by 50 CFR 21.12(b). Each raptor held under permit must be banded, as well as identified in annual reports which a permittee must file. Therefore, the Service proposes to qualify only those endangered or threatened raptors which are both banded and identified in annual reports filed by the permittee as either in the permittee's possession on November 10, 1978, or as the progeny of a bird in captivity on that date. Any raptor intentionally returned to the wild is not eligible. As a result no additional paperwork would have to be submitted to the Service. The Service assumes that only persons holding raptors under permit will want the benefits of an exemption. If, however, this assumption is erroneous a procedure will be developed to qualify raptors which are lawfully held without a permit.

4. Sale of Exempt Raptors.

During Congressional deliberations on the raptor exemption, an amendment was offered in the House of Representatives to prohibit the sale of exempt raptors. It was rejected by opponents as "counterproductive." The intent of the exception, among others, was to promote private breeding of peregrine falcons, a costly venture.

The Service proposes to allow the sale of certain exempt raptors. Details of this proposal are discussed directly below under the topic of raptor propagation permits.

Raptor Propagation Permits

1. Background

The general prohibitions applicable to activities involving migratory birds are set forth in section 2 of the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703. These prohibitions include taking, possession and sale. Under section 3 of the Act (16 U.S.C. 704), however, the Secretary of the Interior is authorized to allow by regulation activities involving migratory birds, including taking, possession, export and sale, if consistent with the various migratory bird treaties. Thus, the general scheme of the MBTA is that all activities involving migratory birds are prohibited unless authorized by regulations.

This general scheme is reflected in regulations implementing the MBTA found at 50 CFR 21.11. Under these regulations it is unlawful to, *inter alia*, "take, possess, * * * [or] sell * * * any

migratory bird * * * except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part [50 CFR Part 21] * * * or as permitted by regulations in this part [50 CFR Part 21] or Part 20 (the hunting regulations)."

The regulations specifically applicable to raptors used for falconry purposes require a permit before any person may "take, transport, or possess raptors for falconry purposes." 50 CFR 21.28(b). "Falconry" is defined as "the sport of taking quarry by means of a trained raptor." 50 CFR 21.28(a). Thus, a falconry permit authorizes only the taking, transportation and possession of raptors for the purpose of taking quarry.

However, the Service has authorized the propagation of birds for falconry and other purposes under a special purpose permit. 50 CFR 21.27. The special purpose permit provides the Service with a framework for authorizing activities not covered by the standard form permits of 50 CFR Part 21. It specifies (1) the actions which may be permitted (i.e., take, salvage, otherwise acquire, transport and possess); (2) the purposes for which the actions may be carried out (i.e., any purpose not covered by a standard form permit of 50 CFR Part 21); and (3) the standard by which a permit application is to be evaluated (i.e., benefit to the migratory bird resource, important research reasons, humane, or other compelling reasons).

Raptor propgation is clearly within the scope of a special purpose permit. When regulations specifically addressing raptor activities were promulgated in 1976, it was stated that "raptor propagation can be authorized under a special purpose permit issued in accordance with 50 CFR 21.27." 41 FR 2237 (1976). The issuance criteria and standards for conduct of this activity are administered by the Service under policy guidelines established by the Director. In 1981, the Service issued 161 special purpose permits for raptor breeding which resulted in the production of 459 captive-bred young of 12 species.

Although the value of captive breeding has been widely accepted by many conservationists and scientists as a resource management tool, some persons oppose this activity because (1) it diverts effort and funding away from the primary resource need of protecting natural ecosystems, (2) behavioral and genetic aberrations acquired in captivity may be incomptible with enhancement of conspecifics in the wild, and (3) captive breeding may be viewed as a panacea leading to a ban on taking raptors from the wild for falconry or scientific purposes. These concerns largely are alleviated where wildlife agencies view captive breeding only as supplementing management of wild populations, and where propagators have made reasonable efforts to maintain the genetic variability of breeding stocks.

During a recent review of actions that might be permitted under § 21.27 a number of issues were raised about whether commercial activities could be allowed. This review determined that an action which involves the sale of raptors cannot be the subject of a special purpose permit. When promulgating the falconry regulations in 1976, the Service specifically noted in the preamble that the issue of whether or not to allow the sale of raptors would be addressed in the future:

> Currently, raptor propagation can be authorized under a special purpose permit issued in accordance with 50 CFR 21.27. However, in the near future new regulations will be proposed to cover captive-reared raptors and the question of the sale of such captive-reared raptors. 41 FR 2237 (1976).

Thus, the preamble to the falconry permit regulations clearly distinguished captive propagation, which is permitted under § 21.27, from the "question" of the sale of captive-bred birds.

In 1981, a number of raptor breeders holding special purpose permits to propagate raptors convened to address the issue of commercialization of captive-bred raptors. This group, now organized as the North American Raptor Breeders Association, believes that the legal sale of captive-bred raptors is crucial to the survival of raptor propagation. They have asked the Service to authorize commercial transactions with captive-bred raptors. As noted above, under section 704 of the MBTA the Secretary of the Interior is authorized to promulgate regulations which permit the sale of protected migratory birds. Regulations which authorize limited commercial activities between private persons currently exist only for certain migratory game birds.

The Legislative Chairman of the North American Breeders Association, Robert B. Berry, briefly summarized arguments for allowing the sale of captive-bred raptors in a letter to the Assistant Secretary for Fish and Wildlife and Parks dated November 11, 1981:

> Application of the free enterprise system to raptor propagation will provide positive benefits for both wild and domestic raptor populations and for the breeders themselves. The numbers of captive produced raptors will increase substantially, because breeders will have an incentive to maximize production. There is little incentive to achieve beyond one's personal needs and the needs of close friends under the current "giveaway" system. New entrants will be encouraged to enter the field heretofore unable or unwilling to commit sufficient resources to guarantee success. Increased availability of the rarer and often more desirable species will reduce recruitment pressure on wild raptor populations. The development of new raptor breeding techniques will be encouraged, ultimately increasing the supply of birds, thereby further reducing pressures on wild populations. And finally, as the supply of legally acquired captive bred birds is increased, the demand for black market birds will decrease along with the numbers of illegally taken and kept birds, reducing pressures on law enforcement personnel.

The Service believes that raptor propagation has been shown to benefit the migratory bird resource through production of captive-bred stock for restoration of endangered species, and as an ancillary source of raptors for falconry that reduces the demand for taking certain wild stocks. The Service wishes to encourage these activities by both permitting the sale of captive-bred raptors and implementing the raptor amendment under the ESA enacted by Congress.

Raptor propagation often requires an extraordinary expenditure of time and money. This is particularly true when propagating large falcons and eagles that require special handling and facilities, and do not attain sexual maturity until 3 or more years of age. Specially designed incubators, brooders, and related equipment are required to maximize production. At The Peregrine Fund, the cost of producing one peregrine to fledgling stage has ranged from $1,500 to $1,900 in recent years. The cost of producing other species has not been assessed, but probably is about the same for eagles, somewhat less for other falcons, and considerably less for most smaller raptors. The cost of attempting to produce even small numbers of raptors can place a severe economic burden on permittees with limited financial resources. The impact is largely felt by the 150 or more private breeders who are attempting to produce raptors for falconry.

The Service proposes to establish uniform standards for the conduct of raptor propagation under new regulations, 50 CFR 21.30, and to allow the sale, purchase and barter of captive-bred stocks among persons otherwise authorized to possess such species for scientific, educational or falconry purposes. The scope of the proposed action extends to all species of raptors (as now defined in 50 CFR 21.3) and their hybrids that are listed in 50 CFR 10.13, except bald and golden eagles. The Eagle Protection Act (16 U.S.C. 668-

668d) makes no provisions for the sale, purchase, barter, import, or export of bald or golden eagles for any purpose, nor the possession of bald eagles for falconry. Regulations governing these eagles are found in 50 CFR Part 22 and will not be addressed here.

2. The Service's Response to Possible Enforcement Problems

A review of the legislative history of the raptor exemption reveals Congressional concern with the problem of distinguishing captive-bred birds from birds taken from the wild:

"The Secretary may require the owners of all exempted raptors to keep records and required bands or other *permanent markings* [emphasis added] to distinguish them from wild birds. The records and inventories may be inspected by agents of the Secretary at reasonable times. These records, *permanent markers* [emphasis added] and inventory procedures should not unnecessarily duplicate those now required under the Migratory Bird Treaty Act for special purpose permits and falconer permits." H.R. Rep. No. 95–1625 (95th Cong. 2nd Sess. 1978).

The Federal raptor marker (i.e., band) the Service now uses to identify raptors held by propagators and falconers is an adjustable device that can be placed on raptors of any age. Because it is partially constructed of nylon, it wears out and breaks, and must be replaced. Although designed to be nonreuseable, it is not tamper-proof. When certain modifications are made, it may be reused. Although the present marker has proven acceptable for management of birds held for falconry and propagation, the Service opposes its use on raptors that may be sold, purchased, or bartered.

Under this proposal, a captive-bred raptor is eligible for sale, purchase, or barter only if a seamless leg marker is attached. A seamless leg marker is a one-piece metal ring that is placed on the leg of a young bird over its foot. As the bird's foot grows, the marker becomes fixed above the foot. The marker cannot be removed without damaging its one-piece construction or injuring the bird. The opening or diameter of the marker is small enough to prevent its use on older birds. As a result, a seamless marker serves as a tamper-proof means of permanently identifying captive-bred raptors. In conjunction with this proposal, the Service is developing a seamless marker in several sizes.

There are problems associated with the use of seamless markers, however, because of the proportionally greater foot size of some raptors, the need to disturb naturally breeding parts to attach the marker that could lead to loss of production and injury, and in some situations, incompatibility with falconry equipment. Considering these possible problems with seamless markers, the Service would not require one to be attached to each captive-bred raptor. The placement of a seamless marker on a bird would be voluntary. But only raptors on which a seamless marker is fixed could be sold, purchased, or bartered.

In addition to the marking requirement, the Service intends to require raptor propagators to maintain complete and accurate records of any raptor or raptor egg acquired, possessed, sold, exported, or otherwise disposed of, together with known ancestral lineage of stock by area of natal origin. All records would be available to the Service during reasonable hours for inspection and the permittee would have to retain them for 5 years for the date the permit is issued.

3. Protection of Natural Ecosystems

Concerns have been raised that captive-bred stocks may be genetically inferior to wild birds or that the release or loss of any stock outside its natural range could jeopardize populations in the wild. The genetic background of peregrine falcons intentionally released to the wild that are now established in the eastern United States include representatives of breeding populations from Chile and Spain as well as those from the Pacific Coast and arctic regions of North America. This demonstrates that where populations have become extirpated, other subspecies can readily adapt to new environments. Where viable breeding populations occur, the Service restricts intentional releases to those subspecies which are endemic to that region. Federal falconry standards prohibit the intentional release of any species not indigenous to that State without written authorization. The Service also prohibits the intentional release of any interspecific hybrid bird.

The Service has no evidence that any released or lost captive-bred raptors, including interspecific hybrids, have had any negative impact on conspecifics or other raptors in the wild. Under the proposed rule, the Service would continue to direct its actions to minimize any detrimental threat to natural ecosystems. The Service is also concerned that commercialization of interspecific hybrids may also result in reduced production of pure species. Therefore, the Service proposes to prohibit the sale of interspecific hybrids, but will continue to support the current policy of allowing hybridization where production would otherwise be lost.

4. Sale of Raptors for Export

The Service proposes to allow the sale of captive-bred raptors to foreign buyers authorized to possess such species for scientific, educational, or falconry purposes. Some people may oppose the overseas sale of captive-bred raptors on the basis that foreign demand for large falcons may increase domestic prices to a level beyond the reach of most U.S. falconers. Information available to the Service suggests that only gyrfalcons currently command prices in overseas markets far in excess of production costs. It is likely that as captive production increases, world prices will decline to near production costs, as has already occurred in Canada and West Germany for the more popular peregrine falcon. Some scientists may object to export of native species on the basis that natural ecosystems would be affected through accidental losses of exotic taxa. The Service has noted that falconers in other parts of the world traditionally have bought and sold exotic raptors without any known adverse impact on natural ecosystems.

Raptor propagators will be afforded the opportunity to recover operating expenses and may possibly earn a profit. Falconers who desire to obtain those species which are not locally available from the wild may find it less costly to purchase captive-bred ones. Public wildlife resource agencies may find it cheaper to purchase already produced raptors for release to the wild instead of contracting for propagation without assurance that production will occur. The Service has no evidence that the use of captive-bred raptors for falconry or for other purposes not involving their international release to the wild has had any detrimental effect on wild populations.

Although the sale of certain raptors would be authorized, the sale of raptors which are not marked with a yellow seamless marker would be treated by the Service as more than a mere permit violation. The seller would be subject to possible prosecution for a felony under the Migratory Bird Treaty Act [16 U.S.C. 707(b)]. The same penalties would also apply to the sale of any raptor taken from the wild.

Federal Falconry Standards

1. Exempt Raptors

The Federal falconry regulations now prohibit the possession of any raptor listed as an endangered species but provide for the possession of threatened species by Master Class falconers when specifically authorized under 50 CFR Part 17. To implement the ESA raptor

amendment the Service proposes to allow Master Class falconers to possess for falconry captive-bred raptors listed as threatened or endangered, provided that no listed species intentionally returned to the wild state may be taken or possessed under this permit. In addition, Master Class falconers would be authorized to possess any "exempt" threatened or endangered raptor.

The Service proposes that only Master Class permittees be given this authority on the basis that only the most experienced persons should possess those raptors. In 1981, there were 966 Master Class permittees in the U.S.—persons at least 23 years old with 7 years falconry experience.

2. Possession of Captive-Bred Harris' Hawks by Apprentice Class Falconers

Federal falconry regulations prohibit the possession of Harris' hawks by Apprentice Class falconers. The Washington Department of Game has requested that this regulation be amended to allow the use of captive-bred Harris' hawks by these permittees. The species is judged suitable for Apprentice Class falconers and the use of captive-bred stocks likely would not affect wild populations. The Service has considered this request and proposes to allow Apprentice Class falconers to possess captive-bred Harris' hawks and purchase those which are properly marked. The taking of this species from the wild by apprentices would continue to be prohibited.

Paperwork Reduction Act

The information collection requirement(s) contained in 50 CFR 21.30 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Primary Authors

The primary authors of this proposal are John T. Webb and William B. Zimmerman, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C.

Determinations of Effects of Rules

The Department of the Interior has determined that this is not a major rule under Executive Order 12291. The Department has also certified that the rules will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. It is unlikely that more than 200 raptor propagators and 1,000 other permittees would be affected by the proposed action. Raptor propagators may be able to recover operating costs and earn a profit. The sale and purchase of raptors would be limited to live captive-bred raptors identified by a numbered, seamless marker provided or authorized by the Service. Commercial taking or sale of raptors from the wild would continue to be prohibited as would the sale of any captive-bred stocks not banded by a seamless marker. Properly identified captive-bred raptors may enter domestic and export markets. However, only those persons authorized by law to possess raptors for scientific, educational, or falconry purposes may acquire or dispose of these species. As discussed below, the provision to allow export and sale may result in higher prices for certain species. Falconers who desire to obtain those species which are not locally available from the wild may find it less costly to purchase captive-bred stocks. However, the foreign demand for large falcons may increase the domestic prices to a level beyond the reach of most U.S. falconers. If this occurs, it is likely to be of short-term duration owing to economic factors that should encourage further captive breeding and reduce the demand for such species. Public resource agencies may find it more cost effective to purchase raptors for release to the wild than to contract for propagation without assurance that production will occur. These determinations are discussed in more detail in a Determination of Effects which has been prepared by the Service. A copy of that document may be obtained by contacting one of the persons identified above under the caption, "FOR FURTHER INFORMATION CONTACT."

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this proposal by the Service's Office of Migratory Bird Management. It is on file in the Division of Law Enforcement, 1375 K Street, NW., Suite 300, Washington, D.C., and may be examined during regular hours. Single copies are also available upon request by contacting one of the persons identified above under the caption "FOR FURTHER INFORMATION CONTACT." This assessment forms the basis for the decision that this proposal is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Comments From the Public and State Wildlife Agencies Invited

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Interested persons may submit written comments, suggestions, or objections, regarding the proposed rule to the location identified in the Address section at the beginning of this preamble.

Current falconry programs are joint State/Federal ventures. In addition to Federal permits, most raptor propagators also must meet State standards and obtain a State permit before conducting such activities. By statute, the majority of States prohibit the sale or purchase of protected wildlife species. Most States, however, allow the sale of captive-bred wildlife under license or permit. For these reasons, the Service believes it is important that all State wildlife agencies comment specifically on that portion of this proposal relating to commercialization of captive-bred raptors.

List of Subjects

50 CFR Part 13

Administrative practice and procedure, Exports, Fish, Import, Penalties, Reporting requirements, Wildlife.

50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

50 CFR Part 21

Exports, Imports, Reporting requirements, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, Subchapter B, Chapter I of Title 50, Code of Federal Regulations is proposed to be amended as follows:

PART 13—GENERAL PERMIT PROCEDURES

1. The authority citation for Part 13 reads as follows:

Authority: 16 U.S.C. 42; sec. 4, Pub. L. 97–79, 95 Stat. 1074 (16 U.S.C. 3373); sec. 7, Pub. L. 97–79, 95 Stat. 1078 (16 U.S.C. 3376); sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h)(3), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712); sec. 2, 54 Stat. 251, as amended by sec. 9, Pub. L. 95–616, 92 Stat. 3114 (16 U.S.C. 668a); sec. 102, 76 Stat. 73 (19 U.S.C. 1202), "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States"; sec. 9(d), Pub. L. 93–205, 87 Stat. 893 (16 U.S.C. 1538(d)); sec. 6(a)(1), Pub. L. 93–159, 93 Stat.

1228 (16 U.S.C. 1537a); E.O. 11911, 41 FR 15683, 3 CFR, 1976 Comp., p. 112; sec. 10, Pub. L. 93–205, 87 Stat. 896, as amended by secs. 2 and 3, Pub. L. 94–359, 90 Stat. 3780; sec. 7, Pub. L. 96–359, 90 Stat. 911 and 912; sec. 5, Pub. L. 95–632, 92 Stat. 3760; sec. 7, Pub. L. 96–159, 93 Stat. 1230 (16 U.S.C. 1539); sec. 11, Pub. L. 93–205, 87 Stat. 897, as amended by sec. 6(4), Pub. L. 95–632, 92 Stat. 3761 (16 U.S.C. 1540(b)(2)(f)); sec. 13(d), 86 Stat. 905, amending 85 Stat. 480 (16 U.S.C. 742j-1); Title I, sec. 112, Pub. L. 92–522, Stat. 1042, as amended by Title II, sec. 201(e), Pub. L. 96–470, 94 Stat. 2241 (16 U.S.C. 1382); 65 Stat. 290 [31 U.S.C. 483)(a)].

2. Amend § 13.12(b) by adding the following entry in numerical order under "Migratory bird permits:"

§ 13.12 Information requirements on permit applications.

* * * * *

(b) * * *

"Raptor propagation permit..... 21.30"

* * * * *

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

3. The authority citation for Part 17 is revised to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

4. Amend the Table of Contents by adding the following entry in numerical order under Subpart A of the Table of Contents:

Sec.

* * * * *

17.7 Raptor exemption.

* * * * *

5. Add a new § 17.7 to read as follows:

§ 17.7 Raptor exemption.

(a) The prohibitions found in §§ 17.21 and 17.31 do not apply to any raptor [a live migratory bird of the Order *Falconiformes* or the Order *Strigiformes*, other than a bald eagle (*Haliaeetus leucocephalus*) or a golden eagle (*Aquila chrysaetos*)] legally held in captivity or in a controlled environment on November 10, 1978, or to any of its progeny, which is

(1) Possessed and banded in compliance with the terms of a valid permit issued under Part 21 of this chapter; and

(2) Identified in the earliest applicable annual report required to be filed by a permittee as in a permittee's possession on November 10, 1978, or as the progeny of such a raptor.

(b) This section does not apply to any raptor intentionally returned to the wild.

PART 21—MIGRATORY BIRD PERMITS

6. The authority citation for Part 21 reads as follows:

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h)(3), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712).

7. Amend the Table of Contents by adding the following entries in numerical order:

Sec.

* * * * *

21.3 Definitions.

* * * * *

21.30 Raptor propagation permits.

* * * * *

8. Add § 21.3 to Subpart A to read as follows:

§ 21.3 Definitions.

In addition to definitions contained in Part 10 of this chapter, and unless the context requires otherwise, as used in this part:

"Bred in captivity" or "captive-bred" refers to raptors, including eggs, hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

"Captivity" means that a live raptor is held in a controlled environment that is intensively manipulated by man for the purpose of producing raptors of selected species, and that has boundaries designed to prevent raptors, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include, but are not limited to, artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

"Falconry" means the sport of taking quarry by means of a trained raptor.

"Raptor" means a live migratory bird of the Order *Falconiformes* or the Order *Strigiformes*, other than a bald eagle *(Haliaeetus leucocephalus)* or a golden eagle *(Aquila chrysaetos)*.

9. Section 21.28 is amended by removing and reserving paragraph (a) and revising paragraph (e)(2) to read as follows:

§ 21.28 Falconry permits.

(a) [Reserved]

* * * * *

(e) * * *

(2) A permittee may— (i) Trade or transfer a raptor to another permittee if the transaction occurs entirely within a State and no money or other consideration is involved; (ii) Trade or transfer a raptor to another permittee in an interstate transaction if the prior written approval of all State agencies which issued the permits is obtained and no money or other consideration is involved in the transaction; or (iii) Purchase, sell, or barter any lawfully possessed raptor which is bred in captivity under authority of a raptor propagation permit issued under § 21.30 and banded with a numbered yellow seamless marker issued or authorized by the Service, subject to the following additional conditions:

(A) The person who receives the raptor must be authorized to possess it; and

(B) The permittee must have acquired the raptor from a person authorized to possess it.

* * * * *

10. Amend § 21.29 by revising paragraphs (e)(1)(iv), (e)(3)(ii), (e)(3)(iii), (e)(3)(v), and by adding a new paragraph (e)(3)(vi):

§ 21.29 Federal falconry standards

* * * * *

(e)* * *

(1)* * *

(iv) Permittee shall possess only an American kestrel (*Falco sparverius*), a red-tailed hawk (*Buteo jamaicensis*), a red-shouldered hawk (*Buteo lineatus*), a captive-bred Harris' hawk (*Parabuteo unicinctus*) or, in Alaska only, a goshawk (*Accipiter gentilis*).

(3)* * *

(ii) A permittee may not possess more than three raptors taken from the wild, and may not obtain more than two raptors taken from the wild for replacement birds during any 12-month period;

(iii) A permittee may not take any species listed as endangered in Part 17 of this chapter, but may transport or possess such species in accordance with Part 17 of this chapter.

* * * * *

(v) A permittee may not take, in any twelve (12) month period, as part of the three-bird limitation, more than one raptor listed as threatened in Part 17 of this chapter, and then only in accordance with Part 17 of this chapter.

(vi) A permittee may possess any number of captive-bred raptors banded with a yellow marker issued or authorized by the Service.

10. Add § 21.30 to Subpart C to read as follows:

§ 21.30 Raptor propagation permits.

(a) *Permit requirement.* A raptor propagation permit is required before any person may take, possess, transport, sell, purchase, barter, or transfer any raptor, raptor egg or raptor semen for propagation purposes.

(b) *Application procedures.* Applications for raptor propagation

permits must be submitted to the appropriate Special Agent in Charge (See § 13.11(b) of this chapter). Each application must contain the general information and certification required by section 13.12(a) of this chapter, plus the following additional information:

(1) A statement indicating the purpose(s) for which a raptor propagation permit is sought and, where applicable, the scientific or educational objectives of the applicant;

(2) A statement indicating whether the applicant has been issued a State permit authorizing raptor propagation (include name of State, permit number, and expiration date);

(3) A statement fully describing the nature and extent of the applicant's experience with raptor propagation or handling raptors;

(4) A description of each raptor the applicant possesses or will acquire for propagation purposes to include the species, age (if known), sex (if known), date of acquisition, source, and raptor marker number;

(5) A description of each raptor the applicant possesses for purposes other than raptor propagation to include the species, age (if known), sex (if known), date of acquisition, source, raptor marker number, and purpose for which it is possessed;

(6) A description and photographs of the facilities and equipment to be used by the applicant including the dimensions of any structures intended for housing the birds;

(7) A statement indicating whether the applicant requests authority to take raptors or raptor eggs from the wild.

(c) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (b) of this section, the Director will decide whether a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether an applicant's raptor propagation facilities are adequate for the number and species of raptors to be held under the permit.

(2) Whether propagation is authorized by the State in which the propagation will occur, and if authorized, whether the applicant has any required State propagation permit.

(3) Whether the applicant is at least 18 years old with a minimum of 2 years experience handling raptors.

(4) Whether the applicant requests a permit for scientific or educational purposes, or to propagate raptors for use in falconry.

(5) If the applicant requests authority to take raptors or raptor eggs from the wild—

(i) Whether issuance of the permit would have a signifiant effect on any wild population of raptors;

(ii) Whether suitable captive stock is available; and

(iii) Whether wild stock is needed to enhance the genetic variability of captive stock.

(d) *Additional permit conditions.* In addition to the general conditions found in Part 13 of this chapter, raptor propagation permits are subject to the following conditions:

(1) *Facilities.* Any tethered raptor possessed under this permit must be maintained in accordance with the Federal falconry standards for "facilities and equipment" described in § 21.29(g), unless a specific exception in writing is obtained. For untethered raptors, the breeding facilities must be soundly constructed and entirely enclosed with wood, wire netting, or other suitable material which provides a safe, healthy environment. The design of such facilities and ancillary equipment must—

(i) Minimize the risk of injury by providing protection from predators, disturbances that would likely cause harm, extreme weather conditions, and collision with interior or perimeter construction materials and equipment such as support poles, windows, wire netting, perches, or lights;

(ii) Enhance sanitation by providing a well-drained floor, fresh air ventilation, source of light, fresh water for bathing and drinking, access for cleaning, and interior construction materials suitable for thorough cleaning or disinfection; and

(iii) Enhance the welfare and breeding success of the raptors by providing suitable perches, nesting and feeding sites, and observation ports or inspection windows during times when disturbance is felt to be undesirable.

(2) *Incubation of eggs.* Each permittee must notify the Special Agent in Charge designated on the permit in writing within 10 days from the day the first egg is laid by a raptor held under a raptor propagation permit, but notice is not required more often than once every 60 days.

(3) *Marking requirement.* Every raptor possessed under this permit must be banded with a numbered, nonreuseable marker provided by the Service or with a marker provided by the wildlife management authority of a foreign county that meets the following Service marking standards:

(i) Any raptor taken from the wild or hatched from an egg taken from the wild must be banded with a black, adjustable marker.

(ii) Any captive-bred raptor must be banded by 4 weeks of age with either a yellow adjustable marker or a numbered yellow seamless marker.

(iii) Any permittee who wants to use a numbered yellow seamless marker provided by the Service—

(A) Must place the marker on the raptor's leg (*metatarsus*) before full growth is attained;

(B) Must use a marker with an opening (diameter) which is small enough to prevent its removal when the raptor is fully grown without causing serious injury to the raptor or damaging the marker's integrity or one-piece construction;

(C) May band a raptor with more than one size marker when the potential diameter of the raptor's leg at maturity cannot be determined at the time banding; and

(D) Must remove all but one marker from any raptor with more than one marker before the raptor is 5 weeks of age and immediately destroy each marker that is removed.

(iv) Each permittee must submit a report of marking, or marker removal and destruction within 5 days of such activity to the Director. The report must contain the date and type of activity; marker number; and the species, sex and age of the raptor.

(4) *Acquisition of raptors.* (i) Any permittee may acquire raptors, raptor eggs or raptor semen from any person authorized by law to possess that stock, but only live captive-bred raptors banded with a numbered seamless marker may be sold, purchased, or bartered.

(ii) Any permit authorizing the permittee to take raptors or raptor eggs from the wild from propagation purposes is subject to the following additional restrictions:

(A) The State in which the raptors or raptor eggs are taken must authorize the permittee in writing to take raptors or raptor eggs from the wild for propagation purposes; and

(B) No raptor listed in § 17.11 of this chapter as "endangered" or "threatened" may be taken from the wild without first obtaining the proper permit under Part 17 of this chapter.

(5) *Trade, transfer, purchase, sale, or international release of raptors.*

(i) A permittee may trade or transfer any raptor, raptor egg or semen to another permittee or trade or transfer any raptor to a falconer who holds a valid State falcony permit if no money or other consideration is involved.

(ii) A permittee may purchase, sell, or barter any raptor which is banded with a numbered yellow seamless marker provided or authorized by the Service.

(iii) No raptor may be traded, transferred, purchased, sold, or bartered until it is two weeks old and only after it is properly banded with a non-reuseable marker provided or authorized by the Service.

(iv) A permittee may not purchase, sell or barter any raptors taken from the wild, any eggs taken from the wild, or raptors hatched from eggs taken from the wild.

(v) A permittee must obtain written authorization from the Director before intentionally releasing any raptor to the wild. The raptor marker must be removed from each bird and destroyed by cutting it into two pieces. A Federal bird band must be attached to each raptor before its release by a person designated by the Director.

(6) *Use in falconry.* Permittees may use a raptor possessed for propagation in the sport of falconry only if such use is designated in both the propagation permit and the permittee's State falconry permit.

(7) *Interspecific hybridization.* (i) Hybridization between species (interspecific hybridization) is authorized only when loss of production would otherwise occur or for *bona fide* scientific studies.

(ii) Raptors produced by interspecific hybridization may not be—

(A) Intentionally released to the wild;

(B) Banded with a numbered seamless yellow marker provided or authorized by the Service; or

(C) Purchased, sold, or bartered.

(iii) Any raptor produced by interspecific hybridization may be traded or transferred to falconers who hold a State falconry permit only if the raptor is imprinted on humans (hand-raised in isolation out of the sight of other raptors from two weeks of age until it is fully feathered) or surgically sterilized.

(8) *Dead raptors, non-viable eggs, nests, and parts.* A permittee may possess dead raptors, addled or blown eggs, nests, and feathers from raptors held under permit, or may transfer any of these items to persons authorized by the Service to possess them, provided that no money or other consideration is involved.

(9) *Recordkeeping.* A permittee must maintain complete and accurate records of all operations, to include the following:

(i) Acquisition of raptors, eggs, or semen from sources other than production.

(A) Description of stock:

(*1*) Species, sex, age of each (if applicable),

(*2*) Genotype-natal area (geographical breeding site or area that captive stock represents, e.g. Colville River, Alaska; unknown; migrant taken in Missouri, etc.), and

(*3*) Marker number (if applicable).

(B) Type of stock (including number or amount):

(*1*) Semen,

(*2*) Egg, or

(*3*) Bird.

(C) How acquired:

(*1*) Purchase, barter, or transfer (include the purchase price or a description of any other consideration involved), or

(*2*) Taken from the wild.

(D) Date acquired: month, day, and year.

(E) From whom or where stock acquired:

(*1*) Name, address, and permit number of seller, barterer, or transferor; or

(*2*) Location where stock taken from the wild.

(ii) Disposition of raptors, eggs, or semen.

(A) Description of stock:

(*1*) Species, sex, age of each (if applicable),

(*2*) Genotype-natal area (geographical breeding site or area that captive stock represents, e.g., Colville River, Alaska; unknown; migrant taken in Missouri, etc.), and

(*3*) Marker number (if applicable).

(B) Type of stock (including number or amount):

(*1*) Semen,

(*2*) Egg, or

(*3*) Bird.

(C) Manner of disposition:

(*1*) Sale, barter, or transfer (include the sale price or a description of any other consideration involved),

(*2*) Live loss,

(*3*) Intentional release to the wild, or

(*4*) Death.

(D) Date of disposition: month, day, and year.

(E) To whom or where stock disposed:

(*1*) Name, address, and permit number of purchaser, barterer, or transferee, or

(*2*) Description and location of other disposition:

(iii) Production and pedigree record.

(A) Mother and father(s):

(*1*) Species,

(*2*) Genotype-natal area, and

(*3*) Marker number.

(B) Insemination:

(*1*) Natural,

(*2*) Artificial, or

(*3*) Combined.

(C) Eggs laid:

(*1*) Total,

(*2*) First date, and

(*3*) Last date.

(D) Eggs hatched:

(*1*) Total,

(*2*) First date, and

(*3*) Last date.

(E) Young raised to 4 weeks of age:

(*1*) Total produced, and

(*2*) Marker number and date marked for each raptor.

(10) *Annual report.* A permittee must submit an annual report by January 31 of each year for the preceding year to the Director. The report must include the following information for each species possessed by the permittee:

(i) Number of raptors possessed as of December 31.

(ii) Number of females laying eggs.

(iii) Number of eggs laid.

(iv) Number of eggs hatched.

(v) Number of young raised to 4 weeks of age.

(e) *Tenure of permit.* The tenure of raptor propagation permits is 5 years from the date of issuance, unless a shorter period of time is prescribed in the permit.

Dated: December 3, 1982.

P. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife Parks.

[FR Doc. 83-763 Filed 1-11-83; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 8
Wednesday, January 12, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 7, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Charles E. Caudill, Acting Statistical Clearance Officer, (202) 447–6201.

New

• Animal and Plant Health Inspection Service
U.S. Interstate and International Animal Health Certificate VS–18–1
On occasion
Individuals, business: 467,999 responses; 81,106 hours; not applicable under 3504(h)
Francis W. Germaine (202) 436–7830
• Human Nutrition Information Service
Pilot Study or Measures of Individual Food Intakes of the Low-Income Population
Quarterly
Individuals or households: 15,760 responses; 15,760 hours; not applicable under 3504(h)
Robert Reese (301) 436–8485

Extension

• Agricultural Cooperative Service
New Cooperative Volume and Structure
On occasion
Individuals, farms, business: 350 responses; 350 hours; not applicable under 3504(h)
William R. Seymour (202) 447–8396
• Agricultural Marketing Service
Cotton Sampling Inspection Report
CN 59
Three times annually
Business: 4,500 responses; 225 hours; not applicable under 3504(h)
Loyd R. Frazier (202) 447–2147
• Rural Electrification Administration
Engineers Monthly Report of Substation Progress
REA 457
Monthly
Business: 516 responses; 516 hours; not applicable under 3504(h)
Archie W. Cain (202) 382–9082

Reinstatement

• Agricultural Marketing Service
Irish Potatoes Grown in Southeastern States (Marketing Order 953)
On occasion
Business: 42,894 responses; 13,742 hours; not applicable under 3504(h)
Charles W. Porter (202) 447–2615
• Agricultural Stabilization and Conservation Service
7 CFR—Part 1435 Support Loan Program for 1982—Crop Sugarbeets and Sugarcane
SU–2, CCC–188
Annually
Business: 235 responses; 470 hours; not applicable under 3504(h)
Steve Gill (202) 477–8480

Charles E. Caudill,
Acting Statistical Clearance Officer.

[FR Doc. 83–808 Filed 1–11–83; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Modoc National Forest Grazing Advisory Board; Meeting

The Modoc National Forest Grazing Advisory Board will meet at 10:00 a.m., January 28, 1983, in the Conference Room of the Supervisor's Office at 441 North Main Street, Alturas, California.

The purpose of this meeting is to discuss expenditures of Range Betterment Funds for FY 83 and FY 84.

The meeting will be open to the public. Persons who wish to attend or who would like further information should notify William E. Britton, Modoc Supervisor's Office, telephone 916–233–5811. Written statements may be filed with the Board before or after the meeting.

January 4, 1983.

Glenn Bradley,
Forest Supervisor.

[FR Doc. 83–792 Filed 1–11–83; 8:45 am]
BILLING CODE 3410–11–M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Renewal

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463) and the Office of Management and Budget Circlar No. A–63, as Revised, I have determined that the renewal of the General Advisory Committee (GAC) is in the public interest. This determination is based on the important word the GAC conducts in advising the President, the Secretary of State and the Director of the U.S. Arms Control and Disarmament Agency (ACDA) on matters effecting arms control, disarmament, and world peace.

This renewal is effective January 5, 1983 and is for period of two years.

Dated: January 4, 1983.

Eugene V. Rostow,
Director.

[FR Doc. 83–868 Filed 1–11–83; 8:45 am]
BILLING CODE 6820–23–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Members of the Bureau of the Census Performance Review Board

The following individuals will serve as members of the Bureau of the Census Performance Review Board:

(1) Barabara Bailar
(2) O. Bryant Benton, Jr.
(3) William P. Butz
(4) Shirley Kallek
(5) Jerome A. Mark
(6) Stanley D. Moore
(7) Katherine K. Wallman.

Dated: January 7, 1983.

Bruce Chapman,

Director, Bureau of the Census.

[FR Doc. 83-848 Filed 1-11-83; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Preliminary Determination of Sales at Less Than Fair Value; Tool Steel From the Federal Republic of Germany

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value; tool steel from the Federal Republic of Germany.

SUMMARY: We have preliminarily determined that tool steel from the Federal Republic of Gemany (FRG) is being sold, or is likely to be sold, in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend liquidation of entries of the subject merchandise except imports from Buderus which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

We have also preliminarily determined that imports of tool steel from Edelstahlwerke Buderus AG should be excluded from the preliminary determination because we found a 0.4% weighted-average margin. This margin is *de minimis*.

If this investigation proceeds normally, we will make a final determination within 75 days of the publication of this notice in the **Federal Register.**

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377-2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

As provided in section 733 of the Tariff Act of 1930, as amended (the Act), we have preliminarily determined that there is a reasonable basis to believe or suspect that tool steel from the FRG is being sold, or is likely to be sold, in the United States at less than fair value.

We have also preliminarily determined that imports of tool steel from Edelstahlwerke Buderus AG should be excluded from the preliminary determination because we found a 0.4% weighted-average margin. This margin is *de minimis*.

The estimated margins for Thyssen Edelstahlwerke AG (Thyssen) and Saarstahl GmbH (Saarstahl) are based on the best information available as explained in the section of this notice which describes our fair value comparisons. These margins could change substantially in the final determination if verifiable information is furnished in a timely fashion. The margin calculations for Edelstahlwerke Buderus AG (Buderus) are discussed in the section of this notice which describes our fair value comparisons.

We found margins for Buderus on approximately 8 percent of its sales. The margins ranged from 1.6 percent to 95.8 percent and the weighted-average margin was 0.4 percent. We found an estimated margin for Thyssen and Saarstahl of 61.0 percent on all sales.

If this investigation proceeds normally, we will make a final determination within 75 days of the publication of this notice in the **Federal Register.**

Case History

On July 30, 1982, We received a petition filed by counsel on behalf of nine U.S. specialty steel producers and on behalf of the United Steelworkers of America. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports from the FRG of tool steel are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

After reviewing the petition, we determined it contained sufficient grounds on which to initiate an antidumping investigation. We notified the ITC of our action and initiated such investigation on August 18, 1982 (47 FR 36875). On September 13, 1982, the ITC found that there is a reasonable indication that imports of tool steel are materially injuring, or are threatening to materially injure, a U.S. industry.

Questionnaires were presented to Buderus, on September 9, 1982, Saarstahl on September 10, 1982, and Thyssen on September 21, 1982. Responses were received on November 1, 1982 from Buderus on November 15, 1982 from Thyssen, and on December 20, 1982 from Saarstahl. The response from Saarstahl was not received in time to be considered for the purposes of the preliminary determination. Our review of the Buderus response revealed numerous deficiencies and we requested additional information which was submitted on December 6, 1982.

Thyssen furnished computer printouts on November 19, 1982, a partial narrative response on December 6, 1982, and additional information on December 23, 1982 which was not in time to be considered for purposes of the preliminary determination. The need for additional information from all respondents is discussed in detail in the "Supplemental Information Required" section of this notice.

Scope of Investigation

The product covered by this investigation is tool steel as used in hand tools or for cutting, shaping, forming, and blanking of materials at either ordinary or elevated temperatures. Tool steel covers hot-finished tool steel and cold-finished tool steel, high speed tool steel, chipper knife steel, and band saw steel bars and rods. The merchandise is currently classified under item numbers 606.9300, 606.9400, 606.9505, 606.9510, 606.9520, 606.9525, 606.9535, 606.9540, 607.2800, 607.3405, 607.3420, 607.4600, 607.5405, and 607.5420 of the *Tariff Schedules of the United States Annotated.*

Since Saarstahl, Thyssen and Buderus manufacture and export virtually all of the tool steel exported from the FRG to the United States, we limited our investigation to them.

This investigation covers the period from February 1 to July 31, 1982, for United States sales and from November 1, 1981 to July 31, 1982, for home market transactions. This period for home market transactions was used in order to include sales in the home market at the time of exportation of tool steel where exporter's sales price is the proper basis for United States price.

Supplemental Information Requested

Section 776(b) of the Act states that whenever any party refuses or is unable to produce information requested, the Commerce Department may use the best information otherwise available for determining the existence of sales at less than fair value. We did so with respect to the following companies, except Buderus, for purposes of this preliminary determination for the reasons indicated below:

1. Thyssen

The questionnaire was presented to Thyssen on September 20, 1982, and the response due date was extended to November 16, 1982. Thyssen submitted computer printouts in a response to our questionnaire on November 15, 1982. A partial narrative response was furnished on December 6, 1982, which did not include cost data. The cost data was submitted only on December 23, 1982. This did not allow sufficient time for a proper analysis of the information for purpose of the preliminary determination. In addition, Thyssen reported sales to the United States using a mixture of currencies. We are unable to determine which currency was used for individual numeric reporting. We requested clarification by phone on December 19, 1982. Since we did not have adequate information in time to allow for sufficient analysis, we used the best information available as described in the "United States Price" section of this notice.

We will ask Thyssen once again to provide additional information before verification. If this information is not submitted by January 31, 1983, we will be unable to verify it. Where information is not furnished, or is furnished too late to verify, we will use the best information available for our final determination. The analysis and verification of Thyssen's response could substantially change the sales at less than fair value margins calculated for our preliminary determination for Thyssen.

2. Saarstahl

The questionnaire was presented to Saarstahl on September 10, 1982, and the response was originally due on October 10, 1982. Saarstahl did not request an extension of the due date. The cover letter for the questionnaire stated that failure to submit a timely response would result in use of the best information available. The Department did not receive a response from Saarstahl to our questionnaire until December 20, 1982. Since this did not allow sufficient time for a proper analysis of the information contained in this response, we used the best information available as described in the "United States Price" section of this notice for our preliminary determination. We are currently reviewing the Saarstahl response and will request additional information if necessary. Any additional information provided by Saarstahl by January 31, 1983 will also be considered by the Department for the final determination if the information is verified.

We will be unable to verify any information received after January 31, 1983. Where information is not furnished, or furnished too late to verify, we will use best information available for our final determination. The analysis and verification of Saarstahl's response could substantially change the sales at less than fair value margins calculated for our preliminary determination for Saarstahl.

3. Buderus

We are requesting additional information from Buderus concerning the general expenses incurred in the production and sale of the merchandise under investigation, adjustments for differences in merchandise and for differences in circumstances of sale. Buderus did not furnish expenses on which a circumstance of sale adjustment might be based in its computer format response. However, Buderus had not made a specific claim for such an adjustment. The fact that the reporting of general expenses and differences in merchandise was inadequate was not discovered until it was too late for us to request correction and use the corrected information for purposes of the preliminary determination. Since we had not identified the additional deficiencies until it was too late for Buderus to correct them for the preliminary determination, we used the response, but disallowed the claim for differences in merchandise and added the statutory minimum general expenses to the costs reported.

We will ask Buderus to provide the additional information before verification. If this information is not submitted by January 31, 1983, we will be unable to verify the Buderus response. Where information is not furnished, or is furnished to late to verify, we will use the best information available in our final determination.

Fair Value Comparison

To determine whether sales by Buderus of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value as reported by Buderus.

To determine whether sales by Thyssen and Saarstahl of the subject merchandise in the United States were made at less than fair value we used the best information available as required by section 776(b) of the Act to make fair value comparisons. We used the best information available for these manufacturers because adequate responses were not submitted in time to allow analysis of the information. A full discussion of the reasons for using the best information available is contained in the "Supplemental Information Requested" section of this notice. Where we used the margins contained in the petition, we used the average of those margins which appeared to be reasonably calculated as the best information available.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by Buderus because the merchandise was sold prior to the date of importation to unrelated United States purchasers. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, ocean freight, United States customs duty, and commissions to unrelated parties.

Since the Department received a response from Thyssen which did not include cost information and reported United States sales in a mixture of currencies, and did not receive a response from Saarstahl until December 20, 1982, we used the best information available as required by section 776(b) of the Act for reasons described in the "Supplemental Information Requested" section of this notice. We used the average of those margins reported in the petition which appeared to be reasonably calculated as the best information available.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value for Buderus based on home market prices where we found such or similar merchandise sold in the home market. For these comparisons where we did not find sales of such or similar merchandise in the home market or all sales in a subgroup of such or similar merchandise were at less than cost, we calculated the foreign market value for Buderus based on the constructed value. For Thyssen and Saarstahl we used the best information available as required by section 776(b) of the Act.

The petitioners alleged that sales in the home market were made at prices below the cost of production. We compared the home market prices from Buderus to its cost of production and found 56 percent of these sales were made above cost, although all sales in one subgroup of such or similar merchandise were at less than costs. This constituted a sufficient number of sales for use as the basis for determining the foreign market value. Since Buderus sold the merchandise under consideration on a delivered basis, we made deductions for inland freight and inland insurance.

Buderus made a claim for differences in merchandise. This claim was not quantified in Buderus' computer submission. We are requesting a revised computer tape including the necessary information (see the "Supplemental Information Requested" section of this notice). Buderus indicated possible circumstances of sale adjustments might be appropriate under 19 CFR 353.15 (a); however, this information was not deemed sufficient to constitute a claim for an adjustment.

Where we used constructed value as the basis for the foreign market value for Buderus, we calculated the constructed value on the basis of the costs of production reported by Buderus. These costs were for materials and fabrication, including general, selling and administrative expenses. Since we could not determine whether the general expenses were above the 10 percent minimum, we applied the 10 percent minimum to the costs reported.

We used the statutory 8 percent minimum profit since we had no specific information on Buderus' usual profit. We also added packing to the United States as appropriate. We are requesting additional information concerning Buderus' costs as discussed in the "Supplemental Information Requested" section of this notice.

We used the best information available with regard to Thyssen and Saarstahl as discussed in the "United States Price" section of this notice.

Verification

We will verify all data used in reaching the final determination in this investigation, as provided in section 776(a) of the Act.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of tool steel from the FRG with the exception of imports from Buderus. This suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated margin amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The estimated antidumping duty margins are as follows:

Manufacturer/Seller/Exporter	Margin (percent)
All manufacturers/sellers/exporters (except Buderus)	81.0

The weighted-average margin for Buderus is 0.4% which is *de minimis*.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non privileged and non confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring or threatening to materially injure a U.S. industry, before the latter of 120 days after the Department makes its preliminary affirmative determination or 45 days after the Department makes its final affirmative determination.

Public Comment

In accorance with § 353.47 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on February 8, 1983, at the U.S. Department of Commerce, Conference Room D, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least ten copies must be submitted to the Deputy Assistant Secretary by February 1, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within thirty days of this notice's publication, at the above address and in at least ten copies.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

January 5, 1983.

[FR Doc. 83-793 Filed 1-11-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Dr. Daniel P. Costa; Issuance of Permit

On November 26, 1982, Notice was published in the **Federal Register** (47 FR 52739), that an application had been filed with the National Marine Fisheries Service by Dr. Daniel P. Costa, Center for Coastal Marine Studies, University of California at Santa Cruz, Santa Cruz, California 95064, for a permit to take sixty (60) Northern elephant seals (*Mirounga angustirostris*) for the purpose of scientific research.

Notice is hereby given that on January 7, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (6 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to Dr. Daniel P. Costa subject to certain conditions set forth therein.

The Permit is available for review in the following officer:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 7, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-845 Filed 1-11-83; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by

section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet review the red drum fishery profile; discuss amendments to the Stone Crab and Shrimp Fishery Management Plans; review proposed mandatory statistics provisions of regulations; discuss the Council's administrative budget, as well as discuss other administrative and fishery management business as appropriate.

ADDRESS: The public meetings will convene on Monday, January 31, 1983, at approximately 1:30 p.m., adjourn at approximately 5 p.m.; reconvene on Tuesday, February 1, 1983, at approximately 8 a.m.; adjourn at 5 p.m.; reconvene on Wednesday, February 2, 1983, at approximately 8:30 a.m., and adjourn at approximately noon on February 3, 1983. The public meetings will take place at the Ramada Inn, Rooms I and II, 3719 West Beach Boulevard, Biloxi, Mississippi.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: January 6, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–843 Filed 1–11–83; 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), will meet to discuss gear conflict regulations; discuss the Surf Clam and Ocean Quahog and Summer Flounder Fishery Management Plans (FMP's); discuss the status of other FMP's, joint ventures, and other fishery management and administrative matters.

DATES: The public meetings will convene on Wednesday, February 9, 1983, at approximately noon and will adjourn on Thursday, February 10, 1983, at approximately 5 p.m. The meetings may be lengthened or shortened depending upon progress on the agendas.

ADDRESS: The public meetings will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 201, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: January 6, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83–844 Filed 1–11–83; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Office of the Secretary

President's Commission on Strategic Forces; Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed session on January 10, 1983 at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. To meet the stringent deadline imposed by the President, the second meeting of the Commission has been scheduled for January 10, 1983.

Discussions during the meeting will involve classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separate classified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with Section 10(d) of Pub. L. 92–463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

M. S. Healy

OSD Federal Register Liaison Officer, Department of Defense.

January 6, 1983.

[FR Doc. 83–809 Filed 1–11–83; 8:45 am]

BILLING CODE 3810–01–M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session 23, 24 March 1983 at AGED Secretariat Office, 1925 North Lynn Street, Suite 1000, Arlington, VA., 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night sensors. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App 1, 10(d)(1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: January 7, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–836 Filed 1–11–83; 8:45 am]

BILLING CODE 3810–01–M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electronic Devices (AGED) will meet in closed session on 8 February 1983, at AGED Secretariat Office, 1925 North Lynn Street, Suite 1000, Arlington, VA 22209.

The Mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The

review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App 1, 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: January 7, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-639 Filed 1-11-83; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electronic Devices; Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session 9 February 1983, at the AGED Secretariat Office, 1925 North Lynn Street, Suite 1000, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App 1, 10(d)(1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(b)(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: January 7, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-640 Filed 1-11-83; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electronic Devices; Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electronic Devices (AGED) will meet in closed session 15 March 1983, at Stanford Institute, Menlo Park, 94025 and 16 and 17 March at Stanford University, Stanford, CA.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App 1, 10(d)(1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(b)(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

Dated: January 7, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-641 Filed 1-11-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Privacy Act of 1974; Addition of Systems of Records

AGENCY: Department of the Navy, DOD.

ACTION: Corrections to Systems notices.

SUMMARY: The Department of the Navy proposes to make corrections to three notices for systems of records previously published. The corrected systems notices are set forth below.

DATE: The proposed corrections will be effective January 12, 1983.

ADDRESS: Send any comments to the Systems Managers as identified in the notices.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, privacy Act Coordinator, Office of the Chief of Naval Operations (Op09B1P), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 694–2004

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act have been published in the **Federal Register** at:

FR Doc. 81-674 (47 FR 2574) January 18, 1982
FR Doc. 81-9204 (47 FR 14944) April 7, 1982
FR Doc. 82-9844 (47 FR 15636) April 12, 1982
FR Doc. 82-12593 (47 FR 20018) May 10, 1982
FR Doc. 82-15596 (47 FR 25041) June 9, 1982
FR Doc. 82-23533 (47 FR 37948) August 27, 1982
FR Doc. 82-27420 (47 FR 44134) October 6, 1982
FR Doc. 82-27692 (47 FR 44381) October 7, 1982
FR Doc. 82-28879 (47 FR 46879) October 21, 1982
FR Doc. 82-29834 (47 FR 49067) October 29, 1982
FR Doc. 82-30225 (47 FR 50069) November 4, 1982
FR Doc. 82-32787 (47 FR 54139) December 1, 1982

These corrections do not require an altered system report in accordance with 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer Department of Defense.

January 7, 1983.

NO1070–2

System name:

Naval Attache Files (47 FR 2638) January 18, 1982.

Change:

Systems exempted from certain provisions of the Act:

Delete the entire entry and substitute with the word: "None."

NO3810–1

System name:

Naval Intelligence Management Information System (47 FR 2667) January 18, 1982.

Change:

Systems exempted from certain provisions of the Act:

Delete the entire entry and substitute with the word: "None."

NO3461–1

System name:

Summary Debriefs of Former Prisoners of War (47 FR 2665) January 18, 1982.

Change:

Systems exempted from certain provisions of the Act:

Delete the entire entry and substitute with the word: "None."

NO1070-2

SYSTEM NAME:

Naval Attache Files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

NO3810-1

SYSTEM NAME:

Naval Intelligence Management Information System.

* * * * *

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

NO3461-1

SYSTEM NAME:

Summary Debriefs of Former Prisoners of War.

* * * * *

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-805 Filed 1-11-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Council's Legislative Committee; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Public Meeting of the Council's Legislative Committee.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the Legislative Committee of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: January 27 and 28, 1983: Noon–5:00 P.M. 1/27; 9:00 AM–2:00 PM 1/28.

ADDRESS: The Hotel Sahara, 2535 Las Vegas Boulevard South, Las Vegas, Nevada.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90–576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the Legislative Committee is open to the public. The proposed Agenda will include:

Review of Job Training Partnership Act Regulations as they pertain to vocational education

Consideration of vocational education reauthorization issues.

Records are kept of the Committee's proceedings and are available for public inspection at the office of the National Advisory Council on Vocational Education from 9:00 a.m. to 5:00 p.m., 425—13th Street NW, Suite 412, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE Staff, at above address. Telephone: (202) 376–8873.

Signed at Washington, DC on January 7, 1983.

George Wallrodt,

Director of Communications, National Advisory Council on Vocational Education.

[FR Doc. 83-856 Filed 1-11-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP82-114-000]

Cities Service Gas Co.; Settlement Conference

January 6, 1983.

Take notice that an informal settlement conference in the above-captioned docket will be convened on Tuesday and Wednesday, January 18 and 19, 1983, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a Commission meeting room to be announced. Please note the following time changes. The conference on Tuesday will commence at 2:00 p.m. and the conference on Wednesday will commence at 10:00 a.m.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-705 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-114-002]

Cities Service Gas Co.; Rate Change

January 6, 1983.

Take notice that on December 21, 1982, Cities Service Gas Company (Cities) [1] tendered for filing, pursuant to Section 4 of the Natural Gas Act and the applicable provisions of the Commission's Regulations thereunder, and in accordance with the Commission's order issued July 28, 1982, in Docket No RP82–114–000, Substitute Thirteenth Revised Sheet No. 6 to Original Volume No. 1 and Substitute Fourth Revised Sheet No. 91 to Original Volume No. 2 of its FERC Gas Tariff, to become effective December 23, 1982.

On June 28, 1982, Cities filed tariff sheets in this proceeding designated Thirteenth Revised Sheet No. 6 to Original Volume No. 1 and Fourth Revised Sheet No. 91 to Original Volume No. 2 of its FERC Gas Tariff. Cities originally proposed that Sheet Nos. 6 and 91 be made effective on July 23, 1982, but by its order of July 28, 1982, the Commission, among other things, accepted such tariff sheets for filing and suspended their effectiveness to December 23, 1982, subject to refund and subject to the condition that Cities file revised tariff sheets to reflect certain changes discussed below. On August 27, 1982, Cities filed an application for rehearing of the Commission's July 28, 1982 order in this proceeding regarding, among other things, the denial of Cities' request for limited waiver of Order Nos. 144 and 144–A. On September 23, 1982, the Commission issued its order granting rehearing for purposes of further consideration.

A Stipulation and Agreement (Settlement) covering the matters in Cities' Docket No. RP81–76, as well as certain matters in Docket Nos. RP79–76 and RP82–114, was filed with the Commission on November 19, 1982, and is currently pending approval. At the settlement conferences held in Docket No. RP82–114 on December 7, 1982, as well as by other means, certain of our customers and affected state

[1] On November 17, 1982, the name of Cities Service Gas Company was changed to Northwest Central Pipeline Corporation. Appropriate filings will soon be made to make this change on all the Commission's records.

commissions have stated their concern as to the level of Cities' rates. In order to help meet such concerns Cities proposes the following changes, in addition to those required by the Commission to its original filing in this docket:

1. Cities proposes to reduce its rates to give effect to the settlement in Docket No. RP79–76, *et al.*, of the issues of Comprehensive Interperiod Allocation of Income Taxes and Investment in Storage Gas Inventory.

2. Additionally, Cities proposes to reduce its rates to reflect a reduction in the rate of return due to a recent sale of $35,000,000 of preferred stock.

In addition, the following changes are required by the Commission's July 28, 1982 suspension order:

3. A reduction in the amount of plant in service at November 30, 1982, in the amount of $748,632.

4. An increase in the amount of outstanding advance payments at November 30, 1982, of $545,035.

The amount of reductions is $10,804,224 and the net amount of the required changes is a reduction of $1,331,051 for a total jurisdictional reduction of $12,135,275. This reduction has been applied on a volumetric basis to the jurisdictional sales volumes of 220,359,613 Mcf used in the Docket No. RP82–114 filing and amounts to 5.51 cents per Mcf.

The following changes were also reflected to Substitute Thirteenth Revised Sheet No. 6 to give effect to the PGA increase which became effective on October 23, 1982:

5. The current average cost of purchase gas of 309.68 cents per Mcf reflected in Cities' PGA filing in Docket No. TA83–1–43 (PGA83–1).

6. A surcharge adjustment from the PGA filing in Docket No. TA83–1–43, which became effective on October 23, 1982, of 51.44 cents per Mcf.

Copies of the filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP82–114–000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–784 Filed 1–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP82–120–002]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1983.

Take notice that on December 29, 1982, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1.

Original Sheet No. 16B
Original Sheet No. 16C
Original Sheet No. 16D
Fourth Revised Sheet No. 41
Fourth Revised Sheet No. 43
Twenty-seventh Revised Sheet No. 64
Twenty-ninth Revised Sheet No. 64A
Twenty-fourth Revised Sheet No. 64B
Fifth Revised Sheet No. 64C
Third Revised Sheet No. 64D
First Revised Sheet No. 64D1
Original Sheet No. 64D2
Original Sheet No. 64D3

The subject tariff sheets bear an issue date of December 29, 1982, and an effective date of January 1, 1983.

Pursuant to Ordering Paragraph (E) of the Commission's order of July 30, 1982, Columbia was directed to file further revisions to the unit of sales method to reflect a proper allocation of fuel and line loss costs between transportation and sales customers. The above referenced tariff sheets are being filed pursuant to the aforementioned Commission order and in accordance with an agreement in principle reached among the parties held at technical conferences on this issue.

The revised tariff sheets filed herein provide for the billing of an estimated monthly surcharge amount to SGES customers for the months of January and February 1983. Columbia proposes not to change its rates applicable to Sales Rate Schedules to become effective January 1, 1983. Such change, if effectuated, would be effective for a short period of time, the months of January and February 1983. Moreover, the dollar impact is de minimus and will be recognized through Columbia's Account 191.

Columbia respectfully requests such waivers of the Commission's Regulations as may be deemed necessary to permit the revised tariff sheets to become effective January 1, 1983.

Copies of the filing were served by Columbia upon its jurisdictional customers, interested state commissions and to each of the parties set forth on the official service list in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–786 Filed 1–11–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–1–44–004]

Commercial Pipeline Company, Inc.; Proposed Changes in FERC Gas Tariff

January 6, 1983

Take notice that on December 14, 1982, Commercial Pipeline Company (Commercial) tendered for filing its Corrected Forty-first Revised Sheet No. 3A Superseding Second Corrected Fortieth Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1.

On November 22, 1982, Commercial filed its Forty-first Revised Sheet No. 3A, plus supporting schedules, and requested a waiver of the Commission's Regulations and Commercial's Tariff to permit said tariff sheet to become effective December 23, 1982. The sole purpose of that filing was to track an increase in rates to be paid Commercial's only supplier, Cities Service Gas Company (Cities).

Following an informal inquiry from the Commission's Staff regarding the November 22, 1982 filing, Commercial has recalculated the current adjustment in its rates in a manner which complies with the objectives of the purchased gas adjustment clause (PGA) in its tariff and which protects the integrity of the PGA's operation. The corrected tariff sheet filed permits the recognition for

Commercial's lost and unaccounted for gas in a manner consistent with the operation of its PGA and allows the tracking of Cities' increase for sales to Commercial, which is to be effective December 23, 1982. Similar to the filing of November 22, 1982, the corrected tariff sheet is also proposed to be effective December 23, 1982.

In addition, Commercial also submitted a Revised Schedule A to replace the corresponding schedule which was filed in support of its tariff sheet on November 22, 1982.

Copies of the filing were served upon Commercial's customers, the Missouri Public Service Commission, and the Kansa Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-767 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-80-005, (Phase II)]

Consolidated Gas Supply Corp.; Proposed Changes in Rates

January 6, 1983.

Take notice that on December 20, 1982, Consolidated Gas Supply Corporation (Consolidated) tendered for filing, pursuant to a settlement agreement dated September 2, 1982, in Docket No. RP81-80, approved by Commission letter order issued November 19, 1982, revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1:

	Effective date
Revised Twenty-Eighth Revised Sheet No. 16.	Jan. 1, 1982.
Revised Twenty-Ninth Revised Sheet No. 16.	Mar. 1, 1982.
Revised Substitute Twenty-Eighth Revised Sheet No. 16.	June 1, 1982.
Revised Substitute Twenty-Ninth Revised Sheet No. 16.	Aug. 1, 1982.
Revised Substitute Thirty-First Revised Sheet No. 16.	Sept. 1, 1982.

The revised tariff sheets are being filed to reflect a settlement agreement approved on November 19, 1982, and cover all issues except rate of return in Docket No. RP81-80.

The revised tariff sheets effective June, August and September 1982 also reflect a change to the "Base Cost of Gas from Producer Suppliers" due to a reduction in the unit cost of old pipeline production pursuant to the September 2, 1982 settlement. Schedule 1 shows the revised cost of service for old pipeline production resulting in a reduction to the "Base Cost of Gas from Producer Suppliers" of 0.60 cents per dekatherm.

Consolidate also submits a summary of the principal refunds resulting from the proposed tariff changes for the eleven months ended November 30, 1982, which are being made this date. Consolidated proposes to implement the revised rates to be effective with December 1982 billings.

Copies of the filing have been sent to the applicable state commissions and parties to these proceedings.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-768 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-81-000]

Edward S. Cruz and William L. Geaver; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 7, 1983.

On December 6, 1982, Edward S. Cruz and William L. Beaver of Route 4, Box 15, Bishop, California 93514, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 948 kilowatt hydroelectric installation located in Mono County, Califorina, near the Town of Bishop. Applicant states that no other hydroelectric facilities owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission. 825 North Capital Street N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-769 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-34-000]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

January 6, 1983.

Take notice that on December 29, 1982, Great Lakes Gas Transmission Company (Great Lakes), tendered for filing proposed changes to the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.

First Revised Volume No. 1

Twelfth Revised Sheet No. 4
Forty-Third Revised Sheet No. 57

Original Volume No. 2

Eighteenth Revised Sheet No. 53
Ninth Revised Sheet No. 77
Third Revised Sheet No. 183
Third Revised Sheet No. 223
Third Revised Sheet No. 245
Second Revised Sheet No. 294

The proposed tariff changes would produce increased revenues of $14,014,190, based on sales and transportation volumes for the base period (twelve months ended September 30, 1982) as adjusted. The changes would also establish new Base Tariff Rates for future purchased gas adjustments.

Great Lakes states that the proposed rates are necessary because of increased operating expenses, increased depreciation expense resulting from increased plant in service, increased *ad valorem* and other taxes, increased return and income tax requirements and reduced transportation service volumes. Great Lakes' proposed rates include an overall return of 12.67 percent reflecting its increased imbedded debt cost of 10.05 percent and a return on equity of 16.50 percent.

Great Lakes further states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protest should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-770 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

High Island Offshore System; Amendment

[Docket No. CP80-408-001]

January 7, 1983.

Take notice that on November 19, 1982, High Island Offshore System (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP80-408-001 an amendment to its application filed June 19, 1980, in Docket NO. CP80-408-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize Applicant to install 25,000 horsepower of compression at High Island Block 264 and to tender firm transportation service of up to 2,048,700 Mcf per day, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that on June 19, 1980, it filed an application in Docket No. CP80-408-000 for authorization to construct, install, and operate 66 miles of 36-.inch pipeline loop between High Island Block 264 and West Cameron Block 167 and 45,800 horsepower of compression at High Island 264 as well as to render increased firm transportation service up to 2,610,500 Mcf per day.

Applicant states that as a result of the passage of time since the filing of the original application, it has recanvassed all the High Island Offshore System (HIOS) shippers in order to assess their current needs for additional capacity on the HIOS system. It is further stated that the results of that survey now indicate a current long haul equivalent capacity requirement of 2,048,700 Mcf per day.

Applicant avers that in view of the shippers' revised requirements it now proposes to install only 25,000 horsepower of compression at High Island Block 264 in lieu of the combined compression and looping originally proposed which applicant asserts would enable it to render firm transportation service of 2,048,700 Mcf per day. Applicant estimates that the cost of the additional compression would be approximately $23,600,000 which would be financed with treasury bonds, retained earnings and other funds generated internally together with borrowings from banks under short-term lines of credit as required.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.110). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission of its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-771 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-54-001]

Louisiana Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

January 6, 1983.

Take notice that on December 20, 1982, Louisiana-Nevada Transit Company (LNT) tendered for filing Revised Substitute First Revised Sheet No. 4 superseding Original Sheet No. 4. This tariff sheet which is LNT's PGA adjustment tariff sheet reflects a total purchased gas cost rate adjustment of 28.36 cents per Mcf which includes a deferred gas cost adjustment of 04.24 cents per Mcf and a cumulative cost of gas adjustment of 24.12 cents per Mcf. Also attached to the filing was Schedule 1 showing the computation of the deferred purchased gas cost adjustment and Schedule 2 showing the computation of the current purchased gas cost adjustment.

On November 19, 1982, LNT transmitted to the Commission its semi-annual purchased gas adjustment filing to be effective December 1, 1982. Subsequently, the Commission Staff determined certain changes should be made to the filing. Accordingly, LNT retendered such filing with the changes requested by the Commission Staff.

Copies of the filing were mailed to LNT's two jurisdictional customers, Arkansas Louisiana Gas Company and United Gas Pipe Line Company, and the Arkansas and Louisiana public service commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the

Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-772 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-15-000 (PGA83-1 And IPR83-1)]

Mid Louisiana Gas Co.; Proposed Change in Rates

January 6, 1983.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on December 27, 1982, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff, Forty-sixth Revised Sheet No. 3a and Seventh Revised Sheet No. 3c to become effective February 1, 1983.

Mid Louisiana states that the purpose of the filing of Forty-sixth Revised Sheet No. 3a is to reflect a Purchased Gas Cost Current Adjustment, a Purchased Gas Cost Surcharge and a Transportation Cost Adjustment resulting in a rate after current adjustment of 455.16 cents. The filing is being made in accordance with Section 19 of Mid Louisiana's FERC Gas Tariff, and the Purchased Gas Cost Current Adjustment reflects rates payable to Mid Louisiana's suppliers during the period February 1, 1983 through July 31, 1983.

Copies of the filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protests said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petition or protests should be be filed on or before Janaury 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-774 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA82-2-16-003, RP82-67-002 and TA83-1-16-001]

National Fuel Gas Supply Corp., Proposed Tariff Change

January 6, 1983.

Take notice that on December 10, 1982, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Traiff, Original Volume No. 1, the following sheets:

Substitute Revised Thirty-Ninth Revised Sheet No.4, proposed to be effective August 1, 1982

Second Substitute Revised Thirty-Ninth Revised Sheet No. 4, proposed to be effective November 1, 1982

Substitute Fortieth Revised Sheet No. 4, Proposed to be effective January 1, 1983

National states that the purpose of these revised tariff sheets is to comply with Commission order dated October 22, 1982, requiring that national reflect the proper rates of Texas Eastern Transmission Corporation. National further states that these revised tariff sheets reflect a decrease in National's rates of .14 cents.

National states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825, North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-773 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-71-007]

Northern Natural Gas Co.; Proposed Tariff Change

January 6, 1983.

Take notice that on December 23, 1982, Northern Natural Gas Company (Northern) tendered for filing Substitute Fourth Revised Sheet No. 17. On October 26, 1982, Northern filed in the above-captioned docket a motion to have certain tariff sheets go into effect October 27, 1982. Among those sheets was Fourth Revised Sheet No. 17 of Northern's FERC Gas Tariff, Third Revised Volume No. 1, which was intended to reflect certain cross-referencing revisions pertaining to penalty and Btu-adjusted billing. These revisions, however, were inadvertently omitted from Fourth Revised Sheet No. 17 as enclosed with the filing. In correcting this omission Northern requests that the Commission waive its regulations to the extent necessary to permit this tariff sheet to become effective October 27, 1982.

Northern states that copies of this filing have been served upon all parties who were served with the October 26th Motion in compliance with the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-775 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-123-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

January 7, 1983.

Take notice that on December 10, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska

66102, filed in Docket No. CP83-123-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Panhandle Eastern Pipe Line Company (Panhandle) or Truckline Gas Company (Truckline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that it has acquired the right to purchase the natural gas reserves attributed to West Delta Area Blocks 137 and 138 offshore Louisiana, from Anadarko Production Company and Koch Industries, Inc. Northern asserts that it has entered into certain transportation arrangements with Panhandle and Truckline which provide for the transportation and redelivery of such gas to United Gas Pipe Line Company (United) for Northern's account.

Northern further states that as partial consideration for the transporation of such offshore gas, it has extended to Panhandle or Truckline an option to purchase up to 20 percent of the volumes of Northern's West Delta Area Blocks 137/138 gas received by Truckline.

Accordingly, Northern proposes to sell natural gas to Panhandle or Truckline for resale in interstate commerce. It is stated that the gas would be sold to Panhandle or Truckline on a monthly cost of service basis which cost represents Northern's cost of gas at the point of delivery to Truckline. Northern's estimated average cost of service per Mcf for the first year of operation is $5.34.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-776 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-116-003]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 6, 1983.

Take notice that Southern Natural Gas Company (Southern) on December 29, 1982, tendered for filing proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1. The revised tariff sheet would reduce the jurisdictional revenues for gas sales by $40,962,061 annually over the rates originally filed in Southern's Docket No. RP82-116.

Southern states that on July 1, 1982, Southern filed a general rate increase in Docket No. RP82-116 to become effective on August 1, 1982. By its order issued July 30, 1982, the Commission accepted the revised tariff sheets for filing and suspended their effectiveness until January 1, 1983, subject to certain conditions. In compliance with the Commission's July 30, 1982 order, Southern filed revised tariff sheets on December 2, 1982 to reflect the elimination of costs associated with facilities that will not be in service as of December 31, 1982, the actual balance of advance payments in Account No. 166 as of December 31,1982, and the current GRI surcharge adjustment as of December 31, 1982. That filing also reflects the current level of purchased gas costs as represented in Southern's purchased gas adjustment filing of November 2, 1982 and the terms of a Stipulation and Agreement in Docket Nos. RP80-102 and RP81-86 in which Southern agreed to reduce its main line depreciation rate from 3.85% to 3.30% and to reflect a zero allowance for cash working capital.

On December 8, 1982, the Commission issued an order requiring Southern to file revised tariff sheets, on or before December 31, 1982, to reflect working capital allowance for gas prepayments no higher than $34,663,701. Southern states that this filing is in compliance with the Commission's December 8, 1982 order.

Southern requests that the proposed tariff sheet be allowed to be subsituted for the tariff sheet previously suspended by the Commission's order of July 30, 1982 and the Fifty-Fourth Revised Sheet No. 4A that Southern filed on December 2, 1982. Since the proposed tariff sheet contains the same costs included in Southern's rate filing, modified in accordance with the Commission's orders of July 30, 1982 and December 8, 1982 in this docket, Southern requests the Commission to grant such waivers as may be necessary to allow the proposed tariff sheet to become effective January 1, 1983 as contemplated by the Commission's July 30, 1982 orders.

Copies of this filling were served upon Southern's jurisdictional customers, interested state public service commissions and all parties of record.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such petitions or protests should be filed on or before January 19, 1983. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-777 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-78-000]

Sunlaw Energy Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 7, 1983.

On December 3, 1982, Sunlaw Energy Corp. of 14651 Ventura Boulevard, Sherman Oaks, California 91403, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility

pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at 4224 District Boulevard, Vernon, California 90058. The primary energy source to the facility will be natural gas with distillate fuel oil as a backup. The electric power production capacity will be 26,960 kilowatts. Thermal output in the form of steam will be used to produce −35°F ammonia through a refrigeration process to be used for blast freezing, food processing, cold storage, and other intended processes. Installation of the facility will be completed by December, 1984. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-778 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-18-001]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1983.

Take notice that Texas Gas Transmission Corporation, on December 29, 1982, tendered for filing Fortieth Revised Sheet No. 7 and Seventh Revised Sheet No. 7–B to its FERC Gas Tariff, Third Revised Volume No. 1. These sheets are being issued to reflect changes in the cost of purchased gas pursuant to Texas Gas' Purchased Gas Adjustment Clause.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-779 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-18-004]

Texas Gas Transmission Corp.; Proposed Changes in Rates

January 6, 1983.

Take notice that on December 20, 1982, Texas Gas Transmission Corporation (Texas Gas) tendered for filing Fourth Substitute Thirty-sixth Revised Sheet No. 7 to its FPC Gas Tariff, Third Revised Volume No. 1. The substitute tariff sheet filed reflected downward modifications in the rates of one of Texas Gas' pipeline suppliers, United Gas Pipe Line Company (United). The Letter Order issued October 27, 1982, by the Director of the Office of Pipeline and Producer Regulations, in Docket No. TA82–2–18–001, accepted Texas Gas' Revised August 1, 1982 PGA rates subject to the condition that they reflect any downward modification of United's PGA rates. Submitted in the filing were Second Revised Schedules 1, 3, 5 and 7 to the August 1 PGA which reflect the United reduction.

Texas Gas requests waiver of Section 154.22 of the Commission's regulations to permit the substitute sheet to become effective on August 1, 1982.

Copies of the filing were mailed to all of Texas Gas' jurisdictional sales customers, interested state commissions and parties of record in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-780 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of November 15 Through November 19, 1982

During the week of November 15 through November 19, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Wang Laboratories, 11/17/82, HFA–0091

Wang Laboratories filed an Appeal from a denial by the Director of Personnel (Director) of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Director failed to identify which DOE documents were responsive to the Wang request and also failed to cite a specific FOIA exemption as justification for denying the request. The DOE therefore remanded the matter to the Director and ordered him either to release to Wang all documents responsive to the firm's request, or to issue a new determination identifying the material withheld, providing a detailed explanation of the reasons for the withholding, and including citation to appropriate exemptions.

Request for Exception

Petraco-Valley Oil and Refining Company, 11/18/82, BEE-0070

Petraco-Valley Oil and Refining Company filed an Application for Exception with the Office of Hearings and Appeals of the Department of Energy requesting that the DOE issue the firm additional entitlements for the crude oil that it purchased in August 1979 as a start-up inventory for a new refinery. In considering that submission, the DOE determined that Petraco-Valley was entitled to a start-up inventory adjustment equal to the number of barrels of crude oil it held in inventory on January 27, 1981, the date of the termination of the Entitlements Program, multiplied by the value of a runs credit for August 1979, the month in which it purchased its initial inventory. This exception relief amounted to $88,995.88. However, the DOE noted that Petraco-Valley

postponed payment of a $2.8 million entitlements purchase obligation pursuant to the September 1979 Entitlements Notice, from the date of publication of that Notice in November 1979, until August 4, 1980. The DOE found that by refusing to discharge its entitlements obligation promptly, Petraco-Valley realized substantial benefits at the expense of other participants in the Entitlements Program. The DOE pointed out that Petraco-Valley had benefited from the use of the $3.8 million for more than four months and that the benefits the firm realized from the use of this money far exceeded the exception relief that was otherwise appropriate. Accordingly, Petraco-Valley's Application for Exception was denied.

Request for Stay

Crown Central Petroleum Corp., 11/18/82, *HRS-0019*

Crown Central Petroleum Corporation requested that the Office of Hearings and Appeals stay an enforcement proceeding initiated against Crown, pending resolution of a judicial proceeding initiated by Crown against the DOE. Alternatively, Crown requested a 16-day extension of time in which to file a Statement of Objections to a Proposed Remedial Order issued to the firm. The DOE denied the request for stay, finding that Crown did not satisfy any of the stay criteria specified in 10 CFR § 205.125(b). However, the DOE found that good cause existed for granting Crown's request for an extension of time to file its Statement of Objections.

Motion for Discovery

M&M Minerals Corp., et al., 11/17/82, *HRZ-0112, HRH-0018, HRD-0023, HRD-0066, HRD-0087, HRD-0088, HRD-0089.*

M&M Minerals Corp. and four individuals (respondents) filed a Motion to Dismiss a Proposed Remedial Order (PRO) issued to the firm on October 2, 2981 by the Southeast District Office of the Economic Regulatory Administration (ERA). The DOE denied respondents' motion, finding that the PRO established a prima facie case and that respondents did not present any clear and convincing grounds for dismissal of the PRO.

The DOE also considered respondent's motions seeking administrative record discovery and contemporaneous construction discovery of the definition of the term property in DOE regulations. The DOE denied the respondents' request for administrative record discovery of Rulings 1977–1 and 1977–2. That determination was based on the DOE'S conclusion that since the agency has considerable flexibility in choosing when and how to issue interpretative rulings, the process by which such rulings are formulated is not a relevant concern. The DOE also found that contemporaneous construction discovery was not warranted because the respondents that failed to show that the term property and the related rulings were ambiguous as they applied to the respondents' factual situation.

The DOE also denied respondents' request for discovery of information that is publicly available and for discovery of information concerning matters not relevant to any factual dispute in this proceeding. However, discovery of documents pertaining to the determination of the applicable posted price used in the PRO, and to the calculation of alleged overcharges was granted because such documents contained essential factual information upon which the legal conclusions of the PRO are based.

The respondents' Motion or an Evidentiary Hearing regarding the ERA's method of calculating overcharges was dismissed without prejudice. The DOE stated that the request for an evidentiary hearing on this issue could be renewed if, after obtaining the discovery granted by this Order, respondents believed that a hearing on this issue was necessary.

Supplemental Order

Atlantic Richfield Company, HRX0052; Gulf Oil Corporation, HRX0053; Marathon Oil Company, HRX0054; Texaco Inc., HRX0057; Louisiana Land and Exploration Co., 11/15/82, HRX0055

The Atlantic Richfield Company, the Gulf Oil Corporation, the Marathon Oil Company, Texaco Inc., and the Louisiana Land and Exploration Company ("the producers") filed a motion to compel the Office of Special Counsel for Compliance to produce certain documents which the OSC identified in response to the OHA's discovery order in *Atlantic Richfield Co.*, 5 DOE ¶ 82, 521 (1980) and for which the OSC asserted claims of privilege. In a prior decision, the OHA upheld approximately 90 OSC privilege claims, rejected approximately 45 other privilege claims, and ordered that 140 other documents be produced for *in camera* review. In this Order the OHA set forth the results of that *in camera* review. The OHA found that most of the 140 documents were protected by the deliberative process privilege or the work product doctrine. In several instances, however, the OHA rejected the OSC's privilege claims and ordered material released to the producers.

Refund Applications

Pennzoil Company/B & L Motor Freight, Inc., et al., 11/18/82, RF10–2

On March 10, 1982, the Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures with respect to a $3,000,000 fund obtained by the DOE through a consent order with Pennzoil Company. *See Office of Special Counsel (Pennzoil)*, 9 DOE ¶ 82,545 (1982). The March 10 Decision stated that the DOE would accept applications for refund filed by purchasers of Pennzoil's covered products during the period March 6, 1973 through December 31, 1980. The present Decision considered applications for refund filed by 25 firms. After reviewing each applicant's claim the Office of Hearings and Appeals determined that all the applicants were adversely affected by Pennzoil's alleged violations and were eligible for a portion of the consent order funds. Accordingly, those applications were granted.

Vickers Energy Corp./Standard Oil Co. (Indiana), 11/17/82, RF1–354

Standard Oil Company (Indiana) filed an Application for Refund seeking a portion of the fund obtained by the DOE through a consent order entered into by the agency and Vickers Energy Corporation. In considering the application, the DOE determined that the firm should be required to show that it was charged a price for the product which it purchased from Vickers in excess of the prevailing market price paid by its competitors. Since Standard paid less than market prices for the Vickers product, the DOE concluded that Standard did not experience any injury of the type that is properly cognizable in a Subpart V proceeding. Accordingly, the DOE concluded that Standard's refund application should be denied.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name and Case No.

Crown Central Petroleum Corp./State of MD/ ERA, HRJ–0026

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Associated Service Corp, HEE–0046
City of Long Beach, CA, DRO–0161
Fulbright & Jaworski, HFA–0085
Sonat, Inc., HRO–0039
Taylor & Stauffer, HFA–0094
Taylor & Stauffer, HFA–0095
Taylor & Stauffer, HFA–0096

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: January 6, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83–821 Filed 1–11–83; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of December 13 Through December 17, 1982

During the week of December 13 through December 17, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy.

The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Nuclear Fuel, 12/17/82, HFA–0099

Nuclear Fuel, a trade publication covering the nuclear power industry, filed an Appeal from a partial denial by the Assistant Manager for Administration at DOE's Oak Ridge Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that release of the requested information would likely result in substantial competitive harm to one of the firms from whom the information had been obtained. The DOE thus determined that the withheld materials were exempt from mandatory disclosure pursuant to Exemption 4 of the FOIA. The DOE also concluded that release of the documents on public interest grounds would constitute a violation of the Trade Secrets Act, 18 U.S.C. § 1905. Accordingly, *Nuclear Fuel's* Appeal was denied.

Jerry L. Peterson, 12/15/82, HFA–0086

Jerry L. Peterson filed an appeal from a deniel by the Privacy Act Officer for the Albuquerque Operations Office of the Department of Energy of a request for information pursuant to the Privacy Act. In considering the Appeal, the DOE found that information contained in Peterson's security clearance file was improperly withheld under Exemption (k)(2) and (k)(5). The case was remanded to the Albuquerque Operations Office for the issuance of a new determination consistent with the principles set forth in the Decision and Order.

Petition for Special Redress

Attorneys General of Delaware, Iowa, Louisiana, North Dakota and Rhode Island, 12/13/82, HEG–0023

The Attorneys General of Delaware, Iowa, Louisiana, North Dakota and Rhode Island jointly filed a Peition for Special Redress concerning the distribution of funds received by the DOE pursuant to Consent Orders and deposited in escrow accounts administered by the Office of Hearings and Appeals pursuant to 10 CFR, Part 205, Subpart V. In this Petition, the States requested that all funds remaining in escrow after OHA has distributed refunds to claimants which have demonstrated injury due to the alleged regulatory violations, be remitted to state governments for use in energy-related programs or projects. In evaluating the Petition, the DOE found that the refund procedure advocated by the Attorneys General would not in all cases result in a close correspondence between the injured class of consumers and the beneficiaries of the refunds. Therefore the DOE ruled that the distribution of residual Subpart V refunds should be determined on an individual case basis. The DOE concluded that the Petition should be dismissed without prejudice and, in the interest of administrative efficiency, be deemed an Application for Refunds in each Subpart V proceeding pending before the Office of Hearings and Appeals.

Request for Exception

New York State Energy Office, 12/16/82, HEE–0030

The New York State Energy Office filed an Application for Exception from the provisions of 10 CFR Part 455 in which the firm sought additional federal funds to defray expenses incurred in administering Cycle IV of the DOE Institutional Building Grant Program. In considering the request, the DOE found that because New York had a low level of fixed administrative costs, administrative expense reductions were available to it. The DOE further found that in view of the size of New York's grant, the state had an incentive to continue participating in the program, even if additional state expenditures or cost-cutting measures were necessary. Accordingly, exception relief was denied.

Motion for Discovery

Exxon Company, U.S.A./Little America Refining Company, 12/13/82, HED–0091, HEJ–0027

On November 19, 1982, Exxon Company, U.S.A. filed a Motion for Discovery in connection with its Statements of Objections submitted in two year-end review proceedings for entitlement exception relief received by Little America Refining Company (Larco) for 1979 and 1980. In its Motion, Exxon requested access to confidential versions of decisions and orders that the OHA issued to Larco in thirteen prior proceedings. Subsequent to Exxon's filing, Larco agreed to amend the Stipulation for Access to Confidential Information previously signed by the two parties and approved by the OHA. The amended Stipulation permits Exxon access to the confidential version of the thirteen prior decisions as the firm requested. The OHA therefore approved the amended Stipulation and dismissed Exxon's Motion for Discovery.

Supplemental Orders

Office of Enforcement: in the matter of Lyon County Co-Operative Oil Company, 12/17/82; HEX–0065

The Office of Hearings and Appeals issued a Supplemental Order which provided for the distribution of a portion of the funds obtained as a result of the settlement which DOE entered with Lyon County Co-Operative Oil Company. The funds will be distributed to thirteen customers which purchased motor gasoline or middle distillates from Lyon during the period of November 1, 1973 through December 31, 1974.

Office of Special Counsel for Compliance, 12/14/82; HRX–0050

On July 16, 1982, the Office of Hearings and Appeals issued a decision and order requiring the Atlantic Richfield Company (ARCO) to conduct an additional search for documents responsive to OHA's discovery order in *Atlantic Richfield Co.*, 8 DOE ¶ 82,585 (1981). *See Office of Special Counsel (Arco)*, 9 DOE ¶ 82,595 (1982). In the July 16, 1982, decision, OHA did not specify the scope of the additional search Arco was to conduct but instead stated that it would insure a supplemental order specifying the scope of the additional search after the parties had filed comments on the matter. On September 14, 1982, the Office of Special Counsel for Compliance (OSC) filed a list of offices it stated Arco should search in its additional search. Arco and OSC were subsequently able to resolve their disputes concerning the majority of the items on OSC's list. On November 19, 1982, OHA convened a hearing at which the Presiding Office ruled on the few outstanding OSC search requests. The rulings made at this hearing were confirmed in a Supplemental Order OHA issued on December 14, 1982.

Refund Applications

Alfred B. Alkek/Adams Resources v. Energy Inc./Navajo Refining Company, 12/14/82; RF8–16

On April 8, 1982, the OHA issued a Decision and Order instituting special refund procedures for the distribution of funds obtained by the DOE in connection with consent orders entered into by Adams Resources and Energy, Inc. and the other firms and individuals listed in Appendix A of that Decision and Order. *Office of Enforcement*, 9 DOE ¶ 82,553 (1982) (*Alkek/Adams*). Navajo Refining Company (Navajo) filed an Application for Refund on May 3, 1982, pursuant to the special refund procedures established in *Alkek/Adams*. In considering the request, the OHA determined that Navajo's alleged injury was based upon a delay in the issuance of the January 1981 Entitlements Notice and was therefore unrelated to the violations referred to in *Alkek/Adams*. Accordingly, the firm's Application for Refund was denied.

Pennzoil Company/Barney Holland Oil Company, 12/13/82; RF10–57

On March 10, 1982, the Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures with respect to a $3,000,000 fund obtained by the DOE through a consent order with Pennzoil Company. *See Office of Special Counsel (Pennzoil)*, 9 DOE ¶ 82,545 (1982). The March 10 Decision stated that the DOE would accept applications for refund filed by purchasers of Pennzoil's covered products during the period March 6, 1973 through December 31, 1980. The December 13, 1982 Decision addresses an Application for Refund filed by an applicant claiming purchases of less than 50,000 gallons per month of motor oil only during the consent order period. In considering Barney Holland Oil Company's claim for refund, the DOE determined that the cost of processing such a claim outweighs the potential refund of less than $15. Accordingly, the DOE concluded that the application should be denied.

Tenneco Oil Company/Hoffman Enterprises, Inc., 12/16/82; RF7–103

Hoffman Enterprises, Inc. filed an Application for Refund in the Tenneco Oil Company Refund Proceeding pursuant to 10 CFR Part 205, Subpart V. The firm requested a refund based on its purchases of No. 2 fuel oil from Tenneco during the consent order period. Since Hoffman's purchases of covered petroleum products were below the small claim threshold level of 600,000 gallons per year, the Office of Hearings and Appeals determined that the firm should be granted a

refund for the full extent of its purchases from Tenneco based on a pro rata share of the consent order fund and accrued interest.

Dismissals

The following submissions were dismissed without prejudice:

Company Name and Case No.

Secor Petroleum, Inc., HRO–0059
Standard Oil Co. of Ohio, HRO–0029

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: January 4, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83–822 Filed 1–11–83; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of November 29 Through December 3, 1982

During the week of November 29 through December 3, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Request for Exception

State Of Rhode Island, Governor's Energy Office, 11/29/82, *HEE–0039*

The State of Rhode Island Governor's Energy Office filed an Application for Exception from the provisions of 10 CFR 455.83(a)(2) in which the State sought permission to use more than five percent of the total funds allotted to the State for Cycle IV of the Institutional Conservation Grant Program in order to defray administrative costs associated with running the Program. In considering the request, the DOE found that exception relief was appropriate since the State's current grant for administrative expenses was less than 25 percent of its actual administrative expenses, the State had implemented cost-cutting measures, and a disproportionate amount of the States' administrative costs are fixed. Accordingly, exception relief was granted.

Request for Modification and/or Rescission

Office of Enforcement/Raymond S. Williams, d.b.a Broadway Shell, 11/29/82, *HRR–0009*

The Office of Enforcement of the Economic Regulatory Administration (ERA) filed a Motion to Modify a Proposed Remedial Order (PRO) which the DOE had remanded previously in *Raymond S. Williams d.b.a. Broadway Shell,* 10 DOE ¶ 83,013 (1982), to clarify certain errors contained in the audit workpapers. The Modified PRO alleged that during the audit period, Broadway Shell's gasoline prices exceeded the maximum lawful selling prices for each product, calculated pursuant to 10 CFR 212.93. Broadway Shell failed to respond to the Motion or the Modified PRO. The DOE found that the ERA corrected the errors in the original PRO and therefore issued the Modified PRO as a final Remedial Order.

Interlocutory Orders

Atlantic Richfield Company, HRZ–0071; Gulf Oil Corporation, HRZ–0072; Marathon Oil Company, HRZ–0073; Texaco Inc., HRZ–0075; Louisiana Land and Exploration Company, 11/29/82, HRZ–0076

On July 9, 1982, the Atlantic Richfield Company, the Gulf Oil Corporation, the Marathon Oil Company, Texaco Inc., and the Louisiana Land and Exploration Company (collectively "the producers") filed a motion to compel additional discovery. In that motion, the producers sought to compel the Office of Special Counsel for Compliance (OSC) to produce certain documents which the OSC has identified in response to the discovery order in *Atlantic Richfield Co.,* 5 DOE ¶ 82,521 (1980) (*ARCO I*), and for which the OSC has asserted claims of privilege. The documents sought by the producers were identified in an index which the OSC filed with the Office of Hearings and Appeals on June 4, 1982. In considering the producers' motion, the OHA upheld the OSC's privilege claims for 18 of the documents at issue and for portions of two others. In three instances, the OHA rejected the OSC's claim of privilege. Finally, in two instances, the OHA ordered the OSC to produce documents for *in camera* inspection.

Economic Regulatory Administration, Office of Special Counsel, 12/3/82, HRZ–0106 through HRZ–0109

The Office of Speical Counsel for Compliance of the Economic Regulatory Administration (OSC) filed a motion to strike three affidavits submitted by Marathon Oil Company as part of its Statement of Objections to a Proposed Remedial Order issued to the firm. The three affidavits set forth the opinions of two former Cost of Living Council officials regarding the meaning of the three cent rule and the equal application rule in the DOE refiner price regulations. The DOE determined that the affidavits should be accorded no probative value because they contained opinions regarding the ultimate legal issues that the agency would be called upon to decide in the Marathon compliance proceeding. In this regard, the DOE pointed out that contentions concerning ultimate legal issues should properly be raised in a Statement of Objections, rather than in affidavits. The DOE denied the OSC motion to strike, however, on the grounds that no prejudice to any party would occur if the material remained in the record.

The DOE also considered an OSC motion to strike two other affidavits and business records submitted by Marathon after the date on which the firm's Statement of Objections was due. Since the affidavits did not contain opinions regarding ultimate legal issues, and since no delay had resulted from the fact that the filings were not concurrently submitted with the Statement of Objections, the DOE decided to accept the material into the record, and accord it due consideration.

Finally, the DOE determined that it was not necessary to announce the imposition of any specific sanctions upon Marathon if the firm submitted any untimely filings in the future. However, the DOE stated that it would consider summarily dismissing excessive or untimely filings made by any party to the Marathon compliance proceeding.

Implementation of Special Refund Procedures

Office of Special Counsel: In the Matter of The Charter Company 11/29/82, HEC–0005

The Office of Hearings and Appeals issued a final Decision and Order setting forth procedures to be used in filing applications for refund for a portion of the settlement funds obtained as the result of the Consent Order which the DOE entered into with The Charter Company. The funds will be available to customers which purchased No. 2–D diesel fuel from Charter during the period December 1, 1973 through June 20, 1975. Applications for refund must be postmarked within 90 days of the publication of the Decision and Order in the **Federal Register**. Specific information to be included in refund applications is discussed in the Decision.

Refund Applications

Tenneco Oil Co./McCurley Oil Co., 11/29/82, RF7–102

McCurley Oil Company filed an Application for Refund from the Tenneco Oil Company consent order fund pursuant to 10 CFR Part 205, Subpart V. The firm requested a refund based on its purchases of motor gasoline and diesel fuel from Tenneco during the consent order period. Since the firm elected to limit its refund claim on its purchases of motor gasoline from Tenneco to 600,000 gallons per year, and purchased less than 600,000 gallons of diesel fuel annually from Tenneco, the Office of Hearings and Appeals determined that the firm should be granted a refund for those purchases based on a pro rata share of the consent order fund an accrued interest.

Vickers Energy Corp./Hudson Oil Co., Inc., 12/3/82, RF1–237, RF1–238, RF1–239

Hudson Oil Company filed an Application for Refund in the Vickers Energy Corporation Special Refund Proceeding pursuant to 10 CFR Part 205, Subpart V. Hudson requested a refund on the basis of its entire purchases of motor gasoline from Vickers during the period August 19, 1973 through March 31, 1979. The firm purchased more than 600,000 gallons of motor gasoline from Vickers in each year of the consent order period. In reviewing the refund application, the OHA

found that Hudson failed to provide detailed market information regarding the operation of the firm as a whole. The OHA determined that information regarding Hudson's firmwide operations was a necessary prerequisite to establishing its eligibility for a refund in order to determine the extent of any injury it might have suffered as a result of Vickers' alleged regulatory violations. Hudson's refund, therefore, was limited to its pro rata share of the consent order fund based on its purchases of 600,000 gallons of motor gasoline per year.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

Bill Forney, Inc., HEG–0025 HRS–0020
Central Louisiana Electric Co., Inc., HEE–0050
Champlin Petroleum Company, BRA–0510
Mercury Production Company, HRO–0079
Tipperary Corporation, HRO–0078, HRD–0078, HRH–0078
Ms. Aida Waserstein, HFA–0100

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: January 4, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83–823 Filed 1–11–83; 8:45 am]

BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed; Week of November 22 Through 26, 1982

During the week of November 22 through November 26, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: January 4, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Burgess Marketing, Inc., Waco, Texas, HRO–0087

On November 24, 1982, Burgess Marketing, Inc., 315 South University Park, Waco, Texas, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on September 21, 1982. In the PRO, the Southeast District Office found that from March 1, 1979 to March 31, 1980, Burgess Marketing, Inc. sold motor gasoline at prices exceeding lawful limits as determined under DOE price regulations. According to the PRO, the Burgess Marketing, Inc. violation resulted in $504,697.55 of overcharges.

Evett Oil Co., Comanche, Texas, HRO–0098

On November 24, 1982, Evett Oil Company, 707 East Central, P.O. Box 129, Comanche, Texas filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on September 20, 1982. In the PRO, the Southeast District Office found that during March 1, 1979 to March 31, 1980, Evett Oil Company sold motor gasoline at prices exceeding lawful limits as determined under DOE price regulations. According to the PRO, Evett Oil Company violation resulted in $308,336.11 of overcharges.

[FR Doc. 83–824 Filed 1–11–83; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30222; PH–FRC 2283–8]

Certain Companies; Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended.

DATE: Comment by February 11, 1983.

ADDRESS: Written comments, identified by the document control number [OPP–30222] and the file or registration number, should be submitted to the product manager (PM) cited at the address below: Registration Division (TS–767C, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 8480–EA. Applicant: Cosan Chemical Corp., 400 14th St., Carlstadt, NJ 07072. Product name; Cosan 145. Preservative. Active ingredient: Methanol, [[[2-(dihydro-5-methyl-3(2*H*)-oxazolyl)-1-methylethoxy]methoxy] methoxy] 50%. Proposed classification/Use: General. For the manufacture of latex paints, resin emulsions, adhesives, dispersed colors, pigment slurries, and ready mixed cements. (Product Manager (PM) 31–John Lee, (703–557–3663)).

2. File Symbol: 45177–E. Applicant: Thiokol/Specialty Chemicals Div., PO Box 8296, Trenton, NJ 08650. Product name: "CI–193C". Bactericide. Active ingredient: 1-Dodecanamium, *N,N'*-(methlyenebis(oxy 2,1-ethanediyl))bis (*N,N*-dimethly-,dichloride) 96.62%. Proposed classification/Use: General. For the formulation of a bactericide to be used in oil field operations (corrosion inhibitor). (PM 31–John Lee, (703–557–3663)).

3. File Symbol: 45177–G. Applicant: Thiokol/Specialty Chemicals Div. Product name: CI–83. Bactericide. Active ingredient: 1-Dodecanamium, *N,N'*-(methylenebis(oxy 2,1-ethanediyl))bis (*N,N'*-dimethyl-,dichloride) 50%. Proposed classification/Use: General. For use in oil field drilling operations (corrosion inhibitors). (PM 32–John Lee, (703–557–3663)).

4. File Symbol: 47374–R. Applicant: Inolex Chemical Co., 4221 S. Western Blvd., Chicago, IL 60609. Product name: Lexgard Bronopol. Disinfectant. Active ingredient: 2-Bromo-2-nitro-1,3-propanediol 98%. Proposed classification/Use: General. A technical product for formulating biocides. PM 31–John Lee, (703–557–3663)).

5. File Symbol: 1471–RGG. Applicant: Elanco Products Co., 740 S. Alabama St., Indianapolis, IN 46285. Product name:

Bant. Insecticide. Active ingredient: *N*-[2,-Amino-3-nitro-5-(trifluoromethly)phenyl]-2,2,3,3-tetrafluoropropanamide 0.75%. Proposed classification/Use: General. For the control of imported fire ants and use on noncropland areas only. Treated areas should not be grazed. Type registration: Conditional. (PM 15–George LaRocca, (703–557–2400)).

6. File Symbol: 1471–RGU. Applicant: Elanco Products Co. Product name: Rubigan 50W. Fungicide. Active ingredient: Alpha-(2-chlorophenyl)-alpha-(4-chlorophenyl)-5-pyrimidinemethanol 50%. Proposed classification/Use: General. For the control of dollar spot, large brown patch, fusarium blight, stripe smut, and pink or gray snow mold or turfgrass; for use of Gold Courses, Parks, Athletic Fields, and Commercial Turf Areas. Type registration: Conditional. (PM) 21-Henry Jacoby, (703–557–1900)).

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 5, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–714 Filed 1–11–83; 8:45 am]

BILLING CODE 6560–50–M

[PF–304); PH–FRL 2284–1]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to establishment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: Written comments to: Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF–304]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide petitions (PP) relating to establishment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues where required is given in each petition.

1. *PP 3F2794.* Velsicol Chemical Corp., 341 East Ohio St., Chicago, IL 60611. Proposes amending 40 CFR 180.227 by establishing tolerances for the combined residues of the herbicide dicamba (3,6-dichloro-*o*-anisic acid) and its metabolite 3,6-dichlorosalicylcic acid in or on the raw agricultural commodity cottonseed at 3.0 parts per million (ppm). The proposed analytical method for determining residues is gas chromatography with an electron capture detector.

2. *PP 3F2788.* American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. Proposes amending 40 CFR 180.361 by establishing tolerances for the combined residues of the herbicide pendimethalin [*N*-(1-ethylpropyl)-3,4-dimethylethyl-2,6,-dinitrobenzamine] and its metabolite (4-[(1-ethylpropyl] amino)-2-methyl-3,5-dinitrobenzyl alcohol] in or on the raw agricultural commodities forage, grain, and straw of wheat and forage, grain, and straw of barley at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography using an electron capture detector.

3. *PP 3F2792.* American Cyanamid Co. Proposes amending 40 CFR 180.361 by estabishing tolerances for the combined residues of the herbicide pendimethalin in or on the raw agricultural commodities pea pods, shelled peas, pea vines, and peas plus pods at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography using an electron capture detector.

(Sec. 408(d)(1) 68 Stat. 512 (7 U.S.C. 136))

Dated: December 20, 1982.

Robert Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83–713 Filed 1–11–83; 8:45 am]

BILLING CODE 6560–50–M

[Opp 42054E; PH–FRL 2268–4]

Commonwealth of Kentucky; Approval of Amendments to State Plan for Certification of Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In the **Federal Register** of September 8, 1982 (47 FR 39609), the Agency announced its intent to approve certain proposed amendments to Kentucky's State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides. The Plan had been approved on August 27, 1980, and notice of the approval appeared in the **Federal Register** of October 10, 1980 (45 FR 67452). The comment period for the proposed amendments ended on October 8, 1982; no comments were received. Accordingly, this notice announces the Agency's approval of Kentucky's proposed amendments.

DATE: This approval is effective January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Kent Williams, Pesticides and Toxic Substances Branch, Environmental Protection Agency, Region IV, 345 Courtland St., NE., Atlanta, GA 30365, (404–881–3222).

SUPPLEMENTARY INFORMATION: The Kentucky State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides was approved on August 27, 1980. Kentucky requested to amend its Plan by establishing additional commercial applicator subcategories. In the **Federal Register** of September 8, 1982 (47 FR 39609), the

Agency announced its intent to approve these proposed amendments to Kentucky's State Plan.

Under the Plan as orgianlly approved, the Kentucky Agricultural Pest Control category contained two subcategories, Plant and Animal, which remain unchanged. The Agency approved the addition of a third subcategory, entitled Fumigation—Agricultural-related—Non-residential, to the established Agricultural Pest Control category.

The Agency also approved the expansion of Kentucky's Ornamental and Turf Pest Control category into two separate subcategories, one, Ornamental Pest Control, and the other, Turf Pest Control.

In the amendments, Kentucky defines the new subcategories and provides specific standards of competency for each. Also provided is an estimate of the numbers to be certified in the new subcategories and sample test questions and training materials.

The Agency received no comments on the proposed amendments and hereby approves them.

Dated: November 24, 1982.

Charles Jeter,

Regional Administrator, Region IV.

[FR Doc. 83-329 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66096; PH-FRL 2278-6]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the name of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: February 11, 1983.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lela Sykes, Process Coordination Branch (TS-767C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 706, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7406).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No.	Product name	Registrant	Date registered
61-145	Koppers Antifoulant Coating 990 Green	Koppers Company, Inc., Environmental Resources Department, Pittsburgh, PA 15219.	Oct. 18, 1973.
61-146	Koppers Antifoulant Coating 990 White	do	Oct. 15, 1973.
61-147	Koppers Antifoulant Coating 990 Blue	do	Oct. 18, 1973.
61-156	Brolite Z SPAR SAC-115 Racing Bronz Antifouling	do	Aug. 2, 1974.
148-749	De Pester Thiram-Maneb 3.3-6	Thompson Hayward Chemical Co., P.O. Box 2383, Kansas City, KS 66110.	Nov. 20, 1967.
239-97	Ortho Parathion 15 Wettable	Chevron Chemical Co., Ortho Division, 940 Hensley St., Richmond, CA 94801.	July 24, 1948.
239-322	Ortho Parathion 25 Wettable	do	Oct. 23, 1957.
239-400	Ortho Parathion-Sulfur 2-50 Dust	do	Dec. 27, 1957.
239-547	Orthophos 4 Emulsive	do	July 8, 1957.
239-610	Ortho Parathion 4 Emulsive	do	Feb. 27, 1958.
239-944	Ortho Chevron Parathion 25 Dust Concentrate	do	Apr. 18, 1956.
239-1076	Ortho Parathion-Zinc Copsell 2-25 Dust	do	Mar. 13, 1958.
239-1268	Ortho Parathion 8 Flow Concentrate	do	May 1, 1959.
239-1305	Ortho Thiodan 2 Emulsive	do	Apr. 10, 1958.
239-1354	Ortho Thiodan Sulfur 3-50 Dust	do	May 20, 1958.
239-1355	Ortho Thiodan 3 Dust	do	Dec.
239-1357	Ortho Thiodan 25 Dust Concentrate	do	May 25, 1955.
239-1428	Ortho Lawn and Turf Fungicide	do	Nov. 6, 1958.
239-1561	Ortho Thiodan 50 Wettable	do	Jan. 9, 1961.
239-1616	Ortho Thiodan 4 Dust	do	June 1, 1961.
239-1685	Ortho Parathion 8 Flow Concentrate (LF)	do	June 25, 1959.
239-1855	Ortho Thiodan Kelthane 4-4 Dust	do	Aug. 20, 1963.
239-1856	Ortho Thiondan Kelthane Sulfur 4-4-30 Dust	do	Aug. 27, 1963.
239-1861	Ortho Thioden 5 Dust	do	Sept. 10, 1963.
239-1862	Ortho Thiodan Sulfur 5-25 Dust	do	Dec.
239-1930	Orthocide Thiodan 5-2 Dust	do	May 12, 1964.
239-1955	Ortho Thiodan Sulfur 4-50 Dust	do	July 1, 1964
239-1962	Ortho Thiodan Sulfur 4-25 Dust	do	July 20 1964.
239-2014	Ortho Thiodan Sulfur 5-40 Dust	do	Oct. 8, 1964.
239-2112	Ortho Thiodan Diazinon 3-2 Dust	do	July 12, 1965
239-2132	Ortho Thiodan Karathane 3-1 Dust	do	Aug. 30, 1965.
239-2223	Ortho Thiodan 2 C.O. Emulsive	do	May 27, 1967.
239-2226	Ortho Golf and Turf Fungicide	do	July 3, 1967.
239-2231	Ortho Methyl Parathion Thiodan 2-3 Emulsive	do	July 14, 1967
239-2236	Ortho Thiodan Parathion 2-1 C.O. Emulsive	do	June 27, 1968.
239-2256	Ortho M-P Citrus Spray	do	May 16, 1968.
239-2282	Ortho Thiodan Phosdrin 2-1 Emulsive	do	Nov. 4, 1968
239-2324	Ortho Tomato and Potato Dust	do	Sept. 9, 1970.
239-2384	Ortho Thiodan Methyl Parathion Toxaphene 2.5-2.5-10 Dust	do	Mar. 19, 1972.
239-2410	Ortho MCP 4 Weed Killer	do	Feb. 6, 1973.
279-1017	Niacide M	FMC Corporation, Agricultural Chemical Division, 2000 Market St., Philadelphia, PA 19103.	Feb. 3, 1956.
279-1043	Niacide M Dust	do	Apr. 11, 1956.
279-1074	Niacide M Phos Kil 1.5 Dust	do	June 7, 1956.
279-1561	Thiram 4-9 Dust	do	May 4, 1960.
279-1583	Niacide M4 Parathion 1.5 Zineb 4 Dust	do	May 18, 1960.
279-1623	Niacide M4 Sevin 10 Dust	do	July 8, 1960.

Registration No.	Product name	Registrant	Date registered
279-1940	Nisclor M7 Sevin 10 Dust	....do	Sept. 15, 1961.
279-1941	Nisclor M4 G/3 Dust	....do	June 22, 1962.
279-1984	Methyl Parathion 2 Sevin 7.5 Dust	....do	Aug. 10, 1962.
279-2716	Nynamite 44 Insecticide	....do	Apr. 21, 1969.
279-2723	Methyl Parathion 2 Toxaphene 15 Dust	....do	July 7, 1970.
506-116	Tat-Go Animal Repellent Concentrate	Linck O. E. Company Division, 1234 State Highway, Clifton, NJ 07015.	Apr. 12, 1967.
524-121	PCNB 60 Percent Dust Concentrate	Monsanto, 1101 17th St., NW., Suite 604, Washington, D.C. [illegible]	Dec. 27, 1961.
802-87	Miller's Lawn Weed Killer	The Chas. H. Lilly Company, 7737 NE. Killingsworth, Portland, OR 97218.	Feb. 28, 1952.
829-62	SA-50 Brand 2 Percent Parathion Dust	Southern Agricultural Insecticides, Inc., P.O. Box 218, Palmetto, FL [illegible]	Apr. 23, 1954.
829-73	SA-50 Brand Manzate Dust With 1 Percent Parathion	....do	Apr. 27, 1955.
829-184	SA-50 Brand 2 Percent Parathion With 60 Percent Sulfur	....do	Apr. 19, 1966.
904-258	Agrisect Malathion 57 Emulsifiable Liquid	Miller Chemical & Fertilizer Corp., Pratt-Gabriel Division, 204 21st Ave.,.	Jan. 21, 1964.
904-305	Agrisect Malathion 57-E	....do	Dec. 29, 1971.
1439-123	Chem-VAPE	Blue Spruce Company, 50 Division Ave., Millington, NJ 07946, Patterson, NJ 07509.	Nov. 30, 1956.
1812-106	S-3 Tobacco Dust	Griffin Corp., P.O. Box 1847, Valdosta, GA 31601.	May 14, 1973.
2342-807	Abron—100	Kerr McGee Chemical Corp., Kerr-McGee Building, Oklahoma City, OK 73125.	Sept. 9, 1973.
2342-908	Trona Metron—80	....do	Aug.9, 1973.
2460-53	Gowen's 28 Cotton Spray	Howerton Gowen Chemicals, Inc., P.O. Box 247, Roanoke Rapids, NC 27870.	June 16, 1972.
2460-54	Gowen's 6—3 Emulsifiable Insecticide Concentrate	....do	Oct. 24, 1974.
2562-96	Wide Spectrum Speed Cote Antifouling Red 3220	International Paint Co., P.O. Box 386, Union, NJ 07083.	Nov. 3, 1972.
2562-99	Polaris Antifouling Red 3040	....do	Mar. 23, 1973.
2562-91	Wide Spectrum Speed Cote Antifouling Maroon Blue 5755	....do	Oct. 16, 1975.
3061-85	Parathion 8 EC	AGCO Agricultural Products Co., P.O. Box 696, Mesquite, NM [illegible]	Sept. 23, 1969.
3061-86	AGCO Parathion 4 Insecticide	....do	Sept. 24, 1969.
4365-3	Chemprocide Detergent and Sanitizer	Pacific Chemical, 500 7th Ave., South, Kirkland, WA 98033.	July 9, 1953.
5481-155	Parathion E-4	Pennwalt Corporation, 3 Parkway, Philadelphia, PA 19102.	May 9, 1961.
5481-273	Parathion W-15	Pennwalt Corporation, P.O. Box 3, King of Prussia, PA 19406.	Oct. 24,1970.
5905-34	Gro-Well Lawn Fungicide	Seacoast Laboratories, Inc., 257 Highway 18, East Brunswick, NJ [illegible]	Nov. 25, 1960.
5905-58	4 lb. Methyl Parathion	Helena Chemical Co., Clark Tower, Suite 2900, 5100 Poplar Ave., Memphis, TN 38137.	Jan. 24, 1962.
5905-179	Ethyl Methyl 6-3	....do	July 1, 1972.
5905-340	Helena Brand Methyl 4-EC	....do	Mar. 20, 1974.
5905-307	Helena Brand Methyl Parathion 4 E	....do	Jan. 21, 1974.
5905-315	Helena Parathion 8-E	....do	Mar. 22, 1965.
5905-347	Helena Parathion 6 Methyl 3	....do	July 7, 1970.
6079-6	Methyl Parathion 4	North Louisiana Chemicals, Inc., P.O. Box 127, Gilliam, LA 71029.	May 23, 1957.
6079-11	Eight-Two Toxaphene-Methyl Parathion	....do	June 12, 1972.
6079-12	Six-Three Toxaphene-Methyl Parathion	....do	Dec.
6596-274	Thiram-Tineased 5-5G	Agway, Inc., Fertilizer-Chemical Division, P.O. Box 4933, Syracuse, NY 13221.	May 15, 1967.
9779-89	Riverside T-Man Cotton Seedling Fungicide	Riverside Chemical Co., 5900 Poplar Ave., P.O. Box 171367, Memphis, TN 38117.	Apr. 25, 1968.
9779-166	Riverside Stimucoy Seed Protectant	....do	Jan. 17, 1966.
9779-169	Protex A Planty Seed Pro	....do	Dec. 23, 1971.
9782-23	Parathion 2 Dust	Woodbury Chemical Co., P.O. [illegible] 4319, Princeton, FL 33032.	Feb. 14, 1975.
9782-24	Parathion Sulfur 2-80 Dust	....do	Aug. 19, 1975.
9782-25	Paran 6-3 E	....do	Oct. 14, 1976.
9782-26	Parthion 8-E	....do	June 10, 1975.
10229-5	Rockwood Brand Systemic T	Rockwood Chemical Company, P.O. Box 34, Brawley, CA 92227.	Mar. 11, 1969.
10813-1	No. 91 Germicidal Sanitizing Solution Concentrate	Fend-All Company, 5 E. College Drive, Arlington Heights, IL 60004.	Jan. 19, 1970.
11547-6	Super Aquatic Weed Control	Share Corporation, P.O. Box 23053, [illegible], WI 53223.	July 18, 1972.
12910-19	Misco Aqua-Check	Misco International Chemicals, Inc., 1021 South Noel Ave., Wheeling, IL 60090.	Dec. 11, 1974.
22965-80	Basic Copper Arsenate	PBI Gordon Corporation, Acme Division, 300 South St.,	Aug. 19, 1974.
34705-21	Thiram 75%	Fallek-Lankro Corp. P.O. Box H Tuscaloosa, AL 35401.	Feb. 2, 1978.
46609-88	Methyl Parathion	FBC Chemicals, Inc., P.O. Box 2967, Wilmington, DE 19805.	May 11, 1981.

Registration No.
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46148-2
46148-3

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Registration No.	Product name	Registrant	Date registered
46146-1	Fresh Protected 100	Citrus Machinery and Coatings, Inc., [illegible]	Mar. 5, 1982.
46146-2	Fresh Protected 200	do	Do.
46146-3	Fresh Protected 300	do	Mar. 15, 1982.

The Agency has agreed that such cancellation shall be effective February 11, 1983, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for 1 year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.,

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20400.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66096]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in the Document Control Office, Room E-107, at the above address from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended 86 Stat. 973 89 Stat. (751, 7 U.S.C. 136))

Dated: December 22, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-186 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

[OPRM--FRL 2264-6]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 m Street, SW.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Air Programs

• Title: NSPS—Volatile Organic Compound: Fugitive Emission Sources, Synthetic Organic Chemical Manufacturing Industry (SOCMI) (EPA ID 0662)

Abstract: Owners of new plants producing any organic chemicals from a list of over 300 must document their control of fugitive emission sources at various intervals. EPA and plant management use these records to ensure compliance with the standards.

Respondents: Owner or operators of new plants producing certain chemicals.

* * * * *

Agency Forms Cleared by OMB Between December 10 and December 21, 1982

• EPA ID 0573, Premanufacture Notification Interim Policy, was cleared on December 20 (OMB #2000-0054).

• EPA ID 0995, Information Requirements for RCRA Land Disposal Facilities, was cleared on December 20 (OMB #2050-0007).

• EPA ID 0944, RCRA C Compliance Survey, was cleared on December 21 (OMB #2010-0001).

* * * * *

Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), 401 M Street SW., Washington, D.C. 20460

and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228); 726 Jackson Place NW., Washington, D.C. 20503.

Dated: January 5, 1983.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 83-619 Filed 1-11-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

National Industry Advisory Committee, Long Range Planning Subcommittee; Meeting

January 5, 1983.

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Long Range Planning Subcommittee of the National Industry Advisory Committee (NIAC) to be held on Thursday, January 27, 1983. The Subcommittee will meet at the FCC Commission Meeting Room (Room 856) located at 1919 M Street, NW., Washington, D.C. at 2:00 p.m.

Purpose: To initiate activities of the Subcommittee; to consider defense preparedness and emergency communications matters.

The meeting agenda is as follows:

1. Welcome by Defense Commissioner Mimi Weyforth Dawson.
2. Opening remarks by Chairman Mark S. Fowler.
3. Introduction of members of the Subcommittee and of other attendees.
4. Selection of Subcommittee Chairman and Vice Chairman.
5. Briefing by FCC staff on defense preparedness and emergency communications activities of the Commission.
6. Discussion of the functions of the National Industry Advisory Committee and the role of the Long Range Planning Subcommittee.
7. Other business by the Subcommittee.
8. New business.
9. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or

after the meeting. Those desiring more specific information about the meeting may telephone the Executive Secretary at the Emergency Communications Division, FCC, (202) 634–1600.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-607 Filed 1-11-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 82-836; File No. BML-810816AA]

Salter Broadcasting Co.; Designating Application for Hearing on Stated Issues

Hearing Designation Order

Adopted: December 27, 1982.

Released: December 30, 1982.

In re Application of Salter Broadcasting Company, WBEL, Beloit, Wisconsin, Has: 1380 kHz, 5 kW, DA–N, U South Beloit, Illinois; Req: 1380 kHz, 5 kW, DA–N, J Beloit, Wisconsin, For Modification of License.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the application Salter Broadcasting Company to change the city of license of AM station WBEL from South Beloit, Illinois, to Beloit, Wisconsin. WBEL is presently the only station licensed to South Beloit (population 4,088). Beloit (population 34,207) in contrast has two licensed stations, one a noncommercial FM facility.

2. Section 307(b) of the Communications Act of 1934, as amended, requires in pertinent part that broadcast facilities be distributed among the several States and communities so as to provide "a fair, efficient, and equitable distribution of radio service to each of the same." In line with this statutory mandate, we have established as our second highest priority in the assignment of AM stations the provision of at least one outlet for self-expression for as many independent communities as possible,[1] *AM Station Assignment Standards*, FCC 63–486, 25 RR 1615, 1626 (1963). To the extent that a license seeks to significantly reduce, or in this case eliminate, local service in order to provide service to an already well-served community, this important assignment goal is compromised. Hence we have consistently designated such proposals for hearing. *See e.g., Rust Communications Group, Inc.*, 52 FCC 2d 1252 (1975).

3. There is no sound basis for a different approach here. In seeking approval of its proposal, Salter maintains that Beloit and South Beloit are for all practical purposes a single entity. Our grant of its license to operate in South Beloit represents a conclusion to the contrary, however, and we are not persuaded from the information before us that this conclusion was either erroneous when made [2] or incorrect now in light of changed circumstances. As for the argument, finally, that WBEL's coverage of South Beloit would remain unchanged by a grant, it is the loss of a local outlet, not the loss of a reception service, which is at issue here.

4. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the application of Salter Broadcasting Company is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues.

1. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, whether the proposal advanced by Salter Broadcasting Company would provide a fair, efficient and equitable distribution of radio service.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, whether a grant of the application would serve the public interest, convenience and necessity.

5. It is further ordered, That, to avail itself of the opportunity to be heard, the applicant shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

6. It is further ordered, That, the applicant herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing, within the time and manner prescribed in that Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Service Division, Mass Media Bureau.

[FR Doc. 83-606 Filed 1-11-83; 8:45 am]

BILLING CODE 6712-01-M

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[1] Our first priority, the provision of at least one service to as many people as possible, is not at issue as Salter proposes no changes in its existing coverage.

[2] WBEL was originally licensed to serve Beloit. In 1958, the station moved to South Beloit so as to qualify for a nighttime operating authority under then existing Commission Rules.

FEDERAL MARITIME COMMISSION

Mr. Cyrus C. Guidry; Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T–3576–3.

Filing party: Mr. Cyrus C. Guidry, Port Counsel, Board of Commissioners of the Port of New Orleans, P.O. Box 60046, New Orleans, Louisiana 70160.

Summary: Agreement No. T–3576–3 modifies the basic agreement between the Board of Commissioners of the Port of New Orleans (Board) and the Puerto Rico Maritime Shipping Authority (PRMSA), which provides for the Board's 25-year renewable term lease to PRMSA of France Road Berth No. 4, Container Terminal at the Port of New

Orleans. The purpose of the modification is to provide for the construction of a new wharf approach ramp and 25 reefer outlets at the terminal. Board is to assume ownership of these facilities, and PRMSA is to pay additional rent equal to 13.75 percent of the total cost of said facilities.

Agreement No. T–3985–1.

Filing party: Mr. Frank H. Clark, Associate Director of Real Estate, Facilities, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–3985–1, between the Port of Seattle (Port) and Seacon Terminals, Inc. (ST) provides for the lease by the Port to ST of certain premises at Port's Terminal 25, as well as preferential use of the Port-owned cranes and straddle carrriers. The modification provides for the deletion of the use of two Port-owned straddle carriers on an "as available" basis, and to provide that payment for use of the three Port-owned container cranes and three Port-owned gantry cranes is to be based solely upon actual hours of use pursuant to Port Tariff No. 3. The agreement will become effective upon Commission approval.

Agreement No. T–4042–1.

Filing party: Mr. J. H. Fox, Director of Marine Services, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–4042–1, between the Port of Seattle (Port) and Seattle Stevedore Company (SSC) modifies Agreement No. T–4042 which provides for the lease by the Port to SSC of certain premises located at Terminal 18/20 complex in the Port of Seattle for use as a container and/or breakbulk operation including functions for a marine yard. The amendment assigns the Agreement to Seattle International Terminal (SIT), a subsidiary of SSC. SIT will assume all SSC's responsibilities and obligations under the basic agreement. The agreement will become effective upon Commission approval.

Agreement No. 131–252.

Filing party: Charles L. Coleman, III, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreement No. 131–252 modifies the qualifications for membership in the Pacific Cruise Conference Agreement (No. 131) by (1) deleting the requirement that members' cruise operations must commence or terminate at a Pacific coast port; and (2) restricting membership to cruise vessel operators, rather than boat or ferry operators.

Agreements Nos. 8760–13 and 9247–10.

Filing party: Charles L. Coleman, III, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreement No. 8760–13, the West Coast United States and Canada/India, Pakistan, Bangladesh, Sri Lanka and Burma Rate Agreement; and Agreement No. 9247–10, the India, Pakistan, Bangladesh, Sri Lanka and Burma/West Coast United States and Canada Rate Agreement amend the basic agreements to exempt the agreements from the requirements of 46 CFR Part 528, Commission rules governing self-policing, when the membership falls to two parties.

Agreement No. 10378–2.

Filing Party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street NW., Washington, D.C. 20006

Summary: Agreement No. 10378–2, between Trailer Marine Transport Corporation, Naviera Central, C. A. and Naviera Continental, S. A. provides for the cancellation of the agreement by mutual agreement of the parties.

Dated: January 7, 1983.

By Order of the Federal Maritime Commission

Francis C. Hurney,

Secretary.

[FR Doc. 83–629 Filed 1–11–83; 8:45 am]

BILLING CODE 6730–01–M

Robert L. McGeorge; Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10427; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 15 days after the date of the Federal Register in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreement No.: 10463.

Filing Party: Robert L. McGeorge, Johnston, McGeorge & Davidson, 1000 Potomac Street, N.W., Washington, D.C. 2007.

Summary: Agreement No. 10463 is a sailing and space charter (space-available) agreement between Lineas Maritimas Paraguayas S.A. and the Holland Pan-American Line applying to the trades between points and ports on the Atlantic and Gulf Coasts of the United States and points and ports in Argentina, Paraguay, Uruguay and Brazil. The agreement has a 5-year term.

Dated: January 7, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83–631 Filed 1–11–83; 8:45 am]

BILLING CODE 6730–01–M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on December 21, 1982, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96–325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No.: LM–82–1.

Filing Party: Royston, Rayzor, Vickery, & Williams, 220 Texas Commerce Tower, Houston, Texas 77002.

Summary: Basic Agreement No. LM–82 is a Resolution of the West Gulf Maritime Association establishing the Guaranteed Annual Income Program and Fringe Benefits Contract Administration Assessment. The amendment, LM–82–1 provides for an increase in the amount of the assessments set out in the original Resolution.

Dated: January 7, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-630 Filed 1-11-83; 8:45 am]

BILLING CODE 6730-01-M

South African Marine Corporation, Ltd., Springok Shipping Company, Ltd. and Springbok Lines, Ltd. Sailing/Berthing Agreement; Cancellation of Agreement No. 9816

Filing Party: Frank Picciolo, Pricing Manager, South African Marine Corporation (N.Y.), One Bankers Trust Plaza, New York, New York 10006.

Summary: On December 22, 1982, the Commission received notice from South African Marine Corporation that Agreement No. 9816, a berthing and sailing agreement with Springbok Shipping Company, Ltd. and Springbok Lines, Ltd. is no longer active and should be cancelled. Therefore, Agreement No. 9816 has been terminated effective December 22, 1982.

Dated: January 7, 1983.

Robert G. Drew,

Director, Bureau of Agreements.

[FR Doc. 83-632 Filed 1-11-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Norstar Bancorp Inc.*, Albany, New York; to acquire 100 percent of the voting shares or assets of Northeast Bankshares Association, Portland, Maine. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than February 4, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-786 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Security Bancorp, Inc.*, Southgate, Michigan; to acquire 100 percent of the voting shares of the successor by consolidation to The First National Bank of Monroe, Monroe, Michigan, which will change its name to Security Bank of Monroe upon conversion to a Michigan banking organization. Comments on this application must be received not later than February 4, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-785 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 115.4(b)(1)), for permission to engage de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "resaonably be expected to product benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation*, New York, New York (financing and insurance activities; Winston-Salem, North Carolina): To continue to engage, through its subsidiary, Sunamerica Corporation, in the previously approved activities of making direct loans, purchasing installment sales finance contracts, and acting as agent or broker for the sale of life, accident and health, and property and casualty insurance directly related to such extensions of credit. These activities will be conducted from an office on Winston-Salem, North Carolina, servicing the city of Winston-Salem and its environs. This application is for the relocation of an office within the same city. Comments on this application must be received not later than Feburary 4, 1983.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *NBD Bancorp, Inc.*, Detroit, Michigan (mortgage banking activities; Michigan): To engage, through its subsidiary, NBD Mortgage Company, in

mortgage banking activities, including the making or acquiring for its own account and for the account of others, mortgage loans and such other extensions of credit, as would be made by a mortgage company. These activities would be conducted from an office in Saginaw, Michigan, serving the counties of Saginaw, Midland, Bay and Tuscola, Michigan. Comments on this application must be received not later than February 1, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-790 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

European American Bancorp; Proposed Acquisition of a Limited Partnership Interest in Pilgrim Baxter, Hoyt, and Greig

European American Bancorp, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire, through its subsidiary, EAB Holding Corp., a 40 percent limited partnership interest in Pilgrim, Baxter, Hoyt, and Greig, Philadelphia, Pennsylvania.

Applicant states that the proposed subsidiary would engage in the business of rendering to clients investment management advice with respect to securities. These activities would be performed from offices of Applicant's subsidiary in Philadelphia, Pennsylvania, and the geographic area to be served is the United States. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resoures, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 4, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-784 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice president) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens Bancorp, Inc.*, New Tazewell, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank, New Tazewell, Tennessee. Comments on this application must be received not later than February 4, 1983.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicage, Illinois 60690:

1. *Illinois Valley Bancorp, Inc.*, Morris, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Grundy County National Bank, Morris, Illinois. Comments on this application must be received not later than February 4, 1983.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Smithville Bankshares, Inc.*, Smithville, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Smithville, Smithville, Texas. Comments on this application must be received not later than February 4, 1983.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Empire Bancorp*, Rancho Cucamonga, California; to become a bank holding company by acquiring 100 percent of the voting shares of Empire Bank, N.A. (in organization), Rancho Cucamonga, California. Comments on this application must be received not later than February 4, 1983.

E. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *High Point Financial Corporation*, Branchville, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Sussex County, Branchville, New Jersey. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than February 4, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-786 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation

would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Palmetto Bancshares, Inc.*, Laurens, South Carolina; to become a bank holding company by acquiring 80 percent of the voting shares of The Palmetto Bank, Laurens, South Carolina. Comments on this application must be received not later than February 4, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mid Illinois Bancorp, Inc.*, Peoria, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of South Side Trust & Savings Bank of Peoria, Peoria, Illinois. Comments on this application must be received not later than February 4, 1983.

2. *Town & Country Bancorp, Inc.*, Springfield, Illinois, to become a bank holding company by acquiring 80 percent of the voting shares of Town & Country Bank, Springfield, Illinois. Comments on this application must be received not later than February 4, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *CNB of Lebanon Bancorp, Inc.*, Lebanon, Kentucky; to become a bank holding company by acquiring 80 percent of the voting shares of Citizens National Bank, Lebanon, Kentucky. Comments on this application must be received not later than February 4, 1983.

2. *Central Banc System, Inc.*, Granite City, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Granite City Trust and Savings Bank, Granite City, Illinois. Comments on this application must be received not later than February 4, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Trans Bankcorp, Inc.*, San Francisco, California; to become a bank holding company by acquiring 97.5 percent of the voting shares of trans American National Bank, Monterey Park, California. Comments on this application must be received not later than February 2, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-786 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

Norstar Bancorp Inc.; Proposed Acquisition of Northeast Bankshares Association

Norstar Bancorp Inc., Albany, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Northeast Bankshares Association, Portland, Maine, and thereby indirectly acquire its nonbank subsidiaries, Northeast Consumer Services Corporation and Northeast Data Processing Corporation.

Applicant states that Northeast Consumer Services Corporation will provide credit functions for all Bankshares' subsidiary banks and act as a card issuing and servicing agent for two other financial institutions in Maine; Northeast Data Processing Corporation will engage in automatic payroll accounting, check reconciliation, electronic funds transfer services and, incidental to these activities the sale of excess computer processing to Bankshares' subsidiary banks, or other non-banking subsidiary and two correspondent banks. These activities would be performed from offices in Portland, Maine and the offices of Bankshares' banking affiliates, and the geographic area to be served in the State of Maine. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompained by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than February 4, 1983.

Board of Governors of the Federal Reserve System, January 6, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-787 Filed 1-11-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board will meet on January 18, 1983, from 10:00 a.m. to 4:00 p.m., in Room 6120, GSA Central Office, 18th and F Streets, NW., Washington, DC20405. This session will be open to the public and will be devoted to a discussion and review of general management issues of interest to the agency and plans for Board activities during 1983.

Less than fifteen (15) days notice of this meeting is being provided due to scheduling difficulties.

For further information, contact Roger C. Dierman, Deputy Associate Administrator, on 523–1141.

Charles S. Davis III,

Associate Administrator.

[FR 83-986 Filed 1-11-83; 9:05 am]

BILLING CODE 6820-26-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Geophysical Logs: Wyoming

Notice is hereby given that Bureau of Land Management geophysical logs of 71 coal test holes, located in Sweetwater County (12 holes), Sheridan County (28 holes), and Johnson County (31 holes), Wyoming are now available to the public. The drilling, completed in October, 1982, in support of the Federal Coal Management Program, provides geologic information necessary to evaluate and classify coal resources on lands in the public domain.

The Sweetwater County test holes, located in Township 22 North, Range 94 West and Township 23 North, Ranges 94 and 95 West, Sixth Principal Meridian, Wyoming, were designed to investigate coal beds in the Wasatch formation of Tertiary are in the Red Desert Basin of south-central Wyoming.

The Sheridan County test holes, located in Township 53 North, Ranges 81 and 82 West; Township 54 North, Ranges 80 and 82 West; Township 55 North, Ranges 80 to 85 West, inclusive; Township 56 North, Ranges 80, 81, and 82 West; and Township 57 North, Range 82 West, Sixth Principal Meridian, Wyoming, were designed to investigate coal beds in the Wasatch and Fort Union Formations of Tertiary age in the Western Powder River Basin of north-central Wyoming.

The Johnson County test holes, located in Township 47 North, Range 80 West; Township 48 North, Ranges 80 and 81 West, Township 49 North, Ranges 79, 80, and 81 West; Township 50 North, Ranges 80 and 81 West; Township 51 North, Ranges 81 and 82 West; and Township 52 North, Ranges 81 and 82 West, Sixth Principal Meridian, Wyoming, were also designed to investigate coal beds in the Wasatch and Fort Union Formations of Tertiary age in the Western Powder River Basin.

The geophysical logs are available for reproduction from the Bureau of Land Management, North Central Region, 2001 Federal Building, P.O. Box 2859, Casper, Wyoming 82602. (307) 261–5421.

Dwayne E. Hull,

Acting Minerals Manager, North Central Region.

[FR Doc. 83–761 Filed 1–11–83; 8:45 am]
BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

Agency Forms Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTION: The proposed information collection is for use by the Commission in connection with investigation No. 332–145, Report to the U.S. House of Representatives on the economic effects of terminating the manufacturing clause of the Copyright law, as requested by the Committee on Ways and Means.

SUMMARY OF PROPOSALS:

(1) Number of forms submitted: Five

(2) Title of forms: Book Publishers, Book Manufacturers, Book Binders, Commercial Publishers, and Commercial Printers

(3) Type of request: Initial

(4) Frequency of use: One time

(5) Description of respondents: U.S. book publishers, manufacturers, and binders; and commercial publishers and printers

(6) Estimated number of respondents: 400

(7) Estimated total number of hours to complete the forms: 8,000

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm

(9) Section 3504(h) of Pub. L. 96–511 does not apply.

ADDITIONAL INFORMATION OR COMMENT: Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (telephone no. 202–523–4463). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436).

Issued: January 7, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–853 Filed 1–11–83; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–127]

Certain Amino Acid Formulations

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on February 22, 1983, in the Waterfront Center, Room 201, 1010 Wisconsin Avenue, NW., Washington, D.C., and the hearing will commence immediately thereafter.

The purpose of the prehearing conference is to review the trial memoranda submitted by the parties, to stipulate exhibits into the record, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the **Federal Register.**

Issued: January 4, 1983.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 83–850 Filed 1–11–83; 8:45 am]
BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–118 and 119 (Preliminary)]

Certain Lightweight Polyester Filament Fabric From Japan and the Republic of Korea

AGENCY: International Trade Commission.

ACTION: Institution of preliminary antidumping investigations and scheduling of a conference to be held in connection with the investigations

EFFECTIVE DATE: January 4, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United states is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan and the Republic of Korea of certain lightweight polyester filament fabric, provided for in items 338.5009, 338.5011, 338.5012, 338.5013, and 338.5015, of the Tariff Schedules of the United States Annotated, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. Reuben Schwartz, Office of Industries, U.S. International Trade Commission, 701 E St. NW., Washington, D.C. 20436, telephone 202–523–0114.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed January 4, 1983, on behalf of the American Textile Manufacturers Institute, Inc. (ATMI) and certain member companies. The Commission must make its determination in these investigations within 45 days after the date of the filing of the petition or by February 18, 1983 (19 CFR 207.17).

Participation.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the

Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, February 10, 1982), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13719, April 1, 1982), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 201.17(b), as amended by 47 FR 33682, August 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before January 28, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15, as amended by 47 FR 6190, February 10, 1982). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., on January 28, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact Mr. Reuben Schwartz (202/523-0114), not later than January 24, 1983, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 6182, February 10, 1982, and 47 FR 33682, August 4, 1982), and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 6182, February 10, 1982, 47 FR 13791, April 1, 1982, and 47 FR 33682, August 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. Schwartz.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: January 6, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-891 Filed 1-11-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-113]

Certain Log Splitting Pivoted Lever Axes; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of investigation on the basis of a settlement agreement.

SUMMARY: Complainant Chopper Industries, Inc., respondent Alltrade, Inc., and the Commission investigative attorney moved on July 8, 1982, to terminate this investigation with respect to all respondents on the basis of a settlement agreement. On August 6, 1982, the presiding officer recommended that the investigation by terminated.

On September 22, 1982, the Commission issued a notice of proposed termination based on the settlement agreement and requested public comment. On December 20, 1982, the moving parties again moved for termination based on the agreement as modified to incorporate changes based on certain comments made by the Department of Justice. On January 5, 1983, the Commission terminated Inv. No. 337-TA-113 on the basis of the settlement agreement as modified.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain log splitting pivoted lever axes. Notice of the institution of the investigation was published in the Federal Register of January 6, 1982 (47 FR 3688).

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Sheila Landers, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0421.

Issued: January 6, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-892 Filed 1-11-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-165 (Final)]

Small Diameter Welded Carbon Steel Pipes and Tubes From Brazil

AGENCY: International Trade Commission.

ACTION: Suspension of final countervailing duty investigation.

EFFECTIVE DATE: December 17, 1982.

SUMMARY: On December 27, 1982, the United States Department of Commerce suspended its countervailing duty investigation involving small diameter welded carbon steel pipes and tubes from Brazil (47 FR 57551). The basis for the suspension is an agreement by the Government of Brazil to offset with an export tax all benefits determined by commerce to be subsidies on exports of the subject products to the United States. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of its countervailing duty investigation involving small diameter welded carbon steel pipes, and tubes, currently

provided for in item 610.32 of the Tariff Schedules of the United States, from Brazil (investigation No. 701–TA–165 (Final)).

FOR FURTHER INFORMATION CONTACT: Ms. Judith Zeck (202–523–0339), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

Issued: January 5, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–849 Filed 1–11–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 3, (202) 275–5223.

Volume No. OP3–MC–FC–76

Decided: January 4, 1983.

MC–FC–81064. By decision of January 4, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to DAVID MIRES, doing business as SPRINGFIELD-SEDALIA EXPRESS, Springfield, MO, of Certificate No. MC–161635, issued November 9, 1982, to ORVAL E. AND LILLIAN T. SMITH, doing business as SPRINGFIELD-SEDALIA EXPRESS, Springfield, MO, authorizing the transportation of general commodities with exceptions, over irregular routes, between Boonville, Buffalo, Cole Camp, Columbia, Cross Timber, Fristoe, Hermitage, Knob Knoster, LaMonte, Lincoln, Louisburg, Marshall, Preston, Sedalia, Smithton, Springfield, Tipton, Urbana, Warrenburg, Warsaw and Windsor, MO. No temporary authority has been filed. Representative: Stephen G. Newhouse, 312 East Capitol Avenue, P.O. Box 456, Jefferson City, MO 65101, (314) 635–7166.

MC–FC–81066. By decision of December 29, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to T–N–T SERVICES, INC., Santa Ana, CA, of Certificate No. MC–153134, Subs 2 and 4, issued October 21, 1981, and January 4, 1982, respectively, and Permit No. MC–153134, Subs 1, 3, 5, and 6, issued October 21, 1981, October 21, 1981, January 14, 1982, and September 14, 1982, respectively, to HI COUNTRY CARRIERS, INC., Englewood, CO, authorizing *clay, concrete, glass or stone products,* between points in Wichita County, TX, on the one hand, and, on the other, those points in the U.S. in an west of MT, WY, CO, and NM, *metal products* and *clay, concrete, glass or stone products,* between points in San Bernardino County, CA, on the one hand, and, on the other, points in the U.S.; *such commodities* as are dealt in or used by manufacturers and distributors of items used in the installation of floor coverings, between points in Orange, Los Angeles, Ventura, San Bernardino, and Riverside Counties, CA, on the one hand, and, on the other, points in the U.S.; *such commodities* as are dealt in by manufacturers and distributors of fiberglass reinforcements, between points in the U.S., under continuing contract(s) with Thaloo, A Division of United Merchants Manufacturers, Inc., of Los Angeles, CA; *such commodities* as are dealt in or used by manufacturers and distributors of fiberglass products, between points in the U.S. (except AK and HI), under continuing contract(s) with Kinstock, Inc., of Santa Ana, CA; *such commodities* as are dealt in by manufacturers and distributors of electrical equipment, between points in the U.S., under continuing contract(s) with Westinghouse Electric Corporation, of Pittsburgh, PA; *machinery* and *those commodities which because of size or weight require the use of special handling or equipment,* between points in the U.S., under continuing contract(s) with Seaward Construction Co., Inc., of Portsmouth, NH; *such commodities* as are dealt in or used by manufacturers and distributors of household appliances, televisions, air conditioners, audio systems and electronic sound equipment, between points in the U.S. (except AK and HI), under continuing contract(s) with Western Supply Co., Inc., of Salt Lake City, UT; *printed material,* and *pulp, paper and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Rocky Mountain Bank Note, of Denver, CO; and *such commodities* as are dealt in or used by manufacturers and distributors of floor coverings, between points in the U.S. (except AK and HI), under continuing contract(s) with L. D. Brinkman, Inc., of Denver, CO. Representative: Charles J. Kimball, #685 Capitol Life Center, 1600 Sherman St., Denver, Co 80203. NOTE: An application for temporary authority has been filed.

Status calls: Team 4 at 202–275–7669.

Volume No. OP4–FC–100

(Member Dowell not participating.)

MC–FC–81045. By decision of January 3, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to R & G LEASING SERVICES, INC., Hyde Park, NY, of Certificate No. MC–156397 issued to SENTRY LEASING, INC., Hyde Park, NY, authorizing the transportation of scrap materials, between points in CT, RI, MA, ME, VT, NH, NY, NJ, PA, OH, DE, and MD. Transferee is not a carrier. Representative: Michael R. Werner, Attorney, 241 Cedar Lane, Teaneck, NJ 07666.

MC–FC–81061. By decision of January 3, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to ROY-L-T TRUCKING, INC., Whittier, CA, of Certificates Nos. MC–136257 and MC–136257 (Sub-No. 3), and Permits Nos. MC–136059 (Sub-No. 1) and MC–136059 (Sub-No. 3) issued to RABBIT TRANSIT, INC. (formerly Northwest Transport), Fontana, CA, authorizing the transportation of (1) expanded plastic articles, with certain restrictions, from Fullerton, LA Mirada, Pico Rivera, Santa Ana, and Torrance, CA, to points in AZ, NM, and NV, (2) plastic bathtubs and plastic shower stalls, from the facilities of American Standard, Inc., at Stockton, CA, to points in AZ, CO, ID, MT, NM, OR, UT, WA, and WY, (3) paper products, from Flagstaff, AZ, to points in TX, NM, CA, NV, CO, OR, WA, ID, UT, MT, WY, OK, KS, NE, and SD, and chemicals, supplies and machinery in the reverse direction, (4) scrap paper, between points in AZ, TX, NM, CA, NV, CO, OR, WA, ID, UT, WY, OK, KS, NE, and SD; the operations authorized in (3) and (4) above are to be performed under continuing contract(s) with Ponderosa Paper Products, of Flagstaff, AZ, (5) bead bags, pillows, pads, and cushions, and new chairs and tables, from the facilities of Plymouth Enterprises, Inc., in Los Angeles County, CA, to points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, OK, OR, SD, TX, UT, WA, and WY, and matersials and supplies in the reverse direction above, under continuing contract(s) with Plymouth Enterprises, Inc., of Walnut, CA, (6) cushioning, padding, wadding, and packaging articles, products and materials, from the facilities of Paper-Pak Products, Inc., at La Verne, CA, to points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, OK, OR, SD, TX, UT, WA, and WY, and materials and supplies in the reverse direction, under continuing contract(s) with Paper-Pak Products, Inc., of La Verne, CA, and (7) paper and paper products, advertising matter, premiums, and display materials, from points in Orange and Los Angeles Counties, CA, to points in AZ, CA, ID, NV, NM, OR TX, UT, and WA, and materials and supplies in the reverse direction, under continuing contract(s) with Potlatch Corporation, of Pomona, CA. Transferee holds Permit No. MC–151418. An application for temporary authority has been filed. Representative: Miles Kavaller, Attorney 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212.

Note.—The authority being transferred represents all of transferor's operating authority. Transferor has pending No. MC–136257 (Sub-No. 4X) in which it seeks removal of certain restrictions in the operating authority being transferred. Upon approval of the restriction removal, request, the resulting operating authority will be issued to transferee.

MC–FC–81062. By decision of January 4, 1983, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to NAKANO WAREHOUSE & TRANSPORTATION CORP., Compton, CA of Certificate of Registration No. MC–121197 (Sub-No. 1) issued July 28, 1981, to NAKANO EXPRESS SERVICE, INC., Compton, CA, evidencing a right to engage in transportation in interstate commerce corresponding in scope to State certificate No. 62554, dated September 12, 1961, and reissued in No. 88136 dated November 22, 1977, issued by the Public Utilities Commission of California authorizing the transportation of general commodities (except, among others, used household goods, automobiles, trucks, buses, livestock, liquids, and logs), between points in the Los Angeles, CA Basin Territory. Transferee is not a carrier, but is in common control with transferor. Representative: Denny D. Chen, 624 S. Grand Ave., #2600, Loss Angeles, CA 90017.

Volume No. OP4–FC–103

MC–FC–81053, filed November 22, 1982. By decision of January 3, 1983, issued under U.S.C. 10926 and 10932 and the transfer rules at 49 CFR 1181, Review Board Number 3, approved the tranfer to W. W. Koelling, dba H & K Truck Lines, Great Bend, KS, of Certificate No. MC–108066 and Certificate of Registration No. MC–108066 (Sub-No. 4), both issued September 28, 1966, to D. G. Koelling, dba H & K Truck Lines, Great Bend, KS, authorizing the transportation of general commodities (with the usual exceptions), over regular routes, (a) between Great Bend and Galatia, KS, and (b) between Otis and Great Bend, KS, and (2) between named points in KS. Representative: D. G. Koelling, 2530–20th St., Great Bend, KS 67530 for transferee and transferor. Condition: Part (2) of this proceeding is conditioned upon the applicants submitting a certified copy of the order which approves the transfer of the underlying Kansas Intrastate certificate.

MC–FC–81092, filed December 9, 1982. By decision of January 4, 1983, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3, approved the transfer to T. B. TRANSPORT, INC., Monahans, TX, of Certificate of Registration No. MC–157347, issued February 18, 1982, to Graham Trucking, Inc., Pecos, TX, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate No. 6195, date May 27, 1981, issued by the Railroad Commission of Texas, authorizing the transportation of oilfield equipment and pipe, when moving as oilfield equipment, pipe, other than used as oilfield equipment, and machinery and other specified commodities, between all points in TX located west of U.S. Hwys 81 and 181, from Ringold to San Antonio and Aransas Pass, subject ot certain restrictions. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767, for the transferee.

Status calls: Team 5 at 202–275–7289.

Volume No. OP5–FC–309

MC–FC–81083. By decision of December 17, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3 approved the transfer to BEST WAY TRANSPORT, INC., Kokomo, IN of Permit No. MC–146259F issued November 26, 1979, to JAMES R. JARRETT, INC., of Kokomo, IN, authorizing the transportation over irregular routes of *iron and steel articles*, between the facilities of Southern Strip Steel, Inc., at or near (a) Eminence, KY, (b) Columbus, OH, and (c) Peru and Kokomo, IN, on the one hand, and, on the other, points in AL, CO, GA, IL, IN, IA, KY, MI, MN, MO, NC, OH, OK, PA, TN and WI, under continuing contract(s) with Southern Strip Steel, Inc., of Louisville, KY. Representative: Walter F. Jones, Jr., 1111 East 54th Street, Indianapolis, IN 46220.

[FR Doc. 83–600 Filed 1–11–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket: and "Sub" number and quoting the particular portion of

authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-229

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 68717 (Sub-4-1TA), filed December 28, 1982. Applicant: W.N. DAUL TRANSFER LINES, INC., 1521 Ellis Street, Kewaunee, WI 54216. Representative: John L. Bruemmer, P.O. Box 927, Madison, WI 53701. *General commodities* (except Classes A and B explosives), (1) between points in Brown, Calumet, Door, Kewaunee, Manitowoc, Outagamie and Sheboygan Counties, WI. and(2) between points in (1) above and Chicago, IL and Milwaukee, WI and points in their respective commercial zones. An underlying ETA seeks 120 days authority. Supporting shippers: There are twelve (12) statements in support of this application which may be examined at the ICC Regional Office, Chicago, IL.

MC 113855 (Sub-4-6TA), filed December 28, 1982. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102. *General commodities* (except classes A and B explosives, household goods, and commodities in bulk), between the facilities of The Trane Company at LaCrosse, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract(s) with The Trane Company of LaCrosse, WI. Supporting shipper: The Trane Company, 3600 Pammel Creek Road, LaCrosse, WI 54601.

MC 134167 (Sub-4-TA), filed December 23, 1982. Applicant: CARRIER SERVICE CO. OF WISCONSIN, INC., 2621 South 5th Place, Milwaukee, WI 53207. Representative: Michael J. Wyngaard 150 E. Gilman St., Madison, WI 53703. *Contract irregular: Equipment, parts, materials and supplies used or useful in the manufacture, sale or distribution or motor vehicles,* between Kenosha and Milwaukee, WI, on the one hand, and, on the other, points in IL, IN, MI, OH, PA, TN, and VA under continuing contract(s) with American Motors Corporation. An underlying ETA seeks 120 day authority. Supporting shipper: American Motors Corporation, 5626 25th Avenue, Kenosha, WI 53140.

MC 146846 (Sub-4-5TA), filed December 27, 1982. Applicant: LOUIS LANE, INC., 1025 S. 3rd Avenue, Wausau, WI 54401. Representative: Nancy J. Johnson Attorney, 103 East Washington, Street; Box 218, Crandon, WI 54520. *Paper and paper products* from Wood and Portage Counties, WI to points in San Francisco, Alameda, Contra Costa, Marin, Sonoma, Napa, Solano, Sacramento, Santa Clara and San Mateo Counties, CA. Supporting shipper: J.C. Papers, 650 Brennan St., San Jose, CA 95131.

MC 152954 (Sub-4-1TA), filed December 22, 1982. Applicant: RALPH MEYERS d.b.a. RALPH MEYERS TRUCK COMPANY, 9585 Lake Michigan Drive, Allendale, MI 49401. Representative: D. Richard Black, Jr., 285 James Street, P.O. Box 638C, Holland, MI 49423. *Food and related products* between points in MI on the one hand and on the other points in IL, OH, IN, WI, IA. Supporting shippers: Bil-Mar Foods, Inc. 8300—96th Avenue, Zeeland, MI 49464 and Campbell Soup Company, Napoleon, OH 43545.

MC 164889 (Sub-4-1TA), filed December 23, 1982. Applicant: DANIEL J. PERDUE TRUCKING INC., One South Tekoppel Avenue, Evansville, IN 47712. Representative: Richard A. Huser, Locke Reynolds Boyd & Weisell, 2120 One Indiana Square, Indianapolis, IN 46204. *Contract:* Irregular; *General Commodities.* Between the Evansville and Terre Haute, IN, Owensboro and Hopkinsville, KY commercial zones, on the one hand, and, on the other, points in the U.S. Restricted to service performed under continuing contract(s) with ACH Supply Company, Inc., Craddock Finishing Corporation and Uniseal, Inc., of Evansville, IN.

MC 165234 (Sub-4-TA) filed December 27, 1982. Applicant: COLE TRUCKING CO., INC., 404 South 52nd Avenue West, P.O. Box 6007, Duluth, MN 55806. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102. *Lumber and wood products and construction materials,* from the facilities of American Canadian Distribution Center, Inc. at Duluth and Minneapolis, MN, to points in MN, WI, IA, IN, MI, ND, SD, NE, MO and IL. Supporting shipper: American Candian Distribution Center, Inc., P.O. Box 6007, Duluth, MN 55806.

MC 165351 (Sub-4-1), filed December 23, 1982. Applicant: ATOMIC INTERPROVINCIAL TRANSPORT (EASTERN) LTD., 2070 Logan Avenue, P.O. Box 1045, Winnipeg, Manitoba, Canada R3C 2X6. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011. *Offal for pet fapod,* from Sioux Falls, SD, in foreign commerce only, to ports of entry on the international boundary line between the U.S. and Canada in ND, MN, MI and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Northam Food Trading, Inc., 300 Cote Bertu—Suite 318, Montreal, Quebec, Canada H4R 2B7. S.A.N. International Services, Inc., 66 University Avenue—Suite 607, Toronto, Ontario, Canada M5J 1T6.

MC 165354 (Sub-4-1TA), filed December 27, 1982. Applicant: KIM W. LOWARY, P.O. Box 1252, Aberdeen, SD 57401. Representative: Joseph A. Nemecek, 1992 Suan Avenue, Neenah, WI54956. *Paper and Paper Articles* Between points in Menasha and Neenah, WI, on the one hand and points in the states of AZ, CA, NV, OR, WA, on the other, for a period of 270 days. Supporting shipper: Wisconsin Tissue Mills, Inc., 3rd St., Menasha, WI 54952.

MC 165355 (Sub-4-ITA), filed December 27, 1982. Appicant: TOM VIA d.b.a. TOM VIA TRUCKING, Rte. 1, Box 227, Simpson, IL 62985. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375. *Contract,* irregular: transporting *iron and steel articles and resins* from the facilities of Pattin-Marion (Division of Eastern Company) located at or near Marion, IL, on the one hand, and, on the other, points in KY, MI, MO, NC, NY, OH, PA and TN, under account with Pattin-Marion (Division of Eastern Company of Marion, IL, for 270 days. An underlying ETA seeks 30 days authority. Supporting shipper: Pattin-Marion (Division of Eastern Company) 1003 S. Court St., Marion, IL 62959.

MC 165357 (Sub-4-1TA), filed December 27, 1982. Applicant: RUSS' DISTRIBUTING, INC., 55—76th Street, SW., Grand Rapids, MI 49509. Representative: J. Michael Smith, 800 Calder Plaza Building, Grand Rapids, MI

49503. *Contract irregular, Transporting general merchandise as is usually dealt in and handled by wholesale and retail establishments, including household appliances; new household furniture and household furnishings; musical instruments; plumbing and heating equipment, fixtures, accessories and supplies; office equipment; building and remodeling equipment, accessories and supplies; and other retail merchandise* from points in the Counties of Montcalm, Ionia, Newaygo, Muskegon, Kent, Allegan, Barry, Kalamazoo and Ottawa in the State of MI for consolidation at Grand Rapids, MI to interline with Signal Delivery Service, Inc. for movement to Chicago. IL and beyond, under a continuing contract with Sears, Roebuck & Co., Chicago, IL 60608. Supporting shipper: Sears, Roebuck & Co., 7447 Skokie Blvd., Skokie, IL 60077.

MC 6992 (Sub-4-9TA), filed January 3, 1983. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, Indianapolis, IN 46239. Representative: John F. Spickelmier (same address as applicant). Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Hughes Aircraft Company, P.O. Box 90515, Los Angeles, CA 90009.

MC 118606 (Sub-4-9TA), filed December 30, 1982. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Blvd., Winnipeg, Manitoba, R2J 3K4. Representative: Bernard J. Kompare, 180 N. Michigan Ave. Suite 1700, Chicago, IL 60601. *Such Commodities* as are dealt in or used by manufacturers of glass and glass products, between the facilities of Libbey-Owens-Ford Company, located at points in CA, CO, GA, IA, IL, MA, NC, OH, PA and TX, on the one hand, and on the other, the ports of entry on the International Boundary Line between the U.S. and Canada. Supporting Shipper: Libbey-Owens-Ford Company, 811 Madison Ave., Toledo, Ohio 43695.

Note.— This decision has been made in accordance with the statutory provisions of the Bus Regulatory Reform Act of 1982 with great weight being given to the mandates set forth in the National Transportation Policy.

MC 157309 (Sub-4-2TA), filed January 3, 1983. Applicant: WALTER C. TECHMEIER, 620 N. Michigan De Pere, WI 54115. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. Butter, cheese and citrus fruit juice from Green Bay, WI, and its commercial zone, to East Bridgewater, MA, Grand Rapids, MI, Jamestown, NY, Philadelphia and Pittsburgh, PA and Rochester, N.Y. Supporting shippers: Northland Cold Storage, Inc., 1132 Lincoln St., Green Bay, WI 54302.

MC 165398 (Sub-4-1), filed November 29, 1982. Applicant: M & J CARRIERS, INC., Rural Route #1, Box 111A, Oakley, IL 62552. Representative: James E. Ashby (same address as applicant), (217) 763-2111. *General commodities* (except Classes A and B explosives and household goods) as defined by the Commission to points within the U.S. except AK and HI. There are ten supporting shippers.

MC 165411 (Sub-4-1TA), filed December 30, 1982. Applicant: NORTHUMBERLAND LINES, INC., Mankato, 16 Riverview, MN 56001. Representative: Richard L. Gill, 1805 American National Bank Building, St. Paul, MN 55101. *Contract,* by motor vehicle, transporting passengers and their baggage and express and newspapers in the same vehicle with passengers: Between Mankato, MN and Rochester, MN, serving all intermediate points: From Mankato, MN over MN Hwy 22 to Juncture of MN hwy 109, then over MN Hwy 109 to juncture of Interstate Highway 90, then over Interstate Hwy 90 to Rochester, and return over the same route.

MC 165437 (Sub-4-1TA), filed January 3, 1982. Applicant: DAVE R., TIMOTHY D. and THOMAS C. JOHANNING d.b.a. DAVE R. JOHANNING & SONS, Rt. 4, P.O. Box 125, Part Rapids, MN 56470. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Building materials*, between Menahga and Alexandria, MN, on the one hand, and, on the other, points in IA, ND, SD and WI, for 270 days. Supporting shipper(s): North Star Lumber & Supply, Inc., P.O. Box 151, Menahga, MN 56464.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 67234 (Sub-5-41TA), filed December 27, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, irregular *General Commodities* (except Classes A and B explosives and commodities in bulk) between points in the U.S. (including AK and HI) under continuing contract(s) with Sears, Roebuck and Co. Supporting shipper: Sears, Roebuck and Co., Chicago, IL.

MC 67234 (Sub-5-42TA), filed December 27, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, irregular *General Commodities (except Classes A and B explosives and commodities in bulk)* between points in the U.S. (including AK and HI) under continuing contract(s) with Technicare. Supporting shipper: Technicare Solon, OH 44139.

MC 104758 (Sub-5-1TA), filed December 27, 1982. Applicant: PAT'S VAN LINES, INC., 3616 Indiana, Kansas City, MO 64128. Representative: Donald J. Quinn, Commerce Bank Building, 8901 State Line—Suite 232, Kansas City MO 64114. *Household goods,* between points in AL, AR, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA and WV. Supporting shippers: 5.

MC 115730 (Sub-5-9TA), filed December 27, 1982. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. *Metal articles* between Ramsey Co. and St. Louis Co., MN, Muscatine Co., IA, Monroe Co. and Wayne Co., MI, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: North Star Steel Co., Minneapolis, MN.

MC 121293 (Sub-5-2TA), filed December 27, 1982. Applicant: PHILIP E. REEDY d.b.a. VALLEY TRANSFER, Elkhorn NE 68022. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *General commodities (except commodities in bulk, household goods, and Classes A & B exposives),* between Council Bluff, IA and Fremont and Norfolk, NE on the one hand, and, on the other, points in IA and NE, restricted to shipments having prior or subsequent movement by rail. Supporting shipper: Chicago & Northwestern Transportation Co., Chicago, IL.

MC 147552 (Sub-5-8TA), filed December 27, 1982. Applicant: CAJUN CARTAGE AND WAREHOUSING CORPORATION., P.O. Box 98211, Houston, TX 77213-6211. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77708. *General commodities, including bulk liquid and dry bulk shipments only when moving in ocean containers (Except Class A & B Explosives and Household Goods),* restricted to shipments having a prior or subsequent movement via water, between the Ports of Gulfport, MS and Mobile, AL, on the one hand, and on the other, the Ports of New Orleans, LA and Lake Charles, LA. Supporting shippers: (8).

MC 150093 (Sub-5–6TA), filed December 27, 1982. Applicant: THE TOM DAVIS CORP. d.b.a. DAVIS LINES, 5335 N.W. 111th Drive, Grimes, IA 50111. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Metal products,* between Story County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: General Filter Company, a Division of Marley Cooling Tower, Ames, IA.

MC 156840 (Sub-5–2TA), filed December 27, 1982. Applicant: STRICKLIN TRUCKING COMPANY, 108 College, Arcadia, MO 63621. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. Common, irregular, *transporting roofing materials and materials, equipment and supplies used in the manufacture thereof, and scrap paper,* between North Little Rock, AR and Prior, OK. Supporting shipper: Tarco, Inc., North Little Rock, AR.

MC 163503 (Sub-5–9TA), filed December 27, 1982. Applicant: NATIONAL FREIGHT SYSTEM, INC., 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell, 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. *Such Commodities as are dealt in or used by Printers* between points in the continental U.S. Supporting shipper(s): 8.

MC 163625 (Sub-5–1TA), filed December 27, 1982. Applicant: McMANUS BROS. INC., RR #1, Highway 67, Camanche, IA 52730. Representative: Carl E. Munson, P.O. Box 796, Dubuque, IA 52001. *Food and food products (except commodities in bulk),* from points in Carroll County, IL, to points in Clinton County, IA. Supporting shipper: American Xyrofin Inc., Thomson, IL.

MC 164072 (Sub-5–3TA), filed December 27, 1982. Applicant: WINGS TRANSPORTATION, INC., 717 South 9th, Omaha, NE 68102. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Food products,* From the facilities of Prime International Corp. at Omaha, NE to points in the U.S. (except AK and HI). Supporting shipper: Prime International Corporation, Omaha, NE.

MC 165353 (Sub-5–1TA), filed December 27, 1982. Applicant: CATHY K. DUGAN d.b.a. C & D TRUCKING, Box 101, Colesburg, IA 52035. Representative: Carl E. Munson, P.O. Box 796, Dubuque, IA 52001. *Lumber, wood and wood products,* between points in IL, IA, Omaha and South Sioux City, NE, and WI. Supporting shipper: S & J Pallet Co., Inc., Guttenburg, IA.

MC 121637 (Sub-5–2TA), filed December 29, 1982. Applicant: C and P TRANSPORTATION, INC., P.O. Box 50460, Tulsa, OK 74120. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. *General commodities, (except classes A and B explosives, household goods, and commodities in bulk),* between Tulsa, OK and Oklahoma City, OK: from Tulsa over U.S. Hwy 66 and Interstate Hwy 44 to Oklahoma City and return over the same routes, serving all intermediate points. Supporting shipper: 5.

MC 156293 (Sub-5–2TA), filed December 30, 1982. Applicant: MADDEN TRUCKING, INC., 805 E. 10th, Leon, IA 50144. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Potash, in bulk,* from Carlsbad, NM to points in IA, KS and MO. Supporting shipper(s): Mid-West Fertilizer, Inc., Paola, KS.

MC 156503 (Sub-5–2TA), filed December 30, 1982. Applicant: WILLIAM J. TEMAAT d.b.a. TEMAAT PRODUCE, 615 Parkview, Oakley, KS 67748. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612. *Beer,* Between the Commercial Zone of Omaha, NE., on the one hand, and the Commercial Zone of Denver, CO., on the other hand. Supporting shipper: Mile High Wholesale Liquor, Denver, CO.

MC 157278 (Sub-5–2 TA), filed December 29, 1982. Applicant: FARM TRANSPORT CO., 1685 K Street, Gering, NE 69341. Representative: Philip M. Kelly, 105 East 16th Street, Scottsbluff, NE 69361. *General commodities except A & B explosives* between points in Sioux, Dawes, Box Butte, Morrill, Garden, Cheyenne, Kimball, Banner and Scotts Bluff Counties in NE, and Goshen and Laramie Counties in WY, on the one hand and on the other hand, points in the U.S. except HI and AK. Supporting shippers: Panhandle Cooperative Association, Scottsbluff, NE; Slafter Oil Company, Scottsbluff, NE; Simplot Soilbuilders, Scottsbluff, NE; National Drinks, Inc., Scottsbluff, NE.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 165412 (Sub-G–1 TA), filed January 3, 1983. Applicant: BANNOCK PAVING COMPANY, INC., P.O. Box 4002, Pocatello, ID 83201. Representative: Dennis M. Olsen, 485 "E" St., Idaho Falls, ID 83401. *Contract Carrier,* irregular routes: *Coke* derived from coal from points in UT to Pocatello, ID for the account of FMC Corporation for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: FMC Corporation, P.O. Box 4111, Pocatello, ID.

MC 165428 (Sub-6–1 TA), filed January 3, 1983. Applicant: CAROL L. SHEALY d.b.a. C. N. FARM LINE, P.O. Box 243, Raynesford, MT 59469. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* Irregular routes, *pressure sensitive adhesive coated products and all materials, equipment and supplies used in the manufacture, sale and distribution of these items,* between points in the U.S. (except AK and HI) under continuing contracts with Pres-on Products, Inc./Merchandise Division, Addison, Ill 60101, for 270 days. Supporting Shipper: Pres-on Products, Inc./Merchandise Division, 1020 South Westgate St., Addison, IL 60101.

MC 115904 (Sub-6–2TA), filed January 3, 1983. Applicant: GROVER TRUCKING CO., 1710 W. Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 311 S. State St. Ste. 280, Salt Lake City, UT 84111. *Contract carrier,* irregular routes, *packaging and packaging products; equipment, materials and supplies used in the manufacture, assembly, sales and distribution thereof,* (a) between IA, on the one hand, and, on the other, ID and WA; (b) between MT, on the one hand, and, on the other, ID and WA, under continuing contract(s) with Boise Cascade Corporation, for 270 days. ETA seeking up to 120 days authority has been filed. Supporting shipper: Boise Cascade Corporation, POB 7747, Boise, ID 83707.

MC 153412 (Sub-6–1TA), filed January 3, 1983. Applicant: QUALITY COACH LINES, INC., 1923 N. Carson St., #104, Carson City, NV 89701. Representative: Mike Pavlakis, Box 646, Carson City, NV 89702. *Passengers and their baggage,* in charter and special operations, between points in the US (including AK but excluding HI), for 270 days. Supporting shippers: There are 10 supporting shippers. Their statements may be examined at the regional office listed. An application under 49 U.S.C. 11343 has been filed concurrently with the filing of this application.

MC 165414 (Sub-6–1TA), filed December 30, 1982. Applicant: GREGORY JAMES TREAT, 1602 Plaza Dr., Post Falls, ID 83854. Representative: Gregory James Treat (same as applicant). *Contract carrier,* irregular route; *wholesale photo finishing* between points in Spokane, Whitman and Lewis Counties WA and Nezperce, Latah and Kootenay Counties ID under continuing contract(s) with Transamerica Film Service of Spokane,

WA, and Comtrex Inc. of Spokane, WA for 270 days. Supporting shippers: Transamerica Film Service, 1401 N. Calispel, Spokane, WA 99204; Comtrex, Inc., E. 3107 Mission Ave., Spokane, WA 99202.

MC 142186 (Sub-6-3TA), filed December 30, 1982. Applicant: WHEELS WEST, INC., P.O. Box F, Olympia, WA 98502. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421. *Contract Carrier,* Irregular Routes: *Truck Parts and Equipment,* from points in the states of AL, AR, CA, ID, IL, IN, KS, KY, MO, MI, NV, NY, OH, TN, TX, and WA to Lane County, OR, for 270 days. Supporting shipper: General Trailer Co., 1492 South B St., Springfield, OR 97477.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-799 Filed 1-11-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note. All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP2-012

Decided: January 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 134822 (Sub-2), filed December 21, 1982. Applicant: RANDELL BUS COMPANY, Box 1345, 1652 Monmouth Blvd., Galesburg, IL 61401. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, 402-392-1220. Transporting *passengers,* in charter or special operation, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 136743 (Sub-2), filed Novembe 23, 1982. Applicant: PEGGY BRAAMSE d.b.a. MARQUETTE BUS SERVICE, 1414 Garfield Ave., Marquette, MI 49855. Representative: Peggy Braamse (same as applicant), (906) 225-0294. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special operations.

MC 165263, filed December 17, 1982. Applicant: ROYAL COACH LINES INCORPORATED, 1652 Meadowglen Rd., Diamond Bar, CA 91765. Representative: Ottie Vea Wade (same address as applicant), 714-598-9662. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165332, filed December 21, 1982. Applicant: BABYLON TRANSIT, INC., 243 Deer Park Avenue, Babylon, NY 11702. Representative: Edward L. Nehez, P.O. Box Y—7 Becker Farm Road, Roseland, NJ 07068, (201) 992-2200. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 3 at (202) 275-5230.

Volume No. OP 3-69

Decided: January 3, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 70384 (Sub-5), filed December 16, 1982. Applicant: SHOUP BUSES, INC., P.O. Box 271, Middlebury, IN 46540. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425—13th St., N.W., Washington, DC 20004, (202) 737-1030. Transporting *passengers,* in charter and

special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 121564 (Sub-3), filed December 16, 1982. Applicant: ABBOTT BUS LINES, INC., 1703 Granby St., N.E., Roanoke, VA 24012. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202) 822–8200. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 129134 (Sub-5(b)), filed December 13, 1982. Applicant: CARLYLE VAN LINES, INC. d.b.a. SAFEWAY VAN LINES, 600 North Main St., P.O. Box 25, Warrensburg, MO 64093. Representative: Gerald Moore (same address as applicant), (816) 747–8128. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

MC 139455 (Sub-4), filed December 16, 1982. Applicant: RALPH OWNBEY, d.b.a. TWIN STATE COACH LINES, P.O. Box 816, Bristol, VA 24203. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 141144 (Sub-1), filed December 13, 1982. Applicant: LAKE CRYSTAL BUS SERVICE, INC., Lake Crystal, MN 55066. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *passengers,* in charter and special operations, (1) between points in MN, IA, SD, ND, and WI, and (2) beginning and ending at points in MN, IA, SD, ND, and WI, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 145224 (Sub-9), filed December 16, 1982. Applicant: ALL-CAL TOURS, INC., 2000 Marconi Avenue, Sacramento, CA 95821. Representative: James R. Benoit, P.O. Box 5110, Santa Rosa, CA 95402, (707) 523–1230. Transporting *passengers,* in charter and special operations, beginning and ending at points in CA and NV, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 151164 (Sub-4), filed December 13, 1982. Applicant: T.L.C. CHARTER COACH, INC., 118 Brook St., Scarsdale, NY 10583. Representative: L. C. Major, Jr., Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers,* in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 155765 (Sub-1), filed December 16, 1982. Applicant: A-WARE CHARTER LEASING, INC., 2712 N. New Ave., Rosemead, CA 91770. Representative: Donald R. Hedrick, P.O Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers,* in charter and special operations, beginning and ending at points in Los Angeles, Orange, San Bernardino and Riverside Counties, CA and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162874(b) , filed December 16, 1982. Applicant: BILL LUNA d./b./a. BILL LUNA TRUCKING, 1418 E. Elgin, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting for or on behalf of the United States Government, (b) *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S.

MC 165185, filed December 14, 1982. Applicant: WILLIAM H. CAMPBELL, 512 Kohl St., Macon, MO 63552. Representative: William H. Campbell (same address as applicant), (816) 385–3577. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165204 (Sub-1), filed December 14, 1982. Applicant: BROADWAY CAB COOPERATIVE, INC., 234 N.W. First Ave., Portland, OR 97209. Representative: Russell M. Allen, 1200 Jackson Tower Portland, OR 97205 (503) 224–4840. Transporting *passengers,* in charter and special operations, beginning and ending at points in OR and WA and extending to points in the U.S. (except AK and HI).

Note: Applicant seeks to provide privately-funded special and charter transportation.

Volume No. OP3–72

Decided: January 5, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 148274 (Sub-3), filed December 21, 1982. Applicant: M & S TRANSPORT, INC., 140 Broadway, Hawthorne, NY 10532. Representative: A. David Millner, P.O. Box Y—7 Becker Farm Rd., Roseland, NJ 07068, (201) 992–2200. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 148934 (Sub-1), filed December 17, 1982. Applicant: RICHARD TWAIT d.b.a. MINNESOTA CITY BUS SERVICE, Rt. 1, Minnesota City, MN 55959. Representative: Steven C. Schoenebaum, 1100 Carriers Bldg., 601 Locust, Des Moines, IA 50309, (515) 283–2076. Transporting *passengers,* in charter and special operations, between points in the U.S. Condition: The person or persons who appear to be in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application for common control to Team 3, Room 2158.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 150555 (Sub-1), filed December 21, 1982. Applicant: BRANNOCK'S BUS SERVICE, INC., 6 Maryland Ave., Pasadena, MD 21122. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passenger,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 161895 (Sub-1), filed December 22, 1982. Applicant: KING TRUCKING, INC., Rt. 1, Box 151, King City, MO 64463. Representative: G. C. King (same address as applicant), (816) 535–6398. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions),

between points in the U.S., (2) transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S., (3) transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S., (4) transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. and (5) as a *broker*, of *general commodities*, (except household goods), between points in the U.S.

MC 165244, filed December 16, 1982. Applicant: TOWN & COUNTRY LIMOUSINE, LTD., 42-14 21st St., Long Island City, NY 11101. Representative: Edward J. Kiley, 1730 M St., NW., Washington, D.C. 20036, (202) 296-2900. Transporting *passengers*, in charter and special operations, between points in ME, VT, NH, MA, CT, RI, NY, NJ, PA, OH, DE, WV, VA, NC, SC, GA, FL and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165265, filed December 20, 1982. Applicant: GREGORY E. CHIARELLA d.b.a. CHIARELLA TRANSPORTATION SYSTEMS, INC., 48 Birch St., Watertown, CT 06795. Representative: Gregory E. Chiarella (same address as applicant), (203) 274-3778. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 165254, filed December 17, 1982. Applicant: BELLEVILLE-ST. LOUIS COACH CO., INC., 7000 Collinsville Rd., East St. Louis, IL 62201. Representative: James Robert Evens, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722-2848. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165284, filed December 20, 1982. Applicant: DALE A. BERGLUND, Route 6, Box 596, Bemidji, MN 56601. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901, (608) 742-3579. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165285, filed December 20, 1982. Applicant: CALIFORNIA MESSENGER, INC., 394 Orange Show Lane, San Bernardino, CA 92408. Representative: David A. Sarver (same address as applicant), (714) 889-2758. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 165295, filed December 20, 1982. Applicant: ROCKTON BUS COMPANY, INC., 720 N. Blackhawk Blvd., Rockton, IL 61072. Representative: Harold D. Orlofkse, P.O. Box 368, Neenah, WI 54956, (414) 722-2848. Transporting *passengers*, in charter and special operations, beginning and ending at points in Winnebago, Boone, McHenry, De Kalb, Ogle, Stephenson, Jo Daviess, Whiteside, Carroll, Lee, Kendall, Du Page, Cook, Lake, La Salle, Bureau, Grundy, Kankakee, Marshall, Warren, Rock Island, and Henry Counties, IL; Rock, Green, Walworth, Racine, Kenosha, Milwaukee, Waukesha, Jefferson, Dane, Lafayette, Grant, Crawford, Richland, Sauk, Columbia, Dodge, Washington, Ozaukee, Sheboygan, Fond du Lac, Adams, Juneau, La Crosse, and Vernon Counties, WI; and Jackson, Clinton, Scott, Dubuque, Clayton, Cedar, Jones, Delaware, Allamakee, and Muscatine Counties, IA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165314, filed December 21, 1982. Applicant: AGATE ELEVATOR AGRICULTURAL & LIVESTOCK COOPERATIVE, INC., Main St., Agate, CO 80101. Representative: Lawrence Marquette, P.O. Box 629, Carmel Valley, CA 93924, (408) 625-2031. Transporting (1) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), (3) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI), (4) *used household goods* for the account of the U.S. Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI), and (5) As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165324, filed December 21, 1982. Applicant: E. STERLING HOUGARD, Strandquist, MN 56758. Representative: Arthur A. Drenckhahn, P.O. Box 159, Warren, MN 56762, (218) 745-4321. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 165325, filed December 21, 1982. Applicant: JOHN BOSCH, INC., 243 Deer Park Ave., Babylon, NY 11702. Representative: Edward L. Nehez, P.O. Box Y, 7 Becker Farm Rd., Roseland, NJ 07068, (201) 992-2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165334, filed December 22, 1982. Applicant: GRAY GOOSE LINES, INC., 21 Prudence Avenue, Providence, RI 02909. Representative: Eraclio Rega (same address as applicant), (401) 944-2156. Transporting *passengers*, in charter and special operations, beginning and ending at points in Kent and Providence Counties, RI and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-102

Decided: January 5, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 165347, filed December 23, 1982. Applicant: BOBBIE W. THOMPSON d.b.a. THOMPSON'S VIP TOURS, I-35E. Outer Rd., P.O. Box 109, Bethany, MO 64424. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036, (202) 466-3892. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–306

Decided: December 29, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 13028 (Sub-21), filed December 16, 1982. Applicant: BONANZA BUS LINES, INC., 27 Sabin St., P.O. Box 1116, Annex Station, Providence, RI 02901. Representative: John R. Simms, Jr., 915 Pennsylvania Ave., NW., Washington, DC 20004, 202–737–1030. Over regular routes transporting *passengers* between Pittsfield, MA and New York NY, from Pittsfield over U.S. Hwy 7 to MA Hwy 23, then over MA Hwy 23 to the MA-NY State line, then over NY Hwy 23 to NY Hwy 22, then over NY Hwy 22 to U.S. Hwy 44, then over U.S. Hwy 44 to NY Hwy 82, then over NY Hwy 82 to NY Hwy 376, then over NY Hwy 376 to NY Hwy 52, then over NY Hwy 52 to I–84, then over I–84 to I–684, then over I–684 to I–287, then over I–287 to I–87, then over I–87 to New York, NY, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide privately-funded regular route transportation.

MC 164278 (Sub-1), filed December 17, 1982. Applicant: NSD WAREHOUSING & DISTRIBUTION SYSTEMS INC. d.b.a. NSD WAREHOUSING & DISTRIBUTION SYSTEMS, 1010 Knox St., Torrance, CA 90502. Representative: Milton W. Flack, 8484 Wilshire Blvd., Suite 840, Beverly Hills, CA 90211, 213–655–3573. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165239, filed December 16, 1982. Applicant: NATIONAL TRAILS, INC., 20202 Westland, Southfield, MI 48075. Representative: Herbert L. Kay, 17117 W. Nine Mile Rd., Suite 1430, Southfield, MI 48075, 313–557–3450. Transporting *passengers* in *special and charter* operations, beginning and ending at points in MI and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165248, filed December 17, 1982. Applicant: ORANGE COUNTY ENTERPRISES, INC., Stewart Airport Box 6102, Newburgh, NY 12550. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, 212–239–4610. Transporting *passengers in special and charter operations*, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165249, filed December 17, 1982. Applicant: STRONG CORPORATION, 26 Pleasant St., P.O. Box 406, Easthampton, MA 01027. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103, 413–732–1136. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume, No. OP5–311

Decided: December 30, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 110666 (Sub-6), filed December 21, 1982. Applicant: PEORIA CHARTER COACH COMPANY, 2800 N.E. Adams St., Peoria, IL 61603. Representative: Edward D. McNamara, Jr., 907 South Fourth St., P.O. Box 5039, Springfield, IL 62703, (217) 528–8476. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 116659 (Sub-23), filed December 22, 1982. Applicant: J & M CARRIERS CORP., North Shore Atrium Suite 118 West, 6800 Jericho Turnpike, Syosset, NY 11791. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 156949 (Sub-2), filed December 21, 1982. Applicant: SHAW BUS SERVICE, INC., 6523 Baltimore National Pike, Baltimore, MD 21228. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165718, filed December 13, 1982. Applicant: ROBERT W. BURWELL & WILLIAM H. BURWELL d.b.a.: ACE TANK & EQUIPMENT, Box 9039, Seattle, WA 98119. Representative: Jack R. Davis, 1200 IBM Bldg., Seattle, WA 98101, (206) 624–7373. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI).

MC 165199, filed December 14, 1982. Applicant: CALVIN N. ODUM, Rt. 3, Box 375, Abingdon, VA 24210. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 347–8662. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165238, filed December 16, 1982. Applicant: HANS PEDERSEN, JR., P.O. Box 811, Sioux Falls, SD 57101. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103, 605–335–1777. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle between points in the U.S. (except AK and HI).

MC 165268, filed December 20, 1982. Applicant: BROWN'S CHARTER SERVICE, INC., 2530 Sunnyvale, Grand Prairie, TX 75030. Representative: L. Eugene Brown (same address as applicant), (214) 641–0435. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165278, filed December 20, 1982. Applicant: D & M TRUCKING, P.O. Box 915, Morton, TX 79346. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112, (817) 457–0804. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-681 Filed 1-11-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19 Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19,1982, are governed by Subpart D or 49 CFR 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the exten that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–011

Decided: January 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 682 (Sub-43), filed December 20, 1982. Applicant: BURNHAM VAN SERVICE, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Ave., NW., Suite 1112, Washington, DC 20036–5391, 202–887–5868. Transporting *general commodities* (except classes A and B Explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Celanese Fibers Company, of Charlotte, NC.

MC 4242 (Sub-11), filed December 23, 1982. Applicant: PITTSBURGH-FAYETTE EXPRESS, INC., 4th and Main St., Belle Vernon, PA 15012. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, 412–471–1800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between points in DE, IL, KY, MO, NJ, WI and DC, and (2) between points in DE, IL, KY, MO, NJ, WI and DC, on the one hand, and, on the other, points in IN, MD, MI, NY, OH, PA, VA and WV.

MC 32122 (Sub-11), filed December 21, 1982. Applicant: PAZEN TRANSFER LINE, INC., P.O. Box 243, Waukau, WI 54980. Representative: Edward J. Gerrity, P.O. Box 914, Appleton, WI 54912, 414–734–5608. Transporting *machinery, metal products, rubber and plastic products, and transportation equipment*, between points in Winnebago County, WI, on the one hand, and, on the other, points in the U.S. (except AK, HI, CA, CO, ID, MT, NV, NM, OR, AZ, UT, WA and WY).

MC 76282 (Sub-8), filed December 20, 1982. Applicant: WEIR-COVE MOVING & STORAGE COMPANY, 4224 Freedom Way, Weirton, WV 26062. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, 412–471–1800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WV, OH, PA, MD, MI, NY, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 140302 (Sub-9), filed December 16, 1982. Applicant: AMERICAN TANK TRANSPORT, INC., 6350 Ordnance Point Rd. Curtis Bay, MD 21225. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201–572–5551. Transporting *commodities in bulk*, between Baltimore, MD, Cincinnati, OH, Chattanooga, TN, and points in Aiken County, SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141842, filed December 16, 1982. Applicant: COMMUTERS SERVICE, INC., d.b.a. VIKING TRAVELER TOURS, 508 N. Prairer St., Stoughton, WI 53589. Representative: Douglas W. Bickley (same address as applicant), 608 873–7174. Transporting *passengers*, in charter and special operations, beginning and ending at points in WI, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 142693 (Sub-7), filed December 13, 1982. Applicant: CUSTOMS DELIVERIES, INC., 30800 Telegraph Rd., Suite 4900, Birmingham, MI 48010. Representative: J.A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216–566–5639. Transporting *automobile parts, equipment, supplies and related articles*, used in assembly, manufacture, repair, servicing or distribution of motor vehicles, between points in the U.S. (except AK and HI), under continuing contract(s) with General Motors Corporation, of Troy, MI.

MC 148283 (Sub-14), filed December 15, 1982. Applicant: ABC TRANSPORTATION COMPANY, State Docks Rd., Eufaula, AL 36027. Representative: W.W. Riley (same address as applicant), 205–687–2032. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 149573 (Sub-12), filed December 13, 1982. Applicant: NTL INC., P.O. Box 5803, 4721 North 56th St., Lincoln, NE 68505. Representative: J. Max Harding (same as applicant), (402) 467–5365. Transporting (1) *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons engaged in business as manufacturers, distributors and dealers of food and related products, and (2) *such commodities* as are dealt in by wholesale, retail, and discount stores, between points in the U.S. (except AK and HI), under continuing contract(s) with persons engaged in business as are dealt in by wholesale, retail, and discount stores.

MC 160852 (Sub-1), filed December 14, 1982. Applicant: FISHER FREIGHT SERVICES, INC., P.O. Box 47062, Dallas, TX 75247. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214–255–6279. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in TX.

MC 163012, filed December 20, 1982. Applicant: CHARLES DOUGLAS AND COMPANY, INC., 1624 Atlanta Road, Marietta, GA 30060. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *automobiles*, in truckaway service, in initial movements, in specialized equipment, between points in the U.S. (except AK and HI), under continuing contract(s) with Zimmer Motor Corporation, of Pompano Beach, FL.

MC 165222, filed December 16, 1982. Applicant: JOHN H. LEICHNAM d.b.a. JOHN LEICHNAM TRUCKING, P.O. Box 51, Presho, SD 57568. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101–1103, 605–335–1777. Transporting (1) *lumber and wood products*, between points in AR, CA, CO, ID, LA, MT, OK, OR, TX, WA and WY, on the one hand, and, on the other, points in IA, IL, IN, KS, KY, MI, MN, MO, MT, ND, NE, SD, TN, WI and WY, (2) *chemicals and related products*, between points in UT, on the one hand, and, on the other, points in ID and WA, and (3) *machinery*, between points in Richland and Cass Counties, ND, on the one hand, and, on the other, points in Latah County, ID.

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–70

Decided: December 30, 1982.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF 564 (Sub-1,) filed December 13, 1982. Applicant: YTS, INC., 1840 Cardington Road, Dayton, OH 45409. Representative: William H. Cantillon (same address as applicant), (800) 543–4320. As a *freight forwarder*, in connection with the transportation of *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S.

MC 2934 (Sub-125), filed December 16, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 N. Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant), (317) 875–1142. Transporting *computerized electronic communications switching systems and parts and components*, between points in the U.S. (except AK and HI), under continuing contract(s) with D. P. Enterprises, Inc., of Seattle, WA.

MC 67234 (Sub-71) filed December 15, 1982. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Raychem Corporation, of Menlo Park, CA.

MC 67234 (Sub-72), filed December 15, 1982. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Monsanto Company, of St. Louis, MO.

MC 109505 (Sub-28), filed December 14, 1982. Applicant: REX TRANSPORTATION CO., Suite 207 Clausen Bldg., 1520 No. Woodward Ave., Bloomfield Hills, MI 48013. Representative: William B. Elmer, P.O. Box 801., Traverse City, MI 49685, (616) 941–5313. Transporting *clay, concrete, glass or stone products*, between points in CT, IL, MD, MI, MN, NJ, NY, OH, PA, and WI, on the one hand, and, on the other, points in CT, DE, IL, IN, IA, KY, MD, MI, MN, MO, NJ, NY, NC, ND, OH, SD, TN, VA, WV, WI and DC.

MC 119634 (Sub-58), filed December 15, 1982. Applicant: DICK IRVIN, INC., Hwy 2 W., P.O. Box F, Shelby, MT 59474. Representative: Mark A. Cole, (same address as applicant), (406) 434–5583. Transporting *general commodities* (except classes A and B explosives and household goods), between points in WA, ID, MT, CA, AZ, CO, NE, TX, MO, IL, IN, OH and AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 129134 (Sub-5(a)), filed December 13, 1982. Applicant: CARLYLE VAN LINES, INC. d.b.a SAFEWAY VAN LINES, 600 North Main St., P.O. Box 25, Warrensburg, MO 64093. Representative: Gerald Moore (same address as applicant), (816) 747–6128. Transporting *household goods*, between points in the U.S. (except AK, HI, and VT).

MC 133314 (Sub-15), filed December 13, 1982. Applicant: SILVAN TRUCKING COMPANY, INC., R. R. #2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones, Jr., 1111 East 54th Street, Suite 155, Indianapolis, IN 46220, (317) 257–4066. Transporting *machine, hand and automotive tools, tool chests, battery chargers and testing equipment*, between Tallmadge and Medina, OH, Baltimore, MD, Dallas, TX, Clearfield, UT, Ceratos, CA, and Lakewood, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134864 (Sub-13), filed November 15, 1982, previously noticed in the

Federal Register on December 10, 1982. Applicant FARWEST FURNITURE TRANSPORT, INC., 4106 Jones Ave., NE., Renton, WA 98055. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., Suite 520, Atlanta, GA 30326. (404) 262–7855. Transporting *furniture and fixtures, furnishings, plastic and plastic articles,* and *insulation,* between points in the U.S. (except AK and HI).

Note.—This republication corrects the commodity description to include furnishings.

MC 148705 (Sub-9), filed December 13, 1982. Applicant: TWIN CONTINENTAL TRANSPORT CORPORATION, 5738 Olson Hwy, Minneapolis, MN 55422. Representative: Stephen F. Grinnell, 1800 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 158295 (Sub-3), filed December 16, 1982. Applicant: CHEYENNE TRANSPORTATION, INC., 4094 Summerhill Road, Texarkana, TX 75503. Representative: William J. Gambucci, 525 Lumber Exchange Building, Ten South Fifth Street, Minneapolis, MN 55402, (612) 340–0808. Transporting *such commodities* as are dealt in by farm supply cooperatives, between points in the U.S. (except AK and HI).

MC 160615, filed December 13, 1982. Applicant: J & L H ENTERPRISES, INC. d.b.a. BILL HILL TRUCKING, 2816 Ostrom Rd., Marysville, CA 95901. Representative: Jerry W. Hill, 3920 Silver Spur Way, Sacramento, CA 95841, (916) 674–2031. Transporting *lumber and wood products,* between points in Yuba and Sutter Counties, CA, on the one hand, and, on the other, points in OR, WA, ID, MT, WY, UT, CO, AZ, NV, and NM.

MC 162874(a), filed December 16, 1982. Applicant: BILL LUNA d.b.a. BILL LUNA TRUCKING, 1416 E. Elgin, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting (a)(1) *such commodities* as are dealt in by grocery and food business houses, between points in the U.S. (except AK and HI), and (2) *petroleum and petroleum products,* between points in ID and OR, on the one hand, and, on the other, points in the U.S.

MC 163604, filed December 15, 1982. Applicant: MIDSTATES EXPRESS, INC., P.O. Box 510, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant), (316) 223–5432. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 164605, filed December 14, 1982. Applicant: JOSEPH & JEARLDENE FARIA d.b.a. J&J TRUCKING CO., 41623 W. Valeria, Dos Palos, CA 93620. Representative: Jack L. Schiller, 111–56 76th Dr. Forest Hills, NY 11375, (212) 263–2078. Transporting *building materials,* between points in CA, OR and WA.

MC 165224, filed December 16, 1982. Applicant: STOUTNER CORPORATION, 638 North Elk Run Road, P.O. Box 2456, Waterloo, IA 50704. Representative: William L. Fairbank, 2400 Financial Center Des Moines, IA 50309, (515) 282–3525). Transporting (1) *commodities in bulk* and (2) *metal products,* between points in IL, IN, IA, KS, MN, MO, NE, ND, SD and WI.

MC 165225, filed December 16, 1982. Applicant: LEWCO, INC., 1900 Dahlia Road, Jacksonville, FL 32205. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202, (904) 632–2300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Jacksonville, FL on the one hand, and, on the other, points in FL, GA, AL and SC.

MC 165235, filed December 16, 1982. Applicant: SERVICE EXPRESS TRANSPORT, LTD., 2929 Fourth Ave., S., Minneapolis, MN 55408. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), or submit an affidavit stating why Commission approval is unnecessary, or submit a petition of exemption to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or petition or proof of filing the application(s) for common control to Team 3, Room 2158.

Volume No. OP3–73

Decided: January 4, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 15735 (Sub-66), filed December 20, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680, (312) 681–8378. Transporting *household goods* between points in the U.S., under continuing contract(s) with Continental Airlines, Inc., and its subsidiaries, Continental Computers, Inc., and Continental Hotels, all of Los Angles, CA.

MC 15735 (Sub-67), filed December 21, 1982. Applicant: ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681–8378. Transporting *household goods,* between points in the U.S., under continuing contract(s) with Shell Oil Company, Western E & P Operations, of Houston, TX.

MC 15735 (Sub-68), filed December 20, 1982. Applicant: ALLIED VAN LINES, INC., P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681–8378. Transporting *general commodities,* between points in the U.S. (except AK and HI), under continuing contract (s) with Rockwell International, of Pittsburgh, PA and its subsidiary, Graphics Systems Division, of Oak Brook, IL.

MC 48004 (Sub-1), filed December 21, 1982. Applicant: CUSHING TRUCKING, INC., 1211 W. 31st St., Chicago, IL 60608. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, (312) 726–6525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IL, IN, MI, WI, IA, and MO.

MC 83835 (Sub-175), filed December 21, 1982. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: J. Michael Alexander., 5801 Marvin D. Love Freeway, Suite 301, Dallas, TX 75237, (214) 339–4108. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI).

MC 117415 (Sub-13), filed December 21, 1982. Applicant: JENSEN TRUCKING CO., INC., P.O.Box 402, American Fort, UT 84003. Representative: Irene Warr, 311 S. State St. Ste 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *medical supplies, glass, plastic and rubber products,* between points in the U.S. (except AK and HI).

MC 127204 (Sub-20), filed December 20, 1982. Applicant: KINDSVATER, INC., P.O. Box 1027, Dodge City, KS 67801. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612, (913) 233–9629. Transporting *food and related products,* between points in Sedgwick and Ford Counties, KS, Atchison County, MO, Hale and Parmer Counties, TX, on the

one hand, and, on the other, points in the U.S. (except AK and HI.).

MC 129124 (Sub-38), filed December 20, 1982. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: John C. Fudesco, 1333 New Hampshire Ave., NW., Suite 980, Washington, DC 20036, (202) 659–5157. Transporting *commodities in bulk*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 136275 (Sub-35), filed December 21, 1982. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 777 Executive Drive, El Paso, TX 79922. Representative: Dann L. Drewry (same address as applicant), (915) 532–2691. Transporting *sand and sand products, ores and minerals*, between points in El Paso County, TX, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MI, MS, NC, OH, OK, RI, SC, TN, VA and WI.

MC 136585 (Sub-2), filed December 20, 1982. Applicant: BUD COFER, INC., 4210 Weckerly Dr., Monclova, OH 43542. Representative: Keith D. Warner, 5732 W. Rowland Rd., Toledo, OH 43613, (419) 474–6883. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Anchor Metals, Inc., of Anniston, AL.

MC 138714 (Sub-14), filed December 22, 1982. Applicant: VIRGINIA TRANSPORTATION, INC., Box 985, 1000 Leadbetter Rd., Ashland, VA 23005. Representative: Eric Meierhoefer, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004, (202) 737–1031. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with T. H. Mandy, Division of United States Shoe Corporation of Merrifield, VA.

MC 144724 (Sub-4), filed December 20, 1982. Applicant: WALTER J. SHEETS & SON, INC., 100 Bittles Cove, Lewisburg, WV 24901. Representative: Walter J. Sheets (same address as applicant), (304) 645–2101. Transporting *lumber*, between points in WV, KY, and VA, on the one hand, and, on the other, points in IL, TN, WV, VA, KY, NC, SC, PA, GA, OH, MD, DE, NJ, NY, and IN.

MC 147554 (Sub-5), filed December 22, 1982. Applicant: ARAB CARTAGE & EXPRESS CO., INC., P.O. Box 217, Arab, AL 35016. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Pkwy., Birmingham, AL 35209, (205) 942–9116. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, FL, NC, IN, TX, MS, and GA, on the one hand, and, on the other, those points in the U.S. in and east of NM, CO, WY and MT.

MC 152155 (Sub-1), filed December 21, 1982. Applicant: BOBBY R. COLE TRUCKING d.b.a. COLE TRUCKING, 2910 55th WY, Long Beach, CA 90805. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Superior Transportation Systems, Inc. of Wilsonville, OR.

MC 152775 (Sub-10), filed December 17,1982. Applicant: RAM ROD TRUCKING, INC., P.O. Box 1127, Marrero, LA 70073. Representative: Donald B. Morrison P.O. Box 22628, Jackson, MS 39205. (601) 948–8820. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Ward Wholesale Co., Division of WH Ward Lumber Co. of Gretna, LA.

MC 152995 (Sub-2), filed December 20, 1982. Applicant: JAMES THOMAS TRUCKING, INC., 17708 Stonebridge Dr., Hazel Crest, IL 60429. Representative: James Thomas (same address as applicant), (312) 957–8853. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, CA, IL, IN, KY, MI, MN, MO, NJ, NY, OH, OK, PA, TN, TX, AND WI, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, NV, NJ, NY, NC, OH, OK, PA, SC, TN, TX, UT, VA, WV, WI, and WY.

MC 154464 (Sub-7), filed December 17, 1982. Applicant: B-HI TRANSPORT, INC., P.O. Box 1227, Searcy, AR 72143. Representative: Larry Bowen (same address as applicant) (501) 268–3897. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 158495 (Sub–1), filed December 20, 1982. Applicant: OMH TRUCKING CO., d.b.a. HUBBARD CARTAGE CO., 11861 South Cottage Grove Ave., Chicago, Il 60628. Representative: Philip A. Lee, 120 West Madison St., Chicago, IL 60602, (312) 795–9000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160454 (Sub-1), filed December 21, 1982. Applicant: OWEN PRODUCE, INC., Locust Grove Road, Elizabethtown, KY 42701. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. Transporting *machinery*, between points in KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162374 (Sub-1), filed December 20, 1982. Applicant: LUNDELL TRUCKING CO., 7910 224th St. E., Graham, WA 98338. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. Transporting (1) *heavy machinery*, (2) *contractor's equipment*, and (3) *those commodities which because of their size or weight require the use of special handling or equipment*, (a) between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, and (b) between WA, on the one hand, and, on the other, points in AR, IL, IA, IN, LA, NE, NH, NC, MI, PA, SD, TX, and WI.

MC 162374 (Sub-1), filed December 20, 1982. Applicant: LUNDELL TRUCKING CO., 7910 224th St. E., Graham, WA 98338. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. Transporting (1) *heavy machinery*, (2) *contractor's equipment*, and (3) *those commodities which because of their size or weight require the use of special handling or equipment*, (a) between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, and (b) between WA, on the one hand, and, on the other, points in AR, IL, IA, IN, LA, NE, NH, NC, MI, PA, SD, TX, and WI.

MC 163885 (Sub-2), filed December 17, 1982. Applicant: JACK WEBER TRUCKING, 6960 S 841 W., Unit 3, Salt Lake City, UT 84047. Representative: Jack Weber (same address as applicant), (801) 566–5128. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, on the one hand, and, on the other, points in the U.S. (except AK, CT, HI, ME, MA, NH, RI, and VT).

MC 165315, filed December 21, 1982. Applicant: BUILDER'S RENTALS CORPORATION, 1921 South 16th, Las Vegas, NV 89104. Representative: Robert B. Taylor, 882 Van Buren St., Eugene, OR 97402, (503) 345–8138. Transporting *building materials*, between points in AZ, CA, NV, OR, and WA.

MC 165336, filed December 22, 1982. Applicant: BOLSTER SERVICE INC., 2 Shirley St., Winthrop, MA 02152. Representative: George Bolster (same address as applicant), (617) 846–9859. Transporting *general commodities* (except household goods), between points in CT, MA, ME, NH, NJ, NY, RI, and VT.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–101

Decided: January 5, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 58166 (Sub-19), filed December 27, 1982. Applicant: GIBSON TRUCK LINES, INC., S. Hwy 285, La Jara, CO 81140. Representative: Nancy P. Bigbee, 745 E. 16th Ave., #101, Denver, CO 80203, (303) 839–0057. Transporting *perlite ore, diatomaceous earth, and firebrick*, between points in the U.S. (except AK and HI), under continuing contract(s) with Grefco, Inc., and its subsidiary General Refractories Co., of Bala Cynwyd, PA.

MC 61396 (Sub-410), filed December 21, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Dundee Cement Company, of Dundee, MI 48131.

MC 111496 (Sub 43), filed December 22, 1982. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102, (701) 235–4487. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI).

MC 118806 (Sub-81), filed December 21, 1982. Applicant: ARNOLD BROS. TRANSPORT LTD., Suite 200, 851 Lagimodiere Blvd., Winnipeg, Manitoba, Canada R2J 3K4. Representative: Bernard J. Kompare, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *such commodities* as are dealt in or used by manufacturers of glass and glass products, between points in the U.S. (except AK and HI), on the one hand, and, on the other, the ports of entry on the International Boundary line between the U.S. and Canada.

MC 120616 (Sub-10), filed December 22, 1982. Applicant: A. V. DEDMON TRUCKING, INC., Highway 150 East, Shelby, NC 28150. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) ABEKA Book Publications, Division of Pensacola Christian Schools, of Pensacola, FL, (2) D & O Warehouse, Inc., of Shelby, NC, (3) Drexel Heritage Furnishings, Inc., of Drexel, NC, (4) Harrill Chemical and Paper Supply, Inc., of Shelby, NC, (5) Mauney-Williams Coal and Oil Company, of Shelby, NC, (6) Pine Glo Products, Inc., of Raleigh, NC, (7) Plastics Oddities, Inc., of Shelby, NC, (8) Sewell Plastics, Inc., of Charlotte, NC, and (9) Til-Mar Textiles, Inc., of Shelby, NC.

MC 123476 (Sub-80), filed December 27, 1982. Applicant: CURTIS TRANSPORT, INC., 23 Grandview Industrial Court, P.O. Box 427, Arnold, MO 63010. Representative: David G. Dimit (same address as applicant), (314) 464–1300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AR, DE, IA, IL, IN, KY, GA, MD, MI, MO, MN, OH, NJ, NY, NC, PA, SC, TN, VA, WI, WV, and DC, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO and NM.

MC 126216 (Sub-6), filed December 20, 1982. Applicant: PYLES TRUCKING CO., Box 97, Deer Creek, IL 61733. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *metal products, farm machinery, and farm implements*, between points in IA, IL, IN, and MO, and (2) *plastic articles*, between points in Cook County, IL, on the one hand, and, on the other, points in IA, IN, and MO.

MC 156146 (Sub-5), filed December 27, 1982. Applicant: CONTRACT TRUCKING CORPORATION, Butternut Dr., P.O. Box 459, E. Syracuse, NY 13057. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *such commodities* as are dealt in or used by telephone companies, between points in the U.S., under continuing contract(s) with New York Telephone Co., of E. Syracuse, NY.

MC 161806, filed May 3, 1982, and previously noticed in the **Federal Register** issue of May 18, 1982, and republished herein. Applicant: STANLEY M. SHIPP, d.b.a. SHIPP TRANSPORT, 404 W Cochita, Hobbs, NM 88240. Representative: Stanley M. Shipp (same address as applicant), (505) 392–4782. Transporting *petroleum, natural gas and their products*, between points in NM, on the one hand, and, on the other, points in NM, TX, OK, CO, UT and AZ.

Note.—The purpose of this republication is to designate this as a non-fitness related application.

MC 164406, filed December 27, 1982. Applicant: MERIT MOTOR FREIGHT, INC., 3467 Holeman Place, Memphis, TN 38118. Representative: Thomas R. Buckner, 12th Floor 67 Madison Ave., Memphis, TN 38103, (901) 521–1111. Transporting *automotive and commercial batteries*, between points in the U.S. (except AK and HI), under continuing contract(s) with Southern Battery, Inc., of New Orleans, LA.

MC 165366, filed December 27, 1982. Applicant: ALLEN D. STRICKLIN, Box 142, Omaha, IL 62871. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *fertilizer*, (2) *anhydrous ammonia*, and (3) *petroleum/petroleum products*, between points in IL, IN, KY, and MO.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-802 Filed 1-11-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30075]

Rail Carriers; Burlington Northern Railroad Company—Trackage Rights Exemption—Chicago and North Western Transportation Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Under 49 U.S.C. 10505, the Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 11343 Burlington Northern Railroad Company's (BN) acquisition of trackage rights over the Chicago and North Western Transportation Company (C&NW). BN plans to conduct overhead operations over a 12.9-mile segment of rail line owned by the C&NW between milepost 363.5 at Huron, SD, and milepost 376.4 at Wolsey, SD. Standard labor protective conditions are imposed.

DATES: Exemption become effective on February 11, 1983. Petitions to stay must be filed by January 24, 1983. Petitions for reconsideration must be filed by February 1, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423;
(2) Petitioner's representative: Douglas J. Babb, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101.

Pleadings should refer to Finance Docket No. 30075.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: January 5, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–797 Filed 1–11–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30078]

Rail Carriers; Union Pacific Railroad Company—Abandonment Exemption In Boulder County, CO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Commission exempts from the requirements of prior review and approval under 49 U.S.C. 10903 *et seq.* abandonment by the Union Pacific Railroad Company of a 0.22–Mile segment of line in Boulder County, CO, subject to standard labor protective conditions.

DATES: This exemption shall be effective February 11, 1983. Petitions to stay the effectiveness of this decision must be filed by January 21, 1983. Petitions for reconsideration must be filed by February 1, 1983.

ADDRESSES: Send pleadings to:

(a) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423;
(2) Petitioner's representative: Joseph D. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area, (800) 424–5403—Toll free for outside the DC area.

Decided: January 3, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–798 Filed 1–11–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15010]

Lien Industries—Continuance in Control Exemption—Dakota Block Co. and Universal Transport, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), Lien Industries (Lien) and, in turn, Charles H. Lien and Bruce H. Lien, who jointly control Lien, seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of Universal Transport, Inc. (Nos. MC–192597 and MC–126555 and Dakota Block Co. No. MC–162830), both of which are motor carriers.

DATE: Comments must be received within 30 days after the date of publication in the Federal Register.

ADDRESSES: Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative, Charles H. Lien, Lien Industries, P.O. Box 2920, Rapid City, SD 57709.

Comments should refer to No. MC–F–15010

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 7, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–808 Filed 1–11–83; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506:

1. Date: February 2–3, 1983
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Programs, Division of General Programs, for projects beginning after January 1, 1984.
2. Date: February 4, 1983
Time: 8:30 a.m. to 5:00 p.m.
Room: 807
Program: This meeting will review applications submitted for the Libraries Humanities Projects Program, Division of General Programs, for projects beginning after July 1, 1983.
3. Date: February 4, 1983
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications in Lexicography and Linguistics submitted for Research Materials Program, Division of Research Programs, for project beginning after July 1, 1983.
4. Date: February 7–8, 1983
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after January 1, 1984.
5. Date: February 10–11, 1983
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after January 1, 1984.
6. Date: February 10–11, 1983
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications in Classical, Medieval &

Renaissance Studies submitted for Research Materials Program, Division of Research Programs, for projects beginning after July 1, 1983.

7. Date: February 15–16, 1983
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Humanities Projects in Museums and Historical Organizations Program, Division of General Programs, for projects beginning after January 1, 1984.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commerical or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9) (B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 83-836 Filed 1-11-83; 8:45 am]

BILLING CODE 7536-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Invitation for Public Comment Proposed Revision to OMB Circular No. A–76 "Performance of Commercial Activities"

AGENCY: Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP).

ACTION: Request for comments on proposed revision to OMB Circular No. A–76.

SUMMARY: The Office of Federal Procurement Policy is requesting public and agency review and comment on the proposed revision to OMB Circular No. A–76, "Performance of Commercial Activities." The proposed revision, when issued in final, will replace OMB Circular No. A–76 (revised), dated March 29, 1979, Transmittal Memoranda Nos. 1 through 7, and Supplement No. 1, Cost Comparison Handbook, dated March 1979.

OMB Circular No. A–76 requires Federal agencies to conduct cost comparisons of commercial activities they operate where appropriate, to determine the most economical way to perform the work—whether by private commercial source or using in-house Government resources. This proposed revision greatly simplifies and shortens the cost comparison procedures and clarifies and strengthens other procedures in the Circular that unnecessarily impede its implementation.

The proposed revision is the result of a year long effort by an Interagency Task Group of major agencies, chaired by OFPP. It is comprised of the Circular and a four-part Supplement. The Supplement contains guidance on implementation of the Circular, including the greatly simplified cost comparison procedures which were tested at the Department of Defense. Costs prohibit printing the Supplement here. Copies are available from OFPP (see below).

We will continue to work to even further condense and simplify the cost comparison procedures. We urge all commenters to submit constructive recommendations towards that end.

Some issues still need to be addressed. During the 60-day comment period, we will examine the effect OMB Circular No. A–76 implementation may have on Government contracting opportunities for small and small disadvantaged businesses. We will also be reviewing the Circular's effect on Government-owned contractor-operated facilities.

Public Hearings: Public hearings on the proposed revision will be held toward the end of the comment period. The date, time and location of the hearings will be announced in the Federal Register.

DATE: Comments must be received on or before March 14, 1983.

ADDRESS: Submit comments to the Office of Federal Procurement Policy, Office of Management and Budget, 726 Jackson Place, NW, Room 9013, Washington, DC 20503

For copies of the supplement contact: Ms. Margie Jackson or Ms. Teresa Hrabe, OFPP, 202–395–6810

FOR FURTHER INFORMATION CONTACT: Ms. Lee Miller or Mr. Curt Holland, Office of Federal Procurement Policy, 202–395–6810

Donald E. Sowle,

Administrator.

Executive Office of the President

Office of Management and Budget

Washington, D.C.

January 6, 1983.

To the Heads of Executive Departments and Establishments

Subject: Performance of Commercial Activities

1. *Purpose.* This Circular establishes Federal policy regarding the operation of commercial activities. The Supplement to the Circular sets forth procedures for determining whether they should be operated under contract with private sources or in-house using Government facilities and personnel.

2. *Rescission.* OMB Circular No. A–76 (revised), dated March 29, 1979; Transmittal Memorandums 1 through 7; Supplement No. 1 to the Circular dated March, 1979.

3. *Authority.* The Budget and Accounting Act of 1921 (31 U.S.C. 1, *et. seq.*), and The Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401, *et. seq.*).

4. *Background.* This national policy has been promulgated through Bureau of the Budget Bulletins issued in 1955, 1957 and 1960. In 1966, Circular No. A–76 was issued. For the first time, this policy and its implementing guidelines were prescribed in a permanent directive. The Circular was revised in 1967 and again in 1979.

5. *Policy.* It is the policy of the United States Government to:

a. *Rely on the Private Sector.* The Federal Government shall rely on private enterprise to provide commercial goods and services and, in accordance with the provisions of this Circular, shall not start or carry on any activity to provide a commercial product or service if the product or service can be procured more economically from the private sector.

b. *Aim for Economy and Productivity.* Competition enhances both economy and productivity. Whenever private sector performance of a Government operated commercial activity is feasible, comparison of the cost of contracting

and the cost of in-house performance shall determine which will do the work.

c. *Retain Governmental Functions In-House.* Certain Functions are inherently Governmental in nature, being so intimately related to the public interest as to mandate performance only by Federal employees. These functions shall be retained in-house.

6. *Definitions.* For purposes of this Circular:

a. A *commercial activity* is one which provides a product or service needed by the Government. A commercial activity may be operated and managed either by a Federal executive agency or by a private commercial source for the Government. A representative list of such activities is provided in Attachment A. A commercial activity may be part of an organization or a type of work that is separable from other functions or activities and is suitable for performance either in-house or by contract.

b. A *conversion to contract* is the changeover of an activity from Government performance to performance under contract by a private commercial source.

c. A *conversion to in-house* is the changeover of an activity from a private commercial source to Government performance.

d. A *private commercial source* is a private business, university or other non-Federal activity located in the United States, its territories and possessions, the District of Columbia or the Commonwealth of Puerto Rico, which provides a product or service required by a Government agency.

e. A *Governmental function* is a function which is so intimately related to the public interest as to mandate performance by Government employees. Such functions must be performed by Government employees. Services or products in support of Governmental functions, such as those listed in Attachment A, are commercial activities and are subject to this Circular. Governmental functions fall into two categories:

(1) *The act of governing;* i.e., the discretionary exercise of Government authority. Examples include investigations, prosecutions and other judicial functions; management of Government programs requiring value judgments, as in directing the national defense; management and direction of the Armed Services; conduct of foreign relations; selection of program priorities; direction of Federal employees; regulation of the use of space, oceans, navigable rivers and other natural resources; direction of intelligence and counter-intelligence operations; and regulation of industry and commerce, including food and drugs.

(2) *Monetary transactions and entitlements,* such as benefit programs; tax collection and revenue disbursements control of the treasury, accounts and money supply; and the administration of public trusts.

f. A *cost comparison* is the completion of the in-house cost estimate and comparison of that estimate to the total cost of contracting.

7. *Scope.*

a. No executive agency shall engage in or contract for commercial activities except as provided in this Circular, unless otherwise provided by law.

b. This Circular is not applicable when contrary to law or any treaty or international agreement.

c. The provisions of this Circular do not apply to Governmental functions as defined in paragraph 6.e.

d. This Circular does not apply to the Department of Defense in times of a declared war or military mobilization.

e. This Circular does not provide authority to enter into contracts.

f. This Circular does not authorize the establishment of an employer-employee relationship between the Government and individual contract personnel. An employer-employee relationship involves close continual supervision of individual contractor employees, as distinguished from general oversight of contractor operations. However, interaction with contractor employees during the transition period of conversion to contract does not establish an employer-employee relationship.

g. This Circular shall not be used to justify conversion to contract solely to avoid personnel ceilings or salary limitations.

h. Major system acquisitions are governed by the provisions of OMB Circular No. A–109, "Major System Acquisitions." Reliance on the private sector is one of the general policies contained in Circular No. A–109 to ensure competitive consideration of alternatives before making a decision as to the best method of satisfying an agency mission need.

i. This Circular applies to printing and binding only in those agencies or departments which are exempted by law from the provisions of Title 44 of the U.S. Code.

j. This Circular does not apply to:

(1) Consulting services, which are governed by OMB Circular No. A–120, "Guidelines for the Use of Consulting Services"; and

(2) The conduct of research and development. However, severable activities in support of research and development, such as those listed in Attachment A, are commercial activities subject to this Circular.

k. This Circular provides administrative direction to heads of agencies and does not establish and shall not be construed to create any substantive or procedural basis to challenge any agency action on the basis that such action was not in accordance with this Circular, except as specifically set forth in Part I, Chapter 2–I of the Supplement, "Appeals of Cost Comparison Decisions."

8. *Government Operation of a Commercial Activity.* Government operation of a commercial activity is authorized under any of the following conditions.

a. *No Satisfactory Commercial Source Available.* Either no commercial source is capable of providing the needed product or service, or use of such a source would cause unacceptable delay or disruption of an essential program. Findings must be supported as follows:

(1) If the finding is that no private commercial source is capable of providing the needed product or service, the efforts made to find sources must be documented. These efforts shall include, in addition to consideration of preferential procurement programs (see Part I, Chapter 3, paragraph 3 of the Supplement), at least three notices of the requirement in the *Commerce Business Daily* over a 90-day period or, in cases of *bona fide* urgency, two notices over a 30-day period. Specifications and requirements in the solicitation shall not be unduly restrictive and shall not exceed those expected of in-house Government personnel.

(2) If the finding is that a commercial source would cause unacceptable delay or disruption of an agency program, a written explanation, approved by an assistant secretary or equivalent, must show the specific impact on an agency mission in terms of cost and performance. Urgency alone is not adequate reason to continue in-house operation of a commercial activity. Transitory disruption resulting from conversion to contract is not sufficient support for such a finding, nor is the possibility of a strike by contract employees. If the activity has ever been performed by contract, it must be explained how the instant circumstances differ.

(3) Activities may not be justified for in-house performance on the basis that (1) there is a possibility of a strike by contract employees, (2) the activity involves or supports a classified program of (3) the activity is required to perform an agency's basic mission.

b. *National Defense.*

(1) A Government commercial activity may be operated by military personnel whenever:

(a) The activity or military personnel assigned are utilized in or subject to deployment in a direct combat support or combat service support role;

(b) The activity is essential for training in those skills which are exclusively military in nature; or

(c) The activity is needed to provide appropriate work assignments for military career progression or a military rotation base for overseas assignments.

(2) A Government commercial activity providing intermediate or depot level maintenance support of mission essential equipment may be operated to meet military contingencies. The extent of such operations shall be limited to the minimum necessary, in accordance with criteria established by the Secretary of Defense. Each such operation must be justified in writing, including an explanation of why the needed capability cannot be met by a commercial source or by contractor operation of Government-owned facilities. Justifications must be completed and approved by heads of the military departments of their designees not later than September 30, 1985.

c. *Patient Care.* Commercial activities performed at hospitals operated by the Government shall be retained in-house if the agency head, in consultation with the agency's chief medical director, determines that in-house performance would be in the best interests of patient care.

d. *Lower cost.* Government operation of a commercial activity is authorized if a cost comparison prepared in accordance with Part IV of the Supplement (Cost Comparison Handbook) demonstrates that the Government can operate or is operating the activity at an estimated lower total cost than a qualified private commercial source.

9. *Action Requirements.* To ensure that the provisions of this Circular and its Supplement are followed, each agency head shall:

a. Designate an official at the assistant secretary or equivalent level and officials at a comparable level in major component organizations to have responsibility for implementation of this Circular and its Supplement within the agency.

b. Establish one or more offices as central points of contact to carry out implementation. These offices will have access to all documents and data pertinent to actions taken under the Circular and will respond in a timely manner to all requests concerning inventories, schedules, reviews, results of cost comparisons and cost comparison data.

c. Be guided by OFPP Policy Letter No. 78–3, "Requests for Disclosure of Contractor-Supplied Information Obtained in the Course of a Procurement," in considering requests for information, including that supplied by contractors.

d. Implement this Circular and its Supplement within 90 days of its issuance with a minimum of internal instructions. Cost comparisons shall not be delayed pending issuance of such instructions. Copies of the implementing instructions and any subsequent changes, the appeals procedure required in Part I of the Supplement, and the names of the officials in paragraph 9.a. and the offices in paragraph 9.b. will be forwarded to the Office of Federal Procurement Policy, OMB.

e. Ensure that all existing in-house commercial activities are converted to contract performance or justified for continued in-house performance in accordance with paragraph 8 of the Circular by September 30, 1984, unless a written extension is granted by the Office of Federal Procurement Policy, OMB. All such justifications must be reviewed at least once every five years.

10. *Annual Reporting Requirement.* No later than November 15 of each year, agencies shall submit to the Office of Federal Procurement Policy a report on the implementation of OMB Circular No. A–76, in accordance with instructions in Part I, Chapter 4 of the Supplement.

11. *OMB Responsibility and Contact Point.* All questions or inquiries should be submitted to the Office of Management and Budget, Office of Federal Procurement Policy, 726 Jackson Place, NW, Room 9013, Washington, DC 20503. Telephone number (202) 395–6810.

12. *Effective date.* This circular is effective immediately, but need not be applied where a cost comparison has begun prior to the effective date.

13 *Review.* The policy in this Circular will be reviewed no later than three years from the date of issuance.

David A. Stockman,

Director.

[OMB Circular No. A–76]

Attachment A—Examples of Commercial Activities

Audiovisual Products and Services

Photograph (still, movie, aerial, etc.)
Photographic processing (developing, printing, enlarging, etc.)
Film and videotape production (script writing, direction, animation, editing, acting, etc.)
Microfilming and other microforms
Art and graphics services
Distribution of audiovisual materials
Reproduction and duplication of audiovisual products
Audiovisual facility management and operation
Maintenance of audiovisual equipment

Automatic Data Processing

ADP services—batch processing, time-sharing, facility management, etc.
Programming and systems analysis, design, development, and simulation
Key punching, data entry, transmission, and teleprocessing services
Systems engineering and installation
Equipment installation, operation, and maintenance

Maintenance, Overhaul, Repair, and Testing

Aircraft and aircraft components
Ships, boats, and components
Motor vehicles
Combat vehicles
Railway systems
Electronic equipment and systems
Weapons and weapon systems
Medical and dental equipment
Office furniture and equipment
Industrial plant equipment
Photographic equipment
Space systems

Systems Engineering Installation, Operation, Maintenance, and Testing

Communications systems—voice, message, data, radio, wire, microwave, and satellite
Missile ranges
Satellite tracking and data acquisition
Radar detection and tracking
Television systems—studio and transmission equipment, distribution systems, receivers, antennas, etc.
Recreational areas
Bulk storage facilities

Manufacturing, Fabrication, Processing, Testing, and Packaging

Ordnance equipment
Clothing and fabric products
Liquid, gaseous, and chemical products
Lumber products
Communications and electronics equipment
Rubber and plastic products
Optical and related products
Sheet metal and foundry products
Machined products
Construction materials
Test and instrumentation equipment

Real Property

Design, engineering, construction, modification, repair, and maintenance of buildings and structures
Construction, alteration, repair, and maintenance of roads and other surfaced areas
Landscaping, drainage, mowing and care of grounds

Industrial Shops and Services

Machine, carpentry, electrical, plumbing, painting, and other shops
Industrial gas production and recharging

Equipment and instrument fabrication, repair and calibration
Plumbing, heating, electrical, and air conditioning services, including repair
Fire protection and prevention services
Custodial and janitorial services
Refuse collection and processing

Health Services

Surgical, medical, dental, and psychiatric care
Hospitalization, outpatient, and nursing care
Physical examinations
Eye and hearing examinations—manufacturing and fitting glasses and hearing aids
Medical and dental laboratories
Dispensaries
Preventive medicine
Dietary services
Veterinary services

Transportation

Operation of motor pools
Bus service
Vehicle operation and maintenance
Air, water, and land transportation of people and things
Trucking and hauling

Printing and Reproduction

Facility management and operation
Printing and binding—where the agency or department is exempted from the provisions of Title 44 of the U.S. Code
Reproduction, copying, and duplication
Blue-printing

Office and Administrative Services

Library services and facility operation
Stenographic recording and transcribing
Word processing/data entry/typing services
Mail/messenger
Translation
Management/information systems and distribution
Financial auditing and services
Management auditing
Court reporting
Material management

Security

Guard and protective services
Systems engineering, installation, and maintenance of security systems and individual privacy systems
Forensic laboratories

Food Services

Operation of cafeterias, mess halls, kitchens, bakeries, dairies, and commissaries
Vending machines
Ice and water

Special Studies and Analyses (Not subject to OMB Circular No. A–120)

Cost benefit analyses
Statistical analyses
Scientific data studies
Regulatory studies
Defense, education, energy studies
Legal/litigation studies

Management Support Services (Not subject to OMB Circular No. A–120)

Advertising
Financial and payroll services
Auditing services
Debt collection
Public relations
Contract, procurement, and acquisition support services
Legal services

Other Services

Laundry and dry cleaning
Mapping and charting
Architect and engineer services
Geological surveys
Cataloging
Training—academic, technical, vocational, and specialized
Operation of utility systems (power, gas, water, steam, and sewage)

[FR Doc. 83-810 Filed 1-11-83; 8:45 am]
BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

Miami (FL) Sectional Center Facility; Visit

January 7, 1983.

Notice is hereby given that Commissioner Crutcher will visit the Miami (FL) Sectional Center Facility of the U.S. Postal Service on Thursday, January 20, 1983, for the purpose of gaining general knowledge and understanding of mail operations. A report of the visit will be filed in the Commission's Docket Room.

David F. Harris,
Secretary.

[FR Doc. 83-833 Filed 1-11-83; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19405; File No. SR–BSECC–82–3]

Filing and Immediate Effectiveness of Proposed Rule Change by Boston Stock Exchange Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 10, 1982, the Boston Stock Exchange Clearing Corporation ("BSECC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change adds a new Rule 2A authorizing BSECC to provide Depository Processing Services to members located outside New York City. Under the proposed rule change, in accordance with procedures stated in the Depository Facility Agreement between BSECC and Depository Trust Company ("DTC"), members submit to BSECC, for shipment to and processing at DTC, book-entry instructions, withdrawal instructions, and deposits for same-day credit. The proposed rule change also amends BSECC's fee structure to include a $.50 charge for each item processed through these services in addition to any depository feese charged to BSECC, as well as transmission and transportation costs.

In its filing, BSECC states that the purpose of the rule change is to expand the availablity of BSECC's Depository Processing Services. BSECC believes the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because it facilitates the prompt and accurate clearance and settlement of securities transactions by providing a single location at which members may make their physical deliveries into the National Clearance and Settlement System.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4: At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–BSECC–82–3.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at

the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

Dated: January 5, 1983.

[FR Doc. 83-660 Filed 1-11-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12948; 812-5340]

Liquidity Fund for Thrifts, Inc.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

Notice is hereby given that Liquidity Fund for Thrifts, Inc. ("Applicant"), Park Avenue Plaza—43rd Floor, New York, NY 10055, registered under the Investment Company Act of 1940 ("Act") as an opened, diversified, management investment company, filed an application on October 13, 1982, and amendments thereto on December 2, 1982, and December 21, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute the net asset value per share of its Short-Term Portfolio using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized under the laws of the State of Maryland on July 30, 1982, and filed with the Commission a notification of registration under the Act on August 12, 1982. Applicant's investment Adviser is the First Boston Corporation, its sponsor is United States League of Savings Associations, and its administrative agent is the Provident Institutional Management Corporation.

According to the application, Applicant will offer for sale two separate classes of shares, one representing an Intermediate-Term Portfolio, and the other a Short-Term Portfolio ("Fund"). Applicant's investment objective is to achieve as high a level of current income as is consistent with the preservation of capital, the maintenance of liquidity, and the different average maturity of the instruments held by the two Portfolios. Applicant will offer its shares without a sales charge to savings and loan associations and other financial institutions eligible for membership in the Federal Home Loan Bank System. Purchase of Applicant's shares is restricted to depository institutions eligible for participation in the Federal funds market pursuant to Regulation D of the Federal Reserve Board purchasing shares for their own accounts or for the accounts of other depository institutions.

According to the application, the Fund will pursue its investment objective by investing in assets that qualify as "short-term liquid assets" pursuant to § 523.10(h) of the Regulations of the Federal Home Loan Bank System ("Eligible Investments"). Applicant states that it will not purchase any Eligible Investments maturing in more than seven days for which market quotations are not readily available if, as a result, more than 10% of the market value of its total assets would be invested in such illiquid Eligible Investments together with any repurchase agreements maturing in more than seven days.

According to the application, the Fund may enter into repurchase agreements with terms of relatively short periods (usually not more than 30 days) with respect to Eligible Investments. The Fund will enter into repurchase agreements only with domestic banks having total assets of at least $1.0 billion or with primary dealers in money market instruments. The Fund will not enter into any repurchase agreements maturing in more than 60 days, and it will not enter into repurchase agreements maturing in more than seven days if as a result more than 10% of the market value of its total assets would be invested in such repurchase agreements and other illiquid securities. The Fund may also enter into reverse repurchase agreements with respect to Eligible Investments, primarily to provide liquidity to meet redemption requests when the sale of portfolio securities is considered to be disavantageous. The Fund represents that such securities will be carried and treated on its books in accordance with the conditions set forth in Investment Company Act Release No. 10666 (April 18, 1979).

The application states that Applicant and its sponsor believe that in order to attract investors and retain stockholders, the Fund should possess the two attributes of (i) stability of principal, *i.e.*, a stable net asset value, and (ii) a steady flow of investment income. Applicant's management believes that the Fund's policy of investing only in instruments having a remaining maturity of one year or less and maintaining an average portfolio maturity of 120 days or less combined with a stable price of $1.00 per share will provide both stability of principal and a steady flow of investment income. Applicant states that its management's experience with respect to securities within the Fund's investment policy indicates that with respect to instruments maturing in 120 days or less there is normally a negligible discrepancy between market value and the amortized cost value. Applicant believes that valuation on the amortized cost basis will benefit its stockholders.

Applicant states that its Board of Directors has determined in good faith that, in light of the characteristics of the Fund as described above, absent unusual circumstances, the amortized cost method of valuation is appropriate and preferable for the Fund and reflects fair value of such securities. The Fund has agreed to the following conditions to any order granting the application:

1. The Board of Directors in supervising the operations of the Fund and delegating special responsibilities involving portfolio management to Applicant's investment adviser undertakes—as a particular responsibility within the overall duty of care owed to the stockholders of the Fund—to establish procedures reasonably designed, taking into account current market conditions and the Fund's investment objectives, to stabilize the Fund's net asset value per share as computed for the purpose of distribution and redemption at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Directors shall be the following:

(a) Periodic review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share based upon available market quotations from the Fund's amortized cost price per share, and the maintenance of records of such review. To fulfill this obligation, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Directors in the exercise of its discretion to be appropriate indicators of value, which may include, among other things, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the $1.00 amortized cost price per share

exceeds one-half of one percent, the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes the extent of any deviation from the Fund's $1.00 amortized cost price per share may result in any material dilution or other unfair results to investors or existing stockholders, it shall take such corrective action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average maturity of the Fund; withholding dividends or payment of distributions from capital or capital gains, redeeming of shares in kind; or utilizing a net asset value per share as determinied by using available market quotations.

3. The Fund will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Fund will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, the Fund will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above; and, Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the considerations of the Board of Directors and its actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the meetings of the Board of Directors. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit the investments of the Fund, including repurchase agreements, to those United States dollar denominated instruments which the Board of Directors determines present minimal credit risks and are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-001 Filed 1-11-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19404; (SR–MCC–82–19)]

Midwest Clearing Corp.; Order Granting Accelerated Approval of Proposed Rule Change

January 5, 1983.

The Midwest Clearing Corporation ("MCC"), 120 South LaSalle Street, Chicago, Illinois 60603, submitted on November 26, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend MCC's By-laws to increase the number of members of the Board of Directors by two, from twenty-five to twenty-seven.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 19327, December 13, 1982) and by publication in the **Federal Register** (47 FR 56760, December 20, 1982). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room. No comments have been received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to MCC, and in particular, the requirements of Section 17A and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing. Approval of the proposed rule change will enable MCC to coordinate its election of Board members with that of Midwest Stock Exchange, whose proposed rule change requesting an identical increase in the number of its Board members was approved on January 4, 1983, after thirty days had elapsed from the date of publication of the notice of filing (File No. SR–MSE–82–7, Release No. 19402). No comments to the Midwest Stock Exchange rule filing were received.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-000 Filed 1-11-83; 8:45 am]

BILLING CODE 8010-01

[Release No. 12945; (812–5330)]

Nationwide Investing Foundation (Formerly Mutual Investing Foundation) and Heritage Securities, Inc.; Filing of Application

January 4, 1983.

Notice is hereby given that Nationwide Investing Foundation ("Nationwide"), registered under the Act as a diversified, open-end, management investment company, and Heritage Securities, Inc. ("Heritage"), One Nationwide Plaza, Columbus, OH 43216,

Nationwide's principal underwriter and investment adviser (collectively with Nationwide, "Applicants"), filed an application on September 28, 1982, and amendments thereto on November 3, 1982, and on December 16, 1982, requesting an order pursuant to Section 11(a) of the Act approving certain proposed exchanges, and pursuant to Section 6(c) of the Act exempting those exchanges from the provisions of Section 22(d) of the Act, and granting a conditional exemption from the provisions of Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit the price per share of one of Nationwide's classes of shares, Nationwide U.S. Government Money Market Fund, to be calculated to the nearest one cent on a share value of one dollar. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Nationwide is a common law trust organized under the laws of Michigan that issues several classes of shares: Nationwide Fund, Nationwide Growth Fund ("Growth Fund"), Nationwide Bond Fund ("Bond Fund"), Nationwide Money Market Fund ("Money Fund"), and Nationwide U.S. Government Money Market Fund ("Government Fund") (collectively, and including all Funds that may in the future become one of the classes of shares offered by Nationwide, the "Funds"). Each of the Funds has its own investment requirements, and each is individually managed and distributed by Heritage.

According to the application, the current public offering price of Nationwide Fund, Growth Fund, and Bond Fund (the "Non-Money Market Funds") is the net asset value per share plus a sales charge that varies from 7¼% of the offering price on purchases of less than $2500 to 1% on purchases over $500,000. Investments in Money Fund and Government Fund (the "Money Market Funds") are subject to an initial minimum investment of $2500, and a one-time sales charge of $100 at the time of the initial investment, resulting in a maximum sales charge of 4% of the public offering price. Additional investments in the Money Market Funds can be made without any further charge as long as the investor has not redeemed the entire account.

Applicants state that Heritage is a wholly-owned subsidiary of Nationwide Corporation, a holding company owned primarily by Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company. Heritage's entire sales force is composed of licensed insurance agents of the "Nationwide Group of Companies," as described in the application. Commissions are paid to those agents from insurance premiums containing a sales charge, and are designed to compensate the agents for the effort put forth in making customer contact, presenting their product, and securing the initial application.

Applicant proposes to permit amounts payable as benefits, proceeds, or cash surrender values under certain contracts or policies of insurance issued by any of the Nationwide Group of Companies to be applied to the purchase of shares of Government Fund and future Funds at net asset value per share plus a reduced sales charge equal to one-half the sales charge stated in the prospectus. This privilege must be exercised within 60 days of receipt of the benefit check, and applies to both group and individual policies of the types set forth in the application. Applicants note that previous orders of the Commission have granted exemptions permitting the reduced sales charge privilege described above to be offered to recipients of amounts payable who wished to invest their proceeds in shares of Nationwide Fund and Growth (Investment Company Act Release No. 10320, July 11, 1978) and in shares of Bond and Money (Investment Company Act Release No. 11111, April 1, 1980).

Applicants also propose to offer a transfer privilege to shareholders of Government Fund and to shareholders of the other Funds presently offered or which may be offered by Nationwide in the future as follows: (1) Shares of Government Fund purchased directly or acquired through reinvestment of dividends and distributions could be exchanged for shares of Non-Money Market Funds only upon payment of the applicable sales charge. At the time of the first such exchange, a shareholder in Government Fund would receive a one-time sales charge credit of up to $100, but only if the one-time charge has actually been paid. (2) Shares of the Non-Money Market Funds with a minimum net asset value of $2500 could be exchanged at relative net asset value for shares of Government Fund without the payment of a sales charge. (3) Shares of any Money Market Fund offered in the future by Nationwide could be exchanged for shares of the present and future Non-Money Market Funds at the applicable sales charge less a one time sales charge credit of up to $100 to the extent that that sales charge had previously been paid on purchase of the Money Market Fund shares. Shareholders of any Non-Money Market Fund offered in the future could exchange their shares having a minimum net asset value of $2500 at relative net asset value without payment of a sales charge.

Applicants also propose to impose a $5.00 service fee on all transfers between Funds as to which no sales charge is otherwise applicable. Applicants state that Nationwide now offers its shareholders a transfer privilege permitting investors of Nationwide Fund, Growth Fund, and Bond Fund to transfer shares between these Funds without a sales charge. In addition, transfers of shares having a minimum net asset value of $2500 may be made from these Funds into Money Fund without a sales charge, and certain transfers from Money Fund to these Funds may be made in which the sales charge is credited in full. These privileged transfers are all subject to a $5.00 service fee. Applicants now propose to place shareholders of Government Fund and of those Money Market Funds which may be offered by Nationwide in the future in the same position as persons who hold shares of Money Fund in the above described transfers, and to permit transfers between present and future Money Market Funds offered by Nationwide at no sales charge subject to the $5.00 service fee. Moreover, Applicants desire to offer transfers between present and future Non-Money Market Funds, and from these Funds to any other Funds offered by Nationwide at no sales charge, subject to the $5.00 service fee.

The application states that the price reduction authority sought by Applicants is directly related to the reduced sales effort expended and lower cost incurred in connection with the sale of shares of the Funds under the circumstances described in the application. The application also states that the reduced effort and costs arise by reason of the previously established relationship between policyholder and insurance agent, and that the agent, upon delivery of the proceeds of the contract or policy of insurance, is merely offering an extension of services to an existing customer in his capacity as a registered representative of Heritage. Applicants contend that the sales effort required under the above-described circumstances would be significantly less than that which is involved in soliciting persons not having this relationship to the Applicants. Applicants state that the sales effort involved in subsequent solicitations is considerably less than that associated with first-time contacts because, once

the customer-agent relationship has been satisfactorily established, the customer is more likely to turn to his or her agent for future needs. The application also states that this is true irrespective of the form of the insurance previously provided by the agent, because in each case the agent makes his customer aware of his ability to make available any of the other insurance lines, as well as shares of the Funds.

With respect to the $5.00 service fee on all transfers between Funds in which there is no sales charge, Applicants assert that these exchanges require no additional sales effort because the persons redeeming these shares are and will be investors prior to the transfer and will remain investors after the transfer. Applicants state that no commissions are paid on these transfers, which are handled by Heritage Financial Services, Inc. (the transfer and dividend disbursing agent for all of the Funds' shares), and that the purpose of the transfer privilege is thus to pass these cost savings on to the investing public. Applicants further assert that the imposition of a $5.00 service fee on no-load transfers will merely defray the administrative costs involved in the handling of each transfer. Applicants state that this service fee will not violate the spirit and purpose of the transfer privilege, and that Applicants believe that the imposition of the $5.00 service fee will enable Applicants to continue to make this privilege available to investors. Applicants also assert that the imposition of the $5.00 service fee is in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

According to the application, Government Fund has as its investment objective the achievement of as high a level of current income as is consistent with maximum safety and maintenance of liquidity through investing in short-term United States debt securities protected by the "full faith and credit" pledge of the United States Government and maturing in one year or less and related repurchase agreements secured by such obligations; and that, to this end, Government Fund will seek to provide its investors with a convenient means of investing short-term funds where the direct purchase of money market instruments may be undesirable or impracticable.

Applicants propose to compute net asset value per share of Government Fund to the nearest one cent on a share value of one dollar for purposes of effecting sales, redemptions and repurchases. Applicants state that Government Fund will use its best efforts to maintain a constant net asset value, or price, per share of $1.00; and Government Fund will endeavor to reduce the amount of unrealized gains and losses which result, among other things, from interest rate changes by maintaining a dollar-weighted average port-folio maturity of 120 days or less.

In Investment Company Act Release No. 9786 (May 31, 1977), the Commission expressed its view that it would be inconsistent with the provisions of Rule 2a–4 for "money market" funds to "round off" calculations of their net asset value per share to the nearest one cent on share values of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and, therefore might not reflect properly the values of the underlying portfolio instruments as required by Rule 2a–4 under the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that many investors desire an investment vehicle which offers a stable net asset value per share, and that the exemption sought in the application would enhance the ability of Applicants to achieve such stability and the shareholders, under ordinary circumstances, could be assured that Government Fund shares could be purchased and redeemed at a constant net asset value per share. Applicants further submit that the relief requested would provide the shareholders of Government Fund the convenience of being able to determine the value of their shares simply by knowing the number of shares they own, thus facilitating record keeping. Applicants state that the Board of Directors of Heritage and the Board of Trustees of Nationwide have determined in good faith that the proposed method of calculating net asset value per share under the circumstances described above, absent unusual circumstances, is appropriate and in the best interest of Government Fund shareholders.

Applicants assert that the requested exemption from the provisions of Rules 2a–4 and 22c–1 under the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants agree that the following conditions may be imposed in an order granting such exemptive relief:

1. The Board of Trustees of Nationwide has undertaken as a particular responsibility within the overall duty of care owed to the shareholders to assure to the extent reasonably practicable, taking into account current market conditions affecting the investment objectives of Government Fund, that the price per share of Government Fund as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from $1.00;

2. Applicants will maintian a dollar-weighted average portfolio maturity appropriate to their objective of maintaining a stable price per share, and that Government Fund will not (i) purchase an instrument with a remaining maturity of greater than one year, or (ii) maintain a dollar-weighted average portifolio maturity in excess of 120 days; and

3. Government Funds's purchases of portfolio instruments, including repurchase agreements, will be limited to those United States dollar denominated instruments which the Board of Trustees of Nationwide determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Trustees of Nationwide.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C., 29549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and order issued in this matter. After said date an order disposing of the application will be issued unless the Commission order a

hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-827 Filed 1-11-83; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 6, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Texas Gas Corporation
Common Stock, $5 Par Value (File No. 7-6420)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 27, 1983 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-828 Filed 1-11-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/592]

Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on February 7, 1983 in Room 521J of the National Aeronautics and Space Administration, 600 Independence Avenue, SW., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic) and to interference problems concerning the radio astronomy and radar astronomy services. The purpoose of the meeting is to discuss the upcoming cycle of the CCIR and preparations for the international meeting of Study Group 2 in November-December, 1983.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: January 5, 1983.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 83-827 Filed 1-11-83; 8:45 am]

BILLING CODE 4710-07-M

VETERANS ADMINSTRATION

Privacy Act of 1974; Amendment of Systems; Revised Routine Use Statements

Notice is hereby given that the VA (Veterans Administration) plans to add a new routine use statement for the system of VA records entitled "Compensation, Pension, Education and Rehabilitation Records—VA" "58VA21/22/28" as set forth on page 372 of the Federal Register of January 5, 1983. As part of the VA's participation in the President's Council of Integrity and Efficiency Project entitled "Federal Employees Receiving Government Assistance," the Veterans Administration, plans to participate as a matching source with DOL (Department of Labor). The match will compare the "Office of Workers" Compensation Programs Federal Employees Compensation file payment records with VA compensation and pension program records for the purpose of enabling the DOL to identify and locate individuals who are receiving concurrent payments of DOL and VA benefits to which they may not be entitled. To provide information required for the match, the VA is proposing to add a new routine use statement. This routine use will permit the disclosure of identifying, disability and award information to the DOL. The VA has determined that release of information for this purpose is necessary and a proper use of information in this system of records and that a specific routine use for transfer of this information is appropriate. Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed routine use to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before February 7, 1983 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until February 22, 1983.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the Federal Register by the Veterans Administration, the new and revised routine use statement included herein is effective February 7, 1983.

Approved: January 4, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Notice of System of Records

The VA (Veterans Administration) is making the following change in the system identified as 58VA21/22/28, "Compensation, Pension, Education and Rehabilitation Records—VA." appearing at 47 FR 372.

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitaiton Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

* * * * *

44. Identifying, disability, and award (type, amount and reasons for award) information may be released to the DOL (Department of Labor) in order for the DOL to conduct a computer matching program against the "Office of Workers' Compensation Programs Federal Employees Compensation File, DOL/ESA-13," published in 46 FR 12357 on February 13, 1981. This match will permit the DOL to verify a person's eligibility for DOL payments as well as to detect situations where receipients may be erroneously receiving concurrent multiple payments from the DOL and the VA, to identify areas where legislative and regulatory amendments directed

towards preventing overpayments are needed, and to collect debts owed to the United States Government. This matching program is being performed pursuant to the DOL Inspector General's authority under Public Law No. 95–452, § 4(a) to detect and prevent fraud and abuse. This disclosure is consistent with 38 U.S.C. 3301(b)(3).

[FR Doc. 83–804 Filed 1–11–83; 8:45 am]
BILLING CODE 6320–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 8
Wednesday, January 12, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, January 13, 1983

The Federal Communications Commission will hold an Open Meeting on the subject listed below on Thursday, January 13, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Amendment of the regulations to expand the notification and verification equipment authorization procedures. *Summary:* This item proposes to place certain categories of equipment under the new notification and the existing verification procedures.

General—2—*Title:* Amendment of Part 2 of the rules to simplify the equipment authorization procedures. *Summary:* This item proposes a simplified equipment authorization that could be applied to equipment with a low potential for causing interference. The procedure would reduce the time spent by applicants in obtaining approval of their equipment.

General—3—*Title:* First Notice of Proposed Rulemaking in General Docket 82–334 regarding the establishment of a spectrum utilization policy for the fixed and mobile services in certain bands between 947 MHz and 40 GHz. *Summary:* The Commission will consider the adoption of this First Notice which proposes to modify the utilization policy for spectrum between 947 MHz and 40 GHz used by the fixed and mobile services. Special consideration is given to the use of spectrum in this range by fixed microwave stations now operating in the 12.2–12.7 GHz bands recently reallocated to the Direct Broadcasting Satellite Service.

Private Radio—1—*Title:* Report and Order to redefine the classes of coast stations and delete certain rules which restrict the free use of communications. *Summary:* The Commission will consider whether to redefine the classes of coast stations by mode of operation (radiotelegraphy or radiotelephony) and by the frequency bands authorized. It will also consider deleting existing restrictions on radiotelephone communications on medium frequencies (1605–2850 kHz) when within range of VHF (156–162 MHz) coast stations.

Private Radio—2—*Title:* Notice of Proposed Rule Making to require all compulsory telegraph vessels to be capable of generating a specified field strength at a distance of one nautical mile. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making to amend Sections 83.444(a) and 83.446(a)(2), under Subpart R of the FCC Rules, applicable to radiotelegraph stations aboard vessels of 1600 gross tons and over. The amendment would apply to the main and reserve installations operated on 500 kHz and would require compulsory equipped telegraph vessels to be capable of generating a specified minimum field strength.

Private Radio—3—*Title:* Amendment of the Amateur Radio Service Rules, Part 97, to make additional frequencies available to the Radio Amateur Civil Emergency Service (RACES) during declared national emergencies. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making proposing to amend Part 97 of the Rules to make additional frequencies available to the Radio Amateur Civil Emergency Service during declared national emergencies.

Private Radio—4—*Title:* Amendment of Rules concerning Medical Service Operations in the 450–470 MHz band in the Special Emergency Radio Service. *Summary:* The FCC has before it for consideration a Notice of Proposed Rule Making which would: (1) Amend Section 90.53 to delete the requirement that a base or control station in an emergency medical service (EMS) system must be both wired and equipped to transmit/receive on any particular number of "MED channels" and (2) to specify standard nomenclature for two additional frequency MED channels.

Common Carrier—1—*Title:* Petition for Reconsideration of GTE Satellite Corporation 90 FCC 2d 1009 (1982). *Summary:* The Commission will consider the petition of United States Satellite Broadcasting Company, Inc. requesting rescission of the grant, or in the alternative, conditioning the grant by prohibiting the offering of television service to individual residences.

Common Carrier—2—*Title:* Letter to the American Telephone and Telegraph Company. *Summary:* The Commission will consider whether to issue a letter to the American Telephone and Telegraph Co. relating to the procedure, timing and substance of the Title II and Title III applications that will have to be filed prior to implementation of the Modified Final Judgment in United States v. Western Electric, Civil Action 82–0192 (D.D.C.)

Common Carrier—3—*Title:* Application for Review filed by RCA of a Bureau grant of special temporary authority to Comsat in application File No. I–P–C–83–008; Motion for Stay filed by RCA of a Bureau grant or special temporary authority in application File No. I–P–C–83–008; and Application for Review filed by RCA of a Bureau order denying its petition to reject or suspend and investigate revisions by Comsat to its Tariff FCC No. 101. *Summary:* The Commission will consider three emergency filings by RCA relating to the Bureau's implementation of the Commission's Authorized User decision.

Audio—1—*Title:* Mutually exclusive applications for construction permits for AM stations on 750 kHz in Portland, Oregon (KXL), Park City, Utah (NEW), Polson, Montana (KERR), and Price, Utah (KOAL); a petition to deny the Portland, Oregon application and two petitions to deny the Price, Utah application; and related matters. *Summary:* The Commission considers all the above matters and designates the applications for hearing.

Policy—1—*Title:* Amendment of Part 73 of the Commission's Rules and Regulations in Regard to Section 73.642(a)(3) and Other Aspects of the STV Service (Docket No. 21502). *Summary:* The Commission will consider petitions for partial reconsideration of the Third Report and Order filed by Subscription Television Association and Wometco Home Theatre, Inc. Petitioners request that the Commission reconsider the action allowing STV decoder sales and once again adopt a rule permitting only the leasing of decoder equipment by subscribers.

Policy—2—*Title:* Amendment of the AM Broadcast Station Rules with respect to signal coverage requirements over community business and factory areas (RM–4061). *Summary:* The Commission will consider a petition for rule making filed by Miller & Fields, P.C. seeking the deletion of that portion of Section 73.24(j) which requires AM stations to provide a 25 mV/m signal level over business areas.

Policy—3—*Title:* Amendment of § 73.68 of the Rules to expand the use of toroidal transformers as a method of deriving current samples in directional (AM) antenna systems; and, to provide for the use of radio frequency relays in sampling element transmission lines. *Summary:* It is proposed to permit the use of toroidal current sampling transformers at AM stations if the antenna towers do not exceed 130° in electrical height.

Policy—4—*Title*: Assignment of Channel 240A to Natchitoches, Louisiana. *Summary*: The Commission will consider an application for review of the Bureau's action assigning Channel 240A to Natchitoches, Louisiana.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: January 6, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–39–83 Filed 1–10–83; 12:29 pm]

BILLING CODE 6712–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 17, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of the minutes of previous meetings.

Application for consent to establish a branch:

Bossier Bank and Trust Company, Bossier City, Louisiana, for consent to establish a branch at 2950 East Texas Street, Bossier City, Louisiana.

Application for consent to merge and establish three branches:

The Saver's Bank A Mutual Savings Bank, Littleton, New Hampshire, an insured mutual savings bank, for consent to merge, under its charter and title, with Dartmouth Savings Bank, Hanover, New Hampshire, and to establish the three offices of Dartmouth Savings Bank as branches of the resultant bank.

Application for consent to merge and establish four branches:

Hamburg Savings Bank, New York (Brooklyn), New York, for consent to merge, under its charter and title, with College Point Savings Bank, New York (College Point), New York, and for consent to establish the four offices of College Point Savings Bank as branches of the resultant bank.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., Tampa, Florida, in connection with the liquidation of Metropolitan Bank and Trust Company, Tampa, Florida.

Memorandum re: Delegations of Authority Relating to Administrative Expenses.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Memorandum re: Internal Controls to Prevent Fraudulent Receipt of Unemployment Compensation.

Memorandum re: Quarterly Certification of Division of Liquidation Approvals Under Delegated Authority.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 10, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–37–83 Filed 1–10–83; 12:13 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 17, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Application pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of offense involving dishonesty or a breach of a trust as director, officer, or employee of an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Discussion Agenda:

Request for consent to partially retire a subordinated capital note prior to maturity:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6) and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389–4425.

Dated: January 10, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–36–83 Filed 1–10–83; 12:23 pm]

BILLING CODE 6714–01–M

4

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 1142, January 10, 1983.

PLACE: Board Room, sixth floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The following item has been added to the Bank Board meeting scheduled Thursday, January 13, 1983, at 10 a.m.

Preemption of State Due-on-Sale Laws (P)
Gwen Hibbs

[No. 2, January 10, 1982]

[S–01–83 Filed 1–10–83; 3:29 pm]

BILLING CODE 6720–01–M

5

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Thursday, January 13, 1983.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in Southwest Sunsites, Docket 9134.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Southwest Sunsites, Docket 9134.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information (202) 523–1892; Recorded Message (202) 523–3806.

[S–38–83 Filed 1–10–83; 9:37 am]

BILLING CODE 6750–01–M

6

NATIONAL SCIENCE BOARD

DATE AND TIME:

January 20, 1983 9:00 a.m., open session.
January 21, 1983 8:30 a.m., closed session.
January 21, 1983 9:30 a.m., open session.

PLACE: National Science Foundation, 1800 G Street, NW. Washington, D.C.

STATUS: Most of this meeting will be open to the public. Parts of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSION: Thursday, January 20, 9:00 A.M.:

1. Minutes—Open Session—November 1982 Meeting.
2. Chairman's Items.
3. Director's Report.

Friday, January 20, 9:30 a.m.:

4. Grants, Contracts, and Programs.
5. Principles Related to NSF Supported Research Instrumentation and Facilities.
6. Long-Range Planning.
7. Reports of Board Committees.
8. Board Representation at Advisory Committee and Other Meetings.
9. Other Business.
10. Next Meetings.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION: Friday, January 20, 8:30 a.m.:

A. Minutes—Closed Session—November 1982 Meeting.
B. NSB and NSF Staff Nominees.
C. Grants, Contracts, and Programs.

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, Executive Officer, NSB, 202/357–9582.

[S–40–83 Filed 1–10–83; 1:50 pm]

BILLING CODE 7555–01–M

7

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

TIME AND DATE: 8 a.m., January 17, 1983.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20814.

STATUS: Open.

MATTERS TO BE CONSIDERED: 8 o'clock Meeting—Board of Regents:

(1) Oath of Office—New Regents; (2) Approval of Minutes, 22 May 1982; (3) Report of Executive Committee Actions; (4) Report—Admissions; (5) Report—Associate Dean for Operations—Budget; (6) Report—President, USUHS—(a) Retirement Age; (b) Faculty Compensation; (c) Long-range Plan; (d) Graduate and Continuing Education; (e) Establishment of Disaster Research Institute; and (f) Proposal for Foundation for the Advancement of Military Medicine.

New Business.

SCHEDULED MEETINGS: March 14, 1983.

CONTACT PERSON FOR MORE INFORMATION: Frank Reynolds, Executive Secretary of the Board; 202/295–3025.

January 7, 1983.

M.S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[S–35–83 Filed 1–10–83; 8:45 am]

BILLING CODE 3810–01–M

federal register

Wednesday
January 12, 1983

Part II

Environmental Protection Agency

Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2249-7b]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces EPA's final action on portions of the Agency's rulemaking proposal of January 13, 1982, entitled "Revised Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines." EPA finds that insufficient leadtime exists for 1984 model year heavy-duty gasoline-fueled engines (HDGEs) to meet either the emission standards currently in place for that year or revised non-catalyst emission standards based on the transient test procedure. Considering the date of publication of this final rule, EPA finds that the leadtime also is inadequate for certification of 1984 heavy-duty diesel engines (HDDEs) to the standards currently in place. Therefore, EPA is revising the HDGE and HDDE 1984 standards and other regulatory provisions to 1983 levels for one year. For 1984 light-duty trucks (LDTs) and for HDGEs and HDDEs certified under the transient test procedure option, EPA finds that there are substantial implementation problems with the existing full-life useful-life requirement. The Agency therefore provides optional procedures for that year (1984). Elsewhere in this issue of the **Federal Register**, the Agency is proposing two options for 1985 and later LDTs and heavy-duty engines (HDEs). This action also includes a revision of the Acceptable Quality Level (AQL) applicable to LDT and HDE Selective Enforcement Auditing (SEA) from 10 to 40 percent and affirms the 2-year delay of HDE SEA. In addition, this action corrects two clerical errors that were made in the emission standards applicable to 1984 model year light-duty trucks.

EPA has decided to divide the final rulemaking action into two segments. This first segment deals only with issues affecting leadtime for 1984 model year LDTs, HDDEs and HDGEs, as well as LDT and HDE SEA requirements. The second segment will address the remainder of the provisions and issues raised by the proposal. Addressing the 1984 model year leadtime concerns now will provide the LDT and HDE manufacturers the information necessary for a continued orderly development of their 1984 model year product offerings.

EFFECTIVE DATE: The regulations being finalized in this action take effect on February 11, 1983.

Note.— Under Section 307(b)(1) of the Clean Air Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

ADDRESSES: Material relevant to this final rule is contained in Public Dockets No. A–81–11 and A–81–20 at the U.S. EPA Central Docket Section. The dockets are located in the West Tower Lobby, Gallery 1, at 401 M Street, SW., Washington, D.C. 20460, (202) 382–7548. The dockets may be inspected between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn W. Passavant, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4408.

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000–0390.

I. Background of the Rule

In December of 1979, EPA promulgated gaseous emission regulations for 1984 and later model year HDEs (45 FR 4136). That rule implemented the statutory hydrocarbon (HC) and carbon monoxide (CO) emission standards for HDEs set out in section 202(a)(3)(A)(ii) of the Clean Air Act, together with a number of other provisions to be effective for the 1984 model year. In September of 1980, EPA promulgated a similar rule covering LDTs (45 FR 63734).

At the time the initial final rules were being prepared, the industry had just finished a year of record sales (1978) and sales continued strong into 1979. However, in late 1979 and early 1980 a general economic downturn occurred. As 1980 progressed the recession become more severe, and the effects of the recession have persisted through the present time. Engine and truck sales have dropped dramatically and most manufacturers have reported operating losses for 1980 and 1981.

In response to this economic crisis in the industry, on April 6, 1981, the Administration announced a number of regulatory relief initiatives aimed at reducing the cost of government regulations. These were published in the **Federal Register** on April 13, 1981 (46 FR 21628). On January 13, 1982, EPA published a Notice of Proposed Rulemaking (NPRM) covering several of the regulatory relief initiatives related to the LDT and HDE industries (47 FR 1642). Today's action covers issues raised as a result of that proposal.

In both the oral testimony at the public hearing on the proposal and the written submissions that followed, the commenters expressed their positions and concerns on a large number of issues related to the NPRM. Several HDGE manufacturers expressed serious concern over the leadtime available for the 1984 model year, stating that little or no time remained in which to conduct an orderly development and certification program. Certification programs would have to commence as early as October or November of 1982 to be completed in time for 1984 production schedules to be met. Manufacturers of HDDEs expressed the need for timely decisions on potential relaxation of the optional steady-state standards and possible revisions of other key regulatory provisions in order to keep their 1984 model year development and certification programs on track. Due to their impact on product planning, both LDT and HDE manufacturers requested expeditious action on EPA's proposal to revise the AQL applicable during SEA testing and on the useful-life requirements. Also due to leadtime constraints, the Motor Vehicle Manufacturers Association (MVMA) requested a 1-year postponement of the full-life useful-life regulations. The majority of the manufacturers strongly urged that EPA announce its 1984 model year requirements as soon as possible after the close of the comment period.

To address these pressing concerns, EPA has decided to separate the final rule into two segments. Today's action, which constitutes the first segment of the final rule, addresses the manufacturers' imminent concerns for the 1984 model year. The second segment, which will follow at a later date, will address the remaining provisions of the NPRM plus any additional issues raised during the rulemaking process. This approach will allow some additional time for a thorough analysis of the pertinent issues, while at the same time providing

important initial information on the 1984 model year LDT and HDE requirements.

II. 1984 HDE Leadtime Issue

A. Heavy-Duty Gasoline-Fueled Engines (HDGEs)

One of the Administration's regulatory relief initiatives was to propose revising the 1984 model year HC and CO standards to a level that would not require the manufacturers to use catalysts on their gasoline-powered heavy trucks. Accordingly, EPA proposed to revise the 1984 CO emission standard from 15.5 to 35 g/BHP-hr. Although EPA did not propose a specific numerical revision of the statutory HC emission standard (1.3 g/BHP-hr) applicable for 1984, the Agency requested comments on the feasibility of this standard without catalytic converter technology, and asked those commenters who felt the standard should be revised to suggest an appropriate level. These revised standards were to be met using the new EPA HDGE transient test procedure applicable for the 1984 model year.

All major manufacturers commented on the proposal. Both General Motors Corporation (GM) and Ford Motor Company (Ford) stated that after EPA proposed the move to non-catalyst standards they diverted their compliance efforts from catalyst systems development to developing engine modifications and other measures necessary to meet the proposed standards. Therefore, they were unable to comply with the existing standards for 1984.

Further, GM stated that due to the lateness of the NPRM, it would not be able to certify all of its HDGE families to revised standards using the new transient test procedure in time for normal new vehicle introduction. GM also stated that due to facilities and instrumentation changeover for the new transient test procedure, it no longer had the capability to perform the current steady-state procedure for HDGEs. For these reasons, GM stated that EPA must at least allow carryover of the current certification procedures and emission standards for the 1984 model year. However, GM did recommend that EPA make a transient test procedure and emission standards available as an option beginning with the 1984 model year.

Ford took a position similar to that of GM, stating that, "* * * carryover of the 1983 model year emission standards and certification procedures is mandatory for the 1984 model year because there is insufficient leadtime remaining to conduct an orderly development and certification program." Ford went on to claim that: "* * * imposition of any new, more stringent requirements for 1984, will force Ford out of the heavy-duty gasoline business."

Due to financial constraints and the shrinking market for HDGEs, neither Chrysler Corporation (Chrysler) nor International Harvester (IH) has procured the equipment or other instrumentation necessary to run the HDGE transient test required for certification beginning in 1984. As a result, neither commented specifically on the 1984 leadtime issue. IH stated its intent to withdraw from the HDGE market in 1984, if not earlier. Chrysler expressed its desire to stay in the HDGE market, but claimed the capital for equipment and engineering is not available.

EPA has studied the 1984 leadtime issue for HDGEs and is in general agreement with the manufacturer's claims. For the 1984 model year, engine production would begin in about June 1983. In past analyses, EPA has calculated that the HDGE certification process would take at least seven months, and thus would have to begin in October or November 1982. This leaves no time for the completion of emission control system development. It is therefore clearly evident that there is inadequate leadtime to meet the existing statutory standards in 1984. There is, moreover, inadequate leadtime to do development and certification work for 1984 engines toward meeting any non-catalyst standards substantially more stringent than those applicable to current production engines. There is also the complicating factor of the manufacturers' facility changeover to transient test capability, which would necessitate EPA's establishment of revised non-catalyst standards on both the transient test and the 9-mode steady-state test. This is not possible because of the lack of meaningful correlation between the two test procedures. This lack of correlation means that there would be little environmental benefit to be gained from even a substantially more stringent steady-state standard.

For these reasons, EPA finds that compliance with the existing 1984 standards cannot be achieved by techology, processes, or operating methods expected to be available for the 1984 model year. No alternatives appear available to allow manufacturers to meet those standards in 1984. Therefore, EPA has decided to revise the 1984 HDGE emission standards and other related provisions to 1983 levels for one year. This will allow the manufacturers to certify their 1984 HDGEs using carryover emission data and will eliminate any potential disruption in the manufacturers' 1984 HDGE plans. It will also provide Chrysler and IH an additional year to make the business decision as to whether or not their positions in the HDGE market merit the investment in the equipment and engineering necessary to run a transient test and meet new emission standards.

In addition, EPA expects to provide optional transient test emission standards and related certification procedures for 1984 model year HDGEs, although expectations are that few if any manufacturers will avial themselves of this option. These provisions will therefore be addressed in the second segment of the final rule. Today's action also provides that any engine manufacturer who does elect to use the EPA transient test procedure and standards for 1984 model year certification will be afforded the useful-life options as outlined below in Section III.

This 1-year revision of the 1984 HDGE provisions will also defer the expected environmental benefits of those provisions for one year. Such a delay will have minimal air quality impact. It is the nature of engine sales and use that the air quality impact of a change in emissions is felt slowly as new engines are sold and gradually come to constitute a larger portion of the in-use engine fleet. A 1-year delay in the initial introduction of those new engines would therefore produce an almost imperceptible change in the air quality improvement expected for a given year, delaying that impact for one year. Thus, benefits otherwise projected to occur in 1990, 1995, and 2000 would occur one year later, respectively.

B. Heavy-Duty Diesel Engines (HDDEs)

In the original 1984 HDE rule which was promulgated in December 1978, EPA implemented the statutory 1984 HDDE HC and CO emission standards of 1.3 and 15.5 g/BHP-hr, to be measured using the new EPA HDDE transient test procedure. EPA also allowed optional steady-state standards for 1984 certification to allow the HDDE manufacturers time to investigate less costly means of implementing the HDDE transient test, and, in general, to provide a smoother transition from steady-state to transient test capability.

At the February 16, 1982 public hearing, the HDDE manufacturers who testified were in general agreement on the technological feasibility of meeting the transient test based statutory HC and CO standards in the 1984 timeframe. However, the manufacturers expressed

concern about two related issues which could affect the appropriateness of applying these standards in the 1984 model year.

First, all expressed the need for less stringent optional steady-state standards (especially for HC) to help ensure the timely certification of their 1984 engine families. They claimed these less stringent standards would aid test procedure changeover and would partially compensate for the diminishing leadtime remaining for the 1984 model year. The manufacturers also stated that final decisions on several key regulatory requirements (transient test procedure, useful life, etc.) would be required by fall 1982 in order to maintain orderly development and certification programs for the 1984 model year. Given the nature of these concerns, both had to be satisfactorily addressed to asure the feasibility of meeting the new standards in the 1984 model year. In addition, several HDDE manufacturers also suggested that carryover of 1984 certification under the optional steady-state standards be permitted until new testing is required.

On the first point, after a thorough study of the 1982 HDDE certification data, EPA found that less stringent optional steady-state standards could be provided which would greatly reduce the 1984 certification burden, and thus somewhat ease the 1984 leadtime problem. At the same time, emission data available to EPA shows that optional steady-state standards cannot be set which would assure commensurate emission reductions with those expected from the transient test based standards. (This is especially true for HC control.) Therefore, any revised optional standards would probably provide little emission benefit over current steady-state standards. Given this situation, EPA does not desire to have resources expended needlessly, and believes that less stringent optional steady-state standards are not an appropriate way to deal with the 1984 leadtime problem.

A second leadtime problem is created by the fact that EPA has not yet promulgated final decisions on several key regulatory provisions related to the 1984 model year HDE certification requirements. For diesel engines, this principally involves the transient test provisions and useful life (although for useful life, as noted below, EPA has developed interim approaches which can be used for 1984). Full 1984 HDDE certification using either optional steady-state or transient test based emission standards cannot be completed without final decisions on these requirements. However, final decisions are not planned until the second segment of the FRM because of the substantial amount of analysis still remaining to be done by EPA.

Given the inadequacy of less stringent optional standards in addressing the 1984 leadtime problems, and the substantial impact of the unresolved regulatory issues on the manufacturers' 1984 development and certification programs, the remaining leadtime is inadequate for HDDE manufacturers to comply with the 1984 HDDE emission standards and regulatory provisions. For these reasons, EPA finds that compliance with the existing 1984 standards cannot be achieved by technology, processes, or operating methods expected to be available for the 1984 model year. No alternatives appear available to allow manufacturers to meet those standards in 1984.

EPA has therefore decided to revise the 1984 HDDE emission standards and other related regulatory provisions to 1983 levels for a period of one year. As in the case of HDGEs, the current 1984 emission standards and regulatory provisions remain optional. The useful-life options outlined below will also be available to HDDE manufacturers who desire to certify under the 1984 transient test procedure and standards.

Final decisions on the unresolved regulatory issues will be promulgated in the second segment of the FRM. EPA will attempt to make any changes in these provisions or other options which are promulgated in the second segment of the final rule effective for 1984 model year certification as appropriate.

III. HED/LDT Useful Life

Following is a discussion of the optional useful life procedures for 1984, and the proposed options for 1985 and later.

A. 1984 Half-life Option

In addition to questions concerning the standards and test procedures, HDE manufacturers also need a resolution of the useful-life issue in order to complete plans for the 1984 model year production. In the case of LDTs, the unresolved useful-life issue appears to be the only major concern for 1984 model year certification. Since manufacturers are already entering, or preparing to enter, the 1984 certification cycle, they need to know what the applicable useful-life provisions will be.

Manufacturers responses' to the January 13, 1982 NPRM were unanimous in their call for modification of the full-life definition of useful life effective for the 1984 model year. EPA had agreed to study the useful-life issue as part of the package of regulatory relief initiatives announced in April of 1981, and a request for comments on the issue was published in the **Federal Register** on June 17, 1981. Responses to this latter request and to the subsequent January 13, 1982 HDE/LDT NPRM have pointed both to differences of legal interpretation between EPA and the industry and to problems foreseen by the manufacturers in implementing the full-life approach. The legal issue will be discussed below under "Statutory Authority." Here EPA will treat the implementation problems.

The manufacturers' major implementation concerns have been with: (1) The difficulties of determining an average useful life for individual engine families given the multiplicity of possible applications and the variability of the data upon which such determinations must be made, and (2) possible high warranty costs and customer dissatisfaction arising as a result of customers' interpreting the emissions warranty as an extension of the basic mechanical warranty on the vehicle/engine. Other potential customer relations problems were cited, arising largely from the useful-life labeling requirement. Manufacturers' comments generally called for a return to the previous half-life values of 5 years/50,000 miles for LDTs/HDGEs and 5 years/100,000 miles for HDDEs.

EPA agrees that the manufacturers are faced with difficulties in implementing full-life useful life, but also believes that the objective of ensuring that LDT and HDE manufactures will produce, or continue to produce, durable emission control components is a reasonable one. Furthermore, in addition to the basic question of need, an unqualified change to half-life would raise other issues. First of all, revision to half-life certification would require reconsideration of the emission standards to account for the relaxation in "target levels" that would occur with half-life.

EPA also made substantial changes to the certification durability procedures when full-life useful life was adopted. These changes were designed to reduce the "front-end" compliance burden in favor of the in-use focus embodied in the full-life approach. The need to carry out an EPA-prescribed program of durability testing was completely eliminated, and manufacturers were allowed to determine their certification deterioration factors by any means they chose. A permanent return to half-life would therefore require reconsideration of the entire durability concept.

Because of the issues involved and the legitimate need of manufacturers for a timely determination of 1984 requirements, there is now insufficient time to propose and implement a revised useful-life program for the 1984 model year. Therefore, EPA has decided to allow certification, for 1984 only, using 1983 model year provisions for useful life, durability testing and allowable maintenance. For HDEs, this option can be used by manufacturers choosing to certify under either the 1983 steady-state standards or 1984 transient test based standards. Since the 1983 regulations have no requirement for idle CO measurement, they also make no provision for calculating deterioration factors (DFs) for idle CO. Therefore, manufacturers will be allowed to develop their own means for determining idle CO DFs.

Discussed next will be a revised full-life program which EPA has developed to address the major implementation concerns, while at the same time preserving the basic benefits of the original full-life concept. This program is being made available in 1984 for manufacturers who are already committed to full-life certification as an alternative to the half-life option discussed above. At the same time, in the event that comments on or experience with the revised full-life program reveal unexpected problems with it or other full-life programs, EPA is also proposing an alternative half-life useful-life program for 1985 as well as the proposed revised full-life useful-life program. This proposal will be described following the revised full-life program.

B. 1984 and Later Full-Life Option

EPA has developed a modified full-life program in an attempt to address the implementation difficulties with full life that have been raised in the manufacturers' comments, while at the same time preserving the basic benefits of the full-life useful-life concept. The first aspect of this option concerns assigning useful-life periods. The difficulties encountered by manufacturers in determining specific useful-life values can be solved by substituting EPA-specified, industry-wide useful-life values. There are abundant data, many of which are contained in industry-sponsored survey results submitted for this rulemaking, to indicate that LDT lifetimes, for example, average about 12 years and 120,000–140,000 miles. Similar data are available for HDEs. (A detailed analysis of this information is available in the docket.) These data are sufficient to establish average useful-life values for broad classes of vehicles/engines, so long as some provision is included to cover individual families for which significantly lesser or greater values are needed.

The second major area of concern, that of costly and complex programs for dealing with warranty claims, can be addressed by limiting the manufacturers' warranty liability. Under this option, the current (1983) warranty periods would be retained for LDTs and HDGEs, and for HDDEs used in "light-heavy" (Class VI) and "heavy-heavy" (Class VII–VIII) vehicle applications. For HDDEs used in "medium-duty" applications (Classes IIb–V), the warranty period would be the same as that required of HDGEs. This is being done because these engines have been developed, designed, and priced to compete with gasoline engines and essentially have the same durability characteristics. Continuation of the full-life certification provision would ensure that the basic design of emission control components is capable of controlling emissions over the full life of the vehicle. Generally accepted quality control principles hold that failures resulting from production defects normally occur early in the life cycle of a product, and so should be adequately covered under the warranty provisions discussed above. The recall provision would remain applicable to the full useful life to guard against any widespread systematic defects, thereby preventing any situation which would be likely to have a negative impact on air quality.

Finally, problems caused by the labeling provision can be addressed by withdrawing it in its entirety. Due to the fact that EPA would now be specifying the useful-life period or approving an alternative period, the labeling requirement would no longer be needed. Manufacturers would still be required to provide information on the warranty, including its duration, in the owners' manuals.

If modified along the lines just indicated, the full-life provisions would continue to ensure the durability of emission control components and to emphasize in-use compliance, while eliminating major implementation issues raised by the regulated industry. This approach would also avoid the need to revise the emission standards and the durability test procedures. EPA is establishing this concept as an optional program for LDTs and HDEs for the 1984 model year as follows:

1. Useful-life values for LDTs and HDEs will be as shown in Table 1 below. Due to the diversity of HDDE service lives, it was not possible to specify a single useful-life period for all HDDEs. EPA has therefore split the HDDE class into three groups. EPA will also have the flexibility to set alternative useful-life values (greater or lesser) for specific engine families if EPA or the manufacturer can establish that an alternative period is appropriate.

2. Warranty liability under Section 207 will be limited to the current (1983) periods, with the exception of the "medium-duty" HDDEs, as discussed above. In no case, however, will the warranty period be less than the manufacturer's basic mechanical warranty on the engine/drivetrain.

3. While the manufacturer will be responsible for in-use compliance, in choosing engines for recall evaluation, EPA policy will be to evaluate only engines that are at or below 75 percent of stated useful life. This would help to avoid issues related to whether individual vehicles/engines in high stress applications in fact had reached the end of their useful lives prior to reaching the assigned full-life value. The Agency is also mindful that for certain applications, particularly heavy-duty engine applications, the odometer mileage may not accurately reflect the actual amount of use that an engine has seen (e.g., a trash collection truck in which the engine also drives the compactor mechanism) and will take that into consideration in selecting engines for recall evaluation.

4. The current engine labeling provisions related to useful life are eliminated as are the rebuild criteria specified in 40 CFR 86.084–21(b)(4)(C). These requirements are no longer necessary since EPA is specifying the useful-life values.

5. The remainder of the 1984 model year regulations remain applicable.

Although this optional approach is currently being promulgated for 1984 model year LDTs and HDEs only, EPA is proposing this approach for 1985 and later model years. In a parallel action also published today, EPA solicits public comment on the above modified full-life provisions as a proposed approach for 1985 and later model years.

C. Proposed Half-life Option for 1985 and Later Model Years

In the event that comments on or experience with the modified full-life approach reveal unexpected problems with it or other full-life programs, EPA is also proposing an alternative half-life program for comment. This program would be effective for 1985 and later model years and would contain the following provisions:

1. Useful-life values would be as shown in Table 2. These values would apply to certification, warranty and recall provisions.

2. Emission standards would be adjusted downward to account for the reduced stringency of half-life useful life. The proposed values are given in Table 3.

3. Durability testing would be extended proportionally for the revised useful-life periods (see Table 4), using the 1983 model year durability/deterioration factor procedure as outlined in 40 CFR 86.082–26 and 28. The only exception to this is for Class IIb–V HDDEs. EPA believes it is more appropriate to test these HDDEs on the HDGE durability procedure and for the same time period as HDGEs, since their usage is similar to HDGEs. For idle CO, the manufacturers will be allowed to develop their own means for determination of deterioration factors.

IV. LDT and HDE Selective Enforcement Audit (SEA) Requirements

In the NPRM, EPA proposed three separate actions related to the LDT and HDE SEA requirements. These included a 2-year deferral of any HDE SEA testing, a revision of the Acceptable Quality Level (AQL) applicable to LDT and HDE SEA, and minor amendments to the procedural regulations used to implement SEA testing (Subparts A and K). This first segment of the final rule addresses the HDE SEA deferral and the AQL revision. The minor amendments will be addressed in the second segment.

A. HDE SEA Deferral

EPA had originally planned to implement SEA testing for HDEs in 1984, but in the NPRM announced its intent to defer HDE SEA for two years. EPA now affirms its intent to defer any SEA testing until 1986. As noted in the proposal, this deferral is being implemented under EPA's broad discretion to enforce certification requirements through appropriate production line test programs.

Most of the public comment received generally supported the 2-year deferral. However, several public interest groups opposed the SEA deferral due to a perceived air quality impact, and two manufacturers advocated that SEA should be delayed indefinitely.

EPA recognizes that the 2-year deferral of HDE SEA might result in an increase in the average per-engine emission rate over that which might otherwise have occurred in 1984. Normally, target emission levels without SEA are higher than those used when an SEA program is in effect. However, since SEA will begin in 1986, EPA expects that many HDE families certified before 1986 will be designed and certified to emission levels which account for the effects of an SEA program. This will allow the manufacturers to avoid potential recertification in 1986 and should also help to minimize any negative impacts in the interim. Therefore, EPA expects any air quality impacts to be small, and to affect at most only two model years' production.

Section 206(b)(1) authorizes SEA testing, but leaves the timing and manner of the testing to the discretion of EPA. Clearly, economic factors are a relevant consideration in determining how to exercise that discretion. EPA expects this deferral to result in total cash flow savings exceeding $43 million and cash expenditure savings of at least $25 million. Cash flow savings will result from deferred investment in facilities and equipment, while cash expenditure savings will accrue primarily from the elimination of two years of self-audit and formal SEA testing.

Turning now to the recommendation that HDE SEA be delayed indefinitely, when the program was first promulgated EPA calculated the positive emission benefits in great detail. The assessment of the benefits, and therefore the need for HDE SEA, was not challenged by the commenters, and thus EPA believes that the initial justification stands. Even the manufacturers' own comments at the public hearing regarding high emissions variability from engine to engine point to the eventual need for HDE SEA. Therefore, although EPA believes a 2-year deferral is appropriate for an orderly phase-in of transient testing and to provide some short-term economic relief, any further deferral of the HDE SEA program cannot be justified. (This issue is discussed in greater detail in a document entitled "Delay in HDE SEA Program" available in the public docket.)

It should be noted that the provisions of Subpart K will remain in effect, and will apply to SEA testing of LDTs beginning in 1984. In addition, the Subpart K procedures are necessary to implement the nonconformance penalty (NCP) provisions of Section 206(g) of the Act. EPA intends to propose the procedures governing an NCP program at a later date.

B. Revision of the Acceptable Quality Level (AQL)

The AQL is expressed as a percentage which represents the maximum noncompliance rate allowed during formal SEA testing before a manufacturer incurs a substantial (greater than 5 percent) risk of failing the SEA. EPA had promulgated a 10 percent AQL for LDTs and HDEs beginning in 1984, but in the NPRM proposed that the AQL be revised to 40 percent, the level currently required of light-duty vehicles and trucks. Like the 2–year deferral of SEA testing, this action was proposed under EPA's broad discretion to design compliance programs. In finalizing the proposal, EPA finds that revision of the AQL is appropriate at this time since it will have a negligible environmental impact and will reduce the compliance burden and associated cost. The revision will also provide the industry equity by requiring the same AQL level for all vehicles and engines.

Most of the public comment received supported the revision of the AQL. Several public interest groups which objected due to their concern for air quality impacts. EPA does not expect large increases in emissions from LDTs and HDEs under a 40 percent AQL compared to a 10 percent AQL. This is due to the fact that most manufacturers will not accept the normal 5 percent statistical risk of failing an SEA, and thus will aim for lower average noncompliance rates. Historically, 18 to 20 percent noncompliance has been observed for light-duty vehicles and trucks operating under a 40 percent AQL requirement. For the same reason, EPA had expected a 5 to 8 percent noncompliance rate with a 10 percent AQL requirement. Therefore, EPA expects an actual compliance rate loss of no more than 12 or 13 percent to result from the adjustment of the AQL. (A detailed analysis of the derivation of these percentages is presented in the public docket.) Similarly, average emission rates will not rise as much as might otherwise be expected. The net environmental effect of these changes will therefore be negligible. For example, national hydrocarbon emissions are expected to increase by less than 0.5 percent in 1995. Also the fact that these regulations require an SEA program in 1986 for HDEs is much more important environmentally than is the difference between a 10 and 40 percent AQL.

V. Corrections to the 1984 LDT Emission Standards

When the 1984 LDT emissions standards were promulgated (45 FR 63734, September 25, 1980), § 86.084–9 included two clerical errors which have subsequently been brought to EPA's attention.

First, the 1984 HC standard should have been published as 0.80 g/mi instead of 0.8 g/mi. Past EPA convention on emission standards has been to include two significant digits to the right of the decimal point if the numerical level of the standard is less than 1. Second, the original rule inadvertently required that light-duty diesel trucks meet the idle CO standard. As evidenced by the preamble to the final rule, EPA intended that this requirement apply only to gasoline-powered light-duty trucks because diesel engines have negligible idle CO emissions. Today's action makes the necessary technical correction of both these errors.

Statutory Authority

As discussed below, statutory authority for these actions is provided in sections 202, 206, 207 and 301(a) of the Clean Air Act (42 U.S.C. 7521, 7525, 7545 and 7601(a)).

A. Revised HDE Standards

Sections 202(a)(3)(B) and (C) of the Act provide a statutory framework within which HDE emission standards may be temporarily revised from the statutory levels. Specifically, section 202(a)(3)(B) contains four provisions which describe the general requirements and procedures for temporarily revising the standard(s), once requisite fundings are made. These provisions include:

1. A set of periods (often referred to as "window periods") during which revised standards may be proposed and promulgated,
2. A 4-year leadtime requirement,
3. A 3-year period of applicability for any revised standard, and
4. A requirement that any revised standard represent a reduction of emissions from the corresponding standard for the previous model year and be as stringent as possible through means of control reasonably expected to be available when the revised standard applies.

Due to the leadtime circumstances surrounding this rule, it is not possible for EPA to satisfy the letter of each of these requirements. However, as is discussed below, EPA believes that the present action is entirely consistent with the requirements and carries out the basic purpose of the revision provisions, which would otherwise be frustrated in this case.

The first three requirements were included primarily to provide the manufacturers a degree of protection and stability in their compliance programs by outlining a "schedule" to be followed in terms of when standards should be revised and for what time period, as well as providing adequate leadtime. Since these provisions are for the manufacturers' benefit they should not be interpreted as bars to relief that manufacturers need and are otherwise entitled to and in any event the manufacturers may waive their strict application if they so choose. EPA believes that the comments received from the affected manufacturers indicate their willingness to make such a waiver. The consensus of the manufacturers' comments was that EPA should deal expeditiously with the issues affecting leadtime and, if necessary, promulgate as soon as possible a 1-year revision of any new 1984 emission control requirements for HDEs. The language and substance of these requests inherently waive any protection provided by the first three provisions.

Furthermore, EPA believes that a refusal to revise the standards where they are found to be unachievable simply because compliance with the letter of the statutory requirements is impossible, would frustrate the basic intent of Congress. Congress clearly envisioned that revisions would occur if technology were unavailable to meet the statutory standards. Here, whether as a result of EPA's proposal to revise the standards or because of problems related to the test procedures, manufacturers are not in a position to comply with the statutory standards in 1984. Not to revise the standards because the "window period" has passed or because four years' leadtime is not available would fail to carry out the basic spirit of the revision provisions.

One manufacturer, Chrysler, has requested that the deferral of new requirements for HDGEs extend for a full three years. As discussed earlier, today's action is based upon the lack of leadtime for further engine or emission control system modifications in time for the 1984 model year. However, this rationale does not provide a sufficient basis for revising the 1985 or 1986 model year standards to 1983 levels, since at this time there remains sufficient leadtime for those years. Moreover, revising to 1983 levels for three years would conflict with the substantive statutory requirement that the revised standards reflect the maximum degree of emission reduction achievable during the period of revision. Since EPA has proposed non-catalyst standards based on a tentative conclusion that those standards are achievable, it would be inappropriate at this time to apply the less stringent 1983 levels for three years. Therefore, EPA is restricting this present action to one year only, and reserves the full disposition of Chrysler's request to the second phase of the rulemaking. However, it is EPA's intent that if non-catalyst standards are subsequently promulgated, these standards will remain in effect for three years.

Finally, there is the question of the appropriate levels of the standards and the statutory requirement that revised standards require a reduction in emissions from standards applicable in the previous model year. It seems clear that the purpose of that requirement, in general, was to provide for further progress in emission reductions despite any temporary setbacks caused by the unavailability of more advanced control technology. In this case, as discussed earlier in this preamble, there is virtually no time remaining for engine or emission control system modifications. Therefore, EPA finds itself unable to establish 1984 standards which will require any emission reductions beyond those applicable in 1983. The only changes in standards which could be made would be meaningless: to lower the standards to levels which all manufacturers could meet using carryover of current certification data without having to reduce emission levels. On the other hand, EPA has reason to believe that there will be emission reductions in 1984 for some engine families already being prepared for new certification in that year. To avoid the expense of recertification in 1985, manufacturers are likely to use the optional transient test procedures and attempt to certify at levels low enough to be carried over into 1985. Because of this, the entire regulatory environment facing manufacturers in 1984 will bring about some reduction in emissions on a fleetwide basis, even though the 1984 provisions alone do not require it. As a practical matter, this carries out the purpose of the statutory requirement to the extent possible for 1984.

B. Revised LDT/HDE Useful Life

Insofar as LDTs (above 6,000 lbs. GVW) are included in the statutory definition of heavy-duty vehicles, the above discussion of HDEs applies to EPA's authority for establishing the modified full-life useful-life option. For those LDTs below 6,000 lbs. GVW, EPA has broad flexibility under the general authority of Sections 202(a) and 301(a) to establish regulations. Also, Section 202(d)(2) provides the Administrator with broad discretion in establishing useful-life values for other than light-duty vehicles (fixed by statute at 5 years/50,000 miles).

Manufacturers' comments on the useful-life issue are unanimous in maintaining that the full-life definition is contrary to Congressional intent and

that EPA has therefore exceeded its legal authority by promulgating the full-life regulations. The same arguments were made at the time of the initial HDE/LDT rulemaking and EPA's conclusion continues to be, as it was then, that neither the language of the Act nor the legislative history reveals a Congressional commitment to half-life. Several manufacturers also maintained that useful life should be the same for certification, warranty, and recall programs. Section 202(d) does not, however, preclude the Administrator from specifying different warranty periods for different purposes. Congress itself has recognized that warranty periods less than the useful-life period are appropriate in certain circumstances. See section 207(a)(2) of the Act.

C. SEA Provisions

Turning to the SEA revisions, Section 206(b) of the Clean Air Act provides EPA with broad discretion to implement and carry out production line testing programs. Further, Section 301(a) provides in part, "* * * the Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act." As described in the proposal, the changes to the LDT and HDE SEA programs are being promulgated under the authority granted in these provisions.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it involves no negative cost impacts and has no significant adverse effect on competition, productivity, investment, employment, or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Effects on Small Entities

Section 605 of the Regulatory Flexibility Act requires the Administrator to certify regulations that do not have a significant impact on a substantial number of small entities. I certify that this regulation does not have such an effect because it affects only motor vehicle and engine manufacturers, a group which does not include a substantial number of small entities. Also, the primary effect of this action is to provide regulatory relief, so no private parties should see any substantial adverse impact.

Information Collection Requirements

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2000–0390.

Dated: December 22, 1982.

John W. Hernandez,

Acting Administrator.

TABLE 1.—USEFUL-LIFE VALUES [1]

Vehicle/engine class	Useful-life values		
	Years	Miles	Engine hours
LDT	12	130,000	N/A
HDGE	10	120,000	3,500
HDDE Class IIb–V (less than 19,501 lbs. GVW)	10	120,000	3,000
HDDE Class VI (19,501—26,000 lbs. GVW)	10	250,000	8,000
HDDE Classes VII-VIII (over 26,000 lbs. GVW)	10	275,000	9,250

[1] A detailed derivation of these useful-life values can be found in the public docket.

TABLE 2.—USEFUL-LIFE VALUES—HALF-LIFE PROPOSAL

Vehicle/Engine class	Useful-life values [1]		
	Years	Miles	Engine hours
LDT	6	65,000	N/A
HDGE	5	60,000	1,800
HDDE Class IIb—V (less than 19,501 lbs. GVW)	5	60,000	1,800
HDDE Class VI (19,501—26,000 lbs. GVW)	5	100,000	3,000
HDDE Class VII—VIII (over 26,000 lbs. GVW)	5	137,500	4,125

[1] A detailed derivation of these useful-life values can be found in the public docket.

TABLE 3.—ADJUSTED STANDARDS FOR HALF LIFE [1]

Vehicle/engine class	Standards	
	HC	CO
Light-duty trucks	.68 g/mi	8.8 g/mi.
Heavy-duty engines	1.0 g/BHP-hr	12.3 g/BHP-hr.

[1] These standards were calculated by applying an adjustment factor to the current full-life 1984 standards based on the ratio of the half-life to full-life deterioration factors. These ratios are 1.2/1.4 for LDT HC, 1.15/1.3 for LDT CO, and 1.35/1.7 for HDE HC and CO.

TABLE 4.—DURABILITY TESTING PERIODS—EXTENDED HALF-LIFE USEFUL LIFE

Vehicle/engine class	Durability testing period
LDT	55,000 miles.
HDGE	1,800 hours.
HDDE Class IIb-V (less than 19,501 lbs. GVW).	1,800 hours. [1]
HDDE Class VI (19,501–26,000 lbs. GVW).	1,000 hours. [2]
HDDE Class VII–VIII (over 26,000 lbs. GVW).	1,375 hours. [2]

[1] Using HDGE durability procedure in lieu of the HDDE procedure.
[2] Using the current HDDE procedure.

PART 86—[AMENDED]

For the reasons set forth in the preamble, Part 86 of Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. The definition of "useful life" in § 86.084–2 is amended by correcting paragraph (b)(3) and adding paragraphs (b)(4), (c), and (d), to read as follows:

§ 86.084–2 Definitions.

* * * * *

"Useful life" means:

* * * * *

(b) * * *

(3) If the useful life of a specific light-duty truck or heavy-duty engine is found to be less than 5 years or 50,000 miles (or the equivalent), the useful life shall be a period of use of 5 years or 50,000 miles (or the equivalent), whichever occurs first, as required by section 202(d)(2) of the Act.

(4) For purpose of identification this option shall be known as the average useful-life period.

(c)(1) As an option for a light-duty truck engine family, a period of use of 12 years or 130,000 miles, whichever occurs first.

(2) As an option for a gasoline heavy-duty engine family, a period of use of 10 years or 120,000 miles, whichever occurs first.

(3) As an option for a diesel heavy-duty engine family, a period of use of 10 years or 120,000 miles, whichever occurs first, for engines certified for use in vehicles of less than 19,500 pounds GVWR; a period of use of 10 years or 200,000 miles, whichever occurs first, for engines certified for use in vehicles of 19,501–26,000 pounds GVWR; or, a period of use of 10 years or 275,000 miles, whichever occurs first, for engines certified for use in vehicles whose GVWR exceeds 26,000 pounds.

(4) As an option for both light-duty truck and heavy-duty engine families, an alternate full-life value assigned by the Administrator under § 86.084–21(b)(4)(ii)(B)(*4*).

(5) For purpose of identification these options shall be known as the assigned useful-life period options.

(6) For those light-duty truck and heavy-duty engine families using the

assigned useful-life period options, the warranty period for emissions defect warranty and emissions performance warranty shall be 5 years/50,000 miles for light-duty trucks, 5 years/50,000 miles for gasoline heavy-duty engines and for diesel heavy-duty engines certified for use in vehicle of less than 19,501 lbs. GVWR, and 5 years/100,000 miles for all other diesel heavy-duty engines. However, in no case may this period be less than the basic mechanical warranty period.

(7) The assigned useful-life period options, as detailed in paragraphs (c)(1) through (c)(6) of this section, are applicable for the 1984 model year only.

(d)(1) As an option for the 1984 model year and for the 1984 model year only, the useful life of light-duty trucks and heavy-duty engine families may be defined as prescribed in § 86.077–2.

(2) For purpose of identification this option shall be known as the half-life useful-life option.

2. Section 86.084–9 is amended by correcting and revising paragraphs (a)(1)(i) and (a)(1)(ii)(B) and adding a new paragraph (f), to read as follows:

§ 86.084–9 Emission standards for 1984 light-duty trucks.

(a)(1) * * *

(i) *Hydrocarbons.* 0.80 gram per vehicle mile (0.497 gram per vehicle kilometer);

(ii) * * *

(B) (Gasoline-fueled vehicles only) 0.47 percent of exhaust gas flow at curb idle;

* * * * *

(f) Manufacturers choosing to certify using the half-life useful-life option as defined in § 86.084–2, which is available only for the 1984 model year, are restricted to using only the certification procedures applicable for the 1983 model year, with the exception of the determination of idle CO deterioration factors as noted in § 86.084–23(b)(3).

3. Section 86.084–10 is amended by adding new paragraphs (e) and (f), to read as follows:

§ 86.084–10 Emission standards for 1984 and later model year gasoline-fueled heavy-duty engines.

* * * * *

(e) As an option for the 1984 model year only, manufacturers may choose to certify 1984 model year gasoline-fueled heavy-duty engines using the half-life useful-life option as defined in § 86.084–2, the 1984 model year emission standards, and the 1984 model year test procedures as specified in Subparts N and P of this part. Under this option, the remaining 1983 model year certification procedures shall be used, with the exception of the determination of idle CO deterioration factors, as noted in § 86.084–23(b)(3).

(f) These provisions notwithstanding, as an option for the 1984 model year only, 1984 model year gasoline-fueled heavy-duty engines may be certified under the emission standards and other regulatory provisions applicable to 1983 model year gasoline-fueled heavy-duty engines. Manufacturers electing to certify under this option are limited to using *only* the emission standards and other regulatory provisions affecting 1983 model year gasoline-fueled heavy-duty engines.

4. Section 86.084–11 is amended by adding new paragraphs (e) and (f), to read as follows:

§ 86.084–11 Emission standards for 1984 diesel heavy-duty engines.

* * * * *

(e) As an option for the 1984 model year only, manufacturers may choose to certify 1984 model year diesel heavy-duty engines using the half-life useful-life option as defined in § 86.084–2, the 1984 model year emission standards, and the associated test procedures. Under this option, the remaining 1983 model year certification procedures must be used.

(f) These provisions notwithstanding, as an option for the 1984 model year only, 1984 model year diesel heavy-duty engines may be certified under the emission standards and other regulatory provisions applicable to 1983 model year diesel heavy-duty engines. Manufacturers electing to certify under this option are limited to using *only* the emission standards and other regulatory provisions affecting 1983 model year diesel heavy-duty engines.

5. Section 86.084–21 is amended by revising paragraphs (b)(4)(ii)(B) (*1*) and (*2*), adding new paragraphs (b)(4)(ii)(B) (*3*) and (*4*), revising paragraph (b)(4)(ii)(C) introductory text, and adding a new paragraph (b)(4)(ii)(D), to read as follows:

§ 86.084–21 Application for certification.

* * * * *

(b) * * *

(4) * * *

(ii) * * *

(B)(*1*) A statement of the useful-life period of each light-duty truck engine family and heavy-duty engine family. The statement shall identify which of the optional approaches described in § 86.084–2 was used to set the useful life. For diesel heavy-duty engine families, the statement shall also identify the gross vehicle weights (or GVWR classes) for which the family is being certified.

(*2*) For each light-duty truck engine family and each heavy-duty engine family using the average useful-life period option, the useful life will be the period to engine retirement or rebuild (whichever occurs first) as determined by the manfacturer on the basis of the following:

(*i*) For existing engine families, survey information on in-service vehicles (or engines) or;

(*ii*) For new engine families, durability testing of prototype vehicles (or engines) or a combination of bench-type component life evaluations and survey information on similar previous vehicles (or engines).

(*3*) For a manufacturer using the average useful-life period option, the manufacturer shall not determine an engine family's average useful-life period to be less than the basic period of the mechanical warranty on the engine assembly. This useful life shall be expressed as a period of engine or vehicle operation or as an equivalent vehicle mileage (or both) and shall be consistent with the rebuild criteria specified in paragraph (b)(4)(ii)(C) of this section. The manufacturer shall include in the application the data or information on which it based its determination of the useful life.

(*4*) Light-duty truck and heavy-duty engine manufacturers using the assigned useful-life options who believe that the assigned useful-life period is substantially inaccurate for one or more engine families (either too long or too short), shall petition the Administrator to provide an alternate assigned useful-life period. This petition must include the full rationale behind the request together with any supporting data and other evidence. Based on this or other information the Administrator may assign an alternative useful-life period.

(C) For each light-duty truck engine family and each heavy-duty engine family whose useful-life period is determined under the average useful-life period option, a statement of the criteria which are to be used in determining the need for engine rebuild and their critical values, including the following:

* * * * *

(D) Manufacturers choosing to certify using the half-life useful-life option as defined in § 86.084–2 are restricted to using only the certification procedures applicable for the 1983 model year, with the exception of the determination of idle CO deterioration factors as noted in § 86.084–23(b)(3).

* * * * *

8. Section 86.084–23 is amended by adding a new paragraph (b)(3), to read as follows:

§ 86.084–23 Required data.

* * * * *

(b) * * *

(3)(i) For manufacturers choosing to certify using the half-life useful-life option as defined in § 86.084–2, the provisions of paragraphs (b)(1)(ii) and (b)(2) of this section are not applicable.

(ii) For the 1984 model year only, determination of the idle CO deterioration factor required for gasoline-powered light-duty truck and gasoline-fueled heavy-duty engine certification shall be based on the best engineering judgment of the manufacturer, using such test procedures and methodology as the manufacturer deems appropriate. Manufacturers using this provision are not required to provide supporting data or descriptions of the test procedures used in the determination of the idle CO deterioration factor supplied.

* * * * *

7. Section 86.084–35 is amended by correcting and revising paragraphs (a)(2)(iii)(F) and (d)(2), and adding new paragraphs (a)(2)(iii)(H), (a)(3)(iii)(J), (c)(1)(ii)(C), (d)(3), and (e)(3), to read as follows:

§ 86.084–35 Labeling.

(a) * * *

(2) * * *

(iii) * * *

(F) The subordinate addition to the statement in paragraph (a)(2)(iii)(E) of this section: "This engine's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19—— Model Year New Light-Duty Trucks for its useful life."

(G) * * *

(H) Light-duty truck engine families whose useful-life period is determined by the assigned useful-life period option as described in § 86.084–2 need not comply with the labeling requirements in paragraphs (a)(2)(iii) (E) and (F) of this section. However, the label shall contain an unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty trucks.

(3) * * *

(iii) * * *

(J) Heavy-duty engine families whose useful-life period is determined by the assigned useful-life period option as described in § 86.084–2, need not comply with the labeling requirements in paragraphs (a)(3)(iii) (H) and (I) of this section. However, the label shall contain an unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations applicable to heavy-duty engines.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(C) Light-duty truck engine families whose useful-life periods are determined by the assigned useful-life period option as described in § 86.084–2, need not comply with the labeling requirements in (c)(1)(ii)(B) of this section. However, the label shall contain the statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 19 Model Year New Motor Vehicles."

* * * * *

(d) * * *

(2) The subordinate addition to the statement in paragraph (d)(1) of this section: "This vehicle's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19 Model Year New Light-Duty Trucks when installed in a vehicle completed at a curb weight of not more than 6,000 pounds or with a frontal area not greater than 45 square feet for its useful life."

(3) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified as light-duty trucks whose useful-life period is determined by the assigned useful-life period option as described in § 86.084–2 need not comply with the labeling requirements in (d) (1) and (2) of this section. However, these vehicles shall have the following statement printed on the label required in paragraph (a)(2) of this section in lieu of the statement required by paragraph (a)(2)(iii)(H) of this section:

This Vehicle Conforms to U.S. EPA Regulations Applicable to 19 Model Year New Motor Vehicles When Completed at a Maximum Curb Weight of 6,000 Pounds and a Maximum Frontal Area of 45 Square Feet.

(e) * * *

(3) Incomplete heavy-duty vehicles having a gross vehicle weight rating of 8,500 pounds or less, whose useful-life period is determined by the assigned useful-life period option as described in § 86.084–2, need not comply with the labeling requirements in (e) (1) and (2) of this section. However, these vehicles shall have the following statement printed on the label required in paragraph (a)(3) of this section, in lieu of the statements required by paragraph (a)(3)(iii)(J) of this section: "This engine conforms to U.S. EPA regulations applicable to 19 Model Year New Heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area greater than 45 square feet.

* * * * *

8. Section 86.085–9 is amended by correcting and revising paragraphs (a)(1)(i) and (a)(1)(ii)(B) to read as follows:

§ 86.085–9 Emission standards for 1985 light-duty trucks.

(a)(1) * * *

(i) *Hydrocarbons.* 0.80 gram per vehicle mile (0.497 gram per vehicle kilometer);

(ii) * * *

(B) (Gasoline-fueled vehicles only) 0.47 percent of exhaust gas flow at curb idle;

* * * * *

9. Section 86.1010–84 is amended by revising paragraph (a) to read as follows:

§ 86.1010–84 Compliance with acceptable quality level and passing and failing criteria for Selective Enforcement Audits.

(a) The prescribed acceptable quality level is 40 percent.

* * * * *

10. Appendix X is amended by revising it to read as follows:

Appendix X—Sampling Plans for Selective Enforcement Auditing of Heavy-Duty Engines and Light-Duty Trucks

TABLE 1.—SAMPLING PLAN CODE LETTER

Annual sales	Code letter
50–99	A
100–299	B
300–499	C
500 or greater	D

TABLE 2.—SAMPLING PLAN CODE FOR LETTER "A"

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
1	[1]	[2]
2	[1]	[2]
3	[1]	[2]
4	0	[2]
5	0	[2]
6	1	6
7	1	7
8	2	7
9	2	8
10	3	8
11	3	9
12	4	9
13	5	10
14	5	10
15	6	11
16	6	11
17	7	12
18	7	12

TABLE 2.—SAMPLING PLAN CODE FOR LETTER "A"—CONTINUED

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
19	8	13
20	8	13
21	8	14
22	10	14
23	10	15
24	11	15
25	11	16
26	12	16
27	12	17
28	13	17
29	14	17
30	15	17

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

TABLE 3.—SAMPLING PLAN FOR CODE LETTER "B"

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
1	([1])	([2])
2	([1])	([2])
3	([1])	([2])
4	([1])	([2])
5	0	([2])
6	1	6
7	1	7
8	2	7
9	2	8
10	3	8
11	3	9
12	4	9
13	4	10
14	5	10
15	5	11
16	6	12
17	6	12
18	7	13
19	8	13
20	8	14
21	9	14
22	9	15
23	10	15
24	10	16
25	11	16
26	11	17
27	12	17
28	12	18
29	13	18
30	13	19
31	14	19
32	14	20
33	15	20
34	16	21
35	16	21
36	17	22
37	17	22
38	18	22
39	18	22
40	21	22

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

TABLE 4.—SAMPLING PLAN FOR CODE LETTER "C"

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
1	([1])	([2])
2	([1])	([2])
3	([1])	([2])
4	([1])	[2]
5	0	([2])
6	0	6
7	1	7
8	2	7
9	2	8
10	3	8
11	3	9
12	4	10
13	4	10
14	5	11
15	5	11
16	6	12
17	6	12
18	7	13
19	7	13
20	8	14
21	8	14
22	9	15
23	10	15
24	10	16
25	11	16
26	11	17
27	12	17
28	12	18
29	13	18
30	13	19
31	14	19
32	14	20
33	15	20
34	15	21
35	16	21
36	16	22
37	17	22
38	18	23
39	18	23
40	19	24
41	19	24
42	20	25
43	20	25
44	21	26
45	21	27
46	22	27
47	22	27
48	23	27
49	23	27
50	24	27

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

TABLE 5.—SAMPLING PLAN FOR CODE LETTER "D"

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
1	([1])	([2])
2	([1])	([2])
3	([1])	([2])
4	([1])	([2])
5	0	([2])
6	0	6
7	1	7

TABLE 5.—SAMPLING PLAN FOR CODE LETTER "D"—Continued

[Sample Inspection Criteria]

Stage	Pass No.	Fail No.
8	2	8
9	2	8
10	3	9
11	3	9
12	4	10
13	4	10
14	5	11
15	5	11
16	6	12
17	6	12
18	7	13
19	7	13
20	8	14
21	8	14
22	9	15
23	9	15
24	10	16
25	11	16
26	11	17
27	12	17
28	12	18
29	13	18
30	13	19
31	14	20
32	14	20
33	15	21
34	15	21
35	16	22
36	16	22
37	17	23
38	17	23
39	18	24
40	18	24
41	19	25
42	19	25
43	20	26
44	21	27
45	21	27
46	22	28
47	22	28
48	23	28
49	23	29
50	24	30
51	24	30
52	25	31
53	25	31
54	26	32
55	26	32
56	27	33
57	27	33
58	28	33
59	28	34
60	32	33

[1] Test sample passing not permitted at this stage.
[2] Test sample failure not permitted at this stage.

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Part III

Environmental Protection Agency

High-Altitude Emission Standards for 1984 and Later Model Year Light-Duty Trucks; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2226-5]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; High-Altitude Emission Standards for 1984 and Later Model Year Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action establishes mandatory emission standards for 1984 and later model year light-duty trucks (LDTs) sold for principal use at altitudes above 4,000 feet. The standards apply to exhaust emissions of hydrocarbons (HC), carbon monoxide (CO), and nitrogen oxides (NO_x). In addition, a standard for evaporative HC emissions is also being promulgated. The standards contained in this regulation continue the proportional relationship between high-altitude standards and low-altitude standards that was established by the 1982–83 interim standards (45 FR 66984). A voluntary high-altitude program for 1984 model year LDTs, which was mistakenly included in a separate final rulemaking (45 FR 63734), is also being deleted in this final rule.

This action indefinitely extends both the current self-certification provision and the performance-based exemption from the high-altitude certification requirements for LDTs. The current optional sales-based exemption is also being extended, but only for 1984. Comments are specifically requested on the need for extending the sales-based exemption beyond 1984 and also on the appropriateness of the performance-based exemption criteria. Further, EPA is continuing its policy of foregoing high-altitude Selective Enforcement Audit (SEA) testing.

This regulation is expected to provide up to a 2 percent improvement in the ambient air quality of major high-altitude urban areas. These standards are also expected to add $9 to the purchase price of an average high-altitude LDT.

EFFECTIVE DATE: These regulations are effective as of February 11, 1983.

ADDRESSES: Copies of the material relevant to this rulemaking are contained in Public Docket No. A-79-14 at the U.S. Environmental Protection Agency, Central Docket Section. The docket is located in West Tower Lobby, Gallery 1, 401 M. Street, SW., Washington, D.C. 20460, telephone number (202) 755-0240. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel P. Heiser, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4274.

SUPPLEMENTARY INFORMATION: OMB Control Number 2000-0390.

I. Background

These rules establish high-altitude emission standards for 1984 and later LDTs that, with few exceptions, represent essentially a continuation of the approach followed for the current 1982–83 high-altitude emission control program. As such, the most effective way to gain a basic understanding of the high-altitude emission control program for 1984 and later is by briefly reviewing EPA's current emission control regulations for high-altitude LDTs. It will also be helpful to explore both the special air quality problems associated with high-altitude areas and the history which has led to the promulgation of these 1984 high-altitude regulations. Once this background information has been presented, the specific components of this rulemaking action will be described in greater detail.

A. Need for High-Altitude LDT Standards

EPA has found that light-duty motor vehicles which demonstrate compliance with only low-altitude emission standards generally produce about 50 percent more exhaust hydrocarbons (HC) and 100 percent more carbon monoxide (CO) when tested at 5,300 feet above sea level. Also, in most high-altitude urban areas, motor vehicles account for more than half of the total HC emissions and almost all of the CO emissions. The HC emissions in the presence of summer sunlight contribute to numerous violations of the National Ambient Air Quality Standards (NAAQS) for oxidant in high-altitude metropolitan areas. Similarly, CO emissions in stable winter atmospheric conditions cause numerous violations of the NAAQS for CO. Although progress is being made in reducing the severity of air pollution episodes in these metropolitan areas, specifically controlling emissions from high-altitude motor vehicles (including 1984 and later LDTs) is needed to help assure that the NAAQS for ozone and CO are attained and maintained in the future.

B. Current High-Altitude LDT Program

Mandatory high-altitude emission standards for 1982–83 light-duty motor vehicles were proposed on January 24, 1980 (45 FR 5988), under EPA's general rulemaking authority contained in section 202(a) of the Clean Air Act ("the Act"). These rules are consistent with the guidelines for such standards that were established by Congress in section 202(f) of the Act. The 1980 proposal included different sets of high-altitude standards for 1982 and 1983 light-duty trucks, because at that time EPA anticipated promulgating more stringent low-altitude LDT standards for the 1983 model year. Those more stringent standards were subsequently deferred for a year. Accordingly, the final regulations for high-altitude LDTs, promulgated on October 8, 1980 (45 FR 66984), contained a single set of standards for the 1982 and 1983 model years, based upon the less stringent low-altitude standards applicable in those years. Today's action promulgates for 1984 and later model years the more stringent LDT standards originally proposed for the 1983 model year.

The 1982–83 high-altitude HC and CO standards require the same percentage reduction from uncontrolled emissions at high altitude (about 5,300 feet) as that achieved by the associated low-altitude standards. These standards, therefore, are termed "proportional." For NO_x emissions, which decrease from uncontrolled vehicles as altitude increases, section 202(f) effectively limits the high-altitude standard to the same numerical level as the low-altitude standard. (Even though the NO_x standard does not require that this pollutant be "proportionally" controlled at an elevation of 5,300 feet as do the HC and CO standards, all these standards are collectively referred to as "proportional standards" for convenience.) A general result of this control strategy is that proportional high-altitude standards are no more difficult to meet than the standards at low altitude.

The regulations which implement the current high-altitude standards were carefully designed to maximize model availability in high-altitude areas (a problem with EPA's 1977 high-altitude regulations), while at the same time minimizing the cost of the regulations and avoiding any adverse impact on the low-altitude fleet. There are three primary components of the regulations which provide these desired results. First, in order to market a vehicle anywhere in the nation, the regulations require that the vehicle must either automatically meet both the low- and high-altitude standards, or be capable of being modified to do so. This protects model availability at high altitude since manufacturers must invest the required time and money to certify LDTs to the high-altitude standards in order to sell these vehicles at low altitude. Once these resources are expended, manufacturers are likely to sell such vehicles at high altitude to recover their investment. Also, by allowing vehicles to be modified in compliance with the standards, the cost of these regulations to the nation is minimized since high-altitude emission control hardware is required only on those vehicles sold in high-altitude areas. However, the regulations generally restrict any required changes to engine operating parameters such as the air/fuel ratio of the carburetor so that vehicle modifications are not excessively expensive.

Second, manufacturers have the option of certifying vehicles to high-altitude standards at 5,300 feet by either: (1) Utilizing full vehicle tests in conjunction with Federally established procedures, or (2) by submitting a statement to EPA that engineering evaluations, based on whatever test data the manufacturer deems appropriate, were used to determine compliance. This latter provision is generally referred to as self-certification and was introduced into the regulations on April 23, 1981 (46 FR 23053), to ease certification leadtime constraints for 1982 model year vehicles. The provision was continued for 1983 model year vehicles to minimize the potential for confusion which might result from having completely different certification requirements in 1982 than in 1983, and also to reduce the cost burden of high-altitude standards on the economically depressed automotive industry.

Third, exemptions from the high-altitude certification requirements discussed above are provided for certain LDTs to prevent some light truck configurations from being removed from both the low- and high-altitude markets for failure to comply with high-altitude standards. This result is possible because, in the absence of exemptions, failure to certify to both low- and high-altitude standards precludes selling the affected vehicle anywhere in the nation.

At the time the high-altitude standards were promulated on October 8, 1980, EPA found that different exemption schemes were needed for the 1982 and 1983 model years. For 1982, manufacturers were allowed to exempt up to 30 percent of their projected high-altitude sales from the certification requirements to counter the short leadtime that was provided by the regulations. These exempted vehicles were allowed to be sold for principal use in high-altitude areas in order to prevent model availability problems at elevations above 4,000 feet. This provision is referred to as a sales-based exemption.

For 1983, EPA implemented a performance-based exemption. This provision uses objective performance criteria to identify low power, high fuel economy vehicles which are very difficult to modify properly to comply with high-altitude standards, and which are normally sold in only small numbers at high altitude anyway because of their inferior performance under high-altitude conditions. Performance-exempted vehicles may not be sold for principal use above 4,000 feet to maximize the environmental benefits of the regulations. This exemption removes the potential of adversely affecting national fuel economy and does not significantly affect high-altitude model availability.

On May 20, 1982 (47 FR 21783), EPA granted a petition by Ford Motor Company to extend the sales-based exemption into the 1983 model year. This provided manufacturers with the option of either exempting 30 percent of their projected high-altitude LDT sales, or exempting only low power LDTs with the existing performance-based provision.

A voluntary high-altitude program for 1984 model year LDTs was mistakenly included in the final rule on low-altitude standards for 1984 and later light trucks (45 FR 83734). The standards in this voluntary program are the same as the mandatory 1982–83 high-altitude standards and, hence, are not proportional to the new, more stringent low-altitude standards which are effective beginning in 1984. This voluntary high-altitude program is being deleted in this final rulemaking by promulgating mandatory proportional standards for 1984 LDTs.

C. History of the High-Altitude Rule

All of the proportional high-altitude standards are being promulgated in this final rulemaking, even those that are not changing, because existing standards for LDTs expire after the 1983 model year. As noted above, these standards were proposed on January 24, 1980 for the 1983 model year, and were subsequently commented upon by interested parties. Nevertheless, these proportional standards were never finalized because the new low-altitude LDT standards upon which they were based were eventually postponed until 1984. Therefore, the high-altitude emission standards that are being promulgated in this final rulemaking will retain the "proportional" nature of the low- to high-altitude standards as previously proposed and commented upon.

Also, in the ensuing time since the high-altitude standards were proposed, EPA's intent to continue proportional high-altitude standards for 1984 and later years was clearly stated during EPA/Industry meetings held at the Motor Vehicle Emissions Laboratory in Ann Arbor, Michigan. In addition, a continuation of proportional standards was supported by a Special Task Force to the President which examined the economic problems of the U.S. automotive industry.[1] They recommended that Congress "* * * preserv[e] EPA's [already existing] authority to require proportional standards for light * * * trucks * * *" sold at high altitude into the 1984 model year and beyond. Therefore, the automotive industry has been expecting these new proportional standards for some time.

[1] "Actions to Help the U.S. Auto Industry," The White House, Office of the Press Secretary, April 6, 1981.

II. Specific Components of This Package and Major Issues

A. Standards

The standards contained in this rulemaking apply to the exhaust emissions of HC, CO, and NO_x, and to the evaporative emissions of HC. The exhaust emission standards are 1.0 gram per mile (g/mi) HC, 14 g/mi CO, 2.3 g/mi NO_x. The evaporative HC standard is 2.6 g/test. The HC and CO high-altitude standards are being implemented to retain the current proportional emission control program when the corresponding standards at low altitude become more stringent beginning in 1984. Both the NO_x and evaporative HC emission standards remain unchanged from the 1983 model year values, however, since the corresponding low-altitude standards are not changing in 1984.

A detailed derivation of the 1.0 g/mi HC and 14 g/mi CO proportional high-altitude standards was presented in the proposal of these standards (45 FR 5988). In summary, these standards were derived by multiplying the low-altitude LDT standard of 0.8 g/mi HC and 10 g/mi CO by "proportional factors" of 1.2 for HC and 1.4 for CO. These proportional factors represent the ratio of uncontrolled emissions at high altitude to those at low altitude, and were derived from emission tests conducted on a fleet of 1970 vehicles as specified in section 202(f) of the Act.

The low- and high-altitude standards are summarized in Table 1. This table also contains the low-altitude standards for comparison.

TABLE 1.—LOW- AND HIGH-ALTITUDE STANDARDS FOR 1984 AND LATER LDTS

Altitude	HC[1]	CO[1]	NO_x[1]	Evap HC[2]
Low	0.8	10	2.3	2.0
High	1.0	14	2.3	2.6

[1] Grams/mile.
[2] Grams/test.

No particulate standard is being established at this time for diesel-powered LDTs sold in high-altitude areas. There are three reasons for this. First, particulate standards were not included in the interim high-altitude program (1982–83). Second, a particulate standard for high-altitude LDTs has never been proposed nor has the public had a chance to comment on such a standard. Third, EPA is still in the process of analyzing the feasibility of, need for, and impact of proportional diesel particulate standards at high altitude and has not yet decided on what action, if any, would be appropriate. If EPA decides that a particulate standard is appropriate for LDTs at high altitude, that decision would be announced in a Notice of Proposed Rulemaking and the public would be given ample opportunity to comment on a proposed standard.

B. Exemptions

As previously stated, exemptions from the high-altitude certification requirements were made available during the 1982–83 model years primarily to ensure that the high-altitude standards did not adversely affect model availability at low altitude and also to reduce the burden of these standards on manufacturers without significantly affecting model availability at high altitude. Since this action continues the proportional nature of the earlier standards, and hence, is similar in its emission control requirements (this is discussed in greater detail later), the need for some form of exemptions remains unchanged for the 1984 and later model years. Therefore, exemptions from the high-altitude requirements are included in this rulemaking.

The current performance-based exemption is being extended for 1984 and later LDTs. This exemption scheme preserves the environmental benefit of the regulation since only LDTs which meet proportional standards may be sold for principal use in high-altitude areas. At the same time, the cost of the regulation is significantly reduced by exempting low power vehicles which are the most difficult and costly to control at high altitude. The performance exemption also has little adverse impact on model availability at high altitude because exemptions are available only for low-power vehicles. Even in the absence of high-altitude regulations, these vehicles would be sold in only small numbers in areas above 4,000 feet by virtue of their inherently inferior performance at higher elevations.

The Agency had previously stated that the 30 percent sales-based exemption would not be extended into 1984. This intent was stated in the rulemaking that promulgated the sales-based exemption for 1983 as an option to the performance-based exemption which was already available in that year (45 FR 21293). Nevertheless, the Agency now finds it necessary to extend into 1984 the availability of the optional sales-based exemption provision for two principal reasons. First, while the leadtime for manufacturers to respond to new proportional standards is adequate with sales exemptions (as discussed in greater detail below), their absence could jeopardize completing certification in time for the normal introduction of 1984 LDTs. Potentially, manufacturers would have to develop and certify more LDT configurations (model/drivetrain combinations) if only performance-based exemptions were available in 1984 since many vehicle configurations were previously exempt in 1982 and 1983 under the optional 30 percent sales-based exemption. Developing calibrations for these previously exempted vehicles would likely require more leadtime than will be provided by this rulemaking action. Also, developing these new calibrations on such short notice could significantly increase the development cost of the 1984 standards at a time when the economically depressed industry must already comply with both new 1984 low- and high-altitude emission standards.

The second reason for extending the optional sales exemption for one more year is that the appropriateness of the performance-exemption criteria has been questioned by Ford Motor Company and, as a result, EPA solicited comments on the proper form of this provision in conjunction with the above-referenced rulemaking. The comment period on the performance-exemption criteria closed August 18, 1982, and EPA is continuing to evaluate the issues in light of the comments received. Unfortunately, there is inadequte time in which to resolve those issues fully in this action without jeopardizing the promulgation of LDT standards for 1984. Therefore, this issue is more properly addressed at a later time for the 1985 model year. In the interim, EPA is inviting additional comments from interested parties on the adequacy of the performance-exemption criteria so that all possible evidence can be considered by the Agency before a final decision is made on the need to revise this provision. At the same time, the Agency will also consider comments from interested parties on the need for and desirability of extending sales-based exemptions into future model years since EPA has not reached a final decision on whether continuation of this option is necessary for those years. Further information on the comment period for both the sales and performance exemption is provided in the Public Participation section.

C. High-Altitude Certification

The certification requirements for 1984 and later LDTs are unchanged from the requirements that are currently applicable to 1982 and 1983 vehicles. These certification requirements were amply described in the Background section of that preamble, and hence, there is no need to repeat that

discussion here. However, one aspect of high-altitude certification does deserve additional attention, i.e., self-certification. For 1984 and later, manufacturers will continue to have the option of self-certifying non-exempt LDTs at high altitude by submitting statements to EPA attesting that engineering evaluations, based on appropriate emissions test data, were used to determine compliance with the hight-altitude standards. This self-certification option is being continued so that the burden of complying with proportional standards does not significantly increase in 1984 from past years. This program should save the LDT industry a significant amount of money when compared to the costs of full certification at high-altitude, which would require expensive testing labs and expensive prototype vehicles for a relatively small percentage of a manufacturer's LDT sales. A self-certification program is therefore consistent with the President's goal of minimizing the costs of environmental regulations. Also, manufacturers should have the capability to evaluate high-altitude LDT emissions accurately without direct testing, since they have a valid emissions data base of LDTs certified at low altitude and can extrapolate this data to high-altitude conditions. More discussion on the development and appropriateness of the self-certification program for high altitude can be found in a previous rulemaking notice (46 FR 23053).

Although self-certification should accurately reflect the emissions of new LDTs, there is some concern of an increase in risk, when compared to full certification, that some LDTs will not be complying with high-altitude standards. However, non-exempt LDTs will still be liable for meeting applicable standards while in-use at high-altitude and EPA will also continue its emission factors program of testing in-use LDTs at high altitude. This should provide assurance that self-certification will not result in air quality degradation in areas above 4,000 feet. Thus, self-certification should be a more cost-effective approach for reducing emissions at high altitude than full certification.

D. Technological Feasibility

The technological feasibility of high altitude HC, CO, and NO_x standards is primarily dependent on the degree to which emissions must be reduced from a low-altitude vehicle when it is operated at high altitude. By retaining the proportional nature of the 1982–83 high altitude standards in the new 1984 high altitude standards, as previously discussed, EPA has also essentially retained the degree to which emissions must be controlled from a low-altitude vehicle at high altitude. Consequently, the technical feasibility of the new 1984 proportional standards is basically the same as that of the readily achievable 1982–83 proportional standards. This is especially true since LDT manufacturers are projecting the continued use of non-electronic (nonfeedback) emission control systems at low altitude.

This similarity in technical difficulty, therefore, will manifest itself in requiring essentially the same emission control hardware on 1984 LDTs as is currently required on 1982–83 LDTs. The majority of high-altitude LDTs will require carburetor modifications to produce leaner fuel/air mixtures, recalibration of existing adjustable parameters such as spark timing, and the addition of an aneroid (pressure-sensing device) to the carburetor to maintain performance when the vehicle is driven at low altitude by enriching the fuel/air mixture. Thus, the new 1984 proportional standards will not require any new emission control hardware, even though the standards are numerically more stringent, i.e., the numerical values for HC and CO are lower. The evaporative HC control technology will, of course, remain unchanged for 1984 since the level of the standard is unchanged.

The control hardware discussed above is the control technology EPA projected in the January 1980 Notice of Proposed Rulemaking would be required to meet these standards (45 FR 5988).[3] The comments received subsequent to that proposal supported the technological feasibility of the new proportional standards and no comments received since that time have challenged that finding.

E. Leadtime

The leadtime which is necessary for manufacturers to comply with high-altitude standards depends primarily on the technical complexity of the requirements. Discussions in the previous sections of this preamble have clearly shown that the technical complexity and, indeed, the control hardware, are essentially the same for both the 1982–83 proportional standards and the 1984 proportional standards. For these reasons, the best basis for determining whether or not adequate leadtime exists for implementing proportional standards for 1984 is to compare these requirements against past experience with similar requirements for the 1982 model year.

In promulgating the 1982–83 proportional standards, EPA allowed about nine months for manufacturers to develop, certify, and produce vehicles (November 1980 to August 1981). This was, admittedly, a shorter period of time than normally would be provided to respond to new emission standards. However, this leadtime was judged to be adequate since sales exemptions and, eventually, self-certification were included in the 1982 regulations to remove any jeopardy of not being able to conclude certification on time. The adequacy of the 9-month leadtime is now apparent from the fact that manufacturers' scheduled introduction dates for 1982 model year vehicles were not adversely affected. Based on this past experience with standards of equivalent technological complexity (i.e., similar control technology, sales-based exemptions, and self-certification), EPA concludes that adequate leadtime exists for implementing new proportional standards since at least nine months will be available between the promulgation of these rules and the normally scheduled production date for 1984 model year LDTs.

This conclusion is further supported in that manufacturers now have substantial experience in complying with the 1982–83 proportional standards and this experience should be useful in reducing the time which might otherwise be necessary to develop the required high-altitude engine calibrations for 1984. Also, manufacturers already may have begun to develop the necessary emission controls for 1984 since EPA has clearly stated the Agency's intent to promulgate new proportional standards over the past several months, as discussed previously. Therefore, EPA believes that the leadtime provided by this rulemaking action is adequate.

F. Economic Impact

The incremental cost of these regulations is due primarily to new development and certification cost.[3] While these regulations will require control hardware to be added to low altitude LDTs, this is essentially the same hardware already required by the

[3] Emission control hardware projections were presented in detail in the Draft Regulatory Analysis of the proposed standards which is available for review in the public docket.

[3] The economic impacts described herein are incremental to those associated with the current 1982–83 proportional high-altitude standards. However, it should be noted that not all of the costs associated with the 1982–83 standards continue beyond the 1983 model year. In particular, the development and certification costs associated with those standards were amortized over only two years in that rulemaking and do not apply to the 1984 model year and beyond (45 FR 68994).

1982 and 1983 regulations. Thus, the incremental cost due to hardware requirements should be zero. There also will be no incremental cost for Selective Enforcement Auditing (SEA) of high-altitude LDTs since the Agency will continue its present policy of no high-altitude SEA testing. This policy is consistent with statements made by the President's Special Task Force on the U.S. automotive industry [4] and was implemented by EPA on April 13, 1982 (46 FR 21628).

As discussed previously, LDTs must undergo recalibration due to the new proportional standards. Based on an analysis of the development costs in the 1982–83 interim program,[5] and assuming all LDT models require development, the total development cost would be about $3.2 million in 1984. For each succeeding year, development costs would only occur on new models being introduced, amounting to about $320,000 per year.

The above development costs are likely to be overestimated for three principal reasons. First, the self-certification provision included in these regulations will significantly reduce the cost of development from that originally projected in the 1982–83 interim program, which served as the basis for the estimates. The economic impact analysis of the interim program assumed "full" certification would be in effect. This would have required vehicle calibrations to be developed using actual vehicle tests in order to demonstrate compliance with the high-altitude standards at the time of certification. Many of these expensive vehicle tests will be eliminated if manufacturers take advantage of the self-certification provision, which relies predominantly on engineering evaluations to determine compliance with the standards. Second, all LDT engine families will not require development due to this regulation since approximately 30 percent of the LDT engine families will be exempted from meeting the new proportional standards, at least for the 1984 model year. Third, many families would have required new calibrations even without the new proportional standards because of changes in the low-altitude emission standards.

In addition to development, manufacturers of LDTs must also certify vehicles for 1984. The total cost of certification for high-altitude LDTs will be approximately $120,000 for 1984. For each year after 1984, certification will occur only for new models and will cost about $120,000 per year. Referring back to the above discussion, these costs are likely to be overestimated since they are based on the estimates contained in EPA's analysis of the interim high-altitude program, which assumed full certification, and do not reflect the potential savings due to self-certification.

Thus, the cost of these regulations in 1984 is estimated to be at most about $3.2 million. After 1984, the cost will decrease to about $320,000 per year. The total cost of these regulations to the nation during the first 5 years is conservatively estimated at about $4.4 million (discounted at 10 percent to 1984). Expressed differently, if these costs are amortized over the number of high-altitude LDTs sold during the first 5 years of the regulations, the average cost increase per high-altitude LDT will be no more than about $9. The potential fuel economy savings of the 1982 and 1983 high-altitude standards should remain unchanged in 1984 and later years as a result of these standards.

The economic impact of complying with these new proportional high-altitude LDT standards was also analyzed in the proposed rulemaking for the 1982–83 high-altitude standards (45 FR 5988). Generally larger costs were estimated at that time compared to those described above, because EPA originally projected that more expensive control technology would be required by some LDTs. However, even with those somewhat higher costs, EPA also concluded at that time that there would be no significant adverse economic impacts for LDT manufacturers, high-altitude dealerships, or vehicle purchasers. Thus, the same conclusion should hold for this rulemaking with its lower cost. It is true that the economic condition of the LDT industry has changed since the time of the original analyses. However, a cost of $9 per LDT sold at high altitude is very small compared to the total cost of the vehicle and would be very unlikely to affect sales or profits on high-altitude LDTs significantly.

G. Air Quality

These standards would reduce HC emissions by 20 percent or 0.05 tons and CO emissions by 40 percent or 1.45 tons compared to no high altitude control over the lifetime of each 1984 and later LDT. Over a 5-year sales period, the LDT lifetime reductions would be 23,800 tons HC and 690,000 tons of CO in high-altitude areas. These incremental reductions compare favorably with the original reductions associated with the 1982–83 high-altitude LDT regulations.

These emission reductions will result in improved air quality. An analysis of the ambient CO concentrations from 1986 to 1995 in selected high-altitude cities shows a reduction of up to 2 percent in expected second highest 8-hour CO concentrations from the 1979 base year. An analysis of ambient ozone concentrations shows that from 1986 to 1995, up to a 1 percent reduction can be expected in the maximum 1-hour ozone concentrations from the 1979 base year. While small, these improvements are needed since some high-altitude areas have significant air quality problems.

H. Cost Effectiveness

Using the lifetime emission reductions of 0.045 metric tons HC and of 1.3 metric tons CO, and dividing the $9 cost evenly between HC and CO control, the cost effectiveness of these regulations is $100 per metric ton HC and $3 per metric ton CO. These cost-effectiveness values compare favorably to the cost-effectiveness values of the 1982–83 high-altitude LDT standards. They also compare very favorably with the cost effectiveness values of other emission control strategies, which range up to about $735 per metric ton HC and $70 per metric ton CO.

I. Alternatives

Two alternative control strategies to these 1984 high-altitude LDT standards were considered by the Agency: (1) eliminating high-altitude standards altogether for 1984 and later LDTs, and (2) continuing the 1982–83 standards into 1984 and later model years.

The first alternative would eliminate EPA's mandatory high-altitude program for 1984 and later LDTs (only voluntary performance adjustments would be left). However, the mandatory high-altitude program of emission standards was initiated because EPA found that motor vehicles which demonstrated compliance at low altitude generally produced 50 percent more HC and 100 percent more CO when tested at 500 feet above sea level. The Agency also found that in most high-altitude urban areas, motor vehicles accounted for more than half of the total HC emissions and almost all CO emissions. Given that a number of large high-altitude urban centers are still in violation of the National Ambient Air Quality Standards (NAAQS) for CO and ozone (of which HC is a precursor), cost effective control of HC and CO from motor vehicles still appears necessary. Therefore, the

[4] "Actions to Help the U.S. Auto Industry," The White House, Office of the Press Secretary, April 6, 1981.

[5] A detailed description of these development costs is provided in a memorandum to the record and in the Final Regulatory Analysis of the 1982–83 high-altitude program which is available for review in the public docket.

alternative of setting no standards and essentially eliminating the high-altitude LDT program would be inappropriate.

The second option considered was a continuation of the 1982–83 high-altitude standards into 1984 and beyond. Such a continuation would actually be a relaxation of the technical stringency of the current standards because the emission control capability of low-altitude LDTs will improve dramatically in 1984. In fact, due to the new 1984 low-altitude standards, some 1984 LDTs may be able to meet the 1982–83 high-altitude standards without any modifications and, overall, little emission reduction would occur from those requiring control. Nevertheless, many of the costs of high-altitude emission control would remain since high-altitude calibrations would still need to be developed, vehicles certified, and inventories maintained. Thus, under this approach, few emission reductions would be realized, while many costs of full proportional standards would still remain. The cost effectiveness of this approach should actually be worse than that of the full proportional standards, since much greater emission reductions can be obtained for a slight increase in cost. Given that further cost-effective emission reductions still appear to be needed, the option of continuing the current standards was rejected.

III. Description of Changes From Proposed Regulations

These final regulations for 1984 and later model year LDTs are in all substantive respects identical to the regulations proposed for the 1983 model year, with the exception of the exemption and self-certification provisions. Those provisions, which are described in detail above, are a continuation of provisions previously promulgated for 1983 model year light-duty trucks.

IV. Response to Comments

The comments received in response to the proposed regulations generally supported the Agency's approach, including the technological and economic feasibility of the proposed standards. No information available to EPA indicates that the proposed standards would not continue to be technologically feasible; in fact, the continuation of the sales exemption and self-certification provisions improve the projections of technological feasibility made at the time of proposal. In any event, a detailed response to the comments received appears in a separate document in the public docket for this action, entitled, "Summary and Analysis of Comments," and dated October, 1980. That document was prepared in support of the 1982–83 standards previously promulgated, but also contains an analysis of the comments relating to the provisions promulgated in today's final action.

V. Amendments to Current Regulations

These final regulations also amend the existing paragraph (a)(1)(iii)(H) of § 86.082–35 of Subpart A. This paragraph explains the labeling requirements for each LDT exempted from high-altitude certification because of poor performance at high-altitude. The paragraph incorrectly refers to specifications for sales-based exemptions of LDTs (§ 86.083–9(g)(2)) and should refer to criteria for performance exemptions (§ 86.083–9(g)(4)). This change was inadvertently omitted in the interim final rulemaking published on May 20, 1982 (45 FR 21793) which extended the LDT sales-based exemptions into the 1983 model year.

VI. Judicial Review

The final action taken today is nationally applicable. Under section 307(b)(1) of the Clean Air Act, judicial review may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for judicial review must be filed on or before March 14, 1983.

Legal Authority

Statutory authority for this action is provided by section 202(a) and 301(a) of the Clean Air Act [42 U.S.C. 7521 and 7601]. Section 202(a)(1) of the Act provides, in part, that "* * * the Administrator shall by regulation prescribe * * * standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles * * * which may reasonably be anticipated to endanger the public health or welfare * * *." Section 202(a)(2) of the Act provides, in part, that "* * * any regulation prescribed under paragraph (1) * * * shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." Section 301(a) provides, in part, that "the Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act."

Although this is a final rule, EPA requests manufacturers and other interested persons to submit comments on the need to continue sales-based exemptions beyond the 1984 model year and on the appropriateness of the current performance-based exemption criteria. If, as a result of these comments, amendments to the regulations are needed, EPA will initiate the rulemaking process to implement the appropriate changes.

Please submit written comments to: United States Environmental Protection Agency, Central Docket Section (A–130), ATTN: Docket No. A–79–14, Waterside Mall, West Tower Lobby, Gallery I, 401 M Street SW, Washington, D.C. 20460.

The docket may be inspected between 8:00 am and 4:00 pm, Monday through Friday. A reasonable fee may be charged for copying service.

Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it has an annual effect on the economy of less than $100 million and it involves no significant adverse effect on competition, productivity, investment, employment, or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Effect on Small Entities

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires that EPA certify regulations that do not have a significant impact on a substantial number of small entities. Small entities potentially affected by this regulation include the automobile dealerships selling LDTs in designated high-altitude areas. These dealerships could potentially be adversely affected in two days. One, the price of a LDT could increase to the point of reducing sales. Two, the availability of certain models could be eliminated, again reducing sales.

EPA has designed these regulations to ensure that neither situation will occur. The cost of these regulations has already been described and should be very close to that of the high-altitude regulations for 1982 and 1983 model year light-duty trucks, which are not currently causing any hardships. Also, the extension of the 30 percent sales exemption should easily ensure model availability. Therefore, I certify that this regulation does not have any significant impact on small entities.

Impacts on Reporting Requirements

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980

U.S.C. 3501 *et seq.* and have been assigned OMB control number 2000-0390.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: December 20, 1982.

Anne M. Gorsuch,

Administrator.

PART 86—[AMENDED]

For the reasons set forth in the preamble, Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 86.082–35 is amended by revising paragraph (a)(1)(iii)(H) as follows:

§ 86.082–35 Labeling.

(a) * * *
(1) * * *
(iii) * * *

(H) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emission standards as specified in § 86.082–9(g)(2) and § 86.083–9(g)(4) and that its unsatisfactory performance under high-altitude conditions make it unsuitable for principal use at high altitude.

* * * * *

2. Section 86.084–9 is amended by revising paragraph (a)(1) introductory text, (d), and (e), and adding paragraphs (f) and (g) as follows:

§ 86.084–9 Emission standards for 1984 and later model year light-duty trucks.

(a)(1) The standards set forth in paragraphs (a) through (c) of this section shall apply for trucks sold for principal use at other than a designated high-altitude location. Exhaust emissions from 1984 and later model year light-duty trucks shall not exceed:

* * * * *

(d)(1) Model year 1984 and later light-duty trucks sold for principal use at designated high-altitude locations shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions.

(i) *Hydrocarbons.* 1.0 grams per vehicle mile (0.62 grams per vehicle kilometer);

(ii) *Carbon Monoxide.* 14 grams per vehicle mile (8.7 grams per vehicle kilometer);

(iii) *Oxides of Nitrogen.* 2.3 grams per vehicle mile (1.43 grams per vehicle kilometer).

(2) The standards set forth in paragraph (d)(1)(i), (d)(1)(ii)(A), and (d)(1)(iii) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(e)(1) Fuel evaporative emissions from 1984 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location shall not exceed 2.0 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(f) No crankcase emissions shall be discharged into the ambient atmosphere from any 1984 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location.

(g)(1) Any light-duty truck that a manufacturer wishes to certify for sale at low altitude must be capable of meeting high-altitude emission standards (specified in paragraphs (d) through (f) of this section). The manufacturer may specify vehicle adjustments or modifications to allow the vehicle to meet high-altitude standards but these adjustments or modifications may not alter the vehicle's basic engine, inertia weight class, transmission configuration, and axle ratio.

(i) A manufacturer may certify unique configurations to meet the high-altitude standards but is not required to certify these vehicle configurations to meet the low-altitude standards.

(ii) Any adjustments or modifications that are recommended to be performed on vehicles to satisfy the requirements of paragraph (g)(1) of this section:

(A) Shall be capable of being effectively performed by commercial repair facilities.

(B) Must be included in the manufacturer's application for certification.

(2) The manufacturer may exempt 1984 model year light-duty trucks from high-altitude emission standards as set forth in paragraph (d) of this section. No specific justification for the exemption need be included in the application for certification. The exemptions may include up to 30 percent of the manufacturer's projected light-duty truck sales for principal use at designated high-altitude locations for the 1984 model year. For this purpose, the sales percentage will be based on sales projections for individual vehicle configurations to be exempted. Exemptions will cover individual vehicle configurations, or groups of vehicle configurations, as specified by the manufacturer.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (g)(2) of this section will not be considered a violation of section 203(a)(1) of the Clean Air Act.

(4) Exemption for vehicles from the high-altitude emission standards as set forth in paragraph (d) of this section may be granted by the Administrator for vehicles that are expected to have unsatisfactory performance under high-altitude conditions. Such exemptions will be granted upon petition by the manufacturer that the vehicle falls within the definition of vehicles eligible for exemption. A vehicle shall be considered eligible for exemption if its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle speed (N/V)) simultaneously fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(i) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the equivalent vehicle test weight expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crank shaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(ii) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$, where the constant, (C), is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graph.

(iii) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$, where the constant, (C), is the same as that found in paragraph (g)(4)(ii) of this section.

(iv) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(5) No exemptions will be granted under paragraph (g)(4) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (g)(2) of this section.

(6) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (g)(4) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

3. Section 86.084–21 is amended by revising paragraphs (b)(2) and (b)(4)(ii)(C)(*5*) as follows:

§ 86.084–21 Application for certification.

* * * * *

(b) * * *

(2) Project U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested. The sales data shall also include the altitude of intended sale for light-duty trucks.

* * * * *

(4) * * *

(ii) * * *

(C) * * *

(*5*)(*i*) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(*ii*) A description of vehicle adjustments or modifications necessary, if any, to assure that light-duty trucks covered by a certificate of conformity conform to the regulations while being operated at any altitude locations, and a statement of the altitude at which the adjustments or modifications apply.

* * * * *

4. Section 86.084–24 is amended by adding paragraph (b)(1)(v), redesignating and revising paragraphs (b)(1)(vii) (D) and (E) as (b)(1) (viii) and (ix), respectively, and adding paragraph (b)(1)(x) to read as follows:

§ 86.084–24 Test vehicles and engines.

* * * * *

(b) *Emission data*—(1) * * *

(v) For high-altitude exhaust emission compliance for each engine family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the vehicle expected to exhibit the highest emissions from the nonexempt vehicles selected in accordance with § 86.084–24(b)(1) (ii), (iii), and (iv) of this section or,

(B) In lieu of testing vehicles according to paragraph (b)(1)(v)(A) of this section, a manufacturer may provide a statement in its application for certification that, based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) [Reserved]

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements and, that all other light-duty trucks sold at low altitude and not exempt under § 86.084–9(g)(2) are capable of being modified to meet high-altitude standards.

* * * * *

(viii) For high-altitude evaporative emission compliance for each evaporative emission family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the one nonexempt vehicle previously selected under paragraphs (b)(1)(vii) (B) or (C) of this section which is expected to have the highest level of evaporative emissions when operated at high altitude or

(B) In lieu of testing vehicles according to paragraph (b)(1)(viii)(A) of this section, a manufacturer may provide a statement in its application of certification that based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) [Reserved]

(*2*) That light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements and that all other light-duty trucks sold at low altitude and not exempt under § 86.084–9(g)(2) are capable of being modified to meet high-altitude standards.

(ix) Vehicles selected under paragraph (b)(1)(v)(A) of this section may be used to satisfy the requirements of (b)(1)(viii)(A) of this section.

(x) (Light-Duty Trucks Only) (A) The manufacturer may reconfigure any of the low-altitude emission-data vehicles to represent the vehicle configuration required to be tested at high altitude.

(B) The manufacturer is not required to test the reconfigured vehicle at low altitude.

* * * * *

5. Section 86.084–26 is amended by revising the heading and by adding paragraphs (b)(4)(i)(B), (b)(4)(i)(C), (b)(4)(i)(D), (b)(4)(ii)(B), and (b)(4)(ii)(C), (b)(4)(ii)(D) as follows:

§ 86.084–26 Mileage and service accumulation; emission requirements.

* * * * *

(b) * * *

(4) * * *

(i) * * *

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.084–24(b)(1)(v) or (b)(1)(viii) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing or at 6,436 kilometers (4,000 miles) under high-altitude conditions.

(C) Exhaust and evaporative emission tests for emission-data vehicle(s) selected for testing under § 86.084–24(b)(1) (ii), (iii), (iv)(A), or (vii)(B) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing or at the 6,436-kilometer (4,000-mile) test point under low-altitude conditions.

(D) For each engine family, the manufacturer will select one vehicle previously selected under § 86.084–24(b)(1) (ii) through (b)(1)(iv) to be tested under high-altitude conditions. If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high altitude, such adjustments or modifications shall be made to the test vehicle (in accordance with the instructions to be provided to the ultimate purchaser) before being tested under high-altitude conditions.

(ii) * * *

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.084–24(b)(1)(v) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing or at the 6,436-kilometer (4,000-mile) test point under low-altitude conditions.

(C) Exhaust and evaporative emission tests for emission-data vehicle(s) selected for testing under § 86.084–24(b)(1) (ii), (iii), and (iv) shall be conducted at the mileage at which the engine-system combination is stabilized for emission testing or at the 6,436-kilometer (4,000-mile) test point under low-altitude conditions.

(D) For each engine family, the manufacturer will select one vehicle previously selected under § 86.084–24(b)(1) (ii) through (b)(1)(iv) to be tested under high-altitude conditions. If the manufacturer recommends adjustments or modifications in order to conform to emission standards at high altitude, such adjustments or modifications shall be made to the test vehicle (in accordance with the instructions to be provided to the ultimate purchaser) before being tested under high-altitude conditions.

* * * * *

6. Section 86.084–30 is amended by revising paragraphs (a)(3), (a)(4), (a)(5), (b)(1)(ii)(D), and (b)(1)(ii)(E) as follows:

§ 86.084–30 Certification.

(a) * * *

(3) One such certificate will be issued for each engine family. For gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination.

(i) *Light-Duty Vehicles.* Each certificate will certify compliance with no more than one set of standards.

(ii) *Light-Duty Trucks.* Each certification will certify compliance with no more than one set of standards except for low-altitude standards and high-altitude standards. The certificate shall state that it covers vehicles sold or delivered to an ultimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specifications that apply to those vehicles described in the application for certification at high altitude.

(4) The adjustment or modification of any light-duty truck in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered violation of Section 203(a)(3) of the Clean Air Act. A violation of Section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells or delivers to an ultimate purchaser any light-duty truck, subject to the regulations under the Act, which is not configured to meet high-altitude requirements:

(i) At a designated high-altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be used principally at a designated high-altitude location; or

(ii) At an other than designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be used principally at a designated high-altitude location.

(5) For the purpose of paragraph (a) of this section, "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and which is identified below:

Counties Located Substantially Above 1,219 Meters (4,000 Feet) in Elevation

State of Arizona

Apache	Navajo
Cochise	Yavapai
Coconino	

State of Colorado

Adams	Kit Carson
Alamosa	Lake
Arapahoe	La Plata
Archuleta	Larimer
Boulder	Las Animas
Chaffee	Lincoln
Cheyenne	Mesa
Clear Creek	Mineral
Conejos	Moffat
Costilla	Montezuma
Crowley	Montrose
Custer	Morgan
Delta	Otero
Denver	Ouray
Dolores	Park
Douglas	Pitkin
Eagle	Pueblo
Elbert	Rio Blanco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saquache
Gilpin	San Juan
Grand	San Miguel
Gunnison	Summit
Hinsdale	Teller
Huerfano	Washington
Jackson	Weld
Jefferson	

State of Idaho

Bannock	Franklin
Bear Lake	Fremont
Bingham	Jefferson
Blaine	Lemhi
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Carribou	Power
Cassia	Teton
Clark	Valley
Custer	

State of Montana

Beaverhead	Madison
Deer Lodge	Meagher
Gallatin	Park
Jefferson	Silver Bow
Judith Basin	Wheatland
Powell	

State of Nebraska

Banner	Kimball
Cheyenne	Sioux

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	Mora
Catron	Rio Arriba
Colfax	Roosevelt
Curry	Sandoval
De Baca	San Juan
Grant	San Miguel
Guadalupe	Santa Fe
Harding	Sierra
Hidalgo	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
Otero	

State of Oregon

Harney	Klamath
Lake	

State of Texas

Jeff Davis	Parmer
Hudspeth	

State of Utah

Beaver	Piute
Box Elder	Rich
Cache	Salt Lake
Carbon	San Juan
Daggett	Sanpete
Davis	Sevier
Duchesne	Summit
Emery Garfield	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber
Morgan	

State of Wyoming

Albany	Natrona
Campbell	Niobrara
Carbon	Park
Converse	Platte
Fremont	Sublette
Goshen	Sweetwater
Hot Springs	Teton
Johnson	Uinta
Laramie	Washakie
Lincoln	Weston

* * * * *

(b)(1) * * *

(ii) * * *

(D) The emission-data vehicle(s) selected under § 86.084–24(b)(1)(v) shall represent all vehicles of the same engine-system combination as applicable.

(E) The emission-data vehicle(s) selected under § 86.084–24(b)(1)(viii) shall represent all vehicles of the same evaporative control system within the evaporative emission family, as applicable.

* * * * *

7. Section 86.084–35 is amended by revising paragraphs (a)(2)(iii)(D), and (a)(2)(iii)(G), removing and reserving paragraph (a)(1)(iii)(F), and adding paragraphs (a)(2)(iii)(H), (a)(2)(iii)(I), and (a)(2)(iii)(J) as follows:

§ 86.084–35 Labeling.

(a) * * *

(1) * * *

(iii) * * *

(F) [Reserved]

* * * * *

(2) * * *

(iii) * * *

(D) Engine tune-up specifications and adjustment, as recommended by the manufacturer in accordance with the altitude at which the vehicle is to be sold for principal use to the ultimate purchaser, including but not limited to idle speed(s), ignition timing, the idle

air/fuel mixture setting procedure and value (e.g., idle CO, idle air/fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any should be in operation. If adjustments or modifications are necessary to ensure compliance with emission standards at either high or low altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are applicable to high altitude, low altitude or both.

* * * * *

(G) A statement, if applicable, that the adjustments or modifications indicated on the label are necessary to ensure emission control compliance at the altitude specified.

(H) A statement, if applicable, that the high-altitude vehicle was designed or modified for principal use at high altitude. This statement must be affixed by the manufacturer at the time of assembly or by any dealer who performs the high-altitude modification or adjustment prior to sale to an ultimate purchaser.

(I) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emission standards as specified in § 86.084–9(g)(4) or § 86.085–9(g)(2), as applicable, and that its unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude.

(J) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emissions standards as specified in § 86.084–9(g)(2) and, as a consequence, the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude.

* * * * *

8. Section 86.084–38 is amended by adding paragraph (e)(3) as follows:

§ 86.084–38 Maintenance instructions.

* * * * *

(e) * * *

(3) Such instructions shall indicate what adjustments or modifications, if any, are necessary to allow the vehicle to meet applicable emission standards at elevations above 4,000 feet, or at elevations of 4,000 feet or less.

* * * * *

9. Section 86.085–9 is amended by revising the heading and by revising paragraph (a)(1) introductory text, (d) and (e), and adding paragraphs (f) and (g) as follows:

§ 86.085–9 Emission standards for 1985 and later model year light-duty trucks.

(a)(1) The standards set forth in paragraphs (a) through (c) of this section shall apply for trucks sold for principle use at other than a designated high-altitude location. Exhaust emissions from 1985 and later model year light-duty trucks shall not exceed:

* * * * *

(d)(1) Model year 1985 and later light-duty trucks sold for principal use at a designated high-altitude location shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions.

(i) *Hydrocarbons.* 1.0 grams per vehicle mile (0.62 grams per vehicle kilometer);

(ii) *Carbon Monoxide.* 14 grams per vehicle mile (8.7 grams per vehicle kilometer);

(iii) *Oxides of Nitrogen.* 2.3 grams per vehicle mile (1.43 grams per vehicle kilometer).

(2) The standards set forth in paragraph (d)(1) of this section refer to the exhaust emitted over a driving schedule and to idle emissions collected under the conditions as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(e)(1) Fuel evaporative emissions from 1985 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location shall not exceed 2.6 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(f) No crankcase emissions shall be discharged into the ambient atmosphere from any 1985 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location.

(g)(1) All light-duty trucks shall be capable (by initial design, adjustment, or modification) of meeting the applicable emission standards set forth in this section for any altitude of operation. Such adjustments and modifications shall:

(i) Be capable of being effectively performed by commercial repair facilities.

(ii) All adjustment and modifications recommended by the manufacturer to be performed on vehicles to satisfy this requirement must be approved in advance by EPA in accordance with § 86.079–22.

(2) Exemption for vehicles from the high-altitude emission standards as set forth in paragraph (d) of this section may be granted by the Administrator for vehicles that are expected to have unsatisfactory performance under high-altitude conditions. Such exemptions will be granted upon petition by the manufacturer that the vehicle falls within the definition of vehicles eligible for exemption. A vehicle shall be considered eligible for exemption if its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle speed (N/V)) simultaneously fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(i) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the equivalent vehicle test weight expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crank shaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(ii) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$, where the constant, (C) is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graph.

(iii) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$, where the constant, (C), is the same as that found in paragraph (g)(2)(ii) of this section.

(iv) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of

the exemption line as drawn on the graph.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (g)(2) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

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Part IV

Environmental Protection Agency

Evaporative Emission Regulation and Test Procedure for 1985 and Later Model Year Gasoline-Fueled Heavy-Duty Vehicles; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2241-7]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Evaporative Emission Regulation and Test Procedure for 1985 and Later Model Year Gasoline-Fueled Heavy-Duty Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule sets forth regulations for the control of evaporative emissions from gasoline-fueled heavy-duty vehicles (HDGs) for the 1985 model year. HDGs with a Gross Vehicle Weight Rating (GVWR) between 8500 and 14,000 lbs. must meet a 3.0 grams HC per test (gpt) standard while HDGs with a GVWR greater than 14,000 lbs. must meet a standard of 4.0 gpt. The test procedure being promulgated today as Subpart M is a full-SHED (Sealed Housing for Evaporative Determination) procedure similar to the light-duty vehicle evaporative emission test procedure. This regulation has a very favorable cost effectiveness and will bring two additional urban areas into compliance with the ozone standard if Inspection and Maintenance does not occur.

DATES: This regulation takes effect March 14, 1983 and its implementation date is the start of the 1985 model year.

Note.—Under Section 307(b)(1) of the Clean Air Act, EPA has determined that this action is nationally applicable. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

ADDRESSES: The information base on which this rulemaking is established is collected in Public Docket No. OMSAPC-79-1 at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460. The docket includes background materials, hearing transcripts, written comments, a Regulatory Support Document containing environmental, economic, and technical analyses performed during the rulemaking, the Summary and Analysis of Comments to the Notice of Proposed Rulemaking (April 30, 1980), and all other documents on which EPA has relied. The docket is open to the public and may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy D. Mott, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone (313) 668-4387.

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000-0390.

I. Description of Action

The following paragraphs describe the components of the rulemaking being promulgated today. Some of these components have been modified from those in the NPRM (45 FR 28922). Where changes from the NPRM have occurred this section briefly discusses the comments that EPA received which led to the changes. A more detailed presentation of the comments and how they relate to the requirements of this Final Rule can be found in the section titled "Public Participation".

A. Standards

EPA is adopting the proposed standard of 3.0 grams HC per test (gpt) for those HDGs with GVWRs between 8500 and 14,000 lbs (Classes IIB and III). For HDGs with GVWRs greater than 14,000 lbs (Classes IV and above), EPA is adopting a standard of 4.0 gpt. The majority of comments to the NPRM and EPA's analysis indicated that the 3.0 gpt level of control for these heavier HDGs would require a significant research and development (R&D) effort by the industry. By adopting the commenters' suggested emission standard, the expense of necessary R&D is greatly reduced. The 4.0 gpt standard represents approximately the same percentage reduction (92%) from uncontrolled levels of these "heavier" HDGs as the 3.0 gpt standard does from uncontrolled levels of the "lighter" HDGs because the uncontrolled "heavier" HDGs emit more evaporative hydrocarbons than do the "lighter" HDGs on average. In addition, since the number of these heavier HDGs is relatively small, this less stringent standard does not change the air quality impact of this regulation significantly.

B. Test Procedure

The test procedure for determining compliance with the standards (Subpart M) remains basically as proposed. It is a full-SHED procedure similar to the light-duty vehicle evaporative emission test procedure. Two changes were made in response to comments on the NPRM. First, the test weight was changed to 50 percent of GVWR instead of the proposed 70 percent because the additional data submitted by commenters showed it to be more representative of real world conditions. Second, data submitted indicated that 20 bench-type load-purge cycles were enough to stabilize new carbon canisters and thus this Final Rule has reduced from 90 to 20 the number of cycles required. Several minor amendments which correct omissions and typographical errors have also been included in the Final Rule.

C. Leadtime

The implementation date of this Final Rule is the start of the 1985 model year. The NPRM called for implementation with the 1983 model year, which was subsequently recognized to be infeasible. The final air quality analysis assumes implementation with the 1984 model year, but promulgation has taken considerably longer than was initially projected and 1985 is now the earliest feasible model year. The effect of the one-year delay (from 1984 to 1985) on the air quality analysis is small and probably would not be discernible. The Agency's analysis (see the "Summary and Analysis of Comments") concludes that implementation with the start of the 1985 model year (i.e., September 1984) will allow adequate leadtime for all manufacturers.

D. Certification Procedure

Another area which is somewhat different from the NPRM is the certification procedure. The Agency received a substantial amount of comment concerning this issue. The procedure described here was developed from the suggestions and data given to EPA and EPA's analyses of those materials. First, the definition of evaporative emission family has been changed by deleting fuel tank volume as a determinant. This will, as one commenter pointed out, significantly reduce the number of families (by 50 to 75 percent) which need to be developed and certified. At the same time it will not adversely affect the level of control because control systems may be overdesigned but not underdesigned. This is discussed in more detail below under this section "Public Participation."

Also, the definition of evaporative emission control system has been changed. This Final Rule adds four determinants (method of carburetor sealing, method of air cleaner sealing, number of storage devices and liquid fuel hose material) while it deletes one (vapor storage material). This new

definition of control system will more clearly differentiate control systems.

Another modification in response to comments allows each manufacturer to determine the amount and kind of testing, if any, it deems necessary to assure compliance with the full-SHED standards. In their comments, several manufacturers claimed that alternatives to the full-SHED test procedure can give results which predict full-SHED test results. These alternatives include bench testing, engineering evaluation, min/SHED testing and component testing. The Agency agrees in part with these comments. In addition, the Agency is not requiring that the manufacturers actually do full-SHED testing because: (1) the standards can be easily met, (2) the technology is proven, and (3) there is considerable light-duty truck (LDT) evaporative emission control experience which is directly applicable to HDGs. For example, EPA expects that for many HDGs which are virtually identical to LDTs (LDTs must meet a 2.0 gpt standard), manufacturers can simply install the LDT control system on the HDGs and be confident of meeting the 3.0 gpt standard without having to do any full-SHED testing.

EPA's analysis (see the "Summary and Analysis of Comments" which can be found in Public Docket No. OMSAPC–79–1) shows that allowing the manufacturers to determine their own testing requirements is the most cost-effective means of certification. Therefore, this Final Rule allows each manufacturer to use whatever test methods, evaluations, etc., it deems necessary to assure itself that its vehicles actually meet the full-SHED standards. The manufacturer is required to certify to EPA by written statement that its HDGs meet the full-SHED standards. The Agency will not normally require the manufacturer to submit its test data or evaluations. Nor does the Agency expect to do any routine confirmatory testing. However, the manufacturer is required to retain such data, evaluations, etc., and must submit this information to the Administrator upon request. Upon receipt of the manufacturer's written statement (and, if requested by EPA, other submitted information), EPA will review the submittal to ensure that the requirements of the Act and Subpart A have been met and then issue a certificate. EPA retains the right to do conformity testing although it generally does not expect to do so.

Heavy-duty gasoline-fueled vehicles with GVWRs greater than 26,000 lbs (Classes VII & VIII) are a special case and the certification procedure being finalized today recognizes this. EPA's projection of future sales of HDGs (see the "Regulatory Support Document") indicates that gasoline-fueled engines are not expected to be sold in those weight classes beyond about 1988. In the first four years of implementation of this regulation (i.e., through 1988) new sales of these HDGs are expected to total only 10,800 vehicles compared to 1,652,000 HDGs in the lower weight categories. This is only 0.65 percent of all HDGs sold in this time period.

If certification procedures were the same for these HDGs as for Classes IIB–VI, manufacturers would need to purchase expensive heavy-duty dynamometers which would no longer be needed after 1988. Since so few of these Class VII and VIII HDGs will be produced, the Agency believes that this cost would be unreasonably high. EPA has determined that, in the alternative, an "engineering evaluation" certification procedure will provide good evaporative emission control without imposing unreasonably heavy cost burdens. Under this approach, manufacturers are required to evaluate their control systems for Class VII and VIII HDGs on the basis of their design features to determine that such vehicles would meet a 4.0 gram HC per SHED test standard. The specific evaluation procedure is left to the manufacturer's discretion. As an example, the manufacturer might determine what differences exist between its Class VI HDGs and its Class VII and VIII HDGs that might be expected to create additional evaporative emissions. The manufacturer might then upgrade its control system for the Class VII and VIII HDGs where those differences occur so as to handle the extra emissions. Each manufacturer must then certify to EPA by written statement that its control systems for these HDGs are *designed* to meet a 4.0 gram HC per SHED test standard. Although the Agency will not normally require the manufacturer to submit its design evaluations, such evaluations must be retained for submission upon request. Once EPA has decided to issue the certificate of compliance, its enforcement plan is to assure that the control systems are manufactured as approved and are properly installed.

E. Incomplete Vehicles

The last major issue on which the NPRM requested comments was the problem of incomplete vehicles. Many HDGs leave the factory in an incomplete configuration. For example, these vehicles may not have the primary cargo carrying device attached or they may not have an engine compartment. These vehicles are sold to companies or individuals ("secondary manufacturers") who complete them to the specifications of the final customer. A problem can arise because the primary manufacturers must certify the vehicles before they are sold but the secondary manufacturers could affect the evaporative emissions of the vehicle when they complete them. By far the most significant instance of this is when a secondary manufacturer wants to add fuel tank capacity beyond that supplied by the primary manufacturer. Increasing the fuel tank capacity will increase the amount of hydrocarbon vapors which must be controlled. If the primary manufacturer's control system is not adequate to handle the extra fuel tank vapors then some of those vapors will escape to the atmosphere unless the control system capacity is upgraded.

The comments EPA received on this issue were extensive and very helpful. They indicated that the number of incomplete HDGs leaving the factories was close to 50 percent of all HDGs, which is considerably more than EPA had projected. The comments also revealed that the secondary manufacturers are usually small companies. Thus, secondary manufacturers cannot be expected to do full-SHED testing since the equipment for such testing is too expensive for these small concerns. Also, primary manufacturers cannot realistically be expected to "seek and find" the worst case completed configuration for each of the incomplete vehicles it sells. Such a search would need to include all of the hundreds of secondary manufacturers and would, therefore, be costly and very time consuming.

This Final Rule addresses the problem of incomplete vehicles. The primary manufacturer will place each of its incomplete vehicles in an evaporative emission family-control system. Each vehicle will be certified for sale with the issuance of the certificate of conformity for that family-system. Each incomplete vehicle will include a label stating the maximum fuel tank capacity for which the control system is valid. If a secondary manufacturer wishes to exceed this maximum fuel tank capacity, it must then increase the working capacity of the evaporative hydrocarbon storage device and notify EPA in writing of the change. The increased evaporative emissions due to the larger fuel tank must be adequately absorbed and not released to the atmosphere as a result of overloading the storage device. The regulations being adopted today include a ratio technique that secondary manufacturers

will use to determine the amount of extra storage capacity needed. A secondary manufacturer that increases fuel tank capacity beyond certified limits without complying with these conditions (or that changes other parameters so as to remove the vehicle from the family-system combination in which the vehicle was originally certified) will be potentially liable for "tampering" under section 203(a)(3)(A) of the Act.

II. Legal Authority

Section 202(a)(1) of the Act, as amended, 42 U.S.C. 7521(a)(1), provides that the Administrator shall prescribe standards for motor vehicle emissions if such emissions cause or contribute to air pollution which endangers the public health or welfare. The Administrator can require testing of new motor vehicles to determine compliance with applicable standards under section 206, 42 U.S.C. 7525. Section 202(b)(1)(C), 42 U.S.C. 7521(b)(1)(C), requires the Administrator to promulgate a test procedure for measuring "evaporative emissions of hydrocarbons" from heavy-duty vehicles. The general power to promulgate regulations is granted in section 301(a), 42 U.S.C. 7601(a).

III. Air Quality Impact

In spite of significant gains made in the control of non-methane hydrocarbon (NMHC) emissions, there are many air Quality Control Regions (AQCRs) which currently do not meet the National Ambient Air Quality Standards (NAAQS) for ozone. (Ozone is created during photo-chemical reactions involving NMHCs and is, therefore, controlled in large part by controlling NMHCs.) Air quality analyses show that attainment of the NAAQS for ozone will be difficult in many of these AQCRs, even if current and planned regulations for NMHC control are implemented. For this reason, EPA believes that all reasonable and cost-effective NMHC emission control strategies should be implemented.

EPA's analysis (see the chapter "Environmental Impact" in the "Regulatory Support Document" for this rulemaking) estimates that a typical low-altitude HDG will emit 341 less kilograms of NMHC over its life than will an uncontrolled HDG. This represents a 92 percent reduction from the uncontrolled levels. (For high-altitude HDGs the differential is 445 kilograms, which is also a 92 percent reduction from uncontrolled levels.) The analysis also shows that in 1988, assuming that Inspection and Maintenance (I/M) is not implemented, this regulation will result in four less exceedances of the ozone standards and two additional AQCRs attaining compliance.

IV. Economic Impact

The primary manufacturers each submitted cost estimates of the proposed rule which are summarized in the "Summary and Analysis of Comments" These estimates, however, were of limited usefulness in the analysis of the economic impact of this regulation, since they were very general in nature and, in some cases, consisted of a single, large number with little or no explanation as to its components or origin. Because the manufacturers' comments did not contain much detail and because this Final Rule incorporates changes from the proposal that significantly decrease the cost, EPA has estimated the costs of compliance with this Final Rule independently.

EPA's economic impact analysis (see Chapter V of the "Regulatory Suppport Document") shows that primary manufacturers will incur costs in the areas of testing equipment, research and development (R&D), facility space and control system hardware. Testing equipment needed includes such items as light-duty chassis dynamometer retrofit kits, HD SHEDs, flame ionization detectors (FIDs), chart recorders, heating blankets, and temperature achievers. EPA estimates the total industry investment in testing equipment will be $1.81 M (1981 dollars discounted at 10 percent to 1984). Also, the analysis allows a fair rate of return for the facility space needed for the test equipment and housing of test vehicles. The industry total for this facility space usage is $1.32M. Another cost will be incurred for R&D. EPA has estimated R&D costs to be $2.66M for the industry. These three costs (i.e., testing equipment, facility space and R&D) represent the fixed costs for the manufacturers. When this total cost of $5.79M (1981 dollars discounted at 10 percent to 1984) is amortized over five production years (1985 MY–1989 MY), the per vehicle cost increase due to fixed costs is $3.38.

Other costs that the manufacturers will incur are termed variable costs because they vary with the number of HDGs actually produced. In this case, the variable costs are the control system hardware costs. The hardware needed to control evaporative emissions from HDGs is well known. The evaporative emission control technology developed from many years of experience in the light-duty segment of the industry is directly applicable to heavy-duty vehicles. Furthermore, California has required control of evaporative emissions from HDGs since 1978 and thus each manufacturer already has produced HDGs with control hardware. The main components of a control system include charcoal canisters, tubing to route the vapors, roll-over valves, upgraded tubing for liquid fuel (less permeable), and charcoal in the air cleaner. EPA estimates the cost of the necessary control hardware will be $38.25 per HDG. This figure includes a substantial profit margin for both the manufacturer and the dealer.

The summation of the fixed costs and the variable costs gives a total of about $42 per vehicle. This is the expected "sticker price" increase that the consumer will see as a result of this regulation. Other possible areas of consumer cost increase (or decrease) could be changes in maintenance costs and/or changes in fuel economy resulting from this regulation. Based on light-duty evaporative emission experience EPA does not expect any change in the cost of maintaining a HDG. In the proposal EPA predicted that a substantial fuel savings would occur due to this regulation for vehicles with closed-loop fuel induction systems. However, since publication of the proposal, the possibility of closed loop fuel induction for HDGs has become much less likely so these fuel savings are unlikely. Neither does EPA expect that there will be any increase in fuel cost as a result of this regulation. Therefore, the $42 "sticker price" increase in EPA's estimate of the total cost to the consumer. this is a small amount to pay for the NMHC control achieved by this rule, as is discussed under the section "Cost Effectiveness."

For the large majority of consumer items, as price increases the number of items sold decreases. The amount of decrease in the number of items demanded given a unit increase in price is termed the elasticity of demand for that item. Studies have shown that the elasticity of demand for heavy-duty trucks is between −0.5 and −0.9. EPA has assumed an elasticity of −0.7 and a price range of $11,000 to $54,000 for HDGs. With a retail price increase of $42, EPA estimates that this regulation may cause a decrease in the number of HDGs sold of between 0.06 percent and 0.27 percent. Thus, the impact of this regulation on sales of new HDGs will be extremely slight.

Another view of the cost of this regulation is from the national or aggregate perspective. This view would include any costs incurred by the industry that it could not recoup from the consumer, plus the total consumer cost. Since the manufacturers will

recoup all costs, the aggregate cost is simply the consumer cost on a per vehicle basis times the number of vehicles sold over some time period. As is customary, EPA has calculated the aggregate cost for this regulation on a five year basis. The Agency estimates that from 1985 MY to 1989 MY, 2,060,000 new HDGs will be sold. Multiplying annual production by $42 per vehicle and discounting to 1984 at 10 percent yields a five-year aggregate cost of $71.7M.

V. Cost-Effectiveness

While the air quality impact of this regulation, as measured by decreases in exceedances and in the number of AQCRs not in compliance, is relatively small, it must be remembered that the cost of this regulation is also relatively small. As discussed above, EPA expects that all reasonable and cost-effective NMHC control strategies will be implemented to bring the urban AQCRs into compliance with the NAAQS for ozone. The prospect that an AQCR may not be in compliance even after all reasonable control strategies are exhausted does not mean that such strategies should be abandoned, since they would result in progress towards cleaner, healthier air.

The cost effectiveness of a regulation is expressed in terms of the number of dollars it takes to control one ton of pollutant. By expressing all regulations in this manner they can be compared. From an economic efficiency viewpoint, those strategies which are the cheapest per ton of pollutant controlled should be successively implemented until the NAAQS is attained. Generally, this has been the approach with NMHC control strategies. However, the NAAQSs for ozone have not yet been attained in all regions of the country.

EPA has calculated the cost effectiveness of this regulation to be $112/ton of NMHC controlled. This is much cheaper than many other NMHC control strategies that have already been implemented. For example, the regulation lowering the LDV exhaust emission standard from 1.5 to .41 grams HC per mile was estimated to have a cost-effectiveness of $470/ton. Also, the cost-effectiveness of lowering the light-duty truck (LDT) exhaust emission standard from 2.0 to 1.7 grams HC per mile was calculated to be $200/ton. Controlling motorcycles from uncontrolled levels to 8 grams HC per mile was estimated to cost $365/ton. Other examples can be found in the chapter entitled "Cost-Effectiveness" in the "Regulatory Support Document." Clearly the control of evaporative emissions from HDGs is more cost-effective than any of these other regulations which have already been promulgated. This superior cost effectiveness in concert with the fact that many AQCRs are not meeting the NAAQS for ozone leads EPA to conclude that this regulation is a necessary and worthwhile NMHC control strategy.

VI. Public Participation

After the public hearing of June 25, 1980, manufacturers, trade associations and individuals submitted their final, written comments on the proposed regulation. These comments were grouped into major issues and this section will review these major issues and summarize EPA's response to each. A more detailed presentation of each issue, EPA's analysis and its recommendations can be found in the document entitled "Summary and Analysis of Comments to the Gasoline-Fueled Heavy-Duty Vehicle Evaporative Emission Proposal." This document is available in the public docket for this rulemaking.

A. Level of the Standard

The NPRM included a standard of 3.0 grams HC per test (gpt) that all HDGs would have to meet in order to be certified under § 203 of the Act. EPA arrived at this level by examining the differences between LDTs and HDGs that would affect evaporative emissions. (The current LDT evaporative emission standard is 2.0 gpt.) The main differences are: (1) HDGs tend to have larger fuel tank capacities, (2) HDGs tend to be physically bigger leading to increased background emissions, and (3) some HDGs have larger carburetor fuel bowl volumes. By analyzing all available data on these three sources of evaporative emissions, EPA estimated the increases in controlled emissions that might occur as one moved from LDTs to HDGs. This analysis showed that HDGs could reasonably be expected to meet a 3.0 gpt standard.

The comments received on this issue tended to split HDGs into the two general classes of "lighter" HDGs and "heavier" HDGs. The two largest manufacturers agreed that a 3.0 gpt standard is technically feasible for the "lighter" HDGs although they disagreed slightly as to where the split between "light" and "heavy" should occur. One wanted the split at 12,000 lbs. GVWR while the other suggested 14,000 lbs. GVWR. Since there is little difference between vehicles with GVWRs of 12,000 or 14,000 lbs. and since 14,000 lbs. GVWR is the traditional breakpoint between heavy-duty vehicle Classes III and IV, EPA has chosen to split HDGs at 14,000 lbs. GVWR. Thus, this Final Rule requires all HDGs less than or equal to 14,000 lbs. GVWR to meet a standard of 3.0 gpt.

The manufacturers felt that while a 3.0 gpt standard is appropriate for the "lighter" HDGs, such a standard would be difficult for the "heavier" HDGs. They claimed that the increased fuel tank volumes, the large carburetor fuel bowls and the increased amount of background emissions would not allow them to attain a 3.0 gpt level without considerable R&D. In fact, one manufacturer's extensive HDG test program on current California evaporative control systems showed a "light" HDG meeting 3 gpt while a "heavy" HDG tested between 3 and 4 gpt. Again, only the two largest manufacturers suggested a feasible level of control for these "heavier" HDGs. They both agreed that 4.0 gpt would be feasible.

Although it may be technologically feasible for these "heavier" HDGs to meet a 3.0 gpt standard, EPA concludes that a 4.0 gpt standard is more appropriate for the "heavy" HDGs (GVWs of 14,001 to 26,000 lbs.) because it improves the cost-effectiveness of the regulation and allows manufacturers to avoid the additional R&D that would be necessary to meet a 3.0 gpt standard. A 4.0 gpt standard can be met by the "heavier" HDGs with the same evaporative control technology as that used by the "lighter" HDGs to meet the 3.0 gpt standard. This less stringent standard will result in no significant loss of air quality benefits because of the small number of HDGs involved. (The difference in HC control is less than 0.1 percent of the mobile source fleet emissions in 1995.) Furthermore, it equalizes the percentage reduction from uncontrolled levels for these two groups of HDGs at 92 percent.

To further reduce the burden on the manufacturers, this Final Rule requires that all HDGs greater than 26,000 lbs. GVWR need only be certified to a 4.0 gpt level by engineering evaluation. These very heavy HDGs are currently a very small percentage of the total number of HDGs sold each year and EPA expects sales of these vehicles to approach zero by the end of 1988.

To summarize, this Final Rule requires that all HDGs less than or equal to 14,000 lbs. GVWR (Classes IIB and III) meet a standard of 3.0 gpt. Also, all HDGs with GVWRs greater than 14,000 but less than 26,001 lbs. (Classes IV through VI) must meet a standard of 4.0 gpt. Finally, all HDGs with GVWRs greater than 26,000 lbs. (Classes VII and above) will be certified by submitting a

written statement that the control systems are *designed* to meet a standard of 4.0 gpt.

B. Certification Procedure

The Agency received a substantial amount of comment on the proposed regulation. The comments included new data, suggestions and analyses which clarified and broadened EPA's understanding of the issues involved in controlling evaporative emissions from HDGs. The certification procedure being finalized today is less burdensome to manufacturers of HDGs than the proposed procedure. However, no significant loss of air quality benefits should result from these changes as discussed below. Rather, the changes stem from the comments to the NPRM and represent a more efficient method of implementing this Final Rule. The Agency's detailed analysis of the comments and their implications on this issue can be found in the "Summary and Analysis of Comments" for this rulemaking.

Under the certification procedure being finalized today, manufacturers will place each HDG they wish to sell in an evaporative emission family-control system combination. The determinants of the family and the control system have been changed from the NPRM. The evaporative emission family was defined in the NPRM by parameters which contribute to evaporative emissions from the vehicle. These parameters included the nominal fuel tank capacity (within 20 gallons, or within 25 percent, whichever is greater), the method of fuel/air metering (i.e., carburetor vs. fuel injection), and the carburetor fuel bowl volume (within a 10cc range). This Final Rule deletes the nominal fuel tank capacity as a family determinant. Thus, vehicles need only be the same with respect to the method of fuel/air metering and carburetor fuel bowl volume (within a 10cc range) to be placed in the same family.

The deletion of nominal fuel tank capacity as a family determinant (which was strongly endorsed by the comments) should result in a 50–75 percent reduction in the number of family-systems that must be developed and certified which, in turn, will save the manufacturers substantial amounts of time and money. Under the originally proposed vehicle classification system if two vehicles were identical except that one had a 30 gallon fuel tank and the other had a 60 gallon fuel tank they would be placed in different family-systems and a development and certification program would have had to be undertaken for both. This Final Rule allows the manufacturer to place both vehicles in the same family-systems and then develop for certification only the worst case vehicle (i.e., the vehicle with the 60 gallon fuel tank). This change from the NPRM is expected to reduce the number of evaporative family-systems which must be developed for certification from 25–30 to 6 or 8 for each of the two larger manufacturers. For the two smaller manufacturers, reductions should be on the order of 50 percent.

This reduction in the number of family-systems will not increase evaporative emissions. In fact, fewer family-systems may actually result in a decrease in evaporative emissions because the evaporative emission control system that is designed to control the worst case vehicle will be slightly over-designed for the less-than-worst case vehicles in that same family. Thus, the control of these less-than-worst case vehicles may be a little better, due to the extra "safety margin" of the control system. This extra safety margin will probably consist of somewhat more activated charcoal in the cannisters than might have been the case under the NPRM family-system scenario and, therefore, the extra cost associated with this extra safety margin should be negligible.

The definition of an evaporative emission control system has also been changed from the NPRM definition. The NPRM control system determinants were method of vapor storage, vapor storage material, vapor storage working capacity (within 20 grams), method of purging stored vapors, and method of carburetor fuel bowl venting during both engine operation and engine off. The control system determinants as contained in this Final Rule are method of vapor storage, method of carburetor sealing, method of air cleaner sealing, vapor storage working capacity (within 20 grams), number of storage devices, method of purging stored vapors, method of venting the carburetor during both engine off and engine operation, and liquid fuel hose material. These changes made to the NPRM represent an attempt to define more clearly a control system so that differences between control systems will be more easily recognized.

These provisions allow manufacturers to develop family-systems which are most cost effective for them. For example, one manufacturer may choose to include an extensive range of fuel tank volumes in the design of its control system. This will probably mean that the control system will be somewhat overdesigned for the smaller fuel tank volumes because the control system must be sufficient to handle emissions from the largest fuel tank volumes (worst-case). Thus, the air quality benefits have not been jeopardized and, in fact, have been enhanced by providing this flexibility.

Another change to the NPRM is the procedure for issuance of certificates of conformity. Under the NPRM each manufacturer would have had to test its family-systems and submit the test results to EPA. EPA would have reviewed the data and done confirmatory testing if the Agency deemed it necessary. With the change to the less stringent standard of 4.0 gpt for HDGs with GVWRs greater than 14,000 lbs, the Agency concludes that compliance will be relatively straightforward. EPA expects that in many cases the evaporative control systems used on LDTs can be directly applied to lighter HDGs. Since LDTs are currently meeting a 2.0 gpt standard, the Agency is confident that these lighter HDGs, which need only meet a 3.0 gpt standard, should easily meet the standard. Also, the comments indicated the manufacturers' belief that abbreviated testing procedures such as component testing in mini-SHEDs or bench-testing could provide sufficient data to allow manufacturers confidence in the actual full-SHED test control level without having to run the full-SHED test for all cases.

From the above, EPA concludes that in many cases actual full-SHED testing will not be necessary to establish that vehicles are meeting the appropriate standard. Therefore, this Final Rule allows manufacturers to use any testing or evaluation method they choose to establish that their vehicles actually meet the full-SHED standard. Once they establish compliance, they will submit a written statement to EPA indicating as much. After reviewing the statement (and, any other requested information), EPA will issue a certificate, if it concurs with the manufacturer's judgement. Thus, each manufacturer can be assured timely certification of its product line. As is currently the case in other mobile source emission control areas, complete records will be required of any testing and/or evaluation. Furthermore, these records will be available to the Administrator upon request.

Because EPA expects that the levels of control required by this regulation will be relatively easy to attain, it does not plan to do routine confirmatory testing. Neither does it plan, at this time, to do routine in-use testing. However, if in the future, the Agency has reason to suspect that HDGs are not meeting the appropriate standards then such testing

could be done and would utilize the full-SHED test procedure.

C. Selective Enforcement Auditing

EPA recognizes that newly assembled vehicles may have high background emissions unrepresentative of typical in-use background emissions. Specific examples of these non-fuel emissions are vehicle paint, sealers, and sound deadeners. These sources of HC emissions eventually become stabilized, but generally not for many weeks. Selective Enforcement Audits (SEAs), which are conducted on new vehicles, would be very cumbersome because of the difficulty associated with distinguishing fuel evaporative emission from emissions from non-fuel sources. Because of the required additional testing burden and associated costs, the difficulties associated with testing production HDGs, and because most evaporative control systems are generally reliable, these regulations do not, at this time, provide for SEAs of HDG evaporative emissions. The Agency does, however, reserve the right to establish a SEA program if future circumstances dictate.

D. Leadtime

In the NPRM, EPA stated that required leadtime for implementation of this regulation would be relatively short. The technology required to meet the proposed standard is simple and the manufacturers have had experience in its application on light-duty vehicles and light-duty trucks for many years. Furthermore, California has required the control of evaporative emissions from HDGs since 1978. Thus, for those HDG models which are sold in California, manufacturers have already designed, produced and installed control systems. Accordingly, the R&D required is expected to be quite limited. EPA originally proposed 6 months for R&D, 6 months to finalize production designs and produce the necessary drawings, and, finally, 10 months for tooling changes. Certification testing was expected to occur simultaneously with tooling changes as is common practice. The total leadtime was predicted to be 22 months. Since the Final Rule was projected to be published in December of 1980, implementation could have occurred by September of 1982. EPA assumed that the HDG model year began each September and, therefore, concluded that this regulation should become effective with the 1983 model year.

The four primary manufacturers were the only commenters addressing this issue. General Motors (GM) claimed that it would need 35 months after publication of the Final Rule to implement the regulation as proposed. Ford estimated it would need 34 months of leadtime while International Harvester (IH) stated it would need 32 months. Chrysler did not present a leadtime estimate. Instead, Chrysler stated that compliance by 1983 was not feasible because 12 months would be needed for test facility procurement before any R&D could begin and the remaining leadtime would be insufficient for the necessary R&D.

This Final Rule incorporates changes from the NPRM which will decrease the required leadtime. The manufacturers will not have to do any formal certification testing and EPA does not generally expect to do confirmatory testing. Thus, the turn-around time for EPA to issue certificates will be brief. According to comments from GM and Ford, certification testing and EPA turnaround was expected to take 5 to 6 months. This amount of time is no longer necessary.

Other changes from the NPRM influence the amount of R&D which, in turn, reduces leadtime. The new family-system determinants allow the manufacturers to develop control systems for the worst case vehicles and then cover the less than worst case vehicles with that control system if they wish. These new determinants will substantially reduce the number of evaporative emission family-control system combinations that will need to be developed and certified. For example, GM and Ford were predicted to have 25 to 30 family-systems each. The new classification system will reduce this to about 6 or 8. Substantial reductions for Chrysler and IH will also occur. These reductions mean that the time needed for R&D will be lessened.

Another change from the NPRM which reduces the time for required R&D is the split standard included in this Final Rule. The proposed 3.0 gpt standard is retained from HDGs with GVWs less than 14,001 lbs. The commenters agreed that this level of control could be accomplished with current LDT evaporative emission control technology. Therefore, little or no R&D should be needed. For HDGs with GVWs greater than 14,000 lbs but less than 26,001 lbs (Classes IV–VI), the standard has been increased to 4.0 gpt from the proposed 3.0 gpt. This will substantially reduce the R&D necessary for these vehicles. For certification of HDGs with GVWs greater than 26,000 lbs, manufacturers will only need to establish by engineering evaluation that their vehicles are designed to meet a 4.0 gpt standard and then submit to EPA the appropriate written statement. EPA expects that R&D for these vehicles will be nil.

The final modifications to the NPRM which will have an impact on leadtime are test facility requirements. The proposed test procedure would have required the purchase and installation of a heavy-duty dynamometer, which can take 12 months. This Final Rule has been structured to allow the use of light-duty dynamometers which have been upgraded to handle 13,500 lbs of inertia weight. This reduces the time required to establish a test cell from 12 months to only 6 months.

Nevertheless, because of delays in the final promulgation of this rulemaking, manufacturers clearly could not comply by the start of the 1983 MY. EPA's analysis (see the "Summary and Analysis of Comments") concludes that all manufacturers can comply with this Final Rule if given 19 months of leadtime. Therefore, this rule will be implemented beginning with the 1985 model year (i.e., September 1984). The extra available leadtime, beyond the required 19 months, will allow better planning for more efficient use of resources and will stretch out the financial commitment for a better cash flow.

On a related matter, since some manufacturers introduce their new heavy-duty *vehicles* 3 to 4 months before their new heavy-duty *engines* (January 1), the question arises as to what should be the start of the model year. This Final Rule requires each manufacturer to designate its heavy-duty *vehicle* introduction date as the beginning of its model year for the purposes of this regulation. Thus, the situation might arise where a manufacturer would have to certify its HDGs twice in one year.

Generally speaking, EPA expects that the family-system combinations certified will be used year after year and, thus, the manufacturers will be able to carry-over certification to avoid having to recertify their HDGs at the start of each new model year. However, a new certification might be required before the start of the new model year (i.e., about September 1) if a HDG model undergoes significant changes from one year to the next. An additional certification might be required if an engine for that HDG also undergoes significant changes which affect evaporative emissions to the point of requiring the creation of a new evaporative emission family-system for the HDG. If this new engine with its associated new family-system is to be introduced January 1, or 4 months after

the new vehicle introduction, the new family-system will have to be certified.

This "dual" certification might, at first glance, seem to be an excessive burden on the industry. However, when it is considered that: (1) Certification will usually consist of only a statement of compliance by the manufacturer, and (2) a manufacturer must always develop its evaporative and exhaust emission control systems simultaneously to ensure that both systems meet the appropriate standards, then it is clear that "dual" certification will generally be no more than the submittal of a second statement of compliance which is an inconsequential extra burden.

E. Incomplete Vehicles

Most LDVs and LDTs are sold by the primary manufacturer in a completed form. However, many HDGs are sold to secondary manufacturers in various stages of completeness. Some HDGs leave the factory with only the chassis and engine. Others include an engine compartment and/or an operator's enclosure. Still others include the above plus the cargo carrying device but no fuel tanks. These incomplete HDGs are completed by the secondary manufacturers to do a specific job.

These incomplete vehicles presented a problem in developing this HDG evaporative emission regulation because the additions and modifications made by the secondary manufacturers can affect evaporative emissions. For example, a cargo-carrying device can trap exhaust heat around fuel tanks and fuel lines which in turn can increase the evaporative emissions from these sources. Since the vehicles leave the primary manufacturer in incomplete and, therefore, untestable forms and since the secondary manufacturers are usually small to medium-sized companies that cannot easily afford to test the vehicles, the problem arises as to the best way to ensure that these incomplete vehicles meet the applicable evaporative emission standards when completed.

In the NPRM, EPA proposed that the primary manufacturer certify, in a completed configuration, all incomplete vehicles which it markets. The manufacturer would have determined the limits of a worst case completed vehicle by soliciting information from the secondary manufacturers. The parameters for which the primary manufacturer would have had to determine worst case limits included fuel tank volume, carburetor bowl fuel volume, method of vapor storage, vapor storage material, vapor storage working capacity, method of carburetor bowl venting, vapor purging technique, fuel system, maximum GVWR, maximum frontal area, body type and other features as specified by the Administrator. A secondary manufacturer who completed a vehicle for sale would have had to remain within the limits of the certified worst case configuration in order to be covered by the original certificate of conformity. If the secondary manufacturer exceeded the limits to which the vehicle had been certified, then, under the NPRM, the secondary manufacturer would have had to conduct its own certification program.

EPA received substantial comment on this issue both at the public hearings and in the final, written comments. The manufacturers claimed that the Agency had underestimated the burden which would result if the proposed solution were implemented. The comments from the primary manufacturers can be divided into three main subissues: (1) Vaguely defined parameters, (2) the search for worst case limits, and (3) vicarious liability.

The manufacturers stated that some of the evaporative emission parameters were vaguely defined and, therefore, the determination of what was worst case would be very difficult. For example, "body type" was a listed parameter but which body types might cause lesser or greater amounts of evaporative emissions were not defined. Body types come in many shapes and sizes and the general theory of how body types influence evaporative emissions is well known. However, the existing data base on how much influence particular body types have on evaporative emissions is very limited. The determination of a worst case body type could have required the manufacturers to undertake a substantial R&D program.

The commenters were also concerned that finding the worst case for each parameter would be very difficult. There are hundreds of secondary manufacturers who purchase incomplete vehicles and then complete those vehicles to their own or a third party's specifications. The primary manufacturers stated that the effort involved in contacting all of the secondary manufacturers and then determining the worst case for each parameter would be very burdensome. The primary manufacturers claimed they not only had no information as to how their incomplete vehicles were completed but that in some cases the final form of the completed vehicle might not be determined for months.

The third area of concern by the primary manufacturers was that of vicarious liability. They claimed that completed vehicles could be within the worst case limits and still fail to meet the standard because of other modifications made by the secondary manufacturers which affect evaporative emissions. They claimed that under the proposed rulemaking the primary manufacturer would be liable for such noncomplying vehicles even though such vehicles were certified when they left the factory.

The comments from the secondary manufacturers generally stated that they did not have the resources to do SHED testing and, therefore, the Final Rule should not require any testing on their part.

EPA found the comments very helpful in analyzing this complex issue. Although the problems associated with incomplete vehicles were recognized in the NPRM, the comments clarified the magnitude of the problems. For example, when the NPRM was published the Agency had estimated that incomplete HDGs were only about 10 percent of all HDGs. EPA has subsequently learned that the proportion is more likely 40–50 percent. This makes the proposed solution to the incomplete vehicle problem substantially more burdensome. As a result of the comments and in an effort to make this regulation less burdensome, EPA has eliminated all of the vaguely defined parameters and has removed the possibility that primary manufacturers will be held liable for the subsequent actions of others.

This Final Rule requires the primary manufacturers to place each of its incomplete vehicles in an evaporative emission family-control system grouping (see Certification Procedure). Each incomplete vehicle will have a label specifying the maximum fuel tank volume for which the control system is designed. Secondary manufacturers will be responsible for correct assembly of the evaporative emission control system (if applicable). If a secondary manufacturer modifies a control system or a vehicle so as to remove it from the evaporative emission family-control system in which it was originally certified (except as discussed below), then that secondary manufacturer is potentially liable for tampering under section 203(a)(3) of the Clean Air Act.

If a secondary manufacturer wishes to add fuel tank volume in excess of the maximum specified by the primary manufacturer, it must increase the adsorptive capacity of the evaporative hydrocarbon storage device(s) (e.g., charcoal canisters). The increased amount of evaporative hydrocarbons due to the larger fuel tanks must be trapped in the storage device and not

released to the atmosphere. This Final Rule provides a ratio technique for secondary manufacturers to use to determine the amount of extra adsorptive capacity they must provide given an increase in fuel tank capacity beyond the maximum specified by the primary manufacturer. This ratio technique can be found in § 86.085–35 of Subpart A of the regulations. The secondary manufacturer is required to submit a written statement to EPA that the evaporative hydrocarbon storage device(s) has been upgraded as required. The HDG will be considered in compliance when EPA is notified that the appropriate change in the storage device has been made.

The Agency does not expect the above situation to occur often because the storage devices used by the primary manufacturers usually have excess capacity. Also, secondary manufacturers who do anticipate adding fuel tanks to HDGs can notify the primary manufacturers as to how much extra fuel tank capacity they want to add. In turn, the primary manufacturers should have no problem providing the required adsorptive capacity with the evaporative emission control system that comes with the incomplete vehicle.

The above solution to the incomplete vehicle problem will substantially reduce the cost of compliance for the primary manufacturers as compared to the NPRM approach. EPA realizes that the potential still exists for incomplete vehicles to be completed in configurations where additional amounts of heat are trapped near fuel tanks or carburetors than expected by the primary manufacturer. This additional heat may cause the NMHC vapors from fuel tanks or carburetors to increase somewhat from levels that might otherwise be expected. This does not mean that such increased vapors will reach the atmosphere. EPA believes that sufficient excess capacity exists in the typical control system to adequately handle these extra vapors. Therefore, the Agency concludes that no significant loss of air quality benefits should result from this solution to the incomplete vehicle problem. This does not, however, mean that secondary manufacturers who alter certified vehicles in such a way as to cause actual emissions exceedances will be relieved of liability for "tampering."

F. Test Procedure

This Final Rule includes a test procedure which is similar to the light-duty vehicle evaporative emission test procedure. However, instead of requiring expensive mileage accumulation on the full vehicle, new carbon canisters are allowed to be stabilized by flowing HC vapors through them and then purging them with air. (The proposal called for this cycle to be repeated 90 times until equilibrium was obtained.) The vehicle is then placed in an airtight enclosure known as a Sealed Housing for Evaporative Determination (SHED) where heat blankets raise the temperature of the fuel from 60°F to 84°F over a one hour period. The total amount of HC (in grams) emitted during this hour is the "diurnal" result. Next the vehicle is placed on a chassis dynamometer where it is driven over the heavy-duty chassis cycle. This purges the canisters in a way that is representative of real world conditions and also heats up the engine compartment for the "hot-soak" phase of the test.

After the driving cycle, the vehicle is again placed in a SHED where the HC vapors emitted over one hour are measured. These vapors originate primarily from the carburetor fuel bowl which is heated by the hot engine compartment. The result of this 1-hour "hot-soak" is added to the 1-hour "diurnal" to give the total test result.

The manufacturer's comments on the proposed test procedure included a number of items dealing with clerical errors and obvious omissions. These comments will not be discussed here but are detailed in the "Summary and Analysis of Comments." Other, more important, comments fell into six main areas: (1) Test weight, (2) dynamometer load formula, (3) driving cycle, (4) fuel temperature rise, (5) canister preconditioning, and (6) hood open versus closed.

In the proposal the test weight was specified as 70 percent of GVWR. The manufacturers claimed that this was too high and that a typical HDG is probably loaded such that its actual weight is only 30–60 percent of GVWR. As test weight increases, the amount of canister purging decreases and the underhood temperature increases. Both of these factors tend to increase the amount of evaporative emissions. The original test weight factor of 70 percent GVW was based primarily on Federal Highway Administration data. The commenters correctly pointed out that such data is derived mainly from interstate traffic. The commenters also presented other data which accounted for local traffic and showed the factor to be about 50 percent. Therefore, EPA has changed the proposed 70 percent factor to 50 percent in this Final Rule.

The dynamometer load formula was criticized for producing a horsepower setting too high. The commenters stated that many HDGs had van or pickup body types. The aerodynamic drag coefficients for light-duty vans and pickups are .50 and .58 respectively. However, the NPRM proposed an aerodynamic drag coefficient for all HDGs of .67. This coefficient is too low for some large HDGs and it is too high for some small HDGs (such as vans and pickups). In general, EPA had concluded that .67 could adequately represent all HDGs. The lighter HDGs, which are the easiest to control to the 3.0 gpt level and have the greatest power reserves (i.e., effect of purging loss from increased horsepower settings will be minimal), will have horsepower settings somewhat higher than they would under real world conditions while the largest HDGs, which are more difficult to control, would tend to get a reduction in stringency because their horsepower settings will tend to be lower.

After analyzing the comments on this subissue, EPA has concluded that the .67 aerodynamic drag coefficient should be retained in this Final Rule. If the rule were to allow the use of .50 for vans and .58 for pickups, then EPA should also develop coefficients for other HDG body types. Since the number of different HDG body types is quite large, the effort to derive such coefficients would be substantial. Because: (1) The differences in horsepower setting with a .67 factor as compared to other factors will not be large, (2) those differences will affect evaporative emissions only in a minor way, and (3) the standard has been made more lenient, EPA believes that the cost of deriving aerodynamic drag coefficients for each HDG body type would far outweigh the small cost-savings that might be obtained.

One manufacturer questioned why EPA did not allow the optional use of "coastdowns" to establish dynamometer horsepower settings. The Agency had assumed that the manufacturers would prefer to use the simple and less costly dynamometer road load formula. However, this Final Rule includes a provision for the use of the "coastdown" procedure in setting the dynamometer horsepower. The "coastdown" procedure is well established and is used almost exclusively in light-duty vehicle certification. The manufacturer must retain its "coastdown" results for EPA review upon demand. Such records should exhibit good engineering practice.

The manufacturers claimed that the driving cycle proposed was not representative of real world trips by HDGs. They claimed that the amount of off-idle purge time was too little. These same manufacturers made the same

claim of unrepresentativeness during the heavy-duty engine exhaust emission rulemaking (45 FR 4136). That rulemaking included an engine dynamometer cycle which was generated from the same data base (i.e., CAPE–21) and used the same generation technique (i.e., Monte Carlo) as the chassis dynamometer cycle of this evaporative emission rulemaking. In the exhaust emission rulemaking EPA concluded that the data base and generation technique were valid and, therefore, the cycle was representative. The same arguments apply to this rulemaking and the reader is referred to that previous analysis (See the "Summary and Analysis of Comments" in Public Docket #OMSAPC–78–4) for additional discussion. Furthermore, the chassis cycle of this rulemaking only serves to condition the vehicle for the rest of the test, hence, precise characterization of in-use vehicle operation is substantially less critical than with the engine cycle where emissions are measured.

Another important area of comment on the proposed test procedure was the fuel temperature rise during the "diurnal" portion of the test. EPA proposed a 24°F temperature rise (60°F–84°F). The manufacturers claimed that this was too much and that a 15°F rise would be more appropriate. Their main contention was that since HDG fuel tanks are generally bigger than light-duty fuel tanks, the temperature rise would be less given that both fuel tanks receive the same amount of energy input, because the greater fuel volume would require more energy to reach the same final temperature.

EPA's analysis of this subissue indicates that the 24°F temperature increase is appropriate for HDGs. In many cases, HDG fuel tanks are exposed to more heat than are light-duty fuel tanks because the HDG fuel tanks are saddle-type tanks and are exposed to direct sunlight. Light-duty tanks, however, are usually located beneath the vehicle and, thus, are shaded. The comments also indicated that the fuel in a tank will rise about 75 percent of the ambient temperature rise. A 15°F fuel temperature rise would therefore, indicate a 20°F ambient temperature rise. While a 20°F ambient temperature may be more "average" than the 32°F ambient temperature rise that a 24°F fuel temperature rise simulates, the "average" is not the correct consideration in this case. "Worst-case" is more appropriate because if carbon canisters experience breakthrough, the amount of HC vapors entering the atmosphere will rise dramatically. The 32°F ambient temperature rise occurs rather frequently and, hence, EPA has retained the 24°F fuel temperature rise for this Final Rule.

EPA's analysis of the subissue concerning the number of canister load-purge cycles needed to stabilize the activated charcoal in new canisters concludes that the proposed 90 bench-type cycles for a new canister was excessive; therefore, this has been reduced to 20 in this Final Rule. After these 20 bench-type cycles, the vehicle must be driven over the chassis cycle and then soaked for a total of ten times, as in the proposal, to complete this virgin canister stabilization. EPA has concluded that this change will have no impact on the level of control.

Finally, EPA's analysis concludes that since the Final Rule provides for a doubling of the maximum cooling capacity of the fans (from 5,300 cfm to 10,600 cfm), the hoods of the HDGs should remain closed during operation over the driving cycle. If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, and that such additional cooling is needed to provide a representative test, the fan capacity may be increased or additional fans used.

G. Durability and Deterioration

EPA received no comments on these issues so this Final Rule is essentially unchanged from the NPRM. EPA is unable to specify a single test procedure for the evaluation of vehicle evaporative emission control system deterioration during the useful life of the vehicle. EPA has, however, identified environmental and usage parameters which affect the durability of evaporative emission control systems during their useful lives. These parameters are: vibration, the vapor load-purge cycling of the vapor control system, and the aging effect of heat and ozone. Thus, for the purpose of satisfying the requirement of the Clean Air Act that EPA evaluate the durability of evaporative emission control systems for their useful lives, this Final Rule require each manufacturer to evaluate the durability of its evaporative emission control systems and to develop a deterioration factor for such systems. The manufacturers will then use these deterioration factors when determining whether or not their HDGs meet the appropriate standard.

Simulation of the parameters identified in the preceding paragraph is not adequately accomplished by use of the Durability Driving Schedules contained in Appendix IV to Subpart A of the regulations. The nearly continuous vehicle operation required by that schedule is not typical of the normal vehicle usage which would be expected to affect evaporative emission control system durability. Likewise, the proposed Heavy-Duty Vehicle Evaporative Emission Service Accumulation Schedule contained in Appendix XII, which is used only to stabilize an evaporative emission-data vehicle's evaporative emission control system prior to compliance testing, is also inappropriate for durability service accumulation.

It should be noted that the definition of "useful life" for gasoline-fueled HDVs has been changed since the NPRM. This change is part of the recently promulgated heavy-duty gaseous emissions package which is to be implemented in 1984 (45 FR 4136, January 21, 1980). Thus, in 1984 "useful life" will be "the average period of use up to engine retirement or rebuild, whichever occurs first, as determined by the manufacturer under §86.085–21(b)(4)(iii)(B)" of Title 40 of the Code of Federal Regulations (CFR). However, this "full-life" useful life provision is currently under review by the Agency. Any changes made to the useful life provisions will be applicable to the evaluation of evaporative emissions as well as exhaust emissions.

VII. Reporting and Recordkeeping Requirements

Because this regulation controls evaporative emissions from HDGs for the first time, there will be an increase in the industry's reporting and recordkeeping requirements. Manufacturers will have to submit descriptions of their HDGs and their evaporative emission family-control system combinations. This is currently done for other classes of mobile sources and will require a minimal effort for the first year of implementation. For successive years this description and classification of product will mostly be carried over. Also, as with other mobile source emissions regulations, the manufacturers are required to keep records of the data, analysis, etc. on which they base their statement of compliance. However, this information need not be reported unless specifically requested by EPA.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2000–0090.

VIII. Administrative Designation

Under Executive Order 12291 EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it involves only a minor negative cost impact and has no significant adverse effect on competition, productivity, investment, employment, or innovation. However, the Agency has voluntarily prepared a Regulatory Support Document (located in the public docket) to assess the environmental and economic impacts of this rulemaking.This action was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

IX. List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Note.—In addition to establishing new requirements for gasoline-fueled heavy-duty vehicles to meet evaportative emission standards, the following rule (40 CFR Part 86, Subpart A) also republishes all existing provisions of the subpart which apply, by their own terms, in model year 1985. It should be noted, however, that the existing HC and CO requirements for heavy-duty engines, which are being republished today, are the subject of a NPRM published January 13, 1982 (47 FR 1643). Today's action does not imply that EPA has made any final decision on the January 13, 1982 proposal.

(Secs. 202(a), 206(b)(1)(C), 208, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7521, 7525, 7527, and 7601))

Dated: December 29, 1982.

John W. Hernandez,
Acting Administrator.

PART 86—[AMENDED]

40 CFR Part 86, Subpart A, is amended to read as follows:

1. The title of Subpart A is revised to read as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, 1977 and Later Model Year New Heavy-Duty Engines, and for 1985 and Later Model Year New Gasoline-Fueled Heavy-Duty Vehicles

2. A new § 86.085–2 is added to read as follows:

§ 86.085–2 Definitions.

(a) The definitions of § 86.084–2 remain effective. The definitions listed in this section apply beginning with the 1985 model year.

"Incomplete gasoline-fueled heavy-duty vehicle" means any gasoline-fueled heavy-duty vehicle which does not have the primary load-carrying device, or passenger compartment, or engine compartment or fuel system attached.

3. A new § 86.085–10 is added to read as follows:

§ 86.085–10 Emission standards for 1985 and later model year gasoline-fueled heavy-duty engines and vehicles.

(a)(1) Exhaust emissions from new 1984 and later model year gasoline-fueled heavy-duty engines shall not exceed:

(i) *Hydrocarbons.* 1.3 grams per brake horsepower hour, as measured under transient operating conditions.

(ii) *Carbon monoxide.* (A) 15.5 grams per brake horsepower hour, as measured under transient operating conditions.

(B) 0.47 percent of the exhaust gas flow at curb idle.

(iii) *Oxides of nitrogen.* 10.7 grams per brake horsepower hour, as measured under transient operating conditions.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over operating schedules set forth in Subparts N or P and measured and calculated in accordance with those procedures.

(b)(1) Evaporative emissions from 1985 and later model-year gasoline-fueled heavy-duty vehicles shall not exceed:

(i) *Hydrocarbons.* (A) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds, 3.0 grams per test.

(B) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 pounds, 4.0 grams per test.

(2)(i) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, the standards set forth in paragraph (b)(1) of this section refer to a composite sample of fuel evaporative emissions collected under the conditions set forth in Subpart M and measured in accordance with those procedures.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 26,000 pounds, the standard set forth in paragraph (b)(1)(i)(B) of this section refers to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.085–23(b)(4)(ii)).

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1985 model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subparts N or P of this part to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

4. A new § 86.085–20 is added to read as follows:

§ 86.085–20 Incomplete vehicles, classification.

(a) An incomplete truck less than 8,500 pounds gross vehicle weight rating shall be classified by the manufacturer as a light-duty truck or as a heavy-duty vehicle. Incomplete light-duty trucks shall be described in the manufacturer's application for certification. The frontal area and curb weight used for certification purposes shall be specified on the label required in § 86.085–35(d). Incomplete heavy-duty trucks must be labeled as required in § 86.085–35(e) and § 86.085–35(g).

5. A new § 86.085–21 is added to read as follows:

§ 86.085–21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1)(i) Identification and description of the vehicles (or engines) covered by the application and a description of their engine (vehicles only), emission control system and fuel system components. This shall include a detailed description of each auxiliary emission control device (AECD) to be installed in or on any certification test vehicle (or certification test engine).

(ii)(A) The manufacturer shall provide to the Administrator in the preliminary application for certification:

(*1*) A list of those parameters which are physically capable of being adjusted (including those adjustable parameters for which access is difficult) and that, if adjusted to settings other than the manufacturer's recommended setting, may affect emissions;

(*2*) A specification of the manufacturer's intended physically adjustable range of each such parameter, and the production tolerances of the limits or stops used to

establish the physically adjustable range;

(3) A description of the limits or stops used to establish the manufacturer's intended physically adjustable range of each adjustable parameter, or any other means used to inhibit adjustment;

(4) The nominal or recommended setting, and the associated production tolerances, for each such parameter.

(B) The manufacturer may provide, in the preliminary application for certification, information relating to why certain parameters are not expected to be adjusted in actual use and to why the physical limits or stops used to establish the physically adjustable range of each parameter, or any other means used to inhibit adjustment, are expected to be effective in preventing adjustment of parameters on in-use vehicles to settings outside the manufacturer's intended physically adjustable ranges. This may include results of any tests to determine the difficulty of gaining access to an adjustment or exceeding a limit as intended or recommended by the manufacturer.

(C) The Administrator may require to be provided detailed drawings and descriptions of the various emission related components, and/or hardware samples of such components, for the purpose of making his determination of which vehicle or engine parameter will be subject to adjustment for new certification and Selective Enforcement Audit testing and of the physically adjustable range for each such vehicle or engine parameter.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested. The sales data shall also include the altitude of intended sale for light-duty trucks.

(3) A description of the test equipment and fuel proposed to be used.

(4)(i) For light-duty vehicles and light-duty trucks, a description of the test procedures to be used to establish the evaporative emission deterioration factors required to be determined and supplied in § 86.085–23(b)(2).

(ii) For gasoline-fueled heavy-duty vehicles, the Administrator does not assume that each evaporative emission family-evaporative emission control system combination will deteriorate in a unique manner during the useful life of the vehicle. The manufacturer shall therefore identify those evaporative emission deterioration factors which shall be applied to the various evaporative emission family-evaporative emission control system combinations which are expected to exhibit similar deterioration characteristics during the useful life of the vehicle.

(iii)(A) A description of the test procedures to be used to establish the durability data or the exhaust emission deterioration factors required to be determined and supplied in § 86.084–23(b)(1).

(B)(1) A statement of the useful life of use of each light-duty truck engine family and heavy-duty engine family up to engine retirement or rebuild (which ever occurs first) as determined by the manufacturer on the basis of the following:

(i) For existing engine families, survey information on in-service vehicles (or engines) or;

(ii) For new engine families, durability testing of prototype vehicles (or engines) or a combination of bench-type component life evaluations and survey information on similar previous vehicles (or engines).

(2) The manufacturer shall not determine an engine family's useful life to be less than thte basic period of the mechanical warranty on the engine assembly. This useful life shall be expressed as a period of engine or vehicle operation or as an equivalent vehicle mileage (or both) and shall be consistent with the rebuild criteria specified in paragraph (b)(4)(iii)(C) of this paragraph. The manufacturer shall include in the application the data or information on which it based its determination of the useful life.

(C) For each light-duty truck engine family and heavy-duty engine family, a statement of the criteria which are to be used in determining the need for engine rebuild and their critical values, including the following:

(1) The minimum cylinder compression for any one cylinder and for any two cylinders, in pounds per square inch (or kilopascals). Compression shall be measured without the addition of oil or another fluid into the cylinder.

(2) The maximum rate of engine lubricant oil usage by the engine, in quarts per 1,000 miles (or quarts per 30 hours).

(3) The maximum mass of foreign metal in the crankcase, in grams per quart of crankcase oil.

(4) Any other measurable indicator(s) of engine condition approved by the Administrator and the critical value(s) which signal(s) the need for a rebuild.

(5)(i) A statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(ii) A description of vehicle adjustments or modifications necessary, if any, to assure that light-duty trucks covered by a certificate of conformity conform to the regulations while being operated at any altitude locations, and a statement of the altitude at which the adjustments or modifications apply.

(6) At the option of the manufacturer, the proposed composition of the emission-data test fleet or (where applicable) the durability-data test fleet.

(c) Complete copies of the application and of any amendments thereto, and all notifications under §§ 86.079–32, 86.079–33, and 86.079–34 shall be submitted in such multiple copies as the Administrator may require.

(d) Incomplete light-duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

(e) For gasoline-fueled heavy-duty vehicles the manufacturer shall specify a maximum nominal fuel tank capacity for each evaporative emission family-evaporative emission control system combination.

6. A new § 86.085–22 is added to read as follows:

§ 86.085–22 Approval of application for certification; test fleet selections; determinations of parameters subject to adjustment for certification and Selective Enforcement Audit, adequacy of limits, and physically adjustable ranges.

(a) After a review of the application for certification and any other information which the Administrator may require, the Administrator may approve the application and select a test fleet in accordance with § 86.084–24.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons including incompleteness, inaccuracy, inappropriate proposed mileage (or service) accumulation procedures, test equipment, or fuel, and incorporation of defeat devices in vehicles (or on engines) described by the application.

(c) Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection. Within 30 days following receipt of such notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and

data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.076–6 with respect to such issue.

(d)(1) The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors for light-duty vehicles and light-duty trucks. The manufacturer shall submit the procedures as required in § 86.084–21(b)(4)(i) prior to the Administrator's selection of the test fleet under § 86.084–24(b)(1) and if such procedures will involve testing of durability-data vehicles selected by the Administrator or elected by the manufacturer under § 86.084–24(c)(1), prior to initiation of such testing.

(2) *Light-duty trucks and heavy-duty engines only.* The Administrator does not approve the test procedures for establishing exhaust emission deterioration factors the manufacturer's determination of the average period of use, nor the manufacturer's determination of the values of the rebuilt criteria. The manufacturer shall submit these procedures and determinations as required in § 86.084–21(b)(4)(iii) prior to determining the deterioration factors.

(3) *Gasoline-fueled heavy-duty vehicles only.* The Administrator does not approve the test procedures for establishing the evaporative emission deterioration factors. The test procedure will conform to the requirements in § 86.085–23(b)(3).

(e) When the Administrator selects emission-data vehicles for the test fleet, he will at the same time determine those vehicle or engine parameters which will be subject to adjustment for certification, Selective Enforcement Audit and Production Compliance Audit testing, the adequacy of the limits, stops, seals, or other means used to inhibit adjustment, and the resulting physically adjustable ranges for each such parameter and notify the manufacturer of his determinations.

(1)(i) The Administrator may determine to be subject to adjustment the idle fuel-air mixture, idle speed, and initial spark timing parameters on gasoline-fueled vehicles (or engines) (carbureted or fuel injected); the choke valve action parameter(s) on carbureted, gasoline-fueled vehicles (or engines); or any parameter on any vehicle (or engine) (diesel or gasoline-fueled) which is physically capable of being adjusted, may significantly affect emissions, and was not present on the manufacturer's vehicles (or engines) in the previous model year in the same form and function.

(ii) The Administrator may, in addition, determine to be subject to adjustment any other parameters on any vehicle or engine which is physically capable of being adjusted and which may significantly affect emissions. However, the Administrator may do so only if he has previously notified the manufacturer that he might do so and has found, at the time he gave this notice, that the intervening period would be adequate to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period. In no event will this notification be given later than September 1 of the calendar year two years prior to the model year.

(iii) In determining the parameters subject to adjustment the Administrator will consider the likelihood that, for each of the parameters listed in paragraphs (e)(1)(i) and (e)(1)(ii) of this section, settings other than the manufacturer's recommended setting will occur on in-use vehicles (or engines). In determining likelihood, the Administrator may consider such factors as, but not limited to, information contained in the preliminary application, surveillance information from similar in-use vehicles (or engines), the difficulty and cost of gaining access to an adjustment, damage to the vehicle (or engine) if an attempt is made to gain such access and the need to replace parts following such attempt, and the effect of settings other than the manufacturer's recommended setting on vehicle (or engine) performance characteristics including emission characteristics.

(2)(i) The Administrator shall determine a parameter to be adequately inaccessible or sealed if:

(A) In the case of an idle mixture screw, the screw is recessed within the carburetor casting and sealed with lead, thermosetting plastic, or an inverted elliptical spacer or sheared off after adjustment at the factory, and the inaccessibility is such that the screw cannot be accessed and/or adjusted with simple tools in one-half hour or for $20 (1978 dollars) or less.

(B) In the case of a choke bimetal spring, the plate covering the bimetal spring is riveted or welded in place, or held in place with nonreversible screws.

(C) In the case of a parameter which may be adjusted by elongating or bending adjustable members (e.g., the choke vacuum break), the elongation of the adjustable member is limited by design or, in the case of a bendable member, the member is constructed of a material which when bent would return to its original shape after the force is removed (plastic or spring steel materials).

(D) In the case of any parameter, the manufacturer demonstrates that adjusting the parameter to settings other than the manufacturer's recommended setting takes more than one-half hour or costs more than $20 (1978 dollars).

(ii) The Administrator shall determine a physical limit or stop to be an adequate restraint on adjustability if:

(A) In the case of a threaded adjustment, the threads are terminated, pinned or crimped so as to prevent additional travel without breakage or need for repairs which take more than one-half hour or cost more than $20 (1978 dollars).

(B) The adjustment is ineffective at the end of the limits of travel regardless of additional forces or torques applied to the adjustment.

(C) The manufacturer demonstrates that travel or rotation limits cannot be exceeded with the use of simple and inexpensive tools (screwdriver, pliers, open-end or box wrenches, etc.) without incurring significant and costly damage to the vehicle (or engine) or control system or without taking more than one-half hour or costing more than $20 (1978 dollars).

(iii) If manufacturer service manuals or bulletins describe routine procedures for gaining access to a parameter or for removing or exceeding a physical limit, stop, seal or other means used to inhibit adjustment, or if surveillance data indicate that gaining access, removing, or exceeding is likely, paragraphs (e)(2)(i) and (e)(2)(ii) of this section shall not apply for that parameter.

(iv) In determining the adequacy of a physical limit, stop, seal, or other means used to inhibit adjustment of a parameter not covered by paragraph (e)(2)(i) or (e)(2)(ii) of this section, the Administrator will consider the likelihood that it will be circumvented, removed, or exceeded on in-use vehicles. In determining likelihood, the Administrator may consider such factors as, but not limited to, information contained in the preliminary application; surveillance information from similar in-use vehicles (or engines); the difficulty and cost of circumventing, removing, or exceeding the limit, stop, seal, or other means; damage to the vehicle (or engine) if an attempt is made to circumvent, remove, or exceed it and the need to replace parts following such attempt; and the effect of settings beyond the limit, stop, seal, or other means on vehicle (or engine)

performance characteristics other than emission characteristics.

(3) The Administrator shall determine two physically adjustable ranges for each parameter subject to adjustment:

(i)(A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator may include within the physically adjustable range applicable to testing under this subpart (certification testing) all settings within the production tolerance associated with the nominal setting for that parameter, as specified by the manufacturer in the preliminary application for certification.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical limits or stops determined to be adequate restraints on adjustability. The Administrator may also include the production tolerances on the location of these limits or stops when determining the physically adjustable range.

(ii)(A) In the case of a parameter determined to be adequately inaccessible or sealed, the Administrator shall include within the physically adjustable range applicable to testing under Subpart G or K (Selective Enforcement Audit and Production Compliance Audit) only the actual settings to which the parameter is adjusted during production.

(B) In the case of other parameters, the Administrator shall include within this range all settings within physical limits or stops determined to be adequate restraints on adjustability, as they are actually located on the test vehicle (or engine).

(f)(1) If the manufacturer submits the information specified in § 86.084–21(b)(1)(ii) in advance of its full preliminary application for certification, the Administrator shall review the information and make the determinations required in paragraph (e) of this section within 90 days of the manufacturer's submittal.

(2) The 90-day decision period is exclusive of the elapsed time during which EPA may request additional information from manufacturers regarding an adjustable parameter and the receipt of the manufacturers' response(s).

(g) Within 30 days following receipt of notification of the Administrator's determinations made under paragraph (e) of this section, the manufacturer may request a hearing on the Administrator's determinations. The request shall be in writing, signed by an authorized representative of the manufacturer, and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

7. A new § 86.085–23 is added to read as follows:

§ 86.085–23 Required data.

(a) The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information: *Provided, however,* that if requested by the manufacturer, the Administrator may waive any requirement of this section for testing of vehicle (or engine) for which emission data are available or will be made available under the provisions of § 86.081–29.

(1) [Reserved]

(2) [Reserved]

(b)(1)(i) Exhaust emission durability data on such light-duty vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(ii) Exhaust emission deterioration factors for light-duty trucks and heavy-duty engines and all test data that are derived from the testing described under § 86.084–21(b)(4)(iii)(A) as well as a record of all pertinent maintenance. Such testing shall be designed and conducted in accordance with good engineering practice to assure that the engines covered by a certificate issued under § 86.084–30 will meet the emission standards in §§ 86.084–09, 86.084–10, or 86.084–11 as appropriate, in actual use for the useful life of the engine.

(2) For light-duty vehicles and light-duty trucks, evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination and all test data that are derived from testing described under § 86.084–21(b)(4)(i) designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.084–30 will meet the evaporative emission standards in § 86.081–8 or § 86.084–9, as appropriate, for the useful life of the vehicle.

(3) For gasoline-fueled heavy-duty vehicles, evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination identified in accordance with § 86.085–21(b)(4)(ii). Furthermore, a statement that the test procedure(s) used to derive the deterioration factors includes, but need not be limited to, a consideration of the ambient effects of ozone and temperature fluctuations, and the service accumulation effects of vibration, time, and vapor saturation and purge cycling. The deterioration factor test procedure shall be designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.085–30 will meet the evaporative emission standards in § 86.085–10 in actual use for the useful life of the engine. Furthermore, a statement that a description of the test procedure, as well as all data, analyses and evaluations, is available to the Administrator upon request.

(4)(i) For gasoline-fueled, heavy-duty vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, a written statement to the Administrator certifying that the manufacturer's vehicles meet the standards of § 86.085–10 as determined by the provisions of § 86.085–28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents, on which the above statement is based, are available to the Administrator upon request.

(ii) For gasoline-fueled, heavy-duty vehicles with a Gross Vehicle Weight Rating of greater than 26,000 pounds, a written statement to the Administrator certifying that the manufacturer's evaporative emission control systems are designed, using good engineering practice, to meet the standards of § 86.085–10 as determined by the provisions of § 86.085–28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents, on which the above statement is based, are available to the Administrator upon request.

(c) *Emission data.* (1)(i) Emission data on such vehicles tested in accordance with applicable test procedures and in such numbers as specified. These data shall include zero-mile data, if generated, and emission data generated for certification as required under § 86.084–26(a)(3)(i) or § 86.084–26(a)(3)(ii).

(ii) [Reserved]

(2) *Certification engines.* Emission data on such engines tested in accordance with applicable emission test procedures of this subpart and in such numbers as specified. These data shall include zero-hour data, if

generated, and emission data generated for certification as required under § 86.082–26(b)(5). In lieu of providing emission data on CO emissions from diesel certification engines the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the CO emission standard of § 86.084–11.

(d) A statement that the vehicles (or engines) for which certification is requested conform to the requirements in § 86.078–5(b), and that the descriptions of tests performed to ascertain compliance with the general standards in § 86.078–5(b), and the data derived from such tests, are available to the Administrator upon request.

(e)(1) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with the applicable standards of this subpart are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification and that on the basis of such tests the vehicles (or engines) conform to the requirements of this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicles (or test engine) was not as described in the application for certification or was not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards. The provisions of § 86.084–30(b) shall then be followed.

(2) For evaporative emission durability, or light-duty truck or heavy-duty engine exhaust emission durability, a statement of compliance with paragraph (b)(2), (b)(3) or (b)(1)(ii) of this section, as applicable.

8. A new § 86.085–24 is added to read as follows:

§ 86.085–24 Test vehicles and engines.

(a)(1) The vehicles or engines covered by an application for certification will be divided into groupings of engines which are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center-to-center dimensions.

(ii) [Reserved]

(iii) [Reserved]

(iv) The cylinder block configuration (air cooled or water cooled; L–6, 90° V–8, etc.).

(v) The location of the intake and exhaust valves (or ports).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(viii) Catalytic converter characteristics.

(ix) Thermal reactor characteristics.

(x) Type of air inlet cooler (e.g., intercoolers and after-coolers) for diesel heavy-duty engines.

(3)(i) Engines identical in all the respects listed in paragraph (a)(2) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(A) The bore and stroke.

(B) The surface-to-volume ratio of the nominally dimensioned cylinder at the top dead center positions.

(C) The intake manifold induction port size and configuration.

(D) The exhaust manifold port size and configuration.

(E) The intake and exhaust valve sizes.

(F) The fuel system.

(G) The camshaft timing and ignition or injection timing characteristics.

(ii) Light-duty trucks and heavy-duty engines produced in different model years and distinguishable in the respects listed in paragraph (a)(2) of this section shall be treated as belonging to a single engine family if the Administrator requires it, after determining that the engines may be expected to have similar emission deterioration characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in paragraphs (a)(2) and (a)(3) of this section, the Administrator will establish families for those engines based upon those features most related to their emission characteristics. Engines that are eligible to be included in the same engine family based on the criteria in paragraphs (a)(2) and (a)(3)(i) of this section may be further divided into different engine families if the manufacturer determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The dimension from the center line of the crankshaft to the center line of the camshaft.

(ii) The dimension from the center line of the crankshaft to the top of the cylinder block head face.

(iii) The size of the intake and exhaust valves (or ports).

(5) The gasoline-fueled light-duty vehicles and light-duty trucks covered by an application for certification will be divided into groupings which are expected to have similar evaporative emission characteristics throughout their useful life. Each group of vehicles with similar evaporative emission characteristics shall be defined as a separate evaporative emission family.

(6) For gasoline-fueled light-duty vehicles and light-duty trucks to be classed in the same evaporative emission family, vehicles must be similar with respect to:

(i) Type of vapor storage device (e.g., canister, air cleaner, crankcase).

(ii) Basic canister design.

(iii) Fuel system.

(7) Where vehicles are of a type which cannot be divided into evaporative emission families based on the criteria listed above, the Administrator will establish families for those vehicles based upon the features most related to their evaporative emission characteristics.

(8)(i) If the manufacturer elects to participate in the Alternative Durability Program, the engine families covered by an application for certification shall be grouped based upon similar engine design and emission control system characteristics. Each of these groups shall constitute a separate engine family group.

(ii) To be classed in the same engine family group, engine families must contain engines identical in all of the following respects:

(A) The combustion cycle.

(B) The cylinder block configuration (air-cooled or water-cooled; L–6, V–8, rotary, etc.).

(C) Displacement (engines of different displacement within 50 cubic inches or 15 percent of the largest displacement and contained within a multidisplacement engine family will be included in the same engine family group).

(D) Catalytic converter usage and basic type (noncatalyst, oxidation catalyst only, three-way catalyst equipped).

(9) Engine families identical in all respects listed in paragraph (a)(8) of this section may be further divided into different engine family groups if the Administrator determines that they are expected to have significantly different exhaust emission control system deterioration characteristics.

(10) A manufacturer may request the Administrator to include in an engine family group, engine families in addition to those grouped under the provisions of paragraph (a)(8) of this section. This request must be accompanied by information the manufacturer believes supports the inclusion of these additional engine families.

(11) A manufacturer may combine into a single engine family group those light-duty vehicle and light-duty truck engine families which otherwise meet the requirements of paragraphs (a)(8) through (a)(10) of this section.

(12) The gasoline-fueled heavy-duty vehicles covered by an application for certification will be divided into groupings of vehicles on the basis of physical features which are expected to affect evaporative emissions. Each group of vehicles with similar features shall be defined as a separate evaporative emission family.

(13) For gasoline-fueled heavy-duty vehicle to be classed in the same evaporative emission family, vehicles must be identical with respect to:

(i) Method of fuel/air metering (i.e., carburetion versus fuel injection).

(ii) Carburetor bowl fuel volume, within a 10 cc range.

(14) For gasoline-fueled heavy-duty vehicles to be classed in the same evaporative emission control system, vehicles must be identical with respect to:

(i) Method of vapor storage.

(ii) Method of carburetor sealing.

(iii) Method of air cleaner sealing.

(iv) Vapor storage working capacity, within a 20g range.

(v) Number of storage devices.

(vi) Method of purging stored vapors.

(vii) Method of venting the carburetor during both engine off and engine operation.

(viii) Liquid fuel hose material.

(ix) Vapor storage material.

(15) Where gasoline-fueled heavy-duty vehicles are types which cannot be divided into evaporative emission family-control system combinations based on the criteria listed above, the Administrator will establish evaporative emission family-control system combinations for those vehicles based on features most related to their evaporative emission characteristics.

(b) Emission data:

(1) *Emission-data vehicles.* Paragraph (b)(1) of this section applies to light-duty vehicle and light-duty truck emission-data vehicles.

(i) Vehicles will be chosen to be operated and tested for emission data based upon engine family groupings. Within each engine family, one test vehicle will be selected based on the following criteria: The Administrator shall select the vehicle with the heaviest equivalent test weight (including options) within the family. Then within that vehicle the Administrator shall select, in the order listed, the highest road-load power, largest displacement, the transmission with the highest numerical final gear ratio (including overdrive), the highest numerical axle ratio offered in that engine family and the maximum fuel flow calibration.

(ii) The Administrator shall select one additional test vehicle from within each engine family. The vehicle selected shall be the vehicle expected to exhibit the highest emissions of those vehicles remaining in the engine family. If all vehicles within the engine family are similar the Administrator may waive the requirements of this paragraph.

(iii) Within an engine family and exhaust emission control system, the manufacturer may alter any emission-data vehicle (or other vehicles such as including current or previous model year emission-data vehicles, fuel economy data vehicles, and development vehicles provided they meet emission-data vehicles' protocol) to represent more than one selection under paragraph (b)(1) (i), (ii), (iv), or (vii) of this section.

(iv) If the vehicles selected in accordance with paragraphs (b)(1) (i) and (ii) of this section do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be the vehicle expected to exhibit the highest emissions of those vehicles remaining in the engine family.

(v) For high-altitude exhaust emission compliance for each engine family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the vehicle expected to exhibit the highest emissions from the nonexempt vehicles selected in accordance with § 86.084–24(b)(1) (ii), (iii), and (iv) of this section or,

(B) In lieu of testing vehicles according to paragraph (A) of this section, a manufacturer may provide a statement in its application for certification that, based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) [Reserved]

(*2*) that light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements and, that all other light-duty trucks sold at low altitude and not exempt under § 86.084–9(g)(2) are capable of being modified to meet high-altitude standards.

(vi) If 90 percent or more of the engine family sales will be in California, a manufacturer may substitute emission-data vehicles selected by the California Air Resources Board criteria for the selections specified in paragraphs (b)(1)(i), (b)(1)(ii), and (b)(1)(iv) of this section.

(vii)(A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems.

(B) The Administrator will select the vehicle expected to exhibit the highest evaporative emissions, from within each evaporative family to be certified, from among the vehicles represented by the exhaust emission-data selections for the engine family, unless evaporative testing has already been completed on the vehicle expected to exhibit the highest evaporative emissions for the evaporative family as part of another engine family's testing.

(C) If the vehicles selected in accordance with paragraph (b)(1)(vii)(B) of this section do not represent each evaporative emission control system then the Administrator will select the highest expected evaporative emission vehicle from within the unrepresented evaporative system.

(viii) For high-altitude evaporative emission compliance for each evaporative emission family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the one nonexempt vehicle previously selected under paragraphs (b)(1)(vii) (B) or (C) of this section which is expected to have the highest level of evaporative emissions when operated at high altitude or

(B) In lieu of testing vehicles according to paragraph (A) of this section, a manufacturer may provide a statement in its application for certification that based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate,

(*1*) [Reserved]

(*2*) that light-duty trucks sold for principal use at designated high-altitude locations comply with the high-altitude emission requirements and that all other

light-duty trucks sold at low altitude and not exempt under § 86.084–9(g)(2) are capable of being modified to meet high-altitude standards.

(ix) Vehicles selected under paragraph (b)(1)(v)(A) of this section may be used to satisfy the requirements of (b)(1)(viii)(A) of this section.

(x) (Light-Duty Trucks Only) (A) The manufacturer may reconfigure any of the low-altitude emission-data vehicles to represent the vehicle configuration required to be tested at high altitude.

(B) The manufacturer is not required to test the reconfigured vehicle at low altitude.

(2) *Gasoline-fueled heavy-duty emission-data engines.* Paragraph (b)(2) of this section applies to gasoline-fueled heavy-duty engines.

(i) [Reserved]

(ii) [Reserved]

(iii) The Administrator shall select a maximum of two engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in the engine family as follows:

(A) The Administrator shall select one emission-data engine first based on the largest displacement within the engine family. Then within the largest displacement the Administrator shall select, in the order listed, highest fuel flow at the speed of maximum rated torque, the engine with the most advanced spark timing, no EGR or lowest EGR flow, and no air pump or lowest actual flow air pump.

(B) The Administrator shall select one additional engine, from within each engine family. The engine selected shall be the engine expected to exhibit the highest emissions of those engines remaining in the engine family. If all engines within the engine family are similar the Administrator may waive the requirements of this paragraph.

(iv) If the engines selected in accordance with paragraph (b)(2) (ii) and (iii) of this section do not represent each engine displacement-exhaust emission control system combination, then one engine of each engine displacement-exhaust emission control system combination not represented shall be selected by the Administrator.

(v) Within an engine family and emission control system, the manufacturer may alter any emission-data engine to represent more than one selection under paragraph (b)(2) (iii) and (iv) of this section.

(3) *Diesel heavy-duty emission-data engines.* Paragraph (b)(3) of this section applies to diesel heavy-duty emission-data vehicles.

(i) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(ii) Engines of each engine family will be divided into groups based upon their exhaust emission control systems. One engine of each engine system combination shall be run for smoke emission data and gaseous emission data. Either the complete gaseous emission test or the complete smoke test may be conducted first. Within each combination, the engine that features the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will usually be selected. If there are military engines with higher fuel rates than other engines in the same engine system combinations, then one military engine shall also be selected. The engine with the highest fuel feed per stroke will usually be selected.

(iii) The Administrator may select a maximum of one additional engine within each engine-system combination based upon features indicating that it may have the highest emission levels of the engines of that combination. In selecting this engine, the Administrator will consider such features as the injection system, fuel system, compression ratio, rated speed, rated horsepower, peak torque speed, and peak torque.

(c) *Durability data:* (1) *Light-duty vehicle durability-data vehicles.* Paragraph (c)(1) of this section applies to light-duty vehicle durability-data vehicles.

(i) A durability-data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, inertia weight class, and test weight.

(ii) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c)(1)(i) of this section. Notice of an intent to operate and test additional vehicles shall be given to the Administrator no later than 30 days following notification of the test fleet selection.

Light-duty trucks. Paragraph (c)(2) of this section applies to vehicles, engines, subsystems, or components used to establish exhaust emission deterioration factors for light-duty trucks.

(i) The manufacturer shall select the vehicles, engines, subsystems, or components to be used to determine exhaust emission deterioration factors for each engine-family control system combination. Whether vehicles, engines, subsystems, or components are used, they shall be selected so that their emissions deterioration characteristics may be expeced to represent those of in-use vehicles, based on good engineering judgment.

(ii) [Reserved]

(3) *Heavy-duty engines.* Paragraph (c)(3) of this section applies to engines, subsystems, or components used to establish exhaust emission deterioration factors for heavy-duty engines.

(i) The manufacturer shall select the engines, subsystems, or components to be used to determine exhaust emission deterioration factors for each engine-family control system combination. Whether engines, subsystems, or components are used, they shall be selected so that their emissions deterioration characteristics may be expected to represent those of in-use engines, based on good engineering judgment.

(ii) [Reserved]

(d) For purposes of testing under § 86.084–26 (a)(9) or (b)(11), the Administrator may require additional emission-data vehicles (or emission-data engines) and durability-data vehicles (light-duty vehicles only) identical in all material respects to vehicles (or engines) selected in accordance with paragraphs (b) and (c) of this section. *Provided* that the number of vehicles (or engines) selected shall not increase the size of either the emission-data fleet or the durability-data fleet by more than 20 percent or one vehicle (or engine), whichever is greater.

(e)(1) Any manufacturer whose projected sales for the model year in which certification is sought is less than:

(i) 2,000 gasoline-fueled light-duty vehicles, or

(ii) 2,000 diesel light-duty vehicles, or

(iii) 2,000 gasoline-fueled light-duty trucks, or

(iv) 2,000 diesel light-duty trucks, or

(v) 2,000 gasoline-fueled heavy-duty engines, or

(vi) 2,000 diesel heavy-duty engines,

may request a reduction in the number of test vehicles (or engines) determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(2) Any manufacturer may request to certify engine families with combined total sales of fewer than 10,000 light-duty vehicles, light-duty trucks, and heavy-duty engines utilizing assigned deterioration factors prescribed by the Administrator. The assigned deterioration factors shall be applied only to entire engine families.

(f) In lieu of testing an emission-data or durability-data vehicle (or engine) selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit exhaust emission data and/or fuel evaporative emission data, as applicable on a similar vehicle (or engine) for which certification has previously been obtained or for which all applicable data required under § 86.084–23 has previously been submitted.

(g)(1) This paragraph applies to light-duty vehicles and light-duty trucks, but does not apply to the production vehicles selected under paragraph (h) of this section.

(2) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, if required by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(3)(i) Where it is expected that more than 33 percent of a car line within an engine-system combination will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items shall actually be installed (unless excluded under paragraph (g)(3)(ii) of this section) on all emission-data and durability-data vehicles of that car line, within that engine-system combination, on which the items are intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes and other items determined by the Administrator.

(ii) If the manufacturer determines by test data or engineering evaluation that the actual installation of the optional equipment required by paragraph (g)(3)(i) of this section does not affect the emissions or fuel economy values, the optional equipment need not be installed on the test vehicle. The weight of the options shall be included in the design curb weight and also be represented in the weight of the test vehicles. The engineering evaluation, including any test data, used to support the deletion of optional equipment from test vehicles, shall be maintained by the manufacturer and shall be made available to the Administrator upon request.

(h) *Alternative Durability Program durability-data vehicles.* Paragraph (h) of this section applies to light-duty vehicle and light-duty truck durability-data vehicles selected under the Alternative Durability Program. The Alternative Durability Program is described in § 86.081–13.

(1) In order to update the durability data to be used to determine a deterioration factor for each engine family group, the Administrator will select durability-data vehicles from the manufacturer's production line. Production vehicles will be selected from the 1981, 1982, and 1983 model year production of vehicles.

(i) The Administrator shall select the production durability-data vehicle designs from the designs that the manufacturer offers for sale. For each model year and for each engine family group, the Administrator may select production durabilty-data vehicle designs of equal number to the number of engine families within the engine family group, up to a maximum of three vehicles.

(ii) The production durability-data vehicles representing the designs selected in paragraph (h)(1)(i) of this section will be randomly selected from the manufacturer's production. The Administrator will make these random selections unless the manufacturer (with prior approval of the Administrator) elects to make the random selections.

(iii) The manufacturer may select additional production durability-data vehicle designs from within the engine family group. The production durability-data vehicles representing these designs shall be randomly selected from the manufacturer's production in accordance with paragraph (h)(1)(ii) of this section.

(iv) For each production durability-data vehicle selected under paragraph (h)(1) of this section, the manufacturer shall provide to the Administrator (before the vehicle is tested or begins service accumulation) the vehicle identification number. Before the vehicle begins service accumulation the manufacturer shall also provide the Administrator with a description of the durability-data vehicle as specified by the Administrator.

(2) If, within an existing engine family group, a manufacturer requests to certify vehicles of a new design, engine family, emission control system, or with any other durability-related design difference, the Administrator will determine if the existing engine family group deterioration factor is appropriate for the new design. If the Administrator cannot make this determination or deems the deterioration factor not appropriate, the Administrator shall select preproduction durability-data vehicles under the provisions of paragraph (c) of this section. If vehicles are then certified using the new design, the Administrator may select production vehicles with the new design under the provisions of paragraph (h)(1) of this section.

(3) If a manufacturer requests to certify vehicles of a new design that the Administrator determines are a new engine family group, the Administrator shall select preproduction durability-data vehicles under the provisions of paragraph (c) of this section. If vehicles are then certified using the new design, the Administrator may select production vehicles of that design under the provisions of paragraph (h)(1) of this section.

9. A new § 86.085–27 is added to read as follows:

§ 86.085–27 Special test procedures.

(a) The Administrator may, on the basis of a written application by a manufacturer, prescribe test procedures, other than those set forth in this part, for any light-duty vehicle, light-duty truck, heavy-duty engine, or gasoline-fueled heavy-duty vehicle which the Administrator determines is not susceptible to satisfactory testing by the procedures set forth in this part.

(b) If the manufacturer does not submit a written application for use of special test procedures but the Administrator determines that a light-duty vehicle, light-duty truck, heavy-duty engine, or gasoline-fueled heavy-duty vehicle is not susceptible to satisfactory testing by the procedures set forth in this part, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection in accordance with the provisions of § 86.082–22(c).

10. A new paragraph (d) is added to § 86.085–28 to read as follows:

§ 86.085–28 Compliance with emission standards.

* * * * *

(d)(1) Paragraph (d) of this section applies to gasoline-fueled heavy-duty vehicles.

(2) The applicable fuel evaporative emission standard in § 86.085–10 applies to the emissions of vehicles for their useful life.

(3)(i) For vehicles with a GVWR of up to 26,000 pounds because it is expected that emission control efficiency will change during the useful life of the vehicle, an evaporative emission deterioration factor shall be determined from the testing described in § 86.085–23(b)(3) for each evaporative emission family-evaporative emission control system combination to indicate the evaporative emission control system deterioration during the useful life of the vehicle (minimum 50,000 miles). The factor shall be established to a minimum of two places to the right of the decimal.

(ii) For vehicles with a GVWR of greater than 26,000 pounds; because it is expected that emission control efficiency will change during the useful life of the vehicle, each manufacturer's statement as required in § 86.085–23(b)(4)(ii) shall include, in accordance with good engineering practice, consideration of control system deterioration.

(4) The evaporative emission test results, if any, shall be adjusted by the addition of the appropriate deterioration factor: *Provided,* that if the deterioration factor as computed in paragraph (c)(3) of this section is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(5) The emission level to compare with the standard shall be the adjusted emission level of paragraph (c)(4) of this section. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTME 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(6) Every test vehicle of an evaporative emission family must comply with the evaporative emission standard, as determined in paragraph (c)(5) of this section, before any vehicle in that family may be certified.

11. A new § 86.085–29 is added to read as follows:

§ 86.085–29 Testing by the Administrator.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purposes of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that point: *Provided,* that if the Administrator makes a determination based on testing under paragraph (a)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *and further provided,* that if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission or further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.084–26 (a)(3)(i)(A) or (b)(4)(i)(A), the data from the last test in that series of tests on that vehicle, will constitute the official data.

(iii)(A)(*1*) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission data vehicle or engine which the Administrator has determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.084–22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.084–22(e)(3)(i), prior to the performance of any tests to determine whether such vehicle or engine conforms to applicable emission standards, including tests performed by the manufacturer under § 86.084–23(c)(1). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the vehicle before it accumulated any mileage, all other parameters being adjusted identically for the purpose of comparison. The Administrator, in making or specifying such adjustments, will consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use light-duty vehicles or light-duty trucks. In determining likelihood, the Administrator will consider factors such as, but not limited to, the effect of the adjustment on vehicle performance characteristics and surveillance information from similar in-use vehicles.

(*2*) For those vehicles or engine parameters which the Administrator has not determined to be subject to adjustment during certification and Selective Enforcement Audit testing in accordance with § 86.084–22(e)(1), the emission-data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 86.084–35(a)(1)(iii)(D) or (a)(2)(iii)(D)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle will be adjusted, at the facility designated by the Administrator, prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle will be used as an emission-data vehicle.

(B) If the Administrator determines that the test data developed on an emission-data vehicle under paragraph (a)(3)(i) of this section would cause that vehicle to fail due to excessive 4,000 mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, those vehicle or engine parameters which the Administrator has not determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.083–22(e)(1) may be readjusted to manufacturer's specification, if these adjustments were made incorrectly prior to the first test. The Adminstrator may adjust or cause

to be adjusted any parameter which the Administrator has determined to be subject to adjustment to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.084–22(e)(3)(i). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the vehicle before it accumulated any mileage, all other parameters being adjusted identically for the purpose of comparison. Other maintenance or repairs may be performed in accordance with § 86.084–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data vehicle.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a)(2) of this section to enable the Administrator to determine whether an emission-data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (a)(3)(iii) (A) and (B) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test engine the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the engine at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided,* that if the Administrator makes a determination based on testing under paragraph (b)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided,* that if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information.

(iii)(A)(*1*) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission-data engine which the Administrator has determined to be subject to adjustment for certification testing in accordance with § 86.084–22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.084–22(e)(3)(i), prior to the performance of any tests to determine whether such engine conforms to applicable emission standards, including tests performed by the manufacturer under § 86.084–23(c)(2). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. The Administrator, in making or specifying such adjustments, may consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use heavy-duty engines. In determining likelihood, the Administrator may consider factors such as, but not limited to, the effect of the adjustment on engine performance characteristics and surveillance information from similar in-use engines.

(*2*) For those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.084–22(e)(1), the emission-data engine presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the engine label (see § 86.084–35(a)(3)(iii)) as specified in the application for certification. If the Administrator determines that an engine is not within such tolerances, the engine shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the engine shall be used as an emission-data engine.

(B) If the Administrator determines that the test data developed under paragraph (b)(3)(iii)(A) of this section would cause the emission-data engine to fail due to excessive 125-hour emission values or by the application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.084–22(e)(1) may be readjusted to the manufacturer's specifications, if these adjustments were made incorrectly prior to the first test. The Administrator may adjust or cause to be adjusted any parameter which the Administrator has determined to be subject to adjustment in accordance with § 86.084–22(e)(3)(i). However, if the idle speed parameter is one which the Administrator has derermined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. Other maintenance or repairs may be performed in accordance with § 86.084–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The engine will be retested by the Administrator and the results of this test

shall comprise the official data for the emission-data engine.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (b)(2) of thid section to enable the Administrator to determine whether an emission-data engine would fail, the manufacturer may request a retest in accordance with the provisions of paragraph (b)(3)(iii)(B) (1) and (2) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

(c)(1) Paragraph (c) of this section applies to gasoline-fueled heavy-duty vehicles.

(2) The Administrator may require that any one or more of the evaporative emission family-system combinations included in the manufacturer's statement(s) of compliance be installed on an appropriate vehicle and such vehicle be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on an evaporative emission family-system combination the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the evaporative emission family-system combination and the manufacturer's data, analyses, etc. shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on an evaporative emission family-system combination, the manufacturer's test data will be accepted as the official data: *Provided,* that if the Administrator makes a determination based on testing under paragraph (c)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided,* that if the Administrator has reasonable basis to believe that any test data, analyses, or other information submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data, analyses, etc. as the official data pending retesting or submission of further information.

12. A new § 86.085–30 is added to read as follows:

§ 86.085–30 Certification.

(a)(1)(i) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078–7(c), and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meet(s) the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraphs (a)(1)(ii) and (c) of this section.

(ii) *Gasoline-fueled heavy-duty vehicles.* If, after a review of the statement(s) of compliance submitted by the manufacturer under § 86.085–23(b)(4) and any other pertinent data or information, the Administrator determines that the requirements of the Act and this subpart have been met, he will issue one certificate of conformity per manufacturer with respect to the evaporative emission family(s) covered by such statement(s) except in cases covered by paragraph (c) of this section.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary or appropriate to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part.

(3)(i) One such certificate will be issued for each engine family. For gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination.

(A) *Light-Duty Vehicles.* Each certificate will certify compliance with no more than one set of standards.

(B) *Light-Duty Trucks.* Each certificate will certify compliance with no more than one set of standards except for low-altitude standards and high-altitude standards. The certificate shall state that it covers vehicles sold or delivered to an ultimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specifications that apply to those vehicles described in the application for certification at high altitude.

(ii) For gasoline-fueled heavy-duty vehicles, one such certificate will be issued for each manufacturer and will certify compliance for those vehicles previously identified in that manufacturer's statement(s) of compliance as required in § 86.085–23(b)(4)(i) and (ii).

(4) The adjustment or modification of any light-duty truck, in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered violation of Section 203(a)(3) of the Clean Air Act. A violation of Section 203(a)(1) of the Clean Air Act occurs when any manufacturer sells or delivers to an ultimate purchaser any light-duty truck, subject to the regulations under the Act, which is not configured to meet high-altitude requirements:

(i) At a designated high-altitude location, unless such manufacturer has substantial reason to believe that such motor vehicle will not be used principally at a designated high-altitude location; or

(ii) At an other than designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be used principally at a designated high-altitude location.

(5) For the purpose of paragraph (a) of this section, "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and which is identified below:

Counties Located Substantially Above 1,219 Meters (4,000 Feet) in Elevation

State of Arizona

Apache	Navajo
Cochise	Yavapai
Coconino	

State of Colorado

Adams	Cheyenne
Alamosa	Clear Creek
Arapahoe	Conejos
Archuleta	Costilla
Boulder	Crowley
Chaffee	Custer
Delta	Garfield
Denver	Gilpin
Dolores	Grand
Douglas	Gunnison
Eagle	Hinsdale
Elbert	Huerfano
El Paso	Jackson
Fremont	Jefferson
Kit Carson	Mesa
Lake	Mineral
La Plata	Moffat
Larimer	Montezuma
Las Animas	Montrose
Lincoln	Morgan

Otero	Saguache
Ouray	San Juan
Park	San Miguel
Pitkin	Summit
Pueblo	Teller
Rio Blanco	Washington
Rio Grande	Weld
Routt	

State of Idaho

Bannock	Camas
Bear Lake	Caribou
Bingham	Cassia
Blaine	Clark
Bonneville	Custer
Butte	
Franklin	Minidoka
Fremont	Oneida
Jefferson	Power
Lemhi	Teton
Madison	Valley

State of Montana

Beaverhead	Madison
Deer Lodge	Meagher
Gallatin	Park
Jefferson	Silver Bow
Judith Basin	Wheatland
Powell	

State of Nebraska

Banner	Kimball
Cheyenne	Sioux

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	De Baca
Catron	Grant
Colfax	Guadalupe
Curry	
Harding	Luna
Hidalgo	McKinley
Lincoln	Otero
Los Alamos	
Mora	Sierra
Rio Arriba	Socorro
Roosevelt	Taos
Sandoval	Torrance
San Juan	Union
San Miguel	Valencia
Santa Fe	

State of Oregon

Harney	Klamath
Lake	

State of Texas

Jeff Davis	Parmer
Hudspeth	

State of Utah

Beaver	Daggett
Box Elder	Davis
Cache	Duchesne
Carbon	Emery
Garfield	Kane
Grand	Millard
Iron	Morgan
Juab	
Piute	Tooele
Rich	Uintah
Salt Lake	Utah
San Juan	Wasatch
Sanpete	Wayne
Sevier	Weber
Summit	

State of Wyoming

Albany	Natrona
Cambell	Niobrara
Carbon	Park
Converse	Platte
Fremont	Sublette
Goshen	Sweetwater
Hot Springs	Teton
Johnson	Uinta
Laramie	Washakie
Lincoln	Weston

(6) [Reserved]

(7) Catalyst-equipped vehicles, otherwise covered by a certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for importation without retrofit of the catalyst, they will be considered not to be within the coverage of the certificate unless included in a catalyst control program operated by a manufacturer or a United States Government agency and approved by the Administrator.

(8) For incomplete light-duty trucks, a certificate covers only those new motor vehicles which, when completed by having the primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in § 86.084–21(d).

(9) For heavy-duty engines, a certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in § 86.082–2.

(10) For incomplete gasoline-fueled heavy-duty vehicles a certificate covers only those new motor vehicles which, when completed, conform to the nominal maximum fuel tank capacity limitations as described in the applicaton for certification as required in § 86.085–21(e).

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) *Light-duty vehicles.* (A) The durability-data vehicle(s) selected under § 86.084–24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.084–24(b)(1) (ii) through (b)(1)(iv) shall represent all vehicles of the same engine-system combination as applicable.

(C) The emission-data vehicle(s) selected under § 86.084–24 (b)(1)(vii)(A) and (b)(1)(vii)(B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(ii) *Light-duty trucks.*

(A) [Reserved]

(B) The emission-data vehicle(s) selected under § 86.084–24(b)(1)(ii), shall represent all vehicles of the same engine-system combination as applicable.

(C) The emission-data vehicle(s) selected under § 86.084–24 (b)(1)(vii)(A) and (b)(1)(vii)(B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(D) The emission-data vehicle(s) selected under § 86.084–24(b)(1)(v) shall represent all vehicles of the same engine-system combination as applicable.

(E) The emission-data vehicle(s) selected under § 86.084–24(b)(1)(viii) shall represent all vehicles of the same evaporative control system within the evaporative emission family, as applicable.

(iii) *Heavy-duty engines.* (A) A gasoline-fueled emission-data test engine selected under § 86.080–24(b)(2) (ii) and (iv) shall represent all engines in the same family of the same engine displacement-exhaust emission control system combination.

(B) A gasoline-fueled emission-data test engine selected under § 86.080–24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A diesel emission-data test engine selected under § 86.084–24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(D) A diesel emission-data test engine selected under § 86.084–24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

(E) [Reserved]

(iv) *Gasoline-fueled heavy-duty vehicles.* A statement of compliance submitted under § 86.085–23(b)(4)(i) or § 86.085–23(b)(4)(ii) shall represent all vehicles in the same evaporative emission family-evaporative emission control system combination.

(2) The Adminstrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family

combination (as applicable), all of which comply with all applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.084–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at his option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

(i) Request a hearing under § 86.078–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application;

(A) If the failed vehicle was tested for compliance with exhaust emissions standards only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.084–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under 86.078–32.) The Administrator may then select in place of each failing engine an alternate engine chosen in accordance with selecting criteria employed in selection the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, may then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b)(4) or (b)(5) (as applicable) of this section, the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) (or certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act, or of this part with respect to such vehicle (or engine);

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or buildup into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in (c)(1)(iii)(C) of this section;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above;

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1)(i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent

acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii) or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by the certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes the certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue, he will grant the request with respect to such issue.

(d)(1) *For light-duty vehicles.* Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606; or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606, to:

(A) Monitor vehicle selection pursuant to § 86.607, or

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, and 86.607, 86.606, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1) (i), (ii), or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but not be limited to, any uncontrollable factors which results in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1) (iii), (iv), (v), (vi), or (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to the degree that would warrant suspension of certification under either paragraph (d)(1)(v), (d)(1)(vi), or (d)(1)(vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof, and

(ii) Not apply to vehicles no longer in the hands of the manufacturer.

(e) *For light-duty trucks and heavy-duty engines.* (1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle or engine configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.1003; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.1003; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.1009; or

(iv) The manufacturer renders inaccurate any test data submitted pursuant to § 86.1009; or

(v) Any EPA Enforcement Officer is denied the opportunity to conduct activities related to entry and access as authorized in § 86.1006 of this part and in a warrant or court order presented to the manufacturer or the party in charge of a facility in question; or

(vi) EPA Enforcement Officers are unable to conduct activities related to entry and access as authorized in § 86.1006 of this part because a manufacturer has located a facility in a foreign jurisdiction where local law prohibits those activities; or

(vii) The manufacturer refuses to or in fact does not comply with the requirements of §§ 86.1004(a), 86.1005, 86.1007, 86.1008, 86.1010, 86.1011, or 86.1013.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (e)(1) (i), (ii), or (vii) of this section where such refusal or denial is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturers to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanction of suspending a certificate may be imposed for the reasons outlined in paragraph (e)(1), (iii), (iv), or (v) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a light-duty truck or heavy-duty engine is proposed to be suspended under paragraph (e)(1)(v) of this section and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.1006 in fact occurred, if the manufacturer wishes to contend that, although the violation occurred, the vehicle or engine configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under paragraph (e)(1)(v) of this section, he shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (e)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.1014 and

(ii) Not apply to vehicles or engines no longer in the hands of the manufacturer.

(7) Any voiding of a certificate of conformity under paragraph (e)(4) of this section shall be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.1014.

13. A new § 86.085–35 is added to read as follows:

§ 86.085–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards of this subpart, shall, at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the public and covered by a certificate of conformity under § 86.084–30(a).

(1) *Light-duty vehicles.* (i) A permanent, legible label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches), engine, family identification and evaporative family identification;

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation. If adjustments or modifications to the vehicle are necessary to insure compliance with either the emission standards at low altitude or the optional emission standards at high altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are applicable to elevation below or above 4,000 feet.

(E) An unconditional statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to light-duty vehicles;

(2) Light-duty trucks. (i) A legible, permanent label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label.

(A) The label heading: Important Vehicle Information;

(B) Full corporate name and trademark of manufacturers;

(C) Engine displacement (in cubic inches) and engine family identification;

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation. If adjustments or modifications to the vehicle are necessary to insure compliance with emission standards at either high or low altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are

applicable to high altitude, low altitude or both.

(E) The prominent statement: "(Manufacturer's corporate name) has determined this vehicle has an average useful life of —— miles or —— hours of operation, whichever occurs first." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only).

(F) The subordinate addition to the statement in paragraph (a)(2)(iii)(E) of this section: "This engine's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines for its useful life."

(G) A statement, if applicable, that the adjustments or modifications indicated on the label are necessary to ensure emission control compliance at the altitude specified.

(H) A statement, if applicable, that the high-altitude vehicle was designated or modified for principal use at high altitude. This statement must be affixed by the manufacturer at the time of assembly or by any dealer who performs the high-altitude modification or adjustment prior to sale to an ultimate purchaser.

(I) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emission standards as specified in § 86.084–9(g)(4) or § 86.085–8(g)(2), as applicable, and that its unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude.

(J) A statement, if applicable, that the vehicle has been exempted from meeting the high-altitude gaseous emissions standards as specified in § 86.084–9(g)(2) and, as a consequence, the emission performance warranty provisions of 40 CFR Part 85, Subpart V do not apply when the vehicle is tested at high altitude.

(3) Heavy-duty engines. (i) A permanent legible label shall be affixed to the engine in a position in which it will be readily visible after installation in the vehicle.

(ii) The label shall be attached to an engine part necessary for normal engine operation and not normally requiring replacement during engine life.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Important Engine Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family and model designations;

(D) Date of engine manufacture (month and year). The manufacturer may, in lieu of including the date of manufacture on the engine label, maintain a record of the engine manufacture dates. The manufacturer shall provide the date of manufacture records to the Administrator upon request;

(E) Engine specifications and adjustments as recommended by the manufacturer. These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air conditioner), if any, should be in operation;

(F) For gasoline-fueled engines the label should include the idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), and valve lash;

(G) For diesel engines the label should include the advertised hp at rpm, fuel rate at advertised hp in mm3 stroke, valve lash, initial injection timing, and idle speed;

(H) The prominent statement: "(Manufacturer's corporate name) has determined that this engine has an average useful life of —— miles or —— hours of operation, whichever occurs first." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only);

(I) The subordinate addition to the statement in paragraph (a)(3)(iii)(H) of this section: "This engine's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines for its useful life."

(iv) The label may be made up of one or more pieces; *Provided,* That all pieces are permanently attached to the same engine or vehicle part as applicable.

(4)(i) *Gasoline-fueled heavy-duty vehicles.* A permanent, legible label shall be affixed in a readily visible position in the engine compartment. If such vehicles do not have an engine compartment, the label required in paragraphs (a)(4) and (g)(1) of this section shall be affixed in a readily visible position on the operator's enclosure or on the engine.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals which shall be of a color that contrasts with the background of the label:

(A) The label heading: Vehicle Emission Control Information;

(B) Full corporate name and trademark of manufacturer;

(C) Evaporative family identification;

(D) The maximum nominal fuel tank capacity (in gallons) for which the evaporative control system is certified.

(E) An unconditioned statement of compliance with the appropriate model year U.S. Environmental Protection Agency regulations which apply to gasoline-fueled heavy-duty vehicles.

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle (or engine) conforms to any applicable state emission standards for new motor vehicles (or new motor vehicle engines) or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle (or engine).

(c)(1) The Manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 40 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high; of a color that contrasts with the background of the label:

(i) The Heading: "Vehicle Emission Control Information."

(ii)(A) *For light-duty vehicles,* the statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 19— Model Year New Motor Vehicles."

(B) *For light-duty trucks,* the statement: "(Manufacturer's Corporate Name) Has Determined That This Vehicle Has An Average Useful Life of —— Miles Or —— Hours Of Operation, Whichever Occurs First. This Engine's Actual Life May Vary Depending On It's Service Application (For additional information see the owner's

maintenance instructions.) This Vehicle Conforms To U.S. EPA Regulations Applicable To 19—Model Year New Motor Vehicles, For Its Useful Life." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only).

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as non-catalyst-equipped: "NON-CATALYST"

(B) For all vehicles certified as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST—APPROVED FOR IMPORT"

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST"

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii) of this section.

(d)(1) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified as light-duty trucks shall have the following prominent statement printed on the label required in paragraph (a)(2) of this section in lieu of the statement required by paragraph (a)(2)(iii)(E) of this section: "(Manufacturer's Corporate Name) has determined that this vehicle has an average useful life of —— miles or hours of operation, whichever occurs first." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only).

(2) The subordinate addition to the statement in subparagraph (1) of this paragraph: "This vehicle's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area greater than 45 square feet for its useful life."

(e)(1) Incomplete heavy-duty vehicles having an 8,500-pound gross vehicle weight rating or less shall have the following prominent statement printed on the label required in paragraph (a)(3) of this section in lieu of the statement required by paragraph (a)(3)(iii)(H) of this section: ("Manufacturer's corporate name) has determined that this engine has an average useful life of —— miles or —— hours of operation, whichever occurs first." The manufacturer may alter this statement only to express the useful life in terms other than miles or hours (e.g., years, or hours only).

(2) In addition, the label shall have the following subordinate statement in lieu of the statement required by paragraph (a)(3)(iii)(I) of this section: "This engine's actual life may vary depending on its service application. (For additional information see the owner's maintenance instructions.) This engine conforms to U.S. EPA regulations applicable to 19— Model Year New Heavy-Duty Engines when installed in a vehicle completed at a curb weight of more than 6,000 pounds or with a frontal area greater than 45 square feet for its useful life."

(f) The manufacturer of any incomplete vehicle shall notify the purchaser of such vehicle of any curb weight, frontal area, or gross vehicle weight rating limitations affecting the emission certificate applicable to that vehicle. This notification shall be transmitted in a manner consistent with National Highway Traffic Safety Administration safety notification requirements published in 49 CFR Part 568.

(g)(1) Incomplete gasoline-fueled heavy-duty vehicles with a Gross Vehicle Weight Rating of greater than 8500 pounds shall have the following prominent statement printed on the label required in paragraph (a)(4) of this section: "(Manufacturer's corporate name) has determined that this vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Gasoline-Fueled Heavy-Duty Vehicles when completed with a nominal fuel tank capacity not to exceed — gallons. Persons wishing to add fuel tank capacity beyond the above maximum must submit a written statement to the Administrator that the hydrocarbon storage system has been upgraded according to the requirements of 40 CFR 86.085–35(g)(2)."

(2) Persons wishing to add fuel tank capacity beyond the maximum specified on the label required in paragraph (g)(1) of this section shall:

(i) Increase the amount of fuel tank vapor storage material according to the following function:

$$Cap_f = Cap_i \frac{T.\ Vol.}{Max.\ Vol.}$$

where:

Cap_f = final amount of fuel tank vapor storage material, grams.

Cap_i = initial amount of fuel tank vapor storage material, grams.

T. Vol. = total fuel volume of completed vehicle, gallons.

Max. Vol. = maximum fuel tank volume as specified on the label required in paragraph (g)(1) of this section, gallons.

(ii) Use, if applicable, hosing for fuel vapor routing which is at least as impermeable to hydrocarbon vapors as that used by the primary manufacturer.

(iii) Use vapor storage material with the same adsorptive characteristics as that used by the primary manufacturer.

(iv) Connect, if applicable, any new hydrocarbon storage device to the existing hydrocarbon storage device in series such that the original hydrocarbon storage device is situated between the fuel tank and the new hydrocarbon storage device. The original hydrocarbon storage device shall be sealed such that vapors cannot reach the atmosphere. The elevation of the original hydrocarbon storage device shall be equal to or lower than the new hydrocarbon storage device.

(v) Submit a written statement to the Administrator that paragraphs (g)(2)(i)–(iv) of this section have been complied with.

(3) If applicable, the Administrator will send a return letter verifying the receipt of the written statement required in paragraph (g)(2)(v) of this section.

14. A new § 86.085–37 is added to read as follows:

§ 86.085–37 Production vehicles and engines.

(a) Any manufacturer obtaining certification under this part shall supply to the Administrator, upon request, a reasonable number of production vehicles (or engines) selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmission offered and typical of production models available for sale under the certificate. These vehicles (or engines) shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Heavy-duty engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b)(1) Any manufacturer of light-duty vehicles or light-duty trucks obtaining certification under this part shall notify the Administrator, on a yearly basis, of the number of vehicles domestically produced for sale in the United States and the number of vehicles produced and imported for sale in the United States during the preceding year. A manufacturer may elect to provide this information every 60 days instead of yearly by combining it with the notification required under § 86.079–36. The notification must be submitted 30 days after the close of the reporting period. The vehicle production information required shall be submitted as follow:

(i) Total production volume expressed in terms of units produced;

(ii) Model type production volume, expressed for each model type in terms of units produced and as a percentage of total production;

(iii) Base level production volume, expressed for each base level in terms of units produced and as percentage of:

(A) Total production of its respective model type(s), and

(B) Total production; and

(iv) Vehicle configuration production volume, expressed for each vehicle configuration in terms of units produced, and as a percentage of the total production of its respective base level. In addition, each vehicle configuration shall be identified by its appropriate engine-system combination.

(2) All light-duty vehicles and light-duty trucks covered by a certificate of conformity under § 86.082–30(a) shall be adjusted by the manufacturer to the ignition or injection timing specification detailed in § 86.079–36(a)(1)(iii)(D).

(c) Any heavy-duty engine or gasoline-fueled heavy-duty vehicle manufacturer obtaining certification under this part shall notify the Administrator, on a yearly basis, of the number of engines or vehicles of such engine family-evaporative emission family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding year.

(d) The following definitions apply to this section:

(1) "Model type" means a unique combination of car line, basic engine, and transmission class.

(2) "Base level" means a unique combination of basic engine, inertia weight, and transmission class.

(3) "Vehicle configuration" means a unique combination of basic engine, engine code, inertia weight, transmission configuration, and axle ratio within a base level.

Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding a new Subpart M to read as follows:

Subpart M—Evaporative Emission Test Procedures for New Gasoline-Fueled Heavy-Duty Vehicles

Sec.

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86.1245– [Reserved]

Authority: Sections 202, 206, 301 of the Clean Air Act as amended, 42 U.S.C. 7521, 7525, 7601.

Subpart M—Evaporative Emission Test Procedure for New Gasoline-Fueled Heavy-Duty Vehicles

§ 86.1201–85 Applicability.

(a) The provisions of this subpart are applicable to new gasoline-fueled heavy-duty vehicles.

(b) Provisions of this subpart apply to tests performed by both the Administrator and motor vehicle manufacturers.

(c) Test procedures and equipment other than those described in this subpart may be used by the vehicle manufacturer if shown to yield results which correlate with results yielded by those described in this subpart (with the reference driving schedule described in § 86.1215–85(a)) and if approved in advance by the Administrator.

§ 86.1202–85 Definitions

Applicable definitions in sections (§§)86.077–2, 86.078–2, 86.079–2, 86.080–2, 86.081–2, 86.082–2 and 86.085–2 apply to this subpart.

§ 86.1203–85 Abbreviations.

The abbreviations in § 86.079–3 apply to this subpart.

§ 86.1204 [Reserved]

§ 86.1205–85 Introduction; structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to determine evaporative emission levels from gasoline-fueled heavy-duty vehicles.

(b) Three topics are addressed in this subpart. §§ 86.1206–85 through 86.1215–85 set forth specifications and equipment requirements; §§ 86.1216–85 through 86.1226–85 discuss calibration methods and frequency; test procedures and data requirements are listed (in approximate order of performance) in §§ 86.1227–85 through 86.1245–85.

§ 86.1206–85 Equipment required; overview.

This subpart specifies procedures for testing of gasoline-fueled heavy-duty vehicles. Equipment required and specifications are as follows:

(a) *Evaporative emissions tests.* § 86.1207–85 specifies the necessary equipment.

(b) *Fuel, analytical gas, and driving schedule specifications.* Fuel specifications for emission testing and for service accumulation are specified in § 86.1213–85. Analytical gases are specified in § 86.1214–85. Both vehicle preconditioning for the diurnal loss test and vehicle operation prior to the hot soak loss test include operation on a chassis dynamometer. The driving cycle (EPA heavy-duty vehicle urban dynamometer driving schedule) is specified in § 86.1215–85.

§ 86.1207–85 Sampling and analytical system; evaporative emissions.

The following is a description of the components which will be used in evaporative emissions sampling systems for testing under this subpart.

(a) *Evaporative emission measurement enclosure.* The enclosure shall be readily sealable, rectangular in shape, with space for personnel access to all sides of the vehicle. When sealed, the enclosure shall be gas tight in accordance with § 86.1217–81. Interior surfaces must be impermeable to hydrocarbons. At least one surface shall be constructed of flexible, impermeable material to allow for minor volume changes which result from temperature changes. No interior surface temperatures shall be less than 68°F (20°C).

(b) *Evaporative emission hydrocarbon analyzer.* A hydrocarbon analyzer utilizing the hydrogen flame ionization principle (FID) shall be used to monitor the atmosphere within the enclosure. Instrument bypass flow may be returned to the enclosure. The FID shall have a response time to 90 percent of final reading of less than 1.5 seconds, and be capable of meeting performance requirements expressed as a function of C_{std}, where C_{std} is the specific enclosure hydrocarbon level, in ppm, corresponding to the evaporative emission standard.

(1) Stability of the analyzer shall be better than 0.01 C_{std} ppm at zero and span over a 15-minute period on all ranges used.

(2) Repeatability of the analyzer, expressed as one standard deviation, shall be better than 0.005 C_{std} ppm on all ranges used.

(c) *Evaporative emission hydrocarbon date recording system.* The electrical output of the FID shall be recorded at least at the initiation and termination of each diurnal and hot soak. The recording may be by means of a strip chart potentiometric recorder, by use of an online computer system, or by other suitable means. In any case, the recording system must have operational characteristics (signal to noise ratio, speed of response, etc.) equivalent to or better than those of the signal source being recorded, and must provide a permanent record of results. The record shall show a positive indication of the initiation and completion of each soak.

(d) *Tank fuel heating system.* The tank fuel heating system shall consist of a heat source and a temperature controller. A typical heat source is a 2000 W heating pad. Other sources may be used as required by circumstances. The temperature controller may be manual, such as a variable voltage transformer, or may be automated. The heating system must not cause hot spots on the tank wetted surface which could cause local overheating of the fuel. Heat must not be applied to the vapor in the tank above the liquid fuel. The temperature controller must be capable of controlling the fuel tank temperature during the diurnal soak to within ±3°F (1.7°C) of the following equation:

$$F = T_o + 0.4t$$

or for SI units:

$$C = T_o + (2/9)t$$

Where:
F = Temperature in °F
C = Temperature in °C
t = Time since start of test in minutes
T_o = Initial temperature in °F (or in °C for SI units)

(e) *Temperature recording system.* Strip chart recorder(s) or an automatic data processor shall be used to record enclosure ambient and vehicle fuel tank temperature at least once every minute. The temperature recorder or data processor shall have a time accuracy of ± 15s, a time precision of ± 15s and be capable of resolving temperature to ± 0.75°F (0.42°C). The temperature recording system (recorder and sensor) shall have an accuracy of ± 3°F (1.7°C). Two ambient temperature sensors, connected to provide one average output, shall be located in the enclosure. These sensors shall be located at the approximate vertical centerline of each side wall extending 4 inches (nominally) into the enclosure at a height of 3 ± 0.5 ft (0.9 + 0.2 m). The vehicle fuel tank temperature sensor shall be located in the fuel tank so as to measure the temperature of the prescribed test fuel at the approximate mid-volume of the fuel. Manufacturers shall arrange that vehicles furnished for testing at Federal certification facilities be equipped with iron-constantan Type J thermocouples for measurement of fuel tank temperature.

(f) *Purge blower.* One or more portable or fixed blowers shall be used to purge the enclosure. The blowers shall have sufficient flow capacity to reduce the inclosure hydrocarbon concentration from the test level to the ambient level between tests. Actual flow capacity will depend upon the time available between tests.

(g) *Mixing blower.* One or more blowers or fans with a total capacity of 250 to 750 cfm per 1000 ft³ of enclosure volume shall be used to mix the contents of the enclosure during evaporative emission testing. The mixing blower(s) shall be arranged such that a uniform concentration is maintained. No portion of the air stream shall be directed towards the vehicle.

§ 86.1208 [Reserved]

§ 86.1209 [Reserved]

§ 86.1210 [Reserved]

§ 86.1211 [Reserved]

§ 86.1212 [Reserved]

§ 86.1213–85 Fuel specifications.

(a) Gasoline having the following specifications will be used in emissions testing.

Item	ASTM	Leaded	Unleaded
Octane, research, minimum	D2699	96	93
Sensitivity, minimum		7.5	7.5
Lead (organic), grams/U.S. gallon		[1] 1.4	0.00–0.05
Distillation range:			
IBP, °F	D86	75–95	75–95
10 pct point, °F	D86	120–135	120–135
50 pct point, °F	D86	200–230	200–230
90 pct point, °F	D86	300–325	300–325
EP, °F (maximum)	D86	415	415
Sulphur, weight percent, maximum	D1266	0.10	0.10
Phosphorous, grams/U.S. gallon, maximum		0.01	0.005
RVP, pounds per square inch	D323	8.7–9.2	8.7–9.2
Hydrocarbon composition:			
Olefins, percent maximum	D1319	10	10
Aromatics, percent maximum	D1319	35	35
Saturates	D1319	[2]	[2]

[1] Minimum.
[2] Remainder.

(b) Gasoline representative of commercial gasoline which will be generally available through retail outlets shall be used in service accumulation. For leaded gasoline the minimum lead content shall be 1.4 grams per U.S. gallon, except that where the Administrator determines that vehicles represented by a test vehicle will be operated using gasoline of different lead content than that prescribed in this paragraph, he may consent in writing to use a gasoline with a different lead content. The octane rating of the gasoline used shall be no higher than 1.0 research octane number above the minimum recommended by the manufacturer and have a minimum sensitivity of 7.5 octane numbers, where sensitivity is defined as the research octane number minus the motor octane number. The Reid vapor pressure of the gasoline used shall be characteristic of the motor fuel used during the season in which the service accumulation takes place.

(c) The specification range of the gasoline to be used under paragraph (b) of this section shall be recorded.

§ 86.1214–85 Analytical gases.

(a) Analyzer gases.

(1) Gases for the hydrocarbon analyzer shall be single blends of propane using air as the diluent.

(2) Fuel for the evaporative emission enclosure FID shall be a blend of 40±2% hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response. 98 to 100 percent hydrogen fuel may be used with advance approval by the Administrator.

(3) The allowable zero air impurity concentration shall not exceed 1 ppm equivalent carbon response.

(4) "Zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(5) The use of proportioning and precision blending devices to obtain the required analyzer gas concentrations is allowable provided their use has been approved in advance by the Administrator.

(b) Calibration gases shall be traceable to within ±1 percent of NBS gas standards.

(c) Span gases shall be accurate to within ±2 percent of true concentration, where true concentration refers to NBS gas standards.

§ 86.1215–85 EPA heavy-duty vehicle (HDV) urban dynamometer driving schedule.

(a) The EPA dynamometer driving schedule for heavy-duty vehicles is a 1060 second transient speed versus time cycle which is designed to simulate gasoline-fueled HDV operation in urban areas. A second by second listing of this schedule is given in Appendix I(d) of this part. Thirty-three percent of the cycle is idle operation, and the average vehicle speed is 18.9 mph (30.4 km/hr).

(b) The speed tolerance at any given time on the transient speed vs. time driving schedule is defined by upper and lower limits. The upper limit is 4 mph (6.4 km/hr) higher than the highest point on the trace within 1 second of the given time. The lower limit is 4 mph (6.4 km/hr) lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as may occur during gear changes) are acceptable provided they occur for less than 2 seconds on any occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences.

(c) The Administrator will use this driving schedule when conducting evaporative emission tests.

§ 86.1216–85 Calibrations; frequency and overview.

(a) Calibrations shall be performed as specified in §§ 86.1217–85 through 86.1228–85.

(b) At least yearly or after any maintenance which could alter background emission levels, enclosure background emission measurements shall be performed.

(c) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the hydrocarbon analyzer (see § 86.1221–85).

(2) Calibrate the dynamometer. If the dynamometer receives a weekly performance check (and remains within calibration) the monthly calibration need not be performed (see § 86.1218–85).

(3) Perform a hydrocarbon retention check and calibration on the evaporative emission enclosure (see § 86.1217–85).

§ 86.1217–85 Evaporative emission enclosure calibrations.

The calibration of the evaporative emission enclosure consists of three parts: Initial and periodic determination of enclosure background emissions; initial determination of enclosure internal volume; and periodic hydrocarbon retention check and calibration.

(a) *Initial and periodic determination of enclosure background emissions.* Prior to its introduction into service, annually thereafter, and after any repair which can affect the enclosure background emissions, the enclosure shall be checked to determine that it does not contain materials which will themselves emit hydrocarbons. Proceed as follows:

(1) Zero and span (calibrate if required) the hydrocarbon analyzer.

(2) Purge the enclosure until a stable background hydrocarbon reading is obtained.

(3) Turn on the mixing blower (if not already on).

(4) Seal enclosure and measure background hydrocarbon concentration, enclosure temperature, and barometric pressure. These are the initial readings C_{HCi}, T_i, and P_{Bi} for the enclosure background determination.

(5) Allow the enclosure to stand undisturbed without sampling for four hours.

(6) Measure the hydrocarbon concentration on the same FID. This is the final concentration, C_{HCf}. Also measure final temperature and barometric pressure.

(7) Calculate the mass change of hydrocarbons in the enclosure according to the equations in paragraph (d) of this section. The enclosure background emissions shall not be greater than 0.4g for the 4 hours.

(b) *Initial determination of enclosure internal volume.* Prior to its introduction into service the enclosure internal volume shall be determined by the following procedure.

(1) Carefully measure the internal length, width and height of the enclosure, accounting for irregularities (such as braces, cooling system components, etc.) and calculate the internal volume.

(2) Perform an enclosure calibration check according to paragraphs (c) (1) through (7) of this section.

(3) If the calculated mass does not agree within ±2 percent of the injected propane mass, then corrective action is required.

(c) *Hydrocarbon retention check and calibration.* The hydrocarbon retention check provides a check upon the calculated volume and also measures the leak rate. Prior to its introduction into service and at least monthly thereafter the enclosure leak rate shall be determined as follows:

(1) Zero and span (calibrate if required) the hydrocarbon analyzer.

(2) Purge the enclosure until a stable background hydrocarbon reading is obtained.

(3) Turn on the mixing blower(s) (if not already on).

(4) Seal enclosure and measure background hydrocarbon concentration, temperature and barometric pressure. These are the initial readings (C_{HCi}, T_i and P_{Bi} for the enclosure calibration.

(5) Inject into the enclosure a known quantity of pure propane. (4g is a convenient quantity.) The propane may be measured by volume flow or by mass measurement. The method used to measure the propane shall have an accuracy and precision of ±0.5 percent of the measured value.

(6) After a minimum of 5 minutes of mixing, analyze the enclosure atmosphere for hydrocarbon content; also record temperature and pressure. These measurements are the final readings for the enclosure calibration as well as the initial readings for the retention check.

(7) To verify the enclosure calibration calculate the mass of propane using the measurements taken in steps (4) and (6) using the equations in paragraph (d) of this section. This quantity must be within ±2 percent of that measured in step (5) above.

(8) Allow the enclosure to remain sealed for a minimum of 4 hours without sampling and with the mixing blower(s) operating. After 4 hours analyze the enclosure atmosphere for hydrocarbon content; record temperature and barometric pressure. These are the final readings for the hydrocarbon retention check.

(9) Calculate the hydrocarbon mass using the equations in paragraph (d) of this section and the readings taken in (8). It may not differ by more than ±4 percent of the value in step (6).

(d) *Calculations.* The calculation of net hydrocarbon mass change is used to determine enclosure background and leak rate. It is also used to check the enclosure volume measurements. The mass change is calculated from the initial and final readings of hydrocarbon concentration, temperature and pressure according to the following equation:

$$M_{HC}=kV\times 10^{-4}\left[\frac{C_{HCf}P_{Bf}}{T_f}-\frac{C_{HCi}P_{Bi}}{T_i}\right]$$

Where:

M_{HC}=Hydrocarbon mass change, g.
C_{HC}=Hydrocarbon concentration as ppm carbon.
V=Enclosure volume, ft^3 (m^3), as measured in paragraph (b)(1) of this section.
P_B=Barometric pressure, in. Hg (kPa).
T=Enclosure ambient temperature, R(K).
k=3.05, for SI units k=17.68.
i=Indicated initial reading.
f=Indicates final reading.

Note.—Hydrocarbon concentration is stated in ppm carbon, that is, ppm propane x 3. Expressions in parentheses are for SI units.

§ 86.1218–85 Dynamometer calibration.

(a) The dynamometer shall be calibrated at least once each month or performance verified at least once each week and then calibrated as required. The calibration shall consist of the manufacturer's recommended calibration procedure plus a determination of the dynamometer frictional power absorption. If the dynamometer is to be used for driving only the reference (transient) schedule, the frictional power absorption needs to be determined only at 50.0 mph (80.5 km/hr). If the dynamometer is to be used for driving the steady-state cycle, the frictional power absorption needs to be determined through the range of 15 to 50 mph. One method for determining dynamometer frictional power absorption at 50.0 mph (80.5 km/hr) is described below. The same general method can be used at other speeds. Other methods may be used if shown to yield equivalent results. The measured absorbed road power includes the dynamometer friction as well as the power absorbed by the power absorption unit. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll(s) is (are) allowed to coastdown. The kinetic energy of the system is dissipated by the dynamometer. This method neglects the variations in roll bearing friction due to the drive axle weight of the vehicle. In the case of dynamometers with paired rolls, the inertia and power absorption of the free (rear) roll may be neglected if its inertia is less than 3.0 percent of the total equivalent inertia required for vehicle testing.

(1) Devise a method to determine the speed of the roll(s) to be measured for power absorption. A fifth wheel, revolution pickup, or other suitable means may be used.

(2) Place a vehicle on the dynamometer or devise another method of driving the dynamometer.

(3) If the dynamometer is capable of simulating more than a single inertia mass, engage the inertial flywheel or other inertial simulation system for the most common vehicle mass category for which the dynamometer is used. In addition, other vehicle mass categories may be calibrated, if desired.

(4) Drive the dynamometer up to 50 mph (80.5 km/hr).

(5) Record indicated road power.

(6) Drive the dynamometer up to 60 mph (96.9 km/hr).

(7) Disengage the device used to drive the dynamometer.

(8) Record the time for the dynamometer roll(s) to coastdown from 55.0 mph (88.5 km/hr) to 45.0 mph (72.4 km/hr).

(9) Adjust the power absorption unit to a different level.

(10) Repeat steps (4) to (8) above sufficient times to cover the range of road power used.

(11) Calculate absorbed road power (HP_d). (See paragraph (c) of this section.)

(12) Plot indicated road load power at 50 mph (80.5 km/hr) versus road load power at 50 mph (80.5 km/hr).

(b) The performance check consists of conducting a dynamometer coastdown and comparing the coastdown time to that recorded during the last calibration. If the coastdown times differ by more than 1 second or by 5 percent of the time recorded during the last calibration, whichever is greater, a new calibration is required.

(c) Calculations. The road load power actually absorbed by each roll assembly (or roll-inertia weight assembly) of the dynamometer is calculated from the following equation:

$$HP_d=(\tfrac{1}{t})\,(W/32.2)\,(V_1^2-V_2^2)/550t$$

Where:

HP_d=Power, horsepower (kilowatts)
W=Equivalent inertia, lb (kg)
V_1=Initial velocity, ft/s (m/s) (55 mph=80.5 km/h=80.67 ft/s=24.58 m/s)
V_2=Final velocity, ft/s (m/s) (45 mph=72.4 km/h=66 ft/s=20.11 m/s)
t=Elapsed time for rolls to coast from 55 mph to 45 mph (88.5 to 72.4 km/hr).

(Expressions in parenthesis are for SI units). When the coastdown is from 55 to 45 mph (88.5 to 72.4 km/hr) the above equation reduces to:

$HP_d=0.06073\,(W/t)$

For SI units:
$HP_d=0.09984\,(W/t)$

The total road load power actually absorbed by the dynamometer is the sum of the absorbed road load power of each roll assembly.

§ 86.1210 [Reserved]

§ 86.1220 [Reserved]

§ 86.1221–85 Hydrocarbon analyzer calibration.

The FID hydrocarbon analyzer shall receive the following initial and periodic calibration.

(a) Initial and periodic optimization of detector response. Prior to its introduction into service and at least annually thereafter the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. Alternate methods yielding equivalent results to the procedure listed below may be used.

(1) Follow the manufacturer's instructions for instrument startup and basic operating adjustment using the appropriate fuel and zero-grade air.

(2) Optimize on the most common operating range. Introduce into the analyzer, a propane in air mixture with a propane concentration equal to approximately 90 percent of the most common operating range.

(3) Select an operating fuel flow rate that will give near maximum response and least variation in response with minor fuel flow variations.4

(4) To determine the optimum air flow, use the fuel flow setting determined above and vary air flow.

(5) After the optimum flow rates have been determined, they are recorded for future reference.

(b) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the FID hydrocarbon analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples.

(1) Adjust analyzer to optimize performance.

(2) Zero the hydrocarbon analyzer with zero-grade air.

(3) Calibrate on each normally used operating range with propane-in-air calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

§ 86.1222 [Reserved]

§ 86.1223 [Reserved]

§ 86.1224 [Reserved]

§ 86.1225 [Reserved]

§ 86.1226–85 Calibration of other equipment.

Other test equipment used for testing shall be calibrated as often as required by the manufacturer or as necessary according to good practice.

§ 86.1227–85 Test procedures; overview.

(a) The overall test consists of prescribed sequences of fueling, parking, and operating conditions. Vehicles are tested only for evaporative emissions.

(b) The evaporative emission test (gasoline-fueled vehicles only) is designed to determine hydrocarbon evaporative emissions as a consequence of diurnal temperature fluctuation, urban driving and hot soaks during engine-off periods. It is associated with a series of events representative of heavy-duty vehicle operation, which result in hydrocarbon vapor losses. The test procedure is designed to measure:

(1) Diurnal breathing losses resulting from daily temperature changes, measured by the enclosure technique;

(2) Running losses from suspected sources (if indicated by engineering analysis or vehicle inspection) resulting from a simulated trip on a chassis dynamometer, measured by carbon traps; and

(3) Hot soak losses which result when the vehicle is parked and the hot engine is turned off, measured by the enclosure technique.

§ 86.1228–85 Transmissions.

(a) All test conditions, except as noted, shall be run in a manner representative of in-use operation, and where appropriate, according to the manufacturer's recommendation to the ultimate purchaser.

(b) Except for the first idle mode, idle modes less than one minute in length shall be run with automatic transmissions in "Drive" and the wheels braked; manual transmissions shall be in gear with the clutch disengaged, except first idle. The first idle mode and idle modes longer than one minute in length shall be run with automatic transmissions in "Neutral," and manual transmissions shall be in "Neutral" with the clutch engaged (clutch may be disengaged for engine start-up).

(c) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired operation.

(d) Accelerations shall be driven smoothly according to the manufacturer's recommendation to the ultimate purchaser. For manual transmissions, the operator shall accomplish each shift with minimum time. If the vehicle cannot accelerate at the specified rate, the vehicle shall be operated at maximum available power until the vehicle speed reaches the value prescribed for that time in the driving schedule.

(e) For those deceleration modes which decelerate to zero, manual transmission clutches shall be depressed when the speed drops below 15 mph (24.1 km/hr), when engine roughness is evident, or when engine stalling is imminent.

§ 86.1229–85 Dynamometer load determination.

(a) Flywheels, electrical or other means of simulating inertia shall be used. The value of equivalent inertia weight shall be within 250 pounds of the loaded vehicle weight (LVW). Loaded vehicle weight is defined as follows:

(1) For test vehicles which have an actual weight less than 0.5×(GVWR),

LVW = 0.5×(Gross Vehicle Weight Rating)

(2) For test vehicles which have an actual weight (As tested) greater than 0.5×(GVWR),

LVW = Actual Weight of Test Vehicle,

(b) *Power absorption unit adjustment.* (1) The power absorption unit shall be adjusted to reproduce road load power at 50 mph true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in § 86.1218–85 or other suitable means.

(2) The road load power used shall be determined from the following equation:

$$RLP = 0.67\,(H - 0.75)W + 0.00125\,[LVW - (N \times DW)]$$

where

RLP = Road Load Power at 50 mph (horsepower).
H = Vehicle overall maximum height (feet).
LVW = Loaded vehicle weight (pounds).
DW = Vehicle weight supported by the dynamometer (pounds).
N = Number of dynamometer rolls supporting a tire.

or, for vehicles which the manufacturer could have certified by the light-duty trucks (LDT) test procedure as allowed in the optional certification provision (§ 86.074–1(b)), the manufacturer may determine the road load power by an alternate procedure (including coastdown) if approved in advance by the Administrator. For vehicles which the manufacturer does choose to certify by the light-duty truck test procedure, the evaporative emission test procedure (and standard) will be that specified by the light-duty truck regulations.

§ 86.1230–85 Test sequence; general requirements.

The test sequence shown in Figure M82–1 shows the steps encountered as the test vehicle undergoes the test procedure. Ambient temperature levels encountered by the test vehicle throughout the test sequence shall not be less than 68°F (20°C) nor more than 86°F (30°C). The vehicle shall be approximately level during all phases of the test sequence to prevent abnormal fuel distribution.

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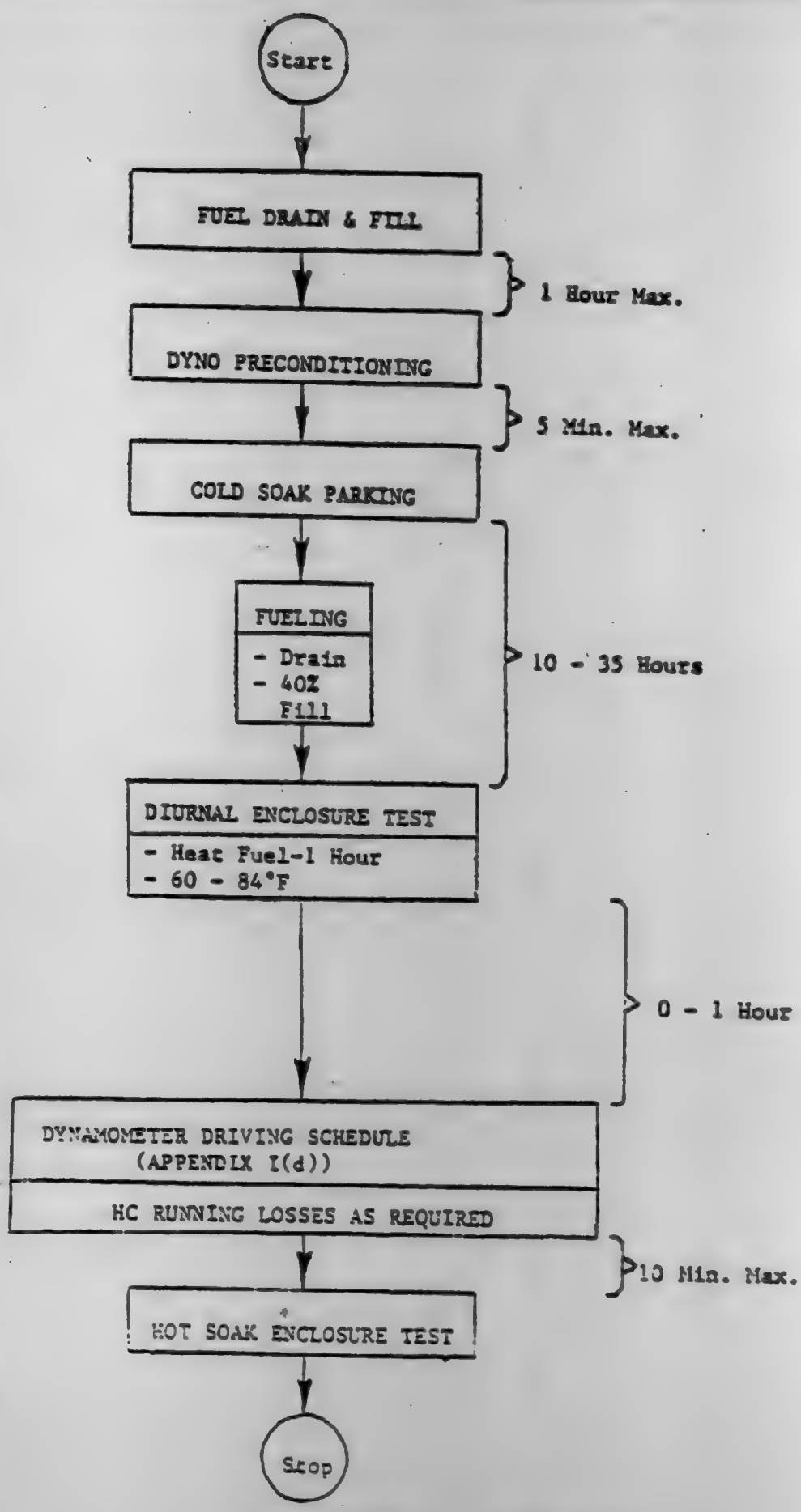

Figure M85-1 - Test Sequence

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§ 86.1231–85 Vehicle preparation.

(a) Prepare the fuel tank(s) for recording the temperature of the prescribed test fuel at the approximate mid-volume of the fuel when the tank is 40% full.

(b) Provide additional fittings and adapters, as required, to accommodate a fuel drain at the lowest point possible in the tank(s) as installed on the vehicle.

(c)(1) Any vapor storage device which adsorbs HC vapors and subsequently releases them to the engine induction system during vehicle operation shall be subjected to a minimum of 30 load-purge cycles or the equivalent thereof (4,000 miles or more of actual in-use vehicle service accumulation shall be considered equivalent). One load-purge cycle shall be accomplished by conducting one of the following procedures:

(i) *Vehicle Procedure.* Park a fully-warm vehicle (a vehicle that has been driven for at least 15 minutes) for a time period of at least 3 hours. Fill the fuel tank(s) to the prescribed "tank fuel volume" with specified test fuel (§ 86.1213–85) at room temperature. Then drive the vehicle through at least one cycle of the HDV reference (transient) urban dynamometer driving schedule.

(ii) *Laboratory Procedure.* Flow gasoline vapors into a pre-purged vapor storage device until at least 10 percent of the input HC mass flow rate is passing through the device. Purge the device with a volume of air which is at least as great as, and which has a temperature no higher than that which would be drawn through the device if it were installed on the test vehicle and the vehicle was operated according to the HDV reference (transient) urban dynamometer driving schedule. The vapor flow rate, the method used to generate the vapors, the air flow rate, and the air temperature shall be recorded. If pre-blended gas is used, then the composition and characteristics of the gas shall be recorded.

(2) Ten load-purge cycles accumulated immediately prior to testing shall be conducted according to the method in paragraph (c)(1)(i) of this section. The preceding 20 cycles (minimum) shall be conducted according to either of the methods in paragraph (c)(1)(i) or (ii) of this section.

§ 86.1232–85 Vehicle preconditioning.

(a) The vehicle shall be moved to the test area and the following operations performed:

(1) The fuel tank(s) shall be drained through the provided fuel tank(s) drain(s) and filled to the prescribed "tank fuel volume" with the specified test fuel, § 86.1213–85. For the above operations the evaporative emission control system shall neither be abnormally purged nor abnormally loaded.

(2) Within one hour of being fueled the vehicle shall be placed, either by being driven or pushed, on a dynamometer and operated through one HDV urban dynamometer driving schedule, (see § 86.1251–85). A test vehicle may not be used to set dynomometer horsepower.

(3) The Administrator may choose to conduct additional preconditioning to insure that the evaporative emissions control system is stabilized. The additional preconditioning shall consist of an intial one hour minimum soak and one, two or three driving cycles of the dynamometer driving schedule, as described in paragraph (a)(2) of this section, each followed by a soak of at least one hour with engine off, engine compartment cover closed and cooling fan off. The vehicle may be driven off the dynamometer for the soak period which follows each driving cycle.

(b) After completion of preconditioning the vehicle shall be driven off the dynamometer and parked. The engine shall be turned off within five minutes of completion of preconditioning. The vehicle may be pushed to its parking location after its engine has been turned off.

§ 86.1233–85 Diurnal breathing loss test.

(a) Following vehicle preparation and vehicle preconditioning procedures described in §§ 86.1231–85 and 86.1232–85 the diurnal test shall start not less than 10 or more than 35 hours after the end of the preconditioning procedure. The start of vehicle operation shall follow the end of the diurnal test within one hour.

(b) The evaporative emissions enclosure shall be purged for several minutes immediately prior to the test.

Note.—If at any time the hydrocarbon concentration exceeds 15,000 ppm C the enclosure should be immediately purged. This concentration provides a 4:1 safety factor against the lean flammability limit.

(c) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the test.

(d) If not already on, the evaporative enclosure mixing fan(s) shall be turned on at this time.

(e) For vehicles with multiple tanks, the largest tank shall be designated as the primary tank and shall be heated in accordance with the procedures described in paragraph (l) of this section. All other tanks shall be designated as auxiliary tanks and shall undergo a similar heat build such that the fuel temperature shall be within 3°F (1.6°C) of the primary tank.

(f) Immediately prior to the diurnal breathing loss test, the fuel tank(s) of the prepared vehicle shall be drained and recharged with the specified test fuel, as defined in § 86.1213–85, to the prescribed "tank fuel volume", as defined in § 86.078–2. The temperature of the fuel prior to its delivery to the fuel tank shall be between 50 and 60°F (10 and 16°C). The fuel tank cap(s) is not installed until the diurnal heat build begins.

(g) The test vehicle, with the engine shut off, shall be moved into the evaporative emission enclosure, the test vehicle windows and any storage compartments shall be opened, the fuel tank temperature sensor shall be connected to the temperature recording system, and, if required, the heat source shall be properly positioned with respect to the fuel tank(s) and/or connected to the temperature controller.

(h) The temperature recording system shall be started.

(i) The fuel may be artificially heated to the starting diurnal temperature, 60±2°F (16±1.1°C).

(j) When the fuel temperature recording system reaches at least 58°F (14°C), immediately:

(1) Install fuel tank cap(s).

(2) Turn off purge blowers, if not already off at this time.

(3) Close and seal enclosure doors.

(k) When the fuel temperature recording system reaches 60±2°F (16±1.1°C) immediately:

(1) Analyze enclosure atmosphere for hydrocarbons and record. This is the initial (time=0 minutes) hydrocarbon concentration, C_{HCi} (see § 86.1243–85).

(2) Record barometric pressure reading. This is the initial (time=0 minutes) barometric pressure, P_{bi} (see § 86.1243–85).

(3) Record enclosure ambient temperature. This is the initial (time=0 minutes) enclosure ambient temperature, T_i (see § 86.1243–85).

(4) Start diurnal heat build and record time. This commences the 60±2 minute test period.

(l) The fuel shall be heated in such a way that its temperature change conforms to the following function to within ±3°F (±1.6°C):

$F = T_o + 0.4t$

for SI units, $C = T_o + (2/9)t$

Where:

F = fuel temperature, F°

C = fuel temperature, F°

t = fuel temperature, F°

T_o = initial temperature in °F (or in °C for SI units).

After 60±2 minutes of heating, the fuel temperature rise shall be 24±°F (13.3±0.5°C).

(m) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the end of the diurnal test.

(n)(1) The end of the diurnal breathing loss test occurs 60±2 minutes after the heat build begins (paragraph (k)(4)). Analyze the enclosure atmosphere for hydrocarbon and record. This is the final (time=60 minutes) hydrocarbon concentration, C_{HCf} (see § 86.1234–85). The time (or elapsed time) of this analysis shall be recorded.

(2) Record barometric pressure reading. This is the final (time=60 minutes) barometric pressure, P_{bf} (see § 86.1234–85).

(3) Record enclosure ambient temperature. This is the final (time=60 minutes) enclosure ambient temperature, T_f (see § 86.1234–85).

(o) The heat source shall be turned off and the enclosure doors unsealed.

(p) The heat source shall be moved away from the vehicle, if required, and/or disconnected from the temperature controller, the fuel tank temperature sensor shall be disconnected from the temperature recording system, and the test vehicle windows and any storage compartments may be closed. The vehicle shall be either driven or pushed out of the evaporative emission enclosure.

§ 86.1234–85 Running loss test.

If an engineering analysis or vehicle inspection indicates the possibility of evaporative emissions during vehicle operation, evaporative emission running loss measurements shall be made during vehicle operation on the dynamometer in preparation for the hot soak test. Since running loss measurements cannot be made in the enclosure, the equipment described in Subpart B, § 86.177–17 for running loss measurements shall be used to collect these emissions.

(a) The procedure in § 86.1235–85 shall be followed.

(b) Prior to the initiation of the dynamometer hot soak preparation run, the vapor loss measurement system shall be connected to all suspected sources of running loss evaporative emissions.

(c) Operation on the dynamometer prior to the hot soak test shall be conducted according to the procedures of §§ 86.1235–85 through 86.1237–85.

(d) Within one minute after the end of the hot soak preparation run, the vapor loss measurement system shall be disconnected from the vehicle and the inlets and outlets sealed.

(e) Within one hour from the end of the running loss measurement, the vapor collection traps shall be weighed.

§86.1235–85 Dynamometer procedure.

(a) The dynamometer run consists of one HDV urban dynamometer driving schedule cycle starting within one hour after completion of the diurnal loss test. This run includes engine startup (with all accessories turned off) and operation over the driving schedule.

(b) During dynamometer operation, one or more cooling fans shall be positioned so as to direct cooling air to the vehicle in an appropriate manner. The engine compartment cover shall be closed. If, however, the manufacturer can show that the engine compartment cover must be open to provide a test representative of field operation, the Administrator will allow the engine cover to be open. In the case of vehicles with front engine compartments, the fan(s) shall be squarely positioned within 12 inches of the vehicle. In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan(s) shall be placed in a position to provide sufficient air to maintain vehicle cooling. The fan capacity shall normally not exceed 10,600 (cfm (5.0 m^3/s)). If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, and that such additional cooling is needed to provide a representative test, the fan capacity may be increased or additional fans used.

(c) The vehicle speed as measured from the dynamometer rolls shall be used.

(d) Practice runs over the prescribed driving schedule may be performed at test points, provided emissions are not measured, for the purpose of finding the minimum throttle action to maintain the proper speed-time relationship, or to permit test procedure adjustments.

Note.—When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. This rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch, or chain.

(e) Drive wheel tires shall be inflated to the maximum gauge pressure recommended to the ultimate purchaser. If drive wheel tires have a maximum recommended inflation gauge pressure of less than 45 psi (310 kPa), they may be inflated up to a gauge pressure of 45 psi (310 kPa) in order to prevent tire damage. The drive wheel tire pressure shall be recorded with the test results.

(f) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating at 30 mph (48 km/h) using a non-test vehicle or as recommended by the dynamometer manufacturer.

(g) If the dynamometer horsepower must be adjusted manually, the power shall be set within 1 hour prior to dynamometer operation preceding the hot soak test. The test vehicle shall not be used to make the adjustment.

(h) If the dynamometer horsepower is selected by automatic control, the power may be set anytime prior to the beginning of the driving cycle.

(i) Multiple drive axle vehicles will be tested in one axle drive mode of operation. Full time multiple drive axle vehicles will have all but one axle temporarily disengaged by the vehicle manufacturer. Multiple drive axle vehicles which can be manually shifted to a one axle drive mode will be tested in the one axle drive mode of operation, unless this would pose a safety hazard, in which case all but one axle will be temporarily disengaged by the vehicle manufacturer.

§ 86.1236–85 Engine starting and restarting.

(a) Starting: (1) The engine shall be started (includinding choke operation) accaording to the manufacturers recommended starting procedures in the owner's manual. The initial idle period shall begin when the engine starts.

(2) The operator may use the choke, accelerator pedal, etc., where necessary to keep the engine running.

(3) If the manufacturer's operating instructions in the owner's manual do not specify a warm engine starting procedure, the engine shall be started by depressing the accelerator pedal about half way and cranking the engine until it starts.

(4) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start shall be determined. If failure to start is an operational error, the vehicle shall be rescheduled for the running loss test. If failure to start is caused by a vehicle malfunction, corrective action of less than 30 minutes duration may be taken, and the test continued. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, and corrective action may be taken. The reasons for the malfunction (if determined) and the

corrective action taken shall be recorded.

(b) *Stalling:* (1) If the engine stalls during an idle period, the engine shall be restarted immediately and the driving schedule continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts, the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle shall then be restarted and accelerated to the speed required at that point in the driving schedule and the driving schedule continued. During acceleration to this point, shifting shall be performed in accordance with § 86.1228–85.

(3) If the vehicle will not restart within one minute, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for testing. The reason for the malfunction (if determined) and the corrective action taken shall be recorded.

§ 86.1237–85 Dynamometer runs.

(a) The vehicle shall be either driven or pushed onto the dynamometer; however, if driven, the period of engine operation between the end of the diurnal loss test and beginning of the hot soak preparation run shall not exceed 3 minutes, and the vehicle shall be driven at minimum throttle. The dynamometer run shall follow the diurnal heat build by not more than one hour. The vehicle shall be stored prior to dynamometer operation in such a manner that it is not exposed to precipitation (e.g., rain or dew).

(b) The following steps shall be taken for the dynamometer run:

(1) Place drive wheels of vehicle on the dynamometer.

(2) Position the cooling fan(s).

(3) Attach an exhaust tube to the vehicle tailpipe(s).

(4) Start the engine.

(5) Turn on the cooling fan (s).

(6) Operate the vehicle according to the dynamometer driving schedule (§ 86.1215–85).

(7) At the end of the last deceleration, disconnect the exhaust tube from the vehicle tailpipe(s) and drive vehicle from the dynamometer.

§ 86.1238–85 Hot soak test.

The one-hour hot-soak evaporative emission test shall be conducted immediately following one cycle of the dynamometer driving schedule.

(a) Prior to the completion of the dynamometer cycle, the evaporative emission enclosure shall be purged for several minutes.

(b) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the test.

(c) If not already on, the evaporative enclosure mixing fan(s) shall be turned on at this time.

(d) Upon completion of the dynamometer run the exhaust tube shall be disconnected from the vehicle tailpipe(s), the cooling fan(s) shall be moved, and the vehicle shall be disconnected from the dynamometer and driven at minimum throttle to the vehicle entrance of the enclosure.

(e) The vehicle's engine must be stopped before any part of the vehicle enters the enclosure. The vehicle may be pushed or coasted into the enclosure.

(f) The test vehicle windows and any storage compartments shall be opened, if not already open.

(g) The temperature recording system shall be started and the time of engine shut off shall be noted on the evaporative emissions hydrocarbon data recording system.

(h) The enclosure doors shall be closed and sealed within four minutes of engine shutdown and within ten minutes after the end of the dynamometer run.

(i) The 60±0.5 minute hot soak begins when the enclosure doors are sealed. The enclosure atmosphere shall be analyzed and recorded. This is the initial (time=0 minutes) hydrocarbon concentration, C_{HCi}, for use in calculating evaporative losses, (see § 86.1243–85).

(j) The test vehicle shall be permitted to soak for a period of one hour in the enclosure.

(k) The FID hydrocarbon analyzer shall be zeroed and spanned immediately prior to the end of the test.

(l) At the end of the 60±0.5 minute test period, the enclosure atmosphere shall again be analyzed and the time recorded. This is the final (time=60 minutes) hydrocarbon concentration, C_{HCf}, for use in calculating evaporative losses, (see § 86.1243–85). This operation completes the evaporative emission measurement procedure.

§ 86.1239 [Reserved]

§ 86.1240 [Reserved]

§ 86.1241 [Reserved]

§ 86.1242–85 Records required.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: ID number; Manufacturer; Model Year; Engine family; Evaporative emissions family; Basic engine description (including displacement, number of cylinders, and catalyst usage); Engine maximum power rating and rated speed; Fuel system (including number of carburetors, number of carburetor barrels, fuel injection type, fuel tank(s) capacity and location, and number and size (volume and working capacity) of evaporative control canisters, Engine code; Gross vehicle weight rating; Actual curb weight at zero miles; Actual road load at 50 mph; Transmission configuration; Axle ratio; Vehicle line; Odometer reading; Idle rpm; and Drive wheel tire pressure, as applicable.

(g) Indicated road load power absorption at 50 mph (80 km/hr) and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, provided the test cell records show the pertinent information.

(h) All pertinent instrument information such as tuning, gain, serial number, detector number and range. As an alternative, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided test cell calibration records show the pertinent instrument information.

(i) Recorder charts: Identify zero, span and enclosure gas sample traces.

(j) Test cell barometric pressure and ambient temperature.

Note.—A central laboratory barometer may be used: *Provided,* That individual test cell barometric pressures are shown to be within ±0.1 percent of the barometric pressure at the central barometer location.

(k) Fuel temperatures as prescribed.

§ 86.1243–85 Calculations; evaporative emissions.

The calculation of the net hydrocarbon mass change in the enclosure is used to determine the diurnal and hot-soak mass emissions. The mass is calculated from initial and final hydrocarbon concentrations in ppm carbon, initial and final enclosure ambient temperatures, initial and final barometric pressures, and net enclosure volume using the following equation:

$$M_{HC} = kV_e \times 10^{-4} \left(\frac{C_{HCf} P_{Bf}}{T_f} - \frac{C_{HCi} P_{Bi}}{T_i} \right)$$

Where:
M_{HC}=Hydrocarbon mass, g.
C_{HC}=Hydrocarbon concentration as ppm carbon.
V_s=Net enclosure volume ft³ (m³) as determined by subtracting 100 ft³ (2.84 m³) (volume of vehicle with windows and any storage compartments open) from the enclosure volume. A manufacturer may use the measured volume of the vehicle (instead of the nominal 100 ft³) provided the measured volume is determined and used for all vehicles tested by that manufacturer.
P_B=barometric pressure, in. Hg (kPa).
T=enclosure ambient temperature, R (K).
k=.208 (12+H/C); for SI units, k=1.2 (12+H/C)
Where:
H/C=Hydrogen-carbon ratio.
H/C=2.33 for diurnal emissions.
H/C=2.2 for hot soak emissions.
i=Indicates initial reading.
f=Indicates final reading.

The final recorded results shall be computed by summing the individual evaporative emissions results determined for the diurnal breathing loss test, running loss test, and the hot soak test.

§ 86.1244 [Reserved]

§ 86.1245 [Reserved]

Authority: Section 202, 206, 301 of the Clean Air Act as amended, 42 U.S.C. 7521, 7525, 7601.

2. Appendix I of Part 86, is amended by adding a new paragraph (d) to read as follows:

Appendix I—Urban Dynamometer Driving Schedules

* * * * *

(d) EPA Urban Dynamometer Driving Schedule for Heavy-Duty Vehicles.

SPEED VERSUS TIME SEQUENCE

Record (sec)	Speed (mph)
0	0.0
1	0.0
2	0.0
3	0.0
4	0.0
5	0.0
6	0.0
7	0.0
8	0.0
9	0.0
10	0.0
11	0.0
12	0.0
13	0.0
14	0.0
15	0.0
16	0.0
17	0.0
18	0.0
19	0.0
20	0.0
21	0.0
22	0.0
23	0.0
24	0.0
25	0.10
26	1.00
27	1.61
28	2.66
29	4.64
30	6.96
31	8.06
32	7.71
33	7.45
34	9.22
35	10.00
36	9.06
37	10.05
38	11.24
39	12.79
40	14.00
41	12.56
42	12.87
43	13.00
44	13.00
45	13.68
46	15.00
47	15.00
48	13.37
49	12.06
50	12.26
51	14.25
52	14.56
53	15.20
54	16.76
55	17.00
56	17.00
57	17.23
58	16.77
59	20.54
60	19.60
61	18.14
62	17.38
63	17.00
64	16.34
65	15.00
66	15.00
67	15.18
68	15.96
69	12.35
70	15.28
71	14.27
72	12.59
73	12.25
74	8.28
75	8.00
76	8.00
77	8.36
78	8.53
79	10.65
80	11.00
81	9.00
82	8.00
83	8.32
84	10.00
85	9.36
86	9.00
87	9.95
88	14.05
89	17.53
90	19.42
91	20.00
92	20.74
93	21.00
94	21.11
95	20.84
96	17.00
97	27.00
98	29.05
99	32.52
100	31.21
101	31.00
102	31.52
103	33.00
104	32.37
105	30.43
106	30.00
107	30.00
108	30.51
109	32.41
110	33.10
111	32.27
112	32.00
113	31.04
114	32.20
115	33.36
116	34.00
117	34.00
118	34.00
119	33.01
120	31.66
121	30.10
122	25.17
123	23.28
124	21.46
125	17.28
126	15.83
127	13.76
128	12.60
129	10.28
130	8.26
131	5.38
132	2.91
133	0.0
134	0.0
135	0.0
136	0.0
137	0.0
138	0.0
139	0.0
140	0.0
141	0.0
142	0.0
143	0.0
144	0.0
145	0.0
146	0.0
147	0.0
148	0.0
149	0.0
150	0.0
151	0.0
152	0.0
153	0.0
154	0.0
155	0.0
156	0.0
157	0.0
158	0.0
159	0.0
160	0.0
161	0.0
162	0.0
163	0.0
164	0.0
165	0.0
166	0.0
167	0.0
168	0.0
169	0.0
170	0.0
171	0.0
172	0.0
173	0.0
174	0.51
175	0.33
176	0.0
177	0.0
178	0.0
179	0.0
180	0.0
181	0.0
182	0.0
183	0.0
184	0.0
185	0.0
186	0.0
187	0.0
188	0.0
189	0.0
190	0.0
191	0.0
192	0.0
193	0.0
194	0.0
195	0.0
196	0.0
197	0.13
198	0.71
199	0.0
200	0.0
201	0.0
202	0.0
203	4.15
204	8.00
205	8.00
206	8.00
207	8.00
208	4.14
209	1.06
210	0.0
211	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
212	0.0
213	0.0
214	0.0
215	0.0
216	0.0
217	0.0
218	0.0
219	0.0
220	0.0
221	0.0
222	0.0
223	0.0
224	0.0
225	0.0
226	0.0
227	0.0
228	0.0
229	0.0
230	0.0
231	0.46
232	1.84
233	0.41
234	0.0
235	0.0
236	0.0
237	0.0
238	0.0
239	0.0
240	0.0
241	0.0
242	0.0
243	0.0
244	0.0
245	0.0
246	0.0
247	0.0
248	0.0
249	0.0
250	0.0
251	0.0
252	0.0
253	0.0
254	0.0
255	0.0
256	0.0
257	0.0
258	0.0
259	0.0
260	0.0
261	0.0
262	0.0
263	0.0
264	0.0
265	0.0
266	0.0
267	0.0
268	0.0
269	0.0
270	0.0
271	0.0
272	0.0
273	0.0
274	0.0
275	0.0
276	0.0
277	0.0
278	0.0
279	0.0
280	0.0
281	0.0
282	0.0
283	0.0
284	0.0
285	0.0
286	0.0
287	0.0
288	0.0
289	0.0
290	0.0
291	0.0
292	0.0
293	0.0
294	0.0
295	0.0
296	0.0
297	0.0
298	0.0
299	0.0
300	0.0
301	0.24
302	0.80
303	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
303	1.42
304	2.00
305	3.05
306	5.63
307	4.00
308	4.00
309	3.34
310	1.37
311	1.06
312	0.0
313	0.0
314	0.0
315	0.0
316	0.0
317	0.0
318	0.0
319	0.23
320	1.38
321	3.00
322	4.11
323	5.00
324	6.02
325	7.18
326	7.33
327	6.40
328	7.00
329	7.00
330	7.00
331	7.00
332	7.00
333	7.43
334	8.00
335	8.00
336	7.09
337	11.06
338	12.89
339	14.49
340	11.46
341	13.08
342	16.56
343	16.00
344	15.84
345	12.32
346	13.00
347	13.00
348	13.00
349	15.00
350	12.00
351	11.73
352	11.00
353	11.00
354	11.00
355	11.90
356	12.89
357	10.36
358	7.26
359	8.95
360	8.66
361	8.68
362	8.00
363	7.84
364	7.00
365	6.53
366	7.89
367	10.57
368	11.00
369	10.10
370	10.74
371	10.42
372	11.00
373	12.46
374	14.77
375	14.06
376	16.20
377	17.00
378	17.00
379	17.00
380	17.00
381	15.02
382	15.71
383	14.00
384	14.98
385	15.36
386	15.78
387	16.00
388	16.00
389	16.35
390	17.41
391	16.56
392	16.00
393	16.00

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
394	21.00
395	21.00
396	21.00
397	20.49
398	20.00
399	19.18
400	19.00
401	18.86
402	18.29
403	19.00
404	19.61
405	20.00
406	20.00
407	20.00
408	20.00
409	20.00
410	19.45
411	20.42
412	21.87
413	20.97
414	20.57
415	22.00
416	22.00
417	22.68
418	23.00
419	23.97
420	25.51
421	29.00
422	29.00
423	28.00
424	30.51
425	31.00
426	30.00
427	30.00
428	30.00
429	30.54
430	31.00
431	31.86
432	31.00
433	31.17
434	32.33
435	33.00
436	33.00
437	33.80
438	34.00
439	35.12
440	36.00
441	36.00
442	34.62
443	33.25
444	32.09
445	32.00
446	32.00
447	32.00
448	32.00
449	32.00
450	32.65
451	33.01
452	34.00
453	33.65
454	32.52
455	32.00
456	32.00
457	32.95
458	33.00
459	33.00
460	33.42
461	34.00
462	34.74
463	35.00
464	35.00
465	35.00
466	35.00
467	35.00
468	35.00
469	35.84
470	37.00
471	38.00
472	37.89
473	38.41
474	39.37
475	39.00
476	39.00
477	38.10
478	39.00
479	39.41
480	40.57
481	41.73
482	42.00
483	41.92
484	40.00

—Continued

	Speed (mph)
	21.00
	21.00
	21.00
	20.49
	20.00
	19.15
	19.00
	18.86
	18.29
	19.00
	19.61
	20.00
	20.00
	20.00
	20.00
	20.00
	19.45
	[illegible]
	21.87
	20.97
	20.27
	22.00
	22.00
	22.66
	23.00
	[illegible]
	25.51
	29.00
	[illegible]
	[illegible]
	35.51
	31.00
	30.00
	[illegible]
	[illegible]
	30.54
	31.00
	31.56
	31.00
	31.17
	[illegible]
	33.00
	[illegible]
	[illegible]
	34.00
	35.12
	36.00
	[illegible]
	34.62
	33.25
	32.09
	[illegible]
	[illegible]
	[illegible]
	[illegible]
	[illegible]
	33.01
	[illegible]
	[illegible]
	[illegible]
	32.52
	[illegible]
	32.00
	32.95
	[illegible]
	33.00
	33.42
	[illegible]
	34.74
	35.00
	[illegible]
	[illegible]
	[illegible]
	35.00
	35.00
	35.54
	37.99
	38.00
	37.69
	38.41
	39.37
	[illegible]
	39.00
	38.10
	39.00
	39.41
	40.57
	41.73
	42.00
	41.92
	40.00

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
485	40.00
486	39.49
487	[illegible]
488	37.00
489	36.01
490	[illegible]
491	33.70
492	[illegible]
493	29.54
494	26.46
495	22.26
496	[illegible]
497	18.76
498	[illegible]
499	[illegible]
500	[illegible]
501	13.13
502	11.97
503	[illegible]
504	9.31
505	[illegible]
506	8.34
507	[illegible]
508	[illegible]
509	[illegible]
510	0.71
511	0.0
512	0.0
513	0.0
514	0.0
515	0.0
516	0.0
517	0.0
518	0.0
519	0.0
520	0.0
521	0.0
522	0.0
523	0.0
524	0.0
525	0.0
526	0.0
527	0.0
528	0.0
529	0.0
530	0.0
531	0.0
532	0.0
533	0.0
534	0.0
535	0.0
536	0.0
537	0.0
538	0.0
539	0.0
540	0.0
541	0.0
542	0.0
543	0.0
544	2.36
545	3.94
546	5.31
547	[illegible]
548	9.42
549	11.15
550	12.73
551	14.76
552	16.05
553	17.41
554	19.72
555	21.52
556	23.35
557	24.63
558	[illegible]
559	[illegible]
560	[illegible]
561	[illegible]
562	30.62
563	[illegible]
564	[illegible]
565	34.18
566	[illegible]
567	37.41
568	38.56
569	[illegible]
570	40.00
571	[illegible]
572	40.00
573	40.00
574	40.00
575	40.00

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
576	40.62
577	41.00
578	41.00
579	41.25
580	42.00
581	42.00
582	42.00
583	[illegible]
584	43.00
585	43.00
586	43.00
587	43.56
588	44.71
589	45.00
590	44.97
591	44.18
592	44.00
593	44.00
594	44.00
595	44.61
596	[illegible]
597	[illegible]
598	[illegible]
599	45.00
600	45.44
601	[illegible]
602	46.00
603	[illegible]
604	47.00
605	47.00
606	47.00
607	[illegible]
608	47.81
609	47.64
610	48.00
611	48.93
612	48.51
613	49.00
614	49.00
615	49.00
616	49.00
617	[illegible]
618	[illegible]
619	[illegible]
620	[illegible]
621	50.00
622	50.00
623	[illegible]
624	[illegible]
625	[illegible]
626	[illegible]
627	[illegible]
628	[illegible]
629	50.00
630	[illegible]
631	[illegible]
632	[illegible]
633	[illegible]
634	[illegible]
635	[illegible]
636	[illegible]
637	[illegible]
638	[illegible]
639	50.00
640	50.00
641	[illegible]
642	50.00
643	[illegible]
644	[illegible]
645	50.00
646	50.00
647	50.00
648	50.00
649	[illegible]
650	50.47
651	[illegible]
652	51.00
653	[illegible]
654	[illegible]
655	[illegible]
656	[illegible]
657	[illegible]
658	52.00
659	52.00
660	52.00
661	52.20
662	53.00
663	53.00
664	53.00
665	[illegible]
666	[illegible]

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
667	[illegible]
668	53.00
669	53.00
670	52.38
671	[illegible]
672	52.56
673	52.31
674	[illegible]
675	[illegible]
676	53.00
677	53.00
678	53.00
679	[illegible]
680	[illegible]
681	53.00
682	[illegible]
683	53.00
684	53.00
685	[illegible]
686	55.00
687	55.00
688	55.00
689	55.00
690	55.00
691	55.00
692	55.00
693	[illegible]
694	55.00
695	[illegible]
696	55.00
697	55.00
698	[illegible]
699	[illegible]
700	55.00
701	[illegible]
702	[illegible]
703	55.00
704	54.63
705	[illegible]
706	[illegible]
707	[illegible]
708	[illegible]
709	[illegible]
710	54.00
711	[illegible]
712	[illegible]
713	[illegible]
714	[illegible]
715	[illegible]
716	[illegible]
717	56.02
718	[illegible]
719	[illegible]
720	[illegible]
721	56.00
722	56.00
723	[illegible]
724	56.00
725	[illegible]
726	56.00
727	56.00
728	[illegible]
729	56.91
730	[illegible]
731	[illegible]
732	[illegible]
733	[illegible]
734	[illegible]
735	[illegible]
736	[illegible]
737	[illegible]
738	56.00
739	56.00
740	[illegible]
741	[illegible]
742	[illegible]
743	[illegible]
744	56.00
745	57.15
746	56.00
747	56.00
748	[illegible]
749	56.00
750	56.00
751	55.63
752	55.00
753	55.00
754	55.00
755	[illegible]
756	55.00
757	55.00

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
758	55.00
759	55.00
760	54.22
761	54.00
762	54.00
763	54.00
764	54.00
765	54.00
766	54.00
767	54.00
768	54.00
769	54.00
770	54.00
771	54.00
772	54.00
773	54.00
774	53.01
775	50.00
776	49.70
777	48.54
778	47.39
779	46.23
780	45.07
781	43.91
782	42.51
783	40.60
784	39.44
785	38.28
786	37.13
787	35.94
788	33.91
789	32.60
790	30.50
791	28.34
792	26.37
793	25.03
794	21.87
795	19.85
796	16.56
797	15.40
798	14.24
799	12.17
800	10.71
801	6.06
802	2.61
803	1.45
804	0.30
805	0.0
806	0.0
807	0.0
808	0.0
809	0.0
810	0.0
811	0.0
812	0.0
813	0.0
814	0.0
815	0.0
816	0.0
817	0.0
818	0.0
819	0.0
820	0.0
821	0.0
822	0.0
823	0.0
824	0.0
825	0.0
826	0.0
827	0.0
828	0.0
829	0.0
830	0.0
831	0.19
832	1.00
833	1.51
834	2.66
835	4.04
836	6.96
837	6.96
838	7.71
839	7.45
840	9.23
841	10.00
842	9.06
843	10.06
844	11.34
845	12.79
846	14.00
847	12.58
848	12.67

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
849	13.00
850	13.00
851	13.68
852	15.00
853	15.00
854	13.97
855	12.68
856	12.26
857	14.29
858	14.58
859	16.20
860	16.78
861	17.00
862	17.00
863	17.23
864	16.77
865	15.84
866	19.00
867	18.14
868	17.58
869	17.00
870	16.34
871	15.00
872	15.00
873	15.00
874	15.96
875	12.35
876	15.26
877	14.27
878	12.59
879	12.25
880	9.26
881	8.00
882	8.00
883	8.38
884	9.53
885	10.69
886	11.00
887	9.00
888	9.00
889	9.32
890	10.00
891	9.36
892	9.00
893	9.25
894	14.33
895	17.53
896	19.41
897	20.00
898	20.74
899	21.00
900	21.11
901	23.84
902	27.00
903	27.00
904	29.05
905	32.52
906	31.01
907	31.00
908	31.62
909	33.00
910	32.37
911	30.43
912	30.00
913	30.00
914	30.51
915	32.41
916	33.00
917	32.27
918	32.00
919	31.04
920	32.20
921	30.36
922	34.06
923	34.06
924	34.00
925	33.01
926	31.86
927	30.10
928	26.17
929	23.39
930	21.46
931	17.28
932	15.63
933	13.76
934	12.60
935	10.30
936	6.76
937	5.38
938	2.91
939	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
940	0.0
941	0.0
942	0.0
943	0.0
944	0.0
945	0.0
946	0.0
947	0.0
948	0.0
949	0.0
950	0.0
951	0.0
952	0.0
953	0.0
954	0.0
955	0.0
956	0.0
957	0.0
958	0.0
959	0.0
960	0.0
961	0.0
962	0.0
963	0.0
964	0.0
965	0.0
966	0.0
967	0.0
968	0.0
969	0.0
970	0.0
971	0.0
972	0.0
973	0.0
974	0.0
975	0.0
976	0.0
977	0.0
978	0.0
979	0.0
980	0.51
981	0.33
982	0.0
983	0.0
984	0.0
985	0.0
986	0.0
987	0.0
988	0.0
989	0.0
990	0.0
991	0.0
992	0.0
993	0.0
994	0.0
995	0.0
996	0.0
997	0.0
998	0.0
999	0.0
1000	0.0
1001	0.0
1002	0.0
1003	0.13
1004	0.71
1005	0.0
1006	0.0
1007	0.0
1008	0.0
1009	4.15
1010	5.00
1011	6.00
1012	6.00
1013	5.30
1014	4.14
1015	1.96
1016	0.0
1017	0.0
1018	0.0
1019	0.0
1020	0.0
1021	0.0
1022	0.0
1023	0.0
1024	0.0
1025	0.0
1026	0.0
1027	0.0
1028	0.0
1029	0.0
1030	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
1031	0.0
1032	0.0
1033	0.0
1034	0.0
1035	0.0
1036	0.0
1037	0.48
1038	1.84
1039	0.41
1040	0.0
1041	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
1042	0.0
1043	0.0
1044	0.0
1045	0.0
1046	0.0
1047	0.0
1048	0.0
1049	0.0
1050	0.0
1051	0.0
1052	0.0

SPEED VERSUS TIME SEQUENCE—Continued

Record (sec)	Speed (mph)
1053	0.0
1054	0.0
1055	0.0
1056	0.0
1057	0.0
1058	0.0
1059	0.0
1060	0.0

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Part V

Environmental Protection Agency

Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2249-7a]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes for public comment two options which EPA is considering for revising the useful-life definition for 1985 and later model year light-duty trucks (LDTs) and heavy-duty engines (HDEs). In addition to the original full-life useful-life definition established for the 1984 model year, EPA is considering a modified version of the full-life useful-life definition, and an extended half-life useful-life definition.

This proposal arises as a result of comments received in response to previous EPA requests for comments on the LDT/HDE useful life issue. Through this proposal EPA seeks to establish a final LDT/HDE useful-life definition which is both workable and practicable for the regulated industry and complies with the useful-life provisions of the Clean Air Act as amended in 1977.

A full description of the options proposed today is contained elsewhere in this **Federal Register** as part of a parallel final rulemaking. Those desiring to review and possibly comment on the proposal should refer to the final rule for further information.

DATES: The record will remain open for comments on this proposal for 45 days following publication, or for 30 days after a public hearing should one be requested. Therefore, all comments must be submitted on or before February 28, 1983, if a public hearing is not held.

Any person requesting a public hearing on this proposal should submit such a request in writing to the information contact shown below no later than January 27, 1983. If a hearing is requested, its date and location will be announced in a subsequent **Federal Register** notice

ADDRESS: Written comments should be submitted directly to: U.S. EPA, Central Docket Section (A–130), Attn: Docket No. A–81–11, 401 M Street SW., Washington, D.C. 20460.

Docket No. A–81–11 contains materials relevant to this proposal and is located in the U.S. EPA, Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying services. The telephone number at the Central Docket Section is (202) 382–7548.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Passavant, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, MI 48105, Telephone: (313) 668–4408.

SUPPLEMENTARY INFORMATION:

I. Background

In December of 1979, EPA promulgated a revised useful-life definition for 1984 and later model year HDEs which incorporated for the first time a full-life concept in lieu of the previously used half-life concept (45 FR 4136). In a separate rulemaking published in September of 1980, the full-life useful-life definition was also adopted for 1984 and later model year LDTs (45 FR 63734).

As a part of the Administration's regulatory relief program announced on April 6, 1981, EPA committed to a further study of the full-life useful-life requirement and on June 17, 1981, EPA published a formal request for comments on the full-life useful-life provisions (46 FR 31677). This request encouraged general comments on the new useful life definition and posed several specific questions for comments. The period for comment closed on December 1, 1981 (see public docket A–81–20).

Upon review and study of the comments received and in other correspondence and contacts with the regulated industry it was evident that a number of problems still existed with the full-life useful-life definition, and that it would be necessary to reopen the full-life useful-life issue formally in order to adequately resolve these concerns. This was accomplished in the EPA proposed rule "Revised Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines," in which EPA sought general comment on the full-life useful-life provisions, and preserved the option to modify the useful-life provisions as a part of the final rulemaking process (47 FR 1642, January 13, 1982). The two additional approaches being proposed here for comment arose from discussions at the public hearing on the January 13, 1982, NPRM and from the written comments which followed.

II. Components of the Proposal

In addition to the currently promulgated full-life useful-life definition, EPA is proposing two other possible approaches for 1985 and later model years: A "modified full-life" definition and an "extended half-life" definition. The details of each of these proposals are discussed in a separate final rulemaking action also published today in the **Federal Register** entitled, "Revised Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines." The discussions can be found in the Supplementary Information portion of the aforementioned action. The discussion of the proposed modified full-life approach is in the section entitled "1984 and Later Full-Life Option." The discussion of the proposed extended half-life approach is in the section which immediately follows entitled "Proposed Half-Life Option for 1985 and Later Model Years." The reader is referred to these sections for full detail on these two additional proposed approaches for the 1985 and later model year useful life definition for LDTs and HDEs.

III. Authority

Statutory authority for this proposal is provided in sections 202(d)(2) and 301(a) of the Clean Air Act as amended in 1977, (42 U.S.C. 2541(d)(2) and 2601(a)).

IV. Request for Comments

As in past rulemaking activities, EPA desires full public participation in arriving at a final rulemaking decision. Therefore, EPA solicits comments on all aspects of today's proposal from all interested parties. Wherever applicable, full supporting data and detailed analyses should be submitted to allow EPA to make full use of the comments. EPA especially encourages commenters who object to any aspects of the proposal to attempt to suggest constructive modifications.

V. List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Administrative Designation

Under Executive Order 12291 EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it involves no negative cost impacts over current 1985 regulations and has no significant adverse effect on

competition, productivity, investment, employment, or innovation.

This proposed regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Effect on Small Entities

Section 605 of the Regulatory Flexibility Act requires that the Administrator certify regulations that do not have a significant impact on a substantial number of small entities. I certify that this regulation indeed does not have any significant impact on small entities. This proposed regulation affects motor vehicle and engine manufacturers, and this group does not include a substantial number of small entities.

Impacts of Reporting Requirements

This proposed rule does not increase the existing reporting requirements over current 1985 LDT and HDE emission regulations.

Dated: December 22, 1982.

John W. Hernandez,

Acting Administrator.

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Part VI

Department of Agriculture

Agricultural Stabilization and Conservation Service

Special Program of Payment in Kind for Acreage Diversion for 1983 Crops of Wheat, Corn, Grain Sorghum, Upland Cotton and Rice; Interim Rule

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 770

Special Program of Payment in Kind for Acreage Diversion for 1983 Crops of Wheat, Corn, Grain Sorghum, Upland Cotton and Rice

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule establishes a program of payment in kind for acreage diversion for the 1983 crops of wheat, corn, grain sorghum, rice and upland cotton. Under the program producers will be offered a quantity of a commodity as compensation for diverting acreage normally planted to that commodity in addition to that being taken out of production under the 1983 acreage reduction and cash land diversion programs for wheat, corn, grain sorghum, rice and upland cotton previously announced. Even with these programs the supply of these commodities will greatly exceed demand. Accordingly, the Department has determined that the diversion of additional acreage from the production of such crops is necessary to adjust the total national acreage of such commodities to desirable goals and that producers should be compensated by receipt of like commodities. This document sets forth, in general, the requirements for program participation and the manner in which payment in kind will be made available.

DATES: Effective date January 12, 1983. Comments must be submitted on or before February 11, 1983, in order to be assured of consideration.

ADDRESS: Comments should be addressed to Director, Analysis Division, ASCS, USDA, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Dr. Howard C. Williams, ASCS, 202–447–3391.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under Department of Agriculture procedures implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "major" since the program will have an annual effect on the economy exceeding $100 million.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Department is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Department has prepared an Interim Regulatory Impact Analysis of this regulation. Copies of the analysis are available to the public from Director, Analysis Division, Agricultrural Stabilization and Conservation Service, USDA, Room 3741, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. 20250.

The title and number of the federal assistance program to which this notice applies are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Rice Production Stabilization, 10.065; and Wheat Production Stabilization, 10.058; as found in the Catalog of Federal Domestic Assistance.

Statutory Authority

The program will be conducted pursuant to the authority of the Agricultural Act of 1949, as amended, and the Commodity Credit Corporation Charter Act. The Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, authorizes the Secretary to make land diversion payments to producers of wheat, feed grains, upland cotton and rice if the Secretary determines that the payments are necessary to assist in adjusting the total national acreage of the commodities to desirable goals. The Charter Act gives the Corporation broad authority to support the price of agricultural commodities, stabilize agricultural commodity markets and remove and dispose of agricultural surpluses.

Need for Program

Acreage reduction and land diversion programs have already been instituted for the 1983 crops of wheat, feed grains, upland cotton and rice under provisions of the Agricutural Act of 1949, as amended. Producers participating in those programs will reduce planted acreage for wheat by at least 20%, for feed grains by at least 20%, for upland cotton by at least 20%, and for rice by at least 20%. Even with these programs the supply of these commodities will greatly exceed demand. Record production coupled with a weak worldwide demand for these commodities due to the global recession and severe financial problems of some of our major foreign customers has created undesirable surpluses. Accordingly, the Department has determined that the diversion of additional acreage from the production of such crops is necessary to adjust the total national acreage of such commodities to desirable goals and that producers should be compensated by receipt of like commodities.

Program Provisions

Contracts. The Commodity Credit Corporation will enter into contracts with producers under which producers who divert acreage from the production of 1983 crops of wheat, corn, grain sorghum, upland cotton or rice and devote the acreage to approved conservation uses will be compensated in the form of quantities of those commodities. The acreage would be in addition to that which the producer has agreed to take out of production under the 1983 acreage reduction and cash land diversion programs previously announced.

Acreage Diversion. Any producer may enter into a contract to divert not less than 10 percent nor more than 30 percent of the farm acreage base for any crop. In addition, producers may submit bids for a contract to divert 100 percent of the farm acreage base for any crop. Bids must be in terms of the percentage of the farm's yield for the crop which the producers consider to be an acceptable level of compensation. The Department will determine the number of acres for which bids will be accepted for each commodity in each county, based on particular supply/demand situations, conditions in local communities, and other relevant factors. In no event will more than 50 percent of the total acreage bases for a commodity in a county be taken out of production under this and the previously announced 1983 acreage reduction and cash land diversion programs.

Compensation. In the case of contracts for the diversion of between 10 and 30 percent of the acreage base of a commodity, the quantity of the commodity received as compensation will be the acreage diverted times the farm's yield for the commodity, multiplied by 95 percent for wheat, 80 percent for corn and grain sorghum, 80 percent for upland cotton, and 80 percent for rice. In the case of contracts for the diversion of 100 percent of the acreage base of a commodity, the quantity of the commodity received as compensation will be determined in the same way utilizing the percentage of the farm's yield specified in the bid.

To the extent that a producer has outstanding farmer owned reserve loans obtained before January 12, 1983 or regular price support loans for which the producer has pledged as security a commodity which the Department is obligated to pay the producer, the producer must sell the commodity to the Department up to the quantity the Department is obligated to pay the producer at a price equal to the cost of liquidating the loan for which the commodities sold to the Department are pledged. In the case of farmer owned reserve loans, the price will be reduced by the amount of any unearned advance storage payments. Further, in the case of farm stored farmer owned reserve loans, the price will include additional compensation to take account of long term storage related commitments the producer may have undertaken. It is the present intention of the Department to provide 15.5 cents per bushel in additional compensation. The commodities sold to the Department will then be paid to the producer. To the extent that commodities are not available for purchase by the Department from the producer, the producer will receive commodities from warehouses designated by CCC. In all cases, proper adjustments for grade and other characteristics affecting quality will be made.

Other Contract Provisions. The regulations authorize the Department to include other appropriate terms and conditions in its contracts with producers.

The Department will pay commodities which it owes a producer upon request at any time during the five month period beginning on the normal harvest date for the commodity in the producer's area. These days will be established by the Department on a county-by-county basis. The Department presently intends to include in the contracts provisions under which it will pay producers who request the commodities after the normal harvest date, and are paid commodities previously pledged by them as loan security, the costs the Department would have incurred had it been required to store the commodities from the normal harvest date until the date of payment. The payment will be calculated on the basis of an annual rate of $.265 per bushel for wheat and corn, $.4732 per hundredweight for grain sorghum and $.85 per hundredweight for rice. The rate for upland cotton will be based on individual warehouse rate schedules.

The Department also intends to offer additional payment in kind to producers whose conservation use acreage requirement under the previously announced acreage reduction and cash land diversion programs has been reduced because of the payment limitation imposed by section 1101 of the Agriculture and Food Act of 1981. These producers will have the opportunity to forego this reduction in conservation use acreage in return for a payment in kind based on 50 percent of the farm yield for the commodity to which the acreage is normally planted.

Payment Limitation. The limitations imposed by section 1101 of the Agriculture and Food Act of 1981 on the amount of payments which a person may receive under the wheat, feed grain, upland cotton and rice programs are not applicable to commodities received as compensation under the payment in kind program.

If the payment in kind program is to be effective in reducing production with respect to 1983 crops in order to assist in bringing supply in line with demand and stabilizing the domestic market, the program must be made effective as soon as possible without opportunity for public comment so that producers and others might be made aware of their opportunity to participate in the program. Comments received on the program will be considered and any appropriate changes in the program will be made before the final rule is issued. The Department anticipates issuing a final rule by February 25. Producers may sign contracts and submit bids for contracts until March 11, and previously submitted contracts and bids may be withdrawn until that date. If any change is made in the regulations, producers who have already signed contracts or submitted bids will have an opportunity to revoke them if they are unwilling to agree to the modifications.

The form of the contracts to be used by the Department in implementing this rule will not become effective until approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

List of Subjects in 7 CFR Part 770

Cotton, Feed grains, Price support program, Wheat, Rice.

Accordingly, Subchapter C of Chapter VII of Title 7 of the Code of Federal Regulations is amended by adding after Part 760 a new Part 770 as follows:

PART 770—SPECIAL PROGRAM OF PAYMENT IN KIND FOR ACREAGE DIVERSION FOR 1983 CROPS OF WHEAT, CORN, GRAIN SORGHUM, UPLAND COTTON AND RICE

Sec.

770.1 General description of program.
770.2 Obligations of operators and producers.
770.3 Obligations of the Department.
770.4 Other contract provisions.
770.5 Contracting procedures.
770.6 Miscellaneous provisions.

Authority: Secs. 101(i), 103(g), 105B and 107B of the Agricultural Act of 1949, as amended (7 U.S.C. 1441, 1444, 1444d and 1445b–1) and the Commodity Credit Corporation Charter Act (15 U.S.C. 714).

§ 770.1 General description of program.

(a) The Department of Agriculture will enter into contracts with operators and producers who agree to devote acreage normally planted to wheat, corn, grain sorghum, upland cotton or rice to a conserving use in return for compensation in the form of the commodity normally planted on the acreage. This part describes the general terms and conditions of these contracts and the procedures under which the Department will enter into them.

(b) This special program is available throughout the United States, including Puerto Rico, for the 1983 crops of wheat, corn, grain sorghum, upland cotton and rice.

§ 770.2 Obligations of operators and producers.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will impose the following obligations on the operator and any other producers:

(1) The operator and any other producers will be required to comply with all of the requirements of any other acreage reduction or paid diversion program established by the Department for any commodity included in the contract.

(2) The operator and any other producers will be required to devote a percentage of the farm's acreage base for any commodity included in the contract to an approved conserving use in addition to any other acreage reduction or paid diversion. This percentage will depend on the contract between the Department and the operator and any other producers.

(i) The Department will enter into a contract with the operator of a farm and any other producers on the farm which provides for devoting from 10 to 30 percent of the farm's acreage base for one or more commodities to an approved conserving use, with a concomitant reduction in permitted acreage, if the operator and any other producers wish to do so. The operator and any other producers may select the commodities to be included in the contract, except that the contract must include either both corn and grain

sorghum or neither. They may also select, within the 10 to 30 percent range, the percentage of the acreage base of each included commodity that will be devoted to an approved conserving use. Compensation to operators and other producers under these contracts will be based on a fixed percentage of the farm yield for each of the commodities included in the contract. See § 770.3(a)(1).

(ii) In addition, the Department may, in some cases, enter into a contract with the operator of a farm and any other producers on the farm which requires the operator and any other producers to devote 100 percent of the farm's acreage base for one or more commodities to an approved conserving use. These contracts will be awarded on a competitive bid basis and the compensation to an operator and any other producers under one of these contracts will be based on the percentage of the established yield for the farm for each of the commodities included in the contract which was bid by the operator and any other producers. See § 770.5(b).

(3) If the operator of a farm or any other producers on the farm have outstanding farmer owned reserve loans obtained prior to January 12, 1983, or regular price support loans, for which they have pledged as security a commodity which the Department is obligated to pay them under the contract, at the time they request payment of the commodity, they must sell the commodity to the Department up to the quantity the Department is obligated to pay them, at a price equal to the cost of liquidating the loan or portion of the loan for which the quantity sold to the Department is pledged, subject to the following adjustments:

(i) In the case of a farmer owned reserve loan, the price will be reduced by the amount of any unearned advance storage payments received under the loan.

(ii) In the case of farm stored commodities pledged as security for a farmer owned reserve loan, additional compensation will be provided to take account of long term storage related commitments the operator or other producer may have undertaken.

(4) To the extent that the operator or any other producers have loans to which paragraph (a)(3) of this section applies at the time they enter into the contract, they may liquidate those loans or forfeit the commodity securing them only to the extent that the liquidation or forfeiture does not reduce the quantity of the commodity pledged as security for the loans still held by the operator and such other producers below the quantity of the commodity the Department is obligated to pay the operator and such other producers under the contract. The commodities pledged as security for loans that must be held under this paragraph will be used by the Department to compensate the operator and any other producers under the contract. See § 770.3(a)(2)(i).

(b) The contract shall provide for the payment of liquidated damages in the event that the operator or any other producers fail to comply with their obligations under the contract.

§ 770.3 Obligations of the Department.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will impose the following obligations on the Department:

(1) The Department will be required to compensate the operator and any other producers for devoting acreage to an approved conserving use by payment of a quantity of the commodity or commodities that would otherwise have been produced on that acreage, except that the Department may substitute corn of equivalent quantity for grain sorghum. The quantity shall be the yield for the farm for a commodity multiplied by the acreage devoted to a conserving use under the contract that would otherwise have been planted to that commodity, multiplied by 95 percent for wheat, 80 percent for corn and grain sorghum, 80 percent for upland cotton, and 80 percent for rice, except that in the case of contracts awarded on a competitive bid basis, the percentage shall be the percentage bid by the operator and any other producers.

(2) The contract will provide that the commodities will be paid in the following manner:

(i) To the extent that the operator and any other producers have outstanding regular price support or farmer owned reserve loans for which they have pledged as security a commodity which they must sell to the Department, the commodities sold to the Department will be paid to the operator and such other producers. See § 770.2(a)(3).

(ii) To the extent that a commodity cannot be paid using the procedure described in paragraph (a)(2)(i) of this section, it shall be paid out of stocks available to the Department for that purpose.

(3) The contract will provide that the commodities will be paid upon request of the operator and any other producers at any time during the five month period beginning with normal harvest date for the commodity in the area where the farm is located.

(4) The contract may contain special arrangements and requirements with respect to the Department's obligations to producers who are active members of a marketing cooperative.

§ 770.4 Other contract provisions.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will establish standards for the grade and other characteristics affecting the quality of any commodity the Department is obligated to pay to the operator and any other producers. It will further provide for adjustments in the quantity of a commodity paid to the operator and any other producers to compensate for any differences between these standards and the grade and other characteristics affecting the quality of the commodity paid to the operator and any other producers. For the purpose of determining these adjustments, a commodity paid under the procedure described in § 770.3(a)(2)(i) shall be treated as having the grade and other characteristics affecting its quality which it was treated as having at the time that the price support or farmer owned reserve loan for which it was pledged as security was made.

(b) The contract between the Department and the operator of a farm and any other producers on the farm shall contain such other provisions as the Department determines appropriate to carry out the program established by this part.

§ 770.5 Contracting procedures.

(a) An operator of a farm and any other producers on the farm may enter into a contract with the Department which provides for devoting 10 to 30 percent of the farm's acreage base for one or more commodities to an approved conserving use at the appropriate county ASCS office prior to the close of business on March 11, 1983.

(b) An operator of a farm and any other producers on the farm may submit a bid for a contract with the Department which provides for devoting 100 percent of the farm's acreage base for one or more commodities to an approved conserving use at the appropriate county ASCS office prior to the close of business on March 11, 1983.

(1) The operator and any other producers may select the commodities to be included in the bid, except that the bid must include either both corn and grain sorghum or neither.

(2) The bid shall state the percentage of the established yield for the farm for each of the commodities included in the bid to be used in determining the

compensation to be paid to the operator and any other producers under the contract if the bid is accepted. The operator and any other producers may select any percentage, except that the percentage for a commodity cannot exceed 95 percent for wheat, 80 percent for corn and grain sorghum, 80 percent for upland cotton, or 80 percent for rice. The percentage may be different for different commodities, except that the percentage must be the same for corn and grain sorghum.

(c) After March 11 the bids in each county shall be ranked for each commodity, treating corn and grain sorghum as a single commodity, on the basis of the percentage of established yield to be used in determining compensation stated in the bids, with the lowest percentage being ranked highest. In the case of identical bids, they shall be ranked in the order received. The bids for each commodity shall then be accepted in rank order. The Department will establish the number of acres for which bids will be accepted for each commodity in each county, based on particular supply/demand situations, conditions in local communities, and other relevant factors. In no case will more than 50 percent of the total of the acreage bases for a commodity in a county be removed from production of the commodity under the program established by this part and any other acreage reduction or diversion program established under part 713 of this chapter. Acceptance of a bid under this subsection with respect to a commodity shall terminate any contractual obligations with respect to that commodity entered into under paragraph (a) of this section.

§ 770.6 Miscellaneous provisions.

(a) Payments in kind under the program established by this part shall not be considered payments for purposes of the payment limitations imposed by section 1101 of the Agriculture and Food Act of 1981.

(b) Part 713 of this chapter contains regulations which govern regular annual acreage reduction and diversion and other programs for wheat, feed grains, cotton and rice. Sections 713.60 through 713.74 of that part concerning land eligible for designation as conserving use acreage and the obligations of producers with respect to the use of that acreage shall apply to the program established by this part, except for the following:

(1) Summer fallow producers may designate only land that would normally be devoted to production of small grains or row crops in 1983.

(2) Wheat planted prior to January 11, 1983, may be grazed throughout the year and harvested for hay.

(c) In addition, the following provisions of this title concerning general program administration also apply to the program established by this part.

(1) Part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

(2) Part 718—Determination of Acreage and Compliance.

(3) Part 780—Appeal Regulations.

(4) Part 790—Incomplete Performance Based Upon Action Or Advice of an Authorized Representative of the Secretary.

(5) Part 791—Authority to Make Payments When There Has Been a Failure to Comply Fully with the Program.

(6) Part 1403—Interest on Delinquent Debts.

(7) Section 110 of Part 713 concerning protection of tenants and sharecroppers.

Signed at Washington, D.C. on January 10, 1983.

John R. Block,

Secretary.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
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DOT/UMTA			DOT/UMTA	

Listing of Public Laws

Last Listing January 11, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 2475 / Pub. L. 97–426 To modify a withdrawal of certain lands in Mono County, California, to facilitate an exchange for certain other lands in Mono County, California, and for other purposes. (Jan. 8, 1983; 96 Stat. 2264) Price: $1.75.

H.R. 7423 / Pub. L. 97–427 To recognize the organization known as Former Members of Congress. (Jan. 8, 1983; 96 Stat. 2265) Price: $1.75.

H.R. 4001 / Pub. L. 97–428 To authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes. (Jan. 8, 1983; 96 Stat. 2268) Price: $1.75.

H.R. 4496 / Pub. L. 97–429 Texas Band of Kickapoo Act (Jan. 8, 1983; 96 Stat. 2269) Price: $1.75.

H.R. 5027 / Pub. L. 97–430 To designate the building known as the United States Post Office and Courthouse in Norfolk, Virginia, as the "Walter E. Hoffman United States Courthouse". (Jan. 8, 1983; 96 Stat. 2272) Price: $1.75.

H.R. 4566 / Pub. L. 97–431 To direct the Secretary of the Interior to release on behalf of the United States certain restrictions contained in a previous conveyance of land to the city of Albuquerque, New Mexico, and for other purposes. (Jan. 8, 1983; 96 Stat. 2273) Price: $1.75.

H.R. 5456 / Pub. L. 97–432 To amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements. (Jan. 8, 1983; 96 Stat. 2276) Price: $1.75.

H.R. 7316 / Pub. L. 97–433 National Park System Visitor Facilities Fund Act. (Jan. 8, 1983; 96 Stat. 2277) Price: $1.75.

H.R. 5916 / Pub. L. 97–434 To declare certain Federal lands acquired for the benefit of Indians to be held in trust for the Tribes of such Indians. (Jan. 8, 1983; 96 Stat. 2280) Price: $1.75.

H.R. 6419 / Pub. L. 97–435 To direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University. (Jan. 8, 1983; 96 Stat. 2281) Price: $1.75.

H.R. 6243 / Pub. L. 97–436 To provide for the distribution of Warm Springs judgment funds awarded in docket numbered 198 before the Indian Claims Commission, and for other purposes. (Jan. 8, 1983; 96 Stat. 2283) Price: $1.75.

H.R. 6519 / Pub. L. 97–437 To amend title 5, United States Code, to allow student interns of the Internal Revenue Service to have access to certain information required by such students in the performance of their official duties. (Jan. 8, 1983; 96 Stat. 2285) Price: $1.75.

H.R. 7143 / Pub. L. 97–438 To amend the Foreign Assistance Act of 1961 to extend for an additional year the Agricultural and Productive Credit and Self-Help Community Development Programs. (Jan. 8, 1983; 96 Stat. 2286) Price: $1.75.

H.R. 7005 / Pub. L. 97–439 Federal Seed Act Amendments of 1982. (Jan. 8, 1983; 96 Stat. 2287) Price: $1.75.

H.R. 7159 / Pub. L. 97–440 To amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH. (Jan. 8, 1983; 96 Stat. 2289) Price: $1.75.

S.J. Res. 101 / Pub. L. 97–441 Designating "National High School Activities Week". (Jan. 8, 1983; 96 Stat. 2291) Price: $1.75.

S.J. Res. 240 / Pub. L. 97–442 To authorize and request the President to designate the week of January 16, 1983, through January 22, 1983 as "National Jaycee Week". (Jan. 8, 1983; 96 Stat. 2292) Price: $1.75.

S.J. Res. 264 / Pub. L. 97–443 To designate the week of March 13, 1983, through March 19, 1983, as "National Children and Television Week". (Jan. 8, 1983; 96 Stat. 2293) Price: $1.75.

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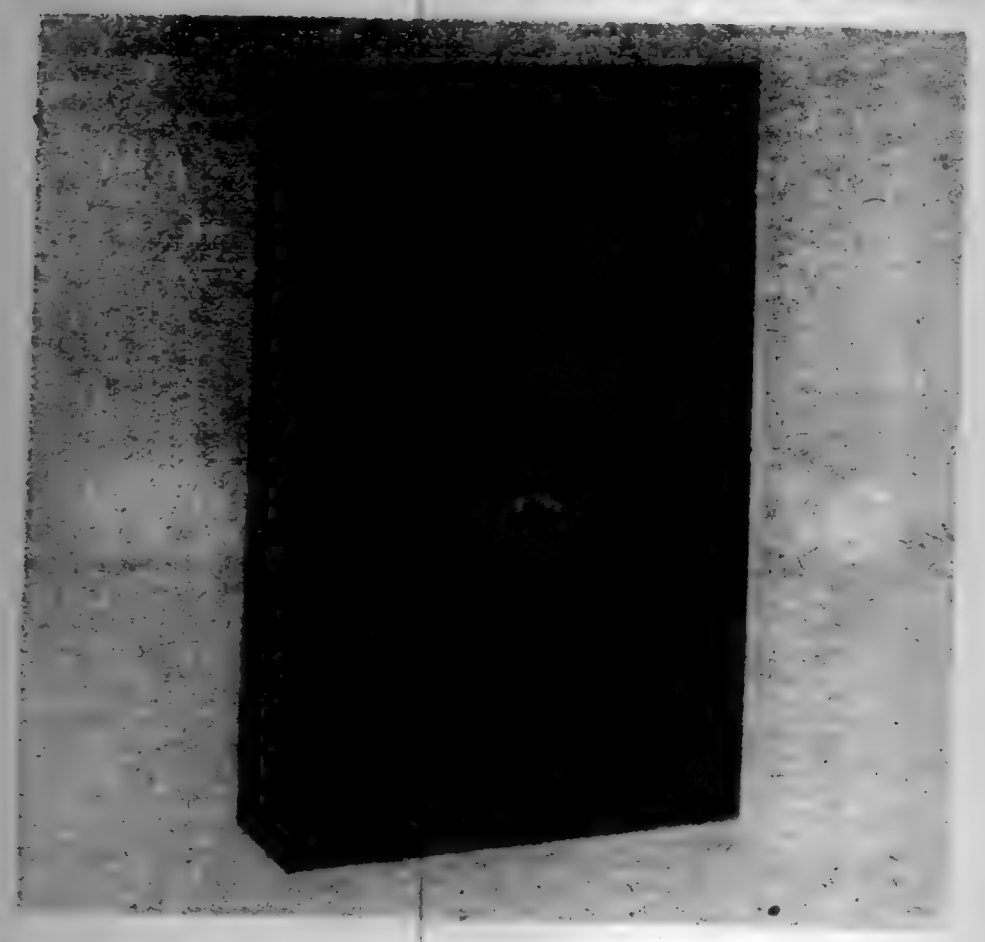

For those of you who must keep informed about Presidential proclamations and Executive orders, there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period January 20, 1961, through January 20, 1981, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

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National Park Service

Nursing Homes
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Pesticides and Pests
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 561; Navel Orange Reg. 559, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 14–20, 1983, and increases the quantity of such oranges that may be so shipped during the period January 7–13, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective January 14, 1983, and the amendment is effective for the period January 7–13, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on January 11, 1983 at Bakersfield, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. Section 907.861 is added as follows:

§ 907.861 Navel Orange Regulation 561.

The quantities of navel oranges grown in Arizona and California which may be handled during the period January 14, 1983, through January 20, 1983, are established as follows:

(1) District 1: 1,550,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

2. Section 907.859 Navel Orange Regulation 559 (48 FR 631), is hereby amended to read:

§ 907.859 Navel Orange Regulation 559.

* * * * *

(1) District 1: 1,550,000 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: Unlimited cartons;
(4) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 12, 1983.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-1172 Filed 1-12-83; 12:38 pm]
BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Great American Airways, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Great American Airways, Inc. to the listing of carriers which have entered into agreements with the Services for the preinspection of their passengers and crews at locations outside the United States.

EFFECTIVE DATE: December 21, 1982.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of the Immigration and Naturalization Service has entered into an agreement with Great American Airways, Inc. to provide for the preinspection of its passengers and crews as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds an air carrier to the present listing and is editorial in nature.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Government contracts, Inspections.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

Section 238.4 is amended by adding in alphabetical order, "Great American Airways, Inc.", under "At Vancouver."

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: January 6, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-668 Filed 1-12-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-32; Amdt. 39-4538]

Airworthiness Directives; Bendix S-20 Series, S-1200 Series, D-2000 Series, and D-3000 Series Impulse Coupled Magnetos

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document amends an existing Airworthiness Directive (AD), 78-09-07, applicable to the Bendix S-20, S-1200, and S-2000 series magnetos, to make the requirements of the AD applicable to the D-3000 series impulse coupled magnetos and to update the service bulletin reference. The D-3000 series magnetos incorporate the same type of impulse coupling as is installed on the magnetos presently subject to the AD, and they are subject to similar wear and related safety problems.

DATES: Effective—January 17, 1983.

Compliance is required as prescribed in the body of the AD.

Comments on this amendment must be received on or before February 14, 1983.

ADDRESSES: Bendix Service Bulletin No. 599B may be acquired from Bendix Corporation, Engine Products Division, Sidney, New York 13838.

A copy of the service bulletin is contained in the Rules Docket, Room 202, 181 South Franklin Avenue, Valley Stream, New York 11581, and in the Rules Docket, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Alfred T. Farrar, Propulsion Section, ANE-174, New York Aircraft Certification Office, FAA-DOT, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone: (516) 791-7421

SUPPLEMENTARY INFORMATION: Amendment 39-3205, as amended by Amendment 39-3252 and Amendment 39-3963 AD 78-09-07), requires inspection of specified magnetos and the replacement of magnetos that have impulse couplings that are worn beyond serviceable limits. The D-3000 series magnetos incorporate that same type impulse couplings as are incorporated in the magnetos that are the subject of that AD. After issuing Amendment 39-3963, there have been reports of impulse couplings installed on D-3000 series magnetos that are worn beyond serviceable limits. As noted in the AD, magnetos with impulse couplings that are beyond serviceable limits can cause engine failure. Since this condition is likely to exist or develop in other magnetos of the same type design, AD 78-09-07 is being amended to include the D-3000 series megnetos and to reference the current Bendix service bulletin. A number of editorial changes have also been made.

Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and thus was not preceded by notice and public procedures, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulations. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulation (14 CFR 39.13) is amended by amending Amendment 39-3205, as amended by Amendments 39-3252 and 39-3963 (AD 78-09-07), to read as follows:

Bendix.—Applies to Bendix S-20 series, S-1200 series, D-2000 series, and D-3000 series magnetos incorporating impulse couplings.

Compliance required as indicated unless previously accomplished.

To preclude magneto or engine failure resulting from magneto impluse coupling failure, accomplish the following:

a. On magnetos having less that 475 hours time in service since new or overhaul, accomplish the provisions of paragraphs "c" and "d" of this AD prior to 500 hours time in service and thereafter at intervals not to exceed 500 hours time in service from the last inspection.

b. On magnetos having 475 or more hours in service since new or overhaul, accomplish the provisions of paragraphs "c" and "d" of this AD within the next 25 hours time in service and thereafter at intervals not to exceed 500 hours time in service from the last inspection.

c. Inspect and replace, if necessary, impulse coupling components in accordance with the paragraph titled "Detailed Instruction" contained in Bendix Engine Products Division Service Bulletin Number 599B or an FAA approved equivalent.

d. After accomplishing paragraph "c" of this AD, make a logbook entry showing the compliance time. Include the magneto make, model, and serial number.

(Note: Except for new or zero time overhauled magnetos, any magneto not accompanied by a record of operating time must be in compliance with paragraph "c" upon installation on an approved engine.)

e. Equivalent inspections and procedures must be approved by the Manager, New York Aircraft Certification Office, Room 202, 181 South Franklin Avenue, Valley Stream, New York 11581.

f. As permitted by Federal Aviation Regulations (FARs) 21.197 and 21.199, aircraft may be flown to a base where maintenance required by this AD can be accomplished.

Amendment 39-3205 was effective May 9, 1978.

Amendment 39-3252 amended Amendment 39-3205 effective July 3, 1978.

Amendment 39-3963 amended Amendments 39-3205 and 39-3252 effective November 3, 1980.

This amendment is effective on January 17, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and Section 11.89 Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (4 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on January 4, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-867 Filed 1-12-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-CEF-12-AD; Amendment 39-4527]

Airworthiness Directives; EMBRAER Model EMB-110 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection and replacement as required of all primary flight control cables on EMBRAER Model EMB-110 airplanes. There have been reports of excessive wear and broken strands in these cables. This AD is needed to prevent failure of the primary flight control cables which could result in loss of control of the airplane.

EFFECTIVE DATE: January 10, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: EMBRAER Service Bulletin No. 110-27-064 dated September 28, 1982, applicable to this AD may be obtained from Empresa Brasileira de Aeronautica S/A (EMBRAER), P.O. Box 343-CEP, 12.200, Sao Jose Dos Campos, Sao Paulo, Brazil. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, ACE-120A, Aerospace Engineer, FAA, Airframe Branch, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There have been reports of primary flight control cables with wear and/or broken strands, beyond the acceptable limits, in EMBRAER Model EMB-110 aircraft prior to the 3000 operating hour inspection. Such wear and breakage, if allowed to continue without appropriate corrective action, could result in abrupt loss of primary flight controls. Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, and AD is being issued requiring inspection and replacement as required of primary flight control cables on EMBRAER Model EMB-110 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD.

EMBRAER.—Applies to Model EMB-110, Serial Number 110001 and up airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished.

To prevent loss of the airplane's primary flight controls, within the next 100 hours time-in-service after the effective date of this AD on airplanes having more than 1000 hours time-in-service or prior to the accumulation of 1100 hours time-in-service on airplanes having less than 1000 hours time-in-service thereafter, accomplish the following:

a. Inspect the primary flight control cables in accordance with the instructions contained in EMBRAER Service Bulletin No. 110-27-064, dated September 28, 1982.

(1) If cables are within the limits prescribed in Section II of "Maintenance Manual—Flight Controls", lubricate and rerig in accordance with EMBRAER Service Bulletin No. 110-27-064 and applicable Maintenance Manuals.

(2) If cables are worn and/or have broken wires beyond the limits of Section II of "Maintenance Manual—Flight Controls", remove and replace cables in accordance with Section III of "Maintenance Manual-Flight Controls".

b. The time-in-service between the repetitive inspections required herein may be adjusted up to plus 10 percent of any specified inspection interval required by this AD to facilitate accomplishing these inspections concurrent with other scheduled maintenance on the airplane.

c. Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

d. An equivalent method of compliance with this AD may be used if approved by the Manager Atlanta Aircraft Certification Office, ACE-115A, FAA, P.O. Box 20636, Atlanta, Georgia 30320.

This amendment becomes effective on January 10, 1983.

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on December 21, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-870 Filed 1-10-83; 10:00 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-NM-102-AD; Amdt. 39-4535]

Airworthiness Directives; General Dynamics Model 240 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires ultrasonic and magnetic particle inspection procedures to detect fatigue cracks in the nose landing gear axle of General Dynamics (Convair) Model 240 airplanes. There have been several incidents of the axle breaking with a nose wheel separating from the airplane. This AD is required because a fractured axle during takeoff presents the potential of a nose wheel passing into the propeller plane or the flap area and subsequently causing severe damage to the aircraft.

DATES: Effective January 19, 1983. Compliance schedule is prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from General Dynamics, Convair Division, P.O. Box 80877, San Diego, California 92138, Attention: Larry Hayes, Manager, Product Support. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT: William Daley, Aerospace Engineer, ANM-172W, Federal Aviation Administration, Northwest Mountain Region, Western Aircraft Certification Field Office, 15000 Aviation Boulevard, Hawthorne, California, telephone (213) 536-6378.

SUPPLEMENTARY INFORMATION: This Airworthiness Directive is prompted by the recent failure of two nose landing gear axles. The nose landing gear axle failures have been caused by cracks, which usually develop at stress concentration points created by galling grooves which may be caused by incorrect torque of the axle nut, insufficient lubrication, or incorrect chrome plating procedures.

The design of the nose landing gear wheel installation is such that failure of the axle on one side of the strut centerline will result in the loss of only one wheel and the remaining wheel will carry the load until the aircraft can be stopped. However, during takeoff, the potential for severe damage to the aircraft exists if the departing wheel passes through the propeller plane or the flap area.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires inspections of the nose landing gear axle and corrective action, if required, on General Dynamics 240 series airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

General Dynamics (Convair).—Applies to Model 240, and military models eligible or to be made eligible for civil use under Type Certificate A793, and all such model airplanes converted to turbopropeller power, certificated in all categories.

Compliance required as indicated unless previously accomplished.

To prevent fracture of the nose landing gear (NLG) axle caused by fatigue cracks, accomplish the following:

Note.—All references to hours of time in service apply to nose landing gear axle and not to the aircraft.

(A) Within 150 hours time in service or prior to the accumulation of 10,150 hours time in service, whichever occurs later, unless accomplished within the last 1050 hours time in service, conduct an ultrasonic inspection of each NLG axle (P/N 240-5210005 or P/N 240-7000475) in accordance with the applicable provisions of paragraph 2 entitled, "Accomplishment Instructions," of General Dynamics Convair Division Service Bulletin 600 (240D) 32-6 dated February 21, 1980. If cracks are found, replace with a like serviceable part prior to return of aircraft to service.

(B) Repeat the ultrasonic inspection specified in paragraph (A) or perform the magnetic particle inspection specified in paragraph (C) of this AD at intervals not to exceed 1200 hours of time in service.

(C) Within 12,000 hours time in service after the effective date of this AD and thereafter at intervals not to exceed 12,000 hours time in service, conduct a magnetic particle inspection of the NLG axle (P/N 240-5210005 or P/N 240-7000475) in accordance with the applicable provisions of paragraph 2, entitled "Accomplishment Instructions" of Service Bulletin 600(240D) 32-6. If cracks are found, replace NLG axle with a like serviceable part prior to return of aircraft to service.

(D) Prior to issuance of a Certificate of Airworthiness for military aircraft being converted for civil certification, the airplane must be inspected in accordance with paragraph (A) or (C) of this AD.

(E) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(F) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Manager, Western Aircraft Certification Field Office, FAA, Northwest Mountain Region, Hawthorne, California.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to General Dynamics, Convair Division, P.O. Box 80877, San Diego, California 92138. These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Western Aircraft Certification Field Office, 15000 Aviation Boulevard, Hawthorne, California.

This Amendment becomes effective January 19, 1983.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12991. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT**".

Issued in Seattle, Washington on December 30, 1982.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 83-680 Filed 1-12-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-NM-103-AD; Amdt. 39-4536]

Airworthiness Directives; General Dynamics Model 340/440 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires ultrasonic and magnetic particle inspection procedures to detect fatigue cracks in the nose landing gear axle of General Dynamics (Convair) Model 340/440 airplanes. There have been several incidents of the axle breaking with a nose wheel separating from the airplane. This AD is required because a fractured axle during takeoff presents the potential of a nose wheel passing into the propeller plane or the flap area and subsequently causing severe damage to the aircraft.

DATE: Effective January 19, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from General Dynamics, Convair Division, P.O. Box 80877, San Diego, California 92138, Attention: Larry Hayes, Manager, Product Support. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT: William Daley, Aerospace Engineer, ANM-172W, Federal Aviation Administration, Northwest Mountain Region, Western Aircraft Certification Field Office, 15000 Aviation Boulevard, Hawthorne, California, telephone (213) 536-6378.

SUPPLEMENTARY INFORMATION: This Airworthiness Directive is prompted by the recent failure of two nose landing gear axles, The nose landing gear axle failures have been caused by cracks which usually develop at stress concentration points created by galling grooves which may be caused by incorrect torque of the axle nut, insufficient lubrication or incorrect chrome plating procedures.

The design of the nose landing gear wheel installation is such that failure of the axle on one side of the strut centerline will result in the loss of only one wheel and the remaining wheel will carry the load until the aircraft can be stopped. However, during takeoff the potential for severe damage to the aircraft exists if the departing wheel passes through the propeller plane or the flap area.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires inspections of the nose landing gear axle and corrective action, if required, on General Dynamics 340/440 series airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

General Dynamics (Convair).—Applies to Models 340/440, and military models eligible or to be made eligible for civil use under Type Certificate 6A6, and all such model airplanes converted to turbopropeller power, certificated in all categories.

Compliance required as indicated unless previously accomplished.

To prevent fracture of the nose landing gear (NLG) axle caused by fatigue cracks, accomplish the following:

Note.—All references to hours of time in service apply to nose landing gear axle and not to the aircraft.

(A) Within 150 hours time in service after the effective date of this AD, or prior to the accumulation of 10,150 hours time in service, whichever occurs later, unless accomplished within the last 1050 hours time in service, conduct an ultrasonic inspection of each NLG axle (P/N 240-5217002 or P/N 340-7310205) in accordance with the applicable provisions of paragraph 2 entitled, "Accomplishment Instructions," of General Dynamics Convair Division Service Bulletin 640 (340D) 32-13 dated August 7, 1978. If cracks are found, replace with a like serviceable part prior to return of aircraft to service.

(B) Repeat the ultrasonic inspection specified in paragraph (A) or perform the magnetic particle inspection specified in paragraph (C) of this AD at intervals not to exceed 1200 hours time in service.

(C) Within 12,000 hours time in service after the effective date of this AD and thereafter at intervals not to exceed 12,000 hours time in service, conduct a magnetic particle inspection of the NLG axle (P/N 240-5217002 or P/N 340-7310205) in accordance with the applicable provisions of paragraph 2, entitled "Accomplishment Instructions" of Service Bulletin 640(340D) 32-13. If cracks are found, replace NLG axle with a like serviceable part prior to return of aircraft to service.

(D) Prior to issuance of a Certificate of Airworthiness for military aircraft being converted for civil certification the airplane must be inspected in accordance with paragraph (A) or (C) of this AD.

(E) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(F) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Manager, Western Aircraft Certification Field Office, FAA, Northwest Mountain Region, Hawthorne, California.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to General Dynamics, Convair Division, P.O. Box 80877, San Diego, California 92138. These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Western Aircraft Certification Field Office, 15000 Aviation Boulevard, Hawthorne, California.

This amendment becomes effective January 19, 1983.

(Sec. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

Issued in Seattle, Washington on December 30, 1982.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 83-670 Filed 1-12-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3100]

Canada Cement Lafarge Ltd., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Montreal, Canada producer of cement, among other things, to fully divest itself of a Chattanooga, Tenn. cement manufacturing plant and specified terminals associated with it within eighteen (18) months of the date the order becomes final to a Commission-approved purchaser. For five years, the respondent must offer to sell to the purchaser of the plant and terminals, twenty thousand tons of cement annually. Further, respondent must offer technical assistance for operation of the plant and terminals. Respondent is required to offer specific tonnages of clinker and cement to independent buyers on an annual basis for five years. Should respondent fail to divest itself of the Tennessee plant within the speicifed time period, it must then sell an Alabama plant and associated terminals within a twelve (12) month period.

DATES: Complaint and order issued December 21, 1982.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS-7, Richard L. Rosen, Washington, D.C. 20580. (202) 724-1155.

SUPPLEMENTARY INFORMATION: On Wednesday, August 25, 1982, there was published in the **Federal Register**, 47 FR 37249, Correction, 47 FR 52470), a proposed consent agreement with analysis In the Matter of Canada Cement Lafarge Ltd., a corporation, and Lafarge Coppee S.A., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

The prohibited trade practices and corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 Federal Trade Commission Act. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records; 13.533-51 Making supply or product(s) available to competitors.

List of Subjects in 16 CFR Part 13

Cement.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply Sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Carol M. Thomas,

Secretary.

[FR Doc. 83-859 Filed 1-12-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5f

[T.D. 7870]

Certain Elections Under the Tax Equity and Fiscal Responsibility Act of 1982

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the time and manner of making certain elections under the Tax Equity and Fiscal Responsibility Act of 1982. These regulations provide guidance to persons making these elections.

DATE: The regulations apply to elections made after September 3, 1982.

FOR FURTHER INFORMATION CONTACT: John M. Fischer, of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224. Attention: CC:LR:T, (202) 566-3394, not a toll free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to certain elections under various sections of the Internal Revenue Code of 1954 and the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 324). These regulations are included in Part 5f, Temporary Income Tax Regulations Under the Tax Equity and Fiscal Responsibility Act of 1982 which is being added to Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by later temporary or final regulations relating to these elections.

Special Analysis and Waiver of Certain Procedural Requirements of Treasury Directive

Roscoe L. Egger, Jr., Commissioner of Internal Revenue has determined that this temporary regulation is not a major rule defined in Executive Order 12291.

Accordingly, a regulatory impact analysis is not required. Further, the Commissioner of Internal Revenue has determined that there is an immediate need for these regulations to provide guidance to taxpayers. For the reasons set forth below no general notice of proposed rulemaking is required by 5 U.S.C. 553(b). Accordingly, no regulatory flexibility analysis is required by 5 U.S.C. Chapter 6.

Drafting Information

The principal author of this regulation was John M. Fischer of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 5f

Income taxes, Tax Equity and Fiscal Responsibility Act of 1982.

Adoption of amendments to the regulations

Accordingly, the following temporary regulations are adopted:

A new § 5f.0 is added to read as follows:

PART 5f—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

§ 5f.0 Time and manner of making certain elections under the Tax Equity and Fiscal Responsibility Act of 1982.

(a) *Miscellaneous elections.*—(1) *Elections to which this paragraph applies.* This paragraph applies to the following elections provided under the Tax Equity and Fiscal Responsibility Act of 1982.

Section of act	Section of code	Description of election	Availability of election
201(c)	58(i)(1)	Optional 10-year write off of certain tax preferences.	Taxable years beginning after Dec. 31, 1982.
201(c)(1)	58(i)(4)	Intangible drilling and development costs.	Taxable years beginning after Dec. 31, 1982.

Section of act	Section of code	Description of election	Availability of election
205(a)	48(q)	Reduced investment credit in lieu of basis adjustment.	Generally to period beginning after Dec. 31, 1982.
256(f)	820	Insurance company revocation of election under section 820.	Contracts which took effect in 1980 or 1981.

(2) *Time for making elections*—(i) *In general.* Except as otherwise provided in paragraph (a)(2) of this section, the elections specified in paragraph (a)(1) of this section shall be made by the later of—

(A) The due date (taking extensions into account) of the income tax return for the taxable year for which the election is to be effective, or

(B) April 15, 1983.

(ii) *No extensions of time for payment.* Payments of tax due shall be made in accordance with chapter 62 of the Code.

(iii) *Election by insurance companies relating to repeal of section 820.* Elections under section 256(f) of the Act, relating to special rule allowing reinsured insurance company to revoke an election under section 820, must be made before March 5, 1983.

(3) *Manner of making elections.* The elections specified in paragraph (a)(1) of this section shall be made by attaching a statement to the income tax return (or amended return) for the taxable year for which the election is made. Except as otherwise provided in the return or in the instructions accompanying the return for the taxable year, the statement shall—

(i) Contain the name, address, and taxpayer identification number of the electing taxpayer,

(ii) Identify the election,

(iii) Indicate the section of the Code (or, if the provision is not codified, the section of the Act) under which the election is being made,

(iv) Specify the period for which the election is being made and the property to which the election is to apply, and

(v) Provide any information required by the relevant statutory provisions and any information necessary to show that the taxpayer is entitled to make the election.

(b) *Special rules for reduced investment credit in lieu of basis adjustment*—(1) *Appropriate return.* For purposes of section 48(q) of the Code and paragraph (a) (2)(i)(A) and (3) of this section the term "income tax return for the taxable year for which the election is effective" with respect to any property is the tax return for the taxable year in which such property is placed in service, or in the case of property to which an election under section 46(d) (relating to qualified progress expenditures) applies, the appropriate return is the return for the first taxable year for which qualified progress expenditures were taken into account with respect to such property.

(2) *Applicability of election.* In general, the election under section 48(q) is applicable to periods beginning after December 31, 1982 under rules similar to the rules of section 48(m) of the Code. However, the election does not apply to property excepted by section 205(c)(1)(B) of the Act.

(c) *Election by a reinsurer to make installment payments of taxes owed resulting from the repeal of section 820.* This paragraph applies to the election by an insurance company provided under section 256(e) of the Act. A reinsurer that is a calendar year taxpayer shall be considered to have made an election under section 256(e) of the Act if by March 15, 1983 it files its income tax return (or an application on Form 7004 for an automatic extension of time to file its income tax return), with the statement required to be filed under this paragraph attached and, unless the reinsurer is making a further election under section 256(e)(2)(B) of the Act, pays one-third of the amount described in section 256(e)(1) of the Act by March 15, 1983. A reinsurer making an election under section 256(e)(2)(B) of the Act must pay one-sixth of the amount described in section 256(e)(1) of the Act by March 15, 1983 and one-sixth of such amount by June 15, 1983. The statement required to be filed under this paragraph shall—

(1) Contain the name, address, and tax-payer identification number of the corporation,

(2) Identify the election as an election under section 256(e) of the Act, and section 256(e)(2)(B) if applicable, and

(3) Provide all information necessary to show the taxpayer is entitled to make the election.

For provisions relating to the use of Federal Reserve banks and authorized financial institutions in depositing the taxes, see § 1.6302–1.

(d) [Reserved].

(e) *Additional information required.* If later regulations issued under the section of the Code or Act under which the election was made require the furnishing of information in addition to that which was furnished with the statement of election and an office of the Internal Revenue Service requests the taxpayer to provide the additional information, the taxpayer shall furnish the additional information in a statement filed with that office of the Internal Revenue Service within 60 days after the request is made. This statement shall also—

(1) Contain the name, address, and taxpayer identification numbers of all parties identified in connection with the election,

(2) Identify the election by reference to the section of the Code or Act under which the election was made, and

(3) Specify the scope of the election.

If the additional information is not provided within 60 days after the request is made, the election may, at the discretion of the Commissioner, be held invalid.

(e) *Effective date.* This section applies to elections made after September 3, 1982.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under 5 U.S.C. 553 (b) or subject to the effective date limitation of 5 U.S.C. 553 (d).

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 30, 1982.

David G. Glickman,

Assistant Secretary of the Treasury.

[FR Doc. 83–1125 Filed 1–12–83; 10:11 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Olympic National Park; Fishing and Boating Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: On July 21, 1982, the National Park Service, Department of the Interior, published in the **Federal Register** (47 FR 31584) a proposed rule to update fishing and boating regulations for Olympic National Park. This was done largely in response to Federal court mandate [*U.S. v. Washington,* 384 F. Supp. 312 (W. D. Wash. 1974)], and to new information and changing conditions more accurately reflecting the park's fisheries management program. Unlike other parks, Olympic National Park has major rivers in which returns of salmon and steelhead trout are estimated annually

through statistical projections. Catch limits and seasons require frequent adjustment after the runs arrive to protect, if necessary, remaining brood stocks from overharvest or to allow more liberal takes when large runs are known to be available. Seasons and daily catch limits may also need changing for research purposes. The superintendent is authorized to make these adjustments after consultation with the State and, where appropriate, the concerned Indian tribe. Boating regulations are updated and clarified to more accurately identify waters which are open to hand-propelled vessels and motorboats. The boating regulations are more liberal since they allow hand-propelled vessels on all park waters unless closed for safety purposes. One exception is the closure of 8 miles of the Upper Hoh River to fishing from boats to allow bank fishermen an opportunity to fish without competition from boats. Recreational boating is still allowed. The remaining 30 downstream miles of the Hoh River are open to all fishermen during legal seasons.

EFFECTIVE DATE: February 14, 1983.

FOR FURTHER INFORMATION CONTACT: Roger J. Contor, Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, Wash. 98362, Telephone: (206) 452–4501.

SUPPLEMENTARY INFORMATION:

Background

Olympic National Park occupies about 900,000 acres in the center of northwest Washington's Olympic Peninsula and in a narrow coastal strip along the western margin of the Peninsula. The headwaters and upper reaches of nearly all the Peninsula's important river systems supporting anadromous salmonid fishes are in the park. Outside the park these rivers flow through an often confusing array of State and Native American tribal jurisdictions. The mouths of two of the major rivers are in the detached coastal strip of the park and thus are in the unusual position of being under park control at both ends but not the middle.

Since the original promulgation of fishing regulations by the park, the environmental situation on the Olympic Peninsula has undergone considerable change. Land development and heavy logging outside the park on private, State and Federal lands has damaged natural spawning habitat. The largest proportion of the remaining undisturbed habitat is within the park. In addition, extremely heavy fishing pressure by ocean trollers, trawlers, gillnetters and sportsmen has contributed to the seriously depleted runs of anadromous species. The jurisdictional situation regarding the management of anadromous fish has also been changing on the Peninsula. Recent Federal court decisions have affirmed a prominent role for the several Native American tribal fisheries programs and fishery management activities. Olympic National Park fishery management objectives are not always in total agreement with State or tribal objectives. The park emphasizes strongly the perpetuation not only of native species of fish but also, to the extent possible, of natural genetic processes. The park's major role in preserving the unspoiled spawning environment has become apparent. Emphasis is also placed on the maintenance of a quality wild sport fishing experience and on the importance of the fish in their role in the ecosystem.

Adding to the jurisdictional and environmental complexity is the biological variability of the fish themselves. At issue are five salmon species, steelhead trout (sea-run rainbow), sea-run cutthroat trout and Dolly Varden. Within each species and from river to river are significant differences in the timing, size and vigor of the runs. Management manipulations, moreover, have altered these runs even further.

While recognizing the legitimacy of other agency objectives and regulations, the park needs to be able to carry out its own objectives and respond to biological, environmental and legal constraints with a degree of flexibility not currently possible.

Public Participation

The National Park Service published proposed rules updating fishing and boating regulations in Olympic National Park on July 21, 1982 (47 FR 31584–31585). A clerical error was corrected August 19, 1982 (47 FR 36228). The period for public comment ended August 20, 1982. No written comments were received by the Superintendent, Olympic National Park, during the review period. Consequently, the final rule published here is identical to the proposed rule published earlier.

Drafting Information

The following persons from Olympic National Park participated in the writing of this regulation: Gordon Boyd, Chief Ranger; John Aho, Group Chief, Science and Technology; Jeff Singer, Chairman of Citizen's Advisory Committee, Paul Crawford, Staff Ranger, Elwood Jones, Law Enforcement Specialist, and Robert Marriott, Park Ranger.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, (5 U.S.C. 601 *et seq.*). This conclusion is based on the fact that this regulation clarifies an existing rule. The addition of the Indian fishing rights will not have an economic effect on any small entities as no other group has been allowed to fish in park waters in a similar manner.

After reviewing the proposed alternatives set forth in the environmental assessment, the Service chose to completely rewrite pertinent subsections of the fishing and boating regulations for Olympic National Park. In terms of efficiency, protection of the resource, visitor service and sound interagency management, this course of action was most reasonable. The Service has determined that this alternative does not constitute a major Federal action and does not appear to have the potential for significantly affecting the quality of the human environment, thus an impact statement will not be prepared. An Environmental Assessment and Finding of No Significant Impact have been prepared, pursuant to the National Environmental Policy Act (42 U.S.C. 4332), and are available at the address noted above.

Authority

Section 3 of the Act of August 25, 1916, 39 Stat. 535, as amended; (16 U.S.C. 3).

List of Subjects in 36 CFR Part 7

National parks.

In consideration of the foregoing, it is proposed to amend 36 CFR 7.28 by revising paragraphs (a) and (b) as follows:

PART 7—[AMENDED]

§ 7.28 Olympic National Park.

(a) *Fishing*—(1) *General Provisions.* All waters within Olympic National Park are open to fishing in conformance with those seasons and limits published annually by the Washington State Department of Game and the Washington State Department of Fisheries applicable in the same

watershed in adjoining counties, except as provided for below.

(i) *Possession limit.* This shall be the same as the daily limit for all species; *Provided however,* it is lawful to possess four steelhead over 20 inches regardless of weight. In the Queets River and tributaries the summer season possession limit is two steelhead over 20 inches.

(ii) *General summer season.* Daily steelhead catch limit shall not exceed two fish, *Provided however:*

(A) The Queets River and tributaries shall have a summer season daily limit of one steelhead over 20 inches in length.

(B) The Quinault River is closed to the taking of steelhead all year above the confluence of the North and East Forks, but is open in its entirety during the general summer season to the taking of two rainbow trout with a minimum six of 10 inches and maximum size of 20 inches.

(2) *Salmon Fishing.* Salmon fishing is permitted on the following park waters, exclusive of tributaries, when adjacent State waters are open:

Dickey River.
Hoh River below confluence of South Fork.
Kalaloch Creek.
Ozette River.
Queets River below Tahletshy Creek.
Quillayute River.
Quinault River below the bridge connecting North Fork and Graves Creek Roads.
Salmon River.

Seasons and bag limits shall be established annually after consultation with the State and any affected Indian tribe.

(3) *Conservation waters.* After consultation with the State and, where appropriate, the concerned Indian tribe, the superintendent may, by local publication and conspicuous posting of signs, alter the season and change daily limits for spawning, conservation or research purposes.

(4) *Closed waters.* That portion of the Morse Creek watershed within the park (except Lake Angeles and P.J. Lake) and that section of Kalaloch Creek which is used as domestic water supply (as posted) are closed to fishing. Fishing from boats is prohibited on the Hoh River upstream from the South Fork Hoh boat launch.

(5) *Fishing gear.* Fishing with a line, gear or tackle having more than two spinners, spoons, blades, flashers, or like attractions, or with more than one rudder, or more than two hooks (single, double, or treble barbed) attached to such line, gear, or tackle, is prohibited.

(6) *Bait.* The use of nonpreserved fish eggs is permitted.

(7) *License.* A license to fish in park waters is not required; however, an individual fishing for steelhead or salmon in park waters, except treaty Indians fishing in the exercise of rights secured by treaties of the United States, shall have in his/her possession a State of Washington punch card for the species being sought. Steelhead and salmon shall be accounted for on these cards as required by State regulations.

(8) *Indian treaty fishing.* (i) Subject to the limitations set forth below, all waters within the Olympic National Park which have been adjudicated to be usual and accustomed fishing places of an Indian tribe, having treaty-secured off-reservation fishing rights, are open to fishing by members of that tribe in conformance with applicable tribal or State regulations conforming to the orders of the United States District Court.

(ii) *Identification cards and tags.* Members of the tribes having treaty-secured fishing rights shall carry identification cards conforming to the requirements prescribed by the United States District Court and issued either by the Bureau of Indian Affairs or the applicable tribe when fishing in accordance with the tribe's reserved treaty fishing right. Such persons shall produce said card for inspection upon request of a National Park Service enforcement officer. A tribally issued identification tag shall be attached to any unattended fishing gear in park waters.

(iii) *Conservation closures and catch limits.* The superintendent may close a stream or any portion thereof to Indian treaty fishing or limit the number of fish that may be taken when it is found either that it is:

(A) Reasonable and necessary for the conservation of a run as those terms are used by the United States District Court to determine the permissible limitations on the exercise of Indian treaty rights; or

(B) Necessary to secure the proper allocation of harvest between Indian treaty fisheries and other fisheries as prescribed by the court.

(iv) *Catch reports.* Indian fishermen shall furnish catch reports in such form as the superintendent, after consultation with the applicable tribe, shall have prescribed.

(v) *Prohibition of fish cultural activities.* No fish cultural, planting, or propagation activity shall be undertaken in park waters without prior written permission of the superintendent.

(vi) *Applicability of other park regulations.* Indian treaty fishing shall be in conformity with National Park Service general regulations in Parts 1–6 of this chapter.

(b) *Boating.* All vessels are prohibited on park waters except as provided below:

(1) Hand propelled vessels and sailboats are permitted on park waters except the following:

Dosewallips River.

(2) Motorboats are permitted on the following waters:

Lake Crescent.
Lake Cushman.
Lake Mills.
Dickey River in coastal strip.
Hoh River in coastal strip.
Quillayute River in coastal strip.
Quinault River below the bridge connecting North Fork and Graves Creek Roads.

Dated: December 7, 1982.

J. Craig Potter,
Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-698 Filed 1-13-83; 8:45 am]
BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

38 CFR Part 17

Grants to States for Construction of State Home Facilities

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This revision of a regulation changes from 2½ to 4 beds per thousand veteran population the maximum number of beds which may be neccessary based on sufficient justification to provide adequate nursing home care to veterans residing in each State. This regulation implements section 5034(l), title 38, United States Code as amended by Public Law 96–330 which now requires the Administrator of Veterans Affairs to prescribe the number of beds required. Prior to enactment of Pub. L. 96–330, the number of beds was prescribed by law.

The revision also implements section 5035(b)(4) which provides that an application for Federal assistance for construction of State home facilities shall not result in more than the number of nursing home beds prescribed by the Administrator of Veterans Affairs. It is anticipated that this change will meet the needs of smaller States which were hindered in their plans for construction of additional nursing home beds by the 2½ bed limitation.

EFFECTIVE DATE: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Rita Frampton, (202) 389–2854.

SUPPLEMENTARY INFORMATION: These rules were printed in the **Federal Register** June 28, 1982, with a 30 day notice for comments. No comments were received. The agency has determined that this amendment to the regulations is nonmajor in accordance with the requirements of Executive Order 12291, Federal Regulation, because it will not have a significant or large effect on the economy. The Administrator hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this rule will regulate only States planning construction of nursing home care beds at State Veteran Homes. It will therefore have no significant impact on small entities (i.e., small business, small private and nonprofit organizations, and small governmental jurisdictions.) The Catalog of Federal Domestic Assistance Number is 64.005.

List of Subjects in 38 CFR Part 17

Grant programs, Nursing homes, Veterans.

The interim final regulations are hereby adopted as final regulations as set forth below.

Approved: December 23, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—MEDICAL

38 CFR, Part 17 is amended as follows:

1. In § 17.171, the title and paragraph (a) are revised to read as follows:

§ 17.171 Maximum number of nursing home beds for veterans by State.

(a) For purposes of the regulations concerning grants to States for construction of State home facilities, Appendix A prescribes the maximum number of beds which may be necessary to provide adequate nursing home care to veterans residing in each State. When the beds to be constructed in a State will result in more than 2½ beds per thousand veterans, the State shall provide sufficient justification for the Administrator to determine that the additional beds are required in that State. In making this determination, the Administrator shall consider the following factors: (1) Demographic characteristics of the State's veteran population, (2) availability, suitability and cost of alternative nursing home beds to meet the needs of veterans in the State, (3) waiting lists for existing State nursing home facilities and (4) any other criteria which the Administrator shall deem appropriate to provide adequate nursing home care. (Pub. L. 88–450, sec. 4(a) as amended by Pub. L. 89–311, sec. 7(b); Pub. L. 93–82, sec. 403(d); Pub. L. 94–581, sec. 206(b); Pub. L. 96–330, sec. 404; 38 U.S.C. 5034(1))

* * * * *

2. Section 17.173 is amended by revising paragraph (c)(3) to read as follows:

§ 17.173 Applications with respect to projects.

* * * * *

(3) The construction of such project, together with other projects under construction, and other facilities will not exceed the bed limitation prescribed in Appendix A to § 17.171 and satisfactory justification has been provided as required in § 17.171(a). (Pub. L. 88–450, sec. 4(a) as amended by Pub. L. 93–82, sec. 403(e); Pub. L. 96–330, sec. 404; 38 U.S.C. 5034(1), 5035(b))

* * * * *

3. Appendix A is revised to read as follows:

Appendix A (See § 17.171)

State Home Facilities for Furnishing Nursing Home Care

The maximum number of beds, as required by 38 U.S.C. 5034(1), to provide adequate nursing home care to veterans residing in each State not to exceed four beds per thousand veteran population is established as follows:

State	Veteran population [1]	No. of beds
Alabama	422,000	1,688
Alaska	39,000	156
Arizona	347,000	1,388
Arkansas	277,000	1,108
California	3,345,000	13,380
Colorado	382,000	1,528
Connecticut	463,000	1,852
Delaware	78,000	312
District of Columbia	96,000	384
Florida	1,397,000	5,588
Georgia	641,000	2,564
Hawaii	92,000	368
Idaho	105,000	420
Illinois	1,519,000	6,076
Indiana	725,000	2,900
Iowa	378,000	1,512
Kansas	311,000	1,244
Kentucky	412,000	1,648
Louisiana	447,000	1,788
Maine	156,000	624
Maryland	529,000	2,116
Massachusetts	871,000	3,484
Michigan	1,180,000	4,720
Minnesota	560,000	2,240
Mississippi	240,000	960
Missouri	708,000	2,832
Montana	98,000	392
Nebraska	203,000	812
Nevada	97,000	388
New Hampshire	125,000	500
New Jersey	1,102,000	4,408
New Mexico	137,000	548
New York	2,422,000	9,688
North Carolina	618,000	2,472
North Dakota	58,000	232
Ohio	1,463,000	5,852
Oklahoma	417,000	1,668
Oregon	393,000	1,572
Pennsylvania	1,729,000	6,916
Rhode Island	150,000	601
South Carolina	337,000	1,348
South Dakota	72,000	288
Tennessee	541,000	2,164
Texas	1,673,000	6,692
Utah	155,000	620
Vermont	64,000	256
Virginia	664,000	2,656
Washington	617,000	2,468
West Virginia	233,000	932
Wisconsin	593,000	2,372
Wyoming	45,000	180

[FR Doc. 83–834 Filed 1–12–83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 1F2533/R510; PH–FRL 2284–2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 3,5-Dichloro-N-(1,1-Dimethyl-2-Propynyl) Benzamide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl) benzamide and its metabolites in or on certain commodities. This regulation to establish maximum permissible levels for residues of the pesticide was requested, pursuant to a petition, by Rohm and Haas Company.

EFFECTIVE DATE: Effective on January 13, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of December 8, 1982 (47 FR 55249) that announced that Rohm and Haas

Company, Independence Mall West, Philadelphia, PA 19105, had submitted pesticide petition 1F2533 proposing that 40 CFR 180.317 be amended by establishing tolerances for the combined residues of the herbicide 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl) benzamide and its metabolites (calculated as 3,5-dichloro-*N*-1 (1,1-dimethyl-2-propynyl) benzamide) in or on the raw agricultural commodities, apples, cherries, grapes, nectarines, peaches, pears, plums, and artichokes at 0.1 part per million.

There were no comments or request for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: January 3, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.317 is revised to read as follows:

§ 180.317 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide; tolerances for residues.

Tolerances are established for the combined residues of the herbicide 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl)benzamide and its metabolites (calculated as 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl)benzamide) in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa, fresh	10.0
Alfalfa, forage	10.0
Alfalfa, hay	10.0
Apples	0.1
Artichokes	0.1
Blackberries	0.05
Blueberries	0.05
Boysenberries	0.05
Cattle, fat	0.02
Cattle, kidney	0.2
Cattle, liver	0.2
Cattle, mbyp (except kidney, liver)	0.02
Cattle, meat	0.02
Cherries	0.1
Clover	5.0
Crown vetch	5.0
Eggs	0.02
Endive (escarole)	2.0
Goats, fat	0.02
Goats, kidney	0.2
Goats, liver	0.2
Goats, mbyp (except kidney, liver)	0.02
Goats, meat	0.02
Grapes	0.1
Hogs, fat	0.02
Hogs, kidney	0.2
Hogs, liver	0.2
Hogs, mbyp (except kidney, liver)	0.02
Hogs, meat	0.02
Horses, fat	0.02
Horses, kidney	0.2
Horses, liver	0.2
Horses, mbyp (except kidney, liver)	0.02
Horses, meat	0.02
Lettuce	2.0
Milk	0.02
Nectarines	0.1
Peaches	0.1
Pears	0.1
Plums	0.1
Poultry, fat	0.02
Poultry, kidney	0.2
Poultry, liver	0.2
Poultry, mbyp (except kidney, liver)	0.02
Poultry, meat	0.02
Raspberries	0.05
Sainfoin	5.0
Sheep, fat	0.02
Sheep, kidney	0.2
Sheep, liver	0.2
Sheep, mbyp (except kidney, liver)	0.02
Sheep, meat	0.2
Trefoil	5.0

[FR Doc. 83-943 Filed 1-12-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 256

[A-8-FRL 2274-4]

Approval of the North Dakota Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region VIII.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of North Dakota has received Federal financial assistance for development of a State solid waste management plan. The State of North Dakota has submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State solid waste management plan. Today, EPA is announcing its approval of the North Dakota solid waste management plan with the exception of the approval of the adequacy of North Dakota's legislation and regulatory power to prevent the taking or contributing to the taking of endangered species or the adverse modification of an endangered species habitat (40 CFR 257.3–2). Other than this inadequacy, this approval of the North Dakota plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for solid waste management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the North Dakota solid waste management plan.

EFFECTIVE DATE: January 13, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Brinkman, Environmental Protection Agency, Region VIII, 8AW-WM, 1860 Lincoln Street, Denver, Colorado 80295, Telephone (303) 837-2221.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 FR 45066) EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet those requirements. Under Section 4007 of RCRA, the Administrator approves States plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions. Briefly, these requirements are:

1. The plan shall identify the responsibilities of State, local and regional authorities in the implementation of the State plan; the distribution of Federal funds to the authorities responsible for development and implementations of the State plan; and the means for coordinating regional planning and implementation under the State plan;

2. The plan shall prohibit the establishment of new open dumps within the State and contains requirements that all solid waste shall be utilized for resource recovery or disposed of in sanitary landfills, as defined by section 4004(a) of RCRA, or otherwise disposed of in an environmentally sound manner. The State prohibition must be effective as of the date on which EPA approves the plan;

3. The plan shall provide for the closing or upgrading of all existing open dumps within the State; and

4. The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for supply of solid waste to resource recovery facilities.

The guidelines also addressed Section 4005 of RCRA which requires a mechanism in the State plan for establishment of compliance schedules for entities found to be engaged in the prohibited act of open dumping. The plan must provide that entities attempting to obtain such compliance schedules demonstrate their inability to comply with the prohibited act by use of other public or private alternatives.

Response to Comments

On November 4, 1981, at 46 FR 54772 the North Dakota Solid Waste Management Plan was noticed for public review and comment. Comments on the North Dakota plan were received for 30 days. During this time no substantial comments addressed to the plan were received.

Finding

I have reviewed the solid waste management plan submitted by the State of North Dakota for EPA approval on January 29, 1981. I find that, with exception of adequate authority to control facilities which will cause or contribute to the taking of endangered or threatened species of plants, fish, or wildlife or which will result in the destruction or adverse modification of their critical habitats as specified in 40 CFR 257.3–2, the North Dakota plan meets the requirements of RCRA for approval. Under authority of Section 4007 of RCRA, I approve the North Dakota solid waste management plan with the exception of the plans fulfillment of 40 CFR 257.3–2.

The plan prohibits the establishment of open dumps, and that State prohibition became effective on July 1, 1978.

Also, the plan provides for compliance schedules for entities engaged in open dumping where those entities can demonstrate that they are unable to utilize other public or private alternatives for solid waste management to comply with the RCRA prohibition of open dumping. As of this date, entities engaged in open dumping may, pursuant to the plan, approach the State for further information on compliance schedules and necessary demonstrations. Parties which have received compliance schedules satisfying Section 4005 from a State with an EPA-approved Solid Waste Management Plan and which are in compliance with these schedules are not in violation of the open dumping prohibition in Section 4005. Such compliance cannot extend beyond September 1984.

Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the North Dakota solid waste management plan is not a "Major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by Section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices", 40 CFR Part 257). Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the plan approval of the North Dakota solid waste management plan will not have a significant economic impact on a substantial number of small entities. This approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

(90 Stat. 2817, 42 U.S.C. 6947)

List of Subjects in 40 CFR Part 256

Grant programs and environmental protection, Waste treatment and disposal.

Dated: November 23, 1982.

Steven J. Durham,

Regional Administrator.

[FR Doc. 83-618 Filed 1-12-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-567; RM-4149]

Radio Broadcast Services; TV Broadcast Station in Rancho Palos Verdes, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF Television Channel 44 to Rancho Palos Verdes, California, in response to a petition filed by South Bay Broadcasting Company, Inc. The assignment could provide Ranchos Palos Verdes with its first local television service.

DATE: Effective: February 28, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Adopted: December 17, 1982.
Released: December 30, 1982.

In the matter of an amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Rancho Palos Verdes, California); BC Docket No. 82–567, RM–4149; report and order (Proceeding Terminated).

1. The Commission herein considers the Notice of Proposed Rule Making, 47 FR 38934, published September 3, 1982, proposing the assignment of UHF Television Channel 44 to Rancho Palos Verdes, California, as the community's first television assignment. Supporting comments were filed by the petitioner, reaffirming its intention to apply for the channel, if assigned. An opposition to the proposal was filed by Mark Pierce.

2. Rancho Palos Verdes, a Pacific Coast community of 35,227,[1] is located in Los Angeles County which has a population of 7,477,657, at the western extremity of the county, approximately 32 kilometers (20 miles) south of Los Angeles on the Palos Verdes Peninsula.

3. In support of its proposal, petitioner submitted information with respect to Rancho Palos Verdes which indicates a need for a first TV channel assignment. Specifically, petitioner states that the mountainous terrain of the Peninsula has created a "white area" in which no signals from Los Angeles area television stations can be received due to the severe "shadowing" of the Palo Verdes mountains.

4. In opposition to the proposal, Pierce argues that the shadowing discussed is not a justification for a full service station since most of the households in the community have cable. Further, Pierce contends that the needs of Rancho Palos Verdes could be better served by a low power TV station as a full power station would impede the efficient use of scarce UHF frequency resources.

5. We believe that the assignment of Channel 44 to Ranchos Palos Verdes would serve the public interest by providing the first local television service. Pierce's arguments against the assignment are without merit. Basically he argues that the existence of other signals and of cable obviates the need for a full service station. However the reception of other non-local services is not an adequate substitute for a station designed to meet the needs of the local community. As for the potential low power service, this action does not preclude such service. However we do not believe the public interest would be served by requiring the petitioner to operate a low power station instead of a full power facility. Since the petitioner has expressed a willingness to apply for the channel, we believe the request is justified. A site restriction of 28.3 miles south is required. Mexican concurrence in this assignment has been obtained.

6. Accordingly, pursuant to authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, IT IS ORDERED, That effective February 28, 1983, the Television Table of Assignments (§ 73.606(b) of the Rules) is amended with respect to the following community:

City	Channel No.
Rancho Palos Verdes, Calif	44+

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Arthur D. Scrutchins, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Martin A. Blumenthal,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-883 Filed 1-12-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-233; Rm 4048]

Radion Broadcast Services; FM Broadcast Station in Chadron, Nebraska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a second Class C FM channel to Chadron, Nebraska, in response to a petition filed by Nebraska Broadcasting Group, Inc.

DATE: Effective: February 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: December 22, 1982.

Released: December 30, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Chadron, Nebraska); BC Docket No. 82–233, RM–4048; report and order (Proceeding Terminated).

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 47 FR 20164, published May 11, 1982, proposing the assignment of FM Channel 234 to Chadron, Nebraska, as that community's second Class C allocation, in response to a petition filed by Nebraska Broadcasting Group, Inc. ("petitioner"). Supporting comments were filed by petitioner in which it reaffirmed its intention to apply for the channel, if assigned. Comments in opposition and a supplement thereto were filed by Big Sky Company ("Big Sky"),[1] to which the petitioner responded.

2. In its opposition Big Sky asserts that contrary to petitioner's representation contained in the *Notice*, Chadron has decreased in population and industry in recent years. As a result, Big Sky declares that the ability of its co-owned, but separately programmed, stations to survive is attributable to obtaining advertising revenue in other markets. However, Big Sky maintains that in spite of the declining economy, it is not without competition since at least seven stations in four other markets derive advertising revenue from Chadron merchants.

3. In view of the circumstances, Big Sky claims that if a second local FM service is allowed in Chadron, it will result in further fragmentation of scarce advertising revenue. Under those circumstances, Big Sky claims that it would be forced to eliminate the separate programming on its co-owned stations and resort to duplicating. As a consequence, Big Sky maintains that the proposed allocation of Channel 234 would not result in a net gain of services but would have a detrimental effect on its ability to serve the public interest.

4. Although Big Sky recognizes that the recent FM policy revisions [2] leave to the marketplace to decide whether, and to what extent, the public interest will be served, it nevertheless argues that given the facts presented here, the Commission has the responsibility under the Communications Act to determine whether or not the instant proposal could result in absolute public interest benefits.

5. In response to the opposition, petitioner asserts that Big Sky's arguments are contrary to the Commission's revised FM policies since demographic showings are no longer generally required. Secondly, it states that Big Sky's fear of economic harm stemming from a fragmentation of advertising revenue that it maintains the proposal could create, is not an appropriate concern at this level. Additionally, petitioner claims that Big Sky's conclusion that the public interest will suffer as a result of its being forced to duplicate its AM–FM programming is faulty since two separately owned broadcast entities could "contribute more to diversity than allowing the continued monopolization of outlets by

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[1] Population figures are taken from 1980 U.S. Census Advance Report.

[1] Big Sky is the licensee of co-owned Stations KCSR(AM) (daytime-only), and KQSK (FM) (Channel 248), in Chadron, Nebraska.

[2] See, *Second Report and Order* in BC Docket No. 80–130, *Revisions of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

an AM–FM combination." Petitioner thus concludes that a competing station in Chadron would serve the public interest under the First Amendment criteria by offering a local diversification of voices in the community.

6. As a preliminary matter, as Big Sky acknowledges, the *Second Report and Order, supra,* eliminated many of our previous policy considerations. Among other things, we stated therein that if the status of a community is not in question, and a petitioner believes that service is needed for which financial support could be generated, there is no reason for the Commission to question this judgment. Rather, such a matter is a business judgment that should be made by the applicant. If the station's viability proves to be erroneous, then the applicant, and not the public, will suffer the unpropitious consequences of a business failure. See, *Sacramento, Calif.,* 50 R.R. 2d 951 (1982).

7. As to Big Sky's assertion that market size and economic conditions in Chadron should be weighed to determine whether the public interest would be abused by the proposed allocation, this is a burden which it must bear to establish how, in fact, the public would be harmed by the competition.[3] Accordingly, it will have the opportunity to address such issue at the application stage. See, *Bend, Oregon,* 46 FR 62858, published December 29, 1981, and cases cited therein.

8. In consideration of the foregoing, it appears that the benefits of the proposal are clear, since it could provide a first locally competitive service in the community and a second nighttime voice for the expression of diversified programming. We believe this determination is consistent with the Commission's policy favoring competition through the authorization of additional broadcast services, and is consistent with the mandate of section 307(b) of the Communications Act of 1934, as amended, to provide a fair, efficient and equitable distribution of radio services among the various communities. The proposal is also in accord with our assignment priorities set forth in the *Second Report and Order, supra,* and with traditional assignment principles.[4]

9. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.204(b), and 0.281 of the Commission's Rules, it is ordered, That, effective February 28, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, IS AMENDED with regard to Chadron, Nebraska, as follows:

City	Channel No.
Chadron, Neb	234,249

10. It is further ordered, That this proceeding is terminated.

11. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Martin Blumenthal,

Assistant Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–894 Filed 1–12–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 82–566; RM–4167]

Radio Broadcast Services; FM Broadcast Station in Block Island, Rhode Island; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 257A to Block Island, Rhode Island, in response to a petition filed by Stephen J. McNamara and Peter E. Hunn. The assignment could provide a first local FM service to that community.

DATE: Effective: February 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: December 28, 1982.

Released: December 30, 1982.

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Block Island, Rhode Island); BC Docket No. 82–566, RM–4167; Report and order (proceeding terminated).

1. The Commission herein considers the Notice of Proposed Rule Making, 47 FR 38932, published September 3, 1982, proposing the assignment of Channel 257A to Block Island, Rhode Island, as the community's first local FM assignment, in response to a petition filed by Stephen J. McNamara and Peter E. Hunn ("petitioners"). Supporting comments were filed by petitioners in which they reaffirmed their intention to apply for the channel, if assigned. No oppositions to the proposal were received. The channel can be assigned consistent with the minimum distance separation requirement of § 73.207 of the Commission's Rules.

2. In view of the expressed interest in the proposed channel allocation we find that public interest consideration warrant the assignment of 257A to Block Island, Rhode Island, as its first FM Channel.

3. Accordingly, pursuant to the authority contained in sections 4((1), 5(d)(1) 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204 and 0.281 of the Commission's Rules, It Is Ordered, That effective February 28, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended for the following city:

City	Channel No.
Block Island, Rhode Island	257A

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning the above, contact Arthur D. Scrutchins, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–895 Filed 1–12–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 94

[PR Docket No. 82–373; RM–3887; RM–3994; FCC 82–541]

"Grandfathering" Provisions for Transmitter and Antenna Standards

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's Rules to permit all transmitting equipment (including antennas) authorized in the Private Operational-Fixed Microwave Radio

[3] *Carroll Broadcasting* v. *FCC,* 258 F. 2d 560 (D.C. Cir. 1958).

[4] See, *Anamosa and Iowa City, Iowa,* 46 FCC 2d 520, 524–55 (1974).

Service before July 1, 1976 to be continued in use indefinitely, provided that the equipment does not cause harmful interference to other private microwave systems or, in the 12.2–12.7 GHz band, DBS systems. The purpose of this action is to ease the burden of Commission regulations on licensees.

DATE: Effective January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Day, Private Radio Bureau (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 94

Private operational-fixed microwave, communications equipment.

Adopted: December 8, 1982.

Released: December 21, 1982.

I. Introduction

1. On July 9, 1982, the Commission released a *Notice of Proposed Rulemaking*, PR Docket No. 82–373 (FCC 82–303), 47 FR 31020 (July 16, 1982), proposing to "grandfather" for an indefinite period all transmitting equipment, including antennas, which was authorized in the Private Operational-Fixed Microwave Radio Service (OFS) prior to July 1, 1976, so long as the operation of this equipment did not cause interference to other licensees. The proposed rules were designed to alleviate the financial and operational burden upon operational-fixed microwave licensees authorized between July 20, 1961 and July 1, 1976 in complying with the technical standards set out in Part 94 of the Commission's Rules. Currently, all equipment must be conformed by August 1, 1985.[1]

2. The proposed rules sought to assure our regulatory objective that our new technical rules be satisfied while at the same time ameliorating to the extent practicable the burden upon licensees of immediately conforming to these rules when no harm was caused to other systems, including systems in the recently authorized Direct Broadcast Satellite Service.

3. Accordingly, we proposed that OFS stations licensed between July 20, 1961 and July 1, 1976 could continue to operate indefinitely with previously authorized non-conforming equipment until one of three situations occurred: (1) an applicant for a new OFS station could show that it would receive interference from a non-conforming station in excess of the levels specified in Section 94.63 of the Commission's Rules and that the interference would be eliminated if the non-conforming licensee used equipment which fully complied with the technical standards of Part 94; (2) a previously licensed OFS operator applied to modify its station and could show that the station, when modified, would receive interference from a non-conforming station and that the interference would be eliminated if conforming equipment were installed; and (3) during the five-year period in which OFS stations will share primary status with DBS licensees in the 12.2–12.7 GHz band,[2] an applicant for the DBS service could show that a non-conforming OFS station licensed in the 12.2–12.7 GHz band would cause interference to the DBS operator's intended service area and that the interference would be alleviated if the OFS station installed conforming equipment.

4. The mechanism by which we hoped to establish whether the equipment of a non-conforming licensee would cause undue interference to other licensees was stated as follows:

> We will allow an applicant who plans to construct a new station or modify an existing station to plan its system using interference calculations which assume that all systems in the area, whether "grandfathered" or not, are using conforming equipment and antennas. Then, if a non-conforming system in the vicinity of the new or modified conforming station were found to interfere with the new system and such interference would not result if conforming equipment were in use, the non-conforming system will have to be modified to prevent interference. The licensee of the new system will be required to give notice of the possible interference to both the licensee of the non-conforming system and the Commission. The licensee of the non-conforming system will be given six months to substitute conforming equipment and antennas that do not interfere.[3]

II. Comments of Participating Parties

5. Comments in support of the proposal were filed by the Central Committee on Telecommunications of the American Petroleum Institute (API), the Association of American Railroads (AAR), Rockwell International Corporation (Rockwell), the Utilities Telecommunications Council (UTC), WEHCO Equipment Corporation (WEHCO), and GTE Lenkurt Incorporated (GTE Lenkurt). Many of the supporting commenters suggested minor changes in the procedures proposed in the *Notice of Proposed Rulemaking*. The Satellite Television Corporation (STC) filed comments urging that the provisions relating to interference protection for DBS systems be clarified. No comments opposing the proposal were received.

6. API's comments included the results of a survey among twenty-eight petroleum and natural gas company microwave licensees. The survey showed that over 1,100 non-conforming transmitters were still being operated by the twenty-eight companies. API reported that the cost of replacing these transmitters would be $7 million and that an additional $16 million would have to be expended to replace or modify non-conforming antennas. API believed that, in most instances, the six-month period proposed for equipment conversion would be adequate. If, however, the six-month period spanned the winter months, API stated that it might be impossible to complete construction of new antenna towers within the time allotted. API therefore suggested that the rules ultimately adopted should provide for the possibility of extending the six-month conversion period where exigent circumstances exist.

7. In addition, API suggested that the Commission urge the licensees and potential licensees of stations which anticipate receiving interference from non-conforming stations to notify the users of the non-conforming equipment as soon as it is determined that an interference problem is likely. API believed that such notice to non-conforming licensees would be helpful and appropriate for both situations in which the planned new or modified conforming station was expected to interfere with an existing, non-conforming station as well as situations in which the new or modified station would receive interference from a non-conforming station. API expressed the hope that early notice of the possibility of interference would permit the parties involved to initiate discussions concerning whether a mutually agreeable arrangement could alleviate the need for replacing equipment.

8. AAR generally supported our proposed rules but recommended four specific changes. AAR advocated allowing a period of eight to nine months for equipment changeovers. In AAR's experience, it customarily takes eight to nine months for new applicants

[1] The rules which currently govern the technical standards for stations in the Private Operational-Fixed Microwave Radio Service became effective July 1, 1976, and were made immediately applicable to all private microwave systems authorized after that date. In recognition of the need for "maximizing the use-potential of present systems while at the same time assuring that by a reasonable future time all systems conform to state-of-the-art technical standards," systems licensed between July 20, 1961 and July 1, 1976 were grandfathered until August 1, 1985. *Report and Order*, Docket No. 19869 (FCC 75–469), released May 8, 1975, 40 FR 20918 (May 13, 1975), 52 FCC 2d 894; 47 CFR 94.61, 94.92.

[2] *Report and Order* in Gen. Docket No. 80–603 (FCC 82–285), released July 14, 1982, 47 FR 31555, July 21, 1982.

[3] *Notice of Proposed Rulemaking* at paragraph 12, 47 FR 31022.

to be licensed and complete construction; hence, new applicants would not be disadvantaged by extending the period for non-conforming licensees to replace their equipment. AAR suggested that existing, non-conforming licensees be given the opportunity to comment on the interference analyses and conclusions of new applicants before the Commission decides to require the existing licensees to change equipment. AAR stated that an existing licensee should have the opportunity to show that the causes of the expected interference can be traced to something other than its own non-conforming antenna or transmitter and that there may be more appropriate solutions to interference than replacement of equipment.

9. AAR also urged that the Commission expressly acknowledge in its decision that when interference attributed to a non-conforming system does occur, the parties involved may agree to solutions which might obviate the need for replacement of the non-complying equipment. Compromises are very common in the private microwave field, AAR argued, and often result in accommodating new stations that might not otherwise be permitted. With respect to the obligation of the non-conforming licensee to replace part or all of the non-conforming equipment, AAR suggested that the Commission's final decision make it clear that, in the event of interference, the responsibility of the non-conforming licensee is limited to replacing the offending non-conforming equipment, and that the non-conforming licensee need comply with the current technical standards only to the degree necessary to resolve the interference problem. In AAR's view, if replacement of a licensee's antenna would resolve the problem, there should be no need to replace non-conforming transmitters or other equipment which, though non-conforming, does not contribute to the interference problem.

10. UTC expressed concern that the procedures proposed for implementation of the extended grandfather period would, under certain circumstances, promote costly equipment replacement as a solution to interference problems when other, equally effective solutions might be available. For instance, UTC expected that many interference problems could be worked out at the frequency coordination stage, simply by having the frequency coordinators consider "actual use data"[4] when performing engineering analyses, rather than making a blanket assumption that all microwave systems in the area are using conforming equipment.

11. UTC also urged that we modify the period allowed for replacement of non-conforming equipment. UTC stated that equipment manufacturers customarily promise delivery of equipment approximately 150–180 days from the date an order is placed. Based on their expectation that delivery of equipment may take five to six months and considering other delays inherent in the installation process, UTC believed that non-conforming licensees should be afforded up to 360 days to replace non-complying equipment. To encourage new licensees to provide prompt notification to interfering, non-conforming systems as soon as an engineering analysis has determined that there is a potential for interference, UTC advocated that the equipment replacement period commence on the date on which the non-conforming licensee receives notification of the interference problem. Thus, UTC's recommended changes would require non-conforming licensees to make all changes in equipment determined to be necessary to eliminate interference within 360 days from the date on which the non-conforming licensee receives written notification of the potential or actual interference.

12. UTC also expressed concern that a potential applicant, anticipating construction of a station, may conduct an interference study and, after advising a non-conforming licensee located near the proposed site that interference is likely, abandon plans to build the station. UTC suggested that prospective licensees be required to provide a second notice to advise the non-conforming licensee when the Commission has accepted the new application for filing. In UTC's view, this second notice would help non-conforming licensees ensure that prospective licensees actually pursue licensing, thus avoiding possibly needless expenditures undertaken to prevent interference to systems which never materialize.

13. UTC also sought clarification of the degree of protection to be afforded DBS systems which experience interference from non-conforming OFS stations. UTC requested that our proposed policy be clarified to ensure that, during the five-year period in which OFS stations have co-primary status with DBS, OFS licensees at 12 GHz will only be required to replace their non-conforming equipment if the interference to the DBS system is shown to be caused by use of non-conforming equipment.

14. GTE Lenkurt also expressed concern that the six-month equipment conversion period proposed in our *Notice* was inadequate time in which to manufacture, install, and test a quality microwave system. GTE Lenkurt suggested that, on the basis of its experience with numerous "changeouts" of existing systems, a minimum period of nine months from the time of the grant of the license for a new station or for modification to an existing station would be more reasonable for equipment conversion. Additionally, GTE Lenkurt suggested that the parties directly involved should be permitted, if so inclined, to reach agreement as to an alternative time frame which is mutually satisfactory.

15. WEHCO reported that its microwave facilities were initially licensed prior to implementation of the new technical standards and that its present equipment could operate satisfactorily for several more years if properly maintained. WEHCO estimated that it would cost several hundred thousand dollars to replace all of its non-conforming equipment. WEHCO strongly supported our proposal to grandfather non-conforming systems indefinitely in situations where harmful interference would not be caused to other licensees.

16. STC argued that our expressed intention to ensure that non-conforming equipment used by OFS stations operating in the 12.2–12.7 GHz band does not cause interference to DBS systems was not reflected in the rules we proposed. STC considered this to be a critical omission and suggested language to correct the omission. STC also urged that we make it clear that DBS systems, like new or modifying OFS systems, will be able to avail themselves of the procedures proposed for eliminating interference from non-conforming systems. STC sought to avoid the possible implication that DBS systems must actually experience interference from non-conforming OFS systems before seeking relief. STC therefore urged that we expressly state that DBS operators can require non-conforming OFS systems to comply with current Part 94 standards by making a showing on the basis of interference calculations before actually going on the air. STC also noted that one of the Commission's remaining tasks in Gen.

[4] UTC uses the term "actual use data" to mean all data related to the actual operating environment for the band or bands of frequencies which would be suitable for use by an applicant. By urging consideration of actual use data, UTC seeks to avoid having an applicant select a frequency which would require a non-conforming licensee to upgrade its equipment when there are other frequencies which would be equally suitable and would not necessitate equipment changes.

Docket 80-603 is to develop an interference protection criterion to be applied to OFS systems in the 12.2–12.7 GHz band once DBS attains sole primary status in the band. STC suggested that the degree of protection which non-conforming OFS stations at 12 GHz provide to DBS systems should be equivalent to the interference criterion to be developed in Docket 80-603.

17. Rockwell's comments supported the proposed conversion period of 180 days; this time period, Rockwell believed, was fair to both existing and new system owners. Rockwell also recommended that we enforce the original grandfather date of August 1, 1985 for congested areas because, in its view, all systems in congested areas should require upgrading at approximately the same time. Upgrading all systems simultaneously would not be unduly harsh to existing systems, Rockwell contended, and would be fair to the new systems implemented.

III. Reply Comments

18. Reply comments were filed by API, AAR, STC, and Southern Railway System (SRS). After the date for reply comments had passed, Rockwell submitted "Additional Comments," in which it responded to some of the points raised in the reply comments. AAR filed a Motion to Strike the Additional Comments and a Response to the Additional Comments.[5]

19. API's reply comments opposed Rockwell's recommendation that the Commission enforce the original August 1, 1985 grandfather date for congested areas. API asserted that the only basis for requiring a licensee to modify its equipment would be a showing that the operation of the equipment would cause interference to other users. API also maintained that the interference criteria of § 94.63 of the Commission's Rules should be equally applicable to cases in which DBS systems allege interference from non-conforming OFS stations as well as cases in which existing or planned OFS systems would be subject to interference from non-conforming equipment. API thus opposed STC's suggestion that the level of interference protection to be afforded DBS systems by non-conforming OFS stations should be the same as the protection criterion which will take effect in 1988 when DBS has attained sole primary status in the 12.2–12.7 GHz band. API also urged us to build sufficient flexibility into any rules ultimately adopted to avoid the need for frequent requests for rule waivers in situations where extenuating circumstances cause equipment conversion to extend beyond six months.

20. AAR, like API, disagreed with Rockwell's recommendation that the Commission require equipment replacement for all non-conforming stations in congested areas by August 1, 1985. AAR argued that Rockwell had neither explained the public benefits of its proposal nor offered any arguments in support of the August 1, 1985 date. AAR again stated its belief that eight to nine months is a realistic time frame for equipment conversion, but indicated that the longer periods suggested by some commenters would be equally satisfactory. Finally, AAR objected to STC's suggestion that the licensees of 12 GHz non-conforming systems should be required to replace equipment solely on the basis of a frequency analysis and in advance of actual operation of a direct broadcast system. AAR would prefer that such DBS/terrestrial microwave issues be considered within the context of the proceeding in Gen. Docket 80-603.

21. STC's reply comments urged us not to extend the period of time allowed for replacement of non-conforming equipment beyond the six months proposed in our *Notice*, unless we simultaneously established a mechanism to assure that any extended compliance period expires before affected DBS systems become operational. STC favored the suggestion that the compliance period commence with the date on which the non-conforming licensee receives notice of the potential or actual interference. STC suggested that the proposed rules would better accommodate all interests if they were to provide, in the case of DBS systems, that "interference due to nonconformity may be determined by calculation up to 15 months in advance of actual system operation, and that compliance must be achieved prior to launch of the affected DBS spacecraft but in no event less than six months from the notice of interference."

22. The reply comments of SRS merely stated support for the comments filed by AAR.

IV. Discussion and Decision

23. We have considered carefully the comments and reply comments filed in this proceeding. We find many of the procedural suggestions submitted to be very helpful. While our primary regulatory concern is assuring the ultimate compliance of all Part 94 licensees with our technical rules, we recognize the merit in providing relief from the August 1, 1985 deadline in situations where we can do so without adversely affecting other systems. In succeeding paragraphs, we discuss individually the most prominent points raised in the comments and reply comments.

A. Engineering Analyses

24. UTC has expressed concern that applicants planning new OFS stations and licensees planning to modify existing stations may not consider "actual use data" when conducting the engineering analysis required by § 94.15(b) of the Rules. By this UTC means either that assumptions will be made which do not conform to the actual systems in operation or that our proposal fails to recognize that other frequencies may exist on which no systems are currently operating. The intent of the proposed § 94.63(f) was that when a new station (or a change to an existing station) is being planned in the vicinity of a non-conforming station, the engineering analysis to be performed should consist of two stages. The first stage would be an analysis to see whether operation of the new station or implementation of a planned change to an existing station would be precluded because of the actual operating characteristics of the non-conforming station. We would expect this first stage to involve an examination of all reasonable alternatives available to the applicant, including consideration of frequencies which might avoid the interference conflict. If there are no reasonable alternatives available in terms of interference-free frequencies, the engineering analysis would then proceed to the second stage—an analysis of whether interference would be likely if the non-conforming licensee were using equipment which fully complied with the current technical standards of Part 94.

25. We think the two-stage engineering analysis envisioned in our proposal is adequate and necessary. Further, it seems apparent to us that consideration of actual use data would be an essential element of the engineering analysis to be performed. Hence, the new Rule § 94.63(f) which we

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[5] Rockwell's additional comments identified certain problems which it expects would result from the indefinite grandfathering of non-conforming stations in congested areas. In addition to being late-filed, Rockwell's additional comments address points raised in the reply comments. (Section 1.415 of the Commission's Rules notes that reply comments are permitted for the purpose of responding to the original comments, and that no additional comments may be filed unless specifically authorized.) Rockwell did not file a motion for acceptance of late comments and no good cause has been shown why the additional comments should be accepted. Therefore, Rockwell's additional comments are dismissed, and AAR's motion to strike Rockwell's additional comments is moot.

are adopting today contains wording which is substantially similar to that found in our proposed amendments. We think this wording sufficiently informs all OFS applicants or our intention that the actual operating environment be considered when conducting the engineering analysis required by § 94.15(b).

26. AAR sought an opportunity for non-conforming licensees to comment on the analyses and conclusions of applicants who anticipate interference before we order the non-conforming licensees to upgrade their equipment. This suggestion is adopted. The current § 94.15(b) of our Rules advises that "applicants and licensees will be expected to cooperate promptly and fully in the exchange of technical information necessary to performing frequency engineering analysis and, in the event of technical differences, cooperate in resolving these differences." Section 94.15(b) will apply to cases of potential interference attributed to non-conforming stations. Thus, we expect that applicants anticipating interference from a non-conforming licensee will provide the non-conforming licensee with copies of the documents upon which the finding of apparent interference rests.

27. We also will provide non-conforming licensees with a single opportunity to comment on the supporting documentation before requiring such licensees to install conforming equipment. Non-conforming licensees will be allowed thirty days from the date of receipt of official Commission notice advising a licensee that his non-conforming equipment appears to be the cause of interference to comment. This thirty-day comment period will be strictly enforced. We wish to make it clear that this opportunity to comment is not tantamount to an administrative hearing. We will not permit non-comforming licensees to expand the comment period into a protracted adversary proceeding. Rather, we consider it to be a one-time opportunity for the licensees of non-conforming systems to point out incorrect facts or assumptions in an applicant's engineering analysis. In our view, non-conforming licensees occupy a subordinate position. Absent erroneous facts or assumptions in the engineering analysis, we will expect non-conforming licensees to yield to new applicants who have demonstrated the likelihood of interference due to non-conforming equipment.

B. Notification to Non-conforming Licensees

28. We think it is necessary, as API has suggested, that the licensees of stations which anticipate receiving interference from non-conforming stations notify the users of the non-conforming equipment as soon as it is determined that an interference problem is likely. We expect that OFS licensees will cooperate in an expeditious effort to resolve interference and frequency coordination problems. Prompt notification of potential interference is an essential element of our program to grandfather non-conforming equipment indefinitely, and we encourage all licensees who anticipate interference problems resulting from non-conforming equipment to provide notice of the interference as promptly as possible to the other licensees involved.

C. Compromise Solutions

29. Several comments raised the possibility that the parties involved in an interference problem stemming from non-conforming equipment may be able to work out agreements which would obviate the need for replacing equipment. We have no objection to such agreements and do not intend that replacement of non-conforming equipment should be interpreted as the exclusive means of remedying interference problems. The parties involved in a particular case of interference resulting from a non-conforming station will be permitted to work out compromise solutions where possible as an alternative to replacing the offending equipment. We do not intend to review such agreements, but rather will rely on the parties involved to determine whether it is mutually beneficial to enter into such agreements.

30. However, we will not permit arrangements which save a non-conforming licensee from upgrading equipment through use of spectrally inefficient measures. For instance, § 94.15(e) of the Rules permits an applicant to apply for an exception to the assignment of paired frequencies upon a showing that the applicable interference criteria could not be met using paired frequencies. We will not approve the use of non-paired frequencies for new applicants when the non-conforming equipment of an existing licensee is the only obstacle to use of paired frequencies. Similarly, we intend to continue enforcing the provisions of § 94.15(c), which requires an applicant to select frequencies where the assignable bandwidth is most consistent with the proposed communication requirements. If an applicant has need for twenty voice channels, we will expect him or her to apply for frequencies having a bandwidth of 800 kHz, e.g. the 2130–2150 MHz band. If frequencies at 2130–2150 MHz would be available but for an existing licensee's use of non-conforming equipment, we will not assign other frequencies having a bandwidth far in excess of the operational needs of the applicant. In order words, an applicant's desire to avoid imposing equipment changes upon a non-conforming licensee will not be considered satisfactory justification for deviating from efficient spectrum utilization principles.

D. Period Allowed for Equipment Conversion

31. The issue which generated the greatest amount of discussion in the comments was the question of how long a period should be allowed for licensees to upgrade non-conforming equipment which has been identified as the cause of interference. After reviewing the comments, it seems clear that, in the worst case—assuming, for example, that construction of a tower occurs during the winter months—six months would not be an adequate time period. Three commenters urged that we allow a longer time frame for conversion. However, API, one of the parties which originally petitioned for indefinite grandfathering, stated that six months would be an adequate conversion period in most instances.

32. Our experience in monitoring the progress of construction of new facilities leads us to agree with API. In fairness to new station operators who might experience interference from a non-conforming station, we want to encourage non-conforming licensees to complete equipment conversion as quickly as possible. We feel that a six-month conversion period would achieve this purpose. We do recognize that there may be occasional delays in the installation of new equipment due to weather conditions, specialized manufacturing of equipment, and other factors, however. For this reason, we will consider granting extensions of the six-month conversion period, but will require a strong showing of good cause for the extension.

33. The six-month period (expressed as 180 days for purposes of our rule) would usually begin with the day on which the Commission grants the application of the licensee whose station would receive interference. For cases in which the non-conforming licensee does not receive notice of the interference until after the date of grant of the

complaining licensee's application, the starting point for the six-month conversion period will coincide with the date of the official Commission notice to the offending OFS operator that it will have to upgrade its equipment.

E. Extent to Which Non-Conforming Equipment Will Have To Be Replaced

34. Commenters have suggested that non-conforming licensees whose stations have been identified as the source of interference should only be required to install conforming equipment to the extent necessary to resolve the interference problem. We think this suggestion is reasonable and in keeping with the deregulatory philosophy which motivated this proceeding. Hence, if replacement of a licensee's non-conforming antenna will resolve an interference problem, we will not require the licensee to replace other non-conforming equipment which does not contribute to the interference problem.

F. Interference Caused to DBS Systems

35. We fully intend to ensure that DBS systems receive the same degree of protection from non-conforming OFS stations as OFS stations will receive. The rule changes which we are adopting today expressly provide that OFS systems operating in the 12.2–12.7 GHz band shall not be permitted to cause interference to DBS systems in excess of the levels specified in Rule § 94.63. Of course, as provided for in our June 23, 1982 *Report and Order* in Gen. Docket No. 80–603, stations in the Private Operational-Fixed Microwave Service will have secondary status in the 12.2–12.7 GHz band five years from the date on which the Commission identifies alternative frequencies for the OFS licensees. We expect to identify alternative frequencies by September 1983. Thus, OFS stations would become secondary to DBS systems by September 1988. Until that time, OFS stations and DBS systems will be on a co-primary basis.[6] Since the licensees of non-conforming stations cannot be required to upgrade their equipment until August 1, 1985 at the earliest, the interference protection criteria specified in § 94.63 will govern non-conforming OFS stations at 12 GHz only for a three-year period (August 1985 to September 1988).

36. STC's comments noted that, as part of the remaining tasks in Gen. Docket No. 80–603, the Commission will have to develop some standards concerning the interference protection which 12 GHz OFS stations must provide to DBS systems after 1988. STC recommended that non-conforming OFS stations be required to provide the same degree of protection to DBS systems during the period 1985–1988 that will have to be provided after 1988. In effect, under STC's suggestion, non-conforming OFS stations operating at 12 GHz would have to meet different interference protection criteria during the period 1985–1988 than would conforming OFS stations operating in the same band. We do not see any merit in this suggestion. During the period in which OFS stations are co-primary with DBS systems, it would be inconsistent to apply the interference protection criteria which will govern once the operational-fixed stations revert to secondary status. Therefore, we are not adopting STC's recommendation.

37. We wish to make it clear that DBS operators will be permitted to use the same procedures as we are making available to OFS licensees who may receive interference from non-conforming systems. In other words DBS licensees will be permitted to demonstrate, in advance of operation of their system, that they will receive interference from a non-conforming OFS station in excess of the levels specified in § 94.63, and that such interference would not result if the OFS station installed equipment meeting the current technical standards of Part 94. Upon receipt of such a showing, the Commission will allow thirty days for comment by the licensee of the OFS station identified as the source of the interference.

38. One problem arises with DBS systems which would not occur in interference cases involving two OFS stations. With respect to interference caused to an OFS station, the date of grant of the license to a complaining OFS operator serves as an effective triggering event for the six-month conversion period, because the complaining OFS licensee typically would not begin operating under its new license until several months later. Moreover, until the Commission has actually granted the license of an OFS station which would receive interference, there is no assurance that the proposed station will actually be constructed. For this reason, it seems premature to require a non-conforming licensee to upgrade its equipment before the Commission has granted a license to the OFS applicant anticipating interference. With DBS operations, however, construction of a system will precede the final Commission action which grants a DBS licensee the authority to begin operating. Hence, DBS systems will likely begin operations nearly simultaneously with the grant of operational authority.

39. Similarly, the DBS operator's intent to construct a system and launch a satellite will have been established well before the Commission grants operational authority. Thus, in many cases, if a DBS operator has demonstrated that a non-conforming OFS station will cause interference and that the interference could be alleviated with the installation of conforming equipment, it may be unfair to wait until the grant of operational DBS authority to commence the six-month conversion period. At this point, it does not seem prudent to attempt to identify a specific starting point for the six-month equipment conversion period in cases where non-conforming OFS equipment will cause interference to a DBS system. We prefer not to set a specific triggering event, so that the starting date for equipment conversion in specific cases of interference can be tailored to the particular circumstances and equities involved in each situation. In cases involving potential interference to DBS systems we will wait until after we receive the engineering analysis demonstrating the likelihood of interference before setting a specific deadline for installation of conforming equipment.

40. OFS operators will still be permitted to comment upon the engineering analyses and will still have six months to complete construction after the Commission's official notice to upgrade equipment. We will attempt to reach a decision on whether the non-conforming systems will have to upgrade their equipment at least six months in advance of the date on which the DBS licensee intends to begin operating, provided that we receive sufficiently early notice of the potential interference. Thus, the six-month period for conversion of non-conforming stations typically will expire prior to the time when DBS systems commence operating. In cases where we do not receive notice of interference to a DBS system until after DBS broadcasting has commenced, the offending OFS station will have six months from our official notice to install any new equipment that is necessary.

G. Congestion Level Index and Minimum Diameter Standards for Parabolic Antennas

41. The July 9 *Notice* in this proceeding asked for comments on API's recommended methodology for determining congested areas and API's

[6] Report and Order, Gen. Docket No. 80–603, paragraph 67, 47 FR 31560.

proposed minimum diameter standards for determining which pre-1976 parabolic antennas could be considered "conditionally acceptable." The comments of AAR, UTC, and API supported the concept of a congestion level index based on the methodology recommended by API. No other commenters offered views on this methodology. API's comments supported the adoption of minimum diameter standards for pre-1976 parabolic antennas. AAR did not object to such standards, but indicated that it did not favor implementation of the standards as a substitute for the Commission's list of acceptable pre-1976 antenna models. UTC stated that it did not believe the minimum diameter standards were necessary. No other comments were offered concerning the proposed standards for pre-1976 parabolic antennas.

42. We are not now proposing to take any action with regard to either the congestion level index or the standards for pre-1976 parabolic antennas. At some point in the future, we will have to arrive at a methodology for re-computing congested areas. The congestion level index proposed by API and the comments regarding API's methodology will be considered when we begin work on revising the methodology currently in use. We intend to solicit public comments again at an appropriate point in the future when we are prepared to propose a specific methodology for computing congested areas.

V. Summary and Conclusion

A. Indefinite Grandfathering Plan

43. The commenters have demonstrated persuasively that the immediate expenditures which would be required to ensure full conformance with the current Part 94 technical standards cannot be justified in situations where no tangible improvement in the interference environment would result. For this reason, we have determined that it is in the public interest to extend the grandfathering of all Private Operational-Fixed Microwave station equipment authorized prior to July 1, 1976, so long as the use of this equipment does not prevent the licensees of existing OFS stations from modifying their operations, preclude applicants for new OFS stations from beginning operation, or cause interference to the service area of DBS operators. The interference protection requirements we are adopting today will take effect on August 1, 1985. Therefore, we will not require non-conforming licensees to upgrade their equipment before that date in response to complaints of harmful interference.

44. We wish to emphasize that this finding is motivated solely by our desire to prevent the premature and wasteful scrapping of equipment. It is our clear intent that the relief provided by our action in this proceeding be subordinate to our continuing objective, implicit in the Part 94 technical standards, of promoting more efficient use of the spectrum. We note that the technical standards detailed in the current § 94.92 of our Rules and Regulations will continue to apply to transmitting equipment authorized between July 20, 1961 and July 1, 1976.

B. Summary of Notices

45. At several points in the preceding discussion, we have referred to notices which will be provided to the licensees of non-conforming OFS stations. To ensure that the system we envision is clearly understood by all, we offer the following summary of the notices deemed essential to our program for grandfathering non-conforming equipment:

a. An applicant for a new OFS station or DBS system or an OFS licensee seeking to modify its station shall notify both the Commission and the licensee of the other OFS station(s) involved as soon as it is determined that the non-conforming equipment of an existing OFS station will cause interference. A copy of the engineering analysis upon which the determination of interference is based shall be included with the notice.

b. Upon receiving notice from an OFS licensee/applicant or a DBS operator of potential or actual interference from a non-conforming OFS station, our staff will send a notice via registered mail to the licensee of the non-conforming station requesting comments on the interference analysis. This notice will specify the date by which comments must be submitted to the Commission.

c. After reaching a decision as to whether the non-conforming equipment which is the subject of an interference complaint will have to be replaced, our staff will notify the non-conforming licensee of its decision. In cases where the staff has determined that equipment must be upgraded, the notice will inform the non-conforming licensee that it has 180 days from the date of the notice in which to install conforming equipment sufficient to eliminate the interference.

C. Final Regulatory Flexibility Analysis

46. The objective of this rule is to relieve licensees of Private Operational-Fixed Microwave stations of the need to make large-scale expenditures for new equipment by August 1, 1985, in cases where granting such relief does not harm other OFS stations or DBS systems. We have determined that the relief granted to OFS licensees in this proceeding is necessary because the current rules would require many licensees whose existing equipment is working satisfactorily and not causing interference to make substantial investments in new equipment by August 1, 1985.

47. We received no public comments which specifically addressed the initial regulatory flexibility analysis contained in the July 9 *Notice of Proposed Rulemaking*. Since the rules we are adopting in this proceeding relieve an economic burden on business entities of all sizes, our action is consistent with the purposes of the Regulatory Flexibility Act. Other alternatives which we might have adopted would have involved no grandfathering or grandfathering on a more limited basis. Both would have imposed a greater economic burden on all licensees, large and small entities alike.

VI. Ordering Clauses

48. Accordingly, it is ordered, effective January 20, 1983, that Part 94, 47 CFR Part 94, is amended as shown in the Appendix attached hereto. The authority for this action is found in Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 303.

49. It is further ordered, that this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Chapter I, Part 94 of Title 47 of the Code of Federal Regulations is hereby amended as follows:

PART 94—[AMENDED]

1. Section 94.61 is amended by revising paragraph (a) to read as follows:

§ 94.61 Applicability.

(a) The technical standards of this subpart shall govern the issuance of authorizations for new stations and changes in authorized stations as specified in § 94.65. Except as provided for in § 94.95, licensees of transmitting equipment (including antennas) authorized prior to July 1, 1976, including their successors or assigns in business, will be permitted to utilize such equipment, in accordance with the

standards indicated in § 94.92, provided that the operation of this equipment does not cause interference in excess of the levels specified in § 94.63 to another operational-fixed station or, in the 12,200–12,700 MHz band, to a direct broadcast satellite system. In case of such interference, the licensee of the non-conforming equipment may be required to install equipment which fully conforms to the technical standards of this subpart.

* * * * *

2. Section 94.63 is amended by adding a new paragraph (f) to read as follows:

§ 94.63 Interference protection criteria for operational-fixed stations.

* * * * *

(f) Effective August 1, 1985, when an operational-fixed station which conforms to the technical standards of this subpart (or, in the case of the 12,200–12,700 MHz band, a direct broadcast satellite station) receives or will receive interference in excess of the levels specified in this section as a result of an existing licensee's use of non-conforming equipment authorized between July 20, 1961 and July 1, 1976, and the interference would not result if the interfering station's equipment complied with the current technical standards, the licensee of the non-conforming station must take whatever steps are necessary to correct the situation up to the point of installing equipment which fully conforms to the technical standards of this subpart. In such cases, if the engineering analysis performed in accordance with § 94.15(b) demonstrates that (1) the conforming station would receive interference from a non-conforming station in excess of the levels specified in this section and (2) the interference would be eliminated if the non-conforming equipment were replaced with equipment which complies with the standards of this subpart, the licensee (or prospective licensee) of the station which would receive interference shall provide written notice of the potential interference to both the non-conforming licensee and the Commission's office in Gettysburg, PA. The non-conforming licensee shall make all required equipment changes within 180 days from the date of official Commission notice informing the licensee that it must upgrade its equipment, unless an alternative solution has been agreed to by all parties involved in the interference situation. If a non-conforming licensee fails to make all required changes within the specified period of time, the Commission may require the licensee to suspend operation until the changes are completed.

3. The introductory paragraph of § 94.77 is revised to read as follows:

§ 94.77 Interference to geo-stationary satellites.

These limitations are necessary to minimize the probability of harmful interference to reception in the bands 2655–2690 MHz and 12,500–12,700 MHz on board geo-stationary space stations in the Fixed Satellite Service (Part 25). Stations authorized prior to July 1, 1976 which exceed the power levels in paragraphs (a) and (b) of this section are permitted to operate indefinitely, provided that the operation of such stations does not result in harmful interference to reception in the bands 2655–2690 MHz and 12,500–12,700 MHz on board geo-stationary space stations.

* * * * *

4. Section 94.92 is amended by removing paragraphs (a) and (b), but retaining the table which accompanies paragraph (a), and adding a new introductory paragraph to read as follows:

§ 94.92 Technical standards for stations authorized prior to July 1, 1976.

The technical standards indicated in the table in this section apply to private microwave systems using the frequency bands above 952 MHz listed in the table and which were authorized prior to July 1, 1976, but after July 20, 1961. These standards shall not be applicable to transmitting equipment, including antennas, which was authorized to be operated on these frequencies prior to July 20, 1961, or for which an authorization was issued based on an application filed with the Commission prior to July 20, 1961.

* * * * *

[FR Doc. 83-666 Filed 1-12-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Special Regulations, Public Access, Use, and Recreation—Wichita Mountains Wildlife Refuge, Oklahoma; Back Bay National Wildlife Refuge, Virginia.; and Chincoteague National Wildlife Refuge, Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of special regulations.

SUMMARY: It has been determined that the opening to public access, use, and recreation of the Wichita Mountain Wildlife Refuge, Oklahoma, Back Bay National Wildlife Refuge, Virginia, and Chincoteague National Wildlife Refuge, Virginia, is compatible with the objectives for which these areas were established and would provide additional recreational opportunities to the public. This document extends duration of the regulations governing such access which were previously promulgated until revised rules are issued so that orderly management of the refuges will not be compromised. The Office of Management and Budget clearance numbers for information collection requirements are also given.

EFFECTIVE DATE: This rule is effective on January 13, 1983.

FOR FURTHER INFORMATION CONTACT: Robert A. Karges, Refuge Manager, Wichita Mountains Wildlife Refuge, Route 1, Box 448, Indiahoma, OK 73552 (Telephone 405–429–3221); Glen W. Bond, Refuge Manager, Back Bay National Wildlife Refuge, Pembroke Office Park, Pembroke No. 2, Suite 218, Virginia Beach, VA 23462 (Telephone 804–490–0505); Dennis Holland, Refuge Manager, Chincoteague National Wildlife Refuge, P.O. Box 62, Chincoteague, VA 22336 (Telephone 804–336–6122).

SUPPLEMENTARY INFORMATION: The author of this document is Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets, NW, Washington DC 20240 (Telephone 202–343–4206).

General

On January 27, 1981, public access and use regulations for the Wichita Mountains Wildlife Refuge were published in the **Federal Register** (46 FR 8525) in accordance with provisions of 50 CFR 26.34. These regulations were effective through December 31, 1981. On April 21, 1982, these regulations were extended through December 31, 1982 (47 FR 17066). On May 28, 1980, the Fish and Wildlife Service established special regulations concerning public access, use and recreation for the Back Bay National Wildlife Refuge (45 FR 35823). Amended regulations were issued on August 7, 1980 (45 FR 52391). These regulations were effective through December 31, 1982. On April 3, 1980, the Fish and Wildlife Service issued special regulations under the provisions of 50 CFR 26.34 for the Chincoteague National Wildlife Refuge (45 FR 22047) which were effective through December 31, 1982.

A continuation of these rules is necessary until new regulations can be

drafted and subjected to public comment. This effort is currently under way and is expected to be completed by the spring of 1983. In the interim, this rule extends the effectiveness of the regulations until the publication of the new rules.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer refuge areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practical and not inconsistent with the primary objectives for which the areas were established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation. The recreational use authorized by these regulations will not interfere with the primary purpose for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's "Final Enviromental Statement on the Operation of the National Wildlife Refuge System" [FES 76–59) which was filed with the Council on Environmental Quality on November 12, 1976. A notice of availability was published in the **Federal Register** on November 19, 1976 (41 FR 51131). In addition, funds are available for the administration of the recreational activities permitted by these regulations.

This regulation will have a positive effect on local filling stations, providers of meals, and overnight accommodations. This rule will impose no costs on small entities; the exact number and the amount of business that will result from this refuge-related recreation is unknown. The aggregate effect is a positive economic effect on a limited number of small entities. The positive effects will be spread over two States.

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13913), that the rulemaking would not have "significant economic effect on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act (Pub. L. 96–354).

List of Subjects in 50 CFR Part 26

National Wildlife Refuge System, Recreation, Wildlife refuges.

PART 26—PUBLIC ENTRY AND USE

Accordingly the special regulations for public access and use published at 50 CFR 26.34 for the Wichita Mountains Wildlife Refuge, Back Bay National Wildlife Refuge, and Chincoteague National Wildlife Refuge which expired on December 31, 1982 are reissued and revised effective January 13, 1983 to remain in effect until further notice to read as follows. Also, Office of Management and Budget information collection approvals are cited.

§ 26.34 Special regulations concerning public access, use, and recreation for individual national wildlife refuges.

Oklahoma

Wichita Mountains Wildlife Refuge

Special Conditions: (1) Sightseeing, nature observation, and photography are permitted only during daylight hours. (2) Hiking is permitted during daylight hours only. (3) Camping is permitted only in those recreation areas that are designated for that activity. (4) Any activity that emits sound beyond the immediate campsite between the hours of 10:00 p.m. and 8:00 a.m. is prohibited. (5) No person other than campers shall enter or remain in a camping area between the hours of 10:00 p.m. and 6:00 a.m. (6) No person shall use electrical speakers at a volume which emits sound beyond the individual camp or picnic site without the permission of the refuge manager. (7) Exceeding posted capacities is prohibited. A written permit is required for stays exceeding 7 days. (8) Backcountry camping is permitted in the Charons Gardens Wilderness Area by permit only. Length of stay is limited to 3 days. Inquire at Refuge office for further information. Special conditions may be set by Refuge Manager which may include areas for camping, equipment used and prohibition of open fires. (9) Fires are prohibited, except in those recreation areas where camping or picnicking is permitted. They must be built in grates and grills provided for that purpose. Dead fallen timber may be used. Fires must not be left unattended and must be completely extinguished before leaving the area. During periods of very high fire danger, open fires are prohibited. (10) Picnicking is allowed only in recreation areas that are designated for that activity. (11) Gasoline, electric, oar, or handpowered boating is permitted only on Elmer Thomas Lake; handpowered boats only on Jed Johnson, Rush, Quanah Parker and French Lakes. Boating is prohibited in marked scuba diving and swimming areas. State and Federal boating regulations apply. Fort Sill regulations apply on the military portion of Elmer Thomas Lake. Water skiing is prohibited. All floating devices are prohibited, except those permitted in boating, swimming, scuba diving, and sport fishing regulations. (12) Swimming, wading, and snorkeling are prohibited, except at the designated swimming beach on Elmer Thomas Lake and only when refuge lifeguards are on duty. Food, beverages, and pets are prohibited on the beach. Beach users must comply with the directions of authorized lifeguards. (13) Scuba diving is permitted in the refuge portion of Elmer Thomas Lake, but is prohibited in all other refuge waters. Diving areas must be marked with appropriate warning flags when outside marked swimming areas. Diving is permitted during daylight hours only. Inflatable vests must be worn during diving. (14) Pets must be kept on a leash, not to exceed 10 feet in length, one end of which must be secured to restrict the movement of the pet. Pets are prohibited at the swimming beach. (15) Motorized vehicles are permitted only on developed roads. Vehicle travel on roads closed by sign or barrier is prohibited. All vehicles must be operated safely and in accordance with posted speed limits and other regulatory signs. Stopping on roadways is prohibited. Parking or leaving unattended any vehicle is permitted only in areas designated for that purpose by sign or on refuge maps available to the public and only for the purpose of authorized activities. Vehicles found parked in any closed areas, or any area not designated as a parking area or in any area after the hours of authorized activities, may be removed from the refuge. Any charges or expenses incurred by such removal, including storage fees, shall be borne by the owner of the vehicle. (16) The possession or use of any alcoholic beverage, including beer containing 3.2% (or less) alcoholic content by weight is prohibited.

Note.—Information collection. The information collection requirements contained in paragraph (7) and (8) of these regulations have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance No. 1018–0043. Information is being collected to solicit information necessary for the refuge manager to issue permits and other benefits. Information would be used to grant administrative benefits. In both sections the obligation to respond is required to claim the benefit.

Virginia—Back Bay National Wildlife Refuge

Access

(a) Who can qualify for access?
(b) Routes of travel.
(c) How many trips are allowed?
(d) Medical emergencies.
(e) Military, fire, or emergency vehicles.
(f) Public utility vehicles.
(g) False Cape State Park employees.
(h) Commercial fishermen and their employees.
(i) Suspension or waiver of rules.
(j) Violation of rules.
(k) Other access rules.

General Rules

(l) Entry on foot, bicycle, or motor vehicle.
(m) Swimming and surfing.
(n) Parking areas.
(o) Fishing and boating.
(p) Fires.
(q) Dogs.
(r) Other general rules.

(National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd; Refuge Recreation Act, (16 U.S.C. 460k))

Access

(a) Who can qualify for access?

(1) Permanent, full-time residents who can furnish to the Refuge Manager, Back Bay National Wildlife Refuge, adequate proof of continuous and continuing residence, commencing prior to December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain permanent, full-time residents, are authorized beach access. The south boundary of the area for access consideration is defined as a straight east-west line extending from Currituck Sound to the Atlantic Ocean and passing through a point 1,600 feet due south of the Currituck Lighthouse Residence is defined as the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent. For the purposes of this section, a dwelling shall mean a residential structure occupied on a year-round basis by the permit applicant and shall not include seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied. The burden of proof showing that the prospective permittee meets these criteria shall be on the applicant by presentation of appropriate documentation. Only one permit will be issued per family.

(2) All permits issued to full-time residents will be terminated in the event that alternate access is provided during the permit period.

(b) *Routes of travel.* Access to, and travel along, the refuge beach by motorized vehicles may be allowed between the dune crossing at the field headquarters and the south boundary of the refuge only after a permit has been issued or authorization provided by the Refuge Manager. Travel along the refuge beach by motorized vehicle shall be below the high tide line, within the intertidal zone to the maximum extent practicable.

(c) How many trips are allowed?

Permitted vehicles of permanent full-time residents shall be limited to a total of two round trips per day. Travel is restricted to the designated route of travel between the hours of 5 a.m. and 12 p.m. (midnight).

(d) *Medical emergencies.* Private vehicles used in a medical emergency will be granted access. When evidence of the emergency is not obvious, the vehicle operator will be required to provide the refuge office with a doctor's statement confirming the emergency within 36 hours.

(e) *Military, fire, or emergency vehicles.* Military, fire, emergency, or law enforcement vehicles, when used for emergency purposes, and vehicles used by an employee, agent or designated representative of the Federal, State, or local government in the course of official duties will be granted access.

(f) *Public utility vehicles.* Public utility vehicles used on official business will be granted access. A public utility vehicle is described as any vehicle owned or operated by a public utility company enfranchised to supply Outer Banks residents with electricity or telephone service.

(g) *False Caps State Park employees.* Access will be granted to all employees of False Cape State Park and to members of immediate families of resident employees only.

(h) *Commercial fishermen and their employees.* (1) Commercial fishermen who have verified that their fishing operations on the Outer Banks of Virginia Beach, Virginia, or Currituck County, North Carolina, have been dependent since 1972 on ingress and egress to or across the refuge will be granted permits for access. Travel through the refuge by commercial fishermen from Currituck County, North Carolina, will be permitted only when directly associated with commercial fishing operations. Drivers and passengers on trips through the refuge will be limited to commercial fishing crew members. A commerical fisherman is described as one who harvests finfish by gill net or haul seine in the Atlantic Ocean, and who has owned and operated a commercial fishing business since 1972.

[2] Each commercial fisherman is allowed a maximum of five designated employees to travel the refuge beach for commercial fishing purposes. These employees may carry only other commercial fishing employees as passengers. Employees of commercial fishermen engaged in travel directly associated with commercial fishing operations or for the purpose of traveling to and from their homes in Virginia to fishing sites in North Carolina will be granted access.

(i) *Suspension or waiver of rules.* (1) In an emergency, the Refuge Manager may suspend any or all of the foregoing restrictions on vehicular travel and announce such suspension by whatever means are available. In the event of adverse weather conditions, the Refuge Manager may close all or any portion of the refuge to vehicular travel for such period as deemed advisable in the interest of public safety. (2) The Refuge Manager may make exceptions to access restrictions for qualified Permittees who have demonstrated to the satisfaction of the Refuge Manager a need for additional access relating to health or livelihood. (3) The Refuge Manager may grant one-time use authorization for vehicular access through the refuge to individuals, not otherwise qualified above, who have demonstrated to the satisfaction of the Refuge Manager that there is no feasible alternative to the access requested. Authorization for access under this provision will not be based on convenience to the applicant.

(j) *Violation of rules.* Violators of these special regulations or any regulations pertaining to Back Bay National Wildlife Refuge will be subject to legal action as prescribed by 50 CFR 28.31, including mandatory revocation by the Refuge Manager of access permits for the duration of the permit period. Individuals whose vehicle access privileges have been suspended may within 30 days file a written appeal of the suspension to the Area Manager, Annapolis, Maryland, in accordance with 50 CFR 25.44(c).

(k) *Other access rules.* (1) No permit will remain in effect beyond December 31 of the year in which it is issued. Permits may be renewed upon the submission of a signed, notarized statement that conditions of the previous permit have not changed. (2) In addition to the permit, a registration sticker will be issued which must be displayed at all times while on refuge

property in such a manner as to be readily visible on any motor vehicle and shall be nontransferable. No more than two vehicles owned by the permit holder may be registered with the Refuge Manager for use in accordance with these regulations. Those vehicles shall be operated on the refuge beach only by the permittee or immediate family members residing with the permittee. Permit holders shall not tow vehicles and/or trailers owned by nonpermit holders through the refuge. Any towed vehicle or trailer must have advance approval from the Refuge Manager prior to being brought through the refuge. (3) The Refuge Manager may prescribe restrictions as to the types of vehicles to be permitted to ensure public safety and adherence to all applicable rules and regulations.

General Rules

(l) *Entry on foot, bicycle, or motor vehicle.* Entry on foot, bicycle, or by motor vehicle on designated routes is permitted during daylight hours for the purpose of nature study, sightseeing, wildlife observation, photography, hiking, surf fishing, surfing, swimming, and bicycling.

(m) *Swimming and surfing.* (1) Swimming and surfing are permitted on the entire refuge beach unless designated otherwise by signs. No lifeguards are provided. Swimming and surfing will be at the visitor's own risk. (2) Nudity is not permitted on the refuge. Nudity is defined as failure by persons over ten years of age when in a public place to cover with fully opaque covering their own genitals, pubic areas, rectal areas, or female breasts below a point immediately above the top of the areola.

(n) *Parking.* The parking lot at the end of the paved road is available on a first come first served basis for persons engaged in wildlife/wildlands oriented recreation including surf fishing but not surfing and swimming.

(o) *Fishing and boating.* Surf fishing from the beach and freshwater fishing in the bay are permitted in accordance with state laws. Vehicular launching of trailered boats and bank fishing from the refuge bay shoreline are prohibited. Boat launching into the bay at field headquarters is limited to non-trailered canoes and small boats.

(p) *Fires.* Open fires are prohibited. Portable grills with a contained fuel supply are permitted on the beach.

(q) *Dogs.* Dogs on a hand-held leash are permitted on refuge public use areas.

(r) *Other general rules.* (1) Pedestrians and vehicular traffic in the sand dunes are prohibited. (2) Registered motor vehicles and motorized bicycles (mopeds) are permitted on the paved refuge access road and on the parking lot at field headquarters. All other motorized vehicular use is prohibited except as specifically authorized pursuant to this rule.

Note.—Information collection. The information collection requirements contained in sections (a) and (h) of these regulations have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance No. 1018–0053. The information is being collected to solicit information necessary for the refuge manager to establish that the applicant meets the terms of eligibility for a vehicle permit. Public Law 96–315 (94 Stat. 957) defines eligible applicants for access across the Back Bay National Wildlife Refuge. The information will be used to grant administrative benefits. In both sections the obligation to respond is required to obtain a benefit.

Chincoteague National Wildlife Refuge

Public access, use and recreation is permitted on the Chincoteague National Wildlife Refuge, P.O. Box 62, Chincoteague, Virginia 23336. Contact the Refuge Manager at 804/336–6122. Special Conditions: Entry into the refuge is permitted between the hours of 4:00 AM to 10:00 PM daily from April 1 to November 30 and from one-half hour before sunrise to one-half hour after sunset from December 1 to March 31 for the purposes of sightseeing, nature study, wildlife observation, photography, hiking, beachcombing, kite flying, sunbathing and fishing, including clamming and crabbing, as posted. Swimming and surfing are permitted as posted on the ocean beach. Fishing, kite flying, and possession of glass containers are prohibited within the protected beach areas. The use or possession of metal detectors is not permitted on the refuge. Entry into the refuge by boat is permitted at the designated public use areas at Tom's Cove Hook and the public use area operated by the Town of Chincoteague at Assateague Point. Picnicking and contained fires are permitted at Tom's Cove Hook in designated areas. Open fires by special permit only. All fires must be extinguished by water. Operation of registered motor vehicles and bicycles is permitted on designated access roads, trails, and parking areas. No vehicle may be left on the area during closed hours except by special permit. Motorcycles or mopeds with motor in operation are not permitted on the Wildlife Drive or on other trails designated for foot or bicycle use. The use of mopeds or motorized bicycles shall be governed as follows: as a bicycle when motor is not in operation; as a motorcycle when motor is in operation; the methods of operation, equipment, license and registration requirements shall be the same as those set by the State of Virginia. Riding of horses and other saddle animals is permitted only along the shoulder of the access road to the Coast Guard crossover and thence only within designated areas along the beach. Pets are not permitted on the refuge. Off-road travel by oversand vehicles is permitted only on designated routes within the public use areas at Tom's Cove Hook. Driving so as to cut circles or otherwise needlessly deface the sand dunes or vegetation is prohibited. Speed may not exceed 25 miles per hour. When approaching or passing within 100 feet of a pedestrian or person on horseback, speed must be reduced to 15 miles per hour. Pedestrians and horseback riders always have the right of way. Oversand vehicles may not be used to tow persons on any recreational device over sand, or in the water or air. An annual permit at a fee of $15.00 or a seven-day permit at a fee of $10.00 is required for oversand vehicle use. Such permits are not transferable and shall be displayed as directed by the refuge manager. The annual permit shall be valid from April 15 to April 14 of the following year. All oversand vehicles must conform to applicable State laws having to do with licensing, registering, inspecting and insuring of such vehicles. Motorcycles and mopeds must remain on designated access roads and are not permitted in oversand vehicle areas. All oversand vehicles must carry at all times on the beach, shovel, jack, tow rope or chain, board or similar support for the jack and low pressure tire gauge. No permit will be issued for a vehicle which does not meet the following standards:

On four-wheel-drive vehicles: Maximum vehicle length—26 feet. Maximum vehicle width—8 feet. Minimum ground clearance—7 inches. Gross vehicle weight rating may not exceed—10,000 lbs. Maximum number of axles—2. Maximum number of wheels per axle—2. Minimum number of wheels—4.

On two-wheel-drive vehicles in addition to the seven items listed above: Minimum width of tire contact on the sand—8 inches each wheel. Tires with regular mud/snow treads are not acceptable. The refuge manager may issue a single trip permit for a vehicle of greater weight or length when such use is not inconsistent with the purposes of the regulations. Forty-two (42) oversand vehicles are permitted in the oversand zone. The refuge manager may temporarily close or limit access to the beach when this level is reached. Special event permits may be issued by

the refuge manager. Oversand vehicle permits issued by the National Park Service for operation on the Assateague Island National Seashore will also be honored for operation on the designated oversand vehicle routes within the public use areas at Tom's Cove Hook.

Fishermen who hold special overnight beach-fishing permits may remain on the refuge during closed hours on the dates for which such permit is issued. At least one member of the fishing party must be actively engaged in fishing at all times while on the refuge, under the terms of the permit. Organized youth-group and backpack camping is permitted by advance reservation only. Daily fee for youth group camping is $5.00 per site.

On that portion of the Chincoteague National Wildlife Refuge known as Tom's Cove Hook and described as the area bounded on the north by the wildlife fence adjacent to the main parking lot, on the east and south by the Atlantic Ocean extending to Fishing Point, and on the west by the waters of Tom's Cove to and along the canal in Swan Cove adjacent to the main parking lot, authorized National Park Service personnel may enforce the above regulations utilizing policies, procedures of the Assateague Island National Seashore, or if properly deputized, may utilize policies, procedures and authorities normally associated with law enforcement procedures of the Chincoteague National Wildlife Refuge.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

Note.—Information collection. The information collection requirement contained in these regulations has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance No. 1018–0041. Information is being collected to solicit information necessary for the refuge manager to issue off-road vehicle permits and other benefits. The information will be used to grant administrative benefits. The obligation to respond is required to obtain the benefit.

(16 U.S.C. 460k, 668dd; Pub. L. 96–315 (94 Stat. 957); Paperwork Reduction Act of 1980, Pub. L. 96–511 (94 Stat. 2812))

Dated: December 16, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–676 Filed 1–12–83; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 21227–260]

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; notice of plan amendments.

SUMMARY: NOAA announces the approval of amendment of two preliminary fishery management plans and issues corresponding rules to close a portion of the fishery conservation zone over the eastern part of Georges Bank to all foreign fishing. Fishery jurisdiction over this area is in dispute between the United States and Canada. By closing this area to third party vessels, incidents that may complicate adjudication of the dispute before the International Court of Justice will be avoided.

EFFECTIVE DATE: January 24, 1983. Comments on the amended portions of the Preliminary Management Plans (PMPs) will be accepted until January 28, 1983.

ADDRESS: Copies of the PMP amendments are available from Donald J. Leedy, Plan Review Division, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Susan Jelley, Permits and Regulations Division, National Marine Fisheries Service, 202–634–7432.

SUPPLEMENTARY INFORMATION: The Administrator, NOAA, has approved an amendment to the Atlantic Billfishes and Sharks preliminary fishery management plan (PMP) and an amendment to the Atlantic Hakes PMP, to redefine areas of the fishery conservation zone in which foreign fishing is allowed. The Atlantic Hakes PMP is amended by replacing Figure 10 with a revised chart of the trawling area of the Northwest Atlantic Ocean. The PMP for the Foreign Trawl Fisheries of the Northwestern Atlantic incorporates this change by reference to the Atlantic Hakes PMP. The PMP for Atlantic Billfishes and Sharks is also amended by replacing figure 2 with a revised chart of the longlining areas, and by replacing the description of area II on page 26. Copies of the amended pages of the PMPs are available at the above address.

The United States and Canada have agreed by treaty to submit their overlapping claims in the Gulf of Maine boundary region to binding dispute settlement by the International Court of Justice (the "World Court"). In its Memorial filed with the World Court on September 27, 1982, Canada claimed an area which partially overlaps the U.S. fishery conservation zone (FCZ).

To avoid incidents that may complicate the ongoing adjudication, the United States is amending preliminary fishery management plans and foreign fishing regulations implementing these plans to prohibit foreign fishing in the portion of the FCZ claimed by Canada. A closed area demarcated by a new line slightly west of the Canadian claim is established. In addition, Foreign Fishing Area 5 is redefined to exclude that portion of it which is overlapped by the Canadian claim, and section 611.60(a) is corrected to clarify that foreign longline vessels operating north of 35° N. latitude are subject to regulations of Subpart D.

These amendments are intended only to avoid incidents while the matter is before the International Court of Justice, and do not signify that there is any basis in international law for the boundary proposed by Canada.

This rule involves a foreign affairs function and, as such, (1) is exempt from usual rulemaking procedures under section 533(a)(1) of the Administrative Procedure Act, and (2) is not subject to the requirements of E.O. 12291 or the Regulatory Flexibility Act.

This action does not change the conclusions of environmental impact statements filed on February 4, 1977.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: January 7, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 611 is amended as follows:

1. The authority citation for 50 CFR 611 is as follows:

Authority: 16 U.S.C. 1801 et seq., unless otherwise noted.

§ 611.9 [Amended]

2. Revise § 611.9, Appendix 11, Figure 1 to read as follows:

BILLING CODE 3510–22–M

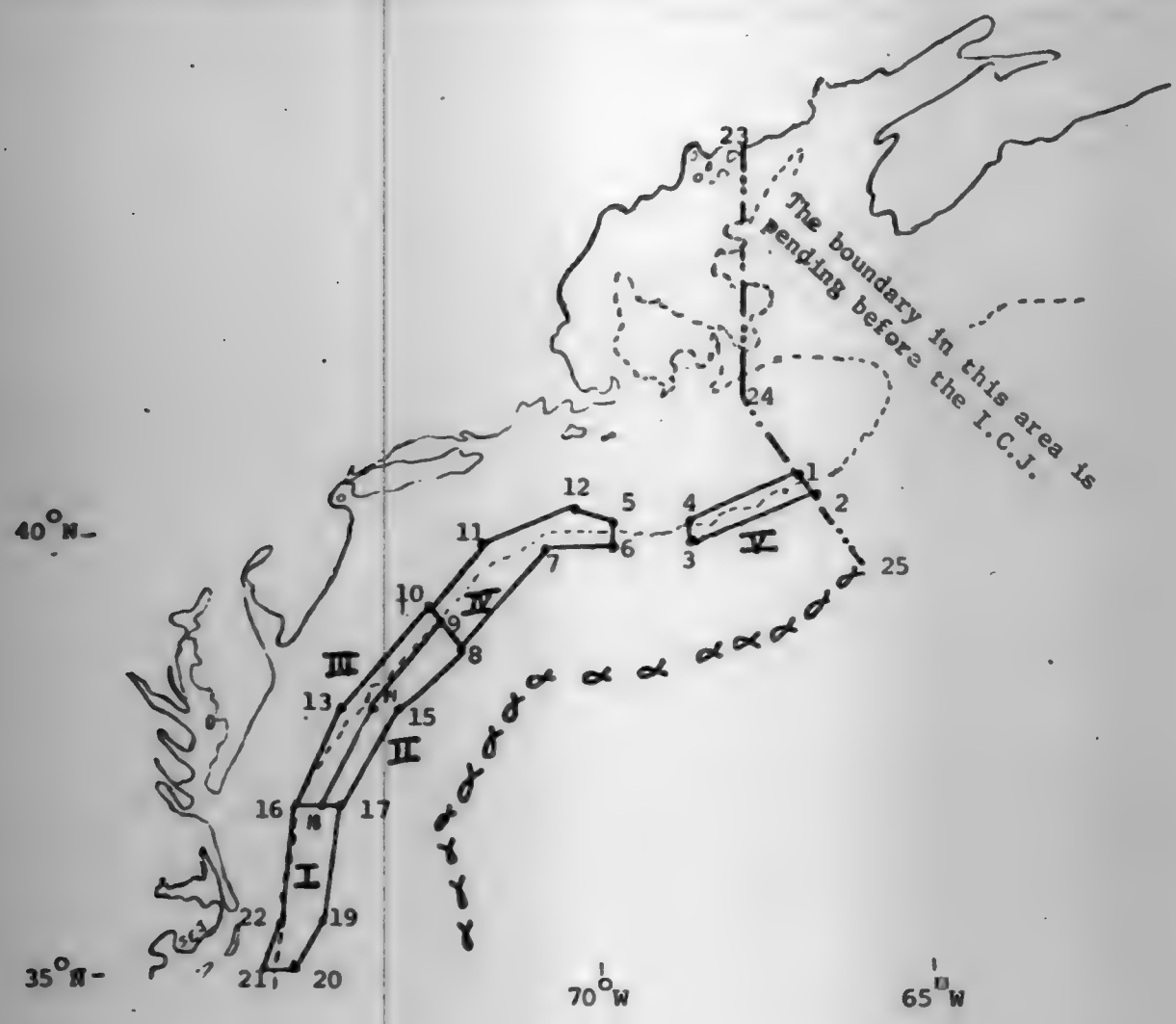

1. 40°47'N, 67°11'W
2. 40°30'N, 67°00'W
3. 40°01'N, 68°45'W
4. 40°20'N, 68°45'W
5. 40°13'N, 70°00'W
6. 39°50'N, 70°00'W
7. 39°50'N, 71°05'W
8. 38°40'N, 72°30'W
9. 39°07'N, 72°44'W
10. 39°16'N, 72°50'W
11. 39°56'N, 72°00'W
12. 40°20'N, 70°30'W
13. 38°00'N, 74°10'W
14. 38°00'N, 73°53'W
15. 38°00'N, 73°20'W
16. 37°00'N, 74°40'W
17. 37°00'N, 74°30'W
18. 37°00'N, 74°10'W
19. 35°30'N, 74°30'W
20. 35°13'N, 74°50'W
21. 35°13'N, 75°06'W
22. 35°30'N, 74°55'W
23. shore 67°52'W
24. 41°56'N, 67°52'W
25. 39°26'N, 66°19'W

Figure 1. Trawling Areas of the Northwest Atlantic Ocean

∝ ∝ ∝ ∝ ∝ = boundary of the U.S. fishery conservation zone

—··—··— = foreign fishing east of this line is prohibited under §611.50(b)(2)(i) and §611.60(d).

BILLING CODE 3510-22-C

3. Revise § 611.50(b)(2), § 611.60 and (a)(d) and § 611.61(b)(2) to read as follows:

§ 611.50 Northwest Atlantic Ocean fishery.

* * * * *

(b) *Authorized fishery.*

(1) * * *

(2) *Activities allowed.*

(i) Fishing, including processing and other support of foreign or U.S. vessels, is prohibited east of a line connecting the following coordinates in the order listed:

Coordinate	Latitude	Longitude
1	Shore at 67°52' W	67°52' W.
2	41°56' N	67°52' W.
3	40°47' N	67°11' W.
4	40°30' N	67°00' W.
5	39°26' N	66°19' W.

(ii) Vessels subject to this section which fish with trawl gear may fish only during the seasons and with the methods specified in Table I of this section. Vessels subject to this section which fish with any other gear need not comply with the limitations specified in Table I.

* * * * *

§ 611.60 General provisions.

(a) *Purpose and scope.*

This subpart regulates:

(1) All foreign longline fishing conducted under a GIFA which involves catching, processing, or receipt of billfishes, sharks, or other fishes in the FCZ in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

(2) All other foreign fishing conducted under a GIFA within the FCZ south of 35°00' N. latitude in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

* * * * *

(d) *Open area.* Except for the closed areas set forth in paragraph (e) of this section, § 611.61(b) and § 611.62(b), foreign fishing authorized under this subpart may be conducted in that portion of the FCZ in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea beyond 12 nautical miles from the baseline used to measure the U.S. territorial sea, and that portion of the FCZ west of a line connecting the following coordinates in the order listed:

Coordinate	Latitude	Longitude
1	Shore at 67°52' W	67°52' W.
2	41°56' N	67°52' W.
3	40°47' N	67°11' W.
4	40°30' N	67°00' W.
5	39°26' N	66°19' W.

* * * * *

§ 611.61 Atlantic billfish and sharks fishery.

* * * * *

(b) * * *

(2) From June 1 through November 30 foreign vessels fishing under this section for species other than sharks, and longline gear deployed from such vessels, are prohibited in the area defined by the following coordinates in the order listed:

Coordinate	Latitude	Longitude
1	Shore at 67°52' W	67°52' W.
2	41°56' N	67°52' W.
3	40°57' N	67°11' W.
4	40°30' N	67°00' W.
5	40°25' N	66°57' W.
6	40°00' N	67°39'30" W.
7	39°32' N	70°52'30" W.
8	37°54' N	73°05' W.
9	34°50' N	73°54' W.
10	34°50' N	Shore at 84°30' N.

* * * * *

[FR Doc. 83-942 Filed 1-12-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 9
Thursday, January 13, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Docket No. AO-144-A14]

Lemons Grown in California and Arizona; Hearing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: Notice is hereby given of a public hearing to be held to consider a proposed maketing agreement and proposed amendment of Marketing Order 910 (7 CFR Part 910; 47 FR 50196), covering lemons grown in California and Arizona.

Amendments have been proposed by the Lemon Administrative Committee and two lemon growers; Perry Walker, Sanger, California, and N.J. Riebe, Yuma, Arizona. The principal proposals submitted by the committee would: Change the start of the fiscal year from August 1 to September 1; provide for an additional alternate for each handler member on the committee; limit the number of terms of office a member may serve; change the basis for nominations of committee members by cooperative marketing organizations; change the beginning of the term of office of members from August 1 to September 1; provide for an increase in the maximum amount of compensation for committee member; provide penalties for late payment of handler assessments and failure to file handler reports; require handlers to maintain necessary records; revise handler prorate base adjustment procedures; modify allotment loan procedures; redefine prorate districts 1 and 2 of the production area; and provide for a periodic grower referendum on continuance of the marketing order, as well as make several other changes, primarily administrative in nature. The principal proposals submitted by two lemon growers would: provide for quality control; include exports under handler prorates; provide for advertising under the marketing order; base handler prorates on the tree crop; provide that the administrative committee be composed of lemon growers; require public members of the committee from each district; exempt handlers of production from 500 acres or less from volume regulation; and limit the maximum number of weeks of regulation and establish four-week prorate periods in lieu of the weekly periods currently authorized under the order.

The Department of Agriculture proposes language relating to the proposed marketing agreement, and that it be authorized to make any necessary conforming changes which may result from this proceeding.

A prenotice press release announcing the committee's proposals was issued on November 18, 1982, allowing comments by growers, handlers, and the public through December 17, 1982. Four written comments were received which opposed the holding of a hearing on the proposals submitted by the Lemon Administrative Committee. Sufficient justification exists to hold a hearing on the proposals.

DATE: The hearing will begin at 9:00 a.m. on February 14, 1983.

ADDRESS: The hearing will be held in the Agricultural Commissioners Office, Agricultural Building, 815 E. Santa Barbara Street, Santa Paula, California.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code, and therefore is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it will not substantially affect costs for the directly regulated handlers.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7CFR Part 900). The proposed marketing agreement and proposed amendment of the marketing order have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of: (i) Receiving evidence about the economic and marketing conditions which relate to a proposed marketing agreement and proposed amendment of the marketing order; (ii) determining whether there is a need for a marketing agreement and an amendment to the marketing order; and (iii) determining whether the proposed marketing agreement and proposed amendment or an appropriate modification of it will tend to efffectuate the declared policy of the Act.

The provisions of the proposed marketing agreement are identical with the marketing order as proposed to be further amended and the additional provisions in proposed §§ 910.93–910.95.

List of Subjects in 7 CFR Part 910

Marketing agreements and order, California, Arizona, Lemons.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

The committee's proposals are as follows:

Proposal No. 1

Revise § 910.8 to read:

§ 910.8 Carload.

"Carload" means a quantity of lemons equivalent to 1,000 cartons of lemons, or such other quantity of lemons as may be established by the committee with the approval of the Secretary.

Proposal No. 2

Revise § 910.10 to read:

§ 910.10 Fiscal year.

"Fiscal year" means the 12-month period beginning on September 1 of each year and ending August 31 of the following year.

Proposal No. 3

Revise § 910.13 to read:

§ 910.13 Marketing organization and marketing.

(a) "Marketing organization" means any organization which markets lemons for a handler or handlers.

(b) "Marketing" means the performance of an aggregate of functions for lemon producers, in securing markets, and in representing such producers in such markets, including, but not limited to, selling, promoting, transporting, standardizing and financial responsibilities. Marketing does not include merely the power to approve sales.

Proposal No. 4

Amend § 910.20 by revising paragraphs (a) and (b), redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c) to read:

§ 910.20 Establishment and membership.

(a) There is hereby established a Lemon Administrative Committee consisting of 13 members. For each grower and handler member there shall be an alternate member, and for each grower and handler member an additional alternate, and the provisions of §§ 910.20 through 910.26, unless they specifically provide otherwise, shall apply to members, alternate members and additional alternates in like manner. Further. references to "member" therein shall be deemed to include alternates and additional alternates unless the context indicates otherwise. Eight of the members shall be growers and shall be referred to in this part as "grower" members; four of the members shall be handlers, employees of handlers or employees of marketing organizations and shall be referred to in this part as "handler" members. One member of the committee shall be a person who shall not be a grower or handler, or an employee, agent or representative of a grower or handler (other than an educational institution which is a grower or handler) or of a marketing organization. Such person shall be referred to in this part as a "public" member.

(b) Except as otherwise provided pursuant to § 910.22(h), the grower members of the committee shall be nominated by prorate district and group, in accordance with the following schedule:

	Co-op more than 50 percent	Other Co-ops	Independents
District 1 (1)	1	0	0
District 2 (4)	2	1	1
District 3 (3)	1	0	2

(c) The public member and the alternate public member shall have no financial interest in or be associated with production, processing, financing, or marketing (except as consumers) of lemons. They should be able to devote sufficient time and express a willingness to attend committee activities regularly, and to familiarize themselves with the background and economics of the industry. They must be residents of the production area. Public members and alternates should be nominated by the committee and should serve a two-year term which coincides with the term of office of grower and handler members of the committee.

(d) * * *

Proposal No. 5

Revise § 910.21 to read:

§ 910.21 Term of office.

The term of office of committee members shall be a period of 2 years beginning on September 1 of each even-numbered year. Members shall serve in such capacities for the portion of the term of office for which they are selected and qualify and until their respective successors are selected and have qualified. Commencing with the term beginning on September 1, 1984, no members may serve more than five consecutive two-year terms. Nothing shall prohibit a member from serving as an alternate or additional alternate member after serving consecutive terms as a member. A former member may serve after a two year intervening term.

Proposal No. 6

Revise paragraphs (c), (d), and (f) of § 910.22 to read:

§ 910.22 Nominations.

* * * * *

(c) All cooperative marketing organizations or the growers affiliated therewith which market lemons and which are not qualified under paragraph (b) of this section shall nominate, in conformity with § 910.20, one grower member and one handler member.

(d) All growers of the group identified as independents in § 910.20 who are not affiliated with a cooperative marketing organization which markets lemons shall nominate, in conformity with § 910.20, three grower members and one handler member.

(e) * * *

(f) The members of the Lemon Administrative Committee selected by the Secretary pursuant to § 910.23 shall, by concurring vote of at least seven members, nominate the public member.

* * * * *

Proposal No. 7

Revise § 910.29 to read:

§ 910.29 Expenses and compensation.

The members of the committee, and their respective alternates when acting as members, or when in attendance, pursuant to committee authorization, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under § 910.30, and shall receive compensation at a rate to be determined by the committee, and approved by the Secretary, which rate shall not exceed $100 for each day, or portion thereof, spent in attending meetings of the committee.

Proposal No. 8

Revise paragraph (a) of § 910.41 by amending the last sentence to read:

§ 910.41 Assessments.

(a) * * * If a handler does not pay such handler's assessment within the time prescribed by the committee, the assessment may be subject to interest and penalty charges at a rate prescribed by the committee with the approval of the Secretary.

(b) * * *

Proposal No. 9

Revise paragraphs (e), (f)(1), (f)(2), (g), (i)(1), and (i)(8) of § 910.53 to read:

§ 910.53 Prorate bases.

* * * * *

(e) In recognition of the differences between the several prorate districts in production and marketing conditions, the number of weeks in a prorate base period and certification period shall be specified by district and such respective base periods shall apply to lemons produced in such district, even though packed or handled in another district. Until changed in the manner provided in paragraph (h) of this section, the prorate base periods for the several districts shall be: District 1—6 weeks; District 2—12 weeks; and District 3—4 weeks.

(f) (1) At the request of any handler of lemons produced in District 1 or 3, the committee shall adjust the average weekly pick of such handler by increasing it in the amount requested by the handler, but not exceeding 100 percent of such average. Such adjustment may be requested for any one or more weeks, not to exceed eight weeks, during the period beginning with the first week of the initial prorate base period of a season for which such handler's average weekly pick is computed and ending not later than the middle week of such handler's picking

season, as determined by the committee, based upon the historical picking performance of such handler. Any adjustment so added shall be deducted from such hanlder's average weekly picks as computed for subsequent weeks beginning in the week following such middle week and continuing in successive weeks to assure full repayment of prior upward adjustments. To the extent practicable, the amounts and sequences of repayments shall conform to the amounts and sequences in which upward adjustments were effected: *Provided:* That if the committee determines that an accelerated rate of repayment is necessary to effect full repayment, or the handler requests an accelerated rate of repayment, action to effect repayment on such basis shall be in accordance with rules and regulations prescribed by the committee with the approval of the Secretary. Adjusted average weekly picks shall be used in lieu of the average weekly picks in computing the handler's prorate base as provided in paragraph (d) and paragraph (i) of this section. A handler may apply to the committee to certify fruit on the tree for the purpose of making repayment of any upward adjustments previously taken by such handler. If the handler fails to achieve sufficient average weekly pick credit during the balance of the season to offset the upward adjustment, deductions from average weekly pick credits received in the following season shall not be required to effect such repayment.

(2) Any handler of lemons produced in District 2 whose picks are interrupted for a period of four successive weeks or more, may upon application to the committee begin a new prorate base period with the initial week of picks after such interruption, and with the average weekly picks being computed in accordance with the applicable provision of paragraph (d) of this section for the initial number of consecutive weeks in such new prorate base period. Any such handler upon application to the committee shall also receive adjustments of a character similar to those described in paragraph (p) (1) of this Section, subject to such conditions with a respect to dates and periods of upward adjustment and payback as may be necessary or appropriate to avoid or mitigate undue hardship and to preserve equity among handlers.

(3)* * *

(g) Any handler of lemons produced in any district under production of marketing conditions substantially differing from those generally prevailing in the same district, may apply to the committee for a different prorate base period, shorter or longer, than that specified for the district, but in no event less than 4 weeks nor more than 12 weeks. Such application shall be granted to the extent necessary or appropriate to give the recognition to such difference.

(h)* * *

(i) Notwithstanding any other provision of this section, the prorate base for a handler may be computed as follows:

(1) The prorate base as determined by paragraph (d) of this section and by that portion of paragraph (f) (2) pertaining to new prorate bases for District 2 handlers shall be increased by the amount of lemons certified by the committee. The amount of certification in each certification credit period shall be not less than one percent (1%) nor more than two and one-half percent (2½%) per week of the total estimated tree crop controlled by the handler. The amount of lemons certified shall be credit to the handler's average weekly picks in equal amounts over the number of weeks in the credit period.

* * * * *

(8) The committee, with the approval of the Secretary, may establish rules and regulations to effectuate the provisions of this section and may modify the method or manner of making the prescribed certification computations and may adjust the various time periods and percentages set forth herein.

Proposal No. 10

Revise paragraphs (a), (d), and (e) of § 910.59 to read:

§ 910.59 Allotment loans.

(a) A handler for whom a prorate base has been established may lend allotment to other handlers: *Provided,* That such loan is reported to the committee not later than 48 hours after the loan agreement has been entered into, and provides for repayment within one year of the date of the loan. If on the date of repayment specified in the loan agreement the borrower has insufficient allotment to repay such loan, the borrower shall repay such loan as soon after such date as the borrower has available allotment to him for that purpose. The committee may determine the manner and the number of weeks during which the handler's obligation shall be repaid. If a handler is no longer in business or ceases to operate in a prorate district and is therefore unable to repay a loan obligation within one year, the committee may establish a method by which the committee may repay such allotment loans. Loan repayments made by the foregoing method shall not exceed two and one-half percent of the allotment established by the Secretary for any weekly prorate period.

* * * * *

(d) No allotment which has been loaned may again be loaned by the borrower, or by the lender after the repayment thereof. No handler may, during any fiscal year, borrow in excess of 25 percent of the prorate base allotment which the committee estimates the handler will earn during the period in which such loan obligations will be repaid.

(e) The committee may, with the approval of the Secretary, adopt procedural rules and regulations to effectuate the provisions of this § 910.59, and may modify the various amounts, time periods and percentages set forth in paragraphs (a) and (d) of this section.

Proposal No. 11

Amend § 910.62 by removing the word "central" in the title of the section, and paragraphs (a) and (b) thereof:

Proposal No. 12

Amend § 910.64 by revising paragraphs (a) and (b) to read:

§ 910.64 Districts.

* * * * *

(a) "District 1" shall include that part of the State of California which is south of a line drawn due east and west through the present post office in Turlock, California, and north of a line drawn due east and west through the present post office in Gorman, California, and west of the extension of a line drawn due north and south through the present post office in White Water, California, but excluding San Luis Obispo, Santa Barbara and Monterey Counties.

(b) "District 2" shall include that part of the State of California west of a line drawn due north and south through the present post office in White Water, California, and south of a line drawn due east and west through the present post office in Gorman, California, but including San Luis Obispo, Santa Barbara and Monterey Counties.

* * * * *

Proposal No. 13

Revise § 910.70 to read:

§ 910.70 Weekly report.

On or before such day of each week as may be designated by the committee, each person who first handles lemons shall report to the committee, on forms prepared by it, the following information with respect to lemons marketed by such handler during the immediately

preceding week; (a) quantity handled; (b) quantity shipped for distribution to persons on relief, including quantity donated for charitable purposes; (c) quantity exported; (d) quantity sold or otherwise disposed of for canning or manufacturing into byproducts; and (e) quantity disposed of otherwise.

Proposal No. 14

Revise § 910.71 to read:

§ 910.71 Other reports.

Upon request of the committee made with the approval of the Secretary, each person who first handles lemons shall furnish to the committee, in such manner and at such times as it prescribes (in addition to such other reports as are specifically provided for in § 910.70), such other information as will enable the committee to perform its duties and to exercise its powers under this subpart. In the event a handler fails to submit the reports prescribed by the committee in a timely manner, the committee may remove such handler from the prorate base and may refuse to issue any additional allotment to such handler, except as required for purposes of allotment loan repayments.

Proposal No. 15

Add a new § 910.72 to read:

§ 910.72 Verification of reports and records.

For the purpose of checking compliance with recordkeeping requirements and verifying reports filed by handlers, the Secretary, and the committee, through its duly authorized employees, and at any time during reasonable business hours, shall be permitted to examine any lemons held and any and all records with respect to matters within the purview of this part. Handlers shall furnish such assistance necessary to facilitate such examinations at no expense to the committee. All handlers shall establish and maintain complete records which accurately show the quantity of lemons handled and disposed of. The committee, with the approval of the Secretary, may establish the type of records to be maintained. Such records shall be retained by handlers for not less than three (3) years subsequent to the termination of such crop year.

Proposal No. 16

Add a new § 910.73 to read:

§ 910.73 Confidential information.

All reports and information submitted by handlers pursuant to the provisions of this part shall be received by and at all times be in the custody of one or more designated employees of the committee. No such employees shall disclose to any person, other than the Secretary upon request therefor, data, or information obtained or extracted from such reports and records which might affect the trade position, financial condition or business operation of the particular handler from whom received: *Provided,* That such data and information may be combined, and made available in the form of general reports in which the identities of the individual handlers furnishing the information is not disclosed; *Provided further,* That any handler may file a written authorization to permit the committee to release such handler's information to any person or marketing organization.

Proposal No. 17

Revise paragraph (c) of § 910.84 to read:

§ 910.84 Termination.

* * * * *

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal year whenever the Secretary finds that such termination is favored by a majority of producers who, during the preceding fiscal year, have been engaged in the production for market of lemons: *Provided,* That such majority has, during such year, produced for market more than 50 percent of the volume of such lemons produced for market; but such termination shall be effected only if announced on or before July 31 of the then current fiscal year. In order to determine whether a majority of producers favor termination of this subpart, not later than May 31, 1990, and each ten years thereafter, not later than May 31 of such year, the Secretary shall hold a referendum among lemon producers to determine whether the specified majority of lemon producers favor continuance or termination of this subpart; *Provided,* That if a termination referendum or an affirmative amendment referendum is held within any ten year period of time as herein provided, the next termination referendum shall be held not later than May 31 of the tenth year following such referendum.

* * * * *

Proposal No. 18

The Committee further proposes amendments of *Subpart—Lemon Administrative Committee Rules and Regulations* to implement the foregoing proposed amendments of the order and make other necessary changes.

Proposals by Perry Walker

1. Amend volume regulation provisions to: (a) Base handler prorates on tree crop; (b) establish time periods for prorates by districts; (c) establish four week prorate periods; (d) require that allotment loans be paid before the end of the applicable season.

2. Amend provisions relative to exemption from regulations of shipments to charitable organizations.

3. Provide for general advertising and promotion.

4. Provide for an administrative committee composed of nine grower members and two public members; limit the number of representatives affiliated with the same organizations; establish voting procedures for committee membership nominations and election procedures; and establish tenure requirements.

5. Administrative changes proposed include: (a) Quorum and voting requirements; (b) remuneration for attending meetings; (c) meeting locations; and (d) information for administrative committee meetings.

6. Require a continuance referendum every three years and also at any time five percent of the growers request such referendum.

Proposals by N. J. Riebe

1. Provide for quality control.

2. Exempt handlers of production from 500 acres or less from volume regulation.

3. Include exports under prorate.

4. Provide for disposition to charitable organizations, schools, welfare groups, etc., of lemons in excess of those required for the fresh, export and products outlets.

5. Require that a public member from each district be appointed to the Lemon Administrative Committee.

6. Require the Lemon Administrative Committee to promote the medicinal and therapeutic value of lemons.

7. Eliminate the current pick system as a basis for determining handler prorate and base the weekly allocation on the supply of lemons available for the various outlets.

8. Establish an administrative committee consisting of growers and a paid analyst; require that committee members have at least ten years experience as a grower; and provide that no grower member may have any financial interest in a lemon handling organization.

The proposals of the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture which relate to the proposed

marketing agreement and conforming changes, are as follows:

Proposal No. 1

Add a new § 910.93 to read:

§ 910.93 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

Proposal No. 2

Add a new § 910.94 to read:

§ 910.94 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by such handler and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

Proposal No. 3

Add a new § 910.95 to read:

§ 910.95 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the Act, an order providing for regulating the handling of lemons in the same manner as is provided for in this agreement.

Proposal No. 4

Make such changes as may be necessary to make the entire marketing order conform with any amendment thereto which may result from this proceeding.

Copies of this notice may be obtained from the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, or from the Los Angeles Marketing Field Office, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, 845 S. Figueroa, Suite 540, Los Angeles, California 90017.

Signed at Washington, D.C. on January 10, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-680 Filed 1-12-83; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1942

Security Requirements for Community Programs Loans With Joint Financing

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations regarding security requirements for loans on Water and Waste Disposal (WWD) and Community Facility (CF) projects that are jointly financed by FmHA and other lenders. The present regulations require that for these loans FmHA must obtain at least a parity lien position with the other lender. This action is being taken because differences in interpretation have developed as to how the regulations apply to cases where FmHA and the other lender want to use different security and FmHA field offices have requested guidance as to what conditions are necessary to have a parity lien. The intended effect of the proposed amendments is to clarify when a parity lien is required and provide additional guidance regarding conditions necessary to constitute parity in lien positions.

DATE: Comments must be received by February 14, 1983.

ADDRESS: Submit written comments in duplicate to the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular duty hours at the above address.

FOR FURTHER INFORMATION CONTACT: M. Wayne Stansbery, Loan Officer, Community Facilities Loan Division, Farmers Home Administration, USDA, Room 6306, South Agriculture Building, Washington, DC 20250, telephone (202) 382-1490.

SUPPLEMENTARY INFORMATION:

Classification

This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be nonmajor. The proposed rule will not have: (a) An annual effect on the economy of $100 million or more; or (b) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

Clearinghouse Review

The FmHA programs and projects which are affected by this Instruction are subject to State and local clearinghouse review in the manner delineated in FmHA Instruction 1901-H.

Environmental Impact

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Programs Affected

Catalogue of Federal Domestic Assistance (CFDA) No. 10.423, Community Facilities Loans; CFDA No. 10.418, Water and Waste Disposal Systems for Rural Communities.

Background

FmHA regulations for Community Facilities (CF) and Water and Waste Disposal (WWD) loans state in part: "When processing a loan utilizing joint financing, FmHA will obtain at least a parity position with the other lender." The primary reason for this requirement is the concern that if FmHA participates in joint financing of a facility with another lender and accepts a junior lien, FmHA would need to ensure the first lien holder is paid in order to protect FmHA's interest. Since many of the loans made under these programs are secured by tax-exempt bonds such an arrangement could have the practical effect of FmHA guaranteeing the first priority tax-exempt bonds. The parity requirement is to ensure that in the event of default each lender will be affected on a proportionate basis. A common joint financing plan with public bodies is for one lender to secure its loan with general obligation bonds and the other lender to secure its loan with revenue bonds. FmHA has generally held that the parity requirement was not applicable in those cases since the two lenders were not sharing the same security. Recently, however, those

financing plans have been questioned under the regulations.

Alternatives

The first alternative is to make no changes in the regulations. Because of recent interpretations of the regulations this would require training FmHA field personnel that when joint financing with another lender is proposed, using two types of security, FmHA must obtain a parity lien position on both types of security. This requirement would complicate loan processing and closing and discourage private sector lenders from participating with FmHA in joint financing.

FmHA proposes an alternative of amending the regulations to clarify that joint financing may be accomplished by FmHA taking one type of security and the other lender taking a different type of security, when adequate security of more than one type is available. Parity liens will be required when the same security is to be shared by FmHA and the other lender. FmHA also proposes to comply with the requests of some of its field offices to provide guidelines as to conditions required to constitute a parity lien position. FmHA believes this option will maximize the net benefit to society.

Comment Period

FmHA believes the nature of this proposed rule warrants a comment period of less than the usual 60 days. The proposed change is needed to coordinate the language of the regulation with practical operating policy and eliminate differences in interpretation within the Department of Agriculture. It is not expected to be a controversial issue with the public.

Applications are currently in process for loans with financing plans that propose one type of bond to secure an FmHA loan and another type of bond to secure a commercial loan. Because of the recent interpretation of the regulations FmHA field offices have been directed not to continue the processing of loans with such financing plans until the regulations are amended. This will delay loan approvals and/or closing and could result in the cancellation of construction bids. It appears to be in the public interest to implement the amendments as soon as possible, consistent with legal and administrative requirements, so the affected projects can proceed.

Accordingly, a comment period of 30 days is established for this proposed rule.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

PART 1942—ASSOCIATIONS

Accordingly, FmHA proposes to amend Subpart A of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

Section 1942.17 is amended by redesignating paragraphs (g)(1) and (g)(2) as paragraphs (g)(2) and (g)(3) respectively, revising the introductory paragraph to paragraph (g) and adding a new paragraph (g)(1) to read as follows:

§ 1942.17 Appendix A—Community Facilities.

* * * * *

(g) *Security.* Loans will be secured by the best security position practicable in a manner which will adequately protect the interest of FmHA during the repayment period of the loan. Specific requirements for security for each loan will be included in a letter of conditions.

(1) *Joint financing security.* For projects utilizing joint financing when adequate security of more than one type is available, the other lender may take one type of security with FmHA taking another type. For projects utilizing joint financing with the same security to be shared by FmHA and another lender, FmHA will obtain at least a parity position with the other lender. A parity position is to ensure that with joint security, in the event of default each lender will be affected on a proportionate basis. A parity position will conform with the following unless an exception is granted by the National Office.

(i) *Terms.* It is not necessary for loans to have the same repayment terms to meet the parity requirements. Loans made by other lenders involved in joint financing with FmHA for facilities, should be scheduled for repayment on terms similar to those customarily used in the State for financing such facilities.

(ii) *Regular Payments.* In the event adequate funds are not available to meet regular installments on parity loans, the funds available will be apportioned to the lenders based on the respective current installments of principal and interest due.

(iii) *Liquidation.* Funds obtained from the sale of security property or liquidation of fixed assets will be apportioned to the lenders on the basis of the then respective loan balances, including principal and accrued interest.

(iv) *Use of trustee.* The use of a trustee by the other lender in a joint financing arrangement is acceptable with FmHA. The use of a trustee for the FmHA portion of the financing is not acceptable. FmHA must be able to deal directly with the borrower to enforce the provisions of the loan agreement and perform necessary servicing actions.

(v) *Protective advances.* If either lender advances funds for items such as insurance or taxes, for the mutual protection of both lenders, those advances will be repaid first. To ensure agreement among lenders efforts should be made to obtain the concurrence of both lenders before one lender makes such an advance.

* * * * *

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: December 21, 1982.

Charles W. Shuman,

Administrator.

[FR Doc. 83-686 Filed 1-12-83; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 19591; Notice No. SC-82-6-CE]

Special Conditions; Piper Aircraft Corporation Model PA-42 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Amendment to Special Conditions.

SUMMARY: This notice proposes to amend Special Conditions No. 23-90-SO-3 to permit their application to Piper Aircraft Corporation Model PA-42 airplanes as well as future Model PA-42 derivative airplanes. The FAA has determined that these Special Conditions originally developed for the Piper Model PA-42 airplane (Cheyenne III) are also applicable to other Piper Model PA-42 series airplanes. This amendment will allow future PA-42 derivative airplanes to be added to the type certification without revising the Special Condition document.

DATES: Comments must be received on or before February 17, 1983.

ADDRESSES: Comments on this amendment may be mailed or delivered in duplicate to: Federal Aviation Administration (FAA), Office of the Regional Counsel, ACE-7, ATTN: Rules Docket Clerk, Docket No. 19591, Room 1558, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket

No. 19591. Comments may be inspected in the docket file weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Aircraft Certification Division, Federal Aviation Administration, Room 1656, Federal Office Building, Kansas City, Missouri 64106; Telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed amendment to the Special Conditions by submitting such written data, views or arguments as they desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed based on comments received. All comments submitted will be available both before and after the closing date in the Rules Docket for examination by interested persons.

Type Certification Basis

The certification basis for the Piper PA–42 series airplane is as follows: Part 23 of the Federal Aviation Regulations (FAR), effective February 1, 1965, through Amendment 23–16, effective February 14, 1975; Amendment 23–17 §§ 23.977 and 23.1385, effective February 1, 1977; Amendment 2318, § 23.1145, effective May 2, 1977; Amendment 23–21 §§ 23.45, 23.49, 23.65, 23.67, 23.77, 23.1145, and 23.1581, effective March 1, 1978; Amendment 23–23 § 23.1545(a); Special Federal Aviation Regulation (SFAR) 23 paragraph 55, effective January 20, 1970; SFAR 27, effective February 1, 1974 through Amendment 27–1; Part 36 of the FAR effective December 1, 1969 through Amendment 36–6; Special Conditions No. 23–90–SO–3, Docket No. 19591, issued September 24, 1978; the FAA Southern Region Engineering and Manufacturing Branch letter dated August 7, 1980, showing the equivalent level of safety finding for § 23.201(e) of the FAR; and any other changes to Special Conditions No. 23–90–SO–3 that may result from this proposal.

Special Conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) of the FAR do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special conditions, as appropriate, are issued after public notice in accordance with §§ 21.16 and 21.101(b)(2) of the FAR and become part of the type certification basis in accordance with § 21.17(a)(2) of the FAR.

Background

On November 25, 1981, the Piper Aircraft Corporation, Piper Lakeland Division, Lakeland, Florida 33803, submitted an application to amend Type Certificate A23SO to add a new Model PA–42–1000 airplane in the normal category. The Piper PA–42 series are pressurized, low-wing, T-tail, twin-turbopropeller-engine airplanes with a seating capacity of 10 including two crewmembers. The Piper Model PA–42 airplane for which Special Conditions No. 23–90–SO–3 were developed is powered with two 720 horsepower engines, has a maximum operating altitude of 33,000 feet, and a maximum gross weight of 11,200 pounds. The Piper Model PA–42–1000 airplane will be powered with two 1000-horsepower engines, have a maximum operating altitude of 41,000 feet, and a maximum gross weight of 11,950 pounds.

Because the PA–42 airplane design included turbopropeller engines and the regulations incorporated by reference in the type certification (TC) did not contain adequate or appropriate safety standards, Special Conditions No. 23–90–SO–3 were developed for the Piper Model PA–42 airplane to ensure a level of safety equivalent to that provided by Part 3 of the CAR and Part 23 of the FAR. Special Conditions No. 23–90–SO–3, Docket No. 19591 issued September 24, 1979, for type certification of the Piper Model PA–42 airplane are applicable to the Piper Model PA–42–1000 airplane as well as other new Piper PA–42 Series airplanes for the same novel or unusual design features for which the Special Conditions were developed. Accordingly, this amendment proposes to extend the applicability status of Special Conditions No. 23–90–SO–3 to all Piper PA–42 series airplanes, as appropriate, to Type Certificate A23SO without revising the Special Condition documents. This does not preclude the application of later amendments under the provisions of § 21.101(b)(1) or the issuance of Special Conditions that may be necessary under the provisions of § 21.101(b)(2) for future series of the Piper Model PA–42 airplanes.

List of Subjects in 14 CFR Part 21

Aviation safety, Aircraft, Air transportation and safety.

Proposed Special Condition Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Special Condition No. 23–90–SO–3 issued September 24, 1979, to Piper Aircraft Corporation for the type certification of the Piper Model PA–42 airplane under Type Certificate No. A23SO is hereby amended by amending its applicability to read as follows:

"Special Conditions for the type certification of the Piper Model PA–42 series airplanes under Type Certificate A23SO."

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and §§ 11.28 and 11.29(b)), Federal Aviation Regulations (14 CFR 11.28 and 11.29(b))

Issued in Kansas City, Missouri, on December 23, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83–666 Filed 1–12–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–CE–40–AD]

Airworthiness Directives; Cessna Models 172M, 172N 172P, R172K, F172 and FR172 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD) which would require modification of the right-hand control wheel yoke in certain Cessna Models 172M, 172N, 172P, R172K, F172 and FR172 airplanes. In-flight jamming of the control system has occurred. The proposed AD will eliminate this condition by incorporating a stop in the control system.

DATE:

Comments must be received on or before March 20, 1983.

Compliance: Within the next 100 hours time-in-service after the effective date of the AD, unless already accomplished.

ADDRESSES: Cessna Single-Engine Customer Care Service Information Letter SE82–38 dated August 13, 1982, applicable to this AD may be obtained from Cessna Aircraft Company, Marketing Division, ATTN: Customer Service Department, Wichita, Kansas

67201; Telephone (316) 685–0111 or the Rules Docket at the address below.

Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 82-CE-40-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Douglas W. Haig, Aerospace Engineer, Airframe Branch, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7005.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–CE–40–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

A Cessna Model 172N airplane experienced a temporary jamming of the elevator control system. This occurred when a student pilot froze at the controls with the full-up elevator. The instructor was attempting to overpower the student when the student let go of the control wheel. The instructor then jammed the control full forward with a side force which forced the centering bearing out of its guide assembly. This caused a temporary loss of control.

Cessna issued Service Information Letters SE82–38 dated August 13, 1982, recommending installation of a retaining bolt in the right-hand control wheel yoke assembly which will prevent the control wheel guide roller from becoming dislodged and restricting control travel.

Since the condition described herein is likely to exist or develop in other airplanes of the same type design, the AD would require mandatory compliance with Cessna Service Information Letter SE82–38, dated August 13, 1982, on Cessna Models 172M, 172N, 172P, R172K, F172 and FR172 airplanes.

Approximately 10,300 airplanes of U.S. manufacture are affected by this AD. It is estimated that it will take approximately one man-hour per airplane to accomplish the modification and that the average labor cost will be $25 per man-hour. Repair parts are estimated at $0.27 per airplane. Lost time for the airplane is estimated to be $30 per hour. Based on these figures, the total cost impact of this AD is estimated to be $565,000.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Cessna: Applies to the following airplanes certificated in any category:

Model	Serial Nos.
172M	17260540 thru 17267584.
172N	17267585 thru 17274009.
172P	1724010 thru 17275782, 17275784, 17275785, 17275789, 17275770, 17275788, 17275792, 17275793, 17275796, 17275798, 17275800 thru 17275803, 17275806, and 17275818.
R172K	R1722000 thru R1723454.
F172	F17201445 thru F17202194.
FR172	FR17200591 thru FR17200675.

Compliance: Required as indicated unless already accomplished.

To prevent possible jamming of the elevator control, accomplish the following:

(a) Within the next 100 hours time-in-service, modify the right-hand control wheel yoke guide in accordance with the instructions in Cessna Single-Engine Customer Care Service Information Letter SE82–38, dated August 13, 1982.

(b) Airplanes may be flown in accordance with FAR 21.197 to a base where this AD may be accomplished.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager Wichita Aircraft Certification Office, Federal Aviation Administration, Room 238, Terminal Building 2299, Wichita, Kansas 67209; Telephone (316) 269–7000.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and § 11.85 of the Federal Aviation Regulations (14 CFR 11.85))

Note.—For the reasons discussed earlier in the preamble: The FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Kansas City, Missouri, on December 30, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-666 Filed 1-12-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-CE-38-AD]

Airworthiness Directives; Cessna Models 182, 182A, 182B, 182C, 182D, 182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, and R182 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive, (AD), applicable to Cessna Models 182, 182A through 182Q, and R182 airplanes equipped with bladder fuel cells and a single primary fuel tank vent. The proposed AD will require installation of a placard adjacent to the fuel quantity gauges. It will also mandate repetitive inspections of the airplane for indications of fuel tank cap leakage and correction of any unsatisfactory conditions found. Incidents of fuel loss, erroneous fuel quantity indications and undrainable water in the bladder cells have been reported to the FAA. Forced landings and accidents due to fuel depletion and/or contamination have been attributed to these conditions. The proposed action will reduce or eliminate the causes of these conditions and aid the pilot in diagnosing erroneous fuel quantity indications and selecting the correct course of action to avoid fuel exhaustion and an accident.

DATE: Comments must be received on or before March 17, 1983.

Compliance: As indicated in the body of the proposed AD.

ADDRESSES: The applicable Cessna Service Information Letters SE80–59, supplement 1 and SE82–34 and Owner Advisorys SE80–59A and SE82–34A may be obtained from Cessna Aircraft Company, P.O. Box 1521, Wichita, Kansas 67201; telephone number (316) 685–9111 or from the Rules Docket at the address below. Send comments to FAA, Central Region, Office of the Regional Counsel, ACE–7, Attn: Rules Docket Clerk, Docket No. 82–CE–38–AD, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Paul O. Pendleton, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 269–7010.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before action is taken on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, ACE–7, Attn: Airworthiness Rules Docket No. 82–CE–38–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Generally speaking, sufficient negative pressure (suction) is developed over the upper surface of an airplane wing to draw air and/or fuel around an inadequately sealed fuel tank cap located in the area. Depending on many factors such as airplane wing loading, speed, quantity of leakage around the seal, condition of the fuel tank vent system, the quantity of air drawn past the cap may be more than the normal vent system can replace. In this case sufficient suction is developed in the tank to pull the fuel cell bladder snaps from their attachments in the tank compartment and lift the bottom of the bladder fuel cell from the floor of the tank compartment.

The FAA has been aware since 1974 of the potential for this condition to occur in Cessna 182 Series airplanes equipped with bladder fuel cells and that erroneous fuel quantity indications could result when the fuel cell bottom is raised by the suction developed in the tank and supports the fuel quantity transmitter float. Reports of these occurrences increased after plastic fuel caps having secondary vents were installed as required by AD 79–10–14. The fuel cell collapse and the negative effect of this problem on airworthiness is believed isolated to the Cessna 182 Series airplanes having bladder cells and a single primary vent system. This belief is based on a study of Malfunction and Defect Reports received by the FAA. In addition to the condition cited above, deformed fuel cell bladders may also create undrainable traps which collect water when the airplane is in the ground attitude, then allow it to run to the tank outlet and overload existing airplane fuel system sumps after takeoff.

Several accidents have been attributed to these conditions on the Cessna 182 series airplanes having bladder fuel cells. Available facts indicate than an unsafe condition exists when the cap leaks and causes fuel loss and/or fuel tank deformation. Among the identified causes of this condition are (1) improper cap installation, (2) deteriorated cap seals, (3) improper or incorrect seal installed and (4) corroded adapters. The manufacturer has declined to make additional design changes to reduce the probability of or prevent these conditions because it believes that proper cap installation and periodic maintenance in accordance with its published service information already available to the owner/operators will preclude the problems cited.

The FAA agrees that proper cap installation and maintenance of the cap in accordance with already available instruction is necessary to assure the cited conditions do not occur. However, in view of normal refueling practices and variation in the levels of maintenance given the airplanes involved one or more of the above cited causes may occasionally occur and combine with other variables in a manner which causes the problem. The FAA concludes that a placard should be installed near the fuel quantity gauges to warn the pilot that a leaking fuel cap can cause loss of fuel and erroneously high fuel quantity indications. In addition, action to assure that the fuel cap installation is adequately maintained is considered necessary. Since the conditions described herein are likely to exist or develop in other Cessna Model 182 airplanes of the same type design, the FAA proposes to adopt an AD, applicable to Cessna Models 182, 182A through 182Q and R182 airplanes which would require installation of a warning placard near the fuel quantity gauges and implement initial and repetitive inspections of the fuel cap installation and correction of any unsatisfactory condition found. There are approximately 15,000 Cessna 182 Series airplanes having a single primary fuel vent and bladder fuel cells. The estimated cost of installing the placard is $10.00 per airplane for a total one time private sector cost of $150,000. The cost of the yearly inspection is considered negligible. No additional cost is estimated for the correction of any unsatisfactory conditions found as this cost would now be included in the normal maintenance of the airplanes.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Proposed Amendment

Accordingly, the FAA proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Cessna.—Applies to Models 182, 182A, 182B, 182C, 182D, 182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q (all serial numbers except 66590 and on) and R182 (S/N R18200002 through R18200583) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To alert the pilot to the potential effects of improper fuel cap sealing, accomplish the following:

(a) On or before the next 12 calendar months, install a placard adjacent to the fuel quantity gages which states:

"CAUTION

"Leaking fuel caps can cause loss of fuel and erroneously high fuel quantity indications".

This placard may be fabricated and/or installed by the owner/operator of the airplane. The person accomplishing this must make the prescribed entry in the aircraft maintenance records reflecting compliance with paragraph (a) of this AD.

(b) Within the next 12 calendar months and each 12 calendar months thereafter:

1. Visually inspect the surface of the wing aft of the fuel cap for evidence of leakage, the

fuel cap seals for cracks, distortion and or any condition which may prevent sealing, and the sealing face of the adapter for scratches, corrosion, distortion or other conditions which may prevent sealing. If fuel leakage is noted inspect the fuel tank for wrinkles in the bottom and proper attachment of the retaining snaps to the compartment. Prior to further flight, correct any unsatisfactory conditions in accordance with the manufacturer maintenance manuals or service information.

2. Visually inspect the adapter for presence of and legibility of the Cessna P/N 1205253–1 Fuel Cap Alignment Placard and prior to further flight install new placards if required.

3. Check the tension of the fuel cap locking machanism by operating the tab. If necessary adjust in accordance with the manufacturers service manuals/information to obtain proper sealing pressure between the cap and adapters.

(c) Airplane may be flown per FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent method of compliance with this AD may be used if it is approved by Manager, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209.

(Cessna Service Information Letter SE80–59, Supplement 1 and SE82–34 and Owner Advisorys SE80–59A and SE82–34A pertain to the subject matter of this AD.

Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and § 11.85 of the Federal Aviation Regulations (41 CFR 11.85))

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) Involves a proposed regulation that is not major under the provisions of Executive Order 12291, (2) is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) in addition, I certify under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A draft regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Kansas City, Missouri, on December 28, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83–872 Filed 1–12–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 82–AGL–21]

Proposed Alteration of Transition Area and Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal action redescribes both the control zone and transition area designated for Houghton, Michigan. The intended effect is to accommodate all existing approach procedures by ensuring segregation of aircraft using instrument approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions while returning some designated airspace to a non-controlled status.

DATES: comments must be received on or before February 11, 1983.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 82–AGL–21, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION:

The proposed decommissioning of the Calumet, Michigan, non-directional radio beacon (NDB–CUT) requires that the current descriptions for the Houghton, Michigan, control zone and transition area be rewritten so as to eliminate any reference to that radio beacon. In the process of rewrite, it was noted that some of the airspace currently designated was not longer required and should be returned to a non-controlled status, i.e., elimination of the one-half mile extension north of the radio beacon as contained in the current control zone designation, reduction of the 700-foot transition area radius from 18 miles to 9 miles, and deletion of a portion of the 1200-foot transition area approximately 14 miles by 6 miles located approximately 18 miles north of the Houghton County Memorial Airport. No minimum descent altitudes (MDAs) for established procedures will change, although some may be below the floor of controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82–AGL–21." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to §§ 71.171 and 71.181 or Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the control zone near Houghton, Michigan,

and to alter the transition area airspace near Houghton, Michigan.

Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Houghton, Michigan

Within a 6-mile radius of Houghton County Memorial Airport (latitude 47°10'07" N., longitude 88°29'20" W.).

Houghton, Michigan

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Houghton County Memorial Airport (lat. 47°10'07" N., long. 88°29'20" W.); and that airspace extending upward from 1,200 feet above the surface within an 18-mile radius of the airport and within 9.5 miles northwest and 4.5 miles southeast of the Houghton VORTAC 058 radial extending 18.5 miles northeast of the airport, 9.5 miles northeast and 4.5 miles southwest of the VORTAC 129 radial extending 24.5 miles southeast of the airport, 4.5 miles southwest of the VORTAC 139 radial extending 18.5 miles southeast of the airport, 9.5 miles southwest of the VORTAC 308 radial extending 18.5 miles northwest of the airport, 9.5 miles southwest and 4.5 miles northeast of the VORTAC 309 radial extending 25 miles northwest of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(A) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body by technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 20, 1979); are (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on December 27, 1982.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 83-805 Filed 1-13-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 120

[SFAR 38; Docket No. 22480; Notice No. 82-13C]

Air Transportation Regulation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting to afford interested persons the opportunity to attend a presentation and question-and-answer period regarding Notice of Proposed Rulemaking (NPRM) No. 82-13 (47 FR 41486; September 20, 1982). NPRM No. 82-13, Air Transportation Regulation, proposes to remove Parts 121 and 135 from the Federal Aviation Regulations and to add a new Part 120 which implements a new concept in aviation safety regulations entitled "Regulation By Objective" (RBO).

DATES: Thursday, January 27, 1983, 10:30 a.m. to 5:00 p.m.

ADDRESS: Captain Cooke Hotel, Fifth and K Street, Anchorage, Alaska: Telephone: (907) 276-6000.

FOR FURTHER INFORMATION CONTACT: Eugene Morris, General Aviation/Air Carrier Branch, AAL-250, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska 99513; Telephone: (907) 271-5514.

SUPPLEMENTARY INFORMATION:

Background

NPRM 82-13, which was published in the **Federal Register** on Monday, September 20, 1982, proposes to remove parts 121 and 135 from the Federal Aviation Regulations and to add a new Part 120 which implements a new concept in aviation safety regulations entitled "Regulation By Objective" (RBO). Under the new concept the FAA would substitute broadly stated safety objectives for many of its detailed "how to" regulations.

Regulation by objective has three major goals:

1. To continue the high level of safety that has made United States aviation regulatory standards a model for almost every aviation regulatory body in the world.

2. To provide regulatory flexibility so that the aviation industry will not be impeded in developing innovative methods for achieving the level of safety thus far maintained under Federally established safety objectives.

3. To comply with the requirements of Executive Order 12291 and the Regulatory Flexibility Act of 1980 for reviewing existing regulations.

NPRM 82-13 stated that in addition to seeking comments on proposed Part 120, the FAA planned to schedule a public presentation of RBO to explain what it is and how it will work. To date, two public meetings have been held; one in Los Angeles, California, and one in Washington, D.C. This public meeting has been scheduled in order to afford more people the opportunity to attend and participate.

Request To Make a Presentation

Interested persons are invited to attend the meeting and to participate by making oral or written statements. Written statements should be submitted in duplicate and will be made a part of the rules docket. Requests to make an oral presentation at the public meeting should identify Docket No. 22480, indicate the time required, and be sent to Eugene Morris, General Aviation/Air Carrier Branch, AAL-250, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska 99513; Telephone: (907) 271-5514. Requests must be received on or before January 20, 1983. Presentations will be scheduled on a first-come first-served basis as time may permit within the meeting schedule.

Meeting Procedures

Persons who plan to attend the meeting should be aware of the following procedures to be followed:

(a) The meeting will be informal in nature and will be conducted by the designated representative of the Administrator under 14 CFR 11.33. Each participant will be given an opportunity to make a presentation.

(b) The meeting will begin at 10:30 a.m. (local time). There will be no admission fee or other charge to attend and participate. The meeting session will be open to all persons on a space available basis. The presiding officer may accelerate the meeting agenda to enable early adjournment if the progress of the meeting is more expeditious than planned.

(c) The meeting will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter directly. A copy of the court reporter's transcript will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meeting may be accepted at the

discretion of the presiding officer. Participants submitting handout materials must present an original and five copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the hearing should not be taken as expressing a final FAA position.

Public Meeting Schedule

The schedule for the meeting is as follows:

10:30 to 10:40—Presentation of Meeting Procedures.
10:40 to 11:30—FAA Presentation of proposed Part 120.
11:30 to 1:00—Lunch
1:00 to 5:00—Public Presentations and Discussion.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a)–1355(a), 1421 through 1430, and 1502); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

Issued in Washington, D. C., on December 23, 1982.

Kenneth S. Hunt,
Director of Flight Operations.

[FR Doc. 83-864 Filed 1-10-83; 10:00 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-134; West Virginia—2]

High-Cost Gas Produced From Tight Formations; Extension of time for Comments

January 6, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On November 9, 1982, the Director, Office of Pipeline and Producer Regulation issued a Notice of Proposed Rulemaking involving high-cost gas produced from tight formations. (47 FR 53740). The comment period is being extended at the request of Ranger Fuel Corporation, Sewell Coal Company and Jewell Ridge Coal Corporation.

DATE: Comments must be submitted on or before February 7, 1983.

ADDRESS: Submit comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, 202–357–8400.

SUPPLEMENTARY INFORMATION: On January 4, 1983, Ranger Fuel Corporation, Sewell Coal Company, and Jewell Ridge Coal Corporation filed for an extension of time to file comments in response to the Notice of Proposed Rulemaking issued November 22, 1982, in the above docketed proceeding, by the Director, Office of Pipeline and Producer Regulation. The motions state that additional time is required because of the substantial amount of documentation and supporting material which must be reviewed and studied in order for these parties to formulate their comments.

Upon consideration, notice is hereby given that an extension of time for all interested parties to file comments is granted to and including February 7, 1983.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-852 Filed 1-12-83; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 157

[CGD 81-101]

Tank Vessels Carrying Noxious Liquid Substances in Bulk; Pollution Prevention and Control, Equipment and Operational Requirements

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The purpose of this advance notice is to give the U.S. chemical transportation industry opportunity to participate in the development of rules implementing Annex II of the 1978 Protocol to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL Protocol). In accordance with the MARPOL Protocol, these implementing rules would apply to all vessels, regardless of tonnage, size or means of propulsion, making discharges of noxious liquid substances at sea and would minimize operational pollution of the marine environment by ships.

DATE: Comments must be received on or before June 30, 1983.

ADDRESSES: Copies of Annex II of the MARPOL Protocol and the draft Standards may be obtained by calling or writing Commandant (G–CMC), U.S. Coast Guard, Washington, D.C. 20593 (202–426–1477). Written comments should be submitted to the same address. Between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday, except holidays, comments may be delivered to and will be available for examination or copying at the Marine Safety Council (G–CMC), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Frits Wybenga, Office of Merchant Marine Safety (G–MTH), Room 1206, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202–426–1217).

SUPPLEMENTARY INFORMATION: The public is invited to participate in the development of the implementing rules by submitting written comments, views, data or arguments. Each person participating should include their name and address and identify this notice (CGD 81–101) and provide supporting reasons for their comments, views, or arguments. Persons desiring acknowledgment that their submission was received should enclose a self-addressed postcard or envelope. All comments received will be considered before further action is taken on this rulemaking. No public hearing is planned at this time but one could be held at a time and place to be set by a notice in the **Federal Register** if the Coast Guard receives a request by interested persons raising genuine issues and it is determined that the opportunity to make oral presentation will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are: Mr. Frits Wybenga, Project Manager, Office of Merchant Marine Safety, and Mr. Stanley M. Colby, Project Attorney, Office of Chief Counsel.

Discussion

The International Convention for the Prevention of Pollution from Ships, 1973 (the Convention) was developed to minimize accidental and operational pollution of the marine environment by ships. The Convention contains five technical annexes addressing pollution by oil, by noxious liquid substances shipped in bulk, by harmful substances shipped in containers, by sewage and by garbage. Two of the annexes are mandatory; and countries that are party to the Convention are bound to

implement these annexes upon coming into force of the Convention. These annexes pertain to oil (Annex I) and noxious liquid substances (Annex II). The 1978 Tanker Safety and Pollution Prevention Conference made modifications to the Convention and replaced it with the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL Protocol). The majority of changes made were in Annex I. The only change made to Annex II was to delay the effective date of implementation until three years after the coming into force of Annex I and to permit further delay if agreed to by the Marine Environment Protection Committee of the International Maritime Organization (IMO).

The United States deposited its instrument of ratification on August 12, 1980 and implementing legislation necessary to fully implement the MARPOL Protocol, entitled the Act to Prevent Pollution from Ships, was signed into law by President Carter on October 21, 1980 (Pub. L. 96-478, 94 Stat. 2297, 33 U.S.C. 1901, et seq.). Annex I of the MARPOL Protocol will enter into force on October 2, 1983 and Annex II is expected to enter into force in October 1986.

The Coast Guard intends to implement Annex II on a schedule consistent with entry into force. Annex II limits and restricts operational discharges of noxious liquid substances made by chemical tankers. As part of the wash procedure for preparing tanks for the next cargo, chemical tankers routinely dispose of chemical residues at sea. With the exception of those chemcials listed as Hazardous Substances by the Environmental Protection Agency (EPA) in 40 CFR Part 116, there are currently no restrictions on where residues may be discharged and, in the case of EPA prohibitions, the application to foreign and domestic vessels is inconsistent. EPA enforcement authority on foreign vessels only extends to the boundaries of the contiguous zone (12 mile limit) whereas enforcement authority and restrictions apply to U.S. vessels within the waters under the exclusive management authority of the United States including resources under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821, et seq., as amended) (200 mile limit). Under Annex II, discharges of noxious liquid substances within 12 miles from shore are prohibited. Beyond 12 miles, discharges are either prohibited or limited, depending on the nature of the cargo. These controls will apply uniformly to the vessels of all signatory nations.

Under Annex II, chemicals shipped in bulk are evaluated for their hazard to the marine environment on the basis of their tendency to bioaccumulate, their aquatic toxicity, their threat to human health through oral and dermal intake, and their threat to the amenities, such as beaches. On the basis of this evaluation, a chemical is either identified as a noxious liquid substance or as a substance not regulated by Annex II. Noxious substances are assigned to one of four categories, A, B, C, or D, based on the degree of hazard they pose with Category A substances posing the most severe hazard and Category D substances the least. In addition to prescribing general conditions under which limited amounts of noxious substances may be discharged into the sea, Annex II specifies different discharge restrictions for each category. The washings from tanks having contained Category A substances must be discharged to a reception facility until the effluent concentration is below a prescribed level. Subsequent tank washings may be discharged at sea under prescribed conditions. For tanks having contained Category B substances, no more than one cubic meter of residue per tank may be discharged at sea and the concentration in the wake may not exceed 1 part per million (ppm). Similarly, for Category C substances no more than 3 cubic meters of residue per tank may be discharged into the sea and the concentration in the wake may not exceed 10 ppm. In the case of Category D substances, the discharge concentration may not exceed one part in ten.

Annex II calls for the development of standards for procedures and arrangements in three areas so that the discharge restrictions can be applied on a uniform basis internationally. The three areas are:

1. Precleaning procedures for tanks having contained Category A substances;

2. Equipment and operational requirements for ascertaining the amount of residue remaining in cargo tanks and for ensuring that the wake concentration limits for Category B and C substances are met; and

3. Procedures for ventilating noxious substances from tanks.

The responsibility for developing these standards was assigned to the IMO Subcommittee on Bulk Chemicals. The standards are ready for adoption; their official title is the *Standards for Procedures and Arrangements called for by Annex II of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 Relating thereto* (the Standards). The Subcommittee completed its work on the Standards on December 10, 1982, and IMO adoption is expected to occur in November 1983. Once adopted, the Standards will continue to be reviewed. It is expected that in anticipation of Annex II implementation, trial applications of the Standards will be made onboard chemical vessels in order to ascertain their feasibility and identify any necessary changes. In order to provide sufficient time to prepare for Annex II implementation, the IMO Subcommittee intends to make any necessary changes no later than Fall 1984.

One method of enforcement of Annex II being considered is to reference in any implementing regulations the pertinent parts of Annex II, to require vessels to be provided with an approved manual developed in accordance with the Standards, and to require discharges of noxious substances to be made in accordance with Annex II and the approved manual. Under this concept, manuals for domestic vessels would be approved by the Coast Guard whereas manuals for foreign vessels could be approved by the flag Administration or their authorized representative provided the flag Administration is a party to the MARPOL Protocol. Vessels without an approved manual would be denied entry into U.S. ports. The Coast Guard could approve manuals of foreign vessels registered in countries not party to the MARPOL Protocol.

Annex II requires that reception facilities capable of receiving waste wash water containing noxious substance residues be available in terminals handling noxious liquid substances. Requirements on reception facilities for Annex II wastes are schedule by the Coast Guard to be developed in a separate document.

Annex II also requires that Category A, B and C noxious substances be carried on vessels meeting the IMO Bulk Chemical Code. The IMO Bulk Chemical Code is being amended to take marine pollution into account. Once these changes are made to the IMO Bulk Chemical Code, the Coast Guard anticipates maintaining consistency between the IMO Bulk Chemical Code and its own safety rules for self-propelled vessels carrying hazardous liquids by revising its rules. This will entail upgrading some of the carriage requirements for substances already regulated as hazardous liquids and defining some other substances previously regulated as flammable or

combustible liquids as hazardous liquids. A similar revision is anticipated in the Coast Guard's regulations for unmanned barges carrying certain bulk dangerous cargoes. These revisions would be achieved under a separate rulemaking.

In order to ascertain whether a chemical shipped in bulk will be regulated as a noxious substance, toxicological data must be evaluated. Much of this data is currently provided to the Coast Guard in order to ascertain whether a chemical should be regulated under 46 CFR Part 153. However, information on aquatic toxicity and on a substance's tendency to bioaccumulate is typically lacking on chemical information sheets submitted. This information is paramount in ascertaining whether a substance should be difined as a noxious substance. For substances where the data is lacking, the Coast Guard could assign a temporary category which could be more restrictive than the permanent category which would be assigned if sufficient data were available. Some of the substances for which data is lacking are substances which are currently shipped in bulk. To facilitate smooth implementation of Annex II requirements, parties interested in shipping these substances are encouraged to provide the necessary data. Chemicals for which data is currently lacking include:

Acrylamide solution (50% or less)
Alkyl benzene sulfonic acid
Butyl methacrylate, decyl methacrylate, cetyl eicosyl methacrylate mixture
Coal tar naptha
Decyl acrylate
Dibutylamine
2–2–Dichloroisopropyl ether
Diethyl sulfate
Dodecyl diphenyl oxide disulphonate (solutions)
Dodecyl methacrylate
n-Ethyl cyclohexlamine
Ethylidene norbornene
Glutaraldehyde solution (50% or less)
Hexamethyleneimine
2-Hydroxyethyl acrylate
Isophoronediamine
Isophorone diisocyanate
2-Methyl-6-aniline
Methyl formate
ortho-Nitrotoluene
para-Nitrotoluene
1,3-Pentadiene
Polymethylene polyphenyl isocyanate
Polyvinylbenzyl trimethyl ammonium chloride solutions
Sodium chlorate solutions (50% or less)
1,2,4-Trichlorobenzene
Trimethyl acetic acid
Trimethyl hexamethylene diisocyanate (2,2,4- and 2,4,4-isomers)
Urea, ammonium nitrate solution (containing more than 2% NH_3)
Vinyl neodecanoate.

In issuing this advanced notice the Coast Guard is soliciting:

(1) Comments on the proposed approach for implementation of Annex II, MARPOL 73/78;

(2) Comments on the Standards for Procedures and Arrangements and particularly comments which are based on operational trials;

(3) Information on the costs of implementing Annex II;

(4) Information on the extent to which noxious substances are transported and the extent to which tanks carrying these substances are emptied; and

(5) Toxicological data on the chemicals listed. To understand the extent and nature of this rulemaking, Annex II of the MARPOL Protocol and the Standards should be considered. Copies of these documents may be obtained as indicated above in "ADDRESSES".

List of Subjects in 33 CFR Part 157

Cargo vessels, Oil pollution.

Dated: January 4, 1983.

Clyde T. Lusk, Jr.

Chief, Office of Merchant Marine Safety.

[FR Doc. 83-085 Filed 1-12-83; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-832; RM-4254]

Radio Broadcast Services, FM Broadcast Station in Cascade Village, Colorado; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign Class C FM Channel 297 to Cascade Village, Colorado, as its first local FM service, in response to a petition filed by Keith E. Lamonica.

DATES: Comments must be filed on or before February 14, 1983, and reply comments must be filed on or before March 1, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cascade Village, Colorado), BC Docket No. 82–832, RM–4254.

Adopted: December 21, 1982.
Released: December 30, 1982.

1. Before the Commission is a petition for rule making filed by Keith E. Lamonica ("petitioner"), requesting the assignment of Class C Channel 297 to Cascade Village, Colorado, as that community's first FM assignment. Petitioner stated that it will apply for the channel if assigned as proposed. The channel can be assigned consistent with the minimum distance separation requirements of § 73.207(a) of the Commission's Rules.

2. Since the proposed assignment could provide a first FM broadcast service to Cascade Village, Colorado, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Rules, with respect to that community as follows:

City	Channel No.	
	Present	Proposed
Cascade Village, Colo.		297

3. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before February 14, 1983, and reply comments on or before March 1, 1983, and are advised to read the Appendix for the proper procedures.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are

prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303).

Federal Communications Commission

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-869 Filed 1-12-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-835; RM-4220]

FM Broadcast Station Grand Forks, North Dakota; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign Class C FM Channel 298 to Grand Forks, North Dakota, in response to a petition filed by Red River Broadcasters. The proposal could provide a third FM service to that community.

DATES: Comments must be filed on or before February 14, 1983, and reply comments must be filed on or before March 1, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Grand Forks, North Dakota); MM Docket No. 82-835, RM-4220.

Adopted: December 28, 1982.

Released: December 30, 1982.

1. A petition for rule making was filed October 13, 1982, by Red River Broadcasters ("petitioner") seeking the assignment of Class C Channel 298 to Grand Forks, North Dakota, as its third FM assignment. Petitioner expressed an interest in applying for the channel, if assigned.

2. A site restriction of 5.7 miles northwest of the city is required for the assignment of Channel 298 at Grand Forks due to Station KLIZ in Brainerd, Minnesota.

3. Since Grand Forks, North Dakota, is within 320 kilometers (200 miles) of the U.S.-Canadian border, the proposed assignment requires coordination with the Canadian government.

4. In view of the fact that the proposed assignment could provide a third FM service to Grand Forks, North Dakota, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Grand Forks, North Dakota	225, and 234	225, 234, and 298

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before February 14, 1983, and reply comments on or before March 1, 1983, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the Matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission,

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflicts with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-[illegible] Filed 1-12-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82–834; RM–4202]

TV Broadcast Station in Dallas, Texas; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 58 to Dallas, Texas, as its sixth commercial television assignment, in response to a petition filed by Robert C. Tilton.

DATES: Comments must be filed on or before February 14, 1983, and reply comments must be received on or before March 1, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Dallas, Texas); MM Docket No. 82–834, RM–4202.

Adopted: December 28, 1982.

Released: December 30, 1982.

1. The Commission herein considers a petition for rule making filed September 21, 1982, by Robert C. Tilton ("petitioner") which seeks the assignment of UHF Television Channel 55 to Dallas, Texas. Petitioner expressed an interest in applying for the channel, if assigned.

2. Dallas (population 904,078)[1], the seat of Dallas County (population 1,556,549), is located in northeast Texas. Dallas is said to be a large industrialized area. Its economy is based mainly on the many facets of regional, national, and international trade. The community is a major part of an eleven-county multiplex which hosts the nation's largest airport (17,500 acres). It has international air routes to major cities around the world, deriving major economic benefits. There are one and one-half million workers living in the

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

area, which we are told constitutes the largest work force in the South. According to petitioner, the city of Dallas is financially sound and has banking and monetary supports. Petitioner believes that this assignment should be made because of the significant population growth in the city, both past and projected. The population has increased by 25% since the 1970 Census, and is projected to reach three and one-half million by 1990.

3. The petitioner's request for Channel 55 was found to conflict with a request for the same channel in Lake Dallas, Texas. A channel search by the Commission indicated the availability of Channel 58 for Dallas. Therefore, we have substituted Channel 58 for consideration herein.

4. In view of the foregoing, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Rules) with respect to the following city:

City	Channel No.	
	Present	Proposed
Dallas, Texas	4+, 8, *13+, 27−, 33+, and 39.	4+, 8, *13+, 27−, 33+, 39, and 58

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before February 14, 1983, and reply comments on or before March 1, 1983, and are advised to read the Appendix for the proper procedures.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission,

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompained by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules).

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

FR Doc. 83–891 Filed 1–12–83; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1309 and 1310

[Ex Parte No. 354]

Additional Charges of Motor Carriers and Forwarders

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Withdrawal of Proposed Rules and Discontinuance of Proceedings.

SUMMARY: This proceeding was instituted to consider adopting rules to govern motor common carrier [1] and freight forwarder practices concerning the publication and collection of additional charges, often designated as "arbitraries", to class rates. The Commission has decided to withdraw the proposed rules and discontinue the proceeding. The Commission is persuaded that the more competitive environment mandated by the Motor Carrier Act of 1980 and the Commission's recent policies have made the proposed regulations unnecessary.

EFFECTIVE DATE: January 13, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: This proceeding was initiated on our own motion by Notice of Proposed Rulemaking (NPR), served August 28, 1978, and published in the Federal Register on September 1, 1978, (43 FR 39157),[2] to consider the adoption of new rules to govern motor common carrier and freight forwarder practices regarding the publication and collection of additional charges to class rates. The Commission suggested that these charges, commonly referred to as "arbitraries", "additional pickup and delivery charges", or simply "additional charges", did not appear to be based on any rational cost-based ratemaking system. The proposed rules would have eliminated arbitrary charges to class rates as a ratemaking tool where no additional service is performed. We requested comments on how this should be done (i.e., prospectively only, or also as to existing arbitraries), and what else could be done to eliminate the alleged need for these types of charges.

The comments are sharply divided along shipper-carrier lines. Individual carriers and rate bureaus generally oppose the proposed rules and argue that arbitraries are charges for additional service which results in added costs. They emphasize that the involved "add-on" charges have been used successfully with Commission sanction since the earliest days of regulated transportation to help achieve revenue adequacy under the class rate structure.

Shippers and shipper associations generally oppose the use of arbitraries and support the proposed regulations. Essentially, they submit that arbitraries and other additional charges are unrelated to additional services, and therefore those charges are unlawful as well as inflationary. Shippers agree that carriers should be compensated for additional costs incurred for additional services actually rendered, but they contend that carriers should designate the specific nature of the service covered by the add-on charges and should justify their need.

Although the comments reflect various problems with the use of arbitraries, we are persuaded that the more competitive environment mandated by the Motor Carrier Act of 1980 (MCA) and our recent policies have rendered the proposed rules unnecessary. In today's regulatory environment, most shippers can realistically expect lawfully responsible, flexible rates. *See, Detention of Motor Vehicles—Nationwide,* 132 M.C.C. 906, 912 (1982). The purpose of the MCA was to establish a new Federal policy promoting a competitive and efficient motor carrier industry by relaxing entry standards and providing carriers with greater freedom to adjust their rates and practices in response to market demands.[3] Further, section 2 of the MCA states that the legislation is part of the continuing effort by Congress to reduce unnecessary regulation.

In the circumstances, we prefer that competitive forces be used to remedy problems wherever possible, rather than burdening carriers with additional regulations. Price competition should act as an effective deterrent to improper or excessive arbitrary charges. Moreover, since the annnouncement of the NPR, we note that complaints on this issue have diminished significantly.

Accordingly, we are withdrawing the proposed rules and discontinuing this proceeding. However, complaints involving arbitraries may be filed under 49 U.S.C. 11701.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

Because the Notice of Proposed Rules was issued before January 1, 1981, the provisions of the Regulatory Flexibility Act do not apply.

Decided: January 5, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-000 Filed 1-12-83; 8:45 am]

BILLING CODE 7035-01-M

[1] This proceeding concerns only motor common carriers of property.

[2] The proposed rules under 49 CFR Part 1307, Subpart B, are no longer relevant as the application of Subpart B to motor common carriers was revoked, effective October 5, 1979. The tariff publishing rules governing motor common carriers are now published solely under 49 CFR Part 1310.

[3] H.R. Rep. 96–1069, 96th Cong., 2d. Sess. 3–4, [1980].

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Amendment to Regulation Describing Zones in Which Toxic Shot Is Prohibited for Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposal would amend descriptions of certain areas in which non-toxic shot is required for waterfowl hunting. When eaten by waterfowl, spent lead pellets may have a toxic effect. The only approved non-toxic shot available at this time is steel shot. The state wildlife conservation agencies of Florida, Michigan, Illinois and Texas have recommended that, prior to the 1983 hunting seasons, changes as indicated below be made in this regulation.

DATES: Comments on the proposed amendment will be accepted until February 25, 1983.

ADDRESS: Submit comments to Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Robert I. Smith, Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

Appropriated funds for the Department of the Interior for fiscal year 1982 were restricted in their use by the following provision:

No funds appropriated by the Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

On December 29, 1981, the Service contacted all Directors of State fish and wildlife agencies by letter. In that letter States wishing to amend for hunting seasons commencing in 1983 the description of non-toxic shot zones (50 CFR 20.108) were asked to notify the Service of any such proposed changes prior to the hunting seasons commencing in 1982. Four States responded to this request. These States were Florida, Michigan, Illinois and Texas. Florida, Illinois and Texas proposed that certain additional areas be included in the regulation, while Michigan requested withdrawal of certain zones which were previously designated as non-toxic shot areas.

Michigan—In 1982 a decision was made by the Michigan Department of Natural Resources to redefine the boundaries of the non-toxic shot zones in the State. This was done to identify more accurately the situations in which lead poisoning of waterfowl is most serious. The State waterfowl hunting regulations reflected this change in 1982, but no amendment was proposed for the Federal regulation (46 FR 40882–83). The State of Michigan requested that the State regulation, rather than the Federal regulation, be enforced in 1982 and this was done. The proposal presented below amends 50 CFR 20.108 to be identical in wording to Michigan State regulations as implemented in 1982. This proposed regulation describes zones in which aproximately half of the Michigan waterfowl harvest occurs and represents a 23 percent reduction in the area previously covered.

Illinois—Periodic Report No. 36 of the Illinois Department of Conservation is entitled, *Potential for lead poisoning die-offs among waterfowl at Rend Lake.* This document points out that 450 to 600 geese and ducks died of lead poisoning at Rend Lake in March 1981. Gizzards of mallards harvested at Rend Lake were examined in 1981 and 11.4 percent contained ingested shot. Based on these findings the Illinois Department of Conservation has requested that Rend Lake be proposed as a non-toxic shot zone.

Florida—The Florida Game and Fresh Water Fish Commission has concluded, based upon studies conducted by the Commission, that three new zones be proposed for Florida. All three areas are small, but hunter activity and duck use are concentrated. Five hundred to 1,000 waterfowl hunters use the areas.

Texas—The Texas Parks and Wildlife Department has recommended seven southeast Texas counties and portions of five mid-coast counties for addition to the non-toxic shot zones in the State. Studies conducted by the Department in 1981–82 indicate that seven major species of duck had an incidence of ingested shot of 15 percent. The incidence of ingested shot in all species was 10 percent. The incidence in geese was 3 percent. The area proposed for Texas contains 47 percent of the waterfowl hunting activity of the State.

This rule will not result in the collection of information from, or place recordkeeping requirements on, the public under the Paperwork Reduction Act of 1980. In accordance with Executive Order 12291, it has been determined that this rule is not a major rule. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) it was determined that this rule, if implemented without adequate notice, could result in ammunition supplies for which there is no local demand. It is believed that adequate notice will be provided. Therefore, it was determined that the rule would not have a significant economic effect on a substantial number of small entities. A copy of the analysis relating to these decisions, Determination of Effects of Proposed Amendment to Steel Shot Rules for 1983, can be obtained from the U.S. Fish and Wildlife Service (MBMO), Washington, D.C. 20240. An Environmental Impact Statement on the steel shot program was signed in 1976. In addition, Environmental Assessments were prepared on various aspects of the steel shot program in 1977 through 1980. Copies of these documents can be obtained from the U.S. Fish and Wildlife Service (MBMO), Washington, D.C. 20240.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

This proposed rule was authored by Robert I. Smith, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240; 202–254–3207.

Proposed Rule:

§ 20.108 [Amended]

Accordingly, it is proposed that 50 CFR 20.108 be amended as follows:

Florida—Remove the word "and" following the last semi-colon in the zone descriptions for Florida and add the following at the end of the paragraph:

* * * * *

Florida

* * *; Lake Ponte Vedra in St. Johns County (all waters of Lake Ponte Vedra north of the Guana Dam), Occidental Wildlife Management Area in Hamilton County and IMC Wildlife Management Area in Polk County.

Michigan—Remove the present wording and replace with the following:

Michigan

A. Eastern Upper Peninsula

1. That area of Chippewa County encompassed by a line from the tip of Conely's Point (Section 4, T44N R2E) southeasterly to the tip of Winter Point (Section 14, T44N R2E) to the tip of Rocky Point (Section 25, T44N R2E); then south on Rocky Point Road and west on Gogomain Road to the Town of Pickford; north on M–129 to the junction with 15-Mile Road (Section 19, T45N R1E); east on 15-Mile Road to the Village of Neebish; then south on the paved road from Neebish (Scenic Drive) to the point of beginning at Conley's Point.

2. The waters of Potagannissing Flooding on Drummond Island.

B. Houghton Lake

That area of water and land encompassing Houghton Lake, Roscommon County, described by road boundaries as follows: south of Meads Landing Road, County 300 and County 100; west of M–18; north of M–55; and east of US–27.

C. Saginaw Bay

1. That area of Arenac, Bay, Tuscola, and Huron counties south of US–23; east of M–13; north of M–25; south of Cresent Beach Road (Caseville Township, Huron County); and southwest of a line from the tip of Sand Point (Section 11, T17N R9E, Huron County) to Point Lookout (Section 13, T19N R7E, Arenac County) and Shore Road (Sims Township, Arenac County).

2. On all lands and waters within the posted boundaries of the following State or Federal management areas.

a. Crow Island State Game Area—Bay and Saginaw counties.

b. Shiawassee River State Game Area—Saginaw County.

c. Shiawassee National Wildlife Refuge—Saginaw County.

D. Southeastern Michigan

1. That area of Jackson County (north of I–94 and east of M–106); Ingham County (east of M–106/M–52 and south of M–36); Livingston County (south of M–36, east of M–155, and south of M–59); Oakland County (south of M–59, west of US–24 (Telegraph Road), north of I–96, and west of I–275); Wayne County (west of I–275 and north of M–14); Washtenaw County (north of M–14 and I–94); and St. Clair, Macomb, Wayne and Monroe counties east of I–94 and I–75 including the U.S. waters of the St. Clair

River, Lake St. Clair, the Detroit River, and Lake Erie.

2. On all lands and waters within the posted boundaries of the U.S. Fish and Wildlife Service Schlee Waterfowl Production Area located in Section 6, T3S R2E of Grass Lake Township, Jackson County.

E. Southwestern Michigan

1. Muskegon, Ottawa, Allegan and Kalamazoo counties, including Lake Michigan lakeward for one-half mile from the shore. All county boundary waters and lakes partially within a non-toxic shot zone are totally included.

2. All lands and waters within the posted boundary of the Muskegon County Wastewater System, Muskegon County.

Illinois: At the end of the zone descriptions for Illinois add the following:

Rend Lake and related subimpoundments and all adjacent lands managed by the U.S. Army Corps of Engineers and the Illinois Department of Conservation.

Texas: Remove the present wording and replace with the following:

Texas

That area lying within boundaries beginning at the Louisiana State line, thence westward along IH 10 to the junction of U.S. Highway 90 and IH 10 in Beaumont, thence westward along U.S. 90 to its junction with IH 610 in Houston, thence north and west along IH 610 to its junction with U.S. Highway 290 in Houston, thence westward along U.S. Highway 290 to its junction with State Highway 159 in Hempstead, thence southwestward along State Highway 159 to its junction with State Highway 36 in Bellville, thence eastward along State Highway 36 to its junction with FM 2429, thence southward along FM 2429 to its junction with FM 949, thence southwestward along FM 949 to its junction with Interstate 10, thence westward along Interstate 10 to its junction with U.S. Highway 77 at Schulenburg, thence southward along U.S. Highway 77 to its junction with the U.S.-Mexico international boundary at Brownsville, thence eastward along the U.S.-Mexico international boundary to the Gulf of Mexico, thence east and seaward to the three marine league limit, thence northeastward along the three marine league limit to the Louisiana State line, thence northward along the Texas-Louisiana State line to its junction with IH 10.

Dated: December 7, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-828 Filed 1-12-83; 8:45 am]
BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 48, No. 9
Thursday, January 13, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Hop Marketing Advisory Board; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–436; 86 Stat. 770), notice is given of a meeting of the Hop Marketing Advisory Board at 8:30 a.m., local time, January 27, 1983, in San Diego, California, at the Sheraton Inn-Airport. This meeting is contingent upon GSA approving the reestablishment of the Board prior to January 27.

The purpose of the meeting is to discuss marketing policy, and related matters. The meeting will be open to the public.

The Hop Marketing Advisory Board is established under Marketing Order No. 991, as amended (7 CFR Part 991), regulating the Handling of hops of domestic production. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

The names of Board members, agenda, location of meeting, summary of the meeting and other information pertaining to the meeting may be obtained from Robert H. Eaton, Hop Administrative Committee, Room 1002, Corbett Building, 430 SW. Morrison Street, Portland, Oregon 97204, telephone (503) 224–1823.

Dated: January 7, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-940 Filed 1-12-83; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Western Spruce Budworm Management in Northeast Oregon, Crook, Baker, Grant, Morrow, Harney, Jefferson, Umatilla, Union, and Wheeler Counties, Oregon; Decision Notice and Finding of No Significant Impact

An environmental assessment that discusses proposed alternatives for managing the current western spruce budworm outbreak in northeast Oregon is available for public review in the following places: Forest Supervisor's offices in John Day, Prineville, Pendleton, and Baker, Oregon; local Ranger District offices of the Malheur, Ochoco, Umatilla, and Wallowa-Whitman National Forests; and the Oregon State Department of Forestry offices in Baker, John Day, Prineville, La Grande, and Pendleton. The affected area consists of approximately 1.6 million acres of mixed-ownership lands on or adjacent to the Malheur, Ochoco, Umatilla, and Wallowa-Whitman National Forests in Baker, Harney, Jefferson, Crook, Grant, Morrow, Umatilla, Union, and Wheeler Counties. These 1.6 million acres have been divided into 24 areas, each of which is called an entomolgical unit.

It is my decision to implement Alternative B, direct suppression with insecticides, on approximately 22 entomological units covering an estimated 1.4 million acres and Alternative A, no action, on 2 entomological units covering an estimated 209,000 acres. There will be, however, no treatment on the Starkey Experiment Forest in the Starkey Entomological Unit to protect current budworm research. Inplementation of Alternative B is dependent upon (1) the estimated cost of insecticide application after contract bids are received which may affect cost/benefit ratios, (2) results of larval sampling during spring 1983, and (3) the amount of funds available to both Federal and State agencies for a suppression project. The majority of the area proposed for suppression with insecticides will be treated with carbaryl, while some sensitive areas will be treated with acephate or Bacillus thuringiensis.

Reasons for my decision include the following: Alternative B will minimize wood fiber loss on commercial Forest lands with only minimal adverse effects on water quality and only minimal potential impact on nontarget wildlife, and maximize economic efficiency. Factors considered were volume loss projections, projected stumpage values, projected cost of insecticide application and environmental considerations as outlined in the Environmental Assessment.

Based upon current projections, Alternative B, with mitigation measures and monitoring, provides the best combination of physical, biological, economic, and social benefits and is considered to be the most environmentally preferable on approximately 1.4 million acres and Alternative A on approximately 209,000 acres.

I have determined, based on the environmental analysis, that this is not a major Federal action and would not significantly affect the quality of the human environment. Therefore, an environmental impact statement is not needed. This determination was made considering the following factors: (a) A long history of similar operational suppression projects has shown no significant adverse effects to the human or physical environment; (b) there are no apparent adverse cumulative or secondary effects; (c) there will be no adverse effects on the bald eagles which migrate through the affected environment during the winter months or on the American peregrine falcon which is suspected to occur in the affected area; (d) no other known threatened of endangered plants or animals are known to inhabit the affected environment; (e) all insecticides considered are registered by the U.S. Environmental Protection Agency for the proposed use, and (f) application of insecticides will comply with applicable State and Federal laws, and with Forest Service and Oregon State Department of Forestry policies.

Project implementation will take place no sooner than March 27.

This Decision is subject to administrative review (appeal) pursuant to 36 CFR 211.19.

Dated: January 5, 1983.

Jeff M. Sirmon,

Regional Forester.

[FR Doc. 83-973 Filed 1-12-83; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping; Certain Stainless Steel Sheet and Strip Products From France; Extension of Period for Final Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of extension of period for final determinations.

SUMMARY: The Department of Commerce hereby extends the period for its final determinations with respect to the antidumping investigations of certain stainless steel sheet and strip products from France. The final determinations will be made no later than April 25, 1983.

EFFECTIVE DATE: January 13, 1983.

FOR FURTHER INFORMATION CONTACT: Raymond G. Busen, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; (202) 377–1764.

SUPPLEMENTARY INFORMATION: On December 3, 1982, the Department of Commerce determined preliminarily that certain stainless steel sheet and strip products from France were being sold, or were likely to be sold, at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act). We announced our determinations in the **Federal Register** on December 9, 1982 (47 FR 55404).

Exporters who accounted for a significant proportion of exports of the merchandise which are the subject of these investigations have requested that the Department extend the period for final determinations. These requests are in accordance with section 735(a)(2)(A) of the Act (19 U.S.C. 1673d(a)(2)(A)).

We have determined that additional time is needed in order to ensure that a proper analysis may be completed with regard to these investigations. Accordingly, the period for determinations in these cases is hereby extended. Final determinations will be made not later than April 25, 1983.

Dated: January 7, 1983.

Judith H. Bello,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-884 Filed 1-12-83; 8:45 am]

BILLING CODE 3510-25-M

Indiana University et. al.; Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 2097, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 83–02. Applicant: Indiana University, 1101 E. 17th Street, Bloomington, IN 47405. Instrument: Dual Probe Evaporimeter, Model 2102. Manufacturer: Serve Med, Sweden. Intended use of instrument: The instrument is intended to be used to quantitate and characterize the mechanism of evaporative water loss from the general body surface of primates when exposed to a wide range of ambient conditions. The experiments to be conducted will involve thermal equilibration of subhuman primates and human subjects to warm environments, and then direct quantitation of evaporative water loss from selected areas on the general body surface as well as from the respiratory tract. Application received by Commissioner of Customs: December 14, 1982.

Docket No. 83–94. Applicant: University of Illinois at Chicago, Department of Chemistry, Box 4348, Chicago, IL 60680. Instrument: Accessory for Nanosecond Fluorometer System 200. Manufacturer: Photochemical Research Associates, Incorporated, Canada. Intended use of instrument: The instrument is an accessory to an existing fluorometer system which will be used to permit the measurements of samples under investigation which contain very small (nanomolar) concentrations of fluorescent probes over a wide wavelength range with maximum detectibility and sensitivity. Application received by Commissioner of Customs: December 14, 1982.

Docket No. 83–99. Applicant: FDA/OMD Center for Medical Device Analysis, 8757 Georgia Avenue, Silver Spring, MD 20910. Instrument: ASID–4 Scanning Attachment for Electron Microscope. Manufacturer: JEOL, Japan. Intended use of instrument: The instrument is an accessory to an existing electron microscope which will be used to evaluate biomaterials, cells and/or tissue interactions. Application received by Commissioner or Customs: December 21, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-886 Filed 1-12-83; 8:45 am]

BILLING CODE 3510-25-M

Carbon Black From Mexico; Amendment to Notice of Initiation and Postponement of Preliminary Countervailing Duty Determination

AGENCY: International Trade Administration; Commerce.

ACTION: Amendment to Notice of Initiation and Postponement of Preliminary Countervailing Duty Determination.

SUMMARY: The preliminary countervailing duty determination involving carbon black from Mexico is being postponed because the investigation has been determined to be extraordinarily complicated. In addition, the notice of initiation of the countervailing duty investigation on carbon black from Mexico is being amended to read that the petition was received on November 3, 1982. Based on this amended date, we intend to issue our preliminary determination not later than April 4, 1983.

EFFECTIVE DATE: January 13, 1983.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377–5498.

SUPPLEMENTARY INFORMATION: On November 26, 1982, we initiated a countervailing duty investigation to determine whether producers, manufacturers, or exporters in Mexico of carbon black receive any benefits

that constitute bounties or grants (47 FR 54526). The notice stated that we would issue a preliminary determination by February 1, 1983.

The product covered by this investigation is carbon black from Mexico. The imported merchandise is currently provided for in item 473.0400 of the *Tariff Schedules of the United States Annotated.*

Amendment to Notice of Initiation

In the notice of initiation we stated that the petition was received on November 8, 1982, which is the date stamped on the petition in the official file. However, the petitioner notified us that the date-stamp on the official petition was apparently incorrect because the petition had been properly filed with the Trade Administration in Washington, D.C. on November 3, 1982. Thus, we are amending in notice of initiation to read that the petition was received on November 3, 1982.

Postponement of Preliminary Countervailing Duty Determination

As detailed in the notice of initiation of the countervailing duty investigation, the petition alleges that the government of Mexico provides various programs which constitute bounties or grants to producers, manufacturers, or exporters in Mexico of carbon black. The alleged subsidy practices are numerous and complex and present novel issues. The petitioners have made allegations concerning 12 different subsidy practices, which involve complex issues such as government-owned enterprises; export, regional, and industry sector programs; and tax, transportation, and other preferential incentives. In particular, the allegation of preferential prices on petroleum products and natural gas used to manufacture carbon black raises issues which have never been investigated before under the countervailing duty law. We have determined that the government of Mexico and the other parties concerned are cooperating and that additional time is necessary to make the preliminary countervailing duty determination.

For these reasons we determine that this case is extraordinarily complicated in accordance with section 703(c)(1)(B)(i) of the Tariff Act of 1930, as amended (the Act), and that additional time is necessary to make the preliminary determination in accordance with section 703(c)(1)(B)(ii) of the Act. Based on the amended date in the notice of initiation, we intend to issue the preliminary determination not later than April 4, 1983.

This notice is published pursuant to section 703(c)(2) of the Act.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

January 6, 1983.

[FR Doc. 83-667 Filed 1-12-83; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping Duty Investigations; Certain Carton Closing Staples and Staple Machines From Sweden

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping duty investigations.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating antidumping duty investigations to determine whether certain carton closing staples and staple machines from Sweden are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of these actions so that it may determine whether there is a reasonable indication that imports of this merchandise are materially injuring, or are threatening to materially injure, a United States industry. If the investigations proceed normally, the ITC will make its determinations on or before January 31, 1983, and we will make our preliminary determinations on or before May 26, 1983.

EFFECTIVE DATE: January 13, 1983.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-1273.

SUPPLEMENTARY INFORMATION:

Petition

On December 17, 1982, we received a petition from counsel for International Staple and Machine Company, Inc. of Butler, Pennsylvania, on behalf of the domestic carton closing staples and staple machines industry. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Sweden are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. Critical circumstances have also been alleged under section 733(e) of the Act.

The allegations of sales at less than fair value are supported by comparisons of United States prices (based on price lists) on sales of the merchandise in the United States with the f.o.b. home market prices (based on price lists) on sales made in Sweden.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of antidumping duty investigations and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on the subject merchandise and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping investigations to determine whether certain carton closing staples and staple machines from Sweden are being, or are likely to be, sold at less than fair value in the United States. If our investigations proceed normally, we will make our preliminary determinations by May 26, 1983.

Scope of Investigations

The merchandise covered by these investigations is certain carton closing staples in strip form and staple machines. Carton closing staples are made of steel, most often copper coated or galvanized. Non-automatic carton closing stapling machines can be divided for the most part into two categories: hand held top stapling machines and free standing bottom stapling machines. The subject staples and stapling machines are currently classifiable under item 646.2000 and item 662.2065, respectively, of the *Tariff Schedules of the United States Annotated* (TSUSA).

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by January 31, 1983, whether there is a reasonable indication that imports of certain carton closing staples and staple machines from Sweden are materially injuring, or are likely to materially injure, a United States industry. If its determinations are negative, these investigations will terminate; otherwise, they will continue according to the statutory procedures.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

January 6, 1983.

[FR Doc. 83-660 Filed 1-12-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of General Permits

On December 30, 1982, general permits to incidentally take marine mammals during commercial fishing operations in 1983 were issued to:

1. The Japan Deep Sea Trawlers Association, No. 601 Daito Building, 3–6, Kandaogawacho, Chiyodaku, Tokyo, Japan, in Category 1: Towed and Dragged Gear, to take 100 northern sea lions, 10 northern fur seals, 15 harbor seals, and 4 small cetaceans.

2. The Hokuten Trawlers Association, Toranomon Chuo Building, 1–16, Toranomon, 1, Minatoku, Tokyo, Japan, in Category 1: Towed and Dragged Gear, to take 55 northern sea lions, 5 northern fur seals, and 5 harbor seals.

3. The North pacific Longline-Gillnet Association, Zenkeiren Building, 2–7–2, Hirakawa-cho, Chiyodaku, Tokyo, Japan, in Category 5: Other Gear to take by harassment only.

4. The Asociacion Nacional de Armadores de Buques Congeladores de Pesquerias Varias, Vigo, Spain, in Category 1: Towed and Dragged Gear, to take 20 phocid seals and 20 small cetaceans.

All takings are incidental to commercial fishing operations within the United States Fishery Conservation Zone, pursuant to 50 CFR 216.24 (45 FR 72187–72196).

These general permits are available for public review in the Office of the Assistant Administrator for Fisheries, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: January 4, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species & Habitat Conservation, National Marine Fisheries Service

[FR Doc. 83-661 Filed 1-12-83; 8:45 am]

BILLING CODE 3510-22-M

THE COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts meeting scheduled for January 20, 1983 is cancelled. The next meeting will be held on Tuesday, February 8, 1983 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington including buildings, memorials, parks, etc., also matters of design referred by other agencies of the government. The Vietnam Veterans Memorial design may also be discussed at this meeting. Access for handicapped persons will be through the main entrance to the New Executive Office Building on 17th Street between Pennsylvania Avenue and H Street, NW.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 566–1066.

Dated in Washington, D.C., January 7, 1983.

Charles H. Atherton,

Secretary.

[FR Doc. 83-662 Filed 1-12-83; 8:45 am]

BILLING CODE 6336-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products from the Republic of the Philippines Under a New Bilateral Agreement, Effective on January 1, 1983; Correction

January 10, 1983.

On December 29, 1982 a notice was published in the **Federal Register** (47 FR 57986) which announced the import levels for certain cotton, wool, and man-made fiber textile products, produced or manufactured in the Philippines and exported to the United States during the twelve-month period which began on January 1, 1983, under the terms of a new bilateral agreement. Footnote 1 in the letter to the Commissioner of Customs which followed that notice should be corrected to include T.S.U.S.A. number 383.3300 and will then read as follows:

[1] In Category 335, all T.S.U.S.A. numbers except 383.3300, 383.3405, 383.3410, 383.3415, 383.3445, 383.3446, 383.3450, 383.3460, and 383.3465.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-663 Filed 1-12-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS); Proposed Hydropower Project on Wister Lake, Latimer and LeFlore Counties, Oklahoma

AGENCY: Army Corps of Engineers, Tulsa District, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

1. Proposed Action: The proposed action is to install hydropower facilities at the Wister Lake project. This includes raising the top of Wister Dam to maintain the existing flood control capability. Wister Lake was completed for full flood control regulation in October 1949.

2. Reasonable Alternatives: The alternatives that will be evaluated included one no action alternative and several action alternatives. The no action alternative (without conditions) would retain the existing operational functions of the project. The action alternatives consist of combinations of three conservation pool levels and three maximum hydropower discharges. The three conservation pool levels that will be evaluated are: 477.6 feet National Geodetic Vertical Datum (NGVD), 480.0 feet NGVD, and 483.0 feet NGVD. The discharge parameters are: a. 4775 cfs—This is the maximum discharge that can be obtained by steel-lining the existing conduit; b. 6500 cfs—This is the limiting channel capacity of the Poteau River. The limiting channel occurs in the reach between Poteau and Panama, Oklahoma. A new penstock would be required; and c. 9000 cfs—This is the average channel capacity. A new penstock would be required and flowage easements would be purchased on approximately 1500 acres downstream.

3. Scoping Process:

a. Public Involvement. A comprehensive public involvement program was developed as a means of

disseminating information and soliciting public views. A variety of techniques including formal public meetings, meetings with local interest, and meetings with local news media were employed to involve Federal, State, and local agencies, citizen committees, organizations, and the public in the planning studies.

b. Significant Issues Requiring In-Depth Analysis. None.

c. Assignments. The U.S. Fish and Wildlife Service will provide formal consultation as outlined in Section 7 of the Endangered Species Act and a Fish and Wildlife Coordination Act Report. The U.S. Soil Conservation Service will report on prime and unique farmlands.

d. Environmental Review and Consultation Requirements. The draft environmental impact statement will be circulated for review and all comments will be incorporated into the final environmental impact statement.

4. A scoping meeting will not be held.

5. Estimated date when the DEIS will be available to the public: August 1983.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Buell O. Atkins, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, Tulsa District, P.O. Box 61, Tulsa, OK 74121, (918) 581–7857—FTS 736–7857.

Dated: December 21, 1982.

James J. Harmon,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-963 Filed 1-12-83; 8:45 am]

BILLING CODE 3710-39-M

Department of the Air Force

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

In accordance with Pub. L. 95–202, Section 401 (The G.I. Bill Improvement Act of 1977) and under the provisions of DODD 1000.20, Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel, the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of Defense, determined on December 27, 1982, that the service of the members of the group known as the Civilian Personnel Assigned to the Secret Intelligence Element of the OSS shall be considered active military service in the Armed Forces of the United States for the purpose of all laws administered by the Veterans' Administration. Further, the Secretary determined on December 27, 1982, that the service of the members of the groups known as Air Transport Command Contract Carrier Employees—World War II and Cadets, Massachusetts and New York Nautical Schools, World War I not be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans' Administration.

FOR FURTHER INFORMATION CONTACT: Mrs. Simard, telephone 694–5204, Office of the Secretary of the Air Force Personnel Council, (SAF/MIPC), The Pentagon, Washington, DC 20330.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-970 Filed 1-12-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

Name of committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents.

Date of meeting: 24 & 25 February 1983.

Time and place: 0830 hrs, Room 14, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD.

Proposed agenda: This meeting will be open to the public from 0830 to 1030 hrs on 24 February for the administrative review and discussion of the scientific research program of the US Army Medical Research Institute of Chemical Defense. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 1030 hrs on 24 February 1983 to 1730 hrs on 25 February for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

COL Richard Lindstrom, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010 (301/671–2833) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 83-972 Filed 1-12-83; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

List of Accrediting and State Approval Agencies to be Reviewed Under a Special Procedure

AGENCY: Education Department.

ACTION: Notice—List of accrediting and State approval agencies to be reviewed under a special procedure.

SUMMARY: The Secretary lists nationally recognized accrediting agencies and State approval agencies that the National Advisory Committee on Accreditation and Institutional Eligibility recommends to the Secretary under a special review procedure. The list of agencies to which the Advisory Committee has applied this special procedure is composed of (1) agencies that were awarded the full four-year recognition in their last review and (2) agencies that have submitted interim reports.

DATE: Comments on these analyses must be received no later than February 14, 1983.

ADDRESS: Comments may be submitted to Ms. Joan Givens, Acting Chief, Agency Evaluation Section, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3030, ROB–3) U.S. Department of Education, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Ms. Joan Givens, Telephone: (202) 245–2262.

SUPPLEMENTARY INFORMATION: This document advises the public that the National Advisory Committee on Accreditation and Institutional Eligibility, in making recommendations to the Secretary regarding his responsibility for listing accrediting agencies and State approval agencies, as required by 20 U.S.C. 1141(a), 20 U.S.C. 1094(b)(3) and other statutes, is following a special review procedure regarding some agencies.

Usually the Advisory Committee reviews in detail each report and

petition and each staff analysis and hears oral presentations from the petitioning agencies and interested third parties before formulating its recommendations to the Secretary regarding the accrediting, or State approval agencies.

The special procedure for reviewing agency petitions and interim reports will reduce the depth of review by the Advisory Committee of agencies that were awarded the full four year recognition period in their last review, and of agencies which have submitted interim reports. The Advisory Committee will use both staff analyses and public comment before submitting final recommendations to the Secretary regarding the list of these agencies under 34 CFR Part 603.

This notice provides the names of the agencies being reviewed under this special procedure. The Department's Eligibility and Agency Evaluation Staff has prepared analyses of the petitions and reports of these agencies according to the criteria in 34 CFR 603.6, and 34 CFR 603.24 and has prepared recommendations on them.

The public is offered an opportunity to comment on these analyses before the Advisory Committee makes final recommendations to the Secretary.

The reports and petitions of the following agencies are being reviewed:

Petitions for Recognition as Nationally Recognized Accrediting Agencies and Associations

A. *Petitions for Continuation of Recognition*—National agencies

American Library Association, Committee on Accreditation
(for accreditation of graduate programs leading to the first professional degree)

Proposed Recommendation: Continue recognition for a period of four years.

American Optometric Association, Council on Optometric Education
(for accreditation and preaccreditation of professional degree programs in optometry and expansion of scope of recognition to include optometric technician and optometric residency educational programs)

Proposed Recommendation: Continue recognition for a period of four years for the accreditation and preaccreditation ("Preliminary Approval," "Reasonable Assurance") of professional degree programs in optometry. Grant expansion of scope of recognition to include accreditation of optometric technician programs. Defer expansion of scope of recognition to include optometric residency programs pending receipt of additional information. Deny recognition for the preaccreditation category of "Provisional Assurance." Request a report in one year concerning certain criteria.

Council on Education for Public Health
(for accreditation of graduate schools of public health and graduate programs offered outside schools of public health in community health education and in community health/preventive medicine)

Proposed Recommendation: Continue recognition for a period of four years. Request an interim report in one year regarding criteria (b)(5) (assessment of validity and reliability of accreditation standards), and (b)(10) (requires accredited schools or programs to clearly specify status).

B. *Petitions for Continuation of Recognition*—Regional Commissions

North Central Association of Colleges and Schools, Commission on Schools

Proposed Recommendation: Continue recognition for a period of four years.

Northwest Association of Schools and Colleges, Commission on Colleges

Proposed Recommendation: Continue recognition for a period of four years.

C. *Interim Reports*

American Physical Therapy Association, Committee on Accreditation in Education

Proposed Recommendation: Accept the report as showing progress toward full compliance with criterion (b)(6).

Association of Independent Colleges and Schools, Accrediting Commission

Proposed Recommendation: Accept the report as satisfactory.

Liaison Committee on Medical Education of the Council on Medical Education of the American Medical Association and the Executive Council of the Association of American Medical Colleges

Proposed Recommendation: Accept the report as satisfactory.

INVITATION TO COMMENT: A copy of the analysis of any of the reports and petitions submitted by the agencies listed in this notice may be obtained from Ms. Joan Givens.

Dated: January 6, 1983.

T. H. Bell,

Scretary of Education.

[FR Doc. 83-995 Filed 1-12-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval since January 6, 1983. Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last Notice published Thursday, January 6, 1983, (48 FR 686).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H-023, Forrestal Building, 1000 Independence Ave. NW., Washington, D.C. 20585, (202) 252-2308.

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington, D.C. 20503, (202) 3957340.

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place NW., Washington, D.C. 20503, (202) 395-3087.

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer; comments should also be provided Mr. Gross. If you anticipate commenting on a form, but

find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., January 10, 1983.

Yvonne M. Bishop,
Director, Statistical Standards, Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
FERC FERC—557	Natural gas processing plant operator interrogatories.	New	single time	Mandatory	Natural gas processing plants.	84	564 hrs.	Information collection is undertaken pursuant to a Commission order instituting a private investigation into possible violations of federal law in connection with natural gas pricing at various producer-owned processing plants. Responses will serve to identify potential subjects of further investigation.

[FR Doc. 83-944 Filed 1-12-83; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP82-538-001]

Canyon Creek Compression Co.; Amendment to Application

January 7, 1983.

Take notice that on January 5, 1983, Canyon Creek Compression Company (Canyon Creek), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-538-001 pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations an amendment to the pending application filed in Docket No. CP82-538-000 by NGPL-Canyon Compression Company (NGPL-Canyon) substituting Canyon Creek for NGPL-Canyon as the applicant of record in the subject proceeding, as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

By order issued December 29, 1982, in Docket Nos. CP80-547-007 and CP83-85-000, Canyon Creek was authorized to acquire certain existing facilities from NGPL-Canyon, complete construction upon a certain compression station and appurtenant facilities in Uinta County, Wyoming, to operate said facilities, and to provide transportation service. Accordingly, the application in Docket No. CP82-538-001 has been amended to reflect Canyon Creek as Applicant in that proceeding as successor to NGPL-Canyon.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 of 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-944 Filed 1-12-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES83-20-000]

Central Louisiana Electric Company, Inc.; Application

January 7, 1983.

Take notice that on December 22, 1982, Central Louisiana Electric Company, Inc. (Applicant), filed an Application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act (Act), seeking an order to issue up to $50,000,000 of short-term indebtedness to be issued on or before December 31, 1984.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before January 14, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20406, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-945 Filed 1-12-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF83-58-000]

Central Plants Inc.—Gopher Canyon Rd.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 7, 1983.

On December 10, 1982, Central Plants, Inc., of 6140 Bristol Parkway, Culver City, California 90230, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in the County of San diego, California on Gopher Canyon Road. The generating capacity of the facility will be 700 kilowatts. The primary energy source is landfill gas, generated from the anaerobic digestion by methanogenic bacteria of refuse and other solid wastes deposited in a sanitary landfill. Applicant states that no other facilities owned by the applicant located within one-mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within

30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-946 Filed 1-12-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF83-90-000]

Central Plants, Inc.—Lompoc; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 7, 1983.

On December 10, 1982, Central Plants, Inc., (Lompoc) of 6140 Bristol Parkway, Culver City, California 90203, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in Lompoc, California. The generating capacity of the facility will be 500 kilowatts. The primary energy source of the facility will be Landfill gas recovered and processed from a municipal landfill and burned in turbines of internal combustion engines. Applicants states that no other facilities owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-946 Filed 1-12-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF83-89-000]

Central Plants, Inc.—San Marcos; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 7, 1983

On December 10, 1982, Central Plants, Inc., of 6140 Bristol Parkway, Culver City, California 90230, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in San Marcos, California. The generating capacity of the facility will be 500 kilowatts. The primary energy source is landfill gas, generated from the anaerobic digestion by methanogenic bacteria of refuse and other solid wastes deposited in a sanitary landfill. Applicant states that no other facilities owned by the applicant located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-947 Filed 1-12-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. SA83-3-000]

J & J Enterprises, Inc.; Application for Adjustment To Collect Gathering Costs Under Section 110 of the NGPA

January 7, 1983.

On November 1, 1982, J & J Enterprises, Inc. (J & J), a Pennsylvania Corporation, filed with the Federal Energy Regulatory Commission (Commission) and "Application For Allowance and/or Adjustment" pursuant to sections 110 and 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. IV 1980) and 18 CFR 271.1104—.1105 of the Commission's regulations. Specifically, J & J requests that the Commission find that the price to be paid to it by its buyer, Columbia Gas Transmission Corporation (Columbia), inclusive of 73 cents per Mcf, for gathering allowance under section 110 of the NGPA, does not exceed the maximum lawful price for such sales. Additionally, J & J requests that to the extent any adjustment under NGPA section 502(c) is necessary to authorize collection of the 73 cents per Mcf allowance that such adjustment be given.

In support of this request J & J states that it acquired an assignment of a Farmout agreement on September 10, 1981 from Mr. D. A. Dorwood (Dorwood). The Farmout agreement was originally executed between Columbia and Dorwood and covered approximately 2,918 acres in Clearfield and Jefferson Counties, Pennsylvania. Under said agreement, Columbia reserved the right to purchase all gas produced from this acreage. Dorwood agreed to construct a gathering facility to connect the Farmout acreage to Columbia's existing pipeline facilities in consideration for Columbia's agreement to pay Dorwood 26 cents per Mcf for the construction of the gathering facilities, up to $1,000,000.00. J & J assumed this obligation to gather and deliver such gas to Columbia.

J & J subsequently completed in May of 1982 a gas gathering system that originates in Brady Township, Clearfield County, Pennsylvania and extends northwesterly 17 miles through Winslow Township, where it intersects with Columbia's system in Pine Creek Township, Jefferson County, Pennsylvania. J & J asserts that the actual cost of construction of the line, excluding working capital allowance, was $2,093,928.00. Columbia has agreed, by gas purchase contract dated November 19, 1981 to pay J & J whatever gathering allowance is approved by the Commission under NGPA section 110, although the actual cost of this line

exceeded the estimated $1,000,000.00 payable under the Columbia-Dorwood 1979 Farmout Agreement. J & J asserts that based on its projected cost analysis, it should be allowed to collect the contractually authorized gathering allowance of 73 cents per Mcf under section 110 of the NGPA and § 270.202(c) of the Commission's regulations. Furthermore J & J requests that the Commission find that the price to be received from Columbia, inclusive of this 73 cents per Mcf under section 110 of the NGPA, does not exceed the maximum lawful price for such sales established under Title I of the NGPA. Any such allowance granted by the Commission under 18 CFR 270.202(c) would be in addition to the otherwise applicable maximum lawful price.

Any person desiring to be heard or to protest J & J's application for allowance and/or adjustment under sections 110 and 502(c) of the NGPA should file, within 30 days after publication of this notice in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a protest or petition to intervene in accordance with the requirements of Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-849 Filed 1-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-355-000]

Natural Gas Pipeline Company of America; Continued Settlement Conference

January 7, 1983.

Take notice that the settlement discussions undertaken at the January 5, 1983, conference noticed herein will be resumed on February 2, 1983, at 10:00 a.m. in the offices of the Commission, 825 N. Capitol St., Washington, D.C. Additional materials are to be shared among the parties in the interim.

All parties may at their option attend, but mere attendance will not serve to make one a party to the proceeding.

Kenneth F. Plumb,

Secretary,

[FR Doc. 83-850 Filed 1-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP83-8-000]

State of Colorado Oil & Gas Conservation Commission, J-W Operating Company, Malcolm Akey #1 Well FERC J.D. No. 82-22127; Petition To Reopen and Vacate Final Well Category Determination and Request To Withdraw

Issued: January 7, 1983.

On December 23, 1982, J-W Operating Company (J-W) filed with the Federal Energy Regulatory Commission (Commission) a copy of its request to the Colorado Oil & Gas Conservation Commission (Colorado) that the well category determination, that natural gas from the Malcolm Akey #1 Well qualifies for pricing as new natural gas pursuant to section 102 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. §§ 3301–3432 (Supp. IV 1980), be "cancelled." The well category determination made by Colorado became a final determination on April 23, 1982, pursuant to NGPA section 503(d) and 18 CFR 275.202(a).

J-W states that its section 102 filing was made based on the best information available at the time but that J-W has since discovered that the Malcolm Akey #1 Well does not qualify under NGPA section 102, as it is located within 2.5 miles of a marker well and is not 1,000 feet deeper. J-W further states that no collections were made under the section 102 determination and that an application was submitted for NGPA section 107 classification and received by Colorado on August 17, 1981. The well was placed on line January 4, 1982, and according to J-W the price collected from initial production was the maximum lawful price under NGPA section 107.

The Commission hereby gives notice that the question of whether refunds, plus interest as computed under § 154.102(d), will be required as a matter which is subject to the review and final determination of the Commission.

Any person desiring to be heard or to make any protest to the requested reopening and withdrawal should file, within 30 days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 214 or 211 of the Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary,

[FR Doc. 83-851 Filed 1-12-83; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Boulder City Area Projects; Extension of Comment Period

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of extension of comment period for the Proposed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Criteria).

SUMMARY: The Western Area Power Administration's Boulder City Area Office by this notice extends the comment period for the Criteria set forth in the **Federal Register** at page 41420 of September 20, 1982, (47 FR 41420) and at page 56047 on December 14, 1982, (47 FR 56047). Western will receive comments from interested parties through February 15, 1983.

DATE: Written comments on the Criteria must be postmarked on or before February 15, 1983, in order to be considered in the preparation of the final Criteria.

ADDRESS: Written comments concerning the Criteria should be mailed to the following address: Mr. Robert A. Olson, Area Manager, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, Nevada 89005.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Carter, (702) 293–8808.

Issued in Washington, D.C., January 6, 1983.

Ronald K. Greenhalgh,

Assistant Administrator for Washington Liaison.

[FR Doc. 83-875 Filed 1-12-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PE-305; PH-FRL 2284-4]

Dow Chemical Company; Food and Feed Additive Petitions; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Corrections.

SUMMARY: This notice corrects the chemical identification and the Code of Federal Regulation (CFR) citations in petitions submitted by the Dow Chemical Company proposing the establishment of tolerances for residues of the insecticide chlorpyrifos-methyl.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger (PM-12), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: In the FR Doc. 82-32765 published December 1, 1982 (47 FR 54159) proposing the establishment of tolerances for residues of the insecticide chlorpyrifos-methyl, corrections are made as follows:

1. Under FAP OH5277 appearing at page 54159, first column, sixth line, the CFR citation is corrected to read from "21 CFR 193.85 . . . . ." to "21 CFR Part 193 . . . . ." and the chemical name beginning on line 9 is corrected to read from "chlorpyrifos [*O,O*-diethyl . . . . ." to "chlorpyrifos-methyl [*O,O*-dimethyl . . . . .".

2. Under FAP OH5277 appearing at page 54159, second column, beginning on the second line, the CFR citation is corrected to read from "21 CFR 561.98 . . . . " to "21 CFR Part 561 . . . . .".

Dated: January 5, 1983.

Douglas d. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-625 Filed 1-12-83; 8:45 am]

BILLING CODE 6560-50-M

[PF-303; PH-FRL 2284-3]

Dow Chemical Company; Pesticide and Food Additive Petitions; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Corrections.

SUMMARY: This notice corrects the chemical identification and the Code of Federal Regulation (CFR) citations in petitions submitted by the Dow Chemical Company proposing the establishment of tolerances for residues of the insecticide chlorpyrifos/methyl.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger (PM-12), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: In the FR Doc. 80-33073 published October 23, 1980 (45 FR 70312) proposing the establishment of tolerances for residues of the insecticide chlorpyrifos-methyl, corrections are made as follows:

1. Under PP 0F2433 appearing at page 70313, first column, first line, the CFR citation is corrected to read from "40 CFR 180.342 * * *" to "40 CFR Part 180 * * *" and the chemical name beginning on the fourth line is corrected to read from "chlorpyrifos-methyl [*O,O*-diethyl * * *" to "chlorpyrifos-methyl [*O,O*-dimethyl * * *".

2. Under FAP OH5277 appearing at page 70313, first column, the CFR citation beginning on the first line is corrected to read from "21 CFR 193.85 * * *" to "21 CFR Part 193 * * *".

Dated: January 5, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-624 Filed 1-12-83; 8:45 am]

BILLING CODE 6560-50-M

[AMS-FRL 2245-7]

California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has deferred for one year application of its optional 100,000 mile oxides of nitrogen (NOx) standards ("optional standards"), originally enacted for 1983 and subsequent model year passenger cars, light-duty trucks under 6,000 lbs equivalent inertia weight (EIW), and medium-duty vehicles under 6,000 lbs EIW, while retaining its existing optional standards.[1] These amendments were adopted in response to CARB's conclusion that manufacturers would be unable to meet the optional standards for the 1983 model year while maintaining acceptable engine durability, smoke and particulate levels. These amendments are included within the scope of previously granted waivers of Federal preemption. Since these amendments are included within the scope of these waivers, a separate hearing to consider them is not necessary.[2] However, if any party asserts an objection to these findings within 30 days of the date of the publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that the Administrator should reconsider his findings. Otherwise these findings will become final at the expiration of this 30-day period.

DATES: Any objection to the findings in this notice must be filed within 30 days of the date of this notice; otherwise, at the expiration of this 30-day period these findings will become final. If a public hearing is scheduled it will be announced in a subsequent Federal Register notice.

ADDRESSES: Copies of the California amendments at issue in this notice, a decision document containing an explanation of the Administrator's determination, and documents used in arriving at this determination, as well as CARB staff reports used by CARB in formulating these amendments, are available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at the Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street, SW., Washington, D.C. 20460 (Docket EN-82-9). Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting Mr. Peter J. Murtha, as noted below.

[1] These amendments retain the existing optional standards of 1.5 gram per vehicle mile (g/mi) NOx for passenger cars, light-duty trucks (0-3,999 obs EIW) and medium-duty vehicles (0-3,999 lbs EIW) and 2.0 g/mi for light-duty trucks and medium-duty vehicles (4,000-5,999 lbs EIW). The deferred optional standards are 1.0 and 1.5 g/mi respectively. The optional 100,000 mile NOx standards may be used by manufacturers in lieu of California's existing 50,000 mile standard of 0.4 g/mi of NOx for passenger cars and other light duty vehicles. See Title 13, California Administrative Code, Section 1960.1. Historically, only diesel vehicle manufacturers have chosen to certify under the optional standards. See California State Motor vehicle Pollution Control Standards; Waiver of Federal Preemption; Decision of the Administrator (July 2, 1981) ("July 2, 1981 Waiver of Federal Preemption") at 9-10.

[2] Public hearings were held on May 18-19 and August 3-4, 1977 to consider the original waiver of Federal preemption in connection with these optional NOx standards. *See* 43 FR 14890 (April 14, 1978) and 43 FR 25729 (June 14, 1978). Moreover, CARB held a public hearing on November 19, 1981 in connection with its determination to defer the optional 100,000 mile 1983 model year standards for one year.

FOR FURTHER INFORMATION CONTACT: Peter J. Murtha, Attorney/Advisor, Manufacturers Operations Division (EN–340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382–2521.

SUPPLEMENTARY INFORMATION: I have determined that CARB's amendments to its optional 100,000 mile NOx standards for 1983 and subsequent model years are within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act ("the Act").[3] Specifically, the changes include: 1) the retention for one additional model year, from the 1982 model year to the 1983 model year, of the existing 1.5 gram per vehicle mile (g/mi) of NOx optional standard for passenger cars, light-duty trucks (0–3,999 lbs equivalent intertia weight (EIW)), and medium duty vehicles (0–3,999 lbs EIW) and the 2.0 g/mi NOx standard for light-duty trucks and medium-duty vehicles (4,000–5,999 lbs EIW); and 2) a delay for one year, from the 1983 model year to the 1984 model year, for application of the 1.0 g/mi NOx standard for passenger cars, light-duty trucks (0–3,999 lbs EIW), and medium-duty vehicles (0–3,999 lbs EIW) and the 1.5 g/mi NOx standard for light-duty trucks and medium-duty vehicles (4,000–5,999 lbs EIW). The changes will allow permissible NOx levels to remain the same during model year 1983, but will help prevent an increase in actual particulate emissions.

CARB has determined that although technology exists for the implementation of the more stringent optional standards, their deferral for one year will allow the manufacturers necessary lead time to develop and manufacture more sophisticated controls which will mitigate the rise in particulate emissions and the decrease in engine durability which would occur in diesel vehicles under current NOx control technology. Because the amendments merely delay for one year the implementation of the more stringent standards, and because the optional standards being retained are at the same emission level as the Federal standards for virtually all diesel light-duty passenger vehicles (*i.e.*, 1.5 g/mi),[4] are stricter than the Federal standards for light-duty trucks,[5] and, require demonstration of an additional 50,000 miles of durability, CARB concluded that its standards remain, in the aggregate, at least as stringent as applicable Federal standards.

I find that these amendments are within the scope of previously authorized waivers since the amendments 1) do not undermine California's determination that its standards are, in the aggregate, as protective of public health as applicable Federal standards,[6] 2) provide adequate lead time to permit manufacturers to develop and apply the requisite technology, giving appropriate consideration to the cost of compliance within that time frame and 3) raise no new issues affecting the previous EPA waiver determinations.

A full explanation of my determination is contained in a decision document, which may be obtained from EPA as noted above.

Note.—My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce motor vehicles for sale in California. For this reason I hereby find that this decision is of nationwide scope and effect.

Section 3(b) of Executive Order 12291, requires EPA to determine initially whether a rule that it intends to propose or issue is a major rule and to prepare a Regulatory Impact Analysis for all major rules. EPA has determined that this action does not constitute a major rule. The action confirms California's authority to enforce regulations which will maintain current regulatory requirements for an additional year while deferring new (but previously approved), more stringent requirements on manufacturers. If anything, the action will likely result in cost savings to consumers, Government agencies and industries affected for one year because of the continuation of the less stringent requirements, and will likely have a beneficial effect on competition (both foreign and domestic), employment, investment, productivity, and innovation. Accordingly, a Regulatory Impact Analysis is not being prepared for this waiver determination.

This action is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2) because EPA is not required to undergo "notice and comment" under section 553(b) of the Administrative Procedure Act, or any other law. Therefore, EPA has not prepared a supporting Regulatory Flexibility Analysis addressing the impact of this action on small business entities.

This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at Public Docket EN–82–9 located in EPA's Central Docket Section (A–130), 401 M Street, SW., Washington, D.C. 20460.

Dated: December 23, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc 83–926 Filed 1–12–83; 8:45 am]

BILLING CODE 6560–50–M

[3] 43 FR 14590 (April 13, 1978), 43 FR 25729 (June 14, 1978), 45 FR 12291 (February 25, 1980) and 46 FR 36237 (July 14, 1981).

[4] See generally 47 FR 16334 (April 16, 1982).

[5] See, e.g., 40 CFR 86.083–9(a)(1)(i) (setting 2.3 g/mi Federal NOx standard for light-duty trucks for 1983 model year). The same standard applies through model year 1984 and beyond.

[6] EPA has previously found that CARB's determination that its standards, in the aggregate, are at least as protective of public health and welfare as applicable Federal standards was not arbitrary and capricious, even where certain individual standards, for example, carbon monoxide, were not numerically as stringent as the corresponding Federal standard. *See* July 2, 1982 Waiver of Federal Preemption at 5–7. This is because the CARB NOx standards as a rule are more stringent than the corresponding Federal standards, and because CARB determined that this extra "protectiveness" compensated for any "protectiveness" lost due to its less stringent CO standard. *Id.* at 8. This rationale is equally applicable to this waiver determination, even though more stringent optional standards are being deferred by one year.

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1389]

Petitions for Reconsideration of Actions in Rule Making Proceedings.

January 6, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L) (CC Docket No. 82–85).

Filed by: Kenneth E., Hardman, Attorney for Telocator Network of America on 12–10–82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–885 Filed 1–12–83; 8:45 am]

BILLING CODE 8712–01–M

FEDERAL HOME LOAN BANK BOARD

[No. 83-5]

Privacy Act of 1974; Systems of Records Annual Republication

AGENCY: Federal Home Loan Bank Board.

DATED: January 6, 1983.

ACTION: Final Action Systems of Records Republication.

SUMMARY: The Bank Board is required by the Privacy Act of 1974 to republish annually its systems of records. The most recent full publication of such systems was made on October 18, 1980, at 45 Fed. Reg. 68,840–68,856, updated on December 28, 1981, at 46 Fed. Reg. 62,694–62,703.

The only changes in these publications for 1982 are the deletion of the following systems; FHLBB–1, FHLBB–6, FHLBB–16, FHLBB–19, FHLBB–21, and FHLBB–22. These deletions were occasioned by the publication by the Office of Personnel Management of comprehensive government-wide systems of records.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: William Van Lenten, Office of General Counsel, telephone number: (202) 377–6463.

(5 U.S.C. 552a)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-987 Filed 1-12-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Senior Executive Service; Date for Performance Awards

The Office of Personnel Management requires that each agency publish a notice in the Federal Register, at least 14 days in advance, stating the date scheduled for payment of Senior Executive Service performance awards. The Federal Mediation and Conciliation Service intends to issue its performance awards on or about January 31, 1983.

Dated: January 10, 1983.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 83-984 Filed 1-12-83; 8:45 am]

BILLING CODE 6732-01-M

Labor-Management Cooperation Program; Request for Public Comment

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Request for Public Comment on Draft FY 1983 Program Announcement.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing this draft Fiscal Year 1983 program announcement/application solicitation for the Labor-Management Cooperation Program to inform the public and obtain public comments. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations.

DATE: Comments are due on or before February 14, 1983.

ADDRESS: Send comments to: Peter L. Regner, Director, Labor-Management Grant Programs, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, D.C. 20427.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202–653–5320.

Labor-Management Cooperation Program Application Solicitation—FY 1983

A. Introduction

The following is the draft announcement for the Fiscal Year 1983 cycle of the Labor-Management Cooperation Program. These guidelines represent the third year of efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978 which was approved in October 1978.

The Act generally authorized FMCS to: provide assistance in the establishment and operation of plant, area, and industrywide labor and management committees which—

(A) have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry; and

(B) are established for the purpose of improving labor-management relationships, job security, oganizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

The Act also prohibited FMCS from awarding any grants or contracts under the following three circumstances:

(1) No assistance can be given for plant labor-management committees unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement;

(2) No assistance can be given for an area or industrywide labor-management committee unless its participants include any labor organizations certified or recognized as the representative of the employees of an employer participating in such a committee. However, employers whose employees are not represented by a labor organization may participate on such area or industrywide committees; and

(3) No assistance can be given to any committee which FMCS finds to have as one of its purposes the discouragement of the exercise of rights contained in section 7 of the National Labor Relations Act (29 U.S.C. 157) or the interference with collective bargaining in any plant or industry.

With respect to item (2) above, applicants for area or industrywide grants should offer committee memberships to every labor organization having a collective bargaining contract with any employer participating on the committee. Any labor organization so desiring may voluntarily elect not to participate on the Committee. Documentation of all this (i.e., the listing of each participating employer and corresponding labor organizations and written declinations by those labor organizations not electing to participate on the committee) should be included as part of the application.

The Program Description and other sections that follow as well as a separately published FMCS Financial and Administrative Grants Manual make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, areawide, or industrywide labor-management committee. Directions for obtaining an application kit may be found in Section F.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identified the following seven general areas for which financial assistance would be appropriate:

(1) To improve communications between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern

not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal Assistance to the formation and operation of labor-management committees.

The primary objective of this program is to provide financial assistance for the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria and conform to the restrictions mentioned in Section A (Introduction). As discussed in the legislation, these committees may be found at either the plant, area, or industry levels. A plant committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multi-county, or statewide jurisdictions. An industry committee generally consists of a collection of agencies or enterprises and related labor unions producing a common product or service in either the private or public sectors on a local, state, regional, and nationwide level. In FY 83, competition will be limited to area and private or public sector industry committees.

In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

Required Program Elements

1. *Problem Statement*—The application. which should have numbered pages, must discuss in detail what specific problem(s) face the area or industry and workforce that will be addressed by the committee. Applicants must document the problems using as much relevant data as possible and discuss the full range of impacts these problems could have or are having on the area or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problems. This section basically discusses WHY the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail WHAT the labor-management committee will accomplish during the life of the grant. While a goal of "improving communication between employers and employees" may suffice as one overall goal of a project, the objectives must, whenever possible, be expressed in measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have on the area or industry. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach*—This section of the application specifies HOW the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) a discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) a listing, by name and title, of all proposed members of the labor-management committee. Be sure to identify the chairperson(s) and the role he/she will play. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area workforce).

(c) a discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) in addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) a statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) for applications from existing committees (i.e., in existence at least 12 months prior to the submission deadline), a discussion of the past efforts and accomplishments and how they would integrate with the proposed future expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for WHEN they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant. The chart should identify months as "month 1, 2" etc., rather than by name of month as the grant start date will not determined until all applications are reviewed. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants are allowed the option of contracting for external evaluations or conducting their own formal internal assessment. Applicants may expend up to $7,000 for an outside evaluation. In either case an evaluation plan must be discussed in this section.

The evaluation plan should discuss what basic questions or issues the proposed evaluator would examine and what baseline data the committee staff would already have/or will gather for the evaluator. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include letters of commitment from all proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and are willing to personally attend scheduled committee meetings.

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels and breakout of annual operating costs;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address;

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will fouc on expanded efforts.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application;

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates;

(6) The feasibility and thoroughness of planning on how to best evaluate the project's impacts, including major evaluation topics and necessary data elements;

(7) The cost effectiveness and fiscal soundness of the application's budget request as well as the application's fiscal feasibility vs. its goals and approach; and

(8) The cost value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978.

C. Eligibility

Eligible grantees include State and local units of government, private non-profit labor-management committees, and certain third party private non-profit entities.

Third party private non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document strong support and participation from all labor and management parties with whom the applicant will be working.

In the event two or more applications are received which compete under the same category from the same jurisdiction (e.g., two areawide applications from the same county), only the higher scoring application will be awarded (if both are ranked acceptable for funding and funds are available).

Applications seeking to continue projects funded by FMCS in Fiscal Year 1981 will be considered ineligible.

D. Allocations

For Fiscal Year 1983, FMCS will operate under a Continuing Resolution which allocates $500,000 for the Labor-Management Cooperation Program. The funding will be distributed as follows: $450,000 will be allocated on a competitive basis for area and industry committee applications; $50,000 will be reserved for the administration of a national labor-management conference in cooperation with the National Association of Area Labor-Management Committees. FMCS reserves the right to reprogram up to 10 percent of the FY 83 allocation into these or other categories at its discretion.

E. Dollar Range and Length of Grants and Continuation Policy

Awards to continue and expand existing labor-management committees (i.e., in existence at least 12 months prior to the submission deadline) shall be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be contined up to an additional 12 months at double the initial cash match ratio. The total project period will thus normally be no more than 24 months.

Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), shall be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 18 months at double the initial cash match ratio. The total project period will thus normally be no more than 36 months.

The dollar range of awards is as follows:

—Up to $75,000 in FMCS funds per annum for existing committees;

—Up to $100,000 per 18-month period for new committees.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

In FY 83, applicants for new labor-management committees must provide at least 10 percent of the total allowable project costs. Applicants of existing committees must provide at least 25 percent of the total allowable project costs. All matching funds must be in cash rather than in-kind goods or services. Matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by projects as "project income" may not be used for matching purposes. No matching funds are required for the national labor-management conference grant.

It shall also be the policy of this program to reject all requests for indirect or overhead costs. In addition, grant funds must not be used to supplant private or local/state government funds previously made available for these purposes. Also, under no circumstances will management staff or employees participating on a labor-management committee be paid or otherwise compensated out of grant funds for time spent at committee meetings or training sessions.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applicants for area or industry committees wishing to submit a draft or pre-application for informal review and comment by the grants program staff may submit pre-applications any time up to February 28, 1983. FMCS staff will provide brief and general comments as to possible application deficiencies. The pages of pre- and final applications should be numbered.

Final applications must be postmarked no later than April 30, 1983. No applications or supplementary materials can be accepted after the deadline. An original application plus three copies should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street, NW., Washington, D.C. 20427.

After the deadline has passed, all eligible applications will be reviewed and scored by an FMCS Grant Review Board. The Director, Labor-Management Grant Programs, will finalize the scoring and place the application in one of the following three categories: (a) Unacceptable for funding, (b) potentially acceptable for funding but funds are unavailable, and (c) recommended for funding.

All FY 83 grant awards are expected to be made within 90 days of the application submission deadline. Applications submitted after the deadline dates or that fail to adhere to

eligibility or other major requirements will be administratively rejected prior to the convening of the Grant Review Board.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits, as well as additional information or clarification, can be obtained by contacting Peter L. Regner, Federal Mediation and Conciliation Service, Labor-Management Grant Programs, 2100 K Street, NW., Washington, D.C. 20427, or calling 202/653-5320.

Kay McMurray,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 83-842 Filed 1-12-83; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL RESERVE SYSTEM

Citizens Central Bancorp, Inc. et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Central Bancorp, Inc.*, Macomb, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Citizens National Bank of Macomb, Macomb, Illinois. Comments on this application must be received not later than February 7, 1983.

2. *FNB Holding Co.*, West Des Moines, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of West Des Moines, West Des Moines, Iowa. Comments on this application must be received not later than February 2, 1983.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *McCook Bancshares Inc.*, Salem, South Dakota; to become a bank holding company by acquiring at least 80 percent of the voting shares of The McCook County National Bank of Salem, Salem, South Dakota. Comments on this application must be received not later than February 7, 1983.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Independent Bancorp, Inc.*, Chickasha, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank and Trust Company, Chickasha, Oklahoma. Comments on this application must be received not later than February 7, 1983.

Board of Governors of the Federal Reserve System, January 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR 83-880 Filed 1-12-83; 8:45 am]

BILLING CODE 6210-01-M

Cullen/Frost Bankers, Inc., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Cullen/Frost Bankers, Inc.*, San Antonio, Texas; to acquire 100 percent of the voting shares of Northfield National Bank, Houston, Texas. Comments on this application must be received not later than February 7, 1983.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Puget Sound Bancorp*, Tacoma, Washington; to acquire 100 percent of the voting shares or assets of San Juan County Bank, Friday Harbor, Washington. Comments on this application must be received not later than February 7, 1983.

C. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Rainier Bancorporation*, Seattle, Washington; to acquire 90 percent or more of the voting shares of Peoples Bank & Trust, Anchorage, Alaska. this application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco. Comments on this application must be received not later than February 7, 1983.

Board of Governors of the Federal Reserve System, January 7, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-900 Filed 1-12-83; 8:45 am]

BILLING CODE 6210-01-M

Barclays Bank PLC et al.; Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 115.4(b)(1)), for permission to engage *de novo*, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any

comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and its subsidiary, Barclays Bank International Limited, London, England (consumer finance; Oregon): To engage through their subsidiary, BarclaysAmerican/Financial, Inc. ("BAF"), in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholesale financing (floor planning) and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by BAC's insurance underwriting subsidiaries. This activity would be conducted from an office of BAF in Beaverton, Oregon, serving customers in Beaverton and surrounding areas in Oregon. This notification is for the relocation of an existing office in Portland, Oregon. Comments on this application must be received not later than February 7, 1983.

2. *Citicorp*, New York, New York (finance company, loan servicing, and credit-related insurance activities; Colorado): To expand the activities and service area of an existing subsidiary, Citicorp Person-to-Person Industrial Bank, located in Fort Collins, Colorado, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Fort Collins, Colorado location. The activities in which the *de novo* office of Citicorp Homeowners, Inc. proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of Citicorp Homeowners, Inc. shall be comprised of the entire State of Colorado for all the aforementioned proposed activities. The new activities in which Citicorp Person-to-Person Industrial Bank proposes to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area shall be the entire State of Colorado for the aforementioned proposed activities, and for the following activities previously approved for Citicorp Person-to-Person Industrial Bank: the operating as an industrial loan company in the manner authorized by Colorado law, including the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the issuing of thrift certificates and thrift passbook certificates; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Industrial Bank and Citicorp Homeowners, Inc. Comments on this application must be received not later than February 7, 1983.

3. *Citicorp*, New York, New York (finance company and credit related insurance activities; Michigan, Indiana and Ohio); To expand the activities of an existing office of Citicorp Acceptance Company, Inc., located in Southfield, Michigan. The new activities in which the office proposes to engage *de novo* are: The sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; and the servicing, for any person, of loans and other extensions of credit. In addition, the office proposes to broaden its previously approved activities of the extension of loans to mobile home dealers for the financing on inventory (floor planning) and working capital purposes and the purchasing and servicing for its own account of sales finance contracts relating to mobile homes, to engage in such activities with regard to all types of dealers and all types of consumer instalment paper. The proposed service area for the aforementioned activities shall be comprised of the entire State of Michigan, Indiana and Ohio. Comments on this application must be received not later than February 7, 1983.

4. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities, Minnesota): To establish a *de novo* office of Citicorp Homeowners, Inc. and a *de novo* office of Citicorp Person-to-Person Financial Center, Inc. at a shared location in Burnsville, Minnesota. The activities in which the *de novo* office of Citicorp Homeowners, Inc. proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extentions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extentions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The *de novo* office of Citicorp Person-to-Person Financial Center, Inc. proposes to engage in operating as an office of an industrial loan company in the manner authorized by Minnesota law, including the following activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and

health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the issuing of thrift certificates and thrift passbook certificates; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of Citicorp Person-to-Person Financial Center, Inc. and the *de novo* office of Citicorp Homeowners, Inc. shall be comprised of the entire State of Minnesota for all the aforementioned proposed activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. Comments on this application must be recevied not later than February 7, 1983.

5. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities, Minnesota): To establish a *de novo* office of Citicorp Homeowners, Inc. and a *de novo* office of Citicorp Person-to-Person Financial Center, Inc. at a shared location in Minnetonka, Minnesota. The activities in which the *de novo* office of Citicorp Homeowners, Inc. proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The *de novo* office of Citicorp Person-to-Person Financial center, Inc. proposes to engage in operating as an office of an industrial loan company in the manner authorized by Minnesota law, including the following activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the issuing of thrift certificates and thrift passbook certificates; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office of Citicorp Person-to-Person Financial Center, Inc. and the *de novo* office of Citicorp Homeowners, Inc. shall be comprised of the entire State of Minnesota for all the aforementioned proposed activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. Comments on this application must be received not later than February 7, 1983.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *FB & T Corporation*, Hanover, Pennsylvania (insurance activities; Hanover, Pennsylvania): To engage through its subsidiary FB & T Insurance Company, Phoenix, Arizona in acting as an underwriter of credit life and accident and health insurance directly related to extensions of credit by Farmers Bank and Trust Company or any other credit granting affiliated subsidiaries. These activities will be conducted from an office in Hanover, Pennsylvania, serving York and Adams Counties and counties contiguous thereto. Comments on this application must be received not later than February 7, 1983.

C. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Pittsburgh National Corporation*, Pittsburgh, Pennsylvania (mortgage banking activities; California): To engage, through its subsidiary, The Kissell Company, Springfield, Ohio, in making or acquiring and servicing for its own account and or the account of others, loans and other extensions of credit at an existing office in Benicia, California. The activities will be expanded into one additional county, Contra Costa, California. Comments on this application must be received not later than January 28, 1983.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

NBD Bancorp, Inc., Detroit, Michigan (mortgage banking activities; Michigan): To engage, through its subsidiary, NBD Mortgage Company, in mortgage banking activities, including the making and acquiring of mortgage loans for its own account and for the account of others and such other extensions of credit as would be made by a mortgage company. These activities would be conducted from an office to be located in Mt. Pleasant, Michigan, serving the counties of Isabella, Gratiot and Clare, Michigan. Comments on this application must be received not later than February 1, 1983.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (industrial loan company, financing, servicing, and insurance activities; *de novo* office; Iowa and Illinois): To engage *de novo*, through its newly organized indirect subsidiary, FinanceAmerica Corporation of Iowa, and Iowa corporation, in the activities of acting as an industrial loan company under the Iowa Industrial Loan Law, including, but not limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to businesses, making loans secured by real and personal property, provided, however, that no investment certificates will be offered to the public; making or acquiring for its own account loans and other extensions of credit; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. No credit-related property insurance will be offered. Credit-related life and credit-related accident and health insurance may be reinsured by BA Insurance Company, Inc., an affiliate of FinanceAmerica Corporation of Iowa. These activities will be conducted *de novo* from an existing office of FinanceAmerica Thrift Corporation located in Davenport, Iowa, serving the entire States of Iowa and Illinois. Comments on this application must be received not later than February 7, 1983.

2. *Peoples Bancorporation,* Seattle, Washington (consumer finance activities; Washington): To engage, through its subsidiary, Peoples Consumer Finance Company, in consumer finance activities, including the extension of credit for personal loans. These activities would be conducted from offices in Seattle, Washington, serving King County, Washington. Comments on this application must be received not later than February 7, 1983.

3. *Peoples Bancorporation,* Seattle, Washington (industrial loan company activities; Washington): To engage, through its subsidiary, Peoples Industrial Loan Company, in industrial loan company activities, including the extension of credit for personal loans, second mortgage real estate loans, and contracts originating in the sale of merchandise. These activities would be conducted from offices in Seattle, Washington, serving King County, Washington. Comments on this application must be received not later than February 7, 1983.

Board of Governors of the Federal Reserve System, January 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-901 Filed 1-12-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Ateriosclerosis, Hypertension and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, February 24-25, 1983, Building 31, Conference Room 4, 1st Floor, A-Wing, National Institutes of Health, Bethesda, Md. 20205.

This meeting will be open to the public on February 24 from 8:30 a.m. to 10:00 a.m. and on February 25, from 8:30 a.m. to adjournment to hear announcements, status reports on the program, and to evaluate program support in Arteriosclerosis, Hypertension and Lipid Metabolism. Attendance by the public will be limited on a space available basis.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub.L. 92-463, the meeting of the Advisory Committee will be closed to the public from approximately 10:00 a.m. until adjournment on February 24, 1983 for the review, discussion and evaluation of individual contract proposals. These proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiry and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. G. C. McMillan, Associate Director, Arteriosclerosis, Hypertension, and Lipid Metabolism Program, NHLBI, Room 4C-12, Federal Building, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-1613, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: January 3, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-912 Filed 1-12-83; 8:45 am]

BILLING CODE 4140-01-M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, March 7-9, 1983, at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Md. 20814.

This meeting will be open to the public on March 7, 1983, from 1:00 p.m. to approximately 2:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 7 from approximately 2:00 p.m. to recess and will convene again on March 8, beginning at 8:30 a.m. to adjournment on March 9, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under Section 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Bethesda, Md, 20205, Building 31, Room 4A-21, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Bethesda, Md. 20205, Room 548B, phone (301) 496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: January 3, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-913 Filed 1-12-83; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants Study Sections; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for February through March 1983, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Sections 522b(c)(4) and 522b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, MD. 20205, telephone 301-496-7441 will

furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	February-March 1983 meetings	Time	Location
Allergy and Immunology, Dr. Eugene Zimmerman, Rm. 320, Tel. 301-496-7380	February 24-26	8:30	Holiday Inn, Georgetown, DC.
Bacteriology and Mycology-1, Dr. Milton Gordon, Rm. 304, Tel. 301-496-7340	February 16-18	8:30	Holiday Inn, Chevy Chase, MD.
Bacteriology and Mycology-2, Dr. William Branche, Jr., Rm. 306, Tel. 301-496-7681.	February 23-25	8:30	Holiday Inn, Georgetown, DC.
Behavioral Medicine, Dr. Joan Ritenhouse, Rm. 232, Tel. 301-496-7108	February 22-25	9:00	Marriott Hotel, Bethesda, MD.
Biochemical Endocrinology, Dr. Norman Gold, Rm. 228, Tel. 301-496-7430	March 2-5	8:30	Room 6, Bldg. 31-C, Bethesda, MD.
Biochemistry-A, Dr. Adolphus P. Toliver, Rm. 318A, Tel. 301-496-7516	March 2-5	9:00	Linden Hill Hotel, Bethesda, MD.
Biochemistry-B, Dr. Alex Liacouras, Rm. 318A, Tel. 301-496-7516	February 24-26	8:30	Ramada Inn, Bethesda, MD.
Bio-Organic and Natural Products Chemistry, Dr. Michael Rogers, Rm. A-27, Tel. 301-496-7107.	February 24-26	9:00	Westpark Hotel, Rosslyn, VA.
Biophysical Chemistry, Dr. John B. Wolff, Rm. 236B, Tel. 301-496-7070	March 3-5	8:30	Marriott Hotel, Bethesda, MD.
Bio-Psychology, Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7058	February 14-17	9:00	Ramada Inn, Bethesda, MD.
Cardiovascular and Pulmonary, Dr. Anthony C. Chung, Rm. 2A-04, Tel. 301-496-7218	March 9-11	8:00	Linden Hill Hotel, Bethesda, MD.
Cardiovascular and Renal, Dr. Rosemary Morris, Rm. 321, Tel. 301-496-7901	February 23-25	8:30	Holiday Inn, Washington, DC.
Cell Biology, Dr. Gerald Greenhouse, Rm. 336, Tel. 301-496-7396	March 9-11	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Chemical Pathology, Dr. Edmund Copeland, Rm. 353, Tel. 301-496-7078	February 22-24	8:30	Holiday Inn, Bethesda, MD.
Diagnostic Radiology, Dr. Catherine Wingate, Rm. 219B, Tel. 301-496-7650	February 28-March 2	8:30	Shoreham Hotel, Washington, DC.
Endocrinology, Mr. Morris M. Graff, Rm. 333, Tel. 301-496-7346	February 7-9	7:00 p.m.	Wellington Hotel, Washington, DC.
Epidemiology and Disease Control-1, Dr. Michael Alavanja, Rm. 203C, Tel. 301-496-7248.	February 15-17	8:30	Wellington Hotel, Washington, DC.
Epidemiology and Disease Control-2, Dr. Ann Schlueterberg, Rm. 203B, Tel. 301-496-7248.	February 15-17	8:30	Wellington Hotel, Washington, D.C.
Experimental Cardiovascular Sciences, Dr. Richard Peabody, Rm. 284, Tel. 301-496-7940.	February 22-24	8:00	Ramada Renaissance, Washington, DC.
Experimental Immunology, Dr. David Lawrin, Rm. 222B, Tel. 301-496-7239	February 23-25	8:30	Holiday Inn, Georgetown, DC.
Experimental Therapeutics, Dr. Ira Kline, Rm. 319A, Tel. 301-496-7839	February 23-26	8:30	Holiday Inn, Bethesda, MD.
Experimental Virology, Dr. Eugene Zebovitz, Rm. 206, Tel. 301-496-7474	February 20-23	2:00 p.m.	Room 6, Bldg. 31C, Bethesda, MD.
General Medicine A, Dr. Harold Davidson, Rm. 354A, Tel. 301-496-7797	March 2-5	8:30	Room 9, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. Antonia Novello, Rm. 322, Tel. 301-496-7730	February 8-11	8:30	Holiday Inn, Georgetown, DC.
Genetics, Dr. David Ramondini, Rm. 349, Tel. 301-496-7271	February 17-19	9:00	Room 6, Bldg. 31C, Bethesda, MD.
Hearing Research, Dr. Michael Halasz, Rm. 225, Tel. 301-496-7560	February 23-25	8:30	Capitol Holiday Inn, Washington, DC.
Hematology-1, Dr. Clark Lum, Rm. 355A, Tel. 301-496-7508	February 10-12	8:00	Holiday Inn, Georgetown, DC.
Hematology-2, Dr. M. Wayne Hurst, Rm. 355B, Tel. 301-496-7508	February 23-25	8:00	Room 9, Bldg. 31C, Bethesda, MD.
Human Development and Aging-1, Dr. Teresa Levitin, Rm. 303, Tel. 301-496-7025	March 2-4	9:00	Georgetown Hotel, Washington, DC.
Human Development and Aging-2, Dr. Samuel Rawlings, Rm. 305, Tel. 301-496-7640.	March 2-4	9:00	Embassy Square Hotel, Washington, DC.
Human Embryology and Development, Dr. Arthur Hoversland, Rm. 221, Tel. 301-496-7087.	March 1-4	8:00	Westpark Hotel, Rosslyn, VA.
Immunobiology, Dr. William Stylos, Rm. 222A, Tel. 301-496-7780	February 16-18	8:30	Linden Hill Hotel, Bethesda, MD.
Immunological Sciences, Dr. Lottie Kornfeld, Rm. 233A, Tel. 301-496-7179	March 2-4	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Mammalian Genetics, Dr. Jerry Roberts, Rm. 349, Tel. 301-496-7271	February 17-19	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Medicinal Chemistry, Dr. Ronald Dubois, Rm. A-27, Tel. 301-496-7107	March 2-4	9:00	Holiday Inn, Chevy Chase, MD.
Metabolism, Dr. Robert Leonard, Rm. 339A, Tel. 301-496-7091	February 24-26	8:30	Room 6, Bldg. 31C, Bethesda, MD.
Metallobiochemistry, Dr. Marjam Behar, Rm. 310, Tel. 301-496-7733	February 24-26	9:00	Georgetown Hotel, Washington, DC.
Microbial Physiology and Genetics-A, Dr. Martin Slater, Rm. 238, Tel. 301-496-7181.	February 23-25	8:30	Holiday Inn, Bethesda, MD.
Microbial Physiology and Genetics-B, Dr. Gerald Liddel, Rm. 357, Tel. 301-496-7130.	February 23-25	8:30	Marriott Hotel, Tyson's Corner, VA.
Molecular and Cellular Biophysics, Dr. Patricia Strasel, Rm. 236A, Tel. 301-496-7306.	March 4-6	8:30	Sheraton Inn, Silver Spring, MD.
Molecular Biology, Dr. Donald Dieque, Rm. 328, Tel. 301-496-7830	February 17-19	8:30	Holiday Inn, Georgetown, DC.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 233B, Tel. 301-496-7149	February 17-19	8:30	Marriott Hotel, Washington, DC.
Neurological Sciences, Dr. Edwin Bartos, Rm. 439B, Tel. 301-496-7260	February 24-26	8:30	Holiday Inn, Georgetown, DC.
Neurology A, Dr. Catherine Woodbury, Rm. 326, Tel. 301-496-7095	March 9-12	7:00 p.m.	Wellington Hotel, Washington, DC.
Neurology B-1, Drs. Willard McFarland, Rm. 2A03, Tel. 301-496-7422	February 22-25	9:00	Linden Hill Hotel, Bethesda, MD.
Neurology B-2, Dr. Herman Tieszbaum, Rm. 2A05, Tel. 301-496-7422	February 23-26	8:30	Wellington Hotel, Washington, DC.
Nutrition, Dr. John Schubert, Rm. 204, Tel. 301-496-7178	February 23-25	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Oral Biology and Medicine, Dr. Thomas M. Tarpley, Jr., Rm. 325, Tel. 301-496-7814.	February 21-24	9:00	Linden Hill Hotel, Bethesda, MD.
Orthopedics and Musculoskeletal, Ms. Ilean Stewart, Rm. 350, Tel. 301-496-7581	February 17-19	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Pathobiochemistry, Dr. Clarice Geylord, Rm. A-26, Tel. 301-496-7820	February 16-19	8:30	Room 8, Bldg. 31C, Bethesda, MD.
Pathology A, Dr. Robert M. Conard, Rm. 337, Tel. 301-496-7305	March 2-5	5:00	Westpark Hotel, Rosslyn, VA.
Pathology B, Dr. Martin Padarathsingh, Rm. 352, Tel. 301-496-7244	March 9-11	8:30	Ramada Inn, Bethesda, MD.
Pharmacology, Dr. Joseph Kaiser, Rm. 206, Tel. 301-496-7408	February 15-17	8:30	Holiday Inn, Bethesda, MD.
Physical Biochemistry, Dr. Jeanne Kotey, Rm. 216B, Tel. 301-496-7120	February 16-18	9:00	Holiday Inn, Bethesda, MD.
Physiological Chemistry, Dr. Harry Brodie, Rm. 339B, Tel. 301-496-7837	February 24-26	8:30	Holiday Inn, Rosslyn, VA.
Physiology, Dr. Martin Frank, Rm. 209, Tel. 301-496-7878	February 23-26	2:00p.m.	Holiday Inn, Bethesda, MD.
Radiation, Dr. Robert Straube, Rm. 219A, Tel. 301-496-7073	March 7-9	8:00	Shoreham Hotel, Washington, DC.
Reproductive Biology, Dr. Dharam Dhindsa, Rm. 307, Tel. 301-496-7319	February 22-25	8:30	Ramada Inn, Bethesda, MD.
Sensory Disorders and Language, Dr. Michael Halasz, Rm. 225, Tel. 301-496-7506.	March 2-4	8:30	Holiday Inn, Bethesda, MD.
Social Sciences and Population, Ms. Carol Campbell, Rm. 210, Tel. 301-496-7906	February 17-19	8:30	Shoreham Hotel, Washington, DC.
Surgery and Bioengineering, Dr. Samuel Abramson, Rm. 303A, Tel. 301-496-7506	February 24-25	8:00	Wellingham Hotel, Washington, DC.
Surgery, Anesthesiology and Trauma, Dr. Keith Kramer, Rm. 319B, Tel. 301-496-7771	February 24-25	8:30	Westpark Hotel, Rosslyn, VA.
Toxicology, Ms. Faye J. Calhoun, Rm. 205, Tel. 301-496-7570	March 4-6	8:30	Frontier Hotel, Las Vegas, Nevada.
Tropical Medicine and Parasitology, Dr. Betty June Myers, Rm. 110, Tel. 301-496-7346.	February 14-17	8:30	Room 4, Bldg. 31C, Bethesda, MD.
Virology, Dr. Claire Winestock, Rm. 306, Tel. 301-496-7905	March 3-6	8:30	Room 10, Bldg. 31C, Bethesda, MD.
Visual Sciences A-1, Dr. Orvil Bolduan, Rm. 207, Tel. 301-496-7000	February 23-25	9:00	Shoreham Hotel, Washington, DC.
Visual Sciences A-2, Dr. Jane Hu, Rm. 439A, Tel. 301-496-7310	March 2-5	8:30	Holiday Inn, Georgetown, DC.
Visual Sciences B, Dr. Luigi Giacometti, Rm. 325, Tel. 301-496-7251	March 9-12	9:00	Holiday Inn, Georgetown, DC.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: January 3, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-911 Filed 1-12-83; 8:45 am]

BILLING CODE 4140-01-M

General Clinical Research Centers Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the General Clinical Research Centers Committee (GCRC), Division of Research Resources (DRR), February 14–15, 1983, Conference Room 10, Building 31, 9000 Rockville Pike, Bethesda, MD.

The meeting will be open to the public on February 14, 1983, from 9:00 a.m. to approximately 12:00 noon during which there will be comments by Dr. Betty Pickett, Director, DRR; update on the GCRC Program by Dr. William R. DeCesar, Program Director, GCRC Program; and report on the GCRC Program Directors meeting; the Clinical Associate Physician Program; the diffusion of the CLINCO System, a proposed award for established investigators; possible new technologies for GCRC's; and Data Management. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 14, 1983, from approximately 1:00 p.m. to recess, and on February 15, from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B–10, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Review Committee, Bldg. 31, Room 5B51, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.333, Clincal Research, National Institutes of Health)

Dated: January 3, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-917 Filed 1-12-83; 8:45 am]

BILLING CODE 4140-01-M

National Advisory Eye Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, January 24 and 25, 1983, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public from 9:00 a.m. until approximately noon on Monday, January 24, for opening remarks by the Director, National Eye Institute; a discussion of NEI policy on research training; discussions of procedural matters; and presentations by the extramural staff of the Institute.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately noon for the remainder of the day on Monday, January 24, and all day on Tuesday, January 25, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Carter, Committee Management Officer, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–4903, will provide summaries of meetings and rosters of committee members.

Dr. Ronald G. Geller, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–4903, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

Dated: December 30, 1982.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-916 Filed 1-12-83; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Advisory Board and Board Subcommittees; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the National Cancer Advisory Board and its Subcommittees on Special Actions for Grants, Planning and Budget, Organ System Programs, and Cancer Control and the Community, January 29–February 2, 1983, National Cancer Institute, Building 31, C Wing, Conference Room 6, National Institutes of Health, Bethesda, Md. 20205. Portions of the Board meeting, and its Subcommittees will be open to the public to discuss committee business as indicated in the notice. Attendance by the public will be limited to space available.

Portions of these meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Subcommittee on Planning and Budget meeting will be closed to the public as indicated below in accordance with the provision set forth in Section 552b(c)(9)(B), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, to discuss the Preliminary 1985 Budget.

Mrs. Winifred Lumsden, the Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, Bethesda, Md. 20205. (301/496–5708) will furnish summaries of the meetings, substantive program information and rosters of members, upon request.

Name of committee: National Cancer Advisory Board
Dates of meeting: January 31–February 2, 1983
Place of meeting: Building 31, C Wing, Conference Room 6, National Institutes of Health
Open:
January 31, 8:30 a.m.—adjournment
Open:
February 2, 8:30 a.m.—adjournment
Agenda: Reports on activities of the President's Cancer Panel; the Director, National Cancer Institute: Diagnostic Imaging; Breast Cancer Protocols; the Studies of Human T-Cell Lymphoma; and reports on the NCAB Subcommittees.
Closed session: February 1, 8:30 a.m.—adjournment
Closure reason: To review grant applications
Name of committee: Subcommittee on Organ System Programs
Dates of meeting: January 29–30, 1983
Place of meeting: Building 31, C Wing, Conference Room 9, National Institutes of Health
Open:
January 29, 7:30 p.m.—adjournment
Open:
January 30, 9:00 a.m.—adjournment
Agenda: A discussion of the implementation of the Organ System Programs
Name of committee: Subcommittee on Cancer Control and the Community
Date of meeting: January 30, 1983
Place of meeting: Building 31, A Wing, Room 11A10, National Institutes of Health
Open: January 30, 6:00 p.m.—adjournment
Agenda: A discussion of NCAB interests in the cancer control program
Name of committee: Subcommittee on Planning and Budget
Date of meeting: January 31, 1983
Place of meeting: Building 31, A Wing Room 11A10, National Institutes of Health
Closed: January 31, 7:30 p.m.—approximately 8:15 p.m.
Closure reason: A discussion of Preliminary 1985 Budget
Open: January 31, 8:15 p.m.—adjournment
Agenda: A discussion of the FY1984 Budget
Name of committee: Subcommittee on Special Actions for Grants
Date of meeting: February 1, 1983
Place of meeting: Building 31, C Wing Conference Room 6, National Institutes of Health
Closed: February 1, 10:30 a.m.—adjournment
Closure: reason: Review of grant applications

(Catalog of Federal Domestic Assistance Program Numbers: 13.392, project grants in cancer construction. 13.393, project grants in cancer cause and prevention. 13.394, project grants in cancer detection and diagnosis. 13.395, project grants in cancer treatment. 13.396, project grants in cancer biology. 13.397, project grants in cancer centers support. 13.398, project grants in cancer research manpower. 13.399, project grants and contracts in cancer control.

Dated: January 3, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-913 Filed 1-12-83; 8:45 am]

BILLING CODE 4140-01-M

Neurological Disorders Program Project Review A Committee; Meeting

Prusuant to Pub. L. 92–463, notice is hereby given of the meeting of the Neurological Disorders Program Project Review A Committee, National Institutes of Health, March 3, 4, and 5, 1983 at Linden Hill Hotel, 5400 Pooks Hill Raod, Bethesda, Md. 20814.

The meeting will be open to the public from 8:00 p.m. until 9:00 p.m. on March 3, 1983 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 8:00 a.m. on March 4 to adjournment on March 5, 1983 for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the appplications, the diclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda Md. 20205 (Tel. No. 301/495–5751) will furnish summaries of the meeting and roster of committee members.

Dr. Leon Jack Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14, Bethesda, Md. 20205 (Tel. No. 301/496–9223) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, Neurological Disorders Program, National Institutes of Health)

Dated: January 3, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83-914 Filed 1-12-83; 8:45 am]

BILLING CODE 4140-01-M

Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Research Manpower Review Committee National Heart, Lung, and Blood Institute, National Institutes of Health on February 14–15, 1983, at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Md. 20014.

This meeting will be open to the public on February 14, 1983, from 8:00 p.m. to approximately 10:00 p.m., to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung and Blood Institute.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 15, 1983, from 8:00 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda Md. 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Carol H. Letendre, Executive Secretary, NHLBI, Westwood Building, Room 548, Bethesda, Maryland 20205, phone (301) 496–7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research; National Institutes of Health)

Dated: January 3, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-919 Filed 1-12-83; 8:45 am]

BILLING CODE 4140-01-M

Subcommittee on Primate Research Centers of the Animal Resources Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Subcommittee On Primate Research Centers, Animal Resources Review Committee, Division of Research Resources, on March 1, 1983, in Conference Room 9, Building 31, National Institutes of Health, Bethesda, Md. 20205.

The meeting will be open to the public from approximately 1:00 p.m., until adjournment, for a staff presentation on the current status of the Animal Resources Program, and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately 8:30 a.m. until noon for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable materials and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B10, Building 31, National Institutes of Health, Bethesda, Md. 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Md. 20205, (301) 496–5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Primate Research, National Institutes of Health)

Dated: January 3, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-915 Filed 1-13-83; 8:45 am]

BILLING CODE 4140-01-M

Office of the Secretary

Advisory Council on Social Security; Public Hearing

AGENCY: Health and Human Services Department.

ACTION: Notice of public hearing.

SUMMARY: The Secretary of Health and Human Services announced on September 16, 1982 the establishment of the Advisory Council on Social Security. The Council is charged to place particular emphasis on a review of the Medicare program, and to prepare and submit reports on its findings and recommendations.

In an effort to obtain the views of interested organizations and individuals, within the constraints of available time, the Council decided to conduct three public hearings in designated locations around the country. Notice is hereby given that a 1-day hearing will be held in the Chicago area on March 9, 1983. Similar 1-day hearings scheduled for Atlanta on February 1 and San Francisco on February 24 were previously announced in 47 FR 56723, December 20, 1982. All hearings will run from 9:00 a.m. to 5:00 p.m.

ADDRESS: The Chicago area hearing will be held in the third floor auditorium at 1 American Plaza, Evanston, Illinois 60201.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burke, Executive Director, 200 Independence Avenue, SW., Washington, D.C. 20201; telephone (202) 755–8670 or 755–8671.

SUPPLEMENTARY INFORMATION: The hearings are open to the public. Attendance will be limited to the space available. Interested parties are invited to present testimony on Medicare issues; however, only those requesting in advance, preferably in writing, to appear will be permitted to present oral statements. Presenters should submit, 5 days in advance, 20 copies of their presentation, and should bring an additional 50 copies to the hearing to be made available to the public. Oral presentation should summarize the written statement, and will be limited to a maximum of 5 minutes. Other written material can be submitted for the record. Submit written requests to present testimony to the Advisory Council on Social Security, ATTN: Public Hearing, 200 Independence Avenue, SW., Washington, D.C. 20201, or telephone (202) 755–8670 or 755–8671.

The designated Chairperson or the Executive Director reserves the right to determine order of presentation, but will make every effort, within available time, to hear all who wish to be heard.

Sign language interpreting services will be provided if requested in advance.

Records will be kept of all public hearings and will be available for public inspection at the Office of the Administrative Officer, Advisory Council on Social Security, Room 317–H, HHH Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Thomas R. Burke,

Executive Director.

[FR Doc. 83-686 Filed 1-12-83; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–83–1196]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the

office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Assignment of Multifamily Mortgagees (Mortgagee Letter ML 82—)
Office: Housing
Form No.: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other Institutions (except farms)
Estimated Burden Hours: 13,500
Status: Revision
Contact: Patrick McInturff, HUD, (202) 755–5547; Robert Neal, OMB, (202) 395–6880.

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: December 9, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-755 Filed 1-12-83; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. N-83-1197]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) they agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 223(f) Coinsurance Program Pre-endorsement Review of Lender's Processing Documents
Office: Housing
Form No.: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other Institutions (except farms)
Estimated Burden hours: 72
Status: New
Contact: Frank D. Brown, HUD, (202) 755–5720; Robert Neal, OMB, (202) 395–6880.

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: December 30, 1982.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 223(f) Coinsurance Application Package: Management Exhibits
Office: Housing
Form No.: None
Frequency of submission: On Occasion
Affected public: Businesses or Other Institutions (except farms)
Estimated burden hours: 400
Status: New
Contact: Matt Andrea, HUD (202) 755–6870; Robert Neal, OMB (202) 395–6880.

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)).

Dated: December 30, 1982

Notice of Submission of Proposed Information Collection to OMB

Proposal: Management Review Questionnaire and Management Review Report
Office: Housing
Form No.: HUD–9834 and HUD–9834B
Frequency of submission: On Occasion
Affected public: Businesses or Other Institutions (except farms)
Estimated burden hours: 200
Status: New
Contact: Matt Andrea, HUD (202) 755–6870; Robert Neal, OMB (202) 395–6880.

(Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)).

Dated: December 30, 1982.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 83-956 Filed 1-12-83; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. N-83-1198]

Privacy Act of 1974; Proposed Amendment to System of Records

AGENCY: Housing and Urban Development Department.

ACTION: Notice of proposed amendment to existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the routine uses and location of a system of records.

EFFECTIVE DATE: The amendment shall become effective without further notice 30 calendar days from the publication date of this notice unless comments are received on or before that date which

would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202–755–5908. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Department is adding a HUD contractor to the routine uses section and a HUD contractor's office to the system location section of the Equal Opportunity Housing Complaints (HUD/DEPT–15) system of records to permit the Department to use contractual support to perform an evaluation of the Fair Housing Assistance program. These additions do not require the submission on a Report of a New System since they are compatible with the purpose for which the system is maintained.

The words "to HUD contractor—for program evaluation" have been added to the routine uses section of the notice. The words "Additionally, closed files from this system may be temporarily located in a HUD contractor's office during a period of program evaluation" have been added to the system location section of the notice. The prefatory statement containing General Routine Uses applicable to most of the Department's systems of records was published at 46 FR 54878 (November 4, 1981). Appendix A, which lists the addresses of HUD's Field Offices was published at 46 FR 54914 (November 4, 1981). Previously, the system was published at FR 46 54882 (November 4, 1981). The notice is being amended to read as follows:

HUD/Dept–15

SYSTEM NAME:

Equal Opportunity Housing Complaints.

* * * * *

SYSTEM LOCATION:

Housing discrimination files are located at the office where originated and may also be transferred to associated area and/or regional offices, or the Headquarters Office. Additionally, closed files from this system may be temporarily located in a HUD contractor's office during a period of program evaluation. For a listing of HUD's offices with addresses see Appendix A.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: To state and local government EO-concerned agencies, the U.S. Department of Justice (including the FBI), the U.S. Department of Labor (including the Office of Federal Contract Compliance), U.S. Courts, the Veterans Administration, the Farmers Home Administration, complainants, repondents and attorneys—for investigation, preparing litigation, and monitoring compliance, to HUD contractor—for program evaluation.

* * * * *

(5 U.S.C. 552(a), 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

Dated: December 30, 1982.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 83–677 Filed 1–12–83; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Battle Mountain District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Battle Mountain District Advisory Council will meet at the Battle Mountain District Office. As the first meeting of newly approved council members, the agenda will consist of an introduction to District programs and concerns. The council will have an opportunity for election of officers and other matters of internal organization.

DATES AND TIMES: The Battle Mountain District Advisory Council meeting will convene at 9:00 a.m. on February 25, 1983. Members of the public are welcome to make oral comments at 2:00 p.m. Persons wishing to do so should contact H. James Fox.

ADDRESSES: The Battle Mountain District Office is located at North 2nd and Scott Streets in Battle Mountain, Nevada. Mail should be sent to Post Office Box 194, Battle Mountain, Nevada 89820.

FOR FURTHER INFORMATION CONTACT: H. James Fox, Battle Mountain District Manager at the above address or telephone (702) 635–5181.

Dated: January 4, 1983.

H. James Fox,

District Manager, Battle Mountain, Nevada.

[FR Doc. 83–687 Filed 1–12–83; 8:45 am]

BILLING CODE 4310–84–M

Montana and North Dakota; Fort Union Regional Coal Meeting

January 7, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Fort Union Regional Coal Team Meeting.

SUMMARY: Pursuant to the responsibilities set forth in 43 CFR 3400.4(B), the Montana State Office of BLM is issuing this notice to announce a Fort Union Regional Coal Team meeting at 8:30 a.m. on February 23, 1983, in the Sixth Floor Conference Room of Granite Tower, 222 North 32nd Street, Billings, Montana.

Some of the items on the agenda are as follows:

Discussion on Meridian Exchange proposal.
Discussion and selection of RCTs preferred lease sale schedules.
Organization meeting on 1985 Lease Sale.

For further information, contact Lloyd Emmons, Project Manager, Fort Union Project, Bureau of Land Management, Montana State Office, P.O. Box 30157, Billings, Montana 59107. Telephone: (406) 657–6291.

John A. Kwiatkowski,

Acting State Director.

[FR Doc. 83–684 Filed 1–12–83; 8:45 am]

BILLING CODE 4310–84–M

New Mexico; Extension of Public Comment Period on Three Environmental Impact Statements

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension of public comment period on three environmental impact statements.

SUMMARY: On December 3, 1982, (pg. 5458 thru 54561) separate **Federal Register** Notices announced availability of three draft environmental impact statements. These are (1) Draft Bisti, De-Na-Zin, Ah-Shi-Sle-Pah Proposed Wilderness Area Environmental Impact Statement; New Mexico, (2) Draft San Juan River Regional Coal Environmental Impact Statement; New Mexico, and (3) Draft Environmental Impact Statement (EIS) on Public Service Company of New Mexico's Proposed New Mexico Generating Station and Possible New Town (NMGS), Draft Cumulative

Overview, and Notice of Public Hearings.

Each of the three notices identified February 7, 1983 close of business, as the end of the public comment period. Due to requests for extension of the comment period, including requests from New Mexico Governor Toney Anaya and Attorney General Paul Bardacke, an extension of 60 days is being granted.

The public comment period for all three environmental impact statements is now extended to April 8, 1983 close of business. All other information in the three December 3, 1983 Federal Register Notices remains unchanged.

DATE: Effective date is January 13, 1983.

FOR FURTHER INFORMATION CONTACT: Gene Day, Bureau of Land Management, New Mexico State Office, commercial phone (505) 988-6212, FTS 476-6212.

Monte G. Jordan,

Associate State Director.

[FR Doc. 83-866 Filed 1-12-83; 8:45 am]

BILLING CODE 4310-84-M

[W-4471-A, W-4471-B, and W-4471-D]

Wyoming; Proposed Continuation of Public Water Reserves, Amendment

The proposed continuations published in the Federal Register as indicated below, are hereby amended to include the following described lands. Public Water Reserve No. 107 was created by the Executive Order of April 17, 1926. Pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, the public water reserves shall be continued for a period of 20 years.

1. W-4471-A published in the Federal Register on September 23, 1982, Vol. 47, on pages 42034 through 42037:

Sixth Principal Meridian, Wyoming

T. 49 N., R. 87 W.,
Sec. 17, lot 3.
T. 51 N., R. 88 W.,
Sec. 29, SE¼NE¼.
T. 50 N., R. 89 W.,
Sec. 4, SW¼SE¼.
T. 51 N., R. 89 W.,
Sec. 3, NE¼SW¼;
Sec. 11, NE¼NW¼;
Sec. 24, NW¼SW¼;
Sec. 26, NW¼SW¼.
T. 53 N., R. 90 W.,
Sec. 6, lot 2.
T. 43 N., R. 93 W.,
Sec. 7, SE¼SW¼.
T. 57 N., R. 93 W.,
Sec. 5, SW¼SW¼.
T. 45 N., R. 95 W.,
Sec. 6, lot 21.
T. 43 N., R. 100 W.,
Sec. 3, SW¼NE¼.
T. 47 N., R. 100 W.,
Sec. 6, SE¼SE¼.
T. 53 N., R. 103 W.,
Sec. 9, SW¼NW¼.

The area described contains 538.01 acres in Big Horn, Hot Springs, Washakie, and Park Counties, Wyoming.

2. W-4471-B published in the Federal Register on August 4, 1982, Vol. 47, on pages 33798 through 33802:

Sixth Principal Meridian, Wyoming

T. 38 N., R. 89 W.,
Sec. 6, lot 2;
Sec. 19, SW¼SE¼;
Sec. 20, NE¼SW¼;
Sec. 21, SE¼SW¼.
T. 40 N., R. 89 W.,
Sec. 8, NE¼SW¼;
Sec. 19, NW¼NE¼.
T. 39 N., R. 90 W.,
Sec. 2, SW¼NE¼, and SE¼SE¼;
Sec. 9, NE¼NW¼.
T. 40 N., R. 90 W.,
Sec. 4, SW¼SW¼;
Sec. 5, lot 3;
Sec. 10, NW¼SW¼;
Sec. 12, NW¼NE¼;
Sec. 28, SW¼NW¼, and NE¼SW¼.
T. 32 N., R. 91 W.,
Sec. 26, S½SW¼.
T. 34 N., R. 91 W.,
Sec. 1, lots 3, and 4;
Sec. 15, NW¼NE¼.
T. 38 N., R. 91 W.,
Sec. 29, SE¼SE¼.
T. 39 N., R. 91 W.,
Sec. 4, lots 2, and 3.
T. 40 N., R. 92 W.,
Sec. 23, SE¼SW¼;
Sec. 25, SW¼SW¼.
T. 32 N., R. 93 W.,
Sec. 5, NW¼SW¼;
Sec. 14, SE¼NE¼.
T. 36 N., R. 93 W.,
Sec. 11, NE¼SW¼.
T. 33 N., R. 94 W.,
Sec. 13, NW¼SW¼;
Sec. 26, SE¼NW¼;
Sec. 31, SE¼NW¼.
T. 37 N., R. 94 W.,
Sec. 32, SE¼NW¼.
T. 40 N., R. 94 W.,
Sec. 13, NW¼NE¼, and SE¼SW¼;
Sec. 24, NW¼SE¼.
T. 32 N., R. 95 W.,
Sec. 17, NW¼NE¼;
Sec. 33, SW¼NE¼;
Sec. 34, NE¼SW¼.
T. 33 N., R. 95 W.,
Sec. 24, NE¼SW¼;
Sec. 25, NE¼NW¼;
Sec. 27, NW¼SW¼.
T. 30 N., R. 96 W.,
Sec. 31, NE¼SW¼, and NE¼SE¼.
T. 31 N., R. 96 W.,
Sec. 25, NE¼SW¼.
T. 33 N., R. 96 W.,
Sec. 18, NW¼, NE¼.
T. 30 N., R. 97 W.,
Sec. 1, lot 4;
Sec. 4, SE¼NE¼;
Sec. 25, SE¼NE¼.
T. 31 N., R. 97 W.,
Sec. 21, NE¼NW¼;
Sec. 34, SW¼SW¼.
T. 30 N., R. 98 W.,
Sec. 11, SE¼SW¼;
Sec. 14, NE¼NW¼;
Sec. 22, SW¼SE¼;
Sec. 25, SW¼SE¼.
T. 31 N., R. 98 W.,
Sec. 26, SW¼NE¼.
T. 32 N., R. 98 W.,
Sec. 20, NE¼NE¼;
Sec. 21, NW¼SW¼;
Sec. 34, NE¼SE¼.
T. 29 N., R. 99 W.,
Sec. 10, SE¼SE¼.
T. 30 N., R. 99 W.,
Sec. 3, SW¼SE¼;
Sec. 5, SW¼NE¼;
Sec. 22, SW¼SE¼.
T. 31 N., R. 99 W.,
Sec. 3, NE¼SE¼;
Sec. 7, NE¼SE¼;
Sec. 17, NE¼NW¼;
Sec. 24, SE¼NE¼;
Sec. 32, NE¼SW¼.
T. 32 N., R. 99 W.,
Sec. 1, SE¼NW¼;
Sec. 35, NW¼SE¼.
T. 31 N., R. 100 W.,
Sec. 12, NE¼NE¼.
T. 32 N., R. 100 W.,
Sec. 14, SE¼SE¼.
T. 33 N., R. 101 W.,
Sec. 30, SW¼SE¼.
T. 42 N., R. 106 W.,
Sec. 15, NW¼SE¼.
T. 42 N., R. 107 W.,
Sec. 32, SW¼NW¼.

The are described contains 2,955.98 acres in Fremont County, Wyoming.

3. W-4471-D published in the Federal Register on July 21, 1982, Vol. 47, pages 31618 and 31619:

Sixth Principal Meridian, Wyoming

T. 37 N., R. 87 W.,
Sec. 30, SE¼SW¼.
T. 38 N., R. 87 W.,
Sec. 10, SW¼SE¼.
T. 39 N., R. 87 W.,
Sec. 7, SE¼NW¼;
Sec. 33, NW¼NE¼.
T. 33 N., R. 88 W.,
Sec. 19, Lots 3, and 4;
Sec. 30, Lot 1.
T. 39 N., R. 88 W.,
Sec. 4, SW¼NE¼.
T. 40 N., R. 88 W.,
Sec. 23, W½NW¼;
Sec. 30, S½NE¼.
T. 39 N., R. 89 W.,
Sec. 2, Lot 2, and S½NW¼.
T. 40 N., R. 89 W.,
Sec. 1, SE¼NE¼;
Sec. 15, SW¼SE¼;
Sec. 34, NE¼SE¼.

The area described contains 714.70 acres in Natrona County, Wyoming.

The purpose of this withdrawal is to protect existing permanent water sources. This withdrawal will be subject to periodic review, to ensure the lands are still being used for the purpose for which they were originally dedicated.

Upon the Secretary's approval of the Pulic Land Order, the lands in T. 57 N.,

R. 93 W., (Paragraph 1), will be open to nonmetalliferous mineral location. They have been and will continue to be open to mineral leasing. The remaining lands, have been and will continue to be open to mineral leasing and mineral location, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All of the lands will be segregated from the operation of the public land laws generally.

Notice is hereby given, that a public meeting may be afforded in connection with the proposed withdrawal continuation. All interested persons who desire a meeting to be held on the proposal must submit a written request for a meeting to the undersigned on or before April 13, 1983. Upon the determination by the State Director, Bureau of Land Management, that a public meeting shall be held, a notice stating the time and place of the meeting, shall be published in the **Federal Register** and in at least one newspaper having a general circulation in the vicinity of lands involved, at least 30 days before the scheduled date of the meeting. All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the BLM on or before April 13, 1983.

The authorized officer of the BLM will undertake such investigations as are necessary and prepare a report for consideration of the Office of the Secretary of the Interior. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

James L. Edlefsen,

Chief, Branch of Land Resources.

[FR Doc. 83-986 Filed 1-12-83; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Public Notice No. 1, Revised]

Statement of Organization, Functions, and Procedures; Information Guidance

In compliance with the Freedom of Information Act (5 U.S.C. 552), this notice provides information for the guidance of the public regarding: the basic authorities and programs of the Agency for International Development; the organization and functions of the Agency's central and field organizations; the Agency's methods of operation; statements of policy, rules, and procedures; and the methods whereby the public may obtain information, make submittals or requests, or obtain decisions.

This notice is a revision of "the Agency for International Development Public Notice No. 1," published in the **Federal Register** on August 14, 1980 (45 FR 54149–54155). It reflects the organization, basic functions, and methods of operations of the Agency for International Development as of December 1, 1982. Subsequent revisions of this statement will also be published in the **Federal Register**.

I. Creation and Authority of the Agency

The Agency for International Development (AID) carries out economic assistance programs designed to help the people of developing countries develop their human and economic resources, increase productive capacities, and improve the quality of human life as well as to promote economic or political stability in friendly countries.

The Foreign Assistance Act of 1961 (75 Stat. 424; 22 U.S.C. 2151, *et. seq.*), as amended, authorizes the President to exercise functions under that act through such agency or officer of the U.S. Government as he may direct Executive Order 12163 of September 29, 1979, delegates to the Director of the International Development Cooperation Agency (ADCA) the authorities set forth in the Foreign Assistance Act of 1961, as amended, and in certain other acts, with certain limited exceptions. The Executive Order also directs that the Director of the International Development Cooperation Agency continue within that Agency the Agency for International Development.

International Development Cooperation Agency Delegation of Authority No. 1 of October 1, 1979 (44 FR 57521), continued the Agency for International Development in existence as an agency within the International Development Cooperation Agency and delegates to the Administrator of the Agency for International Development the functions conferred upon the Director of the International Development Cooperation Agency by Executive Order 12163 and certain related Exective Orders, except as otherwise reserved or delegated. The Agency for International Development performs its functions under an Administrator, who reports to the Director of the International Development Cooperation Agency, and is charged with central direction and responsibility for the U.S. foreign economic assistance program.

II. Programs of the Agency

A. The Foreign Assistance Act of 1961, as amended, authorizes the Agency to administer two basic kinds of foreign economic assistance: projectized development assistance (normally on a bilateral basis) and general economic support. The Agency, in cooperation with the Department of Agriculture and the Department of State, also implements Public Law 480, the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 454; 7 U.S.C. 1691 *et seq.*), as amended. Specifically, the Agency is responsible for the sale of agricultural commodities on concessional terms (Title I), the donation of agricultural commodities (Title II), and the provision of food under the Food for Development Program (Title III).

To implement its economic assistance programs, the Agency utilizes the following tools authorized by the Foreign Assistance Act: loans (on concessional terms repayable in dollars and grants) to developing countries, emphasizing assistance and programs designed to meet the basic human needs of poor people in developing countries through self-sustained broadly based, market-oriented growth; specific grant authorities for U.S. research and educational institutions, American schools and hospitals abroad, reimbursement for international transportation costs of private, registered U.S. voluntary agency shipments of humanitarian relief and rehabilitation supplies, housing and other credit guarantee programs (including agricultural and productive credit and self-help community development programs), international disaster assistance, and development research into and evaluation of the process of economic development.

To prevent famine and promote freedom from hunger, the Agency also provides assistance under Title XII of Chapter 2 of Part I of the Foreign Assistance Act of 1961, as amended, to support institution-building programs for the development of national and regional agricultural research, education, and extension capacities in developing countries; build and strengthen human resource skills for agricultural and rural development; support international agricultural

research; and strengthen the capacities of land and sea grant and other eligible U.S. universities to participate more extensively in the Agency for International Development programs overseas.

In carrying out all assistance programs, emphasis is placed on optimum participation in the task of economic development by the people of the developing countries through the encouragement of democratic private and local governmental institutions. Among recipient countries emphasis is given to those committed to helping their poor people participate in market-oriented development.

B. Specifically, the Agency administers programs under the Foreign Assistance Act within the following major categories of assistance:

1. *Development Assistance*

The Agency for International Development focuses its development assistance programs on critical problem areas in those functional sectors which affect the majority of the people in the developing countries. The areas of concentration are:

a. *Agriculture, Rural Development and Nutrition.* To alleviate starvation, hunger, and malnutrition in the developing countries by increasing the food supply in order to achieve improvements in diets and by expanding employment opportunities for low-income families in both rural and urban areas to enable them to purchase the food they need.

b. *Health.* To improve primary health care in developing countries through programs designed to lower mortality rates; reduce the incidence of serious communicable diseases; and assist developing countries to plan the allocation of financial and human resources in health so that poorer groups have better access to preventative and curative health services.

c. *Population Planning.* To address problems of rapid population growth and to extend voluntary family planning services to the village level through programs that provide or promote safe, effective, affordable, acceptable family planning services.

d. *Education and Human Resource Development.* To expand access to basic education, the Agency supports programs in health, nutrition, family planning, and agriculture. Specifically, the Agency supports low-cost primary education, particularly for the rural poor; the use of mass media and communications technology, such as radio; curricula revision and teacher training to increase the relevancy of formal education to meeting basic human needs; and the development of informal education and training approaches for rural families and workers in agriculture, nutrition, health, and family planning.

e. *Energy, Private and Voluntary Organizations, and Selected Development Activities.* Selected Development Activities enable the Agency to deal with a wide range of development concerns which do not fall within the above functional sectors; e.g., projects directed toward assisting developing countries with their national energy problems, projects which lessen the problems of rapid urbanization, including employment and income problems. These activities place high priority on greater involvement of the private sector—both U.S. and Less Developed Country—in development, including greater reliance on private and voluntary organization.

f. *Private Enterprise.* Private enterprise—both directly and in collaboration with the U.S. private sector, assists those developing countries that want to support a private sector, market-oriented, developmental strategy; U.S. and developing country, private sector resources can be an important supplement and complement to existing bilateral and multilateral aid programs; and private investment can make a vital contribution to development through job creation, increased productivity, transfered technology and management know-how, and the generation of additional and diversified products to meet internal demand and expand export capacity.

2. *Economic Support Fund*

The Economic Support Fund (ESF) program has a more immediate political and economic orientation than development assistance. It is designed to promote economic or political stability in areas where the United States has special foreign policy interests and where economic assistance can be immediately useful in securing peace or averting economic or political crises.

The Economic Support Fund is a flexible economic instrument which may take the form of unrestricted cash grants and general budget support, commodity import programs, capital projects, and programs specifically directed toward broadly based growth and meeting the needs of the poor. It may concentrate on all of the critical areas which have been described above in Section II.B.1. In administering the Economic Support Fund, the Agency for International Development seeks to develop economically and technically sound projects. These funds can provide an opportunity to encourage sound development. The Congress has directed that, to the maximum extent feasible, Economic Support Fund should be used to promote development efforts which effectively aid the poor.

3. *Specific Programs*

a. *Sahel Development.* The Agency for International Development participates in a long-term program for the development of the Sahelian region of West Africa. The objectives of the Sahel Development Program are to promote food self-sufficiency and self-sustaining economic growth. The program is coordinated, planned, and designed by the Club du Sahel, comprised of eight Sahel states: Mali, Chad, Niger, Upper Volta, Senegal, Mauritania, Cape Verde, and The Gambia; the United States; and over 20 participating governments and international organizations.

b. *American Schools and Hospitals Abroad.* The American Schools and Hospitals Abroad program provides grants to private U.S. nonprofit organizations sponsoring American schools and hospitals abroad. The purpose is to demonstrate American ideas and practices in education and medicine.

C. *International Disaster Assistance.* The President has designated the Administrator of the Agency for International Development as Special Coordinator for International Disaster Assistance. In this role the Administrator may call upon the resources of any agency of the U.S. Government to provide emergency relief or technical assistance in disaster preparedness. Relief may also be channeled through U.S. voluntary agencies or international relief organizations in response to foreign disasters resulting from earthquakes, droughts and famines, epidemics, floods and storms, civil strife, power shortages, and accidents.

d. *Housing Guaranty Program.* The Agency for International Development's Housing Guaranty Program facilitates private financing of shelter for lower income families in developing countries by guaranteeing repayment to U.S. lenders for projects requested by these countries.

The Agency seeks to finance innovative programs, such as squatter upgrading through the provisions of sewerage, potable water, electricity, and credit for home improvements; sites and services by the provision of a basic urbanized lot, with the family constructing its own dwelling unit; and low-cost, expandable core housing units.

e. *Food for Peace.* In cooperation with the Department of Agriculture, the Agency participates in the sale of agricultural commodities on concessional terms under Title I of Public Law 480 to encourage economic development, assist in combating hunger and malnutrition, and for other purposes. Under Title II the Agency for International Development administers the donation of agricultural commodities to meet famine or other urgent or extraordinary releif requirements, to combat malnutrition, to promote economic and community development, and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. The Agency also administers Title III which provides that a portion of funds accruing from Title I sales be used for Food for Development Programs to improve the production, protection, and utilization of food to increase the well-being of the poor in the rural sector of the recipient country, and that funds so used are applied against that government's Title I repayment obligation (Public Law 480, Agricultural Trade Development and Assistance Act of 1954, as amended). The Agency supports the use of food aid in ways which promote rather than hinder the growth of food production and associated policy and program initiatives in the host government.

f. *Science and Technology.* In recognition of the higher priority that developing countries are placing on science and technology, Agency is focusing on more innovative and collaborative approaches to the problems and processes of development research and technology transfer. This program includes both support of research to explore the potential uses of emerging technologies for development, and innovative approaches to strengthen the capacity of less developed countries to take advantage of these new technologies.

4. Special Provisions

a. *Capital Technology.* The Agency for International Development supports projects with the specific objective of broadening the range of technologies in use. This is accomplished by increasing local research and the flow of information on appropriate technologies; promoting local development, adaptation, and utilization of technologies appropriate to developing countries; and providing assistance which encourages the formulation of policies that broaden the range of technological options.

b. *Women in development.* In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, the Congress requires that U.S. bilateral aid be administered so as to give particular attention to the programs, projects, and activities which tend to integrate women into the national economies of developing countries, thus improving their status and assisting the total development effort. The Agency carries out this Congressional mandate with leadership by the Office of Women in Development, Bureau for Program and Policy Coordination.

III. Organization, Functions, and Methods of Operations

A. General

The Agency for International Development (AID) consists of a central headquarters staff in the Washington metropolitan area (AID/W) and a number of overseas missions and offices. The structure of the Agency headquarters includes: The Office of the Administrator which is supported by the Office of the Executive Secretary; a Board for International Food and Agricultural Development Support Staff; eight staff offices; six functional bureaus; and four geographic bureaus.

B. The Office of the Administrator

The Administrator plans, directs, and coordinates the operations of the Agency and is responsible, subject to the approval of the Director of the International Development Cooperation Agency (IDCA) and the President, for the formulation and execution of U.S. foreign economic assistance policies and programs. The Administrator supervises and directs the activities of all personnel of the agency in the United States and overseas. In addition, the Administrator of the Agency for International Development serves as the President's Special Coordinator for International Disaster Assistance.

The *Office of the Executive Secretary (ES)* facilitates and expedites the decision-making process of the Agency for International Development. It serves as a channel of communication and coordination between the Office of the Administrator and the Agency's Senior Staff.

The *BIFAD Support Staff (BIFAD/S),* in compliance with the Agency for International Development's statutory obligation, provides staff support to the Board for International Food and Agricultural Development (BIFAD) and its subcommittees as authorized by section 298 of Title XII of the Foreign Assistance Act, as amended.

C. Staff Offices

The following staff offices report to the Office of the Administrator:

1. The *Office of the Inspector General (IG)* is the Agency's focal point for assuring the integrity of the Agency for International Development's oprations. It is the central authority concerned with the quality, coverage, and coordination of the audit, inspection and investigation services of the Agency. In directing, monitoring, and reviewing these activities, the Inspector General emphasizes both the protective and constructive aspects of these services as a tool of management within a comprehensive Agency effort to attain improved management effectiveness. The Inspector General has full access to all phases of the Agency's operations in order to carry out a comprehensive plan of selected audits, investigations, surveys and reviews to provide reasonable protection and constructive advice for Agency management. Serves as Agency liaison with the Department of State to assure adequate security services are performed by that Department.

2. The *Office of Legislative Affairs (LEG)* has responsibility for the Agency's relations with the Congress, and is the central point of contact between the Agency and the Congress, including Congressional members and Committees. The Office coordinates the preparation of the Agency for International Development's legislative program, including the preparation and submission of information relating to legislative authority and appropriations requests. The Office is also responsible for advising the Administrator and the Agency on the status of pending legislation of interest and on the history of pending legislation, including the concerns and views of members of the Congress on pending legislation and other matters of interest to the Agency for International Development.

3. The *Office of Public Affairs (OPA)* has responsibility for information policy leadership and coordination to ensure that information about the Agency's policies, objectives, and operations is disseminated fully and freely to the Congress and to the public. Dissemination of information is accomplished by concurrent external public affairs programs, such as: production and distribution to mass communication outlets of informational materials (e.g., an Agency magazine, press releases, speech texts, brochures, films, and video tapes); scheduling press conferences, media interviews, speaking and conference engagements for senior

Agency officers; responding to public inquiries and to requests for information filed under the Freedom of Information Act and the Privacy Act; and declassification of Agency documents. Internally, the Office of Public Affairs prepares and distributes certain informational materials such as a monthly newspaper, public opinion analyses, and press highlights and summaries.

4. The *Office of External Relations (EXRL)* has responsibility for fostering and coordinating communication among Bureaus and Offices of the Agency for International Development and between the Agency and external organizations (excepting the Media and the Congress) concerning the purpose and role of the U.S. economic assistance program and its place in international development.

5. The *Office of the General Counsel (GC)* provides all legal advice, counsel, and services to the Agency and its officials both in the United States and abroad, and ensures that the Agency for International Development programs are administered in accordance with legislative authorities. The Office maintains legal staffs both at headquarters and at regional or country organizations overseas.

6. The *Office of U.S. Foreign Disaster Assistance (OFDA)* plans and implements overseas disaster preparedness, relief, and rehabilitation programs. It formulates U.S. foreign disaster assistance policy and coordinates disaster assistance activities of the Agency, the Department of State, and other elements of the U.S. Government. The Office maintains contingency planning and preparedness for foreign disasters, mobilizes U.S. Government resources with those of voluntary agencies, international organizations and other donors. It promotes and supports, in conjunction with U.S. Missions abroad, preparedness programs in disaster prone countries. The Office maintains disaster relief stockpiles overseas and directs a disaster coordination center in Washington, D.C.

7. The *Office of Equal Opportunity Programs (EOP)* is the central Agency office responsible for directing the policy and coordinating and monitoring the implementation of all Government laws, executive orders, policies, and regulations relating to the provision of equal opportunity for employees of, and applicants for employment with, the Agency for International Development and activities financed by it.

8. The *Office of the Science Advisor (SCI)* serves as the focal point for coordinating the more innovative and collaborative approaches to the problems and processes of development research, technology transfer and related capacity-building programs and activities. The Office has a major responsibility in identifying scientific and technological needs and opportunities in developing countries and resources to meet those needs from U.S. and foreign public and private sources; for establishing effective mechanisms for involving foreign public and private sector sources in working with developing countries to realize these opportunities; for enhancing relationships of the International Development Cooperation Agency and the Agency for International Development with other U.S. public and private sector resources; and for ensuring effective linkage between U.S. scientific and technological capacities and the development programs in which the U.S. Government participates.

D. Functional Bureaus

1. The *Bureau for Program and Policy Coordination (PPC)* is responsible for the Agency's overall program policy formulation, planning, coordination, resource allocation, evaluation activities, and the program management information systems which support them. The Bureau develops economic assistance policies, provides guidance on long-range program planning, economic analysis, sector assistance strategies, and project analysis and design. It coordinates the formulation and revision of the Agency's program and budget, and participates in the presentation of the Agency's program to the Congress. The Bureau reviews and monitors all country program strategies and project proposals and selectively reviews project papers from other bureaus and offices to ensure compliance with Agency policy guidance. It provides in-depth analyses of development problems and related issues and formulates the Agency's position on major U.S. development policies affecting the Agency's assistance programs in the developing countries.

The Bureau assures implementation of Title IX of the Foreign Assistance Act (FAA), which emphasizes the encouragement of democratic institutions and seeks to develop an Agency policy for the furtherance of human rights in the developing countries, in accordance with sections 116 and 502B, and implements sections 113 and 305 of the FAA relating to women in development. The Bureau provides leadership in the development of Agency policies and procedures for the integrated use of capital, technical, Pub. L. 480, and other assistance and for evaluation of progress toward program goals; incorporates these policies and procedures into Agency directives; reviews the policy aspects of all types of Agency projects to assure consistency with Agency objectives; develops and coordinates Agency environmental policies; and serves as Secretariat for the Bilateral Assistance Subcommittee (BAS) of the Development Coordination Committee (DCC).

The Bureau carries out significant evaluations of Agency-supported projects which can introduce improved ideas and valuable experience into the Agency's program at key points. The Bureau exercises systems management responsibilities for the policy, planning, and program management systems, both automated and nonautomated, assigned to the Bureau; and provides central Agency statistical services.

The Bureau is also responsible for Agency policy and program coordination with other bilateral assistance donors, United National development organizations, and Multilateral Development Banks. In close collaboration with State, Treasury and other interested USG agencies, the Bureau reviews programs, budgets and staffing of the international development organizations, makes recommendations on the USG position regarding these matters, and provides guidance to the U.S. representatives to these organizations. Is responsible for carrying out the USG lead agency responsibility for coordination and preparation of the U.S. position brought before the Development Assistance Committee, including the calculation of official Development Assistance and other measures of development cooperation.

2. The *Bureau for Science and Technology (S&T)* has primary responsibility for enhancing the Agency's capabilities to use science and technology to further economic and social progress in developing countries. To accomplish this, the Bureau provides professional leadership and technical support to Agency activities in the sectors of agriculture, nutrition, forestry, environment and natural resources, energy, rural and urban development, development administration, employment generation, education, health and family planning. It also administers the Agency's International Training program and the development information and utilization functions. Within each of the above sectors, the Bureau:

a. Serves as the Agency's primary liaison with the scientific and technical communities of the United States and

the developing and more developed countries.

b. Serves as the Agency's focal point for the development of those sectoral strategies which require significant science and technology inputs. The Bureau develops appropriate methodology to ensure that these strategies are responsive to the needs of developing countries.

c. Identifies, in collaboration with the geographic bureaus, field service needs which can be met more effectively and efficiently from a central source and arranges for these needs to be met.

d. Mobilizes resources to provide assistance needed and requested by the field offices and Less Developed Countries (LDCs), building upon the Bureau's liaison with U.S. universities, government agencies and professional organizations.

e. Supplies the scientific and technical dimensions to the Agency's overall development assistance policy and to those sector assistance policies and strategies which govern the Agency.

The Bureau administers the Agency's central research and development program and coordinates centrally funded, regional and country research and development activities. Bureau ensures that new knowledge and methods are disseminated within the Agency and are utilized in Agency's field projects.

The Bureau serves as the Agency's focal point for technical coordination with the United Nations (U.N.) specialized agencies and other international organizations. The Bureau also coordinates Agency's operational relationships with: (a) the Board for International Food and Agricultural Development (BIFAD) and its subcommittees in the management and implementation of programs/activities authorized under Section 298 of Title XII of the Foreign Assistance Act, as amended, and (b) the U.S. university community generally.

3. The *Bureau for Food for Peace and Voluntary Assistance (FVA)* has central Agency responsibility for encouraging and strengthening the effective participation of nongovernmental organizations in support of the Agency for International Development's developmental and humanitarian objectives; performs designated Agency responsibilities for the Food for Peace Program; and administers the American Schools and Hospitals Abroad Program.

In the area of private and voluntary cooperation, the Bureau creates and explores approaches to enlarge the role of volunteerism in the development process; maintains liaison with the American Council on Foreign Aid, the Advisory Committee on Overseas Cooperative Development and the U.S. cooperatives engaged in overseas cooperative development, and with the community of voluntary agencies generally; and provides staff support to the Advisory Committee on Voluntary Foreign Aid.

4. The *Bureau for Management (M)* provides centralized services in the areas of financial management, personnel management, management planning, management operations, data management, contract management, and commodity management. It establishes and monitors Agency policies, regulations, and procedures in all of these areas. The Bureau is also responsible for administering the U.S. Earthquake Reconstruction Program in Northern Italy.

The Bureau provides advice and assistance to Agency management on the financial implications of legislation, plans, programs, policies, procedures, operating activities, and audit and evaluation findings. The Bureau administers and coordinates such financial management activities as accounting, operating expense and workforce budgets, internal financial management control, advice and assistance to overseas missions regarding financial policies, practices and procedures, and preparation and interpretation of financial and related statistical reports. The Bureau also administers the Agency's workforce resources management program.

The Bureau has central responsibility for personnel administration. The Bureau develops policies, standards, and guidelines for operation of overseas and domestic personnel systems; operates centralized personnel recruitment, assignment, evaluation, and employee training programs; and conducts a full range of personnel operations for the Agency. Additionally, the Bureau is responsible for the administration of the Agency's labor relations program (Executive Orders 11491 and 11636).

The Bureau assists Agency management in the development, implementation, and evaluation of management policies and practices; provides or arranges for management consulting services to the headquarters and overseas organizations; and oversees administration of the programs for organization and functional alignment, directives, committee management (Pub. L. 92–463), management improvement, and systems coordination.

The Bureau provides leadership and coordination to the development and administration of the Agency's automated data information systems; provides leadership and guidance on all phases of the use of automatic data processing technology; reviews, recommends, and monitors the Agency-wide use of management consulting firms, contracts, or Participating Agency Service Agreements (PASA) for automated data information systems; and provides leadership and policy guidance to the Agency's data management systems.

The Bureau develops policies, standards, and guidelines for, and oversees the development, operation, and management of worldwide administrative and logistical support systems; counsels and assists senior Agency personnel on all phases of administrative and logistical support services; acts as the Agency coordinator for overseas combined administrative support services, for all aspects of foreign affairs administrative support (FAAS), and joint nonappropriated fund activities; and provides a wide range of administrative and logistical services for the Agency for International Development.

The Bureau directs the development and maintenance of policies, procedures, standards, and regulations governing direct contracting and the Agency for International Development-financed borrower/grantee contracting; directs centralized contracting services; encourages the participation of U.S. small business in services, contracting, and export supply activities of the Agency; and develops and maintains the Agency's procurement regulations.

The Bureau provides leadership and coordination to the development and administration of the Agency's policies and procedures for commodity management; serves as the principal advisor on the commodity managmeent aspects of the economic assistance programs; administers commodity import programs and provides support for the implementation of the commodity and transportation elements of other programs financed by the Agency; implements requirements for commodity marking and labeling; and provides support for the transportation element of all Agency programs and for programs financed by Title II, Public Law 480, and the world food programs.

5. The *Bureau for Private Enterprise (PRE)* has responsibility for developing a closer and more effective partnership between Agency and the U.S. private sector and for facilitating the participation of the U.S. private sector not only in Agency for International Development financed transactions, but in privately financed projects and

activities which can accelerate the development process overseas.

The Bureau has responsibility for administering the Agency's small and disadvantaged business utilization programs and for administering, through the Minority Resource Center, the full range of responsibilities prescribed by Section 123 of the International Development Cooperation Act of 1979. The Bureau also administers the Agency's Housing Guaranty Program.

The Bureau serves as Agency liaison with the International Development Cooperation Agency's Trade and Development Program (TDP) and Overseas Private Investment Cooperation (OPIC).

E. Geographic Bureaus

There are four Geographic Bureaus: Africa, Asia, Latin America and the Caribbean, and Near East.

These Bureaus are the principal line offices of the Agency for International Development with responsibility for the planning, formulation, and management of U.S. economic development and/or supporting assistance programs in their respective areas overseas. Their programs are administered within delegated authorities and in accordance with policies and standards established by the Administrator.

Each Geographic Bureau is headed by an Assistant Administrator who:

1. Directs and supervises the activities of the Bureau and its overseas missions and offices.

2. Directs the formulation of U.S. economic assistance programs; approves programs and projects within the limits of authorities delegated from the Administrator; and authorizes the execution of economic assistance agreements with Bureau countries and regional organizations.

3. Exercises policy control within the region over the housing guaranty programs which are administered by the Office of Housing within the Bureau for Private Enterprise.

4. Submits, through the Bureau for Program and Policy Coordination for the Administrator's approval, an annual budget of proposed Bureau activities and assists in presenting the Bureau's program and budget to the Congress.

5. Approves and directs the allocation of available resources among Bureau offices and overseas missions.

6. Assures necessary liaison with other Agency offices, the Department of State, other U.S. bilateral, and multilateral agencies and officials of recipient countries; and represents the Agency at country consortia or consultative group meetings.

7. Oversees the implementation of Bureau programs and projects; monitors performance under loan and grant agreements, contracts, and other operating agreements; and takes or recommends any required remedial action.

8. Represents the Agency before the press and the public, as required.

F. Overseas Missions and Offices

1. The Agency for International Development's country organizations are located in countries where the Agency is carrying out bilateral economic assistance programs. Such organizations report to the Geographic Bureau, with one exception as noted below, and include the following:

a. *Missions* are currently located in 48 countries for which the Agency's program is major, continuing, and usually invovles multiple types of aid in several sectors. Each mission is headed by a Mission Director who has been delegated program planning, implementation, and representation authorities.

b. *Offices* are currently located in 13 countries for which the Agency's program is moderate, declining, or has limited objectives. Each office is usully headed by an Agency Representative who has been delegated program planning, implementation, and representation authorities. (Exception: The Regional Office—Fruili, in Italy, reports directly to the Bureau for Management.)

C. *Sections of Embassy* are currently located in nine countries for which the Agency program is small or is being phased out. The Agency program planning and implementation authorities are delegated to the chief U.S. diplomatic representative in the country.

2. *Offices for Multicountry Programs* (seven offices) administer the Agency's overseas program activities which involve more than one country. These offices may also perform "country organization" reponsibilities for assigned countries and report directly to the Geographic Bureaus.

3. *Offices for Multicountry Services* (four offices) provide services to other overseas organizations, primarily the Agency's country organizations and Multicountry Program Offices. (The Excess Property Field Offices report to the Bureau for Management; all others report to the Geographic Bureaus.)

4. *Development Assistance Coordination and Representation Offices* (six offices) maintain liaison with various international organizations and represent U.S. and the Agency's interest in development assistance matters. Such offices may be only partially staffed by Agency personnel and may be headed by employees of other U.S. Government agencies.

5. *Audit and Investigations/Inspection Offices* (eight offices) are maintained by the Office of the Inspector General at overseas locations to carry out a comprehensive program of selected audits, investigations, inspections, surveys, reviews, and security services for the Agency.

IV. Statements of General Policy, Rules, and Procedures

The statements of the Agency for International Development policy and the nature and requirements of formal and informal procedures, which are currently available to the public, are contained in the published regulations and other publications of the Agency as listed below. To the extent applicable, these also contain descriptions of forms available or specify the places at which forms may be obtained, and give instructions as to the scope and content of papers, or examinations involved in the transaction of business with the Agency for International Development.

The following Agency regulations are codified in Chapter II of Title 22 of the Code of Federal Regulations.

Subject

No. 1. Rules and Procedures Applicable to Commodity Transactions Financed by the Agency for International Development.

No. 2. Overseas Shipments of Supplies by Voluntary Nonprofit Relief Agencies.

No. 3. Registration of Agencies for Voluntary Foreign Aid.

No. 5. Per Diem Payments to and on behalf of Participants in Nonmilitary Economic Development Training Programs.

No. 8. Suppliers of Commodities and Commodity-Related Services Ineligible for Agency for International Development Financing.

No. 9. Nondiscrimination in Federally Assisted Programs of the Agency for International Development Effectuation of Title VI of the Civil Rights Act of 1964.

No. 10. Loyalty and Security Investigations for Persons Serving under Contracts Financed from U.S. Foreign Assistance Funds.

No. 11. Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance (Pub. L. 480, Title II).

No. 12. Public Information.

No. 13. Collection of Civil Claims by the Agency for International Development.

No. 14. Advisory Committee Management.

No. 15. Implementation of Privacy Act of 1974.

No. 16. Environmental Procedures.

No. 17. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

No. 18. Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.

The procurement regulations for the Agency for International Development are codified in Chapter 7 of Title 41 of the Code of Federal Regulations. In addition, the following other Agency for International Development publications contain procedures available to the public:

1. The Agency for International Development's Country Contracting Procedures, including:

a. The Agency for International Development's Handbook 11—Country Contracting (formerly Capital Projects Guidelines).

b. Environmental Assessments Guidelines Manual.

c. Information Packet for Architect-Engineer Firms.

2. The Agency for International Development-Financed Export Opportunities.

3. The Agency for International Development's Procurement Information Bulletins.

4. The Agency for International Development's Small Business Memos.

5. The Agency for International Development's Importer Lists.

6. U.S. Small Supplier Lists.

Copies of the above listed Agency regulations and other publications are available for public inspection and copying through the Office of Public Affairs, Agency for International Development, Washington, D.C. 20523. In addition, publications listed under No. 2 through No. 6 above are available from the Office of Small and Disadvantaged Business Utilization, Bureau for Private Enterprise, Agency for International Development, Washington, D.C. 20523, and at Department of Commerce field offices located in principal cities of the United States. The Agency's procurement regulations are also for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

V. Information, Submittals, and Requests for Decisions

A. *Information.* The Agency for International Development Regulations Nos. 12, 14, and 15 (22 CFR Parts 212, 214, and 215, respectively) specify the Agency's policy and procedures for public access to the Agency records.

B. *Submittals, Requests, or Decisions.* Members of the public doing business, or wishing to do business, with the Agency for International Development may make their submittals or requests, or obtain decisions at the cognizant bureau or office described in section III above, in accordance with the provisions of the Agency for International Development regulation or other publication which govern the action or process.

In case of uncertainty by a member of the public as to the appropriate bureau or office, or as to the methods of applying for or obtaining Agency for International Development action, application should be made to the Director, Office of Public Affairs, Agency for International Development, Room 4898, 21st Street and Virginia Avenue, NW., Washington D.C. 20523.

Effective date: This notice shall be effective December 1, 1982.

R. T. Rollis, Jr.,

Assistant to the Administrator for Management.

[FR Doc 83-666 Filed 1-13-83; 8:45 am]

BILLING CODE 8116-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway (202) 275-7278
or
Tom Smerdon (202) 275-7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions: These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
581	Chicago and North Western Transportation Co., ICC-CNW-C0252-A, Supplement 1, (Malt, brewers' grits).	1	1-5-83
582	Soo Line Railroad Co., ICC-SOO-C-0180, (Barley).	2	1-5-83
583	Southern Pacific Transportation Co., ICC-SP-C-0323, (Malt liquors).	3	1-5-83
584	Southern Pacific Transportation Co., ICC-SP-C-0322, (Wheat).	1	1-5-83
585	Missouri-Kansas-Texas Railroad Co., ICC-MKT-C-0223, (Wheat flour, prepared flour, bulgur & sorghum grits) via Port of Galveston, TX.	2	1-5-83
586	Missouri-Kansas-Texas Railroad Co., ICC-MKT-C-0185, Supplement 5, (Wheat flour) via Gulf ports.	3	1-5-83
587	Illinois Central Gulf Railroad Co., ICC-OCG-C-0052, (Molten sulphur).	1	1-5-83
588	Burlington Northern Railroad Co., ICC-BN-C-0242, (Beet or cane sugar and molasses, beet sugar final).	2	1-5-83
589	Burlington Northern Railroad Co., ICC-BN-C-0078, Supplement 7, (Newsprint or ground wood paper and printing paper).	3	1-5-83
590	Burlington Northern Railroad Co., ICC-BN-C-0322, (Malt liquors).	3	1-5-83
591	Baltimore and Ohio Railroad Co., ICC-BO-C-0106, (Industrial sand).	1	1-5-83
592	Grand Trunk Western Railroad Co., ICC-GTW-C-0288, (Grain).	2	1-5-83
593	Seaboard System Railroad, Inc., ICC-LN-C-0017, Supplement 1, (Coal), via Port of Mobile, AL.	3	1-5-83
594	Consolidated Rail Corp., ICC-CR-C-0112, (Sheet steel).	1	1-5-83
595	Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0036-B, (Canned goods).	2	1-5-83
596	The Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0036-B, (Canned goods).	3	1-5-83
597	Union Pacific Railroad Co., ICC-UP-C-0244, (Grain), via west coast ports.	1	1-5-83
598	Union Pacific Railroad Co., ICC-UP-C-0243, (Cement clinker).	2	1-5-83

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
899	Southern Pacific Transportation Co., ICC-SP-C-0312, (Iron or steel articles, iron or steel scrap or copper clad scrap).	3	1-6-83
900	Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC-MILW-C-0293, (Caustic soda, chlorine and muriatic acid).	3	1-6-83
901	Southern Pacific Transportation Co., ICC-SP-C-0250, (Nitrogen fertilizer solution).	1	1-6-83
902	Southern Pacific Transportation Co., ICC-SP-C-0326, (Soda ash).	2	1-6-83
903	Missouri-Kansas-Texas Railroad Co., ICC-MKT-C-0225, (Wheat & milo.	3	1-6-83
904	Southern Pacific Transportation Co., ICC SP-C-0299 & ICC-SP-C-0300, (Motor vehicles).	1	1-6-83
905	Southern Pacific Transportation Co., ICC-SP-C-0333, (Soda ash).	2	1-6-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier.
Review Board No. 2, Members Carleton, Williams, and Ewing.
Review Board No. 3, Members Krock, Joyce, and Dowell.
Member Dowell not participating.

This action will not significant affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-798 Filed 1-12-83; 8:45 am]

BILLING CODE 7035-01-M

[Decision Notice OP4FC-004]

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 40 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

Agatha L. Mergenovich,

Secretary.

Note.—Please direct status inquiries to Team Four at (202) 275-7669.

MC-FC-81074. By decision of December 30, 1982 issued under U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to CONSTABLE TRANSPORT LIMITED, Thorold, Ontario, Canada, of Certificate Nos. MC-66807, and MC-66807 (Sub-No. 9), issued October 28, 1964 and July 17, 1981, respectively, to MANUFACTURERS EXPRESS. INC., (Debtor in Possession in Bankruptcy) New Haven, CT, authorizing transportation in (I) MC-66807, (A) over regular routes, (1) *bags, boxes, greenhouses* and *materials and supplies* used in the construction of green houses, *boilers and boiler parts, burners, cans, castings, electrical fittings and tools, forgings, ingots, machines and machine parts, marine hardware, patterns, scrap metals, steel, tanks, foundry supplies, brewery supplies,* and *lead washers, lead sleevings and solder* used in electrical installations, (a) between Elizabeth, NJ, and Boston, MA serving the intermediate and off-route points of Newark, Jersey City, Bayonne, Bloomfield, East Orange, Plainfield, and Carteret, NJ, New York, New Rochelle, Irvington, Mt. Vernon, and White Plains, NY, Greenwich, Stamford, Norwalk, Bridgeport, New Haven, Branford, Niantic, New London, Naugatuck, Middletown, Willimantic, West Haven, South Norwalk, Union City, and Norwich, CT, Cranston, Providence, Lincoln, Park, Pawtucket, East Greenwich, Warwick, Newport, Woonsocket, and Hillsgrove, RI, and East Walpole, North Attleboro, Brockton, New Bedford, Fall River, Beverly, Lynn, and Peabody, MA, and points in MA within 15 miles of State House, Boston, over specified routes; (b) between New Haven and Hartford, CT, serving the intermediate and off-route points of Wallingford, Meriden, Middletown, Southington, New Britain and Bristol, CT, over specified routes; (c) between Hartford, CT, and Boston, MA, serving the intermediate, and off-route points of East Hartford, Manchester, Stafford Springs, South Manchester, and Willimantic, CT, and Springfield, Worcester, West Springfield, Chicopee, Chicopee Falls, and Brightwood, MA, and points in MA, within 15 miles of State House, Boston, over specified routes, and (d) between Naugatuck and Middletown, CT, serving the intermediate point of Meriden, CT; (B) over irregular routes of *bags, boxes, greenhouses* and *materials and supplies* used in the construction of greenhouses, *boilers and boiler parts, burners, cans, castings, electrical fittings and tools, forgings, ingots, machines and machine parts, marine hardware, patterns, scrap metals, steel, tanks, foundry supplies,* and *brewery supplies,* between points on the regular routes described above, on the one hand, and, on the other, Millerton, NY, Passaic, NJ, New Milford, Torrington, Ivoryton, and Waterbury, CT, and Orange, Adams, Framingham, Bondsville, and Millers Falls, MA, and (2) *malt beverages,* between specified points in CT, MA, RI, NY, and NJ, and (II) MC-66807 (Sub-No. 9) over irregular routes, authorizing the transportation of *general commodities* (except classes A and B explosives), between points in NY, NJ, CT, MA, and RI, on the one hand, and, on the other, points in ME, NH, VT, CT, MA, RI, NY, NJ, and PA. Transferee is a carrier under MC-90511. An application for temporary authority has been filed. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, for both transferee and transferor.

[FR Doc. 83-807 Filed 1-12-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of

Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 ICC 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decison is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Agatha L. Mergenovich,
Secretary.

Dated: January 4, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

MC-F-14986 (Correction) (Previously published in the Federal Register issues of December 8 and 10, 1982). Title: NOAH ENTERPRISES, INC. (Purchase portion) ECKLEY TRUCKING, INC. Representatives: James G. Cosby, 7363 Pacific Street, Suite 210B, Omaha, NE 68114; and A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101-1103. The purpose of this republication is to correctly identify the territory description in paragraph (a) as follows: Between Portland, OR, on the one hand, and, on the other points in CO, AZ, UT and NM.

Volume No. OP3-MC-F-2

Dated: January 3, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell. (Member Dowell not participating.)

For status call Team 3 at 202-275-5223.

MC-F-15013, filed December 22, 1982, January 4, 1983. STC DEVELOPMENT CORPORATION (STC) (100 E. 42nd Street, New York, NY 10017 (Control) SEASHORE TRANSPORTATION COMPANY (Seashore) (812 Broad Street, New Bern, NC 28560). Representative: Lawrence E. Linderman, P.C., 4660 Kenmore Ave., Suite 1203 Alexandria, VA 22304. STC seeks authority for acquisition of control of Seashore. North American Philips Corporation, (NAPC) the sole stockholder of STC, also seeks to control said operating rights and property through the transaction. The operating rights to be controlled are contained in Seashore's Certificate No. MC-28985 and subnumbers thereunder and North Carolina Certificate B-79, which authorizes the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, over a series of regular routes in eastern North Carolina serving such points as Wilmington, Jacksonville, Beaufort, Morehead City, New Bern, Kinston, Vanceboro, Washington, Greenville, Goldsboro, Fayetteville, Raleigh, Wilson, and Rocky Mount. STC is not a carrier. NAPC also controls Carolina Coach Company, a motor common carrier holding Certificate No. MC-13300. Condition: NAPC, a non-carrier holding company, shall be considered a carrier within the meaning of 49 U.S.C. 11348, and is subjected to the reporting requirements of the Commission.

Volume No. OP1-F-3

By the Commission, Review Board No. 2, Members Krock, Joyce, and Dowell.

For status call Team 1 at 202-275-7992.

MC-F-15034, filed December 15, 1982. HACKLER CARTAGE CO., INC. (Hackler) (900 Nabco Avenue, Conway, AR 72032) (purchase) POWELL TRUCK LINE, INC. (Ralph Sloan, Trustee in Bankruptcy) (Powell) (Worthen Bank Building, Little Rock, AR 72201). Representative: James M. Duckett, Suite 411, 221 W. 2nd, Little Rock, AR 72201. Hackler seeks authority to purchase all of the interstate operating rights and property of Powell, through the Trustee in Bankruptcy. Ira Z. Hackler, Jr., and Marnette L. Hackler, who control Hackler, seeks authority to acquire control of the operating rights and property through the transaction. Hackler is purchasing the interstate operating rights contained in Powell's certificate No. MC-3281M1F and Sub-Nos. 17X (the restriction removal authority in Sub-No. 17X supersedes former Sub-Nos. 7, 10, and 11), and 18, which authorize the transportation of general commodities (with the usual exceptions), frozen vegetables and frozen strawberries, over regular and irregular routes, between Memphis, TN and Little Rock, AR, and between those two points and designated points in northeastern Arkansas. Hackler holds no authority from this Commission. However, Ira Z. Hackler, President and owner of 50 percent of outstanding stock of Hackler, is affiliated with Razorback Express, Inc. (Razorback), a motor common carrier operating under MC-148291. In addition, Hackler has advanced a sum of money to Razorback evidenced by a demand note.

Note.—(1) This notice does not purport to be a complete description of the operating rights of the carriers involved. (2) Application for temporary authority has been filed.

[FR Doc. 83-606 Filed 1-12-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor

Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publications to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–5

Decided: January 7, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 290 (Sub-10), filed December 21, 1982. Applicant: JACK RABBIT LINES, INCORPORATED, 301 North Dakota Ave., Sioux Falls, SD 57102, Representative: James R. Becker, 412 West Ninth St., P.O. Box 1443, Sioux Falls, SD 57101–1443; (605)–336–2565. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 48501 (Sub-21), filed November 30, 1982, previously published in the **Federal Register** on December 15, 1982. Applicant: INDIANA MOTOR BUS COMPANY, 715 South Michigan St., P.O. Box 958, South Bend, IN 46624. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036; (202)–466–3892. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

Note.—The purpose of this republication is to correct the territorial description.

MC 124651 (Sub-4), filed December 23, 1982. Applicant: GEORGE LANICH, PAUL LANICH AND MARY LANICH d.b.a. LANICH BUS LINES, P.O. Box 57, Kent, PA 15752. Representative: Henry M. Wick, Jr., Two Chatham Center, Suite 1610, Pittsburgh, PA 15219; (412) 765–1600. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 144801, filed December 14, 1982. Applicant: SAULT SANITATION SERVICE, INC. d.b.a. SUPERIOR BUS SERVICE, 751 Peck St., Sault Ste. Marie, MI 49783. Representative: Albert N. Mattson (same address as applicant) (906) 635–5971. Transporting *passengers,* in charter operations, beginning and ending at Sault Ste. Marie, MI, and points in Chippewa County, MI, and extending to points in WI, MN, OH, KY, TN, GA, FL and the ports of entry on the international boundary line between the U.S. and Canada in NY, PA and MI.

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 153441 (Sub-3) (republication), filed December 2, 1982, previously noticed in the **Federal Register** issue of December 29, 1982. Applicant: JOHNSON'S BUS SERVICE, INC., P.O. Box 245, Mt. Joy, PA 17552. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108; (717) 233–5731. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation. The purpose of this republication is to correct the territorial description.

MC 160160, filed December 6, 1982. Applicant: TIV CORP. 225 Private Lane, Lakewood, NJ 08701. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022; (212)–759–3700. Transporting *passengers,* in charter and special operations between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 160861 (Sub-1), filed December 21, 1982. Applicant: MARVIN WARD d.b.a. MARVIN WARD TRUCKING, 2607 Shenandoah, Tyler, TX 75701. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting (1) for or on behalf of

the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 163860 (Sub-1), filed December 21, 1982. Applicant: CHARTERED BUS SERVICE, INC., 6539 E. Virginia Beach Blvd., Norfolk, VA 23502. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165130, filed December 10, 1982. Applicant: A AND P BUS SERVICE, INC., 263 Edward St., Ridgewood, NJ 07450. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201)–381–4700. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165290, filed December 20, 1982. Applicant: GRIFFIN TRUCKING, INC., R.R. 3, Box 424, Greencastle, IN 46135. Representative: Michael D. McCormick, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165330, filed December 21, 1982. Applicant: DALE VAUGHN, Box 373, Condon, OR 97823. Representative: Dale Vaughn (same address as applicant), (503) 384–4143. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165340, filed December 22, 1982. Applicant: GEORGE BERSUCH d.b.a. FORDHAM LIMOUSINE SERVICE, 4200–20 Hutchinson River Parkway, Bronx, NY 10077. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048; (212)–466–0220. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.— Applicant seeks to provide privately funded charter and special transportation.

MC 165341, filed December 21, 1982. Applicant: KATHLEEN H. PETRONE d.b.a. K.H. COOKE TRAFFIC SALES AND SERVICE, 7 Norht 11th Ave., Manville, NJ 08835. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904; (201)–572–5551. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165350, filed December 23, 1982. Applicant: TREMBLAY'S BUS CO., INC., 84 Lawrence St., Fall River, MA 02722. Representative: Arthur M. White, 281 Pleasant St., P.O. Box 2547, Framingham, MA 01701; (617) 879–5000. Transporting *passengers,* in charter and special operations, between points in the U.S..

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 165361, filed December 27, 1982. Applicant: MAR-CHET TRANSIT, INC., R.D. #5, Box 259, Moscow, PA 18444. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517; (717); 344–8030. Transporting *passengers,* in charter and special operations, beginning and ending at points in Lackawanna, Wayne, Monore, Pike, Luzerne, Susquehanna and Wyoming Counties, PA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165370, filed December 23, 1982. Applicant: HUNT'S BUS COMPANY, P.O. Box 397, Anoka, MN 55303. Representative: Lawrence E.Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304; (703) 751–2441. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 165371, filed December 23, 1982. Applicant: FRANCIS LADEAN HICKS d.b.a. DEAN HICKS TRUCKING, 13004 Union Hall Rd., Canby, OR 97013. Representative: Francis LaDean Hicks (same address as applicant) (503) 632–7580. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165380, filed December 28, 1982. Applicant: JACKSON'S SERVICE, INC., Route 1, Box 399, Spring Grove, VA 23881. Representative: Vernice H. Jackson (same address as applicant) (804) 866–8510. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165441, filed December 28, 1982. Applicant: RICHARD LLOYD BOWSER, 16 West Street, North East, PA 16428. Representative: Lawrence Marquette, P.O. Box 629, Carmel Valley, CA 93924 (408) 625–2031. As a *broker* of *general commodities* (except household goods), between points in the U.S.

For the following, please direct status inquiries to Team 3 at 202–275–5223.

Volume No. OP3–75

Decided: January 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 93475 (Sub-5), filed December 23, 1982. Applicant: ASHBOURNE TRANSPORTATION, INC., 7827 Old York Rd., Elkins Park Blvd., McLean, VA 22101. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide provately-funded special and charter transportation.

MC 111504 (Sub-14), filed December 21, 1982. Applicant: STARR TRANSIT CO., INC., 2531 E. State St., Trenton, NJ 08619. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107; (215) 564–3680. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 127584 (Sub-5), filed December 17, 1982. Applicant: GRAY LINE TOURS OF SOUTHERN NEVADA, 1550 Industrial Rd., Las Vegas, NV 89102. Representative: Warren N. Grossman, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017; (213) 627–8471. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 149025 (Sub-2), filed December 22, 1982. Applicant: VAN NORTWICK BROS., INC., 1080 Highway 37 West,

Toms River, NJ 08753. Representative: Jeffrey A. Vogelman, 123 South Royal St., Alexandria, VA 22314; (703) 683–6304. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 140555 (Sub-7), filed December 21, 1982. Applicant: J. G. EXEC, INC., R.D. 1, Box 399 BB, Dover, DE 19901. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006; (202) 466–3778. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 161764 (Sub-1), filed December 21, 1982. Applicant: NEWTON BUS SERVICE, INC., Route 1, Box 77, Gloucester, VA 23061. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877; (301) 840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–003

Decided: January 6, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 165367, filed December 27, 1982. Applicant: McDONALD'S BUS SERVICE, INC., 248 Sargent St., Cowlesville, NY 14037. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043; (716) 681–7190. Transporting *passengers*, in charter and special operations, beginning and ending at points in NY, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165386, filed December 28, 1982. Applicant: GARRY W. DEAN, d.b.a. DEAN LEASING, Route 1, Box 269H, Durham, NC 27705. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288; (919) 635–4711. Transporting *passengers*, in charter and special operations, beginning and ending at points in NC and VA and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165387, filed December 28, 1982. Applicant: DARWIN SOLOMON, 3112 S. 21st St., Omaha, NE 68108. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104; (712) 255–3127. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165396, filed December 29, 1982. Applicant: HOWMET DISPATCH CORPORATION, 475 Steamboat Rd., Greenwich, CT 06830. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934; (201) 234–0301. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165407, filed December 28, 1982. Applicant: ARIZONA TRANSPORTATION GROUP, INC., 501 West Jackson, Phoenix, AZ 85003. Representative: Raymond P. Mogensen (same as address as applicant) (602) 254–6459. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following , please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–004

Decided: January 6, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 94818 (Sub-10), filed December 14, 1982. Applicant: BROOKS BUS LINE, INC., 421 Washington St., Paducah, KY 42001. Representative: Harry J. Harman, 700 Harrison Bldg., 143 West Market St., Indianapolis, IN 46204; (317) 634–4242. Transportaing *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 119098 (Sub-12), filed December 27, 1982. Applicant: BILL ROHRBAUGH'S CHARTER SERVICE, INC., 121 North Ruth Ave., Spring Grove, PA 17362. Representative: Christian V. Graf, 407 N Front St., Harrisburg, PA 17101; 717–236–9318. Transporting *passengers*, in *charter and special operations*, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 146558 (Sub-3), filed December 23, 1982. Applicant: READY TOURS, CORP., 1168 Jordan Lane, Napa, CA 94559. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304; 703–751–2441. Transporting *passengers*, in *charter and special operations*, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 150399 (Sub-1), filed December 27, 1982. Applicant: CHARTER BUS SERVICE, INC., 722 North 3rd Street, Milwaukee, WI 53203. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203; (414) 273–7410. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 152668 (Sub-2), filed December 13, 1982. Applicant: CHEM-NUCLEAR SYSTEMS, INC., Transportation Division, P.O. Box 726, Barnwell, SC 29812. Representative: Jerry L. Mason (same address as applicant) (803) 259–1781.Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 156268 (Sub-1), filed December 27, 1982. Applicant: COASTAL PLAIN CHARTER SERVICE, INC., 2913 South Church St., P.O. Box 1053, Rocky Mount, NC 27801. Representative: Lee A. Spinks, 225 South Franklin St., P.O. Drawer 153, Rocky Mount, NC 27801; 919–977–2211. Transporting *passengers in charter and special operations*, beginning and ending at points in NC, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162838, filed December 13, 1982. Applicant: JUNE E. NAVARRE d.b.a. AA LIMOUSINE SERVICE, P.O. Box 78, R.D. #2, Breinigsville, PA 18031. Representative: Barry d. Kleban, 1430 Land Title Bldg., Philadelphia, PA 19110; (215) 561–1030. Transporting *passengers*, in special and charter operations, between points in CT, DE, MA, MD, NJ, NY, OH, PA, VA, and DC.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165218, filed December 15, 1982. Applicant: JAY INTERNATIONAL INC., 437 Chestnut St., Suite 403, Philadelphia, PA 19106. Representative: Yvonne D. Stokes (same address as applicant) (215) 925–7021. To operate as a *broker* of *general commodities* (except household

goods), between points in the U.S. (except AK and HI).

MC 165378, filed December 28, 1982. Applicant: TIMOTHY GENE WOLFE, 8B Countryside Drive, Treynor, IA 51575. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104; (712) 255–3127. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165389, filed December 28, 1982. Applicant: RALPH BELTER, Rural Route 1, Grettna, NE 68028. Representative: Edward A. O'Donnell, 1004—29th St., Sioux City, IA 51104; (712) 255–3127. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5–002

Decided: January 3, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 6969 (Sub-1), filed November 22, 1982. Originally published in the **Federal Register** (Republication) on December 20, 1982. Applicant: MERCHANTS FORWARDING COMPANY, 8747 Brandt, Dearborn, MI 48126. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226; 313–963–3750. As a *broker* of *general commodities* (except household goods), between points in the U.S.

Note.—This republication modifies the Territorial scope.

MC 143668 (Sub-3), filed December 15, 1982. Applicant: LONG ISLAND AIRPORTS LIMOUSINE SERVICE CORP., 25 Newton Place, Hauppauge, NY 11788. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048; (212) 466–0220. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—The Board concludes that applicant is a privately funded carrier seeking to provide charter and special operations, notwithstanding the receipt of governmental financial assistance.

MC 162588 (Sub-1), filed December 21, 1982. Applicant: HOLYOKE STREET RAILWAY COMPANY, 63 North Canal St., Holyoke, MA 01040. Representative: David M. Marshall, Sixth Floor—95 State St., Springfield, MA 01130; 413–732–1136. Transporting *passengers in charter and special* operations between points in the U.S. (except HI).

Note.—The Board concludes that the applicant seeks to provide privately-funded charter and special transportation, notwithstanding the receipt by applicant of some governmental assistance.

MC 165209, filed December 14, 1982. Applicant: CURTIS H. WINFREY, d.b.a. WINFREY ENTERPRISES, INC., 122 Lee Parkway Drive, Suite 118, Chattanooga, TN 37421. Representative: Curtis H. Winfrey (same address as applicant) (615) 899–9565. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165288, filed December 20, 1982. Applicant: PATHFINDER TRANSPORTATION, INC., 8329 Jason Ave., Canoga Park, CA 91304. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702; 714–667–8107. Transporting *passengers in charter and special operations,* beginning and ending at points in CA and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–602 Filed 1–12–83; 8:45 am]

BILLING CODE 7035–01–M

[Decision Volume No. OP4–001]

Republications of Grants of Operating Rights Authority Prior To Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall address specifically the issue(s) indicated as the purpose for republication. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

Agatha L. Mergenovich,

Secretary.

MC 158286 (Sub-10) (republication) filed May 17, 1982; published in the **Federal Register** issue of June 2, 1982; and republished this issue. Applicant: M. T. TRUCK LINE, INC., 7701 W. 95th St., Hickory Hills, IL 60457. Representative: James C. Hardman, 33 N. La Salle St., Chicago, IL 60602, Phone: 312–236–5944. In a decision, by the Commission, Divison 2, acting as an Appellate Division, decided November 29, 1982, and finds that performance by applicant: To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities,* between Williamsville and Cheektowage, NY and Wallen and Huntertown, IN, on the one hand, and, on the other, points in the United States, will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to delete the commodity and territorial exceptions.

Note.—(1) Applicant must submit an Affidavit of Certification to the "Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423", certifying that all rail service has actually terminated at the specified points. (2) To the extent that the authority granted herein authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring five (5) years from its date of issuance.

[FR Doc. 83–602 Filed 1–12–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15036]

Sam Kovacevich, Jr., Continuance in Control Exemption: Transport America, Inc., and Chicago-St. Louis Transport Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by Section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), Sam Kovacevich, Jr., seeks an exemption from the requirement under 11343 of prior regulatory approval for his continuance in control of Transport America, Inc. (No. MC–163680 and subnumbers thereunder) and Chicago-St. Louis Transport Co. (No MC–134[illegible]33 and subnumbers thereunder), both of which are motor carriers.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative James C. Hardman, Suite 2108, 33 North La Salle Street, Chicago, IL 60602

Comments should refer to No. MC–F–15036.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 7, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-810 Filed 1-12-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30069]

Louisville and Nashville Railroad Company; Abandonment Exemption; Perry County, KY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.* the abandonment by the Louisville and Nashville Railroad Company of 3.03 miles of track in Perry County, KY, subject to standard labor protection.

DATES: This exemption will be effective on February 14, 1983. Petitions to stay the effectiveness of this decision must be filed by January 24, 1983, and petitions for reconsideration must be filed by February 2, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative, Fred R. Birkholz, 500 Water Street, Jacksonville, FL 32202.

Pleadings should refer to Finance Docket No. 30069.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constititution Ave., NW., Washington, D.C. 20423; (202) 289–4357—DC metropolitan area; (800) 424–5403—Toll free for outside the DC area.

Decided: January 6, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-806 Filed 1-12-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30036]

Oregon-Washington Railroad & Navigation Company and Union Pacific Railroad Company, Abandonment and Discontinuance; Exemption in La Crosse, Wash.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the abandonment and discontinuance of service by the Oregon-Washington Railroad & Navigation Company and the Union Pacific Railroad Company of 0.76 miles of railroad between milepost 40.86 and milepost 41.62 at La Crosse, WA, subject to conditions for protection of employees.

DATES: This exemption is effective February 11, 1983. Petitions to stay must be filed by January 24, 1983; petitions for reconsideration must be filed by February 1, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioners' representative, Joseph D. Anthofer, 1416 Dodge Street, Omaha, Nebraska 68179

Pleadings should refer to Finance Docket No. 30036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423; (202) 289–4357—DC metropolitan area; (800) 424–5403—Toll free for outside the DC area.

Decided: January 6, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-804 Filed 1-12-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29592]

Southern Pacific Transportation Company; Abandonment Exemption; Los Angeles County, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.* the abandonment by the Southern Pacific Transportation Company of 3.26 miles of its West Santa Ana Branch between milepost 495.14 and milepost 491.88 in Los Angeles County, CA, subject to conditions for protection of employees.

DATES: This exemption will be effective February 14, 1983. Petitions to stay the effectiveness of the decision must be filed by January 24, 1983, and petitions for reconsideration of the decision must be filed by February 2, 1983.

ADDRESSES: Send pleadings to:

Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

Petitioner's representative, Garry A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105

Pleadings should refer to Finance Docket No. 29592.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commissions's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423; (202) 289–4357—DC metropolitan area; (800) 424–403—Toll free for outside the DC area.

Decided: January 6, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterret, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-806 Filed 1-12-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree In Action To Obtain Injunctive Relief To Enforce PSD Permit Under Clean Air Act

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on November 24, 1982, a proposed consent decree in *United States* v. *Plateau, Inc.* (Civil No. 82–1373C) was lodged with the United States District Court for the District of New Mexico. The proposed decree requires that Plateau install a particulate matter emission control system to clean the emissions from the regenerator outlet of a fluid catalytic cracking unit. The decree sets forth a construction schedule and provides for penalties.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed judgment. Comments should be addressed to the Deputy Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Plateau, Inc.*, D.J. 90–5–2–1–501.

The proposed consent decree may be examined at the office of the United States Attorney, P.O. Box 607, Albuquerque, New Mexico, 87103, at the Region VI office of the Environmental Protection Agency, Office of Regional Counsel, First International Building, 1201 Elm Street, Dallas, Texas 75270 and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice (Room 1515), Tenth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice.

Anthony C. Liotta,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-969 Filed 1-12-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel (American Film Institute Review); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (American Film Institute Review) to the National Council on the Arts will be held on January 17, 1983, from 9:30 a.m.–5:30 p.m. and January 18, 1983, from 9:30 a.m.–1:00 p.m. at the Academy of Motion Picture Arts & Sciences, 8949 Wilshire Blvd., Beverly Hills, CA 90211.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

January 7, 1983.

[FR Doc. 83-974 Filed 1-12-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Clinch River Breeder Reactor and Thermal Hydraulic Working Group; Reschedule

The ACRS Subcommittee meeting on Clinch River Breeder Reactor (CRBR) scheduled for January 20 and 21, 1983 has been changed to a combined meeting of the CRBR Subcommittee and associated Thermal Hydraulic Working Group on February 3 and 4, 1983, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee and Working Group will continue their review of the DOE application for a permit to construct the CRBR.

The agenda for subject meeting shall be as follows:

Thursday, February 3, 1983—8:30 a.m. until the conclusion of business
Friday, February 4, 1983—8:30 a.m. until the conclusion of business

All other items regarding this meeting remain the same as announced in the **Federal Register** published Thursday, December 30, 1982 (47 FR 58402).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. EST.

Dated: January 10, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-980 Filed 1-12-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Policy and Procedures; Reschedule

The ACRS Subcommittee on Regulatory Policy and Procedures scheduled for January 13, and 14, 1983 has been rescheduled to February 7 and 8, 1983, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will continue its review of matters related to nuclear regulatory reform.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Thursday, December 23, 1982 (47 FR 57368).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Marvin C. Gaske (telephone 202/634–3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 10, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-979 Filed 1-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power and Light Co; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 74 to Facility Operating License No. DPR–23 issued to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2, (the facility) located in Darlington County, South Carolina. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specification to provide new operability requirements for the auxiliary feedwater

(AFW) pumps and to provide additional reporting requirements for the AFW pumps becoming inoperable.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 1, 1982, (2) Amendment No. 74 to License No. DPR–23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 6th day of January, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-691 Filed 1-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–275]

Pacific Gas & Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. DPR–76 issued to the Pacific Gas and Electric Company (the licensee), for Diablo Canyon Nuclear Power Plant, Unit No. 1 (the facility) located in San Luis Obispo County, California. The amendment is effective as of the date of issuance.

The amendment authorizes relief from specific technical specifications for a period of 120 days to allow for the movement of loads in excess of 2500 pounds in order to make certain modifications in the Fuel Handling Building.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 21, 1982, (2) Amendment No. 3 to Facility Operating License No. DPR–76, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland this 6th day of January, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-692 Filed 1-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–267]

Public Service Company of Colorado and Fort St. Vrain Generating Station; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR–34 issued to the Public Service Company of Colorado, for operation of the Fort St. Vrain Generating Station (the facility) located in Platteville, Colorado. The amendment is effective as of the date of its issuance.

The amendment adds an additional paragraph to License Condition 2.D.(3) "Physical Protection" to incorporate the revision to Chapter 9 of the Fort St. Vrain Security Plan dated June 10, 1982, and updates, through the latest approved revisions, the existing paragraphs of 2.D.(3). The revision to Chapter 9 ensures compliance with 10 CFR 73.45.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see Amendment No. 30 to License No. DPR–34. This item is available for public inspection at the Commission's Public Document Room (PDR), 1717 H Street, NW., Washington, D.C. and at the local PDR in Greeley, Colorado. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011, Attention: Regional Administrator.

Dated at Arlington, Texas this 4th day of January, 1983.

For the Nuclear Regulatory Commission.

Glen L. Madsen,

Chief, Reactor Projects Branch No. 1, Region IV.

[FR Doc. 83-693 Filed 1-12-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Certain Cube Puzzles; (Request for Public Comments)

The United States International Trade Commission (the Commission) has found a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into, or sale in, the United States of certain cube puzzles and has directed that the articles concerned and their packaging be excluded from entry into the United States.

Under section 337(g), the President may disapprove the determination of the Commission for policy reasons within sixty days following receipt of the determination and record. Disapproval by the President would cause the determination, and any order issued under that determination, to be without force or effect. The President also may approve the determination, making the determination, and any order issued under it, final on the date the Commission receives notice. The determination, and any related order, will become final automatically following the sixty day review period if the President decides to take no action to disapprove or to approve it.

Interested parties are invited to submit comments concerning foreign or domestic policy issues that should be considered by the President in making his decision regarding the case. Parties submitting comments regarding a domestic policy issue should refer to the portion of the Commission record in which information or comment concerning that issue was presented. If it made no presentation to the Commission of the domestic policy issue being raised, the party submitting the comment should include the reason for the lack of such presentation. The Trade Representative will be reluctant to review comments concerning domestic policy issues not addressed in the record developed before the Commission. Interested parties need not refer to the Commission record when submitting comments regarding foreign policy issues.

Comments submitted should not exceed 15 double spaced, letter sized pages, including attachments. The original and 19 copies of the submission must be delivered by the close of business Friday, January 28, 1983, to the Secretary, Trade Policy Staff Committee, 600 17th Street, NW. Room 500, Washington, D.C. 20506. Copies of comments received will be made available upon request and additional comments will be accepted through the close of business February 4, 1983. For further information call Alice Zalik (202) 395–3432

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 83-897 Filed 1-12-83; 8:45 am]

BILLING CODE 3190-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Application for Employee Annuity Under the Railroad Retirement Act
(2) Form(s) submitted: AA–1, AA–1d, AA–4, G–271 and T–36
(3) Type of request: Extension
(4) Frequency of use: On occasion
(5) Respondents: Applicants for retirement annuities
(6) Annual responses: 50,860
(7) Annual reporting hours: 16,970
(8) Collection description: The RRA provides for payment of age and disability annuities to qualified employees. The application obtains information about the applicant's family, work history, military service, benefits from other government agencies and public or private pensions. The information is used to determine entitlement to and amount of annuity applied for.

(1) Collection title: Application for Spouse Annunity Under the Railroad Retirement Act
(2) Form(s) submitted: AA–3, G–346
(3) Type of request: Extension
(4) Frequency of Use: On occasion
(5) Respondents: Applicants for spouse annuities under the RRA, husbands/wives of applicants for spouse annuities.
(6) Annual responses: 44,600
(7) Annual reporting hours: 11,050
(8) Collection description: The Railroad Retirement Act provides for the payment of annuities to spouses of railroad retirement annuitants who meet the requirements under the Act. The application will obtain information supporting the claim for benefits based on being a spouse of an annuitant. The information will be used for determining entitlement to and amount of annuity applied for.

(1) Collection title: Applications for Survivor Insurance Annuities
(2) Form(s) submitted: AA–17, AA–17b, AA–18, AA–19, AA–19a, AA–19s, AA–20, G–476c
(3) Type of request: Extension
(4) Frequency of use: On occasion
(5) Respondents: Individuals applying for survivor annuities
(6) Annual responses: 24,450
(7) Annual reporting hours: 7,350
(8) Collection description: The applications obtain information from widow(er)s, children and parents of deceased railroad workers to support claims for survivor benefits. The information will be used for determining entitlement to and amount of annuity applied for.

(1) Collection title: Application for Survivor Death Benefits
(2) Form(s) submitted: AA–21, AA–11s, G–131, G–273s
(3) Type of request: Extension
(4) Frequency of use: On occasion
(5) Respondents: Individuals, funeral directors
(6) Annual responses: 32,000
(7) Annual reporting hours: 10,592
(8) Collection description: The applications obtain information from persons eligible to receive survivor death benefits under the RRA. Benefits include lump sum death benefits, annuities due but unpaid at death and reimbursement for burial expenses. Benefits are paid to designated beneficiaries or the survivors in a priority designated by law.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (201–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Ozakowski,

Director of Planning and Information Management

[FR Doc. 83-871 Filed 1-12-83; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 19401, 12942]

Midland Capital Corp. et al.; Filing of Application

January 4, 1983.

In the matter of; Midland Capital Corporation; Midland Venture Capital Limited; 110 William Street, New York, NY 10038 (812–5313).

Notice is hereby given that Midland Capital Corporation ("Midland") , and its wholly-owned subsidiary, Midland Venture Capital Limited ("Ventures"), a small business investment company ("SBIC") licensed by the Small Business Administration ("SBA") under the Small Business Investment Act of 1958, as amended ("SBI Act") (jointly, "Applicants"), Delaware corporations

regulated under the Investment Company Act of 1940 ("Act") as business development companies, filed an application on September 10, 1982, with amendments thereto on November 19, 1982, and December 9, 1982, for an order of the Commission pursuant to Section 6(c) of the Act and Section 12(h) of the Securities Exchange Act of 1934 ("Exchange Act"): (1) Amending an earlier order ("Prior Order") of the Commission dated December 29, 1981 (Investment Company Act Release No. 12131) to the extent necessary to exempt Applicants from the provisions of Section 18(a) of the Act, as modified by Section 61 of the Act, to the extent requested; and (2) amending the Prior Order and exempting Applicants from the provisions of Section 13(a) of the Exchange Act to the extent necessary to permit Applicants to file with the Commission and to provide to Midland's shareholders, financial statements required by the federal securities laws solely on a consolidated basis. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Midland was organized on August 13, 1961, and, as a business development company, provides venture capital equity financing and managerial advisory services to selected independent businesses which, in the opinion of Midland's board of directors, have a significant potential for long-term growth. Midland is a publicly-held company whose common stock is traded on the over-the-counter market and is quoted on the National Association of Securities Dealers, Inc., Automated Quotation System.

Applicants state that Ventures was organized on March 15, 1974. As a SBIC, Ventures has obtained financing through the issuance of SBA-guaranteed debentures in accordance with the provisions of the SBI Act and the exemptions from Section 18(a) of the Act afforded to Section 18(k) of the Act. Under the SBI Act, Ventures is eligible to issue SBA-guaranteed debentures in an aggregate principal amount of at least up to 300% of its "private capital" (defined in Section 107.3 of the Regulations under the SBI Act as its combined paid-in capital and paid-in surplus), subject to a maximum of $35,000,000 principal amount outstanding at any time.

Applicants state that they are successors of Midland Capital Corporation, a New York corporation ("Old Midland"), which, prior to the close of business on December 31, 1981, was a business development company under the Act and an SBIC licensed under the SBI Act. As of the close of business on December 31, 1981, Old Midland was reorganized into a two-tier structure (the "Reorganization") by the merger of Old Midland into Ventures, which continued as a wholly-owned subsidiary of Midland. Ventures presently conducts the SBIC business formerly conducted by Old Midland.

The Prior Order granted exemptions from Section 57(a) of the Act to the extent necessary to permit Applicants and Old Midland to consummate the Reorganization and to permit Applicants to engage in certain affiliated or joint transactions subsequent to the Reorganization. The Prior Order was issued, subject to certain conditions, including, *inter alia*, (1) compliance by Midland and Ventures, on a consolidated basis, with the asset coverage requirements of Section 18(a), as modified by Section 61, of the Act, and (2) the filing with the Commission by Midland and Ventures, and the provision by Midland to its stockholders, of the financial statements required by the Exchange Act and other federal securities laws, on a consolidated basis as to Midland and Ventures and on a separate basis as to Ventures.

The Prior Order prohibits Midland and Ventures from issuing any senior securities representing indebtedness except that (1) Midland may issue and sell its senior securities representing indebtedness in consideration of any loan, extension or renewal thereof made by private arrangement, provided that such senior securities representing indebtedness are not intended to be publicly distributed, and provided further that such senior securities representing indebtedness are not convertible into, exchangeable for, or accompanied by any options to acquire, any equity security except as permitted by Section 61 of the Act, and (2) Ventures may borrow from the SBA on such basis as the SBA may from time to time lend to SBIC's and as may be permitted under the Act and applicable rules thereunder, provided that Midland may not guarantee any such borrowings by Ventures. Midland may not itself, and may not cause or permit Ventures to, otherwise issue any class of senior security representing indebtedness. Applicants further state that the Prior Order requires that Midland, individually, and Midland and Ventures, on a consolidated basis, have the asset coverage required by Section 18(a), as modified by Section 61, of the Act, immediately after the issuance or sale of any senior security representing indebtedness.

Applicants seek to modify the Prior Order to permit Applicants to borrow from banks, insurance companies and other financial institutions, on a secured or unsecured basis, to borrow from each other, and to permit Midland to guarantee the borrowings of Ventures. Applicants represent that all borrowings by Midland and Ventures, except borrowings by Ventures from the SBA or from Midland, and borrowings by Midland from Ventures, will be subject to the asset coverage requirements of Section 18(a), as modified by Section 61 of the Act, applied on an individual basis to each Applicant and on a consolidated basis as to Midland and Ventures. In addition, any guarantee by Midland of borrowings by Ventures will not be deemed to be a senior security and will not be subject to the asset coverage requirements of Section 18(a), provided that 90% of Midland's assets are represented by its investments in Ventures or in securities similar to those in which Ventures invests. Further, Applicants state that any borrowings by Ventures from the SBA will not be subject to the Section 18(a) asset coverage requirement by reason of the Section 18(k) exclusion for SBIC's.

In support of their exemptive request, Applicants state that Ventures is currently permitted to issue up to $35,000,000 principal amount of SBA-guaranteed debentures, based on the Company's private capital at June 30, 1982, pursuant to Section 18(k) of the Act. The current application of the asset coverage requirements of Section 18(a), as modified by Section 61 of the Act, to Midland and Ventures on a consolidated basis, severely restricts the ability of Midland and Ventures to borrow funds for the purpose of making investments. As a result, the stockholder of Midland could be adversely affected since the policy of leveraging to make investments cannot be carried out to the fullest extent by Midland and Ventures.

Applicants assert that the policies with respect to leveraging to be implemented by Midland and Ventures if the requested order is granted by the Commission are consistent with their respective policies and are designed to take full advantage of the exemption made available to an SBIC, such as Ventures, by Section 18(k) of the Act. The grant by the Commission of the requested order would be consistent with the treatment afforded SBICs generally under Section 18(k), which is designed to enable such companies to avail themselves of the maximum

principal amount of permissible SBA-guaranteed debentures.

Accordingly Applicants submit that the exemption requested with respect to the asset coverage requirements of Section 18(a), as modified by Section 61 of the Act, is necessary and appropriate in order to provide the stockholders of Midland with the benefits resulting from leveraging. Further, the Applicants submit that since Midland and Ventures, as business development companies, will still be subject to the 200% asset coverage requirements of the Act, the requested exemption is consistent with the purposes of the Act and the protection of investors.

As business development companies, each of the Applicants is required to have a class of securities registered under Section 12(g) of the Exchange Act. Pursuant to Section 13(a) of the Exchange Act and the conditions of the Prior Order, Midland and Ventures are each obligated to file with the Commission the information and reports, including financial statements, required to be filed pursuant to the Exchange Act. The Applicants state, that the filing of such information and reports by Ventures with respect to its individual operations, in addition to such filings by Midland with respect to the consolidated operations of Midland and Ventures, is unduly burdensome, is not necessary to protect the investing public and does not advance the purposes of the Act.

Accordingly, the Applicants request an order of the Commission modifying the Prior Order to permit Midland to (1) file with the Commission, on behalf of itself and Ventures, all information and reports required to be filed with the Commission under the Exchange Act and other federal securities laws, including financial statements, prepared solely on a consolidated basis as to Midland and Ventures; such information and reports to be in statisfaction of the separate filing obligations of Ventures; and (2) provide to its stockholders such information and reports as are required to be disseminated to stockholders, including financial statements prepared solely on a consolidated basis as to Midland and Ventures, such reports to be in satisfaction of the separate reporting obligations of Ventures.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 12(h) of the Exchange Act provides that the Commission, by order upon application, may exempt, in whole or in part, any issuer or class of issuers from, inter alia, Section 13 of the Exchange Act, upon such terms and conditions as the Commission deems necessary or appropriate, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income of assets of the issuer, or otherwise, that such action is not inconsistent with the public interest or the protection of investors.

Midland and Ventures have represented in the application that, as a condition to the grant of an order pursuant thereto, they will comply with the following:

(1) Midland will at all times own and hold beneficially and of record all of the outstanding shares of capital stock of Ventures.

(2) Vacancies on the board of directors of Ventures occurring between Annual Meetings of Stockholders will be filled in the manner provided in Section 16(b) of the Act. Notwithstanding the foregoing, the board of directors of Ventures will be elected by Midland as the sole stockholder of Ventures and may be comprised of some, but not all, of the directors of Midland. All the officers of Midland will hold corresponding positions with Ventures.

(3) No person shall serve or act as an investment adviser to Ventures unless the directors and stockholders of Midland shall have taken the action required pursuant to Sections 15(a) and 15(c) of the Act.

(4) No person shall serve as the independent accountant of Ventures, unless the directors and stockholders of Midland shall have taken the action required pursuant to Sections 32 of the Act.

(5) Midland shall not itself issue, and Midland shall not cause or permit Ventures to issue, any senior security representing indebtedness or sell any senior security representing indebtness of which Midland or Ventures is the issuer except that: Midland and Ventures may issue and sell to banks, insurance companies and other financial institutions their secured or unsecured promissory notes or other evidences of indebtedness in consideration of any loan, or any extension of renewal thereof made by private arrangement, provided (a) such notes or evidences of indebtedness are not intended to be publicly distributed, (b) such notes or evidences of indebtedness are not convertible into, exchangeable for, or accompanied by any options to acquire, any equity security, except as otherwise permitted by Section 61(a)(3) of the Act, and (c) immediately after the issuance or sale of any such notes or evidences of indebtedness by either of Midland or Ventures, Applicants, on a consolidated basis, and individually, shall have the asset coverage required by Section 18(a), as modified by Section 61, of the Act, except that in determining whether Midland and Ventures, on a consolidated basis, have the asset coverage required by Section 18(a), as modified by Section 61, of the Act, any borrowings by Ventures pursuant to SBA-guaranteed debentures shall not be considered senior securities and, for purposes of the definition of "asset coverage" in Section 18(h) of the Act, shall be treated as indebtedness not represented by senior securities.

(6)(a) Ventures may obtain financing through the issuance of SBA-guaranteed debentures on such basis and in such amount as the SBA may from time to time permit for SBIC's, (b) Ventures may borrow from Midland, and Midland may borrow from Ventures, and (c) Midland may guarantee any borrowings by Ventures, provided that at the time of any such guarantee, and so long as any such guarantee shall be outstanding, 90% of the total assets of Midland are represented by its investment in Ventures or by securities similar to those in which Ventures invests. None of the borrowings or other arrangements permitted by this subparagraph (6) shall be deemed senior securities for purposes of any order issued pursuant to this application of Section 18 of the Act.

(7) Midland shall (a) file with the Commission, on behalf of itself and Ventures, all information and reports required to be filed with the Commission under the Exchange Act and other federal securities laws, including financial statements prepared solely on a consolidated basis as to Midland and Ventures, such information and reports to be in satisfaction of the separate filing obligations of Ventures; and (b) provide to its stockholders such information and reports as are required to be disseminated to Midland's stockholders, including financial statements prepared solely on a consolidated basis as to Midland and Ventures, such reports to be in satisfaction of the separate reporting obligations of Ventures; *provided, however*, that if 10% or more of Midland's total assets on a consolidated

basis are invested in assets other than securities issued by Ventures or securities similar to those in which Ventures invests, then, in addition to the consolidated financial statements of Midland and its subsidiaries, there shall be included in such reports separate financial statements of Ventures and separate financial statements of any subsidiary other than Ventures if Midland's investment in such subsidiary amounts of 10% or more of Midland's total assets on a consolidated basis. Midland shall also cause Ventures to file with the Commission copies of all reports that Ventures is required to file with the SBA, including the financial reports required to be filed by Ventures on SBA Form 468 or appropriate successor form.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-629 Filed 1-12-83; 8:45 am]
BILLING CODE 8010-01-M

[File No. 22-12207]

Mobil Oil Corp.; Application and Opportunity for Hearing

January 5, 1983.

Notice is hereby given that Mobil Oil Corporation ("Mobile") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of Bankers Trust Company under an indenture dated as of October 1, 1971 (the "Qualified Indenture") between Mobil and Bankers Trust Company which was heretofore qualified under the Act, and the successor trusteeship by Bankers Trust under an indenture dated as of April 1, 1983 between Mobil Oil Corporation as issuer, and Bankers Trust Company as successor Trustee (the "New Indenture"), are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from continuing to act as Trustee under the Qualified Indenture were it to act as successor Trustee under the New Indenture. The New Indenture was filed as an Exhibit to the Registration Statement No. 2-21145 of Mobil under the Securities Act of 1933, effective March 27, 1963, and was contemporaneously qualified under the Act.

Section 310(b) of the Act, which is included in Section 7.08 of the Qualified Indenture, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of Mobil are outstanding.

The present application, filed pursuant to clause (ii) of Section 310(b)(1) of the Act (as set forth in Section 7.08 of the Qualified Indenture), seeks to exclude the New Indenture from the operation of Section 310(b)(1) of the Act.

The effect of the proviso contained in clause (ii) of Section 310(b)(1) of the Act on the matter of the present application is such that the New Indenture may be excluded from the operation of Section 310(b)(1) of the Act (as set forth in Section 7.08 of the Qualified Indenture) if Mobil shall have sustained the burden of proving by this application to the Commission that the trusteeships of Bankers Trust Company under the Qualified Indenture and under the New Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from continuing to act as trustee under the Qualified Indenture were it to act as trustee under the New Indenture.

Mobil alleges that:

(1) At November 1, 1982, Mobil Oil Corporation, a New York corporation, as issuer, had outstanding $186,600,000 aggregate principal amount of 7¾% Debentures Due October 1, 2001, under the Qualified Indenture (the "Debentures"). The Debentures issued pursuant to the Qualified Indenture were registered under the Securities Act of 1933 and the Qualified Indenture was qualified under the Act.

(2) Bankers Trust Company is successor Trustee under the New Indenture under which there are outstanding $112,500,000 aggregate principal amount 4¼% Debentures Due 1993. Mobil Oil Corporation is the successor in title of Socony Mobil Oil Co., Inc.

(3) The obligations of Mobil in respect of the Debentures and under the New Indenture are wholly unsecured and all such obligations will rank equally without seniority or subordination of any such obligations to any of the others.

(4) No default has at any time existed under the Qualified Indenture, or the New Indenture.

(5) Such differences as will exist between the Qualified Indenture and the New Indenture are not likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as trustee under the Qualified Indenture were it to act as trustee under the New Indenture.

Mobil has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section, 450 5th Street, NW., Washington D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after February 4, 1983, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939. Any interested person may, not later than February 3, 1983 at 5:30 p.m., Eastern Standard Time, in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person

submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-936 Filed 1-12-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 12944]

New York Tax-Free Trust; Filing of an Application

January 4, 1983.

In the matter of New York Tax-Free Trust, 421 Seventh Avenue, Pittsburgh, PA 15219 (812–5346).

Notice is hereby given that New York Tax-Free Trust ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on October 19, 1982, with an amendment thereto on December 17, 1982, seeking an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit Applicant to acquire rights to sell its portfolio securities to brokers or dealers and from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value in the manner described in the application such rights acquired from banks, brokers, or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that Federated Research Corp. is its investment adviser and that Federated Securities Corp. is its distributor; both are wholly-owned subsidiaries of Federated Investors, Inc. of Pittsburgh, Pennsylvania. Applicant states that its investment objective is to provide current income exempt from Federal income taxes and personal income taxes imposed by New York State and New York municipalities consistent with stability of principal. Applicant states that it will pursue its objective by investing in a diversified portfolio of New York municipal securities including Industrial Development Bonds with remaining maturities of one year or less at the time of purchase. Accordingly, Applicant states that it does not intend to purchase taxable "money market" obligations, and that during defensive periods or when suitable tax-exempt obligations are unavailable, it may hold uninvested cash reserves. Applicant further states that it will not seek profits through short-term trading, but intends to hold its portfolio securities to maturity.

Applicant states that in addition to a constant net asset value per share,[1] its shareholders require the ability to receive same-day redemption proceeds in Federal funds. Applicant states that the maturities of short-term, tax-exempt obligations are ordinarily not as frequent as those of other "money market" instruments; further, maturity dates of short-term, tax-exempt obligations are ordinarily not negotiable. Applicant asserts that the maturity dates of available obligations are sufficiently infrequent that it cannot rely on day-to-day scheduled maturities to meet net redemptions. Therefore, according to Applicant, a portion of its assets must be retained in cash or very short-term instruments thereby reducing the investor's yield.

Applicant proposes to improve its portfolio liquidity by purchasing standby commitments ("puts") from banks, brokers, or dealers. Applicant represents that the purpose of the acquisition of puts will be to facilitate portfolio liquidity.

Applicant represents that the puts will have the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they may be acquired at any time prior to the maturity of the underlying security; (3) Applicant's rights to exercise them will be unconditional and unqualified; (4) they will be entered into only with dealers, banks, and brokers who in the investment adviser's opinion present a minimal risk of default; (5) although they will not be transferable, municipal securities purchased subject to the puts could be sold to a third party at any time, even though the puts were outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal securities that are subject to puts (excluding any accrued interest that Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant. Applicant states that, since it values municipal securities on an amortized cost basis, the amount payable upon exercise of a put will be substantially the same as the value of the underlying securities. Moreover, Applicant submits that there is little risk of an event occurring that would make amortized cost valuation of its portfolio securities inappropriate; however, Applicant represents that in the unlikely event that the market or fair value of its portfolio securities is not substantially equivalent to their amortized cost value, the Applicant's trustees may determine that the instruments should be valued on the basis of available market quotations. Applicant states that it expects to refrain from exercising the puts in such a situation to avoid imposing a loss on the bank, broker, or dealer and jeopardizing its business relationship with that entity.

Applicant states that if necessary or advisable, it will pay for puts either separately in cash or by paying a higher price for the municipal securities that are acquired subject to the put. Applicant represents that the total amount "paid" in either manner for outstanding puts held in its portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any put is acquired.

Applicant states that it is difficult to evaluate the likelihood of use or the potential benefit of a put. Therefore, Applicant states that it will deem the puts to have a "fair value" of zero, regardless of whether any direct or indirect consideration was paid. When Applicant has paid for a put, its cost will be reflected as unrealized depreciation for the period during which the put is held. In addition, Applicant states that for purposes of complying with the condition of its amortized cost order that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, the maturity of a portfolio security shall not be considered shortened or otherwise affected by the acquisition of the puts.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant

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[1] Applicant received an order of the Commission dated October 8, 1982, (Investment Company Act Release No. 12723), exempting Applicant from the provisions of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit it to value its assets using the amortized cost method of portfolio valuation.

requests an order pursuant to Section 6(c) of the Act excepting it from the provisions of Sections 12(d)(3) and 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit it to value puts acquired from banks, brokers, or dealers as proposed. Applicant assert that the requested relief is appropriate in the public interest and consistent with the protection of investors.

Applicant submits that the proposed acquisition of puts will not affect its net asset value per share and will not pose new investment risks, but will improve its liquidity and it ability to pay redemption proceeds the same day in Federal funds. In addition, Applicant submits that its reliance upon the credit of dealers, banks, and brokers from which it purchases puts will be secured to the extent of the value of the underlying municipal securities that are subject to the puts. Therefore, Applicant asserts that its acquisition of puts will not expose it to a risk of loss qualitatively different from that faced by any investment company that is holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. Moreover, Applicant represents that its investment adviser intends to evaluate periodically the credit of institutions issuing puts to it.

Applicant represents that it will not acquire puts to promote reciprocal practices, to encourage distribution efforts, or to obtain research services. Accordingly, Applicant asserts that the acquisition of such puts will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require it to evaluate the credit of dealers in determining its net asset value.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-031 Filed 1-12-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12203]

Occidental Petroleum Corp.; Application and Opportunity for Hearing

January 7, 1983.

Notice is hereby given that Occidental Petroleum Corporation (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Chemical Bank under an existing indenture that has been qualified under the Act, and an indenture dated as of October 1, 1982 which has not been qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chemical Bank from acting as Trustee under either of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

(1) Chemical Bank currently is acting as trustee under an indenture under which the Applicant is an obligor. The indenture, dated as of January 15, 1966, and entered into between Hooker Chemical Corporation ("Hooker") and Chemical Bank, Trustee, (the "1969 Indenture"), involved the issuance of $25,000,000 principal amount of 4¾% Sinking Fund Debentures Due January 16, 1991 the "Debentures"). The Indenture was filed as Exhibit 4(b) to Hooker's Registration Statement No. 2–24400 filed under the Securities Act of 1933 and has been qualified under the Act. Pursuant to a Guarantee dated August 19, 1969 (the "1969 Guarantee"), Applicant guaranteed (i) the prompt and timely payment of the principal of and interest and premium, if any, on the Debentures and (ii) compliance with the 1969 Indenture's sinking fund provisions.

(2) The Applicant is not in default in any respect under the 1969 Indenture, the 1969 Guarantee or under any other existing indenture.

(3) On November 16, 1982 Chemical Bank entered into an Indenture of Trust, dated as of October 1, 1982 (the "1982 Indenture") with the City of Storm Lake, Iowa (the "City"), pursuant to which there were issued $9,700,000 principal amount of Floating Rate Monthly Demand Industrial Development Revenue Bonds (IBP Properties, Inc. Project) 1982 Series (the "Bonds").

(4) IBP Properties, Inc., an indirect wholly-owned subsidiary of Applicant ("IBP") is obligated to pay an amount equal to the principal of, premium, if any, and interest on the Bonds pursuant to a Loan Agreement dated as of October 1, 1982 (the "Loan Agreement") between the City and IBP, which Loan Agreement has been assigned to Chemical Bank, as Trustee.

(5) Pursuant to a Guaranty Agreement dated as of October 1, 1982 (the "1982 Guarantee") between Applicant and the City, Applicant has guaranteed the full and prompt payment by IBP of the amounts referred to in the preceding paragraph. The 1982 Guarantee has been assigned to Chemical Bank, as Trustee.

(6) The Bonds have not been registered under the Securities Act of 1933 on the basis of the exemption provided by Section 3(a)(2) thereof, and the 1982 Indenture has not been qualified under the Act on the basis of the provisions of Section 304 thereof.

(7) The 1982 Guarantee, if enforced against Applicant would rank on a parity with the obligations evidenced by the 1969 Guarantee and the obligations of Applicant under the 1982 Guarantee and the 1969 Guarantee are wholly unsecured.

(8) Aside from differences among the 1969 Indenture and the 1982 Indenture as to amounts, interest rates, maturity

dates, redemption dates and redemption powers, and differences in form between the 1969 Indenture and the 1982 Indenture, the terms of said indentures are substantially similar.

Such differences as exist between the 1969 Indenture and the 1982 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chemical Bank from acting as Trustee under either of said indentures.

(9) Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C.

Notice is further given that any interested person may, not later than January 31, 1983, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-937 Filed 1-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12943]

Pantepec International, Inc.; Filing of an Application

January 4, 1983.

In the matter of Pantepec International Inc., 37 Lewis Street, Suite 500, Hartford, CT 06103 (812-4250).

Notice is hereby given that Pantepec International, Inc. ("Applicant") registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified, management investment company, filed an application on December 15, 1977, and amendments thereto on April 19, October 12, October 19, and November 17, 1982, requesting an order of the Commission pursuant to Sections 17(b) and 23(c)(3) of the Act and Rule 23c-1(c) thereunder permitting a proposed transaction between Applicant and Canso Oil & Gas, Inc. ("Canso"), an affiliate of Applicant. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below and to the Act for the complete text of pertinent provisions of the Act.

According to the application, Applicant is a publicly-owned Delaware corporation whose primary business objective is the exploration for and development of oil and gas resources. Although Applicant states that it desires to continue in the oil and gas business and does not intend to invest in securities, it has registered under the Act because the value of 500,000 shares of capital stock of Magellan Petroleum Australia Limited ("MPAL") owned by Applicant exceeds 40% of the value of Applicant's total assets thereby causing Applicant to fall within the definition of an investment company contained in Section 3(a)(3) of the Act.

Applicant proposes to purchase 1,300,199 shares of its capital stock (with represent about 17.7% of all of its issued and outstanding shares of capital stock) from Canso in exchange for $300,000 and 500,000 MPAL shares. Applicant states that its shares are traded on the Boston Stock Exchange and that the price of the stock is subject to frequent and unpredictable changes due to the "thin" market for those securities. Applicant represents that, during the 6-month period ended June 30, 1982, the daily average closing price of its shares on the Boston Stock Exchange was $1.35 per share.

Based on that average closing price, the shares of the Applicant owned by Canso had an approximate market value of $1,755,000 as of June 30, 1982. It is also represented that, as of June 30, 1982, Applicant's assets consisted of (1) $1,283,000 of cash and other current assets, (2) 2,692,732 shares of MPAL stock having a book value of $1,646,000, and (3) certain direct interests in Canadian oil and gas properties having a book value of $84,000. These assets also had the following corresponding fair values, as determined by Applicant, as of June 30, 1982: (a) cash and other current assets $1,283,000; (b) MPAL stock—$7,863,000 and (c) Canadian oil and gas properties—$2,309,000. The value of the MPAL shares was derived by taking the 2,692,732 MPAL shares owned by the Applicant at a price of $2.92 per share. MPAL shares are traded principally within Australia on the Brisbane Stock Exchange in a very volatile market. The $2.92 per share price was derived by averaging the daily closing price for MPAL shares on the Brisbane Stock Exchange for the 6-month period ended June 30, 1982, and translating the result into United States dollars. The valuation of the Canadian oil and gas properties is based upon an appraisal in the form of a letter, dated July 16, 1982, from D & S Group to Gherardi and O'Donnell Associated, Inc.

Applicant states that the stock to be surrendered by Canso in the proposed exchange had a book value of $507,459 as of June 30, 1982, and represented $2,005,233 of Applicant's shareholders' equity, computed on a fair value basis. In exchange for these shares, Canso will receive $300,000 cash plus 500,000 MPAL shares having a fair value of $1,460,000 and a book value of $305,638. This results in a total payment to Canso, computed on a fair value basis, of $1,760,000. Applicant states that, using June 30, 1982 figures, Canso will surrender shares having an interest in shareholder's equity (computed on a fair value basis) of $2,005,233, and an approximate market value of $1,755,000, in exchange for assets having a fair value of $1,760,000.

It is asserted that, by virtue of its ownership of 17.7% of the Applicant's capital stock, Canso is an "affiliate" of the Applicant, as defined in Section 2(a)(3) of the Act. Thus, Section 17(a)(2) of the Act would prohibit the proposed transaction, absent an exemptive order.

Section 17(b) of the Act provides that the Commission, upon application, may exempt a transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act. Section 23(c) of the Act prohibits a registered, closed-end, investment company from purchasing any securities of which it is the issuer except under certain circumstances not relevant herein or under such other circumstances as the Commission may permit by rules and regulations or orders for the protection of investors in order to insure that such purchases are made in a manner or on a basis which

does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

Applicant submits that the proposed transaction with Canso is fair and reasonable to its remaining shareholders. Applicant states that consummation of the transaction will result in Canso receiving assets having a fair value of $1,760,000 in exchange for stock whose share of the Applicant's fair value is $2,005,000. This, Applicant asserts, will result in a transfer of about $245,000 of fair value to its remaining shareholders. Applicant believes, however, that the actual financial benefit to its remaining shareholders is substantially greater because the valuation of its oil and gas properties is based solely upon revenues expected to be derived from these properties under specific contracts for utilization of proved and developed reserves and gives no effect to probable other reserves which the Applicant believes are of significant additional value.

Applicant submits that one of the primary reasons for its willingness to consummate the proposed transaction is the willingness of Canso to forego any interest in these possible additional reserves in order to obtain cash and securities for which an established market exists. As a result, the Applicant's remaining shareholders will benefit from an increase in their proportionate interest in these oil and gas properties. This benefit, according to Applicant, is consistent with its business objective of conducting an oil and gas business and with the original investment intent of the greater number of its shareholders who are believed to have invested in the Applicant's stock as a means of participating in the oil and gas exploration and development business.

Applicant states that one of its primary business objectives is to reduce significantly its holdings of MPAL shares in order to generate cash to be used for purchasing working interests in oil and gas properties and to allow it to deregister as an investment company under the Act. Notwithstanding the foregoing, Applicant asserts that the proposed exchange will be beneficial because it will materially reduce the substantial block of MPAL shares owned by the Applicant in a single transaction without the payment of any brokerage fees or any risk of driving down the price of MPAL shares by attempting to dispose of them in the public market.

In addition, Applicant represents that consummation of the proposed transaction will also have the effect of retiring the largest block of its stock held by an single shareholder. Applicant states that no other shareholders of record owns any significant percentage of its outstanding stock and it believes that elimination of this potentially controlling block will improve its ability to conduct an oil and gas business.

Applicant states that its board of directors believes that the price to be paid to Canso for its shares is fair and reasonable to Applicant's remaining shareholders. The shares which will be surrendered to the Applicant have a trading value, represented by the price of the Applicant's stock on the Boston Stock Exchange, and an underlying "fair" value, represented by Canso's *pro rata* portion of the shareholders' equity of the Applicant, valued on a fair value basis. Applicant states that owing to the "thinness" and volatility of the trading market for its shares, its board of directors believes that fair value is a truer measure of the "value" of what is being received by the Applicant. It is asserted that since the shares received will be retired and not resold, fairness to the remaining shareholders should be measured on the basis of the effect on shareholders' equity as opposed to a comparison of trading values. Using this approach, Applicant states that its board of directors also believes that a discount of about $245,000 may in fact exist in the proposed transaction because the Applicant is receiving shares representing $2,005,000 of shareholders' equity and giving up assets with a fair value of $1,760,000, the latter figure representing valuation of the MPAL shares on the basis of prices on the Brisbane Stock Exchange. According to Applicant, these prices tend, in the opinion of its board, to overstate the value of the MPAL shares since they give no consideration to the effect on the market of attempting to dispose of a large block of MPAL shares.

Finally, it is represented that it is Applicant's policy to decrease its holdings in investment securities and to purchase additional working interests in oil and gas properties. Applicant asserts that the proposed Canso transaction is consistent with these policies and is also consistent with the general purposes of the Act, since Applicant's shareholders have been informed of the transaction, no shareholder will be discriminated against, and each shareholder will benefit from the transaction for the reasons described above.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-832 Filed 1-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22814]

Vermont Yankee Nuclear Power Corp.; Short-Term Notes to Banks

January 6, 1983.

In the matter of; Vermont Yankee Nuclear Power Corporation; Brattleboro, Vermont, (70–6831).

Vermont Yankee Nuclear Power Corporation ("Vermont Yankee"), an electric utility subsidiary of both New England Electric System and Northeast Utilities, registered holding companies, has filed a declaration with this Commission pursuant to Section 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act").

Vermont Yankee operates a 540 MW nuclear-powered generating plant in Vernon, Vermont. During 1983 and 1984, Vermont Yankee will be receiving shipments of uranium for ultimate fabrication into nuclear fuel for its reactor in excess of Vermont Yankee's current lines of credit. Vermont Yankee currently maintains lines of credit in the principal amount of $3,500,000 each with The First National Bank of Boston and Bankers Trust Company (the "Banks"). As of October 31, 1982, Vermont Yankee had no loans outstanding under those lines.

Vermont Yankee intends to request that the Banks and/or bank lenders increase their lines to a maximum aggregate of $16,000,000 and proposes to issue and sell its notes pursuant thereto during the period ending December 31, 1984. Borrowings under the lines of credit will be evidenced by the company's promissory notes, maturing up to three months after their date of

issue and bearing interest at a rate of interest not greater than each lender's prime rate. The Banks require Vermont Yankee to maintain compensatory balances equal to 7.5% of the lines and 7.5% of any borrowings thereunder and other bank lenders may require similar arrangements. Assuming full borrowings under the lines and a prime rate of 12% per annum, the effective cost of borrowing would be 14.12%. Vermont Yankee presently anticipates that the borrowings will be repaid during such period by internally generated funds or a permanent fuel financing arrangement.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 31, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-698 Filed 1-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19389; File No. SR-MSRB-82-14]

Municipal Securities Rulemaking Board; Proposed Rule Change

January 3, 1983.

Filing of proposed rule change by Municipal Securities Rulemaking Board, Inc., 1150 Connecticut Ave., NW., Washington, D.C. 20036; File No. SR-MSRB-82-14.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 29, 1982, the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission the proposed rule change described below. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend MSRB Rule G-12, which prescribes uniform standards for clearance and settlement of municipal securities transactions, by deleting paragraph (d)(ix) which relieves municipal securities brokers of the obligation to send a corrected confirmation when there is a CUSIP number discrepancy on two compared transactions. Under the proposed rule change municipal securities brokers and dealers will be required to issue corrected confirmations after resolving a discrepancy of CUSIP numbers on two compared transactions. Furthermore, the MSRB believes that the industry's experience with using the CUSIP system has decreased the number of erroneous CUSIP number selections and that this requirement will not be unduly burdensome.

The proposal has been adopted by the MSRB pursuant to Section 15B(b)(2)(c) of the Act as amended in order to further the objectives of using automated clearing systems consistent with Section 17A of the Act. The MSRB states that the proposal results from the recognition of the need for clear and precise identification of securities through CUSIP numbers in order to employ more effectively automated technologies in the clearing process, which involves the comparison of CUSIP numbers; to augment yield disclosures on confirmation, which requires identification of call features for possible use in yield computations; and to identify credit distinctions between securities of the same issuer, which entails reference to secondary features or sources of payment. The MSRB finds that the CUSIP number has become so significant that it is impossible to compare transactions successfully solely by means of the other information provided on the inter-dealer confirmation.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-MSRB-82-14.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and or any subsequent amendments also will be available for inspection and copying at the MSRB's office.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-628 Filed 1-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19396; File No. SR-NYSE-82-22]

New York Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1), notice is hereby given that on November 19, 1982, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend Rule 431(d) to provide for the adoption of a margin system for options on stock indices.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C)

below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose of Proposed Rule Changes.* The Exchange currently has on file with the Commission a proposed rules package to establish a market for trading options on the NYSE Indices (File #SR–NYSE–82–2). The purpose of the herein proposed amendment to Rule 431 is to establish a margin system for options on all broad based stock indices.

This margin system has been designated to be simple to understand and compute and would eliminate the need for setting minimum or maximum margin requirements, and computing adjustments for in or out of the money amounts.

The margin requirements of this system would be set at 10% of the current market value of the specific index times the appropriate multiplier plus 100% of the current (daily) market value of the option (premium). This would be both an initial and a maintenance requirement. The percentage of the value of the underlying securities could be adjusted based on the annualized price volatility of the product, or to meet market fluctuations or other unforseen conditions. The percentage (100%) of the current (daily) market value requirement would not change.

(b) *Statutory Basis for the Proposed Rule Change.* The proposed amendments to Rule 431(d) are consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 in that the proposed margin system is designed to foster cooperation and coordination with persons engaged in regulating transactions in securities by fostering uniformity between self-regulatory organizations in the requirements governing the extension of credit with respect to securities transactions.

The proposed amendments are further consistent with Section 6(b)(5) in that the proposed margin system is designed to protect investors and the public interest by setting sufficient margin requirements to cover almost all exposure due to market fluctuations.

The proposed amendments are consistent with the rules and regulations prescribed by the Board of Governors of the Federal Reserve System for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, pursuant to Section 7(a) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange had neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552,, will be available for inspection and copying in the Commission's Public Referenece Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization.

All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 4, 1983.

Shirley E. Hollis,

Assistant Secretary.

Exhibit I—Amendment to Rule 431(d)

Note.—Italic indicate material proposed to be added; brackets indicate material proposed to be deleted.

(2) Puts, Calls and Other Options.—

(A) No change.

(B) No change.

(C) For purposes of this paragraph (d)(2), obligations issued by the United States Government shall be referred to as United States Government shall be referred to as United States Government obligations. Mortgage pass-through obligations guaranteed as to timely payment of principal and interest by the Government National Mortgage Association shall be referred to as GNMA obligations. The terms "current market value" *or "current market price"* of an option shall mean the total cost or net proceeds of the option [transaction] *contract* on the day the option was purchased or sold and at any other time shall be the preceding business day's closing price of that option (*times the appropriate unit of trading or multiplier*) as shown by any regulatory published reporting or quotation service.

The term "stock option (contract)" shall mean an option contract on a single stock. The term "index stock group option (contract)" shall mean an option contract on an index stock group. The definitions contained in Section (b) of Rule 700, Applicability, Definitions and References, shall apply to the terms used in this paragraph (d)(2).

(D) The minimum margin on any put or call issued, guaranteed or carried "short" in a customer's account shall be:

(i) In the case of puts and calls traded in the over-the-counter market and representing *stock* options [on equity securities] *or index stock group options,* 50% of the market value of the equivalent number of shares of the underlying security, increased by any unrealized loss or reduced by any excess of the exercise price over the current market [price] *value* of the underlying security [,] *or the current index group value of the underlying index stock group,* in the case of a call, or any excess of the current market [price] *value* of the underlying security *or the current index group value of the underlying index stock group,* over the exercise price, in the case of a put, or;

(ii) In the case of puts and calls listed or traded on a registered national securities exchange and representing *stock* options [on equity securities], 30% of the market value of the equivalent number of shares of the underlying security, increased by any unrealized loss or reduced by any excess of the exercise price over the current market [price] *value* of the underlying security, in the case of a call, or any excess of the current market [price] *value* of the underlying security over the exercise price, in the case of a put, or;

(iii) No change.

(iv) No change.

Notwithstanding the foregoing *in this subsection (D):*

(*a*) [i] If the option contract provides for the delivery of obligations with different maturity dates or coupon rates, the computation of the "out-of-the-money amount" if any, where required by this Rule, shall be made in such a manner as to result in the highest margin requirement on the short option position.

(*b*) [ii] The minimum margin on any and each put or call issued, guaranteed or carried "short" in a customer's account shall be not less than $250, in the case of [an option on equity securities] *a stock option,* or $500, in the case of an option on:

(*1*) $1,000,000 principal amount of U.S. Treasury Bills which mature in 95 days or less, or

(*2*) $500,000 principal amount of U.S. Treasury Bills which mature in more than 95 days, or

(*3*) $100,000 principal amount of other obligations issued by the United States Government, or

(*4*) $100,000 principal amount of obligations unconditionally guaranteed as to principal or interest by the United States Government or any agency thereof other than GNMA obligations.

However, in the case of an option on a smaller principal amount of such obligations, then that portion of $500 that the smaller principal amount bears to the principal amount specified above, but in any event not less than $100.

(v) No change.

(vi) In the case of puts and calls listed or traded on a registered national securities exchange and representing options on index stock groups, 100% of the current market value of the option plus 10% of the product of the current index group value and the appropriate index multiplier.

(E)(*i*) Each put or call shall be margined separately and any difference between the *current* market [price] *value* of the underlying security *or the current index group value of the underlying index stock group* and the exercise price of a put or call shall be considered to be of value only in providing the amount of margin required on that particular put or call. Substantial additional margin must be required on options issued, guaranteed or carried "short" with an unusually long period of time to expiration, or written on securities which are subject to unusually rapid or violent changes in value, or which do not have an active market, or where the securities subject to the option cannot be liquidated promptly.

(ii) No margin need be required on any "covered" put or call.

(F)(i) If both a put and call *specifying* [for] the same number of shares of the same [equity] *underlying* security, [or] the same principal amount of the same United States Government obligation *or the same index multiplier for the same index stock group* are issued, guaranteed or carried "short" for a customer, the amount of margin required shall be the margin on the put or call whichever is greater, as required pursuant to (D) above, plus any unrealized loss on the other option. The minimum margin requirement, however, shall not apply to the other option.

(ii) No Change.

(G)(i) Where a call that is listed or traded on a registered national securities exchange is carried "long" for a customer's account and the account is also "short" a call listed or traded on a registered national securities exchange, expiring on or before the date of expiration of the "long" listed call and *specifying* [, written on] the same number of shares of the same [equity] *underlying* security, [or] the same principal amount of the same United States Government obligational[,] *or the same index multiplier for the same index stock group,* the margin required on the "short" call shall be the lower of (*1*) the margin required pursuant to (D)(ii) above, in the case of [equity securities] *stock options,* or (D)(iv) above, in the case of United States Government obligations, *or (D)(vi) above, in the case of index stock group options* or (*2*) the amount, if any, by which the exercise price of the "long" call exceeds the exercise price of the "short" call.

Where a put that is listed or traded on a registered national securities exchange is carried "long" for a customer's account and the account is also "short" a put listed or traded on a registered national securities exchange, expiring on or before the date of expiration of the "long" listed put and *specifying* [, written on] the same number of shares of the same [equity] *underlying* security or the same principal amount of the same United States Government obligation[,] *or the same index multiplier for the same index stock group,* the margin required on the "short" put shall be the lower of (*1*) the margin required pursuant ot (D)(ii) above, in the case of [equity securities] *stock options,* or (D)(iv) above, in the case of United States Government obligations, *(D)(vi) above, in the case of index stock group options* or (*2*) the amount, if any, by which the exercise price of the "short" put exceeds the exercise price of the "long" put.

(ii) No change.

(H)(i) No change.

(ii) Where a call *representing stock options* is issued, guaranteed or carried "short" against an existing net "long" position in a warrant convertible into the [equity] *underlying* security under option, margin shall be required on the call equal to any amount by which the conversion price of the "long" warrant exceeds the exercise price of the call, provided (*1*) such net long position is adequately margined in accordance with this Rule and (*2*) the right to convert the net "long" position does not expire on or before the date of expiration of the "short" call. However, when a payment of money is required to convert the "long" warrant such warrant shall have no value for purposes of this Rule.

(iii) No change.

(I) No change

(J) No change.

(K) No change.

[FR Doc. 83-694 Filed 1-12-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-18407; File No. SR-NYSE-82-23]

New York Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 22, 1982 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule changes and Information Memo as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule changes consist of amendments to Rules 282, 284 and 289 and a related Information Memo, which describe the procedures for implementing and initiating buy-ins.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The purposes of the proposed rule changes are to eliminate Exchange staff involvement in processing buy-ins and to provide for the delivery of buy-ins from the initiating firm directly to the defaulting firm. This procedure would be consistent with the current practice of the direct broker-to-broker method of handling business. Elimination of staff involvement will coincide with the current buy-in processes under which National Stock Clearing Corporation/ Continuous Net Settlement operates. The large amount of fails to deliver which were prevalent in the late 1960s and early 1970s is no longer a factor with the advent of automated clearance of securities. Consequently, the number of buy-ins submitted to the Exchange has declined dramatically over the years.

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and Information Memo and discussed any comments it received on the proposed rule changes. The self-regulatory organization has prepared summaries, set forth in sections (A) (B), (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The statutory basis of the proposed rule changes is Section 6(b)(5) of the Securities Exchange Act. The proposed rule changes and Information Memo promote the purposes of this Section in that they foster cooperation and coordination with persons engaged in regulating, clearing, settling and facilitating transactions in securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes and Information Memo will impose any burden on competition not necessary or appropriate to further the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule changes and Information Memo.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes and Information Memo that are filed with the Commission, and all written communications relating to the proposed rule changes and Information Memo between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: January 5, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-695 Filed 1-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19406; File No. SR-PSE-82-15]

Pacific Stock Exchange Inc.; Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1982, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[1]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend its Constitution to increase the number of elected Governors on the Board from fourteen to sixteen and to expand the eligibility requirements to be a Governor. In addition, several proposed amendments remove unnecessary restrictions on the ability of persons to become members and define existing relationships between persons associated with member organizations.

The new language in Article III of the Constitution is intended to expand the requirements for eligibility to become a Governor of the Exchange. In addition to members and allied members of the Exchange, other persons associated with member firms either directly or indirectly through the member firms' affiliates or subsidiaries may now qualify as nominees for Governor. The eligibility requirements were also expanded to include persons associated with members firms of the Pacific Clearing Corporation and participant firms of Pacific Securities Depository Trust Company Incorporated, as well as the subsidiaries and affiliates of those firms.

With the more liberalized eligibility requirements for the office of Governor proposed in Article III, the restriction that no two or more Governors may be associated with the same member firm needed to be more clearly defined to include direct as well as indirect association. Either of two specific tests will be used to determine indirect association. The first such test would determine if any officer or director in one member firm or affiliated company also served as officer or director in a second member firm or affiliated company. The second test to be used to determine indirect association would be ownership interest of at least 1% of the outstanding publicly traded stock of a member firm or its affiliated company. Such an ownership interest would, by definition, result in a determination of indirect affiliation on behalf of the member firm and the nominee for Governor associated with that member firm.

The definition of "allied member" will be changed to remove the requirement that an employee who is actively engaged in the business of a member firm and devotes a major portion of his time thereto or beneficially owns 5% or more of the outstanding voting stock of a member organization must be deemed to be an "allied member." In its place, the definition incorporates the concept of "control" as the basis on which to determine if an employee is to be considered an "allied member." The definition of control will be included as part of Sec. 1 of the Rules of the Board of Governors. The requirement that a person who beneficially owns 5% or more of the stock of a member organization must be considered to be an "associated person" is also eliminated from Article V. The determining factor as to when a person will be deemed to be an "associated person" will be the concept of control. This change is consistent with the change proposed in the defintion of "allied member."

Additional Constitutional amendments will: (a) Permit persons

[1] The Commission is publishing this notice in advance of the required PSE membership approval of the constitutional changes described below in Item I; the Exchange expects membership approval to occur at the annual meeting scheduled for January 20, 1983.

associated with specialist firms but who are not registered as specialists to serve as members of the Allocation committee; and (b) eliminate the restriction which requires a member to be actively engaged in the business of his member organization and devote a major portion of his time thereto. Two new definitions for "control" and "person" will also be added to Sec. 1 of the Rules of the Board of Governors.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Recent years have seen a number of important changes in the character and volume of business conducted by the PSE and its subsidiary companies. It is important for the PSE to have available the wisdom and involvement of persons directly interested in these new and growing aspects of its business. The amendments proposed to Articles II and III of its Constitution are intended to make this possible by increasing the number of elected Governors and by broadening the definition of eligibility from involvement in the member firm to involvement in a parent, subsidiary or other affiliated firm of the member firm. The proposed amendments also make persons affiliated with a Pacific Clearing Corporation member firm, a Pacific Securities Depository Trust Company participant firm, or a parent, subsidiary or affiliated firm of such a member or participant, eligible to be a Governor. The nomination and election process is not proposed to be changed so only members can vote for members of the nominating committee or Board of Governors.

The present restriction which requires a member to be actively engaged in the business of his member organization and devote a major portion of his time thereto is to be deleted to permit individuals having capital to invest, but who are unwilling or unable to devote all their time to the member organization, to become associated with member organizations. It also provides greater latitude for dual associations, both within and outside the securities industry.

The proposed amendments to the Pacific Stock Exchange Constitution are consistent with Section 6(b) of the Securities Exchange Act of 1934, in general, and further the objectives of Section 6(b)(2) and 6(b)(3) of the Act, in particular, in that they provide for registered brokers and dealers or natural persons associated with registered brokers and dealers to become members of the Exchange or to become associated with members of the Exchange and assure fair representation of members in the administration of the affairs of the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the Federal Register or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 5, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-653 Filed 1-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22861?]

National Distillers & Chemical Corp., et al.; Acquisition

January 7, 1983.

In the matter of National Distillers and Chemical Corporation; DR Acquisition Corporation, 99 Park Avenue, New York, New York 10016; (70-6835); Proposed acquisition of gas utility companies.

National Distillers and Chemical Corporation ("National"), a Virginia corporation, and its wholly-owned subsidiary DR Acquisition Corporation ("DR"), a Delaware corporation, have filed with this Commission an application and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act") requesting authorization under Sections 9(a)(2) and 10 to acquire the common stock of Suburban Propane Gas Corporation ("Suburban"), which has two gas utility subsidiaries, Jackson Vangas, Inc. ("Jackson"), a Wyoming corporation, and Siskiyou Vangas, Inc. ("Siskiyou"), a California corporation. All interested persons are referred to the amended application, which is summarized below, for a complete description of the proposed transaction.

Suburban is directly engaged in the marketing of propane in enclosed portable containers. Through subsidiaries it is also engaged in petroleum refining and marketing, oil exploration and development and heating equipment manufacturing. At September 30, 1981, it had total assets of $406 million and for its fiscal year then ended reported revenues of $851 million and net income of $25 million. Suburban's wholly-owned subsidiary,

Vangas, Inc., a California corporation, has two wholly-owned gas utility subsidiaries: Jackson, which distributes propane at retail through facilities owned and operated by it in Jackson, Wyoming and environs; and Siskiyou, which similarly distributes at retail in the towns of Yreka and Dunsmuir, California. The combined annual revenues of Jackson and Siskiyou are believed to be about $1.5 million. Suburban is a holding company exempt from the Act pursuant to Section 3(c), based upon pending exemption applications under Section 3(a)(3) (File Nos. 31–741 and 31–742).

National and DR have applied under Sections 9(a)(2) and 10 for approval of the acquisition of common shares of Suburban. Applicants own 5.8% of Suburban and have a right to acquire another 8.2% pursuant to an agreement.

In addition DR on January 3, 1983, commenced a tender offer to acquire an additional 3,000,000 shares of Suburban. If the offer is succesful, applicants will own approximately 70.6% of Suburban.

National is engaged, directly and indirectly, in the chemical, distilled spirits, metals and insurance businesses. At December 31, 1981, it had total assets of $1.7 billion and for the year then ended reported sales of $2.0 billion and net income of $137 million. DR was recently organized for the purpose of acquiring and holding the Suburban shares. Applicants state they are not affiliates of any other public-utility company or holding company thereof.

The proposed transaction may be subject to the jurisdiction of the California Public Utilities Commission and the Wyoming Public Service Commission.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 25, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the address specified above. Proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-626 Filed 1-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19392; SR–NYSE–82–21]

New York Stock Exchange, Inc.; Proposed Rule Change

January 3, 1983.

In the matter of New York Stock Exchange, Inc., 11 Wall Street, New York, NY 10005, (SR–NYSE–82–21); order approving proposed rule change.

The New York Stock Exchange, Inc. ("NYSE") submitted on November 12, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder: (1) to increase from 199 to 599 the size of orders eligible for routing and reporting through NYSE's Designated Order Turnaround ("DOT") System; (2) to implement the Active Stock Feature of the DOT System; and (3) to redesign the DIAN mark-sense cards used by specialists in reporting the execution of certain DOT orders.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19280, November 22, 1982) and by publication in the **Federal Register** (47 FR 54388, December 2, 1982). No comments were received with respect to the proposed rule charge.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and 11A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-629 Filed 1-12-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region II—Advisory Council; Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of New York, will hold a public meeting at 9:30 a.m. on Thursday, January 20, 1983, at the Jacob Javits Federal Building, 26 Federal Plaza, Room 305B (3rd floor), New York, New York, to discuss such business as may be presented by members, and staff of the U.S. Small Business Administration, or others present.

For further information, write or call Harry S. Tishelman, District Director, U.S. Small Business Administration, 26 Federal Plaza, New York, New York 10278 (212) 264–1318.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

January 7, 1983.

[FR Doc. 83-699 Filed 1-12-83; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulations governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96–221, March 31, 1980 (94 stat. 161), to that law's Federal override of State Usury ceilings, and to its forfeiture and penalty provisions.

Effective January 1, 1983, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 10.825% per annum.

Dated: January 6, 1983.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 83-1000 Filed 1-12-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/594]

Advisory Committee on International Investment, Technology, and Development; Partially Closed Meeting

The Department of State will hold a meeting of the Working Group on Treatment of Investment and Special Investment Problems of the Advisory Committee on International Investment, Technology, and Development on Tuesday, January 18, 1983, from 9:30 a.m. to 12:00 noon in Room 1207 at the Department of State, 2201 C Street NW., Washington, D.C. 20502. The meeting will be open to the public.

The Working Group will review the current work underway in the OECD on national treatment and in the OECD, GATT and World Bank on the use of performance requirements. An initial U.S. Government redraft of the 1977 investment policy statement will be presented for discussion and comment. Other investment topics to be raised include: the U.S. bilateral investment treaty program and the status of the EC draft directives.

The Working Group of the Department of State Advisory Committee on International Investment, Technology and Development will also meet Tuesday, January 18, 1983, from 12:00 to 1:00 p.m. in Room 1207 at the Department of State, 2201 C Street NW., Washington, D.C. 20502 in sessions which will not open to the public. As these sessions will include discussions of sensitive material relating to proposed revision of specific language on U.S. policy on investment, they have been closed pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(C)(9). The disclosure of the alternative language under consideration and revelation of considerations which go into policy development would substantially undermine and frustrate the U.S. position in bilateral and multilateral negotiations on international investment policy. The purpose of these discussions will be to elicit views concerning the further development of United States policy in the investment area.

Since notice of the open portion of the meeting has previously been published (47 FR 58422, December 30, 1982), and since it is not practicable to reschedule the meeting or defer consideration of the issues to be discussed, the 15-day advance notice of meeting normally provided is waived in this case.

Requests for further information on the meetings should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the open session of the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: January 7, 1983.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 83-1042 Filed 1-12-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular—Guidelines on the Marking of Powerplant Instruments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed Advisory Circular (AC) 20-88A and request for comments.

SUMMARY: Advisory Circular 20-88A is intended to provide guidelines for marking aircraft powerplant instruments. The AC is proposed to include recommended limit markings for conditional ratings, transients, and other concepts of instrument markings that were not included in the original advisory circular.

DATE: Comments must be received on or before February 14, 1983.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Regulations and Policy Office, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Neil Schalekamp, Regulations and Policy Office (ANM-110) at the above address; telephone (206) 764-7053.

SUPPLEMENTARY INFORMATION: A copy of the draft AC may be obtained by contacting the person named above under "FOR FURTHER INFORMATION CONTACT." Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Communications should identify AC 20-88A and be submitted to the address specified above. All communications received on or before the closing date for comments will be considered by the Regulations and Policy Office before issuing the final AC.

Issued in Seattle, Washington, on December 28, 1982.

D. L. Riggin,

Acting Manager, Aircraft Certification Division, Northwest Mountain Region.

[FR Doc. 83-974 Filed 1-13-83; 8:45 am]

BILLING CODE 4910-13-M

Timely Submission of Preapplications for Airport Grant Funds Under the Airport Improvement Program for Fiscal Year 1983

Section 509(e) of the Airport and Airway Improvement Act of 1982 (AAIA) provides that the sponsor of each airport to which entitlement funds are apportioned shall notify the Secretary, by such time and in a form he may prescribe, of the sponsor's intent to apply for entitlement funds. For FY 1983, notification of the sponsor's intent to apply for its entitlement funds shall be in the form of a project application or preapplication (FAA Form 5100-30 and SF 424), submitted to the FAA field office no later than June 1, 1983. Approval of applications or preapplications received after that date may be deferred by the FAA until the following fiscal year. FAA field offices, in developing their regional programs, may request sponsors' input at an earlier date. Every effort should be made to meet these regional deadlines.

To assure effective administration of the grant program and to provide information needed by the FAA to carry out its responsibilities under Section 508(d)(5) of the AAIA, sponsors should also submit preapplications prior to the FAA field office deadlines, but no later than June 1, notifying the FAA of the airport sponsor's intent to seek funds available under Section 505 of the AAIA for:

(a) Reliever airports;

(b) Airport noise compatibility planning and programs;

(c) Commercial service airports and public airports (other than commercial service airports) which were eligible for Federal assistance from funds appropriated under Section 15(a)(3) of the Airport and Airway Development Act of 1970 and to which either Section 15(a)(3)(A)(I) or 15(a)(3)(A)(II) of such Act applied during FY 1981, and

(d) Integrated airport system planning.

For additional information, contact Mr. John Selman, APP-520, on (202) 426-8500.

Issued in Washington, D.C.

Edgar M. Williams,

Acting Director, Office of Airport Planning and Programming.

[FR Doc. 83-671 Filed 1-12-83; 8:45 am]

BILLING CODE 4915-13-M

Maritime Administration

Approval of Applicant as Trustee

Notice is hereby given that American Security Bank, N.A., with offices at 1501 Pennsylvania Avenue, NW., Washington, D.C. 20013, has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

Dated: January 5, 1983.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 83-709 Filed 1-12-83; 8:45 am]

BILLING CODE 4910-81-M

Approval of Applicant as Trustee

Notice is hereby given that Trust Services of America, Inc., with offices at 700 Wilshire Boulevard, Los Angeles, California 90017, has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

Dated: January 5, 1983.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 83-707 Filed 1-12-83; 8:45 am]

BILLING CODE 4910-81-M

Fee for Fire Fighting Training Courses

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: This notice sets forth the fee assessed for enrollment in Fire Fighting Training Courses offered by and through the U.S. Maritime Administration and is in accordance with Office of Management and Budget Circular No. A-25.

EFFECTIVE DATE: This fee is effective with enrollments on and after July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Friedberg, Director, U.S. Department of Transportation, Maritime Administration, Office of Maritime Labor and Training, 400 7th Street, SW, Room 7302, Washington, DC 20590, Phone: (202) 426-5755.

SUPPLEMENTARY INFORMATION: The cost of conducting these courses has risen, necessitating a $25 fee per student per day. Accordingly, beginning July 1, 1983, the fee for attending these courses will be as follows:

Earle, New Jersey: 1 day course	$25.00
Toledo, Ohio: 4 day course (ship)	100.00
San Francisco, California:	
3 day course	75.00
5 day course	125.00
New Orleans, Louisiana:	
1 day course (barge)	25.00
2 day course (ship)	50.00

Payment shall be made to the registrar at the respective Maritime Administration Region Office in the form of a check or money order payable to "Maritime Administration-Transportation." Such receipts shall be deposited in an appropriate account as general receipts of the Treasury of the United States.

(Catalog of Federal Domestic Assistance No. 20.810, Supplementary Training)

Dated: December 22, 1982.

By Order of the Administrator, Maritime Administration.

Georgia P. Stamas,

Assistant Secretary, Maritime Administration.

[FR Doc. 83-708 Filed 1-12-83; 8:45 am]

BILLING CODE 4910-81-M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Comment closing date: February 15, 1983.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8957-N	Saber Aviation, Inc., Charlotte, NC	49 CFR 172.101, 172.204(c)(3), 173.27, 175.20(b), 175.30(a)(1), Part 107 Appendix B.	To authorize shipment of various Class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8958-N	Gow, Inc., Mosaic, PA	49 CFR 173.53(a), 173.60(b)(2)	To authorize certain grades of black powder contained in one-pound cans overpacked in DOT Specification 12H fiberboard box, not exceeding 50 pounds net weight, to be shipped as a flammable solid. (Modes 1, 2, 3.)
8960-N	Sunshine Aero Industries, Inc., Crestview, FL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.20(b), 175.30(a)(1), Part 107 Appendix B.	To authorize carriage of Class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for shipment by air. (Mode 4.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8961-N	Geosource, Inc., Corpus Christi, TX	49 CFR 173.119, 173.304, 173.315	To manufacture, mark and sell non-DOT specification devices described as portable meter provers containing hydrocarbon products, classed as flammable liquids or flammable gases. (Mode 1.)
8962-N	HTL Industries, Inc., Duarte, CA	49 CFR 173.302(a), 175.3, 178.44	To manufacture, mark and sell non-DOT specification girth welded stainless steel cylinders, patterned after DOT Specification 3HT, for shipment of nitrogen, classed as nonflammable gas. (Modes 1, 2, 4.)
8963-N	Atlantic Research Corporation, Gainesville, VA	49 CFR 173.86(e)(2)	To authorize rocket motors, Class B explosive, packed in DOT Specification 15A wooden boxes to be shipped in a propulsive state. (Mode 1.)
8964-N	Larsen Tool and Stamping Company, Attleboro, MA.	49 CFR 178.60-10	To manufacture, mark and sell DOT Specification 4B cylinders with markings stamped on the skirt or footstand of the cylinders, for shipment of those commodities presently authorized in DOT Specification 4B cylinders. (Modes 1, 2, 3.)
8965-N	Pressed Steel Tank Company, Inc., Milwaukee, WI.	49 CFR 173.302, 178.37	To manufacture, mark and sell non-DOT specification FRP hoop-wrapped steel composite cylinders comparable to DOT Specification 3AA cylinder for shipment of certain flammable and nonflammable compressed gases. (Mode 1.)
8966-N	All Pure Chemical Company, Inc., Tracy, CA	49 CFR 173.263, 173.272(c)(6)(12), 173.277(a)(1), 178.205.	To authorize shipment of various corrosive liquids contained in four one gallon polyethylene containers overpacked in a fiberboard box complying with DOT Specification 12B except for handholes in side panels of box. (Mode 1.)
8967-N	Hercules, Incorporated; Wilmington, DE	49 CFR 173.93(a)(11)	To authorize shipment of propellant explosives, solid, Class B in non-DOT specification palletized metal cage. (Mode 1.)
8968-N	Degussa Corporation, Teterboro, NJ	49 CFR 173.206	To authorize shipment of sodium metal, classed as flammable solid in non-DOT specification steel portable tanks comparable to DOT Specification 51. (Modes 1, 2, 3.)
8944-N	Union Carbide Corp., Danbury, CT	49 CFR 173.302, 173.34, Part 107, Appendix B.	To authorize DOT Specification 3AAX and 3T cylinders to be periodically retested by acoustic emission equipment instead of hydrostatic retest and to allow a reduced test pressure, latitude in external inspection, and determination of wall stress, etc., commensurate with the retest technique. (Modes 1, 2.)

NOTE.—The comment period for this application has been extended from December 8, 1982, to January 25, 1983.

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C.1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on January 4, 1983.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-613 Filed 1-12-83; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions form the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "p" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

Comment closing date: January 27, 1983.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
1479-X	Jet Propulsion Laboratory, Pasadena, CA.	1479
2000-X	Union Carbide Corporation, Danbury, CT.	2000
3330-X	Babcock and Wilcox Co., Lynchburg, VA.	3330
3498-X	U.S. Department of Defense, Washington, DC.	3498
4106-X	Liquid Air Corporation, Dallas, TX.	4106
4177-X	Hydrozyne Industries, Inc., Hauppauge, L.I., NY (see footnote 1).	4177
4338-X	Stauffer Chemical Company, Westport, CT.	4338
6007-X	Falcon Safety Products, Inc., Mountainside, NJ.	6007
6215-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	6215
6218-X	Liquid Carbonic Corporation, Chicago, IL.	6218
6267-X	Alden Leeds, Inc., South Kearny, NJ.	6267
6309-X	Olin Corporation, Stamford, CT (see footnote 2).	6309
6517-X	Coyne Cylinder Company, Huntsville, AL.	6517
6545-X	San Diego Gas & Electric Company, San Diego, CA.	6545
6556-X	Castle & Cooke, Inc., San Francisco, CA.	6556
6564-X	Castle & Cooke, Inc., San Francisco, CA.	6564
6583-X	Phillips Petroleum Company, Bartlesville, OK.	6583
6628-X	Airco Welding Products, Murray Hill, NJ.	6628
6634-X	FMC Corporation, Philadelphia, PA.	6634
6674-X	Degussa Corporation, Teterboro, NJ.	6674
6874-X	Twain, Incorporated, Denver, CO.	6874
6922-X	Halocarbon Products Corporation, Hackensack, NJ.	6922
7074-X	Allied Chemical, Morristown, NJ.	7074
7296-X	Liquid Carbonic Corporation, Chicago, IL.	7296
7625-X	Hydrite Chemical Company, Milwaukee, WI.	7625
7633-X	Sea Containers Atlantic, Ltd., Hamilton, Bermuda.	7633
7671-X	Sea Containers Atlantic, Ltd., Hamilton, Bermuda.	7671
7766-X	Plast-Drum Corporation, Lockport, IL (see footnote 3).	7766
7897-X	Sea Containers Atlantic, Ltd., Hamilton, Bermuda.	7897
7938-X	Sea Containers Atlantic, Ltd., Hamilton, Bermuda.	7938
8060-X	Diamond Shamrock Corporation, Pasadena, TX.	8060
8086-X	U.S. Department of Defense, Washington, DC.	8086
8090-X	Union Carbide Corporation, Danbury, CT.	8090
8115-X	Acurex Corporation, Mountain View, CA.	8115
8116-X	Environmental Resources Associates, South Chicago Heights, IL.	8116
8225-X	Hoover Universal, Inc., Beatrice, NE (see footnote 4).	8225
8251-X	Sea Containers Atlantic, Ltd., Hamilton Bermuda.	8251
8374-X	Sea Containers Atlantic, Ltd., Hamilton Bermuda.	8374
8401-X	ERA Helicopters, Inc., Anchorage, AK.	8401
8417-X	Sea Containers Atlantic, Ltd., Hamilton Bermuda.	8417
8484-X	Fruehauf Corporation, Omaha, NB.	8484
8510-X	Dow Chemical Company, Freeport, TX.	8510
8516-X	Atlas Powder International, Limited, Miami, FL.	8516
8520-X	Atlas Powder Company, Dallas, TX.	8520
8525-X	Associated Container Transportation (USA), New York, NY.	8525
8554-X	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	8554
8561-X	HTL Industries, Incoporated, Duarte, CA.	8561
8564-X	Altus Corporation, San Jose, CA.	8564
8565-X	Olin Corporation, Stamford, CT	8565
8580-X	Priority Air, Incorporated, Sanford, FL.	8580
8646-X	Marshall Hyde, Incorporated, Port Huron, MI.	8646
8720-X	Applied Environments Corporation, Woodland Hills, CA (see footnote 5).	8720
8723-X	Ireco Chemicals, Salt Lake City UT (see footnote 6).	8723
8725-X	CNG Fuel Cylinder Corporation, Long Beach, CA (see footnote 7).	8725
8752-X	Thiokol Corporation, Elkton, MD	8752

[1] To renew and to authorize additional design accumulators.
[2] To remove the restriction against new construction of portable tanks.
[3] To authorize Class B poisonous solids and flammable solids as additional classification.
[4] To authorize an alternative use of a portable tank incorporating 2 four-inch fill and discharge top openings instead of current 2-inch openings.
[5] To authorize an additional cylinder design similar to those presently authorized except for thickness of the hemispherical ends.
[6] To authorize a portable tank as an additional container for shipment of blasting agents.
[7] To authorize an alternate bend test; and increase water capacity to 500 pounds and to authorize use of a ring specimen for bend and tensile tests.

Application No.	Applicant	Parties to exemption
5022-P	Thiokol Corporation, Elkton, MD	5022
5403-P	Halliburton Industrial Services, Inc., Duncan, OK.	5403
5776-P	Lil-O-Gen Division of Allied Healthcare Products, St. Louis, MO.	5776
6518-P	Syntex Chemicals, Inc., Boulder, CO.	6518
6762-P	Aqua-Serv Engineers, Incorporated, Los Angeles, CA.	6762
6762-P	National Chemical, Atlanta, GA	6762
6772-P	Rhone-Poulenc, Inc., Monmouth Junction, NJ.	6772
7024-P	Avondale Mills, Sylacauga, AL	7024
7026-P	Walter Kidde, Division of Kidde, Inc., Wilson, NC.	7026
7052-P	AVCO, Wilmington, DE (see footnote 1).	7052
7052-P	The Bendix Corporation, Kansas City, MO.	7052
7060-P	Airway Express, Inc., Mesa, AZ	7060
7080-P	M. T. Associates, Inc., Warwick, RI.	7080
7286-P	Partefer, Paris, France,	7286
7767-P	Walter Kidde, Division of Kidde, Inc., Wilson, NC.	7767
7770-P	Partefer, Paris, France,	7770
7811-P	J. T. Baker Chemical Company, Phillipsburg, NJ.	7811
7835-P	Suburban Welders Supply Co., Inc., Ashland, MA.	7835
7971-P	Walter Kidde, Division of Kidde, Inc., Wilson, NC.	7971
8060-P	Partefer, Paris, France,	8060
8129-P	Rhone-Poulenc, Inc., Monmouth Junction, NJ.	8129
8439-P	Walter Kidde, Division of Kidde, Inc., Wilson, NC.	8439
8445-P	FMC Corporation, Princeton, NJ	8445
8519-P	Polish Ocean Lines, Gdynia, Poland.	8519
8627-P	Omega Treating Chemicals, Inc., Midland, MI.	8627
8671-P	Bulk Lift International, Inc., Carpentersville, IL.	8671
7811-P	J. T. Baker Chemical Company, Phillipsburg, NJ.	7811
7835-P	Suburban Welders Supply Co., Inc., Ashland, MA.	7835
7971-P	Walter Kidde, Division of Kidde, Inc., Wilson, NC.	7971
8060-P	Partefer, Paris, France	8060

Application No.	Applicant	Parties to exemption
8129-P	Rhone-Poulenc, Inc., Monmouth Junction, NJ.	8129
8439-P	Walter Kidde, Division of Kidde, Inc., Wilson, NC.	8439
8445-P	FMC Corporation, Princeton, NJ	8445
8519-P	Polish Ocean Lines, Gdynia, Poland.	8519
8627-P	Omega Treating Chemicals, Inc., Midland, MI.	8627
8671-P	Bulk Lift International, Inc., Carpentersville, IL.	8671

[1] Request party status and to authorize an additional filling device.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on January 4, 1983.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83-614 Filed 1-12-83; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement on a Proposed Multimodal Transportation Terminal in Oxnard, California

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the City of Oxnard are jointly undertaking the preparation of an Environmental Impact Statement (EIS) for a proposed multimodal transportation terminal in Oxnard, California. The EIS is being prepared in conformance with 40 CFR Part 1500, Council on Environmental Quality Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended and 49 CFR Part 622, Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures.

FOR FURTHER INFORMATION CONTACT: Mr. Edward L. Thomas, Senior Community Planner, UMTA Region IX Office at (415) 556-9364 or Mr. Dennis Matthews, Redevelopment Administrator, City of Oxnard at (805) 486-4311 Ext. 2289.

SUPPLEMENTARY INFORMATION:

Project Description

The proposed project is located in downtown Oxnard. The location encompasses approximately four acres of land bounded by Fifth Street on the north, Oxnard Boulevard on the west, Seventh Street on the south and the Southern Pacific Railroad on the east.

The multimodal terminal would provide improved access between Caltrans commuter rail service, AMTRAK rail service, intercity and transit bus services and automobiles.

Alternatives

There are several alternatives including No-Action. These alternatives are development of the multimodal terminal at other sites in downtown Oxnard and at various locations within the project site. Under the No-Action, the bus modes would continue operating at separate sites and the rail services would continue sharing the present facility.

Probable Environmental Impacts

All of the action alternatives could result in business and residential displacements, increased traffic, noise and air quality impacts in the vicinity of the alternative sites. The proposed action will also alter the land use, neighborhood social structure and property values.

Scoping Meeting

UMTA is sponsoring a scoping meeting for the preparation of the EIS. The topics for discussion will include the need for the action, range of alternatives, probable environmental impacts and the procedures for estimating those impacts. The scoping meeting is scheduled for January 12, 1983, 7:30 PM in the Council Chambers of the City of Oxnard, 305 West Third Street, Oxnard, California.

Dated: December 21, 1982.

Robert H. McManus,

Associate Administrator for Grants Management.

[FR Doc. 83-862 Filed 1-12-83; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted to OMB for Review

During the period December 30, 1982 through January 6, 1983, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. NW., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of entry.

Date Submitted: December 30, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545-0124.
Form Number: 1120-DISC Sch K, N & P.
Type of Submission: Revision.
Title: Domestic International Sales Corporation Return and its related Schedules K, N & P.
Purpose: U.S. Corporations that have elected to be treated as domestic international sales corporations file Form 1120-DISC to report their income and deductions. DISCs are not taxed, however, shareholders of a DISC are taxed on DISC income. The IRS use Form 1120-DISC to ascertain if the DISC has correctly computed its income and schedule K to determine if shareholders of a DISC have correctly reported DISC income. Schedule N gives historical information on a DISC's income. Schedule P is used by a DISC that has dealings with a related supplier.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: January 3, 1983.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545-0222.
Form Number: 6047.
Type of Submission: Revision.
Title: Windfall Profit Tax.
Purpose: Section 4986 of the Internal Revenue Code imposes an excise tax on the windfall profit derived on domestic oil productions. Form 6047 is the form purchasers of domestic oil use to report the windfall profit on the oil and the windfall profit tax. IRS uses Form 6047 to ascertain whether the windfall profit and the windfall profit tax have been correctly computed.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: January 5, 1983.
Submitting Bureau: Bureau of Public Debt.
OMB Number: N/A (new submission).
Form Number: 5064.
Type of Submission: New.
Title: Certificate of Exemption from Withholding on Interest for Individuals and Exempt Recipients.
Purpose: Enables exempt individuals and recipients to file for exemption from or revoke a previously filed exemption withholding on interest earned as authorized by the Tax Equity and Fiscal Responsibility Act of 1982. Authorized Substitute for IRS Forms W-6 and 7.
OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

January 10, 1983.

Joy Tucker,

Department Reports, Management Officer.

[FR Doc. 83-867 Filed 1-12-83; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 447; Ref: ATF O 1100.95A]

Authority To Settle Alcohol, Tobacco and Firearms Tax Claims

PURPOSE: This order delegates certain authority to the Assistant Director (Regulatory Enforcement) to settle alcohol, tobacco and firearms tax claims.

CANCELLATION: ATF O 1100.95, Delegation Order—Authority to Settle Alcohol, Tobacco and Firearms Tax Claims, dated 9/1/78, is canceled.

DELEGATION: Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, by 26 U.S.C. 7851(b)(3) and by 26 CFR 301.7701-9, authority is hereby delegated to the Assistant Director (Regulatory Enforcement):

a. To allow or to reject, in whole or in part:

(1) Claims for drawback of tax paid or determined on distilled spirits used in nonbeverage products and filed under the provisions of 26 U.S.C. 5134(b).

(2) Claims for allowance, abatement, remission, refund, or credit of taxes imposed under Chapters 51 and 52 of Title 26 of the United States Code.

b. To determine tax liabilities and to allow or reject claims for abatement or refund of taxes or penalties, of for redemption of stamps, prescribed by Chapter 53 of Title 26 of the United States Code.

REDELEGATION: The authority delegated herein may be redelegated to regional

regulatory administrators. Regional regulatory administrators may redelegate this authority to regional Regulatory Enforcement personnel not lower then the position of chief, technical services, except that the authorities in paragraph 3a may be redelegated to not lower than the position of supervisor, technical section, as they apply to claims for amounts up to and including $5,000.

FOR FURTHER INFORMATION CONTACT: Manfred G. Roesler, Procedures Branch, 1200 Pennsylvania Avenue, NW, Washington, DC 20220; telephone (202) 566-7002.

EFFECTIVE DATE: January 13, 1983.

Approved: January 6, 1983.

Stephen E. Higgins,

Acting Director.

[FR Doc. 83-821 Filed 1-12-83; 8:45 am]

BILLING CODE 4810-31-M

Comptroller of the Currency

[Docket No. 82-27]

Termination of Closed Receivership Fund; Fourth Notice

Note.—This document originally appeared in the Federal Register of December 23, 1982. It is reprinted in this issue at the request of the agency.

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of Termination.

SUMMARY: Notice is hereby given that all rights of depositors and other creditors of national banks which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Company. The Office of the Comptroller of the Currency has appointed a receiver other than the Federal Deposit Insurance Corporation to collect liquidating dividends from the "closed receivership fund" shall be barred after twelve months following the date of the fourth publication of this notice.

FOR FURTHER INFORMATION CONTACT: Howard J. Finkelstein, Attorney, Legal Advisory Services Division, Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1880.

SUPPLEMENTARY INFORMATION: Pursuant to Section 409 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320 (Oct. 15, 1982), notice is hereby given that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the "closed receivership fund" will be barred after twelve months following the date of the fourth publication of this notice.

Sections 721-723 of the Depository Institutions Deregulation and Monetary Control Act of 1980 clarified the status of the "closed receivership fund" by establishing a procedure for the satisfaction or cancellation of all outstanding claims for liquidating dividends and the termination of the fund. However, the 1980 law applied only to national banks closed on or before January 22, 1934. After the law was passed it came to the Office's attention that there had been at least one bank closed after the above date for which the Comptroller appointed a receiver other than the Federal Deposit Insurance Company. The Office therefore sought clarification of the 1980 law from Congress. Congress provided such clarification in Section 409 of Pub. L. 97-320 by striking the date of January 22, 1934 from the statute and substituting therefor the phrase "which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation."

Under the provisions of the amended law, the Office will publish notices in the Federal Register once each week for four consecutive weeks that all rights of depositors and creditors of the fund will be barred after twelve months following the last date of publication of such notice. This is the fourth such notice. During this twelve month period, the Office will accept claims for liquidating dividends from the fund. A claim should consist of a Proof of Claim form received from the receiver at the time of the bank's closing or other acceptable evidence of an unsatisfied claim. Claims should be sent to the attention of Mr. Robert L. Teets, Manager, Accounting Programs, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Wahington, D.C. 20219.

Following the close of the twelve month period, all unclaimed dividends, together with income earned on liquidating dividends and other moneys remaining in the fund, will be covered into the general funds of the Office.

Dated: December 2, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-34793 Filed 12-22-82; 8:45 am]

BILLING CODE 4810-33-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 9
Thursday, January 13, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Postal Service	8
Synthetic Fuels Corporation	9

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 10, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of a trust as director, officer, or employee of an insured bank: Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Recommendation, pursuant to section 10(b) of the Federal Deposit Insurance Act, that the Corporation make special examination of a national bank to determine the condition of such bank for insurance purposes: Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13(e) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: January 10, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-44-83 Filed 1-11-83; 1:04 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, January 10, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those banks:

Case No. 45,560-L—Northern Ohio Bank, Cleveland, Ohio

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: January 10, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-45-83 Filed 1-11-83; 1:05 pm]

BILLING CODE 6714-01-M

3

FEDERAL ELECTION COMMISSION

Federal Register No. 9

PREVIOUSLY ANNOUNCED DATE AND TIME:
Tuesday, January 11, 1983 at 10 a.m.

CHANGE IN MEETING:

Pursuant to Section 3.5(d) of the Commission's Sunshine Regulations, the Federal Election Commission agreed on January 11, 1983, by a vote of 6-0, to discuss *FEC v. National Rifle Association of America, No. 81-1218 (Dist. Ct.)* in the Executive Session scheduled for January 11, 1983.

PREVIOUSLY ANNOUNCED DATE AND TIME:
Thursday, January 13, 1983 at 10 a.m.

CHANGE IN MEETING:

1. The following matter has been added for the Open Meeting scheduled for this date:

Finance Committee Report

Pursuant to Section 3.5(d) of the Commission's Sunshine Regulations, the Federal Election Commission agreed on January 11, 1983, by a vote of 6-0, to hold an Executive Session at the conclusion of the Open Meeting on Thursday, January 13, 1983 for the purpose of discussing *FEC v. National Rifle Association of America, No. 81-1218 (Dist. Ct.)*

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Public Information Officer; telephone 202-523-4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-46-83 Filed 1-11-83; 2:30 pm]

BILLING CODE 6715-01-M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, January 18, 1983 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance, Litigation, Audits, Personnel.

• • • • •

DATE AND TIME: Thursday, January 20, 1983 at 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings
Correction and approval of minutes
Certification
Advisory opinions:
Draft AO 1982-60 Jack Howell, Director of Federal Government Relations, The American Society of Mechanical Engineers
Draft AO 1982-61 Michael S. Starr, General Counsel, The Association of Trial Lawyers of America
Presidential Primary Matching Fund regulations
Routine Administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone 202-523-4065.

Marjorie W. Emmons,
Secretary of the Commission.

[S-39-83 Filed 1-13-83; 2:43 pm]
BILLING CODE 6715-01-M

5

FEDERAL RESERVE SYSTEM
Board of Governors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR. 370, Tuesday, January 4, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, January 10, 1983.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Proposed renovation and expansion of the Federal Reserve Bank of Chicago. (This item was previously announced for a meeting on January 5, 1983.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: January 10, 1983.

James McAfee,
Associate Secretary of the Board.

[S-43-83 Filed 1-11-83; 10:39 am]
BILLING CODE 6210-01-M

6

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 1-83]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Oral hearings on objections to decisions issued under the second Czechoslovakian Claims Program:

Monday, January 24, 1983 at 9:30 a.m.
CZ-4348—Frederick Wyman/Thomas G. Wyman
CZ-4349—Frederick Wyman/Frank H. Wyman
CZ-4352—Hans Wyman/Henry, Ralph & Russell
CZ-4347—Ella & Frank H. Wyman
CZ-4346—Ella & Thomas G. Wyman
CZ-3548—Francis L. Frybergh (Estate) Geraldine F. Yarroll, Administratrix
Monday, January 24, 1983 at 2:00 p.m.
CZ-2977—Eric Walter Weinmann
CZ-4113—Mary Dayton
CZ-4123—Paul Dayton
Tuesday, January 25, 1983 at 9:30 a.m.
CZ-2382—Frank P. Lester
CZ-2383—Elizabeth Weinberger
CZ-4190—Eric K. Petschek
CZ-4191—Ruth Petschek Stein
CZ-2454—Joseph Saxton, Andrew Barton and Stephen J. Kuffler
Tuesday, January 25, 1983 at 2:00 p.m.
CZ-3382—Blanka Maria Neumann
CZ-2117—Gertrude Dennis
CZ-2118—Estate of Elsa Pollak, Deceased
CZ-3891—Estate of Ernest T. Smolka, Deceased William W. Reiner, Successor Executor
Wednesday, January 26, 1983 at 9:30 a.m.—Consideration of decisions issued under the Vietnam Prisoner of War Claims Program.
Wednesday, January 26, 1983 at 9:30 a.m.—Hearing on the Record:
CZ-4406—Emmy Moles
CZ-4419—Edith Durand
CZ-3687—Gertrude M. Farno
Wednesday, January 26, 1983 at 9:30 a.m.—Petition to Reopen:
CZ-3015—Gordon Atter Popper
CZ-2666—Walter L. Speyer
CZ-2667—Ernest A. Speyer
Wednesday, January 26, 1983 at 2:00 p.m.
CZ-2368—Estate of Charles Stiassni, Deceased
CZ-2369—Joseph Stiassni
CZ-4834—Susan Martin, Assignee of Alfred & Hermine Stiassni
CZ-3384—Marie Kreyse Melvin
Thursday, January 27, 1983 at 10:00 a.m.
CZ-4809—Estate of William Petschek, Deceased Charles Petschek & Ralph E. Lowenberg, Executors
CZ-4810—Estate of Frank C. Petschek, Deceased Maria Smith, Janina Petschek and Elizabeth De Picciotto, Executrixes
CZ-4811(a)—Charles Petschek, Deceased Charles, Max, Thea & Thomas Petschek, Trustees
CZ-3612—Estate of Ernest Petschek, Deceased Annelise Fitzgerald, Successor Executrix
CZ-4811—Estate of William Petschek, Deceased
CZ-4813—Charles Petschek and Ralph E. Lowenberg, Executrixes, Estate of Frank C. Petschek and Elisabeth De Picciotto, Executrixes, Trust Under article "third" of the Will of Charles Petschek, Deceased; Charles I. Petschek, Max L. Petschek, Thea and Thomas Petschek, Trustees.
Thursday, January 27, 1983 at 2:00 p.m.—
Friday, January 28, 1983 at 9:30 a.m.—Completion of hearings on objections and matters continued from previous agendas and matters under submission.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Street NW., Room 409, Washington, DC 20579. Telephone (202) 653-6155.

Dated at Washington, D.C., on January 10, 1983.

Judith H. Lock,
Administrative Officer.

[S-46-83 Filed 1-11-83; 1:11 pm]
BILLING CODE 4410-01-M

7

NUCLEAR REGULATORY COMMISSION

DATE: Friday, January 14, 1983 and Week of January 17, 1983.

PLACE: Commissioners Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: Friday, January 14:

10:00 a.m.:
Discussion of Regulatory Reform Task Force—Legislative Proposals (Public Meeting)

Monday, January 17:

10:00 a.m.:
Discussion of Procedures for Hearing on NFS Erwin (Public Meeting)

Tuesday, January 18:

9:30 a.m.:
Briefing on SEP Program—Phase II Results (Public Meeting)
2:00 p.m.:
Discussion and Vote on Regulatory Reform Task Force—Legislative Proposals (Public Meeting) (postponed from January 7)

ADDITIONAL INFORMATION:

Discussion of Order in Waste Confidence Proceeding scheduled for January 6, *cancelled.*

Discussion/Possible Vote on Order in Clinch River Breeder Reactor Proceeding scheduled for January 7, *cancelled.*
Discussion and Possible Vote on Waste Confidence Order scheduled for January 12, *cancelled.*
Affirmation of Final Rule on OL Applications scheduled for January 13, *cancelled.*

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

January 7, 1983.

Walter Magee,

Office of the Secretary.

[S-42-83 Filed 1-11-83; 4:53 pm]

BILLING CODE 7595-01-M

8

POSTAL SERVICE

(Board of Governors)

Vote to Close Meeting

At its meeting on January 6, 1983, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting scheduled for January 31, 1983. A portion of the meeting to be closed will consist of a discussion of Postal Service strategic planning.

The Board is of the opinion that public access to this discussion would be likely to disclose information in connection with future collective bargaining and information that will become involved in future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further than, pursuant to section 552b(c)(10) of title 5 and § 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceedings or the litigation of a particular case involving a determination on the record after opportunity for a hearing. It also determined, pursuant to section 552b(c)(9)(B) and § 7.3(i) of title 39, Code of Federal Regulations, that the discussion is exempt because premature disclosure of information to be discussed would be likely significantly to frustrate implementation of future action in regard to future collective bargaining. The Board further determined that the public interest does not require that the Boards discussion of this matter to be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion this portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), (9)(B) and (10) of title 5 and sections 410(c)(3) and (4) of title 39, United States Code, and § 7.3(c), (i) and (j) of title 39, Code of Federal Regulations.

A second portion of the meeting to be closed will consist of a further discussion of the recommended decision of the Postal Rate Commission on third-class bulk rates in Docket No. R80–1, dated December 23, 1982.

The Board is of the opinion that public access to this discussion would be likely to disclose information that will become involved in current and future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.SC. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board determined further that, pursuant to section 552b(c)(10) of title 5 and § 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require the Board's discussion of this matter to be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3) and (10) of title 5 and section 410(c)(4) of title 39, United States Code, and § 7.3 (c) and (j) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S-40-83 Filed 1-11-83; 2:27 pm]

BILLING CODE 7710-12-M

9

SYNTHETIC FUELS CORPORATION

Meeting of the Board of Directors

ENTITY: United States Synthetic Fuels Corporation.

ACTION: Notice of meeting.

SUMMARY: Interested members of the public are invited to attend and observe a meeting of the Board of Directors of the United States Synthetic Fuels Corporation to be held at the time, date and place specified below. This public announcement is made pursuant to the open meeting requirements of Section 116(f)(1) of the Energy Security Act (9 Stat. 611, 637; 42 U.S.C. 8701, 8712(f)(1)) and Section 4 of the Corporation's Statement of Policy on Public Access to Board Meetings. During the meeting, the Board of Directors will consider a resolution to close a portion of the meeting pursuant to Article II Section 4 of the Corporation's By-laws, Section 116(f) of the said Act and Sections 4 and 5 of the said policy.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Minutes of Prior Meeting.
2. Report of the President.
3. Operations Report of the Executive Vice President.
4. Final Approval of Competitive Solicitation for Oil Shale Projects.
5. Consideration of Additional Targeted Solicitations.
6. Annual Report of the Corporation.
7. Corporation Fiscal Year 1983 and 1984 Administrative Budgets.
8. Annual Report of the Inspector General.
9. Reports of Committees of the Board.

Closed Session

10. Status Reports on Negotiations with Pending Projects.
11. Consideration of Pending Projects.

In addition, the Board of Directors will consider such other matters as may be properly brought before the meeting.

TIME AND DATE: 9:00 a.m., January 20, 1983.

PLACE: Four Seasons Hotel, Houston Center, Houston, Texas.

PERSON TO CONTACT FOR MORE INFORMATION: If you have any questions regarding this meeting, please contact Mr. Owen J. Malone, Office of General Counsel (202) 822–6336.

January 11, 1983.
United States Synthetic Fuels Corporation.
[illegible] E. Bowden,
Executive Vice President.

[S–47–83 Filed: 1–11–83; 1:48 pm]
BILLING CODE 6820–00–M

federal register

Thursday
January 13, 1983

Part II

Department of Energy

Economic Regulatory Administration

Public Utility Regulatory Policies Act of 1978 and National Energy Conservation Policy Act of 1978; Publication of Form ERA-166 for Annual Reports From States and Non-Regulated Utilities and List of Electric and Gas Utilities Covered by the Acts

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 463

[Docket No. ERA-R-79-19]

Annual Reports From States and Non-Regulated Utilities on Progress in Considering the Ratemaking and Other Regulatory Standards Under the Public Utility Regulatory Policies Act of 1978

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice and publication of Form ERA-166

SUMMARY: Sections 116 and 309 of the Public Utility Regulatory Policies Act of 1978 (PURPA) require State regulatory authorities and certain nonregulated utilities to submit, to the Department of Energy (DOE), annual reports on their progress in considering ratemaking and other regulatory standards established by Titles I and III of PURPA. Under the present DOE regulations (10 CFR Part 463), as amended by revising § 463.3 (a) and (c) (47 FR 33679, August 4, 1982), each of the reporting entities must file an annual report by February 28, 1983, covering the calendar year 1982 reporting period. All reports are to be made on Form ERA-166, a copy of which is appended to this notice.

DATE: Reports are due by February 28, 1983.

ADDRESS: All completed Forms ERA-166 should be addressed to: Petroleum and Electricity Division, Economic Regulatory Administration, Department of Energy, Form ERA-166, Room GA-017, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Steven Mintz, Petroleum and Electricity Division, Economic Regulatory Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., Room GA-017, Washington, D.C. 20585, (202) 252-4523.

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 1979 (44 FR 47264, August 13, 1979), the Economic Regulatory Administration (ERA) of the DOE issued a rule (10 CFR Part 463) setting forth the manner in which State regulatory authorities and certain nonregulated gas and electric utilities are reguired to report on their consideration of the ratemaking and other regulatory standards established by sections 111(b), 113(b) and 303(b) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 et seq. (16 U.S.C. 2601 et seq.).

DOE, in a Notice of Proposed Rulemaking (NOPR) published on March 15, 1982 (47 FR 11178), proposed amendments to the rule by changing the dates for the 12 month reporting period and changing the submission date for the report. After considering public comments which were submitted in response to the NOPR, DOE, on August 4, 1982, published a Final Rule (47 FR 33679), amending Part 463 to Chapter II, Title 10 of the Code of Federal Regulations by revising § 463.3 (a) and (c). The Final Rule requires the reporting entities to file their annual report on February 28 of each year beginning with 1983. Each of these annual reports must cover the immediately preceding calendar year (for example, the report due on February 28, 1983, shall cover the period January 1, 1982-December 31, 1982).

II. The Report Form

The Form ERA-166 is virtually identical to the form published on March 15, 1982 (47 FR 11178) except for date changes and minor clarifying instructions. It was approved by the Office of Management and Budget (OMB Control Number 1903-0060), and is being published today as an appendix to this notice. It will provide reporting entities with the earliest opportunity to prepare their reports for the calendar year.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 et seq.)

Issued in Washington, D.C. on January 3, 1983.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

Appendix

Form ERA-166 is reproduced below. This Form ERA-166 will not appear in title 10 (Parts 400-499), Code of Federal Regulations.

BILLING CODE 6450-01-M

Form Approved
OMB No. 1903-0060

Form Approved
OMB No. 1903-0060
(Expires 9-30-84)

PURPA ANNUAL REPORT OF ELECTRIC AND GAS UTILITIES

This report is mandatory under the Public Utilities Regulatory Policies Act of 1978 (P.L. 95-617) sections 116 and 309. Late filing or failure to report may result in criminal fines, civil penalties, and other sanctions as provided by law. See instructions regarding confidentiality.

Blue Section: Instructions

White Section: Questions to be Answered

Name of Regulatory Authority (or covered Nonregulated Utility)	Date (Mo, Da, Yr)

ERA-166 (11-82)

Form Approved
OMB No. 1903-0060
(Expires 9-30-84)

PURPA ANNUAL REPORT OF ELECTRIC AND GAS UTILITIES

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ERA-116 (11-82)

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES

SECTION I

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES

SECTION I
PART I

INSTRUCTIONS

GENERAL INFORMATION

I. Purpose

The PURPA Annual Report on Electric and Gas Utilities, Form ERA-166, will be used by the Economic Regulatory Administration (ERA) for annual reporting to the President and Congress on the progress of State regulatory authorities and certain nonregulated electric and gas utilities in considering and making determinations with respect to the standards established by PURPA.

II. When to Submit

A. Submit this report no later than February 28, 1983.

B. This report covers the period of January 1, 1982 to December 31, 1982.

III. What and Where to Submit

A. Submit pages:

27
28
30
31
35 (duplicated for each utility)
36 (duplicated for each utility)
44 (duplicated for each utility)

To:

PURPA Annual Report on Electric and Gas Utilities
Office of Fuels Programs
Economic Regulatory Administration
Department of Energy, Forrestal Building
1000 Independence Avenue, S.W., Room GA-017
Washington, D. C. 20585

B. ERA reserves the right to request any supplementary information from the State regulatory authority or covered nonregulatory utility as needed to fully understand the report.

C. ERA reserves the right to return any incorrectly completed reports. The official submission date will be assigned upon receipt of the correctly completed form.

For information concerning this report call
Steven Mintz
(202) 252-4523

IV. Who must Submit

A. Each State regulatory authority (with respect to each covered electric and gas utility for which it has rate making authority) and each covered nonregulated electric and gas utility must submit this report.

B. Covered Utilities

(1) Electric Utilities. The regulated and nonregulated electric utilities covered by this report are those whose total sales of electric energy (for purposes other than resale) exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediate preceding calendar year.

(2) Gas Utilities. The regulated and nonregulated utilities covered by this report are those whose total sales of natural gas (for purposes other than resale) exceeded 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediate preceding calendar year.

(3) Exclusion of Wholesale Sales. When determining eligibility, do not include regulating sales of electric energy or natural gas for purposes of resale.

(4) Published List. ERA published in the Federal Register a list of utilities covered under PURPA for each reporting year. The inclusion or exclusion of any utility on the list does not affect the legal obligation to report by such utility or the responsible State regulatory authority under PURPA.

V. Provisions of Confidentiality of Information

The information contained on these forms may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act of 5 USC 552(b)(4)(FOIA) or (ii) prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element-by-element basis, if possible), in a letter accompanying submission of the form, why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

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GENERAL INFORMATION (CONTINUED)

GENERAL INFORMATION (CONTINUED)

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should be withheld from the public, DOE will assume that the respondent does not object to disclosure to the public of any information submitted on the form.

A new written justification need not be submitted each time the ERA-166 is submitted if:

a. views concerning information items identified as privileged or confidential have not changed; and

b. a written justification setting forth respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any Committee of Congress, and to the General Accounting Office.

GENERAL INSTRUCTIONS

I. The PURPA Annual Report on Electric and Gas Utilities consists of 3 parts (these are included in Section II):

Part I: General Information on the State Regulatory Authority or Covered Nonregulated Utility

Part II: Questions Pertaining to Each of the Eleven Standards

Part III: Standard Specific Questions

II. In Section II, complete Parts II and III for each electric utility listed in Part I. Complete only questions pertaining to the termination of service (TOS) and advertising (ADV) standards for each gas utility listed in Part I. Enter NA for questions that are not applicable to either the electric or gas utility, or state regulatory authority.

III. Enter the electric or gas utility name, as appropriate, in the top right corner of each returned answer sheet from Parts II and III. If the utility provides both services, submit two answer sheets for the utility.

IV. Information regarding the consideration process for each standard must, to the extent practical, be summarized from the written determination and orders issued.

V. To facilitate data collection for this form, utilities which are unable to respond to questions as of the year ending December 1982 may choose to respond on a 1982 fiscal year basis. However, utilities must be consistent throughout the form as to which option is chosen.

DEFINITIONS

DEFINITIONS

(A) Class-With respect to electric and gas consumers, any group of such consumers who have similar characteristics of electric or gas energy use.

(B) Consideration Process-With respect to any of the standards established by sections 111, 113, or 303 of PURPA, the set of appropriate procedures carried out by a State regulatory authority or nonregulated utility culminating in a decision to adopt or reject such standard or in a determination required by PURPA. (See Section I on regulations).

(C) Electric Consumer-Any person, State agency, or Federal agency to which electric energy is sold other than for purposes of resale.

(D) Electric Utility-Any person, State agency, or Federal agency that sells electric energy.

(E) Evidence-Any testimony, data, staff reports, technical analyses, briefs, or any other statements, documents, or information admitted into the record of the proceedings respecting the consideration of the standards.

(F) Federal Agency-An executive agency (as defined in section 105 of the United States Code).

(G) Gas Consumer-Any person, State agency, or Federal agency to which natural gas is sold other than for purposes of resale.

(H) Gas Utility-Any person, State agency, or Federal agency engaged in the local distribution of the sale of natural gas.

(I) Load Management Technique-Any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including (but not limited to): ripple, radio, or automatic control mechanisms; other types of interruptible electric service, energy storage devices; and load-limiting devices.

(J) Nonregulated Electric Utility-Any electric utility with respect to which no State regulatory authority has rate making authority.

(K) Nonregulated Gas Utility-Any gas utility with respect to which no State regulatory authority has ratemaking authority.

(L) Person-An individual, partnership, corporation, unincorporated association or any group, organization, or entity.

(M) Rate- (1) Any price, rate, charge, or classification made, demanded, observed, or received with respect to the sale of electric energy by an electric utility to an electric consumer or the sale of natural gas to a gas consumer;

(2) Any rule, regulation, or practice respecting any such rate, charge, or classification; and

DEFINITIONS (CONTINUED)

(3) Any contract pertaining to the sale of electric energy to an electric consumer or the sale of natural gas to a gas consumer.

(M) Ratemaking Authority-Authority to fix, modify, approve, or disapprove rates.

(O) Sale-A transfer to a purchaser for consideration and, when used with respect to electric energy, includes any exchange of electric energy; or, when used with respect to natural gas, includes any exchange of natural gas.

(P) Standard-Refers to either the six ratemaking standards or the five regulatory standards.

The six ratemaking standards and their abbreviations as employed in this report include:

Cost-Of-Service standard . . . . . COS
Declining Block Rate standard . . . . . DBR
Time-Of-Day rate standard . . . . . TOD
SeasonaL Rate standard . . . . . SLR
INTerruptible rate standard . . . . . INT
Load Management Techniques standard . . LMT

The five regulatory standards and their abbreviations as employed in this report include:

Master-Metering standard . . . . . MM
Automatic Adjustment Clause standard . . AAC
Information To Consumers standard . . . ITC
Termination Of Service standard . . . . TOS
ADVertising standard . . . . . ADV

(Q) State-A State, the District of Columbia, and Puerto Rico.

(R) State Agency-A State, political subdivision thereof, and any agency or instrumentality of either.

(S) State Regulatory Authority-Any State agency that has ratemaking authority with repsect to: the sale of electric energy by an electric utility other than by such State agency (in the case of an electric utility with respect to which the TVA has ratemaking authority, such term means the TVA); or the sale of gas by any gas utility (other than by such State agency).

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SECTION I
PART II

REGULATIONS APPLICABLE TO THE 6 RATEMAKING STANDARDS: COS, DBR, TOD, SLR, INT, LMT

REGULATIONS APPLICABLE TO THE 6 RATEMAKING STANDARDS: COS, DBR, TOD, SLR, INT, LMT

Section 111(a-c) of PURPA requires consideration of six ratemaking standards, as follows:

"Sec. 111. CONSIDERATION AND DETERMINATION RESPECTING CERTAIN RATEMAKING STANDARDS.

(a) CONSIDERATION AND DETERMINATION - Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each non-regulated electric utility shall consider each standard established by subsection (d) and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this title. For purposes of such consideration and determination in accordance with subsections (b) and (c), and for purposes of any review of such consideration and determination in any court in accordance with section 123, the purposes of this title supplement otherwise applicable state law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) PROCEDURAL REQUIREMENTS FOR CONSIDERATION AND DETERMINATION.

(1) The consideration referred to in sub-section (a) shall be made after public notice and hearing. The determination referred to in subsection (a) shall be:

(A) in writing

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

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(2) Except as otherwise provided in paragraph (1), in the second sentence of section 112(a), and in sections 121 and 122, the procedures for the consideration and determination referred to in sub-sections (a) shall be those established by the State regulatory authority or the nonregulated electric utility.

(c) IMPLEMENTATION.

(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or non regulated electric utility may, to the extent consistent with otherwise applicable State law:

(A) Implement any such standard determined under subsection (a) to be appropriate to carry out the purposes of this title, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to such electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) which is determined under subsection (a) to be appropriate to carry out the purposes of this title, such authority or nonregulated electric utility shall state in writing the reasons therefore. Such statement of reasons shall be available to the public.

Sections 112, 121, and 122 of PURPA also establish requirements for this standard.

For the purpose of this report, for consistency with the joint committee managers report, and for consistency with terminology used in the regulatory community, the term "adopt" will be used throughout in the following questions as a synonym for the term "implement".

COST-OF-SERVICE STANDARD (COS)

REGULATIONS APPLICABLE TO THE COS STANDARD

Section 111(d)(1) of PURPA establishes the cost-of-service standard (COS) which states:

"Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under section 115(a)."

Section 115(a) states:

"In undertaking the consideration and making the determination under section 111 with respect to the standard concerning cost of service established by section 111(d)(1), the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods prescribed by the State regulatory authority (in the case of a State regulated electric utility) or by the electric utility (in the case of a nonregulated utility). Such methods shall to the maximum extent practicable:

(1) permit identification of differences in cost-incurrence, for each such class of electric consumers, attributable to daily and seasonal time of use of service and

(2) permit identification of differences in cost-incurrence attributable to differences in customer, demand, and energy components of costs. In prescribing such methods, such State regulatory authority and nonregulated electric

(continued on next page)

FOR PURPOSES OF ANSWERING COS RELATED QUESTIONS

The cost-of-service standard (COS) has been:

A. Adopted by a State regulatory authority, when such authority has:

1. specified methods for a utility covered by the standard to use to determine cost of service, in accordance with section 115(a) above;

2. issued a written policy (or order) that a utility covered by the standard shall provide cost-of-service data or studies in accordance with these methods with each rate application or rate processing, or on a specified regular basis, or both; and

3. issued a written policy that rates charged by a utility covered by the standard for each consumer class shall be designed, to the maximum extent practicable, to reflect the costs of service to such class, as provided in section 111(d)(1).

B. Adopted by a nonregulated utility, when such nonregulated utility has:

1. specified methods that it will use for determining cost of service, in accordance with section 115(a) above;

(continued on next page)

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COST-OF-SERVICE STANDARD (COS) (CONTINUED)

REGULATIONS APPLICABLE TO THE COS STANDARD (CONTINUED)

utility shall take into account the extent to which total costs to an electric utility are likely to change if:

(A) additional capacity is added to meet peak demand relative to base demand; and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers."

FOR PURPOSES OF ANSWERING COS RELATED QUESTIONS (CONT)

2. issued a written policy that it will develop cost-of-service data in accordance with these methods with each rate proceeding or on a specified regular basis, or both; and

3. issued a written policy that rates charged for each consumer class will be designed, to the maximum extent practicable, to reflect the costs of service to each class, as provided in section 111(d)(1).

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt.

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DECLINING BLOCK RATES STANDARD (DBR)

REGULATIONS APPLICABLE TO THE DBR STANDARD

Section 111(d)(2) of PURPA establishes the declining block rates standard (DBR) which states:

"The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of eletric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period."

FOR PURPOSES OF ANSWERING DBR RELATED QUESTIONS

The declining block rates standard (DBR) has been:

A. Adopted by a State regulatory authority, when such authority had issued written policies (or orders) providing:

1. that rates charged by utility covered by the standard shall not have declining block energy charges except to the extent that the utility has made the required demonstration (as defined in section 111(b)(2)); and

2. that the State regulatory authority will make a written determination of whether the utility has made the required demonstration.

B. Adopted by a nonregulated utility when such nonregulated authority had issued a written policy (or order) that its rates shall not have declining block energy charges except to the extent that it has made in writing the required demonstration, as defined in section 111(b)(2).

C. Rejected by a State regulatory or nonregulated utility when it had issued written policies (or orders) declining to adopt.

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TIME-OF-DAY RATES STANDARD (TOD)

REGULATIONS APPLICABLE TO THE TOD STANDARD

FOR PURPOSES OF ANSWERING TOD RELATED QUESTIONS

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TIME-OF-DAY RATES STANDARD (TOD)

REGULATIONS APPLICABLE TO THE TOD STANDARD

Section 111(d)(3) of PURPA establishes the time-of-day rates standard (TOD), which states:

"The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under section 115(b)."

Section 115(b) states:

"In undertaking the consideration and making the determination required under section 111 with respect to the standard for time-of-day rates established by section 111(d)(3), a time-of-day rate charged by an electric utility for providing electric service to each class of electric consumers shall be determined to be cost-effective with respect to each class of electric consumers if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of such rates."

For the purpose of answering the questions in this schedule, the term "time-of-day rate" means a rate that is on a time-of-day basis and that reflects the costs of providing electric service at different times of the day to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING TOD RELATED QUESTIONS

The time-of-day rates standard (TOD) has been:

A. Implemented by a State regulatory authority, when it had issued written policies for orders providing:

1. that a utility covered by the standard shall charge time-of-day rates (as defined above) to each consumer class unless such rates are not cost-effective with respect to such class; and

2. that the State regulatory authority will make a written determination of the cost-effectiveness of such rates in accordance with section 115(b).

B. Implemented by a nonregulated utility when it had issued written policies (or orders) providing:

1. that it shall charge time-of-day rates (as defined above) to each consumer class unless such rates are not cost-effective with respect to such class; and

2. that it will make a written determination of the cost-effectiveness of such rates in accordance with section 115(b).

C. Rejected by State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

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SEASONAL RATES STANDARD (SLR)

REGULATIONS APPLICABLE TO THE SLR STANDARD

Section 111(d)(4) of PURPA establishes the seasonal rates standard (SLR) which states:

"The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class for such utility."

For the purpose of answering the questions in this schedule, the term "seasonal rate" means a rate that varies by season and that reflects the costs of providing electric service at different seasons of the year to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING SLR RELATED QUESTIONS

The seasonal rates standard (SLR) has been:

A. Adopted by a state regulatory authority when such authority has issued written policies (or orders) providing:

1. that it will determine the costs of providing electric service to each consumer class at different seasons of the year for each utility covered by the standard; and

2. that a utility covered by the standard shall charge seasonal rates (as defined above) to each consumer class to the extent that such costs vary seasonally.

B. Adopted by a nonregulated utility, when such nonregulated utility has issued written policies (or orders) providing:

1. that it will determine the costs of providing electric service to each consumer class at different seasons of the year; and

2. that it shall charge seasonal rates (as defined above) to each consumer class to the extent that such costs vary seasonally.

C. Rejected by a State regulatory authority or nonregulated utility when it had issued written policies (or orders) declining to adopt this standard.

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INTERRUPTIBLE RATES STANDARD (INT)

REGULATIONS APPLICABLE TO THE INT STANDARD

FOR PURPOSES OF ANSWERING INT RELATED QUESTIONS

INTERRUPTIBLE RATES STANDARD (INT)

REGULATIONS APPLICABLE TO THE INT STANDARD

Section 111(d)(5) of PURPA establishes the interruptible rates standard (INT) , which states:

"Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member."

For the purpose of answering the questions in this schedule, the term "interruptible rate" means an interruptible rate that reflects the cost of providing interruptible service to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING INT RELATED QUESTIONS

The interruptible rates standard (INT) has been:

A. Adopted by a state regulatory authority when such authority has issued written policies (or orders) providing:

1. that a utility covered by the standard shall offer each industrial and commercial electric consumer an interruptible rate; and

2. that the state regulatory authority will determine the costs of providing interruptible electric service to each consumer class that includes industrial or commercial consumers.

B. Adopted by a nonregulated utility, when such nonregulated utility has issued written policies (or orders) providing that it shall offer each industrial and commercial consumer an interruptible rate that reflects its determination of the costs of providing interruptable service to each consumer class that includes industrial or commercial consumers.

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

LOAD MANAGEMENT TECHNIQUES STANDARD (LMT)

REGULATIONS APPLICABLE TO THE LMT STANDARD

Section 111(d)(6) of PURPA establishes the load management techniques standard (LMT) which states:

"Each electric utility shall offer to its electric consumers such load management techniques as the state regulatory authority (or the nonregulated electric utility) has determined will:

(A) be practicable and cost-effective, as determined under section 115(c),

(B) be reliable, and

(C) provide useful energy or capacity management advantages to the electric utility."

Section 115(c) states:

"In undertaking the consideration and making the determination required under section 111 with respect to the standard for load management techniques established by section 111(d)(6), a load management technique shall be determined, by the State regulatory authority or nonregulated eletric utility, to be cost-effective if:

(1) such technique is likely to reduce maximum kilowatt demand on the electric utility, and

(continued on next page)

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FOR PURPOSES OF ANSWERING LMT RELATED QUESTIONS

The load management techniques standard (LMT) has been:

A. Adopted by a State regulatory authority, when such authority has issued written policies (or orders) providing:

1. that it will make a written determination of the cost-effectiveness of load management techniques relevant to each utility covered by the standard, in accordance with section 115(c);

2. that it will make a written determination of whether each technique will be practicable and cost-effective (as defined above), be reliable, and provide useful energy or capacity management advantages to the electric utility; and

3. that a utility covered by the standard shall offer its electric consumers those load management techniques that the state regulatory authority has determined will meet the criteria above (in A.2).

B. Adopted by a nonregulated utility, when such nonregulated utility had issued written policies (or orders) providing:

1. that it will make a written determination of the cost-effectiveness of relevant load management techniques, in accordance with section 115(c);

(Continued on next page)

LOAD MANAGEMENT TECHNIQUES STANDARD (LMT) (CONTINUED)

REGULATIONS APPLICABLE TO THE LMT STANDARD (CONTINUED)

FOR PURPOSES OF ANSWERING LMT RELATED QUESTIONS (CONT)

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LOAD MANAGEMENT TECHNIQUES STANDARD (LMT) (CONTINUED)

REGULATIONS APPLICABLE TO THE LMT STANDARD (CONTINUED)

(2) the long-run cost-savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation of such technique."

For the purpose of answering the questions in this schedule, the term "load management techniques" means any technique (other than a time-of-day rate or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including (but not limited to): ripple, radio or automatic control mechanisms; other types of interruptible electric service; energy storage devices; and load-limiting devices.

FOR PURPOSES OF ANSWERING LMT RELATED QUESTIONS (CONT)

2. that it will make a written determination of whether each such technique will be practicable and cost-effective (as defined above), be reliable, and provide useful energy or capacity management advantages to the electric utility; and

3. that it will offer its electric consumers those load management techniques that it has determined will meet the criteria above (in B.2.)

C. Rejected by State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

SECTION I
PART III

REGULATIONS APPLICABLE TO THE FIVE REGULATORY STANDARDS: MM, AAC, ITC, TOS, ADV

Section 113(a) of PURPA requires public notice, hearing(s), and other actions respecting five regulatory standards established for electric utilities covered under Title I of PURPA, and Section 303(a) requires similar actions respecting two of these regulatory standards for gas utilities covered under Title III. With respect to the master metering (MM), automatic adjustment clause (AAC), information to consumer (ITC), termination of service (TOS), and advertising (ADV) standards, these sections establish the following requirements:

"Section 113/303. ADOPTION OF CERTAIN STANDARDS.

(a) Adoption of Standards--Not later than 2 years after the date of the enactment of this Act, each State regulatory authority (with respect to each electric (gas) utility for which it has ratemaking authority), and each nonregulated electric (gas) utility shall provide public notice and conduct a hearing respecting the standards established by subsection (b) and, on the basis of such hearing, shall:

(1) adopt the standards established by subsection (b) (other than paragraph (4) thereof) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate to carry out the purposes of this title, is otherwise appropriate, and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(4) if, and to the extent, such authority or nonregulated electric (gas) utility determines that such adoption is appropriate and consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) or (2) and any review of such determination in any court in accordance with section 123(307), the purposes of this title supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory or nonregulatory electric (gas) utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law."

Sections 121 and 122 of PURPA establish specific procedural requirements for this process with respect to electric utilities, and sections 121 and 305 establish the authority of the Secretary to intervene in appropriate proceedings for electric and gas utilities.

For the purposes of answering the questions on the advertising standard, the term "sufficient criteria" refers to the criteria established in section 113(a)(1). above: "appropriate to carry out the purposes of this title[1], otherwise appropriate, and consistent with otherwise applicable state law."

For the purposes of answering the questions on the termination of service standard the term "sufficient criteria" refers to the criteria established in section 113(a)(2), above: "appropriate and consistent with otherwise applicable State law."

[1] That is, to encourage: the conservation of energy supplied by electric and gas utilities; the optimization of the efficiency of use of facilities and resources by electric and gas utilities; and equitable rates to electric consumers.

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MASTER METERING STANDARD (MM)

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MASTER METERING STANDARD (MM)

REGULATIONS APPLICABLE TO THE MM STANDARD

Section 113(a)(1) states:

"Separate metering shall be determined appropriate for any new building for purposes of section 113(b)(1) if:

(1) there is more than one unit in such building,

(2) the occupant of each such unit has control over a portion of the electric energy used in such unit, and

(3) with respect to such portion of electric energy in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building."

For the purpose of answering the questions in this schedule:

(A) The term "master metering" (MM) applies to all cases where:

(1) There is more than one unit in the building and the electric metering does not permit identification of the energy consumption in individual units; or

(Continued on next page)

FOR PURPOSES OF ANSWERING MM RELATED QUESTIONS

The master metering standard (MM) has been:

A. Adopted by a State regulatory authority, when such authority has:

1. specified methods and procedures to be used by a utility covered by the standard in evaluating benefits versus costs of separate metering, in accordance with section 115(d)(3), and in determining whether separate metering is appropriate for a new building, in accordance with section 115(d); and

2. issued a written order that a utility covered by the standard shall not provide master metered service to new buildings except to the extent determined appropriate under those methods and procedures specified above.

B. Adopted by a nonregulated utility, when such nonregulated utility has:

1. specified methods and procedures that it will use in evaluating benefits versus costs of separate metering, in accordance with section 115(d)(3), and in determining whether separate metering is appropriate for a new building, in accordance with section 115(d); and

(Continued on next page)

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MASTER METERING STANDARD (MM) (CONTINUED)

REGULATIONS APPLICABLE TO THE MM STANDARD (CONTINUED)

(2) More than one such unit is treated as a single account for billing purposes.

(B) The term "separate metering" applies to all other cases.

FOR PURPOSES OF ANSWERING MM RELATED QUESTIONS (CONT)

2. issued a written policy that it will not provide master metered service to new buildings except to the extent determined appropriate under those methods and procedures specified above.

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

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AUTOMATIC ADJUSTMENT CLAUSES STANDARD (AAC)

REGULATIONS APPLICABLE TO THE AAC STANDARD

FOR PURPOSES OF ANSWERING AAC RELATED QUESTIONS

AUTOMATIC ADJUSTMENT CLAUSES STANDARD (AAC)

REGULATIONS APPLICABLE TO THE AAC STANDARD

Section 13(b)(2) of PURPA establishes the automatic adjustment clauses standard (AAC), which states: "No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 115(e)."

Section 115(a) states:

"(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if:

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) such clause is reviewed not less often than every two years, in the manner described in paragraph (2), by the State regulatory authority having ratemaking authority with respect to each utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economics in those operations and purchases which affect the rates to which such clause applies.

(Continued on next page)

FOR PURPOSES OF ANSWERING AAC RELATED QUESTIONS

The automatic adjustment clauses standard (AAC) has been:

A. Adopted by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) providing that every automatic adjustment clause in effect at a utility covered by the standard must undergo the quadrennial determination and biannual review specified in section 115(e)(1) and (2) of PURPA.

B. Rejected by a State regulatory authority or non regulated utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

REGULATIONS APPLICABLE TO THE AAC STANDARD (CONTINUED)

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy, or other item(s).

(3) As used in this subsection and section 113(b), the term 'automatic adjustment clause' means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate."

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INFORMATION TO CONSUMERS STANDARD (ITC)

REGULATIONS APPLICABLE TO THE ITC STANDARD

FOR PURPOSES OF ANSWERING ITC RELATED QUESTIONS

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INFORMATION TO CONSUMERS STANDARD (ITC)

REGULATIONS APPLICABLE TO THE ITC STANDARD

Section 113(b)(3) of PURPA establishes the information to consumers standard (ITC) which states: "Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 115(f)."

Section 115(f) states:

"(1) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric utility) applicable to such consumer. Such statement shall be transmitted to each such consumer:

(A) not later than sixty days after the date of commencement of service to such consumer or ninety days after the standard established by section 113(b)(3) is adopted with respect to such electric utility, whichever last occurs, and

(2) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers not less frequently than once each year:

(Continued on next page)

FOR PURPOSES OF ANSWERING ITC RELATED QUESTIONS

The information to consumers standard (ITC) has been:

A. Adopted by a State regulatory authority when such authority has:

1. ordered that a utility covered by the standard shall transmit rate information to its electric consumers according to certain time requirements, in accordance with sections 115(f)(1) and (2) of PURPA; and

2. specified consumption data to be transmitted upon consumer request, and the conditions under which such data shall be considered to be not reasonably ascertainable by the utility, in accordance with section 115(f)(3) of PURPA.

B. Adopted by a nonregulated utility when such nonregulated utility has:

1. issued a written policy statement that it will transmit rate information to its electric consumers according to certain time requirements, in accordance with sections 115(f)(1) and (2) of PURPA; and

2. specified consumption data to be transmitted upon consumer request, and the conditions under which such data shall be considered to be not reasonably ascertainable by the utility, in accordance with section 115(f)(3) of PURPA.

(Continued on next page)

REGULATIONS APPLICABLE TO THE ITC STANDARD (CONTINUED)	FOR PURPOSES OF ANSWERING ITC RELATED QUESTIONS
(A) a clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric consumers for which there is a separate rate, and (B) An identification of any classes whose rates are not summarized. Such summary may be transmitted together with such consumer's billing or in such other manner as the State regulatory authority or nonregulatory electric utility deems appropriate. (3) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption for degree-day adjusted consumption of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility)."	C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

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TERMINATION OF SERVICE STANDARD (TOS)

REGULATIONS APPLICABLE TO THE TOS STANDARD

Section 113(b)(4) of PURPA establishes the termination of service standard (TOS) for electric utilities, and section 303(b)(1) establishes the same standard for gas utilities, stating: "No electric (gas) utility may terminate electric (natural gas) service to any electric (gas) consumer except pursuant to procedures described in section 115(g)/304(a)."

Section 115(g)/304(a) state:

"The procedures for termination of service referred to in section 113 (d)(4)/303(b)(1) are procedures prescribed by the State regulatory authority (with respect to electric (gas) utilities for which it has ratemaking authority) or by the nonregulated utility which provide that:

(1) no electric (gas) service to an electric (gas) consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to an electric (gas) consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric (gas) utility for which it has ratemaking authority) or nonregulated electric (gas) utility, and such consumer establishes that:

(Continued on next page)

FOR PURPOSES OF ANSWERING TOS RELATED QUESTIONS

The termination of service standard (TOS) has been:

A. Adopted by a State regulatory authority when such authority has:

1. prescribed specific procedures, in accordance with sections 115(g)/304(a) of PURPA;

2. ordered that a utility covered by the standard shall not terminate electric (gas) service to any electric (gas) consumer except pursuant to such procedures.

B. Adopted by a nonregulated utility when such nonregulated utility has:

1. prescribed specific procedures, in accordance with sections 115(g)/304(a) of PURPA;

2. issued a written policy that it shall not terminate electric (gas) service to any electric (gas) consumer except pursuant to such procedures.

C. Rejected by a State regulatory authority or nonregulated utility when it had issued written policies (or orders) stating that it has determined not to adopt the standard.

REGULATIONS APPLICABLE TO THE TOS STANDARD (CONTINUED)

(a) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(b) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers."

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ADVERTISING STANDARD (ADV)

REGULATIONS APPLICABLE TO THE ADV STANDARD

REGULATIONS APPLICABLE TO THE ADV STANDARD

Section 113(b)(5) of PURPA establishes the advertising standard (ADV) for electric utilities, and section 303(b)(2) establishes the same standard for gas utilities, stating: "No electric (gas) utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 115(h)/304(b)."

Sections 115(h)/304(b) state:

"(1) For purposes of this section and section 113(b)(5)/303(b)(2):

(A) The term "advertising" means the commercial use, by an electric (gas) utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric (gas) consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(Continued on next page)

FOR THE PURPOSES OF ANSWERING ADV RELATED QUESTIONS

The advertising standard (ADV) has been:

A. Adopted by a State regulatory authority when such authority has issued a written policy (or order) that it will disallow (for ratemaking purposes) any direct or indirect expenditure by a utility covered by the standard for promotional or political advertising, as defined in accordance with section 115(h)/304(b).

B. Adopted by a nonregulated utility when such nonregulated utility had issued a written policy that it will not recover from any person other than the stockholders (or other owners) any direct or indirect expenditures for promotional or political advertising, as defined in accordance with section 115(h)/304(b).

C. Rejected by a State regulatory authority or nonregulatory utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

ADVERTISING STANDARD (ADV) (CONTINUED)

REGULATIONS APPLICABLE TO THE ADV STANDARD (CONTINUED)

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric (gas) utility or the selection or installation of an appliance or equipment designed to use such utility's service.

(2) For the purposes of this subsection and section 113(b)(5)/303(b)(2), the terms "political advertising" and "promotional advertising" do not include:

(A) advertising which informs electric (natural gas) consumers how they can conserve energy (natural gas) or can reduce peak demand for electric (natural gas) energy.

(B) advertising required by law or regulation, including advertising required under part I of title II of the National Energy Conservation Policy Act.

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility.

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

ERA-166 (11-82)

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES
SECTION II
PART I
General Information on State Regulatory Authority

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES
SECTION II
PART I
General Information on State Regulatory Authority
or Covered Nonregulated Utility

IDENTIFICATION DATA

1.1 State Regulatory Authority (or Covered Nonregulated Utility)

(a)Name

(b)Street

(c)City (d)State (e)Zip Code

1.2 Designated Point(s) of Contact for the Electric Utility Portion of this Report:

(a)Name	(f)Name
(b)Title	(g)Title
(c)City, State	(h)City, State
(d)Zip (e)Phone ( )	(i)Zip (j)Phone ( )

1.3 Designated point(s) of contact for the gas utility portion of this report: (If same as 1.2, enter "SAME".)

(a)Name	(f)Name
(b)Title	(g)Title
(c)City, State	(h)City, State
(d)Zip (e)Phone ( )	(i)Zip (j)Phone ( )

CERTIFICATION

I certify that I am the chairman of this State regulatory authority or the chief executive officer of this nonregulated utility or another commissioner or officer authorized to file an official report on behalf of this authority or utility. I further certify that the data presented in this report (Section II, Parts I through III and attachments) are true, accurate, and complete to the best of my knowledge, and I hereby authorize its release as an official report on behalf of this authority or utility for the purpose of complying with sections 116 and 309 of the Public Utility Regulatory Policies Act (P.L. 95-617).

1.4 Name 1.5 Title

1.6 Signature 1.7 Date

18 USC 1001 makes it a crime for any person knowingly and willfully to make to any Agency or Department of the United States any false, fictitious, or fraudulent statements as to any matter within his or her jurisdiction.

[THIS SHEET IS TO BE RETURNED]

EIA-166 (11-82)

PURPA IMPLEMENTATION PLAN

FOR ANSWERING 1.8 to 1.10:

Which of the following steps have you taken regarding the requirements of sections 121 and 122 of PURPA?

(If your consideration process for all of the standards was completed before November 9, 1978, check NA. Otherwise, check Yes or No.)

1.8 Established a written policy or order, consistent with section 121 of PURPA, that covers the consideration proceedings and provides for intervention, participation, and access to information.

☐ Yes ☐ No ☐ NA

1.9 Adopted a procedure for compensation to certain intervenors that is consistent with section 122(a)(2) of PURPA.

☐ Yes ☐ No ☐ NA

1.10 Provided an alternative means for providing adequate compensation to certain intervenors that is consistent with section 112(b) of PURPA.

☐ Yes ☐ No ☐ NA

[THIS SHEET IS TO BE RETURNED]

ERA-166 (11-82)

IDENTIFICATION OF UTILITIES

IDENTIFICATION OF UTILITIES

INSTRUCTIONS

I. On pages 30 and 31, column "a", list the covered utilities for which you have ratemaking authority; if none, write "NONE". (For nonregulated utilities, list name.)

For Electric Utilities: Answer question 1.11 on page 30.

For Gas Utilities: Answer question 1.12 on page 31.

II. In the case of utilities that sell both electricity and gas (for regulated and nonregulated utilities), list the utility twice; once in 1.11 and once in 1.12.

III. List utilities in alphabetical order and place an (I) for investor-owned, a (P) for publicly owned, or a (C) for cooperatively-owned after the utility name.

IV. In the space provided next to the utility name, indicate the average number of retail customers, for the year ending December 1982 by: residential class, commercial and industrial class, and all others.

V. In the space provided next to the utility name, indicate total consumption by retail consumers for the year ending December 1982, in GWHR or MMCF by: residential class, commercial and industrial class, and all others. If desired, the utility may answer on a 1982 calendar year or 1982 fiscal year basis. Please see General Instructions on page 4 for more information on this option.

VI. If more space is required, duplicate the form provided and renumber the lines accordingly (for example, E1 will become E16 and G1 will become G16).

IDENTIFICATION OF UTILITIES (CONTINUED)

1.11 Electric Utility Name (a)	(I) (P) (C)	Number of Retail Customers			Consumption (GWH)		
		Residential (b)	Commercial & Industrial (c)	Other (d)	Residential (e)	Commercial & Industrial (f)	Other (g)
(E1)							
(E2)							
(E3)							
(E4)							
(E5)							
(E6)							
(E7)							
(E8)							
(E9)							
(E10)							
(E11)							
(E12)							
(E13)							
(E14)							
(E15)							

[THIS SHEET IS TO BE RETURNED]

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IDENTIFICATION OF UTILITIES (CONTINUED)

IDENTIFICATION OF UTILITIES (CONTINUED)

1.12 Gas Utility Name (a)	(I) (P) (C)	Number of Retail Customers			Consumption (MMCF)		
		Residential (b)	Commercial & Industrial (c)	Other (d)	Residential (e)	Commercial & Industrial (f)	Other (g)
(G1)							
(G2)							
(G3)							
(G4)							
(G5)							
(G6)							
(G7)							
(G8)							
(G9)							
(G10)							
(G11)							
(G12)							
(G13)							
(G14)							
(G15)							

[THIS SHEET IS TO BE RETURNED]

ERA-166 (11-82)

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES
SECTION II
PART II
Questions Pertaining to each of
the Eleven Standards

INSTRUCTIONS

I. (1) For Electric Utilities: Duplicate the answer sheet on page 35. Prepare one sheet for each electric utility named on page 30.

(2) For Gas Utilities: Duplicate the answer sheet on page 36. Prepare one sheet for each gas utility named on page 31.

II. Enter the utility name in the space provided on the answer sheet. Prepare one answer sheet per utility. For utilities providing both electricity and gas service, you will have one answer sheet for the electric portion of the utility's business and one for the gas portion of the utility's business.

III. (1) For Electric Utilities: Answer all questions for each of the eleven standards.

(2) For Gas Utilities: Answer all questions for only the TOS and ADV standards.

Place all responses on the answer sheets under the abbreviation for that standard and corresponding to the question number.

IV. If the answer box on the answer sheet is shaded, do not answer that question. If instructed to skip a question, leave that answer box blank.

V. Include comments pertaining to a specific utility on the back of that utility's answer sheet. For example, if a ratemaking standard has been adopted, but is still being phased-in, a comment to that effect would be appreciated. General comments are encouraged and should be included on a separate sheet (with appropriate identification).

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QUESTIONS (CONTINUED)

QUESTIONS (CONTINUED)

QUESTION 2.1

2.1 What was the status of the STANDARD as of December 31, 1982?

STATUS CODES

0 - Consideration process has not begun

1 - Hearing has been scheduled or review process has begun

2 - Consideration process has started but hearing has not been completed

3 - Hearing has been completed

4 - Official determination has been made regarding whether or not it is appropriate to adopt this standard to encourage conservation of electric energy, utility efficiency and equitable rates to consumers, but decision regarding adoption or rejection of this standard has not been made for this utility

5 - Standard has been adopted (i.e., put into effect) as defined in the PURPA regulations (pages 7-26)

6 - Standard has been rejected as defined in the PURPA regulations (pages 7-26)

7 - State law has mandated standard

8 - State law has prohibited standard

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BEFORE CONTINUING TO ANSWER THIS REPORT READ THE FOLLOWING:

For each utility whose status code in Question 2.1 is:

STATUS CODES

0,1,2,3,8 - Do not complete remaining questions in Parts II or III.

5 - Complete all questions in Parts II and III.

4 or 6 - Answer only questions 2.2 through 2.5 in Part II. Answer all questions in Part III.

7 - Answer only questions 2.6 through 2.12 in Part II and all questions in Part III.

QUESTIONS (CONTINUED)

QUESTION 2.2

2.2 Have your proceedings and actions conformed to the requirements of Title I and/or Title III of PURPA for the STANDARD, as defined in the regulations applicable to each standard detailed in pages 7 through 26.

[Enter: Y (Yes)
N (No)]

QUESTIONS 2.3 through 2.5

In your consideration process, have you made written determination that it is (or is not) appropriate to adopt the STANDARD to carry out:

[Enter: Y (Yes it is appropriate);
N (No it is not appropriate;
O (Other, no written determination was made or no conclusions resulted from consideration process).]

2.3 Conservation of energy?
2.4 Optimization of efficiency?
2.5 Equitable rates?

QUESTION 2.6

2.6 Are all consumers in all classes covered by the STANDARD and billed under rate schedules which conform to the adopted or mandated STANDARD?

[Enter: Y (Yes), if Yes, Skip to Part III.
N (No), if No, answer 2.7 through 2.12.]

QUESTIONS 2.7 through 2.9

How many retail consumers who are covered by the STANDARD are billed under rate schedules which conform to the adopted or mandated STANDARD? Report the average number of consumers for the year ending December 1982 for the following "rate schedules":

2.7 Residential class?
2.8 Commercial and industrial class?
2.9 All others?

QUESTIONS 2.10 through 2.12

What were the sales (GWH) to retail consumers who are covered by the STANDARD and are billed under rate schedules that conform to the adopted or mandated STANDARD? Report for the year ending December 1982 for the following rate schedules:

2.10 Residential class?
2.11 Commercial and industrial class?
2.12 All others?

NOTE: If desired, the utility may answer on a 1982 calendar year or 1982 fiscal year basis. Please see General Instructions on page 4 for further information on this option.

ANSWER SHEET FOR PART II

ELECTRIC
UTILITY NAME _____

ANSWER SHEET FOR PART II

ELECTRIC UTILITY NAME _____

QUESTIONS	(a) COS	(b) DBR	(c) TOD	(d) SLR	(e) INT	(f) LMT	(g) MM	(h) AAC	(i) ITC	(j) TOS	(k) ADV
2.1 (Status Code;0-6)											
2.2 (Y or N)											
2.3 (Y, N or O)											
2.4 (Y, N or O)											
2.5 (Y, N or O)											
2.6 (Y or N)											
2.7 (Number of Customers)											
2.8 (Number of Customers)											
2.9 (Number of Customers)											
2.10 (GWH)											
2.11 (GWH)											
2.12 (GWH)											

COS:Cost of service standard
DBR:Declining block rate standard
TOD:Time of day rates standard
SLR:Seasonal rates standard
INT:Interruptible rate standard
LMT:Load management technique standard
MM: Master metering standard
AAC:Automatic adjustment clause standard
ITC:Information to consumers standard
TOS:Termination of service standard
ADV:Advertising standard

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

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ANSWER SHEET FOR PART II

GAS
UTILITY Name _____

QUESTIONS	(j) TOS	(k) ADV
2.1 (Status) Code:0-8)		
2.2 (Y or N)		
2.3 (Y, N or O)		
2.4 (Y, N or O)		
2.5 (Y, N or O)		
2.6 (Y or N)		

TOS: Termination of Service Standard
ADV: Advertising Standard

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

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PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES

SECTION II

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES

SECTION II
PART III
Standard Specific Questions

INSTRUCTIONS

I. Prepare duplicates of the answer sheet on page 44, as necessary, for each gas utility and electric utility named on pages 30 and 31.

II. Enter the name of each utility in the space provided on the answer sheet. If the utility provides both electric and gas services, prepare two answer sheets for the utility, one for each service.

III. Answer questions 3.1 through 3.34 for each electric utility. When answering questions for a gas utility, answer only questions 3.29 through 3.34.

IV. Include comments pertaining to a specific utility on the back of that utility's answer sheet. General comments are encouraged and should be included on a separate sheet.

QUESTIONS (CONTINUED)

QUESTIONS 3.1 through 3.5: COS Standard

- If you have not made a determination on the Cost Of Service standard, go on to question 3.6.

For Questions 3.1 through 3.5:

- If an official determination has been made concerning the Cost of Service standard, if the standard has been adopted or if it has been mandated (status codes 4,5, or 7 for question 2.1), does your standard address the methods described in 3.1 through 3.5?

  [Enter: R (Methods are required by standard)
  A (Methods are allowed by standard)
  F (Methods are forbidden by standard)
  NC (Methods are not covered by standard)]

- OR,
  If you have REJECTED the Cost of Service standard (status code 6 for question 2.1), had you considered using the methods described in 3.1 through 3.5?

  [Enter: Y (Methods were considered)
  N (Methods were not considered)]

3.1 Methods that permit identification of customer demand and energy-related cost of service for each class of customer?

3.2 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.3 Methods that take into account the change in total costs resulting from delivery of additional kWh?

3.4 Methods that permit the use of embedded cost data in setting rates?

3.5 Methods that permit the use of marginal cost data in setting rates?

QUESTIONS 3.6 through 3.7: DBR Standard

- If a determination has not been made concerning the Declining Block Rate standard, go on to question 3.8.

- If a determination has been made concerning the Declining Block Rate or if it has been mandated by state law (status codes 4,5,6 or 7 for Question 2.1), does your declining block rate standard, as adopted, address the following methods:

  [Enter: R (Required by standard)
  A (Allowed by standard)
  F (Forbidden by standard)
  NC (Not covered (addressed) by standard
  NA (Not applicable, standard not adopted)]

3.6 The use of methods for determining the costs attributable to the energy component of a declining block rate?

3.7 Energy (i.e. kWh) charges that decline only to the extent that energy-related costs of service decline with increases in consumption?

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QUESTIONS (CONTINUED)

QUESTIONS 3.8 through 3.11: TOD Standard

QUESTION 3.12: SLR Standard

QUESTIONS (CONTINUED)

QUESTIONS 3.8 through 3.11: TOD Standard

- If a determination has not been made concerning the Time-of-Day rate standard, go on to question 3.12.

For Questions 3.8 through 3.11:

- If an official determination has been made concerning the Time-of-Day rate standard, if the standard has been adopted, or if it has been mandated (status codes 4,5, or 7 for Question 2.1), does your standard address the methods described in 3.8 through 3.11?

  [Enter: R (Methods are allowed by standard)
  F (Methods are forbidden by standard)
  NC (Methods are not covered by standard)

- OR,
  If you have REJECTED the Time-of-Day rate standard, had you considered using the methods described in 3.8 through 3.11?

  [Enter: Y (Methods were considered)
  N (Methods were not considered)]

3.8 Methods for determining costs of providing electric service at different times of day?

3.9 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.10 Methods that take into account the change in total costs resulting from delivery of additional kWh?

3.11 Methods that permit the determination of the cost-effectiveness of time-of-day rates?

QUESTION 3.12: SLR Standard

- If a determination has not been made concerning the Seasonal Rate standard, go on to question 3.13.

- If a determination has been made concerning the Seasonal Rate standard, or if it has been mandated by state law, answer the following:

  [Enter: R (Required by standard)
  A (Allowed by standard)
  F (Forbidden by standard)
  NC (Not covered (addressed) by standard)
  NA (Not applicable, standard not adopted)]

3.12 Does the Seasonal Rate standard, as adopted, address the use of methods prescribed by you for determining cost incurrence by season of the year for each class of customer?

QUESTIONS 3.13 through 3.17: INT Standard

- If a determination has not been made concerning the Interruptible Rate standard, go on to 3.18.

For Questions 3.13 and 3.14:

- If an official determination has been made concerning the Interruptible Rate Standard, if the standard has been adopted, or if it has been mandated (status codes 4,5, or 7 for Question 2.1), does your standard address the methods described in 3.13 through 3.14 for determining costs of providing interruptible electrical power service to the industrial and commercial class:

QUESTIONS (CONTINUED)

[Enter:
R (Methods are required by standard)
A (Methods are allowed by standard)
F (Methods are forbidden by standard)
NC (Methods are not covered by standard)]

• OR,
If you have REJECTED the Interruptible Rate standard (status code 6 for question 2.1), had you considered using the methods described in 3.13 and 3.14?

[Enter: Y (Methods were considered)
N (Methods were not considered)]

3.13 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.14 Methods that take into account the change in total costs resulting from the delivery of additional kWh?

For rate schedules in effect as of December 31, 1982 and that complied with your interruptible rates standard:

3.15 How many commercial and industrial consumers were eligible to be billed under interruptible rates? Report the average number of consumers for the month ending December 1981.

3.16 How many commercial and industrial consumers were actually billed under interruptible rates? Report the average number of consumers for the month ending December 1982.

3.17 What is the number of megawatts of interruptible load contracted for from such interruptible consumers? Report as of December 31, 1982.

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QUESTIONS 3.18 through 3.21 LMT Standard

• If a determination has not been made concerning the Load Management Technique standard, go on to 3.22.

For Questions 3.18 through 3.21:

• If an official determination has been made concerning the Load Management Technique standard, if the standard has been adopted, or if it has been mandated (status codes 4,5, or 7 for Question 2.1) does your standard address the methods described in 3.18 through 3.21?

[Enter: R (Methods are required by standard)
A (Methods are allowed by standard)
F (Methods are forbidden by standard)
NC (Methods are not covered by standard)]

• OR,
If you have REJECTED the Load Management Technique standard (status code 6 for Question 2.1), had you considered using the methods described in 3.18 through 3.21?

[Enter: Y (Methods were considered)
N (Methods were not considered)]

3.18 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

QUESTIONS (CONTINUED)

3.19 Methods that permit a determination of a likely reduction in maximum kilowatt demand on

QUESTIONS 3.24 through 3.25: AAC Standard

QUESTIONS (CONTINUED)

3.19 Methods that permit a determination of a likely reduction in maximum kilowatt demand on the electric utility from utilization of available load management techniques?

3.20 Methods that permit a determination of likely long run cost savings to the utility of reductions in maximum KW demand?

3.21 Methods that permit a determination of whether an available technique is practicable, cost-effective, reliable, and provides useful energy or capacity management advantages to the electric utility?

QUESTIONS 3.22 through 3.23: MM Standard

- If a determination has not been made concerning the Master Metering standard, go on to question 3.24.
- If a determination has been made concerning the Master Metering standard or if it has been mandated by state law, does your Master Metering standard require specific criteria for separate metering, including:

[Enter: Y (Criteria required)
N (Criteria not required)
NA (Not applicable, standard not adopted)]

3.22 The occupant of each unit having control over a portion of the electric energy used in such unit?

3.23 The long-run benefits to the electric consumer in the building exceeding the costs of purchasing and installing separate meters?

QUESTIONS 3.24 through 3.25: AAC Standard

- If a determination has not been made concerning the Automatic Adjustment Clause standard, go on to 3.26.
- If a determination has been made concerning the Automatic Adjustment Clause or if it has been mandated by state law, does the Automatic Adjustment Clauses standard, as adopted, require the following or, if the standard was not adopted, did you consider the following in your hearing process:

[Enter: Y (Yes)
N (No)]

3.24 Evidentiary hearings to be held not less often than every 4 years to determine whether each clause covered by the standard provides incentives for efficient use of resources by the electric utility?

3.25 Is your review of each covered clause not less often than every 2 years to ensure maximum economies in operations and purchases that affect automatic adjustment clause rates?

QUESTIONS 3.26 through 3.28: ITC Standard

- If a determination has not been made concerning the Information to Consumers standard, go on to 3.29.
- If an official determination has been made or if the standard was mandated by state law, does the Information to Consumers standard, as adopted, require the following:

PART III .

QUESTIONS (CONTINUED)

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.26 Transmittal of information to consumers of existing rate schedule and any rate schedule applied for as specified in PURPA?

3.27 Transmittal of a summary of the existing rate schedules applicable to each of the major consumer classes for which there is a separate rate to consumers, not less frequently than once each year?

3.28 Transmittal of the identification of any classes whose rates are not summarized, not less frequently than once each year?

QUESTIONS 3.29 through 3.32: TOS Standard

- If a determination has not been made concerning the Termination of Service standard, go on to question 3.33.

- If an offical determination has been made concerning the Termination of Service standard or if it is mandated by state law, does the Termination of Service standard, as adopted, require the following:

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.29 Prior notice of termination?

3.30 Prior notice to include third party notification, or other special procedures for notifying elderly and handicapped consumers?

3.31 A notice of rights and remedies to be provided to the consumer with all termination notices?

3.32 Service not to be terminated when:
(a) Consumer's health is in danger and;
(b) he is unable to pay in accordance with the utility's billing practices and;
(c) he has established that he can only afford to pay in installments?

QUESTIONS 3.33 through 3.34: ADV Standard

- Answer questions 3.33 and 3.34 if an official determination has been made concerning the Advertising Standard or if it has been mandated by state law.

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.33 Definitions of political and promotional advertising which conform to those given in sections 115(h)(1) and (2) or 304(b)(1) and (2) of PURPA (see pages 25 and 26)?

3.34 Prohibitions on the recovery of political and promotional advertising expenses from rate-payers or any persons other than shareholdes (or other owners)?

ANSWER SHEET FOR PART III

ELECTRIC UTILITY NAME

ANSWER SHEET FOR PART III

ELECTRIC UTILITY NAME _____
OR
GAS UTILITY NAME _____

(If answering questions for an electric utility, answer questions 3.1 through 3.34; If answering questions for a gas utility, answer only questions 3.29 through 3.34.)

COS

3.1	
3.2	
3.3	
3.4	
3.5	

SLR

3.12	

INT

3.13	
3.14	
3.15	
3.16	
3.17	

MM

3.22	
3.23	

DBR

3.6	
3.7	

AAC

3.24	
3.25	

TOS

3.29	
3.30	
3.31	
3.32	

TOD

3.8	
3.9	
3.10	
3.11	

LMT

3.18	
3.19	
3.20	
3.21	

ITC

3.26	
3.27	
3.28	

ADV

3.33	
3.34	

COS:Cost of service standard
DBR:Declining block rate standard
TOD:Time of day rates standard
SLR:Seasonal rates standard
INT:Interruptible rate standard
LMT:Load management technique standard
MM: Master metering standard
AAC:Automatic adjustment clause standard
ITC:Information to consumers standard
TOS:Termination of service standard
ADV:Advertising standard

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

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UMI 1983 JAN 13 09 ISS VOL 48

RETURN THE FOLLOWING PAGES:

27
28
30
31
35 (duplicated for each utility)
36 (duplicated for each utility)
43 (duplicated for each utility)

RETURN THEM TO:

PURPA Annual Report on Electric and Gas Utilities
Office of Fuels Programs
Economic Regulatory Administration
Department of Energy, Forrestal Building
1000 Independence Avenue, S.W., Room GA-017
Washington, D.C. 20585

RETURN THEM BY:

February 28, 1983

IF YOU HAVE ANY QUESTIONS CALL:

Steven Mintz
(202) 252-4523

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[FR Doc. 83-702 Filed 1-13-83; 8:45 am]
BILLING CODE 6450-01-C

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-82-34]

Electric and Gas Utilities Reporting Under the Public Utility Regulatory Policies Act of 1978 and Title VII of the Energy Conservation and Production Act

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of reporting requirements.

SUMMARY: Section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and Section 705 of the National Energy Conservation Policy Act (NECPA) require the Secretary of Energy to submit annual reports beginning in 1980 to the Congress identifying electric and gas utilities and Titles I and VII of PURPA during such year. This notice is published to announce the tabulation of the utilities covered under Titles I and VII. Appendix B lists the covered utilities.

Each State regulatory authority required, by Section 133 and Section 301(d) of PURPA and Section 705 of NECPA, to submit annually to the Secretary of Energy information on each electric utility or gas utility for which such State regulatory authority has ratemaking authority, and each nonregulated electric utility in such State, are requested to review the tabulation of electric utilities in Appendix B.

DATE: Notice of intervention by State regulatory authorities and nonregulated utilities must be received by the Department of Energy by February 28, 1983.

ADDRESSES: Written notice of intervention and comments should be addressed to the Department of Energy, Economic Regulatory Administration, Electricity Division, 1000 Independence Avenue, SW., Forrestal Building, Room GA-017, Washington, D.C. 20585, Docket No. ERA-R-82-34.

FOR FURTHER INFORMATION CONTACT: Steven Mintz, Economic Regulatory Administration, Electricity Division, 1000 Independence Avenue, SW., Forrestal Building, Room GA-017, Washington, D.C. 20585, (202) 252-4523.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to Section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117, 16 U.S.C. 2643, and Section

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-79-43B]

Electric and Gas Utilities Covered in 1983 by Title I and III of the Public Utility Regulatory Policies Act of 1978 and Title II and VII of the National Energy Conservation Policy Act of 1978 and Requirements for State Regulatory Authorities To Notify the Department of Energy

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: Sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) and section 211(b) of the National Energy Conservation Policy Act (NECPA) require the Secretary of Energy to publish a list before the beginning of each calendar year, identifying each electric utility and gas utility to which Titles I and III of PURPA and Titles II and VII of NECPA apply during such calendar year. The 1983 list is published here as two separate tabulations. Appendix A lists the covered utilities by State, and Appendix B lists them alphabetically.

Each State regulatory authority is required, pursuant to sections 102(c) and 301(d) of PURPA and section 211(b) of NECPA, to notify the Secretary of Energy of each electric utility and gas utility on the list for which such State regulatory authority has ratemaking authority. In addition, written comments are requested on the accuracy of the list of electric utilities and gas utilities.

DATE: Notifications by State regulatory authorities and written comments must be received by no later than 4:30 p.m. on February 14, 1983.

ADDRESS: Notifications and written comments should be forwarded to: Department of Energy, Petroleum and Electricty Division, 1000 Independence Avenue, SW. (Room GA-017), Docket No. ERA-R-79-43B, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Steven Mintz, Petroleum and Electricity Division, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, SW., Room GA-017, Washington, D.C. 20585, 202/252-4523.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 et seq. (16 U.S.C. 2601 et seq.), and section 211(b) of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3206 et seq., (42 U.S.C. 8211 et seq.), hereinafter referred to as the "Acts", the Department of Energy (DOE) is required to publish a list of utilities to which Titles I and III of PURPA and Titles II and VII of NECPA apply in 1983. State regulatory authorities are required by the above cited Acts to notify the Secretary of Energy as to their ratemaking authority over the listed utilities. The inclusion or exclusion of any utility on or from the list does not affect the legal obligations of such utility or the reponsible authority under the Acts.

The term "State regulatory authority" means any State, including the District of Columbia and Puerto Rico, or a political subdivision thereof, and any agency or instrumentality, either of which has authority to fix, modify, approve, or disapprove rates with respect to the sale of electric energy or natural gas by any utility (other than such State agency) and in the case of a utility for which the Tennessee Valley Authority (TVA) has ratemaking authority, the term "State regulatory authority" means the TVA.

Title I of PURPA sets forth ratemaking and regulatory policy standards with respect to electric utilities. Section 102(c) requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each electric utility to which Title I applies during such calendar year. An electric utility is defined as any person, State agency or Federal agency, which sells electric energy. An electric utility is covered by Title I for any calendar year if it had total sales of electric energy for purposes other than resale in excess of 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. An electric utility is covered in 1983 if it exceeded the threshold in 1976, 1977, 1978, 1979, 1980, or 1981.

Title III of PURPA addresses ratemaking and other regulatory policy standards with respect to natural gas utilities. Section 301(d) of Title III requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each gas utility to which Title III applies during such calendar year. A gas utility is defined as any person, State agency or Federal agency, engaged in the local distribution of natural gas and the sale of natural gas to any ultimate consumer of natural gas. A gas utility is covered by Title III if it had total sales of natural gas for purposes other than resale in excess of 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. A gas utility is covered in 1983 if it exceeded the threshold in 1976, 1977, 1978, 1979, 1980, or 1981.

Title II, Part 1, of NECPA addresses residential conservation programs, and Title VII of NECPA, enacted as part of the Energy Security Act, Pub. L. 96-294, 94 Stat. 611 et seq. (42 U.S.C. 8701 et seq.), addresses commercial building and multi-family dwelling conservation programs. Section 211(b) contains a requirement, similar to that of PURPA, that the Secretary of Energy publish a list of electric and gas utilities to which Titles II and VII apply. The NECPA requirements for coverage of electric utilities and gas utilities differ from the PURPA requirements in only three respects:

(1) The threshold for electric utilities is 750 million kilowatt-hours for purposes other than resale;

(2) A utility is covered for any calendar year if it exceeded the threshold during the second preceding calendar year. A utility is covered in 1983 if it exceeded the threshold in 1981, and

(3) Only utilities which have residential sales are covered by Title II and only utilities which have sales to commercial buildings or multi-family dwellings are covered by Title VII.

In compiling the list published today, DOE revised the 1982 list (47 FR 228, January 5, 1982), upon the assumption that all entities included on the 1982 list are properly included on the 1983 list unless DOE has information to the contrary. In doing this, DOE took into account information which was received from the Rural Electrification Agency, or included in public documents, regarding entities which exceeded the PURPA and NECPA thresholds for the first time in 1981. DOE beleives that it will become aware of any errors or omissions in the list published today by means of the comment process called for by this notice. DOE will, after consideration of any comment and other information available to DOE, provide written notice of any further additions or deletions to the list.

II. Notification and Comment Procedures

No later than 4:30 p.m. on February 14, 1983, each State regulatory authority must notify the Department of Energy in writing of each utility on the list over which it has ratemaking authority. Fifteen copies of such notification should be submitted to the address

indicated in the "ADDRESS" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA–R–79–43B." Such notification should include:

(1) A complete list of electric utilities and gas utilities over which the State regulatory authority has ratemaking authority,

(2) Legal citations pertaining to the ratemaking authority of the State regulatory authority, and

(3) For any listed utility known to be subject to other ratemaking authorities within the State for portions of its service area, a precise description of the portion to which such notification applies.

All interested persons, including State regulatory authorities, are invited to comment in writing, no later than 4:30 p.m. on any errors or omissions with respect to the list. Five copies of such comments should be sent to the address indicated in the "ADDRESS" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA–R–79–43B." Written comments should include the commenter's name, address and telephone number.

All notifications and comments received by DOE will be available for public inspection in the ERA Reading Room, Room 1E–190, 1000 Independence Avenue, SW., Washington, D.C. 20585 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

III. List of Electric Utilities and Gas Utilities

DOE is publishing in Appendix A and Appendix B, two different tabulations of the list of utilities which meet both PURPA and NECPA coverage requirements. In both appendices, the listed utilities not covered by NECPA are noted. As stated above, the inclusion or exclusion of any utility on or from the lists does not affect its legal obligations or those of the responsible State regulatory authority under PURPA and NECPA.

Appendix A is a tabulation of utilities which separately identifies, by State, and each State regulatory authority, the covered utilities it regulates, and other covered utilities in the State which are not regulated by the State regulatory authority. This tabulation, including explanatory notes, is based on information provided to DOE by State regulatory authorities in response to the January 5, 1982 **Federal Register** Notice (47 FR 228) requiring the State regulatory authorities to notify DOE of each utility on the list over which it has ratemaking authority, comments received with respect to that notice, and information subsequently available to DOE.

The utilities classified in Appendix A as not regulated by the State regulatory authority may in fact be regulated by local municipal authorities. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority. Therefore, each such municipality is to notify DOE of each utility on the list over which it has ratemaking authority.

In Appendix B, the utilities are listed alphabetically, subdivided into electric utilities and gas utilities, and further subdivided by type of ownership: investor-owned utilities, publicly-owned utilities, and rural cooperatives.

The changes to the 1982 list of electric and gas utilities are as follows:

Additions:

* Blue Ridge Electric Membership Corporation
* Bowling Green Municipal Utilities
* Brownsville Public Utility Board
* Bryan Municipal Electric System

Citizens Utilities Company
Colonial Gas Energy System
Commonwealth Gas Service Incorporated
*Conowingo Power Company
*Dalton Water, Light & Sink
*Danville Water, Gas & Electric
Energas Company
*Fort Pierce Utilities Authority
*Groton Public Utilities
*High Point Electric Utility Department
*Maine Public Service Company
*Midwest Energy Incorporated
*Murfreesboro Electric Department
*Nantahala Power & Light Company
Northeast Utilities
*Ocala Utilities
*Rochester Department of Public Utilities
*Rural Electric System
Texas New Mexico Power Company
Trans Louisiana Gas Company
*Vero Beach Municipal Authority
*Walton Electric Membership Corporation

Deletions:

Arkansas Power & Light Company (TN)
Greeley Gas Company (MN)
Kentucky Utilities Company (TN)

Modifications:

CHANGE—New Bedford Gas & Edison Light Company
TO—Commonwealth Electric Company
CHANGE—Virginia Electric & Power Company (under Gas Utilities)
TO—Virginia Natural Gas Company

Asterisk (*) Removed:

Burbank Public Service Department (CA)
Gainesville Regional Utilities (FL)
Glendale Public Service Department (CA)
Rappahannock Electric Cooperative (VA)
Withlacoochee River Electric Cooperative (FL)

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 et seq. (16 U.S.C. 2601 et seq.); National Energy Conservation Policy Act, Pub. L. 95–619, 92 Stat. 3206 et seq., (42 U.S.C. 8211 et seq.))

Issued in Washington, D.C. on December 22, 1982.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

Appendix A

All gas utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977, 1978, 1979, 1980 or 1981 and are covered by PURPA Title III and NECPA Titles II and VII. Utilities marked (*) do not have residential or commercial sales, and therefore, are not covered by NECPA Titles II and VII.

All electric utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours in 1976, 1977, 1978, 1979, 1980 or 1981. All, except those marked (*) are covered by PURPA Title I and NECPA Titles II and VII. Utilities marked (*) are not covered by NECPA Titles II and VII because they either do not exceed the NECPA threshold or 750 million kilowatt-hours in 1981 for purposes other than resale, or do not have residential or commercial sales.

State: Alabama

Regulatory Authority: Alabama Public Service Commission.

Gas Utilities

Investor-Owned:
Alabama Gas Corporation
Mobile Gas Service Corporation

Electric Utilities

Investor-Owned:
Alabama Power Company:
The following covered utilities within the State of Alabama are not regulated by the Alabama Public Service Commision:

Electric Utilities

Publicly-Owned:
Decatur Electric Department
*Dothan Electric Department
*Florence Electricity Department
Huntsville Electric System
Rural Electric Cooperatives:
*Rural Electric System

State: Alaska

Regulatory Authority: Alaska Public Utilities Commission.

Gas Utilities

Investor-Owned:
Alaska Gas and Service Company

Electric Utilities

Rural Electric Cooperatives:
Chugach Electric Association
Publicly-Owned:
Anchorage Municipal Light & Power Department

State: Arizona

Regulatory Authority: Arizona Corporation Commission.

Gas Utilities

Investor-Owned:
Arizona Public Service Company
Southern Union Gas Company
Southwest Gas Corporation

Electric Utilities

Investor-Owned:
Arizona Public Service Company
Tucson Electric Power Company
The following covered utility within the State of Arizona is not regulated by the Arizona Corporation Commission:

Electric Utilities

Publicly-Owned:
Salt River Project Agricultural Improvement and Power District
*Trico Electirc Cooperative, Inc.

State: Arkansas

Regulatory Authority: Arkansas Public Service Commission.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Corporation
Arkansas Western Gas Company
Associated Natural Gas Company

Electric Utilities

Investor-Owned:
Arkansas-Missouri Power Comapny
Arkansas Power and Light Company
Empire District Electric Company
Oklahoma Gas and Electric Company
Southwestern Electric and Power Comapny
Rural Electric Cooperatives:
*First Electric Cooperative Corporation
The following covered utility within the State of Arkansas is not regulated by the Arkansas Public Service Commission:
Publicly-Owned:
*North Little Rock Electric Department

State: California

Regulatory Authority: California Public Utilities Commission.

Gas Utilities

Investor-Owned:
Pacific Gas and Electric Company
San Diego Gas and Electric Company
Southern California Gas Company
Southwest Gas Corporation

Electric Utilities

Investor-Owned:
Pacific Gas and Electric Company
Pacific Power and Light Company
San Diego Gas and Electric Company
Sierra Pacific Power Company
Southern California Edison Company
The following covered utilities within the State of California are not regulated by the California Public Utilities Commission.

Electric Utilities

Publicly-Owned:
Anaheim Electric Division
Burbank Public Service Department
*Glendale Public Service Department
Imperial Irrigation District
Los Angeles Department of Water and Power
Modesto Irrigation District
Palo Alto Electric Utility
Pasadena Water and Power Department
Riverside Public Utilities
Sacramento Municipal Utility District
Santa Clara Electric Department
*Turlock Irrigation District
Vernon Municipal Light Department

Gas Utilities

Publicly-Owned:
Long Beach Gas Department

State: Colorado

Regulatory Authority: Colorado Public Utilities Commission.

Gas Utilities

Investor-Owned:
Greeley Gas Company
Iowa Electric Light and Power Company
Kansas-Nebraska Natural Gas Company
Peoples Natural Gas Company, Division of Internorth, Inc.
Public Service Company of Colorado
Publicy-Owned:
Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)

Electric Utilities

Investor-Owned:
Public Service Company of Colorado
Western Power Division of Centel
Publicly-Owned:
Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)

The following covered utilities within the State of Colorado are not regulated by the Colorado Public Utilities Commission:

Gas Utilities

Publicly-Owned:
Colorado Springs Department of Public Utilities (within city limits)

Electric Utilities

Publicy-Owned:
Colorado Springs Department of Public Utilities (within city limits)

State: Connecticut

Regulatory Authority: Connecticut Division of Public Utility Control

Gas Utilities

Investor-Owned:
Connecticut Light and Power Company
Connecticut Natural Gas Corporation
Northeast Utilities
Southern Connecticut Gas Company

Electric Utilities

Investor-Owned:
Citizens Utilities Company
Connecticut Light and Power Company
Hartford Electric Light Company
United Illuminating Company
Publicly-Owned:
*Groton Public Utilities

State: Delaware

Regulatory Authority: Delaware Public Service Commission.

Gas Utilities

Investor-Owned:
Delmarva Power and Light Company

Electric Utilities

Investor-Owned:
Delmarva Power and Light Company

State: District of Columbia

Regulatory Authority: Public Service Commission of the District of Columbia.

Gas Utilities

Investor-Owned:
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Potomac Electric Power Company

State: Florida

Regulatory Authority: Florida Public Service Commission.

Gas Utilities

Investor-Owned:
City Gas Company of Florida
Peoples Gas System

Electric Utilities

Investor-Owned:
Florida Power Corporation
Florida Power and Light Company
Gulf Power Company
Tampa Electric Company
Publicly-Owned: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
*Fort Pierce Utility Authority
Gainesville Regional Utilities
Jacksonville Electric Authority
Lakeland Department of Electricity and Water
*Ocala Utilities
Orlando Utilities Commission
Tallahassee, City of
*Vero Beach Municipal Auth.
Rural Electric Cooperatives: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
Clay Electric Cooperative
Lee County Electric Cooperative
Withlachoochee River Electric Cooperative

State: Georgia

Regulatory Authority: Georgia Public Service Commission.

Gas Utilities

Investor-Owned:
Atlanta Gas Light Company
Chattanooga Gas Company
Gas Light Company of Columbus

Electric Utilities

Investor-Owned:
Georgia Power Company
Savannah Electric and Power Company

The following utilities within the State of Georgia are not regulated by the Georgia Public Service Commission.

Electric Utilities

Publicly-Owned:
*Albany Water, Gas & Light Commission
*Dalton Water, Light & Sink
Rural Electric Cooperatives:
*Cobb Electric Membership Corporation

*Flint Electrical Membership Corporation
*Jackson Electric Membership Corporation
North Georgia Electric Membership Corporation
*Walton Electric Membership Corporation

State: Hawaii

Regulatory Authority: Hawaii Public Utilities Commission.

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Hawaiian Electric Company, Inc.

State: Idaho

Regulatory Authority: Idaho Public Utilities Commission.

Gas Utilities

Investor-Owned:
Intermountain Gas Company
Washington Water Power Company

Electric Utilities

Investor-Owned:
Idaho Power Company
Pacific Power and Light Company
Utah Power and Light Company
Washington Water Power Company

State: Illinois

Regulatory Authority: Illinois Commerce Commission.

Gas Utilities

Investor-Owned:
Central Illinois Light Company
Central Illinois Public Service Company
Illinois Power Company
Interstate Power Company
Iowa-Illinois Gas and Electric Company
North Shore Gas Company
Northern Illinois Gas Company
Panhandle Eastern Pipeline Company
Peoples Gas, Light and Coke Company

Electric Utilities

Investor-Owned:
Central Illinois Light Company
Central Illinois Public Service Company
Commonwealth Edison Company
Illinois Power Company
Interstate Power Company
Iowa-Illinois Gas and Electric Company
Union Electric Company

The following covered utility within the State of Illinois is not regulated by the Illinois Commerce Commission:

Electric Utilities

Publicly-Owned:
Springfield Water, Light and Power Department

State: Indiana

Regulatory Authority: Indiana Public Service Commission.

Gas Utilities

Investor-Owned:
Indiana Gas Company
Kokomo Gas and Fuel Company
Northern Indiana Public Service Company
Southern Indiana Gas and Electric Company
Terre Haute Gas Corporation
Publicly-Owned:
Citizens Gas and Coke Utility

Electric Utilities

Investor-Owned:
Indiana and Michigan Electric Company
Indianapolis Power and Light Company
Northern Indiana Public Service Company
Public Service Company of Indiana
Southern Indiana Gas and Electric Company
Publicly-Owned:
*Richmond Power and Light

State: Iowa

Regulatory Authority: Iowa Commerce Commission.

Gas Utilities

Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Minnesota Gas Company
North Central Public Service Company
Peoples Natural Gas Company, Division of Internorth, Inc.

Electric Utilities

Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Union Electric Company
Publicly-Owned: The Iowa Commerce Commission has service and safety regulation over the following utilities—
Muscatine Power and Water
Omaha Public Power District

State: Kansas

Regulatory Authority: Kansas State Corporation Commission.

Gas Utilities

Investor-Owned:
Anadarko Production Company
Arkansas-Louisiana Gas Company
Gas Service Company
Greeley Gas Company
Kansas-Nebraska Natural Gas Company
Kansas Power and Light Company
Northern Natural Gas Company
Panhandle Eastern Pipeline Company
Peoples Natural Gas Company, Division of Internorth, Inc.
Union Gas System Inc.

Electric Utilities

Investor-Owned:
Central Kansas Power Company
Empire District Electric Company
Kansas City Power and Light Company
Kansas Gas and Electric Company
Kansas Power and Light Company
Southerwestern Public Service Company
Western Power Division of Centel

The following covered utility within the State of Kansas is not regulated by the Kansas State Corporation Commission:

Electric Utilities

Public-Owned:
Kansas City Board of Public Utilities
Rural Electric Cooperatives:
*Midwest Energy Incorporated

State: Kentucky

Regulatory Authority: Kentucky Energy Regulatory Commission

Gas Utilities

Investor-Owned:
Columbia Gas of Kentucky, Inc.
Inland Gas Company
Louisville Gas and Electric Company
Union Light, Heat and Power Company
Western Kentucky Gas Company

Electric Utilities

Investor-Owned:
Kentucky Power Company
Kentucky Utilities Company
Louisville Gas and Electric Company
Union Light, Heat and Power Company
Rural Electric Cooperatives:
Green River Electric Corporation
Henderson-Union Rural Electric Cooperative Corporation

The following covered utilities within the State of Kentucky are not regulated by the Kentucky Energy Regulatory Commission:
*Bowling Green Municipal Utilities
*Owensboro Municipal Utilities
*Pennyrile Rural Electric Cooperative Corporation
*Warren Rural Electric Cooperative Corporation
*West Kentucky Rural Electric Cooperative Corporation

State: Louisiana

Regulatory Authority: Louisiana Public Service Commission.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Entex, Inc.
Gulf States Utilities Company
Louisiana Gas Service Company

Electric Utilities

Investor-Owned:
Arkansas Power and Light
Central Louisiana Electric Company
Gulf States Utilities Company
Louisiana Power and Light Company (jurisdiction only outside of the Parish of Orleans)
Southwestern Electric Power Company

The following covered utilities within the State of Louisiana are not regulated by the Louisiana Public Service Commission:

Gas Utilities

Investor-Owned:
New Orleans Public Service, Inc.

Electric Utilities

Investor-Owned:
New Orleans Public Services, Inc.
Louisiana Power and Light Company (within the Parish of Orleans)
Publicly-Owned:
Lafayette Utilities System

Rural Electric Cooperatives:
*Dixie Electric Membership Corporation
Southwest Louisiana Electric Membership Corporation

State: Maine

Regulatory Authority: Maine Public Utilities Commission.

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Bangor Hydro-Electric Company
Central Maine Power Company
*Maine Public Service Company

State: Maryland

Regulatory Authority: Maryland Public Service Commission.

Gas Utilities

Investor-Owned:
Baltimore Gas and Electric Company
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Baltimore Gas and Electric Company
*Conowingo Power Company
Delmarva Power and Light Company of Maryland
Potomac Edison Company
Potomac Electric Power Company
Rural Electric Cooperatives:
Southern Maryland Electric Cooperative, Inc.

State: Massachusetts

Regulatory Authority: Massachusetts Department of Public Utilities

Gas Utilities

Investor-Owned:
Bay State Gas Company
Boston Gas Company
Colonial Gas Energy System
Commonwealth Gas Company
Lowell Gas Company
New Bedford Gas and Edison Light Company

Electric Utilities

Investor-Owned:
Boston Edison Company
Cambridge Electric Light Company
Commonwealth Electric Company
Eastern Edison Company
Massachusetts Electric Company
Western Massachusetts Electric Company

State: Michigan

Regulatory Authority: Michigan Public Service Commission.

Gas Utilities

Investor-Owned:
Consumers Power Company
Michigan Consolidated Gas Company
Michigan Gas Utilities Company
Michigan Power Company
Southeastern Michigan Gas Company
Wisconsin Public Service Corporation

Electric Utilities

Investor-Owned:
Consumers Power Company
Detroit Edison Company
Indiana and Michigan Electric Company
*Lake Superior District Power Company
*Michigan Power Company
Upper Peninsula Power Company
Wisconsin Electric Power Company
Wisconsin Public Service Corporation
The following covered utilities within the State of Michigan are not regulated by the Michigan Public Service Commission:

Electric Utilities

Publicly-Owned:
Lansing Board of Water and Light

State: Minnesota

Regulatory Authority: Minnesota Public Utility Commission.

Gas Utilities

Investor-Owned:
Inter City Gas Company
Interstate Power Company
Iowa Electric Light and Power Company
Minnesota Gas Company
Montana-Dakota Utilities Company
North Central Public Service Company
Northern States Power Company
Peoples Natural Gas Company-Division of Internorth Inc.

Electric Utilities

Investor-Owned:
Interstate Power Company
Minnesota Power and Light Company
Northern States Power Company
Otter Tail Power Company
The following covered utility within the State of Minnesota is not regulated by the Minnesota Public Service Commission:

Electric Utilities

Publicly-Owned:
*Rochester Department of Public Utilities
Rural Electric Cooperatives
*Anoka Electric Cooperative

State: Mississippi

Regulatory Authority: Mississippi Public Service Commission.

Gas Utilities

Investor-Owned:
Entex, Inc.
Mississippi Valley Gas Company

Electric Utilities

Investor-Owned:
Mississippi Power and Light Company
Mississippi Power Company
The following covered utilities within the State of Mississippi are not regulated by the Mississippi Public Service Commission.

Electric Utilities

Rural Electric Cooperatives:
*4-County Electric Power Association
*Singing River Electric Power Association
*Southern Pine Electric Power Association

State: Missouri

Regulatory Authority: Missouri Public Service Commission.

Gas Utilities

Investor-Owned:
Associated Natural Gas Company
Gas Service Company
Laclede Gas Company Consolidated
Missouri Public Service Company
Peoples Natural Gas Company, Division of Internorth, Inc.

Electric Utilities

Investor-Owned:
Arkansas-Missouri Power Company
Empire District Electric Company
Kansas City Power and Light Company
Missouri Edison Company
Missouri Power and Light Company
Missouri Public Service Company
Missouri Utilities Company
St. Joseph Light and Power Company
Union Electric Company
The following covered utilities within the State of Missouri are not regulated by Missouri Public Service Commission.

Gas Utilities

Investor-Owned:
Cities Service Gas Company
Publicly-Owned
Springfield City Utilities

Electric Utilities

Publicly-Owned:
*Independence Power and Light Department
Springfield City Utilities

State: Montana

Regulatory Authority: Montana Public Service Commission.

Gas Utilities

Investor-Owned:
Montana-Dakota Utilities Company
Montana Power Company

Electric Utilities

Investor-Owned:
Black Hills Power and Light Company
Montana-Dakota Utilities Company
Montana Power Company
Pacific Power and Light Company
Washington Water Power Company

State: Nebraska

Regulatory Authority: Nebraska Public Service Commission.
The Commission does not regulate the rates and service of the gas and electric utilities of the State of Nebraska
The following covered utilities within the State of Nebraska are not regulated by the Nebraska Public Service Commission.

Electric Utilities

Publicly-Owned:
Lincoln Electric System
Nebraska Public Power District
Omaha Public Power District

Gas Utilities

Investor-Owned:
Gas Service Company
Iowa Electric Light and Power Company
Iowa Public Service Company
Kansas-Nebraska Natural Gas Company
Minnesota Gas Company
Northern Natural Gas Company
Northwestern Public Service Company
Peoples Natural Gas Company, Division of Internorth Inc.

The governing body of each Nebraska municipality exercises ratemaking jurisdiction over gas utility rates, operations and services provided by a gas utility within its city or town limits. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority.

Publicly-Owned:
Metropolitan Utilities District of Omaha

State: Nevada

Regulatory Authority: Nevada Public Service Commission.

Gas Utilities

Investor-Owned:
Southwest Gas Corporation

Electric Utilities

Investor-Owned:
Idaho Power Company
Nevada Power Company
Sierra Pacific Power Company

State: New Hampshire

Regulatory Authority: New Hampshire Public Utilities Commission.

Gas Utilities

None.

Electric Utilities

Investor Owned:
Public Service Company of New Hampshire

State: New Jersey

Regulatory Authority: New Jersey Department of Energy Board of Public Utilities.

Gas Utilities

Investor Owned:
Elizabethtown Gas Company
New Jersey Natural Gas Company
Public Service Electric and Company
South Jersey Gas Company

Electric Utilities

Investor-Owned:
Atlantic City Electric Company
Jersey Central Power and Light Company
Public Service Electric and Gas Company
Rockland Electric Company

State: New Mexico

Regulatory Authority: New Mexico Public Service Commission.

Gas Utilities

Gas Company of New Mexico

Electric Utilities

Investor Owned:
Community Public Service Company
El Paso Electric Company
*New Mexico Electric Service Company
Public Service Company of New Mexico
Southwestern Public Service Company

State: New York

Regulatory Authority: New York Public Service Commission.

Gas Utilities

Investor-Owned:
Brooklyn Union Gas Company
Columbia Gas of New York, Inc
Consolidated Edison Company of New York, Inc.
Long Island Lighting Company
National Fuel Gas Distribution Corporation
New York State Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilites
Rochester Gas and Electric Corporation

Electric Utilities

Investor Owned:
Central Hudson Gas and Electric Corporation
Consolidated Edison Company of New York
Long Island Lighting Company
New York State Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities
Rochester Gas and Electric Corporation

The following covered utility within the State of New York is not regulated by the New York Public Service Commission:

Electric Utilities

Publicly-Owned:
Power Authority of New York

State: North Carolina

Regulatory Authority: North Carolina Utilities Commission.

Gas Utilities

Investor-Owned:
North Carolina Natural Gas Corporation
Piedmont Natural Gas Company
Public Service Company, Inc. of North Carolina

Electric Utilities

Investor-Owned:
Carolina Power and Light Company
Duke Power Company
*Nantahala Power & Light Company
Virginia Electric and Power Company

The following covered utilities within the State of North Carolina are not regulated by the North Carolina Utitlities Commission:

Electric Utilities

Publicly-Owned:
Fayetteville Public Works Commission
*Greenville Utilities Commission
*High Point Electric Utility Department
*Rocky Mount Public Utilities
*Wilson Utilities Department
Rural Electric Cooperatives:
*Blue Ridge Electric Membership Corporation

State: North Dakota

Regulatory Authority: North Dakota Public Service Commission.

Gas Utilities

Investor-Owned:
Montana Dakota Utilities Company
Northern States Power Company

Electric Utilities

Investor-Owned:
Montana Dakota Utilities Company
Northern State Power Company
Otter Tail Power Company

State: Ohio

Regulatory Authority: Ohio Public Utilities Commission.

Gas Utilities

Investor-Owned:
Cincinnati Gas and Electric Company
Columbia Gas of Ohio, Inc.
Dayton Power and Light Company
East Ohio Gas Company
National Gas and Oil Company
West Ohio Gas Company

Electric Utilities

Investor-Owned:
Cincinnati Gas and Electric Company
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Dayton Power and Light Company
Monongahela Power Company
Ohio Edison Company
Ohio Power Company
Toledo Edison Company

The following covered utilities within the State of Ohio are not regulated by the Ohio Public Utilities Commission:

Electric Utilities

Publicly-Owned:
*Cleveland Division of Light and Power
Rural Electric Cooperatives:
*South Central Power Company

State: Oklahoma

Regulatory Authority: Oklahoma Corporation Commission.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Corporation
Gas Service Company
Lone Star Gas Company
Oklahoma Natural Gas Company
Southern Union Gas Company
Union Gas System Inc.

Electric Utilities

Investor-Owned:
Empire District Electric Company
Oklahoma Gas and Electric Company
Public Service Company of Oklahoma
Southwestern Public Service Company

The following covered utility within the State of Oklahoma is not regulated by the Oklahoma Corporation Commission.
*Cotton Electric Cooperative

Gas Utilities

Investor-Owned:
Cities Service Gas Company

State: Oregon

Regulatory Authority: Public Utility Commissioner of Oregon.

Gas Utilities

Investor-Owned:
Cascade Natural Gas Corporation
Northwest Natural Gas Company

Electric Utilities

Investor-Owned:
Idaho Power Company

Pacific Power and Light Company
Portland General Electric Company

The following covered utilities within the State of Oregon are not regulated by the Public Utility Commissioner of Oregon:

Electric Utilities

Publicly-Owned:
Central Lincoln People's Utility District
*Clatskanie People's Utility District
Eugene Water and Electric Board
*Springfield Utilities Board

Rural Electric Cooperatives:
*Umatilla Electric Cooperative Association

State: Pennsylvania

Regulatory Authority: Pennsylvania Public Utility Commission.

Gas Utilities

Investor-Owned:
Carnegie Natural Gas Company
Columbia Gas of Pennsylvania, Inc.
Equitable Gas Company
National Fuel Gas Distribution Corporation
North Penn Gas Company
Pennsylvania Gas and Water Company
Peoples Natural Gas Company
Philadelphia Electric Company
T. W. Phillips Gas and Oil Company
UGI Corporation

Electric Utilities

Investor-Owned:
Duquesne Light Company
Metropolitan Edison Company
Pennsylvania Electric Company
Pennsylvania Power Company
Pennsylvania Power and Light Company
Philadelphia Electric Company
*UGI—Luzerne Electric Division
West Penn Power Company

The following covered utility within the State of Pennsylvania is not regulated by the Pennsylvania Public Commission:

Gas Utilities

Publicly-Owned:
Philadelphia Gas Works

State: Puerto Rico

Regulatory Authority: Puerto Rico Public Service Commission.

Gas Utilities

None.

Electric Utilities

None.

The following covered utility within Puerto Rico is not regulated by the Puerto Rico Public Service Commission:

Electric Utilities

Publicly-Owned:
Puerto Rico Electric Power Authority

State: Rhode Island

Regulatory Authority: Rhode Island Public Utilities Commission.

Gas Utilities

Investor-Owned:
Providence Gas Company

Electric Utilities

Investor-Owned:
Blackstone Valley Electric Company
Narragansett Electric Company

State: South Carolina

Regulatory Authority: South Carolina Public Service Commission.

Gas Utilities

Investor-Owned:
*Carolina Pipeline Company
Piedmont Natural Gas Company
South Carolina Electric and Gas Company

Electric Utilities

Investor-Owned:
Carolina Power and Light Company
Duke Power Company
South Carolina Electric and Gas Company

The following covered utility within the State of South Carolina is not regulated by the South Carolina Public Service Commission:

Electric Utilities

Publicly-Owned:
South Carolina Public Service Authority

State: South Dakota

Regulatory Authority: South Dakota Public Utilities Commission.

Gas Utilities

Investor-Owned:
Iowa Public Service Company
Minnesota Gas Company
Montana-Dakota Utilities Company
Northwestern Public Service Company

Electric Utilities

Investor-Owned:
Black Hills Power and Light Company
Iowa Public Service Company
Montana-Dakota Utilities Company
Northern States Power Company
*Northwestern Public Service Company
Otter Tail Power Company

The following covered utility within the State of South Dakota is not regulated by the South Dakota Public Service Commission:

Electric Utilities

Publicly-Owned:
Nebraska Public Power District

State: Tennessee

Regulatory Authority: Tennessee Public Service Commission.

Gas Utilities

Investor-Owned:
Chattanooga Gas Company
Nashville Gas Company

Electric Utilities

Investor-Owned:
Kingsport Power Company

The following covered utilities within the State of Tennessee are not regulated by the Tennessee Public Service Commission:

Electric Utilities

Publicly-Owned:
*Bristol Tennessee Electric System
Chattanooga Electric Power Board
*Clarksville Department of Electricity
*Cleveland Utilities
*Greeneville Light and Power System
*Jackson Utility Division—Electric Department
Johnson City Power Board
Knoxville Utilities Board
*Lenoir City Utilities Board
Memphis Light, Gas and Water Division
*Murfreesboro Electric Department
*Nashville Electric Services

Rural Electric Cooperatives:
*Appalachian Electric Cooperative
Cumberland Electric Membership Corporation
*Duck River Electric Membership Corporation
*Gibson County Electric Membership Corporation
*Meriwether Lewis Electric Cooprative
Middle Tennessee Electric Membership Corporation
*Southwest Tennessee Electric Membership Corporation
*Tri-County Electric Membership Corporation
*Upper Cumberland Electric Membership Corporation
Volunteer Electric Cooperative

Gas Utilities

Publicy-Owned:
Memphis Light, Gas and Water Division

State: Tennessee

Regulatory Authority: Tennessee Valley Authority.

Gas Utilities

None.

Electric Utilities

Publicly-Owned:
*Bristol Tennessee Electric System
Chattanooga Electric Power Board
*Clarksville Department of Electricity
*Cleveland Utilities
Decatur Electric Department
*Florence Electricity Department
*Greeneville Light And Power System
Huntsville Electric System
Jackson Utility Division—Electric Department
Johnson City Power Board
Knoxville Utilities Board
*Lenoir City Utilities Board
Memphis Light, Gas and Water Division
*Murfreesboro Electric Department
Nashville Electric Service

Rural Electric Cooperatives:
*Appalachian Electric Cooperative
Cumberland Electric Membership Corporation
*Duck River Electric Membership Corporation
*Four-County Electric Power Association
*Gibson County Electric Membership Corporation
*Meriwether Lewis Electric Cooperative
Middle Tennessee Electric Membership Corporation
North Georgia Electric Membership Corporation
*Pennyrile Rural Electric Cooperative Corporation
*Southwest Tennessee Electric Membership Corporation

*Tri-County Electric Membership Corporation
*Upper Cumberland Electric Membership Corporation
Volunteer Electric Cooperative
*Warren Rural Electric Cooperative Corporation
*West Kentucky Rural Electric Cooperative Corporation

State: Texas

Regulatory Authority: Texas Public Utility Commission.

Gas Utilities

Investor-Owned:
None.

Electric Utilities

Investor-Owned:
Central Power and Light Company
Community Public Service Company
Dallas Power and Light Company
El Paso Electric Company
Gulf States Utilities
Houston Lighting and Power Company
Southwestern Electric Power Company
*Southwestern Electric Service Company
Southwestern Public Service Company
Texas Electric Service Company
Texas New Mexico Power Company
Texas Power and Light Company
West Texas Utilities Company
Publicly-Owned:
*Brownsville Public Utility Board
*Bryan Municipal Electric System
*Lower Colorado River Authority
Rural Electric Cooperatives:
*Pedernales Electric Cooperative

The governing body of each Texas municipality exercises exclusive original jurisdiction over electric utility rates, operations and services provided by an electric utility (whether privately owned or publicly owned) within its city or town limits, unless the municipality has surrendered this jurisdiction to the Texas Public Utility Commission. The Commission hears *de novo* appeals from the decisions of such municipalities. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of a State regulatory authority.

The municipally-owned electric utilities listed below are not under the commission's original ratemaking jurisdiction.

Electric Utilities

Publicly-Owned:
Austin Electric Department
Garland Electric Department
*Lubbock Power and Light
San Antonio City Public Service Board

State: Texas

Regulatory Authority: Railroad Commission of Texas.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Energas Company
Entex, Inc.
Lone Star Gas Company
Peoples Natural Gas Division of Northern Natural Gas Company
Pioneer Natural Gas Company
Southern Union Gas Company
Trans Louisiana Gas Company

The Railroad Commission of Texas has special appellate jurisdiction over ratemaking decisions of the governing body of any municipality which affect the rates of a municipally-owned gas utility as provided by State statute. The governing body of each Texas municipality exercises exclusive original ratemaking jurisdiction over gas utility rates, operations, and services provided by a gas utility within its city or town limits. These municipal authorities would be State agencies as defined by PURPA and thus have responsibilities under PURPA identical to those of a State regulatory authority.

The following covered utilities within the State of Texas are not regulated by the Railroad Commission of Texas:

Gas Utilities

Investor-Owned:
City Service Gas Company
Public-Owned:
City Public Service Board (San Antonio)

State: Utah

Regulatory Authority: Utah Public Service Commission.

Gas Utilities

Investor-Owned:
Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:
Utah Power and Light Company
Rural Electric Cooperatives:
*Moon Lake Electric Association

State: Vermont

Regulatory Authority: Vermont Public Service Board.

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Central Vermont Public Service Corporation
Green Mountain Power Corporation
Public Service Company of New Hampshire

State: Virginia

Regulatory Authority: Virginia State Corporation Commission.

Gas Utilities

Investor-Owned:
Columbia Gas of Virginia, Inc.
Virginia Natural Gas Company
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Appalachian Power Company
Delmarva Power and Light Company
*Old Dominion Power Company
Potomac Edison Company
Potomac Electric and Power Company
Virginia Electric and Power Company
Publicly-Owned:
*Danville Water, Gas & Electric
Rural Electric Cooperatives:
*Prince William Electric Cooperative
Rappahannock Electric Cooperative

The State covered utility within the State of Virginia is not regulated by the Virginia State Corporation Commission.

Gas Utilities

Publicly-Owned:
City of Richmond, Virginia, Department of Public Utilities

State: Washington

Regulatory Authority: Washington Utilities and Transportation Commission.

Gas Utilities

Investor-Owned:
Cascade Natural Gas Corporation
Northwest Natural Gas Company
Washington Natural Gas Company
Washington Water Power Company

Electric Utilities

Investor-Owned:
Pacific Power and Light Company
Puget Sound Power and Light Company
Washington Water Power Company

The State covered utility within the State of Washington are not regulated by the Washington Utilities and Transportation Commission.

Electric Utilities

Publicly-Owned:
*Port Angeles Light and Water Department
Public Utility District No. 1 of Benton County
Public Utility District No. 1 of Chelan County
Public Utility District No. 1 of Clark County
Public Utility District No. 1 of Cowlitz County
*Public Utility District No. 1 of Douglas County
*Public Utility District No. 1 of Franklin County
Public Utility District of Grant County
Public Utility District No. 1 of Grays Harbor County
*Public Utility District No. 1 of Lewis County
Public Utility District No. 1 of Snohomish County
*Richland Energy Services Department
Seattle City Light Department
Tocoma Public Utilities—Light Division

State: West Virginia

Regulatory Authority: West Virginia Public Service Commission.

Gas Utilities

Investor-Owned:
Columbia Gas of West Virginia, Inc.
Consolidated Gas Supply Corporation
Equitable Gas Company

Electric Utilities

Investor-Owned:
Appalachian Power Company
Monongahela Power Company
Potomac Edison Company
Virginia Electric and Power Company
Wheeling Electric Company

State: Wisconsin

Regulatory Authority: Wisconsin Public Service Commission.

Gas Utilities

Investor-Owned:
- Madison Gas and Electric Company
- Northern States Power Company
- Wisconsin Fuel and Light Company
- Wisconsin Gas Company
- Wisconsin Natural Gas Company
- Wisconsin Power and Light Company
- Wisconsin Public Service Corporation

Electric Utilities

Investor-Owned:
- *Lake Superior District Power Company
- Madison Gas and Electric Company
- Northern States Power Company
- Wisconsin Electric Power Company
- Wisconsin Power and Light Company
- Wisconsin Public Service Corporation

State: Wyoming

Regulatory Authority: Wyoming Public Service Commission.

Gas Utilities

Investor-Owned:
- Cheyenne Light Fuel and Power Company
- Kansas-Nebraska Natural Gas Company
- Montana-Dakota Utilities Company
- Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:
- Black Hills Power and Light Company
- Montana-Dakota Utilities Company
- Pacific Power and Light Company
- Utah Power and Light Company

Rural Electric Cooperative:
- *Tri-County Electric Association, Inc.

Appendix B

Electric Utilities

All utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt hours in 1976, 1977, 1978, 1979, 1980 or 1981. All except those marked (*) are covered by PURPA Title I and NECPA Title II and VII. Utilities marked (*) either did not exceed the NECPA threshold of 750 million kilowatt-hour in 1981 for purposes other than resale, or do not have residential or commercial sales and therefore, are not covered by NECPA Titles II and VII. The utilities listed more than once have sales in more than one State, and those States are indicated by abbreviations in parentheses.

Investor-Owned:
- Alabama Power Company
- Appalachian Power Company (VA)
- Appalachian Power Company (WV)
- Arizona Public Service Company
- Arkansas-Missouri Power Company (AR)
- Arkansas-Missouri Power Company (MO)
- Arkansas Power & Light Company (AR)
- Arkansas Power & Light Company (LA)
- Atlantic City Electric Company
- Baltimore Gas & Electric Company
- Bangor Hydro-Electric Company
- Black Hills Power & Light Company (MT)
- Black Hills Power & Light Company (SD)
- Black Hills Power & Light Company (WY)
- Blackstone Valley Electric Company
- Boston Edison Company
- Cambridge Electric Light Company
- Carolina Power & Light Company (NC)
- Carolina Power & Light Company (SC)
- Central Hudson Gas & Electric Corporation
- Central Illinois Light Company
- Central Illinois Public Service Company
- *Central Kansas Power Company
- Central Louisiana Electric Company
- Central Maine Power Company
- Central Power & Light Company
- Central Vermont Public Service Corporation
- Cincinnati Gas & Electric Company
- Citizens Utilities Company
- Cleveland Electric Illuminating Company
- Columbus and Southern Ohio Electric Company
- Commonwealth Edison Company
- Commonwealth Electric Company
- Community Public Service Company (NM)
- Community Public Service Company (TX)
- Connecticut Light & Power Company
- * Conowingo Power Company
- Consolidated Edison Company of New York
- Consumers Power Company
- Dallas Power & Light Company
- Dayton Power & Light Company
- Delmarva Power & Light Company (DE)
- Delmarva Power & Light Company (VA)
- Delmarva Power & Light Company of Maryland
- Detroit Edison Company
- Duke Power Company (NC)
- Duke Power Company (SC)
- Duquesne Light Company
- Eastern Edison Company
- El Paso Electric Company (NM)
- El Paso Electric Company (TX)
- Empire District Electric Company (AR)
- Empire District Electric Company (KS)
- Empire District Electric Company (MO)
- Empire District Electric Company (OK)
- Florida Power Corporation
- Florida Power & Light Company
- Georgia Power Company
- Green Mountain Power Corporation
- Gulf Power Company
- Gulf States Utilities Company (LA)
- Gulf States Utilities Company (TX)
- Hartford Electric Light Company
- Hawaiian Electric Company Inc.
- Houston Lighting & Power Company
- Idaho Power Company (ID)
- Idaho Power Company (NV)
- Idaho Power Company (OR)
- Illinois Power Company
- Indiana & Michigan Electric Company (IN)
- Indiana & Michigan Electric Company (MI)
- Indianapolis Power & Light Company
- Interstate Power Company (IA)
- Interstate Power Company (IL)
- Interstate Power Company (MN)
- Iowa Electric Light & Power Company
- Iowa-Illinois Gas & Electric Company (IA)
- Iowa-Illinois Gas & Electric Company (IL)
- Iowa Power & Light Company
- Iowa Public Service Company (IA)
- Iowa Public Service Company (SD)
- Iowa Southern Utilities Company
- Jersey Central Power & Light Company
- Kansas City Power & Light Company (KS)
- Kansas City Power & Light Company (MO)
- Kansas Gas & Electric Company
- Kansas Power & Light Company
- Kentucky Power Company
- Kentucky Utilities Company (KY)
- Kingsport Power Company
- *Lake Superior District Power Company (MI)
- *Lake Superior District Power Company (WI)
- Long Island Lighting Company
- Louisiana Power & Light Company
- Louisville Gas & Electric Company
- Madison Gas & Electric Company
- *Maine Public Service Company
- Massachusetts Electric Company
- Metropolitan Edison Company
- *Michigan Power Company
- Minnesota Power & Light Company
- Mississippi Power Company
- Mississippi Power & Light Company
- Missouri Edison Company
- Missouri Power & Light Company
- Missouri Public Service Company
- Missouri Utilities Company
- Monongahela Power Company (OH)
- Monongahela Power Company (WV)
- Montana-Dakota Utilities Company (MT)
- Montana-Dakota Utilities Company (ND)
- Montana-Dakota Utilities Company (SD)
- Montana-Dakota Utilities Company (WY)
- Montana Power Company
- *Nantahala Power & Light Company
- Narragansett Electric Company
- Nevada Power Company
- *New Mexico Electric Service Company
- New Orleans Public Service Inc.
- New York State Electric & Gas Corporation
- Niagara Mohawk Power Corporation
- Northern Indiana Public Service Company
- Northern States Power Company (MN)
- Northern States Power Company (ND)
- Northern States Power Company (SD)
- Northern States Power Company (WI)
- Northwestern Public Service Company
- Ohio Edison Company
- Ohio Power Company
- Oklahoma Gas & Electric Company (AR)
- Oklahoma Gas & Electric Company (OK)
- *Old Dominion Power Company
- Orange & Rockland Utilities
- Otter Tail Power Company (MN)
- Otter Tail Power Company (ND)
- Otter Tail Power Company (SD)
- Pacific Gas & Electric Company
- Pacific Power Light Company (CA)
- Pacific Power Light Company (ID)
- Pacific Power Light Company (MT)
- Pacific Power Light Company (OR)
- Pacific Power Light Company (WA)
- Pacific Power Light Company (WY)
- Pennsylvania Electric Company
- Pennsylvania Power & Light Company
- Pennsylvania Power Company
- Philadelphia Electric Company
- Portland General Electric Company
- Potomac Edison Company (MD)
- Potomac Edison Company (VA)
- Potomac Edison Company (WV)
- Potomac Electric Power Company (DC)
- Potomac Electric Power Company (MD)
- Potomac Electric Power Company (VA)
- Public Service Company of Colorado
- Public Service Company of Indiana
- Public Service Company of New Hampshire (NH)
- Public Service Company of New Hampshire (VT)
- Public Service Company of New Mexico

Public Service Company of Oklahoma
Public Service Electric and Gas Company
Puget Sound Power & Light Company
Rochester Gas & Electric Corporation
Rockland Electric Company
St. Joseph Light & Power Company
San Diego Gas & Electric Company
Savannah Electric & Power Company
Sierra Pacific Power Company (CA)
Sierra Pacific Power Company (NV)
South Carolina Electric & Gas Company
Southern California Edison Company
Southern Indiana Gas & Electric Company
Southwestern Electric Power Company (AR)
Southwestern Electric Power Company (LA)
Southwestern Electric Power Company (TX)
*Southwestern Electric Service Company
Southwestern Public Service Company (KS)
Southwestern Public Service Company (NM)
Southwestern Public Service Company (OK)
Southwestern Public Service Company (TX)
Tampa Electric Company
Texas Electric Service Company
Texas New Mexico Power Company
Texas Power & Light Company
Toledo Edison Company
Tucson Electric Power Company
*UGI-Luzerne Electric Division
Union Electric Company (LA)
Union Electric Company (IL)
Union Electric Company (MO)
Union Light, Heat & Power Company
United Illuminating Company
*Upper Peninsula Power Company
Utah Power & Light Company (ID)
Utah Power & Light Company (UT)
Utah Power & Light Company (WY)
Virginia Electric & Power Company (NC)
Virginia Electric & Power Company (VA)
Virginia Electric & Power Company (WV)
Washington Water Power Company (ID)
Washington Water Power Company (MT)
Washington Water Power Company (WA)
West Penn Power Company
West Texas Utilities Company
Western Massachusetts Electric Company
Western Power Division of Centel (CO)
Western Power Division of Centel (KS)
Wheeling Electric Company
Wisconsin Electric Power Company (MI)
Wisconsin Electric Power Company (WI)
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)

Publicly-Owned:
*Albany Water, Gas & Light Commission (GA)
Anaheim—Electric Division (CA)
*Anchorage Municipal Light & Power Department (AK)
Austin Electric Department (TX)
*Bowling Green Municipal Utilities (KY)
*Bristol Tennessee Electric System (TN)
*Brownsville Public Utility Board (TX)
*Bryan Municipal Electric System (TX)
Burbank Public Service Department (CA)
Central Lincoln People's Utility District (OR)
Chattanooga Electric Power Board (TN)
*Clarksville Department of Electricity (TN)
*Clatskanie People's Utility District (OR)
*Cleveland Division of Light & Power (OH)
*Cleveland Utilities (TN)
Colorado Springs Department of Public Utilities (CO)
*Dalton Water, Light & Sink (GA)
*Danville Water, Gas & Electric (VA)
Decatur Electric Department (AL)
*Dothan Electric Department (AL)
Eugene Water & Electric Board (OR)
Fayetteville Public Works Commission (NC)
*Forence Electricity Department (AL)
*Fort Pierce Utilities Authority (FL)
Gainesville Regional Utilities (FL)
Garland Electric Department (TX)
Glendale Public Service Department (CA)
*Greeneville Light & Power System (TN)
*Greenville Utilities Commission (NC)
*Groton Public Utilities (CT)
*High Point Electric Utility Dept. (NC)
Huntsville Electric System (AL)
Imperial Irrigation District (CA)
*Independence Power & Light Department (MO)
Jackson Utility Division—Electric Department (TN)
Jacksonville Electric Authority (TN)
Johnson City Power Board (TN)
Kansas City Board of Public Utilities (KS)
Knoxville Utilities Board (TN)
Lafayette Utilities System (LA)
Lakeland Department of Electricity and Water (FL)
Lansing Board of Water & Light (MI)
*Lenoir City Utilities Board (TN)
Lincoln Electric System (NE)
Los Angeles Department of Water and Power (CA)
*Lower Colorado River Authority (TX)
*Lubbock Power & Light (TX)
Memphis Light, Gas & Water Division (TN)
Modesto Irrigation District (CA)
*Murfreesboro Electric Dept. (TN)
*Muscatine Power & Water (IA)
Nashville Electric Service (TN)
Nebraska Public Power District (NE)
Nebraska Public Power District (SD)
*North Little Rock Electric Department (AR)
*Ocala Utilities (FL)
Omaha Public Power District (IA)
Omaha Public Power District (NE)
Orlando Utilities Commission (FL)
*Owensboro Municipal Utilities (KY)
Palo Alto Electric Utility (CA)
Pasadena Water & Power Department (CA)
*Power Authority of New York (NY)
*Port Angeles Light & Water Department (WA)
Public Utility District No. 1 of Benton County (WA)
Public Utility District No. 1 of Chelan County (WA)
Public Utility District No. 1 of Clark County (WA)
Public Utility District No. 1 of Cowlitz County (WA)
*Public Utility District No. 1 of Douglas County (WA)
*Public Utility District No. 1 of Franklin County (WA)
Public Utility District No. 1 of Grant County (WA)
Public Utility District No. 1 of Grays Harbor County (WA)
Public Utility District No. 1 of Lewis County (WA)
Public Utility District No. 1 of Snohomish County (WA)
Puerto Rico Electric Power Authority
*Richland Energy Services Department (WA)
*Richmond Power & Light (IN)
Riverside Public Utilities (CA)
*Rochester Department of Public Utilities (MN)
*Rocky Mount Public Utilities (NC)
Sacramento Municipal Utility District (CA)
Salt River Project Agricultural Improvement and Power District (AZ)
San Antonio City Public Service Board (TX)
Santa Clara Electric Department (CA)
Seattle City Light Department (WA)
South Carolina Public Service Authority
*Springfield City Utilities (MO)
*Springfield Utilities Board (OR)
Springfield Water, Light & Power Department (IL)
Tacoma Public Utilities—Light Division (WA)
Tallahassee, City of (FL)
*Turlock Irrigation District (CA)
Vernon Municipal Light Department (CA)
*Vero Beach Municipal Auth. (FL)
*Wilson Utilities Department (NC)

Rural Electric Cooperatives
*Anoka Electric Cooperative (MN)
*Applachian Electric Cooperative (TN)
*Blue Ridge Electric Membership Corporation (NC)
Chugach Electric Association (AK)
Clay Electric Cooperative (FL)
*Cobb Electric Membership Corporation (GA)
*Cotton Electric Cooperative (OK)
Cumberland Electric Membership Corporation (TN)
*Duck River Electric Membership Corporation (TN)
*Dixie Electric Membership Corporation (LA)
*First Electric Cooperative Corporation (AR)
*Flint Electrical Membership Corporation (GA)
*Four County Electric Power Association (MS)
*Gibson County Electric Membership Corporation (TN)
Green River Electric Corporation (KY)
Henderson-Union Rural Electric Cooperative Corporation (KY)
*Jackson Electric Membership Corporation (GA)
Lee County Electric Cooperative (FL)
*Meriwether Lewis Electric Cooperative (TN)
Middle Tennessee Electric Membership Corporation (TN)
*Midwest Energy Incorporated (KS)
*Moon Lake Electric Association (UT)
North Georgia Electric Membership Corporation (GA)
*Pedernales Electric Cooperative (TX)
*Pennyrile Rural Electric Cooperative Corporation (KY)
*Prince William Electric Cooperative (VA)
Rappahannock Electric Cooperative (VA)

*Rural Electric System (AL)
*Singing River Electric Power Association (MS)
*South Central Power Company (OH)
Southern Maryland Electric Cooperative, Inc. (MD)
*Southern Pine Electric Power Association (MS)
Southwest Louisiana Electric Membership Corporation (LA)
*Southwest Tennessee Electric Membership Corporation (TN)
*Trico Electric Cooperative, Inc. (AZ)
*Tri-County Electric Association, Inc. (WY)
*Tri-County Electric Membership Corporation (TN)
*Umatilla Electric Cooperative Association (OR)
*Upper Cumberland Electric Membership Corporation (TN)
Volunteer Electric Cooperative (TN)
*Walton Electric Membership Corporation (GA)
*Warren Rural Electric Cooperative Corporation (KY)
*West Kentucky Rural Electric Cooperative Corporation (KY)
Withlacoochee River Electric Cooperative (FL)

Federal Agencies

*Bonneville Power Administration (OR)
*Tennessee Valley Authority (TN)
*Western Area Power Administration (CO)

Gas Utilities

All gas utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977, 1978, 1979, 1980 or 1981 and are covered by PURPA Title III and NECPA Titles II and VII. Utilities marked (*) do not have residential or commercial sales, and therefore, are not covered by NECPA Title II or VII. The utilities listed more than once have sales in more than one State and those States are indicated by abbreviations in parentheses.

Investor-Owned

Alabama Gas Corporation
Alaska Gas & Service Company
Anadarko Production Company
Arizona Public Service Company
Arkansas-Louisiana Gas Company (AR)
Arkansas-Louisiana Gas Company (KS)
Arkansas-Louisiana Gas Company (LA)
Arkansas-Louisiana Gas Company (OK)
Arkansas-Louisiana Gas Company (TX)
Arkansas-Oklahoma Gas Corporation (AR)
Arkansas-Oklahoma Gas Corporation (OK)
Arkansas Western Gas Company
Associated Natural Gas Company (AR)
Associated Natural Gas Company (MO)
Atlanta Gas Light Company
Baltimore Gas & Electric Company
Bay State Gas Company
Boston Gas Company
Brooklyn Union Gas Company
Carnegie Natural Gas Company
*Carolina Pipeline Company
Cascade Natural Gas Corporation (OR)
Cascade Natural Gas Corporation (WA)
Central Illinois Light Company
Central Illinois Public Service Company
Chattanooga Gas Company (GA)
Chattanooga Gas Company (TN)
Cheyenne Light, Fuel and Power Company
Cincinnati Gas and Electric Company
Cities Service Gas Company (covered by NECPA only)
City Gas Company of Florida
Colonial Gas Energy System
Columbia Gas of Kentucky, Inc.
Columbia Gas of New York, Inc.
Columbia Gas of Ohio, Inc.
Columbia Gas of Pennsylvania, Inc.
Columbia Gas of Virginia, Inc.
Columbia Gas of West Virginia, Inc.
Commonwealth Gas Company
Commonwealth Gas Service Incorporated
Connecticut Light & Power Company
Connecticut Natural Gas Corporation
Consolidated Edison Company of New York, Inc.
Consolidated Gas Supply Corporation
Consumers Power Company
Dayton Power & Light Company
Delmarva Power & Light Company (DE)
East Ohio Gas Company
Elizabethtown Gas Company
Energas Company
Entex Inc. (LA)
Entex Inc. (MS)
Entex Inc. (TX)
Equitable Gas Company (PA)
Equitable Gas Company (WV)
Gas Company of New Mexico
Gas Light Company of Columbus
Gas Service Company (KS)
Gas Service Company (MO)
Gas Service Company (NE)
Gas Service Company (OK)
Greeley Gas Company (CO)
Greeley Gas Company (KS)
Gulf States Utilities Company
Illinois Power Company
Indiana Gas Company
Inland Gas Company
Inter City Gas Company
Intermountain Gas Company
Interstate Power Company (IA)
Interstate Power Comapany (IL)
Interstate Power Company (MN)
Iowa Electric Light & Power Company (CO)
Iowa Electric Light & Power Company (IA)
Iowa Electric Light & Power Company (MN)
Iowa Electric Light & Power Company (NE)
Iowa-Illinois Gas & Electric Company (IA)
Iowa-Illinois Gas & Electric Company (IL)
Iowa Power & Light Company
Iowa Public Service Company (IA)
Iowa Public Service Company (NE)
Iowa Public Service Company (SD)
Iowa Southern Utilities Company
Kansas-Nebraska Natural Gas Company (CO)
Kansas-Nebraska Natural Gas Company (KS)
Kansas-Nebraska Natural Gas Company (NE)
Kansas-Nebraska Natural Gas Company (WY)
Kansas Power & Light Company
Kokomo Gas & Fuel Company
Laclede Gas Company Consolidated
Lone Star Gas Company (OK)
Lone Star Gas Company (TX)
Long Island Lighting Company
Louisiana Gas Service Company
Louisville Gas & Electric Company
Lowell Gas Company
Madison Gas & Electric Company
Michigan Consolidated Gas Company
Michigan Gas Utilities Company
Michigan Power Company
Minnesota Gas Company (IA)
Minnesota Gas Company (MN)
Minnesota Gas Company (NE)
Minnesota Gas Company (SD)
Mississippi Valley Gas Company
Missouri Public Service Company
Mobile Gas Service Corporation
Montana-Dakota Utilities Company (MN)
Montana-Dakota Utilities Company (MT)
Montana-Dakota Utilities Company (ND)
Montana-Dakota Utilities Company (SD)
Montana-Dakota Utilities Company (WY)
Montana Power Company
Mountain Fuel Supply Company (UT)
Mountain Fuel Supply Company (WY)
Nashville Gas Company
National Fuel Gas Distribution Corporation (NY)
National Fuel Gas Distribution Corporation (PA)
National Gas and Oil Company
New Bedford Gas and Edison Light Company
New Jersey Natural Gas Company
New Orleans Public Service, Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Company
North Carolina Natural Gas Corporation
North Central Public Service Company (IA)
North Central Public Service Company (MN)
North Shore Gas Company
Northeast Utilities (CT)
Northern Illinois Gas Company
Northern Indiana Public Service Company
Norhern Natural Gas Company (KS)
Northern Natural Gas Company (NE)
Northern States Power Company (MN)
Northern States Power Company (ND)
Northern States Power Company (WI)
North Penn Gas Company
Northwest Natural Gas Company (OR)
Northwest Natural Gas Company (WA)
Northwestern Public Service Company (NE)
Northwestern Public Service Company (SD)
Oklahoma Natural Gas Company
Orange & Rockland Utilities
Pacific Gas & Electric Company
Panhandle Eastern Pipeline Company (IL)
Panhandle Eastern Pipeline Company (KS)
Pennsylvania Gas & Water Company
Peoples Gas, Light and Coke Company
Peoples Gas System
Peoples Natural Gas Company
Peoples Natural Gas Company, Division of Internorth, Inc. (CO)
Peoples Natural Gas Company, Division of Internorth, Inc. (IA)
Peoples Natural Gas Company, Division of Internorth, Inc. (KS)
Peoples Natural Gas Company, Division of Internorth, Inc. (MI)
Peoples Natural Gas Company, Division of Internorth, Inc. (MN)
Peoples Natural Gas Company, Division of Internorth, Inc. (MO)
Peoples Natural Gas Company, Division of Internorth, Inc. (NE)
Peoples Natural Gas Company, Division of Internorth, Inc. (TX)

Philadelphia Electric Company
Piedmont Natural Gas Company (NC)
Piedmont Natural Gas Company (SC)
Pioneer Natural Gas Company
Providence Gas Company
Public Service Company of Colorado
Public Service Company, Inc. of North Carolina
Public Service Electric and Gas Company
Rochester Gas & Electric Corporation
San Diego Gas & Electric Company
South Carolina Gas & Electric Company
South Jersey Gas Company
Southeastern Michigan Gas Company
Southern California Gas Company
Southern Conneticut Gas Company
Southern Indiana Gas & Electric Company
Southern Union Gas Company (AZ)
Southern Union Gas Company (OK)
Southern Union Gas Company (TX)
Southwest Gas Corporation (AZ)
Southwest Gas Corporation (CA)
Southwest Gas Corporation (NV)
Terre Haute Gas Corporation
Trans Louisiana Gas Company
T.W. Phillips Gas and Oil Company
UGI Corporation
Union Gas System, Inc. (KS)
Union Gas System, Inc. (OK)
Union Light, Heat & Power Company (KY)
Virginia Natural Gas Company
Washington Gas Light Company (DC)
Washington Gas Light Company (MD)
Washington Gas Light Company (VA)
Washington Natural Gas Company
Washington Water Power Company (ID)
Washington Water Power Company (WA)
West Ohio Gas Company (DC)
Western Kentucky Gas Company
Wisconsin Fuel & Light Company
Wisconsin Gas Company
Wisconsin Natural Gas Company
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)

Public-Owned

Citizens Gas & Coke Utility (IN)
City of Richmond, Virginia, Department of Public Utilities (VA)
City Public Service Board (San Antonio) (TX)
Colorado Springs, Department of Public Utilities (CO)
Long Beach Gas Department (CA)
Memphis Light, Gas & Water Division (TN)
Metropolitan Utilities District of Omaha (NE)
Philadelphia Gas Works (PA)
Springfield City Utilities (MO)

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federal register

Thursday
January 13, 1983

Part III

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Report

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

January 1, 1983.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of January 1, 1983 of one rescission proposal and 35 deferrals contained in the first three special messages of FY 1983. these messages were transmitted to the Congress on October 1, and December 7, and 16, 1982.

Rescissions (Table A and Attachment A)

One rescission proposal totaling $2 million is currently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of January 1, 1983, while Attachment A shows the history and status of each rescission proposed during FY 1983.

Deferrals (Table B and Attachment B)

As of January 1, 1983, $2,548.3 million in 1983 budget authority was being deferred from obligation and another $31 thousand in 1983 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1983.

Information from special messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the Federal Registers listed below:

Vol. 47, No. 194, FR p. 44524, Thursday, October 7, 1982
Vol. 47, No. 238, FR p. 55602, Friday, December 10, 1982
Vol. 47, No. 246, FR p. 57230, Wednesday, December 22, 1982

David A. Stockman,
Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1983 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$2.0
Accepted by the Congress	-0-
Rejected by the Congress	-0-
Pending before the Congress	$2.0

TABLE B

STATUS OF 1983 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$ 3,364.8
Routine Executive releases (-$814.6 million) and adjustments (-$1.9 million) through January 1, 1983	-816.5
Overturned by the Congress	0
Currently before the Congress	$ 2,548.3 a

a. This amount includes $31 thousand in outlays for a Department of the Treasury deferral (D83-16A).

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1983 AS OF 12/28/82 19:15

AS OF JANUARY 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Construction							
BA	R83- 1		2,000	12 16 82			

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 01/06/83 18:01

AMOUNTS IN THOUSANDS OF DOLLARS	AMOUNT TRANSMITTED	AMOUNT TRANSMITTED	DATE OF	CUMULATIVE OMB	CONGRESSIONALLY	CUMULATIVE	AMOUNT DEFERRED

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 01/06/83 18:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 1-1-83
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit	BA	D83- 21	165,000		12 7 82				165,000
Economic support fund	BA	D83- 22	554,720		12 7 82	-551,150			3,570
Military assistance	BA	D83- 29	11,650		12 7 82	-11,650			
International Development Assistance									
Functional development assistance program	BA	D83- 1	8,129		10 1 82				8,129
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		739,499			-562,800			176,699
DEPARTMENT OF AGRICULTURE									
Animal and Plant Health Inspection Service									
Salaries and expenses	BA	D83- 36	2,134		12 16 82				2,134
Forest Service									
Timber salvage sales	BA	D83- 2	10,002		10 1 82				10,002
Expenses, brush disposal	BA	D83- 3	44,575		10 1 82				44,575
DEPARTMENT OF AGRICULTURE TOTAL	BA		56,711						56,711

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 01/06/83 18:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 1-1-83
DEPARTMENT OF COMMERCE								
International Trade Administration								
Participation in U.S. expositions								
BA	D83- 4	3,356		10 1 82	-571			2,785
National Oceanic and Atmospheric Administration								
Promote and develop fishery products and research								
BA	D83- 5	30,619		10 1 82	-6,534			24,085
DEPARTMENT OF COMMERCE TOTAL BA		33,975			-7,105			26,870
DEPARTMENT OF DEFENSE-MILITARY								
Military Construction								
Military construction, all services								
BA	D83- 6	64,063		10 1 82				
BA	D83- 6A		1,166,415	12 7 82	-5			1,230,473
Family Housing, Defense								
Family housing, Defense								
BA	D83- 23	161,640		12 7 82				161,640
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA		225,703	1,166,415		-5			1,392,113
DEPARTMENT OF DEFENSE-CIVIL								
Wildlife Conservation, Military Reservations								
Wildlife conservation								
BA	D83- 7	1,061		10 1 82			-50	1,011
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA		1,061					-50	1,011

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 01/06/83 18:01

AMOUNTS IN THOUSANDS OF DOLLARS		AMOUNT TRANSMITTED	AMOUNT TRANSMITTED	DATE OF	CUMULA- TIVE OMB	CONGRES- SIONALLY	CUMULA- TIVE	AMOUNT DEFERRED

DEPARTMENT OF DEFENSE-CIVIL TOTAL BA			1,061					-50	1,011

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 01/06/83 18:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 1-1-83
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy R&D	BA	D83- 8	20,136		10 1 82				20,136
Energy conservation	BA	D83- 24	22,803		12 7 82				22,803
DEPARTMENT OF ENERGY TOTAL BA			42,939						42,939
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St. Elizabeths Hospital	BA	D83- 9	9,714		10 1 82				9,714
Office of Assistant Secretary for Health									
Special foreign currency program	BA	D83- 10	6,420		10 1 82				6,420
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL BA			16,134						16,134

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 01/06/83 18:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 1-1-83
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Payments for operation of low income housing								
BA	D83- 30	150,000		12 7 82				150,000
Community Planning and Development								
Community development grants								
BA	D83- 31	221,000		12 7 82	-221,000			
Urban development action grants								
BA	D83- 32	234,000		12 7 82				234,000
Urban homesteading								
BA	D83- 33	8,000		12 7 82	-8,000			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		613,000			-229,000			384,000
DEPARTMENT OF THE INTERIOR								
Office of Water Research & Technology								
Salaries and expenses								
BA	D83- 25	2,545		12 7 82				2,545
National Park Service								
Land and water conservation fund								
BA	D83- 11	30,000		10 1 82				30,000
DEPARTMENT OF THE INTERIOR TOTAL BA		32,545						32,545
DEPARTMENT OF JUSTICE								
Federal Prison System								
Buildings and facilities								
BA	D83- 35	16,330		12 16 82				16,330

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 01/06/83 18:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL	AMOUNT TRANSMITTED SUBSEQUENT	DATE OF MESSAGE	CUMULATIVE OMB /AGENCY	CONGRESSIONALLY REQUIRED	CUMULATIVE ADJUSTI-	AMOUNT DEFERRED AS OF

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 01/06/83 18:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 1-1-83
Buildings and facilities									
	BA	D83- 35	16,330		12 16 82				16,330
DEPARTMENT OF STATE									
Other									
Emergency refugee and migration assistance fund									
	BA	D83- 12	37,692		10 1 82			-1,844a	35,848
DEPARTMENT OF STATE TOTAL	BA		37,692					-1,844	35,848
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination									
	BA	D83- 13	46		10 1 82				46
Facilities & equip. (Airport & airway trust fund)									
	BA	D83- 14	158,485		10 1 82				158,485
DEPARTMENT OF TRANSPORTATION TOTAL	BA		158,531						158,531
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
State and local government fiscal assistance fund									
	BA	D83- 15	106,474		10 1 82				
	BA	D83- 15A		308	12 7 82	-1,254			105,525
	O	D83- 16	7,909		10 1 82				
	O	D83- 16A		6,537	12 7 82	-14,415			31
Federal Law Enforcement Training Center									
Construction									
	BA	D83- 17	3,078		10 1 82				3,078
DEPARTMENT OF THE TREASURY TOTAL	BA		109,552	308		-1,254			108,603
DEPARTMENT OF THE TREASURY TOTAL	O		7,909	6,537		-14,415			31

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 01/06/83 18:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 1-1-83
NATIONAL AERONAUTICS & SPACE ADMINISTRATION								
Research and development								
BA	D83- 26	34,500		12 7 82				34,500
VETERANS ADMINISTRATION								
Construction, major projects								
BA	D83- 27	4,000		12 7 82				4,000
OTHER INDEPENDENT AGENCIES								
District of Columbia								
Loans to DC for capital investment								
BA	D83- 18	38,832		10 1 82				38,832
Interstate Commission on the Potomac River Basin								
Contrib. to Interst. Comm. on Potomac Riv. Basin								
BA	D83- 28	12		12 7 82				12
Pennsylvania Avenue Development Corporation								
Land acquisition and development fund								
BA	D83- 19	17,949		10 1 82				
BA	D83- 19A		4,409	12 16 82				22,358
Railroad Retirement Board								
Milwaukee railroad restructuring, administration								
BA	D83- 20	240		10 1 82				240

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 01/06/83 18:01

AMOUNTS IN THOUSANDS OF DOLLARS		AMOUNT	AMOUNT		CUMULA-	CONGRES-	CUMULA-	AMOUNT
AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	TRANSMITTED ORIGINAL REQUEST	TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	TIVE OMB /AGENCY RELEASES	SIONALLY REQUIRED RELEASES	TIVE ADJUST- MENTS	DEFERRED AS OF 1-1-83
Railroad Retirement Board								
Milwaukee railroad restructuring, interest								
BA	D83- 21	1,000		10 1 82				1,000
Tennessee Valley Authority								
Tennessee Valley Authority fund								
BA	D83- 22	1,000		10 1 82				1,000
Total deferrals		97,533	4,409					101,942

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983 AS OF 01/06/83 18:01

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 1-1-83
OTHER INDEPENDENT AGENCIES								
TOTAL BA		57,033	4,409					61,442
TOTAL BA		2,179,205	1,171,129		-800,164		-1,894	2,548,276
TOTAL O		7,909	6,537		-14,415			31

a. This adjustment is being made to reflect actual unobligated balances available on October 1, 1982. The entire amount of these balances is being withheld from obligation.

END OF REPORT

[FR Doc. 83-1019 Filed 1-12-83; 8:45 am]

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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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Listing of Public Laws

Last Listing January 12, 1983

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H.R. 5447 / Pub. L. 97-444 Futures Trading Act of 1982. (Jan. 11, 1983, 96 Stat. 2294) Price: $4.25.

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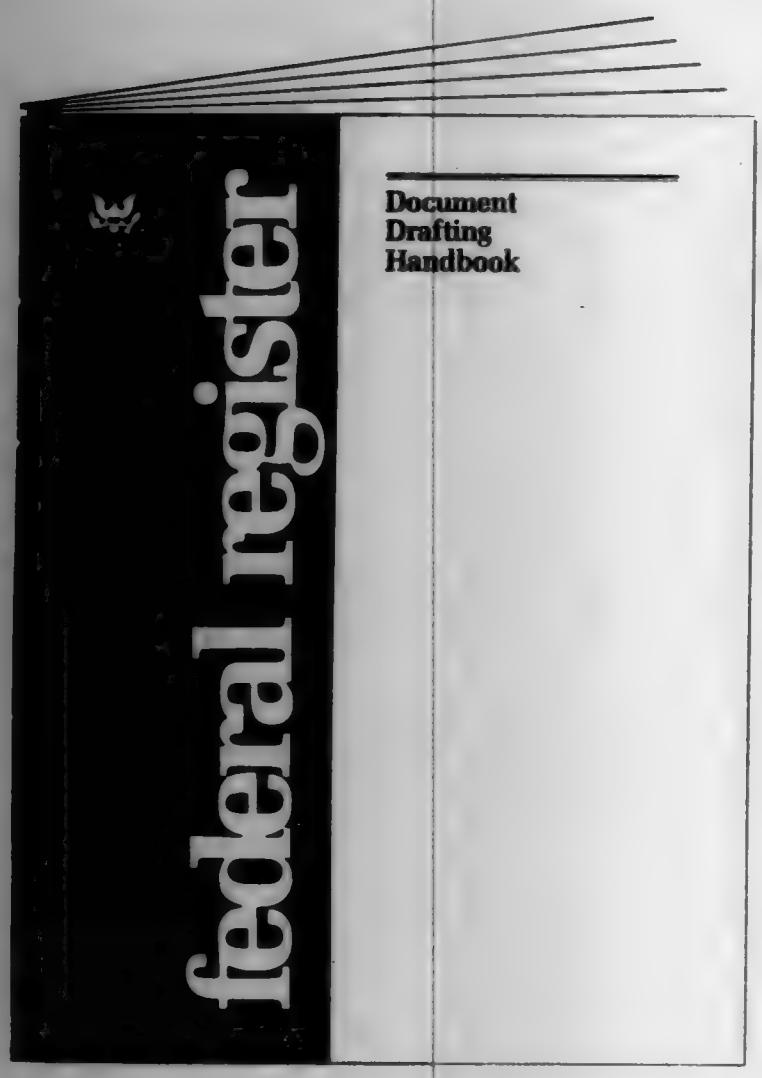

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Loan Programs—Housing and Community Development
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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Presidential Documents

Title 3——

The President

Proclamation 5013 of January 12, 1983

National Inventors' Day, 1983

By the President of the United States of America

A Proclamation

Almost two hundred years ago, President George Washington recognized that invention and innovation were fundamental to the welfare and strength of the United States. He successfully urged the First Congress to enact a patent statute as expressly authorized by the U.S. Constitution and wisely advised that "there is nothing which can better deserve your patronage than the promotion of science . . ." In 1790, the first patent statute initiated the transformation of the United States from an importer of technology to a world leader in technological innovation.

Today, just as in George Washington's day, inventors are the keystone of the technological progress that is so vital to the economic, environmental, and social well-being of this country. Individual ingenuity and perseverance, spurred by the incentives of the patent system, begin the process that results in improved standards of living, increased public and private productivity, creation of new industries, improved public services, and enhanced competitiveness of American products in world markets.

In recognition of the enormous contribution inventors make to the nation and the world, the Congress, pursuant to Senate Joint Resolution 140 (Public Law 97–198), has designated February 11, 1983, the anniversary of the birth of Thomas Alva Edison, one of America's most famous and prolific inventors, as National Inventors' Day. Such recognition is especially appropriate at a time when our country is striving to maintain its global position as a leader in innovation and technology. Key to our future success will be the dedication and creativity of inventors.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim February 11, 1983, as National Inventors' Day and call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of Jan., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Parts 713, 730, 792, 794 and 795

Feed Grain, Rice, Upland Cotton, and Wheat Programs for Crop Years 1982–85

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: The Agriculture and Food Act of 1981, which was enacted on December 22, 1981, amended the Agricultural Act of 1949 to authorize price support, payment, and production adjustment programs for the 1982 through 1985 crops of feed grain, rice, upland cotton, and wheat. The Omnibus Budget Reconciliation Act of 1982, which was enacted on September 8, 1982, further amended the Agricultural Act of 1949 with respect to these programs. This interim rule sets forth certain terms and conditions of these programs, as well as combining a number of related regulations into this regulation, 7 CFR Part 713.

DATES: Effective Date: January 14, 1983. Comments must be submitted on or before March 15, 1983 in order to be assured of consideration.

ADDRESS: Address comments to: Director, Cotton, Grain, and Rice Price Support Division, ASCS, USDA, Room 3630, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: William Harshaw (ASCS), 202–447–7634.
An impact analysis is being prepared and will be available for review before publication of the document that analyzes public comment on this interim rule.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal assistance program to which this interim rule applies are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Rice Production Stabilization, 10.065; and Wheat Production Stabilization, 10.058; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

A. Statutory Background

General—Sections 101(i), 103(g), 105B, and 107B of the Agricultural Act of 1949 were added by the Agriculture and Food Act of 1981 (hereafter referred to as the "Act") effective for the 1982 through 1985 crops of rice, upland cotton, feed grains, and wheat, repectively. The Act provides for price support, payment, and production adjustment programs for these commodities. The Omnibus Budget Reconciliation Act of 1982 (hereafter referred to as the "Reconciliation Act") added Section 107C to the Agricultural Act of 1949 effective for the 1982 through 1985 crops of rice, upland cotton, feed grains, and wheat. The Reconciliation Act also amended the Agricultural Act of 1949 to specify certain requirements for the 1983 programs for rice, feed grains, and wheat. The regulations provided herein (7 CFR Part 713) set forth a number of terms and conditions with which producers must comply in order to be eligible for benefits under the programs for rice, upland cotton, feed grains, and wheat. A summary of the significant statutory authorities for these programs for the 1982 through 1985 crops is as follows:

(1) *Price Support*—The Act provides that support shall be made available to producers of rice, upland cotton, feed grains, and wheat by means of nonrecourse loans and/or purchase agreements. The general terms and conditions for price support are found generally in 7 CFR Part 1421. The loan and/or purchase rates for each such crop are set forth in an annual Notice of Determination published in the **Federal Register.**

(2) *Deficiency ("target price") Payments*—The Act provides that deficiency payments shall be made available to producers of rice, upland cotton, wheat, corn, grain sorghum, oats, and, if designated by the Secretary, barley. Payments for any of these crops are computed by multiplying: (i) The payment rate, by (ii) the farm program acreage for the crop, by (iii) the farm program payment yield for the crop. The payment rate for these commodities is the amount by which the higher of the national weighted average market prices received by producers during the first five months of the marketing year for the crop (the calendar year which includes the first five months of the marketing year for such crop for upland cotton) or the National average price support loan level for such crop is less than the established "target" price. The deficiency payment rates for grain sorghum, oats, and, if designated by the Secretary, barley, are to be established at such rate which is determined to be fair and equitable in relation to the rate at which payments are made available for corn. The established "target" price for each crop is set forth in an annual Notice of Determination published in the **Federal Register.**

(3) *Disaster Payments*—The Act generally provides that the Secretary shall make prevented planting and low yield disaster payments to producers of rice, upland cotton, feed grains, and wheat unless crop insurance is available to them under the Federal Crop Insurance Act with respect to their acreage. Even if crop insurance is available, however, the Secretary is authorized to make prevented planting and low yield disaster payments to

producers on a farm if it is determined that (i) As the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, producers on a farm have suffered substantial losses of production either from being prevented from planting rice, upland cotton, wheat, and feed grains or other nonconserving crop or from reduced yields, and that such losses have created an economic emergency for the producers; (ii) Federal crop insurance indemnity payments and other forms of assistance made available by the Federal Government to such producers for such losses are insufficient to alleviate such economic emergency, or no crop insurance covered the loss because of transitional problems attendant to the Federal crop insurance program; and (iii) additional assistance must be made available to such producers to alleviate the economic emergency.

(4) *National Program Acreage*—The Act generally provides that the Secretary is required to announce a national program acreage for each crop of rice, upland cotton, feed grains, and wheat. The national program acreage for any crop shall be the number of harvested acres the Secretary determines will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for export during the marketing year for such crop. The amount of the national program acreage for any crop is set forth in an annual Notice of Determination published in the Federal Register. However, the national program acreage is not applicable for any crop of a commodity for which an acreage limitation program has been announced.

(5) *Program Allocation Factor*—The Act generally provides that the Secretary is required to determine a program allocation factor for each crop of rice, upland cotton, feed grains, and wheat. In general, the factor is determined by dividing the national program acreage for the crop by the number of acres that the Secretary estimates will be harvested for such crop. The factor is set forth in an annual Notice of Determination published in the Federal Register. However, the factor is not applicable for any crop of a commodity for which an acreage limitation program has been announced.

(6) *Individual Farm Program Acreage*—The Act generally provides that the individual farm program acreage for each crop shall be determined by multiplying the allocation factor by the acreage of the crop planted for harvest on the farm. However, this is not applicable for any crop of a commodity for which an acreage limitation program has been announced.

(7) *Farm Program Payment Yields for Feed Grains and Wheat*—The Act generally provides that the farm program payment yield for a farm for each crop of wheat and feed grains shall be the yield established for the farm for the previous year, adjusted to be fair and equitable. The Secretary may establish national, State, or county program payment yield based on historical yields to which the farm program payment yields shall balance. The Act requires the Secretary to take into account the actual yields proved by the producer in establishing the farm program payment yield for wheat and feed grains.

(8) *Farm Program Payment Yield for Upland Cotton and Rice*—The Act provides that the yield established for the farm for each crop of cotton and rice shall be determined on the basis of the actual yields per harvested acre for the 3 preceding years. Adjustments shall be made for abnormal yields caused by natural disaster or other condition beyond the control of the producer.

(9) *Acreage Limitation (Reduction) Program*—The Act authorizes the Secretary to establish an acreage limitation program for any of the crops of rice, cotton, barley, corn, grain sorghum, oats and wheat if the Secretary determines that the total supply of any such commodity will be excessive in the absence of such a program. The limitation shall be achieved by applying a uniform percentage reduction to the acreage base for the crop for the farm. Producers who knowingly produce in excess of the permitted acreage of the crop are ineligible for loans and purchases and payments with respect to that farm and crop. The acreage base for the farm is required to be either the acreage planted to the crop for the preceding year or the average acreage planted to the crop in the 2 preceding years, with adjustments to reflect crop-rotation practices and to achieve a fair and equitable base. However, the Reconciliation Act requires that the acreage base for the farm under the programs for the 1983 crops of wheat, feed grains, and rice shall be the same as the acreage base applicable to the farm under the 1982 programs, with adjustments to reflect crop rotation practices and to achieve a fair and equitable base. The acreage which is reduced under the acreage limitation program is required to be devoted to conservation uses. Under this program the individual farm program acreage is the acreage planted on the farm to the crop within the permitted acreage.

(10) *Set-aside Program*— The Act authorizes the Secretary to establish a set-aside program for any crop of wheat or feed grains if the Secretary determines that the total supply of wheat or feed grains would be excessive in the absence of such a program. Under a set-aside program, producers on a farm are required to devote to conservation uses an acreage equal to a specified percentage of the acreage planted to the crop. There may also be a limit imposed on the acreage planted to the crop.

(11) *Land Diversion Program*—The Act authorizes the Secretary to make land diversion payments to producers of rice, upland cotton, feed grain, and wheat if a land diversion program is determined to be necessary in order to adjust the total national acreage of a crop of any such commodity to desirable goals. The acreage diverted must be devoted to conservation uses. The extent of the diversion and the manner in which diversion contracts are made are to be determined by the Secretary. The Reconciliation Act requires the Secretary to implement land diversion programs for the 1983 crops of wheat, feed grains, and rice and specifies certain of the requirements with respect to such programs.

(12) *Conservation Use Acreage*—The Act generally provides for the Secretary to issue regulations with respect to the conservation uses to which reduced acreage, set-aside acreage, and diverted acreage must be devoted. These regulations are required to assure that the acreage is protected from weeds as well as wind and water erosion. The Secretary may permit the acreage to be devoted to certain crops and uses if the production is needed to provide an adequate supply of the commodity, is not likely to increase the cost of the price support program, and will not affect farm income adversely. This acreage may be devoted to wildlife food plots or wildlife habitat. The Secretary may pay a share of the cost of these practices or make additional payments if the producer agrees to permit public access to the land for hunting, fishing, trapping, and hiking.

(13) *Cross Compliance*—"Cross Compliance" is a requirement whereby producers on a farm must comply with the terms and conditions of the program for one crop in order to be eligible for loans, purchases or payments authorized for another crop. The Act prohibits cross compliance requirements to be imposed for wheat or feed grains when an acreage reduction program is in effect for wheat or feed grains but

permits cross compliance requirements to be imposed for such crops if a set-aside program is in effect. The Act prohibits cross compliance requirements for upland cotton and rice in all cases.

(14) *Normal Crop Acreage (NCA)*—Section 1001 of the Food and Agriculture Act of 1977 was amended by the Act to provide that whenever a set-aside program was in effect for a crop of wheat or feed grains, a requirement could be imposed as a condition of eligibility for program benefits that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary reduced by any set-aside or diverted acreage. When this "NCA" limitation is in effect, the Secretary may increase the deficiency payments, or make payments to compensate producers for not exceeding the NCA and participating in any required set-aside.

(15) *Payment Limitation*—The Act provides that the total amount of payments that a person shall be entitled to receive under one or more of the rice, upland cotton, feed grains, and wheat programs shall be limited to $100,000 for disaster payments and $50,000 for deficiency, and diversion, and wheat haying and grazing payments. The Secretary is authorized to issue regulations defining the term "person" (which are found at 7 CFR Part 795).

(16) *Advance Deficiency Payments*—The Reconciliation Act added Section 107C to the Agricultural Act of 1949. This section requires the Secretary to make available advance deficiency payments for the 1982 and 1983 crops of rice, upland cotton, feed grains, and wheat, and authorizes advance deficiency payments for the 1984 and 1985 crops of such commodities. Such payments are limited to producers who participate, or who have indicated an intention to participate, in the acreage limitation or set-aside program announced for the commodity for the year. Section 107C also prescribes conditions for the refunding of unearned advance payments.

B. Pertinent Provisions

(1) *General.* The following is a discussion of a number of significant provisions of the 1982 through 1985 rice, upland cotton, feed grain and wheat programs which differ from the provisions which were applicable to these programs for the 1978 through 1981 crops of these commodities.

(2) *State and County Check Yields.* In previous years county check yields for feed grain and wheat have been established based on Statistical Reporting Service (SRS) data, with provision for adjustment for abnormal conditions. It has been determined that SRS data is more statistically sound at the State level than at the county level. Therefore, this interim rule provides for establishing State check yields based on SRS State data. Once the State check yield is determined by the Deputy Administrator, the State committee establishes county check yields that must weight back to the State check yield. The State committee may use available SRS data, as well as its best judgment, in establishing the county check yields.

This interim rule also provides that the basis for the State check yields is to be a 10-year period, with adjustments for productivity trends or abnormal conditions, rather than the 3-year period used for county check yields in the past. This change will result in generally lower county yields being established in 1982 and subsequent years than would have occurred under the formula used in prior years. However, the combination of using State check yields and a 10-year period should result in yields that are more valid statistically and more representative of the actual yield capability of the farm. This change also makes ASCS yield procedures more similar to those used in other USDA agencies.

(3) *Farm Yields.* This interim rule provides for a change in the base period for proven farm yields for feed grains and wheat from 3 years to 5 years. If acreage or production evidence is not available for the 2 earliest years, and actual yield could be assigned and the proven yield could still be computed. The reason for the change in the base period is to minimize the effects of abnormal weather conditions and to provide yields that are more representative of the farm's actual yield capability over a longer period of time.

A study of upland cotton yields indicates that the formula previously used for computing and adjusting cotton yields has resulted in unreasonably high yields. This is the result of a limitation which has previously been imposed on the amount by which cotton yields could be reduced from one year to the next. Accordingly, one very good yield could significantly boost the farm cotton yield and keep it high for several years. This interim rule eliminates the limitation which has been imposed on the year-to-year reduction.

(4) *Yield Reductions.* Farm yields represent a projection by the local county ASC committee as to what the production of a commodity on a farm would be based upon the past production of the commodity on such farms. This projection is invalid if the producer significantly changes the cultural practices used to produce the commodity. For example, yields based on a history of summer fallow wheat would be excessive should the producer change to continuous production of wheat. In the past, such cases were likely to be associated with a low yield disaster application, since the current year production is lower than the average historical farm yield. Therefore, this interim rule provides for a reduction of the farm yield if a low yield disaster application was filed with ASCS with respect to a commodity and the yield for the commodity for the current year was reduced as the result of conditions over which the producer had direct control.

Also, it would be unreasonable and inequitable to make deficiency payments in the same amount to a producer who deliberately undertook a course of action which was designed to not fully produce the farm yield for a commodity as opposed to a producer who did everything possible to produce the farm yield for a commodity. Therefore, while this interim rule continues the same provision for reducing farm yields as was applicable to the commodity program for prior crops, the condition that a low yield disaster application must be filed is eliminated.

(5) *Planted and Considered Planted Acreage.* This interim rule provides for including in the computation of the acreage base both the acreage of a commodity which was planted in the previous year and the other acreage (referred to as "considered planted") that would have been planted to the commodity in the previous year. This "considered planted" acreage includes, for nonparticipating farms, the acreage that the producer was prevented from planting to the program crop (i.e. rice, upland cotton, feed grains, or wheat) or other nonconserving crops as the result of a natural disaster or other condition beyond the producer's control. For producers who enroll their farm in one of the commodity programs, or who reduce their planted acreage of a program commodity to zero, the planted and considered planted acreage will equal the acreage base for the crop of the commodity. The latter provision is needed to avoid penalizing those producers who participate in the program, or who voluntarily reduce their planted acreage to zero. For example, an upland cotton producer who did not participate in the program authorized by this part could plant upland cotton in excess of the acreage base established for the farm and, therefore, receive an increased acreage base the next year. A producer who did participate in the

upland cotton program would be required to plant less than the farm's acreage base and would thus receive a smaller acreage base the next year if "considered planted" acreage was not permitted to be a factor which is used to compute the acreage base for the farm for such year.

(6) *Crop Acreage Bases.* This interim rule provides for establishing acreage bases as: (a) The planted and "considered planted" acreages for the previous year; or (b) the average for the 2 previous years; or (c) the previous year's acreage base. For 1982, the higher of (a) or (b) is used. This allows producers more flexibility, in view of the late announcement of the 1982 acreage reduction programs which resulted from the late passage of the Act.

Since crop rotation is a common practice that often conserves soil and other resources, this rule also provides for determining rotation bases for farms that have an established rotation over 2 or more years. If the county ASC committee determines that there is a rotation, the acreage bases will be established taking into consideration the corresponding years in the rotation. For example, if there is a 2-year rotation, the acreage bases for 1982 are computed using the planted and "considered planted" acreages for 1978 and 1980.

Adjustments due to abnormal conditions may not exceed the sum of planted and "considered planted" acreages for 1 or more previous years. To obtain this adjustment, the county committee must determine that the acreage base originally established for the farm is not representative of the normal operations on the farm.

(7) *NCA's.* An NCA was established for each farm in the 1978–81 crop years for rice, upland cotton, feed grains, and wheat. The NCA was the total acreage of fourteen major crops grown on the farm in 1977, as adjusted for abnormal conditions.

This interim rule provides that:

(a) The NCA crops designated for the 1978–81 crop years shall not apply for 1982–85.

(b) The NCA established for a farm for the 1978–81 crop years shall not apply for 1982–85.

(c) If the Secretary requires compliance with an NCA for feed grains and wheat in any of the 1982–85 crops years, a new designation of NCA crops will be made and new farm NCA's will be established at that time.

(8) *Conservation Use Acreage.* This rule continues the provisions which were applicable with respect to the conservation bases for the set-aside and diverted acreage for the 1978–81 crops of rice, upland cotton, feed grains, and wheat, with certain modifications and changes. These modifications and changes are as follows:

(a) In addition to any set-aside and diverted acreages the same conservation use requirements are also made applicable to the reduced acreage under an acreage reduction program. The overall term of "conservation use acreage" is adopted.

(b) The interim rule provides for 1982 that acreage which is designated as conservation use acreage must have been in a small grain or row crop in 1 of the past 2 years, instead of 1 of the past 3 years, unless the farm had an established crop rotation pattern. This rule further provides for the following requirement for the 1983 through 1985 crops. Except for land that is in a summer fallow rotation, land designated as conservation use acreage must have been devoted to a small grain or row crop, or designated as conservation use acreage under a crop program in 2 of the last 3 years. These provisions are designed to increase the likelihood that land now in active production of crops would be removed from such production if an acreage limitation or set-aside program is in effect. The change is made instead of requiring that the conservation use acreage be of equal productivity to the land planted to the crop in the current year.

(c) This interim rule further provides that cover crops or conservation practices which are required to be planted or installed on conservation use acreage in order to prevent wind and water erosion may be developed locally and approved by the State committee with the concurrence of the State SCS Soil Conservationist. This is intended to recognize the great variation between different areas of the country which are subject to erosion hazards and to provide for a method of controlling such hazards. Allowing the State committee to exercise this authority should assure that conservation use requirements are adapted to local conditions. For the 1982 rice, upland cotton, feed grains, and wheat programs, soybeans, corn, grain sorghum, cotton or rice were permitted to be grown as cover crops on conservation use acreage under certain limited conditions. The provisions for permitting these crops to be grown as cover crops on conservation use acreage have been deleted for the 1983 through 1985 crops.

(d) The regulations governing conservation use acreage which previously appeared at 7 CFR Part 792 for the 1978–81 crop years have been revised and amended and now appear in §§ 713.60–713.74 of this interim rule.

(e) This interim rule also sets forth provisions which are designed to encourage the establishment of permanent conservation practices on conservation use acreage, particularly permanent vegetative cover. For the 1982 crops, the restriction that such practices will be acceptable as conservation use acreage only if they were installed in the current year or the fall of the preceding year has been removed. This interim rule further provides for the 1983 through 1985 crops that, installing and maintaining a permanent vegetative cover on eligible land will preserve the land's eligibility for designation as conservation use acreage through 1985.

(9) *Disaster Payments.* The Act provides that ASCS prevented planting and low yield disaster payments shall be made available to producers on a farm only if crop insurance under the Federal Crop Insurance Act is not available to them with respect to their crop acreage. This interim rule incorporates these provisions with respect to the availability of disaster payments. Since FCIC has not yet completely covered all program crops in all areas, there will be some availability of ASCS disaster payments. However, FCIC will be ultimately responsible for determining whether crop insurance was available to a producer with respect to the producer's crop acreage. We anticipate that only in marginal and high-risk areas and in the minor oat-growing counties will ASCS disaster payments be available.

In those areas where ASCS disaster payments are available for a crop, the regulations governing these payments will generally be the same as those which were applicable to the 1978 through 1981 crops. However, with respect to those situations where some of the crop acreage on a farm is eligible for disaster payments and some of the acreage is ineligible, disaster payments will be made on the smaller of the loss for the total farm or on the loss of the eligible acreage.

In addition, the Act provides that the Secretary may make disaster payments when additional assistance is needed to alleviate an economic emergency resulting from a natural disaster. This interim rule incorporates these provisions.

(10) *Offsetting Compliance.* Offsetting compliance is, in general, a requirement that is intended to prohibit a producer from participating in the program for a crop on one farm and offsetting that participation by increasing production of the crop on another, nonparticipating farm. An offsetting compliance

requirement was in effect for the 1978 and 1979 crops for rice, upland cotton, feed grains and wheat. However, this requirement is not in effect for 1982 or 1983 for any of the crops for which the program has been announced. Since the Secretary could impose an offsetting compliance requirement in future program announcements, if such requirement is determined to be necessary, the regulations which set forth offsetting compliance requirements for the 1979 crop year have been generally adopted in this interim rule. The requirements have been changed to apply only to those producers who have effective control of the farming operations on the farm and are thus able to comply with any offsetting compliance requirements. The following are examples of producers who would not be subject to the application of any offsetting compliance requirements which may be imposed:

(a) Landowners who own less than a majority interest in a tract of land are exempt from offsetting compliance requirements. The exempt interest must be an undivided interest, as in a joint ownership. An owner who owns a specific parcel of land can request that a parcel be treated as a separate farm in accordance with the regulations found at 7 CFR Part 719.

(b) Owners who have assumed ownership after the crop was planted are exempt from offsetting compliance requirements.

(c) Owners who had leased land before a commodity program is announced are exempt from any offsetting compliance requirements for that year if the provisions of the lease prevent compliance with the program.

(d) All producers who are neither owners nor operators are exempt from any offsetting compliance requirements.

(e) An individual producer and a legal entity such as a corporation or partnership will be treated as one person for the purposes of any offsetting compliance requirements on a farm only if the producer has the majority interest in the entity or is legally responsible for the actions of the entity.

(f) Members of a partnership who do not have a majority interest in the partnership will be deemed to be individual persons.

When offsetting compliance requirements are in effect under an acreage reduction program for a commodity, a producer, except as excluded under paragraphs (a)–(f) above, must assure, as a condition for receiving program benefits, that the acreage base which has been established for that commodity for each nonparticipating farm in which the producer has an interest is not exceeded. Further, when offsetting requirements are in effect under a set-aside program for wheat or feed grains, a producer must assure, as a condition for receiving program benefits, that the NCA which is established for each nonparticipating farm in which the producer has an interest is not exceeded.

(11) *Late payment and Interest charges.* This interim rule provides that in accordance with the provisions of 7 CFR Part 1403, producers will be charged late payment charges with respect to delinquent debts which are owed to the Commodity Credit Corporation (CCC). The provisions of 7 CFR Part 1403 will also be amended to cover the charging of interest when there is misrepresentation or a scheme or device to defeat the purpose of the program. For 1982 through 1985, interest will also be charged when an advance payment was made to a producer and where there has been a failure by the producer to comply with specified program requirements.

C. Additional Discussion

This interim rule also incorporates into 7 CFR Part 713 a number of regulations which have previously appeared in other parts of Title 7 of the Code of Federal Regulations. These include 7 CFR Part 730 (Rice), 7 CFR Part 792 (Normal Crop Acreage and Set-aside Acreage) and 7 CFR Part 794 (Division of Payments) and 7 CFR 795.18 and 795.19 (Downward Adjustment in Set-Aside and Acreage Limitation Requirements related to Payment Limitation). This interim rule also corrects the title of Subchapter B to reflect more completely the contents of the subchapter. Since producers must be made aware of these program provisions, it has been determined that this interim rule shall become effective on January 14, 1983. However, comments from interested persons are requested and comments must be received by March 15, 1983 in order to be assured of consideration. After the comments have been received and reviewed, a final rule will be published setting forth any changes which may be necessary in these regulations.

List of Subjects

7 CFR Part 713

Acreage allotments, Cotton, Feed grains, Price support programs, Wheat, and Rice.

7 CFR Part 730

Acreage allotments, Disaster assistance, Marketing quotas, Price support programs, Rice.

7 CFR Part 792

Agriculture.

7 CFR Parts 794 and 795

Price support programs.

Accordingly, the regulations at Chapter VII, of Title 7 of the Code of Federal Regulations are amended by:

1. Revising the title of Subchapter B to read "Farm Marketing Quotas, Acreage Allotments, and Production Adjustment."
2. Removing Part 730 from Subchapter B.
3. Removing Parts 792 and 794 from Subchapter D.
4. Removing §§ 795.18 and 795.19 from Part 795.
5. Revising Part 713 to read as follows:

PART 713 FEED GRAIN, RICE, UPLAND COTTON AND WHEAT

Subpart—Feed Grain, Rice, Upland Cotton, and Wheat Programs for Crop Years 1982–85

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713.2 Administration.
713.3 Definitions.
713.4 Determining crop acreages.
713.5 State and county check yields.
713.6 Farm yields.
713.7 Crop acreage bases.
713.8 Normal crop acreages.
713.9 Notice of crop acreage bases, yields, and NCA.
713.10 Reconstitution of farms.
713.11–713.49 [Reserved]
713.50 Requirements for program participation.
713.51 Required acreage reduction.
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713.60 Basic rules for conservation use acreage.
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713.66–713.68 [Reserved]
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713.100 Cross compliance on the farm.

Sec.

713.101 Offsetting compliance between farms.
713.102 Determination of compliance.
713.103 General payment provisions.
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713.105 Disaster payments.
713.106 Established (target) prices.
713.107 National program acreage.
713.108 Deficiency payments.
713.109 Division of program payments.
713.110 Provisions relating to tenants and sharecroppers.
713.111 Successors-in-interest.
713.112 Misrepresentation and scheme or device.
713.113 Setoffs and assignments.
713.114 Appeals.
713.115 Performance based upon advice or action of county or State committee.

Authority: Secs. 101(i), 103(g), 105B, 107B, 107C, 113, and 1001; 95 Stat. 1221, 95 Stat. 1227, 95 Stat. 1234, 95 Stat. 1242, 96 Stat. 766, 95 Stat. 1263; 7 U.S.C. 1441, 7 U.S.C. 1444, 7 U.S.C. 1444d, 7 U.S.C. 1445b–1, 7 U.S.C. 1445b–2, 7 U.S.C. 1445d, 7 U.S.C. 1445h, 7 U.S.C. 1421 note, 7 U.S.C. 1501 note.

Subpart—Feed Grain, Rice, Upland Cotton, and Wheat Programs for Crop Years 1982–1985

§ 713.1 Applicability.

(a) The regulations in this subpart provide terms and conditions for the feed grain, rice, upland cotton, and wheat programs for the 1982 through 1985 crops, under which producers of these commodities who meet the eligibility requirements specified in § 713.50 may qualify for program benefits (i.e., price support loans and purchases, deficiency, diversion, disaster payments and any wheat grazing and hay payments.)

(b) In accordance with section 1101 of the Agriculture and Food Act of 1981, and the regulations in Part 795 of this Chapter, as amended, the total amount of:

(1) Payments (excluding disaster payments) which a person shall be entitled to receive annually under the feed grain, rice, upland cotton, and wheat programs shall not exceed $50,000.

(2) Disaster payment which a person shall be entitled to receive annually under the feed grain, rice, upland cotton, and wheat programs shall not exceed $100,000.

(c) In accordance with the regulations in Part 796 of this Chapter, as amended, payments shall not be made to program participants who harvest or knowingly permit to be harvested for illegal use marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by them.

(d) The programs are applicable throughout the United States, including Puerto Rico.

§ 713.2 Administration.

(a) The programs will be administered under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service (ASCS) and shall be carried out in the field by State and county Agricultural Stabilization and Conservation committees (herein called "State and county committees").

(b) State and county committees, and representatives and employees thereof do not have authority to modify or waive any of the provisions of the regulations of this subpart, as amended or supplemented.

(c) The State committee shall take any action required by these regulations which has not been taken by the county committee. The State committee shall also (1) correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the regulations of this subpart.

(d) No provision or delegation herein to a State or county committee shall preclude the Administrator, ASCS, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

§ 713.3 Definitions.

The following definitions shall be applicable for all purposes of program administration. The terms defined in Part 719 of this Chapter, as amended, governing reconstitutions of farms, shall also be applicable.

(a) *"Annual nonconserving crop"* means any annual crop intended for harvest or use in any feed form, except for the following:

(1) Grasses regardless of use, including sweet sorghum, millet and sudan grass;

(2) Legumes, including peas, beans, or soybeans produced for seed, grain, or processing where their planting was delayed beyond the normal planting period by a disaster and the crop is too poor to be used for seed, grain, or processing. In all other cases, soybeans produced for seed, grain, or processing are a nonconserving crop; and

(3) Small grains that are disposed of before the disposal deadline and excluded by the operator.

(b) *"Considered planted acreage"* means for a crop the following:

(1) For farms that participate in an acreage reduction program for the crop, the considered planted acreage shall be the difference between the acreage base for the crop and the planted acreage of the crop;

(2) For farms that participate in a set-aside, voluntary diversion, or wheat grazing and hay program, the considered planted acreage shall be the sum of the following as applicable:

(i) Any acreage required to be devoted to conservation used under a set-aside, acreage reduction, or diversion program,

(ii) For wheat, any acreage for payment under the wheat grazing and hay program.

(iii) Any voluntary reduction below the acreage base established for the crop, and

(iv) The acreage that the county committee determines the producer intended to plant to the crop but was prevented from planting to the crop and to later nonconserving corps as the result of a natural disaster or other condition beyond the control of the producer;

(3) For farms that report zero planted acreage of the crop in a year when an acreage reduction program is in effect for the crop, the considered planted acreage shall be the acreage base for the crop; and

(4) For other farms, the considered planted acreage shall be that acreage which the county committee determines that the producer intended to plant to the crop but was prevented from planting to the crop and to later nonconserving crops as a result of a natural disaster or other condition beyond the control of the producer.

(c) *"Corn"* means field corn or sterile high-sugar corn. Popcorn, sweet corn, and corn varieties grown for decoration uses are excluded.

(d) *"Crop" or "Commodity"* means barley, corn, grain sorghum, oats, rice, upland cotton, or wheat ("Crop" is used when the reference is to a specific year or to growing plants; "Commodity" is used when the reference is general and abstract).

(e) *"Current year"* means the calendar year in which the crop with respect to which payment may be made under this subpart would normally be harvested.

(f) *"Disposal deadline"* means the date or time by which an acreage of barley, wheat, or oats must be disposed of in order that such acreage will not be considered as barley, wheat or oats for harvest or by which an acreage of rye or similar grain must be disposed of in order for the acreage to qualify as conservation use acreage under § 713.62.

(g) *"Grain sorghum"* means grain sorghums of a feed grain or dual purpose variety (including any cross which, at all stages of growth, has most of the characteristics of a feed grain or dual

purpose variety). Sweet sorghum is excluded regardless of use.

(h) *"Marketing year"* means the 12-month period beginning in the current year and ending the next year as follows:

(1) *Barley, oats, and wheat.* June 1–May 31.

(2) *Upland cotton and rice.* August 1–July 31.

(3) *Corn and grain sorghum.* October 1–September 30.

(i) *"NCA crops"* means the crops which are so designated by the Secretary of Agriculture for any crop year as set forth in a notice of determination published in the **Federal Register.**

(j) *"Planted acreage"* for a crop means the total of:

(1) The acreage planted for harvest as determined by the county committee under guidelines as set forth in § 713.4; and

(2) The volunteer acreage of the crop which is harvested for grain.

(k) *"Planted and considered planted acreage"* means for a crop the total of the planted and considered planted acreages for the crop.

(l) *"Rice"* means rice excluding sweet, glutenous, or candy rice such as Mochi Gomi.

(m) *"Small grains"* means barley, oats, and wheat.

(o) *"Upland cotton"* means planted cotton and stub cotton other than extra long staple cotton as defined in Part 722 of this Chapter.

§ 713.4 Determining crop acreages.

The county committee shall apply the following guidelines in determining crop acreages planted for harvest, as well as any further instructions which may be issued by the Deputy Administrator:

(a) The county committee shall include as crop acreage planted for harvest any of the following:

(1) The acreage harvested;

(2) The acreage of small grains which was not disposed of before the disposal deadline; and

(3) The acreage of small grains which was disposed of before the disposal deadline if such acreage qualified for a low yield disaster payment or credit in accordance with the provisions of § 713.105.

(b) The county committee shall exclude as crop acreage planted for harvest any of the following:

(1) The acreage which failed and could have been replanted by the ending planting date established for the crop but which was not replanted;

(2) The acreage that is approved as conservation use acreage in accordance with the provisions of §§ 713.60–713.74;

(3) The acreage which was disposed of without feed or other benefit (including lint benefit for cotton) and excluded by the operator on the report of acreage as provided in Part 718 of this Chapter;

(4) The acreage of barley, oats, or wheat disposed of with feed benefit before the disposal deadline;

(5) The acreage which was approved for wildlife food plots or planted for wildlife in accordance with instructions issued by the Deputy Administrator;

(6) The acreage approved for grazing and hay payment in accordance with the provisions of § 713.54; and

(7) The acreage that was planted so late that it could not mature and produce grain or lint and, with respect to corn and grain sorghum, was not harvested for silage.

(c) The county committee shall consider mixtures of crops to be the crop that is predominant in the mixture. However, when a crop of barley, oats, or wheat is the first seeded crop in a mixture of small grains seeded or volunteered at different times, the mixture is considered to be the crop of barley, oats, or wheat which is first seeded.

§ 713.5 State and county check yields.

(a) *State check yields.* State check yields for the current year are determined for each State where feed grains or wheat are produced. State check yields are determined on the basis of the average yields per acre for the 10-year period immediately preceding the year prior to the current crop year. If average yields are not available, State check yields are determined by the Deputy Administrator on the basis of available data for the State and for other States. Adjustments may be made in the State check yields to reflect productivity trends or abnormal conditions during any such 10-year period.

(b) *County check yields.* County check yields for the current year are determined for each county where feed grains or wheat are produced. The county check yield for the current year shall be established by the State committee in accordance with instructions issued by the Deputy Administrator and shall be the State check yield as adjusted to reflect the productivity of the county.

(c) *Source and availability of data.* State yield data for each year are obtained from the Statistical Reporting Service (SRS), USDA. The county feed grain and wheat yields for the current year are available for inspection in the county ASCS office. Both the State and county feed grain and wheat yields are available for inspection in the State ASCS office.

(d) *Cotton and rice.* State and county check yields are not determined for upland cotton and rice.

§ 713.6 Farm yields.

(a) *Barley, corn, grain sorghum, oats, and wheat yields.*

(1) *Determining yields.* The bushel per acre farm yield for the current year shall be established in accordance with instructions issued by the Deputy Administrator and shall be the county check yield for the crop as adjusted to reflect the farm productivity.

(2) *Provable yields.* Notwithstanding the provisions of paragraph (a)(1) of this section, if reliable records of the actual yield in bushels per acre on the farm for each of the 5 years immediately preceding the current year are available to the county committee, the yield established for the farm shall not be less than the average of such yields. The actual yield for a year may be assigned or adjusted as follows:

(i) If for either of the 2 earliest years of the 5-year base period there was no acreage of the crop or the production or acreage of the crop on the farm cannot be reconstructed, a yield may be assigned for any such year in an amount not to exceed the farm's established yield for the crop for the current year that a proven yield is first requested.

(ii) If the acreage report filed according to Part 718 of this chapter shows that no acreage of the commodity was grown for 1979 and subsequent years, the county committee shall assign a yield for the farm based upon the actual yield for similar farms in the county or other surrounding area; and

(iii) If any yield for a farm for any year which is used in the calculation of the 5-year base period is adversely affected as the result of a natural disaster or other condition beyond the producer's control, the county committee may make an adjustment in the yield for any such year up to 80 percent of the average of the actual and assigned yields for the farm for the 5 year period. If any such adjustment is made, the farm yield shall be the 5-year average, including the adjusted yield.

(b) *Upland cotton and rice yields.* The yield in pounds per acre for the current year shall be the average of the actual yields per harvested acre for the farm for the 3 preceding years, adjusted as follows:

(1) If no acreage of the crop was grown on the farm for any year, a yield for the crop may be assigned for the farm for such year based on the actual yields for similar farms in the county or

surrounding area, except that such assigned yield cannot exceed the county weighted average yield for the year to be assigned;

(2) If any yield in the 3-year period preceding the current year is adversely affected as the result of a natural disaster or other condition beyond the producer's control, the county committee may adjust the yield for any such year upward to the simple average of the highest 4 actual yields of the most recent 5 years; and

(3) In producer administrative rice areas under the rice program for the crop years 1978–81, the actual yield for a farm shall be the weighted average of the producer yields on that farm for that year.

(c) *Yield reduction.* For the purpose of determining the amount of any deficiency payment as provided for in § 713.106 or the amount of any low yield or prevented planting disaster payment as provided for in § 713.105, the established yield for a farm shall be reduced in accordance with instructions issued by the Deputy Administrator to reflect any reduction in the current year's yield for such farm which is the result of causes other than a natural disaster or other condition beyond the producer's control, such as a change in farming practice.

§ 713.7 Crop acreage bases.

An acreage base shall be established each year for barley, corn, grain sorghum, oats, rice, upland cotton, and wheat.

(a) The base established for a crop on a farm shall be:

(1) For 1982, the higher of:

(i) The planted and considered planted acreage for the crop for the previous year, or

(ii) The average of the planted and considered planted acreages for the crop for the previous 2 years.

(2) For 1983 and subsequent years, as announced in a notice of determination published in the **Federal Register**.

(b) If the county committee determines that a crop is grown on a farm in a clearly established crop-rotation pattern for 2 or more years, the acreage bases for the crop will be computed using the years in the rotation cycle that correspond to the previous year or the 2 previous years. For example, if there is a 2-year rotation, 1982 acreage bases would be computed using 1980 as the previous year and 1978 and 1980 as the 2 previous years.

(c) The acreage base established for the commodity on the farm may be adjusted as follows:

(1) The operator must show, and the county committee must determine, that the acreage base established for the commodity for the farm is not representative of the current operator's normal operations of the farm; and

(2) The county committee may approve a recomputation of the acreage base for the farm in an amount not to exceed the planted and considered planted acreages for the farm for one or more previous years in accordance with instructions issued by the Deputy Administrator.

(d) The operator of a farm may request that the acreage bases for a farm be determined: (1) In accordance with paragraph (a) of this section instead of paragraph (b), or (2) in accordance with paragraph (b) of this section instead of paragraph (a). Such a request shall not increase the base for a crop in the current year. The county or State committee may approve an increase in the base for future years in accordance with instructions issued by the Deputy Administrator.

(e) For 1982 only, in those areas that were designated as producer administrative areas under the rice program for 1978–81, adjustment will be permitted in the rice acreage base which is established for a farm on which a producer shares in the rice in 1982 provided a compensating downward adjustment is made in the rice acreage base on any farm in which such producer shared in the rice production in 1981. Such adjustments shall be in accordance with instructions issued by the Deputy Administrator.

(f) For 1983 and subsequent years, adjustments will be permitted in the rice acreage base established for a farm in accordance with instructions to be issued by the Deputy Administrator provided that the farm is subject to red rice problems and no other land suitable for the growing of rice is available on the farm.

§ 713.8 Normal crop acreages.

The normal crop acreage (hereinafter called "NCA") is the sum of the acreages for the farm of the NCA crops as designated by the Secretary of Agriculture as set forth in a notice of determination which is published in the **Federal Register** and which establishes an NCA requirement for the crop year.

§ 713.9 Notice of crop acreage bases, yields, and NCA.

The operator of a farm shall be notified in writing of the crop acreage bases, yields, and, if applicable, the NCA which is established for the farm. However, no such notice shall be mailed to any producer who has on file in the county office a request in writing that such producer not be furnished with the notice. This producer shall be considered as having been timely and correctly notified of the contents of the notice.

§ 713.10 Reconstitution of farms.

(a) Farms shall be reconstituted in accordance with Part 719 of this Chapter.

(b) The county committee shall establish a yield for wheat, barley, corn, grain sorghum, and oats for each combined farm that has an acreage base for the crop after taking into consideration such factors as the yield(s) on the component parts of such farms, comparable farms, and other factors that will result in yields being representative of the reconstituted farm.

(c) The yield established for upland cotton and rice for a combined farm shall not, except for rounding, exceed the weighted average of the yields established for the component parts of such farm.

(d) The actual yields established for wheat and feed grains for a combined farm shall not, except for rounding, exceed the weighted average of the actual yields established for the component parts of such farm.

(e) The weighted average of the yields established for any crop for the farms resulting from a division shall not, except for rounding, exceed the yield established for the parent farm before being divided.

(f) In determining the weighted average yields in paragraphs (c), (d), and (e) of this section, the farm acreage base for the current year shall be used.

§§ 713.11–713.49 [Reserved]

§ 713.50 Requirements for program participation.

(a) *General.* A person is eligible for loans, purchases, and payments for a specific crop as authorized by the provisions of this part if such person is a producer on a farm which meets the requirements of paragraph (b) of this section relating to that crop and such person otherwise fulfills the requirements of paragraph (c) of this section.

(b) *Farm requirements.*

(1) This paragraph is applicable to the 1982 through 1985 crops of rice, upland cotton, feed grains, and wheat. The operator of a farm on which any producer grows barley, corn, grain sorghum, oats, rice, upland cotton, or wheat must file within the period authorized by the Deputy Administrator the following:

(i) A Report of Acreage (herein called "Form 578") for the applicable crop and

in accordance with Part 718 of this Chapter;

(ii) A report of production and disposition when this information is needed for program determinations in accordance with instructions issued by the Deputy Administrator. When production has been disposed of through commercial channels, the county committee may require the producer to furnish documentary evidence in order to verify the information provided on the report. Acceptable evidence shall include the original or copy of commercial receipts, gin records, Commodity Credit Corporation (CCC) loan documents, settlement sheets, warehouse ledger sheets, elevator receipts or load summaries. The county committee may also verify the evidence submitted with the warehouse, gin, or other entity which receives the production. If the evidence is not furnished or the information provided on the report cannot be verified, the county committee may disapprove the report of production; and

(iii) For consideration for disaster payment or acreage credit purposes, a Prevented Planting Claim (herein called "Form 574–1") or an Application for Disaster Credit (herein called "Form 574");

(2) Whenever a notice of determination has been published in the **Federal Register** announcing that an acreage reduction or set-aside requirement, or required land diversion is in effect for a crop or a voluntary diversion program or wheat grazing and hay program is available for a crop, the operator of a farm on which any producer produces one or more of the crops for which such a requirement or program is in effect must do all of the following:

(i) File an Intention to Participate (herein called "Form 477") in accordance with instructions issued by the Deputy Administrator;

(ii) If applicable, comply with the acreage reduction requirements as set forth in § 713.51,

(iii) If applicable, comply with the set-aside requirements as set forth in § 713.52;

(iv) If applicable, comply with the land diversion requirements as set forth in § 713.53;

(v) If applicable, comply with the requirements for such program as set forth in § 713.54; and

(vi) Assure that there is compliance with the requirements of §§ 713.60–713.74 with respect to the designation, care, and use of conservation use acreage.

(3) Whenever a notice of determination has been published in the **Federal Register** announcing that no acreage reduction or set-aside requirement is in effect for a crop and that no land diversion program nor wheat grazing and hay program is available for a crop, to be eligible for deficiency payments the operator of a farm on which any producer grows barley, corn, grain sorghum, oats, rice, upland cotton, or wheat must file an Application for Payment (herein called "Form 477") as prescribed by the Deputy Administrator.

(4) In addition to the foregoing requirements, a farm must also be in compliance with any cross compliance requirements which are specified in § 713.100 if such requirements are made applicable to a crop by a notice of determination published in the **Federal Register**.

(5) Land owned by the Federal Government shall be ineligible for participation in the program if such land is occupied without a lease, permit, or other right of possession or the lease or permit prohibits the growing of the program crop.

(c) *Producer eligibility requirements.*

(1) The producer must be a person who shares in the risk of producing the program crop produced in the current year (or shares in the proceeds therefrom) on a farm meeting the requirements of paragraph (b) of this section, or would have shared in the crop if it had been produced on such farm in the current year. The producer must also comply with any offsetting compliance requirements which are in § 713.101 if such requirements are made applicable to a crop by a notice of determination published in the **Federal Register**.

(2) A minor will be eligible to participate in the program only if one of the following conditions exists:

(i) The right of majority has been conferred on the minor by court proceedings;

(ii) A guardian has been appointed to manage the minor's property and the applicable documents are signed by the guardian;

(iii) A bond is furnished under which a surety guarantees to protect the Commodity Credit Corporation from any loss incurred for which the minor would be liable had the minor been an adult;

(iv) It is determined that the responsibilities of the minor under the program have been carried out.

§ 713.51 Required acreage reduction.

(a) A notice of determination will be published in the **Federal Register** for each crop providing as follows:

(1) Whether an acreage reduction program is in effect for a crop year for a specific crop;

(2) The percentage reduction to be applied to the crop acreage base to determine the amount of required reduction; and

(3) Other requirements of the program for the year.

(b) Producers of the applicable crop or crops shall:

(1) Not knowingly exceed the permitted acreage, which is the acreage base less the required reduction; and

(2) Devote to conservation uses as prescribed in §§ 713.60–713.74 an acreage equal to the reduced acreage, or a proportionately smaller acreage if the planted acreage is smaller than the permitted acreage.

§ 713.52 Required set-aside.

(a) A notice of determination will be published in the **Federal Register** for each crop providing as follows:

(1) Whether a set-aside requirement is in effect for a crop year for a specific crop of feed grain or wheat;

(2) The percentage of the planted crop acreage that is required to be set-aside; and

(3) Whether producers on a farm are required not to exceed the NCA established for the farm, less any acreage which is devoted to conservation uses under any program plus any wheat grazing and hay acreage.

(4) Other requirements of the program for the year.

(b) Producers of the applicable crop or crops shall:

(1) Not knowingly exceed the NCA requirements, if applicable; and

(2) Devote to conservation uses as prescribed in §§ 713.60–713.74 an acreage equal to the set-aside requirement.

§ 713.53 Land diversion.

(a) A notice of determination will be published in the **Federal Register** for each crop providing as follows:

(1) Whether a land diversion program is in effect for a crop year for a specific crop;

(2) The percentage of the planted crop acreage or of the crop acreage base that producers are required to divert from the production of the crop under the program;

(3) The payment rate;

(4) Whether advance payments will be available;

(5) Whether compliance with the diversion requirement is voluntary or is required in order for the producer on the farm to be eligible for loans, purchases and payments for the crop; and

(6) Other requirements of the program.

(b) In order to be eligible for any land diversion payment, producers of the applicable crop or crops shall:

(1) Comply with all other program requirements for the crop; and

(2) Devote to conservation uses as prescribed in §§ 713.60–713.74 an acreage which is equal to the required diverted acreage.

§ 713.54 Wheat grazing and hay.

(a) A notice of determination will be published in the **Federal Register** announcing whether a wheat grazing and hay program is offered for a crop year and the applicable payment rate.

(b) In order to be eligible for payment under the wheat grazing and hay program for a crop year, producers of wheat shall do all of the following:

(1) Graze or cut for green chop, hay, or silage immature wheat that was planted for harvest as grain;

(2) Record the acreage for grazing and hay on Form 477;

(3) Have the cutting completed, or grazing to the point that the wheat is substantially destroyed by the disposal deadline; and

(4) Comply with all other program requirements for the crop.

(c) In no event can producers receive a payment under the wheat grazing and hay program on more than the larger of:

(1) 50 acres; or

(2) 40 percent of the total acreage of barley, corn, grain sorghum, oats, upland cotton, and wheat which is intended for harvest in the current year.

§ 713.55 Reduction in acreage to be devoted to conservation uses.

(a) A producer whose payments under the feed grain, rice, upland cotton, or wheat programs may be reduced because of the application of the provisions with respect to the payment limitation as specified in accordance with Part 795 of this chapter may request a downward adjustment in the amount of acreage which is otherwise required to be devoted to conservation uses on the farm. The request shall be in writing and shall be filed with the county committee by a date prescribed by the Deputy Administrator. If such a producer is sharing in program payments in two or more counties, it shall be the producer's responsibility to furnish information concerning the producer's participation in the other counties to the county committee with which the application for downward adjustment is filed.

(b) Any reduction in conservation use acreage to be required under this section shall be computed by: (1) Estimating the producer's total payments which would be received under the feed grain, rice, upland cotton, and wheat program on all farms, (2) determining the percentage by which the estimated total payments must be reduced in order to comply with the payment limitation, and (3) multiplying the percentage by the number of acres in the producer's portion of the conservation use acreage which is required for the farm or farms participating in the programs. When both land diversion and acreage reduction or set-aside programs are in effect, the conservation use acreage under the acreage reduction or set-aside programs shall be reduced to zero before the diversion acreage is reduced. If the producer is participating in the acreage reduction or set-aside program on two or more farms, the producer may elect to have the reduction in conservation use acreages under these programs, but not under the land diversion program, divided among the farms in such proportion as the producer may designate.

§ 713.56 [Reserved].

§ 713.60 Basic rules for conservation use acreage.

Except as set forth in §§ 713.65–713.74 and in Notices of Determination published in the **Federal Register**, conservation use acreage which is designated in accordance with the provisions of §§ 713.51–713.53 must:

(a) Be eligible land according to § 713.61;

(b) Meet minimum size and width requirements as specified in Part 718 of this Chapter, as amended;

(c) Be devoted to approved cover or practices in accordance with the provisions of § 713.62;

(d) Not be grazed or harvested, except as provided in § 713.63; and

(e) Be cared for in accordance with the provisions of § 713.64.

§ 713.61 Eligible land.

Conservation use acreage:

(a) For 1982, must be cropland that was:

(1) Devoted to a small grain or row crop in 1 of the previous 2 years: or

(2) Devoted to a small grain or row crop before the previous 2 years as part of an established crop rotation practice which is used by the county committee to establish the acreage base for the farm based crop rotation; or

(3) Devoted to a hay crop in the past 2 years (including hay, green chop, silage, or processing, but not pasture), and is in an established crop rotation pattern with a small grain or row crop as determined by the county committee.

(b) For 1983 and subsequent years, must be cropland that was:

(1) Devoted to a small grain or row crop in 2 of the past 3 years, except that land which is in a summer fallow crop rotation pattern need only have been devoted to a small grain or row crop in 1 of the past 2 years. Land that was designated to meet conservation use acreage requirements under a crop program for a previous year shall be regarded as having been devoted to a small grain or row crop in that year;

(2) Devoted to a hay crop in 2 of the last 3 years (including hay, green chop, silage, or processing, but not pasture) if an equal acreage of cropland that is otherwise eligible under paragraph (b)(1) of this section is seeded to an equivalent hay crop in the current year or the fall of the preceding year; or

(3) Designated as conservation use acreage in the preceding year on which a permanent vegetative conservation practice was established in the preceding year or will be established in the current year. Such acreage will be eligible to be designated as conservation use acreage through the 1985 crop year if the permanent vegetative practice is maintained. Planting trees or shrubs for nursery stock or orchards or vineyards is not acceptable as a permanent vegetative conservation practice.

(c) May not be land:

(1) That is designated as conservation use acreage under the Water Bank Program as authorized in 7 CFR Part 752 or the Great Plains Conservation Program as authorized in 7 CFR Part 635;

(2) For which a deficiency payment is or could be made for the program crop;

(3) Used as turn areas, except that these areas may be designated if both of the following apply:

(i) Minimum size requirements as specified in Part 718 of this Chapter, as amended, are met; and

(ii) The county committee determines that the areas are normally planted to a crop;

(4) That the producer does not have authority to use for program crops (e.g., highway, railroad, and other right of way, airport buffer strips, and other similar areas).

§ 713.62 Approved cover and practices.

(a) The conservation use acreage shall be devoted as soon as practical to one or more of the following approved covers or to other cover or practices described in paragraph (b) of this section:

(1) Annual, biennial, or perennial grasses and legumes, including volunteer stands other than weeds that meet the criteria set forth by the State committee, but excluding soybeans;

(2) Small grains, including volunteer stands other than weeds that meet the criteria set forth by the State committee, except that such grain must be clipped before the disposal deadline or must have been planted too late to form grain; and

(3) The crop residue from the use of "no till" or "minimum till" practices.

(b) Other cover or practices that will protect the acreage from wind and water erosion throughout the calendar year may be approved if such cover or practices are:

(1) Recommended by the county committee in consultation with the district conservationist, SCS; and

(2) Approved by the State committee, with written concurrence of the SCS State conservationist that the practices will sufficiently protect the land from wind and water erosion. Any such approval must be reviewed annually. The following guidelines are applicable:

(i) Before the approval of practices, the State committee should consult with appropriate wildlife agencies and organizations (e.g., State wildlife agencies, fish and game commissions, Izaak Walton League, Audubon Society, and Wildlife Management Institutes), and other interested groups to determine if additional practices that further the goals of these entities can be developed.

(ii) Control measures shall be consistent with erosion control measures normally carried out on other cropland in the area. It is not intended to require control measures that would be more costly to the producer than those measures which are normally carried out in the area.

(c) Any crop not included in paragraph (a) of this section may be planted as a cover on conservation use acreage provided that the following conditions are met:

• (1) SCS must agree that the cover will prevent wind and water erosion in accordance with the provisions of paragraph (b) of this section;

(2) The producer must meet conditions specified by the State committee in accordance with the provisions of § 713.63 to assure that the crop will not be harvested, although the crop may be grazed after the end of the nongrazing period.

(3) Other conditions prescribed by the Deputy Administrator are met.

(d) The conservation use acreage may be seeded to crops in the fall for harvest the next year. The land may be prepared in the fall and left bare only when recommended and approved in accordance with the provisions of paragraph (b) of this section.

§ 713.63 Use of conservation use acreage.

(a) *Harvesting.* Harvesting on conservation use acreage is prohibited for all crops:

(1) In the current year; and

(2) After December 31 of the current year if the crop would normally mature and be harvested in the current year.

(b) *Grazing.* Grazing is prohibited during the 6 principal growing months between February 28 and November 1 as determined by the county committee.

(c) *Other uses.*

(1) Removing catfish, crayfish, and other fish for commercial purposes is prohibited during the 6 principal growing months as determined by the county committee.

(2) The conservation use acreage may be used for noncommercial recreation, temporary location of beehives, or for home gardens.

§ 713.64 Control of erosion, insects, weeds, and rodents on conservation use acreage.

(a) The farm operator shall use needed control measures in a timely manner to control erosion, insects, weeds and rodents on the conservation use acreage.

(b) Control measures for weeds need only be sufficient to prevent the spread of weeds. These measures should be consistent with control practices normally carried out on similar cropland in the area. Control practices are not intended to be more costly to the producer than what is normal for the area.

(c) The county committee shall prescribe and require additional control measures upon a determination that those used by the producer are inadequate. When clipping or mowing to control weeds is prescribed, the county committee shall specify a time for clipping or mowing which is compatible with wildlife practices but before seed forms.

§ 713.65 Orchards and vineyards.

(a) The entire area of an orchard or vineyard meeting the minimum size requirements specified in Part 718 of this Chapter is eligible conservation use acreage if the trees or vines were planted in the current year or fall of the previous year. The land must meet the eligibility requirements of § 713.61.

(b) The land between rows of trees or vines (from drip area to drip area) is eligible conservation use acreage if the county committee determines that the land would be devoted to small grains or row crops in the current year in the absence of the program. This land shall be eligible in 1983 and subsequent years only in counties designated by the State committee. The land must meet the eligibility requirements of § 713.61.

§§ 713.66–713.68 [Reserved]

§ 713.69 Noncrop uses or practices.

(a) The uses and practices listed in paragraph (b) of this section are eligible for conservation use acreage if:

(1) Such uses and practices are installed on acreage that is otherwise eligible as provided in paragraph (a) of § 713.61 for 1982 or paragraph (b) of § 713.61 for 1983; and

(2) The requirements in §§ 713.62 and 713.63 are met.

(b) The following uses and practices are eligible conservation use acreage:

(1) Trees or shrubs planted for any purpose other than orchards or vineyards;

(2) Terraces and sod waterways;

(3) Water storage developed for any purpose, including fish or wildlife habitat; or

(4) Filter strips used to reduce siltation in a stream or ditch.

§ 713.70 Insufficient conservation use acreage.

Before the final date for reporting crop acreage as provided in Part 718 of this Chapter, producers may destroy crop acreage to do one of the following:

(a) Decrease the amount of program crop so that the conservation use acreage available is sufficient; or

(b) Designate all or part of the destroyed acreage as conservation use acreage. The acreage must be eligible land as provided in § 713.61. The acreage shall be devoted to an approved cover or practice in accordance with the provisions of § 713.62 as soon as practicable after destruction of the crop.

§ 713.71 Destroyed crop acreage.

(a) Operators may substitute acreages of small grains or row crops that were destroyed for the conservation use acreage already designated and reported on Form 578. However, with respect to such substitution, the following conditions are applicable.

(1) The operator must request the substitution in writing and agree that there will be no deficiency payment with respect to the production from the substituted acreage;

(2) The land must be eligible as provided in § 713.61; and

(3) The land must be devoted to an approved cover or practice in accordance with the provisions of § 713.62 as soon as practicable after the substitution.

(b) Substitution cannot be used to reduce a payment reduction of failure to

comply fully in accordance with the provisions of Part 971 of this Chapter.

§ 713.72 Provisions applicable to certain small grains.

The following provisions are applicable with respect to 1982 conservation use acreage only:

(a) Acreage that was planted to barley, oats, or wheat before January 29, 1982 may be designated as conservation use acreage.

(b) The crop may be harvested for hay, silage, or green chop, but not for grain. Hay may be removed from such acreage only before the disposal deadline. After haying, the acreage may then be grazed without regard to the 6-month nongrazing period established by the county committee.

(c) Grazing of livestock on conservation use acreage may be permitted for the entire year. However, the acreage shall not be overgrazed so that the land is subject to wind or water erosion.

(d) If there is seeding or overseeding of a subsequent crop on the acreage, the provisions of § 713.63 with respect to other conservation use acreage shall be subject to such acreage.

(e) The acreage may be planted to an eligible cover after haying or grazing. This cover may not be:

(1) Harvested; or

(2) Grazed during the remainder of the 6 principal growing months as determined by the county committee.

(f) The acreage shall be subject to the requirements for minimum size as specified in Part 718 of this Chapter and the requirements for the care of conservation use acreage as set forth in § 713.64.

§ 713.73 Late harvesting.

Harvesting of a crop on conservation use acreage may be permitted when all of the following apply:

(a) The crop matured in the preceding year.

(b) The county committee determines that:

(1) The crop was not harvested because of adverse weather or other reason beyond the producer's control; and

(2) Harvesting will be completed as soon as practicable.

§ 713.74 Skip rows.

The acreage between rows of the crop is eligible conservation use acreage if:

(a) The skip is at least the larger of 4 normal rows or 160 inches from plant to plant, and

(b) The land meets the requirements for eligible land as set forth in § 713.61 and use and care of the acreage as set forth in § 713.63 and § 713.64.

§ 713.75–713.99 [Reserved]

§ 713.100 Cross compliance on the farm.

(a) With respect to feed grains, rice, upland cotton, and wheat, whenever an acreage reduction program is announced for one or more such crops in a notice of determination published in the **Federal Register**, compliance on the farm with any one commodity program (feed grain, rice, upland cotton, or wheat) may not be required as a condition of eligibility for loans, purchases and payments with respect to any of the other commodity programs.

(b) With respect to feed grains, and wheat, whenever a set-aside program is announced for one or more of such crops in a notice of determination published in the **Federal Register**, compliance on the farm with any one commodity program (i.e., wheat or feed grain) may be required as a condition of eligibility for loans, purchases and payments under the other commodity programs.

§ 713.101 Offsetting compliance between farms.

Whenever offsetting compliance requirements are made applicable to a crop program for the current year as announced in a notice of determination in the **Federal Register**, the following provisions shall be applicable:

(a) To be eligible for loans, purchases, and payments authorized for a crop when an acreage reduction or set-aside program is in effect for a crop (i.e., feed grain, rice, upland cotton or wheat), the landlord, landowner, or operator shall assure that on any other farm in which the landlord, landowner, or operator has an interest as landlord, landowner, or operator, the total acreage of the crop on the farm does not exceed the acreage base for such crop.

(b) To be eligible for loans, purchases, and payments authorized for an NCA crop when compliance with the NCA is required for a crop of wheat or feed grains, the landlord, landowner, or operator shall assure that on any other farm in which the landlord, landowner, or operator has an interest as landlord, landowner, or operator, the total acreage of NCA crops on the farm does not exceed the NCA on such farm.

(c) A landowner or landlord cannot escape responsibility for complying with paragraph (a) or (b) of this section by leasing for cash or other consideration all or part of a farm when the lease is executed after the notice of determination announcing any offsetting compliance requirement is published in the **Federal Register**.

(d) Any executor, trust officer, or farm manager responsible for the management of a farm shall be considered as the operator of the farm for purposes of paragraph (a) or (b) of this section when he or she receives a percentage of the gross or net farm income exceeding 10 percent of the crops or proceeds thereof for such management service.

(e) For purposes of paragraph (a) or (b) of this section, all persons or entities in each category listed below shall be considered as the same producer and fully responsible for the actions of any person or entity in that category:

(1) Husband and wife, except that the husband and wife may be considered as separate producers if the spouse receiving benefits does not share to any degree in crops or proceeds thereof from the other farm, ownership or managerial control of the other farm is not shared by such spouse, and there have been no changes in the ownership, operation, or managerial control of the other farm which would tend to defeat the purposes of paragraph (a) or (b) of this section.

(2) Minor children and the parent, guardian, or other person legally responsible for the minor unless the person legally responsible for the minor does not occupy the same household as the minor and shares no interest in the farming operations of the minor.

(3) A partnership and a member of the partnership with over 50 percent interest in the partnership.

(4) A corporation and a stockholder with over 50 percent of the stock of such corporation.

(5) An estate and the sole heir of the estate.

(6) A trust and the sole beneficiary of the trust.

(7) Two or more corporations, estates, trusts, or any combination of such entities which have common stockholders, beneficiaries, or heirs who own more than a combined 50 percent interest in each corporation, estate, or trust.

(f) Notwithstanding the foregoing:

(1) Any person who places land in a trust the beneficary of which is such persons's parent, brother, sister, spouse, child or grandchild shall be considered the same producer as the trust for purposes of paragraph (a) or (b) of this section if he or she acts as the trustee or trust officer for the trust or in any other way retains the management responsibility for the trust land even though he or she does not receive any share of the crops or proceeds thereof from the trust land.

(2) When the State committee, or the county committee with the approval of the state committee, determines that a corporation, partnership, or trust was formed, modified or used for the purpose

of circumventing paragraph (a) or (b) of the section, the corporation and any stockholder of the the corporation, the partnership and any member of the partnership, or the trust and any beneficiary of the trust shall be considered as the same producer and fully responsible for the actions of the corporation, partnership, or trust.

(3) A landowner, landlord, or operator may be exempted from complying with paragraph (a) or (b) of this section with respect to a crop if the county committee determines that a lease which prevents compliance was executed prior to the time that a notice of determination was published in the **Federal Register** making offsetting compliance a requirement of the program for such crop.

(4) A landowner may be exempt from complying with paragraph (a) or (b) of this section if the landowner has an undivided interest in the farm that does not exceed 50 percent.

(5) A landowner, landlord, or operator may be exempt from complying with paragraph (a) or (b) of this section for the current year if that person assumed ownership or control of the land after the crop was planted for the current year.

§ 713.102 Determination of compliance.

Acreage determinations shall be made in accordance with Part 718 of this Chapter, as amended.

§ 713.103 General payment provisions.

(a) *Issuance.* Payment of any amounts due the producers on a farm shall be made only after such producers sign an application for payment as prescribed by the Deputy Administrator and the payments are approved by the county committee or by an authorized representative thereof. An application for payment which is signed after May 1 of the year following the current year shall not be accepted by the county committee unless prior approval of a representative of the State committee is obtained.

(b) *Failure to comply fully.* Except as otherwise provided herein and in Part 791 of this Chapter, as amended, payment shall not be made for a farm or to a producer when there is failure to comply fully with the regulations set forth in this subpart and in Part 718 of this Chapter.

(c) *Payment due producer.* Subject to the provisions of the payment limitation regulations in Part 795 of this Chapter, as amended, the total earned payment due each eligible producer under the program shall be determined by multiplying the total earned payment for the farm by the producer's share of such payment.

(d) *Payment declined.* If a producer declines to accept all or any part of the producer's share of the payment computed for the farm in accordance with the provisions of this section, such payment or portions thereof shall not become available for any other producer on the farm.

(e) *Unearned payments and overpayments.* Effective with respect to determinations of overpayments made after enactment of this rule, a person shall refund to the Commodity Credit Corporation (CCC) any amounts representing payments that exceed the payments actually earned under the programs prescribed by this part. A late payment charge may be assessed in accordance with the provisions of 7 CFR Part 1403.

§ 713.104 Advance payments.

(a) *General.* To receive any advance deficiency or diversion payment authorized for a crop:

(1) Producers on a farm must sign Form 477 indicating an intention to participate in any acreage limitation, set-aside, or land diversion program required for the crop and request the advance payment; and

(2) The farm must not have been determined to be out of compliance with any of the requirements of the program at the time of payment.

(b) *Advance deficiency payments.*

(1) *For 1982:*

(i) No advance deficiency payments will be made for barley, oats, or wheat, since final payments for these crops will be made as soon as practicable after December 1, 1982.

(ii) Advance payments will be made as soon as practicable after October 1, 1982 for corn, grain sorghum, upland cotton, and rice. The amount of the advance payment shall be computed by multiplying: (A) The producer's share of the crop times; (B) the farm's program acreage of the crop times; (C) the farm's program payment yield for the crop minus; (D) the number of pounds or bushels for which a low yield payment under § 713.105 has been made times; (E) 70 percent of the projected 1982 deficiency payment rate for the crop.

(2) *For 1983 through 1985* advance deficiency payments will be made for crops as announced in a notice of determination published in the **Federal Register**. Such announcements will specify the rates and time of payment.

(c) *Advance diversion payments.* Advance diversion payments shall be made when a land diversion program is in effect for a crop if so announced in a notice of determination published in the **Federal Register**. Such announcement will specify the rates and time of payment.

(d) *Refunds.*

(1) The provisions of § 713.103(e) are applicable to the amounts of any advance diversion or deficiency payments which are not earned, except that no late payment charge shall be assessed for failure to refund advance deficiency payments before the end of the marketing year for the crop when:

(i) The amount of the advance deficiency payment to the producer exceeds the amount finally determined to be payable to the producer as a deficiency payment for the crop; or

(ii) An advance deficiency payment was made to a producer for a crop, but it was later determined that no deficiency payments were payable for the crop under § 713.108(a).

(2) In addition to the provisions of § 713.103(e), interest shall be charged as follows:

(i) Interest shall be charged on the amount of the advance payment if a producer obtains an advance deficiency or land diversion payment, or both, for a crop on a farm but does not comply with the requirements for any acreage limitation, set-aside or land diversion program required for the crop on the farm for the year;

(ii) Interest shall be charged when the producer obtains an advance deficiency payment for a crop based on the producer's certification of the acreage which is intended to be planted to the crop for such year and the acreage of the crop actually planted for harvest is less than 50 percent of the intended acreage, unless the producer was prevented from planting the intended crop acreage as the result of reasons beyond the producer's control. The amount of the overpayment subject to the interest charge shall be the smaller of:

(A) The difference between the total advance deficiency and diversion payments made for the crop minus the total final deficiency and diversion payment for the crop earned by the producer; or

(B) The difference between the intended and the actual crop acreage times the payment yield for the farm times one-half the final deficiency payment rate; and

(iii) Interest shall be computed on the amount determined under paragraphs (d)(2) (i) and (ii) of this section from the date of issuance of the payment to the date such payment is refunded. The rate of interest shall be 5 percentage points higher than the rate of interest in effect for CCC commodity loans on the date of issuance of the payment.

§ 713.105 Disaster payments.

Except as provided in paragraph (c) of this section, prevented planting and low yield disaster payments are authorized to be made to producers only if crop insurance under the Federal Crop Insurance Act is not available to the producers for the commodity with respect to the producers' acreage of such commodity. Producers may qualify for disaster payments only when the county committee determines that producers were prevented from planting an eligible commodity or that the production of an eligible commodity on a acreage resulted in a low yield of such commodity as hereinafter described in this section because of a drought, flood or other natural disaster or other condition beyond the producers' control. Disaster payments shall be made as soon as practicable after the disaster is reported, the extent of the crop loss is determined, and payment is approved.

(a) *Prevented planting.*

(1) *Payment rate.* The payment rate is one-third of the established (target) price as provided for in § 713.106.

(2) *Acreage eligible for payment.* The acreage eligible for payment shall be only that acreage for which crop insurance under the Federal Crop Insurance Act is not available. Such acreage shall equal the smallest of the following:

(i) The acreage of the crop intended for harvest, but which could not be planted to the crop or other nonconserving crops because of a drought, flood or other natural disaster or other condition beyond the producer's control;

(ii) The result obtained by subtracting the acreage of the crop planted in the current year from the acreage of the crop that was planted or prevented from being planted in the previous year; or

(iii) For crops for which an acreage reduction or set-aside requirement is in effect or on farms participating in a land diversion or wheat grazing and hay program, the amount by which the permitted acreage of the crop for the current year exceeds the acreage of the crop planted in the current year.

(3) *Payment computation.* Prevented planting payments for each crop shall be the result of multiplying the acreage eligible for payment times 75 percent of the farm yield as provided in § 713.6 times the prevented planting payment rate.

(b) *Low yield.*

(1) *Payment rate.* The low yield payment rate is one-third for upland cotton and rice and one-half for barley, corn, grain sorghum, oats, and wheat of the established (target) price as provided for in § 713.106.

(2) *Payment computation.* Low yield payments shall be determined for each crop by multiplying the low yield payment rate times the smaller of the following computations:

(i) The result determined by multiplying the acreage of the crop on the farm by 60 percent (75 percent for upland cotton and rice) of the farm yield as provided in § 713.6, and subtracting the determined production for the farm therefrom; or

(ii) The result determined by multiplying the acreage of the crop on the farm for which crop insurance under the Federal Crop Insurance Act was not available by 60 percent (75 percent for upland cotton and rice) of the farm yield as provided in § 713.6, and subtracting the determined production for the eligible acreage therefrom.

(3) *Determining production.* The production from any acreage shall be determined as follows:

(i) The production from acreage which is not harvested shall be appraised in accordance with instructions issued by the Deputy Administrator and shall be added to the actual production for the purpose of determining eligibility for and the amount of low yield disaster payments; and

(ii) Any acreage for which the production cannot be determined shall be charged with the farm yield. However, if the county committee determines that the acreage was affected by a disaster, such acreage shall be charged with the larger of 60 percent (75 percent for upland cotton and rice) of the farm yield as provided in § 713.6 or the actual average yield from the harvested acreage of the crop.

(c) *Special disaster payments.*

(1) Irrespective of whetherr crop insurance under the Federal Crop Insurance Act is available, the Secretary may make special disaster payments available to producers on a farm whenever the Secretary determines that:

(i) As the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, producers on a farm have suffered substantial losses of production either: (A) From being prevented from planting feed grains, rice, upland cotton, or wheat, or other nonconserving crop; or (B) from reduced yields, and such losses have created an economic emergency for the producers;

(ii) Federal crop insurance indemnity payments and other forms of assistance made available by the Federal Government to such producers for such losses are insufficient to alleviate such economic emergency, or no crop insurance covered the loss because of transitional problems attendant to the Federal crop insurance program; and

(iii) Additional assistance must be made available to such producers to alleviate the economic emergency.

(2) The Secretary may make such adjustments in the amounts of payments made available under this subparagraph with respect to individual farms so as to assure the equitable allotment of such payments among producers taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

§ 713.106 Established (target) prices.

The established prices for each crop of a commodity will be announced in a notice of determination published in the **Federal Register.**

§ 713.107 National program acreage.

Whenever an acreage reduction requirement is not in effect for a crop, a national program acreage shall be established and announced in a notice of determination published in the **Federal Register.** The national program acreage shall equal the number of harvested acres the Secretary of Agriculture estimates will produce the quantity (less imports) that will be used domestically and for export during the marketing year for such crop. The national program acreage, which is established for any crop, may later be revised if the Secretary of Agriculture determines that an adjustment is necessary based upon the latest information for the purpose of determining an allocation factor for use as provided for in § 713.108.

§ 713.108 Deficiency payments.

(a) *Basis for payment rate.* The deficiency payment rate shall be the amount by which the established (target) price exceeds that higher of: (1) the national weighted average market price received by farmers for the crop during the first 5 months of the marketing year (during the calendar year for upland cotton) or (2) the national average loan rate established for the crop.

(b) *Acreage for payment.*

(1) The acreage for payment shall be acreage of the crop for the current year reduced by an allocation factor if no acreage reduction requirement is in effect for such crop. The allocation factor shall be determined by dividing the national program acreage for the crop, as specified in § 713.107, by the estimated national current year acreage of the crop. However, the following shall be applicable to the allocation factor:

(i) The allocation factor shall not be less than 80 percent for each of the crops of barley, corn, grain sorghum, oats, rice, and wheat;

(ii) The acreage for payment shall not be reduced by the allocation factor if the current year acreage of the crop on the farm is reduced voluntarily from the acreage base for the crop by a percentage to be announced in the notice of determination published in the Federal Register; and

(iii) The allocation factor shall be adjusted in accordance with instructions issued by the Deputy Administrator to provide equity for a farm for which the reduction in the current year's acreage is insufficient to exempt the farm from the application of the allocation factor.

(2) If an acreage reduction requirement or required land diversion program is in effect for the crop, the acreage for payment shall be the acreage of the crop planted for harvest but not to exceed the permitted acreage.

(c) *Payment computation.* Deficiency payments shall be determined for each crop by multiplying the acreage for payment by the established farm yield as provided for in § 713.6 and by the deficiency payment rate. However, no deficiency payment shall be made for any quantity for which a low yield payment is made.

(d) *Date of payment.* Deficiency payments will be made to producers as soon as practicable after the following dates:

(1) *Barley, oats and wheat.* December 1 of the current year.

(2) *Upland cotton and rice.* February 1 following the current year.

(3) *Corn and grain sorghum.* April 1 following the current year.

§ 713.109 Division of program payments.

(a) *General.* Each person on a participating farm shall be given the opportunity to participate in the program for a crop in proportion to such person's interest in the program crop or the interest such person would have had if the crop had been produced. The name of such person shall be listed on a form, which is approved by the Deputy Administrator for recording payment shares, herein called "application for payment." If such person refuses or fails to sign the application for payment, the share of the payment to which such person would otherwise be entitled shall nevertheless be shown on the form. Federal agencies can earn no program payments, but any shares to which such agencies would otherwise be entitled shall also be shown on the form as though the agencies were earning them. The sum of the percentage shares of the program payment shall equal 100 percent.

(b) *Division of program payment.* Each producer's share of the farm program payment for a crop shall be based on the following:

(1) The producer's share of the crop or the proceeds thereof, or

(2) If no crop is produced, the share which the producer would have otherwise received had the crop been produced.

Notwithstanding the foregoing sentence, a different division of payment which is fair and equitable may be approved by the county committee if all of the producers who would otherwise share in the payment agree to the different division in writing. Such different division of payments may also be approved by the county committee, with the concurrence of a representative of the State committee, even though all of the producers cannot agree on the division. In addition, a different division of payments may be approved by the county committee when required by § 713.111 which relates to successors-in-interest.

(c) *Refund of payments not properly divided.* Payments which producers receive with respect to which they are determined not to be entitled shall be refunded to the Commodity Credit Corporation as required by § 713.103. In the event of fraud, the producer shall be subject to the provisions relating to fraudulent representation as set forth in § 713.112.

§ 713.110 Provisions relating to tenants and sharecroppers.

(a) Payment shall not be approved for the current year if the county committee determines that any of the conditions specified below exist:

(1) The landlord or operator has not given the tenants and sharecroppers on the farm an opportunity to participate in the program;

(2) The number of tenants and sharecroppers on the farm is reduced by the landlord or operator below the number on the farm in the year before the current in anticipation of or because of participating in the program, except that this provision shall not apply to the following:

(i) A tenant or sharecropper who leaves the farm voluntarily or for some reason other than being forced off the farm by the landlord or operator in anticipation of or because of participating; or

(ii) A cash tenant, standing-rent tenant, or fixed-rent tenant unless:

(A) Such tenant was living on the farm in the year immediately preceding the current year, or

(B) At least 50 percent of such tenant's income was received from farming in the immediately preceding year;

(3) There exists between the operator or landlord and any tenant or sharecropper, any lease contract, agreement or understanding unfairly exacted or required by the operator or landlord which was entered into in anticipation of participating in the program the effect of which is:

(i) To cause the tenant or sharecropper to pay over to the landlord or operator any payments earned by the person under the program,

(ii) To change the status of any tenant or sharecropper so as to deprive the person of any payments or other right which such person would otherwise have had under the program,

(iii) To reduce the size of the tenant's or sharecropper's producer unit, or

(iv) To increase the rent to be paid by the tenant or decrease the share of the crop or its proceeds to be received by the sharecropper;

(4) The landlord or operator has adopted any other scheme or device for the purpose of depriving any tenant or sharecropper of the payments to which such person would otherwise be entitled under the program. If any of such conditions occur or are discovered after payments have been made, all or any such part of the payments as the State committee may determine, shall be refunded to the Commodity Credit Corporation.

(b) Notwithstanding any other provision of this section, landlords or operators who in the past had tenants or sharecroppers on their land for purposes of producing the program crop and such individuals are now classified as employees subject to the minimum wage provisions under the Fair Labor Standards Act, may pay these individuals on a wage basis and will not be considered as reducing the number of tenants or sharecroppers.

§ 713.111 Successors in interest.

(a) In the case of death, incompetency, or disappearance of any producer whose name appears on the application for payment, the payment due such producer shall be made to such producer's successor, as determined in accordance with the regulations in Part 707 of this Chapter, as amended.

(b) When any person who had an interest as a producer of the crop or would have had an interest if the crop had been planted (herein called "predecessor") is succeeded on the farm by another producer (herein called "successor") after an application for payment has been filed, the payment to

the predecessor and successor shall be divided between them on such basis as they agree is fair and equitable. If such persons are unable to agree to a division of the payment, a fair and equitable division shall be determined by the county committee.

(c) In any case where any payment due any successor producer has previously been paid to the producer who filed an application for payment, such payment shall not be paid to the successor producer unless it is recovered from the producer to whom it has been paid or payment is authorized by the Deputy Administrator.

§ 713.112 Misrepresentation and scheme or device.

(a) A producer who is determined by the county committee or the State committee to have erroneously represented any fact affecting a program determination shall not be entitled to payments under the crop program with respect to which the representation was made and shall refund to CCC all payments received by such producer with respect to such farm and such crop program.

(b) A producer who is determined by the State committee, or the county committee with the approval of the State committee to have knowingly (1) adopted any scheme or device which tends to defeat the purpose of the program, (2) made any fraudulent representation or (3) misrepresented any fact affecting a program determination shall refund to CCC all payments received by such producer with respect to the farm.

(c) Refunds determined to be due CCC after enactment of this rule under the provisions of this section shall bear interest at the rate specified in 7 CFR Part 1403, as amended. Such interest shall accrue from the date of disbursement to the date refunded.

(d) The provisions of this section shall be applicable in addition to any liability under criminal and civil fraud statutes.

§ 713.113 Setoffs and assignments.

(a) *Producer indebtedness and claims.* Except as provided in paragraph (b) of this section, any payment or portion thereof due any person shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations issued by the Secretary governing setoffs and withholdings, Part 13 of this Chapter, as amended, shall be applicable to the programs.

(b) *Assignments.* Any producer entitled to any payment may assign such payments in accordance with the regulations governing assignment of payment, Part 709 of this Chapter, as amended.

§ 713.114 Appeals.

A producer may obtain reconsideration and review of determinations made under this subpart in accordance with the appeal regulations, Part 780 of this Chapter, as amended.

§ 713.115 Performance based upon advice or action of county or State committee.

The provisions of Part 790 of this Chapter, as amended, relating to performance based upon action or advice of an authorized representative of the Secretary shall be applicable to this subpart.

Signed at Washington, D.C., on January 10, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

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7 CFR Part 770

Special Program of Payment in Kind for Acreage Diversion for 1983 Crops of Wheat, Corn, Grain Sorghum, Upland Cotton and Rice

Note.—This document originally appeared in the **Federal Register** of Wednesday, January 12, 1983. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Agricultural Stabilization and Conservation Service.

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule establishes a program of payment in kind for acreage diversion for the 1983 crops of wheat, corn, grain sorghum, rice and upland cotton. Under the program producers will be offered a quantity of a commodity as compensation for diverting acreage normally planted to that commodity in addition to that being taken out of production under the 1983 acreage reduction and cash land diversion programs for wheat, corn, grain sorghum, rice and upland cotton previously announced. Even with these programs the supply of these commodities will greatly exceed demand. Accordingly, the Department has determined that the diversion of additional acreage from the production of such crops is necessary to adjust the total national acreage of such commodities to desirable goals and that producers should be compensated by receipt of like commodities. This document sets forth, in general, the requirements for program participation and the manner in which payment in kind will be made available.

DATES: Effective date January 12, 1983. Comments must be submitted on or before February 11, 1983, in order to be assured of consideration.

ADDRESS: Comments should be addressed to Director, Analysis Division, ASCS, USDA, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Dr. Howard C. Williams, ASCS, 202-447-3391.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under Department of Agriculture procedures implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified as "major" since the program will have an annual effect on the economy exceeding $100 million.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since the Department is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Department has prepared an Interim Regulatory Impact Analysis of this regulation. Copies of the analysis are available to the public from Director, Analysis Division, Agricultrural Stabilization and Conservation Service, USDA, Room 3741, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. 20250.

The title and number of the federal assistance program to which this notice applies are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Rice Production Stabilization, 10.065; and Wheat Production Stabilization, 10.058; as found in the Catalog of Federal Domestic Assistance.

Statutory Authority

The program will be conducted pursuant to the authority of the Agricultural Act of 1949, as amended,

and the Commodity Credit Corporation Charter Act. The Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, authorizes the Secretary to make land diversion payments to producers of wheat, feed grains, upland cotton and rice if the Secretary determines that the payments are necessary to assist in adjusting the total national acreage of the commodities to desirable goals. The Charter Act gives the Corporation broad authority to support the price of agricultural commodities, stabilize agricultural commodity markets and remove and dispose of agricultural surpluses.

Need for Program

Acreage reduction and land diversion programs have already been instituted for the 1983 crops of wheat, feed grains, upland cotton and rice under provisions of the Agricutural Act of 1949, as amended. Producers participating in those programs will reduce planted acreage for wheat by at least 20%, for feed grains by at least 20%, for upland cotton by at least 20%, and for rice by at least 20%. Even with these programs the supply of these commodities will greatly exceed demand. Record production coupled with a weak worldwide demand for these commodities due to the global recession and severe financial problems of some of our major foreign customers has created undesirable surpluses. Accordingly, the Department has determined that the diversion of additional acreage from the production of such crops is necessary to adjust the total national acreage of such commodities to desirable goals and that producers should be compensated by receipt of like commodities.

Program Provisions

Contracts. The Commodity Credit Corporation will enter into contracts with producers under which producers who divert acreage from the production of 1983 crops of wheat, corn, grain sorghum, upland cotton or rice and devote the acreage to approved conservation uses will be compensated in the form of quantities of those commodities. The acreage would be in addition to that which the producer has agreed to take out of production under the 1983-acreage reduction and cash land diversion programs previously announced.

Acreage Diversion. Any producer may enter into a contract to divert not less than 10 percent nor more than 30 percent of the farm acreage base for any crop. In addition, producers may submit bids for a contract to divert 100 percent of the farm acreage base for any crop. Bids must be in terms of the percentage of the farm's yield for the crop which the producers consider to be an acceptable level of compensation. The Department will determine the number of acres for which bids will be accepted for each commodity in each county, based on particular supply/demand situations, conditions in local communities, and other relevant factors. In no event will more than 50 percent of the total acreage bases for a commodity in a county be taken out of production under this and the previously announced 1983 acreage reduction and cash land diversion programs.

Compensation. In the case of contracts for the diversion of between 10 and 30 percent of the acreage base of a commodity, the quantity of the commodity received as compensation will be the acreage diverted times the farm's yield for the commodity, multiplied by 95 percent for wheat, 80 percent for corn and grain sorghum, 80 percent for upland cotton, and 80 percent for rice. In the case of contracts for the diversion of 100 percent of the acreage base of a commodity, the quantity of the commodity received as compensation will be determined in the same way utilizing the percentage of the farm's yield specified in the bid.

To the extent that a producer has outstanding farmer owned reserve loans obtained before January 12, 1983 or regular price support loans for which the producer has pledged as security a commodity which the Department is obligated to pay the producer, the producer must sell the commodity to the Department up to the quantity the Department is obligated to pay the producer at a price equal to the cost of liquidating the loan for which the commodities sold to the Department are pledged. In the case of farmer owned reserve loans, the price will be reduced by the amount of any unearned advance storage payments. Further, in the case of farm stored farmer owned reserve loans, the price will include additional compensation to take account of long term storage related commitments the producer may have undertaken. It is the present intention of the Department to provide 15.5 cents per bushel in additional compensation. The commodities sold to the Department will then be paid to the producer. To the extent that commodities are not available for purchase by the Department from the producer, the producer will receive commodities from warehouses designated by CCC. In all cases, proper adjustments for grade and other characteristics affecting quality will be made.

Other Contract Provisions. The regulations authorize the Department to include other appropriate terms and conditions in its contracts with producers.

The Department will pay commodities which it owes a producer upon request at any time during the five month period beginning on the normal harvest date for the commodity in the producer's area. These days will be established by the Department on a county-by-county basis. The Department presently intends to include in the contracts provisions under which it will pay producers who request the commodities after the normal harvest date, and are paid commodities previously pledged by them as loan security, the costs the Department would have incurred had it been required to store the commodities from the normal harvest date until the date of payment. The payment will be calculated on the basis of an annual rate of $.265 per bushel for wheat and corn, $.4732 per hundredweight for grain sorghum and $.65 per hundredweight for rice. The rate for upland cotton will be based on individual warehouse rate schedules.

The Department also intends to offer additional payment in kind to producers whose conservation use acreage requirement under the previously announced acreage reduction and cash land diversion programs has been reduced because of the payment limitation imposed by section 1101 of the Agriculture and Food Act of 1981. These producers will have the opportunity to forego this reduction in conservation use acreage in return for a payment in kind based on 80 percent of the farm yield for the commodity to which the acreage is normally planted.

Payment Limitation. The limitations imposed by section 1101 of the Agriculture and Food Act of 1981 on the amount of payments which a person may receive under the wheat, feed grain, upland cotton and rice programs are not applicable to commodities received as compensation under the payment in kind program.

If the payment in kind program is to be effective in reducing production with respect to 1983 crops in order to assist in bringing supply in line with demand and stabilizing the domestic market, the program must be made effective as soon as possible without opportunity for public comment so that producers and others might be made aware of their opportunity to participate in the program. Comments received on the program will be considered and any appropriate changes in the program will be made before the final rule is issued.

The Department anticipates issuing a final rule by February 25. Producers may sign contracts and submit bids for contracts until March 11, and previously submitted contracts and bids may be withdrawn until that date. If any change is made in the regulations, producers who have already signed contracts or submitted bids will have an opportunity to revoke them if they are unwilling to agree to the modifications.

The form of the contracts to be used by the Department in implementing this rule will not become effective until approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

List of Subjects in 7 CFR Part 770

Cotton, Feed grains, Price support program, Wheat, Rice.

Accordingly, Subchapter C of Chapter VII of Title 7 of the Code of Federal Regulations is amended by adding after Part 760 a new Part 770 as follows:

PART 770—SPECIAL PROGRAM OF PAYMENT IN KIND FOR ACREAGE DIVERSION FOR 1983 CROPS OF WHEAT, CORN, GRAIN SORGHUM, UPLAND COTTON AND RICE

Sec.

770.1 General description of program.
770.2 Obligations of operators and producers.
770.3 Obligations of the Department.
770.4 Other contract provisions.
770.5 Contracting procedures.
770.6 Miscellaneous provisions.

Authority: Secs. 101(i), 103(g), 105B and 107B of the Agricultural Act of 1949, as amended (7 U.S.C. 1441, 1444, 1444d and 1445b–1) and the Commodity Credit Corporation Charter Act (15 U.S.C. 714).

§ 770.1 General description of program.

(a) The Department of Agriculture will enter into contracts with operators and producers who agree to devote acreage normally planted to wheat, corn, grain sorghum, upland cotton or rice to a conserving use in return for compensation in the form of the commodity normally planted on the acreage. This part describes the general terms and conditions of these contracts and the procedures under which the Department will enter into them.

(b) This special program is available throughout the United States, including Puerto Rico, for the 1983 crops of wheat, corn, grain sorghum, upland cotton and rice.

§ 770.2 Obligations of operators and producers.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will impose the following obligations on the operator and any other producers:

(1) The operator and any other producers will be required to comply with all of the requirements of any other acreage reduction or paid diversion program established by the Department for any commodity included in the contract.

(2) The operator and any other producers will be required to devote a percentage of the farm's acreage base for any commodity included in the contract to an approved conserving use in addition to any other acreage reduction or paid diversion. This percentage will depend on the contract between the Department and the operator and any other producers.

(i) The Department will enter into a contract with the operator of a farm and any other producers on the farm which provides for devoting from 10 to 30 percent of the farm's acreage base for one or more commodities to an approved conserving use, with a concomitant reduction in permitted acreage, if the operator and any other producers wish to do so. The operator and any other producers may select the commodities to be included in the contract, except that the contract must include either both corn and grain sorghum or neither. They may also select, within the 10 to 30 percent range, the percentage of the acreage base of each included commodity that will be devoted to an approved conserving use. Compensation to operators and other producers under these contracts will be based on a fixed percentage of the farm yield for each of the commodities included in the contract. See § 770.3(a)(1).

(ii) In addition, the Department may, in some cases, enter into a contract with the operator of a farm and any other producers on the farm which requires the operator and any other producers to devote 100 percent of the farm's acreage base for one or more commodities to an approved conserving use. These contracts will be awarded on a competitive bid basis and the compensation to an operator and any other producers under one of these contracts will be based on the percentage of the established yield for the farm for each of the commodities included in the contract which was bid by the operator and any other producers. See § 770.5(b).

(3) If the operator of a farm or any other producers on the farm have outstanding farmer owned reserve loans obtained prior to January 12, 1983, or regular price support loans, for which they have pledged as security a commodity which the Department is obligated to pay them under the contract, at the time they request payment of the commodity, they must sell the commodity to the Department up to the quantity the Department is obligated to pay them, at a price equal to the cost of liquidating the loan or portion of the loan for which the quantity sold to the Department is pledged, subject to the following adjustments:

(i) In the case of a farmer owned reserve loan, the price will be reduced by the amount of any unearned advance storage payments received under the loan.

(ii) In the case of farm stored commodities pledged as security for a farmer owned reserve loan, additional compensation will be provided to take account of long term storage related commitments the operator or other producer may have undertaken.

(4) To the extent that the operator or any other producers have loans to which paragraph (a)(3) of this section applies at the time they enter into the contract, they may liquidate those loans or forfeit the commodity securing them only to the extent that the liquidation or forfeiture does not reduce the quantity of the commodity pledged as security for the loans still held by the operator and such other producers below the quantity of the commodity the Department is obligated to pay the operator and such other producers under the contract. The commodities pledged as security for loans that must be held under this paragraph will be used by the Department to compensate the operator and any other producers under the contract. See § 770.3(a)(2)(i).

(b) The contract shall provide for the payment of liquidated damages in the event that the operator or any other producers fail to comply with their obligations under the contract.

§ 770.3 Obligations of the Department.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will impose the following obligations on the Department:

(1) The Department will be required to compensate the operator and any other producers for devoting acreage to an approved conserving use by payment of a quantity of the commodity or commodities that would otherwise have been produced on that acreage, except that the Department may substitute corn of equivalent quantity for grain sorghum. The quantity shall be the yield for the farm for a commodity multiplied by the acreage devoted to a conserving use under the contract that would otherwise

have been planted to that commodity, multiplied by 95 percent for wheat, 80 percent for corn and grain sorghum, 80 percent for upland cotton, and 80 percent for rice, except that in the case of contracts awarded on a competitive bid basis, the percentage shall be the percentage bid by the operator and any other producers.

(2) The contract will provide that the commodities will be paid in the following manner:

(i) To the extent that the operator and any other producers have outstanding regular price support or farmer owned reserve loans for which they have pledged as security a commodity which they must sell to the Department, the commodities sold to the Department will be paid to the operator and such other producers. See § 770.2(a)(3).

(ii) To the extent that a commodity cannot be paid using the procedure described in paragraph (a)(2)(i) of this section, it shall be paid out of stocks available to the Department for that purpose.

(3) The contract will provide that the commodities will be paid upon request of the operator and any other producers at any time during the five month period beginning with normal harvest date for the commodity in the area where the farm is located.

(4) The contract may contain special arrangements and requirements with respect to the Department's obligations to producers who are active members of a marketing cooperative.

§ 770.4 Other contract provisions.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will establish standards for the grade and other characteristics affecting the quality of any commodity the Department is obligated to pay to the operator and any other producers. It will further provide for adjustments in the quantity of a commodity paid to the operator and any other producers to compensate for any differences between these standards and the grade and other characteristics affecting the quality of the commodity paid to the operator and any other producers. For the purpose of determining these adjustments, a commodity paid under the procedure described in § 770.3(a)(2)(i) shall be treated as having the grade and other characteristics affecting its quality which it was treated as having at the time that the price support or farmer owned reserve loan for which it was pledged as security was made.

(b) The contract between the Department and the operator of a farm and any other producers on the farm shall contain such other provisions as the Department determines appropriate to carry out the program established by this part.

§ 770.5 Contracting procedures.

(a) An operator of a farm and any other producers on the farm may enter into a contract with the Department which provides for devoting 10 to 30 percent of the farm's acreage base for one or more commodities to an approved conserving use at the appropriate county ASCS office prior to the close of business on March 11, 1983.

(b) An operator of a farm and any other producers on the farm may submit a bid for a contract with the Department which provides for devoting 100 percent of the farm's acreage base for one or more commodities to an approved conserving use at the appropriate county ASCS office prior to the close of business on March 11, 1983.

(1) The operator and any other producers may select the commodities to be included in the bid, except that the bid must include either both corn and grain sorghum or neither.

(2) The bid shall state the percentage of the established yield for the farm for each of the commodities included in the bid to be used in determining the compensation to be paid to the operator and any other producers under the contract if the bid is accepted. The operator and any other producers may select any percentage, except that the percentage for a commodity cannot exceed 95 percent for wheat, 80 percent for corn and grain sorghum, 80 percent for upland cotton, or 80 percent for rice. The percentage may be different for different commodities, except that the percentage must be the same for corn and grain sorghum.

(c) After March 11 the bids in each county shall be ranked for each commodity, treating corn and grain sorghum as a single commodity, on the basis of the percentage of established yield to be used in determining compensation stated in the bids, with the lowest percentage being ranked highest. In the case of identical bids, they shall be ranked in the order received. The bids for each commodity shall then be accepted in rank order. The Department will establish the number of acres for which bids will be accepted for each commodity in each county, based on particular supply/demand situations, conditions in local communities, and other relevant factors. In no case will more than 50 percent of the total of the acreage bases for a commodity in a county be removed from production of the commodity under the program established by this part and any other acreage reduction or diversion program established under part 713 of this chapter. Acceptance of a bid under this subsection with respect to a commodity shall terminate any contractual obligations with respect to that commodity entered into under paragraph (a) of this section.

§ 770.6 Miscellaneous provisions.

(a) Payments in kind under the program established by this part shall not be considered payments for purposes of the payment limitations imposed by section 1101 of the Agriculture and Food Act of 1981.

(b) Part 713 of this chapter contains regulations which govern regular annual acreage reduction and diversion and other programs for wheat, feed grains, cotton and rice. Sections 713.60 through 713.74 of that part concerning land eligible for designation as conserving use acreage and the obligations of producers with respect to the use of that acreage shall apply to the program established by this part, except for the following:

(1) Summer fallow producers may designate only land that would normally be devoted to production of small grains or row crops in 1983.

(2) Wheat planted prior to January 11, 1983, may be grazed throughout the year and harvested for hay.

(c) In addition, the following provisions of this title concerning general program administration also apply to the program established by this part.

(1) Part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

(2) Part 718—Determination of Acreage and Compliance.

(3) Part 780—Appeal Regulations.

(4) Part 790—Incomplete Performance Based Upon Action Or Advice of an Authorized Representative of the Secretary.

(5) Part 791—Authority to Make Payments When There Has Been a Failure to Comply Fully with the Program.

(6) Part 1403—Interest on Delinquent Debts.

(7) Section 110 of Part 713 concerning protection of tenants and sharecroppers.

Signed at Washington, D.C. on January 10, 1983.

John R. Block,

Secretary.

[FR Doc. 83-1022 Filed 1-11-83; 10:01 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 394]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 16–22, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 16, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities: This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on January 11, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.694 is added as follows:

§ 910.694 Lemon regulation 394.

The quantity of lemons grown in California and Arizona which may be handled during the period January 16, 1983, through January 22, 1983, is established at 190,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 12, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–1301 Filed 1–13–83; 11:46 am]

BILLING CODE 3410-02-M

[Marketing Agreements and Orders; Milk]

7 CFR Part 1011

Milk in the Tennessee Valley Marketing Area; Temporary Revision of Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rule.

SUMMARY: This action reduces the supply plant shipping requirement of the Tennessee Valley Federal milk order by 10 percentage points for January and February 1983. This temporary reduction was requested by the operator of a supply plant which is regulated as a pool plant under the order. A notice that this action was being considered was issued December 21, 1982, and interested parties were invited to submit comments. No comments were received. This temporary change will remove the necessity for the supply plant operator to incur uneconomic shipments of milk to a distributing plant merely to maintain pool status for the supply plant under the current shipping requirements of the order.

EFFECTIVE DATE: January 14, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Proposed Temporary Revision of Shipping Percentage: Issued December 21, 1982; published December 28, 1982 (47 FR 57728).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has also been determined that the need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the procedure in time to advise the industry on a timely basis regarding final action on the supply plant shipping requirement revision.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the provisions of § 1011.7(b) of the order.

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 57728, December 28, 1982) concerning a proposed decrease in the shipping requirement for pool supply plants for the months of January and February 1983. Interested parties were afforded the opportunity to comment on the proposal by submitting written data, views, and arguments. No comments were received.

After consideration of all relevant material, including the material set forth

in the aforesaid notice, it is hereby found and determined that for the months of January and February 1983 the supply plant shipping percentage of 60 percent as set forth in § 1011.7(b) should be decreased to 50 percent.

This action was requested by Kraft, Inc., which operates a supply plant that is regulated as a pool plant by the Tennessee Valley order. Kraft stated that over the past year the Tennessee Valley market has experienced an increase in milk production without a corresponding increase in Class I sales. The handler claimed that this marketwide development made it difficult for its supply plant to meet the 60 percent shipping requirement without engaging in uneconomic shipments of milk if it wished to maintain pool plant status. Kraft projected that the general imbalance of supply over demand in the market that led to a temporary reduction in the supply plant shipping requirements for October and November 1982 would continue through January and February 1983.

A review of the available information indicates that the Tennessee Valley market has undergone some changes in marketing conditions in the past 18 months. Although month-to-month and year-to-year comparisons are complicated by the varying regulatory status of certain plants, the trend in the market has been towards increased producer milk recipients and almost no growth in Class I sales. Increases in production have resulted from greater output by producers historically associated with the Tennessee Valley market, and by the addition of new producers to the market.

Historically, this market has had a high Class I utilization. However, the percentage of producer milk in Class I has been declining for the past two years. The percent of producer milk in Class I averaged about 4 percentage points less in 1981 than in 1980. For the first 11 months of 1982 this figure averaged about 5 percentage points below year-earlier levels. It is expected that the percent of producer milk in Class I will continue to be below year-ago levels during January and February 1983.

Because of this general relationship of supplies to demand, the Department responded to an earlier petition by Kraft by reducing the supply plant shipping percentage for October and November 1982. Absent the proposed relief it is likely that Kraft will have to back-haul some of its milk in order to maintain pool status for its supply plant during early 1983. Under these circumstances, a temporary reduction in the shipping requirement for January and February 1983 is appropriate because it can remove the need for uneconomic movements of milk merely for purposes of assuring pool plant qualification.

It is hereby found and determined that 30 days' notice of the effectiveness date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of January and February 1983;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Interested parties were afforded an opportunity to file written data, views or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective for the months of January and February 1983.

List of Subjects in 7 CFR Part 1011

Milk marketing orders, Milk, Dairy Products.

It is therefore ordered, That the shipping percentage in § 1011.7(b) of the order is hereby revised for the months of January and February 1983.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Effective Date: January 11, 1983.

Signed at Washington, D.C., on January 11, 1983.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 83-1109 Filed 1-13-83; 8:45 am]

BILLING CODE 3410-01-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-068]

Importation of Certain Animals; Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Rule related notice.

SUMMARY: This document establishes a specific date for receipt of applications for special authorization to be drawn on a lottery basis for the allotment of quarantine space for the next two groups of cattle to be imported through the Harry S Truman Animal Import Center (HSTAIC). It also lists the geographic areas from which cattle will be considered for importation and the schedules of fees for importation of such cattle. This action is being taken to notify potential applicants of the lottery and fee schedule in accordance with the regulations.

DATES: Deadline for receipt of applications March 15, 1983.

Date and time of drawing: March 22, 1983 at 9 a.m.

ADDRESSES:

Place of drawing: Room 643A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Application forms may be obtained upon request from and completed applications should be set to Import-Export Animals and Products Staff, Veterinary Services, APHIS, United States Department of Agriculture, 6505 Belcrest Road, Room 840, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. Melvin Crane, VS, APHIS, USDA, Room 840, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8530.

SUPPLEMENTARY INFORMATION: Procedures are established in § 92.41 of Title 9, Code of Federal Regulations (9 CFR 92.41), concerning the allocation of space at the HSTAIC. These procedures include holding a drawing to determine from submitted applications which interested persons will have a right to qualify animals to enter the United States through the HSTAIC. The HSTAIC is intended to process animals from countries affected with exotic diseases and not otherwise eligible for importation into the United States.

The regulations require that at least 60 days prior notice be provided in the **Federal Register** of the date, time, and place of the drawing; the geographic areas from which animals will be considered for importation; and the fee schedule for the proposed importation (9 CFR 92.41(a)(1)). The Department has determined that it would be too complicated and would pose unnecessary disease risks to allow cattle from Europe and Brazil to be combined in one importation. Therefore, cattle from Europe and Brazil shall be imported in separate importations. Importers of cattle from Europe are much more limited than importers from Brazil in when they can have their cattle qualified for importation into the HSTAIC. This is because of several factors including the severe winter weather and certain vaccination programs required by European countries but not found in Brazil. Cattle which have been vaccinated cannot

enter the HSTAIC so an importation of European cattle must occur before the cattle reach an age where they must, by law, be vaccinated. Based on these factors the Department anticipates that the next importation of cattle from Brazil should be able to enter the HSTAIC on or before May 1983, and cattle from Europe in or before the fall of 1983. The drawing for cattle from Europe is scheduled for March 22, 1983, at 9 a.m., in Room 643A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. The drawing for cattle from Brazil will begin immediately after the drawing for cattle from Europe is completed.

Each appplicant for importation shall complete an application for importing cattle through the HSTAIC which shall be received by Veterinary Services at least 5 days prior to the date of the drawing. Application forms may be obtained upon request from and completed applications must be sent to and received by Import-Export Animals and Products Staff, Veterinary Services, APHIS, United States Department of Agriculture, 6505 Belcrest Road, Room 840, Hyattsville, MD 20782.

Each application from Brazil or Europe shall be accompanied by a certified check, money order, or letter of credit payable to the United States Department of Agriculture, Animal and Plant Health Inspection Service, in the amount of one thousand dollars ($1,000), for each animal for which special authorization is requested on the application. If a letter of credit is utilized, the effective date on the letter of credit accompanying an application for the importation of cattle from Brazil must run to October 1, 1983, and the effective date on the letter of credit accompanying an application for the importation of cattle from Europe must run to May 1, 1984. (The $1,000 deposit per animal does not apply to applications for exclusive use, pursuant to 9 CFR 92.41(b)(1).

In the event the applicant does not receive special authorization for cattle for which the applicant has applied, the amount deposited with the application for each animal not so authorized will be refunded. If the applicant receives special authorization, the deposited amount shall be applied against the total cost of importation of each animal. However, the $1,000 per head deposit is nonrefundable for each animal granted special authorization.

All applicants or their designated legal agents or representatives shall be required to appear in person at the drawing. Each designated legal agent or representative shall have a notarized statement of authority signed by the applicant. On the day of the drawing, the applicants selected or their legal representatives shall be required to execute a cooperative agreement and pay the required fee in accordance with the provisions of the cooperative agreement.

If the total number of cattle for which special authorizations are requested is not at least 50, there shall not be a lottery or importation pursuant to 9 CFR 92.41(a) and the deposits shall be refunded to the applicants.

Special authorization for the exclusive use of the HSTAIC shall be issued in accordance with 9 CFR 92.41(b) when the HSTAIC is not scheduled for use for an importation of cattle pursuant to 9 CFR 92.41(a).

The fee schedules presented below are graduated depending on the number of cattle for which authorization is granted to qualify the cattle for entrance into the USDA approved embarkation facility and depending upon the number of cattle which go through the quarantine period at the UDSA approved embarkation facility and the HSTAIC. To calculate the total cost of importation, the cost per head for qualifying or attempting to qualify cattle on the premises of origin must be added to the cost per head for cattle to be quarantined in the country of origin and the HSTAIC. The fees are as follows:

COST OF QUARANTINING CATTLE BRAZIL AND HSTAIC [1]

No. of cattle	Total fixed cost	In quarantine		Total cost per head
		Fixed cost per head [2]	Variable cost per head	
50- 55	$324,557	$5,901	$925	$6,826
56- 60	324,557	5,409	925	6,334
61- 65	324,557	4,993	925	5,918
66- 70	324,557	4,636	925	5,561
71- 75	324,557	4,327	925	5,252
76- 80	324,557	4,056	925	4,981
81- 85	324,557	3,818	925	4,743
86- 90	324,557	3,606	925	4,531
91- 95	324,557	3,416	925	4,341
96-100	324,557	3,245	925	4,170
101-105	333,823	3,179	925	4,104
106-110	343,089	3,118	925	4,043
111-115	352,355	3,063	925	3,988
116-120	361,621	3,013	925	3,938
121-125	370,887	2,967	925	3,892
126-130	380,153	2,924	925	3,849
131-135	389,419	2,884	925	3,809
136-140	398,685	2,847	925	3,772
141-145	407,951	2,813	925	3,738
146-150	417,217	2,781	925	3,706
151-155	425,527	2,745	925	3,670
156-160	433,837	2,711	925	3,636
161-165	442,147	2,679	925	3,604
166-170	450,457	2,649	925	3,574
171-175	458,767	2,621	925	3,546
176-180	467,077	2,594	925	3,519
181-185	475,387	2,569	925	3,494
186-190	483,697	2,545	925	3,471
191-195	492,007	2,523	925	3,448
196-200	500,317	2,501	925	3,426

[1] Includes personnel at Cananeia.
[2] At USDA approved embarkation facility and at the HSTAIC.

COST OF QUARANTINING CATTLE, EUROPE AND HSTAIC [1]

No. of cattle	Total fixed cost	In quarantine		Total cost per head
		Fixed cost per head [2]	Variable cost per head	
50- 55	$323,436	$5,880	$891	$6,771
56- 60	323,436	5,390	891	6,281
61- 65	323,436	4,975	891	5,866
66- 70	323,436	4,620	891	5,511
71- 75	323,436	4,312	891	5,203
76- 80	323,436	4,042	891	4,933
81- 85	323,436	3,806	891	4,696
86- 90	323,436	3,593	891	4,484
91- 95	323,436	3,404	891	4,295
96-100	323,436	3,234	891	4,125
101-105	332,542	3,167	891	4,058
106-110	341,648	3,105	891	3,996
111-115	350,754	3,050	891	3,941
116-120	359,860	2,998	891	3,889
121-125	368,966	2,951	891	3,842
126-130	378,072	2,909	891	3,800
131-135	387,178	2,867	891	3,758
136-140	396,284	2,830	891	3,721
141-145	405,390	2,795	891	3,686
146-150	414,496	2,763	891	3,654
151-155	422,903	2,729	891	3,620
156-160	431,310	2,695	891	3,586
161-165	439,717	2,664	891	3,555
166-170	448,124	2,636	891	3,527
171-175	456,531	2,608	891	3,499
176-180	464,938	2,582	891	3,473
181-185	473,345	2,558	891	3,449
186-190	481,752	2,535	891	3,426
191-195	490,159	2,513	891	3,404
196-200	498,566	2,492	891	3,383

[1] Includes personnel at Brest.
[2] At USDA approved embarkation facility and at the HSTAIC.

COST OF QUALIFYING OR ATTEMPTING TO QUALIFY CATTLE—BRAZIL ON PREMISES OF ORIGIN

No. of cattle	Total fixed cost	In country		Total cost per head
		Fixed cost per head—Brazil	Variable cost per head	
50- 55	$60,569	$1,199	$382	$1,581
56- 60	55,858	1,099	382	1,481
61- 65	50,950	1,014	382	1,396
66- 70	46,830	943	382	1,324
71- 75	43,480	879	382	1,261
76- 80	40,880	824	382	1,206
81- 85	38,950	775	382	1,157
86- 90	36,850	732	382	1,114
91- 95	35,350	694	382	1,076
96-100	33,950	659	382	1,041
101-105	33,791	655	382	1,037
106-110	71,623	651	382	1,033
111-115	74,455	647	382	1,029
116-120	77,287	644	382	1,026
121-125	80,119	640	382	1,022
126-130	82,951	638	382	1,020
131-135	85,783	635	382	1,017
136-140	88,610	632	382	1,014
141-145	91,447	630	382	1,012
146-150	94,279	628	382	1,010
151-155	97,224	627	382	1,009
156-160	100,169	626	382	1,008
161-165	103,114	624	382	1,006
166-170	106,059	623	382	1,005
171-175	109,004	622	382	1,004
176-180	111,949	621	382	1,003
181-185	114,894	621	382	1,003
186-190	117,839	620	382	1,002
191-195	120,784	619	382	1,001
196-200	123,729	618	382	1,000

COST OF QUALIFYING OR ATTEMPTING TO QUALIFY CATTLE—EUROPE ON PREMISES OF ORIGIN

No. of cattle	Total fixed cost	In country		Total cost per head
		Fixed cost per head—Europe	Variable cost per head	
50- 55	$54,031	$1,164	$294	$1,458
56- 60	54,031	1,067	294	1,361
61- 65	54,031	985	294	1,279
66- 70	54,031	914	294	1,208
71- 75	54,031	853	294	1,147
76- 80	54,031	800	294	1,094
81- 85	54,031	753	294	1,047
86- 90	54,031	711	294	1,005
91- 95	54,031	674	294	968
96-100	54,031	640	294	934
101-105	56,767	635	294	929
106-110	59,503	631	294	925
111-115	72,239	628	294	922
116-120	74,975	624	294	918
121-125	77,711	621	294	915
126-130	80,447	618	294	912
131-135	83,183	616	294	910
136-140	85,919	614	294	908
141-145	88,655	611	294	905
146-150	91,391	609	294	903
151-155	94,238	607	294	901
156-160	97,087	606	294	900
161-165	99,935	605	294	899
166-170	102,783	604	294	898
171-175	105,631	603	294	897
176-180	108,479	602	294	896
181-185	111,327	601	294	895
186-190	114,175	600	294	894
191-195	117,023	600	294	894
196-200	119,871	599	294	893

Done at Washington, D.C., this 10th day of January, 1983

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 83-1087 Filed 1-11-83; 3:45 pm]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

14 CFR Part 320

[Procedural Reg. Docket 40891; Reg. PR-251A]

Procedures for Awarding Japanese Charter Authorizations

AGENCY: Civil Aeronautics Board.

ACTION: Additional supplementary information.

SUMMARY: The CAB adds a statement inadvertently omitted, concerning the reasons for an early effective date for its rules for awarding Japanese charter authorizations.

DATES: Adopted: October 5, 1982. Effective: October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia A. Depuy, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5871; or Joanne Petrie, Office of the General Counsel, Rules & Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: In PR-251, 47 FR 43352, October 1, 1982, the Board issued Part 320, *Procedures for awarding Japanese charter authorizations*. That final rule sets forth procedures for allocating charter flights for operation by U.S. carriers between the United States and Japan under a Memorandum of Understanding (MOU) signed by the two countries on September 7, 1982. The MOU permits the U.S. government to designate carriers to provide 300 one-way flights per year beginning on October 1, 1982, for a 3-year period.

The Board inadvertently omitted the formal statement of justification for an early effective date as required by section 553 of the Administrative Procedure Act. The Supplementary Information did, however, generally discuss the reasons why an early effective date was essential. As was made clear in both the Notice of Proposed Rulemaking and the final rule, the Board found it necessary in the public interest to establish the allocation procedures as soon as possible, since October 1, 1982, marked the beginning of the new charter systems. This notice adds the technical justification and should be included at the end of the Supplementary Information of PR-251.

Regulatory Flexibility Act

This additional supplementary information does not change the Board certification that Part 320 does not have a significant impact on a substantial number of small entities. This notice merely augments the Supplementary Information in the final rule.

List of Subjects in 14 CFR Part 320

Charter flights, Reporting requirements, Treaties.

Accordingly, the Civil Aeronautics Board adds the following statement to the Supplementary Information in PR-251, 47 FR 43352, October 1, 1982, as follows:

These perishable rights under the agreement are exercisable beginning October 1, 1982, and we have found and carriers have affirmed the need for speedy allocation to permit the greatest possible lead time for efficient use of, and maximum public benefit from, these charter opportunities. Accordingly, the Board finds, for good cause shown, that an effective date earlier than 30 days from publication is in the public interest.

(Secs. 204, 401, 407, 1102, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 766, 797, 49 U.S.C. 1324, 1371, 1377, 1502)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1126 Filed 1-13-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in the United States in Agriculture; Adverse Effect Wage Rates

Correction

In FR Doc. 83-140 beginning on page 232 in the issue of Tuesday, January 4, 1983, make the following changes on page 233:

1. In the first column, the first complete paragraph the last four lines should read "seasons, the final rule has been clarified to apply beyond those seasons."

2. In the same column, under Table I, the entry under the "Percentage changes" column for West Virginia should read "+10.0[1]"

3. In the third column, under Table II, the entry under the "Ratio" column for West Virginia should not have a "$" before "1.6".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 81F-0294]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 1,2-dibromo-2,4-dicyanobutane as a preservative in pigment slurries and paper coatings in the manufacture of paper and paperboard. This action is based on a petition filed by the Calgon Corp.

DATES: Effective January 14, 1983; objections by February 14, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm.

4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 23, 1981 (46 FR 52032), FDA announced that a food additive petition (FAP 1B3561) had been filed by Calgon Corp., Box 1346, Pittsburgh, PA 15230, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of 1,2-dibromo-2,4-dicyanobutane as a preservative in pigment slurries and paper coatings in the manufacture of paper and paperboard that may contact food.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. The agency is also making editorial changes in the description of the permitted levels of the preservative in latexes used as pigment binders in coatings from 0.025 weight percent to a range of not more than 0.025 and not less than 0.01 weight percent. This change is made to conform this regulation to other regulations governing the use of similar microbiocides; the change will not alter the effectiveness of the substance for its requested uses.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 176.170(b)(2) is amended by inserting new uses for "1,2-Dibromo-2,4-dicyanobutane" and by revising the current use level limitation to read as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *
(2) * * *

List of substances	Limitations
* * * * *	
1,2-Dibromo-2, 4-dicyanobutane (CAS Reg. No. 35691-65-7).	For uses only as a preservative at a level not more than 0.025 weight percent and not less than 0.01 weight percent in latexes used as pigment binders in coatings; in pigment slurries used in coatings; and/or in coatings themselves. The total level of the preservative in the finished coating shall not exceed 0.04 weight percent of the finished coating solids.
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 14, 1983 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 14, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: January 10, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–1084 Filed 1–13–83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 181

[Docket No. 77N–0222]

Nitrates and Nitrites in Meat and Poultry Products; Declaration and Codification of Prior Sanctions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to codify prior sanctions for the use of nitrates and nitrites in cured meat and poultry products. This action is based upon conclusions reached by the U.S. Department of Agriculture (USDA) that the use of nitrates and nitrites in cured meat and poultry products was sanctioned and approved by USDA under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) prior to September 6, 1958.

DATES: Effective January 14, 1983.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION:

I. Introduction

By this final rule, FDA is codifying the prior sanctions issued by USDA for the use of nitrates and nitrites in meat and poultry products by including those prior sanctions in Part 181 of Title 21 of the Code of Federal Regulations. As used in this document, the term "nitrates" includes sodium and potassium nitrate, and the term "nitrites" includes sodium and potassium nitrite. Previous Federal Register notices on these uses of nitrates and nitrites include those published on November 3, 1972 (37 FR 23456); September 2, 1977 (42 FR 44376); and December 21, 1979 (44 FR 75662).

This rule is based on determinations by USDA that: (1) Nitrates and nitrites may be used in cured red meat products to fix color and to serve as a preservative under the terms of a prior sanction granted under the FMIA (21 U.S.C. 96), and (2) the use of nitrates and

nitrites as a preservative and color fixative in poultry products was sanctioned and approved by USDA under the PPIA (21 U.S.C. 451 et seq.) prior to September 6, 1958.

The effect of this rule is that the historical uses of nitrates and nitrites in red meat and poultry products need not be approved under the food additive provisions of the Federal Food, Drug, and Cosmetic Act (FFDCA). These uses are, however, subject to the general adulteration provisions of the FMIA and the PPIA, both of which are administered by USDA, and of the FFDCA.

II. Legal and Procedural Background

Section 201(s) of the FFDCA (21 U.S.C. 321(s)) defines the term "food additive" as follows:

> The term "food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include—
>
> * * * * *
>
> (4) Any substance used in accordance with approval granted prior to the enactment of this paragraph pursuant to this Act, the Poultry Products Inspection Act (21 U.S.C. 451 and the following) or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 and the following);
>
> * * * * *

This definition was added to the FFDCA by the Food Additives Amendment of 1958 (Pub. L. 85–929, 72 Stat. 1784–1789) ("the 1958 amendment"), which was enacted into law on September 6, 1958. The purpose of the prior sanction provision in section 201(s)(4) was to make it unnecessary for substances that had already been approved by the Government before enactment of the 1958 amendment to go through the premarket testing and approval process that the 1958 amendment made applicable to food additives. "Food Additives," Hearings before the House Committee on Interstate and Foreign Commerce, 85th Cong., pp. 34–35 (1958). Substances excluded from the definition of "food additive" under this provision included not only those approved by FDA under the FFDCA but also those approved by USDA under the PPIA or the FMIA.

In the **Federal Register** of November 3, 1972 (37 FR 23456), FDA published a notice of proposed rulemaking in which it proposed, among other things, to formalize prior sanctions, which the agency presumed that USDA had granted for the use of nitrates and nitrites as curing agents in meat and poultry products, by adding two new sections to Subpart E of Part 121 (since recodified as Part 181 (recodification in the **Federal Register** of March 15, 1977; 42 FR 14302)).

Subsequent to the publication of the November 3, 1972 proposal, USDA attempted to clarify, in letters to FDA, those products for which it has granted prior sanctions. In a letter dated April 22, 1977, to Donald Kennedy, then Commissioner of Food and Drugs, Carol Tucker Foreman, then Assistant Secretary of Agriculture for Food and Consumer Services, stated that "(b)ased upon our review of available information, it does not appear that there is such a prior sanction or approval for the use of nitrates and nitrites in poultry products" (Ref. 1).

FDA then asked USDA for clarification about any prior sanctions or approvals that USDA had issued for the use of nitrates and nitrites in red meat products. Assistant Secretary Foreman, in a January 24, 1978 letter to Sherwin Gardner, then Deputy Commissioner of Food and Drugs, responded that, based upon current regulations (9 CFR 317.8(b)(6) and 318.7(c)(4)), history of use, and articles written by administrative officials of USDA, nitrates and nitrites have been authorized for use in cured meat products to fix color and to serve as a preservative (Ref. 2).

With regard to poultry, because FDA considered USDA's 1977 determination that a prior sanction did not exist to be dispositive, FDA published a Statement of Policy in the **Federal Register** on September 2, 1977 (42 FR 44376) in which the agency announced that it intended to regulate the use of nitrates and nitrites in poultry products as food additives under sections 201(s) and 409 of the FFDCA. FDA also announced that, upon submission of appropriate data and information concerning the safety of nitrates and nitrites in poultry products, FDA would consider issuing food additive regulations to permit the continued use of nitrates and nitrites in poultry on an interim basis pending a full resolution of questions affecting a final decision on their approvability. Two petitions were submitted by an ad hoc committee, the Special Poultry Research Committee (SPRC), for the issuance of interim food additive regulations for the use of sodium nitrite in a variety of poultry products.

On November 2, 1977, SPRC and Tyson Foods, Inc., filed suit in the United States District Court for the Western District of Arkansas against USDA and the Department of Health, Education, and Welfare (now the Department of Health and Human Services) seeking, among other things, a declaratory judgment that a prior sanction exists for the use of sodium nitrite in poultry products. On March 21, 1979, the court dismissed the suit on the ground that it could not consider the merits of the prior sanction issue until the Government had taken some final action premised on the absence of a prior sanction.

The plaintiffs appealed the case to the United States Court of Appeals for the Eighth Circuit. On July 20, 1979, the appeal was dismissed in response to a joint motion of the parties in which FDA stated its intention to initiate rulemaking to resolve the question whether a prior sanction granted under the FFDCA exists for nitrates and nitrites in poultry products. *Tyson Foods, Inc., et al., v. USDA et al.*, No. 77–5059 (W. D. Ark., *dismissed* Mar. 21, 1979), *appeal dismissed*, No. 79–1405 (8th Cir. July 20, 1979).

FDA initiated rulemaking by publishing in the **Federal Register** of December 21, 1979 (44 FR 75662) a proposal to declare that no prior sanction granted under the FFDCA exists for the use of nitrates and nitrites in poultry products. The agency reached this conclusion because it failed to find in its files evidence of a prior sanction for the use of nitrates and nitrites in poultry products. In the proposal, FDA specifically solicited the submission of evidence that would tend to contradict its conclusion. The agency stated that if acceptable evidence that it had issued a prior sanction under the FFDCA was submitted in response to the proposal, it would withdraw the proposal and issue a second proposal recognizing the existence of the prior sanction.

After two extensions, the comment period closed on June 18, 1980. At the close of the comment period, SPRC submitted five volumes to FDA in which SPRC documented its arguments that a prior sanction had been granted for the use of nitrates and nitrites in poultry products (Ref. 3). Because SPRC contended that USDA had issued a prior sanction under the PPIA and the FMIA, FDA sent SPRC's submission to USDA for review.

By letter dated October 9, 1980, Assistant Secretary Foreman responded that, on the basis of the evidence submitted, "we conclude that the use of nitrates and nitrites as a preservative and color fixature (sic) in poultry products was in fact sanctioned and approved by USDA, pursuant to the PPIA, during the 1957–1958 prior sanction period, and that a prior sanction for that use therefore exists" (Ref. 4).

Assistant Secretary Foreman's letters of January 24, 1978 and October 9, 1980 establish that USDA has sanctioned the use of nitrates and nitrites in red meat and poultry products. FDA believes that these sanctions should be a matter of public record (38 FR 12737; May 15, 1973). Therefore, FDA is issuing §§ 181.33 and 181.34 to codify and to recognize them.

FDA has concluded that notice and public procedure on these regulations are unnecessary, and that good cause exists for issuing the regulations as a final rule. Under section 201(s)(94) of the FFDCA, FDA considers itself bound by USDA's determinations concerning prior sanctions granted by that Department under either the PPIA or the FMIA. Therefore, these regulations have no substantive effect on the regulatory status of the use of nitrates and nitrites in meat and poultry products. They merely recognize determinations that have already been made by USDA.

FDA also finds that there is no basis for it to act on its original intention, described in the December 21, 1979 proposal, to issue a new proposal recognizing the existence of a prior sanction for using nitrates and nitrites in poultry products if acceptable evidence that the agency had issued such a prior sanction under the FFDCA was submitted in response to that proposal. The agency points out that the prior sanctions it is codifying were issued under the FMIA and the PPIA and not the FFDCA. Thus, the circumstances in which the agency said it would issue a new proposal do not apply here. More importantly, in publishing §§ 181.33 and 181.34, the agency is not engaging in rulemaking. Instead, the agency is merely giving the public notice, through a section in the Code of Federal Regulations, that by virtue of actions taken by USDA, under 21 U.S.C. 321(s)(4), nitrates and nitrites are not food additives when used in cured red meat and poultry products. Therefore, FDA believes that there is good cause for finding that the publication of a proposal, public comment on these regulations, and delayed effective date are not necessary.

Because of USDA's findings that it had issued sanctions for the use of nitrates and nitrites in red meat and poultry products prior to September 6, 1958, the proposals issued by FDA on November 3, 1972 and December 21, 1979 have been rendered unnecessary. Therefore, FDA will publish in the future its final decision on those proposals.

In a letter dated May 18, 1981, SPRC withdrew its petitions that requested the issuance of interim food additive regulations for the use of sodium nitrite in poultry products.

III. Basis for the Prior Sanctions

As stated earlier, the basis for this notice that USDA granted prior sanctions for the use of nitrates and nitrites in red meat and poultry products are two letters that were sent by USDA to FDA, in which USDA stated its reasons for concluding that prior sanctions exist (Refs. 2 and 4). The following discussion summarizes the points made in the two letters sent by Assistant Secretary Foreman to FDA. For more specific information, readers should refer to these letters (Refs. 2 and 4). With respect to red meat products, supporting material is attached to Assistant Secretary Foreman's letter (Ref. 2). Regarding poultry products, SPRC's submission contains copies of the primary supporting material (Ref. 3).

A. Red Meat Products

In her January 24, 1978 letter to Deputy Commissioner Gardner (Ref. 2), Assistant Secretary Foreman stated USDA's reasons for its conclusion that it had issued a prior sanction for the use of nitrates and nitrites in meat products. She pointed out that the federal meat inspection regulations, 9 CFR 318.7(c)(4), "permit the use of nitrates and nitrites in the preparation of any cured meat products, i.e., any cured carcass, meat, meat byproduct, or meat food product, capable of use as human food." The current regulations also specify, in 9 CFR 318.7(c)(4), the maximum ingoing and residual levels of nitrates and nitrites that may be used in cured products.

Assistant Secretary Foreman stated that in USDA's view "these provisions of the current regulations are in accord with 'prior sanctions or approvals' granted pursuant to the Meat Inspection Act of 1907, as amended."

Assistant Secretary Foreman also cited various Bureau of Animal Industry Service Announcements and Federal meat inspection regulations that disclose that USDA has permitted the use of various nitrate and nitrite salts in meat products from at least 1907 to the present, and that USDA has allowed the maximum amounts of nitrates and nitrites currently permitted in the regulations continuously since 1925 or earlier.

The use of nitrates and nitrites in the preparation of cured products, Assistant Secretary Foreman continued, both as a color fixative and as a preservative, is in accord with a "prior sanction or approval." USDA recognized the color fixing properties of nitrate and nitrite in a Bureau of Animal Industry Announcement issued on October 19, 1925 and in the current provisions in 9 CFR 318.7(c)(4), which became effective October 4, 1964. USDA recognized the preservative properties of nitrates and nitrites in: (1) The current provisions in 9 CFR 317.8(b)(6), which have been in effect since October 1, 1941, (2) articles written by administrative officials of USDA published in 1943 and 1951, and (3) provisions relating to the export of products from March 29, 1945 through May 19, 1959.

USDA's determination that it had granted a prior sanction for the use of nitrates and nitrites in meat products as a preservative and color fixative, under the FMIA, was upheld by the United States Court of Appeals for the D.C. Circuit in *Pubic Citizen* v. *Foreman*, 631 F.2d 969 (D.C. Cir. 1980).

B. Poultry Products

The SPRC submission of June 20, 1980 (Ref. 3) contained depositions and affidavits of former USDA administrative officials and others, USDA memoranda and other correspondence, information relating to product labels, and numerous scholarly publications. Based upon this evidence, USDA concluded that a prior sanction exists for the use of nitrates and nitrites in poultry products (Ref. 4).

Any prior sanction or approval of nitrates or nitrites in poultry granted by USDA under the PPIA would have to have been given after enactment of this law on August 28, 1957 but before enactment of the Food Additives Amendment of 1958 on September 6, 1958. Inspection under the PPIA was not mandatory until January 1, 1959, but USDA inspected poultry products after May 1, 1958 for those who, on a voluntary basis, applied and qualified under regulations issued by the Department. In making its determination on the prior sanction, according to Assistant Secretary Foreman's letter of October 9, 1980, USDA concluded that a sanction or approval is pursuant to the PPIA if it was granted: (1) To a company receiving inspection voluntarily under the PPIA, (2) to a company before it began receiving inspection, if the

sanction or approval continued into the period in which the company did receive inspection; or (3) to a company after August 27, 1957, in anticipation of, or in preparation for, voluntary or mandatory inspection. In addition, Assistant Secretary Foreman pointed out that any approvals that USDA granted were informal because no regulations under the FMIA or PPIA permitting the use of nitrates or nitrites in poultry products were in effect before September 6, 1958.

The conclusion by USDA "that there is a prior sanction, pursuant to the PPIA, for * * * the use of nitrates and nitrites as a preservative and color fixative in the curing of poultry products at the same limits that were applicable to meat products" is based on several lines of evidence:

(1) Depositions and affidavits of former USDA officials, whose tenure included the prior sanction period, reflecting their understanding that it was USDA policy to approve the use of nitrates and nitrites in poultry products.

(2) Label approvals that USDA granted for poultry products containing nitrates and nitrites during the period between August 28, 1957 and September 6, 1958. Assistant Secretary Foreman stated that even though in most cases there is no indication that the labels were used past August 28, 1957, there is also no evidence that the label approvals were withdrawn or cancelled. Assistant Secretary Foreman cited statements by former USDA officials that indicated that they had approved labels during the prior sanction period, and statements by officials of companies that manufactured poultry products that asserted that they had obtained label approvals during the prior sanction period. She found that these statements support USDA's finding that a prior sanction for the use of nitrates and nitrites in poultry products exists. In addition, Assistant Secretary Foreman cited labels for poultry products containing nitrates and nitrites that USDA approved after 1958 as providing further support for USDA's conclusion that a prior sanction exists.

(3) USDA instructions to its poultry inspectors, in effect prior to September 6, 1958, providing details of acceptable methods for curing poultry products with nitrates and nitrites.

(4) A November 20, 1958, list of "Permitted Food Additives" provided by the Poultry Division, USDA, to all its poultry inspectors. Assistant Secretary Foreman found the fact that USDA had included nitrates and nitrites as "permitted food additives" on this list, which was compiled and circulated so soon after the prior sanction period, to be persuasive evidence that USDA had approved the use of nitrates and nitrites in poultry products prior to September 6, 1958 and pursuant to the PPIA. This list was published in December 1958 in the *Food Drug Cosmetic Law Journal* with other lists of prior-sanctioned or approved substances.

(5) Articles, published by USDA scientists in various journals between 1936 and 1966, that recommend the use of nitrates and nitrites for curing smoked turkeys.

(6) Other materials that reflect that USDA knew that nitrates and nitrites were being used in poultry products. These materials include evidence of the delivery of samples to USDA of poultry products cured with nitrates and nitrites and product formulas that employ nitrates and nitrites as curing agents for various poultry products.

On the basis of this evidence, USDA concluded that a prior sanction for the use of nitrates and nitrites in poultry products exists.

IV. References

The following materials are on file with the FDA Dockets Management Branch (HFA–305), address above, and may be seen in that office from 9 a.m. to 4 p.m., Monday through Friday.

(1) Letter from Carol Tucker Foreman, Assistant Secretary of Agriculture for Food and Consumer Services, to Donald Kennedy, Commissioner of Food and Drugs, April 22, 1977.

(2) Letter from Carol Tucker Foreman to Sherwin Gardner, Deputy Commissioner of Food and Drugs, January 24, 1978.

(3) Comments of the Special Poultry Research Committee submitted in response to FDA's Notice of Proposed Rulemaking published in the December 21, 1979 **Federal Register** (44 FR 75662) regarding the prior sanction status of nitrates and nitrites used in poultry products, 5 volumes.

(4) Letter from Carol Tucker Forman to Jere E. Goyan, Commissioner of Food and Drugs, October 9, 1980.

V. Regulatory and Environmental Analyses

FDA is codifying prior sanctions for the use of nitrates and nitrites in cured meat and poultry products. The agency is not engaging in rulemaking but merely giving the public notice of those prior sanctions. Therefore, FDA anticipates that the issuance of this notice will not affect the market distribution or cost of cured meat and poultry products, and that it will not be a major rule as defined by the criteria in Executive Order 12291.

This action is not subject to the regulatory impact analysis provisions of the Regulatory Flexibility Act (Pub. L. 96–354), because it is not based on a general notice of proposed rulemaking. Morever, the effect of this regulation is to maintain current known uses by both large and small businesses of nitrates and nitrites in meat and poultry products.

The agency has determined that this action is not covered under 21 CFR 25.22(a) (proposed December 11, 1979; 44 FR 71742) because it could not significantly affect the quality of the human environment. Therefore, the preparation of an environmental assessment and consideration by the agency of the need for preparing an environmental impact statement are not required.

List of Subjects in 21 CFR Part 181

Food additives, Prior-sanctioned food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s) and 701(a), 52 Stat. 1055, 72 Stat. 1784 (21 U.S.C. 321(s) and 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 181 is amended as follows:

PART 181—PRIOR-SANCTIONED FOOD INGREDIENTS

1. By adding new § 181.33 to read as follows:

181.33 Sodium nitrate and potassium nitrate.

Sodium nitrate and potassium nitrate are subject to prior sanctions issued by the U.S. Department of Agriculture for use as sources of nitrite, with or without sodium or potassium nitrite, in the production of cured red meat products and cured poultry products.

2. By adding new § 181.34 to read as follows:

§ 181.34 Sodium nitrite and potassium nitrite.

Sodium nitrite and potassium nitrite are subject to prior sanctions issued by the U.S. Department of Agriculture for use as color fixatives and preservative agents, with or without sodium or potassium nitrate, in the curing of red meat and poultry products.

Effective date. This regulation shall become effective January 14, 1983.

(Secs. 201(s), 701(a), 52 Stat. 1055, 72 Stat. 1784 (21 U.S.C. 321(s), 371(a)))

Dated: December 27, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83-1082 Filed 1-13-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 200 and 800

[Docket No. 82N-0332]

Tamper-Resistant Packaging Requirements for Contact Lens Solutions and Tablets; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that established additional requirements for tamper-resistant packaging of contact lens solutions and tablets used to make those solutions. The rule was published in the Federal Register of November 5, 1982.

EFFECTIVE DATE: January 14, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, National Center for Devices and Radiological Health (HFK-140), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: In FR Doc. 82-30644 at page 50452 in the Federal Register of Friday, November 5, 1982, the following corrections are made:

1. On page 50452:

a. In column one in the third sentence of the summary, "opthalmic" is changed to "ophthalmic".

b. In column two in the second paragraph under "**SUPPLEMENTARY INFORMATION**", "opthalmic" is changed to "ophthalmic".

2. On page 50453:

a. In column two in the next-to-the-last sentence of the second full paragraph, "non-tamper resistant" is changed to "tamper-resistant."

b. In column three in the first sentence of the first full paragraph, "this effective date." is changed to "this retail level effective date."

3. On page 50454:

a. In column one in the next-to-the-last sentence in the first paragraph, "If a firm submits both a stay and an exemption" is changed to "If a firm submits both a petition for a stay and a petition for an exemption"; in the first sentence of the last paragraph, "found in sections 502(c), 515, and 701(a) of the act (21 U.S.C. 352(c), 360(e), and 371(a))," is changed to "found in sections 201(n), 502 (a) and (c), 515, and 701(a) of the act (21 U.S.C. 321(n), 352 (a) and (c), 360e(e), and 371(a)))." In the second sentence of the same paragraph, "Section 502(c) of the act deems" is changed to "As explained in the OTC drug document, the requirement for a label statement on the tamper-resistant feature of a product's packaging is authorized in part, by the misbranding provisions of sections 201(n) and 502(a), further, section 502(c) of the act deems."

4. On page 50455: In column one in the next-to-the-last sentence of the first paragraph, "regulatory analysis" is changed to "regulatory flexibility analysis". In the authority paragraph, "secs. 501, 502," is changed to "secs. 201(n), 501, 502," "52 Stat. 1049-1051" is changed to "52 Stat. 1041 as amended, 1049-1051" and "21 U.S.C. 351, 352," is changed to "21 U.S.C. 321(n), 351, 352,".

5. On page 50456 in § 800.12 *Contact lens solutions and tablets; tamper-resistant packaging:*

a. In the first sentence of paragraph (a), "and to the public health through the loss" is changed to "and with loss"; in the last sentence of paragraph (a), "or tablet for retail sale" is changed to "or tablet to be used to make such a solution for retail sale".

b. In paragraph (b) in the first sentence, "Each manufacturer or packer" is changed to "Each manufacturer and packer"; the third sentence is changed to read, "To prevent the substitution of a tamper-resistant feature after tampering, the indicator or barrier to entry is required to be distinctive by design or by the use of an identifying characteristic."; the last sentence is changed to read, "The tamper-resistant feature shall be designed to and shall remain intact when handled in a reasonable manner during manufacture, distribution, and retail display."

c. In paragraph (c) in the first sentence, "a product subject to paragraph (b) of this section" is changed to "a product covered by this section".

d. In paragraph (e) the last sentence is changed to read, "Any supplemental premarket approval application under this paragraph is required to include data sufficient to show that these changes do not adversely affect the product."

e. In paragraph (f):

(1) In the introductory text of the paragraph, "that the manufacturer" is changed to "that a product's manufacturer" and "a requirement" is changed to "a packaging or labeling requirement". (2) In paragraph (f)(1)(i) and (ii), "packaged on" is changed to "packaged for retail sale on".

(2) In paragraph (f)(2), "The requirements in paragraph (b) of this section for a distinctive indicator or barrier to entry and in" is changed to "The requirement in paragraph (b) of this section that the indicator or barrier to entry be distinctive by design and the requirement in"; and "and packaged on" is changed to "packaged for retail sale on".

(3) In paragraph (f)(3), "packaged before May 5, 1983." is changed to "packaged for retail sale before May 5, 1983."; and "Products packaged after May 5, 1983 must be" is changed to "Products packaged for retail sale after May 5, 1983, are required to be".

6. On page 50456, the authority statement at the bottom of column three is changed to read, "(Secs. 201(n), 501, 502, 515, 521, 701, 52 Stat. 1041 as amended, 1049-1051 as amended, 1055-1056 as amended, 90 Stat. 552-559, 574 (21 U.S.C. 321(n), 351, 352, 360e, 360k, 371).)"

Dated: January 6, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-1066 Filed 1-13-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 211, 314, and 700

[Docket No. 82N-0330]

Tamper-Resistant Packaging Requirements for Certain Over-the-Counter Human Drug and Cosmetic Products; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that established requirements for tamper-resistant packaging for all over-the-counter (OTC) human drug products, except dermatologics, dentifrices, and insulin, and for cosmetic liquid oral hygiene products and vaginal products. The rule was published in the Federal Register of November 5, 1982.

EFFECTIVE DATE: January 14, 1983.

FOR FURTHER INFORMATION CONTACT:
Eileen R. Hodkinson, National Center for Drugs and Biologics (HFN-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490, or
Heinz J. Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-245-1530.

SUPPLEMENTARY INFORMATION: In FR Doc. 82-30645 at page 50442 in the Federal Register of Friday, November 5, 1982, the following corrections are made:

1. On page 50445:

a. In column two in the first full paragraph, the next to the last sentence is changed to read, "A label statement describing the purpose of the seal and cautioning against purchase if the seal were broken or missing is now required by this final rule for OTC drug products,

including ophthalmic OTC drug products."

b. In column three in the last paragraph beginning on page 50445 and ending on page 50446, the second sentence is changed to read, "If a firm submits both a petition for a stay and a petition for an exemption for the same product, it is requested that each petition be submitted separately in its own envelope clearly marked as set forth above."

2. On page 50446:

a. In column two in the second full paragraph, the first two sentences are changed to read as follows: "FDA concludes, therefore, that the sequential effective dates established by these regulations are reasonable and necessary. It is appropriate for FDA to assure an adequate supply of OTC products at a reasonable price, and it is therefore appropriate for FDA to phase in the requirements of these regulations to assure that the supply of these products is not unnecessarily disrupted and that these prices are not unnecessarily increased."

b. In column three:

(1) In the next-to-the-last sentence of the first full paragraph, "non-tamper resistant" is changed to "tamper resistant."

(2) In the last paragraph, the first and third sentences are changed to read as follows: "The agency acknowledges that it may prove difficult to meet this retail level effective date.* * * It is also possible that the quantity of noncomplying products remaining on the market by that time will be negligible, in which case a retail level effective date may be unnecessary." In the fourth sentence, the phrase "effects of this regulation" is changed to "effects of these regulations".

3. On page 50447:

a. In column one in the last sentence of the paragraph above the first full paragraph, the phrase "stays in the retail level" is changed to "stays of the retail level."

b. In column three in the third sentence of the first full paragraph, "501(c)" is changed to "502(c)".

4. On page 50449:

a. In column three in the first sentence of the first paragraph, "regulatory analysis" is changed to "regulatory flexibility analysis". In the authority paragraph, "52 Stat. 1049–1056" is changed to "52 Stat. 1041 as amended, 1049–1056".

5. On page 50450 in § 211.132, *Tamper-resistant packaging requirements for over-the-counter human drug products:*

a. In the third sentence of paragraph (b), "The tamper resistant feature" is changed to "a tamper-resistant feature"; and in the last sentence of paragraph (b), "must remain" is changed to "shall be designed to and shall remain."

b. In paragraph (g)(1) (i) and (ii) and (2), "packaged on" is changed to "packaged for retail sale on"; in the first sentence of paragraph (g)(3), "packaged before May 5, 1983" is changed to "packaged for retail sale before May 5, 1983,"; in the last sentence of paragraph (g)(3), "Products packaged for retail sale after May 5, 1983, must be" is changed to "Products packaged for retail sale after May 5, 1983, are required to be".

6. On page 50451 in § 700.25 *Tamper-resistant packaging requirements for cosmetic products*:

a. In the second sentence of paragraph (a), "responsiblity" is changed to "responsibility";

b. In the third sentence of paragraph (b), "To prevent substitution of the" is changed to "To prevent the substitution of a"; in the last sentence of paragraph (b), "must remain" is changed to "shall be designed to and shall remain".

c. In paragraph (e)(1) (i) and (ii), "of paragraph (b)" is changed to "in paragraph (b)"; in paragraph (e)(1) (i) and (ii) and (2), "packaged on" is changed to "packaged for retail sale on"; and in paragraph (e)(3), "packaged before May 5, 1983" is changed to "packaged for retail sale before May 5, 1983" and "Products packaged after May 5, 1983 must" is changed to "Products packaged for retail sale after May 5, 1983, are required to be".

Dated: January 5, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-1055 Filed 1-13-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-83-1069]

Mortgage Insurance Loans; Changes in Interest Rates

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, Housing and Urban Development Department.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the HUD/FHA maximum allowable finance charge on Title I mobile home loans, and combination and mobile home lot loans. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insurance Loans, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202–755–6680).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. Maximum finance charges on mobile home loans lowered from 15.00 percent to 14.50 percent, and the finance charge on combination loans for the purchase of a mobile home and a developed or undeveloped lot has been lowered from 14.50 percent to 14.00 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

This is a procedural and administrative determination as set forth in the statutes and as such does not require a determination of environmental applicability.

List of Subjects in 24 CFR Part 201

Health facilities, Historic Preservation, Home improvement, Mobile homes, Manufactured homes and lots.

Accordingly, Chapter II is amended as follows:

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Subpart B—Eligibility Requirements—Mobile Home Loans

1. Section 201.540(a) is amended to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in

connection with the loan transaction, shall not exceed 14.50 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart D—Eligibility Requirements—Combination and Mobile Home Lot Loans

2. Section 201.1511 paragraph (a)(1) is revised to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.*

* * * * *

(1) 14.00 percent per annum.

* * * * *

(Sec. 3(a), 82 Stat. 113; 12 U.S.C. 1709–1; sec. 7 of the Department of Housing and Urban Development Act, 42 U.S.C. 3634(d)))

Dated: January 7, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-1135 Filed 1-13-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7869]

Income Tax; Taxable Years Beginning After December 31, 1953; Deep Discount Industrial Development Bonds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the determination of the amount of proceeds of issues of industrial development bonds sold by the issuer at a substantial discount. This amount is used in determining whether "substantially all" of the bond proceeds are used for an "exempt purpose" described in section 103(b) (4), (5), (6), or (7) of the Internal Revenue Code of 1954, and for purposes of the "major portion" test in Code section 103(b)(2). These regulations provide necessary guidance to issuers, holders, and recipients of the proceeds of industrial development bonds of the type described above.

DATE: The regulations are effective for obligations sold after June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Diane L. Kroupa of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3459.

SUPPLEMENTARY INFORMATION:

Background

On June 9, 1982, the Federal Register published proposed amendments (47 FR 25026) to the Income Tax Regulations (26 CFR Part 1) under section 103(b) of the Internal Revenue Code of 1954. The proposed regulations relate to deep discount industrial development bonds.

Interest on an industrial development bond is excluded from gross income only if substantially all of the proceeds of the issue (of which it is a part) are used for one or more statutorily designated purposes. The regulations determine the amount of proceeds of an issue of deep discount industrial development bonds. Such bonds are sold either with no interest coupons payable at least annually or with coupon interest rates significantly lower than on comparable bonds sold at par. The regulations make it clear that included in the proceeds of an issue is an additional amount equal to the interest the payment of which is deferred because the issue does not provide for annual payments equal to the interest accruing on the outstanding bonds based on their yield. No written comments were received. No request for a public hearing was made. Those amendments are adopted as revised by this Treasury decision.

Explanation of Provisions

The final regulations are essentially the same as proposed with minor clarifications. New § 1.103–8(a)(8), Example (6) makes clear that bonds sold with a "put" option (*i.e.*, the right to tender the bond under specified conditions for a specified amount, usually its face amount) are treated the same as other bonds for purposes of determining any imputed proceeds of the issue. Thus, no part of the purchase price of an obligation is allocated to the "put" for purposes of determining the imputed proceeds.

Regulatory Flexibility Act

The Internal Revenue Service has concluded that the regulations promulgated are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Non-Application of Executive Order 12291

The Treasury Department has determined that this final regulation is not subject to review under Executive Order 12291 or the Treasury or OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of these proposed regulations is Diane L. Kroupa of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions, Industrial development bonds.

Adoption of amendments to the regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Section 1.103–7(b)(1) is amended by adding a sentence at the end thereof to read as follows:

§ 1.103–7 Industrial development bonds.

* * * * *

(b) *Industrial development bonds*—(1) *Definition.* * * * See § 1.103–8(a)(6) to determine the amount of proceeds of an issue for which the amount payable during each annual period over the term of the issue is less than the amount of interest accruing thereon in such period, *e.g.*, in the case of an issue sold by the issuer for less than its face amount.

* * * * *

Par. 2. Section 1.103–8 is amended by striking the phrases "103 (b) (8)" and "103 (b)(10)" each place they appear as a reference or part of a reference and inserting in lieu thereof "103 (b) (13)", by striking "(G)" where it appears in the first sentence of paragraph (a)(1)(i) and in the first sentence of paragraph (a)(4) and inserting in lieu thereof "(J)", by adding a new sentence at the end of paragraph (a)(1)(i), by revising paragraph (a)(6), and by adding new paragraphs (a)(7) and (8). These revised and added provisions read as follows:

§ 1.103–8 Interest on bonds to finance certain exempt facilities.

(a) *In general*—(1) *General rule.* * * * In the event the amount payable with respect to an issue during each annual period over its term is less than the amount of interest accruing thereon in such period, *e.g.*, in the case of an issue sold by the issuer for less than its face amount, see paragraph (a)(6) of this section to determine the amount of proceeds of the issue.

* * * * *

(6) *Deep discount obligations.* (i) Except as otherwise provided in paragraph (a)(7) of this section, the proceeds of any issue of obligations sold by the issuer after June 4, 1982, shall include any imputed proceeds of the issue. The imputed proceeds of an issue equal the sum of the amounts of imputed proceeds for each annual period (hereinafter, bond year) over the term of the issue.

(ii) The amount of imputed proceeds for a bond year equals—

(*a*) The sum of the amounts of interest that will accrue with respect to each obligation that is part of the issue in such year, reduced (but not below zero) by

(*b*) The sum of the amounts of principal and interest that become payable with respect to the issue in that bond year.

(iii) Interest will be deemed to accrue with respect to an obligation on an amount that, as of the commencement of that year, is equal to the sum of—

(*a*) The purchase price (as defined in § 1.103–13(d)(2)) allocable to the obligation and

(*b*) The aggregate of the amounts of interest accruing in each prior bond year with respect to the obligation, reduced by all amounts that became payable with respect to the obligation in prior bond years. Any amount that becomes payable during the 30 day period following any bond year will be deemed to have become payable in such bond year. Thus, to the extent interest on an obligation accruing during a bond year does not become payable within 30 days from the end of such year, it is treated as reinvested under the same terms as the obligation. For purposes of this subparagraph (6), the rate at which such interest accrues is equal to the yield of the obligation. Yield is computed in the same manner as set forth in § 1.103–13(c)(1)(ii) for computing yield on governmental obligations (assuming annual compounding of interest). Such computations shall be made without regard to optional call dates.

(7) *Deep discount obligations; special rules.* (i) There are no imputed proceeds with respect to an obligation if—

(*a*) The obligation does not have a stated interest rate (determinable at the date of issue) that increases over the term of the obligation, and

(*b*) The purchase price of the obligation is at least 95 percent of its face amount.

At the option of the issuer, any obligation described in the preceding sentence may be disregarded in computing the imputed proceeds of the issue. Payments with respect to such obligations are also disregarded in determining the amount payable with respect to the issue in that bond year. If each obligation which is part of an issue is described in this subdivision (i), there are no imputed proceeds with respect to the issue.

(ii) If the actual rate at which interest is to accrue over the term of an obligation is indeterminable at the date of issue then, in computing the yield of the obligation for purposes of this paragraph, such rate shall be determined as if the conditions as of the date of issue will not change over the term of the obligation. Thus, for example, if interest on an obligation is to be paid semiannually at a rate equal to 80 percent of the yield on six month Treasury bills at the most recent public sale immediately prior to the corresponding interest payment date and the yield on six month Treasury bills sold immediately preceding the issue date is 10 percent, then the six month Treasury bill rate is deemed to be a constant 10 percent for purposes of determining the amount of imputed proceeds of the issue. Therefore, all interest payments on the obligation would be deemed to be made at a rate of 8 percent.

(8) *Examples.* The principles of this paragraph may be illustrated by the following examples:

Example (1). State A issues its bonds and plans to use substantially all of the proceeds from such bond issue to purchase land and build a facility which will be used for one of the purposes described in section 103(b)(4) and this section. The arrangement provides that (1) A will issue bonds with a face amount of $21 million and with all accrued interest payable annually, the proceeds of which (after deducting bond election costs, costs of publishing notices, attorneys' fees, printing costs, trustees' fees for fiscal agents, and similar expenses) will be $20 million; (2) $18 million of the proceeds of the bond issue will be used to purchase land and to construct such facility; (3) $2 million of the proceeds will be used for an unrelated facility which will be used by X, a nonexempt person, in a separate trade or business and for a purpose not described in section 103(b)(4) or (5); (4) X will rent both facilities for 20 years at an annual rental equal to the amount necessary to amortize the principal and pay the interest annually on the outstanding bonds; and (5) such payments by X and the facilities will be the security for the bonds. On these facts, substantially all of the proceeds will be used in connection with an exempt facility described in section 103(b)(4) and this section. Accordingly, section 103(b)(1) does not apply to the bonds unless such bonds are thereafter held by a person who is a substantial user of the facilities or a related person within the meaning of section 103(b)(13) and § 1.103–11.

Example (2). On July 1, 1982, State B sells an issue of its obligations to an underwriter in anticipation of a public offering. The initial offering price is $18,627,639.69 of which $17,000,000 is to be used to construct a pollution control facility described in section 103(b)(4)(F). X Corporation, a nonexempt person, is to use the facility and, in exchange, is obligated to pay an amount equal to the face amount of the issue when it becomes due. The obligations are issued on August 1, 1982. The face amount of the issue is $30,000,000. The issue is a term issue with all obligations maturing on August 1, 1987. The issue bears no stated rate of interest; there are no interest coupons on the obligations. The bonds are industrial development bonds with a yield (based upon annual compounding) of ten percent. Based on these facts, the amount of imputed proceeds with respect to the issue is determined as follows:

Date	Purchase price plus accumulated interest	Interest	Imputed proceeds
Aug. 1, 1983	$18,627,639.69	$1,862,763.97	$1,862,763.97
Aug. 1, 1984	20,490,403.66	2,049,040.37	2,049,040.37
Aug. 1, 1985	22,539,444.03	2,253,944.40	2,253,944.40
Aug. 1, 1986	24,793,388.43	2,479,338.84	2,479,338.84
Aug. 1, 1987	27,272,727.27	2,727,272.73	0
Total imputed proceeds			8,645,087.58

Therefore, proceeds of the issue equal $27,272,727.27 less issuance costs. Substantially all of the bond proceeds are not used to provide an exempt facility, and section 103(b)(1) applies to the issue.

Example (3). The facts are the same as example (2) except that the issue has a face amount and purchase price of $18,500,000. The issue also provides for one payment in addition to the redemption payment, in the amount of $10,267,668 payable on or after August 1, 1986, one year before maturity. Section 103(b)(1) applies to the issue.

Example (4). On July 1, 1982, City E sells an issue of industrial development bonds to provide for a convention facility, as described in section 103(b)(4)(C). Assume that the bonds are issued on that date as well. The issue has a face amount of $15,240,000 and a purchase price of $11,929,382.53. The estimated cost of the facility is $11,000,000. The bonds are "zero coupon" bonds, *i.e.*, there are no interest coupons. Each series is initially offered for less than 95 percent of its face amount. The issue matures serially over a five year period, with each series being allocated a part of the purchase price of the issue. The following chart indicates the purchase price and yield for each series and debt service for the issue:

[Amount allocable to each series]

Date	1983 series at 8 percent	1984 series at 8.5 percent	1985 series at 8.75 percent	1986 series at 9.25 percent	1987 series at 9.75 percent	Interest accruing on issue*	Amount due	Imputed proceeds
July 1, 1983	2,939,814.82	2,697,030.54	2,468,829.80	2,228,732.51	1,595,185.06			0
	235,185.18	229,246.75	216,009.09	206,157.76	155,530.54	1,042,125.32	3,175,000	
July 1, 1984		2,926,267.29	2,684,634.89	2,434,890.27	1,750,715.60			0
		248,732.71	234,905.54	225,227.35	170,694.77	879,560.37	3,175,000	
July 1, 1985			2,919,540.23	2,660,117.62	1,921,410.37			0
			255,459.77	248,050.88	187,337.51	880,551.15	3,175,000	
July 1, 1986				2,908,178.50	2,108,747.88			0
				268,821.50	205,607.93	474,424.42	3,175,000	
July 1, 1987					2,314,350.80			0
					225,649.20	225,649.20	2,540,000	
Total							15,240,000	

*This column (Interest Accruing on the issue) contains the sums of the interest that accrues on each series in each bond year. The amount of interest accruing on the issue is computed by adding the amount of interest accruing on each series outstanding for that bond year (the bottom number in the line for each bond year). The amount of interest annually accruing on each series also is added to the purchase price of the series to determine the amount of interest accruing in subsequent years, inasmuch as there are no payments with respect to the outstanding series prior to maturity. Thus, the "principal" amount, of the top of the two numbers given in such line for each bond year, is the purchase price allocable to that series plus the amount of interest that accrued on that series in prior years.

There are no imputed proceeds because the amount payable on the issue in each bond year exceeds the total amount of interest accruing on the issue during such bond year. Section 103(b)(1) does not apply to the bonds unless such bonds are held by a person who is a substantial user of the facility or a related person within the meaning of section 103(b)(13) and § 1.103–11.

Example (5). On July 1, 1982, City C issues industrial development bonds in the face amount of $30 million to construct a sports facility described in section 103(b)(4)(B) to be leased to D, a nonexempt person, with payments on the bonds secured by the lease. C receives $30 million in exchange for the bonds which will be used to provide the facility. The bonds mature on July 1, 2002. Each bond provides for an annual interest payment equal to ten percent of the face amount of the bond, with the last payment thereon (on July 1, 2002) including a return of the principal amount of the bond. The proceeds of the issue are $30 million. Section 103(b)(1) does not apply to the bonds unless such bonds are held by a person who is a substantial user of the facility or a related person within the meaning of section 103(b)(13) and § 1.103–11.

Example (6). The facts are the same as example (5) except that each bond provides for an annual interest payment equal to nine percent of its face amount and is sold with the option to tender the bond to D for purchase at par 5 years after the sale date of July 1, 1982 (*i.e.*, the bonds are sold with a "put" option). Such bonds also provide a put option annually thereafter. There are no imputed proceeds (without regard to § 1.103–8(a)(7)), and the result is the same as example (5).

Example (7). On July 1, 1982, City F sells an issue of industrial development bonds in the face amount of $20 million to acquire a parking facility as described in section 103(b)(4)(D). The estimated cost of the facility is $17,800,000. The issue is issued on the same date and will mature serially over the following ten years. Each bond that is part of the issue bears annual interest coupons, each of which is in an amount equal to ten percent of the face amount of the bond. Each maturity has a face amount of $2,000,000. The issue is initially offered to the public for $19,700,000, allocable to each maturity as follows:

Maturity	Purchase price
July 1, 1983	$1,960,000
July 1, 1984	$1,960,000
July 1, 1985	$1,960,000
July 1, 1986	$1,970,000
July 1, 1987	$1,970,000
July 1, 1988	$1,970,000
July 1, 1989	$1,960,000
July 1, 1990	$1,960,000
July 1, 1991	$1,960,000
July 1, 1992	$1,960,000

Based on the foregoing issue proceeds equal $19,700,000 less issuance costs. There are no imputed proceeds with respect to this issue inasmuch as each bond pays interest at a constant rate in each bond year and the purchase price of each bond is at least 95 percent of its face amount. Substantially all of the proceeds are to be used to provide the exempt facility. Accordingly, section 103(b)(1) does not apply to the bonds unless such bonds are thereafter held by a person who is a substantial user of the facility or a related person within the meaning of section 103(b)(13) and § 1.103–11.

* * * * *

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 30, 1982.

David G. Glickman,

Assistant Secretary of the Treasury.

[FR Doc. 83–1124 Filed 1–12–83; 9:56 am]

BILLING CODE 4830–01–M

26 CFR Part 7

[T.D. 7863]

Transfers Involving Foreign Corporations

Correction

In FR Doc. 82–35038 beginning on page 57489 in the issue of Monday, December 27, 1982 make the following correction to § 7.367(b)–13 in *Example (14)*:

On page 57491, middle column, paragraph (d), in the third line, "5 stock" should have read "F stock". In the sixth line, "for F and 75" should have read "for 5 and 75". In the 14th line, "(b)(2)(1)" should have read "(b)(2)(i)".

BILLING CODE 1505–01–M

26 CFR Part 51

[T.D. 7871]

Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Exempt Royalty Oil

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final excise tax regulations relating to the windfall profit tax on domestic oil. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981. The regulations relate to exempt royalty oil and the procedure for executing an exempt royalty owner's certificate.

DATE: The regulations apply to oil removed after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3459)

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1982, the Federal Register published amendments to the Temporary Excise Tax Regulations under the Crude Oil Windfall Profit Tax Act of 1980 (26 CFR Part 150) under sections 4994, 4995, and 4997, as well as proposed regulations containing the same rules. A number of comments on the proposed amendments were received, and a public hearing was held on July 13, 1982. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision. These regulations supersede the temporary regulations issued under §§ 150.4995–2 (b)(2), 150.4997–2(b), and 150.4997–2(d)(1). The effectiveness of these regulations will be evaluated on the basis of comments and information received from the public, other Governmental agencies, and offices within the Treasury Department and Internal Revenue Service.

Exempt Royalty Oil

Section 601(b) of the Economic Recovery Tax Act of 1981 (Pub. Law 97–34, 95 Stat. 336) amends sections 4991, 4994, and 4995 to provide for an exemption for a qualified royalty owner's qualified royalty production. The amendment to section 4995 also provides the Secretary with authority to prescribe regulations for adjusting the withholding of the tax imposed by section 4986 to take into account the royalty owner's exemption. A procedure for the adjustment of the withholding of the tax imposed by section 4986 is provided in the regulations.

Section 4986 of the Code imposes a tax on the windfall profit from taxable crude oil removed from the premises. Section 4991 defines taxable crude oil to include all domestic crude oil other than exempt oil. Section 601(b) of the Economic Recovery Tax Act of 1981 adds "exempt royalty oil" to the class of exempt oils under section 4991(b). Section 4994(f) defines the term "exempt royalty oil" to mean that portion of the qualified royalty owner's qualified royalty production (as defined in section 6429(d)(2)) for the quarter which does not exceed the royalty limit for such quarter. For oil removed during 1982 through 1984 the royalty limit is an average of 2 barrels per day per quarter. For oil removed after 1984 the royalty limit is an average of 3 barrels per day per quarter.

Royalty Owner's Exemption Certificate

Form 6763 is to be used by an exempt royalty owner (as defined in section 6429(d)(1)) for certifying that the entire amount of production from certain property attributable to his interest is exempt royalty oil as defined in section 4994(f). There must be reasonable belief that the production from the property to be certified plus the production from all other properties previously certified will not exceed the applicable royalty owner's exemption limit under section 4994(f)(2). The royalty owner may not certify a portion of his production from a property. For example, an exempt royalty owner with average qualified production of 1½ barrels per day from property A executes an exemption certificate with respect to that property. The royalty owner also owner also owns a royalty interest in property B with an average production level of ¾ of a barrel per day. The royalty owner may not issue an exemption certificate with respect to property B since the total production, taking into account the production from both properties A and B, is more than the average 2 barrels per day royalty limit. Neither can the royalty owner certify that ½ of a barrel from property B is exempt. The exempt royalty owner's certificate does not need to be filed with the Internal Revenue Service.

A number of commentators on the proposed regulations suggested a rule which would allow adjustments in withholding on production up to the exemption limit on a given property. However, representatives of both industry and royalty owners have indicated that it would be administratively infeasible for first purchasers to make adjustments to withholding in this manner. Such an approach would require the first purchaser to monitor on an ongoing basis the amount of oil produced by each royalty owner during each taxable period. In addition, commentators have indicated that up to 90 percent of all qualified royalty owners would be able to adjust their withholding under the procedure adopted by this Treasury decision. The rule contained in this document is a fair compromise between the administrative concerns of the withholding agents and the legitimate expectations of the royalty holders.

Effective Date of Certificate

Several commentators were concerned about the effective date of the certificate since it is likely that many royalty owners may change the properties that they are certifying during the calendar year. The regulations have been amended to treat the certificate as being effective on the day on which the purchaser receives the certificate unless the royalty owner indicates that the certificate is to be given retroactive effect. Of course, a royalty owner is not permitted to retroactively certify production which, when taken together with other certified production, would exceed the producer royalty limit amount. If the royalty owner indicates that the certificate is to have retroactive effect, the purchaser may be required (or permitted) to make adjustments to the withholding in accordance with § 51.4995–1(c).

Other Provisions

Where an exempt royalty owner's certificate has been furnished to the purchaser, the monthly statement to the producer required by § 51.4997–2(b) shall include the number of barrels of oil for the month as if the oil had been taxable crude oil. An exempt royalty owner may also request the detailed statement under § 51.4997–2(d) as if the oil removed had been taxable crude oil.

Drafting Information

The principal author of these regulations is David R. Haglund of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Special Analyses

The Commissioner of Internal Revenue has determined that this Treasury decision is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

Pursuant to 5 U.S.C. 605(b), the Secretary of the Treasury has certified that the requirements of the Regulatory Flexibility Act do not apply to this Treasury decision because it will not have a significant economic impact on a substantial number of small entities. The regulations affect primarily individual royalty owners and do not significantly alter the recordkeeping duties of small entities. The exemption certificate procedure is beneficial to qualified royalty owners since they do not have to wait until the end of the year to receive a refund. Purchasers are relieved of withholding the windfall profit tax where a certificate is furnished to them by a qualified royalty owner.

List of Subjects in 26 CFR Part 51

Excise tax, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Part 51 are hereby adopted as set out below.

PART 51—[AMENDED]

Paragraph 1. Section 51.4995–2 is amended by revising the ninth sentence in paragraph (a) and by revising paragraphs (b)(2) and (d) to read as follows:

§ 51–4995–2 Producer's certificate.

(a) *In general.* * * * Forms 6458 and 6783 are provided for this purpose. * * *

(b) *Exemption Certificate.* * * *

(2) *Exempt royalty owner's certificate*—(i) *Requirements for certification.* An exempt royalty owner's certificate shall certify that the producer is a qualified royalty owner (as defined in section 6429(d)(1)) and that the entire amount of production from certain property attributable to his interest is qualified royalty production (as defined in section 6429(d)(2)). No certificate may be furnished with respect to oil if it is reasonable to believe that the number of barrels attributable to the interest to be certified, taken together with all other oil with respect to which an exempt royalty owner's cerificate has been furnished by the producer to any operator, purchaser, partnership, or other disburser, will exceed the producer's royalty limit amount (see section 4994(f)(2)). Allocation rules similar to the rules of section 6429(c) (2), (3), and (4) shall apply to the royalty limit amount. A certificate may be furnished with respect to oil removed after December 31, 1981.

(ii) *Date certificate becomes effective.* A certificate furnished pursuant to this subparagraph shall become effective beginning with the day on which the purchaser receives the certificate unless the royalty owner indicates on the certificate that the certificate is to have retroactive effect. Of course, a royalty owner is not permitted to retroactively certify production which, when taken together with other certified production, would exceed the producer royalty limit amount. If the royalty owner indicates that the certificate is to have retroactive effect, the purchaser may be required (or permitted) to make adjustments to the withholding in accordance with § 51.4995–1(c).

Par. 2. Paragraphs (b) and (d)(1) of § 51.4997–2 are revised to read as follows:

§ 51.4997–2 Certain information to be furnished by purchaser and others.

* * * * *

(b) *Monthly statement*—(1) *In general.* The purchaser shall furnish statements for each calendar month showing the total amount of windfall profit tax withheld by the purchaser from payments made to the producer, operator, partnership, or disburser with respect to oil removed during that month. If the purchaser did not withhold tax from payments to that person because of the receipt of an exemption certificate, the monthly statement need only state the reason for the absence of withholding. Where an exempt royalty owner's certificate has been furnished to the purchaser, the monthly statement to the producer shall also include the number of barrels of oil removed during the month on a property-by-property basis as if the oil had been taxable crude oil.

(2) *Time for furnishing monthly statement.* Any statement required to be furnished by a purchaser under this paragraph for any calendar month shall be furnished before the first day of the second month which begins after the close of the month to which the statement applies.

* * * * *

(d) *Detailed statement to be furnished upon request.* (1) Any producer, operator, partnership, or disburser receiving sales proceeds from which windfall profit tax has been withheld or an exempt royalty certificate has been given may furnish the person from whom the proceeds are received a written request for some or all of the following information: The quantity of oil in each tax tier and the removal price, severance tax adjustment, adjusted base price, and tax rate applicable to that quantity. The information request may specify that the information is requested either on a property-by-property basis or in the aggregate. If an exempt royalty certificate has been given to the person receiving such a request, such person shall provide the information requested as if the oil removed had been taxable crude oil. Any person receiving such a request who has made payments to the person making the request who has made payments to the person making the request shall provide the requested information for the period and at the time specified in paragraph (d)(2).

* * * * *

(Secs. 4995 and 7805 of the Internal Revenue Code of 1954 (95 Stat. 337 and 68A Stat. 917; 26 U.S.C. 4995 and 7805).)

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved:

John E. Chapoton,
Assistant Secretary of the Treasury.

January 4, 1983.

[FR Doc. 83–1127 Filed 1–13–83; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2520

Employee Benefit Plans; Reporting and Disclosure

AGENCY: Pension and Welfare Benefit Programs Office; Labor.

ACTION: Adoption of regulation.

SUMMARY: This document contains an amendment to a regulation under the Employment Retirement Income Security Act of 1974 (ERISA or the Act) relating to certain reporting and disclosure requirements applicable to employee benefit plans. The amendment would permit a plan administrator to establish the five year period for furnishing an updated summary plan description (SPD) in connection with the distribution of the prior SPD. In addition, a plan administrator would be given additional time—210 days after the end of the plan year in which the five year period ends—to furnish the updated SPD. In any event, the first updated SPD would not be required to be furnished prior to June, 1984. The amendment contains parallel deferral provisions

with respect to the requirement that an SPD be furnished, even if there have been no amendments to the plan, every ten years after the plan first becomes subject to Part 1 of Title I of ERISA.

In the absence of these revisions, certain plan administrators may in some circumstances be required to furnish an SPD or updated SPD at intervals of less than five (or ten) years, and may also have insufficient time to adequately prepare an updated SPD.

DATE: The regulation will be effective, upon publication, as of January 1, 1980.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #1210–0039.

FOR FURTHER INFORMATION CONTACT: Ronald D. Allen, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. (202) 523–8515 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On March 26, 1982, the Department published in the **Federal Register** (47 FR 13007) notice of a proposal to amend Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations by adding a new paragraph (b) to § 2520.104b–2. That section relates to, among other things, the requirements of section 104(b)(1) of ERISA that the administrator of an employee benefit plan furnish each participant covered under the plan and each beneficiary receiving benefits under the plan with a copy of the summary plan description (SPD) described in section 102(a)(1) of ERISA.[1] The proposal provided that the administrator of an employee benefit plan may furnish an updated SPD to participants covered under the plan and to beneficiaries receiving benefits under the plan no later than the later of (i) November 16, 1982, or (ii) five years after the date an SPD (or updated SPD) was last distributed to participants and beneficiaries.[2]

This amendment was proposed because the SPD updating requirements in Section 104(b)(1) are based upon five or ten year periods from the time a plan first becomes subject to Part 1 of Title I of ERISA. However, as a result of several regulatory actions by the Department following enactment of ERISA, plan administrators were permitted generally to defer compliance with the requirement to distribute the initial SPD until November 16, 1977, and in some instances, later. Consequently, absent this proposal, the requirement for timely distribution of an updated SPD might result, in a number of cases, in distribution of an updated or replacement SPD before five or ten years, respectively, have elapsed since the initial SPD was distributed. The Department concluded that such a result would be burdensome.

Upon consideration of the public comments on the notice, the Department has determined to adopt the amendment essentially as proposed, but with certain modifications, as discussed below, to accommodate some of the concerns of the commentators.

Discussion of the Comments and the Revised Regulation

Several commentators requested a further deferral of the November 16, 1982 due date for furnishing an updated SPD because that date would provide insufficient time to revise and republish an updated SPD. In light of the concerns regarding the November, 1982 date and the need, in general, for sufficient lead time to prepare an updated SPD, the Department has made several revisions. First, the regulation provides that a plan administrator will have 210 days after the end of the plan year in which the five or ten year update period ends to distribute the SPD. Second, the regulation establishes a November 16, 1983 "trigger date" for purpose of determining the earliest plan year for which an updated SPD is due. As a result, an updated SPD need not be furnished before June, 1984. Third, in order to avoid situations where a period of time would not be covered by an SPD, the regulation provides that the five and ten year periods are measured from the end of the period covered by the last distributed SPD. Specifically, the five or ten year period begins after the last date a change in the information required to be disclosed would have been reflected in the most recently distributed SPD.

The following examples illustrate the application of the regulation.

(1) If a plan administrator were to use the November 16, 1983, date for triggering the updated SPD requirement and December 31, 1983, is the end of the plan year in which November 16, 1983, occurs, the plan administrator would have until July 28, 1984, to distribute the updated SPD. However, the date from which the disclosure period for the next updated SPD begins in November 17, 1983, because the updated SPD distributed in 1984 covered the disclosure period ending on November 16, 1983.

(2) If a plan were to be established on March 1, 1985, utilizing a calendar plan year, and, pursuant to section 104(b) of the Act, the initial SPD were distributed on June 29, 1985 (120 days after the plan becomes subject to the Act), the plan administrator would be required to distribute an updated SPD on or before July 29, 1991. This document would include a description of any changes, required to be disclosed, which occurred during the five year period beginning on March 2, 1985, and ending on March 1, 1990.

(i) If no changes occurred during this five year period, the ten year updated SPD would reflect any changes which occurred during the ten year period beginning March 2, 1985, and ending on March 1, 1995. The plan administrator would be required to distribute the ten year updated SPD on or before July 28, 1996.

(ii) If, however, a change occurred on January 1, 1987, and the plan administrator distributed an updated SPD on September 30, 1987, which correctly reflected the plan as of March 1, 1987, the new five year update period would begin as of March 2, 1987. The plan administrator would be required to distribute the next five year updated SPD on or before July 29, 1993, which would include a description of any changes, required to be disclosed, occurring during the five year period beginning on March 2, 1987, and ending on March 1, 1992.

A number of commentators raised questions concerning the format and content of the SPD, the events that trigger the requirement to furnish an SPD, and suggested alternatives to the statutory requirements. These matters are beyond the scope of this regulation

[1] Section 104(b)(1) provides, in part, that each such participant and beneficiary be furnished with a copy of the SPD not later than (1) 90 days after he becomes a participant (or, in the case of a beneficiary, 90 days after he first receives benefits under the plan), or (2) 120 days after the plan becomes subject to Part 1 of Title I of ERISA. Section 104(b)(1) also provides that:

> The administrator shall furnish to each participant, and each beneficiary receiving benefits under the plan, every fifth year after the plan becomes subject to this part an updated summary plan description described in section 102 which integrates all plan amendments made within such five year period, except that in a case where no amendments have been made to a plan during such five-year period this sentence shall not apply. Notwithstanding the foregoing, the administrator shall furnish to each participant, and to each beneficiary receiving benefits under the plan, the summary plan description described in section 102 every tenth year after the plan becomes subject to this part.

[2] In the case of a plan to which no amendments were made between the date an SPD was last distributed to participants and beneficiaries and the later of November 16, 1982, or five years after such prior distribution, the administrator would have been required to furnish to each participant and beneficiary an SPD by the later of November 16, 1987, or ten years after the date an SPD (or updated SPD) was last distributed to participants and beneficiaries.

but are under active consideration by the Department, and the Department contemplates issuing, in the near future, a regulatory alternative that will resolve many of these issues.

Executive Order 12291 Statement

Pursuant to the requirements of Executive Order 12291, it is the Department's determination that this regulation is not a "major rule" as that term is used in the Order because it does not appear that the regulation will result in: an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Because the regulation merely defers the date on which updated SPDs would otherwise be required to be distributed and filed under ERISA, the regulation should have no adverse impact on employee benefit plans required to prepare, distribute and file updated SPDs. In fact, because plans will be afforded additional time by the regulation within which to prepare, distribute and file updated SPDs, the regulation should tend to eliminate administrative burdens and costs that might otherwise be incurred by plans in having to comply with the statutory updated SPD requirements within an abbreviated period of time.

Paperwork Reduction Act Statement

This regulation imposes no additional paperwork on employee benefit plans required to prepare, distribute and file updated SPDs under ERISA. The regulation merely permits administrators of employee benefit plans to defer the date by which the plans would otherwise be required to comply with the statutory requirements to distribute to participants and file with the Department updated SPDs. It is anticipated that the immediate effect of this deferral will be a shift, by the majority of plans in existence in 1975 and plans established in 1976 through 1978, of burden hours attributable to compliance with the updated SPD requirements from FY 1982 and FY 1983 to FY 1984. In this regard, it is estimated that of the plans in existence in 1975 and the plans established in 1976 through 1978 that have not otherwise prepared, distributed and filed updated SPDs, seventy-five percent will elect to defer compliance until FY 1984 as provided in the regulation. The remaining twenty-five percent of the impacted plans, it is estimated, will elect to comply, for employee-relations or other reasons, in FY 1983 despite the deferral provided by the regulation. Based on the foregoing, it is estimated that the burden hours attributable to compliance with the updated SPD requirements will be reduced by 3,167,279 hours for FY 1982 and by 3,959,053 hours for FY 1983, resulting in a shift of approximately 7,126,332 hours to FY 1984.

Regulatory Flexibility Act Statement

The undersigned has certified that this regulation will not have a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis is required in connection with this regulation.

The conclusion that no analysis is necessary is based on the following determinations. Small entities were defined, for these purposes, as employee benefit plans covering fewer than 100 persons. While some large employers may have small plans, in general, most small plans are maintained by small businesses. Therefore, assessing the regulation's impact on small plans is an appropriate substitute for evaluating its effects on small entities. Based on this definition, 90 percent of the pension plans (covering 10 percent of all participants) and 99 percent of the welfare plans (covering 40 percent of all participants) can be categorized as small entities.

This regulation permits administrators of employee benefit plans to defer preparation, distribution and filing of updated SPDs from fiscal year (FY) 1982 and FY 1983 to FY 1984 (i.e., the earliest compliance date for the initial updated SPD under the regulation is June, 1984); although, it is anticipated that certain plans will nonetheless elect to comply with the updated SPD requirements during FY 1983. It is estimated that the effect of the regulation will be to shift over $142 million in SPD preparation and distribution costs from FY 1982 and FY 1983 to FY 1984. Any small plans established in 1978 or earlier that have not otherwise prepared, distributed and filed updated SPDs may be affected by the regulation; and, thus permitted to shift SPD preparation and distribution costs to FY 1984. To the extent there is a change in costs to small plans as a result of the deferral provided by the regulation, a cost savings should result from plans not having to comply with the statutory updated SPD requirements within an abbreviated period of time.

The regulation permits small plans to take advantage of the deferral on precisely the same basis as large plans. Accordingly, small plans should not find it more or less difficult to take advantage of the deferrals provided by the regulation.

Authority

The regulation set forth below is adopted pursuant to the authority contained in sections 104(a), 110(a), and 505 of ERISA (29 U.S.C. 1024(a), 1030(a), and 1135). The regulation is made effective on publication, pursuant to 5 U.S.C. 553(d)(1), because it is a rule that recognizes an exemption or relieves a restriction.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #1210–0039.

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

In view of the foregoing, § 2520.104b–2 of Chapter XXV of Title 29 of the Code of Federal Regulations is amended by adding in the appropriate place a new paragraph (b) to read as follows:

§ 2520.104b–2 Summary plan description

* * * * *

(b) *Periods for furnishing updated summary plan description.* (1) For purposes of the requirement to furnish the updated summary plan description to each participant and each beneficiary receiving benefits under the plan (other than beneficiaries receiving benefits under a welfare plan) required by section 104(b)(1) of the Act, the administrator of an employee benefit plan shall furnish such updated summary plan description no later than 210 days following the end of the plan year within which occurs the later of—

(i) November 16, 1983, or

(ii) Five years after the last date a change in the information required to be disclosed by section 102 or 29 CFR 2520.102–3 would have been reflected in the most recently distributed summary plan description (or updated summary plan description), as described in section 102 of the Act.

(2) In the case of a plan to which no amendments have been made between the end of the time period covered by the last distributed summary plan description (or updated summary plan description), described in section 102 of the Act, and the next occurring applicable date described in paragraph (b)(1)(i) or (ii) of this section, for purposes of the requirement to furnish the updated summary plan description to each participant, and to each beneficiary receiving benefits under the

plan (other than beneficiaries receiving benefits under a welfare plan), required by section 104(b)(1) of the Act, the administrator of an employee benefit plan shall furnish such updated summary plan description no later than 210 days following the end of the plan year within which occurs the later of—

(i) November 16, 1987, or

(ii) Ten years after the last date a change in the information required to be disclosed by section 102 or 29 CFR 2520.102–3 would have been reflected in the most recently distributed summary plan description (or updated summary plan description), as described in section 102 of the Act.

Signed at Washington, D.C., this 10th day of January, 1983.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83–1002 Filed 1–13–83; 8:45 am]

BILLING CODE 4510-29-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning February 1, 1983. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after February 1, 1983, and will enable the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until PBGC publishes an amendment revising them.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202–254–4895 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") issued a final regulation (46 FR 9492) establishing the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.* (1976), as amended by the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364, 94 Stat. 1208 (the "Act"). That regulation, 29 CFR Part 2610, was recodified as 29 CFR Part 2619 on June 24, 1981, effective June 29, 1981 (46 FR 32574). Appendix B to the regulation, which contains formulas for valuing different types of benefits, sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

When published as part of the final regulation, Appendix B contained interest rates and factors for valuing benefits in plans that terminated during the period from September 2, 1974 through April 1, 1981. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after April 1, 1981 and before January 1, 1983 (46 FR 28765, 46 FR 31257, 46 FR 36693, 46 FR 45761, 46 FR 50788, 46 FR 55958, 46 FR 61084, 47 FR 2313, 47 FR 6426, 47 FR 20761, 47 FR 30757, 47 FR 40541, 47 FR 46273, 47 FR 51393).

On December 15, 1982, the PBGC published rates for plans that terminate on or after January 1, 1983 (47 FR 56134). At this time, changes in the financial and annuity markets require a decrease in the rates used for valuing benefits. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for plans that terminate on or after February 1, 1983. This interest rate and these factors will remain in effect until such time as PBGC publishes another amendment concerning the rates.

Generally, the rates will be in effect for at least one month. Any change in the rates will be published in the **Federal Register**, normally by the 15th of the month preceding the effective date of the new rates.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after February 1, 1983, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 reads as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029 (1974) as amended by Secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. In Appendix B, the introductory text is reprinted, Rate Set 39 is revised, and Rate Set 40 is added to read as follows:

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G," for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing them insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate	Deferred Annuities				
	On or After	Before		k_1	k_2	k_3	n_1	n_2
*	*	*	*	*	*	*	*	*
39	1-1-83	2-1-83	10.00	1.0925	1.0500	1.0400	7	8
40	2-1-83		9.75	1.0900	1.0775	1.0400	7	8

Edwin M. Jones
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-[illegible] Filed 1-13-83; 8:45 am]
BILLING CODE 7708-01-M

VETERANS ADMINISTRATION

38 CFR Part 36

Decrease in Maximum Permissible Interest Rates on Guaranteed Manufactured Home Loans

AGENCY: Veterans Administration.
ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is decreasing the maximum interest rates on guaranteed manufactured home loans. These decreases in interest rates apply to manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans. These decreases in interest rates are possible because of recent improvements in the availability of funds in various credit markets. The decreases in the interest rates will allow eligible veterans to purchase manufactured home units with or without lots at a lower monthly cost.

EFFECTIVE DATE: January 10, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW., Washington, DC 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required by section 1819(f), title 38, United States Code, to establish maximum interest rates for manufactured home loans graranteed by the VA as he finds the manufactured home loan capital markets demand. The Administrator's statutory authority to establish interest rates has been delegated by 38 CFR 2.6 to the Chief Benefits Director, Deputy Chief Benefits Director, or person authorized to act for them. Recent market indicators—including the prime rate, the general decrease in interest rates charged on conventional manufactured home loans, and the decrease of other short-term and long-term interest rates—have shown that the manufactured home capital markets have improved. It is now possible to decrease the interest rates on manufactured home loans while still assuring an adequate supply of funds from lenders and investors to make these types of VA loans. The lower interest rates for manufactured home loans, lot loans, and combination manufactured home and lot loans should assist more veterans in the purchase of manufactured home housing because of the decrease in the monthly loan payments for principal and interest.

Technical amendments have also been made to sections 36.4212 and 36.4214 to change the term "mobile home" to "manufactured home" as required by section 406 of Pub. L. 97-306, 96 Stat 1429, enacted October 14, 1982.

Regulatory Flexibility Act Executive Order 12291

For the reasons discussed in the May 7, 1981 **Federal Register**, (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601-612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. The VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, the VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in the VA maximum interest rates for VA guaranteed manufactured home loans would deny veterans the benefit of lower interest rates pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Catalog number 64.119).

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Manufactured homes, Veterans, Veterans Administration.

These regulations are adopted under authority granted to the Administrator by sections 210(c), 1819 (f) and (g) of title 38, United States Code and delegated to the undersigned by 38 CFR 2.6(b)(3). The regulations are clearly within that statutory authority and are consistent with Congressional intent.

These decreases are accomplished by amending §§ 36.4212(a) (1), (2), and (3), Title 38, Code of Federal Regulations.

Approved: January 10, 1983.
By direction of the Administrator.
Dorothy L. Starbuck,
Chief Benefits Director.

PART 36—[AMENDED]

The Veterans Administration is amending 38 CFR Part 36 as follows:

1. In § 36.4212, paragraph (a) is revised as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date: (38 U.S.C. 1819(f))

(1) Effective January 10, 1983, 14 percent simple interest per annum for a loan which finances the purchase of a manufactured home unit only.

(2) Effective January 10, 1983, 13½ percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective January 10, 1983, 13½ percent simple interest per annum for a loan which will finance the simultaneous acquisition of a manufactured home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the manufactured home.

* * * * *

§ 36.4214 [Amended]

2. Section 36.4214 is amended by removing the words "mobile home" and inserting the words "manufactured home."

[FR Doc. 83-1134 Filed 1-13-83; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 2162-6]

Approval and Promulgation of Implementation Plans; Arizona Plan Revision: Sulfur Oxides Control Strategy and Regulations for Existing Nonferrous Smelters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On November 30, 1981, EPA published a notice of proposed rulemaking concerning the Arizona Multipoint Rollback (MPR) State Implementation Plan (SIP) submittal. That notice proposed approval of: (1) "Good Engineering Practice" stack height demonstration for ASARCO's 1000 foot stack located at Hayden, Arizona; (2) no action on Arizona Department of Health Services (ADHS) Rule R9-3-309, "Finding of no violation" and (3) no action, conditional approval or approval of various parts of R9-3-515, "Standards of performance for existing primary copper smelters." Today's notice acknowledges receipt of the June 3, 1982 Arizona SIP revision submittal which was intended, in part, to satisfy the conditional approval items proposed by EPA on November 30, 1982; takes final action under the Clean Air Act to approve the Arizona MPR SIP revision; responds to comments received during the public comment period, denies the Environmental Defense Fund's petition for rulemaking and addresses other related issues identified in the proposed rulemaking or since the proposed rulemaking. This notice also takes final action on minor revisions to the SIP submitted on July 17, 1980 and July 13, 1981.

DATE: This action is effective February 14, 1983.

ADDRESSES: Copies of the revisions and the technical support documents are available for public inspection during normal business hours at the EPA Region 9 Office and at the following locations.

Library, The Office of the Federal Register, 1100 L Street NW., Rm. 8401, Washington, D.C. 20408

Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street SW., Rm. 2404, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Larry Bowerman, (415) 974-8058.

SUPPLEMENTARY INFORMATION:

Background

On September 20, 1979, revisions to the Arizona SIP were submitted to EPA by the Governor's designee. This submittal was subsequently amended on January 14 and September 10, 1980. On November 30, 1981, EPA proposed approval, no action or conditional approval on various parts of the September 20, 1979 submittal, as amended. A detailed discussion of the SIP revisions is contained in the Notice of Proposed Rulemaking (46 FR 58098) and should be used as a reference in reviewing today's notice.

Supplemental Revisions

On June 3, 1982, ADHS submitted supplemental SIP revisions which were intended, in part, to fulfill the conditional approval requirements identified in the Notice of Proposed Rulemaking. In addition, minor revisions to the SIP were made on July 17, 1980 and July 13, 1981, which were not discussed in the proposal notice. A detailed evaluation of these revisions can be found in (1) "Evaluation of Arizona's Response (June 3, 1982) to EPA's Proposed Conditional Approval Items Concerning the September 20, 1979 Multipoint Rollback (MPR) SIP Revision for Sulfur Dioxide Emissions from Copper Smelters," June 1982, and (2) "Evaluation of two Arizona SIP revision amendments to R9-3-515. Standards of Performance for existing primary copper smelters, Paragraphs (A) and (C) concerning applicability and sulfur dioxide emission limitations—Submittal Dates: July 17, 1980 and July 13, 1981," June 1982. This notice takes final action on all of these supplemental revisions in addition to those actions proposed in the November 30, 1981 Notice.

EPA has determined that "good cause" (see Administrative Procedure Act, 5 U.S.C. 553(b)) exists to approve these revisions without providing further notice and opportunity to comment. EPA has already provided opportunity to comment on the substance of these rules and the proposed deficiencies in the November 30, 1981 proposal notice. Additional comment would serve no practical purpose since these revisions merely correct those deficiencies or are minor/insignificant revisions which do not change the intent or meaning of the regulations.

Public Comments

During the public comment period EPA received comments from the State of Arizona, Inspiration Consolidated Copper Company, Kennecott Minerals Company, Phelps Dodge Corporation, Magma Copper Company, Environmental Defense Fund and Utility Air Regulatory Group. A document containing a summary of all substantive comments and the complete EPA response to each, (entitled "Response to Comments Received Concerning EPA's Proposed Conditional Approval of Arizona's Multipoint Rollback (MPR) SIP Revision") has been mailed to the seven commenters and is also available for public inspection as a part of Document File AZ-MPR-1 at the EPA Library in Washington, D.C., at the EPA Region 9 office in San Francisco, California and at the Arizona Bureau of Air Quality Control Offices in Phoenix and Tucson. EPA's final actions are based on the proposed rulemaking notice, Document File AZ-MPR-1, supplemental revisions related to the proposed rulemaking and public comments received by EPA. The following is a brief discussion of EPA's response to the most significant issues raised by the commenters:

I. The Environmental Defense Fund (EDF) commented that EPA's proposed approval of an October 1, 1983 attainment date [40 CFR 52.131] for sulfur dioxide is illegal.

Response

EPA acknowledges that the Arizona plan's attainment date extends beyond the period contemplated in the Clean Air Act. In addition, the present date

suggest that control of "fugitive" emissions from smelters may be needed to attain the standards in one or more locations, and the Arizona plan does not yet completely address this problem. For these reasons, the Arizona plan cannot be found completely satisfactory under the Clean Air Act. It follows that the moratorium currently in effect on the construction or modification of new or modified major stationary sources of SO_2 in the Arizona SO_2 non-attainment areas must be continued in effect until the primary air quality standards are achieved.

However, EPA does not believe the Clean Air Act requires states to adopt all measures beyond the construction moratorium, however unreasonable, that may be needed to attain the standards as expeditiously as theoretically conceivable after the end of 1982. For example, EPA does not interpret the Act to require the mandatory shutdown of the Arizona smelters to attain the standards, though shutdown might indeed be appropriate in some cases. Rather EPA believes that the standards applicable to implementation plans in non-attainment areas after 1982 are similar to those that apply before 1982, namely that the states take all reasonably available steps to attain the standards as expeditiously as practicable, and that they show continuing reductions in emissions that represent reasonable further progress toward attaining the standards.

EPA believes that the present Arizona submission easily meets this test. It provides for reducing SO_2 emissions from the Arizona smelters by 500,000 tons a year from actual emissions which occurred in 1981. This *reduction* amounts to roughly two percent of the total *national* annual emissions of sulfur dioxide. After a decade of unsuccessful attempts to impose controls on the Arizona smelters, the control program contained in this plan will result in significant emission reductions. Of course, if further reductions necessary to meet the standards were reasonably available, the Arizona SIP would be required to achieve them. But as far as stack emissions are concerned, the plan demonstrates that all ambient air quality standards will be attained through a statistical approach that is the functional equivalent of approaches that EPA has accepted in the past. Indeed, for six of seven smelters, that approach shows with very high probability that the "primary" air quality standards—those designed to protect human health—will be attained. The inevitable residual uncertainties largely concern the "secondary" standards—designed to protect against effects on human welfare—which are not subject to any attainment deadline. The state has committed to an intensive continuing study of the issues involved here. That study will yield data on which new control decisions can be based should they turn out to be necessary.

Acceptable data on the effect of fugitive emissions from these smelters on air quality is lacking at present. EPA believes it is more sensible to allow the state until August 1, 1984 to gather and analyze that data before making control decisions than it is to force it to regulate in the absence of information.

II. EDF also contended that the Arizona SIP revision R9–3–515(C) does not provide for the attainment of the sulfur dioxide (SO_2) National Ambient Air Quality Standards (NAAQS) because of its failure to protect the NAAQS during worst-case conditions and because of the high probability (26%) that the plan will allow violations of the NAAQS. In addition, EDF contended that Arizona has not adequately demonstrated that the plan will provide for attainment as required by 40 CFR 51.13(e) and Section 110 of the Clean Air Act.

Response

EPA disagrees with EDF's assertion that Arizona has not adequately demonstrated that the plan will provide for attainment of the NAAQS. With regard to stack emissions, EPA believes that Arizona has adequately demonstrated attainment in its September 20, 1979 MPR SIP revision submittal. While there is always some chance that violations will occur due to less favorable dispersion conditions than occurred in the base year, this possibility exists for the regulations based on single point rollback as well as for the regulations based upon multipoint rollback. In fact, the basis for the 26% probability of NAAQS violations calculated by EDF (and Moyers and Peterson) is the probability of encountering different combinations of dispersion conditions and emissions than were encountered during the base year. Under the assumption that the base year is representative, an assumption made for all control strategies, EPA has concluded that the probability of NAAQS violations is acceptably low.

This point is addressed in more detail in the response to comments document.

III. The State of Arizona and several smelters commented that the proposed rulemaking notice's date (December 31, 1982) for submittal of fugitive emission control strategies and regulations was infeasible and/or premature. Two of the smelters also commented that the submittal of fugitive control strategies and regulations should not be a conditional approval item.

Response

EPA agrees with the general nature of these comments and will not require state submittal of fugitive control strategies and regulations *as a conditional approval item.* However, EPA is requiring that Arizona submit these fugitive control strategies and regulations by August 1, 1984. The compliance date for any necessary fugitive regulations will be three years from EPA approval of the original MPR regulations (about August 1985). These dates are consistent with the fugitive evaluation requirements of the MPR regulations and they allow each smelter and Arizona sufficient time to analyze all fugitive emission problems, and develop any regulations that might be necessary for the control of fugitive emissions.

IV. The State of Arizona commented that the ambient SO_2 data used were the best available and that its quality assurance procedures were adequate. The selection of data periods was limited to periods when supplementary control systems (SCS) were not in operation, and the smelter configurations were representative of the current facilities.

Response

Having reviewed a December 31, 1981 letter from Art Aymar of the ADHS to Louise Giersch of EPA, EPA will not dispute the Arizona copper smelters' quality assurance documentation and, thus, accepts the reliability of the ambient SO_2 data (additional documentation has been added to Document File AZ–MPR–1).

V. The State of Arizona also commented that the use of the most stringent "running" 24-hour rollback factor, rather than the calendar day 24-hour rollback factor, would only increase the stringency of the Ajo emission limit by 4 percent. Arizona believes this correction is small in comparison to the potential impact of fugitive emissions on ambient air quality and urged EPA to defer any correction of the Ajo emission limitation until after completion of the required emissions evaluation.

Response

EPA calculated that the use of the most stringent 24-hour rollback factor would increase the stringency of the Ajo emission limit by 5 percent. However, Arizona correctly states that fugitive

emissions from the Ajo smelter *could* be impacting the air quality readings in the vicinity of the smelter. Therefore, EPA is requiring the submittal of a fugitive emissions control strategy and regulations for the Ajo smelter by August 1, 1984. EPA agrees that any adjustment of the Ajo emission limitation should await the outcome of this fugitive emissions evaluation as long as it is completed prior to August 1, 1984. In the interim, EPA is approving the current MPR emission limitation for the Ajo smelter.

EPA Actions

Under Section 110 of the Clean Air Act EPA is taking final action as follows:

I. SIP Determination of "Good Engineering Practice" (CEP) Stack Height

EPA proposed approval of GEP stack height for the ASARCO smelter based on an evaluation of a fluid modeling study conducted by ASARCO, Inc., which fulfilled the criteria specified in the proposed tall stack regulations (January 12, 1979, 44 FR 2608). Final tall stack regulations were published on February 8, 1982 (47 FR 5864), but the criteria for an acceptable tall stack demonstration based on fluid modeling studies remained unchanged. EPA is, therefore, approving the SIP determination of GEP stack height as proposed (see also EPA's May 17, 1982 supplemental evaluation report in Document File AZ–MPR–1).

II. Items Originally Proposed as Conditional Approval Actions

On June 3, 1982 Arizona submitted a SIP revision which satisfied five of the six conditional approval actions proposed by EPA on November 30, 1981. EPA is, therefore, taking final action to approve these changes (listed below) and will not promulgate any conditional approval actions. The sixth conditional approval action is being deleted based on comments received (see discussion in Section F below). A detailed evaluation of the Arizona conditional approval submittal can be found in Document File AZ–MPR–1 in a report entitled: "Evaluation of Arizona's Response (June 3, 1982) to EPA's Proposed Conditional Approval Items Concerning the September 20, 1979 Multipoint Rollback (MPR) SIP Revision for Sulfur Dioxide Emissions from Copper Smelters," June 1982.

A. *R9–3–515(C)(1):* Arizona added paragraph R9–3–515(C)(1)(i) which states that "periods of malfunction, startup, shutdown and/or other upset conditions shall not be excluded when determining compliance with the cumulative occurrence and/or annual average emission limits specified in this paragraph." This change satisfies EPA's proposed conditional approval item for R9–3–515(C)(1).

B. *R9–3–515(C)(3):* Arizona made changes to subparagraph R9–3–515(C)(3)(a) requiring that compliance with the annual average be determined at the end of each day. This change satisfies EPA's conditional approval item for R9–3–515(C)(3). Arizona also made additional changes to subparagraphs (C)(3) (a), (d), (e), (f) and (g). These changes specify in detail how violations of the annual average and cumulative occurrence limits are to be determined. These changes are in accordance with the requirements of 40 CFR Part 52 and the Clean Air Act. Further, they do not significantly change the September 20, 1979 regulation as proposed by EPA on November 30, 1981. Rather they are clarifications to the original regulation submitted by Arizona on September 20, 1979. These changes are acceptable to EPA, and EPA approves them as part of the MPR regulations.

In reviewing a compiled version of the MPR regulations EPA recently discovered an internal inconsistency in R9–3–515(C)(3)(h) of the regulations. Subparagraph (C)(3)(h) defines the compliance period as "the 365 calendar days immediately preceding the last day of the month being reported." In order to be consistent with the daily calculation of annual average emissions, the compliance period should be defined as "the preceding 365 calendar day period ending on the day for which the annual average is calculated." EPA is approving R9–3–515(C)(3) based on assurances from Arizona that it will correct this internal inconsistency in the MPR regulations.

C. *R9–3–515(C)(4):* Arizona added a sentence to paragraph (C)(4) which requires that captured smelter fugitive emissions be continuously monitored for SO_2 concentrations and volumetric flow rates, and that these emissions shall be included in total plant emissions when determining compliance with all of the MPR emission limits. Arizona also added subparagraph (h) which requires each smelter to have sufficent spare parts or duplicate systems for the continuous emission monitors available to replace within six (6) hours, any monitoring equipment part which fails or malfunctions. These two changes satisfy EPA's conditional approval item for R9–3–515(C)(4).

One of the changes made by the July 13, 1981 SIP revision changes the demonstration dates for continuous instack SO_2 and flow rate monitors from 18 months after the effective date of the MPR regulations to 18 months prior to the compliance date. If the compliance date for a smelter is delayed by issuance of a NSO or delayed compliance order (DCO), this change could result in substantial delays in the installation and demonstration of instack monitors. EPA is approving this change based on assurances from Arizona that they will not delay the demonstration dates for these monitors if the smelter's compliance date is delayed by a NSO or a DCO.

D. *R9–3–515(C)(5):* Arizona changed the second sentence of R9–3–515(C)(5)(a) to require recordkeeping and reporting of the smelter's annual average emission rates at the end of each day, rather than only at the end of each month. This change is consistent with the modified requirements of R9–3–515(C)(3). This change satisfies EPA's proposed conditional approval item for R9–3–515(C)(5).

E. *R9–3–515(C)(9):* Arizona changed the second sentence of R9–3–515(C)(9) to require that ambient monitoring be conducted in accordance with the requirements of 40 CFR Parts 50 and 58. This change satisfies EPA's proposed conditional approval item for R9–3–515(C)(9).

All of the above changes merely satisfy conditional approval items proposed by EPA on November 30, 1981, or are minor insignificant revisions which do not change the intent or meaning of the regulations. Therefore, EPA finds "good cause" (see Administrative Procedure Act, 5 U.S.C. 553(b)) to take final action to approve the following revisions (also identified above), which were originally proposed for conditional approval:

A. Emission limitations and attainment/compliance dates [r9–3–515(C)(1)].

B. Methods of determining compliance after the initial 365 day period [R9–3–515(C)(3)].

C. Continuous emissions monitoring [R9–3–515(C)(4)].

D. Continuous emissions monitoring recordkeeping [R9–3–515(C)(5)].

E. Ambient monitoring [R9–3–515(C)(9)].

F. *R9–3–515(C)(6)(b)(iv) and R9–3–515(C)(8):* Arizona amended the compliance schedule requirements of R9–3–515(C)(6)(b)(iv) to require each smelter to submit "* * * a compliance plan for installation of any additional fugitive emission control equipment necessary to assure attainment and maintenance of the applicable ambient air quality standards in the vicinity of

the smelter * * *" no later than 24 months prior to the compliance date. R9–3–515(C)(8), which requires each of the smelters to conduct a fugitive emissions evaluation, remained unchanged. *This does not satisfy EPA's proposed conditional approval item for control strategies for each smelter town,* since there is no commitment by Arizona to submit fugitive emissions control strategies and regulations by December 31, 1982. However, Arizona and several smelters commented that they could not evaluate fugitive impacts and adopt regulations by December 31, 1982. The smelters also contended that conditional approval would mean that failure to submit these fugitive emissions control strategies and regulations would result in disapproval of the MPR regulations and promulgation of EPA's January 4, 1978 regulations. However, EPA's regulations do not contain fugitive emissions control strategies and regulations either. Thus, the conditional approval deficiency would still exist even if EPA's regulations were promulgated.

To address these two issues, EPA has decided to require submittal of the necessary fugitive emissions control strategies and regulations for the six smelter towns, by August 1, 1984, 19 months later than the proposed date of December 31, 1982.

However, EPA is *not* making this a conditional approval item. Failure to submit these SIP revisions by August 1, 1984 will not result in the disapproval of the MPR regulations, but will result in EPA promulgation of new fugitive control strategies and regulations (if necessary) for each smelter town. This date is consistent with the requirements of R9–3–515(C)(8) and should also enable the smelters to comply with any fugitive emissions control regulations by the attainment date. Furthermore, because there is a high probability that fugitive emissions could be causing or contributing to ambient air quality violations in the vicinity of some smelters, Section 110 (a)(2) of the Clean Air Act requires that Arizona evaluate these potential fugitive emissions impacts at each smelter town and adopt any regulations found to be necessary to attain and maintain the NAAQS.

Therefore, EPA is taking final action to approve Rules R9–3–515(C)(6)(b)(iv) and R9–3–515(C)(8) with the additional provision that the necessary fugitive emissions control strategies and regulations for the six smelter towns be submitted to EPA by August 1, 1984. Arizona has also indicated that it will not extend the dates for submittal of fugitive emission control strategies and regulations beyond the dates established by the original compliance date (3 years from EPA approval of the MPR regulations).

III. Rule R9–3–515

EPA is taking final action to approve the following parts of Rule R9–3–515 as proposed since they were found to be consistent with the Clean Air Act and 40 CFR Part 51.

A. Definition of sources [R9–3–515(A)].
B. Methods of determining compliance during the initial 365 day period [R9–3–515(C)(2)].
C. Compliance schedule requirements [R9–3–515(C)(6)].
D. Fugitive emissions evaluations [R9–3–515(C)(8)].

EPA is taking no action on the following elements of rule R9–3–515 as proposed.

A. A stay from the applicable process weight particulate emission limits since the stay period has expired [R9–3–515(B)].
B. The interim emission limitations, since these emission limitations are not required in a SIP by Section 110(a)(2) of the Clean Air Act [R9–3–515(C)(7)].

IV. EPA's January 4, 1978 Regulations (40 CFR 52.125(a), (d) and (e))

The control strategy does not meet the requirements of § 51.13 of this chapter since it does not analyze the impact of smelter fugitive emissions on ambient air quality (except at Hayden, Arizona) in the Central Arizona Intrastate, the Pima Intrastate and the Southeast Arizona Intrastate (Cochise and Greenlee Counties) Regions. In addition, the requirements of §51.22 of this chapter are not met since the plan does not require permanent control of fugitive smelter emissions necessary to attain and maintain the NAAQS for sulfur oxides. Therefore, the control strategies and/or regulations for the six smelter areas in the Central Arizona Intrastate, the Pima Intrastate and the Southeast Arizona Intrastate (Cochise and Greenlee Counties) Regions are incomplete due to Arizona's failure to address the fugitive emissions problems at copper smelters. Arizona must submit all fugitive emissions control strategies and regulations necessary to attain and maintain the sulfur oxides NAAQS to EPA by August 1, 1984. In addition, EPA is maintaining its previous disapproval (37 FR 15080, July 27, 1972) of Regulation 7–1–4.1 (Copper Smelters) of the Arizona Rules and Regulations for Air Pollution Control for the Central Arizona Intrastate, Pima Intrastate and Southeast Arizona Intrastate (Cochise and Greenlee Counties) Regions. These actions are specified in 40 CFR 52.125(a). The current Arizona SIP revisions include provisions for evaluating the ambient air quality impacts of fugitive emissions and adoption of any necessary fugitive emission control regulations. However, the fugitive control strategies and regulations are not fully approvable until they are actually submitted by Arizona and approved by EPA.

EPA is rescinding its previously promulgated Arizona smelter regulations (40 CFR 52.125(d)) and the stay of their effective date (40 CFR 52.125(e)) since they are being replaced by the MPR regulations being acted on in today's notice. For this same reason, EPA is denying EDF's petition for rulemaking requesting that the previous stay of the Federal regulations [40 CFR 51.125(e)] be terminated and the emissions limitation promulgated at 40 CFR 52.125(d) be made enforceable.

Other Issues

Statistical Demonstration of MPR

Arizona's attainment demonstration relies on the statistical probability that high emissions coinciding with poor dispersion conditions is acceptably low. Although the NAAQS for SO2 is not expressed in probabilistic terms, EPA recognized that whenever an emission limit is set there is always some probability that the standards may be violated even though the limit is met. EPA believes that in evaluating the adequacy of a control strategy based on a statistical analysis, it is appropriate to accept a probability of violation that is sufficiently low.

Subsequent to EPA's proposed conditional approval of Arizona's MPR regulations, two additional documents on this subject were made a part of the document file for this action:

1. Memorandum from Thomas C. Curran of EPA, OAQPS entitled "Comparison of ExEx and MPR Methodologies", dated January 20, 1982, and
2. A paper by T. W. Peterson and J. L. Moyers entitled "Emission Limits for the Arizona Copper Smelters—The Use of MPR to Protect the NAAQS: Statistical Consideration of Projected Violation Return Periods at a Given Site and within a Source Area" dated February 1982.

Based on these documents, the November 30, 1981 proposed rulemaking notice, analysis of comments received, and other documents in the document file (specifically the two SRI International reports entitled "Theoretical and Empirical Evaluation of Multipoint Rollback as Applied to Smelters in the Hayden, Arizona Area" dated May 1979 and "Continuing Analysis of Multipoint Rollback as Applied to Copper Smelters in the State

of Arizona" dated March 1980) EPA believes that the Arizona MPR regulations project an acceptable probability of attainment with regard to stack emissions.

EPA wishes to emphasize, however, that today's action does not imply that any actual violations of the NAAQS will be acceptable. Today's action indicates only that EPA believes the chance of a violation is acceptably low.

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Office of the Federal Register on July 1, 1982.

Authority: Secs. 110, 123 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7423 and 7601(a)).

List of Subjects in 40 CFR Part 52

Air Pollution Control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: December 28, 1982.

John W. Hernandez,

Acting Administrator.

PART 52—[AMENDED]

Subpart D of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart D—Arizona

1. Section 52.120 is amended by adding paragraphs (c)(37), (45)(i)(C), (50)(i)(B), and (54) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(37) The following amendments to the plan were submitted on September 20, 1979 by the Governor's designee.

(i) Arizona State Rules and Regulations for Air Pollution Control.

(A) New or amended rule R9–3–515 (Paragraphs C.1.a. to C.1.h.; C.2; C.3, C.3.b., C.3.c., and C.3.h.; C.4.c. to C.4.g. and C.4.i.; C.5 and C.5.b. to C.5.d.; C.6.b.i. to C.6.b.iii., C.6.b.vi., C.6.b.vii., and C.6.c.; and C.8.).

(ii) "ASARCO Incorporated, Hayden Copper Smelter, State Implementation Plan Determination of Good Engineering Practice Stack Height," September 17, 1979, issued by ADHS.

* * * * *

(45) * * *

(i) * * *

(C) New or amended Rule R9–3–515 (Paragraphs A; and C.6, C.6.b, and C.6.b.v.).

* * * * *

(50) * * *

(i) * * *

(B) New or amended Rule R9–3–515 (Paragraph C.4.a. and C.4.b.).

* * * * *

(54) The following amendments to the plan were submitted on June 3, 1982 by the Governor's designee.

(i) Arizona State Rules and Regulations for Air Pollution Control.

(A) New or amended Rule R9–3–515 Paragraphs C to C.1. and C.1.i.; C.3.a. and C.3.d. to C.3.g.; C.4. and C.4.h.; C.5.a; C.6.a. and C.6.b.iv.; and C.9.).

2. Section 52.122 is amended by adding paragraph (e) to read as follows:

§ 52.122 Extensions.

* * * * *

(e) The Administrator hereby extends to (three years from publication date) the attainment date for the national primary and secondary standards for sulfur oxides in the Central Arizona, Pima, and Southeast Arizona Intrastate Regions.

3. In Section 52.125 paragraph (a) is revised and paragraphs (d) and (e) are removed and reserved as follows:

§ 52.125 Control strategy and regulations: Sulfur oxides.

(a)(1) The requirements of § 51.13 of this chapter are not met since the control strategy does not analyze the impact of smelter fugitive emissions on ambient air quality (except at Hayden, Arizona) in the Central Arizona Intrastate, the Pima Intrastate, and the Southeast Arizona Intrastate (Cochise and Greenlee counties) Regions. Arizona must submit these smelter fugitive emissions control strategies to EPA by August 1, 1984. In addition, the requirements of § 51.22 of this chapter are not met since the plan does not require permanent control of fugitive smelter emissions necessary to attain and maintain the national standards for sulfur oxides. The control strategy for Hayden shows that these controls are required to attain and maintain the national standards, and the fugitive control strategy analyses required above may show that they are required for some or all of the other smelter towns in Arizona. Arizona must submit all fugitive emissions control regulations necessary to attain and maintain the national standards for sulfur oxides to EPA by August 1, 1984. Therefore, the control strategies and regulations for the six smelter areas in the Central Arizona Intrastate, the Pima Intrastate and the Southeast Arizona Intrastate (Cochise and Greenlee counties) Regions are incomplete due to Arizona's failure to address the fugitive emissions problems at copper smelters.

(2) Regulation 7–1–4.1 (copper smelters) of the Arizona Rules and Regulations for Air Pollution Control, as it pertains to existing copper smelters, is disapproved for the Central Arizona Intrastate, Pima Intrastate and Southeast Arizona Intrastate (Cochise and Greenlee counties) Regions.

* * * * *

(d) [Reserved]

(e) [Reserved]

* * * * *

4. In § 52.131 the entries for Arizona are revised as follows:

§ 52.131 Attainment dates for national standards.

* * * * * * *

Air quality control region and nonattainment area	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
* * * * * * *							
Central Arizona Intrastate	July 1975[a]	July 1977[a]	g	g	c	May 31, 1977	May 31, 1975.
* * * * * * *							
Pima Intrastate	July 1975[a]	July 1977[a]	g	g	c	May 31, 1977	May 31, 1975.
Southeast Arizona Intrastate:							
Cochise County	a	a	g	g	c	c	c
Graham County	a	a	b	b	c	c	c
Greenlee County	a	a	g	g	c	c	c

Air quality control region and nonattainment area	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
Santa Cruz County	July 1975[a]	July 1977[a]	b	b	c	May 31, 1977	May 31, 1975.

5. 3 years from publication date.

[FR Doc. 83-623 Filed 1-13-83; 8:45 am]
BILLING CODE [illegible]

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40 CFR Part 410

[FRL 2285-6]

Availability of the Final Development and Economic Analysis Documents for Effluent Limitations Guidelines and Standards for the Textile Mills Point Source Category

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: EPA promulgated final rules for effluent limitations for the Textile Mills Point Source Category on September 2, 1982 (47 FR 38810; 40 CFR Part 410; Subparts A–I). These regulations are required by the Clean Water Act of 1977. This document announces the availability of a source document which presents the findings of the studies that support the final regulations.

ADDRESSES: Copies of the Development Document may be obtained by contacting the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; (703) 487–4600. (Refer to accession number PB83–116871.) The cost is $38.50 for a paper copy or $4.50 for a microfiche. Copies of the Encomic Analysis Document may also be obtained from NTIS. (Refer to accession number PB83–139725.) The cost is $34.00 for a paper copy or $4.50 for a microfiche.

FOR FURTHER INFORMATION CONTACT: Richard Williams, 382–7186.

Dated: January 6, 1983.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 83-1079 Filed 1-13-83; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Emergency Determination of Endangered Status for the Population of Woodland Caribou Found in Washington, Idaho, and Southern British Columbia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: The Service determines as Endangered the population of woodland caribou, sometimes known as the southern Selkirk Mountain herd, found in extreme northeastern Washington, northern Idaho, and southern British Columbia. This isolated herd is the only population of caribou that still regularly occurs in the conterminous United States. An emergency rule is being issued because the caribou population has fallen to only 13 to 20 individuals, a level that probably cannot sustain the herd much longer. At least one or two adults and subadults are being lost each year, calf survival is apparently low, and there is evidently no immigration from other herds in Canada. The population is jeopardized by such factors as illegal hunting, habitat loss to timber harvesting (if not accomplished in accordance with proper guidelines) and wildfires, collisions with motor vehicles, and genetic problems through inbreeding. The premature death of even one more animal could mean the difference between survival and extinction for the herd. The precarious status of the herd is such that the Service deems it necessary to implement the protective provisions of the Endangered Species Act immediately. This emergency rule will apply to the caribou population for 240 days, during which time the Service intends to formally propose permanent Endangered status for the same population.

DATES: This emergency rule is effective on January 14, 1983, and expires on September 12, 1983.

FOR FURTHER INFORMATION CONTACT:

Mr. James F. Gore, Project Leader, Endangered Species Office, 4620 Overland Road, Room 209, Boise, Idaho 83705 (208/334–1806 or FTS 554–1806);

or

Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Northeast Multnomah Street, Portland, Oregon 97232 (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

According to the most recent taxonomic work (Banfield, 1961; Hall, 1981), the reindeer of Eurasia and the caribou of North America belong to a single species, *Rangifer tarandus*. This species is divided into a number of subspecies, among which is woodland caribou (*Rangifer tarandus caribou*). This subspecies once occupied nearly the entire forested region from southeastern Alaska and British Columbia to Newfoundland and Nova Scotia. In the 48 conterminous States of the United States, populations are known to have occurred in Washington, Idaho, Montana, Minnesota, Wisconsin, Michigan, Vermont, New Hampshire, and Maine. Largely because of killing and habitat alteration by people, indigenous caribou disappeared from New England by about 1908 and from the Great Lakes States by 1940. A few individuals, probably wanderers from Canada, were observed in northeastern Minnesota in 1980–1981 (Mech, Nelson, and Drabik 1982). There had been no records in Montana since 1971, but in 1981, a lone animal was reportedly seen in the northwestern part of the State (Chadwick, 1982). This animal was probably also a wanderer from Canada and not a member of the herd that is the subject of this rule. There are still substantial numbers of woodland caribou in Canada, though populations there have been generally declining.

The only caribou population that still regularly occupies the conterminous United States is found in northern Idaho and northeastern Washington. This population, sometimes called the southern Selkirk Mountain herd, also occurs in southern British Columbia. The total approximate area of utilization is bounded as follows: Starting at the point where the Columbia River crosses the Washington-British Columbia border; thence northward along the Columbia River to its confluence with the Kootenay River in British Columbia; thence northeastward along the Kootenay River to its confluence with Kootenay Lake; thence southward along the Kootenay Lake and the Kottenai River, and across the Idaho-British Columbia border, to the town of Bonners Ferry, Idaho; thence southward along U.S. Highway 95 to the Pend Oreille River; thence westward and northward along the Pend Oreille River, and across the Idaho-Washington State line, to the Washington-British Columbia border; thence westward along the Washington-British Columbia border to the point of beginning. Any caribou within these boundaries are considered a part of the population which this rule classifies as endangered. It is possible, however, that portions of the herd may on occasion be found outside these geographical limits.

Early records suggest that in the 19th century, caribou were plentiful in the mountains of northeastern Washington, northern Idaho, northwestern Montana, and adjacent parts of southwestern Canada. As in the case of other big game animals of North America, unrestricted hunting probably had led to a major reduction of caribou numbers in this region by 1900. From that time until fairly recently, the numerical status of the southern Selkirk herd was not completely clear. Freddy (1974) thought that this herd probably contained fewer than 50 animals after 1900. Flinn (1956) and Evans (1960), however, estimated that there were still about 100 individuals in the population during the 1950's. In any event, there has been a sharp decline in recent decades, since estimates in the 1970's were about 20 to 30 caribou in the herd, and the latest data indicate a count of only 13 to 20.

In addition to the factors listed below, the decline and continued low numbers of the southern Selkirk herd apparently result from low calf survival and absence of immigration from other herds. The only source for immigrants is British Columbia, but there has been a general decline in woodland caribou in that province (British Columbia Ministry of Environment, 1981). Moreover, the southern Selkirk herd is separated from other herds by barriers, such as Kootenay Lake and the human settlements in Kootenay Valley, and substantial distance. The nearest herd is about 30 miles away, on the east side of Kootenay Lake in southeastern British Columbia; it contains about 40 animals (Guy Woods, British Columbia Fish and Wildlife Branch, Ministry of Environment, Nelson, British Columbia, pers. comm.).

Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal list. The Secretary of Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors, and their application to the southern Selkirk Mountain population of woodland caribou, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Surveys conducted in the 1950's revealed a population of approximately 50–100 woodland caribou in the southern Selkirks. Since then, the number has fallen to 13–20 animals. The decline was caused, in part, by past logging practices (including road construction) in the caribou's range.

Timber cutting can potentially affect caribou habitat by eliminating escape cover, migration corridors, and lichen production. Food availability is probably not now limiting this caribou population. However, if the population is to be restored to a viable level, estimated by the Forest Service to be about 100 animals, the production of lichens, the primary winter food, would probably have to increase. Timber management strategies would have to be developed which provide timber stands that optimize lichen production.

Currently, the U.S. Forest Service is utilizing caribou management guidelines to design timber sales in caribou habitat. These guidelines are intended to minimize the effects of logging on caribou and also to develop silvicultural prescriptions which may enhance habitat over the long run. Disease and insects, especially spruce bark beetles, are presently impacting timber stands within historic caribou habitat, thereby further complicating management. Salvage sales have taken place and others are planned to remove much of the diseased timber and reduce the spread of bark beetles. Although these sales are being designed utilizing the caribou guidelines, studies and monitoring are necessary to evaluate the actual response of the caribou.

Timber harvesting may prove helpful in portions of caribou habitat by providing food and cover necessary for the survival of this population. For example, if caribou number eventually are limited by lack of food, and if selective tree removal could improve lichen production and availability, then moderate timber harvesting could be beneficial. However, at this time more information is necessary on the response of caribou to timber harvesting and managed timber stands. Timber harvesting, if not properly designed, can significantly impact caribou, especially in conjunction with the effects of poaching, highways, and forest roads. Listing of the caribou would place a higher priority on the acquisition of research funds to study caribou-timber management relationships.

Wildfire is a natural phenomenon in the range of the caribou. In the past, wildfire sometimes destroyed caribou cover and winter food. The caribou historically tolerated this natural adverse impact by itself. However, the cumulative effect of logging and wildfire has eliminated a great deal of the southern Selkirk herd's habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* An important cause of the decline of the southern Selkirk caribou herd is human hunting, both legal (prior to 1957) and illegal (now and in the past). Caribou are relatively easy for hunters to approach and shoot. Poachers killed at least one animal from this population in 1960, 1961, and 1962 (B. S. Summerfield, U.S. Forest Service, Bonners Ferry, Idaho, pers. comm.). Poaching losses also occurred in previous years. The problem is greatest where the caribou frequent areas with good road access for hunters, for example, near Trans-Canada Highway No. 3. There are even more roads in the portion of the herd's range in the United States, and the potential for poaching is thus greater there. Fortunately, in the past decade, the herd has spent less time in the United States than in Canada. Had the reverse been true, U.S. caribou poachers might already have eliminated the herd. Finally, there is the possibility that licensed deer and elk hunters could accidentally shoot a caribou.

C. *Disease or Predation.* Disease is not known to significantly impact this caribou population. Certain predators, such as the coyote and black bear, occur

in moderate numbers in the range of the herd. They are capable of killing caribou calves and may occasionally do so. Other predators, including the gray wolf, grizzly bear, and mountain lion, are at such low number as to have no significant effect on the caribou. Recovery of wolf and grizzly populations (both on the U.S. List of Endangered and Threatened Wildlife) would probably not jeopardize the caribou population, if caribou habitat is preserved and restored.

D. *Inadequacy of existing regulatory mechanisms.* Much of the important caribou habitat in Idaho and Washington is on Federal (U.S. Forest Service) land. The Forest Service considers the Selkirk population of woodland caribou to be a "sensitive species." Forest Service policy (FSM title 2670.3) states that sensitive species are to be managed so as "to prevent their placement on Federal [Endangered or Threatened] lists." Also, U.S. Department of Agriculture policy (Secretary's memo No. 9500–3, July 20, 1982) states, in part, "habitats for all existing native and desired non-native plants, fish, and wildlife species will be managed to maintain at least viable populations of such species." Similar language appeared in previous Secretarial memoranda. The Forest Service has allowed considerable timber harvesting and road building to occur in old-growth forests within caribou habitat. Some of this timber cutting is having and will have adverse impacts on the Selkirk caribou. Further, the continued removal of old-growth lichen-bearing trees reduces the future opportunity for the caribou population to recover. This is especially serious because a Forest Service wildlife goal in the Northern Region (including Idaho and Montana) is for the caribou population to increase to 100 animals (letter of June 5, 1981, to the Fish and Wildlife Service from Acting Associate Deputy Director, U.S. Forest Service).

The U.S. Forest Service is preparing overall forest management plans for the Colville and Idaho Panhandle National Forests. Those plans will incorporate caribou habitat management. However, the degree to which those plans are followed will be subject to administrative discretion. As seen with the policies on sensitive species, it is sometimes very difficult for forest supervisors to protect caribou habitat in the face of timber quotas, disease outbreaks, and the public's desire for recreational access. The Endangered Species Act will provide additional protection for this species, through Section 7 (interagency cooperation) requirements.

E. *Other natural or manmade factors affecting its continued existence.* Two other factors affect the abundance of this population. Occasionally caribou are killed in collisions with vehicles along Trans-Canada Highway No. 3 at Kootenay Pass, about 5 miles north of the international boundary. Although no highways exist in the U.S. portion of the population's primary habitat, there is a potential for caribou-vehicle collisions in caribou habitat on U.S. Forest Service road used by loggers, miners, and recreationists. Vehicle collisions with deer are known to occur on these roads, so it is reasonable to assume that caribou collisions could occur too. As the number of forest roads and subsequent traffic increases, the threat to caribou of such collisions will increase.

Caribou are by nature wandering animals. Where there are viable caribou herds, a few individuals migrate from one herd to another each year. This tends to equalize caribou "pressure" on the habitat and allows for genetic interchange between herds. As noted above, however, immigration to the southern Selkirk population is apparently not occurring, and the number of caribou in herds closest to the southern Selkirk population is declining. The lack of natural augmentation to the population causes the herd to rely on inbreeding for recruitment and reduces the genetic variability of the offspring. Reduced genetic variability reduces the capacity of animals to adjust to changing environmental conditions and results in less vigorous individuals.

Critical Habitat

Section 4(a)(3) of the Endangered Species Act requires the Service to designate the Critical Habitat of a species, concurrent with listing, "to the maximum extent prudent and determinable." In the case of the southern Selkirk Mountain herd of woodland caribou, the Service considers that no designation of Critical Habitat is prudent. Such a designation would require publication and extensive publicity of the precise areas occupied by the herd and the kind of habitat utilized. There thus would be a serious risk of facilitating illegal hunting. As the loss of even a single animal could be disastrous to the herd, this risk should be avoided.

Reasons for Emergency Determination

The southern Selkirk Mountain population of woodland caribou has become the most critically endangered mammal in the United States, but only within the last few months has the full severity of the situation become apparent. In the **Federal Register** of February 9, 1981 (46 FR 11567–11568), the Service published a notice accepting two petitions to add the population to the U.S. List of Endangered and Threatened Wildlife, and announced its intention to issue a proposal to this effect. At that time, the population was estimated to contain 20 to 30 individuals, about the same as during the previous decade.

Since the notice was published, evidence has accumulated that the status of the southern Selkirk herd has deteriorated badly. The latest field data indicate an actual count of only 13 individuals of all ages in the herd, though there may be a few more animals that were not counted. Such a population size is far below the minimum necessary to insure survival in the face of natural contingencies, even disregarding the host of human-caused problems described above. Moreover, small population size, along with lack of genetic exchange with other populations, leads to inbreeding. This factor reduces adaptiveness, viability, and fecundity, and may result in extinction. Recent studies suggest that the minimum genetically effective size of a population is 50 individuals (Franklin, 1980; Soule, 1980). Other studies have shown that inbreeding in populations of various species of hoofed mammals, including *Rangifer tarandus,* is associated with significant increase in juvenile mortality (Ralls, Brugger, and Ballou, 1979). Such a condition could be responsible for low calf survival in the southern Selkirk population.

Additional losses, even the premature death of a single animal, could be disastrous, and yet the potential for such losses is great and increasing. Habitat disruption, especially with respect to logging activity is continuing without full consideration of the needs of the caribou.

Poaching occurs regularly; in the most recent known case, a mature female was shot on the Canadian side of the border in October 1982. Existing regulations have not been effective in either stopping poaching or preventing serious habitat disturbance. Roads continue to be constructed in caribou range, allowing greater access for hunters and setting up possible collisions between vehicles and caribou. Johnson (1976) suggested that a single accident along an icy winter road, where the caribou have gathered to feed on salt, could wipe out a significant part of the herd.

Any of these problems could at any time result in losses that would be

irreversible and reduce the herd to a point at which recovery is no longer feasible. The Service considers that all available protective measures should be instituted immediately in an effort to prevent such losses, and that full-scale recovery planning should also begin as soon as possible. Therefore, this determination of Endangered status for the caribou is being issued on an emergency basis.

Effects of This Rule

Endangered species regulations already published in Title 50, § 17.21, of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered wildlife. These prohibitions, in part, will make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale any member of the southern Selkirk population of woodland caribou in interstate or foreign commerce. It also will be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions will apply to agents of the U.S. Fish and Wildlife Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered wildlife under certain circumstances. Regulations governing such permits are codified at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes or to enhance the propagation or survival of the species or population. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Subsection 7(a) of the Endangered Species Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as Endangered or Threatened. This rule requires Federal agencies to satisfy their statutory obligations relative to the southern Selkirk Mountain population of caribou. Since this population is now being added to the List of Endangered and Threatened Wildlife, Federal agencies will be immediately required to insure that the actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of the population.

Listing the southern Selkirk caribou as Endangered will change the management emphasis that agencies place on the population. Listing will further emphasize the national significance of this population. The combination of legal requirements and inceased national awareness will produce a number of advantages for the caribou.

First, as indicated above, all Federal actions that may affect the caribou population will come under the purview of the Endangered Species Act. Since most of the range of the population in the United States is within national forests, and since logging activities therein are having impacts on caribou habitat, it is anticipated that some actions authorized, funded, and carried out by the U.S. Forest Service will be affected by this rule. Such effects should not be major, however, since the Forest Service is already attempting to manage its lands with considesation of the caribou's welfare. Moreover, this rule will allow more control of the actions of other agencies on national forests, and thus give the Forest Service a greater capability than it now has to manage hibitat for the benefit of the caribou. For example, the Forest Service has no legal control over its own lands with respect to construction of power lines by the Bonneville Power Administration, and the issuance of permits and leases for mineral development by the Bureau of Land Management. Henceforth, such actions would require consultation with the Fish and Wildlife Service to insure that they are not likely to jeopardize the caribou population.

Second, listing the caribou as Endangered will bring Section 6 of the Endangered Species Act into effect. Therefore, the Fish and Wildlife Service will be able to grant funds (when they become available) to the States of Idaho and Washington for management actions aiding the protection and recovery of the caribou.

Third, the agents of the Service's Division of Law Enforcement can be assigned to enforce the Act's prohibitions against taking. A law enforcement strategy plan can be developed. Without such protection, these agents could only be used if an illegally taken carcass or its parts were transferred in interstate or foreign transportation or commerce.

Fourth, listing the population under the Act will privide for the development of a caribou recovery plan. Such a plan would draw together agencies (U.S. and Canadian) having responsibility for caribou conservation. The plan would establish an administrative framework, sanctioned by the Act, for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan would set recovery priorities and estimate the cost of various tasks necessary to accomplish them. It would assign appropriate functions to each agency and a timeframe within which to complete them. The plan would establish a formal blueprint for periodic task review. Each agency may now have its own program for caribou management. These programs would be consolidated and modified into one overall recovery plan that would give consideration to all factors needed for caribou conservation.

Fifth, the U.S. State Department could become involved on behalf of the Fish and Wildlife Service. For example, the State Department could encourage Canadian law enforcement agencies to improve surveillance for poachers seeking caribou in the southern Selkirk population. In addition, the State Department could help to encourage Canadian and provincial government agencies to give special consideration to this caribou population when they propose dams, highways, timber sales, etc. in the Canadian part of the herd's habitat. Because Canada has other herds of woodland caribou, the southern Selkirk population has not received the same priority as it does in the United States. Listing it as Endangered may enhance international cooperation.

National Environmental Policy Act

A draft Environmental Assessment will be prepared when the southern Selkirk Mountain population of woodland caribou is formally proposed for permanent addition to the U.S. List of Endangered and Threatened Wildlife. At the time such a rule is made final, a determination will be made as to whether this is a major Federal action which could significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

For the reasons described above, the Department has determined that the listing responds to an emergency situation, and that the procedures prescribed by Executive Order 12291 do not apply. Applicable provisions of the order will be followed during the development of any proposed and final rules under 16 U.S.C. 1531 *et seq.* In addition, consideration of this rule's effects upon small entities, as required by the Regulatory Flexibility Act (5 U.S.C. 601), will be made during the development of such proposed and final rules.

Author

The primary author of this rule is James A. Nee, U.S. Fish and Wildlife

Service, 4620 Overland Road, Room 209, Boise, Idaho 83705.

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, until September 12, 1983, Part 17 of Title 50 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1241; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, et seq.)

2. Section 17.11(n) is amended by adding the following, in alphabetical order, to the List of Endangered and Threatened Wildlife:

§ 17.11 [Amended]

* * * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Caribou, woodland	*Rangifer tarandus caribou*	Canada, U.S.A. (AK, ID, ME, MI, MN, MT, NH, VT, WA, WI).	Canada (that part of southeastern British Columbia bounded by the Canada-U.S.A. border, Columbia River, Kootenay River, Kootenay Lake, and Kootenai River), U.S.A. (ID, WA).	E		N/A	N/A

(Emergency Determination of Endangered Status for the Population of Woodland Caribou in Washington, Idaho, and southern British Columbia)

Dated: January 11, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-1110 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 424

Listing Endangered and Threatened Species and Designating Critical Habitat: Action on Petition To List the Chesapeake Bay Strain of Striped Bass

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Rule related notice.

SUMMARY: On February 2, 1982, Stripers Unlimited of South Attleboro, Massachusetts, petitioned the National Marine Fisheries Service to add the Chesapeake Bay strain of striped bass (*Morone saxatilis*) to the U.S. List of Endangered and Threatened Wildlife (50 CFR Part 17). The Assistant Administrator for Fisheries determined that substantial information was presented to support the petitioned action. A status review was conducted and is presented herein. The purpose of the review is to determine if the petitioned action is warranted. Based principally on the actions Federal and State agencies have adopted and implemented to conserve the species, the Service has determined that a proposed rule to list the striped bass is not warranted at this time.

DATE: Comments on the petition and status review should be submitted to the Assistant Administrator for Fisheries on or before March 15, 1983.

ADDRESS: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, National

Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard B. Roe, Acting Director, Office of Protected Species and Habitat Conservation, Washington, D.C. 20235; (202) 634–7471.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 1982, the Secretary of Commerce, Malcomb Baldrige, received a petition from Stripers Unlimited to list the Chesapeake Bay "strain" of the striped bass as endangered or threatened. The petition, submitted under Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (ESA), states that the striped bass should be provided protection under the Act for the following reasons: Reduced commercial landings along the Atlantic Coast indicate that stocks of striped bass are rapidly declining; the Chesapeake Bay stock, which historically accounted for the major portion of the coastal migratory population, has had poor reproductive success for more than ten years; the Chesapeake Bay "strain" or stock is unique; and contamination of eggs by toxic chemicals, loss of submerged aquatic vegetation, overfishing in Chesapeake Bay and on spawning grounds, and lack of consistent management practices all have contributed to the decline in numbers of striped bass in Chesapeake Bay. The petition was reviewed by the National Marine Fisheries Service's (NMFS) fishery biologists and managers as well as other personnel having knowledge and expertise concerning the striped bass. Based on these reviews the Assistant Administrator for Fisheries determined that the petition presented substantial information in support of listing the Chesapeake Bay "strain" or stock of striped bass as endangered or threatened. Section 4 of the Act and rules implementing Section 4 of the Act (50 CFR Part 424) require that a status review be conducted if a petition presents such substantial information.

Status Review

Biological Background

The striped bass, *Morone saxatilis* (Walbaum, 1792), is distributed along the Atlantic Coast from the St. Lawrence River, Canada to the St. Johns River, Florida; in the Gulf of Mexico from western Florida to Louisiana; and along the Pacific coast from British Columbia, Canada to Esenada, Mexico. The Pacific Coast stock was established in the late 1800s by the introduction of Atlantic coast specimens into the Sacramento River/San Francisco Bay watershed. There have been several other successful attempts to establish populations in reservoirs and rivers throughout the United States (Setzler et al., 1980). The striped bass has a number of other vernacular names, striper, linesider, rockfish and rock being the most common (Bigelow and Schroeder, 1953).

Striped bass grow to a large size; the heaviest specimen on record weighed about 125 pounds and the longest specimen was estimated to be about 6 feet (Bigelow and Schroeder, 1953). Bigelow and Schroeder (1953) stated that the largest specimen taken with rod and reel was one of 73 pounds, taken off Martha's Vineyard by C.B. Church. Recently, a 76 pound striped bass was caught off Montauk, Long Island, New York and one of 78 pounds was caught off Atlantic City, New Jersey. The species is long-lived, with a life span of 20 or more years (Setzler et al., 1980; Bigelow and Schroeder, 1953). Although prior to sexual maturity males grow faster than females, females reach a larger size than males, with most fish over 30 pounds being females (Atlantic States Marine Fisheries Commission (ASMFC, 1981).

The species is anadromous, spawning in spring in coastal streams and in brackish estuarine waters and then returning to coastal marine waters. Spawning occurs at or near the surface in the shallow stretches of rivers and streams, usually within the first 25 miles of fresh water (Setzler et al., 1980; ASMFC, 1981). The actual time of spawning depends on latitude, being as early as mid-February in Florida and as late as early July in Canada (ASMFC, 1981) . Apparently spawning peaks are associated with a noticable increase in water temperature (Setzler et al., 1980). A major spawning site for striped bass along the Atlantic coast has been Chesapeake Bay and its tributaries.

Populations: Atlantic coast striped bass have been divided into a number of populations based on meristic, morphometric, and electrophoretic differences. There is little information on the extent of interbreeding and exhange of genetic material among these populations and systematic biologists have not recognized or described subspecies. Setzler et al., (1980) noted that the following populations of striped bass were included among those described for the Atlantic coast: St. Johns River, Florida; Santee-Cooper river system, South Carolina; Cape Fear, South Carolina; Roanoke River-Albermarle Sound, North Carolina; Chesapeake Bay; Delaware River; Hudson River; Nova Scotia; and St. Lawrence River.

The Chesapeake Bay population has been divided into "subpopulations," the number of which depend upon the criteria used. Meristic studies indicate three "subpopulations," James River, York and Rappahannock Rivers, and upper Bay; morphometric studies indicate four, James River, York River, Rappahannock River, and Potomac River; and electrophoretic studies indicate a series of populations in the upper Bay. The reader is referred to Setzler et al. (1980) for a more extensive discussion and for citations of the original studies.

The Atlantic States Marine Fisheries Commission (1981) has developed and adopted a management plan for striped bass from Maine to North Carolina. The management plan indicated that stocks of striped bass along the Atlantic coast from Maine to North Carolina can be classified broadly into southern riverine, northern riverine and Middle Atlantic migratory stocks. The southern riverine stocks are distributed in several rivers south of about Cape Hatteras, and seldom migrate out of their natal river and associated estuaries. The Northern riverine stocks are confined to river systems north of the Canada-United States border. Middle Atlantic migratory stocks (coastal stocks) make seasonal nearshore migrations of considerable magnitude, generally moving north in summer and south in winter. Recruitment into these stocks is from rivers and estuaries along the Mid-Atlantic coast. Migrant fishes generally leave their birth places at about 2–3 years of age and migrate along the open coast in groups. Apparently these migrations are not associated with spawning.

The major spawning areas for this Middle Atlantic migratory stock are the tributaries of Chesapeake Bay and the Roanoke and Hudson Rivers, with Chesapeake Bay accounting for most of the recruitment into migratory stocks. Estimates of the contribution to the migratory stocks from Chesapeake Bay were as high as 90%. However, that high estimate was influenced by the 1970 dominant year class spawned in Chesapeake Bay. When spawning is not very successful in Chesapeake Bay, fish from the Hudson River may provide a relatively large proportion (between 40 and 50%) of the recruitment into coastal stocks (Van Winkle and Kumar, 1982).

Coastal migratory movements of fish spawned in Chesapeake Bay are related to age, sex and maturity. Fish less than two years old generally do not migrate. About half of the three year old females

migrate and a smaller proportion of four year old females migrate. Few males of similar ages migrate and as a result about 90% of young migrant fish are females. Westin and Rogers (1978), Setzler et al. (1980) and ASMFC (1981) give more detailed accounts of populations and migrations of striped bass along the Atlantic coast.

Population Size: The population size of striped bass along the Atlantic coast depends on recruitment and probably changes yearly. The most notable cause of this fluctuation has been the periodic appearance of a larger than average (dominant) year class. Such dominant year classes have been cyclic, with a period of about six years until 1970. Raney (1952) concluded that there has been a general trend of a gradual decline in numbers of striped bass interrupted by the appearance of dominant classes. According to ASMFC (1981), the last dominant year class in Chesapeake Bay was in 1970 and, as indicated by the Maryland young-of-the-year surveys, between 1974 and 1979 recruitment was below the average for 1954–1974. Most researchers and fisheries managers agree that there has been a reduction in the size of the population of striped bass. However, the extent of this decline is difficult, if not impossible, to document in terms of absolute numbers because of the lack of reliable estimates of the population size along the Atlantic coast.

The striped bass is a target species for both commercial and recreational fisheries along the Atlantic coast. Although trends in catch statistics can be used to estimate trends in relative abundance in an area over time and to estimate differences in relative abundance among various areas, these statistics do not provide reliable estimates of absolute abundance. In addition, such statistics often cannot be standardized and comparisons of statistics from different areas may result in misinterpretations and gross errors. Despite such pitfalls, catch statistics are the only source of data available for estimating population sizes in many areas and must be used to determine the general health of the striped bass. The need for standardized surveys to gather data to obtain reliable estimates of the population size of striped bass is obvious.

Total annual commercial landings of striped bass along the Atlantic coast from Maine to North Carolina averaged about 9.5 million pounds between 1958 and 1976, with a maximum of about 14.7 million pounds in 1973. Total annual commercial landings declined from 1973 to 1979, when the total was 3.1 million pounds. Totals for 1980 and 1981 were about 4.5 and 3.8 (preliminary value subject to change) million pounds, respectively (Department of the Interior; Department of Commerce, 1982). Historically Maryland has had the largest landings.

Recreational harvest data are discontinuous and difficult to use to describe trends. According to ASMFC (1982) the harvest of striped bass by sport fishermen probably has decreased by the same magnitude as the commercial harvest, despite an apparent increase in the number of sport fishermen. The National Marine Fisheries Service's Recreational Fisheries Statistics Survey, which started in 1979, is expected to provide reliable information on the recreational fishery for striped bass. Preliminary results indicate that in 1979 more than 1 million striped bass were caught along the Atlantic coast by recreational fishermen, with Maryland accounting for more than half of these.

Commercial landings are correlated strongly with the relative abundance of juveniles produced in Chesapeake Bay. Maryland young-of-the-year surveys show an index of abundance of 8.4 for 1982, compared to 1.2 in 1981, and 1.9 in 1980 (Personal Communication, Maryland Tidewater Administration).

Listing Procedures

Section 4 of the ESA provides that the Secretary of the Interior or Commerce, depending upon the species involved, shall by regulation determine if any species is an endangered or threatened species for any of the following reasons: Present or threatened destruction, modification or curtailment of its habitat or range; Overutilization for commercial, recreational, scientific or educational purposes; Disease or predation; Inadequacy of existing regulatory mechanisms; or Other natural or manmade factors affecting its continued existence. The Act requires such listing determinations to be made solely on the basis of the best scientific and commercial data available after conducting a review of the status of the species and taking into account any efforts being made to protect the species under consideration.

We considered the criteria given above in determining whether to list the Chesapeake Bay strain of striped bass as endangered or threatened. These factors and their relation to the striped bass are discussed below.

1. *The Present or Threatened Destruction, Modification or Curtailment of Its Habitat or Range.* There is little direct evidence that significant modification or destruction of the habitat or range of striped bass in recent years has caused its decline. Presumably there was a substantial loss of habitat in the late 1800's and early 1900's from construction of dams and pollution of large river systems. A major loss of habitat occurred in the Susquehanna River of Maryland and Pennsyvania (Setzler et. al., 1980), which was the site of the largest known production of striped bass eggs (Dovel, 1971). Between 1826 and 1928 a number of canal feeder dams and hydroelectric dams were constructed eliminating all but 10 miles of the lower Susquehanna as spawning grounds for the striped bass (Setzler et al., 1980; ASMFC, 1981).

The Delaware River and its New Jersey tributaries, once an important spawning area for the striped bass, became heavily polluted with municipal and industrial wastes by the late 1800's. At present, from May through September dissolved oxygen in parts of the river are reduced to very low levels and may approach 0 parts per million (ASMFC, 1981).

Recently, submerged aquatic vegetation has declined in Chesapeake Bay (Stevenson and Confer, 1978). Although there is circumstantial evidence that the abundances of such vegetation and striped bass are related, there is no direct evidence that there is a cause and effect relationship between the declines of submerged aquatic vegetation and striped bass. Both were low in abundance in the early 1930's, began increasing in the late 1930's, were abundant from the late 1950's through early 1970, after which abundances declined to low levels. Additional study is needed to better understand the relationship between submerged aquatic vegetation and striped bass (ASMFC, 1981).

2. *Overutilization for Commercial, Recreational, Scientific, or Educational Purposes.* Commercial and recreational harvests of the species have been and remain high. The level of catch from both sources was discussed above. Although little is known about the level of use for scientific and educational purposes, it probably is inconsequential compared to the commercial and recreational harvests. The effects of these harvests on the abundance and status of the striped bass is not well understood because of the lack of reliable estimates of the abundance of striped bass.

3. *Disease or Predation.* There is little information concerning the effects of disease and predation on the abundance of striped bass. These are causes of mortality in all populations. Bluefish *(Pomotamus saltatrix)* and weakfish

(Cynoscion regalis) probably prey on small striped bass, and juvenile white perch *(Morone americana)* probably eat large numbers of larval striped bass. Setzler et al. (1980), list the parasites of striped bass and discuss various diseases and abnormalities of the species.

4. *Inadequacy of Existing Regulatory Mechanisms.* The NMFS, other Federal Agencies and State Agencies have been aware of the decline in the striped bass stock for some time and have implemented a number of management and research efforts to identify and reverse the processes that have contributed to the observed decline in abundance of striped bass.

a. The State/Federal Striped Bass Program. Under funding from this program the Atlantic States Marine Fisheries Commission developed the Interstate Fisheries Management Plan for Striped Bass. The stated goal of this plan is: "To perpetuate the striped bass resource in fishable abundance throughout its range and generate the greatest possible net economic and social benefits from its harvest and utilization over time" (ASMFC, 1981). The plan recommends that the following management measures be implemented to achieve the stated goal: Minimum and maximum size limits for individuals that are harvested to maintain a spawning stock and reduce yearly variations in abundance; Closing certain areas to prevent overharvesting of mature fish in spawning areas; and Data collection and monitoring programs to evaluate the success of the plan. The plan further recommends that research efforts be directed toward understanding the factors affecting abundance and distribution of early life stages, including those controlling reproductive success, loss of spawning areas, the condition of the spawning stock, and viability of eggs. The plan also notes the importance of understanding the interspecific relationships of the striped bass and abiotic factors that affect reproductive success. This plan was adopted by the 12 member States of the ASMFC in October 1981. Those States are in the process of adopting the provisions of the plan. In addition the Congress is considering legislation to provide incentives for the 12 States to implement the plan promptly.

b. The Emergency Striped Bass Study. Section 7 of the Anadromous Fish Conservation Act (Pub. L. 96–118) directs the Secretaries of the Interior and Commerce to conduct studies to monitor the status of striped bass population and to determine the factors responsible for the decline in numbers of striped bass. These studies, collectively known as the Emergency Striped Bass Study, are directed at determining: (1) The size and distribution of the population of striped bass, including the extent and location of annual spawning; (2) The factors responsible for the decline in number of striped bass, including the extent and causes of mortality at various life history stages and the effects of pollution on eggs and larvae; and (3) A survey of the economic importance of sport and commercial striped bass fisheries.

Studies to monitor the status of striped bass stocks are the responsibility of NMFS. These studies focus on the characterization of the sex and age composition of commercial landings, determination of the spatial and temporal patterns of spawning and abundance of early life stages, and surveys to determine the abundance and distribution of juveniles.

Studies to determine the causes and extent of mortality in the striped bass (Decline Studies) are the responsiblity of the U.S. Fish and Wildlife Service (FWS). These focus on: (1) Contaminant studies, including the identification of contaminants in various life stages, the effect of identified contaminants on growth, survival, and susceptibility to pathogens, and the possible role of contaminant-related mortality on the population dynamics of striped bass; (2) Starvation studies to determine the effects of natural or man-induced variations on the abundance and availability of food or recruitment; (3) Exploitation studies utilizing mark and recapture experiments to determine fishing mortality rates; and (4) Correlation studies to determine if there is a relationship between striped bass recruitment and landings and the total discharge of chlorinated effluent, chlorine consumed and other water quality characteristics of the Potomac River.

Both FWS and NMFS are responsible for studies dealing with the economic value of the striped bass. These studies are not pertinent to the issue at hand because decisions to list or delist species must be based solely on biological criteria.

5. *Other Natural or Manmade Factors Affecting Its Continued Existence.* Researchers working under the State/Federal Striped Bass Program and the Emergency Striped Bass Study believe that the poor survival of eggs, larvae, and fry may be due to climatological factors. There are indications that reproductive success is determined to a large degree by spring freshwater flow and variable spring temperatures. Reduced spring freshwater flow reduces detritus levels which results in a decrease in copepod abundance. Copepods are a food resource for fry and juvenile striped bass.

Discussion

The petition states that striped bass stocks are declining at a drastic rate and that the Chesapeake Bay stocks, which often supply the bulk of the coastal migrating population, are suffering from successive years of reproductive failure. The NMFS recognizes that the petition addresses a serious problem to the commercial and recreational fisheries on the Atlantic coast and, more important, to the well being of the striped bass. The petition uses commercial landings in Chesapeake Bay and Maryland's Department of Natural Resources annual young-of-the-year survey to document the perceived decline in relative abundance of striped bass in Chesapeake Bay. The NMFS believes that such localized data may not give a reliable indication of the status of the striped bass throughout its range.

Historically the commercial and recreational harvests of striped bass have indicated that the species' abundance is characterized by the periodic appearance of dominant year classes. Only in recent years has the effect of these dominant year classes on striped bass fisheries become appreciated. The commercial harvest of striped bass for the last 20 years has been geared to six dominant year classes. The most recent dominant year class was in 1970. From 1971 to 1975 the reproduction of striped bass has been "mathematically average" (ASMFC, 1981). Obviously the appearance of one or more dominant year classes in the next few years may have a profound effect on the abundance and harvest of striped bass. Although we realize that there is no assurance that another dominant year class will appear on the Atlantic coast, we must consider the previous patterns of the relative abundance of striped bass including the periodic appearance of such dominant classes.

The petition also states that contamination of eggs and larvae by toxins is the major cause of poor reproductive success of the striped bass in Chesapeake Bay. This conclusion apparently is based on observations of hatchery operations in one river system and may not be applicable to the entire Chesapeake Bay. Preliminary results of extensive tests conducted by the FWS have not identified any substance that is

significantly correlated to survival and growth of fry. However, these studies suggested a trend of increasing mortality with increasing concentrations of PCBs in eggs. In addition there is no evidence that adults, eggs, or young-of-the-year striped bass from various locations, including Chesapeake Bay, contained any single contaminant in high enough concentration to conclude that it alone is the cause for the decline of striped bass along the Atlantic coast. Other studies examined the combined, or synergistic, effects of certain organic and inorganic contaminants found throughout Chesapeake Bay and the Hudson River areas. Preliminary results indicate that there may be a relationship between combined contaminant levels and mortality of eggs and fry. There also may be a relationship between the contaminant load, particularly organic contaminants, and survival of offspring.

Continued extensive harvest of striped bass in Chesapeake Bay undoubtedly will have adverse effects on the spawning stock of striped bass. The Interstate Fisheries Management Plan for Striped Bass recognizes this problem and recommends fishing restrictions that the Coastal States should adopt to increase survival of recruits to maturity and to prevent excessive exploitation of mature fish. The NMFS believes that implementing this Plan is the most effective action that can be taken at this time to reduce pressure on spawning stocks and enhance the ability of the striped bass in Chesapeake Bay to recover from its decline.

Conclusion

The NMFS believes that the best available commercial and scientific data indicate that providing the striped bass with the protections of the Endangered Species Act is not warranted at this time. Therefore we will not initiate rulemaking proceedings to list the Chesapeake Bay strain of striped bass as endangered or threatened with extinction. This decision is based on the following:

(1) The Interstate Fisheries Management Plan for Striped Bass was adopted by all involved States in October 1981. Several States have implemented many of the protective measures recommended in the Plan and other States have pending legislation to do so. In addition the Congress may provide incentives to promote full compliance with and implementation of the Plan by all involved States. Implementing this Plan should alleviate problems caused by overharvesting of the species. The NMFS believes implementation of this Plan will provide sufficient protection for the striped bass under present conditions.

(2) Long-range research conducted under the Emergency Striped Bass Study has not been completed. This research will supplement studies being conducted under the State/Federal Striped Bass Program. The information from these sources will enable NMFS to assess more reliably the status of the striped bass and to determine the effects of various substances, environmental conditions and other factors on populations of striped bass. In addition, at that time there probably will be some indication of the success of the Interstate Fisheries Management Plan for Striped Bass and we will be able to determine the need for other protective measures, including those of the Endangered Species Act.

(3) Although commercial harvests have declined to levels only slightly above historic lows, they still are several million pounds. Results of a survey of the recreational harvest of striped bass in 1979 indicate that nearly 1.2 million fish were taken by recreational fishermen. Taken together these indices of abundance suggest that the striped bass population along the Atlantic coast numbers in the millions.

(4) Preliminary results of the young-of-the-year surveys conducted by Maryland in 1982 showed that the densities of juveniles in Chesapeake Bay increased from an all time low of 1.2 fish per seine haul in 1981 to 8.4 per haul in 1982.

(5) Research on contaminants and pollutants gave no indication that any one substance appears in high enough concentration in Chesapeake Bay to cause the perceived decline in striped bass.

List of Subjects in 50 CFR Part 424

Administrative practice and procedure, Endangered and threatened wildlife.

Dated January 7, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management.

Literature Cited

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[FR Doc. 83–846 Filed 1–13–83; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 48, No. 10
Friday, January 14, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Amendment to REA Bulletin 20–14, Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend Appendix A—REA Bulletins by amending Bulletin 20–14, Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act. Currently, in order to meet program needs more effectively and conserve available loan funds, REA requires qualified borrowers to obtain a portion of their long-term loan funds from a supplemental lender, on terms and conditions approved by REA, as a prerequisite for obtaining REA loan funds. The intent of the proposed rule is to require both REA and supplemental loans to have the same terms with regard to final maturity and methods of computation of interest and principal payments, such terms to be agreed upon by the borrower, REA and the supplemental lender. REA insured long-term loans would be available along with appropriate supplemental loans for periods of 20, 25, 30 and 35 years.

In addition, REA proposes to reduce the deferment period for repayment of principal from the present 3 years to 2 years for an REA loan. A2-year deferment period would be consistent with the majority of REA loans which are based on 2-year construction plans designed to place facilities in service and produce revenues within 2 years. No requirement would be imposed regarding deferment periods for supplemental lenders.

DATE: Public comments must be received by REA no later than March 15, 1983.

ADDRESS: Submit written comments to the Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Charles R. Weaver, Director, Electric Borrower's Management Division, at the above address, telephone number (202) 382–1900. The Draft Impact Analysis describing the options considered in developing and implementing the proposal is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 *et seq.*) (Act), REA proposes to amend REA Bulletin 20–14, Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act. This proposed action has been issued in conformance with Executive Order 12291, Federal Regulation. It will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, and therefore has been determined "not major.".

This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A–95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

Background

In general, REA loans made concurrently with supplemental lenders have a 35-year amortization period which is the maximum permitted by the Act. Currently, REA Bulletin 20–14 does not require concurrent loans made by supplemental lenders to have the same maturity date and repayment schedule as the REA loan. REA has been advised that there is interest among REA borrowers and supplemental lenders in reducing the length of the supplemental loans and in having levelized principal payments. A widespread change in the terms of the supplemental loans without a change by REA would have a significant impact on the REA loan program. Without a change in the current REA practice, there would be an increase in demand for REA loans in order to meet the capital needs of borrowers making shorter term repayments to supplemental lenders.

REA considered various options including retaining the current practice which would permit supplemental loans with a 20-to 35-year payback period and levelized principal or levelized principal and interest payments along with the standard 35-year levelized principal and interest REA loan.

This option could result in borrowers needing to raise from REA, the supplemental lenders or through retail rates, additional funds to cover increased debt service requirements if borrowers selected shorter term supplemental loans. This would have a corresponding effect on the REA loan program as borrowers financed a larger percentage of their capital needs with REA funds and paid off their supplemental debt earlier.

Another option considered by REA would be to require coterminous loan amortization periods which would significantly lessen the impact on the REA Revolving Fund. However, if borrowers were not also required to use the same repayment method, i.e., levelized principal only or levelized principal and interest to both REA and the supplemental lender, REA's proportionate outstanding indebtedness would tend to increase. REA borrowers would make level principal payments to supplemental lenders and continue to pay levelized principal and interest to REA, thus putting increased burdens on the Revolving Fund.

REA has decided to propose to amend Bulletin 20–14 in a manner which will include: (1) Equitable and flexible loan terms and conditions, (2) permit borrowers to evaluate and choose loan maturity dates and repayment schedules to fit their needs, and (3) maintain the resources of the Revolving Fund.

PART 1701—[AMENDED]

Therefore REA proposes to amend Appendix A of Part 1701 by adding to REA Bulletin 20–14 the following

paragraph E to part II, *Policy,* to read as follows:

* * * * *

E. Generally, REA shall require that supplemental loans bear the same maturity and be amortized in the same manner as REA loans made concurrently therewith. Except where REA shall determine otherwise, borrowers may select loan maturities of 20, 25, 30 or 35 years and elect to repay the loans either in periodic installments which provide for interest and level amortization of principal over the term of the loan or in periodic installments, including interest and principal payments, which are equal in amount to every other such periodic installment. Supplemental loans shall otherwise be on such terms and conditions as REA shall approve. REA loan terms will generally offer 2-year deferment of principal payments.

The policy set forth above supersedes all previous policies and requirements regarding deferments, loan maturity dates and amortization schedules including but not limited to those set forth in REA Bulletin 20-2, Electric Loan Policies and Application Procedures, paragraph VIII B, and applicable sections of Bulletin 20-6, Loan Payments and Statements.

List of Subjects in 7 CFR Part 1701

Administrative practice and procedure, Electric utilities, Loan programs—energy.

Dated: December 21, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 83-982 Filed 1-13-83; 8:45 am]

BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Issuance of Quarterly Report on the Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Regulatory Agenda.

SUMMARY: The Nuclear Regulatory Commission has issued the December 1982 Regulatory Agenda. The Agenda, which is a quarterly summary of all rules on which the NRC has proposed or is planning action and all petitions for rulemaking which have been received and are pending disposition by the Commission is issued to provide the public with information regarding NRC's rulemaking activities.

ADDRESS: A copy of this report, designated NRC Regulatory Agenda (NUREG-0936) Vol. 1, No. 4 is available for inspection and copying at a cost of five cents per page at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Single copies of the report may be obtained at a cost of $7.50, payable in advance from the NRC/GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, Telephone (301) 492-7086, Toll free number (800) 368-5642.

Dated at Bethesda, Md., this 11th day of January 1983.

For the Nuclear Regulatory Commission.

J. M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 83-1086 Filed 1-13-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 5 and 7

[Docket No. 83-1]

Corporate Applications; Operating Subsidiaries

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (Office) is proposing to simplify its approval process for banks seeking to establish or acquire operating subsidiaries. The proposal eliminates the requirement that a bank file a formal application to establish or acquire an operating subsidiary. Instead, a notification procedure is proposed. The proposed revision benefits national banks and the Office by removing burdensome and costly regulatory requirements, while maintaining the Office's ability to render decisions on the permissibility of proposed activities for operating subsidiaries.

DATE: Written comments must be submitted on or before February 14, 1983.

ADDRESS: Comments should be directed to: Docket No. [83-1], Communications Division, 3rd floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, East SW., Washington, D.C. 20219, Attention: C. Christine Jones.

Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Manager, Policy, Bank Organization and Structure, (202) 447-1184, or Joseph Daly, Attorney, Legal Advisory Services Division, (202) 447-1880, Office of the Comptroller of the Currency.

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of this proposal is to minimize costs and burdens on national banks and the Office by simplifying and streamlining the procedure to establish or acquire operating subsidiaries.

Background

This proposal is part of the Office's Corporate Applications Review and Evaluation (CARE) Program. That program is described in 45 FR 68586, dated October 15, 1980, and involves a comprehensive review of the Office's rules, policies, procedures and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE Program are to minimize costs and burdens on applicants, the agency and the public; to provide a better understanding of policies; to modify or eliminate rules, policies, procedures and forms which are unnecessary or lead to inefficiencies; and to remove barriers to competition.

Proposal

The Office is proposing to revise 12 CFR 5.34, which prescribes the application process a national bank must use to establish or acquire an operating subsidiary. The procedure set forth in 12 CFR 5.34 would be simplified by substituting a notification procedure. Title 12 CFR 7.7376, which provides for the establishment or acquisition of operating subsidiaries by national banks, would be rescinded and the authority for a national bank to establish or acquire an operating subsidiary would be incorporated into 12 CFR 5.34.

Discussion

An operating subsidiary of a national bank may perform only activities that can be performed within the corporate structure of its parent bank. If a bank undertakes a new activity within its corporate structure rather than through an operating subsidiary, no application or hearing process is required. Consequently, the current application process for operating subsidiaries may discourage banks from using operating subsidiaries to perform new activities, unnecessarily restricting a bank's ability to determine its organizational structure.

Similarly, if a new activity was undertaken within a bank's corporate structure, the effect of the new activity on a bank's safety and soundness would be determined by the examination process. The safety and soundness effects of operating subsidiaries would be determined in the same manner if the application process is eliminated.

In addition, if new activities were conducted within the corporate structure of the bank, their competitive effects would not be a matter of review by this Office. Consequently, operating subsidiaries should not be subject to a review of competitive effects.

Therefore, the Office proposes that the formal application and public hearing procedure be replaced by a notification procedure. The proposed procedure requires that banks seeking to establish or acquire operating subsidiaries file a letter with the Regional Administrator for the region in which the principal office of the bank is located. The letter must describe the proposed activities and location(s) of the operating subsidiary.

A bank may acquire and/or commence operation of the subsidiary after 30 days from the date on which the bank's letter is mailed unless the Office disapproves the proposed activities or extends the period. The Office will utilize the 30-day period to review the proposal. The Office may reduce the 30-day period upon request of the bank.

The Office will reject the acquisition or establishment during the 30-day period if the activities proposed exceed those permissible to a national bank operating subsidiary. The Office may require the bank to submit further factual material and/or legal analysis, if the activities of the proposed operating subsidiary are unclear or the legality of such activities is in doubt. In that event, the Office will extend its review period until it can adequately consider the proposed transaction.

Although the Office is proposing to eliminate its application procedure to establish or acquire operating subsidiaries, it should be emphasized that such acquisition or establishment will be subject to scrutiny. For instance, the acquisition or establishment of an operating subsidiary may be subject to the branching requirements of 12 U.S.C. 36 and 12 CFR 5.30, if it engages in any of the activities enumerated in 12 U.S.C. 36(f), or may be reviewed by other federal agencies responsible for enforcing the antitrust laws.

In merging the present 12 CFR 7.7376 into § 5.34 the Office is also proposing several technical changes to the language in the regulation. Language changes concerning the 80 percent stock ownership requirement are designed solely to simplify the provision and do not reflect changes in substance. A statement in § 7.7376 (b) concerning the scope of an operating subsidiary's permissible activities and a list of examples is being eliminated because it may be interpreted as limiting the scope of permissible activities to a range narrower than that currently permitted. Paragraph (c) of § 7.7376 which deals with the applicability of 12 U.S.C. 371c to operating subsidiaries is eliminated as unnecessary due to recent amendments to the statute. A requirement in §7.7376(d) (4) that the Office be informed of the disposition of all operating subsidiaries is eliminated.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 5 U.S.C. 601 *et seq.*), the Secretary of the Treasury has certified that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments would ease the burden of the existing regulations. The effect of the amendments is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the amendments equally with larger institutions.

Regulatory Impact Analysis

The Office has deterimined that the proposed amendments do not constitute a major rule within the meaning of Executive Order 12291. The amendments would ease burdens imposed by regulations and would have no adverse effect on the operations of the depository institutions subject to them. As such, the amendments would not have an annual effect on the economy of $100 million or more, would not cause a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions, and would not have an adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 12 CFR Parts 5 and 7

National banks, Operating subsidiaries.

Authority and Issuance

Accordingly, the Comptroller of the Currency proposes to amend 12 CFR Parts 5 and 7 as follows:

PART 5—[AMENDED]

1. The authority citation for *Part 5—Rules, Policies, and Procedures for Corporate Activities* reads as follows:

Authority: 12 U.S.C. 1 et seq.

2. Section 5.34 is revised to read as follows:

§ 5.34 Operating subsidiaries.

(a) *Authority.* 12 U.S.C. 1 *et seq.*, section 24 (7), section 93a.

(b) *Rules of general applicability.* Sections 5.8, 5.10 and 5.11 do not apply to operating subsidiaries.

(c) *General.* A national bank may engage in activities which are a part of or incidental to the business of banking by means of an operating subsidiary corporation. In order to qualify as an operating subsidiary, the parent bank must own at least 80 percent of the voting stock of the corporation.

(d) *Policy.* The Office considers the establishment or acquisition of an operating subsidiary to be primarily a business decision of the bank subject to the following requirements.

(1) *Notification.* (i) A national bank which intends to acquire or establish an operating subsidiary shall submit a letter to the Regional Administrator for the region in which the bank's principal office is located. The letter must detail the proposed activities of the operating subsidiary and state whether any activity of the operating subsidiary will be conducted at some location other than the main office or a previously approved branch of the bank.

(ii) The bank may establish or acquire the operating subsidiary after 30 days from the date on which the bank's letter is mailed unless the Office has given notice disapproving the proposed activities or extending the 30-day period. The 30-day period may be extended if the bank's letter raises issues that require additional detail or time for analysis by the Office. If the 30-day period is extended, the bank may establish or acquire the proposed subsidiary only upon written notification by the Office.

(iii) The Office may shorten the 30-day period upon the request of the bank.

(2) *Applicability of banking laws.*—(i) *Banking laws applicable.* Unless otherwise provided by statute or regulation, all provisions of Federal banking laws applicable to the operations of the parent bank shall be equally applicable to the operations of its operating subsidiaries.

(ii) *Consolidation of figures.* Unless otherwise provided by statute or regulation, pertinent book figures of the parent bank and its operating

subsidiaries shall be consolidated for the purpose of applying applicable statutory limitations, such as 12 U.S.C. 56, 60, 84 and 371d.

Example. The combined exposure of the parent bank and all of its operating subsidiaries to a single borrower shall not exceed the bank's loan limit (12 U.S.C. 84).

(3) *Examination and supervision.* Each operating subsidiary shall be subject to examination and supervision by the Office of the Comptroller of the Currency in the same manner and to the same extent as the parent bank. If, upon examination, the Comptroller of the Currency ascertains that the subsidiary is created or operated in violation of law or regulation or that the manner of operation is unsafe or unsound to the business of the parent bank or its depositors, the bank may be ordered to dispose of all or part of the subsidiary upon terms as the Comptroller deems proper.

(e) *Fees.* No filing fee is required to establish or acquire an operating subsidiary.

(f) *Forms.* None.

PART 7—[AMENDED]

3. The authority citation for Part 7—Interpretive Rulings reads as follows:

Authority: 12 U.S.C. 1 et seq.

§ 7.7376 [Removed]

4. Section 7.7376 is removed.

Dated: December 3, 1982.

C. T. Conover,
Comptroller of the Currency.

[FR Doc. 83-1061 Filed 1-13-83; 8:45 am]
BILLING CODE 4810-33-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 929

[Docket No. 21116-229]

Key Largo National Marine Sanctuary; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; correction.

SUMMARY: This notice corrects the comment period closing date erroneously reported in the **Federal Register** on December 17, 1982. The 60-day comment period for the Key Largo National Marine Sanctuary proposed rules will close February 14, 1983. All comments should be sent to: Dr. Nancy Foster, Deputy Chief, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street NW, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Franklin D. Christhilf, (202) 634-4236.

(Federal Domestic Assistance Catalog Number 11.419 Coastal Zone Management Program Administration)

Dated: January 7, 1983.

K. E. Taggart,
Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 83-1126 Filed 1-13-83; 8:45 am]
BILLING CODE 3510-08-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I, Subchapter J

[Docket No. 79N-0147]

Quality Assurance in Nuclear Medicine; Withdrawal of Notice of Intent for Reconsideration

AGENCY: Food and Drug Administration.

ACTION: Withdrawal for reconsideration.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing for reconsideration a notice of intent to propose voluntary recommendations concerning quality assurance in nuclear medicine. This action is part of the agency's reconsideration of proposed and existing regulations in light of the purposes of Executive Order 12291 entitled "Federal Regulation."

DATE: This withdrawal is effective on January 14, 1983.

FOR FURTHER INFORMATION CONTACT: Melvyn R. Altman, National Center for Devices and Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 17, 1979 (44 FR 48284), FDA published a notice of intent to propose voluntary recommendations regarding quality assurance in nuclear medicine and to codify the recommendations under Title 21, Chapter I, Subchapter J of the Code of Federal Regulations (CFR).

In 1980, FDA began a program to reconsider and to withdraw outstanding proposed rules that had become obsolete because of the development of new technology, the passage of time, changes in agency priorities and policies, comments received, availability of regulatory alternatives that achieve the same consumer protection goals, or other reasons.

Furthermore, Executive Order 12291 requires Federal agencies, to the extent permitted by law, to undertake regulatory actions only when potential benefits to society outweigh potential costs to society. In addition, in both the Regulatory Flexibility Act (Pub. L. 96-354), and the Paperwork Reduction Act of 1980 (Pub. L. 96-511), Congress intended that Federal agencies reduce unwarranted regulatory burdens.

As a result of the agency's reevaluation of pending proposed rules and in light of the purposes of the Presidential and statutory directives described above, FDA is withdrawing for reconsideration its August 17, 1979 notice of intent. Withdrawal of the notice does not mean that FDA has lost interest in the subject. The agency now believes that the recommendations for the development of voluntary quality assurance programs conducted by health professionals for nuclear medicine facilities need not be codified in the CFR. FDA believes that alternative means are available to disseminate the necessary information to the public.

The alternative means, such as technical reports, scientific papers, demonstration projects and cooperative actions with professional organizations have proven effective in the dissemination of information to the public. Professional organizations that can contribute to the development of voluntary quality assurance programs in nuclear medicine include the Society of Nuclear Medicine, the American Association of Physicists in Medicine, the American College of Nuclear Physicians, the American College of Radiology, and the Federated Council of Nuclear Medicine Organizations. Because of this widespread voluntary public support, FDA's Office of Radiological Health is developing as technical reports the agency's recommendations for quality assurance in nuclear medicine. Therefore, elsewhere in this issue of the **Federal Register**, FDA announces the availability of draft recommendations for quality assurance programs in nuclear medicine facilities and invites interested persons to submit written comments regarding the draft recommendations.

The agency welcomes public participation in the development of its education program concerning quality assurance in nuclear medicine. Individuals or organizations who wish to receive technical reports or further

details on program development or to review draft copies of educational materials may have their names placed on the mailing list by writing to the National Center for Devices and Radiological Health, Division of Training and Medical Applications (HFX–77), 5600 Fishers Lane, Rockville, Md 20857.

This notice is issued under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (secs. 356, 82 Stat. 1174–1179 (42 U.S.C. 263d, 263f)) and the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982).

The administrative record in this proceeding, including copies of any comments received and related correspondence, is on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, Md. 20857, under the docket number found in the heading of this document and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Richard S. Schweiker,

Secretary of Health and Human Services.

Dated: January 4, 1983.

[FR Doc. 83–883 Filed 1–13–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 182 and 184

[Docket No. 82N–0246]

Ascorbic Acid and Its Sodium and Calcium Salts, Erythorbic Acid and Its Sodium Salt, and Ascorbyl Palmitate; Proposed Affirmation of GRAS Status and Removal of Calcium Ascorbate From the List of GRAS Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that ascorbic acid (L-ascorbic acid) and sodium ascorbate, its sodium salt; erythorbic acid (D-isoascorbic acid) and sodium erythorbate, its sodium salt; and ascorbyl palmitate (palmitoyl (L-ascorbate) are generally recognized as safe (GRAS) as direct human food ingredients. The agency is also proposing to remove the calcium salt of ascorbic acid (calcium ascorbate) from the list of GRAS direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. The proposal would take no action on the listing of ascorbic acid as GRAS for use in dietary supplements.

DATES: Written comments by March 15, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of ascorbic acid (L-ascorbic acid) and sodium ascorbate, its sodium salt, and calcium ascorbate, its calcium salt; erythorbic acid D-isoascorbic acid) and sodium erythorbate, its sodium salt; and ascorbyl palmitate (palmitoyl-L-ascorbate) has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of ascorbic acid and its sodium salt for use in conventional food [1] and infant formula and to remove the calcium salt of ascorbic acid from the GRAS list. The agency also proposes to affirm the GRAS status of erythorbic acid and its sodium salt and ascorbyl palmitate for direct use in conventional food.

Ascorbic acid (vitamin C) and its sodium and calcium salts and erythorbic acid and its sodium salt are white or slightly yellow crystalline solids. They are soluble in water but of limited-to-slight solubility in ethyl alcohol. Ascorbyl palmitate is a white or yellowish white solid at room temperature. It is soluble in ethyl alcohol but very slightly soluble in water.

Ascorbic acid is present in nutritionally useful amounts in many edible plants, especially rapidly growing leafy vegetables, fruits, tomatoes, and potatoes. Foods of animal origin, as usually consumed, are generally poor sources of the vitamin.

The natural and synthetic ascorbic acids are equivalent in vitamin C activity. The vitamin C activity of ascorbyl palmitate is approximately equal to that of ascorbic acid.

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

Commercially available ascorbic acid is produced by synthesis. One process in common use starts with D-glucose which is converted to D-sorbitol by hydrogenation. The D-sorbitol is made to yield L-sorbose by fermentation with *Acetobacter suboxydans*. A carboxyl group is introduced while the L-sorbose is in the form of its diacetone derivative. The resulting diacetone-2-keto-L-gluconic acid is then heated with hydrogen chloride to give ascorbic acid.

Erythorbic acid is produced from D-glucose by a combination of biosynthesis and chemical synthesis. In this process, D-glucose is converted to 2-keto-D-gluconic acid by fermentation with *Pseudomonas fluorescens*. The Gluconic acid derivative is then esterified to give methyl 2-keto-D-gluconate, which, upon heating in basic solution, gives sodium erythorbate. Erythorbic acid is produced by acidifying a water-methanol solution of its sodium salt.

Among the four stereoisomeric ascorbic acids, which include L- and D-ascorbic acids and L- and D-isoascorbic acids, only the L isomer of ascorbic acid has significant vitamin C activity. Because the name D-isoascorbic acid on a product label is capable of misleading a purchaser, the agency issued § 101.33 (21 CFR 101.33) requiring that any label declaration of D-isoascorbic acid use the common name for this ingredient. The common name for this ingredient is erythorbic acid.

A regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368), and recodified in the **Federal Register** of March 15, 1977 (42 FR 14302), listed ascorbic acid and its salts, erythorbic acid, and escorbyl palmitate as GRAS for use as chemical preservatives as follows: § 182.3013 *Ascorbic acid* (21 CFT 182.3013), § 182.3041 *Erythorbic acid* (21 CFR 182.3041), § 182.3149 *Ascorbyl palmitate* (21 CFR 182.3149), § 182.3189 *Calcium ascorbate* (21 CFR 182.3189), and § 182.3731 *Sodium ascorbate* (21 CFR 182.3731). Sodium erythorbate is not listed as a GRAS substance under FDA regulations, but FDA has acknowledged that its use as a chemical preservative is GRAS in numerous opinion letters that the agency has issued since 1960.

Ascorbic acid was listed as a GRAS nutrient/dietary supplement in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, in a final rule published in the **Federal Register** of September 5, 1980 (45 FR 58837), FDA divided the nutrient/dietary supplement category into separate listings for GRAS dietary

supplements and for GRAS nutrients. Therefore, ascorbic acid currently is listed as GRAS in § 182.5013 (21 CFR 182.5013) for use in dietary supplements and in § 182.8013 (21 CFR 182.8013) for use in food as a nutrient. Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists ascorbic acid as a required nutrient in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient levels of ascorbic acid in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act. Ascorbic acid also may be used to fortify foods as described in Part 104 (21 CFR Part 104).

Ascorbic acid is listed as an optional ingredient in the following standards of identity for foods: § 173.105 *Flour* (21 CFR 137.105); § 137.200 *Whole wheat flour* (21 CFR 137.200); § 145.110 *Canned applesauce* (21 CFR 145.110); § 145.115 *Canned apricots* (21 CFR 145.115); § 145.135 *Canned fruit cocktail* (21 CFR 145.135); § 146.110 *Cranberry juice cocktail* (21 CFR 146.110); § 146.113 *Canned fruit nectars* (21 CFR 146.113); § 146.185 *Canned pineapple juice* (21 CFR 146.185); § 146.187 *Canned prune juice* (21 CFR 146.187); § 150.141 *Artificially sweetened fruit jelly* (21 CFR 150.141); § 150.161 *Artificially sweetened fruits preserves and jams* (21 CFR 155.161); § 155.200 *Certain other canned vegetables* (21 CFR 155.200); § 156.145 *Tomato juice* (21 CFR 156.145); and § 161.175 *Frozen raw breaded shrimp* (21 CFR 161.175). Erythorbic acid is listed as an optional ingredient in the following standards of identity for canned fruits and vegetables: § 145.110 *Canned appplesauce* (21 CFR 145.110) and in § 155.200 *Certain other canned vegetables* (21 CFR 155.200).

Ascorbyl palmitate is permitted for use as a preservative in margarine under § 166.110 (21 CFR 166.110). Sodium ascorbate and sodium erythorbate are authorized under the Meat Inspection Act for use in cured meats by the U.S. Department of Agriculture.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which ascorbates and erythorbates were used and the levels of usage. NAS/NRC combined this manufacturing information with information on comsumer consumption of foods to obtain an estimate of consumer exposure to these ingredients. FDA estimates from the NAS/NRC survey that in 1970 about 1,900,000 kilograms of ascorbic acid, 660,000 kilograms of sodium ascorbate, 420,000 kilograms of erythorbic acid, 500,000 kilograms of sodium erythorbate, and 50 kilograms of ascorbyl palmitate were used in food. Ascorbates are used primarily as antioxidants in a variety of foods, including meat products, milk products, poultry products, baked goods, hard candy, breakfast cereals, and processed fruits and drinks. Erythorbates are also used primarily as antioxidants but in fewer food categories than ascorbates.

Ascorbates and erythorbates have been the subjects of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 9,724 abstracts was reviewed, and 381 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available data and information on ascorbates and erythorbates.[2] In the Select Committee's opinion:

L-ascorbic acid, vitamin C, occurs in nutritionally significant amounts as a natural constituent of many fruits, vegetables, berries, and melons. As a vitamin it is needed in the diet of all age groups. L-ascorbic acid and its sodium salt are antioxidants and they are extensively used as preservatives, color stabilizers and for related functions in various foods and beverages. Calcium ascorbate and ascorbyl palmitate, a derivative of ascorbic acid, have greater fat solubility, also are antioxidants, but appear not to have significant use in processed foods.

In addition to the use in foods as antioxidants, L-ascorbic acid and its salts are added to some foods as a source of vitamin C. These sources constitute a significant proportion of the total ascorbate intake of the general population.

Erythorbic acid (D-isoascorbid acid), a stereoisomer of L-ascorbic acid, and its sodium salt, also are effective antioxidants and used for this purpose in a number of food products. The quantities used in 1970 were substantially less than for the ascorbates. The vitamin activity of erythorbates is only one-twentieth that of ascorbic acid, and their antioxidant effectiveness is not greater than for ascorbates. For this reason, it would seem desirable where possible, to use L-ascorbic acid rather than erythorbic acid as an antioxidant.

From studies in guinea pigs and man it can be concluded that although erythorbic acid shares the same absorption and tissue uptake system as ascorbic acid it has little antiscorbutic activity. Although competition between ascorbic acid and erythorbic acid has been demonstrated at a biochemical level, there is no firm evidence that such competition will produce a scorbutic state. Whether this biochemical interaction could result in a clinically significant depletion of ascorbic acid remains to be established.

Both short- and long-term toxicity studies have demonstrated tolerance without adverse effects for large amounts of orally administered (L-ascorbid acid, sodium L-ascorbate and erythorbic acid in several species including mice, rats, guinea pigs, rabbits, and dogs.

A substantial number of short-term experiments with human subjects ingesting 1 to 4 g of ascorbate daily have generally not revealed any harmful effects. Some subjects have received higher amounts, up to at least 8 to 10 g per day. In most instances no untoward results have been noted. But there is marked paucity of such studies that were well controlled and in which inquiring attention was given to possible harmful effects. In due course, such studies would be desirable.

In the various studies on the effects of ingesting excessive amounts of ascorbates, attention has been focused on questions including oxalate excretion and renal tract stones, effects on the utilization of copper, iron, and other metals, need for vitamin B_{12}, blood coagulation, and reproductive performance. The findings indicate that the tolerance to excessive amounts of ascorbic acid and its sodium salt is high. Several investigators have reported the development of dependency in animals and humans after ingestion of larger amounts of ascorbates for extended time periods; however, the levels of ascorbate intake in these studies exceeded the estimated daily intakes of ascorbates added to foods by 1 to 3 orders of magnitude.

[2] "Evaluation of the Health Aspects of Ascorbic Acid, Sodium Ascorbate, Calcium Ascorbate, Erythorbic Acid, Sodium Erythorbate, and Ascorbyl Palmitate as Food Ingredients," Live Sciences Research Office, Federation of American Societies for Experimental Biology, 1979, pp. 11–31. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

It is notable that no data have been found concerning the possible effects of ascorbyl palmitate and calcium ascorbate in humans, and there is practically no information regarding the latter in animals. Information concerning ascorbyl palmitate in animals is almost as limited. The few meaningful experiments suggest that ascorbyl palmitate is tolerated about the same as ascorbic acid and sodium ascorbate. This should be expected. It is reasonable to assume that the tolerance to calcium ascorbate is approximately the same as for sodium ascorbate and this is at a high level.[3]

The Select Committee concludes that there is no evidence in the available information on ascorbic acid, sodium ascorbate, calcium ascorbate, erythorbic acid, sodium erythorbate, and ascorbyl palmitate that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used as food ingredients at levels that are now current or that might reasonably be expected in the future.[4]

FDA has undertaken its own evaluation of all available information on these ingredients and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of these ingredients is justified. Therefore, the agency proposes to affirm these ingredients, except calcium ascorbate, as GRAS.

FDA has concluded that calcium ascorbate should be removed from the GRAS list as direct human food ingredient because of the lack of information on its use in food. The agency requested use information on calcium ascorbate in two surveys of food manufacturers, but no information describing the conditions under which this substance is used (technical effects, level of addition, food categories) was provided. To complete its evaluation of the GRAS status of calcium ascorbate, FDA must have information on the conditions under which this substsnce is used in food. Under the Federal Food, Drug, and Cosmetic Act, a food ingredient may be GRAS only under the conditions of its intended use. If use conditions are unknown, a GRAS determination cannot be made. However, if FDA receives as comments on this proposal evidence of actual direct food use of calcium ascorbate, the agency will consider affirming the use as GRAS.

Because the NAS/NRC survey did not specifically request data on dietary supplement use, FDA does not have adequate data upon which to judge the exposure to ascorbic acid from this use. Without such exposure data, FDA cannot evaluate the safety of the use of ascorbic acid in dietary supplements and therefore can take no action on the GRAS status of ascorbic acid for this use. Therefore, FDA is not taking any action on the listing of ascorbic acid in § 182.5013 as a dietary supplement.

The 1971 NAS/NRC survey reported that sodium ascorbate is used in infant formula at 0.016 percent as compared to 0.012 percent for ascorbic acid. These values indicate that ascorbic acid and its sodium salt are added alternatively as nutrient sources of vitamin C. Based on its review of the relevant data, FDA has tentatively concluded that the use of these two ingredients in infant formula is safe. This proposed regulation will allow use of either ingredient as an appropriate source of vitamin C.

FDA is proposing to affirm the GRAS status of ascorbic acid, sodium ascorbate, erythorbic acid, sodium erythorbate, and ascorbyl palmitate when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). The agency is proposing not to include in the GRAS affirmation regulations for these substances the levels of use reported in the 1971 NAS/NRC survey. Both FASEB and the agency have concluded that a large margin of safety exists for the use of these substances, and that a reasonably foreseeable increase in the level of consumption of these substances will not adversely affect human health.

Because the affirmation of the GRAS status of erythorbic acid, sodium erythorbate, and ascrobyl palmitate is based on the evaluation of limited uses, the proposed regulations for these ingredients set forth the technical effects and food categories that FDA evaluated. On the other hand, because ascorbic acid and sodium ascorbate are used in numerous food categories, FDA has concluded that it is not necessary to include a description of food categories in the proposed GRAS affirmation regulations for these ingredients. The affirmation of the GRAS status of these substances is based on the evaluation of their currently known uses, however, and therefore the agency is setting forth the technical effects for these ingredients in the proposed regulations.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature reviews and the report of the Select Committee on ascorbic acid and ascorbates are available for review in the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161, as follows:

Title	Order No.	Price code	Price[1]
Ascorbic acid (scientific literature review)	PB 241-965	A16	$30.00
Ascorbates (scientific literature review)	PB 223-866	A06	12.00
Ascorbic acid, sodium ascorbate, calcium ascorbate, erythorbic acid, sodium erythorbate, and ascorbyl palmitate (Select Committee report).	PB 80-126796	A04	9.00

[1] Price subject to change.

This proposed action does not affect the current use of ascorbates and erythorbates in pet food or animal feed.

The format of the proposed regulations is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1013, 184.1041, 184.1149, 184.1731, and 184.1756 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing conditions of use, including when appropriate both the technical effects and food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to

[3] *Ibid.*, p. 32.
[4] *Ibid.*, p. 33.

maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients; Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. In Part 182:

§ 182.3013 [Removed]

a. By removing § 182.3013 *Ascorbic acid.*

§ 182.3041 [Removed]

b. By removing § 182.3043 *Erythorbic acid.*

§ 182.3149 [Removed]

c. By removing § 182.3149 *Ascorbyl palmitate.*

§ 182.3189 [Removed]

d. By removing § 182.3189 *Calcium ascorbate.*

§ 182.3731 [Removed]

e. By removing § 182.3731 *Sodium ascorbate.*

§ 182.8013 [Removed]

f. By removing § 182.8013 *Ascorbic acid.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184:

a. By adding new § 184.1013, to read as follows:

§ 184.1013 Ascorbic acid.

(a) Ascorbic acid (L-ascorbic acid, $C_6H_8O_6$, CAS Reg. No. 50–81–7), also known as vitamin C, is white or slightly yellow crystals or powder. It is present in nutritionally useful amounts in many edible plants, especially rapidly growing leafy vegetables, fruits, tomatoes, and potatoes. Ascorbic acid is commercially synthesized from D-glucose via the following intermediates: D-sorbitol, L-sorbose, and diacetone-2-keto-L-gluconic acid. Ascorbic acid is soluble in water and slightly soluble in ethyl alcohol.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 27, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other then current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter; as a curing and pickling agent as defined in § 170.3(o)(5) of this chapter; as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; as a nutrient supplement as defined in § 170.3(o)(20) of this chapter; as a pH control agent as defined in § 170.3(o)(23) of this chapter; and as a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice. The ingredient may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

b. By adding new § 184.1041, to read as follows:

§ 184.1041 Erythorbic acid.

(a) Erythorbic acid ($C_6H_8O_6$, CAS Reg. No. 89–65–6) is white or slightly yellow crystals or powder. It is prepared from D-glucose by a combination of biosynthesis and chemical synthesis via the intermediates 2-keto-D-gluconic acid and sodium erythorbate. Erythorbic acid is soluble in water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 110, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter; as a curing and pickling agent as defined in § 170.3(o)(5) of this chapter; as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; and as a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in the following foods at levels not to exeed current good manufacturing practice: baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; fats and oils as defined in § 170.3(n)(12) of this chapter; fruits and water ices as defined in § 170.3(n)(21) of this chapter; gravies and sauces as defined in § 170.3(n)(24) of this chapter; meat products as defined in § 170.3(n)(29) of this chapter; processed vegetables and vegetable juices as defined in § 170.3(n)(36) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

(d) In accordance with § 101.33 of this chapter, the label of a food that contains this ingredient shall designate the name erythorbic acid.

c. By adding new § 184.1149, to read as follows:

§ 184.1149 Ascorbyl palmitate.

(a) Ascorbyl palmitate (palmitoyl L-ascorbate, $C_{22}H_{38}O_7$, CAS Reg. No. 137–66–6) is a white or yellowish white powder at room temperature. It is prepared by the reaction of ascorbic acid with palmitic acid. It is soluble in ethyl alcohol and very slightly soluble in water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 27, which is incorporated by reference. Copies are available from the National Academy

Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter and as a surface-active agent as defined in § 170.3(o)(29) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: coffee and tea as defined in § 170.3(n)(7) of this chapter and fats and oils as defined in § 170.3(n)(12) of this chapter.

d. By adding new § 184.1731, to read as follows:

§ 184.1731 Sodium ascorbate.

(a) Sodium ascorbate (sodium L-ascorbate, $C_6H_7O_6Na$, CAS Reg. No. 134-03-2) is a salt of L-ascorbic acid and exists as a white or slightly yellow crystalline solid. It is prepared by neutralization of L-ascorbic acid with sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 277, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter; as a curing and pickling agent as defined in § 170.3(o)(5) of this chapter; and as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice. The ingredient may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

e. By adding new § 184.1756, to read as follows:

§ 184.1756 Sodium erythorbate.

(a) Sodium erythorbate ($C_6H_7O_6Na$, CAS Reg. No. 6-381-777) is the anhydrous or monohydrate sodium salt of erythorbic acid and exists as white crystalline powder or granules. It is prepared from D-glucose by a combination of biosynthesis and chemical synthesis via the intermediate 2-keto-D-gluconic acid. Sodium erythorbate is soluble in water.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 285, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter and a curing and pickling agent as defined in § 170.3(o)(5) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: alcoholic beverages as defined in § 170.3(n)(2) of this chapter; nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; breakfast cereals as defined in § 170.3(n)(4) of this chapter; meat products as defined in § 170.3(n)(29) of this chapter; milk products as defined in § 170.3(n)(31) of this chapter; and poultry products as defined in § 170.3(n)(34) of this chapter.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR 184 or 186), as appropriate.

Interested persons may, on or before March 15, 1983, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 21, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-881 Filed 1-13-83; 8:45 am]

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21 CFR Parts 182 and 184

[Docket No. 78N-0308]

Biotin; Proposed Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that biotin is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency. The proposal would take no action on the listing of this ingredient as a GRAS substance for use in dietary supplements.

DATE: Written comments by March 15, 1983.

ADDRESS: Comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-426-8950.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and

proposals (see the Federal Register of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of biotin has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of this ingredient for use as a nutrient supplement in special formula used for weight control and infant formula.

The GRAS status of the use of biotin in dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using biotin in dietary supplements. The use of this ingredient in dietary supplements will continue to be permissible under Subpart F of Part 182 (21 CFR Part 182).

Biotin, one of the B-complex vitamins, is d-*cis*-hexahydro-2-keto-1*H*-thieno-(3,4)-imidazole-4-valeric acid. It is a white crystalline compound with a molecular weight of 244. The biotin molecule contains three asymmetric carbon atoms, making possible four diastereoisomers or eight optically active isomers. Only natural biotin, having the formula indicated above, is biologically active. Biotin is present in small quantities in many foods. Sources of biotin include liver, egg yolk, yeast, soybeans, cauliflower, cowpeas, and certain fish (mackerel, salmon, and sardines).

Biotin was listed as a GRAS nutrient/dietary supplement in a regulation published in the Federal Register of January 31, 1961 (26 FR 938). However, in regulation published in the Federal Register of September 5, 1980 (45 FR 58837), FDA divided the nutrient and dietary supplement category into separate listings for GRAS dietary supplements and for GRAS nutrients. Therefore, biotin is currently listed as GRAS in §§ 182.5159 and 182.8159 (21 CFR 182.5159 and 182.8159) for use in dietary supplements and as a nutrient. Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists biotin as a required nutrient in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the level of biotin in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act. Biotin also may be used to fortify foods as described in Part 104 (21 CFR Part 104).

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which biotin is used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to biotin. FDA estimates from the NAS/NRC survey that the total amount of biotin used in food in 1970 was 17 pounds.

The NAS/NRC survey also indicated that infant formula was the only food to which biotin was added. The Physician's Desk Reference indicates that biotin is not added to milk-based infant formula (i.e., those fed to the great majority of U.S. infants) but is added to some soy isolate-based infant formula and to certain other milk-free formula prepared either for infants or for other age groups at levels ranging from 0.05 to 0.15 milligram per liter. According to the estimates of Fomon,[1] which appear in the report of the Select Committee on GRAS Substances (the Select Committee) to FDA, based on the percentage of infants fed milk-free formula and on the approximately 3.5 million infant births in the United States in 1970, approximately 44 million liters of milk-free formula were fed to infants in that year. If all of this formula had been fortified with biotin at the maximum level (0.15 milligram per liter), about 15 pounds biotin would have been needed.

Biotin has been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 1,543 abstracts on biotin was reviewed, and 53 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in the report to FDA by the Select Committee, which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available safety information on biotin.[2] In the Select Committee's opinion:

> Biotin, one of the B-complex vitamins, is an essential nutrient functioning as a part of the enzyme systems of the human body that are involved in carboxylation and decarboxylation reactions. It is present in many foods and usual diets of adults probably supply an average of 30 or 40 μg daily, with large variation. The difficulty of producing biotin deficiency in mammals without the use of avidin indicates that the usual intakes are in excess of those required for normal maintenance and growth.
>
> Currently the only food use of biotin is milk-free infant formulas and certain special formulas used for weight control and weight gain. Infant formulas are likely to provide approximately 95 μg of biotin per day for a 4-month-old (about 20 μg per kg body weight) and an adult receiving 2,000 kcal in the form of foods for special dietary use under medical supervision could receive up to 300 μg biotin per day (about 5 μg per kg body weight). Considerably larger doses (up to 2 mg per kg body weight) have been administered without untoward affects in attempts at treating several disease conditions.
>
> Although adverse effects of biotin administration on reproductive performance have been reported in limited experiments in rats, the effective doses have been extremely large (about 50 μg of biotin per kg. of body weight). Such does are orders of magnitude greater than those to which humans could conceivably be exposed by consumption of processed foods containing added biotin.[3]

The Select Committee concludes that no evidence in the available information on biotin demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is added to foods at levels that are now current or that might reasonably be expected in the future.[4]

FDA has undertaken its own evaluation of all available information and, insofar as biotin is used as a nutrient supplement in special formula used for weight control and infant formula, concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of this ingredient is

[1] Fomon, S. J., "What Are Infants Fed in the United States?" *Pediatrics*, 50:350–354, 1975.

[2] "Evaluation of the Health Aspects of Biotin as a Food Ingredient," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1978, pp. 4–9. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preambles to proposals that affirm GRAS status in accordance with current good manufacturing practice.

[3] *Ibid.*, p. 9.

[4] *Ibid.*, P. 10.

justified. Therefore, the agency proposes to affirm biotin as GRAS when it is used as a nutrient supplement in special formula used for weight control and in infant formula. However, because the NAS/NRC survey did not specifically request date on dietary supplement use, and because consumer survey data are minimal, FDA does not have adequate data on which to judge the exposure from the use of biotin as a dietary supplement. Without such exposure data, the agency cannot evaluate the safety of this use and therefore is taking no action on the listing of biotin in § 182.5159 for use as a dietary supplement.

Additionally, FDA is proposing not to include in the GRAS affirmation regulation for biotin the levels of use reported in the NAS/NRC 1971 survey for this ingredient. Both FASEB and the agency have concluded that a large margin of safety exists for the use of this substance, and that a reasonably foreseeable increase in the level of consumption of biotin will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of biotin when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of this substance is based on the evaluation of limited uses, the proposed regulation sets forth the technical effect and food categories that FDA evaluated.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review on biotin and the report of the Select Committee are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161, as follows:

Title	Order No.	Price code	Price[1]
Biotin (scientific literature review).	PB 234-690/AS	A07	$13.50
Biotin (Select Committee report).	PB 281-421/AS	A02	6.00

[1] Price subject to change.

This proposed action does not affect the current use of biotin in pet food or animal feed.

The format of the proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1159 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effect and food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.8159 [Removed].

1. Part 182 is amended by removing § 182.8159 *Biotin.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1159, to read as follows:

§ 184.1159 Biotin.

(a) Biotin ($C_{10}H_{16}N_2O_3S$, CAS Reg. No. 58–85–5) is d-*cis*-hexahydro-2-keto-1*H*-thieno-(3,4)-imidazole-4-valeric acid. It occurs naturally and can be prepared from natural sources, such as egg yolk, liver, or milk, by successive extractions, precipitations, and molecular distillation.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 38, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in special formula used for weight reduction at levels not to exceed current good manufacturing practice. The ingredient may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will

constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before March 15, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-660 Filed 1-13-83; 8:45 am]

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21 CFR Parts 182 and 184

[Docket No. 80N-0389]

Calcium Pantothenate, Sodium Pantothenate, and D-Pantothenyl Alcohol; Affirmation of GRAS Status of Calcium Pantothenate as a Direct Human Food Ingredient and Removal of Sodium Pantothenate and D-Pantothenyl Alcohol From GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that calcium pantothenate is generally recognized as safe (GRAS) as a direct human food ingredient when used as a nutrient in conventional food. In addition, FDA is proposing not to affirm the GRAS status of sodium pantothenate and D-pantothenyl alcohol and to remove these substances from the list of substances that are GRAS. The safety of these ingredients has been evaluated under a comprehensive safety review conducted by the agency. The proposal would take no action on the listing of calcium pantothenate as a GRAS substance for use in dietary supplements.

DATE: Written comments by March 15, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-426-8950.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of calcium pantothenate, sodium pantothenate, and D-pantothenyl alcohol has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of calcium pantothenate as a nutrient in conventional food [1] and infant formula.

The GRAS status of the use of calcium pantothenate, sodium pantothenate, and D-pantothenyl alcohol as dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of these ingredients in dietary supplements. Therefore, the use of these ingredients in dietary supplements will continue to be permissible under Subpart F of Part 182 (21 CFR 182).

Pantothenic acid ($HOCH_2C(CH_3)_2CH(OH)CONHCH_2CH_2COOH$) is one of the vitamins of the B complex. It is a component of coenzyme A, which is involved in many acetylation reactions in tissues, e.g., the conversion of choline to acetylcholine, acetate to acetoacetate, and oxalacetate to citrate. The vitamin has been demonstrated to be essential for monkeys and other animals, and a deficiency syndrome for it has been induced in human subjects. Pantothenic acid is widely distributed throughout the animal and plant kingdoms. Liver, meat, cereal grains, milk, egg yolk, and fresh vegetables are particularly good food sources of this substance.

Calcium pantathenate, sodium pantothenate, and D-pantothenyl alcohol have been added to food in preference to pantothenic acid because of their greater chemical stability. Although only the D-isomer of calcium pantothenate and sodium pantothenate has vitamin activity, commercial preparations of calcium pantothenate and sodium pantothenate contain either the D-isomer alone or the DL-racemic mixture, possessing half of the vitamin activity of the D-isomer. FDA is using the name calcium pantothenate and sodium pantothenate to refer to the D- and DL-isomers of these substances.

Calcium pantothenate, sodium pantothenate, and D-pantothenyl alcohol were listed as GRAS nutrient/dietary supplements in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). However, under a regulation published in the **Federal Register** of September 5, 1980 (45 FR 58837), FDA divided the nutrient/dietary supplement category into separate listings for GRAS dietary supplements and for GRAS nutrients. Therefore, calcium pantothenate, sodium pantothenate, and D-pantothenyl alcohol are currently listed as GRAS for use in dietary supplements in §§ 182.5212, 182.5772 and 182.5580 (21 CFR 182.5212, 182.5772, and 182.5580), respectively, and as GRAS for use in food as a nutrient in §§ 182.8212, 182.8772, and 182.8580 (21 CFR 182.8212, 182.8772, and 182.8580), respectively. Pantothenic acid may be used to fortify foods as described in Part 104 (21 CFR Part 104).

The calcium chloride double salt of calcium pantothenate is regulated under § 172.330 (21 CFR 172.330) for use in foods for special dietary use when the additive is of the D (dextrorotatory) or DL (racemate) form. Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists calcium pantothenate and pantothenic acid as required nutrients in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient levels of calcium pantothenate and pantothenic acid in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which calcium pantothenate, sodium

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

pantothenate, and D-panthothenyl alcohol were used and the levels of usage. The survey found that calcium pantothenate is used as a nutrient supplement in several food categories, including baked goods and meat, poultry, and fish products. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these ingredients. FDA estimates from the NAS/NRC survey that the total amount of calcium pantothenate used in food in 1970 was 13,330 pounds, about 6.6 times the amount used in 1960. In the NAS/NRC survey, no manufacturers reported adding sodium pantothenate or D-pantothenyl alcohol to food.

Pantothenates have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12 detection, and (13) processing. A total of 318 abstracts on pantothenates was reviewed, and 32 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available safety information on pantothenates.[2] In the Select Committee's opinion:

Pantothenates occur in all tissues of the body and are essential for normal metabolic function. Daily consumption of calcium pantothenate added to foods by processors in the United States appears to be less than 0.06 mg per capita (1.3 μg per kg), a value that probably also represents total per capita daily consumption of pantothenates added to foods since sodium pantothenate and pantothenyl alcohol do not appear to be used by food processors.

It is estimated that the usual adult diet provides approximately 5 to 19 mg (83 to 316 μg per kg) of naturally occurring pantothenates daily. Animals of several species given 100 mg per kg or more of calcium pantothenate daily for several months showed no evidence of toxicity. Adult patients with disseminated or discoid lupus erythematosus receiving doses of 1 g or more daily (16.6 mg per kg) for several months manifested no evidence of toxicity. Although the evidence is scanty, there appears to be no reason to suspect teratogenicity, fetotoxicity or carcinogenicity from intakes considerably greater than those likely to be obtained from foods.

There are no specifications listed for food grade sodium pantothenate. The Select Committee believes such specifications should be developed even though there appears to be no current use of sodium pantothenate.[3]

The Select Committee concludes that no evidence in the available information on D-pantothenyl alcohol, D- or DL-calcium pantothenate, or D- or DL-sodium pantothenate demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future.[4]

FDA has undertaken its own evaluation of all available information and, insofar as calcium pantothenate is used as a nutrient in conventional food, concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of calcium pantothenate is justified. Therefore, the agency proposes that calcium pantothenate be affirmed as GRAS when it is used as a nutrient supplement in conventional foods. However, because the NAS/NRC survey did not specifically request data on dietary supplement uses, FDA does not have adequate data upon which to judge the exposure from use of calcium pantothenate, sodium pantothenate, and D-pantothenyl alcohol as dietary supplements. Without such exposure data, the agency cannot evaluate the safety of their use in dietary supplements and therefore is taking no action on the listing of these ingredients in §§ 182.5212, 182.5772, and 182.5580 for use as dietary supplements.

Additionally, FDA is proposing not to include in the GRAS affirmation regulation for calcium pantothenate the levels of use and food categories reported in the NAS/NRC 1971 survey for this ingredient. Both FASEB and the agency have concluded that a large margin of safety exists for the use of this substance, and that a reasonably foreseeable increase in the level of consumption of calcium pantothenate will not adversely affect human health. There is much evidence to support this conclusion. Pantothenates occur in all tissues of the body and are essential for normal metabolic function. It is estimated by Chung, et al., that the usual adult diet provides approximately 5 to 19 milligrams (mg) (83 to 316μg per kilogram (kg)) of naturally occurring pantothenates daily.[5] Daily consumption of calcium pantothenate added to foods by processors in the United States is apparently less than 0.06 mg per capita (1.3 μg per kg). Animals of several species given 100 mg per kg or more of calcium pantothenate daily for several months showed no evidence of toxicity. Adult patients with disseminated or discoid lupus erythematosus receiving doses of 1 g or more daily (16.6 mg per kg) of calcium pantothenate for several months manifested no evidence of toxicity. Data presented in the FASEB report from long-term animal and human clinical studies do not provide any reason to suspect teratogenicity, fetotoxicity, or carcinogenicity from intakes of calcium pantothenate considerably greater than those likely to be obtained from foods. Therefore, the agency is proposing to affirm the GRAS status of calcium pantothenate when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of this substance is based on the evaluation of currently shown uses, the proposed regulation sets forth the technical effect that FDA evaluated.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the

[2] "Evaluation of the Health Aspects of Pantothenates as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1978, pp. 8–14. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

[3] *Ibid.*, p. 13.

[4] *Ibid.*

[5] Chung, A. S. M., W. N. Pearson, W. J. Darby, O.N. Miller, and G. A. Goldsmith, "Folic acid, Vitamin B_{12}, Panthothenic Acid and Vitamin B_6 in Human Dietaries," *American Journal of Clinical Nutrition*, 75:451–454, 1961.

agency determines that it is appropriate to do so.

Sodium pantothenate and D-pantothenyl alcohol are currently listed as GRAS dietary supplements and as GRAS nutrients. However, industry use surveys of food manufacturers conducted for FDA under contract did not indicate that these ingredients are used in conventional food. Because evidence of actual use in food is required to affirm the GRAS status of an ingredient in accordance with § 170.35, FDA proposes to remove sodium pantothenate and D-pantothenyl alcohol from the list of ingredients that are GRAS for use in conventional human food. FDA will reconsider the regulatory status of these ingredients if adequate use information is submitted. Comments supporting GRAS affirmation of sodium pantothenate and D-pantothenyl alcohol should provide specific information on manufacturing methods, food-grade specifications, food categories in which the ingredients are used, and the usual and maximum use levels in each food category. Alternatively, persons seeking FDA approval of the use of these ingredients may submit a food additive or GRAS petition in accordance with § 171.1 or § 170.35 (21 CFR 171.1 or 170.35).

Copies of the scientific literature review on pantothenates and the report of the Select Committee are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, Va. 22161, as follows:

Title	Order No.	Price code	Price [1]
Pantothenates (scientific literature review)..	PB-294-892/AS	A06	$8.00
Pantothenates (Select Committee report)..	PB-269-672/AS	A03	6.00

[1] Price subject to change.

This proposed action does not affect the current use of calcium pantothenate, sodium pantothenate, or D-pantothenyl alcohol in pet food or animal feed.

The format of the proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1212 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effect listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.8212, 182.8580, 182.8772 [Removed]

1. Part 182 is amended by removing § 182.8212 *Calcium pantothenate,* § 182.8580 *D-Pantothenyl alcohol,* and § 182.8772 *Sodium pantothenate.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1212, to read as follows:

§ 184.1212 Calcium pantothenate.

(a) Calcium pantothenate ($(C_9H_{16}NO_5)_2Ca$, CAS Reg. No. of the D-isomer, 137–08–6) is a salt of pantothenic acid, one of the vitamins of the B complex. Only the D-isomer of pantothenic acid has vitamin activity, although both the D-isomer and the DL-racemic mixture of calcium pantothenate are used in food. Commercial calcium pantothenate is prepared synthetically from isobutyraldehyde and formaldehyde via 1,1-dimethyl-2-hydroxy-propionaldehyde and pantolactone.

(b) Calcium pantothenate meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 56, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice. Calcium pantothenate may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or

186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before March 15, 1983, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 20, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-679 Filed 1-13-83; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

21 CFR Parts 182 and 184

[Docket No. 81N-0329]

Vitamin A; Proposed Affirmation of Gras Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that vitamin A (including vitamin A acetate and vitamin A palmitate) is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under a comprehensive review being conducted by the agency. The proposal would take no action on the listing of this ingredient as a GRAS substance for use in dietary supplements.

DATE: Comments by March 15, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of vitamin A, vitamin A acetate, and vitamin A palmitate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients for use as nutrients in conventional foods [1] and infant formula.

The GRAS status of the use of vitamin A, vitamin A acetate, and vitamin A palmitate in dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using these ingredients in dietary supplements. The use of these ingredients in dietary supplements will continue to be permissible under Subpart F of Part 182 (21 CFR Part 182).

Vitamin A (retinol) is the alcohol 9,13-dimethyl-7-(1,1,5-trimethyl-6-cyclohexen-5-yl)-7,9,11,13-nonatetraen-15-ol. Vitamin A acetate (retinyl acetate) and vitamin A palmitate (retinyl palmitate) are esters commonly used to supplement foods with vitamin A activity. Two oxidation products of retinol, retinal and retinoic acid, also exhibit vitamin A activity, but the agency has found no evidence that these substances are added to foods.

Preformed vitamin A (retinol and its esters) is found almost exclusively in animal products, particularly in liver and to a lesser extent in kidney, milk, and blood plasma. β-Caroténe, the provitamin, is the primary plant source of vitamin A activity, with carrots, spinach, cantaloupe, apricots, broccoli, and romaine lettuce being particularly rich in vitamin A activity. The all-*trans* isomers of the preformed vitamins and provitamin A carotenoids are the predominant naturally occurring forms.

The biopotency of the various forms of vitamin A is usually expressed in international units (IU) representing total vitamin A and provitamin A activity. The IU equals 0.30 microgram retinol, 0.34 microgram retinyl acetate, 0.55 microgram retinyl palmitate, 0.60 microgram all-*trans* β-carotene, and about 1.2 micrograms of other provitamin A carotenoids.

Vitamin A, vitamin A acetate, and vitamin A palmitate were listed as GRAS nutrients in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, they were listed as GRAS nutrients and dietary supplements in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 838). However, in a final rule published in the **Federal Register** of September 5, 1980 (45 FR 58837), FDA divided the nutrient and dietary supplement category into separate listings for GRAS dietary supplements and for GRAS nutrients. As a consequence, vitamin A, vitamin A acetate, and vitamin A palmitate, respectively, are currently listed as GRAS in §§ 182.5930, 182.5933, and 182.5936 (21 CFR 182.5930, 182.5933, and 182.5936) for use as dietary supplements. Nutrient uses of these substances are covered under §§ 182.8930, 182.8933, and 182.8936 (21 CFR 182.8930, 182.8933, and 182.8936).

Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists vitamin A as a required nutrient in infant formula subject to level restrictions. FDA is reviewing all nutrient levels in infant formula under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient level of vitamin A in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which vitamin A, vitamin A acetate, and vitamin A palmitate were used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these ingredients. FDA estimates from the NAS/NRC survey that, in 1970, the approximate poundage of vitamin A used in the United States was: retinol, 11,000 pounds; retinyl palmitate, 300,000 pounds; and retinyl acetate, 1,100 pounds. These figures amount to nearly 2,000 IU per capita daily of what is reported to be added vitamin A. However, based on other survey information (the Hanes survey and a report compiled by Greaves and Tan), the Select Committee on GRAS Substances (the Select Committee) believes this figure to be too high and estimates that the per capita daily intake of vitamin A added to foods is about 800 IU.[2]

[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

[2] "Evaluation of the Health Aspects of Vitamin A, Vitamin A Acetate, and Vitamin A Palmitate as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1980, p. 10.

The Select Committee reports that the National Research Council has established the recommended daily dietary allowances of vitamin A as 5,000 IU for adult males, 4,000 IU for adult females, 1,400 to 2,000 IU for infants; 2,000 to 3,300 IU for children up to age 11, 5,000 IU for pregnant women, and 6,000 IU for lactating women.

Vitamin A, vitamin A acetate, and vitamin A palmitate were the subjects of two searches of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered: (1) Chemical toxicity; (2) occupational hazards; (3) metabolism; (4) reaction products; (5) degradation products; (6) carcinogenicity, teratogenicity, or mutagenicity; (7) dose response; (8) reproductive effects; (9) histology; (10) embryology; (11) behavioral effects; (12) detection; and (13) processing. A total of 11,048 abstracts on vitamin A was reviewed, and 361 particularly pertinent reports from the literature survey have been summarized in the two reports. the scientific literature reviews and other studies were summarized in a report to FDA by the Select Committee on GRAS Substances, selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The report to FDA contains the following biological information:

Oral doses of retinol are readily absorbed. In vitamin A, depleted rats, each fed 3 mg retinol (10,000 IU), serum levels of retinyl esters reached a maximum in about 5 h. After 24 h virtually all vitamin A activity was found in the liver. Vitamin A activity in blood and liver was present primarily as the palmitate ester although small amounts were also found of the stearate, myristate, and laurate esters. The dosage form significantly affects the rate of absorption of vitamin A preparations. Nishigaki *et al.* found 10 mg of retinyl palmitate (18,000 IU) fed to rats in aqueous emulsion reached maximum concentrations in the lymph in 1 to 2 h, but required 4 h to peak when the same dose was given as an oily emulsion. In a patient with a cannulated thoracic duct, 78 percent of the radioactivity of feed ^{14}C-labeled retinol (at carbon 15) was found in the lymp between 2 and 8 h, with a peak between 3 and 5 h. In normal men and women, vitamin A levels in blood serum were maximal within 4 to 6 h after ingestion of a single dose of 134 mg whether administered as the alcohol, acetate or natural esters. Schneeberger *et al.* found that serum levels of vitamin A peaked at about 400 μg per 100 ml after 3 to 4 h in eight men fed 150,000 IU (2,500 IU per kg) of retinyl palmitate, returning to normal levels within 24 h. Pereira and Begum fed six Indian children 100,000 IU retinyl palmitate together with 11,12 ^{3}H-labeled retinyl acetate as part of a meal and found serum retinol increased sharply 4 h after dosing and declined during the following week. Monitoring of fecal and urinary excretion indicated a retention of 23 to 54 percent of the dose after 8 days.

Absorption of ingested retinol occurs mainly in the mucosal cells of the intestine and is enhanced by bile. Small amounts may be absorbed from the stomach since about 0.1 percent of an intubated dose of ^{14}C-labeled retinol or retinyl acetate was found after 2 h in the liver of rats with subpylorically ligated stomachs. In most species, retinyl esters, such as retinyl acetate or palmitate, are first hydrolyzed in the lumen of the intestine by retinyl ester hydrolases from the pancreas and within the outer brush border of the intestinal mucosal cell. After absorption of retinol by the mucosal cell it is reesterified (catalyzed by retinyl ester synthetase) mainly to retinyl palmitate which enters the circulation principally via the chylomicron fraction of the lymph and is stored as the palmitate in the liver.

Prior to re-entering the blood, the hepatic retinyl ester is hydrolyzed and the retinol is bound to a specific transport protein, retinol-binding protein (RBP), which occurs in free form in human serum and which, in the plasma, is further complexed, in a molar ratio of 1:1, with a prealbumin. This prealbumin appears to be similar, if not identical, to the prealbumin which binds thyroxine.

The RBP's of man, rat, and dog have similar molecular weights (about 20,000), but a high degree of immunological specificity exists within a given mammalian order. By contrast, Rask found porcine RBP, molecular weight about 21,000, to show no immunological cross-reactivity with the corresponding RBP's of the rat, monkey, or man. Vahlquist, using iodine-labeled and endogenously ^{35}S-labeled proteins as tracers in the monkey, estimated biological half-times of 1.9 h, 6.6 h, and 22.5 h for RBP in free form, RBP-prealbumin complex, and prealbumin itself, respectively.

The RBP-retinol-prealbumin complex is believed to prevent the circulating RBP (and retinol) from glomerular filtration of retinol and excretion by the kidney. It is postulated that retinol transport proceeds via dissociation of the RBP-retinol complex from the prealbumin, followed by release of retinol from RBP, deposition of retinol in a target cell, and excretion of free RBP in the urine. Delivery of retinol to extra-hepatic tissues appears to involve specific cell surface receptors for RBP. In some species, notably fish and eels, retinol appears to be transported by uncomplexed RBP-retinol or as retinyl palmitate attached to a high molecular weight lipoprotein. Other recent studies have provided evidence for the existence of a cellular RBP distinct from plasma RBP, and of another cellular binding protein specific for retinoic acid with no affinity for retinol.

Lindler *et al.* have shown, contrary to earlier conclusions, that the principal storage site of retinol in rats is in the hepatocytes of the liver (more than 90 percent) while less than 10 percent is in the Kupffer cells. They suggest, however, that the possibility cannot be excluded that the Kupffer cells are the initial recipients of vitamin A, subsequently transferring it to the hepatocytes. Sundaresan has postulated further that hepatocytes may store retinyl esters while the Kupffer cells store the free alcohol. Ames *et al.* found in rats that over 50 percent of an ingested daily dose of up to 120,000 IU per kg as vitamin A acetate was stored in the liver by the 28th day, and concluded that liver apparently reaches maximal vitamin A storage at about 50,000 IU per g of fresh liver.

Some investigators believe that stored retinyl esters from the liver are released by retinyl palmitate hydrolase found in the nuclear and mitochondrial fractions of rat liver and by retinyl acetate hydrolase which has been isolated from rat liver microsomes. However, because Yeung and Veen-Baigent were unable to demonstrate retinyl palmitate hydrolase in liver homogenates or powders, they have continued to maintain that retinol is formed from retinyl palmitate by extrahepatic hydrolysis. Thus, the actual mechanism(s) for the hydrolysis of stored retinyl esters remains in doubt. Moreover, at least two other observations must be taken into account in the ultimate unraveling of the sequence of steps and sites involved in the metabolism of vitamin A. Sewell *et al.* found in rats that even though total vitamin A activity in the liver remained constant for a period of 45 days following oral administration of retinyl acetate labeled with tritium on carbons 15 and 16, radioactivity in the liver progressively decreased. Similar results were obtained in steers. The estimated half-time of vitamin A in the liver was 57 days in rats and 48 days in steers. The investigators concluded that liver vitamin A stores are in a dynamic state with a continuous turnover of vitamin A

reserves, even though the total storage remains essentially constant. Retinol and some of its derivatives cycle between the liver and the gut as enterohepatic circulation. About 20, 30, and 60 percent, respectively, of labeled retinol, retinal, and retinoic acid injected intraperitoneally were excreted in the bile of cannaluated rats within 24 h. When the excreted bile was placed in a duodenal loop of another rat, radioactivity disappeared from the gut and reappeared in the bile. Hume *et al.*, reporting similar and substantial recycling of retinol metabolites in sheep, have suggested that this may be a conservation mechanism operative during periods of retinol deprivation.

Several physiological and biochemical roles have been ascribed to vitamin A, some well established and others less so. Retinol is accepted as essential for development and maintenance of normal vision. This mechanism is well understood and has been elaborated in a number of reviews cited by Sundaresan and by Mandel. Retinol is regarded as essential for normal growth and reproduction but the mechanisms remain obscure. Vitamin A may also be involved in biological sulfate activation, in steriod and protein biosynthesis, and in maintenance of membrane integrity. Recent studies point to a possible relationship between vitamin A and zinc metabolism, since zinc-deficient rats, swine, and lambs exhibit reduced plasma vitamin A and RBP, adequate concentrations of liver vitamin A, but depressed concentrations of RBP in the liver. These effects of vitamin A deprivation or deficiency and the mechanisms of response to the administration of vitamin A are not particularly relevant to the purposes of this report in assessing the potential for hypervitaminosis A. There is the view, however, supported by some of the older literature and dietary intake studies, that hypovitaminosis A in some segments of the population could be considerably more serious, relatively, than the potential threat of hypervitaminosis A. However, Underwood contends that while vitamin A deficiency is said to be one of the remaining nutrient-specific deficiency diseases of worldwide public health importance, the magnitude of the problem and its severity on a global basis are not known. This is attributed in part to the lack of adequate indicators of the relative level of subclinical nutriture. She states further that the current means for assessment leaves wanting a definitive answer to the question of whether inadquate vitamin A nutriture is a problem of public health significance in the United States.

Whether retinol itself or a metabolic product(s) is the "active" form of the vitamin as it affects the target organs and tissues indicated above, remains in doubt. According to Sundaresan and Mandel it is currently considered likely that either retinoic acid or an as yet unidentified metablite of retinoic acid is the systemically active form of the vitamin for growth and tissue maintenance, while retinal is the active form for maintenance of vision and retinol for reproduction. DeLuca and Zile also summarize current evidence to indicate that retinoic acid or a metabolite is the form which carries out the growth-promoting functions of vitamin A. Enzymes capable of converting retinol to retinal and to retinoic acid exist in the liver, intestinal mucosa, and retina.

The normal plasma concentration of vitamin A is about 30 to 70 μg (100 to 230 IU) per 100 mil but much higher levels have been reported after vitamin A supplements are consumed. For example, Gerber *et al.* measured blood levels of vitamin A in four patients with differing intakes of the vitamin. The fasting vitamin A levels of these patients per 100 ml blood and their daily intakes were, respectively: 120 μg (25,000 to 100,000 IU for 8 years); 88 μg (25,000 to 50,000 IU for 6 years); 60 μg (25,000 IU for 6 years); 225 μg (50,000 IU for 8 months). Only the first and last of these patients had complaints referable to vitamin A toxicity.

Median concentration of vitamin A in man is about 100 μg per g of liver with about 1μg per g present in such tissues as kidney, lung, adrenal, and intraperitoneal fat. Selective localization of the vitamin occurs in the retina of the eye. The calculated body pools of vitamin A, as measured in four individuals by a radioisotopic method using retinyl-^{14}C acetate, were 315, 412, 766, and 877 mg. Raica *et al.* found the mean concentration of vitamin A in the liver to be 146 μg per g, SD±151, in 372 necropsy samples taken in five different states; most other tissues contained 1 μg or less per g. Only trace amounts of β-carotene were found in the livers. Lorente and Miller demonstrated that vitamin A passes the placenta and concentrates in the fetal liver in rats, but not in rabbits.

The major route of excretion of retinol and its metabolites in the rat appears to be the feces via the bile but significant amounts of some metabolites are also excreted in the urine, and carbon dioxide from oxidation of the carbons of the side chain is excreted via expired air. Roberts and DeLuca injected retinol-deficient rats intravenously with ^{14}C-labeled retinyl acetate and retinoic acid (doses of 2.0 and 14.5 mg, respectively) and measured recovery of radioactivity in expired CO_2, urine, and feces 2 days after injection. With 6, 7 $^{14}C_6$-retinyl acetate, the percentages of the dose recovered in expired CO_2, urine, and feces were about 2, 17, and 18, respectively; with 6, 7 $^{14}C_6$-retinoic acid, the corresponding percentages were about 1, 36, and 64. When 15 ^{14}C-retinyl acetate or 15 ^{14}C-retinoic acid was injected, the corresponding percentages of radioactivity recovered were about 10, 10, and 14 for the acetate, and about 35, 20, and 44 for the acid. Since total recovery of administered dose after 2 days was substantially greater for the acid (about 100 percent) than for the acetate (about 30 percent), the authors concluded that metabolism of the acetate proceeds at a much slower rate. From these and other experiments, DeLuca and associates have postulated at least three pathways for the ultimate excretion of retinyl acetate or retinoic acid metabolites:

I. Products containing intact isoprenoid side chain representing 60 to 80 percent of the ingested dose; excreted predominantly in the feces and the remainder in the urine, presumably as retinoyl β-glucuronic acid.

II. Products decarboxylated at carbon 15 representing about 10 to 20 percent of the ingested dose; carbon 15 will be expired as CO_2 and the remainder excreted in the feces.

III. Products in which some or all of the isoprenoid side chain has been oxidized to CO_2; the CO_2 will be expired and derivatives of the remainder of the molecule excreted in the urine (some 17 to 20 percent).

Similar results were obtained by Nath and Olson who found that about 65 percent of an intraperitoneal dose of 15 ^{14}C-retinoic acid was excreted in the feces of rats with about 30 percent of the radioactivity accounted for by retinoyl β-glucuronide. Lippel and Olson demonstrated that retinoyl β-glucuronide is by far the major metabolite, if not the sole one, in the bile after intraportal injection of retinoic acid and suggested that the reported presence of retinoic acid esters, the υ-lactone of retinoyl β-glucuronide, and retinoic acid itself is due to reactions catalyzed by the anion-exchange resin used in the extraction process.

The nature of the urinary metabolites was explored further by Sundaresan and Bhagavan who found evidence of at least six types of metabolites in the urine after injection of physiological

doses of differentially labeled retinoic acid into retinol-deficient rats. They concluded that the major metabolite(s) was one lacking both carbons 14 and 15 of retinoic acid. Retinoyl β-glucuronide was not present in the urine in significant amounts. Using improved chromatographic procedures, DeLuca and Zile have detected, but not identified, at least eight metabolites of retinoic acid in tissue extracts of liver, kidney, blood, small intestine, and skin. Roberts and Frolik found retinoic acid to be converted both in organ culture and in subcellular preparations from intestinal mucosa, liver, and testis to several metabolites that are more polar than retinoic acid, among them being 4-hydroxy- and 4-keto-retinoic acid. These investigators suggest that oxidative attack at carbon 4 may be the first step in the elimination of retinoic acid from the tissues.

During a study of the requirement of man for retinol in which seven subjects were injected with 10 to 15 mg of 15 ^{14}C-retinyl acetate, pulmonary excretion of $^{14}CO_2$ was found to be the major excretionary route.

Ames *et al.* estimated the oral, single dose, LD_{50} for crystalline vitamin A acetate dissolved in cottonseed oil in the rat to be about 10 million IU(3.4 g) per kg body weight. In 28-day subchronic tests, no deaths occurred at a feeding level of 150,000 IU (51 mg) per kg per day, and an LD_{50} at 28 days of 200,000 to 300,000 IU (68 to 102 mg) per kg per day was simultaneously estimated. They also observed that depression of growth curves closely parallel breaking strength of excised leg bones and, hence, was a very sensitive measure of vitamin A toxicity. Rats on daily supplements as high as 100,000 IU per kg showed normal growth while there was marked growth depression at levels of 150,000 to 200,000 IU per kg. No details concerning animal age or weight, dose range, or sex and number of animals per dose werer provided.

McLaren *et al.* found that only 2 of 20 adult Sprague-Dawley rats survived more than 3 days following intraperitoneal injection of 200 to 500 mg (667,000 to 1.6 million IU) of retinol per kg body weight. Similar results (only 4 of 11 animals survived) were obtained with weanling rats injected with 425 mg (1.4 million IU) retinol per kg. Survival time was inversely related to plasma retinol and retinyl ester levels. However, all 7 adult rats survived 2 months and showed no signs of toxicity after intraperitoneal injection of 370 mg (673,000 IU) of retinyl palmitate per kg body weight.

Acute poisoning resulting from consumption of polar bear liver has been attributed to its high vitamin A content (13,000 to 18,000 IU per g). In typical cases, illness, including drowsiness, irritability, headache, and vomiting followed within a few hours after a meal of polar bear liver.

In infants given single oral doses of 350,000 IU of vitamin A, transient hydrocephalus and projectile vomiting occurred about 12 h after treatment. Woodward *et al.* also noted that an infant given 70,000 IU of vitamin A daily (about 20,000 IU per kg body weight) from age 4 days exhibited bulging of the fontanel at 2 months of age and suffered as well from hyperirritability, hyperesthesia, alopecia, and increased intracranial pressure. Caffey and Silverman have indicated that early clinical features of vitamin A toxicity are not distinctive and it is only after 6 or more months following onset of excessive intake, when the blood level of vitamin A is definitely increased and there is tenderness, pain, and swelling of the extremities, that the clinical picture becomes diagnostic.

Hillman experimentally produced and studied hypervitaminosis A in a 40-year-old, 75 kg male. In the first experimental period, 1 million IU of water-miscible vitamin A (about 13,000 IU per kg body weight) were ingested daily for 13 days. Plasma vitamin A level peaked at about 750 μg per 100 ml on day 14 and receded to less than 100 μg per 100 ml (pretreatment level) by day 20. Principal clinical features included severe headache, chiefly frontal and retro-orbital, pruritic dermatitis, generalized desquamation, alopecia, increased fragility of the fingernails, splitting and chapping of the lips, gastrointestinal disturbance, anorexia, nausea, alternating constipation and diarrhea, visual disturbance, transitory dizziness, weakness, fatigue, and pain and tenderness in the leg bones. Similar effects on plasma level were observed in a second experimental period of 25 days at the same daily dosage. Some of the signs and symptoms experienced during the first experimental period did not appear in the second but some were more severe in the latter.

The adverse effects, principally characteristic bone lesions, of greatly excessive doses of vitamin A concentrates in laboratory animals were note nearly a half century ago. These and other early observations were inconclusive in implicating vitamin A as the causal agent because of the presence of variable amounts of unknown impurities in some of the vitamin A proparations used. However, they were confirmed when pure retinol and its esters became available and many subsequent studies have helped to delineate the multiplicity of adverse consequences of hypervitaminosis A. Wolbach has reviewed the earlier work with respect to the skeletal effects of vitamin A deficiency and excess.

Male rats fed 50,000 IU of vitamin A as retinyl acetate daily for 4 days mixed with their basal ration, and 25,000 IU daily thereafter (330,000 IU per kg body weight per day) for the next 20 days, developed abnormally thin bones, fractures and exophthalmos in all animals and subcutaneous and intramuscular hemorrhages in some animals. Cappellin and Crepax found that rats tolerated a daily intubated dose of 10,000 IU of retinyl acetate (about 130,000 IU per kg body weight) for 3 months without observed adverse effects. When the daily dose was doubled (about 260,000 IU per kg body weight) in another group of rats, all animals lost weight and died within 25 to 30 days. In these animals, spontaneous and multiple bone fractures occurred by the 15th day; alopecia and inflammation of connective tissue accompanied by hemorrhage were observed. Conne *et al.* fed rats vitamin A acetate at a level of about 165,000 IU per kg body weight daily for 2 weeks during which they lost weight and became moribund. Necropsy showed increased vascularization of pulp and periodontium of the upper incisor accompanied by thinning of the dentin and hypercalcification of the enamel and dentin.

Randall fed up to 50,000 IU vitamin A per day as palmitate per kg body weight to rats for 10 months and up to 25,000 IU per day per kg body weight to dogs for 10 months with no observed adverse effects on growth rates or hematology.

Lewis and Cohlan intubated groups of 50 adult male rats with 25,000, 50,000 or 100,000 IU vitamin A (125,000 to 500,000 IU per kg body weight) daily, either with a water dispersible commercial preparation of vitamin A (Aquasol®) or with vitamin A natural esters, for 21 days. All animals receiving 100,000 IU of the Aquasol® died by the eighth day, while 83 percent of the animals receiving 100,000 IU of natural esters survived 21 days. Forty percent of the animals receiving 50,000 IU of the Aquasol® died within 21 days as contrasted with 6 percent mortality in the 50,000 IU natural ester group. During the 21 day experimental period, signs of vitamin A toxicity included scruffiness of the pelt, drowsiness, muscular weakness, reduced appetite and growth, alopecia, exophthalmos, limping, spontaneous fractures, and scoliosis. No mention is made of mortality in the animals receiving 25,000 IU daily, either

as aqueous or oily preparations; presumably no obvious signs of hypervitaminosis A appeared at this level.

Ames *et al.* found depression of growth rate to be a very sensitive measure of vitamin A toxicity. Rats showed normal growth curves with doses of retinyl acetate up to 100,000 IU per kg body weight per day but marked growth depression at levels of 150,000 to 200,000 IU per kg. Breaking strength of excised leg bones decreased with increasing dosages and closely paralleled depression of the growth curve. Organ weights after toxic doses were essentially normal with the exception of marked hypertrophy of the adrenals. Sobel *et al.* found no growth depression in rats on stock ration supplemented by intubated retinyl acetate at doses up to 30,000 IU per kg per day but marked depression in growth rate at 300,000 IU per kg per day.

Nerurkar and Sahasrabudhe fed retinyl palmitate (about 400,000 IU per kg body weight) daily to rats for periods of 3, 6, 9, and 12 consecutive days, and determined the calcium, phosphorus, nitrogen, and ash content of the bone in animals sacrificed following the final daily dose; blood serum levels of calcium and inorganic phosphorus, blood and liver levels of vitamin A, and urinary and fecal excretion of calcium, phosphorus, and nitrogen were also determined. There was reduced food intake, weight loss, and skeletal fractures and hemorrhages, with the degree of toxicity approximately proportional to the total quantity of vitamin A consumed. A negative balance was observed with respect to calcium, phosphorus, and nitrogen with the trend continuing long after cessation of administration of large doses of the vitamin. No changes were detected in the levels of calcium and inorganic phosphorus in the blood, nor in the relative mineral composition of the bones. However, bone thinning occurred accompanied by increased urinary and fecal excretion of calcium and phosphorus.

Matrajt-Denys *et al.* found that Wistar rats, given 2,500 IU of retinyl acetate in peanut oil subcutaneously 3 times a week for 4 weeks (about 35,000 IU per kg body weight on injection days), showed reduced rate of weight gain. Femoral length and the area of cortical bone at midshaft was less than in the controls. Histological studies revealed that the caudal vertebrae had thinner cortices and less trabecular bone, calcified cartilage and growth cartilage. The number of vascular channels and the percentage of osteocytic cavities greater than 15 microns in diameter were increased. However, subcutaneous administration of porcine calcitonin to animals receiving vitamin A at the above level, partially or wholly prevented these changes. The investigators concluded that vitamin A inhibits bone growth and stimulates bone resorption while calcitonin prevents both effects.

Berdjis fed 40 rats 100,000 to 300,000 IU retinol per kg body weight daily, sacrificing 10 rats each week after 1, 2, 3, and 4 weeks. Extensive hemorrhages and multiple spontaneous fractures occurred during the first 2 weeks. In surviving animals, degeneration of cartilage cells and replacement of cartilage by bone were accelerated and resulted in early closure of the epiphyses. Weight loss and similar pathological signs at exaggerated doses were also observed in rats fed about 600,000 IU per kg body weight per day of retinyl acetate for 10 days; about 1,000,000 IU per kg of the acetate ester for 5 days; or about 2,000,000 IU per kg per day of the palmitate ester for 16 days.

Regezi and Rowe fed 10,000 IU retinol every 2 days (60,000 IU per kg body weight on days fed) to 10 male Sprague-Dawley rats for 16 weeks and 50,000 IU daily (455,000 IU per kg per day) to 5 male Sprague-Dawley rats for 16 days. Rats on the lower dosage grew as well as the controls up to the fourteenth week, at which time they began to lose weight. The difference in mean weights between experimental and control animals was not statistically significant until the sixteenth week and the animals were normal in appearance and behavior. Rats on the higher dosage, on the other hand, had progressive weight loss beginning at day 6, were lethargic and inactive, and lost hair. Morphologic abnormalities occurred in the submandibular gland at both dose levels but were more pronounced at the higher level.

Leelaprute *et al.* fed groups of 10 female rats 25,000, 50,000, and 75,000 IU of retinol daily (about 160,000 to 480,000 IU per kg). Animals at the 25,000 IU retinol dose level and the 50,000 IU retinyl palmitate level failed to gain weight but showed no gross bone changes or microscopic calcification of kidneys, lungs, heart, or liver; all animals lost weight at higher dose levels and most showed gross bone changes and organ calcification.

Seawright *et al.* found dietary levels of about 54,000 and 270,000 IU vitamin A per kg body weight as the palmitate for 24 to 41 weeks produced primary lesions mainly in the first three joints of the cervical vertebrae of cats. There was extensive osseocartilagenous hyperplasia at the margins of the joints. These changes did not occur in control animals receiving no supplemental vitamin A or at a dietary level of 27,000 IU vitamin A per kg body weight. Clark fed weanling kittens retinyl acetate (approximately 210,000 IU per kg per day) for 21 to 30 days and found food consumption to be reduced by 20 to 60 percent. Reduced endochondral bone growth occurred because of osteoporosis and damage to the epiphyseal plates.

Male, Hartley strain guinea pigs receiving in the diet up to approximately 4,000 IU vitamin A as retinol per kg per day for 40 to 50 days maintained normal growth with no evidence of toxicity, while a dose of about 130,000 IU per kg for the same period was toxic and caused depressed growth rate.

Weanling crossbred boar pigs fed up to about 20,000 IU of retinyl acetate per kg per day for 5 weeks appeared normal, while animals receiving about 60,000 IU per kg per day showed abnormal stance with varying degrees of lameness and hind limb immobilization, extensive weakness, increased adrenal, heart, and kidney weights, and elevated serum transaminase (SGOT, SGPT). These results were confirmed using Yorkshire-Hampshire crossbred pigs, 4 to 5 weeks old. Normal growth and minimal osseous lesions were found after 5 weeks at the 20,000 IU per kg level, while at the 60,000 IU per kg level, severe lesions occurred in both endochondral and intramembranous bone. Long bones were decreased in length and width with greatest tissue loss in the epiphysis due to lysis of chondroid matrix. Later work in the same laboratory with the same variety of pigs quantitated the osteoblastic response to excess dietary vitamin A. Calcified tranverse diaphyseal sections of radii from pigs receiving 33,000 IU per kg per day for 5 weeks showed significantly decreased growth rate; appositional bone growth in these pigs was 0.059 mm compared to 0.127 mm in control pigs receiving 350 IU per kg per day. Raddi from hypervitaminotic-A pigs had fewer and thiner osteoid seams than radii from control pigs. The investigators suggested that porcine vitamin A toxicosis leads to decreased osteogenesis secondary to decreased osteoblastic activity. Gorgacz *et al.* found a level of 28,000 IU per kg of retinyl acetate to be mildly hypervitaminotic when fed to Holstein calves, while a level of about 58,000 IU per kg produced depressed growth, hyperhidrosis, alopecia, hyperemia of

oral, nasal, and anal mucosae, lameness, and abnormal stance and horn growth.

In an attempt to shed light on the mechanism of hypervitamin A toxicity, Mallia *et al.* fed Holtzman strain rats about 100,000 IU of vitamin A as retinyl acetate daily (about 400,000 IU per kg body weight) for 23 days, together with trace amounts of ^{3}H-retinyl acetate daily. In the blood of these animals 84 percent of the administered vitamin A was found in the lipoprotein fraction unbound to RBP, compared with 18 percent in animals receiving about 1,600 IU as retinyl acetate per kg. In the animals receiving the high doses of vitamin A, substantial and significant decreases in the level of serum RBP occurred, leading the investigators to suggest the possibility that excess vitamin A leads to decreased rate of RBP synthesis in, and its secretion from, the liver. The investigators concluded that serum lipoproteins play an important role in the transport of vitamin A during hypervitaminosis and that toxic manifestations of vitamin A overdosing appear when vitamin A circulates in the plasma in a form not bound to retinol bining protein. They speculated that the nonspecific and unregulated delivery of vitamin A to the tissues in this manner may lead to vitamin A toxicity. Data consistent with this interpretation have been obtained in limited clinical studies of vitamin A toxicity.

In summary, it appears that the lowest reported adverse effect level in experimental animals is about 30,000 IU per kg per day for periods of 3 to 5 weeks.

Prolonged administration of excessive amounts of vitamin A in man can lead to a variety of signs and symptoms characteristic of hypervitaminosis A. In an early report, in 1944, a child receiving 240,000 IU of vitamin A daily (as halibut liver oil) between the ages of 3 months and 3 years (dose level about 50,000 IU per kg at the start, assuming a 5 kg child), showed enlarged liver and spleen, hypoplastic anemia, leucopenia, precocious skeletal development, and clubbing of the fingers. After administration of halibut liver oil was discontinued, most of these manifestations disappeared.

Since 1951 many instances of hypervitaminosis A in adults have been described involving patients who had consumed from 100,000 to 600,000 IU or more of vitamin A daily (about 1,600 to 10,000 IU or more per kg body weight) for periods ranging from several months to 8 years before hospital admission. Complaints varied in severity but consistently included headache, hair loss, joint and bone pain, anorexia, nausea, skin rash, irritability, fatigue, and depression. The patients occasionally experienced diplopia, hepatomegaly, tachycardia, hypercalcemia, and edema of the extremities, and infrequently showed bone changes or central nervous system signs or symptoms. In one 18-year-old female who had consumed 200,000 IU of vitaman A daily (about 3,300 IU per kg) for about 2 years, measurement of rib bone biopsy specimens showed the presence of osteocyte lacunae of greater than usual size and bone resorption approximately 6 times greater than in rib specimens taken from 6 normal persons of similar age. One 54-year-old male who had consumed about 800 IU of vitamin A per kg body weight daily for 3 years exhibited only central nervous system symptoms or signs, and liver enlargement. Vitamin A blood level in this patient, 69 μg per 100 ml, was within the normal range.

A study of 16 females and 1 male (ages 14 to 62) suspected of suffering from hypervitaminosis A revealed that vitamin A intoxication characterized by skin dryness, hair loss, weakness, joint pain, anorexia and headache, occurred within 2 months at daily doses of 200,000 to 275,000 IU (about 3,300 to 4,600 IU per kg). The smallest dose leading to intoxication was found to be about 700 IU per kg daily taken for 8 years.

Körner and Völlm assembled and reviewed data on 132 cases of all ages of presumed chronic hypervitaminosis A. About 75 percent of these cases were genuinely hypervitaminotic and were about equally divided between those who had medicated themselves and those for whom the vitamin had been prescribed. As liver storage capacity was exceeded (about 10-fold normal level), signs of hypervitaminosis A appeared. With comparable doses, symptoms of hypervitaminosis A appeard earlier when the vitamin was given in the emulsified rather than in an oily form, because of its better absorbability in the former state. Liver concentration of vitamin A was highly correlated with daily intake per kg body weight and its duration in these cases. At a daily intake of 5,000 IU per kg of vitamin A in oily solution, hypervitaminosis A symptoms began to appear in about 3.5 years. In contrast, equal doses of aqueous emulsions produced symptoms within 7 months. The investigators suggest, as a rule of thumb, the daily dose per kg body weight, multiplied by the duration in days, should not exceed 1 million.

Hawkins and Burlon have suggested that 50,000 IU per day (about 800 IU per kg) for not more than 2 months is the highest advisable dose of vitamin A for treatment of diseases of skin and mucous membranes.

Oliver summarized 36 cases of vitamin A intoxication which had been reported by 1958. In infants who had received daily vitamin A overdoses for periods of several months, all showed bone changes on X-ray examination. Many showed enlargement of the liver, skin lesions, loose hair, and fissured lips. Of the patients receiving only moderate overdoses of vitamin A, the smallest dose found to elicit these signs, which appeared at age 28 months, was about 3,000 IU per kg body weight daily, consumed over a period of 17 months beginning at age 12 months. Seven infants or young children receiving 75,000 to 500,000 IU (7,500 to 50,000 IU per kg assuming a 10 kg child) of vitamin A daily for 6 to 15 months exhibited pruritis, hyperirritability, swelling, and pain of the extremities accompanied by hypervitaminosis. The minimal toxic daily dose was estimated to be 75,000 units (about 7,500 IU per kg).

Pereira and Begum fed 23 children (age 2 to 6 years) a daily dose of 50 mg retinyl palmitate in peanut oil (about 9,000 IU per kg for a 10 kg child) for 18 weeks with no apparent adverse effects.

Siegel and Spackman found hypervitaminosis A in two siblings. The 12-month-old female had been receiving 25,000 IU vitamin A daily for 9 months (about 3,200 IU per kg) and was hospitalized for vomiting, irritability, exfoliative dermatitis, palpable liver, bulging anterior fontanel, and an elevated serum vitamin A level. The 30-month-old male who had been receiving 57,000 IU vitamin A daily for 1 year (about 4,000 IU per kg) exhibited anorexia, lethargy, pain in the legs, enlarged head, slightly enlarged liver and spleen, and alopecia. Both recovered on discontinuance of vitamin A supplementation.

Persson *et al.* reported 5 cases of chronic vitamin A intoxication among infants 3 to 5.5 months old receiving 18,500 to 60,000 IU daily (about 2,000 to 7,000 IU per kg body weight) of an aqueous preparation of the vitamin for 1 to 3 months. Characteristic features of the intoxication were elevated fasting blood levels of vitamin A, anorexia, irritability, increased intracranial pressure, skin desquamation, occipital edema, pronounced craniotabes, reduction in skeletal calcium content, and cup-shaped deformations of the widened metaphyses, which were sharply demarcated from the epiphyseal cartilages in the wrists and ankles. Withdrawal of excess dietary vitamin A led to cure in all cases with return to

normal skeletal growth within 3 to 4.5 years. As a continuation of this study Tunell *et al.* fed 2,500 IU of aqueous vitamin A daily to 7 infants beginning at age 1 to 2 weeks for 3 to 5 months, and 7,500 IU daily to a similar group of infants for the same period. No symptoms of vitamin A intoxication occurred at either dosage but serum vitamin A level was significantly higher in the infants receiving the higher dosage. The investigators concluded that although the risk of hypervitaminosis A cannot be excluded at a daily dose level of 7,500 IU (about 900 IU per kg), it has not been demonstrated that chronic vitamin A toxicity occurs at that level. Moore has suggested that hypervitaminosis A represents an exaggeration of the vitamin's normal actions.

The least adverse effect intake in human subjects appears to be in the range of 700 to 3,000 IU per kg per day for periods of several months with most estimates falling closer to the top of the range. Dosages employed in the human studies reported are difficult to equate since it is not always clear whether water miscible or oil soluble vitamin A preparations were used; it is recognized that the former are the more readily absorbed and more capable of eliciting toxic signs at lower dosage levels. Nevertheless, daily intakes of 700 to 3,000 IU per kg would be difficult to achieve from usual dietary sources where mean daily vitamin A intakes, as indicated previously, are of the order of 80 IU per kg for adults to 300 for infants. However, the Committee on Drugs and the Committee on Nutrition of the American Academy of Pediatrics, aware that daily intake can be increased by use of over-the-counter vitamin preparations, indicated that daily doses of 25,000 IU or more of vitamin A for extended periods pose a risk and should not be used except in severe cases of vitamin A deficiency. A daily dose of 25,000 IU would amount to 2,500 IU per kg body weight in a 10 kg child and about 400 IU per kg in an adult. Reacting to this statement and other warnings that hypervitaminosis A could result from imprudent dosing with readily available vitamin preparations, the Food and Drug Administration in 1973 issued regulations restricting to prescription sale, oral preparations containing more than 10,000 IU vitamin A per dosage unit. This regulation was revoked in 1978 pursuant to an order by the U.S. Court of Appeals concerning the basis of FDA's regulation.

March *et al.* found that by feeding laying chickens 410,000 IU vitamin A as the palmitate per kg of diet, rate of egg production, egg size and hatchability were depressed. At a level of 210,000 IU per kg of diet, egg production, size, and hatchability were essentially normal. Dubiel *et al.* found single small intramuscular doses (20,000 to 40,000 IU vitamin A per kg body weight) increased volume of ejaculates and sperm survival in male rabbits, while large doses (60,000 to 90,000 IU per kg) decreased the percentage of motile sperms and decreased their survival time. Gellert gave high but non-toxic oral doses of retinyl palmitate (5,000 IU, 3 times per week) to rats for 9 months and observed an inhibition of cyclic ovulatory activity.

Congenital malformations were known to occur in the offspring of vitamin A-deficient mothers. However, the ability of a large oral maternal dose of vitamin A to cause congenital anomalies in the rat was first reported in 1953 by Cohlan. He found that about 175,000 IU per kg daily of an aqueous preparation of natural vitamin A, intubated between the 3rd and 16th days of gestation, reduced the number of litters carried to full term (10 of 100 mated females compared to 44 of 50 in the controls) and the average litter size (7.4 compared to 9.3 in controls). Incidence of congenital defects in 74 offspring of vitamin A-treated animals was 54 percent with zero in the controls. In summarizing the results of more than 100 papers on the teratogenicity of vitamin A published since that time, Shenefelt has indicated that large doses of vitamin A, some many hundredfold the daily requirement in pregnant animals, have been shown to produce more than 70 types of malformations in the rat, mouse, hamster, guinea pig, rabbit, dog, pig, and monkey. The type and incidence of malformations depend on dose and stage of pregnancy, and to a lesser extent on species and strain.

The following definitive studies shed light on the influence of doses of vitamin A on the mortality and incidence of teratogenic effects in offspring.

Giroud and Martinet gave retinyl acetate or retinyl palmitate orally to Wistar rats from day 2 to day 14 of gestation in daily doses of 20,000 to 60,000 IU. At the 35,000 IU level (about 235,000 IU per kg body weight assuming 150 g rats) abortions occurred in 90 percent of the animals. Lowering the dose to 20,000 IU (about 135,000 IU per kg) resulted in some resorptions (number not given) and a number (not given) of abnormal embryos showing malformation of the encephalon, anophthalmia, microphthalmia, cleft palate, or cataracts. Internal organs appeared normal. Experiments with much higher doses (about 400,000 IU per kg) given daily for 2 to 3 days during early, middle, and late gestation, showed that the percentage of resorption decreased the later vitamin A was administered during the gestational period, becoming negligible after the 12th day. More anomalies occurred when vitamin A was given during early pregnancy; when given on the 14th to 16th days only cleft palates were observed in the offspring, and on the 18th to 20th days, only cataracts. At comparable high dose levels the same investigators found rabbits to be more sensitive than rats to the abortifacient effects of vitamin A but less sensitive to the teratogenic effects. Murakami and Kameyama also showed decreasing frequency of resorptions during the latter stages of pregnancy in mice when injected intraperitoneally with a single 15,000 IU dose (about 750,000 IU per kg) of water miscible vitamin A. Resorption rate was no higher than in controls when injection was made after the 12th day of gestation and substantially fewer offspring showed malformations (20 percent compared with 100 percent in animals receiving vitamin A during first 9 to 10 days of gestation). Marin-Padilla and Ferm reported similar results for golden hamsters intubated with single 20,000 IU doses of vitamin A (about 130,000 IU per kg assuming 150 g hamster) on days 5 through 11 of gestation. There were few resorptions when the vitamin was administered after the 8th day of gestation and malformations did not occur when animals were treated after the 10th day. Robens fed golden hamsters varying amounts of water dispersible retinyl palmitate daily on days 6 to 10 of gestation. About 60 percent of the offspring of those receiving 150,000 IU of the vitamin per kg per day had terata; about 7 percent at 100,000 IU per kg; and about 5 percent at 75,000 IU per kg. Only 0.4 percent of the offspring of control animals had terata.

Giroud and Martinet studied the teratogenicity in mice of relatively small oral doses of vitamin A (2,500 to 12,500 IU per kg body weight) given daily during the 8th to 10th days of gestation. The 6,250 IU per kg dose caused 28 percent abortions, 63 percent deaths or resorptions, and 37 percent malformed fetuses; the 2,500 IU per kg dose caused 10 percent abortions, 8 percent deaths and resorptions, and no malformed fetuses. These investigators commented that their lowest dose was close to that then used in patients receiving vitamin A therapy (2,500 to 3,000 IU per kg body weight). They commented further that while a dose of 2,500 IU per kg did not seem to be teratogenic in mice, such a

dose still provoked abortions. Schärer, on the other hand, found that mice and rats had to be treated on days 8, 9, and 10 of gestation with at lest 150,000 IU of vitamin A palmitate per kg body weight to bring about fetal mortality and malformations of the young.

Nolen has described strain differenes among Sprague-Dawley, Charles River, and Wistar female rats given oral doses of aqueous retinyl palmitate at levels of 50,000 or 75,000 IU per day (about 250,000 or 375,000 IU per kg body weight) on days 6 to 15 of gestation. Both Sprague-Dawley and Charles River rats were more sensitive (relative incidence of and pattern of malformations) than the Wistar rats at both dose levels.

Several investigators have reported the effects of large maternal doses of vitamin A on the behavior and learning ability of offspring. All Fischer rat offspring survived maternal doses of 10,000 to 40,000 IU per kg retinyl palmitate, intubated on the 8th, 9th, or 10th days of gestation. At 70 days of age the weights of experimental offspring were the same as the control animals but the vitamin A-exposed animals, particularly those of dams receiving the highest dose, showed impaired learning ability as measured by maze avoidance tests. No impaired learning ability but slower response rates have been reported by Hutchings and Gaston for offspring of Wistar rats given 450,000 IU per kg body weight of water soluble vitamin A intragastrically on days 17 and 18 of gestation. Butcher *et al.* observed impaired learning ability at age 50 days in offspring of Sprague-Dawley rats intubated with 100,000 IU vitamin A per kg body weight on the 8th, 9th, and 10th days of gestation.

The available information concerning the teratogenic potential effects of vitamin A provides some basis for estimating the highest dose at which teratogenic effects do not occur. It has been demonstrated at all hypervitamin-A levels that the stage of pregnancy when the vitamin is administered has a critical bearing on the appearance of teratogenic effects. However, the relatively few experiments in which moderate maternal vitamin A dosages were administered at the stage of pregnancy when teratogenic effects are most likely to occur, indicate that the no-effect level in mice could be as low as 2,500 IU per kg body weight, in hamsters about 75,000 IU per kg, and in rats about 135,000 IU per kg. Thus, species differ in sensitivity. No information is available on the relative sensitivity of man. However, the lowest dose indicated above is more than 25 times greater than adult human intakes of vitamin A from food sources, estimated earlier in this report to approximate 100 IU per kg per day. Some therapeutic dose levels to vitamin A may approach 2,500 IU per kg for short periods of time.

The following papers represent attempts to elucidate possible mechanisms for the production of teratogenic effects in offspring of animals treated during pregnancy with excessive amounts of vitamin A.

Kochhar and Johnson studied cleft palate information in fetuses of black-hooded female rats given about 360,000 IU of vitamin A acetate per kg daily for 3 consecutive days beginning on the 9th or 10th day of pregnancy. More than 80 percent of the embryos developed cleft palate. In many of these embryos, there was a considerably lesser amount of mesenchymal tissue contributed by the maxillary processes to form the palatine shelves than in the control animals. A process of heterotopic chondrogenesis, was detected within the preosteoblastic tissues of maxillae and palatine shelves which, in 17-day embryos, had already replaced a major portion of the maxillary bone. Soliman gave pregnant rats 250,000 IU retinyl palmitate per kg body weight during days 8 to 10 of gestation. Approximately three-quarters of their fetuses showed anomalies. Normal control values were not reported. Subcutaneous injection of 0.2 g α-tocopherol on gestation days 8 and 12 to another group of A-hypervitaminotic rats lowered the incidence of fetal anomalies from 76 to 48 percent. As a result of detailed morphological examination of abnormalities occurring in fetal Wistar rats obtained at days 8, 9, 10, and 11 from pregnant animals injected with about 500,000 IU per kg body weight of aqueous retinyl palmitate on the 8th day of gestation, Morriss suggested that malformations originated from a loss of synchrony in the developmental process because of differential toxicity of vitamin A to the three germ layers. Light and electron microscopic studies of the decidual and trophoblastic tissue of the pregnant rat made by the same investigator 5 h after maternal administration of about 500,000 IU vitamin A palmitate per kg body weight, showed membrane damage close to capillaries, vacuolated and distorted blood cells, and cell debris in the blood space around the embryo. Decreased oxygen-carrying capacity and increased peripheral resistance were suggested as maternal vascular factors complementing the direct embryotoxic effect of vitamin A in the teratogenic mechanism. In later studies, Morriss and Steele demonstrated that retinol had a direct teratogenic effect on rat embryos explanted on the 8th day of gestation and cultured in the presence of 0.5 to 20 μg retinol per ml.

A number of experiments with explanted embryos or embryonic tissues in culture appear to confirm the direct teratogenic effects of vitamin A. Degradation of the extracellular matrix of chick limb-bone rudiments occurred in culture solutions containing approximately 5 to 10 IU retinol per ml but not when retinol, complexed with retinol binding protein, was used. A concentration of 10 IU retinol per ml interfered with cell movement in cultured mouse limb buds and with cell division and metabolism in cultured chondrocytes from embryonic chick sterna. Up to 30 g retinyl acetate (100 IU) per ml of culture solution caused a dose-dependent inhibition of acid mucopolysaccharide synthesis in embryonic chick sternal chrondrocytes although collagen synthesis was not inhibited. A concentration of 10 IU of retinol per ml of medium caused decreased chondrification and keratinization of metacarpals and abnormal development in forelimb buds of embryos taken on the 10th to 12th day of pregnancy from ICR–JCL mice. Terashima and Nogami used ^{35}S-sulfate, injected into newborn and 15 to 18 day-old fetuses, to study cartilage metabolism in the extremities of Sprague-Dawley rats whose mothers had received intraperitoneal vitamin A (about 2 million IU per kg body weight) on the 11th day of pregnancy. They observed increased synthesis and degradation of sulfated glycosaminoglycans in the fetal cartilage. March *et al.* found 1,070 IU retinol, injected into eggs prior to incubation, to depress hatchability markedly whereas 8,000 IU of retinyl palmitate had little effect. Developmental abnormalities were noted in a number of dead embryos from retinol-injected eggs and hemorrhaging appeared to be a frequent cause of embryonic death.

Some case reports have been published suggesting that congenital abnormalities may occur in humans whose mothers have been exposed to excessive amounts of vitamin A during pregnancy. Bernhardt and Dorsey attributed urinary tract malformations in a female infant to the consumption of 25,000 IU of vitamin A (as capsules of fish liver oil) by the mother daily for the first 3 months of pregnancy and 50,000 IU daily from the fourth through the ninth months. These investigators referred to another instance where

urinary tract malformations in a human infant were attributed to consumption of 40,000 IU of vitamin A by the mother daily from the sixth to the tenth week of pregnancy. Stånge *et al.* considered malformations of the central nervous system in a human infant to be related to high doses of vitamin A (150,000 IU daily during days 19 to 40 of gestation) given the mother as treatment for acne. Gal *et al.* found higher levels of vitamin A in blood obtained 7 days postpartum from women delivering babies with central nervous system defects than in blood samples from women delivering normal babies. Significance of this finding was considered unclear by these investigators because of the normally wide variation in blood vitamin A levels and the lack of specific information on the blood vitamin A levels during pregnancy. Yeung has shown that young women receiving oral contraceptives have significantly higher mean vitamin A plasma levels than those not using this medication. Elevation of plasma level of the vitamin was not due to variations in vitamin A intake. Yeung indicated that the physiological implication of these findings in subjects receiving oral contraceptives is not clear. However, according to Wild *et al.* and Larsson-Cohn such elevated levels of plasma vitamin A probably represent no risk to the offspring of women taking oral contraceptives shortly before becoming pregnant. The conclusions of a review of recent studies on the effect of oral contraceptives on human plasma vitamin A agree with this latter view.

In a recent comprehensive review of hypervitaminosis A included teratogenicity, Geelen has concluded that there is no definitive proof of teratogenic effects of excess vitamin A in the human but results in animals of different species suggest that hypervitaminosis A in pregnancy may have serious consequences for the developing embryo and fetus.

Retinyl acetate was found to be without mutagenic activity by *in vitro* plate and suspension tests both with and without activation by mouse, rat, or monkey tissue homogenates. Concentrations up to 0.25 percent were used in tests with *Salmonella typhimurium* strains TA–1535, –1537, –1538, –98, and –100, and up to 1.7 percent in tests with *Saccharomyces cerevisiae*, strain D4.

The Select Committee has found no reports indicating that vitamin A is carcinogenic. However, vitamin A may enhance or inhibit responses to viral or chemical carcinogens, particularly during the preneoplastic phase after initiation but prior to cellular transformation. Sporn *et al.* believe there is support for the thesis that deficiency of vitamin A analogs (retinoids) is linked to an increased risk of cancer from chemical carcinogens. They suggest that natural retinoids can prevent the development of epithelial cancer but are limited in their usefulness as chemotherapeutic agents because of inadequate tissue distribution or toxicity. Recent studies of the possible anticarcinogenic effects of vitamin A and its synthetic retinoids, including cis-retinoic acid, may provide a means for overcoming some of these problems. The following recent studies are relevant.

Dietary vitamin A deficiency enhances susceptibility to carcinogenesis in the respiratory tract, bladder, and colon of the rat, as well as the respiratory tract of man after exposure to such carcinogens as polycylic hydrocarbons, nitrofurans, and aflatoxin. A possible explanation of this enhancement of carcinogenesis is the increased DNA synthetic and mitotic activity known to occur in retinoid-deficient epithelia.

Felix *et al.* found that only 4 of 24 BALB/c male mice receiving 3,100 IU retinyl palmitate (about 150,000 IU per kg) daily in drinking water, developed tumors after challenge with injected cells of a transplantable murine melanoma. All controls developed tumors. Rettura *et al.* found a slower rate of tumor growth, but not lower tumor incidence, in C3H/HeJ female mice inoculated with C3HBA tumor cells and receiving in the diet about 20,000 to 40,000 IU of retinyl palmitate per kg body weight, compared to controls fed no supplemental vitamin A. The control animals had a mean survival time of 42 to 43 days after inoculation while mean survival times of treated groups ranged from 54 to 75 days. Seifter and Rettura also found that about 20,000 IU vitamin A per kg of diet increased the resistanace of CBA, BALB/c, and C3H mice to the oncogenic virus, MuSV–M, and to the transplantable mammary adenocarcinoma, C3HBA. Smith *et al.* found no effect of 100 to 2,400 μg of retinyl acetate per week, given intragastrically in divided doses, on incidence of respiratory tumors induced by intratracheal instillations of benzo(a)pyrene in Syrian golden hamsters when the animals were housed in laminar flow cages, but the animals receiving the higher dose of vitamin A experienced a higher incidence of respiratory tract tumors when they were housed conventionally. However, regardless of housing conditions, there was a significant reduction in squamous papillomas of the forestomach in animals receiving the higher dose of vitamin A.

Retinoic acid in concentrations up to 0.3 percent applied topically for 6 to 9 days to dimethylbenzanthracene-induced rabbit ear keratoacanthomas, caused regression of the tumors. Regression was markedly enhanced by concomitant application of fluorouracil. Gross and Newberne observed that low doses of vitamin A enhanced, but high doses repressed, incidence of colon carcinoma in rats treated with dimethylhydrazine. Ong *et al.* have found a protein in extracts of human carcinomas from lung and breast which binds retinoic acid with high specificity. The binding protein was not detected in normal lung or breast tissue from the same patients.

According to Sporn and associates retinoids have uniquely important roles in regulating cell differentiation to prevent malignancy development. They believe the enhancement of these intrinsic physiological controls with pharmacological amounts of synthetic retinoids is an attractive approach to cancer prevention and cite work in their laboratory and those of others in support of his thesis.

It is well established that adequate vitamin A is essential for the normal differentiation of basal (stem) cells to produce the specific mature cells that characterize the various epithelia of the body. This knowledge apparently prompted the therapeutic use of large doses (80,000 IU or more daily for several weeks) of vitamin A in certain skin disorders (ichthyosis, acne, chronic atopic dermatitis), a practice that was limited in effectiveness by the concomitant toxic effects of such doses of the vitamin. The following papers illustrate effects of hypervitaminosis A on epithelial tissues.

Vedrova and Sapelkina showed that doses of 20 or 40 μg vitamin A daily (about 400 or 800 IU per kg) for 2 to 3 months elicited no skin changes in rats that differed from unsupplemented controls. However, a dose of 80 μg daily (about 1,600 IU per kg) caused thickening of the epidermis, proliferation of cells in the basal epidermal layer, increase in the granular layer, thickened and scaly horny layer, abnormal hair follicles, and disintegrating fat gland cells which were frequently overfilled with sebaceous secretion. Spreca *et al.* also observed a sigificant rise in the number of mastocytes with swelling and degranulation in the dermis of rats fed 50,000 to 100,000 IU vitamin A (about 250,000 to 500,000 IU per kg body weight) daily for 10 days.

Pinkus and Hunter studied the stripped off keratin layer of the forearm skin of human volunteers before and after buccal dosing with 2,500 IU vitamin A per kg body weight daily for 30 days. Punch biopsy specimens were also taken of the stripped area. After vitamin A dosing the number of horny cells that could be stripped per unit area decreased, mitosis in the denuded area was decreased in 7 of 10 subjects, and the total number of nucleated cells per unit area was increased. The authors concluded that vitamin A at this level retarded keratinocytic maturation. Sweeney and Hardy found keratinization of skin from the upper lips of 12-day-old embryonic Swiss mice to be suppressed when cultured for 10 days in media containing 5.7 μg retinol per ml. Ciliated and secretory epithelium developed in contrast to squamous stratification and keratinization that occurred in control cultures. Retinyl acetate at 1.56 to 3.12 μg per ml resulted in a 40 percent increase in the cellular RNA content of cultured 1-day-old BALB/c mouse epidermal cells but either increased (6.25 μg per ml) or decreased (0.78 μg per ml) concentrations had less effect.

Enzymes—Working *in vitro* with lysosomes isolated from rat retinas, Dewar *et al.* found that 45 min incubation with 1.0 to 2.5 μg retinol per mg wet weight increased the release of β-glucuronidase, β-galactosidase and hexosaminidase. Wang *et al.* noted a similar release of acid phosphatase, β-glucuronidas, deoxyribonuclease; and N-acetyl-β-D-glucosaminidase from female mouse liver lysosomes by vitamin A. Retinol was more effective than retinyl acetate and retinoic acid in affecting acid phosphatase but these forms of vitamin A were equally effective in the release of the other enzymes. Such enzyme release has also been observed *in vivo*. Extensive hemolysis resulted when human erythrocytes were exposed for 20 min to 40 μg of retinol per ml.

Rats consuming a diet containing up to 180,000 IU of vitamin A per kg for 1 to 2 weeks showed a 2- to 3-fold reduction in the activity of pancreatic lipase and of amylase, enterokinase, and alkaline phosphatase in the duodenal mucosa, while activity of acid phosphatase remained unchanged. A 2- to 3-fold reduction of the activity of blood serum α-amylase and lipase was also observed. Leuts'kii and Baran have also noted a sharp decrease in ATPases in the mucosa of the small intestine and in cell membranes of rats receiving large doses of vitamin A.

Maximum stability of rat liver lysosomes, as measured by the activities of such hydrolytic enzymes as β-glucuronidase, β-hexosaminidase, hyaluronidase, cathepsins, and arylsulfatase, occurred when the rats were fed 100 to 2,000 IU of vitamin A daily (about 1,600 to 33,000 IU per kg body weight); above and below this dosage range, stability was progressively diminished. Since there was no appreciable change in total enzyme activity with variations in vitamin A status and since retinol *in vitro* had no effect on the enzyme activity released from the lysosomal fraction, the investigators concluded that the action of vitamin A *in vivo* is a membrane effect. Toxic doses of vitamin A were found by Eremina *et al.* to inhibit the activity of alcohol dehydrogenase in the liver, kidneys, and small intestine of the rat; aldehydoxidase activity in the small intestine increased.

Dileepan *et al.* fed young male Wistar rats daily for 2 days 30,000 IU OF retinyl palmitate (about 300,000 IU per kg). The *in vitro* incorporation by liver slices of ^{14}C-labeled precursors, such as alanine, bicarbonate, or glycerol, into glucose and glycogen was studied 24 hr. after the last vitiamin A feeding. Amino acid catabolizing enzymes were also studied. Stimulation of hepatic gluconeogenesis in hypervitaminosis A was indicated by increased incorporation of ^{14}C-labeled alanine and bicarbonate into glucose and glycogen, There were marked increases in the activities of hepatic alanine aminotansferase and ornithine aminotransferase and a decrease in that of tryptophan pyrrolase. Activities of liver tyrosine aminotransferase and serine dehydratase were unaffected.

Lipid metabolism—Large doses of retinol (about 70,000 to 500,000 IU per kg body weight) fed daily for 2 to 10 days to Wistar rats caused significant increases in total liver lipids, total fatty acids, glycerides, and esterified cholesterol, but decreased adrenal levels of cholesterol and ascorbate.

Ahuja and Misra found that feeding male Wistar rats 100,000 IU of vitamin A daily (about 1 million IU per kg body weight) for 2 days reduced the utilization of randomly labeled ^{14}C-glucose for fatty acid synthesis in liver and adipose tissue. However, synthesis of neutral lipids and phospholipids was increased in the liver and decreased in adipose tissue. Ramachandran *et al.* found about 2-fold higher levels of free fatty acids in plasma and epididymal fat pads of male Wistar rats after feeding about 375,000 IU retinol per kg per day for 2 days; total lipids and triglycerides in the liver were also increased. In subsequent work, the same investigators reported that ingestion by rats of 30,000 IU of retinol daily (about 375,000 IU per kg body weight) for 2 days increased the liver incorporation of palmitate-1-^{14}C into triglycerides but not into phospholipids. Oxidation of palmitate-1-^{14}C to CO_2 by skeletal muscle was also increased under these conditions.

Pokrovsky *et al.* intubated young male Wistar rats with single doses of 50,000 to 250,000 IU of retinyl palmitate (about 900,000 to 4.5 million IU per kg) and found significant dose-dependent lowering of NADPH-dependent and ascorbate-dependent lipid peroxidation in liver microsomes after 2 to 6 days, suggesting that under these conditions vitamin A may act as an antioxidant. Gerber and Erdman have reported that vitamin A, particularly in the form of retinoic acid, fed for 28 days at levels as low as about 8,000 IU per kg, induced hypertriglyceridemia in male Sprague-Dawley rats; this effect was not mediated by the adrenals.

High dietary levels of vitamin A (a minimum of 15,000 IU per kg feed) have been reported to reduce the severity of atherosclerosis in Japanese quail but divergent effects of high levels (22,000 IU per kg of feed) were observed in different strains of chickens.

Carbohydrate and protein synthesis—Rats given large doses (up to 50,000 IU per animal) of vitamin A daily showed a 50 percent decrease in epithelial proteins (presumably collagens) soluble in 0.5 M NaCl and a 25 percent decrease in skin proteins soluble in citrate buffer. Ahuja and Misra fed male Wistar rats 33 mg retinol (about 100,000 IU per kg) daily for 2 days. Twenty-four hours after the last retinol feeding, leucine-1-^{14}C was injected intraperitoneally to study its incorporation into liver, plasma, and muscle proteins. The retinol-fed rats showed no significant changes compared with controls in the amount of protein per g of tissue in liver, muscle, or plasma, but plasma urea concentration was approximately doubled; incorporation of leucine-1-^{14}C was significantly reduced in muscle proteins and increased in liver proteins in the retinol fed rats. Retinol feeding under these conditions increased liver and adrenal weights relative to body weight, but decreased the ascorbic acid, cholesterol, and lipid content of the adrenals. Chadaeva and Matusis fed doses of 150 IU or 2,000 IU of vitamin A (about 750 or 10,000 IU per kg body weight assuming 200 g animals) to rats for 2 months and found a 2-fold or greater increase in the sialic acid (the N- and O-acyl derivatives of a deoxyamino

sugar acid) content of liver mitochondria. The investigators regarded this as significant because of the roles played by vitamin A and sialic acids in the functioning of biomembranes. It now appears to be established that retinyl phosphate and its mannosyl derivative, mannosyl retinyl phosphate (MRP), are synthesized by mammalian membranes *in vivo* and *in vitro*. Recent evidence supports the concept that MRP is involved in glycoprotein synthesis in a large variety of tissues.

Nucleic acids—Young male Wistar rats (25 days old) fed 5,000 to 40,000 IU of vitamin A daily (about 180,000 to 1.5 million IU per kg) for 2 days were studied for the effects on (a) liver protein, (b) RNA and DNA, (c) liver and plasma lipids. At the lower vitamin A doses the level of each of these substances was equal to or slightly greater than, the controls while at the highest vitamin A dose each was lower than controls. The same investigators also reported that liver content of RNA and its synthesis from orotic acid-6-^{14}C in the liver, as well as its nuclear and mitochondrial fractions, were not affected by feeding 180,000 IU vitamin A per kg but were reduced in rats fed about 720,000 to 1.5 million IU per kg of vitamin A for 2 days.

Blood—Daily intraperitoneal injection of about 70,000 IU retinyl palmitate per kg body weight for 3 months caused lymphomonocytosis and marked changes in organs of the lymphomyeloid complex in male guinea pigs. Soliman reported that the blood of pregnant rats receiving 250,000 IU vitamin A palmitate per kg body weight during days 8 to 10 of gestation showed a significant decrease in hemoglobin, hematocrit, erythrocyte and thrombocyte counts, and in the concentration of various coagulation factors.

Clinical study of several patients (ages 7 to 46) has indicated that hypercalcemia may result from vitamin A overdosing ranging from 2,000 to 4,000 IU per kg per day for from 6 months to 7 years, making it advisable to consider possible hypervitaminosis A in the differential diagnosis of hypercalcemia.

Cerebrospinal pressure—Maddux *et al.* investigated the effect of oral vitamin A on cerebrospinal fluid pressure and brain water in Sprague-Dawley rats. Immature rats given 7.5 mg retinol per day (about 300,000 IU per kg) for 3 to 8 days showed a 73 percent drop in cerebrospinal fluid pressure after 3 to 5 days and a 93 percent drop after 6 to 8 days. Brain volume increased 2 percent.

Immune reactions—A number of studies point to the important involvement of vitamin A in immune responses. Krishnan *et al.* observed marked atrophy of the thymus and spleen in vitamin A-deficient rats. Cohen and Cohen also found that daily intraperitoneal injections of retinyl palmitate in the mouse markedly increased the normal number of antibody-forming cells generated in the spleen in response to immunization with sheep red blood cells.

Dresser found vitamin A to act as an adjuvant in coverting a non-immunogenic antigen (bovine gamma G protein) to an immunogenic form in mice. It was speculated that vitamin A's "adjuvanticity" may result from its damaging effect on lysosomal membranes, thus stimulating cell division. It was thought that stimulation of cell division at the time when antigen is available in the cell may lead to induction of immunity.

Jurin and Tannock investigated the influence of vitamin A (150,000 to 250,000 IU per kg body weight as retinyl palmitate Aquasol® injected daily intraperitoneally on 5 consecutive days) in mice on their immunological response as measured by the titre of haemagglutinin 10 to 15 days after sensitization with sheep red blood cells, or by the time required to reject male mouse skin grafts by isologous female recipients. Daily vitamin A injections for 5 days preceding or following sensitization with sheep red blood cells led to a large increase in the production of haemagglutinin antibodies. After similar vitamin A treatment there was a significantly reduced mean rejection time of male skin grafts.

Mice given 4 consecutive daily intraperitoneal injections of 3,000 IU of water-miscible retinyl palmitate (about 135,000 IU per kg body weight) and subsequently injected intraperitoneally with gram-negatuve *Pseudomonas aeruginosa*, or gram-positive *Listeria monocytogenes*, or the fungus, *Candida albicans*, showed a significant increase in survival as compared to controls. Since vitamin A did not affect *in vitro* growth of the three microorganisms it was concluded that the vitamin induces non-specific resistance to infection in mice. Vitamin A has also been shown to have profound influence on the course of infection in rats by the nematode *Angiostrongylus cantonensis* and by the malarial parasite *Plasmodium berghei*.

Uhr *et al.* found that acute hypervitaminosis A (about 600,000 IU per kg) in guinea pigs can substantially suppress delayed-type hypersensitivity and inflammatory response to intradermal injection of diphtheria toxin, and suggested that the effect was a consequence of the action of vitamin A on lysosomes. Hypervitaminosis A in guinea pigs has no effect on the clearance of bacteriophage ϕX174 from the circulation or on antibody formation to the phage. Acute hypervitaminosis A, characterized by weight loss, weakness, hair loss, and decreased muscle tone within 24 h after administration, was produced by oral administration of 160 mg (about 500,000 IU) of retinoic acid per kg body weight.

Lucy *et. al.*, studying the possible role of intracellular proteinases in the degradation of cartilage matrix in chick limb bone rudiments in culture, found that normal chondrocytes contain an enzyme(s) capable of producing effects on cartilage matrix that closely resemble those produced by excess of vitamin A. They suggested that further study is needed to establish whether there is a relationship between the enzyme(s) and vitamin A in this report.

In studies of vitamin A-deficient children, Bhaskaram and Reddy found T-lymphocytes to be decreased but cell function to be unchanged, leading them to suggest that vitamin A may act as an adjuvant to promote lymphocyte proliferation.[3]

The members of the Select Committee have evaluated all available safety information on vitamin A, vitamin A acetate, and vitamin A palmitate. In the Select Committee's opinion:

Vitamin A is an essential nutrient for man and other animals. Deficiency of vitamin A causes at least four physiologically distinct and clinically recognized states: loss of night vision; defects in bone growth; defects in reproduction; and defects in the growth and differentiation of epithelial tissues. The recommended dietary allowance of vitamin A for adults is about 5,000 International Units (IU) daily. A daily intake of 5,000 IU would amount to about 70 IU per kg for an adult.

Dietary vitamin A activity is supplied by animal products (preformed vitamin A), plant products (provitamin A, such as carotene), and by the addition of vitamin A (retinol) and/or its esters (retinyl acetate and retinyl palmitate) to fortify certain foods. Mean daily intake of vitamin A from all food sources (excluding vitamin preparations) was approximately 5,000 IU in 1971 to 1974. However, some 47 percent of young adults were found to consume no more than 3,500 IU daily. Nevertheless, there is not clear evidence that vitamin A nutriture is a problem of public health significance in the United States. Per capita daily intake of vitamin A used for the fortification of foods is assumed to be about 800 IU (about 13 IU per kg

[3] *Ibid.*, pp. 11-30.

body weight in adults). However, accurate data on the amounts actually added are not available. The Select Committee believes such data should be obtained.

Signs of hypervitaminosis A in laboratory animals include abnormal bone development and fractures, exophthalmos, intramuscular hemorrhages, alopecia, reduced rate of growth or weight loss, adrenal hypertrophy, and at highly toxic dose levels, death. The lowest reported adverse effect level in experimental animals appears to be in the range 25,000 to 60,000 IU per kg per day for periods of 3 to 5 weeks. In man, where expressed feelings of pain or illness on the part of the patient provide an early indication of adverse effects, the symptoms and signs of hypervitaminosis A vary in severity with the dose level, and include skin dryness, anorexia, headache, weakness, hair loss, joint pain, vomiting, irritability, enlarged liver and spleen, and bluging fontanel and increased intracranial pressure in babies. The lowest reported adverse effect level in man appears to lie in the range 700 to 1,000 IU per kg per day, if continued for periods of several months.

With excessive maternal doses of vitamin A, abortions, resorptions, and a large variety of teratogenic effects can be consistently produced in experimental animals, the effectiveness of vitamin A in this regard being greater when administered in the early stages of pregnancy. Administration of a range of doses of vitamin A at the stage of pregnancy when teratogenic effects are most likely to occur, indicate that the highest no-effect level in mice, rats, and hamsters lies in the range 2,500 to 100,000 IU per kg per day. Species differ in sensitivity; the small amount of information available with respect to the relative sensitivity of man indicates that maternal doses of the order of 700 to 800 IU vitamin A per ky daily for most of gestation may lead to abnormalities of the urinary tract in offspring. It is to be noted that congenital malformations also occur in offspring of vitamin A-deficient mothers.

Vitamin A has been found to exhibit no mutagenic activity in *in vitro* tests. There is no evidence that it is carcinogenic.

The lowest doses of vitamin A that produce toxic manifestations in animals and humans are manyfold greater than the daily doses human adults receive from food consumed, only a small portion of which represents vitamin A or its esters that are added to food. Nevertheless, this margin of safety may be compromised by the total intake of vitamin A from all sources.[4]

The Select Committee concludes no evidence in the available information on vitamin A, vitamin A acetate, and vitamin A palmitate demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when these substances are used at levels that are now current or that might reasonably be expected in the future. However, the Select Committee also concludes that it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.[5]

Before issuing its final report, the Select Committee issued a tentative report in which it expressed concern about the consumption of vitamin preparations containing vitamin A and suggested that it would be prudent to limit the levels at which vitamin A is added to fortified food. On November 19, 1979 (see the **Federal Register** of October 30, 1979 (44 FR 62370)), the Select Committee held a public hearing on its tentative report. Two oral presentations were made at the hearing. One was given by a representative of a manufacturer of vitamin A, and the other was given by a representative of a trade association. A second trade association had also requested an opportunity to make an oral presentation; however, its representative was not present at the hearing.

The manufacturer's representative requested that the Select Committee reconsider and withdraw its proposed recommendation for category 2 for vitamin A, and that the Select Committee recommend instead that it be placed in category 1. The representative cited as a principal reason for making the request the large margin of safety between the level of vitamin A that can be consumed through foods as a nutrient and the level that can cause some adverse effect. He argued also that according to published reports more than half of the nation's population is receiving less than the mean intake for the vitamin.

The trade association representative discussed briefly the scope of the GRAS review as it pertains to dietary supplements. He noted that past FDA action regarding nutrients and dietary supplements had not addressed the dietary supplement use of the ingredient. The representative asserted that it was the association's understanding that dietary supplements are not the subject of this ongoing review. The representative also cautioned the Select Committee against including dietary supplement uses of vitamin A in its safety evaluation.[6]

In response to the testimony at this hearing, the Select Committee modified its tentative opinion. As discussed above, in its final report, the Select Committee expresses its concern about the total intake of vitamin A from all sources.

FDA has undertaken its own evaluation of all available information on these ingredients, and concurs with the conclusion of the Select Committee. Ordinarily, when the data are sufficient to show the safety of current but not significantly increased levels of consumption of an ingredient, the agency affirms the ingredient as GRAS with specific limitations under § 170.30(j) (21 CFR 170.30(j)). However, the agency is deviating from this policy in this case for the following reasons: (1) The scope of the proposed regulation is limited to the use of vitamin A as a nutrient to fortify conventional foods and does not address its use in dietary supplements. (2) The consumption of vitamin A that results from its use as a nutrient to fortify conventional food is small. Available data show that the estimated consumption resulting from this use is about 13 IU/kg/day for adults, which is about one-seventh of the recommended daily allowance for vitamin A. A significant percentage of consumer exposure to vitamin A results from several other sources, including the natural occurrence of this substance in food and the use of vitamin A in dietary supplements and special dietary foods. (3) The use of vitamin A as a nutrient in conventional foods (13 IU/kg/day) is considerably lower than the lowest known toxic dose (700 to 1,000 IU/kg/day). Because of this low consumption, FDA does not agree with the Select Committee that more accurate consumption data are necessary for the uses that are the subject of this proposal. (4) The proposed action is consistent with the Select Committee's opinion regarding the safety of the use of vitamin A as a nutrient in conventional foods. The Select Committee's concern about vitamin A use was not with its use as a nutrient to fortify conventional foods but with dietary supplement uses of the

[4] *Ibid.*, pp. 37–38.
[5] *Ibid.*, p. 36.
[6] Transcript of Proceeding, Federation of American Societies for Experimental Biology, Life Sciences Research Office, "Vitamin A, Vitamin A Acetate, Vitamin A Palmitate," pp. 8, 9, and 17. Copies may be obtained from ACE-Federal Reporters, Inc., 444 N. Capitol St., Washington, DC 20001. A copy of the transcript is also on file with the Dockets Management Branch.

ingredient. However, as previously stated, this proposal does not address dietary supplement uses of vitamin A. Accordingly, the agency has determined that specific limitations on the use of vitamin A and its esters as nutrients in conventional food is not warranted. Therefore, the agency is affirming as GRAS the use of vitamin A, vitamin A acetate, and vitamin A palmitate as nutrient supplements in conventional foods and infant formula in accordance with current good manufacturing practice conditions of use.

Additionally, FDA is proposing not to include in the GRAS affirmation regulation for vitamin A, vitamin A acetate, and vitamin A palmitate the categories and levels of use reported in the NAS/NRC 1971 survey for these ingredients. Both FASEB and the agency have concluded that a large margin of safety exists for the use of these substances, and that a reasonably foreseeable increase in the level of consumption of vitamin A and its esters will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of these ingredients when they are used at current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of these substances is based on the evaluation of currently known uses, the proposed regulation sets forth the technical effect that FDA evaluated.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that, it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature reviews on vitamin A and its esters, a mutagenic report on vitamin A acetate, and the report of the Select Committee are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price[1]
Vitamin A (scientific literature review).	PB 241-849/AS.	A06	$40.00
Vitamin A, vitamin A acetate, and vitamin A palmitate (scientific literature review update).	PB 275-754/AS.	A03	6.00
Vitamin A, vitamin A acetate, and vitamin A palmitate (Select Committee report).	PB 80-176650.	A04	7.00
Vitamin A acetate (mutagenicity report).	PB 278-479/AS.	A03	6.00

[1] Price subject to change.

This proposed action does not affect the current use of vitamin A and its esters in pet food or animal feed.

The format of the proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1930 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effect listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.8930, 182.8933, 182.8936 [Removed]

1. In Part 182 by removing § 182.8930 *Vitamin A*, § 182.8933 *Vitamin A acetate*, and § 182.8936 *Vitamin A palmitate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184 by adding new § 184.1930, to read as follows:

§ 184.1930 Vitamin A.

(a)(1) Vitamin A (retinol; CAS Reg. No. 68–26–8) is the alcohol 9,13-dimethyl-7-(1,1,5-trimethyl-6-cyclohexen-5-yl)-7,9,11,13-nonatetraen-15-ol. It may be nearly odorless or have a mild fishy odor. Vitamin A is extracted from fish liver oils or produced by total synthesis from β-ionone and a propargyl halide.

(2) Vitamin A acetate (retinyl acetate; CAS Reg. No. 127–47–9) is the acetate ester of retinol. It is prepared by esterifying retinol with acetic acid.

(3) Vitamin A palmitate (retinyl palmitate; CAS Reg. No. 79–81–2) is the palmitate ester of retinol. It is prepared by esterifying retinol with palmitic acid.

(b) The ingredient meets the specifications for vitamin A in the Food Chemicals Codex, 3d Ed. (1981), p. 342, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice. Vitamin A may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposed to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before March 15, 1983 submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1037 Filed 1-13-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 357

[Docket No. 82N-0165]

Orally Administered Menstrual Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

Correction

In FR Doc. 82-32885 beginning on page 55076 in the issue for Tuesday, December 7, 1982, make the following changes:

1. On page 55078, the third column:

a. The tenth line, the words "Cimicifuga racemosa" should be italicized.

b. The fifteenth line, the word "Gylcyrrhiza" should be italicized.

c. The eighteenth line should read "Pamabrom (2-amino-2-methyl-1-".

2. On page 55079, the middle column, the ingredients listed under paragraph designated "b", the ingredient "Essence pepsi" should read "Essence pepsin".

3. On page 55080, the middle column, the seventeenth line from the bottom, the first, "to" should read "of".

4. On page 55083, the middle column, the ninth line from the bottom, the word "doseage" should read "dose".

5. On page 55085:

a. In the first column, the first complete paragraph, the eleventh line from the bottom, the number "10" should read "0.10".

b. In the same paragraph, the tenth line from the bottom, the word "an" should read "and".

c. In the middle column, in the first entry under References, "N-" should read "N-p-".

6. On page 55089, the first column, in the third entry under References, the second line should read "of Diuretic Action of Pamabrom (2-Amino-2-".

7. On page 55092, the first column, the first complete paragraph, the word *"Taraxascum"* should read *"Taraxacum"*.

8. On page 55098, the middle column, in the fifth entry under References, the OTC Volume citation should read "170209".

9. On page 55099, the first column, the second complete paragraph, the word "table" should read "tablet".

BILLING CODE 1505-01-M

DEPARTMENT OF STATE

22 CFR Part 121

[Docket No. SD-182]

Amendment of the International Traffic in Arms Regulations (ITAR)—U.S. Munitions List.

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department proposes to amend the U.S. Munitions List (22 CFR 121.01) of the International Traffic in Arms Regulations, by adding a paragraph concerning certain Very High Speed Integrated Circuits (VHSIC) devices to Category XI of the U.S. Munitions List. The licensing of exports of such devices will consequently be under the jurisdiction of the Deparment of State.

DATES: Comments should be received no later than February 28, 1983.

ADDRESS: Comments should be sent to Mr. William B. Robinson, Director, Office of Munitions Control, Department of State, 2201 C. Street, N.W., Washington, D.C. 20520. All comments will be available for public inspection in the Reading Room of the Department of State.

FOR FURTHER INFORMATION CONTACT. Mr. Steve Koumanelis, (202) 235-9761.

SUPPLEMENTARY INFORMATION: Under the proposed rule, the Office of Munitions Control will have export jurisidiction over those very high speed integrated circuit semiconductor devices that are specifically designed for military applications, such as those produced under the VHSIC program of the Department of Defense. These semiconductors devices are ones which have a high-speed signal and image processing capability with an operational parameter (gate-time-clock-frequency) of greater than 10^{11} gates x hertz. Technical data directly related to these specifically designed military devices will also be under the jurisdiction of the Office of Munitions Control. All integrated circuits and related technical data which do not meet these criteria will remain under the export controls of the Department of Commerce.

List of Subjects in 22 CFR Part 1216

Arms and munitions.

PART 121—[AMENDED]

Accordingly, it is proposed to amend Title 22, Code of Federal Regulations, Part 121, Category XI by adding paragraph (e) to read as set forth below.

§ 121.01 The U.S. munitions list.

* * * * *

Category XI—Military and Space Electronics

* * * * *

(e) Very high speed integrated circuit (VHSIC) semiconductor devices that are specifically designed for military applications and which have a high-speed signal and image processing capability with an operational parameter (gate-time-clock-frequency) of greater than 10^{11} gates x hertz.

* * * * *

(22 U.S.C. 2778(a)(1))

Dated: December 9, 1982.

William B. Robinson,

Director, Office of Munitions Control.

[FR Doc. 83-1219 Filed 1-13-83; 8:50 am]

BILLING CODE 4710-25-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-186-82]

Definition of Partnership Item

AGENCY: Internal Revenue Service.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the definition of "partnership item" under the new rules for the tax treatment of partnership items. The Tax Equity and Fiscal Responsibility Act of 1982 prescribed those new rules. New Code section 6231 (a)(3) provides that a "partnership item" is any item that must be taken into account for a taxable year of a partnership under any income tax provision to the extent that the regulations provide that the item is more appropriately determined at the partnership level. This document sets forth items that the Service considers to be more appropriately determined at the partnership level than at the partner level.

DATE: Written comments and requests for a public hearing must be delivered or mailed by March 15, 1983.

The regulations are proposed to apply with respect to partnership taxable years beginning after September 3, 1982. However, if a partnership and the Service agree to accelerate the effective date for the new consolidated proceedings pursuant to section 407(a)(3) of the Tax Equity and Fiscal Responsibility Act of 1982, the regulations shall apply with respect to that partnership for any partnership taxable year ending after September 3, 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-186-82), 1111 Constitution Avenue, NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Donald Stevenson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) to provide regulations under new section 6231(a)(3) of the Internal Revenue Code of 1954. Section 6231(a)(3) was added to the Code by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248, 96 Stat. 663). The amendments are proposed to be issued under the authority contained in sections 6231(a)(3) and 7805 of the Code (96 Stat. 663; 26 U.S.C. 6231(a)(3), 68A Stat. 917; 26 U.S.C. 7805).

The Tax Equity and Fiscal Responsibility Act of 1982 added to the Code new rules under which the tax treatment of "partnership items" is determined at the partnership level rather than at the partner level.

Under new Code section 6231(a)(3) a "partnership item" is any item that must be taken into account for a taxable year of a partnership under any income tax provision of the Code to the extent that the regulations provide that that item is more appropriately determined at the partnership level than at the partner level. The proposed regulations list the items which the Service considers to be more appropriately determined at the partnership level.

Among the items listed in the proposed regulations are the "distributive share" items that the partnership must allocate to the partners (including partnership liabilities and certain special purpose data such as that necessary to enable partners to compute depletion). Also included are guaranteed payments and partnership-level determinations that have a bearing on transactions affecting particular partners. The proposed regulations provide illustrations of partnership-level determinations that have a bearing on contributions, distributions, transactions between the partnership and a partner, and the application of section 751 (special rules applicable to partnerships with unrealized receivables or substantially appreciated inventory).

These proposed regulations define the term "partnership item" for purposes of income tax proceedings. These proposed regulations do not define that term for purposes of windfall profit tax proceedings.

Comments and Public Hearing

Before the adoption of these proposed regulations consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public comment requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations was Paul A. Francis of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Evaluation of the effectiveness of the proposed regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

List of Subjects in 26 CFR 1.6221-1 through 1.6232-1

Income taxes, Administration and procedure, Partnerships.

Proposed Amendments to the Regulations

A new § 1.6231(a)(3)-1 is proposed to be added to 26 CFR Part 1 to read as follows:

§ 1.6231(a)(3)-1 Partnership items.

(a) *In general.* For purposes of subtitle F of the Internal Revenue Code of 1954, the following items which are required to be taken into account for the taxable year of a partnership under subtitle A of the Code are more appropriately determined at the partnership level than at the partner level:

(1) The partnership aggregate and each partner's share of each of the following:

(i) Items of income, gain, loss, deduction, or credit of the partnership;

(ii) Expenditures by the partnership not deductible in computing its taxable income (for example, foreign taxes and charitable contributions);

(iii) Items of the partnership which may be tax preference items under section 57(a) for any partner;

(iv) Income of the partnership exempt from tax;

(v) Partnership liabilities (including determinations with respect to the amount of the liabilities, whether the liabilities are nonrecourse, and changes from the preceding taxable year); and

(vi) Other amounts with respect to partnership investments, transactions, and operations necessary to enable partners to compute—

(A) The credit provided by section 38;

(B) Recapture under section 47 of the credit provided by section 38,

(C) Their amounts at risk in any activity to which section 465 applies, and

(D) The depletion allowance under section 613A with respect to oil and gas wells;

(2) Guaranteed payments;

(3) Optional adjustments to the basis of partnership property pursuant to an election under section 754 (including necessary preliminary determinations, such as the determination of a transferee partner's basis in a partnership interest); and

(4) To the extent that the determination can be made from determinations that are necessary at the partnership level with respect to an amount, the character of an amount, or the percentage interest of a partner in the partnership for purposes of the partnership books and records or for purposes of furnishing information to a partner—

(i) Contributions to the partnership;

(ii) Distributions from the partnership;

(iii) Amounts to be taken into account by a partner dealing with the partnership in a transaction to which section 707(a) applies (including the application of section 707(b));

(iv) The application to the distributee partner of section 751(b); and

(v) The application to the transferor partner of section 751(a).

(b) *Illustrations.* This paragraph (b) illustrates the provisions of paragraph (a)(4) of this section. The factors enumerated are not exhaustive; there may be additional partnership-level determinations with respect to a determination listed in paragraph (a)(4) of this section.

(1) *Contributions.* For purposes of its books and records, or for purposes of furnishing information to a partner, the partnership needs to determine:

(i) The character of an amount received from a partner (for example, whether it is a contribution, a loan, or a repayment of a loan);

(ii) The amount of money contributed by a partner;

(iii) The applicability of the investment company rules of section 721(b) with respect to a contribution; and

(iv) The basis to the partnership of contributed property.

To the extent that a determination with respect to a contribution can be made from these and similar partnership-level determinations, therefore, the determination is a partnership item. To the extent that that determination requires other information, however, that determination is not a partnership item. For example, it may be necessary to determine whether the contribution of the property causes recapture from the contributing partner of the credit provided under section 38 in certain circumstances in which that determination is irrelevant to the partnership.

(2) *Distributions.* For purposes of its books and records, or for purposes of furnishing information to a partner, the partnership needs to determine:

(i) The character of an amount transferred to a partner (for example, whether it is a distribution, a loan, or a repayment of a loan);

(ii) The amount of money distributed to a partner;

(iii) The adjusted basis to the partnership of distributed property; and

(iv) The character of partnership property (for example, whether an item is inventory or a capital asset).

To the extent that a determination with respect to a distribution can be made from these and similar partnership-level determinations, therefore, the determination is a partnership item. To the extent that that determination requires other information, however, that determination is not a partnership item. Such other information would include those factors used in determining the partner's basis for the partnership interest that are not themselves partnership items, such as the amount that the partner paid to acquire the partnership interest from a transferor partner if that transfer was not covered by an election under section 754.

(3) *Transactions to which section 707(a) applies.* For purposes of its books and records, the partnership needs to determine:

(i) The amount transferred from the partnership to a partner or from a partner to the partnership in any transaction to which section 707(a) applies;

(ii) The character of such an amount (for example, whether or not it is a loan; in the case of amounts paid over time for the purchase of an asset, what portion is interest); and

(iii) The percentage of the capital interests and profits interests in the partnership owed by each partner.

To the extent that a determination with respect to a transaction to which section 707(a) applies can be made from these and similar parnership-level determinations, therefore, that determination is a partnership item. To the extent that that determination requires other information, however, that determination is not a partnership item. Examples of such other information are the cost to the partner of goods sold to the partnership and the extent to which the partner may be treated under secton 267(c) as the constructive owner of a capital or profits interest actually owned by another.

(4) *Application of section 751.* For purposes of its books and records, or for purposes of furnishing information to a partner for use in applying section 751, the partnership needs to determine:

(i) The fair market value and adjusted basis of the partnership's—

(A) Unrealized receivables (within the meaning of section 751(c)),

(B) Substantially appreciated inventory (within the meaning of section 751(d)), and

(C) Other property;

(ii) A partner's share of each of the classes of assets described in paragraph (b)(3)(i) of this section; and

(iii) Whether a distribution to a partner is a disproportionate distribution subject to section 751(b).

To the extent that a determination with respect to the application of section 751 can be made from these and similar partnership-level determinations, therefore, that determination is a partnership item. To the extent that that determination requires other information, however, that determination is not a partnership item. An example of such other information is the amount realized by a partner on the sale of a partnership interest.

(c) *Effective date.* This section shall apply with respect to partnership taxable years beginning after September 3, 1982. This section shall also apply with respect to any partnership taxable year ending after September 3, 1982, if with respect to that year there is an agreement entered into pursuant to section 407(a)(3) of the Tax Equity and Fiscal Responsibility Act of 1982.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-1130 Filed 1-13-83; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[LR-204-76]

Special Periods of Limitation With Respect to Partnership Items of Federally Registered Partnerships; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of pubic hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to special periods of limitation with respect to partnership items of federally registered partnerships.

DATES: The public hearing will be held on March 23, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by March 14, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-204-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6501(o) of the Internal Revenue Code of 1954. The proposed regulations appear in the Proposed Rules section of this issue of the **Federal Register** (See FR Doc. 83-1133).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject by March 14, 1983.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83-1132 Filed 1-13-83; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[LR-77-80]

Tertiary Injectant Expenses

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the allowance of a deduction for tertiary injectant expenses. In general, tertiary injectants are used to enhance the recovery of oil from a crude oil reservoir by use of certain enumerated methods. Changes to the applicable tax law were made by the Crude Oil Windfall Profit Tax Act or 1980. The regulation would provide guidance to taxpayers using tertiary recovery methods for the enhanced recovery of oil.

DATE: Written comments and requests for a public hearing must be delivered or mailed by March 15, 1983. The amendments are proposed to be effective for taxable years beginning after December 31, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of the Internal Revenue, Attention: CC: LR: T (LR-77-80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: David R. Haglund of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 193 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 251(a)(1) of the Crude Oil Windfall Profit Tax Act of 1980 (Pub. L. 96-223, 94 Stat. 286) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Tertiary Injectant Expenses

In general, tertiary injectants are used to enhance the recovery of oil from a crude oil reservoir by use of certain enumerated methods. Before the enactment of section 193, tertiary injectant expenses were required to be capitalized if the expenditures increased or enhanced the value of the oil reservoir beyond the year of injection by augmenting the recoverable amount of hydrocarbons. Section 193 allows as a deduction from gross income an amount equal to the qualified tertiary injectant expenses of the taxpayer. The proposed regulations allow the deduction for the later of—(1) The taxable year in which the injectant is injected, or (2) The taxable year in which the expenses are paid or incurred.

Under section 193, the term "qualified tertiary injectant expense" means, in general, any cost paid or incurred for any tertiary injectant which is used as part of a tertiary recovery method. Section 193 does not allow a deduction, however, for expenses allocable to recoverable hydrocarbons in an injectant containing "more than an insignificant amount" of hydrocarbons. Establishing this standard has proved difficult. The proposed regulations provide that the special rule for recoverable hydrocarbons applies only if recoverable hydrocarbons constitute at least 25 percent of the value of the injectant. The Internal Revenue Service is particularly interested in comments on this proposed standard.

A tertiary recovery method is any method enumerated in paragraphs (c) (1) through (9) of § 212.78 of the June 1979 energy regulations. Under the proposed regulations a taxpayer may also use any method for which the taxpayer has obtained the approval of the Associate Chief Counsel (Technical) under section 4993(d)(1)(B) for purposes of chapter 45 of the Internal Revenue Code, any method which is approved in the regulations under section 4993(d)(1)(B), or any other method to provide tertiary enhanced recovery for which the taxpayer obtains the approval of the Associate Chief Counsel (Technical) for purposes of section 193.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to

the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are interpretive and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these proposed regulations was David R. Haglund of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Proposed Amendments to the Regulations

PART 1—[AMENDED]

It is proposed to amend 26 CFR Part 1 by adding at the appropriate place the following new § 1.193–1:

§1.193–1 Deduction for tertiary injectant expenses.

(a) *In general.* Subject to the limitations and restrictions of paragraphs (c) and (d) of this section, there shall be allowed as a deduction from gross income an amount equal to the qualified tertiary injectant expenses of the taxpayer. This deduction is allowed for the later of—

(1) The taxable year in which the injectant is injected, or

(2) The taxable year in which the expenses are paid or incurred.

(b) *Definitions*—(1) *Qualified tertiary injectant expenses.* Except as otherwise provided in this section, the term "qualified tertiary injectant expense" means any cost paid or incurred for any tertiary injectant which is used as part of a tertiary recovery method.

(2) *Tertiary recovery method.* "Tertiary recovery method" means—

(i) Any method which is described in paragraphs (c) (1) through (9) of § 212.78 of the June 1979 energy regulations (as defined by section 4996 (b)(8)(C)),

(ii) Any method for which the taxpayer has obtained the approval of the Associate Chief Counsel (Technical) under section 4993(d)(1)(B) for purposes of Chapter 45 of the Internal Revenue Code

(iii) Any method which is approved in the regulations under section 4993(d)(1)(B), or

(iv) Any other method to provide tertiary enhanced recovery for which the taxpayer obtains the approval of the Associate Chief Counsel (Technical) for purposes of section 193.

(c) *Special rules for hydrocarbones*—(1) *In general.* If an injectant contains a significant amount of recoverable hydrocarbons, no deduction is allowed under section 193 or paragraph (a) of this section for expenses allocable to the recoverable hydrocarbon portion of an injectant. The hydrocarbons in an injectant are considered recoverable except to the extent that the taxpayer can demonstrate that the hydrocarbons are nonrecoverable.

(2) *Significant amount.* For purposes of section 193 and this section, an injectant contains a significant amount of recoverable hydrocarbons if recoverable hydrocarbons constitute at least 25 percent of the value of the injectant.

(3) *Hydrocarbon defined.* For purposes of section 193 and this section, the term hydrocarbon means natural gas and crude oil (which includes condensate from gas wells and oil recovered from other sources such as oil shale).

(d) *Application with other deductions.* No deduction shall be allowed under section 193 and this section for any expenditure—

(1) With respect to which the taxpayer has made an election under section 263(c) or

(2) With respect to which a deduction is allowed or allowable under any other provision of chapter 1 of the Code.

(e) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). B, a calendar year taxpayer who uses the method of accounting, uses an approved tertiary recovery method for the enhanced recovery of crude oil from one of B's oil properties. During 1980, B pays $100x for tertiary injectants. B injects these materials as part of the recovery effort during 1981. B has not made any election under section 263(c) with respect to the expenditures for the injectants, and no section of chapter 1 of the Code other than section 193 allows a deduction for the expenditures. The hydrocarbon component of the injectants is 80 percent of the value of injectant and its allocable cost is $80x. B is unable to demonstrate that any portion of the hydrocarbon is nonrecoverable. Only the $20x allocable to the nonhydrocarbon component is deductible under section 193. B may claim the deduction only for 1981, the year of the injection.

Example (2). Assume the same facts as in example (1) except that through engineering studies B has shown that 70 percent of the hydrocarbon injected is nonrecoverable. The recoverable hydrocarbon component of the injectant is 24 percent (30 percent of 80 percent) of the value of the injectant. The injectant does not contain a significant amount of recoverable hydrocarbons. B may claim a deduction for the entire cost of the injectant, $100X, for taxable year 1981, the year of injection.

Roscoe L. Egger, Jr.,

Commissioner of the Internal Revenue.

[FR Doc. 83–1128 Filed 1–13–83; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 51

[LR–227–81]

Definition of Removed From the Premises

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations concerning the definition of "removed from the premises" for purposes of the windfall profit tax. Changes to the applicable tax law were made by the Crude Oil Windfall Profit Tax Act of 1980. The regulations would provide guidance for determining when domestic crude oil is removed from the premises for purposes of imposition of the tax imposed by section 4986.

DATES: Written comments and requests for public hearing must be delivered or mailed by March 15, 1983. For the proposed effective dates of these amendments see the discussion below.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR: T(LR–227–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman of the Legislation

and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–556–3297).

SUPPLEMENTARY INFORMATION:

Background

On April 4, 1980, the **Federal Register** published temporary and proposed regulations (45 FR 23384, 23400) under section 4996 and others. The temporary regulations defined removed from the premises and were required to give guidance as to when the tax imposed by the Crude Oil Windfall Profit Tax Act of 1980 is triggered. These temporary and proposed regulations were further amended by Treasury Decision 7755 and an accompanying notice of proposed rulemaking, both published on January 19, 1981 (46 FR 4783, 4950). The proposed regulations were finalized by Treasury Decision 7844, published on November 5, 1982.

This document contains proposed amendments to § 51.4996–1 (d) of the Excise Tax Regulations (26 CFR Part 51), as promulgated by T.D. 7844. These proposed regulations are to be issued under the authority contained in sections 4997 and 7805 of the Internal Revenue Code of 1954 (94 Stat. 249 and 68A Stat. 917; 26 U.S.C. 4997 and 7805).

Explanation of Provisions

Section 4986 imposes an excise tax on the windfall profit from taxable crude oil when it is removed from the premises. Section 51.49961–1 (d) states that, with certain exceptions, removal from the premises occurs when crude oil is physically transported off the premises or is deemed to occur when crude oil is used, manufactured, or converted before it is considered removed. This document describes the exceptions to this general rule.

One exception treats as not removed from the premises crude oil that is injected into a well or used to power a production process or production equipment. To qualify for the exception such crude oil cannot leave the premises nor can it be subject to manufacture or conversion.

Another exception applies to crude oil that has not been manufactured, converted, sold, or exchanged and that is to be used as powerhouse fuel or injected into a well on a tract that is contiguous to the producing tract (or is in a group of tracts contiguous to the producing tract). Such crude oil may be transported from the producing tract or parcels of land in which the same persons hold 100 percent of the operating mineral interests without it being deemed removed. However, if any consideration is transferred to any holder of a mineral interest in the producing tract who does not hold an interest in the tract on which the crude oil is used, as compensation for the holder's interest in the transported oil, or if the holder of mineral interests in both tracts is not entitled to the same fractional share of production in both tracts, and any consideration (other than certain taxable crude oil) is transferred as compensation for the holder's larger interest in the transported oil, the number of barrels of crude oil whose constructive sales price equals the fair market value of the total consideration transferred shall be deemed removed.

For this purpose, contiguous is defined to require actual touching of the areas below the surface along a substantial common border that are subject to the right to produce crude oil. However, actual touching of the tracts or parcels of land on the surface is not required. For example, if a railroad right-of-way separates the tracts but the producer (or producers) who possess the right to produce in the areas on each side of the right-of-way also hold such interests in the area below the railroad right-of-way the tracts are contiguous.

Another exception allows crude oil in some instances to be transported from the premises to its first storage tank located less than 2 miles from the premises (or in the case of an offshore well, less than 10 miles from the point the crude oil comes on shore) without being considered removed. In order for this exception to apply the crude oil must have been sold, exchanged, manufactured, converted or had its volume measured for sale or exchange prior to the transportation. Removal will then generally be deemed to occur when the crude oil is sold, exchanged, manufactured, converted, measured for sale or exchange or withdrawn from its first storage facility. However, such crude oil that is transported to the storage tank but not deemed removed may be returned to the producing tract or parcel of land, or transported to tracts or parcels of land contiguous to the producing tract, and injected into a well or used to power a production process or production equipment, without triggering removal.

Effective Dates

These amendments to the final regulations are proposed to become effective with respect to all crude oil which under T.D. 7844, *supra*, is not considered to have been removed (or deemed removed) from the premises before the date that is 30 days after publication of final regulations pursuant to this notice of proposed rulemaking, except that paragraph (d)(2) of § 51.4996–1 is effective for oil removed (or deemed removed) after February 29, 1980, under T.D. 7844.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required.

Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are interpretive and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required by chapter 6 of title 5, United States Code.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be made available for public inspection and copying. A public hearing will be held upon written request of any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Beverly A. Baughman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

List of Subjects in 26 CFR Part 51

Excise Tax, Petroleum Crude Oil Windfall Profit Tax Act of 1980.

Proposed Amendments to the Regulations

PART 51—[AMENDED]

The proposed amendments to 26 CFR Part 51 revise paragraph (d) (2) and (3) of § 51.4996–1 to read as follows:

§ 51.4996–1 Definitions.

* * * * *

(d) *Removed from the premises; deemed removed.* * * *

(2) *Certain use not considered removal.* Crude oil that is produced and

then, without leaving the premises and without manufacture or conversion, injected into any well on the premises or used on the premises to power a production process (such as a tertiary injection process or a water flood), or production equipment (such as an artificial lift device) is not deemed removed from the premises. For purposes of the preceding sentence, crude oil is not treated as leaving the premises if it is transported to a storage facility and returned to the premises after storage without ever having been deemed removed pursuant to paragraph (d) (3) (ii) (B), (C), or (D) of this section.

(3) *Certain transportation not considered removal.* (i) Transportation of crude oil from the producing tract or parcel of land to a contiguous tract or parcel of land (or to a tract or parcel that is in a group of contiguous tracts or parcels that is contiguous to a producing tract or parcel) shall not be considered removal from the premises provided—

(A) That the crude oil has not been manufactured, converted, sold, or exchanged,

(B) That on a tract or parcel of land described in this sentence the crude oil either is used to power a production process or production equipment or is injected into a well, and

(C) That the same person or persons hold 100 percent of the operating mineral interests in each of the tracts or parcels of land.

However—

(D) In the case of a holder of a mineral interest in the tract or parcel of land that produced the crude oil who does not hold a mineral interest in the tract or parcel on which the crude oil is used, if any consideration is transferred to that holder as compensation for the holder's interest in the oil transported, or

(E) In the case of a holder of a mineral interest in the producing tract or parcel of land who also holds a mineral interest in the tract or parcel on which the crude oil is used that entitles that holder to a smaller share of production than the holder's share of production in the producing tract or parcel, if any consideration (other than taxable crude oil that is to be produced from the tracts or parcels of land in the same calendar quarter as that in which the oil is transported or in the immediately following calendar quarter)—is transferred to that holder as compensation for the holder's interest in the oil transported,

the number of barrels of crude oil whose constructive sales price (determined under the principles employed under section 613) equals the fair market value of the total consideration transferred shall be deemed removed. As used in this subdivision contiguous means actually touching along a substantial common border. There must be such actual touching below the surface of the areas that are subject to the right to produce crude oil, but physical touching of the tracts or parcels of land on the surface is not required. Thus, a road separating two tracts of land will not affect the contiguity of the tracts as long as the right to produce under the road is held by the same persons or persons who hold such rights in the tracts or parcels of land on each side of the road. In the case of crude oil which has been transported to a storage facility but which is not deemed removed pursuant to paragraph (d) (3) (ii) (B), (C), or (D) of this section transportation directly from the storage facility to a tract or parcel of land described in the subdivision shall not be deemed removal from the premises provided that such transportation would not have been considered removal from the premises if it had been directly to such tract or parcel from the producing premises. If crude oil not deemed removed pursuant to this subdivision is produced from a property from which more than one category of oil is produced, the crude oil that is injected or used to power a production process or production equipment shall be allocated among such categories in proportion to the production from that property in each such category that was removed from the premises during the immediately preceding quarter. For purposes of the preceding sentence, the categories of crude oil are tier 1 oil, tier 2 oil, newly discovered oil, tier 3 oil other than newly discovered oil, and exempt oil. The provisions of this paragraph may be illustrated by the following examples:

Example (1). Crude oil is transported from tract 1 where it was produced to contiguous tract 2 to power production equipment. A and B hold operating mineral interests in tracts 1 and 2 as indicated in the following table:

	Tract 1 (percent)	Tract 2 (percent)
A	80	45
B	20	55
	100	100

Additionally, C holds a royalty interest in tract 1 but not in tract 2. B agrees to pay A money to reflect the 35 percent (80%—45%) difference in his operating mineral interests in tracts 1 and 2. A and B agree to pay C money for his royalty interest in the crude oil transported from tract 1. The number of barrels of crude oil whose constructive sales price equals the fair market value of the total consideration transferred to A and C is removed from the premises when it is transported from tract 1.

Example (2). C holds a 100% operating mineral interest in tract 3 and in tract 4. Tracts 3 and 4 are separated by a 100-foot wide area in which D railroad company holds a fee (including all mineral rights). Tracts 3 and 4 are not contiguous and, accordingly, crude oil is removed when it is transported from one of these tracts to the other.

(ii) This paragraph applies only to the transportation of crude oil away from the premises to its first storage facility. For purposes of the imposition of the windfall profit tax only, such transportation to such first storage facility located less than 2 miles from the premises (or, in the case of an offshore well, less than 10 miles from the point the crude oil comes on shore) shall not be considered removal from the premises provided it is done prior to manufacture, conversion, sale, exchange, or measurement of the volume of the crude oil in connection with its sale or exchange. In those cases where the crude oil arrives at such first storage facility without having been subjected to any of the activities described in the preceding sentence, the crude oil shall be deemed removed on the first date that any of the following occurs:

(A) Withdrawal of the crude oil from such first storage facility; or

(B) Sale or exchange of the crude oil; or

(C) Manufacture or conversion of the crude oil; or

(D) Measurement of the volume of the crude oil in connection with its sale or exchange (unless it is measured at a storage facility, in which case it shall be deemed removed on the date it is taken out of the storage facility).

For exceptions to this paragraph for crude oil returned to the tract or parcel of land from which it was produced or to a tract or parcel of land or group of tracts or parcels of land contiguous to the one on which it was produced, see paragraphs (d)(2) and (d)(3)(i) of this section, respectively.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-1129 Filed 1-13-83; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 301

[LR-204-78]

Special Periods of Limitation With Respect to Partnership Items of Federally Registered Partnerships

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the special periods of limitation for assessing a deficiency, and for filing a claim for credit or refund of any overpayment, attributable to a partnership item of a federally registered partnership. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations would provide the necessary guidance to the public to comply with the law.

DATES: Written comments must be delivered or mailed by March 15, 1983. A public hearing on this notice of proposed rulemaking will be held on March 23, 1983 for further information, see the notice of public hearing published elsewhere in this issue of the **Federal Register**. The amendments are proposed to be effective for partnership items arising in partnership taxable years beginning after December 31, 1978 and before September 4, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–204–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Donald W. Stevenson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under sections 6501(o) and 6511(g) of the Internal Revenue Code of 1954 (as they read before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982). These amendments are proposed to conform the regulations to amendments made to the Code by section 212 of the Revenue Act of 1978 (92 Stat. 2818) and section 102(a)(2) (A) and (B) of the Technical Corrections Act of 1979 (94 Stat. 208). The amendments are to be issued under the authority contained in section 6501(o) (as it read before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) and 7805 of the Internal Revenue Code of 1954 (92 Stat. 2818, 26 U.S.C. 6501(o); 68A Stat. 917, 26 U.S.C. 7805).

Section 402(c) (5) and (7) of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 667) amended Code sections 6501(o) and 6511(g) and removed the special provisions for federally registered partnerships. The amendments made by section 402 of that Act are generally effective for partnership taxable years beginning after September 3, 1982. Section 407(a)(3) of that Act provides for earlier application of those amendments in certain circumstances. The regulations proposed in this document will not apply to any partnership taxable year with respect to which the amendments made by section 402 of that Act are effective.

Period for Assessing Deficiency Attributable to Partnership Items

Code section 6501(o) (as it read before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) provides that the period for assessing an income tax deficiency attributable to any partnership item of a federally registered partnership shall not expire before the later of (1) the date which is 4 years after the date in which the item arose is filed or (2), if the name or address of the person against whom the assessment is sought does not appear on the return, the date which is 1 year after such information is fully disclosed. The proposed regulations explain the application of this full disclosure rule in the case of "pass through" partners. A federally registered partnership is any partnership the interests in which have been offered for sale in an offering required to be registered with the Securities and Exchange Commission, or any partnership which is or has been subject to annual reporting requirements of the Securities and Exchange Commission, relating to protection of investors in the partnership.

Code section 6501(o)(2) (as it read before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) defines a partnership item as any item required to be taken into account under the partnership provisions of the Code to the extent that the regulations designate the item as one that is more appropriately determined at the partnership level than at the partner level. The term also includes any other item to the extent that that other item is affected by an item designated in the regulations. The proposed regulations identify items that the Service deems more appropriately determined at the partnership level than at the partner level.

The proposed regulations also explain how the partnership may designate who may extend by agreement the period for assessing a deficiency attributable to any partnership item. Any general partner may execute an agreement with the Service to extend the period of limitation with respect to all partners unless the partnership has notified the Internal Revenue Service in writing that that partner lacks the authority to do so. The partnership may, by filing a written statement with the Service, authorize persons other than general partners to execute agreements to extend the period for assessing such deficiencies.

Period for Filing Claims for Credit or Refund

Code section 6511(g) (as it read before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) provides that the period for filing a claim for credit or refund of any income tax overpayment attributable to any partnership item of a federally registered partnership shall not expire before the date which is 4 years after the date prescribed by law for filing the partnership return for the partnership taxable year in which the item, arose. If the taxpayer or a person authorized to act on behalf of the partnership consents to extend the period for assessing a deficiency with respect to partnership items arising in a partnership taxable year, the refund period with respect to those items shall not expire before the date 6 months after the expiration of the extension.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Exective Order 12291 and that a Regulatory Impact Analysis is therefore not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public comment requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on March 23, 1983.

For further information about the public hearing see the notice of hearing that appears elsewhere in this issue of the **Federal Register**.

Drafting Information

The principal author of these proposed regulations was Donald W. Stevenson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Partnership item, Penalties, Pensions, Statistics, Taxes, Disclosure of information, and Filing requirements.

Proposed Amendments to the Regulations

PART 301—[AMENDED]

The proposed amendments to 26 CFR Part 301 are as follows:

Paragraph 1. New §§ 301.6501(o)–2 and 301.6501(o)–3 are added to read as follows:

§ 301.6501(o)–2 Special rules for partnership items of federally registered partnerships.

(a) *In general.* In the case of any tax imposed by subtitle A with respect to any person, the period for assessing a deficiency attributable to any partnership item of a federally registered partnership shall not expire before the later of—

(1) The date which is 4 years after the date on which the return of the federally registered partnership for the partnership taxable year in which the item arose is filed (or, if later, the date prescribed for filing the return), or

(2) If the name or address of the person against whom the assessment is sought does not appear on the return of the federally registered partnership, the date which is 1 year after the date on which a satisfactory identifying statement is furnished in writing to the director of the service center with which the partnership return is filed. A satisfactory identifying statement is a written statement providing the name, address, and taxpayer identification number of both the partner and the partnership. The statement shall note the partnership taxable year for which the statement is furnished.

(b) *"Pass through" entity as partner.* In the case of a partnership having a "pass through" entity (*i.e.*, partnership, electing small business corporation (as defined in section 1371(b)), trust, estate, or nominee) as a partner, the 1 year period described in paragraph (a)(2) of this section shall not begin with respect to the person to be assessed until the chain of ownership linking the taxpayer with the federally registered partnership in which the item originally arose is fully disclosed.

Example. Partnership U, a federally registered partnership, has two partners, Partnerships W and X. The partners of W are A and B, who are individuals, and T, a trust whose beneficiaries are individuals C and D. The partners of X are E, an individual, and Partnership Y whose partners are individuals F, G, and H. U and X properly disclose the identity of their partners. W, however, discloses the identity of only A and B, and Y discloses the identity of only F and G. The period of limitation described in paragraph (a) of this section for items attributable to U does not expire with respect to T, C, D, and H until one year after the chain of ownership linking these taxpayers with U is fully disclosed.

(c) *Federally registered partnership*—(1) *In general.* With respect to any partnership taxable year, a federally registered partnership is any partnership—

(i) Interests in which have been offered for sale at any time during the taxable year or a prior taxable year in an offering required to be registered with the Securities and Exchange Commission, or

(ii) Which, at any time during the taxable year or a prior taxable year, was subject to the annual reporting requirements of the Securities and Exchange Commission which relate to the protection of investors in the partnership.

For purposes of the preceding sentence an interest is "offered for sale" when it is the subject of an "offer for sale" as that term is used in section 2 of the Securities Act of 1933 (15 U.S.C. 77b).

(2) *Certain reporting requirements not taken into account.* A requirement to file reports with the Securities and Exchange Commission for any purpose other than to protect investors does not cause the partnership to be treated as a federally registered partnership. For example, a brokerage firm organized as a partnership is not a federally registered partnership merely because it files reports required by the Commission for regulatory purposes.

(d) *Extension by agreement*—(1) *In general.* Any general partner of a federally registered partnership (or any other person authorized by the partnership) may, prior to the expiration of the limitation period described in paragraph (a) of this section, extend the period for assessing a deficiency attributable to a partnership item for any period of time agreed upon in writing. The extension shall become effective when the agreement has been executed by the district director or the service center director and shall be binding on all persons whose liability for tax imposed by subtitle A is affected in whole or in part by partnership items flowing from that partnership.

(2) *Authorization of other persons.* The partnership may authorize persons other than the general partners to extend the period of limitation for assessing a deficiency attributable to a partnership item. This authorization shall be in writing, shall clearly identify the person being authorized and the action being authorized, and shall be signed by all the general partners. The authorization shall become effective when filed with the district director and shall remain in effect until a written revocation signed as provided in the preceding sentence is filed.

(3) *Removing authority of general partners.* A partnership wishing to deny to some or all of the general partners the authority to execute an agreement extending the period of limitation for assessment may do so by submitting a written statement to that effect. The statement shall either identify the partners exclusively authorized to execute such an agreement or declare that one or more named partners or all partners lack the authority to execute such an agreement. The statement shall be signed by all the general partners. The statement shall become effective when filed with the district director and shall remain in effect until a statement revoking or superseding it and signed as provided in the preceding sentence is filed.

(e) *Special period of limitation with respect to carryback of net operating loss, capital, loss, etc.* The provisions of section 6501(o) must also be taken into account in applying the various special periods of limitation prescribed in sections 6501(h), (i) and (j). Thus, to the extent that a carryback is attributable to a partnership item of a federally registered partnership, the period for assessing a deficiency attributable to that carryback shall not expire before the date determined under paragraph (a) of this section with respect to the partnership taxable year in which the item arose.

(f) *Otherwise applicable limitation period.* The special provisions of section 6501(o) and this section do not terminate any otherwise applicable period for assessing a deficiency. Thus, the fact that more than 4 years have elapsed since the filing of the partnership return for the year in issue does not prevent

assessment against a partner based on partnership items if an otherwise applicable period of limitation for the partner has not yet expired.

Example. Partnership V files its return for the taxable year ending December 31, 1980, on April 15, 1981. A, a partner in Partnership V, agrees to extend the assessment period for A's taxable year ending December 31, 1980, until September 30, 1985. The partnership does not agree to any extension under section 6501(o)(3) so that the period for assessing a deficiency attributable to partnership items could expire on April 15, 1985. A deficiency may be assessed against A for 1980 at any time prior to October 1, 1985, even if that deficiency is based on partnership items.

(g) *Effective date.* This section and § 301.6501(o)–3 are effective generally for partnership items arising in partnership taxable years beginning after December 31, 1978 and before September 4, 1982. This section shall not apply, however, to any partnership taxable year with respect to which the amendments made to Code section 6501(o) by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 are effective. See section 407(a)(3) of that Act.

§ 301.6501(o)–3 Partnership items.

(a) *Partnership item defined.* For purposes of section 6501(o) (as it read before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982), § 301.6501(o)–2, and § 301.6511(g)–1, the term "partnership item" means——

(1) Any item required to be taken into account for the partnership taxable year under any provision of subchapter K of chapter 1 of the Code, to the extent that the item is designated in paragraph (b) of this section as more appropriately determined at the partnership level than at the partner level, and

(2) Any other item to the extent affected by an item described in paragraph (b) of this section.

The items described in paragraph (a)(2) of this section include items related to the partnership (for example, a partner's basis in the partnership interest) as well as more general items whose computation may be affected by changes to items described in paragraph (b) of this section (for example, adjusted gross income, self-employment tax, income averaging, medical deduction, and charitable contribution deduction).

(b) *Items more appropriately determined at the partnership level.* The following items which are required to be taken into account for the taxable year of a partnership under subchapter K of chapter 1 of the Code are more appropriately determined at the partnership level than at the partner level:

(1) The partnership aggregate and each partner's share of each of the following:

(i) Items of income, gain, loss, deduction, or credit of the partnership;

(ii) Expenditures by the partnership not deductible in computing its taxable income (for example, foreign taxes and charitable contributions);

(iii) Items of the partnership which may be tax preference items under section 57(a) for any partner;

(iv) Income of the partnership exempt from tax;

(v) Partnership liabilities (including determinations with respect to the amount of the liabilities, whether the liabilities are nonrecourse, and changes from the preceding taxable year); and

(vi) Other amounts with respect to partnership investments, transactions, and operations necessary to enable partners to compute—

(A) The credit provide by section 38;

(B) Recapture under section 47 of the credit provided by section 38,

(C) Their amounts at risk in any activity to which section 465 applies, and

(D) The depletion allowance under section 613A with respect to oil and gas wells;

(2) Guaranteed payments;

(3) Optional adjustments to the basis of partnership property pursuant to an election under section 754 (including necessary preliminary determinations, such as the determination of a transferee partner's basis in a partnership interest); and

(4) To the extent that the determination can be made from determinations that are necessary at the partnership level with respect to an amount, the character of an amount, or the precentage interest of a partner in the partnership for purposes of the partnership books ad records or for purposes of furnishing information to a partner—

(i) Contributions to the partnership;

(ii) Distributions from the partnership;

(iii) Amounts to be taken into account by a partner dealing with the partnership in a transaction to which section 707(a) applies (including the application of section 707(b));

(iv) The application to the distributee partner of section 751(b); and

(v) The application to the transferor partner of section 751(a).

(c) *Illustrations.* This paragraph (c) illustrates the provisions of paragraph (b)(4) of this section. The factors enumerated are not exhaustive; there may be additional partnership-level determinations with respect to a determination listed in paragraph (b)(4) of this section.

(1) *Contributions.* For purposes of its books and records, or for purposes of furnishing information to a partner, the partnership needs to determine:

(i) The character of an amount received from a partner (for example, whether it is a contribution, a loan, or a repayment of a loan);

(ii) The amount of money contributed by a partner;

(iii) The applicability of the investment company rules of section 721(b) with respect to a contribution; and

(iv) The basis to the partnership of contributed property.

To the extent that a determination with respect to a contribution can be made from these and similar partnership-level determinations, therefore, the determination is more appropriately made at the partnership level. To the extent that that determination requires other information, however, that determination is more appropriately made at the partner level. For example, it may be necessary to determine whether the contribution of the property causes recapture from the contributing partner of the credit provided under section 38 in certain circumstances in which that determination is irrelevant to the partnership.

(2) *Distribution.* For purposes of its books and records, or for purposes of furnishing information to a partner, the partnership needs to determine:

(i) The character of an amount transferred to a partner (for example, whether it is a distribution, a loan, or a repayment of a loan);

(ii) The amount of money distributed to a partner;

(iii) The adjusted basis to the partnership of distributed property; and

(iv) The character of partnership property (for example, whether an item is inventory or a capital asset).

To the extent that a determination with respect to a distribution can be made from these and similar partnership-level determinations, therefore, the determination is more appropriately made at the partnership level. To the extent that that determination requires other information, however, that determination is more appropriately made at the partner level. Such other information would include certain factors used in determining the partner's basis for the partnership interest, such as the amount that the partner paid to acquire the partnership interest from a transferor partner if that transfer was not covered by an election under section 754.

(3) *Transactions to which section 707(a) applies.* For purposes of its books and records, the partnership needs to determine:

(i) The amount transferred from the partnership to a partner or from a partner to the partnership in any transaction to which section 707(a) applies;

(ii) The character of such an amount (for example, whether or not it is a loan; in the case of amounts paid over time for the purchase of an asset, what portion is interest); and

(iii) The percentage of the capital interests and profits interests in the partnership owned by each partner.

To the extent that a determination with respect to a transaction to which section 707(a) applies can be made from these and similar partnership-level determinations, therefore, that determination is more appropriately made at the partnership level. To the extent that the determination requires other information, however, that determination is more appropriately made at the partner level. Examples of such other information are the cost to the partner of goods sold to the partnership and the extent to which the partner may be treated under section 267(c) as the constructive owner of a capital or profits interest actually owned by another.

(4) *Application of section 751.* For purposes of its books and records, or for purposes of furnishing information to a partner for use in applying section 751, the partnership needs to determine:

(i) The fair market value and adjusted basis of the partnership's—

(A) Unrealized receivables (within the meaning of section 751(c)),

(B) Substantially appreciated inventory (within the meaning of section 751(d)), and

(C) Other property;

(ii) A partner's share of each of the classes of assets described in paragraph (c)(3)(i) of this section; and

(iii) Whether a distribution to a partner is a disproportionate distribution subject to section 751(b).

To the extent that a determination with respect to the application of section 751 can be made from these and similar partnership-level determinations, therefore, that determination is more appropriately made at the partnership level. To the extent that the determination requires other information, however, that determination is more appropriately made at the partner level. An example of such other information is the amount realized by a partner on the sale of a partnership interest.

Par. 2. A new § 301.6511(g)–1 is added to read as follows:

§ 301.6511(g)–1 Special rule for partnership items of federally registered partnerships.

(a) *In general.* In the case of any tax imposed by subtitle A with respect to any person, the period for filing a claim for credit or refund of any overpayment attributable to any partnership item of a federally registered partnership shall not expire before the later of—

(1) The date which is 4 years after the date prescribed by law (including extensions thereof) for filing the partnership return for the partnership taxable year in which the item arose, or

(2) If the taxpayer or a general partner or a person authorized to act on behalf of the partnership, as provided in § 301.6501(o)–2(d), consents to extend the period for assessing a deficiency attributable to the partnership item before the date specified in paragraph (a)(1) of this section, the date 6 months after the expiration of the extension.

(b) *Limits on amount of credit or refund not applicable.* In the case of a claim for credit or refund of any income tax overpayment attributable to any partnership item of a federally registered partnership, the limitations provided in section 6511(b) (2) and (c) shall not apply if the claim is filed within the period described in paragraph (a) of this section.

(c) *Special periods of limitation with respect to carryback of net operating loss, capital loss, etc.* The provisions of section 6511(g) must also be taken into account in applying the various special periods of limitation prescribed in section 6511(d). Thus, to the extent that a carryback is attributable to a partnership item of a federally registered partnership, the period for filing a claim for credit or refund of an overpayment attributable to that carryback shall not expire before the date determined under paragraph (a) of this section with respect to the partnership taxable year in which the item arose.

(d) *Definitions.* For purposes of this section, the terms "partnership item" and "federally registered partnership" have the same meaning as such terms have when used in section 6501(o), § 301.6501(o)–2(c), and § 301.6501(o)–3.

(e) *Effective date.* The provisions of this section are effective generally for partnership items arising in partnership taxable years beginning after December 31, 1978 and before September 4, 1982. This section shall not apply, however, to any partnership taxable year with respect to which the amendments made to Code section 6511(g) by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 are effective. See section 407(a)(3) of that Act.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–1133 Filed 1–13–83; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 211, 221, 231, 250, and 270

Decision Not To Propose Rulemaking Establishing Procedures for Mineral Royalty Reporting of and Paying on Leases on Federal Lands, Outer Continental Shelf (OCS) Lands, and Indian Lands

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of decision not to propose rulemaking.

SUMMARY: On April 18, 1982 (47 FR 18132), and May 27, 1982 (47 FR 23185), the Minerals Management Service sought comments on a proposal to develop and implement an alternate, voluntary reporting and paying procedure for mineral royalties due from leases on Federal lands, Outer Continental Shelf (OCS) lands, and Indian lands. Because of the comments and for other considerations, MMS has decided not to propose a rulemaking on the voluntary reporting and paying procedure.

FOR FURTHER INFORMATION CONTACT: Mr. Orie L. Kelm, (703) 860–7511 (FTS 928 7511).

SUPPLEMENTARY INFORMATION: MMS was proposing to implement a procedure that would allow payors to report and pay royalties on the last day of the second month following the production month. This proposed rulemaking was a recommendation of the Commission on Fiscal Accountability of the Nation's Energy Resources. After reviewing the comments and considering other material that has been developed, MMS has determined that there are legal and administrative problems associated with changing the reporting and paying procedures. Therefore, MMS does not propose to issue a rulemaking on establishing revised reporting and paying procedures at this time.

List of Subjects in 30 CFR Parts 211, 221, 231, 250, and 270

Minerals royalty accounting, Payment methods, Royalty accounting.

Dated: January 12, 1983.

Orie L. Kelm,

Deputy Associate Director for Royalty Management.

[FR Doc. 83-1210 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 35, 120, and 131

[WH-FRL 2290.5]

Water Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: On Friday, October 29, 1982, the Environmental Protection Agency published in the **Federal Register** (47 FR 49234) a proposed rule governing water quality standards activities outlined in Section 303(c) of the Clean Water Act. In response to numerous requests, the comment period on the proposed rule is extended from January 27, 1983, to February 10, 1983, to allow commenters additional time to review the proposed rule and develop comments.

DATES: Comments must be submitted on or before February 10, 1983.

FOR FURTHER INFORMATION CONTACT: Comments on the proposed water quality standards regulation should be directed to: David K. Sabock, Criteria and Standards Division (WH-585), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; (202) 245-3042.

Dated: January 10, 1983.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water (WH-556).

[FR Doc. 83-1209 Filed 1-13-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 403

[W-5-FRL 2284-7]

Ohio's Application to Administer the National Pollutant Discharge Elimination System (NPDES) Pretreatment Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of application.

SUMMARY: In a letter dated December 20, 1982, Mr. Wayne S. Nichols, director of the Ohio Environmental Protection Agency, requested approval of the State of Ohio Pretreatment Porgram, and submitted a signed statement from the Ohio Attorney General that the State of Ohio has the necessary authority, together with a signed revision to the NPDES Memorandum of Agreement, along with a description of how the State proposes to operate the program. The U.S. EPA Regional Counsel has reviewed the Attorney General Statement and has determined that the State of Ohio has legal authority to implement an NPDES Pretreatment Program. This notice provides for a comment period on Ohio's request. Under U.S. EPA regulations the Administrator shall approve or disapprove this request after taking into consideration all comments received.

DATES: To be considered comments must be received on or before February 15, 1983.

Interested persons may also request a public hearing on the State's request. If there is a significant public interest expressed in the comments, U.S. EPA will schedule such a hearing. In the event U.S. EPA determines to hold a public hearing prior notice of the date, time and location of such a hearing will be given. All requests for a public hearing must be submitted on or before the expiration of the comment period.

ADDRESS: Comments should be addressed to: U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois, 60604, Attention: Robert R. Robichaud, Permits Section (5WQP).

FOR FURTHER INFORMATION CONTACT: Ms. Lorraine C. Kosik, NPDES Permits Section (5WQP), U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois, 60604; (312) 353-2096.

SUPPLEMENTARY INFORMATION: On June 26, 1978, the United States Environmental Protection Agency (U.S. EPA) promulgated the general Pretreatment Regulations (40 CFR Part 403). Amendments to the General Pretreatment Regulations were promulgated on January 28, 1981. These regulations, mandated by the Clean Water Act of 1977 (Pub. L. 95-217), govern the control of industrial wastes introduced into Publicly Owned Treatment Works (POTWs), commonly referred to as municipal sewage treatment plants. The objectives of the regulations are to: (1) Prevent introduction of pollutants into POTWs which will interfere with plant operations and/or disposal or use of municipal sludges; (2) prevent introduction of pollutants into POTWs which will pass through treatment works in unacceptable amounts to receiving waters; and, (3) improve the feasibility of recycling and reclaiming municipal and industrial wastewaters and sludges.

The State of Ohio received NPDES permit authority on March 11, 1974. One of the keystones of the industrial waste control program as set forth in the general Pretreatment Regulations is the establishment of Pretreatment Programs as a supplement to the existing State National Pollutant Discharge Elimination System (NPDES) permit program. In order to be approved, a request for State Pretreatment Program approval must demonstrate that the State has legal authority, procedures, available funding, and qualified personnel to implement a State Pretreatment Program as specified in § 403.10 of the Regulations. Generally, local Pretreatment Programs will be the primary vehicle for administering, applying and enforcing Federal Pretreatment Standards for Industrial Users of POTWs. States will be required to apply and enforce Pretreatment Standards directly against industries that discharge to POTWs where local programs are not required or have not been developed.

The Administrator's decision to approve or disapprove the proposed pretreatment program will be based on a determination of whether the proposed program meets the requirements of the Clean Water Act and 40 CFR Part 403 and on the comments received.

The Ohio submission may be reviewed by the public at the State of Ohio Environmental Protection Agency, 361 E. Broad Street, P.O. Box 1049, Columbus, Ohio, 43216, and at the U.S. EPA office in Chicago at the address appearing at the beginning of this Notice. Copies of the submittal may also be obtained (at a cost of 20 cents a page) from these offices.

List of Subjects in 40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, and Water pollution control.

Dated: January 4, 1983.

Valdas V. Adamkus,

Regional Administrator, Region V.

[FR Doc. 83-617 Filed 1-13-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 468

[OW-FRL-2283-5]

Copper Forming Point Source Category; Effluent Limitations Guidlines, Pretreatment Standards and New Source Performance Standards; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of proposed rule; extension of comment period.

SUMMARY: This document corrects the proposed limitations and standards for the Copper Forming Point Source Category that appeared in the **Federal Register** on Friday, November 12, 1982, (47 FR 51278).

DATES: Comments on this proposal must be submitted by February 14, 1983.

ADDRESSES: Send comments to Mr. David Pepson, Effluent Guidelines Division (WH–552), U. S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Attention: Copper Forming Rules. Technical information and copies of technical documents may be obtained from the National Information Service, Springfield, Virginia 22161 (703/487–4600), or from Mr. David Pepson, Effluent Guidelines Division, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 or call 202/382–7157. The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2402 (Rear) (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Ernst P. Hall (202/382–7126) or Mr. David Pepson (202/382–7157), Effluent Guidelines Division (WH–552), U.S. Environmental Protection agency, 401 M Street SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: These proposed regulations are supported by three major documents available from EPA. Analytical methods are discussed in Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants. EPA's technical conclusions are detailed in the Development Document for Effluent Limitations Guidelines and Standards for the Copper Forming Point Source Category. The Agency's economic analysis is found in Economic Impact Analysis of Effluent Limitations Guidelines and Standards for the Copper Forming Industry.

Organization of This Notice

I. Introduction
II. Summary of Corrections
III. Extension of Comment Period

I. Introduction

On November 12, 1982 EPA published proposed effluent limitations guidelines and standards for the copper forming point source category, 47 FR 51278. This notice of proposed rulemaking contained a number of errors. All of these errors are identified below. Some of the corrections are due to typographic errors. In other cases, EPA inadvertently published limitations and standards not based on the regulatory control options and flows which were selected by the Administrator. Accordingly, we are correcting these limitations and standards. The changes made today are corrections only to the numerical limitations and standards; the flow and technology bases are identical to those discussed in the preamble to the proposed regulation and in the technical development document entitled *Development Document for Effluent Limitations Guidelines and Standards for the Copper Forming Point Source Category.*

II. Summary of Corrections

In the proposed rule which appeared in the **Federal Register** on Friday, November 12, 1982, 47 FR 51278, several definitions were omitted from 468.02, Specialized Definitions on page 51290. These definitions are added in this notice.

EPA published an incorrect definition of off-kilogram at § 468.02(b) of the proposed rule. The definition is corrected in this notice. The definition as corrected is consistent with the definition as it appears on page 68 of the development document and with the use of the term throughout the development of this proposed rule.

As a result of the corrections made today to § 468.02, the definition of "Total Toxic Organics (TTO)" now appears at § 468.02(r) instead of § 468.02(a). The definition is identical to the one which appears in the **Federal Register** on November 12, 1982 (47 FR 51290).

The BAT effluent limitations guidelines for cold rolling spent lubricant which appear at § 468.11(b) in the **Federal Register** on November 12, 1982 on page 51291 are incorrect due to an error made by the Agency. EPA used an incorrect regulatory flow when computing effluent limitations for this process wastewater stream. The correct regulatory flow is described in Section IX of the development document on page 419. The technology basis is identical to that discussed at 47 FR 51283 and in Section IX of the development document.

The BAT effluent limitations guidelines for cold rolling spent lubricant which appear at § 468.12(b) in the **Federal Register** on November 12, 1982 on page 51292 are incorrect due to an error made by the Agency. EPA used an incorrect regulatory flow when computing effluent limitations for this process wastewater stream. The correct regulatory flow is described in Section X of the development document on page 435. The technology basis is identical to that discussed at 47 FR 51283 to 51284 and in Section X of the development document.

There is a typographical error which appears at § 468.12(e) in the **Federal Register** on November 12, 1982 on page 51292. The monthly average value for nickel reported for Extrusion Heat Treatment BAT Effluent Limitations which reads 0.00020 mg/kg is corrected to read 0.0020 mg/kg.

There is a typographical error which appears at § 468.12(k) in the **Federal Register** on November 12, 1982 on page 51292. The title which reads "Subpart A—Pickling Rinse BAT Effluent Limitations" is corrected to read "Subpart A—Pickling Bath BAT Effluent Limitations".

The new source performance standards for cold rolling spent lubricant which apear at § 468.13(b) in the **Federal Register** on November 12, 1982 on page 51293 are incorrect due to an error made by the Agency. EPA used an incorrect regulatory flow when computing effulent standards for this process wastewater stream. The correct regulatory flow is described in Section XI of the development document on page 453. The technology basis is identical to that discussed at 47 FR 51284 and in Section XI of the development document.

There is a typographical error which appears at § 468.13(d) in the **Federal Register** on November 12, 1982 on page 51293. The value reported for Solution Heat Treatment NSPS for the maximum for any one day for the pollutant zinc which reads 0.066 mg/kg is corrected to read 0.66 mg/kg.

The new source performance standards for extrusion heat treatment which appear at § 468.13(e) in the **Federal Register** on November 12, 1982 on page 51293 are incorrect due to an error made by the Agency. EPA used an incorrect regulatory flow when computing effluent standards for this process wastewater stream. The correct regulatory flow is described in Section XI of the development document on page 453. The technology basis is identical to that discussed at 47 FR 51284 and in Section XI of the development document.

This notice corrects numerical errors that appear in § 468.14 pertaining to pretreatment standards for existing sources (PSES). The standards which appear at 47 FR 51294 to 51295 (§ 468.14)

are incorrect for all wastewater streams due to errors made by the Agency. The numerical standards for PSES were published from an option considered but not selected for proposal as the basis for PSES. The standards as corrected are based on the proposed selected technology which is discussed in 47 FR 15284 and the flow for each waste stream which is discussed in the development document on pages 435 and 464.

The pretreatment standards for existing sources for cold rolling spent lubricant which apear at § 468.14(b) in the **Federal Register** on November 12, 1982 on page 51294 are incorrect due to an error made by the Agency. EPA used an incorrect regulatory flow when computing effluent standards for this process wastewater stream. The correct regulatory flow is described in Section XII of the development document on page 464. The technology basis is identical to that discussed at 47 FR 51294 to 51295 and in Section XII of the development document.

This notice also corrects numerical errors that appear in § 468.15 pertaining to pretreatment standards for new sources (PSNS). The standards which appear at 47 FR 51295 to 51296 (§ 468.15) are incorrect for all wastewater streams because the Agency inadvertently included errant numerical standards for total toxic organics (TTO) for PSNS. The technology basis for the proposed PSNS is identical to that discussed at 47 FR 15285 and in the development document on pages 465 and 466.

The pretreatment standards for new sources for cold rolling spent lubricant which appear at § 468.15(b) in the **Federal Register** on November 12, 1982 on page 51295 are incorrect due to an error made by the Agency. EPA used an incorrect regulatory flow when computing effluent standards for this process wastewater stream. The correct regulatory flow is described in Section XII of the development document on page 465. The flow basis is identical to that discussed at 47 FR 51285 and in Section XII of the development document.

The pretreatment standards for new sources for extrusion heat treatment which appear at § 468.15(e) in the **Federal Register** on November 12, 1982 on page 51296 are incorrect due to an error made by the Agency. EPA used an incorrect regulatory flow when computing effluent standards for this process wastewater stream. The correct regulatory flow is described in Section XII of the development document on page 465. The technology basis is identical to that discussed at 47 FR 51285 and in Section XII of the development document.

The pretreatment standards for new sources for pickling rinse which appear at 468.15(j) in the **Federal Register** on November 12, 1982 on page 51296 are incorrect due to an error made by the Agency. EPA used an incorrect regulatory flow when computing effluent standards for this process wastewater stream. The correct regulatory flow is described in Section XII of the development document on page 465. The technology basis is identical to that discussed at 47 FR 51285 and in Section XII of the development document.

III. Extension of Comment Period

The Agency is extending the comment period for this proposal to ensure that interested persons have sufficient time to review and comment on the proposed rule as corrected by this notice. The deadline for all comments pertaining to the material published at 47 FR 51278 on November 12, 1982 and the corrections made today, is February 14, 1983.

Dated: January 4, 1983.

Rebecca Hanmer,

Acting Assistant Administrator for Water.

PART 468—CORRECTED

The following corrections are made to **Federal Register** document OW–FRL–2230–5 appearing on 47 FR 51278 (November 12, 1982).

1. 40 CFR § 468.02 which appears on page 51290 is corrected to read as follows:

§ 468.02 Specialized definitions.

In addition to the definitions set forth in 40 CFR Part 401 and the chemical analysis methods in 40 CFR Part 136, the following definitions apply to this part:

(a) The term "alkaline cleaning bath" shall mean a bath consisting of an alkaline cleaning solution through which a workpiece is processed.

(b) The term "alkaline cleaning rinse" shall mean a rinse following an alkaline cleaning bath through which a workpiece is processed. A rinse consisting of a series of rinse tanks is considered as a single rinse.

(c) The term "annealing with oil" shall mean the use of an oil or oil-water mixture to quench a workpiece as it passes from an annealing furnace.

(d) The term "annealing with water" shall mean the use of a water spray or bath to quench a workpiece as it passes from an annealing furnace.

(e) The term "cold rolling" shall mean the process of rolling a workpiece below the recrystallization temperature of the copper or copper alloy.

(f) The term "drawing" shall mean pulling the workpiece through a die or succession of dies to reduce the diameter or alter its shape.

(g) The term "extrusion" shall mean the application of pressure to a copper workpiece, forcing the copper to flow through a die orifice.

(h) The term "extrusion heat treatment" shall mean the spray application of water to a workpiece immediately following extrusion for the purpose of heat treatment.

(i) The term "heat treatment" shall mean the application or removal of heat to a workpiece to change the physical properties of the metal.

(j) The term "hot rolling" shall mean the process of rolling a workpiece above the recrystallization temperature of the copper or copper alloy.

(k) The term "pickling bath" shall mean any chemical bath (other than alkaline cleaning) through which a workpiece is processed.

(l) The term "pickling fume scrubber" shall mean the process of using an air pollution control device to remove particulates and fumes from air above a pickling bath by entraining the pollutants in water.

(m) The term "pickling rinse" shall mean a rinse, other than an alkaline cleaning rinse through which a workpiece is processed. A rinse consisting of a series of rinse tanks is considered as a single rinse.

(n) The term "off-kilogram (off-pound)" shall mean the mass of copper or copper alloy removed from a forming operation or associated surface or heat treatment operation at the end of a process cycle for transfer to a different process or machine.

(o) The term "rolling" shall mean the reduction in the thickness or diameter of a workpiece by passing it between rollers.

(p) The term "solution heat treatment" shall mean the process introducing a workpiece into a quench bath for the purpose of heat treatment following rolling, drawing or extrusion.

(q) The term "spent lubricant" shall mean water or an oil-water mixture which is used in forming operations to reduce friction, heat and wear and ultimately discharged.

(r) The term "Total Toxic Organics (TTO)" shall mean the sum of the masses or concentrations of each of the following toxic organic compounds which is found at a concentration greater than 0.010 mg/l.

Benzene
1,1,1-Trichloroethane

Chloroform
2,6-Dinitrotoluene
Ethylbenzene
Methylene Chloride
Napthalene
N-Nitrosodiphenylamine
Anthracene
Phenanthrene
Toluene
Trichloroethylene

§ 468.11 [Corrected]

2. 40 CFR 468.11 (b) which appears on page 51291 is corrected to read as follows:

* * * * *

(b) Supart A—Cold Rolling Spent Lubricants BPT Effluent Limitations.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper cold rolled	
	English units—pounds per 1 million lbs of copper cold rolled	
Chromium	0.16	0.065
Copper	0.72	0.38
Lead	0.057	0.050
Nickle	0.54	0.38
Zinc	0.51	0.22
Oil and grease	7.56	4.55
TSS	15.54	7.58
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

§ 468.12 [Corrected]

3. 40 CFR 468.12(b) which appears on page 51292 is corrected to read as follows:

* * * * *

(b) Subpart A—Cold Rolling Spent Lubricants BAT Effluent Limitations.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper cold rolled	
	English units—pounds per 1 million lbs of copper cold rolled	
Chromium	0.16	0.65
Copper	0.72	0.38
Lead	0.057	0.050
Nickel	0.54	0.38
Zinc	0.51	0.22

4. In 40 CFR 468.12(e) which appears on page 51292 the maximum monthly average effluent limitation for nickel of "0.00020 mg/kg" is corrected to read 0.0020 mg/kg."

5. In 40 CFR 468.12(k) which appears on pages 51292 through 51293 "Subpart A—Pickling Rinse BAT Effluent Limitations" is corrected to read "Subpart A—Pickling Bath BAT Effluent Limitations."

§ 468.13 [Corrected]

6. 40 CFR 468.13(b) which appears on page 51293 is corrected to read as follows:

* * * * *

(b) Subpart A—Cold Rolling Spent Lubricant NSPS.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper cold rolled	
	English units—pounds per 1 million lbs of copper cold rolled	
Chromium	0.14	0.057
Copper	0.49	0.23
Lead	0.098	0.054
Nickel	0.21	0.14
Zinc	0.20	0.16
Oil and grease	3.79	3.79
TSS	9.48	4.54
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times.

7. In 40 CFR 468.13(c) which appears on page 51293 the maximum for any one day effluent limitation for zinc of "0.066 mg/kg" corrected to read "0.66 mg/kg."

8. 40 CFR 468.13(e) which appears on page 51293 is corrected to read as follows:

* * * * *

(e) Subpart A—Extrusion Heat Treatment NSPS.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper heat treated on an extrusion press	
	English units—pounds per 1 million lbs of copper heat treated on an extrusion	
Chromium	0.00074	0.00030
Copper	0.0026	0.0012
Lead	0.00020	0.00018
Nickel	0.0011	0.00074
Zinc	0.0021	0.0020
Oil and grease	0.020	0.020
TSS	0.030	0.022
pH	(1)	(1)

[1] Within the range of 7.5 to 10.0 at all times

9. 40 CFR 468.14 Pretreatment standards for existing sources (PSES) which appear on pages 51294 to 51295 is corrected to read as follows:

§ 468.14 Pretreatment standards for existing sources (PSES)

Except as provided in 40 CFR Parts 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources. The mass of wastewater pollutants in each of the following copper forming process wastewater streams introduced into a POTW shall not exceed the following values:

(a) Subpart A—Hot Rolling Spent Lubricant PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper hot rolled	
	English units—pounds per 1 million lbs of copper hot rolled	
Chromium	0.044	0.016
Copper	0.20	0.11
Lead	0.016	0.014
Nickel	0.15	0.11
Zinc	0.14	0.058
TTO	0.092	0.025
Oil & grease (for alternate monitoring)	2.08	1.24

(b) Subpart A—Cold Rolling Spent Lubricant PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper cold rolled	
	English units—pounds per 1 million lbs of copper cold rolled	
Chromium	0.16	0.065
Copper	0.72	0.38
Lead	0.057	0.050
Nickel	0.54	0.38
Zinc	0.51	0.22
TTO	0.12	0.058
Oil & grease (for alternate monitoring)	7.56	4.55

(c) Subpart A—Drawing Spent Lubricant PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper drawn	
	English units—pounds per 1 million lbs of copper drawn	
Chromium	[illegible]	[illegible]
Copper	[illegible]	[illegible]
Lead	[illegible]	[illegible]
Nickel	[illegible]	0
Zinc	[illegible]	[illegible]
TTO	[illegible]	0
Oil & grease (for alternate monitoring)	[illegible]	0

(d) Subpart A—Solution Heat Treatment PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper treated	
	English units—pounds per 1 million lbs of copper treated	
Chromium	0.27	0.11
Copper	1.23	0.65
Lead	0.097	0.064
Nickel	0.91	0.55
Zinc	0.86	0.36
TTO	0.20	0.16
Oil & grease (for alternate monitoring)	12.92	7.75

(e) Subpart A—Extrusion Heat Treatment PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper heat treated on an extrusion press	
	English units—pounds per 1 million lbs of copper heat treated on an extrusion press	
Chromium	0.00054	0.00034
Copper	0.0036	0.0021
Lead	0.00330	0.00220
Nickel	0.0038	0.0020
Zinc	0.0027	0.0012
TTO	0.00062	0.00048
Oil & grease (for alternate monitoring)	0.040	0.024

(f) Subpart A—Annealing with Water PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper annealed	
	English units—pounds per 1 million lbs of copper annealed	
Chromium	0.52	0.21
Copper	2.36	1.24
Lead	0.19	0.12
Nickel	1.75	1.24
Zinc	1.65	0.70
TTO	0.38	0.30
Oil & grease (for alternate monitoring)	24.80	14.88

(g) Subpart A—Annealing with Oil PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper annealed	
	English units—pounds per 1 million lbs of copper annealed	
Chromium	0	0
Copper	0	0
Lead	0	0
Nickel	0	0
Zinc	0	0
TTO	0	0
Oil & grease (for alternate monitoring)	0	0

(h) Subpart A—Alkaline Cleaning Rinse PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper alkaline cleaned	
	English units—pounds per 1 million lbs of copper alkaline cleaned	
Chromium	1.77	0.72
Copper	8.01	4.21
Lead	0.63	0.55
Nickel	5.94	4.21
Zinc	5.60	2.36
TTO	1.31	1.01
Oil and grease (for alternate monitoring)	84.28	50.57

(i) Subpart A—Alkaline Cleaning Bath PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper alkaline cleaned	
	English units—pounds per 1 million lbs of copper alkaline cleaned	
Chromium	0.329	0.0980
Copper	0.489	0.347
Lead	0.0971	0.0061
Nickel	0.266	0.047
Zinc	0.052	0.026
TTO	0.014	0.011
Oil and grease (for alternate monitoring)	0.93	0.56

(j) Subpart A—Pickling Rinse PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper pickled	
	English units—pounds per 1 million lbs of copper pickled	
Chromium	0.55	0.22
Copper	2.46	1.31
Lead	0.20	0.17
Nickel	1.84	1.31
Zinc	1.74	0.73
TTO	0.41	0.31
Oil & grease (for alternate monitoring	26.12	15.67

(k) Subpart A—Pickling Bath PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper pickled	
	English units—pounds per 1 million lbs of copper pickled	
Chromium	0.049	0.020
Copper	0.22	0.12
Lead	0.018	0.015
Nickel	0.17	0.12
Zinc	0.16	0.065
TTO	0.036	0.028
Oil and grease (for alternate monitoring	2.32	1.39

(l) Subpart A—Pickling Fume Scrubber PSES.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper pickled	
	English units—pounds per 1 million lbs of copper pickled	
Chromium	0.26	0.11
Copper	0.88	0.63
Lead	1.19	0.83
Nickel	0.094	0.062
Zinc	0.83	0.35
TTO	0.19	0.16
Oil and grease (for alternate monitoring	12.51	7.51

§ 468.15 [Corrected]

10. In 40 CFR 468.15(a) which appears on page 51295 the maximum for any one day and the maximum monthly average for the pollutant parameter "TTO" pretreatment standard of "0.051 mg/kg" is corrected to read "0.022 mg/kg."

11. 40 CFR 468.15(b) which appears on page 51295 is corrected to read as follows:

* * * * *

(b) Subpart A—Cold Rolling Spent Lubricant PSNS.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric units—mg/kg of copper cold rolled	
	English units— pounds per 1 million lbs of copper cold rolled	
Chromium	0.14	0.057
Copper	0.48	0.23
Lead	0.036	0.034
Nickel	0.21	0.14
Zinc	0.39	0.16
TTO	0.08	0.06
Oil and Grease (for alternate monitoring)	5.79	3.79

12. In 40 CFR 468.15(d) which appears on page 51296 the maximum for any one day and the maximum monthly average pretreatment standard for the pollutant

parameter "TTO" of "0.32 mg/kg" is corrected to read "0.14 mg/kg."

13. 40 CFR 468.15(e) which appears on page 51296 is corrected to read as follows:

(e) Subpart A—Extrusion Heat Treatment PSNS.

Pollutant or pollutant property	Maximum For Any 1 Day	Maximum for monthly average
	Metric units—mg/kg of copper heat treated on an extrusion press	
	English units—pounds per 1 million lbs of copper heat treated on an extrusion press	
Chromium	0.00074	0.00030
Copper	0.0035	0.0012
Lead	0.00020	0.00018
Nickel	0.0011	0.00074
Zinc	0.0021	0.0004
TTO	0.00142	0.00142
Oil and Grease (for alternate monitoring)	0.020	0.020

14. In 40 CFR 468.15(f) which appears on page 51296 the maximum for any one day and the maximum monthly average pretreatment standard for the pollutant parameter "TTO" of "0.62 mg/kg" is corrected to read "0.28 mg/kg."

15. In 40 CFR 468.15(h) which appears on page 51296 the maximum for any one day and the maximum monthly average pretreatment standard for the pollutant parameter "TTO" of "2.11 mg/kg" is corrected to read "0.89 mg/kg."

16. In 40 CFR 468.15(i) which appears on page 51296 the maximum for any one day and the maximum monthly average pretreatment standard for the pollutant parameter "TTO" of "0.24 mg/kg" is corrected to read "0.0099 mg/kg."

17. 40 CFR 468.15(j) which appears on page 51296 is corrected to read as follows:

* * * * *

(j) Subpart A—Pickling Rinse PSNS.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
	Metric Units—mg/kg of copper pickled	
	English Units—pounds per 1 million lbs of copper pickled	
Chromium	0.22	0.056
Copper	0.75	0.36
Lead	0.059	0.053
Nickel	0.032	0.22
Zinc	0.60	0.25
TTO	0.12	0.12
Oil and Grease (for alternate monitoring)	5.86	5.85

18. In 40 CFR 468.15(k) which appears on page 51296 the maximum for any one day and the maximum monthly average pretreatment standard for the pollutant parameter "TTO" of "0.059 mg/kg" is corrected to read "0.024 mg/kg."

19. In 40 CFR 468.15(l) which appears on page 51296 the maximum for any one day and the maximum monthly average pretreatment standard for the pollutant parameter "TTO" of "0.032 mg/kg" is corrected to read "0.13 mg/kg."

[FR Doc. 83-867 Filed 1-13-83; 8:45 am]

BILLING CODE 4410-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Part 3-3

Selection of Offerors for Negotiation and Award

AGENCY: Office of the Secretary, HHS.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services is proposing to amend its procurement regulations by revising an existing subpart on the selection of offerors for negotiation and award. The proposed revisions clarify and simplify the source selection process and will result in reduced administrative burden. This revision is also consistent with the requirements to simplify the procurement process in accordance with Executive Order 12352 of March 17, 1982 on Federal Procurement Reforms.

DATE: Comments must be received by February 14, 1983.

ADDRESS: Any person or organization wishing to submit data, views, or comments pertaining to the proposed regulations may do so by filing them with Norman Audi, Division of Procurement Policy, OPAP–OPAL–OASMB–OS, Room 539H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201; (202–245–6154).

FOR FURTHER INFORMATION CONTACT: Norman Audi (202) 245–6154.

SUPPLEMENTARY INFORMATION: The proposed subpart is a revision of an existing regulation. It provides policy, procedures, and guidance to program and procurement personnel regarding the evaluation and selection process for competitively negotiated procurements. Specific major changes are: (1) Detailed guidance as to the roles of the contracting officer, project officer, and technical evaluation panel. This will enable Government personnel to have a clearer understanding of the responsibilities of all participants in the evaluation process; (2) Contracting Officer discretion on use of a technical evaluation panel for procurements not exceeding $250,000 and requiring panels only for procurements exceeding $250,000. This will result in a reduction of administrative costs and procurement lead-time for many low dollar non-complex procurements which are susceptible to only a project officer review and evaluation; (3) More specific guidance on the determination of the competitive range. This will enable the contracting officer to better ascertain which proposals should be included in the competitive range; and (4) Authorization to negotiate only with the selected source in limited circumstances which would not affect the selection decision. This will allow minor touch up negotiations with the successful offeror without requiring another request for best and final offers from the other offerors in the competitive range when they no longer have a chance of receiving the award. This will result in savings to both offerors and the Government. Offerors will not be asked to prepare revised proposals when they no longer have a chance of winning and the Government will not have to evaluate additional proposals when the successful proposal already has been selected.

List of Subjects in 41 CFR Part 3–3

Government procurement.

It is proposed to amend 41 CFR Chapter 3 in the manner set forth below.

Dated: December 28, 1982.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

Under Part 3–3, it is proposed to revise Subpart 3–3.51 to read as follows:

PART 3–3—PROCUREMENT BY NEGOTIATION

* * * * *

Subpart 3–3.51—Selection of Offerors for Negotiation and Award

Sec.

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Subpart 3-3.51—Selection of Offerors for Negotiation and Award

§ 3-3.5100 Scope of subpart.

This subpart establishes policies and procedures concerning the source selection process for the procurement of personal property and nonpersonal services. It elaborates on the guidance provided in § 1-3.805.

§ 3-3.5101 Definitions.

(a) "Clarification," as used in this subpart, means communication with an offeror for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the offeror's proposal. It is achieved by explanation or substantiation, either in response to contracting officer inquiry or as initiated by the offeror. Unlike discussion, clarification does not give the offeror an opportunity to revise or modify its proposal.

(b) "Deficiency," as used in this subpart, means any part of a proposal that fails to satisfy the requirements of the Department.

(c) "Discussion," as used in this subpart, means any oral or written communication between the contracting officer and an offeror that involves information essential for determining the acceptability of a proposal as submitted or provides the offeror an opportunity to revise or modify its proposal.

§ 3-3.5102 Applicability.

This subpart applies to all competitively negotiated procurements in excess of $10,000 except for:

(a) Architect-engineer services (see §§ 1-4.10 and 3-4.10); and

(b) Contracts to be awarded to the Small Business Administration pursuant to section 8 (a) of the Small Business Act (see §§ 1-7.713 and 3-1.713).

§ 3-3.5103 Integrity of the source selection process.

(a) The source selection process shall be conducted in accordance with standards and procedures that:

(1) Insure fair and impartial treatment of all offerors; and

(2) Insure the selection of sources whose performance is expected to best meet the requirements or objectives of the request for proposals at a reasonable price or cost.

(b) Personnel participating in the evaluation process must not discuss or reveal information concerning the evaluations except to an individual participating in the same evaluation proceedings, and then only to the extent that the information is required in connection with the proceedings. Divulging information during the evaluation, selection, and negotiation phases of the procurement to offerors or to personnel not having a need to know could jeopardize the resultant award. Therefore, the contracting officer must instruct personnel participating in the evaluations to observe these restrictions and assure that all personnel understand that unauthorized disclosure of information, no matter how innocent, could compromise the procurement process and is prohibited (see § 1-3.805-1(b)).

(c) Discussions with offerors relative to any aspect of the procurement shall be conducted only by the contracting officer or his/her authorized representative within the contracting office.

§ 3-3.5104 Technical evaluation plan

(a) A technical evaluation plan may be required by the contracting officer, at his/her discretion, when a procurement is sufficiently complex as to warrent a formal plan.

(b) The techical evaluation plan should include at least the following:

(1) A list of technical evaluation panel members, their organizations as well as a list of their major consulting clients (if applicable), their qualification, and curricula vitas (if available);

(2) A justification for using non-Government technical evaluation panel members (justification is not required if non-Government evaluators will be used in accordance with standard procuring activity procedures or policies);

(3) A statement that there is no apparent or actual conflict of interest regarding any panel member;

(4) A copy of each rating sheet, approved by the contracting officer, to be used to assure consistency with the evaluation criteria; and

(5) A brief description of the general evaluation approach.

(c) The technical evaluation plan must be signed by an official within the program office in a position at least one level above the project officer or in accordance with procuring activity procedures.

(d) The technical evaluation plan should be submitted to the contracting officer for review and approval before the solicitation is issued. The contracting officer shall make sure that the principle factors relating to the evaluation are reflected in the evaluation criteria when conducting the review of the plan.

§ 3-3.5105 Changes in Government requirements.

(a) When, either before or after receipt of proposals, the Government changes, relaxes, increases, or otherwise modifies its requirements, the contracting officer shall issue a written amendment to the solicitation. However, when time is of the essence, oral advice of changes may be given if the changes involved are not complex and all firms to be notified (see paragraph (b), below) are notified as near to the same time as possible. The contracting officer shall make a record of the oral advice and promptly confirm the oral advice by a written amendment to the solicitation.

(b) In deciding which firms to notify of a change, the contracting officer shall consider the stage in the procurement cycle at which the change occurs and the magnitude of the change, as follows:

(1) If proposals are not yet due, the amendment shall be sent to all firms that have received a solicitation.

(2) If the time for receipt of proposals has passed but proposals have not yet been evaluated, the amendment shall be sent only to the responding offerors.

(3) If the competitive range has been established, only those offerors within the competitive range shall be sent the amendment.

(4) If a change is so substantial that it warrants complete revision of a solicitation, the contracting officer shall cancel the original solicitation and issue a new one, regardless of the stage of the procurement. The new solicitation shall be synopsized and issued to all forms originally solicited as well as to any firms added to the original list.

(c) If the proposal considered to be most advantageous to the Government involves a departure from the stated requirements, the contracting officer shall provide all offerors an opportunity to submit new or amended proposals on

the basis of the revised requirements; *provided*, that this can be done without revealing to the other offerors the solution proposed in the original departure or any other information that is entitled to protection.

(d) The decision to issue an amendment, or cancel and reissue a solicitation, is the responsibility of the contracting officer.

§ 3–3.5106 Standard for evaluation of proposals.

The evaluation criteria included in the solicitation serve as the standard against which all proposals are evaluated. Prospective offerors rely upon the evaluation criteria in the solicitation in developing proposals and they must be assured that the evaluation is conducted in accordance with those criteria. All personnel involved in the evaluation process must make sure that the evaluation criteria contained in the solicitation are the *only* criteria used in conducting the evaluation. See §§ 3–3.5503(f) and 3–3.5511 for detailed guidance on evaluation criteria.

§ 3–3.5107 Technical evaluation panel.

§ 3–3.5107–1 General.

(a) A technical evaluation panel is required for all procurements applicable to this subpart which are expected to exceed $250,000. The contracting officer, at his/her discretion, may require a technical evaluation panel for procurements not exceeding $250,000 based on the complexity of the procurement.

(b) The technical evaluation process requires careful and deliberate consideration as to the size, composition, expertise, and function of the technical evaluation panel (see § 3–3.5005(b)(14)). The efforts of the panel can result in success or failure of the procurement.

§ 3–3.5107–2 Role of the project officer.

(a) The project officer is the contracting officer's technical representative for the procurement action. The project officer may be a voting member of the technical evaluation panel and may also serve as the chairperson of the panel unless he/she is prohibited by law or procuring activity procedures from serving on the panel.

(b) The project officer is responsible for recommending panel members who are knowlegeable of the technical aspects of the procuerment and who are competent to identify strengths and weaknesses of the various proposals. The program training requirements specified in § 3–1.454 must be adhered to when selecting prospective panel members.

(c) The project officer should make efforts to ensure that persons possessing expertise and experience in addressing issues relative to sex, race, national origin, and handicapped discrimination be included as panel members in procurements which address those issues. The intent is to balance the composition of the panel so that qualified and concerned individuals may provide insight to other panel members regarding ideas and approaches to be taken in the evaluation of proposals.

(d) The project officer is to submit the recommended list of panel members to an official within the program office in a position at least one level above the project officer or in accordance with procuring activity procedures. This official will review the recommendations, appoint the panel members and select the chairperson.

(e) It is the responsibility of the project officer to arrange for adequate and secure working space for the panel.

§ 3–3.5107–3 Role of the contracting officer.

(a) The contracting officer is the Department's official representative having delegated procurement authority to enter into and administer contracts. The term "contracting officer," as used in this subpart, may be the contracting officer or his/her designated representative within the contracting office.

(b) The contracting officer shall not serve as a member of the technical evaluation panel but should be available to:

(1) Address the initial meeting of the technical evaluation panel (see § 3–3.5108–2);

(2) Provide assistance to the evaluators as required; and

(3) Assure that the scores adequately reflect the written technical evaluation report comments (see § 3–3.5108–5).

§ 3–3.5107–4 Conflicts of interest.

(a) If a panel member has an apparent or real conflict of interest related to a proposal under evaluation, he/she shall not serve on the technical evaluation panel and shall be replaced with another evaluator. If a suitable replacement is not available, the panel shall perform the review with one less evaluator.

(b) For the purposes of this subpart, conflicts of interest are defined in the Department's Standards of Conduct set forth in 45 CFR 73 which incorporates 5 CFR 737, Post Employment Conflict of Interest. The Standards of Conduct shall be applicable to both in-house personnel and outside evaluators serving on the technical evaluation panel.

§ 3–3.5107–5 Continuity of evaluation process.

(a) The technical evaluation panel is responsible for evaluating the original proposals, making recommendations to the chairperson regarding clarifications and deficiencies of proposals, and, if required by the contracting officer, assisting the contracting officer during discussions and negotiations, and reviewing supplemental, revised and/or "best and final" offers. To the extent possible, the same evaluators should be available throughout the entire evaluation and selcetion process to assure continuity and consistency in the treatment of proposals. However, the following are some examples of circumstances when it would not be necessary for the technical evaluation panel to evaluate any revised proposals submitted during the procurement:

(1) The answers to the questions do not have a substantial impact on the proposal (see § 3–3.5111(a));

(2) The "best and final" offers are not materially different from the original proposals; or

(3) The rankings of the offerors are not affected because the revisions to the proposals are relatively minor.

(b) The chairperson, with the concurrence of the contracting officer, may decide not to have the panel evaluate the revised proposals. Whenever this decision is made, it must be fully documented by the chairperson and approved by the contracting officer.

(c) When technical evaluation panel meetings are considered necessary by the contracting officer the attendance of evaluators is mandatory. When the chairperson determines that an evaluator's failure to attend the meetings is prejudicial to the evaluation, the chairperson may replace the individual after discussing the situation with the contracting officer and obtaining his/her concurrence and the approval of the program official responsible for appointing the panel members (see § 3–3.5107–2(d)).

(d) Whenever continuity of the evaluation process is not possible, and either new evaluators are selected or a reduced panel is decided upon, each proposal which is being reviewed at any stage of the procurement should be reviewed at that stage by all members of the revised panel unless it is impractical to do so because of the receipt of an unusually large number of proposals.

§ 3-3.5107-6 Use of outside evaluators.

(a) The technical evaluation panel shall be composed of Government employees except that outside evaluators may be used when expertise is required which is not available within the Government, or as required by law (see § 3-1.353(f)).

(b) The National Institutes of Health (NIH) and the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) are required to have a peer review of research and development contracts in accordance with Public Law (Pub. L.) 93-352 as amended by Pub. L. 94-63; 42 U.S.C. 289 l-4.

§ 3-3.5108 Evaluation of technical proposals.

§ 3-3.5108-1 Receipt of proposals.

(a) After the closing date set by the solicitation for the receipt of proposals, the contracting officer will forward the technical proposals to the project officer or chairperson for evaluation by means of a transmittal memorandum. The business proposals will be retained by the contracting officer for evaluation (see § 3-3.5109).

(b) The transmittal memorandum to the chairperson should include at least the following:

(1) A list, by name, of the organizations submitting proposals;

(2) A reference to § 3-3.5103 on the need to preserve the integrity of the source selection process;

(3) A requirement for a technical evaluation report in accordance with § 3-3.5108-5; and

(4) The establishment of a date for receipt of the technical evaluation report.

§ 3-3.5108-2 Convening the technical evaluation panel.

(a) Normally the technical evaluation panel will convene to evaluate the proposals. However, there may be situations when the contracting officer determines it is not feasible or practicable for the panel to convene. Whenever this decision is made, care must be taken to assure that the technical review is closely monitored to produce acceptable results. The procedures for handling and disclosing proposals outside the Government for evaluation purposes is set forth in § 3-1.353(e).

(b) When a panel is convened, the chairperson is responsible for the control of the technical proposals provided to him/her by the contracting officer for use during the evaluation process. The chairperson will generally distribute the technical proposals at the initial panel meeting and will establish procedures for securing the proposals whenever they are not being evaluated to insure the confidentiality of the proposals. After the evaluation is complete, all proposals must be accounted for by returning to the contracting officer, destruction, or filing in an appropriate manner to maintain the confidential nature of the data.

(c) The contracting officer should address the initial meeting of the panel and state the basic groundrules for conducting the evaluation. The contracting officer shall provide written guidance to the panel if he/she is unable to attend the initial panel meeting. The guidance should include:

(1) Explanation of conflicts of interest (see § 3-3.5107-4);

(2) The necessity to reread and understand the solicitation especially the statement of work and evaluation criteria, prior to reading the proposals;

(3) The need for evaluators to restrict the review to only the solicitation and the contents of the technical proposals;

(4) The need for each evaluator to review all the proposals;

(5) The need to watch for ambiguities, inconsistencies, errors, and deficiencies which should be surfaced during the evaluation process;

(6) An explanation of the evaluation process and what will be expected of the evaluators throughout the process;

(7) The need for the evaluators to be aware of the requirement to have complete written documentation of the individual strengths and weaknesses which affect the scoring of the proposals; and

(8) An instruction directing the evaluators that, until the award is made, information concerning the procurement must not be disclosed to any person not directly involved in the evaluation process.

§ 3-3.5108-3 Clarifications.

Normally, clarifications of proposals can be made when discussions are conducted with all offerors in the competitive range. However, there are instances when the contracting officer may find it necessary to make inquiry of an offeror for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal. The contracting officer shall assure that the clarifications are in writing. Such inquiry of and clarification furnished in writing by such offeror shall not be considered to constitute "discussions" within the meaning of § 3-3. 5101(c) and shall not necessitate any inquiry of other offerors. However, if clarification results in an offeror revising its proposal or would in any way prejudice the interest of other offerors, the information should be returned to the offeror without being evaluated or discussions should be conducted with all offerors which have not been eliminated from the competition.

§ 3-3.5108-4 Rating and ranking of proposals.

The evaluators will individually read each proposal and describe tentative strengths, weaknesses and develop preliminary scores in relation to each evaluation criterion set forth in the solicitation using the rating sheets either in the technical evaluation plan or approved by the contracting officer when a technical evaluation plan is not required. (See § 3-3.5104(b)). After this has been accomplished, the evaluators should discuss in detail the individual strengths and weaknesses described by each evaluator and, if possible, arrive at a common understanding of the major strengths and weaknesses and the potential for correcting each offeror's weakness(es). Each evaluator will individually rate (score) each proposal, and then the technical evaluation panel will collectively rank the proposals. Generally, but depending on the rating plan employed, ranking will be accomplished by totaling the numerical scores assigned by each evaluator to the evaluation criteria and developing an average rating for each offeror. The evaluators should then identify each proposal as either acceptable or unacceptable. Predetermined cutoff scores shall not be employed.

§ 3-3.5108-5 Technical evaluation report.

A technical evaluation report shall be prepared and furnished to the contracting officer by the chairperson and maintained as a permanent record in the contract file. The report must reflect the ranking of the proposals and identify each proposal as acceptable or unacceptable in accordance with § 3-3.5108-4. The report must also include a narrative evaluation specifying the strengths and weaknesses of each proposal, a copy of each rating sheet, and any reservations, qualifications, or areas to be addressed that might bear upon the selection of sources for negotiation and award. Concrete technical reasons supporting a determination of unacceptability with regard to any proposal must be included. The report should also include specific points and questions which are to be raised in discussions or negotiations.

§ 3-3.5109 Evaluation of business proposals.

(a) Concurrently with the evaluation of the technical proposals, the

contracting officer shall begin the evaluation of the business proposals. The contracting officer must adhere to the requirements for cost or price analysis included in §§ 1–3.807 and 3–3.807–2 for each business proposal in the competitive range. An audit report may be required in accordance with §§ 1–3.809 and 3–3.809. The contracting officer must exercise judgment in determining the extent of analysis in each case depending on the amount of the proposal, the technical complexity and related cost or price, and cost realism. The contracting officer should request the project officer to analyze such items as: the number of labor hours proposed for various labor categories; the mix of labor hours and categories of labor in relation to the technical requirements of the project; the kinds and quantities of material, equipment, and supplies; types, numbers, and hours/days of proposed consultants; logic of proposed subcontracting; analysis of the travel proposed including number of trips, locations, purpose, and travelers; and kinds and quantities of data processing. The project officer shall provide his/her opinion as to whether these elements are necessary and reasonable for efficient contract performance. Exceptions to proposed elements shall be supported by adequate rationale to allow for effective negotiations. The contracting officer should also request the assistance of a cost/price analyst when considered necessary. In all cases, the negotiation memorandum (see § 3–50.3) must include the rationale used in determining that the price or cost is fair and reasonable.

(b) The contracting officer must appraise the management capability of the offeror to perform the required work in a timely manner. In making this appraisal, the contracting officer should consider factors such as the offeror's management organization, past performance, reputation for reliability, availability of the required facilities, and cost controls. This information is to be used by the contracting officer to determine the offeror's responsibility.

§ 3–3.5110 Competitive range.

(a) The contracting officer shall determine which proposals are in the competitive range for the purpose of conducting written or oral discussions. The competitive range shall be determined on the basis of price or cost, technical and other salient factors that were stated in the solicitation and shall include all proposals which have a reasonable chance of being selected for award. A proposal must be included in the competitive range unless there is no real possibility that it can be improved to the point where it becomes the *most* acceptable. When there is a reasonable doubt as to whether a proposal should be included in the competitive range, the proposal shall included.

(b) In certain circumstances, when deciding which proposals should be included in the competitive range, the contracting officer may request that the technical evaluation panel review the cost or price data. Typical situations which may necessitate this review include a suspected "buy-in," large differences in cost or price among the proposals, proposals receiving high technical ratings which have relatively high costs, and proposals receiving low technical ratings which have relatively low costs. The resultant comparison of cost or price to technical factors and the determination of cost or price realism should assist the contracting officer in deciding which proposals are to be included in the competitive range.

(c) All determinations regarding the inclusion or exclusion of proposals in the competitive range must be completely documented, including the salient reasons for the determinations, and set forth in the negotiation memorandum (see § 3–50.301(i)).

(d) Some of the factors which the contracting officer should consider in determining the competitive range are:

(1) The relative importance of cost or price as compared to technical factors in accordance with the solicitation provisions required in § 3–3.5511–4(c).

(2) The susceptibility of significantly reducing a proposal with an unreasonably high price or cost without undermining the technical merit if the offeror otherwise has a reasonable chance to receive an award; and

(3) The likelihood of reducing cost or price of a proposal which exceeds the Government's requirements.

(e) The contracting officer shall conduct a thorough review of the technical evaluation report to be assured that:

(1) All determinations of unacceptability are supported by concrete and comprehensive statements that are factual and convincing and are consistent with the evaluation criteria set forth in the solicitation. Every statement should be reviewed carefully to eliminate any doubts as to the unacceptability of a proposal;

(2) All recommendations to exclude proposals from the competitive range are supported by persuasive rationale and sufficient facts to substantiate a judgment that meaningful discussions are not possible or there is no reasonable chance of the proposal being selected for award;

(3) Those cases where only one organization is found to be technically acceptable are fully scrutinized; and

(4) Unacceptable proposals contain "information" deficiencies which are so material as to preclude any possibility of upgrading the proposal to a competitive level except through major revisions and additions which would be tantamount to the submission of another proposal.

§ 3–3.5111 Preparation for discussions.

(a) The contracting officer and project officer should discuss the uncertainties and/or deficiencies that are included in the technical evaluation report for each proposal in the competitive range. Technical questions should be developed by the project officer and/or the technical evaluation panel and should be included in the technical evaluation report. The management and cost or price questions should be prepared by the contracting officer with assistance from the project officer and/or panel as required. The method of requesting offerors in the competitive range to submit the additional information will vary depending on the complexity of the questions, the extent of additional information requested, the time needed to analyze the responses, and the time frame for making the award. However, to the extent practicable, all questions and answers should be in writing. Each offeror in the competitive range shall be given an equitable period of time for preparation of responses to questions to the extent practicable.

(b) The questions should be developed so as to disclose the ambiguities, uncertainties, and deficiencies of the offeror (see § 3–3.5112(b)(2)).

§ 3–3.5112 Written or oral discussions.

(a) The contracting officer, with the support of personnel who evaluated the technical proposals, and, if necessary, cost analysts, attorneys, etc., must conduct written or oral discussions with all offerors within the competitive range, except that this requirement need not apply to the exceptions in § 1–3.805–1(a). The content and extent of the discussions is a matter of the contracting officer's judgment, based on the particular facts of each procurement.

(b) The contracting officer shall:

(1) Control all discussions;

(2) Advise the offeror of deficiencies in its proposal so that the offeror is given an opportunity to satisfy fully the Government's requirements;

(3) Attempt to resolve any uncertainties concerning the technical proposal and other terms and conditions of the proposal;

(4) Resolve any suspected mistakes by calling them to the offeror's attention as specifically as possible without disclosing information concerning other offerors' proposals or the evaluation process; and

(5) Provide the offeror a reasonable opportunity to submit any cost or price, technical, or other revisions to its proposal that may result from the discussions.

(c) The contracting officer and other Government personnel shall not engage in the following:

(1) Technical leveling (i.e., helping any offeror to bring its proposal up to the level of other proposals through successive rounds of discussion by pointing out weaknesses resulting from the offeror's lack of diligence, competence, or inventiveness in preparing the proposal);

(2) Technical transfusion (i.e., Government disclosure of technical information pertaining to a proposal that results in improvement of a competing proposal); or

(3) Auction techniques, such as the following:

(i) Indicating to an offeror a price that it must meet to obtain further consideration;

(ii) Advising an offeror of its price standing relative to another offeror (however, it is permissible to inform an offeror that its price is considered by the Government to be too high or too low); and

(iii) Otherwise furnishing information about other offerors' prices.

(d) Careful judgment must be exercised in determining the extent of discussions. In some cases, more than one round of discussions with all the offerors within the competitive range may be required. The time available, the expense and administrative limitations, and the complexity, size, and significance of the procurement should all be considered in deciding on the type, duration, and depth of the discussions.

§ 3–3.5113 Request for best and final offers.

At the conclusion of discussions with all offerors in the competitive range a final, common cutoff date, which allows a reasonable opportunity for submission of written "best and final" offers must be established and all offerors in the competitive range so notified. If oral notification is given, it must be confirmed in writing. The written notification must include the following information:

(a) Discussions have been concluded;

(b) Offerors are being given an opportunity to sumit a "best and final" offer;

(c) The offer is subject to both the "Late Proposals, Modifications of Proposals, and Withdrawals of Proposals" provision of the solicitation, and the requirements of § 1–3.805–1(b);

(d) Any "best and final" offers received after the time and date established for receipt of offers shall be handled in accordance with §§ 1–3.802–1 and 1–3.802–2, as applicable;

(e) The confirmation of a prior offer should be specifically stated as a final offer; and

(f) All revisions to former offers should be submitted on Optional Form 59, Contract Pricing Proposal, or Optional Form 60, Contract Pricing Proposal (Research and Development), as applicable, and should be fully documented.

§ 3–3.5114 Evaluation of best and final offers.

"Best and final" offers are subject to a final evaluation of price or cost and other salient factors by the contracting officer and project officer with assistance from a cost/price analyst, and an evaluation of technical factors by the technical evaluation panel, as necessary. Proposals may be technically rescored and reranked by the technical evaluation panel and a technical evaluation report prepared. To the extent practicable, the evaluation shall be performed by the same evaluators who reviewed the original proposals.

§ 3–3.5115 Source selection decision.

After the close of discussions and evaluation of "best and final" offers, the contracting officer will select for award the offeror whose proposal offers the greatest advantage to the Government, price and other factors considered and/or in accordance with the evaluation criteria set forth in the solicitation.

§ 3–3.5116 Negotiation with the selected source.

(a) After selection of the successful proposal, a limited negotation with the selected offeror may be conducted if deemed necessary. However, no factor which could have any effect on the selection process may be introduced into the negotiation after the common cut-off date for receipt of best and final offers. The negotiation shall not in any way prejudice the competitive interests or right of the unsuccessful offerors. Negotiation with the selected offeror shall be restricted to definitizing the final agreement on terms and conditions; e.g., assuming none of these factors were involved in the selection process, negotiation could include such topics as payment provisions, patent rights, rights in data, property provisions, labor rates, indirect cost rates, and fees. Prior to conducting the limited negotiation, the contracting officer shall approve a written determination citing both the specific issues to be discussed and the rationale showing that the negotiations shall not have any effect on the selection process.

(b) Caution must be exercised by the contracting officer to insure that the negotiation is not used to change the requirement contained in the solicitation, nor to make any other changes which would impact on the source selection decision. Whenever a material change occurs in the requirements as a result of the negotiation, the competition must be reopened and all offerors submitting "best and final" offers must be given an opportunity to resubmit proposals based on the revised requirements. Whenever there is a question as to whether a change is material, the contracting officer should obtain the advice of technical personnel and legal counsel before reopening the competition. Significant changes in the offeror's cost proposal may also necessitate a reopening of competition if such changes alter the factors involved in the original selection process.

(c) Should negotiations beyond those specified in (a) above be required for any reason, discussions must be reopened with all offerors submitting "best and final" offers.

(d) Upon completion of the negotiation, the contracting officer should obtain a confirmation letter from the successful offeror which includes any revisions to the technical proposal, the agreed to price or cost, and, as applicable, a certificate of current cost or pricing data.

§ 3–3.5117 Post-negotiation, contract preparation, and award.

(a) The contracting officer must perform the following actions after negotiations have been completed:

(1) Prepare the negotiation memorandum in accordance with Subpart 3–50.3;

(2) Prepare the contract containing all agreed to terms and conditions and clauses required by law or regulation;

(3) Include in the contract file the pertinent documents referenced in § 3–1.313–51; and

(4) Obtain the appropriate approval of proposed contract awards in accordance

with Subpart 3–50.1 and procuring activity procedures.

(b) After receiving the required approvals, the contract should be transmitted to the prospective contractor for signature. The prospective contractor must be informed that the contract is not effective until accepted by the contracting officer.

(c) The contract shall not be issued until the finance office certifies that the funds are available for obligation.

§ 3–3.5117 Notification and debriefing of unsuccessful offerors.

Unsuccessful offerors will be notified, and debriefed at their request, in accordance with § 3–3.103.

§ 3–3.5118 Post-award orientation of contractors.

FPR Subpart 1–1.18 prescribes policies and procedures regarding the post-award orientation of contractors. To the extent practicable, contracting officers should utilize letters to accomplish post-award orientation objectives (see § 1–1.1806). A post-award orientation conference should be arranged only when letters cannot resolve key issues.

(5 U.S.C. 301; 40 U.S.C. 486(c))

[FR Doc. 83-[illegible] Filed 1-13-83; 8:45 am]

BILLING CODE 6109-04-M

Notices

Federal Register
Vol. 48, No. 10
Friday, January 14, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding Transfer of 26,740.66 Acres of Land From Federal Ownership to the State of Montana

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the Bureau of Land Management, Department of the Interior, and the Montana State Historic Preservation Officer, providing for the management of historic properties and lands to be transferred to the State of Montana. The proposed Programmatic Memorandum of Agreement will establish mechanisms by which historic properties will be identified, evaluated, and managed/protected in order to meet the requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

DATE: Comments due: February 14, 1983.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, Western Division of Project Review, 730 Simms Street, Room 450, Golden, Colorado 80401.

Dated: January 10, 1983.

Thomas F. King,

Acting Executive Director.

[FR Doc. 83-1026 Filed 1-13-83 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Flue-Cured Tobacco; 1983-84 National Marketing Quota for Flue-Cured Tobacco

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of determination of 1983-84 marketing quota.

SUMMARY: The purpose of this notice is to announce determinations with respect to the 1983 crop of flue-cured tobacco in accordance with the Agricultural Adjustment Act of 1938, as amended. In addition to other determinations, the Secretary of Agriculture has determined that the 1983 marketing quota for flue-cured tobacco shall be 910 million pounds, 10 percent below last year's quota. The Secretary is required by statute to announce the 1983 marketing quota by December 1, 1982. The Secretary has also determined that the national acreage allotment for flue-cured tobacco shall be 457,516.34 acres. This notice also proclaims that marketing quotas will be in effect for flue-cured tobacco for three marketing years beginning July 1, 1983. A referendum of producers of flue-cured tobacco will be held on December 16, 1982, to determine whether they favor or oppose such quotas for the three year period.

EFFECTIVE DATE: December 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Analysis Division, ASCS, Room 3736-South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-5187. The Final Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This notice of determination is issued in accordance with the Agricultural Adjustment Act of 1938, as amended, (hereinafter referred to as the "1938 Act") in order to announce for the 1983 marketing year for flue-cured tobacco the following:

1. The amount of the reserve supply level;
2. The amount of the total supply;
3. The amount of the national marketing quota;
4. The national average yield goal;
5. The national acreage allotment;
6. The national acreage reserve
   A. For establishing acreage allotments for new farms, and
   B. For making corrections and adjusting inequities in old farms;
7. The national acreage factor; and
8. The national yield factor.

The 1982-83 marketing year is the last of the three consecutive years for which marketing quotas, previously proclaimed on an acreage-poundage basis, will be in effect. Section 317(d) of the 1938 Act, (U.S.C. 1341c(d)) provides that the Secretary shall proclaim marketing quotas for flue-cured tobacco on either an acreage basis or an acreage-poundage basis for the 1983-84, 1984-85, and 1985-86 marketing years, whichever the Secretary determines would result in a more effective quota. It has been determined that, in view of the better supply control resulting from the acreage-poundage quota program beginning in 1965, a more effective quota would result by continuing marketing quotas on an acreage-poundage basis.

The determinations by the Secretary set forth in this notice have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from flue-cured tobacco producers and others pursuant to a proposed Notice of Determination (47 FR 38954) which was published on September 3, 1982.

Discussion

During the comment period, 39 written responses were received from farmers, members of the trade including associations, and farm groups. Of the 30 respondents who commented on the level of the 1983 quota, 24 recommended that the quota remain unchanged from the 1982 level. The other 6 who commented on the quota level recommended quotas ranging from a 50 percent increase to a 15 percent decrease in quota. A majority of those who wanted the quota to remain unchanged were willing to maintain the 1983 price support level at the 1982 level.

In addition, two meetings were held for interested persons to give their views orally. The vast majority of these individuals favored the same level of price support and the same amount of the marketing quota for the 1983 marketing year as were applicable to the 1982 marketing year. Because the total supply is significantly above the reserve supply level and those supplies are well distributed among the grades, the Secretary is reducing the flue-cured tobacco marketing quota by 10 percent for the 1983 marketing year.

Section 317(a)(1) of the 1938 Act (7 U.S.C. 1314c(a)(1)) provides, in part, that for flue-cured tobacco, the national marketing quota for a marketing year is the amount of flue-cured tobacco produced in the United States which the Secretary estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The 1938 Act further provides that any such downward adjustment shall not exceed 15 percent of such estimated utilization and exports.

The "reserve supply level" is defined in section 301(b)(14)(B) of the 1938 Act as the normal supply plus 5 percent thereof, to assure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The "normal supply" is defined in section 301(b)(10)(B) of the 1938 Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for normal carryover.

A "normal year's domestic consumption" is defined in Section 301(b)(11)(B) of the 1938 Act as the yearly average quantity of tobacco produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

A "normal year's exports" is defined in Section 301(b)(12) of the 1938 Act as the yearly average quantity of tobacco produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The yearly average domestic consumption of flue-cured tobacco during the 10 marketing years preceding the 1982–83 marketing year was 610 million pounds, and the yearly average exports during such period amounted to 539 million pounds. Exports have fluctuated within a relatively narrow range with no predominate trends while domestic consumption has shown a downward trend. Accordingly, a normal year's exports equals the 10 year average while a normal year's domestic consumption has been established at 560 million pounds. These normal year's consumption and exports result in a reserve supply level for flue-cured tobacco of 2,550 million pounds.

"Total supply" is defined in Section 301(b)(16)(B) of the 1938 Act as the carryover at the beginning of the marketing year (July 1) plus the estimated production in the United States during the calendar year in which the marketing year begins.

The carryover of flue-cured tobacco in the inventories of manufacturers and dealers, including Commodity Credit Corporation (CCC) loan stocks, amounted to 2,145 million pounds, farm sales weight on July 1, 1982.

The 1982 crop marketings of flue-cured tobacco are currently estimated at 990 million pounds. The sum of the carryover of flue-cured tobacco plus the 1982 crop marketings totals 3,135 million pounds and represents the total supply of flue-cured tobacco for the 1982–83 marketing year. This amount exceeds the reserve supply level by 585 million pounds.

It is estimated that 495 million pounds of flue-cured tobacco will be utilized in the United States during the 1983–84 marketing year and 505 million pounds will be exported. Because the total supply is substantially in excess of the reserve supply level, it is deemed desirable to make a downward adjustment of 90 million pounds from the estimated utilization in order to determine the 1983 flue-cured tobacco marketing quota. Accordingly, the national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1983, is determined to be 910 million pounds.

Section 203 of the No Net Cost Tobacco Program Act of 1982 amended section 317(a) of the 1938 Act (7 U.S.C. 1314c(a)) to provide that the national average yield goal shall be adjusted for 1983 and at 5 year intervals thereafter to the past 5 year's national average yield. The national average yield for the 1977–81 marketing years is 1,989 pounds per acre. Accordingly, it has been determined that the national average yield goal for the 1983–1984 marketing year will be 1,989 pounds per acre.

Section 203 of the No Net Cost Tobacco Program Act also amended the 1938 Act to further provide that the farm acreage allotment and preliminary farm yield for each farm shall be adjusted for 1983 and at 5 year intervals therafter to reflect increases or decreases in the past 5 year's county average yield per acre. This county adjustment factor is based on the ratio of the county average yield for each county during the 5 year base period 1959–83 to the moving county average yield for each county during the 5 year period 1977–81.

The average county adjustment factor for the entire flue-cured belt is 1.1074. In an effort to avoid severe changes in farm acreage allotments due to abnormal conditions, the county adjustment factors were limited to a minimum of 1.00 and a maximum of 1.35.

The county adjustment factor established shall simultaneously be applied to the preliminary farm yield and the farm acreage allotment of each farm, leaving the preliminary farm marketing quota identical to the preliminary farm marketing quota which would have existed, except for rounding.

In accordance with section 317(a)(3) of the 1938 Act (7 U.S.C. 1314c(a)(3)) the national acreage allotment for the 1983 crop of flue-cured tobacco is determined to be 457,516.34 acres, which is the result of dividing the national marketing quota by the national average yield goal.

In accordance with section 317(e) of the 1938 Act (7 U.S.C. 1314c(e)) the Secretary is authorized to establish a national reserve, from the national acreage allotment, in an amount equivalent to not more than 1 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities and for establishing allotments for new farms. The Secretary has determined that a national reserve for the 1983 crop of flue-cured tobacco of 200 acres is adequate for these purposes.

It has been determined that types 11, 12, 13, and 14 shall constitute one kind of tobacco for the 1983–84, 1984–85, and 1985–86 marketing years. It has been determined also that no substantial difference exists in the usage or market outlets for any one or more of the types of flue-cured tobacco.

On December 1, 1982, the Secretary announced by press release the determinations with respect to the 1983 crop of flue-cured tobacco which are set forth herein. The purpose of this document is to affirm those determinations. Thus, it is hereby determined that no further public rulemaking is required with respect to the following determinations:

Determinations

Proclamation of National Marketing Quotas

Since the 1982–83 marketing year is the last of 3 consecutive marketing years for which marketing quotas previously proclaimed will be in effect for flue-cured tobacco, a national marketing quota for such kind of tobacco for each of the 3 marketing years beginning July 1, 1983, July 1, 1984, and July 1, 1985 is hereby proclaimed.

Method and Period for Holding Referendum

It is hereby determined that a referendum will be conducted at polling places on December 16, 1982. If more than 66⅔ percent of those voting favor quotas, then quotas will be in effect for the next three marketing years beginning July 1, 1983.

Determinations 1983–84 Marketing Year

For flue-cured tobacco for the marketing year beginning July 1, 1983:

(a) *Reserve supply level.* The reserve supply level is determined to be 2,550 million pounds based upon a normal year's domestic consumption of 560 million pounds and a normal year's exports of 539 million pounds.

(b) *National marketing quota.* A national quota on an acreage-poundage basis for the marketing year beginning July 1, 1983 is determined to be 910 million pounds. This quota is based on an estimated consumption in the United States in such marketing year of 495 million pounds and estimated exports in such marketing year of 505 million pounds, with a 90 million pound downward adjustment in order to effect an orderly reduction of supplies toward the reserve supply level.

(c) *National average yield goal.* The national average yield goal is determined to be 1,989 pounds. This goal is based on the 5 year national average yield for the 1977–81 marketing years.

(d) *National acreage allotment.* The national acreage allotment on an acreage-poundage basis is determined to be 457,516.34 acres. This allotment is determined by dividing the national marketing quota of 910 million pounds by the national average yield goal of 1,989 pounds.

(e) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm areage allotments and for establishing allotments for new farms is determined to be 200 acres.

(f) *National acreage factor.* The national acreage factor is determined to be .9268.

(g) *National yield factor.* The national yield factor is determined and announced to be .9020.

(Secs. 301, 313, 317, 375, 52 Stat. 38, 47, 66, as amended, 79 Stat. 66 (7 U.S.C. 1301, 1313, 1314c, 1375))

Signed at Washington, D.C. on January 6, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-837 Filed 1-13-83; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

[Docket No. 83-002]

Designated Qualified Person (DQP) Program

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: This document announces a public meeting to discuss the Designated Qualified Person (DQP) Program which is conducted under authority of the Horse Protection Act of 1970.

DATE: The meeting will be held from 10:00 a.m. to 4:00 p.m. on Wednesday, February 16, 1983.

ADDRESSES: The meeting will be held at the University of Maryland Adult Education Center, Room 0123, corner of University Boulevard and Adelphi Road, College Park, MD 20742. Written comments should be submitted to Dr. Richard L. Rissler, Acting Assistant Director, Animal Health Programs, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Rissler, Acting Assistant Director, Animal Health Programs, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–5286.

SUPPLEMENTARY INFORMATION: The purpose of the public meeting is to obtain comments concerning whether the Designated Qualified Person (DQP) program under the horse protection regulations (9 CFR Part 11) is effectively carrying out its intended purposes under the Horse Protection Act of 1970 (15 U.S.C. 1821 et seq.).

The horse protection regulations provide that a DQP is a person whose has been licensed as a DQP by a horse industry organization or association having a DQP program certified by the U.S. Department of Agriculture and who may be appointed and delegated authority by the management of any horse show, horse exhibition, horse sale, or horse auction under section 4 of the Horse Protection Act of 1970 (15 U.S.C. 1823) to detect or diagnose horses which are sore or to otherwise inspect horses and any records pertaining to such horses for the purposes of enforcing the Act. Six horse industry organizations or associations have DQP programs certified by the Department.

Public Meeting

A representative of the Animal and Plant Health Inspection Service will preside at the meeting. Any interested person may appear and be heard in person, by attorney, or by other representative.

The meeting will begin at 10 a.m. and is scheduled to end at 4 p.m. local time. However, the meeting may be terminated at any time after it begins if all of those persons desiring an opportunity to speak have been heard. Persons who wish to speak are requested to register with the presiding officer prior to the meeting. The premeeting registration will be

conducted at the location of the meeting from 9 a.m. to 10 a.m. Those registered persons will be heard in the order of their registration. However, any other persons who wish to speak at the meeting will be afforded such opportunity after the registered persons have been heard.

If the number of preregistered persons and other participants in attendance at the meeting warrants it the presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

Written Comments

Persons who wish to submit written comments in lieu of making comments at the public meeting should submit their written comments to the person and address specified under the heading "**ADDRESSES.**"

Done at Washington, D.C. this 10th day of January 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 83-1088 Filed 1-11-83; 3:45 pm]

BILLING CODE 3410-34-M

Packers and Stockyards Administration

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards are required by said section 302, on the respective dates specified below.

Facility No., name, and location of stockyard	Date of posting
NM-119 The Auction Company, Bernalillo, New Mexico.	October 22, 1982.

Done at Washington, D.C., this 10th day of January, 1983.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83-1085 Filed 1-13-83; 8:45 am]

BILLING CODE 3410-02-M

Proposed Posting of Stockyards

The Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

UT-116 Basin Livestock Market, Inc., Roosevelt, Utah

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyrds Act, as amended (7 U.S.C. 181 et seq.), proposes to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wished to submit written data, views, or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by January 31, 1983.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 10th day January, 1983.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 83-1086 Filed 1-13-83; 8:45 am]

BILLING CODE 3410-02-M

Soil Conservation Service

Lovelock Watershed, Nevada; Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Lovelock Watershed project, Pershing County, Nevada.

FOR FURTHER INFORMATION CONTACT: Gerald Thola, State Conservationist, Soil Conservation Service, P.O. Box 4850, Reno, Nevada 89505, telephone (702) 784-5863.

SUPPLEMENTARY INFORMATION: A determination has been made by Gerald Thola that the proposed works of improvement for the Lovelock Watershed project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Gerald Thola, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

Dated: December 22, 1982.

Gerald Thola,

State Conservationist.

[FR Doc. 83-981 Filed 1-13-83; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended January 7, 1983.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
January 3, 1983....	41197	Kodiak Western Alaska Airlines, Inc., c/o Richard P. Taylor, Steptoe & Johnson, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Kodiak Western Alaska Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity to engage in charter air transportation within the State of Alaska and/or certain waiver relief. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 31, 1983.
January 3, 1983....	41198	Evergreen International Airlines, Inc., c/o Richard P. Taylor, Steptoe & Johnson, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Evergreen International Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for an amended certificate of public convenience and necessity to engage in interstate charter air transportation within the State of Alaska. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 31, 1983.
January 3, 1983....	41199	Evergreen Helicopters of Alaska, Inc., c/o Richard P. Taylor, Steptoe & Johnson, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Evergreen Helicopters of Alaska, Inc. pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity to engage in interstate charter air transportation within the State of Alaska. Conforming Applications, Motions to Modify Scope, and Answers may be filed by January 31, 1983.
January 6, 1983....	41200	Mountain Pacific Airways, Inc., c/o Robert E. Shelton, Jr., Hangar 10, 7355 S. Peoria St., Englewood, Colorado 80112. Application of Mountain Pacific Airways, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a Certificate of Public Convenience and Necessity which would authorize it to engage in charter interstate air transportation of passengers, property and mail. Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 3, 1983.
January 6, 1983....	41206	Aero-Chago, S. A., c/o Andrew T. A. Macdonald, Wilmer, Cutler & Pickering, 1666 K Street, N.W., Washington, D.C. 20006. Supplement to and Completion of the Application of Aero-Chago, S.A., for a Foreign Air Carrier Permit pursuant to Subpart Q of the Board's Procedural Regulations and Order 82-11-1. Answers may be filed by February 3, 1983.
January 7, 1983....	41208	Fleming International Airways, Inc., c/o Allan W. Markham, Suite 400, 4801 Massachusetts Ave., N.W., Washington, D.C. 20016. Application of Fleming International Airways, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to engage in interstate charter air transportation of property and mail. Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 4, 1983.
January 7, 1983....	41209	Fleming International Airways, Inc., c/o Allan W. Markham, Suite 400, 4801 Massachusetts Ave., N.W., Washington, D.C. 20016. Application of Fleming International Airways, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to engage in foreign charter air transportation of property and mail as follows: Between any point in any State of the United States or the District of Columbia or any territory or possession of the United States, and a. Any point in Canada; b. Any point in Mexico; c. Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place in the Gulf of Mexico or the Caribbean Sea; d. Any point in Central or South America; and e. Any point in Australasia, Indonesia, or Asia as far west as longitude 70 degrees east via a transpacific routing. Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 4, 1983.
January 7, 1983....	41211	Capitol Air, Inc., c/o Fred D. Thompson, 1919 Pennsylvania Avenue, N.W., Suite 850, Washington, D.C. 20006. Application of Capitol Air, Inc. pursuant to section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for an amendment of its existing certificate of public convenience and necessity over Route 191-F, or for a new certificate, sufficient to authorize air transportation of persons, property, and mail as follows: Between San Juan and the co-terminal points Montreal/Toronto, Canada. Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 4, 1983.
January 7, 1983....	41212	Arrow Airways, Inc., c/o Lawrence D. Wasko, Seamon, Wasko and Ozment, 1211 Connecticut Avenue, N.W., Suite 300, Washington, D.C. 20036. Application of Arrow Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property and mail as follows: Between a point or points in the United States and Manila, Republic of the Philippines. Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 4, 1983.
January 7, 1983....	41213	Interamerica Airlines, Inc., c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, Suite 900 South, 1800 M Street, N.W., Washington, D.C. 20036. Application of Interamerica Airlines, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity to engage in interstate and overseas charter air transportation of persons, property, and mail between the following points: Between any point in any State of the United States or the District of Columbia or any territory or possession of the United States and any other point in any State of the United States or the District of Columbia or any territory or possession of the United States. Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 4, 1983.
January 7, 1983....	41214	Interamerica Airlines, Inc., c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, Suite 900 South, 1800 M Street, N.W., Washington, D.C. 20036. Application of Interamerica Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity to engage in foreign charter air transportation of persons, property and mail as follows: Between any point in any State of the United States or the District of Columbia or any territory or possession of the United States and (a) any point in Canada; (b) any point in Mexico; and (c) any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other place in the Gulf of Mexico or the Caribbean Sea. Conforming Applications, Motions to Modify Scope, and Answers may be filed by Feburary 4, 1983.
January 7, 1983....	41215	Japan Air Lines Company, Ltd., c/o Laurance A. Short, Short, Klein & Karas, 1101 Thirteenth Street, N.W. Suite 303, Washington, D.C. 20007. Application of Japan Air Lines Company, Ltd. pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests that its foreign air carrier permit be amended so as to authorize JAL to engage in foreign air transportation of persons, property and mail between Tokyo, Japan, the intermediate point Seattle, Washington and the terminal point Chicago, Illinois and between Tokyo, Japan, the intermediate point Los Angeles, California and the coterminal points Sao Paulo and Rio de Janeiro, Brazil. Answers may be filed by February 4, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-1108 Filed 1-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41207; Order 83-1-18]

Computer: Reservations Systems; Report to Congress; Order Requesting Comments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of January, 1983.

On December 18, 1982 the President signed into law H.R. 7019 (Public Law 97-369). The Conference Report accompanying that legislation provides that the Civil Aeronautics Board and the Department of Justice are directed to conduct a study of the computer reservations systems which are leased to travel agents by the airlines and to determine the effects on competition and any antitrust implications which may exist.

We have decided to provide interested persons with an opportunity to file their comments and any information they believe would be useful to us in considering the issues Congress has asked us to address. This

action is prompted by the fact that we have already received expressions of interest or requests for an opportunity to comment from air carriers and travel agent groups.

Congress has directed that we, in close cooperation with the Department of Justice, should investigate the following:

1. Lease costs to travel agents and any conditions of the lease which may inhibit competition;

2. Charges to other airlines in order to co-host the system with the airline which offers the system for lease; whether these charges discriminate against other airlines; and whether these charges are designed to inhibit competition and violate anti-trust laws; and

3. The display of the schedules and the fares of those air carriers which co-host the system and those carriers which do not host the system and whether these displays unfairly discriminate against either of those class of carriers.

Interested persons may submit any information they believe will be useful to us in preparing our report, as well as concise argument on the issues. Whenever possible, parties should attempt to support arguments with specific facts to support their views on the competitive consequences of various computer reservations systems. However, we do not believe it would be useful for parties to submit voluminous documentation that would be of marginal benefit.

Interested persons should submit their comments by January 28, 1983. We cannot guarantee that comments or reply comments received after that day will be considered. Finally, we have not, by providing an opportunity for public input created a formal proceeding, subject to either the adjudicative or rulemaking requirements of our procedural rules.

Accordingly

1. Interested persons are directed to file in Docket 41207, their comments on the issues set forth above, by January 28, 1983; and

2. This order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1108 Filed 1-13-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40915; Order 83-1-28]

Pan American World Airways, Inc. et al.; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 10th day of January, 1983.

On August 11, 1982, Pan American World Airways, Inc. (Pan Am) filed a complaint against British Airways (BA). The complaint stated that BA had adopted discriminatory policies against Pan Am by requiring Pan Am to pay prorates for beyond-London European interline traffic substantially higher than the prorates BA applies to all other carriers for the same transportation. Pan Am argued that this discriminatory policy of BA warranted relief under sections 9 [1] and 23 [2] of the International Air Transportation Competition Act of 1979, and it requested that we suspend BA's tariffs offering through fares beyond London.

On December 30, 1982, Pan Am filed a motion requesting dismissal of its complaint. In support of its motion, Pan Am states that it has reached agreement with British Airways on the division of interline revenues from Pan Am-BA connecting services between the United States and Europe commencing December 15, 1982. Pan Am adds that the interruption of its transatlantic sales on BA has been halted and that these sales have resumed. Pan Am says finally that it regards its agreement with BA as a negotiated settlement of the issues raised in its complaint and that it does not wish to pursue its remedies under the Federal Aviation Act or the International Air Transportation Fair Competitive Practices Act.

We shall grant Pan Am's motion to dismiss.[3] We have previously deferred action in this proceeding in order to provide the parties an opportunity to resolve the issues raised by the complaint through negotiations.[4] A negotiated settlement has been achieved and Pan American no longer seeks the imposition of sanctions. In these circumstances, the public interest is best served by terminating this proceeding. Consequently, we conclude that dismissal is consistent with the public interest.

Accordingly,

1. We dismiss the complaint of Pan American World Airways, Inc. in Docket 40915;

2. We reserve the right to amend or revoke this order at any time without hearing; and

3. We shall serve this order upon Pan American World Airways, Inc.; British Airways; Trans World Airlines, Inc.; the Ambassador of the United Kingdom in Washington, D.C.; and the United States Departments of State and Transportation.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1107 Filed 1-13-83; 8:45 am]

BILLING CODE 6320-01-M

[1] Section 402(f) of the Federal Aviation Act of 1958, as amended.

[2] Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended.

[3] Since we do not regard our action as prejudicial to any party, we are acting on Pan Am's motion without awaiting the prescribed period for answers.

[4] Orders 82-12-51, 82-11-55, and 82-10-44.

DEPARTMENT OF COMMERCE

International Trade Administration

Harvard University et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

Correction

In FR Doc. 83-504 beginning on page 853, in the issue of Friday, January 7, 1983, on page 854, in the first column, the last paragraph, the first line should read "Docket No. 82-00014. Applicant:".

BILLING CODE 1505-01-M

[A-425-077, A-427-078, A-428-082]

Sugar From France, Belgium, and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On November 10, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on sugar from France, Belgium, and the Federal Republic of Germany. The review covered the thirteen known exporters and third-country resellers of this merchandise to the United States and the period June 1, 1981 through May 31, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. On the basis of our review, the final results of the

review are the same as those contained in the preliminary results.

EFFECTIVE DATE: January 14, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1979, the Treasury Department published in the **Federal Register** a dumping finding with respect to sugar from France, Belgium, and the Federal Republic of Germany (T.D. 79–167, 44 FR 33878). On November 10, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 50936) the preliminary results of its last administrative review of the finding. The Department has now completed that review.

Scope of the Review

Imports coverd by the review are shipments of sugar, both raw and refined, currently classifiable under item numbers 155.2025, 155.2045, and 155.3000 of the Tariff Schedules of the United States Annotated.

The review covers the thirteen known exporters and third-country resellers of French, Belgian, and West German sugar to the United States and the period June 1, 1981 through May 31, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. On the basis of our review, the final results of the review are the same as those presented in the preliminary results of review.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 102 percent, 103 percent, and 121 percent shall be required on all shipments of French, Belgian, and West German sugar, respectively, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. These deposit requirements shall remain in effect until publication of the final results of our next administrative review. The Department intends to conduct the next administrative review by the end of June 1984. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675 (a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 10, 1983.

[FR Doc. 83–1061 Filed 1–13–83; 8:45 am]

BILLING CODE 3510–25–M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: Questionnaire for Building Permit Official.
Form Number: Agency—SOC–903; OMB—0607–0125.
Type of Request: Revision.
Burden: 850 respondents; 212 reporting hours.
Needs and Uses: Through the use of this questionnaire, Census field interviewers obtain information on operating procedures from building permit offices selected for the Surveys of Construction (SOC). This information enables the interviewers to knowledgeably review and list building permits in a manner compatible with data submitted to Census on Form C404, "Report of Building Permits Issued and Local Public Construction." Information collected is used to execute SOC and is not tabulated or published.
Affected Public: Local government building permit officials.
Frequency: Other.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of the Census.
Title: 1982 Census of Manufactures Supplemental Form Textile Machinery in Place.
Form Number: Agency—MC–22Z.
Type of Request: New.
Burden: 5,500 respondents; 5,500 reporting hours.
Needs and Uses: This survey provides the only information on textile machinery in place in factories. Data are used to monitor the modernization of textile plants, to determine current capacity, to analyze and forecast long-term changes in textile product and textile machinery industries, and to study the effect of imports.
Affected Public: Textile manufacturers.
Frequency: Nonrecurring.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of the Census.
Title: Housing Unit Coverage Studies/ Duplicative Check—1980 Decennial Census Evaluation.
Form Number(s): Agency—D–8101; OMB—0607–0365.
Type of Request: New.
Burden: 675 respondents; 115 reporting hours.
Needs and Uses: The Duplicate Check Followup Study will provide national and regional estimates of the rate at which occupied housing units were overenumerated in the 1980 Decennial Census.
Affected Public: Persons occupying, or knowledgeable of, housing units identified as possible duplicates in the 1980 Decennial Census.
Frequency: Nonrecurring.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of the Census.
Title: Survey of Income and Program Participation (Pretest-Wave 2).
Form Number(s): Agency—4200X; OMB—None.
Type of Request: New.
Burden: 300 respondents; 100 reporting hours.
Needs and Uses: Information collected will be used to determine the distribution of income received directly as money or indirectly as in-kind benefits, and the effect of tax and transfer programs on this distribution. The survey is designed to provide data on a continuing basis so that levels of economic well-being and changes in these levels can be measured over time.
Affected Public: Households in the city of Atlanta, Georgia.
Frequency: Other (Pretest).
Respondent's Obligation: Voluntary.
OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of the Census.
Title: Men's, Women's, Misses', and Juniors' Selected Apparel.
Form Number(s): Agency—M23I; OMB—None.
Type of Request: New.
Burden: 900 respondents; 2,700 reporting hours.

Needs and Uses: Data will be used by industry and government analysts to monitor the effect of imports on the domestic apparel industry. The numerous bilateral agreements in effect and the Multifiber Arrangement limit imports if market disruptions occur, and these monthly data will be used to determine if there are market disruptions.

Affected Public: Manufacturers and jobbers of men's and women's apparel.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of the Census.

Title: Current Trade Report.

Form Number(s): Agency—B–300(SR); OMB—0607–0190.

Type of Request: Revision.

Burden: 33,600 responses; 5,040 reporting hours.

Needs and Uses: The Monthly Wholesale Trade Survey is used to measure monthly wholesale sales, inventory and stock/sales ratios. Information received by the Bureau of the Census indicates that the data have significant application to the needs of the public and other government agencies.

Affected Public: Merchant wholesalers.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of the Census.

Title: Business and Professional Classification Report.

Form Number(s): Agency—B–625; OMB—0607–0189.

Burden: 44,500 respondents; 11,125 reporting hours.

Needs and Uses: This form is used to canvas firms which have been assigned Federal employer identification (EI) numbers. Using this procedure the monthly retail and wholesale surveys and the annual survey are updated for new firms entering business.

Affected Public: Business and professional firms obtaining new EI numbers.

Frequency: Nonrecurring.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: Bureau of the Census.

Title: 1982 Census of Agriculture Nonrespondent Sample Survey.

Form Number(s): Agency—82–A–46; OMB—None.

Type of Request: New.

Burden: 10,000 respondents; 2,000 reporting hours.

Needs and Uses: The nonrespondent sample survey will be used to provide state estimates of the number of forms included in the mail list nonresponse universe for the 1982 Census of Agriculture. The estimates will be used in the nonrespondent adjustment procedure to adjust state and county statistics to represent the nonrespondent farms.

Affected Public: Farm and ranch operators and persons associated with agriculture.

Frequency: Nonrecurring.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Timothy Sprehe, 395–4814.

Agency: National Oceanic and Atmospheric Administration.

Title: Fishermen's Guaranty Fund.

Form Number(s): Agency—NOAA 88–25; OMB—0648–0065.

Type of Request: Extension.

Burden: 250 respondents, 1,000 reporting hours.

Needs and Uses: This information is used to establish a Guaranty Agreement, and when a claim is filed pursuant to the Agreement, to establish the amount of compensation to U.S. commercial fishermen whose gear, vessel and/or catch was seized by a foreign government under specific circumstances.

Affected Public: U.S. commercial fishermen.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 83–1100 Filed 1–13–83; 8:45 am]

BILLING CODE 3510–CW–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Exempting Down and Feather-Filled Apparel Produced or Manufactured in Thailand From the Export Visa Requirement

January 11, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Exempting until further notice cotton and man-made fiber down and feather-filled apparel in Categories 353, 354, 653, and 654, produced or manufactured in Thailand, from the export visa requirement which became effective on December 1, 1982 for goods exported on and after that date. A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of October 4, 1978, as amended and extended, between the Governments of the United States and Thailand, does not include coverage of down and feather-filled apparel in Categories 353, 354, 653, and 654; therefore, export visas should not be required for these goods until such time as they are subject to the agreement.

EFFECTIVE DATE: January 14, 1983.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On October 20, 1982 a notice dated October 14, 1982 was published in the Federal Register (47 FR 46732), which established an export visa requirement for cotton, wool, and man-made fiber textile and apparel products in Categories 300–369, 400–469, and 600–669, produced or manufactured in Thailand exported on and after December 1, 1982. Down and feather-filled apparel of cotton and man-made fibers in Categories 353, 354, 653, and 654 are not covered by the existing bilateral agreement and should be exempt from the visa requirement. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to exempt apparel products in

these categories from the export visa requirement until further notice.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter amends, but does not cancel, the directive of October 14, 1982, which established an export visa requirement for cotton, wool, and man-made fiber textile products in Categories 300–369, 400–469, and 600–669, produced or manufactured in Thailand and exported on and after December 1, 1982.

Effective on January 14, 1983 and until further notice, export visas shall not be required for cotton and man-made fiber textile products in Categories 353, 354, 653 and 654, produced or manufactured in Thailand, regardless of the date of export.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709).

The actions taken with respect to the Government of Thailand and with respect to imports of cotton and man-made fiber textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-1101 Filed 1-13-83; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Foreign Assistance: Determination

Pursuant to section 515(c)(1) of the Foreign Assistance Act of 1961 relating to overseas management of assistance and sales programs, and in accordance with the authority delegated by Executive Order 12163 and redelegated on February 12 and February 24, 1972, to the Director, Defense Security Assistance Agency, Philip C. Gast, Lieutenant General, USAF, Director, Defense Security Assistance Agency, has determined that United States national interests require that more than six members of the Armed Forces be assigned under section 515 of that Act to carry out international security assistance programs in El Salvador, and therefore waives the limitation that the number of members of the Armed Force assigned to a foreign country under section 515 of that Act may not exceed six unless specifically authorized by the Congress.

The increase from six to eleven in the total number of military personnel authorized for the United States Military Group (USMILGP), El Salvador, shall be effective 30 days after the date on which this determination is reported to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

Dated: January 7, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-1051 Filed 1-13-83; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office for Civil Rights

Final Annual Operating Plan for Fiscal Year 1983

AGENCY: Department of Education.

ACTION: Notice of final annual operating plan for fiscal year 1983.

SUMMARY: The Office for Civil Rights (OCR) issues its Annual Operating Plan (AOP) for Fiscal Year 1983. The AOP describes the activities that OCR plans to conduct in FY 1983 with respect to compliance and enforcement, technical assistance, and program management.

FOR FURTHER INFORMATION CONTACT: Thomas E. Esterly, Acting Director, Planning and Compliance Operations Service, Office for Civil Rights, Department of Education, (RM. 5074, Switzer Bldg.), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-0301.

SUPPLEMENTARY INFORMATION: The proposed Annual Operating Plan (AOP) for the Office for Civil Rights (OCR) for FY 1983 was published in the Federal Register on October 19, 1982, (47 FR 46561–46565) with invitation to comment. A summary of the comments received and the Secretary's response to those comments is included below.

Comment. OCR should include, in its AOP, projections for the allocations of its resources during FY 1983.

Response. No change is made. In the most recent AOPs, OCR included projections for the use of its investigative staff which were not accurate in forecasting the actual use of resources. It is apparent that unpredictable factors, such as court decisions and public awareness, have such an impact on OCR's complaint workload that forecasting, in a national document, assignments of investigative staff time to accomplish specific activities has not proven to be a useful OCR management tool. This year, for that reason, OCR decided not to include projections in the AOP. OCR's compliance program is coordinated by the Assistant Secretary for Civil Rights and integrates regional activities into a national program.

Comment. To assure consistency in policy implementation and general effectiveness in the management of OCR's compliance program, OCR should set standards for regional performance and should then monitor regional adherence to the standards. These standards and systems for evaluating regional performance should be discussed in the AOP.

Response. No change is necessary. The Assistant Secretary for Civil Rights recognizes the importance of ensuring the consistency of policy implementation and general effectiveness of the OCR compliance program. For this reason, he has issued criteria for compliance review site nominations by the Regional Directors. As noted in the proposed AOP, the Assistant Secretary will monitor and evaluate regional implementation of their responsibilities. OCR's management information system has been improved to include tracking regional implementation of such compliance program initiatives as predetermination settlements and Early Complaint Resolution. Caseloads, time frames, and measurements of productivity will continue to be tracked and evaluated. The quality of case work will continue to be evaluated by the Quality Assurance unit.

Comment. OCR needs to prepare regional office staff for increased responsibilities in the OCR compliance program.

Response. No change is necessary. The training of OCR's investigative staff is an on-going activity, as noted in the proposed AOP. OCR believes that the combination of training, policy guidance and operations standards that is being provided to the regional OCR offices by the Assistant Secretary for Civil Rights is the appropriate preparation for the expanded regional role.

Comment. The proposed AOP deceives the public by making false statements about its resources. Specifically, the AOP's statement that the activities planned for FY 1983 are "consistent with the FY 1983 budget request as it exists at the time this plan is being prepared" is false.

Response. No change is necessary. The statement regarding OCR's resources is accurate. Under the Federal budget system, all Federal agencies

propose and negotiate their operating budgets. The commenter noted disparities in OCR's budget request by referencing documents prepared at different stages and different time periods in the budget process (i.e., contrasting OCR's original proposal and the proposal after review and clearance by the Office of Management and Budget). OCR's FY 1983 AOP is consistent with the agency's official budget *request* made to Congress and is consistent with P.L. 97–377 under which OCR is presently operating.

Comment. Inconsistent with OCR's FY 1983 budget and its discussion of the budget in the AOP, OCR's staff is declining and not being replaced. The authorized level is 1026 and the November 1982 on-board staff was 943.

Response. No change is necessary. It is true that the November full time permanent staff level in OCR was 943. The 1026 was the *requested* full time permanent staffing for FY 1983 contained in the request made to Congress. OCR developed this AOP consistent with the request made to Congress.

Comment. The proposed AOP fails to mention case-processing time frames contained in the 1977 *Adams* Consent Order.

Response. No change is necessary. The AOP includes the statement "As in previous years, each regional OCR director will be responsible for timely fulfillment of OCR's obligations in complaint investigations and compliance reviews." This commitment is meant to include fulfillment of the order, as well as all of OCR's obligations regarding its compliance program.

Comment. If OCR's pre-determination settlements are to follow the requirements set forth by the Assistant Secretary for Civil Rights in a July 1982 memorandum to the 10 regional OCR directors, then the final FY 1983 AOP should reference this guidance.

Response. No change is necessary. The July 1982 directive represents OCR's procedures for pre-determination settlements. Specifically, all letters of findings to recipients will state the violation(s) and the corrective action(s) being taken.

Comment. Pre-determination settlements should include the complainant in the negotiations and settlement.

Response. No change is necessary. In all settlements, pre- and post-determination, OCR's purpose is to negotiate settlements that remedy discrimination and ensure that a violation of a Federal civil rights law has been corrected. To the extent that a complainant can help OCR achieve this purpose, his/her assistance and cooperation are welcomed.

Comment. Pre-determination settlements shift the emphasis from the elimination of discrimination to settlement.

Response. No change is necessary. As stated in the proposed AOP, pre-determination settlements will meet statutory requirements. That is, as in the past, when recipients of Federal financial assistance are found in violation of the statutes OCR enforces, the violation must be corrected for the recipient to continue to receive the Federal assistance.

Comment. OCR should be prepared to issue a cause letter of findings (LOF) if pre-determination negotiations fail.

Response. No change is necessary. OCR follows its procedures for investigating and documenting findings for those cases where pre-determination settlements are being attempted. Therefore, OCR will issue an LOF if the pre-determination negotiations fail.

Comment. The assessment of Early Complaint Resolution (ECR) included in the proposed AOP was based on too small a sample to anticipate that it will improve OCR's handling of cases.

Response. No change is necessary. The numbers included in the proposed AOP regarding ECR were taken from the first three months of implementing ECR and, as such, do reflect a small sample. Nevertheless, OCR expects that the use of ECR will continue to expand and will improve its handling of cases.

Comment. OCR limits its discussion of monitoring activities to the implementation of pre-determination settlements. OCR needs to monitor remedial action plans as well.

Response. No change is necessary. The proposed AOP does explain that OCR will be monitoring remedial action plans and lists two examples: *Adams* Higher Education (for approximately 260 institutions) and approximately 50 Title VI *Lau* plans.

Comment. While the proposed AOP states that OCR's management program includes conducting surveys and date collection, it does not specify what surveys will be pursued.

Response. No change is necessary. Annual data collection will be continued in FY 1983 for monitoring implementation of statewide higher education desegregation and for monitoring compliance activities in the big city school district (New York City). There is only one biennial survey, the Higher Education General Information Survey (HEGIS) of Earned Degrees (2300–2.1), that is being conducted during FY 1983. Other biennial surveys (e.g., HEGIS Student Enrollment—2300–2.3; Employment at Higher Education Institutions—EEO 6; Elementary and Secondary School Civil Rights Survey, District Summary—ED–101 and Individual School Report—ED–102) are conducted during even-numbered fiscal years.

Comment. For FY 1983, OCR proposes to drop school segregation from its list of compliance review issues and add a new issue regarding within school district comparability—discriminatory delivery of services. These changes suggest a willingness to tolerate "separate-but-equal" schools.

Response. A change is made. It certainly was not OCR's intention to indicate a willingness to tolerate "separate-but-equal" schools. As clarified in Table 2 of the final AOP, it is OCR's intention to expand its review of school districts with disproportionately minority schools beyond a veview for illegal segregation. Under the new issue, there will be an initial inquiry to determine if a district's disproportionate minority schools are the product of unlawful segregation. If no illegal segregation exists, then the issue of equal educational opportunity will be investigated.

Comment. The proposed AOP limited the compliance review issues regarding employment to sex discrimination. Please explain why race and disability employment discrimination were excluded from the issue.

Response. A change is made. Table 2 of the final AOP has been revised to include discrimination based on race, national origin, and/or handicap in the compliance review issues regarding employment.

Comment. OCR had included postsecondary intercollegiate athletics reviews to tis proposed compliance reviews issues for FY 1983. OCR is urged to resolve the 223 intercollegiate athletics compliants pending as of June 30, 1982, prior to initiating compliance reviews on that issue.

Response. No change is necessary. It is OCR's intention, in those regions when there are pending intercollegiate complaints, to resolve the complaints first. The number 223 cited in the comment is incorrect. There were 60 intercollegiate athletic complaints pending as of June 30, 1982.

Comment. Commenters, particularly at the State and local levels, complimented OCR for its proposed technical assistance program. There were other comments, however, which stated that OCR, through its technical assistance activities, is seeking to devolve itself of its enforcement

responsibilities under the civil rights statutes in favor of State and local action.

Response. No change is necessary. OCR believes that through improved technical assistance activities it can strengthen civil rights compliance activities at the State and local levels, not weaken them at the Federal level. OCR, in its coordination with State agencies, has no intention of transferring its enforcement responsibilities. The cooperative activities between OCR and State authorities referred to in the AOP concern sharing information, collaborative technical assistance activities where State and Federal statutes are similar, joint compliance reviews of Education Department (ED) recipients, sharing data for monitoring purposes, lessening duplication of effort, and reducing the time it takes to remedy discrimination.

Comment. The AOP should delineate how OCR will coordinate the delivery of technical assistance with other providers of civil rights technical assistance within the Education Department.

Response. A change is made. The final AOP states that OCR will coordinate its delivery of technical assistance with other agencies within the Education Department which provide civil rights technical assistance. OCR has underway coordination discussions with these agencies.

Comment. OCR is placing greater emphasis on technical assistance, yet its resources for providing both contract and non-contract technical assistance have diminished. OCR's intention to use enforcement staff to provide technical assistance will adversely affect compliance and monitoring activities.

Response. No change is necessary. The number of complaints received by OCR is not within OCR's control. To the extent that OCR receives many complaints, there will be fewer resources available for technical assistance. The Assistance Secretary for Civil Rights recognizes the importance of technical assistance and is committed to provide as much technical assistance as possible, based on OCR's complaint demand.

Comment. The AOP should indicate what proportion of resources will go to technical assistance.

Response. No change is necessary. The proposed AOP does indicate that, on average, a regional office will devote seven percent of its staff resources to technical assistance activities and that the major portion of these activities will address the same issues covered by compliance reviews and identified in Table 2. Beyond this, each regional office will have the flexibility and commensurate responsibility to serve the specific needs of the beneficiaries and recipient institutions located within its geographic area. Often, these specific needs are not identified until a request for technical assistance is made or a complaint investigation or compliance review is conducted.

Comment. Expanding the State role in civil rights enforcement is premature when OCR has done little to assure the success of the one existing Federally imposed State civil rights compliance program, implementation of the States' Methods of Administration (MOA) for enforcing the 1979 OCR guidelines for vocational education.

Response. No change is necessary. OCR has taken important steps to assure that the MOA process for vocational education is working. Teams from all 50 States and four territories have been trained to conduct desk audits and compliance reviews and have been provided compliance manuals detailing proper investigative procedures. Regional OCR staff have conducted on-site reviews to determine whether State and territorial agencies have satisfactorily implemented the commitments made in their MOAs.

Comment. OCR has included compliance reviews of vocational education subrecipients under the heading of "Monitoring Activities" when this is clearly a compliance review issue and is so listed in Table 2.

Response. No change is necessary. The statement under "monitoring Activities" concerning vocational education refers to OCR's evaluating the performance of the 50 States and four territories in implementing the civil rights commitments made in their individual Methods of Administration. The inclusion of vocational education in Table 2 indicates that this is one of the issues OCR will consider for compliance reviews conducted by OCR regional staff.

Comment. Identification of States with laws substantially equivalent to Federal civil rights laws and with the capacity to undertake civil rights compliance activities was already done in the SRI International Report, *Finding the Common Demoninator: The Capacity of State Agencies to Assist the HEW Office for Civil Rights*, September 1979.

Response. A change is made. The SRI report contained general references to some States which appear to have statutes similar to the Federal statutes OCR enforces. However, since it was not the purpose of the report, there was no legal review of the substantial equivalence of those State Laws. As revised in the the final AOP, OCR is no longer considering for FY 1983 the option related to identifying State civil rights laws that are substantially equivalent to Federal laws.

Comment. The AOP should identify the compliance issues on which OCR is prepared to provide technical assistance and any plans to develop these capabilities in FY 1983.

Response. No change is necessary. As noted in the proposed AOP, during FY 1983, OCR will be prepared to provide technical assistance on the compliance issues listed in Table 2.

Comment. More emphasis should be placed on providing technical assistance on sex discrimination and double and triple discrimination encountered by minority and handicapped women.

Response. No change is necessary. A goal in OCR's FY 1983 technical assistance program is to expand the program to include Titles VI and IX issues. This already has been accomplished in several regions on a limited basis. The expansion into Titles VI and IX issues will enable double and triple discrimination to be addressed more fully.

I. Introduction

The basic purpose of the Office for Civil Rights (OCR) is to ensure that no person is unlawfully discriminated against by recipients of federal education funds in the delivery of services or the provision of benefits on the basis of race, national origin, sex, handicap, or age. The jurisdictional authorities under which OCR operates include Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

Covered under these authorities are 50 State education agencies, 16,000 local school systems, 3,200 colleges and universities, 10,000 proprietary institutions, 55 State rehabilitation agencies and their sub-recipients, as well as other institutions such as libraries and museums which receive financial assistance from the Department of Education (ED). The job of protecting the civil rights of 12 million minority group members, 4 million handicapped persons and 26 million women who attend elementary and secondary schools or postsecondary institutions receiving Federal financial assistance, rest almost exclusively with OCR.

OCR's strategy to ensure compliance with Federal civil rights statutes involves two basic types of activities: compliance activities and technical assistance activities. Nearly all of OCR's

compliance activities (complaint investigations, compliance reviews, Title VI *Lau* plan monitoring, and monitoring State higher education systems desegregation) are required by various statutes, regulations and court orders. OCR has discretion, however, as to where it will conduct its compliance review activities and what issues those reviews will cover. For the most part, OCR concentrates these investigative activities on those recipients, primarily identified by OCR civil rights compliance survey data, which are believed to be in noncompliance with major civil rights requirements.

OCR is unable to investigate the policies and practices of all the recipients of Federal financial assistance under its jurisdiction. Therefore, through the transfer of information, material and skills, OCR encourages recipients to comply voluntarily with the law and instructs beneficiaries of their rights under Federal civil rights statutes.

However, where voluntary compliance cannot be achieved, OCR will engage in whatever enforcement activity necessary to bring an end to the discriminatory conduct. OCR staff activities and contracted programs have been the major components used by OCR to deliver technical assistance in conjunction with the efforts of other Education Department program staff.

The following narrative and tables describe the activities that OCR plans for FY 1983.

II. Compliance and Enforcement Activities

OCR's compliance and enforcement responsibilities are divided into three general categories: Complaint investigations, compliance reviews and monitoring activities.

A. Complaint Investigations

The primary enforcement activity is the investigation and resolution of complaints alleging discrimination. Each timely, written complaint must be resolved in accordance with established procedures and time frames.

OCR received 1,840 and closed 2,267 complaints during FY 1982. Alleged discrimination against handicapped persons was the basis in approximately 47 percent of complaint receipts, with race and sex complaints following in order of frequency. The largest number of complaints was filed against elementary and secondary schools. Almost 69 percent of complaints in FY 1982 involved issues of service delivery to students; the remaining complaints involved various employment issues.

Although recent court decisions related to the statutes OCR enforces may have an impact on the number and type of complaints received during FY 1983, it is expected that the complaint workload will not vary significantly in type or number from the FY 1982 complaint workload. OCR had a pending caseload of 1,152 complaints as of September 30, 1982.

One initiative to improve OCR's handling of complaints which was implemented during FY 1982 and will be continued in FY 1983, is Early Complaint Resolution (ECR). ECR is a method for the parties themselves in a complaint to resolve the issues raised in the complaint prior to the initiation of an OCR investigation. During the first three months of implementing ECR, 95 percent of the complaints in which the parties agreed to mediation prior to an OCR investigation was resolved. The average duration for this process was 22 days.

Another initiative implemented in FY 1982 to improve OCR's case handling was the pre-determination settlement. This initiative, which is applicable to complaints and to compliance reviews, also will be continued in FY 1983. In the pre-determination settlement, OCR and the recipients of Federal assistance attempt to reach settlements in the early stages rather than waiting for the issuance of the findings. All settlement agreements resulting from this approach are confirmed in writing by the issuance of a letter to the recipient which satisfies the applicable statutory requirements and which includes all the remedies that will be implemented by the recipient. OCR then monitors the implementation of the remedies by the recipient.

B. Compliance Reviews

Compliance reviews differ from complaint investigations in that OCR has some discretion in selecting the issues and institutions for review. In FY 1982, OCR initiated compliance reviews of 208 recipients and closed 241 reviews. Table 1 shows the compliance review starts in FY 1982 by issue. The number of compliance reviews initiated in FY 1982 greatly exceeded the projections in the FY 1982 Annual Operating Plan (AOP). The FY 1982 AOP assumed there would be 72 compliance review starts during FY 1982. At the end of FY 1982, 136 compliance reviews were carried over into FY 1983.

For FY 1983, OCR will broaden its listing of compliance review issues to asure that the widest coverage against the various types of discrimination will be provided. Table 2 shows the general issues to be included in the FY 1983 compliance review program and provides a brief description of the issues. OCR relies on survey data and other available information in selecting the sites for compliance reviews. The ability to select the issues and the sites for compliance reviews enables OCR to balance the compliance program by jurisdiction and geographically, and to identify and then remedy discrimination that may not be addressed through complaints.

Because of the varied civil rights needs throughout the country, each of the 10 regional offices will develop and submit to the Assistant Secretary for Civil Rights for approval its own compliance review program for FY 1983.

C. Monitoring Activities

In FY 1983, OCR will increase its monitoring of remedies or corrective actions being taken by recipients. As explained above, OCR monitors the implementation of pre-determination settlements and evaluates the results.

OCR will pursue other monitoring activities in FY 1983 which include reviewing the compliance activities of 56 States and four territories concerning the civil rights compliance of their vocational education sub-recipients.

OCR also monitors the implementation of remedial plans by recipients found in violation of the civil rights laws. This type of monitoring includes *Adams* higher education desegregation and *Lau* plan monitoring.

- *Adams* Higher Education Desegregation Plan Monitoring—in FY 1983 OCR will be monitoring implementation of higher education desegregation plans by approximately 260 institutions of higher education in 11 States.
- Title VI *Lau* Plan Monitoring—OCR is required to monitor the implementation of Title VI *Lau* plans by recipients. In FY 1983, OCR will be monitoring implementation of approximately 50 Title VI *Lau* plans.

III. Technical Assistance Activities

Over 20,000 education institutions which receive Federal financial assistance must comply with a number of complex civil rights requirements. Because of the number of recipient institutions involved, OCR is unable to investigate the policies or practices of each recipient.

The role of the Federal Government in enforcing civil rights can be greatly enhanced through efforts to assist and support State and local governments and other ED recipients in achieving compliance. Technical assistance is, therefore, vital.

This approach allows OCR not only to reach those recipients that may be subject to a complaint investigation or a compliance review but also allows OCR to address specific problem areas that may be of concern to a number of institutions and assist them in a very positive way to comply with the law.

OCR has developed a number of programs to increase the amount and impact of technical assistance provided. The major portion of these technical assistance activities will address the same issues covered by compliance reviews.

In FY 1983, OCR will explore ways to increase the involvement of States in civil rights compliance activities. To this end, OCR will undertake the following activities:

- Work with State education and human rights agencies responsible for compliance and enforcement to explore cooperative activities that will reduce duplicative efforts and improve OCR's efficiency.
- Promote cost-effective voluntary compliance by close coordination of OCR's technical assistance activities with those of other ED agencies delivering civil rights technical assistance.
- Design its technical assistance training program to increase the States' and local education agencies' (LEAs) capacity to undertake civil rights activities.

Technical assistance training topics are identified through analyses of OCR and other data and through consultations with staff of other ED program offices. ED recipient and beneficiary groups are also consulted. To date, OCR has provided technical assistance primarily through workshops and through the development and distribution of technical assistance materials. During FY 1983, OCR will increase its outreach activities to ED recipient and beneficiary groups, both to identify technical assistance needs and to identify new techniques for providing technical assistance. OCR's regional staff will continue to provide technical assistance initiatives that reflect unique regional characteristics, priorities and resources. In providing this assistance, each Regional Technical Assistance Staff (RTAS) combines workshops and on-site consultations with telephone and written responses to address recipient and beneficiary needs for assistance. Other OCR technical assistance outreach activities will involve collecting and disseminating published information about model solutions to civil rights problems.

IV. Program Management Activities

In order to carry out effectively its compliance, enforcement and technical assistance activities, OCR conducts a comprehensive legal, management and evaluation program that includes:

—Formulating regulations, policies and investigation manuals;

—Providing technical guidance on complaints and compliance reviews referred from regional offices;

—Conducting hearings before Administrative Law Judges on the compliance of Federal financial recipients with civil rights requirements;

—Meeting with school district representatives, college and university officials, complainants and civil rights groups to discuss OCR activities;

—Conducting OCR surveys and data collection projects to obtain information on recipients and beneficiary populations;

—Operating a data base management system to assure that complaint and compliance review processing time frames are met;

—Providing training to imvestigators and legal staff;

—Coordinating the delivery of Title VI and Title IX technical assistance to State education agencies (SEAs) and local education agencies (LEAs) with Title IV-funded providers;

—Conducting systematic on-site reviews of technical assistance contractors' activities; and

—Directing and monitoring the implementation of Regional Technical Assistance workplans.

V. Summary

The planning for OCR's FY 1983 compliance, enforcement and technical assistance program will become more regionally focused than in FY 1982. As in previous years, each Regional Director will be responsible for timely fulfilment of OCR's obligations in complaint investigations and compliance reviews. In addition, in FY 1983, under the guidance of the Assistant Secretary for Civil Rights, the OCR Regional Director will have a continuing role in planning the region's overall program. This program, primarily through nominating compliance review sites for approval by the Assistant Secretary for Civil Rights and through providing technical assistance, will reflect a balance in the commitment of OCR resources to each of the civil rights jurisdictions and in the geographic area serviced by a regional office.

Table 3 presents a national profile of OCR's 10 regional offices, by general functions and the approximate percentage of full-time equivalency (FTE) staff assigned to the functions. Regional variations from the national profile will be influenced by such considerations as the number of complaints involving elementary/secondary institutions as contrasted to complaints involving postsecondary institutions or the number of requests for technical assistance by recipients. It may be, therefore, that no two regional compliance programs will be identical or will replicate OCR's national profile.

In FY 1983, the Assistant Secretary will monitor each region's compliance program to ensure its efficiency and effectiveness in implementing OCR's national program.

TABLE 1.—COMPLIANCE REVIEW STARTS BY ISSUE OCT. 1, 1981, TO SEPT. 30, 1982

Elementary and secondary	Review starts
Issues	
Within School Discrimination	54
Vocational Education	23
Special Purpose Schools	7
Unserved Special Education	36
School Segregation	1
Services to LEP children	11
Joint issue: Vocational Education and Unserved Special Education	2
Joint issue: Within School Discrimination and Unserved Special Education	1
Postsecondary Issues	
Program Accessibility	12
Graduate Admissions	25
Vocational Education	25
Student Services	16

TABLE 2.—FISCAL YEAR 1983 COMPLIANCE REVIEW ISSUES

[Elementary and Secondary Education]

Issue	Issue description
Within School Discrimination: Classroom Assignments, Tracking and Ability Grouping, Special and Physical Education and Secondary School Athletics.	Discriminatory assignment of students on the basis of race, national origin, sex and/or handicap to courses (including industrial arts and home economics), classrooms, special programs, ability groups, and physical education programs. (Special programs would include those for the educable mentally retarded as well as those for the gifted or talented, e.g., advanced mathematics or science.) This issue also would cover biased counseling and appraisals of students as well as unequal opportunities involving athletics.
Vocational Education: Access, Admissions and Job Placement.	Discrimination on the basis of race, national origin, sex and/or handicap in vocational and education programs, courses and apprentice training.

TABLE 2.—FISCAL YEAR 1983 COMPLIANCE REVIEW ISSUES—Continued

[Elementary and Secondary Education]

Issue	Issue description
Special Purpose Schools: Placement, Referral, Program Availability and Least Restrictive Environment.	Discrimination in admissions, accessibility, programs and services, treatment or employment in State administered special purpose schools on the basis of race, national origin, sex and/or handicap.
Unserved Special Education	Discrimination in the provision of free and appropriate education on the basis of handicap.
Identification of and Services to Limited-English-Proficient (LEP) Children.	Discrimination in the provision of education services to non-English-speaking (NES) or limited-English-proficient (LEP) children.
School Discipline: Expulsions and Suspensions	Discriminatory disciplinary treatment of students on the basis of race, national origin, sex and/or handicap.
Employment	Discrimination on the basis of race, national origin, sex and/or handicap in matters related to employment such as selection, promotion, compensation and termination.
Within District Comparability—Discriminatory Delivery of Services.	In districts having schools that are disproportionately minority, discrimination on the basis of race and national origin in the provision of educational services and benefits among schools (e.g., limited course offerings, less qualified staff). There will be an initial inquiry to determine if a district's disproportionately minority schools are the product of unlawful segregation. If no illegal segregation exists, then the issue of equal educational opportunity will be investigated.
Postsecondary Education	
Program Accessibility for the Handicapped.	Lack of program accessibility and accommodation for handicapped students in postsecondary institution programs.
Admissions	Discrimination on the basis of sex, race and/or national origin in admissions to undergraduate, graduate and professional schools.

TABLE 2.—FISCAL YEAR 1983 COMPLIANCE REVIEW ISSUES—Continued

[Elementary and Secondary Education]

Issue	Issue description
Intercollegiate Athletics	Discrimination on the basis of sex in athletic financial assistance or athletic financial assistance and overall program comparability.
Vocational Education: Access, Admissions and Job Placement.	Discrimination on the basis of race, national origin, sex and/or handicap in vocational education programs and courses.
Student Services	Discrimination on the basis of race, national origin, sex and/or handicap as applicable in the provision of services such as financial aid, housing, special programs for minorities, counseling and tutorial services, auxiliary aids and/or student employment and placement services.
Vocational Rehabilitation Services.	Discrimination in the provision of services and benefits to individuals on the basis of handicap, sex, race and/or national origin.
Employment	Discrimination on the basis of race, national origin, sex and/or handicap in matters related to employment such as selection, promotion, compensation and termination.

TABLE Three.—NATIONAL PROFILE OF OCR REGIONAL OFFICES

Function	Approximate percentage FTE staff (percent)
Compliance and Enforcement:	
• Elementary and Secondary Education	[illegible]
• Postsecondary Education	27
• Technical Assistance	7
Compliance Support:	
• Management	4
• Administrative	7
• Legal	[illegible]

Dated: January 10, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-1063 Filed 1-13-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 803]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 10, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-AMOCO PRODUCTION CO			RECEIVED:	12/01/82		JA: LA			
8311825	82-3360	1706320053	107-DP			DAVIDSON-BUCKEL#1 16700 TUSC RA SUN	LOCKHART CROSSING	1825.0	SOUTHERN NATURAL
-BENNIE EVANS			RECEIVED:	12/01/82		JA: LA			
8311799	82-2587	1708320650	103			FULLER #1	BIG CREEK	211.7	MICHIGAN WISCONSI
-CHEVRON U S A INC			RECEIVED:	12/01/82		JA: LA			
8311827	82-2648	1712120128	107-DP			D OLIVER #3 19,100' TUSC RA SUD	PROFIT ISLAND	4380.0	TEXAS EASTERN TRA
-CRYSTAL OIL AND LAND COMPANY			RECEIVED:	12/01/82		JA: LA			
8311819	82-1121	1701724159	107-TF			CLEMENTS #5	NORTH MISSIONARY LAKE	1058.5	ARKANSAS LOUISIAN
-EXXON CORPORATION			RECEIVED:	12/01/82		JA: LA			
8311818	82-1140	1705721900	103			EXXON FEE #36	BULLY CAMP	30.0	TENNESSEE GAS PIP
-GUERNSEY PETROLEUM CORPORATION			RECEIVED:	12/01/82		JA: LA			
8311817	82-3392	1703121838	103			INTERNATIONAL PAPER CO C 6	BRUSHY BAYOU	144.0	TENNESSEE GAS PIP
8311790	82-3394	1703121725	103			IPCO "C"-1	BRUSHY BAYOU	72.0	TENNESSEE GAS PIP
8311816	82-3393	1703121768	103			IPCO "C"-3	BRUSHY BAYOU	108.0	TENNESSEE GAS PIP
-H E SUTTON			RECEIVED:	12/01/82		JA: LA			
8311812	82-3409	1708120364	103			MARTIN TIMBER CO #2	MADDEN BRANCH	170.5	TEXAS EASTERN TRA
-HENRY GOODRICH D/B/A GOODRICH OIL C			RECEIVED:	12/01/82		JA: LA			
8311824	82-3386	1704920188	103			STUBBLEFIELD #1	HODGE	365.0	ARKANSAS LOUISIAN
-IMC EXPLORATION COMPANY			RECEIVED:	12/01/82		JA: LA			
8311822	82-2603	1711123456	108			FROST #84	MONROE	18.0	IMC PIPELINE CO I
8311821	82-2604	1711123486	108			OLIN GAS TRANSMISSION CO #83	MONROE	21.0	IMC PIPELINE CO I
8311857	82-2605	1711123431	108			OLIN GAS TRANSMISSION CO #87	MONROE	21.0	IMC PIPELINE CO I
8311856	82-2606	1711123437	108			OLIN GAS TRANSMISSION CO #88	MONROE	21.0	IMC PIPELINE CO I
8311855	82-2607	1711123438	108			OLIN GAS TRANSMISSION CO #89	MONROE	15.0	IMC PIPELINE CO I
-LINVILLE NATURAL GAS CO INC			RECEIVED:	12/01/82		JA: LA			
8311854	82-2609	1711123541	103			A R CROW #5	MONROE	0.0	IMC PIPELINE CO I
-MARATHON OIL COMPANY			RECEIVED:	12/01/82		JA: LA			
8311800	82-1367	1711920336	103			MOC MARSHALL #1 CVSU	COTTON VALLEY	584.0	UNITED GAS PIPE L
-MARSHALL EXPLORATION INC			RECEIVED:	12/01/82		JA: LA			
8311813	82-3408	1703121869	103			FRANK MATTHEWS "A" #4	BENSON	300.0	SABINE-DESOTO PIP
-MID LOUISIANA GAS COMPANY			RECEIVED:	12/01/82		JA: LA			
8311804	82-2572	1711123652	103			MLGC FEE GAS #1123	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8311805	82-2571	1711123653	103			MLGC FEE GAS #1124	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8311846	82-2592	1711123654	103			MLGC FEE GAS #1125	MONROE GAS	28.8	MID LOUISIANA GAS
8311833	82-2641	1711123655	103			MLGC FEE GAS #1126	MONROE GAS FIELD	25.9	MID LOUISIANA GAS
8311845	82-2593	1711123656	103			MLGC FEE GAS #1127	MONROE GAS FIELD	28.1	MID LOUISIANA GAS
8311832	82-2642	1711123657	103			MLGC FEE GAS #1128	MONROE GAS FIELD	28.8	MID LOUISIANA GAS
8311844	82-2594	1711123710	103			MLGC FEE GAS #1129	MONROE GAS FIELD	28.8	MID LOUISIANA GAS
8311796	82-2570	1711123665	103			MLGC FEE GAS #1132	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8311797	82-2569	1711123667	103			MLGC FEE GAS #1136	MONROE GAS	21.9	MID LOUISIANA GAS
8311803	82-2573	1711123668	103			MLGC FEE GAS #1137	MONROE GAS FIELD	21.9	MID LOUISIANA GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8311882	82-2574	1711123680		103		MLGC FEE GAS #1138
8311881	82-2575	1711123681		103		MLGC FEE GAS #1139
8311811	82-2576	1711123682		103		MLGC FEE GAS #1140
8311798	82-2568	1711123696		103		MLGC FEE GAS #1141
8311831	82-2643	1711123728		103		MLGC FEE GAS #1144
8311830	82-2644	1711123738		103		MLGC FEE GAS #1147
8311829	82-2645	1711123731		103		MLGC FEE GAS #1148
8311810	82-2577	1711123683		103		MLGC FEE GAS #1151
8311843	82-2595	1711123775		103		MLGC FEE GAS #1157
8311842	82-2596	1711123777		103		MLGC FEE GAS #1159
8311841	82-2597	1711123778		103		MLGC FEE GAS #1160
8311809	82-2578	1711123702		103		MLGC FEE GAS #1161
8311808	82-2579	1711123703		103		MLGC FEE GAS #1162
8311828	82-2646	1711123816		103		MLGC FEE GAS #1179
8311853	82-2610	1711123815		103		MLGC FEE GAS #1180
8311852	82-2611	1711123817		103		MLGC FEE GAS #1181
8311851	82-2637	1711123818		103		MLGC FEE GAS #1182
8311850	82-2638	1711123819		103		MLGC FEE GAS #1183
8311849	82-2639	1711123820		103		MLGC FEE GAS #1184
8311840	82-2598	1711123835		103		MLGC FEE GAS #1188
8311823	82-2599	1711123836		103		MLGC FEE GAS #1189
8311848	82-2640	1711123863		103		MLGC FEE GAS #1198
-MOSBACHER PRODUCTION CO				RECEIVED:	12/01/82	JA: LA
8311789	82-3400	1701921063		102-2		ROBERT L COLEMAN #1
-PAR EXPLORATION CO				RECEIVED:	12/01/82	JA: LA
8311626	82-3280	1706721131		108		MARY MCENERY #3
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/01/82	JA: LA
8311647	82-2591	1701320218		108		MARY MERRITT D #1 MOSS A SUCC
-PRIMOS PRODUCTION CO				RECEIVED:	12/01/82	JA: LA
8311836	82-2588	1711122994		108		PETRO-LEWIS FROST LUMBER #55
8311835	82-2589	1711122995		108		PETRO-LEWIS FROST LUMBER #56
8311834	82-2590	1711123428		108		PETRO-LEWIS FROST LUMBER #78
8311837	82-2587	1706721121		108		TENSAS DELTA C-2
-PRIMOS-PENNZOIL JV				RECEIVED:	12/01/82	JA: LA
8311792	82-2583	1711121901		108		C WHEELER #1
8311791	82-2584	1711122667		108		C WHEELER #2
8311793	82-2582	1706721350		108		GEORGIA PACIFIC C #14
8311806	82-2581	1706721353		108		GEORGIA PACIFIC C #7
8311838	82-2586	1711122693		108		HOLLOWAY #1
8311839	82-2585	1711122668		108		MARY D WHEELER #1
8311807	82-2580	1711121896		108		STANDIE #2
-ROSS & GLENN PETROLEUM INC				RECEIVED:	12/01/82	JA: LA
8311795	82-0809	1703120821		103		F C BAGLEY #1 MOSS SU-2
8311828	82-0811	1703121321		103		K PECK #1 MOSS SU-A
8311794	82-0810	1703121051		103		W H BAGLEY JR #2 MOSS SU-A
-TEXACO INC				RECEIVED:	12/01/82	JA: LA
8311814	82-0610	1770920242		103		SL 340 RABBIT ISLAND #192 10000 SDY
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA
8311815	82-0254	1706120265		103		MARTIN "J" #1 MOSS L SUG

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TEXAS RAILROAD COMMISSION

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-AEC OIL & GAS RECEIVED: 12/02/82 JA: TX

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FIELD NAME	PROD	PURCHASER
MONROE GAS	21.9	MID LOUISIANA GAS
MONROE GAS FIELD	21.9	MID LOUISIANA GAS
MONROE GAS	21.9	MID LOUISIANA GAS
MONROE GAS FIELD	21.9	MID LOUISIANA GAS
MONROE GAS	27.4	MID LOUISIANA GAS
MONROE GAS	28.1	MID LOUISIANA GAS
MONROE GAS FIELD	24.8	MID LOUISIANA GAS
MONROE GAS	21.9	MID LOUISIANA GAS
MONROE GAS FIELD	27.0	MID LOUISIANA GAS
MONROE GAS FIELD	25.9	MID LOUISIANA GAS
MONROE GAS FIELD	21.6	MID LOUISIANA GAS
MONROE GAS FIELD	21.9	MID LOUISIANA GAS
MONROE GAS FIELD	21.9	MID LOUISIANA GAS
MONROE GAS FIELD	26.3	MID LOUISIANA GAS
MONROE GAS FIELD	29.2	MID LOUISIANA GAS
MONROE GAS	28.1	MID LOUISIANA GAS
MONROE GAS FIELD	27.4	MID LOUISIANA GAS
MONROE GAS FIELD	29.9	MID LOUISIANA GAS
MONROE GAS FIELD	27.7	MID LOUISIANA GAS
MONROE GAS FIELD	31.7	MID LOUISIANA GAS
MONROE GAS FIELD	31.3	MID LOUISIANA GAS
MONROE GAS	26.3	MID LOUISIANA GAS
STACKPOLE ISLAND	352.0	
MONROE 6824	0.0	MID LOUISIANA GAS
WEST BRYCELAND	21.0	LOUISIANA GAS PUR
MONROE GAS FIELD	15.5	PETRO-LEWIS FUNDS
MONROE GAS FIELD	15.5	PETRO-LEWIS FUNDS
MONROE GAS FIELD	4.9	PETRO-LEWIS FUNDS
MONROE	13.1	UNITED GAS PIPELI
MONROE	11.6	UNITED GAS PIPE L
MONROE	18.2	UNITED GAS PIPE L
MONROE	9.4	UNITED GAS PIPE L
MONROE	9.4	UNITED GAS PIPE L
MONROE	19.5	UNITED GAS PIPE L
MONROE	12.3	UNITED GAS PIPE L
MONROE	19.7	UNITED GAS PIPE L
BETHANY-LONGSTREET	182.5	TEXAS EASTERN TRA
BETHANY-LONGSTREET	180.0	ARKANSAS LOUISIAN
BETHANY-LONGSTREET	109.0	UNITED GAS PIPE L
RABBIT ISLAND	255.5	KAISER ALUMINUM &
SIMSBORO	80.2	DELHI GAS PIPELIN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311833	82-2592	1711123729		108		TENSAS DELTA C-3	MONROE GAS FIELD	15.5	PETRO-LEWIS FUNDS
8311832	82-2593	1711123730		108		TENSAS DELTA C-4	MONROE GAS FIELD	15.5	PETRO-LEWIS FUNDS
8311827	82-2594	1711123774		108		TENSAS DELTA C-5	MONROE GAS FIELD	15.5	PETRO-LEWIS FUNDS
-TEXACO INC				RECEIVED:	12/01/82	JA: LA			
8311813	82-0609	1770920241		103		SL 340 RABBIT ISLAND #191 10000 SDY	RABBIT ISLAND	255.5	KAISER ALUMINUM &
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311816	82-0255	1706120266		103		MARTIN "J" #2 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311817	82-0256	1706120267		103		MARTIN "J" #3 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311818	82-0257	1706120268		103		MARTIN "J" #4 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311819	82-0258	1706120269		103		MARTIN "J" #5 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311820	82-0259	1706120270		103		MARTIN "J" #6 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311821	82-0260	1706120271		103		MARTIN "J" #7 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311822	82-0261	1706120272		103		MARTIN "J" #8 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311824	82-0262	1706120273		103		MARTIN "J" #9 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311825	82-0263	1706120274		103		MARTIN "J" #10 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311826	82-0264	1706120275		103		MARTIN "J" #11 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311812	82-0265	1706120276		103		MARTIN "J" #12 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311797	82-0266	1706120277		103		MARTIN "J" #13 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311796	82-0267	1706120278		103		MARTIN "J" #14 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311805	82-0268	1706120279		103		MARTIN "J" #15 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311804	82-0269	1706120280		103		MARTIN "J" #16 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311803	82-0270	1706120281		103		MARTIN "J" #17 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311802	82-0271	1706120282		103		MARTIN "J" #18 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311801	82-0272	1706120283		103		MARTIN "J" #19 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311800	82-0273	1706120284		103		MARTIN "J" #20 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN
-TEXAS PRODUCTION CORP				RECEIVED:	12/01/82	JA: LA			
8311799	82-0274	1706120285		103		MARTIN "J" #21 MOSS L SUG	SIMSBORO	80.2	DELHI GAS PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8312025	F-7B-59476	4242900000		102-4		O TOMLIN 70 #W RRC ID#101835
-ALCORN PRODUCTION CO				RECEIVED:	12/02/82	JA: TX
8312023	F-01-59463	4217731249		102-4		WELLS #1
-AMERADA HESS CORPORATION				RECEIVED:	12/02/82	JA: TX
8311943	F-8A-056918	4216500000		108		MANN GAS UNIT #1
-AMOCO PRODUCTION CO				RECEIVED:	12/02/82	JA: TX
8311898	F-08-053787	4210338711		108		ELL LONG #13-U
8312082	F-10-60297	4248330771		103		H B TAYLOR JR #2
8312083	F-10-60298	4229538823		103		HOCKING UNIT #2
8311908	F-06-054428	4207330450		102-4		TEMPLE EASTEX GAS UNIT #2
8312042	F-03-59951	4224500244		108		TREADAWAY LAND COMPANY #9
-ANDOVER OIL COMPANY				RECEIVED:	12/02/82	JA: TX
8311962	F-06-057577	4220330792		103	107	-TF SAM B HALL GAS UNIT #1 WELL #1
-ARCO OIL AND GAS COMPANY				RECEIVED:	12/02/82	JA: TX
8311892	F-04-052560	4221531213		102-4		ARCADIA GUERRA #7
-AMERICAN TRADING & PRODUCTION CORP				RECEIVED:	12/02/82	JA: TX
8312019	F-08-59394	4230130270		107-DP		ARNO GAS UNIT #2
-BEN HOGAN				RECEIVED:	12/02/82	JA: TX
8312030	F-7B-59556	4209331024		103		HAYNES "A" #1
8312031	F-7B-59557	4209331030		103		THOMPSON #1
-BILL FORNEY INC				RECEIVED:	12/02/82	JA: TX
8312092	F-02-60325	4212331247		103		MEIDER #1 R R C I D #101107
-BLUE JAY EXPLORATION CO				RECEIVED:	12/02/82	JA: TX
8311887	F-02-051620	4246900000		102-4	103	STURM #1
-BOW VALLEY PETROLEUM INC				RECEIVED:	12/02/82	JA: TX
8311879	F-03-050485	4231330344		102-2		WIESE GAS UNIT 1-C
-BRAMMER ENGINEERING INC				RECEIVED:	12/02/82	JA: TX
8312000	F-06-059047	4220330987		102-4		BOYD-NELSON UNIT - #1
-BROTHERTON PRODUCTION CO				RECEIVED:	12/02/82	JA: TX
8311911	F-7C-054573	4210500000		103		UNIVERSITY 10 #1
8311910	F-7C-054572	4238300000		103		UNIVERSITY 11 #1
-BURNETT CORPORATION				RECEIVED:	12/02/82	JA: TX
8311878	F-10-049005	4206530594		103		BURNETT 2-122
-C. J. WOFFORD				RECEIVED:	12/02/82	JA: TX
8311926	F-02-055679	4212331219		102-4		C ARNOLD #2
8311927	F-02-055687	4202531851		102-4		SOUTH TEXAS CHILDREN'S HOME #1
-C-K RESOURCES INC				RECEIVED:	12/02/82	JA: TX
8312144	F-04-60522	4227331700		102-4		HENRY LEHMAN #1-C ID NO 10093
8312143	F-04-60521	4227331700		102-4		HENRY LEHMAN #1T ID NO 10080
-CA-TEX PETROLEUM INC				RECEIVED:	12/02/82	JA: TX
8312095	F-09-60332	4250335948		102-2		C K GARVEY "C" #3
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/02/82	JA: TX
8311897	F-03-053692	4204100000		102-2		CHARLES PATRANELLA #1
8311976	F-03-058115	4204100000		102-2		PAULINE GRANT #1
8311873	F-03-047414	4270430203		102-2	103	STATE TRACT 438-L #1-L
8311882	F-04-051044	4235531991		102-4	103	TEXON ROYALTY CO #7-U
-CHARLES H BENTLEY				RECEIVED:	12/02/82	JA: TX
8312056	F-09-60146	4250300000		108		IOLA HAZELTON #1
8312055	F-09-60145	4250336041		103		IOLA HAZELTON #2
-CHESTER R UPHAM JR				RECEIVED:	12/02/82	JA: TX
8311864	F-7B-040198	4236300000		103		HERMAN CARR ESTATE #3
-CITIES SERVICE COMPANY				RECEIVED:	12/02/82	JA: TX
8312045	F-03-60008	4218500000		102-4		BUTLER "B" #1 (187401)

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FIELD NAME	PROD	PURCHASER
CHALKER (CONGLOMERATE	340.0	WARREN PETROLEUM
CHRISTIAN (6800)	0.0	TIPPERARY CORP
SEMINOLE	20.6	PIONEER NATURAL G
BLOCK 27 (TUBB)	23.3	DELMI GAS PIPELIN
THORNDIKE (ATOKA)	100.0	MICHIGAN WISCONSI
FOLLETT (MORROW)	100.0	INTERNORTH INC
WHITE OAK CREEK (TRAV	330.0	TEXAS UTILITIES F
BEAUMONT WEST (MIOCEN	5.3	AMOCO GAS CO
WOODLAWN S W (COTTON	0.0	INTRASTATE GATHER
SAN SALVADOR (7750)	94.0	TENNESSEE GAS PIP
MOORE-HOOPER (ATOKA)	730.0	INTRATEX GAS CO
MITTIE (MARBLE FALLS)	73.0	SOUTHWESTERN GAS
MITTIE (MARBLE FALLS)	74.0	SOUTHWESTERN GAS
HENZE (LULING)	280.0	HOUSTON PIPELINE
BATTLE (VICKSBURG 2ND	200.0	HOUSTON PIPELINE
NORTH ZULCH	0.0	LONE STAR GAS CO
HARLETON NE (PETTIT)	90.0	TEJAS-SW TWO
FARMER (SAN ANDRES)	0.0	INTER NORTH INC
FARMER (SAN ANDRES)	0.0	INTER NORTH INC
WEST PANHANDLE	180.0	PANHANDLE EASTERN
DOEHRMANN (CARRIZO)	225.0	LONE STAR GAS CO
MINERAL NORTH (9750)	128.0	TEXAS EASTERN TRA
RICARDO E (JAY SD)	26.0	HOUSTON PIPE LINE
RICARDO E (MENGLE)	27.0	HOUSTON PIPE LINE
YOUNG COUNTY REGULAR	0.0	MID-STATE GAS COR
KURTEN	0.0	FERGUSON CROSSING
WILDCAT	0.0	FERGUSON CROSSING
BRAZOS BLK 409-L (RB	0.0	
STRATTON (F-31-12)	2441.0	TENNESSEE GAS PIP
GRAHAM SOUTH (CADDO)	0.5	LONE STAR GAS CO
GRAHAM SOUTH (CADDO)	21.0	LONE STAR GAS CO
	0.0	
PLANTERSVILLE (MIDWAY	328.0	CAMPEON PIPE LINE

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JD NO	DA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CLAYTON W WILLIAMS JR				RECEIVED:	12/02/82	JA: TX			
8311886	F-06-051582	4236500000		103		A N TAYLOR #1	J G S (TRAVIS PK "C")	0.0	VALERO TRANSMISSI
-COCKRELL OIL CORP				RECEIVED:	12/02/82	JA: TX			
8311901	F-02-053946	4228531586		102-4		MARY BORCHERS #1	NORTH CHICOLETE CREEK	120.0	TEXAS EASTERN TRA
-COLA PETROLEUM INC				RECEIVED:	12/02/82	JA: TX			
8311876	F-10-047445	4248330671		108		STRICKLAND #1	EAST PANHANDLE	0.0	TRANSWESTERN PIPE
8311874	F-10-047443	4248330749		108		STRICKLAND #2	EAST PANHANDLE	0.0	TRANSWESTERN PIPE
8311875	F-10-047444	4248330727		108		STRICKLAND A1	EAST PANHANDLE	0.0	TRANSWESTERN PIPE
-CONOCO INC				RECEIVED:	12/02/82	JA: TX			
8312117	F-8A-60428	4207931523		103		CONOCO DEAN UNIT #133 ID #60106	SLAUGHTER	0.0	AMOCO PRODUCTION
-CONVEST ENERGY CORP				RECEIVED:	12/02/82	JA: TX			
8311858	F-8A-023743	4226302374		102-2		WAYNE WILLIAMS #3A 63480	POLLAN (CANYON)	0.0	EL PASO NATURAL G
8311859	F-8A-024740	4226302474		102-2		WAYNE WILLIAMS #4A 63480	POLLAN (CANYON)	0.0	EL PASO NATURAL G
-COURSON OIL & GAS INC				RECEIVED:	12/02/82	JA: TX			
8311890	F-10-051826	4235731195		103		HERNDON 1-662	DUDE WILSON (MARMATON	110.0	TRANSWESTERN PIPE
8311905	F-10-054194	4235731252		103		HERNDON 2-662 C	DUDE WILSON (CLEVELAN	90.0	TRANSWESTERN PIPE
8311904	F-10-054193	4235731252		103		HERNDON 2-662 T	DUDE WILSON (NOVI LIM	95.0	TRANSWESTERN PIPE
8312029	F-10-59555	4235731281		103		JOYCE 1-659C	DUDE WILSON (CLEVELAN	70.0	INTER NORTH INC
8312028	F-10-59554	4235731281		103		JOYCE 1-659T	DUDE WILSON (NOVI LIM	60.0	INTER NORTH INC
-D L WHITAKER OIL CO				RECEIVED:	12/02/82	JA: TX			
8311971	F-7B-057989	4244732774		102-4		KEETER "B" #12	KEETER	176.0	H S T GATHERING C
-DALLAS TRUST CO				RECEIVED:	12/02/82	JA: TX			
8311964	F-7B-057663	4236332936		102-4	103	SPARKS "A" #2	NEW SALEM (CONGL)	205.9	INTRASTATE GATHER
-DAVIS OIL COMPANY				RECEIVED:	12/02/82	JA: TX			
8312067	F-7C-60228	4209500000		102-4		JUDY OWENS #1	S W PAINT ROCK (GARDN	400.0	LONE STAR GAS CO
8312068	F-7C-60226	4209530618		102-4		JUDY OWENS #2	S W PAINT ROCK (GARDN	400.0	LONE STAR GAS CO
-DISCOVERY OPERATING INC				RECEIVED:	12/02/82	JA: TX			
8312118	F-7C-60429	4241331221		102-4	103	PAGE #3	HELEN (WOLFCAMP)	45.4	INTER NORTH INC
-DONALD BIRGE				RECEIVED:	12/02/82	JA: TX			
8312041	F-09-59948	4207700000		102-4		B J FULGHAM #2	LAZY DAWN (4100) FIEL	27.4	FAGADAU ENERGY CO
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/02/82	JA: TX			
8312129	F-7C-60467	4243519194		108		BERGER GAS UNIT #1	SONORA (CANYON UPPER)	22.0	EL PASO NATURAL G
8312128	F-7C-60461	4243519208		108		DEBERRY A #3	SONORA CANYON UPPER	22.0	EL PASO NATURAL G
8312127	F-10-60460	4208726180		108		MCDOWELL #6	PANHANDLE EAST	18.8	EL PASO NATURAL G
-ENERGETICS INC				RECEIVED:	12/02/82	JA: TX			
8311891	F-03-052286	4214931085		102-2		F C YOUNG #1	GIDDINGS AUSTIN CHALK	12.0	PHILLIPS PETROLEU
-ENERGY RESERVES GROUP INC				RECEIVED:	12/02/82	JA: TX			
8312090	F-7C-60308	4243500000		108		W A MIERS #2	SONORA	20.9	INTERNORTH INC
8312078	F-7C-60283	4243500000		108		W A MIERS #6	SONORA	17.4	INTERNORTH INC
-ENERGY-AGRI PRODUCTS INC				RECEIVED:	12/02/82	JA: TX			
8312074	F-10-60258	4206531142		103		BOBBITT #3 (ID#05070)	PANHANDLE CARSON	50.0	GETTY OIL CO
-ENSERCH EXPLORATION INC				RECEIVED:	12/02/82	JA: TX			
8311963	F-8A-057609	4210130330		103		B J BROWNING #1	PROVIDENCE	0.0	NEGOTIATING
8311933	F-05-056107	4221300008		103		BEN MCGEE #3	TRI-CITIES	375.0	LONE STAR GAS CO
8311900	F-09-053815	4219700000		103		BILL NEAL 321 #1	DEAD DOG	0.0	
-ENSOURCE INC				RECEIVED:	12/02/82	JA: TX			
8311871	F-7B-046723	4236731449		103		C W CHAPMAN #1	LAZY BEND GAS (STRAWN	159.1	TEXAS UTILITIES F
-ENTERPRISE ENERGY CORP				RECEIVED:	12/02/82	JA: TX			
8311941	F-09-056868	4223700000		103		C MIDDLEBROOKS #2	LUCKY RIDGE SW	321.2	NATURAL GAS PIPE
-EQUITABLE PETROLEUM CORP				RECEIVED:	12/02/82	JA: TX			
8312013	F-08-59217	4210931622		102-4		BATEMAN #1	MARSH SOUTH (DELAWARE	127.0	
8312015	F-08-59228	4238931263		102-4		GRACE LYONS #1	MARSH SOUTH (DELAWARE	36.5	
-EXXON CORPORATION				RECEIVED:	12/02/82	JA: TX			

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JD NO	DA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8311974	F-06-058099	4236531282		103	107-TF	ALMA ANDERSON (CFEC #410) #3	CARTHAGE (COTTON VALL	650.0	TEJAS GAS CORP
8312049	F-08-60041	4222732728		103		DOUTHIT UNIT #141	HOWARD-GLASSCOCK	1.0	PHILLIPS PETROLEU
8312050	F-08-60043	4222732724		103		DOUTHIT UNIT #213	HOWARD-GLASSCOCK	1.0	PHILLIPS PETROLEU
8312048	F-08-60039	4222732723		103		DOUTHIT UNIT #214	HOWARD-GLASSCOCK	1.0	PHILLIPS PETROLEU
8312046	F-06-60030	4245930527		102-4	107-TF	GLADEWATER GAS UNIT #9 #1	GLADEWATER (HAYNESVIL	365.0	DELMI GAS PIPELIN
8312047	F-06-60037	4245930516		102-4	107-TF	GLADEWATER GAS UNIT 12 #1	GLADEWATER (HAYNESVIL	1168.0	TEJAS GAS CORP
8312021	F-06-59438	4236531397		102-3	107-TF	J C BROWN (CFEC 531) #3	CARTHAGE (COTTON VALL	440.0	TEJAS GAS CORP
8312079	F-04-60289	4227331353		102-4		K R ALAZAN 328-F (100931)	HINOJOSA (F-20)	329.0	ARMCO STEEL CORP
8311931	F-03-056095	4247300000		103		KATY GAS FIELD UNIT 1 W-50	KATY (FIRST WILCOX)	1460.0	ARMCO STEEL CORP
8311940	F-04-056807	4224730404		102-4		MRS A M K BASS 34 (ID PENDING)	KELSEY DEEP (ZONE 20-	200.0	TRUNKLINE GAS CO
8312060	F-8A-60189	4216532393		103		ROBERTSON CLEARFORK UNIT #1001	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8312061	F-8A-60190	4216532397		103		ROBERTSON CLEARFORK UNIT #1011	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8311989	F-8A-058525	4216532350		103		ROBERTSON CLEARFORK UNIT #3203	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8312005	F-8A-59130	4216532349		103		ROBERTSON CLEARFORK UNIT #3303	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8312059	F-8A-60188	4216532388		103		ROBERTSON CLEARFORK UNIT #9901	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8312073	F-04-6025	4226130675		102-4		SANTA FE RANCH-JULIAN PAS 27 100461	STILLMAN NE (J-40)	599.0	ARMCO STEEL CORP
8311929	F-06-055864	4234730646		103	107-TF	TRAWICK GAS UNIT #5 #4	TRAWICK (COTTON VALLE	250.0	ARMCO STEEL CORP
-FARGO TRADING CO INC				RECEIVED:	12/02/82	JA: TX			
8311977	F-04-058185	4248900000		102-4		YTURRIA CATTLE COMPANY #2-A	LA SARA	0.0	TENNESSEE GAS PIP
-FRAC INC				RECEIVED:	12/02/82	JA: NM			
8312094	F-08-60331	4200333329		103		UNIVERSITY "18" #3 #27312	GOLDSMITH N (SAN ANDR	7.6	PHILLIPS PETROLEU
-FRANK CASS				RECEIVED:	12/02/82	JA: TX			
8311949	F-7C-056984	4238332228		103		MAUD BRANCH S F 13721 #1	SPRABERRY (TREND AREA	42.0	EL PASO NATURAL G
-GARY D TURNER DBA TURNER PROPERTIES				RECEIVED:	12/02/82	JA: TX			
8311956	F-7C-057320	4208131053		103		TURNER PROPERTIES - TUBB #5	JAMESON (STRAWN)	1000.0	SUN GAS CO
8311955	F-7C-057319	4208130998		103		TURNER PROPERTIES REED #3	JAMESON (STRAWN)	1200.0	SUN GAS CO
8311954	F-7C-057318	4208130999		103		TURNER PROPERTIES TUBB #4	JAMESON (STRAWN)	750.0	SUN GAS CO
-GAS DEVELOPMENT CORP				RECEIVED:	12/02/82	JA: TX			
8311920	F-7C-055358	4243531362		108		MILDRED CAUTHORN "19" WELL #2	JO NELL (CANYON D)	16.4	INTER NORTH INC
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	12/02/82	JA: TX			
8312098	F-08-60383	4210332981		103		UNIVERSITY SEC 8 WELL #7	DUNE	20.0	
-GEORGE L ROUSSEAU				RECEIVED:	12/02/82	JA: TX			
8312016	F-03-5923	4205132195		102-4		ROBERT POWELL #5	WILLARD (NAVARRO) FIE	0.0	FERGUSON CROSSING
-GILLRING OIL CO				RECEIVED:	12/02/82	JA: TX			
8311966	F-04-057887	4235532018		102-4		SIMMONS & PERRY #1	BRAYTON NORTH	803.0	
-GOLDKING PRODUCTION COMPANY				RECEIVED:	12/02/82	JA: TX			
8311988	F-03-058474	4229131477		102-4		FIRST CITY NATIONAL BANK & TRUST #1	HATWOOD	421.0	LONE STAR GAS CO
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/02/82	JA: TX			
8311872	F-05-046775	4228930426		102-4	107-TF	DAVIDSON GAS UNIT #1	BEAR GRASS	0.0	DELMI GAS PIPELIN
8312130	F-05-60475	4216130438		103		RAWLS #1	TEAGUE TOWNSITE	0.0	LONE STAR GAS CO
-GULF OIL CORPORATION				RECEIVED:	12/02/82	JA: TX			
8311963	F-8A-058329	4207900573		108		DUGGAN SLAUGHTER UNIT #21C	SLAUGHTER	5.4	AMOCO PRODUCTION
-H & S OPERATING COMPANY				RECEIVED:	12/02/82	JA: TX			
8311957	F-09-057360	4223734550		103		MARY SEWELL #1	JACKSBORO E (CONGLOME	120.0	LONE STAR GAS CO
-H P PINNELL TRUSTEE				RECEIVED:	12/02/82	JA: TX			
8311975	F-04-058110	4248930696		102-4	103	EL SAUZ RANCH NOPAL #7	ARROYO COLORADO NORTH	164.0	NATURAL GAS PIPEL
-HANSON MINERALS CO				RECEIVED:	12/02/82	JA: TX			
8312054	F-02-60121	4229733183		102-4		MEIDER GAS UNIT #1	COQUAT (MASSIVE 8600)	275.0	TEXAS EASTERN TRA
8311951	F-02-057102	4212331241		102-4		RUSCHHAUPT GAS UNIT #2	MEYERSVILLE SE (YEGUA	182.5	TEXAS EASTERN TRA
-HANVEY PRODUCTION CO				RECEIVED:	12/02/82	JA: TX			
8312149	F-7B-60539	4213333652		102-4		HANVEY CROSS "A" #1 (100655)	ADRIENNE (DUFFER)	207.0	ODESSA NATURAL CO
-HARKINS & COMPANY				RECEIVED:	12/02/82	JA: TX			
8311896	F-04-053524	4213135780		102-4	103	HERBST-TOREL #5	HERBST-WILCOX (TOREL)	1095.0	VALERO TRANSMISSI

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-HARRIS R FENDER				RECEIVED:	12/02/82	JA: TX
8312120	F-06-60433	4242330576		102-4		FENDER FEE #2
-HARRISON INTERESTS LTD				RECEIVED:	12/02/82	JA: TX
8312134	F-7C-60489	4210530925		107-TF		JOE TOM DAVIDSON JR #2
-HAT 4 PETROLEUM INC				RECEIVED:	12/02/82	JA: TX
8312138	F-10-60510	4235731288		103		FROMHELT STAR #1 (ID#085193)
-HENRY ENERGY CORP				RECEIVED:	12/02/82	JA: TX
8311934	F-7B-056378	4236700000		102-4		DOUGLASS #2
-HERD PRODUCING COMPANY INC				RECEIVED:	12/02/82	JA: TX
8312091	F-03-60309	4228731289		102-2		BREDTHAUER #4
8311991	F-05-058587	4229330496		102-4	103	W W BARNETT #1 RRC #091587
-HERITAGE OPERATING CO INC				RECEIVED:	12/02/82	JA: TX
8312043	F-03-59960	4208900000		102-4		KAECHELE #1A
-HILTY INTERESTS INC				RECEIVED:	12/02/82	JA: TX
8312017	F-02-59360	4229733009		102-4		SANGER HEIRS #1 API #4229733009
-HNG OIL COMPANY				RECEIVED:	12/02/82	JA: TX
8312009	F-04-59177	4250531504		103		SERAPIO VELA HEIRS #4
-INDIAN WELLS OIL CO				RECEIVED:	12/02/82	JA: TX
8311979	F-7C-058187	4223531945		102-2		PROBANDT 4-3
8311978	F-7C-058186	4223531944		102-2		PROBANDT 4-4
-INEXCO OIL COMPANY				RECEIVED:	12/02/82	JA: TX
8311915	F-04-054815	4221531110		102-4		CHRISTIAN ESTATE #1 WELL
8311945	F-04-056939	4270230171		102-4		STATE TRACT 794-L #1
8311946	F-04-056940	4270230173		102-4		STATE TRACT 794-L SW/4 #1-A
-INTERNATIONAL OIL & GAS CORP				RECEIVED:	12/02/82	JA: TX
8311922	F-7C-055461	4210533712		102-4	103	VERNON B COX STATE #4
8311921	F-7C-055460	4210533717		102-4	103	VERNON B COX STATE "A" #3
-INVESTEK INC				RECEIVED:	12/02/82	JA: TX
8312065	F-09-60204	4207700000		102-4		TALLY A#4
-J M HUBER CORPORATION				RECEIVED:	12/02/82	JA: TX
8312093	F-10-60330	4234130827		103		PRITCHARD "C" #7
-J R PETROLEUM				RECEIVED:	12/02/82	JA: TX
8311917	F-7B-054872	4241734568		102-4		NEWTON #1
-JACKSON EXPLORATION INC				RECEIVED:	12/02/82	JA: TX
8311937	F-08-056664	4211531681		103		KOGER #2
-JAMES K ANDERSON INC				RECEIVED:	12/02/82	JA: TX
8312044	F-7C-59999	4239932398		103		LESZCYNSKI #2
-JOHN H YOUNG INC				RECEIVED:	12/02/82	JA: TX
8311973	F-03-058081	4214931380		102-2		RAUSCH
-JUMAS OIL PART COMP				RECEIVED:	12/02/82	JA: TX
8312051	F-09-60057	4249731182		103		GRIFFETH #1
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/02/82	JA: TX
8311868	F-10-044468	4235700000		108-ER		O'DELL A #1
-KEITH D GRAHAM				RECEIVED:	12/02/82	JA: TX
8312097	F-03-60343	4204130773		102-2		LOCKE UNIT #1-15874
-KERR-MCGEE CORPORATION				RECEIVED:	12/02/82	JA: TX
8311919	F-10-055255	4221131433		103		MARY JONES #7
8311881	F-10-050781	4221131276		103		PETREE 22 #6
-KILROY CO OF TEXAS				RECEIVED:	12/02/82	JA: TX
8311948	F-03-056983	4220131106		102-4		BUSHNELL R L UNIT #1
-KIM PETROLEUM CO INC				RECEIVED:	12/02/82	JA: TX
8312058	F-10-60183	4217931244		103		HUSTED #1
-KLAUSE & KLAUS OIL CO				RECEIVED:	12/02/82	JA: TX

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FIELD NAME	PROD	PURCHASER
ORICKELL LAKE (WOODBINE	38.0	LONE STAR GAS CO
DAVIDSON RANCH (PENN	46.0	INTRATEX GAS CO
FARNSWORTH-CONNER (DE	20.0	PHILLIPS PETROLEU
DOUGLASS (STRAWN) - P	35.0	SOUTHWESTERN GAS
GIDDINGS (AUSTIN CHAL	81.0	TEXAS UTILITIES F
OLETHA SW (TRAVIS PEA	204.0	TEXAS UTILITIES F
CHESTERVILLE SOUTHEAS	0.0	SEAGULL PIPELINE
	2.0	INTRASTATE GATHER
ROLETA (7200)	456.0	HOUSTON PIPE LINE
PROBANDT	0.0	CRA INC
PROBANDT (CANYON)	0.0	CRA INC
GUADALUPE V-2	329.0	UNITED GAS PIPELI
BLOCK 794-L (FRIO)	730.0	TENNGASCO GAS GAT
BLOCK 794-L (FRIO)	1825.0	TENNGASCO GAS GAT
DUDLEY EAST (DEVONIAN	0.0	INTRASTATE GATHER
DUDLEY EAST (DEVONIAN	35.0	INTRASTATE GATHER
TALLY (CONGLOMERATE)	178.0	TUFCO
PANHANDLE	47.0	COLORADO INTERSTA
BATTLECREEK (CONGLOME	19.2	LONE STAR GAS CO
SULPHUR DRAW	14.8	ADOBE OIL & GAS C
FRITZESS (DOOM)	110.0	LONE STAR GAS CO
GIDDINGS (EDWARDS GAS	125.0	CLAJON GAS CO
WISE KENT (HAM SAND)	61.4	LONE STAR GAS CO
FERRYTON WEST	14.0	NORTHERN NATURAL
BRYAN N (GEORGETOWN)	118.6	FERGUSON CROSSING
HEMPHILL (GRANITE WAS	319.0	WESTSTAR TRANSMIS
HEMPHILL (GRANITE WAS	15.0	PIONEER NATURAL G
FAIRBANKS (6520 COCKF	164.0	UNITED TEXAS TRAN
PANHANDLE GRAY COUNTY	72.0	CABOT PIPELINE CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME

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FIELD NAME	PROD	PURCHASER

JD NO	JA CKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312119	F-10-60431	4206531070		103		O'NEAL "B" (03066) #2	PANHANDLE, CARSON COUN	43.0	GETTY OIL CO
-KLH OIL & GAS INC				RECEIVED:	12/02/82	JA: TX			
8311912	F-78-054708	4204933145		102-4		TABER RANCH -A- #102	WILDCAT	51.0	ODESSA NATURAL CO
-L R SPRADLING				RECEIVED:	12/02/82	JA: TX			
8312121	F-10-60438	4234100000		103		BROWN #7 05015	PANHANDLE	75.0	PANHANDLE EASTERN
8312133	F-10-60463	4234100000		103		BROWN NO 6 05015	PANHANDLE	75.0	PANHANDLE EASTERN
-L TEXAS PETROLEUM INC				RECEIVED:	12/02/82	JA: TX			
8312024	F-66-59464	4204700000		103		MESTENA OIL & GAS #2-B	SCOTT & HOPPER (6900)	0.0	VALERO INTERSTATE
-LA ACEITE ENERGY INC				RECEIVED:	12/02/82	JA: TX			
8312070	F-78-60249	4205933005		102-4		WILLIAMS "2973" #1 (18845)	PUTNAM N (CADDO 3250)	5.0	LONE STAR GAS CO
-LANDRUM OPERATING CO INC				RECEIVED:	12/02/82	JA: TX			
8312039	F-09-59931	4233731953		103		KEMP #1	SUNSET (CONGLOMERATE)	73.0	LONE STAR GAS CO
-LEE BROTHERS OIL & GAS PRODUCTION				RECEIVED:	12/02/82	JA: TX			
8311861	F-78-033047	4213300000		103		J A RUTHERFORD #1 (16517)	EASTLAND COUNTY REGUL	2.0	ODESSA NATURAL CO
-M BRAD BENNETT INC & MKH LTD				RECEIVED:	12/02/82	JA: TX			
8311956	F-08-057403	4238931274		102-4	103	COLLIE STATE #1	COLLIE (DELAWARE)	25.5	INTRATEX GAS CO
8311982	F-08-058293	4238932645		102-4		MOBIL #1	COLLIE (DELAWARE)	73.0	INTRATEX GAS CO
-MADERA R E				RECEIVED:	12/02/82	JA: TX			
8311903	F-78-054097	4213333549		103		KISER #4	CARBON (CADDO)	50.0	NORTHERN NATURAL
-MAGNUM RESOURCES INC				RECEIVED:	12/02/82	JA: TX			
8312148	F-09-60538	4250334707		103		NESBITT D-1 21507	YOUNG COUNTY REGULAR	8.0	SUN GAS TRANSMISS
-MAJOR EXPLORATION INC				RECEIVED:	12/02/82	JA: TX			
8311935	F-01-056801	4216332075		103		ALLERKAMP #1	PEARSALL FIELD (SAN M	0.0	VALERO TRANSMISSI
-MAY PETROLEUM INC				RECEIVED:	12/02/82	JA: TX			
8312099	F-7C-60384	4238332206		103		ROCKER "B" 41-1	SPRABERRY (TREND AREA	0.0	INTERNORTH INC
-MAYNARD OIL COMPANY				RECEIVED:	12/02/82	JA: TX			
8311907	F-03-054411	4205132214		102-4		L L TATUM #6	CALDWELL (AUSTIN CHAL	185.0	FERGUSON CROSSING
-MCALESTER FUEL COMPANY				RECEIVED:	12/02/82	JA: TX			
8311930	F-02-055941	4246931908		102-4		J KORNFUEHRER EST #2	MISSION VALLEY (WILCO	144.0	TRANSCONTINENTAL
-MCBRAYER OIL CORP				RECEIVED:	12/02/82	JA: TX			
8312052	F-06-60077	4245930525		103	107-TF	JAMES W BARBER #2	ROSEWOOD (COTTON VALL	180.7	WESTERN GAS CORP
-MCCANN CORP				RECEIVED:	12/02/82	JA: TX			
8311863	F-08-039093	4222700000		102-3	103	READ A #3	COAHOMA N (FUSSEL)	130.0	GETTY OIL CO
-MCCORD EXPLORATION				RECEIVED:	12/02/82	JA: TX			
8311902	F-04-054050	4240900000		102-4		ROUNTREE #1	PLYMOUTH FIELD	275.0	HOUSTON PIPELINE
-MEYER OIL CO INC				RECEIVED:	12/02/82	JA: TX			
8311883	F-10-051569	4206530878		103		CRUTCHFIELD #2	PANHANDLE	42.0	INTERNORTH INC
8311884	F-10-051570	4206530877		103		CRUTCHFIELD #3	PANHANDLE	45.0	INTERNORTH INC
8311885	F-10-051571	4206530876		103		CRUTCHFIELD #4	PANHANDLE	40.0	INTERNORTH INC
-MITCHELL ENERGY CORPORATION.				RECEIVED:	12/02/82	JA: TX			
8311862	F-09-037979	4223700000		108-ER		J R HALSELL #3 21187	ARCO (CONGLOMERATE)	3.6	SOUTHWESTERN GAS
8312032	F-09-59640	4249700000		108		W A KINDLE #1 #028714	BOONSVILLE (BEND CONG	13.4	NATURAL GAS PIPEL
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	12/02/82	JA: TX			
8311997	F-03-059017	4219931390		102-4		PICA INVESTMENT VENTURE #2	SOUR LAKE E (YEGUA LO	554.4	TRANSCONTINENTAL
8312104	F-08-60399	4200333240		103		SHAFTER LAKE SAN ANDRES UNIT #307	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8312115	F-08-60411	4200333243		103		SHAFTER LAKE SAN ANDRES UNIT #311	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
8312107	F-08-60402	4200333244		103		SHAFTER LAKE SAN ANDRES UNIT #315	SHAFTER LAKE SAN ANDR	0.4	PHILLIPS PETROLEU
-MUSTANG EXPLORATION CO INC				RECEIVED:	12/02/82	JA: TX			
8312003	F-03-59111	4214931360		102-2		HEGAR #1-A	GIDDINGS (AUSTIN CHAL	180.0	PHILLIPS PETROLEU
-NEUMIN PRODUCTION CO				RECEIVED:	12/02/82	JA: TX			
8311928	F-02-055816	4205731180		102-4		STATE TRACT 226 WELL #1	APPLING POINT	438.0	ALUMINUM CO OF AM
8312040	F-02-059943	4205731178		102-4		STATE TRACT 26 #4	LAVACA BAY (F-46)	1095.0	ALUMINUM CO OF AM
-NORTH STAR PETROLEUM CORPORATION				RECEIVED:	12/02/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8312072	F-10-60253	4223300000		108		NORTH AMERICAN SANFORD #4 (02817)
-ORLA PETCO INC				RECEIVED:	12/02/82	JA: TX
8311895	F-08-053253	4210931554		102-4	103	HYLAND #1
-PANHANDLE ENERGY CORP				RECEIVED:	12/02/82	JA: TX
8312100	F-10-60393	4217931252		103		KEN #1 (ID #05191)
8312101	F-10-60394	4217900000		103		KEN #2 (ID #05191)
8312102	F-10-60395	4217931253		103		KEN #4 (ID #05191)
8312103	F-10-60396	4217931184		103		MICHAEL #1 (ID #05178)
-PED OIL CORP				RECEIVED:	12/02/82	JA: TX
8311894	F-08-053112	4222700000		102-4		FLANAGAN #A-1
-PEND OREILLE OIL & GAS CO				RECEIVED:	12/02/82	JA: TX
8312076	F-02-60260	4229733174		102-4		J W MCCLELLAND GAS UNIT #1
8312075	F-02-60259	4229732993		102-4		L L BENNETT GAS UNIT #1
-PENNZOIL PRODUCING COMPANY				RECEIVED:	12/02/82	JA: TX
8311947	F-04-056978	4235531295		103		CLARA DRISCOLL #A-15-D
8311972	F-04-058021	4250531543		102-4		SALVADOR GARCIA #2
-PETRO-LEWIS CORPORATION				RECEIVED:	12/02/82	JA: TX
8311960	F-02-057476	4228531620		103		W A CARNES #2-C
8311959	F-02-057475	4228531620		103		W A CARNES #2-T
-PETROLEUM TECHNICAL SERVICES CO				RECEIVED:	12/02/82	JA: TX
8312116	F-08-60414	4210332977		103		TOM COWDEN #6
-PETRUS OPERATING CO INC				RECEIVED:	12/02/82	JA: TX
8311889	F-03-051798	4228700000		102-2		HIELSCHER "A" #1
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/02/82	JA: TX
8312147	F-10-60531	4219500000		108		ALEXANDER B #1
8312146	F-10-60528	4217900000		108		PHIL-PAMPA UNIT #7-6
-PYRON EXPLORATION & DRILLING CORP				RECEIVED:	12/02/82	JA: TX
8311877	F-09-048662	4250335654		102-4		PRIDEAUX #2
-R E KIBBE				RECEIVED:	12/02/82	JA: TX
8311999	F-04-059046	4224900000		108		ISHAM #5
8312001	F-04-059050	4224900000		108		ISHAM #6
-R H ENGELKE				RECEIVED:	12/02/82	JA: TX
8311870	F-03-046566	4248132169		103		HLAVINKA WILLIAM J #1
-A H SIEGFRIED				RECEIVED:	12/02/82	JA: TX
8311998	F-09-059031	4249700000		103		R L MORRIS "A" #29
-RAILHEAD ENERGY CO				RECEIVED:	12/02/82	JA: TX
8311913	F-7B-054739	4236732194		103		MARGARET M RITCHEY
-REPUBLIC OIL & GAS CORP				RECEIVED:	12/02/82	JA: TX
8311918	F-02-055023	4229732990		102-4	103	O L BELL #1
-RETAMCO INC				RECEIVED:	12/02/82	JA: TX
8312002	F-01-59102	4250731652		102-4		ELLA CAPPS #8
8312006	F-04-59153	4247933251		102-4	107-TF	ROBS #1
-RICHARD B BERRY				RECEIVED:	12/02/82	JA: TX
8312067	F-7B-60216	4242933209		103		PRITCHARD #1
-RICHARD D ATKINS				RECEIVED:	12/02/82	JA: TX
8311992	F-7B-058634	4235300000		102-4		APPLING #1
-RICKS EXPLORATION CO				RECEIVED:	12/02/82	JA: TX
8311994	F-10-058947	4235731137		102-4		SANTA FE 1087-A
-RIDGE OIL CO				RECEIVED:	12/02/82	JA: TX
8311970	F-7B-057964	4242933254		102-4	103	BILLY TOM #1
8312012	F-7B-59192	4242933341		102-4	103	COFFMAN #2
8311986	F-7B-058398	4242933307		102-4	103	GLENN #1
8311936	F-7B-056476	4242933125		102-4	103	J P BOOLES ESTATE #1

FIELD NAME	PROD	PURCHASER
PANHANDLE	14.0	PANHANDLE PRODUCI
GERALDINE (DELAWARE 3	109.5	TEXACO INC
PANHANDLE GRAY	60.0	GETTY OIL CO
PANHANDLE GRAY	50.8	GETTY OIL CO
PANHANDLE GRAY	50.0	GETTY OIL COMPANY
PANHANDLE GRAY	50.0	GETTY OIL CO
RED DRAW (FUSSELMAN)	76.6	PHILLIPS PETROLEU
LIMES (WILCOX 9900)	730.0	HOUSTON PIPELINE
LIMES (WILCOX 9900)	1095.0	HOUSTON PIPELINE
AGUA DULCE (ELLIFF)	95.0	UNITED GAS PIPE L
EL GRULLO (7,040')	71.0	TRANSCO
YOAKUM	72.6	LONE STAR GAS CO
YOAKUM	55.9	LONE STAR GAS CO
LEA (SAN ANDRES)	2.5	WARREN PETROLEUM
GIDDINGS (BUDA) FIELD	0.0	PERRY GAS CO
TEXAS HUGOTON- DOLOMI	0.0	MICHIGAN WISCONSI
PANHANDLE GRAY	0.0	GETTY OIL CO
MARKLEY S MARBLE FALL	365.0	SOUTHWESTERN GAS
PREMONT (MURCHISON)	14.6	TRUNKLINE GAS CO
PREMONT (SINGER 3100)	15.9	TRUNKLINE GAS CO
RUNGERFORD N (3300)	620.5	TENNESSEE GAS PIP
CHICO WEST (CADDO CON	50.0	NATURAL GAS PIPEL
GRANT (STRAWN LOWER)	90.0	LONE STAR GAS CO
RAMIRENA (3150') NORT	175.0	VALLEY GAS TRANSM
BEAR SALT (OLMOS)	35.6	INTER NORTH INC
VAQUILLAS RANCH (WILC	410.0	
STEPHENS COUNTY REGUL	4.0	LONE STAR GAS CO
KESSLER (3980)	150.0	LIQUID ENERGY COR
RICKS (MORROW UP)	72.0	PRODUCERS GAS CO
RANGER NW (MARBLE FAL	81.0	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	23.4	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	90.0	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	64.8	COMPRESSOR RENTAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME

FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8311984	F-7B-058395	4213334062		102-4	103	LUCILLE BARBER #1
8311968	F-7B-057960	4242933129		102-4	103	MCBAY #1
8311985	F-7B-058396	4242933279		102-4	103	OXFORD #1
8312011	F-7B-59191	4242933124		102-4	103	T FLOURNEY #1
8311969	F-7B-057961	4213334043		102-4	103	THOMAS #1
8311967	F-7B-057959	4213334042		102-4	103	WAGSTAFF #1
-RK PETROLEUM CORP				RECEIVED:	12/02/82	JA: TX
8312077	F-08-60261	4231732578		103		R C STEWART #2 #21774
-ROME EXPLORATION CO INC				RECEIVED:	12/02/82	JA: TX
8311866	F-01-044349	4250731358		102-4		L LYLES #2
8311867	F-01-044350	4250731482		102-4		L LYLES #5
8311869	F-01-044518	4250731582		102-4		LYLES #8
-ROOSTH & GENECOV PRODUCTION CO				RECEIVED:	12/02/82	JA: TX
8312004	F-06-59112	4242330591		102-4		HARRISON EVERHART #3
-ROY E KIMSEY				RECEIVED:	12/02/82	JA: TX
8311906	F-08-054345	4238931233		107-DP		LINDSAY "326" #1
-S R G OIL CORP				RECEIVED:	12/02/82	JA: TX
8312053	F-7B-60100	4209331023		103		G BINGHAM #1
-SABINE PRODUCTION COMPANY				RECEIVED:	12/02/82	JA: TX
8311996	F-08-059014	4231700000		103		MABEE A #2
8311995	F-08-059013	4231700000		103		MABEE B-3 #6
-SALURIA OPERATING CO				RECEIVED:	12/02/82	JA: TX
8311938	F-02-056707	4225530804		102-4		JAMES FOSTER #1
-SAMEDAN OIL CORPORATION				RECEIVED:	12/02/82	JA: TX
8311899	F-04-053795	4227300000		102-2		STATE TRACT 934-S #E-2
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	12/02/82	JA: TX
8311925		4207131338		102-4		B B ROGERS #2 WELL #1
-SANDEFER OIL & GAS INC				RECEIVED:	12/02/82	JA: TX
8311932	F-02-056100	4229732706		102-4		J R LYNE #2
-SANDEFER PETROLEUM CO				RECEIVED:	12/02/82	JA: TX
8311990	F-04-058571	4235531987		102-4		J L BLUNTZER
-SCANDRILL INC				RECEIVED:	12/02/82	JA: TX
8311980	F-09-058203	4223734583		102-4	103	H J RICHARDS "A" #2
8312035	F-09-59910	4223734661		103		PEMBERTON #8
8312014	F-09-59214	4250336195		103		SCAN-KING "J" #1
-SEAGO OIL INC				RECEIVED:	12/02/82	JA: TX
8311888	F-7C-051647	4239932213		102-2	103	RUSSELL #3
8311987	F-7C-058403	4239932478		102-2		RUSSELL #4
-SHELL OIL CO				RECEIVED:	12/02/82	JA: TX
8311935	F-04-056373	4221531228		103		A A MCALLEN #78
-SMILE ENERGY INC				RECEIVED:	12/02/82	JA: TX
8312057	F-7B-60167	4213332741		102-4		DILLINDER #D-1
-SOHIO PETROLEUM CO				RECEIVED:	12/02/82	JA: TX
8312071	F-7C-60250	4238332312		103		E.G CAUBLE "A" #6
-SOUTHLAND ROYALTY CO				RECEIVED:	12/02/82	JA: TX
8312026	F-08-59477	4222732757		103		MCKINNON #2
8312081	F-7C-60295	4238330574		108		ONA WELLS "B" #2
-STAHL PETROLEUM CO				RECEIVED:	12/02/82	JA: TX
8312033	F-10-59691	4217900000		108		FLORENCE JOHNSON #3
-STEVE STAMPER				RECEIVED:	12/02/82	JA: TX
8312038	F-09-59914	4223700000		103		B B SIMPSON #1
8312037	F-09-59913	4223700000		103		BOAZ #1
8312036	F-09-59912	4223734990		103		BOAZ #2

FIELD NAME	PROD	PURCHASER
RANGER NW (MARBLE FAL	27.0	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	57.6	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	21.6	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	22.3	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	30.2	COMPRESSOR RENTAL
RANGER NW (MARBLE FAL	28.8	COMPRESSOR RENTAL
RAPRABERRY/TREND AREA	73.0	INTERNORTH INC
LYLES RANCH	36.0	ESPERANZA PIPE LI
LYLES RANCH	36.0	ESPERANZA PIPE LI
LYLES RANCH	36.0	ESPERANZA TRANSMI
PHILLIP LIVELY SURVEY	306.0	EAST TEXAS PRODUC
REC REEVES (DEVONIAN)	73.0	
RITTIE (MARBLE FALLS)	267.0	LONE STAR GAS CO
	0.0	
	0.0	
SALO DOMINGO	100.0	DOW PIPELINE CO
SAMEDAN FRIO	1000.0	EL PASO NATURAL G
WHITES BAYOU S (TX WA	0.0	UNITED TEXAS TRAN
TEXAN (11,550')	365.0	HOUSTON PIPE LINE
AGUA DULCE (8550')	600.0	HOUSTON PIPE LINE
	91.2	LONE STAR GAS CO
JACK COUNTY REGULAR	73.0	LONE STAR GAS CO
YOUNG COUNTY REGULAR	31.2	
BALLINGER WEST (GARDN	274.0	LONE STAR GAS CO
BALLINGER WEST (JENNI	360.0	LONE STAR GAS CO
MCALLEN RANCH (VICKSB	350.6	VALERO INTERSTATE
DESDEMONA N (CONGL)	18.0	NORTHERN GAS PROD
CALVIN (DEAN)	0.0	EL PASO NATURAL G
FLORAC	1.8	ODESSA NATURAL CO
CALVIN DEAN	7.3	UNION TEXAS PETRO
PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
BRYSON EAST	175.2	LONE STAR GAS CO
BRYSON EAST	54.8	LONE STAR GAS CO
BRYSON EAST	127.8	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/02/82	JA: TX
8312125	F-7C-60448	4209500000		108		ARMOR-CAFFEY #1L
8312088	F-01-60306	4212732349		103		BIG WELLS (SAN MIGUEL) UNIT #1030
8311944	F-03-056936	4232100000		108		BRAHAM -C- #25L
8311914	F-09-054775	4223700000		108		DURHAM A-3 GAS UT #4
8311923	F-08-055596	4211500000		108		E GOLDSMITH SAN ANDRES UT #24-3
8312124	F-01-60446	4250731578		103		ERIN BAIN JONES #2
8312126	F-04-60453	4242731359		103		GARCIA L & L "A" #31
8312089	F-03-60307	4248100000		108		HENDERSON-STOVALL GAS UNIT #1-U
8311981	F-04-058223	4213136037		102-4		L WIEDERKEHR #203
8311952	F-04-057116	4242731497		102-4		REILLY GAS UNIT #4
8312123	F-08-60444	4233531946		103		V T MCCABE #41
8312122	F-08-60443	4233531763		103		V T MCCABE "B" #35
8312022	F-04-59445	4224731443		102-4		WEIL BROS #45
-SUPERIOR OIL CO				RECEIVED:	12/02/82	JA: TX
8311924	F-03-055616	4205132273		102-2	103	C F SUPAK #1
8311953	F-03-057166	4228731279		102-2	103	SHELLY BRANCH UNIT #3 WELL #1
8312008	F-7C-59159	4210533723		107-TF		UNIVERSITY 22-31 WELL #1
8312007	F-7C-59158	4210533715		107-TF		UNIVERSITY 23-31 #1
8311893	F-02-052795	4228531640		102-2	107-TF	V E RHODES GAS UN #1 WELL #3
-SWEETWATER DRILLING CO INC				RECEIVED:	12/02/82	JA: TX
8311865	F-7B-040739	4241733396		103		BRUNO BROOKS #1 (171159)
-TAYLOR OPERATING COMPANY				RECEIVED:	12/02/82	JA: TX
8312027	F-09-59551	4223700000		103		NEWMAN #1 (20056)
8312034	F-09-59740	4249700000		108		R H NOBLES "A" #1 (077797)
8311909	F-7B-054502	4222100000		108		PAULS #1 (082249)
-TEMPLETON ENERGY INC				RECEIVED:	12/02/82	JA: TX
8311961	F-04-057571	4224931529		103		FITZSIMMONS #3
-TENNECO OIL COMPANY				RECEIVED:	12/02/82	JA: TX
8312137	F-8A-60498	4250132115		103		CENTRAL GLORIETA UNIT #60
8312136	F-8A-60497	4250132114		103		CENTRAL GLORIETA UNIT #61
8311993	F-08-058735	4231732427		103		MCWHORTER #1
8312135	F-8A-60496	4250132239		103		PRENTICE 6700 CLEARFORD UT #1121
8311950	F-8A-057035	4250132230		103		PRENTICE CLEARFORK UNIT #1306
-TEXACO INC				RECEIVED:	12/02/82	JA: TX
8312145	F-09-60524	4218100000		108		FRANK WRIGHT #1
8312084	F-10-60299	4235700000		108		M R WRIGHT #1
8312085	F-10-60300	4235700000		108		M R WRIGHT #2
8312087	F-10-60302	4235700000		108		M R WRIGHT #3
8312086	F-10-60301	4235700000		108		M R WRIGHT #4
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	12/02/82	JA: TX
8312063	F-7C-60194	4210500000		108		THOMPSON FEE #4
8312062	F-7C-60193	4210500000		108		THOMPSON FEE #5
8312064	F-7C-60195	4210500000		108		THOMPSON FEE #9
8311880	F-7C-050624	4210533117		107-TF		UNIVERSITY 21 #1
-TOM MCGEE CORP				RECEIVED:	12/02/82	JA: TX
8311942	F-10-056913	4235730948		103		GRAHAM #1
-TRINITY EXPLORATION CO				RECEIVED:	12/02/82	JA: TX
8312018	F-7B-59383	4213334193		102-4		B L WHITE #1
-TXO PRODUCTION CORP				RECEIVED:	12/02/82	JA: TX
8312020	F-7B-59435	4241734711		102-4		WALKER-BUCKLER 72 #3
-U S OPERATING INC				RECEIVED:	12/02/82	JA: TX
8311916	F-03-054870	4228731140		103		STELLA #1

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FIELD NAME	PROD	PURCHASER
SPECK SOUTH (STRAWN C	9.0	LONE STAR GAS CO
BIG WELLS (SAN MIGUEL	8.4	HOUSTON PIPE LINE
SUGAR VALLEY	8.0	HOUSTON PIPE LINE
BOONSVILLE (BEND CONG	14.0	LONE STAR GAS CO
GOLDSMITH EAST (SAN A	2.0	PHILLIPS PETROLEU
PEARSALL (AUSTIN CHAL	0.4	HOUSTON PIPE LINE
GARCIA	76.0	TRANSCONTINENTAL
WHARCO SHILLING (WILC	21.8	TEXAS EASTERN TRA
GOVERNMENT WELLS NORT	95.8	VALERO INTERSTATE
REILLY	*14.0	
JAMESON N (ODOM)	40.0	LONE STAR GAS CO
JAMESON NORTH (STRAWN	12.0	LONE STAR GAS CO
WEIL SOUTH	6.0	
GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
GIDDINGS	0.0	PERRY PIPELINE CO
UNIVERSITY 31 (STRAWN	0.0	SOUTHWESTERN GAS
UNIVERSITY 31 (STRAWN	0.0	SOUTHWESTERN GAS
WORD N (EDWARDS)	0.0	
MORAN S E (DUFFER)	48.0	LONE STAR GAS CO
JACK COUNTY REGULAR	51.1	SOUTHWESTERN GAS
BOONSVILLE (BEND CONG	28.0	NATURAL GAS PIPE
MCINTOSH (STRAWN)	36.0	SOUTHWESTERN GAS
BEN BOLT W (4700' SAN	110.0	VALERO TRANSMISSI
PRENTICE	0.0	AMOCO PRODUCTION
PRENTICE	0.0	AMOCO PRODUCTION
N Y Y SHRAWN LIME	0.0	
PRENTICE (6700' CLEAR	0.0	AMOCO PRODUCTION
PRENTICE (6700')	0.0	AMOCO PRODUCTION
BIG MINERAL SE (V SAN	18.9	UNION TEXAS PETRO
SPICER (MARMATON)	0.8	PHILLIPS PETROLEU
SPICER (MARMATON)	1.4	PHILLIPS PETROLEU
SPICER (MARMATON)	0.8	PHILLIPS PETROLEU
SPICER (MARMATON)	0.8	PHILLIPS PETROLEU
OZONA (CANYON SAND)	11.0	EL PASO NATURAL G
OZONA (CANYON SAND)	11.0	EL PASO NATURAL G
OZONA (CANYON SAND)	10.0	EL PASO NATURAL G
UNIVERSITY 31 (STRAWN	277.0	PHILLIPS PETROLEU
CAMBRIDGE (ATOKA)	109.5	DIAMOND SHAMROCK
T E C (CADDO)	*24.0	ODESSA NATURAL CO
ROCKWELL (GARDNER)	200.0	DELHI GAS PIPELIN
GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-UNION TEXAS PETROLEUM				RECEIVED:	12/02/82	JA: TX

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FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-UNION TEXAS PETROLEUM				RECEIVED:	12/02/82	JA: TX			
8312132	F-7C-60479	4223531905		102-2		SUGG "2" #1	ANDREW A (CANYON)	111.6	FARMLAND INDUSTRI
8312131	F-7C-60477	4223531906		102-2		SUGG "20" #1	ANDREW A (CANYON)	225.0	FARMLAND INDUSTRI
-VESTOIL INC				RECEIVED:	12/02/82	JA: TX			
8312096	F-03-60333	4229100000		103		E B PICKETT/DEVINE #8	SOUTH LIBERTY	0.0	UNITED TEXAS TRAN
-W J WHITT				RECEIVED:	12/02/82	JA: TX			
8312142	F-7B-60518	4204933173		102-4		4-W RANCH "A" #10 (18645)	DUDLEY (CADDO)	48.0	EL PASO HYDROCARB
8312139	F-7B-60515	4204933096		102-4		4-W RANCH "A" #2 (18645)	DUDLEY (CADDO)	7.0	EL PASO HYDROCARB
8312140	F-7B-60516	4204933170		102-4		4-W RANCH "A" #7 (18645)	DUDLEY (CADDO)	29.0	EL PASO HYDROCARB
8312141	F-7B-60517	4204933172		102-4		4-W RANCH "A" #9 (18645)	DUDLEY (CADDO)	29.0	EL PASO HYDROCARB
-WAGNER & BROWN				RECEIVED:	12/02/82	JA: TX			
8312080	F-08-60292	4243131178		103		HILDOBRAND #50-20	CONGER (PENN)	123.8	TEXAS UTILITIES F
8312106	F-08-60401	4217331292		102-4		MORROW #1-13	MUSTANG (ATOKA)	87.5	
-WAINOCO OIL & GAS CO				RECEIVED:	12/02/82	JA: TX			
8312010	F-04-59189	4240931323		103		AMERICAN NATL BANK OF AUSTIN G U #1	BRANNON (HERRON LO)	0.0	TEXAS EASTERN TRA
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	12/02/82	JA: TX			
8312113	F-08-60408	4210332941		103		M B MCKNIGHT #127	SAND HILLS (MCKNIGHT)	12.4	EL PASO NATURAL G
8312111	F-08-60406	4210332940		103		M B MCKNIGHT #128	SAND HILLS (MCKNIGHT)	45.9	EL PASO NATURAL G
8312112	F-08-60407	4210332943		103		M F HENDERSON #169	WADDELL	8.3	EL PASO NATURAL G
8312114	F-08-60409	4210332942		103		M F HENDERSON #170	WADDELL	13.3	EL PASO NATURAL G
8312108	F-08-60403	4210332961		103		P J LEA #136	LEA (SAN ANDRES)	7.4	EL PASO NATURAL G
8312110	F-08-60405	4210332770		103		W A ESTES #110	PHOENIX (SILURIAN)	56.5	EL PASO NATURAL G
8312105	F-08-60400	4210332830		103		W N WADDELL #1225	SAND HILLS (JUDKINS)	19.6	EL PASO NATURAL G
8312107	F-08-60404	4210332863		103		W N WADDELL #1238	SAND HILLS (JUDKINS)	114.5	EL PASO NATURAL G
-WILLIAM PERLMAN				RECEIVED:	12/02/82	JA: TX			
8311860	F-7C-027529	4243532361		103		FIELDS 56-1 91528	SAWYER (WOLFCAMP)	0.0	EL PASO NATURAL G
-WY-VEL CORP				RECEIVED:	12/02/82	JA: TX			
8312066	F-10-60206	4217931183		103		O'NEAL (05037) #38	PANHANDLE	40.2	GETTY OIL CO
-ZERO CORP OF TEXAS				RECEIVED:	12/02/82	JA: TX			
8311965	F-04-057753	4213135790		103		WENDT #1	GOVERNMENT WELLS NORT	80.0	TENNESSEE GAS PIP

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (A) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
103–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1037 Filed 1–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Volume 804]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 10, 1983.

[Volume 804]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 10, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-CHALLENGER MINERALS INC				RECEIVED:	12/02/82	JA: CA			
8312234	82-4-0191	0402965814		102-4		KIMMEL #55-32	WEST BELLEVUE	0.0	PACIFIC LIGHTING
8312236	82-4-0192	0402965545		102-4		LOVEGREN #62-32	WEST BELLEVUE	0.0	PACIFIC LIGHTING
8312235	82-40193	0402965146		102-4		WILLIAMS #74X-32	WEST BELLEVUE	0.0	PACIFIC LIGHTING
-ENERGETICS INC				RECEIVED:	12/02/82	JA: CA			
8312233	82-2-0006	0411121168		102-2		DEL MAR RANCH #32-35	WILDCAT	105.0	PACIFIC LIGHTING
-PETRO-LEWIS CORPORATION				RECEIVED:	12/02/82	JA: CA			
8312237	82-4-0189	0402966539		103		KING 68L-19	SOUTH BELRIDGE	0.0	MOBIL OIL CORP
-TENNECO OIL COMPANY				RECEIVED:	12/02/82	JA: CA			
8312238	82-4-0190	0402967101		103		YOWLUMNE UNIT "B" 23X-5	YOWLUMNE	22.0	ARCO OIL & GAS CO
KANSAS CORPORATION COMMISSION									
-ATTICA GAS VENTURE CORP				RECEIVED:	12/01/82	JA: KS			
8312222	K-82-0086	1507720756		103		ATTICA GAS VENTURE - UNIT #1	SULLIVAN EXT	300.0	PEOPLES NATURAL G
-CINCO EXPLORATION COMPANY				RECEIVED:	12/01/82	JA: KS			
8312218	K-81-1239	1512920488		103		ROGER G FOX #1	CNE/4 SEC 28-T33S-R43	1.0	COLORADO INTERSTA
-CONTINENTAL ENERGY				RECEIVED:	12/01/82	JA: KS			
8312219	K-81-1191	1506900000		103		RENICK #2	HUGOTON	346.0	INTER NORTH INC
-FRONTIER OIL CO				RECEIVED:	12/03/82	JA: KS			
8312229	K-80-0242	1516520427		108-ER		GIESICK #1		0.0	KANSAS NEBRASKA N
-KANSAS NATURAL GAS INC				RECEIVED:	12/01/82	JA: KS			
8312221	K-82-0204	1509320719		103		CRIST #2-CG-1	PANOMA - COUNCIL GROV	100.0	KANSAS-NEBRASKA N
8312220	K-82-0205	1509320720		103		CRIST #2-CG-12	PANOMA - COUNCIL GROV	100.0	KANSAS-NEBRASKA N
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	12/01/82	JA: KS			
8312217	K-82-0136	1505520486		103		BROWN #6 UNIT #7	PANOMA COUNCIL GROVE	70.0	INTER NORTH INC
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:	12/03/82	JA: MI			
8312232		2111333851	D	103		NORWICH UNIT #4-98	NORWICH	16.0	DOW CHEMICAL CO
8312231		2114332952	D	103		NORWICH UNIT #6-12	NORWICH	6.4	DOW CHEMICAL CO
8312230		2114333681		103		NORWICH UNIT #6-15	NORWICH	1.0	DOW CHEMICAL CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/01/82	JA: MI			
8312216		2107335252		103		MCCLINTIC #1	MT PLEASANT	9.8	
MONTANA BOARD OF OIL & GAS CONSERVATION									
-MIDLANDS GAS CORPORATION				RECEIVED:	12/03/82	JA: MT			
8312227	11-82-267	2507121483		108		MELLIE 1 1160	WILDCAT	22.0	KANSAS-NEBRASKA N
NEBRASKA OIL & GAS CONSERVATION COMMISSION									
-BEREN CORPORATION				RECEIVED:	12/03/82	JA: NB			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312226		2603322061		103		CORK #4	SOUTHWEST SIDNEY	2.5	KANSAS-NEBRASKA N
8312224		2603321898		103		DAY #1	SOUTHWEST SIDNEY	6.5	KANSAS-NEBRASKA N
8312225		2603322062		103		DAY #2	SOUTHWEST SIDNEY	9.0	KANSAS-NEBRASKA N
OKLAHOMA CORPORATIGN COMMISSION									
-J T OIL CO				RECEIVED:	12/02/82	JA: OK			
8312228	18562	3504321415		102-4		BRADY #2-2		547.5	PANHANDLE EASTERN
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	12/01/82	JA: PA			
8312150	18041	3706522634		103		LITTLE LEO CORP "E" #1	FUNXSUTAWNEY	22.0	COLUMBIA GAS TRAN
8312151	17827	3706522295		108		MARTHA A WALTENBAUGH #1	WHITESBURG	8.7	INDUSTRIAL ENERGY
-ANGERMAN ASSOCIATES INC				RECEIVED:	12/01/82	JA: PA			
8312152	17660	3706326976		103		E S BROWN #2 - IND-26976	W PENNA - UPPER DEVON	20.0	PEOPLES NATURAL G
8312153	17661	3706327051		103		HELEN L HOUSEHOLDER #3 - IND-27051	W PENNA - UPPER DEVON	25.0	PEOPLES NATURAL G
-APPALACHIAN ENERGY INC				RECEIVED:	12/01/82	JA: PA			
8312155	18132	3704920616		108		JACK RAYMOND #1 AE-46	UPPER DEVONIAN SANDS	30.0	COLUMBIA GAS TRAN
8312154	18131	3704920553		108		RAYMOND QUERREVELD #1 AE-27	UPPER DEVONIAN SANDS	5.3	COLUMBIA GAS TRAN
-BEACH ENERGY & DEVELOPMENT CO				RECEIVED:	12/01/82	JA: PA			
8312156	16882	3706522567		103		N P #1	HEATHVILLE GAS FIELD	24.0	NATIONAL FUEL GAS
8312157	16883	3706522565		103		N P #2	HEATHVILLE GAS FIELD	36.0	NATIONAL FUEL GAS
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/01/82	JA: PA			
8312161	17536	3702320055		102-4		EMPORIUM WATER CO WN-1313	LUMBER	2.0	GENERAL SYSTEM PU
8312160	17535	3703320546		102-4		GRAMPIAN (HARRIS ETAL) WN-1353	BLOOM	7.0	GENERAL SYSTEM PU
8312158	17533	3706326898		102-2		JOHN GEORGE WN-1817	GREEN	27.0	GENERAL SYSTEM PU
8312166	18084	3703321390		103		JOS D TONKIN WN-1914	BURNSIDE	4.0	GENERAL SYSTEM PU
8312162	17038	3706326948		103		MOLLIE MOCK WN-1906	MONTGOMERY TOWNSHIP	115.0	GENERAL SYSTEM PU
8312164	18081	3703321350		103		PAUL FULTON WN-1889	BURNSIDE	45.0	GENERAL SYSTEM PU
8312159	17534	3703320596		102-4		RALPH J KORB #1 WN-1483	BLOOM	5.0	GENERAL SYSTEM PU
8312163	17832	3706327088		103		ROBERT J SMITH #2 WN-1904	GREEN	30.0	GENERAL SYSTEM PU
8312165	18083	3703321401		103		THELMA STEWART WN-1911	BURNSIDE	408.0	GENERAL SYSTEM PU
-FELMONT OIL CORPORATION				RECEIVED:	12/01/82	JA: PA			
8312167	17961	3702120045		102-4		LANTZY #1 F-315	DRISCOLL HOLLOW	0.0	COLUMBIA GAS TRAN
-FOX OIL & GAS INC				RECEIVED:	12/01/82	JA: PA			
8312168	17998	3706326899		102-4		GILBERT SIMMONS #3 271	CHERRY HILL TOWNSHIP	25.5	COLUMBIA GAS TRAN
8312169	17997	3706326899		103		GILBERT SIMMONS #3 271	CHERRY HILL TOWNSHIP	25.5	COLUMBIA GAS TRAN
-HANLEY & BIRD				RECEIVED:	12/01/82	JA: PA			
8312170	17542	3700522710		103		R MCKISSICK #1 SHB-8 SN1710	GASTOWN	41.2	T W PHILLIPS GAS
8312171	17545	3706522573		103		ZIMMERMAN BROS #1 SN1708	BROOKVILLE	25.6	NATIONAL FUEL GAS
-J & J ENTERPRISES INC				RECEIVED:	12/01/82	JA: PA			
8312173	15491	3706327014		103		JOHN MCCOY #1 (1084)	GREEN	0.0	CONSOLIDATED GAS
8312172	17046	3706327020		103		TWO LICK VALLEY ROD & GUN CLUB #1	GREEN	0.0	CONSOLIDATED GAS
-KALTSAS OIL CO				RECEIVED:	12/01/82	JA: PA			
8312174	15487	3704921754		103		JAMES G HOPKINS #2	NORTH EAST	40.0	COLUMBIA GAS TRAN
8312175	17970	3704921754		107-TF		JAMES G HOPKINS #2	NORTH EAST FIELD HORN	40.0	COLUMBIA GAS TRAN
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	12/01/82	JA: PA			
8312176	17970	3706326767		103		KUNKLE #3	THOMAS KUNKLE	89.5	T W PHILLIPS GAS
-MAYS GAS & COAL CO				RECEIVED:	12/01/82	JA: PA			
8312177	18093	3703100000		108		DEVONIAN/BRADFORD SAND	CLARION	0.0	PEOPLES NATURAL G
8312178	18094	3703100000		108		DEVONIAN/BRADFORD SAND	CLARION	0.0	PEOPLES NATURAL G
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/01/82	JA: PA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312179	17747	3703920410		103		FEJES UNIT #1	NEW LEBANON (MEDINA &	411.0	COLUMBIA GAS TRAN
8312180	17748	3703920410		107-TF		FEJES UNIT #1	NEW LEBANON (MEDINA &	410.0	COLUMBIA GAS TRAN
-NORTHWEST NATURAL GAS CO				RECEIVED:	12/01/82	JA: PA			
8312181	10927	3704921429		103		JOSEPH & JOSEPHINE GLAVIC #2	CONNEAUT	0.0	NATIONAL FUEL DIS
8312182	10921	3704921429		107-TF		JOSEPH & JOSEPHINE GLAVIC #2	CONNEAUT	0.0	NATIONAL FUEL DIS
-PETROLEUM PIPE & SUPPLY CO INC				RECEIVED:	12/01/82	JA: PA			
8312183	16775	3706327073		103		ARTHUR J HALL #1	SOUTH MAHONING	25.0	
-PHILLIPS PRODUCTION CO				RECEIVED:	12/01/82	JA: PA			
8312184	18095	3703321117		102-2		CURTIS J BARRETT #1	GREENWOOD	35.0	
-POI ENERGY INC				RECEIVED:	12/01/82	JA: PA			
8312203	15378	3712329736		107-TF		K NICHOLS #1	ELDRED	35.0	COLUMBIA GAS TRAN
-REX-MIDE REALTY INC				RECEIVED:	12/01/82	JA: PA			
8312204	17957	3706327090		103		RALPH D CRUSAN #2	CONEMAUGH	45.0	
-S T JOINT VENTURE - 81-B				RECEIVED:	12/01/82	JA: PA			
8312207	17230	3733213380		102-2		HIMES #1	JORDAN	25.0	COLUMBIA GAS TRAN
8312208	17910	3706522649		103		NORTH-KOPPENHAVER #1		25.0	T W PHILLIPS GAS
8312209	18126	3706522421		103		PACHETTI #2	WINSLOW	25.0	NATIONAL FUEL GAS
8312206	17227	3703321385		102-2		WITHEROW #1	FERGUSON	25.0	COLUMBIA GAS TRAN
-S T JOINT VENTURE 81A				RECEIVED:	12/01/82	JA: PA			
8312205	17229	3703321776		102-2		SWISHTOCK #1	JORDAN	25.0	COLUMBIA GAS TRAN
-T W PHILLIPS GAS & OIL CO				RECEIVED:	12/01/82	JA: PA			
8312197	18117	3712920188		108		A ALVIN STEWART #1-26A	LOWER BURRELL	2.4	T W PHILLIPS GAS
8312200	18120	3712900000		108		A T MILLER #1	UPPER BURRELL	2.6	T W PHILLIPS GAS
8312188	18108	3706321580		108		ALVIN S MACNEIL #1	BUFFINGTON	2.3	T W PHILLIPS GAS
8312193	18113	3706300000		108		B A WILLIAMS #1	PINE	0.7	T W PHILLIPS GAS
8312191	18111	3706300000		108		CHARLIE VEHOVIC #1	PINE	0.5	T W PHILLIPS GAS
8312192	18112	3706300000		108		G A WEILAND #1	PINE	0.4	T W PHILLIPS GAS
8312189	18109	3706300000		108		HAZEL MEAGHER #1	BUFFINGTON	0.9	T W PHILLIPS GAS
8312198	18118	3712900000		108		J H MCCRADY SR #1	UPPER BURRELL	0.8	T W PHILLIPS GAS
8312187	18107	3706300000		108		J M STEWART #2	BRUSH VALLEY	1.2	T W PHILLIPS GAS
8312186	18106	3706300000		108		J HARRY STEWART #1	BRUSH VALLEY	0.9	T W PHILLIPS GAS
8312190	18110	3706300000		108		J N YOUNG #1	BUFFINGTON	1.1	T W PHILLIPS GAS
8312201	18121	3712900000		108		JOHN WALDSMITH HRS #1	UPPER BURRELL	3.0	T W PHILLIPS GAS
8312195	18115	3706300000		108		M A MACK #1	EAST WHEATFIELD	2.2	T W PHILLIPS GAS
8312185	18105	3706300000		108		MARGARET J & S QUAY OVERDORFF #1	BRUSH VALLEY	1.7	T W PHILLIPS GAS
8312199	18119	3712900000		108		MRS MAUDE MCWILLIAMS #1	UPPER BURRELL	3.8	T W PHILLIPS GAS
8312202	18122	3712900000		108		ROBERT C WILSON #2	UPPER BURRELL	8.4	T W PHILLIPS GAS
8312196	18116	3712900000		108		SAMUEL ROSS #1	LOWER BURRELL	2.0	T W PHILLIPS GAS
8312194	18114	3706300000		108		WILMORE COAL COMPANY #1	PINE	0.4	T W PHILLIPS GAS
-UNION DRILLING INC				RECEIVED:	12/01/82	JA: PA			
8312215	17497	3706326931		103		DALE E EMPFIELD #1 0772	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
8312212	17494	3706336750		103		EDWARD & CHARLES MEARS #6 0771	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
8312211	17493	3706326769		103		GILBERT ZILNER #2 0770	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
8312214	17496	3706326749		103		HARRY LUCAS #1 0774	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
8312213	17495	3706326800		103		HARRY LUCAS #2 0777	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
8312210	17395	3706326163		102-2		HARVEY BROWN #2 0638	CHERRYHILL TOWNSHIP	0.0	COLUMBIA GAS TRAN
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
**********									
-CHEVRON U S A INC				RECEIVED:	11/30/82	JA: GA 3			
8312223	G2-2695	0470640301		102-5		OCS-G-3137 #A-8	VERMILLION	3285.0	COLUMBIA GAS TRAN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1088 Filed 1-13-83; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 10, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-EDWIN L COX				RECEIVED:	12/03/82	JA: LA			
8312383	81-2805	1700120764	102-4			MENSGENS #1 HAYES RB SUA	ELLIS	146.0	LOUISIANA GAS SYS
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	12/03/82	JA: LA			
8312372	81-2571	1702321515	103			CAMERON PARISH SCHOOL BOARD #26	JOHNSON BAYOU	75.0	TRANSCONTINENTAL
-GREAT SOUTHERN OIL & GAS CO INC				RECEIVED:	12/03/82	JA: LA			
8312389	81-2762	1701920807	103			CARLIN #1 10540 RA VUA	SOUTH BELL CITY	220.0	LOUISIANA GAS SYS
-HARVEY BROYLES				RECEIVED:	12/03/82	JA: LA			
8312390	82-0307	1701320362	102-4			POOLE #2 BR-OZ RB SUA	BEAR CREEK	135.0	LOUISIANA GAS PUR
-INDEPENDENT EXPLORATION CO				RECEIVED:	12/03/82	JA: LA			
8312385	82-0233	1711321162	102-4			MARK BROUSSARD #2	ERATH FIELD	328.8	LOUISIANA INTRAST
-LADD PETROLEUM CORPORATION				RECEIVED:	12/03/82	JA: LA			
8312374	82-0347	1771120238	102-4			STATE LEASE #7607 #1	POINT AU FER	119.4	LOUISIANA INTRAST
-PLACID OIL COMPANY				RECEIVED:	12/03/82	JA: LA			
8312373	82-0130	1705922167	102-4			IPB LANEHART #1 B4 RA SUI	JENA AIRPORT	2.0	
-POGO PRODUCING COMPANY				RECEIVED:	12/03/82	JA: LA			
8312387	81-2790	1701521559	102-2			ANTRIM TRUST #1	ANTRIM	360.0	UNITED GAS PIPE L
-REMUDA OIL & GAS CO				RECEIVED:	12/03/82	JA: LA			
8312375	81-2532	1703121011	103			MARTIN TIMBER CO #1	GROGAN	64.6	LUMAR GAS GATHERI
-TEXACO INC				RECEIVED:	12/03/82	JA: LA			
8312379	81-2565	1710922055	103			LB U-34 51 VU-34	LAKE BARRE	5.0	KAISER ALUMINUM &
8312378	82-2727	1710922235	103			LB U39 #27 LB LM 2 SU	LAKE BARRE	50.0	KAISER ALUMINUM &
8312377	82-0165	1705721711	102-4			LL&E GOLDEN MEADOW 224	GOLDEN MEADOW	1.0	KAISER ALUMINUM &
8312381	81-2559	1710922164	103			LP U-13 75 VUM	LAKE PELTO	365.0	KAISER ALUMINUM &
8312376	81-2562	1700720237	103			P R NORMAN B-8 LIEB 5 RB SUA	GRAND BAYOU	1605.0	KAISER ALUMINUM &
8312388	82-0371	1707522331	103			SL 335 DDC U1 #106 VUA	DELTA DUCK CLUB	5.0	FREEPORT SULPHUR
8312386	81-2776	1710121080	103			SL 341 9 BAL SU	BATEMAN LAKE	8.4	CITY OF MORGAN CI
-WEAVER EXPLORATION CO				RECEIVED:	12/03/82	JA: LA			
8312380	82-0402	1710922251	102-4			CONTINENTAL LAND & FUR CO INC #3-D	ST PAUL BAYOU	100.0	TRANSCONTINENTAL
-WHELESS INDUSTRIES INC				RECEIVED:	12/03/82	JA: LA			
8312392	81-2822	1702720696	102-4			G F REEDER #1 WHELE-PEL SMK A RASUA	EAST DYKESVILLE	500.0	UNITED GAS PIPE L
8312391	82-0280	1702720799	107-TF			GUY LEWIS #1 WHELE-PELT SMK C RASUB	EAST DYKESVILLE	500.0	UNITED GAS PIPE L
8312384	82-0282	1702720824	102-2	107-TF		GUY LEWIS #2 WHELE-PELT SMK C RASUC	EAST DYKESVILLE	200.0	UNITED GAS PIPELI
-WILLIAMS EXPLORATION COMPANY				RECEIVED:	12/03/82	JA: LA			
8312382	81-2805	1710922366	102-4			S C COLLINS #1-D	LAPEYROUSE	1283.0	
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALSID OIL & GAS DEVELOPMENT CO				RECEIVED:	12/02/82	JA: OH			
8312239		3409921022	107-TF			WEIZENECKER UNIT #1	SMITH	15.0	
-ALTHEIRS OIL INC				RECEIVED:	12/02/82	JA: OH			
8312240		3413734818	103	107-TF		ALTHEIRS #5	SALT LICK TOWNSHIP	6.0	NICOFIBERS INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA CKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-AMERICAN WELL MANAGEMENT COMPANY				RECEIVED:	12/02/82	JA: OH			
8312241		3416320405		107-TF		L FULLER #2	SWAN	2.0	COLUMBIA GAS TRAN
-B & B ENTERPRISES				RECEIVED:	12/02/82	JA: OH			
8312242		3411522911		103		PAVOL #1	MEIGSVILLE QUAD	1.0	COLUMBIA GAS TRAN
-BERMAN J SHAFER				RECEIVED:	12/02/82	JA: OH			
8312338		3410322774		107-TF		COX #1	WESTFIELD	7.5	COLUMBIA GAS TRAN
-BERRESFORD ENTERPRISES INC				RECEIVED:	12/02/82	JA: OH			
8312244		3411522283		103		KENT PLACE #1	CENTER	0.0	
8312245		3411522656		107-TF		RICHARD MINICH #1	DEERFIELD	0.0	
-BILL BLAIR INCORPORATED				RECEIVED:	12/02/82	JA: OH			
8312246		3402920891		103	107-TF	ACIERNI #1	HOMEWORTH	14.0	EAST OHIO GAS CO
8312247		3402920919		103	107-TF	ACIERNI #2	HOMEWORTH	14.0	EAST OHIO GAS CO
-BKK PROSPECTING LTD				RECEIVED:	12/02/82	JA: OH			
8312243		3416727332		107-DV		CLARK #1	SALEM	30.0	COLUMBIA GAS TRAN
-BRADEN DEVELOPMENT COMPANY				RECEIVED:	12/02/82	JA: OH			
8312250		3416726872		107-DV		ISAAC FUGH #2	LUDLOW	0.0	COLUMBIA GAS TRAN
-CARROLL RESOURCES				RECEIVED:	12/02/82	JA: OH			
8312252		3410322110		103		ROBERT STINE #2	HOMER	4.0	
8312251		3410322116		103		ROBERT STINE #3	HOMER	7.0	
-CAVENDISH PETROLEUM OF OHIO INC				RECEIVED:	12/02/82	JA: OH			
8312253		3411923933		108		OHIO POWER 20MD		0.0	EAST OHIO GAS CO
-CLARENCE K TUSSEL JR				RECEIVED:	12/02/82	JA: OH			
8312364		3400721998		103	107-TF	K BABCOCK #1	CHERRY VALLEY	30.0	
-CLARENCE SHERMAN				RECEIVED:	12/02/82	JA: OH			
8312339		3407521805		103	107-RT	ANDY L YODER #17	CLARK	3.7	COLUMBIA GAS TRAN
-CLINTON OIL CO				RECEIVED:	12/02/82	JA: OH			
8312254		3401320381		103		JEFFERIES #2	SOMERSET	10.0	
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED:	12/02/82	JA: OH			
8312256		3411122900		107-DV		FRANK ROSE #1-13	WASHINGTON	20.2	
8312255		3411122886		107-DV		FRANK ROSE #2-13	WASHINGTON	24.1	
-DINERO OPERATING CO				RECEIVED:	12/02/82	JA: OH			
8312261		3411122568		103		CHRISTMAN #1	FRANKLIN	17.5	
8312257		3411122106		103		HARPER #1	MALAGA	39.4	
8312258		3411122515		103		HOLMES #1	CENTER	9.2	
8312259		3411122518		103		JACKSON #1	SUMMIT	13.2	
8312260		3411122519		103		WEST #1	WAYNE	26.3	
-DORAN & ASSOCIATES INC				RECEIVED:	12/02/82	JA: OH			
8312263		3408720297	D	107-DV		BENNIE BURCH #1	PERRY	12.0	COLUMBIA GAS TRAN
8312262		3408720284		107-DV		DORIS DINGUS #1	FAYETTE	12.0	COLUMBIA GAS TRAN
8312264		3408720309		107-DV		LARRY J PENNINGTON #1A	PERRY	12.0	COLUMBIA GAS TRAN
-ELKHEAD GAS & OIL COMPANY				RECEIVED:	12/02/82	JA: OH			
8312265		3407322719		103		STRAIT #4	HOCKING	10.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED:	12/02/82	JA: OH			
8312266		3411522958		103	107-TF	FERGUSON #1A	MANCHESTER	36.5	TEXAS EASTERN TRA
-FORAKER PRODUCING COMPANY INC				RECEIVED:	12/02/82	JA: OH			
8312267		3412724703		107-TF		HAGAN REICHLEY #1	BEAVERTOWN	30.0	
-G M F CORP				RECEIVED:	12/02/82	JA: OH			
8312269		3400922450		103		NEWBANKS #2	CUTLER	8.0	
-GENERAL ELECTRIC CO				RECEIVED:	12/02/82	JA: OH			
8312270		3400721837		103	107-TF	RHOADS #2	CONNEAUT	30.0	EAST OHIO GAS CO
-GNC ENERGY CORP				RECEIVED:	12/02/82	JA: OH			
8312268		3411522703		107-TF		WM & CARROLL MOORE #2	MALTA	15.0	
-HERALD OIL & GAS CO				RECEIVED:	12/02/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312275		3410522390		107-TF		CHARLES WITHEE #1	POMEROY	0.0	COLUMBIA GAS TRAN
8312277		3410522457		107-TF		LEWIS HUMPHREY #1	POMEROY	0.0	COLUMBIA GAS TRAN
8312274		3410522122		107-TF		RAY LITTLE #1	POMEROY	0.0	COLUMBIA GAS TRAN
8312276		3410522409		107-TF		ROMA CREMEANS #1	RUTLAND	0.0	COLUMBIA GAS TRAN
-HOOVER PRODUCING & OPERATING				RECEIVED: 12/02/82 JA: OH					
8312278		3408924460		103		G WRIGHT #2-A	PERRY	10.9	NATIONAL GAS & OI
-J D DRILLING CO				RECEIVED: 12/02/82 JA: OH					
8312279		3410521806		107-TF		ALBERT ROUSH #1	SALISBURY	4.0	COLUMBIA GAS TRAN
8312280		3410522017		107-TF		C O CORE #1	BEDFORD	3.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED: 12/02/82 JA: OH					
8312290		3407523337		107-TF		HENRY M MILLER UNIT #1-6215	NEW BEDFORD	2.0	COLUMBIA GAS TRAN
8312291		3407523072		107-TF		JOHN D HERSHBERGER UNIT #1-16	NEW BEDFORD	2.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED: 12/02/82 JA: OH					
8312281		3412725532		107-TF		EARL COFFMAN #3	PIKE	10.0	FORAKER GAS CO IN
8312282		3412725533		107-TF		EARL COFFMAN #4	PIKE	10.0	FORAKER GAS CO
-LAKE REGION OIL INC				RECEIVED: 12/02/82 JA: OH					
8312283		3403124737		103	107-TF	NORMAN FOGLE #1	KILLBUCK	10.0	COLUMBIA GAS TRAN
-LANDPROVEST INC				RECEIVED: 12/02/82 JA: OH					
8312284		3405923245		107-TF		GRAHAM #1	INDIAN CAMP	25.0	COLUMBIA GAS TRAN
-LEVENGOOD OIL & GAS INC				RECEIVED: 12/02/82 JA: OH					
8312285		3407522225		103	107-TF	EVELL MILLER #1	CLARK	10.0	COLUMBIA GAS TRAN
8312286		3407522537		107-TF		GRAY-PATTERSON #1	CLARK	10.0	COLUMBIA GAS TRAN
-MEGA OIL CORP				RECEIVED: 12/02/82 JA: OH					
8312289		3408720336		107-TF		ENEAL & MERLE TAYLOR #1	MASON	12.0	COLUMBIA GAS TRAN
-MORGAN-PENNINGTON INC				RECEIVED: 12/02/82 JA: OH					
8312292		3415320811		107-TF		BALTIC #1	NORTON	18.3	EAST OHIO GAS CO
8312293		3415320812		107-TF		NEITZ-MCKOWN UNIT #1	NORTON	18.3	EAST OHIO GAS CO
8312294		3415320813		107-TF		STAVARZ #1	NORTON	20.0	EAST OHIO GAS CO
-MURPHY OIL CO				RECEIVED: 12/02/82 JA: OH					
8312295		3410521994		107-DV		IDA GEOGLEIN #1	HEMLOCK GROVE	7.3	COLUMBIA GAS TRAN
-NATIONAL PETROLEUM CORP				RECEIVED: 12/02/82 JA: OH					
8312304		3408722824		108		HUSTON #1		15.0	OHIO GAS CO
8312303		3408722676		108		ROBINSON-BENDER #4		15.0	OHIO GAS CO
8312300		3408720565		108		ROULSTON #3		15.0	OHIO GAS CO
8312301		3408720578		108		ROULSTON #4		15.0	OHIO GAS CO
8312299		3408720351		108		ROULSTON #5		15.0	OHIO GAS CO
8312302		3408720733		108		SMITH #2		15.0	OHIO GAS CO
-NEW FRONTIER EXPLORATION INC				RECEIVED: 12/02/82 JA: OH					
8312312		3410322563		103	107-TF	DAVID MCDONALD #1	SHARON	20.0	
8312315		3415123665		103	107-TF	DAVID WALTER #1	OSNABURG	22.0	
8312310		3406720433		103	107-TF	DUNLAP 1-A	NORTH	22.0	TENNECO OIL CO
8312309		3406720432		103	107-TF	DUNLAP-WHITEMAN UNIT #1	NORTH	20.0	TENNECO OIL CO
8312306		3403124459		103	107-TF	HAROLD THOMAS #2	WASHINGTON	18.0	COLUMBIA GAS TRAN
8312307		3403124612		103	107-TF	HARVEY VICKERS #3	VIRGINIA	18.0	COLUMBIA GAS TRAN
8312308		3403126413		103	107-TF	HARVEY VICKERS #5	COSHOCTON	18.0	COLUMBIA GAS TRAN
8312314		3413321447		103	107-TF	LAUBERT-RAINS-KIDIKAS UNIT #1	RANDOLPH	16.0	EAST OHIO GAS CO
8312305		3403124375		103	107-TF	M MARTIN #2	WASHINGTON	18.0	
8312311		3406720503		103	107-TF	PATRICIA MORRIS #1	FRANKLIN	20.0	TENNECO OIL CO
8312313		3410322795		103	107-TF	ROBERT BOWMAN #2	WADSWORTH	20.0	AMERICAN ENERGY S
-OS AIR INC				RECEIVED: 12/02/82 JA: OH					
8312316		3408520328		103	107-TF	OS AIR #1	MENTOR	40.0	
-OXFORD OIL CO				RECEIVED: 12/02/82 JA: OH					
8312317		3411925989		107-TF		EMMA MCKENZIE #5	HOPEWELL N-R	10.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PENN-OHIO ENERGY CORP				RECEIVED: 12/02/82 JA: OH					

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PENN-OHIO ENERGY CORP				RECEIVED:	12/02/82	JA: OH			
8312319		3405520334		107-TF		H & C MOSS GC-204	CLARIDON TOWNSHIP	30.0	EAST OHIO GAS CO
-PHOENIX NATIONAL PETROLEUM				RECEIVED:	12/02/82	JA: OH			
8312321		3415723436		103	107-TF	BURDETTE #2	RUSH	10.0	BARNET INDUSTRIES
8312320		3415723435		103	107-TF	TUSCO LAND COMPANY #3	RUSH	7.0	BARNET INDUSTRIES
-PONDEROSA OIL COMPANY				RECEIVED:	12/02/82	JA: OH			
8312325		3416922807		103	107-TF	ALBERT FATH #1	SUGAR CREEK	10.0	COLUMBIA GAS TRAN
8312326		3416923272		103	107-TF	DEAN R STERLING #1	SALT CREEK	12.0	COLUMBIA GAS TRAN
8312324		3407523893		107-TF		MABEL L FEIKERT #1	BERLIN	14.0	COLUMBIA GAS TRAN
8312322		3407523890		107-TF		WILLIAM P HERMAN #1	PRAIRIE	11.0	COLUMBIA GAS TRAN
8312323		3407523891		107-TF		WILLIAM P HERMAN #2	PRAIRIE	14.0	COLUMBIA GAS TRAN
-RIMCO OPERATING INC				RECEIVED:	12/02/82	JA: OH			
8312328		3416922344		103	107-TF	WEISER #2	CHESTER	12.0	COLUMBIA GAS TRAN
-RIVERLAND OIL INC				RECEIVED:	12/02/82	JA: OH			
8312329		3407522664		103		RIVERLAND - MAST #3	HOLMESVILLE FIELD	0.0	COLUMBIA GAS TRAN
-RPJ ENERGY FUND MANAGEMENT INC				RECEIVED:	12/02/82	JA: OH			
8312327		3405923117		107-TF		THOMPSON #1	BIRMINGHAM	80.0	
-SANDHILL ENERGY INC (OH)				RECEIVED:	12/02/82	JA: OH			
8312332		3416727251		103		CHARLES HALL #2	RAVEN ROCK	14.6	
8312331		3416727224		103		LONGFELLOW #6	GRANDVIEW	14.6	
8312330		3411122874		103		MANSFIELD #1	BENTON	27.3	
-SEIBERT OIL & GAS INC				RECEIVED:	12/02/82	JA: OH			
8312333		3413222938		107-TF		BAUM #1	KENT	25.0	COLUMBIA GAS OF O
-SENECA ENERGY CORP				RECEIVED:	12/02/82	JA: OH			
8312335		3403124881		107-TF		CONKLE #2	MILL CREEK	8.0	COLUMBIA GAS TRAN
8312334		3403124765		107-TF		CROFT #1		22.0	COLUMBIA GAS TRAN
8312337		3403124889		107-TF		O'MEARA #1	MILLCREEK	22.0	COLUMBIA GAS TRAN
8312336		3403124888		107-TF		SCOTT #1	CLARK	18.0	COLUMBIA GAS TRAN
-SMITH SHAFER SMITH (A PARTNERSHIP)				RECEIVED:	12/02/82	JA: OH			
8312340		3410322753		107-TF		DANIEL & NANCY MORROW #1	GRANGER	5.0	COLUMBIA GAS TRAN
8312341		3416923104		107-TF		MAYER #1	WAYNE	7.5	COLUMBIA GAS TRAN
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	12/02/82	JA: OH			
8312296		3411122762		103	107-DV	HINES #3M	FRANKLIN	11.0	COLUMBIA GAS TRAN
8312297		3411122764		103	107-DV	MCCONNELL #2M	FRANKLIN	15.0	COLUMBIA GAS TRAN
8312298		3411122903		103	107-TF	RUBEL-WYATT #2M	SUMMIT	8.0	COLUMBIA GAS TRAN
-TITAN ENERGY CORP				RECEIVED:	12/02/82	JA: OH			
8312361		3415522236		103	107-TF	O'BRIEN #1	BROOKFIELD	20.0	COLUMBIA GAS TRAN
-TOM BOYD INC				RECEIVED:	12/02/82	JA: OH			
8312248		3410521658		108		JOHN DEAN #1		2.2	COLUMBIA GAS TRAN
8312249		3410521678		108		JOHN DEAN #3		2.2	COLUMBIA GAS TRAN
-TOWNER PETROLEUM CO				RECEIVED:	12/02/82	JA: OH			
8312362		3405923354		103	107-TF	JOHNSON/E KEEFER #1	LONDONDERRY	27.0	TENNESSEE GAS PIP
8312363		3405923381		103		KUHN R #2	MADISON	23.0	
-UNITED PETROLEUM CORP				RECEIVED:	12/02/82	JA: OH			
8312365		3409920769		107-RT		HIPPLEY-TRUITT #1	GOSHEN	28.0	YANKEE RESOURCES
8312366		3409920786		107-RT		RUTHRAUFF #1	GOSHEN	28.0	YANKEE RESOURCES
8312367		3409920785		107-RT		RUTHRAUFF-WEINGART #1	GOSHEN	28.0	YANKEE RESOURCES
8312369		3415520538		108		TURON #7	FARMINGTON	0.0	AMERICAN ENERGY S
8312370		3415520541		108		TURON #8A	FARMINGTON	0.0	AMERICAN ENERGY S
8312368		3415520532		108		TURON #9	FARMINGTON	0.0	AMERICAN ENERGY S
-W H PATTON DRILLING CO				RECEIVED:	12/02/82	JA: OH			
8312318		3407523563		107-TF		JACK SKELLY #1	HARDY	0.0	
-W J LYDIC INC				RECEIVED:	12/02/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312288		3411521791		103		GROVER TOWNSEND #1	CENTER	0.0	
8312287		3411521557		103		OSIE ROHRBAUGH #1	CENTER	0.0	
-WALLICK PETROLEUM CO				RECEIVED: 12/02/82		JA: OH			
8312371		3411925885		107-TF		WILLIAM WAGNER #1	CASS	10.0	NATIONAL GAS & OI
-WARREN R HAUGHT AGENT				RECEIVED: 12/02/82		JA: OH			
8312271		3416725124		107-DV		CROY LUMBER CO #1	NEWPORT TOWNSHIP SECT	2.5	COLUMBIA GAS TRAN
8312272		3416725197		107-DV		HAPPY F PLUMMER #4	NEWPORT TOWNSHIP SECT	4.0	COLUMBIA GAS TRAN
8312273		3416725224		107-DV		JACK E HOLLISTER #1	MARIETTA TOWNSHIP SEC	1.0	COLUMBIA GAS TRAN
-WILLIAM N TIPKA				RECEIVED: 12/02/82		JA: OH			
8312344		3410322561		103	107-TF	CARL MYERS #2	SHARON	0.0	BARTLO OIL & GAS
8312352		3415723373		107-TF		GEORGE BERKSHIRE #1A	WASHINGTON	6.0	COLUMBIA GAS TRAN
8312351		3415723358		107-TF		GEORGE BERKSHIRE #2	WASHINGTON	6.0	COLUMBIA GAS TRAN
8312349		3415723348		107-TF		GEORGE BERKSHIRE #3	WASHINGTON	10.0	COLUMBIA GAS TRAN
8312358		3415723505		107-TF		HUMPHREY #1	OXFORD	18.0	COLUMBIA GAS TRAN
8312343		3410322314		103	107-TF	JOHN MCCLELLAND #1	SHARON	36.0	BARTLO OIL & GAS
8312355		3415723452		107-TF		JOHN-BUTCHER UNIT #1	WASHINGTON	6.0	COLUMBIA GAS TRAN
8312354		3415723451		107-TF		MARLATT #1	WASHINGTON	10.0	COLUMBIA GAS TRAN
8312356		3415723453		107-TF		MCCORMICK #1	WASHINGTON	10.0	COLUMBIA GAS TRAN
8312359		3415723538		107-TF		MISKIMEN-BROWN UNIT #1	WASHINGTON	15.0	COLUMBIA GAS TRAN
8312345		3410322800		103	107-TF	SHARON ACRES #1A	SHARON	18.0	BARTLO OIL & GAS
8312357		3415723504		107-TF		STAHL-HART #1	OXFORD	6.0	COLUMBIA GAS TRAN
8312348		3415723345		107-TF		STEINER-HROMETZ #1	WASHINGTON	20.0	COLUMBIA GAS TRAN
8312360		3415723546		107-TF		STEINER-HROMETZ #2	WASHINGTON	20.0	COLUMBIA GAS TRAN
8312350		3415723349		107-TF		WALTER QUIGLEY #1	WASHINGTON	20.0	COLUMBIA GAS TRAN
8312353		3415723422		107-TF		WALTER QUIGLEY #1A	WASHINGTON	15.0	COLUMBIA GAS TRAN
8312347		3415722980		107-TF		WALTER QUIGLEY #1B	WASHINGTON	10.0	COLUMBIA GAS TRAN
8312346		3415722968		107-TF		WALTER QUIGLEY #2A	WASHINGTON	16.0	COLUMBIA GAS TRAN
8312342		3410322291		107-TF		WERSHING #1	HINCKLEY	30.0	COLUMBIA GAS OF O
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
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-ALPHA TWENTY-ONE PRODUCTION CO				RECEIVED: 12/03/82		JA: NM 4			
8312394	NM 1187-82	3002527757		103		COLVIN FEDERAL #1	WILDCAT	90.0	EL PASO NATURAL G
-BEARTOOTH OIL & GAS CO				RECEIVED: 12/03/82		JA: NM 4			
8312413	NM-0896-82	3003922855		103		MINEL FEDERAL #3	BLANCO-MESA VERDE	90.0	SOUTHWEST GAS COR
-BRADLEY H KEYES				RECEIVED: 12/03/82		JA: NM 4			
8312433	NM 8026-81ER	3004506408		108-ER		YOCKEY #2	WEST KUTZ - PICTURED	9.0	EL PASO NATURAL G
-CONSOLIDATED OIL & GAS INC				RECEIVED: 12/03/82		JA: NM 4			
8312437	NM-1088-82	3003921511		108		HURON 1-A	BLANCO MESAVERDE	21.0	GAS CO OF NEW MEX
-CURTIS J LITTLE				RECEIVED: 12/03/82		JA: NM 4			
8312460	NM-1203-82	3003922700		107-TF		GREVEY #1	BALLARD PICTURED CLIF	25.0	EL PASO NATURAL G
8312443	NM-1206-82	3003922788		107-TF		GREVEY #2	BALLARD-PICTURED CLIF	25.0	EL PASO NATURAL G
8312461	NM-1202-82	3003922699		107-TF		SALAZAR #1	BALLARD PICTURED CLIF	25.0	EL PASO NATURAL G
8312442	NM-1207-82	3003922789		107-TF		SALAZAR #2	BALLARD-PICTURED CLIF	25.0	EL PASO NATURAL G
8312449	NM-1205-82	3003922861		107-TF		SALAZAR #3	SO BLANCO PC	25.0	EL PASO NATURAL G
8312450	NM-1204-82	3003922701		107-TF		WARREN #1	BALLARD PICTURED CLIF	25.0	EL PASO NATURAL G
8312441	NM-1208-82	3003922790		107-TF		WARREN #2	BALLARD PICTURED CLIF	25.0	EL PASO NATURAL G
-DEPCO INC				RECEIVED: 12/03/82		JA: NM 4			
8312436	NM 0949-82	3001524080		103		FEDERAL 384 #1	LOCO HILLS (Q GR S A)	17.0	PHILLIPS PETROLEU
-DOME PETROLEUM CORP				RECEIVED: 12/03/82		JA: NM 4			
8312396	NM 1192-82	3003922894		103		DOME FEDERAL 34-24-7 #3	ESCRITO-GALLUP	36.5	
-DOYLE HARTMAN OIL OPERATOR				RECEIVED: 12/03/82		JA: NM 4			
8312469	NM 1250-82	3002527838		103		FARNSWORTH FEDERAL #1	SCARBOROUGH (OIL)	15.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EL PASO NATURAL GAS COMPANY				RECEIVED: 12/03/82		JA: NM 4			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EL PASO NATURAL GAS COMPANY				RECEIVED: 12/03/82 JA: NM 4					
8312451	NM-1290-82	3003920252		108		CANYON LARGO UNIT #150	OTERO - CHACRA	22.0	EL PASO NATURAL G
8312402	NM-0391-82	3003920717		108		CANYON LARGO UNIT #191	BALLARD-PICTURED CLIF	4.0	EL PASO NATURAL G
8312446	NM 1315-82	3004521515		108		DAY #8	BLANCO - PICTURED CLI	18.0	EL PASO NATURAL G
8312414	NM-0455-82	3004509290		108		FLORANCE #3	BLANCO - PICTURED CLI	22.0	EL PASO NATURAL G
8312457	NM-1199-82	3004520819		108		GRAMBLING A #4	SOUTH BLANCO - PICTUR	20.0	EL PASO NATURAL G
8312395	NM-1185-82	3004520334		108		HOWELL #6	SOUTH BLANCO - PICTUR	20.0	EL PASO NATURAL G
8312459	NM-1293-82	3004520740		108		HUERFANO UNIT #131	BASIN - DAKOTA	21.0	EL PASO NATURAL G
8312424	NM 1184-82	3004520419		108		HUERFANO UNIT #190	BASIN DAKOTA	19.0	EL PASO NATURAL G
8312401	NM 0154-82PB	3004520608		108-PB		HUERFANO UNIT #201	BASIN/DAKOTA	24.0	EL PASO NATURAL G
8312452	NM-1287-82	3004520814		108		HUERFANO UNIT #217	BASIN - DAKOTA	18.0	EL PASO NATURAL G
8312456	NM-1294-82	3004506180		108		HUERFANO UNIT #82	WEST KUTZ - PICTURED	21.0	EL PASO NATURAL G
8312419	NM-1181-82	3004507064		108		MARTIN #5	FULCHER KUTZ - PICTUR	15.0	EL PASO NATURAL G
8312425	NM-1180-82	3004505564		108		MCMANUS #10	BALLARD - PICTURED CL	20.0	EL PASO NATURAL G
8312418	NM-1183-82	3003906859		108		SAN JUAN 27-5 UNIT #28 MC & MV	TAPACITO - PICTURED C	18.0	EL PASO NATURAL G
8312455	NM 1299-82	3003920574		108		SAN JUAN 28-6 UNIT #130	BASIN - DAKOTA	20.0	EL PASO NATURAL G
8312454	NM 1308-82	3003920584		108		SAN JUAN 28-6 UNIT #133	BASIN - DAKOTA	18.0	EL PASO NATURAL G
8312453	NM 1311-82	3003907292		108		SAN JUAN 28-6 UNIT #16	BLANCO - MESA VERDE	20.0	EL PASO NATURAL G
8312408	NM-0161-82PB	3003907808		108-PB		SAN JUAN 30-4 UNIT #14	EAST BLANCO - PICTURE	22.0	EL PASO NATURAL G
8312447	NM 1312-82	3003907879		108		SAN JUAN 30-6 UNIT #88	BLANCO - MESA VERDE	15.0	EL PASO NATURAL G
8312422	NM-1159-82	3004509207		108		STEWART #6	BASIN - DAKOTA	28.0	EL PASO NATURAL G
8312409	NM 0158-82PB	3003907018		108-PB		11 27-5 UNIT #10	BLANCO-MESAVERDE GAS	15.0	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED: 12/03/82 JA: NM 4					
8312435	NM-0994-82	3001524130		103		ALLEN FEDERAL #1	UNDESIGNATED - EAST R	13.0	
8312407	NM 1234-82	3001524047		103		YATES FEDERAL "C" #1	BURTON FLAT	138.0	
-FRASER INDUSTRIES INC				RECEIVED: 12/03/82 JA: NM 4					
8312420	NM 1224-82	3002527754		103		EXXON "A" FEDERAL #1 NM E9694	DOUBLE "X" DELAWARE	11.0	PHILLIPS PETROLEU
-GETTY OIL COMPANY				RECEIVED: 12/03/82 JA: NM 4					
8312406	NM-1226-82	3004506459		108		G R GENTLE #1	SOUTH BLANCO PICTURED	20.0	EL PASO NATURAL G
8312427	NM-1223-82	3004506772		108		J G MARSHALL #1	SOUTH BLANCO PICTURED	19.0	EL PASO NATURAL G
8312404	NM-1228-82	3004513247		108		NEAH-VICTORIA #1	SOUTH BLANCO PICTURED	20.0	EL PASO NATURAL G
8312405	NM-1227-82	3004506876		108		NEAH-VICTORIA #2	SOUTH BLANCO PICTURED	20.0	EL PASO NATURAL G
-GULF OIL CORPORATION				RECEIVED: 12/03/82 JA: NM 4					
8312393	NM-1189-82	3502522489		108		M K STEWART #5	TEAGUE BLINEBRY	1.8	EL PASO NATURAL G
-JOHN E SCHALK				RECEIVED: 12/03/82 JA: NM 4					
8312423	NM-1128-82	3003921618		103		SCHALK 29-4 #6	OBERNADOR PICTURED C	0.0	NORTHWEST PIPELIN
-KIMBELL OIL COMPANY				RECEIVED: 12/03/82 JA: NM 4					
8312468	NM 1253-82	3003922845		107-TF		FEDERAL COM A-5	BALLARD PICTURED CLIF	26.0	EL PASO NATURAL G
8312467	NM 1251-82	3003922724		107-TF		WARREN #5	BALLARD PICTURED CLIF	146.0	EL PASO NATURAL G
8312400	NM-1193-82	3003905714		108		WARREN FEDERAL #2	BASIN DAKOTA UNIT O S	15.6	EL PASO NATURAL G
-M R SCHALK				RECEIVED: 12/03/82 JA: NM 4					
8312439	NM-1080-82	3004525349		103		L C KELLY #1E	BASIN DAKOTA	8.0	EL PASO NATURAL G
8312438	NM-1081-82	3004525350		103		L C KELLY #2E	BASIN DAKOTA	0.0	EL PASO NATURAL G
-MCCLELLAN OIL CORPORATION				RECEIVED: 12/03/82 JA: NM 4					
8312445	NM-125982187	3000561650		102-4	107-TF	MCCLELLAN FEDERAL "MOC" #2 NM-36409	PECOS SLOPE (ABO)	91.2	TRANSWESTERN OIL
-MERRION OIL & GAS CORP				RECEIVED: 12/03/82 JA: NM 4					
8312403	NM 1223-82	3003922940		103		SALAZAR G #34-3	DEVILS FORK GALLUP	91.0	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED: 12/03/82 JA: NM 4					
8312462	NM 1245-82	3000561080		102-2	107-TF	CAROL FEDERAL #1	UNDESIGNATED ABO	306.0	
8312444	NM 1247-82	3000561117		102-2	107-TF	CHINA FEDERAL #4	UNDESIGNATED ABO	322.0	
8312448	NM 1242-82	3000561638		102-2	107-TF	CHINA FEDERAL #8	UNDESIGNATED ABO	671.0	
8312463	NM 1244 82	3000561533		102-2	107-TF	CRAWFORD FEDERAL COM #4	PECOS SLOPE ABO	86.0	
8312432	NM 1246-82	3000561630		102-2	107-TF	MARLEY FEDERAL #1	UNDESIGNATED ABO	50.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8312464	NM 1243-82	3000561617		102-2	107-TF	STURGEON FEDERAL COM #1
-NORTHWEST PIPELINE CORPORATION				RECEIVED: 12/03/82		JA: NM 4
8312470	NM-1280-82	3003921133		108		JICARILLA 93 #10
8312399	NM-0155-82PB	3003907964		108-PB		ROSA #10
8312410	NM-0157-82PB	3003907963		108-PB		ROSA UNIT #16
8312471	NM-1276-82	3003907567		108		SAN JUAN 29-5 UNIT #16
8312398	NM 0156-82PB	3003907841		108-PB		SAN JUAN 30-5 UNIT 28X
8312412	NM-0911-82	3004523686		108		SAN JUAN 32-7 #56
8312434	NM-1059-82	3004510700		108		SAN JUAN 32-8 UNIT 16
-PERRY R BASS				RECEIVED: 12/03/82		JA: NM 4
8312465	NM 1262-82	3001523783		102-4		POKER LAKE UNIT #53
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 12/03/82		JA: NM 4
8312473	NM-1285-82	3002506163		108		MEXICO #1 (LC 031621(B))
8312472	NM-1286-82	3001521126		108		SANDY UNIT #1
-PREMIER PRODUCTION CO				RECEIVED: 12/03/82		JA: NM 4
8312466	NM 1257-82	3001524125		103		YATES PREMIER FEDERAL #2
-SOUTHLAND ROYALTY CO				RECEIVED: 12/03/82		JA: NM 4
8312411	NM 1194-82	3004525332		103		GRENIER #13E
-WESTERN OIL AND MINERALS LIMITED				RECEIVED: 12/03/82		JA: NM 4
8312421	NM-1191-82	3004506249		108		HAMMOND #7
8312415	NM-1196-82	3004506310		108		MARRON #1
8312397	NM-1190-82	3004522775		108		SNODGRASS #1
-WILLIAM A & EDWARD R HUDSON				RECEIVED: 12/03/82		JA: NM 4
8312417	NM-1197-82	3001505409		108		PUCKETT "B" #19
-YATES PETROLEUM CORPORATION				RECEIVED: 12/03/82		JA: NM 4
8312430	NM1233-82107	3000561485		102-2	107-TF	FEDERAL "HJ" 37
8312429	NM1211-82107	3000561546		102-2	107-TF	GEORGE "QJ" FEDERAL #6
8312440	NM-121082107	3000561457		102-2	107-TF	GRAFA "RW" FEDERAL #2
8312426	NM 1213-82	3000561676		102-2	107-TF	MIKE HARVEY "TR" FED #1
8312416	NM1195-82107	3000561564		102-2	107-TF	RITA "TZ" FEDERAL #1
8312428	NM 1212-82	3000561531		102-2	107-TF	SAVAGE "NI" FEDERAL #2
8312431	NM1232-82107	3000561560		102-2	107-TF	SOUTH ALKALI "LK" FEDERAL #4
8312458	NM-119882107	3000561549		102-2	107-TF	THOMAS "LN" FEDERAL #5

VOLUME 805 PAGE 007

FIELD NAME	PROD	PURCHASER
UNDESIGNATED PECOS S-	651.0	
TAPACITO PICTURED CLI	0.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	18.3	EL PASO NATURAL G
BLANCO MV	0.0	EL PASO NATURAL G
BLANCO MESAVERDE	22.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	21.5	NORTHWEST PIPELIN
BASIN DAKOTA	0.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	21.0	NORTHWEST PIPELIN
UNDESIGNATED MORROW	1000.0	NATURAL GAS PIPEL
EUNICE MONUMENT (GB/S	4.0	WARREN PETROLEUM
NASH MORROW	9.0	EL PASO NATURAL G
TURKEY TRACK SR QUEEN	20.0	PHILLIPS PETROLEU
BASIN	144.0	SOUTHERN UNION GA
SOUTH BLANCO PICTURED	11.0	EL PASO NATURAL G
SOUTH BLANCO PICTURED	20.0	EL PASO NATURAL G
LARGO CHACRA	15.0	EL PASO NATURAL G
MALJAMAR	0.4	PHILLIPS PETROLEU
UND PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
UND ABO	0.0	TRANSWESTERN PIPE
UND ABO	0.0	TRANSWESTERN PIPE
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 10 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1139 Filed 1–12–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5600–001]

Springfield Utility Board; Surrender of Preliminary Permit

January 6, 1983.

Take notice that the Springfield Utility Board Permittee for the proposed Springfield Canal Power Project No. 5600, has requested that its preliminary permit be terminated. The permit was issued on March 31, 1982, and would have expired on August 31, 1982. The project would have been located on the Willamette River and the Middle Fork of the Willamette River in Lane County, Oregon.

The Permittee filed its request on November 22, 1982, and the surrender of the preliminary permit for Project No. 5600 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1032 Filed 1–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5888–001]

Springfield Utility Board; Surrender of Preliminary Permit

January 6, 1983.

Take notice that Springfield Utility Board, Permittee for the proposed Wiley Power Project No. 5888, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 7, 1982, and would have expired June 30, 1984. The project would have been located on Wiley Creek in Linn County, Oregon.

The Permittee filed its request on November 22, 1982, and the surrender of the preliminary permit for Project No. 5888 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1033 Filed 1–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5887–001]

Springfield Utility Board; Surrender of Preliminary Permit

January 6, 1983.

Take notice that Springfield Utility Board, Permittee for the proposed North Power #2 Project No. 5887, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 17, 1982, and would have expired June 30, 1985. The project would have been located on the North Fork of the Middle Fork of the Willamette River in Lane County, Oregon.

The Permittee filed its request on November 22, 1982, and the surrender of the preliminary permit for Project No. 5887 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1034 Filed 1–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5002–001]

Springfield Utility Board; Surrender of Preliminary Permit

January 6, 1983.

Take notice that Springfield Utility Board (SUB), Permittee for the Cottage Grove Project No. 5502, has requested that its preliminary permit be terminated. The permit was issued on January 27, 1982, and would have expired on June 30, 1983. The project would have been located on the Willamette River (Cottage Grove Lake) in Lane County, Oregon.

SUB filed its request on November 22, 1982, and the surrender of the permit for Project No. 5502 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1035 Filed 1–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6209–001]

Springfield Utility Board; Surrender of Preliminary Permit

January 6, 1983.

Take notice that Springfield Utility Board Permittee for the proposed Christy Creek Project No. 6209, has requested that its preliminary permit be terminated. The permit was issued on July 23, 1982, and would have expired on December 31, 1983. The project would have been located on Christy Creek in Lane County, Oregon.

The Permittee filed its request on November 22, 1982, and the surrender of the preliminary permit for Project No. 6209 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1036 Filed 1–13–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–197–000]

Missouri Power & Light Co.; Filing

January 10, 1983.

The filing Company submits the following:

Take notice that Missouri Power & Light Company (MPL) on December 20, 1982, tendered for filing proposed changes in its FERC Electric Service Tariffs, Rate Designation MESWR. The proposed changes would increase revenues from jurisdictional sales and service by $154,389 based on the twelve-month period ending September 30, 1982.

MPL states that its proposed increase in rates is due primarily to comply with provisions of the Economic Recovery Tax Act of 1981 (ERTA) and added plant and expenses which have occurred since the Company's last rate change.

MPL requests an effective date of December 31, 1982, and therefore requests waiver of the Commission's notice requirements..

A copy of the filing was served upon each of the six municipality wholesale customers and the Missouri Public Service Commission has been notified of the proposed tariff and rate schedule changes.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-1121 Filed 1-13-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ER79-507-000 and EL81-15-000]

Public Service Co. of Colorado; Refund Report

January 10, 1983.

The filing company submits the following:

Take notice that on December 27, 1982, Public Service Company of Colorado submitted for filing a refund report in accordance with the Commission's order dated November 18, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before January 20, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-1122 Filed 1-13-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RP81-109-000 and RP82-37-000]

Texas Eastern Transmission Corp.; Informal Settlement Conference

January 10, 1983.

Take notice that an informal settlement conference on the matter of cash working capital in the above-captioned docket will be convened at 2:00 p.m., on January 17, 1983, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in a Commission meeting room to be announced.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-1123 Filed 1-13-83; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2274-2]

Agency Statements

Correction

In FR Doc. 82-34832 beginning on page 57335 in the issue of Thursday, December 23, 1982, make the following corrections:

1. Under Corps of Engineers, in the entry "EIS No. 820802," "MS" should read "KS". In the entry "EIS No. 820805", "DOE" should read "COE". In the entry "EIS No. 820797", "DOE" should read "COE".

2. Under Department of Transportations, delete the "s" in "Transportations" and in the entry "EIS No. 820796", "CI" should read "CT" and "Competition" should read "Completion". In the entry "EIS No. 820798", "Fernalillo" should read "Bernalillo".

3. Under Amended Notices, in the entry "EIS No. 820773", "Hachett" should read "Hackett".

BILLING CODE 1505-01-M

[OPTS-59109A, 59110A; TSH-FRL 2283-3]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: This notice announces EPA's approval of TM-83-10, and TM-83-11, two applications for test marketing exemptions (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M St. SW., Washington, D.C. 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not persent any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-10

Date of Receipt: November 23, 1982.
Notice of Receipt: December 3, 1982 (47 FR 54538).
Applicant: Ciba Geigy Corporation.
Chemical: Dicarboxylic acid monoester.
Use: Contained use.
Import Volume: 200 kg.
Number of Customers: 1.
Worker Exposure: Potential exposure will be by the dermal and inhalation routes. At the processing site, a maximum of 2 workers will be potentially exposed for 2 hours/day for 3 days. During use in an industrial setting, a maximum of 6 workers will be potentially exposed for 8 hours/day for 20 days.
Test Marketing Period: 3 months.
Commencing on: January 4, 1983.

Risk Assessment: The TME substance should be absorbed by all routes of exposure. Based on analog data, the health concerns are that the substance may cause teratogenic and reproductive effects. Since the substance is imported, there will be no exposure during manufacture. The greatest potential for worker exposure will be during processing Approval is contingent upon the use of all protective equipment specified in the exemption application, in particular, the wearing of neoprene gloves and air supplied respirators. The Agency has concluded the period of exposure will be of short duration and that the protective equipment will minimize the potential for worker exposure. There will be no exposure to consumers from the TME substance. There are low concerns for environmental effects.
Public Comments: None.

TME 83-11

Date of Receipt: November 26, 1982.
Notice of Receipt: December 10, 1982 (47 FR 55517).
Applicant: Owens-Corning Fiberglas Corporation.
Chemical: Polyester Resin (Generic).
Use: Confidential.
Production Volume: Confidential.
Exposure Information: Potential for exposure for 3 employees during manufacturing and processing. During manufacture, the employees may be exposed during sampling for a maximum of 1 hour/day. There may be incidential exposure during processing for 8 hours/day.
Test Marketing Period: 45 days.
Commencing on: January 4, 1983.
Risk Assessment: Based on the type of polymer, molecular weight, and that the test market substance is not designed to be water soluble, no health or environmental concerns were identified. Exposure to workers and the environment is expected to be low.
Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: January 4, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-712 Filed 1-13-83; 8:45 am]
BILLING CODE 6560-50-M

[ORD-FR-2285-4]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for an Equivalent Method Determination

Notice is hereby given that on December 1, 1982, the Environmental Protection Agency received an application from the Department of Health and Environmental Sciences of the State of Montana to determine if their inductively coupled argon plasma optical emission spectrometry method for the determination of lead in suspended particulate matter collected from ambient air should be designated by the Administrator of the EPA as an equivalent method under 40 CFR Part 53 (40 FR 7049, 41 FR 11255, 44 FR 37916). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register.**

Courtney Riordan,

Acting Assistant Administrator for Research and Development.

[FR Doc. 83-1029 Filed 1-13-83; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51449; TSH-FRL 2285-6]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of fourteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-351, 83-352, 83-353, 83-354 and 83-355, March 29, 1983.
PMN 83-356, 83-357, 83-358 83-359, 83-360, 83-361, 83-362, and 83-363, April 2, 1983.
PMN 83-364, April 5, 1983.

Written comments by:

PMN 83-351, 83-352, 83-353, 83-354 and 83-355, February 27, 1983.
PMN 83-356, 83-357, 83-358, 83-359 83-360, 83-361, 83-362 and 83-363, March 3, 1983.
PMN 83-364, March 6, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51449]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-351

Manufacturer. Confidential.
Chemical. (S) Polymer of trimethylol propane, ethylene glycol, adipic acid, phthalic anhydride.
Use/Production. (G) Open use. Prod. range: 10,000-22,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and disposal: dermal and inhalation, a total of 11 workers, up to 8 hrs/da, up to 14 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air. Disposal by biological treatment system and approved landfill.

PMN 83-352

Manufacturer. Confidential.
Chemical. (G) Aliphatic secondary naphthalene amine.
Use/Production. (G) Site-limited contained use. Prod. range: Confidential.
Toxicity Data. Ames Test: Negative.
Exposure. Manufacture and use: dermal, a total of 5 workers.
Environmental Release/Disposal. Less than 10 kg/yr released to land.

PMN 83-353

Manufacturer. Confidential.
Chemical. (G) Aliphatic secondary naphthalene amine.
Use/Production. (G) Site-limited contained use. Prod. range: Confidential.
Toxicity Data. Ames Test: Negative.
Exposure. Manufacture and use: dermal, a total of 5 workers.
Environmental Release/Disposal. Less than 10 kg/yr released to land.

PMN 83-354

Manufacturer. Confidential.
Chemical. (G) Aliphatic bis (secondary naphthalene amine).
Use/Production. (G) Site-limited contained use. Prod. range: Confidential.
Toxicity Data. Acute oral: <1,200 mg/kg; Ames Test: Positive.
Exposure. Manufacture and use: dermal, a total of 5 workers.

Environmental Release/Disposal. Less than 10 kg/yr released to land.

PMN 83–355

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic secondary naphthalene amine.
Use/Production. (G) Site-limited contained use. Prod. range: Confidential.
Toxicity Data. Ames Test: Negative.
Exposure. Manufacture and use: dermal, a total of 5 workers.
Environmental Release/Disposal. Less than 10 kg/yr released to land.

PMN 83–356

Manufacturer. Confidential.
Chemical. (G) Substituted 1-aminoanthraquinone-2-sulfonic acid alkali metal salt.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: ingestion, dermal and eye, a total of 15 workers, up to 48 man/hrs/yr.
Environmental Release/Disposal. No release. Disposal by sewer.

PMN 83–357

Manufacturer. Essex Specialty Products.
Chemical. (G) Isocyanate functional polyurethane derived from reaction of diisocyanate, polymeric ether glycols, polymeric aliphatic polyester glycols.
Use/Production. (S) Industrial polymeric precursor and thermoplastic moldable elastomers or engineering resins. Prod. range: 50–250,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal, a total of 2 workers, up to 20 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. No release.

PMN 83–358

Manufacturer. Confidential.
Chemical. (G) Alkoxy amine salt.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by onsite biological waste treatment.

PMN 83–359

Manufacturer. Confidential.
Chemical. (G) Polyurethane resin.
Use/Production. (G) Contained use. Prod. range: 450–10,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, a total of 47 workers, up to 8 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. 10–1,000 kg/yr released to land.

PMN 83–360

Manufacturer. Confidential.
Chemical. (G) Polyester of aliphatic polyols, vegetable oil, and aromatic dibasic acid.
Use/Production. (S) Commercial foam polyol. Prod. range: 1,000,000–6,000,000 lbs/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing, use and disposal: Inhalation, a total of 8 workers, up to 8 hrs/da, up to 251 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air with 10–100 kg/yr to water, 8 hrs/da, 251 da/yr. Disposal by sewer.

PMN 83–361

Manufacturer. Confidential.
Chemical. (G) Fatty acid, phthalic, polyol polymer.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Minimal.
Environmental Release/Disposal. 10–100 kg/yr released to land. Disposal by incineration and approved landfill.

PMN 83–362

Importer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Vinyl acrylic copolymer.
Use/Import. Confidential. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 83–363

Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Acrylic grafted copolymer.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and inhalation, a total of 4 workers, up to 24 hrs/da, up to 13.2 da/yr.
Environmental Release/Disposal. Minimal release. Disposal by incineration and approved landfill.

PMN 83–364

Manufacturer. The Upjohn Company.
Chemical. (S) Polymer of 1,1'-methylene-bis(4-isocyanato-benzene); 1,9-nonanedioic acid (azelaic); and 1,4-butanediol.
Use/Production. (S) Hydraulic seals, gasket and tubing. Prod. range: 1,000–50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and disposal: dermal, a total of 25 workers, up to 8 hr/da, up to 90 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to water with 100–1,000 kg/yr to land. Disposal by publicly owned treatment works (POTW).

Dated: January 7, 1983.

V. Paul Fuschini,
Acting Director, Management Support Division.

[FR Doc. 83-1081 Filed 1-13-83; 8:45 am]
BILLING CODE 6560-50-M

[EN-FRL-2285-7]

Availability of Environmental Impact Statements Filed January 3 Through January 7, 1983, Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382–5075 or 382–5076.

Corps of Engineers:
EIS No. 830003, Final, COE, PA, Wyoming Valley Local Flood Protection Plan, Luzerne County, Due: February 14, 1983.
Department of the Interior:
EIS No. 830005, Draft, IBR, CO, Lower Gunnison Basin Unit, Colorado River Salinity Control, Due: March 31, 1983.
EIS No. 830002, Final, MMS, MXG, OCS Oil and Gas Lease Sales #72, #74 and #79, Gulf of Mexico Region, Due: February 14, 1983.
EIS No. 830011, Final, NPS, NC, Cape Lookout National Seashore General Management Plan, Carteret Co., Due: February 14, 1983.
Department of Transportation:
EIS No. 830000, Draft, FHW, OR, Alsea R. Bridge Repair/Replacement, OR Coast Hwy/US 101, Lincoln Co., Due: February 28, 1983.
EIS No. 830004, Draft, FHW, CA, Harbor Freeway Corridor/I–110 Transitway Construction, Los Angeles Co., Due: March 14, 1983.
EIS No. 830010, DSuppl, FHW, PA, I–78/LR–1045 Construction, US 22 to near Stones Throw Rd., Lehigh Co., Due: March 9, 1983.
Environmental Protection Agency:
EIS No. 830008, Draft, EPA, TN, Blount County Wastewater Management Facilities, Grant, Blount County, Due: March 4, 1983.
EIS No. 830009, Draft, EPA, REG, Petroleum Dry Cleaners Emissions, Standards of Performance, Due: February 28, 1983.
EIS No. 830006, Final, EPA, SEV, ATL FL Jacksonville Harbor Ocean Dredged Material Disposal Site, Due: February 14, 1983.
EIS No. 830007, DSuppl, EPA, FL, Duette Open Pit Phosphate Mine, C/O, NPDES Permit, Manatee County, Due: February 28, 1983.
Department of Agriculture:
EIS No. 830001, Draft, SCS, WV, Piney Creek Watershed Flood Plan, Little Whitestick-Cranberry Creeks, Due: February 28, 1983.

Amended Notices:
EIS No. 740429, Draft, FWS, MA, Parker River Wilderness [1]
EIS No. 740478, Draft, FWS, AZ, Kofa Game Range Wilderness [1]
EIS No. 740730, Draft, FWS, MT, Charles M. Russel Wilderness [1]
EIS No. 740756, Draft, FWS, NV, Charles Sheldon Wilderness [1]
EIS No. 740998, Draft, NPS, UT, Arches National Park Wilderness [1]
EIS No. 741009, Draft, NPS, UT, Canyonlands National Park Wilderness [1]

Dated: January 11, 1983.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 83-1084 Filed 1-13-83; 8:45 am]

BILLING CODE 6560-50-M

THE PRESIDENT'S ECONOMIC POLICY ADVISORY BOARD

Meeting

January 24, 1983

The President's Economic Policy Advisory Board will meet on January 24, 1983, at the White House, Washington, D.C. from 9:00 am to 12:00 pm. The purpose of this meeting is to review and discuss:

(1) Management of Monetary Policy.
(2) Interaction of Fiscal and Monetary Policy with the Domestic Economy.
(3) U.S. Role in International Economy.

All agenda items concern matters listed in Section 552b(c) of Title 5, United States Code, specifically sub-paragraphs (1), (4), (8) and (9) thereof, and will be closed to the public.

For further information, please contact the Office of Policy Development, the White House, at (202) 456-6515.

Edwin L. Harper,

Assistant to the President for Policy Development.

[FR Doc. 83-1063 Filed 1-13-83; 8:45 am]

BILLING CODE 3195-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Sun Banks of Florida, Inc.*, Orlando, Florida; to acquire 100 percent of the voting shares or assets of The First National Bank of DeFuniak Springs, DeFuniak Springs, Florida. Comments on this application must be received not later than February 9, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Prairieland Bancorp., Inc.*, Bushnell, Illinois; to acquire 80 percent or more of the voting shares of Roseville State Bank, Roseville, Illinois. Comments on this application must be received not later than February 2, 1983.

Board of Governors of the Federal Reserve System, January 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1027 Filed 1-13-83; 8:45 am]

BILLING CODE 6210-01-M

Fidelcor, Inc.; Merger of Bank Holding Companies

Fidelcor, Inc., Rosemont, Pennsylvania, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Southeast National Bankshares of Pennsylvania, Malvern, Pennsylvania. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 9, 1983. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1025 Filed 1-13-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First North Port Bancorp*, North Port, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of North Port Bank, North Port, Florida. Comments on this application must be received not later than February 1, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Merchants Corporation*, Muncie, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of the Merchants National Bank of Muncie, Muncie, Indiana. Comments on this application must be received not later than January 28, 1983.

2. *Francor Financial Inc.*, Wabash, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Frances Slocum Bank and Trust Company, Wabash, Indiana. Comments on this application must be received not later than February 9, 1983.

[1] Officially withdrawn.

C. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Stephen Bancshares, Inc.*, Stephen, Minnesota; to become a bank holding company by acquiring 99 percent of the voting shares of Farmers State Bank of Stephen, Stephen, Minnesota. Comments on this application must be received not later than February 9, 1983.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *BOE Bancshares, Inc.*, Elgin, Oklahoma; to become a bank holding company by acquiring 98 percent of the voting shares of Bank of Elgin, Elgin, Oklahoma. Comments on this application must be received not later than February 9, 1983.

E. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Amarillo Western Bancshares, Inc.*, Amarillo, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Western National Bank, Amarillo, Texas. Comments on this application must be received not later than February 9, 1983.

2. *National Centerbanks, Inc.*, Dallas, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Centerbank, N.A., Dallas, Texas. Comments on this application must be received not later than February 9, 1983.

Board of Governors of the Federal Reserve System, January 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1028 Filed 1-13-83; 8:45 am]

BILLING CODE 6210-01-M

Utah Bancoporation; Continuation of Leasing of Personal Property and Sale of Credit-Related Insurance

Utah Bancorporation, Salt Lake City, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage, through its subsidiary, Intermountain Thrift and Loan, Salt Lake City, Utah, in the following activities; (1) leasing of personal property in accordance with the limitations set forth in the Board's Regulation Y; and (2) acting as agent or broker in offices at which Intermountain is otherwise engaged in business with respect to credit life or disability insurance that is directly related to an extension of credit by Intermountain. These activities will continue to be performed from offices of Intermountain in Salt City, Utah, and Heber City, Utah, and the geographic areas to be served are the market areas surrounding these offices. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in eficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 3, 1983.

Board of Governors of the Federal Reserve System, January 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1028 Filed 1-13-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

[Wildlife Order 149; 7-D-TX-664B and C]

Matagorda Island Air Force Range, Port O'Connor, Texas; Transfer of Property

Pursuant to section 2 of Pub. L. 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By transfer letter from the General Services Administration dated December 8, 1982, the property, consisting of 19,003.33 acres of land improved with 39 buildings, known as the Matagorda Island Air Force Range, Port O'Connor, Texas (7-D-TX-664B and C), has been transferred to the Department of the Interior, U.S. Fish and Wildlife Service.

2. The above described property was conveyed for wildlife conservation in accordance with the provisions of section 1 of said Pub. L. 80-537 (16 U.S.C. 667b), as amended by Pub. L. 92-432.

Dated: December 16, 1982.

Earl E. Jones,

Acting Commissioner, Federal Property Resources Service.

[FR Doc. 83-466 Filed 1-13-83; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82C-0396]

Baurs-Krey Associates, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Baurs-Krey Associates, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of D&C Green No. 6 in coloring contact lenses.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), 74 Stat. 399-402 as amended (21 U.S.C. 376(b)(1))), notice is given that a petition, CAP 3C0171, has been filed by Baurs-Krey Associates, Inc., 630 Fifth Ave., New York, NY 10020, proposing that the color additive regulations be amended to provide for the safe use of D&C Green No. 6 in coloring contact lenses.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 6, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-877 Filed 1-13-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0386]

Brik Pak, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Brik Pak, Inc., has filed a petition proposing to amend the food additive regulations to provide for the safe use of hydrogen peroxide solution as a sterilizing agent for polyethylene food-contact surfaces to include packaging commercially sterile alcoholic foods.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3687) has been filed by Brik Pak, Inc., 4885 Alpha Rd., Dallas, TX 75234, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for the safe use of hydrogen peroxide as a sterilizing agent for polyethylene food-contact surfaces to include packaging commercially sterile alcoholic foods.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 6, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-878 Filed 1-13-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0224]

Quality Assurance in Nuclear Medicine Facilities; Availability of Draft Recommendations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of draft recommendations on quality assurance programs in nuclear medicine facilities prepared by its Office of Radiological Health. In addition to the draft recommendations, FDA is making available background information, the agency's rationale for the recommendations, and its responses to comments that were received on a notice of intent to develop recommendations. Final recommendations, when developed, will be published as a technical report in the Office of Radiological Health radiation recommendation series.

DATE: Comments by April 14, 1983.

ADDRESSES: Requests for single copies of the draft document to: Phyllis Segal, National Center for Devices and Radiological Health (HFX-78), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2436. Written comments on the draft recommendations to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT: Phyllis Segal, National Center for Devices and Radiological Health (HFX-78), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2436.

SUPPLEMENTARY INFORMATION: FDA is making available a draft document entitled, "Recommendations for Quality Assurance Programs in Nuclear Medicine Facilities." These draft recommendations, prepared by its Office of Radiological Health, are directed to all nuclear medicine facilities where radiopharmaceuticals are used for diagnosis or therapy or where in vitro assays involving radioactive materials are performed. "Quality assurance," as referred to in the draft document, means the use of planned, systematic actions that result in consistently high quality performance of all components of the nuclear medicine procedure, minimum ionizing radiation exposure to patients and personnel, and efficient use of resources.

In the **Federal Register** of August 17, 1979 (44 FR 48264), FDA published a notice of intent to develop recommendations for quality assurance in nuclear medicine and to codify the recommendations under Title 21, Chapter I, Subchapter J of the Code of Federal Regulations (CFR) (see Docket No. 79N-0147). The comments received in response to the notice generally supported the need for quality assurance programs and favored the development of recommendations. The agency, therefore, has decided to develop recommendations, which, if and when they are made final, do not need to be incorporated into the CFR but will be made a part of the radiation recommendation series issued by FDA's Office of Radiological Health. Therefore, elsewhere in this issue of the **Federal Register**, FDA is withdrawing the August 17, 1979 notice. To give the interested public an opportunity to participate in development of these recommendations, FDA is now making available the draft recommendations.

FDA invites and encourages interested persons to submit additional data and comment relating to quality assurance in nuclear medicine facilities. Single copies of the draft recommendations are available from the contact person at the address given above. Interested persons may, on or before April 14, 1983, submit to the Dockets Management Branch (address above), written comments regarding these draft recommendations. Comments received after April 14, 1983, may be considered, depending on the stage of development of any final recommendations. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The draft recommendations and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated January 6, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-882 Filed 1-13-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82C-0397]

Syntex Ophthalmics; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Syntex Ophthalmics has filed a petition proposing that the color additive regulations be amended to provide for the safe use of D&C Green No. 6 in coloring contact lenses.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), 74 Stat. 399–402 as amended (21 U.S.C. 376(b)(1))), notice is given that a petition, CAP 3C0172, has been filed by Syntex Ophthalmics, Inc., P.O. Box 39600, Phoenix, AZ 85069, proposing that the color additive regulations be amended to provide for the safe use of D&C Green No. 6 in coloring contact lenses.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 6, 1983.

Sanford A. Miller

Director, Bureau of Foods.

[FR Doc. 83-679 Filed 1-13-83; 8:45 am]

BILLING CODE 4160-01-M

Technical Electronic Product Radiation Safety Standards Committee; Rechartering

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) in announcing the rechartering of the Technical Electronic Product Radiation Safety Standards Committee by the Commissioner of Food and Drugs for an additional period of 2 years beyond December 24, 1982. The charter for this committee will expire December 24, 1984.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: January 6, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-704 Filed 1-13-83; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Arthritis Advisory Committee—Statistical Guidelines Subcommittee

Date, time, and place. February 3, 9 a.m., Conference Rm. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Dotti Moore, National Center for Drugs and Biologics (HFN–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5197.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The subcommittee will discuss statistical guidelines which have been developed by FDA's Division of Biometrics.

Fertility and Maternal Health Drugs Advisory Committee

Date, time, and place. February 17, 9 a.m., Auditorium, Uniformed Services University of the Health Sciences, 4301 Jones Bridge Rd., Bethesda, MD.

Type of meeting and executive secretary. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; A. T. Gregoire, National Center for Drugs and Biologics (HFN–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1869.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in obstetrics, gynecology, and contraception.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee executive secretary.

Open committee discussion. The committee will discuss: (1) The FDA Action report on previous committee recommendations, (2) Prostin 15/M (NDA 17–989) for Postpartum Hemorrhage, (3) committee discussion of Premenstrual Syndrome (PMS).

Panel on Review of Allergenic Extracts

Date, time, and place. February 18 and 19, 9 a.m., Rm. 115, Bldg. 29, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contract person. Open public hearing, February 18, 9 a.m. to 10 a.m.; open committee discussion, February 18, 10 a.m. to 5 p.m., February 19, 8:30 a.m. to 1:30 p.m.; Clay Sisk, National Center for Drugs and Biologics (HFN–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee reviews and evaluates data on the safety, effectiveness, and appropriate use of allergenic products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will continue the reevaluation of allergenic biological products previously classified in Category IIIA, the designation for those licensed biological products judged to have insufficient available data to classify as safe and effective, but which should remain licensed pending completion of further testing as provided in § 601.25(e) (21 CFR 601.25(e)). The products are being reclassified under the procedures described in the **Federal Register** of October 15, 1982 (47 FR 46138). The agenda will include a discussion of the safety of aluminum as an adjuvant in alum-precipitated allergenic extracts.

Orthopedic and Rehabilitation Device Section of the Surgical and Rehabilitation Devices Panel

Date, time, and place. February 24, 9 a.m., Rm. 503–529A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and panel section leader. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Robert E. Mansell, National Center for Devices and Radiological Health (HFK–410), Food and Drug

Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7236.

General functioh of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before February 1, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for a muscle stimulation device used for the treatment of idiopathic scoliosis. The committee will also review a premarket approval application for polymethylmethacrylate bone cement.

Psychopharmacologic Drugs Advisory Committee

Date, time, and place. February 24 and 25, 9 a.m., Conference Rm. G. Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contract person. Open public hearing, February 24, 9 a.m. to 10 a.m.; open committee discussion, February 24, 10 a.m. to 5 p.m., February 25, 9 a.m. to 5 p.m.; Frederick J. Abramek, National Center for Drugs and Biologics (HFN–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3800.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion: The committee will discuss the following: (1) The advisory committee process. (2) Office of Drugs advisory system file. (3) LSD as an adjunct to psychotherapy: Is further clinical testing reasonable and safe? (4) Principles for the description of antidepressant drug effects in drug labeling.

Cardiovascular and Renal Drugs Advisory Committee—Subcommittee for Revision of Anti-Anginal Guidelines

Date, time, and place. February 28, 9 a.m., Rm. A–2054, Uniformed Services University of the Health Sciences, 4301 Jones Bridge Rd., Bethesda, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joan C. Standaert, National Center for Drugs and Biologics (HFN–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The subcommittee will discuss possible revisions of published guidelines for use in the study of anti-anginal agents.

Toxicological Detection Systems and Quality Assurance Systems Subcommittees of the Science Advisory Board

Date, time, and place. February 28 and March 1, 9 a.m. Conference Rm., Bldg. 13, National Center for Toxicological Research, Jefferson, AR.

Type of meeting and contact person. Open public hearing, February 28, 9 a.m. to 10 a.m.; open committee discussion, February 28, 10 a.m. to 4:30 p.m., March 1, 9 a.m. to 2:30 p.m.; Lawrence W. Fishbein, National Center for Toxicological Research (HFT–30), Food and Drug Administration, Jefferson, AR 72079, 501–541–4528.

General function of the committee. To assist the Director, National Center for Toxicological Research, in establishing and implementing as well as advising on research and quality assurance programs that will assist the supporting agencies in fulfilling their regulatory responsibilities. The Board as a whole or under the subcommittee structure provides extra-agency review in ensuring that research and quality assurance programs at the National Center for Toxicological Research are scientifically sound and pertinent to toxicological problems.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Agenda—Open committee discussion. The Subcommittee will hear reports and make recommendations on the following agenda items: (1) Overview of Center activities: short-, intermediate-, and long-term projects. (2) Individual indepth reviews of current research initiatives in all basic science areas. (3) Individual indepth reviews of current quality assurance systems. (4) Tours of individual laboratories: Divisions of Mutagenesis, Teratogenesis, Carcinogenesis, Microbiology/Molecular Biology, Chemistry, Pathology, and Office of Quality Assurance. (5) Evaluation and recommendations.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session

may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR 14.

Dated: January 10, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1088 Filed 1-13-83; 8:45 am]

BILLING CODE 4160-01-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was last published on January 7.

Public Health Service

Food and Drug Administration

Subject: Good Manufacturing Practice for Medicated Premixes—Recordkeeping Requirements (0910-0139)—Extension/No Changes.

Respondents: Drug premix manufacturers.

Subject: Good Manufacturing Practice for Medicated Feeds—Recordkeeping Requirements (0910-0139)—Extension/No Changes.

Respondents: Commercial and in-farm medicated feed manufacturers.

Subject: Investigational Exemptions for New Animal Drugs (0910-0117)—Extension/No Changes.

Respondents: Pharmaceutical manufacturers and members of the medical profession.

OMB Desk Officer: Fay S. Iudicello.

Centers for Disease Control

Subject: Study of the Impact of Occupational Safety and Health Training Programs on the Supply and Demand for Occupational Safety and Health Professionals—New.

Respondents: Individuals and educational institutions.

OMB Desk Officer: Richard Eisinger.

Social Security Administration

Subject: Supplemental Security Income Mail Screener Survey Pretest (SSA-288)—New.

Respondents: Individuals or households.

Subject: Survey of Employment Services Programs for Refugees (ORR-8)—New.

Respondents: State or local governments and businesses or other institutions.

Subject: Report by Representative Payee (Institution) for Social Security Beneficiary (SSA-624)—Revision.

Respondents: Businesses or other institutions.

Subject: Report by Representative Payee (Individual) for Social Security Beneficiary (SSA-623)—Revision.

Respondents: Individuals or households.

OMB Desk Officer: Milo Sunderhauf.

Health Care Financing Administration

Subject: Request for Review of Medicare Part B Claim HCFA-1964)—Extension/No Changes.

Respondents: Medicare beneficiaries and health care providers.

Subject: Hospital, Skilled Nursing Facility and Health Care Complex Cost Report (HCFA-2552)—Revision.

Respondents: Hospitals, skilled nursing facilities, and health care complexes participating in Medicare.

OMB Desk Officer: Fay S. Iudicello.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524-F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn: (name of OMB Desk Officer).

Dated: January 10, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83-1089 Filed 1-13-83; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-83-689]

Redelegation of Authority; Emergency Preparedness Functions

AGENCY: Office of the Secretary, HUD.

ACTION: Redelegation of authority.

SUMMARY: The Secretary of HUD is redelegating to the Assistant Secretary for Administration the emergency preparedness functions assigned to him under Executive Order 11490, as amended, and the disaster relief assistance functions vested in him under the Disaster Relief Act of 1974.

EFFECTIVE DATE: January 14, 1983.

FOR FURTHER INFORMATION CONTACT: Terrence F. Monihan, Director, Emergency Preparedness Staff, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6020. This is not a toll free telephone number.

Redelegation of Authority

Section A. *Authority Redelegated.* The Assistant Secretary for Administration is redelegated the functions assigned to the Secretary of Housing and Urban Development by Executive Order 11490 (34 FR 17567, October 30, 1969), as amended, including the preparation of national emergency plans and the development of preparedness programs covering all aspects of housing, community facilities related to housing, and urban development.

Section B. *Effectuation.* Any emergency plans developed under the authority redelegated in Section A may be put into effect only if authorized by law enacted by the Congress or by order of the President.

Section C. *Authority Delegated.* The Assistant secretary for Administration is hereby delegated the authority vested in the Secretary of Housing and Urban Development as head of the agency, under the Disaster Relief Act of 1974, Pub. L. 93-288, as amended, 42 U.S.C. 5121 *et seq.*, to coordinate such disaster relief assistance and services as are required by the President or by the Director of the Federal Emergency Management Agency.

Section D. *Authority to Redelegate.* The Assistant Secretary is authorized to redelegate the authority described in Section A to any agencies or instrumentalities of the United States, and to officers and employees of the United States, and the authority described in Section C to employees of

the Department of Housing and Urban Development.

Section E. *Supersedure.* This delegation supersedes the delegation of authority published at 37 FR 3376, February 15, 1972.

(Section 3012 of E.O. 11490, 34 FR 17567, October 30, 1969; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: January 10, 1983.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 83-1117 Filed 1-13-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bolt Beranek & Newman, Inc.; Issuance of Permit for Marine Mammals

On November 1, 1982, a notice was published in the **Federal Register** (47 FR 49477), that an application had been filed with the Fish and Wildlife Service by Bolt Beranek and Newman, Inc., for a permit to take (Harass) sea otters (*Enhydra lutris*) from southern coastal California.

Notice is hereby given that on December 28, 1982, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued a permit PRT 2-9740, to Bolt Beranek and Newman, Inc., subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Wildlife Service's Wildlife Permit Office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: January 11, 1983.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-1112 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

PRT 2-9696

Applicant: Charles Kegel, Bad Axe, MI

The applicant requests a permit to import on breeding loan one pair of Siberian tigers *(Panthera tigris altaica)*, two male and one female leopard cats *(Felis b. bengalensis)* and one pair of leopards *(P. pardus)* from Howletts Zoo Park, Port Lympne, England, for enhancement of propagation and scientific research.

PRT 2-9621

Applicant: George A. Allen, Jr., Salt Lake City, UT

The applicant requests a permit to import one female Palawan peacock pheasant *(Polyplectron emphanum)* from Harry Hardy, Burnaby, Canada, for enhancement of propagation. Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22204.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: January 11, 1983.

Larry LaRochell,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 83-1113 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[Group 635]

Arizona; Filing of Plats of Survey

1. Plats of survey of lands described below will be officially filed in the Arizona State Office, Phoenix, Arizona, effective at 7:45 a.m., on February 18, 1983.

Gila and Salt River Meridian, Arizona

T. 30 N., R. 19 W.,

A dependent resurvey of portions on the South boundary and subdivisional lines and the survey of a portion of the subdivisional lines of T. 30 N., R. 19 W.

Sec. 29;
Sec. 30, lots 1, 2, 3, 4, E½W½, E½;
Sec. 31, lots 1, 2, 3, 4, E½W½, E½;
Sec. 32.

The area aggregates 2,555.88 acres of land.

The land described above is located about six miles SSW of Temple Bar, Arizona, which is located on Lake Mead. The elevation varies from 2000 to 2350 feet above sea level. Many washes cross the area, draining in a N to NNW direction. The soil is very sandy and rocky throughout. The vegetation consists of creosote, Joshua trees, scattered yucca, cacti and sparse native grasses.

T. 30 No., R. 20 W.,

A dependent resurvey of a portion of the South boundary and the survey of a portion of the subdivisional lines of T. 30 N., R. 20 W.,

Secs. 24, 25, 35, and 36.

The area aggregates 2,560.00 acres of land.

The land described above is located about six miles SW of Temple Bar, Arizona, which is located on Lake Mead. The terrain is mostly ridges oriented N and S and washes draining northerly. There are some steep slopes on the W sides of secs. 25 and 35. The elevation varies between 1900 and 2650 feet above sea level. The soil is mostly sandy and rocky.

2. A graded gravel road passes through both areas in a NE and SW direction connecting Temple Bar, Arizona, and U.S. Highway No. 93.

3. All rights to the State of Arizona to section 32 in T. 30 N., R. 19 W. and to section 36 in T. 30 N., R. 20 W., have been conveyed to the United States.

4. The lands described in paragraph 1 have been classified for State Indemnity Selection, and will not be subject to disposition under the General Land and Mining Laws, by reason of the official filing of the plats.

5. Inquiries concerning the lands should be addressed to the Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: January 5, 1983.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-1094 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-84-M

California; Call for Applications for Wind Energy Development in the Tehachapi Pass; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice. State of California; Call for Applications for Wind Energy Development in the Tehachapi Pass; Correction.

SUMMARY: The document corrects a notice of a proposed wind development on federal lands in the Tehachapi Pass area that appeared at page 56414 in the **Federal Register** of Thursday, December 16 (47 FR 56414).

The action is necessary to correct typographical errors in citations plus incorrect information.

DATES: Because of the corrections, the application time is extended to March 18, 1983.

FOR FURTHER INFORMATION CONTACT: Barbara Jackson, Realty Specialist, at (619) 446–4520.

The following corrections are made in FR Doc. 47–242 appearing on page 56414 in the issue of Thursday, December 16, 1982, near the top of column two, "the environmental document will be funded in accordance with 43 CFR 2803.1(a)(1) by the Bureau through appropriated funds." This is corrected to read "the environmental document will be funded in accordance with 43 CFR 2803.1–1(a)(1)."

Wesley Chambers,

Acting District Manager.

[FR Doc. 83–1068 Filed 1–13–83; 8:45 am]

BILLING CODE 4310–84–M

[Group 710]

California; Filing of Plat of Survey

January 4, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, California

T. 20 N., R. 6 E.

2. The plat, representing the dependent resurvey of portions of the Fourth Standard Parallel North on the south boundary of Township 21 North, Range 6 East, and the subdivisional lines and the subdivision of section 5, Township 20 North, Range 6 East, Mount Diablo Meridian, California, for Group No. 710, was accepted March 12, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and the Bureau of Indian Affairs.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Celia Anderson,

Acting Chief, Records and Information Section.

[FR Doc. 83–1074 Filed 1–13–83; 8:45 am]

BILLING CODE 4310–84–M

[Group 753]

California; Filing of Plat of Survey

January 4, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, California

T. 20 N., R. 17 W.

2. The plat, representing the dependent resurvey of a portion of the north and east boundaries, and the corrective dependent resurvey of a portion of the east boundary, and a portion of the subdivisional lines and the corrective subdivision of section 1, Township 20 North, Range 17 West, Mount Diablo Meridian, California, for Group No. 753, was accepted March 11, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Celia Anderson,

Acting Chief, Records and Information Section.

[FR Doc. 83–1075 Filed 1–13–83; 8:45 am]

BILLING CODE 4310–84–M

[Group 797]

California; Filing of Plat of Survey

January 4, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, California

T. 6 N., R. 20 E.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of section 28, and the survey of the subdivision of section 28, the metes and bounds survey in the southeast quarter of section 28, and the survey of the median lines of the Stanislaus River, through a portion of section 28, Township 6 North, Range 20 East, Mount Diablo Meridian, under Group No. 797, California, was accepted December 13, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and the U.S. Department of Agriculture, Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Celia Anderson,

Acting Chief, Records and Information Section.

[FR Doc. 83–1076 Filed 1–13–83; 8:45 am]

BILLING CODE 4310–84–M

[S 572, S 856]

California; Partial Revocation of Classifications of Public Lands for Multiple Use Management

Pursuant to the Act of September 19, 1964, the following described lands were classified for multiple use management and segregated from appropriation under the agricultural land laws (43 U.S.C. Chapters 7 and 9; 25 U.S.C. 334), from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171), and from appropriations under the United States mining laws (30 U.S.C. ch. 2):

1. *S 572,* Bureau of Land Management Classification Order of December 21, 1967 (FR Doc. 67–14813):

Mount Diablo Meridian

T. 8 N., R. 9 E.,
Sec. 25, lot 1;
Sec. 26, SE¼NE¼NE¼, NE¼SE¼NE¼.
T. 11 N., R. 11 E.,
Sec. 20, SW¼SE¼.

The areas described aggregate 72.35 acres in Amador and El Dorado Counties.

2. *S 856,* Bureau of Land Management Classification Order of December 29, 1967 (FR Doc. 67–15087):

Mount Diablo Meridian

T. 17 N., R. 9 E.,
Sec. 10, S½S½SE¼;
Sec. 13, S½SE¼NE¼, SW¼NE¼, E½SE¼NW¼, SW¼SE¼NW¼, SE¼SW¼NW¼, N½N½SW¼, N½NE¼SE¼;
Sec. 14, Lot 4, SE¼NE¼, S½NW¼, N½SW¼, NW¼SE¼, N½NE¼SE¼;
Sec. 15, Lot 2, NE¼, E½SE¼NW¼, S½NW¼SW¼, SE¼SW¼, W½SW¼SE¼;
Sec. 16, Lots 3, 4, & 5, E½NE¼, S½NE¼SW¼, S½SW¼, N½SW¼SE¼, and that portion of N½ of lot 1 and N½SE¼ not in conflict with Mineral Survey 2278;
Sec. 17, S½SE¼SE¼;
Sec. 19, Lots 1 & 2, NE¼, E½NW¼;

Sec. 20, N½NE¼NE¼;
Sec. 22, Lot 12.
T. 18 N., R. 9 E.,
Sec. 34, SE¼SW¼.

The areas described aggregate approximately 1804 acres in Nevada County.

Pursuant to the authority delegated to me by Bureau Order No. 701 of July 23, 1964 (29 FR 10526), I hereby revoke the Bureau of Land Management Classification Orders of December 21, 1967, and December 29, 1967, insofar as they affect the above described lands.

At 10 a.m. on February 17, 1983 the segregative effect imposed by the above mentioned classifications will terminate.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Building, 2800 Cottage Way, Sacramento, California 95825.

Dated: January 5, 1983.

Ronald D. Hofman,

Associate State Director.

[FR Doc. 83-1089 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-84-M

[Group 648]

California; filing of Plat of Survey

January 4, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, California

T. 6 N., R. 12 E.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of section 12, Township 6 North, Range 12 East, Mount Diablo Meridian, under Group No. 648, California, was accepted November 30, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California state Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, room E-2841, Sacramento, California 95825.

Colia Anderson,

Acting Chief, Records and Information Section.

[FR Doc. 83-1077 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-84-M

[Group 648]

California; Filing of a Plat of Survey

January 4, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, California

T. 6 N., R. 13 E.

2. These plats, in 13 sheets, representing the dependent resurvey of the First Standard Parallel North, along a portion of the south boundary of Township 6 North, Range 13 East, a portion of the east and north boundaries, the west boundary, a portion of the subdivisional lines, certain boundaries of mineral surveys, and the survey of the subdivision of sections 5, 6, 7, 8, 9, 12, 13, 14, 15, 17, 19 through 27, 30, 31, and 32, and the metes and bounds survey of lots, Township 6 North, Range 13 East, Mount Diablo Meridian, under Group No. 648, California, were accepted November 30, 1982.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Colia Anderson,

Acting Chief, Records & Information Section.

[FR Doc. 83-1078 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-84-M

[I-6129 et al.]

Idaho; Order Providing for Opening of Public Land

January 7, 1983.

In eighteen exchanges made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following lands have been reconveyed to the United States:

Boise Meridian, Idaho

I-4238

T. 13 S., R. 10 E.,
Sec. 25, NE¼, E½NW¼, SW¼NW¼;
Sec. 26, E½SE¼NE¼.
T. 13 S., R. 11 E.,
Sec. 9, all;
Sec. 10, W½;
Sec. 19, lots 2, 3, 4, E½SW¼;
Sec. 29, E½NE¼, NE¼SE¼;
Sec. 21, NW¼, NW¼SW¼;
Sec. 23, S½SE¼;
Sec. 26, E½;
Sec. 30, lot 1, NE¼NW¼;
Sec. 35, NE¼, E½NW¼.
T. 14 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, SW¼;
Sec. 12, W½.
T. 13 S., R. 12 E.,
Sec. 29, N½;
Sec. 31, lots 3, 4, 5, 6, 7, NE¼SW¼, N½SE¼;
Sec. 33, lots 2, 3, 4, N½SW¼, NW¼SE¼.
T. 14 S., R. 12 E.,
Sec. 4, S½NE¼, N½SW¼, NW¼SE¼;
Sec. 5, lots 3, 4, SW¼NE¼, S½NW¼, SW¼, N½SE¼;
Sec. 6, lots 1, 2, 3, 4, 5, S½NE¼, SE¼.

I-016583

T. 12 S., R. 20 E.,
Sec. 29, SW¼SW¼;
Sec. 30, S½NE¼, SE¼NW¼, SE¼;
Sec. 31, N½NE¼, SE¼NE¼, E½SE¼;
Sec. 32, NW¼NW¼, W½SW¼.
T. 10 S., R. 21 E.,
Sec. 28, lots 2, 6, 7, 8 and 9, SE¼SW¼, S½SE¼, and that portion of the SW¼SW¼ lying north of the right-of-way of the Minidoka-Buhl and Branch of the Union Pacific Railroad.
T. 15 S., R. 22 E.,
Sec. 8, W½SE¼, SE¼SE¼;
Sec. 17, NE¼NE¼.
T. 16 S., R. 22 E.,
Sec. 20, SE¼.

I-1435

T. 12 S., R. 28 E.,
Sec. 34, SE¼NW¼.
T. 16 S., R. 30 E.,
Sec. 16, W½NE¼.

I-4256

T. 14 S., R. 31 E.,
Sec. 36, all.
T. 16 S., R. 30 E.,
Sec. 16, W½NE¼.

I-4117

T. 12 S., R. 32 E.,
Sec. 15, S½NW¼, SW¼;
Sec. 21, E½NE¼;
Sec. 22, NE¼NE¼, W½NE¼, NW¼.

I-3780

T. 14 S., R. 34 E.,
Sec. 25, NE¼NE¼.

I-2014

T. 8 S., R. 40 E.,
Sec. 6, lot 1.
T. 10 N., R. 19 E.,
Sec. 23, NW¼NE¼, E½NW¼, SW¼NW¼.

I-4641

T. 9 N., R. 20 E.,
Sec. 25, N½.

I-295

T. 3 N., R. 27 E.,
A part of the NE¼ section 12, T. 3 N., R. 27 E., Boise Meridian, Idaho. Described in two parcels as follows: Parcel 1, beginning at the section corner common to secs. 1 and 12, T. 3 N., R. 27 E., thence

S. 89°10'W., 2628.0 ft. to the north quarter corner of said sec. 12; thence S. 0°17'W., 342.6 feet; thence S. 85°51'30"E., 2633.47 feet; thence N. 0°17'E., 571.0 feet to the place of beginning. Parcel 2, beginning at the east quarter corner of said sec. 12, thence N. 0°17'E., 1667.5 feet; thence N. 85°51'30"W., 2633.47 feet; thence S. 0°17'W., 1895.9 feet; thence N. 89°10'E., 2628 feet to the east quarter corner sec. 12, the place of beginning;
Sec. 20 SE¼SW¼.

I–6129

T. 29 N., R. 8 E.,
Sec. 4, S½SE¼.

I–6868

T. 17 N., R. 20 E.,
Sec. 14, SW¼SW¼NW¼;
Sec. 15, NE¼NE¼NE¼, S½NE¼SE¼NE¼, NW¼SE¼NE¼, S½SE¼NE¼.

I–6871

T. 18 N., R. 21 E.,
Salmon Run at Salmon River Subdivision,
Sec. 3, lots 66, 68, and 69, block 4 lot 64, block 5 lot 173, block 10;
Sec. 10, lot 176, block 10.

I–7496

T. 22 N., R. 23 E.,
Sec. 5, S½SE¼NW¼.

I–4802

T. 17 N., R. 25 E.,
Sec. 29, SE¼NE¼, NE¼SE¼.

I–7865

T. 3 N., R. 34 E.,
Sec. 3, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 10, SE¼;
Sec. 11, SW¼.

I–6154

T. 14 S., R. 22 E.,
Sec. 16, all.

I–6873

T. 16 S., R. 31 E.,
Sec. 16, all.

I–5071

T. 12 S., R. 34 E.,
Sec. 30, lots 3, 4, E½SW¼, SE¼.

The area described contains 11,201.68 acres in Idaho, Lemhi, Jefferson, Twin Falls, Oneida, Owyhee, Cassia, Power, Caribou, Custer and Butte Counties, Idaho.

2. Subject to valid existing rights, provisions of existing withdrawals, and the requirements of applicable law, the following-described land is hereby open to operation of the public land laws, including the mining laws (ch. 2, title 30 U.S.C.) and mineral leasing laws. All valid applications, received at or prior to 9:00 a.m., February 11, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Boise Meridian

I–6129

T. 29 N., R. 8 E.,
Sec. 4, all.

I–7866

T. 3 N., R. 34 E.,
Sec. 3, SW¼NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 10, SE¼;
Sec. 11, SW¼.

I–6154

T. 14 S., R. 22 E.,
Sec. 16, all.

I–5071

T. 12 S., R. 34 E.,
Sec. 30, lots 3, 4, E½SW¼, SE¼.

I–4238

T. 13 S., R. 10 E.,
Sec. 25, NE¼, E½NW¼, SW¼NW¼;
Sec. 26, E½SE¼NE¼.
T. 13 S., R. 11 E.,
Sec. 9, all;
Sec. 10, W½;
Sec. 19, lots 2, 3, 4, E½SW¼;
Sec. 20, E½NE¼, NE¼SE¼;
Sec. 21, NW¼, NW¼SW¼;
Sec. 23, S½SE¼;
Sec. 26, E½;
Sec. 30, lot 1, NE¼NW¼;
Sec. 35, NE¼, E½NW¼.
T. 14 S., R. 11 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, SW¼;
Sec. 12, W½.
T. 13 S., R. 12 E.,
Sec. 29, N½;
Sec. 31, lots 3, 4, 5, 6, 7, NE¼SW¼, N½SE¼;
Sec. 33, lots 2, 3, 4, N½SW¼, NW¼SE¼.
T. 14 S., R. 12 E.,
Sec. 4, S½NE¼, N½SW¼, NW¼SE¼;
Sec. 5, lots 3, 4, SW¼NE¼, S½NW¼, SW¼, N½SE¼;
Sec. 6, lots 1, 2, 3, 4, 5, S½NE¼, SE¼.

I–016583

T. 12 S., R. 20 E.,
Sec. 29, SW¼SW¼;
Sec. 30, S½NE¼, SE¼NW¼, SE¼;
Sec. 31, N½NE¼, SE¼NE¼, E½SE¼;
Sec. 32, NW¼NW¼, W½SW¼.
T. 10 S., R. 21 E.,
Sec. 28, lots, 2, 6, 7, 8, 9, SE¼SW¼, S½S½, and that portion of the SW¼SW¼, lying north of the right-of-way of the Minidoka-Buhl Branch of the Union Pacific Railroad.
T. 16 S., R. 22 E.,
Sec. 20, SE¼.

I–1435

T. 12 S., R. 26 E.,
Sec. 34, SE¼NW¼.

I–4117

T. 12 S., R. 32 E.,
Sec. 15, S½NW¼, SW¼;
Sec. 21, E½NE¼;
Sec. 22, NE¼NE¼, W½NE¼, NW¼.

I–2014

T. 8 S., R. 40 E.,
Sec. 6, lot 1.

I–4641

T. 10 N., R. 19 E.,
Sec. 23, NW¼NE¼, E½NW¼, SW¼NW¼.
T. 9 N., R. 20 E.,
Sec. 25, N½.

I–295

T. 3 N., R. 27 E.
A part of the NE¼, sec. 12, T. 3 N., R. 27 E., described in two parcels as follows: parcel 1, beginning at the section corner common to secs. 1 and 12, T. 3 N., R. 27 E., thence S. 89°10'W., 2628.0 ft. to the north quarter corner of said sec. 12; thence S. 0°17'W., 342.6 feet; thence S. 85°51'30c''E., 2633.47 feet; thence N. 0°17'E., 571.0 feet to the place of beginning. Parcel 2, beginning at the east quarter corner of said sec. 12, thence N. 0°17'E. 1667.5 feet; thence N. 85°51'30"W., 2633.47 feet; thence S. 0°17'W., 1895.9 feet; thence N. 89°10'E., 2628 feet to the east quarter corner sec. 12, the place of beginning.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described below is hereby open to operation of the public land laws, but not the mining laws. All valid applications received prior to 9:00 a.m., February 11, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Boise Meridian

I–4256

T. 16 S., R. 30 E.,
Sec. 16, W½NE¼.
T. 14 S., R. 31 E.,
Sec. 36, all.

I–3780

T. 14 S., R. 34 E.,
Sec. 25, NE¼NE¼.

I–6356

T. 17 N., R. 20 E.,
Sec. 14, SW¼SW¼NW¼;
Sec. 15, NE¼NE¼NE¼, S½NE¼SE¼NE¼, NW¼SE¼NE¼, S½SE¼NE¼.

I–6871

T. 18 N., R. 21 E.,
Sec. 3, lots 66, 68, 69, block 4, lot 64, block 5, lot 173, block 10;
Sec. 10, lot 176, block 10.

I–7496

T. 22 N., R. 23 E.,
Sec. 5, S½SE¼NW¼.

I–4802

T. 17 N., R. 25 E.,
Sec. 29, SE¼NE¼, NE¼SE¼.

I–6873

T. 16 S., R. 31 E.,
Sec. 16, all.

I–295

T. 3 N., R. 27 E.,
Sec. 20, SE¼SW¼.

I–016583

T. 15 S., R. 22 E.,
Sec. 8, W½SE¼, SE¼SE¼;
Sec. 17, NE¼NE¼.

Inquiries concerning the lands should be addressed to the Chief, Lands Section, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

William E. Ireland,

Chief, Lands Section.

[FR Doc. 83-1071 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-84-M

[1792]

Price River Resource Area, Utah; Environmental Impact Statement

January 7, 1983.

AGENCY: Bureau of Land Management, Utah.

ACTION: Notice of Availability of Final Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and a 1975 Federal Court Order, the Bureau of Land Management (BLM) has prepared a final environmental impact statement (EIS) for the rangeland management program in the Price River Resource Area. The EIS area includes Carbon County and parts of Emery, Utah, Duchesne and Unitah Counties, Utah.

The final EIS examines four alternative management programs: (1) Enhance Livestock Production; (2) Planning Recommendation; (3) Enhance Watershed, Wildlife, and Recreation; and (4) No Action. The objective of the alternatives is to provide a grazing management program based on multiple use and sustained yield of the natural resources on 1,087,676 acres of public land.

Copies of the fianl EIS are available from the Price River Resource Area Office at 700 East 900 North, Price, Utah 84501, phone (801) 637-4584. Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240

Moab District Office, Bureau of Land Management, 125 W. 200 S., Moab, Utah 84532

Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Written comments on the final EIS should be submitted by February 15, 1983 to: Gene Nodine, District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

Written comments concerning the final EIS will be considered in the subsequent decision on the management program for the price River Resource Area.

Dated: January 7, 1983.

Gene Nodine,

District Manager.

[FR Doc. 83-1072 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Public Lands; Beaver County, Oklahoma

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of realty action on proposed land disposal.

SUMMARY: This notice is to advise the public that the Albuquerque District of the Bureau of Land Management (BLM) is proposing to dispose of public lands in Beaver County, Oklahoma.

SUPPLEMENTARY INFORMATION: The BLM has determined that the 195.77 acres of public land described below are suitable for lease or patent under authority of the Recreation and Public Purposes (R&PP) Act of June 14, 1926 (44 Stat. 741; 43 U.S.C. 869) or disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713).

Parcel No.	Legal description	Acreage
	T. 1 S., R. 24 E., C.M.	
Section 1: BV-1	Lot 1, T. 1 S., R. 25 E., C.M.	1.47
Section 2: BV-2	Lots 1, 2, 3, 4	5.25
Section 3: BV-2	Lots 1, 2, 3	8.16
Section 4: BV-2	Lot 3	3.76
Section 5: BV-2	Lots 1, 2, T. 1 S., R. 26 E., C.M.	8.28
Section 1: BV-3	Lots 1, 2	.32
Section 4: BV-4	Lots 2, 3, T. 4 N., R. 21 E., C.M.	1.33
Section 29: BV-5	SW¼ NW¼, T. 4 N., R. 22 E., C.M.	40.00
Section 18: BV-6	SE¼ SE¼	40.00
Section 17: BV-7	Lots SW¼ NW¼, T. 6 N., R. 24 E., C.M.	40.00
Section 28: BV-12	NW¼, NE¼	80.00

The BLM has not effectively managed these tracts in the past and will not be capable of such management in the future. Their location as well as the physical characteristics and the private ownership of adjoining lands, make them difficult and uneconomical to manage as public land. In terms of the natural resources available in western Oklahoma, the value of these tracts is insignificant. Consequently, disposal would best serve the public interest.

This is an opportunity for Local, County or State governments to apply for a lease or patent on those tracts that they feel are needed for public parks, recreation or other public purposes. Those tracts that are not applied for under the R&PP Act by March 1, 1983 will be sold at public auction by competitive bidding.

A patent for the land, when issued, shall be subject to the following conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 16 Stat. 391; 43 U.S.C. 945. This applies to all parcels.

2. All minerals "including gas and oil" shall be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719. This applies to all parcels.

3. All valid existing rights and reservations of record. This applies to all parcels.

4. Recognizing that it lies within a floodplain and as such, the patentee or its successor(s) are limited by Section 3 (d) of Executive Order 11988 of May 24, 1977 from seeking compensation from the U.S. or its agencies in the event existing or future facilities on this patent are damaged by flood. (BV-2, Sec. 3, BV-5 and BV-6.) This applies to parcels BV-2 (Section 3 Lots), BV-5 and BV-6.

5. Grazing privileges are reserved for L. Barr Brown through June 27, 1984, pursuant to grazing record (lease) number 0752 and Notice of Cancellation letter dated June 28, 1982. This applies to parcel BV-5.

The sale will be held at the Beaver County Fair Building, Beaver, Oklahoma, on Thursday, March 31, 1983 at 1:00 P.M.

Bidding Information and Instructions

"Bidding Qualifications": The Federal Land Policy and Management Act requires that bidders must be citizens of the United States, 18 years of age or over, or, in the case of a corporation, be subject to the laws of any State or the United States. Bids may be made by a principle (the one desiring to purchase the land) or his duly qualified agent.

"Bid Standards": No bid will be accepted for less than the appraised fair market value. Bids must be for all the land in the parcel.

"Method of Bidding": Bids may be made either by mail or personally at the sale. Bids sent by mail shall only be considered if received at the Albuquerque, District Office, 3550 Pan American Freeway, N.W., P.O. Box 6770, Albuquerque, New Mexico, 87107, prior to 4:00 P.M. on March 29, 1983. Bids sent by mail must be in sealed envelopes

accompanied by a certified check, postal money order, or cashier's check made payable to the Bureau of Land Management for not less than one-fifth of the amount of the bid. The sealed envelopes must be marked in the lower left hand corner, "Sealed Bid, Public Land Sale NM–53598, NM–53599, NM–53600. Sale to be March 31, 1983." If two or more valid sealed bids in the same amount are received and they are the high bid, the determination of which bid is to be considered the highest bid shall be by a drawing. The drawing, if required, shall be held immediately following the opening of the bids. The highest qualifying sealed bid shall then be announced.

Oral bids will be received immediately after all sealed bids have been opened and the highest sealed bid is announced. The highest bid shall be the base for oral bids. All oral bids must be made in increments of not less than $20.00. Sealed bidders present at the sale may also make oral bids. The highest bid price, either sealed or oral, shall establish the sale price. If the highest bid is an oral bid, the successful bidder shall be required to pay immediately one-fifth of the high bid price by cash, personal check, money order, or any combination thereof.

"Final Details": The successful higher bidder, whether it is by sealed or oral bid, shall be required to submit full payment for the balance of the bid within a 30-day period shall disqualify the apparent high bidder bid deposit shall be forfeited. All unsuccessful sealed bids shall be returned within 30 days from the sale date.

Further Information/Inquiries

Detailed information concerning this sale, including the planning and environmental documents are available for review in the Oklahoma Resource Area Office, 200 N.W. Fifth, Room 548, Oklahoma City, Oklahoma 73102, or telephone 405–231–4481. The fair market appraisals will be available after February 7, 1983.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Oklahoma Resource Area Manager. Any adverse comments will be evaluated by the New Mexico State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Mathew N. Millenbach,
Associate District Manager.

[FR Doc. 83–1086 Filed 1–13–83; 8:45 am]
BILLING CODE 4310–84–M

Salmon District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Advisory Council.

DATE: The meeting will be held at 10:00 a.m., Thursday, March 10, 1983.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Laws 92–463 and 94–579. The agenda for the meeting will include: State Director introduction; overview of Council; election of chairperson and vice-chairperson; district organization/reorganization; area presentations, Ellis/Pahsimeroi—implementation, Mackay—MFP/EIS, and Lemhi—planning issues; status of minerals activities in district, MMS merger; wilderness—status of EIS—upcoming EA—other WSAs; asset management; wildhorse/burro situation; and BLM's role in recreation maintenance and development.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:00 a.m. and 11:30 a.m., or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Salmon District Office by February 28, 1983. Depending on the number of persons wishing to make an oral statement, per person time limit may be established.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting. Notification of oral statements and requests for summary minutes should be sent to: Kenneth G. Walker, District Manager, Salmon District BLM, Box 430, Salmon, Idaho 83467.

Dated: January 7, 1983.
Jerry W. Goodman,
Acting District Manager.

[FR Doc. 83–1089 Filed 1–13–83; 8:45 am]
BILLING CODE 4310–84–M

[U–1291, U–4174, U–4175]

Salt Lake District, Utah; Realty Action; Segregation of Public Lands in Summit County

AGENCY: Bureau of Land Management, Utah State Office.

ACTION: Notice of segregation.

SUMMARY: The State of Utah has made application for indemnity selection involving the following described lands:

T. 2 S., R. 3 E., SLM,
All vacant, unappropriated public lands administered by the Bureau of Land Management within sections 13, 24, 25, 26.

T. 2 S., R. 4 E., SLM,
All vacant, unappropriated public lands administered by the Bureau of Land Management excepting and excluding the following parcels:

Parcel No.	Section	Subdivision	Acres
3	3	S½SE¼	
	10	NW¼NE¼	80.3
16	10	Lots 7, 8	
	15	N½, NW¼SW¼	880

T. 2 S., R. 5 E., SLM,
All vacant, unappropriated public lands administered by the Bureau of Land Management.

Acreage to be disposed of totals approximately 1,629.8 acres.

The State of Utah made indemnity selection for the lands in T. 2 S., R. 4 E., under serial numbers U–1291, U–4174, and U–4175 on October 1, 1966 and October 9, 1967. The lands in T. 2 S., R. 3 E., and T. 2 S., R. 5 E., are included in this segregation in response to the Park City Management Framework Plan decision to dispose of these lands to the State and the State's interest in including these lands in their existing indemnity selection applications. Parcel numbers mentioned have been assigned by this office for indentification purposes only and have no reference to legal description.

In accordance with the regulations in 43 CFR 2091.2–6, the lands described above are hereby segregated from settlement, sale, location or entry under the public land laws, including the mining laws, but not the mineral leasing laws or the Geothermal Steam Act. Any application not consistent with disposal of these lands by state indemnity selection will not be accepted, shall not

be considered as filed and shall be returned to the applicant. This segregation shall become effective the date of publication of this notice. The segregative effect of the selection application on these public lands shall terminate upon issuance of a document of conveyance to such lands, or upon publication in the **Federal Register** of a notice of termination of the segregation or the expiration of two years from the date of the publication of this notice, whichever occurs first. However, where administrative appeal or review actions have been sought pursuant to part 4 or subpart 2450 of this title, the segregative period shall continue in effect until publication of a notice of termination of the segregation in the **Federal Register.**

Inquiries or comments should be sent to the Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111 or phone (801) 524–4245.

Darrell Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83–1085 Filed 1–13–83; 8:45 am]

BILLING CODE 4310–84–M

Vale District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Vale District Grazing Advisory Board will be held February 9, 1983.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office at 100 Oregon Street West, Vale, Oregon 97918.

Agenda items scheduled for advisory board action are: (1) Southern Malheur EIS Area preferred alternative, (2) range project maintenance agreements, and (3) Vale District wilderness preferred alternative.

The board will also be briefed on the 1983 grazing fee and the asset management program.

The meeting is open to the public. Interested persons may make oral statements to the Board or may file written statements for the Board's consideration. Anyone wishing to make oral statements may do so at 3:00 p.m. the day of the meeting.

Summary minutes of the Board meeting will be maintained in the District office and be available during regular business hours for public inspection, for the cost of duplication, within 30 days following the meeting.

Pearl M. Parker,

District Manager.

[FR Doc. 83–1070 Filed 1–13–83; 8:45 am]

BILLING CODE 4310–84–M

Wyoming; Rawlins District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Rawlins District Grazing Advisory Board meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–563 that a meeting of the Rawlins District Grazing Advisory Board will be held on February 24, 1983, beginning at 9:00 a.m., in the large conference room of the Bureau of Land Management at 1300 Third Street, Rawlins, Wyoming.

The agenda items will be: (1) Review of the Final Rangeland Improvement Policy; (2) Range Improvement Project Status for FY 1983; (3) A discussion of efforts to remove impediments to private investment in range improvements from Policy and Regulations; (4) The Green Mountain Management Framework Plan (MFP) Decisions, Livestock Grazing Decisions and Summary Document; (5) Divide EIS Status Report; (6) Status of Bureau Rangeland Inventory Procedures; (7) Rangeland Monitoring Program Update; (8) Review of Stock Driveway Withdrawals; (9) Public Comment Period; and (10) Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board or may file written statements for the Board's consideration. Anyone wishing to make an oral statement may do so between 3:00 and 3:30 p.m., but must notify the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, WY 82301 by February 23, 1983.

Summary minutes of the Board meeting will be maintained in the district office and be available during regular business hours for public inspection within 30 days following the meeting. Copies may be obtained for the cost of duplication.

David J. Walter,

District Manager.

[FR Doc. 83–1073 Filed 1–13–83; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the OMB reviewing official, Mr. Jefferson Hill, at 202–395–7340.

Title: 30 CFR 250.34, exploration, development, and production activities.
Bureau Form Number: None.
Frequency: Nonrecurring.
Description of Respondents: Federal Outer Continental Shelf Lessees.
Annual Responses: 1,233.
Annual Burden Hours: 516,219.
Bureau Clearance Officer: Dorothy J. Christopher at (703) 435–6213.

Dated: December 17, 1982.

Robert L. Rioux,

Associate Director for Offshore Minerals Management, Minerals Management Service.

[FR Doc. 83–1081 Filed 1–13–83; 8:45 am]

BILLING CODE 4310–MR–M

Intent To Revise Timing of U.S. Royalty Oil Sales From Federal Offshore and Onshore Leases

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of intent to revise timing of sales; request for comments.

SUMMARY: The long-range intent of MMS is to continue the practice of issuing sales contracts for 3-year periods; but in order to make the royalty-in-kind (RIK) program more manageable for the Federal Government and royalty oil more regularly available for industry, MMS proposes to divide the total available royalty oil into 3 parcels and make one of the 3 parcels available each year. Contracts for royalty oil from any one of the 3 parcels would be for a duration of 3 years. To accomplish this, MMS plans to stagger the contract expiration dates at the next royalty sale be announced in April 1983.

DATE: Written comments on this revised timing of the royalty-in-kind sales program must be received in the Royalty Management Program, Minerals

Management Service, Denver Federal Center, Denver, Colorado, by 12:00 noon, m.s.t., February 14, 1983.

ADDRESSES: Written comments may be mailed to James H. Mikelson, P.O. Box 5760, Denver, CO 80217; or delivered to him at Room B509 in Building 85, Denver Federal Center.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Mikelson or Mr. C. Boyd Donaldson, (303) 231–3133.

SUPPLEMENTARY INFORMATION: To make the Royalty-in-kind oil sales program more manageable and efficient, the 1983 sale is separated by regions as follows:

1. RIK oil from Federal leases in the Outer Continental Shelf (OCS) regions of the Gulf of Mexico and the Pacific Coast will be sold under contracts beginning October 1, 1983, with an expiration date of October 1, 1984. The effective beginning date of subsequent royalty oil contracts from these regions will be October 1, 1984, and every three years thereafter.

2. RIK oil from Federal leases in the States of Texas, Oklahoma, New Mexico, Arizona, Nevada, California, Oregon, Washington, Idaho, and Alaska will be sold under contracts beginning November 1, 1983, with an expiration date of October 1, 1985. The effective beginning date of subsequent royalty oil contracts from these 10 states will be October 1, 1985, and every three years thereafter.

3. RIK oil from Federal leases in all other states will be sold under contracts beginning December 1, 1983, with an expiration date of October 1, 1986. The effective begging date of subsequent royalty oil contracts for this area will be October 1, 1986, and every three years thereafter.

Because of the large number of Federal leases involved in the RIK program, MMS believes that this change in timing will result in better production data being furnished to interested eligible purchasers of U.S. royalty oil. It will also make the program more efficient and manageable for the Federal Government.

Dated: January 11, 1983.

Robert E. Boldt,

Associate Director for Royalty Minerals Management Service.

[FR Doc. 83-1018 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Advisory Board; Mid-Atlantic Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463).

Name: Mid-Atlantic Regional Technical Working Group

Date: February 10, 1983.

Place: Garden State Ballroom, Parlor II, Hilton Gateway Hotel, Raymond Boulevard, Newark, New Jersey.

Time: 9:00 a.m. to 5:00 p.m.

Committee membership consists of representatives from federal agencies, the coastal states of New York through North Carolina, the petroleum industry, and other private interests.

Agenda: Overview of the Minerals Management Service's organizational structure and its role in pre and post sale OCS operations; overview of the Baltimore Canyon Block 598 Unit Agreement; overview of ongoing and proposed Mid-Atlantic studies and update on proposed OCS Sale No. 76.

This meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding items on the agenda should contact Richard Barnett of the New York OCS Office (212–264–1061) by January 28, 1983. Written statements should be submitted by February 17 to the New York OCS Office, Minerals Management Service, 26 Federal Plaza, Suite 32–120, New York, New York 10278.

Minutes of the meeting will be available for public inspection and copying by April 7, 1983 at the above address.

Frank Basile,

Manager, New York OCS Office.

[FR Doc. 83-1000 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the South Timbalier Block 54 Federal Unit Agreement No. 14–08–001–3444, submitted on December 20, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the South Timbalier Block 54 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 0, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-1007 Filed 1-13-83; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Reclamation

Lower Gunnison Basin Unit; Colorado River Water Quality Improvement Program, Colorado; Public Hearing on Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Lower Gunnison Basin Unit, Colorado. This statement (INT DES 82–61, dated December 30, 1982) was made available to the public on January 3, 1983.

The draft environmental statement analyzes impacts of improving irrigation canals and laterals to reduce salt loading to the Colorado River. Plans to compensate wildlife habitat losses are included. The unit area is in the Uncompahgre River Valley of Delta and Montrose Counties, Colorado.

Public hearings will be held in Montrose and Olathe, Colorado, at the following locations and times: February 16, 2–4 p.m., Colorado Ute Electric Association Auditorium, 1845 South Townsend Avenue, Montrose; and February 16, 7–9 p.m., Olathe High School, Olathe. These hearings are designed to receive views and comments from interested organizations or individuals relating to the environmental impacts of this project. Oral statements at the hearings will be limited to a period of 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearings may allow any speaker to provide additional oral comment after all persons wishing to

comment have been heard. Speakers will be scheduled according to their time preference, if any, requested by letter or telephone. Any speaker not present when called will lose his privilege in the scheduled order, and his name will be recalled at the end of the scheduled speakers. Requests for scheduled presentations will be accepted until 4 p.m., February 14, 1983. Any subsequent requests will be handled on a first come, first served basis following the scheduled presentations at the meeting.

Organizations or individuals desiring to present statements at the hearings should contact the Projects Manager, Grand Junction Projects Office, Bureau of Reclamation, 764 Horizon Drive, Grand Junction, Colorado 81501, telephone (303) 243–4992, by letter or telephone, and announce their intentions to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentations at the hearings should be received by February 25, 1983, to be included in the hearing record. Other comments should be received by March 31, 1983.

Dated: January 11, 1983.

R. N. Broadbent,

Commissioner.

[FR Doc. 83–1130 Filed 1–13–83; 8:45 am]

BILLING CODE 4310–09–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 104–TAA–15]

Bicycle Tires and Tubes From Taiwan; Countervailing Duty Investigation and Scheduling of Hearing

AGENCY: International Trade Commission.

ACTION: Institution of countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: Pursuant to section 104(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), the United States International Trade Commission is instituting this countervailing duty investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of bicycle tires and tubes from Taiwan provided for in items 772.48 and 772.57 of the Tariff Schedules of the United States, covered by an outstanding countervailing duty order, if the order were to be revoked.

EFFECTIVE DATE: January 10, 1983.

FOR FURTHER INFORMATION CONTACT: Jim McClure, Supervisory Investigator, Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202–523–0439.

SUPPLEMENTARY INFORMATION:

Background.—On January 8, 1979, the Department of the Treasury (Treasury) published in the **Federal Register** (44 FR 1815) a final countervailing duty determination with respect to bicycle tires and tubes from Taiwan. Treasury determined that benefits have been paid but that they involve an aggregate amount considered to be de minimus and therefore no bounty or grant is being paid or bestowed within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). On March 8, 1979, counsel for the petitioner filed suit in the U.S. Customs Court to challenge Treasury's final countervailing duty determination.

On January 1, 1980, the provisions of the Trade Agreements Act of 1979 (Pub. L. 96–39) became effective, and on January 2, 1980, the authority for administering the countervailing duty statutes was transferred from Treasury to the Department of Commerce (Commerce).

On January 19, 1981, the U.S. Court of International Trade stayed the proceedings, vacated Treasury's negative countervailing duty determination, and remanded the case to the Secretary of Commerce for further inquiries as needed to determine the ad valorem benefit provided to the Taiwanese bicycle tire and tube manufacturers. On August 3, 1981, Commerce published in the **Federal Register** (46 FR 53201) its final countervailing duty determination in the reopened investigation that one Taiwanese manufacturer, Cheng Shin Rubber Company Ltd. (Cheng Shin) received bounties or grants within the meaning of section 303 of the Tariff Act of 1930. The net amount of the subsidy was determined by Commerce to be 0.893 percent.

On November 17, 1981, the Court of International Trade affirmed the results of the redetermination by Commerce. On February 17, 1982, pursuant to the court decision of November 17, 1981, Commerce published in the **Federal Register** (47 FR 6913) a countervailing duty order with respect to bicycle tires and tubes manufactured by Cheng Shin, determining that the amount of the net subsidy was 0.893 percent. Commerce also announced its intent to conduct an administrative review of the order within twelve months.

As required by section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)), Commerce has conducted its first administrative review of that countervailing duty order and on December 9, 1982, as a result of that review, published in the **Federal Register** (47 FR 55406) its preliminary determination that the amount of net subsidy for bicycle tires and tubes manufactured by Cheng Shin is 0.90 percent of the f.o.b. invoice price of the merchandise.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on February 14, 1983, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation concurrently with the hearing for countervailing duty investigation No. 104–TAA–14, bicycle tires and tubes from Korea and antidumping investigation No. 731–TA–94 (Final), bicycle tires and tubes from Taiwan, beginning at 10:00 a.m., on March 1, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436.

Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on February 18, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m., on February 22, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is February 25, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing brief and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24, as amended by 47 FR 6191, Feb. 10, 1982) and must be submitted not later than the close of business on March 8, 1983.

Written submission.—As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 8, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, Feb. 10, 1982, and 47 FR 13791, Apr. 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, Feb. 10, 1982, and 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6168, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: January 10, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-1091 Filed 1-13-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (Except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications of motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the Federal Register on November 1, 1982, at 47 FR 48583, which redesignated the regulations at 49 CFR 1100.251, published in the Federal Register December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the Federal Register on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2) (E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: Common carrier of property-that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the tansportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal Action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or , if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in interstate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–04

Decided: January 7, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

FF 641, filed December 21, 1982. Applicant: A ADVANCE WORLDWIDE MOVING COMPANY, 904 West San Marcos Blvd., San Marcos, CA 92067. Representative: Kenneth D. Polin, 225 Broadway, Suite 2100, San Diego, CA 92101, (619) 234–1966. As a *freight forwarder* in connection with the transportation of *household goods, unaccompanied baggage, and used automobiles,* between points in the U.S. (including AK and HI).

MC 3151 (Sub-25), filed December 20, 1982. Applicant: BENDER & LOUDON MOTOR FREIGHT, INC., 1100 Jenkins Blvd., Akron, OH 44306. Representative: George Wilkinson (same address as applicant), (216) 773–8921. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (A) over regular routes, (1) between Hammond, IN, and Louisville, KY, over Interstate Hwy 65, (3) between Louisville, KY, and junction U.S. Hwys 30 and 31, near Plymouth, IN, over U.S. Hwy 31, (4) between Louisville, KY, and Cincinnati, OH, over Interstate Hwy 71, (5) between Cincinnati, OH, and Indianapolis, IN, over Interstate Hwy 74, (6) between Fort Wayne, IN, and Indianapolis, IN, from Fort Wayne, over U.S. Hwy 30 to junction Interstate Hwy 69, then over Interstate Hwy 69 to Indianapolis, and return over the same route, and (7) between Dayton, OH, and Terre Haute, IN, (a) from Dayton over Interstate Hwy 75 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Terre Haute, and return over the same route, and (b) from Dayton over Interstate Hwy 75 to junction U.S. Hwy 40, then over U.S. Hwy 40 to Terre Haute, and return over the same route, serving all intermediate points in (1)–(7) above, and points in IN as off-route points and (B) over irregular routes, between points in IN, OH, and those points in MI in and south of Oceana, Newaygo, Mecosta, Isabella, Midland, Bay, Tuscola and Huron Counties.

MC 97841 (Sub-27), filed December 20, 1982. Applicant: GENERAL HIGHWAY EXPRESS, INC., 2280 Industrial Dr., PO Box 727, Sidney, OH 45365. Representative: Jack R. Wells (same address as applicant), (513) 492–1250. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Hamilton County, OH, on the one hand, and, on the other, points in the US (except AK and HI).

Note.—Applicant intends to tack the authority sought with its existing regular route authority in MC–97841 Sub 28X.

MC 115370 (Sub-98), filed December 23, 1982. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307, (515) 243–4191. Transporting *metal products,* between points in Ramsey and St. Louis Counties, MN, Muscatine County, IA, and Monroe and Wayne Counties, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 115730 (Sub-99), filed December 23, 1982. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307, (515) 243–4191. Transporting *General commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Copperweld Corporation of Pittsburgh, PA.

MC 119631 (Sub-53), filed December 20, 1982. Applicant: DEIOMA TRUCKING COMPANY, P.O. Box 335, East Sparta, OH 44626. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703)–751–2441. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 126241 (Sub-4), filed December 23, 1982. Applicant: PRYOR TRUCKING, INC., 816 Orleans Ave., Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154. Transporting *pulp, paper and related products* between points in the U.S. (except AK and HI), under continuing contract(s) with Champion International Corporation, of Stamford, CT.

MC 136730 (Sub-15), filed December 9, 1982. Applicant: CARAVAN COACH LINES, INC., RD 3 Box 451, Wharton, NJ 07885. Representative: L. C. Major, Jr., Suite 304 Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Over regular routes, transporting *passengers,* (1) between New York, NY, and Ogdensburg, NJ, from New York, over Interstate Hwy 495 via to Lincoln Tunnel to junction NJ Hwy 3, then over NJ Hwy 3 to junction U.S. Hwy 46, then over U.S. Hwy 46 to junction NJ Hwy 23, near Wayne, NJ, then over NJ Hwy 23 to junction U.S. Hwy 46, then over U.S. Hwy 46 to junction unnumbered hwy near Denville, NJ, then over unnumbered hwy to junction U.S. Hwy 46, then over U.S. Hwy 46 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction unnumbered hwy near Rockaway Township, NJ, then over unnumbered hwy to junction NJ Hwy 15, then over NJ Hwy 15 to junction unnumbered hwy near Wharton, NJ, then over unnumbered hwy to junction NJ Hwy 15 near Rockaway Township, NJ, then over NJ Hwy 15 to junction NJ Hwy 181, then over NJ Hwy 181 to junction County Hwy 517, near Sparta, NJ, then over County Hwy 517 to Ogdenburg, and return over the same route, (2) between Wharton, NJ, and Singac, NJ, from Wharton, over unnumbered hwy to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction NJ Hwy 23, then over NJ Hwy 23 to Singac, and return over the same route, (3) between junction Interstate Hwy 80 and U.S. Hwy 206, near Netcong, NJ, and Secaucus, NJ, from junction Interstate Hwy 80 and U.S. Hwy 206, over U.S. Hwy 206 to junction County Hwy 512 near Peapack, NJ, then over County Hwy 512 to junction U.S. Hwy 202, near Far Hills, NJ, then over U.S. Hwy 202 to junction unnumbered hwy, then over unnumbered hwy to junction Interstate Hwy 287 near Basking Ridge, NJ, then over Interstate Hwy 287 to junction NJ Hwy 24, near Morristown, NJ, then over NJ Hwy 24 to junction Interstate Hwy 78, near Summit, NJ, then over Interstate Hwy 78 to junction Interstate Hwy 95 (NJ Turnpike), near Newark, NJ, then over Interstate Hwy 95 (NJ Turnpike) to junction NJ Hwy 3 at Secaucus, and return over the same route, (4) between Bernardsville, NJ and Summit, NJ, from Bernardsville over County Hwys 527/525 Spur, near Basking Ridge, NJ, then over County Hwys 527/525 Spur to junction County Hwy 512, then over

County Hwy 512 (Valley Road) to junction unnumbered hwy near Summit, NJ, then over unnumbered hwy to junction Interstate Hwy 78, at Summit, NJ, and return over the same route, (5) between Budd Lake, NJ, and Morristown, NJ, from Budd Lake over U.S. Hwy 46 to junction unnumbered hwy near Netcong, NJ, then over unnumbered hwy to junction NJ Hwy 183, then over Hwy 183 to junction U.S. Hwy 206, then over U.S. Hwy 206 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 46, near Ledgewood, NJ, then over U.S. Hwy 46 to junction NJ Hwy 10, then over NJ Hwy 10 to junction NJ Hwy 53, near Morris Plains, NJ, then over NJ Hwy 53 to junction U.S. Hwy 202 near Morris Plains, NJ, then over U.S. Hwy 202 to junction NJ Hwy 24, near Morristown, NJ, then over NJ Hwy 24 to junction Interstate Hwy 287 at Morristown, NJ, and return over the same route, (6) between Bedminster, NJ, and Newark, NJ, from Bedminster over U.S. Hwy 206 to junction Interstate Hwy 78, then over Interstate Hwy 78 to junction U.S. Hwy 22, then over U.S. Hwy 22 to Newark, NJ, and return over the same route, as an alternate route for operating convenience only, and (7) between Bedminster, NJ, and Newark, NJ, from Bedminster over U.S. Hwy 206 to junction Interstate Hwy 287, then over Interstate Hwy 287 to junction Interstate Hwy 95 (NJ Turnpike), then over Interstate Hwy 95 (NJ Turnpike), to Newark, NJ, and return over the same route, as an alternate route for operating convenience only, serving all intermediate points in routes (1)–(7) above.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 143230 (Sub-7), filed December 20, 1982. Applicant: LUCK TRUCKING, INC., Rural Route #1, Box 190, Wolcott, IN 47995. Representative: Andrew K. Light, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 144591 (Sub-3), filed December 20, 1982. Applicant: FUSARO TRANSPORTATION. INC., P.O. Box 360, Ridge Hill Rd., Assonet, MA 02702. Representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, MA 02043, (617) 749–6500. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with (1) Bank Miller Co., Inc., and Richloom Fabrics Corp., both of New York, NY, and (2) Design Craft Fabric Corp., of Chicago, IL.

MC 148141 (sub-8), filed December 22, 1982. Applicant: GOODY PRODUCTS, INC., 969 Newark Turnpike, Kearny, NJ 07032. Representative: William Jacobs (same address as applicant), (201) 997–3000. Transporting *tires*, between points in McLennan County, TX, on the one hand, and, on the other, points in Monroe County, GA. under continuing contract(s) with Georgia Farm Bureau Service Co., of Macon, GA.

MC 149481 (Sub-4), filed December 21, 1982. Applicant: RITEWAY-WESTERN, INC., 7701 Wilbur Way, Sacramento, CA 96828. Representative: Frank Culy, III (same address as applicant), (916) 682–2146. Transporting *general commodities* (except classes A and B explosives, used household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with G. I. Joe's, Inc., of Portland, OR.

MC 150511 (Sub-5), filed December 22, 1982. Applicant: BETTER-HOME DELIVERIES, INC., 3700 Park East Dr., Cleveland, OH 44122. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *furniture and fixtures*, between points in the U.S., under continuing contract(s) with Fisher Mattress, of Hayward, CA.

MC 150951 (Sub-20), filed December 13, 1982. Applicant: CRANSTON TRUCKING COMPANY, 1381 Cranston St., Cranston, RI 02920. Representative: Paul M. Overton (same address as applicant), (401) 943–4800. Transporting *textile goods*, and *miscellaneous canvas based camping equipment*, between points in the U.S., under continuing contract(s) with Diamond Brand Canvas Products, of Naples, NC.

MC 151721 (Sub-7), filed December 30, 1982. Applicant: LAUFENBERG FEED & AGRI-SERVICE, INC., Route 1, Box 90–A, Highland, WI 53543. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except classes A and B explosives and household goods), between points in IL, IA, MN and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151851 (Sub-2), filed December 20, 1982. Applicant: T. L. MOORE, d.b.a. T. L. MOORE TRUCKING, 18700 Roberts Rd., Riverside, CA 92504. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, NV and UT, on the one hand, and, on the other, points in IL, IN, GA, KY, MI, MO, NY, OH, PA, TN and WI.

MC 152320 (Sub-4), filed December 27, 1982. Applicant: VERSPEETEN CARTAGE LIMITED, 67 Dalton Road, Delhi, Ontario, Canada N4B 1B4. Representative: Neill T. Riddell, 900 Guardian Bldg., Detroit, MI 48226, (313) 963–3750. Transporting *metal products and transportation equipment*, between points in the U.S. under continuing contract(s) with Hoover Ball and Bearing Company (Canada) Limited, Manchester Tank Canada Limited and Mastico Industries, all of Tillsonburg, Ontario, Canada.

MC 152361 (Sub-2), filed December 21, 1982. Applicant: SHANNON MOTOR LINES, INC., 7517 Pivot St., Downey, CA 90241. Representative: A. Dayton Schell, 6 Eileen Way, Edison, NJ 08837, (201) 494–8765. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Eldon Associates, Inc., of Downey, CA.

MC 156010 (Sub-1), filed December 20, 1982. Applicant: PENN'S BEST, INC., Canal St., Meshoppen, PA 18630. Representative: John Fullerton, 407 N. Front St., Harrisburg, PA 17101, (717) 236–9318. Transporting *general comodities* (except classes A and B explosives), between those points in the US in and east of MN, IA, MO, AR, and TX.

MC 159051, filed December 21, 1982. Applicant: RINKER TRANSPORT, INCORPORATED, R.D. #1, Box 97, Hamlet, IN 46532. Representative: Clifford J. Rice, 3235 Willowcreek Rd. Portage, IN 46368, (219) 762–7711. Transporting *alcoholic beverages*, between points in the U.S. (except AK and HI).

MC 159220 (Sub-7), filed December 21, 1982. Applicant: REFRIGERATED INTERNATIONAL CARGO HAULERS, INC., 1170 Niagara St., Buffalo, NY 14240. Representative: Charles H. White, Jr., 1019 19th St., NW., Suite 800, Washington, DC 20036, (202) 785–3420. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Hickman, Coward & Wattles, Inc., of Buffalo, NY.

MC 162760, filed December 21, 1982. Applicant: JUAN SEGOVIA, dba. JAUN SEGOVIS TRUCKING, 705 Alemeda,

San Juan, TX 78589. Representative: William D. Lynch, 1003 West 6th St., Austin, TX 78703, (512) 472–7169. Transporting *brick, tile, pottery and clay products* and materials and supplies used in the installation of brick, tile, pottery and clay products, between points in TX.

MC 163061, filed December 20, 1982. Applicant: BENGAL MOBILE HOME SERVICES, INC., 19813 Hoo Shoo Too Rd., Baton Rouge, LA 70816. Representative: Janet Boles Chambers, 8211 Goodwood Blvd., Suite C–1, Baton Rouge, LA 70806, (504)–924–2686. Transporting *moblie homes, mobile trailers and protable buildings,* between points in AL, AR, FL, GA, LA, MS, OR and TX.

MC 163710 (Sub-3), filed December 20, 1982. Applicant: WESTERN LIQUID TRANSPORT, 2129 Harbor St., Pittsburg, CA 94565. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI), under continuing contract(s) with (1) AMCO Chemical Corporation, of Oakland, CA, (2) Great Western Chemical Company, of Portland, OR, and (3) Crown Zellerbach, of Commerce, CA.

MC 164061, filed December 20, 1982. Applicant: DOUBLE DUTCH, Jacksonburg Rd., Blairstown, NJ 07825. Representative: Robert Oostdyk, P.O. Box 877, Dover, NJ 07801, (201) 584–9034. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Equipment Company, Inc., of Greenville, NC and Life Anew, Inc., of Flanders, NJ.

MC 165261, filed December 20, 1982. Applicant: J&J WAREHOUSING AND DISTRIBUTION, INC., 117 Fourth St., Pittsfield, MA 01201. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Cornish Wire General Cable Company, of Williamstown, MA.

MC 165271, filed December 21, 1982. Applicant: CLINTON L. THOMPSON, P.O. Box 78, Osage City, KS 66523. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603. Transporting *telephone equipment and supplies,* between Kansas City, MO, on the one hand, and, on the other, points in KS.

MC 165281, filed December 20, 1982. Applicant: WILLIS G. PATRICK, d.b.a., PATRICK TRUCKING, 632 Locust St., Carthage, IL 62321. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *corn products,* between points in the US. (except AK and HI), under continuing contract(s) with Industrial Energy Corporation, and its subsidiaries, all of Keokuk, IA.

MC 165301, filed December 20, 1982. Applicant: WIESBROCK TRUCKING, INC., RFD Box 21, Leonore, IL 61332. Representative: James A. Andreoni, 222 East St. Paul St., Spring Valley, IL 61362–0187 (815)–664–2393. Transporting (1) *Coal and coal products,* (2) *ores and minerals,* (3) *farm products,* and (4) *commodities in bulk,* between points in Bureau, La Salle and Putnam Counties, IL, on the one hand, and, on the other, points in Dane and Rock Counties, WI, and Boone and Winnebago Counties, IL.

MC 165331, filed December 21, 1982. Applicant: THOLAND, INC., Piedmont Farm, Route 1, Box 28, Sperryville, VA 22740. Representative: David L. Bolyard, 112 South Pitt St., P.O. Box 453, Alexandria, VA 22313 (703)–548–3900. Transporting *lumber and wood products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Culpeper Wood Preservers, of Culpeper, VA.

MC 165360, filed December 27, 1982. Applicant: WESTERN STATES ENERGY, INC., 400 South 415 West, Salt Lake City, UT 84101. Representative: Jack L. Schiffer, 111–56 76th Drive, Forest Hills, NY 11375 (212) 263–2078. Transporting *general commodities* (except commodities in bulk and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Devo & Reynolds Company, of Louisville, KY, Conagra, Inc., of Chester, IL, Angus Chemical, of Northbrook, IL, Universal Packaging Corporation, of Concord, NH, and Pine Mountain Corporation, of Austin, TX. Condition: To the extent that the certificate in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 165381, filed December 27, 1982. Applicant: ROBERT E. FRANKLIN, d.b.a. ALLSTON PIANO & FURNITURE MOVING COMPANY, 167 Brighton Ave., Allston, MA 02134. Representative: Robert G. Parks, 27 Walnut Street, Suite 181, Wellesley Hills, MA 02181 (617) 235–3571. Transporting *pianos,* between points in CT, ME, MA, NH, NY, RI and VT.

Volume No. OP1–85

Decided: January 10, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 61440 (Sub-222), filed November 8, 1982. Applicant: LEE WAY MOTOR FREIGHT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown (same address as applicant) (405)–840–7570. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with E. I. du Pont de Nemours and Company, and its subsidiaries.

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–013

Decided: December 30, 1982.

By the Commission, Review Board No. 2, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 109173 (Sub-7), filed November 18, 1982. Applicant: MICHIGAN TRAILWAYS, INC., 12154 N. Saginaw Rd., Clio, MI 48420. Representative: Robert J. Brooks, 1828 L St., NW., Suite 1111, Washington, DC 20036, 202–466–3892. Transporting *passengers,* (1) over regular routes, between Flint and Detroit, MI: from Flint over U.S. Hwy 23 to junction Interstate Hwy 69, then over Interstate Hwy 69 to junction Interstate Hwy 475, then over Interstate Hwy 475 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Detroit, and return over the same route, serving all intermediate points and the off-route point of Pontiac, MI; and (2) over irregular routes, in charter and special operations, between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. 11343(e). In order to expedite issuance of any authority, please submit a copy of the petition for exemption, the affidavit, or proof of filing the application(s) for common control to Team 2, Room 2379.

Note.—(1) applicant may tack the proposed regular-route with existing authority; (2) applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient; and (3) applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 143503 (Sub-38), filed December 20, 1982. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: David B. Schneider, 210 W. Park Ave., Suite 1120, Oklahoma City, OK 73102, (405) 232-9990. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Reichart Furniture Company, of Martins Ferry, OH.

MC 146463 (Sub-6), filed December 13, 1982. Applicant: SLACK TRANSPORT LIMITED, P.O. Box 579, Caledonia, Ontario, CD NOA 1AO. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202, 716-853-0200. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 147942 (Sub-6), filed December 20, 1982. Applicant: M & L TRUCK LINE, INC., P.O. Box 358, Memphis, TN 38101. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Ave., Memphis, TN 38103, (901) 527-2482. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, CO, and AZ.

MC 148412 (Sub-9), filed November 26, 1982. Applicant: GRIBBLE TRUCKING, INC., RD 3, Rockwood, PA 15557. Representative: John Fullerton, 407 N. Front St., Harrisburg, PA 17101, 717-236-9318. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with (a) Thomas V. Flynn, of Horsham, PA, and (b) Harry R. Bell, of Philadelphia, PA.

MC 156243, filed December 20, 1982. Applicant: MICHAEL HARRELSON, d.b.a. HARRELSON TRUCKING COMPANY, P.O. Box 707, Calimesa, CA 92320. Representative: Michael Harrelson (same as applicant) (714) 795-3404. Transporting *rubber and plastic articles*, between points in Los Angeles, Riverside and Orange Counties, CA, and Parker County, TX, on the one hand, and, on the other, points in NM, TX, LA, MS and AR.

MC 162142 (Sub-1), filed December 21, 1982. Applicant: VERL CARNEY d.b.a. CARNEY TRUCKING, P.O. Box 627, Melvin, AL 36913. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson MS 39205 (601) 948-5711. Transporting (1) *lumber, wood products, building materials*, and (2) *forest products*, between points in AL, AR, FL, GA, IL, IN, KY, LA, MO, MS, OH, OK, TN, and TX.

MC 163632, filed December 21, 1982. Applicant: NATHANIEL JOHNSON, INC., 326 Brookfield Place, Rahway, NJ 07065. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904 (201) 572-5551. Transporting (1) *toilet preparations, electrical applicances, and parts*, between points in the U.S. (except AK and HI), under continuing contract(s) with Conair Corp., of Edison, NJ, and (2) *paper and paper products and plastic and plastic products*, between points in the U.S. (except AK and HI), under a continuing contract(s) with Accurate Box Co., Inc., of Newark, NJ.

Volume No. OP2-015

Decided: January 7, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 52793 (Sub-117), filed December 28, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant) 312-547-2148. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with R.R. Donnelley & Sons Company, of Chicago, IL.

MC 135513 (Sub-10), filed December 27, 1982. Applicant: ECHO TRUCKING COMPANY, P.O. Drawer AY, Benson, AZ 85602. Representative: Lex J. Smith, 2600 North Central, Suite 1900, Phoenix, AZ 85004, 602-234-2600. Transporting *ores and minerals, machinery, equipment, materials, and supplies*, and *such commodities* as are used in and produced in mining, milling, metallurgical processing and leaching processes, between points in the U.S. (except AK and HI) under continuing contract(s) with Phelps Dodge Corporation, of Phoenix, AZ.

MC 143712 (Sub-2), filed December 8, 1982, published in the **Federal Register** issue of January 4, 1983, and republished, as corrected, this issue. Applicant: A&D MOVING & STORAGE CO., INC., 250 Globe St., P.O. Box 835, Radcliff, KY 40160. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington DC 20036, 202-785-0024. Transporting *household goods*, between points in AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, *NV*, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI, WY, and DC. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(e). In order to expedite issuance of any authority please submit a copy of *the petition for exemption*, the affidavit, or proof of filing application(s) for common control to Team 2, Room 2379.

Note.—The purpose of this republication is to include NV in the territory description and to correct part of the condition.

MC 144433 (Sub-4), filed December 29, 1982. Applicant: DOUGLAS G. MARCHIONDA d.b.a. DOUG MARCHIONDA TRUCKING, Champlin Ave., Penn Yan, NY 14527. Representative: Douglas G. Marchionda (same address as applicant) 315-536-8417. Transporting *alcoholic beverages*, between points in Chautauqua and Monroe Counties, NY, and Monmouth County, NJ, on the one hand, and, on the other, points in Orange County, FL.

MC 144893 (Sub-7), filed December 29, 1982. Applicant: NORMAN HOWARD d.b.a. HOWARD TRUCKING OF UTAH, 1755 East 800 North, St. George, UT 84770. Representative: J. Ralph Atkin, 60 N. 300 E., St. George, UT 84770, 801-628-2612. Transporting (1) *petroleum and petroleum products*, and (2) *vehicle body sealer and sound deadening compounds and related products*, between points in Alameda and Los Angeles Counties, CA, on the one hand, and, on the other, points in CA, NV, AZ, UT, CO, NM, and TX.

MC 147932 (Sub-5), filed December 28, 1982. Applicant: COWEN TRUCK LINE, INC., Rte. 2, Perrysville, OH 44864. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215, 614-464-4103. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, IN, MI, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 156133 (Sub-5), filed December 6, 1982. Applicant: TANDEM TRANSPORT CORP., 322 U.S. Hwy 20 West, Michigan City, IN 46360. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, 515-274-4985. Transporting *lumber, wood products, and building materials*, between points in CO, FL, IN, MI, OR, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking

exemption under 49 U.S.C. 11343(e). In order to expedite issuance of any authority please submit a copy of the petition for exemption, the affidavit, or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 156373, filed December 22, 1982. Applicant: ZION TRANSPORTATION, INC., 1999 South Bascom Ave., Campbell, CA 95008. Representative: David H. Baker, 600 Maryland Ave. SW, Washington, DC 20024, 202–484–9090. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI),under continuing contract(s) with G.T.S. Transportation Services, Inc., of San Jose, CA.

Volume No. OP2–017

Decided: January 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 147573 (Sub-6),filed December 27, 1982. Applicant: OAK ISLAND EXPRESS, INC., 2 Sixth St., Jersey City, NJ 07302. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, 717–342–7595. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Target Stores, of Minneapolis, MN.

MC 161033 (Sub-2), filed December 27, 1982. Applicant: CARDINAL CONTAINER, INC., 500 Nordhoff Place Englewood, NJ. Representative: Jack L. Schiller, 111–56 76th Drive, Forest Hills, NY 11375, 212–263–2078. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Clifford Transportation Services, Inc., of Ridgefield Park, NJ.

MC 163503 (Sub-1), filed December 27, 1982. Applicant: NATIONAL FREIGHT SYSTEM, INC., 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell (same address as applicant) 214–642–6401.Transporting *food and related products,* between points in AR, CA, CO, FL, IA, IL, LA, NC, NE, NJ, OK, TN, TX and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–002

Decided: January 6, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 127247 (Sub-5), filed December 27, 1982.

Applicant: LELAND R. HAWTHORNE & SON, INC., 97 Maple St. Enfield, CT 06082. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103 (203) 728–0700. Transporting *farm products, food and related products, and such commodities as are dealt in or used by feed and grain stores, home and garden stores, and home improvement stores,* between points in ME, VT, NH, MA, CT, RI, NY, NJ. PA, WV, VA, MD, DE, Phelps County, MO and DC, on the one hand and, on the other, points in the U.S. in and east of WI, IL, KY, TN and MS.

MC 128087 (Sub-15), filed December 23, 1982. Applicant: JOHN N. JOHN, III, INC., P.O. Box 921, Crowley, LA 70526. Representative: William M. John (Same address as applicant) (318) 783–3394. Transporting *textile and burlap bags and bagging material,* between points in Acadia Parish, LA, and points in AL, AR, MS, and TX.

MC 128917 (Sub-10), filed December 27, 1982. Applicant: HANDY TRUCK LINE, INC., P.O. Box 148, Heyburn, ID 83336. Representative: Clay Handy (Same address as applicant) (208) 438–5071. Transporting *chemicals and related products,* between points in WA, on the one hand, and, on the other, points in ID and UT.

MC 134167 (Sub-4), filed December 27, 1982. Applicant: CARRIER SERVICE CO. OF WISCONSIN, INC., 2621 South 5th Place, Milwaukee, WI 53207. Representative: Michael J. Wyngaard, 150 E Gilman St., Madison, WI 53703 (608) 256–7444. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with American Motors Corporation of Kenosha, WI.

MC 150117 (Sub-2), filed December 28, 1982. Applicant: PREMIUM SERVICES, INCORPORATED, 6060 Manchester Ave., St. Louis, MO 63110. Representative: Stephen G. Newman, P.O. Box 456, Jefferson City, MO 65102 (314) 635–7166. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 151087 (Sub-12), filed December 27, 1982. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Hwy., Harvey, IL 60426. Representative: Leonard R. Kofkin, Suite 1515, 140 South Dearborn St., Chicago, IL 60603, (312) 580–2210. Transporting *metal products,* (1) between points in AL, AR, FL, GA, MS, NC, SC, and VA, and (2) between points in AL, AR, FL, GA, MS, NC, SC, and VA, on the one hand, and, on the other, points in the U.S. (except AK, HI, ND, SD, NE, and KS.)

MC 161767, filed December 23, 1982. Applicant: BOBBY SMITH BROKERAGE, INC., 2520 N.E. 35th, Ft. Worth, TX 76111. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Ft. Worth, TX 76112, (817) 457–2225. Transporting (1) *food and related products,* between points in the U.S. (except AK and HI), and (2) *polystyrene and plastic materials,* between Ft. Worth, TX, on the one hand, and, on the other, points of entry on the International Boundary line between the U.S. and Canada at Detroit, MI, Buffalo, NY, and points in Toole County, MT, Whatcom County, WA, and Clinton County, NY, and St. Clair, MI.

MC 165377, filed December 27, 1982. Applicant: CON–WAY CENTRAL EXPRESS, INC., 3240 Hillview Ave., Palo Alto, CA 94303. Representative: Robert M. Bowden, P.O. Box 3062, Portland, OR 97208, (503) 226–4692. Transporting *general commodities,* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, IA, KY, MI, MN, MO, OH, PA, and WI.

MC 165406, filed December 28, 1982. Applicant: McFERRIN, INC., R.R. #1, Box 47, Modale, IA 51556. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Victor's Iowa Pack, Inc. of Council Bluffs, IA.

Volume No. OP4–005

Decided: January 7, 1983.

By the Commission, Review Board No. 2, Members of Carleton, Williams, and Ewing.

MC 149497 (Sub-31), filed December 27, 1982. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Robert A. Wagman (same address as applicant) (715) 359–2907. Transporting *general commodities,* (except clases A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Signode Corporation, of Glenview, IL.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–001

Decided: January 3, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 140659 (Sub-18), filed December 16, 1982. Applicant: WESTERN KENTUCKY TRUCKING, INC., P.O. Box 1072, 1245 Center St., Henderson, KY 42420. Representative: George M. Catlett, 700–702 McClure Bldg., Frankfort, KY 40601, (502) 227–7384. Transporting (1) *pipe and pipe fittings*, between points in AL, AR, GA, IL, IN, IA, KY, MA, MI, MS, MO, OH, PA, TN, VA, WV, and WI, (2) *aluminum and steel products*, between points in WI, PA, MI, OH, IN, IL, MO, KY, and TN, on the one hand, and on the other, points in AR, AL, IN, KY, PA, GA, MI, MO, MS, TN, VA, and WI, and (3) *plastic products*, between points in IA, IL, IN, KY, OH, MO, TN, and TX.

MC 149388 (Sub-10), filed December 21, 1982. Applicant: FEPCO TRUCKING, INC., 3458 Moreland Ave., Conley, GA 30027. Representative: Archie B. Culbreth, Suite 570, 2200 Century Parkway, Atlanta, GA 30345, 404–321–1755. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—Applicant seeks to convert its contract carrier authorities to common carrier authority.

MC 150299 (Sub-4), filed December 13, 1982. Applicant: WARREN OIL TRANSPORTATION CO., INC., 727 South 13 St., Omaha, NE 68102. Representative: Marshall D. Becker, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NE, IL, IN, IA, KS, OK, CO, SD, ND, MN, MT, MI, MO, TX, KY, AR, WI, and WY.

MC 163558, filed December 22, 1982. Applicant: JAMES E. KINCAID, d.b.a. KINCAID TRUCKING CO., 2425 E. High St., Springfield, OH 45502. Representative: Doug Badgley, 130 Tri-County Pkwy., Suite 205, Cincinnati, OH 45246, 513–772–7900. Transporting *machinery* and *furniture and fixtures*, between points in the U.S., under continuing contract(s) with Dynamic Distributors, of Springfield, OH.

MC 165088, filed December 21, 1982. Applicant: DAN CLARK, d.b.a. CLARK TRANSPORTATION CO., Route 2, Box 215, Decatur, TX 76234. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116, 817–731–8431. Transporting (1) *lumber and wood products*, (2) *chemicals or allied products*, (3) *metal products*, (4) *machinery*, between points in AR, AZ, CA, CO, KS, KY, LA, MO, MS, NE, NV, NM, OK, TN, TX, UT and WY.

MC 165328, filed December 21, 1982. Applicant: SOUTHEASTERN WASTE TRANSPORTERS, INC., P.O. Box 278, Chatsworth, GA 30705. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *textile mill products*, between points in GA, on the one hand, and, on the other, points in the U.S. (except HI).

Volume No. OP5–003

Decided: January 6, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 102679 (Sub-7), filed December 22, 1982. Applicant: COLLINS MOVING SYSTEMS, INC., 904 West Morgan, Kokomo, IN 46901. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Washington, DC 20036, 202–785–0024. Transporting *household goods, furniture and fixtures*, between points in the U.S. (except AK and HI).

MC 114048 (Sub-5) filed December 27, 1982. Applicant: LOXTERCAMP TRANSPORT, INC., 307 South 3rd Ave. West, Melrose, MN 56352. Representative: Stanley C. Olsen, Jr., 5200 Wilson Rd. Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *food and related products*, between points in MN, ND, SD, IA, NE, WI, and IL.

MC 110859 (Sub-31), filed December 22, 1982. Applicant: CLARK TRANSFER, INC., 403 Dulty Lane, Burlington, NJ 08016. Representative: David A. Sutherlund, 1150 Connecticut Ave., NW. Washington, DC 20036, (202) 452–6800. Transporting *magazines and printed matter* between points in CT, DE, MD, NJ, NY, PA, VA, WV, and DC, under continuing contract(s) with Family Circle, Inc., of New York, NY.

MC 133189 (Sub-49), filed December 27, 1982. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van De North, Jr., c/o Briggs and Morgan, 2200 First National Bank Bldg., St. Paul, MN 55101, (612) 291–1215. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Cimarron Lumber and Supply Company, of Kansas City, MO.

MC 141758 (Sub-19), filed December 27, 1982. Applicant: LYDALL EXPRESS INC., 615 Parker Street, Manchester, CT 06040. Representative: Robert J. Dunbar (same address as applicant), (203) 646–1233. Transporting *pet food*, between points in the U.S. (except AK and HI), under continuing contract(s) with Wayne Pet Food Division, Continental Grain Company, of Everson, PA.

MC 144599 (Sub-9), filed December 27, 1982. Applicant: TRANSFER, INC., 4750 Kentucky Ave., Indianapolis, IN 46241. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, 317–635–2339. Transporting *furniture* between points in the U.S. (except AK and HI), under continuing contract(s) with Jasper Chair Company, of Jasper, IN.

MC 145058 (Sub-11), filed December 27, 1982. Applicant: THOMAS PRODUCE COMPANY OF MOUNT AIRY, INC., P.O. Box 16707, Greensboro, NC 27406. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036, (202) 457–1124. Transporting *textile mill products*, between points in the U.S. (except AK and HI) under continuing contract(s) with Coats and Clarks Sales Corporation, of Atlanta, GA.

MC 155999 (Sub-1), filed December 10, 1982. Applicant: SOUTHWEST EXPRESS, INC., P.O. Box 843, Taylors, SC 29687. Representative: Mitchell King, Jr., P.O. Box 5711, Greenville, SC 29606, (803) 288–6000. Transporting *food and related products* between points in the U.S. (except AK and HI), under continuing contract(s) with Shedd's Food Products, of Greenville, SC.

MC 165299, filed December 21, 1982. Applicant: MAXWELL MOTOR FREIGHT, 11908 James Rd., Minnetonka, MN 55343. Representative: Timothy H. Butler, 4200 IDS Center, 80 South Eighth St., Minneapolis, MN 55402, 612–371–3211. Transporting *food and related products*, between points in the U.S. under continuing contract(s) with Meinerz Creameries, of New Berlin, WI; Have-A-Portion, Inc., Roseville, MN; Stewart Sandwiches, Incorporated, of New Hope, MN and The Creamette Company, of New Hope, MN.

MC 165349, filed December 23, 1982. Applicant: UNITED TERMINALS LTD., 7890 Express Street, Burnaby, B.C. V5A 1T4. Representative: Hans J. Jensen (same address as applicant), (604) 420–6808. Over *regular* routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between Seattle, WA and Blaine, WA, over Interstate Hwy 5, serving all intermediate points.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–1049 Filed 1–13–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Ames Department Stores, Inc., 2418 Main Street, Rocky Hill, CT 06067.

2. Wholly-owned subsidiaries which will participate in the operations, and States of their Incorporation:

Eastern Retailers Service Corporation—(New York).
Ames of Southbridge, Inc.—(Massachusetts).
Gilfel of Vermont, Inc.—(Connecticut).
Ames of Salisbury, Inc.—(Maryland).
Ames of Pennsville, Inc.—(New Jersey).
Ames of Carbondale, Inc.—(Pennsylvania).
Ames of Ogdensburg, Inc.—(Connecticut).
Ames of New Hampshire, Inc.—(New Hampshire).
Ames of Seaford, Inc.—(Delaware).
Ames of Maine, Inc.—(Maine).
Sema Distribution, Inc.—(New Jersey).

1. Parent corporation and address of principal office: Clark Equipment Company, Circle Drive, Buchanan, Michigan 49107.

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

(i) Clark Equipment of Canada Ltd., Canada.
(ii) Clark Equipment Credit of Canada Ltd., Canada.
(iii) Clark Automotive Products Corporation, Michigan.
(iv) Clark Equipment Engineering and Marketing Corporation, Michigan.
(v) Michigan Power Shovel Company, Michigan.
(vi) Clark Equipment Credit Corporation, Michigan.
(vii) Clark Equipment Realty Corporation, Delaware.
(viii) Clark Financial Marketing Corporation, Michigan.
(ix) Clark Rental Corporation, Michigan.
(x) Clark Rental System, Inc., Michigan.
(xi) Clark Equipment Overseas Finance Corporation, Delaware.

1. Parent Corporation and address of principal office: Columbus Foundries, Inc., 1600 Northside Industrial Blvd., Columbus, Georgia 31904.

2. Wholly-owned subsidiary which will participate in the operations and State of incorporation: Columbus Neunkirchem Foundry, Inc.

1. Parent Corporation and address of principal office: Dart & Kraft, Inc., 2211 Sanders Road, Northbrook, IL 60062.

2. Wholly-owned subsidiaries which will participate in the operations and State (S) of incorporation:

(A) Dart Industries, Inc. (Delaware).
(B) Duracell International, Inc. (Delaware).
(C) Hobart Corporation (Delaware).
(D) Kraft, Inc. (Delaware).
(E) Universal Packaging Corporation (Delaware).
(F) Universal Bow Transport, Inc. (New Hampshire).

1. Parent Corporation and address of principal office: Springfield Sugar & Products Company, 1120 Harvey Lane, Suffield, Connecticut 06078.

2. Wholly-owned subsidiary which will participate in the operations: Hamlet Trading Corporation (a Massachusetts corporation).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-1048 Filed 1-13-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15046]

Motor Carriers; United Van Bus Delivery—Continuance in Control Exemption—Service Express Transport Ltd.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97-261 (September 20, 1982), United Van Bus Delivery (United) which holds authority in Nos. MC-139066 and MC-141620, and, in turn, Arnie Hillman, who owns stock in United, seek an exemption from the requirement under section 11343 of prior regulatory approval of their continuance in control of Service Express Transport LTD which has an application pending in No. MC-165325.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402

Comments should refer to No. MC-F-15046.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 11, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-1050 Filed 1-13-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-34)]

Rail Carriers; Missouri Pacific Railroad Co.—Abandonment—In Butler and Ripley Counties, Mo.; Findings

The Commission has issued a certificate authorizing the Missouri Pacific Railroad Company to abandon its 19-6 mile rail line between milepost 181.3 near Neelyville, MO, and milepost 200.9 at Doniphan, MO, located in Butler and Ripley Counties, MO. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (a) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27 (formerly 49 CFR 1121.38).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-1046 Filed 1-13-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30083]

Rail Carriers; the O'Brien Machinery Co.—Exemption From 49 U.S.C. Subtitle IV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the O'Brien Machinery Company from 49 U.S.C. Subtitle IV in connection with its current rail operations.

DATES: This exemption is effective on January 13, 1983. Petitions to reopen this proceeding must be filed by February 3, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative, Burton K. Stein, 1900 Market St., Suite 328, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Avenue NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area (800) 424–5403—Toll free for outside the DC area.

Decided: January 7, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–1047 Filed 1–13–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Attorney General

Advisory Committee on Tax Litigation; Meeting

The Tax Division's Advisory Committee on Tax Litigation will meet from 9:30 AM to 5:00 PM on January 31, 1983, in Room 3000 of the Benjamin Franklin Post Office Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C.

The Agenda for the meeting is:

I. *Opening Remarks* (9:30 a.m.).

II. *Attorney-Client Privilege: Information Disclosed for Use in Preparing Returns or in Formulating Positions to be Taken on Returns* (9:35 a.m.).

III. *Use of Undercover Operations to Investigate Tax Crimes* (10:00 a.m.).

IV. *Criminal Tax Cases: Grand Jury Investigation vs. Administrative Investigation* (10:30 a.m.).

V. *Less Costly Alternatives to Formal Discovery* (11:30 a.m.).

VI. *Lunch* (12:00–1:30 p.m.).

VII. *Addressing "Abusive" Shelters and Other Tax Avoidance Schemes* (1:30 p.m.).

VIII. *Section 6701—The Civil Penalty for Aiding and Abetting Understatement of Tax Liability* (3:30 p.m.).

IX. *Public Comments* (4:00 p.m.).

X. *Summation: Establishment of Next Meeting Date and Proposed Agenda Items* (4:25 p.m.).

The Meeting is open to the public with a period set aside for their comments on agenda items. Approximately 30 seats will be made available to the public on a first-come, first-served, basis.

For further information, as well as to secure admission to the building, please contact Diane M. Kozub, Committee Management Liaison Officer, Tax Division, U.S. Department of Justice, Washington, D.C. 20530, (202) 633–3968.

Dated: January 3, 1983.

Glenn L. Archer, Jr.,

Assistant Attorney General, Tax Division.

[FR Doc. 83–1089 Filed 1–13–83; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Importer of Controlled Substances; Registration

By Notice dated October 21, 1982, and published in the **Federal Register** on October 28, 1982, (47 FR 47948), Arenol Chemical Corporation, 40–33 23rd Street, Long Island City, New York 11101, made application to the Drug Enforcement Administration to be registered as an importer of Phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: January 7, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83–979 Filed 1–13–83; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 3, 1983–January 7, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–13,437; Arbaba Sportswear, Inc., New York, NY

TA–W–13,279; Waterous Co., Traverse City Div., Lake Street Plant, Traverse City, MI

TA–W–13,455; American Bosch Corp., Springfield, MA

TA–W–13,603; Ellingson Timber Co., Baker, OR

TA–W–13,604; Ellingson Lumber Co., Baker, OR

TA–W–13,607; MCR Fashions, Inc., Hoboken, NJ

TA–W–13,460; Flora Fashions, Stanhope, NJ

TA–W–13,485; John DePinto Enterprises, West New York, NJ

TA–W–13,497; West New York Sportswear, West New York, NJ

TA–W–13,403; Noranda Lakeshore Mines, Inc., Casa Grande, AZ

TA–W–13,439; Century Inks, Corp., Park Ridge, IL

TA–W–13,440; Century Inks, Corp., Beltsville, MD
TA–W–13,441; Century Inks, Corp., Glendale, WI
TA–W–13,442; Century Inks, Corp., Minneapolis, MN
TA–W–13,443; Century Inks, Corp., Pennsauken, NJ
TA–W–13,444; Century Inks, Corp., Fenton, MO
TA–W–13,433; Phoenix Clothes, Vineland, NJ
TA–W–13,413; Hanna Mining Co., Riddle, OR
TA–W–13,413A; Hanna Nickel Smelting Co., Riddle, OR
TA–W–13,402; National Zinc Co., Bartlesville, OK
TA–W–13,428; Cyclops Corp., Sawhill Tubular Div., Fabricating Plant, Wheatland, PA

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–13,608; Cousin's Fashions, T/A Pepi Spina, West New York, NJ
TA–W–13,600; Block Industries, New York, NY
TA–W–13,486; Junior Gallery, Ltd, Secaucus, NJ
TA–W–13,146; Laconia Needle Manufacturing Co., Inc., Laconia, NH
TA–W–13,464; Noranda Mining, Inc., Ontario Project, Park City, Ut
TA–W–13,466; Trio Knitting Mills, Inc., New York, NY

In the following cases the investigation revealed that criterion (3) has not been met for the reason specified.

TA–W–13,276; Ranchers Exploration & Development Corp., Bluebird Mine, Miami, AZ

Imports did not contribute importantly to worker separations at the firm.

TA–W–13,498; Brisco Manufacturing, Inc., Elizabeth, NJ

There are no known U.S. imports of military uniforms.

TA–W–13,475; Clara Fashions, Inc., Jersey City, NJ

The investigation revealed that criterion (2) has not been met. Sales or production did not decline as required for certification.

TA–W–13,470; Perfection Heat Treating, Inc., Detroit, MI

Workers did not produce an article within the meaning of Section 222(3) of the Trade Act as required for certification.

TA–W–13,468; Midway Lincoln-Mercury, Inc., Franklin, OH

Workers did not produce an article within the meaning of Section 222(3) of the Trade Act of 1974.

TA–W–13,474; Campi Fashions, Hoboken, NJ

The investigation revealed that criterion (2) has not been met. Sales or production, or both, did not decline as required for certification.

TA–W–13,447; Trace Fork Coal Co., Premier, WV

Aggregate U.S. imports of coal or coke did not increase as required for certification.

TA–W–13,495; Stephanie Coat, Inc., Hoboken, NJ

Imports did not contribute importantly to workers separations at the firm.

TA–W–13,499; Bunge Corp., Logansport, IN

Aggregate U.S. imports of soybean oil and meal are negligible.

TA–W–13,617; Marathon Steel Co., Rolling Mills Div., Tempe, AZ

Aggregate U.S. imports of rebars and structural steel did not increase as required for certification.

TA–W–13,631; Marathon Steel Co., Fabrication Div., Phoenix, AZ

Aggregate U.S. imports of rebars and structural steel did not increase as required for certification.

TA–W–13,753; Kane Steel Co., Millville, NJ

Workers do not produce an article within the meaning of Section 222(3) of the Trade Act of 1974.

TA–W–13,530; Dole Company, Lanai Plantation, Lanai City, Lanai, HI

The investigation revealed that criterion (1) has not been met. A significant number or proportion of the workers were not separated from employment at the firm.

Affirmative Determinations

TA–W–13,113; General Dynamics Corp., Quincy Shipbuilding Div., Quincy, MA

A certification was issued in response to a petition received on November 27, 1981 covering all workers separated on or after December 10, 1981.

TA–W–13,601; Block Industries, Wilmington, NC

A certification was issued in response to a petition received on June 25, 1982 covering all workers separated on or after April 6, 1981.

TA–W–13,494; Nicoletta Fashions, Jersey City, NJ

A certification was issued in response to a petition received on May 15, 1982 covering all workers separated on or after November 1, 1981.

TA–W–13,472; Aloma Coat Corp., Hoboken, NJ

A certification was issued in response to a petition received on May 18, 1982 covering all workers separated on or after May 13, 1981.

TA–W–13,425; Avon Services, Mineral Point, MO

A certification was issued in response to a petition received on April 6, 1982 covering all workers separated on or after December 1, 1981.

TA–W–13,430; IMCO Services, Inc., Apex Mine, Mineral Point, MO

A certification was issued in response to a petition received on April 6, 1982 covering all workers separated on or after December 1, 1981.

TA–W–13,527; Del Monte Corp., Molokai Plantation, Kualapuu, Molokai, HI

A certification was issued covering all workers of the firm separated on or after May 24, 1981.

TA–W–13,528; Del Monte Corp., Honolulu Cannery, Honolulu, Oahu, HI

A certification was issued covering all workers of the firm separated on or after May 24, 1981.

TA–W–13,529; Dole Co., Honolulu Can Plant, Honolulu Oahu, HI

A certification was issued covering all workers of the firm separated on or after April 1, 1982.

TA–W–13,531; Dole Co., Honolulu Cannery, Honolulu, Oahu, HI

A certification was issued covering all workers of the firm separated on or after April 1, 1982.

TA–W–12,913; Harley-Davidson Motor Co., Inc., York, PA

A certification was issued in response to a petition received on August 6, 1981 covering all workers separated on or after March 1, 1982.

TA–W–13,471; Adriatic Originals (Formerly Cerro Coat, Inc.), Hoboken, NJ

A certification was issued in response to a petition received on May 18, 1981 covering all workers separated on or after August 24, 1981.

I hereby certify that the aforementioned determinations were issued during the period January 3, 1983–January 7, 1983. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 11, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-1104 Filed 1-13-83; 8:45 am]
BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the annual list are effective on January 1, 1983.

SUMMARY: The purpose of this notice is to announce additions to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, United States Employment Service (Attention: TEEPA) 601 D Street, N.W., Washington, D.C. 20213. Telephone: 202-376-6890.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on June 4, 1982 (47 FR 24474).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 645.5(c) and are added to the annual list of labor surplus areas, effective January 1, 1983. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on December 29, 1982.

Albert Angrisani,

Assistant Secretary of Labor.

Additions to the Annual List of Labor Surplus Areas—January 1, 1983

Labor Surplus Area	*Civil Jurisdiction Included*
Alabama	
Bal. of Jefferson County	Jefferson County less Birmingham City
Connecticut	
Bristol City	Bristol City
Illinois	
Henry County	Henry County
Mercer County	Mercer County
Massachusetts	
Fitchburg City	Fitchburg City in Worcester County
New Hampshire	
Sullivan County	Sullivan County
North Carolina	
Columbus County	Columbus County
Iredell County	Iredell County
Ohio	
Bal. of Summit County	Summit County less Akron City
Rhode Island	
Pawtucket City	Pawtucket City
Tennessee	
Madison County	Madison County
Wisconsin	
Manitowoc County	Manitowoc County

[FR Doc. 83-1017 Filed 1-13-83; 8:45 am]
BILLING CODE 4510-30-M

Revised Schedule of Remuneration for the UCX Program

Under section 8521(a)(2) of title 5 of the United States Code the Secretary of Labor is required to issue from time to time a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services. The schedules are used to calculate the base period wages and benefits payable under the program of Unemployment Compensation for Ex-Servicemembers (UCX Program).

A revised Schedule of Remuneration has been published from time to time as changes in military pay and allowances have occurred. In the past the revised schedules have been published as amendments to the regulations, at 20 CFR 614.19 The regulations have been revised to authorize issuance of revised schedules as notices which are published in the **Federal Register**, 20 CFR 614.12 (47-FR 54702).

The revised schedule published with this Notice reflects increases in military pay and allowances which were effective in October 1982. The revised schedule was issued on December 1, 1982, in Unemployment Insurance Program Letter No. 7-83, and is effective with respect to UCX first claims filed on or after January 2, 1983.

Accordingly, the following new Schedule of Remuneration, issued pursuant to 5 U.S.C. 8521(a)(2) and 20 CFR 614.12, applies to "First Claims" for UCX which are effective on and after January 2, 1983:

Pay Grade	Monthly rate
(1) Commissioned Officers:	
0-10	[illegible]
0-9	6,181
0-8	[illegible]
0-7	[illegible]
0-6	[illegible]
0-5	4,019
0-4	3,335
0-3	2,773
0-2	2,173
0-1	[illegible]
(2) Warrant Officers:	
W-4	3,126
W-3	[illegible]
W-2	[illegible]
W-1	[illegible]
(3) Enlisted Personnel:	
E-9	2,814
E-8	2,372
E-7	2,021
E-6	1,716
E-5	1,443
E-4	1,219
E-3	[illegible]
E-2	[illegible]
E-1	906

The publication of this new Schedule of Remuneration does not revoke any prior schedule or change the period of time any prior schedule was in effect.

Signed at Washington, D.C., on January 7, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-1016 Filed 1-13-83; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-82-132-C]

Rapoca Energy Co.; Petition for Modification of Application of Mandatory Safety Standard

Rapoca Energy Co., Norton Coal Division, Route 1, Box 80, Nora, Va. 24272 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles) to its Nora Preparation Plant (I.D. No. 44-05498) located in Dickenson County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that refuse piles not be located over abandoned openings or steamlines.

2. As an alternative method, petitioner proposes to cover existing abandoned mine openings with refuse material. In support of this proposal, petitioner states that prior to covering the mine openings with refuse material:

a. A sandstone cobble underdrain will be constructed to prevent a head build up in the abandoned mine works and to carry any water being made away from the refuse pile itself;

b. Mine plugs of clay or inert material will be constructed over the mine opening prior to covering with refuse material;

c. Adjacent mining will be limited to 200 feet of the existing mine workings.

3. The refuse materials would not support combustion and the existing refuse handling plan employs adequate dewatering measures throughout the life of the site.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 14, 1983. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

January 7, 1983.

[FR Doc. 83-1103 Filed 1-13-83; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

[Docket No. F-300]

Conference on Workplace Health Programs Held on October 6-8, 1982; Availability of Report

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of availability of conference report.

SUMMARY: On October 6-8, 1982, OSHA held a conference dealing with workplace health programs. The conference was attended by representatives of organized labor, State OSHA programs, private employers and by other occupational health professionals.

Conferees discussed the essential elements of workplace health programs, with the purpose of assisting OSHA in better use of its health staff and other resources. The result of the discussions was a consensus as to the most important factors in such programs. These deliberations have now been summarized in a report which is available for public inspection at the OSHA Docket Office, U.S. Department of Labor, 200 Constitution Avenue NW., Room S6212, Washington, D.C. 20210.

The document will also be available in all OSHA regional offices.

FOR FURTHER INFORMATION CONTACT: Anthony E. Goldin, Director, Policy, Legislation and Regulatory Analysis, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3629, Washington, D.C. 20210; (202) 523-8021.

Signed at Washington, D.C., this 11th day of January 1983.

Thorne G. Auchter,

Assistant Secretary of Labor

[FR Doc. 83-1102 Filed 1-13-83; 8:45 am]

BILLING CODE 4510-26-M

[V-83-1]

Hammermill Papers Group

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of application for variance; notice of hearing on the application for variance.

SUMMARY: The notice announces the application of Hammermill Papers Group for a variance from the part of 29 CFR 1910.261(c)(9)(i) which requires that the flagman must always remain in sight of the operator when the crane or locomotive is in motion. It also announces a hearing on the Hammermill Papers Group variance application.

DATES: Interested parties are invited to submit comments, written data, views and arguments relating to this variance application no later than February 14, 1983.

Interested parties wishing to participate in the hearing noticed by this document may file a request to appear no later than January 31, 1983.

The hearing will begin at 9:30 a.m. on February 23, 1983.

ADDRESS: Comments on the variance application and requests to participate in the hearing must be filed in duplicate with both:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-3662, Washington, D.C. 20210.

and

Nahum Litt, Chief Administraive Law Judge, U.S. Department of Labor, Vanguard Building, Suite 700, 1111 20th Street NW., Washington, D.C. 20036.

The location of the hearing will be in the Federal Building, Courtroom B, Second Floor, 6th and State Streets, Erie, Pennsylvania 16533.

Written comments received and hearing participation requests will be available for inspection and copying in the Office of Variance Determination, Room N-3662 at the above address.

SUPPLEMENTARY INFORMATION:

I. Notice of Application

Notice is hereby given that Hammermill Papers Group (hereinafter referred to as "Applicant"), Erie Plant, 1540 East Lake Road, Erie, Pennsylvania, 16533 has made application pursuant to section 6(D) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the part of 29 CFR Part 1910.261(c)(9)(i) which requires that the flagman must always remain in sight of the operator when the crane or locomotive is in motion.

The place of employment that will be affected by the application is the Erie Pennsylvania plant of the Applicant.

The Applicant certifies that employees who would be affected by the variance have been notified of the application by presenting a copy of it to the authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing. Subsequently, the employees' Union has submitted a request for a hearing. Section II of this notice will discuss the particulars of the hearing scheduled in this matter.

Regarding the merits of the application, the Applicant contends that radio communications between the railroad crew is as safe and healthful as visual contact between the railroad crew as required by § 1910.261(c)(9)(i). The Applicant proposes that their railroad crews use portable radios to relay verbal instructions in directing movement of the locomotives rather than using visual observation of hand signals. The railroad crew would thus be able to maintain voice contact when throwing switches, coupling, uncoupling or spotting rail cars within the Applicant's railroad system. The Applicant contends that constant visual contact while the locomotive is in motion is not the exclusive means of achieving a safe operation.

The Applicant further states that the operating area of the locomotive encompasses approximately 7.5 miles of track, all within the confines of the company's property. Approximately one mile is owned, maintained and operated by Conrail. Only two miles of its track are in frequent use. The maximum operating speed of the locomotive is 10 m.p.h. Normaly, only one to five rail cars are moved at one time. Inbound cargo includes longwood, wood chips, pulp and chemicals such as chlorine, caustic soda, clay, rosin, sodium chlorate, talc, sulphur dioxide and starch. Outbound products are pulp and paper.

The Applicant maintains that a variance from the requirement that the railroad crew be in visual contact with the locomotive engineer at all times should be granted because the use of radios in conjunction with written operational procedures provides an operation which is as safe as, or safer than, the currently employed and outdated method of hand signals. Specifically,

(a) Without the visual contact requirement, crew members' mobility will be enhanced and they will be able to position themselves at the safest possible location during train movement;

(b) Radios will provide a means of communicating instantaneously, whereas hand signals must await visual contact between the parties; and

(c) Radios improve communication under adverse weather conditions and after nightfall.

The Applicant contends that its request for a variance should be granted because the OSHA requirement for visual contact applies only to the pulp and paper industry. Locomotives routinely operate in other industries using radio communication in lieu of visual contact. There is nothing unique about the pulp and paper industry which justifies a visual contact requirement.

The Applicant contends that it has taken the following steps to assure that the system of radio communication will work safely and efficiently:

(a) The Applicant has purchased a sufficient number of radios and microphones to supply all required employees;

(b) The radios purchased are a 2 watt FM system providing a clear and audible signal;

(c) The Applicant has obtained two separate radio frequencies from the Federal Communications Commission. One of these frequencies will be used solely among members of the train crew to direct the movement of the locomotive. The other frequency will be used only for communication between the locomotive engineer and the dispatcher. The use of these unique Hammermill FM frequencies prevents interference from Conrail train crews operating on the company's premises and from other possible sources of interference, e.g. boats, and airplanes;

(d) The radios, when not in use, will be maintained in a secure place under the control of Hammermill supervision; employees will be responsible for the security of radios which have been issued to them;

(e) The radios will be checked regularly and recharged when appropriate; and,

(f) Employees will be trained in the use of the radios as well as in the operational procedures which apply during the use of radios. The locomotive engineer will be under instruction not to move the train until given a radio signal from the crew. Should radio failure or interference occur after an order to move has been given, the locomotive engineer will stop. The engineer will not move the train again until radios are repaired, replaced or until interference has cleared. Established operational procedures will be followed.

A copy of the application will be made available for inspection and copying upon request at the Office of Variance Determination listed above.

II. Notice of Hearing

Notice is hereby given pursuant to section 6(d) of the Occupational Safety and Health Act of 1970, Secretary of Labor's Order No. 8–76 (41 FR 25059) and 29 CFR 1905.20, that a hearing will be held on the application of Hammermill Papers Group, Erie Plant, 1540 East Lake Road, Erie, Pennsylvania 16533, for a variance from the part of 29 CFR 1910.261(c)(9)(i) which requires that the flagman must always remain in sight of the operator when the crane or locomotive is in motion.

By letter dated December 23, 1982, Local 620, United Paperworkers International Union, AFL–CIO–CLC (hereinafter referred to as "Union"), 703 French Street, Erie, Pennsylvania 16501, the authorized employee representative, requested a hearing on the variance application. The Union is opposed to the Applicant's request to use radio communication as a substitute for the standard's requirement for a flagman to be in visual contact with a locomotive engineer while the engine is in motion. The Union does not object to the use of radio communication as an aid to the present method of operation but only when radio communication is used as a substitute for visual contact between the railroad crew.

The Union also strongly objects to the Applicant's announced intention to reduce its three-man railroad crews to two-man railroad crews. The Union states that Conrail operates locomotives and freight cars into the Applicant's premises with a crew consisting of three men that use radio communication. The Union's understanding is that the Conrail railroad crews have frequent problems with their radio and therefore rely primarily on visual contact as the method of insuring the safe movement of their rail cars.

The Union further contends that during periods of darkness, railroad crew members such as flagmen and switchmen must use one hand to maintain their hold on a moving train and their other hand to grasp and use a lantern or other lighting device. The contention is that should an emergency situation occur, it would not be possible for the flagman or switchman to attempt to use a radio to communicate with the locomotive engineer. Similarly, during periods of severe cold weather, which are common at the Erie Plant during the winter months, crew members must wear extensive protective clothing

including hoods, earmuffs and hats in order to protect their faces and heavy mittens in order to protect their hands. With such protective clothing, crew members operating the company's rail cars would not be able to communicate by radio at all, much less in a safe manner.

The Union further states that extremely loud conditions exist in many areas of the Applicant's facility. In addition, the engineer is required to frequently use the locomotive horn which emits an extremely loud noise. The Union contends that the loud conditions, in addition to a second radio in the cab of the locomotive used for railroad yard communications, could cause the engineer to fail to understand a radio communication in an emergency situation.

The Union states there are other reasons for their opposition which will be brought out in the hearing. Some of these situations include the need for a third crew member to reduce the risk of derailment, the need for the flagman and the switchman to mannually brake a rail car and the need for the railroad crew to pay close attention to constant truck and pedestrian traffic across railroad tracks.

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than February 14, 1983.Intersted persons, including affected employers and employees, may file a request to present views and evidence and to participate in the hearing no later than January 31, 1983. Such request shall contain a statement of the position to be taken and a concise summary of the evidence to be adduced in support of that position.

Comments on the variance application and requests to participate in the hearing must be filed in duplicate with both:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3662, Washington, D.C. 20210
and
Nahum Litt, Chief Administrative Law Judge, U.S. Department of Labor, Vanguard Building, Suit 700, 1111 20th Street NW., Washington, D.C. 20036, Docket #V–83–1.

These submissions will be available for inspection and copying in the Office of Variance Determination, Room N–3662 at the above address.

The Applicant, the Union, and OSHA, represented by the Solicitor are hereby granted party status and need not submit additional requests to participate in the hearing. Granting of party in interest status to additional interested persons will be at the discretion of the appointed administrative law judge in the interest of a full and fair hearing on the issues.

The hearing will be convened on Wednesday, February 23, 1983, at 9:30 a.m., Federal Building, Courtroom B, Second Floor, 6th and State Streets, Erie, Pennsylvania 16533, at which time the Applicant, the Union, OSHA and any person who has been granted party status in accordance with the above requirements, may submit written or oral data, views or arguments and call witenesses, subject to the regulations on hearings contained in 29 CFR 1905.20 et seq., the Occupational Safety and Health Act, the Administrative Procedure Act, pertinent provisions of the Federal rules of civil procedure, and rulings of the administrative law judge.

The issues of fact and law will include, although not necessarily be limited to, whether the Applicant has demonstrated by a preponderance of evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used will provide places of employment which are as safe and healthful as those which would prevail if the standard were complied with.

I hereby designate as hearing examiner to conduct this hearing an administrative law judge to be appointed by the Chief Administrative Law Judge of the United States Department of Labor.

Signed at Washington, D.C. this 12th day of January 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83–1240 Filed 1–13–83; 8:45 am]

BILLING CODE 4510–26–M

[V–82–6]

Burroughs OEM Corp.; Grant of Variance

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Grant of variance.

SUMMARY: OSHA has granted the Burroughs OEM Corporation application for a temporary variance from the standards prescribed in 29 CFR 1910.1025(e)(1) and 1910.1025(i)(3) concerning the utilization of engineering and work practice controls for limiting exposure to lead, and the provision and assurance of use of shower facilities, respectively.

DATES: The effective date of this grant of variance is January 14, 1983.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination, U.S. Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N–3662, Washington, D.C. 20210, Telephone: (202) 523–7183

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036

U.S. Department of Labor, Occupational Safety and Health Administration, Belle Mead GSA Depot, Building T3, Belle Mead, New Jersey 08502.

I. Background

On June 23, 1982, the Burroughs OEM Corporation, 141 Mount Bethel Road, Warren Township, New Jersey 07060 made application pursuant to Section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970 (84 Stat. 1594, 29 U.S.C. 655) and 29 CFR 1905.10 for a temporary variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.1025(e)(1) which require that engineering and work practice controls be used to control exposure to lead, and in 29 CFR 1910.1025(i)(3) (i), (ii), and (iii), which require that shower facilities be provided and used. An interim order was granted on September 3, 1982 (47 FR 39039–40; September 3, 1982).

The address of the place of employment that will be affected by this application is as follows: 141 Mount Bethel Road, Warren Township, New Jersey 07060.

Applicant certifies that employees who would affected by the variance have been informed of the application by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

One comment was received from the American Federation of Labor and Congress of Industrial Organizations dealing not with the substance of the variance request but with an oversight on the part of the Agency in allowing the interim order to remain in effect for an indefinite period. A clarification has since been sent to the applicant setting June 30, 1983 as the maximum effective

time for the order unless a variance is granted prior to that date.

Regarding the merits of the application, the applicant states that it is unable to comply with the requirements of § 1910.1025(e)(1) by the date required by the standard and, further, that when it is able to comply with these requirements, the shower facilities no longer will be required pursuant to § 1910.1025(i)(3).

The applicant states that the manufacture of the display devices requires the use of lead glass frit, a material considered to be hazardous because it contains lead oxide. Lead glass frit is presently the state-of-the-art material for manufacture of display devices because it has the necessary physical properties and the melting temperature required. The lead glass frit is mixed with other materials to make either a paste or liquid which is used as a peripheral sealant for the various forms of display devices. The manufacturing process requires that the paste or liquid be applied either manually or through spray operations to the display devices, which are then transferred to various high temperature sealing ovens, which are used to melt the material to form a glass ceramic seal.

The applicant has implemented a comprehensive safety and health program which has assured that no employee is exposed to concentrations of lead above the permissible exposure limit. This current program is, however, partially dependent upon the use of respirators. The applicant is presently in the process of implementing improvements to its program, however, which should eliminate the need to use respirators. These improvements require extensive new construction and alteration of existing facilities, and cannot be completed before June 30, 1983.

Under § 1910.1025(e)(1) employers within the electronics industry are required to reduce and maintain employee exposure to lead to or below 50 ug/m^3, without regard to respirators, within one year from the effective date. For all industries for which the standard has been found feasible, of which electronics is one, OSHA has taken the position that the effective date of the standard with regard to engineering controls and construction of hygiene facilities, is June 29, 1981. On that date, the Supreme Court of the United States denied certiorari in the matter of *Lead Industries Association, Inc., et. al.* v. *Donovan*, 101 S. Ct. 3148 (1981), and dissolved its stay on implementation of paragraph (e) of the lead standard.

The applicant has stated and produced substantiating evidence that from about July, 1979, the Corporation has explored a variety of methods and processes in an effort to protect its employees, including product redesign, use of alternative (non-lead) materials in the manufacturing process, work station redesign and engineering controls. The applicant has determined that the only feasible method presently available to reduce employee exposure to lead to or below the permissible exposure limit, without utilizing respirators, is work station redesign and related additional engineering controls. The work station redesign project is underway and is scheduled for completion about June 30, 1983.

In the interim, the applicant states that it has already implemented a comprehensive safety and health program to protect its employees from the hazards of lead, which includes the use of engineering and administrative controls, respirators, full-body protective work clothing, hygiene practices, biological monitoring, medical removal, and extensive employee training.

The applicant further states that, because of the steps it has taken, including the use of respirator selection based upon quantitative fit testing and the requirement that all employees working in any lead manufacturing area wash all exposed skin areas with soap and tepid running water and use medicated hand lotion each time they leave the lead manufacturing areas, it is providing adequate protection for the employees. In substantiation thereof, the applicant states that only one individual of the 32 whose blood had to be analyzed for lead content in August 1981 needed to be medically removed. No other employee's blood lead value was greater than 39 ug/100g, and the average value for all 32 employees was 27.4 ug/1000gm whole blood. Similarly, in March 1982, only one of the 27 employees required to have biological monitoring had to be medically removed. Only 2 other employees' blood lead values were greater than 40 ug/100g, and the average value for all 27 employees was 27.1 ug/100g.

II. Order

It appears from the application for a temporary variance and an interim order that the Burroughs OEM Corporation is unable to comply with the requirement of 29 CFR 1910.1025(e)(1) by the date required by the standard. It appears further, that compliance with 29 CFR 1910.1025(i)(3) is not warranted inasmuch as the Corporation is presently implementing engineering controls which by June 30, 1983 should render unnecessary the use of respiratory protection and eliminate the requirement to construct and use showers by reducing airborne exposure to lead within the facility to levels below the permissible exposure limit (PEL). It further appears that the applicant is taking all available steps to safeguard its employees during the time needed to come into compliance with the standard. Therefore, it is ordered, pursuant to the authority in Section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.10(c) and in Secretary of Labor's Order No. 8–76(41 FR 25059), that the Burroughs OEM Corporation be, and is hereby, authorized to conduct its manufacturing process prior to coming into compliance with the requirements of 29 CFR 1910.1025(e)(1), and without constructing the shower facilities required by paragraph (i)(3), by complying with the following:

1. The terms of this Order are applicable to all employees assigned to work in lead glass frit areas.

2. All such employees shall have blood lead level and ZPP (Zinc Protoporphyrin) determinations at least every two months.

3. Respiratory protection, as required by 29 CFR 1910.1025(e)(2), shall be worn when the concentration of lead in air is at or above 50 micrograms per cubic meter of air (50 ug/m ^{3}), averaged over an 8 hour period.

Quantitive fit tests shall be given to assure proper fit of the respirator.

4. Any employee whose blood lead level has increased by at least 10 micrograms per 100 grams of whole blood (10 ug/100g) from one sampling to another shall be retested immediately, even though the higher level is below 40 ug/100g. If the retest confirms this increase, the employer shall investigate to determine the cause.

5. Employees shall wear protective clothing which is impervious to lead dust, to prevent contaminating their underclothing or otherwise exposed portions of their bodies. This clothing shall consist of at the least the following: full-body protective coveralls, shoe covers, gloves, and some form of snood (cloth bag) completely covering the hair.

6. The employer shall assure that employees wash hands, face, neck, and arms (if arms/neck are exposed) with soap and tepid running water and use medicated hand lotion when leaving the lead glass frit areas.

7. The employer shall assure that the employees' protective work clothing, including shoes, are removed and placed

in the appropriate container prior to leaving the plant.

8. The employer shall provide separate storage facilities (clean/dirty) for protective clothing, tools, and personal items.

9. The employer shall continue with all other facets of his comprehensive safety and health program, shall comply with all provisions in this Order and, in addition, shall not be relieved from compliance with all other applicable provisions of the Standard for Occupational Exposure to Lead.

Burroughs OEM Corporation shall give notice of this grant of variance to employees affected thereby by the same means required to be used to inform them of the application for a variance.

This order shall remain in effect until June 30, 1983, or until the applicant is in compliance with the standard, whichever occurs first.

Signed at Washington, D.C. this 7th day of January 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-1012 Filed 1-13-83; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. The State adopted on June 5, 1981 a standard identical to the original Federal standard 29 CFR 1910.1043, Cotton Dust, as published in the **Federal Register** (43 FR 27394) on June 23, 1978, and subsequent corrections that were published in the **Federal Register** (43 FR 28473) on June 30, 1978, (43 FR 35032) on August 8, 1978, and (45 FR 12416) on February 26, 1980. The State omitted from the adoption an amendment to the Federal standard that was published in the **Federal Register** (45 FR 67340) on October 10, 1980. This was an amendment to Appendix A and relates to monitoring equipment for use in Class III hazardous locations. Following this adoption, the State Cotton Dust standard was published in the **Federal Register** (47 FR 7551) on February 19, 1982.

By letter dated February 25, 1982 from Darrel D. Douglas, Administrator, Accident Prevention Division, Workers' Compensation Department, State of Oregon, to James W. Lake, Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted an amendment to their Cotton Dust standard in response to Appendix A of the Federal Cotton Dust Standard as published in the **Federal Register** (45 FR 67340) on October 10, 1980.

No written comments or requests for public hearing were received. The State's Order of Adoption of the amendment became effective October 10, 1981.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standard amendment is identical to the Federal standard and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; or the Office of State Programs, Room N-3613, 200 Constitution Avenue NW, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standard was adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective January 14, 1983. (Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this first day of November 1982.

Ronald T. Tsunehara,

Acting Regional Administrator.

[FR Doc. 83-1014 Filed 1-13-83; 8:45 am]

BILLING CODE 4510-26-M

Office of Federal Contract Compliance Programs

Ingersoll Milling Machine Co.; Reinstatement of Previously Debarred Contractor

On August 1, 1977 Ingersoll Milling Machine Company was debarred as an eligible bidder on Government contracts and subcontracts pursuant to an August 1, 1977 Decision and Order of the Director of the Office of Federal Contract Compliance Programs. This Decision and Order was based upon a January 6, 1976 Recommended Decision and Order by Administrative Law Judge Salvatore J. Arrigo. On August 16, 1977 the Director's Decision and Order and the Administrative Law Judge's Recommended Decision and Order were published in the **Federal Register** at 42 FR 41330.

On December 17, 1982 Ingersoll Milling Machine Company entered into a Consent Decree with the Office of Federal Contract Compliance Programs which resolved all the differences between the parties. Ingersoll Milling Machine Company is therefore reinstated, effective December 17, 1982, as an eligible bidder on Federal contracts and subcontracts. This reinstatement also applies to the following Ingersoll divisions and subsidiaries:

Ingersoll Manufacturing Consultants, Inc., Rockford, Ill.;
Ingersoll Manfacturing Consultants, International, S.A., Belgium;
Ingersoll Maschinen und Werkzuege GmbH, West Germany; and
Waldrich Siegen Werkzeigmaschinen GmbH, West Germany.

Dated: January 7, 1983.

Ellen M. Shong,

Director, Office of Federal Contract Compliance Programs.

[FR Doc. 83-1015 Filed 1-13-83; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL SCIENCE FOUNDATION

Subpanel on Cellular Physiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Cellular Physiology of the Advisory Panel for Physiological, Cellular and Molecular Biology.

Date and time: January 31, February 1 & 2, 1983—8:30 a.m. to 5 p.m. each day.

Place: Room 523, National Science Foundation, 1800 G St., NW, Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. Barbara K. Zain, Assistant Program Director, Cellular Physiology Program (202) 357–7377, Room 332, National Science Foundation, Washington, DC 20550.

Purpose of subpanel: To provide advice and recommendations concerning support for research in Cellular Physiology.

Agenda: To review and evaluate research proposals and projects as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meetings: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979.

January 11, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83–1090 Filed 1–13–83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals; Meeting

Notice is hereby given in accordance with Section 10 of the Federal Advisory Committee Act that NRC's Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals will hold its next meeting at 10:00 a.m., January 28, 1983. This meeting will take place at the office of Shaw, Pittman, Potts and Trowbridge, South Building, 9th Floor Lobby, 1800 M Street, NW., Washington, DC and will be open for public observation.

At this meeting, the committee will continue its review of administrative propsals for reforming the NRC's licensing process for nuclear plants. A transcript of the meeting will be made available for public inspection and copying at NRC's Public Document Room, 1717 H Street, NW., Washington, DC.

This meeting, which was publicly announced at the open Committee meeting held on January 12, 1983, is being held on short notice in order to meet the tight time limits set for presenting the Committee's views to the Commission and to minimize scheduling conflicts among individual Committee members.

Further information on the meetings may be obtained from Mr. Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. (Telephone 202/634–1465).

Dated at Washington, DC this 12th day of January 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–1091 Filed 1–13–83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–368]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. NPF–6 issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit 2 (the facility), located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment allows for the early removal of the first capsule of the ANO–2 Reactor Vessel Surveillance Program at 1.69 effective full power years (EFPY), rather than in accordance with the original schedule at 5 EFPY.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated October 15, 1982, (2) Amendment No. 38 to Facility Operating License No. NPF–6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Ark. 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 6th day of January, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83–1089 Filed 1–13–83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–318]

Baltimore Gas & Electric Company; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR–69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 2. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to reflect recent modifications to remote shutdown instrumentation as described in TS Table 3.3–9, "Remote Shutdown Monitoring Instrumentation."

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the

Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commssion's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated December 23, 1982, (2) Amendment No. 60 to License No. DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Md. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 3rd day of January, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactor's Branch No. 3, Division of Licensing.

[FR Doc. 83-1091 Filed 1-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 66 to Facility Operating License No. DPR-35 issued to Boston Edison Company (the licensee) which revised the Technical Specifications for operation of the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Massachusetts. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications by adding a note to Specification 3.12.F "Penetration Fire Barrier" to revise the requirements of this specification for one specific fire barrier.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since it does not involve a significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and enviromental impact appraisal need not be prepared in connection with the issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated December 15, 1982, (2) Amendment No. 66 to License No. DPR-35, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 7th day of January 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-1092 Filed 1-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-482]

Kansas Gas & Electric Co., et al. (Wolf Creek Generating Station, Unit No. 1); Order Scheduling Prehearing Conference

A prehearing conference in this proceeding is scheduled for March 8, 1983, commencing at 10:00 a.m. in Coffey County Courthouse Basement Room, Sixth and Neosho Street, Burlington, Kansas 66839.

It is ordered that:

1. Attorneys in attendance must have full authority to stipulate for their clients.

2. Attorneys appearing at the prehearing conference will be those who will try the case.

3. Counsel shall meet or confer before the prehearing conference so that they will have an opportunity to reach agreement on the items which will be discussed at the conference.

It is further ordered that at the conference, counsel shall be prepared to discuss the following:

1. Simplification of the issues.
2. The date and place of the evidentiary hearing.
3. Lists of exhibits to be offered in evidence.
4. Identification of expert witnesses.
5. Scheduling advance filing of direct testimony.
6. Any remaining requests for discovery.
7. Any additional prehearing motions.
8. Stipulations concerning admission of facts, documentary evidence, and procedural matters.
9. Order of presentation of case.
10. Estimated length of hearing.
11. Scheduling trial briefs and cross-examination plans, if necessary.
12. Such other matters as may aid in the disposition of this matter.

Dated at Bethesda, Md., this 10th day of January 1983.

Atomic Safety and Licensing Board Panel.

James A. Laurenson,

Administrative Law Judge.

[FR Doc. 83-1093 Filed 1-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses and Granting of Relief From ASME Section XI Inservice Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 60 to Facility Operating License No. DPR-42, and Amendment No. 54 to Facility Operating License No. DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications (TSs) for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments incorporate the provisions of the approved inservice testing program into the common TSs for the Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2.

By letter dated January 4, 1983, as supported by the related Safety Evaluation, the Commission has also granted to the licensee relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant

Components". The relief relates to the inservice testing program for the facilities. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The applications for the amendments and requests for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR, Chapter I, which are set forth in the license amendments and letter granting relief. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments and the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see: (1) The licensee's filings dated October 15, 1976, October 12, 1977, February 1, 1978, September 15, 1978, June 8, 1980, September 3, 1980, July 31, 1981, and December 23, 1981, (2) Amendment Nos. 60 and 54 to License Nos. DPR–42 and DPR–60, (3) the Commission's letter to the licensee dated January 4, 1983, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 4th day of January 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-1094 Filed 1-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 66 to Facility Operating License No. NPF–40 issued to Omaha Public Power District (the licensee), which revised the Technical Specifications for operation of the Fort Calhoun Station, Unit 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment temporarily revises the minimum temperature requirement for secondary system pressure testing.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated January 3, 1983, (2) Amendment No. 66 to License No. DPR–40, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebr. 68102. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 5th day of January, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-1095 Filed 1-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-311]

Public Service Electric & Gas Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. DPR–75, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 2 (the facility) located in Salem County, New Jersey. The amendment was effective November 22, 1982.

The amendment amends the Technical Specifications on a one-time basis to permit operation for an additional 12 hours with one component cooling water loop inoperable.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated November 22, 1982, (2) Amendment No. 16 to License No. DPR–75, (3) the Commission's letter dated November 23, 1982, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Salem Free Public Library, 112 West Broadway, Salem, N.J. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 10th day of January, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-1097 Filed 1-13-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 72 to Facility Operating License No. DPR-59 issued to the Power Authority of the State of New York (the licensee), which revised the Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility), located in Oswego County, New York. The amendment is effective as of the date of issuance.

The amendment revises the definition of rated loop recirculation flow and extends the power/flow operating envelope within previously analyzed limits to provide more operating flexibility during power ascension and reduction operations.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated February 20, 1981, as supplemented by letters dated November 18, 1981 and February 19, 1982, (2) Amendment No. 72 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Penfield Library, State University College of Oswego, Oswego, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 6th day of January 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-1098 Filed 1-13-83; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0184]

Grocers Capital Company, Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers), 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1982)) for approval of a conflict of interest transaction.

Grocers proposes to loan $100,000 to Kheirkhah, Inc., 301 N. Crescent Drive, Beverly Hills, California. The proceeds of the loan will be used to purchase equipment or inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by § 107.3 of the SBA Rules and Regulations.

As a result, Grocers' financing to Kheirkhah, Inc., fall within the purview of §§ 107.3 and 107.1004(b)(5) of the Regulations. Grocers' loan to Kheirkhah requires prior written approval of SBA.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Beverly Hills, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 5, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-1115 Filed 1-13-83; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 08/08-0057]

Transcontinental Growth Capital Corporation; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), under the name of Transcontinental Growth Capital Corporation, 2430 Broadway, Suite E, Boulder, Colorado 80302, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 611 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and, shareholders of the Applicant are as follows:

President and Director
Thomas E. Willard, 7153 Cedarwood Circle, Boulder, Colorado 80301
Senior Vice President
J. Steven Barnard, 9423 E. Chenango Avenue, Englewood, Colorado 80111
Vice President
Kathleen Bottagaro, 4965 Twin Lakes Way, Boulder, Colorado 80301
Secretary/Treasurer
Norbert J. Lukas, 6970 Indian Peaks Avenue, Boulder, Colorado 80301
Director
Anthony G. Bottagaro, 4965 Twin Lake Way, Boulder, Colorado 80301
100 percent
Transcontinental Growth Capital, Holding Company

The officers, directors and shareholders of Transcontinental Growth Capital Holding Company are as follows:

President and Director 33.33 Percent
Thomas E. Willard
Vice President
Kathleen M. Bottagaro
Secretary/Treasury and Director 33.33 Percent
Norbert J. Lucas
Director 33.33 Percent
Anthony G. Bottagaro

There will be two classes of stock authorized: two million shares of common stock and two million shares of preferred stock. Initially only five hundred shares of common stock will be

issued with a resultant private capital of $500,000.

Applicant proposes to conduct its operations principally in the State of Colorado.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operations of the new company in accordance with the Act and Regulations.

Notice is hereby given that any person may not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Boulder, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 4, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-1114 Filed 1-13-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/595]

Joint Meeting of the Integrated Services Digital Network (ISDN) Working Party and Study Group D of the U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the ISDN Working Party and Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on February 3, 1983 at 9:30 a.m. in Room 1406 of the Department of State, 2201 C Street, N.W., Washington, D.C. Study Group D deals with matters in telecommunications relating to the development of international digital data transmission. The ISDN Working Party deals with the evolution of ISDN within the CCITT.

The agenda for the February 3 meeting will include the following:

1. Report on the Study Group VII meeting (Geneva, December 3–17 1983);
2. Report of Modem Working Party, consideration of contributions for the Special Rapporteur's meeting on 4800 bps full duplex, 9600 bps full duplex and fast training sequence;
3. Report on ISDN related results from the meetings of Study Group VII and XI;
4. Consideration of contributions for the meeting of the Study.

Group XVIII Experts on ISDN (Kyoto 14–15 February 1983).

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to February 3 persons who plan to attend the meeting inform Mr. William Lowell, Office of International Communications Policy, Department of State, telephone (202) 632-6583, of their intention. All attendees must use the C Street entrance to the building.

Dated: January 10, 1983.

Gordon L. Huffcutt,

Director, Acting, Office of International Communications Policy.

[FR Doc. 83-1044 Filed 1-13-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-3]

Revocation of Customhouse Cartman's License No. 1816 Issued by District (Area) Director of Customs, Newark, to Port Terminal Refrigerated Transport, Inc.; Correction

This document corrects an error in the effective date of a notice relating to the revocation of Customhouse Cartman's License No. 1816 issued to Port Terminal Refrigerated Transport, Inc.

The following correction is made to the document published in the **Federal Register** on December 23, 1982, at page 57388, the effective date is corrected to read: "January 6, 1983".

Ronald W. Gerdes,

Assistant Chief Counsel (Administration and Legislation).

[FR Doc. 83-1060 Filed 1-13-83; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 10
Friday, January 14, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 a.m., Monday, January 31, 1983.

PLACE: 2033 K Street, N.W., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Second Quarter Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–56–83 Filed 1–12–83; 3:23 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, January 28, 1983.

PLACE: 2033 K Street, N.W., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–57–83 Filed 1–12–83; 3:23 pm]

BILLING CODE 6351-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, January 18, 1983, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room No. 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, DC. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 82–11–FOIA–47–NO, concerning a request for documents from a Title VII Charge file.
4. Freedom of Information Act Appeal No. 82–10–FOIA–23–BA, concerning a request for memoranda from closed Title VII case files.
5. Freedom of Information Act Appeal No. 82–9–FOIA–142–NY, concerning a request for access to records in a charge file.
6. Biennial Filing of EEO–5 Reports.
7. Proposed revisions to ORA Case Review Procedures, Order 960.
8. A motion relating to the establishment of future Commission agenda items.
9. A motion relating to a study of Hispanic charges.
10. A motion relating to procedures for the consideration of the proposed field reorganization.

Closed:

1. Litigation Authorization; General Recommendations.
2. Proposed extension to an existing contract.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This notice issued January 11, 1983.

[S–52–83 Filed 1–11–83; 4:09 pm]

BILLING CODE 6570-06-M

4

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNCOUNCEMENT: 48 FR 921, January 7, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., January 11, 1983.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

2. Docket No. 82–58: Actions to Adjust or Meet Conditions Unfavorable to shipping in the United States/Venezuela Trade—Consideration of the Record.

[S–51–83 Filed 1–11–83; 4:02 pm]

BILLING CODE 6730-01-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., January 19, 1983.

PLACE: Hearing room one, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Docket No. 82–13: Exemption of Bulk Cargo Moving in the Foreign Commerce of the United States From the Tariff Filing Requirements of Section 18(b) of the Shipping Act, 1916—Consideration of responses to notice of proposed rulemaking.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–54–83 Filed 1–12–83; 11:35 am]

BILLING CODE 6730-01-M

6

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, January 19, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of check sorters within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 11, 1983.

James McAfee,

Associate Secretary of the Board.

[S–53–83 Filed 1–12–83; 10:00 am]

BILLING CODE 6210-01-M

7

FEDERAL RESERVE SYSTEM

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR, 769, Thursday, January 6, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Approximately 11:00 a.m., Wednesday, January 12, 1983,

following a recess at the conclusion of the open meeting.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Proposed changes to the Plans administered under the Federal Resere System's employee benefits program. (This item was originally announced for a meeting on December 13, 1982.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board 452–3204.

[S-65-83 Filed 1-12-83; 2:23 pm]

BILLING CODE 6210-01-M

8

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–03]

TIME AND DATE: 2:30 p.m., Tuesday, January 25, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Investigation TA–201–47 (Motorcycles and Motorcyle Power Train Subassemblies)—briefing and vote on remedy, if necessary.
5. Investigations 731–TA–116 and –117 (Preliminary) (Carton–Closing Staples and Nonautomatic Carton-Closing Staple Machines from Sweden)—briefing and vote.
6. Investigation 731–TA–89 (Final) (Prestressed Concrete Stell Wire Strand from the United Kindgom)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–60–83 Filed 1–12–83; 3:28 pm]

BILLING CODE 7020–02–M

9

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Thursday, January 27, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and complaints:
   a. Anhydrous ammonia from Mexico (Docket No. 891).
   b. Certain marine hardware (Docket No. 901).
2. Investigations 104–TAA–11 and –12 (Float Glass from Belgium and Italy)—briefing and vote.
3. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–59–83 Filed 1–12–83; 3:28 pm]

BILLING CODE 7020–02–M

federal register

Friday
January 14, 1983

Part II

Department of Labor

Occupational Safety and Health Administration

Occupational Exposure to Inorganic Arsenic; Supplemental Statement of Reasons for Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Inorganic Arsenic

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Supplemental Statement of Reasons for the Final Rule.

SUMMARY: This notice presents the final assessment of the degree of risk from occupational exposure to inorganic arsenic and the signficance of that risk. OSHA issued a standard in 1978 reducing the permissible exposure limit for inorganic arsenic from 500 $\mu g/m^3$ to 10$\mu g/m^3$, the lowest feasible level, based on substantial human data associating excess lung cancer with exposure to inorganic arsenic (43 FR 19589, May 5, 1978; 29 CFR 1910.1018). There was quantitative evidence of risk below 500 $\mu g/m^3$. However, at that time OSHA had not quantitatively estimated risk at low levels nor made a formal signficant risk determination. Subsequently, the Ninth Circuit Court of Appeals ordered the Agency to receive additional evidence and make additional findings on these issues as required by *Industrial Union Department* v. *American Petroleum Institute*, 448 U.S. 607 (1980). Pursuant to that order OSHA published a notice (47 FR 15358, April 9, 1982) presenting three risk assessments and OSHA's preliminary analysis, requesting comments and scheduling a hearing. After analyzing all the evidence, OSHA concludes that a significant risk is presented by inorganic arsenic at the 500 $\mu g/m^3$ level and that the 10 $\mu g/m^3$ inorganic arsenic standard is needed to substantially reduce a significant risk of lung cancer. The 10 $\mu g/m^3$ standard, which has remained in effect subject to limited stays during the reopening of the record pursuant to the Court's order, therefore, continues in effect.

EFFECTIVE DATE: The inorganic arsenic standard went into effect on August 1, 1978. This supplemental statement takes effect on January 14, 1983.

ADDRESS: For additional copies of the Supplemental Statement contact: OSHA Office of Publications, U.S. Department of Labor, Room H–3423, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone 202–523–8677.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, OSHA, U.S. Department of Labor, Office of Public Affairs, Rm. N–3641, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone (202) 523–8151.

SUPPLEMENTARY INFORMATION:

Background

In 1971, in accordance with section 6(a) rulemaking procedures of the Occupational Safety and Health Act of 1970, OSHA adopted the consensus standards for "arsenic and its compounds" at 0.5 mg As/m^3, lead arsenate at 0.15 mg/m^3, and calcium arsenate at 1.0 mg/m^3 as determined on an eight-hour time weighted average basis. These levels were based on the 1968 ACGIH list of Threshold Limit Values for Chemical Substances and Physical Agents in the Workroom Environment (TLV's).

OSHA began the process of revising the 1971 standard after receipt of the National Institute for Occupational Safety and Health document, "Criteria for a Recommended Standard . . . Occupational Exposure to Inorganic Arsenic." published in 1973. The National Institute for Occupational Safety and Health (NIOSH) recommended that no worker be exposed to a concentration of arsenic greater than 50 micrograms per cubic meter ($\mu g/m^3$) of air determined as a time-weighted average (TWA) exposure for up to a 10-hour workday, over a 40-hour work week. This standard was based on reports that associated occupational exposure to inorganic arsenic with the induction of cancer. On September 20, 1974, following a notice published in the Federal Register, OSHA conducted an informal fact-finding hearing on the potential health hazards associated with occupational exposure to inorganic arsenic.

On November 8, 1974, NIOSH sent to OSHA new recommendations for inorganic arsenic including a more stringent permissible exposure limit of 2 $\mu g/m^3$ of air as determined over a 15-minute sampling period. NIOSH based these new recommendations on additional significant information, along with earlier reports on the carcinogenicity of inorganic arsenic. The new recommendations appeared in a revised criteria document published in 1975.

On January 21, 1975, a proposed standard to control occupational exposure to inorganic arsenic to a limit of 4 $\mu g/m^3$ was published by OSHA in the Federal Register (40 FR 3392). The proposal included a detailed preamble describing the rationale for the proposed standard, the information relied upon in its development and the provisions of the proposed standard. The notice requested the submission of written comments, data, views and arguments on all the issues raised by the proposal and scheduled an informal public hearing pursuant to section 6(b)(3) of the Act commencing April 8, 1975. A notice of the availability of a Technological Feasibility Analysis and Inflationary Impact Statement was published on June 24, 1976 (41 FR 26029) and the record on feasibility issues and new scientific data was reopened. Another informal hearing on feasibility issues commenced on September 8, 1976.

On May 5, 1978 a final standard regulating occupational exposure to inorganic arsenic as a confirmed carcinogen was published in the Federal Register (43 FR 19584). This standard (29 CFR 1910.1018) applied to all employments in all industries except pesticide application, agriculture, and the treatment and use of arsenically preserved woods. The standard reduced the permissible exposure level from 500 $\mu g/m^3$ to 10 $\mu g/m^3$ and established requirements for monitoring, control strategy, medical surveillance, and other provisions. OSHA concluded, based on the evidence contained in the record, which included a number of high quality human studies associating inorganic arsenic exposure with excess risk of lung cancer, that inorganic arsenic is a carcinogen, that no safe level of exposure can be demonstrated, and that 10 $\mu g/m^3$ is the lowest feasible level to which employee exposure could be controlled.

Shortly after its promulgation, the inorganic arsenic standard was challenged by industry in several U.S. Courts of Appeals. The cases were consolidated in the U.S. Court of Appeals for the Ninth Circuit in three cases, *ASARCO Inc., et al.* v. *OSHA*, No. 78–1959, *The Anaconda Co. et al.* v. *OSHA*, Nos. 78–2764, 3038 and *General Motors, et al.* v. *OSHA*, Nos. 78–2477 and 2478.

The ASARCO case was briefed and argued. Prior to decision, the Ninth Circuit Court on its own motion withdrew the case from consideration pending the decision of the Supreme Court in *Industrial Union Dept.* v. *American Petroleum Institute*, 448 U.S. 607 (1980), the benzene decision. The Supreme Court held in that case that the agency must make a determination of significance of risk prior to issuing a standard.

During the rulemaking proceedings on arsenic, OSHA had not made any estimates of the degree of risk at low levels of exposure to inorganic arsenic. In light of the Supreme Court's benzene decision, therefore, industry representatives petitioned the Ninth

Circuit to vacate the inorganic arsenic standard and remand it to OSHA for reconsideration. OSHA agreed that the standard should be remanded for the purpose of analyzing the quantitative degree of risk and for the purpose of arriving at a determination of the significance of that risk as required by *Industrial Union Dept. v. American Petroleum Institute.* However, OSHA requested that the standard remain in effect during the period of the remand because, unlike the benzene standard, there were measured data showing excess cancer risk at levels below the prior (500 $\mu g/m^3$) exposure limit. In addition, three risk assessments performed on inorganic arsenic after issuance of the standard indicated excess risk at levels of exposure well below the 500 $\mu g/m^3$ level.

On April 7, 1981 the Ninth Circuit Court of Appeals issued the following order:

> This matter is remanded to permit respondent to reopen the record to receive additional evidence and to make additional findings in the light of *Industrial Union Department v. American Petroleum Institute,* 448 U.S. 607, 100 S. Ct. 2844 (1980). If respondent determines the permissible exposure level for inorganic arsenic should be adjusted, the respondent shall amend the standard accordingly. Jurisdiction is retained. The matter shall be resubmitted to this court on the amended record no later than one year from the date of this order. * * *
>
> The occupational health standard regulating employee exposure to inorganic arsenic shall remain in effect pending the resubmission of this matter to this court, and until further order of this court, except insofar as petitioners have obtained stays from this court or variances from the respondent.

Thus, the inorganic arsenic standard has been and remains in effect for all employers except for limited stays granted by the Ninth Circuit to ASARCO, Inc., on June 19, 1979, the Bunker Hill Co., on December 11, 1979, the Anaconda Co., on December 28, 1979 and Kennecott Copper Corp., on November 19, 1981 for their facilities only. The stays basically permit those companies only, to achieve the 10 $\mu g/m^3$ exposure limit with respiratory protection rather than engineering controls. Except for the requirement to build new filtered-air lunchrooms at their facilities, all other provisions of the standard are in effect for those companies.

Some automotive manufacturers requested permanent variances from the arsenic standard's (as well as the lead standard's) provisions for engineering controls and certain other requirements for their solder-grind operations. Lead-arsenic solder, used to fill body joints, is ground smooth in these operations. The companies stated that there were no feasible engineering controls available to reduce exposure to 10 $\mu g/m^3$ and that supplied-air respirators, hoods and suits provided appropriate protection. OSHA granted variances permitting the affected companies (General Motors, 45 FR 46922, July 11, 1980; Chrysler, 45 FR 74096, November 7, 1980; Ford, 46 FR 32520, June 23, 1981) to use supplied-air respirators to comply with the 10 $\mu g/m^3$ permissible exposure limit. Certain additional requirements were specified in the variance grants, including a provision that the companies were to attempt to eliminate the use of lead-arsenic solder by developing appropriate substitutes.

OSHA published in the **Federal Register** on April 9, 1982 (47 FR 15358), a notice pursuant to the Court order reopening the inorganic arsenic rulemaking record for the purpose of receiving evidence and making findings on the degree of risk from occupational exposure to arsenic and the significance of that risk, and making any adjustments to the standard as may be warranted by the additional evidence and findings on risk. The notice briefly reviewed the science of risk assessment, summarized three risk assessments performed for inorganic arsenic, stated the reasons for OSHA's preliminary assessment of risk and stated OSHA's preliminary judgment of the significance of the predicted risk. Comments were requested on the above issues, the three risk assessments presented, and OSHA's preliminary judgments. Public comments were requested by June 18, 1982 and an informal public hearing was held on July 13–16, 1982. Post-hearing submissions of additional information were due on August 13, 1982 and final briefs were due on September 3, 1982.

A number of interested parties participated, including trade associations, companies, unions and members of the general public. A number of scientists testified and responded to cross-examination. Many studies, statements and comments were submitted into the record. The record was certified by the Administrative Law Judge on November 24, 1982.

OSHA has now reviewed all the evidence in the record. In this document, as ordered by the Ninth Circuit Court of Appeals, OSHA reviews in depth the evidence on the degree of risk presented by inorganic arsenic and its significance. It sets forth OSHA's final judgments on these issues and OSHA's conclusion that the 10 $\mu g/m^3$ standard for inorganic arsenic is needed to substantially reduce a significant risk of lung cancer. This document does not repeat analysis of studies presented in the preamble accompanying the issuance of the final inorganic arsenic standard unless needed for purposes of updating or to clarify discussion. This document reviews new health data which have become available since 1977.

The following is an outline of this Federal Register Notice.

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I. Summary of OSHA's Analysis

OSHA's overall analytic approach for setting worker health standards is a four-step process consistent with recent court interpretations of the Occupational Safety and Health Act and rational, objective, policy formulation. In the first step, risk assessments are performed where possible and considered with other relevant factors to determine whether the substance to be regulated poses a significant risk to workers. Then in the second step, OSHA considers which, if any, of the proposed standards being considered for that substance will substantially reduce the risk. In the third step, OSHA looks at the best available data to set the most protective exposure limit necessary to reduce significant risk that is both

technologically and economically feasible. In the fourth and final step, OSHA considers the most cost-effective way to achieve the objective.

The Ninth Circuit's remand provided that OSHA consider the issues presented by the first two steps and the elements of the third step dealing with risk issues. This final **Federal Register** document directly addresses those matters. A cooperative evaluation by technical experts from OSHA, the smelter companies and the United Steelworkers of America, which is not part of this record, gives additional consideration to the final steps.

It is appropriate to consider a number of different factors in arriving at a determination of significant risk with respect to inorganic arsenic. The Supreme Court gave some general guidance as to the process to be followed. It indicated that the Secretary is to make the initial determination of the existence of a significant risk, but recognized that "while the Agency must support its finding that a certain level of risk exists with substantial evidence, we recognize that its determination that a particular level of risk is 'significant' will be based largely on policy considerations." (*IUD* v. *API.* 448 U.S. 655, 656, n. 62). In order for such a policy judgment to have a rational foundation, it is appropriate to consider such factors as quality of the underlying data, reasonableness of the risk assessment, statistical significance of the findings, the type of risk presented and the significance of the numerical risk relative to other risk factors.

In the April 9, 1982 (47 FR 15358) document which opened the issue of significant risk, OSHA pointed out that there were a number of high quality epidemiology studies such as Lee and Fraumeni, Pinto and Enterline, Ott et al., and Hill and Faning which strongly associated exposure to inorganic arsenic with excess risk of lung cancer among workers in both smelters and chemical plants. Many of these studies demonstrated a good dose response relationship and provided a good basis for risk assessment. Several demonstrated measured excess risk below the prior 500 $\mu g/m^3$ exposure limit. For example, the Lee and Fraumeni study indicated that for long term exposure to inorganic arsenic a 445 to 567% excess risk (334 to 425 excess cases per 1000 exposed employees) of lung cancer exists at 580 $\mu g/m^3$ and a 150 to 210% excess risk (112 to 158 excess cases per 1000 exposed employees) exists at 290 $\mu g/m^3$.

During the notice and comment period OSHA received published versions of additional studies, including Lee-Feldstein, Enterline and Marsh, Higgins et al., Mabuchi et al., and Lubin et al., which continued to strongly associate exposure to inorganic arsenic with excess risk of lung cancer. Recently, the International Agency for Research on Cancer, the World Health Organization-Arsenic Working Group and the Chemical Manufacturers Association have also judged inorganic arsenic to be a human carcinogen. The new data is of high quality and confirms OSHA's earlier conclusion that inorganic arsenic is strongly associated with excess risk of lung cancer. The new data also includes measured excess risk below 500 $\mu g/m^3$. For example, the Lee-Feldstein study covering 8045 employees and including 4448 low exposure workers whose average exposure was 290 $\mu g/m^3$, and whose mortality was observed over a 39 year period, indicates a 131% excess risk for those low exposure employees. Also, Enterline and Marsh observed a 168% excess risk for employees exposed to an average of 49 $\mu g/m^3$ (estimated from urinary level of 163 $\mu g/l$) for 10–19 years.

In the April 9th document, OSHA pointed out that a number of the epidemiology studies provided a good basis for risk assessment because of their high quality and because of the availability of quantitative estimates of exposure. OSHA presented three risk assessments and reached the preliminary conclusion that they presented reasonable estimates of risk, with OSHA selecting as most reasonable estimates ranging from a 500–620% excess risk (375 to 465 excess cases of lung cancer 1000 exposed employees) for a working lifetime of exposure at 500 $\mu g/m^3$ to a 10–14% excess risk (7 to 10 excess cases per 1000) at 10 $\mu g/m^3$. These estimates were based on a linear model, OSHA also presented estimates based on a quadratic model, but new analysis indicate that the data strongly supports a linear model in the case of inorganic arsenic.

Additional data were submitted which strongly support estimates of risk in this range. Dr. Crump submitted risk assessments based on the new epidemiologic studies which were in this range and which demonstrated good fits between the data and the linear model. Dr. Radford submitted an estimate of risk which was somewhat higher and Dr. Enterline an estimate which was somewhat lower. The National Institute of Occupational Safety and Health agreed with OSHA's estimates and approach.

Based on the earlier data and the data submitted in response to the April 9th document, OSHA concludes that the range of reasonable estimates of risk from a working lifetime of exposure to inorganic arsenic are from 148 to 767 excess deaths from lung cancer per 1000 exposed employees at 500 $\mu g/m^3$ to 2.2 to 29 excess lung cancer deaths per 1000 exposed employees at 10 $\mu g/m^3$. The OSHA preferred estimates within that range are approximately 400 excess deaths per 1000 at 500 $\mu g/m^3$, 40 excess deaths per 1000 at 50 $\mu g/m^3$ and 8 excess deaths per 1000 at 10 $\mu g/m^3$.

Consultants in Environmental and Occupational Health (CEOH) presented an alternate analysis principally based on the results of the study by Higgins et al. Employees with average exposures between 100 and 500 $\mu g/m^3$, including those who had peak exposures over 500 $\mu g/m^3$, had statistically significant increased respiratory cancer mortality. However, they found that employees whose ceiling exposures never exceeded 500 $\mu g/m^3$ had SMR's between 116 and 129 (16 to 29% excess risk), which were not statistically significant (Method I analysis). CEOH, therefore, suggested that 500 $\mu g/m^3$ was a practical threshold and there would be little excess risk for employees with no peak exposures over that limit.

This hypothesis is not nearly as strongly supported as the estimates of risk OSHA has presented. First, the OSHA estimates are based on a generally accepted model, with a biologic basis, which fits well a substantial body of high quality data. Second, both the Lee and Fraumeni, and Lee-Feldstein studies of the entire Anaconda cohort (not just 22%) demonstrated a statistically significant excess risk (from 86% to 213%) for low exposure employees who did not have any peak exposures over approximately 500 $\mu g/m^3$. This result directly contradicts the ceiling hypothesis. Third, the Higgins data was based on a 22% sampling of Anaconda employees, resulting in very low statistical power. The study only had a 16–37% chance of detecting a 50% excess risk, if it actually existed. Fourth, the employees actually had an excess risk (under Higgins Method I analysis) which was not very different (116–129 SMR) from OSHA's estimate (150 SMR) for employees with their relatively low average exposure. Fifth, the ceiling hypothesis has only been preliminarily tested at one location and before the possibility would develop of general acceptance in the scientific community, there would need to be supportive results in a number of locations.

Based on measured data in the record of excess risk below 500 $\mu g/m^3$ and estimates from the risk assessments

summarized above and discussed in depth below indicating approximately 400 excess cases per 1000 exposed employees at 500 μg/m³, OSHA concludes that a significant risk is presented by inorganic arsenic at the prior 500 μg/m³ limit and that a lower exposure limit is needed. The Ninth Circuit has already agreed with this conclusion stating "it is undisputed that exposure to inorganic arsenic at the level of 500 μg/m³ * * * poses a significant health risk . . . ." (ASARCO et al. v. OSHA, supra, Memorandum, April 7, 1981, p. 3).

OSHA also concludes, based on the estimates from the risk assessments and the dose-response demonstrated in many of the epidemiology studies, that a 10 μg/m³ exposure limit, the lowest level feasible, together with the industrial hygiene provisions in the arsenic standard are necessary and appropriate to significantly reduce the health risk. These requirements will very substantially reduce the risk, by approximately 96%, and will protect employees principally in the nonferrous metal smelting, automobile and arsenical chemical industries.

Finally OSHA concludes that the new inorganic arsenic standard setting exposures at 10 μg/m³ does not reduce the risk of the exposure to inorganic arsenic below the level of significance. The level of risk from working a lifetime of exposure at 10 μg/m³ is estimated at approximately 8 excess lung cancer deaths per 1000 employees. OSHA believes that this level of risk does not appear to be insignificant. It is below risk levels in high risk occupations but it is above risk levels in occupations with average levels of risk. The OSHA Act was enacted in order to reduce significant risk insofar as feasible. It should be noted that the Supreme Court stated as to a 1 in 1000 level of risk of fatality that "a reasonable person might well consider the risk significant and take appropriate steps to decrease or eliminate it" (*IUD.* v. *API*, 448 U.S. 655). OSHA believes the risk assessments and significant risk analysis support the retention of the 10 μg/m³ level.

By achieving the 10 μg/m³ limit, industry will have taken reasonable steps to protect their employees from the risks of arsenic. Substantial progress has already been made. Separate from this notice, and not part of this record, OSHA proposed to the affected smelter companies and the United Steel workers of America, which represents smelter workers, a cooperative assessment by technical experts representing the three sectors to evaluate control methodology to protect employees while maintaining the efficiency of the smelting industry. This suggestion was accepted by USWA, ASARCO, and Kennecott. Agreements carrrying out this proposal have been signed by OSHA, ASARCO and the United Steelworkers for 5 ASARCO facilities, and OSHA believes those parties have made exceptional progress in protecting exposed employees.

II. Background and General Considerations

A. Background

Based on legal considerations and Agency policy views applicable at the time, the 1978 inorganic arsenic standard did not include a quantitative risk assessment. OSHA pointed out that the results of quantitative risk assessments were somewhat speculative, that the methodology used bordered on the frontiers of scientific knowledge and that there was no adequate scientific basis to verify the mathematical estimates derived by risk assessments that would reflect a realistic expectation of the incidence of tumor induction (43 FR 19617).

Subsequent to the issuance of the inorganic arsenic standard, however, the Supreme Court ruled that the OSH Act requires that, prior to issuance of a new standard, a determination be made that a significant risk exists and that the new standard will significantly reduce or eliminate that risk. The court stated that "before he can promulgate any permanent health or safety standard, the Secretary is required to make a threshold finding that a place of employment is unsafe—in the sense that significant risks are present and can be eliminated or lessened by a change in practices" (488 U.S. 642). The Court also stated "that the Act does limit the Secretary's power to requiring the elimination of significant risks" (448 U.S. 644).

The Court indicated, however, that the significant risk determination is "not a mathematical straitjacket," and that "OSHA is not required to support its finding that a significant risk exists with anything approaching scientific certainty." The Court ruled that "a reviewing court [is] to give OSHA some leeway where its findings must be made on the frontiers of scientific knowledge [and that] * * * the Agency is free to use conservative assumptions in interpreting the data with respect to carcinogens, risking error on the side of over-protection rather than under-protection" (488 U.S. 655, 656). The Supreme Court thereby acknowledged that risk assessments, which may involve mathematical estimates with some inherent uncertainties, are nevertheless valid for demonstrating the existence of a significant risk.

This finding by the Court mitigates some of the previous concern that OSHA had expressed about quantitative risk assessments. Keeping in mind that the predictions of risk presented are estimates and not certain hard numbers, OSHA believes that the predictions derived from the risk analyses performed on arsenic are reasonable.

B. General Issues in Quantitative Risk Assessment

A quantitative risk assessment is an attempt to predict the degree of risk associated with a specific level of exposure. This is done either through direct observation or by extrapolation, a statistical technique used to estimate risk at levels outside the range of observed exposure levels.

In performing a quantitative risk assessment there are several important components which must be considered.

1. *A description of the hazard which poses the risk.* The principal hazard that the 10 μg/m³ standard addresses is lung cancer. In the 1978 preamble to the final inorganic arsenic standard, OSHA made the determination that although there were other significant health hazards attributable to arsenic exposure, the evidence of respiratory cancer in humans was substantial and unequivocal. There is evidence that arsenic is associated with skin cancer and it is considered a systemic poison at levels substantially higher than 10 μg/m³. However, the 10 μg/m³ level will provide substantial protection against these other hazards. Because of the serious nature of lung cancer and substantial body of evidence associating arsenic with lung cancer, the quantitative risk assessments discussed below center on lung cancer mortality as the major response.

2. *A description of the potential exposure and worker scenarios.* Comparability in route and duration of exposure as well as carcinogenic response (e.g., same site of tumors) increases confidence in the prediction of risk from one observed population to another population. The use of epidemiological data obtained from one worker population to estimate the risk to another worker population, therefore, has the advantage that it eliminates the need to extrapolate from a more general or heterogeneous population. Furthermore, a greater degree of confidence can be placed in extrapolations from human studies than from results derived from laboratory animal studies.

There are many studies discussed in the 1978 document associating inorganic arsenic exposure with respiratory cancer. A number of these, though good studies, do not provide enough information on degree of exposure to be as useful in performing a quantitative risk assessment. There were three studies in which worker exposures have been documented well enough for quantitative risk assessment purposes. Two of these (Lee and Fraumeni 1969 and Pinto and Enterline 1975) formed the basis of the primary studies used in the three risk assessments presented by OSHA in the April 9, 1982 proposal.

The third, the study by Ott et al. has some data on exposure characterization, though the data are not considered as strong as that in Lee and Fraumeni and Pinto and Enterline. The Ott et al. data have been incorporated into several of the quantitative risk assessments.

Several other studies which have become available during the current rulemaking proceeding and which broaden the base for OSHA's current finding of significant risk are discussed in detail below. Each is assessed for its quality in the following areas which strongly influence the prediction of risk:

(i) Classification of workers' exposure;
(ii) Duration of exposure;
(iii) Concomitant exposures;
(iv) Response for a given exposure.

3. *A description of the dose-response relationship and a quantitative determination of risk.* Determining risk at the pre-1978 PEL of 500 $\mu g/m^3$ involves little estimation because the 500 $\mu g/m^3$ PEL falls within the range of the dose levels actually observed in the epidemiologic studies and no extrapolation of data was necessary. Predicting risk at the 1978 PEL of 10 $\mu g/m^3$ involves estimation at dose levels lower than those seen in the study populations, i.e., a low-dose extrapolation. For each dose group of workers associated with exposure to a certain amount of arsenic (dose), there is a measured risk of lung cancer (response). Generally, as exposures increase, the risk increases. In order to make the low-dose extrapolation, a mathematical relationship between dose and response is established using the experimental data; that is, a curve is "fit" to the data. This is done using statistical techniques involving plausible biological models for the general shape of the mathematical curve. In order to predict a response outside the experimental range, it is then assumed that this same mathematical relationship will hold in the range of doses that were not observed. By "reading off" the curve, one is able to estimate the risk at any dose level. Confidence in the risk estimates is increased if (1) the assumptions "reflect the expected experience of workers in a fashion that most people find reasonable," and (2) the "extrapolation is not required to extend far beyond the range of actual measurement." (Ex. 201–4, p. 2.)

The quantitative estimation of risk depends on the choice of the mathematical model (if one is used) and the biological assumptions which influence the model (such as threshold, promotion, etc.). Factors that impact on the choice of a model and the interpretations that can be placed on the estimates of risk will be discussed later in the document.

Last, considerations of the significance of risk must be made to comply with the mandate of the benzene decision.

4. *Terminology and Definitions.* There are several components which are common to most quantitative risk assessments: there will be a *dose,* a level of exposure which can be quantified for a specific period of time; a *measure of risk* or response, often expressed as excess risk and related to some reference population; and a *model,* the mathematical function used to describe the data.

The expressions of dose found in the quantitative risk assessments for inorganic arsenic encompass two dimensions: 1) intensity, which refers to actual level or degree of exposure which can be attributed to a specific group, and 2) duration, which refers to the length of time the subject is exposed. Intensity is commonly expressed as an "average" exposure or as a ceiling or peak exposure. Measures of cumulative dose include the dimension of duration, such as a *lifetime* dose, or a multiplication of intensity times the number of years exposed to compute a "total" dose ($\mu g/m^3$-years).

Risk statistics are presented in two basic formats. The first is the percentage of excess risk of respiratory cancer above the background level. For example, based on the Lee and Fraumeni data the OSHA estimated excess risk of 68% for workers exposed to 50 $\mu g/m^3$ of arsenic for a working lifetime means that those workers would have a 68% greater chance of dying of lung cancer than an equivalent group of workers not exposed to inorganic arsenic.

In the preamble to the final inorganic arsenic standard, the April 9, 1982 document, and many epidemiology studies, results are presented in the form of a standardized mortality ratio or SMR. The standardized mortality ratio is defined as the observed number of deaths divided by the expected number of deaths and is usually expressed as a percentage. In that system of notation, the normal death rate for a group from a specific cause is stated as 100 and a 68% increase above the normal rate would be indicated as an SMR of 168.

The excess risk of lung cancer from inorganic arsenic exposure is also presented as the number of lung cancer deaths per 1000 exposed workers over a lifetime. For example, a 68% excess risk of lung cancer death for workers, as mentioned above, would be 51 excess lung cancer deaths per 1000 exposed workers over those workers' lifetimes. This number represents the increased number of lung cancer deaths due to inorganic arsenic exposure above the normal level of deaths from lung cancer for each 1000 exposed employees.

The two non-threshold mathematical models for cancer initation which have been employed in the quantitative risk assessments presented are the linear model and the quadratic model. Both of the models have been selected for their biological plausibility in describing the processes of carcinogenesis.

The models predict that risk is proportional to dose (linear model) or the square of the dose (quadratic model) and assume that there will be a common biologic response to the insult over the entire range of doses. Predictions based on the linear model are also consistent with estimates which would result from the multistage model at low doses. The multistage model is based on the theory that several stages are required prior to cancer development, a theory which is also consistent with known biologic mechanisms (Ex. 201–6, 201–7).

A threshold model has been hypothesized by several of the participants in the hearings. A threshold model assumes that there exists some dose of arsenic below which a response (in this case, lung cancer) will not occur.

These factors are the important determinants of the degree of risk predicted from exposure to inorganic arsenic at the 500 $\mu g/m^3$ and 10 $\mu g/m^3$ levels and are discussed in detail in the following sections.

C. Miscellaneous Issues

Several participants suggested that OSHA had not followed its internal management procedures. Though not a matter subject to judicial review, OSHA has followed its internal management procedures which included some modifications for those substances like inorganic arsenic which were quite far along when the internal system was instituted.

Several participants submitted some esconomic feasibility data and argued

that OSHA must reopen the rulemaking on that issue. OSHA does not believe that its is required to do so. This rulemaking was directly pursuant to a Ninth Circuit order which ordered OSHA to consider the issues of degree and significance of risk and any changes to the standard resulting from the analysis, and to complete the consideration within a brief period of time. The Court has retained jurisdiction of the case and did not order OSHA to reopen any other issue. The April 9, 1982 **Federal Register** document gave notice of reopening the issues ordered reopened by the Court.

OSHA has held two full rounds of notice and comment rulemaking on feasibility issues, each of which included week long oral hearings. At least four major feasibility studies by Arthur Young & Co., Arthur D. Little, Inc., D.B. Associates and Industrial Health Engineering Associates were submitted as was an Inflationary Impact Statement and much other data. OSHA has fulfilled the notice, comments and hearing requirements of the OSH Act.

OSHA has briefly reviewed the feasibility data submitted, has stated it will consider it as a petition to amend the standard and will take appropriate actions based on the merits of the data and other agency priorities. However, the record is ample to support OSHA's decisions and such possible future actions should not be a basis for delaying any judicial review. OSHA is always considering the need to amend standards based on public suggestions, and that possibility, if a basis for not completing a review, would mean that there never would be finality of any agency action.

Several participants suggested technical changes to the monitoring and medical provisions of the standard including the elimination of sputum cytology. The Motor Vehicle Manufacturer's Association suggested a series of changes to the industrial hygiene provisions of the standard. Again, the Court did not order the agency to reopen the record on these issues and no notice was given on them. Some of these suggestions may be reasonable and OSHA will consider proposing technical amendments to the arsenic standard in the future to incorporate them. But they are not a basis for denying finality to a process which is fast approaching a decade in temporal extent.

III. Epidemiologic Studies

A. Introduction

OSHA based its final regulation for occupational exposure to inorganic arsenic primarily on epidemiologic studies indicating a high lung cancer risk among workers exposed to inorganic arsenic. OSHA concluded that inorganic arsenic is clearly a human carcinogen.

For the sake of brevity, the term arsenic will sometimes be used to refer to inorganic arsenic in this preamble. When OSHA intends to refer to organic arsenicals, it will always use the term "organic arsenic".

Studies of copper smelter workers cited by OSHA as evidence of excess cancer risk among workers exposed to inorganic arsenic were authored by Lee and Fraumeni (Ex. 5D), Pinto and Enterline (Ex. 29B and Ex. 111, Attachment 4), and Tukadome and Kuratsune (Ex. 191). In 1978, OSHA also cited the following studies of arsenical pesticide manufacturing workers as evidence for the carcinogenicity of inorganic arsenic: Ott, Holder, and Gordon (Ex. 1A, 3–1), Baetjer et al. (Ex. 1A–24), and Hill and Faning (Ex. 5B). Another group of workers observed to have an excess risk of cancer, as discussed in the preamble to the final regulation, was vineyard workers exposed to arsenic-contaminated wine and arsenical pesticides (Denk et al., Ex. 109C–87 and Roth, Ex. 65, 109C, No. 88).

As discussed in the preamble to the final regulation, the studies listed above were of high quality in terms of their scientific methodology. Therefore, the positive findings of these studies presented very strong evidence for the carcinogenicity of inorganic arsenic. Although these studies confirmed the strong association between arsenic and lung cancer risk, they were not all suitable for quantitative risk analysis.

In its pre-hearing submission to the latest proceeding, the Arsenic Panel of the Chemical Manufacturers Association (CMA) commented that OSHA had failed to demonstrate that inorganic arsenic was carcinogenic (Ex. 202–3). In addition to stating that laboratory animal studies had failed to confirm the carcinogenicity of arsenic, CMA contended that exposures to substances other than arsenic within the studied copper smelters and arsenical pesticide manufacturing facilities may have led to the observed excess of respiratory cancer risk.

In response to CMA's statements, OSHA wishes to reiterate its earlier conclusion that inorganic arsenic has been demonstrated to be carcinogenic to exposed workers. In addition to the studies available before 1977, the new or updated studies available since 1977 found a strong association between arsenic exposure and excess lung cancer risk. Also, subsequent to 1977, both the International Agency for Research on Cancer (Ex. 201–13, p. 114) and the World Health Organization-Arsenic Working Group (Ex. 252) have concluded that inorganic arsenic is a human carcinogen. The fact that this association has been demonstrated in different occupational settings strengthens the evidence for arsenic being a respiratory carcinogen.

At the informal public hearing in 1982, Dr. Lederer, on behalf of CMA, modified the CMA position. He stated that he did "not dispute that there is an association between arsenic exposure and respiratory cancer. Likewise, the evidence indicates that reducing arsenic exposure apparently reduces the carcinogenic risk. However, there may be factors other than arsenic involved, which must be considered" (Tr. 356).

As will be discussed in subsequent sections of this preamble, recent studies indicate that it is highly unlikely that smoking, sulfur dioxide, asbestos, and other exposures were primarily responsible for the excess risk observed in arsenic-exposed workers. Also, strong human evidence of carcinogenicity cannot be dismissed because of the absence of strong evidence of carcinogenicity in animal studies. OSHA's statutory mandate is to protect employees and evidence that reducing exposures to arsenic reduces human risk must weigh heavily in OSHA's decision to regulate.

Since the promulgation of the final regulation in 1978, follow-up studies have been performed on the original study cohorts of Lee and Fraumeni, Pinto and Enterline, and Baetjer and colleagues. In addition, new studies of arsenic-exposed workers have been conducted. The following sections analyze in depth the follow-up epidemiologic studies and the most important new epidemiologic studies.

B. Anaconda Copper Smelter

The preamble to the final arsenic regulation had a detailed analysis of the study by Lee and Fraumeni (Ex. 5D) and should be referred to for more extensive information. What follows is a summary of Lee and Fraumeni's findings.

Lee and Fraumeni studied the mortality of 8,047 white males who had been exposed to arsenic trioxide while working for the Anaconda copper smelter. Smelter workers were eligible for inclusion in the study cohort if they were employed for 12 or more months before December 31, 1956. The mortality experience of the study cohort was observed for the period 1938–1963. The comparison population was the white male population of the state of Montana. The expected numbers of deaths were

derived from the age, calendar period, and cause-specific mortality rates of white males in Montana during 1938–1963.

Standardized Mortality Ratios (SMR's), consisting of the observed number of deaths in the study cohort divided by the expected number of deaths times 100, were calculated for the overall cohort as well as for various groups of workers categorized by length of employment and intensity of exposure to inorganic arsenic.

Workers were classified as having received heavy, medium, or light exposure to arsenic based on industrial hygiene measurements of arsenic trioxide made in their particular work areas and on judgments of industrial hygiene experts. Jobs in the arsenic kitchen, Cottrell, and arsenic roaster areas were considered to involve heavy arsenic exposure. Areas assigned a classification of medium arsenic exposure were the acid plant, ore roaster, reverbatory furnace, casting, and converter. All other work areas were considered as having light arsenic exposures. Most workers had been exposed in several different areas and the authors classified workers based on their heaviest exposure. The authors believed that the relative exposure levels of the work areas classified as having heavy, medium, and light exposure probably did not vary substantially overtime. Workers were also classified as having received heavy, medium, or light exposure to sulfur dioxide. Silicon dioxide (silica), lead fumes, and ferromanganese exposures were also rated for individual workers.

For the overall cohort, statistically significant increases in mortality were observed for respiratory system cancer (SMR-329), tuberculosis, diseases of the heart, and cirrhosis of the liver. Lee and Fraumeni observed that lung cancer risk increased consistently with increasing length of employment, and increasing exposure. Lung cancer SMR's ranged from 214 for lightly exposed workers with less than 15 years of employment to 800 for heavily exposed workers with at least 15 years of employment prior to 1938. See 43 FR 19595 for a detailed table of Lee and Fraumeni's results indicating that risk increased with both increasing duration and degree of exposure to inorganic arsenic.

Lee and Fraumeni concluded that the observed excess in lung cancer mortality probably was not attributable to smoking and other confounding factors including country of birth, socio-economic status, availability of medical care, genetic suseptibility urbanization, and accuracy of death certificates. In their opinion, their findings were consistent with arsenic trioxide being an etiologic agent for the observed increase in cancer risk; however, the potential influence of sulfur dioxide or unknown agents could not be separated from the potential effect from arsenic exposure.

Lee and Fraumeni did not give quantifative estimates of arsenic exposure levels in their heavy, medium, and light categories. However, testimony was submitted to OSHA by H.F. Morris, Consulting Engineer for Anaconda on quantitative exposures (Ex. 28B). Based on air measurements and on experience at the smelter during the 1940's and 1950's, he estimated the mean arsenic measurements for the Lee and Fraumeni categories at the Anaconda smelter for 1943–1959 were as follows: heavy (11.27 mg/m^3), medium (0.58 mg/m^3), and light (0.29 mg/m^3).

Lubin, Pottern, Blot, Tokudome, Stone, and Fraumeni (Ex. 201–17) updated the original study by Lee and Fraumenf by following mortality experience during 1964–1977 for all 5,403 smelter workers alive as of December 31, 1963. Deaths occuring before 1964 were thus excluded from Lubin et al.'s analysis. Expected values for lung cancer mortality were derived from the age-specific, cause-specific, and calender period-specific mortality rates of U.S. white males. SMR's were calculated for the overall cohort and for groups of workers categorized by length of employment. Relative risks (RR's) were also calculated for groups of workers categorized by length of employment, intensity of exposure to arsenic and sulfur dioxide, and estimated cumulative doses of arsenic. Relative Risks are similar to SMR's but are calculated in a slightly different manner. Relative Risks in mortality studies consist of the observed mortality rate for a specific cause in a study group divided by the corresponding mortality rate in the comparison population, which in this study was U.S. white males. The authors calculated the RR's using multivariate models that included several variables related to arsenic exposure, sulfur dioxide exposure, and employment status as of 1964.

Based on the testimony submitted to OSHA on arsenic exposure levels in the Anaconda copper smelter (Ex. 28B), Lubin et al. assigned exposure levels of 11.3, 0.58, and 0.29 mg/m^3 in the heavy, medium, and light exposure categories respectively. Because respirators generally were worn in the heavy exposure areas, Lubin et al. reduced the assigned exposure level to 1.13 mg/m^3 in the heavy exposure category for some of their multivariate analyses. Cumulative arsenic exposure indices for individual workers were estimated by multiplying the number of years spent in each exposure category prior to 1964 by the assigned exposure level and summing over all the exposure categories. For the multivariate statistical analyses, the author combined workers in the heavy and medium categories because of the uncertainty of exposures and the small number of individuals in the heavy category.

In the overall cohort, significant increases were observed for mortality from lung cancer (SMR=166), circulatory diseases, non-malignant respiratory diseases, external causes, and ill-defined conditions and senility. Workers with 25 or more years of employment had the highest lung cancer SMR's. There was an increased risk of respiratory cancer associated with heavy/medium arsenic exposure. Workers who had never been exposed to heavy/medium work areas, some of whom may have had essentially nil exposure, did not have an increased risk of respiratory cancer mortality except for those with 25 or more years of employment. A significant linear trend was observed with respect to years worked at heavy/medium exposure and respiratory cancer.

When relative risks of the quintiles of cumulative arsenic exposure were compared, relative risks increased as cumulative exposure increased. Reducing the heavy exposure levels by 10-fold to reflect the use of respirators did not greatly alter the observed gradient in risk.

Lubin et al. concluded that their study cohort continued to have an excess risk of respiratory cancer during 1964–1977. Lee and Fraumeni observed a respiratory cancer SMR of 329 in their earlier study whereas Lubin et al. observed a respiratory cancer SMR of 165. Lubin et al. attributed the lower SMR in their study to several factors:

1. Respiratory cancer mortality rates have risen in the United States during 1964–1977 compared to 1938–1963;

2. U.S. respiratory cancer mortality rates are higher than those of the state of Montana;

3. Workers of unknown vital status were assumed to be alive as of the study cut-off date, which would tend to produce underestimates of risk;

4. Possibly the individuals most susceptible to lung cancer succumbed to it during the period before 1964.

Lubin et al. stated:

> As in the previous study, the excess deaths from respiratory cancer were linked to employment in areas of the plant where airborne arsenic levels were elevated. Indeed, excess risks were found among employees who had worked in areas with

heavy or medium arsenic exposure regardless of total length of employment at the smelter. Overall there was a strong gradient in risk associated with the index of cumulative arsenic exposure with individuals in the highest quintile of exposure having four times the risk of those in the lowest quintile (Ex. 201–17, p. 783).

Regarding smoking, Lubin et al. stated:

> Arguing against a major confounding role of smoking in this study is that no significant increases was observed for other smoking-related diseases (cancers of the mouth and throat, esophagus, and bladder, and heart disease) (Ex. 201–17, p. 784).

Lee-Feldstein (Ex. 201–16) conducted a follow-up study of the original occupational cohort of the study by Lee and Fraumeni (Note: Lee-Feldstein and Lee are the same author). This follow-up study observed mortality during 1938–1977, combining the follow-up periods of Lubin et al. (1964–1977) and Lee and Fraumeni (1938–1963). Furthermore, Lee-Feldstein's study included the exposure history for those smelter workers who were employed at Anaconda during 1964 to September 30, 1977, whereas Lubin et al. only used exposure data prior to 1964. Therefore, Lee-Feldstein's study reports the complete mortality and exposure experience during 1938–1977 of Anaconda copper smelter workers employed at least 12 months before December 31, 1956. Two females in the original study group of 8,047 workers were deleted, leaving a study cohort of 8,045 white males. The comparison population was composed of white males in the states of Idaho, Wyoming, and Montana, whose age, calendar period, and cause-specific mortality rates during 1938–1977 were the basis for generating expected numbers of deaths.

Lee-Feldstein used the same system for classifying workers into heavy, medium, and light exposure categories as Lee and Fraumeni, with exposure histories updated to reflect smelter employment after 1963. Standardized Mortality Ratios (SMR's) were calculated for the overall cohort as well as for the various exposure and length of employment categories.

Statistically significant increases in mortality in the overall cohort were observed for respiratory system cancer (SMR-285), digestive system cancer, diseases of the heart, emphysema, tuberculosis, vascular lesions of the central nervous system, and cirrhosis of the liver. SMR's for respiratory cancer ranged from 225 in the group with 1–4 years of employment to 408 in the group with 25 or more years of employment. In the light, medium and heavy exposure categories, the respiratory system cancer SMR's were 231, 446, and 512 respectively. In all three categories of exposure intensity and in all five length of emloyment categories, the observed excesses were statistically significant.

When the effect of intensity of exposure was examined within 3 length of employment categories (less than 15 years, 15-24 years, and 25 or more years), a consistent gradient of increasing risk with increasing intensity was observed except for the group with 25 or more years of employment (Table 5 of Lee-Feldstein's paper). In this group, the workers with medium exposure had the highest risk. Observed lung cancer deaths were in excess in all intensity-length of employment categories, including workers in the light exposure category with less than 15 years of employment.

Lee-Feldstein concluded that the findings of the follow-up study supported the hypothesis of Lee and Fraumeni that exposure to arsenic trioxide, possibly interacting with sulfur dioxide or other agents, was responsible for the increased respiratory cancer risk among smelter workers.

Higgins, Welch, Oh, and Burchfiel (Ex. 202–3B) also studied the mortality of workers at the Anaconda copper smelter. Rather than studying the entire cohort of 8047 employees exposed for at least 12 months before December 31, 1956, Higgins et al. studied a random sample of 20% of employees classified as having received medium and light exposures to arsenic. In addition, all employees classified as having been heavily exposed were included in the study cohort. This resulted in a total sampling of 22% of the Anaconda cohort.

> Note.—These exposure classifications of heavy and medium/light were listed on the computer tape sent by the National Cancer Institute (NCI) to Higgins and colleagues. Unlike Lee and Fraumeni's heavy exposure category, individuals assigned to the heavy category by the NCI received at least 24 months of exposure in their category of maximum exposure.

Altogether, the study cohort included 1800 men, 277 of whom were in the heavy exposure category. Follow-up was from 1938-1977.

The comparison population was Montana white males, although a few comparisons were made with U.S. white males. Expected numbers of deaths were derived from age, calendar period, and cause-specific mortality rates of Montana white males.

Higgins et al. also reviewed industrial hygiene data collected by staff of the Anaconda smelter and the state of Montana during 1943-1965 and calculated the average air concentrations of arsenic for 18 departments. For 17 departments with no available measurements, the air concentrations of arsenic were estimated. (Note: As used by Higgins et al., the terms "TWA", "Ceiling", and "peak" do not have the standard regulatory definitions used by OSHA.) Based on his duration of employment in each of the departments, each worker was assigned a *Time Weighted Average* (TWA) arsenic category and a *Ceiling* arsenic category. In addition, workers were categorized by Cumulative arsenic exposure (Ex. 203–5). The TWA consisted of the man's average daily dose rate, and the Ceiling was defined as the highest arsenic category in which a man had spent at least 30 days. *Cumulative* exposure incorporated both duration and intensity of exposure, and was calculated by multiplying the average arsenic concentration for each department during 1943–1965 by the years spent in that department and summing the individual's department exposures over his entire work history.

Cumulative exposure is an approximation of total dose received over a working lifetime. A man exposed 5 years to an average exposure of 100 $\mu g/m^3$ and an additional 2 years to an average exposure of 200 $\mu g/m^3$ would have an estimated *Cumulative* exposure of 900 $\mu g/m^3$-years. *TWA* exposure is an approximation of usual exposure levels, while *Ceiling* exposure refers to maximum exposure levels for 30 days or more. As explained earlier, all of these methods of classifying exposure are useful for exploring dose-response relationships for toxic substances.

The four categories of arsenic exposure for both the TWA and Ceiling classification systems were Low (less than 100 $\mu g/m^3$), Medium (100–499 $\mu g/m^3$), High (500–4999 $\mu g/m^3$), and Very High (greater than 4999 $\mu g/m^3$). For the Cumulative exposure classification system, designated categories were less than 500, 500–2000, 2000–12000, and greater than 12000 $\mu g/m^3$-years. No adjustments were made for respirator use because the authors considered respirator use to be inconsistent prior to 1964.

'Low' and 'Medium' categories of Higgins et al. generally corresponded to the 'Light' category of Lee-Feldstein. The 'High' category of Higgins et al. was generally similar to Lee-Feldstein's 'Medium' exposure category while the 'Very High' category of Higgins et al. corresponded to 'Heavy' in Lee-Feldstein's exposure scheme. To avoid confusion, these differences in nomenclature should be kept in mind when reading this preamble. Higgins et al. rated two areas (Acid Plant, Casting)

as having lower exposure levels and five areas (Maintenance, Surface, Shops, Unknown, Masons) as having higher exposure levels than those assigned by Lee and Fraumeni. Air concentration measurements of arsenic were not available for Maintenance, Surface, Shops, and Unknown departments.

Higgins et al. analyzed the mortality experience of the study cohort by using 5 different methods of defining exposure/follow-up periods. Method I featured complete separation of exposure and follow-up periods in the data analysis. Therefore, each man's exposure was counted only until the date he entered the study cohort. For workers employed at least 12 months prior to 1938, year of entry into the study cohort was 1938. Workers hired in 1938 or later were entered into the study cohort after they had been employed 12 months. Hence, Method I exposure analysis for a large portion of the study cohort was based on 12 months of exposure experience. For Method I, mortality was followed through 1977. Methods II and III included exposure experienced through 1963, and mortality was followed from 1938 through 1963 and 1977 respectively. Method IV included exposure experienced through 1963, and followed mortality from 1964 through 1977. Method V included the complete exposure experience and mortality experience of workers from 1938 through 1977. Because the major body of the report by Higgins et al. discussed Method I findings and because most risk analyses and pre-hearing and post-hearing submissions were based on Method I findings, the remainder of this discussion will focus on study findings of Method I. Data from the Method V analysis, separately submitted, was utilized in some cumulative dose analyses (Ex. 203–5).

Using the classification system of the National Cancer Institute computer tape (*Heavy* defined as at least 24 months in the arsenic kitchen, Cottrell, and arsenic roaster and *Other* defined as all other exposures), Standardized Mortality Ratios (SMRs) were calculated for both categories of exposure. Observed numbers of deaths were significantly elevated for the following causes of death in the Heavy category: respiratory system cancer (SMR=527), all cancers, respiratory diseases, diseases of the heart, and all other causes. In the Other category, the same causes of death were significantly elevated, including respiratory system cancer (SMR=257). In addition, workers in the other category had significant increases in mortality from digestive system cancer, vascular lesions of the central nervous system, and cirrhosis of the liver. For this comparison, Standardized Mortality Ratios (SMRs) were adjusted such that age differences between the 2 categories would not confound the observations (Table 16, Ex. 202–3B).

Using the TWA exposure classification system for arsenic, a gradient of response was apparent, with SMR's ranging from 138 in the Low category to 704 in the Very High category. The observed increases in respiratory cancer mortality were statistically significant except in the Low category (under 100 $\mu g/m^3$) (Table 16, Ex. 202–3B).

Using the *Ceiling* exposure classification system for arsenic, the observed increases in respiratory cancer mortality were statistically significant only in the High and Very High categories (Table 20, Ex. 202–3B). A dose-response gradient was observed. SMR's were 129 and 116 in the Low and Medium categories respectively.

When both *TWA* and *Ceiling* arsenic categories were examined simultaneously, the following respiratory system SMR's were calculated:

TABLE 1

	Ceiling							
	Low		Medium		High		Very high	
	Obs.[1]	SMR	Obs.	SMR	Obs.	SMR	Obs.	SMR
Low	7	115	1	113	3	310	0	
Medium	1	795	3	120	[1]16	398	0	
TWA:								
High					[1]20	316	[1]5	541
Very high							[1]16	704

[1] Statistically significant
[2] Obs = Observed number of lung cancer deaths.

As indicated in Table 1, observed respiratory cancer deaths were increased significantly for the Medium, High, and Very High TWA groups with a High or Very High Ceiling (Table 5, Ex. 203–5).

Using the *Cumulative* exposure classification system for arsenic, significantly increased respiratory cancer deaths were observed in the categories of 2000–12000 and 12000 or more $\mu g/m^3$-years. A non-significant respiratory cancer SMR of 157 was observed in the 500–2000 $\mu g/m^3$-years category. A dose-response gradient was apparent for this analysis.

Consultants in Epidemiology and Occupational Health (Ex. 219, Ex. 232–B) combined the *Cumulative* exposure data and *Ceiling* exposure data from the study of Higgins et al. and calculated the following SMR's for respiratory system cancer:

TABLE 2.—LIFETIME CEILING

	Low/ medium		High		Very high	
	Obs.	SMR	Obs.	SMR	Obs.	SMR
CUM less than 500	3	87	1	77	0	
EXP 500–2000 ($\mu g/m^3$ 200.–12000 years)	1	79	6	180	0	
12000 or more	0		[1]22	564	[1]5	627
	1	840	[1]10	459	[illegible]	816

[1] Statistically significant.

As indicated in Table 2, significant increases in respiratory cancer mortality were observed for the Cumulative exposure groups above 2000 $\mu g/m^3$-years with Lifetime Ceilings above 500 $\mu g/m^3$.

Higgins et al. also analyzed respiratory cancer mortality by years worked and Cumulative exposure (Ex. 244, Appendix A). Statistically signficant increases in respiratory cancer mortality were generally observed for workers employed for less than 10 years who had Cumulative exposures above 500 $\mu g/m^3$-years, as well as for workers employed for more than 10 years who had Cumulative exposures above 2000 $\mu g/m^3$-years.

Tables 47 and 49 of the report by Higgins et al. (Ex. 202–3B) compare the results obtained from using Methods I–V of exposure classification. For Method III, the results of the TWA analysis differed from Method I only in that the Low category no longer had an excess (non-significant) of respiratory cancer mortality. The results of the Ceiling analysis for Method III in the Low and Medium categories also did not exhibit the excesses (non-significant) of respiratory cancer observed for Method I.

Higgins et al. concluded, "Exposure to arsenic is strongly related to respiratory cancer mortality in this cohort of Smelter workers * * * There is a clear dose/response relationship, from no apparent increased risk among men exposed to low concentrations of arsenic to a roughly seven fold excess

risk in those exposed to the highest concentrations" (Ex. 202–3B, pp. 65). Discussing the nature of the dose-response relationship for arsenic, Higgins et al. suggested that "were men to have worked only in departments with average arsenic concentrations estimated to have been below 500 $\mu g/m^3$, there would have been little excess mortality due to respiratory cancer." They went on to state: "The estimates of arsenic exposure, however, are less precise than we would like." This conclusion regarding the dose-response relationship is based on their assessment that Ceiling had a stronger relationship to respiratory cancer mortality than did TWA. The primary evidence for such an assessment was Table 1, which exhibited signficant excesses only in those TWA groups with Ceiling exposures above 500 $\mu g/m^3$.

Higgins cited his findings with regard to Cumulative exposure as additional evidence for the hypothesis that respiratory cancer risk may be more dependent on *intensity* of exposure, including short-term peak exposures, than on *duration* of exposure or *average* exposure (Ex. 203–5, Ex. 244—Appendix A). Higgins stated that workers with short-term employment had higher respiratory cancer SMRs than workers accumulating the same exposure over a longer period of time. Table 6, which examined Cumulative exposure by Lifetime Ceiling, had statistically significant increases in respiratory cancer mortality only in workers whose Lifetime Ceiling exceeded 500 $\mu g/m^3$.

While Higgins et al. did not propose a mechanism to explain their observations on the effects of short-term peak exposures. Higgins stated: "It does seem, however, that repair and characteristics of deposition and clearance are all factors likely to be involved."

Noting that 12 lung cancer deaths had been observed compared to 9.6 expected in workers whose TWA and ceilings were below 500 $\mu g/m^3$ (see Table 4), Higgins suggested that there may have been perhaps 10 excess lung cancer deaths in this group within the entire Anaconda study cohort.

C. Analysis of Studies of Anaconda Copper Smelter

Regarding the exposure classification system used by Lee and Fraumeni, as well as by Lee Feldstein, Crump (Ex. 206, p. 6), Marsh (Ex. 203–5, p. 2), Enterline (Ex. 203–5, p. 3) and Radford (Ex. 207, p. 10) commented that Lee and Fraumeni's and Lee-Feldstein's approach tended toward overestimation of exposures. Overestimating exposures results in understating true cancer risk for a given level of exposure. This overestimation resulted from classifying workers in the category in which they received their highest exposure for 12 or more months, even though they may have worked in lower exposure areas for the balance of their employment. Workers who received less than 12 months of exposure in their category of maximum exposure were deleted from the comparative analysis of Heavy, Medium, and Light exposures. Therefore, Lee-Feldstein's and Lee and Fraumeni's classification system was similar but not identical to the Ceiling analysis of Higgins and colleagues, differing in the minimum length of exposure required for classification in a category and other features.

Crump (Ex. 206, p. 6), Marsh Ex. 203–5, p. 5), and Radford (Ex. 239, p. 3) noted the uncertainties from a cumulative or total dose viewpoint (i.e. classification by maximum rather than usual exposure or total exposure) of the method of exposure assessment used by Lee-Feldstein and Lee and Fraumeni, and suggested that a more detailed analysis of the exposure data would be helpful. Hence, they considered the exposure reevaluation conducted by Higgins and colleagues to be a worthwhile endeavor.

Radford made the following comments about the exposure classification system of Higgins and colleagues and their statistical analysis:

1. In order to assess the effect of changes in categorization from the Lee-Feldstein system, the numbers of workers in the various departments should have been specified, especially for those departments lacking air measurements which were assigned values of 559 $\mu g/m^3$. "For example, it would be interesting to know whether assignment of a value of, say, 400 $\mu g/m^3$ to these groups would have affected the subsequent results greatly, since now they would be below the 500 $\mu g/m^3$ ceiling. If so, then any conclusion that 500 $\mu g/m^3$ was a critical exposure level rests on a shaky foundation indeed." (Ex. 239, p. 6).

2. Analyzing risk by Ceiling exposure level in addition to TWA exposure level removed a large proportion of the workers from the Medium group and placed them in the High group lowering the statistical power to detect excess risk in the Low and Medium groups (Ex. 239, p. 7).

3. Analyses of the role of peak exposures also should have been performed for definitions of high short-term exposure other than the 30-day Ceiling (Ex. 239, p. 8).

4. "Because of the difference in sample size, the Lee-Feldstein results are much more robust statistically than those of Higgins et al. all other things being equal. Lee-Feldstein has analysed 3522 deaths from all causes and 302 deaths from respiratory cancer; the corresponding numbers in the Higgins study are 816 and 80. * * * It should be emphasized that 136 lung cancer cases were observed in this dose category (Light exposure—Lee-Feldstein), far more than all the lung cancers studied by Higgins et al." (Ex. 239, pp. 2 and 6).

5. There were some findings pointing toward a role for arsenic in the etiology of ischemic heart disease and respiratory diseases, especially for smokers. For non-smokers, the role of arsenic in these diseases could not be explored in the absence of smoking-specific mortality rates (Ex. 239, pp. 4–5).

6. For lung cancer, there was a consistent linear dose-response relationship with regard to cumulative exposure except in the lowest dose category (less than 500 $\mu g/m^3$-years). "But this finding of no excess at the lowest cumulative dose can be given no significance because of the error limits on many of the relative or absolute risks. It is regrettable that no error limits on any of the key derived quantities is provided in the Higgins reports, a major deficiency precisely when one is analyzing dose-response relationships." (Ex. 239, p. 9).

Crump commented as follows on the Higgins exposure classification system and statistical analysis:

1. The SMR's in the Low and Medium exposure categories of the Ceiling analysis were not remarkably different from the SMR's in the categories of the TWA analysis. For example, the 90% confidence interval for the statistically significant SMR of 303 in the Medium TWA category overlapped with the non-significant SMR in the Medium Ceiling category (Ex. 212, p. 4).

2. "More importantly, even if these observed decreases in SMR's are real, this is exactly what would be expected even if mortality does not depend at all upon ceiling exposures * * * because within a given TWA category persons with higher ceiling exposures are also expected to have higher TWA's * * * "(Ex. 212, p. 4).

Note.—Higgins et al. mentioned this phenomenon when discussing effects of sulfur dioxide exposures on carcinogenic risk. See section on *Effects of Other Exposures*.

3. The TWA-Ceiling analysis (See Table 1) did not adequately test the hypothesis of the over-riding importance of short-term peak exposures. Small sample sizes and the fact that persons with higher ceiling exposures also would be expected to have higher TWA

exposures limited the interpretation of the TWA-Ceiling analysis (Ex. 212, p. 4).

4. "I therefore consider the argument that risk depends primarily upon exposure level irrespective of duration to be highly speculative at this point. However, I would not rule out the possibility that measures of exposure other than cumulative exposure might correlate better with respiratory cancer risk. Further analyses of the data from both the Anaconda and Tacoma Smelters utilizing other measures of exposure could be helpful in this regard. Although I consider cumulative exposure to be a very reasonable measure, others are also reasonable. However, the way in which the data have been presented in the published reports has made it difficult to consider other approaches" (Ex. 212, p. 4).

Higgins' comments in both pre-hearing and post-hearing submissions to OSHA (Exhibits 244, Appendix A and 203–5) were mostly included in the section of this preamble summarizing his study results and conclusions. In response to the comments of Radford and Crump concerning his study, he made the following additional points:

1. Criticisms of Method I for defining exposure that were voiced by Crump (Ex. 212, p. 3) and Radford (Ex. 239, p. 7) were not valid because findings from Methods II–V of defining exposure did not differ substantially from findings of Method I. Also, because men could only move into higher Ceiling categories after being classified by Method I, Method I would tend toward overestimation of risk in lower Ceiling categories (Ex. 244, Appendix A, p. 2).

2. In contrast to Radford, Higgins considered dose-response relationships for respiratory diseases and ischemic heart disease to be inconsistent, unimpressive, and possibly due to the effect of other unmeasured factors. Smoking-specific mortality rates would have been desirable for smokers as well as non-smokers. In any case, the number of non-smokers was small such that it precluded meaningful analysis for these diseases (Ex. 244, Appendix A, pp. 7–8).

3. Regarding departments without air measurements that were assigned the mean value for the Low, Medium, and High arsenic categories, Higgins stated that "men in these departments likely worked for significant periods in various areas of the smelter, including those areas with High and Very High measured arsenic concentration." (Ex. 244, Appendix A, p. 9).

4. Contrary to the Lee-Feldstein definition of Light exposure, in which those in this category were reported to have had maximum exposure in the Light work areas, Higgins et al. did not find that these workers had always been exposed to less than 500 $\mu g/m^3$ (Ex. 244, Appendix A, p. 11).

The epidemiologic studies discussed in the preceding section were well-conducted and thorough analyses of the mortality experience of Anaconda Copper Smelter workers. Despite methodological differences, these studies were in substantial agreement in that the authors all concluded that their findings supported the hypothesis of arsenic being a respiratory carcinogen. Furthermore, all of these studies found a dose-response relationship in which increasing exposure to arsenic was correlated with increasing lung cancer risk.

The primary strength of the studies by Lee and Fraumeni and Lee-Feldstein was that the complete population at risk (workers with at least 12 months of employment before December 31, 1956) was included in their study cohorts. In addition, all surviving members of the study cohort would have been able to accumulate over 20 years of latency since first exposure by the end of 1977, which was Lee-Feldstein's study cut-off date.

The generalizability of the findings of the study by Lubin et al. is somewhat more limited by virtue of the fact that their study population was composed of persons alive in 1964, excluding persons who died from lung cancer and other causes prior to 1964. Hence, the mortality experience of the cohort of Lubin et al. was only a partial representation of the mortality of the overall cohort.

One strength of the study by Higgins et al. was their extensive survey of the exposure experience of the Anaconda cohort. This survey featured compilation of exposure data within departments, matching of the exposure data to occupational histories, and classification of individuals' exposures using different types of measures (i.e. TWA, Ceiling, Cumulative exposures). There are several potential problems with the exposure classification system developed by Higgins and colleagues:

1. Seventeen departments had no available measurements of arsenic air concentration. These departments were assigned exposures by analogy or by averaging exposures from departments rated, Low, Medium, and High. Clearly, these assigned exposure measurements may have considerable potential for error.

2. Most available measurements were made in those departments that industrial hygienists deemed to pose the greatest hazard (Ex. 202–3B). Hence, available air measurements may tend to represent higher exposure areas rather than representing overall exposure within the smelter. Also, departments with unknown concentrations may tend to have had the lowest exposure levels. Higgins and colleagues assigned several departments with unknown concentrations to the High exposure category.

3. Although arsenic air concentrations generally declined over the 20 year period for which measurements were available, Higgins and colleagues did not incorporate temporal trends in their exposure measures. For example, a worker exposed between 1955 and 1960 in a particular department would have the same exposure rating as a worker exposed between 1933 and 1938 in that department. Because Higgins and colleagues found that measurements frequently were made in order to test the efficacy of new industrial hygiene control measures, so that measurements would not necessarily reflect overall conditions in the smelter, they decided that temporal trends could not be accurately estimated.

Consultants in Epidemiology and Occupational Health (CEOH), representing CMA, stated that the exposure classification scheme of Higgins and colleagues was "probably a more direct and better estimate than that deriving from the Lee and Fraumeni classification" because it tied exposure estimates more directly to the work history of the individual worker.

Wright, representing the United Steelworkers of America (USW), commented that exposure of maintenance workers, masons, and miscellaneous crushing workers would vary widely from day to day depending on their job assignment (Ex. 231). He suggested that sampling for arsenic may not have taken place during job assignments for which little or no arsenic exposure would be expected. Wright also cited a measurement taken within the stack of the Cottrells as an example of a sample that may have been taken during a cleaning operation that would have been done no more than several times a year. In summary, he suggested that Higgins and colleagues may have overestimated average exposure for some job classifications.

One major shortcoming of the study by Higgins et al. is the incomplete study cohort. Higgins et al. studied only a 20% sample of the group receiving exposures other than Heavy. OSHA is particularly concerned about the incomplete information for the group receiving lower arsenic exposures. Higgins and colleagues acknowledged that the number of men in categories less than

5000 μg/m³ was very small and that some of their conclusions were based on a small number of deaths (Ex. 202–3B, Ex. 244—Appendix A). Thus, they recommended that their analysis be applied to the entire Anaconda copper smelter cohort.

One consequence of studying only 20% of workers in categories other than Heavy was that the study by Higgins and colleagues had low statistical sensitivity for detection of an excess lung cancer risk among workers in these categories. As discussed during the public hearing (see Tr. 464), statistical power quantifies the ability of a study to detect an excess risk that truly exists and refers to the probability of not missing a true excess risk.

OSHA staff submissions (Ex. 221, Ex. 237–A, Ex. 237–B) calculated the statistical power of the study by Higgins et al. to detect a 1.5-fold increase in lung cancer risk among workers in Low and Medium exposure categories.

Note.—A 1.5-fold increase in risk refers to a 50% increase in risk, which is generally equivalent to an SMR or 150 or a relative risk of 1.5.

Because risk analyses predicted an approximately 1.5-fold increase in risk in workers exposed to about 150 μg/m³ for 15 years, OSHA considered that quantifying the study's ability to detect a 1.5-fold increase in lung cancer risk would be appropriate. Also, a 1.5-fold increase in lung cancer risk would constitute a highly significant risk because lung cancer is a relatively common cause of death. Estimates of statistical power to detect a 1.5-fold lung cancer risk for Ceiling categories of less than 100 μg/m³ and 100–500 μg/m³ were 23% and 14% respectively (Method I analysis). Combining these 2 categories of exposure below 500 μg/m³ yielded a power estimate of 37% (Method I analysis). Therefore, the Higgins et al. study had less than a 37% chance of detecting a true 50% excess risk. For the TWA category of less than 100 μg/m³, statistical power was estimated to be 31% (Method I analysis).

For Methods III and V of analysis, the statistical power to detect an excess risk for ceiling exposures below 500 μg/m³ was 28% and 25% respectively (Ex. 237 B). It should be noted that Methods III and V, which did not find excesses of respiratory cancer mortality below a ceiling of 500 μg/m³, had lower statistical power than Method I, which did find excesses below a 500 μg/m³ ceiling. Thus, decreased statistical power was associated with non-positive findings using Methods III and V of analysis.

Most epidemiologic investigators, when initiating a study, attempt to choose a study cohort of sufficient size to have at least 80% power to detect a true difference in the variable of interest. Therefore, the statistical power estimates for the study of Higgins et al., all of which are less than 40%, are much lower than desirable. The problem of low statistical power was worsened by the TWA-Ceiling and Cumulative exposure-Ceiling analyses (Tables 1 and 2) because the already small number of person-years were spread among more categories by these analyses.

Given the low statistical power of the study by Higgins and colleagues to detect increased respiratory cancer risk among workers in the Low and Medium exposure categories, and given the dose-response gradients observed in their study, it is appropriate to consider excesses of respiratory cancers in these categories as evidence of potential risk, even if such excesses are not statistically significant when considered individually. Hence, the respiratory cancer SMR's of 138, 129, and 116 in the Low TWA exposure category, Low Ceiling category, and Medium Ceiling category respectively should not be disregarded (Method I analysis).

Further evidence of the low statistical sensitivity of the study by Higgins et al. was their failure to observe significant excess mortality from digestive cancer and tuberculosis. The study by Lee-Feldstein, which included the mortality experience of the entire study cohort, did find significant increases for these causes of mortality. Radford (Ex. 239, p. 3) was not concerned about this discrepancy between the findings of Lee-Feldstein and Higgins; however, OSHA considers the discrepancy to be one indicator of potential problems with low statistical power in the study by Higgins et al.

Higgins cited Table 7 as evidence for his conclusion that duration of exposure had a relatively unimportant relationship to risk (Ex. 244, Appendix A, p. 3). Higgins is correct in stating that workers with less than 10 years of employment who received a particular Cumulative exposure had higher respiratory cancer SMR's than their counterparts who received the same exposure over a longer period of time. The differences in the magnitude of the SMR's, however, were not necessarily of biological or statistical significance. For example, respiratory cancer SMR's of 476 and 439 were calculated for the group of workers with less than 10 years and 30 or more years respectively. As mentioned earlier, another potential problem may be confounding effects from age in the comparison of SMR's.

Also, Brown and Chu (Ex. 241–B), in their multivariate analyses of factors contributing to lung cancer risk, observed duration of exposure to arsenic be the most important single etiologic factor. Brown and Chu studied 9014 of the 8045 Anaconda cohort members, increasing the statistical confidence which can be placed on their findings compared to those of Higgins et al.. See *Estimating Risks* section for a fuller discussion of Brown and Chu's study (Ex. 241–B).

OSHA considers it appropriate to examine the findings from all methods of exposure classification. First, clear dose-response gradients have been obtained for duration of exposure, cumulative exposure, average exposure, and maximum exposure classification systems. Second, there is no scientific consensus as to the exact mechanism of carcinogenesis. Another reason for examining the results of different exposure analyses is the low statistical power in the study by Higgins and colleagues for detection of a risk in Low and Medium exposure categories. Results from analyses by TWA exposure, Cumulative exposure, Ceiling exposure, and other methods of classifying exposures were all reviewed by OSHA in reaching a decision on significance of risk posed by inhaled arsenic.

A major consideration is that the studies of Lee and Fraumeni and Lee-Feldstein, that included the entire cohort, found a significantly increased respiratory cancer risk among workers categorized as having received Light exposures who had never been employed in Medium or Heavy exposure work areas. Lee and Fraumeni's and Lee-Feldstein's findings, which diverge from those of Higgins et al., may be due to differences in ascription of exposure for work departments or may be due to their studies' greater statistical power. With the exposure data available to OSHA, OSHA is not able to choose whether Lee-Feldstein or Higgins and colleagues developed the most appropriate exposure ascription scheme. Both exposure ascription systems had strengths and limitations, and both appear reasonable. However, because Higgins et al. studied only a limited sample of the cohort, resulting in low statistical power, OSHA places less weight on their findings for the Anaconda cohort than those of Lee-Feldstein and Lee and Fraumeni.

The hypothesis of Higgins and colleagues that respiratory cancer may be more a function of intensity of exposure than a function of duration of exposure or average exposure stemmed

from their analyses of risk by 30-day ceiling exposures. In effect, Higgins et al. and CEOH are proposing a threshold by suggesting that little risk would occur from arsenic exposures below 500 $\mu g/m.^3$ This hypothesis would represent a mechanism of carcinogenesis different from that upon which standard dose extrapolation models for humans are based. OSHA is not aware of any studies that have definitively demonstrated the existence of a threshold for human carcinogens. Even if a threshold was clearly demonstrated in laboratory animals for a particular carcinogen, that carcinogen would not necessarily have a threshold for humans. This is because humans are exposed to carcinogens in ambient air, diet, cigarette smoke (either by direct inhalation or by sidestream smoke), alcohol and other sources at levels ranging from infinitesimal to considerable. Additional carcinogenic exposures in the workplace may have a synergistic or additive effect on cancer risk when combined with these background carcinogenic exposures.

Other biological evidence against thresholds for human carcinogens includes the self-replicating nature of cancer and the wide range of individual susceptibilities to carcinogens. Because of the possibility of synergism between workplace exposures and other carcinogenic exposures and because of biological evidence against there being a threshold for human carcinogens, evidence concerning the existence of a threshold would have to be considerable in order for the concept of a threshold for carcinogenesis to be generally accepted by the scientific community.

As discussed in this section, the limitations of the study by Higgins et al. preclude the study from providing strong evidence for the existence of a threshold. Nor do any of the studies of other arsenic-exposed populations demonstrate a threshold. In support of a threshold, Dr. Lamm of CEOH suggested that the human lung could clear the arsenic under ordinary circumstances of exposure through ciliary action, but be overwhelmed by high arsenic exposures such that the process of clearance through the bronchial mucus ladder would be inhibited and particles would be retained (Tr. 510–512). This suggested mechanism must be considered speculative. The limitations of the study by Higgins et al. and the biological data against thresholds for human carcinogens seriously weaken the findings of Higgins et al. concerning the effects of Ceiling exposures below 500 $\mu g/m.^3$

Furthermore, as discussed earlier, OSHA considers that findings from all exposure classification systems should be incorporated into the agency's assessment of risk. While Higgins et al's findings with respect to Ceiling arsenic exposure suggest that cancer risk may be low below 500 $\mu g/m^3$, their TWA analyses found that workers with average arsenic exposure between 100–499 $\mu g/m^3$ had increased respiratory cancer risk. Furthermore, significantly increased respiratory cancer mortality was observed in workers with 500–2000 $\mu g/m^3$-years of cumulative exposure. (The average of 500–2000 $\mu g/m^3$-years is 1250 $\mu g/m^3$-years. This total dose could be accumulated for 45 years of exposure to 28 $\mu g/m^3$).

D. ASARCO Copper Smelter

A series of epidemiologic studies have been conducted of the ASARCO Copper Smelter in Tacoma, Washingon, (Ex. 3Z; Ex. 29 B; Ex. 111, Attachment 4; Ex. 133; Ex. 201–8; Ex. 201–8; Ex. 201–19; Ex. 205–2). The preamble to the final arsenic standard extensively analyzed the studies which were available to OSHA during rulemaking (Ex. 3Z; Ex. 29 B; Ex. 111, Attachment 4; Ex. 133) and should be referred to for more detailed information concerning these earlier studies. What follows is a short summary of the earlier studies and a more detailed summary of the subsequent studies.

Pinto and Enterline studied the mortality of 526 men who had retired from the ASARCO copper smelter and were receiving pensions (Ex. 298; Ex. 111, Attachment 4). To be eligible for the cohort, retirees had to be alive as of January 1, 1949 and had to have reached age 65 by December 31, 1960. The mortality experience was observed for the period 1949–1973. Expected numbers of deaths were generated from age-specific, calendar period-specific, and cause-specific mortality rates of white males in the state of Washington during 1949–1973. Based on urinary arsenic concentrations collected in 1973 from active employees, Pinto and Enterline estimated the total (cumulative) arsenic exposure (μg/As/1-years) and average arsenic exposure (μg/As/1) for their cohort of retirees. From employment records of the retirees, a cumulative arsenic exposure index was computed by multiplying average urinary values in 1973 for each department by the number of years during which the employee worked in that department and then summing values across all departments. The average arsenic exposure was calculated by dividing each man's total exposure by the total number of years worked at the smelter.

Standardized Mortality Ratios (SMRs) were calculated for the overall cohort as well as for groups of workers categorized by duration of employment, total exposure, and average exposure. For the overall cohort, respiratory system cancer mortality was significantly increased (SMR=300.3). Significantly increased respiratory cancer mortality was observed in all arsenic average exposure categories for workers with 25 years or more of employment, with SMRs increasing from 273.7 to 859.5 in the low to high category. A similar dose-response gradient was noted for men with less than 25 years of employment, although only one SMR was statistically significant. Workers with more than 25 years of employment consistently had higher SMRs than workers in the same average exposure category who were employed less than 25 years.

For both the total (cumulative) arsenic exposure index and the average arsenic exposure index, Enterline described their relationships to respiratory cancer as "linear" (Ex. 111, Attachment 4, p. 1). Pinto and Enterline stated, "In conclusion, results thus far indicate that there is a relationship between exposure to arsenic trioxide, or associated agents in the smelter atmosphere, and increased risk of respiratory cancer" (Ex. 29B, p. 7).

In published articles on the mortality of their cohort of retirees, Pinto et al. (Ex. 201; Ex. 203–2) suggested that a threshold of safety for arsenic trioxide may exist, based on their not having observed an increased risk of respiratory cancer among men with an average exposure below 200 $\mu g/1$ who had been employed less than 25 years. They did note the possibility that this group of men may not have been observed for an adequate length of time, but went on to state that the carcinogenic effects of arsenic had declined with increasing time since cessation of exposure. Commenting on the possibility of a threshold based on the Pinto-Enterline data, OSHA in the preamble to the final regulation noted the small number of workers in the exposure category at which no excess was observed.

Pinto et al. compared the measured urinary arsenic concentrations in 1973 with 800 urinary samples collected during 1948–1952 mostly from men in high exposure jobs (Ex. 29B; Ex. 205–2). The 1948–1952 urinary arsenic values were roughly twice as high as the 1973 values upon which their exposure analysis was based, although a few departments had higher values in 1973. In addition, Pinto et al. indicated that

"scattered" air measurements made on an irregular basis during that late 1930's and early 1940's exhibited airborne arsenic concentrations about 5 to 10 times as high as in 1973. Therefore, Pinto et al. recommended that their findings of elevated risk be interpreted as resulting from levels of airborne arsenic higher than the 1973 values.

Pinto et al. (Ex. 201–19; Ex. 203–5) stated that both duration of arsenic exposure and average arsenic exposure contributed to the excess of respiratory cancer among workers at ASARCO copper smelter, and that average exposure predicted lung cancer risk better than duration of exposure.

Subsequent to publication of studies on the mortality of ASARCO retirees, Enterline and Marsh expanded their study cohort to include all 2802 men employed one year or more during 1940–1964 (Ex. 201–8, Ex. 201–9). In addition, arsenic exposure indices were revised to better reflect historical arsenic exposures, involving linear extrapolation to 1948–1952 from 1973, 1974, and 1975 urinary arsenic values. Exposure levels during 1940–1948 were assumed to be the same as those measured during 1948–1952 (Ex. 201–9). Average urinary arsenic levels, Cumulative (total) arsenic levels, and Cumulative arsenic levels minus the 10 years of exposure preceding death or the study cut-off date were estimated for each worker. Subtracting 10 years of exposure was done on the theory that the exposure immediately preceding death from lung cancer probably would not have been responsible for the death because of the latency period between the onset of exposure and illness.

The period of observation of mortality was 1941–1976. Age-specific, cause-specific, and calendar period-specific mortality rates of white males in the state of Washington during 1950–1976 generated the expected numbers of deaths. Because background lung cancer mortality rates were lower during 1941–1949 than during subsequent years, the expected number of lung cancer deaths were overstated for the period 1941–1949, leading to underestimates of the excess risk. Enterline and Marsh also generated expected numbers of deaths from the specific age, cause, and calendar period mortality rates of U.S. white males during 1941–1976.

For the overall cohort, respiratory system cancer mortality was significantly increased. Compared to U.S. males and Washington males, the respiratory cancer SMRs for the study cohort were 198.1 and 189.4 respectively (Ex. 201–9, Table 6, p.8).

Cumulative exposure categories, expressed in micrograms or arsenic per liter of urine years (μg As/1-years), were less than 500, 500–1500, 500–3000, 3000–5000, and 7000 or more. Respiratory cancer SMRs ranged from 158.4 to 243.4 in these categories, with no clear trend of increasing SMRs with increasing dose. When the 10 years of exposure accrued before death or the study cut-off date were subtracted from the Cumulative exposure (hereafter referred to as the 10 Year Lag exposure), an inconsistent dose-response gradient emerged (Ex. 201–9, Table 8, p. 10).

For the 2 lowest Cumulative exposure categories (less than 500 and 500–1500), respiratory cancer SMRs of 202 and 158.4 respectively were observed, although these increases were not statistically significant. For the same categories of 10 Year Lag exposure, respiratory cancer SMRs of 155.4 and 176.6 respectively were observed, with the increase in the 500–1500 group attaining statistical significance. Hence, increased respiratory cancer risk was observed in relatively low dose categories (Ex. 201–9, table 8, p. 10). Using a urinary to air conversion factor of 0.3, 500 μg As/1-years is equivalent to 150 $\mu g/m^3$-years of airborne arsenic. Furthermore, the average exposure in the less than 500 μg As/1-years group was 302 μg As/1-years, which is roughly equivalent to 90 $\mu g/m^3$-years of arsenic. A dose 90 $\mu g/m^3$-years can be accumulated by one year of exposure to 90 $\mu g/m^3$ or by more years of exposure to lower levels (i.e. 45 years to 2 $\mu g/m^3$).

A somewhat clearer dose-response gradient was observed for 582 retired workers at ages 65 or over. Respiratory system cancer SMRs ranged from 136.8 to 393.2 (Ex. 201–9, Table 10, p. 11). When Enterline and Marsh analyzed respiratory cancer mortality by latency from initial exposure and duration of employment, they observed that respiratory cancer SMRs were significantly in excess during the first decade or two after cessation of exposure. For the second or third decades following cessation of exposure, the observed number of respiratory cancer deaths (SMR=137.9) no longer was significantly in excess.

When Enterline and Marsh examined respiratory cancer mortality by duration of employment and by average exposure, respiratory cancer SMRs increased both with increasing duration and increasing average exposure. This particular analysis was confined to workers who had either left the active smelter work force or retired by December 31, 1976. Enterline and Marsh stated that this analysis showed "that both duration of exposure and intensity of exposure contribute to respiratory cancer mortality" (Ex. 201–9, p. 14). Respiratory cancer SMRs in the "low" average exposure group (defined as having an average less than 290 μg As/1, with a group mean of 163 μg As/1) ranged from 169.9 to 302.0. The respiratory cancer excesses observed in the low average exposure group were statistically significant, except for workers with less than 10 years of exposure. Using a urinary to air conversion factor of 0.3, 163 μg As/1 is equivalent to 49 $\mu g/m^3$.

Enterline and Marsh reached the following conclusions:

(1) Concerning the relationship between arsenic and cancer, "the carcinogenic response apparently can occur rather quickly—in this study apparently in about 10 years" (Ex. 201–9, p. 16).

(2) The carcinogenic effects of arsenic appeared to decline with time following the cessation of exposure.

(3) Arsenic appears to act as a cancer promoter rather than an initiator, based on evidence of lack of an effect of latency and based on the apparent decline in risk after cessation of exposure.

E. Analysis of Studies of ASARCO Copper Smelter

For purposes of risk analysis, the most recent epidemiologic study by Enterline and Marsh of ASARCO copper smelter (Ex. 201–9) has an advantage compared to the earlier studies available to OSHA because it included the entire cohort at risk from a year or more of exposure (2802 men) rather than only the pensioned retirees (527), who might have been unrepresentative of the overall employee population of the smelter. Including the entire cohort at risk yield 104 respiratory cancer deaths with which to analyze dose-response relationships, whereas the earlier studies observed only 32 respiratory cancer deaths. Another advantage of the most recent study by Enterline and Marsh was their reconstruction of the individual worker's probable exposure based not only on 1973 urinary arsenic levels but on 1948–1952 urinary arsenic levels. A urinary arsenic level is a biological indicator of arsenic exposure that would reflect protection provided by respirator use.

Much of these studies' analyses entailed comparison of SMR's and relative risks among different exposure groups. This is a common analytical procedure of epidemiologic studies. As noted in the staff submission on SMR's (Exhibits 241–A, 237–N, 237–PP), the SMR is a risk measure that is dependent on the age structure of the study population. Cancer incidence, including

lung cancer incidence, rises with age. Hence, an older study cohort will be expected to have a greater number of deaths from cancer compared to a younger study cohort. Sometimes, comparison of SMR's among different study populations may be confounded by age if their underlying age distributions are different, which may in turn obscure the true nature of the excess risks. A hypothetical example given in the staff submission (Ex. 241–A) shows the rate of excess deaths attributable to an unspecified agent doubling for each successive 10-year age group while SMR's remain constant across the age groups.

Groups of workers in different exposure categories may have different age distributions, thereby causing age to confound the comparison of SMR's among exposure categories. Absolute risk analysis is one method of addressing age confounding in SMR comparison. Crump performed an absolute risk analysis of the Enterline and Marsh study, the results of which will be discussed extensively in the *Estimating Risks* section. Absolute risk will also be explained in that section.

Crump commented on Enterline and Marsh's observation of declining respiratory cancer risk following cessation of exposure:

> The concept of absolute risk may also help to explain certain other features of the Enterline and Marsh analyses. When they considered (their Table 11) SMR's by duration of exposure and by latency (time since first exposure) they detected a drop-off in SMR's past about 10 years after the termination of exposure * * *
>
> The effects in their Table 11 that partially evoked these interpretations are based upon small numbers of cancers and it appears to me that they may simply be an artifact. However, assuming that the observed drop-off in SMR's is real, it could be that absolute risk is holding steady or even increasing. The evidence provided by Enterline and Marsh's Table 11 for designating arsenic as a promoter seems tenuous at best (Ex. 208, pp. 18–19).

Radford also noted the problem of small numbers of deaths as an impediment to determining whether arsenic-induced cancer risk declined after cessation of exposure in the study by Enterline and Marsh (Ex. 207, p. 8). Radford also stated that the continuing respiratory cancer excess in retired workers contradicted evidence of a decreased risk after cessation of exposure, and thus constituted evidence against arsenic acting as a promoter.

Enterline, in a pre-hearing submission to OSHA (Ex. 203–5), pointed out that revising his exposure estimates for the ASARCO workers to include historical exposures lowered the observed regression coefficients (approximations of carcinogenic potency) in the various exposure categories. Enterline suggested that even his current regression coefficients were overstated by a factor of 2 because of the lack of historical exposure data for years preceding 1946.

For reasons explained below, OSHA concludes that cumulative exposure is one of several appropriate methods of analyzing the dose-response of workers in the ASARCO copper smelter. The use of cumulative dose is supported by the good dose-response observed in Table 10 of Enterline and Marsh's paper, which examines SMRs by cumulative dose in retirees age 65 and over (Ex. 201–9, p. 11). In addition, Table 12 of the paper exhibits a risk gradient with increasing duration of exposure for both "low" and "high" intensity exposure categories (Ex. 201–9, p. 14). Enterline and Marsh interpreted Table 12 as demonstrating that both duration and intensity of exposure contributed to excess respiratory cancer risk. In addition, Crump's absolute risk analysis for Cumulative exposure data and 10 Year Lag data found a strong linear trend of increasing risk with increasing cumulative dose.

OSHA judges that Enterline and Marsh's observations of declining respiratory cancer risk after cessation of exposure are inconclusive for the following reasons. Age may confound the comparisons of SMRs of cohorts' successive decades following cessation of exposure. Interpretation of finding is further hampered by low power to detect a statistically significant risk in some of the categories analyzed. In addition, the decreased SMRs two to three decades following cessation of exposure were not markedly different from the statistically significant SMRs of the preceding decades.

With regard to low dose risk, OSHA considers the respiratory cancer SMRs in low dose categories, which indicate excess risk, in Table 8 and 10 to constitute some additional evidence of a potential risk from low levels of arsenic exposure. Some of these SMRs were not statistically significant; however, these exposure categories had low statistical power to detect a 1.5-fold lung cancer risk. Although an isolated statistically non-significant excess risk would have relatively little meaning, statistically non-significant excess risks in some circumstances can be meaningful when they fit reasonably closely curves derived from statistically significant excess risks or are consistent with observed trends. At the relatively low predicted excess risks for low level exposures, there would have to be large numbers of workers before statistical significance is obtained.

F. Urine-Air Correlation

A published article by Pinto et al. (Ex. 210) reported the results of a study of the relationship between airborne arsenic trioxide and urinary arsenic. A total of 24 workers participated in this study, for which they wore personal air samplers and did not wear respirators for 5 successive days. Also, workers were asked to not eat fish for 2 days preceding and during the study period. Pinto et al. stated, "A fairly good correlation was found between airborne arsenic concentrations and urinary arsenic levels over the range studied" (Ex. 201–19, p. 128). The conversion factor was 0.304 so that a urinary level of 100 $\mu g/l$ of arsenic was roughly equivalent to 30.4 $\mu g/m^3$ of arsenic in air.

Note— Some authors rounded off 0.304 to either 0.3 or 0.31.)

Consultants in Epidemiology and Occupational Health (CEOH) (Ex. 202–3D, p. 28) refit the regression line of Pinto et al. so that it did not pass through zero and obtained a steeper slope indicating higher air levels per unit of urinary arsenic. They estimated the slope as approximately twice as high as Pinto et al.'s slope.

ASARCO presented Pinto et al.'s study on the relationship of urinary arsenic concentration to airborne arsenic during earlier proceedings as the best available data on this subject. In the most recent proceedings, ASARCO characterized OSHA's use of Pinto et al.'s conversion factor as "extremely questionable", due to limitations of Pinto et al.'s data base (Ex. 202–7, p. 22). ASARCO criticized the small number of workers in Pinto et al.'s study, the short study period, the lack of data on the urine-air relationship at high arsenic air concentrations, and the lack of adjustment for background urinary arsenic concentrations. ASARCO suggested that:

> OSHA should have conducted risk assessment based on the Tacoma studies in terms of urinary concentrations. The attempt to convert from urine to air concentrations should have been the last step in the assessment rather than one of the first, and the uncertainties on any such conversion should have been noted (Ex. 202–7, p. 22).

The study of Pinto et al. had some limitations. Because the men studied by Pinto et al. were asked to not eat seafood, which would be the major source of urinary arsenic in the absence of air exposure, Pinto et al.'s assumption of zero urinary arsenic from zero air

arsenic exposure appears reasonable. Therefore, OSHA considers Pinto et al.'s correlation coefficient to be the best available measure of the relationship between urinary arsenic and airborne arsenic and it has been used by a number of scientists. The steeper slope suggested by CEOH would result in approximately halving the estimates of risk based on the data of Pinto and Enterline and Enterline and Marsh. These lower estimates would still result in significant risk.

G. Additional Studies

Mabuchi, Lilienfeld, and Snell studied the mortality of 1393 persons employed at an inorganic arsenical pesticide manufacturing plant between 1946 and 1974 (Ex. 237 BB; Ex. 237 CC). Included in the study cohort were 1050 males and 343 females. Baetjer et al. (Ex. 1A–24) had performed a preliminary study of the retirees of this plant, the results of which were extensively discussed in the preamble to the final arsenic regulation in 1978.

The study cohort of Mabuchi and colleagues was composed of all 952 workers employed 4 months or longer and a 20% sample (441) of the 2189 workers employed for less than 4 months. The comparison population was Baltimore City whites, whose sex, age, calendar period, and cause-specific mortality rates generated the expected numbers of deaths. Vital status as of August 1977 was ascertained for 87% of males and 67% of females. The period of observation was 1946–1977.

Workers were exposed to both inorganic arsenicals and non-arsenical compounds, including DDT and other chlorinated hydrocarbons. In 1972, the arsenic concentration in the insecticide building was estimated as 0.5 mg/m^3 as a time-weighted average. Exposures in the 1940's and 1950's were reported to be higher.

No statistically significant increases in mortality were observed for females. For males, a statistically significant lung cancer SMR of 168 was observed. When U.S. white males instead of Baltimore City white males generated the expected values, a lung cancer SMR of 265 was observed. When workers employed less than a year were excluded from the analysis, the overall male cohort had a lung cancer SMR of 271 (Baltimore City comparison). Unlike the previous study by Baetjer et al., lymphatic cancer mortality was not significantly in excess.

A strong gradient of lung cancer risk with increasing duration of exposure was observed, with SMRs renging from 94 in workers with 4 to 11 months of high exposure to arsenicals to 2750 in workers with 25 or more years of high exposure to arsenicals. Mabuchi et al. stated: "A dose-response relationship was demonstrated from an SMR increasing with length of high exposure to arsenicals" (Ex. 237 BB, p. 316).

Consultants in Epidemiology and Occupational Health (CEOH) interpreted Mabuchi et al.'s findings as demonstrating that "the risk of lung cancer does not increase with duration of exposure for a given exposure category" (Ex. 202–3D, p. 35). CEOH's statement is not supported by the observed gradient of response with increasing length of employment, as remarked upon by Mabuchi and colleagues.

Production workers were categorized as having had high exposures; maintenance/shipping workers were categorized in the medium exposure group; and office workers were categorized in the low exposure group. Lung cancer SMRs were 156 and 0 for the medium and low exposure groups respectively. Low statistical power may have been responsible for the lack of statistically significant increases in risk in the medium and low categories. Also, office workers may have had essentially nil arsenic exposure.

Mabuchi et al. did not have smoking histories for the cohort members. They thought it unlikely that smoking could explain the cohort's excess of lung cancer because other smoking-related diseases were not in excess and because of the dose-response observed for arsenic exposure.

Mabuchi and colleagues concluded that their "findings provide strong evidence for a causal relationship between occupational exposure to inorganic arsenicals and lung cancer" (Ex. 237 CC, p. 51).

Axelson, Dahlgren, Jansson, and Rehnlund performed a case-control study in Sweden to determine whether copper smelter employment was associated with increased mortality (Ex. 237D). Cases were selected from a registry of deaths occurring during 1960–1976 within a parish in Sweden and had to have died from lung cancer, cardiovascular disease, other cancers, cerebrovascular disease, and cirrhosis of the liver. Controls were selected from the same registry of deaths and died from causes other than those listed above. Industrial hygiene data were available such that the degree of past arsenic exposure could be assigned to each case and control. A 5-fold increase in lung cancer risk was observed among arsenic-exposed workers. In addition, a 2-fold increase in cardiovascular disease risk was observed among arsenic-exposed workers. A dose-response for lung cancer risk and arsenic exposure was apparent, although not statistically significant.

Axelson et al. considered that their data were insufficient to permit conclusions about the relationship of lung cancer to arsenic exposures below 500 $\mu g/m^3$. Axelson et al. stated: "exposure to arsenic is likely to be the major cause of the increased mortality, but other factors, particularly agents associated with arsenic, may also play a part" (Ex. 237 D, p. 14).

A cohort mortality study of another Swedish copper smelter was conducted by Wall (Ex. 237 MM). A total of 3919 male workers first employed at least 3 months during 1928–1966 at the smelter were included in the study. Mortality was observed during 1960–1977. Compared to the expected values derived from age and calendar year-specific mortality rates of Swedish males, the observed lung cancer SMR was 286. Compared to the expected values derived from the mortality rates of the county in which the plant was located, the lung cancer SMR was about 500. Wall concluded: "A dose-response analysis clearly indicates that the roasters and arsenic departments are risk places for the development of cancer, especially lung cancer" (Ex. 237 MM, p. 73).

ASARCO submitted an epidemiologic study by Cooper of employees of a lead smelter located in East Helena, Montana (Ex. 202–7A). A study of lead refinery workers in Omaha, Nebraska, where exposures to arsenic were reported as being extremely low, was also submitted (Ex. 214). OSHA believes that the Omaha study is not relevant because of the low levels of arsenic exposure and it will not be discussed further in this preamble.

At the lead smelter in East Helena, Montana, Cooper studied all 437 males employed for at least one year during 1946–1970 (Ex. 202–7A). Expected numbers of deaths were generated from the calendar period and age-specific mortality rates of U.S. white males. Some employees at East Helena were exposed to arsenic; however, the number of employees exposed to arsenic was not specified. Also, mortality experience was not analyzed for the specific group of arsenic-exposed workers. Two lung cancer deaths were observed compared to 3.4 deaths expected. Although Cooper recognized the low statistical power of his study to detect an excess risk of respiratory cancer, he stated that the lack of trends with regard to latency and duration of exposure indicated little excess cancer risk at the plant.

Landrigan of NIOSH calculated that Cooper's East Helena study had 21% statistical power to detect a 1.5-fold relative risk for lung cancer mortality (Ex. 215). Because of the small number of employees in the East Helena cohort, resulting in low statistical power, and lack of analysis of the mortality of employees known to be exposed to arsenic, no conclusions can be drawn about the relationship between arsenic exposure and lung cancer risk from this study.

Koppers Company submitted studies performed by Tabershaw Occupational Medicine Associates of workers at two wood preserving plants using chromated copper arsenate (Ex. 202–6B). Both studies were cross-sectional health and industrial hygiene surveys of the active work force. At the first plant, exposures to pentavalent arsenic averaged 2.1 $\mu g/m^3$, with a peak exposure of 5.2 $\mu g/m^3$. Sixty-three employees were included in the health survey. Urinary arsenic levels were below the limits detectable by laboratory assay.

At the second plant, exposures to pentavalent arsenic averaged 0.7 $\mu g/m^3$, with a peak exposure of 3 $\mu g/m^3$. Forty-six employees participated in the health survey. Specific urinary arsenic levels were not reported, but were described as showing no excess arsenic.

Neither of the two surveys detected any cases of lung cancer. While cross-sectional health surveys are useful for purposes of medical surveillance and studying some occupational diseases, such studies usually have limitations that restrict their usefulness for epidemiologic analysis of cancer risk. These two studies were confined to the active work force, who may not have been representative of the total population at risk, and surveyed a small number of employees, resulting in near zero statistical power to detect excess cancer risk. In addition persons who had lung cancer and already died or who left or retired and then developed lung cancer would not be covered. The study would have only detected persons who just developed lung cancer and had not yet quit or died. In addition, these two studies did not follow employees over a sufficient period of time to allow for the long latency period of lung cancer. For these reasons, no conclusions can be drawn from these studies concerning excess cancer risk and exposure to the chromated copper arsenate wood preserving process. It should also be noted that the reported levels of exposure to arsenic were very low, well under the 10 $\mu g/m^3$ level.

A number of epidemiologic studies have been submitted to the record which attempt to analyze the relation of arsenic ingestion from the public water supply to cancer risk. Also, studies of cancer risk among members of the general population exposed to air levels of arsenic well below 10 $\mu g/m^3$ have been submitted to the record. Although in some circumstances environmental studies may be relevant to assessing occupational risks, in the case of arsenic OSHA believes there is no need to discuss these studies because their ability to define exposure and consider other variables, such as latency, related to excess cancer risk was lower compared to other studies discussed by OSHA in the final regulation and in this preamble and because in the case of arsenic OSHA has available high quality occupational studies.

In some of the environmental studies, the authors concluded that results were negative and in some the authors concluded that the results were positive. OSHA has reached no conclusions concerning the results of these studies and has no authority to regulate either the public water supply or the general environment.

Several commenters have stated, incorrectly, that environmental (ambient air) levels of arsenic might be as high as 40 to 70 $\mu g/m^3$. In one case, this mistake was probably the result of a typographical error in the study by Ott et al. (Ex. 1A, 3–1). Data of the U.S. Public Health Service (Ex. 1A–23) and the World Health Organization (Ex. 252) indicate that maximum environmental exposures are substantially lower than 2 $\mu g/m^3$. Another consideration is that much of the arsenic that is ingested in drinking water or seafood is organic arsenic, which OSHA does not regulate as carcinogenic.

OSHA concludes that the epidemiologic studies of Mabuchi et al., Axelson et al., and Wall provide additional evidence in support of the strong causal association between inorganic arsenic exposure and excess lung cancer risk (Ex. 237 BB; Ex. 237 CC; Ex. 237 D; Ex. 237 MM). OSHA considers the study results of Cooper and Tabershaw Occupational Medicine Associates to be inconclusive because of the nature of their study design and analysis.

H. Effects of Smoking

Smoking is a major cause of respiratory cancer mortality in the United States. Therefore, smoking is a potential confounding factor for any epidemiologic study of humans exposed to a respiratory carcinogen. The preamble to the final arsenic regulation (43 FR 19584) discussed the potential role of smoking in the elevated respiratory cancer risk of arsenic-exposed workers. Based on testimony by Weir (Ex. 29N) and the study of Enterline (Ex. 111, Attachment 4), OSHA stated that it was "unwilling to assume that smoking alone accounted for more than a 17 percent excess in lung cancer mortality" among arsenic-exposed workers (43 FR 19590).

The **Federal Register** notice of April 9, 1982 announcing the limited reopening of the inorganic arsenic rulemaking record (47 FR 15358) also discussed the effects of smoking on arsenic-induced respiratory cancer. The aforementioned study by Enterline was included in the discussion. Enterline found a 2.6-fold increase in respiratory cancer risk among smoking copper smelter workers compared to smokers in the general population. Enterline also observed a 4.6-fold increase in respiratory cancer risk among non-smoking copper smelter workers compared to non-smokers in the general population (Ex. 111, Attachment 4). Based on this analysis Enterline stated that the observed excess in SMRs for respiratory cancer did not appear to be due to smoking. A subsequent publication by Pinto et al. (Ex. 205–2) observed substantially similar increases in risk among smoking and non-smoking copper smelter workers and reached the same conclusion as the original analysis of smoking by Enterline (Ex. 111, Attachment 4).

The **Federal Register** notice of April 9, 1982 also discussed data from studies by Ott et al. (Ex. 1A 3–1) and Lee and Fraumeni (Ex. 5D). It presented a hypothetical example of the effect of higher smoking prevalence in a cohort of arsenic workers to demonstrate the minimal potential confounding effects of smoking. The hypothetical study cohort of arsenic workers had a 60% prevalence of smoking while a comparison population had a 40% prevalence of smoking.

Note.—This large a difference in smoking habits seems very unlikely.

Such a 20% difference in the proportion of smokers between the study and comparison populations would contribute only about a 40% increase in lung cancer risk in the study cohort over the risk of the comparison population. This estimate was calculated by assuming a 10-fold excess of lung cancer among smokers as compared to non-smokers. Compared to non-smokers, a population consisting of 60% smokers would have about a 6.4-fold lung cancer excess and a population consisting of 40% smokers would have a 4.6-fold lung cancer

excess. Therefore, the relative risk of a 60% smoker population compared to a 40% smoker population is 1.4 (6.4/4.6) or 40% increased risk attributable to the smoking differential. Much larger increased risks than 40% were observed in arsenic-exposed workers, including 7-fold increases in respiratory cancer risk. Hence, the likelihood of a difference in smoking prevalence between exposed and comparison populations accounting for these large increases in risk is extremely low.

Ott et al. collected smoking histories from active employees exposed to arsenic (not study cohort members) and did not observe differences in smoking prevalence compared to the population at the location or differences in smoking prevalence by exposure category. Assuming that this survey reflected the smoking experience of the study cohort, smoking could not account for the observed excess of respiratory cancer deaths.

While Lee and Fraumeni did not have smoking histories for workers in the Anaconda smelter, they suggested that the dose-response observed among workers in heavy, medium, and light categories made it unlikely that smoking alone could explain the increased lung cancer risk.

Since publication of the April 9, 1982 **Federal Register** notice, additional data on the effects of smoking have been submitted to the OSHA record on inorganic arsenic. A discussion of the additional data follows.

Higgins and colleagues conducted an interview survey in addition to the mortality study in order to collect information on smoking habits of the study cohort. Live cohort members were interviewed by telephone or received mail questionnaires. Proxy respondents furnished smoking data for dead cohort members. About 83% of the total cohort of 1800 men participated in the interview surveys.

Using proxy respondents to furnish smoking histories for deceased cohort members created several potential problems. One problem is the possibility of Berksonian bias: proxy respondents may know the relationship between smoking and lung cancer and may be more likely to report smoking when the cohort member died from lung cancer. Higgins et al. compared respondent and proxy smoking histories for 83 men and found 88% agreement (Ex. 205–1). These proxy histories were obtained one year after the respondent was questioned; perhaps poorer agreement would have been obtained if more time had elapsed since questioning of the respondent. Also, 30% of the non-smokers in the sample of 83 men were classified by proxies as smokers compared to about 5% of smokers who were classified by proxies as non-smokers. Therefore, one cannot assume that there is an equal amount of over-reporting and under-reporting across all smoking status categories.

For their analysis of the mortality of smokers and non-smokers, Higgins et al. derived expected values from the specific age, race, and calendar year mortality rates of the state of Montana. This created another problem for the analysis, as noted by Higgins and colleagues. Presumably, Montana males resemble U.S. males and thus have roughly a 50% prevalence of smoking. Thus, Higgins et al. compared non-smoking workers to a standard population with 50% smokers. This caused the non-smoking workers' expected values for lung cancer to be too high, consequently underestimating the excess risk for non-smoking arsenic workers, and the smoking workers' expected values for lung cancer to be too low, consequently overestimating the excess risk for smoking arsenic workers.

Respiratory cancer SMRs for cigarette smokers and non-smokers were 327 and 205 respectively. When divided by exposure category, workers in the Heavy category had higher SMRs regardless of their smoking status.

Regarding their study results, Higgins and colleagues stated:

> This analysis showed that arsenic exposure was more important than smoking in relation to mortality from all causes, respiratory cancer, and ischemic heart disease. Smoking appeared to be the more important factor for all respiratory diseases. Taken as a whole, there was no evidence to indicate that cigarette smoking confounded the relationship of arsenic exposure to respiratory cancer (Ex. 202–3B, p. 45).

Crump examined the effects of smoking and concluded that "failure to control for smoking can not have been the sole cause of the increased cancer incidences observed in these studies" (Ex. 206, p. 21). He estimated that correcting for increased prevalence of smoking among ASARCO and Anaconda smelter workers would lower the observed respiratory cancer SMRs by about 13%. Crump considered the available data to be consistent with both an additive and multiplicative effect from smoking combined with exposure to arsenic, and noted that both smokers and non-smokers were at increased risk of developing respiratory cancer from arsenic exposure.

Pershagen, Well, Taube, and Linnman performed additional statistical analyses on the study results reported by Wall (Ex. 237MM) in order to explore the interaction between exposure to arsenic and tobacco smoke. For each of 76 copper smelter workers who had died from lung cancer, 2 referents were chosen who had been employed at the same copper smelter and had died from other causes. Arsenic-exposed non-smokers were observed to have a 3-fold increased risk of lung cancer death compared to non-smokers with no history of arsenic exposure. Smoking arsenic workers had a 14.6-fold increased risk of lung cancer death compared to non-smokers with no history of arsenic exposure. The authors did not compare smoking arsenic workers to smokers who had no arsenic exposure; however, an increased lung cancer risk of roughly 2-fold for smoking arsenic workers compared to smokers with no arsenic exposure can be estimated from Table 1 of their paper (Ex. 202–7I, p. 304). Pershagen and colleagues concluded that combining tobacco smoking with arsenic exposure had a multiplicative effect on lung cancer mortality rather than additive effect. Pershagen et al. did not explain how their findings differed from those which would be expected from an additive relationship between arsenic and tobacco smoke.

OSHA concludes that the additional data on the effects of smoking support OSHA's previous conclusion that the excess lung cancer risk observed among arsenic-exposed workers could not be attributed primarily to smoking. Furthermore, the authors of the studies providing additional data on smoking generally are in agreement with this conclusion. Whether tobacco smoke and arsenic exposure have an additive or multiplicative relationship does not affect OSHA's conclusion concerning the effect of smoking. The following observations, among others, indicate that smoking cannot be the primary etiologic factor for the increased respiratory cancer risk:

1. Non-smoking arsenic workers had significantly increased risk.
2. Smoking arsenic workers had significantly increased risk relative to smokers not exposed to arsenic.
3. The magnitude of increased respiratory cancer risk among arsenic workers was higher than what would have been observed if smoking was the major etiologic factor for the excess risk.
4. Differentials in smoking prevalence would be an extremely unlikely explanation for the dose-response gradient observed for arsenic exposure.

I. Effects of Other Exposures

Lee and Fraumeni (Ex. 5D) stated that the potential carcinogenic effects of

exposure to sulfur dioxide or other unknown agents could not be distinguished from the effects of arsenic exposure. This was because workers who received heavy exposure to arsenic also received medium or heavy exposure to sulfur dioxide. Pinto and Enterline also could not rule out potential carcinogenic effects from agents associated with arsenic exposure in the smelter atmosphere (Ex. 29B).

Lubin et al.'s multivariate analyses of the Anaconda cohort enabled examination of the question of the potential carcinogenic effects of exposure to sulfur dioxide independently or with contemporaneous exposure to arsenic (Ex. 201–17). When multivariate models controlled for heavy/medium arsenic exposures, no significantly increased lung cancer risk was observed from heavy/medium exposure to sulfur dioxide (RR=0.9 for workers with heavy/medium exposure to sulfur dioxide who had no heavy/medium exposure to arsenic). However, there was a non-significant 5-fold increased risk among workers with heavy/medium exposure to sulfur dioxide who had also been employed 15–24 years. When multivariate models controlled for heavy/medium sulfur dioxide exposures, heavy/medium arsenic exposure continued to be associated with increased respiratory cancer risk (RR=2.3 for workers with heavy/medium exposure to arsenic who had no heavy/medium exposure to sulfur dioxide).

With regard to the role of sulfur dioxide in producing the observed excess of respiratory cancer, Lubin et al. noted that statistical power of their study to detect an increased risk from exposure to sulfur dioxide by itself or in combination with arsenic was not high. Nevertheless, in their opinion, multivariate analyses demonstrated that the excess risk of death from respiratory cancer was primarily associated with exposure to arsenic.

Brown and Chu (Ex. 241–C) also examined the effects from exposure to sulfur dioxide for 8014 members of the Anaconda study cohort. Both arsenic and sulfur dioxide were assigned exposure categories of light, medium and heavy.

After adjusting for the effects of age at initial exposure, duration of exposure, and time since employment stopped, excess lung cancer mortality rates within each of the three arsenic exposure categories were examined with adjustment for the effects of sulfur dioxide exposure, and vice versa. A clear dose-response gradient was observed for lung cancer risk and arsenic exposure.

Sulfur dioxide did not exhibit a dose-response gradient when excess lung cancer mortality rates were adjusted for the effects of arsenic exposure. Brown and Chu concluded:

> This Table [3] shows that SO_2 level by itself, i.e., unadjusted for arsenic level, shows an increasing trend of excess mortality risk with increasing level of the contaminant. However, when the effect of one atmospheric contaminant is adjusted for the possible confounding effect of the other, the relationship of excess risk with arsenic level remains unchanged, while the effect of SO_2 level disappears. Therefore, these results . . . indicate that arsenic level is the more important measure of carcinogenic contamination than is SO_2 level (Ex. 241–C, p. 15–16).

Mabuchi et al. (Ex. 237AA; Ex. 237BB; Ex. 237CC) attempted to distinguish the potential carcinogenic effects of exposure to non-arsenicals, including chlorinated hydrocarbons, from the effect of exposure to arsenicals in their cohort of pesticide manufacturing workers. When the cross-classified workers by duration of high exposure to arsenicals and non-arsenicals, they continued to observe increasing SMRs for lung cancer with increasing duration of exposure to arsenic. With regard to the effect of exposure to non-arsenicals, Mabuchi et al. stated: "no substantial differences in SMR by duration of non-arsenical exposure were apparent for a given duration of arsenical exposure * * * Thus, no dose-response pattern is apparent for non-arsenical exposure" (Ex. 237BB, p. 318). In addition, a case-control study of workers within the plant found no association between DDT exposure and lung cancer risk. Mabuchi et al. noted that "the interval of observation after exposure to the maximum doses of these non-arsenical chemicals may not have been sufficient to allow for a prolonged latent period for cancer" (Ex. 237BB, p. 318).

The Chemical Manufacturers Association-Arsenic Panel stated, in their pre-hearing brief, that the presence of copper oxide, dry lime sulfur, and powdered sulfur in the pesticide plant studied by Mabuchi et al. was evidence that pesticide plant exposures were similar to the copper and sulfur dioxide exposures of the copper smelter workers (Ex. 202–3, p. 42). Therefore, CMA considers that these other chemicals may have been responsible for the observed excess cancer risk. OSHA judges that the non-arsenical chemical exposures within copper smelters and arsenic pesticide plants cannot be considered similar; for example powdered sulfur differs greatly from gaseous sulfur dioxide.

Seeking to explore the potential role of sulfur dioxide in the respiratory cancer excess among ASARCO copper smelter workers, Enterline and Marsh compared the mortality experience of the Arsenic department workers to that of the Cottrell department workers (Ex. 201–9). In the Cottrell department, arsenic exposures were considered very high, exceeding 500 $\mu g/m^3$ and sulfur dioxide exposures were considered moderate, ranging from 5 to 20 ppm. Arsenic exposures were also considered very high in the Arsenic department, also exceeding 500 $\mu g/m^3$, while sulfur dioxide exposures were considered nil. For this comparison, none of the workers categorized in the Arsenic department had ever worked in the Cottrell department. Respiratory cancer SMRs were 370.4 and 334.6 in the Cottrell and Arsenic departments respectively. Both increases in respiratory cancer mortality were statistically significant. Enterline and Marsh stated: "Respiratory cancer SMR's were quite similar suggesting that SO2 exposure did not play an important role in the respiratory cancer excess at this copper smelter" (Ex. 201–9, p. 15).

Higgins and colleagues also sought to determine the potential confounding effects of exposure to sulfur dioxide and asbestos among workers in their study cohort (Ex. 202–3B). For sulfur dioxide, departments were categorized as having low, medium or high exposure. Workers were classified as having received either low *Ceiling* or medium/high *Ceiling* exposures to sulfur dioxide. *Ceiling*, for this analysis, was defined as maximum category in which each worker spent one year or more.

Air concentrations of asbestos were not measured during 1943–1965. Potential exposure to asbestos was defined as working with asbestos or insulation or working in the mason, pipefitter, or boiler shops.

Regarding the effects from exposure to sulfur dioxide and asbestos, Higgins et al. stated that these substances did "not appear to account for respiratory cancer excess in this population." (Ex. 202–3B, p. 65). Higgins and colleagues were not able to completely separate the sulfur dioxide, asbestos, and arsenic exposures in their analysis, yet they concluded that arsenic appeared to be the major factor in the increased respiratory cancer risk of Anaconda workers. Their conclusion regarding asbestos was based on the lack of a decrease in respiratory cancer SMRs when men with asbestos exposure were excluded from the analysis.

Workers with medium/high exposure to sulfur dioxide did appear to have

increased respiratory cancer SMRs relative to workers with low sulfur dioxide exposure within the same *Ceiling* arsenic category. However, Higgins and colleagues found that workers with medium/high sulfur dioxide exposure had higher *average* arsenic concentrations than their counterparts with low sulfur dioxide exposure. Hence, while a potential carcinogenic effect from sulfur dioxide exposure could not be ruled out, Higgins and colleagues judged that "arsenic exposure could have been responsible for the apparent association between sulfur dioxide and excess respiratory cancer" (Ex. 202–3B, p. 39).

OSHA realizes that many occupational environments involve exposure to multiple substances. When an excess of cancer is observed in an occupational population, it is not always possible to attribute the excess solely to the suspect etiologic agent. Additional studies of the same type of workplace and of other types of workplaces which find carcinogenic risk associated with the suspect agent strengthen the causal evidence. Excess respiratory cancer risk has been observed in copper smelter workers, pesticide manufacturing workers, and vineyard workers exposed to arsenic. These three types of workplaces had dissimilar exposures except for their common exposure to arsenic. In addition, analyses by Lubin et al., Brown and Chu, Mabuchi et al., Enterline and Marsh, and Higgins et al. suggest that arsenic exposure was the primary cause of the respiratory cancer excess in their study cohorts. While these investigators' analyses cannot completely rule out carcinogenic effects from substances other than arsenic, their fiindings further strengthen the evidence for arsenic causing respiratory cancer.

OSHA concludes that the increased respiratory cancer risk observed among arsenic workers is primarily due to arsenic exposure, based on the excess risk observed in dissimilar work environments and based on the analyses performed by Lubin et al., Brown and Chu, Mabuchi et al., Higgins et al., and Enterline and Marsh.

J. Conclusions

In keeping with OSHA's statutory mandate to review the latest available scientific evidence, OSHA's conclusions regarding the epidemiologic evidence on the carcinogenicity of inorganic arsenic are based on the most recent studies as well as on the studies available earlier. OSHA concludes that the findings of the most recent studies (Lee-Feldstein, Lubin et al., Higgins et al., Enterline and Marsh, Mabuchi et al., Axelson et al., Wall) and the older studies (Lee and Fraumeni, Pinto and Enterline, Tukadome and Kuratsume, Ott et al., Hill and Faning, Bactjer et al., Denk et al., Roth) are strong evidence that inorganic arsenic is a human carcinogen (Exhibits 5D, 29B, 111—Attachment 4, 191, 1A 3–1, 1A–24, 5B, 109 C–67, 65, 109C–88, 201–17, 201–16, 202–3B, 202–5, 201–8, 201–6, 205–2, 237BB, 237CC, 237D, 237 MM). The International Agency for Research on Cancer, the World Health Organization—Arsenic Working Group and NIOSH concur with this judgment (Exhibits 201–13, 252, 227).

Data concerning the quantitative relationship of inorganic arsenic to increased lung cancer risk are available for the study cohorts of Lee and Fraumeni, Lee-Feldstein, Higgins et al., Pinto and Enterline, Ott et al., and Enterline and Marsh. In addition to confirming that a dose-response exists for arsenic exposure and lung cancer risk, these studies provide direct evidence of excess risk at and below the previous OSHA permissible exposure limit of 500 $\mu g/m^3$. *Measured* estimates of excess risk at specific levels of exposure for these study cohorts, as distinguished from estimates of risk *predicted* by dose-extrapolation models, indicated excess lung cancer risk from levels of exposure to inorganic arsenic less than 500 $\mu g/m^3$.

Table 3 summarizes measured estimates of respiratory cancer risk from exposure to relatively low air concentrations of inorganic arsenic. Statistically significant increases in respiratory cancer mortality were observed at average arsenic exposures of 49 $\mu g/m^3$ and at cumulative arsenic exposure of 150–450 $\mu g/m^3$-years.

Note.—A cumulative exposure of 150 $\mu g/m^3$-years represent 150 $\mu g/m^3$ for one year or 3.3 $\mu g/m^3$ for 45 years, or other exposure levels adding up to 150 $\mu g/m^3$-years.

Also, other increases in risk were observed at low levels of exposure but these were not statistically significant increases. As explained in previous sections, these increases are meaningful because small numbers of employees in each category may prevent true excess risks from attaining statistical significance. Another reason why these increases are meaningful is that trends in mortality data, as well as stistical significance, are important.

In addition to low statistical power, another factor might be responsible for the fact that some of the observed excess risks were not statistically significant in some of the low exposure categories. This factor is simply that some workers classified as receiving low exposure may have had close to zero exposure to arsenic (for example, company farm workers).

TABLE 3.—RESPIRATORY CANCER RISK OBSERVED IN LOW EXPOSURE CATEGORIES

Studies and exposure categories	Respiratory cancer SMRs
Maximum Exposure (Table 5, 6)	
Lee-Feldstein (Ex. 201–16):	
Light (12 or more months)[1]	[4]291
Light (1–15 Years)	[4]269
Light (15–24 years)	[4]185
Light (25 or more years)	[4]313
Cumulative Exposure (Table 5)[2]	
Enterline and Marsh (Ex. 201–8):	
Less than 150 $\mu g/m^3$-years	185.4
150–450 150 $\mu g/m^3$-years	[4]176.6
450–900 150$\mu g/m^3$-years	[4]225.4
Average Exposure by Duration of Exposure (Table 10)[3]	
Less than 10 years (49 $\mu g/m^3$)	109.8
10–49 years (49 $\mu g/m^3$)	[4]260.2
Average Exposure (Table 10)	
Higgins et al. (Ex. 202–3B, 202–5):	
Less than 100 $\mu g/m^3$	93
100–499 100 $\mu g/m^3$	[4]368
Ceiling Exposure (Table 2B)	
Less than 100 $\mu g/m^3$	120
100–499 100 $\mu g/m^3$	116
Cumulative Exposure (Table 6)	
Less than 500 $\mu g/m^3$-years	60
500–2000 $\mu g/m^3$-years	107

[1] Light estimated to average 280 $\mu g/m^3$ by H.F. Marks.
[2] Based on 10 year lag Data and 0.3 conversion factor for urinary levels to air levels.
[3] Based on 0.3 conversion factor for urinary levels to air levels.
[4] Statistically significant (P less than 0.05).

A few investigators did not observe increases in lung cancer risk for some low exposure categories. For example, as listed in Table 3, Higgins et al. observed an SMR of 60 for those workers with cumulative exposures less than 500 $\mu g/m^3$-years. As with the low exposure groups which did have lung cancer excesses that were not statistically significant, low statistical power might have been responsible for the lack of excess risk observed in these instances. Also, the exposure levels for some workers in these categories such as office workers and farm workers may have been 10 $\mu g/m^3$ or well below that level. OSHA does not consider these no-risk findings to constitute evidence for a threshold of arsenic carcinogenesis. Nor do these findings counterbalance the preponderance of the epidemiologic evidence indicating significant risk from exposure to relatively low levels of arsenic.

In summary, increased respiratory cancer risk was observed at and far below the former PEL of 500 $\mu g/m^3$. OSHA believes that these data are sufficient by themselves to support a finding that the risk is significant. It is not necessary for OSHA to establish the significance of risk by using mathematical dose-extrapolation models. Both measured estimates of risk and estimates of risk predicted by dose

extrapolation models are valid methods of establishing significance of risk.

Using different measures of exposure, including average exposure levels, cumulative exposure, ceiling or maximum exposure, and duration of exposure, a dose-response gradient of increasing lung cancer risk with increasing exposure was observed in the various studies. Significant reduction in risk from lowering workplace exposure levels is likely, based on the dose-response data indicating lesser risk from lower exposures.

Higgins et al. suggested that peak exposures exceeding 500 $\mu g/m^3$ rather than average exposure or cumulative exposure may be the primary determinant of arsenic-induced lung cancer risk. This hypothesis should be considered preliminary, given that Higgins et al. studied only 20 percent of workers who received relatively low exposures, resulting in very low statistical power to detect excess lung cancer risk in the low exposure categories. In contrast, Lee and Fraumeni and Lee-Feldstein, who studied the entire cohort at risk, found that workers in the light exposure category (estimated as having average exposures of 290 $\mu g/m^3$) who had never been exposed to medium or heavy levels of arsenic had significantly increased lung cancer risk. In addition, a potential confounding effect from average exposures hinders interpretation of the effects from peak exposures, because workers with higher peak exposures would be expected to have higher average exposures. For these reasons and other reasons discussed in Section VI, OSHA placed more weight on Lee and Fraumeni's and Lee—Feldstein's findings than on the findings of Higgins et al. regarding peak exposures. An additional factor contributing to OSHA's decision concerning the question of peak exposures was the good dose-response observed for measures of exposure other than peak exposure and measured excess risks for employees who had average exposure well under 500 $\mu g/m^3$. Both these factors tend to indicate excess risk for employees who had no peak exposures over 500 $\mu g/m^3$.

Since publication of the final regulation, additional data have strengthened OSHA's earlier conclusion that smoking and occupational exposure to agents other than arsenic could not be primarily responsible for the excess respiratory risk of arsenic-exposed workers. Increased respiratory cancer risk has been observed in both non-smokers and smokers in occupational cohorts exposed to arsenic. Whereas good dose-response has been observed for arsenic exposure, consistent dose-response has not been observed for sulfur dioxide and other non-arsenical exposures. Also, observing excess risk in different occupational environments with arsenic exposure, including copper smelters, arsenical pesticide plants, and arsenic-exposed vineyard workers, is strong evidence for arsenic rather than other substances being the etiologic agent for lung cancer.

IV. Quantitative Risk Assessment

Section II in the April 9, 1982 document and Section II. C above offer general discussions on risk assessment and background information. Those aspects of risk assessment will not be repeated here.

A. Summary of Risk Assessments

Table 4 summarizes all of the estimates of risk presented during the rulemaking proceedings. There were nine separate risk assessments discussed. The following section will briefly describe the methodology used and conclusions drawn by each author. Datailed discussions of the issues can be found in the subsequent analytic sections. The first three risk assessments are those presented in the April 9, 1982 document which formed the basis of OSHA's preliminary determination of significant risk.

Dr. Kenneth Chu, while on detail to OSHA from the National Toxicology Program, performed a risk assessment based on the Lee and Fraumeni and Ott et al. studies and the Pinto and Enterline data. He based his assessment of risk on a linear, non-threshold relative risk versus cumulative dose model. (Dr. Chu also calculated risk according to a quadratic model, although he indicated in his report that the linear model was more representative of the risk associated with arsenic on the basis of statistical fit, as measured by R^2. The R^2 values were, in general, higher for the linear model than for the quadratic model. R^2 is discussed in more detail in Section IV–B). Dr. Chu's risk assessments predict a risk of 375 to 713 excess cancer deaths per 1000 workers with a lifetime exposure at 500 $\mu g/m^3$ and 7.7 to 25 deaths per 1000 at 10 $\mu g/m^3$.[1]

[1] Dr. Chu also made predictions from the Ott et al. study, but he did not include them in his preferred estimates.

TABLE 4.—SUMMARY OF RISK ASSESSMENTS EXCESS RISK OF LUNG CANCER PER 1,000 WORKERS RISK AT 10/50/500 μg/Cubic Meter

Model used	Lee and Fraumeni	Pinto et al.	Ott et al.	Lee-Feldstein	Enterline and Marsh	Higgins et al.
Chu:						
Linear RR[1]	10/51/393	25/125/713	29/146/767			
Quadratic RR	0.3/7/–	2/49/–	2.1/52–			
Clement Associates: Linear RR	7.7/39/394	9.1/46/465				
EPA-CAG: Linear RR	[2]8/38/375					
Crump:						
Linear RR	8.7/43/321	19/92/518	25/117/578	8.3/40.6/310		[3]9.4/45.8/342
Linear AR [4]				3.2/16.0/148	7.8/38.6/315 Lag 0 7.6/37.3/303 Lag 10.	3.1/25.9/215
Radford: Linear RR			[5]18.8–37.5/–/–			
Enterline: Linear RR					2.7/13.4/– Lag 10 2.2/11.2/– Table 12.	
Bleier and Wagner	Recommends 2 $\mu g/m^3$.					
World Health Organization: Linear RR	[6]61/305/–					
CEOH						No excess risk if exposure <500 $\mu g/m^3$.[7]

[1] Relative risk (Observed/Expected).
[2] Combined estimates from Lee and Fraumeni, Pinto et al. and Ott et al. studies.
[3] Cumulative exposure data, Ex. 202–8, Appendix D.
[4] Absolute risk (Observed-Expected)/Person-Years.
[5] Range of estimates from Ott et al., Lee-Feldstein, and Enterline and Marsh studies.
[6] Calculated by OSHA using WHO's methodology for risk analysis.
[7] Ex. 202–3A.

Clement Associates performed a risk assessment based on the Lee and Fraumeni study and the Pinto et al. study published in 1977. (Dr. Chu based his assessments solely on data in the arsenic record, which closed in 1976). Clement concluded that the Ott et al. study was not as well suited for risk assessment and did not include it in its analysis.

The Clement risk assessment is based on a linear non-threshold model with dose measured as an average lifetime exposure. Clement estimated that a 45-year working lifetime of exposure to 500 $\mu g/m^3$ of arsenic will result in a 525% to 620% excess risk of lung cancer or 394 to 465 excess deaths per 1000 workers over a lifetime, and that exposure at 10 $\mu g/m^3$ of arsenic will result in a 10% to 12% excess of lung cancer or 7.7 to 9.1 excess deaths per 1000 exposed workers over a lifetime.

The EPA-Carcinogen Assessment Group (EPA–CAG) also performed a risk assessment on arsenic. The judgment of the group was that the data in the Lee and Fraumeni, Pinto et al. and Ott et al. studies were of sufficient quality to perform a risk assessment and that a linear model was appropriate. It estimated, as a best estimate, an 8.1% increase in lung cancer per 1 $\mu g/m^3$ of arsenic for an environmental exposure of 24 hours a day, 365 days a year over a natural lifetime. The EPA–CAG averaged results from all three studies in making its overall risk estimate.

Since a working year exposure (40 hours per week for 46 weeks) is only about 20% of an environmental exposure, the estimate of risk had to be adjusted to a working year estimate before comparisons could be made with the other risk assessments. The formula the EPA–CAG used, based on a 46-week work year, was:

$$\frac{46 \text{ weeks} \times 40 \text{ hours}}{365 \text{ days} \times 24 \text{ hours}} = 0.21$$

In addition, a natural lifetime averages 74 years while a maximum working lifetime is considered to be 45 years. Therefore, the EPA–CAG's risk factor has to be further reduced to take into account the shorter number of years exposed during work.

The conversion is $45/74 \times 0.21 = 0.128$. This conversion was presented in the April 9, 1982 document and was not challenged. Therefore, the 8.1% excess risk per 1 $\mu g/m^3$ of arsenic exposure estimated by EPA–CAG must be multiplied by 0.128 to convert to a working lifetime equivalent of an excess risk of 1.0368% or approximately 1% excess risk per 1 $\mu g/m^3$ of arsenic exposure. This results in a 500% excess risk of lung cancer at 500 $\mu g/m^3$ of arsenic exposure, or 375 excess deaths per 1000 workers over a working lifetime, a 50% excess risk at 50 $\mu g/m^3$ or 38 excess deaths per 1000 workers over a working lifetime, and a 10% excess risk at 10 $\mu g/m^3$ or 8 excess deaths per 1000 workers over a working lifetime.

In addition to the three risk assessments discussed in the proposal six additional risk assessments were presented, or became available, during the rulemaking proceedings: Drs. Crump, Radford and Enterline, and Consultants in Epidemiology and Occupational Health each presented analyses on data presented in the arsenic record. An analysis by Blejer and Wagner (1976) gives a "projection" of risk from exposure to inorganic arsenic and the World Health Organization-Arsenic Working Group (WHO-AWG) also presents an evaluation of the risk from inorganic arsenic exposure.

The results from the independent assessments performed by Dr. Crump support the preliminary estimates of risk proposed by OSHA, falling within the same range: 8.7 to 29 excess deaths per 1000 at 10 $\mu g/m^3$ and 321 to 578 per 1000 at 500 $\mu g/m^3$. Employing a linear model, he used an age-adjusted method for estimating risk from lifetime exposure to arsenic with both relative risk and absolute risk. Dr. Crump concluded that any of the 3 studies, Lee and Fraumeni (1969), Ott et al. (1974) and Pinto et al. (1977), "would be an adequate basis for a quantitative risk assessment of respiratory cancer risk from occupational exposure to arsenic. Moreover, in evaluating the Ott et al. study, Dr. Crump did not consider its shortcomings "severe enough to prevent its use in quantitative risk assessment." (Ex. 206, p. 2).

Dr. Crump also performed risk assessments on the more recent studies by Lee-Feldstein, Enterline and Marsh, and Higgins et al. The predictions from these analyses are consistent with estimates from the previous studies. Using a relative risk model, at 10 $\mu g/m^3$, they predict a lifetime excess risk of 8.3 and 9.4 deaths per 1000 for the Lee-Feldstein and Higgins et al. data respectively. The comparable predictions of risk when absolute risk is incorporated are approximately half those predicted by a relative risk model (3.2 per 100 and 5.2 per 1000, respectively). When Dr. Crump fit a linear absolute risk model to the Enterline and Marsh (1982) data (which, as discussed in the next section, may be a more appropriate method) the predicted risks were very similar to estimates presented earlier (7.6 per 1000 at 10 $\mu g/m^3$ and 303 per 1000 at 500 $\mu g/m^3$ in the 10 Year Lag group).

Dr. Radford presented his estimates of risk in terms of a "doubling dose", that is, the cumulative dose at which one would expect a doubling of the risk (SMR=200). He calculated the doubling dose for the Lee-Feldstein data (approximately 2900 $\mu g/m^3$-years) and the Enterline and Marsh data (doubling dose approximately 500–3000 $\mu g/m^3$-years from Table 12). He also computed the doubling dose for the Ott et al. data to be approximately 1500 $\mu g/m^3$-years.

Taking a value of 1000–2000 $\mu g/m^3$-years as a "best range", he estimated that a lifetime occupational exposure (45 years) to the 10 $\mu g/m^3$ level would yield approximately a 25 to 50% increased risk of lung cancer (18.8 deaths per 1000 to 37.5 per 1000), which was similar to the upper risk estimates of Dr. Chu. Dr. Radford concluded that "the risk estimates presented by OSHA in the April 9 summary must be raised in light of the new information" (Ex. 207, p. 13).

Dr. Enterline made predictions of risk in a prehearing submission (Ex. 202–8 Appendix C). He employed a linear regression model with relative risk and a cumulative measure of dose to arrive at a risk of 5.4 excess deaths per 1000 workers at 10 $\mu g/m^3$. Eliminating the duration of exposure dimension (i.e., plotting risk versus average intensity rather than a cumulative measure) he predicted 4.5 per 1000 from a lifetime exposure at 10 $\mu g/m^3$. Dr. Enterline concluded that since earlier exposure may have been considerably higher and considering factors of urinary arsenic concentrations, he may have overestimated the risk. He commented: "My guess is that regression coefficients are overstated by at least a factor of 2. This would therefore reduce excess deaths related to arsenic exposure by 50%," thus leading to the estimates in

Table 4 of 2.7 and 2.3 deaths per 1000 at the 10 $\mu g/m^3$ level (Ex. 202–8, Appendix C, p. 6).

Blejer and Wagner (1976) reviewed much of the literature associating respiratory (and other) cancer with exposure to inorganic arsenic. They determined that both the Lee and Fraumeni (1969) and the Ott et al. (1964) studies "correlated work exposure levels of inorganic arsenicals with observed mortality experience" (Ex. 237–I, p. 180). Using only the data in the published literature Blejer and Wagner determined that the dose-response relationship found in Lee and Fraumeni was semiquantitative, but that the quantitative dose measures found in Ott et al. were adequate to perform a "projection" of risk from exposure to inorganic arsenic. (Blejer and Wagner did not have available the Morris submission presented at OSHA's 1975 hearing which provided numercial estimates for the Lee and Fraumeni categories. Their determination that the dose-response was semi-quantitative was based on measures "light, medium, and heavy"). Blejer and Wagner concluded:

> Occupationally, there are no data to document a noncancerigenic exposure level for inorganic arsenic. Moreover, our evaluation of the occupational dose-response relationship appears to indicate that nonresponse level of exposure may not exist. Therefore, because of the ubiquity of arsenic in the environment and because of the necessity of preventing occupational exposure from increasing the arsenic body burden, the most prudent and logical approach would be to limit these occupational exposures to those of approximately the *natural ambient level.*

Consequently, Blejer and Wagner recommended an occupational 8-hour time-weighted average of 2 $\mu g/m^3$.

In its review of arsenic, the World Health Organization-Arsenic Working Group presents an assessment of cancer risk from exposure to inorganic arsenic based on the study of Pinto et al. (1977). WHO-AWG assumed that the lifetime cancer risk is a function of the total dose of arsenic." They continued:

> This is a necessary assumption because occupational exposures begin at maturity, whereas exposure to airborne arsenic in the general environment begin at conception. Furthermore, in the case of lung cancer risk estimates, it is assumed that there are no age or sex differences in susceptibility to cancer induced by arsenic. There is not much basis in scientific fact for assuring the validity of these assumptions. It is not unreasonable to assume that the cancer response is proportional to the total dose, since the occupational smelter exposures extended over a substantial portion of the life span (Ex. 252, p. 145).

The WHO-AWG predicted risk for an average daily lifetime dose of 0.8% per 1 $\mu g/m^3$. Using the same assumption (of excess risk associated with total dose) OSHA calculated that for a *working* lifetime average dose of 10 $\mu g/m^3$, the WHO-AWG method predicts a risk of approximately 61 per 1000 excess lung cancer deaths.[2]

The Consultants in Epidemiology and Occupational Health (CEOH) reviewed the health data on exposure to inorganic arsenic and analyzed it as to degree of risk. CEOH concurred with other commenters that a clear dose-response relationship exists when peak exposures are above 500 $\mu g/m^3$ and that such exposure constitutes a significant risk. CEOH concluded, however, that there may be a threshold for exposure to arsenic. In support of this conclusion, they relied on the Higgins et al. "ceiling" analysis which indicated that there was no statistically significant excess risk for employees who had less than 30 days exposure at levels above 500 $\mu g/m^3$.

For further support CEOH stated its opinion that the dose-response relationship for arsenic was not a strong one. Dr. Lamm of CEOH cited several tables (Lee Feldstein, Ex. 201–16, Table 4, Enterline and Marsh, Ex. 201–9 Table 10) as evidence of a "plateau effect" in the dose-response curve. That is, in CEOH's view, unless exposures are at very high concentrations, or for very long durations, one does not see increasing risk with increasing dose. CEOH did not employ a regression analysis and its conclusions concerning dose were based solely on evaluation of the exposure measurement parameter intensity and not an evaluation of other parameters, such as duration.

B. Estimating Risks

In its April 9, 1982 document, OSHA presented the results of three independent risk assessments, based on 3 studies of high quality found in the arsenic record. OSHA concluded that the Lee and Fraumeni and Pinto and Enterline studies are excellent epidemiologic studies and provide a strong basis for quantitative risk assessment and that it was reasonable to utilize data from the Ott et al. study for risk assessment.

As pointed out in the proposal, and discussed in Section III, several recent reports have become available which continue to show excess lung cancer risk among smelter workers exposed to inorganic arsenic. The data received in these rulemaking proceedings and the analyses of these new studies have some effect on the quantitative estimates of risk proposed in the April 9, 1982 document.

Several questions were raised in the proposal regarding the dose-response curve, and questions of ascription of historical dose. Many of these were addressed in comments and at the July, 1982 hearings and their impact on risk assessment will also be detailed here.

The three risk assessments presented in the April 9, 1982 proposal predicted excess risk at the 10 $\mu g/m^3$ level based on a linear model to describe the dose-response relationship. OSHA preliminarily concluded that "the linear hypothesis appears to be the most reasonable approach for estimating the risk presented by occupational exposure to inorganic arsenic." (47 FR 15364). OSHA relied on Dr. Chu's R^2 calculations in reaching this conclusion as well as the fact that both Clement Associates and EPA-CAG had chosen a linear model for their analyses.

As pointed out in the April 9, 1982 document, R^2 or correlation coefficient squared, indicates how close the measured points are to the dose-response curve predicted by the model. The closer the R^2 is to one, the better is the fit. That is, if the model predicts the observations perfectly, then R^2 equals one. It was pointed out in Dr. Chu's report that it can be seen that R^2 values are, in general, higher for the linear model than for the quadratic model.

In his pre-hearing submission, Dr. Crump analyzed five[3] of the major studies presented in the rulemaking proceedings. He used different models and methods for fitting the models to the data and estimating the lifetime risk and employed a Chi-squared goodness-fit test to assess the fit of the models.

Like the R^2 statistic, the Chi-squared goodness of fit statistic is also a measure of how close the measured points are to the predicted curve. The quality of the fit is judged by a P value associated with each Chi-squared statistic. The closer the P value is to one, the better the fit. However, many statisticians consider P values far less

[2] The computation was as follows:

Total dose (Pinto et al.) = 8 m^3/day × 240 days × 50 $\mu g/m^3$ × 25 years = 2,400,000 $\mu g/m^3$ = 2400 mg.

Total dose (environmental) = 12 m^3/day × 365 days × 8 $\mu g/m^3$ × 70 years = 2,452,000 μg = 2452 mg.

which was assumed to produce an excess relative risk of 200%.

Total dose (workplace, OSHA) = 9.6 m^3/day × 230 days × 10 $\mu g/m^3$ × 45 years = 993,600 μg = 993.6 mg.

2452.8/993.6 = 2/x

where x is the excess relative risk for working lifetime exposure to arsenic of 10 $\mu g/m^3$. x = 0.81, or 81%. Therefore, the excess risk is 0.81 × 0.075 (background) = 0.06075 or 61 deaths per 1000.

[3] Lee and Fraumeni, Ott et al., Pinto et al., Enterline and Marsh, Lee-Feldstein.

than one as indicative of an acceptable fit.

In a pre-hearing submission the CEOH (Ex. 202–30 p. 23) criticized the use of the R^2 statistic as a measure of goodness-of-fit, suggesting this was an "inaccurate" interpretation of the statistic. Dr. Crump's use of the Chi-squared goodness-of-fit test addresses many of the shortcomings of the R^2, including assumptions of normality for the underlying data.

In his independent assessments, Dr. Crump fit both linear and quadratic dose-response models to the data, concluding that, based on Chi-squared goodness-of-fit tests, the linear model was a more appropriate model. In most cases, the P values were substantially higher for the linear model than for the quadratic model. Overall Dr. Crump has characterized the fit of the linear model as "good" (P values ranging from 0.14 to 0.97) but noted that the Lee-Feldstein data fit was "marginally acceptable". In his testimony Dr. Lamm characterized the fit of the Lee-Feldstein data as "unacceptable" (Tr. 522). Dr. Crump commented further however, that he believes the lack of fit in the Lee-Feldstein data is due to imprecision of the exposure estimates rather than any inherent deviation from linearity. In reaching this conclusion, Dr. Crump also fit a linear model to the Higgins et al. cumulative exposure data. (Higgins and colleagues may have done a better job of describing an individual's cumulative exposure than did Lee-Feldstein). Crump characterized the fit of the linear model in this instance as "excellent" (P values equaled 0.46 and 0.75) and the data are supportive of a strong linear dose-response relationship for the Anaconda data.

During a question and answer period at the hearing, Dr. Lamm also pointed to the fit of the quadratic curve for several studies, noting that where there is an adequate fit for the linear model, there is usually a more than adequate fit for the quadratic model. He concluded that while there may be quite a good fit for the linear, ". . . your quadratic fits sufficiently well that it would be inappropriate to exclude that as a reasonable or feasible explanation of the behavior [of the data]" (Tr. p. 519). OSHA disagrees with this conclusion. In all but one study, the P value from the Chi-square goodness of fit test for the linear model is substantially higher than that for quadratic. OSHA concludes there is strong evidence to support the use of the linear model in this risk assessment. As Dr. Crump concluded: "These [chi-squared] analyses indicate that it is reasonable to use a linear model to assess risk from occupational exposure to arsenic, but it would not be reasonable to use a quadratic model" (Ex. 206, p. 5).

Dr. Radford also supported the use of a linear model, pointing out: "The fact that a linear no-threshold convention has been widely applied for chemical initiators represents a conservative position reflecting our uncertainty about biochemical mechanisms of low doses of initiators" (Ex. 207, p. 6).

In addition, the WHO–AWG summarized the support for a linear non-threshold model in carcinogenic risk assessment. It concluded:

> The use of the linear non-threshold model is recommended for extrapolation of risks from relatively high dose levels, where cancer responses can be measured, to relatively low dose levels, which are of concern in environmental protection where such risks are too small to be measured directly either through animal or human epidemiological studies.
>
> The linear non-threshold model has been generally accepted amongst regulatory bodies in the USA for chemical carcinogens (IRLG) and for ionizing radiation on an international basis (ICRP). The linear non-threshold philosophy was accepted by a Task Group on Air Pollution and Cancer in Stockholm in 1977 (Task Group on Air Pollution and Cancer, 1978). The scientific justification for the use of a linear non-threshold extrapolation model stems from several sources: the similarity between carcinogenesis and mutagenesis as processes which both have DNA as target molecules, the strong evidence of the linearity of dose-response relationships for mutagenesis, the evidence for the linearity of the DNA binding of chemical carcinogens in the liver and skin, the evidence for the linearity in the dose-response relationship in the initiation stage of the mouse 2-stage tumorigenesis model, and the rough consistency with the linearity of the dose-response relationships for several epidemiological studies; for example, aflatoxin and liver cancer, leukaemia and radiation. This rationale for the linear non-threshold dose-response model is strongest for the genotoxic carcinogens (Ex. 252, p. 144).

Another issue raised in the proceeding is the question of the dose ascription methods in several studies. When ascribing dose levels, one must consider such issues as historical exposures and temporal trends, the choice of mean, median, or peak values as representative of exposure, and urinary-airborne exposure conversion levels. The influence of dose ascription on the shape of the dose-response curve (and consequently the estimates of risk) can sometimes be substantial, particularly when it affects shifting between exposure classes.

In analyzing the Lee and Fraumeni data, Clement Associates' and Dr. Chu's risk assessments utilized the extensive exposure data in the arsenic record, based on data submitted by Morris of measurements taken at the Anaconda Smelter (Ex. 28 B). Both excluded data for the workers in the highest exposure category for some of their analyses. (Those workers frequently wore respirators and, therefore, the levels of arsenic inhaled would have been lower than the level of arsenic measured in the workplace air.)

The EPA-CAG risk assessment utilized a 1975 National Institute of Occupational Safety and Health (NIOSH) survey of the Anaconda smelter as the basis for estimating exposures of workers in the Lee and Fraumeni study. These exposure data were "derived from a single survey of copper smelters conducted after the period of employment of the workers studied" in the Lee and Fraumeni study (Ex. 201–4, p. 4). The "heavy" and "medium" exposure classifications as determined by NIOSH were virtually identical in this analysis and, therefore, the EPA averaged the two exposure levels for its analysis.

There were several updates to the original Lee and Fraumeni study. The study by Higgins et al. attempted a more accurate calculation of an individual's exposure particularly his cumulative exposure. Several commenters expressed reservations about the classification scheme of Higgins et al. The method of estimating cumulative exposure by multiplying exposure times average duration used by several experts is also a reasonable approximation. This is borne out by the similarity in the estimates of risk from analyses using both methods of dose ascription.

There were also questions on the ascription of dose in the Pinto et al. studies. The exposure levels used in the risk assessment based on the Pinto and Enterline results are derived from urinary arsenic levels. All three risk assessments utilized the same factor, 0.3, which was estimated by Pinto et al. (Ex. 201–19), to convert urinary levels to airborne levels.

The risk assessment performed by Dr. Chu on the Pinto and Enterline data utilized data contained in the arsenic record, that the urinary arsenic levels in 1948 were twice the 1973 level, to estimate exposures prior to 1948. Dr. Chu believes that these estimates are good estimates of exposure. They take into account the protection afforded by the respirators that were sometimes used. Higher exposures would have resulted in acute symptoms, which were infrequent.

Both the Clement and EPA–CAG assessments are based on estimates presented in the Pinto and Enterline 1977 update that stated that exposures before 1948 were 5 to 10 times higher than the 1973 levels. These higher estimates of past exposures are based on estimates made by ASARCO, though these estimates were not based on detailed studies. Since an assumption of higher exposures in the past would result in lower estimates of risk per unit of exposure, this particular assumption was the principal explanation for the higher estimates of risk in the assessment performed by Dr. Chu.

OSHA concluded in its April 9, 1982 proposal that it accepted "the [5 to 10-fold] higher estimates of past exposure because they are documented in the published literature and because ASARCO has had extensive programs for monitoring arsenic going back to the late 1930's." However, OSHA pointed out that Dr. Chu's estimates were also "reasonable" (47 FR 15364). As pointed out in section III, recent reports (Ex. 201–8, 201–9) tend to support Dr. Chu's determination that pre-1948 levels were approximately twice as high as those of 1973, and lend support to his higher estimates of risk.

The new study by Enterline and Marsh (1982) confirmed OSHA's conclusion in the preamble to the final standard that there is significant excess risk of lung cancer from exposed to inorganic arsenic, even at low exposures. There was some question, however as to the strength of the dose-response relationship in this data.

Some of the participants pointed to the Enterline and Marsh (1982) analysis as evidence of a "plateau effect" in the dose-response curve. They used this term to define a phenomenon that, at lower doses, there is little or no gradient of risk with increasing dose, and that one only sees an increase or "jump" at very high doses. Some commenters pointed to Table 10 of Enterline and Marsh noting that the data failed to show a gradient of risk for doses less than or equal to 5000 μg/l-years (Exhibit 202–3, Table 10). Drs. Crump and Radford have suggested, however, that this lack of a dose-response relationship may be a result of the way dose was accumulated and that, perhaps, an "absolute risk" model may be more appropriate than a relative risk model to examine these data. Absolute risk is a measure of excess risk defined by Dr. Crump as (Observed Deaths-Expected Deaths)/Person-Years.

Dr. Crump noted that cohorts in higher exposure categories in the study might tend to be older than those in lower exposure categories. For illnesses which increase with age, this creates the possibility of age confounding. To address this potential problem of age confounding the comparison of SMR's, Dr. Crump calculated absolute risk by exposure category.

Absolute risk differs from SMR's and relative risk by *subtracting* the expected values from the observed number of deaths rather than *dividing* the expected deaths into the observed deaths. Hence, the expected value for cancer deaths, which is age-dependent, still figures in the calculation of absolute risk. Relative risks and SMR's are directly proportional to the expected values because they are multiples of the expecteds. Absolute risk is not directly proportional to the expected values and thus is less subject to age-confounding than SMR's and relative risks. Also, absolute risk corrects for differences in person-years at risk between study cohorts by dividing person-years into (Observed Deaths—Expected Deaths). As discussed by Dr. Crump (Ex. 206, p. 17) and the OSHA staff submission (Ex. 241–A), even if respiratory cancer mortality rates increase with increasing dose, older cohorts who received higher exposure, may not exhibit higher SMR's that reflect their greater risk. Absolute risk measures would reflect their greater risk of dying from respiratory cancer.

Dr. Crump stated:

> In an absolute risk model, the increase in cancer risk due to arsenic exposure at a given age does not depend upon the background risk (i.e., the risk in the absence of exposure to arsenic). In a relative risk model this increase is proportional to the background risk. If an absolute risk model is correct and if cohorts with higher dose also tend to be older (which was probably the case in the Enterline and Marsh analysis, due to the way exposure was accumulated) then even if respiratory cancer age-specific mortality rates increase linearly with dose, relative risks might not increase with dose, and they could actually decrease (Ex. 206 p. 17).

Dr. Crump (Ex. 206) analyzed the mortality data of Enterline and Marsh using an absolute risk model for the Cumulative exposure data and 10 Year Lag data (Ex. 206, Table 3). A clearer dose-response gradient for respiratory cancer risk was apparent using absolute risk measures. Dr. Crump suggested that "an absolute risk model may more nearly approximate the carcinogenic effect of arsenic than a relative risk model." In support of this hypothesis, Dr. Crump cited the better dose-response observed using SMR's when Enterline and Marsh confined their analysis to workers age 65 and over (Ex. 201–9, Table 10, p. 11). Since dose and age would not be related for this group, a dose response with SMR's would be expected, as well as for absolute risks (Ex. 212, p. 17–18).

Dr. Enterline responded that since absolute risk measures ignore the magnitude of the background risk and since most known industrial carcinogens interact with background cancers he prefers the use of relative rather than absolute risk models. He added that consideration of background is particularly important for agents suspected as cancer promoters. (Ex. 244, Appendix B, p. 1). However, to predict the excess risk attributable solely to arsenic exposure, independent of the background level, an absolute risk would also be an acceptable measure of risk.

Though use of absolute risk in place of relative risk does change the shape of the dose-response curve, estimates of risk based on the two measures do not differ substantially (See Table 4).

Based on observations at the Tacoma smelter, Enterline and Marsh suggest that for arsenic, "effective dose is not simply a multiplication of time times dose rate of intensity. Short exposures seem to have a disproportionately greater effect than long exposure * * * It is also possible that * * * it is not historic but recent exposure that is most important in any particular case, and the cumulative exposure to arsenic as a measure of dose have no overall meaning." In a post hearing submission (Ex. 244, Appendix B) Dr. Enterline reiterated that duration may be a "poor surrogate" for amount of exposure, a concept which may be supported by findings in the Higgins' report.

In addition, Enterline and Marsh further suggested that arsenic may be a cancer promoter, rather than a cancer initiator. This issue was raised in light of its impact on the shape of the dose-response curve and the threshold hypothesis. In general, initiation refers to the processes involved in starting or "initiating" a carcinogenic tumor. It may involve a single event, or several independent events. Promoting generally refers to an increase in the tumor growth rate; promotion can only take place once a cell is initiated. The terms initiator and promoter refer to the mode of action of the carcinogenic event; that is, whether it is an initiator, promoter, or both, it is considered a carcinogen.

Drs. Enterline and Marsh noted arsenic appeared to be a promoter because of the short latency period for arsenic-induced cancer observed in the ASARCO studies and the strong (Ex. 201–9) relationship bewteen lung cancer risk and age at initial exposure observed by Brown and Chu (Ex. 241–B, 241–C). In his post-hearing submission Dr.

Enterline concluded that if arsenic is a late stage promoter and if the multistage theory of carcinogenesis[4] is valid, then "use of a linear time-weighted dose-response relationship for arsenic would overstate response at low dose" (Ex. 244, App B, p. 1).

Brown and Chu (Ex. 241–C, 241–B) analyzed the mortality of 8014 members of the Anaconda cohort in order to determine whether excess respiratory cancer risk was related to duration of exposure, age at initial exposure, and follow-up time since exposure stopped. Their interest in these factors stemmed from the multistage theory of carcinogenesis, which predicts that risk will be differentially affected by these factors depending on whether the carcinogen acts on an early stage or late stage of the process of carcinogenesis.

Brown and Chu found that excess respiratory cancer mortality risk was a function of increasing age at initial exposure, duration of exposure, and exposure concentration. Duration of exposure was observed to be the most important single factor in the excess lung cancer risk. They considered their finding of increased risk with increased age of initial exposure to be consistent with arsenic having a late stage effect, since older individuals presumably would have more initiated cells susceptible to carcinogenesis.

Evidence against arsenic having an effect on promotion and growth cited by Brown and Chu included the relatively long latency period and continuing excess risk 20 years after cessation of exposure that they observed in the Anaconda cohort. This is inconsistent with animal models of promotion of carcinogenesis, where short latency periods and tumor regression after cessation of exposure to the promoter are characteristic.

Brown and Chu concluded that while their results suggested that arsenic primarily may have an irreversible effect on the late stage of the cellular transformation process, they could not rule out an additional effect at the initial carcinogenic stage from arsenic exposure (Ex. 241–C, 241–B).

In support of the use of a linear model, Dr. Radford noted that certain toxic agents may act as initiator *and* promoter; he posited (as did Dr. Enterline) that a promoter's dose-response curve may be curvilinear upward (less effect per unit dose at lower doses), whereas the studies of Enterline and Marsh and Lee Feldstein seemed to find more effect per unit dose at lower doses (Ex. 207, p. 7).

Even if a substance were clearly found to be a promoter rather than an initiator, humans are exposed to a variety of carcinogens such that a linear model might still be appropriate.

Several commenters suggested that there may be a "plateau effect" for inorganic arsenic in the Anaconda data as well.

Dr. Lamm cited the Lee-Feldstein study as one example about which he suggested "there is a plateau of risk unaffected by increasing duration for an extended period" (Ex. 202–3D).[5]

Dr. Crump commented: "I [therefore] consider the argument that risk depends primarily upon exposure level irrespective of duration to be highly speculative at this point." (Ex. 212, p. 9). Moreover, as discussed earlier, Brown and Chu concluded that duration of exposure is the most important single factor in determining lifetime risk (Ex. 241–C, p. 19).

Dr. Lamm has applied a very narrow definition to the dose-response relationship, insisting that there must be a statistically significant increase in the SMR's for each successive employment group (i.e., significant change from group to group). Applying such a definition lends support to the "plateau" effect theory. Dr. Lamm's definition is not the usual criteria for a dose-response curve and the authors of the studies OSHA discusses consider that their data demonstrate dose-response relationships. For example, Drs. Lee-Feldstein stated: "The excess respiratory cancer mortality increased with length of employment and was positively related to degree of arsenic exposure" (Ex. 202–3A).

Dr. Crump addressed many of these issues stating that the "plateau" effect; " * * * rather than being an inherent property of the dose-response is more probably due to small sample sizes and the fact that it is more appropriate in this particular situation to look for a dose-response in absolute risk rather than relative risk." (Ex. 212, p. 7). As with the Enterline and Marsh data, Dr. Crump noted that the "plateau effects" disappear almost entirely when absolute risk is plotted against length of employment." He elaborates, however, that if the plateaus of risk are "real" one must also accept the conclusion that there are possibly very sizable risks associated with small cumulative doses (i.e., arsenic is more potent than thought earlier.)

As was pointed out earlier in this discussion, the dose-response relationship seen in the Lee-Feldstein data was not as strong as that in the Lee and Fraumeni data, and Dr. Crump characterized the linear fit as "marginally acceptable." He believed, however, that this was due to imprecisions in the exposure estimates rather than an inherent deviation in linearity.

Lee-Feldstein assigned workers to exposure categories in the same manner as Lee and Fraumeni. Dr. Marsh (Ex. 202–8 Appendix F. p. 23) commenting on that classification scheme, stated that assigning workers in the manner used by Lee and Fraumeni (1989) will "dilute effects seen in the high and medium groups" thus producing an artificial decrease in slope (lower risk per unit dose). He also noted that classification by highest exposure is confounded by duration. Marsh recommended that a time-weighted average over a work history would be a "more representative scheme."

The question of the suitability of cumulative dose for risk assessment was also investigated with data from the Higgins et al. study. Dr. Higgins and colleagues classified individuals by time-weighted averages and cumulative total exposure. A significant risk for lung cancer was observed and a clear dose-response relationship is seen between TWA and respiratory cancer mortality (Table 16) and when respiratory cancer is plotted against cumulative exposure as well. When Dr. Crump fit his models to the cumulative lifetime exposure data presented by Dr. Higgins (Ex. 202–8, Appendix D, Table 6) the data demonstrated an excellent fit (P values 0.46, 0.75) for both relative risk and absolute risk. Dr. Crump concluded that there was a strong dose-response relationship and that these data are consistent with a linear dose-response model.

The CEOH and Dr. Higgins have suggested that the data in the Higgins et al. report constitute evidence of a threshold of exposure to inorganic arsenic. They contend that there is no increased risk when exposures are not allowed to exceed 500 $\mu g/m^3$, and they stress that peak exposures are the major determinant of risk, regardless of length of exposure.

This conclusion must be assessed in light of the discussion presented in Section III. The exposure groups under 500$\mu g/m^3$ had a very low power to

[4] The multistage theory of carcinogenesis postulates that cancers are initiated only through a series of independent stages, and that all stages must be completed before a tumor will appear. In general, a polynomial curve (curvilinear upward) is used to describe this relationship; this curve will tend to approach zero much more quickly than a linear model.

[5] Dr. Lamm has included some qualifications to these conclusions, stating that a relationship exists only with very high concentrations or exposure of more than 25 years.

detect a 50 percent excess risk, even if one existed, and that classification by "ceiling" exposure may have had an artificial effect on the dose-response relationship due to "class shifting."

Despite the fact that Dr. Crump obtained an excellent fit using a linear regression, a standard statistical technique, Dr. Lamm did not employ a regression analysis. He stated: "Our lines here connect the data points rather than being a line, which is a linear regression, to *represent* [emphasis added] the data points" (Ex. 247, corrected transcript p. 451). He notes that this method of analysis has the advantage that no assumptions on the behavior of the curve are made as they are in the regression analysis.

Based on his non-regression analysis, Dr. Lamm concluded that there appeared to be a threshold at approximately 500–800 $\mu g/m^3$-years. It should be noted, however, that for 45 years exposure this is a "safe" level of approximately 10 $\mu g/m^3$.

A further issue presented was the quality of the Ott et al. data and its facility for risk assessment. In the preamble to the final standard, OSHA concluded that due to methodological limitations, the Ott et al. data would not be used to "draw firm conclusions as to the exact nature of the dose-response curve." However OSHA also concluded that the Ott et al. study did provide "firm evidence of excess lung cancer mortality of workers exposed to arsenicals." (43 FR 19596). Because of the high percentage of pentavalent arsenic in the environment where the study took place, OSHA also relied on the Ott et al. study as evidence of the carcinogenicity of pentavalent arsenic.

Several experts made use of the Ott et al. data for risk assessment purposes subsequent to the publication of the preamble to the final standard. Based on this, in the April 9, 1982 document, OSHA stated that it was reasonable to use the Ott et al. study for risk assessment purposes but did not include estimates of risk based on the Ott et al. study in its preferred estimates.

The CMA-Arsenic Panel disagreed with the use of the Ott et al. study for risk assessment, citing the limitations that were discussed in the preamble to the final standard. While OSHA recognizes these problems with the Ott et al. study, still, a number of the experts during the proceedings reaffirmed the quality of the Ott et al. study noting that both dose and response were characterized well enough for it to be used for risk assessment. Both Dr. Chu and the EPA–CAG employed the Ott et al. data in their risk assessments.

Dr. Crump stated that because of its shortcomings he did not consider the study as well-suited for risk assessment as either the Pinto et al. or the Lee and Fraumeni studies. Nevertheless, he did not consider the shortcomings severe enough to prevent its use in quantitative risk assessment. Dr. Crump also cited consistency with estimates of risk from other studies as affirmation of the use of the Ott et al. study. Dr. Radford also cited the Ott study in his estimates of risk. In fact, he believed that the estimates of risk from Ott et al. data were, in fact, in the correct range of risk and that estimates from the other studies needed to be raised in light of new information.

Some commenters have stated that the arsenic trioxide present in the chemical plant, not the pentavalent arsenic , may be the active carcinogenic agent. If this were the case, given the small quantity of arsenic trioxide in the plant, this would suggest that trivalent arsenic was much more potent than previously thought. In view of the consistent data on the risk from arsenic, the best conclusion is that the pentavalent arsenic is the major factor.

OSHA concludes, in view of all the new expert opinion that the Ott et al. study is an adequate basis for risk assessment and produces estimates of risk consistent with those from other studies.

C. Conclusions

OSHA concurs with many of the experts that the linear regression analysis appears to be the most reasonable approach for estimating the risk presented by occupational exposure to inorganic arsenic. The linear model provides an excellent fit to the data and is consistent with current biologic interpretations. It has been utilized in prior estimates of risk at low levels based on epidemiologic data (41 FR 4673, October 22, 1976).

OSHA considers that relative risks, SMR's, and absolute risk measures are well-established and valid methods of estimating increased risk from exposure to an etiologic agent of disease. While absolute risk (also referred to as excess risk and attributable risk) is not as common a risk measure as the SMR, its use is recommended in epidemiologic textbooks (Ex. 237–J; Ex. 237–Z; Ex. 237–EE). OSHA considers Dr. Crump's absolute risk analysis of the Enterline and Marsh study valuable and has utilized it in reaching a conclusion about findings of the ASARCO studies.

It is clear that inorganic arsenic is a carcinogen, but, the evidence of whether it acts as a promoter or initiator, or both, is indeterminative. As stated earlier, the final determination on the mode of action does not affect the decision to regulate arsenic as a carcinogen and the use of a linear model in such a case is reasonable for making estimates of risk.

OSHA believes that the suggestion of a threshold for carcinogenicity is not nearly as well supported by the evidence, and consequently, OSHA accepts the more broadly supported no-threshold model; this also promotes the interest of worker protection.

OSHA concludes that reasonable estimates of risk for a 45-year working lifetime exposure at 10 $\mu g/m^3$ range from 2.2 excess deaths per 1000 workers to 29 per 1000, and from 148 to 767 excess deaths per 1000 at 500 $\mu g/m^3$. Within this range, OSHA believes the preferred estimate for a 45-year working lifetime is an excess risk of 8 deaths per 1000 at 10 $\mu g/m^3$, 40 per 1000 at 50 $\mu g/m^3$ and 400 deaths per 1000 at 500 $\mu g/m^3$. Additional rationale for these conclusions are stated below.

V. Other Health Issues

A. Animal Studies

The carcinogenicity of inorganic arsenic has been based on the strong evidence of human epidemiologic studies. Most animal studies have obtained negative results. These have been reviewed by IARC (1980) (Ex. 201–13). There have been some animal studies which have obtained positive results. A summary of several recent negative and positive studies and comments will be presented.

Furst (Ex. 202–3A; 232F) reviewed the animal studies concerning the question of carcinogenicity of inorganic arsenic. Furst concluded that "studies in which attempts were made to induce any cancer in experimental animals have proven uniformly negative." He further stated that "the very few experiments which propone to show positive effects do not stand up to any statistical analysis."

Berteau et al. (1978) reported in an abstract of their work on a long-term inhalation study of an arsenic aerosol on "tumor susceptible" mice. This study represents the only major long-term inhalation study involving inorganic arsenic reported in the published literature. His group exposed Strain A female mice to an aerosol (range 0.8 to 5 μm mass medium diameter) of 1% aqueous solution of sodium meta arsenite every working day for the first 26 days and for 20 minutes per day thereafter. The dose was 2.3 mg/kg/day. At the end of the experiment, 208 days, there were no significant differences in

the pulmonary adenomas found in the treated mice compared to the controls.

CMA-Arsenic Panel indicated during the hearings that more details of this study were available and submitted an unpublished report on this inhalation study by Berteau et. al. (Ex. 280). Berteau et al. concluded that sodium arsenite is probably not a carcinogen in mice. They also suggested some possible reasons for the negative findings, including potential inappropriate choices of strain of mice, species, chemical form of arsenic, and exposure level. The author suggested that arsenic may require a co-factor and pointed out that the study had not been conducted for the full lifetime of the animals.

Rodricks and Brett (Ex. 238) in post-hearing comments on the Berteau et al. study noted several deficiencies in the study. First, only one dosage was tested and the exposure level may be too high or too low. One dose level could not determine whether a dose-response relationship existed nor could a no-effect level be estimated. Second, the dosage was selected on the basis of the results of an acute inhalation study, but dosages are usually selected on the basis of subchronic studies, which more closely resemble long-term exposure situations. Third, the concentration of sodium arsenite was not adjusted during the exposure period, thus, the animal did not maintain a constant dose level. It was unclear whether animals were dosed five or seven days per week. Finally, Rodricks and Brett noted that no mortality data were given in the report. They noted that 27 percent of the treated group were sacrificed during the exposure period, only approximately one-third of the animals received gross or histopathological examinations for organs other than the lungs, and that the duration of the study was less than the generally accepted two-years minimum for cancer bioassays in rodents.

Knoth (1966) (Ex. 237–V) noted a significant frequency of tumors in 30 NMRI mice exposed to Fowler's solution (1 percent potassium arsenite) given orally one drop per week for 20 weeks. Adenocarcinomas of the skin, lung and lymph nodes were found. No tumors were seen in 15 control mice of both sexes or their offspring observed up to 2 years. There was an absence of experimental details provided which would be helpful for critical assessment.

Osswald and Goerttler (1971) (Ex. 237–HH) administered daily subcutaneous doses of 0.5 mg/kg of sodium arsenate as a 0.005 percent aqueous solution of sodium arsenate to 24 female Swiss mice throughout pregnancy. Eleven of the treated mice developed lymphocytic leukemia or lymphomas within 24 months after the start of the experiment and none of 20 untreated females which died during the same period developed such tumors. During the 24 month observation period, 13 to 71 untreated progeny and 41 of 97 treated progeny developed lymphomas or lymphocytic leukemia. The IARC working group was critical of this experiment since 19 of 55 control animals and some of the experimental animals were still alive at the time of reporting.

Ishinishi et al. (1977) (Ex. 237–R) administered to groups of 14–23 Wistar King rats a total of 15 intratracheal instillations of 0.26 mg arsenic troxide, 2.5 mg copper ore (containing 3.95 percent arsenic) or 2 mg flue dust (containing 10.5 percent arsenic) alone or in combination with 0.4 mg benzopyrene (BP). No malignant lung tumors were observed in the rats treated with arsenic trioxide or copper ore alone and no statistically significant increase in the incidence of malignant lung tumors was found when these compounds were given in combination with BP. One adenocarcinoma by the lung occurred among 7 surviving rats given instillations of flue dust alone. Many commenters stated this study was only suggestive because of the small number of animals and would require more studies for proper evaluation.

Ivankovic et al. (1979) (Ex. 237–T) administered to a group of 25 male BD IX rats a single intratracheal instillation of 0.1 mlof an arsenic-containing mixture (calcium arsenate, copper sulfate and calcium hydroxide), which is known as Bordeau mixture (dose of arsenic, 0.07 mg). Ten rats died within the first week after treatment and the remaining 15 were observed for their lifespan. Nine treated rats developed lung lumors (7 bronchiōgenic adenocarcinomas and 2 bronchiolar-alveolar-cell carcinomas). No lung tumors occurred in 25 controls given intratracheal instillations of saline. It should be noted that the experiments of Ivankovic et al. are incomplete since they do not include simultaneous studies on individual ingredients in the Bordeau mixture. That is, no copper sulphate or calcium hydroxide or copper sulphate plus calcium hydroxide exposure groups were studied (Exs. 201–13, 23ZF).

Rudnai and Borzsonyi (1981) (Ex. 237–LL) administered subcutaneously an aqueous solution of arsenic trioxide to lung tumor susceptible mice. A dose of 1.2 ug/g of arsenic trioxide was administered to pregnant LAJI: CFLP mice in a single dose on the 15, 16, 17 or 18th day of pregnancy. The offspring of the treated mice were given subcutaneouly 5 μg arsenic tricoxide per day per animal for 3 days. Lung tumor incidence was significantly higher in animals treated on the 16th day and again during neonatal life (12/19, 63.1 percent) than in controls (3/17, 17.6 percent). Rudnai and Borzsonyi described the lung tumors histologically in part as papillary adenomas and as malignant adenocarcinomas.

IARC (Ex. 201–13) analyzed the animal studies and came to the conclusion that inorganic arsenic had not yet been demonstrated to be carcinogenic in animal studies. The CMA also reached that conclusion in its pre-hearing submission. Dr. Rodricks, an expert in toxicology, made the point that none of the studies were of the quality required for the National Cancer Institute Bioassay programs (Ex. 220).

OSHA concluded in the preamble to the final standard that a clear animal study demonstrating the carcinogenicity of inorganic arsenic had not been demonstrated and that continues to be OSHA's conclusion, though there are some studies indicating positive results.

OSHA does not believe that the lack of a good animal study detracts from its conclusion that arsenic is a human carcinogen. OSHA's statutory responsibility is to protect employees. The overwhelming evidence associating inorganic arsenic exposure with excess lung cancer in exposed employees clearly outweighs the lack of a clear definitive animal model. Dr. Furst in a post-hearing submission argued that agencies require positive animal, human and short-term tests before classifying a substance as a carcinogen. OSHA is not aware of any regulatory agency requiring all three types of evidence. OSHA along with NIOSH, IARC and WHO-AWG concludes that the strong human data alone is a strong basis justifying reducing employee exposure to inorganic arsenic.

B. Mutagenicity and Cytogenetic Effects

Mutagenicity is the property of inducing alterations in the information content (DNA) of an organism or cell that are not due to the normal process of recombination. Cytogenetic effects involve changes or damage to the genetic material which does not necessarily involve a mutational change. Many of these effects can be measured with short-term tests or assays. These changes in DNA or genetic material may be an early indicater that a substance may be a potential carcinogen.

Leonard and Lauwerys (1980) (Ex. 237–Y) concluded that most of the studies performed on the mutagenic and cytotoxic activity of arsenic have provided positive results. These studies

involve experiments on microorganisms, plant material and drosophila as well as observations on the ability of this metal to induce, in vitro and in vivo, chromosomal aberrations in mammalian cells. In contrast, a review by Simmon (1982) (Ex. 202–3A) concluded that the evidence for inorganic arsenic being a hazard because of its mutagenic activity is poor. This was the view of the CMA-Arsenic Panel. Simmon indicated that the majority of arsenic compounds are not capable of inducing point mutations in mammalian or microbial cells and suggested weaknesses in studies on DNA repair, as well as advising caution in interpreting the clastogenic effects. A summary of some of the literature will be presented.

Nishioka (1975) (Ex. 237–GG) and Kanematsu et al (1980) (Ex. 237–U) have demonstrated that arsenicals have caused an increase in unscheduled DNA repair (i.e. damaged the DNA so that repair activity was abnormally high). This is called the bacterial rec-assay system. The rec-assay system using recombination -proficient and deficient strains of Bacillus subtilis was used to screen a large number of metal compounds for mutagenicity. Nishioka found that both As+3 and As+5 produced positive rec-assay results. It was also shown that arsenic compounds ($AsCl_3$ $NaAsO_2$) having a valence of +3 seem to be more mutagenic than (Na_2HAsO_4) possessing a valence of +5 because more distinct rec-effect was seen in the former than in the latter. In 1980, Kanematsu et al. again demonstrated that strong positive rec effects were noted with both trivalent and pentavalent compounds of arsenic (As_2O_3, As_2O_3, $AsCl_3$, $2AsO_3$, Na_2HAsO_4).

Simmon (1982) (Ex. 202–3A) was critical of the two Japanese studies because, in an unpublished report to the Koppers Co., Pierce and Simmon (1981) could not reproduce their results. The report by Pierce and Simmon was not submitted to the record.

Simmon (1982) (Ex. 202–3A) had pointed out that a number of assay systems had demonstrated that arsenic was not mutagenic. Lofroth and Ames (1978) reported that neither arsenite nor arsenate was mutagenic in the Salmonella/microsome assay, commonly known as the Ames Test. Ikeshelashville et al. (1980) reported that sodium arsenate had no effect on the fidelity of DNA synthesis using E. Coli DNA polymerase activity. Rossman et al. (1980) reported results that showed arsenate was not mutagenic to either E. Coli or to Chinese hamster cell line V79, although Rossman et al (1977) (Ex. 237 KK) had previously reported on positive mutagenic effects of arsenite in E. coli.

In contrast, a number of recent studies have reported positive effects of both trivalent and pentavalent forms of arsenic. DiPaolo et al. (1979), found that arsenate causes cell transformation in Syrian hamster embryo cells and Castro et al. (1979) found arsenite to enhance the frequency of transformation induced by the Simian adenovirus SA 7. Paton and Allison (1972) found that both arsenite and arsenate significantly increased chromosmals aberrations in leukocyte culture. Petres et al. (1977) (Ex. 237 JJ) found that arsenates cause transformation in human peripheral lymphocytes. Ohno et al (1982) reported statistically significant increases in frequency of induced sister chromatid exchanges in Chinese hamster cells resulting from treatment with sodium arsenite, sodium arsenate and arsenic pentoxide. Larramendy et al. (1981) (Ex. 237 X) reported that non-toxic concentrations of inorganic arsenic salts (sodium arsenate and sodium arsenate) caused transformation of Syrian hamster embryo cells (HEC) and induced sister chromatid exchanges (SCE) and chromosome aberrations of HEC and human peripheral lymphocytes. The authors concluded that the induction of SCE and chromosomal aberrations by metals reemphasized the sensitivity of cytological assays and their importance for detecting genetic damage caused by carcinogens.

Some observations have been made on the somatic cells of people exposed to arsenic for medical or professional reasons and in the workplace. An increased frequency of chromosomal aberrations has been observed among workers exposed to inorganic arsenic compounds, as well as in patients who had taken drugs containing arsenic (Petres et al. 1977 (Ex. 237 JJ); Nordenson et al. 1978).

As the above review of the literature indicates, there is a growing number of studies which have demonstrated positive mutagenic and genetic effects by both trivalent and pentavalent forms of arsenic. The number of positive studies is sufficient to outweigh the contrary views of Simmon and CMA-Arsenic Panel which appeared to be based principally on negative results in some test systems. The Agency now believes that the positive mutagenicity results support the strong human evidence for the carcinogenicity of inorganic arsenic. However, the human carcinogenicity data are so strong that even if the mutagenicity data were consistently negative, OSHA would still conclude that inorganic arsenic is a human carcinogen.

C. Teratologic and Reproductive Studies

The reproductive or teratogenic effects of arsenicals were not addressed in the preamble to the final OSHA standard. A few human epidemiologic studies and animal studies have provided evidence of arsenic-induced reproductive or teratogenic effects. Animal studies have shown that sodium arsenate induces developmental malformations in a variety of test animals: embryo chick, hamster, rat, and mouse. Hood (1982) (Ex. 202–3A) has recently reviewed the toxicology of prenatal exposure to arsenic. A summary will be presented.

Ridgeway and Karnosky (1952) reported chicken embryos injected on the fourth day with sodium arsenate were stunted and had mild micromelia and abdominal edema. The first detailed report of arsenic teratogenicity in a mammal was that of Ferm and Carpenter (1968). They administered intravenously high doses of sodium arsenate to hamsters on gestation day eight which resulted in a high percentage of malformed fetuses, increased prenatal mortality and resorbed litters.

Hood et al. (1977) (Ex. 237 P) compared the prenatal effects of oral and intraperitoneal administration of sodium arsenate in mice. Intraperitoneal administration had a considerably greater effect than oral administration on prenatal mortality, reduction of fetal weights, and occurrence of fetal malformation. Hood et al. (1977) also studied the effects of intraperitoneal injection of sodium arsenite in mice and found increases in prenatal mortality and developmental malformations.

One important problem with most studies involving teratogenic effects of arsenic was the use of high doses which often resulted in more than 10% death rates. Several reproductive studies in animals have been negative involving exposure to low levels of arsenic. In one such study, Kojima (1974) administered arsenic trioxide at 10, 50, and 100 ppm in the food to Wistar rats prior to and during gestation. This treatment caused no significant effect on the number of litters. This study demonstrated no significant reproductive effects but did not assess the effects on the unborn fetuses. No teratogenic studies in animals exposed to inorganic arsenicals by inhalation have been reported.

Some human data have been reported on teratogenic and reproductive effects of workers employed in the smelting industry. Studies of pregnant women

employed at the Ronnskar smelter in Sweden provided information with direct bearing on the issue of human teratogenicity of inorganic arsenicals. Children born to women who worked during pregnancy at a Swedish copper smelter and were exposed to airborne arsenic showed a significantly higher frequency of congenital malformations (Nordstrom et al. 1979). The frequency of all malformations in the children of women employed at the smelter was twice as high as that in the children of other women in the region. A 5-fold higher frequency was noted for multiple malformations. At this stage the carcinogenicity data remain the best for basis for regulatory decision.

D. Interconversion of Pentavalent to Trivalent Arsenic

In the preamble to the final standard, OSHA concluded that though the available evidence went both ways, on balance the stronger data indicated that there was probably little or no conversion of pentavalent to trivalent arsenic in the body. Given the unknown relevance of acute toxicity and biochemical reactions of trivalent and pentavalent arsenic to the assessment of carcinogenic risk and the findings that pentavalent arsenic was probably not converted to trivalent arsenic, OSHA relied principally on the findings of the epidemiological studies, expert opinion and general policy considerations in deciding to regulate pentavalent arsenic as a carcinogen.

Since promulgation of the final regulation, new data concerning interconversion of pentavalent to trivalent arsenic have become available. Yamauchi and Yamamura (Ex. 211) and Vahter have studied the metabolism of pentavalent arsenic. Yamauchi and Yamamura studied three men who ingested seaweed known to be rich in pentavalent arsenic. Measuring the amount of arsenic excreted by the three subjects, Yamauchi and Yamamura concluded that most of the pentavalent arsenic was reduced to trivalent arsenic within the body and that the trivalent arsenic was subsequently methylated to monomethylarsonic acid and dimethylarsine acid. Vahter administered pentavalent arsenic in single oral or intravenous doses to mice and found trivalent arsenic in the urine of the mice. Vahter concluded that "it is evident from the data that trivalent inorganic arsenic is present in the plasma and urine of mice exposed to inorganic pentavalent arsenic."

Dr. Radford, at the July 1982 hearings stated, based on the new evidence: "arsenates are converted in significant amounts in the body to trivalent arsenic, perhaps as part of the pathway for excretion in the urine of methylated forms" (Ex. 207). Dr. Radford also noted that "there is yet no evidence that bronchial tissue can reduce inhaled pentavalent arsenic, nor is there evidence it does not" and he concluded that he supports OSHA's regulation of both trivalent and pentavalent inorganic arsenic as a carcinogen.

Dr. Edwin Woolson (Ex. 218) presented his analysis and conclusion that the evidence available did not indicate that pentavalent arsenic converted to trivalent in vivo. He presented an evaluation of Yamauchi and Yamamura, and Vahter and the reasons he disagreed with those author's conclusions. Regarding Yamauchi and Yamamura, he commented that they had only accounted for a small percentage of the arsenic ingested. The percentage of trivalent was greater excreted than ingested, but the total excreted was less than that ingested.

Dr. Woolson also commented on Vahter's report, suggesting that the small amounts of trivalent arsenic found in the urine of the mice could be due to experimental conditions. Dr. Woolson stated that studies by Crecelius (1977), Peoples and Parker (1979) and Tam et al. (1979) do not support the conversion of arsenate to arsenite in vivo.

There remains uncertainty on the question of conversion of arsenate to arsenite. OSHA believes that this question is not determinative of any major issue before it. Other types of evidence available, namely, studies in humans, are more relevant for regulatory action.

E. Carcinogenicity of Pentavalent Arsenic

As discussed above there is little controversy about the carcinogenicity of trivalent arsenic. In the preamble to the final standard, OSHA concluded that it was necessary to regulate pentavalent arsenic as a carcinogen as well. OSHA based its position primarily on the Ott et al. study which provided epidemiologic evidence that pentavalent arsenic is a carcinogen, and a significant body of expert opinion including representatives of the National Cancer Institute and the National Institute for Occupational Safety and Health who recommended that pentavalent arsenic be regulated as on occupational carcinogen.

The CMA-Arsenic Panel (Ex. 202–3, 232, 250) strongly contended that inorganic pentavalent arsenic is not carcinogen. CMA criticized the Ott el al. study and questioned the reliability of the data for quantitative risk assessment. Dr. Marsh (Ex. 202–8) in a review of the Ott study concludes:

> The overall weakness of the study design, the uncertainties associated with exposure determination, and the probable biases related to the magnitude of the computed risk ratios do not support the utilization of these epidemiologic data for risk assessment purposes.

OSHA in the final standard's preamble concluded that the Ott et al. study provided strong evidence associating excess respiratory cancer with pentavalent arsenic exposure but it would not be used to demonstrate dose-response because of limitations in the exposure data.

Several witnesses at the recent hearing stated that the Ott et al. study, despite its limitations, could be a basis for risk estimation. Dr. Crump stated:

> Because of these shortcomings, I do not consider the Ott study to be as suitable for quantitative risk assessment as either the Pinto et al. study or the Lee and Fraumeni study. However, I do not consider these shortcomings severe enough to prevent its use in quantitative risk assessment (Ex. 206, p. 12).

Dr. Radford (Ex. 207) stated that the Ott et al. study provided a sufficient basis for risk assessment and a published paper by Dr. Bleier and Wagner (Ex. 237 I) takes this position as well.

NIOSH has stated:

> With relation to the paper by Ott et al. it seems to be a reasonably valid study of the results from exposure to arsenates. Although it is true that the employees involved were exposed to both arsenites and arsenates the authors state that 95 percent of the exposure was to arsenates and only 5 percent to arsenites. It seems not to be illogical or unjustified to attribute most, if not all, the excess of malignancies in the exposed group (incidence rate almost 60 percent greater than that in the control group) to the pentavalent arsenical compounds (Ex. 192A).

CMA argued that OSHA should place more reliance on the Nelson et al. study of Washington State orchardists who were intermittently exposed to pentavalent arsenicals, which did not observe excess lung cancer risk. CMA stated that there was an attempt to quantify exposures. OSHA agrees now that there was an attempt to quantify exposures in that study. Nevertheless, the study does have problems with ascription of exposure, especially since orchard work is seasonal. Also, the study by Nelson et al. is limited by the small number of persons studied, as noted by the authors (Ex. 1A–28).

A draft of a later study of orchardists in Washington, submitted by Milham (Ex. 237 FF), does suggest some excess risk for this group. Excess lung cancers were observed among orchardists. Milham noted that lead arsenate

insecticide, which is a pentavalent form of arsenic, was used heavily in the orchard areas. This study lacks exposure data.

As discussed in Section III, Koppers Company submitted studies performed by Tabershaw Occupational Medicine Associates of workers at two wood-preserving plants using chromated copper arsenate (Ex. 202–6B). Both studies were cross-sectional health surveys of workers exposed to very low levels of pentavalent arsenic (less than 6 $\mu g/m^3$). Because of several methodologic limitations characteristic of cross-sectional surveys which limit their usefulness for studying occupational cancer, as well as the small numbers of employees surveyed, OSHA judged that no conclusions could be drawn from these studies concerning cancer risk of workers exposed to the chromated copper arsenate wood preserving process.

OSHA continues to conclude that pentavalent arsenic should be regulated as a human carcinogen. The Ott et al. study strongly demonstrates an association between exposure to pentavalent arsenic and excess lung cancer risk. The study is not as strong a basis for risk assessment as some of the others, but the opinions of several experts presented at the hearings indicated that the study can be a basis for risk assessment. The mutagenicity studies have shown that both pentavalent and trivalent arsenic can produce positive results in a number of short-term tests. OSHA now concludes that the positive mutagenic responses with pentavalent arsenic compounds add support to epidemiologic data and expert opinion which support the conclusion that pentavalent inorganic arsenic is a human carcinogen.

F. Essentiality

Uthus, et. al. (1982) (Ex. 202–3A) reviewed the effects of arsenic deprivation in laboratory animals and concluded that "arsenic is an essential element for several animal species." The authors suggested that arsenic appears to affect arginine metabolism, and that the signs of arsenic deprivation may be influenced by arginine, zinc and manganese.

Anke, et al. (1976) described arsenic deficiency in goats and minipigs fed semisythetic diets containing less than 50 ppb of arsenic. They reported impaired reproduction, decreased birth weights, increased prenatal mortality, and lower weight gains in second generation animals, which they attributed to deficiency of arsenic in the diet. These birth defects were not noticed in control animals fed the semisynthetic diet supplemented with arsenic at 350 ppb. Nielson et al. (1975) fed rats only 30 ppb of arsenic in a specially formulated diet, and observed the following effects attributed to arsenic deficiency: rough hair coat, low growth rate, decreased hematocrit, and increased osmotic fragility of red blood cells. Nielsen and Shuter (1978) have reported that dietary arsenic has a physiological function in growing chicks. Dr. Frost (Ex. 202–2) reported that feeding arsenic stimulated growth, is believed to control diseases in poultry and swine, and to improve feed efficiency.

Mertz (202–7C) in 1981 reviewed the data concerning a number of essential trace elements. Mertz pointed out that deficiency studies of inorganic arsenic in animals suggest that inorganic arsenic may be an essential trace element in animals. Mertz also pointed out that essentiality is generally acknowledged when it has been demonstrated by more than one independent investigator and in more than one animal species. By these criteria, arsenic is now considered an essential element for several species. Mertz reports that no deficiency role for arsenic in man is known and that the functional role for arsenic is unknown.

Dr. Nielsen believes that arsenic is essential for animal life but stated "today, the majority of nutrition community does not regard arsenic as an essential nutrient for any animal" (Ex. 202–3A, p. 15–16). Harding-Barlow (Ex. 202–3E) suggested that arsenic is an essential element in animals, and that it seems highly likely that it is essential in humans. Harding-Barlow suggested that there may be a threshold for carcinogenicity for essential elements.

Dr. Rodricks (Ex. 226) stated that there is no direct evidence that arsenic is essential for humans. Dr. Rodricks commented that "assuming that arsenic plays a nutritional role (and this is only an assumption) there is no reason to maintain that the beneficial properties of the element are somehow related to its carcinogenic properties. These two biological properties could be completely independent, and display quite distinct dose-response relationships."

Dr. Crump stated,

> The fact that known carcinogens are necessary constituents of mammalian systems is also consistent with a non-threshold hypothesis. A non-threshold hypothesis does not imply that individuals exposed to a carcinogen must get cancer, but only that they must have some chance of getting cancer. Some individuals do get cancer and it is impossible to rule out the possibility that some of these cancers are due to naturally occurring and even essential body constituents. A slight elevation in cancer incidences might be a small biological price that mammalian species must pay for larger benefits derived from substances such as estrogens or trace metals (Ex. 212, p. 6).

There is good evidence that arsenic in its organic form (which is not regulated by OSHA as a carcinogen and as for which there is no evidence indicating carcinogenicity) is a growth stimulant for poultry. Some experts believe that ingested arsenic is an essential nutrient for some species of animals and other experts have not been convinced. It should be noted that all of the essentiality experiments have utilized ingestion as the route of administration.

There is no evidence or tests that indicate that arsenic in any form is an essential element in humans though some experts have speculated on this. Humans do ingest some arsenic in organic form when eating some seafood. However, those metals, such as iron and manganese, for which there is proof of essentiality generally must be ingested to serve their physiologic function. They may be highly toxic when inhaled, however.

However, OSHA is regulating the inhalation of inorganic arsenic based on strong human evidence of carcinogenicity. There is no evidence available indicating that inorganic arsenic is an essential element in humans. In any case, a chemical can be essential and still be carcinogenic without a threshold. The very strong evidence associating inhalation of inorganic arsenic with excess risk of lung cancer and the well supported risk assessments are not affected by hypotheses that arsenic may be an essential trace element.

G. Mode of Action

CMA (Ex. 202–3, p. 90) contended that arsenic was not a genotoxic carcinogen and hence a no-threshold linear dose-extrapolation model was inappropriate for estimating risk from exposure to arsenic. As a basis for their statement that arsenic was not a genotoxic carcinogen, CMA maintained that arsenic had no effect on the accuracy of DNA synthesis, was an essential trace element, and that respiratory cancer risk declined 30 years after cessation of exposure.

Weisburger and Williams (1980) developed a classification system for carcinogenic agents placing them into two categories, namely, genotoxic agents and epigenetic agents. Genotoxic agents are those that are capable of causing DNA damage to cells that creates the potential for oncogenesis. In this category, Weisburger and Williams

included direct-acting carcinogens, procarcinogens and inorganic carcinogens. Epigenetic agents do not themselves damage the DNA but act through an indirect mechanism to increase the susceptibility of cells to genotoxic agents or to stimulate the carcinogenic action of a genotoxic agent. Promoters, co-carcinogens, immunosuppressors and hormonal mediators may be classified as epigenetic agents.

There is not consensus within the scientific community as to the criteria for distinguishing genotoxic from epigenetic carcinogens. Nor is there consensus as to whether genotoxic and epigenetic carcinogens should be regulated differently. OSHA does not have to decide if arsenic is a genotoxic or epigenetic carcinogen in order to determine whether arsenic poses a significant cancer risk to exposed workers. The epidemiologic evidence for the carcinogenicity of inorganic arsenic at relatively low exposure levels overrides theoretical arguments based on hypotheses of mode of carcinogenic action. As discussed in Section IV, Quantitative Risk Assessment, for many reasons, OSHA determined that a linear model was appropriate for predicting the risk of lung cancer mortality from inorganic arsenic exposure.

In addition, OSHA considers that CMA's contention that arsenic is not a genotoxic carcinogen is not supported by the available evidence. First, positive effects on DNA have been obtained when inorganic arsenic was tested for its mutagenicity and its ability to cause chromosomal aberrations. Second, as discussed in Section V–F, Essentiality, even if arsenic was definitely proven to be an essential trace element, which it has not been, a no-threshold model would not necessarily be inappropriate. Third, evidence for a decline in respiratory cancer risk after cessation of exposure is less than definitive, as discussed in Section III, Epidemiologic Studies. In summary, there is evidence that arsenic may affect the cell's genetic mechanism and damage DNA and consequently be genotoxic.

H. Power Plants

The Edison Electric Institute argued that significant risk was not demonstrated to power plant workers exposed to arsenic when cleaning boilers (Ex. 245). The Institute did not participate in any of the earlier stages of the proceeding, presented no evidence as to employee exposures, and only commented that exposures were intermittent. No information on processes was submitted either.

As in the smelter environment, power plant workers are exposed to arsenic released in a high temperature process with many other chemicals present. If the employees are exposed, as an example, to 100 $\mu g/m^3$ of arsenic for eight hours every two weeks, their cumulative exposures would be equivalent to an employee exposed every working day to 10 $\mu g/m^3$. The predicted level of risk of 8 excess deaths per 1000 exposed workers at this level would be significant. Further, the one study of power plant workers that OSHA is aware of does indicate excess lung cancer risk for employees working in a power plant utilizing coal containing arsenic as an impurity (Ex. 237H). Accordingly OSHA concludes a significant risk is presented to power plant workers and there is no basis for excluding them from the standard.

The Edison Electric Institute did not detail the cleaning process. If it is a maintenance operation with intermittent exposures, the arsenic standard indicates that a good respirator program with sign posting, training, and hygiene facilities to protect employees may be an appropriate control strategy. If exposures are continuous, additional control strategies would be appropriate.

VI. Summary of Evidence, Conclusions and Significant Risk

A. OSHA's Approach

OSHA's overall analytical approach for setting worker health standards is a four-step process consistent with recent court interpretations of the OSH Act and rational, objective policy formulation. In the first step, risk assessments are performed where possible and considered with other relevant factors to determine whether the substance to be regulated poses a significant risk to workers. Then, in the second step, OSHA considers which, if any, of the proposed standards being considered for that substance will substantially reduce the risk. In the third step, OSHA looks at the best available data to set the most protective exposure limit necessary to reduce significant risk that is both technologically and economically feasible. In the fourth and final step, OSHA considers the most cost-effective way to achieve the objective.

The Ninth Circuit's remand provides that OSHA consider the issues presented by the first two steps and some of the elements of the third step. This notice and rulemaking directly addresses those matters. A cooperative evaluation by technical experts from OSHA, the smelter companies and the United Steelworkers, which is not part of this rulemaking, gives additional consideration to the final steps.

It is appropriate to consider a number of different factors in arriving at a determination of significant risk with respect to inorganic arsenic. The Supreme Court gave some general guidance as to the process to be followed. It indicated that the Secretary is to make the initial determination of the existence of a significant risk, but recognized that "while the Agency must support its finding that a certain level of risk exists with substantial evidence, we recognize that its determination that a particular level of risk is 'significant' will be based largely on policy considerations." (*IUD v. API*, 448 U.S. 655, 656, n. 62). In order for such a policy judgment to have a rational foundation, it is appropriate to consider such factors as the quality of the underlying data, the reasonableness of the risk assessment, the statistical significance of the findings, the type of risk presented and the significance of the risk.

These factors were mentioned in the April 9, 1982 document as the basis to provide guidance for determining the significance of risk. No participant in the proceeding disagreed with this approach. OSHA continues to believe that those factors provide a good analytical framework for considering the issue of significant risk. OSHA's detailed analysis has been presented in the body of this document. The most important conclusions are summarized here.

B. Quality of Underlying Data

The first factor is the quality of the underlying data. The underlying data upon which the risk assessment for inorganic arsenic are based are high quality epidemiologic studies in an occupational environment. Three studies were available to OSHA and the other experts in published form for risk assessment purposes prior to the April 9, 1982 document. The studies by Lee and Fraumeni and by Pinto and Enterline involved workers exposed to inorganic arsenic in copper smelters. In the study by Ott et al., the workers studied were exposed to the pentavalent form of arsenic in a pesticide manufacturing plant. Subsequent to April, additional studies became available which could be used for quantitative risk assessment, including studies by Lee-Feldstein, Enterline and Marsh, and Higgins et al. All of the above studies are good epidemiologic studies. All clearly associated inorganic arsenic exposure with substantial excess risk of lung cancer, and their authors so conclude. All these studies have good follow-up,

generally reasonable exposure estimates and indicate that the risk was proportional to the degree of arsenic exposure.

There were also a number of studies in other chemical industries and smelters reported in the literature and discussed in the preamble to the final standard, which demonstrated an increase in lung cancer among workers exposed to inorganic arsenic but which are not as strong a basis for quantitative risk assessment. These studies included Baetjer et al., Kuratsune et al., Hill and Faning, and others.

Subsequent to 1977, new studies in this category have been completed which reach the same conclusion, that exposure to inorganic arsenic is associated with increased risk of lung cancer in the occupational setting. These studies, discussed above, are Mabuchi et al., Wall, and Axelson et al. However, the dose data were not quantified in these studies and therefore they do not constitute as good a basis for quantitative risk assessment as the other studies which provide better quantification of exposure.

The two studies which showed no excess risk, authored by Cooper and Tabershaw Occupational Medicine Associates, included small numbers of employees exposed to arsenic. In the study by Cooper, no attempt was made to analyze the mortality of employees known to be exposed to arsenic and the study by Tabershaw was a cross-sectional survey with extremely limited ability to detect any excess of cancer.

Based on both the high quality new human data and the high quality earlier human data associating arsenic exposure with increased risk of lung cancer, OSHA concludes, as discussed in detail above, that inorganic arsenic is a carcinogen in the occupational setting. These are the conclusions of the National Institute of Occupational Safety and Health, the International Agency for Research on Cancer, the Environmental Protection Agency Carcinogen Assessment Group, the World Health Organization-Arsenic Working Group, and many scientists whose views are discussed in this preamble, the data in the record and in the preamble to the final standard.

The Chemical Manufacturers Association-Arsenic Panel in their prehearing comment indicated that they might disagree with the conclusion that inorganic arsenic was carcinogenic in the occupational setting. However, Dr. Lederer, representing the CMA stated:

> I would like to make clear that I do not dispute that there is an association between arsenic exposure and respiratory cancer. Likewise, the evidence indicates that reducing arsenic exposure apparently reduces the carcinogenic risk (Tr. p. 356, 7/15/82).

In response to a question he stated that this was the CMA's view as well, though the CMA "feels there are various factors that also have to be considered" in addition. (Tr. p. 356, 7/15/82).

Several other factors, previously discussed in depth, will be briefly reviewed here. OSHA believes that the strong human data associating inorganic arsenic with excess lung cancer risk are much more important than the following factors.

The first factors concern experimental studies of arsenic. OSHA agrees with the position of CMA, IARC and others that there is no clear animal model demonstrating excess malignant tumors in test animals resulting from arsenic exposure. OSHA believes that the weight of the evidence now indicates that inorganic arsenic in both its trivalent and pentavalent forms is mutagenic in most types of short term tests. CMA's judgment to the contrary is based principally on negative results in "Ames" type tests. But a number of other kinds of mutagenicity tests indicate positive results.

Dr. Harding-Barlow (Ex. 202–3E) and Dr. Frost (Ex. 202–2) generally believed that arsenic is not carcinogenic. In addition to the above factors they refer to the presence of various other chemicals in the human studies, to the fact that organic arsenic is a growth stimulant for some animals and to the possibility that arsenic may be an essential nutrient for humans.

As discussed above, work by Brown and Chu, Lubin et al., Mabuchi et al., Enterline and Marsh and Higgins et al. provide clear evidence that smoking and other contaminants such as sulfur dioxide present in the work environment are not major factors in the carcinogenesis seen. These studies analyzed the effects of these potentially confounding factors and the results indicated that inorganic arsenic was likely to be the major contributing factor to the excess risk. There is no evidence that arsenic is an essential element for humans. It is also likely that an element can be essential at low levels and still be carcinogenic with no threshold.

OSHA also concludes as discussed above that pentavalent forms of inorganic arsenic are carcinogenic. The Ott et al. study clearly associates pentavalent arsenic exposure with substantial excess risk of lung cancer. In addition, the short term tests of pentavalent arsenic are mostly positive, a number of experts view pentavalent arsenic as carcinogenic, and considering the totality of evidence on inorganic arsenic leads to this conclusion.

To reiterate, there are strong data indicating that inorganic arsenic is carcinogenic in humans. Some of the human studies provide an excellent basis for quantitative risk assessment. Other issues do not call into question these conclusions, and in most cases support them.

For purposes of risk analysis, the data base for inorganic arsenic is of unusually high quality. The April 9, 1982 proposal regarding significance of risk stated that the studies relied upon for risk analysis "provide a sound data base for performing risk assessments because of their excellent follow-up, reasonable exposure estimates, and strong dose-response relationship. They provide considerably more than the minimum data necessary for attempting risk assessment" (47 FR 15364). OSHA also characterized the quality of the available data as "higher than that needed to place reasonable confidence in the risk assessment predictions" (47 FR 15365).

Most potential occupational carcinogens have not been studied with regard to their effects in humans. Even if there are epidemiologic studies of the effects of a carcinogen, such studies usually lack historical exposure data and may not be designed and conducted as well as the epidemiologic studies of populations exposed to inorganic arsenic. In the future, it is likely that OSHA will be determining the significance of risk from exposure to carcinogens and regulating carcinogens based on data that are not as strong as the arsenic data and based on animal studies. Therefore, OSHA's significant risk determination for inorganic arsenic should be viewed as having an exceptionally strong basis.

OSHA wishes to make clear that its determination as to the strong association between inorganic arsenic exposure and increased risk of lung cancer is in the occupational setting. As discussed above, it is reaching no conclusions about the effects of arsenic on drinking water or airborne exposure to the general (not occupationally exposed) population.

OSHA reiterated in the April 9th document its determination in the preamble to the final standard that the inorganic arsenic standard covers only occupational exposure to inorganic arsenicals. The estimates of risk would not be applicable to organic arsenicals for which OSHA has not data indicating carcinogenicity. In addition, OSHA pointed out at 43 FR 19613 that arsenic in preserved wood has substantial

chemical differences from other arsenicals, after the reaction, and therefore, based on the existing record, it did not believe it appropriate to regulate preserved wood. These matters were not specifically addressed by the parties in this proceeding and therefore OSHA is not reexamining this position.

C. Reasonableness of the Risk Assessment

The second factor to be considered after the strength of the underlying data, is the reasonableness of the risk assessment. In the April 9th document OSHA presented three risk assessments (47 FR 15362.) OSHA then stated its preliminary judgment that:

> * * * reasonable confidence can be placed in the estimates of the risk presented. In addition to the good exposure and response documentation, as discussed above the dose-response curves demonstrate a good fit of the linear model to the measured data, increasing confidence that a linear model through the origin is the appropriate model to use. It should be emphasized that the risk analyses are based on human data and not on animal data. Therefore, they do not have the uncertainties associated with extrapolating animal data to man (47 FR 15365).

OSHA stated as its preliminary estimate of risk that:

> OSHA believes that those estimates with Dr. Chu's high side estimates excluded (which were based on his estimates of exposure levels) are preferable for the reasons stated. These are the estimates presented above by OSHA as its preliminary analysis. * * * The(se) estimates from the risk analysis which OSHA believes are most reasonable based on the data now before it are (therefore) the following: The excess risk of lung cancer for a working lifetime of exposure is 500% to 620% (375 to 465 excess deaths per 1000 employees) at 500 $\mu g/m^3$, 50–68% excess risk (38 to 51 excess deaths per 1000) at 50 $\mu g/m^3$, and 10–14% excess risk (7.7–10 excess deaths per 1000 employees) at 10 $\mu g/m^3$ of inorganic arsenic based on the linear model (47 FR 15364–5).

OSHA's final estimates of risk for a working lifetime of exposure of 45 years range from 2.2 to 29 excess deaths per 1000 workers at 10 $\mu g/m^3$, 11.2 to 146 excess deaths per 1000 to 50 $\mu g/m^3$ and 148 to 767 excess deaths per 1000 at 500 $\mu g/m^3$. Within this range, OSHA's preferred estimates for a 45-year working lifetime are approximately 400 excess lung cancer deaths per 1000 exposed employees at 500 $\mu g/m^3$, 40 excess deaths per 1000 at 50 $\mu g/m^3$ and 8 excess deaths per 1000 at 10 $\mu g/m^3$. OSHA wants to make clear that these single point estimates are approximations and are not to be thought of as exact numbers. The science of risk assessment is not certain enough to permit exact estimates and the April 9 document made clear that OSHA's estimate was a range and that a range of estimates was reasonable. See also the discussion in section IIA.

The April 9th document discussed three specific questions about the risk assessments. The first was whether a linear or quadratic model was more appropriate. OSHA in the April 9th document preliminarily concluded that the linear model was preferred because it fit the data better but that a quadratic model would also be reasonable in the case of inorganic arsenic. Subsequent evidence strongly confirms that a linear model is more preferable to a quadratic model in the case of inorganic arsenic. Dr. Crump demonstrated by using a Chi-squared statistic that a linear model fits the data much better than a quadratic model. Dr. Crump stated "these analyses indicate that it is reasonable to use a linear model to assess risk from occupational exposure to arsenic, but it would not be reasonable to use a quadratic model" (Ex. 206, p.5).

A second question discussed was the correct estimates of dose at the Tacoma smelter in the past. Dr. Chu utilized estimates indicating that exposures were twice as high pre-1948 than in 1973, leading to higher estimates of risk than Clement Associates who utilized estimates by Pinto and Enterline that exposures were 5 to 10 times higher pre-1948 than in 1973. OSHA preliminarily concluded in the April 9th document that both estimates were reasonable but preferred Clement's. However, a table of urinary arsenic levels published in Enterline and Marsh (1982) (Ex. 201–9, p. 4) indicates that levels were roughly twice as high in 1948, tending to support Chu's higher estimates of risk. Dr. Enterline still believes exposures were 5 to 10 times higher pre-1948.

A third question presented was use of the Ott et al. study for risk assessment purposes. The Ott study clearly showed an association between pentavalent arsenic exposures and excess risk of lung cancer. OSHA indicated in the April 9th document that it was reasonable to utilize it, but preferred the estimates which did not incorporate it and used only the stronger studies. OSHA had stated in the preamble to the final standard that because of some analytic difficulties it would not use the Ott et al. study as a basis for a determination of whether dose-response existed. CMA in its prehearing brief argued the Ott et al. study was not adequate for risk assessment purposes because of the analytic difficulties and because it claimed that the excess risk might have been due to other chemicals. Dr. Crump and Dr. Radford, however, stated in this hearing that the Ott et al. study characterizes both dose and response well enough for it to be a basis for a quantitative risk assessment. Bleier and Wagner concluded this as well. The risk estimates based on the Ott et al. data are not very different than those based on the other studies. Based on these experts' views and the similarity of results, OSHA concludes that there is sufficient characterization of dose for the Ott et al. data to be utilized for risk assessment.

OSHA requested Dr. Crump, a leading expert in risk assessment and biostatistics, to perform risk assessment on the three studies available to OSHA before the April 9th document, which were the basis of the three risk assessments presented in that document. Dr. Crump included some refinements in his assessment discussed in his statement (Ex. 206) and above. His estimates of risk presented in Table 2 were 8.7 to 29 excess deaths per 1000 exposed employees at 10 $\mu g/m^3$, confirming the estimates of the three earlier assessments and OSHA's preliminary conclusion in the range of 7.7 to 25 per 1000.

OSHA also requested Dr. Crump to perform risk assessments on the studies which became available after the April 9th document. The first was the Enterline and Marsh cohort study of employees at the Tacoma smelter. This was an expansion and update of the earlier Pinto and Enterline study of Tacoma retirees. The Pinto and Enterline study showed clear dose-response. See 43 FR 19594. However, the dose-response relationship of the Enterline and Marsh study was not so clear upon initial inspection, though the authors considered that it exhibited some dose response relationship. Table 8 and 9 of the study (Ex. 201–9) indicated that while there were statistically significant excess risks for most exposure levels, the excess risks did not clearly increase with increased exposure.

Dr. Crump pointed out that when SMR's are used for analysis, age differences can sometimes confound the results if the disease in question (like lung cancer) increases with age and if the groups being compared have different age distributions. The retirees of the Pinto and Enterline study had similar ages; therefore, age confounding would not be a problem and indeed dose-response was clear for the retirees. Dr. Crump pointed out that since the Enterline and Marsh study included active employees as well as retirees, there were probably substantial age differences among the various dose

groups, and the high exposure cohorts would likely be older.

Dr. Crump also pointed out that an absolute risk model, another well-established statistical technique, could partially control for age confounding. Dr. Crump applied an absolute risk model to the Enterline and Marsh data. The following chart taken from Dr. Crump's Table 3, 10 year lag (Ex. 206) demonstrates a dose-response relationship.

TABLE 5.—SMR AND ABSOLUTE RISK BY CUMULATIVE EXPOSURE

Cumulative exposure μg As/l urine-years	SMR	Absolute risk × 104
Under 500	150	1.28
500 to 1,500	176	5.80
1,500 to 3,000	226	12.9
3,000 to 6,000	177	16.0
7000+	246	26.2

The excess risk shown by the absolute risk model (partially addressing age confounding) quite clearly increases with increases in cumulative exposure to arsenic while the dose-response relationship is not as clear when risk is measured by SMR. Crump characterized the linear fit as adequate. Using the risks presented in Table 5, Dr. Crump predicted at 10, 50 and 500 $\mu g/m^3$, 7.6, 37.3 and 303 excess deaths per 1000 exposed employees—estimates very similar to OSHA's estimate of 8, 40 and 400 at those levels respectively.

Dr. Crump also performed a risk assessment on the Lee-Feldstein study. He predicted at 10, 50 and 500 $\mu g/m^3$ excess risks of 8.3, 40.6, and 310 excess deaths per 1000 respectively using a relative risk model, and 3.2, 16 and 148 excess deaths per 1000 using an absolute risk model. These estimates are very similar to earlier predictions. However, in this particular case there was not a close fit between the data and model. Dr. Crump hypothesized that the poorer fit in the Lee-Feldstein data might result from the way exposure was characterized which would tend to overestimate total dose.

The exposure classification system of Higgins et al. included average exposures and cumulative exposures, as well as ceiling exposures. The risk assessment performed by Dr. Crump utilizing the cumulative exposures estimated by Higgins et al. indicated at 10, 50, and 500 $\mu g/m^3$ respectively, an excess risk of 9.4, 45.8 and 342 per 1000 using a relative risk model and 5.2, 25.9 and 228 per 1000 utilizing an absolute risk model. The data fit the model well and the predictions of risk again were very similar to OSHA's risk estimates. This tends to support Crump's conclusion that there is linearity in the Anaconda data and the poorer fits seen with the Lee-Feldstein data result from less precise estimates of cumulative exposure.

Dr. Radford also submitted estimates of risk. Dr. Radford, who is an expert in epidemiology, was Chairman of the National Academy of Science Advisory Committee on Ionizing Radiation (BEIR III) where he was involved in estimating risk from radiation exposure. Dr. Radford's estimates of 19 to 38 excess deaths per 1000 employees at 10 $\mu g/m^3$ were on the high side of the range OSHA considered reasonable. The basis for his higher estimate was that the Lee-Feldstein data led to overestimates of dose and consequently underestimated risk per unit of exposure. He made various adjustments to correct for this. He also believed that the Chu high side estimates of risk were better supported because the 1948 urinary arsenic levels (see above) tended to confirm Chu's estimate of exposure. Finally, his estimates based on Ott et al. were about the same as Chu's high side estimate. Dr. Radford believed that the fact that data from three independent locations indicated very similar levels of excess risk strengthened confidence that these estimates were reasonable.

Dr. Enterline, an expert in epidemiology, submitted estimates of risk somewhat lower than the other estimates of risk (2 to 3 excess deaths per 1000 at 10 $\mu g/m^3$). He believed that the high level of risks that the raw data from his studies indicated should be reduced because of three factors. He believed that exposures were higher in the past than his urinary data indicated. He also believed that a somewhat higher smoking rate existed for smelter workers and that there was the possible existence of other carcinogens in smelters which would be cause of some of the excess risk.

OSHA's conclusion is that the substantial body of additional data and analyses submitted during the hearing process confirms the estimates of risk which OSHA preliminarily presented in the April 9, 1982 document. In that document OSHA indicated that estimates of risk for a working lifetime exposure were in the range of 7.7 to 25 excess deaths per 1000 employees at 10 $\mu g/m^3$, 38 to 51 at 50 $\mu g/m^3$ and 375 to 465 at 500 $\mu g/m^3$ and that these were reasonable estimates. OSHA believed that the most reasonable were estimates towards the lower end of the range.

The new data expand the range of reasonable estimates somewhat from about 2.2 to 29 excess deaths at 10 $\mu g/m^3$ and 148–767 excess deaths at 500 $\mu g/m^3$. OSHA considers the preferred point estimates for a working lifetime to be approximately 8 excess lung cancer deaths per 1000 exposed employees at 10 $\mu g/m^3$ exposure, 40 excess deaths per 1000 exposed employees at 50 $\mu g/m^3$ and 400 excess deaths per 1000 exposed employees at 500 $\mu g/m^3$. (It should be kept in mind that these estimates are an approximation of a range of estimates).

The preferred estimate of 8 excess lung cancer deaths per 1000 exposed workers was the median of all the estimates presented in this document. The estimates of 40 excess deaths per 1000 at 50 $\mu g/m^3$ and 400 excess deaths per 1000 at 500 $\mu g/m^3$ are derived by using a linear model assuming that 8 excess deaths per 1000 was the best estimate at 10 $\mu g/m^3$. Estimates of risk presented in this document clustered around 8 excess deaths at 10 $\mu g/m^3$. It should be noted, however, that the best-fitting dose extrapolation curve yielded an estimate of 19 excess deaths per 1000 exposed workers. Also, there is now greater support for Chu's high side estimates. See also the discussion in the April 9, 1982 document.

Estimates in this range are supported by a number of experts in the field, Drs. Chu, Crump, Radford, Enterline, Rodricks, EPA–CAG, Clement Associates, NIOSH and others. Estimates in these ranges are derived both from the earlier epidemiology studies and the later studies available after the April 9 document. In general the underlying studies are of high quality and well suited for risk assessment. The linear model fits the data well, in some cases exceedingly well. (It should be recalled that fit is a statistical concept which indicates how close the measured data is to the curve or line which the dose extrapolation model predicts as the one best quantifying the risk).

The risk assessments performed by Dr. Crump quite clearly demonstrate that the linear model is much more appropriate than the quadratic model for arsenic risk assessment purposes. Based on this OSHA does not believe at this time that a risk assessment based on a quadratic model would be reasonable for inorganic arsenic.

These estimates of risk are appropriate for all inorganic forms of arsenic. The Ott et al. study is an adequate basis for risk assessment and risk assessments based on it predict risk towards the higher end of the range. However, in view of the similarity of results, it is most appropriate to treat all the studies together and utilize the same estimates for both trivalent and pentavalent forms.

The range of estimates from 2.2 to 29 excess lung cancer deaths per 1000 at 10 $\mu g/m^3$ and similar ranges at higher exposure levels is a remarkably narrow range of estimates in the context of risk assessment. These estimates are derived from 6 separate studies at 3 separate work places. They are dependent on estimates of exposures taking place 20 to 50 years ago which are somewhat uncertain. Therefore a variation of one order of magnitude is quite narrow and lends additional support to the validity of these estimates.

Further supporting OSHA's conclusion are measured data in the record indicating statistically significant excess risk at levels well under 500 $\mu g/m^3$. Lee and Fraumeni showed a statistically significant 114% excess risk for employees whose average exposure was 290 $\mu g/m^3$ for an average of approximately 5 years (Ex. 201–2B) and a 150–210% excess risk for long term employees. Lee-Feldstein demonstrated a statistically significant 131% excess risk for employees who averaged 290 $\mu g/m^3$. Pinto and Enterline indicated a statistically significant excess risk of 173% for long term employees who averaged 66 $\mu g/m^3$. Enterline and Marsh demonstrated a statistically significant excess risk of 168% for employees whose exposure averaged 49 $\mu g/m^3$ for a period of employment of 10–19 years.

Consultants in Epidemiology and Occupational Health, Inc. (CEOH represented by Dr. Lamm) took the position that there was little or no excess risk for workers who had never been exposed to peak exposures over 500 $\mu g/m^3$. The principal basis for its view were findings from the Higgins et al. study that employees whose average exposure was less than 500 $\mu g/m^3$ and who had no peak exposures over 500 $\mu g/m^3$ did not have statistically significant excesses of lung cancer. Dr. Lamm also referred to a "plateau" effect in some of the other studies which he felt indicated that there was not a clear dose-response relationship for lower exposure workers with short or medium term employment. He believed his conclusions were based on the latest and best data. Dr. Higgins, the CMA-Arsenic Panel, ASARCO and Kennecott supported CEOH's analysis.

The CEOH conclusions are not nearly as well supported as the risk assessments by the other experts and the estimates OSHA accepts. The results from the Higgins et al. study upon which CEOH relied had very low statistical power because of the small numbers of workers included. Higgins et al. studied only 22% of the cohort at risk. They only had a 16% to 37% chance of demonstrating a 50% excess risk which actually existed (Method I analysis). Also, the workers who had no peak exposure over 500 $\mu g/m^3$ probably had relatively low average exposures. A reasonable estimate would be 150 $\mu g/m^3$ for 15 years. Methods OSHA considers reasonable would predict about 150 SMR for this group.[6] That risk is close to the actual SMR's of 116 to 129 which were observed in the study by Higgins et al. (Method I analysis). The statistical power of the Higgins results is so low the results can neither support nor refute the hypothesis that there is no excess risk below 500 $\mu g/m^3$ in the Anaconda cohort.

The Brown and Chu analysis, which was more statistically robust, indicated that duration of exposure and not intensity was the more important factor contributing to the excess risk. This contradicts the CEOH and others' contention that duration of exposure and hence cumulative exposure had little effect on excess risk. Also, as just discussed, measured data of excess risk down to 49 $\mu g/m^3$ tends to refute the CEOH conclusions.

Most importantly, Lee and Fraumeni, and Lee-Feldstein showed a statistically significant excess risk ranging from 86% to 213% for their low exposure groups who averaged 290 $\mu g/m^3$. These studies excluded from the low exposure group employees who ever had short term exposures in higher categories (that is, excluding employees who had average exposures over approximately 500 $\mu g/m^3$). Therefore, these data indicated that workers with no peak exposures over 500 $\mu g/m^3$ had statistically significant excess risk. The Lee and Fraumeni and Lee-Feldstein results were for all the Anaconda employees, not just a 22% sampling as the Higgins et al. study was. Consequently, the Lee and Fraumeni and Lee-Feldstein data are better for purposes of analysis of risk from low exposures.

Dr. Lamm argues that the Higgins et al. study does a better job of describing an individual's exposures than can be done from the Lee and Fraumeni and Lee-Feldstein data. The Higgins et al. study in some of its analyses estimates year by year exposures for employees and that does permit better estimates of average and cumulative exposures. However, the study does not necessarily do a better job of ascribing dose classifications to particular work areas than can be done by utilziging the Lee and Fraumeni and Lee-Feldstein classifications in conjunction with the Morris data in the OSHA record. The much larger size of the Lee and Fraumeni and Lee-Feldstein studies in conjunction with their reasonable dose ascription entitles their findings to much greater weight.

The risk assessments of most of the experts and which OSHA generally relies on utilize regression analysis which is a standard technique for this kind of analysis. When appropriate, fit of the regression line is then tested using correlation coefficient squared (R^2) or Chi-squared. CEOH did not use regression analysis. CEOH concluded there was a "plateau" effect by selecting data points from several of the epidemiologic studies and stating that risks did not increase substantially between those points. Regression analysis is a more reliable approach and permits, when appropriate, one to statistically test the fit of the data to the predicted risk. There are circumstances where regression analyses are not appropriate, but the arsenic data clearly permit it.

In addition CEOH and CMA argue that the Higgins et al. study was the best and latest study and should be given more weight because of this. But as discussed elsewhere that study, Pinto and Enterline, Lee and Fraumeni, Enterline and Marsh, and Lee-Feldstein are all good studies giving reasonable estimates of risk for the time frame covered and the latter two are just as recent and more complete than the Higgins et al. study. The studies, like all studies, have relative strengths and weaknesses, and the Higgins et al. study does not negate the earlier studies. All of those studies need to be considered together along with all relevant information in estimating the risk presented by inorganic arsenic.

Finally, Dr. Crump and Dr. Radford point out that there is not a well established biologic model to support the ceiling hypothesis. Dr. Lamm and Dr. Higgins briefly speculate on possible mechanisms. However, the Higgins result is a single result. At the present time, there are not other epidemiologic studies to support the hypothesis that ceiling exposures can be the major determinant of risk.

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[6] In Lee and Fraumeni, short term workers averaged 5.4 years, medium term 18.1 years and long term 31.7 years for an overall average slightly over 15 years (Ex. 201–2B). Workers towards the low end of the medium group include converter workers at 240 $\mu g/m^3$ and zinc roaster workers at 111 $\mu g/m^3$. Workers towards the high end of the low exposure group include ferromanganese workers at 82 $\mu g/m^3$ and casting workers at 74 $\mu g/m^3$. Workers in these categories would be included in the low end of the medium exposure group and 150 $\mu g/m^3$ is a reasonable overall estiamte for them (Ex. 202–3B, p. 78). 150 $\mu g/m^3$ for 15 years is equivalent to 50 $\mu g/m^3$ for 45 years. A reasonable estimate for the latter is 50% excess risk or an SMR of approximately 150 (47 FR 15362, Table 1, EPA–CAG).

D. Further Research

The Chemical Manufacturers Association in its post-hearing brief suggested an extension of the Higgins et al. study. (Ex. 250, pp.21–22). ASARCO also suggested this in its post hearing brief. In several meetings with OSHA staff after the close of the period for post-hearing comments (minutes of which have been placed in the Docket Office), CMA recommended that OSHA delay a final decision on the degree of risk presented by inorganic arsenic (and make an appropriate request of the Ninth Circuit for an extension) until the Higgins et al. analysis could be extended to the entire cohort of Anaconda employees. CMA estimated that the study would take 12–18 months and, if so, the entire process would take approximately 24–30 months including time for public comments and OSHA review. CMA suggested they would be willing to have the standard remain in effect with existing stays and variances for that period.

OSHA has carefully considered this suggestion, but it has decided not to request the Ninth Circuit for a further extension. An expanded analysis using the methods of Higgins et al. might provide additional useful information. However, it would not be determinative or definitive on the question of low-dose risk from arsenic exposure. For the reasons discussed, the expanded study fits in the category of "sophisticated research [which] could be attempted but might not shed new light on the subject." *American Petroleum Institute* v. *OSHA*, 581 F. 2d 493, 507 (5th Cir. 1978).

First, as just discussed above, the already completed Lee-Feldstein and Lee and Fraumeni studies have analyzed the entire Anaconda cohort, not just 22%, and indicate statistically significant excess risks of between 86% and 213% for employees who had no peak exposure over approximately 500 $\mu g/m^3$. Second, there is measured excess risk for workers whose average exposure was as low as 49 $\mu g/m^3$, which also tends to refute a threshold at 500 $\mu g/m^3$.

Third, while expanding the Higgins analysis to the entire cohort would increase its statistical power and would permit further exploration of the low end of the dose response curve, it would not definitively resolve whether the ceiling hypothesis is correct. The results might support the Lee-Feldstein and Lee and Fraumeni results and the cumulative dose model, or the results might be inconclusive or they might provide greater support for Higgins et al.'s ceiling hypothesis. In the latter case, it would be results of one study inconsistent with the results of two studies of high quality of the same population.

Fourth, any differences between an expanded Higgins study and the Lee and Fraumeni and Lee-Feldstein studies would probably be attributable to how different experts estimated exposures for work areas taking place 20 to 50 years ago. The divergence in exposure ascription could not be definitively resolved, particularly since there are no air measurements to determine which exposure estimates are correct in some areas. The Lee and Fraumeni and Lee-Feldstein studies in conjunction with the Morris data (Ex. 28b) provide reasonable estimates of early exposures. Higgins et al. changed some of the Lee-Feldstein classifications. One of the changes Higgins et al. made—moving the masons into a higher category—is probably justified. However the change Higgins et al. made by moving the slag workers into a higher category was probably not justified since the high smelter temperatures would remove the arsenic before the stage in the process that the slag workers became involved. In addition, hooding or respirators would be used because of the sulfur dioxide, which would also decrease arsenic exposure. Mr. Nelson of ASARCO, a leading expert, indicated exposures are low in slag tapping (Tr. p. 304–305). Some other changes Higgins et al. made were based on assumptions about the nature of exposure rather than actual air measurements.

Fifth, a cumulative dose model has generally been used in risk assessments and has considerable scientific acceptance. The ceiling exposure hypothesis for carcinogens has not been widely explored and one result supporting it would not validate it because of the possibility of uniqueness at that one location. Replication of findings at several other workplaces probably would be necessary before this hypothesis would gain general acceptance in the scientific community. This would take a number of years. There is not now a widely accepted biologic model supporting the ceiling hypothesis.

One further observation is relevant to the question of expanding the study by Higgins et al. Enterline and Marsh expanded the study of Pinto and Enterline. Pinto and Enterline studies only 526 retirees whereas Enterline and Marsh studies all 2802 workers with one year or more of exposure during 1940-1964. Based on a SMR below 100 observed in the 99 workers who had 50–199 μg As/l with less than 25 years of exposure, Pinto and Enterline suggested that there may be a threshold for arsenic—induced lung cancer (See Table 2, 43 FR 19594). However, Enterline and Marsh observed elevated SMRs ranging from 169.9 to 288.2 for workers with an average exposure of 163 μg As/l with 1–19 years of employment. Therefore, expanding the study cohort and increasing the statistical power was associated with detecting an increased risk at an exposure level previously hypothesized to be a threshold.

For all these reasons OSHA concludes it should not delay submitting its estimates of risks, while waiting the approximately 24–30 months for completion and review of an expanded study by Higgins et al.

E. Statistical Significance and Type of Risk

The April 9th document referred to a third factor to be analyzed in a risk assessment, that is, statistical significance. That document pointed out that the first time that statistical significance is important is the determination in the individual studies that an excess risk from exposure to inorganic arsenic exists in the observed population. The statistical significance of the results are discussed in the preamble to the final standard, in the April 9th document and in this document. In general there is a high degree of statistical significance in the underlying epidemiologic studies which are the basis for the risk assessments with exceptions which are also discussed above.

The next stage at which statistical significance is important is the determination of the statistical significance of the dose-response relationship. The April 9th document pointed out that using a standard statistical test (Student's t-test), the dose-response relationships for the Lee and Fraumeni and for the Pinto and Enterline studies are highly significant (approximately the 0.0001 level). While the p value for the Ott et al. study is not as significant as it is for the other two studies, there is still less than a 0.10 chance that the dose-response relationship seen would occur by chance.

The April 9th document and this document also discuss the statistical concept of the fit of data to a regression line either with a R^2 or Chi-squared statistic. The above discussion indicates when fits are good and when they are not. Several of the risk assessments which are the basis for OSHA's estimates of risk have very good fits.

The fourth factor in risk assessment discussed in the April 9th document is the type of risk presented. The

epidemiological evidence has clearly demonstrated that inorganic arsenic is strongly associated with increased risk of lung cancer in humans. Lung cancer is usually a fatal disease. It evades early detetion and, according to the American Cancer Society, only about 9% of lung cancer patients live five or more years after diagnosis. No one at the hearing contested the seriousness of the risk of lung cancer. Inorganic arsenic is also associated with other diseases which are discussed above.

F. Significance of Risk

1. *Significance of Risk at 500 μg/m³.* The fifth factor in OSHA's approach to regulation is determination of the significance of the risk. OSHA stated in the Federal Register notice of April 9, 1982 as its preliminary analysis that:

> Briefly, measured data already in the inorganic arsenic record from the Lee and Fraumeni study show for long term employees (cohort 1 and 2, 15 or more years of exposure) a 455–567% excess risk (334–425 excess deaths from arsenic exposure per 1000 exposed employees) at 580 μg/m³ [and] a 150–210% excess risk (112–158 excess deaths per 1,000 employees) at 290 μg/m³. * * *
>
> OSHA concludes that exposure to inorganic arsenic clearly presents a significant risk of harm at the 500 μg/m³ level. As noted, the risk assessments estimate 375 to 465 excess deaths per 1,000 exposed workers for a working lifetime exposure (45 years) at 500 μg/m³. These estimates indicate a very high risk of death at the level of the old standard and comport with the conclusion of the Ninth Circuit Court of Appeals in the case that "it is undisputed that exposure to inorganic arsenic at the level of 500 μg/m³ poses a 'significant' health risk (*ASARCO* v. *OSHA*, 647 F. 2d 1 (1981) (47 FR 15365).

Much new data have been entered into the record to support the preliminary analysis. First, additional data points indicate substantial excess risk in the 500 μg/m³ range. For example, Lee-Feldstein demonstrates an excess risk of 346% (446 SMR) for employees who averaged 580 μg/m³, the medium exposure group. Higgins et al. indicate a 203% (303 SMR) excess risk for employees who averaged between 100–500 μg/m³.

In addition as discussed above OSHA's estimate of the excess risk at 500 μg/m³ from the risk assessments is approximately 400 excess deaths per 1000 employees. Dr. Crump made estimates of excess deaths per 1000 employees at 500 μg/m³ of between 321 and 578 based on the studies available before the April 9th document and from 148 to 342 based on the 3 updated studies.

Third, supporting the conclusion of excess risk at 500 μg/m³ is the substantial excess risks measured at levels well below 500 μg/m³. Dr. Chu estimated earlier that excess risk existed at the 68 μg/m³ level among the Pinto and Enterline retirees (Ex. 201–2B, p. 5). The Lee-Feldstein study covering 8045 men and 39 years of observation shows a statistically significant excess risk of 131% (231 SMR) for 4448 employees exposed to an average of 290 μg/m³, the light category (Ex. 203–3 A, p. 20–6). The Enterline and Marsh data indicates that employees with between 10 and 19 years employment at or below 290 μg/l with a mean level of 163 μg/l (or an average airborne exposure of 163 × 0.3=49 μg/m³) had a statistically significant 168% excess risk (268.2 SMR). There are also other measured data of excess risk at and well below 500 μg/m³ discussed in section III above.

All the above data very strongly confirms OSHA's original judgment that a significant risk exists at 500 μg/m³. However an alternate analysis has been presented by Dr. Lamm supported by the CMA-Arsenic Panel and others that 500 μg/m³ might be a threshold, and that there would be little or no excess risk for employees whose exposures were kept below 500 μg/m³. This conclusion was based principally on the peak exposure analysis of Higgins et al. showing no statistically significant excess risk for employees who did not have peak exposure over 500 μg/m³. Based on this result several participants recommended that OSHA set an exposure limit of 50 to 100 μg/m³ to provide a safety factor.

If these particular data in the Higgins et al. study were stronger and if they were not contradicted by other epidemiologic evidence, OSHA might have to reconsider its 10 μg/m³ PEL. However, as discussed above, this particular result of Higgins et al. had very low statistical power, not enough statistical power to support its conclusion. The Lee-Feldstein and Lee and Fraumeni studies of much greater size and statistical power indicate that employees in the low exposure group who had no peak exposures over approximately 500 μg/m³ had a statistically significant excess risk ranging from 86% to 213% depending upon study and length of employment. In addition, there is the evidence of measured excess risk at levels at and well below 500 μg/m³ in other studies and the clear dose-response relationship in many studies. The cumulative dose risk assessments generally have very good fit indicating additional confidence in the cumulative dose model, that excess risk is linearly proportional to the amount of arsenic to which an employee is exposed.

For all the above reasons and others discussed in Section VI–D, the hypothesis that excess risk is low if peak exposures are kept under 500 μg/m³ is not well supported. By far, the weight of evidence indicates that a very high and significant excess risk exists at 500 μg/m³ which can be reduced by lowering exposures.

2. *Substantial Reduction in Significant Risk.* The Second significant risk question discussed in the April 9th document is whether reducing exposures to 10 μg/m³ would substantially reduce risk. OSHA stated in that document:

> There appears to be little doubt that reducing exposures to inorganic arsenic from 500 μg/m³ to 10 μg/m³ will substantially lessen the level of risk of development of cancer. The most reasonable estimates predict that the reduction would be from 375–465 excess deaths per 1,000 exposed employees to 7.7–10 excess deaths per 1,000 exposed employees over a working lifetime. Confidence can be placed in the predicted lessening of risk since both the Lee and Fraumeni study, and the Pinto and Enterline study demonstrated dose-response relationships. (See the tables at 43 FR 19540–5). For example, measured data from the Lee and Fraumeni study indicate substantially less excess risk at 290 μg/m³ than at 580 μg/m³. Clearly lower exposure substantially reduces risk (47 FR 153656).

Substantial additional evidence supports that conclusion. The newer studies continue to show dose-response. The Lee-Feldstein study shows a 512 SMR for high exposure employees, 446 for medium exposure employees and 231 SMR for low exposure employees. The Enterline and Marsh study did not show quite so clear dose-response, but, when corrected for potential age confounding through use of an absolute risk model, indicated clear dose-response. The studies by Lubin et al. and Higgins et al. also showed a clear dose-response based on average exposure. Dr. Crump's risk assessment had very good data fits with the models indicating that excess risk is reduced directly proportional to reductions in exposure. OSHA's estimate of 400 excess lung cancer deaths per 1000 exposed employees at 500 μg/m³, 40 excess deaths at 50 μg/m³ and 8 excess deaths at 10 μg/m³ demonstrates a very substantial 98% reduction in risk by reducing exposures to 10 μg/m³. The great weight of the evidence indicates that reducing exposures from 500 μg/m³ to 10 μg/m³ will very substantially reduce significant risk.

3. Risk at 10 μg/m³.

In the April 9, 1982 document, OSHA preliminarily concluded as follows concerning the predicted remaining risk

of 7.7 to 10 excess deaths per 1000 exposed workers at 10 $\mu g/m^3$.

The linear model estimates a risk level of 7.7 to 10 excess cases of cancer per 1,000 exposed workers at the 10 $\mu g/m^3$ limit. OSHA's preliminary conclusion is that significant risk is not eliminated at this risk level and that a reasonable person would take steps to reduce it if feasible.*

Some guidance for this conclusion is presented by an examination of other occupational risk rates and legislative intent. For example in the high risk occupations of fire fighting and mining and quarrying the average risk of death from an occupational injury or an acute occupationally related illness from a lifetime of employment (45 years) is 27.45 and 20.16 per 1000 employees respectively. Typical risk in occupations of average risk are 2.7 per 1000 for all manufacturing and 1.82 per 1000 for all service employment. Typical risks in occupations of relatively low-risk are 0.48 per 1000 in electric equipment and 0.07 per 1000 in retail clothing. (These rates are derived from 1979 and 1980 Bureau of Labor Statistics data from employers with 11 or more employees adjusted to 45 years of employment for 46 weeks per year.)

There are relatively little data on risk rates for occupational cancer as distinguished from occupational injury and acute illness. The estimated cancer fatality rate from the maximum permissible occupational exposure to ionizing radiation is 17 to 29 per 1000. (47 years at 5 rems; Committee on the Biological Effects of Ionizing Radiation (BEIR) III predictions.) However, most radiation standards (unlike OSHA standards) require that exposure limits be reduced to the lowest level reasonably achievable below the exposure (the ALARA principle). Approximately 95% of radiation workers have exposures less than one-tenth the maximum permitted level. The risk at one-tenth the permitted level is 1.7 to 2.9 per 1000 exposed employees. (BEIR I estimates are 30 to 60 per 1000 at 5 rem per year and 3 to 6 per 1000 at one-tenth that level.)

The linear model predicts a 7.7 to 10 per 1000 excess death rate from arsenic at 10 $\mu g/m^3$. This ¼ to ⅓ the death rate in the riskiest occupations, 2 to 5 times higher than the risks in occupations of average risk, and 10 to 100 times the risk of the low risk occupations. It is also ⅛ of the maximum permitted radiation cancer risk but about 3 times higher than the cancer risk which 95% of the radiation workers are under. It must also be noted that this risk of 7.7–10 excess deaths per 1000 employees due to lung cancer is in addition to the risk of accidental death in copper smelters of 8.69 per 1000 (1978–80 BLS data).

Congress passed the Occupational Safety and Health Act of 1970 because of a determination that occupational safety and health risks were too high. Based on this it is clear that Congress gave OSHA authority to reduce risks of average or above average magnitude when feasible. Therefore OSHA believes that the 10 $\mu g/m^3$ standard for arsenic, which should reduce risk from several hundred per thousand to approximately ten per thousand is carrying out the Congressional intent within the limits of feasibility and does not attempt to reduce insignificant risks.

Under the both Congressional intent and the Supreme Court rationale, OSHA could if it were feasible, seek to reduce risks below those estimated by the linear model at 10 $\mu g/m^3$. However, OSHA expects that there will be reduction of risk beyond that estimated using the mathematical model. The estimates do not take into account the other protective provisions (protective clothing, showers, clean lunch rooms, etc.) that will reduce exposure to arsenic in nonwork areas and during nonwork hours, reduce the possibility of arsenic ingestion and ensure proper respiratory and bodily protection. With the 10 $\mu g/m^3$ level and these protective provisions lowering risks below the predicted level, OSHA concludes that its arsenic standard is protecting employees and that employers who fulfill the provisions of the standard will have taken all reasonable steps to protect their employees from the hazards presented by occupational exposure to inorganic arsenic (47 FR 15366).

This analysis still remains applicable. After reviewing all the comments and new data OSHA's preferred estimate of risk for a working lifetime of exposures is approximately 8 deaths from respiratory cancer per 1000 exposed employees at 10 $\mu g/m^3$, with a range of reasonable estimates from 2.2 to 29 per 1000. This estimate is very similar to the estimate which was the basis of the above discussion on significance of risk.

Relatively little comment and no detailed analysis was submitted on the above discussion of significance of risk. The Chemical Manufacturers' Association—Arsenic Panel stated that,

> OSHA drew inappropriate comparisons between acute risks, such as those in the 'hazardous occupations' OSHA lists, and chronic risks such as carcinogenesis. The appropriate comparison therefore is not to occupational mortality rates for firemen, but to the rate for radiation workers, who also are exposed to a chronic health hazard. As OSHA notes in the **Federal Register**, the risk of increased mortality at maximum permissible occupational exposure under the radiation standard is 17–29 per 1000. Thus this risk level should be considered acceptable by OSHA in setting a standard to protect workers against other long-term health risk (Ex. 202–8, pp. 101–102, fn. 80).

One of the arguments that Kennecott Minerals Company made in support of a 50 $\mu g/m^3$ level is that,

> Dr. Enterline's new data show that the excess risk at 50 $\mu g/m^3$ is approximately the same as that found by the OSHA assessments at 10 $\mu g/m^3$ [Dr. Enterline's estimate is 11.2 to 13.4 excess cases per 1000 employees at 50 $\mu g/m^3$] * * * Thus, Dr. Enterline's new data show that a PEL of 50 $\mu g/m^3$ would provide approximately the same level of protection deemed adequate by OSHA under the current 10 $\mu g/m^3$ PEL. (Ex. 202–8, p. 38).

The United Steelworker of America specifically addressed this argument, pointing out that OSHA had stated that its "preliminary conclusion is that significant risk is not eliminated at this risk level" and further noting that "Enterline's risk at 50 $\mu g/m^3$ is an order of magnitude higher than the risk considered significant by the Supreme Court in *IUD* v. *API*." (Ex. 249, p. 14, fn. 24). The United Steelworkers stated with regard to OSHA's analysis of significant risk:

> OSHA's risk assessments used human studies, with relatively good estimates of dose compared to most epidemiological studies. These data permitted the use of quantitative methods. OSHA then compared its derived risk of arsenic-induced lung cancer at the PEL to the risk of death from other occupations concluding that the risk is significant because it is higher than average. This procedure works very well for arsenic, but we would caution against generalizing it to other toxic substances considered for regulation. Human studies are not always available. When they are, they may not include adequate information of exposure. The risk in question may not be death. . . . Reliable quantitative risk assessment may not be possible, nor do we believe the Supreme Court's benzene decision requires their use. Nor do we believe a risk is significant only if it exceeds the average risk of death from occupational causes. Congress intended OSHA to reduce the rate of injury, death, and disease throughout American industry, not just to flatten out the peaks. Indeed, the average risk of death from occupational causes in manufacturing of 2.7/1000 is considerably higher than the risk of 1/1000 the Supeme Court considered significant in the benzene decision. OSHA's risk comparisons clearly demonstrate that the risk of arsenic-induced cancer is significant even at the 10 $\mu g/m^3$ level. But they should not be used in the future to demonstrate that a given risk is insignificant (Ex. 231, p. 5–6).

The National Institute for Occupational Safety and Health stated that "NIOSH accepts the OSHA conclusion of significant risk to 10 μg arsenic/m^3" (Ex. 227, p. 2). Dr. Radford,

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*This level of risk is also above the level at which the Supreme Court indicated a reasonable person might well consider the risk significant and take steps to decrease it. The Court stated: "It is the Agency's responsibility to determine in the first instance what it considers to be a "significant" risk. Some risks are plainly acceptable and others are plainly unacceptable. If for example the odds are one in a billion that a person will die from cancer by taking a drink of chlorinated water the risk clearly could not be considered significant. On the other hand, if the odds are one in a thousand that regular inhalation of gasoline vapors that are two percent benzene will be fatal a reasonable person might well consider the risk significant and take appropriate steps to decrease or eliminate it" (*IUD* V. *API* 448 U.S. 655) The Supreme Court's language indicates that the examples given were of excess risk over a lifetime. It speaks of "regular inhalation" which implies that it takes place over a substantial period of time and refers to the "odds * * * that a person will die," obviously a once in a lifetime occurrence.

who had been actively involved as chairman of BEIR III in considering questions of acceptable levels of risk in the context of ionizing radiation stated:

> I conclude that the risk estimates presented in the OSHA April 9 summary must be raised in the light of the new information. Whether the above risk estimates for the standard are acceptable is problematic. Certainly on the basis of the assumptions made they are significant, even if the current standard (10 $\mu g/m^3$) is retained (Ex. 207, p. 13).

After reviewing these comments, OSHA concludes that its analysis in the April 9, 1982 document is correct. By setting the PEL at 10 $\mu g/m^3$ OSHA is very substantially reducing the risk of lung cancer for employees within the limits of feasibility and it is not reducing risk to the level of insignificance. The risk assessments and significant risk analysis clearly demonstrate that the 10 $\mu g/m^3$ level should not be raised.

In response to the comments, OSHA believes it is appropriate to reduce both acute and chronic risks of deaths. OSHA also believes, as stated in the April 9th document, that Congress did not intend OSHA to limit reductions in death to the highest existing levels, but intended OSHA to reduce significant risk to the extent feasible.

In addition the NRC regulations which cover employees exposed to higher levels of radiation require employers to reduce each employee's exposure below the level stated in the regulation to as low a level as is reasonably achievable. This is not the case with OSHA regulations.

Finally, Dr. Enterline's estimates of risk of 11 to 13 at 50 $\mu g/m^3$ and 2 to 3 at 10 $\mu g/m^3$ are lower than OSHA's estimates although they are reasonable estimates. His estimate of 11 to 13 excess deaths per 1000 at 50 $\mu g/m^3$ is still an above average level of risk and his 10 $\mu g/m^3$ estimate of 2 to 3 excess deaths per 1000 is an average level of risk. Therefore Dr. Enterline's risk estimates are not a basis to raise the exposure level to a level which would result in above average risks.

Those participants who advocated a 50 or 100 $\mu g/m^3$ level generally did not do so because they believed that OSHA's predicted level of risk at those levels would be acceptable or insignificant. Rather, based on the CEOH analysis, they argued that a "threshold" existed at higher levels. As stated above the great weight of the studies and evidence supports the estimates of risk presented by OSHA, and therefore that very substantial body of high quality evidence must be the basis of OSHA's significant risk determinations.

VII. Regulatory Analysis

This supplemental statement of reasons for the final rule was issued pursuant to a court order limiting the issues to estimates of risk, analysis of its significance and any changes to the permissible exposure limit resulting from analysis of those factors. The analysis indicates that no changes in the PEL are justified and accordingly no changes are being made to the standard. A limited time was granted by the Court for this review. Accordingly, as the remand limited OSHA to specified issues and as all required reviews occurred at earlier stages in the rulemaking, this is not an action for which a further environmental impact statement, regulatory flexibility analysis or regulatory impact analysis is required.

VIII. Authority

This notice was prepared under the direction of Thorne G. Auchter, Assistant Secretary for Occupational Safety and Health, Frances Perkins Labor Department Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

List of Subjects in 29 CFR Part 1910

Arsenic, Occupational safety and health, Chemicals, Cancer, Health, Risk assessment.

(Secs. 6, and 8, of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657, Secretary of Labor's order 8–76 (41 FR 25059); 29 CFR Part 1911))

Signed at Washington, D.C. this 6th day of January 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

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Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arkansas:		
	AR82–4036; AR82–4037	July 9, 1982.
	AR82–4038	July 23, 1982.
	AR82–4039	July 13, 1982.
Iowa:	IA82–4049	Oct. 8, 1982.
Kentucky:		
	KY82–1053	Oct. 1, 1982.
	KY82–1060	Oct. 8, 1982.
	KY82–1062; KY82–1064; KY82–1065; KY82–1066; KY82–1067.	Oct. 15, 1982.
Louisiana:		
	LA82–4021	May 7, 1982.
	LA82–4053	Nov. 5, 1982.
Maryland:		
	MD80–3047	Aug. 29, 1980.
	MD81–3031	Nov. 5, 1982.
New York	NY81–3062	Sept. 11, 1981.
Texas:		
	TX82–4025	June 18, 1982.
	TX82–4065	Dec. 17, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Minnesota:	MN81–2042 (MN83–2001)	July 24, 1981.
Oklahoma:		
	OK82–4035 (OK83–4011)	June 25, 1982.
	OK82–4059 and OK82–4060 (OK83–4011).	Nov. 19, 1982.
	OK82–4063 (OK83–4011)	Nov. 26, 1982.
	OK81–4072 and OK81–4069 (OK83–4011).	Sept. 4, 1981.
	OK82–4051 (OK83–4012)	Oct. 22, 1982.
	OK82–4055 and OK82–4056 (OK83–4012).	Nov. 12, 1982.

Cancellation of General Wage Determination Decision

General Wage Decision TX80–4002 is cancelled. Agencies with construction projects pending to which the cancelled decision would have been applicable should utilize the project determination

procedure by submitting form SF–308. See Regulations Part 1 (29 CFR), Section 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR, 1.7(b)(2) the incorporation of the cancelled decision in contract specifications, the opening of bids which is within ten (10) days of this notice, need not be affected.

Signed at Washington, D.C. this 7th day of January 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-30-M

DECISION #AR82-4036-Mod.#3 47FR29974-July 9, 1982 Pulaski County, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	$16.00	2.05
BOILERMAKERS	16.35	2.415
BRICKLAYERS-STONEMASONS	12.55	1.44
CEMENT MASONS	12.50	.64
PAINTERS:		
Painters, paperhangers, steam cleaners, sheet-rock finishers and wall hangers	10.75	.53
Spray gun operator and sandblasterers	11.35	.53
All skeleton steel and all work on stages, structural steel over 30 feet high	11.00	.53
PLASTERERS	13.50	.64
LABORERS FRINGE BENEFITS FOR ALL GROUPS (I--VII)		1.40

DECISION #AR82-4037-Mod.#2 47FR29975-July 9, 1982 Jefferson County, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	$16.00	2.05
BOILERMAKERS	16.35	2.415
BRICKLAYERS-STONEMASONS	12.55	1.44
CEMENT MASONS	12.50	.64
PAINTERS:		
Painters, paperhangers, steam cleaners, sheet-rock finishers and wall hangers	10.75	.53
Spray gun operator and sandblasterers	11.35	.53
All skeleton steel and all work on stages, structural steel over 30 feet high	11.00	.53
LABORERS FRINGE BENEFITS FOR ALL GROUPS (I - VII)		1.40

DECISION #AR82-4038-Mod.#2 47FR32032-July 23, 1982 Union and Ouachita Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	16.00	2.05
BOILERMAKERS	16.35	2.415
CEMENT MASONS	12.50	.64
PLASTERERS	12.50	.64
PLUMBERS-PIPEFITTERS	14.50	1.60

DECISION #AR82-4036-Mod.#3 (cont'd) CHANGE:	Basic Hourly Rates	Fringe Benefits
LABORERS FRINGE BENEFITS FOR ALL GROUPS (I - VII)		$1.40
ELECTRICIANS AND LINE CONSTRUCTION:		
Electrical contracts $20,000.00 or less:		
ELECTRICIAN-LINEMEN	$14.91	3%%+.80
CABLE SPLICERS	15.41	3%%+.80
Electrical contracts over $20,000.00:		
ELECTRICIANS-LINEMEN	15.70	3%%+.80
CABLE SPLICERS	16.20	3%%+.80

DECISION #AR82-4039-Mod.#2 47FR32033-July 13, 1982 Garland, Clark and Hot Springs Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	16.00	2.05
BOILERMAKERS	16.60	2.415
LABORERS FRINGE BENEFITS FOR ALL GROUPS (I - VII)		1.40
PLASTERERS	12.50	.64

DECISION NO. IA82-4049 - Mod. #4 (47 FR 44667 - 10/8/82) Scott County, Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Electricians	16.64	1.36+8%
Cable Splicers	17.74	1.36+8%
Plasterers	17.00	

DECISION #KY82-1053 - Mod. #1 (47 FR 43521 - October 1, 1982) Allen County etc., Kentucky	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Painters:		
Brush & Roller	$14.90	$ 1.45
Spray & Sandblast	15.90	1.45

DECISION #KY82-1060 - Mod. #1 (47 FR 44668 - October 8, 1982) Fort Campbell (Christian County, Kentucky & Montgomery County, Tennessee)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$18.15	$ 3.015
Electricians:		
Kentucky Portion:		
Wiremen	15.89	13%%+.65
Cable splicers	16.14	13%%+.65
Power Equipment Operators:		
Kentucky Portion:		
Class A	14.97	2.13
Class B	12.23	2.13
Class C	11.46	2.13

DECISION #KY82-1062 - Mod. #1 (47 FR 46225 - October 15, 1982) Warren County, Kentucky	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$18.15	$ 3.015
Cement masons & Plasterers	14.00	.01
Elevator Constructors:		
Mechanics	16.585	2.69 + a
Helpers	11.61	2.69 + a
Probationary helpers	8.29	
Pipefitters	17.25	3.22
Power Equipment Operators:		
Class A	14.97	2.13
Class B	12.23	2.13
Class C	11.46	2.13

DECISION #KY82-1064 - Mod. #1 (47 FR 46230 - October 15, 1982) McCracken County, Kentucky	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$18.15	$ 3.015
Electricians:		
Wiremen	15.89	13%%+.65
Cable splicers	16.14	13%%+.65
Power Equipment Operators:		
Class A	14.97	2.13
Class B	12.23	2.13
Class C	11.46	2.13

DECISION #KY82-1065 - Mod. #1 (47 FR 46229 - October 15, 1982) Boyd County, Kentucky	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Power Equipment Operators:		
Class A	$14.97	$ 2.13
Class B	12.23	2.13
Class C	11.46	2.13
Sheet metal workers	16.575	3.045

DECISION #KY82-1067 - Mod. #1 (47 FR 46227 - October 15, 1982) Hardin, Jefferson, & Meade Counties, Kentucky	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos workers	$17.19	$ 2.45
Boilermakers	18.15	3.015
Elevator Constructors:		
Mechanics	16.585	2.69 + a
Helpers	11.61	2.69 + a
Probationary helpers	8.29	
Pipefitters:		
Area 1	17.25	3.22
Area 2	17.85	3.22
Area 3	18.10	3.22
Plasterers	15.20	.77
Power Equipment Operators:		
Class A	14.97	2.13
Class B	12.23	2.13
Class C	11.46	2.13

DECISION NO. MD80-3047-Mod #8	Basic Hourly Rates	Fringe Benefits

DECISION NO. NY81-3062 - MOD. #2 (46 FR 45530 September 11	Basic Hourly Rates	Fringe Benefit

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DECISION #KY82-1066 - Mod. #1 (47 FR 46226 - October 15, 1982) Fayette & Franklin Counties, Kentucky	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Asbestos workers	$17.19	$ 2.45
Boilermakers	18.15	3.015
Electricians	16.81	3% + 2.00
Elevator Constructors:		
Mechanics	16.585	2.69 + a
Helpers	11.61	2.69 + a
Probationary helpers	8.29	
Plumbers & Pipefitters:		
Fayette County	16.68	2.30
Remainder of Franklin Co.	17.68	2.30
Pipefitters - West 3/4 of Franklin Co. including the City of Frankfurt	18.10	3.22
Power Equipment Operators:		
Class A	14.97	2.13
Class B	12.23	2.13
Class C	11.46	2.13
Roofers - Fayette Co. Only	12.40	1.25

DECISION NO. LA82-4021 - MOD. #7 (47 FR 19877 - 5/7/82) Bossier & Caddo Pars., Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Electricians	$14.80	2.40+ 4%
Cable splicers	15.30	"

DECISION NO. [illegible] - MOD. #6 (47 FR 50421 - 11/5/82) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Zone 7 - Electricians	14.80	2.40+ 4%
Cable splicer	15.30	"
Plumbers & pipefitters:		
Zone 2	15.865	2.585

DECISION NO. MD80-3047-Mod #8 (45 FR 57122-August 29, 1980) Allegany & Garrett Counties, Maryland	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
HEAVY CONSTRUCTION:		
Group 1	$15.07	2.95
Group 2	14.55	2.95
Group 3	14.00	2.95
Group 4	13.56	2.95
Group 5	13.14	2.95
Group 6	12.63	2.95
HIGHWAY CONSTRUCTION:		
Group 1	14.87	2.95
Group 2	14.31	2.95
Group 3	13.71	2.95
Group 4	13.32	2.95
Group 5	12.86	2.95
Group 6	12.41	2.95

DECISION NO. MD81-3031-Mod. #5 (46 FR 27051-May 15, 1981) ALLEGANY & GARRETT COS. MD.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Group 1 Hourly additional pay for long boom cranes (including jibs), pile driver machines with leads:	14.71	2.95
130' to 169' plus $.40		
170' to 209' plus .60		
210' to 249' plus .80		
250' to 299' plus 1.00		
300' & over plus $1.25		
Group 2	14.16	2.95
Group 3	13.71	2.95
Group 4	13.71	2.95
Group 5	13.24	2.95
Group 6	12.78	2.95
Group 7	15.24	2.95

DECISION NO. NY81-3062 - MOD. #2 (46 FR 45530 September 11, 1981) WESTCHESTER COUNTY, NEW YORK	Basic Hourly Rates	Fringe Benefit
CHANGE:		
CARPENTERS:		
Building	15.35	5.95

DECISION NO. TX82-4025 - MOD. #4 (47 FR 26550 - 6/18/82) Brazos County, Texas	Basic Hourly Rates	Fringe Benefit
CHANGE:		
Boilermakers	$16.60	2.415
Marble, tile & terrazzo workers	16.42	1.75
Painters - Group 1	15.535	2.725
Group 2	15.91	2.725
Group 3	15.66	2.725
Group 4	16.16	2.725

DECISION NO. TX82-4065 - MOD. #1 (47 FR 56604 - 12/17/82) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas	Basic Hourly Rates	Fringe Benefit
CHANGE:		
Building Construction:		
Asbestos workers-Zone 2	15.90	2.94
Bricklayers	14.05	1.80
Carpenters:		
Zone 1 - Carpenters	13.05	
Millwrights	13.30	
Plasterers	14.79	1.61

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN83-2001
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision No. MN81-2042 dated July 24, 1981 in 46 FR 38258
DESCRIPTION OF WORK: Heavy and Highway Construction Projects
*Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Lake, LeSueur, Mower, Nicollet, Olmsted, Ramsey, Rice, St. Louis, Scott, Sherburne, Sibley, Stearns, Steele, Wabasha, Waseca, Washington, Winona, & Wright

	Basic Hourly Rates	Fringe Benefits
CARPENTERS & MILLWRIGHTS:		
AREA 1	$15.56	$2.05
AREA 2	15.02	
AREA 3	13.57	1.45
AREA 4	14.53	.85
AREA 5	15.38	
AREA 6	14.58	1.60
AREA 7	14.03	2.15
AREA 8	13.58	1.80
AREA 9	13.18	2.20
AREA 10	14.18	1.20
AREA 11	13.98	1.40
AREA 12	14.58	.80
AREA 13	14.23	1.95
AREA 14	15.38	
AREA 15	14.28	2.15
AREA 16	15.48	.70
AREA 17	15.18	1.00
AREA 18	12.82	.85
AREA 19	13.67	
CEMENT MASONS:		
AREA 1	15.43	1.82
AREA 2	12.45	.50
AREA 3	15.20	
AREA 4	12.93	.40
AREA 5	15.20	
AREA 6	14.15	1.20
AREA 7	13.85	1.50
AREA 8	15.20	
AREA 9	14.60	1.50
AREA 10	15.48	.70
IRONWORKERS:		
AREA 1	16.05	2.59
AREA 2	15.22	3.22
LABORERS:		
Landscape and Sodlayers	6.80	1.10
LINE CONSTRUCTION:		
AREA 1:		
Linemen; Cable Splicers; Dynamiter; & Special Equipment Operator	16.74	1.71
Equipment Operators	14.39	1.53
Truck Driver; Groundman; & Pole Treating Truck Driver	11.58	1.32
LINE CONSTRUCTION (CONT'D):		
AREA 2:		
Linemen; Cable Splicers; Dynamiter; & Special Equipment Operators	$15.07	$1.58
Equipment Operators	13.11	1.43
Truck Driver; Groundman; & Pole Treating Truck Driver	10.56	1.24
PAINTERS:		
AREA 1:		
Brush & Roller	15.06	1.93
Structural Steel & Bridges	15.76	1.93
AREA 2:		
Brush & Roller	10.98	1.59
Spray; Structural Steel	11.88	1.59
AREA 3:		
Brush & Tapers	13.87	1.35
Structural Steel & Bridges	14.62	1.35
AREA 4:		
Brush	14.61	1.53
Structural Steel & Bridges	15.21	1.53
AREA 5:		
Brush	15.12	1.82
Structural Steel & Bridges	15.82	1.82
AREA 6:		
Brush & Roller	13.95	1.47
Steel	14.20	1.47
Spray	14.45	1.47
WELL DRILLING: (Construction or Repair of Water Wells & Apurtenances):		
AREA 1:		
Driller - Pumpman	10.30	.20
General - Tender; Driver or Service Man	8.38	.20
Mechanic Welder	9.52	.20
AREA 2:		
Driller - Pumpman	10.30	.20
General - Tender	7.31	.20
Mechanic Welder	8.92	.20
Driver or Service Man	7.84	.20

SEE PAGES 4 THROUGH 6 FOR GEOGRAPHICAL JURISDICTIONS

DECISION NO. MN83-2001 PAGE 2

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
AREA 1:		
Class 1	$12.35	$2.25
Class 2	12.50	2.25
Class 3	12.55	2.25
Class 4	12.70	2.25
Class 5	12.80	2.25
Class 6	13.05	2.25
AREA 2:		
Class 1	11.42	2.15
Class 2	11.60	2.15
Class 3	11.65	2.15
Class 4	11.80	2.15
Class 5	11.90	2.15
Class 6	12.15	2.15
AREA 3:		
Class 1	12.15	1.20
Class 2	12.30	1.20
Class 3	12.35	1.20
Class 4	12.50	1.20
Class 5	12.60	1.20
Class 6	12.75	1.20
AREA 4:		
Class 1	11.88	2.40
Class 2	12.03	2.40
Class 3	12.08	2.40
Class 4	12.23	2.40
Class 5	12.33	2.40
Class 6	12.58	2.40
AREA 5:		
Class 1	12.68	1.60
Class 2	12.83	1.60
Class 3	12.88	1.60
Class 4	13.03	1.60
Class 5	13.13	1.60
Class 6	13.33	1.60
AREA 6:		
Class 1	10.00	.95
Class 2	10.15	.95
Class 3	10.20	.95
Class 4	10.35	.95
Class 5	10.45	.95
Class 6	10.70	.95
POWER EQUIPMENT OPERATORS:		
AREA 1:		
Group 1	$15.85	$1.90
Group 2	15.35	1.90
Group 3	15.18	1.90
Group 4	15.07	1.90
Group 5	13.11	1.90
Group 6	12.40	1.90
AREA 2:		
Group 1	15.33	1.90
Group 2	14.82	1.90
Group 3	14.67	1.90
Group 4	14.55	1.90
Group 5	12.60	1.90
Group 6	11.90	1.90
AREA 3:		
Group 1	13.67	1.90
Group 2	12.81	1.90
Group 3	12.63	1.90
Group 4	12.53	1.90
Group 5	11.22	1.90
Group 6	10.74	1.90
TRUCK DRIVERS:		
AREA 1:		
Group 1	10.90	1.30
Group 2	10.45	1.30
Group 3	10.35	1.30
Group 4	10.15	1.30
AREA 2:		
Group 1	9.72	1.30
Group 2	9.27	1.30
Group 3	9.17	1.30
Group 4	8.97	1.30
AREA 3:		
Group 1	10.32	1.30
Group 2	9.87	1.30
Group 3	9.77	1.30
Group 4	9.57	1.30
AREA 4:		
Group 1	10.45	1.30
Group 2	10.40	1.30
Group 3	10.30	1.30
Group 4	10.10	1.30

SEE PAGE 6 FOR GEOGRAPHICAL JURISDICTIONS

DECISION NO. MN83-2001 PAGE 3

LABORERS CLASSIFICATIONS:
CLASS 1: Unskilled; Bituminous Batcherman (stationary plant); Blacksmith Tenders; Cement Coverman Batch Trucks; Cement Handler - Bulk, Bag; Carpenter Tender; Concrete Batcherman;

DECISION NO. MN83-2001 PAGE 4

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (CONT'D):
Pipeline Wrapping, Cleaning or Bending Machine; Power Plant Engineer, 100 K.W.H. & over;

LABORERS CLASSIFICATIONS:
CLASS 1: Unskilled; Bituminous Batcherman (stationary plant); Blacksmith Tenders; Cement Coverman Batch Truck; Cement Handler - Bulk, Bag; Carpenter Tender; Concrete Batcherman; Concrete Handler, Caisson, Footings, Columns, Piling, Slabs, etc.; Concrete Shoveler, Tamper & Puddler (paving); Concrete Longitudinal Floatman (manual bullfloat on paving); Damp Proofer below grade; Drill Runner Tender; Dumpman (dirt, paver, dumping batchtrucks, etc.); Hydrant & Valve Setter; Joint Filler (concrete pavement); Kettleman (bituminous or lead); Labor Wrecking Demolition; Landscape Gardener, sod, etc.; Pipe Derrickman (tripod, manual); Pipe Handler; Power Buggy Operator; Powder Monkey; Reinforced Steel Laborer; Reinforced Steel Setter (paving); Service Connection Maker (water, gas); Squeegeeman; Stablizing Batcherman (stationary plant); Temporary Heater & Blower Tender; Tool Crib Checker; Top Man (sewer, water or gas trench); Winch Handler (manual)
CLASS 2: Bituminous Worker - Shoveler, Raker, Floater, Squeegee, Utility; Brick Tender; Compaction Equipment (hand operated); Conduit Layer; Curb Setter; Mortar Mixer; Sand Cushion Bedmaker; Torchman - gas, electric, thermal or similar device
CLASS 3: Chain Saw; Concrete Drilling; Concrete Mixer Operator; Concrete Sawer; Concrete Vibrator; Ditch & other work more than 8 ft. below starting level of manual work; Formsetter; Joint Sawer, Mortar; Pneumatic Tools, Jackhammer, Paving Buster, Chipping Hammer, etc.; Stone Tender; & Mason Tender
CLASS 4: Bottom Man (sewer, water or gas trench) (more than 8 ft. below starting level of manual work); Brick or Block Paving Setter; Caisson Work; Cofferdam Work; Tunnel Laborer; Underground Laborer; & Underpinning
CLASS 5: Cement Gun Operator (1½" or over); Driller - Air Track or similar; Nozzleman (gunite, sandblasting, cement); & Pipelayer, Laser Beam (sewer, water, gas)
CLASS 6: Blaster Powder Man (dynamite or substitute products); Tunnel Miner (atmospheric); & Tunnel Miner Tender

POWER EQUIPMENT OPERATORS CLASSIFICATIONS:
GROUP 1: Helicopter Pilot; Crane with over 135' Boom, excluding jib; Dragline and/or other similar equipment with Shovel-type controls 3 cu. yds. & over Mfg. rated cap.; Pile Driving when 3 Drums are in use
GROUP 2: Cableway; Concrete Mixer, Stationary Plant over 34E; Derrick (Guy or Stiffleg) (Power) (Skids or stationary); Dragline and/or similar equipment with Shovel-type controls, up to 3 cu. yds. Mfg. rated cap.; Dredge Hr Engineers, Dredge (power) & Engineer; Front End Loader, 3 cu. yds. & over; Grader or Motor Patrol, Finishing Earthwork & Bituminous; Locomotive Crane; Master Mechanic; Mixer (Paving) Concrete Paving, Road; Mole, inclu. Power Supply; Mucking Machine, inclu. Mucking Operations, Conway or similar type; Piledriving; Refrigeration Plant Engineer; Tandem Scraper; Tractor - Boom type; Truck Crane - Crawler Crane; & Tugboat - 100 HP & over
GROUP 3: Dual Tractor; Elevating Grader; Pumperete; Scraper - Struck Cap. 32 cu. yds. & over; Self-propelled Traveling Soil Stabilizer
GROUP 4: Air Track Rock Drill; Asphalt Bituminous Stabilizer Plant; Automatic Road Machine (CMI or similar); Backfiller; Batch Plant (Concrete); Bituminous Spreader & Finishing (Power); Boom Truck (Power operated Boom); Cat Tractors with Rock Wagons or similar types; Chip Harvester & Tree Cutter over 150 HP; Concrete Mixer on jobsite over 14S; Concrete Mobile; Crushing Plant (gravel & stone) or Gravel Washing, Crushing & Screening Plant; Curb Machine; Dope Machine (Pipeline); Drill Rigs, Heavy Rotary or Churn or Cable Drill; Fork Lift or Straddle Carrier; Fork Lift or Lumber Stacker; Front End Loader, over 1 cu. yd.; Hoist Engineer (power); Launchorman (Tankerman or Pilot License); Lead Greaser; Locomotive; Mechanic or Welder; Multiple Machines, such as Air Compressors, Welding Machines, Generators, Pumps; Paving Breaker or Tamping Machine (Power Driven) Mighty Mite or similar type; Paving Milling Machine; Pickup Sweeper, 1 cu. yd. & over Hopper cap.;

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (CONT'D):
Pipeline Wrapping, Cleaning or Bending Machine; Power Plant Engineer, 100 K.W.H. & over; Power Actuated Horizontal Boring Machine, over 6"; Pugmill; Roller, 8 tons & over; Rubber-tired Farm Tractor, Backhoe Attach.; Sheep Foot Rollers; Slip Form (Power Driven) (paving); Tie Tamper & Ballast Machine; Tractor, over D2, TD6 or similar HP with Power Take-off; Tractor, over 50 HP without Power Take-off; Trenching Machine (sewer, water, gas); Turnapull (or similar type); Well Point Installation, Dismantling or Repair Mechanic; Hydraulic Tree Planter
GROUP 5: Air Compressor, 450 CFM or over; Bituminous Spreader & Bituminous Finishing Machine (Tender) (Power); Concrete Distributor & Spreader Finishing Machine; Longitudinal Float, Joint Machine, & Spray; Concrete Mixer on jobsite 14S & under; Concrete Saw (multiple blade) (power operated); Form Trench Digger (power); Front End Loader, up to & inclu. 1 cu. yd.; Grader (motor patrol); Gunite Gunall; Hydraulic Log Splitter; Loader (Barber Greene or similar type); Payhauler or similar type; Power Actuated Augers & Boring Machine; Power Actuated Jacks; Pump; Roller; Self-propelled Chip Spreader (Flaherty or similar); Shouldering Machine (Power) Apsco or similar type inclu. self-propelled Sand & Chip Spreader; Stump Chipper; Tractor, D2, TD6 or similar HP without power take-off; & Tree Farmer
GROUP 6: Conveyor; Dredge Deck Hand; Fireman or Tank Car Heater; Gravel Screening Plant (portable not crushing or washing); Greaser (Truck or Tractor); Leverman; Mechanic Tender; Mechanic, Space Heater (Temporary Heat); Oiler (Power Shovel, Crane, Dragline); Self-Propelled Vibrating Packer (Pad type) (35 HP & over); Tractor, 50 HP or less w/o Power take-off; & Truck Crane Oiler

TRUCK DRIVERS CLASSIFICATIONS:
GROUP 1: Truck Driver (Operation of Hand & Power Operated winches); Truck Trains; Mechanic-Welder; Tractor Trailer; & Off Road
GROUP 2: Tri Axle (Inclu. 4 Axles)
GROUP 3: Bituminous Distributor; & Tandem Axle
GROUP 4: Bituminous Distributor Spray Operator (Rear End Oiler); Dumpman; Tank Truck Tender (gas, oil, road oil & water); Teamster & Stableman; Tractor Operator (wheel type used for any purpose); Pilot Car; Self-propelled Packer; Slurry Operator; Single Axle; Dump; Dry Batch Hauler; Boom & "A" Frame; & Ready-Mix Concrete

GEOGRAPHICAL JURISDICTIONS FOR CLASSIFICATIONS:

CARPENTERS & PILEDRIVERMEN:
AREA 1: Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott (Exclu. SW Tip), Sherburne (SE ¼, inclu. Big Lake, Elk River & Zimmerman), Sibley (NE Corner, inclu. Green Isle), Washington, & Wright (SE part, inclu. Delano, Buffalo & Montrose) Cos.
AREA 2: Benton (N ¼, exclu. Foley) Co.
AREA 3: Benton (S 3/4, inclu. Foley), Sherburne (NW 3/4, inclu. Clear Lake & Becker), Stearns, & Wright (NW part, inclu. S. Haven & Maple Lake) Cos.
AREA 4: Blue Earth (Except NW Corner), LeSueur (W. ½, inclu. LeSueur, LeCenter, & Kasota), Nicollet (E ½, inclu. St. Peter, & Nicollet), & Scott (SW Tip) Cos.
AREA 5: Blue Earth (NW Corner, inclu. Cambria), & Nicollet (W ½, inclu. Courland, & Lafeyette) Cos.
AREA 6: Carlton County
AREA 7: Cook, Lake (S ½, inclu. Two Harbors, Isabella, & Finland), & St. Louis (S 1/3, inclu. Fond du Lac, Floodwood, Cotton, & Proctor) Cos.
AREA 8: Dodge (NW ½, inclu. Claremont, & W. Concord), Goodhue (W. strip, inclu. Dennison & Kenyon), LeSueur (E ½, exclu. LeSueur, LeCenter, & Kasota), Rice, Steele (N 5/6, inclu. Owatonna), & Waseca (Waldorf & Waseca) Cos.

CARPENTERS & PILEDRIVERMEN (CONT'D):

AREA 9: Dodge (NE ¼, inclu. Kasson, & Dodge Center), Fillmore (W ½, inclu. Harmony & Preston), Goodhue (S. strip, inclu. Pine Island), Mower (NW Tip, inclu. Racine), Olmsted (exclu. extreme SW Tip), Wabasha (SW 2/3, inclu. Mazeppa, & Theilman), & Winona (St. Charles) Cos.
AREA 10: Faribault, Freeborn, & Steele (SW Corner, inclu. Ellendale), & Waseca (S. strip, inclu. New Richland) Cos.
AREA 11: Fillmore (E ½, inclu. Lanesboro, Canton, & Mabe), Houston, Wabasha (E. part, inclu. Wabasha, Kellogg & Minneiska), & Winona (exclu. St. Charles) Cos.
AREA 12: Goodhue (Wanamingo, Zumbrota, & Cannon Falls) & Wabasha (NW 1/3, inclu. Lake City) Cos.
AREA 13: Lake (N ½), & St. Louis (NE 2/3, inclu. Cook, Cusson, & Ely) Cos.
AREA 14: Mower (exclu. Racine), Olmsted (extreme SW Tip), & Steele (SE strip, inclu. Blooming Prairie) Cos.
AREA 15: St. Louis (City Limits of Duluth) Co.
AREA 16: St. Louis (N. part, inclu. Rainy Lake Area) Co.
AREA 17: St. Louis (W. strip, inclu. Chisholm, Orr, & Greaney) Co.
AREA 18: Sibley (SE part, inclu. Arlington & Henderson) Co.
AREA 19: Sibley (Winthrop) Co.

CEMENT MASONS:
AREA 1: Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, Sherburne, Sibley, Washington, & Wright Cos.
AREA 2: Benton & Stearns Cos.
AREA 3: Blue Earth, LeSueur (W ½, inclu. cities of Cleveland, Elysian, Kasota, LeCenter, LeSueur, Lexington, Ottawa, & St. Thomas), Nicollet, & Waseca (W ½, inclu. cities of Alma City, Janesville, Smithmill & Waldorf) Cos.
AREA 4: Carlton, Cook, Lake, & St. Louis (S. of T-55-N) Cos.
AREA 5: Dodge (W. of Hwy #56), LeSueur (E ½), Rice, Steele, & Waseca (E ½) Cos.
AREA 6: Dodge (E. of Hwy #56), Fillmore (W. of a line drawn N & S established E. of Dodge Center), Freeborn (E ½), Mower, & Olmsted Cos.
AREA 7: Faribault & Freeborn (W. of a line running N & S from Geneva to Gordonsville) Cos.
AREA 8: Fillmore (E. of a line drawn N & S established E. of Dodge Center), Houston, & Winona Cos.
AREA 9: Goodhue & Wabasha Cos.
AREA 10: St. Louis (N. of T-55-N) Co.

IRONWORKERS:
AREA 1: Anoka, Benton, Blue Earth, Carver, Chisago, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, LeSueur, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Stearns, Steele, Wabasha, Waseca, Washington, Winona, & Wright Cos.
AREA 2: Carlton, Cook, Lake, & St. Louis Cos.

LINE CONSTRUCTION:
AREA 1: Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Dakota, Goodhue, Hennepin, Lake, LeSueur, Nicollet, Ramsey, Rice, St. Louis, Scott, Sherburne, Sibley, Stearns, Wabasha, Washington, Winona, & Wright Cos.
AREA 2: Dodge, Faribault, Fillmore, Freeborn, Houston, Mower, Olmsted, Steele & Waseca Cos.

PAINTERS:
AREA 1: Anoka, Carver, Hennepin, Scott, Sherburne (E 2/3), & Wright Cos.
AREA 2: Benton, Sherburne (W 1/3), & Stearns Cos.
AREA 3: Blue Earth, Faribault, Freeborn, LeSueur, Nicollet, Rice, Sibley, Steele, & Waseca Cos.

PAINTERS (CONT'D):

AREA 4: Carlton, Cook, Lake, & St. Louis Cos.
AREA 5: Chisago, Dakota, Ramsey & Washington Cos.
AREA 6: Dodge, Fillmore, Goodhue, Houston, Mower, Olmsted, Wabasha & Winona Cos.

WELL DRILLING:
AREA 1: Anoka, Carver, Chisago (S. of T-35N), Dakota, Hennepin, Ramsey, Scott, Sherburne (S. of T-34N & E. of R-27W), Washington, & Wright (E. of T.N. 25) Cos.
AREA 2: Benton, Blue Earth, Carlton, Chisago (Rem. of Co.), Cook, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, Lake, LeSueur, Mower, Nicollet, Olmsted, Rice, St. Louis, Sherburne (Rem. of Co.), Sibley, Stearns, Steele, Wabasha, Waseca, Winona, & Wright (Rem. of Co.) Cos.

LABORERS:
AREA 1: Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, Sherburne, Washington, & Wright Cos.
AREA 2: Benton & Stearns Cos.
AREA 3: Blue Earth, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, LeSueur, Mower, Nicollet, Olmsted, Rice, Steele, Wabasha, Waseca, & Winona Cos.
AREA 4: Carlton, Cook, Lake, & St. Louis (S. of T-55) Cos.
AREA 5: St. Louis (N. of T-55) Co.
AREA 6: Sibley Co.

POWER EQUIPMENT OPERATORS:
AREA 1: Anoka, Carver, Chisago (S. of the Northern boundary of T. 34-N, inclu. Thompson, Cloquet, Scanlon, & Carlton), Cook, Dakota, Hennepin, Lake, Ramsey, St. Louis, Scott, Sherburne (S. of the northern boundary of T. 33-N & E. of the western boundary of R. 27-W), Washington & Wright (E. of & Inclu. Hwy #25) Cos.
AREA 2: Benton (E. of the western right-of-way of US Hwy #10), Blue Earth, Carlton, Chisago (Rem. of Co.), Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, LeSueur, Mower, Nicollet (E. of the western right-of-way of Minn. Hwy #15), Olmsted, Rice, Sherburne (Rem. of Co.), Sibley (E. of the western right-of-way of Minn. Hwy #15), Stearns (E. of the western right-of-way of Minn. Hwy #15), Steele, Wabasha, Waseca, Winona, & Wright (Rem. of Co.) Cos.
AREA 3: Benton (Rem. of Co.), Nicollet (Rem. of Co.), Sibley (Rem. of Co.), & Stearns (Rem. of Co.) Cos.

TRUCK DRIVERS:
AREA 1: Anoka, Carlton, Carver, Chisago, Cook, Dakota, Hennepin, Lake, Ramsey, St. Louis, Scott, Sherburne, Washington, & Wright Cos.
AREA 2: Benton, Faribault, Sibley, & Stearns Cos.
AREA 3: Blue Earth, LeSueur, Nicollet, & Waseca Cos.
AREA 4: Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rice, Steele, Wabasha, & Winona Cos.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

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SUPERSEDEAS DECISION

STATE: OKLAHOMA

COUNTIES: Adair, Atoka, Bryan, Cherokee, Coal, Craig, Creek, Delaware, Haskell, Hughes, Latimar, LeFlore, McIntosh, Mayes, Muskogee,

DECISION NO. OK83-4011 PAGE 2

	Basic Hourly Rates	Fringe Benefits

	Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: ■KLAHOM■

COUNTIE■: Adair, Atoka, ■ryan, Cherokee, Coal, Craig, Creek, Delaware, Haskell, Hughes, Latim■r, LeFlore, M■Intos■, Mayes, Muskogee, Nomata, O■■uskee, Okmulgee, Osage, Ottawa, Pa■■ne, Pitts■urg, Pushmataha, Rogers, Sequoyah, Tulsa, Wagoner, Washington

DECISI■N ■■. ■K83-4■11 Date of Publication:

SUPERSEDE■ DECISION NO. OK82-4035 dated June 25, 19■2; OK82-4059 dated November 19, 1982; OK82-4060 dated November 19, 19■2; OK82-4063 dated November 26, 19■2, OK■1-4■72 date■ Septem■■er 4, 19■2 and ■■81-■■■■ dated September 4, 19■1.

DESCRIPTION OF WORK: BUILDING PROJECTS (excluding single family homes and apartments up to and including 4 stories); Heavy Construction within the City of Muskogee and exclusion of Water and Sewer Treatment Plants in Tulsa, Creek, Craig, Delaware, Ottawa, Mayes and Roger Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area I	$15.86	2.60
Area II	16.45	2.08
BOILERMAKERS	16.60	2.415
BRICKLAYERS-STONEMASONS:		
Area I	15.60	1.75
Area II	15.48	2.08
Area III	14.84	2.04
Area IV	15.31	1.54
Area V	16.90	
Area VI	14.50	1.23
CARPENTERS - AREA I		
Carpenters	12.00	1.55
Millwrights - Pile-drivermen	13.35	1.55
CARPENTERS - AREA II		
Carpenters	12.98	.75
Millwrights - Pile-drivermen	14.43	.75
CARPENTERS - AREA III		
Carpenters	12.05	1.15
Piledrivermen	12.875	1.15
CARPENTERS - AREA IV		
Carpenters	14.18	1.62
Millwrights - Pile-drivermen	14.48	1.62
CARPENTERS - AREA V		
Carpenters	13.00	
Piledrivermen	14.25	
CARPENTERS - AREA VI		
Carpenters	12.28	1.48
Millwrights - Pile-drivermen	12.78	1.48
CARPENTERS - AREA VII		
Carpenters	12.80	1.00
Millwrights - Pile-drivermen	14.48	1.00
Power saw operator	13.05	1.00
CARPENTERS - AREA VIII		
Carpenters	12.42	1.10
Millwrights - Pile-drivermen	12.67	1.10
CEMENT MASONS:		
Area I	$10.80	
Area II	13.13	.75
Area III	14.94	.76
POWER TOOL OPERATOR:		
Area I	11.05	
Area II	13.48	.75
Area III	15.34	.76
ELECTRICIANS:		
Area I - Zone I	14.55	3½% + .80
Zone II	14.95	3½% + .80
Area II	15.15	3% + 1.58
Area III	14.40	3.8% + 2.20
Area IV	17.10	9% + .80
CABLE SPLICERS:		
Area I - Zone I	14.95	3½% + .80
Zone II	15.35	3½% + .80
Area II	15.35	3% + 1.58
Area III	14.65	3.8% + 2.20
Area IV	■8.81	9% + .80
ELEVATOR CONSTRUCTORS:		
AREA I		
Journeymen	15.12	2.465 + A
Helpers	70% Jr.	2.465 + A
Probationary helper	50% Jr.	
AREA II		
Journeymen	14.665	2.465 + A
Helpers	70% Jr.	2.465 + A
Probationary Helper	50% Jr.	
GLAZIERS		
Area I	14.00	.30
Area II	12.94	
Area III	12.62	1.11
IRONWORKERS		
Area I	15.15	2.92
Area II	14.60	2.37
LABORERS - AREA I		
Group I	10.■5	1.■■
Group II	10.■5	1.60
LABORERS - AREA II		
Group I	9.■5	1.00
Group II	9.■5	1.00

	Basic Hourly Rates	Fringe Benefits
LABORERS - AREA III		
Group I	$ 9.25	1.00
Group II	9.55	1.00
LABORERS - AREA IV		
Group I	9.30	1.00
Group II	9.55	1.00
PAINTERS - AREA I		
Brush	14.70	.90
Highwork & stage	15.10	.90
Spray & sandblasting	15.70	.90
Hot & bituminous	16.00	.90
Sheetrock handtools	14.70	.90
Sheetrock power tools	15.70	.90
PAINTERS - AREA II		
Brush & roller	11.05	.70
Highwork & stage	11.65	.70
Sandblasting & spray	11.90	.70
Hot or bituminous	12.55	.70
PAINTERS - AREA III		
Brush & roller	9.90	1.03
Brush - roller (Stri. steel)	10.15	1.03
Spray	10.55	1.03
Swing state, bosun chair	10.15	1.03
Taping & bedding (hand tools)	10.20	1.03
Sandblasting	10.25	1.03
PAINTERS - AREA IV		
Brush, roller, tapers & paperhangers	12.72	.60
Spray, steamclean, sandblast & pot tenders	13.22	.60
PLUMBERS - PIPEFITTERS		
AREA I	15.12	1.73
AREA II	17.40	2.20
AREA III	16.39	2.02
AREA IV		
Mechanical contracts up to $150,000.00	14.15	2.40
Mechanical contracts of $150,000.00 & over	15.65	2.40
AREA V	15.20	2.10
ROOFERS	13.40	1.39
SHEET METAL WORKERS		
AREA I	14.80	2.52
AREA II	16.85	1.47
SOFT FLOOR LAYERS		
AREA I	13.10	1.80
AREA II	13.47	1.88+B
SPRINKLER FITTERS	16.17	2.83
TILE LAYERS & TERRAZZO WORKERS		
AREA I	$15.84	1.10
AREA II	14.38	2.20
TILE FINISHERS		
AREA I	12.15	
AREA II	11.98	1.40
TERRAZZO FINISHERS		
AREA I	13.00	
AREA II	11.98	1.4■
TERRAZZO FLOOR MACHINE		
AREA I	13.30	
AREA II	12.16	1.4■
TERRAZZO BASE MACHINE		
AREA I	13.70	
AREA II	12.46	1.40
LINE CONSTRUCTION		
Linemen	14.90	3½%+.45
Cable Splicers	16.09	3½%+.45
Hole digger operater and Heavy equipment op. (pole or cat equivalent)	13.24	3½%+.45
Jack Hammerman	10.61	3½%+.45
Line truck (winch op.)	11.68	3½%+.45
Powderman	12.86	3½%+.45
Groundman	9.54	3½%+.45
Truck driver (flat b■■ ton & half & under)	10.13	3½%+.4■
POWER EQUIPMENT OPERATORS:		
Group I	15.75	2.18
Group II	15.25	2.18
Group III	14.75	2.18
Group IV	14.50	2.18
Group V	14.25	2.18
Group VI	14.00	2.18
Group VII	13.75	2.18
Group VIII	12.75	2.18
Group IX	13.35	2.18
TRUCK DRIVERS:		
AREA I		
Group I	10.48	
Group II	10.53	
Group III	10.63	
AREA II		
Group I	10.43	
Group II	10.53	
Group III	10.63	
Group IV	10.58	
Group V	10.73	

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

ASBESTOS WORKERS:
AREA I - Coal, Atoka and Bryan Counties
AREA II - Remaining Counties

BRICKLAYERS - STONEMASONS:
AREA I - Wagoner, Cherokee, Adair, Muskogee, Sequoyah, Haskell, Le Flore, Latimer and Pushmataha Counties
AREA II - Hughes, Coal, Atoka and Bryan Counties
AREA III - Creek, Tulsa, Rogers, Mayes, Craig, Ottawa and Delaware Counties
AREA IV - Okfuskee, Okmulgee, McIntosh and Pittsburg Counties
AREA V - Osage, Washington and Nowata Counties
AREA VI - Pawnee County

CARPENTERS - MILLWRIGHTS & PILEDRIVERMEN:
AREA I - Okmulgee, Okfuskee, Pittsburg, Latimer, Le Flore, the western part of McIntosh County - the line running straight south from the east line of Okmulgee County, Haskell County south of Highway #9 and north one-half of Atoka County
AREA II - Pushmataha, Bryan and south one-half of Atoka County
AREA III - Coal and Hughes County
AREA IV - Tulsa, Rogers, Mayes, Creek, Craig and Delaware Counties
AREA V - Washington, Nowata and Eastern two-thirds of Osage County
AREA VI - Muskogee, Wagoner, Adair, Cherokee, Sequoyah, Eastern part of McIntosh and Haskell County north of Highway #9
AREA VII - Pawnee and western one-third of Osage County
AREA VIII - Ottawa County

CEMENT MASONS - POWER TOOL OPERATORS:
AREA I - Western one-third of Osage County
AREA II - Pawnee County west of a line running due north from the western boundry of Creek County
AREA III - Remaining Counties

ELECTRICIANS - CABLE SPLICERS:
AREA I - Cherokee, Adair, Muskogee, Sequoyah, McIntosh, Haskell, Le Flore, Latimer, Atoka and Pushmataha Counties
ZONE I - 30-mile radius from Post Office of the City of Muskogee
ZONE II - Area outside Zone I
AREA II - Washington, Nowata, Craig, Ottawa, Rogers, Mayes, Delaware, Creek, Tulsa, Wagoner, Okmulgee, Okfuskee, Hughes, Pittsburg, Coal, Osage and Pawnee east of Highway #18
AREA III - Osage and Pawnee Counties west of Highway #18
AREA IV - Bryan County

ELEVATOR CONSTRUCTORS:
AREA I - Osage, Washington, Nowata, Craig, Ottawa, Rogers, Mayes, Delaware, Pawnee, Creek, Tulsa, Wagoner, Cherokee, Adair, Okmulgee, Muskogee, and Sequoyah Counties
AREA II - Remaining Counties

GLAZIERS:
AREA I - Hughes, Coal, Atoka and Bryan Counties
AREA II - Ottawa and that portion of Craig County east of Vinita
AREA III - Remaining Counties

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

IRONWORKERS:
AREA I - Bryan County
AREA II - Remaining Counties

LABORERS:
AREA I - Creek, Tulsa, Nowata, Craig, Ottawa, Rogers, Mayes, Delaware and Okmulgee Counties
AREA II - Wagoner, Cherokee, Adair, Muskogee, Sequoyah, Okfuskee, McIntosh, Haskell, Le Flore Counties
AREA III - Hughes, Pittsburg, Latimer, Coal, Atoka, Pushmataha and Bryan Counties
AREA IV - Osage, Washington and Pawnee Counties
GROUP I - All digging and dirt work, firing of salamanders and smuge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning when the man is directly tenders; and common laborers.
GROUP II - All machine tool operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; oprs. of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 ft. from the ground or floors; cement finisher laborer; work on swinging scaffold; all kettle & potmen, tank cleaning, all pipe doping treating & wrapping, including all men working with dope; mortar & plaster mixing machine, pump-crete machines, and gunite mixing machines including concrete, creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or plants; all laborers screening sand, running sand drier, and feeding oper. sandblasterer, except nozzle; and cutting torch oprs. in connection with laborers work; concrete grader.

PAINTERS:
AREA I - Pawnee, Osage, Washington, Nowata, Rogers, Mayes, Creek Tulsa, Okfuskee, Okmulgee and Northwestern half of Wagoner county
AREA II - Cherokee, Adair, Muskogee, Sequoyah, McIntosh, Haskell, Pittsburg, Latimer, Le Flore, Pushmataha and the Southeastern half of Wagoner County
AREA III - Hughes, Coal, Atoka and Bryan Counties
AREA IV - Craig, Ottawa and Delaware Counties

PLUMBERS - PIPEFITTERS:
AREA I - Ottawa, Delaware, Craig, Mayes, Nowata, Rogers, Tulsa, Creek and Osage and Pawnee Counties east of Highway #18
AREA II - Adair, Cherokee, Haskell, Latimer, Le Flore, McIntosh, Muskogee, Okfuskee, Pittsburg, Sequoyah and Wagoner Counties
AREA III - Hughes, Coal, Atoka, Pushmataha and Bryan Counties
AREA IV - Osage and Pawnee Counties west of Highway #18
AREA V - Washington County

SHEET METAL WORKERS:
AREA I - Hughes and Coal Counties
AREA II - Remaining Counties

SOFT FLOOR LAYERS:
AREA I - Hughes, Coal, Atoka and Bryan Counties
AREA II - Remaining Counties

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

TILE LAYERS' & TERRAZZO WORKERS:

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

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CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

TILE LAYERS & TERRAZZO WORKERS:
AREA I - Bryan County
AREA II - Remaining Counties

TILE & TERRAZZO FINISHERS - TERRAZZO FLOOR MACHINE - TERRAZZO BASE MACHINE:
AREA I - Bryan County
AREA II - Remaining Counties

POWER EQUIPMENT OPERATORS:
GROUP I - All crane type equipment with 300' of boom or over (including jib).
GROUP II - All crane type equipment with 200-300' of boom (including jib).
GROUP III - All crane type equipment with 100-200' of boom (including jib, all tower cranes and all crane type equipment of 3 cu. yards or more).
GROUP IV - Side boom (booms 30' and over); Guy Derrick.
GROUP V - Heavy duty mechanic, welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer, dragline, shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' & longer mast); motor patrol (blade); side boom (under 30').
GROUP VI - Fork lift (35' and over); dozer (engine hp 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator or hi-lift (engine hp 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump-boom type; roller & compactors with dozer blade.
GROUP VII - Locomotive engineer; boring machine; tug boat; mixer 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 500 cu. ft. & under; air compressor, over 500 cu. ft.(1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment, generator plant engineers, Diesel elec.; winch truck with A-frame; roller all types; outside elevator or building type of personnel hoist; concrete buster/or tamper; heaters under jurisdiction of operating engineers; firemen; boiler operator, crushing plants; oiler distributor; pulvimixer; farmer tractor-with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man or large whirleys when and if required; operator for rotary drilling machines when operated from console or machines.
GROUP VIII - Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); fuelman; truck crane oiler driver or crane oiler; conveyor operator-single continuous belt bulk handling; asphalt lay machine back end man.
GROUP IX - Greaser and tilt top trailer operator.

TRUCK DRIVERS CLASSIFICATION DEFINITION AND AREA:
AREA I - Osage, Washington, Nowata, Craig, Ottawa, Pawnee, Rogers, Creek, Tulsa, Okmulgee, Okfuskee and Mayes and Wagoner Counties west of Highway #69.

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

GROUP I - Truck drivers, including pick-up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver.
GROUP II - 3 tons or 4 yards up to but not including 4 tons or 6 yards.
GROUP III - Ready mix concrete trunk; Tractor-trailer and similar equipment.

AREA II - Bryan, Atoka, Pushmataha, Coal, Hughes, Pittsburg, Latimer, Le Flore, McIntosh, Haskell, Sequoyah, Muskogee, Cherokee, Adair, Delaware, and Mayes and Wagoner Counties east of Highway #69.

WELDERS: receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR, 5.5 (a) (1) (ii)).

FOOTNOTES:
A - 6 months to 5 years 6%; over 5 years 8% of basic hourly rate plus seven paid holidays - A through G.
B - 7 paid holidays - A through E plus G

PAID HOLIDAYS:
A - New Year's Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - Friday after Thanksgiving Day; G - Christmas Day

SUPERSEDES DECISION

STATE OF OKLAHOMA

COUNTIES: Alfalfa, Beckham, Blain, Caddo, Canadian, Carter, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Lincoln, Logan, Love, McClain, Major, Marshall, Murray, Noble, Oklahoma, Payne, Pontotoc, Pottawatomie, Roger Mills, Seminole, Stephens, Tillman, Washita, Woods and Woodward.

DECISION NO. OK83-4012

DATE: Date of Publication

SUPERSEDES DECISION NO. OK82-4051 dated October 22, 1982; OK82-4055 dated November 12, 1982 and OK82-4056 dated November 12, 1982:

DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS		
AREA I	$15.20	$2.37
AREA II	16.45	2.08
AREA III	15.86	2.60
BOILERMAKERS	16.60	2.415
BRICKLAYERS-STONEMASONS		
AREA I	15.48	2.23
AREA II	15.65	
AREA III	13.18	2.17
AREA IV	15.48	2.08
AREA V	14.50	1.23
AREA VI	14.74	2.15
AREA VII	13.00	1.37
CARPENTERS - AREA I		
Carpenters	13.85	1.64
Millwrights	14.35	1.64
Piledrivermen	14.35	1.64
Power saw operator	14.35	1.64
CARPENTERS - AREA II		
Carpenters	11.05	1.64
Millwrights	14.35	1.64
Piledrivermen	14.35	1.64
Power saw operator	11.55	1.64
CARPENTERS - AREA III		
Carpenters	$11.05	$1.64
Millwrights	14.35	1.64
Piledrivermen	14.35	1.64
Power saw operator	11.55	1.64
CARPENTERS - AREA IV		
Carpenters	12.30	1.40
Millwrights	13.05	1.54
Piledrivermen	13.05	1.54
CARPENTERS - AREA V		
Carpenters	14.65	
Millwrights	14.90	
Piledrivermen	14.90	
Power saw operator	14.90	
CARPENTERS - AREA VI		
Carpenters	12.05	1.15
Piledrivermen	12.875	1.15
Power saw operator	12.30	1.15
CARPENTERS - AREA VII		
Carpenters	12.45	1.49
Piledrivermen	12.95	1.49
Power saw operator	12.575	1.49

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	Basic Hourly Rates	Fringe Benefits
CARPENTERS - AREA VIII		
Carpenters	$12.55	$1.27
Millwrights	13.05	1.27
Piledrivermen	13.05	1.27
Power saw operator	12.80	1.27
CARPENTERS - AREA IX		
Carpenters	11.70	1.00
Millwrights	12.525	1.00
Piledrivermen	12.525	1.00
Power saw operator	12.525	1.00
CARPENTERS - AREA X		
Carpenters	12.80	1.00
Millwrights	14.40	1.00
Piledrivermen	14.40	1.00
Power saw operator	13.00	1.00
CARPENTERS - AREA XI		
Carpenters	12.90	.75
Millwrights	14.40	.75
Piledrivermen	14.40	.75
Power saw operator	13.40	.75
CEMENT MASONS - AREA I		
Cement Masons	12.45	
Power tool operator	12.70	
CEMENT MASONS - AREA II		
Cement Masons	14.94	.76
Power tool operator	15.34	.76
CEMENT MASONS - AREA III		
Cement Masons	13.83	.75
Power tool operator	14.08	.75
ELECTRICIANS		
AREA I - ZONE I	15.00	9¾+.80
ZONE II	15.25	9¾+.80
ZONE III	15.50	9¾+.80
AREA II	14.40	3.8¾+2.20
AREA III	14.05	3¾+1.30
AREA IV	16.15	9¾+.80
AREA V	15.15	1.58
CABLE SPLICERS		
AREA I - ZONE I	15.25	9¾+.80
ZONE II	15.50	9¾+.80
ZONE III	15.75	9¾+.80
AREA II	14.65	3.8¾+2.20
AREA IV	17.17	9¾+.80
ELEVATOR CONSTRUCTORS		
Journeymen	$14.665	2.465+A
Helpers	70%Jr.	2.465+A
Probationary helper	50%Jr.	
GLAZIERS	14.00	.30
IRONWORKERS		
AREA I	14.60	2.37
AREA II	12.625	2.95
AREA III	13.50	3.00
AREA IV	15.20	2.87
LABORERS - AREA I		
GROUP I	10.65	1.00
GROUP II	10.90	1.00
LABORERS - AREA II		
GROUP I	8.95	1.00
GROUP II	9.20	1.00
LABORERS - AREA III		
GROUP I	9.10	1.00
GROUP II	9.35	1.00
LABORERS - AREA IV		
GROUP I	9.30	1.00
GROUP II	9.55	1.00
LABORERS - AREA V		
GROUP I	9.25	1.00
GROUP II	9.55	1.00
LABORERS - AREA VI		
GROUP I	5.35	
GROUP II	6.59	
LATHERS		
AREA I	13.85	1.64
AREA II	12.55	1.54
MARBLE MASONS, TILE SETTERS AND TERRAZO WORKERS	15.84	1.10
MARBLE & TILE FINISHERS	12.15	
TERRAZO FINISHERS	13.00	
TERRAZO FLOOR MACHINE MAN	11.30	
TERRAZO BASE MACHINE MAN	11.70	
PAINTERS - AREA I		
Brush & Roller	9.90	1.03
Brush & Roller (Strl. steel)	10.15	1.03

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	Basic Hourly Rates	Fringe Benefits
PAINTERS - AREA II		
Brush & Roller	$10.90	$1.03
Brush & Roller (Strl. steel)	11.15	1.03
PAINTERS - AREA III		
Brush & Roller	10.90	1.03
Brush & Roller (Strl. steel)	11.15	1.03
PAINTERS - AREA IV		
Brush & Roller	10.90	1.03
Brush & Roller (Strl. steel)	11.15	1.03
PAINTERS - AREA V		
Brush & Roller	10.90	1.03
Brush & Roller (Strl. steel)	11.15	1.03
PAINTERS - AREA VI		
Brush & Roller	10.90	1.03
Brush & Roller (Strl. steel)	11.15	1.03
PAINTERS - AREA VII		
Brush & Roller	10.90	1.03
Brush & Roller (Strl. steel)	11.15	1.03
PAINTERS - AREA VIII		
Brush & Roller	10.90	1.03
Brush & Roller (Strl. steel)	11.15	1.03
PAINTERS - AREA IX		
Brush & Roller	10.90	1.03
Brush & Roller (Strl. steel)	11.15	1.03
PAINTERS - AREA X		
Brush & Roller	10.90	1.03
Brush & Roller (Strl. steel)	11.15	1.03
PAINTERS - AREA XI		
Brush & Roller	10.90	1.03
Brush & Roller (Strl. steel)	11.15	1.03
PILEDRIVERMEN - AREA I		
Piledrivermen	13.85	1.64
Power saw operator	14.35	1.64
PILEDRIVERMEN - AREA II		
Piledrivermen	11.05	1.64
Power saw operator	11.55	1.64
PILEDRIVERMEN - AREA III		
Piledrivermen	$11.05	$1.64
Power saw operator	11.55	1.64
PILEDRIVERMEN - AREA IV		
Piledrivermen	12.30	1.40
Power saw operator	12.80	1.54
PILEDRIVERMEN - AREA V		
Piledrivermen	14.65	
Power saw operator	14.90	
PILEDRIVERMEN - AREA VI		
Piledrivermen	12.875	1.15
Power saw operator	12.30	1.15
PILEDRIVERMEN - AREA VII		
Piledrivermen	12.95	1.49
Power saw operator	12.575	1.49

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BRICKLAYERS - STONEMASONS:

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	Basic Hourly Rates	Fringe Benefits
PAINTERS - AREA I		
Spray	$10.55	$1.03
Swing, stage, Bmsun Chair	10.15	1.03
Taping & Bedding (hand tools)	10.20	1.03
Sandblasting	10.25	1.03
PAINTERS - AREA II		
Brush	12.50	2.03
Spray under 30 ft.	13.00	2.03
Spray over 30 ft.	13.50	2.03
Paper hanging	13.50	2.03
Tapers using machine tools	13.00	2.03
PLASTERS	15.60	.01
PLUMBERS - AREA I		
Mechanical contracts up to $150,000	14.15	2.40
Mechanical contracts of $150,000 and over	15.65	2.40
PLUMBERS - AREA II	16.39	2.02
ROOFERS	13.40	1.39
SHEET METAL WORKERS	14.80	2.52
SOFT FLOOR LAYERS	13.10	1.80
SPRINKLER FITTERS	16.17	2.83
LINE CONSTRUCTION		
Linemen	14.90	3%+.45
Cable splicers	16.09	3%+.45
Hole Digger operator	13.24	3%+.45
Heavy equipment operator	13.24	3%+.45
Line truck driver (winch (operator)	11.68	3%+.45
Jackhammerman	10.61	3%+.45
Powderman	12.86	3%+.45
Groundman	9.54	3%+.45
Truck driver (flat bed, ton-half and under)	10.13	3%+.45
POWER EQUIPMENT OPERATORS		
Group I	15.75	2.18
Group II	15.25	2.18
Group III	14.75	2.18
POWER EQUIPMENT OPERATORS		
Group IV	$14.50	2.18
Group V	14.25	2.18
Group VI	14.00	2.18
Group VII	13.75	2.18
Group VIII	12.75	2.18
Group IX	13.35	2.18
TRUCK DRIVERS		
AREA I		
Group I	9.70	
Group II	9.70	
Group III	9.40	
AREA II		
Group I	10.48	
Group II	10.53	
Group III	10.63	
AREA III		
Group I	10.43	
Group II	10.53	
Group III	10.63	
Group IV	10.58	
Group V	10.73	

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

ASBESTOS WORKERS:

AREA I Harper, Ellis, Roger Mills, Beckham, Greer and Harmon Counties.
AREA II Kay County
AREA III Remaining Counties.

BRICKLAYERS - STONEMASONS:

AREA I Logan, Payne, Canadian, Oklahoma, Cleveland and McClain Counties

BRICKLAYERS - STONEMASONS:

AREA II Harper, Woods, Alfalfa, Grant, Ellis, Woodward, Major, Garfield, Blaine and Kingfisher Counties.
AREA III Harmon, Jackson, Tillman, Comanche, Cotton and Jefferson Counties.
AREA IV Lincoln, Pottawatomie, Seminole, Pontotoc, Johnston and Marshall Counties.
AREA V Kay and Noble Counties.
AREA VI Caddo, Grady, Stephens, Garvin, Murray, Carter and Love Counties.
AREA VII Roger Mills, Beckham, Greer, Dewey, Custer, Washita and Kiowa Counties.

CARPENTERS - MILLWRIGHTS - PILEDRIVERMEN - POWER SAW OPERATORS:

AREA I Oklahoma, Logan, Canadian, Kingfisher, Pottawatomie, and Lincoln County south of the Turner Turnpike.
AREA II Dewey, Custer, Washita and Blaine Counties.
AREA III Caddo and Grady Counties
AREA IV Alfalfa, Grant, Major and Garfield Counties.
AREA V Cleveland and McClain Counties.
AREA VI Love, Murray, Carter, Pontotoc, Seminole, Johnston, Garvin and Marshall County west of highway #99.
AREA VII Beckham, Jefferson, Comanche, Cotton, Greer, Harmon, Jackson, Kiowa, Stephens and Tillman Counties.
AREA VIII Payne County, Northern Half of Lincoln County and Noble County east of Interstate 35 and south of Black Bear Creek.
AREA IX Woodward, Woods, Harper, Ellis and Roger Mills Counties.
AREA X Kay and Noble Counties north of Blackbear Creek and west of Interstate 35.
AREA XI Marshall County east of highway #99.

CEMENT MASONS - POWER TOOL OPERATOR:

AREA I Kay County
AREA II Johnston and Marshall Counties.
AREA III Ellis, Roger Mills, Beckham, Dewey, Custer, Grady, Carter, Oklahoma, McClain, Washita, Blaine, Caddo, Kingfisher, Canadian, Long, Cleveland, Garvin, Lincoln, Payne, Noble, Pawnee, Woodward and Murray Counties.

ELECTRICIANS - EMBLE SPLICERS:

AREA I Oklahoma, Cleveland, Canadian, Grady, McClain, Garvin, Carter, Murray, Johnston, Pontotoc, Seminole, Pottawatomie, Lincoln, Logan, Kingfisher, Garfield, Grant, Alfalfa, Major, Blaine, Caddo, Washita, Custer, Dewey, Woodward, Woods, Harper, Ellis, Roger Mills, Beckham, Love and that portion of Payne County which is closer to Oklahoma City than Tulsa.
ZONE I The area within the twelve mile radius of the Main Post Office located in one of the cities listed as follows: Ada, Alva, El Reno, Enid, Moore, Arapaho, Tecumseh, Norman, Midwest City, Ardmore, Oklahoma City, Stillwat Sulphur, and Tuttle.
ZONE II The area between the twelve mile radius of the Zone I Post Office, except where Zone II intercepts another Zone I area.

ELECTRICIANS - CABLE SPLICERS:

ZONE III	The area outside Zone I and Zone II.
AREA II	Kay and Noble Counties.
AREA III	Comanche, Jackson, Harmon, Greer, Kiowa, Tillman, Cotton, Jefferson and Stephens County.
AREA IV	Marshall County.
AREA V	That portion of Payne County closer to Tulsa than Oklahoma City.

IRONWORKERS:

AREA I	Blaine, Caddo, Canadian, Carter, Cleveland, Comanche, Custer, Dewer, Garfield, Garvin, Grady, Johnston, Kingfisher, Kiowa, Lincoln, Major, Logan, McClain, Murray, Noble, Oklahoma, Pontotoc, Pottawatomie, Roger Mills,, Seminole, Stephens, Washita, Woodward, and western Payne County to a line due north of state highway #177 and 33.
AREA II	Beckham, Greer, Harmon, Jackson, Tillman, Cotton, Jefferson and Love Counties.
AREA III	Harper and Ellis Counties.
AREA IV	Marshall County.

LABORERS:

AREA I	Logan, Canadian, Oklahoma, Lincoln, Cleveland and Pottawatomie Counties.
AREA II	Harper, Woods, Alfalfa, Grant, Ellis, Woodward, Major, Garfield, Dewey, Blaine and Kingfisher Counties.
AREA III	Roger Mills, Custer, Beckham, Washita, Caddo, Grady, McClain, Harmon, Greer, Kiowa, Comanche, Stephens, Garvin, Tillman, Cotton, Jefferson, Murray, Carter, Love and Marshall Counties.
AREA IV	Kay, Noble, and Payne Counties.
AREA V	Seminole, Pontotoc and Johnston Counties.
AREA VI	Jackson County.

GROUP I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages of stock piling only; wheeling and placing concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning windows; wrecking and razing of building and all structures; cleaning when the man is directly tendering, lathers, masons or plasters; and common laborers.

GROUP II - All machine tools operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 ft. from the ground or floors; cement finishers laborer; work on swinging scaffold; all kettle and potmen, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machines, and gunite mixing machines including concrete, creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or plants; all laborers screening sand, running sand drier, and feeding operator sand blasterer, except nozzle; and cutting torch operators in connection with laborers' work; concrete grader.

LATHERS:

AREA I	Oklahoma, Logan, Canadian, Kingfisher, Custer, Washita, Blaine, Pottawatomie, Dewey, Atoka, Beckham, Caddo, Cleveland, Coal, Ellis, Garfield, Garvin, Grady, Hughes, Johnston, Lincoln, McClain, Major, Murray, Noble, Pontotoc, Roger Mills, Seminole, Woodward, Lincoln County south of Turner Turnpike and Payne county up to and including the city of Cushing.
AREA II	Alfalfa and Grant Counties.

PAINTERS:

AREA I	Harmon, Greer, Kiowa, Jackson, Tillman, Comanche, Cotton, Stephens, Jefferson, Carter, Love, Pontotoc, Johnston, and Marshall Counties.
AREA II	Remaining Counties.

PLASTERERS: Ellis, Roger Mills, Beckham, Greer, Harmon, Jackson, Dewey, Custer, Washita, Kiowa, Tillman, Blaine, Caddo, Comanche, Cotton, Kingfisher, Canadian, Grady, Stephens, Jefferson, Logan, Oklahoma, Cleveland, McClain, Garvin, Murray, Carter, Love, Payne, Lincoln, Pottawatomie, Seminole, Pontotoc, Johnston and Marshall Counties.

PLUMBERS - PIPEFITTERS

AREA I	Kay County.
AREA II	Remaining Counties.

POWER EQUIPMENT OPERATORS:

GROUP I	All crane type equipment with 300' of boom or over (including jib).
GROUP II	All crane type equipment with 200-300' of boom (including jib).
GROUP III	All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more.
GROUP IV	Side boom (booms 30' and over); Guy Derrick.
GROUP V	Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline, shovel; clamshell; blackhoe (3/4 yd. and over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motorpatrol (blade); side boom (under 30').
GROUP VI	Fork lift (35' and over); dozer (engine hp 65 or over; Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator or hi-lift (engine hp 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump-boom type; roller and compactors with dozer blade.
GROUP VII	Locomotive engineer; boring machine; tug boat; mixer 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 1 to 6; air compressor, 3 to 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift; bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with A-frame; roller all types; outside elevator or building type of personnel hoist; concrete buster/or tamper; heaters under

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GROUP VII jurisdiction of operating engineers; firemen; boiler operator;

UNLISTED classifications needed for work not included within the scope of the

GROUP VII jurisdiction of operating engineers; firemen; boiler operator; crushing plants; oiler distributor, pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-fuel, continuous or belt bulk handling; screed operator; concrete pump; form grader; screening plant; well point pump operator; signal man on large whirleys when and if required; operator for rotary drilling machines when operated from console or machines.

GROUP VIII Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); fuelman; truck crane oiler driver or crane oiler; conveyor operator-single continuous belt bulk handling; asphalt lay machine back end man.

GROUP IX Greaser and tilt top trailer operator.

TRUCK DRIVERS:

AREA I Alfalfa, Beckham, Blaine, Caddo, Carter, Canadian, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Jackson, Jefferson, Johnston, Kingfisher, Kiowa, Logan, Love, Major, McLain, Murray, Oklahoma, Pontotoc, Pottawatomie, Roger Mills, Seminole, Stephens, Tillman, Washita, and Woodward Counties:

GROUP I Truck drivers for heavy equipment such as lowboys, heavy winch and floats.

GROUP II Heavy earth moving equipment such as dump trucks and Euclids.

GROUP III Truck drivers and swampers, such as dump trucks, flat beds, stake bodies, and 3/4 and 1/2 ton pick-up trucks.

AREA II Kay, Noble and Lincoln Counties.

GROUP I Truck drivers, including pick-up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver.

GROUP II 3 tons or 4 yards up to but not including 4 tons or 6 yards.

GROUP III Ready mix concrete truck; tractor trailer and similar equipment.

AREA III Marshall County.

GROUP I Pick-Up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, state bodies and buses.

GROUP II 3 tons or 4 yards and up to but not including 4 tons or 6 yards.

GROUP III 5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers.

GROUP IV Ready-mix concrete trucks up to but not including 3 yards.

GROUP V Ready-mix concrete trucks 3 yards and over.

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

[FR Doc. 83-864 Filed 1-13-83; 8:45 am]
BILLING CODE 4510-30-C

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR, 5.5 (a)(1)(ii).

FOOTNOTES:

A - 6 mos. to 5 yrs. 6%; over 5 years 8% of basic hourly rate plus seven paid holidays - A through G.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day.

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Part IV

Department of Health and Human Services

Food and Drug Administration

New Animal Drug Applications; Safety and Effectiveness Data Supporting the Approval of Minor Use New Animal Drugs

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 514

[Docket No. 79N-0019]

New Animal Drug Applications; Safety and Effectiveness Data Supporting the Approval of Minor Use New Animal Drugs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations by codifying agency policy regarding data collection requirements for the approval of certain new animal drug applications (NADA's) for: (1) New animal drugs used in minor animal species or (2) new animal drugs used in any animal species for the control of a disease that occurs infrequently or in limited geographic areas. The amended regulation allows sponsors, where appropriate, to use data supporting an approved major use of a drug to support an NADA for a minor use of the same drug. This action is being taken by the agency in the interest of the public health to encourage the submission of applications for needed minor use animal drugs. The agency also is announcing the addition of human food safety to the revised animal safety, effectiveness, and environmental considerations guidelines in response to comments. Comments on the guideline are also requested.

EFFECTIVE DATE: February 14, 1983.

ADDRESS: Written comments on the guidelines are to be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of the guidelines are available from the Information and Education Resources Management Staff (HFV-13), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas V. Raines, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION:

In the Federal Register of July 20, 1979 (44 FR 42714), FDA published a proposal to amend § 514.1 (21 CFR 514.1) of the new animal drug regulations. Section 514.1 describes general data requirements for obtaining approvals of new drug animal applications. The agency proposed to include in § 514.1 a description of the type of data the agency will consider adequate for approval of minor use new animal drugs as specified in section 512 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b).

The proposal defined minor use new animal drugs as drugs: (1) Used in minor species of animals or (2) used in any animal species for the control of a disease that occurs infrequently and in limited geographic areas. "Minor species" was defined as animals other than cattle, horses, swine, chickens, turkeys, dogs, and cats. Sheep were defined as a minor species for the purpose of the data necessary to demonstrate animal safety and effectiveness but as a major species for the purpose of the data necessary to show human food safety. The agency proposed to allow, where scientifically appropriate, new animal drug applications for minor use drugs to be supported by data collected to establish the safety and effectiveness of the same drug for the same approved use in a major species. Sponsors of minor use drugs, however, may have access to data supporting the safety and effectiveness of the approved major use drug only if the holder of the approval agrees or if the data are publicly available.

The proposal provided for a comment period of 60 days. At the request of the Animal Health Institute, FDA extended the comment period an additional 30 days (44 FR 53539; September 14, 1979). The agency received 28 comments on the proposed regulation from new animal drug manufacturers, universities, trade associations, producer groups, other government agencies, and interested individuals. The majority of comments endorsed the proposed regulation. Many comments contended, however, that the proposed procedures for demonstrating human food safety were unnecessarily stringent.

The agency has carefully evaluated the comments received and, in response to these comments, has modified certain aspects of the proposed regulation.

As discussed in the preamble to the proposal, there is currently little or no economic incentive for sponsors to develop the data necessary for the approval of drugs for minor species. Consequently, few drugs are approved in minor species or for minor use. Accordingly, producers of minor species are forced to use unapproved drugs which carry no assurance of being safe or effective. If diseases in minor species are left untreated, there may be severe injury to target animals as well as potential public health hazards to man. Even if a disease is not directly transmissible to man, food products of diseased animals could be unwholesome for human consumption. For these reasons, the agency considers it important to provide special guidance to sponsors on how to obtain approvals for new animal drugs for use in minor species.

The agency may only approve new animal drugs if they are supported by "adequate tests by all methods reasonably applicable" to show safety (including human safety if the drug is for use in food-producing animals) and by "adequate and well-controlled investigations" to demonstrate effectiveness (21 U.S.C. 360b(d)). This minor use regulation does not negate or alter the legal requirements that must be satisfied before a new animal drug can be approved. The regulation does, however, provide for the agency's interpretation as to what data for minor use drugs will be sufficient to meet the legal standards. The agency has concluded that data provided in support of a drug approved for use in a major species may also be used to support the approval of an application for the same or a similar indication in a closely related minor species. The resulting regulation is not intended to provide a mechanism for approving every minor use drug by merely referencing an approved drug in a closely related major species. The agency expects, however, that many drugs will now be economically viable candidates for approval where the procedures and provisions of the minor use regulation and attendant guidelines are applicable and are met.

1. Comments contended that the proposal was both too strict and ambiguous as to what data are necessary to resolve human food safety concerns raised by an application for a minor use animal drug.

The agency has prepared a guideline for determining the data that will be necessary to establish that the minor use of a drug will be safe to humans consuming the edible parts of treated animals. An overview of the guideline, which is available with the publication of this document, is presented below. FDA solicits comments on both the human food safety guideline and the revised animal safety and effectiveness guideline for minor drug use. The agency will review and act upon any comments as they are received.

2. Comments endorsing the proposal stated that the proposed regulation would: (1) Benefit producers of minor species animals; (2) improve disease control in such animals; and (3) result in better quality food for consumers.

Several comments also observed that the regulation would, in all likelihood, reduce drug research and development costs involved in securing the approval of new animal drugs for use in minor species.

3. Many comments addressed the proposed criteria and procedures for demonstrating human food safety for minor use drugs.

These comments were carefully evaluated by the agency and have formed the basis for several helpful modifications of the originally proposed criteria. Accordingly, the agency believes it would be helpful to present a concise statement of the revised procedures it intends to follow before addressing specific comments in this area. The agency believes that the following procedures must be applied to demonstrate the safety of a minor use drug:

a. *Toxicity data.* A new animal drug application for minor drug use must contain or reference toxicity data on the sponsored compound(s) that are sufficient to establish a tolerance for residues of the drug in animal-derived food. This tolerance will be determined using the established procedures and safety factors the agency uses in setting all tolerances. When the proposed minor use of a compound is similar to an already approved use of the same compound in a related major species, the agency will normally be able to affirm that approval of the minor use application will not result in an increased risk to the public. When this condition is met, and the minor use sponsor has access to the data in the approved major use application, a tolerance for residues for the minor use will be established at the level prescribed in connection with the approved major use of the compound. The agency will not normally reevaluate the toxicity data that support the tolerance unless important questions have arisen concerning the safety of residues of the drug.

b. *Residue data.* The agency's standards and guidelines for residue depletion and metabolism studies currently required to support approval of an NADA will be applied to minor use applications. However, when a compound that is approved for use in a major species of food-producing animal is the subject of a minor use application, the agency will require additional information on metabolism of the sponsored compound in the minor species only when information exists that raises, but does not adequately address, human food safety concerns about the level or toxicity of metabolic transformation products in the minor target species. If adequate information does not exist on metabolism of the sponsored compound in the minor species, the agency may conduct a search of the scientific literature and may consider known metabolic reactions of the administered compound and the class of drugs of which the administered compound is a member to determine if a unique metabolite of toxicological concern is likely to result from the minor use.

c. *Analytical methodology.* When the conditions of safe use of a sponsored compound require withholding animals from slaughter for a prescribed period of time following treatment, the agency will require the sponsor of the minor use application to provide a regulatory method of analysis for residues suitable for monitoring compliance with the approved conditions of use. It is expected that a regulatory method for a similar approved major use of a compound can be adapted, with little or no modification, to serve as the regulatory method for minor use of the drug. The sponsor must provide validation data, however, to demonstrate that the use of the compound in a minor species does not introduce variables that affect the reliability of the assay. In those cases where a previously validated regulatory method is shown by the sponsor to be adequate to monitor the minor use of a compound, the agency will not require a method validation trial in government laboratories as a condition of approval of a minor use application.

This regulation is based on the requirements found in section 512 of the act that adequate tests and data supporting human food safety (and animal safety and effectiveness) are required by the act before a minor use product may be approved. In the case of a minor use drug, the agency will, to the extent that is scientifically appropriate, extrapolate from studies supporting an approved major species drug to support an unapproved minor use drug. When the agency determines that extrapolation to a minor use drug from the human food safety data supporting an approved major species drug is appropriate, the agency may conclude that the statutory requirement for adequate tests establishing the safety of residues of the minor use is met when the sponsor also: (1) Can establish that approval of the minor use drug will pose no likelihood of an increase in human risk from exposure to residues of the drug; (2) can establish that existing information does not raise significant concerns regarding the safety of the drug or residues of the drug in food; and (3) can provide an adequate regulatory method of analysis suitable for monitoring compliance with the new approved conditions of the minor use. Whether adequate tests do exist to support approval of a minor use drug can only be decided on a case-by-case basis. The agency will conclude that adequate tests do not exist when any significant human safety concerns associated with the approved major use of the drug or any significant foreseeable problems resulting from its intended minor use are believed to exist. Furthermore, to approve the minor use of a drug which is not the subject of an approved major use, the agency will have no alternative but to apply the same standards for demonstrating human safety that it would normally apply for a sponsored compound intended for use in food-producing animals.

4. Several comments suggested that the agency broaden its willingness to use data from studies in major species to demonstrate the safety to humans of drugs for minor use. Some comments reasoned, however, that data supporting the use of a drug in a major species alone would normally be sufficient to demonstrate the safety of the minor use of the drug because consumption of food from minor species is insignificant in comparison to consumption of food derived from major species. Another comment stated that data on tissue residues in the minor species should be the only additional information required to support a minor use application for an already regulated major use compound. Several comments stated that the metabolism data requirements, in particular, were incompatible with the agency's stated intention of fostering minor drug use applications.

The agency has prepared guidelines which further delineate general criteria for demonstrating the safety of minor use drug residues in edible tissue. The agency has attempted in this final rule and guidelines to establish more reasonable data collection procedures for minor use drugs. In certain instances, however, to ensure the safety of human food, the agency may require information on metabolites and other information to address specific concerns that exist for a particular drug. As stated above, the agency will normally be able to treat approval of a minor use application as not significantly increasing the risk to humans from residues. This decision will serve as the basis for extrapolating from data in the major use application to support the minor use application.

5. One comment stated that if sheep are considered a major species in terms

of human safety requirements, then the sheep industry will not benefit from the regulation. Another comment argued that both sheep and trukeys should be considered as minor species on the basis of per capita consumption figures. To reach this conclusion, this comment compared consumption of lamb/mutton (1.7 pounds per year) and turkeys (9.2 pounds per year) with per capita meat consumption of 193.3 pounds. The comment contended that when human safety of an approved drug has been established in cattle, it is a waste of valuable resources to demand the same studies in sheep. Likewise, the comment argued that when the human safety of drug residues has been established in chickens, exhaustive studies in turkeys should not be required.

The agency does not agree with these comments. Simple per capita consumption data cannot be used to estimate consumption by consumers who have a preference for particular food items that are less popular among the general population. In using data on consumption to estimate human exposure to a commodity, FDA: (1) Selects data from eaters only, i.e., those who actually consumed the product during the survey period and (2) estimates the upper 90th percentile intake for eaters. By following these criteria, adequate safety is assured for consumers with a preference for a particular food.

The agency has made some preliminary estimates of daily gram intake for 90th percentile eaters, age 25 to 44 years, based on survey data of frequency of eating occasions developed by the Market Research Corporation of America (Menu Census IV, 1973–1974) and data on serving size developed by the U.S. Department of Agriculture during the spring of 1965. The daily gram intake estimates are beef—160 grams, pork—112 grams, chicken—68 grams, lamb/mutton—38 grams, and turkey—26 grams.

Calculated in this manner, consumption of turkey and lamb/mutton is 16 and 24 percent that of beef, high enough, in the agency's opinion, that an expanded use into either of these two species could result in an increased risk to the public from residues. Accordingly, the agency's criteria to permit extrapolation of data are not met in these cases. The agency will reexamine this conclusion if contrary information on consumption becomes available.

6. One comment stated that sheep are considered a minor species by the pharmaceutical industry and that, unless the agency similarly placed this species in the minor category with respect to human safety requirements, the sheep industry and the public will not benefit from the regulation.

The agency is aware of the problems sheep producers face in medicating animals with approved drug products. Difficulties currently faced by manufacturers in securing approval for drugs in sheep will be eased because this regulation permits the extrapolation of adequate animal safety and effectiveness data from cattle to sheep. As discussed in comment 5 above, however, given the levels of consumption of lamb/mutton by those in the population who do eat these products, any relaxation of human food safety data requirements for drugs intended for use in sheep raised for human food is not, in the agency's view, sufficiently protective of the public health. Sponsors of applications for new animal drug approvals in sheep should investigate the possibility that a drug claim for a limited production class of sheep might be considered a minor use.

7. One comment observed that the proposed regulation contained no provision to reduce the requirements for approval of drugs needed to treat conditions unique to minor species or of drugs not currently the subject of approved new animal drug applications for similar uses in major species. The comment stated that the low level of exposure to residues resulting from such minor use approvals should be a critical factor in determining the number, type, and duration of studies needed to show safety of these drugs.

The agency agrees that the minor use regulation does not provide relief from the usual standard of data collection needed to support a new animal drug approval for the two types of minor use applications specified. Although it is true that consumption of residues from the minor use would be comparatively infrequent, this consideration alone does not override the legally and scientifically mandated requirements for adequate and well-controlled studies demonstrating: (1) That drug residues in edible tissues from treated animals are safe; (2) that the drug is effective for its claimed use; and (3) that the drug is not detrimental to the health of animals to which it is administered. The minor use drug regulation is designed to permit extrapolation of the results of such studies conducted in connection with a major use application to support a minor use new animal drug application. In cases where there is no existing data base demonstrating safety and effectiveness of a drug, this regulation cannot and will not apply.

8. A comment pointed out that, from the standpoint of human safety, the regulation favors the selection of minor use drugs that are unlikely to cause concerns related to residue and/or metabolism issues.

Although the proposed regulation and guidelines do not specify that such a selection be made, the agency agrees that early consideration by a drug sponsor of potential residue problems as well as the availability of analytical methodology and effectiveness data for a particular minor use candidate would facilitate approval.

9. Several comments raised specific human food safety issues relating to the approval of fishery drugs and chemicals. One such comment, citing the need to define "food fish" as it was used in the proposed regulation, suggested a definition for the term that excluded eggs, sac fry, fingerlings, and broodstock fish. This comment stated that human food safety requirements for NADA approval should be limited to catchable sport fish and market-size fish from commercial fish farms.

The agency recognizes that in their early stages of life many food-producing animals are not normally used for human food. Accordingly, when the agency evaluates an application for a drug for use in the nonedible life stage of the target animal, the agency adjusts on a case-by-case basis the type and extent of human food safety data needed to support approval of the drug. This adjustment may result in a significant lessening of the extent of information required to show safety. The adjustment seems especially appropriate in the case of food fish that may remain in nonedible form for months or even years. Accordingly, the agency will continue to define as a food-producing animal any species that may be used for human food at some stage of its life cycle and will adjust on a case-by-case basis the extent of data required to show the safety of a drug used only in the early or nonedible stages of life of the target animal.

10. Another comment suggested that muscle be considered as the only edible tissue in food fish.

The agency agrees that, unless animals are being reared for some special purpose such as collection of their edible oils or eggs, edible fish muscle will be the only tissue that must be examined for residues of administered compounds.

11. Several comments concerned issues relative to the control of diseases that occur infrequently and in limited geographic areas, namely the lack of guidelines and wording that seems, on the one hand, to cover the localized disease conditions, but, on the other,

seems explicit in not providing any relief in requirements for such uses.

The agency agrees that statements contained in the proposal need clarification. The document is intended to apply to new animal drug applications for the control of diseases that occur infrequently or in limited geographic areas. As stated elsewhere in this document, the types of data required must satisfy the requirements of the act. Also, although there are no guidelines available at this time for animal safety or effectiveness requirements pertaining to localized disease conditions, FDA's Bureau of Veterinary Medicine will advise interested persons of the types of data that will be needed to satisfy the requirements of section 512 of the act on a case-by-case basis. With regard to guidelines, the agency has, in response to comments 21 and 23 below, discussed the reasons for the lack of guidelines covering each and every area to which the regulation applies.

12. One comment argued that the rationale behind the proposed regulation appeared to be contradictory to an earlier FDA position taken on a specific industry proposal to revise the combination drug policy.

The agency disagrees with the comment. It is true that the agency rejected an industry proposal that the agency not require detailed proof of efficacy of each component of a combination drug product intended for use in a major species. FDA rejected the proposal because it believed, and continues to believe, that to meet the substantial evidence burden found in section 512(d)(3) of the act, a sponsor must demonstrate the effectiveness of each active ingredient of a combination drug product.

The minor use regulation and guidelines, where scientifically appropriate, provide for extrapolation of data, including data required by the agency's combination drug policy, from an approved major species to a minor species. Under these circumstances, the agency does not believe that dose titration studies will always be necessary for each component of a minor use combination drug already approved for a major use. This is consistent with the combination drug policy which has been interpreted as not mandating additional dose titration studies when adequate existing data can be reliably used.

13. Another comment suggested that adequate and scientifically appropriate effectiveness data collected in foreign countries should serve as a basis for approval of a minor use drug.

The agency agrees with this suggestion, provided that the data satisfy the efficacy requirements of both section 512 of the act and its implementing regulations.

14. One comment suggested that the agency should grant limited immediate approvals for minor use new animal drugs provided that special commitments have been obtained on the part of drug sponsors to conduct postapproval studies. The studies would require close monitoring and reporting to the agency on uses of drugs under actual field conditions.

The agency is precluded by the act from providing the kind of conditional approval suggested by this comment. Sponsored compounds must be demonstrated to be safe and effective as a condition of approval.

15. One comment asked for clarification of the word "species" as it is used in the proposal. The comment stated, if interpreted broadly, the regulation would permit extrapolation of data between any two animals regardless of their taxonomic placement.

The agency has clarified the word "species" to correct the implication that data may be extrapolated between any two animals regardless of their taxonomic placement. The agency may allow extrapolation between physiologically similar species. For example, extrapolation of effectiveness data may be permitted among ruminants such as cattle, sheep, and goats and between species in the same family of fish such as salmonids (trout and salmon). However, extrapolation of effectiveness data would not normally be permitted between cattle and fish, fish and chickens, or chickens and horses.

16. Another comment expressed concern over the terminology "where scientifically appropriate" which appeared in the proposal. Apparently fearing that the decision of one agency reviewer would be controlling, the comment requested that determinations of "scientific appropriateness" be made by at least three qualified individuals.

Agency decisions related to the approvals of new animal drug applications are reached on the basis of reviews by several qualified individuals. "Minor use" new animal drug applications are reviewed using the same administrative procedures as those used for other animal drugs, which in turn are similar to those procedures followed by the agency in approving new human drugs. Determinations of "scientific appropriateness" of data are never made solely by an individual.

17. A comment proposed joint participation by interested parties in developing "minor use" new animal drugs. The comment suggested that animal producers could make their facilities, animals, and personnel available to drug sponsors, and the agency could control the conditions under which the new drugs are developed.

The agency encourages joint participation among drug sponsors in developing minor use new animal drugs. Agency participation, however, in developing data supporting the approvals of sponsored compounds is not ordinarily contemplated under the act but may be considered for an important new minor use for which commercial support is unlikely.

18. One comment requested that all minor use applications be accorded "fast track" status to shorten the time the agency takes to evaluate these submissions.

The agency opposes giving a general authorization for expedited review to any group of drugs outside the tenets of the existing guideline for doing so. The conditions for an application being placed on a fast track are purposely quite restrictive to avoid the danger of having so many applications on a fast track that the time taken to review routine applications is significantly increased. Any minor use applications that qualify under the fast track guidlines, however, will certainly be placed on a fast track.

Minor Use Effectiveness and Animal Safety Guidelines

Where it is scientifically appropriate, the agency will allow the extrapolation of data from one species to a related minor species to satisfy the animal safety and effectiveness requirements of the act. The agency will also encourage the use of animal disease models even where extrapolation is not appropriate. Accompanying the July 20, 1979 proposal were specific guidelines prepared by the agency that delineated the type of minor use data necessary to satisfy the animal safety and effectiveness requirements of the act for the approval of certain types of minor use drugs. Comments received on the guidelines will be addressed in this section.

19. Many comments endorsed the agency's proposal to extrapolate data from approved species to support uses in minor species. One comment expressed concern, however, that the proposal did not provide as much opportunity as possible to extrapolate between species. Another comment also contended that pharmacological technology has progressed to a level

where reasonable confidence can be placed in data extrapolation.

The ability to extrapolate reliably between species will depend on the amount of information available to the agency regarding the species involved, the nature of the disease or infection, the metabolism of the species involved, etc. The regulation contemplates a great deal of extrapolation between species. The guidelines for animal safety and effectiveness contain many specific examples in which extrapolation of data between species is scientifically appropriate. However, even when extrapolation is appropriate, the agency must be in a position to make a decision that the available information adequately meets the statutory standards of demonstrating safety and effectiveness. Accordingly, in some instances questions about safety or effectiveness will remain. The comment's emphasis on the progress in pharmacological technology is undue. Pharmacological technology has indeed progressed about not to the level where reasonable confidence can always be placed in the extrapolation of data from one species to support an approval of the same drug in another species. For example, some anticoccidials that are effective in chickens are ineffective against coccidiosis in turkeys. In one instance the agency is aware of a drug which was shown to be effective in pigeons against erysipelas but was subsequently found to be ineffective against the same disease in turkeys as well as in swine. Likewise, some drugs have been found to be effective agents against helminth parasites and found later to be ineffective against related helminths in domestic animals and in man. Finally, a drug found to be effective in treating staphylococcosis when evaluated in laboratory animal models was found to be ineffective against the same disease in turkeys and in man.

Concerning animal safety, a sufficient number of examples exist of turkeys being more sensitive than chickens to the toxic effects of drugs to make this particular extrapolation quite hazardous.

In summary, the agency, under this final rule and the implementing guidelines, encourages the use of animal disease models and data extrapolation to support the approval of minor use drugs. Data available must be adequate within the meaning of the act. Furthermore, for extrapolation to be allowed in the first place, the agency must be assured that there is sufficient compatibility between the species in the context of a given drug and given disease to support extrapolation.

20. Several comments expressed concern that the animal safety and effectiveness guidelines were incorporated by direct reference into the final minor use regulation.

The agency believes that it is appropriate to have the regulations incorporate the guidelines because the guidelines delineate for individual species the nature and extent of the information required to support approval of a minor use drug. The guidelines thus serve a critical role in the effectuation of the regulation. Under these circumstances, it is advisable to refer to the guidelines specifically in the regulation.

21. Several comments contended that the agency simply had not provided the opportunity for interested parties to comment on the guidelines. Comments also suggested that the guidelines should be modified as experience is gained in the area of the minor use drug regulation. Comments also criticized the proposal because the animal safety and effectiveness guidelines were "incomplete."

The agency disagrees with these comments. The proposal explicitly called for comment on the guidelines. Moreover, a guideline may be amended at any time by the agency and as they become more familiar with the available minor use guidelines, sponsors are encouraged to submit suggested changes that may improve the guidelines. Accordingly, the agency agrees with those comments that suggested that guidelines should be modified as experience is gained in the area of the minor use regulation. The agency disagrees with the choice of the word "incomplete" to describe the status of the agency's guidelines. The guidelines that the agency has prepared are complete for the subjects with which they deal. Additions to the guidelines will be made as the agency gains experience with minor use animal drugs.

Section 10.90 (21 CFR 10.90) discusses agency policy regarding guidelines. Guidelines provide a course of action declared by the agency to be acceptable as a means of satisfying given statutory or regulatory requirements; there is no legal requirement that they be followed. The "minor use" guidelines generally represent a commitment from the agency that if a sponsor follows the procedures outlined in the guidelines, the sponsor can be assured that the data collected will be sufficient to serve as a basis for an evaluation by the agency as to whether the product is safe or effective. However, the guidelines do not prevent a sponsor from attempting to satisfy statutory requirements by collecting data or information in some other manner. The agency cannot refuse to approve an application simply on the basis that the data were not collected in the manner suggested in the guidelines.

22. A related comment contended that the animal safety and effectiveness guidelines "created inflexibility in dealing with situations involving multiple species."

The agency interprets this comment to mean that, instead of preparing specific guidelines dealing with specific species, the agency should prepare more general guidelines applicable to a greater number of "multiple" species. The agency disagrees. As discussed in comment 19 above, reasonable confidence cannot always be placed in the extrapolation of data from one animal species to support approval in another. Accordingly, the agency reaffirms its position that each minor use approval must stand on its own data base—on its own merit. Whether approval is appropriate and whether extrapolation is appropriate may only be determined on a case-by-case basis.

23. Several comments suggested that separate specific guidelines should be developed for certain species; for example, nonfood fish and for coccidiosis in sheep and goats.

The agency cannot, before adopting the regulation, develop guidelines to cover every possible minor use drug. This is true not only because of the agency's limited resources but also, as discussed in response to comment 19 above, the determination of whether extrapolation between species is indeed possible is a scientific question that demands in-depth experience with the species involved, the disease involved, the area of the country in question, and other related matters. There has simply not been a sufficient number of new animal drug applications, nor is there sufficient information in the published scientific literature, on some minor species of food-producing animals for the agency to make a decision on the correctness of extrapolating data to these species.

24. Another comment questioned the particular use in one of the animal safety and effectiveness guidelines of the California Mastitis Test. The comment stated that the California Mastitis Test is not a reliable test for determining mastitis infections in goats and that the genera and species or organisms causing mastitis in goats are different from those causing mastitis in cattle.

The agency agrees the genus and species of mastitis organisms isolated from caprine mastitis are not identical to those of bovine mastitis. However, the products currently approved for treatment of bovine mastitis are approved only for the following organisms, *Staphylococcus aureus, Streptococcus agalactiae, S. dysgalactia,* and *S. uberus.* These organisms are routinely isolated from both bovine and caprine mastitis. The agency would approve applications for caprine mastitis if the proposed indications are identical to those in an approved bovine product label and if one of the following types of supporting information is provided: (1) Adequate documentation from published literature that demonstrates the same or similar effectiveness between the caprine and bovine mastitis treatments, or (2) results from at least one adequate and well-controlled field study which is conducted on goats and which uses the approved dosage schedule for cattle.

If approval is sought for indications for any other organisms causing caprine mastitis, the application must be supported by effectiveness data in a goat against the specific organisms claimed. Further, the agency agrees that the California Mastitis Test may not be a reliable goat-side test to determine the degree of mastitis infection. However, the guidelines recommend that the California Mastitis Test be used only as one of several screening tests for diagnosing mastitis. The other tests include palpation and observation of inflamed udders, direct microscopic somatic cell count, leucocyte count, and milk culture. The agency has modified the guidelines to clarify any misunderstanding on this issue.

25. Another comment suggested, without any supporting data, that in situations where information is available to support the effectiveness of a drug for the treatment of a specific disease in chickens, only subsequent confirmatory studies should be required for a similar disease in turkeys.

The agency disagrees. Consumption data, discussed in comment 5 above, clearly support the classification of turkeys as a major species. Furthermore, as discussed above, a sufficient number of examples exist of differences in the effectiveness and safety of drugs in turkeys and chickens to preclude this extrapolation being made with any reasonable degree of confidence.

26. Several comments took issue with Part D of the proposed guidelines entitled "Guidelines for Food Fish." One comment stated that these guidelines, permitting extrapolation of data only within families of fish, was too restrictive and in direct conflict with other sections of the guidelines, where, for example, extrapolation between cattle and sheep, two distinct families, is permitted. Another comment asked whether the new rule would permit extrapolation of efficacy data on a drug approved to treat tapeworms in cattle to support the same claim in fish. Unless this type of extrapolation were permitted, the comment continued, the regulation did little to reduce data requirements for fish.

The agency disagrees with these comments. Extrapolation of data between certain species of the suborder *Ruminatia,* such as cattle and sheep, may be scientifically justified because of their physiological similarities and the agency's experience gained from evaluating the effectiveness of a significant number of drugs in both species. On the other hand, extrapolation of safety and effectiveness data between cattle and fish would not be scientifically justified on the basis of the extreme physiological and environmental differences which exist between these two species. Similarly, the little scientific evidence that is available on the manner in which different families of fish react to various drugs provides no support to the premise that safety and effectiveness information can be extrapolated from one family of fish to another.

Environmental Impact Requirements

Guidelines accompanied the July 20, 1979 proposal that were intended to aid in the preparation of publicly available environmental impact documents for minor use applications as required by the National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91-190, 42 U.S.C. 4321-4347). NEPA requires that Federal agencies examine and consider the environmental impacts directly or indirectly resulting from contemplated actions. The agency first implemented NEPA in 1973. These regulations appear in 21 CFR Part 25. These regulations are currently being revised to reflect the requirements of the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508, 43 FR 55978-56007, November 29, 1978). The objectives of the CEQ regulations include making the NEPA process more consistent among Federal agencies, improving NEPA documents for use in decisionmaking, and reducing paperwork and delays. The agency proposed revisions to 21 CFR Part 25 on December 11, 1979 (44 FR 71742 -71752).

In general, the determining factor for the types and extent of information required to identify the potential environmental impacts resulting from the approval of a new animal drug application is the amount of the product that will be introduced into the environment as a result of its manufacture and use. Environmental introductions are, in turn, a function of the potential market for the product; the mode, dosage, and frequency at which the product will be administered; the metabolic transformations of the drug that occur in the target animal before it is excreted; the conditions under which the target animals are reared; and the environmental character of the location at which the product is manufactured and used. The physicochemical, biological, and physiological properties of the substances expected to enter the environment can be used to predict their environmental fate and effects.

Environmental introductions may be unique for the requested minor use of a veterinary product. Therefore, it may be necessary to prepare estimates and calculations relating to the potential environmental introduction resulting from the requested minor use. However, it is envisioned that the data used to predict probable environmental fate and effects of a minor use may be obtained from environmental documents prepared for other uses of the drug product and from the scientific literature.

27. Two comments were concerned that no general exemptions from requirements for determining environmental effects of drugs for minor use were proposed. The comments reasoned that minor use drugs were exempt from NEPA requirements because such drugs would be used sporadically and would be limited to scattered geographic areas, thereby resulting in minimal environmental impact.

FDA may, under the CE regulations, identify classes of actions which do not individually or cumulatively have a significant impact on the human environment and, therefore, require neither an environmental assessment nor an environmental impact statement. In proposing as well as in adopting this regulation, the agency considered whether minor use drugs should be identified as categorically excluded as a class from environmental review and determined that this action could not be justified.

Integral in the agency's considerations is that, although minor species animals may not be reared in large numbers on a national basis, they are frequently located in dense concentrations in particular regions of the country; e.g., duck, catfish, and other aquaculture industries. Drugs may enter specific localities in environmentally significant

quantities and these sites of introduction are often ecologically sensitive or valuable; e.g., estuaries, rivers, and prime farmlands. Most environmental impact statements prepared by FDA as well as by other Federal agencies address potential local disruptions to the physical environment. In the agency's view, this mitigates against any categorical exclusion of minor use drugs. However, a categorical exclusion may be appropriate for certain minor species drugs. (See proposed 21 CFR 25.24 or the conditional exemption process in 21 CFR 25.1 (f). See 40 CFR 1507.3, 1508.4, and FDA proposed NEPA-implementing regulations (21 CFR 25.23 and 25.24; 44 FR 71742; December 11, 1979).) Furthermore, the guidelines developed for assessing new animal drugs for minor uses and the agency's proposed implementing environmental policies and procedures attempt to reduce the amount of new data required by using the environmental data available in other new drug applications and in the scientific literature.

28. One comment expressed the opinion that the requirement for an environmental assessment will impose adverse economic incentives on persons submitting new animal drug applications for minor species. Consequently, the comment argued that the potential for adverse environmental impacts will be greater than if approval of minor species drugs were granted without environmental review because humans and animals will not be protected from hazards of disease in minor species.

The agency does not agree with the comment. Some new animal drug applications for minor use may qualify for an already proposed categorical exclusion or conditional exemption under 21 CFR 25.1(f). The agency expects that approval of many drugs for minor use will have beneficial environmental effects because drugs will be available for disease control. However, minor use approvals can also result in possible adverse environmental effects because of residues of drugs and animal wastes entering the environment, shifts in land use, or detrimental changes in water quality. Accordingly, applications for approval of minor use drugs must be subject to an environmental assessment on a case-by-case basis with the objective weighing of benefits and adverse effects.

29. Three comments suggested the proposed regulation should address extrapolation of environmental impact data from major use to minor species use. The comments contended no scientific evidence exists for assuming that the environmental impact of a minor use drug could exceed that of the major species use of the drug.

The agency cannot provide detailed guidance on extrapolation of environmental data previously developed for other species to proposed minor species use due to the varied types of extrapolations that may be necessary. The guidelines state, however, that, to the extent applicable, petitioners for minor use drugs may apply environmental data contained in the environmental assessment document for other species or uses. The environmental impact of a drug is not dependent solely upon whether the drug is for a major or minor use but rather upon many factors, including the number of animals receiving the drug, the mode and frequency of administration, the pattern of drug metabolism and excretion, the density of the medicated animals within particular facilities and regions, and animal waste management practices. Thus, a drug administered continuously to food fish would result in environmental introductions and potential impacts different from a single oral administration of the same drug to cattle. Under these circumstances, the potential environmental impact resulting from approval of a minor use drug could exceed that accompanying approval of a major use drug.

30. One comment stated that the proposed rule impermissibly overlapped with the jurisdiction of the Environmental Protection Agency (EPA) and exceeded EPA criteria for judging environmental impact of substances by that agency.

FDA disagrees that impermissible overlapping occurs between the statutes administered by FDA and EPA. FDA has addressed the issue of overlapping regulatory jurisdiction in its proposed NEPA implementing regulations (21 CFR 25.31(e)(8), proposed December 11, 1979, 44 FR 71742)).

Conclusion

In response to comments received on the notice of proposed rulemaking, the agency has: (1) Revised § 514.1(d)(3), (2) amended the proposed animal safety and effectiveness guidelines and the proposed guidelines for environmental impact considerations, and (3) provided guidelines for the development of data to support human safety. Written comments concerning the guidelines should be sent to the Dockets Management Branch (HAF–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

The agency has designated this action as a "nonmajor" action in accordance with Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

The agency has determined pursuant to 21 CFR 25.24(b)(13) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 514

Administrative practice and procedure, Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a))) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), Part 514 is amended in § 514.1 by adding new paragraphs (d) and (e), to read as follows:

PART 514—NEW ANIMAL DRUG APPLICATIONS

§ 514.1 Applications.

* * * * *

(d) *Minor use applications.* Applications for minor use new animal drugs:

(1) *Definitions.* For the purpose of this section:

(i) "Minor use" means the use of: (*a*) New animal drugs in minor animal species, or (*b*) new animal drugs in any animal species for the control of a disease that (*1*) occurs infrequently or (*2*) occurs in limited geographic areas.

(ii) "Minor species" means animals other than cattle, horses, swine, chickens, turkeys, dogs, and cats. Sheep are a minor species with respect to effectiveness and animal safety data collection requirements; sheep are a major species with respect to human safety data collection requirements arising from the possible presence of drug residues in food.

(2) *Animal safety, effectiveness, human food safety, and environmental considerations.* Guidelines for the preparation and submission of data to satisfy the requirements of section 512 of the act regarding animal safety, effectiveness, human food safety, and environmental considerations for new animal drugs intended for a "minor use" (as defined in paragraph (d)(1)(i) of this section) are available from the Information and Education Resources Management Staff (HFV–13), Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

(i) *Animal safety and effectiveness.* Where the guidelines do not specifically provide for a particular "minor use," the Bureau of Veterinary Medicine, upon request, will advise interested persons on the effectiveness and animal safety data regarding the minor use that will be needed to satisfy the requirements of section 512 of the act. Where scientifically appropriate, the Bureau of Veterinary Medicine will allow the use of animal models and the extrapolation of data from a major species to a minor species to satisfy the requirements of the act.

(ii) *Human food safety and environmental considerations.* These guidelines do not specifically provide for a particular "minor use." Therefore, the Bureau of Veterinary Medicine will, upon request, advise interested persons of the data that will be needed. Where scientifically appropriate, the Bureau of Veterinary Medicine will allow the extrapolation of data from a major species to a minor species to satisfy the requirements of the act.

(e) Reporting/recordkeeping requirements contained in this Part 514 have been approved by the Office of Management and Budget and assigned number 0910–0032.

Effective date. February 14, 1983.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b 371(a)))

Arthur Hull Hayes, Jr.,
Commissioner of Food and Drugs.

Richard S. Schweiker,
Secretary of Health and Human Services.

Dated: December 3, 1982.

[FR Doc. 83–1058 Filed 1–13–83; 8:45 am]
BILLING CODE 4160–01–M

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Solar Energy
Housing and Urban Development Department

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4 CFR Pa

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Rules and Regulations

Federal Register
Vol. 48, No. 11
Monday, January 17, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

GENERAL ACCOUNTING OFFICE

4 CFR Part 21

Bid Protest Procedures

AGENCY: General Accounting Office.
ACTION: Final rule.

SUMMARY: This amendment to Part 21 of title 4, Code of Federal Regulations, will formally establish an express option procedure to expedite the development and resolution of bid protests where deemed appropriate by the General Accounting Office. Experience gained under the current Procedures indicates that some bid protests can be handled more effectively if accelerated procedures are used. This amendment also will formalize the existing practices of (1) requiring a protester to comment on an agency report or otherwise express interest in a General Accounting Office decision, within 10 days of the protester's receipt of the report, and (2) summarily denying or dismissing protests in appropriate cases. This amendment also will eliminate an ambiguity concerning the requirement for filing a protest timely. This amendment will increase the effectiveness of the bid protest process.

EFFECTIVE DATE: February 16, 1983.

FOR FURTHER INFORMATION CONTACT: John M. Melody, U.S. General Accounting Office, Office of General Counsel, Room 7074A, 441 G Street NW., Washington, D. C. 20548, (202) 275–5476.

SUPPLEMENTARY INFORMATION: The General Accounting Office has established detailed procedures for the consideration of bid protests at 4 CFR Part 21. These revisions are designed to afford interested parties to protests an opportunity to comment on the matter while at the same time assuring that protests will be resolved more quickly and effectively through accelerated procedures. The express option under new § 21.11 explicitly provides for such accelerated procedures. The revision to § 21.2 clarifies application of the timeliness requirement for filing protests regarding solicitation improprieties, in accordance with the decision reported at 58 Comp. Gen. 750 (1979), 79–2 CPD 159.

The express option will be invoked only when deemed appropriate by the General Accounting Office. Generally, the express option will be appropriate where, in the view of the General Accounting Office, the protest can be effectively resolved only if the protest record is developed more quickly than in the time provided under the current procedures. Where the General Accounting Office invokes the express option it will arrange conferences or conference calls with the parties to pinpoint vital issues and to establish mutually agreeable deadlines for the filing of submissions, including the agency's administrative report and any comments by the protester and interested parties.

The General Accounting Office currently requires protesters to file comments on the agency's report or otherwise express interest in a protest decision with in 10 days of receiving the report, for the purpose of compelling protesters to decide in a timely manner whether or not to continue their protests. If there were no such time constraint and protesters were able to express continuing interest at any time, the subject procurement often would be unnecessarily disrupted. Incorporating this requirement in the Procedures under § 21.3(d) will make protesters fully aware of their responsibilities in pursuing a protest. Protests are denied summarily or dismissed wherever it is clear on the face of the protest that it is without merit or concerns a matter not appropriate for review by the General Accounting Office. The examples set forth in new § 21.3(g) are intended to aid potential protesters in determining in advance whether the General Accounting Office is the appropriate forum for their complaint.

Section 21.2 (a) provides that a protest filed with the General Accounting Office after a timely protest has been filed initially with the contracting agency will be considered only if filed with the General Accounting Office within 10 days of the protester's learning of adverse agency action on the protest lodged with the agency. Section 21.2(b)(1) provides that the General Accounting Office will consider a protest alleging an impropriety in a solicitation apparent prior to bid opening or the closing date for receipt of proposals if the protest is filed prior to the bid opening or closing time. In cases where a protester learns of adverse agency action on such a protest more than 10 days prior to the bid opening or closing date, the General Accounting Office intends the rule of § 21.2(a) to apply. The addition to § 21.2 is to make clear that § 21.2(a) applies.

List of Subjects is 4 CFR Part 21

Administrative practice and procedures, Government contracts.

PART 21—[AMENDED]

Accordingly, 4 CFR Part 21 is amended as follows:

1. The authority citation for Part 21 reads as follows:

Authority: Sec. 311, 42 Stat. 25, as amended (31 U.S.C. 52). Interpret or apply sec. 305, 42 Stat. 24 (31 U.S.C. 71); sec. 304, 42 Stat. 24, as amended (31 U.S.C. 74).

2. The table of contents for Part 21 is amended as follows:

Sec.
* * * * *
21.3 Notice of protest, submission of agency report and requirement for filing response to report.
* * * * *
21.11 Express option.

3. The last sentence of paragraph (a) of § 21.2 is revised to read as follows:

§ 21.2 Time for filing.

(a) * * * In any case, a protest will be considered if filed initially with the General Accounting Office within the time limits prescribed in paragraph (b).
* * * * *

4. Add a new sentence at the end of existing paragraph (b)(1) of § 21.2 as follows:
* * * * *

(b) (1) * * * In cases where an alleged impropriety in a solicitation is timely protested to an agency as provided for in paragraph (a), any subsequent protest to the General Accounting Office must be filed within the 10-day period provided by paragraph (a).

5. Section 21.3 is amended by revising the heading to read as follows:

§ 21.3 Notice of protest, submission of agency report and requirement for filing response to report.

6. Revise paragraph (d) of § 21.3 to read as follows:

* * * * *

(d) Comments on the agency report, or a statement that the protester does not intend to file comments but desires a decision on the basis of the existing record, shall be filed with the Office of General Counsel within 10 days after receipt of the report, with a copy to the agency office which furnished the report and to other interested parties. The failure of a protester to either file comments or otherwise indicate within the 10-day period any interest in receiving a decision shall result in dismissal of the protest.

* * * * *

7. Paragraph (e) of § 21.3 is redesignated paragraph (f) and a new paragraph (e) is added to read as follows:

* * * * *

(e) Any rebuttal to comments on the agency report a protester or interested parties may care to make shall be filed with the Office of General Counsel, General Accounting Office, within 5 days after receipt of the comments to which rebuttal is directed, with a copy to the agency office which furnished the report, the protester and interested parties, as the case may be. Unsolicited agency rebuttals shall be considered if filed within 5 days after receipt of the comments to which rebuttal is directed.

* * * * *

8. A new paragraph (g) is added to § 21.3 reading as follows:

* * * * *

(g) Notwithstanding any other provision of this § 21.3, when on its face a protest is clearly without legal merit or is not reviewable by the General Accounting Office under these Procedures, the protest shall be summarily denied or dismissed without a report from the agency. When the propriety of dismissal becomes clear only after information is provided by the agency or is otherwise obtained by the Office of General Counsel, the protest shall be dismissed at that time. Among the protests which may be dismissed without consideration of the merits of the protests are those concerning the following:

(1) *Contract Administration.* The administration of an on-going contract is within the discretion of the contracting agency. Disputes between a contractor and the agency are resolved pursuant to the disputes clause of the contract and the Contract Disputes Act of 1978. 41 U.S.C. 601–13 (Supp. IV 1980).

(2) *Small Business Size Standards.* Challenges of established size standards or the size status of particular firms are for review solely by the Small Business Administration. 15 U.S.C. 637(b)(6).

(3) *Negative Determination of Responsibility of a Small Business Concern.* The Small Business Administration, under its certificate of competency program, makes final dispositions of contracting officer determinations that a small business firm is not responsible to perform a contract. 15 U.S.C. 637(b)(7)(A) (Supp. IV 1980).

(4) *Affirmative Determination of Responsibility.* Because a determination that a bidder or offeror is capable of performing a contract is based in large measure on subjective judgments which generally are not readily susceptible of reasoned review, an affirmative determination of responsibility will not be reviewed absent a showing that such determination was made fraudulently or in bad faith, or that definitive responsibility criteria in the solicitation were not met.

(5) *Procurements or Sales by Agencies Whose Accounts Are Not Subject to Settlement by the General Accounting Office.* Protests of procurements by such agencies (*e.g.*, U.S. Postal Service, Federal Deposit Insurance Corporation, nonappropriated fund activities) are beyond the Office's bid protest jurisdiction, which is based on the statutory authority to adjust and settle accounts. 31 U.S.C. 3526, 96 Stat. 877 (formerly 31 U.S.C. 71, 74).

9. A new § 21.11 is added, reading as follows:

§ 21.11 Express option.

At the request of the protester, the procuring agency, an interested party, or a court (pursuant to § 21.10 of these Procedures), for an expeditious decision, the Office of General Counsel will consider the feasibility of using an express option. The express option will be invoked solely at the discretion of the Office of General Counsel. Generally, use of the express option will be regarded as appropriate where the protest can be effectively resolved only if the protest record is developed more quickly than in the time provided in § 21.3. When the express option is used, the Office of General Counsel will arrange a preliminary conference (or conference call) to ascertain and clarify the material issues, to establish a realistic accelerated timetable for all protest submissions, to assist the parties in exchanging material documents, to set a date for the informal conference, and to set a date as the goal for issuance of the decision.

Charles A. Bowsher,

Comptroller General of the United States.

[FR Doc. 83-1116 Filed 1-14-83; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 913, 928, 932, 959, 971, and 979

Expenses and Rates of Assessment for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of the committees functioning under Marketing Orders 913, 928, 959, 971, and 979 and amends the expenses of Marketing Order 932. Funds to administer these programs are derived from assessments on handlers of the fruits and vegetables regulated under the orders.

EFFECTIVE DATES: August 1, 1982–July 31, 1983 (§ 913.217, § 959.222, § 971.221); October 1, 1982–September 30, 1983 (§ 979.204); January 1–December 31, 1983 (§ 928.211); and September 1, 1982–December 31, 1983 (§ 932.217).

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250; (202) 447–2615.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not significantly affect costs for the directly regulated handlers.

These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon the recommendations and information submitted by each committee established under the respective marketing order, and upon other information. It is found that the expenses and rates of assessment, as herinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public

interest to give preliminary notice and engage in public rulemaking and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 533). Each order requires that the rate of assessment for a particular fiscal period shall apply to all assessable fruits and vegetables handled from the beginning of such period. To enable the committees to meet current fiscal obligations, approval of the expenses is necessary without delay. It is necessary to effectute the declared policy of the act to make these provisions effective as specified and handlers have been apprised of such provisions, and the effective time.

List of Subject

7 CFR Part 913

Marketing agreements and orders, Florida, Grapefruit.

7 CFR Part 928

Marketing agreements and orders, Papayas, Hawaii.

7 CFR Part 932

Marketing agreements and orders, Olives, California.

7 CFR Part 959

Marketing agreements and orders, Onions, Texas.

7 CFR Part 971

Marketing agreements and orders, Lettuce, Texas.

7 CFR Part 979

Marketing agreements and orders, Melons, Texas.

Sections 913.217 (M.O. 913), 928.211 (M.O. 928), 959.222 (M.O. 959), 971.221 (M.O. 971), and 979.204 (M.O. 979) are removed and new sections are added as follows: (The following sections prescribe annual expenses and assessment rates and will not be published in the Code of Federal Regulations.)

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT OF FLORIDA

§ 913.218 Expenses and assessment rate.

Expenses of $10,050 by the Interior Grapefruit Marketing Committee are authorized and an assessment rate of $0.001 per carton (⅘ bushel) of grapefruit is established for the fiscal year ending July 31, 1983.

PART 928—PAPAYAS GROWN IN HAWAII

§ 928.212 Expenses and assessment rate.

Expenses of $542,500 by the Papaya Administrative Committee are authorized, and an assessment rate of $0.006 per pound of papayas is established for the fiscal year ending December 31, 1983. Unexpended funds may be carried over in an operating monetary reserve.

PART 959—ONIONS GROWN IN SOUTH TEXAS

§ 959.223 Expenses and assessment rate.

Expenses of $192,629 by the South Texas Onion Committee are authorized, and an assessment rate of $0.03 per 50-pound container or equivalent quantity is established for the fiscal period ending July 31, 1983. Unexpended funds may be carried over as a reserve.

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

§ 971.222 Expenses and assessment rate.

Expenses of $42,500 by the South Texas Lettuce Committee are authorized for the fiscal period ending July 31, 1983. During this fiscal period, an assessment rate of $0.03 per carton of lettuce is established. Unexpended funds may be carried over as a reserve.

PART 979—MELONS GROWN IN SOUTH TEXAS

§ 979.205 Expenses and assessment rate.

Expenses of $119,000 by the South Texas Melon Committee are authorized, and an assessment rate of $0.02 per carton of melons is established for the fiscal period ending September 30, 1983.

In accordance with the provisions of § 979.42, late payment charges of one and one-half percent per month shall be charged on the unpaid balance for each past due account. An account is past due 30 days after the billing date. Unexpended funds may be carried over as a reserve.

In addition, § 932.217 is revised as follows:

§ 932.217 Expenses and assessment rate.

Expenses of $2,853,452 by the California Olive Committee are authorized for the period September 1, 1982, through December 31, 1983. The rate of assessment for that period shall be established at $21.58 per ton, less any amount credited pursuant to § 932.45 but not to exceed $8.93 per ton. Unexpended funds may be carried over as a reserve.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 11, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-1110 Filed 1-14-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-64-AD; Amdt. 39-4531]

Airworthiness Directives; Lockheed-California Company Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires modification of the electrical system on certain Lockheed Model L-1011-385 Series airplanes. This AD is needed because of reported failures of the DC Standby Bus Transfer Relay. Failure of this relay could cause loss of all power to the DC standby loads in flight.

DATE: Effective February 16, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Raymond A. Stoer, Aerospace Engineer, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new Airworthiness Directive (AD) to require modification of the electrical system in accordance with Part 2A of the Accomplishment Instructions of Lockheed-California Company L-1011 Service Bulletin 093-24-080, Revision 3, dated July 29, 1980, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA,

Northwest Mountain Region, was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (47 FR 38147) dated August 30, 1982. This proposal was prompted by seven reported instances over the past three years when failure of the DC Standby Bus Transfer Relay has resulted in the loss of power to all the DC standby electrical loads during flight. This condition occurs when the relay contacts weld together in the closed position and transfer the DC standby bus from its normal source of power to the aircraft battery. This condition cannot be corrected in flight, and in most cases lack of adequate annunciation may not alert the flight crew to the condition. Under this condition, the aircraft battery power may become depleted, thus leaving the remaining flight, and possibly an unscheduled landing, to be made without the availability of the critical DC standby functions.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments were received in response to the Notice of Proposed Rulemaking. Both commenters believe that implementation of Lockheed Service Bulletin 093–24–074, with appropriate crew procedures as recommended by Lockheed, should be considered as a means of extending the compliance date. This service bulletin employs a multi-function warning light to annunciate an aircraft battery discharge condition to the aircrew. Since the Standby Bus Transfer Relay is normally actuated during pre-takeoff procedures, the condition of a failed relay could readily be detected on the ground and appropriate maintenance action taken prior to flight.

The FAA does not concur with this position. Although more failures are likely to occur on the ground than in flight, there is no technical assurance that some of the reported failures could not just as likely have occurred in flight as a result of power system switching transients or momentary electrical system voltage depression below the affected relay dropout voltage.

The estimated costs associated with this AD are as follows: 65 domestic airplanes are affected requiring approximately 5.3 manhours per airplane at an average cost of $35 per manhour. The replacement relays are estimated to cost $600 per airplane. Based upon these figures, the total economic impact is estimated to be $51,058. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require that the rule be adopted as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Lockheed-California Company: Applies to Lockheed Model L–1011–385 series airplanes, certificated in all categories. Compliance required as indicated, unless previously accomplished.

To minimize the probability of loss of all DC standby functions in flight, accomplish the following by March 31, 1983:

A. Modify the electrical system in accordance with Part 2A of the Accomplishment Instructions of Lockheed-California Company L–1011 Service Bulletin 093–24–080, Revision 3, dated July 29, 1980, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—Modification of the airplane in accordance with L–1011 Service Bulletin 093–24–083, Revision 2, dated July 31, 1981, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region is an approved alternate means of compliance.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with requirements of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. These documents also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective February 16, 1983.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the Federal Aviation Administration has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, since it involves few, if any small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on December 23, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–1007 Filed 1–14–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–NM–125–AD; Amdt. 39–4533]

Airworthiness Directives; Lockheed-California Company Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA has determined that AD 81–21–51, Amendment 39–4329, can be amended to relieve the Powerplant Limitations and Emergency Procedures, specified therein, for aircraft with engines modified to incorporate fan axial retention features, provided certain changes are made to the engine indicating system (portions of the pilots' caution and warning panel). For these aircraft, the emergency procedures for engine abnormal vibration indication are amended to allow switching to the other Airborne Vibration Monitor (AVM) channel to detect a possible system malfunction. Also, an AVM increase of one unit or more without exceeding 2.5 units is deleted as a cause for engine shutdown, in addition to certain other minor revisions to the powerplant limitations.

DATE: Effective January 17, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support

Contracts, Dept. 63–11, U–33, B–1. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Duane Naff, Supervisory Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2835.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 81–21–51, Amendment 39–4329, applicable to Lockheed Model L–1011–385 series aircraft certificated in all categories, requires specified limitations and procedures to be included in the FAA approved Airplane Flight Manual (AFM), and modifications to the pilots' caution and warning panel. This action was prompted by three instances of failure of the Rolls-Royce RB.211 engine fan shaft, each resulting in significant damage to the aircraft.

Subsequently, the FAA issued AD 82–12–05, Amendment 39–4398, applicable to all RB.211–22B and –524 series turbofan engines. This AD requires incorporation of fan axial retention modifications in accordance with Rolls-Royce Service Bulletins specified therein. When all three engines on the L–1011 aircraft are so modified, the hazard associated with failure of the engine fan shaft is greatly reduced.

In view of the reduced hazard following engine modifications and recognizing the safety benefits of reducing the rate of unnecessary engine shutdowns, the FAA has determined that AD 81–21–51 can be amended. For aircraft incorporating modified engines in addition to associated changes to the pilots' caution and warning panel, the emergency procedures for engine abnormal vibration indication are amended to allow switching to the alternate AVM channel to determine whether high vibration indication may be a system malfunction instead of indicating an engine problem. Also, an AVM increase of one unit or more, without exceeding 2.5 units, is deleted as a cause for engine shutdown. The powerplant limitations also are amended to allow selection of either channel (A or B) (FAN or TURB), and to allow alternate channel and filter selections during steady cruise conditions to record engine parameters.

Since this amendment relieves a restriction, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 81–21–51, Amendment 39–4329 (47 FR 8556, March 1, 1982), by adding a new paragraph E which reads as follows and redesignating the existing paragraphs E and F as F and G, respectively.

"E. For aircraft incorporating engines which are in compliance with AD 82–12–05, Amendment 39–4398, and which have engine indicating systems modified in accordance with the Accomplishment Instructions in Lockheed L–1011 Service Bulletin 093–77–052, dated Dec. 17, 1982, the Powerplant Limitations and Emergency Procedures contained in FAA approved Lockheed L–1011 Airplane Flight Manual No. LR–25925 revision dated Dec. 20, 1982, may be used in lieu of those specified in paragraph A. above."

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective January 17, 1983.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. Therefore: (1) It is not major under Executive Order 12291 (46 FR 13193; February 19, 1981); and (2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I certify that it will not have a significant ecomonic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it involves few, if any, small entities.

Issued in Seattle, Washington on December 27, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–1010 Filed 1–14–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–NM–35–AD; Amdt. 39–4530]

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes With Operable Galley Lifts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) which requires modification of the galley lift electrical interlock system on McDonnell Douglas Model DC–10 Series airplanes. This AD is needed to assure reliable operation of the galley lift system's electrical interlocks, thus minimizing a potential operational hazard to personnel associated with galley lift electrical interlock system malfunctions.

DATE: Effective date February 16, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). This information also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Gilbert L. Thompson, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, Federal Aviation Administration, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2831.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new Airworthiness Directive (AD) requiring a modification of the galley lift electrical interlock system on McDonnell Douglas Model DC–10 Series airplanes consisting of installation of hermetically sealed switches, structural protection of the switch installation, replacement of the existing plunger type electrical interlock

switch actuators with leaf spring actuators and installation of additional warning placards was published as a Notice of Proposed Rulemaking (NPRM) in the Federal Register (47 FR 29253; dated July 6, 1982). This proposal was prompted by the events discussed below:

On September 19, 1981, a flight attendant, while executing her duties in the lower galley of a DC–10–30 aircraft enroute from Baltimore-Washington International Airport, U.S.A. to Gatwick International Airport, U.K., became trapped between the top of the service cart in the galley personnel lift and the ceiling of the lower galley and as a result sustained fatal injuries. In response to this incident, the FAA conducted an extensive investigation into the total operational history of the DC–10 galley lift systems. In giving this investigation the greatest breadth possible, data relative to galley lift system operational performance was obtained from numerous sources: FAA Service Difficulty Reports, National Transportation Safety Board (NTSB) Reports, the manufacturer, the Association of Flight Attendants, previously submitted testimony, and actual field inspections. The FAA learned, from collation of the data obtained, that several factors are contributing to the safety hazards associated with operation of the DC–10 galley lifts. These factors include elements of human factors, maintenance, and system design, each of which contributes to the overall system safety problem.

In the area of human factors, flight attendant knowledge of, and operator training procedures for, operation of the DC–10 galley lift systems vary considerably. This results in some flight crews being well-educated concerning galley lift operating procedures and safety factors, including electrical and mechanical interlocks, while others understand no more than the basic rudiments of normal operation. In contrast, in some cases crew members are instructed on how to override the interlock systems when malfunctions occur so that the passenger service does not suffer any interruption. Also, although the Minimum Equipment List disallows the use of galley cart/personnel lifts if the door electrical interlock switch system is inoperative, many operators have dispatched regularly using lifts with these switches inoperative. The lack of knowledge concerning proper use of the safety features provided in the DC–10 lift systems design, and the negative training resulting from intentional circumvention of these provisions, increase the probability of injuries resulting from the use of these lift systems. To help alleviate this problem, the McDonnell Douglas Corporation has initiated revisions to the DC–10 Flight Crew Operating Manual, Volume III, designed to provide DC–10 operators and their flight crews the pertinent descriptions and operating instructions for proper use of the galley lift systems. This revision, which consists of the addition of Chapter 01–35–01, was published May 1, 1982.

In investigating lift system problems involving maintenance and design related factors, fifteen incidents/accidents related to DC–10 cart/personnel lift malfunctions dating back to August 1973 were evaluated. One third of these cases involved malfunction of the electrical interlock switches due to foreign substance contamination or physical damage. In contrast, the lift system's control logic, including the STOP function logic, was evaluated and not found to be a causal factor in any of the fifteen cases. This evaluation was conducted to determine if justification exists for requiring that the STOP function be given priority over all other control functions. In the incidents/accidents evaluated all evidence indicates that the resulting operator injuries occurred as a consequence of an overridden or malfunctioning interlock system or improper operation of command controls. In no case was there evidence that, when the STOP function was utilized in an effort to prevent subsequent personnel injury, its lack of priority over the command logic was a direct cause of injuries. It is recognized that those incidents/accidents involving a failure of an interlock switch would not have occurred if the existing stop command logic, or a stop command that had priority over all other control functions, were used to stop movement of the lifts in time to preclude the ensuing injuries. In fact, in cases where the STOP function was known to have been used, it correctly terminated movement of both lifts. However, operator injury had occurred in these cases prior to utilization of the STOP function. McDonnell Douglas is offering an alternate stop command logic outlined in McDonnell Douglas Service Bulletin 25–317 which gives the STOP function priority over all command switches. Such a modification to the existing DC–10 galley lifts STOP function logic is not included under the provisions of this AD for the above noted reasons.

In pursuing the sources of contamination and physical damage, it was found that the switch location makes the switch susceptible to contamination from spillage of fluids in the galley area, cleaning fluids, etc. This can result in internal failure of the non-hermetically sealed switches, as well as contamination of the switch plunger actuator in such a manner as to prevent proper switch operation. In addition, the electrical interlock switch installations and door mechanical interlocks are being damaged by serving carts striking the lift center door jamb post and lift doors. Serving carts impact damage to the door jamb center post can cause distortion of the electrical interlock switch body (housing) and/or switch bracketry which may result in unreliable switch operation. Serving cart impact damage to galley lift doors can distort or "spring" the door sufficiently to impair mechanical interlock operation. This condition has induced the flight attendants to operate the lifts with the door open and interlock switches bypassed to facilitate passenger meal service.

Design changes to the galley lift interlock system encompassing hermetically sealed switches and structural protection of the switch installation are necessary to improve reliability of the electrical interlock switches and provide protection from physical damage. In addition, the plunger design for mechanical actuation of the electrical interlock switches is eliminated in favor of a more reliable leaf spring design which is not susceptible to contamination. These modifications will provide for more reliable operation of the lift systems's electrical interlacks and, when coupled with the enhanced maintenance surveillance outlined in FAA Order 8340.1A, Change 55, dated October 30, 1981, and DC–10 Maintenance Review Board Documents as revised November 1981, Item 253600, should minimize the occurrence of galley lift electrical interlock system malfunction.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Eight comments were received in response to the Notice of Proposed Rule Making (NPRM). One commenter requested deletion of the following sentence from the NPRM (47 FR 29254, first column): "However, it is recognized that those accidents involving a failure of an interlock switch would not have occurred if the stop command logic had priority over all other control functions and was used at the time of the accident." The commenter feels the

above statement is misleading and unjustified because it *implies* that the stop command logic in effect at the time of these incidents would not have prevented the incidents *even* if the stop button had been used at the time of the failures. The FAA does not share the commenter's concern over the implication of this statement as it relates to the existing stop command logic because the statement clearly limits itself to an event which involves a priority stop command logic (as opposed to the existing nonpriority stop command logic) and presupposes its use. This aspect of the NPRM was discussed extensively above.

Four commenters indicated their concurrence with the proposed modifications and one commenter concurred that installation of the hermetically sealed switches will improve reliability. However, two commenters opposed installation of the leaf spring mechanical actuator due to the fact that it can also be easily overridden and its improved reliability over the existing plunger design is debatable. The FAA agrees that the leaf spring design, like the plunger type interlock switch actuators, can be overridden if a determined effort is made to do so. This is the human factors element addressed by enhanced operator training procedures spoken to in the NPRM. It was not the FAA's intent to modify the installation to preclude the possibility of its being overridden. Rather, the leaf spring design will eliminate the occurrence noted by one commenter of a contaminated plunger actuator sticking in the door closed position, which thwarts the proper operation of the electrical interlock system. It is in this area that the FAA considers increased reliability necessary and must be provided.

Three commenters observed that additionally the galley lift system's control logic should be modified to accord the STOP switch function priority over all other control switch functions. The FAA does not agree. Review of the cases of lift system malfunctions fails to support such a modification. Evidence indicates that, in cases where the existing STOP function was known to have been used, it correctly stopped movement of the lifts. In those cases where operator injury occurred, it resulted from improper operation of command controls or a malfunctioning or overriden interlock system. In such cases the resulting injuries occurred *prior* to utilization of the STOP function switch. Evidence thus indicates that no causal relationship exists between the STOP function logic and the incidents/accidents investigated, making modification of the STOP function logic unwarranted. One of the aforementioned commenters recommended that galley lifts on DC-10 Series airplanes be retrofitted to comply with existing paragraph 14 CFR 25.819(g)(2) requiring "an emergency stop botton, that when actuated will immediately stop the lift, and which must be installed within the lift and at each entranch to the lift." The existing DC-10 galley lift system stop switch function complies with this requirement. The cited regulation does not specify that the stop botton must be accorded priority over other control switch functions. Such an interpretation of this requirement has been consistently applied by the FAA and is applicable to other wide body aircraft galley lift systems design.

One commenter felt that frequent checking for proper operation and training which emphasizes understanding of the galley lift system and the potential hazards of operation with a door open would go further toward ensuring safety than the proposed modifications. The FAA agrees that this is part of, but not the whole solution. The FAA has determined that elements of human factors, maintenance, and system design each contribute to the overall safety problem. As outlined in the NPRM, revisions to the DC-10 Flight Crew Operating Manual (Volume II, Chapter 01-35-01, May 1, 1982) address the human factors element, while the enhanced maintenance surveillance is outlined in FAA Order 8430.1A (Change 55 dated October 30, 1981). The modifications outlined in the NPRM are necessary to improve the reliability of the electrical interlock system as the third element of the overall system safety problem.

One commenter proposed a wiring change which would result in the inability to operate a lift with one switch stuck in a "door closed" position when a door is open. This is accomplished by installing the four door switches in series. The FAA does not agree that this results in a more reliable galley lift system. The inability to properly stow serving carts, which would remain on the upper deck with inadequate restraint should one of the four switches fail in a "door open" position, is just as undesirable as malfunction of the interlock system which allows motion of the lift with the door open.

Finally, one commenter objected to the proposed compliance date of April 15, 1983, and recommended instead a date of December 31, 1983. This recommendation was made in light of the establishment by the commenter of a preflight check of the interlock switches as an interim measure to maintain an acceptable level of safety. The FAA considers the preflight check a recommended and prudent procedure though in itself inappropriate as a basis for extension of the proposed compliance date. However, considering the previously mentioned enhanced crew training and FAA maintenance surveillance, and in light of additional data indicating delay in the availability of certain components required for the installation, the compliance date has been changed to June 15, 1983.

It is estimated that 119 U.S. registered airplanes will be affected by this AD, that it will take approximately 13.0 man-hours per airplane to accomplish the required actions, and that the average labor costs will be $35.00 per man-hour. The actual costs of modification parts are estimated to be $6,000 per aircraft. Based on these figures, the total cost impact of this AD on the U.S. fleet is estimated to be $768,145. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the changes noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10-10, -10F, -15, -30, and -30F series airplanes with operable galley lifts, certificated in all categories.

Compliance required by June 15, 1983, unless already accomplished. To minimize the potential operational hazard to personnel associated with galley lift electrical interlock system malfunctions, accomplish the following:

A. Replace the galley lift system electrical interlock switches with hermetically sealed switches as outlined in the Accomplishment Instructions of McDonnell Douglas DC-10 Service Bulletin 25-266, dated July 23, 1979, or later revisions approved by the Manager, Los

Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Replace the plunger type interlock switch actuators with leaf spring actuators, install structural protection for the interlock switches, and install additional warning placards as outlined in the Accomplishment Instructions of McDonnel Douglas DC-10 Service Bulletin 25-307, dated May 5, 1982, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Alternate means of compliance with this Ad which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

The manufacturer's specifications and procedures indentified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective February 16, 1983.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C 1354(a), 1421, and 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C.1655(c)); and 14 CFR 11.89)

Note.— For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; Feburary 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on December 23, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-1009 Filed 1-14-83; 8:45 am]

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14 CFR Part 39

[Docket No. 82-NW-88-AD; Amdt. 39-4532]

Airworthiness Directives; Rockwell International Sabreliner Model NA 265-65 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) that requires modification of the horizontal stablilizer trim actuators on all Sabreliner Model NA 265-65 series airplanes. This action is the result of a recent incident in which failure of a trim limit switch led to failure of both trim actuators in the nose full-up position. Modification is necessary to prevent loss of longitudinal trim capabilities resulting from failure of the actuators.

DATE: Effective January 19, 1983. Compliance schedule as prescribed in the body of the AD.

ADDRESSES: Sabreliner Service Bulletin No. 82-3, dated September 30, 1982, pertains to this matter. This bulletin may be obtained from Rockwell International, Sabreliner Division, 6161 Aviation Drive, St. Louis, Missouri 63134, telephone (314) 731-2260.

FOR FURTHER INFORMATION CONTACT: Marvin D. Beene, Airframe Branch, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION: A failure in the horizontal stabilizer trim system on a Sabreliner Model NA 265-65 airplane occurred in-flight while climbing to altitude after take-off. With the loss of longitudinal trim capability, the aircraft was flown approximately 425 nautical miles to the Rockwell Sabreliner facility at an airspeed of approximately 210 knots with flaps extended ten degrees. The loss of trim capability resulted when both trim actuators became disconnected from the stabilizer. The disconnect was due to a failure in the electrical limit switch in the trim actuator causing the actuator to drive into its internal mechanical stops. Repeated battering cycles against the stops caused the anti-rotation sleeve to fail due to fatigue allowing the actuator rod end, which attaches to the stabilizer, to become disengaged from the actuator. Since the trim actuators are cross-connected with a flexible shaft, failure of a single electrical limit switch drives both actuators into their mechanical stops. Therefore, both trim actuators failed, causing stabilizer trim to revert to the full stabilizer nose up position. Extra pilot effort was therefore required to maintain aiplane nose up attitude.

Rockwell International has developed Sabreliner Service Bulletin 82-3 which provides hardware for modification of the actuators with increased strength anti-rotation sleeves and specifies certain operational checks to be performed on the installed actuators.

Until this Service Bulletin is incorporated, another progressive failure of the actuators can be prevented by removing the flexible shaft interconnect and performing periodic visual inspections to determine the general condition of the actuators. In the event an actuator does fail with the interconnect removed, airplane trim would be fixed at the position of failure. Flight with a jammed actuator, representative of a failure with the interconnect removed, has been certified and the procedures for operation under this condition are presented in the Airplane Flight Manual. Therefore, the flexible shaft is not required for failsafe operation. Continued operation with the flexible shaft removed after the actuators are modified is also specified in Service Bulletin 82-3.

Since the condition described herein is likely to exist or develop on other airplanes of the same type design, an AD is being issued, applicable to Rockwell International Sabreliner Model NA 265-65 series airplanes. The AD requires removal of the flexible shaft interconnect and repetitive inspections of the actuators as an interim action until modification of the actuator in accordance with Sabreliner Service Bulletin 82-3 is accomplished.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Rockwell International: Applies to Model NA 265-65, Serial Numbers 465-1 through 465-76 and 306-114, certificated in all categories.

Compliance required as indicated unless already accomplished. To prevent possible failure of the horizontal stabilizer trim

actuator and loss of longitudinal trim capabilities, accomplish the following:

A. Within the next 25 flight hours, disconnect and remove the flexible shaft interconnect, S. S. White Part Number 16023Y3.12, between the horizontal stabilizer trim actuators, Hoover Electric Company Part 11450. Place a dust cover over the flexible shaft holes. Instructions for airplane operation with this condition are presented in Airplane Flight Manual SR77–008.

B. Within the next 25 flight hours and every 25 flight hours thereafter, accomplish the following:

1. Visually inspect the actuator dust cover/non-rotational sleeve for indications of leaking grease and bulging or cracking of the sleeve. If any of these conditions exists, replace the actuator.

2. Visually inspect the actuator, in the fully retracted position, for indications of contact of the sleeve with the actuator base. Replace the actuator if contact occurs.

C. Within the next 200 flight hours, or six months, whichever occurs first, inspect and rework each horizontal stabilizer trim actuator in accordance with Rockwell International Sabreliner Service Bulletin 82–3 dated September 30, 1982. Incorporation of this Service Bulletin constitutes terminating action for this AD.

D. Issuance of a Special Flight Permit in accordance with FAR 21.197 is permitted for the purpose of moving affected airplanes to a location where the inspections and modifications required by this AD can be accomplished.

E. Alternative means of compliance with this AD which provide an equivalent level of safety may be used if they are approved by the Manager, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 269–7000.

This amendment becomes effective January 19, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on December 23, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83–1009 Filed 1–14–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–ANE–16; Amdt. 39–4537]

Airworthiness Directives; Rolls-Royce, Ltd., RB211–22B and –524 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires removal from service of certain high pressure compressor rotor stage 1 and 2 disk assemblies on Rolls-Royce, Ltd., RB211–22B and –524 series turbofan engines. The AD is needed to prevent continued operation of disk assemblies suspected of containing material defects which could result in possible engine failure.

DATE: Effective February 17, 1983. Compliance schedule—as prescribed in the text of the AD.

ADDRESSES: The applicable Alert Service Bulletin may be obtained from Technical Publications Department, Rolls-Royce, Ltd., Derby, England DE2 8BJ.

A copy of the Alert Service Bulletin is contained in the Rules Docket, FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Robert J. Koenig, Engine and Propeller Standards Staff, ANE–110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273–7330.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to Rolls-Royce, Ltd., RB211–22B and –524 series turbofan engines was published in the **Federal Register** on May 27, 1982 (47 FR 23177). Certain high pressure compressor stage 1 and 2 disk assemblies manufactured since 1974, and installed in RB211–22B and -524 engines, are suspected of containing a localized deficiency in the material alloying elements which could result in possible engine failure. Since this condition is likely to exist or develop on other engines of the same type design, the proposed AD would require removal from service of certain high pressure compressor rotor stage 1 and 2 disk assemblies installed in Rolls-Royce RB211–22B and –524 series turbofan engines.

Interested parties were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. Two comments were received in response to the Notice of Proposed Rulemaking (NPRM). Neither of the two commentators had any objection to the AD as written. Publication of this final rule has been inadvertently delayed beyond the effective date proposed in the NPRM; since this results in a relaxation of the the proposed rule, there is no need for an additional comment period.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended to add the following new AD:

Rolls-Royce, Ltd.: Applies to the RB211–22B and –524 series turbofan engines.

Compliance required as indicated unless already accomplished.

To preclude possible high pressure compressor rotor stage 1 and 2 disk assembly failure, the disk assemblies listed by part number and serial number in the Appendix of Rolls-Royce Alert Service Bulletin No. RB211–72–A5885, Revision 2, dated October 30, 1981, or FAA-approved equivalent, must be withdrawn from service as follows:

After the effective date of this AD, none of the referenced disk assemblies may exceed 3,500 flight cycles in service.

Replace with an FAA-approved, serviceable high pressure compressor rotor stage 1 and 2 disk assembly.

Note.—For the purpose of this AD, a flight cycle is considered to be an engine operating sequence from takeoff to landing.

Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Aircraft Certification Division, FAA, New England Region, may adjust the compliance date(s) specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

All persons affected by this directive who have not already received the referenced service bulletin from the manufacturer may

obtain copies upon request to Technical Publications Department, Rolls-Royce, Ltd., Derby, England DE2 8BJ. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at the New England Region Office.[1]

This amendment becomes effective on February 17, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89, Federal Aviation Regulations (14 CFR 11.89))

Note.—Having considered in a Regulatory Evaluation:

a. the resulting costs of this AD on the private sector, consumers, and the governmental sector, and

b. the AD's benefits and other impacts,

the FAA has determined that this regulation is not major under the criteria of Executive Order 12291, and is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, as few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the rule affects only domestic air carriers operating 747 and L-1011 aircraft in which the RB211 engines are installed, none of which are believed to be small entities. The Regulatory Evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attn: Rules Docket No. 82-ANE-16, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on January 4, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-1011 Filed 1-14-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ACE-04]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Designation of Transition Area—Lexington, Missouri

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700-foot transition area at Lexington, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Lexington, Missouri, Airport utilizing the Napoleon VORTAC as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-532, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure is being developed for the Lexington, Missouri, Airport, utilizing the Napoleon VORTAC as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails designation of a transition area at Lexington, Missouri, at or above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). This action will change the airport status from VFR to IFR.

Discussion of Comments

On pages 51405 and 51406 of the **Federal Register** dated November 15, 1982, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Lexington, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. April 14, 1983, by designating the following transition area:

Lexington, Missouri

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lexington, Missouri Airport (latitude 39°12'35" N; longitude 93°55'35" W) and within 2.5 miles either side of the Napoleon VORTAC 053° radial, extending from the 5-mile radius area to 6 miles northeast of the airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on January 6, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-1008 Filed 1-14-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[Economic Reg. Amdt. No. 63; Reg. ER-1313]

Tariffs

AGENCY: Civil Aeronautics Board.

ACTION: Final rule; editorial amendment.

SUMMARY: The CAB amends the list of carrier classes that are exempt from filing tariffs. This addition is necessary to make it clear that all charter operations are exempt from filing tariffs, since reference to some charter operations was inadvertently omitted in a previous amendment.

DATES:

Adopted: January 11, 1983.

Effective: February 6, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Yancey Hitchcock, Office of the General Counsel, Rules & Legislation Division, Civil Aeronautics Board, 1825

[1] The service bulletin is filed with the original.

Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: In November 1982, the Board issued a rule to update the carrier classes that are exempt from filing tariffs under 14 CFR Part 221, and to make it clear that tariff filing for these operations is prohibited. This rule became effective on November 29, 1982.

The rule inadvertently omitted certain charter operations that are exempt from filing tariffs under Part 221, including operations under 14 CFR Parts 207, 208, and 212, which were originally included in 14 CFR 221.3(d). This rule makes clear that those carrier operations are included in 14 CFR 221.3(d).

This editorial amendment is issued under the delegation of authority from the Board to the General Counsel in 14 CFR 385.19. Procedures for review of this amendment are set forth in Subpart C of Part 385.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 221, *Tariffs*, as follows:

1. The authority for 14 CFR Part 221 is:

Authority: Secs. 102, 204, 401, 402, 403, 404, 411, 416, 1001, 1002, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1374, 1381, 1386, 1481, 1482.

2. Section 221.3(d) is revised to read:

§ 221.3 Carrier's duty.

* * * * *

(d) *Exemption authority.*

Air carriers and foreign air carriers, both direct and indirect, are exempted from the requirement of section 403 of the Act and any requirement of this chapter to file, and shall not file with the Board, tariffs for operations under the following provisions:

(1) Part 291, *Domestic Cargo Transportation,* except to the extent noted in § 291.31(a)(1);

(2) Part 296, *Indirect Air Transportation of Property;*

(3) Part 297, *Foreign Air Freight Forwarders and Foreign Cooperative Shippers Association;*

(4) Part 298, *Exemption for Air Taxi Operations,* except to the extent noted in § 298.11(b);

(5) Part 380, *Public Charters;*

(6) Part 207, *Charter Trips and Special Services;*

(7) Part 208, *Terms, Conditions, and Limitations of Certificates to Engage in Charter Air Transportation;*

(8) Part 212, *Charter Trips by Foreign Air Carriers.*

* * * * *

By the Civil Aeronautics Board.

Ivars V. Mellups,

Acting General Counsel.

[FR Doc. 83–1243 Filed 1–14–83; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 389

[Amdt. No. 31; Reg. OR–206]

Fees and Charges for Special Services

AGENCY: Civil Aeronautics Board.

ACTION: Final rule; editorial amendment.

SUMMARY: This rule makes an editorial correction in the Board's rules setting forth its revised filing fee schedule. The correction reduces the fee for filing an air taxi registration.

DATES:

Effective: January 10, 1983.
Adopted: January 10, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION: On December 16, 1982, the Board adopted a revised filing fee schedule (OR–204, 48 FR 635, January 6, 1983). That schedule set forth fees to be charged for services performed by the Board primarily for the benefit of private persons. The schedule was effective January 10, 1983.

Because of a technical error the fee for air taxi registration filing was listed as $12. As shown by the calculations placed in the docket, the fee should be $8.

This rule changes the fee schedule so that the fee for that filing accurately reflects the cost of performing the service, which is the Board's intent.

List of Subjects in 14 CFR Part 389

Archives and records.

Accordingly, the Board amends 14 CFR Part 389, *Fees and Charges for Special Services,* as follows:

1. The authority for Part 389 is:

Authority: Secs. 304, 1102, Pub. L. 85–726, as amended, 72 Stat. 743, 797; 49 U.S.C. 1324, 1502. Act of August 31, 1951, ch. 376, 65 Stat. 268; 31 U.S.C. 483a.

2. Section 389.25 is amended by revising Code 6 to read:

§ 389.25 Schedule of processing fees.

Code	Document
Interstate and Overseas Air Transportation	
* * * * *	
6 Air Taxi Registration	8
* * * * *	

By the Civil Aeronautics Board.

Ivars V. Mellups,

Acting General Counsel.

[FR Doc. 83–1137 Filed 1–14–83; 8:45 am]

BILLING CODE 6320–01–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

Exchange-Visitor Program

AGENCY: United States Information Agency.

ACTION: Final rule.

SUMMARY: On December 31, 1981, the United States Information Agency (formerly the International Communication Agency) published in the **Federal Register** (46 FR 63322) a proposed rule on establishing criteria for the use of J–1 Visas in the three categories listed below. This final rule establishes criteria for the use of the J–1 Visa in the Exchange-Visitor Program for the following categories: (a) Practical Trainees, (b) Summer Student Travel/Work Programs, and (c) International Camp Counselor Programs. The Exchange-Visitor Program serves to facilitate the international exchange of students, teachers, scholars, and trainees. These categories under the J–1 Visa are described by this regulation to ensure proper adherence to the law by program sponsors who are designated to sponsor aliens classified as exchange visitors.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Edward A. Silvis (202) 724–9806.

SUPPLEMENTARY INFORMATION: The International Communication Agency (USICA) assumed from the Department of State overall responsibility for the Exchange-Visitor Program and all related procedures effective April 1, 1978, by Executive Order 12048 of March 27, 1978. Effective August 24, 1982, the Agency's name was changed to the United States Information Agency by the United States Information Agency Authorization Act, Fiscal Years 1982 and 1983, Pub. L. 97–241, Title III. The Exchange-Visitor Program serves as the accrediting authority for both U.S. Government agencies and private organizations to bring students, teachers, scholars, and trainees to the United States. The Exchange-Visitor

Program monitors the host organization's performance to ensure that established criteria are met. This amendment to the present regulations is expected to provide the organization with effective guidelines and criteria with which to administer practical training use of the J–1 Visa.

Two comments were received and reviewed. The comments are summarized as follows:

(1) For all three types of programs described, the regulations should stipulate that the name, address, and telephone number of the employer must appear on item No. 4 of the Form IAP–66 issued by the sponsor to the exchange visitor. That would require the program sponsor to make firm arrangements for employment ahead of time. The proposal as written does not rule out the exchange visitor's entry into the United States to seek employment. Foreigners who could find nothing in their own fields might then look in other fields, for skilled or unskilled jobs, thereby entering an employment market that is already overcrowded. Some might find no work at all and run out of funds. Others might spend a substantial period looking, finding nothing, and return to their home countries in frustration and disappointment, with the objective of international exchange thwarted rather than served.

(2) For practical trainees and Summer Student Travel/ Work Programs, reciprocity should be made a strict requirement. In any given calendar year the number of exchange visitors that a sponsor brings in should be limited to the number of U.S. Citizens placed abroad by that sponsor in the preceding calendar year. If the rule does not prevent imbalances, employment opportunities in the United States are likely to be affected.

The Agency has taken these two comments under consideration and determined that both comments should not be included in the final rule for the following reasons:

(1) The reason for rejecting Comment (1) on job arrangements being made ahead of time is that if total reciprocity is achieved, then the number of Americans leaving the United States labor market will be the same as foreigners entering the labor market. This obviates the need for pre-arranged employment.

(2) Comment (2) is redundant for summer student travel/work programs, and is too general to apply to the practical trainee programs.

List of Subjects in 22 CFR Part 514

Exchange-visitor program.

EO 12291 Federal Regulation

USIA has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dated: January 7, 1983.

Charles Z. Wick,

Director, United States Information Agency.

PART 514—EXCHANGE-VISITOR PROGRAM

22 CFR 514 is amended by adding three new paragraphs (c), (d), and (e) to § 514.13 to read as follows:

§ 514.13 Sponsor obligations—Specific.

* * * * *

(c) *Practical Trainees.* These criteria govern the designation and monitoring by the United States Information Agency (USIA) of Exchange-Visitor Programs under which foreign nationals are provided with opportunities for on-the-job, practical training in the United States for periods of up to 18 months. These criteria apply to Exchange-Visitor Programs having practical training as the primary purpose and do not apply to practical training opportunities which may, under certain conditions, be authorized for foreign students who have completed the requirements for degrees or certificates at educational institutions in the United States. The primary purpose of practical training programs is to improve the participant's knowledge of American techniques, methodology, and philosophy of the individual's own field of endeavor and to enhance the participant's skills through active participation in the day-to-day operations at the training location. It is also designed to enable the exchange visitor to observe and participate in American life and, if applicable, to improve his or her English language competency. Another prime purpose is to improve American knowledge of a foreign culture by providing the opportunity for an open interchange of ideas between the trainees and their American counterparts.

(1) *Selection.* The Exchange-Visitor Program sponsor must assume full responsibility for the selection of trainees, regardless of the extent to which cooperating organizations in other countries may be involved. Professional recruiters, as well as employment or travel agencies, either in the United States or abroad, shall not be used for the recruitment, screening, or selection of trainees or prospective trainees. The sponsor shall secure sufficiently detailed background data on the individual's education and previous practical training and/or work experience to be able to ensure that the practical training experience in the United States is suitable and appropriate for the individual's level of career development. Trainees must have sufficient knowledge of English to enable them to function in the English speaking environment, both during the normal work period and non-working hours. Selection procedures should ensure that the trainee is medically qualified to perform the specific duties to be assigned.

(2) *Content of Training Assignments and Related Activities.* Practical training is intended to provide the individual with a "real life" experience in the conduct of his or her field of endeavor as normally practiced in the United States. As such, the normal or standard number of working hours per week for the particular business or industry must be observed. Suitable training may include one or more of the following: (i) Rotation through several departments; (ii) concentration in a single department; (iii) special projects; (iv) rotation followed by projects; (v) participation in an employer's regularly scheduled training program; or (vi) a special program determined after the trainee's arrival. Related activities which support the practical training experience such as attendance at conferences or conventions, participation in short courses, or enrollment in English language improvement courses may be appropriate in specific individual cases. Such related activities must be clearly secondary to, and supportive of, the practical training experience. The content of the practical training assignment and any related activities must be suitable and appropriate to the individual's level of educational attainment and previous practical training and/or work experience. The future employment and career development of the individual should also be considered in designing the practical training experience.

(3) *Orientation.* The sponsor shall be responsible for providing each participant (and each employer, if appropriate) with orientation which is suitable to the nature and length of the training assignment. This orientation should clearly indicate: (i) The purposes of the program; (ii) the role of the sponsor; (iii) the explanation that the participant is being admitted on a temporary non-immigrant visa and that he or she must depart from the United States at the conclusion of the training assignment; (iv) the procedures to be followed in the event of an emergency; and (v) the details, to the extent they apply, on matters such as the individual's tax liability, procedures for securing of a Social Security Number, securing of a driver's license, etc. Where possible, orientation for individual participants should also include basic information about the United States, the city or state in which the participant will be assigned, the practice of the individual's field of endeavor in the United States, and any other information which would help to make the individual's experience while in the United States professionally rewarding and personally enriching.

(4) *Interaction with Americans.* The sponsor shall assist and encourage trainees to seek maximum interaction with American citizens during the training period. Subject to limitations imposed by geographic location, length and/or nature of the training assignment, interaction should be encouraged with groups such as families, professional societies, trade unions, educational institutions, service clubs, etc.

(5) *Financial Responsibility.* All materials provided to program participants must clearly state the amount(s) to be paid to the trainee by the employer, and additional amount(s) to be paid by the designated program sponsor, and the costs which the trainee is expected to cover personally. Such information should include estimated cost of living in the area where the participant will work. The amount paid to the participant by the employer should be comparable to that paid to other individuals having similar education and previous work experience. In all cases, at least the prevailing minimum wage as determined by the United States Department of Labor must be paid to the participant by the employer. Payment in kind (housing, meals, etc.) may be used to supplement the prevailing minimum wage, but may not be used in lieu of payment of the minimum wage. Payment on the basis of commissions and similar forms of variable amount wages may be used only to the extent that such payments exceed the prevailing minimum wage. If payments are to be made by third parties (i.e., parents, schools, sponsors, government or international organization agencies, etc.) in lieu of payment by the employer, the Exchange-Visitor Program Designation Division (E/XE), United States Information Agency, Washington, D.C. 20547, must be notified in writing to enable the Agency to determine the suitability of such payments.

(6) *Health and Accident Insurance.* Sponsors shall ensure that every participant and any accompanying dependents have health and accident insurance coverage from the time of departure from home until the participant returns to his or her home country. Minimum acceptable insurance is: (i) Medical and accident coverage up to $2,000 per injury or illness and (ii) preparation and transportation of remains to home country (at least $2,000). Coverage may be provided in one of the following ways:

(A) By health and accident coverage arranged for the participant.

(B) By health and accident insurance coverage arranged for by the sponsor.

(7) *Evaluation.* To assure quality control of the training experience, the sponsor shall develop procedures for the on-going evaluation of each training assignment. Such evaluation should include, as a minimum, evaluation reports from the trainee and the immediate supervisor at the end of the training period. Mid-point reports (verbal or written) should also be used for training assignments of one year or more.

(8) *Dependents.* As a general rule, trainees shall be permitted to have their spouse and dependent children accompany them to the United States and the sponsor may document such dependents for J–2 status. All such dependents must be covered by health and accident insurance.

(9) *Limitation on Duration of Stay.* As specified in Section 514.23(a)(1)(vii) of these regulations, the maximum length of stay for practical training employment shall not exceed 18 months total for any one individual, except as specifically approved by USIA under highly unusual circumstances. Such limitation shall apply regardless of the number of Exchange-Visitor Programs in which the individual participates.

(10) *Reciprocity.* As a general principle, each program sponsor shall be expected to seek, as feasible, reciprocal practical training or work experience in other countries for American citizens, either directly or through cooperating agencies, organizations, or institutions abroad. Ideally, the number of placement opportunities for Americans in other countries should be approximately equal to the number of foreign trainees placed in the United States. The Exchange-Visitor Program Designation Division, United States Information Agency, will review the sponsor's program annually to assure compliance with this objective.

(11) *Reports.* Designated sponsors shall furnish the Exchange-Visitor Designation Division, United States Information Agency, with an annual report at the end of each calendar year of the close of such other yearly reporting period as may be agreed upon. The annual report shall include: (i) Statistical data on foreign trainees placed in the United States and, where applicable, on American trainees placed in other countries; (ii) a brief evaluation report of the effectiveness of the program for the year including a description of standards and methods used in the evaluation process; and (iii) specific examples of program accomplishments over a long-range period. Copies or descriptions of program materials such as information folders, orientation data, general publications, evaluation forms, etc. may be appended to the report to verify compliance with criteria stated above. Organizations which have been granted tax-exempt status under the provisions of Section 501(c)(3) of the Internal Revenue Code shall also submit a copy of the Form 990 report most recently filed with the Internal Revenue Service.

(12) *Suspension or Revocation of Exchange-Visitor Program Designation.* Designated sponsors found to be in violation of the above criteria are subject to having program designations suspended or revoked in accordance with Section 514.17 of these regulations.

(d) *Summer Student Travel/Work Program.* The following criteria apply to United States organizations which have been designated by the United States Information Agency (USIA) to administer Summer Student Travel/Work Programs. These programs are designed to achieve the educational objectives of international exchange by involving students during their summer vacations directly in the daily life of the host country through temporary employment opportunities. The criteria require program sponsors to promote the exchange of United States and foreign students on a reciprocal basis thereby assuring that the operation of such programs will not have an adverse impact on labor opportunities for United

States youth in the 18–23 year age bracket.

(1) *Selection.* The selection will be limited to *bona fide* university students screened for maturity and ability to get maximum benefit from Summer Travel/Work Programs. Priority consideration will be given to students who do not live in close proximity to the United States who would not be able to visit this country if temporary work permission were not authorized to help defray their travel expenses.

(2) *Orientation.* All students shall be provided with orientation, both pre-departure and upon arrival in the United States. The orientation should be designed to give the students a good basic knowledge of our country and its people. Students should be fully informed of the nature of the program in which they are participating. They should be provided with some type of identification card which includes the name and phone number of an official of the sponsoring organization as well as the number of the Exchange-Visitor Program in which they are participating. In addition, orientation should cover proper methods of obtaining and holding a job and the customary practices of giving employers adequate advance notice of resignation. Students should be fully briefed on the employment situation in the United States and advised not to seek employment in areas where a high unemployment situation exists.

(3) *Supervision.* Sponsors must be prepared to help their students at any time they have a medical, personal, employment, or other type of problem.

(4) *Jobs.* Each student sponsored on such a program must have a prearranged job before he or she comes to the United States, or firm appointments with prospective employers, or have sufficient personal funds so as to be financially independent if not employed.

(5) *United States Employment.* Sponsors are required to check in advance with the Department of Labor to obtain information regarding areas or cities which have a high unemployment rate. Students should be advised to avoid such areas in seeking employment.

(6) *Financial Responsibility.* Sponsors are required to ensure that all participants return home at no charge to the United States Government.

(7) *Health and Accident Insurance.* Sponsors shall ensure that every student has health and accident insurance coverage from the time of departure from home until the student returns to his or her home country. Minimum acceptable insurance is: (i) Medical and accident coverage up to $2,000 per injury or illness and (ii) preparation and transportation of remains to home country (at least $2,000). Coverage may be provided in one of the following ways:

(A) By health and accident coverage arranged for by the student.

(B) By health and accident insurance coverage arranged for by the sponsor.

(8) *Geographical Distribution.* Sponsors shall develop plans to ensure that groups of students, especially those of the same nationality, are not "clustered" in certain areas or cities. Every effort should be made to have the students widely dispersed throughout the country.

(9) *Arrival Time.* Students for whom the sponsors have arranged "preplacement" for jobs can begin their programs at any time. Travel for students who have not been "preplaced" should be delayed by the sponsors as late as possible, preferably after June 15. Such delayed travel will give American students who are interested in obtaining summer jobs from two to four weeks in a less competitive market.

(10) *Reciprocity.* Sponsors are required to administer Student Travel/Work Programs on a reciprocal basis. The number of foreign students a sponsor brings to the United States under this program shall not exceed, in any calendar year, the number of American students who were sent abroad by the sponsor on a Travel/Work Program. Should a sponsor fail in the realization of reciprocity in any given calendar year, the Agency may restrict the number of foreign students that the sponsor brings to the United States in the next calendar year to the number sent abroad by the sponsor in the preceding calendar year.

(11) *Report Requirement.* Sponsors are required to submit an annual report, not later than January 31, on the United States students who were sent abroad the previous calendar year under Travel/Work Programs. The report should contain the following information: name and United States address of the student, the country where the student was employed, name of employer and type of business, and the type and length of employment (dates). The report should also include an ongoing evaluation of both the incoming program for foreign students and the outgoing program for American students. Major problems encountered in the administration of the program should also be listed. Failure to submit the report by January 31 will result in the automatic suspension of the program. The program will not be reactivated until the report is received by USIA and the sponsor notified that suspension has been lifted.

(12) *Unauthorized Activities.* Employment as servants, mother's helpers, *au pair* or other jobs of a domestic nature in private homes is not authorized. Employment must be of a commercial or industrial nature. Also, employment as a Camp Counselor is not authorized under the Travel/Work Program. All such unauthorized placements will be removed from the count of United States placements abroad which could reduce the number of foreign students which the sponsor will be permitted to bring into the United States during the following year.

(e) *International Camp Counselor Program.* These criteria apply to the designation and monitoring by the United States Information Agency (USIA) of Exchange-Visitor Programs which are designed to give carefully selected International Camp Counselors an opportunity to spend approximately eight (8) weeks at an American camp imparting appropriate skills to American youth concluding with an optional one to three week period to tour the United States. The principal purpose of these programs bringing International Counselors to serve in American summer camps is to improve American knowledge of a foreign culture and to allow the youth at camps throughout the United States to experience international understanding on a personal basis. A secondary purpose is to improve the foreign camp counselor's knowledge of American culture and language skills through active participation in every facet of camping life.

(1) *Selection.* The designated sponsoring organization must assume responsibility for the selection of international counselors to participate in these programs. As a general rule, individuals who have already served once as a Camp Counselor should not be selected again. The intent of this program is principally one of cultural exchange and is intended to give as many foreign camp counselors as possible an opportunity to visit the United States. Sponsoring organizations must have strong supporting documentation justifying the necessity for selecting an individual who has already once served as counselor. Prospective participants should be individually interviewed by a representative of the sponsoring organization. The interviewer's report should be provided for the camp director's review. Each participant should submit a reference from a teacher or employer to the sponsoring

organization, a copy of which should be made available to the Camp Director. All participants must be fluent in English and be at least 18 years of age upon departure from their home country. The sponsor is responsible for handling the arrival of the counselors, completing transportation arrangements and directing them to their assigned camp.

(2) *Orientation.* Orientation, both pre-departure and upon arrival in the United States, shall be provided to all counselors. The orientation should be designed to give the counselors a good basic knowledge of the United States, its people, and a description of the varieties of American camps. It should provide clear descriptions of the roles and responsibilities of camp counselors and camp specialists, as well as the contractual obligations between the sponsoring organization, camp, and counselor.

Counselors should be fully informed of the nature of the programs in which they are participating. Each should be given a general orientation manual by the sponsor and descriptive information about their assigned camp. They should participate in a training session conducted by the sponsoring organization and a pre-camp training session sponsored by the cooperating camp. The camp or the sponsor must provide the counselors a detailed job description and a copy of these guidelines at the beginning of this pre-camp training session. Counselors should be provided with an identification card which includes the name and phone number of an official of the sponsoring organization as well as the name and number of the Exchange-Visitor Program in which they are participating. It should contain the counselor's name and home address as well as the cooperating camp's name, address, telephone number and name of the camp director.

(3) *Health and Accident Insurance.* Sponsors shall ensure that every participant has health and accident insurance coverage from the time of departure from home until the participant returns to his or her home country. Minimum acceptable insurance is: (i) Medical and accident coverage up to $2,000 per injury or illness and (ii) preparation and transportation of remains to home country (at least $2,000). Coverage may be provided in one of the following ways:

(A) By health and accident coverage arranged for by the participant.

(B) By health and accident insurance coverage arranged for by the sponsor.

(4) *Geographical Distribution.* Sponsors shall develop plans to ensure that groups of counselors, especially those of the same nationality, are not "clustered" in the same camps in certain areas. Every effort should be made to have the international counselors widely dispersed throughout the country. As a general rule, not more than 10 percent of the total number of counselors at a camp should be international counselors, nor should there be more than two international counselors of the same nationality at one camp. An exception to this requirement will be made by USIA for camps which have specific ethnic, language or nationality programming as a prime or principal programming concept.

(5) *Supervision.* The sponsor must assume the responsibility of resolving problems including, if necessary, finding a replacement camp position for counselors whose original assignment does not work out, and the early return home of the counselors because of personal or family difficulties. The sponsor must provide both the cooperating camp and the counselor with the names and telephone numbers of officials of the sponsoring organization who can be contacted at any time in case of an emergency or other problems. The sponsoring organization should have offices or personnel available both in the United States and abroad for this purpose. All counselors must have a prearranged camp assignment before their departure for the United States. Participants may be placed only in counseling positions. The intent of this program is principally one of cultural exchange and not one intended for staffing purposes or to provide an inexpensive labor pool. Therefore, participants may not be placed in office or kitchen or custodial jobs or other jobs which are basically menial labor. Sponsors must make every effort to assure that individual counselors are placed with the particular camp which seems to promise the greatest compatibility for the counselor and the camp. Such arrangements should be made well in advance so that the prospective counselors and camp directors will have ample time for correspondence before the counselors leave their home country. Sponsoring organizations must notify participants of their camp placement at least five weeks prior to their departure for the United States. Cooperating camps should be given the background data and arrival information of the participants at least five weeks prior to their arrival in the United States. The sponsoring organization should have a representative visit and inspect as many camps as possible where their exchange visitors are placed. It is important that the cooperating camps guarantee that when an international counselor drives a motor vehicle in connection with assigned duties that the state laws are being met and that there is sufficient insurance coverage. International counselors should be allowed at least 24 hours off each two weeks (with at least 12 hours continuous). International counselors must be able to leave camp on day(s) off and the camp should assist the counselors with accessible, affordable transportation to and from the nearest town.

(6) *Financial Responsibility.* Sponsors must ensure that all participants will return home at no charge to the U.S. Government. Sponsors are required to have available for review by USIA an audited annual financial statement of sponsor operations. The financial statement should include an itemized list of the salaries of the officers of the organization.

(7) *Evaluation Reports.* Sponsors will furnish USIA an evaluation report of their programs at the end of each camping year (no later than November 1). Reports should include but not be limited to: (i) Number of participants and countries of origin; (ii) geographic distribution of counselors within the United States, by State; (iii) noteworthy achievements or major problems or difficulties encountered; (iv) details regarding the extent to which the sponsor has evaluated the success of the program including specific examples of how counselors enhance the knowledge of Americans about other lands and other people and vice versa; and (v) names and addresses of persons and organizations in the United States and abroad assisting in the administration of the program. The annual evaluation report should also include copies of the program materials (forms, instruction sheets, publications, information folders, etc.) and a copy of the health and accident insurance policy provided for the counselor. The copy of the health and accident insurance policy must be included every year. Other materials once provided need not be duplicated. Only new or updated materials need be included in the annual report in ensuing years.

(8) *Post Camp Cultural Experience.* Every international counselor should be given an opportunity to participate in at least a two week cultural experience at the end of his or her camp assignment. This experience can be accomplished either: (i) By a group tour arranged by the sponsoring organization or (ii) by independent travel preferably with a small group of fellow international counselors or American friends. The international counselor who plans

independent travel should send a proposed itinerary to the sponsoring organization so that the counselor can be contacted in case of an emergency.

(9) *Departure.* Program sponsors are required to take all necessary action to ensure the departure of the participants at the conclusion of their authorized stay. The Immigration and Naturalization Service must be notified of any Camp Counselor who fails to depart the United States on schedule.

(Sec. 4, 63 Stat. 111; secs. 102, 109 (a), (b), (d), 75 Stat. 527, 534, 535; secs. 101(a)(15)(J), 104(a), 212(e), 66 Stat. 166, 174, 182, 184; sec. 2, 84 Stat. 116, 117 (22 U.S.C. 2658, 2452; (8 U.S.C. 1101(a)(15)(J), 1104(a), 1182(e), 1258); Reorganization Plan No. 2 of 1977; Executive Order 12048 of March 27, 1978; the United States Information Agency Authorization Act, Fiscal Years 1982 and 1983, Pub. L. 97–241, Title III, August 24, 1982)

[FR Doc. 83-1375 Filed 1-14-83; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

[FHWA Docket No. 83-2]

Contract Procedures; Buy America Requirements

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Interim final rule; request or comments.

SUMMARY: This emergency regulation revises the existing Buy America regulation to implement procedures required by section 165 of the Surface Transportation Assistance Act of 1982 (STAA of 1982). Section 165 provides, with exceptions, that funds authorized by the STAA of 1982, titile 23 of the United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978 may not be obligated for highway projects unless steel, cement, and manufactured products used in such projects are produced in the United States. In addition, the Administrator has determined that it is in the public interest to temporarily waive the provisions of section 165 as they apply to manufactured products other than steel and cement as well as to projects costing under $450,000. The FHWA is specifically requesting comments on these waived provisions.

DATE: This interim final rule is effective January 6, 1983, and will expire September 30, 1983. Comments must be received on or before July 1, 1983.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 83–2, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. P. E. Cunningham, Chief, Construction and Maintenance Division, (202) 426–0392, or Ms. Ruth R. Johnson, Office of the Chief Counsel (202) 426–0781, Federal Highway Administration, 400 Seventh Street, SW., Washington D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 6, 1983, the President signed into law the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424, 96 Stat. 2097). Section 165 sets forth revised Buy America requirements which supercede the previous requirements contained in Section 401 of the 1978 Surface Transportation Assistance Act. Since the former Buy America provisions as implemented in 23 CFR 635.410, Subpart D are in conflict with the provisions of the STAA of 1982, immediate revision of this regulation is required.

One major change is the requirement that all steel, cement and manufactured products must be produced in the United States. The legislative language also requires Buy America to apply to all projects as opposed to current provisions which only apply to projects costing more than $500,000. The STAA of 1982 also permits States to impose more stringent requirements than are imposed by section 165 and revises the total contract cost differential permitting the use of foreign materials from 10 percent to 25 percent.

For these reasons, it has been determined that circumstances warrant the issuance of an emergency regulation so as to immediately implement the new Buy America provisions. In addition, the Federal Highway Administration (FHWA) has determined that it is in the public interest and not inconsistent with legislative intent to temporarily waive the provisions of section 165 as they apply to manufactured products other than cement and steel and to projects estimated to cost less than $450,000. This determination is based on the fact that sufficient information is not yet available in order to adequately assess the impacts of applying Buy America provisions to all manufactured products and to all projects regardless of project cost. For example, requiring all manufactured products to be produced in the United States would necessitate tracing the source of crude oil and other components used in asphalt, fuels, and other petroleum based materials. Based on available research data the origin of crude oil in products is extremely difficult to trace. For this reason, a docket for comments has been assigned to this regulation and the public is invited to submit their views or comments on these provisions. The FHWA is particularly interested in receiving comments on the following items: treatment of components, prestressing strand, threshold for applicability, coverage of all manufactured products, current implementing procedures and future revisions to 23 CFR Part 635, Subpart D. It is the intention of the FHWA to formulate additional rulemaking actions after sufficient information is collected and considered.

Discussion of Revisions

A summary of the revisions to the existing provisions in 23 CFR 635.410 is as follows:

(1) The STAA of 1982 requires that all steel, cement, and manufactured products in a project must be produced in the United States. At this time, the provisions will only apply to steel and cement materials. All manufacturing processes for these materials must occur in the United States. Previous provisions applied only to structural steel and a determination of foreign or domestic character was based upon the place of manufacture and on the origin of more than 50 percent of the components.

(2) Foreign steel or cement materials may not be incorporated in a Federal-aid highway construction project unless the use of domestic materials would increase the overall project cost by 25 percent or more. Previous provisions required a minimum cost differential of 10 percent.

(3) Alternate bid provisions were provided for in the previous regulation as a method to determine the cost differential for using foreign or domestic material. The provisions were to be utilized for all projects containing structural steel. Since alternate bid provisions could still be required for projects containing significant amounts of structural steel, the definition of structural steel has been updated to comply with terminology currently utilized by the steel industry.

(4) Alternate bidding procedures used for comparing domestic and foreign

materials in project bids will no longer be required for projects containing small amounts of structural steel. Since the overall project cost differential is now 25 percent, only projects in which these items would constitute at least 60 percent of the project's total estimated cost will be subject to alternate bid requirements. It would be highly unlikely that a project, with less than this percentage in structural steel items, will have a cost differential equal to or greater than 25 percent of the total project cost. Alternate bid requirements for other steel or cement products are not required but may be applied on a project-by-project basis if circumstances warrant. It is FHWA's intention to minimize administrative burdens by requiring alternate bid procedures only for projects where foreign sources may truly compete under the terms of the STAA of 1982.

(5) When domestic cement and steel materials are otherwise required, the requirements do not prevent a minimal use of foreign materials, provided the cost of materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or $2,500, whichever is greater. This will eliminate an administrative burden placed on the States for truly minor items.

(6) Individual State Buy America provisions, regardless of the implementation date, that are as stringent or more stringent than provisions in the STAA of 1982 will now be acceptable for use on Federal-aid projects. Previously, only those acceptable State provisions in effect prior to November 6, 1978, were permitted.

(7) Previous requirements which apply Buy America to all Federal-aid highway construction projects estimated to cost over $450,000 will be retained.

The Federal Highway Administrator has determined that this document responds to an emergency situation, and for the reasons stated, it is impracticable for the agency to follow the procedures of Executive Order 12291, the Regulatory Flexibility Act, and the regulatory policies and procedures of the Department of Transportation. Therefore, good cause exists for publication as a final rule without notice and opportunity for comment and without a 30-day delay in effective date.

The FHWA will prepare, as soon as practicable, a regulatory evaluation/regulatory flexibility analysis. The evaluationer will be placed in the public docket for inspection. When available, copies may be obtained by contacting Mr. P. E. Cunningham at the address provided above under the heading "For Further Information Contact."

In consideration of the foregoing, and under the authority of 23 U.S.C. 315; Section 165, Surface Transportation Assistance Act of 1982, Pub. L. 97–424, 96 Stat. 2097, and 49 CFR 1.48(b), the FHWA is amending Part 635, Subpart D of title 23, Code of Federal Regulations to read as set forth below:

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs apply to this program)

List of Subjects in 23 CFR Part 635

Buy America, Government contracts, Grant programs—transportation, Highways and roads.

Issued on: January 12, 1983.

Richard B. Robertson,

Acting Administrator for Planning and Policy Development, Federal Highway Administration.

PART 635—CONSTRUCTION AND MAINTENANCE

§ 635.410 [Amended]

1. In § 635.410, paragraphs (b) (2), (3), and (4) are revised to read as follows:

* * * * *

(b) * * *

(2) The project includes no permanently incorporated steel or cement materials. If cement or steel materials are to be used, all manufacturing processes for these materials must occur in the United States;

(3) The project is undertaken pursuant to 23 U.S.C. 117 and the State's laws, regulations, directives, and standards are adequate to accomplish the policies and objectives of section 165 of the Surface Transportation Assistance Act of 1982, Pub. L. 97–424, 96 Stat. 2097;

(4) The State has standard contract provisions that favor the use of domestic materials and products, including cement and steel materials, to the same or a greater extent than the provisions here set forth;

* * * * *

2. In § 635.410, paragraph (b)(5) is amended by revising the first sentence, by adding the definition of structural steel, by changing the figure "10 percent" to read as "25 percent," and by removing the last sentence. As revised, § 635.410(b)(5) reads as follows:

* * * * *

(b) * * *

(5) A bidding procedure described as follows is used for those projects which contain an amount of structural steel equal in cost to at least 60 percent of the total project estimated cost. Structural steel is defined as steel sheet piling, H-piling, shell or pipe piling, W, M, S, or Z shapes, plates, channels, angles, and/or T-sections. A separate bid item is to be set up for furnishing structural steel to the project site. For this bid item, bidders are to be given the options of submitting a bid for (i) furnishing domestic structional steel, or (ii) submitting a bid for furnishing domestic steel and a bid for furnishing foreign steel. Bidders are to be advised that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic structural steel unless such total bid exceeds the lowest total bid based on furnishing foreign structural steel by more than 25 percent; or

* * * * *

3. In § 635.410, add a new paragraph (b)(6) to read as follows:

* * * * *

(b) * * *

(6) When domestic cement and steel materials are otherwise required, the requirements do not prevent a minimal use of foreign materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or $2,500, whichever is greater.

* * * * *

4. In § 635.410, paragraph (c) is amended by revising the effective date to read as "January 6, 1983 and terminates September 30, 1983."

5. In § 635.410, paragraph (d)(1) is amended by revising the introductory text and paragraph (d)(2) is amended by adding a sentence at the end of the paragraph to read as follows:

* * * * *

(d)(1) A State may request a waiver of the provisions of section 165 of the Surface Transportation Assistance Act of 1982 if:

(i) * * *

(ii) * * *

(2) * * *. The RFHWA will have approval authority on the request.

* * * * *

6. The authority citation for § 635.410 is amended to read as follows:

(23 U.S.C. 315; section 165, Surface Transportation Assistance Act of 1982, Pub. L. 97–424, 96 Stat. 2097; 49 CFR 1.48(b))

[FR Doc. 83–1236 Filed 1–14–83; 8:45 am]

BILLING CODE 4910-22-M

23 CFR Part 645

Utility Relocation and Adjustments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) is revising the ceiling from $10,000 to $25,000 for using the lump sum payment arrangement for reimbursement for utility adjustments on Federal-aid and direct Federal highway projects. The revised regulation provides the States greater flexibility in utilizing the lump sum payment arrangement.

EFFECTIVE DATE: February 16, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Carney, Office of Engineering, 202–426–0450 or Michael J. Laska, Office of the Chief Counsel, 202–426–0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The policies, procedures, and reimbursement provisions for the adjustment and relocation of utility facilities on Federal-aid and direct Federal highway construction projects are set forth in 23 CFR Part 645, Subpart A. Section 645.107 contains the procedures for agreements and authorizations regarding reimbursement for utility relocation. Section 645.107(h)(3) currently allows reimbursement of utility relocation costs with Federal-aid highway funds in the form of a lump sum agreement, provided the estimated cost of the proposed utility adjustment does not exceed $10,000. This figure is being revised to $25,000.

The FHWA reviewed this provision along with the entire subpart in order to simplify existing regulations and eliminate unnecessary requirements in accordance with the FHWA's emphasis on reducing redtape. Consequently, the FHWA published a Notice of Proposed Rulemaking (NPRM) (45 FR 76924) on November 20, 1980, requesting comments on proposed revisions to 23 CFR Part 645, Subpart A. This final rule revises only § 645.107(h)(3) relating to the monetary ceiling for lump sum payment arrangements. Revisions to the entire subpart are continuing to be developed.

The purpose of allowing lump sum agreements in lieu of agreements based on an accounting of actual costs is to reduce the administrative burden associated with utility relocation projects. Under the lump sum process, cost accounting is easier, project billings are simplified and final audit of detailed cost records is not required. Final project costs are typically quite close to the costs estimated for small, routine projects. The small degree of accuracy that might be realized if more detailed cost accounting methods were followed does not justify the extra cost involved in carrying out detailed audits.

All comments concerning this issue received in response to the NPRM supported raising the lump sum limit. Two State highway agencies and one utility company expressed agreement with the $25,000 lump sum limit. One utility company felt the limit should be raised further to $50,000.

The final rule increases the allowable limit for lump sum agreements from $10,000 to $25,000. This revision increases the number of utility relocations potentially eligible for lump sum payment and responds, in part, to the fact that since the $10,000 limit was established in 1973, inflation has reduced the number and limited the scope of projects eligible for lump sum payments. Based on increases in the highway construction bid price index for Federal-aid highway projects, work that would have cost $10,000 in 1973 costs over $22,000 today.

The FHWA has determined that this document contains nether a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures. It is anticipated that the revised regulation is essentially updating the lump sum limit in economic terms and will not have a significant economic effect. In accordance with the above, it has been determined that a full regulatory evaluation is not required. For the foregoing reasons, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 23 CFR Part 645

Grant programs—transportation, Highways and roads, Utilities—relocations, adjustment, reimbursement.

PART 645—[AMENDED]

Subpart A—Utility Relocation and Adjustments

In consideration of the foregoing, Part 645, Subpart A of Chapter I of title 23, Code of Federal Regulations, is amended as set forth below.

§ 645.107 [Amended]

In paragraph (h)(3) of § 645.107 the "$10,000" figure is revised to read "$25,000."

(23 U.S.C. 123 and 315; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on January 6, 1982.

Ray Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 83–1119 Filed 1–14–83; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

24 CFR Subtitle A

[Docket No. N–83–1071]

Performance Criteria for Solar Heating and Cooling Systems in Residential Buildings

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of publication of performance criteria for solar heating and cooling systems in residential buildings.[1]

SUMMARY: These Performance Criteria provide a standard basis for assessing the design and performance of buildings using solar energy systems for heating and cooling.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: William E. Freeborne, Mechanical Engineer, Building Technology Division, Room 8158, Department of Housing and Urban Development, Washington, D.C. 20410. Telephone (202) 755–6900. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Solar Heating and Cooling Demonstration Act of 1974 (Pub. L. 93–409) authorized a five-year program for research, demonstration, and market development of solar heating and cooling systems in residential and commercial buildings. As part of this program, the Act directed the Secretary of HUD, utilizing the services of the Director of the National Bureau of Standards (NBS), to determine, prescribe, and publish Interim Performance Criteria for solar heating and cooling systems and buildings within 120 days of enactment, and to use

[1] The Performance Criteria was filed as a part of the original document.

these criteria in the selection of solar systems and demonstration projects. The Interim Criteria were published on January 1, 1975.

The Act further directed HUD, utilizing the services of NBS and information developed in the demonstration program, to develop and publish "definitive performance criteria" as soon as feasible. HUD was also directed to publish procedures whereby manufacturers of solar systems could have their products tested in order to obtain certification that such products conformed to the performance criteria. These performance criteria for Solar Heating and Cooling Systems were published in Volume 46, Number 121 of the **Federal Register** on June 24, 1981. Public comments were solicited, with a due date of August 24, 1981.

This constitutes notice that HUD has fulfilled the requirement of the Act that 'definitive performance criteria' be published. They have been published under the title "Performance Criteria for Solar Heating and Cooling Systems in Residential Buildings" and are available through HUD or from the Superintendent of Documents at the addresses set forth at the end of this Notice.

The Department believes that it met the statutory requirement of **Federal Register** publication of these Criteria in its June 24, 1981 issuance (46 FR 32738). In view of the relatively small number of changes effected in connection with this revised publication and the ready availability of the Performance Criteria in final form to all interested persons, HUD has determined that it is unnecessary to reprint the text of the Criteria in the **Federal Register**. This notice, however, discusses in full each substantive change which has been made as a result of public comment.

These Performance Criteria are not intended to be used as mandatory standards governing the procurement or acceptability of solar systems proposed for HUD or other Federal solar activities. Instead, these Criteria will serve as a technical reference and resource for the solar industry, the building industry, and Federal, State, and local agencies concerned with assessing the design and performance of solar systems in buildings. For example, HUD relies on HUD 4930.2, the Intermediate Minimum Property Standards (IMPS) Supplement for Solar Heating and Domestic Hot Water Systems to control the quality of solar systems proposed for use in HUD-assisted housing programs. The IMPS are based on the performance requirements of the original Interim Performance Criteria; further revisions will reflect the new Performance Criteria.

A Finding of Inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

List of Subjects

Solar energy.

Discussion of Major Comments

The following is a discussion of major comments on the "Draft Performance Criteria for Solar Heating and Cooling Systems in Residential Buildings" which was printed in the Federal Register, Volume 46, No. 12, June 24, 1981, pp. 32738–32823, for public review and comment. The closing date for comments was August 24, 1981. A total of 16 letters with comments were received.

All comments received are appreciated and were considered in developing the final document. A number of comments identified the need to update references, correct typographical errors and make similar editorial changes. Changes in response to these comments have been made and will not be addressed here since they are editorial in nature. The discussion which follows is concerned primarily with changes of the technical content.

General

- Several comments were offered which related to the use of the "Performance Criteria for Solar Heating and Cooling Systems in Residential Buildings" (herein referred to as Performance Criteria) as a "regulatory document."

The Performance Criteria were not developed with the intent of being used as a regulatory document, but as a resource document that can be used for designing and evaluating the performance of solar components and systems. There are other documents in existence, such as the American National Standards Institute/Council of American Building Officials (ANSI/CABO) Standard 1.0–1981, "Recommended Requirements to Code Officials for Solar Heating, Cooling and Hot Water Systems," that have been developed for code enforcement purposes.

- Other comments were also made with reference to the "Recommended Requirements to Code Officials for Solar Heating, Cooling and Hot Water Systems" ANSI/CABO Standard 1.0–1981. The comments ranged from potential conflicts between requirements for the two documents to questioning the need for the Performance Criteria since the ANSI/CABO standard has been published.

Where conflicts were found between requirements of the two documents, they have been resolved. The comment recommending that the Performance Criteria not be published was not accepted. It is believed that the Performance Criteria and the ANSI/CABO Standard are compatible and complement one another. The Performance Criteria are being published because they address a broad range of technical issues (i.e., thermal, durability/reliability) and relevant references to supporting data, and contain a rationale for the establishment of various criteria and performance levels. The Performance Criteria also offer a guide to system designers for meeting the requirements for health, safety and welfare issues called for in the ANSI/CABO standard. The ANSI/CABO Standard 1.0–1981 was primarily developed with the intent of assisting regulatory officials in evaluating solar energy applications with regard to health, safety and welfare issues. The Performance Criteria cover a much broader scope of performance concerns. They are intended to provide the basis for system design, installation, operation, and maintenance at acceptable performance levels, and are directed toward designers, manufacturers, owners, and others as appropriate.

- Several commentors urged some type of certification program be established for evaluation and acceptance of products. The thought was also put forward that the evaluator be required to have some sort of certification which assures adequate qualification in the field.

The establishment of a certification program for solar equipment, system components, or individuals is beyond the scope of the Performance Criteria document. Statements included in the Supplementary Information of the June 24, 1981 **Federal Register** regarding certification were intended to suggest, in an introductory manner, a potential use of the Performance Criteria as a guide to system/product evaluation. The statements did not intend to present the Performance Criteria as requirements for certification. Certification issues are not part of the Performance Criteria and are not addressed in the final document.

The private sector is currently taking steps to establish certification programs with regard to performance and safety of solar collectors and domestic hot water systems.

Scope

• The need was questioned for inclusion of the "exception" as stated in the Scope section which specified that the criteria do not apply to the following systems: active space heating or cooling with less than 100 ft² (9.3m²) of collector area; active domestic hot water systems with less than 30 gal/hr (113 liter/hr) draw; passive systems with less than 100 ft² (9.3m²) of aperture area, receiving solar flux.

The above exceptions have been deleted. It was determined that it was not within the scope of this document to identify programmatic exceptions regarding the use of the Performance Criteria.

• A comment was offered indicating a need to clearly delineate which of the criteria specifically apply to active solar, and which apply to passive solar systems.

Although a number of criteria refer specifically to either active solar systems or passive solar systems, it was decided that the applicability of each criterion to passive and active solar systems is a determination that is system specific. In many cases, a clear distinction cannot be drawn without knowing specifically the design of the system, the physical makeup of the component under evaluation, and how the components are intended to be used within the system. A statement has been included in the Introduction to alert the user of the Performance Criteria that judgment must be used in determining which of the criteria apply to a specific feature of the system design, whether it be passive or active. This statement also identifies the need for possible adherence to the intent of a particular criterion (particularly with regard to passive systems) even if specific requirements within the criterion are not directly applicable. Although most of the criterion specifically developed for passive system are contained in Chapters 1 and 2, other criteria, especially those dealing with health and safety, may be equally applicable to both types of systems. Thus professional judgment must be exercised in applying the criteria to assure that the issues and concerns of the particular system, either active or passive, are adequately addressed.

Terminology

• Several comments were directed at the definition and use of "applicable authority."

"Applicable authority" as used in the Performance Criteria identifies those instances where the level of performance of a component or system may be subject to system design alternatives or governing regulations and could result in different levels of performance. The health and safety requirements are generally regulatory in nature and there are "minimums" below which performance is not acceptable. The fire requirements are examples of such minimum requirements. The applicable authority in the case of fire requirements would be the regulatory official representing the governing jurisdiction. Compliance with some criteria may be based upon lender's requirements, in which case the applicable authority would be the loan officer or some other representative of the organization. The durability/reliability criteria related to service life expectancy are examples that may come within this category. In many cases the applicable authority is the combination designer/builder/owner in specifying the desired economically satisfactory level of performance to be achieved. Both thermal and the durability/reliability requirements are examples of requirements that impact the system design/decision process. Therefore, the term "applicable authority" is intended to apply to a wide range of potential decision makers, ensuring the documents usefulness in a broad spectrum of applications and situations. The inference that the code official is *the* applicable authority is appropriate only with regard to issues of health, safety and welfare. The definition of "applicable authority" has been modified to read:

> The organization, office, or individual responsible for approving equipment, an installation, procedures, or performance levels. An applicable authority may range from a code official to an individual owner.

• A comment was offered that the determination of operating energy should include the energy required to defrost the heat pump since such energy is not directly contributing to the heating and cooling of the conditioned space.

It was agreed that this was a valid concern and the definition of operating energy has been changed to reflect this concern. The definition of "operating energy" has been changed to read as follows:

> Energy required to operate pumps, compressors, fans, blowers, valves, controls, movable shutters, or any other equipment, but not energy intended to directly satisfy a load. Operating energy, as defined here, includes energy to operate a heat pump compressor, and defrost energy for heat pumps, when these components are an integral part of the solar system.

Chapter 1, Site and Building

Introduction

• Several comments were directed at the frequent reference to the proposed Building Energy Performance Standard and the Residential Conservation Service Program and the possibility that the user might interpret the reference to these programs as being requirements for satisfying the Performance Criteria.

In response to these comments, references to the proposed Building Energy Performance Standard and the requirements for the Residential Conservation Service Program which were felt to infer compliance have been deleted. The deletion of these references should make clear that the use of the Performance Criteria does not require compliance with either of these energy conservation programs. The Introduction still contains recommendations that energy conservation be a major factor when considering solar energy applications.

Chapter 2—Thermal

Introduction

• Several comments were made relative to the "design energy limit" and the reference to the Building Energy Performance Standard (BEPS) in discussing depletable energy limit. These issues were raised concerning material covered in the Introduction 2.0 and Requirement 2.9, formerly entitled "Alternative Energy Limit Approach."

As mentioned earlier, the discussion of BEPS and the energy limit approach has been deleted from the Introduction. Requirement 2.9 has been reconstructed to address "effective use of depletable energy." The requirement for *establishing* a depletable energy use limit and reference to the BEPS limit in 2.9 have also been deleted. A depletable energy provision has been retained, but the requirement is only that a determination of depletable energy use for the particular building system design be made. This determination will provide the owner, designer, or a regulatory official, should the need arise, with details on system performance relative to depletable energy use. The information is essential for the owner and designer in making cost and energy use trade-offs in system design.

Criterion 2.1.1—Net Solar Contribution

• The term "conventional windows" was addressed by one commentor with regard to their use and the need for a definition.

The use of combinations of conventional and custom designed apertures is permitted in passive designs. All apertures which contribute to satisfying the load should be considered, but they must be evaluated for net solar contribution. "Conventional window" is not defined in the Performance Criteria since all apertures need to be considered in the energy analyses in terms of their energy performance.

Criterion 2.1.3—Building Overheating

• The temperature limit of 82°F in Criterion 2.1.3 was questioned and the suggestion was made to change the limit to 78°F which would be within the bounds of the ASHRAE comfort standard.

It was not the intent of Criterion 2.1.3 to necessarily limit the thermal conditions of the indoor space for passive application to those of the ASHRAE Comfort Standard (ASHRAE Standard 55–81). The ASHRAE Comfort Standard is *only* directed to mechanically conditioned spaces where heating and cooling is provided, which is beyond the intent of this criterion. *If mechanical cooling is provided,* then the ASHRAE Comfort Standard limits do apply and that condition is covered in Criterion 2.1.5. The value of 82°F (28°C), or the 5°F (3°C) temperature difference, is a limit that can, for most parts of the country, be met through whole house ventilation and/or the application of appropriate shading and thermal storage devices, without the aid of air conditioning.

The limits established here are somewhat better than might be expected of conventional housing which has no mechanical cooling. Since the passive structure is specifically designed for solar application, it must have some upper limit with regard to overheating.

Criterion 2.3.4—Auxiliary Water Heating System, Commentary

•A concern was expressed regarding the statement that sizing of domestic hot water systems storage containers for several days storage was not recommended (Criterion 2.3.4, Commentary). It was suggested that this statement was misleading.

Since there are possible applications where the statement would be inappropriate, it has been deleted. A caution, relative to large storage sizes, has been incorporated in the commentary on daily water use rate (See Criterion 2.3.2).

Criterion 2.4.2—Panel Performance in Array—Commentary

•The statement in Commentary to Criterion 2.4.2, that acceptable limits for flow variation in large collector arrays may be as great as "3 to 1" was questioned by one of the reviewers who felt that the statement could be misleading.

Realizing that for smaller residential systems this ratio may not be applicable, the statement has been deleted. Since the flow rate is subject to system design and type of collector, the commentary has been changed to state that the flow rates in the collectors must be maintained to be within the limits stated by the manufacturer.

Criterion 2.4.4—Heat Loss During Non-Collection Periods—Evaluation and Commentary

• A comment was made suggesting that the heat loss during non-collecting periods did not adequately address radiant sky effects.

In response to comments on the Criterion 2.4.4 for "heat loss during non-collection periods," the evaluation and commentary have been expanded to include radiant sky effects upon the absorber temperature at night. This is a very important consideration for freeze protection and heat loss. The commentary for the criterion related to sensor location has also been changed to reflect the need to consider night sky radiation related to freeze protection.

Criterion 2.5.3—Charging Rate and Criterion 2.5.4—Discharging Rate

• Criteria 2.5.3 and 2.5.4, which deal with charging and discharging rates of the thermal storage subsystem, were commented upon by several reviewers with regard to the need and value of these criteria.

After careful examination of the criteria it was decided that these criteria should be deleted. Sizing of the storage and heat exchange components is very important to system performance but the issues are adequately covered in other criteria. The tranfer of energy is addressed in Criteria 2.6.4, "Energy Transfer to Load" and in the commentary reference is made to guidance for sizing heat exchangers for solar application. Criterion 2.6.2 "Storage Selection" gives guidance on designing storage system capacity.

Criterion 2.6.2—Operating Energy—Evaluation

• Comments were made which suggested that the reference to heat pumps in the transport system operating energy criterion was inappropriate.

The statement in the evaluation, specific to heat pumps, has been removed. The operating energy required for transport of solar energy to and from storage should be considered without regard to the specific method of conveyance.

Criterion 2.8.4—Auxiliary Equipment Selection

• A comment directed at Criterion 2.8.4 for auxiliary equipment selection expressed concern with the statement which required the equipment to be selected to *minimize* the use of depletable energy. The commentor indicated that since no value was cited in the criterion there could be confusion in satisfying the requirement.

The criterion has been changed to state that the equipment must meet any minimum efficiency guidelines which may be established by existing standards, codes, or regulations applicable in the jurisdiction. The statement remains that the integration of the auxiliary energy equipment with the solar energy system must make effective use of depletable energy. The intent of this criterion being that the selection of auxiliary energy equipment should prevent the wasteful use of depletable energy.

Requirement 2.9—Alternative Energy Limit Approach

• Many comments were received regarding Requirement 2.9, "Alternate Energy Limit Approach." In addition to the comments addressed earlier relating to BEPS and the depletable energy limit, the alternate energy limit approach as described in the draft document was found to be inappropriate unless each component could be fully characterized and comply with the individual criteria.

This approach was evaluated to be unrealistic and has been deleted. Instead, the *effective use of depletable energy* regarding energy use for a whole system, has been addressed. Criterion 2.9.1 "Depletable Energy Use" has been revised to require the determination of depletable energy use on an annual basis. The former title "Depletable Energy Limit" has been dropped.

Chapter 3—Mechanical

Criterion 3.1.2.—System Balancing

• To be consistent with the earlier comment regarding deletion of the exceptions from the Scope statement of the Introduction, the exception which related to system balancing was also re-evaluated. The exception permitted exclusion of small systems from

compliance with the criterion. There were also comments to the effect that the criterion should not apply to several types of systems.

The "exception" which excluded small systems has been dropped. The intent of the criterion to "provide means" for balancing of the system must remain as stated. These "means" may be a variety of design features which will allow only balanced flow, or devices which can be adjusted to control the flow. The criterion does not specify system types or method of control, but rather requires that adequate control be addressed and provided.

Criterion 3.3.3—Damper Leakage

• A question was raised with regard to the use of Criterion 3.3.3 which establishes a two to five percent limit for critical damper leakage. The commentor wanted to know whether the leakage is based upon laboratory tests or field measurements.

Because these criteria apply to system design evaluation, it is considered acceptable to provide evidence that the damper performance is in compliance with the manufacturers' certification program based on laboratory data. If the designer has experience and field data to show that the damper design can meet the established limits, then that information should also be accepted as evidence of compliance. No change was made to the criterion.

Criterion 3.3.4—Air Leak Testing

• One commentor questioned the consistency of acceptable losses from various components as stated in Chapter 2 and 3, which deal with thermal losses and air leakage, respectively. The same commentor also raised the question about the cumulative effect of these losses on overall system performance.

The relationship between air leakage, thermal losses, and system thermal performance is very complex. NBS–GCR–302, *Air Leakage in Residential Solar, Heating System,* examines this relationship. Results from that report help resolve the comments raised concerning Criterion 3.3.4.

It is believed that the air leakage limits set forth in Criterion 3.3.4 are compatible with the subsystem or component thermal loss limits established in Chapter 2 (Criteria 2.4.3, 2.5., and 2.6.1). The subsystem thermal loss limits include both conductive losses as well as air leakage losses. Thus, thermal losses due to air leakage must be less than the total loss if the criteria are to be compatible.

The percentage thermal loss for subsystems and components are largely based on engineering judgment derived from examining component/subsystem performance data from a number of instrumented sites in the National Solar Demonstration Program. It is believed that the stated values are achievable if reasonable care is taken during system design and installation. These values can be field-verified by simple measurement techniques and calculations. Every effort should be made to seal duct work to prevent air leakage during construction, using SMACNA approved techniques, since leakage from these components is very difficult to correct after construction.

The maximum allowable air leakage rate cited in Criterion 3.3.4 was selected based on industry standards, while the maximum allowable energy loss rates of 15% cited in Chapter 2 were selected because field data have shown this to be reasonable level of performance in practice.

The second issue raised relative to a suggested limit on cumulative energy losses appears to be an excellent suggestion. However, its evaluation would be impractical at this time and therefore incorporation into the performance criteria at the current time is not appropriate. As shown in NBS–GCR–81–302, system energy loss (or cumulative loss) is defined as the annual percent increase in auxiliary and operating energy due to both heat loss and air leaks, relative to a system that has no air leakage. In solar energy systems in which heat and air leakage occur in all of the subsystems and components, system energy loss can only be estimated by performing a detailed hourly computer simulation, using a sophisticated model such as described in the above report. The reported results of such computer studies show that there are subtle interactions between the various solar system components and the building due to air leakage, and that the individual subsystem/component leakage percentages do not add up to the system energy loss percent. Thus, although the suggestion to limit cumulative effects of air leakage is judged to be an excellent suggestion, it is believed that due to difficulties in evaluation, the current subsystem/component leakage criteria are more appropriate.

Chapter 4—Health and Safety

Criterion 4.1.2—Separation of Circulation Loops—Commentary

• As the result of new information available on the status of the proposed ASME standard on heat exchangers, it was suggested that the footnote detailing the guidelines related to toxicity is inappropriate for inclusion in the Performance Criteria.

Recently the proposed ASME standard on heat exchangers was submitted to the ASME Board on Pressure Technology Codes and Standards for approval as a tentative standard. The Board considered the request and the proposed standard was rejected and sent back to the ASME Solar Energy Standards Committee for revision. Because of this action within ASME and to allow the standards development process to continue in an objective manner, the footnote has been deleted. This action is also consistent with the ANSI/CABO Standard 1.0—1981 which does not reference the details of the ASME standards development effort. It is still felt that the protection of potable water supply is essential and adequate design of heat exchanger components is very important. Every effort should be made to develop a meaningful consensus standard for heat exchangers that will adequately address health and safety issues.

Criterion 4.3.5—Surface Temperature

• The allowable temperature limit of 140°F as stated in Criterion 4.3.5 was questioned and a limit of 110°F was suggested.

Because the current limit of 140°F is referenced in several other documents, such as the HUD Minimum Property Standards, and various building codes and is recognized as a safe practice, it was decided to retain this 140°F limit. The stated value is a maximum and the actual operating level may be selected to be a lower value.

Criterion 4.4.1—Liquid Flash Point

• Several comments were received related to the need for clarification of the temperature limits stated in Criterion 4.4.1.

The "Liquid Flash Point," Criterion 4.4.1, was revised to read: "The flash point of a liquid heat transfer fluid shall equal or exceed the higher temperature determined from A and B below:

A. A temperature 50°F (28°C) above the design maximum flow temperature of the fluid in the solar system:

B. The design maximum no-flow temperature of the fluid. Exception: When the collector manifold assembly is located outside of the building and exposed to the weather and provided that the relief valves located adjacent to the collector or collector manifold do not discharge directly or indirectly into the building, and such discharge is directed

away from flames and ignition sources, only A above applies.

A "liquid heat transfer fluid" is defined as the operating or thermal storage liquid including water or other liquid base and all additives at the concentration used under operating conditions. The flash point shall be determined by the methods determined in NFPA No. 321, "Basic Classification of Flammable and Combustible Liquids" [28]. Flammable liquids shall not be used, and in systems using a gaseous heat transfer fluid, a flammable gas shall not be used. The design maximum flow temperature *of the fluid* is defined as the maximum fluid temperature that will be obtained when the heat transfer fluid is flowing through the system. Generally, this temperature will occur in the collector when it is receiving its maximum level of solar radiation at maximum ambient temperature.

Paragraph "B" was changed and the exception added to clarify the intent of the criterion and to eliminate the requirement for a flash point temperature 200°F below the maximum no-flow temperature when the collector manifold is located outside of the building.

Criterion 4.4.5—Fire Resistance Requirements

• A comment was offered that the Criterion 4.4.5 should be expanded to include more than just penetrations through fire rated building elements. The effects of the placement of solar components upon the rated elements should also be addressed.

Criterion 4.4.5 was slightly modified to emphasize that the presence of solar components and their installation shall not reduce the required fire resistance of rated building elements.

New Criterion 4.4.6—"Roof Covering Fire Performance"

• A comment was directed at the need for a criterion covering the effect of roof mounted solar collectors upon the fire rating of roof systems.

As a result of a Department of Energy test program on roof-mounted solar collectors, there is evidence that such roof mounted collectors can reduce the fire performance of roof coverings as tested by ASTM E–108. As a result of that study, a new criterion, "Roof Covering Fire Performance" Criterion 4.4.6, was developed. The criterion states, "The presence of roof-mounted solar collectors or other components shall not reduce the required fire rating of the roof covering material below that required by the applicable authority."

Old Criterion 4.4.6—Self-Ignition of Combustibles

• There was found to be a potential conflict between the ANSI/CABO Standard 1.0—1981 in the area of clearance distances from combustibles.

The self-ignition of combustibles criterion (renumbered from 4.4.6 to 4.4.7) was changed to be in conformance to the ANSI/CABO Standard 1.0—1981. The revised criterion states clearance distances required when combustibles are to be used in the vicinity of heated surfaces.

New Criterion 4.5.3—Electrical Wiring

• A comment was received indicating the need to address the proper installation and use of electrical wiring and equipment when located in areas of high temperature.

Based upon the above comment, a new criterion (4.5.3) was added which relates to the placement and use of electric wiring and electrical equipment in spaces where the expected temperature would be higher than normal. In such spaces the appropriate wire and equipment having the proper thermal rating must be used. Experience has shown that wires and electric equipment rated for normal temperature exposure (60° C) have been used in high temperature spaces in some solar applications. Such practice can present a potential fire hazard.

Chapter 5—Durability/Reliability

• Several general comments were made to the effect that commonly-used materials such as concrete should not require evaluative testing in order to be accepted.

It is agreed that those materials which have a history of satisfactory performance when used in conventional ways should not be required to be re-evaluated. Many of the evaluation statements indicate that documentation may be used in such cases in lieu of testing where there is a history of adequate performance. But it may be necessary, when conventional material is used in new ways and its performance is unknown, that critical evaluation be required to answer performance related questions. Considerable judgment must be exercised when new materials or conventional materials are used in unusual ways. Testing will be required only if there are insufficient data to permit the use of engineering judgment. No changes have been made to the criteria as a result of the comment.

• Concern was expressed that the use of the standards listed in Table 5.2 was unclear and could be misleading.

Table 5.2 has been deleted and the individual standards have been integrated directly into the evaluation statements as appropriate. This change should assist the user in applying existing voluntary standards in the process of evaluating components and materials proposed for use in solar applications.

Appendix

Format

• A comment was offered regarding the format of the Appendix. It was suggested that the material might be better presented if divided into two parts, one specifically dedicated to test methods and evaluation guidelines frequently referred in Chapter 5 and the other of the miscellaneous material included in the Appendix.

The material contained in the Appendices remains essentially unchanged except for updating of references and the addition of new data where applicable. Appendix A contains testing and evaluation methods that are frequently referenced in Chapter 5 and relate to durability/reliability requirements of subsystems, components and materials. Appendix B contains selected ASTM test methods which may be useful in making physical property measurements of materials used in solar applications, and tables are presented which provide reference characteristics and properties of materials for use in solar components. Technical review forms which identify areas of concern with regard to system design and technical evaluation are also included along with appropriate references, abbreviations, and S.I. (metric) conversion units.

Appendix—Section 3, *Aging Procedure*—1 (Simulated Laboratory Exposure)

• The aging procedure described for evaluation of solar degradation effects was questioned by one commentor.

The "Aging Procedure—1" references ASTM G26 and D2565 as acceptable laboratory exposure procedures which use the Xenon-arc as light source. The reviewer correctly points out that there is a caveat in ASTM G26 discouraging the interpretation of its procedures as an accelerated weathering test or as an equivalent to a natural weathering test.

The test methodology referenced in the aging procedure is used as a screening test and is not intended to correlate directly with real time exposure. The Xenon-arc test has been used for many years as a screening process for evaluation of new materials.

Two recently adopted ASTM Standards, E–744 and E–765 for absorbers and cover plate materials, respectively, incorporate the use of Xenon-arc weathering machines. No changes were made to the aging procedures.

Appendix—Section 3—*Aging Procedure*—3 (Natural Weather)

• A comment was made that it would be difficult in Pennsylvania to meet the 1300 BTU/ft.^{2} day value specified in the natural aging test procedure.

Although the 1300 BTU/ft.^{2} day can be obtained over a significant portion of the United States, lowering the required level to 1200 BTU/ft.^{2} day would permit exposure testing in a broader area while substantially meeting the intent of the test requirement. The value has been adjusted to 1200 BTU/ft.^{2} day to include this broader area for exposure testing.

Copies of the Performance Criteria are available from William E. Freeborne, Mechanical Engineer, Building Technology Division, Room 8158, Department of Housing and Urban Development, Washington, D.C. 20410, Telephone (202) 755–6900. Additional copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, NBS Building Science Series 147, price $7.50.

(Sec. 8, Solar Heating and Cooling Demonstration Act of 1974, Pub. L. 93–409 (42 U.S.C. 5506))

Dated: January 3, 1983.

E. S. Savas,

Assistant Secretary for Policy Development and Research.

[FR Doc. 83–869 Filed 1–14–83; 8:45 am]

BILLING CODE 4210–01–M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R–83–1007]

Use of Materials Bulletin No. 84—HUD Building Products Certification Program for Solid Fuel Type Room Heaters and Fireplace Stoves

AGENCY: Office of Assistant Secretary for Housing, Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule adopts as part of HUD's Minimum Property Standards (MPS) a Use of Materials Bulletin that incorporates Underwriters Laboratories standards for the design, assembly and testing of solid fuel room heaters and fireplace stoves. The rule also supplements HUD's building products certification procedures by requiring for this particular certification program that certain additional information be included in the label which each manufacturer affixes to its product, and by specifying the frequency with which heaters and stoves must be tested in order to be acceptable under the MPS. This action is in response to the safety need that has grown out of the large increase in fires resulting from greater use of these types of heating units.

EFFECTIVE DATE: March 9, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie H. Breden, Construction Standards Division, Office of Manufactured Housing Construction Standards, Room 3222, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410; telephone (202) 755–5929. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: As part of its Minimum Property Standards, HUD has established under § 200.935 both qualifications for its acceptance of Program Administrators and procedures to be used by manufacturers of building products when certifying that their products meet applicable standards. A Program Administrator is an organization that validates, in a manner prescribed by HUD, each manufacturer's certification of compliance. A Use of Materials Bulletin sets forth the minimum criteria for Administrators to follow in validating manufacturers' certifications.

This rule adopts Use of Materials Bulletin No. 84 (UM 84), which incorporates Underwriters Laboratories standards for the design, assembly and testing of solid fuel room heaters (ANSI/UL 1482) and fireplace stoves (ANSI/UL 737). This action is in response ato the safety need that has grown out of the large increase in fires resulting from greater use of these types of heating units. The industry supports issuance of this Use of Materials Bulletin.

Besides adopting the Underwriters Laboratories standards, UM 84 augments the labelling requirements of § 200.935(d)(6) to include: (1) A statement of conformance with the HUD Building Products Certification Program, (2) identification of the manufacturer by name and assembly plant; (3) reference to the specification designation and manufacturer series or model number; and (4) indication of the type of fuel to be used. UM 84 further requires that, when affixed to the stove or fireplace, the label must be placed in a manner that makes it readily visible after the product is installed. Finally, UM 84 secifies that the frequency of testing under § 200.935(d)(8) shall be every four years, with visits by the administrator to the manufacturing facility twice each year.

Because these added requirements relate only to this particular certification program, they are set out in a new § 200.936, not as amendments to existing § 200.935, which governs all certifications under the Minimum Property Standards. Thus, § 200.936 augments § 200.935; it does not supplant it.

Problems with construction and testing of solid fuel room heaters and fireplace stoves pose a continuing threat to health and safety which UMB 84 is designed to correct wherever the Minimum Property Standards apply. The Secretary has therefore determined that the delay that would result from providing an opportunity for public comment on this amendment would be contrary to the public interest, and that good cause exists for adopting UM 84 as a final rule. This product certification program, moreover, has been extensively reviewed by industry representatives, and further analysis and discussion would not be likely to provide additional information helpful to the Secretary in this matter.

The text of UM 84 is not being reproduced in this rule because its substance is embodied in the new Sec. 200.936, which is being adopted as set forth below. However, a copy of UM 84 is available for public inspection during regular business hours in Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3236; and in the Office of Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on

competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b), (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. UM 84 adopts product standards that are widely recognized throughout the affected industry, and it will not create a burden on manufacturers currently meeting the standards.

This rule is listed (as an interim rule) at 47 FR 48436 as Item H–23–81 in the Department's Semiannual Agenda of Regulations published on October 28, 1982, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Housing standards, Minimum property standards.

PART 200—[AMENDED]

Accordingly, 24 CFR Part 200, Subpart S, is amended by adding a new § 200.936 to read as follows:

§ 200.936 Supplementary specific procedural requirements under HUD Building Products Certification Program for solid fuel type room heaters and fireplace stoves.

(a) *Applicable standards.* Solid fuel type room heaters and fireplace stoves certified under the HUD Building Products Certification Program shall be designed, assembled and tested in conformance with the following standards, which are incorporated by reference:

(1) ANSI/UL 737 (1978), for fireplace stoves;

(2) ANSI/UL 1482 (1979), for solid fuel type room heaters with coal amendments.

(b) *Labelling.* (1) Under the procedures set forth in paragraph (d)(6) of § 200.935, concerning labelling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. In the case of solid fuel type room heaters and fireplace stoves, the following additional information must be included on the certification label:

(i) The manufacturer's statement of conformance to the HUD Building Products Certification Program;

(ii) The manufacturer's name and the identity and location of manufacturing plant;

(iii) The specification designation and manufacturer series or model number; and

(iv) The type of fuel to be used.

(2) The certification label must be permanently affixed to the heater or stove and be readily visible after the heater or stove is installed.

(c) *Periodic tests and quality control inspections.* Under the procedures set forth in paragraph (d)(8) of § 200.935, concerning periodic tests and quality control inspections, the frequency of testing for a product must be described in the specific building product certification program. In the case of solid fuel type room heaters and fireplace stoves, testing and inspection shall be conducted as follows:

(1) Once every four years, beginning with the initial administrator visit, a sample of each certified product shall be selected by the administrator for testing for compliance with the applicable standards in a laboratory which has been accredited under the National Voluntary Laboratory Accreditation Program.

(2) The administrator shall visit the manufacturer's facility two times a year to assure that the initially accepted quality control procedures are being followed.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec. 211 of the National Housing Act, 12 U.S.C. 1715b)

Dated: August 24, 1982.

Philip Abrams,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 83–1202 Filed 1–14–83; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulfur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Rule related notice of availability.

SUMMARY: Notice is given concerning the future availability of a draft user's manual for the Outer Continental Shelf (OCS) Air Quality Dispersion Model. The Minerals Management Service (MMS) requests interested parties to submit their names to receive copies of the draft manual for technical review and comment.

DATES: Interested parties should file requests by February 18, 1983.

ADDRESSES: The names of parties interested in receiving a copy of the draft user's manual for review and comment should be sent to: Minerals Management Service, U.S. Department of the Interior, Offshore Environmental Assessment Division, 12203 Sunrise Valley Drive, Mail Stop 644, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: John Goll or Mitchell Baer, Offshore Environmental Assessment Division, Minerals Management Service, 12203 Sunrise Valley Drive, Mail Stop 644, Reston, Virginia 22091, Telephone: (703) 860–6461, (FTS) 928–6461.

SUPPLEMENTARY INFORMATION: On March 7, 1980, MMS (formerly the Conservation Division of the U.S. Geological Survey) published a rule, 30 CFR 250.57, establishing a regulatory program to implement section 5(a)(8) of the OCS Lands Act Amendments of 1978, Pub. L. 95–372, concerning the regulation of air emissions from oil and gas operations on the OCS (45 FR 15128, March 7, 1980). The regulations are designed to ensure that emissions from OCS facilities do not cause significant effects on the onshore air quality of a State. On June 5, 1980, MMS published a Notice in the **Federal Register** at 45 FR 37616 describing the use of air quality modeling in its OCS air quality program.

A contract was awarded to Environmental Research and Technology, Inc. of Concord, Massachusetts, in May 1982 to develop an OCS atmospheric transport and dispersion model. A draft of the user's guide will be available during the spring of 1983. By this Notice, MMS is soliciting the names of interested parties who would wish to provide technical comments on the content of the guide. Parties with expertise in the areas of air quality computer models and overwater or coastal atmospheric dispersion and transport are invited to request copies of the guide for their review.

When the draft guide is completed, copies will be sent to the parties who respond to this Notice with comments due from reviewers after a 30-day review period. The MMS will be requesting comments only on the technical content of the user's guide. After a review of the comments, a final user's guide will be prepared. The final model should be available for general use during late 1983.

Dated: December 15, 1982.

Robert L. Rioux,

Associate Director for Offshore Minerals Management.

[FR Doc. 83-1173 Filed 1-14-83; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Approval of Amendments and Removal of Condition of Approval of the Missouri Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The State of Missouri has satisfied the final condition on the approval of the Missouri program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Missouri received conditional approval of it program on November 21, 1980 (45 FR 77017–77028), subject to the correction of 23 minor deficiencies. The 23 deficiencies were included in three conditions, (a), (b), and (c). Condition (a) consisted of (a)(1) through (a)(21).

Missouri previously submitted amendments to satisfy the conditions and the Secretary determined that the amendments corrected the deficiencies, with the exception of the last element of condition (a)(1). The Secretary removed the first six elements of condition (a)(1), conditions (a)(2) through (a)(21), and conditions (b) and (c) on May 11, 1982 (47 FR 20116–20119), and extended the deadline for Missouri to meet the last element of condition (a)(1) to October 15, 1982. By letters dated September 7, 1982, and October 13, 1982, Missouri submitted additional program modifications including changes intended to satisfy the last element of condition (a)(1). The Secretary is approving the modifications and removing the last condition of approval.

DATE: The approval of these program modifications is effective January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur Abbs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION:

Background

The Missouri program was approved on November 21, 1980 (45 FR 77017–77028). The approval was conditioned on the correction of 23 minor deficiencies. The 23 deficiencies were included in three conditions, (a), (b), and (c). Condition (a) consisted of (a)(1) through (a)(21). In accepting the Secretary's conditional approval, Missouri agreed to correct deficiencies (a) and (b) by April 1, 1981, and deficiency (c) by October 1,1981.

To correct deficiency (a), Missouri submitted fully enacted rules dated December 3, 1981. Missouri submitted enacted rules dated March 12, 1981, to correct deficiency (b), and an opinion from the State Attorney General to correct deficiency (c). After providing an opportunity for public review and comment, the Secretary determined that the amendments submitted by Missouri corrected the deficiencies in the program, with the exception of the last element of condition (a)(1). The Secretary removed the first six elements of condition (a)(1), conditions (a)(2) through (a) (21), and conditions (b) and (c) on May 11, 1982 (47 FR 20116–20119). The Secretary also extended the deadline for Missouri to meet the last element of condition (a)(1) to October 15, 1982. In that notice, OSM also identified a number of minor errors in the cross-references throughout the Missouri amendments. OSM notified Missouri by letter dated April 7, 1982, that although the errors did not affect the substance of the regulations, they could be misleading and should be corrected.

Submission of Amendments

Missouri submitted rules, by letters dated September 7, 1982, and October 13, 1982 (Administrative Record MO–248), intended to satisfy the last element of condition (a)(1), correct the cross-references errors noted in OSM's April 7, 1982 letter, and make additional amendments.

On November 3, 1982, OSM published notice in the **Federal Register** announcing receipt of these provisions and inviting public comment on the adequacy of the proposed amendments (47 FR 49870–49871).

Secretary's Findings

The Secretary finds the program amendments submitted by Missouri on September 7 and October 13, 1982, satisfy the last element of condition (a)(1) as follows:

Missouri amended its rule 10 CSR 40–8.030(13)(B) to define the term "final order or decision" to include any order or decision of the commission, the director or any authorized representative or hearing officer, even if it is subject to further administrative or judicial review, so long as the order or decision determines the rights or obligations of an operator, or if legal consequences may flow from a violation of, failure to comply with, or refusal to comply with the terms of the order or decision.

As discussed in the May 11, 1982 **Federal Register** (47 FR 20117), Missouri rule 10 CSR 40–8.030(13)(A) makes injunction actions dependent upon the prerequisite of a "final order or decision". The Secretary found the rule inconsistent with Section 521(c)(A) of SMCRA and 30 CFR 843.19 which provide for injunctive relief for violation of *any* order or decision. The Secretary finds that amended rule 10 CSR 40–8.030(13) is now consistent with the Federal law and regulations and satisfies the last element of condition (a)(1).

The Secretary further finds that the additional rule amendments submitted by Missouri, which are unrelated to the condition of approval, are consistent with SMCRA and no less effective than the Federal regulations. These additional rule amendments are as follows:

(1) An amendment was made to 10 CSR 40–8.030(6)(B) 1. and (C) to correct references.

(2) An amendment was made to 10 CSR 40–8.030(7)(A) and (D) to correct references.

(3) An amendment was made to 10 CSR 40–8.030(8)(A) 1. to correct references.

(4) An amendment was made to 10 CSR 40–8.030(8)(E) to delete the phrase "and within the time limit set forth in this rule," because a 60-day period is specified.

(5) An amendment was made to 10 CSR 40–8.030(9)(A) 2. and (B) to correct references.

(6) An amendment was made to 10 CSR 40–8.030(10)(A) to correct references and include the phrase "with the Commission" to indicate where to file an application for review and request a hearing on a notice or order.

(7) An amendment was made to 10 CSR 40–8.050(8) to allow SOAP contractors to subcontract with other qualified laboratories.

(8) An amendment was made to 10 CSR 40–8.060 to renumber Sections (7)–(10) as Sections (5)–(8).

Public Comments

The public comment period ended December 6, 1982. No comments were received, and no requests for a hearing were made, so none was held.

Approval of Amendments

Accordingly, the last element of condition (a)(1) is hereby removed and 30 CFR Part 925 is amended to indicate

approval of the Missouri program amendments dated September 7 and October 13, 1982.

Additional Determinations

National Environmental Policy Act. Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), this rule is not a major Federal action and therefore no environmental impact statement, environmental assessment, or FONSI need be prepared on this rulemaking.

Regulatory Flexibility Act. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this proposed rule will not have a significant economic impact on substantial number of small entities.

Executive Order 12291. On August 23, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State programs, actions or amendments. Therefore, this proposed program amendment is exempt from the requirement to prepare a Regulatory Impact Analysis and regulatory review by OMB.

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 925 of Title 30 is amended as set forth herein.

Dated: January 10, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 925—MISSOURI

1. Section 925.10 is amended by revising paragraph (a) to read as follows:

§ 925.10 State program approval.

(a) The Missouri State program submitted on February 1, 1980, and as amended and clarified on May 14, 1980, was conditionally approved effective November 21, 1980. The amendments submitted December 3, 1980, and March 12, 1981, were approved effective May 11, 1982, with the exception of Section 10 CSR 40–8.030(13). The amendments submitted September 7, 1982 and October 13, 1982, are approved effective January 17, 1983. Copies of the approved program, as amended, are available for review at:

(1) Missouri Land Reclamation Commission, 1026–D N.E. Drive, Jefferson City, Missouri 65101.

(2) Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

(3) Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20240.

* * * * *

§ 925.11 [Removed]

2. Part 925 is amended by removing Section 925.11.

3. Section 925.15 is revised to read as follows:

§ 925.15 Approval of regulatory program amendments.

(a) The Missouri permanent program amendments of December 3, 1980 and March 12, 1981, are approved effective July 23, 1982.

(b) The Missouri permanent program amendments of September 7, 1982 and October 13, 1982, are approved effective January 17, 1983.

[FR Doc. 83–1230 Filed 1–14–83; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 935

Removal of Condition on the Approval of the Ohio Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule: Removal of condition on the approval of the Ohio State program.

SUMMARY: The State of Ohio has satisfied one condition of approval of the Ohio program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) by submitting a rule as a program amendment. Ohio received conditional approval of its permanent program effective August 16, 1982, as announced in the **Federal Register** of August 10, 1982 (47 FR 34688–34718), subject to the correction of eleven minor deficiencies. On September 16, 1982, Ohio submitted to the Department of the Interior materials that satisfy condition of approval "e". Approval of the State rule as a program amendment will be reflected in 30 CFR Part 935.

EFFECTIVE DATE: The removal of condition "e" is effective January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur Abbs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5361.

SUPPLEMENTARY INFORMATION: On January 22, 1982, the State of Ohio resubmitted to the Department of the Interior its permanent regulatory program under SMCRA. The resubmission followed an initial disapproval, notice of which was published in the **Federal Register** October 1, 1980 (45 FR 64982–64971). After opportunity for public comment and thorough review of the program resubmission, the Secretary of the Interior determined that the Ohio program meets the requirements of SMCRA and the Federal permanent program regulations, except for minor deficiencies.

Accordingly, the Secretary of the Interior conditionally approved the Ohio program subject to the correction of eleven minor deficiencies. Information pertinent to the general background, revisions, and modifications to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982, **Federal Register** (47 FR 34688–34718). The approval was effective on August 16, 1982.

In accepting the Secretary's conditional approval, Ohio agreed to correct condition "e" by submitting to the Secretary by September 16, 1982, copies of promulgated regulations deleting the provision in OAC 1501:13–1–01(A) exempting persons holding permits issued after September 1, 1981, from the requirement to apply for a new permit after approval of the program. Ohio also agreed to correct all remaining deficiencies by August 8, 1983.

On September 16, 1982, Ohio submitted materials intended to modify the approved State program so as to satisfy condition of approval "e". The submitted materials include an amended State rule, OAC 1501:13–1–01 which deletes an exemption from the requirement that all operators file permanent program permit applications. A copy of an Executive Order issued by Ohio Governor James A. Rhodes implementing the revision as an emergency rule is also included. OSM published a notice in the **Federal Register** on October 14, 1982, (47 FR 45885) announcing receipt of the materials and inviting public comment on whether the submitted materials satisfy condition "e". The public comment period ended on November 18, 1982. No one appeared to present testimony at a public hearing that was scheduled for November 16, 1982.

Secretary's Findings

The Secretary finds the program amendment submitted by Ohio on

September 16, 1982, satisfies condition "e" as follows:

Amended OAC 1501:13–1–01 deletes the provision exempting persons holding "D" permits from applying for a new permit after approval of the State program by the Secretary. The Secretary finds that the amendment satisfies condition "e".

Public Comment

No comments were received in response to the October 14, 1982, **Federal Register** notice announcing the hearing and comment period on the amendment submitted by Ohio.

Approval of Amendment To Satisfy a Condition of Approval

Accordingly, condition "e" is hereby removed and 30 CFR Part 935 is amended to indicate approval of the Ohio program amendment submitted to OSM on September 16, 1982.

Additional Findings

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs or amendments. Therefore, this program amendment is exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On December 22, 1982, the Environmental Protection Agency transmitted its written concurrence on the Ohio program amendment.

List of Subjects in 30 CFR 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 935 of Title 30 is amended as set forth below.

Dated: January 10, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 935—OHIO

1. 30 CFR Part 935.10 is revised to read as follows:

§ 935.10 State regulatory program approval.

The Ohio State regulatory program as submitted on February 29, 1980, and resubmitted on January 22, 1982, is conditionally approved, effective August 16, 1982. Beginning on that date, the Department of Natural Resources shall be deemed the regulatory authority in Ohio for all surface coal mining and reclamation operations and for all exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on non-Federal non-Indian lands shall be subject to the provisions of the Ohio permanent regulatory program. The amendment submitted on September 16, 1982, is also approved effective January 17, 1983.

Copies of the approved program, as amended, are available at:

(a) Division of Reclamation, Ohio Department of Natural Resources, Fountain Square, Bldg. B., Columbus, Ohio 43224, Telephone: (614) 265–6633.

(b) Office of Surface Mining, Room 5315, 1100 L St., NW., Washington, D.C. 20240, Telephone: (202) 343–4728.

§ 935.11 [Amended]

2. Section 935.11 by removing and reserving paragraph (e).

[FR Doc. 83–1229 Filed 1–14–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 110 and 165

[CGD 82–046]

Regulated Navigation Area; San Pedro Bay, California

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These regulations establish a Regulated Navigation Area in San Pedro Bay, California, in order to establish permanent, passive vessel-traffic-management procedures that provide for the safety of navigation. The condition of the port and waterways in the proposed area warrants a higher safety standard than is provided by the Rules of the Road. Vessels will be required to comply with specific operating criteria to gain access into or transit through the proposed Regulated Navigation Area.

EFFECTIVE DATE: February 16, 1983.

FOR FURTHER INFORMATION CONTACT: Commander Lindon A. Onstad, Marine Safety Division, Eleventh Coast Guard District, 400 Oceangate, Long Beach, CA 90822. Phone Number 213–590–2301.

SUPPLEMENTARY INFORMATION: On 12 August 1982, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for this regulation (47 FR 35011). Interested persons were requested to submit comments and two comments were received.

Drafting Information: The principal persons involved in drafting this proposal are: Lieutenant Commander James B. Morris, Project Officer, Marine Safety Division, Eleventh Coast Guard District; Commander Lindon A. Onstad, Project Officer, Marine Safety Division, Eleventh Coast Guard District; and Commander Rene N. Roussel, Project Attorney, District Legal Office, Eleventh Coast Guard District.

Discussion of Comments: Each responder supported the amendments to the rules. The Port of Long Beach also commented that the proposed regulations were not clear with regard to the use of Commercial Anchorage G by vessels with confirmed pilot orders. The final rules have been changed to make it clear that vessels with confirmed pilot orders from either the Los Angeles or Long Beach Pilots may use Commercial Anchorage G for standby purposes.

Evaluation: These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations. (DOT Order 2100.5 of 5–22–80). A draft economic evaluation has not been prepared since its impact is expected to be minimal. These regulations will not cause delays to vessels transiting the area. For these reasons it is also certified that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities, in accordance with Section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164).

List of Subjects

33 CFR Part 110

Anchorage Grounds.

33 CFR Part 165

Harbors, Waterways, Marine safety, Security measures, Vessels, Navigation (water).

In consideration of the foregoing, Chapter I of Title 33 Code of Federal Regulations is amended as follows:

PART 110—ANCHORAGE REGULATIONS

§ 110.214 [Amended]

1. By removing subparagraph (a)(7)(iii) of § 110.214.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. By adding a new § 165.1109 to read as follows:

§ 165.1109 San Pedro Bay, California

(a) The following is a Regulated Navigation Area—The waters of San Pedro Bay enclosed by a line beginning at Los Angeles Light, latitude 33°42'30.6" N. longitude 118°15'02.5" W.; thence easterly along the Los Angeles-Long Beach Middle Breakwater to Long Beach Entrance Light 2, latitude 33°43'23.5" N., longitude 118°10'46.9" W., thence southerly to latitude 33°42'09.0" N., longitude 118°10'23.0" W., thence westerly to latitude 33°42'09.0" N., longitude 118°11'33.3" W.; thence southwesterly to latitude 33°41'40.5" N., longitude 118°13'02.2" W.; thence westerly to latitude 33°41'36.1" N., longitude 118°13'43.0" W.; thence southwesterly to latitude 33°41'13.8" N., longitude 118°14'52.2" W.; thence northerly to the beginning point at Los Angeles Light.

(b) There are two pilot areas within the regulated navigation area described in paragraph (a). They are defined as follows:

(1) The Los Angeles Pilot Area is enclosed by a line beginning at Los Angeles Light, latitude 33°42'30.6" N., longitude 118°15'02.5" W.; thence easterly to Los Angeles Main Channel Light 2, latitude 33°42'38.8" N., longitude 118°14'37.5" W.; thence southeasterly to latitude 33°41'36.1" N., longitude 118°13'43.0" W.; thence southwesterly to latitude 33°41'13.8" N., longitude 118°14'52.2" W.; thence northerly to the beginning point.

(2) The Long Beach Pilot Area is enclosed by a line beginning at Long Beach Light, latitude 33°43'23.5" N., longitude 118°11'09.3" W.; thence easterly to Long Beach Entrance Light 2, latitude 33°43'23.5" N., longitude 118°10'46.9" W.; thence southerly to latitude 33°42'09.0" N., longitude 118°10'23.0" W.; thence westerly to latitude 33°42'09.0" N., longitude 118°11'33.3" W.; thence northeasterly to the beginning point.

(c) For the purposes of this section—

(1) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

(2) "Self-propelled Vessel" means any vessel propelled by machinery or capable of being propelled by machinery.

(3) "Towing Vessel" means any commercial vessel engaged in towing another vessel astern, alongside, or by pushing ahead.

(4) "Controlled Vessel" means any self-propelled vessel of 300 Gross Tons and upward, any vessel certificated to carry fifty or more passengers, and any towing vessel of 26 feet or more in length.

(d) *Regulations:* (1) *Commercial Anchorage G.* Except in an emergency, no Controlled Vessel may enter Commercial Anchorage G (Outside of the middle breakwater) [33 CFR 110.214(a)(7)], or the waters between Commercial Anchorage G and the Middle Breakwater, unless it anchors in Commercial Anchorage G or is standing by with confirmed pilot boarding arrangements with either the Los Angeles or Long Beach Pilot Services, or is engaged in towing vessels to or from Commercial Anchorage G.

(2) *Los Angeles Pilot Area.* No Controlled Vessel may enter the Los Angeles Pilot Area unless it is entering or departing the Los Angeles Main Channel via the Los Angeles Harbor Entrance (Angels' Gate). Every vessel, whether Controlled or not, entering the Los Angeles Pilot Area shall pass directly through without stopping or loitering unless stopping is necessary to embark or disembark a pilot. Every Controlled Vessel shall pass to the eastward of Los Angeles Approach Lighted Bell Buoy LA when entering Los Angeles Main Channel and to the westward when departing.

(3) *Long Beach Pilot Area.* No controlled Vessel may enter the Long Beach Pilot Area unless it is entering or departing Long Beach Channel via the Long Beach Harbor Entrance (Queen's Gate). Every vessel, whether Controlled or not, entering the Long Beach Pilot Area shall pass directly through without stopping or loitering unless stopping is necessary to embark or disembark a pilot. Every Controlled Vessel shall pass eastward of Long Beach Approach Lighted Whistle Buoy LB when entering Long Beach Channel and to the westward when departing. All Controlled Vessels shall pass across the southern boundary of the Long Beach Pilot Area when departing.

(Section 2, 92 Stat. 1472, 1477, (33 U.S.C. 1223, 1231); 49 CFR 1.46(n)(4))

Dated: December 15, 1982.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 83-983 Filed 1-14-83; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 6

United States Government Life Insurance

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is rescinding certain regulations and amending other regulations to reflect that United States Government Life Insurance (USGLI) policies are fully paid-up and is further rescinding all regulations relating to War Risk Insurance. Additionally, certain regulations are being amended to reflect current Veterans Administration organization, procedure or practice. The current reserves held in the USGLI fund are adequate to meet the future liabilities of this program. As a result of mortality savings and excess interest earned on policy reserves, the amount paid annually in dividends far exceeds the annual premium income. The Veterans Administration is collecting premiums and then returning such premiums in the form of dividends. The purpose of the amendments and rescissions is to cease payment of premiums by policyholders and collection of premiums by the Veterans Administration. The policyholders will benefit from not having their policies lapse from nonpayment of premiums and also from the requirement of being in good health to reinstate their policies in case of lapse. The convenience of not remitting premiums should be welcomed by the policyholders. The Veterans Administration will experience cost savings in the areas of premium billing, remittance processing and responding to correspondence associated with premiums.

Regulations relating to War Risk Insurance (Yearly Renewable Term) are being rescinded to reflect that such insurance is no longer in force.

DATES: Effective date of the amendments and rescissions relating to USGLI premium payment is January 1, 1983. Effective date of rescinding War Risk Insurance regulations, (§§ 6.130–6.145) and other changes is December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Carey, Assistant Director for Insurance, Veterans Administration Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, PA 19101 (215–951–5360).

SUPPLEMENTARY INFORMATION: On pages 46300 through 46305 of the Federal Register of October 18, 1982 there was

published a notice of proposed rulemaking to rescind certain regulations and amend other regulations to reflect that USGLI policies are fully paid-up; that all regulations pertaining to War Risk Insurance are being rescinded and that certain regulations are being amended to reflect current Veterans Administration organization, procedure or practice. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulatory amendments. No written objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

The Administrator hereby certifies that this final rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this final rule is, therefore, exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this rule will affect only USGLI policyholders. It will, therefore, have no significant direct impact on small entities in terms of compliance costs, paperwork requirements or effects on competition.

The agency has also determined that these regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation. These regulations will not have a large effect on the economy, will not cause an increase of costs or prices, and will not otherwise have any significant adverse economic effects.

List of Subjects in 38 CFR Part 6

Life insurance, Veterans.

(Catalog of Federal Domestic Assistance Program number 64.103)

Approved: December 30, 1982.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 6—[AMENDED]

Title 38, CFR, Part 6—United States Government Life Insurance, is amended as follows:

1. In § 6.2, paragraphs (a) and (b) are revised to remove references to premium payments to read as follows:

§ 6.2 Applications for insurance under section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a permanent plan of United States Government Life Insurance which was in force other than as extended term insurance, for its cash value under the provisions of § 6.115, or under § 6.186 if the policy had no cash value, shall be granted a new policy of United States Government Life Insurance in accordance with § 6.3(a) provided a written application signed by the applicant is made on or after January 1, 1959, within the period set forth in paragraph (c) of this section and the other conditions of that paragraph are met. Such insurance shall be granted without medical examination. If the applicant is mentally incompetent, the application for insurance under this paragraph may be made only by the guardian (committee or conservator), and, if required under the State laws, after the court shall have authorized the fiduciary to make such application. (38 U.S.C. 744)

(b) Any person having United States Government Life Insurance on the 5-year level premium term plan, the term of which expired while such person was in the active service after April 25, 1951, or within 120 days after separation from such active service, and in either case prior to January 1, 1957, shall be granted United States Life Insurance on the 5-year level premium term plan in accordance with § 6.3(b) provided a written application signed by the applicant and evidence of good health, satisfactory to the Administrator, are submitted on or after January 1, 1959, within the period set forth in paragraph (c) of this section and the other conditions of that paragraph are met. (38 U.S.C. 744)

* * * * *

2. Section 6.7 is revised to read as follows:

§ 6.7 Effective date of United States Government Life Insurance applied for pursuant to the provisions of section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) The effective date of United States Government Life Insurance issued pursuant to the provisions of section 623 of the National Service Life Insurance Act and section 781 of title 38, United States Code may be established upon written request of the applicant as follows:

(1) As of the date on which valid application is made.

(2) As of the first day of the month in which valid application is made.

(3) As of the first day of the month following the month in which valid application is made.

(4) As of the first day of the month, but not more than 6 months prior to the month in which valid application is made: Provided, That there be paid an amount equal to the full reserve on the insurance at the end of the month prior to the month in which application is made.

(b) Unless otherwise specified by the applicant, the effective date of such United States Government Life Insurance shall be established as of the date on which valid application is made. (38 U.S.C. 744)

3. Section 6.13 is revised to read as follows:

§ 6.13 Premium rate.

United States Government Life Insurance is granted at the premium rate for the age nearest birthday anniversary of the applicant at the time the policy becomes effective in accordance with the premium rates published in VA Pamphlet 90–2 entitled "Premium Rates and Policy Values for United States Government Life Insurance" and VA Pamphlet 90–2A for the Special Endowment at Age 96 plan policy. Effective January 1, 1983, United States Government Life Insurance policies, and total disability income provisions, on a premium paying status are paid-up and no premiums are required to maintain such policies and provisions in force.

§§ 6.14, 6.15, 6.17, 6.17a, 6.18, 6.19, 6.20, 6.21, 6.22, 6.23, 6.24, 6.25, 6.26, 6.27, 6.28, 6.29 and 6.30 [Removed]

4. Sections 6.14, 6.15, 6.17, 6.17a, 6.18, 6.19, 6.20, 6.21, 6.22, 6.23, 6.24, 6.25, 6.26, 6.27, 6.28, 6.29 and 6.30 are removed.

5. Section 6.31 is revised to read as follows:

§ 6.31 Calculation of time period.

If the last day of a time period for filing an application for United States Government Life Insurance or for applying for reinstatement thereof falls on a Saturday, Sunday or legal holiday, the time period will be extended to include the following workday. (38 U.S.C. 744)

§§ 6.35 and 6.36 [Removed]

6. Sections 6.35 and 6.36 are removed.

7. Section 6.48 is revised to read as follows:

§ 6.48 To a policy at a lower rate of premium as of original effective date.

A United States Government Life Insurance policy other than the special endowment at age 96 plan policy may be exchanged within 5 years from the effective date for a policy of the same amount, bearing the same date and based on the same age, on any plan of insurance issued by the Veterans Administration at a lower rate of premium, except the 5-year level premium term policy and the special endowment at age 96 plan policy. If the

exchange is made within 1 year from the effective date or, in instances where less than 90 days of such year remain after the promulgation of this section (August 1, 1969), within 90 days of such promulgation, the applicant must be in as good health on the date of application as he or she was on the effective date. If the exchange is made after 1 year of the effective date, the applicant must be in good health and furnish satisfactory evidence of such. The old insurance must be in force and must be surrendered with all rights and claims thereunder. The difference between the reserve on the old policy and the reserve on the new policy, less any indebtedness, will be paid in cash. (38 U.S.C. 744)

8. Section 6.51 is revised to read as follows:

§ 6.51 To a policy at a higher rate of premium as of a current effective date.

A United States Government Life Insurance policy on the 5-year level premium term plan may be exchanged for a policy of the same amount on any plan of insurance, except the special endowment at age 96 plan policy, issued by the Veterans Administration at a higher rate of premium. Such exchange will be made without medical examination upon complete surrender of the insurance while in force and within 5 years from the effective date of the policy. (38 U.S.C. 744)

9. Section 6.52 is revised to read as follows:

§ 6.52 Exchange of 5-year level premium term insurance for special endowment at age 96 plan policy.

(a) Effective July 25, 1962, an insured who on or after his or her 65th birthday has a 5-year level premium term policy of United States Government Life Insurance may exchange such policy for a special endowment at age 96 plan policy issued pursuant to § 6.53. The exchange may be for insurance of the same amount and will be effective as of a current effective date but in no event shall the exchange be made effective prior to July 25, 1962. The insured will be required to file written application. Such exchange will be made without medical examination upon surrender of the term policy and any total disability provision attached thereto with all rights, title and interest in the life insurance and the provision.

(b) Where it is found by the Administrator subsequent to the exchange of term insurance for the special endowment at age 96 plan policy as provided in paragraph (a) of this section, that prior to such exchange: (1) The term policy matured because of total permanent disability of the insured in accordance with §§ 6.120, 6.121, or 6.122, whichever is applicable, or (2) the insured was entitled to total disability benefits in accordance with § 6.160 or § 6.164, whichever is applicable, under the total disability provision attached to the term policy, the insured, upon surrender of the special endowment plan policy and any total permanent disability provision which may be attached thereto, with all rights, title and interest in such life and disability insurance, will be entitled to the benefits which are payable under the prior term policy and total disability provision. In such case, the cash value less any indebtedness on the endowment policy shall be refunded. (38 U.S.C. 744)

§ 6.53 [Amended]

10. Section 6.53 is amended by removing paragraph (e) and adding the authority cite (38 U.S.C. 744) following paragraph (d).

§§ 6.71, 6.72, 6.73 and 6.74 [Removed]

11. Sections 6.71, 6.72, 6.73, and 6.74 are removed.

12. Section 6.78 is revised to read as follows:

§ 6.78 Provisions for reinstatement.

(a) Subject to the United States Government Life Insurance provisions of title 38, United States Code, and regulations issued thereunder, any insurance which has lapsed or may hereafter lapse and which has not been surrendered for a cash value or for paid-up insurance may be reinstated upon written application signed by the applicant, and, except as hereinafter provided in this paragraph, upon payment of all premiums in arrears, with interest from their several due dates, provided such applicant at the time of application and tender of premiums is in the required state of health as shown in § 6.79, and submits satisfactory evidence thereof at the time of application and tender of premiums. Interest on premiums in arrears shall be at the rate of 5 per centum per annum, compounded annually, to the first monthly premium due date after July 31, 1946; at the rate of 4 per centum per annum, compounded annually, to the first monthly premium due date after August 31, 1971, and thereafter at the rate of 5 per centum per annum, compounded annually. The payment or reinstatement of any indebtedness against any policy must be made, with interest, and if such indebtedness with interest exceeds the reserve of the policy at the time of application for reinstatement thereof, then the amount of such excess shall, except as provided in § 6.81, be paid by the applicant as a condition of the reinstatement of the indebtedness and of the policy. A lapsed United States Government Life Insurance policy which is in force under extended term insurance may be reinstated without health statement or other medical evidence, if application and tender of premiums with the required interest are made not less than 5 years prior to the date such extended insurance would expire. In any case in which the extended insurance under an endowment policy provides protection to the end of the endowment period, such policy may be reinstated upon application and payment of the premiums with the required interest and health statement or other medical evidence will not be required. United States Government Life Insurance on the 5-year level premium term plan may be reinstated upon application by the insured within 5 years after the date of lapse with satisfactory evidence of the insurability of the insured subject to the conditions of § 6.170(b) if reinstated after expiration of the 5-year term period. Any indebtedness against the policy must be paid or reinstated with interest. The provisions of the "Reinstatement" clause in United States Government Life Insurance policies are hereby amended accordingly.

(b) Reinstatement is effected when an acceptable application and the required premiums are delivered to the Veterans Administration. If application for reinstatement is submitted by mail, properly addressed to the Veterans Administration, the postmark date shall be the date of delivery. The effective date of reinstatement of the insurance shall be the postmark date of the application for reinstatement. (38 U.S.C. 744)

13. Section 6.79 is revised to read as follows:

§ 6.79 Health requirements.

United States Government Life Insurance may be reinstated provided the applicant is in good health on the date of application and tender of premiums, if necessary, and furnishes satisfactory evidence thereof. (38 U.S.C. 744)

14. Section 6.80 is revised to read as follows:

§ 6.80 Application and medical evidence.

The applicant for reinstatement of United States Government Life Insurance during his or her lifetime and before becoming totally and permanently disabled, must submit a written application signed by the applicant and furnish evidence of health as required in § 6.79 at the time of application. If the insurance becomes a

claim after the tender of the amount necessary to meet reinstatement requirements but before full compliance with the requirements of this section, and the applicant was in the required state of health at the date that he or she made the tender of the amount necessary to meet reinstatement requirements, and that there is satisfactory reason for his or her noncompliance the Assistant Director for Insurance, VA Center, Philadelphia, Pennsylvania may, if the applicant be dead, waive any or all the requirements of this section (except payment of the necessary premiums), or if the applicant be living, allow compliance with this section as of the date the required amount necessary to reinstate was received by Veterans Administration. (38 U.S.C. 744, 759)

15. Section 6.81 is revised to read as follows:

§ 6.81 Indebtedness at time of reinstatement.

The United States Government Life Insurance shall not be deemed to be reinstated until satisfactory evidence of good health has been furnished and approved as required, and, except as provided in § 6.78, until all premiums in arrears have been paid with the required interest, and any indebtedness existing at the time of default has been paid or reinstated as set forth in the policy: Provided, That any indebtedness on account of unpaid service premiums and premiums waived under authority of section 306 of the World War Veterans' Act, 1924, as amended, or section 760 of title 38, United States Code, may be reinstated, even though the amount of such indebtedness exceeds the reserve of the policy; and such indebtedness unless otherwise paid shall be deducted from the proceeds of insurance in any settlement thereof, or from the cash value when such value is taken in cash or used for the purpose of purchasing paid-up insurance or making a loan: Provided further, That the amount of such unpaid premiums with interest shall not be considered an indebtedness as is set forth in paragraph 5(D) of the contract of Government life insurance or paragraph 8 of the special endowment at age 96 plan policy to cause the policy to cease and become void if the amount (premiums with interest) is greater than the cash surrender value of an insurance without indebtedness. (38 U.S.C. 744)

16. In § 6.86, paragraphs (a) and (c) are revised to read as follows:

§ 6.86 Applications for reinstatement of United States Government Life Insurance pursuant to section 623 of the National Service Life Insurance Act and section 781 of Title 38, United States Code.

(a) Any person who, while in the active service on or after April 25, 1951, and prior to January 1, 1957, surrendered a permanent plan policy of United States Government Life Insurance which was in force other than as extended term insurance for its cash value under the provisions of § 6.115 or under § 6.186 if the Policy has no cash value, upon written application made by any such person on or after January 1, 1959, within the period set forth in paragraph (b) of this section and upon meeting the other conditions of that paragraph, may reinstate such surrendered United States Government Life Insurance (or any portion thereof in multiples of $500, not less than $1,000) without medical examination upon payment of an amount required to provide the full reserve of the insurance at the end of the month prior to the month in which application is made. If the applicant is mentally incompetent the application for reinstatement under this section may be made only by the guardian (committee or conservator), and, if required under the State law, after the court shall have authorized the fiduciary to make such application. (38 U.S.C. 744)

* * * * *

(c) Reinstatement is effected when an acceptable application and the required premiums, if any, are delivered to the Veterans Administration. If application for reinstatement is submitted by mail, properly addressed to the Veterans Administration, the postmark date shall be the date of delivery. The effective date of reinstatement of the insurance shall be the postmark date of the application for reinstatement. (38 U.S.C. 744)

17. In § 6.95, paragraph (b) is revised; paragraph (d) is removed; paragraphs (e), (f) and (g) are redesignated as paragraphs (d), (e) and (f) respectively; and subsequently the reference to paragraph (g) in the former paragraph (f) is changed to refer to paragraph (f) in the redesignated paragraph (e); and the redesignated paragraph (f) is revised. Revised paragraphs (b) and (f) read as follows:

§ 6.95 How paid.

* * * * *

(b) Unless and until the Veterans Administration receives a written request from the insured that United States Government Life Insurance regular annual dividends be paid in cash, or that they be used to pay an insurance indebtedness, or that they be placed on deposit, any such dividends shall be held to the credit of the insured to be applied to pay monthly premiums becoming due and unpaid after the date such dividends are payable on any National Service Life Insurance policy or policies held by the insured. Effective January 1, 1983, (1) permanent plan dividends used to pay premiums in advance will be placed on deposit and (2) term plan dividends used to pay premiums in advance will be paid in cash: Provided, That if either permanent or term plan dividends are used to pay premiums in advance and the insured has a National Service Life Insurance policy or policies in force, dividends will be held to the credit of the insured.

* * * * *

(f) At the written request of the insured, United States Government Life Insurance regular annual dividends may be left to accumulate on deposit at interest which will be credited in such manner and at such rate as the Administrator may determine, but a rate never less then 3½ percent: Provided, That the policy is in force on a basis other than extended term insurance or 5-year level premium term insurance. Dividend credit of the insured held for payment of premiums or dividends left to accumulate on deposit may be applied to the payment of premiums in advance upon written request of the insured made before default in payment of premium. Dividends on deposit under the provisions of this paragraph will be used in addition to the reserve on the policy for the purpose of computing the period of extended term insurance or the amount of paid-up insurance. Any dividend credit of a person who no longer has insurance in force by payment or waiver of premiums will be paid in cash to such person. If a person has a dividend credit option on a lapsed 5-year level premium term policy or a permanent plan policy on which extended term insurance has expired and such person has another policy in force by payment or waiver of premiums, any dividend credit or unpaid dividends on the lapsed policy, in the absence of instructions from the insured to the contrary, will be transferred to the policy which is in force and will be held on such policy as a dividend credit. Such dividend credit will be deemed to have accrued on the policy which is in force. Upon maturity of the policy, any dividend on deposit, any unpaid dividend payable in cash, and any dividend credit accruing from such policy which cannot be used to pay premiums as provided in 38 U.S.C. 746, will be paid to the person currently entitled to receive payments under the

policy. If the policy is not in force at death, any such unpaid dividends and dividend credits will be paid to the insured's estate. (38 U.S.C. 744)

§ 6.96 [Amended]

18. Section 6.96 is amended by removing the third line and inserting the authority cite (38 U.S.C. 744) in its place.

19. Section 6.100 is revised to read as follows:

§ 6.100 Policy loan; other than 5-year convertible term policy.

At any time after the first policy year and upon the execution of a loan agreement satisfactory to the Administrator the United States will lend to the insured on the sole security of his/her United States Government Life Insurance policy any amount which shall not exceed 94 percent of the cash value, and any indebtedness shall be deducted from the amount advanced on such loan. The loan shall bear interest at a rate not to exceed 5 percent per annum, payable annually, and the loan may be repaid in full or in amounts of $5 or more. Failure to pay either the amount of the loan or the interest thereon shall not void the policy unless the total indebtedness shall equal or exceed the cash value thereof. When the amount of the indebtedness equals or exceeds the cash value, the policy shall cease and become void. (38 U.S.C. 744)

20. Section 6.101 is revised to read as follows:

§ 6.101 Policy loan; 5-year convertible term policy.

At any time after the expiration of the sixth policy year and upon execution of a loan agreement satisfactory to the Administrator, the United States will lend to the insured on the sole security of his/her United States Government Life Insurance policy on the 5-year convertible term plan any amount which shall not exceed 94 percent of the cash value, and any indebtedness shall be deducted from the amount advanced on such loan. The loan shall bear interest at a rate not to exceed 5 percent per annum annually, and the loan may be repaid in full or in amounts of $5 or more. Failure to pay either the amount of the loan or the interest thereon shall not void the policy unless the total indebtedness shall equal or exceed the cash value thereof. When the amounts of the indebtedness equals or exceeds the cash value, the policy shall cease and become void. (38 U.S.C. 744)

§ 6.105 [Removed]

21. Section 6.105 is removed.

§ 6.110 [Removed]

22. Section 6.110 is removed.

23. Section 6.115 is revised to read as follows:

§ 6.115 Cash value, other than 5-year level premium term policy and special endowment at age 96 plan policy.

Provisions for cash value shall become effective at the completion of the first policy year on any plan of United States Government Life Insurance other than the 5-year level premium term plan or the special endowment at age 96 plan policy; all values, reserves, and net single premiums being based on the American Experience Table of Mortality, with interest at the rate of 3½ percent per annum. The cash value at the end of the first policy year and at the end of any policy year thereafter, shall be the reserve together with any dividend accumulations. For each month after the first policy year the reserve at the end of the preceding policy year shall be increased by one-twelfth of the increase in reserve for the current policy year. Upon written request therefor and upon complete surrender of the insurance with all claims thereunder made by the insured the United States will pay to the insured the cash value of the policy less any indebtedness, provided the policy has been in force for at least 1 year. Unless otherwise requested by the insured, a surrender will be deemed completed as of the end of the month in which the application for cash surrender is delivered to the Veterans Administration, or as of the date of the check for the cash value, whichever is later. If the application is forwarded by mail, properly addressed, the postmark date will be taken as the date of delivery. If it is forwarded through military channels, the date the application is placed in military channels will be taken as the date of delivery. The provisions of the "Cash Value" clause in United States Government Life Insurance policies are hereby amended accordingly, (38 U.S.C. 744)

24. Section 6.116 is revised to read as follows:

§ 6.116 Cash value; 5-year convertible term policy.

The cash value and policy loan provisions under a United States Government Life Insurance policy on the 5-year convertible term plan shall be effective at any time after the completion of the sixth policy year, all values, reserves, and net single premiums being based on the American Experience Table of Mortality, with interest at the rate of 3½ percent per annum. The cash value at the end of the sixth policy year and at the end of any policy year thereafter shall be the reserve together with any dividend accumulations. For each month after the sixth policy year the reserve at the end of the preceding year shall be increased by one-twelfth of the increase in reserve for the current policy year. Upon written request therefor and upon complete surrender of the insurance with all claims thereunder made by the insured while the policy is in force, the United States will pay to the insured the cash value of the policy less any indebtedness. Unless otherwise requested by the insured, a surrender will be deemed completed as of the end of the month in which the application for cash surrender is delivered to the Veterans Administration, or as of the date of the check for the cash value, whichever is later. If the application is forwarded by mail, properly addressed, the postmark date will be taken as the date of delivery. If it is forwarded through military channels, the date the application is placed in military channels will be taken as the date of delivery. The provisions of the "Cash Value" clause in 5-year convertible term policies are hereby amended accordingly. (38 U.S.C. 744)

25. Section 6.117 is revised to read as follows:

§ 6.117 Cash value; special endowment at age 96 plan policy.

Provisions for cash value shall become effective at the completion of the first policy year; all values and net single premiums are as prescribed by the Administrator and published in VA Pamphlet 90–2A. The cash value at the end of the first policy year and at the end of any policy year thereafter shall be the reserve as set forth in the policy together with any dividend accumulations. For each month after the first policy year the reserve at the end of the preceding policy year shall be increased by one-twelfth of the increase in reserve for the current policy year. Upon written request therefor and upon complete surrender of the insurance with all claims thereunder made by the insured, the United States will pay to the insured the cash value of the policy less any indebtedness, provided the policy has been in force for at least 1 year. Unless otherwise requested by the insured, a surrender will be deemed completed as of the end of the month in which the application for cash surrender is delivered to the Veterans Administration, or as of the date of the check for the cash value, whichever is later. If the application is forwarded by mail, properly addressed, the postmark date will be taken as the date of

delivery. If it is forwarded through military channels, the date the application is placed in military channels will be taken as the date of delivery. (38 U.S.C. 744)

§ 6.118 [Removed]

28. Section 6.118 is removed.

§ 6.120 [Amended]

27. Section 6.120 is amended by adding the words "or she" after the word "he" where it appears in that section.

28. Section 6.123 is revised to read as follows:

§ 6.123 Recovery from total permanent disability other than the special endowment at age 96 plan policy.

Notwithstanding proof of total permanent disability may have been accepted as satisfactory, the insured shall at any time, on demand, furnish proof satisfactory to the Administrator of Veterans Affairs of the continuance of such total permanent disability, and if the insured shall fail to furnish such proof, all payments of monthly installments on account of such total permanent disability under a United States Government Life Insurance policy shall cease. Thereafter, the cash values and loan values shall be reduced so that the resulting values shall bear the same proportion to the values, respectively specified on the policy, that the commuted values of the remaining installments (240 installments less the number paid) bears to the commuted value of 240 installments. (See also § 6.124.) (38 U.S.C. 744)

29. Section 6.123a is revised to read as follows:

§ 6.123a Recovery from disability; 5-year level premium term policy.

Notwithstanding proof of total permanent disability may have been accepted as satisfactory, the insured under a United States Government Life Insurance policy on the 5-year level premium term plan shall at any time, on demand, furnish proof satisfactory to the Administrator of Veterans Affairs of the continuance of such total permanent disability. If the insured shall fail to furnish such proof, all payments of monthly installments on account of such total permanent disability shall cease. If recovery from total permanent disability takes place after the expiration of the term period, the insurance may be continued in accordance with § 6.123b. (38 U.S.C. 744)

30. Section 6.123b is amended by removing the phrase "at the premium rate" in the introductory paragraph, removing the first sentence of paragraph (a), revising paragraph (b), and removing paragraph (c) so that the revised section reads as follows:

§ 6.123b Continuance of insurance after termination of total and permanent rating and award, where such termination is effective after the expiration of the term period.

If United States Government Life Insurance on the 5-year level premium term plan (or on the 5-year convertible term plan) matures or has matured by reason of total and permanent disability and the insured recovers from such disability after expiration of the term period, the reduced amount of insurance (commuted value of remaining unpaid installments) shall be automatically renewed for the attained age of the insured on the policy anniversary renewal date of the current 5-year period. The reduced amount of insurance or any part thereof in multiples of $500 and not less than $1,000 may be continued without medical examination on the level premium term plan or on any permanent plan, as the insured may elect, except the special endowment at age 96 plan policy, and subject to the following provisions:

(a) A certificate of renewal will be issued effective on the policy anniversary renewal date.

(b) Such insurance may be converted to any of the permanent plans, except the special endowment at age 96 plan policy upon application therefor and a policy will be issued to the insured. (38 U.S.C. 744)

§ 6.123c [Amended]

31. In § 6.123c, paragraph (a) is amended by removing the reference to § 6.124 that appears in the third sentence and adding the authority cite (38 U.S.C. 844) to the end of that paragraph; and paragraph (b) is amended by removing the phrase "paid-up insurance and extended insurance" where it appears in the third sentence, and adding the authority cite (38 U.S.C. 744) to the end of that paragraph.

§ 6.124 [Removed]

32. Section 6.124 is removed.

§§ 6.130, 6.131, 6.132, 6.133, 6.134, 6.135, 6.136, 6.137, 6.138, 6.139, 6.140, 6.141, 6.142, 6.143, 6.144 and 6.145 [Removed]

33. Sections 6.130, 6.131, 6.132, 6.133, 6.134, 6.135, 6.136, 6.137, 6.138, 6.139, 6.140, 6.141, 6.142, 6.143, 6.144, and 6.145 are removed.

§ 6.150 [Amended]

34. Section 6.150 is amended by removing the words "Director, Insurance Service, or Deputy Director for Underwriting, Accounts, and Insurance Claims" where they appear in the sixth line and inserting the title "Assistant Director for Insurance"; and by adding the authority cite (38 U.S.C. 210) to the end of that section.

§ 6.161 [Amended]

35. Section § 6.161 is amended by removing the phrase "tender of premium", and by adding the authority cite (38 U.S.C. 744) at the end of that section.

§ 6.162 [Amended]

36. Section 6.162 is amended by removing the phrase "and remittance sufficient to cover the first monthly premium" and adding the authority cite (38 U.S.C. 744) at the end of that section.

§ 6.162a [Amended]

37. In § 6.162a, paragraph (a)(3) is removed; paragraph (b) is amended by removing the prase "and payment of the required premium"; and paragraph (c) is amended by removing the phrase "Under premium paying conditions" and adding the authority cite (38 U.S.C. 744) after that paragraph.

§ 6.166 [Amended]

38. Section § 6.166 is amended by removing the phrase "tender of premiums" and adding the authority cite (38 U.S.C. 744) after that section.

39. In § 6.167, paragraph (a) is revised to read as follows:

§ 6.167 Application for total permanent disability provision for the special endowment at age 96 plan of United States Government Life Insurance and the effective date of such provision.

(a) Application for the total permanent disability provision authorized by section 742(c) of title 38, United States Code, must be made by the insured at the same time as he/she makes application for exchange of his/her 5-year level premium term policy for the special endowment at age 96 plan policy. The application for the total permanent disability provision should be on such forms as may be prescribed by the Veterans Administration, but any statement in writing sufficient to identify the applicant and that such provision is desired will be sufficient as an application for the total permanent disability provision. The total permanent disability provision will be granted for the same amount as the special endowment at age 96 plan policy which is placed in force. (38 U.S.C. 744)

* * * * *

40. Section § 6.170 is revised to read as follows:

§ 6.170 Renewal of United States Government Life Insurance on the 5-year level premium term plan.

(a) Effective January 1, 1983, all or any part of United States Government Life Insurance on the 5-year level premium term plan, in any multiple of $500 and no less than $1,000 shall be automatically renewed without application or medical examination for a successive 5-year period. The renewal of insurance for any successive 5-year period will become effective as of the day following the expiration of the preceding 5-year period: *Provided,* That no insurance is subject to renewal if the policyholder has exercised his/her optional right to change to another plan of insurance.

(b) Effective June 25, 1970, a 5-year level premium term policy which lapsed for nonpayment of the premium due and subsequently expired may be renewed subsequent to the expiration of the old term period provided the insured within 5 years of the date of lapse:

(1) Submits written application for reinstatement of the insurance;

(2) Is in good health (§ 6.155) on the date of application and furnishes satisfactory evidence thereof. (38 U.S.C. 744)

§ 6.185 [Removed]

41. Section 6.185 is removed.

§ 6.190 [Removed]

42. Section 6.190 is removed.

§ 6.191 [Amended]

43. Section 6.191 is amended by removing the phrase "Extra Hazard Committees" and inserting the phrase "Insurance Claims Sections" and by adding the authority cite (38 U.S.C. 744) to the end of that section.

§ 6.210 [Amended]

44. In § 6.210 paragraphs (b) and (c) are removed; the first paragraph designation "(a)" is removed; and the cite (38 U.S.C. 744) is added to the end of that paragraph.

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POSTAL SERVICE

39 CFR Parts 221, 222, 223, 224, 225, 265

Miscellaneous Organizational Changes and An Interpretative Rule

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: These amendments make a number of conforming changes to the published organizational regulations of the Postal Service to reflect previously implemented changes in organization and reporting relationships. In addition, the regulations implementing the Freedom of Information Act are revised to include an interpretation that records indicating rural carrier lines of travel are among the classes of records exempt from mandatory disclosure.

EFFECTIVE DATE: October 15, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245-4638.

SUPPLEMENTARY INFORMATION: The specific changes made are to amend § 221.5(a) to reflect the establishment of Information Resource Management as a major headquarters unit; amend § 222.5(d) to add the Executive Assistant for Information Resource Management and the Assistant Postmaster General, Planning Department to the Executive Committee; amend § 221.7 to include the Executive Assistant for Information Resource Management among the officers of the Postal Service; amend paragraphs (e) and (f) of § 222.1 to add the Executive Assistant for Information Resource Management and the Assistant Postmaster General, Planning Department to the list of officers authorized to act for the Postmaster General on assigned matters; amend § 224.3 to abolish the offices of Compensation, Postmaster Selection and Organization Management and to transfer the duties of those offices to the Employee Relations Department; amend § 224.3 to delete from the Finance Group the Management Information Systems Department, Payroll Systems, and directives and forms management functions; amend § 224.4 to add a description of the Operating Policies Office and to make editorial changes; amend § 224.5 by deleting the Office of Strategic Planning and substituting the Office of Operations Research and Technology Planning; redesignate §§ 224.6 and 224.11 and add new § 224.6 dealing with Information Resource Management, and new § 224.11 dealing with the Planning Department; amend § 225.5(b)(4) to make the Regional Procurement Division responsible for providing functional direction to Procurement Services Offices; amend § 265.6(b)(3) to add records indicating rural carrier lines of travel to the records exempt from mandatory disclosure; and make certain other minor and conforming changes and rearrangements of offices and functions.

Accordingly, the Postal Service adopts the following amendments to 39 CFR:

List of Subjects in 39 CFR Parts 221, 222, 223, 224, 225, and 265

Organization and functions (Government agencies), Authority delegations (Government agencies), Freedom of information, Postal Service.

PART 221—GENERAL PRINCIPLES OF ORGANIZATION

1. In § 221.5 revise paragraph (a), redesignate paragraphs (d)(1)(viii)–(xi) as (d)(1)(x)–(xiii), and add new paragraphs (d)(1)(viii) and (d)(1)(ix) as follows:

§ 221.5 Groups and departments.

(a) Postal Service Headquarters is divided into six major units. These units consist of Information Resource Management and five groups: Administration, Employee and Labor Relations, Finance, Operations, and Postal Research and Technology. Each of the five groups is headed by a Senior Assistant Postmaster General (SAPMG). Infomation Resource Management is headed by and Executive Assistant. The SAPMGs for Employee and Labor Relations, Finance, and Postal Research and Technology report directly to the Postmaster General. The SAPMGs for Administration and Operations and the Executive Assistant for Information Resource Management report directly to the Deputy Postmaster General. The five SAPMGs and the Executive Assistant for Information Resource Management are responsible for the following activities within their assigned areas:

* * * * *

(d)(1) * * *

(viii) Executive Assistant for Information Resource Management;

(ix) The assistant Postmaster General, Planning Department;

§ 221.7 [Amended]

2. In § 221.7 strike out "Senior Assistant Postmasters General," and insert "Senior Assistant Postmasters General, Executive Assistant for Information Resource Management," in lieu thereof.

PART 222—DELEGATIONS OF AUTHORITY

3. In § 221.1 paragraphs (e) and (f) are revised to read as follows:

§ 222.1 Authority for delegation.

* * * * *

(e) The Executive Assistant to the PMG; the Executive Assistant for Information Resource Management; and the SAPMGs; the General Counsel; the Chief Postal Inspector; the Judicial Officer; the APMG, Government Relations Department; the APMG, Public and Employee Communications Department; and the APMG, Planning Department, act for the Postmaster

General on assigned matters. These officers are authorized to exercise the powers and functions of the Postal Service under the Postal Reorganization Act, in respect to matters within their area of responsibility, except as limited by law or by the specific terms of their assignment.

(f) Heads of departments or offices who report to a Senior Assistant Postmaster General or the Executive Assistant for Information Resource Management (EAIRM) are authorized to exercise the powers and functions of that SAPMG or the EAIRM within the area of responsibility of their department or office, except as such authority may be reserved or rescinded by the SAPMG or the EAIRM or is limited by law or the terms of their specific assignment.

PART 223—RELATIONSHIPS AND CHANNELS OF COMMUNICATION

4. In § 221.1 paragraph (c) is revised to read as follows:

§ 223.1 Relationships.

* * * * *

(c) Between District Offices and MSCs. District Managers and staffs shall provide guidance and direction to their respective MSC managers or MSC managers/postmasters for the guidance of postmasters under their respective jurisdictions. The MSC managers or MSC manager/postmasters provide guidance and direction to their respective associate office postmasters.

§ 223.2 [Amended]

5. In § 223.2 strike out in paragraph (a)(1) "Senior Assistant Postmaster General, Operations" and insert "Deputy Postmaster General" in lieu thereof; strike out in paragraph (a)(2) "Senior Assistant Postmaster General, Finance" and insert "Executive Assistant for information Resource Management" in lieu thereof.

6. In § 223.2 strike out in paragraph (b)(4) "General Manager" and insert "the manager" in lieu thereof.

PART 224—GROUPS AND DEPARTMENTS

§ 224.1 [Amended]

7. In § 224.1 paragraph (c) is amended by striking out the first sentence and inserting the following sentence in lieu thereof, "The Administration Group is divided into five departments."

8. In § 224.1 strike out the words "Judicial Officer" in the heading of paragraph (c)(4) and insert "Judicial Officer Department" in lieu thereof.

9. § 224.1 strike out the words "International Postal Affairs" in the heading and in the beginning of the first sentence of paragraph (c)(5) and insert "International Postal Affairs Department" in lieu thereof.

10. In § 224.2 revise paragraph (a)(3) and paragraph (b) to read as follows:

§ 224.2 Employee and Labor Relations Group.

(a) * * *

(3) Determination of program emphasis for activities conducted by the Employee Relations Department, and Labor Relations Department;

* * * * *

(b) The Employee and Labor Relations Group consists of two departments, each headed by an Assistant Postmaster General. Description of these departments follows:

(1) *Employee Relations Department.* The Employee Relations Department is responsible for the development, implementation, and monitoring of a comprehensive employee relations program for the Postal Service. This includes:

(i) Administration of medical, safety, environmental improvement, and injury compensation programs.

(ii) Administration of all managerial, technical, and employee training programs;

(iii) Establishment and monitoring of postmaster and employee selection and performance evaluation policies and procedures, including associated personnel actions and records programs;

(iv) Provision for employee career development programs;

(v) Administration of the system-wide employee and labor relations computer-oriented information system;

(vi) Determination of non-bargaining discipline policies, practices, and procedures;

(vii) Administration and monitoring of Postal Service policies and programs for equal employment opportunity including affirmative action, evaluation and appeals; and the special emphasis programs for alcoholic recovery, career opportunities for women, and employment of the handicapped;

(viii) Administration of programs to improve the quality of working life in the Postal Service;

(ix) Administration of an executive career development program;

(x) Provision of policy interpretation and program guidance on employee relations matters to the regional employee relations division through the SAPMG, Employee and Labor Relations Group;

(xi) Development and implementation of policies and programs for job evaluation, analysis, and review, and associated appeals procedure;

(xii) Establishment of a comprehensive program of compensation services, including all aspects of wage and salary administration, employee benefits; and suggestions and incentive awards;

(xiii) Development and implementation of policies and programs for new and revised organization structure and staffing patterns for all bargaining and nonbargaining unit positions, including control and revision of functional statements for all organizational units;

(xiv) Administration of Headquarters personnel services.

(2) *Labor Relations Department.* The Labor Relations Department is responsible for:

(i) Negotiation and interpretation of all collective bargaining agreements entered into by the USPS;

(ii) Providing for coordination, development, and implementation of programs affecting all bargaining unit employees;

(iii) Determination of the appropriate craft designation of new or changed jobs;

(iv) Establishment, implementation, and monitoring of a national policy concerning reassignments of bargaining unit employees;

(v) Development of policies and procedures for the national grievance and arbitration programs; and

(vi) Provision of policy interpretation and program guidance on labor relations programs to the regional labor relations division through the SAPMG, Employee and Labor Relations Group.

11. Revise § 224.3 to read as follows:

§ 224.3 Finance Group.

(a) The Finance Group is headed by the Senior Assistant Postmaster General, Finance, who reports to the Postmaster General. It is responsible for:

(1) Policy and functional guidance to field organizations and activities in the areas of finance, postal rates and classification, and management services.

(2) Control of Postal Service systems relating to management information, budget and accounting, financial planning, postal rates and classification, and management services.

(b) The Finance Group consists of two departments, each headed by an Assistant Postmaster General, and one office, headed by a Director. The Postal Service Records Officer is also located within this Group.

(1) *Finance Department.* The Finance Department is headed by the Assistant Postmaster General, Finance. It is divided into the offices of Controller,

Treasurer, and Financial Planning and Systems. The Department is responsible for:

(i) Forecasting and meeting the Postal Service requirements for long term capital and short term borrowing.

(ii) Investing Postal Service funds and prescribing and monitoring practices governing cash management. It works with other officials in developing credit management policies.

(iii) Developing the systems and specifying the standards and schedules for the Postal Service's budget process; analyzing budget requests and making recommendations to the Postmaster General on budget levels. It continually analyzes Postal Service performance against operating plans.

(iv) Developing accounting policy and procedures; operating the financial reporting program and maintaining accounting controls throughout the Service.

(v) Assisting the Customer Services Department in developing money order program policy.

(vi) Also, analyzing the long-range business outlook for the postal system, including the anticipated socioeconomic environment and alternative business opportunities, and conducting studies on which to base recommendations for new or modified policies.

(2) *Rates and Classification Department.* The Rates and Classification Department designs and maintains the Postal Service rate and classification structure; develops and administers standards and procedures relating to cost analysis and attribution, and related functions; forecasts mail volumes; and makes and defends recommendations to the Postal Rate Commission in conjunction with the Law Department.

(3) Office of Management Services. The Office of Management Services is headed by the Director of Management Services. This Office:

(i) Serves as the principal advisor and central analytic staff on the evaluation and design of management systems and services;

(ii) Plans and conducts Service-wide studies of management, administrative, paperwork, and operational support systems; recommends changes to correct identified deficiencies; and installs improved systems and methods.

(iii) Maintains liaison with the General Accounting Office and establishes contact with other Federal agencies and private industry with regard to advanced management techniques.

(4) Records Officer. The Postal Service Records Officer has responsibility for the retention, security, and privacy of Postal Service records; authorizes their preservation and disclosure; and orders their disposal by destruction or transfer.

12. Revise § 224.4 to read as follows:

§ 224.4 Operations Group.

(a) The Operations Group is headed by the Senior Assistant Postmaster General, Operations, who reports to the Deputy Postmaster General. The Operations Goup:

(1) Has overall responsibility for all facets of the processing and delivery of mail, including collection, sortation, distribution and transportation throughout the Postal Service. Operations establishes and evaluates policies related to these functions, establishes and evaluates retail operations, and is responsible for insuring the consistent achievement of service standards.

(2) Establishes and evaluates programs to reduce costs for labor, transportation, supplies, and other services.

(3) Directs field engineering and associated technical personnel, except those under direction of the Real Estate and Buildings Department.

(4) Establishes requirements for facilities and centrally procured mechanization and for their effective utilization.

(5) Establishes and evaluates national facility and equipment maintenance policies and approves regional plans and budgets.

(b) The Operations Group is divided into three departments and one office, each reporting directly to the SAPMG, Operations.

(1) *Mail Processing Department.* (i) This Department is headed by an Assistant Postmaster General who has managerial and budgetary responsibility for the distribution, processing, and transportation of all mail throughout the Postal Service and to foreign countries, and to, from, and between U.S. military installations outside the United States.

(ii) The Department is responsible for:

(A) Planning and developing a national mail routing and transportation system and monitoring the performance of each region with respect to achievement of transportation and processing standards, and productivity goals.

(B) Exercising policy authority over procurement issues which, by reason of law or custom, are unique to mail transportation contracting.

(C) Budget review and approval for all regional mail processing functions.

(2) *Delivery Services Department.* (i) This Department is managed by an Assistant Postmaster General who has managerial and budgetary responsibility for all Postal Service city and rural collection and delivery functions, retail services, and operation and maintenance of the postal fleet.

(ii) The Department is responsible for:

(A) Establishment of policy and procedures for handling of undeliverable-as-addressed mail and for distribution programs which affect the delivery of mail by carriers or the delivery of mail through lockboxes, caller service, or general delivery.

(B) Providing management direction relating to the consolidation, establishment, and/or discontinuance of any delivery service function and its associated facility.

(C) Development, testing, and implementation of productivity improvement programs for all facets of the collection, delivery and fleet operations.

(3) *Engineering and Technical Support Department.* This Department is headed by an Assistant Postmaster General who is responsible for:

(i) Planning and approving all USPS requirements for postal facilities and centrally procured mechanization;

(ii) Establishing standards for the effective use of mechanization and facility resources;

(iii) Establishing national policy and programs for the repair and maintenance of facilities and of mail processing, customer service, and delivery equipment;

(iv) Developing engineering policy and providing technical services and functional guidance to field engineering in order to improve productivity and reduce operating costs; and

(v) Establishing and implementing engineering programs in support of postal cost and service objectives.

(4) *Operating Policies Office.* This office is managed by the Director, Operating Policies, who has overall responsibility for policy-making and for directing the SAPMG's administrative staff. Responsibilities include:

(i) Providing operational policy, planning and direction for field units.

(ii) Providing administrative services for the Operations Group.

(iii) Evaluation of regional budgets and their execution, regional service and productivity performance, and regional adherence to policy actions and programs.

(iv) Serving as point of contact with other Headquarters organizations and between Headquarters departments and the regions in explanation of national service procedures and policies, and

(v) Representing the Operations Group in all aspects of labor and employee relations.

13. Revise § 224.5(b)(1) to read as follows:

§ 224.5 Research and Technology Group.

* * * * *

(b) * * *

(1) *Office of Operations Research and Technology Planning.* The office of Operations Research and Technology Planning is responsible for:

(i) Directly assisting the Senior Assistant Postmaster General, Research and Technology, in the executive direction and control of the Postal Service through its reports in operations research and technical planning;

(ii) Planning and identifying technological trends and developments and their relationship to the economic environment and potential impact on the USPS in the next 5–15 years;

(iii) Developing technological approaches for the realization of long-range business target operations, identification of the technological requirements of these operations, and the evaluation of their potential economic and operational effectiveness for nationwide implementation;

(iv) Planning programs for development and implementation of technology and engineering for new management systems;

(v) Monitoring and influencing the interaction between the Postal Service and the external technological environment, assessing the impact of Federal agency programs and those of the nation's business and academic communities in technical areas, and maintaining awareness of the international postal technical environment;

(vi) Directing support for the establishment of capital investment policies and decisions relating to the use of technology in the present and future postal environment.

§§ 224.10 and 224.11 [Redesignated as §§ 224.12 and 224.13]

§§ 224.6 through 224.9 [Redesignated as §§ 224.7 through 224.10]

14. Redesignate § 224.10 and § 224.11 as § 224.12 and § 224.13 respectively; redesignate §§ 224.6–224.9 as §§ 224.7–224.10, and add new § 224.6 and § 224.11 to read as follows:

§ 224.6 Information Resource Management.

(a) Information Resource Management (IRM) is headed by the Executive Assistant for Information Resource Management, who reports to the Deputy Postmaster General. IRM is responsible for:

(1) Formulating and administering information policy within the Postal Service;

(2) Providing guidance to the USPS in utilizing information technologies as key resources;

(3) Developing strategies to improve the level of information management systems that will reduce or avoid USPS operating costs, increase productivity, and increase flexibility of information systems;

(4) Applying technology and deploying resources to achieve information resource strategies;

(5) Directing and maintaining the Postal Service information plan;

(6) Implementing the business systems plan;

(7) Directing the information systems planning, design, and development process; the USPS information quality assurance process; and support of telecommunications services;

(8) Planning and administering all IRM organization, employee, contracting, facility, and funding resources necessary to accomplish the IRM functions.

(b) Information Resource Management consists of one department headed by an Assistant Postmaster General, two offices, each headed by a Director and the National Information Resource Center (NIRC). All these unit heads report to the Executive Assistant for Information Resource Management.

(1) *Management Information Systems Department.* The Management Information Systems Department (MISD) is responsible for:

(i) Providing data processing support services for the USPS, including advice on acquisition and development of data processing equipment;

(ii) Establishing appropriate policy and procedures with regard to computer-based information systems;

(iii) Planning, developing policies, and managing a national point-to-point data communications system satisfying USPA requirements;

(iv) Reviewing and approving USPS requirements for telephone switchboards (PBX), radio systems, intercommunication and sound equipment, low speed data transmission systems (teletype and facsimile), and data transmission lines;

(v) Operating Postal Data Centers (PDC), Automated Data Processing Centers (ADPC);

(vi) Providing payroll processing and distribution services, accounting services, and funds disbursement services under policy direction of the Finance Department;

(vii) Providing computer programming and information systems analysis service;

(viii) Providing functional guidance to the regional Management Information Branches;

(ix) Maintaining liaison with professional groups concerned with ADP technology, teleprocessing statistics, and operations research.

(2) *Office of Data Management.* The Office of Data Management is responsible for;

(i) Planning for efficient utilization of USPS data resources;

(ii) Planning for efficient utilization of USPS data resources;

(iii) Directing the creation of the system architecture and administering the utilization of data classes within the architecture;

(iv) Establishing and administering the procedure for data access and storage;

(v) Managing the use of data base management technologies and techniques on all USPS computers; and

(vi) Directing the USPS forms and directives control functions.

Office of Planning and Development. The Office of Planning and Development is responsible for:

(i) Developing all management information planning, and providing strategic information on trends which may affect Postal Service information needs.

(ii) Developing and implementing the information systems plan;

(iii) Defining the USPS Business Systems Planning Report (BSP), controlling the information requirements systems development, and coordinating the acquisition of resources required for implementation.

(iv) Directing and administrating the USPS Office Automation Program.

§ 224.11 Planning Department

The Planning Department is headed by the Assistant Postmaster General, Planning, who reports directly to the Postmaster General. It is responsible for:

(a) Assisting departments in developing and coordinating comprehensive, effective plans and programs in accordance with the goals and objectives set by the Postmaster General and the Board of Governors;

(b) Identifying and forecasting economic, political, social, technical, and market trends and events affecting the Postal Service;

(c) Formulating alternative business strategies and projecting long range business targets as a basis for setting goals and objectives.

PART 225—POSTAL REGIONS

15. In § 225.5 add new paragraph (b)(4)(xvi) to read as follows:

§ 225.5 Regional Finance Department.

* * * * *

(b) * * *

(4) * * *

(xvi) Providing functional direction to the Procurement Services Offices (PSOs) within the region, defining and controlling the mission, activities, and scope of work performed by the PSOs. This also includes necessary official travel.

PART 265—RELEASE OF INFORMATION

16. In § 265.6, redesignate paragraphs (b)(3)(v) and (b)(3)(vi) as paragraphs (b)(3)(vi) and (b)(3)(vii) respectively and add new paragraph (b)(3)(v) to read as follows:

§ 265. Availability of records.

* * * * *

(b) * * *

(3) * * *

(v) Records indicating rural carrier lines of travel.

(39 U.S.C. 401(2), 402; 5 U.S.C. 552)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-1217 Filed 1-14-83; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6483]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287-0270, 500 C Street Southwest, Donohoe Building—Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood loses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
California: Nevada	Unincorporated areas	0602108	Oct. 16, 1978, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Sept. 6, 1977	Jan. 19, 1983.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Florida:					
Marion	Unincorporated areas	120160B	June 25, 1974, emergency; Jan. 19, 1983, regular, Jan. 19, 1983, suspended.	Dec. 27, 1974 and July 22, 1977.	Do.
Pinellas	Belleair, town of	125098B	July 17, 1970, emergency; May 14, 1971, regular; Jan. 19, 1983, suspended.	May 14, 1971, July 1, 1974, and Aug. 13, 1976.	Do.
Do	Belleair Bluffs, city of	120230	May 1, 1973, emergency; Aug. 15, 1977, regular; Jan. 19, 1983, suspended.	June 28, 1974 and June 11, 1976.	Do.
Alachua	Gainesville, city of	125107B	Aug. 7, 1970, emergency; Oct. 1, 1971, regular; Jan. 19, 1983; suspended.	Oct. 13, 1971, July 1, 1974, and Mar. 19, 1979.	Do.
Georgia: Newton	Porterdale, city of	130145B	July 31, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Feb. 6, 1976 and Apr. 12, 1974.	Do.
Illinois: McHenry	Lakemoor, village of	170215A	Mar. 5, 1976, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Dec. 10, 1976	Do.
Kentucky: Rowan	Unincorporated areas	210203B	May 19, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	July 29, 1977 and June 10, 1977.	Do.
Maine: York	Kennebunk, town of	230151B	Feb. 9, 1973, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	June 28, 1974 and Oct. 10, 1975.	Do.
Massachusetts: Essex	Saugus, town of	250104B	Aug. 25, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Sept. 13, 1974 and Dec. 10, 1976.	Do.
Michigan	Thomas, township of	260603A	Feb. 13, 1974, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Oct. 13, 1975	Do.
Minnesota:					
Polk	Beltrami, city of	270382C	June 24, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Aug. 23, 1974	Do.
Winona	Winona, city of	2752508	June 19, 1970, emergency; Apr. 20, 1972, regular; Jan. 19, 1983, suspended.	Apr. 20, 1972, July 1, 1974, and Dec. 13, 1976.	Do.
Mississippi: Humphreys	Unincorporated areas	2501928	Jan. 14, 1974; emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Apr. 14, 1978	Do.
Missouri:					
Howard	New Franklin, town of	290500A	Dec. 16, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Nov. 22, 1974	Do.
Ray	Orrick, city of	2903098	July 18, 1974, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	June 21, 1977 and Apr. 5, 1974.	Do.
New York:					
Schoharie	Cobleskill, town of	3615738	Feb. 17, 1976, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Dec. 5, 1975 and Dec. 20, 1974.	Do.
Montgomery	Fort Johnson, village of	360447B	July 22, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Mar. 15, 1974 and July 30, 1976.	Do.
Oswego	Hastings, town of	360653C	Mar. 10, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Nov. 1, 1974, May 21, 1976, and July 1, 1977.	Do.
Nassau	Kensington, village of	3504728	July 15, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	June 14, 1974 and May 14, 1976.	Do.
Madison	Madison, town of	3612928	Oct. 28, 1976, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Dec. 20, 1974 and June 4, 1976.	Do.
Montgomery	Minden, town of	3604518	Nov. 10, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	July 9, 1976 and Nov. 1, 1974.	Do.
Oneida	Oriskany Falls, village of	3613548	Oct. 6, 1977, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	June 18, 1976 and Nov. 22, 1974.	Do.
Columbia	Stockport, town of	3603229	Oct. 10, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Oct. 18, 1974 and June 4, 1976.	Do.
North Carolina: Union	Monroe, city of	3702368	Apr. 21, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Sept. 20, 1974 and Sept. 17, 1976.	Do.
Ohio: Miami	Unincorporated areas	3903988	Apr. 7, 1976, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Jan. 10, 1975 and Dec. 2, 1977.	Do.
Pennsylvania: York	Franklin, township of	4222200	July 31, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Nov. 8, 1974, May 14, 1976, Dec. 10, 1976, and Sept. 19, 1980.	Do.
Utah:					
Weber	Ogden, city of	4901888	Dec. 27, 1974, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Aug. 16, 1977 and June 21, 1974.	Do.
Do	North Ogden, city of	4902148	Oct. 2, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	May 6, 1977	Do.
Washington: Yakima	Naches, town of	5302238	Apr. 29, 1975, emergency; Jan. 19, 1983, regular; Jan. 19, 1983, suspended.	Jan. 23, 1974 and Apr. 23, 1976.	Do.
Wisconsin: Trempealeau	Unincorporated areas	5555858	May 14, 1971, emergency; Dec. 12, 1972, regular; Jan. 19, 1983, suspended.	Dec. 12, 1972	Do.

[1]Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 400–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: January 5, 1983.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-1213 Filed 1-14-83; 8:45 am]

BILLING CODE 6718-03-M

LEGAL SERVICES CORPORATION

45 CFR Part 1607

Governing Bodies of Recipients

AGENCY: Legal Services Corporation.
ACTION: Final rule.

SUMMARY: This final rule amends Part 1607 of the Legal Services Corporation regulations prescribing the requirements for recipients' governing bodies. The changes are made in response to new provisions contained in the continuing resolution appropriating funds for the Corporation during the 1983 fiscal year. The amendments provide new mechanisms and requirements for selection of attorney members of recipients' governing bodies.

EFFECTIVE DATE: February 16, 1983.

FOR FURTHER INFORMATION CONTACT: Mary F. Wieseman (202) 272-4010.

SUPPLEMENTARY INFORMATION: On November 8, 1982, the Legal Services Corporation published on pages 50659-50660 of the **Federal Register** proposed amendments to Part 1607 of the Corporation's regulations and invited comments for 30 days ending December 8, 1982. These proposed amendments were published along with proposals to amend several other parts of the Legal Services Corporation regulations that were affected by provisions in the continuing resolution appropriating funding for the Corporation during the 1983 fiscal year. Of the more than 800 comments that were received, only a relatively small number addressed the proposed amendments to Part 1607. The great majority of those comments were supportive of the proposed changes, but almost uniformly, the comments from legal services programs, bar associations and private attorneys stated that the time periods for compliance were unreasonably short. In addition, the comments received on Part 1607 generally addressed two other matters. They were overwhelmingly supportive of the provision requiring that attorney board members include women and minorities and reasonably reflect the population of the areas served. They also expressed concern that in areas served by many bar associations or where the leadership of bar associations was not supportive of the Legal Services Corporation Act, compliance with this Part would be difficult.

The Corporation's Board of Directors met on December 16–17, 1982, and approved final adoption of the proposed amendments with two modifications. The final amendments provide: (1) For an additional three months for coming into compliance with the new requirements of the regulation and (2) for similar additions to the time that may be granted for extensions of the compliance deadline. In addition, the final rule published herein corrects several errors in the dates that appeared in the published version of the proposed regulations.

List of Subjects in 45 CFR Part 1607

Legal services, Governing bodies of recipients.

PART 1607—[AMENDED]

For the reasons set out in the preamble, 45 CFR Part 1607 is amended to read as follows:

1. The authority citation for Part 1607 is revised to read as follows:

Authority: Sec. 1007(c); 42 U.S.C. Section 2996f(c); Pub. L. 97–377; 96 Stat. 1830.

2. Section 1607.2 is revised to read as follows:

§ 1607.2 Definitions.

(a) "Eligible client," as used in this part means a person eligible to receive legal assistance under the Act, without regard to whether the person is receiving assistance at the time of selection for membership on a governing body.

(b) "Governing body" refers to the board of directors or other governing board of recipient receiving funds under Section 1006(a)(1)(A) of the Act.

(c) "Board member" refers to a member of a recipient's governing body.

3. Section 1607.3 (c) and (g) are revised to read as follows:

§ 1607.3 Composition.

* * * * *

(c) Appointment of the attorney members of the governing body shall be conducted so that a majority of the governing body are appointed by the governing bodies of State, county or municipal bar associations, the membership of which represents a majority of attorneys practicing law in the localities in which the recipient is to provide legal assistance. Appointments shall be made so as to insure that the attorney board members include women and minorities and reasonably reflect the population of the areas served. Appointments may be made either by the bar association which represents a majority of attorneys in the recipient's service area or by the bar associations which collectively represent a majority of the attorneys practicing law in the recipient's service area. Any additional attorney members of the board may be appointed by or selected from other bar associations or legal organizations with an interest in the delivery of legal services to the poor.

* * * * *

(g) The nonattorney board membership shall not be dominated by persons serving as the representatives of a single association, group or organization.

* * * * *

4. Section 1607.7 is revised to read as follows:

§ 1607.7 Compliance.

(a) A recipient whose current governing body does not satisfy the requirements of this part shall submit a plan for achieving compliance to the relevant Regional Office by March 1, 1983. The plan shall include:

(1) The current composition of the recipient's governing body, and the date upon which the composition was achieved;

(2) The date upon which the terms of each current member of the recipient's governing body will expire;

(3) The recipient's plan for complying with the requirements of Section 1607.3 and timetables for implementation. This plan shall:

(i) Identify the bar associations in the localities in which the recipient provides legal services, identifying the individual bar association or combinations of bar associations to which a majority of practicing attorneys belong;

(ii) Detail the method of selecting attorney members to provide for representation on the recipient's governing body in accordance with this regulation; and

(iii) Insure that the attorney board members include women and minorities and reasonably reflect the population of the areas served.

(b) Compliance with § 1607.3 shall occur no later than September 15, 1983.

(c) The President may, upon application, extend the time in which a recipient must comply with the requirements of § 1607.3(c). The application must state the reasons why complying by September 15, 1983 would be unduly burdensome or impossible to achieve for the recipients.

(d) An application for an extension of time under paragraph (c) of this section must be received by the Corporation no later than March 16, 1983. An extension may be granted for no more than three months, and no more than two extensions may be granted to any recipient. In no event may the time for compliance be extend beyond March 15, 1984.

Dated: January 11, 1983.

Mary F. Wiseman,

Acting General Counsel.

[FR Doc. 83-1120 Filed 1-14-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 94

Private Operational-Fixed Microwave Service; Editorial Changes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document changes the Commission's Rules for the Private Radio Services to reflect the expanded authority recently delegated by Congress for issuing Special Temporary Authorizations to operate radio stations. This action will permit applicants to operate Operational Fixed Microwave Stations up to 180 days under extraordinary circumstances without the burden of filing a regular application. This document also makes editorial changes to two other sections of Part 94 of the Commission's Rules.

DATE: Effective December 30, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick J. Day, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 94

Operational-fixed microwave.

Adopted: December 29, 1982.

Released: December 30, 1982.

1. On September 13, 1982, Section 309(f) of the Communications Act of 1934 was amended [1] to expand the Commission's ability to grant Special Temporary Authority (STA). Prior to this amendment, the Commission's authority to grant STA's was limited to a period of ninety days and only in situations involving emergency conditions. Once issued, an STA could be renewed only for one additional period of ninety days. With the amendment of Section 309(f), the Commission may now authorize a radio station to operate under Special Temporary Authority for up to 180 days without prior public notice of the application when extraordinary circumstances necessitate temporary operations. The Special Temporary Authority may be renewed for additional periods of 180 days each, at the discretion of the Commission.

2. In the Private Radio Services, this expanded STA authority affects only Private Operational-Fixed Microwave Stations, those Industrial Radio Positioning Stations for which frequencies are assigned on an exclusive basis, Public Coast Stations, and certain categories of stations in the Aviation Services (Aeronautical En Route Stations, Aeronautical Advisory Stations, Airdrome Control Stations, and Aeronautical Fixed Stations).[2] To implement the Commission's expanded STA authority for stations in the Private Operational-Fixed Microwave Radio Service, we are amending § 94.43 of the Rules as indicated in the Appendix. Changes must also be made in Subpart F of Part 1, which governs applications and proceedings in the Private Radio Services generally.

3. In addition, there are other changes which should be made in Part 94 of the Commission's Rules to conform the regulations for the Private Operational-Fixed Microwave Service to current practices. The first of these changes concerns use of FCC Form 402 for renewing station licenses in the Private Operational-Fixed Microwave Radio Service. On May 25, 1982, the Commission released a Public Notice indicating that OFS licensees should continue using Form 402 when applying to renew their station licenses, rather that FCC Form 405A. Part 94 must be updated to reflect this instruction. As noted in the May 25 Public Notice, we are working to develop a computer-generated renewal form which, upon completion, would be automatically prepared and sent to licensees as their five-year license terms near expiration. To avoid having to revise our Rules again when the computer-generated renewal form becomes available for use, we are amending our Rules now to instruct OFS licensees to use whichever renewal form the Commission has designated by public notice. Accordingly, § 94.27 is being changed in the manner indicated in the Appendix.

4. Finally, we are amending Rule § 94.25(d)(1) to clarify the type of information needed for applications which seek authority to operate an OFS station at temporary locations. Currently, § 94.25(d)(1) states that the proposed area of operation may be specified as a city, a county or counties, or a state or states. This approach does not lend itself to entry into our automated database. Accordingly, we are amending the Rules to define the area of operation in a latitude/longitude format, as shown in the Appendix. With implementation of this change, we will be able to record areas of temporary OFS operations in our database, resulting in a more complete and more useful source of information for both the Commission and the public.

5. The amendments adopted herein are editorial and pertain to agency procedure and practice. No substantive changes are made which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude that adoption of these amendments as shown in the Appendix will serve the public interest. Since these amendments impose no additional burdens and raise no issues upon which public comments would be useful, the prior notice procedure and effective date provisions of Section 4 of the Administrative Procedure Act, 5 U.S.C. 553 are inapplicable. Authority for the amendments adopted herein is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's Rules and Regulations, 47 CFR 0.231(d).

6. In view of the foregoing, it is ordered, effective December 30, 1982, that Parts 1 and 94 of the Commission's Rules and Regulations are amended as set forth in the Appendix hereto.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Alan R. McKie,

Deputy Managing Director.

Parts 1 and 94 of Chapter I of Title 47 of the Code of Federal Regulations are hereby amended as indicated below:

PART 1—[AMENDED]

1. Section 1.925 is amended by revising paragraph (a) to read as follows:

§ 1.925 Application for special temporary authorization, temporary permit, temporary operating authority, or interim amateur permit.

(a) Upon proper application, special temporary authorizations not exceeding 180 days in duration may be granted for

[1] The Communications Amendments Act of 1982, Pub. L. 97-259, Section 114, amended Section 309(f) of the Communications Act of 1934, as amended, 47 U.S.C. Section 309(f).

[2] This list of stations to which the 180-day Special Temporary Authority pertains is derived from § 1.962(a)(1) of the Commission's Rules. The STA provisions of Section 309(f) of the Act are expressly applicable only to applications which the Commission, pursuant to the requirements of Section 309(b), places on public notice. Section 1.962(a)(1) provides a list of those categories of Private Radio Services applications which the Commission places on public notice.

(1) operation of a new station or (2) operation of a licensed station in a manner which is beyond the scope of that authorized by the existing license. (See § 1.962(b) (5) and (f).) No such request will be considered unless full particulars as to the purpose for which the request is made are stated and unless the request is received by the Commission at least 10 days prior to the date of proposed operation. A request received within less than 10 days may be accepted upon due showing of sufficient reasons.

* * * * *

2. Section 1.962 is amended by revising paragraph (f) to read as follows:

§ 1.962 Public notice of acceptance for filing; petitions to deny applications of specified categories.

* * * * *

(f) No application subject to the provisions of this section, as originally filed or substantially amended, will be granted by the Commission prior to the 31st day following the issuance of public notice of the acceptance for filing of such application or of any substantial amendment thereof; *Provided, however,* That the Commission, notwithstanding the requirements of this paragraph, may, if the grant of such application is otherwise authorized by law: (1) Grant requests for special temporary authorization for periods not exceeding 180 days, accompanied by a statement of the reasons therefor, if it finds that there are extraordinary circumstances requiring temporary operations in the public interest and that delay in institution of such operations would seriously prejudice the public interest, and (2) extend such temporary authorizations for additional periods not exceeding 180 days each, upon a finding of continued extraordinary circumstances requiring temporary operations in the public interest.

* * * * *

PART 94—[AMENDED]

3. Section 94.25 is amended by revising the text of paragraph (d)(1) to read as follows:

§ 94.25 Filing of applications.

* * * * *

(d) * * *

(1) An application for authority to operate a fixed station at temporary locations is required and shall specify the precise geographic area within which the operation will be confined. The area specified must be defined as a radius of operation about a given latitude/longitude or as a rectangular area bounded by upper and lower lines of latitude and longitude. Exception to this specific requirement may be made for exceptionally large areas, such as the continental United States. Sufficient data must be submitted to show the need for the proposed area of operation.

* * * * *

4. Section 94.27 is amended by removing and reserving paragraph (a)(4), and removing the existing paragraphs (e) and (f), and adding a new paragraph (e) to read as follows:

§ 94.27 Application and standard forms.

(a) * * *

(4) [Reserved]

* * * * *

(e) Application for renewal of station licenses shall be submitted on such form as the Commission may designate by public notice. Applications for renewal must be made during the license term and should be filed within 90 days, but not later than 30 days, prior to the end of the license term. When a licensee submits a timely application for renewal of a station license, the existing license for that station shall continue as a valid authorization until the Commission has made a final decision on the application.

5. Section 94.43 is amended by removing paragraph (b), (b)(1) through (b)(3) and the **Note** immediately below (b)(3), and adding a new paragraph (a)(5) and a new paragraph (b) to read as follows:

§ 94.43 Procedure for obtaining special temporary authority.

* * * * *

(a) * * *

(5) In other situations involving circumstances which are of such an extraordinary nature that delay in the institution of temporary operation would seriously prejudice the public interest.

(b) The commission may grant requests for special temporary authority without issuing the public notice provided for in § 1.962 of this chapter for periods not exceeding 180 days, if there are extraordinary circumstances supporting the request and where delay in commencing temporary operation would seriously prejudice the public interest. Requests for special temporary authorization not involving extraordinary circumstances may be granted without public notice for a period of 30 days where an application for regular operation is not contemplated or for 60 days pending or after the filing of an application for regular operation.

* * * * *

[FR Doc. 83-998 Filed 1-14-83; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Ch. II

[BMCS Docket No. MC-106; Amdt. No. 81-7]

Written Examination for Drivers; Technical Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: Due to amendments to the Federal Motor Carrier Safety Regulations (FMCSR) which have occurred in the past few years, certain information and terminology currently found in the written examination for drivers is no longer correct. Consequently, the FHWA is amending the written examination, which is given to driver applicants by motor carriers subject to the jurisdiction of the FHWA, to correct the examination's information and terminology. While the revisions are nonsubstantive in nature, they will improve the usefulness of the written examination.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426-9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 391.35 of the FMCSR (49 CFR 391.35), which became effective in January 1971, requires every commercial motor vehicle driver operating in interstate or foreign commerce to take a written examination and be issued a certification of that examination by the administering motor carrier prior to driving a motor vehicle. The written examination, which is printed in Appendix C to the FMCSR, and the certification of that examination is valid for the duration of the driver's employment with the administering motor carrier.

Although the written examination requirement became effective in January 1971, the examination itself received major revision in a rulemaking action which was published on June 14, 1974 (39 FR 20795). The revised written examination has been used to fulfill the requirements of § 391.35 since 1974.

During the intervening years, however, rulemaking actions have occurred which now necessitate minor language changes in a number of the

written examination questions. For example, in question 34, a $2,000 figure has been inserted to reflect the FHWA rule change (37 FR 18078) which raised the aggregate property damage threshold from $250 to $2,000.

Questions 50, 51, and 52 have also been modified to correspond with recently completed rulemaking action affecting § 395.8 of the FMCSR. In this action, published on November 28, 1982, (47 FR 53383) the term "Driver's Log" was replaced with the term "record of duty status." Consequently, questions 50, 51, and 52 have been modified to reflect this new terminology.

Since this implementation of the written examination requirement, the Federal Government has taken action to eliminate unnecessary sexist designations. The FHWA supports these efforts, and has, therefore, eliminated sexist terminology from the written examination.

Since the changes being adopted in this document are technical in nature and make no substantive changes in the regulations, the FHWA finds good cause to make this amendment final without prior notice and opportunity for comment and without a 30-day delay in effective date required by the Administrative Procedure Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information. Accordingly, the amendments are effective upon issuance.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the policies and procedures of the Department of Transportation. The economic impact, if any, anticipated as a result of this action is so minimal, a full regulatory evaluation is not required.

In consideration of the foregoing, Appendix C to Subchapter B of title 49, Code of Federal Regulations, is revised to read as follows:

Appendix C—Written Examination for Drivers

Instructions

All of the questions contained herein are based on the United States Department of Transportation's Federal Motor Carrier Safety Regulations. Applicants for the position of commercial driver are required to take the examination.

Each question has four answers but only one is right. Your job is to read all of the answers and then to pick the one answer you believe is right. Mark an "X" in the space next to the answer you choose. Do not pick more than one answer for each question.

Here is a sample question to show you what is to be done:

The Federal Motor Carrier Safety Regulations were written for:

1. ( ) vehicle makers.
2. ( ) drivers only.
3. ( ) carriers only.
4. ( ) drivers and carriers.

The right answer is number 4, "drivers and carriers," so you would mark an "X" in the space next to answer number 4.

Finally, be sure to answer every question and do not skip any pages. Keep in mind that most of the regulations covered here apply to commercial bus and truck drivers and are different from what is required of passenger car drivers. Again, pick only one answer for each question. There is no time limit on the examination, but try to work as fast as you can.

1. Section 390.32 A motor carrier who is also a driver (owner-operator):
1. ( ) is not covered by the safety regulations.
2. ( ) must obey only those parts of the regulations which cover drivers.
3. ( ) must obey only those parts of the regulations which cover motor carriers.
4. ( ) must obey both the parts covering drivers and the parts covering motor carriers.

2. Section 391.11(b)(1) With only a few exceptions, the Federal Motor Carrier Safety Regulations say a driver must be:
1. ( ) at least 18 years old.
2. ( ) at least 19 years old.
3. ( ) at least 20 years old.
4. ( ) at least 21 years old.

3. Section 391.15(c)(2)(3) A driver cannot drive a motor vehicle:
1. ( ) for one year after a first offense conviction for a felony involving a commercial motor vehicle operated by the driver.
2. ( ) for one year after a first offense conviction for driving a commercial vehicle under the influence of alcohol or narcotics.
3. ( ) for one year after a first offense conviction for leaving the scene of an accident which resulted in personal injury or death.
4. ( ) for one year after a first offense conviction for any of the above.

4. Section 391.21(b)(7)(8)(10) Every driver applicant must fill out an application form giving:
1. ( ) a list of all vehicle accidents during the previous 3 years.
2. ( ) a list of all motor vehicle violation convictions and bond forfeits (except for parking) during the previous 3 years.
3. ( ) a list of names and addresses of all employers during the previous 3 years.
4. ( ) all of the above.

5. Section 391.27 (a)(b) At least once a year, a driver must fill out a form listing all motor vehicle violations (except parking) occurring during the previous 12 months. The driver must fill out the form:
1. ( ) even if there were no violations.
2. ( ) only if convicted.
3. ( ) only if convicted or had forfeited bond or collateral.
4. ( ) only if the carrier requires it.

6. Section 391.33(a)(2) If a driver applicant has a valid certificate showing successful completion of a driver's road test:
1. ( ) the carrier must accept it.
2. ( ) the carrier may still require the applicant to take a road test.
3. ( ) the carrier cannot accept it.
4. ( ) the carrier may request a road test waiver from the Bureau of Motor Carrier Safety.

7. Section 391.41(b)(5) A person with breathing problems which may affect safe driving:
1. ( ) cannot drive.
2. ( ) cannot drive unless the vehicle has an emergency oxygen supply.
3. ( ) cannot drive unless another driver is along.
4. ( ) cannot drive except on short runs.

8. Section 391.41(b)(7) Persons with arthritis, rheumatism, or any such condition which may affect safe driving:
1. ( ) cannot drive unless they are checked by a doctor before each trip.
2. ( ) cannot drive.
3. ( ) cannot drive except when they are free of pain.
4. ( ) cannot drive unless another driver is along.

9. Section 391.41(b)(8) Persons who have ever had epilepsy:
1. ( ) cannot drive unless another driver is along.
2. ( ) cannot drive.
3. ( ) cannot drive on long runs.
4. ( ) cannot drive without monthly medical examinations.

10. Section 391.41(b)(9)(12)(13) In order to be able to drive, a driver:
1. ( ) must not have any mental, nervous or physical problem likely to affect safe driving.
2. ( ) must not use an amphetamine, narcotic or any habit-forming drug.
3. ( ) must not have a current alcoholism problem.
4. ( ) must not have or use any of the above.

11. Section 391.45(c) If a driver gets an injury or illness serious enough to affect the ability to perform duties, the driver:
1. ( ) must report it at the next scheduled physical.
2. ( ) cannot drive again.
3. ( ) must take another physical and be recertified before driving again.
4. ( ) must wait at least 1 month after recovery before driving again.

12. Section 392.2 A driver may not drive faster than posted speed limits:
1. ( ) unless the driver is sick and must complete the run quickly.
2. ( ) at any time.
3. ( ) unless the driver is passing another vehicle.
4. ( ) unless the driver is late and must make a scheduled arrival.

13. Section 392.3 When a driver's physical condition while on a trip requires the driver to stop driving, but stopping would not be safe, the driver:
1. ( ) must stop anyway.
2. ( ) May try to complete the trip, but as quickly as possible.

3. ( ) may continue to drive to the home terminal.
4. ( ) may continue to drive, but must stop at the nearest safe place.

14. Section 392.5(a)(1) A driver may not drink or be under the influence of any alcoholic beverage (regardless of alcoholic content):
1. ( ) within 4 hours before going on duty or driving.
2. ( ) within 6 hours before going on duty or driving.
3. ( ) within 8 hours before going on duty or driving.
4. ( ) within 12 hours before going on duty or driving.

15. Section 392.7 A driver must be satisfied that service and parking brakes, tires, lights and reflectors, mirrors, coupling and other devices are in good working order:
1. ( ) at the end of each trip.
2. ( ) before the vehicle may be driven.
3. ( ) only when the driver considers it necessary.
4. ( ) according to schedules set by the carrier.

16. Section 392.8 The following must be in place and ready for use before a vehicle can be driven:
1. ( ) at least one spare fuse or other overload protector of each type used on the vehicle.
2. ( ) a tool kit containing a specified list of hand tools.
3. ( ) at least one spare tire for every four wheels.
4. ( ) a set of spark plugs.

17. Section 392.9(a)(3) If any part of the cargo or anything else blocks a driver's front or side views, arm or leg movements, or the driver's access to emergency equipment, the driver:
1. ( ) can drive the vehicle, but must report the problem at the end of the trip.
2. ( ) cannot drive the vehicle.
3. ( ) can drive the vehicle, but only at speeds under 40 miles per hour.
4. ( ) can drive the vehicle, but only on secondary roads.

18. Section 392.9(a) Any driver who needs glasses to meet the minimum visual requirements:
1. ( ) must drive only during daylight hours.
2. ( ) must always wear glasses when driving.
3. ( ) must always carry a spare pair of glasses.
4. ( ) must not drive a motor vehicle.

19. Section 392.9 (b) A driver with a hearing aid:
1. ( ) if the driver always has it turned on while driving.
2. ( ) if the driver always carries a spare power source for it.
3. ( ) if the driver can meet the hearing requirements when the hearing aid is turned on.
4. ( ) if all of the above requirements are met.

20. Section 392.10 (a) A driver required to stop at a railroad crossing should bring the vehicle to a stop no closer to the tracks than:
1. ( ) 5 feet.
2. ( ) 10 feet.
3. ( ) 15 feet.
4. ( ) 20 feet.

21. Section 392.10(a) shifting gears is not permitted:
1. ( ) when traveling faster than 35 miles per hour.
2. ( ) when moving across any bridge.
3. ( ) when crossing railroad tracks.
4. ( ) when traveling down a hill steeper than 10 degrees.

22. Section 392.13 A driver of a motor vehicle, not required to stop at drawbridges without signals, must:
1. ( ) drive at a rate of speed which will permit a stop before reaching the lip of the draw.
2. ( ) sound the horn before crossing.
3. ( ) proceed across without reducing speed.
4. ( ) slow down only if directed by an attendant.

23. Section 392.15 (a) When turning a vehicle a driver should begin flashing the turn signals:
1. ( ) at least 50 feet before turning.
2. ( ) at least 60 feet before turning.
3. ( ) at least 75 feet before turning.
4. ( ) at least 100 feet before turning.

24. Section 392.16 Which of the following is true?
1. ( ) if a seat belt is installed in the vehicle, a driver must have it fastened before beginning to drive.
2. ( ) a driver may or may not use the seat belt, depending on the driver's judgment.
3. ( ) seat belts are not necessary on heavier vehicles.
4. ( ) a driver must use the seat belt only if required by the carrier.

25. Section 392.21 When a motor vehicle cannot be stopped off the traveled part of the highway, the driver:
1. ( ) must keep driving.
2. ( ) may stop, but shall get as far off the traveled part of the highway as possible.
3. ( ) may stop, but shall make sure that the vehicle can be seen as far as possible to its front and rear.
4. ( ) may stop if the driver has to, but should do both 2 and 3 above.

26. Section 392.22 (b) (1) If a vehicle has a breakdown, the driver must place one emergency signal:
1. ( ) 100 feet in front of the vehicle in the center of the lane it occupies.
2. ( ) 100 feet in back of the vehicle in the center of the lane it occupies.
3. ( ) 10 feet in front or back of the traffic side.
4. ( ) at all of the above locations.

27. Section 392.22(b)(1)(i) If a vehicle has a breakdown on a poorly-lit street or highway, the driver shall place on the traffic side:
1. ( ) a reflective triangle.
2. ( ) a lighted red electric lantern.
3. ( ) a red reflector.
4. ( ) any one of the above.

28. Section 392.22(b)(2)(iii) No emergency signals are required for a vehicle with a breakdown if the street or highway lighting is bright enough so it can be seen at a distance of:
1. ( ) 100 feet.
2. ( ) 200 feet.
3. ( ) 500 feet.
4. ( ) 750 feet.

29. Section 392.22(b)(2)(v) If a vehicle has a breakdown and stops on a poorly-lit *divided or one way* highway, the driver must place one emergency signal:
1. ( ) 200 feet in back of the vehicle in the center of the lane it occupies.
2. ( ) 100 feet in back of the vehicle on the traffic side of the vehicle.
3. ( ) 10 feet in back of the vehicle on the traffic side of the vehicle.
4. ( ) at all of the above locations.

30. Section 392.25 Lighted flame-producing emergency signals, including fusees:
1. ( ) may not be used with vehicles carrying Class A or B explosives.
2. ( ) may not be used with tank vehicles, loaded or empty, which are used to carry flammable liquids or gas.
3. ( ) may not be used with any vehicle using compressed gas as a fuel.
4. ( ) may not be used with any of the above.

31. Section 392.30(a) A driver is required to turn on vehicle lights:
1. ( ) from one-half before sunset to one-half hour *before* sunrise.
2. ( ) from one-half hour before sunset to sunrise.
3. ( ) from one-half hour *after* sunset to one-half hour *before* sunrise.
4. ( ) from sunset to one-half hour before sunrise.

32. Section 392.32(a)(b) When lights are required on the highway, a driver shall use the high beam:
1. ( ) except when within 500 feet of an on-coming vehicle or a vehicle the driver is following.
2. ( ) except when within 400 feet of an on-coming vehicle or a vehicle the driver is following.
3. ( ) except when within 200 feet of an on-coming vehicle or a vehicle the driver is following.
4. ( ) except when within 100 feet of an on-coming vehicle or a vehicle the driver is following.

33. Section 392.32(a) When lights are required, a driver may use lower beam lights:
1. ( ) when fog, dust, or other such conditions exist.
2. ( ) when approaching tunnels or bridges.
3. ( ) when driving on one-way highways.
4. ( ) when within 1,000 feet of business areas or where people live.

34. Section 392.40 Every driver involved in an accident must follow the safety regulation procedures whenever an injury or death is involved or if:
1. ( ) the accident is caused by the driver and property damage of over $2,000.00 results.
2. ( ) property damage of over $2,000.00 results, no matter who is at fault.
3. ( ) property damage of over $100.00 results.
4. ( ) property damage of any kind results.

35. Section 392.41 If a driver strikes a parked vehicle, the driver should first:
1. ( ) stop and call the local police.
2. ( ) stop and call the carrier.
3. ( ) stop and try to find the driver or owner of the parked vehicle.
4. ( ) stop and estimate the damage.

36. Section 392.42 When a driver receives notice of license or permit revocation,

suspension or other withdrawal action, the driver must:
1. ( ) notify the carrier within 72 hours.
2. ( ) notify the carrier within one week.
3. ( ) notify the carrier before the end of the next business day.
4. ( ) take no action since the carrier will get a notice.

37. Section 392.61 Except in emergencies, no driver shall allow a vehicle to be driven by any other person:
1. ( ) except by those the driver knows are capable.
2. ( ) except on roads with little or no traffic.
3. ( ) except by those allowed by the carrier to do it.
4. ( ) unless the driver goes along with the person driving.

38. Section 392.64 A person may ride inside a vehicle's closed body or trailer:
1. ( ) only on short runs.
2. ( ) only if there is an easy way to get out from the inside.
3. ( ) only if the inside of the body or trailer is lighted.
4. ( ) only if there is no cargo in it.

39. Section 392.66 If carbon monoxide is inside a vehicle or if a mechanical problem may produce a carbon monoxide danger, the vehicle:
1. ( ) may be sent out and driven so long as the windows are left open.
2. ( ) may not be sent out or driven.
3. ( ) may be sent out and driven only if the carrier decides the vehicle has to be used.
4. ( ) may be sent out and driven on short runs.

40. Section 392.68 No motor vehicle shall be operated out of gear:
1. ( ) except when fuel must be saved.
2. ( ) except on hills which are less than 20 degrees.
3. ( ) except when it is necessary for stopping or shifting gears.
4. ( ) except when the vehicle's speed is under 25 miles per hour.

41. Section 393.1(a) Under the Federal Motor Carrier Safety Regulations, no vehicle may be driven:
1. ( ) until a list of all missing or defective equipment has been prepared and given to the carrier.
2. ( ) until all equipment has been inspected and replacements for defective parts have been ordered.
3. ( ) unless all missing equipment is to be replaced no later than the end of the vehicle's next run.
4. ( ) until it meets all of the equipment requirements of the regulations.

42. Section 393 Minimum requirements for lighting, reflecting and electrical equipment and devices on buses and trucks:
1. ( ) are set by the vehicle makers.
2. ( ) are set by the National Safety Council.
3. ( ) are specified in the safety regulations.
4. ( ) are set by the trucking associations.

43. Section 393.18(a)(b) Every motor vehicle which has a load sticking out over its sides must be specifically marked with flags and lamps. Additional flags and lamps must be added if the load or tailgate sticks out beyond the rear of the vehicle by more than:
1. ( ) 2 feet.
2. ( ) 4 feet.
3. ( ) 6 feet.
4. ( ) 8 feet.

44. Section 393.41(a) Every vehicle shall have a parking brake system which will hold it, no matter what its load:
1. ( ) on any grade on which it is operated which is free from ice and snow.
2. ( ) on all grades under 15 degrees which are free from ice and snow.
3. ( ) on all grades under 20 degrees which are free from ice and snow.
4. ( ) on all grades under 25 degrees which are free from ice and snow.

45. Section 393.77(b)(6) A portable heater may not be used in any vehicle cab:
1. ( ) unless the heater is secured.
2. ( ) unless the heater is of the electric filament type.
3. ( ) at any time.
4. ( ) without approval from the carrier.

46. Section 395.3(a) A driver is not generally allowed to drive for more than:
1. ( ) 6 hours following 8 straight hours off duty.
2. ( ) 8 hours following 8 straight hours off duty.
3. ( ) 10 hours following 8 straight hours off duty.
4. ( ) 12 hours following 8 straight hours off duty.

47. Section 395.3(a) Most drivers of large vehicles are *not* allowed to drive:
1. ( ) after they have been *on duty* for 16 hours.
2. ( ) after they have been *on duty* for 15 hours.
3. ( ) after they have been *on duty* for 14 hours.
4. ( ) after they have been *on duty* for 12 hours.

48. Section 395.3(b) Generally, a driver may not be "on-duty":
1. ( ) for more than 40 hours in any 7 straight days.
2. ( ) for more than 50 hours in any 7 straight days.
3. ( ) for more than 60 hours in any 7 straight days.
4. ( ) for more than 70 hours in any 7 straight days.

49. Section 395.7 When a driver is riding in a vehicle, but is not driving and has no other responsibility, such time shall be counted as:
1. ( ) on-duty time.
2. ( ) on-duty time unless the driver is allowed 8 straight hours off duty upon arrival at the destination.
3. ( ) on-duty time unless the driver is allowed 6 straight hours off duty upon arrival at the destination.
4. ( ) on-duty time unless the driver is allowed 4 straight hours off duty upon arrival at the destination.

50. Section 395.8(f)(1) Every driver must prepare an original and one copy of the driver's record of duty status which must be kept current by updating it:
1. ( ) every time a change of duty status is made.
2. ( ) every 24 hours.
3. ( ) every 8 hours.
4. ( ) at the end of each trip.

51. Section 395.8(f)(2) Except for the name and main address of the carrier, all entries relating to the driver's record of duty status:
1. ( ) must be printed in ink or typed.
2. ( ) must be made by the carrier dispatcher.
3. ( ) must be made in front of a witness.
4. ( ) must be in the driver's handwriting.

52. Section 395.8 (f)(5) and (h)(2) Which of the following is required to be put in a driver's record of duty status?
1. ( ) time spent in a sleeper berth.
2. ( ) total hours in each duty status.
3. ( ) origin and destination.
4. ( ) the name and make of the vehicle.

53. Section 395.11 If any emergency delays a run which could normally have been completed within hours of service limits, the driver:
1. ( ) must still stop driving when the hours of service limits is reached.
2. ( ) may drive for 1 extra hour.
3. ( ) may drive for 2 extra hours.
4. ( ) may finish the run without being in violation.

54. Section 395.13 A driver declared "Out of Service":
1. ( ) must take a road test before driving again.
2. ( ) must wait 72 hours before driving again.
3. ( ) must appeal to the Director of the Bureau of Motor Carrier Safety to drive again.
4. ( ) can drive again only after hours of service requirements are met.

55. Section 396.7 If a vehicle on a trip is in a condition likely to cause an accident or breakdown:
1. ( ) the driver should report it at the end of the run so repairs can be made.
2. ( ) the driver should drive at lower speeds for the rest of the run.
3. ( ) the driver should stop immediately unless going on to the nearest repair shop is safer than stopping.
4. ( ) the driver should change the route so as to get away from heavily traveled roads.

56. Section 396.9(c) If authorized Federal inspectors find a vehicle which is likely to cause an accident or breakdown:
1. ( ) it will be reported to the carrier for repair as soon as the vehicle is not scheduled.
2. ( ) it will be reported to the carrier for repair at the end of the trip.
3. ( ) it will be marked with an "Out of Service Vehicle" sticker and not driven until repairs are made.
4. ( ) the drive will be held responsible and declared "Out of Service."

57. Section 396.9(c)(4) If the driver personally makes repairs on an "Out of Service" vehicle:
1. ( ) the work must be approved by a mechanic.
2. ( ) the driver must complete and sign a "Certification of Repairman" form.
3. ( ) the work must be approved by a supervisor.
4. ( ) the work must be approved by a Federal inspector.

58. Section 397.3 Department of Transportation regulations covering the driving and parking of vehicles containing hazardous materials:
1. ( ) replace State and local laws.
2. ( ) prevent States and cities from having their own laws.

3. ( ) must be obeyed even if State or local laws are less strict or disagree.
4. ( ) should not be obeyed if State or local laws disagree.

59. Section 397.5(c) A vehicle which contains hazardous materials *other than* Class A or B explosives must be attended at all times:
1. ( ) by the driver.
2. ( ) by the driver except when involved in other driver duties.
3. ( ) by the driver or a person chosen by the driver.
4. ( ) by the driver or a police officer.

60. Section 397.5(d)(1) A vehicle containing Class A or B explosives or other hazardous materials on a trip is "attended":
1. ( ) when the person in charge is anywhere within 100 feet of the vehicle.
2. ( ) as long as the driver can see the vehicle from 200 feet away.
3. ( ) when the person in charge is within 100 feet and has a clear view of the vehicle.
4. ( ) when the person in charge is resting in the berth.

61. Section 397.7(a)(3) Except for short periods when operations make it necessary, trucks carrying Class A or B explosives cannot be parked any closer to bridges, tunnels, buildings or crowds of people than:
1. ( ) 50 feet.
2. ( ) 100 feet.
3. ( ) 200 feet.
4. ( ) 300 feet.

62. Section 397.13(a) Smoking or carrying a lighted cigarette, cigar, or pipe near a vehicle which contains explosives, oxidizing or flammable materials is not allowed:
1. ( ) except in the closed cab of the vehicle.
2. ( ) except when the vehicle is moving.
3. ( ) except at a distance of 25 feet or more from the vehicle.
4. ( ) except when approved by the carrier.

63. Section 397.15(b) When a vehicle containing hazardous materials is being fueled:
1. ( ) no person may remain in the cab.
2. ( ) a person must be in control of the fueling process at the point where the fuel tank is filled.
3. ( ) the area within 50 feet of the vehicle must be cleared.
4. ( ) the person who controls the fueling process must wear special clothes.

64. Section 397.17(a) If a vehicle carrying hazardous materials is equipped with dual tires on any axle, the driver must examine the tires:
1. ( ) at all fueling stops only.
2. ( ) only at the end of each day or tour of duty.
3. ( ) at the beginning of each trip and each time the vehicle is parked.
4. ( ) at the beginning of each trip only.

65. Section 397.17(c) If a driver of a vehicle carrying hazardous materials finds a tire which is overheated, the driver must:
1. ( ) wait for the overheated tire to cool before going on.
2. ( ) remove and replace the overheated tire, store it on the vehicle and drive on.
3. ( ) remove the tire, place it a safe distance from the vehicle and not drive the vehicle until the cause of the overheating is fixed.
4. ( ) drive slowly to the nearest repair shop and have the cause of the overheating fixed.

66. Section 177.823(a) When required, specified hazardous materials markings or signs must be placed:
1. ( ) wherever they can be seen clearly.
2. ( ) on the sides and rear of the vehicle.
3. ( ) on the front, rear, and sides of the vehicle.
4. ( ) on the front and rear bumpers of the vehicle.

SCORING KEY—WRITTEN EXAMINATION

Section	Answer
(1) 390.32	4
(2) 391.11(b)(1)	4
(3) 391.15(c)(2)(3)	4
(4) 391.21(b)(7)(8)(10)	4
(5) 391.27(a)(b)	1
(6) 391.33(a)(2)	2
(7) 391.41(b)(5)	1
(8) 391.41(b)(7)	2
(9) 391.41(b)(8)	2
(10) 391.41(b)(9)(12)(13)	4
(11) 391.45(c)	3
(12) 392.2	2
(13) 392.2	4
(14) 392.5(a)(1)	1
(15) 392.7	2
(16) 392.8	1
(17) 392.9(a)(3)	2
(18) 392.9(a)	2
(19) 392.9(b)	4
(20) 392.10(a)	3
(21) 392.10(a)	3
(22) 392.13	1
(23) 392.15(a)	3
(24) 392.16	1
(25) 392.21	4
(26) 392.22(b)(1)	4
(27) 392.22(b)(1)(i)	4
(28) 392.22(b)(2)(iii)	3
(29) 392.22(b)(2)(v)	4
(30) 392.25	4
(31) 392.30(a)	3
(32) 392.32(a)(b)	1
(33) 392.32(a)	1
(34) 392.40	4
(35) 392.41	3
(36) 392.42	3
(37) 392.61	4
(38) 392.64	3
(39) 392.66	2
(40) 392.68	2
(41) 393.1(a)	3
(42) 393	4
(43) 393.18(a)(b)	3
(44) 393.41(a)	2
(45) 393.77(b)(6)	1
(46) 395.3(a)	3
(47) 395.3(a)	3
(48) 395.3(b)	3
(49) 395.7	4
(50) 395.8(f)(1)	1
(51) 395.8(f)(2)	4
(52) 395.8 (f)(5) and (h)(2)	3
(53) 395.11	3
(54) 395.13	3
(55) 396.7(b)	3
(56) 396.9(c)	2
(57) 396.9(c)(4)	3
(58) 397.3	3
(59) 397.5(c)	2
(60) 397.5(d)(1)	3
(61) 397.7(a)(3)	1
(62) 397.13(a)	2
(63) 397.15(b)	3
(64) 397.17(a)	3
(65) 397.17(c)	3
(66) 177.823(a)	1

(49 U.S.C. 304, 1655; 49 CFR 1.48(b) and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: January 10, 1983.

Kenneth L. Pierson,
Director, Bureau of Motor Carrier Safety.

[FR Doc. 83-1013 Filed 1-14-83; 8:45 am]
BILLING CODE 4910-22-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1160

[Ex Parte No. 55 (Sub-56)]

Availability of Form OP-1

AGENCY: Interstate Commerce Commission.

ACTION: Announcement of availability of revised application Form OP-1 (Revised 11/82).

SUMMARY: In Ex Parte No. 55 (Sub-No. 56), Applications for Operating Authority—Motor Passenger Carriers (47 FR 53260, November 24, 1982) the Interstate Commerce Commission adopted a new application, Form OP-1 (Revised 11/82), which is used by applicants for motor and water carrier, freight forwarder, and property broker operating authority. That form has now been approved by the Office of Management and Budget and is available from the locations named below. Applications filed on the revised OP-1 form will be accepted after publication of this Notice.

Applications filed on the old Form OP-1 (Revised 1/81) will continue to be accepted until March 1, 1983. After that date all applications must be filed on the new form.

ADDRESS: Form OP-1 (Revised 11/82) is available from:

Publications Room, B-221, Office of the Secretary, Washington, D.C. 20423, 202-275-7833

or the following Interstate Commerce Commission Regional Offices:

Region 1, 150 Causeway St., Room 501, Boston, MA 02114, 617-223-2372
Region 2, Federal Reserve Bank Bldg., 101 North Seventh St., Room 620, Philadelphia, PA 19106, 215-597-4449
Region 3, 1776 Peachtree St., N.W., Rm. 300, Atlanta, GA 30309, 404-881-4371
Region 4, Everett McKinley Dirksen Bldg., 219 South Dearborn St., Rm. 1304, Chicago, IL 60604, 312-353-6204
Region 5, 411 West 7th St., Suite 600, Fort Worth, TX 76102, 817-334-3101
Region 6, 211 Main St., Suite 500, San Francisco, CA 94015, 415-974-7011

FOR FURTHER INFORMATION CONTACT: For assistance in filing an application:

Public Assistance Branch, 202-275-7863

or any of the Commission's 6 regional offices listed above.

SUPPLEMENTARY INFORMATION: Both the current Form OP–1 (Revised 1/81) and the new Form OP–1 (Revised 11/82) include an Appendix entitled Certification of Witness or Shipper Support. The Appendix is used for applications which require public support. Since the Appendix to both the current and revised Form OP–1 are essentially the same, the Appendix from either Form OP–1 will be accepted by the Commission provided the original signed copy is submitted and other requirements are met.

Applicants and their representatives are encouraged to review carefully the new Form OP–1 (Revised 11/82) before they submit an application. If anyone has questions about the new form, they should contact the Commission's Public Assistance Branch at 202–275–7863.

Decided: January 11, 1983.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–1177 Filed 1–14–83; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 48, No. 11
Monday, January 17, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Regulation Review—Deceptive Practices

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) has reviewed in its regulation on Deceptive Practices. FGIS proposes to amend this regulation by substituting the term "agency" for "official agency", thereby clarifying that the regulation is applicable to delegated States as well as designated agencies and the Service.

DATE: Comments must be submitted on or before March 18, 1983.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 1636, South Building, 14th Street and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., (address above), telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the inspection and weighing services do not meet the requirements for small entities, and this action poses no new or additional duties or obligations to business entities involved in the loading, weighing, handling, or sampling of grain.

Review of Regulation

The review of the regulation on Deceptive Practices included a determination of the continued need for and consequences of the regulation. An objective was to assure that the language of the regulation is clear and that the regulation is consistent with FGIS policy. FGIS has determined that the regulation: is serving the best interest of the U.S. grain industry; affords protection from deceptive practices to buyers and sellers of U.S. grain; is consistent with FGIS policy; and should remain in effect. FGIS proposes, however, to amend this regulation by substituting the term "agency" for "official agency," thereby clarifying that the regulation is applicable to delegated States as well as designated agencies and the Service. It was originally intended that delegated States would be included in this regulation. Strictly interpreted, the definition for official agency in § 800.0(b)(48) excludes delegated States. Agency is defined in § 800.0(b)(3) as a delegated State or a designated agency, as appropriate.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, Grain.

PART 800—[AMENDED]

Accordingly, it is proposed that § 800.60 be revised by substituting the term "agency" for "official agency," to read as follows:

§ 800.60 Deceptive actions and practices.

In the absence of prior adequate notice to appropriate official personnel, any action or practice, including the loading, weighing, handling, or sampling of grain that knowingly causes or is an attempt to cause the issuance by official personnel of a false or incorrect official certificate or other official form, is deemed to be deceptive and, as such, is a violation of Section 13(a)(3) of the Act. For the purposes of this paragraph, adequate notice is written or oral notice given to an agency or the Service, as applicable, before official personnel begin to perform official inspection or weighing services. If oral notice is given, it must be confirmed in writing within 2 business days. To be adequate, the notice must explain the nature and extent of the action or practice in question and must identify the grain, stowage container, equipment, facility, and the official personnel actually or potentially involved.

(Secs. 15, 18, Pub. L. 94–582, 90 stat. 2883, 2884; (7 U.S.C. 87b, 87e))

Kenneth A. Gilles,
Administrator.

[FR Doc. 83–1111 Filed 1–14–83; 8:45 am]
BILLING CODE 3410–EE–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82–NM–116–AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD) which would require inspection and repair, if necessary, of the wing upper surface stringers on Boeing Model 727 series airplanes. The proposed AD is prompted by numerous reports of fatigue cracks originating in the wing upper stringers. This action is necessary to ensure the structural integrity of the wing.

DATES: Comments must be received on or before February 16, 1983.

ADDRESSES: The applicable service bulletins may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information also may be examined at the Federal Aviation Administration, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Don Gonder, Airframe Branch, ANM–120S, at the above address,

telephone (206) 767–2516. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 82–NM–116–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

There have been numerous reports of cracks in the wing upper surface stringers. Specifically, thirteen operators have reported finding 84 cracks at rib locations, Wing Station 601.5, 629, 656.5, 686.5, and 738.5. One report indicated that every stringer was either cracked or broken at three consecutive ribs. Typically, cracking has occured in either the stringer lower horizontal flanges at a stringer to rib attachment or in the stringer lower horizontal flange to vertical leg radius. The cracking has been attributed to fatigue. Airplanes with several adjacent cracked or broken stringers could experience rapid crack growth and the subsequent loss of the wing upper skin.

Boeing has issued Service Bulletin No. 727–57A159, Revision 1 which provides inspection, repair, and preventive modification instructions. Repair or modification in accordance with this service bulletin would eliminate the need for repetitive inspections and constitute terminating action for the requirements of this proposed AD.

Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require periodic inspection of the wing upper surface stringers at the affected locations and repair, if necessary, of cracked structure.

Approximately 1200 airplaines of U.S. registry would be affected by this proposed AD. It is estimated that the preferred eddy current inspections would take approximately 80 manhours and that the average labor cost would be $40 per manhour. Based on these figures, the total inspection cost is estimated not to exceed $3,840,000. This estimate does not include repair costs because of the diffiuclty in determining the extent of present and future damage in the fleet. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Boeing: Applies to Model 727 series airplanes line numbers 1 through 1817 certificated in all categories.

Compliance required as indicated unless already accomplished.

To detect cracks in the wing upper surface stringers, accomplish the following in accordance with Boeing Alert Service Bulletin No. 727–57A159, Revision 1, or later FAA approved revisions.

A. Using Eddy current, x-ray or visual inspection techniques, inspect affected wing upper stringers for cracks in accordance with the following time:

1. For airplanes with 45,000 or more landings inspect within the next 1000 landings after the effective date of this AD.

2. For airplanes with at least 40,000 and less than 45,000 landings inspect within the next 2,000 landings after the effective date of this AD.

3. For all other airplanes inspect within the next 3,000 landings or prior to accumulating 33,000 total landings, whichever occurs later.

4. For affected wing stringer rib attach locations previously repaired in accordance with Structural Repair Manual Subject 57–10–4 or any other FAA approved method, except when in accordance with Service Bulletin 727–57A159, Revision 1 or later FAA approved revisions, inspect within the next 3000 landings or prior to accumulating 10,000 landings after repair, whichever occurs later.

B. Reinspect the affected structure at the following intervals:

1. If eddy current methods are used, reinspect using eddy current at intervals not to exceed 16,000 landings and visually inspect at intervals not to exceed 4000 landings until the next eddy current inspection.

2. If x-ray or visual methods are used, reinspect at intervals not to exceed 2400 landings.

C. Any cracked structure is to be repaired prior to further flight in accordance with procedures listed in Boeing Service Bulletin No. 727–57A159, Revision 1, or later FAA approved revision.

D. Repair or modification in accordance with Service Bulletin No. 727–57A159, Revision 1, or later FAA approved revisions eliminates the repetitive inspection requirements of paragraph B, and constitutes terminating action for the requirements of this AD.

E. Aircraft may be ferried to a maintenance base for repair in accordance with FAR 21.197 and 21.199.

F. For the purpose of this AD, and when approved by an FAA maintenance inspector, the number of landings may be computed by dividing each airplane's time in service by the operator's fleet average time from takeoff to landing for the aircraft type.

G. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

The manufacture's specification and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.— For the reasons discussed earlier in the preamble: The FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Wash. on December 23, 1982.

Waye J. Barlow,

Acting Director, Northwest Mountain Region.

(FR Doc. 83-1004 Filed 1-14-83; 8:45 am)

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-72-AD]

Airworthiness Directive; Boeing Model 747 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document reopens the comment period for a Notice of Proposed Rulemaking issued on September 30, 1982 (47 FR 43072). That NPRM proposed: (1) Revision of the limitations section in the FAA approved Boeing Model 747 Airplane Flight Manual (AFM) and (2) installation on the pilot's panel of low engine fan rotor rpm N1 caution indication for each engine. The minimum N1 caution and AFM information is needed to ensure engines are not operated below a safe level during icing conditions.

DATES: The comment period for this NPRM is hereby reopened and extended from December 3, 1982 to January 17, 1983.

ADDRESSES: Submit written comments on the proposed rule in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 82-NM-72-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Kanji K. Patel, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2520.

SUPPLEMENTARY INFORMATION: Notice of Proposed Rulemaking (NPRM), Docket No. 82-NM-72-AD, was published in the Federal Register on September 30, 1982 (47 FR 43072). The proposed rule would require a revision of the limitations section in the FAA approved Boeing Model 747 Airplane Flight Manual (AFM) and installation on the pilots' panel of low engine fan rotor N1 rpm caution indication for each engine. The AFM information and Low N1 caution is needed to ensure engines are not operated below a safe level during icing conditions.

The original comment period expired on December 3, 1982. At the request of Air Transport Association of America (ATA) in their telex of November 23, 1982, the comment period is hereby reopened and extended to January 17, 1983. ATA requested additional time to allow the ATA member airlines to evaluate the impact of the NPRM on their revenue flight operations, training, and the fuel consumption. ATA is also planning to develop a definition of icing conditions which may be different from the definition published in the NPRM.

The FAA considers the reasons for the requested reopening of the comment period to be valid, and after evaluating the service history of the aircraft involved has determined that the request can be granted without compromising safety.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—Since this action merely reopens and extends the time period for public comment on a Notice of Proposed Rulemaking and imposes no additional burden on any person, it may be made effective in less than 30 days. It is neither a proposed nor a final rule, and therefore, is not subject to Executive Order 12291, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington on December 23, 1982.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-1003 Filed 1-14-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-ANE-50]

Airworthiness Directives; Detroit Diesel Allison, Models 501-D13, -D13A, -D13D, and -D13H Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), which would require modifying certain Thrust Sensitive Switch Assemblies installed in Detroit Diesel Allison (DDA) Models 501-D13, -D13A, -D13D, and -D13H engines. The proposed AD is needed to prevent the possibility of either an unwanted autofeather or the inability to autofeather when required.

DATE: Comments must be received on or before February 24, 1983.

ADDRESSES: Send comments on the proposed AD in duplicate to: Federal Aviation Administration, Office of Regional Counsel, Attn: Rules Docket No. 82-ANE-50, 12 New England Executive Park, Burlington, Massachusetts 01803.

The applicable service bulletins may be obtained from: Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206.

Copies of the service bulletins[1] are contained in the Rules Docket at the above FAA address.

FOR FURTHER INFORMATION CONTACT: Mr. Royace Prather, Chicago Aircraft Certification Office, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694-7132.

SUPPLEMENTARY INFORMATION: The FAA has determined that Allison Models 501-D13, -D13A, -D13D, and -D13H turboprop engines Reduction Gear Assemblies with Thrust Sensitive Switch Assembly P/Ns 6794359, 6807776, 6792891, or 6794122 are subject to malfunction. Investigation has indicated that only later production Heremetically Sealed Switches, two per assembly, in Thrust Sensitive Switch Assemblies P/Ns 6794359 and 6807776 were subject to the normally open contacts becoming loose on their terminal posts. This can result in either a short circuit opening the circuit breaker rendering the autofeather system inoperative, or contact being made internally causing unwanted autofeather. Detroit Diesel Allison (DDA) issued Commercial Engine Alert Bulletin CEB-A-73-82 to require replacement of the Heremetically Sealed Switches in Thrust Sensitive Switch Assembly P/Ns 6794359 and 6807776. Since the issuance of CEB-A-73-82, it has been discovered that the earlier production P/Ns 6792891 and 6794122 Thrust Sensitive Switch Assemblies may also be subject to malfunction. Detroit Diesel Allison subsequently issued Revision No. 2 to CEB-A-73-82 to require replacing the Heremetically Sealed Switches, two per assembly, in Thrust Sensitive Assemblies P/Ns 6792891 and 6794122. Voluntary compliance, estimated at 95% of the engine fleet, to date, with CEB-A-73-82 has corrected the problem in the modified Switch Assemblies. An AD is being proposed to require mandatory compliance with CEB-A-73-82 to preclude the possibility of unwanted autofeather or the inability to autofeather when required. This action, required to ensure 100% fleet compliance, is estimated to have a total

[1] The service bulletin is filed with the original.

economic impact of approximately $25,000.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire.

Information on the economic, environmental, and energy impact that might result because of adoption of the proposed rule is requested. Communications should identify the regulatory docket number and be submitted in duplicate to the New England Regional Office address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Detroit Diesel Allison: Applies to all Models 501–D13, –D13A, –D13D, and –D13H Engine Reduction Gear Assemblies equipped with Thrust Sensitive Switch Assembly P/Ns 679359, 6807776, 6792891, or 6794122.

Compliance required within 60 days after the effective date of this AD, unless already accomplished.

To prevent the possibility of unwanted autofeather or the inability to autofeather when required, accomplish the following:

(a) Modify and reidentify Thrust Sensitive Switch Assembly P/Ns 6794122, 6794359, 6792801, or 6807776 in accordance with the detailed instructions provided in Detroit Diesel Allison Commercial Engine Alert Bulletin CEB–A–73–82, Revision 2 dated May 28, 1982, or later FAA approved revision; or,

(b) As alternative compliance, Thrust Sensitive Switch Assemblies P/Ns 6794122, 6794359, 6792891, or 6807776 may be replaced with P/N 6870559, a single carbon switch assembly, in accordance with the detailed instructions provided in Detroit Diesel Allison Commercial Engine Bulletin CEB–73–84 dated December 15, 1982, or later FAA approved revisions.

Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, Central Region. The manufacturer's specifications and procedures identified and described in this directive are available upon request to Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206. These documents may also be examined at the New England Regional Office, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD is maintained by the FAA at the New England Regional Office.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—The FAA has determined for the reasons stated in the "SUPPLEMENTARY INFORMATION" section that this document involves a proposed regulation which is not considered to be major under Executive Order 12291 of significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the final rule will not, at promulgation, have a significant economic impact on a substantial number of small entities because of the nominal cost and the minimum downtime required for compliance.

A draft regulator evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to: Office of Regional Counsel, FAA, Attn: Rules Docket No. 82–ANE–50, 12 New England Executive Park, Burlington, Massachusets 01803.

Issued in Burlington, Massachusetts on January 6, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83–1005 Filed 1–14–83; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9153]

Gulf & Western Industries, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violation of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a New York City corporation engaged in the burial casket industry, among other things, to timely divest to a Commission-approved buyer, Alabama-Indiana Metal Products, Inc., located in Anniston, Alabama. The order would also require the corporation to permit prospective purchasers to inspect the Anniston facility and supply them with information concerning the facility's operation. Further, the corporation would be barred from acquiring any stock or interest in any concern engaged in the manufacture or sale of burial caskets or their components, without prior Commission approval for a period of ten years.

DATE: Comments must be received on or before March 18, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/CS–2, Robert W. Doyle, Jr., Washington, D.C. 20580. (202) 254–8577.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Burial caskets.

In the Matter of; Gulf & Western Industries, Inc., a corporation; agreement containing consent order; Docket No. 9153.

The Federal Trade Commission ("Commission") having issued a complaint challenging the acquisitions of Wallace Metal Products, Inc. ("Wallace") and National Casket Co. ("National") by Gulf & Western Industries, Inc. ("G&W"), and it now appearing that counsel for the Commission and G&W are willing to enter into an agreement containing an order in settlement of that complaint:

It is hereby agreed by and between G&W, by its duly authorized agent and its attorney, and counsel for the Commission, that:

1. Respondent, G&W, is a corporation organized, existing, and doing business under the laws of the State of Delaware, with its principal offices at 1 Gulf & Western Plaza, New York, New York 10023.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violations of Section 7 of the

Clayton Act, as amended (15 U.S.C. § 18), and Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. § 45), and has filed an answer to the complaint denying the charges.

3. Respondent admits all the jurisdictional facts set forth in the complaint.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the complaint issued by the Commission will be placed on the public record for a period of sixty (60) days and non-confidential information in respect thereto will be publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Respondent, in which event it will take such action as it may consider appropriate or issue and serve its decision in accordance with the terms of this agreement in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been or would be violated as alleged in the complaint issue by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to Respondent, issue its decision containing the following Order disposition of the proceeding and make non-confidential information public with respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other Orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the Order to Respondent shall constitute service. Respondent waives the right it may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation, not contained in the Order or the agreement, may be used to vary or contradict the terms of the Order.

8. Respondent has read the complaint and Order contemplated hereby. It understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It is ordered that for the purposes of this Order the following definitions shall apply:

1. "G&W" or Respondent means Gulf & Western Industries, Inc., a corporation organized, existing, and doing business under the laws of the State of Delaware, with its principal offices at 1 Gulf & Western Plaza, New York, New York 10023, as well as its officers, employees, agents, its parents, divisions, subsidiaries, affiliates,[1] successors, assigns, and the officers, employees or agents of G&W's parents, divisions, subsidiaries, affiliates, successors, or assigns.

2. Gulf & Western Casket Corporation, a subsidiary of G&W, is engaged in the burial casket industry through various subsidiaries and divisions.

3. "Anniston" means the Anniston, Alabama facility of Alabama-Indiana Metal Products, Inc., a subsidiary of G&W. Anniston, at the time of divestiture, shall include the assets listed in Appendix A.

4. The term "burial casket" means a container used to display, transport and bury the deceased.

5. The Term "KD" means an unassembled metal burial casket side, end, bottom, top or lid, and bridge which when assembled is referred to as a burial casket shell.

6. The term "burial casket shell" means a metal burial casket which has not been finished or trimmed with the requisite cloth interiors, decorative exterior hardware, and other finishings.

7. "Eligible person" means any individual, corporation (including subsidiaries thereof), partnership, joint venture, trust, unincorporated association, other business or legal entity, or any combination thereof, approved in advance by the Commission.

[1] For purposes of this Order, the term "affiliates" shall mean any entity over which Gulf & Western Industries, Inc. exercises control. The term "control" shall mean the direction or causing the direction of the management and policies of an entity, in any way.

II

It is further ordered that G&W shall divest absolutely and unqualifiedly the Anniston facility to an eligible person within one hundred and eighty (180) days from the date of the issuance of this Order.

III

It is further ordered that divestiture under Paragraph II shall be in a manner which preserves the assets and business divested as a viable, ongoing, competitor in the KD market.

IV

It is further ordered that, pending the divestiture required by Paragraph II of this Order, G&W will continue to operate Anniston and shall not take any action, other than in the ordinary course of business, without the consent of the Federal Trade Commission, to inhibit the ability of Anniston to operate as a viable competitor in the KD market.

V

It is further ordered that G&W provide prospective purchasers with all information concerning the operations of Anniston requested by such purchasers and permit any inspections that may be required.

VI

It is further ordered that, for a period of ten (10) years from the date of issuance of this Order, G&W shall not, directly or indirectly, acquire any stock or share capital of, interest in, or assets used in the manufacture of burial caskets or KDs in the United States by any concern, corporate or non-corporate, engaged in the manufacture or sale of burial caskets or KDs in the United States without the prior approval of the Federal Trade Commission.

VII

It is further ordered that G&W shall, within sixty (60) days from the date of issuance of this Order, and every sixty (60) days thereafter until the divestiture is completed, submit in writing to the Commission a report setting forth in detail the manner and form in which G&W intends to comply, is complying, and has complied with the terms of this Order and such additional information relating thereto as may from time to time reasonably be required. All such reports shall include a summary of contacts or negotiations with anyone for the

specified assets, the identity of all such persons, and copies of all written communications to and from such persons.

VIII

It is further ordered that for a period of ten (10) years from the date of issuance of this Order, G&W shall notify the Commission at least thirty (30) days prior to any change in G&W which affects compliance with the obligations arising out of this Order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation.

Appendix A

This Appendix A is annexed to and made a part of this Order in Docket No. 9153. For purposes of this Order, Anniston shall mean: all assets, properties, titles for properties, interests, rights and privileges of whatever nature, tangible and intangible, located at the Anniston facility on the date of this Order, including, but not limited to, all real property, buildings, machinery, equipment, raw materials, inventory, dies and fixtures as described below, presses, as well as all G&W customer lists relating to the sale of KDs, copies of all G&W KD sales invoices describing KD sales processed through Anniston and every other G&W KD facility since January 1, 1982, trade names, trademarks, patents, patent applications, orders for purchase, and all other property owned or operated at the Anniston facility on said date, except that after the date of this Order, G&W may enter into transactions in the ordinary course of business.

On the date of the Order, the assets decribed above shall include, but shall not be limited to:

One Cincinnati 500-ton Press, serial number 38743
One Dallas Feeder for use in connection with the Cincinnati 500-ton Press, serial number 38743
One Rowe Reel for use in connection with the Cincinati 500-ton Press, serial number 38743
One Cincinnati 500-ton Press, serial number 39051
One Verson 1,000-ton Press, serial number 25172
One Niagara Shear, serial number 61373
One Tannwitz Saw, serial number 15883
One Foley Saw Filer, Model 387
One Rockwell Drill Press
One Thorbob Bench Grinder
One Peer Spot Welder, serial number 13435
One Lincoln Arc Welder, serial number 240888
One Lincoln Arc Welder, serial number 248794
One Quincy Air Compressor, serial number 954830–L
One Catch Hole Punch Press
One Baron Blakelslee Degreaser
One Chicago D&K 150-ton Flange Brake, serial number P9687
One Chicago D&K Power Brake, serial number L17540
Three Semi-automatic body Saws
One Round Corner "A" Punch, serial number 40720
One Square Corner "A" Punch, serial number 50968
One Welty-Weigh Uncoiler, serial number UC7792
One Welty-Weigh Slitter, serial number 67707
One Welty-Weigh Stacker, serial number SC7703
One Body Side Panel Punch Unit
One Ingersoll Rand Air Compressor, serial number 23408
One steel coil crane system
One basket and rack system
One scrap conveyor system
Five forklifts
Dies and fixtures sufficient to make the following part numbers, or such other dies and fixtures agreed to by an eligible person:

Tops	Bodies	Bridges
10	140	28 A Steel.
20	427	Copper, Bronze.
28	499	50 A Steel.
50	700 Embossed	Copper, Bronze.
70	750	27 A Steel.
70 Embossed	427 A	Copper, Bronze.
200	427 A Embossed	200 A Steel, Copper.
32 A	490 A	# 1 Oversize.
35 A	750 A	32 A.
37 A	770 A	35 A.
37 A Embossed	790 A	37 A.
38 A	800 A Steel	38 A.
37 A Stainless Steel	Copper, Bronze	10.
Full Couch Cap	990 Steel	20.
Steel, Copper	Copper, Bronze	50.
Bronze	427 A Stainless Steel.	28.
Half Couch Cap	110	200.
# 1 Oversize	120	70.
28–AR	150	Cap ovals.
	180, 200, 700, 805–AR and bottom filler plates.	

Bottom

Universal

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent Order from Gulf & Western Industries, Inc. (G&W).

The proposed consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed Order.

On March 15, 1981, the Commission issued a complaint against G&W which alleged that G&W's acquisitions of Wallace Metal Products, Inc. (Wallace) in 1979 and of National Casket Company (National) in 1980 violated Section 7 of the Clayton Act and Section 5 of the FTC Act. Specifically, the complaint alleged that the acquisitions threatened to substantially lessen competition in the markets for metal knockdowns (KDs), components used in the manufacture of metal burial caskets by eliminating Wallace and National as competitors of G&W and increasing concentration in the market. The complaint also alleged that the National acquisition threatened to substantially lessen competition in the finished burial casket market by eliminating National as a competitor of G&W and increasing concentration in the market.

Prior to agreeing to the proposed Order, G&W sold certain of the burial casket assets it had acquired through the National acquisition to AMEDCO, Inc., a manufacturer of KDs and burial caskets. This sale, while unsupervised by the Commission, provides a partial remedy to the competitive concerns reflected in the complaint. The proposed Order represents the additional relief necessary to remedy competitive concerns alleged in the complaint.

Paragraph I defines the terms used throughout the Order. Appendix A, incorporated by reference into Paragraph I, describes in detail the assets to be divested. Among these assets are specified dies and fixtures unless the acquirer of the assets agrees to accept other dies and fixtures.

Paragraph II of the proposed Order requires G&W to divest its Anniston, Alabama KD facility (as defined in Appendix A) to an acquirer approved by the Commission within one hundred and eighty days of the issuance of the Order. Paragraph III requires the Anniston facility be divested as a viable, ongoing competitor, Pending divestiture, Paragraph IV requires G&W to preserve the assets, continue to operate the Anniston facility, and take no action, other than in the normal course of business, to inhibit Anniston's viability without Commission approval. Paragraph V requires that all necessary information be provided to prospective purchasers of the Anniston facility.

Paragraph VI of the proposed Order prohibits G&W from acquiring any

entity involved in the manufacture of KDs or burial caskets without prior Commission approval for ten years.

Paragraphs VII and VIII of the proposed Order require that G&W submit periodic reports to the Commission on its compliance with the Order and also notify the Commission of any changes in its corporate structure which would affect its obligations under the Order.

The purpose of the proposed Order, when viewed in conjunction with the unsupervised sale of burial casket assets to AMEDCO, is to reduce G&W's power in the KD and burial casket markets and restore an independent competitor to the KD market, thereby resulting in a more competitive market structure than existed prior to the issuance of the complaint.

The purpose of this analysis is to facilitate public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 83-1212 Filed 1-14-83; 8:45 am]

BILLING CODE 5750-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

27 CFR Part 9

[Notice No. 448]

Paso Robles Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the establishment of a viticultural area in San Luis Obispo County, California, to be known as "Paso Robles." The petition was submitted by Martin Brothers Winery.

ATF believes the establishment of American viticultural areas and their subsequent use as appellations of origin in wine labeling and advertising allows wineries to better designate the specific grape-growing area where their wines come from and allows consumers to better identify the wines they purchase.

DATE: Comments must be received on or before February 16, 1983.

ADDRESS: Comments must be addressed to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 448).

FOR FURTHER INFORMATION CONTACT: Roger Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising the wine labeling regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas, and allow the name of an approved viticultural area to be used as an apppellation of origin on wine labels and in wine advertising.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) adding a new Part 9 to 27 CFR for the listing of approved American viticultural areas.

27 CFR 9.11 defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features. 27 CFR 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition must include:

(a) Evidence that the name of the proposed area is locally and/or nationally known as referring to the area specified in the petition.

(b) Historical or current evidence that the boundaries of the proposed area are as delineated in the petition.

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from the surrounding areas.

(d) A description of the proposed boundaries of the proposed viticultural area, based on features found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale.

(e) A copy of the appropriate U.S.G.S. map with the boundaries prominently marked.

Petition for Paso Robles

The petition for the establishment of the "Paso Robles" viticultural area was filed by Martin Brothers winery and was accompanied by signatures of the grape-growers and wineries of the proposed area. ATF believes the petition contained the necessary elements with sufficient evidence to warrant a notice of proposed rulemaking to establish the area as a viticultural area. The following discussion of the evidence is taken from the petition.

Evidence Relating to the Name

The name of the proposed area dates from the late 18th Century, the missionary period of the area. The full Spanish name is "El Paso de Robles" or "the Pass of the Oaks." This name was given by travelers between the mission of San Miguel, located within the proposed viticultural area, and Mission San Luis Obispo. A land grant, in this name, was conveyed by Governor Micheltorena to Pedro Narvaez on May 12, 1844. This land grant includes the present areas of Paso Robles, Templeton, and Adelaida. The land grant was patented on July 20, 1866, to Petronillo Rios.

In 1857 the Paso Robles land grant was purchased by three men. These men, capitalizing on the hot springs and mud baths of the area, set out to make the Paso Robles Hot Springs one of the finest resort spas in the Country and built the first of the famous hotels. The community serving the hotel and resort visitors was incorporated as the City of El Paso de Robles on February 25, 1889. Since that time, the entire area of the proposed viticultural area has been referred to as the Paso Robles area.

There are numerous streams, hills, and small rural areas within this general area known by other names, however, the one unifying name of the entire area is "Paso Robles."

ATF believes this evidence supports "Paso Robles" as the name of the proposed viticultural area.

Historical and Current Evidence

Wine grapes have been grown in the Paso Robles area since the founding of the California missions. Mission San Miguel, founded in 1797, produced wine and it is assumed that the grapes were harvested in nearby areas. The records of the San Luis Obispo County assessor's office show grape plantings of the county and presumably most of the planting were within the boundaries of the proposed viticultural area. The earliest date was 1873 showing that approximately 40 acres were in vineyards.

Two wineries established in the last century are still involved in wine production; York Mountain Winery (1882), and Rotta Winery, now Las Tablas Winery (1890). In addition to these two wineries, there are twelve others and one under construction. Total vineyard plantings in the area today comprise approximately 4,000 acres. The proposed area comprises approximately 637,000 acres.

In 1914, Ignace Paderewski, the famous Polish pianist, conductor, and

statesman, established a vineyard on his ranch. The Zinfandel grape was introduced to the area in this vineyard. Wine produced by York Mountain Winery from this vineyard was awarded a gold medal at the California State Fair.

ATF believes this evidence supports the contention of the proposed viticultural area as being a well-known grape-growing area, both historically and currently.

Geographical Characteristic

The proposed Paso Robles viticultural area is generally characterized by rolling hills and valleys with an average elevation between 600 and 1,000 feet. The soils of the area are generally alluvial and terrace deposits, usually fertile and well-drained.

The proposed area is bounded on the west and south by the Santa Lucia Mountain range whose crest averages between 2,300 and 2,850 feet. The Cholame Hills to the east crest at about the 3,000-foot elevation. The Salinas River has its headwaters at Santa Margarita Lake just south of the proposed boundary and flows northward through the proposed area into the Salinas valley located in Kings and Monterey Counties. The Salinas River is the major drainage of the proposed area, although the area is also characterized by numerous creeks and streams.

The proposed area is protected from marine air intrusion and coastal fogs by the Santa Lucia Mountains on the west and south. This is a marked contrast to the area to the west and south where such coastal fogs are common with cooler temperatures in the summer months.

The Paso Robles area is classified as Regin III, with 3,001 to 3,500 degree days of heat. This characterizes the proposed area with a warmer climate by 500 to 1,000 degree days than the area to the west and south, and a cooler climate by 500 or more degree days than the area lying to the west.

Rainfall within the proposed area averages between 10 and 25 inches annually. Rainfall within the area is highest on the crest of the Santa Lucia Mountain range and decreases regularly to the east. Growers generally augment the rainfall by irrigation from well and reservoirs. Most of the rainfall in the area occurs during the vines dormant period.

The proposed area has a diurnal (beginning and ending of the day) temperature change of 40 to 50 degrees. This results from low to moderate humidity which is conducive to radiant cooling of the land surface. Regular afternoon winds disturb the local inversions, thereby promoting radiative cooling. The warm to hot day temperatures with cool nights promote good sugar-acid balance of the grapes cultivated within the proposed area.

The area to the west and south of the proposed area has a diurnal fluctuation of between 20 and 30 degrees caused by the flow of cool, moist marine air accompanied by fog intrusions. The area east of the proposed area has a climate associated with the San Joaquin Valley; that is, less radiative cooling, more stable inversions, and higher evening temperatures.

Proposed Boundaries

The proposed boundaries of the Paso Robles area are characterized by township and range lines, the county line, and straight lines from points of reference. Although the petition proposed the ridge-line of the Santa Lucia Mountains as the western boundary, ATF has amended this to reference points. Ridge-lines are difficult to follow and the amended line very closely approximates the ridge line, but is less difficult to identify on the U.S.G.S. map.

Although the proposed boundaries are based on man-made features, the petitioner states the boundaries, as proposed, delineate the area historically and currently known as "Paso Robles," and further delineate an area as being distinguishable from the surrounding areas based on geographical characteristics.

The northern boundary begins at the common point between Kings and San Luis Obispo Counties, and Monterey and San Luis Obispo Counties, and runs westward approximately 42 miles to the range line between R.9E/R.10E.; then southward along this range line to the township line of T.28S./T.27S.; then in a straight southeasterly line to a point of intersection of the township line of T.29S./T.30S. and the range line of R.12E./R.13E., just east of the town of Cuesta on Highway 101; then eastward along the township line to where it intersects the range line of R.13E./R.14E.; then northward along this range line to where it intersects the township line of T.28S./T.29S; then eastward along the township line to where it intersects the range line of R.16E./R.17E.; then northward along the range line to the point of begi.ning.

The points of reference for the boundaries of the proposed Paso Robles viticultural area are found on one U.S.G.S. map entitled; "San Luis Obispo," scale 1: 250,000.

Public Participation

ATF requests comments from all interested persons. Comments are specifically requested on, but not limited to, the following areas:

(a) Is the proposed area logically and reasonably delineated, or are there alternative boundaries that would more closely define the grape-growing of Paso Robles?

(b) Do the boundaries as proposed include an area having common geophysical characteristics even though the boundaries are based on man-made features? If alternative boundaries were proposed, for example, along the 1,000-foot contour line, would the area lose its distinguishing characteristics? Would such an alternative delineate an area with more specific geophysical characteristics?

ATF welcomes any additional data and information concerning the proposed area, particularly geographic evidence that distinguishes the proposed area from the surrounding area.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action.

ATF will not recognize any material as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

Any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this notice of proposed rulemaking, if promulgated as a final rule, will not be a "major rule" since it will not result in:

(a) An annual effect on the economy of 100 million dollars or more;

(b) Major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investments, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is certified under the provisions of 5 U.S.C. 604(b) of the Regulatory Flexibility Act that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Disclosure

Copies of the petition, the map, this notice, and all comments are available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4405, 12th & Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is Roger Bowling, Research and Regulations Branch.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer protection, Viticultural areas, Wine.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205, 27 CFR Part 9 is proposed to be amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in Subpart C is amended to add § 9.84 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.84 Paso Robles.

Par. 2. Subpart C is amended to add a new § 9.84, to read as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.84 Paso Robles.

(a) *Name.* The name of the viticultural area described in this section is "Paso Robles".

(b) *Approved map.* The map showing the boundaries of the Paso Robles viticultural area is: "San Luis Obispo", NI 10–3, scale 1:250,000 (1956, revised 1969).

(c) *Boundaries.* The Paso Robles viticultural area is located within San Luis Obispo County, California. From the point of beginning where the county lines of San Luis Obispo, Kings and Kern Counties converge, the county line also being the township line between T.24S. and T.25S., in R.16E.;

(1) Then in a westerly direction along this county line for approximately 68 kilometers (42 miles) to the range line between R.9E. and R.10E.;

(2) Then in a southerly direction along this range line for approximately 19.5 kilometers (12 miles) to the township line between T.26S. and T.27S.;

(3) Then in a southeasterly line for approximately 42 kilometers (26 miles) to the point of intersection of the township line between T.29S. and T.30.S. and the range line between R.12E. and R.13E.;

(4) Then in a easterly direction for approximately 9.6 kilometers (6 miles) to the range line between R.13E. and R.14E.;

(5) Then in a northerly direction for approximately 9.6 kilometers (6 miles) to the township line between T.28S. and T.29S.;

(6) Then in an easterly direction for approximately 30 kilometers (18 miles) to the township line between T.16E. and T.17E.;

(7) Then in a northerly direction for approximately 38.4 kilometers (24 miles) to the point of beginning.

Signed: December 27, 1982.

Stephen E. Higgins,

Acting Director.

Approved: January 4, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83–1190 Filed 1–14–83; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Consideration of Amendments to the Kentucky Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on certain amendments submitted by the Commonwealth of Kentucky to its program for the regulation of surface coal mining and reclamation in the State. OSM is reopening the comment period to allow the public sufficient time to consider and comment on additional materials submitted by Kentucky subsequent to the close of the initial public comment period. Comments on program portions not affected by the additional documents will not be considered.

DATES: Written comments, data or other relevant information must be received on or before 4:00 p.m. February 16, 1983 to be considered.

ADDRESSES: Comments on the supplemental material to the program submission should be sent or hand-delivered to: W. H. Tipton, Director, Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Telephone: (606) 233–7320.

SUPPLEMENTARY INFORMATION: On July 23, 1982, OSM published a notice in the **Federal Register** announcing receipt of certain amendments to the Kentucky program and inviting public comment thereon (47 FR 31890–31896). The public comment period ended August 23, 1982. A public hearing was held August 12, 1982. OSM published a second notice in the **Federal Register** on September 8, 1982, announcing receipt of provisions to satisfy conditions (k) and (l), and inviting public comment on whether the proposed amendments corrected these deficiencies (47 FR 39536–39537). The public comment period ended October 8, 1982. A public hearing scheduled September 22, 1982, was not held

because no one expressed a desire to present testimony.

On January 4, 1983 (48 FR 245–252), OSM published a notice in the **Federal Register** which (1) removed and amended certain conditions; (2) approved certain other program amendments; (3) deferred secretarial action on the following proposed Kentucky rule revisions: 405 KAR 7:020 Section 1(86), 8:050 Section 2, 16:020 Section 4 and 16:190 Section 2(2); (4) deferred Secretarial action on the following proposed Kentucky statutory revisions: KRS 350.080 Sections 5(21) and 5(22), 350.093 Section 10(2), and 350.062(9), contained in Senate Bill 218; (5) approved certain clarifications to the Kentucky program contained in a letter from the State, dated June 18, 1982; (6) deferred Secretarial action on the clarification in the June 18, 1982, letter relating to incidental boundary revisions; and (7) deferred Secretarial action on whether the material submitted by Kentucky satisfies condition (1).

Subsequent to the close of the second public comment period, OSM Field Office personnel and Kentucky regulatory officials met in executive session on November 5, 1982, and November 8, 1982 (Administrative Record KY–471). Kentucky has submitted clarifying material to OSM in letters, dated October 29, 1982, November 5, 1982, and December 17, 1982. Further, Kentucky has issued Reclamation Advisory Memorandum #53, dated November 17, 1982, and #55, dated December 1, 1982 (Administrative Record KY–475). The summaries of these two meetings, the two reclamation advisory memoranda and the new material submitted by Kentucky relate to certain of the items listed above on which the Secretary deferred action in the January 4, 1983 **Federal Register** notice.

OSM is reopening the public comment period to allow the public sufficient time to review and comment on the summaries of the above two meetings, the two reclamation advisory memoranda, and the new material submitted by Kentucky.

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: January 11, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 83–1232 Filed 1–14–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD13 82–18]

Anchorage Ground; Elliott Bay, Seattle, Washington

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard proposes to amend the current regulations which establish the general anchorage grounds in Puget Sound, Washington. These amendments involve expanding three of the current anchorage grounds in Elliott Bay so that a greater safety margin will be available to anchored vessels from the other vessels anchored or underway in the vicinity. The intended effect of the proposed action is to provide safer general anchorage grounds in Puget Sound while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before March 3, 1983.

ADDRESSES: Comments should be mailed to Commanding Officer, Puget Sound Vessel Traffic Service, 1519 Alaskan Way South, Bldg. 1, Room 411, Seattle, WA 98134. The comments will be available for inspection and copying at this location. Normal office hours are between 7:30 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lt. T. C. Julich, Puget Sound Vessel Traffic Service, 1519 Alaskan Way South, Bldg 1, Room 411, Seattle, WA 98134. Telephone: (206) 442–4124.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD13 82–18), and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The proposed rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information

The drafters of this notice are Lt. T. C. Julich, USCG, project officer, Puget Sound Vessel Traffic Service, Seattle, WA, and Lcdr. Richard R. Clark, USCG, project attorney, Thirteenth Coast Guard District Legal Office.

Discussion of Proposed Regulation

The anchorage grounds which are proposed for expansion are described in 33 CFR 110.230(a)(8), 33 CFR 110.230(a)(9) and 33 CFR 110.230(a)(10). They lie in Elliott Bay, Seattle, Washington. This proposal would increase the size of the existing anchorage ground described in 33 CFR 110.230(a)(9) by approximately one-tenth, and would approximately double the size of the existing anchorage grounds described in 33 CFR 110.230(a)(8) and 33 CFR 110.230(a)(10).

Elliott Bay is heavily used by commercial vessels, passenger carrying vessels and recreational vessels. In an effort to minimize conflicts between these vessels and vessels anchored in Elliott Bay, the Coast Guard has identified certain areas of Elliott Bay where vessels may anchor without presenting an unacceptably high risk of danager to navigation. This proposal redefines the Elliott Bay anchorage grounds.

Vessels presently anchor within the proposed expanded areas of the Elliott Bay anchorage grounds. For this reason, the proposed expansions are not expected to add any additional burdens to the navigation of any class of vessel in Elliott Bay. Vessels transiting Elliott Bay presently do not have nautical charts showing the expanded areas of Elliott Bay where vessels may be anchoring. Adoption of this proposed rule will ensure that the locations of the expanded anchorage grounds are placed on nautical charts and thereby significantly increase navigational safety by alerting transiting vessels to the possibility of anchored vessels. Additionally, increasing the size of the areas where vessels are allowed to anchor will allow for a greater separation between anchored vessels with a resulting greater potential for safety for vessels within the anchorage.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT policies and procedures for simplification, analysis, and review of regulations (DOT Order 2100.5). Its economic impact is expected

to be minimal since it expands the existing anchorage area without infringing on vessel transit lanes. As discussed earlier, vessels are presently allowed by the Coast Guard to anchor within the proposed expanded anchorage areas. To date, no difficulties or adverse economic impacts have been observed or reported by the Puget Sound users.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

PART 110—[AMENDED]

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, by revising § 110.230(a)(8), (a)(9), and (a)(10) to read as follows:

§ 110.230 Puget Sound area, Washington.

(a) * * *

(8) *Smith Cove General Anchorage (east), Elliott Bay.* Shoreward of a line beginning at Latitude 47°37'36.3" N., longitude 112°22'38" W.; thence due south 1, 350 yards to Latitude 47°36'56.6" N., longitude 122°22'38" W.; thence due east to the shore to Latitude 47°36'56.6" N., longitude 122°21'18.8" W.

(9) *Elliott Bay General Anchorage (east).* Shoreward of a line beginning at the northeast corner of Harbor Island at Latitude 47°35'26.2" N., longitude 122°20'41" W.; thence due north 1,025 yards to Latitude 47°35'56.5" N., longitude 122°20'41" W.; thence due west on said line to its intersection with the east line of the West Waterway at Latitude 47°35'56.5" N., longitude 122°21'25.5" W.; thence due south to the northwest corner of Harbor Island at Latitude 47°35'17.3" N., longitude 122°21'25.5" W.

(10) *Elliott Bay General Anchorage (west).* Shoreward of a line beginning at Latitude 47°35'06.7" N., longitude 122°21'36.8" W.; thence due north to Latitude 47°35'46" N., longitude 122°21'36.8" W.; thence on a bearing 355° T for 400 yards to Latitude 47°35'56.5" N., longitude 122°20'44" W.; thence due west to Duwamish Head light; thence due south to the shoreline

* * * * *

(33 U.S.C. 471; 49 U.S.C. 1655(g)(1); 49 CFR 1.46 and; 33 CFR 1.05–1(g))

Dated: December 23, 1982.

C. F. DeWolf

Real Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 83-884 Filed 1-14-83; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-2-FRL 2256-5]

Designation of Areas for Air Quality Planning Purposes; Revisions to Section 107 Attainment Status Designations for the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Purpose of this notice is to announce the Environmental Protection Agency's proposed approval of a request from the State of New Jersey to revise certain designations made under the Clean Air Act which relate to an area's attainment of national ambient air quality standards. This action affects two locations with regard to the carbon monoxide standard. Such designations are required by Section 107(d) of the Clean Air Act and may be revised from time to time at the request of a state.

DATE: Comments must be received on or before February 16, 1983.

ADDRESSES: All comments should be addressed to: Jacqueline E. Schafer, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the State's request are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278

New Jersey State Department of Environmental Protection, Division of Environmental Quality, John Fitch Plaza, Trenton, New Jersey 08625

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION: Section 107(d) of the Clean Air Act directed each state to submit to the Administrator of the Environmental Protection Agency (EPA) a list of national ambient air quality standard attainment status designations for all areas within the state. EPA received such designations from the states and promulgated them on March 3, 1978 (43 FR 8962). As authorized by the Clean Air Act, these designations have been revised from time to time at a state's request.

On August 24, 1982 the New Jersey Department of Environmental Protection (NJDEP) submitted a redesignation request which it subsequently modified on October 29, 1982. Redesignation was requested with regard to carbon monoxide for the following two areas:

- The City of Asbury Park in Monmouth County from "does not meet primary standards" to "better than national standards."
- The Borough of Penns Grove in Salem County from "does not meet primary standards" to "better than national standards," except within 100 yards of the intersections of U.S. Route 130 and County Road 675 and County Roads 675 and 607 where the State has requested a redesignation from "does not meet primary standards" to "cannot be classified."

The following criteria are used by EPA to determine whether or not to approve a proposed carbon monoxide redesignation:

(1) No contraventions of any air quality standards are observed during the last consecutive eight calendar quarters, or

(2) No contraventions of any air quality standards are observed during the last consecutive four quarters provided there has been a steady and substantial decrease in pollutant concentrations over the last consecutive eight quarters which can be attributed to a significant and quantifiable reduction in emissions.

(3) Although monitoring data are preferred, determination of non-attainment boundaries may also be based on air quality modeling.

The State's carbon monoxide redesignation request is based on monitoring data and an air quality modeling analysis. Carbon monoxide monitors located in the Central Business Districts (CBD's) of Asbury Park and Penns Grove have shown no contraventions of the national ambient air quality standards for carbon monoxide during the past eight calendar quarters (criteron 1, cited earlier). These monitors were used in 1977 when NJDEP designated these two towns as "does not meet primary standards." However, due to the localized nature of high carbon monoxide concentrations, it was recognized that a monitoring site may not be representative of other intersections in the CBD. Therefore, in both Asbury Park and Penns Grove, an analysis was performed to identify other areas, known as "hot-spots," which have the potential to experience high carbon monoxide concentrations. These

studies were performed under the auspices of the NJDEP and EPA as part of a county-wide program.

No "hot-spot" sites were found in Asbury Park. Consequently, based on the monitoring data and the air quality modeling analysis, EPA agrees with the State's request to redesignate the entire Asbury Park CBD to "better than national standards."

In Penns Grove the "hot-spot" analysis indicates that violations of the national ambient air quality standards for carbon monoxide were possible at two intersections. These two intersections are U.S. Route 130 and County Road 675, and County Roads 675 and 607. Both intersections are located within the Penns Grove CBD. At these two intersections the State has proposed that the area within 100 yards of these two intersections be redesignated to "cannot be classified." In the remainder of the Penns Grove CBD the State is requesting a redesignation to "better than national standards."

While the "hot-spot" analysis showed that, under worst-case traffic and meteorological conditions, a potential for violation of the eight-hour carbon monoxide standard exists, it also indicated that, based on tailpipe emission reductions from the Federal Motor Vehicle Emission Control Program and New Jersey's automobile emissions inspection and maintenance program, the two Penns Grove intersections would be in attainment of the standard by 1987. (The State was granted extension to December 31, 1987 for attaining the standard.) Specifically, the intersection of County Roads 675 and 607 is expected to attain the carbon monoxide standard by 1983 and the U.S. 130 and County Road 675 intersection by 1986. Given the lack of a monitored violation at these two intersections, EPA believes that the State's request to redesignate them to "cannot be classified" is appropriate. In the remainder of the Penns Grove CBD, EPA believes a redesignation request to "better than national standards" is supported by actual air quality monitoring data and the results of the air quality modeling analysis.

EPA's proposed approval of these redesignations is based on their meeting the requirements of Sections 107 and 301 of the Clean Air Act and applicable EPA guidelines.

Interested persons are invited to comment on any element of the subject proposal and on whether it meets Clean Air Act requirements. Comments received by February 16, 1983 will be considered in EPA's final decision. All comments received will be available for inspection at the Region II Office of EPA at 26 Federal Plaza, Room 1005, New York, New York 10278."

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. (Sections 107 and 301 of the Clean Air Act, as amended [42 U.S.C. 7407, 7601]).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: November 19, 1982.

Richard Dewling,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 83-1208 Filed 1-14-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-333; RM-4194, RM-4199]

FM Broadcast Stations in Clinton and Elk City, Oklahoma; Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes and solicits comments on two alternatives for the assignment of commercial FM Class C Channel 253 to either Elk City, Oklahoma, as requested by Joe Tilton or to Clinton, Oklahoma, as requested by Clinton-Cordell Broadcasting Company, Inc.

DATES: Comments must be filed on or before February 14, 1983, and reply comments on or before March 1, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Adopted: December 21, 1982.

Released: December 30, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Clinton and Elk City, Oklahoma); MM Docket Nos. 82-333, RM-4194, RM-4199.

1. The Commission has under consideration two conflicting petitions for the assignment of commercial FM Class C Channel 253. Joe Tilton ("Tilton") requests that Channel 253 be assigned to Elk City, Oklahoma. Clinton-Cordell Broadcasting Company, Inc. ("KCLI"), licensee of FM Station KCLI, Channel 237A, Clinton, Oklahoma, requests that Channel 253 be assigned to Clinton in place of its present Channel 237A and that the license for Station KCLI be modified to specify operation on Channel 253.

2. Channel 253 cannot be assigned to both communities. Section 73.207 of our Rules requires that co-channel Class C stations be separated by a minimum of 180 miles. The separation between Elk City and Clinton is approximately 25 miles. Our study shows that no other Class C channel is available for assignment to either community.

3. The threshold question before us is whether Elk City or Clinton is in greater need of the assignment pursuant to section 307(b) of the Communications Act of 1934, as amended. Elk City has one existing Class C FM station (KECO, Channel 243) and one AM station (KADS, unlimited time). The population of Elk City, is 9,579 [1] and the population of Beckham County is 19,243.

4. Clinton has two existing FM stations, (KCLI, Channel 237A; and KKCC(FM) Channel 295) and one AM station (KKCC, daytime only). The populations of Clinton and Custer County are reported to be 8,796 and 25,995, respectively.

5. Priorities for the assignment of FM stations are set forth in the *Second Report and Order* in the matter of *Revision of FM assignment Policies and Procedures*, BC Docket No. 80-130, June 21, 1982, 90 F.C.C. 2d 88.

The priorities are:

(1) First full-time aural service.
(2) Second full-time aural service.
(3) First local service.
(4) Other public interest matters.

Co-equal weight is given to priorities (2) and (3). Since none of the first three factors is relevant here, we set forth the following information: Two FM stations place a 60 dBu signal or better over Elk City. Four FM stations place a 60 dBu signal or better over Clinton. Comments in this proceeding should address the matter of priorities with respect to Elk City and Clinton.

6. Our study also shows that, while Channel 253 is the only Class C channel which can be assigned to either of the communities, there are Class A channels

[1] Population data are taken from the 1980 U.S. Census, Advance Reports.

which could be assigned to Elk City should an interest be expressed.

7. As to KCLI's request for a modification of license, it is the Commission's established policy that, when a superior Class C channel is substituted for a Class A channel on which it is operating, the public interest is best served by affording other interested parties an equal opportunity to file an application and be given consideration for the new channel. *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). Only in the absence of an expression of interest by the comment deadline could the modification take place. KCLI states that it does not want to risk deletion of its present Class A assignment and, therefore, if any other party expresses an interest in the requested facility, KCLI will withdraw its request.

8. The assignment of Channel 253 to Elk City would require a site restriction of approximately 4.5 miles east of the community to protect Station KYTX(FM), Amarillo, Texas. The assignment of Channel 253 to Clinton would require a site restriction of approximately 9.8 miles southwest of the community to protect Station KCFO, Tulsa, Oklahoma.

9. In view of the foregoing, we consider it appropriate to solicit comments on the proposed amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Option I:		
Clinton, Oklahoma	237A, 295	253, 295
Option II:		
Elk City, Oklahoma	243	243,253

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *Note:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before February 14, 1983, and reply comments on or before March 1, 1983, and are advised to read the Appendix for the proper procedures.

12. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

13. For further information concerning this proceeding, contact Philip S. Cross, Mass Media Bureau, (202) 632–5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead this Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-880 Filed 1-14-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 2]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to propose possible amendments to Federal Motor Vehicle Safety Standard No. 108 which might reduce or eliminate design restrictions that could be serving to impede implementation of enhanced lighting technologies that could improve the safety and fuel economy performance of automobiles. Three options for motor vehicle headlamp systems are proposed that might lead to improved safety and enhance fuel economy by allowing improved aerodynamic designs of passenger cars, multipurpose passenger vehicles, trucks, and buses. All headlamp systems for these vehicles are now required by FMVSS 108 to be fully sealed.

The first proposed option is undertaken in response to a petition from, and is primarily directed towards, a type of such headlamp system proposed by Ford Motor Company. Ford has developed and proposes to offer a semi-sealed headlamp with a standardized replaceable bulb, which it alleges would conform to a proposed set of environmental performance requirements which would be equivalent or superior to those currently imposed on headlamp systems. The second proposed option would generally allow aerodynamically-styled, sealed lens-reflector headlamps with replaceable bulbs. The third option is identical to the first except that it would omit some or all of the proposed detailed environmental and performance requirements urged by Ford.

This notice incorporates suggestions made in response to the agency's Notice of Request for Comments on new headlighting systems published on August 31, 1981, and implements the grant of a petition by Ford Motor Company for rulemaking to amend Motor Vehicle Safety Standard No. 108.

DATES: Comment closing date March 3, 1983. Proposed effective date: 30 days after publication of final rule in the Federal Register.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are from 8:00 a.m. to 4:00 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Marx Elliott, Office of Vehicle Safety Standards, NHTSA, Washington, D.C. 20590 (202-426-1714).

SUPPLEMENTARY INFORMATION: This notice initiates rulemaking based upon comments received in response to the agency's Notice of Request for Comments on new headlighting systems published on August 31, 1981 (46 FR 43719) and implements the grant of a petition for rulemaking submitted on August 28, 1981, by Ford Motor Company.

Background of the Rulemaking Action

The headlamp is the most important forward illuminating device on a motor vehicle, lighting the roadway during darkness and marking the approach of the vehicle during periods of reduced visibility. Unlike other lighting systems, the size and design of headlamps has been rigorously prescribed, since 1940 by an industry standard adopted by the Society of Automotive Engineers (SAE) and, since 1967, by the National Highway Traffic Safety Administration through 49 CFR 571.108, Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment.*

Paramount among the restrictions imposed by FMVSS 108 on headlamps used on four-wheeled vehicles is the requirement that they be hermetically sealed. This requirement was adopted to prevent corrosion of the reflector surface, and to protect the complete lamp assembly from the adverse effects on moisture and dust.

Another requirement is that the lamp be capable of being mechanically aimed, the simplest, most reliable way of insuring glare-free lighting.

Known as the "sealed beam," this type of headlamp is an indivisible, one-piece unit. Upon breakage or burn-out, the entire unit must be replaced.

Although critics have complained that the lighting technology of this type of headlamp is outmoded, photometrics have been upgraded since 1940. Three additional sealed beam lighting systems are now permitted, two of which were implemented through Standard No. 108.[1]

The Motor Vehicle Safety Act defines the term "motor vehicle safety standard" in terms of performance, not design specification. Although FMVSS 108 is design restrictive in the sense that sealed beam headlamp dimensions are prescribed, such dimensional restrictions have been upheld by the courts as elements of headlamp performance. *(Chrysler Corporation v. Dept. of Transportation,* 515 F.2d 1053 (6th Cir. 1975)).

The prior use of different lamps and systems by different manufacturers or car lines had created problems, because of the lack of ready availability of replacement parts to the public. To the degree that it was difficult or impossible timely to replace nonfunctioning systems, the interests of safety would not be served.

Because the sealed beam headlamp was originally a standardized product, it was easily and inexpensively purchased when a replacement was needed. This factor of ease of replaceability has been and continues to be considered by the agency to be an important safety factor. A proliferation of lens designs that reduced the availability of any given unit in the market could inhibit or prevent timely replacement of nonfunctioning lamps.

Proliferation is not considered to be a problem today, even with several approved headlamp sizes or types, because of the increased sophistication of the distribution system. However, NHTSA remains convinced that the concept of replaceability is important. A headlamp system in which the light source alone would be replaceable and of a standard size has material safety advantages. A bulb that was common to all replaceable bulb headlamps could be stocked by all retail outlets, no matter how small, and even carried in the vehicle on a regular basis for use when needed.

The agency has for several years been exploring the concept of a headlamp standard that would accommodate each of these concerns and yet also allow greater freedom to use innovative designs that could improve lighting system performance, reduce vehicle weight and improve aerodynamic performance. Such design improvement potential has become especially desirable as increased emphasis has been placed upon finding ways to improve fuel economy.

[1] As originally adopted, FMVSS 108 allowed two systems: a two-lamp system incorporating seven inch diameter round lamps, or a four-lamp system involving two sets of dual five and three-quarter inch diameter round lamps each. This requirement was in effect from 1968 to 1974, when the first of several specific size and shape alternative lamp configurations was adopted. Currently, FMVSS 108 allows four different size lamps, each of which size may include high beam only or high/low beam filaments, of either low (tungsten) or high (halogen) intensity light source.

In 1979, the agency noted the possibility that use of smaller headlamp systems could contribute to improved fuel economy through reduction in weight and a more efficient aerodynamic vehicle design. This was the basis both of the Notice of Request for Comments of August 1981, and the agency's more recent proposal to allow a two-lamp rectangular headlamp system equivalent in size to the four-lamp system (Docket 82–17; 47 FR 45889, October 14, 1982). In its August 1981 Notice, NHTSA observed that headlamps with contoured lenses mounted flush with the fenders had been in use for many years on certain European automobiles, (the 1961 Ford Taunus of Germany appears to have been the first modern car to use a shaped headlamp) and that such a design could reduce aerodynamic drag.

Current Proposal

Proposed System

In this notice, NHTSA is presenting several regulatory options that would allow for the use of semi-sealed headlighting systems. Each of these would involve the use of two separate components, the lens and reflector unit and a replaceable bulb unit. Options being presented are (1) the allowance of a Ford-type semi-sealed contoured lamp with a standardized replaceable light source designed to meet detailed performance requirements; (2) the allowance of a fully sealed contoured reflector unit with a standardized replaceable light source required to meet similar standards; and (3) the less detailed requirement only of a mechanically aimable such unit which would be designed to meet minimum photometric requirements and incorporate a standardized, replaceable light source. Each of these options would facilitate enhancing the aerodynamic efficiency of motor vehicles by allowing changes to the size and/or contour of headlamps and surrounding sheet metal.

Each such option would also facilitate ease of replacement of the light source. As alternatives to the systems currently permitted, the new systems would allow the manufacturer to choose the size and shape of headlamps best suited to his product plans but ensure adequate illumination with a standardized light source which is replaceable at the end of its life. Such a light source could be used across some or all of one or more manufacturers' entire product line, regardless of the shape of the headlamp.

This would enhance the likelihood of easy replacement, and help reduce the adverse effects of system proliferation. The consumer should encounter less difficulty in obtaining a replacement than he might otherwise be faced with at present for any given one of the several sealed beam systems in common use. (This result appears to be the case at present with respect to replacement bulbs for other lighting devices whose design is not dictated by Standard No. 108, such as stop lamps, turn signals, etc.)

Option 1—The Ford Semi-Sealed/ Replaceable Bulb System

The system developed by Ford seeks to incorporate the advantages of both the European and American lighting practices. The Ford headlamp consists of two discrete components: A plastic lens bonded to a plastic reflector, and a replaceable light source capsule of standardized design that is inserted through an opening in the rear of the reflector, and sealed by an "O-ring" seal on the capsule. Although contoured, the headlamp is mechanically aimable with an adapter to the current aiming equipment. In Ford's view, the possibility of reflector contamination is minimized because of the lens/reflector bond and the seal at the base of the light source. Further, Ford's suggested tests include moisture and dust tests developed to verify reflector integrity.

The Ford replaceable bulb lamp is stated to have been developed to assure a high reliability of positioning of the filament after repeated replacements of the bulb in different lamp bodies, and to ensure air tight sealing of the capsule into the reflector. Ford asserts that it has rejected the vented European H–4 design with its multi-piece stamped construction as susceptible to contamination and unacceptably complex.

Ford has made a single piece plastic molding the foundation of its new bulb design. It claims that electrical socket molding technology has established that extremely fine dimensional control (±.004 inch) is consistently achievable even at elevated temperatures.

The proposed Ford-type lamp would have a bayonet mounting. This type of mounting is stated to have been selected because it provided positive "one way only" insertion of the bulb into the reflector assembly separate from the locking action of the retaining device. Twist lock designs currently used for signal lamp functions do not provide the precise and consistent filament positioning necessary for a headlamp assembly.

Control surfaces have been established between the socket and mounting hole to provide (1) axial location, (2) surface to surface contact for in-out positioning of filament and (3) a controlled pin location for accurate filament position.

The method chosen for positioning and securing the bulb in the plastic molded base utilizes current technology such that either optical or dimensional filament control techniques are applicable. The bulb capsule can be inserted into a "master parabola" and illuminated, and the bulb can then be adjusted in the capsule using photo cells for optimum filament positioning. An alternative procedure would orient the filament relying strictly on dimensional location using an optical comparator. The tolerance envelope for either of these methods is proposed to be .02 inch in the X, Y, Z directions.

The agency's primary concern about the headlamp systems currently in use in Europe has been corrosion developing on the inside and outside surfaces of lamp reflectors after a relatively short time in service. Painted steel reflectors are most commonly used in Europe, and the lamp assemblies are typically vented to the atmosphere through a controlled path. Ford believes that a sealed, unvented assembly is desirable. With the sealed capsule design, replacement of the bulb may be achieved in a manner which Ford thinks protects the optic surfaces within the lamp as would be the case in sealed beam units. Ford intends to fabricate the reflector from a non-corroding material.

A single oil impregnated silicone O-ring would provide the seal for the bulb. Ford tests have allegedly shown that the pressure build-up inside the sealed headlamp cavity due to the operating temperatures of the lamp is approximately 20 psi. Due to the close tolerances of the mating parts and the use of a low durometer "O" ring seal which would permit sealing across surface irregularities, an internal pressure of 100 psi could be contained within the lamp body. The efficacy of "O" ring seals to contain static pressure is well known.

Proposed Tests

In addition to retaining certain sealed beam headlamp performance requirements, the Ford proposal includes a series of sequential environmental tests on the same lamp for all replaceable bulb headlamps to assure adequate performance. Based on fleet field test results, the abrasion tests on plastic headlamps appear to be critical. Accordingly, a proposed NHTSA procedure and an alternative Ford procedure are included to generate comment on this critical test phase.

Glass lensed units would be exempt from the tests for abrasion and impact.

The proposed sequential test series would be:

(1) Photometry.
(2) Abrasion.
(3) Vibration.
(4) Chemical Resistance.
(5) Corrosion.
(6) Dust.
(7) Temperature Cycle.
(8) Thermal Shock.
(9) Humidity.
(10) Internal Heat. [NHTSA]
(11) Out-of-Focus. [NHTSA]
(12) Impact. [NHTSA]

There would also be a deflection test for bulbs.

This proposed series is more comprehensive than that initially suggested by Ford. In the text of the proposed amendment, the word "[NHTSA]" indicates additions by NHTSA to the tests as proposed by Ford. Some of the proposed tests differ from those currently being developed by the SAE and, if it is deemed advisable, NHTSA may modify some of the proposed test procedures in light of comments received, including any SAE data.

Intially, the headlamp would be required to meet certain SAE requirements: S4.6 Photometry of J575 "Test for Motor Vehicle Lighting Devices and Components," June 80; S3.1 Test Voltage and S3.5 Photometric Design Requirements, including Figure 3 and Table 1 of J579c SAE J580 "Sealed Beam Headlamp Assembly," Aug. 77.

In the proposed test series, a headlamp would be required to demonstrate photometric durability after the headlamp had been subjected to tests addressed to vibration, chemical resistance, corrosion, dust, temperature cycle, humidity, and internal heat. Under the Ford petition, the photometric requirement would be that the output after the test be within 10 percent of the originally recorded output. The photometry test itself would be that prescribed by SAE Standard J579c, currently a requirement of Standard No. 108 for existing headlamp systems. Establishing a floor of 10 percent as the maximum allowable for degradation of light output is acceptable as a measure of quality control, but may not be suitable as a safety standard, for it would establish an individual standard for individual lights.

Under the Ford petition, a lamp would be required to conform first with the photometric requirements of J579c, but thereafter conformance would be based upon relative degradation from the original light output without reference to the absolute minimum requirements of J579c. Under this approach, final or intermediate light output could be less than the minimum required by J579c but the lamp would still conform as long as the diminution did not exceed 10 percent of the initial output. This result would not in the agency's view adequately meet the need for safety.

Conversely, a lamp that far exceeded the minimum could "fail" if diminution exceeded 10 percent, even though the safety based J579c minima were still met. Such a result would appear to be excessive as a minimum safety standard.

NHTSA believes it simpler and preferable that photometric measurements be taken at the end of each of the relevant tests in the sequential test series, and that the lamp at each such point comply with the photometrics of J579c.

The abrasion test would be required only if a proposed headlamp had a plastic lens. This is consistent with the agency's abrasion concerns, and with the current absence of any abrasion requirements applicable to glass surfaced lamp systems. The abrasion test proposed by NHTSA would be similar to the Falling Sand Abrasion Test specified in Method A of ASTM D968. Ford's proposed abrasion test would subject a lamp to 11 cycles of abrasion with steel wool. At the end of the abrasion test, Ford proposes to measure photometric output only on four test points on the lower beam. NHTSA does not agree that the effects of the abrasion test can be determined reliably by using only four test points and has concluded that an amendment of this nature would diminish safety.

At the conclusion of the vibration test, there could be no evidence of loose or broken parts in the lamp.

The chemical resistance test would involve total immersion of the test lamp in fluids for a period of five minutes, storage for 48 hours and then an examination for deterioration both in the lamp assembly and the photometrics of the lamp. The proposed test fluids are gasoline [NHTSA], motor oil, brake fluid [NHTSA], power steering fluid, windshield washer fluid, and antifreeze.

The corrosion test would involve subjection of the test lamp to a salt spray test in accordance with ASTM B117–73 "Method of Salt Spray (Fog) Testing" for a period of 240 hours, consisting of ten successive 24-hour intervals. During each interval, the headlamp would be exposed for 23 hours to the salt spray and then allowed to dry for an hour. At the end of the test period, there could not be evidence of internal or external corrosion more than an eighth of an inch from sharp edges, or any corrosion, on the terminals or elsewhere, which would involve loss of function.

In the dust test, fine powdered cement is diffused through a test box for a period of five hours.

A temperature cycle test would be required from −40°F to 176°F for 10 complete cycles. The headlamp could not show any evidence of specific adverse effects.

In the thermal shock test, the headlamp would be energized on its highest wattage filament for 45 minutes, then plunged into ice water (32°F) for five minutes. The headlamp would be required to show no evidence of fractures, delamination or entry of water in liquid form after this test.

In the humidity test, the headlamp would be operated in a controlled environment of 100°F and humidity from 80 to 100% and could not show any evidence of moisture, fogging, or delamination, after a period of 240 hours during which the headlamp is turned on and off.

NHTSA is also going beyond the Ford petition by proposing an internal heat test in which the lens would be coated with simulated road dirt consisting of Zaccharini dust and water, to reduce light transmission to 25% of original. No lens distortion would be permitted at the end of such test.

An out-of-focus test would also be specified in the NHTSA test sequence. Such a test is similar to that currently required of motorcycle headlamps.

The impact test would require a plastic lens to withstand a single impact by a steel ball bearing 1.76 oz. (50 grams) in weight and dropped from a distance of 15.75 inches (40 cm) above the lens.

A bulb deflection test is proposed by both NHTSA and Ford to simulate the effect of rough handling on the bulb filament alignment, such as might occur during insertion of a replacement bulb. This would apply to all bulbs, whether manufactured as original or replacement equipment.

NHTSA is also proposing that manufacturers be required to provide a replacement bulb with every vehicle equipped with the new headlighting system.

Each lens-reflector unit manufactured as replacement equipment would also have to meet the performance requirements of replaceable bulb headlamps when a standardized replaceable light source is inserted.

Finally, because most existing mechanical aimers are not designed for headlamps with contoured lenses, the

proposal would require that an adapter to facilitate aiming be furnished with each vehicle manufactured during the first model year in which replaceable bulb headlamps are included as standard equipment. The adapter specified has been designed by Ford for this purpose. After that time, an adjustable adapter, also designed by Ford, should be available for mechanical aimers such that all contoured lenses could be aimed by reference to the pad aiming dimensions molded into the lens.

Because Ford intends to construct its lamps of plastic, lens distortion appears to be another important issue. Elevated headlamp operating temperatures caused by dirt on the lens could exceed the thermal limit of some plastics and result in distortion. NHTSA's proposal distinquishes between lamps of plastic and glass, not prohibiting the one or requiring the other. A headlamp using plastics would have to be certified as meeting the currently required tests for plastics of SAE J576c, including a heat test and the 3-year outdoor exposure test.

The resistance of plastics used for lens facings to impact damage (fracture) is superior to that of glass. In addition to providing a light-weight lamp, plastics thus offer the safety benefit of improved impact protection from stone damage. Data indicate that a substantial proportion of required headlamp replacements are required because sealed beam lamps have been broken by means other than collision with another vehicle. Plastic lenses would enhance safety by decreasing the likelihood that a lens on the Ford system or a sealed beam headlamp with a plastic lens will have to be replaced. Such safety benefits could, of course, be offset if in those instances in which fractures do occur, the economic costs of replacement are prohibitive.

The agency's analysis does not indicate that this would be the case, and tends to show a net reduction in lifetime cost to the owner. Today's halogen sealed beam unit is available at a general price range of $9.50 to $37.50 per headlamp, depending on size and discounts, and non-halogen at a range of $2.50 to $20.50.

NHTSA estimates that the replacement cost of the bulb in the Ford system would be $9 to $16 per bulb.

The typical cost of labor and installation would be less for the composite unit, since no grill components or clamping screws need be removed with special tools and no aiming would be required after replacement.

No difference in the frequency of replacement due to burn-out would be expected between sealed beam lamps and the bulb in composite systems. As noted above, it is expected that the use of plastics will greatly reduce the instances in which on-road damage requires replacement of the facing surface, i.e., the lens unit of a composite system versus the whole unit of a sealed beam lamp. In those instances in which the entire lamp (lens/reflector unit and bulb) of a new system would need replacing, however, the parts costs, as estimated by NHTSA, would be an average of $30, as opposed to $9.50 to $37.50 per halogen sealed beam unit. Offsetting the greater frequency of replacement of sealed beam systems against the greater unit replacement cost of an entire composite unit has led the agency to conclude that an annual benefit of $4.00 would accrue over the life of a car for the composite system.

The principal issue regarding this option is the efficacy of the proposed test procedures in ensuring that the headlamps will perform adequately in real world conditions. NHTSA believes that its proposed tests would fully meet the need for motor vehicle safety, but realizes that they differ in some respects from Ford's and from those currently under development by the SAE. It therefore invites detailed comments on each of the environmental tests discussed above.

Option 2—Sealed Unit/Replaceable Bulb System

Several years ago, CIBIE, a French lighting manufacturer, demonstrated to NHTSA a novel headlighting concept: It consists of a hermetically sealed, conventionally shaped lens/reflector unit, at the rear of which is a glass envelope or bulb compartment projecting into the lens/reflector unit. That projection surrounds a light source mounted behind the reflector. This system, available in both round and rectangular lamps, has three discrete components, lens/reflector, bulb, and protective boot at the juncture of the bulb and reflector. The boot is intended to keep contaminants out of the glass bulb compartment at the rear of the lamp, which could interfere with light output.

NHTSA testing of the lamp has disclosed one problem attributable to the concept, cracking of the glass bulb compartment through heat build up. In addition, heat of the bulb in early tests caused blackening to occur, attributable to decomposition of the protective boot. These problems appear solvable.

Although CIBIE had not designed the subject headlamp to have a contoured lens, there is no technological reason known to NHTSA why an aerodynamically styled sealed unit with a standardized replaceable light source could not be produced. Such a headlamp would arguably retain the protective aspects of fully sealed beam technology, but allow the favorable economic and replaceability features of replaceable bulb systems to be enjoyed as well.

NHTSA is considering a combination of the CIBIE and Ford concepts which would authorize use of a plastic or glass sealed lamp of no specified dimensions incorporating the Ford standardized replaceable light source. Under such an approval, the bulb compartment of the lamp would be required to demonstrate no breaking, cracking or haze after the tests, which would be otherwise identical to those required of sealed beam lamps. The lamp would also be required to pass an out-of-focus test.

NHTSA seeks comments on the desirability of such a second option, the approximate amount of time needed to tool and produce such a system, and other views commenters may wish to submit.

Option 3—Semi Sealed/Replaceable Bulb System Subject Only to Photometric, Bulb and Aiming Requirements

The agency is interested in exploring the possibility of limiting headlamp requirements to the minimum objective criteria requisite for safety. Currently Standard No. 108 imposes a number of design restrictions, not only on the headlamps themselves, but also on the mounting hardware and trim. Although the Ford proposal, reflected in option 1, would remove many of these design restrictions, it would also add a series of environmental tests to be required of semi-sealed headlamps.

Option 3 represents the agency's attempt to identify the minimum objective performance criteria which are requisite to meet the need for safety. It would specify minimum photometric output, the type of bulb producing the candela, and a performance requirement directed towards ease and reliability of aim. Using the Ford option as a point of departure, this option contemplates a headlamp that meets the photometric requirements of SAE Standard J579c using a standardized replaceable light source, which would be capable of mechanical aiming. Other aspects of performance such as durability over time would be controlled primarily by market forces and by the defects investigation and recall authority of this agency.

Impact Analyses

NHTSA has considered this proposal and has determined that it is not major within the meaning of Executive Order 12291, "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, as adoption of this proposal would not require any person to change current practices under the standard. A regulatory evaluation has been prepared. (A free copy of this document can be obtained from the Docket Section.) The proposal would not impose any additional requirements but would permit manufacturers greater flexibility in the design of headlighting systems and adjacent exterior vehicle surfaces. Use of this flexibility would allow improvements in safety, aerodynamic efficiency and fuel economy. The extent of such improvement is dependent on the option ultimately adopted and on the extent to which manufacturers take advantage of the new headlamp designs permitted by the option.

NHTSA has concluded that this proposal would not have a significant impact on the human environment. The lamps that would be manufactured pursuant to the proposal are expected to be lighter, thus slightly reducing the overall material content of the automobile. This would have a small positive effect on the environment. No adverse impact on safety is anticipated, although as noted above the greater resistance of plastic facing to fracture in on-road use could produce incremental safety benefits by reducing the number of occasions in which fractures result in loss of illumination.

The agency has also considered the impacts of this proposal under the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic impact on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, these manufacturers would be affected only to the extent that they elected to take advantage of the new option that would be established by the proposal. Finally, small organizations and governmental jurisdictions would be affected only to the extent that they choose to buy vehicles equipped with the new headlamps. The organizations and jurisdictions making that choice would not significantly affected by the price of the new headlamps.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submision, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisory will return the postcard by mail.

The engineer and lawyer primarily responsible for this proposal are Marx Elliot and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.106 [Amended]

In consideration of the foregoing, it is proposed that 49 CFR 571.106, Motor Vehicle Safety Standard No. 106, *Lamps, Reflectivé Devices, and Associated Equipment*, be amended as follows:

Option 1 (Ford System)

1. Section S3 Definitions would be amended by adding the following definitions so that all definitions in that section are in alphabetical order:

"Replaceable bulb headlamp" means a headlamp comprising a lends bonded to the reflector, and a standardized replaceable light source.

"Seasoning" means a process of energizing the filament of a headlamp, at rated voltage, for a period of time equal to 1 percent of average rated laborator life.

"Standardized replaceable light source" means an assembly of a headlamp bulb and base.

"Test fixture" means a device designed to support a replaceable bulb headlamp in its intended operating position during the laboratory tests specified in S4.1.1.36(d).

2. New Sections S4.1.1.36, S4.1.1.37, S4.1.1.38, S4.1.1.39, and S4.1.1.40, would be added to read as follows:

S4.1.1.36. Instead of being equipped with a headlighting system specified in Table I or Table III, a passenger car, multipurpose passenger vehicle, truck, or bus manafactured on or after ———— 1, 198–, may be equipped with a replaceable bulb headlamp which is designed to conform to the following requirements:

(a)(1) Each replaceable bulb headlamp shall include components which are designed to conform to the applicable specifications of paragraph S4.1.1.38 and Figure 1—Specifications for The Standardized Replaceable Light Source, including filament location, base and socket dimensions, electrical connector demensions, maximum design wattage, and O-ring specifications.

(2) The exterior face of each replaceable bulb headlamp lens shall have three pads which meet the requirements of figures 3–1 through 3–4, and shall from an aiming plane for mechanically adjusting and inspecting headlamp aim. The exterior lens face shall have molded into it the specific settings applicable to the headlamp as designed to be installed in the vehicle, for each of the two adjustable legs of the aiming device locating plate; e.g., "11H 17V" requires the horizontal aiming pad leg to be set in position 11, and the

vertical aiming pad leg to be set in position 17.

(b) Each replaceable bulb headlamp shall meet the following sections of the specified SEA Standards and Recommended practices:

(1) Section 4.6—Photometry of SAE J575 "Tests for Motor Vehicle Lighting Devices and Components" JUN80.

(2) Section 3.1—Test Voltage, and Section 3.5—Photometric Design Requirements including Figure 3 and Table 1 of SAE J579c "Sealed Beam Headlamp Units for Motor Vehicles" December 1979, except that the aiming plane on the lens shall be at horizontal and vertical distances to the photometer axis as inscribed on the lens of a composite headlamp, and the words "designed to conform" in paragraph 3.5.3 shall read "conform."

(3) Section 5—General Requirements, Section 6—Design Requirements and Tests (to the extent listed below), Section 6.1—Aiming Adjustment Test, Section 6.2—Inward Force Test, and Section 6.4—Connector Tests of SAE J580 "Sealed Beam Headlamp Assembly" AUG79.

(c) A headlamp with both lens and reflector of galss need not meet the abrasion resistance test specified in S6.2.

(d) When tested in the sequence below and according to the procedures indicated, each replaceable bulb headlamp shall meet the following requirements:

(1) After an abrasion test conducted in accordance with 36.2, the headlamp shall meet the photometric requirements of SAE J579c.

(2) After a vibration test conducted in accordance with S6.3, there shall be no evidence of loose or broken parts, and the headlamp shall meet the photometric requirements of SAE J579c.

(3) After a chemical resistance test involving exposure to any of the fluids listed in S6.4, there shall be no surface deterioration, coating delamination, fractures, deterioration of bonding materials, color bleeding or color pick-up, and the headlamp shall meet the photometric requirements of SAE J579c.

(4) After a corrosion test conducted in accordance with S6.5, the headlamp shall meet the photometric requirements SAE J579c, and there shall be no evidence of external or internal corrosion or rust. Loss of adhesion of any applied coating is not permitted more than .125 inch (3.2 mm) from any sharp edge on the inside or outside. Corrosion may occur on terminals provided there is no loss of function.

(5) After a dust test conducted in accordance with S6.6, the headlamp shall meet the photometric requirements of SAE J579c.

(6) After a temperature cycle test conducted in accordance with S6.7, the headlamp shall show no evidence of delamination, fractures, entry of moisture, deterioration of bonding material, color bleeding, warpage or deformation, and shall meet the photometric requirements SAE J579c.

(7) After a thermal shock test conducted in accordance with S6.8, the headlamp shall show no evidence of fractures, delamination, or entry of water.

(8) After a humidity test conducted in accordance with S6.9, the inside of the headlamp shall show no evidence of delamination or moisture, fogging or condensation, and the headlamp shall meet the photometric requirements of SAE J579c.

(9) After an internal heat test conducted in accordance with S6.10, there shall be no distortion of the headlamp lens, and the headlamp shall conform to the photometric requirements of SAE J579c.

(10) After an out-of-focus test conducted in accordance with S6.11, the headlamp shall meet the requirements of Figure 2 for each of the out-of-focus test positions.

(11) After an impact test on a headlamp with a plastic lens conducted in accordance with S6.12, there shall not be any fracture of the adhesion of lens coating or delamination of materials, and the lens shall not be broken, cracked, or chipped.

S4.1.1.37 Each lens-reflector unit manufactured as replacement equipment for a replaceable bulb headlamp system shall conform to the requirements of S4.1.1.36 when a standardized replaceable light source is inserted in it.

S4.1.1.38 Each standardized replaceable light source shall conform to the following requirements:

(a) Each silicone O-ring shall be of 40 durometer, 7 MPa tensile strength material, and shall comply with the following Suffix Requirements for Grade 2 GE Materials contained in SAE Recommended Practice J200 Apr 80 *Classification System for Rubber Materials for Automotive Applications:*

(1) A19 (heat resistance),
(2) B37 (compression set),
(3) C12 (resistance to ozone),
(4) EA 14 (fluid resistance),
(5) EO 16 (fluid resistance),
(6) EO 36 (fluid resistance),
(7) F19 (low temperature resistance), and
(8) G11 (tear resistance).

(b) The bulb portion of the standardized replaceable light source shall meet the following requirements.

(1) The general specifications of the bulb are:

	Low beam	High beam
Watts @ 12.8 V	45	65.
Lumens (nominal) @ 12.8 V.	880	1726.
Average Life @ 14.0 V	300 Hrs.	150 Hrs.
Filament Type	C-6	C-6.
Diameter of Coil	1.092 ±.12mm.	1.410 ±.12mm
Length of Coil	5.366±.50mm.	5.207±.50mm.

(2) The bulb filaments shall be subject to seasoning prior to wattage and lumens measurement.

(3) Wattage and lumens measurements shall be made with the direct current test voltage regulated within one quarter of one percent.

(4) Except for reference dimensions, and unless otherwise specified, a general tolerance of±.004 in. (0.10mm) shall apply to all linear dimensions and ±1°.00′ shall apply to all angular dimensions.

(5) Bulb, lead wires and/or terminals shall be installed in the base so as to provide an hermetic seal.

(6) After a bulb deflection test conducted in accordance with S7, the permanent deflection of the glass envelope of each standardized replaceable light source shall not exceed .0005 inch (.13 mm) in the direction of the applied force in the base so as to provide an hermetic seal.

S4.1.1.39 Each motor vehicle equipped with a replaceable bulb headlamp system shall also be provided with a spare standardized replaceable light source as original equipment for such vehicle.

S4.1.1.40 The lens of each replaceable bulb headlamp that conforms with this standard, and the envelope of each standardized replaceable light source shall be marked with

the symbol "DOT" or	"D O T"	which shall constitute a certification

that the headlamp or light source conforms to all applicable Federal motor vehicle safety standards.

3. New Sections S6, S7, and S8 would be added to read:

S6 *Test sequence and procedures for replaceable bulb headlamps.* When tested according to the procedures and in the sequence below, each replaceable

bulb headlamp shall meet the requirements of S4.1.1.36 (b) and (d).

S6.1 *Photometry.* [NHTSA] A headlamp shall be tested according to Section S3.5, Photometric Design Requirements of SAE Standard J579c Sealed Beam Headlamp Units for Motor Vehicles, December 1978, after the tests specified in S6.2.

or

S6.1 *Photometry.* [Ford] After seasoning and not more than 24 hours before the test specified in S6.2, a headlamp shall be tested according to Section 3.5, Photometric Design Requirements of SAE Standard J579c Sealed Beam Headlamp Units for Motor Vehicles, December 1978. The photometric readings at each test point specified in Figure 2 shall be summed arithmetically. Where the test pattern specifies a scan (e.g., 1U-L 1/2L to L), the highest photometric reading shall be used in the sum of all readings. Not later than 24 hours after completion of each test specified in S6.2 through S6.7, S6.9 and S6.10, a headlamp shall be retested according to Section 3.5, and the photometric readings at the test points summed arithmetically. The headlamp may be re-aimed before these tests.

S6.2 *Abrasion.* [NHTSA] This test is performed on full lamp assemblies in a fashion similar to the Falling Sand Abrasion Test specified in Method A of ASTM D968. The temperature for the test shall be ±73°F±3.6° (23°C±2°) and 50±5 percent RH with the samples conditioned at those conditions for 24 hours before the test. The test fixture shown in Figure 4 shall be utilized to deliver 4 liters of sand per test to the headlamp lens. The rate of sand flow shall be 2 liters in 21 to 23.5 seconds and the sand used shall conform to section 6.2 of ASTM D968. In the first phase of the test, the lamp is stationary. The second phase of the test shall be conducted with the lamp rotating at 9 RPM to obtain a larger test area on the lamp. The period of this phase shall be 44 seconds. Photometric output is measured on high and low beam at those test points specified in Figure 2.

or

S6.2 *Abrasion.* [Ford] (a) A headlamp shall be mounted in the abrasion test fixture in the manner indicated in Figure 5 with the lens facing upward.

(b) Photometric output is measured only on the lower beam, at the following test points:

(1) 1U—1½ L to L
(2) ½U—1½ L to L
(3) ½D—1½ R
(4) 1½D—2 R

a tolerance of ¼ degree in location may be allowed at any test point.

(c) An abrading pad meeting the following requirements shall be cycled back and forth (1 cycle) for 11 cycles at 4±0.8 in. (10 cm±2 cm) per second over at least 80 percent of the lens surface.

(d) The pad shall be not less than 1.0±.04 in. (2.5 cm ±.1 cm) wide, constructed of 0000 steel wool, and rubber cemented to a rigid base shaped to the same vertical contour of the lens. The "grain" of the pad shall be perpendicular to the direction of motion.

(e) The abrading pad support shall be equal in size to the pad size and shall be parallel to and within ±.06 in. (±2 mm) of the lens surface.

(f) The pad shall be weighted such that a pad pressure of 2.0±.15 psi (14±1KPa) exists at the center and perpendicular to the face of the lens.

(g) The density of the pad shall be such that when the pad mounted to its base is resting unweighted on the lens, the base of the pad shall be no closer than .125 in. (3.2 mm) to the lens at its closest point.

(h) A pivot shall be used if it is required to follow the contour of the lens.

(i) Unused steel wool shall be used for each test.

S6.3 *Vibration.* A headlamp shall be mounted in a test fixture which is securely bolted to the table of the vibration test machine and shall be subject to vibration according to the following test condition parameters:

(a) The test fixture with the headlamp installed has a reasonant frequency greater than 2000 Hz.

(b) The table or adapter plate is of sufficient size to completely contain the test fixture base with no overhang.

(c) The frequency of vibration of the table varies linearly from 100 to 1000 Hz in one minute and returns to 100 Hz within one minute for a linear sweep period (complete sweep cycle) of 2 minutes.

(d) The wave form of vibration is sinusoidal.

(e) The test machine output wave form is measured with an accelerometer having a flat frequency response (±5 percent) from 5 to 2200 Hz attached to the unloaded test machine table or its adapter plate and measures acceleration in the direction of the table travel.

(f) A vertical acceleration of a peak of 5g's is measured on the table.

(g) The direction of vibration is the vertical axis of the headlamp as mounted on the vehicle.

(h) The filament is cold (not energized).

(i) The test duration is 90 complete cycles.

(j) The continuity of the filament circuit(s) is maintained throughout and following the test period.

(k) After the test, a tolerance of ± ¼ degree is made at each test point.

S6.4 *Chemical resistance.* (a) An unfixtured headlamp shall be totally immersed in any of the test fluids listed below for a period of five minutes. The temperature of the headlamp and each fluid shall be 73°F±7° (23°C±4°) just before and throughout the immersion period. All drain holes, breathing devices or other designed openings of the headlamp shall be blocked. The test fluids are:

(1) [NHTSA] gasoline—unleaded 89 octane (R+M) 2 or above used per OSHA Std. 29 CFR 1910-106—Handling Storage and Use of Flammable Combustible Liquids.

(2) [NHTSA] brake fluid—SAE RM 66-03 fluid (available from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096).

(3) motor oil—10W-40 type "SF" [API].

(4) tar remover (petroleum base).

(5) power steering fluid.

(6) windshield washer fluid (50% concentration of methanol/distilled water by volume).

(7) antifreeze (50% concentration of ethylene glycol/distilled water by volume).

(b) After the immersion of the headlamp in the test fluid has been completed, it shall be stored in designed operating attitude for 48 hours at temperature of 73°±7° (23°C±4°). At the end of the 48-hour period, the headlamp shall be wiped clean with a soft dry cotton cloth and visually inspected.

S6.5 *Corrosion.* The unfixtured headlamp, in its designed operating attitude with all drain holes, breathing devices or other designed openings in their normal operating positions, shall be subjected to a salt spray (fog) test in accordance with ASTM B117-73, "Method of Salt Spray (FOG) Testing," for a period of 240 hours, consisting of ten successive 24-hour intervals. During each interval, the headlamp shall be exposed for 23 hours to the salt spray, which shall not be activated for the 24th hour.

S6.6. *Dust.* The headlamp, mounted on a test fixture, with all drain holes, breathing devices or other designed openings in their normal operating positions, shall be positioned within a cubical box, with inside measurements of 35.43 in. (900 mm) on each side, at least 5.906 in. (150 mm) from any wall. The box shall contain 9.9 lb. (4.5 kg) of fine powdered cement which conforms

to the ASTM C150-77 specification for Portland Cement. Every 15 minutes, the cement shall be agitated by compressed air or fan blower(s) by projecting blasts of air for a two-second period in a downward direction so that the cement is diffused as uniformly as possible throughout the entire box. This test shall be continued for five hours after which the exterior surfaces of the headlamp shall be wiped clean.

S6.7 *Temperature cycle.* A headlamp, mounted on a test fixture, shall be exposed to 10 complete thermal cycles having the thermal cycle profile shown in Figure 6. During the hot cycle, the highest wattage filament in the headlamp shall be energized at design voltage commencing at point "A" of Figure 6 and de-energized at point "B". Separate or single test chambers may be used to generate the temperature environment described by the thermal cycle profile. All drain holes, breathing devices or other designed openings of the headlamp shall be in their normal operating positions.

S6.8 *Thermal shock.* The headlamp, with all drain holes, breathing devices, or other designed openings blocked, supported in its designed operating attitude, shall be energized at design voltage on the highest wattage filament contained in the headlamp for a period of 45 minutes, after which the headlamp shall be de-energized and submerged within 30 seconds, lens first, into ice water at $32°F^{+5°}_{\pm 0°}$) ($0°C^{+3°}_{\pm 0°}$) for a period of 5 minutes.

S6.9 *Humidity.* The headlamp, mounted on a test fixture, shall be placed in a controlled environment consisting of a temperature of 100°F±9° (38°C±5°) with a relative humidity of 90% ± 10%. All drain holes, breathing devices designed openings shall be in their normal operating positions. The headlamp shall be subjected to 40 consecutive 6-hour test cycles. In each cycle, it shall be energized at design voltage on the highest wattage filament contained in the device for 1 hour and then de-energized for 5 hours.

S6.10 *Internal heat.* [NHTSA]

(a) After its lens surface has been cleaned, the headlamp shall be mounted in the urethane insulated variable environment test fixture in the manner indicated in Figure 7 "Dirt-Ambient Test Setup" and energized. While the headlamp is energized, the ambient temperature inside the setup is maintained at 59°F (15°C). After the headlamp reaches thermal stability, as determined by measuring the headlamp lens surface temperature "hot spot" with both a thermocouple attached to the outside surface of the lamp and by an AGA Thermovision instrument, the photometric output of the lamp is measured using an array of photo diodes.

(b) The headlamp is removed from the setup. The lens surface that would normally be exposed to the road dirt shall be sprayed uniformly with an amount of a mixture of Zaccharini dust and water sufficient to reduce the photometric output of the lamp to the level that is 25 percent of output originally measured under this section. Such reduction shall be determined under the same conditions under which the original measurement was made. The Zaccharini dust mixture shall consist of 10 grams of dust mixed with 500cc of water. The Zaccharini dust shall consist of the following:

(1) Nine parts by mass of silicon sand particles whose size is not greater than 11 micrometers.

(2) One part by mass of Vegetable Carbon Dust particles whose size is not greater than 100 micrometers.

(3) 0.2 part by mass of NACMC (Sodium sale of carboxy-methyl cellulose with a viscosity of 200 to 300 centipoises for a 2 percent solution at 20°C and a degree of substitution of 0.6 to 0.7).

(4) An appropriate quantity of distilled water. The mixture shall not be more than 14 days old. The mixture shall be applied to the lamp with a conventional spray gun. The specified reduction in photometric output may be achieved by multiple applications of the mixture. The mixture sprayed on the lamp shall be allowed to air dry between applications.

(c) After the determination has been made that the photometric output of the lamp has been reduced to the extent specified above, the lamp shall be de-energized. With the lamp still mounted in the setup and the ambient temperature in the setup at 32°F (0°C), the lamp shall be energized for not less than 30 minutes. If thermal stabilization, as determined by the procedure described above in this section, does not occur in that period, the lamp shall remain energized until stabilization occurs. Allow the lamp to return to ambient temperature and repeat the process described in this paragraph with the ambient temperature at 95°F (35°C).

(d) With the lamp still mounted in the setup and with the ambient temperature at 59°F (15°C) measure the photometric output of the lamp using the photo diode array. After the lamp's lens is cleaned, the photometric output of the lamp shall be determined according to S6.1.

(e) The ambient temperature specified in this section shall be achieved by cooling the circulating air in the setup chamber with ice or heating it with an electrical heating tape, as appropriate.

S6.11 *Out-of-focus.* [NHTSA] The headlamp shall be mounted in the goniometer with the mechanical axis congruent with the photometer axis, and operated at a voltage of 12.8+6mV DC. Candela measurements shall be made with the light source in each of the following six locations: not more than 0.02 in. (0.5 mm.), above-below, ahead-behind, and right-left of the design position.

S6.12 *Impact.* [NHTSA] The headlamp shall be rigidly mounted vertically in a test fixture on the seating lugs with the lens level and facing up. The seating plane of the test fixture shall consist of oakwood 0.5 inch (13 mm) thick. The test fixture shall rest on an oakwood base. One impact shall be delivered to the center of the lens on the mechanical axis using a steel ball bearing with a diameter of .9055 in. (23 mm) weighing 1.76 oz. (50 grams), dropped freely from a distance of 15.75 in. (40 cm) from the bottom of the ball to the surface of the lens.

S7 *Deflection test for replaceable bulb.* Each replaceable bulb shall meet the requirements of S4.1.1.38(b)(6) when tested in the following manner. With the bulb rigidly mounted in a fixture in a manner indicated in Figure 8, apply a force of 4.0±0.1 lb. (17.8±4N) perpendicular to the longitudinal axis of the glass envelope and perpendicular to, and in a line intersecting, the lateral axis of the low beam filament. The force shall be applied to the outside surface of the glass envelope using a rod with a hard rubber tip with a minimum spherical radius of. 039 in. (1 mm).

S8 *Aiming device locating plate for replaceable bulb headlamps.* Each motor vehicle manufactured between ———— 1, 198–, and [one year later] and equipped with a replaceable bulb headlamp system shall be furnished with a Headlamp Aiming Device Locating Plate, conforming to:

(a) The general requirements of SAE J602 OCT 80 Headlamp Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units, and Figure 9, except that the general and specific references in that standard to sealed beam headlamp units shall be read as applicable to replaceable bulb headlamps, and references in that standard to dimensions for headlamp aiming device locating plates shall be read in reference to the dimensions specified in this section.

(b)(1) If a suction cup is used to retain a mechanical aiming device to the headlamp unit, the overall diameter of the suction cup shall not exceed 2.8 in.

(71 mm). The suction cup assembly shall be capable of securing the aiming device to a smooth lens surface angled up to 30 degrees universally from a transverse plane perpendicular to the H–V axis of the lamp.

(2) Tack aiming pad seating surface on the locating plate shall be free of burrs, projections, holes or impressions.

(3) There shall be no projections, tangs, or lugs on the locating plate that would prevent the seating surfaces locating with the aiming pads on the headlamp lens surface.

(4) Each of the two adjustable legs shall be capable of being extended, and locked in position, in increments of .10 in. (2.54 mm) with each increment measured from the '0' seating plane (perpendicular to the H–V axis of the lamp) with a maximum tolerance of ±.01 in. (±0.25 mm). The incremental positions extending out from the '0' seating plane shall be identified by whole numbers, i.e., '0', '1', '2', '3', thru a minimum of '37' for the vertical adjustable leg and a minimum of '20' for the horizontal adjustable leg.

4. New Figures 1 through 9 would be added as follows:

BILLING CODE 4910-59-M

Figure 1

SPECIFICATIONS FOR THE STANDARDIZED
REPLACEABLE LIGHT SOURCE

Figure 1-1

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

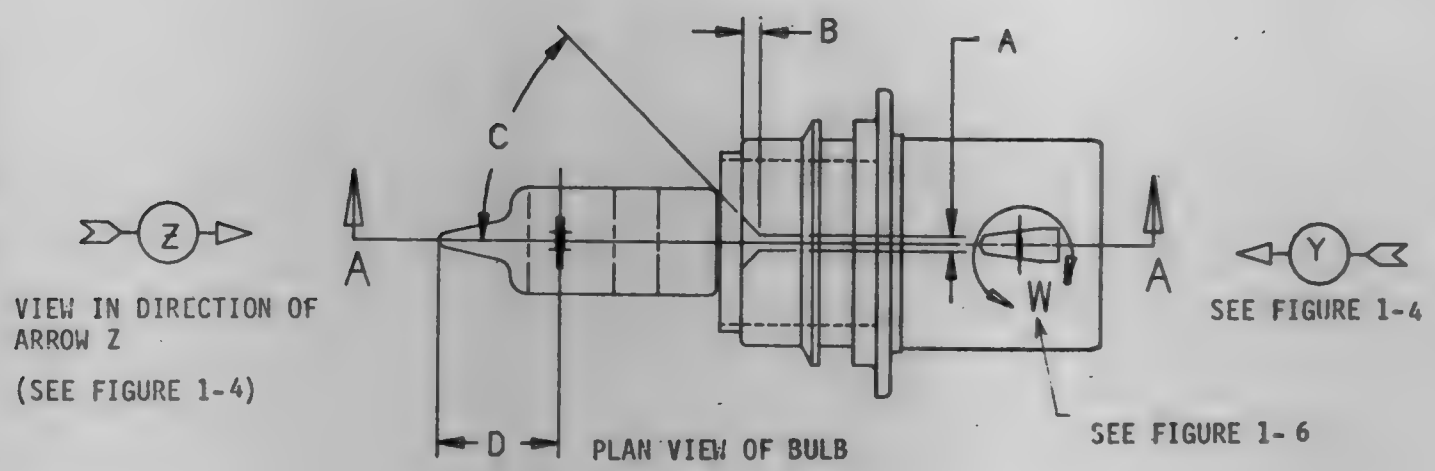

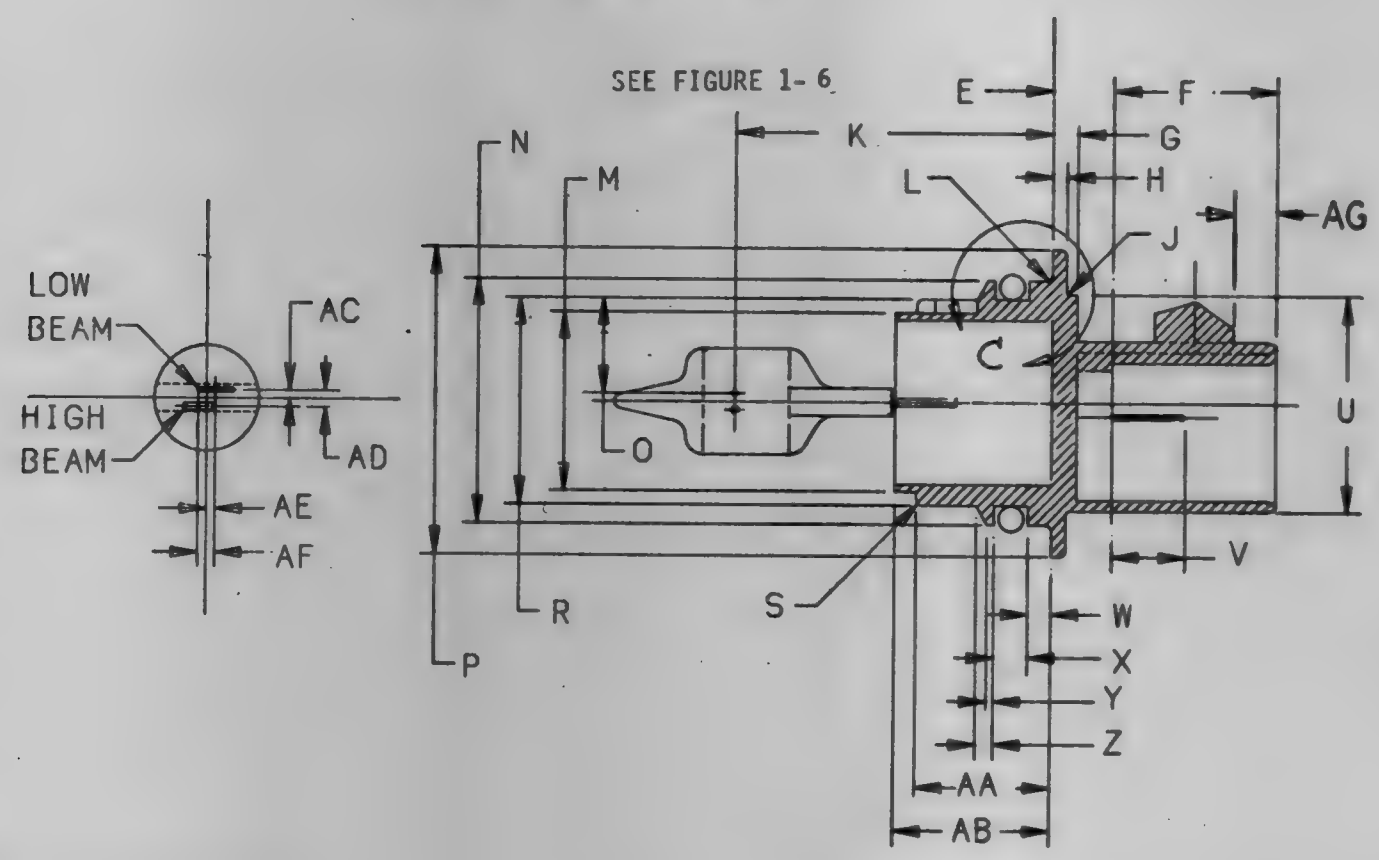

FRONT END VIEW OF BULB

SIDE SECTIONAL VIEW OF BULB - (SECTION A)

Figure 1- 2

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

Dimensional Specifications
Figure 1 -1

Dimension	Inches	Millimetres
A	.085 to .093 .004 Either Side CL	2.15 to 2.10 .5 Either Side CL
E	.335	8.50
F	.905	23.00
H	.079	2.00
K Low Beam High Beam	1.752 ± .020 1.752 ± .035	44.50 ± .50 44.50 ± .90
L	.032 R	.80 R
M	.974	24.75
N (1.335 to 1.331)	.002 Either Side CL	(33.90 to 33.80) .05 Either Side CL
O TO BE A REF. DIM.)	.562	14.27
P	1.673	42.50
R (1.126 to 1.122)	.002 Either Side CL	(28.60 to 28.50) .05 Either Side CL
U	1.181	30.00
V	.413	10.50
W	.128	3.25
X	.189	4.80
Z	.098	2.50
AC	.049 ± .020	1.25 ± .50
AD	.098 ± .028	2.50 ± .70
AE	.047 ± .020	1.20 ± .50
AF	.089 ± .020	2.25 ± .50
AG	.236	6.00

Figure 1-3

Dimensional Specifications
Figure 1-1 (Continued)

REFERENCE DIMENSIONS

B	.098	2.50
C	45°	45°
D	.669	17.00 Max
G	.138	3.50
J	.020 R	.50 R
S	.032 R	.80 R
Y	.039	1.00
AA	.748	19.00
AB	.866	22.00

Figure 1-4

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

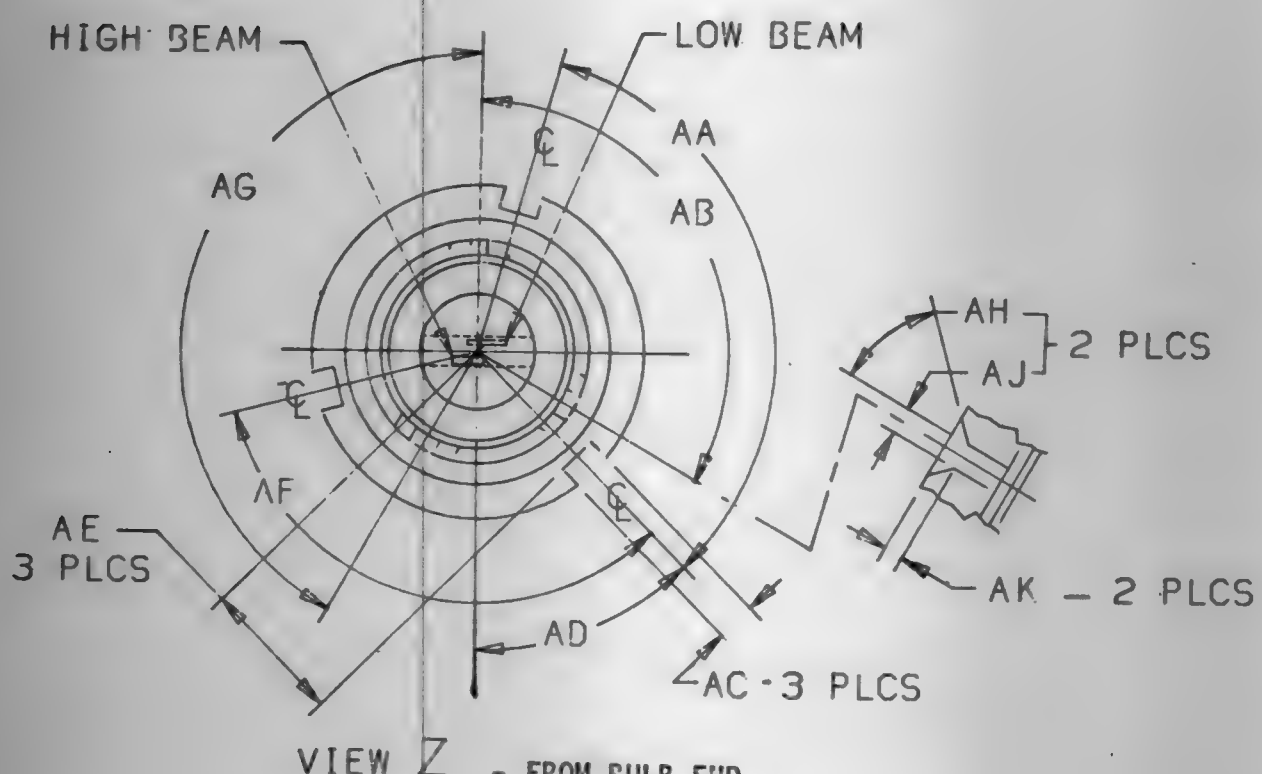

VIEW Z - FROM BULB END

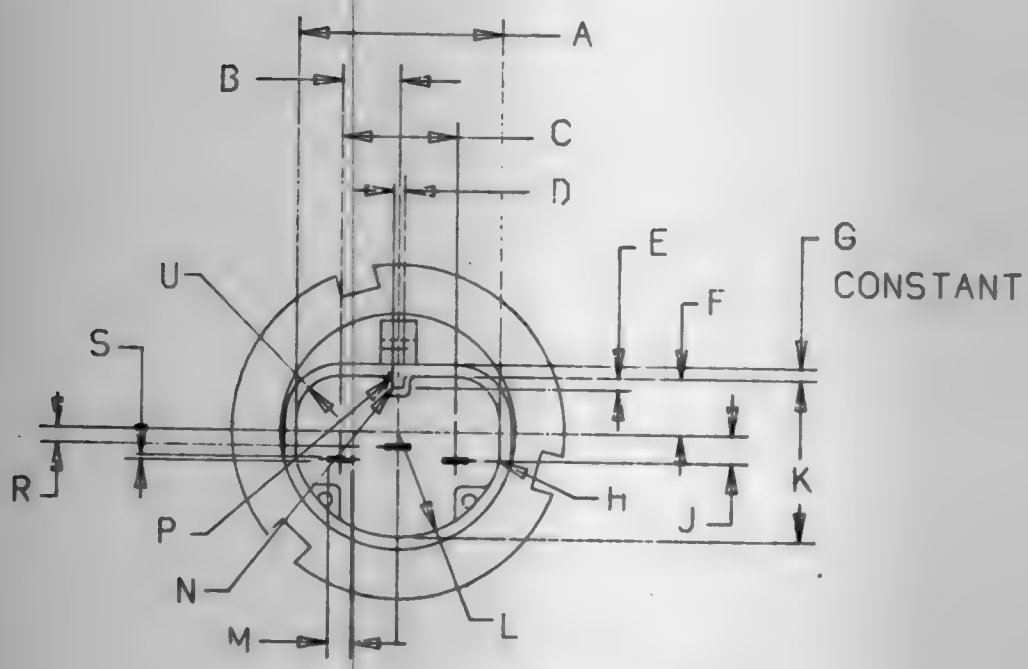

VIEW Y - FROM CONNECTOR END

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

Figure 1-5

Dimensional Specifications
Figure 1-4

Letter	In	mm
AA	120°	120°
AB	120°	120°
AC	.197	5.0
AD	44° 30'	44° 30'
AE	.722	18.35
AF	120°	120°
AG	150°	150°
AJ	.138	3.50
A	1.024	26.00
B	.289	7.35
C	.579	14.70
D	.055	1.40
E	.059	1.50
F	.278	7.05
G	.059	1.50
H	.032 R	.80 R
J	.142	3.60
K	.807	20.50
L	.531 R	13.50 R
M	,118	3.00
R	.075	1.90
S	.024 ± .002	.63 ± .05
U	.222 R	5.65 R
REFERENCE DIMENSIONS		
AH	45°	45°
AK	.098	2.50
W	.010 R	.25 R
P	.020 R	.50 R

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

Figure 1- 6

0.03 mm (0.012 in) MAX FLASH OR MISMATCH ON THIS DIAMETER

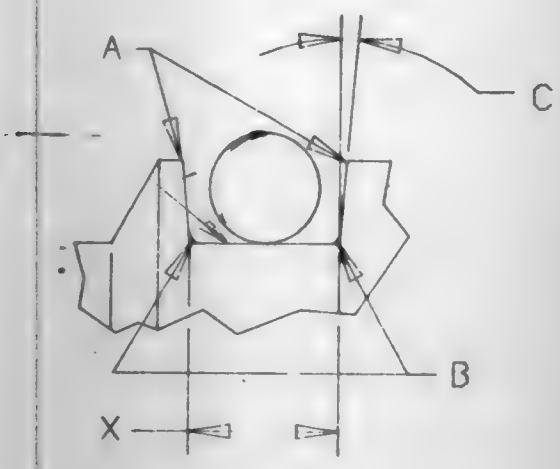

EXPLODED VIEW C FOUR TIMES SIZE

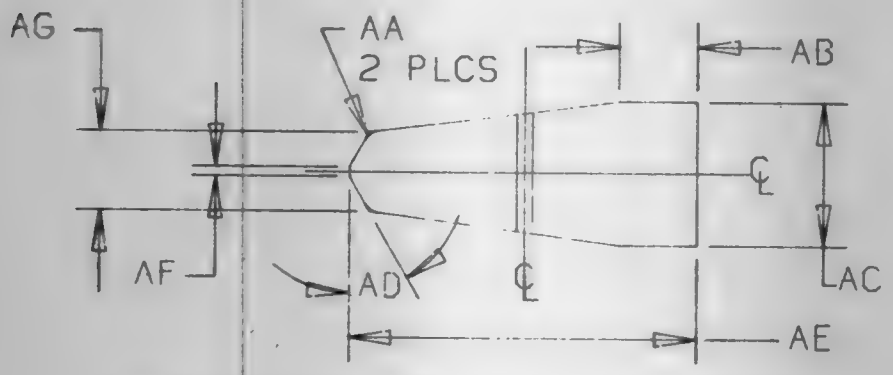

EXPLODED VIEW W FOUR TIMES SIZE

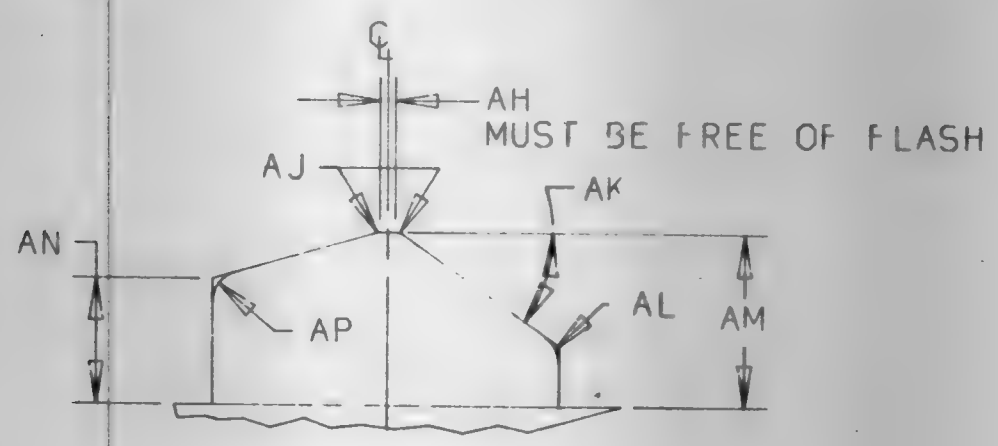

EXPLODED VIEW OF LOCKING FEATURE

Figure 1-7

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

Dimensional Specifications
Figure 1-6

Letter	In	mm
A	.004 R	.10 R
C	0° to 2°	0° to 2°
X	.189	4.80
AC	.179	4.55
AD	30°	30°
AE	.437	11.10
AF	.012	.30
AG	.098	2.50
AK	35°	35°
AM	.217	5.50
AN	.157	4.00
D	.0012 MAX FLASH OR MISMATCH	0.03 MAX FLASH OR MISMATCH
REFERENCE DIMENSIONS		
B	.016 R	.40 R
AA	.020 R	.50 R
AB	.098	2.50
AH	.020	.50
AJ	.020 R	.50 R
AL	.039 R	1.00 R
AP	.039 R	1.00 R

Figure 1-8

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
HALOGEN CAPSULE

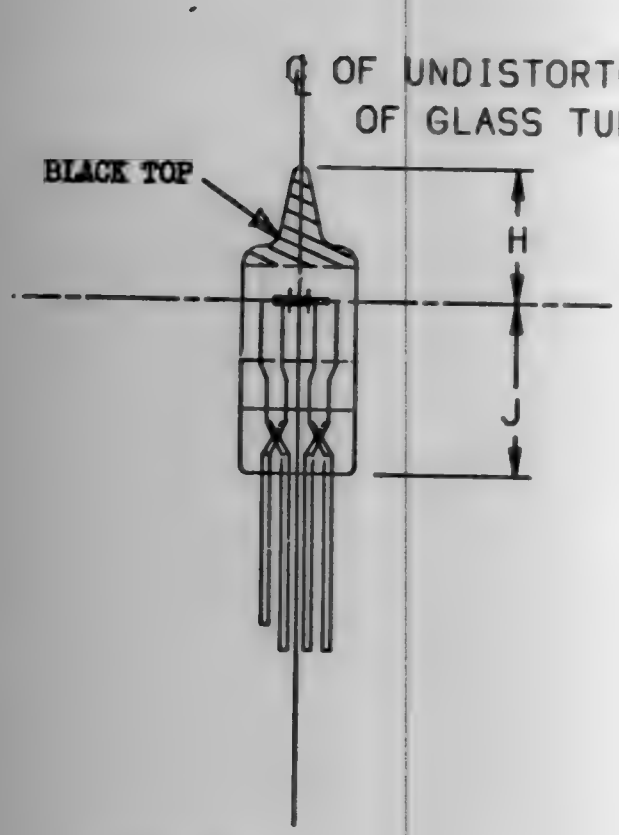

SIDE VIEW A

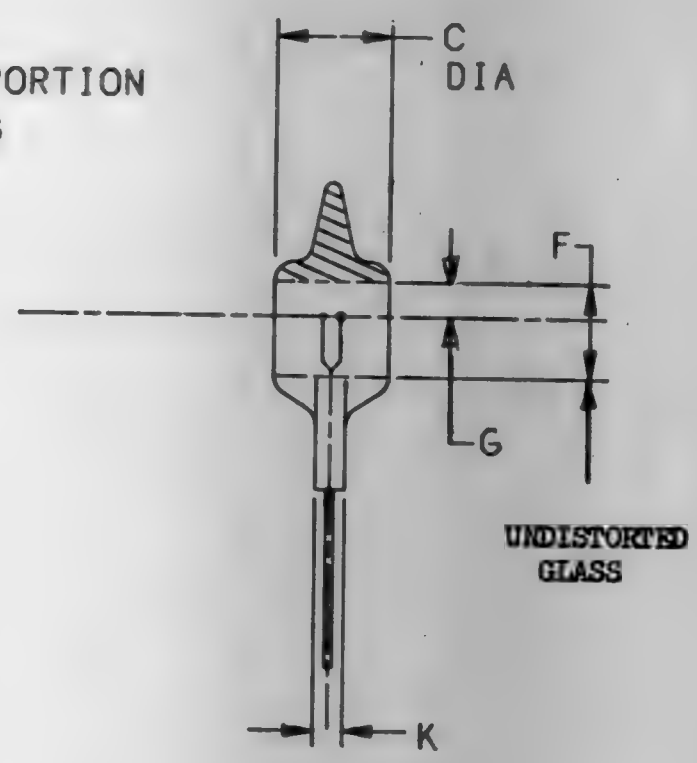

SIDE VIEW A ROTATED 90°

Figure 1-9

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
HALOGEN CAPSULE

Dimensional Specifications
Figure 1-8

Letter	In	mm
C	.579 ± .012	14.7 ± .30
F	.488 ± .016	12.4 ± .4
G	.217 ± 0.20	5.50 ± .5
K	.150 ± .030	3.80 ± .76
REFERENCE DIMENSIONS		
H	.669 Max	17.00 Max
J	.866 ± .035	22.00 ± .90

Figure 1-10

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
SOCKET (IN REFLECTOR)

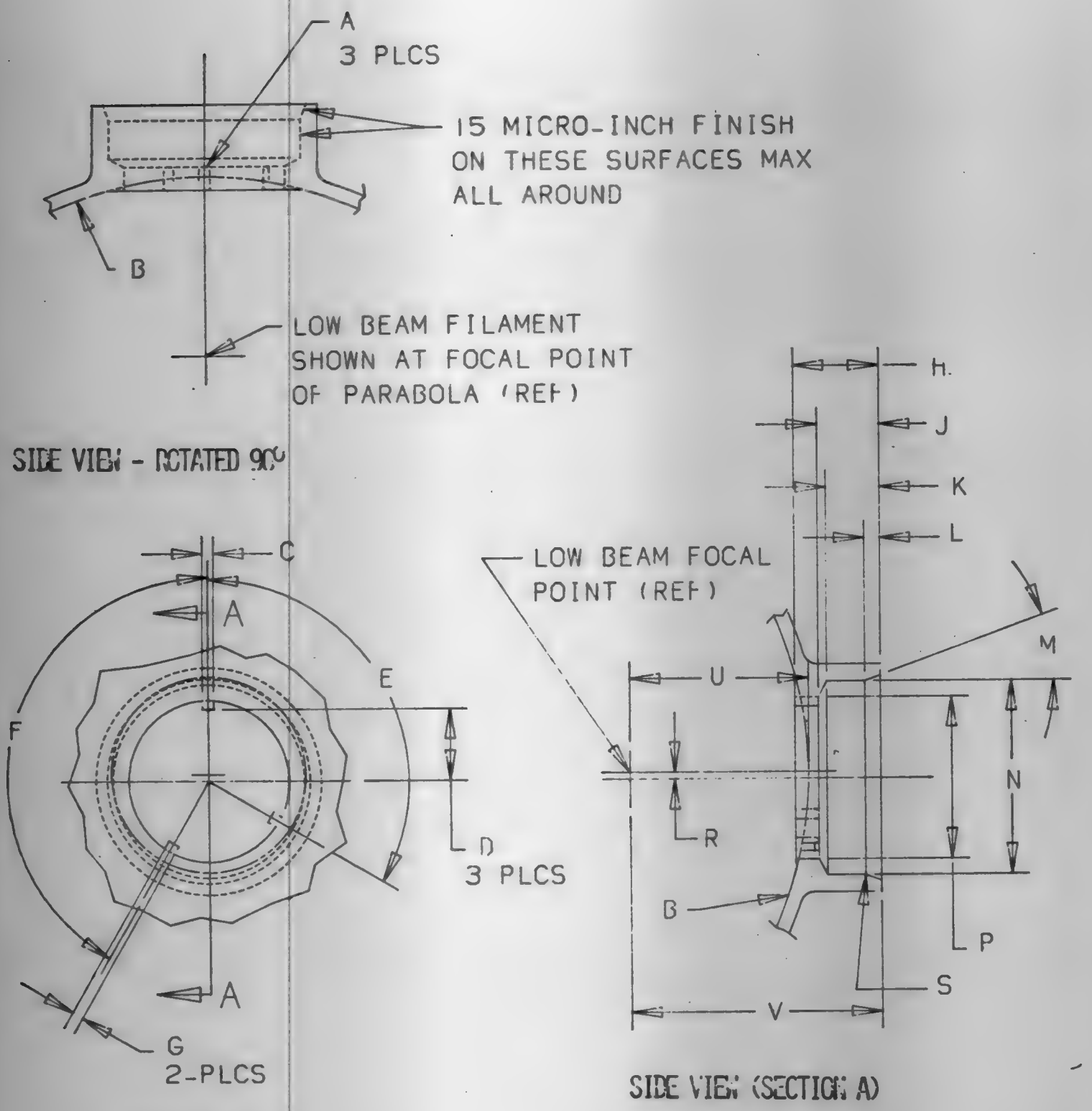

SCALE 1:1

Figure 1-11

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
SOCKET (IN REFLECTOR)

Dimensional Specifications
Figure 1-10

Letter	In	mm
B	Ref Line Lamp Parabola	Ref Line Lamp Parabola
C	.079 ± .002 +.002 Either Side C_L	2.00 ± .05 .05 Eithe Side C_L
D	.502	12.75
E	120°	120°
F	150°	150°
G	.079	2.00
H	.596	15.15
J	.433	11.00
K	.374	9.50
L	.108	2.75
N	(1.350 to 1.346) .002 EITHER SIDE of CL	(34.30 to 34.20) .05 EITHER SIDE of CL
P	(1.132 to 1.128) .002 EITHER SIDE of CL	(28.75 to 28.65) .05 EITHER SIDE of CL
R	.045	1.15
S	.020 R	.50 R
REFERENCE DIMENSIONS		
A	.032 R	.8 R
M	20°	20°
U	1.250	31.75
V	1.752	44.50

Figure 1-12

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
'O' RING'

SECTIONAL VIEW OF "O" RING
(SEC. A)

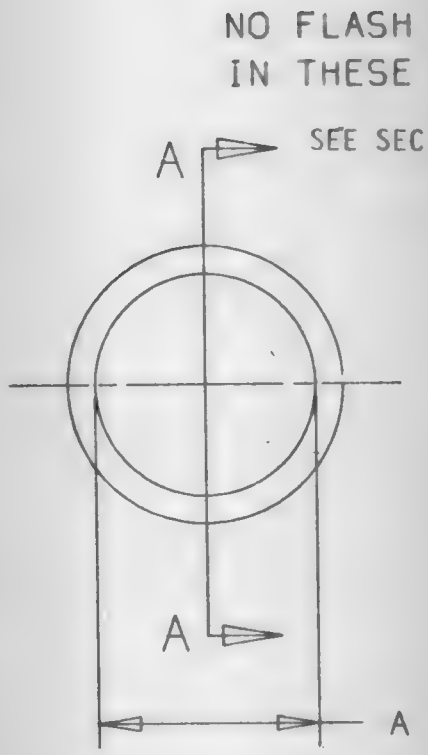

END VIEW OF "O" RING

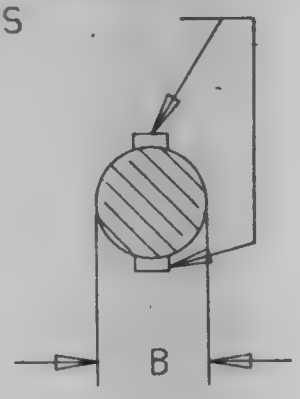

ENLARGED VIEW
OF SEC A

DIMENSIONS	IN	M M
A	1.109 ± .012	28.17 ± 0.30
B	.139 ± .004	3.53 ± 0.10

Figure 2

TEST POINT VALUES

Upper Beam			Lower Beam		
Test Points deg[b]	cd max.	cd, min.	Test Points, deg[b]	cd, max.	cd, min.
2U-V	---	1,000	10U to 90U[a]	125	---
1U-3R and 3L	---	2,000	1U-1-1/2L to L	700	---
H-V	75,000	20,000	1/2U-1-1/2L to L	1,000	---
			1/2D-1-1/2L to L	2,500	---
			1-1/2U-1R to R	1,400	---
H-3R and 3L	---	10,000			
H-6R and 6L	---	3,250	1-2U-1R to 3R	2,700	
H-9R and 9L	---	1,500	1/2D-1-1/2R	20,000	8,000
H-12R and 12L	---	750	1D-6L	---	750
			1-1/2D-2R	---	15,000
1-1/2D-V	---	5,000			
1-1/2D-9R and 9L	---	1,500	1-1/2D-9L and 9R	---	750
2-1/2D-V	---	2,500	2D-15L and 15R	---	700
2-1/2D-12R and 12L	---	750	4D-4R	12,500	---
4D-V	5,000	---			

[a]From the normally exposed surface of the lens.

[b]A tolerance of ±1/4 deg in location may be allowed for at any test point.

DIMENSIONAL SPECIFICATIONS

FOR LOCATION OF AIMING PADS

ON REPLACEABLE BULB HEADLAMP UNITS

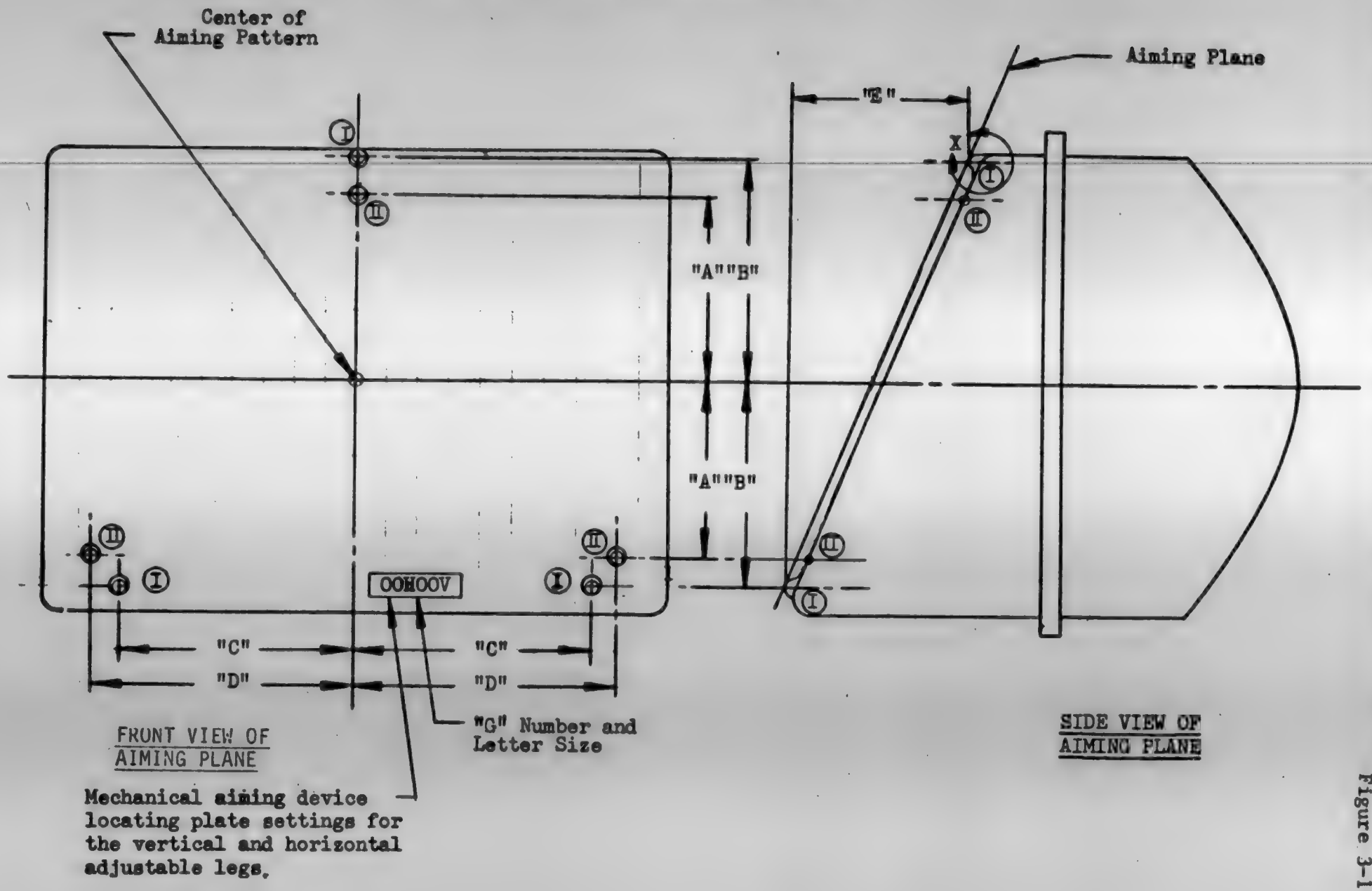

Figure 3-1

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Figure 3-2

DIMENSIONAL SPECIFICATIONS
FOR LOCATION OF AIMING PADS
ON REPLACEABLE BULB UNITS

DETAIL EXAMPLE OF AIMING PAD

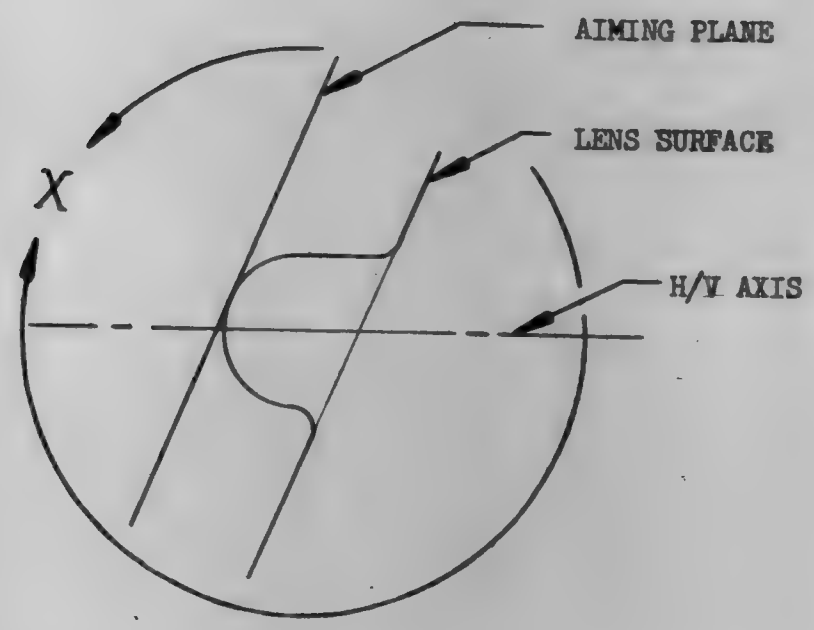

DIMENSIONAL SPECIFICATIONS

FOR LOCATION OF AIMING PADS

ON REFLACEABLE HULB UNITS

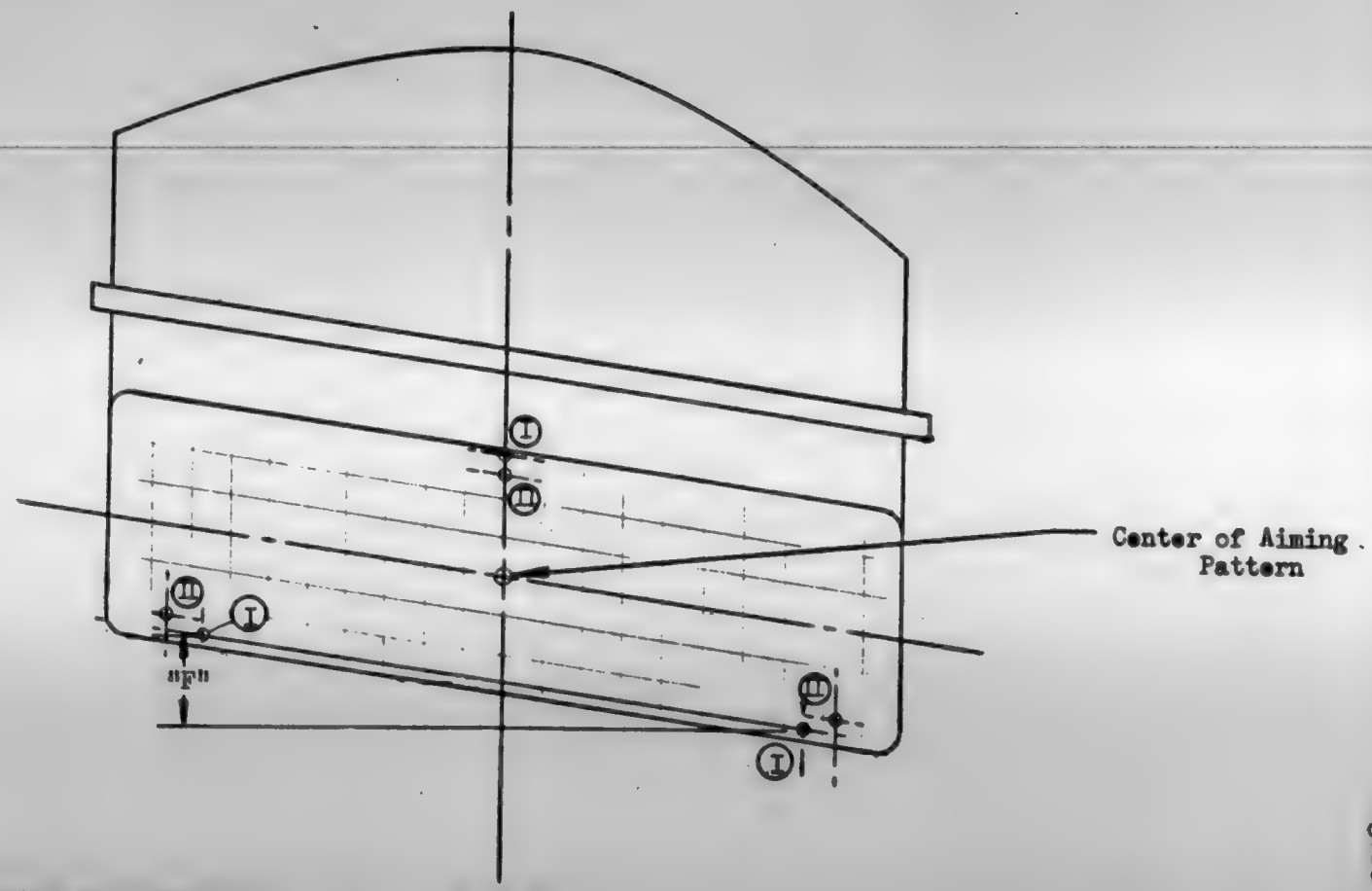

NOTES

. Group I or Group II aiming pad locations may be used.

. Group I aiming pad location (front view) is that prescribed for 2B1 sealed beam units.

. Group II aiming pad location (front view) is that prescribed for 1A1/2A1 sealed beam units.

Figure 3-3

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Figure 3-4

DIMENSIONAL SPECIFICATIONS
FOR LOCATION OF AIMING PADS

ON REPLACEABLE BULB UNITS

Dimension	Millimetres	Inches
A	42.16 ± 0.25	1.660 ± 0.010
B	60.05 ± 1.00	2.364 ± 0.039
C	64.0 ± 1.00	2.520 ± 0.039
D	68.58 ± 0.51	2.700 ± 0.020
E	Mechanical aiming device locating plate setting for the vertical adjustable leg.	
F	Mechanical aiming device locating plate setting for the horizontal adjustable leg.	
G	6.35 ± 0.80	0.250 ± 0.032

Sand Drop Test Setup

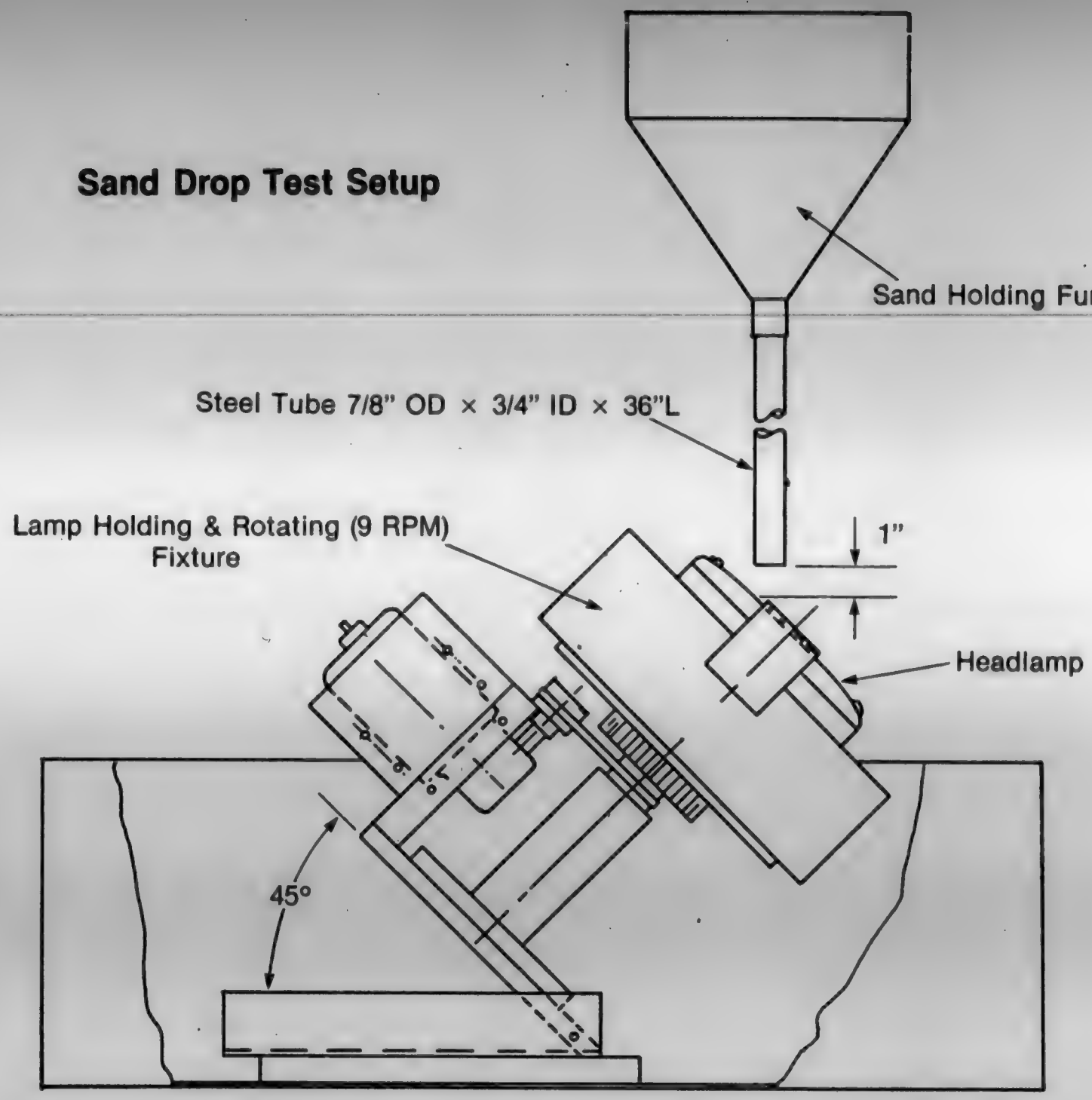

Figure 4

Abradi
Mecha

Figure 5

ABRASION TEST FIXTURE

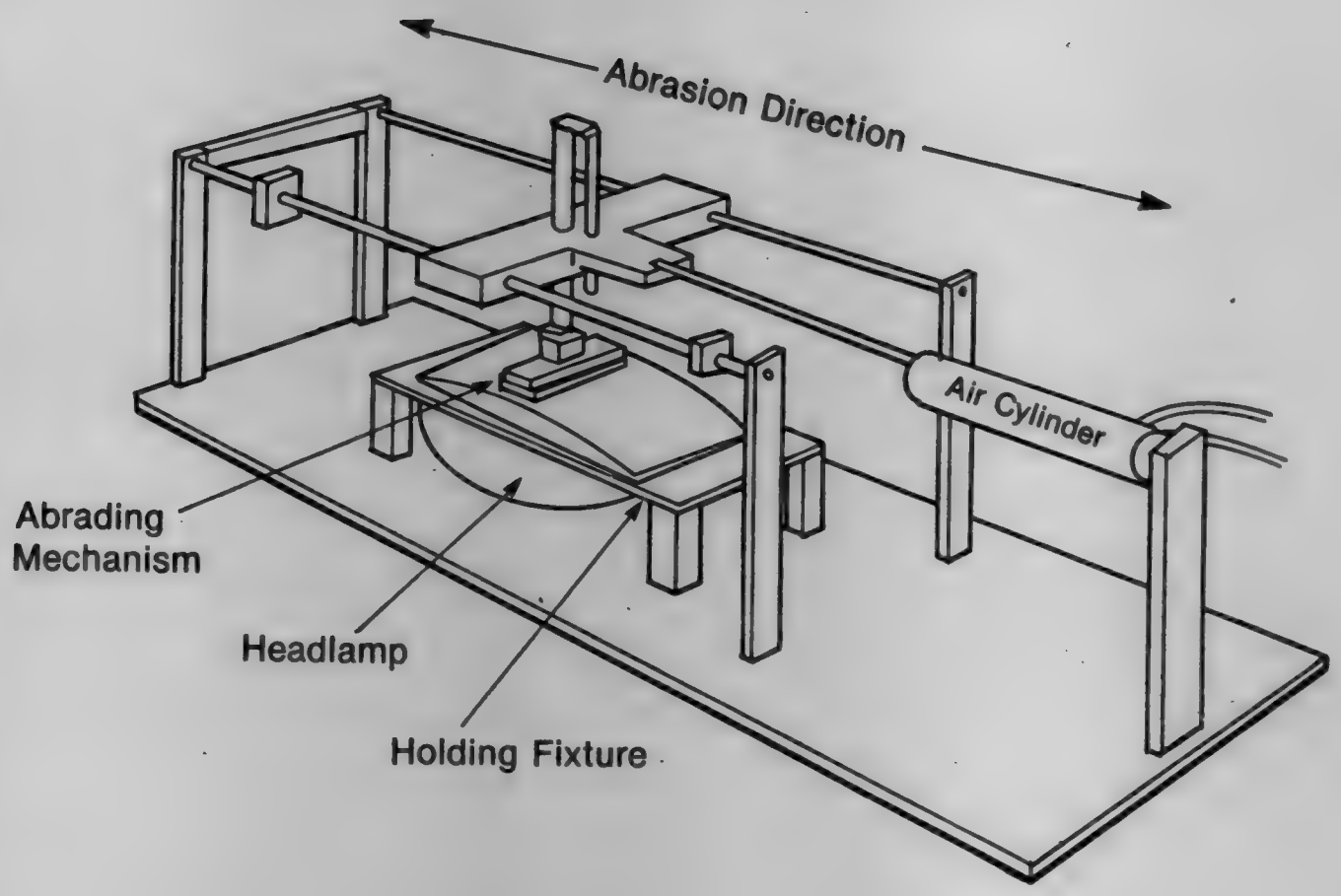

Figure 6

AMBIENT TEMPERATURE TRANSITION RATES:
MINIMUM 0.6°C(1°F) PER MINUTE
MAXIMUM 4°C (8°F) PER MINUTE

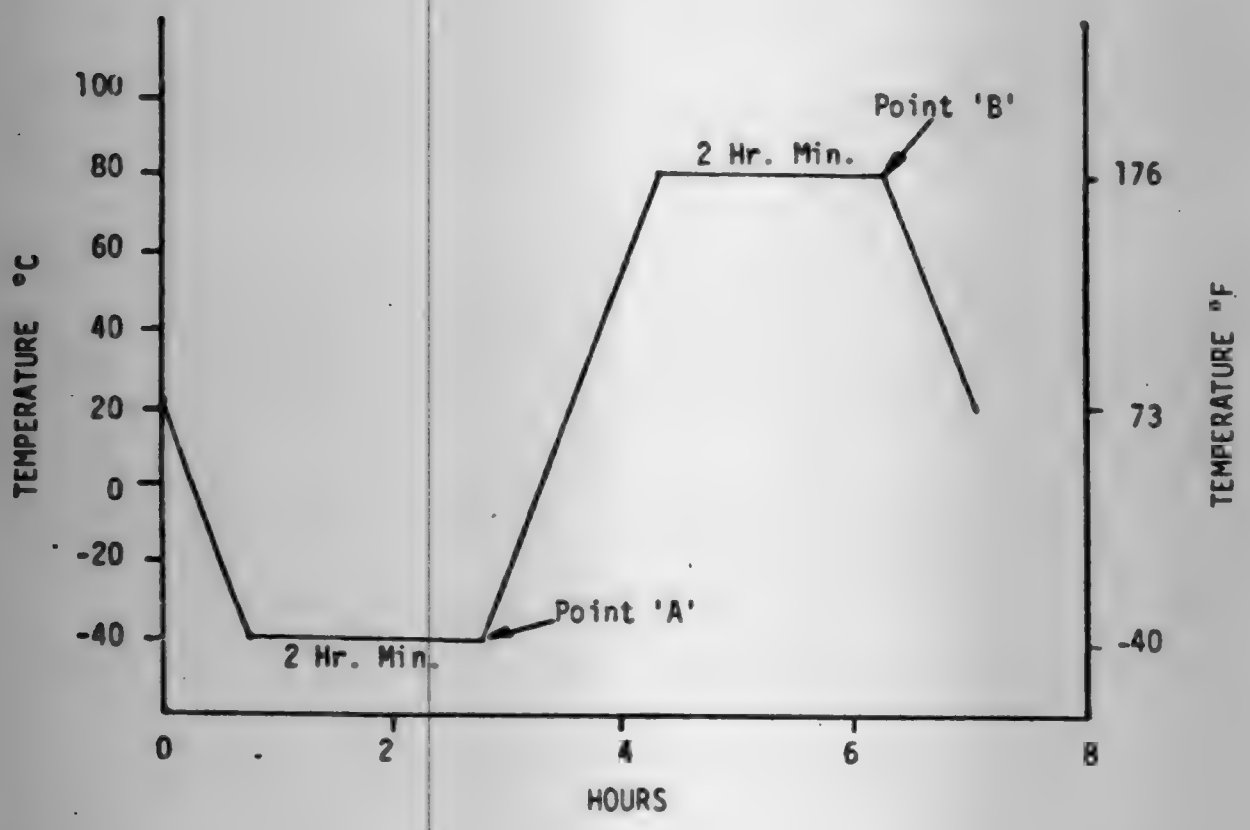

- THERMAL CYCLE PROFILE

Dirt/Ambient Test Setup

Dirt/Ambient Test Setup

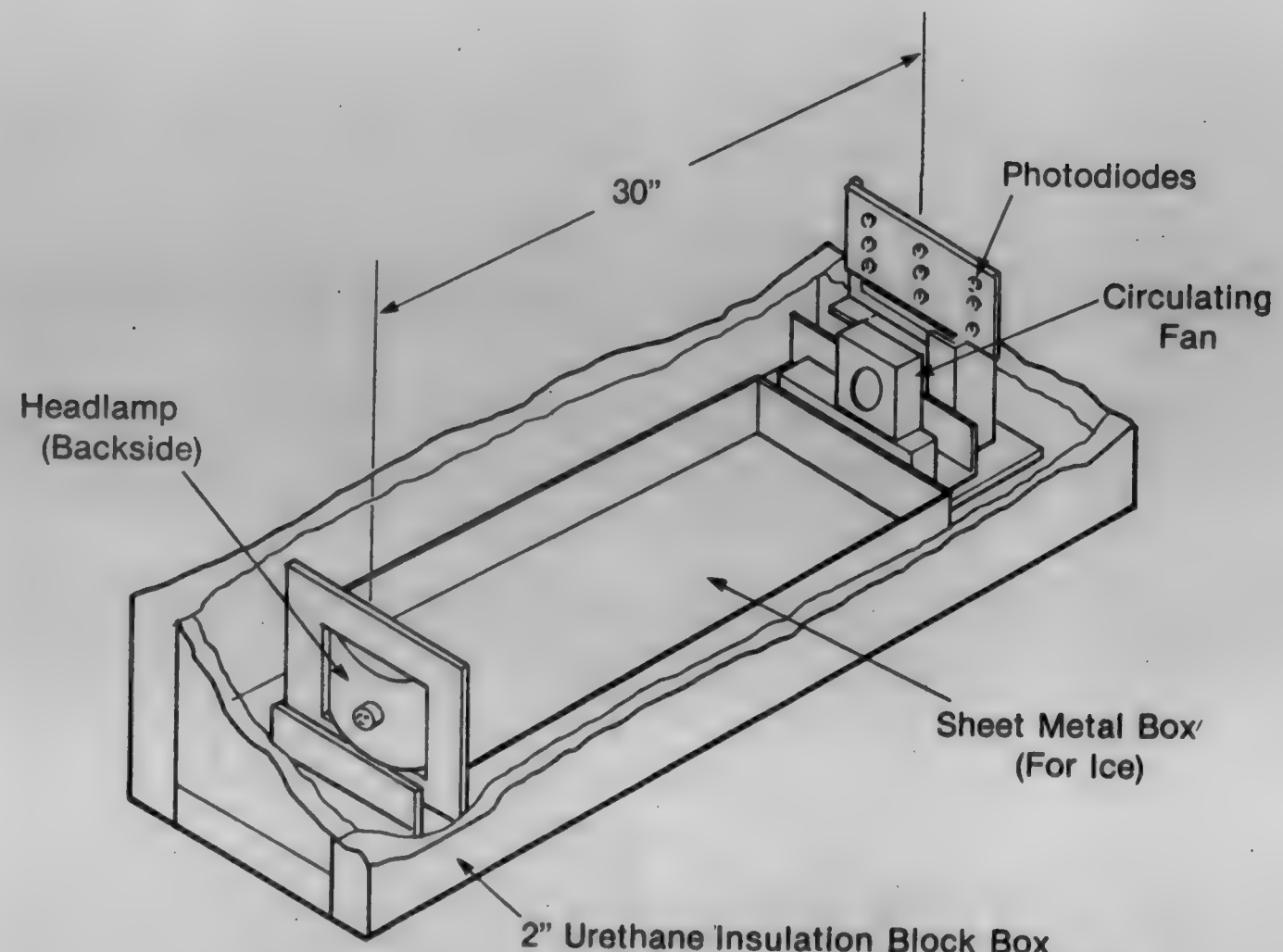

Figure 7

Figure 8

BULB DEFLECTION TEST

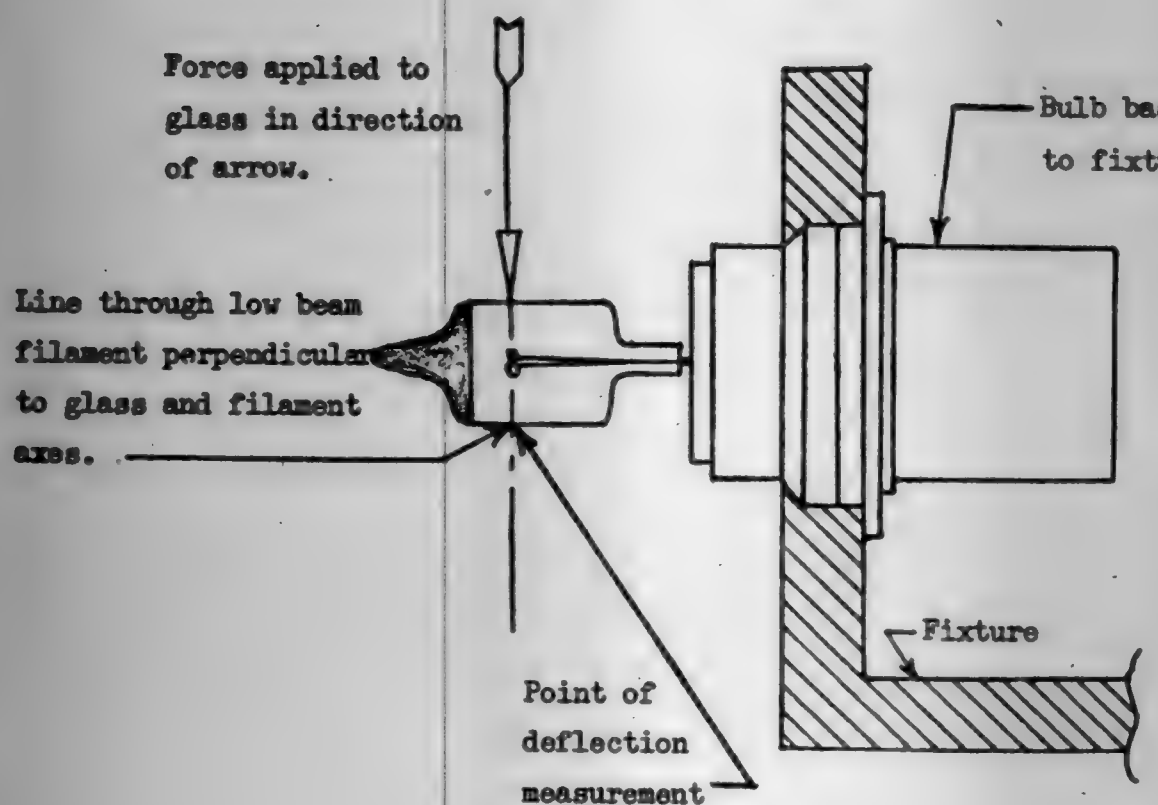

DIMENSIONAL SPECIFICATIONS FOR ADJUSTABLE LOCATING PLATES FOR USE WITH A MECHANICAL HEADLAMP AIMING DEVICE

DIMENSIONAL SPECIFICATIONS FOR ADJUSTABLE LOCATING PLATES FOR USE WITH A MECHANICAL HEADLAMP AIMING DEVICE FOR GROUP I AND II (Per Fig. 3-1) AIMING AIMING PAD LOCATIONS

All dimensions in millimeters and inches (when noted).

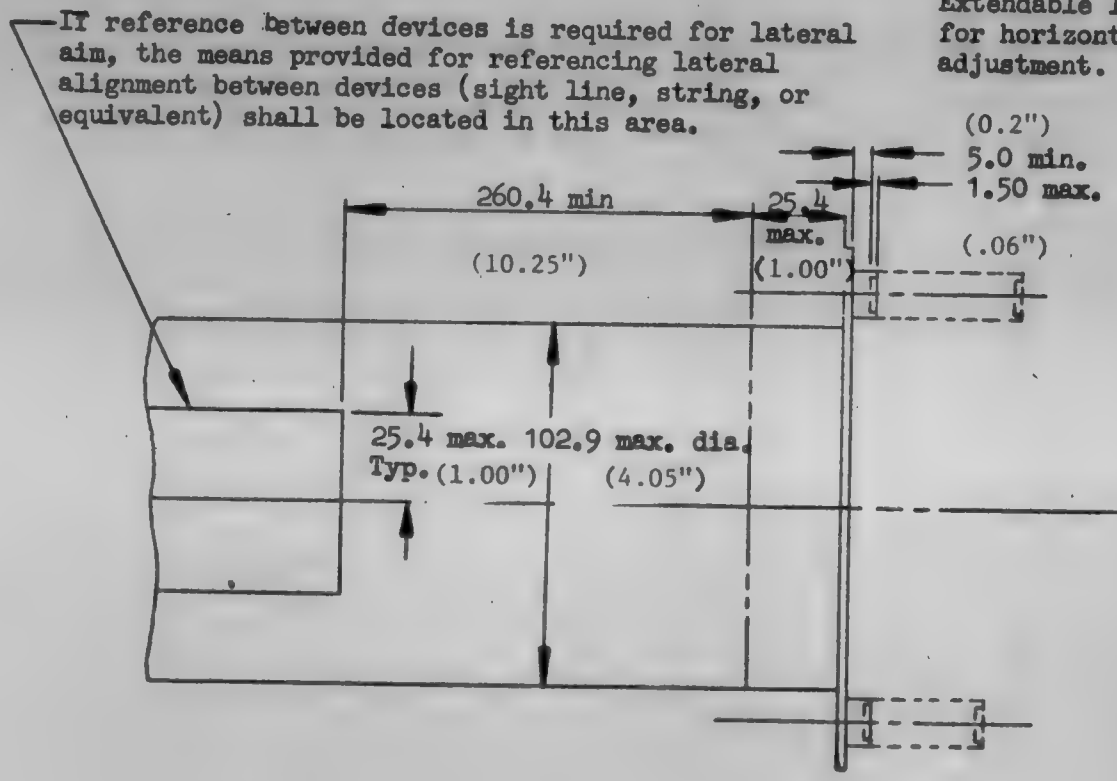

SIDE VIEW AS MOUNTED

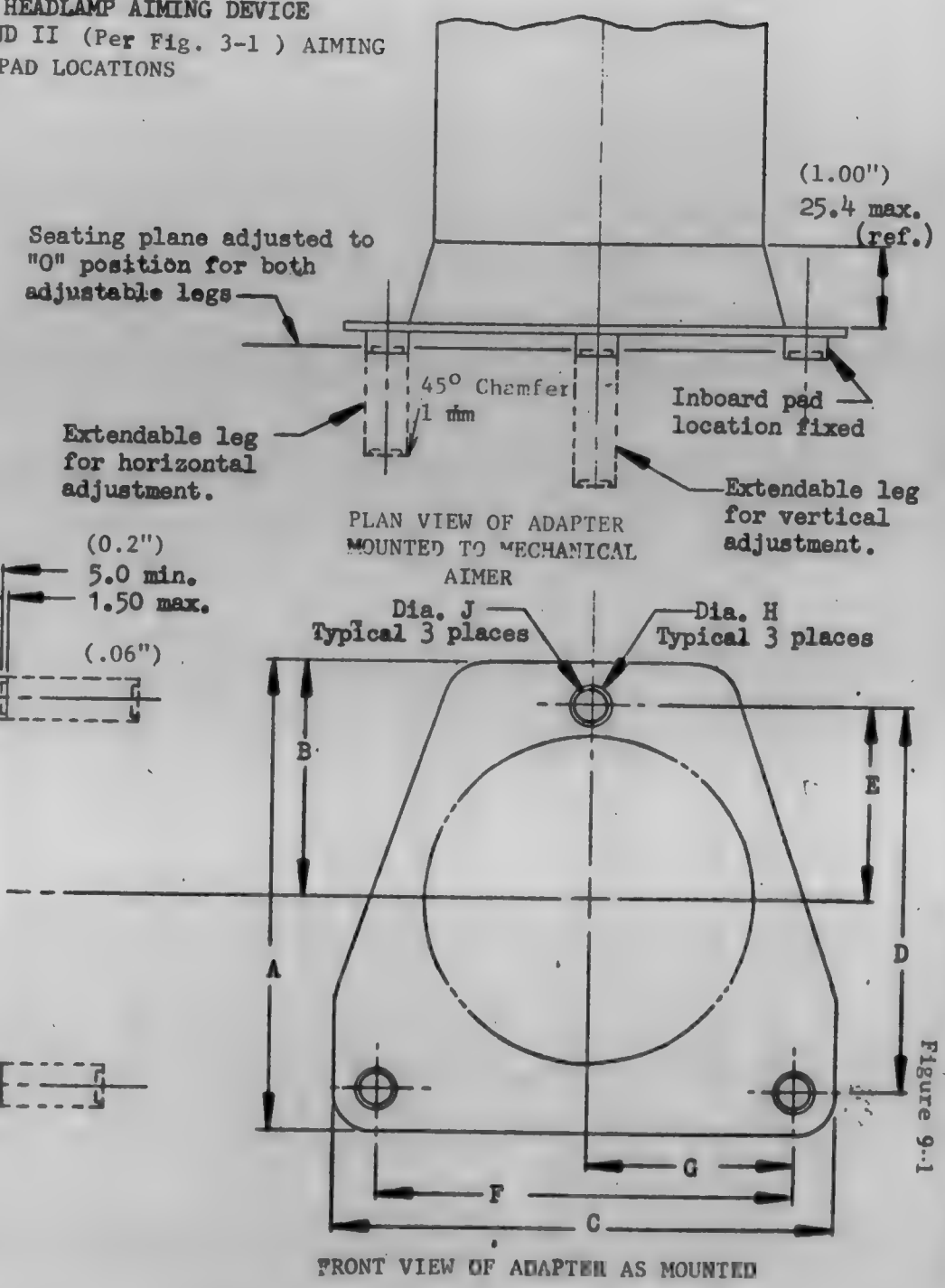

FRONT VIEW OF ADAPTER AS MOUNTED

Figure 9-1

Figure 9-2

DIMENSIONAL SPECIFICATIONS FOR
ADJUSTABLE LOCATING PLATES
FOR USE WITH A MECHANICAL HEADLAMP AIMING DEVICE

(Group I and Group II Aiming Pad Locations)

Dimension	Locating Plate For Group I Aiming Pad Location		Locating Plate For Group II Aiming Pad Location	
	Millimeters	Inches	Millimeters	Inches
A	147.30 ± 0.75	5.80 ± .030	104.00 ± 0.75	4.09 ± .030
B	73.65 ± 0.75	2.90 ± .030	76.00 ± 0.75	2.99 ± .030
C	157.00 ± 0.75	6.18 ± .030	171.00 ± 0.75	6.73 ± .030
D	120.10 ± 0.75	4.73 ± .030	84.33 ± 0.75	3.32 ± .030
E	60.50 ± 0.50	2.38 ± .020	60.00 ± 0.50	2.36 ± .020
F	128.00 ± 0.75	5.04 ± .030	137.16 ± 0.75	5.40 ± .030
G	64.00 ± 0.50	2.52 ± .020	68.58 ± 0.50	2.70 ± .020
H	12.70 ± 0.50	0.50 ± .020	12.70 ± 0.50	0.50 ± .020
J	9.50 ± 0.50	0.37 ± .020	9.50 ± 0.50	0.37 ± .020

BILLING CODE 4910-59-C

Option 2 (Sealed Lamp/Replaceable Light Source)

1. Paragraph S3 Definitions would be revised by adding the following so that all definitions in that section appear in alphabetical order:

"Replaceable bulb headlamp" means a headlamp consisting of a hermetically sealed lens and reflector, and a standardized replaceable light source mounted behind the lens/reflector unit, which projects light through a glass bulb compartment installed inside the reflector and sealed to it.

"Standardized replaceable light source" means [See definition contained in Option 1].

2. A new paragraph S4.1.1.36 would be added as follows:

S4.1.1.36(a) [See S4.1.1.36(a) of Option 1].

(b) [See S4.1.1.36(b) of Option 1].

(c) After an out-of-focus test, the headlamp shall meet the requirements of Figure 2 for each of the out-of-focus test positions. With the headlamp mounted in the goniometer and the mechanical axis on the photometer axis, the headlamp shall be operated at a voltage of 12.8+6mV DC. Candela measurements shall be made with the light source in each of the following six locations not more than 0.02 in., (0.5 mm.) above-below, ahead-behind, and right-left of the design position.

(d) After any test conducted in accordance with subparagraphs (a) through (c) above, the bulb compartment shall not be cracked, broken, or show any evidence of haze.

3. A new paragraph S4.1.1.37 would be added as follows: [See S4.1.1.38 of Option 1].

4. A new paragraph S4.1.1.38 would be added as follows: [See S4.1.1.39 of Option 1].

5. A new paragraph S4.1.1.39 would be added as follows: [See S4.1.1.40 of Option 1].

6. Figures 1 and 2 would be added as follows: [Se Figures 1 and 2 of Option 1].

Option 3—Semi Sealed/Replaceable Bulb System Subject Only to Photometric, Bulb and Aiming Requirements

1. Paragraph S3 Definitions would be revised by adding the following so that all definitions in that section appear in alphabetical order:

"Replaceable bulb headlamp" means [See definition contained in Option 1].

"Standardized replaceable light source" means [See definition contained in Option 1].

2. New sections S4.1.1.36, S41.1.137, S4.1.1.38, S4.1.1.39 and S4.1.1.40 would be added to read as follows:

S4.1.1.36 [See S4.1.1.36(a) and (b) of Option 1].

S4.1.1.37 [See S4.1.1.37 of Option 1].

S4.1.1.38 [See S4.1.1.38 of Option 1].

S4.1.1.39 [See S4.1.1.39 of Option 1].

S4.1.1.40 [See S4.1.1.40 of Option 1].

3. New sections S6, S7, and S8 would be added as follows:

S6 *Photometric Test Procedure.* When tested according to Section S3.5, Photometric Design Requirements, of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles,* each replaceable bulb headlamp shall meet the requirements of S4.1.1.36(b).

S7 [Se S7 of Option 1].

S8 [See S8 of Option 1].

4. New Figures 1 through 3 would be added as follows: [See Figures 1, 3 and 9 of Option 1].

(Secs. 103, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1403, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on January 10, 1983.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 83-1001 Filed 1-11-83; 1:09 pm]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1130

[Docket No. 37130 (Sub-No. 2)]

Special Docket Proceedings—Exemption From Letter-of-Intent Requirements Involving Amounts of $2,000 or Less

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission is proposing to eliminate the Letter-of-Intent requirement in Special Docket cases involving reparation or waiver-of-undercharges of amounts of $2,000 or less. The abbreviated procedure for the waiver of insignificant amounts is necessary to simplify and streamline the Commission's Special Docket process for petitions filed by rail and water carriers.

DATES: Comments are due February 16, 1983.

ADDRESS: An original and, if possible, ten copies of comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, (202) 275-7348.

SUPPLEMENTARY INFORMATION: In Docket No. 37130 (Sub-No. 1) *Special Docket Proceedings—Waiver of Insignificant Amounts and Simplification of Procedures,* 365 I.C.C. 544 (1982), the Commission simplified and streamlined its Special Docket process.[1] For special docket applications including those involving insignificant amounts, Commission regulations call for a carrier to submit: (1) A letter of registration (if needed to toll the statute of limitations); (2) a letter of intent (to pay reparations or waive collection of undercharges); and (3) a letter of disposition (advising the Commission of the action taken). (*See* 49 CFR 1130.2(e)).[2] The regulations do not prescribe a particular format for the letters but do require certain information to be contained in each.

These changes represented a substantial improvement over previous regulations, but further steps can still be taken to lessen the requirements, particularly in situations involving insignificant amounts (defined in the regulations as involving $2,000 of less). Accordingly, we propose to adopt further abbreviated procedures for all special docket cases involving insignificant amounts.

Under the existing regulations, Letters of Intent must contain the names of complainant and defendant, the amount of the claim, the tariff authority, the dates of shipments, the origin and destination, commodity descriptions, an admission of unreasonableness, and evidence demonstrating compliance with the statute of limitations. Within 5 days of receipt at the Commission, letters of intent are available for public inspection for 25 days, during which time an interested party may protest by filing a letter of objection. If no objection is received, the carrier is free to make reparations or waive collection within 15 days following the protest period, and must file a letter of disposition informing the Special Docket Board of its action.

There is an abbreviated procedure for carriers seeking to waiver amounts of $2,000 or less that can be used only when the need for waiver results from Commission suspension of a proposed rate increase subsequently found lawful. (*See* 49 U.S.C. 10707(d)). In this instance,

[1] Special Docket applications are petitions filed by rail and water carriers requesting authority to make refunds to, or waive collection of undercharges from, their customers—a practice that would be unlawful, under the Interstate Commerce Act, absent Commission permission. As part of its special docket procedures, the Commission also has regulations permitting carriers to waive collection of insignificant amounts.

[2] Formerly 49 CFR 1100.23(e).

carriers are not required to submit letters of intent before waiving amounts of $2,000 or less, as long as they submit a Letter of Disposition after the fact, containing the information required at 49 CFR 1130.2(e)(2).

We now propose that *all* special docket actions involving amounts of $2,000 or less be permitted to take advantage of the abbreviated procedure.[3] Carriers would be permitted to make reparations or waive collection of undercharges in amounts of $2,000 or less by submitting a letter of disposition after the fact. The letter of disposition would be deemed to be Commission action on a complaint against rates or charges, the unreasonableness of which are admitted by the carrier. Like other special docket actions, it is a mechanism whereby applicable rates will be deemed to be unreasonable under the particular circumstances attendant to the establishment or maintenance of the assailed rate, as applied only against the specific movements of traffic which are covered by the letter of disposition. Further, the admissions of unreasonableness inherent in these letters of disposition will carry no implication or assumption that the assailed rates would be unreasonable as applied at any other time, or under any other circumstances. The letter of disposition would contain the information required at 49 CFR 1130.2(e)(2). Commission involvement otherwise would be limited to verification of compliance with the statute of limitations. If letters of disposition revealed reparations made in violation of the statute, we would notify the carrier, who would then rectify the matter. Proposed revisions to 49 CFR 1130.2(e) that would implement this proposal are contained in the appendix.

We seek comment on whether this proposal should be adopted. This process would be simpler and less expensive for the carriers, and would limit Commission involvement in what is essentially a bookkeeping function. We expect that financial savings would accrue to carriers through reduced costs in implementing reparations and waivers, and note also that the proposed rules would eliminate the current waiting period before reparation or waiver could be made. This would benefit the shipping public through expedited receipt of monies, and allow final closure of carrier billings for past shipments.

[3] Our records reveal that since the June 1, 1982 implementation of the current special docket process, 18.6% (51 of a total of 274) of these cases involved amounts of $2,000 or less.

On the other hand, we recognize that adoption of this proposal would eliminate public notice of a carrier's proposed action, and, therefore, the opportunity to protest it. To counter balance these results and enhance public awareness, we propose to keep a file of letters of disposition which will be open for public inspection. The letters would be kept on file for three years from the date the Commission received them. The Commission would entertain the complaint of any aggrieved person who believes that a letter of disposition shows that a carrier has violated the Act by unlawfully making reparations or waiving undercharges.

We invite comment on whether abuses of the letter of disposition system are likely to occur and, if so, whether keeping letters of disposition in a public file would provide the public the means to challenge any such abuses. We also invite comments on the specifics of this proposal including the jurisdictional amount and the information requirements as well as comments on other modifications or improvements to the special docket procedures which could be addressed in future rulemakings.

We certify that adoption of this proposal would not have a significant economic impact on a substantial number of small entities. The proposal involves only situations in which rail and water carriers seek voluntarily to charge less money than indicated in the carrier's applicable tariffs or to refund amounts that admittedly exceeded the maximum reasonable rate. Shippers and carriers would benefit from reduced cost and delay in completing the reparation or waiver process. We invite comments on this matter.

(5 U.S.C. 553 and 49 U.S.C. 10321)

It does not appear that this proposal will significantly affect the quality of the human environment or conservation of energy resources.

List of Subjects in 49 CFR Part 1130

Administrative practice and procedure.

Dated: January 5, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,
Secretary.

Appendix

PART 1130—[AMENDED]

We propose to amend Chapter X of Title 49 of the Code of Federal Regulations by amending § 1130.2 as follows:

§ 1130.2 [Amended]

1. The phrase "when such amounts are more than $2,000," would be added in paragraph (e)(1) in the second sentence between the third comma and the word "petitions."

2. The following new material would be added to follow the existing paragraph (e)(1):

§ 1130.2 When damages sought.

* * * * *

(e) * * *

(1) * * * If the amount to be waived and/or refunded is $2,000.00 or less, no petition (Letter of Intent) need be filed prior to waiver or reparation. However, a letter of Disposition informing the Commission of the action taken, the date of the action, the amount waived or refunded and the date or dates shipments moved shall be submitted to the Special Docket Board, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days of the waiver and/or refund. The Letter of Disposition is deemed to be a Commission action on a complaint for the payment of reparations or for the waiver of under charges of $2,000 or less. Letters of disposition will be kept in a public file at the Interstate Commerce Commission for three years from the date the Commission receives them. Interested persons may see the file by inquiring at Special Docket Board, Bureau of Traffic, during normal working hours of the Commission.

[FR Doc. 83-1178 Filed 1-14-83; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Parts 1162, 1306, and 1307

[Ex Parte No. MC-165]

Exemption of Motor Contract Carriers From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice to the Parties in Notice of Proposed Rulemaking.

SUMMARY: The Commission, in its notice of proposed rulemaking (47 FR 57303, December 23, 1982) requested comments on its proposal to relieve all motor contract carriers from tariff filing requirements. It also requested that any comments and replies be served upon the Contract Carrier Conference of the American Trucking Associations; The Bureau of Competition, Federal Trade Commission; United Forwarding Inc.; Carnaco, Inc.; and the law firm of Rea,

Cross and Auchincloss. However, the notice inadvertently omitted the addresses of these parties. In order to facilitate service of comments, the addresses are listed below.

ADDRESS:

Contact Carrier Conference of the American Trucking Associations, Thomas A. Callaghan, Jr., Attorney At Law, 1730 Rhode Island Avenue, NW., Washington, DC 20036

Bureau of Competition, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, DC 20528

United Forwarding, Inc., William J. Monheim, 13710 E. Whittier Blvd., Suite 203, P.O. Box 1756, Whittier, CA 90609

Carnaco, Inc., 5045 Wilshire Blvd., Los Angeles, CA 90036

David H. Coburn, Rea, Cross and Auchincloss, 700 World Center Building, 918 16th Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT:

Jane Morris, (202) 275–6434

or

Wendy Tillis, (202) 275–6445.

(49 U.S.C. 10321 and 5 U.S.C. 553)

Decided: January 11, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–1170 Filed 1–14–83; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 48, No. 11
Monday, January 17, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking; Public Meeting

Pursuant to the Federal Advisory Committe Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Rulemaking of the Administrative Conference of the United States, to be held at 9:00 a.m., Tuesday, February 8, 1982, at 2120 L Street, N.W., Washington, D.C. The meeting will be held on the Lower Level, FTC Hearing Room No. 3.

The Committee will consider possible recommendations based upon Professor Ellen R. Jordan's study of agency use of the Administrative Procedure Act's "good cause" exemptions from procedural requirements that apply to agency rulemaking. The Committee also will discuss with Professor Thomas O. McGarity the scope and design of his future study of agency implementation of regulatory analysis requirements in rulemaking.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days prior to the meeting. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Michael W. Bowers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037 (Telephone: 202-254-7065.) Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.
January 10, 1983.

[FR Doc. 83-1200 Filed 1-14-83; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

World Agricultural Outlook Board; Organization, Functions, and Availability of Information

Notice is hereby given for the guidance of the general public as to the organization, functions, and availability of information for the World Agricultural Outlook Board (WAOB).

Part 1—Organization and Functions

Section 1—*General.* The WAOB was established in the U.S. Department of Agriculture pursuant to Secretary's Memorandum No. 1920, dated June 3, 1977. The original designation of World Food and Agricultural Outlook and Situation Board was shortened to WAOB on June 17, 1981. Secretary's Memorandum No. 1920 abolished the Outlook and Situation Board (OSB) in the Economic Research Service, and transferred all OSB functions to the new Board. Subsequent Secretary's Memoranda have assigned further responsibilities to the Board in the areas of interagency commodity estimates (Secretary's Memorandum No. 1769, Revised, dated February 16, 1978), weather and climate activities (Secretary's Memorandum No. 1937, dated February 17, 1978), and remote sensing (Secretary's Memorandum No. 1951, dated August 1, 1978). The specific delegations of authority from the Assistant Secretary for Economics to the Chairman, WAOB, are contained in 7 CFR 2.86.

Section 2—*Functions.* The WAOB has four major areas of responsibility:

(a) Agricultural Outlook and Situation.

(1) Coordinate and review all crop and commodity data used to develop outlook and situation material within the Department of Agriculture.

(2) Oversee and clear for consistency of analytical assumptions and results, all estimates and analyses which significantly relate to international and domestic commodity supply and demand. This includes such estimates and analyses prepared for public distribution by the Foreign Agricultural Service, the Economic Research Service, or by any other agency or office of the Department.

(3) Participate in planning and developing research programs relating to improving the Department's forecasting and estimating capabilities.

(4) Provide liaison between the Department and Commodity Futures Trading Commission to assure that the futures market serves the best interest of agriculture and the public.

(5) Plan and participate in Departmental, interdepartmental, regional and international outlook conferences and briefings, to maintain an awareness of current and upcoming economic issues significant to the food and agricultural system.

(b) Interagency Commodity Estimates.

(1) Establish Interagency Commodity Estimates Committees to bring together estimates and analyses from supporting agencies and to develop official estimates of supply, utilization, and prices for commodities.

(2) Review for consistency of analytical assumptions and results, all proposed decisions made by the Interagency Commodity Estimates Committee prior to any release outside the Department.

(c) Weather and Climate. Serve as a focal point within the Department for coordination of weather, climate, and related crop monitoring activities.

(d) Remote Sensing.

(1) Provide technical assistance, coordination, and guidance to Department agencies in planning, developing, and carrying out satellite remote sensing activities to assure full consideration and evaluation of advanced technology.

(2) Coordinate administrative, management, and budget information relating to Department's remote sensing activities.

Section 3—*Organization.* The WAOB consists of a small staff of career professionls located in Washington, D.C. The principal officers of the Board are the Chairman, Deputy Chairman for Economic Research, Weather, and Remote Sensing, Deputy Chairman for Economic Intelligence, Chief Meterologist, and Remote Sensing

Coordinator. Commodity and Regional Analysts on the Board have independent authority to coordinate and review all crop and commodity data used to develop outlook and situation material in their assigned area.

Section 4—*The Chairman.* The Chairman, under the general supervision of the Assistant Secretary for Economics, is responsible for planning and implementing policies and procedures for improving the consistency, objectivity, and reliability of situation, outlook and related farm policy evaluations; integrating and coordinating the Department's domestic and international food and agriculture information system; and coordinating all weather, climate and crop monitoring activities within the Department.

Section 5—*The Deputy Chairman for Economic Intelligence.* The Deputy Chairman for Economic Intelligence shares with the Chairman responsibility for formulating current, intermediate and long-range policies and programs of the Board in the areas of commodity analysis, clearance review and economic intelligence.

Section 6—*The Deputy Chairman for Research, Weather, and Remote Sensing.* The Deputy Chairman for Research, Weather, and Remote Sensing shares with the Chairman responsibility for formulating current, intermediate and long-range policies and programs of the Board in the areas of weather and climate, remote sensing, and research. He or she further directs the Joint Agricultural Weather Facility and related activities.

Section 7—*Chief Meteorologist.* The Chief Meteorologist is the principal staff specialist in atmospheric sciences for USDA and is responsible for technical leadership in the planning, coordination, analysis and review of the weather and climate programs of the Department.

Section 8—*Remote Sensing Coordinator.* The Remote Sensing Coordinator plans and coordinates research and operational programs concerned with acquisition, processing, analysis and dissemination of remotely-sense information related to the effects of economic conditions and interrelated biological and physical factors upon production of agricultural and forest products and the land resource base.

Section 9—*Authority to Act for the Chairman.* In the absence of the Chairman, the following officials are authorized to act as Chairman in the order indicated:

Deputy Chairman for Economic Intelligence.
Deputy Chairman for Economic Research, Weather, and Remote Sensing.

Section 10—*Delegations.* The Deputy Chairman for Economic Intelligence, the Deputy Chairman for Economic Research, Weather, and Remote Sensing, the Chief Meteorologist and the Remote Sensing Coordinator are hereby delegated authority to take any action necessary to carry out their assigned responsibilities.

Part II—Availability of Information

Section 11—*General.* This part is issued in accordance with the regulations of the Secretary of Agriculture in Part I, Subpart A, of Subtitle A of Title 7, CFR (7 CFR 1.1–1.16), and Appendix A thereto, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this part, govern the availability of records of WAOB to the public.

Section 12—*Indexes.* 5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying and that a current index of these materials likewise be made available. WAOB does not maintain any materials within the scope of these requirements.

Section 13—*Requests for Records.* Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3(a) and addressed to: Chief, Records, Systems, and Analysis Branch, Administrative Services Division, Economics Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250. Authority is hereby delegated to this official to make determination regarding such requests in accordance with 7 CFR 1.4(c).

Section 14—*Appeals.* Any person whose request for records is denied shall have the right to appeal that denial in accordance with 7 CFR 1.3(e) and 1.7. All appeals shall be addressed to: Chairman, World Agricultural Outlook Board, U.S. Department of Agriculture, Washington, D.C. 20250.

Section 15—*Requests For Published Data and Related Information.* Published data, details on subscriptions to WAOB publications, and related information on all WAOB programs may be obtained from the Chairman, Room 5143 South Building, WAOB, U.S. Department of Agriculture, Washington, D.C. 20250.

James R. Donald,
Chairman, World Agricultural Outlook Board.

[FR Doc. 83-1218 Filed 1-14-83; 8:45 am]
BILLING CODE 3410-GL-M

CIVIL AERONAUTICS BOARD

[Docket 39788; Order 83-1-43]

Air Florida Systems-Western Acquisition; Show Cause Proceeding; Order

By Order 82-1-146 (January 20, 1982), the Board approved under section 408 of the Federal Aviation Act, 49 U.S.C. 1378, the application of Air Florida Systems, Inc. (Systems) and its subsidiaries, including Air Florida, Inc., to acquire control of Western Air Lines, Inc. Systems planned to acquire control by purchasing Western's stock. It did not plan to merge Western into Air Florida, so the transaction approved by the Board involved no transfer of Western's certificate authority. We determined, therefore, that our order did not need to be submitted to the President under section 801 of the Act, 49 U.S.C. 1461, a determination consistent with both long-standing Board practice and the language and purpose of section 801. However, on March 30, 1982, the United States Department of Justice (DOJ) filed a petition for review of our order in the United States Court of Appeals for the District of Columbia Circuit, *U.S. v. CAB*, D.C. Cir. No. 82-1341. It is DOJ's position that we should have submitted our order to the President under section 801. Oral argument is scheduled for Janaury 24, 1983.

Despite the Board's approval of the proposed acquisition of control, Systems purchased no more Western stock (it had acquired 11.7 percent of Western's outstanding stock pending Board approval of the acquisition). Rather, Systems decided to sell all of its Western stock last fall. Thus it no longer has any control of Western. As Systems was not going forward with its proposed acquisition of control, the DOJ lawsuit appeared to be moot. However, in discussions with our staff the Department of Justice took the position that the case would not be moot unless the Board formally vacated its approval of Systems' proposed acquisition of control. While we continue to believe that our interpretation of the Act's presidential review requirement is correct and would be affirmed by the court, the court should not be compelled to resolve that issue in a case where doing so would have no practical effect.

We will vacate our earlier order insofar as it approves the transaction then proposed by Systems. In our view our earlier approval was limited to the transaction then proposed by Systems and was based on the factual circumstances of that time. If Systems were to make a new effort to acquire

control of Western, we believe it would have to obtain Board approval of the new transaction. In considering any such proposal, of course, we could rely heavily on the factual and legal conclusions made in Order 82–1–148 to the extent that those findings remained valid despite the passage of time. Under the circumstances, our action here should not prejudice Systems. Any person opposed to such a transaction (or persons arguing that it should be approved only on certain conditions) could present their arguments, and we would be willing to reexamine our earlier conclusions, including our decision that section 801 would not apply to a control acquisition where there is no transfer or modification of a carrier's certificate authority for an international route.

To give interested persons an opportunity to comment on our determination to vacate our approval of Systems' earlier proposal to acquire control of Western, we will defer the effective date of this order for a period of five calendar days from the date it is issued to give them an opportunity to comment if any one so desires. If no comments are filed, this order shall be come final on the sixth calendar day after its issuance.

Accordingly,

We vacate ordering paragraph one of Order 82–1–148.

This order shall be published in the **Federal Register** and served on all parties of record in Docket 39788. It shall become effective six (6) calendar days after the date it is issued.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–1236 Filed 1–14–83; 8:45 am]

BILLING CODE 6320–01–M

CIVIL RIGHTS COMMISSION

Illinois Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00a and will end at 2:00p, on February 4, 1983, at the John C. Kluczynski Building, 230 South Dearborn Street, in Room 3280, Chicago, Illinois, 60604. The purpose of this meeting will be to discuss followup activities to the housing report.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Thomas J. Pugh, 500 West Melborune Avenue, Peoria, Illinois, 61604, (309) 671–7475 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 10, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–1213 Filed 1–14–83; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–060]

Animal Glue and Inedible Gelatin From The Netherlands; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on animal glue and inedible gelatin from the Netherlands. The review covers the two known Dutch exporters and two known third-country resellers of this merchandise to the United States and the period December 1, 1980 through November 30, 1981. The review indicates the existence of dumping margins for certain firms.

As a result of the review the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of the sales during the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Harry A. Patrick or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 35028) the final results of its last administrative review of the antidumping finding on animal glue and inedible gelatin from the Netherlands (42 FR 64115, December 22, 1977) and announced its intent to conduct the next administrative review by the end of December 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. They are organic colloids of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of two Dutch exporters and two third-country resellers of this merchandise to the United States, Wed. P. Smits & Zoon B.V. ("Smits"), b.v. Lijmfabriek C. Trommelen ("Trommelen"), F. Leiner & Co., Ltd. (U.K.), and Fein & Co., Ltd. (U.K.). The review covers all four firms and the period December 1, 1980 through November 30, 1981.

The Department received adequate questionnaire responses from all four firms. Two firms had no shipments to the U.S. during the period. For firms with no sales the estimated antidumping duty cash deposit rate will be the most recent rate calculated for each firm.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772(b) of the Tariff Act, since all sales were made to unrelated purchasers in the U.S. prior to importation. Purchase price was based on the C & F or FOB packed price and, where applicable, deductions were made for forwarding fees, foreign inland freight, ocean freight, and loading charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773(a) of the Tariff Act, since sufficient quantities of such or

similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the delivered price with adjustments for inland freight and differences in the packing costs, where applicable.

We denied a claimed adjustment for differences in the merchandise, since no data quantifying home market differences was supplied. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the period December 1, 1980 through November 30, 1981:

	Margin (percent)
Exporter:	
B.V. Limfabriek C. Trommelen	23.7
Wed. P. Smits & Zoon B.V	0.2
Third-Country Reseller:	
Fein & Co., Ltd. (U.K.)	[1] 43.0
F. Leiner & Co., Ltd. (U.K.)	[1] 48.9

[1]No sales during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing. The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time period involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for by section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins shall be required on all shipments of Dutch animal glue from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publications of the final results. The Department waives the deposit requirement for Smits since the margin for that firm is less than 0.5 percent and therefore *de minimis*. These deposit requirements, and the waiver for Smits, shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 11, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1234 Filed 1-14-83; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517). A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00352. Applicant: University of Missouri-Columbia, School of Medicine, 807 Stadium Road, Health Sciences Center, Columbia, Missouri 65212. Instrument: Electron Microscope, EM 10CR. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: See Notice on page 49055 in the Federal Register of October 29, 1982. Instrument ordered: June 7, 1982.

Docket No. 82-00354. Applicant: U.S. Environmental Protection Agency, Environmental Research Laboratory, Sabine Island, Gulf Breeze, Florida 32561. Instrument: Electron Microscope, EM 10CA. Manufacturer: Carl Zeiss, West German. Intended use of instrument: See Notice on page 49055 in the Federal Register of October 29, 1982. Instrument ordered: May 13, 1982.

Docket No. 82-00355. Applicant: USDA, Agriculture Research Service, Arthopod-borne Animal Diseases Research, Building 45-S3, Denver Federal Center, Denver, Colorado 80225. Instrument: Electron Microscope, EM 410 and Accessories. Manufacturer: N.V. Phillips, The Netherlands. Intended use of instrument: See Notice on page 49055 in the Federal Register of October 29, 1982. Instrument ordered: June 25, 1982.

Docket No. 82-00360. Applicant: The University of Texas at Austin, Engineering Science Building, Room 403, Austin, Texas 78712. Instrument: JEM-1200 EX Analytical Electron Microscope and Accessories. Manufacturer: JEOL Limited, Japan. Intended use of instrument: See Notice on page 49056 in the Federal Register of October 29, 1982. Instrument ordered: August 23, 1982.

Docket No. 82-00361. Applicant: University of Vermont, Department of Anatomy and Neurobiology, College of Medicine, Given Building, Burlington, VT 05405. Instrument: Electron Microscope, Model JEM 100-CX and Accessories. Manufacturer: JEOL Limited, Japan. Intended use of instrument: See Notice on page 49056 in the Federal Register of October 29, 1982. Instrument ordered: July 30, 1982.

Docket No. 82-00375. Applicant: Iowa State University, Purchasing Department, 2nd Floor, Physical Plant, Ames, Iowa 50011. Instrument: Electron Microscope, JEM 100CX/SSG and Accessories. Manufacturer: JOEL Limited, Japan. Intended use of instrument: See Notice on page 51437 in the Federal Register of November 15, 1982. Instrument ordered: August 26, 1982.

Docket No. 82-00377. Applicant: University of Illinois at Urbana-Champaign, Purchasing Division, 223 Administration Building, 506 S. Wright St., Urbana, Illinois 61801. Instrument: Electron Microscope, EM 420. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of instrument: See Notice on page 53083 in the Federal Register of November 24, 1982. Instrument ordered: June 17, 1982.

Docket No. 82-00378. Applicant: The University of Texas at Austin, Department of Botany, Austin, Texas 78712. Instrument: Electron Microscope, EM 420 and Accessories. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of instrument: See Notice on page 51437 in the Federal Register of November 15, 1982. Instrument ordered: September 1, 1982.

Docket No. 82-00379. Applicant: St. Catherine Hospital, 4321 Fir Street, East Chicago, Indiana 46312. Instrument: Electron Microscope, JEM-100S and Accessories. Manufacturer: JEOL Limited, Japan. Intended use of instrument: See Notice on page 51436 in the Federal Register of November 15, 1982. Instrument ordered: March 30, 1982.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each instrument establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each instrument described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign instruments to which the foregoing applications relate, for such purposes as these instruments are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-1190 Filed 1-14-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Bureau of Standards Visiting Committee; Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the National Bureau of Standards' Visiting Committee will meet on Wednesday, February 2, 1983, from 8:30 a.m. to 10:30 a.m. in Lecture Room B, Administration Building, National Bureau of Standards, Gaithersburg, Maryland, after which time the Visiting Committee members will meet with a number of NBS scientists in their various offices and laboratories until 5:00 p.m.

The NBS Visiting Committee is composed of five members prominent in the field of science and technology and appointed by the Secretary of Commerce.

The purpose of the meeting is to review the efficiency of the Bureau's scientific work and the condition of its equipment in order to assist the Committee in reporting to the Secretary of Commerce as required by law.

The public is invited to attend, and the Chairman will entertain comments or questions at an appropriate time during the meeting. Any person wishing to attend the meeting should inform Mrs. Carolyn Goodfellow, Office of Research and Technology Applications, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-2226.

Dated: January 11, 1983.

Ernest Ambler,

Director.

[FR Doc. 83-1192 Filed 1-14-83; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Ad Hoc Committee to Assess Approaches to Space-Based Missile Warning Systems will hold meetings on February 1-3, 1983 from 8:30 a.m. to 5:00 p.m. at the Pentagon, Washington, DC in Room 5D982.

The Group will receive classified briefings and hold classified discussions on current requirements, capabilities, advanced technologies and cost comparisons as related to potential space-based missile warning systems.

The meetings concern matters listed in section 522(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly, the meetings will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-1302 Filed 1-14-83; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of information collection; (3) Abstract statement of the need for and the use to be made of the information collected; (4) Type of respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Involuntary Child and Spousal Support Allotments

The proposed rule implements section 172 of the Tax Equity and Fiscal Reponsibility Act of 1982 (Pub L. 97-248). It prescribes uniform regulations for the Military Departments in the processing of involuntary child or child and spousal support allotments.

Former spouses, spouses, and other authorized persons: 200 responses; 100 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3225, NEOB, Washington, DC 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, the Pentagon, Washington, DC 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from James T. Jasinski, OASD(C), Room 3A882, the Pentagon, Washington, DC 20301, telephone (202) 697-0536.

Dated: January 12, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-1238 Filed 1-14-83; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of information collection; (3) Abstract statement of the need for and the use to be made of the information collected; (4) Type of respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of

the information proposal may be obtained.

New

Former Spouse Payments From Retired Pay

The proposed rule implements section 1002 of Pub. L. 97–252. It prescribes uniform regulations authorizing direct payments from a member's retired pay to a former spouse in response to court ordered alimony, child support, or division of property.

Former spouse or spouses: 23,500 responses; 7,500 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3225, NEOB, Washington, DC 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, the Pentagon, Washington, DC 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from James T. Jasinski, OASD(C), Room 3A882, the Pentagon, Washington, DC 20301, telephone (202) 697–0536.

Dated: January 12, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–1230 Filed 1–14–83; 8:45 am]

BILLING CODE 3810–01–M

Defense Systems Management College Board of Visitors Meeting

A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 202, Fort Belvoir, VA, on Wednesday, 23 February 1983, from 7:30 a.m. until 4:30 p.m. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitations on the space available, allocation of seating will be made on a first-come, first-serve basis. Persons desiring to attend the meeting should call Lieutenant Commander Judy Ray (703–664–1175) to reserve a seat.

Dated: January 11, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–1175 Filed 1–14–83; 8:45 am]

BILLING CODE 3810–01–M

DELAWARE RIVER BASIN COMMISSION

Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, January 26, 1983 beginning at 1:30 p.m. The hearing will be a part of the Commission's regular January business meeting which is open to the public. The meeting and hearing will be held in the Commission's Goddard Conference Room at its offices at 25 State Police Drive, West Trenton, New Jersey. The subject of the hearing will be:

1. *Keystone Water Company—Yardley District (D–79–16 CP).* A surface water withdrawal to serve the applicant's distribution system. The proposed maximum diversion will be 4.0 million gallons per day (mgd) (an increase of 2.0 mgd over the existing withdrawal). The intake will be located at River Mile 137.28 on the Delaware River in Lower Makefield Township, Bucks County, Pennsylvania.

2. *Chalfont-New Britain Township Joint Sewage Authority (D–82–50 CP).* A sewage treatment project to serve Chalfont Borough, New Britain Borough, and New Britain, Doylestown, and Plumstead Townships. Additions to sewage treatment facilities will improve reliability and allow additional flow in Bucks County, Pennsylvania. The treatment plant will be modified to remove 91 percent BOD and 92 percent suspended solids from a sewage flow of 1.90 million gallons per day. Treated effluent will discharge to Neshaminy Creek in Doylestown Township, Bucks County, Pennsylvania.

3. *Old Craigsville Television Association (D–82–46).* An overhead cable crossing to provide improved television reception for area homes on the East Bank of the Delaware River, near Handsome Eddy, New York. The proposed crossing will extend for a distance of approximately 700 feet from Lumberland Township, Sullivan County, New York, across the Delaware River to Shohola Township, Pike County, Pennsylvania. The crossing will be located approximately three miles downstream from the Town of Barryville, New York, and will be located in the Upper Delaware Wild and Scenic River area.

Documents relating to these projects may be examined at the Commission's offices. Please contact Mr. David B. Everett.

Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

Notice of Availability

"Basinwide Report and Executive Summary"

The Commission has completed a Special Ground Water Study "Basinwide Report and Executive Summary". The Report, which recommends a ground water management program for the Delaware River Basin, is available, in limited quantities, upon request to Mr. Raymond J. DiFrancesco.

Susan M. Weisman,

Secretary.

January 11, 1983.

[FR Doc. 83–1221 Filed 1–14–83; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

Intergovernmental Advisory Council on Education; Hearing and Meeting

AGENCY: Education Department.

ACTION: Notice of Hearing and Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a hearing and meeting of the Intergovernmental Advisory Council on Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: February 3–4, 1983.

ADDRESS: Federal Building, Room 406, 50 United Nations Plaza, San Francisco, California 94102.

FOR FURTHER INFORMATION CONTACT: Laverne Johnson, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, 400 Maryland Avenue SW., Room 3047, Washington, D.C. 20202, (202) 472–6464.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education is established under Section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council is established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education.

The Intergovernmental Advisory Council on Education will conduct a Public Hearing on February 3, 1983. The hearing will focus on:

9 a.m.—Tuition Tax Credits
11:15 a.m.—Press Conference
1 p.m.—Impact of Block Grant Programs
3 p.m.—Federal Role in Education

Individuals, organizations, and associations need to *preregister* for the February 3 hearing. To preregister, due

to limited space and time, write Dr. Theresa H. Marshall, Executive Director, Intergovernmental Advisory Council on Education, 400 Maryland Avenue SW., Room 3047, Washington, D.C. 20202 (telephone—(202) 472–6464). (Commenters will be limited to five (5) minutes. Each commenter must provide written comments. Those wishing to submit comments only may do so by mailing them to Dr. Marshall.)

The Intergovernmental Advisory Council will meet on February 4. The meeting is open to the public and is scheduled from 9 a.m. to 3:30 p.m.

The proposed agenda includes:

—Critique of February 3 Hearing.

—Discussion of Upcoming Hearings.

—Questionnaire Regarding Developments in Education.

Records are kept of all Council proceedings and are available for public inspection at the office of the Intergovernmental Advisory Council on Education, 400 Maryland Avenue SW., Room 3047, Washington, D.C.

Signed at Washington, D.C., on January 12, 1983.

Wendy Borcherdt,

Acting Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 83–1195 Filed 1–14–83; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Committee on Accreditation and Institutional Eligibility; Meeting

AGENCY: Department of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a public meeting of the National Advisory Committee on Accreditation and Institutional Eligibility. It also decribes the functions of the Committee. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 1.0(a)(2)). This document is intended to notify the general public of its opportunity to attend and to participate.

DATE: February 16, 1983, 8:30 a.m. to 5:30 p.m. local time. Requests for oral presentations before the Committee must be received on or before February 4, 1983. Written comments may be submitted at any time prior to the meeting and will be considered by the Advisory Committee.

ADDRESS: Capitol Holiday Inn, 550 C. Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Richard J. Rowe, Director, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3030, ROB–3), U.S. Department of Education, Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Accreditation and Institutional Eligibility is authorized by Section 1205 of the Higher Education Act as amended by Pub. L. 96–374 (20 U.S.C. 1145). The Committee advises the Secretary of Education regarding his responsibility to publish a list of nationally recognized accrediting agencies and associations, State agencies recognized for the approval of public postsecondary vocational education, and State agencies recognized for the approval of nurse education.

The Committee also advises the Secretary of Education regarding policy affecting both recognition of accrediting and approval bodies, and institutional eligibility for participation in Federal funding programs.The meeting on Feburary 16 will be open to the public. The meeting will be held at the Capitol Holiday Inn, 550 C Street, SW., Washington, D.C. The Committee will review petitions by the following accrediting and state approval agencies relative to initial or continued recognition by the Secretary of Education. The Committee will also hear presentations by representatives of these petitioning agencies and interested third parties. The agencies having petitions pending before the Committee are:

Petitions for Recognition as Nationally Recognized Accrediting Agencies and Associations

A. Petition for Initial Recognition

Commission on Opticianry Accreditation.

B. Petitions for Continuation of Recognition

Accrediting Council on Education in Journalism, Accrediting Committee.

American Assembly of Collegiate Schools of Business, Accreditation Council.

American Dietetic Association, Commission on Accreditation.

American Psychological Association, Committee on Accreditation.

Western Association of Schools and Colleges, Accreditation Commission for Community and Junior Colleges.

Petitions for Recognition as State Agencies for the Approval of Public Postsecondary Vocational Education

A. Petitions for Initial Recognition

Delaware State Agency for the Approval of Postsecondary Vocational/Technical Education Institutions and Programs.

Puerto Rico State Agency for the Approval of Public Postsecondary Vocational Technical Education.

A Portion of this meeting will be used by the Advisory Committee to make final recommendations to the Secretary on agencies reviewed under a special procedure. The list of agencies and a description of the procedure were published in the Federal Register on January 14, 1983.

Requests for oral presentations before the Committee should be submitted in writing to Richard J. Rowe (address as above). Requests should include the names of all persons seeking an appearance, the organization they represent, and the purpose for which the presentation is requested. Requests must be received on or before February 4, 1983. Time constraints may limit oral presentations. However, all written material will be considered by the Advisory Committee.

A record will be made of the proceeding of the meeting and will be available for public inspection at the office of the Eligibility and Agency Evaluation Staff.

Signed at Washington, D.C., on January 12, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83–1211 Filed 1–14–83; 8:45 am]

BILLING CODE 4000-01-M

Training Program for Special Programs Staff and Leadership Personnel Proposed Training Priorities for Fiscal Year 1983

AGENCY: Education Department.

ACTION: Notice of proposed training priorities for fiscal year 1983.

SUMMARY: The Secretary of Education proposes funding priorities for training activities to be funded under the Training Program for Special Programs Staff and Leadership Personnel. The purpose for establishing training priorities is to assist applicants for funding in developing training proposals which address the most significant training needs of the Special Programs staff and leadership personnel. Training grant awards are made in order to improve the operation of the Special Programs projects.

DATE: Interested persons are invited to submit comments or suggestions regarding the proposed training priorities on or before February 16, 1983.

ADDRESS: All written comments and suggestions should be sent to John L. Hunt, Program Development Branch,

Division of Student Services, ROB–3 Room 3514, Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: John L. Hunt at the address provided above or call (202) 245–2511.

SUPPLEMENTARY INFORMATION: The Training Program for Special Programs Staff and Leadership Personnel provides Federal financial assistance to institutions of higher education and public and private nonprofit agencies and organizations to train staff and leadership personnel employed or preparing for employment in projects funded under the Special Programs for Students from Disadvantaged Backgrounds (Talent Search, Upward Bound, Special Services for Disadvantaged Students, and Educational Opportunity Centers). The Secretary, after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs, is authorized to award training grants under this program. Authority for this program is contained in sections 417A and 417F, Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070d, 1070d–1d).

The Department of Education invites public comment on the proposed priorities for training including suggested modifications to the proposed priorities. The following priorities represent areas in which the Department proposes to support training activities in program year 1983–84 under the Training Program. Publication of these proposed priorities does not bind the Department to fund in the listed areas.

Proposed Training Priorities for Fiscal Year 1983: The Secretary requests public comment on giving funding priority in FY 1983 to the following training activities:

(1) Regional workshops for new Special Programs project directors (one year or less in their current positions) to improve their skills in administering a Special Programs project in order to prevent mismanagement or marginal results;

(2) Short-term workshops which enhance the skills of Special Programs instructional staff to provide basic skills development;

(3) Short-term workshops which provide Special Programs counselors/instructors with techniques and information on appropriate uses of standardized tests and student assessment procedures;

(4) Seminars/workshops to enhance the knowledge of Special Programs project directors, instructors, and counselors in cost effective uses of computers and other advanced educational technology;

(5) Regionally based training seminars/workshops for Special Programs project staff on the availability of, and application processes for, student financial assistance for postsecondary education; and

(6) Seminars to enhance the skills of project staff who provide services to the physically disabled.

The Secretary will consider comments from the public on other training topics which are germane to the Special Programs for Students from Disadvantaged Backgrounds. To reiterate, the Special Programs include only the Talent Search, Upward Bound, Special Services for Disadvantaged Students, and Educational Opportunity Centers programs currently funded by the U.S. Department of Education.

This Notice does not solicit application proposals or concept papers. The final priorities will be selected on the basis of public comment, the availability of funds, and any other relevant Departmental considerations. Final priorities will be announced in the form of an Application Notice in the **Federal Register**. That Notice will solicit grant applications and establish the closing date.

(Catalog of Federal Domestic Assistance Number: 84.103 Training Program for Special Programs Staff and Leadership Personnel)

Dated: December 30, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 83–1220 Filed 1–14–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[RP82–115–001]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

January 11, 1983.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on December 30, 1982, tendered for filing Proposed and alternate tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1. The tariff sheets are proposed to become effective, subject to refund, on January 1, 1983.

Consolidated states that the proposed tariff sheet, Thirty-Second Revised Sheet No. 16, reflects a Stipulation and Agreement filed on December 29, 1982. Consolidated requests that the Commission specifically grant a waiver of the notice requirements as provided in § 154.51 of the Regulations, in order that such proposed tariff sheet may be made effective as of January 1, 1983.

If the Commission does not approve the Stipulation and Agreement filed on December 29, 1982, or if it does not grant necessary waivers to allow Thirty-Second Revised Sheet No. 16 to become effective on January 1, 1983, Consolidated has filed Alternate Thirty-Second Revised Sheet No. 16 as well as Fourth Revised Sheet Nos. 38, 39 and 111 to become effective in lieu thereof. Consolidated states that both the Proposed and Alternate tariff sheets comply with the Commission's order of July 28, 1982, Ordering Paragraph (F) which required Consolidated to file revised tariff sheets by December 31, 1982, reflecting the elimination of costs associated with facilities not in service, the balance in Account 166 as of that date, the elimination of the adjustment to wages for changes not effective on or before January 1, 1983, and to reflect the GRI Funding Unit in effect on the effective date of the increased rates.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. In accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1145 Filed 1–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Volume 806]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 11, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-NAHAMA & WEAGANT ENERGY CO				RECEIVED:	12/06/82	JA: CA			
8312568	82-4-8194	0402966621		102-4		"KERN BELLEVUE" 1	BELLEVUE	45.0	PACIFIC GAS & ELE
-PETRO-LEWIS CORPORATION				RECEIVED:	12/06/82	JA: CA			
8312567	84-4-0195	0402959415		103		KING 870-19	SOUTH BELRIDGE	10.0	MOBIL OIL CORP
FLORIDA DEPARTMENT OF NATURAL RESOURCES									
-EXXON CORPORATION				RECEIVED:	11/30/82	JA: FL			
8312545		0911320201		107-DP		WOODROW BUTLER #41-6	JAY/LEC	9.5	FLORIDA GAS TRANS
KANSAS CORPORATION COMMISSION									
-BRADEN-DEEM INC				RECEIVED:	12/06/82	JA: KS			
8312632	K-80-0070	1500700000		108-ER		WHEAT #1		0.0	
8312630	K 79-0015	1500700000		108-ER		WHEAT #3		0.0	
8312629	K-79-0014	1500700000		108-ER		WHEAT B-1		0.0	
8312631	K-79-0013	1500700000		108-ER		WHEAT B-2		0.0	
NORTH DAKOTA INDUSTRIAL COMMISSION									
-BWAB INC				RECEIVED:	12/06/82	JA: ND			
8312647	652	3300700844		102-2		STATE 16-34	TR	7.0	WESTERN GAS PROCE
-GULF OIL CORPORATION				RECEIVED:	12/06/82	JA: ND			
8312640	645	3300700803		102-2		GROSULAK 1-9-4B	LITTLE KNIFE	21.0	
8312644	649	3302500122		102-2		HOUGHTON BANK STATE 1-6-1B	LITTLE KNIFE	13.0	
8312643	648	3305301478		102-2		LINDVIG 1-11-3C	UNDESIGNATED	18.0	
8312642	647	3300700791		102-2		LOH 5-25-4B	LITTLE KNIFE	21.0	
8312641	646	3310501000		102-2		SKURDAL 1-2H-3B	UNDESIGNATED	75.0	
-HART EXPLORATION & PRODUCTION CO				RECEIVED:	12/06/82	JA: ND			
8312646	651	3305301546		102-2		HART TRANSCO THORSON #1-25	ABSINBOINNE	900.0	SHELL OIL CO
-MOSBACHER PRODUCTION CO				RECEIVED:	12/06/82	JA: ND			
8312648	653	3310500988		102-2		CHARLES BOWEN #21-1	W SAND CREEK (RED RIV	377.0	
-SUPERIOR OIL CO				RECEIVED:	12/06/82	JA: ND			
8312649	654	3305301539		102-2		HELGESON-HOEHN #1	INDIAN HILL	0.0	
8312645	650	3305301520		102-2		STEPANEK #1	CAMP	0.0	PHILLIPS PETROLEU
-TOM BROWN INC				RECEIVED:	12/06/82	JA: ND			
8312650	655	3305301466		102-2		SIMPSON #3-14	ELK OUTPOST	43.0	PHILLIPS PETROLEU
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ARCO OIL AND GAS COMPANY				RECEIVED:	12/06/82	JA: NM			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312564		3002500000		108-ER		JIM CAMP UN #1	LANGLIE MATTIX	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312564		3002500000		108-ER		JIM CAMP UN #1	LANGLIE MATTIX	0.0	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED:	12/06/82	JA: NM			
8312563		3004522585		108		STATE COM #4S	BLANCO PICTURED CLIFF	14.0	SOUTHERN UNION GA
-MWJ PRODUCING CO				RECEIVED:	12/06/82	JA: NM			
8312560		3002500000		103		LAZY "J" 27 #1	LAZY "J"	0.0	WARREN PETROLEUM
-SANDERS PETROLEUM CORP				RECEIVED:	12/06/82	JA: NM			
8312562		3000560955		102-2	107-TF	ISLEN FEE #1	UNDESIGNATED ABO	300.0	TRANSWESTERN PIPE
8312566		3000561182		102-2	107-TF	ISLEN FEE #2	UNDESIGNATED ABO	90.0	TRANSWESTERN PIPE
8312565		3000561183		102-2	107-TF	MCKAY SAMEDAN #2	UNDESIGNATED ABO	300.0	TRANSWESTERN PIPE
-ZIA ENERGY INC				RECEIVED:	12/06/82	JA: NM			
8312561		3002527195		108		FALK STATE #1	EUMONT Y SR Q (GAS)	11.0	EL PASO NATURAL C
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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
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-BEREA OIL AND GAS CORPORATION				RECEIVED:	12/06/82	JA: NY			
8312605	2866	3101316823		102-2		CHAUTAUQUA COUNTY #1	WILDCAT	6.0	COLUMBIA GAS TRAN
8312604	2868	3101316880		102-2		H OAG #1	WILDCAT	9.0	COLUMBIA GAS TRAN
8312602	2870	3101316886		102-2		HALLER UNIT #4	WILDCAT	9.0	COLUMBIA GAS TRAN
-BOUNTY OIL & GAS INC				RECEIVED:	12/06/82	JA: NY			
8312612	2967	3101316908		107-TF		AIKEN UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8312618	2927	3101315943		107-TF		BACKUS UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8312617	2929	3101316305		107-TF		BIEHLS & DAVIDSON #1	WILDCAT	0.0	NATIONAL FUEL GAS
8312586	3000	3101316857		107-TF		BUCKLIN UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8312611	2965	3101316888		107-TF		COONS #1	BUSTI	0.0	NATIONAL FUEL GAS
8312581	2998	3101316938		107-TF		D ECKSTROM UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8312569	2959	3101317025		107-TF		E MORRISON UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8312583	2994	3101317022		107-TF		ENGDAHL UNIT 1	BUSTI	0.0	NATIONAL FUEL GAS
8312613	2983	3101316787		107-TF		F ANDERSON UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8312616	2931	3101315934		107-TF		GANEY #1	WILDCAT	0.0	NATIONAL FUEL GAS
8312614	2981	3101316789		107-TF		GENS UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8312610	2963	3101316028		107-TF		HANSTROM UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8312589	2895	3101315676		107-TF		HYDROCARBON FIELD SERVICES INC #1	WILDCAT	0.0	NATIONAL FUEL GAS
8312603	2948	3101315722		102-2		JOHNSON UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8312584	2996	3101316040		107-TF		JOHNSTON UNIT #1	WILDCAT	0.0	NATIONAL FUEL GAS
8312609	2961	3101316985		107-TF		JUUL UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8312587	2808	3101316545		107-TF		KENNY #1	BUSTI	0.0	COLUMBIA GAS TRAN
8312582	2992	3101316983		107-TF		NORTHROP UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8312585	2998	3101316788		107-TF		NYGREN UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS
8312588	2806	3101315720		107-TF		W SWEENEY JR #1	BUSTI	0.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED:	12/06/82	JA: NY			
8312615	2883	3101321597		107-TF		F ZEMNICK #1 KA-86		30.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	12/06/82	JA: NY			
8312599	3269	3100917128		107-TF		C PERKINS #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8312597	3268	3100916906		107-TF		E PLOETZ #7	WILDCAT	18.0	COLUMBIA GAS TRAN
8312591	3266	3100917105		107-TF		E WULFF #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8312594	3265	3100917162		107-TF		G BROWN #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8312592	3267	3100917144		107-TF		G WELLS #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8312595	3264	3100917175		107-TF		J FRANK #2	WILDCAT	18.0	COLUMBIA GAS TRAN
8312596	3245	3101317110		107-TF		L GIFFORD #2	CLYMER	18.0	COLUMBIA GAS TRAN
8312626	2345	3101315938		102-2		N Y S REFORESTATION AREA 3/ #5	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8312627	2339	3101315940		102-2		N Y S REFORESTATION AREA 3/ #6	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8312606	2341	3101315939		102-2		N Y S REFORESTATION AREA 3/#7	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8312598	3246	3101317143		107-TF		P HARVEY #1	CLYMER	18.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312607	2225	3101316582		102-2		R HEWES #3-A	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8312608	2347	3101316308		102-2		R MORRIS #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8312590	3383	3101317190		107-TF		R SHIELDS #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8312593	3247	3101317120		107-TF		R WHITE #3	CLYMER	18.0	COLUMBIA GAS TRAN
-LENAPE RESOURCES CORP				RECEIVED:	12/06/82	JA: NY			
8312621	2713	3105116140		102-2		E WYAND #1 LRC #63	CALEDONIA	20.0	NEW JERSEY NATURA
-SEIS-EX GEOPHYSICAL LTD				RECEIVED:	12/06/82	JA: NY			
8312619	2987	3101315908		102-2		SEIS-EX R RETTIG #1	WILDCAT	18.0	COLUMBIA GAS TRAN
-TRAHAN PETROLEUM INC				RECEIVED:	12/06/82	JA: NY			
8312578	3086	3101316539		107-TF		ALLNATT #3	WILDCAT	36.0	COLUMBIA GAS TRAN
8312571	3124	3101316320		107-TF		BENTLEY #2 31-013-16320	ELLINGTON	36.0	COLUMBIA GAS TRAN
8312600	3276	3101317195		102-2		BENTLEY 3 31-013-17195	ELLINGTON	36.0	COLUMBIA GAS TRAN
8312576	3082	3101316968		107-TF		CHASE 2	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8312622	2638	3101312514		102-2		ERNEST CHASE NY #46	LEON	36.0	COLUMBIA GAS TRAN
8312573	3127	3101312486		107-TF		FREDRICKSON NY 26 31-013-12486	LEON	36.0	COLUMBIA GAS TRAN
8312601	3279	3101316511		102-2		KENNEY 1 31-013-16511	ELLINGTON	36.0	COLUMBIA GAS TRAN
8312577	3084	3101316523		107-TF		MOUNT 1	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8312572	3123	3101316799		107-TF		PICKUP #1 31-013-16799	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8312574	3078	3101316800		107-TF		PICKUP NY 42	LEON	36.0	COLUMBIA GAS TRAN
8312623	3120	3101312487		102-2		PIERROTT NY 25 31-013-12487	LEON	36.0	COLUMBIA GAS TRAN
8312620	3128	3101312495		102-2		RICE CHAUTAUQUA #2 31-013-12495	LEON	36.0	COLUMBIA GAS TRAN
8312575	3080	3101315752		107-TF		RICE NY 27	LEON	36.0	COLUMBIA GAS TRAN
8312624	2640	3101316371		102-2		RICHARD ALNATT NY #24	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8312625	2636	3101315522		102-2		W COWEN #1 31-013-15522	WILDCAT	36.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	12/06/82	JA: NY			
8312570	3116	3101316989		107-TF		WARD BENEDICT #3	GERRY	20.0	COLUMBIA GAS TRAN
8312580	2795	3101316845		107-TF		WILLIAM SASS #1	GERRY	20.0	COLUMBIA GAS TRAN
8312579	2790	3101316846		107-TF		WILLIAM SASS #2	GERRY	20.0	COLUMBIA GAS TRAN
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-AN-CAN RESOURCES INC				RECEIVED:	12/06/82	JA: OK			
8312690	17220	3510121015		102-2	103	HARRISON #3	YAHOLA	106.9	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	12/06/82	JA: OK			
8312664	17982	3509322331		103		BUTTEL UNIT "C" #3	NE CEDARDALE (CHESTER	100.0	MICHIGAN WISCONSI
8312665	17983	3501121588		103		OUTHIER UNIT "C" #2	OKEENE NW (UNCONFORMI	50.0	OKLAHOMA NATURAL
-AN-SON CORPORATION				RECEIVED:	12/06/82	JA: OK			
8312662	17843	3508720753		103		SULLIVAN #1-9	E COLE	292.0	
-ANADARKO PRODUCTION COMPANY				RECEIVED:	12/06/82	JA: OK			
8312702	18358	3500320843		108		TUCKER F 1-15	S E LAMBERT	6.0	PIONEER GAS PRODU
-ANDOVER OIL COMPANY				RECEIVED:	12/06/82	JA: OK			
8312675	18078	3501722016		103		PORTER #32-1		180.0	DELMI GAS PIPELIN
-ARBANA OIL				RECEIVED:	12/06/82	JA: OK			
8312669	18052	3513321593		103		LOU RAINWATER #2	RAINWATER	84.0	SEDCO GAS CO
-B J HOWELL				RECEIVED:	12/06/82	JA: OK			
8312696	18458	3506300000		108		SEARS NO 1	SHADY GROVE	19.1	HILL TOP INVESTME
-B J KELLENBERGER				RECEIVED:	12/06/82	JA: OK			
8312687	17652	3500722159		103		RAGSDALE TRUST #1		256.0	KANSAS NEBRASKA N
-BARUCH-FOSTER CORP				RECEIVED:	12/06/82	JA: OK			
8312660	17964	3511921707		103		STANLEY A SWISHER #1	SCHLEGEL	6.0	CITIES SERVICE GA
-BERRY PETROLEUM CORP				RECEIVED:	12/06/82	JA: OK			
8312679	17690	3509322401		103		GREGORY 1-32	AMES	0.0	CITIES SERVICE GA
-BROWN & BORELLI INC				RECEIVED:	12/06/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312699	15823	3507323341		103		LLOYD #1	SOONER TREND	36.4	EASON OIL CO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8312699	15823	3507323341		103		LLOYD #1
-CANADIAN EXPLORATION CORP				RECEIVED:	12/06/82	JA: OK
8312651	17979	3501722311		103		ABEL #29-1
-CAYMAN EXPLORATION CORP				RECEIVED:	12/06/82	JA: OK
8312677	18080	3507323419		103		L PARSONS #6-1
-CICADA PETROLEUM CORP				RECEIVED:	12/06/82	JA: OK
8312691	17471	3510700000		103		IDA FAYE #1
-CLARK OPERATING SERVICES INC				RECEIVED:	12/06/82	JA: OK
8312667	17984	3510721302		103		ALFORD #1-14
-CLARK RESOURCES INC				RECEIVED:	12/06/82	JA: OK
8312674	18077	3507323547		103		JARED 27-1
8312666	17984	3509371692		103		PITMAN 14-1
-COVINGTON OIL CO INC				RECEIVED:	12/06/82	JA: OK
8312668	18048	3508322033		103		TELLARO #1
-EASON OIL COMPANY				RECEIVED:	12/06/82	JA: OK
8312680	17724	3500722154		103		OVERTON #2
-ECO MANAGEMENT INC				RECEIVED:	12/06/82	JA: OK
8312655	17973	3511100000		103		SUTTERFIELD #1-18
-EXXON CORPORATION				RECEIVED:	12/06/82	JA: OK
8312676	18079	3500722235		103		CAMRICK UNIT #3124
-FARMERS INVESTMENTS INC				RECEIVED:	12/06/82	JA: OK
8312689	16362	3502720510		103		CANDY #1
-GRAHAM EXPLORATION LTD DRILLING PAR				RECEIVED:	12/06/82	JA: OK
8312670	18054	3504321768		103		BARNES #2
-GULF OIL CORPORATION				RECEIVED:	12/06/82	JA: OK
8312678	18102	3501121679		103		HERBERT YOST #1-36
-HANOVER MANAGEMENT CO				RECEIVED:	12/06/82	JA: OK
8312684	17828	3515320998		103		PELTER #1
-HARPER OIL COMPANY				RECEIVED:	12/06/82	JA: OK
8312672	18059	3509322527		103		DAVID #2
-HIGHLANDS GOODALL & GREEN INC				RECEIVED:	12/06/82	JA: OK
8312686	17663	3505320754		103		SKAGGS #1-15
-HOARD JOHN L				RECEIVED:	12/06/82	JA: OK
8312697	18861	3512300000		103		SHAFFER #1
-HUNTINGTON OIL & GAS INC				RECEIVED:	12/06/82	JA: OK
8312657	17978	3510100000		103		JIM EPPERSON #2
-J R ATKINSON				RECEIVED:	12/06/82	JA: OK
8312692	17347	3503723670		103		STOLL #5A
-JAKE L HAMON				RECEIVED:	12/06/82	JA: OK
8312685	17686	3504321375		102-4		COLE #1-5
-JET OIL COMPANY				RECEIVED:	12/06/82	JA: OK
8312682	17809	3508321615		103		HENKE "B" #1
8312688	17689	3504722531		103		HONNOLD #3
-JICO EXPLORATION INC				RECEIVED:	12/06/82	JA: OK
8312701	17994	3507323442		103		JICO -SEDLAK #1
-L P ENERGY				RECEIVED:	12/06/82	JA: OK
8312661	17889	3504723616		103		JIMMY #1
-LADD PETROLEUM CORPORATION				RECEIVED:	12/06/82	JA: OK
8312652	17976	3507323548		103		BETZ #2 (CHESTER)
8312653	17975	3507323548		103		BETZ #2 (MISSISSIPPI)
8312663	17981	3509322297		103		WIEMS "B" #2 (HUNTON)
-MOBIL OIL CORP				RECEIVED:	12/06/82	JA: OK
8312683	17817	3504900000		108		C LAMBERT #3

FIELD NAME	PROD	PURCHASER
SOONER TREND	56.6	EASON OIL CO
RICHLAND	350.0	DELHI GAS PIPELIN
SOONER TREND	30.0	PHILLIPS PETROLEU
DESHIELDS	0.0	WELLHEAD COMPRESS
WELEETKA	14.0	PHILLIPS PETROLEU
SOONER TREND	59.0	PHILLIPS PETROLEU
SOONER TREND	70.0	CITIES SERVICE GA
WEST LAWRIE	73.0	EASON OIL CO
HOCANE	430.0	PANHANDLE EASTERN
	0.0	PHILLIPS PETROLEU
CAMRICK (UPPER MORROW	1.0	PHILLIPS PETROLEU
NORTHWEST NORMAN	91.3	SUN GAS CO
E CAMARGO	684.0	WESTERN FARMERS E
SOUTH OMEGA	71.0	ONG WESTERN INC
NOT YET ASSIGNED	82.0	WESTERN FARMERS E
S ALINE	127.0	DELHI GAS PIPELIN
	0.0	CITIES SERVICE GA
	32.9	ARKANSAS LOUISIAN
TAFT FIELD	140.0	NATURAL GAS ENTER
CUSHING	18.3	ARCO OIL & GAS CO
CESTOS - MORROW "C"	91.0	PANHANDLE EASTERN
ABELL PROSPECT	0.0	EASON OIL CO
WILSON	0.0	EASON OIL CO
SOONER TREND	54.0	MUSTANG FUEL CORP
SOONER TREND	230.0	PANHANDLE EASTERN
SOONER TREND	131.4	PHILLIPS PETROLEU
SOONER TREND	144.0	PHILLIPS PETROLEU
OKEENE NW	82.1	OKLAHOMA NATURAL
GOLDEN TREND	19.6	WARREN PETROLEUM

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	12/06/82	JA: OK			
8312681	17808	3503920588		103		GOSS #1-20	NORTH WEATHERFORD	400.0	PRODUCER'S GAS CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/06/82	JA: OK			
8312673	18069	3504722888		103		EDITH "A" #2	SOONER TREND	0.0	TRANSOK PIPELINE
-SENECA OIL COMPANY				RECEIVED:	12/06/82	JA: OK			
8312698	14802	3513921475		102-2	103	JOLLIFFE #1-32	BEAVER RIVER	1314.0	PANHANDLE EASTERN
-SILVAN SUPPLY CO				RECEIVED:	12/06/82	JA: OK			
8312656	17971	3503722369		103		DAILEY #84		5.0	ARCO OIL & GAS CO
-SOUTHEAST EXPLORATION				RECEIVED:	12/06/82	JA: OK			
8312654	17974	3500320887		103		BOYCE #1		91.3	DELHI GAS PIPELIN
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/06/82	JA: OK			
8312695	18364	3513300000		108		DICKEY JOHNSON #6	KONAWA-DORA	2.0	ARCO OIL & GAS CO
8312694	18362	3507100000		108		E BLACKWELL #4-1	N W GARRETT	3.0	CITIES SERVICE CO
8312693	18361	3515100000		108		H S OLSON #1	WAYNOKA S E	14.0	CITIES SERVICE GA
-TRANS-WESTERN EXPLORATION INC				RECEIVED:	12/06/82	JA: OK			
8312658	17968	3500721976		103		PRISCILLA JONES #1-32	(WILDCAT)	145.0	PHILLIPS PETROLEU
8312659	17967	3500722173		103		ROACH #1-29	(WILDCAT)	145.0	PHILLIPS PETROLEU
-VULCAN ENERGY CORP				RECEIVED:	12/06/82	JA: OK			
8312700	17966	3511921923		103		HEMBREE #1		18.3	EASON OIL CO
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	12/06/82	JA: OK			
8312671	18058	3507323157		103		GROENWALD #1-18	NORTH LOYAL	34.7	CITIES SERVICE GA
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-CABOT OIL & GAS CORP				RECEIVED:	12/03/82	JA: PA			
8312474	17121	3703921670		102-2		DALE GUM #1	WAYNE	50.0	TENNESSEE GAS PIP
8312475	17120	3703921670		107-TF		DALE GUM #1	WAYNE	50.0	TENNESSEE GAS PIP
-DOC-NCC SERVICE CO				RECEIVED:	12/03/82	JA: PA			
8312476	13595	3712922024		103		LOUIS M BEHANNA 1551-1	EAST HUNTINGDON	30.0	TEXAS EASTERN TRA
8312477	13939	3712922018		103		WILLIAM M SEAMAN 1616-1	EAST HUNTINGDON	30.0	TEXAS EASTERN TRA
-ENVIROGAS INC				RECEIVED:	12/03/82	JA: PA			
8312489	18198	3704920513		108		R BARTLETT #1	NORTH EAST DEEP	3.0	NATIONAL FUEL GAS
8312497	18206	3704920491		108		BARTMAN #1	NORTH EAST DEEP	2.0	NATIONAL FUEL GAS
8312496	18205	3704920606		108		BLAIR #1	NORTH EAST	1.0	NATIONAL FUEL GAS
8312493	18202	3704920561		108		BLILEY #1	NORTH EAST	0.6	NATIONAL FUEL GAS
8312480	18189	3704920521		108		CHAPMAN #1	NORTH EAST DEEP	0.9	NATIONAL FUEL GAS
8312485	18194	3704920569		108		D COLETTA #1	NORTH EAST DEEP	4.0	NATIONAL FUEL GAS
8312487	18196	3704920570		108		D COLETTA #2	NORTH EAST DEEP	0.5	NATIONAL FUEL GAS
8312490	18199	3704920505		108		FRITTS #1	NORTH EAST DEEP	2.0	NATIONAL FUEL GAS
8312488	18197	3704920567		108		GRIBBLE #1	NORTH EAST DEEP	7.0	NATIONAL FUEL GAS
8312478	18172	3704920489		108		J MOORHEAD #1	NORTH EAST DEEP	7.0	NATIONAL FUEL GAS
8312483	18192	3704920621		108		LARSON #2	NORTH EAST DEEP	7.0	NATIONAL FUEL GAS
8312481	18190	3704920607		108		LARSON #3	NORTH EAST DEEP	1.0	NATIONAL FUEL GAS
8312484	18193	3704920555		108		LEVONDUSKI #1	NORTH EAST DEEP	8.0	NATIONAL FUEL GAS
8312499	18208	3704920471		108		MERSKI #1	NORTH EAST DEEP	7.0	NATIONAL FUEL GAS
8312479	18188	3704920503		108		MOORHEAD VINEYARDS #2	NORTH EAST DEEP	2.0	NATIONAL FUEL GAS
8312492	18201	3704920626		108		PIERCE #2	NORTH EAST	1.0	NATIONAL FUEL GAS
8312491	18200	3704920627		108		PIERCE #3	NORTH EAST	3.0	NATIONAL FUEL GAS
8312486	18195	3704920566		108		R MOORHEAD #1	NORTH EAST DEEP	2.0	NATIONAL FUEL GAS
8312498	18207	3704920719		108		SELLARO #1	ERIE DEEP	7.0	NATIONAL FUEL GAS
8312494	18203	3704920684		108		SKOPOW #1	NORTH EAST	0.8	NATIONAL FUEL GAS
8312482	18191	3704920545		108		V COLETTA #2	NORTH EAST DEEP	0.1	NATIONAL FUEL GAS
8312495	18204	3704920593		108		WALTER #1	NORTH EAST DEEP	4.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HANLEY & BIRD				RECEIVED:	12/03/82	JA: PA			
8312500	17541	3706522569		103		SHAWMUT DEVELOPMENT CORP SHB7SN1709	TIMBLIN	4.5	T W PHILLIPS GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HANLEY & BIRD				RECEIVED:	12/03/82	JA: PA			
8312500	17541	3706522569		103		SHAWMUT DEVELOPMENT CORP SHB7SN1709	TIMBLIN	4.5	T W PHILLIPS GAS
-J & J ENTERPRISES INC				RECEIVED:	12/03/82	JA: PA			
8312503	17428	3706326467		103		BEN FRANKLIN IND SCHL DIST #1 15A	WHITE	0.0	PEOPLES NATURAL G
8312502	17426	3706327032		103		SW CENTRAL RURAL ELECTRIC COOP	WHITE	0.0	COLUMBIA GAS TRAN
-J C ENTERPRISES				RECEIVED:	12/03/82	JA: PA			
8312501	17609	3706327086		103		ABE W MILLER #194-1 IND-27086	SMICKSBURG	32.0	
-KEPCO INC				RECEIVED:	12/03/82	JA: PA			
8312504	18141	3705921754		102-4		THOMAS L BEASLEY #5 (PK-59)	RUFF CREEK	17.0	NEW JERSEY NATURA
-MERIDIAN EXPLORATION CORP				RECEIVED:	12/03/82	JA: PA			
8312506	17964	3703921414		102-2		R W NICHOLS #600-1	LINCOLNVILLE	0.0	COLUMBIA GAS TRAN
8312508	17965	3703921414		107-TF		R W NICHOLS #600-1	LINCOLNVILLE	0.0	COLUMBIA GAS TRAN
8312505	17962	3703921734		102-2		RICHARD BALL #628-1	CAMBRIDGE SPRINGS	0.0	COLUMBIA GAS TRAN
8312507	17963	3703921734		107-TF		RICHARD BALL #628-1	CAMBRIDGE SPRINGS	0.0	COLUMBIA GAS TRAN
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/03/82	JA: PA			
8312510	15736	3703921543		103		BROWN UNIT #1	CONNEAUTVILLE (MEDINA	395.0	COLUMBIA GAS TRAN
8312517	15844	3703921543		107-TF		BROWN UNIT #1	CONNEAUTVILLE (MEDINA	395.0	COLUMBIA GAS TRAN
8312509	15735	3703821559		103		DEARBORN UNIT #1	CONNEAUTVILLE (MEDINA	395.0	COLUMBIA GAS TRAN
8312518	15845	3703921559		107-TF		DEARBORN UNIT #1	CONNEAUTVILLE (MEDINA	395.0	COLUMBIA GAS TRAN
8312516	17753	3703921558		103		G AGNEW UNIT #1	CONNEAUT LAKE (MEDINA	410.0	TENNESSEE GAS PIP
8312524	17754	3703921558		107-TF		G AGNEW UNIT #1	CONNEAUT LAKE (MEDINA	410.0	TENNESSEE GAS PIP
8312513	16071	3703921601		103		H K GETSINGER UNIT #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN
8312521	16072	3703921601		107-TF		H K GETSINGER UNIT #1	CONNEAUTVILLE (MEDINA	410.0	COLUMBIA GAS TRAN
8312515	17751	3703921719		103		H ROBERTS UNIT #1	CONNEAUTVILLE (MEDINA	411.0	TENNESSEE GAS PIP
8312539	17734	3703921719		107-TF		H ROBERTS UNIT #1	CONNEAUTVILLE (MEDINA	411.0	TENNESSEE GAS PIP
8312514	17749	3703921687		103		M A KALLA UNIT #1	CONNEAUTVILLE (MEDINA	411.0	TENNESSEE GAS PIP
8312523	17750	3703921687		107-TF		M A KALLA UNIT #1	CONNEAUTVILLE (MEDINA	411.0	TENNESSEE GAS PIP
8312511	16065	3703921689		103		M WYCKOFF UNIT #1	CONNEAUTVILLE (MEDINA	41.0	COLUMBIA GAS TRAN
8312519	16066	3703921689		107-TF		M WYCKOFF UNIT #1	CONNEAUTVILLE (MEDINA	41.0	COLUMBIA GAS TRAN
8312512	16067	3703921688		103		W E SHAW #1	CONNEAUTVILLE (MEDINA	41.0	COLUMBIA GAS TRAN
8312520	16068	3703921688		107-TF		W E SHAW #1	CONNEAUTVILLE (MEDINA	41.0	COLUMBIA GAS TRAN
-W G SHANER & WARD H MCCALL				RECEIVED:	12/03/82	JA: PA			
8312525	18071	3703121075		103		JAMES T HENRY #2	JAMES T HENRY WELL #2	12.0	PEOPLES NATURAL G
-WAINOCO OIL & GAS CO				RECEIVED:	12/03/82	JA: PA			
8312522	17734	3703921745		107-TF		ALAN MARLEY #1 (W-151A)	ATHENS	35.4	COLUMBIA GAS TRAN
8312528	17733	3703921745		102-3		ALAN MARLEY #1 (W-151A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312529	17735	3703921753		102-3		BRUCE VROMAN #2 (W-156A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312540	17736	3703921753		107-TF		BRUCE VROMAN #2 (W-156A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312531	17738	3703921747		102-3		C W MORRIS #1 (W-126A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312541	17739	3703921747		107-TF		C W MORRIS #1 (W-126A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312532	17740	3703921748		102-3		C W MORRIS #2 (W-127A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312542	17741	3703921748		107-TF		C W MORRIS #2 (W-127A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312526	17729	3703921749		102-2		COUNTRY ROYALS C B ASSOC #1 W-147A	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312537	17730	3703921749		107-TF		COUNTRY ROYALS C B ASSOC #1 W-147A	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312527	17731	3703921724		102-2		F MORRIS #1 (W-149A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312538	17732	3703921724		107-TF		F MORRIS #1 (W-149A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312535	17930	3703921773		103		J REID KERR #1 (W-165A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312544	17931	3703921773		107-TF		J REID KERR #1 (W-165A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312534	17924	3703921772		103		JOHN W WALKER #2 (CS-13A)	CAMBRIDGE SPRINGS FIE	35.4	COLUMBIA GAS TRAN
8312543	17923	3703921772		107-TF		JOHN W WALKER #2 (CS-13A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312533	17742	3703921744		102-2		M KUNZ #1 (W-131A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312530	17737	3703921780		102-3		MERVIN TROYER #1 (W-159A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8312536	17719	3703921780		107-TF		MERVIN TROYER #1 (W-159A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN

JD NR	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
UTAH DIVISION OF OIL,GAS, & MINING									
-GEORGE P POST DBA POST PETROLEUM CO			RECEIVED:	12/06/82		JA: UT			
8312628	K-144-1	4304731170	103			UTE #1-19		0.0	GARY ENERGY CORP
WEST VIRGINIA DEPARTMENT OF MINES									
-ATLAS ENERGY CORP			RECEIVED:	12/03/82		JA: WV			
8312556		4708700556	108			TOBAC #1 MCD - 556	BIG CREEK DISTRICT	19.0	CABOT OIL & GAS C
-BEM I			RECEIVED:	12/03/82		JA: WV			
8312554		4707313360	107-DV			MOBY #1	MCKIM	18.0	COLUMBIA GAS TRAN
-CHASE PETROLEUM			RECEIVED:	11/30/82		JA: WV			
8312704		4703302489	103			DOLAN #1	TENMILE DISTRICT	15.0	
8312705		4703302635	103			ROBINSON #1	TENMILE DISTRICT	20.0	
8312703		4703302659	103			WHITE-BROOKS #1	GRANT DISTRICT	15.0	
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED:	12/06/82		JA: WV			
8312559		4703301368	108			B H BROWN WN-3400	SARDIS	2.8	GENERAL SYSTEM PU
-D G HANEY INC			RECEIVED:	12/06/82		JA: WV			
8312558		4710900865	103			UNITED POCAHONTAS #4	BARKERS RIDGE	20.0	CONSOLIDATED GAS
-DORAN & ASSOCIATES INC			RECEIVED:	12/06/82		JA: WV			
8312557		4703322276	108			A B LOWTHER #2 KL-264	TENMILE	20.0	CONSOLIDATED GAS
-JOHN L DIAL			RECEIVED:	12/03/82		JA: WV			
8312553		4709921104	108			PRICHARD		16.9	DEVON CORP
-KAISER ENERGY INC			RECEIVED:	12/03/82		JA: WV			
8312550		4703501406	103			BERNARD JOHNSON - DEK #40	COTTAGEVILLE	3.0	ROARING FORK GAS
-LA MENT JOHN			RECEIVED:	12/03/82		JA: WV			
8312548		4708505323	103			MARTHA GOFF -SUMMEN TRACT #2	UNION DISTRICT	0.0	CONSOLIDATED GAS
-MURVIN OIL CORP			RECEIVED:	12/03/82		JA: WV			
8312549		4708525288	103			R ALLEN #3	GRASS RUN	50.0	CONSOLIDATED GAS
-NATIONAL OPERATING INC			RECEIVED:	12/03/82		JA: WV			
8312552		4707301413	107-DV			MARY EDDY H-1310	FRENCH CREEK	22.0	COLUMBIA GAS TRAN
-PHOENIX GAS & OIL EXPLORATION INC			RECEIVED:	12/03/82		JA: WV			
8312555		4707901077	107-DV			DENNIS BLAKE #1	UNION	50.0	ROARING FORK GAS
-STONEWALL GAS CO INC			RECEIVED:	12/03/82		JA: WV			
8312547		4709703388	103			THOMASON #1 118-S	BANKS DISTRICT	135.0	CONSOLIDATED GAS
-UNITED OPERATING COMPANY			RECEIVED:	12/03/82		JA: WV			
8312546		4708500514	103			SUSANNA QUICK #3	MIDDLE FORK RIVER	0.0	COLUMBIA GAS TRAN
-WACO OIL AND GAS CO INC			RECEIVED:	12/03/82		JA: WV			
8312551		4708701882	107-DV			WALDECK #28	CEDARVILLE	18.0	COLUMBIA GAS TRAN
DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
-NORTHWEST PIPELINE CORPORATION			RECEIVED:	12/06/82		JA: CO 1			
8312637	CD 0485-82PB	0506705200	108-PB			COLORADO 32-8 #2	MESAVERDE	0.0	NORTHWEST PIPELIN
8312638	CD 0485-82PB	0506705208	108-PB			COLORADO 32-8-#2	MESAVERDE	0.0	NORTHWEST PIPELIN
8312635	CD 0508-82PB	0506705111	108-PB			NORTHWEST CEDAR HILLS 32-10-13	MESAVERDE	0.0	NORTHWEST PIPELIN
8312639	CD 0486-82PB	0506705111	108-PB			NORTHWEST CEDAR HILLS 32-10-13	MESAVERDE	0.0	NORTHWEST PIPELIN
8312636	CD 0507-82PB	0506705026	108-PB			NORTHWEST CEDAR HILLS 32-10-5	MESAVERDE	0.0	NORTHWEST PIPELIN
-BURTON W HANCOCK			RECEIVED:	12/06/82		JA: UT 1			
8312633	UD 0398-81	4301960008	108			LINNEY GOVERNMENT #1	WEST BAR-X	5.4	NORTHWEST PIPELIN
-CONOCO INC			RECEIVED:	12/06/82		JA: UT 1			
8312634	UD 0462-81	4304730681	107-TF			CONOCO MCCOOK 1 #4	OURAY	182.0	MOUNTAIN FUEL SUP

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

Orig. Date
FERC Pub. in
Vol. Federal C: Correction to prior

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CORRECTIONS TO PREVIOUS NOTICES / REVISIONS TO PRIOR DETERMINATIONS

JD No.	JA	Applicant	Well Name	Orig. FERC Vol. No.	Date Pub. in Federal Register	C:	Correction to prior Fed. Register notice
82-51835	UT	Texas Oil & Gas Corp	Squier #1	735	09-22-82	C:	107-TF Denied
82-53258MMS(NM)		Yates Petroleum Corp	Federal "RJ" No. 3	740	09-28-82	C:	102-3 & 107-TF Approved
82-53305	TX	Pioneer Production Corp	M W. Broyles #1	740	09-28-82	C:	108 & 108-SA Approved
82-53330	OK	George R Brown	Ham #1	740	09-28-82	C:	108 & 108-ER Approved
82-53365	WV	Consolidated Gas Supply	Loup Crk Colliery Wn-2866	740	09-28-82	C:	Well Name
82-53600	TX	Hufo Production Corp	Brent 60-1	742	09-30-82	C:	Applicant Name
82-53610	TX	Hufo Production Corp	Brent 60-2	742	09-30-82	C:	Applicant Name
82-53614	TX	Hufo Production Corp	Brent 61-2	742	09-30-82	C:	Applicant Name
82-53667	TX	Texas Oil & Gas Prod.	Schultz C#1	742	09-30-82	C:	Applicant Name
82-53762	TX	Santa Fe-Windsor	Roadrunner #3	742	09-30-82	C:	102-2 Approved; 103 M/D
82-54047	TX	Thomas-Powell Royalty,	Vick #2 (08683)	743	09-30-82	C:	Well Name
82-54082	TX	Stahl Petroleum Co	Webb E #1	743	09-30-82	C:	Well Name.
82-54141	TX	Gulf Oil Corporation	C. A. Culdsmith #1296	743	09-30-82	C:	Well Name
82-54184	TX	C. R. Sproul	JS WR & RM Whitten #1	743	09-30-82	C:	103 & 107-TF Approved
82-54512	TN	Sunbright Oil & Gas Inc	Clyde Freels No. 1	745	10-07-82	C:	Well Name
82-54553	TN	Continental Energy Corp	Oneida Wood #2	745	10-07-82	C:	Well Name
82-56022	OH	Oxford Oil Company	Donald Ullman #1	752	10-14-82	C:	107-DV Approved; not 107-TF
82-56572MMS(NM)		El Paso Natural Gas Co	San Juan 28-7 Ut NP #94	755	10-25-82	C:	Well Name
82-56999	TX	Lomax Exploration Co	C. F. Cason #1 09N23E	756	10-25-82	C:	Well Name
82-57304	PA	Boyd & Shriver	Elder #427	758	10-27-82	C:	108 Approved; not 103
82-57368	PA	Envirogas Inc	J Hipps #1	758	10-27-82	C:	103 & 107-TF Approved
82-57784	OK	Texas Oil & Gas	Condreay #1	759	10-27-82	C:	Applicant Name
82-57980	OK	Texas Oil & Gas	Calumet No. 1	760	11-02-82	C:	Applicant Name
83-00373	TX	Exxon Corp	John Ben Sheppard GU 1 #1	761	11-02-82	C:	Well Name
83-01604	OK	Western Pacific	Edwards #2-11	766	11-10-82	C:	102-4 Approved; not 103
83-02877	OK	Blue Quail Energy Inc	Kirchner #1	770	11-12-82	C:	Applicant Name
83-03800	KS	Graves Drilling Co	Pennock #2	773	11-22-82	C:	Well Name

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1166 Filed 1-14-83; 8:45 am]

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[Volume 807]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 11, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** TEXAS RAILROAD COMMISSION **********									
-ALPS OIL CO				RECEIVED:	12/08/82	JA: TX			
8312882	F-08-60117	4210332975	103			M B MCKNIGHT "B" #8	SAND HILLS (MCKNIGHT)	12.1	WARREN PETROLEUM
-AMARILLO OIL COMPANY				RECEIVED:	12/08/82	JA: TX			
8312709	F-10-030999	4217900000	108-PB			DARSEY E #4	PANHANDLE EAST	0.0	PIONEER NATURAL G
-AMERADA HESS CORPORATION				RECEIVED:	12/08/82	JA: TX			
8312950	F-6E-60684	4218300000	108			E BURNSIDE #8	EAST TEXAS	2.7	ARCO OIL & GAS CO
-AMERICAN PETROFINA COMPANY OF TEXAS				RECEIVED:	12/08/82	JA: TX			
8312734	F-06-051135	4242330354	107-TF			ARNOLD GAS UNIT #1	OVERTON (COTTON VALLE	120.0	UNITED GAS PIPE L
8312733	F-06-051070	4242300000	103	107-TF		CHADWICK GAS UNIT #1 WELL #1	OVERTON (COTTON VALLE	200.0	UNITED GAS PIPE L
8312932	F-02-60633	4205731152	103			IRMA MAY SMITH #4	SHERIFF EAST (6900')	12.0	UNITED TEXAS TRAN
-AMOCO PRODUCTION CO				RECEIVED:	12/08/82	JA: TX			
8312869	F-03-59950	4204130665	102-2			HENRY C MCQUAIDE UNIT #1	KURTEN (WOODBINE)	100.0	FERGUSON CROSSING
8312837	F-04-58579	4235531587	103			KATHERINE L SHAFFER /B/ #8	LUBY (3900)	120.0	VALLEY GAS TRANSM
-ANDOVER OIL COMPANY				RECEIVED:	12/08/82	JA: TX			
8312806	F-06-56974	4220330796	103	107-TF		V G ROGERS GAS UNIT #1	WOODLAWN SW (COTTON V	0.0	INTRASTATE GATHER
8312809	F-06-57311	4220330797	103	107-TF		V G ROGERS GAS UNIT #2	WOODLAWN SW (COTTON V	0.0	INTRASTATE GATHER
-ATI OIL CO				RECEIVED:	12/08/82	JA: TX			
8312778	F-78-055373	4204900000	102-A			HORACE THOMPSON #3	TRICKHAM (CAPPS)	0.0	ODESSA NATURAL CO
-B J GIERHART INC				RECEIVED:	12/08/82	JA: TX			
8312896	F-03-60314	4205100000	102-2			DUNCAN "A" #1	GIDDINGS (AUSTIN CHAL	151.0	CLAJON GAS CO
-BANAM CORP				RECEIVED:	12/08/82	JA: TX			
8312899	F-78-60421	4215131553	102-A			AMOCO-HORTON #1-5	SATURDAY EAST (CANYON	30.6	CONOCO INC
-BENNETT & GUINN INC				RECEIVED:	12/08/82	JA: TX			
8312894	F-09-60291	4207732607	102-A			C E SPEARS #2	BELLEVUE N (CONGL)	0.0	LONE STAR GAS CO
-BISHOP PETROLEUM INC				RECEIVED:	12/08/82	JA: TX			
8312887	F-05-60221	4216130721	102-A			MOODY UNIT #1	DONIE (PETTIT)	308.0	TEXAS UTILITIES F
-BROCK PETROLEUM CORP				RECEIVED:	12/08/82	JA: TX			
8312846	F-01-59311	4217731334	102-2			LAWRENCE #1	PEACH CREEK (AUSTIN C	55.0	VALERO TRANSMISSI
-C & K PETROLEUM INC				RECEIVED:	12/08/82	JA: TX			
8312828	F-08-58198	4243130954	103			GUNTER 35-#2	CONGER (PENN) FIELD	90.0	VALERO TRANSMISSI
-CAL-T OIL CO				RECEIVED:	12/08/82	JA: TX			
8312838	F-10-58592	4206531231	103			VIDA "D" (05157) #2	PANHANDLE- CARSON	0.0	GETTY OIL CO
-CASADOR OIL & GAS CO				RECEIVED:	12/08/82	JA: TX			
8312951	F-78-60833	4236332402	103			J C SOUTHERN #1	MINERAL WELLS (STRAWN	40.0	SOUTHWESTERN GAS
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/08/82	JA: TX			
8312732	F-06-045865	4236500000	103	107-TF		CARTHAGE GAS UNIT 12 #3	CARTHAGE (COTTON VALL	0.0	TENNESSEE GAS PIP
8312713	F-06-045703	4236500000	103	107-TF		CARTHAGE GAS UNIT 21 #3	CARTHAGE (COTTON VALL	0.0	TENNESSEE GAS PIP
8312897	F-04-60410	4221500000	108			GUERRA F B ESTATE "B" #2	LA REFORMA (S)	10.0	TENNESSEE GAS PIP
-CHESTER R UPHAM JR				RECEIVED:	12/08/82	JA: TX			
8312775	F-09-054937	4223700000	103			ETHEL HENRY #1	BOONESVILLE (BEND CON	0.0	LONE STAR GAS CO
-CHEVRON U S A INC				RECEIVED:	12/08/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8312742	F-03-052339	4236130427		102-4		B E QUINN #1
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	12/08/82	JA: TX
8312909	F-7B-60576	4236732197		102-4		LOYD MCCONNELL #1
-CLEAR FORK ENERGY RESOURCES INC				RECEIVED:	12/08/82	JA: TX
8312554	F-09-60711	4250335790		103		HAZEL P LEWELLING #22577
-CLEMENTS ENERGY INC				RECEIVED:	12/08/82	JA: TX
8312912	F-08-60585	4249531487		103		VEST RANCH 5-1 #2
-COBRA OIL AND GAS CORPORATION				RECEIVED:	12/08/82	JA: TX
8312905	F-03-60558	4214931384		103		WEBB #2
-CONOCO INC				RECEIVED:	12/08/82	JA: TX
8312925	F-05-60621	4246700000		102-4	103	BIRDIE N ELLIOTT #1
8312866	F-10-59908	4206500000		108		BURNETT 19A
8312865	F-10-59907	4206500000		108		BURNETT 47A
8312864	F-10-59906	4206500000		108		BURNETT 52A
8312863	F-10-59905	4206500000		108		BURNETT 62A
8312862	F-10-59904	4206500000		108		BURNETT 68A
8312861	F-10-59903	4206500000		108		BURNETT 89A
8312920	F-8A-60606	4207931524		103		CONOCO DEAN UNIT #136 ID #60106
8312926	F-02-60622	4229700000		108		F C GOODWIN - A #2
-COTTON PETROLEUM CORPORATION				RECEIVED:	12/08/82	JA: TX
8312936	F-10-60641	4235731029		103		ARCHER #1-50
-CPC EXPLORATION INC				RECEIVED:	12/08/82	JA: TX
8312902	F-03-60533	4215731103		102-4		WHELESS #1-L RRC #090193
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	12/08/82	JA: TX
8312872	F-04-60004	4221500000		108		E C SHOEMAKE #1
-DAWSON EXPLORATION INC				RECEIVED:	12/08/82	JA: TX
8312751	F-83-053500	4224500000		102-4	103	LUCILLE DURAND #2
-DONALD BIRGE				RECEIVED:	12/08/82	JA: TX
8312868	F-09-059947	4207700000		102-4		B J FULGHAM #1
-DOUBLE EAGLE DRILLING CO				RECEIVED:	12/08/82	JA: TX
8312990	F-09-60832	4207732604		103		W B FULGHAM #6 - WELL #5
-EDWIN L COX				RECEIVED:	12/08/82	JA: TX
8312790	F-04-56145	4240931625		102-4		BAPTIST FOUNDATION #1
-EDWIN M JONES OIL CO				RECEIVED:	12/08/82	JA: TX
8312906	F-02-60560	4202500000		102-4		A L SHEIVES GAS UNIT #3 ID #101617
-ENFIELD CORP				RECEIVED:	12/08/82	JA: TX
8312724	F-01-048923	4233131200		102-2	103	HADDOX #2
-ENSERCH EXPLORATION INC				RECEIVED:	12/08/82	JA: TX
8312792	F-05-56303	4221330350		103		C W CORLEY "B" #2T
8312741	F-05-052216	4216130576		107-TF		FRED EPPES #1
8312747	F-7C-053191	4213700000		103	107-TF	MIERS "B" #31
8312744	F-7C-052888	4213500000		103	107-TF	MIERS "C" #16
8312752	F-06-053564	4222500000		103		R S & H H DAILEY #8
8312732	F-01-050993	4201300000		103		URBANCZYK UNIT 1 #3-UT
8312818	F-7C-57505	4213730828		103	107-TF	W L MIERS "B" #36
8312787	F-7C-55968	4213730822		103	107-TF	WALLACE 66 #3
-EXXON CORPORATION				RECEIVED:	12/08/82	JA: TX
8312971	F-03-60751	4215731312		103		A P GEORGE "A" #20
8312714	F-7C-046270	4246131717		102-4		BIDDINGS ESTATE FEE #9
8312977	F-08-60772	4210300000		108		J B TUBB A/C #132
8312773	F-03-054868	4224531456		103		JEFFERSON LAND CO A/C 1 #58
8312915	F-04-60592	4227331214		103		K R BORREGOS 544-D (101857)
8312917	F-04-60594	4227331707		103		K R BORREGOS 581 (101858)

FIELD NAME	PROD	PURCHASER
LONG PRAIRIE	547.5	VALERO TRANSMISSI
CLAYTON (CONGL)	0.0	SOUTHWESTERN GAS
JAMES	15.0	EAGLE PETROLEUM C
HOLLIJACK (STRAWN DET	136.0	PHILLIPS PETROLEU
GIDDINGS AUSTIN CHALK	58.0	PHILLIPS PETROLEU
EAST FRUITVALE (JAMES	0.0	DELHI GAS PIPELIN
WEST PANHANDLE	21.0	CITIES SERVICE GA
WEST PANHANDLE	19.0	CITIES SERVICE GA
WEST PANHANDLE	19.0	CITIES SERVICE GA
WEST PANHANDLE	16.0	CITIES SERVICE GA
WEST PANHANDLE	19.0	CITIES SERVICE GA
WEST PANHANDLE	13.0	CITIES SERVICE GA
SLAUGHTER	4.0	AMOCO PRODUCTION
HARRIS (UPPER SLICK)	19.0	TRANSCONTINENTAL
ALLEN-PARKER	0.0	PHILLIPS PETROLEU
PECAN GROVE (8700)	750.0	HOUSTON PIPELINE
MCALLEN-PHARR	20.1	VALERO INTERSTATE
HILDEBRANDT BAYOU SE	0.0	UNITED TEXAS TRAN
LAZY DAWN (4100)	27.4	PAGADAU ENERGY CO
TALLY (STRAWN)	0.0	PAGADAU ENERGY CO
N GERONIMO	360.0	
NORMANNA SOUTH (2170)	91.0	
WILLA (BUDA)	73.0	PRODUCERS GAS CO
OPELIKA	1500.0	LONE STAR GAS CO
FREESTONE	292.0	TEXAS UTILITIES F
SAWYER	120.0	LONE STAR GAS CO
SAWYER	0.0	LONE STAR GAS CO
NAVARRO CROSSING (SUB	0.0	LONE STAR GAS CO
FASHING	0.0	NATURAL GAS PIPEL
SAWYER	120.0	LONE STAR GAS CO
SAWYER (CANYON)	120.0	LONE STAR GAS CO
THOMPSON	180.0	ARMCO STEEL CORP
IMMELMAN (ELLENBERGER	294.0	
SAND HILLS	6.0	EL PASO NATURAL G
LOVELLS LAKE NORTH	180.0	ARMCO STEEL CORP
BORREGOS (M-5)	274.0	ARMCO STEEL CORP
BORREGOS (V-35)	600.0	ARMCO STEEL CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312945	F-7C-60652	4243131015		103		LOU E JOHNSON ESTATE A/C 1 #31	JAMESON (STRAWN)	17.0	
8312793	F-04-56379	4204731072		102-4		MCGILL BROS 482 (ID PENDING)	KELSEY SE (29-A N)	200.0	TRUNKLINE GAS CO
8312799	F-04-56721	4242731617		102-4		MCGILL BROS 483 (ID PENDING)	KELSEY SE (30-D NE)	700.0	TRUNKLINE GAS CO
8312892	F-04-60256	4226130703		102-4		MRS S K EAST 132 (101494)	RITA NE (I-24)	409.0	ARMCO STEEL CORP
8312916	F-04-60593	4226130711		102-4		MRS S K EAST 135 (101704)	TAJOS (J-68)	450.0	ARMCO STEEL CORP
8312901	F-8A-60445	4216532391		103		ROBERTSON CLEARFORK UNIT #3101	ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
8312944	F-08-60650	4222732738		102-4		S WALDRON #4L	MOORE (DEEP FSLM)	46.0	
8312847	F-04-59376	4204731100		102-4		SANTA FE RANCH 76 (ID PENDING)	SANTA FE SOUTH (I-93)	400.0	NATURAL GAS PIPEL
8312924	F-04-60619	4226130725		102-4		SARITA FIELD OIL & GAS 177-D 10111	SARITA (9-A SE)	51.0	NATURAL GAS PIPEL
8312923	F-04-60617	4226130725		102-4		SARITA FIELD OIL & GAS 177-F 10099	SARITA (10-H SE)	12.0	NATURAL GAS PIPEL
8312978	F-03-60775	4220131423		103		WEBSTER FIELD UNIT #2779	WEBSTER	40.0	HOUSTON PIPELINE
-FAGADAU ENERGY CORP				RECEIVED:	12/08/82	JA: TX			
8312908	F-09-60571	4207732635		102-4		SCALING RANCH "A" #3 #22607	BELLEVUE N (CONGL OIL	120.0	BLUEGROVE GASOLIN
-FARGO ENERGY CORP				RECEIVED:	12/08/82	JA: TX			
8312769	F-03-054754	4205132169		102-2		BURLESON FEDERAL N #1	BIG A TAYLOR	365.0	PHILLIPS PETROLEU
-FIRST TRIAD CORP				RECEIVED:	12/08/82	JA: TX			
8312784	F-7B-55656	4236732257		102-2		WOODRUFF #2	DENNIS WEST (STRAWN)	219.0	PARKER GAS INC
8312779	F-7B-055426	4236732273		102-2		WOODRUFF #5	DENNIS WEST (STRAWN)	219.0	PARKER GAS INC
-FOREST OIL CORPORATION				RECEIVED:	12/08/82	JA: TX			
8312764	F-04-054439	4247933270		102-2	107-TF	VAQUILLAS RANCH CO LTD #17	GATO CREEK (LOBO 1)	350.0	UNITED TEXAS TRAN
-FOUR C OIL & GAS CORP				RECEIVED:	12/08/82	JA: TX			
8312972	F-08-60754	4237133772		103		ABELL-CONOCO #1 101659	T C I (GRAYBURG)	50.0	PERRY PIPELINE CO
-FRANK CASS				RECEIVED:	12/08/82	JA: TX			
8312844	F-7C-59076	4238332201		103		CAROL CREWS B #1	CALVIN (DEAN)	7.5	EL PASO NATURAL G
8312900	F-7C-60423	4246131933		103		ELKIN 30 #1	CALVIN (DEAN)	38.0	EL PASO NATURAL G
8312898	F-7C-60420	4246131934		103		ELKIN 30 #2	CALVIN (DEAN)	90.0	EL PASO NATURAL G
-GLENCO OIL & GAS CO				RECEIVED:	12/08/82	JA: TX			
8312782	F-01-55562	4201331440		102-4		B E MCDONALD (07754) #2	DULCE (ESCONDIDO A)	54.0	SOUTH TEXAS INSTR
-GLENN W COOPER				RECEIVED:	12/08/82	JA: TX			
8312849	F-7B-5940	4244700000		102-4		LEE CATTLE COMPANY #1	COOPER (900')	1569.0	HST GATHERING SYS
-GOULD OIL INC				RECEIVED:	12/08/82	JA: TX			
8312739	F-03-052000	4233900000		103		ST REGIS #1-A	WILDCAT	275.0	TENNESSEE GAS PIP
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/08/82	JA: TX			
8312802	F-05-56745	4216130550		103		YELDELL #1	TEAGUE WEST	0.0	TEXAS UTILITIES F
-GULF AMERICAN OIL & GAS CO				RECEIVED:	12/08/82	JA: TX			
8312854	F-02-59562	4246931930		103		RIVERSIDE COTTON FARMS A-15	PRIDHAM LAKE (4300?)	90.0	VALERO TRANSMISSI
-GULF ENERGY PRODUCING COMPANY				RECEIVED:	12/08/82	JA: TX			
8312953	F-04-60705	4250531563		103		BLAS RAMIREZ #Q-4 (06061)	LOPENO (QUEEN CITY) (	0.0	TENNESSEE GAS PIP
-GULF OIL CORPORATION				RECEIVED:	12/08/82	JA: TX			
8312831	F-08-58327	4232900614		108		C A MC CLINTIC #18	AZALEA (DEVONIAN)	7.2	ODESSA NATURAL GA
8312832	F-08-58328	4232900615		108		C A MC CLINTIC #19	AZALEA (DEVONIAN)	8.4	ODESSA NATURAL GA
8312853	F-08-59521	4247532678		103		HUTCHINGS STOCK ASSN #1175	WARD-ESTES NORTH	5.0	CABOT CORP
8312860	F-08-59884	4210300663		108		J T MCELROY CONSOLIDATED #31	MCELROY	1.0	PHILLIPS PETROLEU
8312850	F-08-5942	4246130637		108		J T MCELROY CONSOLIDATED #945	MCELROY	22.0	PHILLIPS PETROLEU
8312857	F-08-59709	4246100550		108		MCELROY CONSOLIDATED #1 WELL #M-290	MCELROY	31.2	PHILLIPS PETROLEU
8312858	F-7C-59749	4210531163		108		STATE IT #7	FARMER (SAN ANDRES)	34.0	J L DAVIS
-H-M OIL CO				RECEIVED:	12/08/82	JA: TX			
8312958	F-03-60716	4248132190		103		CARL MAUCH #2 ID #15497	TWIN BASIN	0.0	TENNESSEE GAS PIP
-HOME PETROLEUM CORPORATION				RECEIVED:	12/08/82	JA: TX			
8312798	F-10-56719	4229531048		103		INGLE #1	STUART RANCH (LOWER M	0.0	INTER NORTH INC
-HUMBLE EXPLORATION CO INC				RECEIVED:	12/08/82	JA: TX			
8312719	F-03-048269	4247700000		102-4	103	ADELE #1 - 098251	GIDDINGS (AUSTIN CHAL	234.0	PHILLIPS PETROLEU
8312720	F-03-048272	4214900000		102-2	103	JENNIFER #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8312951	F-03-60690	4214930711		103		MARY OLLE #1 - 13811
8312721	F-03-048274	4228731068		102-2	103	MILLIE K #1
8312718	F-03-048267	4214900000		102-2	103	NANA #1
8312743	F-01-052707	4217731164		102-2	103	PAULINA #1 - 87639
8312725	F-03-050032	4228700000		102-2	103	PHOEBE #1
-HUNT OIL COMPANY				RECEIVED:	12/08/82	JA: TX
8312876	F-7C-60079	4246131919		103		V T AHACKER 63 #4
-JATAM INC				RECEIVED:	12/08/82	JA: TX
8312736	F-7C-051545	4243130971		103		JATAM INC KNIGHT-117 (#5)
-JOHN G MIDDLETON				RECEIVED:	12/08/82	JA: TX
8312765	F-04-60738	4247331806		103		MIDDLETON FEE #1 80611
8312764	F-04-60737	4247331825		103		MIDDLETON FEE #2 80448
8312763	F-04-60736	4247331820		103		MIDDLETON FEE #3 80449
-JOHN M YOUNG INC				RECEIVED:	12/08/82	JA: TX
8312768	F-03-054594	4214931357		102-2		FRITSCH UNIT #1
-JOHN L COX				RECEIVED:	12/08/82	JA: TX
8312811	F-08-57371	4231732567		103		LYNN HENSON #2 (RRC #21858)
8312810	F-7C-57365	4246131922		103		NEAL "30-B" #1
8312731	F-7C-050992	4246131889		103		POWELL "20" #3 RRC #09207
8312730	F-7C-05987	4238300000		103		ROCKER B "C" #3-A RRC #04476
8312812	F-7C-57374	4238332288		103		ROCKER B "J" #6-X (RRC #04646)
-JOHNNY G JONES				RECEIVED:	12/08/82	JA: TX
8312744	F-08-053042	4213533831		103		J E PARKER "3-A"
-JUMAS OIL PART CORP				RECEIVED:	12/08/82	JA: TX
8312893	F-09-60288	4249708080		108		OPAL JANUARY #1
-KAISER OIL (US) LTD				RECEIVED:	12/08/82	JA: TX
8312840	F-03-58685	4233930534		102-4		SCHOENFELD #1
-KCA OIL & GAS INC				RECEIVED:	12/08/82	JA: TX
8312836	F-09-58566	4233731610		103		HOGUE #1 21128
8312834	F-7B-58564	4222130201		102-2		NELON 1-B 079588
8312835	F-7B-58565	4236730800		103		PRINCE #1 082031
-KEN PETROLEUM CORP				RECEIVED:	12/08/82	JA: TX
8312973	F-03-60755	4248131795		103		STOVALL "A" #1
-LANDMARK EXPLORATION INC				RECEIVED:	12/08/82	JA: TX
8312716	F-03-047548	4205131920		102-2		TSCHOERNER #1
-LENTEX PETROLEUM INDUSTRIES INC				RECEIVED:	12/08/82	JA: TX
8312791	F-7B-56202	4205932575		103		M C HUGHES #1
-LIVELY ENERGY & DEVELOPMENT CORP				RECEIVED:	12/08/82	JA: TX
8312749	F-7C-053431	4243500000		103	107-TF	SUTTON 30-3
-LIVELY EXPLORATION COMPANY				RECEIVED:	12/08/82	JA: TX
8312796	F-7C-56696	4243532348		103	107-TF	ALDWELL RANCH "13" #9
8312801	F-7C-56726	4243532375		103	107-TF	ALDWELL RANCH "14" #8-2
8312797	F-7C-56697	4243532351		103	107-TF	ALDWELL RANCH "14" #9
8312800	F-7C-56723	4243532308		103	107-TF	ALDWELL RANCH "8" #8
-LYNX DRILLING CO INC				RECEIVED:	12/08/82	JA: TX
8312772	F-7B-054861	4222130688		102-4		CHANDLER #1
-LYRIC ENERGY INC				RECEIVED:	12/08/82	JA: TX
8312883	F-10-60169	4217931021		103		CITY OF MCLEAN #1
-MAGNUM RESOURCES INC				RECEIVED:	12/08/82	JA: TX
8312903	F-09-60551	4250334714		103		RAMSOUR "C" #1 RRC #093435
-MARSHALL EXPLORATION INC				RECEIVED:	12/08/82	JA: TX
8312755	F-06-053718	4245930535		103		GRAY #1
-MAY PETROLEUM INC				RECEIVED:	12/08/82	JA: TX

FIELD NAME	PROD	PURCHASER
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	1541.9	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
PEACH CREEK (BUDA)	391.8	VALERO TRANSMISSI
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
AHACKER-TIPPETT (STRA	58.0	EL PASO NATURAL G
JAMESON (STRAWN)	52.0	SUN OIL CO
LAS TIENDAS (OLMOS)	204.0	LONE STAR GAS CO
LAS TIENDAS (OLMOS)	216.0	LONE STAR GAS CO
LAS TIENDAS (OLMOS)	132.0	LONE STAR GAS CO
GIDDINGS (EDWARDS GAS	132.5	CLAJON GAS CO
SPRABERRY (TREND AREA	10.0	NORTHERN GAS PROD
SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
SPRABERRY (TREND AREA	10.0	MOBIL PRODUCING T
SPRABERRY (TREND AREA	5.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
HARPER	7.1	PHILLIPS PETROLEU
WISE KENT (HAM SAND)	0.1	LONE STAR GAS CO
DECKERS PRAIRIE (9120	308.0	INTRASTATE GATHER
LAIRD ATOKA	31.0	LONE STAR GAS CO
MCINTOSH (BIG SALINE)	110.0	VALERO TRANSMISSI
CARTERVILLE STRAWN (2	177.0	LONE STAR GAS CO
HILLJE SOUTH (MARG 51	300.0	VICTORIA GAS CORP
CALDWELL (AUSTIN CHAL	200.0	CLAJON GAS CO
CALLAHAN COUNTY REGUL	69.0	SOUTHWESTERN GAS
PHYLLIS SONORA (LOWER	730.0	LONE STAR GAS CO
ALDWELL RANCH (CANYON	62.3	VALERO TRANSMISSI
ALDWELL RANCH (CANYON	178.6	VALERO TRANSMISSI
ALDWELL RANCH (CANYON	76.0	VALERO TRANSMISSI
ALDWELL RANCH (CANYON	4.2	VALERO TRANSMISSI
WORLEY (STRAWN)	208.0	NORTHERN GAS PROD
PANHANDLE WEST	0.0	EL PASO NATURAL G
BOROCK (MARBLE FALLS)	36.0	SUN GAS TRANSMISS
CEDAR SPRINGS (TRAVIS	160.0	ARKANSAS LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312922	F-7C-60615	4238332741		103		RENNA T RINGO "B" #2 (01808)	SPRABERRY (TREND AREA	18.3	EL PASO NATURAL G
-MAY-FAR OIL & GAS				RECEIVED:	12/08/82	JA: TX			
8312745	F-7B-052984	4208332915		102-4		HOSCH #3	SANTA ANNA (CROSS CUT	207.0	LONE STAR GAS CO
-MCCANN CORP				RECEIVED:	12/08/82	JA: TX			
8312970	F-08-60745	4231732547		103		IRETON #1	SPRABERRY (TREND AREA	54.0	PHILLIPS PETROLEU
8312907	F-8A-60568	4211531728		103		M L SNELL #2	ACHERLY NORTH (CANYON	43.2	TEXACO INC
8312969	F-08-60743	4231732551		103		T R LOUDER #1	SPRABERRY (TREND AREA	46.1	PHILLIPS PETROLEU
-MCCORD EXPLORATION				RECEIVED:	12/08/82	JA: TX			
8312750	F-04-053441	4235500000		102-4		DOYLE E LONDON #1C	DOUGHTY	500.0	HOUSTON PIPELINE
-MCZ INC				RECEIVED:	12/08/82	JA: TX			
8312914	F-03-60591	4204130791		102-2		MARIA PULTS #1	KURTEN (WOODBINE)	100.0	FERGUSON CROSSING
-MEWBOURNE OIL COMPANY				RECEIVED:	12/08/82	JA: TX			
8312947	F-10-60660	4235731062		103		HOLLAND UNIT #1 RRC ID #04739	PERRYTON (MORROW BASA	0.0	PHILLIPS PETROLEU
-MIDSTATES OIL CO				RECEIVED:	12/08/82	JA: TX			
8312889	F-7C-60236	4239900000		108		GRINDSTAFF #1	BEDDO N (PALO PINTO)	15.0	LONE STAR GAS CO
-MILES PRODUCTION CO				RECEIVED:	12/08/82	JA: TX			
8312870	F-09-59973	4223734602		102-4		M P HOEFLE "F" #4	ANTELOPE S E (MARBLE	25.0	SOUTHWESTERN GAS
-MIN-TEX EXPLORATION CORP				RECEIVED:	12/08/82	JA: TX			
8312839	F-7B-58691	4242933251		103		COPELAND RANCH #3 (102060)	COPELAND (STRAWN)	110.0	WARREN PETROLEUM
-MIRADA MANAGEMENT CORP				RECEIVED:	12/08/82	JA: TX			
8312833	F-02-58421	4223931763		102-4		DOROTHY B PLOEGER #1 101998	FOSS BROWN 3660	36.5	ESPERANZA TRANSMI
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/08/82	JA: TX			
8312886	F-09-60201	4249732414		103		L W RATLIFF #2	BOONSVILLE (BEND CONG	195.0	NATURAL GAS PIPEL
8312856	F-09-5964	4249700000		108		M G HOEHN #1 #055856	BOONSVILLE (BEND CONG	14.1	NATURAL GAS PIPEL
8312885	F-09-60200	4223732733		103		MARY E LINDSEY #2	KRAMBERGER (ATOKA CON	10.0	NATURAL GAS PIPEL
8312715	F-09-046450	4249700000		108-SA		N D CULWELL #1 28613	BOONSVILLE (BEND CONG	11.9	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	12/08/82	JA: TX			
8312985	F-7C-60795	4244330238		108-SA		BROWN-MCNINCH ESTATE UNIT #3	BROWN-BASSETT (WOLFCA	11.1	EL PASO NATURAL G
8312708	F-04-022357	4224900000		108		LA GLORIA GAS UNIT NO 2-T	LA GLORIA (CULPEPPER)	3.0	TRANSCONTINENTAL
8312710	F-08-032460	4237100000		108		MITCHELL UNIT #1	HOKIT/ELLENBERGER	0.0	INTRATEX GAS CO
8312948	F-8A-60666	4216532383		103		RUSSELL (7000 CLEARFORK) UNIT #227	RUSSELL (CLEARFORK 70	7.3	PIONEER NATURAL G
8312949	F-8A-60667	4216532384		103		RUSSELL (7000 CLEARFORK) UNIT #228	RUSSELL (CLEARFORK 70	6.9	PIONEER NATURAL G
8312859	F-08-59826	4237133966		103		VOLLMAR FEE 13 #1	TROPORO (DEVONIAN)	88.3	
-MORAN EXPLORATION INC				RECEIVED:	12/08/82	JA: TX			
8312880	F-7C-60110	4223531903		102-2	103	A A SUGG "14" #2	ANDREW A (CANYON)	75.0	FARMLAND INDUSTRI
8312871	F-08-60002	4237131550		108		NUTT J L ESTATE #1	BARBASAL (QUEEN)	9.3	PRODUCERS GAS CO
-MOSBACHER PRODUCTION CO				RECEIVED:	12/08/82	JA: TX			
8312805	F-01-56963	4217700000		102-2		ALICE M KALKA #1	PEACH CREEK (BUDA)	2.8	VALERO TRANSMISSI
-NATIONAL OIL COMPANY				RECEIVED:	12/08/82	JA: TX			
8312785	F-04-55769	4213135027		102-4		DUVAL COUNTY RANCH CO #1	LOPEZ NW (WILCOX)	275.0	
-NEUMIN PRODUCTION CO				RECEIVED:	12/08/82	JA: TX			
8312904	F-03-60554	4208931258		103		ROSALIE LOESER UNIT #1	J K B (WILCOX 7860)	83.0	ALUMINUM CO OF AM
8312786	F-02-55888	4205731179		103		STATE TRACT 177 WELL #3-D	STEAMBOAT PASS (ZONE	73.0	ALUMINUM CO OF AM
-NORTH STAR PETROLEUM CORPORATION				RECEIVED:	12/08/82	JA: TX			
8312888	F-10-60227	4223300000		108		ETHEL SMITH #1 (00990)	PANHANDLE	3.0	PANHANDLE PRODUCI
8312890	F-10-60252	4223300000		108		NORTH AMERICAN SANFORD #5 (02517)	PANHANDLE	14.0	PANHANDLE PRODUCI
8312891	F-10-60254	4223300000		108		NORTH AMERICAN SANFORD #6 (02517)	PANHANDLE	14.0	PANHANDLE PRODUCI
-OAKWOOD RESOURCES INC				RECEIVED:	12/08/82	JA: TX			
8312712	F-10-040377	4219530775		103		RALSTON 2-10	HANSFORD NORTH (MORRO	228.0	INTERNORTH INC
-PANHANDLE ENERGY CORP				RECEIVED:	12/08/82	JA: TX			
8312927	F-10-60624	4217931255		103		KEN #3 (ID #05191)	PANHANDLE GRAY	50.0	GETTY OIL CO
8312928	F-10-60625	4217931188		103		MICHAEL #3 (ID #05172)	PANHANDLE GRAY	100.0	GETTY OIL CO
-PARKER & PARSLEY INC				RECEIVED:	12/08/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312851	F-08-59465	4231732565		103		STIMSON-BURLEY PD# #2	SPRABERRY (TREND AREA	15.8	ARCHE OIL & GAS C

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312851	F-08-59465	4231732565		103		STIMSON BURLEY "D" #2	SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
8312852	F-08-59466	4231732485		103		STIMSON-BURLEY "D" #1	SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
-PECOS OPERATORS INC				RECEIVED:	12/08/82	JA: TX			
8312929	F-08-60626	4247532699		103		DOANE #4	WARD SOUTH	7.0	WESTAR TRANSMISSI
-PEERLESS DRILLING CO				RECEIVED:	12/08/82	JA: TX			
8312794	F-7B-56422	4236732300		102-2		FROST # 2 (ID NUMBER APPLIED FOR)	H & R (BEND CONGL)	135.0	SOUTHWESTERN GAS
-PENINSULA RESOURCES CORPORATION				RECEIVED:	12/08/82	JA: TX			
8312788	F-02-56135	4202531819		102-4		W D WALTON GAS UNIT #1	WEST COSDEN (LULING 7	0.0	
-PENNZOIL PRODUCING COMPANY				RECEIVED:	12/08/82	JA: TX			
8312789	F-06-56140	4236531419		103	107-TF	MANGHAM UNIT #4	CARTHAGE (COTTON VALL	730.0	UNITED GAS PIPE L
8312774	F-06-054897	4236531403		103	107-TF	WHITAKER UNIT #4	CARTHAGE (COTTON VALL	730.0	UNITED GAS PIPE L
-PETROLEUM EQUITIES CORP				RECEIVED:	12/08/82	JA: TX			
8312817	F-7B-57452	4244733125		102-2		PAUL S HARRINGTON #10-A	THROCKMORTON COUNTY R	22.0	THROCKMORTON GAS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/08/82	JA: TX			
8312937	F-08-60642	4200311057		108		(05496) TEX UNIV T #6	SHAFTER LAKE (CLEARFO	1.0	EL PASO NATURAL G
8312727	F-10-050759	4242130266		103		IVENS Q #3	TEXAS HUGOTON	0.0	MICHIGAN WISCONSI
8312877	F-10-60083	4242100000		108		LENORA #1	TEXAS HUGOTON - DOLOM	0.0	PANHANDLE EASTERN
8312942	F-08-60647	4249530254		108		MCCABE #35	HALLEY	2.0	EL PASO NATURAL G
8312941	F-08-60646	4249530262		108		MCCABE #37	HALLEY	3.0	EL PASO NATURAL G
8312938	F-7C-60643	4246102361		108		N PEMBROOK SPRABERRY UT 6-02 03913	SPRABERRY (TREND AREA	4.0	INTER NORTH INC
8312939	F-7C-60644	4246104344		108		N PEMBROOK SPRABERRY UT 92-1 03913	SPRABERRY (TREND AREA	1.0	INTER NORTH INC
8312940	F-7C-60645	4246104042		108		NORTH PEMBROOK UNIT 3-01 (03913)	SPRABERRY (TREND AREA	5.0	INTER NORTH INC
8312743	F-08-60648	4203505726		108		PHILLIPS TXL #4	HARPER-SAN ANDRES	1.0	UNDEDICATED
-PITTS OIL CO & DALLAS PROD INC				RECEIVED:	12/08/82	JA: TX			
8312816	F-05-57420	4216130736		102-4	107-TF	CAPPS #2	REED N (COTTON VALLEY	730.0	UNITED TEXAS TRAN
8312825	F-05-57936	4228930469		102-4		SHELBY SMITH #1 RRC ID #102004	EUNICE (TRAVIS PEAK)	473.0	EASTEX GAS TRANSM
-PLACER ENERGY CORP				RECEIVED:	12/08/82	JA: TX			
8312729	F-7B-050960	4215131213		102-4		JOHNSON #1	CELOTEX (CANYON SAND)	37.0	TEXAS UTILITIES F
-POLK & PATTON INC				RECEIVED:	12/08/82	JA: TX			
8312808	F-03-57212	4228731243		102-2		FRANCIS #1	GIDDINGS (AUSTIN CHAL	127.5	PHILLIPS PETROLEU
-R A W ENERGY CORP				RECEIVED:	12/08/82	JA: TX			
8312822	F-09-57652	4223734520		102-4		C & W RANCH #1-L	LENORA (D-ZONE CONGL)	100.0	TEXAS UTILITIES F
8312821	F-09-57651	4223734520		102-4		C & W RANCH #1-U	HAWTHORNE (A-ZONE CON	150.0	TEXAS UTILITIES F
-REATA OIL & GAS CORP				RECEIVED:	12/08/82	JA: TX			
8312827	F-03-58171	4231330387		103		G J OSBORNE #1	MADISONVILLE NE (DEXT	8.0	LONE STAR GAS CO
8312726	F-03-050300	4231330358		103		LUMMIE MORGAN #1	MADISONVILLE NE (DEXT	8.0	LONE STAR GAS CO
-REITA PRODUCTION INC.				RECEIVED:	12/08/82	JA: TX			
8312952	F-09-60699	4223734532		102-4		EDWARDS #7-D	WEST FORK (WEIR)	18.0	LONE STAR GAS CO
-RETAMCO INC				RECEIVED:	12/08/82	JA: TX			
8312814	F-01-57385	4250731573		103		ELLA CAPPS #2	BEAR SALT (SAN MIGUEL	206.9	INTER NORTH INC
8312813	F-01-57380	4250731574		102-4		ELLA CAPPS #4	BEAR SALT SOUTH (SAN	365.1	INTER NORTH INC
8312815	F-01-57386	4250731642		102-4		ELLA CAPPS #9	BEAR SALT (SAN MIGUEL	219.0	INTER NORTH INC
-RIDGE OIL CO				RECEIVED:	12/08/82	JA: TX			
8312845	F-7B-59193	4242933286		102-4	103	CROSS #1	RANGER NW (MARBLE FAL	14.4	COMPRESSOR RENTAL
-RYDER SCOTT OIL CO				RECEIVED:	12/08/82	JA: TX			
8312910	F-09-60577	4223734686		102-4		CAMPBEY #1	COOPER (CONGLOMERATE)	20.0	
8312957	F-7B-60715	4244730831		102-4		DAVIS "G" #2 RRC #083885	THROCKMORTON SW (COLE	1.0	HST GATHERING SYS
8312956	F-7B-60714	4244731750		102-4		DAVIS "G" 13 RRC #083886	THROCKMORTON SW (COLE	125.0	HST GATHERING SYS
8312955	F-7B-60713	4244731746		102-4		MONTGOMERY #13 RRC #083884	THROCKMORTON SW (COLE	53.0	HST GATHERING SYS
-SAGE DRILLING CO INC				RECEIVED:	12/08/82	JA: TX			
8312895	F-7C-60312	4241331095		102-4		SAGE MCASHAN 1-67 B	SAGE TILLERY FIELD	8.8	INTERNORTH INC
-SAMSON RESOURCES COMPANY				RECEIVED:	12/08/82	JA: TX			
8312881	F-02-60112	4202500800		107-TF		WILLIS A ROBERSON #1	PLUMMER	36.5	VALERO TRANSMISSI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SCANDRILL INC									
				RECEIVED:	12/08/82	JA: TX			
8312763	F-7B-054420	4244733003		103		SULLIVAN #10	THROCKMORTON CO REG (	9.1	THROCKMORTON GAS
8312766	F-7B-054455	4244733005		103		SULLIVAN #11	THROCKMORTON CO REG (	17.9	THROCKMORTON GAS
8312765	F-7B-054453	4244733004		103		SULLIVAN #12	THROCKMORTON CO REG (	15.7	THROCKMORTON GAS
8312759	F-7B-054412	4244733006		103		SULLIVAN #13	THROCKMORTON CO REG (	22.3	THROCKMORTON GAS
8312762	F-7B-054410	4244733001		103		SULLIVAN #14	THROCKMORTON CO REG (	7.2	THROCKMORTON GAS
8312761	F-7B-054417	4244733007		103		SULLIVAN #9	THROCKMORTON CO REG (	8.4	THROCKMORTON GAS
8312760	F-09-054415	4223784452		103		W G STAMPER #3	BOBILL (CONGL)	43.8	LONE STAR GAS CO
-SEAGULL RESOURCES INC									
				RECEIVED:	12/08/82	JA: TX			
8312788	F-09-055478	4222300000		102-4		MILLER GAS UNIT #1	PICKTON (SMACKOVER) F	0.0	TEXAS UTILITIES F
-SHANE OIL CORP									
				RECEIVED:	12/08/82	JA: TX			
8312841	F-7B-58931	4242933347		102-4		COOK HEIRS #1-C ID NO APPLIED FOR	FRANKEL E (STRAWN)	43.0	WARREN PETROLEUM
8312842	F-7B-58933	4242933349		102-4		COOK HEIRS #1-D ID NO APPLIED FOR	FRANKEL S (STRAWN)	36.0	WARREN PETROLEUM
-SHELL OIL CO									
				RECEIVED:	12/08/82	JA: TX			
8312777	F-8A-055132	4250132176		103		YOAKUM WASSON CLEARFORK UNIT #4512Y	WASSON 72	1.2	SHELL OIL CO
-SNOW OIL CO									
				RECEIVED:	12/08/82	JA: TX			
8312986	F-7B-60796	4213333952		102-4		CLINTON KELLAR #1 (18760)	REB (MARBLE FALLS)	66.0	LONE STAR GAS CO
8312987	F-7B-60797	4213333920		102-4		DUPREE-EAST #1 (18762)	JMJ (MARBLE FALLS)	99.0	LONE STAR GAS CO
8312935	F-7B-60639	4213333674		102-4		SNOW 26 UNIT #1 (18409)	MANGUM NORTH (3200)	46.0	ODESSA NATURAL CO
8312934	F-7B-60638	4213333623		102-4		SNOW 26 UNIT #2 (18409)	MANGUM NORTH (3200)	66.0	ODESSA NATURAL CO
8312988	F-7B-60798	4213333958		102-4		TEXFEL-BEGGS #1 (181886)	SNOW (DUFFER)	121.8	LONE STAR GAS CO
8312913	F-7B-60588	4213333412		102-4		TEXFEL-CASTLEBERRY #1 (18462)	REB (MARBLE FALLS)	37.0	LONE STAR GAS CO
-SO-TEX PETROLEUM, INC.									
				RECEIVED:	12/08/82	JA: TX			
8312976	F-7B-60769	4244132237		103		SOUTH CORNETT #3	JOCELYN-VARN (FRY)	48.0	UNION TEXAS PETRO
-SOUTHERN CRUDE OIL RESOURCES INC									
				RECEIVED:	12/08/82	JA: TX			
8312878	F-7B-60091	4236732253		102-4		LAMBERT-MOORE UNIT #1	PEASTER SE (MARBLE FA	0.0	LONE STAR GAS CO
-SOUTHLAND ROYALTY CO									
				RECEIVED:	12/08/82	JA: TX			
8312707	F-7C-020864	4217300000		108		HOWARD "A" #1	CALVIN	7.0	PHILLIPS PETROLEU
8312711	F-7C-036453	4238300000		108		O F BOYD "A" #1-44	CALVIN	3.4	UNION TEXAS PETRO
8312946	F-08-60654	4247532686		103		UNIVERSITY 16-12 C #5	SOUTH WICKETT	28.0	CABOT CORP
-SPAR-WOOD OIL CO									
				RECEIVED:	12/08/82	JA: TX			
8312989	F-7B-60799	4214330724		102-4		S J KEITH #1 (17801)	BYRNES (DUFFER)	9.0	CORONADO TRANSMIS
-SS & B PRODUCTION CO									
				RECEIVED:	12/08/82	JA: TX			
8312974	F-10-60766	4217931251		103		MACKIE #5	PANHANDLE GRAY COUNTY	72.0	INTER NORTH INC
8312975	F-10-60767	4217931250		103		MACKIE #6	PANHANDLE GRAY COUNTY	72.0	INTER NORTH INC
-SUN EXPLORATION & PRODUCTION CO									
				RECEIVED:	12/08/82	JA: TX			
8312783	F-08-55592	4249531306		103		M J HILL #30	HALLEY (GLORIETA)	28.0	TRANSWESTERN PIPE
8312855	F-7B-59593	4242900000		108		M YANDELL #1	VEALE (MARBLE FALLS)	5.0	SOUTHWESTERN GAS
8312961	F-08-60721	4246100000		108		MCELROY S W UNIT #12	MCELROY	0.2	PHILLIPS PETROLEU
8312960	F-08-60720	4246100000		108		MCELROY S W UNIT #16	MCELROY	0.3	PHILLIPS PETROLEU
8312979	F-08-60778	4246100000		108		MCELROY S W UNIT #20	MCELROY	0.3	PHILLIPS PETROLEU
8312959	F-08-60719	4246100000		108		MCELROY S W UNIT #28	MCELROY	0.3	PHILLIPS PETROLEU
8312980	F-08-60779	4246100000		108		MCELROY S W UNIT #32	MCELROY	0.3	PHILLIPS PETROLEU
8312829	F-7B-58827	4213300000		108		RANGER/MCCLESKEY SAND FLD UT #18	RANGER	6.0	SUN GAS TRANSMISS
8312962	F-08-60722	4200300000		108		UNIVERSITY -B- #3	FULLERTON	0.4	PHILLIPS PETROLEU
8312983	F-08-60784	4210300000		108		UNIVERSITY -L- #1	DUNE	0.7	PHILLIPS PETROLEU
8312982	F-8A-60781	4250100000		108		WASSON N CLEARFORK UNIT #31	WASSON N E (CLEARFORK	0.7	SHELL OIL CO
8312981	F-8A-60780	4250100000		108		WASSON N CLEARFORK UNIT #45	WASSON N E (CLEARFORK	0.6	SHELL OIL CO
8312984	F-08-60785	4231700000		108		YATER WILKINSON #1	SPRABERRY TREND AREA	3.0	PHILLIPS PETROLEU
-T M QUIGLEY									
				RECEIVED:	12/08/82	JA: TX			
8312706	F-02003943	4202500000		108-ER		C P SPARKMAN WELL #2	MINERAL NORTH (7550)	72.0	TEXAS EASTERN TRA
-TADLOCK PRODUCTIONS									
				RECEIVED:	12/08/82	JA: TX			
8312770	F-10-054829	4223300000		103		SALLIE PRITCHARD "A-9" (A-10) #020*	PANHANDLE HUTCHINSON	0.0	DIAMOND SHAMROCK

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312771	F-10-054831	4223300000		103		SALLIE PRITCHARD "A-9" (A-10) #020*	PANHANDLE HUTCHINSON	0.0	DIAMOND SHAMROCK

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312771	F-10-054831	4223300000		103		SALLIE PRITCHARD "A-B" (A-10) #020*	PANHANDLE HUTCHINSON	0.0	DIAMOND SHAMROCK
-TASCOCITA ENERGY CO				RECEIVED: 12/08/82 JA: TX					
8312717	F-03-048213	4215731181		102-4	103	SCHULTZ #1	WILDCAT	1500.0	DOW CHEMICAL CO
-TAYLOR BROTHERS OIL CO				RECEIVED: 12/08/82 JA: TX					
8312933	F-10-60637	4234130848		103		JONES #10 #01990	PANHANDLE MOORE COUNT	90.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED: 12/08/82 JA: TX					
8312911	F-03-60578	4231330367		102-4		H L MCFARLAND #1	FT TRINIDAD - (LEWISV	0.0	
-TERRY L MCIVER				RECEIVED: 12/08/82 JA: TX					
8312795	F-7B-56482	4208333078		102-4		WILLIAM BROWN #1	ELLIS (FRY)	500.0	LONE STAR GAS CO
-TEXACO INC				RECEIVED: 12/08/82 JA: TX					
8312824	F-8A-57815	4221933534		103		BOB SLAUGHTER BLK #340	SLAUGHTER	0.0	AMOCO PRODUCTION
8312873	F-08-60018	4238900000		108		REEVES "AC" FEE #4	EAST FORD (DEL SAND)	2.5	CONOCO INC
-TEXAL PETROLEUM INC				RECEIVED: 12/08/82 JA: TX					
8312737	F-7B-051550	4236700000		103		O'FLAHERTY #1	MEEKER (CONGL 3850)	72.0	UPHAM OIL & GAS C
-TEXAS INTERNATIONAL PET CORP				RECEIVED: 12/08/82 JA: TX					
8312748	F-03-053290	4214900000		102-2		PEGGY BROWN A-21	GIDDINGS (AUSTIN CHAL	0.0	SOUTH CEN-TEX GAS
-TEXAS INTERSTATE PETROLEUM CORP				RECEIVED: 12/08/82 JA: TX					
8312675	F-03-60066	4214700000		108		ERIK POAG LITTLEJOHN #2 RRC #035453	ARNIM (COCKRELL 1ST 1	20.9	SOUTH CEN-TEX GAS
8312674	F-03-60065	4214900000		108		ERIK POAG LITTLEJOHN #4 RRC #037957	ARNIM (SPARTA 1000)	15.1	SOUTH CEN-TEX GAS
-TEXLAND-RECTOR & SCHUMACHER				RECEIVED: 12/08/82 JA: TX					
8312843	F-7C-59001	4246131859		103		UNIVERSITY 10-B #1	BENEDUM (FUSSELMAN)	146.0	INTRATEX GAS CO
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED: 12/08/82 JA: TX					
8312753	F-7C-053632	4210532708		103	107-TF	MAYER 7A	SAWYER (CANYON)	175.0	INTER NORTH INC
8312728	F-7C-050782	4210533838		102-4	107-TF	UNIVERSITY 31-14 #1	UNIVERSITY 31 (STRAWN	600.0	PHILLIPS PETROLEU
8312738	F-7C-051806	4210533951		102-4	107-TF	UNIVERSITY 31-20 #1	UNIVERSITY 31 (STRAWN	300.0	
8312735	F-7C-051379	4210533950		102-4	107-TF	UNIVERSITY 31-29E #2	UNIVERSITY 31 (STRAWN	425.0	
-THROCKMORTON GAS SYSTEMS				RECEIVED: 12/08/82 JA: TX					
8312830	F-7B-58299	4244733160		102-2		CONDRON #2	BROWN RANCH (CADDO)	0.0	WARREN PETROLEUM
-TIPPERARY OIL AND GAS CORP				RECEIVED: 12/08/82 JA: TX					
8312807	F-03-57070	4214931381		103		ELLISOR "D" #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-TOM RASMUSSEN				RECEIVED: 12/08/82 JA: TX					
8312966	F-08-60739	4213500000		108		PARKER #1	HARPER	2.0	PHILLIPS PETROLEU
8312967	F-08-60741	4213500000		108		PARKER #2	HARPER	2.0	PHILLIPS PETROLEU
8312968	F-08-60741	4213500000		108		PARKER #3	HARPER	2.0	PHILLIPS PETROLEU
-TOMMY LITTLEPAGE				RECEIVED: 12/08/82 JA: TX					
8312918	F-09-60598	4250335165		103		WADLEY #18733	VICTORIA (3100)	30.0	SUN GAS TRANSMISS
-TXO PRODUCTION CORP				RECEIVED: 12/08/82 JA: TX					
8312756	F-05-053966	4216130725		103	107-TF	HEMPHILL #1-2	REED (HAYNESVILLE)	0.0	
8312781	F-06-051323	4245930526		103	107-TF	MACHEN #1	ROSEWOOD (COTTON VALL	0.0	
8312758	F-10-054223	4229531116		103		PAINE "C" #1	FOLLETT WEST (CHEROKE	20.0	PHILLIPS PETROLEU
8312754	F-02-053644	4212331212		102-4		WHITE M-1		0.0	DELHI GAS PIPELIN
8312804	F-05-56908	4216130740		103	107-TF	WILLIFORD GAS UNIT #1-2	REED N (COTTON VALLEY	0.0	UNITED GAS PIPELI
-V F NEUHAUS				RECEIVED: 12/08/82 JA: TX					
8312740	F-04-052123	4242700000		102-4		YZAGUIRRE #4	YZAGUIRRE	10.0	FLORIDA GAS TRANS
-VENUS OIL COMPANY				RECEIVED: 12/08/82 JA: TX					
8312819	F-03-57564	4203931633		102-4		STEVENS UNIT #1	LAKE ALASKA (FRIO 837	0.0	VALERO TRANSMISSI
-WINSON EXPLORATION				RECEIVED: 12/08/82 JA: TX					
8312823	-F-7C-57764	4210500000		102-4		UNIVERSITY "33-AA" #1	INGHAM (QUEEN)	82.0	SOUTHWESTERN GAS
-VOYAGER PETROLEUMS LTD				RECEIVED: 12/08/82 JA: TX					
8312776	F-01-055007	4217731128		102-2		TUCH UNIT #1 07826	PEACH CREEK	0.0	
-W C MILLER				RECEIVED: 12/08/82 JA: TX					
8312767	F-01-054539	4231100000		102-4		J W ATKINSON A-2	LOMA ALTA (4070*) YEG	130.0	TEXAS EASTERN TRA
-W R LAUGHLIN				RECEIVED: 12/08/82 JA: TX					

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8312757	F-04-054004	4224900000		102-4		C M LAUGHLIN A#3	FREMONT	75.0	VALLEY GAS TRANSM
-WARREN PETR CO A DIV OF GULF OIL CO		RECEIVED: 12/08/82 JA: TX							
8312820	F-08-57587	4210332247		108		J V TERRILL "A" #13	SAND HILLS (JUDKINS)	0.2	EL PASO NATURAL G
8312879	F-08-60107	4210332959		103		P J LEA #140	LEA (SAN ANDRES)	0.6	EL PASO NATURAL G
-WES-TEX DRILLING COMPANY		RECEIVED: 12/08/82 JA: TX							
8312931	F-78-60620	4235331331		103		R H JORDAN RANCH #3	SUGGS ELLENBURGER	6.4	LONE STAR GAS CO
-WESSELY ENERGY CORPORATION		RECEIVED: 12/08/82 JA: TX							
8312826	F-05-57943	4216130457		107-TF		ZENO KING UNIT II WELL #1	TEAGUE (BOSSIER SAND)	300.0	LONE STAR GAS CO
-WHEELER OIL COMPANY		RECEIVED: 12/08/82 JA: TX							
8312723	F-10-048879	4208700000		108		J C BREEDING (87836) #1	EAST PANHANDLE	18.8	EL PASO NATURAL G
-WILLIAMS EXPLORATION COMPANY		RECEIVED: 12/08/82 JA: TX							
8312803	F-02-56876	4205700000		103-4		P H WELDER "D" #2L	KATIE WELDER J-6	0.8	SEAGULL PIPELINE
-WILSON RESOURCES INC		RECEIVED: 12/08/82 JA: TX							
8312867	F-06-59928	4240141342		102-3	107-TF	S S LAIRD GAS UNIT WELL #1	HENDERSON N (COTTON V	400.0	UNITED GAS PIPE L
-WINCHESTER OIL CO		RECEIVED: 12/08/82 JA: TX							
8312848	F-06-59401	4220330972		103	107-TF	TRAMMELL #1	WASHOM COTTON VALLEY	500.0	TEXAS EASTERN TRA
-WINDSOR GAS CORP		RECEIVED: 12/08/82 JA: TX							
8312919	F-7C-60600	4243532658		103	107-TF	DUKE WILSON #161-1 ID #101792	SHURLEY RANCH (CANYON	8.8	VALERO TRANSMISSI
-WOOLF & MAGEE INC		RECEIVED: 12/08/82 JA: TX							
8312921	F-03-60608	4200530143		102-4		CARTER BROS GAS UNIT #6 WELL #6	DAMASCUS (WOODBINE 93	750.0	EASTEX GAS TRANSM
-WORLDWIDE ENERGY CORPORATION		RECEIVED: 12/08/82 JA: TX							
8312884	F-06-60197	4242330570		102-4		HOUSTON HEIRS #2	SUNSHINE	0.0	SEMCO GAS INC
-WY-VEL CORP		RECEIVED: 12/08/82 JA: TX							
8312930	F-10-60627	4206531266		103		AEBERSOLD (04904) #5	PANHANDLE	76.7	GETTY OIL CO

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 83–1169 Filed 1–14–83; 8:45 am]
BILLING CODE 6717–01–M

[Volume 808]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 11, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-ANADARKO PRODUCTION COMPANY		RECEIVED: 12/08/82 JA: KS							
8313171		1517520536		103		APSLEY "A" #1	HUGOTON	27.0	CIMARRON-QUINQUE
8313176		1512720599		103		FITZGERALD "A" #1	PANOMA	37.0	PANHANDLE EASTERN
8313173		1517520535		103		FULLER "B" #1	HUGOTON	27.0	CIMARRON-QUINQUE
8313175		1512920601		103		HAAR "G" #1	PANOMA	37.0	PANHANDLE EASTERN
-GETTY OIL COMPANY		RECEIVED: 12/09/82 JA: KS							
8313181		1500730054		108-PB		SUTTON A #1	AETNA	0.0	CITIES SERVICE CO
-MOBIL OIL CORP		RECEIVED: 12/13/82 JA: KS							
8313216		1518920553		103		K BROWN UNIT NO 3 WELL	PANOMA COUNCIL GROVE	70.0	INTERNORTH INC
-STERLING DRILLING & PROD CO INC		RECEIVED: 12/09/82 JA: KS							
8313179		1515921252		103		GULLICK ESTATE #1-7	W/C	180.0	PENDING
-W B OSBORN JR (OPERATOR)		RECEIVED: 12/08/82 JA: KS							
8313170		1509320762		102-2		GOERING #1-H	HUGOTON	50.0	PANHANDLE EASTERN
8313172		1509320745		103		LAGESSE #1-A	PANOMA (COUNCIL GROVE	50.0	PANHANDLE EASTERN
8313174		1509320746		102-2		MASSINGALE #1-A	PANOMA	60.0	PANHANDLE EASTERN
8313168		1509320764		102-2		PILON #1-H	HUGOTON	50.0	PANHANDLE EASTERN
8313169		1509320765		102-2		ROONEY #1-H	HUGOTON	50.0	PANHANDLE EASTERN
-W B OSBORN JR (OPERATOR)		RECEIVED: 12/09/82 JA: KS							
8313180		1509320747		103		ROMANO 1-H	HUGOTON (CHASE)	100.0	PANHANDLE EASTERN
-WALTER KUHN DRILLING COMPANY		RECEIVED: 12/13/82 JA: KS							
8313215		1518920558		103		STEPHANS #2-16	UNNAMED	91.0	INTERNORTH INC
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-SCHMUDE & PANGBORN ASSOCIATES		RECEIVED: 12/09/82 JA: MI							
8313178		2110100000		102-4		PAHKANEN 1-20A	MAPLE GROVE 20B FIELD	80.0	CONSUMERS POWER C
8313177		2107900000		102-4		STATE-BLUE LAKE #1-8	BLUE LAKE "B"	0.0	MICHIGAN CONSOLID
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALLEN M ANDERSON		RECEIVED: 12/10/82 JA: OH							
8313057		3416727304		103		HEISS BROTHERS INC #3		10.0	
-ALSID OIL & GAS DEVELOPMENT CO		RECEIVED: 12/10/82 JA: OH							
8313056		3412725478		107-TF		BROWNFIELD-PIERCE #1		15.0	
-ATLAS ENERGY GROUP INC		RECEIVED: 12/10/82 JA: OH							
8313058		3415522285		103		107-TF VARNER #2		25.0	COPPERWELD STEEL
-BADGER OIL & GAS CO INC		RECEIVED: 12/10/82 JA: OH							
8313059		3416720315	D	107-DV		KENDALL #1	DEVONIAN SHALE	0.0	COLUMBIA GAS TRAN
-BARTLO OIL AND GAS COMPANY		RECEIVED: 12/10/82 JA: OH							
8313060		3410323183		103		107-TF SHARP-LARSON UNIT #2		20.0	
-BELDEN & BLAKE & CO 88		RECEIVED: 12/10/82 JA: OH							

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313061		3410323039		103	107-TF	O & G CRANDALL ET AL #1 - 34-1212		36.5	
-BEREA OIL AND GAS CORPORATION				RECEIVED: 12/10/82 JA: OH					
8313063		3415522007		103	107-TF	C MESSERMITH #1	HARTFORD	0.0	COLUMBIA GAS TRAN
8313064		3415522186		103	107-TF	R CALDWELL #3	HARTFORD	0.0	COLUMBIA GAS TRAN
8313062		3405923159		102-4		R MOORE #3	WESTLAND	9.0	COLUMBIA GAS TRAN
-BERMAN J SHAFER				RECEIVED: 12/10/82 JA: OH					
8313155		3410322851		107-TF		PARTLON #1		7.5	COLUMBIA GAS TRAN
-BERRESFORD ENTERPRISES INC				RECEIVED: 12/10/82 JA: OH					
8313067		3411522375		103		JAMES HOPKINS ET AL #1		8.0	
-CLINTON OIL CO				RECEIVED: 12/10/82 JA: OH					
8313068		3415720357		108		STUKIS-ERVIN UNIT #1		10.0	EAST OHIO GAS CO
-COASTAL PETROLEUM CORP				RECEIVED: 12/10/82 JA: OH					
8313071		3415321196		107-TF		BAKO #1		9.0	COLUMBIA GAS TRAN
8313069		3410323045		107-TF		GOODSON DAVIDSON BELL #1		9.0	COLUMBIA GAS TRAN
8313072		3415723264		107-TF		HILTY #1		9.0	COLUMBIA GAS TRAN
8313070		3410323150		107-TF		JUDITH LYNN ENT & STILES #1		9.0	COLUMBIA GAS TRAN
-DONALD P SHANAHAN				RECEIVED: 12/10/82 JA: OH					
8313156		3416727162		103		DUSKEY COMMUNITY #1	BEVERLY	20.0	EAST OHIO GAS CO
-EASTERN OHIO PETROLEUM INC				RECEIVED: 12/10/82 JA: OH					
8313075		3416923260		107-TF		HERSHBERGER #2		22.0	COLUMBIA GAS TRAN
8313076		3416923310		107-TF		MILLER/ADAMS UNIT #1		22.0	COLUMBIA GAS TRAN
8313074		3416923233		107-TF		SPARR-ULLOM UNIT #1		22.0	COLUMBIA GAS TRAN
-ELAN ENERGY INC				RECEIVED: 12/10/82 JA: OH					
8313077		3416923370		103	107-TF	ANDY MILLER 2		10.0	COLUMBIA GAS TRAN
-EVERFLOW EASTERN INC				RECEIVED: 12/10/82 JA: OH					
8313080		3415723754		103	107-TF	BOND #1	WASHINGTON	0.0	
8313078		3409921494		103	107-TF	THEOFILOS #1	ELLSWORTH	0.0	
8313079A		3415723643		103		THOMAS #5	SANDY	0.0	
8313079B		3415723643	D	107-TF		THOMAS #5	SANDY	0.0	
-FINCK OIL & GAS CO				RECEIVED: 12/10/82 JA: OH					
8313081		3412725729		103		D RUDD ETAL #1	JUNCTION CITY QUAD	0.1	NATIONAL GAS & OI
-FORAKER PRODUCING COMPANY INC				RECEIVED: 12/10/82 JA: OH					
8313082		3411924623		108		C MOORE #2		0.0	
8313085		3412724990		103		DEROLPH #3		10.0	
8313084		3412724165		108		SELF-TAMS #1A		0.5	
8313083		3411924624		108		WELLS MINING CO #1		1.5	
-GASEARCH INC				RECEIVED: 12/10/82 JA: OH					
8313088		3415521712		103	107-TF	KEZER #1		20.0	
8313089		3415521713		103	107-TF	KEZER #2		20.0	
8313086		3400721857		103	107-TF	STAMPER #1		20.0	YANKEE RESOURCES
8313087		3400721858		103	107-TF	STAMPER #2		20.0	YANKEE RESOURCES
-GEO ENERGY INC				RECEIVED: 12/10/82 JA: OH					
8313090		3405321162		107-TF		PLATA-RUBESNE #70-3		15.0	COLUMBIA GAS TRAN
-HORTIN & HUFFMAN				RECEIVED: 12/10/82 JA: OH					
8313093		3412320067		103		#1 BESSIE DEWITZ		0.0	COLUMBIA GAS TRAN
8313092		3400522225		107-TF		LARRY AND BARBARA HOOVER #1		10.0	COLUMBIA GAS TRAN
-IRVIN PRODUCING COMPANY				RECEIVED: 12/10/82 JA: OH					
8313095		3412725708		103	107-TF	DAINE MAXWELL B-14		10.0	COLUMBIA GAS TRAN
-J P WHITE				RECEIVED: 12/10/82 JA: OH					
8313148		3400721825		107-TF		R & C ROLL GRINDING INC #1		0.0	EAST OHIO GAS
-JADOIL INC				RECEIVED: 12/10/82 JA: OH					
8313097		3403124749		107-TF		ALVIN N MILLER #2		25.0	COLUMBIA GAS TRAN
8313099		3403124751		107-TF		LAURA & EMMA AMMANN #5		20.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313096		3403124166		107-TF		NOBLE FAIR #1		20.0	COLUMBIA GAS TRAN
8313098		3403124750		107-TF		RAYMOND & BEVERLY PATTERSON #4		24.0	COLUMBIA GAS TRAN
-JAMES R BERNHARDT				RECEIVED: 12/10/82 JA: OH					
8313065		3410322567		103	107-TF	GOIK WELL #1		15.0	COLUMBIA GAS TRAN
8313066		3410322965		103	107-TF	MICKEL WELL #1		15.0	COLUMBIA GAS TRAN
-L & M PETROLEUM INC				RECEIVED: 12/10/82 JA: OH					
8313103		3412725731		103		A R STARNER #3		10.0	
8313100		3412725490		107-TF		JOSEPH ELLAR #1		10.0	COLUMBIA GAS TRAN
8313101		3412725529		103		MEREDITH/GINGERICH/DUNN #1		10.0	COLUMBIA GAS TRAN
8313102		3412725634		107-TF		OTHEL RADIGAN #1		10.0	COLUMBIA GAS TRAN
-LAKE REGION OIL INC				RECEIVED: 12/10/82 JA: OH					
8313104		3407523881		103	107-TF	NOAH TROYER #1		15.0	YANKEE RESOURCES
-LANDPROVEST INC				RECEIVED: 12/10/82 JA: OH					
8313106		3405923365		107-TF		BERRY-TURRILL #1A-82	INDIAN CAMP	50.0	
8313105		3405923245		107-TF		GRAHAM #2	INDIAN CAMP	25.0	COLUMBIA GAS TRAN
-LIBERTY OIL & GAS CORP				RECEIVED: 12/10/82 JA: OH					
8313107		3410522321		107-TF		GLEN ROBINSON "B" #1		18.0	COLUMBIA GAS TRAN
-NEW FRONTIER EXPLORATION INC				RECEIVED: 12/10/82 JA: OH					
8313110		3406720560		103	107-TF	A WEBB #2		18.0	TENNECO
8313111		3406720588		103	107-TF	CUSTER-WILSON #1		17.0	TENNECO
8313112		3415123780		103	107-TF	D ROHR #6		28.0	YANKEE RESOURCES
-NORAMCO INC				RECEIVED: 12/10/82 JA: OH					
8313113		3407523771		103		STITZLEIN #1	STITZLEIN LEASE	15.0	EAST OHIO GAS
8313114		3407523853		103		STITZLEIN #2	STITZLEIN LEASE	15.0	EAST OHIO GAS
-OHIO L & M CO INC				RECEIVED: 12/10/82 JA: OH					
8313116		3416923374		107-TF		SCHULER #1		22.0	COLUMBIA GAS TRAN
8313115		3416923356		107-TF		SWARTZ #5		22.0	COLUMBIA GAS TRAN
-ONEAL PETROLEUM INC				RECEIVED: 12/10/82 JA: OH					
8313117		3411522565		107-TF		J WHITEHOUSE #2		20.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED: 12/10/82 JA: OH					
8313118		3411926458		107-TF		BECK-STAKER UNIT #1		11.0	
8313119		3411926459		107-TF		ROBERT CONLEY #1		11.0	
-PENN-OHIO ENERGY CORP				RECEIVED: 12/10/82 JA: OH					
8313123		3405520338		107-TF		B KAUFMAN GC-403	CLARIDON TOWNSHIP	30.0	EAST OHIO GAS CO
-PETROCON INC				RECEIVED: 12/10/82 JA: OH					
8313125		3415123789		103		DIMMERLING "B" UNIT WELL #1-A		7.0	
8313124		3415123776		103		DIMMERLING "B" UNIT WELL #2		5.0	
-POI ENERGY INC				RECEIVED: 12/10/82 JA: OH					
8313122		3413322758		103	107-TF	HAFER #T-1		24.0	NOT YET DETERMINE
8313120		3400520369		103	107-TF	YMCA #3		45.0	
8313121		3400520370		103	107-TF	YMCA #5		50.0	
-POMINEX INC				RECEIVED: 12/10/82 JA: OH					
8313131		3409921499		103	107-TF	#1 BARGER		18.0	
8313129		3409921492		103	107-TF	#1 BRUCOLI		18.0	
8313132		3409921502		103	107-TF	#1 MAYO		18.0	
8313127		3409921488		103	107-TF	#1 ZARLENGA UNIT		18.0	
8313135		3409921519		103	107-TF	#2 H MOFF		18.0	
8313133		3409921503		103	107-TF	#2 MAYO		18.0	
8313134		3409921516		103	107-TF	#2 R MOFF		18.0	
8313126		3409921350		103	107-TF	#2 TIPPECANOE UNIT		18.0	
8313128		3409921489		103	107-TF	#2 ZARLENGA UNIT		18.0	
8313130		3409921498		103	107-TF	#3 ANDERSON		18.0	
-PONDEROSA OIL COMPANY				RECEIVED: 12/10/82 JA: OH					

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313136		3407523913		107-TF		MILDRED A RICHESON WELL #1		11.0	COLUMBIA GAS TRAN
-POWER RESOURCES INC				RECEIVED:	12/10/82	JA: OH			
8313139		3406720581		107-TF		CONOTTON LAND #17		0.0	NEW FRONTIER EXPL
8313137		3406720579		107-TF		CONOTTON LAND #18		0.0	NEW FRONTIER EXPL
8313138		3406720580		107-TF		CONOTTON LAND #19		0.0	NEW FRONTIER EXPL
8313140		3415723745		107-TF		CONOTTON LAND #6		0.0	M B OPERATING CO
-QUAKER STATE OIL REFINING CORP				RECEIVED:	12/10/82	JA: OH			
8313144		3407326170		103	107-TF	SUNDAY CREEK COAL #46		5.5	COLUMBIA GAS TRAN
8313141		3400922606		103	107-TF	SUNDAY CREEK COAL #54		25.6	COLUMBIA GAS TRAN
8313142		3400922601		103	107-TF	SUNDAY CREEK COAL #55		18.3	COLUMBIA GAS TRAN
8313143		3400922633		103	107-TF	SUNDAY CREEK COAL #56		7.3	COLUMBIA GAS TRAN
-QUALITY OIL & GAS CORP				RECEIVED:	12/10/82	JA: OH			
8313146		3402920817		107-TF		JACKSON #1		225.0	COLUMBIA GAS TRAN
8313147		3402920881		107-TF		STONEMETZ #1		350.0	COLUMBIA GAS TRAN
8313145		3402920805		107-TF		WALBORN #1		250.0	COLUMBIA GAS TRAN
-QUESTA PETROLEUM CO				RECEIVED:	12/10/82	JA: OH			
8313150		3404520818		103		MAX MILLER #2		15.0	
8313149		3404520792		103		NIGEL MAST #2		15.0	
-REPUBLIC STEEL CORP				RECEIVED:	12/10/82	JA: OH			
8313153		3411926351		103		CONSOLIDATION COAL - CM #231		6.0	TENNECO
8313152		3411926349		103		CONSOLIDATION COAL - CM #240		6.0	TENNECO
8313151		3411926348		103		CONSOLIDATION COAL - CM #241		6.0	TENNECO
-RESERVE EXPLORATION CO				RECEIVED:	12/10/82	JA: OH			
8313167		3412122017		107-TF		GREENLEES #1		18.0	COLUMBIA GAS TRAN
-RYDER RESOURCES INC				RECEIVED:	12/10/82	JA: OH			
8313154		3416726785		103		PERRY #2	CATS CREEK	4.0	
-STRATA CORP				RECEIVED:	12/10/82	JA: OH			
8313158		3411925329		107-TF		JENKINS #1		3.0	
8313157		3411925328		107-TF		SHELLY #1		6.0	
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	12/10/82	JA: OH			
8313109		3403124600		103		EBIE #1		6.5	COLUMBIA GAS TRAN
-TITAN ENERGY CORP				RECEIVED:	12/10/82	JA: OH			
8313161		3415522235		103	107-TF	O'BRIEN #2		20.0	COLUMBIA GAS TRAN
8313160		3415522035		103	107-TF	UNIVERSITY CLUB UNIT WELL 1		20.0	COLUMBIA GAS TRAN
-TOWNER PETROLEUM CO				RECEIVED:	12/10/82	JA: OH			
8313162		3405923379		103	107-TF	KEEFER C ET UX #1	LONDONDERRY	27.0	TENNESSEE GAS PIP
-VICTOR MCKENZIE				RECEIVED:	12/10/82	JA: OH			
8313158		3412725048		103	107-TF	GERALD CLUTTER #1		0.0	
-VICTOR PETROLEUM CORP				RECEIVED:	12/10/82	JA: OH			
8313164		3407523916		103	107-TF	ALVIN YODER #5A	CLARK FIELD	25.0	COLUMBIA GAS TRAN
8313163		3407523831		103	107-TF	STUTZMAN #1	CLARK FIELD	0.0	COLUMBIA GAS TRAN
-W E SHRIDER CO				RECEIVED:	12/10/82	JA: OH			
8313159		3408924424		103		JOHN EMBREY #1		3.0	NATIONAL GAS & OI
-WALLICK PETROLEUM CO				RECEIVED:	12/10/82	JA: OH			
8313165		3400922668		103	107-TF	JAN & DIANA ANGLE #1		10.0	COLUMBIA GAS TRAN
8313166		3400922670		103	107-TF	WILLIAM & AGNES QUINN #1		10.0	COLUMBIA GAS TRAN
-WILLIAM F HILL				RECEIVED:	12/10/82	JA: OH			
8313894		3407523906		103		PAUL H ROHR #2		6.0	COLUMBIA GAS TRAN
SOUTH DAKOTA DEPARTMENT OF NATURAL RESOURCE DEVELOPMENT									
-INLAND OIL & GAS CORP				RECEIVED:	12/06/82	JA: SD			
8312993		4006320332		102-4		COLLINS #1-33	WEST SHORT PINEHILLS	0.0	MONTANA-DAKOTA UT

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
UTAH DIVISION OF OIL,GAS, & MINING									
-NATURAL GAS CORPORATION OF CALIF			RECEIVED: 12/13/82 JA: UT						
8312992	A-149-3	4304730571	108			MAIN CANYON UNIT 3-16	MAIN CANYON	50.0	PACIFIC GAS & ELE
WEST VIRGINIA DEPARTMENT OF MINES									
-ALDRIDGE GAS CO			RECEIVED: 12/07/82 JA: WV						
8313018		4704508073	108			JOHN JUSTICE #2	GUYAN RIVER	0.0	COLUMBIA GAS TRAN
8313019		4704500138	108			JOHN JUSTICE #3	GUYAN RIVER	0.0	COLUMBIA GAS TRAN
-ALFRED E KNOBLER			RECEIVED: 12/10/82 JA: WV						
8313183		4704302520	103			BILLY ALFORD #1 (K-66)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313186		4701100690	107	OV		NIDA #1 (K-69)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-ALLEGHENY LAND & MINERAL COMPANY			RECEIVED: 12/07/82 JA: WV						
8312994	A-1072	4708300588	103			A-1072	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8313024		4708300572	103			BENSON-BALLTOWN-FIFTH A-1144	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8313020		4709702396	103			BENSON-RILEY-SPEECHLY A-1077	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
8313025		4704103160	103			BRADF-BALLT-SPEECHLY-BAYA A-1-79	HACKERS CREEK DISTRIC	0.0	CONSOLIDATED GAS
8313022		4708300564	103			ELK A-1007	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8313023		4708300570	103			ELK A-1155	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8313029		4708300581	103			ELK-BALLTOWN-FIFTH A -1113	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8313027		4708300587	103			ELK-BENSON A-1064	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8313028		4708300584	103			ELK-BENSON-FIFTH A -1116	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8313026		4708300547	103			ELK-BENSON-SPEECHLY A-1096	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8313021		4709702393	103			ELK-FIFTH-FOURTH A- 1119	WASHINGTON DISTRICT	0.0	COLUMBIA GAS TRAN
8313013	A-1069	4708300533	103			4TH-5TH-SPEECHLY-BENSON A-1069	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
-APPALACHIAN ENERGY INC			RECEIVED: 12/10/82 JA: WV						
8313204		4701702449	103			FOREST SWISHER #1 AE-94	NEW MILTON DISTRICT	25.0	CONSOLIDATED GAS
8313205		4703302167	103			PAUL HORNER #1 AE-45	COAL DISTRICT	25.0	CONSOLIDATED GAS
8313206		4703302600	103			R SHUTTLESWORTH #2 AA-2	CLAY DISTRICT	25.0	CONSOLIDATED GAS
-BIG SAND DRILLING CO			RECEIVED: 12/07/82 JA: WV						
8313005		4700100156	108			TRUMAN E GORE #1	VALLEY	0.0	COLUMBIA GAS TRAN
8313004		4700100158	108			TRUMAN E GORE #2	VALLEY	0.0	COLUMBIA GAS TRAN
8313003		4700100180	108			TRUMAN E GORE #3	VALLEY	0.0	COLUMBIA GAS TRAN
8313002		4700100183	108			TRUMAN E GORE #4	VALLEY	0.0	COLUMBIA GAS TRAN
8313012		4700100196	108			TRUMAN E GORE #5	VALLEY	0.0	COLUMBIA GAS TRAN
8313001		4700100197	108			TRUMAN E GORE #6	VALLEY	0.0	COLUMBIA GAS TRAN
-CUMBERLAND GAS COMPANY			RECEIVED: 12/10/82 JA: WV						
8313198		4703903898	108			BRADFORD & LAIDLEY #BR-11	LOUDON	2.4	COLUMBIA GAS TRAN
8313197		4703903900	108			BRADFORD & LAIDLEY #BR-17	LOUDON	2.4	COLUMBIA GAS TRAN
8313188		4703903901	108			ELIZABETH BRADFORD #BR-18	LOUDON	3.7	COLUMBIA GAS TRAN
8313196		4703903899	108			W A BRADFORD #BR-1	LOUDON	5.5	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC			RECEIVED: 12/10/82 JA: WV						
8313207		4703302604	103			BELL MINING CO #1 KN-16	CLAY DISTRICT	25.0	CONSOLIDATED GAS
8313203		4703301055	108			L J STROTHERS #2 KH-4	COAL DISTRICT	20.0	CONSOLIDATED GAS
8313208		4703302713	103			M LOWE #1 KY-1	CLAY DISTRICT	25.0	CONSOLIDATED GAS
-FRANCIS E CAIN			RECEIVED: 12/10/82 JA: WV						
8313199		4701300881	108			CAIN-CARROLL #1	SHERIDAN	0.0	CONSOLIDATED GAS
8313201		4701302997	108			RUSSELL B RICHARDS #1	SHERIDAN	0.0	CABOT CORP
8313202		4701303191	108			RUSSELL B RICHARDS #2	SHERIDAN	0.0	CABOT CORP
8313200		4701303274	108			RUSSELL B RICHARDS #3	SHERIDAN	0.0	CABOT CORP
-FRANKLIN ADKINS			RECEIVED: 12/10/82 JA: WV						

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-FRANKLIN ADKINS			RECEIVED: 12/10/82 JA: WV						
8313211		4703302605	103			ADKINS #1 AE-93	COAL DISTRICT	25.0	CONSOLIDATED GAS
8313210		4703302606	103			ADKINS #2 AE-92	COAL DISTRICT	25.0	CONSOLIDATED GAS
-GAS PRODUCTION CO			RECEIVED: 12/07/82 JA: WV						
8313209		4708300585	103			ELK-BENSON-FIFTH A -1115	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313190		4704302519	103			BILLY ALFORD #2 (K-67)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313187		4701100691	107	OV		NIDA #2 (K-70)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313191		4704302518	103			BILLY ALFORD #3 (K-68)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313189		4701100692	107	OV		NIDA #3 (K-71)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313192		4704302517	103			BILLY ALFORD #4 (K-72)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313185		4701100693	107	OV		NIDA #4 (K-73)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313193		4704302516	103			BILLY ALFORD #5 (K-74)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313184		4701100694	107	OV		NIDA #5 (K-75)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313194		4704302515	103			BILLY ALFORD #6 (K-76)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313182		4701100695	107	OV		NIDA #6 (K-77)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313195		4704302514	103			BILLY ALFORD #7 (K-78)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313181		4701100696	107	OV		NIDA #7 (K-79)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313180		4704302513	103			BILLY ALFORD #8 (K-80)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313179		4701100697	107	OV		NIDA #8 (K-81)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313178		4704302512	103			BILLY ALFORD #9 (K-82)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313177		4701100698	107	OV		NIDA #9 (K-83)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313176		4704302511	103			BILLY ALFORD #10 (K-84)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313175		4701100699	107	OV		NIDA #10 (K-85)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313174		4704302510	103			BILLY ALFORD #11 (K-86)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313173		4701100700	107	OV		NIDA #11 (K-87)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313172		4704302509	103			BILLY ALFORD #12 (K-88)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313171		4701100701	107	OV		NIDA #12 (K-89)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313170		4704302508	103			BILLY ALFORD #13 (K-90)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313169		4701100702	107	OV		NIDA #13 (K-91)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313168		4704302507	103			BILLY ALFORD #14 (K-92)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313167		4701100703	107	OV		NIDA #14 (K-93)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313166		4704302506	103			BILLY ALFORD #15 (K-94)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313165		4701100704	107	OV		NIDA #15 (K-95)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313164		4704302505	103			BILLY ALFORD #16 (K-96)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313163		4701100705	107	OV		NIDA #16 (K-97)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313162		4704302504	103			BILLY ALFORD #17 (K-98)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313161		4701100706	107	OV		NIDA #17 (K-99)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313160		4704302503	103			BILLY ALFORD #18 (K-100)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313159		4701100707	107	OV		NIDA #18 (K-101)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313158		4704302502	103			BILLY ALFORD #19 (K-102)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313157		4701100708	107	OV		NIDA #19 (K-103)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313156		4704302501	103			BILLY ALFORD #20 (K-104)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313155		4701100709	107	OV		NIDA #20 (K-105)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313154		4704302500	103			BILLY ALFORD #21 (K-106)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313153		4701100710	107	OV		NIDA #21 (K-107)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313152		4704302499	103			BILLY ALFORD #22 (K-108)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313151		4701100711	107	OV		NIDA #22 (K-109)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313150		4704302498	103			BILLY ALFORD #23 (K-110)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313149		4701100712	107	OV		NIDA #23 (K-111)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313148		4704302497	103			BILLY ALFORD #24 (K-112)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313147		4701100713	107	OV		NIDA #24 (K-113)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313146		4704302496	103			BILLY ALFORD #25 (K-114)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313145		4701100714	107	OV		NIDA #25 (K-115)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313144		4704302495	103			BILLY ALFORD #26 (K-116)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313143		4701100715	107	OV		NIDA #26 (K-117)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313142		4704302494	103			BILLY ALFORD #27 (K-118)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313141		4701100716	107	OV		NIDA #27 (K-119)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313140		4704302493	103			BILLY ALFORD #28 (K-120)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313139		4701100717	107	OV		NIDA #28 (K-121)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313138		4704302492	103			BILLY ALFORD #29 (K-122)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313137		4701100718	107	OV		NIDA #29 (K-123)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313136		4704302491	103			BILLY ALFORD #30 (K-124)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313135		4701100719	107	OV		NIDA #30 (K-125)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313134		4704302490	103			BILLY ALFORD #31 (K-126)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313133		4701100720	107	OV		NIDA #31 (K-127)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313132		4704302489	103			BILLY ALFORD #32 (K-128)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313131		4701100721	107	OV		NIDA #32 (K-129)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313130		4704302488	103			BILLY ALFORD #33 (K-130)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313129		4701100722	107	OV		NIDA #33 (K-131)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313128		4704302487	103			BILLY ALFORD #34 (K-132)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313127		4701100723	107	OV		NIDA #34 (K-133)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313126		4704302486	103			BILLY ALFORD #35 (K-134)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313125		4701100724	107	OV		NIDA #35 (K-135)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313124		4704302485	103			BILLY ALFORD #36 (K-136)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313123		4701100725	107	OV		NIDA #36 (K-137)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313122		4704302484	103			BILLY ALFORD #37 (K-138)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313121		4701100726	107	OV		NIDA #37 (K-139)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313120		4704302483	103			BILLY ALFORD #38 (K-140)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313119		4701100727	107	OV		NIDA #38 (K-141)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313118		4704302482	103			BILLY ALFORD #39 (K-142)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313117		4701100728	107	OV		NIDA #39 (K-143)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313116		4704302481	103			BILLY ALFORD #40 (K-144)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313115		4701100729	107	OV		NIDA #40 (K-145)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313114		4704302480	103			BILLY ALFORD #41 (K-146)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313113		4701100730	107	OV		NIDA #41 (K-147)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313112		4704302479	103			BILLY ALFORD #42 (K-148)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313111		4701100731	107	OV		NIDA #42 (K-149)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313110		4704302478	103			BILLY ALFORD #43 (K-150)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313109		4701100732	107	OV		NIDA #43 (K-151)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313108		4704302477	103			BILLY ALFORD #44 (K-152)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313107		4701100733	107	OV		NIDA #44 (K-153)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313106		4704302476	103			BILLY ALFORD #45 (K-154)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313105		4701100734	107	OV		NIDA #45 (K-155)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313104		4704302475	103			BILLY ALFORD #46 (K-156)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313103		4701100735	107	OV		NIDA #46 (K-157)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313102		4704302474	103			BILLY ALFORD #47 (K-158)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313101		4701100736	107	OV		NIDA #47 (K-159)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313100		4704302473	103			BILLY ALFORD #48 (K-160)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313099		4701100737	107	OV		NIDA #48 (K-161)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313098		4704302472	103			BILLY ALFORD #49 (K-162)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313097		4701100738	107	OV		NIDA #49 (K-163)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313096		4704302471	103			BILLY ALFORD #50 (K-164)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313095		4701100739	107	OV		NIDA #50 (K-165)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313094		4704302470	103			BILLY ALFORD #51 (K-166)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313093		4701100740	107	OV		NIDA #51 (K-167)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313092		4704302469	103			BILLY ALFORD #52 (K-168)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313091		4701100741	107	OV		NIDA #52 (K-169)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313090		4704302468	103			BILLY ALFORD #53 (K-170)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313089		4701100742	107	OV		NIDA #53 (K-171)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313088		4704302467	103			BILLY ALFORD #54 (K-172)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313087		4701100743	107	OV		NIDA #54 (K-173)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313086		4704302466	103			BILLY ALFORD #55 (K-174)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313085		4701100744	107	OV		NIDA #55 (K-175)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313084		4704302465	103			BILLY ALFORD #56 (K-176)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313083		4701100745	107	OV		NIDA #56 (K-177)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313082		4704302464	103			BILLY ALFORD #57 (K-178)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313081		4701100746	107	OV		NIDA #57 (K-179)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313080		4704302463	103			BILLY ALFORD #58 (K-180)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313079		4701100747	107	OV		NIDA #58 (K-181)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313078		4704302462	103			BILLY ALFORD #59 (K-182)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313077		4701100748	107	OV		NIDA #59 (K-183)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313076		4704302461	103			BILLY ALFORD #60 (K-184)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313075		4701100749	107	OV		NIDA #60 (K-185)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313074		4704302460	103			BILLY ALFORD #61 (K-186)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313073		4701100750	107	OV		NIDA #61 (K-187)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313072		4704302459	103			BILLY ALFORD #62 (K-188)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313071		4701100751	107	OV		NIDA #62 (K-189)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313070		4704302458	103			BILLY ALFORD #63 (K-190)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313069		4701100752	107	OV		NIDA #63 (K-191)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313068		4704302457	103			BILLY ALFORD #64 (K-192)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313067		4701100753	107	OV		NIDA #64 (K-193)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313066		4704302456	103			BILLY ALFORD #65 (K-194)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313065		4701100754	107	OV		NIDA #65 (K-195)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313064		4704302455	103			BILLY ALFORD #66 (K-196)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313063		4701100755	107	OV		NIDA #66 (K-197)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313062		4704302454	103			BILLY ALFORD #67 (K-198)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313061		4701100756	107	OV		NIDA #67 (K-199)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E MOSS			RECEIVED: 12/10/82 JA: WV						
8313060		4704302453	103			BILLY ALFORD #68 (K-200)	DUVAL DISTRICT	14.6	ROARING FORK GAS
8313059		4701100757	107	OV		NIDA #68 (K-201)	MCCOMAS DISTRICT	14.6	COLUMBIA GAS TRAN
-GEORGE E M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8313182		4709921756		107-DV		FERGUSON #2
8313187		4704322534		107-DV		J L JEFFER HRS #1
-G & S DRILLING CO				RECEIVED:	12/07/82	JA: WV
8313033		4708525341		107-DV		JOHN THORN #1
8313034		4708525232		107-DV		ORVAL ECHARD #1
-HAUGHT INC				RECEIVED:	12/07/82	JA: WV
8313037		4707301109		107-DV		D & M SHINGLETON H-1218
8312996		4708505178		107-DV		DALE WILSON H-1260
8313035		4708505178		103		DALE WILSON H-1260
8312998		4708504984		107-DV		EDWIN DEEM H-1129
8313036		4708504984		103		EDWIN DEEM H-1129
8313014		4708505029		107-DV		H L & C A WILSON H-1169
8312995		4708505440		107-DV		STANLEY H-1302
-JAMAR LAND CO INC				RECEIVED:	12/07/82	JA: WV
8313032		4709901729		103		D-1
8313000		4709901713		108		GLENHAYES #5
-JAMES F SCOTT				RECEIVED:	12/10/82	JA: WV
8313212		4703302445		108		WILLIAM NEWMAN S-315
-JOHN L DIAL				RECEIVED:	12/07/82	JA: WV
8313008		4709921309		108		BOYCS
8313009		4709921277		108		DEWEY WATTS #1
8313010		4709921129		108		LUCY SKEENS
-PEAKE OPERATING CO				RECEIVED:	12/07/82	JA: WV
8313015		4708100583		107-TF		#1-A LILLY
8313016		4708100573		107-TF		NEW RIVER #4-AR
8313017		4708100560		107-TF		NEW RIVER #6-AR
-PETRO-LEWIS CORPORATION				RECEIVED:	12/10/82	JA: WV
8313194		4709701519		108		BAILEY HEIRS ELIZABETH
8313191		4708701253		108		BUFORD NICHOLS #2
8313192		4709700490		108		CARTER #1
8313189		4708100465		108		LENA #1
8313193		4709701205		108		PUGH #1 ALTAMAE
8313195		4708700866		108		SINGLETON #1
8313213		4708700795		108		WORTHY #1
8313190		4708100474		108		YEAGER #1 SL
-R & R ASSOCIATES LTD				RECEIVED:	12/07/82	JA: WV
8313007		4708504354		108		BRADLEY DAVIS H-800
8313006		4708504355		108		BRADLEY DAVIS H-801
-RICHARDS ENERGY CO				RECEIVED:	12/10/82	JA: WV
8313214		4708525302		103		A K RICHARDS #R-27-RIT 5302
8313210		4708525303		103		A K RICHARDS #R-28-RIT 5303
8313209		4708525305		103		A K RICHARDS #R-30-RIT 5305
8313211		4708525304		103		A K RICHARDS #29-RIT 5304
-UPLAND RESOURCES INC				RECEIVED:	12/07/82	JA: WV
8313031		4705700072		102-2		OGLEBAY #2
8313030		4705700067		102-2		VIRGINIA FERTIG #2
-V-H JOINT VENTURE				RECEIVED:	12/07/82	JA: WV
8312999		4701702350		107-DV		COPLIN VH-715
8312997		4701702425		107-DV		RUBY FARR MAXWELL H-735
-WARREN R HAUGHT AGENT				RECEIVED:	12/07/82	JA: WV
8313011		4708504183		108		MAXINE MOATS H-699
-WESCAP OIL & GAS CO				RECEIVED:	12/10/82	JA: WV
8313184		4710301202		103		FITZSIMMONS #1

FIELD NAME	PROD	PURCHASER
LINCOLN	0.0	COLUMBIA GAS TRAN
SHERRIDAN DISTRICT	14.6	COLUMBIA GAS TRAN
MURPHY DISTRICT	10.0	CABOT CORP
MURPHY DISTRICT	0.0	CABOT CORPORATION
MCKIM DISTRICT	15.0	COLUMBIA GAS TRAN
GRANT DISTRICT	15.0	CONSOLIDATED GAS
GRANT DISTRICT	15.0	CONSOLIDATED GAS
UNION DISTRICT	15.0	CONSOLIDATED GAS
UNION DISTRICT	15.0	CONSOLIDATED GAS
GRANT DISTRICT	15.0	CONSOLIDATED GAS
GRANT DISTRICT	20.0	CONSOLIDATED GAS
LOST CREEK	0.0	COLUMBIA GAS TRAN
LINCOLN DISTRICT	0.0	COLUMBIA GAS TRAN
SARDIS	32.0	CONSOLIDATED GAS
BUTLER DISTRICT	0.8	DEVON CORP
BUTLER DISTRICT	2.3	DEVON CORP
BUTLER DISTRICT	0.7	DEVON CORP
BECKLEY DISTRICT	5.0	ROARING FORK GAS
TOWN DISTRICT	5.0	
TOWN DISTRICT	5.0	
WASHINGTON DISTRICT	10.9	COLUMBIA GAS TRAN
SPENCER DISTRICT	3.6	COLUMBIA GAS TRAN
WASHINGTON DISTRICT	2.0	COLUMBIA GAS TRAN
VALLEY DISTRICT	15.2	COLUMBIA GAS TRAN
WASHINGTON	17.2	COLUMBIA GAS TRAN
OTTER DISTRICT	4.5	CONSOLIDATED GAS
OTTER DISTRICT	1.9	CONSOLIDATED GAS
VALLEY DISTRICT	14.9	COLUMBIA GAS TRAN
MURPHY DISTRICT	30.8	COLUMBIA GAS TRAN
MURPHY DISTRICT	30.8	COLUMBIA GAS TRAN
PULLMAN	4.4	CONSOLIDATED GAS
PULLMAN	9.1	CONSOLIDATED GAS
PULLMAN	9.3	CONSOLIDATED GAS
PULLMAN	1.8	CONSOLIDATED GAS
HEADSVILLE	0.0	
HEADSVILLE	0.0	
NEW MILTON DISTRICT	60.8	CONSOLIDATED GAS
CENTRAL DISTRICT	40.0	COLUMBIA GAS TRAN
GRANT DISTRICT	20.8	CONSOLIDATED GAS
	15.8	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313185		4710381202		107-DV		FITZSIMMONS #1		15.0	
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
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-MIDLANDS GAS CORPORATION			RECEIVED:	12/13/82		JA: MT 5			
8313042	M179-2	2507121214		108		1031 FEDERAL 1	WILDCAT	2.0	KANSAS-NEBRASKA N
8313043	M181-2	2507121714		108		2331 FEDERAL 1	BOWDOIN	5.0	KANSAS-NEBRASKA N
8313038	M74-2	2507121314		108		3542 FEDERAL 1	WILDCAT	5.0	KANSAS-NEBRASKA N
-DIAMOND SHAMROCK CORPORATION			RECEIVED:	12/13/82		JA: ND 5			
8313053	ND193-2	3300700711		102-2		CITIES SERVICE FEDERAL 11-10	ROOSEVELT	23.0	
-PETRO-LEWIS CORPORATION			RECEIVED:	12/13/82		JA: ND 5			
8313047	ND185-2	3301100268		103		FEDERAL 1-28	LITTLE MISSOURI	153.3	MONTANA-DAKOTA UT
8313049	ND187-2	3301100281		103		FEDERAL 1-29	LITTLE MISSOURI	69.3	MONTANA-DAKOTA UT
8313048	ND186-2	3301100269		103		FEDERAL 3-15	LITTLE MISSOURI	113.2	MONTANA-DAKOTA UT
-AMERICAN QUASAR PETROLEUM CO			RECEIVED:	12/13/82		JA: WY 5			
8313054	W194-2	4903520537		102-4		RILEY RIDGE FEDERAL 8-24	SEC 8 T29N-R114W	0.0	
-CITIES SERVICE COMPANY			RECEIVED:	12/13/82		JA: WY 5			
8313039	W176-2	4900526392		103		FEDERAL "T" #1	BRIDGE DRAW	0.7	
8313046	W184-2	4900526348		103		HARTZOG DRAW UNIT TRACT 22 #5295	HARTZOG DRAW UNIT	54.0	PANHANDLE EASTERN
-DAVIS OIL COMPANY			RECEIVED:	12/13/82		JA: WY 5			
8313055	W195-2	4903721839		107-DP		BUCCANEER UNIT #1	WILDCAT	208.4	PANHANDLE EASTERN
-EXETER EXPLORATION COMPANY			RECEIVED:	12/13/82		JA: WY 5			
8313045	W183-2	4900922043		102-2		#13-4 SCOTT-FEDERAL	SCOTT	23.0	CHINOOK CONSTRUCT
-PHILLIPS PETROLEUM COMPANY			RECEIVED:	12/13/82		JA: WY 5			
8313044	W182-2	4900526519		102-2		THUNDER CREEK FED T #1	SCHOOL CREEK	53.6	PANHANDLE EASTERN
-SNYDER OIL CO			RECEIVED:	12/13/82		JA: WY 5			
8313050	W188-2	4900720700		103		CIGE FEDERAL 1A-30-14-92 LEWIS COMP	ROBBERS GULCH	128.0	NORTHWEST PIPELIN
-TERRA RESOURCES INC			RECEIVED:	12/13/82		JA: WY 5			
8313052	W192-2	4902921020		102-2		FEDERAL #1-28	MEETEETSEE	419.0	
8313051	W191-2	4902921052		102-2		FEDERAL #2-21	MEETEETSEE	558.0	TENNESSEE GAS PIP
-WOODS PETROLEUM CORPORATION			RECEIVED:	12/13/82		JA: WY 5			
8313041	W1782	4900526371		102-4		PINE TREE UNIT NO 20-33	PINE TREE	49.0	WESTERN GAS PROCE
8313040	W177-2	4900526113		103		PINE TREE UNIT 17-30	PINE TREE	0.0	WESTERN GAS PROCE

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1170 Filed 1-14-83; 8:45 am]

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[Docket No. ER81-504-001]

Delmarva Power & Light Co.; Compliance Filing

January 11, 1983.

Take notice that on December 29, 1982, Delmarva Power & Light Company filed a compliance report pursuant to the Commission's order dated November 23, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 25, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1146 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-124-002]

East Tennessee Natural Gas Co., Revised Rate Filing

January 11, 1983.

Take notice that on December 30, 1982, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Fifth Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff to be effective on February 1, 1983. East Tennessee states that the purpose of the revised tariff sheet is to revise the rates suspended until February 1, 1983 in this proceeding to reflect (1) the elimination of all facilities and related costs which will not have been certificated and placed in service by January 31, 1983, (2) a change from a modified fixed-variable rate design method to the *Atlantic Seaboard* rate design method pursuant to the Commission's warning in its October 27, 1982 and November 24, 1982 orders herein and pursuant to the request of East Tennessee's affected jurisdictional customers, and (3) the current average cost of purchased gas and the other rate adjustments reflected in East Tennessee's November 30, 1982 PGA filing in Docket Nos. TA83-1-2, *et al.*

East Tennessee further states that copies of the revised filing were served on all customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commissioner's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before January 18, 1983. Protests will be considered by the Commission in determining the appropriate action to the taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition is not required to file a further pleading. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1147 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-222-000]

Empire District Electric Co.; Filing

January 11, 1983.

Take notice that the Empire District Electric Company (EDE), on January 3, 1983, tendered for filing a proposed change in the Agreement between the Southwestern Power Administration (SWPA) and the Empire District Electric Company, Contract Number 14-02-0001-1671.

The Admendment provides for the extension of the termination date until December 31, 1992.

Copies of the filing were served upon the Missouri Public Service Commission and SWPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1148 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-221-000]

Illinois Power Co.; Filing

January 11, 1983.

Take notice that on January 3, 1983, Illinois Power Company (Illinois) tendered for filing proposed Amendment No. 15, dated December 10, 1982, to the Interconnection Agreement, dated March 1, 1964, between Commonwealth Edison Company (CE) and Illinois.

Illinois indicates that this filing is made for a change in the Interchange Power rate.

A copy of the filing was served upon CE and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1149 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-46-003]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

January 11, 1983.

Take notice that on January 3, 1983, Kentucky West Virginia Gas Company ("Kentucky West") tendered for filing its Substitute Revised Twenty-Fourth Revised Sheet No. 27 to its FERC Gas Tariff, First Revised Volume No. 1, to become effective October 1, 1982.

Kentucky West has filed its Substitute Revised Twenty-Fourth Revised Sheet No. 27 to its FERC Gas Tariff in compliance with the requirements set out in the Commission's said Order

dated December 2, 1982. By doing so, Kentucky West does not intend to waive or prejudice its rights to rehearing and/or further appeal of the Commisson's said order dated April 30, 1979, in Docket Nos. RP73–97 and RP76–93 (PGA 79–1).

Kentucky West further states that this filing is made under protest since Kentucky West believes the requirements of the Commission's December 2, 1982 Order are unlawful. Further, Kentucky West by this filing does not intend to waive or prejudice its right to continue to prosecute its petition for review with the United States Court of Appeals for the Fourth circuit of the Commission's Order dated December 2, 1982, denying Kentucky West's application for rehearing of the Order issued April 30, 1982 in Docket Nos. TA82–2–46–001 (PGA–2) (IPR82–2). (*Kentucky West Virginia Gas Company* vs. *FERC*, Case No. 82–2097—Filed December 3, 1982.)

In addition, nothing contained herein shall be construed as a waiver on behalf of Kentucky West of its right to retroactively collect any amounts that are subsequently determined by the Commission and/or the courts to be applicable to a pipeline's own production nor the right to collect carrying charges applicable thereto. Kentucky West believes that it is entitled to collect NGPA rates for all of its pipeline production from December 1, 1978 forward and that it is not barred by any rate settlement or otherwise from collecting NGPA prices for such production.

Copies of the filing were served upon the Company's jurisdictional customers or interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1149 Filed 1–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–1–14–002; (PGA 83–2)]

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

January 11, 1983.

Take notice that on January 4, 1983, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing three (3) revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, all of which are dated as issued on December 30, 1982 proposed to become effective February 1, 1983, and identified as follows:

Thirtieth Revised Sheet No. 4.
Twenty-seventh Revised Sheet No. 18.
Seventh Revised Sheet No. 4–B.

Lawrenceburg states that its revised tariff sheets were filed under its Purchased Gas Adjustment Provision and Incremental Pricing Surcharge Provision.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1150 Filed 1–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP82–117–004]

Midwestern Gas Transmission Co.; Supplemental revised rate filing

January 11, 1983.

Take notice that on January 6, 1983, Midwestern Gas Transmission Company (Midwestern) tendered for filing Seventh Revised Sheet No. 37 to Original Volume No. 2 of its FERC Gas Tariff, to be effective January 1, 1983.

Midwestern states that the sole purpose of the revised tariff sheets is to incorporate a subsequent revision in its Rate Schedule T–2 with the rates filed in this proceeding on July 1, 1982, which the Commission permitted to become effective January 1, 1983, subject to refund.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1151 Filed 1–14–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–224–000]

Missouri Public Service Co. and the Empire District Electric Co.; Filing

January 11, 1983.

Take notice that the Missouri Public Service Company and The Empire District Electric Company on January 3, 1983, tendered for filing proposed changes in its FPC Electric Service Tariff (Missouri FPC No. 22, Empire FPC No. 82).

The increases in revenues from jurisdiction sales and service are not quantifiable due to random use of the emergency point of delivery. Inclusion of an additional point of delivery is proposed. The reasons for the proposed changes are to (1) compensate the supplying utility for services rendered and (2) include an additional point of delivery to supply emergency service.

Copies of this filing were served upon the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests

should be filed on or before January 25, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1152 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP80-7-003, CP80-76-003 and RP82-125-003]

Mountain Fuel Supply Co.; Proposed Tariff Change

January 11, 1983.

Take notice that on December 29, 1982, Mountain Fuel Supply Company (Mountain Fuel) tendered for filing and acceptance, Original Sheet Nos. 710 through 752, Rate Schedule X-31, Fifth Revised Sheet No. 1-B and First Revised Sheet No. 639 to its FERC Gas Tariff Original Volume No. 1.

Mountain Fuel states that Rate Schedule X-31 is a Natural Gas Transportation Agreement (Agreement) dated February 21, 1980, as amended by the August 15, 1982 amendment between Mountain Fuel and Northern Natural Gas Company (Northern). The arrangements specified by the Agreement were certificated by the Commission's Opinion No. 138 dated March 12, 1982, in Docket No. CP80-7. Mountain Fuel agrees to transport natural gas as Northern may control in the Painter Reservoir area of Uinta County, Wyoming, and the Pagoda Area in Moffat County, Colorado. Mountain Fuel will deliver such volumes for Northern's account to the WIC Segment of the Trailblazer System at the Rock Springs Compression facilities, Mountain Fuel's interconnection with the WIC Segment. Rate Schedule X-31 provides for similar service as Rate Schedule X-27, which will terminate upon first delivery of Northern's gas to the WIC Segment of Trailblazer. The specific provisions for which authorization was sought and received are more fully set forth in the Agreement dated February 21, 1980, the Amendment dated August 15, 1982, the Commission's March 12, 1982 Opinion No. 138 in Docket No. CP80-7, and Ordering Paragraph (F) of the Commission's May 8, 1981 Order in Docket No. CP80-76.

Mountain Fuel further states that the tendered tariff sheets reflect only the provisions of the Agreement as amended on August 15, 1982, the provisions of the Commission's March 12, 1982 Opinion No. 138 in Docket No. CP80-76, and Ordering Paragraph (F) of the Commission's May 8, 1981 Order in Docket No. CP80-76.

Mountain Fuel requests that the Commission make the filed tariff sheets effective February 1, 1983.

Mountain Fuel has served Northern with a copy of the subject tariff sheet filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1155 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-16-002]

National Fuel Gas Supply Corp.; Proposed Tariff Change

January 11, 1983.

Take notice that on Jan. 4, 1983, National Fuel Gas Supply Corporation ("National Fuel") tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Forty-First Revised Sheet No. 4 proposed to be effective February 1, 1983.

National Fuel states that the purpose of this revised tariff sheet is to adjust National's rates pursuant to Article 17 (PGA) of the General Terms and Conditions. National further states that Forty-First Revised Sheet No. 4 reflects a decrease in National's rates of 27.37¢ per Mcf.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1154 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-56-005]

Northwest Pipeline Corp.; Change in FERC Gas Tariff

January 11, 1983.

Take notice that on December 30, 1982, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets and Exercise of Storage Option between Northwest and the Washington Water Power Company dated December 20, 1982:

Original Sheets Nos. 35, 36, 37 and 210-A.
First Revised Sheets Nos. 31 through 34.
Ninth Revised Sheet No. 10.
Exercise of Storage Option.

The above tendered tariff sheets constitute Rate Schedule SGS-1 to Northwest's First Revised Volume No. 1 Gas Tariff. Northwest is proposing to add a new Section 10 to Rate Schedule SGS-1 in order to allow all Buyers under that rate schedule the option to have working gas stored for their account in the Jackson Prairie Storage Field. The Washington Water Power Company is Northwest's only customer exercising the proposed option as of this date. Any of Northwest's other customers purchasing gas may exercise the proposed option prior to February 1, 1983 for service commencing May 1, 1983.

Northwest requests waiver of the Commission's regulations in order to allow an effective date of May 1, 1983, the first day of the 1983 injection period.

A copy of this filing has been mailed to all of Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1135 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

Orange and Rockland Utilities, Inc.; Refund Report

[Docket Nos. ER82-565-000 and ER82-566-000]

January 11, 1983.

Take notice that on December 29, 1982, Orange and Rockland Utilities, Inc. submitted for filing a refund report pursuant to the Commission's order dated November 26, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 25, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1150 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-58-000]

Panhandle Eastern Pipe Line Co.; Informal Settlement Conference

January 11, 1983.

Take notice that an informal settlement conference in the above-captioned docket will be convened at 10:00 a.m., on February 2, 1983, at the offices of the Feberal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1137 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-96-001]

Tennessee Natural Gas Lines, Inc.; Compliance Tariff Filing

January 11, 1983.

Take notice that on December 30, 1982, Tennessee Natural Gas Lines, Inc. (TNGL) tendered for filing revisions to its FERC Gas Tariff, First Revised Volume No. 1 as follows:

Fortieth Revised Sheet No. PGA-1.
Tenth Revised Sheet No. 4-A.
Third Revised Sheet Nos. 4-B (1) and (2) and 4-C.

TNGL states that the sole purpose of its tariff filing is to reflect the agreed upon Base Tariff Rate and modifications to the purchased gas adjustment provisions resulting from the settlement agreement approved by the Commission's letter order issued November 19, 1982, in this proceeding.

TNGL states that the settlement agreement approved in this proceeding provides that the tariff sheets tendered by it shall become effective on the first day of the month following its filing, i.e., on January 1, 1983.

TNGL states that a copy of its tariff filing is available for public inspection at TNGL's offices in Nashville, Tennessee and was served upon its jurisdictional customer and upon the affected state regulatory commission, the Tennessee Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1139 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-10-000]

Tennessee Natural Gas Lines, Inc.; PGA Tariff Filing

January 11, 1983.

Take notice that on December 30, 1982, Tennessee Natural Gas Lines, Inc. ("TNGL"), tendered for filing a rate change, pursuant to the purchased gas cost adjustment ("PGA") provisions of its FERC Gas Tariff, First Revised Volume No. 1, consisting of the following tariff sheets:

Forty-First Revised Sheet No. PGA-1.

TNGL requests that such tariff sheets be allowed to become effective on January 1, 1983.

TNGL states that the purposes of its filing are: to reflect in its rates the changed rates of its sole supplier Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. ("TPG"), which will become effective on January 1, 1983.

TNGL states that copies of the filing were served upon its jurisdictional customer, the interested state regulatory commission, its non-jurisdictional customers estimated to be billed for NGPA incremental pricing surcharges, and are available for public inspection at TNGL's offices in Nashville, Tennessee.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1139 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-17-003]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 11, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern on Dec. 30, 1982 tendered for filing as part of its FERC Gas Tariff, Fourth Revision Volume No. 1, the following sheets:

Sixty-fourth Revised Sheet No. 14
Sixty-fourth Revised Sheet No. 14A
Sixty-fourth Revised Sheet No. 14B
Sixty-fourth Revised Sheet No. 14C
Sixty-fourth Revised Sheet No. 14D
Seventh Revised Sheet No. 14E.

These sheets are being issued pursuant to provisions of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff contained in Section 12.4, Demand Charge Adjustment Commodity Surcharge; Section 23, Purchased Gas Cost Adjustment and Section 27, Electric Power Cost (EPC) Adjustment.

The changes proposed consist of:

(1) Changes in the DCA Commodity Surcharges pursuant to Section 12.4;

(2) A PGA increase of $1.859/dth in the demand component of Texas Eastern's rates and a decrease of $.2878/dth in the commodity component based on a net reduction in the projected cost of gas purchased from producer and pipeline suppliers and a negative balance in Account 191 as of November 30, 1982 pursuant to Section 23;

(3) Projected Incremental Pricing Surcharges for the period February, 1983 through July, 1983 pursuant to Section 23;

(4) Changes in rates for sales and transportation services pursuant to Section 27 to reflect the projected annual electric power cost incurred in the operation of transmission compressor stations with electric motor prime movers for the twelve months beginning February 1, 1983 and to reflect the EPC surcharge which is designed to clear the latest balance in the Deferred EPC Account of November 30, 1982.

Pursuant to the Commission's Order issued July 30, 1982 in Docket No. TA82-2-17-000, there is included the required information regarding Texas Eastern's Order Nos. 93 and 93-A special surcharge. In addition, pursuant to the clarification by the Commission in its Order issued December 6, 1982 in the same docket, Schedule No. 2D reflects those contracts under which retroactive payments to producers under Order Nos. 93 and 93-A have been made as of November 30, 1982.

With its last semiannual PGA tracking filing Texas Eastern reported the results of a settlement in the property damage action against Dow Chemical Corporation regarding the Staten Island LNG facility pursuant to Article XI of the RP78-87 Stipulation and Agreement. The proceeds from the Dow Settlement were reduced by a contingent liability to Texas Eastern's Liability Insurers in the amount of $293,738. Texas Eastern reports that it has settled its contingent liability to its Liability Insurers for the sum of $117,762. Attached thereto is Schedule No. 10 which reflects the revised calculation of the reduction to the unamortized portion of 55% of the net investment in the Staten Island LNG facility based upon the settlement of the Liability Insurer's claim.

The proposed effective date of the above tariff sheets is February 1, 1983.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1174 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-17-004]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 11, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on January 5, 1982, tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheet:

Substitute Sixty-fourth Revised Sheet No. 14.

On December 30, 1982, Texas Eastern filed with the Federal Energy Regulatory Commission (Commission) its semi-annual PGA tracker to be effective February 1, 1983. In its December 30, 1982 filing, Texas Eastern inadvertently omitted a previously filed revision to its Rate Schedule ISS-II Space Charge. The sole purpose of this substitute tariff sheet was to reflect such change in Rate Schedule ISS-II Space Charge.

Texas Eastern filed on December 1, 1982 revisions to both its ISS-II and SS-II Space Charge pursuant to Section 4.F of Texas Eastern's Rate Schedule ISS-II and Section 4.G of Texas Eastern's Rate Schedule SS-II, respectively, to reflect a flow-through of changes made in Consolidated Gas Supply Corporation's (Consolidated) GSS rates. The December 1, 1982 filing was proposed to be effective January 1, 1983 and was approved by Commission order dated December 29, 1982.

The proposed effective date of the above substitute tariff sheet is February 1, 1983.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1183 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP 83-107-000]

Texas Gas Transmission Corp.; Request Under Blanket Authorization

January 11, 1983.

Take notice that on November 26, 1982, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP 83-107-000 a request as supplemented January 3, 1983, pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Texas Gas proposes to abandon by sale certain pipeline and related facilities to Terre Haute Gas Corporation (Terre Haute) and abandon its direct industrial service to the Logan Clay Products Company (Logan Clay) under authorization issued

in Docket No. CP 82-407-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas proposes the abandonment by sale to Terre Haute 67,165 feet of 4½-inch O.D. pipeline, 6,616.5 feet of 6 5/8-inch O.D. pipeline along with all the attendant facilities attached thereto, and its direct industrial serviced to Logan Clay. Logan Clay in agreement with such abandonment would concurrently become an industrial customer of Terre Haute. Such facilities, it is asserted, are located in Clay and Vigo Counties, Indiana. It is further stated that as a result of the proposed abandonment the Marion Brick Sales Meter Station where natural gas is measured for Terre Haute's industrial customer, the Marion Brick Company, would be deleted as a point of delivery under the service agreement between Terre Haute and Texas Gas. Deliveries to Terre Haute will continue to be rendered at the Brazil Station located immediately upstream of the facilities proposed to be abandoned. Upon abandonment of said facilities, the Brazil Station would become the northern terminus of the Martinsville-Brazil 6-inch line.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filling a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1102 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER-223-000]

Washington Water Power Co.; Filing

January 11, 1983.

Take notice that the Washington Water Power Company (Washington) on January 3, 1983, tendered for filing proposed changes in its FERC Electric Service Tariff, Schedule 61. The proposed changes would increase revenues from jurisdictional sales and services by approximately $999,000 based on the 12-month period ending September 30, 1982.

Washington states that the proposal rate change is submitted for the purpose of compensating the Washington Water Power Company for increases in its cost of capital, labor, materials, supplies, and taxes.

Washington proposes an effective date of March 5, 1983.

Copies of the filing have been served upon the five Washington wholesale customers affected by this filing, the Idaho Public Utilities Commission and the Washington Utilities and Transportation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motion or protest should be filed on or before January 25, 1983. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1105 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-61-000]

West Lake Arthur Corp.; Proposed Tariff Change

January 11, 1983.

Take notice that West Lake Arthur Corporation (WLAC) on December 30, 1982, tendered for filing Fourth Revised Sheet No. 4A of its FERC GAS Tariff, Original Volume No. 1. The tariff sheet was filed pursuant to the Purchased Gas Cost Adjustment provision contained in Section 15 of WALC 's tariff.

Copies of the filing were served upon WLAC's jurisdictional customer and interested state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Relgulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 385.214). All such petitions or protests should be filed on or before January 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1106 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-23-000]

West Texas Utilities Co.; Refund Compliance Report

January 11, 1983.

Take notice that on January 3, 1983, West Texas Utilities Company filed a refund compliance report pursuant to the Commission's letter order of November 18, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 25, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1174 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline Tentative Valuation

January 12, 1983.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier by pipeline listed below:

1977 and 1978 Consolidated Report

Valuation Docket, No. PV—1453-000—Osage Pipe Line Company, 1670 Broadway, Denver, Colorado 80217

On or before February 18, 1983, persons other than those specifically designated in Section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file,

pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in Section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 83-1160 Filed 1-14-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59110B; TSH-FRL 2286-3]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-12 and TM-83-13, two applications for test marketing exemptions (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: January 7, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Divison (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-207, 401 M St. SW., Washington, D.C. 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time period specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-12

Date of Receipt: November 30, 1982.

Notice of receipt: December 10, 1982 (47 FR 55517).

Applicant: Confidential.

Chemical: Aromatic polyimide (generic).

Use: Specialty coating (generic).

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: 18 months.

Commencing on: (Insert signature date.)

Risk Assessment: Based on the analysis of the chemical structure of the test market substance and the low potential for exposure and release, no significant health or environmental effects are anticipated.

Public Comments: None.

TME 83-13

Date of Receipt: November 30, 1982.

Notice of Receipt: December 10, 1982 (47 FR 55517).

Applicant: Confidential.

Chemical: Aromatic polyimide (generic).

Use: Specialty coating (generic).

Production Volume: Confidential.

Number of Customers: Confidential.

Process Information: Confidential.

Test Marketing Exemption Period: 18 months.

Commencing on: (*Insert signature date.*).

Risk Assessment: The Agency did not identify any significant health or environmental effects based on the information received from the submitter and analysis of the chemical structure. In addition, the production volume and potential for exposure and release are very low. The overall concerns, therefore, for health and ecotoxicity are low.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: January 7, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-1206 Filed 1-14-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL ELECTION COMMISSION

[Notice 1983-1]

Filing Dates for Texas Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of Filing Dates for Texas Special Election.

SUMMARY: Committees required to file reports in connection with the special election to be held in the 6th Congressional District of Texas on February 12, 1983, must file a 12-day pre-election report due on January 31, 1983, and a 30-day post-election report due on March 14, 1983.

After filing these reports, committees should resume filing reports on a semi-annual basis for 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 1325 K Street, N.W., Washington, D.C. 20463, Tel: (202) 523-4068; Toll-free: (800) 424-9530.

Notice of Filing Dates for Special Election, 6th Congressional District, Texas

The State of Texas has scheduled a special election in the 6th Congressional District for February 12, 1983.

All principal campaign committees of candidates involved in the special election, and all other political committees not filing monthly that support candidates in this special election, shall file a 12-day pre-election report due on January 31, 1983, with coverage dates from January 1, 1983, or the date of registration, whichever is later, through January 23, 1983, and a 30-day post election report due on March 14, 1983, with coverage dates from January 24, 1983, through March 4, 1983.

All political committees registered with the Commission (Clerk of the House or Secretary of the Senate) by December 31, 1982, are required to file

the year end report regardless of their obligation to file any reports in connection with the Texas special election.

Dated: 12, 1983.

Danny Lee McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83-1216 Filed 1-14-83; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Illinois; Amendment of Major-Disaster Declaration

[FEMA-674-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA-674-DR), dated December 13, 1982, and related determinations.

DATED: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Illinois dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982.

For Public Assistance:

The Counties of Macoupin, Monroe, and Randolph.

The Alexander County Unit Road District.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-1196 Filed 1-14-83; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-675-DR]

Louisiana; Notice of Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA-675-DR), dated January 11, 1983, and related determinations.

DATED: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

SUPPLEMENTARY INFORMATION: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148, effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of January 11, 1983, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Louisiana resulting from severe storms, and flooding beginning on or about December 19, 1982 is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I, therefore, declare that such a major disaster exists in the State of Louisiana.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the affected areas. You also are authorized to provide necessary Public Assistance in the affected areas when these requirements are known and an acceptable State commitment for these purposes is provided. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Public Law 93-288 for public assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to Section 408(b) of Pub. L. 93-288, you are authorized to advance to the State its 25 percent share of the individual and family grant program, to be repaid to the United States when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under the Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. William C. Tidball of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster. I do hereby determine the following areas of the State of Louisiana to have been affected adversely by this declared major disaster:

For Individual Assistance only, the Parishes of:

Allen	La Salle
Beauregard	Natchitoches
Calcasieu	Ouachita
Catahoula	Rapides
Grant	Winn

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-1185 Filed 1-14-83; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Application Announcement for Grants for Predoctoral Training in Family Medicine

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1983 Grants for Predoctoral Training in Family Medicine are now being accepted under the authority of Section 786(a) of the Public Health Service Act, as amended by Pub. L. 97-35.

Section 786(a) of the Public Health Service Act, authorizes the award of grants to assist in meeting the cost of planning, developing and operating or participating in approved predoctoral training programs in the field of family medicine. Grants may include support for the program only or support for both the program and the trainees.

To receive support, programs must meet the requirements of regulations, published in the **Federal Register** on October 16, 1980, Vol. 45, No. 202. Eligible applicants are accredited public or nonprofit private schools of medicine or osteopathic medicine. Funding preference will be accorded approved applications with projects in which:

1. Substantial training experience is in settings which exemplify interdependent utilization of physicians and physician assistants or nurse practitioners; and/or

2. Substantial portions of the training program are conducted in a primary medical care manpower shortage area which is a part of a health manpower shortage area(s) designated under Section 332 of the PHS Act, or, in an

Area Health Education Center funded, at least in part under Section 781(a) of the Act.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D-15), Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782. Telephone: (301) 436-6566.

Should additional programmatic information be required, please contact: Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Center Building, Room 4-50, 3700 East-West Highway, Hyattsville, Maryland 20782. Telephone: (301) 436-7350.

Approximately $2,400,000 is expected to be available in Fiscal Year 1983 for competitive grants. The deadline date for receipt of applications is February 18, 1983.

This program is listed at 13.896 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular No. A-95.

Dated: January 10, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83-1196 Filed 1-14-83; 8:45 am]

BILLING CODE 4160-15-M

Title VII of the Public Health Service Act Health Research and Teaching Facilities and Training of Professional Health Personnel; Delegation of Authority

Notice is hereby given that the Administrator, Health Resources and Services Administration (HRSA), delegated to the following HRSA officials authorities under Title VII of the Public Health Service Act (42 U.S.C. 292 *et seq.*), as amended, which were delegated to the Administrator, Health Resources and Services Administration, by the Secretary of the Department of Health and Human Services in the September 1, 1982, Reorganization Order. Previously these authorities were delegated to the Administrator, Health Resources Administration, by the Acting Assistant Secretary for Health on July 12, 1982 (47 FR 33013):

1. The Director, Bureau of Health Professions, Health Resources and Services Administration, has been delegated the below listed authorities under Title VII of the Public Health Service Act, as amended:

a. Part A, Title VII of the Public Health Service Act, concerning the administration of the general provisions under Title VII, excluding certain authorities under Section 708 which are to be coordinated with the National Center for Health Statistics, Office of the Assistant Secretary for Health;

b. Part C, Subpart III, Title VII of the Public Health Service Act, providing for traineeships for students in schools of public health and other graduate programs;

c. Part D, Title VII of the Public Health Service Act, providing for grants to provide professional and technical training in the field of family medicine;

d. Part E, Title VII of the Public Health Service Act, providing for grants to improve the quality of schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, and podiatry;

e. Part F, Title VII of the Public Health Service Act, providing for grants and contracts for programs and projects, excluding the authority under Section 785 and certain authorities under Section 790 which pertain to the administration of Title VII programs assigned to the Centers for Disease Control; and

f. Part G, Title VII of the Public Health Service Act, providing for programs for personnel in health administration and in allied health, excluding the responsibilities under Section 794 which are to be coordinated with the National Center for Health Statistics, Office of the Assistant Secretary for Health.

2. The Director, Bureau of Health Maintenance Organizations and Resources Development, Health Resources and Services Administration, has been delegated the authority under Part B, Title VII of the Public Health Service Act, providing for grants and loan guarantees and interest subsidies for construction of teaching facilities for medical, dental, and other health personnel.

The above listed authorities may be redelegated to HRSA Central Office personnel only, with further redelegation prohibited.

This delegation has superseded the portion of HRA Delegation No. 63, dated May 13, 1981 (46 FR 35791-35792), made by the Acting Administrator, Health Resources Administration, to the Director, Bureau of Health Professions, the Director, Bureau of Health Facilities, and the Associate Administrator for Health Resources Opportunity Program, pertaining to authorities under Title VII of the Public Health Service Act. Provision has been made for previous delegations and redelegations of authority under Title VII of the Public Health Service Act to officials within the Health Resources Administration to continue in effect for no more than 60 days from the effective date of this delegation, provided they are consistent with this delegation.

The Title VII delegation was effective on December 9, 1982.

Dated: December 9, 1982.

John H. Kelso,

Acting Administrator.

[FR Doc. 83-1196 Filed 1-14-83; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-83-600]

Redelegation of Authority Concerning Claims Under the Federal Tort Claims Act and the Military Personnel and Civilian Employees' Claims Act of 1964

AGENCY: Office of the Secretary, HUD.

ACTION: Redelegation of authority.

SUMMARY: The General Counsel redelegates full authority to dispose of claims under the Federal Tort Claims Act and the Military Personnel and Civilian Employees' Claims Act to the Associate General Counsel for Equal Opportunity and Administrative Law and to Regional Counsel.

EFFECTIVE DATE: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: David D. White, Assistant General Counsel for Administrative Law, Department of Housing and Urban Development, Room 10252, 451 Seventh Street, S.W., Washington, D.C. 20410.

Redelegation of Authority

Authority delegated to the General Counsel of HUD concerning claims under the Federal Tort Claims Act, 24 CFR 17.7, and the Military Personnel and Civilian Employees' Claims Act, 24 CFR 17.47, is hereby redelegated as follows:

1. The Associate General Counsel for Equal Opportunity and Administrative Law is authorized: (a) To consider, ascertain, adjust, determine, compromise, allow, deny, or otherwise dispose of claims under the Federal Tort Claims Act; and (b) to consider, ascertain, adjust, determine, compromise, allow, deny, or otherwise dispose of claims under the Military Personnel and Civilian Employees' Claims Act.

2. Each Regional Counsel is authorized: (a) To consider, ascertain, adjust, determine, compromise, allow, deny, or otherwise dispose of claims under the Federal Tort Claims Act arising out of occurrences within the HUD Region for which the Regional Counsel is responsible; and (b) to consider, ascertain, adjust, determine, compromise, allow, deny, or otherwise dispose of claims under the Military Personnel and Civilian Employees' Claims Act by HUD employees within the Region for which the Regional Counsel is responsible.

3. This redelegation supersedes redelegations of authority to the Associate General Counsel for Equal Opportunity and Administraive Law and to Regional counsel published at 40 FR 28115 (1975).

24 CFR 17.7 and 17.47

Dated: January 7, 1983.

John J. Knapp,

General Counsel, Department of Housing and Urban Development.

[FR Doc. 83-1204 Filed 1-14-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona; Revised Final Wilderness Intensive Inventory Decision

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of revised final wilderness intensive inventory decision.

SUMMARY: On August 26, 1982, the Interior Board of Land Appeals (IBLA) affirmed in part and set aside and remanded in part the decision of the Arizona State Director to eliminate the San Francisco subunit of inventory unit AZ-040-022/023/024(A), Gila Box, from further consideration as a Wilderness Study Area (WSA). The issue on appeal by the National Public Lands Task Force *et al,* was whether the outside sights and sounds of the nearby Phelps Dodge mining operation were of such an overwhelming impact on the natural qualities of the subunit as to justify elimination of the entire subunit from further wilderness study.

IBLA concluded that BLM's decision to eliminate the outer perimeters of the subunit was proper but the interior portions of the subunit should be included in the WSA for further wilderness study. In the decision, IBLA directed BLM to re-establish the boundary of the WSA in accordance with a map submitted by the appellant, so the interior portions of the subunit would be included in the WSA.

As directed by IBLA, the boundary of the Gila Box WSA has been re-established to include the interior portions of the subunit. The new boundary adds approximately 4,361 acres, primarily the river canyons of the Gila and San Francisco Rivers, to the WSA boundaries are available from the Safford District Office at the address below.

Right of Appeal

The publication of this notice begins a 30-day appeal period. Any person adversely affected by this decision may appeal. An appeal from this decision must be taken to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations in 43 CFR Part 4, Subparts A, B, and E. If an appeal is taken, the Notice of Appeal must be filed with the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, not IBLA. A copy of the Notice of appeal and any statement of reasons, written arguments, or briefs must be served on the Field Solicitor, U.S. Department of the Interior, 2080 Valley Bank Center, Phoenix, Arizona 85073, not later than 15 days after filing the appeal. To avoid summary dismissal of the appeal, there must be strict compliance with the regulations.

FOR FURTHER INFORMATION CONTACT: Steve Knox, Wilderness Coordinator, Safford District Office, 425 E. 4th Street, Safford, Arizona 85546, or phone (602) 428-4040.

Dated: December 30, 1982.

Harold H. Ramsbacher,

Acting State Director.

[FR Doc. 83-667 Filed 1-14-83; 8:45 am]

BILLING CODE 4310-84-M

[NM 54961(OK)]

Proposed Withdrawal and Reservation of Lands

The Department of the Army, Corps of Engineers, on October 22, 1982, filed application NM 54961(OK) for the withdrawal of the following described land from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, subject to valid existing rights:

Indian Meridian, Oklahoma

T. 5N., R. 16 E.,
Sec. 2, lot 3, SE¼NW¼.

The area described comprises approximately 79.60 acres in Pittsburg County, Oklahoma.

The applicant agency desires that the land be withdrawn and reserved in order to assure full realization of present and future flood control, water supply, power, navigation, public outdoor recreational, and fish and wildlife purposes of the Eufaula Lake project, as authorized by the River and Harbor Act, approved 24 July 1946, Project Document HD 758, 79th Congress, 2nd Session, et al., (43 CFR 8.0).

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management on or before March 10, 1983.

Pursuant to section 204(h) of the Federal land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87501, on or before March 10, 1983. Upon determination by the State Director that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Mannual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary of the application will be published in the **Federal Register.** The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of 2 years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Division of Operations, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87501.

Leroy C. Montoya,

Chief, Division of Operations.

[FR Doc. 83-1227 Filed 1-14-83; 8:45 am]

BILLING CODE 4310-84-M

[U-52368]

Utah; Notice of Invitation to Participate in Coal Exploration Program; Consolidation Coal Company

Consolidation Coal Company is inviting all qualified parties to participate in a program for the exploration of coal reserves on Walker Flat near Emery, Utah. The lands are located in Sevier County, Utah, and are described as follows:

T. 23 S., R. 5E., SLM, Utah,
Sec. 11, all.
Containing 640.00 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, and to Randy Stockdale, Exploration Manager, Consolidation Coal Company, 14 Inverness Drive East, Building 6–Q, Englewood, CO 80112. Such written notice must be received within 30 days after the publication of this notice in the Federal Register.

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by Consolidation Coal Company is available for public review during normal business hours, in the following office, under Serial Number U–52368: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

W. R. Papworth,

Deputy State Director for Operations.

January 4, 1983.

[FR Doc. 83-1180 Filed 1-14-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 30592, Survey Group 98]

Wisconsin; Filing of Plat of Survey Stayed

On Wednesday September 1, 1982, there was published in the Federal Register, Volume 47, at page 38638, a notice of the filing of plat of survey of lands in T. 40 N., R. 5 E., Fourth Principal Meridian, Wisconsin, accepted December 5, 1979.

The official filing of the plat is hereby stayed pending consideration of all protests and final determination on all objections to the survey. The plat will not be officially filed until the day after all protests have been resolved or subsequent appeals have been decided by the Interior Board of Land Appeals.

All inquiries relating to lands described in the notice published on September 1, 1982, should be sent to the Deputy State Director for Lands and Minerals Operations, 350 South Pickett Street, Alexandria, Virginia 22304.

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 83-1225 Filed 1-14-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Final Outer Continental Shelf Orders Governing Oil and Gas Lease Operations on the Alaska Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of final Alaska Outer Continental Shelf (OCS) orders for the Alaska OCS Region; correction.

SUMMARY: This Notice corrects typographical and clerical errors and omissions in the final Alaska OCS Orders in FR Doc. 82–29072 beginning on page 47180 in the issue of October 22, 1982 (47 FR 47180).

FOR FURTHER INFORMATION CONTACT: Mr. David A. Schuenke, Offshore Rules and Operations Division, Mail Stop 646, Minerals Management Service, Department of the Interior, 12203 Sunrise Valley Drive, Reston, Virginia 22091, telephone (703) 860–7916 or (FTS) 928–7916.

Dated: January 3, 1983.

Harold Doley,

Director.

The following corrections are made to the final Alaska OCS Orders appearing in FR Doc. 82–29072 on October 22, 1982 (47 FR 47180).

OCS Order No. 2

1. On page 47193, line 14 in the third column, change "Fire watch" to "Fire Watch."

2. On page 47193, line 27 in the third column, insert "been" between "have" and "rendered."

3. On page 47194, line 6 in the last paragraph of the first column, change "annual" to "annular."

4. On page 47195, line 4 in the third column, correct the spelling of "annulus."

5. On page 47196, line 5 of the second paragraph below the chart in the first column, change "of" to "or," and in line 7 change "is" to "if."

6. On page 47196, line 15 of item a of subparagraph 5.1.1 in the second column, correct the spelling of "acoustic," and in line 1 of item b, change "at" to "At."

7. On page 47197, line 3 in the first column, remove "5."

8. On page 47197, line 12 below Note 5e in the first column, remove the comma between "5.B.13" and "Prior" and replace with a period.

9. On page 47197, line 4 of the last paragraph in column two, correct the spelling of "diverter."

10. On page 47198, line 5 of subparagraph 5.7.4 in the filrst column, add "and other valves not actuated during the weekly pressure test," between "equipment" and "such."

11. On page 47198, line 5 of the subparagraph 5.8 in the first column, correct the spelling of "function."

12. On page 47198, line 6 of the second column, change "QCS" to "OCS."

13. On page 47199, line 28 in the second column change "45 days" to "60 days."

OCS Order No. 3

14. On page 47201, line 2 of item a of subparagraph 2.4.1 in the first column, change "30 meters 98 feet)" to "30 meters (98 feet)."

OCS Order No. 4

15. On page 47201, line 10 of paragraph 1 of OCS Order No. 4 in the third column, change "move" to "moved."

OCS Order No. 5

16. On page 47202, line 13 of the first paragraph of OCS Order No. 5 in the first column, change "order" to "Order."

17. On page 47203, line 14 in the third column, correct the spelling of "hydrocarbon."

18. On page 47205, line 10 in the second column, change "Sensor" to "Sensors."

19. On page 47206, line 8 of subparagraph 5.1.9e in the first column, change "section" to "sections."

20. On page 47206, line 7 of subparagraph 5.1.11 in the second column, correct the spelling of "annual."

21. On page 47207, line 8 of subparagraph 5.4.3e in the second column, correct the spelling of "noncombustible."

22. On page 47208, line 9 of the second column, change "representative" to "representatives."

OCS Order No. 7

23. On page 47209, line 2 of subparagraph 1.1.3.2 in the first column, change "continuing" to "containing."

24. On page 47210, line 4 of item e(3) of subparagraph 3.2 in the first column, correct the spelling of "directing."

OCS Order No. 8

25. On page 47211, line 16 in the second column, correct the spelling of "Verification."

26. On page 47211, line 20 in the third column, change "2,000 feet" to "2,000 feet."

27. On page 47212, line 6 in the first column, correct the spelling of "approaches."

28. On page 47212, line 17, add a comma between "determinations" and "the."

29. On page 47212, line 5 of item e of subparagraph 3.2.1.4 in the first column, correct the spelling of "analysis."

OCS Order No. 12

30. On page 47213, line 2 in the second column, change "squeeze" to "Squeeze."

31. On page 47213, line 27 in the third column, change "data" to "Data."

[FR Doc. 83-1216 Filed 1-14-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Union Oil Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4000, Block 53, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 5, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-1188 Filed 1-14-83; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 5031, Block 253, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 7, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-1223 Filed 1-14-83; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that the Superior Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4910, Block 100, Main Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected

States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 10, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-1224 Filed 1-14-83; 8:45 am]

BILLING CODE 4310-31-M

Workshop on Nondestructive Evaluation Methods of Structures

Summary

The nondestructive evaluation (NDE) methods workshop is part of an ongoing research project jointly sponsored by the Department of the Interior, Minerals Management Service, and the U.S. Navy, Office of Naval Research, into NDE techniques as applied to offshore platforms and other structures. This workshop will review and discuss research sponsored to date, present developments and information on new NDE techniques, and provide an opportunity for the exchange of information on current and future research.

The workshop will take place on January 24–25, 1983, at the Marriott Hotel at Dulles International Airport, Chantilly, Virginia. The telephone number is (703) 471–9500.

For information, contact Mr. Charles E. Smith, Minerals Management Service, Mail Stop 647, Reston, Virginia 22091, telephone number (703) 860–7865, or Dr. Nicholas L. Basdekas, Office of Naval Research, 800 North Quincy Street, Arlington, Virginia 22217, telephone number (703) 696–4307.

Robert L. Rioux,

Associate Director for Offshore Minerals Management.

[FR Doc. 83-1222 Filed 1-14-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway (202) 275–7278

or

Tom Smerdon (202) 275–7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions: These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review Board	Decided date
607	Burlington Northern Railroad Co., ICC-BN-C-0243, (Corn syrup, HFCS, dehydrated corn syrup and corn starch)	1	1-7-83
608	Burlington Northern Railroad Co., ICC-BN-C-0244, (Corn sweeteners)	2	1-7-83
609	Kansas City Southern Railway Co., ICC-KCS-C-0040, (Sulphur) via Port of New Orleans	1	1-7-83
610	Chicago, Milwaukee, St Paul and Pacific Co., ICC-MILW-0310, (Gluten feed and gluten meal)	1	1-7-83
611	Southern Pacific Transportation Co., ICC-SP-C-0326, (Asphalt)	1	1-7-83
612	Kansas City Southern Railway Co., ICC-KCS-C-0041, (Woodpulp) via Port of New Orleans	2	1-7-83
613	Consolidated Rail Corp. ICC-CR-C-0026-A, Supplement 1, (Scrap iron and steel)	1	1-7-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Member Chandler not participating. Review Board No. 2, Members Carleton, Williams, and Ewing.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-1048 Filed 1-14-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 20]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Application(s): The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by 49 CFR Part 1161 of the Commission's Rules of Practice which provide, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

New York Docket No. T-1479, filed January 4, 1983. Applicant: CENTRAL CARTING CO., INC., 138 Manitoba Street, Buffalo, NY 14206. Representative: Michael Beilewech, Jr., Esq., 20 Cathedral Park, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *Fresh meats, packing house products and dairy products:* From the City of Buffalo to all points in Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Erie, Genesee, Monroe, Niagara, Ontario, Orleans, Steuben, Tioga, Tompkins, Wyoming, Onondaga, Oneida and Broome Counties. *Pickles, tomatoes, sauerkraut and fish products in temperature controlled vehicles:* From the Town of Cheektowaga (Erie County) to all points in Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Erie, Genesee, Monroe, Niagara, Ontario, Orleans, Steuben, Tioga, Tompkins, Wyoming, Onondaga, Oneida and Broome Counties. Intrastate, interstate and foreign commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Ave., State Campus, Albany, NY 12232, and

should not be directed to the Interstate Commerce Commission.

[FR Doc. 83-1180 Filed 1-14-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1161.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

For status please call Team 1 at 202–275–7992.

Volume No.OP1–FC–7

MC–FC–81071. By decision of January 10, 1983 under 49 U.S.C. 10926 and the transfer rules at CFR Part 1161, Review Board Number 3 approved the transfer to MERCHANTS DELIVERY MOVING AND STORAGE CO., Racine, WI, of Certificate No. MC–18591, issued June 14, 1955, to NELSON MOVING AND STORAGE, INC., Racine, WI, authorizing the transportation of general commodities, with the usual exceptions, between points in Racine County, WI, on and east of U.S. Hwy 45, and household goods, from points in Racine County, WI, to points in IL and IN, and from points in IL and IN, to Racine, WI, and points in WI within 65 miles of Racine. Transferee holds authority under No. MC–108404. Applicant's representative: William C. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203.

For status please call Team 4 at 202–275–7669.

Volume No.OP4–FC–007

MC–FC–81122, filed December 27, 1982. By decision of 1–10–83 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1161, Review Board Number 3 approved the transfer to American Movers, Inc., of Minnetonka, MN, a portion of the interstate operating authority in Certificate No. MC–156986 Sub 1, issued August 5, 1982 to Five Star Trucking, Inc., Minnetonka, MN, authorizing the transportation of household goods, between points in IA, MN, ND, SD, WI, MT, NE, IL and the Upper Peninsula of MI. Representative: James E. Ballenthin, 1016 Conwed Tower, 444 Cedar St., St. Paul, MN 55101.

For status please call Team 5 at 202–275–7289.

Volume No. OP5–FC–313

MC–FC–81056. By decision of December 22, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1161, Review Board Number 3 approved the transfer to B.L.T. Corporation, (a Delaware Corporation), Brooklyn, NY, of Permits Nos. MC–134349 and Subs-Nos. 4, 6, 8, 14F, 15, 16, 18, 21, 22, 25F, 27F, 28F, 30F, 34F, 35F, 36F, 37X, and 38, issued on April 16, 1971, November 29, 1972, November 7, 1974, July 25, 1975, June 25, 1981, October 28, 1976, April 5, 1977, June 14, 1977, December 22, 1977, August 3, 1978, August 13, 1979, January 14, 1980, June 4, 1980, September 18, 1980, July 23, 1980, August 28, 1980, October 24, 1980, May 27, 1981, and September 29, 1982, respectively, to B.L.T. CORPORATION (a New Jersey Corporation), Brooklyn, NY, authorizing the transportation of: *such commodities* as are dealt in by women's and children's ready-to-wear retail stores, and, in connection therewith, equipment and supplies used in the conduct of such businesses, between New York, NY, and Secaucus, NJ, on the one hand, and, on the other, points in NC, GA, FL, LA, MS, AL, OH, IL, WI, PA, DE, AR, IN, IA, KY, MD, NJ, SC, TN, VA, and WV, under continuing contract(s) with Gaylords National Corporation of New York, NY, and Secaucus, NJ: *such commodities* as are dealt in or used in the operations of retail department stores, between New York, NY, and North Bergen, NJ, on the one hand, and, on the other, points in IN, IA, KY, MN, OH, TX, and TN, under continuing contract(s) with Allied Stores Corporation of New York, NY, and (a) *books, educational products, supplies, and equipment, audio and visual parts and equipment, and playground apparatus,* between points in that portion of the New York, NY Commercial Zone within which local operations may be conducted pursuant to the partial exemption provided by Section 10526(b)(1) of the Revised Interstate Commerce Act (the "exempt" zone), on the one hand, and, on the other, Somerville, NJ; Keno, NV, Cedar Falls, IA, Momence and Kankakee, IL, Allentown, PA, Central Islip, NY, Nashville and Knoxville, TN, Commerce, GA, Little Rock, AR, and Clarksville, TX, under continuing contract(s) with The Baker and Taylor Companies, Division of W.R. Grace, Inc.; (b) *books, educational products, educational supplies, and educational equipment,* between points in the New York, NY, Commercial Zone as just described, on the one hand, and, on the other, Scranton, Dunmore, and Philadelphia, PA, Westminster, MD, Berryville, VA, Conklin and Binghamton, NY, Burlington, Lawrence, and Waltham, MA, and points in NJ (except Somerville); and between those points just named (including Somerville), on the one hand, and, on the other, those points named in (a) (except Somerville), under continuing contract(s) with The Baker and Taylor Companies, Division of W. R. Grace, Inc.; *such commodities* as are dealt in or used by department stores, between points in the U.S. under continuing contract(s) with Gaylords National Corp., of New York, NY, Allied Stores Marketing Corporation of New York, NY, Burdine's Florida of Miami, FL, Jubilee Shops, Inc., of Secaucus, NY, Jefferson-Ward division of Montgomery Ward & Co., Inc., and Diana Shops, Inc., a division of Daylin, of North Bergen, NJ; *printed matter, rubber and plastic products, lumber and wood products, machinery, and instruments and photographic goods,* between points in the U.S., under continuing contract(s) with The Baker and Taylor Companies,

Division of W. R. Grace, Inc.; *such commodities* as are dealt in or used by a manufacturer and distributor of birds, fish, pets, pet food, aquarium supplies and related products, between points in the U.S., under continuing contract(s) with The Hartz Mountain Corporation of Harrison, NJ; *such commodities* as are dealt in or used by manufacturers and distributors of laboratory furniture, fixtures and supplies, between points in the U.S., under continuing contract(s) with Duralab Equipment Corp., of Brooklyn, NY; *chemicals and related products, rubber or plastic products, and leather and leather products,* between points in the U.S. under continuing contract(s) with Lanvin-Charles of the Ritz, Inc., of Holmdel, NJ; *chemicals and related products,* between points in the U.S., under continuing contract(s) with Troy Chemical Corporation, of Newark, NJ; *metal products* between points in the U.S., under continuing contract(s) with Tube-Line Corporation, of Long Island City, NY; *food and related products,* between points in the U.S., under continuing contract(s) with Stella D'oro Biscuit Co., Inc., of Bronx, NY; and *chemicals and related products,* between points in the U.S. (except Alaska and Hawaii), under continuing contract(s) with Hempel's Marine Paints, Inc., of Wallington, NJ.

[FR Doc. 83-1182 Filed 1-14-83; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP-5-005]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: January 10, 1983

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, withing three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be statisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 5 at (202) 275-7289.

MC 83539 (Sub-545), filed December 13, 1982. Applicant: C&H TRANSPORTATION CO., INC., 9757 Military Parkway, Dallas, TX 75227-9989. Representative: Thomas E. James, P.O. Box 270535, Dallas, TX 75227-9989, (412) 288-3305. Transporting (1) *Mercer commodities* and (2) *machinery,* between points in the U.S., under continuing contract(s) with Standard Oil Company (Indiana), of Chicago, IL, and its subsidiaries.

MC 128078 (Sub-6), filed December 10, 1982. Applicant: MICHAEL VALIHORA, P.O. Box 33942, Detroit, MI 48232. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685-0801 (616) 941-5313. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Edward Hines Lumber Co. of Chicago, IL.

MC 140159 (Sub-24), filed December 12, 1982. Originally published in **Federal Register** (Republication) on December 3,

1982. Applicant: C.L. FEATHER, INC., P.O. Box 1199, Altoona, PA 16603. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, 412–471–3300. Transporting *general commodities* (except classes A and B explosives, and household goods), between those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the eastern boundary of Itasca County, MN, thence northward along the eastern boundaries of Itasca and Kooching Counties, MN, to the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This application is republished to modify the commodity description.

MC 143668 (Sub–3), filed December 10, 1982. Applicant: SIERRA TRUCKING, INC., 1490 E. Second St., Reno, NV 89502. Representative: Mike Pavlakis, Box 646, Carson City, NV 89701 (702) 882–0202. Transporting *chemicals and related products*, between points in AZ, CA, ID, MT, NV, OR, UT, and WA.

MC 157668 (Sub–1), filed November 26, 1982. Originally published in the **Federal Register** (Republication) on December 15, 1982. Applicant: B & S HAULING COMPANY, Rt. 1, P.O. Box 268, Wapakoneta, OH 45895. Representative: James Duvall 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017 614–889–2531. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

Note.—This application is republished to modify the scope of authority.

MC 160698 (Sub-2), filed December 13, 1982. Applicant: JBM ENTERPRISES, INC., 405 Hansen Ave., Butler, PA 16001. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA, 15219 (412) 281–0494. Transporting (1) *such commodities* as are dealt in or used by homeproducts manufacturers and distributors of cosmetics, toilet preparations and jewelry, (2) *such commodities* as are distributed by hardware stores, (3) *such commodities* as are sold and distributed by mail order businesses through catalogue sales, and (4) *medical, hospital and photographic equipment and supplies*, between points in the U.S. in and east of MN, IA, MO, AR, TX, and LA.

MC 162329, filed December 27, 1982. Applicant: RICHARD D. HANSON d.b.a. D & A TRUCKING, Box 97, Karlstad, MN 56732. Representative: Thomas J. Simmons, P.O. Box 480 Sioux Falls, SD 57101 (605) 339–3629. Transporting *fertilizer*, between points in MN and ND.

MC 163078 (Sub-1), filed December 27, 1982. Applicant: ART KNIGHT, INC., 706 North Cook St., Portland, OR 97227. Representative: Harold E. Hass, P.O. Box 14626, Portland, OR 97214 (503) 284–7431. Transporting *wall and floor tile products* and *materials, equipment and supplies used in the installation of wall and floor tile products*, between points in the U.S., under continuing contract(s) with United Title Co., Inc., of Portland, OR.

MC 165109, filed December 9, 1982. (Republication) Originally published in **Federal Register** January 5, 1983. Applicant: BUDSON COMPANY, INC., 1705 Ship Ave., Anchorage, AK 99501. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101 (703) 893–3050. Transporting *general commodities* (except household goods), between points in AK and WA. Condition: Any certificate issued in this proceeding to the extent it authorizes the transportation of classes A and B explosives, shall be limited in point of time, to a period expiring five years from the date of service.

Note.—This republication places this application under the appropriate decision notice heading (except fitness-only).

MC 165379, filed December 27, 1982. Applicant: REGO LEASING CO., P.O. Box 276, Madison, IL 62060. Representative: John K. Goretzke, Sr. (Same address as applicant) 618–274–4992. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165409, filed December 29, 1982. Applicant: DEARBORN MOVING & STORAGE, INC., 33709 Schoolcraft, Livonia, MI 48150. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods*, between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, WI, and DC.

[FR Doc. 83–1163 Filed 1–14–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protests shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protest are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–230

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 123179 (Sub-1–2TA), filed December 28, 1982. Applicant: ARROW FREIGHT LINES, INC., 80 Progress Avenue, West Springfield, MA 01089. Representative: David M. Marshall, Marshall and Marshall, Sixth Floor—95 State Street, Springfield, MA 01103. *Contract carrier:* irregular routes: *Such products as are dealt in by a manufacturer or distributor of furniture or furniture parts*, between Morristown and Livingston, TN on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, NJ and PA, under continuing contract(s) with The Berkline Corporation, Morristown, TN. Supporting shipper: The Berkline Corporation, 1 Berkline Drive, Morristown, TN 37814.

MC 13028 (Sub-1–1TA), filed December 30, 1982. Applicant: BONANZA BUS LINES, INC., 27 Sabin Street, P.O. Box 1116, Annex Station, Providence, RI 02901. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. *Common carrier:* regular route: *Passengers* between Pittsfield, MA and New York, NY, from Pittsfield, over U.S. Hwy 7 to MA Hwy 23, then over MA Hwy 23 to MA–NY State line, then over NY Hwy 23 to NY Hwy 22, then over NY Hwy 22 to U.S. Hwy 44, then over U.S. Hwy 44 to NY Hwy 82, then over NY Hwy 82 to NY Hwy 376, then over NY Hwy 376 to NY Hwy 52, then over NY Hwy 52 to I–84, then over I–84 to I–684, then over I–684 to I–287, then over I–287 to I–87, then over I–87 to NYC, and return over the same route, serving all intermediate points. Supporting shipper(s): None. Applicant presents a letter of intent to abandon on behalf of Resort Bus Lines, Inc., the carrier who has been providing service over the above route.

MC 164726 (Sub-1–2TA), filed December 28, 1982. Applicant: C & D VAN HORN, INC., Box 93, Valley Street, Delaware, NJ 07833. Representative: Raymond Talipski, 121 S. Main Street, Taylor, PA 18517. *(1) Citrus juice concentrate,* between points in Orange, Polk, Manatee, Pasco, Indian River, St. Lucie, Lake Desoto, Hendry and Highlands Counties, FL, on the one hand, and, on the other, points in Union County, NJ; *(2) Citrus juice concentrate* between points in Union County, NJ on the one hand, and, on the other, points in the U.S. (except AK and HI); and *(3) Citrus juice concentrate* between Polk and St. Lucie Counties, FL on the one hand, and, on the other, New York, NY. Supporting shipper(s): Tuscan Dairy Farms, 750 Union Avenue, Union, NJ 07083; Williams Delivery Corp., 80–22 Caldwell Avenue, Elmhurst, NY 11373.

MC 141603 (Sub-1–1TA), filed December 30, 1982. Applicant: CANADIAN PACIFIC EXPRESS & TRANSPORT LTD., 2255 Sheppard Avenue East, Willowdale, Ontario, CD M2J 4Y1. Representative: Robert D. Gunderman, Esq., Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Common carrier:* irregular routes: *Paper and paper products, and materials, supplies and equipment used in the manufacture, production, sale or distribution of paper and paper products,* between ports of entry on the International Boundary line between the U.S. and CD on the St. Lawrence River, on the one hand, and, on the other, St. Albans, VT under continuing contract(s) with Domtar Pulp & Paper Products, 395 de Maisonneuve Blvd., West, P.O. Box 7211, Montreal, Quebec, CD H3C 3M2.

MC 158936 (Sub-1–3TA), filed December 28, 1982. Applicant: DIESEL SERVICES, INC., d.b.a. D.S.I. TRANSPORTATION CO., 127 Bound Brook Court, Sewell, NJ 08080. Applicant's Representative: Raymond A. Thistle, Jr., Five Cottman Ct., 426 Cottman Street, Jenkintown, PA 19046. *Contract carrier:* irregular routes: *Petroleum and its products,* (1) from Philadelphia and Marcus Hook, PA, to points in DE, Chestertown, MD, and points in NJ on and south of U.S. Hwy Rt 80; (2) From Gloucester and Paulsboro, NJ to points in DE, and points in Delaware, Montgomery, Chester, Bucks, Philadelphia, Lehigh, Northampton, Lebanon and Lancaster Counties, PA; and (3) From Claymont, DE to points in NJ on and south of U.S. Hwy Rt 80 and points in Delaware, Montgomery, Chester, Bucks, Philadelphia, Lehigh, Northampton, Lebanon and Lancaster Counties, PA, under continuing contract(s) with Swann Oil, Inc., Bala Cynwyd, PA and Petroleum Heat & Power Co., Philadelphia, PA. Supporting shipper(s): Swann Oil, Inc., 130 Presidential Blvd., Bala Cynwyd, PA 19004; Petroleum Heat & Power Co., 3000 Peltz Street, Philadelphia, PA 19146

MC 154993 (Sub-1–8TA), filed December 29, 1982. Applicant: H & W ENTERPRISES, INC., P.O. Box 325, South Witham Road, Auburn, ME 04210. Representative: Ignatius B. Trombetta, One Public Square, #1001, Cleveland, OH 44113. *Contract carrier:* irregular routes: *Textile mill products* between points in ME, MA, CT, NY, RI, NH, PA, OH, NJ, MD, NC, SC, AL, IL and GA, under continuing contracts(s) with W. S. Libby Company of Lewiston, ME. Supporting shipper: W. S. Libby Company, 1 Mill Street, Lewiston, ME 04240.

MC 70172 (Sub-1–1TA), filed December 28, 1982. Applicant: B. J. KIRK TRANSPORTATION CO., 672 Roosevelt Avenue, Pawtucket, RI 02860. Representative: Charles R. Reilly, 391 Davisville Road, North Kingstown, RI 02852. *Such commodities as are dealt in or used by retail department stores, and in connection therewith, materials, supplies, fixtures and equipment used in connection with the operation of such stores* (1) between East Providence, Millis, MA and Cumberland, and Warwick, RI, and Seekonk and North Dartmouth, MA. Supporting shipper: An and Hope, Inc., 1 Mill Street, Cumberland, RI 02804.

MC 155645 (Sub-1–2TA), filed December 28, 1982. Applicant: LAND-LINK TRUCKING CORP., 807 Ocean Road, Point Pleasant Beach, NJ 08742. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Salt and salt products in packages and bulk* from White Marsh, MD, Lansing and Watkins Glen, NY, and Perth Amboy, NJ to points in DE, MD, NJ, NY and PA, under continuing contract(s) with Cargill, Inc., Watkins Glen, NY. Supporting shipper: Cargill, Inc., P.O. Box 150, Watkins Glen, NY 14891.

MC 164099 (Sub-1–2TA), filed December 30, 1982. Applicant: NORTHERN RENTALS, INC., 32 San Remo Drive, P.O. Box 2128, So. Burlington, VT 05401. Representative: James M. Burns, Suite 403, 1365 Main Street, Springfield, MA 01103. *Petroleum and petroleum products,* between points in Cumberland County, MW, on the one hand, and, on the other, points in MA, NH, NY and VT. SUPPORTING SHIPPER(S): A. R. Sandri, Inc., 400 Chapman St., Greenfield, MA 01302; Fred's Plumbing & Heating, Inc., P.O. Box 17, Derby, VT 05829; N. C. McCullock, South St., Bethlehem, NH 03574; Cities Service Co., 36 Washington St., Wellesley Hills, MA 02181; Champlain Oil Co., Inc., P.O. Box 2128, So. Burlington, VT 05401.

MC 151193 (Sub-1–4TA), filed December 28, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Avenue, P.O. Drawer D, Avenel, NJ 07001. Applicant's Representative: Michael A. Beam (same as applicant). *Contract carrier:* irregular routes: *Such commodities as are dealt in and sold by supermarkets, and equipment, materials and supplies used in manufacture, sale and distribution of such commodities,* from NJ to points in CA, FL, GA, MI, OH and TX, under continuing contract(s) with Schorr Pickled Products, Paterson, NJ. Supporting shipper: Schorr Pickled Products, 75 Illinois Avenue, Paterson, NJ 07503.

MC 164768 (Sub-1–2TA), filed December 28, 1982. Applicant: S & F ENTERPRISES, INC., 107–45 93rd Street, Ozone Park, NY 11375. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Malt beverages,* from Fulton, NY, to Brooklyn and Staten Island, NY, under continuing contract(s) with Staten Island Beverage, Staten Island, NY; Beehive Beer Distr. Corp., Bray Phoenix Beverage, Inc., and Forbee Bros. Corp., all of Brooklyn, NY. Supporting shipper(s): Staten Island Beverage, 101 Ellis St., Staten Island, NY 10307; Beehive Beer Distr. Corp., 160–170 Stewart Ave., Brooklyn, NY 11237; Bray

Phoenix Beverage, Inc., 161 Gardner Ave., Brooklyn, NY 11237; and Forbee Bros. Corp., 313 Irving Ave., Brooklyn, NY 11237.

MC 164542 (Sub-1–1TA), filed December 30, 1982. Applicant: TRANSPORT GUILBAULT INC., 220, rue Principale, St-Charles des Gronines (Portneuf), Quebec, CD COA 1WO. Representative: Robert D. Gunderman, Esq., Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Paper and paper products, and materials, supplies and equipment used in the manufacture, production, sale or distribution of paper and paper products,* between ports of entry on the International Boundary line between the U.S. and CD on the St. Lawrence River, on the one hand, and, on the other, St. Albans, VT under continuing contract(s) with Domtar Pulp & Paper Products of Montreal, Quebec, CD. Supporting shipper: Domtar Pulp & Paper Products, 395 de Maisonneuve Blvd., West, P.O. Box 7211, Montreal, Quebec, CD H3C 3M2.

MC 164541 (Sub-1–1TA), filed December 30, 1982. Applicant: TRANSPORT THIBODEAU INC., 226, 2e Avenue, Portneuf, Quebec, CD GOA 2YO. Representative: Robert D. Gunderman, Esq: Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Paper and paper products, and materials, supplies and equipment used in the manufacture, production, sale or distribution of paper and paper products,* between ports of entry on the International Boundary line between the U.S. and CD on the St. Lawrence River, on the one hand, and, on the other, St. Albans, Vt under continuing contract(s) with Domtar Pulp & Paper Products of Montreal, Quebec, CD. Supporting shipper: Domtar Pulp & Paper Products, 395 de Maisonneuve Blvd., West, P.O.Box 7211 Montreal, Quebec, CD H3C 3M2.

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 67646 (Sub-II–11TA), filed December 29, 1982. Applicant: HALL's MOTOR TRANSIT COMPANY, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Edward W. Kelliher (same as applicant). Transporting: Contract, irregular: *General commodities (except classes A and B explosives, household goods and commodities in bulk),* between points in the U.S. (except AK and HI), under continuing contract(s) with E. I. duPont de Nemours & Company. An underlying ETA seeks 120 days authority. Supporting shipper: E. I. duPont de Nemours & Company, Wilmington, DE 19898.

MC 56244 (Sub-II–13TA), filed December 27, 1982. Applicant: KUHN TRANSPORTATION COMPANY, INC., R.D. #2, P.O. Box 98, Gardners, PA 17324. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. *General commodities (except Classes A & B explosives, household goods as defined by the Commission and commodities in bulk),* between those points in the U.S. in and east of ND, SD, NE, KS, OK and TX, for 270 days. Supporting shipper(s): Signode Corp., 3610 W. Lake Ave., Glenview, IL 60025.

MC 165319 (Sub-II–1TA), filed December 22, 1982. Applicant: L & L Transfer, Inc., 56 Wheeler St., Pittsburgh, PA 15205. Representative: Jan C. Swensen, 2208 Lawyers Bldg., Pittsburgh, PA 15219. Contract: Irregular: *Household appliances and appliance parts* between Pittsburgh, PA, Cleveland and Columbus, OH. Supporting shipper: White Consolidated Industries, Inc., 930 Fort Duquesne Blvd., Pittsburgh, PA 15222.

MC 165319 (Sub-II–2TA), filed December 22, 1982. Applicant: L & L TRANSFER, INC., 56 Wheeler St., Pittsburgh, PA 15205. Representative: Jan C.Swensen, 2208 Lawyers Bldg., Pittsburgh, PA 15219. Contract, irregular: *Household appliances* from Pittsburgh, PA to points in Allegheny, Armstrong, Beaver, Bedfore, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Indiana, Jefferson, Lawrence, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland Counties, PA, having a prior movement in interstate commerce. Supporting shipper(s): General Electric Co., Appliance Park, KY.

MC 153981 (Sub-II–3TA), filed December 21, 1982. Applicant LEEWAY FLEET LINES, INC., 1218 Chestnut St., Suite 1008–09, Philadelphia, PA 19107. Representative: Curtis J. Lee, Jr. (same address as applicant). Common, regular: *Passengers and their baggage,* from Ft. Dix, NJ over NJ 68 West, to NJ 206 West, to interstate 295 South, to NJ 42 North, to Walt Whitman Bridge, to 95 South to Philadelphia International Airport and return, for 270 days. Supporting shipper(s): Cpl. James Jenkins, Ft. Dix, NJ; Harriett Johnson, Pemberton, NJ; PFC Alice Gibson, Ft. Dix, NJ.

MC 165305 (Sub-II–1TA), filed December 20, 1982. Applicant: FREEMAN McCLEARY & SHERWELL CHRISTIE, d.b.a. McCLEARY-CHRISTIE, 1099 E.Main St., Clarion, PA 16214. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Coal, in bulk, in dump vehicles,* from Strattanville, PA to Jamestown, NY. An underlying ETA seeks 120 days authority. Supporting shipper(s): Glacial Minerals, Inc., P.O. Box 161, Strattanville, PA 16258.

MC 165400 (Sub-II–1TA), filed December 29, 1982. Applicant: MCDARIES TRUCKING COMPANY, INC., Rt. 3, Box 69C, Big Stone Gap, VA 24219. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526. *Contract Carrier, Irregular Route, Lumber and Lumber Products* between points in KY, NC, SC, TN and VA. An ETA application has been filed for 120 days. Supporting shipper(s): Plum Creek, Inc.—Hardwood Div., P.O. Box 152, Appalachia, VA 24216.

MC 164340 (Sub-II–2TA), filed December 29, 1982. Applicant: PATTERSON TRUCKING, INC., Box 56, Line Lexington, PA 18932. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. Contract, irregular: transporting *clay* from Industry, PA to Quakertown, PA, under continuing contract(s) with American Olean Tile Co. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: American Olean Tile Co. 1000 Cannon Ave., Lansdale, PA 19446.

MC 69052 (Sub-II–7TA), filed December 29, 1982. Applicant: REED TRUCKING COMPANY, P.O. Box 216, Milton, DE 19968. Representative: Jon F. Hollengreen, 1020 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., N.W., Washington, D.C. 20004. *Food and related products,* between points in DE, MD, NJ, NY, OH, PA, VA, WV, and DC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are seven statements of support attached to this application, which may be examined at the I.C.C. Regional Office, Philadelphia, PA.

MC 129090 (Sub-II–1TA), filed December 22, 1982. Applicant: REPUBLIC PORTSMOUTH STORAGE CORP., P.O. Box 927, Portsmouth, VA 23704. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036. *Household goods, as defined by the Commission and General Commodities (except Classes A & B explosives and commodities in bulk),* restricted to transportation for U.S. Government, between all points in the U.S. (except NY, MT, ND, SD, NM, VT, AK, HI). An underlying ETA seeks 120 days authority. Supporting shipper(s): No shipper support accompanied

application. Applicant submitted verified statement.

MC 152672 (Sub-II–13TA), filed December 22, 1982. Applicant: A. ROGER LEASING, LTD., P.O. Box 636, Coraopolis, PA 15108. Representative: Barry Weintraub, Suite 510, 6133 Leesburg Pike, Vienna, VA 22180. Contract, Irregular: *paper boxes* between Norwood, OH, on the one hand, and, on the other points in the U.S. (except AK & HI), under continuing contract(s) with C.W. Zumbiel Company of Cincinnati, OH. An underlying ETA seeks 120 days authority. Supporting shipper: C.W. Zumbiel Company, 2330 Harris Ave., Cincinnati, OH 45212.

MC 165320 (Sub-II–1TA), filed December 22, 1982. Applicant: GEORGE R. SCHALL, d.b.a. GEORGE R. SCHALL TRUCKING, Bulford Rd., R.D. #5, Shavertown, PA 18708. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. Contract, irregular: transporting *coal* from Lackawanna, Luzerne and Schuylkill Counties, PA to points in CT, MA, NY, PA and VT, under continuing contract(s) with Lijoma Sales Inc. of Torrington, CT for 270 days. An underlying ETA seeks 30 days authority. Supporting shipper: Lijoma Sales Inc., P.O. Box 1112, Torrington, CT.

MC 144724 (Sub-II–2TA), filed December 22, 1982. Applicant: WALTER J. SHEETS & SON, INC., 100 Bittles Cove, Lewisburg, WVa. 24901. Representative: Walter J. Sheets (same address as applicant). Contract, irregular: *Bark, Sawdust, Wood chips, and Lumber* between Edwright, Man, Ronceverte and Richwood, WV; Burnside and Monticello, KY; and Appalachia, VA, on the one hand, and, on the other, points in IL, TN, WV, VA, KY, NC, SC, PA, GA, OH, MD, DE, NJ, NY, and IN, under continuing contract(s) with Plum Creek, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s); Plum Creek, Inc., P.O. Box 160, Columbia Falls, Mont. 59912.

MC 110683 (Sub-II–15TA), filed December 22, 1982. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Robert L. Stover (same address as applicant). Contract, irregular: *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A and B explosives),* between points in the U.S. (except AK & HI), under continuing contract(s) with W. R. Grace & Co. Supporting shipper(s): W. R. Grace & Co., 1114 Ave. of the Americas, New York, NY 10036.

MC 110683 (Sub-II–16TA), filed December 29, 1982. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Robert L. Stover (same address as applicant). Contract, irregular: *General commodities (except household goods as defined by the Commission, commodities in bulk and classes A & B explosives),* between points in the U.S. (except AK & HI), under continuing contract(s) with Cotter & Co. Supporting shipper(s): Cotter & Company, 308 S. Division St., Harvard, IL 60033.

MC 139714 (Sub-II–6TA), filed December 22, 1982. Applicant: VIRGINIA TRANSPORTATION, INC., Box 985, Leadbetter Road, Ashland, VA 23005. Representative: Eric Meierhoefer, 915 Pennsylvania Building, 425 13th Street, NW., Washington, DC 20004. Contract, irregular: *general commodities (except classes A and B explosives, household goods, and commodities in bulk),* between points in Fairfax County, VA, on the one hand, and, on the other, Dallas and Houston, TX; Indianapolis, IN; Chicago, IL; Philadephia, PA; and points in their commercial zones, under continuing contract(s) with T. H. Mandy, Division of United States Shoe Corporation, of Merrifield, VA. Supporting shipper: T. H. Mandy, Division of United States Shoe Corporation, 2930 Prosperity Avenue, Merrifield, VA 22116.

MC 147282 (Sub-11–3TA), filed December 22, 1982. Applicant: SCOTT WEBSTER TRUCKING COMPANY, 209 Valley Park Dr., Pittsburgh, PA 15216. Representative: Scott Webster (same as applicant). *General commodities (except commodities in bulk, in tank vehicles, household goods as defined by the commission and classes A and B explosives)* between points in DE, KY, MD, NJ, NY, OH, PA and WV for 270 days. Supporting shipper(s). Babcock Lumber Company, 2220 Palmer Street, Pittsburgh PA 15218. Titan Rubber International, 92–18th Street, Wheeling WV 26003; Childs Store Fixtures, 901 Killarney Dr., Pittsburgh PA 15234.

MC 164459 (Sub-II–1TA), filed December 20, 1982. Applicant: WEST CENTRAL SERVICE & TRANSFER CORP., R.D. #6, Box 209, Johnstown, PA 15909. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Irregular, Contract, Petroleum and petroleum products,* between points in the U.S. under a continuing contract(s) with Pennzoil Products Co. Supporting shipper: Pennzoil Products Co., P.O. Box 808, Oil City, PA 16301.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA 30309.

MC 165946 (Sub-3–1TA), filed January 5, 1983. Applicant: GRACO CARTAGE COMPANY, INC., 437 North Preston Street, Louisville, KY 40202. Represenative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *Metal products,* from Louisville, KY, and its commercial zone, to facilities used by Shelby Steel, Inc. at or near Shelbyville, Evansville and New Haven, IN; Nashville, TN; and Nitro, WV, restricted to traffic having a prior movement by water. Supporting shipper: Shelby Steel, Inc., P.O. Box 36128, 4800 Allmond Ave., Louisville, KY 40233.

MC 164213 (Sub-3–2TA), filed January 5, 1983. Applicant: CAROLINA FARMS TRANSPORT, INC., P.O. Box 175, Hwy. 278S, Barnwell, SC 29812. Representative: John Sorrell (same address as applicant). *Contract:* Irregular: *Low level uranium Derbys and materials and supplies used in the manufacture of low level uranium Derbys* between Barnwell County, SC and Middlesex County, MA. Supporting shipper: Carolina Metals, Inc., P.O. Box 1366, Highway 80, Barnwell, SC 29812.

MC 164213 (Sub-3–1TA), filed January 5, 1983. Applicant: CAROLINA FARMS TRANSPORT, INC., P.O. Box 175, Hwy. 278 S, Barnwell, SC 29812. Representative: John Sorrell, "Same address as applicant". *Contract:* Irregular: *Building Materials (Lumber Products) rough or dressed lumber, flooring, plywood, weather boarding, sheathing, roofing and other building materials* between points in Allendale County, SC on the one hand, and on the other hand, points in FL, GA, VA, NC, WV, OH, KY, TN, and AL. Supporting shipper: Collum's Lumber Company, Inc., Highway 301, Allendale, SC 29810

MC 165424 (Sub-3–1TA), filed January 3, 1983. Applicant: JOE REED d.b.a. REED TRUCKING COMPANY, P.O. Box 238, Dyer, TN 38330. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract Carrier:* irregular routes, *Graphite Electrodes,* between points in the U.S., except AK and HI, under continuing contract(s) with Sigri Carbon Corporation, of Hickman, KY. Supporting shipper: Sigri Carbon Corporation, Cory Road, Hickman, KY 42050.

MC 164830 (Sub-3–1TA), filed January 3, 1983. Applicant: INTERNATIONAL EXPEDITING INC., 3400 McIntosh Road, Fort Lauderdale, FL 33316. Representative: Roger A. Kirschenbaum, 3390 Peachtree Road, N.E., Suite 520, Atlanta, GA 30326. *General*

commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in Dade, Broward, and Palm Beach Counties, FL, on the one hand, and, on the other, points in the US (except AK and HI). Restricted to traffic having a prior or subsequent movement by water or rail. Supporting shipper: Winchester Corporation, P.O. Box 350426, Fort Lauderdale, FL 33335.

MC 2900 (Sub-3–36TA), filed January 3, 1983. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as above). *Contract carrier:* Irregular: *General Commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between points in the U.S. (except AK and HI) under continuing contract(s) with Allied Corporation and its subsidiaries. Supporting shipper: Allied Corporation, Columbia Turnpike and Park Avenue, Morristown, NJ 07960.

MC 117872 (Sub-3–3TA), filed January 3, 1983. Applicant: A. JOSEPH AND COMPANY, P.O. Box 4798, Jackson, MS 39216. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Malt beverages, related advertising materials, empty containers and such commodities as are used in and dealt in by breweries,* between points in Jefferson County, CO, on the one hand, and, on the other, points in AL, FL, GA, NC, SC, VA and DC. Supporting shipper: Adolph Coors Company, Golden, CO 80401.

MC 121470 (Sub-3–4 TA), filed December 29, 1982. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan Street, Nashville, TN 37207. Representative: Helen Jones (same address as applicant). *Forest products and building materials* between Crittenden County, AK, on the one hand, and, on the other, points in the US, (except AK and HI). Supporting shipper: West Memphis Plywood, Corporation, West Memphis, AR 72301.

The following applications were filed in region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 120114 (Sub-5–2 TA), filed January 3, 1983. Applicant: COLDIRON LINES, INC., 5325 S. Madera, Oklahoma City, OK 73129. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. (1) *Potash (except in bulk),* from the facilities of KCL Sales, Inc., at or near Carlsbad, NM to points in AL, AR, CA, CO, FL, GA, KS, LA, NM, MS, MT, ND, OH, OK, TX, UT, VA and WY; and (2) *plastic pipe and parts and accessories thereto,* from the facilities of Carlon Division, Indianhead, Inc., at or near Oklahoma City, OK to points in NM. Supporting shippers: KCL Sales, Inc., Tyler, TX; Carlon Division, Indianhead, Inc., Cleveland, OH.

MC 139182 (Sub-5–4 TA), filed January 3, 1983. Applicant: ATLAS DELIVERY SERVICE, INC., P.O. Box 1514, Athens, TX 75751. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *Air Conditioners and Related Commodities* between Tyler, TX on the one hand, and, on the other, points in the U.S. Restricted to shipments originating at or destined to the facilities of Train Cac, Inc. Supporting shipper: Train Cac, Inc., Tyler, TX.

MC 142857 (Sub-5–4TA), filed January 4, 1983. Applicant: MCC TRANSPORTATION CO., INC., Route 2, Box 107–B, Hope, AR 71801. Representative: Mark J. Andrews, Suite 1100, 1660 L Street, NW., Washington, D.C. 20036. *Contract* irregular *plastic articles, and materials, equipment and supplies used in the manufacture and distribution of plastic articles,* between points in the U.S. under continuing contract(s) with Mobil Chemical Company of Macedon, NY.

MC 143638 (Sub-5–4TA), filed January 3, 1983. Applicant: JOHNSON'S TRUCKING, INC., Route 1, Box 31, Inola, OK 74036. Representative: Troy Johnson (same as above). *Freight all kinds, in ocean containers with detachable under-carriages, and having a prior or subsequent movement by water or rail,* between Port of Muskogee, OK on the one hand, and, on the other, points in AR, KS, MO, LA, OK and TX. Supporting shipper: Willbros Terminal Company, Port #50, Muskogee, OK.

MC 148209 (Sub-5–4TA), filed January 6, 1983. Applicant: MARRIOTT-RIDDLE, Inc., Post Office Box 409, Green Forest, AR 72638. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72702. Contract, Irregular: *Food and Related Products (except in bulk)*— Between points in the U.S. (except AK and HI), under continuing contract(s) with Grand Enterprises, Inc., of Springfield, MO.

MC 148284 (Sub-5–5TA), filed January 3, 1983. Applicant: DON YOUNGBLOOD TRUCKING COMPANY, INC., P.O. Box 309, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065 Fayetteville, AR 72702. *New Furniture*—Between points in the U.S. (except, AK and HI). Supporting shipper: Dunkin & Dunkin Enterprises, Inc., Stigler, OK.

MC 150115 (Sub-5–4TA), filed January 3, 1983. Applicant: DONALD R. PRICE d.b.a. PRICE MOVING & STORAGE CO., P.O. BOX 369, Winfield, KS 67156. Representative: Donald R. Price (same as above). *General commodities restricted to the transportation of traffic contained in TOFC trailer having an immediate, prior subsequent movement by rail in interstate traffic,* between points in Summer Count, Cowley County., and Sedgwick County, Kansas. Supporting shippers. Richardson Bros. Inc., Winfield Kansas; Gott Manufacturing Co., Winfield KS.

MC 153743 (Sub-5–2 TA), filed January 3, 1983. Applicant: IMPERIAL SWEETENER DISTRIBUTORS, INC., 8016 U.S. Hwy-90A, Sugar Land, TX 77478. Representative: James R. Skiles (Same as above). Contract Irregular (1) *Liquid Sugar,* from Sugar Land, TX to points in AR, on one hand; and on the other, (2) *Corn Syrup,* from Memphis, TN to Houston, TX. Supporting shipper: Coca-Cola USA, Atlanta GA.

MC 154106 (Sub-5–5 TA), filed January 3, 1983. Applicant: Mt. HOPE TRUCKING, INC., MT. Hope, KS 67108. Representative: Clyde N. Christer, Ks Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612. *Food, food products and related items,* Between Cowley County, KS, on the one hand, and points in the U.S., on the other hand (except AK; HI; WV; WY; MT; NV; UT and VT). Supporting shipper: Kansas Food Packers, Inc., Wichita, KS.

MC 159643 (Sub-5–1 TA), filed January 4, 1983. Applicant: HAS TRUCKING, INC., 3906 Elm Street, Bettendorf, IA 52722. Representative: Kenneth L. Core, Corporate Counsel, P.O. Box 68, Cedar Rapids, IA 52406. *Aluminum and aluminum articles,* between the facilities of Alcoa at or near Riverdale, IA, on the one hand, and, on the other, points in MI. Supporting Shipper: Aluminum Company of America, Pittsburgh, PA.

MC 165429 (Sub-5–1 TA), filed January 3, 1983. Applicant: CHEVALLEY MOVING & STORAGE OF DEWEY, INC., Post Office Box 70, 323 North Osage, Dewey, Oklahoma 74029. Representative: E. Ambarian (Same as above). Contract: Irregular. *Household Goods, Office Furniture, Fixtures, and Equipment, Electronic Equipment; Art Objects and Displays and Exhibits,* between points in the U.S. Supporting shipper: Phillips Petroleum Company, Bartlesville, Oklahoma.

MC 165431 (Sub-5–1 TA), filed January 3, 1983. Applicant: RAPID TRANSPORT, INC., P.O. Box 23, U.S. Highway 285, Orla, TX 79770. Representative: Fred J.

Raymond, P.O. Box 22, Robinson's Camp, Orla, TX 79770. Contract, Irregular: *Fresh, brine, production, and potassium chloride water,* from Orla and/or Mentone, TX to points in Eddy and Lea Counties, NM, for the account of Williamson and Williamson. Supporting shipper: Williamson & Williamson, Midland, TX.

MC 165433 (Sub-5–1TA), filed January 3, 1983. Applicant: SANSON, INC., 6161 Perkins, Suite 2–B, Baton Rouge, LA 70808. Representative: Janet Boles Chambers, 8211 Goodwood Blvd., Suite C–1, Baton Rouge, LA 70806. *All liquids pertaining to drilling, bringing in, cleaning out and working over of oil and gas wells; and waste materials produced by industrial and oil well operations including, but not limited to, salt and fresh water, drilling muds (new and used); and, the transportation of condensate, crude oil and #6 fuel oil* between all points in the states of AL, AR, FL, LA, MS, NM, OK and TX. Supporting shippers: Dow Chemical, U.S.A., Plaquemine, LA 70764. Allied Corporation, Morristown, NJ 07960.

MC 165466 (Sub-5–1TA), filed January 4, 1983. Applicant: RICHARD AND ANN GILBERT d.b.a. GILBERT AND SONS, Route 4, Box 528, Tecumseh, OK 74873. Representative: James P. Whitten, 820 N.W. 38th Street, Oklahoma City, OK 73118. *Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products,* between points in IL, PA, MO, OK, TX, LA, CA, CO, KS, NE, AR, WA, IA, WI, MN, SD, ND, MT, WY, NM, AZ, UT, ID, OR, NV. *Machinery and machine tools* between points in TX, OH, TN, VA, WV, MD, DE, AL, DC, KY, MI. *Plastics, plastic products, materials, equipment and supplies used in the manufacture and distribution of plastic products, and rubber products,* between points in TX, IL, CT, CA, MA, GA, NY, OK, NJ, SC, NC, FL. *Rough lumber, finished lumber, wood products, and building materials,* between points in AR, OK, LA, TX, OR, NM, AZ, CO, MT, WY, ID, UT, MS, CA, WA, NV. Supporting shippers—8.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St. Suite 501, San Francisco, CA 94105.

MC 158618 (Sub-6–4TA), filed January 5, 1983. Applicant: BOB BOYD, d.b.a. BOB BOYD TRUCKING, 417 North M, Livingston, MT 59047. Representative: Charles A. Murray, Jr., 2822 Third Ave. N, Billings, MT 59101. *Tires, tubes, wheels and shock absorbers* from Memphis, TN, to Butte and Billings, MT, for 270 days. Supporting shipper: Whalen Tire Co., Inc., 904 Utah, Butte, MT, 59701.

MC 165413 (Sub-6–1TA), filed January 4, 1983. Applicant: CALIFORNIA GOLDEN BEAR BUS CO., INC., 7 Lehning Way, Brisbane, CA 94005. Representative: Lawrence E. Lindeman, P.C., 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304. *Passengers and their baggage,* in charter and special operations, between points in Alameda, Contra Costa, San Francisco, San Mateo, and San Joaquin Counties, CA, on the one hand, and, on the other, points in NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are six supporting shippers. Their statements may be examined at the Regional Office listed.

MC 165478 (Sub-6–1TA), filed January 4, 1983. Applicant: COMMUTER BUS LINES, INC., 11123 Long Beach Blvd., Lynwood, CA 90262. Representative: William D. Bourne, 4203 West Capitol Avenue, West Sacramento, CA 95691. *Passengers and their express, newspapers or baggage,* in same vehicle, in charter operations from points in CA to points in the U.S. for 270 days. Supporting shipper: None.

MC 165505 (Sub-6–1TA), filed January 5, 1983. Applicant: E. LYLE MYERS, d.b.a. EVERGREEN TRANSPORTATION SERVICE, 10121 Argent Rd., Pasco, WA 99301. Representative: E. Lyle Myers (same address as applicant). *Anhydrous ammonia and Fertilizers* in bulk in tank vehicles between points in WA, OR and ID, for 270 days. Supporting shippers: Sherman Farm Chemicals, P.O. Box 161 Wasco, OR 97065. Simplot Soilbuilders, P.O. Box 52, Nampa, ID 83651.

MC 41096 (Sub-6–16TA), filed January 5, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006. *Contract carrier,* irregular routes, *general commodities* (except classes A and B explosives and commodities in bulk) between points in the U.S. under continuing contract(s) with Hughes Aircraft Company of Los Angeles, CA, for 270 days. Supporting shipper: Hughes Aircraft Company, P.O. Box 90515, Los Angeles, CA 90009.

MC 144631 (Sub-6–2TA), filed January 5, 1983. Applicant: HVH TRANSPORTATION, INC., d.b.a. THACKER TRANSPORTATION, 4201 East 52nd Ave., Commerce City, CO 80022. Representative: Kissinger & Lansing, Steele Park, Suite 330, 50 South Steele St., Denver, CO 80209. *General Commodities* (except hazardous materials and classes A and B explosives) between Pueblo, CO and the plant site and warehouse facilities of Atlantic Richfield Company at or near Gardner, CO. for 270 days. Supporting shippers: Daniel Construction Co., 520 S. Albert St., Walsenburg, CO 81089. Arco Oil & Gas Co., P.O. Box 325, Gardner, CO 81040.

MC 165230 (Sub-6–1TA), filed January 4, 1983. Applicant: W. JANE LINES, d.b.a. LINES TRUCKING, P.O. Box 55, Quinalt, WA 98575. Representative: Jim Pitzer, 15 S. Grady Way, Ste 321, Renton, WA 98055. *(1) Malt Beverages, Beer, (2) Dunnage, empty bottles, kegs, between points in CA, OR, WA* for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 6 shippers. Their statements may be examined in the office listed.

MC 145587 (Sub-6–1TA), filed January 5, 1983. Applicant: MD TRUCKING CORPORATION, 1221 E. Costilla Ave., Littleton, CO 80122. Representative: Nancy P. Bigbee, 745 E. 18th Ave., #101, Denver, CO 80203. *Petroleum and petroleum products* between points in the U.S. in and west of MN, IA, MO, AR, and LA (except AK and HI); for 270 days. Supporting shippers: There are 5 shippers. Their statements may be examined at the Regional Office listed above.

MC 730 (Sub-6–2TA), filed January 3, 1983. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., P.O. Box 8004, Walnut Creek, CA 94596. Representative: Alfred G. Krebs (same as applicant). *Contract carrier,* irregular routes, *General commodities* (except Class A and B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with Allied Corporation for 270 days. An ETA seeks 120 days authority. Supporting shipper: Allied Corporation, Box 1087R, Morristown, NJ 07960.

MC 165465 (Sub-6–1TA), filed January 3, 1983. Applicant: PAYLESS DRUG STORES NORTHWEST, INC., 9275 SW Peyton Lane, Wilsonville, OR 97070. Representative: Beverly Barclay (same as applicant). *Contract carrier,* Irregular routes: between points in U.S. (except AK and HI), *General Commodities* (except commodities in bulk and class A & B explosives and household goods) under continuing contracts with Washington Oregon Shipper's Co-op association and Ramallah Wholesale

Co., Inc., for 270 days. Supporting shippers: Washington Oregon Shippers Coop Association, 200 West Thomas St., Seattle, WA 98119. Ramallah Wholesale Co., Inc., 340 Valley Drive, Brisband, CA 94005.

MC 165479 (Sub-6-1TA), filed January 3, 1983. Applicant: WESTWOOD COMPANY, W. 323 Logan, Rt. 4, Box 112, Rathdrum, IO 83850. Representative: H. E. Franklin, 625 Strander Blvd. Suite "C", Seattle, WA 98188. *Contract carrier*, irregular routes: *General Commodities*, (except class A & B explosives, commodities in bulk) between points in WA, OR, ID, and MT for 270 days for the account of Maverick Salvage Inc. and Puget Sound Shippers Agent. Supporting shippers: Maverick Salvage Inc., E. 1413 Francis Ave., Spokane, WA 99207 and Puget Sound Shippers Agent, 625 Strander Blvd., Suite "C", Seattle, WA 98188.

Agatha L Mergenovich,

Secretary.

[FR Doc. 83-1181 Filed 1-14-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Contract Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the Federal Register on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the Federal Register on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the Federal Register on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1169, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the application may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicated an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OP1-60

Decided: January 7, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 290 (Sub-11(B)), filed December 21, 1982. Applicant: JACK RABBIT LINES, INCORPORATED, 301 North Dakota Ave., Sioux Falls, SD 57102. Representative: James R. Becker, 412 West Ninth St., P.O. Box 1443, Sioux Falls, SD 57101-1443, (605) 336-2565. Over regular routes, transporting *passengers*, (1) between Sioux Falls, SD, and Mankato, MN, (a) from Sioux Falls, SD over SD Hwy 115 to Interstate Hwy 90, then over Interstate Hwy 90 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction MN Hwy 60, then over MN Hwy 60 to Mankato, MN, and return over the same route, (b) from Sioux Falls, SD over SD Hwy 115 to Interstate Hwy 90, then over Interstate Hwy 90 to junction MN Hwy 60, then over MN Hwy 60 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy 14, then over U.S. Hwy 14 to junction MN Hwy 68, then over MN Hwy 68 to junction U.S. Hwy 169 (also MN Hwy 60), then over U.S. Hwy 169 (also MN Hwy 60), to Mankato, MN, and return over the same route, and (2) between Sioux City, IA, and Worthington, MN from Sioux City, IA, over U.S. Hwy 75 to junction IA Hwy 60, then over IA Hwy 60 to junction IA Hwy 10, then over IA Hwy 10 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 18, then over U.S. Hwy 18 to junction IA Hwy 60, then over IA Hwy 60 to the IA-MN State line, then over MN Hwy 60 to Worthington, MN, and return over the same route, serving all intermediate points in (1) and (2) above.

Note.—Applicant seeks to provide service to a community where the only motor common carrier of passengers providing interstate transportation to such community applies to discontinue such transportation under 49 U.S.C. 10925(c) or applies to reduce its intrastate service to such community under 49 U.S.C. 10935. The non-fitness portion of this application is published in this same Federal Register issue docketed MC-290 Sub-11(A).

MC 36031 (Sub-5), filed December 27, 1982. Applicant: CAREY TRANSPORTATION, INC., Building 199, J.F.K. International Airport, Jamaica, NY 11430. Representative: Morton L. Price, 1185 Avenue of the Americas, Room 3655, New York, NY 10036. Transporting

passengers, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 99891 (Sub-17), filed December 28, 1982. Applicant: ARROW COACH LINES, INC., 2715 West 10th St., Little Rock, AR 72204. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902, (501) 782–1001. Transporting *passengers,* in charter and special operations, beginning and ending at points in AR, and extending to points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 127120 (Sub-4), filed December 30, 1982. Applicant: BOLLMAN CHARTER SERVICE, INC., R.D. #1, Route 1, Everett, PA 15537. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 149101 (Sub-1), filed December 6, 1982. Applicant: ALLYM KJARSGAARD, d.b.a. THE ODYSSEY LINE, 2725 Fairfax, St., Eau Claire, WI 54701. Representative: Allyn Kjarsgaard (same address as applicant), (715) 832–8345. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 153110 (Sub-3), filed December 28, 1982. Applicant: LADNER & DAVIDSON LINES, INC., 1680 W. Slauson Ave., Los Angeles, CA 90047. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers,* in charter and special operations, beginning and ending at points in CA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 163400(b), filed December 14, 1982. Applicant: FRONTIER STAGES, INC., 360 North Wolcott, Casper, WY 82601. Representative: Ronald D. Hall, 4548 County Side Court, Casper, WY 82604, (307) 237–8008. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation. Applicant has also filed a public interest non-fitness case (MC–163400(a)) published in this same Federal Register.

MC 165300, filed December 20, 1982. Applicant: SUPERIOR STUDENT TRANSPORT, INC., d.b.a. ZAFFREN'S TRANSPORTATION, 6647 North Orange Blossom Trail, Orlando, FL 32810. Representative: Daniel E. Zaffran (same address as applicant), (305) 298–1010. Transporting *passengers,* in charter and special operations, beginning and ending at Orlando, FL, and extending to points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165391, filed December 27, 1982. Applicant: TRI-J COACH, INC., Allerton Rd., Anandale, NJ 08801. Representative: Edward F. Bowes, Seven Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165421, filed December 28, 1982. Applicant: WAYNE PETERSON AND SUSAN PETERSON, d.b.a. SPA VALLEY BUS, 11–600 Palm Dr., Suite "B", Desert Hot Springs, CA 92240. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8108. Transporting *passengers,* in charter and special operations, beginning and ending at points in San Bernardino and Riverside Counties, CA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165440, filed December 28, 1982. Applicant: WILLIAM P. LUDOVICE, d.b.a. ASSOCIATED TRANSPORTATION CONSULTANTS, 1931 Brentwood Lane, Wheaton, IL 60187. Representative: William P. Ludovice (same address as applicant), (312) 653–1211. As a *broker* of *general commodities* (except household goods), between points in the U.S.

For the following, please direct status inquiries to Team 2 at 202–275–7030.

Volume No. OP2–014

Decided: December 30, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 145922 (Sub-1), filed December 21, 1982. Applicant: WRIGHT TRUCKING, INC., Rt. 1, Box 116, Coalville, UT 84107. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *food and other edible products and byproducts intended for human consumption* except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between the points in the U.S. (except AK and HI).

MC 165192, filed December 14, 1982. Applicant: GOKEY AND QUINN BUS COMPANY, INC., Ayer Rd., P.O. Box 204, Harvard, MA 01451. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 01281, (617) 235–5571. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165303, filed December 21, 1982. Applicant: BEECHMONT BUS SERVICE, INC., 24 Valley Place, New Rochelle, NY 10801. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP2–016

Decided: January 7, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 95602 (Sub-2), filed December 10, 1982. Applicant: J. VERNON COOK d.b.a. COOK TRANSPORTATION CO., 58 West Fourth North, Logan, UT 84321. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 161342 (Sub-1), filed December 9, 1982. Applicant: SPECIALIZED TRANSPORT INTERNATIONAL, INC., 5 Augusta Dr., Seguin, TX 78155. Representative: Robert J. Brooks, 1828 L St., NW, Suite 1111, Washington, DC 20036, (202) 466–3892. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165323, filed December 21, 1982. Applicant: LINDENHURST BUS CO., INC., 243 Deer Park Avenue, Babylon, NY 11702. Representative: Edward L. Nehez, P.O. Box Y–7 Becker Farm Road, Roseland, NJ 07068, (201) 992–2200. Transporting *passengers,* in charter and

special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165402, filed December 27, 1982. Applicant: SCOTTSDALE STAGES, INC., 4131 East Winslow, Phoenix, AZ 85040. Representative: Ronald V. Meeks, 2924 North 24th Ave., Phoenix, AZ 85015, 602–253–2700. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP2–018

Decided: January 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 140473 (Sub-7), filed December 27, 1982. Applicant: C.L.D. TRANSPORTATION CO., INC., 751 Broadway, Bayonne, NJ 07002. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains, NJ 07076, 201–322–5030. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 154243 (Sub-1), filed December 27, 1982. Applicant: KOPECKY CORPORATION, 606 N. Euclid Ave., P.O. Box 5828, San Diego, CA 92105. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, 213–945–2745. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165343, filed December 20, 1982. Applicant: HOGLUND BUS CO., INC., Rt. 3, Box 14, Monticello, MN 55362. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP2–020

Decided: January 10, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 145032 (Sub-6), filed December 27, 1982. Applicant: OTTUMWA TRANSIT LINES, INC., 1414 West Second St., Ottumwa, IA 52501. Representative: Steven C. Schoenebaum, 1100 Carriers Bldg., 601 Locust, Des Moines, IA 50309, (515) 283–2970. Transporting *passengers*, in charter and special operations, between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. 11343(e) to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit, proof of filing the application(s) for common control, or the petition for exemption to team 2, room 2379.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 147162 (Sub-1), filed December 17, 1982. Applicant: SANDRA HOWARD, d.b.a. S. HOWARD BUS COMPANY, 399 Bank St., Fall River, MA 02720. Representative: Arthur M. White, 281 Pleasant St., P.O. Box 2547, Framingham, MA 01701, 617–879–5000. Transporting *passengers* in charter and special operations, beginning and ending at points in MA, RI, CT, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded, charter and special transportation.

MC 165302, filed December 20, 1982. Applicant: SPORT TOURS, INC., 2115 Downyflake Lane, Allentown, PA 18103. Representative: Joseph A. Bubba, 740 Hamilton Mall, Allentown, PA 18101, (215) 439–1451. Transporting *passengers*, in charter and special operations, beginning and ending at points in Lehigh, Northampton, Berks, and Bucks Counties, PA, and extending to points in NJ, NY, DE, MD, VA, WV, and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–006

Decided: January 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 100327 (Sub-16), filed December 23, 1982. Applicant: LONGUEIL TRANSPORTATION, INC., 144 Shaker Rd., East Longmeadow, MA 01028. Representative: David M. Marshall, Sixth Floor, 95 State St., Springfield, MA 01103, (413) 732–1136. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant states that it receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 165327, filed December 22, 1982. Applicant: THOMAS W. STOKES, JR., d.b.a. STOKES EXCAVATION INC., Rt. 3, Box 372, Conrad, MT 59425. Representative: Thomas W. Stokes, Jr. (same address as applicant), (406) 278–3394. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–008

Decided: January 10, 1983.

By the Commission, Review Board No. 3 Members Krock, Joyce, and Dowell.

MC 109148 (Sub-26), filed December 27, 1982. Applicant: LAS VEGAS-TONOPAH-RENO STAGE LINE, INC., 101 North Mojave Road, Las Vegas, NV 89104. Representative: John C. Russell, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017, (213) 483–4700. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 147478 (Sub-4), filed November 29, 1982. Applicant: COYOTE TRUCK LINES, INC., P.O. Box 201, Hayti, SD 57241. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343–4036. Transporting *general commodities*, between (a) Richmond, IL and Genoa City, Lake Geneva and Pell Lake, WI, (b) Agar, Gettysburg and Gorman, SD, (c) Camp Dodge and Johnston, IA, (d) Aniwa, Antigo, Birnamwood, Deerbrook, Elcho, Kempster, Malvern, Monico, Pelican Lake and Summit Lake, WI, (e) Brushy Ridge and Coalmont, TN, (f) Solitude and Wadesville, IN, (g) Concordia, Emma, Lexington and Sweet Springs, MO, (h) Antoine and Delight, AR, (i) Baker, IL, (j) Mahtomedi and Summit, MN, (k) Frisbee, Holcomb and White Oak, MO, (l) Liverpool, IL, (m) Bedford, Clearfield, Conway, Kent, Lenox, and Merle, IA and Hopkins and Pickering, MO, (n) Irl, Octa and Senath, MO, (o) Ithaca, Malmo, Memphis and Prague, NE, (p) Dunreith, Mays, Sexton

and Spiceland, IN, (q) Jenera, Mt. Blanchard, Pandora, Pratts, Rimer, Rushmore and Vaughnsville, OH, (r) Greenbrae, CA, (s) Darlington, Leslie, Mackay and Moore, ID, (t) Beason, Burtonview, Hallville, Jenkins, Johnson Siding, New Holland and Skelton, IL, (u) Argenta and Oreana, IL, (v) Bradbury, Falmouth, Greenup, Hidalgo, Janesville, Jones, Rose Hill and Toledo, IL, (w) Armstrong, Dillsburg, Gifford, Penfield and Potomac, IL, (x) Brownwood, Covel, Hopedale, Natrona, San Jose and Stanford, IL, (y) Bay Pines and Walsingham, FL, (z) Granville and Middle Granville, NY and Poultney, Rupert and West Pawlet, VT, (aa) Walford, PA, (bb) Berrien Center, Eau Claire and Sodus, MI, (cc) North Warren, PA, (dd) Bristol, Fuller and Kinney, MI, (ee) Export and Murraysville, PA, (ff) Laurel Junction and McAdo, PA, (gg) Cashton, Melvina, Viroqua and Westby, WI, (hh) Blackwell, Bronte, Ft. Chadbourne, Shawville, and Tennyson, TX, (ii) Big Bend, Cheraw, Keesee and McClave, CO, (jj) Gatliff, WI, and (kk) Haskins, IA, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor common carrier service for completely abandoned rail service.

MC 152278 (Sub-1), filed December 28, 1982. Applicant: REALI BUS SERVICE, INC., 4 Daisy St., West Warwick, RI 02891. Representative: Merle K. Peirce, (same address as applicant), 401–828–8807. Transporting *passengers* in charter and special operations, beginning and ending at points in Kent and Providence Counties, RI, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 163308, filed November 29, 1982. (republication), previously published in **Federal Register** issue of January 6, 1983. Applicant: G&T TRUCKING, Rt. 4, Box 385, Coushatta, LA 71019. Representative: J. Philip Goode, ,1212 Mid South Towers, Shreveport, LA 71161, (318) 221–1601. Transporting *general commodities* (except classes A and B explosives), between Coushatta, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to provide service to a community not regularly served by a motor carrier. This republication adds the note.

MC 165289, filed December 20, 1982. Applicant: BASSEMIER'S TRANSPORTATION, INC., 1002 Lincoln Evansville, IN 47712. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, 317–638–1301. Transporting *passengers* in charter or special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165338, filed December 22, 1982. Applicant: HAYNES-RILEY COMPANY, INC., 109 North McKinney Street, Suite B, Richardson, TX 75081. Representative: Jessie M. Riley, (same address as applicant), (214) 231–6138. Transporting *passengers* in charter operations, beginning and ending at points in TX, and extending to points in the U.S. (except HI)

Note.—Applicant seeks to provide privately-funded charter transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–1188 Filed 1–14–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15041]

Motor Carriers, Robert L. Williams; Continuance in Control Exemption; S & C Transport, Inc. and Inland Waters Pollution Control, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), Robert L. Williams seeks an exemption from the requirement under section 11343 of prior regulatory approval for his continuance in control of S&C Transport, Inc. (No. MC–155411) and Inland Waters Pollution Control, Inc., (No. MC–155412), both of which are motor carriers.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative, Neill T. Reddell 900 Guardian Building, Detroit, Michigan 48226

Comments should refer to No. MC–F–15041.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood., (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 11, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary

[FR Doc. 83–1187 Filed 1–14–83; 8:45 am]

BILLING CODE 7035–01–M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Collective Ratemaking Process; Public Meeting

DATE: Thursday, January 27, 1983.

PLACE: Russell Senate Office Building, Room 235, Constitution Avenue and First Street, N.E., Washington, D.C. 20510.

TIME: 9:00 a.m.

PURPOSE: The Motor Carrier Act of 1980, Pub. L. 96–296, as amended by the Bus Regulatory Reform Act of 1982, directs the Motor Carrier Ratemaking Study Commission (Study Commission) to make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers of property and of the need or lack of need for continued antitrust immunity thereof. The Study Commission is specifically directed to estimate the impact of the elimination of such immunity upon the rate levels and rate structures and to describe the impact of such on the Interstate Commerce Commission and its staff. Also, the Study Commission has been directed to give special consideration to the impact of the elimination of such immunity upon rural areas and small communities. The Study Commission shall submit to the President and the Congress its final report including its findings and recommendations.

The purpose of this meeting is to provide the opportunity for the Study Commission to discuss and consider the draft report, findings, and recommendations; to direct issuance of the final document with its findings and recommendations to the Congress and President; and to consider other business as appropriate.

FOR FURTHER INFORMATION CONTACT: J. Kent Jarrell, General Counsel, (202) 724–9000.

Submitted this, the 12th day of January, 1983.

Larry F. Darby,

Executive Director.

[FR Doc. 83-1191 Filed 1-14-83; 8:45 am]

BILLING CODE 6820-SD-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-1]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

Correction

In FR Doc. 82-35502, on page 99, in the issue of Monday, January 3, 1983, correct the Summary, line 6 to read: "NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on".

BILLING CODE 1505-01-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Approval of Special Withdrawal Liability Rules; International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from the International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan for approval of a plan amendment providing for special withdrawal liability rules. Under section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended, a plan may establish special withdrawal liability rules if PBGC finds that the rules apply to an industry that has the characteristics that would make use of the special rules appropriate, and that the rules would not pose a significant risk to the PBGC insurance system. The effect of this notice is to advise interested persons of this request for approval of special withdrawal liability rules and to solicit their views on it.

DATES: Comments must be submitted on or before March 3, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The complete request for approval is available for public inspection at the PBFC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m. Any comments received will also be made available to the public at the above address at those times.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

Under section 4203(a) of Employee Retirement Income Security Act of 1974, as amended ("ERISA") a complete withdrawal is generally defined as the permanent cessation of an employer's obligation to contribute under the plan, or the permanent cessation of all covered operations under the plan. Under section 4205, a partial withdrawal generally occurs when an employer reduces covered operations by seventy percent, or removes a continuing facility or bargaining unit from the plan while continuing to do the previously covered work in the area. Thus, the general rules on complete and partial withdrawal identify those events that normally result in a loss to the plan's contribution base.

However, Congress recognized that, in certain industries and under certain circumstances, a complete or partial cessation of the obligation to contribute by an employer normally does not weaken the plan's contribution base. For that reason, Congress established special withdrawal rules for the construction and entertainment industries.

Under the definition in ERISA section 4203(b)(2), a complete withdrawal occurs only if a construction industry employer ceases to have an obligation to contribute under the plan, and the employer either continues to perform previously covered work in the area of the collective bargaining agreement or resumes such work within five years without renewing the obligation to contribute at the time of resumption. Section 4203(c)(1) applies the same special definition of complete withdrawal to the entertainment industry, except that the pertinent area is the area of the plan rather than the area of the collective bargaining agreement. In contrast, the general definition of complete withdrawal imposes liability regardless of the continued activities of the withdrawn employer (section 4203(a)).

Congress also established special partial withdrawal liability rules for the construction and entertainment industries. In construction, a partial withdrawal occurs "only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required" (ERISA section 4208(d)(1)). The entertainment industry is exempt from partial withdrawal liability "except under the conditions and to the extent prescribed by the corporation by regulation" (section 4208(d)(2)).

ERISA section 4203(f) provides that PBGC may authorize plans in industries other than construction and entertainment to adopt special complete withdrawal liability rules similar to those for the construction and entertainment industries in section 4203 (b) and (c). Section 4208(e)(3) provides that PBGC may permit plans to adopt special partial withdrawal liability rules upon a finding by PBGC that the rules are consistent with the purposes of Title IV of ERISA. Under ERISA section 4203(f) and § 2645.4(a) of the PBGC's regulation on procedures for extension of special withdrawal liability rules (47 FR 12622, March 24, 1982), PBGC will approve a plan amendment establishing special withdrawal rules if the PBGC determines that the plan amendment—

(A) Will apply only to an industry that has characteristics that would make use of the special withdrawal rules appropriate; and

(B) Will not pose a significant risk to the insurance system.

In making these determinations, PBGC will conduct a comprehensive analysis of the request, the actuarial data submitted and other relevant information relating to the industry and the plan. PBGC may condition its approval of the special rules on the plan's taking certain additional actions in order to ensure satisfaction of the regulatory standards. For example, PBGC approval may be conditioned on the plan's modification of the rule or a change in the plan's funding practices.

In order for the PBGC to determine whether a special withdrawal rule is appropriate, § 2645.3(d)(7) of the regulation requires that plans provide information on the industry which is the subject of the rule. This includes information on the effects of withdrawals on the plan's contribution base, as well as information sufficient to demonstrate the existence of industry characteristics which would indicate that withdrawals in the industry do not

typically have an adverse effect on the plan's contribution base. (These characteristics include the mobility of employees, the intermittent nature of employment, the project-by-project nature of the work, extreme fluctuations in the level of an employer's covered work under the plan, the existence of a consistent pattern of entry and withdrawal by employers, and the local nature of the work performed.)

Under § 2645.2(a) of the regulation, a special partial withdrawal rule must be consistent with the rule the plan has adopted on complete withdrawals. The regulation also requires that a plan indicate how the special rules will operate in the event of a sale of assets by a contributing employer or the withdrawal from the plan of all employers (§ 2645.3(d)(4)). Finally, § 2645.4(b) requires PBGC to publish a notice of the pendency of a request for approval of special withdrawal rules in the Federal Register, and to provide interested parties with an opportunity to comment on the request.

Request

PBGC has received a request from the International Longshoremen's and Warehousemen's Union-Pacific Maritime Association Pension Plan (the "Plan") for approval of a Plan amendment providing for special withdrawal liability rules. In the request, the Plan represents, among other things, that:

Applicant

The Plan is a multiemployer plan, with approximately 110 employers contributing in 1980, that is maintained pursuant to collective bargaining agreements between the International Longshoremen's & Warehousemen's Union ("ILWU") and the Pacific Maritime Association ("PMA"). The Plan, which is located in San Francisco, covers all longshoring and stevedoring work with respect to dry cargo for ocean-going vessels arriving at or departing from any Pacific coast port. The Plan does not cover petroleum and other liquid cargoes, or cargoes handled by inland boatmen.

Employer Association

The PMA is an employer association charged with negotiating the industry's master collective bargaining agreement. The PMA is composed of operators and owners of vessels operating from Pacific ports, stevedoring firms, and terminal operators.

Plan

Virtually all of the employees covered by the Plan work in the longshoring industry. As of December 1, 1981, the Plan covered 10,140 active workers and 9,322 retirees. The Plan had assets of $165 million. As of June 30, 1981, the Plan had liability for vested benefits of $512 million.[1] During 1981, the Plan received $46.4 million in contributions and paid $39.8 million in benefits. Plan assets were four times disbursements.

Plan benefit levels are set by negotiation between the PMA and the ILWU, while contribution rates are determined annually by the PMA. Currently, the stevedoring firms contribute at the rate of $1.74 per hour of work. In addition, vessel operators currently contribute on the basis of tonnage. In 1984 and thereafter, contributions will be based solely on man-hours.

The total number of contributing employers remained relatively stable from 1972 through 1979 (110 and 107 employers, respectively.) However, about 30 percent of the individual employers contributing in 1972 were no longer contributing by 1979.

Special Characteristics of the Plan

Since 1938, the Pacific coast has been certified by the National Labor Relations Board as a single bargaining unit, with the ILWU certified as the exclusive longshore bargaining representative. Every Pacific coast port is under the jurisdiction of the ILWU–PMA agreement which requires contributions to the Plan for covered work. In support of its request for approval, the Plan states: "Because the entire coast is one bargaining unit, and all ports through which ocean-going dry cargo is shipped are completely organized by the ILWU, it is not possible for such cargo to be loaded or unloaded at any point on the coast without contributions being paid to the [Plan]. For this reason, the [Plan] is dependent upon the vitality of the west coast shipping industry as a whole, and not upon the continued existence of any given employer."

Industry Characteristics

The owner or operator of a vessel operating from a Pacific coast port contracts with a stevedoring firm for the loading or unloading of cargo. It is the stevedoring firm, not the vessel operator, which is the direct employer of the longshoremen and stevedores who load and unload cargo. Pacific coast longshore workers are not full-time employees of single employers. They are normally dispatched to stevedoring firms on a daily basis from a hiring hall, jointly maintained by the PMA and ILWU, to load or unload cargo. Wages are paid to workers not by individual employers directly, but rather by the PMA, which maintains a coast-wide, computerized payroll system. The employer remits wages and funds for benefits to the PMA which in turn issues weekly payroll checks to all workers and transmits contributions to various benefit funds. On the average, active Plan participants worked for more than six employers in 1980.

The work of loading and unloading ocean-going vessels must be performed at the port of embarkation of debarkation. If an employer ceases work in the covered area, it can no longer compete for that work. Vessels do not shift their base of operations because of the movement of stevedoring firms.

The contribution base units for this plan are determined solely by the level of shipping activity in ports covered under the plan. That level is largely outside the control of the stevedoring firms, and, to a large extent, the shippers. For example, shipping activity can fluctuate on account of political factors, such as trade treaties or embargoes.

The Plan stated in summary that the characteristics of the Pacific coast longshore industry indicate that withdrawals by contributing employers typically do not damage the Plan's contribution base: "Shippers and carriers do not diminish their activities when a stevedoring employer goes out of business; they merely find other employers of longshore labor. * * * Moreover, because of the coast-wide work force, and the nature of employment in this industry, such a withdrawal has little effect on individual workers. Individual employment is generally not dependent on the continued existence of particular employers."

Actuarial Data

As part of its request, the Plan submitted copies of its three most recent actuarial valuation reports. Plan costs for funding purposes are determined on the entry age normal, level dollar method. Benefits are subject to collective bargaining and contributions are allocated to contributing employers on the basis of the ERISA minimum funding requirements.

The reports show that during the 4-year period spanned by the reports (12/31/77–12/31/81), the Plan population was relatively stable. During that period, the number of retirees increased 2.7 percent, while the number of active participants decreased less than one

[1] This figure does not reflect a major benefit increase that took effect on July 1, 1981.

percent. However, during this same period, tonnage handled increased. Annual contributions also increased from $36.7 million to more than $46 million, and Plan assets rose from $84 million to $178.8 million.

There were two benefit increases under the Plan during the period covered by the reports. The first, effected pursuant to the 1987 bargining agreements, increased the Plan's unfunded accrued liability by $96 million. The second increase. effective July 1, 1981, increased the unfunded accrued liability by approximately $106 million, to approximately $529 million. Specifically, the Plan's monthly accrual rate went from $18 to $26. This coupled with an increase in the maximum number of years for which participants could accrue benefits, raised the monthly maximum benefit from $450 to $780. PBGC notes that this monthly accrual rate of $26 exceeds the maximum monthly accrual rate guaranteed by PBGC under section 4022A(c) of ERISA. The maximum guaranteed rate of $16.25 is 62.5 percent of the Plan's accrual rate.

The rate of benefit increases under the Plan has exceeded the rate of contribution increases. As a result, annual benefit payments as a percentage of annual contributions have increased from 87 percent to 91 percent during the period reported.

It is also worth noting that the pupulation of active participants is substantially older than under the typical multiemployer plan. Under an average multiemployer plan (based on studies conducted in conjunction with the 1980 multiemployer plan legislation), 40.7 percent of participants are at ages 25–39, as compared with only 22.6 percent of the participants in the Plan. At the other end of the age scale, 43.9 percent of the Plan's participants are at ages 50–64, as compared with only 26.6 percent in the typical plan.

The cost associated with a given level of benefits is greater in a plan with an older participant population. With an older population, benefit payments will begin sooner. Further, the value of accrued and vested benefits goes up more in such a plan than in the typical plan, when benefits are increased. Further, relatively more of the increase in plan costs resulting from benefit increases is allocated to past service, which is required to be funded over 30 years, than to normal costs, which are required to be currently funded.

A summary of the three actuarial valuations is set forth below.

SUMMARY OF ACTUARIAL VALUATION RESULTS [1]

	Valuation date		
	Dec. 31, 1981	Dec. 31, 1979	Dec. 31, 1977
A. Participants and Benefits			
1. Number of participants: [2]			
a. Active	10,140	10,179	10,216
b. Retired	9,322	9,237	9,073
2. Benefit accruals used for valuation:			
a. Monthly accrual rate	$26	$22	$18
b. Maximum monthly benefit	780	550	450
B. Contributions and Benefit Payout (in Thousands)			
1. Annual contributions [3]	$45,433	$43,130	$36,669
2. Annual benefit payout [3]	39,306	37,406	31,779
3. Market value of assets	178,844	134,753	100,881
4. Net minimum funding charges, ignoring credit balance	50,156	43,540	32,741
C. Plan Liabilities (in Thousands)			
1. Entry age normal cost	$10,900	$8,848	$8,853
2. Unfunded [4] value of:			
a. Accrued liability—EAN	[5]529,162	470,536	395,760
b. Liability for vested benefits	[5]391,442	383,427	(6)
3. Interest rate used to value liabilities (percent)	6%	6%	5

[1] Taken from actuarial reports submitted with request.
[2] Excludes terminated vested participants (2 or 3 per report).
[3] Average of cash basis for the 2-year period ending on the valuation date.
[4] Assets taken at market value as shown in B.3.
[5] Figures in report adjusted to reflect estimated effect of 7/1/81 benefit increase.
[6] Not reported.

Complete Withdrawal Rule

On March 23, 1982, the Plan adopted an amendment prescribing special withdrawal rules. The amendment was modified by the Plan on December 3, 1982. The amendment provides that, upon approval by the PBGC, the special rules shall be effective as of the effective date of the withdrawal liability provisions of the Multiemployer Pension Plan Admendments Act of 1980. The amendment would apply to an employer who contributes to the Plan for longshore work, as described in the special rules. Under the amendment, a complete withdrawal from the Plan would occur if:

"(A) An Employer permanently ceases to have an obligation to make Contributions to the Plan (unless such cessation of the obligation to contribute is attributable solely to a change in the method of determining Contributions to the Plan such as a change from a formula based on tonnage to one based on hours, or vice versa), and

"(B) The Employer

"(i) Continues to perform work of the type for which Contributions to the Plan are currently or were previously required at any Pacific Coast port in the United States,

"(ii) Resumes such work at any time during the Plan Year in which the obligation to make Contributions under the Plan ceases or the five succeeding Plan Years, and does not renew the obligation to make Contributions at the time of such resumption,

"(iii) Sells or otherwise transfers a substantial portion of its business or assets, directly or indirectly, to another person that, at any time during the six Plan Years described in clause (ii), performs longshore work within the meaning of Section 4.042 at any Pacific Coast port in the United States without having the obligation to make Contributions to the Plan in accordance with the Collective Bargaining Agreement under which the Plan is maintained, or

"(iv) Ceased to have an obligation to contribute in connection with the withdrawal of every Employer from the Plan or the withdrawal of substantially all the Employers pursuant to an agreement or arrangement to withdraw from the Plan within the meaning of Section 4219(c)(1)(D) of ERISA."

(Plan Amendment: section 1.42.)

Partial Withdrawal Rule

The Plan amendment also provides special partial withdrawal liability rules. Under the amendment, a partial withdrawal is defined as follows:

"* * * Partial Withdrawal from the Plan by an Employer occurs on the date of a 'partial withdrawal' of such Employer within the meaning of Section 4205 of ERISA, but only if, at any time during the Plan Year in which such date occurs or the five succeeding Plan Years, the Employer

"(A) Performs work of the type for which Contributions to the Plan are currently or were previously required at any Pacific Coast port in the United States without having the obligation to make Contributions to the Plan in accordance with the Collective Bargaining Agreements under which the Plan is maintained, or

"(B) Sells or otherwise transfers a substantial portion of its business or assets, directly or indirectly, to another person that, at any time during the six Plan Years described in Paragraph 1.43, performs longshore work within the meaning of Section 4.042 at any Pacific Coast port in the United States without having the obligation to make Contributions to the Plan in accordance with the Collective Bargaining

Agreements under which the Plan is maintained."

(*Plan Amendment;* section 1.43.)

Other Provisions of the Plan Amendment

The Plan amendment contains other provisions, which read as follows:

"Notwithstanding any other provision of this Plan, the Contributions for each Plan Year shall be not less than the total administrative costs and benefits to be paid by the Trustees during said Plan Year." (See, Paragraph 4.011 of the ILWU–PMA Pension Agreement; hereafter referred to as the "Agreement".)

"* * * Pursuant to ERISA, Section 4203(f) and amendments to the Plan adopted thereunder, an Employer who makes Contributions to the Plan on account of longshore work, including work performed by an longshoreman, clerk, walking boss, or foreman, carloader, lockerman, gearman, sweeper, grain handler, or other employee employed in connection with the loading or unloading of dry cargo on or off of vessels or at any facility used in the loading or unloading of dry cargo that is subject to the jurisdiction of the Union and/or its Locals shall have withdrawal liability under Part 1, Subtitle E of ERISA only for a Complete Withdrawal or a Partial Withdrawal within the meaning of Paragraphs 1.42 and 1.43, respectively." (Paragraph 4.042 of the Agreement.)

"* * * The Union and Association by their mutual agreement in writing may at any time amend, modify, or delete any provisions of the Agreement * * * provided, further, all amendments shall be consistent with the applicable provisions of the Employee Retirement Income Security Act of 1974, and no amendments shall be made to Paragraphs 1.42, 1.43 or 4.042, or to the second sentence of Paragraph 4.011, without the approval of the Pension Benefit Guaranty Corporation * * *" (Paragraph 7.02 of the Agreement.)

Treatment of Sales of Assets

The Plan has stated that ERISA section 4204 (and applicable PBGC regulations thereunder) would continue to apply to sales of assets involving contributing employers to the Plan. As indicated by the Plan, if a sale of assets did not constitute a complete or partial withdrawal by reason of section 4204, there would be no occasion for the Plan's special liability rules to be applied, since there would be no withdrawal liability under Part 1, Subtitle E of ERISA. However, if a sale of assets should occur which did not meet the conditions of section 4204 and accordingly gave rise to a complete or partial withdrawal under the statute, the Plan's special withdrawal liability rules apply.

Notice

A notice of the adoption of the Plan amendment and of the Plan's request for PBGC approval of the amendment has been mailed to all employers who have an obligation to contribute under the Plan and to the employee organization representing employees covered under the Plan.

Comments

All interested persons are invited to submit written comments on the pending request to the above address, on or before March 3, 1983. All comments will be made a part of the record. Comments received, as well as the application for approval of the plan amendment, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 10th day of January, 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-1174 Filed 1-14-83; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-19331; File No. SR-Amex-82-23]

American Stock Exchange, Inc.; Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 3, 1982, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend Article IV, Section 3(b) of the Exchange Constitution to permit the designation of authorized representatives to act on the Floor on behalf of options principal member ("OPM") Governors of the Exchange and regular member and OPM Exchange Officials while such Governors and Exchange Officials are engaged in Exchange business and attending meetings of the Exchange's Board, respectively.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose.* Article IV, Section 3(b) of the Constitution provides that the Exchange may authorize a representative of a regular member Governor to exercise the privilege of transacting on the Floor of the Exchange the business of such Governor or his member organization, while such Governor is engaged in Exchange business. Among other things, this delegation of trading privilege to an authorized representative enables a Floor Governor to attend Board meetings.

As a result of requests made by members, the Exchange proposes that this trading privilege be extended to Exchange Officials from the Trading Floor ("Floor Officials")[1] to make it as convenient for them to attend Board meetings as it is for Floor Governors. This proposed change will facilitate their participation in Board discussions regarding issues of interest to the Floor membership. It is therefore proposed that Article IV, Section 3(b) be amended so as to extend this trading privilege to Exchange Officials who are Floor Officials for the sole purpose of facilitating their attendance at such meetings. The privilege is not proposed to be extended while they are engaged in other Exchange business, since Exchange Officials have a more limited role in the general governance of the Exchange than Governors.

In connection with this amendment, it is also proposed that Section 3(b) be amended to extend the privilege of using

[1] Under Exchange Rule 21, Exchange Officials who spend a substantial part of their time on the Floor are appointed as Floor Officials.

authorized representatives on the Floor to Governors and Floor Officials who are OPMs while such Governors and Officials are engaged in Exchange business and attending Board meetings, respectively. The Exchange believes that any distinction between regular members and OPMs is not justified in this instance, since the provisions of the Constitution dealing with OPMs in general provide for their full participation in the governance of the Exchange.

(*b*) ***Basis.*** The proposed amendment is consistent with Section 6(b) in general and furthers the objective of Section 6(b)(3) in particular in that it will assist OPM Governors and regular member and OPM Exchange Officials in the discharge of their administrative responsibilities, thereby helping to assure a fair representation of the membership in the administration of Exchange affairs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 13, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1196 Filed 1-14-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 19415; SR-Philadep-82-8]

Philadelphia Depository Trust Company ("Philadep"); Order Approving Proposed Rule Change

On November 12, 1982, Philadep filed a proposed rule change with the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b–4 thereunder. The proposed rule change authorizes Philadep to charge back dividend and bond interest directly to participants through their depository accounts when securities shipped for transfer into Philadep's nominee name miss record date processing. In addition, Philadep may invoke the charge back rule when it pays out dividend or bond interest to a participant but is subsequently unable to collect the funds due to a default by the issuer or paying agent.

Notice of the proposed rule change together with the terms of substance of the proposed rule change were given by publication of a Commission Release (Securities Exchange Act Release No. 19295 December 3, 1982) and by publication in the **Federal Register** (47 FR 55560, December 10, 1982). The Commission solicited but did not receive any comments.

Previously, Philadep recovered dividend and interest payments that should not have been credited to participants' depository accounts by instituting claims against participants. Philadep was not authorized to debit participants' accounts for the claimed amount. Rather, when claims were resolved in Philadep's favor, participants reimbursed Philadep by other means (*i.e.*, by check), a time consuming and labor-intensive process. The proposed rule change, however, enables Philadep to debit participants' depository accounts when Philadep, despite its best efforts, is unable to obtain transfer of securities prior to the dividend or interest record date or the issuer or the paying agent defaults on its payment obligation. Philadep asserts, therefore, that the proposed rule change is consistent with the Act, and, in particular, Section 17A(b)(3)(F) of the Act, which requires registered clearing agencies to safeguard funds and securities within their custody or control.

The payment of dividends and interest by a clearing agency to its participants prior to receipt of such funds from the issuer or the paying agent, under certain circumstances, may be inconsistent with Section 17A(b)(3)(F) of the Act. Although in this instance, Philadep pays dividends and interest to participants on the day specified by the issuer for payment (the "payable date") prior to the receipt of the necessary funds from the issuer or paying agent, Philadep credits its participants in clearinghouse funds (*i.e.*, funds that become available on the next day). Philadep also has historically received substantially all of the necessary funds by the day after payable date, and the Commission understands that Philadep will seek to maintain that receipt history. Therefore, Philadep's dividend and interest payment program appears to be consistent with the Act. Furthermore, the proposed rule change, by enabling Philadep to recover through book-entry movements the unpaid funds it credits participants, provides Philadep with even greater protection with respect to funds within its control than under current rules and procedures.

The Commission finds, therefore, that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

January 10, 1983.

[FR Doc. 83-1197 Filed 1-14-83; 8:45 am]
BILLING CODE 8010-01-M

[File Nos. 22-12200 and 22-12200-01]

Standard Oil Co. and Kennecott Corp.; Application and Opportunity for Hearing

Notice is hereby given that the Standard Oil Company ("Sohio") and Kennecott Corporation ("Kennecott", Sohio and Kennecott being sometimes referred to herein as the "Applicants") have filed a joint Application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Chemical Bank under an existing indenture that has been qualified under the Act, and five Trust Indentures with various Counties and State Authorities which have not been qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chemical Bank from acting as trustee under any of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on Application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicants allege that:

(1) Chemical Bank currently is acting as trustee under an indenture under which the Applicants are obligors. The indenture, dated as of May 1, 1971, and entered into between Kennecott and Chemical Bank, Trustee, (the "Original Indenture"), involved the issuance of $200,000,000 principal amount of 7¾% Debentures Due 2001 (the "Debentures"). The original Indenture was filed as Exhibit 2(a) to Kennecott's Registration Statement No. 2-39601 filed under the Securities Act of 1933 and has been qualified under the Act. Pursuant to a First Supplemental Indenture to the Original Indenture dated as of July 1, 1982 (the "First Supplemental Indenture"), Sohio expressly guaranteed the due and punctual payment of the principal of and premium, if any, and interest on the Debentures (the "Sohio July Guarantee", the First Supplemental Indenture and the Original Indenture being hereinafter called the "1971 Indenture").

(2) The Applicants are not in default in any respect under the 1971 Indenture, the Sohio July Guarantee or under any other existing indenture.

(3) On November 4, 1982 Chemical Bank entered into five Trust Indentures, each dated as of October 1, 1982 (the "Trust Indentures") with, respectively, County Commission of Marshall County, West Virginia; West Side Calhoun County Navigation District; Salt Lake County, Utah; New Jersey Economic Development Authority; and Ohio Water Development Authority, pursuant to which there were issued, respectively, $17,000,000 principal amount of Floating Rate Monthly Demand Pollution Control Revenue Bonds, Series 1982 (Mountaineer Carbon Company Project), $30,000,000 principal amount of Floating Rate Monthly Demand Pollution Control Refunding Revenue Bonds, Series 1982 (Vistron Corporation Project), $8,000,000 principal amount of Floating Rate Monthly Demand Pollution Control Revenue Bonds, Series 1982 (Kennecott Corporation Project) (the "Kennecott Bonds"), $4,100,000 principal amount of Floating Rate Monthly Demand Economic Development Bonds (BP Oil Inc.—1982 Project), and $12,000,000 principal amount of Floating Rate Monthly Demand Pollution Control Revenue Bonds, Series 1982 (the Standard Oil Company Project) (the "Ohio Bonds") (collectively the "Bonds").

(4) Sohio is obligated to pay the principal of, premium, if any, and interest on the Bonds pursuant to (except in the case of the Ohio Bonds) direct guarantees contained in Loan Agreements and a Sale Agreement with the various Counties and Authorities referred to above which have been assigned to Chemical Bank, as Trustee (the "Sohio November Guarantees") and, in the case of the Ohio Bonds, pursuant to a Note payable to Chemical Bank, as Trustee (the "Ohio Note").

(5) Kennecott is obligated to pay an amount equal to the principal of, premium, if any, and interest on the Kennecott Bonds pursuant to a Note payable to Chemical Bank, as Trustee (the "Kennecott Note").

(6) The Bonds have not been registered under the Securities Act of 1933 on the basis of the exemption provided by Section 3(a)(2) thereof, and the Trust Indentures have not been qualified under the Act as the basis of the provisions of Section 304 thereof.

(7) The Sohio November Guarantees and the Ohio Note, if enforced against Sohio, would rank on a parity with the obligations evidenced by the Sohio July Guarantee and the obligations of Sohio under the Sohio November Guarantees, the Ohio Note and the Sohio July Guarantees are wholly unsecured.

(8) The Kennecott Note, if enforced against Kennecott would rank on a parity with the obligations evidenced by the Debentures and the obligations of Kennecott under the Kennecott Note and the Debentures are wholly unsecured.

(9) Aside from differences among the 1971 Indenture and the Trust Indentures as to amounts, interest rates, maturity dates, redemption dates and redemption powers, and differences in form between the 1971 Indenture and the Trust Indentures, the terms of said indentures are substantially similar.

Such differences as exist between the 1971 Indenture and the Trust Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chemical Bank from acting as trustee under any of said indentures.

Applicant has waived (a) notice of hearing, (b) hearing on the issues raised by the Application and, (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said Application, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C.

Notice is further given that any interested person may, not latter than February 9, 1982, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said Application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the Application upon such

terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1189 Filed 1-14-83; 8:45 am]

BILLING CODE 8010-01-M

SYNTHETIC FUELS CORPORATION

Targeted Solicitation for Oil Shale Projects; Briefing

ENTITY: Synthetic Fuels Corporation.

ACTION: Notice of briefing invitation.

SUMMARY: Interested members of the public are invited to attend a briefing to be conducted by the United States Synthetic Fuels Corporation on the Competitive Solicitation for Oil Shale Projects tentatively approved by the Corporation's Board of Directors on December 20, 1982. The briefing will take place at 2:00 p.m., January 19, 1983 at the Four Seasons Hotel (Highland Room), 1300 Lamar Street, Houston, Texas 77010.

FOR FURTHER INFORMATION CONTACT:

Bill Rhatican, Vice President for External Relations, United States Synthetic Fuels Corporation (202) 822-5993, or

Richard Shanklin, Project Officer for Targeted Solicitations, United States Synthetic Fuels Corporation (202) 822-5420.

United States Synthetic Fuels Corporation.

Jimmie R. Bowden,

Executive Vice President.

January 12, 1983.

[FR Doc. 83-1082 Filed 1-14-83; 8:45 am]

BILLING CODE 6820-93-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA), Study Group on Airborne Thunderstorm, Detection Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Study Group on Airborne Thunderstorm Detection Equipment to be held on February 8-9, 1983 in RTCA Conference Room, Suite 500, 1425 K Street N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Introductory Remarks; (2) Approval of Minutes of the First Meeting Held on December 2-3, 1983; (3) Presentation of Technical Briefings; (4) Discussion on the Feasibility of Developing a Minimum Operational Performance Standard for Airborne Thunderstorm Detection Equipment; (5) Preparation of Initial Draft of Committee Report; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1425 K Street, N.W., Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 10, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-1149 Filed 1-14-83; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in December 1982. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2766-X	DOT-E 2766	Union Carbide Corporation, Danbury, CT	49 CFR 173.315(a), 173.316	To authorize shipment of a flammable liquefied compressed gas in non-DOT specification cargo tanks. (Mode 1.)
2767-X	DOT-E 2767	Raytheon Company, Andover, MA	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain non-flammable compressed gas in non-DOT specification pressure vessels equipped with a regulating valve. (Modes 1, 2, 3, and 4.)
3330-X	DOT-E 3330	General Electric Company, Schenectady, NY.	49 CFR 173.214(d)	To authorize use of containers not presently prescribed in Hazardous Materials Regulations, for transportation of certain flammable solid material. (Modes 1 and 2.)
3330-X	DOT-E 3330	Teledyne Wah Chang Albany Corp., Albany OR.	49 CFR 173.214(d)	To authorize use of containers not presently prescribed in Hazardous Materials Regulations, for transportation of certain flammable solid material. (Modes 1 and 2.)
3330-X	DOT-E 3330	Western Zirconium, Inc., Ogden, UT	49 CFR 173.214(d)	To authorize use of containers not presently prescribed in Hazardous Materials Regulations, for transportation of certain flammable solid material. (Modes 1 and 2.)
3798-X	DOT-E 3798	Essex Industrial Chemicals, Inc., Baltimore, MD	49 CFR 173.119, 173.245, 173.286	To authorize use of DOT Specification MC-304, MC-307 and MC-312 cargo tanks, for transportation of certain flammable and corrosive liquids. (Mode 1.)
4575-X	DOT-E 4575	Union Carbide Corporation Danbury, CT	49 CFR 173.314 (c)	To authorize use of non-DOT specification tank car tanks, for transportation of certain liquified compressed gases. (Mode 2.)
4575-X	DOT-E 4575	Racon Inc., Wichita, KS	49 CFR 173.314(c)	To authorize use of non-DOT specification tank car tanks, for transportation of certain liquified compressed gases. (Mode 2.)
4586-X	DOT-E 4586	U.S. Department of Energy, Washington, DC.	49 CFR 173.65(a)	To authorize use of packaging not presently prescribed for certain high explosives. (Mode 1.)
4699-X	DOT-E 4699	American Bosch Diesel Products, Springfield, MA.	49 CFR 173.302(a)(1), 175.3	To authorize use of non-DOT specification hydraulic accumulators, for shipment of a certain nonflammable compressed gas. (Mode 1, 2, 3, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
5263-X	DOT-E 5263	3M, St. Paul, MN	49 CFR 173.245(a)	To authorize transport of a corrosive liquid in a non-DOT specification stainless steel container. (Mode 1.)
5263-X	DOT-E 5263	Dow Corning Corporation, Midland, MI	49 CFR 173.245(a)	To authorize transport of a corrosive liquid in a non-DOT specification stainless steel container. (Mode 1.)
5557-X	DOT-E 5557	U.S. Department of Energy, Washington, DC.	49 CFR Part 173, Subpart C	To authorize use of non-DOT specification containers, for shipment of certain explosives, and gross weight exceeding prescribed limits. (Mode 1.)
5557-X	DOT-E 5557	U.S. Department of Energy, Washington, DC.	49 CFR Part 173, Subpart C	To authorize [illegible] Class A explosives and other Class A explosives identified in writing, to provide for modification of shipping container and to modify drawing references. (Mode 1.)
5704-X	DOT-E 5704	Trojan Corporation, Spanish Fork, UT	49 CFR 173.62, 173.93(e)	To authorize transport of certain Class A and B explosives in prescribed non-DOT specification containers. (Modes 1, 2, and 3.).
5704-X	DOT-E 5704	U.S. Department of Defense, Washington, DC.	49 CFR 173.62, 173.93(e)	To authorize transport of certain Class A and B explosives in prescribed non-DOT specification containers. (Modes 1, 2, and 3.).
5704-X	DOT-E 5704	Hercules, Incorporated, Wilmington, DE	49 CFR 173.62, 173.93(e)	To authorize transport of certain Class A and B explosives in prescribed non-DOT specification containers. (Modes 1, 2, and 3.).
5825-X	DOT-E 5825	Phillips Petroleum Company, Bartlesville, OK.	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank, for shipment of a flammable liquefied compressed gas. (Mode 1.).
611-X	DOT-E 6117	Montana Sulphur & Chemical Company, Billings, MT.	49 CFR 172.504, 173.314(c)	To authorize transport of hydrogen sulfide in DOT Specification 105A600W tank car tanks or proposed DOT Specification 120A600W tank car tanks. (Mode 2.).
6543-X	DOT-E 6543	M & T Chemicals, Incorporated, Los Angeles, CA.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.247, 175.3.	To authorize shipment of certain corrosive and flammable liquids in non-DOT specification 16 gauge, Type 304 stainless steel cylinders and/or 14 gauge Type 316 stainless steel cylinders. (Modes 1, 2, 3, and 4.).
6618-X	DOT-E 6618	Monsanto Company, St. Louis, MO	49 CFR 173.365(a), 173.374(a)	To authorize shipment of a Class B poison in an insulated, DOT Specification MC-307 or MC-312 cargo tanks equipped with heating coils. (Mode 1.).
6652-X	DOT-E 6652	Garrett Pneumatic Systems Division, Tempe, AZ.	49 CFR 173.302(a)(1), 175.3	To authorize manufacture, marking and sale of non-DOT specification filament-wound fiberglass reinforced plastic cylinder, for transportation of certain compressed gases. (Modes 1 and 4.).
6694-X	DOT-E 6694	Eurotainer, Paris, France	49 CFR 173.315	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of nonflammable gases. (Modes 1, 2, and 3.).
6694-X	DOT-E 6694	Compagnie des Containers Reservoirs, Paris, France.	49 CFR 173.315	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of nonflammable gases. (Modes 1, 2, and 3.).
6694-X	DOT-E 6694	Fevuet-Giret, Paris, France	49 CFR 173.315	To authorize use of non-DOT specification IMO Type 5 portable tanks for transportation of nonflammable gases. (Modes 1, 2, and 3.).
6694-X	DOT-E 6694	Produits Chimiques Ugine Kuhlmann, Paris, France.	49 CFR 173.315	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of nonflammable gases. (Modes 1, 2, and 3.)
6984-X	DOT-E 6984	Deepsea Distributing Co., Inc., Oklahoma City, OK.	49 CFR 173.103(a), 173.63(g), 177.835(g)(2)(i).	To authorize packaging of 1000 or less electric blasting caps in inside pasteboard cartons or tubes, overpacked in an IME Standard 22 container. (Mode 1.)
7025-X	DOT-E 7025	Liquid Air Corporation, San Francisco, CA	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification cargo tank, for transportation of a flammable gas and a nonflammable gas. (Mode 1.)
7247-X	DOT-E 7247	U.S. Department of Defense, Washington, DC.	49 CFR 146.29-11(c)(19), 146.29-75(b)(7).	To authorize a bulkhead in the lower hold of a vessel separating military explosives from general cargo to be secured on 4 inch by 6 inch uprights, in lieu of the required 6 by 6 inch uprights. (Mode 3.)
7259-X	DOT-E 7259	Monsanto Company, St. Louis, MO	49 CFR 176.76(g)(5)	To authorize use of DOT Specification 56 aluminum portable tanks for shipment of phosphorous pentasulfide by cargo vessel. (Mode 3.)
7259-X	DOT-E 7259	FMC Corporation, Philadelphia, PA	49 CFR 176.76(g)(5)	To authorize use of DOT Specification 56 aluminum portable tanks for shipment of phosphorous pentasulfide by cargo vessel. (Mode 3.)
7259-X	DOT-E 7259	Exxon Chemical Americas, Houston, TX	49 CFR 176.76(g)(5)	To authorize use of DOT Specification 56 aluminum portable tanks for shipment of phosphorous pentasulfide by cargo vessel. (Mode 3.)
7259-X	DOT-E 7259	Stauffer Chemical Company, Westport, CT.	49 CFR 176.76(g)(5)	To authorize use of DOT Specification 56 aluminum portable tanks for shipment of phosphorous pentasulfide by cargo vessel. (Mode 3.)
7259-X	DOT-E 7259	Occidental Chemical Corporation, Niagara Falls, NY.	49 CFR 176.76(g)(5)	To authorize use of DOT Specification 56 aluminum portable tanks for shipment of phosphorous pentasulfide by cargo vessel. (Mode 3.)
7502-X	DOT-E 7502	Snyder Industries, Incorporated, Lincoln, NE.	49 CFR 173.119, 173.125, 178.19, Part 173. Subpart F.	To authorize manufacture, marking and sale of non-DOT specification reusable, rotationally molded polyethylene container, for transportation of certain corrosive or flammable liquids and an oxidizer. (Modes 1, 2, and 3.)
7835-P	DOT-E 7835	Scott Environmental Technology, Incorporated, Plumsteadville, PA.	49 CFR 177.848, Part 107 Appen. B(1)	To become a party to Exemption 7835. (Mode 1.)
7846-X	DOT-E 7846	Union Carbide Corporation, Danbury, CT	49 CFR 173.314(c)	To authorize frame mounting and manifolding of DOT Specification seamless steel tank car tanks, for shipment of certain nonflammable gases. (Modes 1 and 3.)
7873-X	DOT-E 7873	Bromine Compounds, Limited, Beer Sheva, Israel.	49 CFR 173.353a	To authorize use of non-DOT specification intermodal portable tanks, for transportation of a Class B poison liquid. (Modes 1 and 3.)
7876-X	DOT-E 7876	Allied Corporation, Morristown, NJ	49 CFR 173.299(a), 175.3.	To authorize shipping description etching acid, liquid, n.o.s. to be used for products which do not comply with the definition in 49 CFR 173.22(a). (Modes 1, 2, 3, and 4.)
8003-X	DOT-E 8003	Rennselt Corporation, Buffalo, NY	49 CFR 173.154(a)(14)	To authorize use of one-gallon, open-head polyethylene containers inside a DOT Specification 12B box, for transportation of organic peroxides. (Modes 1 and 3.)
8023-X	DOT-E 8023	Aquila Corporation, Mountain View, CA	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(d)(3), 175.3.	To authorize use of non-DOT specification fiberglass wrapped FRP cylinders, for shipment of certain compressed gases. (Modes 1, 2, 3, 4, and 5.)
8055-X	DOT-E 8055	Hammond Lead Products, Inc., Hammond, IN.	49 CFR 173.154	To authorize shipment of a flammable solid, in DOT Specification 44C multi-wall paper bags. (Modes 1, 2, and 3.)
8055-X	DOT-E 8055	American Cyanamid Company, Wayne, NJ.	49 CFR 173.154	To authorize shipment of a flammable solid, in DOT Specification 44C multi-wall paper bags. (Modes 1, 2, and 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8090-X	DOT-E 8090	Produits Chimiques Ugine Kuhlmann, Paris, France.	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, and 3.)
8116-X	DOT-E 8116	Shell Oil Company, Houston, TX	49 CFR 100–199	To authorize shipment of small quantities of analytical standards in prescribed packaging essentially without regulation. (Modes 1, 2, 3, 4, and 5.)
8116-X	DOT-E 8116	U.S. Department of Defense, Washington, DC.	49 CFR 100–199	To authorize shipment of small quantities of analytical standards in prescribed packaging essentially without regulation. (Modes 1, 2, 3, 4, and 5.)
8119-X	DOT-E 8119	BJ-Hughes, Incorporated, Long Beach, CA.	49 CFR 173.119(a), (m), 173.245(a), 173.263(a), 173.346(a), 178.340–7, 178.342–5, 178.343–5(b).	To authorize use of a non-DOT specification cargo tank designed and constructed in full compliance with DOT Specification MC–307 or MC–312 with certain exceptions, for transportation of certain corroseve and flammable liquid. (Mode 1.)
8120-X	DOT-E 8120	Starflight Incorporated, Smyrna, TN	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B, and C explosives that are not permitted for shipment by air or in quantities greater than those prescribed for shipment by air. (Mode 4.)
8127-X	DOT-E 8127	Hercules, Incorporated, Wilmington, DE	49 CFR 173.127. 173.184, 178.224	To authorize use of a non-DOT specification fiberboard drum, for shipment of wet nitrocellulose. (Modes 1, 2, and 3.)
8127-X	DOT-E 8127	Societe Nationale Des Poudres et Explosifs, Bergerac, France.	49 CFR 173.127, 173.184, 178.224	To authorize use of a non-DOT specification fiberboard drum, for shipment of wet nitrocellulose. (Modes 1, 2, and 3.)
8156-X	DOT-E 8156	Air Products and Chemicals, Incorporated, Allentown, PA.	49 CFR 173.121, 173,302(a)(4), 173.302(f), 173.304(a)(1).	To authorize transport of certain flammable or nonflammable compressed gases and carbon bisulfide in a DOT Specification 39 steel cylinder up to 225 cubic inches in volume. (Modes 1 and 2.)
8186-X	DOT-E 8186	Owens-Illinois (Plastic Products Division), Toledo, OH.	49 CFR 173.119(a), 173.119(b), 173.125, 173.126(a), 173.245, 173.256.	To authorize use of a DOT Specification 34 reusable polyethylene container of 30-gallon capacity, for shipment of a liquid paint or a cleaning compound. (Mode 1.)
8248-P	DOT-E 8248	Amalgamet Canada, Toronto, Ontario, Canada.	49 CFR 173.245, 173.247, 173.271, 178.170.	To become a party to Exemption 8248. (Mode 1.)
8390-P	DOT-E 8390	Van Waters & Rogers, San Jose, CA	49 CFR 173.272, 178.210, 178.24a	To become a party to Exemption 8390. (Mode 1.)
8390-X	DOT-E 8390	Ashland Oil, Inc., Columbus, OH	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%–98% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT Specification 12A80 fiberboard boxes. (Mode 1.)
8414-X	DOT-E 8414	SLEMI, Paris, France	49 CFR 173.315	To authorize transport of certain nonflammable gases in non-DOT Specification intermodal portable tanks. (Modes 1, 2, and 3.)
8451-X	DOT-E 8451	U.S. Department of Energy, Washington, DC.	49 CFR 173.65, 173.86(e), 175.3	To authorize shipment of not more than 25 grams, of certain Class C explosives, and pyrotechnics in 4 or 6 inch diameter pipes overpacked in cushioned DOT Specification 12H box, strong wooden box, or metal drum. (Modes 1, 2, and 4.)
8480-X	DOT-E 8480	The Gillette Company, Boston, MA	49 CFR 173.24(a)(1), 175.3, Parts 172 and 177.	To authorize transport of a flammable gas in a device which allows a slow rate of leakage of the gas. (Modes 1, 2, and 3.)
8480-P	DOT-E 8480	Braun A.G., Kronberg, West Germany	49 CFR 173.24(a)(1), 175.3, Parts 172 and 177.	To become a party to Exemption 8480. (Modes 1, 2, and 3.)
8522-X	DOT-E 8522	Preferred Plastics, Inc., Sterling, VA	49 CFR 177,839(a)(b), 178.150, Part 173, Subpart F.	To authorize manufacture, marketing and sale of non-reusable expanded polyethylene cases similar to DOT Specification 33A, except that it will incorporate 6 cavities to contain not more than six 5-pint bottles, for shipment of those commodities presently authorized in DOT Specification 33A. (Modes 1, 2, and 3.)
8522-X	DOT-E 8522	Foamco, Oakland, CA	49 CFR 177.839(a)(b), 178.150, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-reusable expanded polyethylene cases similar to DOT Specification 33A, except that it will incorporate 6 cavities to contain not more than six 5-pint bottles, for shipment of those commodities presently authorized in DOT Specification 33A. (Modes 1, 2, and 3.)
8526-P/8526	DOT-E 8526	3M, St. Paul, MN	49 CFR 177.834(L(2)(i)	To become a party to Exemption 8526. (Mode 1.)
8537-X	DOT-E 8537	Container Corporation of America, Wilmington, DE.	49 CFR 173.119	To authorize manufacture, marking and sale of DOT Specification 34 polyethylene containers, for transportation of certain flammable liquids. (Modes 1, 2, and 3.)
8618-P	DOT-E 8618	Northern Air Cargo, Inc., Anchorage, AK	49 CFR 172.101 column (6)(b), 173.119(a)(3), 173.119(b), 175.30(a).	To become a party to Exemption 8618. (Mode 4.)
8690-X	DOT-E 8690	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.34(d)	To authorize shipment of nitrosyl chloride in DOT Specification 3BN400 cylinders without safety relief devices. (Mode 1.)
8732-P	DOT-E 8732	American Emulsions Co., Inc., Dalton, GA	49 CFR 173.245	To become a party to Exemption 8732. (Mode 1.)
8760-X	DOT-E 8760	Barton Solvents, Incorporated, Des Moines, IA.	49 CFR 172.328, 172.334(b)	To authorize display of FLAMMABLE placards, showing identification (1993), on Barton Solvents, Inc. cargo tanks specified for the materials and having six or more compartments when transporting one or more hazardous materials. (Mode 1.)
8760-X	DOT-E 8760	Barton Solvents, Incorporated, Des Moines, IA.	49 CFR 172.328, 172.334(b)	To authorize petroleum naphtha, classed as a flammable liquid as an additional commodity. (Mode 1.)
8854-P	DOT-E 8854	Compagnie des Containers Reservoirs, Neuilly-Sur-Seine, France.	49 CFR 173.264(b)(4)	To become a party to Exemption 8854. (Modes 1, 2, and 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8796-N	DOT-E 8832	Aztec Chemicals, Elyria, OH	49 CFR 173.119(m)	To authorize use of cargo tanks complying with DOT Specifications MC–307 and MC–312, for transportation of organic peroxide solution. (Mode 1.)
8813-N	DOT-E 8813	Nebraska Solvents Company, Grand Island, NE	49 CFR 172.328, 177.334(b)	To authorize display of FLAMMABLE placards, showing identification number (1993), on Nebraska Solvents Company's cargo tanks specified for the materials and having six or more compartments when transporting one or more hazardous materials. (Mode 1.)
8816-N	DOT-E 8816	Dow Chemical Company, Midland, MI	49 CFR 172.102–7, 173.252	To authorize use of a DOT Specification 105A500W tank car with a maximum commodity weight of 185,000 pounds, for shipment of bromine, a corrosive material. (Mode 2.)
8880-N	DOT-E 8880	Industrial Molding Corporation, Torrance, CA.	49 CFR 178.19, Part 173, Subpart D, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification removable head molded polyethylene container without overpack, for transportation of corrosive liquids and flammable liquids. (Modes 1, 2, and 3.)

New Exemptions—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8885–N	DOT–E 8885	Capps Industries, Inc., Menominee Falls, WI.	49 CFR 172.245, 173.245, 175.3	To authorize shipment of certain alkaline corrosive liquids, n.o.s., in an unlined tin can, overpacked in a non-DOT specification removable head molded polyethylene pail of five or six-gallon capacity, also containing a nonhazardous resin mix. (Modes 1, 2, 3, and 4.)
8887–N	DOT–E 8887	The Bendix Corporation, Largo, FL	49 CFR 172.101, 173.326, 173.343, 175.3	To authorize shipment of nitrogen gas containing small amounts of hydrogen cyanide, in glass ampules as poison B, packed in individual heat sealed packets placed in a fiberboard box overpacked in an additional fiberboard box. (Modes 1, 4, and 5.)
8893–N	DOT–E 8893	Trojan Corporation, Salt Lake City, UT	49 CFR 172.101	To authorize transport of a mixture containing, by weight, 10% dimethylcitrone tinitrate and 90% methanol, in non-DOT specification drums. (Mode 1.)
8903–N	DOT–E 8903	Teledyne McCormick SELPH, Hollister, CA.	49 CFR 172.101	To authorize shipment of a new initiating explosive, Class A, in plastic bottles, overpacked in DOT Specification 5, 5B or 17H steel drums. (Mode 1.)
8918–N	DOT–E 8918	The Protectoseal Company, Bensenville, IL.	49 CFR 173.119, 178.89	To authorize manufacture, marking and sale of non-DOT specification stainless steel drums of one gallon capacity and comparable to DOT Specification 5L, for transportation of gasoline. (Mode 1.)
8921–N	DOT–E 8921	Mooney Universal, Inc., Bellfloe, ME	49 CFR Part 178, Subpart F	To authorize manufacture, marking and sale of nonreusable non-DOT Specification steel jacketed polyethylene portable tanks, for transportation of corrosive liquids. (Modes 1 and 2.)
8923–N	DOT–E 8923	Union Carbide Corporation, Danbury, CT	49 CFR 173.119(m)	To authorize transport of a flammable liquid which is also corrosive in DOT Specification 51 portable tanks. (Mode 1.)
8924–N	DOT–E 8924	Rings for Drums, Inc., Edison, NJ	49 CFR 178.119, 173.128, 178.119–6 (note 3–(1)).	To authorize manufacture, marking and sale of non-DOT specification 55-gallon drums complying with DOT–17H except for marking and the top head is manufactured of 18 gauge steel with only one corrugation for shipment of paint classed as flammable liquid. (Mode 1.)
8927–N	DOT–E 8927	HTL Industries, Inc., Duarte, CA	49 CFR 173.302(a), 175.3, 178.44	To authorize manufacture, marking and sale of non-DOT specification girth, welded steel spheres, for transportation of nonflammable gases. (Modes 1, 2, 4, and 5.)
8933–N	DOT–E 8933	Ford Aerospace & Communications Corporation, Newport Beach, CA.	49 CFR Parts 100–199	To authorize transport of an electric car, containing a sodium-sulfur battery which is below its operating temperature or is depleted. (Mode 1.)
8935–N	DOT–E 8935	Quaker State Oil Refining Corporation, Bradford, PA.	49 CFR 178.340–7	To authorize use of a non-DOT specification tank motor vehicle complying with DOT Specification MC–307 except for circumferential reinforcement, for transportation of crude oil. (Mode 1.)
8938–N	DOT–E 8938	Cryogenic Services Inc., Savage, MN	49 CFR 173.304(a), 175.3	To authorize manufacture, marking and sale of DOT Specification 4L welded cylinders, for transportation of nonflammable gases. (Modes 1, 2, 3, and 4.)
8940–N	DOT–E 8940	Arapahoe Chemicals, Inc., Boulder, CO	49 CFR 173.230	To authorize shipment of sodium, metal dispersion in organic solvent, in DOT Specification 5, 5C, 6B or 6C closed head metal drums, overpacked in DOT Specification 17H drums. (Mode 1.)
8942–N	DOT–E 8942	Poly Processing Company, Inc., Monroe, LA.	49 CFR 173.266, 178.19, 178.251, 178.253, Part 173, Subpart F.	To authorize manufacture, marking and sale of steel jacketed non-DOT specification rotationally molded, cross-linked polyethylene portable tanks, for shipment of corrosive liquids and an oxidizer. (Modes 1, 2, and 3.)

Emergency Exemptions

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 6263–X	DOT–E 6263	Amtrol, Incorporated, West Warwick, RI	49 CFR 173.302(a)(1)	To authorize transport of certain nonflammable compressed gases in non-DOT specification welded, cylindrical or spherical steel tanks. (Modes 1 and 2.)
EE 6857–X	DOT–E 6857	Korean Airlines, Los Angeles, CA	49 CFR 172.101, column 6(b), 175.320(a)	To authorize transport of Class A explosives loaded on the same aircraft with Class B and C explosives. (Mode 4.)

Withdrawals

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7857–X	Makhteshim Darom, Beer Sheva, Israel	49 CFR 173.315	To authorize the use of certain non-DOT specification portable tanks for shipment of certain flammable gases. (Modes 1 and 3)

Denials

5767–P Request by E. F. Houghton & Company, Valley Forge, PA to authorize the use of a non-DOT specification steel portable tank for certain corrosive materials denied December 1, 1982.

Issued in Washington, D.C., on January 6, 1983.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 83–1089 Filed 1–14–83; 8:45 am]

BILLING CODE 4910–60–M

Office of the Secretary

[OST Docket No. 76; Notice 83-2]

Recommendations for DOT Procedures To Perform International Aviation Functions

AGENCY: Transportation (DOT).

ACTION: Extension of time to submit comments.

SUMMARY: This notice extends the deadline for filing comments on what procedures DOT should institute to administer regulatory authority over international aviation when that responsibility is transferred to DOT from the Civil Aeronautics Board (CAB).

DATE: The new deadline for comments is January 31, 1983.

ADDRESS: Send comments to Docket Clerk (Docket No. 76), C-50, Department of Transportation, Washington, DC 20590. Comments are available for inspection and copying in the Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, Department of Transportation Headquarters Building, 400 Seventh Street, SW, Washington, DC, 9:00 a.m. to 5:30 p.m. eastern time Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Cynthia Burbank, Office of Policy and International Affairs (202) 426-4303; or Susan McDermott, Office of the General Counsel (202) 426-2972.

SUPPLEMENTARY INFORMATION: On December 2, 1982 (47 FR 54405), DOT invited public comment on what procedures it should institute to administer regulatory authority over international aviation when that responsibility is transferred to DOT from the CAB and established a deadline of January 15, 1983 for the receipt of those comments. On December 27, 1982 the Air Transport Association of America (ATA) requested an extension of the comment deadline until January 31, 1983. ATA points out that DOT has raised significant questions about the methods by which it will administer international aviation responsibilities and that the resolution of these questions will have important and long-lasting effects upon airlines, consumers, civic parties, and the U.S. Government. A short extension of the deadline for submissions, ATA argues, will enhance the likelihood that DOT will receive responsive comments without adversely affecting DOT's exploration of the procedures that it will need to administer its new responsibilities. ATA points out, finally, that the rescheduling to March 2-3, 1983, of the forthcoming DOT seminar on the administration of the transferred CAB functions provides additional time within which to accommodate the requested extension.

Upon consideration of ATA's request, DOT has decided to grant the extension. The deadline for comments is extended to January 31, 1983.

Issued in Washington, DC, on January 10, 1983.

Jeffrey N. Shane,

Assistant General Counsel for International Law.

[FR Doc. 83-1246 Filed 1-14-83; 8:45 am]

BILLING CODE 4910-62-M

Sunshine Act Meetings

Federal Register
Vol. 48, No.11
Monday, January 17, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Tuesday, January 18, 1983.

LOCATION: Third floor hearing room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the public:

1. *Coal and Wood Burning Stoves: Labeling Rule*
The Commission will consider issues related to a labeling rule for coal and wood burning stoves.
2. *Smoldering Ignition Project: Status*
The staff will brief the Commission on the status of the smoldering ignition project.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207; 301–492–6800.

[S–62–83 Filed 1–13–83; 1:36 pm]
BILLING CODE 6355–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, January 19, 1983.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public:

1. *Sleepwear Enforcement Policy*
The Commission will consider proposed statements of policy concerning the children's sleepwear standards.

Closed to the public:

2. *Enforcement Matter OSC 3730*
The Commission will consider issues related to enforcement matter OSC 3730.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207; 301–492–6800.

[S–63–83 Filed 1–13–83; 1:36 pm]
BILLING CODE 6355–01–M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, January 20, 1983.

PLACE: Board room, eighth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

MATTERS TO BE CONSIDERED: Branch Office Application—Pocahontas Federal Savings and Loan Association, Pocahontas, Arkansas.

[No. 3, January 13, 1983]

[S–64–83 Filed 1–13–83; 2:36 pm]
BILLING CODE 6720–01–M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 12, 1983.

TIME AND DATE: 10 a.m., Tuesday, January 18, 1983.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Florence Mining Company, Docket No. PITT 77–15, etc., IBMA 77–32. (The Commissioners granted the operators' petition for reconsideration of the Commission's August 31, 1982 decision and the issues include whether 30 CFR 75.1405 applies to certain mine haulage equipment.)
2. Southwestern Illinois Coal Corporation, Docket No. LAKE 80–216. (Issues include whether the judge erred in vacating a citation alleging a violation of 30 CFR 77.1710, dealing with the wearing of safety equipment.)
3. Jones & Laughlin Steel Corporation, Docket No. PENN 81–96–R. (Issues include whether the judge properly determined that 30 CFR 75.303 does not require preshift examination of coal carrying conveyor belts.)

It was determined by a unanimous vote of Commissioners that the above meeting be closed and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5632.

[S–58–83 Filed 1–13–83; 11:52 am]
BILLING CODE 6735–01–M

5

NATIONAL COUNCIL ON THE HANDICAPPED

TIME AND DATE:
8:30–5 p.m., Monday, January 31, 1983
8:30–11:30 a.m., Tuesday, February 1, 1983
9–3 p.m., Wednesday, February 2, 1983

PLACE: Capitol Holiday Inn, (202) 479–4000, 550 C Street, SW. (Saturn/Venus Room), Washington, D.C. 20024.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

Approval of December Minutes
Approval of Revised by Laws
Reports of Service Committee and Research Committee
Task Force Reports
Review of Plans for the 1983 Annual Report
Discussion of Policy Issues
Report of Social Security Ad Hoc and Review of Position Paper
Swearing in Ceremony
Discussion of Council Objectives
Planning for Future Meetings

CONTACT PERSON FOR MORE INFORMATION: Hilda Gay Legg, National Council on the Handicapped, (202) 245–3498.

[S–61–83 Filed 1–13–83; 3:18 pm]
BILLING CODE 6006–01–M

VOL
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federal register

Monday
January 17, 1983

Part II

Department of the Interior

Bureau of Land Management

Rights-of-Way; Proposed Amendment to Reimbursement Procedures and Proposed Cost Recovery Schedule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2800

Rights-of-Way, Principles and Procedures; Proposed Amendment to Reimbursement of Costs Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking

SUMMARY: This proposed rulemaking amends the reimbursement of costs provisions of 43 CFR Part 2800 to update them and to make them provide more adequately for the recovery by the United States of reasonable costs of processing and monitoring rights-of-way granted pursuant to authority contained in the Federal Land Policy and Management Act of 1976.

DATE: Comments should be submitted by March 18, 1983. Comments postmarked or received on the above date will be considered in the decision making process on the final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours [7:45 to 4:15 p.m.], Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Pat Clason, (202) 343–5441.
or
Robert C. Bruce, (202) 343–8735.

SUPPLEMENTARY INFORMATION: This proposed rulemaking will amend the provisions for reimbursement of right-of-way costs in the existing regulations. These provisions have not been changed since 1975. The change will bring them in line with current costs to the United States of processing and monitoring rights-of-way granted under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.).

Under existing regulations, all right-of-way processing and monitoring costs that exceed $5,000 per case are collected on an "actual cost" basis which requires the maintenance of detailed cost accounting records. Reimbursement of costs for the handling of right-of-way applications where costs are less than $5,000 per case to process and monitor is collected in accordance with a fee schedule based on a fixed cost. Experience over the past few years has shown that reimbursements provided for in the present fee schedule are inadequate to meet the reasonable costs that are incurred by the Bureau of Land Management and, therefore, need to be revised.

As part of the reevaluation of the reimbursement of costs process, the Bureau of Land Management has carefully analyzed its right-of-way application processing and grant monitoring activities and costs to determine if there is a better procedure for handling this matter and to determine if the Bureau is efficiently handling the processing and monitoring processes. From this analysis, six right-of-way categories for reimbursement of cost were developed. Each of the categories reflects a different level of complexity and work involved in processing a specific right-of-way application. The level and extent of required environmental compliance, the number and sensitivity of resources involved, the difficulty of rental appraisal and the number of field examinations required are the factors which will determine the category into which a right-of-way application will fall. The fee program in the proposed rulemaking establishes criteria for fixed fees for five categories which will result in reimbursement of the reasonable costs of processing and monitoring rights-of-way.

The present practice of collecting all allowable right-of-way case processing and monitoring costs where the costs exceed the $5,000 level will be continued by including them under category six. However, the new category six has no definite minimum cost fiqure, but the minimum cost for inclusion in category six will generally be about $5,000. All right-of-way applicants, except those specifically exempted from reimbursement of costs, will be treated equally.

A significant difference between the provisions of the existing regulations and those of the proposed rulemaking is that the dollar amounts of the fee schedule will not be part of the regulations. The regulations will, however describe in detail the differences which are the basis for dividing the schedule into the six separate categories. The fee schedule will be included in the Bureau of Land Management's Manual in the future. In order to keep the public informed, the fee schedule will be published in a notice in the **Federal Register** when it is issued and each time it is changed. Further, the Bureau's Manual is available to the public upon request.

The proposed schedule for cost recovery to be used by the Bureau of Land Management in arriving at proper costs for each of the six categories is being published as a separate **Federal Register** notice simultaneously with the publication of this proposed rulemaking. This notice is published to inform the public of the fees to be charged for processing and monitoring of rights-of-way grants.

Placing the fee schedule in the Bureau Manual will provide flexibility for revising the fee schedule to reflect increases or decreases in reimbursable costs in a more timely manner. This flexibility is a vital element of the regulatory reform program of this Administration and will allow savings resulting from reform of existing regulations to be passed on to the using public as quickly as possible.

The reimbursable costs set out in the fee schedule for categories one through five are representative of costs for each individual category, and the total amount collected for all cases in each category should equal the total reasonable costs of processing all the cases that fall within that category. The alternative of having actual reimbursement of costs for all applications would impose an excessively burdensome and disproportionately high cost of accounting on all applicants.

Because of Federal pay differentials and higher travel costs in Alaska, a higher fee schedule is being established for the State of Alaska.

The principal author of this proposed rulemaking is Pat Clason, Division of Rights-of-Way, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

The changes in the proposed rulemaking will not substantially increase the payments made by right-of-way applicants for the processing and monitoring of their applications. The changes made by the proposed rulemaking will make the reimbursement of costs procedures fairer and will recover for the United States a greater portion of the costs

incurred in handling right-of-way applications.

The changes made by the proposed rulemaking will be equally applicable to all entities that make an application to the Bureau of Land Management for use of the public lands for a right-of-way, including those in part 2880.

There are no additional information collection requirements in this proposed rulemaking beyond those contained in 43 CFR Part 2800 of the existing regulations, which were approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0107.

List of Subjects in 43 CFR Part 2800

Administrative practice and procedure, Communications, Electric power, highways and roads, Pipelines, Public lands—rights-of-way.

Under the authority of title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761–1771), it is proposed to amend Part 2800, Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 2800—[AMENDED]

1. Section 2803.1–1 is amended by:

a. Revising paragraphs (a)(3) through (a)(9) and removing paragraphs (a)(10) through (a)(13) as follows:

§ 2803.1–1 Reimbursement of costs.

(a) * * *

(3) The applicant shall submit with each application a nonreturnable application processing payment in the amount required by a schedule of fees for this purpose which shall be established and maintained by the Director and may be adjusted by the Director from time to time to reflect changes in costs. The fee schedule shall be incorporated in the Bureau Manual, published periodically in the **Federal Register**, and otherwise made generally available to the public. The fees required shall be based on a review of the use of the public lands for which the application is made, the resources affected and the complexity and costs of the United States of processing required by an application for a right-of-way grant and shall be established according to the following general categories:

(i) *Category I.* An application for a right-of-way grant or temporary use permit to authorize a use of an existing facility on public lands for which compliance with the National Environmental Policy Act is met through a categorical exclusion under Chapter 6, Part 516 of the Departmental Manual; no field examination of the lands affected by the application is required; and determination of rental is made through use of appraisal schedules previously prepared by the Bureau;

(ii) *Category II.* An application for a right-of-way grant or temporary use permit to authorize a use of public lands for which compliance with the National Environmental Policy Act is met through either a categorical exclusion under Chapter 6, Part 516 of the Departmental Manual or a blanket, areawide or programmatic environmental assessment and finding of no significant impact; one general field examination of the lands affected by the application is required; and determination of rental is made either through use of appraisal schedules or a short form appraisal of fair market rental value;

(iii) *Category III.* An application for a right-of-way grant or temporary use permit to authorize a use of public lands for which compliance with the National Environmental Policy Act requires either preparation of a general environmental assessment from information and data readily available from existing Bureau documents or for which a previously existing environmental assessment prepared by the Bureau can be readily updated; one field examination of the lands affected by the application is required; and determination of rental is made either through use of appraisal schedules or a short form appraisal of fair market rental value;

(iv) *Category IV.* An application for a right-of-way grant or temporary use permit to authorize a use of public lands for which compliance with the National Environmental Policy Act requires one or more assessments of specific resources, but does not require the gathering of original data in preparation of the environmental assessment; no more than two field examinations of the lands affected by the application are required; and determination of rental is made either through use of appraisal schedules or a short form appraisal of fair market rental value;

(v) *Category V.* An application for a right-of-way grant or temporary use permit to authorize a use of public lands for which compliance with the National Environmental Policy Act requires one or more assessments of specific resources and the gathering of original data and supplementary documentation in preparation of the environmental assessment; no more than two field examinations of the lands affected by the application are required; and a determination of rental may be made either through use of appraisal schedules or a short form appraisal of fair market rental value; or

(vi) *Category VI.* An application for a right-of-way grant or temporary use permit to authorize a use of public lands for which processing activities will be in excess of those listed under paragraph (a)(3)(V) of this section.

(4)(i) The authorized officer shall determine the appropriate category and required application processing fee prior to acceptance of an application. A record of the authorized officer's category determination shall be made and given to the applicant, and the decision is a final decision for purposes of appeal under § 2804.1 of this title. Notwithstanding the pendency of such appeal, an application shall not be accepted for processing without payment of the fee determined by the authorized officer.

(ii) During the processing of an application the authorized officer may change a category determination to place an application in Category VI at any time that it is determined that the application requires preparation of an environmental impact statement. A record of change in category determination under this paragraph shall be made, and the decision is appealable, in the same manner as an original category determination made under paragraph (a)(4)(i) of this section.

(5)(i) An applicant whose application is determined to be in Category VI shall reimburse the full actual administrative and other costs of processing the application. The initial application processing payment required under the fee schedule shall be credited toward the total cost reimbursement obligation of such applicant. When such an application is filed, the authorized officer shall estimate the costs expected to be incurred in processing the application and require the applicant to make periodic payments of the estimated reimbursable costs prior to such costs being incurred by the United States.

(ii) If the payments required by paragraph (a)(5)(i) of this section exceed the actual costs to the United States, the authorized officer may adjust the billing to reflect the overpayment, or make a refund from applicable funds under the authority of 43 U.S.C. 1734. An applicant may not set off or otherwise deduct any debt due to it or any sum claimed to be owed it by the United States without the prior written approval of the authorized officer.

(iii) Prior to issuance of a right-of-way grant or temporary use permit, an applicant subject to paragraph (a)(5)(i) of this section shall pay such additional amounts as are necessary to reimburse the United States for any costs which exceed the payments required by paragraph (a)(5)(i) of this section.

(iv) An applicant subject to paragraph (a)(5)(i) of this section whose application is denied is responsible for costs incurred by the United States in processing the application, and such amounts as have not been paid in accordance with paragraph (a)(5)(i) of this section are due within 30 days of receipt of notice from the authorized office of the amount due.

(v) An applicant subject to paragraph (a)(5)(i) of this section who withdraws an application before a decision is reached is responsible for costs incurred by the United States in processing the application up to the date the authorized officer receives written notice of the withdrawal, and for costs subsequently incurred in terminating the application review process. Such amounts as have not been paid in accordance with paragraph (a)(5)(i) of this section are due within 30 days of receipt of notice from the authorized officer of the amount due.

(6) When two or more applications for right-of-way grants are filed which the authorized officer determines to be in competition with each other, each applicant shall reimburse the United States as required by paragraph (a)(3) of this section. If reimbursement of actual costs is required under paragraph (a)(5)(i) of this section, each applicant shall be responsible for the costs identifiable with his/her application. Costs that are not readily identifiable with one of the applications, such as costs for portions of an environmental impact statement that relate to all of the proposals generally, shall be paid by each of the applicants in equal shares.

(7) When, through partnership, joint venture or other business arrangement, more than one person partnership, corporation association or other entity apply together for a right-of-way grant or temporary use permit, each such applicant shall be jointly and severally liable for costs under this section.

(8) When two or more noncompeting applications for right-of-way grants are received for what, in the judgment of the authorized officer, is one right-of-way system, all of the applicants shall be jointly and severally liable for costs under this section for the entire system, subject, however, to the provisions of paragraph (a)(7) of this section.

(9) The regulations in this section are applicable to all applications for right-of-way grants or temporary use permits incident to rights-of-way over the public lands filed subsequent to the effective date of these regulations. All other applications pending on or filed after June 1, 1975, are subject to the cost reimbursement procedures required by previously applicable regulations.

* * * * *

b. Amending paragraph (b)(1) by removing the phrase "fees were" and replacing it with the phrase "a fee was"

c. Removing paragraphs (b)(2) through (b)(4) and substituting paragraph (b)(2) through (b)(5) to read:

* * * * *

(b) * * *

(2) The holder shall submit a monitoring cost payment along with the written acceptance of the terms and conditions of the grant or permit pursuant to § 2802.4(g) of this title. The amount of the required payment shall be determined by the schedule of fees described in paragraph (a)(3) of this section, based on the category determination made under paragraph (a)(4) of this section. Acceptance of the terms and conditions of the grant or permit shall not be effective unless accompanied by the required payment.

(3) A holder whose application was determined to be in Category VI for application processing purposes shall reimburse the actual administrative and other costs of monitoring the grant or permit. The monitoring payment required under the fee schedule shall be credited toward the total monitoring cost reimbursement obligation of such holder. When such a grant or permit is issued, the authorized officer shall estimate the costs expected to be incurred in monitoring the grant or permit and require the holder to make periodic payments of the estimated reimbursable costs prior to such costs being incurred by the United States.

(4) If the payments required by paragraph (b)(3) of this section exceed the actual costs to the United States, the authorized officer may adjust the next billing to reflect the overpayment, or make a refund from applicable funds under the authority of 43 U.S.C. 1734. A holder may not set off or otherwise deduct any debt due or any sum claimed to be owed by the United States without the prior written approval of the authorized officer.

(5) Following termination of a right-of-way grant or temporary use permit, any grantee or permittee that was determined to be in category VI shall pay such additional amounts as are necessary to reimburse the United States for any costs which exceed the payments required by paragraph (b)(3) of this section.

Dated: December 23, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-1204 Filed 1-14-83; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Rights-of-Way Cost Recovery Schedule

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Schedule and Format for recovering Costs for Processing Right-of-Way applications.

SUMMARY: This notice is published simultaneously with publication of the Bureau of Land Management's proposed regulations amending 43 CFR Subpart 2803 Administration of Rights Granted. The purpose of this notice is to illustrate by example the categories of rights-of-way applications which will be used by the Bureau of Land Management in arriving at proper costs for processing rights-of-way applications. The fee schedule will be published in a notice in the **Federal Register** when it is issued and each time it is changed.

ADDRESS: Inquiries or suggestions concerning this proposed fee schedule should be sent to: Director (332), Bureau of Land Management, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Pat Clason, (202) 343–5441.

SUPPLEMENTARY INFORMATION: As part of the proposed rulemaking process for 43 CFR Subpart 2800, the Bureau of Land Management analyzed its procedures for processing right-of-way applications and for monitoring grants, and the costs associated with these activities to determine whether the Bureau is efficiently and cost effectively managing these activities. Based on this analysis, six right-of-way categories for reimbursement of costs were developed. Each of the categories reflects a different level of complexity and costs involved in processing a specific right-of-way application. The fee program in the proposed rulemaking establishes criteria for five categories for which fixed fees will result in reimbursement of the reasonable costs of processing and monitoring rights-of-way. All of these involve applications where the total costs of processing and monitoring are less than $5,000. The present practice of collecting all allowable costs of processing and monitoring rights-of-way which exceed $5,000 will be continued and is covered by the sixth category in the schedule.

The fee schedule will be published in the **Federal Register** and will be republished whenever it is revised. The schedule will also be placed in the Bureau Manual. This will provide greater flexibility for revising the fee schedule to reflect increases or decreases in reimbursable costs in a more timely manner.

The proposed cost recovery schedule and processing costs are set out in the table below. Because of Federal pay differentials and higher travel costs, a separate fee schedule will be established for the State of Alaska.

PROPOSED COST RECOVERY FEE SCHEDULE

	Category		Alaska	
Coterminous States	Application processing	Monitoring	Application processing	Monitoring
I	$100		$120	
II	400	$120	500	$150
III	700	120	800	150
IV	1,200	120	1,500	150
V	3,200	240	3,900	320
Actual costs of processing and monitoring				
VI	$	$	$	$

The proposed schedule will be reexamined and may be adjusted at the time of the issuance of the final rulemaking amending 43 CFR Subpart 2803.

Dated: January 12, 1983.

Frank A. DuBois,

Acting Assistant Secretary of the Interior.

[FR Doc. 83-1205 Filed 1-14-83; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Last Listing January 13, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 459 / Pub. L. 97–445 Authorizing the President to proclaim May 13, 1983, as "American Indian Day". (Jan. 12, 1983; 96 Stat. 2328) Price: $1.75.

H.R. 4566 / Pub. L. 97–446 To reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes. (Jan. 12, 1983; 96 Stat. 2329) Price: $4.25.

H.R. 4491 / Pub. L. 97–447 To exempt the United States Capitol Historical Society from certain taxes. (Jan. 12, 1983; 96 Stat. 2364) Price: $1.75.

H.R. 6056 / Pub. L. 97–448 Technical Corrections Act of 1982. (Jan. 12, 1983; 96 Stat. 2365) Price: $4.25.

H.R. 6883 / Pub. L. 97–449 To revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation". (Jan. 12, 1983; 96 Stat. 2413) Price: $4.25.

H.R. 5029 / Pub. L. 97–450 To designate the Federal Building in Fresno, California, as the "B. F. Sisk Federal Building". (Jan. 12, 1983; 96 Stat. 2446) Price: $1.75.

H.R. 5121 / Pub. L. 97–451 Federal Oil and Gas Royalty Management Act of 1982. (Jan. 12, 1983; 96 Stat. 2447) Price: $2.75.

H.R. 7378 / Pub. L. 97–452 To codify without substantive change recent laws related to money and finance and to improve the United States Code. (Jan. 12, 1983; 96 Stat. 2467) Price: $2.50.

H.R. 5002 / Pub. L. 97–453 To improve fishery conservation and management. (Jan. 12, 1983; 96 Stat. 2481) Price: $2.50

H.R. 7410 / Pub. L. 97–454 To amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes. (Jan. 12, 1983; 96 Stat. 2494) Price: $1.75.

H.R. 7093 / Pub. L. 97–455 To amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income, to amend the Social Security Act to provide for a temporary period that payment of disability benefits may continue through the hearing stage of the appeals process, and for other purposes. (Jan. 12, 1983; 96 Stat. 2497) Price: $2.00.

H.R. 6094 / Pub. L. 97–456 To authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983, and for other purposes. (Jan. 12, 1983; 96 Stat. 2503) Price: $1.75.

S.J. Res. 271 / Pub. L. 97–457 To make technical corrections in certain banking and related statutes. (Jan. 12, 1983; 96 Stat. 2507) Price: $2.00.

H.R. 3731 / Pub. L. 97–458 To amend the Act of October 19, 1973 (87 Stat. 466), relating to the use or distribution of certain judgment funds awarded by the Indian Claims Commission or the Court of Claims. (Jan. 12, 1983; 96 Stat. 2512) Price: $1.75.

S. 503 / Pub. L. 97–459 To authorize the purchase, sale, and exchange of lands by Indian tribes and by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation of North Dakota specifically, and or other purposes. (Jan. 12, 1983; 96 Stat. 2515) Price: $2.00.

S. 1540 / Pub. L. 97–460 To revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes. (Jan. 12, 1983; 96 Stat. 2520) Price: $1.75.

H.R. 6679 / Pub. L. 97–461 To authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain Acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant disease, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such Acts, and for other purposes. (Jan. 12, 1983; 96 Stat. 2523) Price: $1.75.

H.R. 7154 / Pub. L. 97–462 Federal Rules of Civil Procedure Amendments Act of 1982. (Jan. 12, 1983; 96 Stat. 2527) Price: $1.75.

S. 2863 / Pub. L. 97–463 To amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail. (Jan. 12, 1983; 96 Stat. 2531) Price: $1.75.

S. 2273 / Pub. L. 97–464 To amend the Earthquake Hazards Reduction Act of 1977 to extend authorizations of appropriations, and for other purposes. (Jan. 12, 1983; 96 Stat. 2533) Price: $1.75.

S. 705 / Pub. L. 97–465 To authorize the Secretary of Agriculture to convey certain National Forest System lands, and for other purposes. (Jan. 12, 1983; 96 Stat. 2535) Price: $1.75.

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Employment and Training Administration
Medical Devices
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Motor Carriers
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final rule; technical amendment.

SUMMARY: The Office of Personnel Management (OPM) is issuing a technical amendment to the Schedule A excepted appointing authority for the Presidential Management Intern Program to implement changes made by Executive Order 12364, The Presidential Management Intern Program, dated May 24, 1982. This amendment provides for an extension of Presidential Management Intern appointments for an additional year and removes superflous language from the basic appointing authority.

EFFECTIVE DATE: January 18, 1983.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–6000.

SUPPLEMENTARY INFORMATION: Executive Order 12364 replaced Executive Order 12008 of the same title, issued August 25, 1977, as the basic authority for the Presidential Management Intern Program. The new order changed the absolute 2-year limit for Intern appointments by providing for extension, with OPM approval, for additional year. Interns may, however, still be converted to competitive status after completing at least 2 years of excepted service.

The Schedule, A appointing authority provides that requirements for converison will be published in the Federal Personnel Manual, However, the authority also included a summary of those requirements. As that summary was superflous and was less informative than the instructions in the Federal Personnel Manual, it has been deleted. Agencies will find the requirements for conversion of Presidential Management Interns to competitive appointments in chapter 315 of the Federal Personnel Manual.

The Director finds that good cause exists to waive the general notice of proposed rulemaking and to make this amendment effective in less than 30 days. The regulation is being made effective immediately because it does not change the substance of the regulation issued July 2, 1982, but merely updates its provision to reflect and implement Executive Order 12364, which is already in effect.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains solely to conditions for appointment of certain employees by Federal agencies.

List of Subjects in 5 CFR Part 213

Government employees.

Office of Personnel Management.
Donald J. Devine,
Director.

PART 213—[AMENDED]

Accordingly, the Office of Personnel Management is amending 5 CFR Part 213 by revising § 213.3102(ii) to read as follows:

§ 213.3102 Entire executive civil service

* * * * *

(ii) Positions of Presidential Intern, GS–9 and 11, in the Presidential Management Intern Program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years, unless extended with OPM approval for up to one additional year. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive Order 12364, in accordance with the provisions of § 315.708 of this chapter and requirements published in the Federal Personnel Manual.

* * * * *

(5 U.S.C. 3301, 3302; EP 12364, 47 FR 22931)

[FR Doc. 83–1214 Filed 1–17–83; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 225 and 226

Vegetable Protein Products; Used in Child Nutrition Programs

Correction

In FR Doc. 83–522, on page 775, in the issue of Friday, January 7, 1983, make the following corrections:

1. On page 781, third column, paragraph (b)(1), line 4, remove the quotation marks.

2. On page 782, first column, correct the table, item 7 to read: "Vitamin B_{12} (micrograms)..... .1".

BILLING CODE 1505–01–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Teletherapy Room Radiation Monitors and Inspection and Servicing of Teletherapy Source Exposure Mechanisms

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations applicable to NRC teletherapy licensees. The intent of these amendments is to ensure prior warning to the operator in the event of a malfunction of a teletherapy source exposure mechanism and to ensure adequate inspection and servicing of the teletherapy machine. The amendments require:

1. The installation of radiation monitors in teletherapy rooms;

2. The use of portable survey instruments or audible alarm personal dosimeters whenever the permanent radiation monitors are inoperable; and

3. The inspection and servicing of all teletherapy units to assure proper

functioning of the source exposure mechanism, during source replacement or at intervals not to exceed five years, whichever comes first.

EFFECTIVE DATE: March 4, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Alan K. Roecklein, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (301–443–5970).

SUPPLEMENTARY INFORMATION: In May 1980, the Office of Nuclear Material Safety and Safeguards issued orders to all NRC teletherapy licensees requiring the installation of teletherapy room radiation monitors and the use of portable radiation survey meters when the installed monitors are inoperable. In 1972 the NRC established a standard teletherapy license condition requiring inspection and servicing of all teletherapy machines to assure proper functioning of the source exposure mechanisms at time of source replacement or every five years, whichever comes first, and requiring that a record of the inspection and servicing be kept on file for review by the Commission's Office of Inspection and Enforcement. These actions were intended to provide early warning of, and to help prevent, potentially serious over-exposures of teletherapy operators and patients in the event that the source exposure mechanism failed.

The radioactive sources contained in teletherapy units produce radiation fields on the order of hundreds of rads per minute in areas accessible to patients and operators. An undetected exposed source could result in overexposures of patients or operating personnel in a short period of time. Teletherapy units are designed with reliable source handling components. In spite of careful design the NRC is aware of some teletherapy equipment malfunctions that had the potential for causing serious overexposures. Although no overexposures involving serious injury have occurred, the rule changes described in the summary are intended to provide greater assurance that teletherapy equipment malfunctions do not occur and that they will be detected before serious injury can occur.

It is the Commission's intent to codify the previously described orders and license condition, as modified herein, so that they are uniformly applicable to existing licensees and new applicants. A copy of this final rule notice will be sent to all current teletherapy licensees with a cover letter calling the licensees' attention to the matters outlined below.

With regard to the May 7, 1980 orders requiring the installation of radiation monitors, licensees are advised that the orders are hereby rescinded. Most teletherapy licenses now include a license condition that incorporates the provisions of the May 7, 1980 orders. Licensees are advised that the NRC considers the final rule to supersede these license conditions as well. Specifically the rule differs from the previous orders in that it will permit the use of a back-up power supply other than a battery and will also permit the use of audible alarm personal dosimeters as well as portable survey meters if the radiation monitor is inoperable. Licensees are referred to Regulatory Guide 8.28, "Audible Alarm Dosimeters," for guidance concerning the use and limitations of audible alarm personal dosimeters.

Some licensees requested relief from the 1972 license condition requiring five-year inspection and servicing of their units. The NRC staff considered these requests on a case-by-case basis and many of the requests have been granted in the form of a license condition modifying the time interval. It is intended that the license conditions already granted will take precedence over the rule when it becomes effective.

The rule includes a provision to this effect in § 35.26.

Licensees are advised that if, after the rule change is published and becomes effective, there are unusual circumstances, they may request a specific exemption under 10 CFR 30.11. These requests will be considered on a case-by-case basis as a request to amend a license and must be accompanied by the appropriate fee required by 10 CFR 170.31.

Comment Analysis

On April 28, 1982, the Nuclear Regulatory Commission published for comment in the **Federal Register** (47 FR 18131) proposed amendments to 10 CFR Part 35 of its regulations. Six letters of public comment were received. One letter opposed the rule and five proposed minor changes. As a result of analysis of the public comments received and further staff discussions, two changes have been made in the amendments as proposed.

—Proposed § 35.25.(b) required that the visible indicator of high radiation levels must be located so as to be observable by a person entering the room and during operation of the unit. Several commenters observed and the staff has confirmed that most teletherapy treatment facilities are designed with a maze to prevent exposure of the operator during treatment. In many cases this design would require a separate television camera and receiver system in order to observe the visible indicator on the radiation monitor during treatment. This paragraph has been revised to require that the visible indicator be observable by a person entering the treatment room only.

—Proposed § 35.25(e) required that if a radiation monitor is inoperable for any reason, any person entering the teletherapy room shall use a portable survey instrument to monitor for any malfunction of the source exposure mechanism that may have resulted in an exposed or partially exposed source. It was suggested that audible alarm personal dosimeters would be an acceptable alternative to a portable survey instrument. The staff agreed that, if checked daily before use, available audible alarm personal dosimeters would provide adequate warning of an exposed source if the fixed monitor were inoperable. This paragraph has been revised to permit use of an audible alarm personal dosimeter.

Other substantive comments received on the proposed rule were:

—A statement that inspection of the source exposure mechanism is redundant in view of the requirement for monitoring equipment. This comment is rejected for the reason that inspection is intended to prevent malfunctions, while the radiation monitor can only provide warning that a malfunction has occurred;

—A suggestion that teletherapy units should be equipped with improved timing devices to minimize the chances of exposure timing errors. Although the staff recognizes the merit of improved exposure timing devices the staff does not believe that the comment is within the scope of this rulemaking procedure. However, this comment is under consideration for inclusion in a regulatory guide for teletherapy licensing.

—A suggestion that the permanently mounted radiation monitor should be equipped with an audible alarm. Requiring that the radiation monitor be equipped with an audible alarm was considered in the development of this rule. A decision has been made not to include the audible alarm provision. The staff believes that the cost of backfitting an audible alarm is not justified by the marginal increase in safety. Licensees may install an audible alarm in addition to a visible alarm if they so choose. Licensees desiring to use an audible alarm only may request a specific exemption under 10 CFR 30.11. These requests will be considered on a case-by-case basis as a request to amend the license and must be accompanied by the

appropriate fee required by 10 CFR 170.31.

Paperwork Reduction Act Statement

This rule was submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (Pub. L. 96–511; 42 U.S.C. Ch. 15). The recordkeeping requirement contained in this regulation was approved by OMB. OMB approval No. 3150–0010.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

About 440 teletherapy licensees are regulated by the NRC. Fewer than 1% of these can qualify as small entities for the purposes of the Regulatory Flexibility Act applying the standards contained in 13 CFR Part 121, Small Business Size Standards. All but a few of the teletherapy licensees are hospitals and the Small Business Administration defines small hospitals as having fewer than 150 beds. A check on 104 of NRC teletherapy licensees showed that all of them had more than 150 beds.

The NRC believes that all teletherapy licensees have already installed monitoring equipment and have portable survey instruments available in compliance with the 1980 orders. The cost of an installed monitor and survey instrument is approximately one thousand to fifteen hundred dollars. The approximate cost of a teletherapy unit exceeds one hundred thousand dollars. Annual revenue generated by a teletherapy unit is on the order of 200,000 dollars.

Costs for the inspection, servicing, and recordkeeping will be proportional to the number of units owned by the licensee. An estimate of these costs is less than 500 dollars per year per teletherapy unit.

The Commission believes that the costs to licensees is small compared to the revenue generated by use of a teletherapy unit and that the gains in patient and operator protection will significantly outweigh the economic impact on licensees.

List of Subjects in 10 CFR Part 35

Byproduct material, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Penalty, Radiation protection, Reporting requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 35.

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

1. The authority citation for Part 35 is revised to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended: (42 U.S.C. 2111, 2201, 2232, 2233): Section 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 35.2, 35.14 (b), (c) and (f), 35.21(a), 35.22(a), 35.24, and 35.31 (b) and (c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 35.14(b)(5) (ii), (iii) and (v) and (f)(2), 35.27 and 35.31(d) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§ 35.25 [Redesignated as § 35.27]

2. The present § 35.25 is redesignated § 35.27.

3. A new § 35.25 is added to read as follows:

§ 35.25 Requirements to install a permanent radiation monitor in teletherapy rooms and to use portable survey instruments or audible alarm dosimeters.

(a) Each licensee authorized under § 35.13 to use teletherapy units for treating humans shall install a permanent radiation monitor in each teletherapy room for continous monitoring of beam status.

(b) Each radiation monitor must be capable of providing visible notice of a teletherapy unit malfunction that may result in an exposed or partially exposed source. The visable indicator of high radiation levels must be located so as to be observable by a person entering the treatment room.

(c) Each radiation monitor must be equipped with an emergency power supply separate from the power supply to the teletherapy unit. This emergency power supply may be a battery system.

(d) Each radiation monitor must be tested for proper operation each day before the teletherapy unit is used for treatment of patients.

(e) If a radiation monitor is inoperable for any reason, any person entering the teletherapy room shall use a properly operating portable survey instrument or audible alarm personal dosimeter to monitor for any malfunction of the source exposure mechanism that may have resulted in an exposed or partially exposed source. Survey instruments or dosimeters must be tested daily before use.

4. A new § 35.26 is added to read as follows:

§ 35.26 Inspection and servicing of the source exposure mechanism; relief granted by certain licensee conditions.

(a) The licensee shall cause each teletherapy unit used to treat humans to be fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.

(b) Inspection and servicing of the teletherapy unit shall be performed by persons specifically licensed to do so by the Commission or an Agreement State.

(c) Amendments to teletherapy licenses in effect as of March 4, 1983, which extended the time interval for the inspection and servicing requirement of paragraph (a) of this section shall remain in effect and are not rescinded by this section.

5. In redesignated § 35.27 the introductory text and paragraph (a) are revised to read as follows (paragraphs (b) and (c) of redesignated § 35.27 are not changed):

§35.27 Records.

The licensee shall maintain, for inspection by the Commission, records of the measurements, tests, corrective actions, inspection and servicing of the teletherapy unit, and instrument calibrations made under §§ 35.21 through 35.26 and records of the licensee's evaluation of the qualified export's training and experience made under § 35.24.

(a) The following records must be preserved for five years after completion of the full calibration or after inspection and servicing:

(1) Full calibration measurements reports made under § 35.21.

(2) Records of calibration of the instruments used to make these measurements under § 35.23.

(3) Records of inspection and servicing of the teletherapy unit under § 35.26.

* * * * *

Dated at Bethesda, Md., this 4th day of January 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-1370 Filed 1-17-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 7

[Docket No. 83-2]

Interpretive Rulings

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: This document corrects a statutory citation contained in the Comptroller's interpretive ruling regarding a national bank's compliance with the five year holding period for "salvage" real estate (12 CFR 7.3020).

FOR FURTHER INFORMATION CONTACT: Nancy E. Chase, Attorney, Legal Advisory Services Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1880.

SUPPLEMENTARY INFORMATION: By Act of July 27, 1981, Pub. L. 97-25, tit. 3, section 302, 95 Stat. 145 (1981), 12 U.S.C. 29 was amended by adding a third paragraph to the section with the result that what was the "last paragraph" prior to amendment subsequently became the "second paragraph."

List of Subjects in 12 CFR Part 7

National banks, "Salvage" real estate.

Accordingly, the following amendment is made in 12 CFR Part 7.

PART 7—[AMENDED]

Subpart C—Bank Ownership of Property

1. The authority citation for Part 7 reads as follows:

Authority: R.S. 324 et seq., as amended; 12 U.S.C. 1 et seq., unless otherwise noted.

§ 7.3020 [Amended]

2. Section 7.3020 is amended by changing the reference in the first sentence of subsections (a) (1) and (a) (2), respectively, from "last paragraph of 12 U.S.C. 29" to "second paragraph of 12 U.S.C. 29".

Dated: January 10, 1983.

C.T. Conover,

Comptroller of the Currency.

[FR Doc. 83-1227 Filed 1-17-83; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 369

Restrictive Trade Practices or Boycotts

AGENCY: International Trade Administration, Commerce.

ACTION: Interpretation.

SUMMARY: The Department wishes to clarify the application of its antiboycott regulations to several situations involving directives or instructions which appear frequently in letters of credit, purchase orders or other shipping or sale documents.

EFFECTIVE DATE: January 18, 1983.

FOR FURTHER INFORMATION CONTACT: Howard N. Fenton, Director, Compliance Policy Division, Office of Antiboycott Compliance, U.S. Department of Commerce (202-377-2381).

SUPPLEMENTARY INFORMATION: The antiboycott regulations prohibit knowing agreements to comply with certain prohibited requests and requirements of boycotting countries, regardless of how these terms are stated [§ 369.2(a)-(d)]. Similarly, the reporting rules require that a boycott related "solicitation, directive, legend or instruction that asks for information or that asks that a United States person take or refrain from taking a particular action" be reported (§ 369.6(a)(1)). Questions have frequently arisen about how particular requirements in the form of directives or instructions are viewed under the antiboycott regulations, and we believe that it will add clarity to the regulations to provide a written interpretation of how three of these terms are treated under the law. The terms in question appear frequently in letters of credit, but may also be found on purchase orders or other shipping or sale documents. They have been brought to the attention of the Department by numerous persons. The terms are, or are similar to, the following:

- Goods of boycotted country origin are prohibited;
- No six-pointed stars may be used on the goods, packing, or cases;
- Neither goods nor packaging shall bear any symbols prohibited in the boycotting country.

List of Subjects in 15 CFR Part 369

Boycotts, Foreign trade, Reporting requirements, Restrictive trade practices, Trade practices.

Interpretation

The principal author of this interpretation is Howard N. Fenton, Director, Compliance Policy Division, Office of Antiboycott Compliance.

The following appendix is added to Part 369 as Supplement 6.

Supplement 6—Appendix—Interpretation

(a) *Goods of boycotted country origin prohibited.*

This term is very common in letters of credit from Kuwait and may also appear from time to time in invitations to bid, contracts, or other trade documents. It imposes a condition or requirement compliance with which is prohibited, but permitted by an exception under the regulations (see § 369.2(a) and § 369.3(a-1)). It is reportable by those parties to the letter of credit or other transaction that are required to take or refrain from taking some boycott related action by the request. Thus this bank must report the request because it is a term or condition of the letter of credit that it is handling, and the exporter-beneficiary must report the request because the exporter determines the origin of the goods. The freight forwarder does *not* have to report this request because the forwarder has no role or obligation in this part of the transaction. *See* § 369.6, examples (xiii)-(xv).

(b) *No six-pointed stars may be used on the goods, packing or cases.*

This term appears from time to time on documents from a variety of countries. The Department has taken the position that the six-pointed star is a religious symbol. *See* § 369.2(b), example (viii). Agreeing to this term is prohibited by the regulations and not excepted because it constitutes an agreement to furnish information about the religion of a U.S. person. *See* § 369.2(c). If a person proceeds with a transaction in which this is a condition at any stage of the transaction, that person has agreed to the condition in violation of the regulations. It is not enough to ignore the condition. Exception must affirmatively be taken to this term or it must be stricken from the documents of the transaction. It is reportable by all parties to the transaction that are restricted by it. For example, unlike the situation described in (a) above, the freight forwarder would have to report this request because his role in the transaction would involve preparation of the packing and cases. The bank and exporter would both have to report, of course, if it were a term in a letter of credit. Each party would be obligated affirmatively to seek an amendment or deletion of the term.

(c) *Neither goods nor packaging shall bear any symbols prohibited in the boycotting country.*

This term appears from time to time in letters of credit and shipping documents from Saudi Arabia. In our view, it is neither prohibited, nor reportable because it is not boycott related. There is a wide range of symbols that are prohibited in Saudi Arabia for a variety of reasons, many having to do with that nation's cultural and religious beliefs. On this basis, we do not interpret the

term to be boycott related. *See* § 369.2(a)(5) and § 369.6(a)(5)(V).

(50 U.S.C. Appendix 2401 et seq.)

Dated: January 12, 1983.

William V. Skidmore,

Director, Office of Antiboycott Compliance.

[FR Doc. 83-1384 Filed 1-17-83; 8:45 am]

BILLING CODE 3510-25-M

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15 CFR Parts 379 and 399

[Docket No. 21230-266]

Ammunition Manufacturing Machinery; Removal From Commodity Control List

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule removes export controls on ammunition manufacturing machinery from the Commodity Control List (CCL), Supplement No. 1 to § 399.1 of the Export Administration Regulations. Ammunition manufacturing machinery is already controlled for export by the Department of State's U.S. Munitions List under Category III(d), 22 CFR 121.01, and the inclusion of such machinery on the CCL creates an overlap of export jurisdiction. The Department of Commerce retains export controls on machinery for manufacturing shotgun shells (CCL entry 5399D).

DATE: This rule is effective January 18, 1983. Although there is no formal comment period, public comments are welcome on a continuing basis.

ADDRESS: Written comments (six copies) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-4811).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1 (b) of Executive Order 12291 (46 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects

15 CFR Part 379

Exports, Science and technology.

15 CFR Part 399

Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

PART 379—[AMENDED]

1. Supplement No. 2 to Part 379 is amended by revising item (3) to read as follows:

Supplement No. 2—Technical Data

Commodities to Republic of South Africa and Namibia Embargo Policy

(See §379.4(e) and § 385.4(a))

* * * * *

(3) Specialized machinery, equipment, gear, and specially designed parts and accessories therefor, specially designed for the examination, manufacture, testing, and checking of arms, appliances, machines, and implements of war (ECCN 2018), and equipment specially designed for manufacturing shotgun shells (ECCN 5399).

* * * * *

PART 399—[AMENDED]

2. Entry 5399D of the Commodity Control List, Supplement No. 1 to § 399.1, is amended by adding a sentence to the end of the "Special South Africa and Namibia Controls" paragraph reading as follows:

5399D Other general industrial equipment n.e.s., except those listed in Supp. No. 1 to § 399.2, interpretation 29; and parts and accessories therefor.

Controls for ECCN 5399D

* * * * *

Special South Africa and Namibia Controls: * * * A validated license is required for any export to the Republic of South Africa and Namibia of equipment specially designed for manufacturing shotgun shells.

* * * * *

(Secs. 13 and 15, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. section 2401 *et seq.;* Executive Order No. 12214 (45 FR 29783, May 6, 1980))

Dated: December 30, 1982.

John K. Beidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 83-1322 Filed 1-17-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T. D. 83-17]

Vessels in Foreign and Domestic Trades

AGENCY: Customs Service, Treasury

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to add the People's Republic of China to the list of nations which permit vessels of the United States to transport certain articles specified in section 27, Merchant Marine Act of 1920, as amended, between their ports.

The Department of State has furnished satisfactory evidence that the People's Republic of China places no restrictions on the transportation of certain specified articles by vessels of the United States between ports in that country. This amendment provides reciprocal privileges for vessels registered in the People's Republic of China.

EFFECTIVE DATE: October 27, 1982.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883) (the "Act"), provides generally that no merchandise shall be transported by water, or by land and water, between points in the United States except in vessels built in and documented under the laws of the United States and owned by U.S. citizens. However, the Act, as amended by Pub. L. 90-474 (82 Stat. 700; T.D. 68-227), provides that upon a finding by the Secretary of the Treasury,

pursuant to information obtained and furnished by the Secretary of State that a foreign nation does not restrict the transportation of certain articles between its ports by vessels of the United States, reciprocal privileges will be accorded to vessels of that nation, and the prohibition against the transportation of those articles between points in the United States will not apply to its vessels.

Section 4.93(b)(1), Customs Regulations (19 CFR 4.93(b)(1)), lists those nations found to extend reciprocal privileges to vessels of the United States for the transportation of empty cargo vans, empty lift vans, and empty shipping tanks. Section 4.93(b)(2), Customs Regulations (19 CFR 4.93(b)(2)), lists those nations found to grant reciprocal privileges to vessels of the United States for the transportation of equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and certain equipment for use with these barges; certain empty instruments for international traffic; and certain stevedoring equipment and material.

On October 27, 1982, the Department of State advised the Secretary of the Treasury that the People's Republic of China places no restrictions on the transportation of empty cargo vans, empty lift vans, and empty shipping tanks by vessels of the United States between ports in the People's Republic of China.

By Treasury Department Order 165–25 the Secretary of the Treasury has delegated authority to the Commissioner of Customs to prescribe regulations relating to §§ 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f), Customs Regulations (19 CFR 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f)). These sections relate to lists of nations entitled to preferential treatment in Customs matters because of reciprocal privileges accorded to vessels and aircraft of the United States. Subsequently, by Customs Delegation Order No. 66 (T.D. 82–201), dated October 13, 1982, the Commissioner delegated this authority to the Assistant Commissioner (Commercial Operations). Authority to grant this exemption and to amend these sections was delegated from the Assistant Commissioner (Commercial Operations), to the Director, Office of Regulations and Rulings, who then re-delegated this authority to the Director, Regulations Control and Disclosure Law Division.

Finding

On the basis of the information received from the Secretary of State, as described above, it is determined that the Government of the People's Republic of China places no restrictions on the transportation of certain articles specified in section 27 of the Merchant Marine Act of 1920, as amended, by vessels of the United States between ports in the People's Republic of China. Therefore, reciprocal privileges are accorded to vessels registered in the People's Republic of China as of October 27, 1982.

Thus, § 4.93(b)(1) is being amended to add the People's Republic of China to the list of countries contained therein. In accordance with a request from the Department of State, Taiwan Desk, by T.D. 82–91, published in the **Federal Register** on May 14, 1982 (47 FR 20752), § 10.59(f), Customs Regulations, was amended by designating the People's Republic of China as "China" and the existing designation for the "Republic of China" was changed to "Taiwan". In view of this request and to maintain consistency, the designation for the People's Republic of China in § 4.93(b)(1) will appear as "China" and the existing designation for the Republic of China will be changed to "Taiwan". Also, the listing of "China" is being asterisked, with a footnote referring the reader to the "Taiwan" listing. Similarly, §§ 4.22 and 4.93(b)(2) are being amended to reflect these designations and the listing asterisked, with the footnote reference.

List of Subjects in 19 CFR Part 4

Cargo vessels, Customs duties and inspection, Exports, Freight, Harbors, Imports, Maritime carriers, Reporting and recordkeeping requirements, Vessels.

Regulations Amendments

To reflect the reciprocal privileges granted to vessels of the People's Republic of China and for the other reasons noted above, Part 4, Customs Regulations (19 CFR Part 4), is amended in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.22 [Amended]

1. Section 4.22 is amended as follows:

a. By removing "China, Republic of" and inserting in its place "China".

b. By removing "People's Republic of China."

c. By adding "Taiwan" in appropriate alphabetical order.

d. By adding "*See also Taiwan" two spaces below "Zaire."

§ 4.93 [Amended]

2. Section 4.93(b)(1) is amended as follows:

a. By adding "China*" in appropriate alphabetical order.

b. By removing "Republic of China."

c. By adding "Taiwan" in appropriate alphabetical order.

d. By adding "*See also Taiwan" two spaces below "Yugoslavia, Socialist Federal Republic of."

3. Section 4.93(b)(2) is amended as follows:

a. By removing "Republic of China."

b. By adding "Taiwan" in appropriate alphabetical order.

(R.S. 251, as amended, 4219, as amended, 4228, as amended, 4255, as amended, sec. 3.23 Stat. 119, as amended, sec. 27, 41 Stat. 999, as amended, sec. 624, 46 Stat. 759, sec. 14, 67 Stat. 516, Pub. L. 90–474, 82 Stat. 700 (5 U.S.C. 301, 19 U.S.C. 66, 1322(a), 1624, 46 U.S.C. 5, 121, 128, 141, 883))

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because these are minor amendments in which the public is not particularly interested and there is a statutory basis for the described extension of reciprocal privileges, notice and public procedure pursuant to 5 U.S.C. 553(b)(B) are unnecessary. In accordance with 5 U.S.C. 553(d)(1), a delayed effective date is not required because these amendments grant an exemption.

Inapplicability of Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub. L. 96–354, the "Regulatory Flexibility Act." That Act does not apply to any regulations such as these for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Executive Order 12291

These amendments do not meet the criteria for a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and the Treasury participated in its development.

Dated: January 12, 1983.

B. James Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 83-1380 Filed 1-17-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Advisory Committees; Termination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and the public advisory committee procedures (21 CFR Part 14), the Food and Drug Administration (FDA) is announcing the termination of the Ophthalmic Drugs Advisory Committee because its services are no longer needed. This document removes that committee from the agency's list of standing advisory committees.

EFFECTIVE DATE: January 18,1983.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.55(b) (21 CFR 14.55(b)), FDA is announcing the termination of the Ophthalmic Drugs Advisory Committee because its services are no longer needed. The committee was terminated when its charter expired on October 7, 1982.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec.701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 14 is amended in § 14.100 *List of standing advisory committees* by removing and reserving paragraph (c)(11).

Effective date. Because this is a technical conforming amendment to Part 14, the Commissioner of Food and Drugs finds that there is good cause for the rule to be effective immediately upon publication in the **Federal Register**, January 18, 1983.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: January 10, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1148 Filed 1-17-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 270, 275, 285, and 296

[T.D. ATF-125]

Time for Payment of Floor Stocks Tax on Cigarettes and Manufacturer Excise Taxes on Tobacco Products and Cigarette Papers and Tubes

AGENCY: Bureau of Alcohol, Tobacco and Firearms (AFT), Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This document implements sections 306(a)(14) and 308 of the Technical Corrections Act of 1982 by (1) amending the cigarette floor stocks tax regulations to extend the date for payment of floor stocks tax from January 18, 1983, until February 17, 1983, and (2) amending ATF tobacco regulations to prescribe new deadlines for regular payments of excise taxes. These deadlines will generally be 25 days after the end of each return period for manufacturers of tobacco products and 40 days after the end of each return period for manufacturers of cigarette papers and tubes.

DATES: January 18, 1983, for the amendments made by Paragraphs A through I of this document; and January 1, 1983, for the amendments made by Paragraphs J through M.

FOR FURTHER INFORMATION CONTACT: Norman P. Blake, Coordinator, or Steven C. Simon, Specialist, (202) 566-7626. Mailing address: Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385.

SUPPLEMENTARY INFORMATION:

Floor Stocks Tax Payment

Public Law 97-248, entitled "Tax Equity and Fiscal Responsibility Act of 1982," was enacted on September 3, 1982. Section 283 of that law imposed a floor stocks tax, payable on January 18, 1983. In enacting that law, Congress expressed a desire that the Department of the Treasury allow taxpayers with financial hardship to put off payment of their floor stocks tax until February 17, 1983. The Technical Corrections Act of 1982 extended the date for payment of floor stocks tax until February 17, 1983, for all taxpayers regardless of financial condition. This document incorporates that change through amendments to 27 CFR 296.173, 296.174, and 296.178 (regulations sections originally prescribed by Treasury Decision ATF-115, 47 FR 51861, Nov. 18, 1982).

Regular Manufacturer Excise Tax Payment

The Technical Corrections Act of 1982 also prescribed the time for payment of regular excise taxes by manufacturers of cigars, cigarettes, and cigarette papers and tubes. (Presently, the time for such tax payment is to be set by regulations authorized by the Secretary of the Treasury.) Under the new law, such taxpayment will be due on the last day of the first succeeding return period, plus 10 days. The length of the return periods was not changed by the new law. As prescribed by regulations, return periods for manufacturers of tobacco products extend from the first through the 15th day of each month, and from the 16th through the last day of each month, but for manufacturers of cigarette papers and tubes, the return periods are one month long.

The effect of these amendments is to extend the time during which manufacturers may defer payment of their excise taxes. Under current regulations, the time for payment by manufacturers of tobacco products is generally the last day of the first succeeding return period. (However, certain manufacturers, who continue under the procedure that was in force before 1965, defer payment only until the third business day after the end of each return period.) For manufacturers of cigarette papers and tubes, current regulations require taxes to be paid on or before the tenth day after the end of each monthly return period.

All manufacturers with sufficient bond coverage who have not been placed on prepayment are automatically eligible to take advantage of the new deferral periods; an extension of coverage of bond is not required.

In order that prior regulations may continue to determine the filing dates for returns required to have been filed before the effective date of these amendments, those prior regulations are not removed from the Code of Federal Regulations, but notations are added to them indicating that they apply only to removals made before January 1, 1983.

Effective Dates

The amendments made by this document take effect on dates that are consistent with the mandates of the Technical Corrections Act of 1982. With respect to cigarette floor stocks tax, the amendments made by this document take effect on January 1, 1983, because that is the effective date of the provisions of section 308(a)(14) of the act. With respect to regular excise taxpayments, the amendments made by this document take effect on January 18, 1983, because that is the day after the due date, under current regulations, of the returns for most taxpayments covering removals of tobacco products in the second half of December, 1982. By the terms of the Technical Corrections Act, the new deferral periods apply only to taxpayments on removals made after December 31, 1982; therefore, the current regulations still apply with respect to returns that are due on or before January 17, 1983. For tobacco product manufacturers eligible for deferral taxpayment, the first tax return under the new deferral periods will be due February 10, 1983. For manufacturers of cigarette papers and tubes, that date is March 10, 1983

Administrative Procedure Act

Because the changes made by the Technical Corrections Act of 1982 relating to floor stocks tax take effect on January 1, 1983, while those relating to excise tax deferral periods apply with respect to tobacco products and cigarette papers and tubes removed after December 31, 1982, and because all changes require immediate implementation, it is hereby found to be impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d).

Executive Order 12291

This document is not a major rule within the meaning of Executive Order 12291, 46 FR 13193 (1981), because the economic effects flow directly from the Technical Corrections Act of 1982 and not from this regulation. Therefore, it is found that this regulation will not cause:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this document, because it was not required to be preceded by a general notice of proposed rulemaking under 5 U.S.C. 553, and because the revenue effects of this rulemaking on small businesses flow directly from the underlying statute. These regulations will not cause any adverse secondary or incidential effects, or any significant new reporting, recordkeeping, or other compliance burdens.

Drafting Information

The principal drafter of this document is Steven C. Simon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other people from ATF and from other offices in the Department of the Treasury participated in the development of these regulations.

List of Subjects

27 CFR Part 270

Administrative practice and procedure, Authority delegations, Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, U.S. possessions, Warehouses.

27 CFR Part 275

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, U.S. possessions, Warehouses.

27 CFR Part 285

Administrative practice and procedure, Authority delegations, Cigarette papers and tubes, Claims, Excise taxes, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds.

27 CFR Part 296

Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Disaster assistance, Excise taxes, Penalties, Seizures and forfeitures, Surety bonds.

Authority and Issuance

This document is issued under the authority contained in 26 U.S.C. 7805. Accordingly, the regulations in 27 CFR Parts 270, 275, 285, and 296 are amended as follows:

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

§§ 270.141 and 270.142 [Amended]

Paragraph A. Sections 270.141 and 270.142 are amended by adding the following notation immediately after their section titles:

Note.—This section applies only to removals made before January 1, 1983.

§ 270.162 [Amended]

Par. B. Paragraph (c) of § 270.162 is amended by revising its heading to read as follows:

* * * * *

(c) *Deferral of taxpayment—applicable only to removals made before January 1, 1983.*

* * * * *

§ 270.165 [Amended]

Par. C. Section 270.165 is amended as follows:

A. The heading of paragraph (a) is revised to read: (a) *General rule—applicable only to removals made before January 1, 1983.*

B. The heading of paragraph (b) is revised to read: (b) *Extended time for filing—applicable only to removals made before January 1, 1983.*

C. Paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added to read as follows:

* * * * *

(c) *General rule—applicable only to removals made after December 31, 1982.* Returns on ATF Form 3071 (5210.7) shall be filed, for each return period, not later than the 10th day after the end of the first succeeding return period.

* * * * *

§ 270.165a [Amended]

Par. D. In paragraph (b)(2) of § 270.165a, the last sentence is removed; and in the second sentence, in lieu of the words "third business day following the last day of each" are substituted the words "10th day after the end of the first succeeding."

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

§ 275.112 [Amended]

Par. E. In the fifth sentence of § 275.112, the erroneous reference to "§ 275.112" is corrected to read "§ 275.114."

§ 275.114 [Amended]

Par. F. Section 275.114 is amended as follows:

A. A heading is added to paragraph (a) to read as follows: (a) *General rule—applicable only to removals made before January 1, 1983.*

B. Paragraphs (b), (c), and (d) are redesignated as (c), (d), and (e) respectively, and headings are added to read as follows: (c) *Postmark.* (d) *Weekends and holidays.* (e) *Procedure.*

C. A new paragraph (b) is added following paragraph (a), to read as follows:

* * * * *

(b) *General rule—applicable only to removals made after December 31, 1982.* Semimonthly tax returns under this subpart shall be filed by the bonded manufacturer, for each return period, not later than the 10th day after the end of the first succeeding return period. The tax shall be paid in full by remittance at the time the return is filed as prescribed in § 275.115 or § 275.115a.

* * * * *

§ 275.114a [Amended]

Par. G. Section 275.114a is amended by adding the following notation immediately following the section title:

Note.—This section applies only to removals made before January 1, 1983.

§ 275.115a [Amended]

Par. H. Paragraph (b)(2) of § 275.115a is amended as follows:

A. In the second sentence, the words "third business day succeeding the last calendar day of the" are replaced by the words "10th day following the end of the first succeeding."

B. The last sentence is removed.

PART 285—MANUFACTURE OF CIGARETTE PAPERS AND TUBES

Par. I. Section 285.25 is revised to read as follows:

§ 285.25 Return of manufacturer.

(a) *Requirement of filing.* Every manufacturer of cigarette papers and tubes shall file, for each of his factories, a monthly tax return on ATF Form 2137 (5230.1). A return shall be filed for each month regardless of whether cigarette papers and tubes were removed subject to tax or whether tax is due for that particular month. However, when a manufacturer so requests by letter, and the regional regulatory administrator grants specific authorization, the manufacturer need not, during the term of that authorization, file a tax return for any month for which tax is not due or payable.

(b) *Information to be shown.* The return shall show the taxpayer's employer identification number as required by § 285.29, the number of books or sets of cigarette papers of each different numerical content and the number of cigarette tubes which were removed subject to tax during the month covered by the return, and any other information required by Form 2137 (5230.1).

(c) *Remittance of tax.* If tax is due, remittance thereof shall accompany the return.

(d) *Place of filing.* The return shall be filed with the district director or the director of the service center in accordance with instructions on Form 2137 (5230.1).

(e) *Time of filing—(1) General rule—applicable only to removals made after December 31, 1982.* For each month, the return shall be filed not later than the tenth day after the end of the first succeeding month.

(2) *General rule—applicable only to removals made before January 1, 1983.* For each month, the return shall be filed not later than the 10th day of the next month.

(3) *Weekends and holidays.* When the last day for filing a tax return falls on a Saturday, Sunday, or legal holiday in the District of Columbia or in the State where the return is required to be filed, the filing of the return (and remittance of the tax) shall be considered timely if done on the next succeeding day which is not a Saturday, Sunday, or such legal holiday.

PART 296—MISCELLANEOUS REGULATIONS RELATING TO CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

Par. J. The authority citation for Subpart H is revised to read as follows:

Authority: Sec. 283, Pub. L. 97-248, 96 Stat. 568 as amended, or as otherwise noted.

§ 296.173 [Amended]

Par. K. In § 296.173(a), the designation "(a) *General.*" is removed. The second sentence of § 296.173 is revised to read: "The tax shall be paid on or before February 17, 1983, and shall accompany the floor stocks tax return." Paragraph (b) of § 296.173 is removed.

§ 296.174 [Amended]

Par. L. In the fourth and sixth sentences of § 296.174(a), the date "January 18, 1983" is removed and in its place is added the date "February 17, 1983."

§ 296.178 [Amended]

Par. M. The second sentence of § 296.178(a) is removed. Paragraph (b) of § 296.178 is revised to read:

* * * * *

(b) *Interest.* Interest shall accrue on all floor stocks tax that is not paid on or before February 17, 1983. The rate of interest is 16% per annum, compounded daily, or such other rate as may be established by the Commissioner of Internal Revenue under the provisions of 26 U.S.C. 6621. Interest shall accrue from February 17, 1983, to the date of payment. (See 26 U.S.C. 6601.)

Signed: December 29, 1982.

Stephen E. Higgins,

Acting Director.

Approved: January 5, 1983.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 83-1330 Filed 1-13-83; 12:30 pm]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Approval of Permanent Program Modifications From the Commonwealth of Virginia Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 946 by adding permanent program amendments concerning Virginia's alternative reclamation bonding regulations submitted by the State under the provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director, OSM, has determined that the modifications of the Virginia program meet the reqirements of SMCRA and the Federal regulations. Accordingly, the

Director has approved the Virginia program amendments.

Part 946 of 30 CFR Chapter VII is being amended to implement this decision.

EFFECTIVE DATE: This approval is effective January 18, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, telephone (202) 343–5351.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 1982, Virginia submitted to OSM a proposed program amendment consisting of a General Assembly Bill passed on an emergency basis creating the Coal Surface Mining Reclamation Fund (Fund) and promulgated regulations to implement the legislation (Administrative Record No. VA 401). The proposed program amendment created and implemented an alternative reclamation bonding system in the Virginia program. On September 21, 1982, the Director, OSM approved the program amendment (47 FR 41556–51558).

On September 30, 1982, Virginia submitted to OSM, proposed program amendments to its alternative bonding regulations (Administrative Record No. VA 431). The proposed amendments to the Virginia regulations appear at V809.6 to add a definition of "cognovit note"; at V809.6 and V809.13 to clarify the type of certification required for a self-bond from an applicant; and at V809.14 to clarify that payment into the Fund is within 30 days after the end of each taxable *calendar* quarter.

OSM published a notice in the **Federal Register** on November 1, 1982, announcing receipt of the amendment, procedures for the public comment period and a public hearing on the substantive adequacy of the amendment (47 FR 49412–49413). The public comment period ended December 1, 1982. A public hearing scheduled for November 17, 1982, was not held because no one expressed a desire to present testimony. On November 16, 1982, OSM published a notice in the **Federal Register** to cancel the public hearing (47 FR 51591). Public disclosure of comments by Federal agencies was made on December 27, 1982, in the **Federal Register** (47 FR 57513).

Director's Findings

The Director finds in accordance with SMCRA and 30 CFR 732.17, that the program amendments submitted by Virginia on September 30, 1982, meet the requirements of Section 509 and 519 of SMCRA and 30 CFR Part 800.

Disposition of Public Comments

The Environmental Protection Agency made comments concerning the Virginia regulations at V809.11, V809.12, V809.13, V809.14, V809.16, V809.17 and V809.18. The Director finds that these comments are outside the scope of this rulemaking as they are directed to provisions of the Virginia regulations approved on September 21, 1982 (47 FR 41556–41558).

Additional Determination

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this action.

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs, actions or amendments. Therefore, this action is exempt from preparation of Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I have certified that this rule will not have a significant economic impact on a substantial number of small entities.

On December 8, 1981, the Administrator of the Environmental Protection Agency transmitted her written concurrence on the Virginia permanent program. The amended regulatory provisions approved in this document are not aspects of the Virginia permanent program which relate to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*).

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Therefore, Part 946 of 30 CFR Chapter VII is amended as set forth herein.

Dated: January 10, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 946—[AMENDED]

Part 946 of Title 30 is amended by revising § 946.10 to read as follows:

§ 946.10 State regulatory program approval.

The Virginia State Program, as submitted on March 3, 1980, as amended and clarified on June 16, 1980, as resubmitted on August 13, 1981, and clarified in a meeting with OSM on September 21, and 22, 1981, and in a letter to the Director of the Office of Surface Mining on October 15, 1981, was conditionally approved, effective December 15, 1981. Beginning on that date, the Department of Conservation and Economic Development, Division of Mined Land Reclamation, was deemed the regulatory authority in Virginia for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Beginning on July 21, August 19, September 21, and December 13, 1982, the program also included program amendments submitted on January 28, July 9, July 8, and August 13, 1982, respectively. Further, beginning on January 18, 1983 the program includes a program amendment submitted on September 30, 1982. Copies of the conditionally approved program, as amended, are available for review at:

Virginia Division of Mined Land Reclamation, Drawer U, 630 Powell Avenue, Big Stone Gap, Virginia 24219;

Virginia Department of Conservation and Economic Development, 1100 State Office Building, Richmond, Virginia 23219;

Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266; or

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C.

[FR Doc. 83–1231 Filed 1–17–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL 2242–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA announces final rulemaking on revisions to the Indiana State Implementation Plan (SIP) for ozone. The revision pertains to the State's strategy to control volatile organic compound (VOC) emissions

from stationary sources addressed in EPA's Group II Control Techniques Guidelines (CTGs). EPA's action is based upon a revision which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act). EPA is also taking the opportunity to revise the codification language within the Code of Federal Regulations to reflect EPA's approval of the State's recodification from APC 15 to 325 Indiana Administrative Code (IAC) Article 8, Control of VOC Emissions. This change in codification language does not change EPA's conditional approval of APC 15.

EFFECTIVE DATE: This final rulemaking becomes effective on February 17, 1983.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1101 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses:

Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6034.

SUPPLEMENTARY INFORMATION:

Part I

Under Section 107 of the Act, EPA has designated certain areas in Indiana as not attaining National Ambient Air Quality Standards (NAAQS) for ozone. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978).

Part D of the Act requires the State to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the NAAQS as expeditiously as practicable, but not later than December 31, 1982 (in certain cases, by December 31, 1987 for ozone and/or CO). The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

An adequate SIP for ozone is one which includes sufficient control of VOC emissions from stationary and mobile sources to provide for attainment of the ozone standard. For stationary sources, the plan must include, as a minimum, legally enforceable requirements reflecting the application of reasonably available control technology (RACT) for those sources for which EPA has published a CTG. In general, where the State regulations are not supported by the information in the CTGs, the State must provide a demonstration that its regulations represent RACT, or amend the regulations to be consistent with the information in the CTGs.

In response to the requirements of Part D of the Act, the State of Indiana has revised its SIP to require control of VOC emissions from stationary industrial sources addressed in EPA's Groups I and II CTGs. On February 11, 1980, the State submitted to EPA a revision to the ozone portion of its SIP for the Group I sources of VOC emissions. EPA proposed rulemaking on this SIP revision on March 15, 1982 (47 FR 11042) and recently took final action to conditionally approve the Group I sources' regulation, APC 15, but took no action on the bubble provision in Section 8(a)(2) of revised APC 15.

On February 6, 1980, the State recodified APC 15 as 325 IAC Article 8. EPA approved the State's recodification, but not the underlying regulations, on July 16, 1982 (47 FR 30972).

On November 25, 1980, the State submitted to EPA additional amendments to 325 IAC Article 8 as a revision to its ozone SIP to control VOC emissions from the Group II sources. This revision pertains to the State's strategy to control ozone in nonattainment areas covered by the revised article. This revision consists of the following regulations:

Indiana Administrative Code

General Provisions, 325 IAC 8-1
Surface Coating of Miscellaneous Metal Parts and Products, 325 IAC 8-2(10)
Factory Surface Coating of Flatwood Paneling, 325 IAC 8-2(11)
Petroleum Liquid Storage: External Floating Roof Tanks, 325 IAC 8-4(3)(c)
Petroleum Refinery Fugitive Emissions (Leaks), 325 IAC 8-4(8)
Transport and Vapor System Leaks, 325 IAC 8-4(9)
Pharmaceutical Manufacture, 325 IAC 8-5(3)
Rubber Tire Manufacture, 325 IAC 8-5(4)
Graphic Arts (Printing), 325 IAC 8-5(5)
Dry Cleaning (Perchloroethylene), 325 IAC 8-5(6)

EPA published a notice of proposed conditional approval of this revision on May 14, 1982 (47 FR 20624). The reader is referred to the notice for further details. A 30-day public comment period on the revision and on EPA's proposed action was provided until June 14, 1982, and, subsequently, extended to July 14, 1982, at the State's request (47 FR 27870). During the comment period, EPA received two comments. The Agency's evaluation of these comments is summarized below.

Part II

Public Comments

State Comments. The Air Pollution Control Board (APCB) responded to the proposed rulemaking in a letter dated July 14, 1982, and supports EPA's conclusion that this SIP revision requiring control of VOC emissions is conditionally approvable. Further, the APCB will consider changes to specific rules, noted below, for preliminary adoption by December, 1982. This will allow the APCB to submit the revised State promulgated regulation to EPA by July 1, 1983. The following is a summary of the APCB's comments and EPA's response.

Comment: The Board made a commitment to revise the gauge pressure contained in Rule 325 IAC 8-4 Section 9(b) to 4,500 pascals and to revise Rule 325 IAC 8-5 Section 4(b) to read "capture of up to 90 percent of the VOC emitted by the spraying operation."

Response. EPA approves the rules with the understanding that the APCB will revise the rules pursuant to its commitment.

Comment: The APCB will conduct a survey, within the next six months, to attempt to demonstrate that the effect of emission levels with the perchloroethylene dry cleaning rule, 325 IAC 8-5 Section 6, are within 5 percent of the levels with the control recommended by EPA.

Response. EPA proposed to take no action on this rule because of the exemption in Section 6(c)(1). However, the technical requirements of the rule are consistent with the CTG. Therefore, EPA conditionally approves Section 6 based upon the APCB's commitment to conduct a survey and demonstration.

Comment: The APCB has agreed to add test methods and procedures to Rule 325 IAC 8-1.1 Section 4 for VOC emissions from the categories of synthesized pharmaceutical manufacturing, pneumatic rubber tire manufacturing and graphic arts systems. The APCB will cite test method #25 contained in 40 CFR 60 Appendix A and will also add the reference test procedures specified in CTG document

EPA–450/2–78–047, for floating roof storage tanks.

Response. EPA conditionally approves Rule 325 IAC 8–1.1 based upon the APCB's commitment to revise the rule as noted.

Comment: The APCB will rewrite Rule 325 IAC 8–4, Section 3(e)(2)(B)(iii) to read "for vapor mounted primary seals and accumulated gap area around the circumference of the secondary seal where a gap exceeding ⅛ inch exists between the secondary seal and the tank wall shall not exceed 1.0 square inch per foot of tank diameter." The APCB will also add record keeping and reporting requirements to the Rule.

Response. EPA conditionally approves Rule 325 IAC 8–4 Section 3 based upon the APCB's commitment to revise the rule as noted.

Comment: The APCB will amend Rule 325 IAC 8–5, Section 5(c) (2) and (3), capture system efficiencies, to read "75% for packaging rotogravure process and 70% for flexographic printing process, respectively."

Response. EPA conditionally approves Rule 325 IAC 8–5 Section 5 based upon the APCB's commitment to revise the rule as noted.

Industry Comment. EPA received one comment from industry on the proposal. The commentor states that the capture efficiency of 65 percent in Rule 8–5(c)(2), as proposed by the State, for packaging rotogravure operation is reasonable. The commentor supplied technical data indicating that 65 percent capture efficiency represents RACT for their operation; and therefore, the *overall* emission reduction of 65 percent recommended by EPA in the CTG document is beyond RACT.

Response. EPA's recommended level of control is based upon the Agency's current evaluation of the VOC control capabilities and problems general to these industries. Since publication of the CTG, other States have adopted regulations for this category consistent with EPA's recommended requirements. Therefore, the conclusion is that the 65% overall reduction requirement is achievable. If the commentor believes that this target is beyond RACT for a specific facility, that facility can request that Indiana grant a variance from the rule under the provisions of Rule 8–1(5), petition for alternative controls. Further, as noted above, the APCB has made a commitment to revise this rule to be consistent with EPA's guidance for RACT applied to packaging rotogravure operations. Therefore, after reviewing the comment, EPA has determined that conditional approval of Rule 8–5 for the graphic arts industry is appropriate.

Part III

Conclusion

In the notice of proposed rulemaking, published on May 14, 1982, EPA noted that Article 8 excludes existing sources in the ozone nonattainment counties of Allen, Elkhart and St. Joseph from compliance with the RACT requirements. VOC RACT is required in all designated nonattainment counties in order to have an approvable ozone SIP, and, therefore, these counties do not have approvable Part D ozone SIPs. On February 5, 1982, the EPA proposed rulemaking revising the attainment status of Allen County to attainment/unclassifiable. Final rulemaking to redesignate Allen County's attainment for ozone would remove the RACT requirements for sources in this county.

EPA further noted that the current Federally enforceable SIP requiring VOC controls on existing sources doing surface coating of miscellaneous metal parts and flatwood paneling was adopted by Indiana on September 14, 1972, and approved by the EPA on May 14, 1973 (38 FR 12968). In general, compliance with these regulations was intended to be achieved with add-on control devices such as carbon adsorption, chemical oxidation, incineration and refrigeration.

However, for the surface coating categories of miscellaneous metal parts and flatwood paneling in Indiana, strict adherence to this requirement would make it impractical for sources to comply with the old requirements while moving toward compliance with the new regulations. That is, continued compliance with the current SIP would require surface coating operations to install and operate add-on control devices rather than the potentially more economic and energy efficient control alternatives allowed within in the revised Article 8 such as coating reformulation or process modification. Therefore, EPA takes final action today to replace the current enforceable SIP requirements for surface coating miscellaneous metal parts and flatwood paneling with Rule 8–2, Sections 10 and 11. For all other existing VOC sources, listed in Part I, the requirements of the SIP as approved by EPA in 1973 will remain in effect and Federally enforceable until compliance with the revised 325 IAC 8 requirements is achieved.

For the surface coating of miscellaneous metal parts, EPA notes that Indiana exempts those sources located in Clark, Floyd, Lake, Marion and Porter Counties from requirements of Rule 2(10) for sources that have a potential to emit less than 100 tons of VOC per year. Indiana justifies this exemption by stating that there are no sources emitting between 25 and 100 tons per year within these counties and, therefore, believes that its exemption is reasonable. Based on the State's justification, EPA is today approving this size exemption cutoff.

EPA is conditionally approving 325 IAC Article 8 for the Group II source categories of VOC emissions promulgated by Indiana on October 15, 1980. The conditions refer to 8–1.1, 8–4 Section 3, and 8–5 Sections 5 and 6. EPA is approving 8–4 Section 9(b) and 8–5 Section 4(b) with an understanding that the State will revise these rules pursuant to the APCB's commitment.

Accordingly, the State and EPA have negotiated a deadline of December 31, 1982, for the APCB to preliminarily adopt the changes to specific rules noted herein. This will allow the State to submit the revised State promulgated regulation to EPA by July 1, 1983. For a discussion of conditional approval and its practical effect, see 44 FR 38583 (July 2, 1979) and 44 FR 67182 (November 23, 1979).

Finally, as stated earlier in this notice, EPA is taking the opportunity today to revise the codification language within the Code of Federal Regulations of its conditional approval of APC 15 in order to reflect EPA's approval of the State's recodification of APC 15 to 325 IAC Article 8. This change in the codification language does not change in any manner EPA's conditional approval of APC 15 nor does this action reopen for judicial challenge under § 307 of the Act the compliance schedules or other requirements of that regulation. Similarly to its action on APC 15, EPA is still not taking action on the comparable "bubble" provision within 325 IAC 8–1.1 Section 2(b).

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of

Indiana was approved by the Director of the Federal Register on July 1, 1982.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

1. Section 52.770 is amended by adding new paragraph (c)(39) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(39) On November 25, 1980, Indiana submitted 325 IAC Article 8, Volatile Organic Compound Regulations. This regulation adds Group II CTG requirements to Indiana's VOC plan and was State promulgated on October 15, 1980. EPA is not taking action on 325 IAC 8–1.1 Section 2(b), Bubble Approach.

* * * * *

2. Section 52.773 is amended by revising paragraph (f) as follows:

§ 52.773 Approval status.

* * * * *

(f) The Administrator finds that the ozone strategies for Clark, Floyd, Lake, Marion and Porter Counties satisfy all the requirements of Part D, Title I of the Clean Air Act that are required to be submitted to EPA by January 1, 1981.

3. Section 52.777 is amended by revising paragraphs (c)(1)(i) through (iv) and adding new paragraphs (c)(1)(v) through (viii) as follows:

§ 52.777 Control strategy: Photochemical oxidants (Hydrocarbons).

* * * * *

(c) * * *

(1) * * *

(i) For regulation 325 IAC 8–4, Petroleum Sources, the State must conduct a study to demonstrate that the 20,000 gallons per months throughput exemption meets RACT requirements and submit the results to EPA within 6 months of the effective date of final rulemaking on Group I CTG source categories. If the demonstrated emissions resulting from the State's exemption are not essentially equivalent to those resulting from the RACT requirements, then the State must submit to EPA a rule which requires control of emissions from storage tanks at gasoline dispensing facilities with either 10,000 gallons per months or more throughput or 2,000 gallons capacity.

(ii) For regulation 325 IAC 8–2 Sections 2(b), 7(b), and 8(b), Surface Coating Operations, the transfer efficiency equations must be replaced with a statement addressing transfer efficiency improvement on a case by case basis and the new rules must be submitted to EPA as SIP revisions. These rules must be submitted to the Air Pollution Control Board by December 31, 1982, and finally promulgated by the State and submitted to EPA by July 1, 1983.

(iii) For regulation 325 IAC 8–2 Section 6, Fabric and Vinyl Coating, the State must revise the rule to meet the requirements of RACT and must submit the new rule to EPA as a SIP revision. This rule must be submitted to the Air Pollution Control Board by December 31, 1982, and finally promulgated by the State and submitted to EPA by July 1, 1983.

(iv) For regulation 325 IAC 8–1.1 Section 4, Test Methods and Procedures, the State must add EPA approved test methods and procedures and must submit the new rule to EPA as a SIP revision. This rule must be submitted to the Air Pollution Control Board by December 31, 1982, and finally promulgated by the State and submitted to EPA by July 1, 1983.

(v) For regulation 325 IAC 8–5, Section 6, Perchloroethylene Dry Cleaning, the State must conduct a study to demonstrate that the 1,500 gallons exemption meets RACT requirements and submit the results to EPA within 6 months of the effective date of final rulemaking on 325 IAC 8 for VOC from Group II CTG source categories. If the demonstrated emissions resulting from the State's exemption are not essentially equivalent to those resulting from the RACT requirements, then the State must submit to EPA by July 1, 1983, a rule which requires control of emissions from dry cleaning sources using less than 1,500 gallons of perchloroethylene per year.

(vi) For regulation 325 IAC 8–1.1 Section 4, Test Methods and Procedures, the State must add EPA approval test methods and procedures for VOC emissions from the categories of external floating roof tanks, synthesized pharmaceutical manufacturing, pneumatic rubber tire manufacturing and graphic arts systems and must submit the new rule to EPA as a SIP revision by July 1, 1983.

(vii) For regulation 325 IAC 8–4 Section 3, Petroleum Sources, the State must revise the rule to meet the requirements of RACT, add record keeping and reporting requirements, and must submit the new rule to EPA as a SIP revision by July 1, 1983.

(viii) For regulation 325 IAC 8–5 Section 5, Graphic Arts, the State must revise the rule to require for capture system efficiencies of 75% for packaging rotogravure process and 70% for flexographic printing process and must submit the new rule to EPA as a SIP revision by July 1, 1983.

[FR Doc. 83-1248 Filed 1-17-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[Docket No. VT 620; A–1–FRL 2276–3]

Attainment Status Designations; Vermont

Carbon Monoxide Redesignations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is redesignating eight communities in the Champlain Valley Air Management Area from non-attainment for the National Ambient Air Quality Standard (NAAQS) for carbon monoxide to attainment. This action is being taken as a result of a request by the State of Vermont. The intended effect of this action is to eliminate the remaining carbon monoxide non-attainment areas in the Vermont portion of the Air Quality Control Region 159 (Champlain Valley Interstate). Thus, Vermont will be attainment statewide for the NAAQS for carbon monoxide. This action is being taken under Section 107 of the Clean Air Act.

DATES: This action will be effective March 21, 1983, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be mailed to Harley F. Laing, Director, Air Management Division, Room 2313, JFK Federal Building, Boston, Massachusetts, 02203. Copies of Vermont's request are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 2313, JFK Building, Boston, MA 02203; and the Agency of Environmental Conservation, State Office Building, Montpelier, Vermont 05602.

FOR FURTHER INFORMATION CONTACT: Thomas Wholley (617) 223–5633.

SUPPLEMENTARY INFORMATION: On April 7, 1982, Vermont submitted a request to redesignate the Champlain Valley Air Management Area from non-attainment to attainment for carbon monoxide. The State submitted additional technical documentation on October 1, 1982. The

package includes monitoring and modeling information to support the State's request.

Based on the technical support for this request, EPA is approving the redesignation from non-attainment for carbon monoxide to attainment for the following eight communities: Colchester Town; Winooski City; Essex Town (including Essex Junction); Burlington City; South Burlington City; Williston Town; Shelburne Town and St. George Town. The rationale for this approval is summarized below:

Background and Initial Investigations

The Burlington, monitoring site is located at a downtown intersection with traffic congestion similar to that found at intersections in all eight communities. This monitoring site measured violations of the carbon monoxide NAAQS in 1975 and 1976. As a result, Vermont requested that all eight communities be designated non-attainment. EPA approved these designations on March 3, 1978 (43 FR 8962). A review of the data collected at the monitoring site from 1977 through 1981 showed no further violations of the NAAQS.

Although the Burlington Monitoring site indicated that there had not been a carbon monoxide violation if five years, Vermont, in consultation with EPA, decided to evaluate other intersections with traffic congestion to determine if any additional locations were violating the carbon monoxide NAAQS. All major intersections were ranked according to traffice volumes. In 1978, the state conducted a two week monitoring program at each of the six intersections with the highest traffic congestion to determine their relative ranking. Analyses of these data indicated that Five Corners in Essex Junction could be expected to have the highest carbon monoxide levels of all the intersections.

Detailed Modeling Analysis

The State then performed a detailed modeling analysis of the Five Corners site. This analysis used EPA's mobile source modeling procedure *Guidelines For Air Quality Maintenance Planning And Analysis Volume 9 (Revised): Evaluating Indirect Sources.* The emmission rate calculation sections of Volume 9 (Revised) were updated to use EPA's emissions model MOBILE–1 and the dispersion routines of EPA's highway air pollution model Highway–2. The input data used in the modeling such as: year of analysis, temperature, wind speed, wind direction, stability class, traffic data, percent hot-cold starts, background, and emission factors, are acceptable to EPA.

The results of this modeling show that the Five Corners site has attained the carbon monoxide NAAQS. Vermont has justified these redesignations based on the assumption that if the modeling indicates attainment for carbon monoxide at the site (Five Corners) with the highest recorded carbon monoxide levels, then all other sites will have attained the CO standard as well. EPA has reviewed Vermont's analysis and concurs with the State's conclusion.

Action: EPA is approving Vermont's request to redesignate eight communities in the Champlain Valley Air Management Area to attainment for carbon monoxide.

EPA is approving this request without prior proposal, because the Agency views this as a noncontroversial action and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective (60 days from today).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals or the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)))

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 81.346 the attainment status designation table for Carbon Monoxide should read as follows:

§ 81.346 Vermont.

VERMONT—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Entire State		X

[FR Doc. 83–1344 Filed 1–17–83; 8:45 am]

BILLING CODE 6560–50–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1143

[Ex Parte No. MC–160]

Procedures for Review of Intrastate Bus Rates

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; notice of decision on reopening.

SUMMARY: Final rules in this proceeding were published at 47 FR 53283 (November 24, 1982) that implemented section 17 of the Bus Act. That section required the Commission to adopt rules for processing petitions that seek review of State regulation of intrastate rates, and rules and practices (rate) of intrastate bus carriers. This decision reopens the proceeding for the limited purpose of conforming our prior decision to our determination in Ex Parte No. MC–161, *Preemption of State Regulation of Regular—Route Exit—Motor Passenger Carriers,* 47 FR 53291 (November 24, 1982), regarding the effective date when the Commission will assert jurisdiction over State cases.

EFFECTIVE DATE: This notice will become effective January 18, 1983.

FOR FURTHER INFORMATION CONTACT: Jane Morris, (202) 275–6434,

or

Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: The American Bus Association and the National Bus Traffic Association, Inc., (petitioners) filed a joint petition to reopen this proceeding. A petition in support was filed by Jefferson Lines, Inc. Petitioners allege that the Commission erred in (1) deciding not to assert jurisdiction over any rate proceeding pending before a State agency before the date of signing (September 20, 1982) of the Bus Regulatory Reform Act of 1982 (Bus Act), and (2) requiring petitions for review to include a copy of the entire State record. A reply was filed by the National Association of Regulatory Commissioners.

We are reopening this proceeding for the limited purpose of asserting jurisdiction over rate proceedings pending before State agencies on the effective date of the Act. This conforms to our decision in Ex Parte No. MC–161, *Preemption of State Regulation of Regular—Route Exit—Motor Passenger Carriers.* There, the Commission concluded that (1) as of January 18, 1983,[1] the Commission would assert jurisdiction over cases where the State has failed to act within 120 days, and (2) as of November 19, 1982, (the effective date of the Bus Act) the Commission would assert jurisdiction over cases in which the State denied the requested relief.

Petitioners argue that a number of passenger carriers will be prejudiced by our original decision by being forced to withdraw and refile the same or a similar proposal when a State fails to act in 120 days if the proposal had been filed with the State prior to September 20, 1982. In view of this undesirable result, the clear Congressional intent that the agency take cognizance over State rate decisions and State inaction or delay that might create an unreasonable burden on interstate commerce on the effective date of the Act, see *Bradley* v. *Richmond School Board,* 416 U.S. 696, 715 (1974), and the fact that no justification exists for treating appeals under sections 16 and 17 of the Act differently, we believe that our jurisdiction in proceedings seeking review of State decisions regarding rate requests should also extend to cases which were pending before the States on the effective date of the Bus Act.

[1] The Bus Act was signed on September 20, 1982. On that date the States had clear notice of the availability or preemptive Federal action, and could be expected to act in reflection of that knowledge. The January 18, 1983 date is, therefore, the first day the 120 day period allotted for State action could elapse.

However, because State agencies may have relied on our earlier decision in this matter, and our decision here would otherwise allow States only approximately two weeks to take action on those proceedings filed on or before September 20, 1982 (the date the Act was signed into law) or lose jurisdiction, we believe fundamental fairness requires that we allow the States additional time to process those cases. Therefore, although we will consider appeals of State decisions rendered on or after November 19, 1982, based on petitions filed with the States before that date, we will wait an additional 30 days [2] to February 17, 1983, before we exercise our jurisdiction over proceedings that have been pending before State agencies for at least 120 days. In this way, the States will have had adequate time to complete their roles in the decision-making process, while carriers with rate applications pending before State agencies can be assured of Commission review jurisdiction.

As to petitioners' second request, no justification has been shown requiring the Commission to modify the requirement (at 49 CFR 1143.3) that the entire State record be made part of the record on appeal. This matter was adequately considered and addressed in our prior decision.

This decision will not adversely affect the quality of the human environment or energy consumption.

The final notice in this proceeding concluded that these rules would have no significant economic impact on a substantial number of small entities. Considering the modification made herein, we reaffirm this finding.

It is ordered: The petition is granted in part and denied in part. The prior decision is modified to the extent set forth above.

(49 U.S.C. 10321 and 11501(e) and 5 U.S.C. 553)

Dated: January 5, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Commissioner Simmons dissented with a separate expression. Vice Chairman Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[2] We believe the 30-day extension is reasonable. It will have allowed the States at least 150 days since actual notice of the possibility of Federal preemption action. Moreover, 30 days is the normal time period required for notice before the effective date of rules promulgated under the Administrative Procedure Act, 5 U.S.C. 553(d). Finally, the new time period will coincide with the 120th day after enactment of the Bus Act.

Commissioner Simmons, dissenting: I believe the Commission's prior reasons for not deciding these cases pending before State agencies prior to September 20, 1982, were both fair and consistent with the intent of the Bus Regulatory Reform Act of 1982. We stated in that earlier decision that the intent of Congress is that states are to maintain primary jurisdiction over intrastate rates and that they have 120 days in which to act. We noted that this "opportunity would be significantly reduced in circumstances in which proceedings were instituted before it was known that the one preemptive federal jurisdiction would apply." The petitioners have not raised any new arguments to suggest this view is incorrect.

Additionally, I have some concerns regarding notice and fundamental fairness. By this action, the Commission is changing a former ruling and making it retroactive without, I believe, taking into account the impact on affected parties and their justified reliance on our earlier pronouncements.

[FR Doc. 83–1290 Filed 1–17–83; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 48, No. 12
Tuesday, January 18, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 581

Processing Garnishment Orders for Child Support and/or Alimony

Correction

In FR Doc 83-460 beginning on page 811 in the issue of Friday, January 7, 1983, make the following corrections:

On page 811, third column, five lines from the botton, remove "disability compensation is greater than his entitlements to."

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amendment No. 241]

Bilingual Services

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This rulemaking proposes amendments to the regulations published October 17, 1978 (43 FR 47846), concerning the bilingual service requirements of the Food Stamp Program. The proposed changes are the result of comments solicited by a Notice of Intent published in the **Federal Register** on December 11, 1981 (46 FR 60614). The proposed rulemaking would ease State agencies' administrative burdens while ensuring that people with bilingual needs have their needs met.

DATE: Comments must be received on or before March 21, 1983 to be assured of consideration in the final rulemaking process.

ADDRESS: Comments should be submitted to Thomas O'Connor, Supervisor, Policy and Regulations Section, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 708.

FOR FURTHER INFORMATION CONTACT: If you have any questions, contact Mr. O'Connor at the above address or by telephone at (703) 756-3429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This regulation does not contain reporting and recordkeeping requirements subject to approval by OMB under the Paperwork Reduction Act.

Classification

This action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major." The proposed rule will not have an annual effect on the economy of $100 million or more, or a major increase in cost or price for consumers, individual industries, Federal, State or local government agencies or geographic regions. The proposed rule would not affect the business community and would not result in significant effects on competition, employment, investment, productivity, innovation or the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

This proposed rule has been reviewed in relation to the requirements of the Regulatory Fexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). Robert E. Leard, Acting, Administrator of the Food and Nutrition Service, has certified that this action would not have a significant economic impact on a substantial number of small entities. The proposal would amend current regulations on the provisions of bilingual services to non-English speaking low-income households.

Background

The use of bilingual services was mandated by Section 11(e) of the Food Stamp Act of 1977 (Pub. L. 95-113). The Department published regulations establishing procedures for bilingual services in the October 17, 1978 **Federal Register** (43 FR 47846). Subsequently, the Department received comments indicating that it may be necessary to make some adjustments in the procedures. Based on the concerns voiced by State agencies and others, the Department published a Notice of Intent on December 11, 1981 (46 FR 60614), concerning the possibility of changing the bilingual service requirements which are contained in 7 CFR 272.4. In response to this Notice, 69 groups, agencies, and organizations submitted comment letters.

In addition, during the deliberation of the Food Stamp Act Amendments of 1982, Pub L. 97-253, the Senate proposed to revise the bilingual requirement; the House bill contained no comparable provision. The Senate provision was deleted in conference. According to the conference Report, the conferees understood". . . that the Department of Agriculture has solicited comments from the States on the regulations relating to the use of bilingual personnel and material. The conferees support any efforts by the Department to eliminate burdensome requirements in this area. "(Congressional Record h6154, Daily ed. August 17, 1982). The proposed revisions to the bilingual service requirements contained in this rulemaking respond to this Congressional direction and the comments and suggestions received in reponse to the Notice of Intent.

Current Provisions

Section 11(e) of the Food Stamp Act of 1977 requires State agencies to "* * * use appropriate bilingual personnel and printed material in the administration of the program in those portions of political subdivisions in the State in which a substantial number of members of low-income households speak a language other than English * * *." The Department's regulations require State agencies to provide bilingual certification materials and bilingual staff or interpreters in each certification office that provides service to an area containing 100 or more low-income households which speak the same non-English language (single language minority households). In project areas with less than 100 low-income households, these services are required if a majority of the low-income households are of a single language minority. See 7 CFR 272.4(c).

The October 1978 regulations also required State agencies to provide appropriate language outreach materials in each profject area containing 2000 or more low-income households where over 5 percent of these households are of the same single-language minority. In project areas containing less than 2000 low-income households, bilingual materials were required if 100 or more of these households were of a single-language minority. Project areas which are required to provide bilingual certification materials and bilingual staff or interpreters were also required to provide bilingual outreach materials.

Section 111 of the 1981 Omnibus Reconciliation Act (Pub. L. 97–35) eliminated the mandatory requirements for outreach activities and prohibited Federal reimbursement to State agencies for the administrative costs of their outreach programs. The Department amended its regulations to delete the outreach requirements yet maintained mandatory procedures for informing applicants and participants of certain aspects of the program such as rights and responsibilites (September 4, 1981 at 46 FR 44712). The amended regulations adopted the same criteria for determining the need for bilingual program informational activities which, prior to the new Act, were used to gauge the need for bilingual outreach materials.

The above procedures were developed to establish a fairly uniform system for providing adequate bilingual services, and yet to offer bilingual services to sparsely populated areas in which a non-English language may predominate. As a result, many certification offices must determine the number of low-income households in the project area as well as the number of low income single-language minority households for each non-English language spoken in the area.

Current regulations require State agencies to develop estimates of the number of low-income single-language minority households, both participating and nonparticipating, in each project area and certification office. The regulations suggest various sources of information such as census data and community service organizations which could be used in determining the need for bilingual services. If these sources do not provide sufficient information, each certification office must record the number of single-language minorities which visit the office. If more than 100 single language minority households visit a certification office during a 6 month period, that office must provide bilingual staff or interpreters. State agencies must also combine the figures they collected in each certification office within a project area to determine whether bilingual informational material is required in that project area.

Section 272.1(g)(1)(vii) of the regulations establishes procedures for implementing the bilingual requirements. State agencies are required to assess the need for bilingual services in particular certification offices and project areas and advise FNS of their determinations. If a State agency cannot determine, base on available information sources, whether or not bilingual services are required in a particular project area, it must so notify FNS and develop procedures to record the number of non-English speaking low-income households which contact each certification office in that project area. The regulations do not specify how often State agencies should reassess the need for bilingual services in particular project areas and whether and how often the results of such assessments should be reported to FNS. Similarly, State agencies are not required to prepare a plan describing how they are assessing the need for bilingual services and how such services are being provided.

Notice of Intent

The Department's Notice of Intent requested specific comments on several specific aspects of bilingual services. This preamble does not address those aspects which did not receive substantive comments. The Notice requested comments in the following areas:

General bilingual provisions—Have the provisions been effective in lowering participation barriers for non-English speaking low-income households? Are the provisions administratively feasible?

Bilingual needs assessment—Are the suggested sources for determining bilingual needs adequate? Have State agencies had difficulties in determining the total number of low-income households in each project area? Have State agencies been able to keep informed about the need for bilingual services in particular project areas? Should reassessments be made a regulatory requirement?

Bilingual certification materials—Have the materials been effective in lowering participation barriers for non-English speaking low-income households? Has the provision of these materials been administratively feasible? Would bilingual summaries be an acceptable substitute, with regard to both administrative ease and effectiveness, for exact translations of certification materials?

Planning and reporting—Should State agencies be required to submit plans which describe their assessment/reassessment and bilingual services procedures? If State agency flexibility is increased, should planning and reporting requirements be also increased?

Sixty-nine letters were received as part of the comment process on the Notice of Intent to amend the Department's bilingual services regulations. The main issue considered with regard to bilingual requirements was how, if at all, to amend the current regulatory provisions.

Thirty-eight commenters generally supported the rule. Of those generally supporting the current rules, 24 public interest groups, two local agencies, and one State agency recommended no major changes or stressed that rules should not be loosened; seven State agencies, one FNS regional office, and one FNS Civil Rights Office requested more State agency flexibility; and two State agencies requested several changes.

Eleven commenters opposed the current bilingual rules. Seven State agencies and four FNS regional offices suggested State agency establishment of bilingual services requirements. They believed State agencies should provide appropriate bilingual services in areas that contain a substantial number of non-English speaking members of low-income households. Additionally they felt that defining "appropriate" and "substantial" should be a State agency responsibility.

Proposed Rule

As stated earlier, the proposed changes in this rulemaking have been made in response to Congressional direction as well as to those commenters who responded to the Notice of Intent. The Department believes that the proposed rulemaking balances two important factors: the need to eliminate burdensome requirements as directed by Congress and the need to ensure that eligible non-English speaking households are not denied their rights to participate in the Food Stamp Program. A description of the changes proposed in this rulemaking follows.

Assessment of Bilingual Needs

As discussed earlier in the preamble, the current provisions provide numerical criteria for determining bilingual need and are explicit in the manner in which State agencies must determine whether such a need exists. Approximately twenty comments were received in this area. Although most of these

commenters expressed dissatisfaction, there was no consensus with regard to how to meet the legislative requirement to use appropriate bilingual personnel and printed material where a need exists.

The Department proposes to continue to regulate the formua which defines the need for bilingual services. A separate formula, however, for determining the need for program informational activities would no longer exist since such activities are directed towards the same group of individuals, i.e., non-English speaking applicants and participants. Under this proposed rule State agencies would continue to provide bilingual services when the levels prescribed in the regulations are reached (i.e., when a certification office's service area contains 100 or more low-income households which speak the same non-English language and in project areas with less than 100 low-income households if a majority of these households are of a single-language minority).

This proposed rulemaking would, however, allow State agencies flexibility in determining how the prescribed levels are reached. In this regard, this proposed rule incorporates several alternatives offered by those commenters who were dissatisfied with the present assessment procedures. The proposed rule would allow State agencies to continue with the current assessment methodology or to opt for another method such as, but not limited to: measurement of the application rate or the number of persons visiting an office, surveys, caseload statistics, or State demographic data. State agencies would be able to choose assessment procedures that best suit each community and then ensure that the bilingual service needs of the communities are met.

Reassessment of Need

As stated earlier, the current regulations do not specify how often State agencies should reassess the need for bilingual services. The commenters were almost evenly split with regard to whether or not reassessment of bilingual needs should be regulated.

Two FNS Regional Offices, six State agencies, and three local agencies opposed periodic assessment of bilingual need and believed State agencies should continue to be allowed flexibility in reassessing need. Most FNS Civil Rights offices and four public interest groups supported periodic reassessment of need. One commenter suggested semi-annual reassessment and two commenters suggested annual reassessment. One public interest group suggested that annual surveys be conducted in migrant areas and that the surveys be timed to coincide with the seasonal influx of migrants. Another suggested that State agencies hold periodic hearings to discuss bilingual needs.

This proposed rule does not impose any reassessment requirement. The Department does not believe such a requirement is necessary since State agencies are expected to be in constant compliance with the bilingual service provisions and are reviewed periodically by FNS. These rules will continue to allow State agency discretion in the monitoring of shifts (increases/decreases) in the size of single language minority populations. The Department expects that State agencies will continue to be responsive to such changes. This decision conforms with the Congressional directive to avoid and eliminate burdensome regulatory requirements.

Bilingual Personnel and Materials

As discussed earlier, current bilingual service procedures require State agencies to provide appropriate language certification materials and bilingual staff or interpreters in those areas where the prescribed levels are met. Of those who specifically commented on bilingual personnel and materials, the majority were opposed to having any type of requirement. One FNS Regional Office and ten State agencies opposed the requirement for bilingual materials. Of the agencies, four specifically favored bilingual interpreters. One FNS Regional Office and one State agency requested more flexibility in developing and using bilingual materials. Several State agencies commented that translating certification forms and notices was not cost effective because many non-English speaking clients either could not read their own language or spoke an essentially non-written language. Only one local agency commented on this provision and stated that they opposed bilingual materials and favored interpreters.

Three public interest groups supported bilingual materials. One group suggested that program informational materials be available in all project areas where non-English speaking people reside. Two public interest groups suggested that minimum competency standards be established for interpreters. One commenter suggested that small adjoining project areas be permitted to share a bilingual certification worker. One FNS Civil Rights Office suggested that State agencies be required to institute a toll free Program and language assistance line. Another commenter suggested that certification offices be required to have available State-developed bilingual language tapes to explain the program.

Although the majority of the commenters who specifically commented on bilingual personnel and materials were opposed to having any type of requirement, the Department believes that some type of requirement is necessary in order to ensure compliance with the bilingual legislative provision. This proposed rule would, however, allow State agencies to use either bilingual personnel *or* certification materials. Each State agency would be able to choose the type of bilingual services that best suits that agency's needs. The responsibility of assisting single language minority households would still belong to the State agency. For example if the State agency is providing bilingual services for a Spanish population and has decided to provide Spanish materials, the State agency would be required to ensure that illiterate households are not denied their rights to apply and, if eligible, participate in the Food Stamp Program. In this case, the State agency could, for example, obtain the services of someone from that agency's own staff or a community group that could aid such households.

In this same regard, this proposed rule would continue to require bilingual staff or interpreters in those instances where a non-English-speaking household requests a fair hearing and the State agency is required to provide bilingual services. In a situation like this, the State agency would be able to use bilingual materials but only to augment the services of a bilingual staff person or interpreter.

Reporting and Monitoring

As stated earlier, current provisions have minimal State agency planning and reporting requirements. Monitoring is accomplished by FNS through management evaluation reviews. The Department requested comments on whether the planning and reporting burden for State agencies should be increased if State agencies are given greater flexibility in assessing bilingual needs and providing appropriate services.

Four State agencies opposed additional reporting requirements, and one State agency opposed any reporting requirement. Two State agencies recommended that they be given greater flexibility in monitoring the adequacy of bilingual services and one believed State agencies should be given total

responsibility for monitoring. Five public interest groups recommended that each State agency be required to submit an annual plan describing how it assesses bilingual need and how it plans to meet any assessed need. One commenter believed that public interest groups should have access to the plans. Another commenter suggested that FNS and State agencies should improve monitoring of local compliance with the bilingual service rules. Another commenter suggested that citizens and citizen groups should be able to appeal a State agency's action or failure to act in assessing or providing bilingual services. One public interest group supported greater State agency flexibility if tighter FNS review and control are also applied. One commenter stated that if State agencies were given more flexibility in administering the bilingual provisions of the Act, the Department would be legally obligated to monitor State agencies' compliance with their own standards. The commenter described this approach as needlessly complicated.

Two FNS Civil Rights Offices suggested that State agencies be required to maintain records describing how they assess bilingual need and how they are meeting such need. One commenter suggested that FNS should track and evaluate problems and local concerns and provide technical assistance. Another commenter suggested that FNS only intervene when there are well documented complaints about service provided. One commenter supported greater State agency flexibility if tightened FNS review and control are also applied.

The Department proposes to keep the current provisions in this area intact. Any additional requirements for the development and reporting on bilingual services would be inconsistent with the Congressional directive to eliminate burdensome bilingual service requirements.

Summary Sheets

The Department requested comments on whether a sheet explaining in detail the contents of each form or notice might be preferable to an exact translation of the English forms or notice. Comments were also encouraged on the administrative ease and effectiveness of providing bilingual summaries of notices. Commenters were to indicate whether they believe that the practice of providing statements in non-English languages summarizing the purpose of certain notices and certification materials should be expanded to cover other notices and certification materials.

The commenters were almost evenly divided on this issue. Three State agencies, two local agenies, two public interest groups, and one FNS Civil Rights Office opposed summary sheets. One State agency favored a more general sheet which informed the recipient that the English material contained important information about the individual's food stamp eligibility and that if the household did not understand it, the household should contact the appropriate certification office for assistance and further information.

The six commenters supporting summary sheets were in favor of FNS-supplied sheets. The commenters favoring summary sheets were three State agencies, two FNS Regional Offices, and one FNS Civil Rights Office.

The Department proposes to allow State agencies to use summary sheets that would describe the contents of each form or notice. This decision was made in order to give State agencies additional flexibility with regard to bilingual services. This detailed summary would include a statement that the household should contact the appropriate certification office for assistance and further information if the household has further questions. State agencies would be responsible for doing the actual translations. FNS would provide any technical assistance required by States.

Implementation

These proposed bilingual provisions would be effective 30 days after publication of the final rule. State agenies would implement these provisions at their own discretion.

Conclusion

The Department is offering this proposed rule in order to obtain further input and any additional suggestions related to bilingual needs. We encourage all interested parties to submit any comments they may have. All comments and suggestions will be given full consideration during the preparation of the final rulemaking.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—Social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedures, Aliens, Claims, Food stamps, Fraud, Grant programs—Social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, this proposed rule would amend Parts 272 and 273 as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

1. § 272.4(b) is amended as follows:

(a) In paragraph (b)(1), the first sentence is revised.

(b) Paragraph (b)(2) is removed; paragraphs (b)(3), (4), (5) and (6) are designated paragraphs (b)(2), (3), (4) and (5) respectively.

(c) In the newly redesignated paragraph (b)(2), the introductory sentence is revised and a paragraph (b)(2)(ii)(C) is added.

(d) Newly redesignated paragraphs (b)(3), (4) and (5) are revised.

§ 272.4 Program administration and personnel requirements.

* * * * *

(b) *Bilingual requirements.* (1) Based on the estimated total number of low-income households in a project area which speak the same non-English language (a single-language minority), the State agency shall provide bilingual Program informational materials and bilingual services (either certification materials, staff, or interpreters) as specified in paragraph (c)(2) of this section. * * *

(2) The State agency shall provide Program informational materials and bilingual services as follows:

* * * * *

(ii) * * *

(C) In lieu of bilingual certification materials the State agency may provide a summary sheet which describes the content of each form and notice.

(3) In project areas with a seasonal influx of non-English-speaking households, the State agency shall provide bilingual services if during the seasonal influx the number of single-language minority low-income households which move into the area meets or exceeds the requirements in paragraph (b)(2) of this section.

(4) If the State agency opts to use bilingual staff (or interpreters), the State agency shall insure that certification offices subject to the requirements of paragraph (b)(2) of this section provide such personnel in sufficient numbers for the timely processing of non-English-speaking applicants.

(5) The State agency shall develop estimates of the number of low-income single-language minority households for each project area and certification office by obtaining data through one or more of the following sources of information:

(i) Census data;

(ii) Knowledge of project areas and areas serviced by certification offices;

(iii) Local Bureau of Census offices, community action agencies, planning agencies, migrant service organizations, and school officials;

(iv) Surveys such as, but not limited to, a record over a period of time of the total number of single-language minority households that visit the office to make inquiries about the program, file new applications for benefits, or be recertified;

(v) Caseload statistics; and

(vi) Any other source of information which the State agency has determined to be useful in determining bilingual service needs.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.15(i)(1), the second sentence is revised.

§ 273.15 Fair hearings.

* * * * *

(i) Stage agency responsibilities on hearing requests.

(1) * * * If the individual making the request speaks a language other than English and the State agency is required by § 272.4(b)(2) of this title to provide bilingual services, the State agency shall provide a bilingual staff person or interpreter and shall insure than the hearing procedures are verbally explained in that language.* * *

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: January 12, 1983.

Robert E. Leard,

Acting Administrator.

[FR Doc. 83–1325 Filed 1–17–83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Parts 916 and 917

Fresh Nectarines Grown in California; Fresh Pears, Plums, and Peaches Grown in California; Order Directing That a Referendum Be Conducted; Determination of Representative Period for Voter Eligibility; and Designation of Referendum Agents To Conduct the Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among growers of nectarines, and fresh pears, plums, and peaches grown in California to determine whether they favor continuance of the marketing agreement and order programs.

DATES: Referendum period January 21 through February 5, 1983.

ADDRESSES: See information contained in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is required to determine whether growers favor continuance of the marketing orders for nectarines, pears, plums and peaches grown in California, and will not substantially affect costs for the directly regulated handlers.

Pursuant to §§ 916.64(e) and 917.61(e), respectively, of the marketing agreements, as amended, and Order Nos. 916 and 917, as amended (7 CFR Parts 916 and 917), and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that a referendum be conducted within the period January 21 through February 5, 1983, among the growers who, during the period March 1, 1982 through December 31, 1982 (which period is hereby determined to be a representative period for the purposes of such referendum), were engaged, in the State of California, in the production of any fruit covered by the said amended marketing agreements and orders for market in fresh form to ascertain whether continuance of the said amended marketing orders as to such fruit is favored by the growers. Said §§ 916.64(e) and 917.61(e), respectively, specify that such a referendum shall be held within the period December 1, 1974, through February 15, 1975, and within the same period of every fourth fiscal period thereafter, to ascertain whether continuance is favored by the growers.

W. B. Blackburn and G. P. Muck, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 2424 Arden Way, Suite 65, P.O. Box 255507, Sacramento, California 95825, are hereby designated as referendum agents of the Secretary of Agriculture to conduct said referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended" (7 CFR 900.400 et seq.).

Copies of the texts of the aforesaid amended marketing orders may be examined in the office of the referendum agents or of the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum may be obtained from the referendum agents and from their appointees.

Dated: January 13, 1983.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 83–1376 Filed 1–17–83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

Proposed Customs Regulations Amendments Relating to the Entry of Explosives for Transportation and Exportation

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to permit explosives, for which an intransit license or permit has been issued by the Department of State or Bureau of Alcohol, Tobacco and Firearms, to be shipped through the United States under a transportation and exportation entry. This change is being proposed to allow importers of explosives and other prohibited merchandise that have obtained written authority to do so, to transport the articles through the United States and export them.

DATE: Comments must be received on or before March 21, 1983.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Darrell Kast, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5765).

SUPPLEMENTARY INFORMATION:

Background

Section 18.21(b), Customs Regulations (19 CFR 18.21(b)), provides that narcotics and other prohibited articles may be entered into the commerce of the United States for transportation and exportation only upon written authority from the proper governmental agency and/or compliance with the regulations of such agency. However, section 553, Tariff Act of 1930, as amended (19 U.S.C. 1553), provides, in part, that "Any merchandise, *other than explosives and merchandise the importation of which is prohibited,* shown by the manifest, bill of lading, shipment receipt, or other document to be destined to a foreign country, may be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duties and exported under such regulations as the Secretary of the Treasury shall prescribe * * *" (Emphasis supplied.) Thus, it would appear that 19 U.S.C. 1553 prohibits the in-bond transportation of explosives, even though a license or permit is issued by the proper governmental agency authorizing the movement.

Further, 22 U.S.C. 2778, relating to the control of exports and imports of defense articles and services, provides in paragraph (a) that the President is authorized to designate those items which shall be considered as defense articles and services. The items so designated constitute the U.S. Munitions List. Paragraph (b) of 22 U.S.C. 2778 provides that with certain specified exemptions, no defense articles or services on the U.S. Munitions List may be exported or imported without a license issued in accordance with the statute or regulations issued under the statute.

The Department of State regulations set forth in 22 CFR 121.20, 123.02, and 123.03, provide that items on the U.S. Munitions List temporarily entering the United States in transit to another country, shall constitute a temporary import for which a Department of State Intransit License shall be required.

Under a well-recognized principle of legislative construction, when two provisions of statutory law appear to be in conflict, but can be interpreted to be in conformity, they should be so interpreted. Section 553, Tariff Act of 1930, predates 22 U.S.C. 2778 and its predecessor statute, 22 U.S.C. 1934, and when enacted, Congress did not contemplate the licensing procedures implemented by the State Department with regard to the transportation and exportation of defense articles such as explosives.

While section 553 clearly prohibits the shipment of explosives under a Transportation and Exportation (T&E) entry, § 18.21(b), Customs Regulations, allows the transportation and exportation of prohibited merchandise upon written authority from the proper governmental agency and/or compliance with the regulations of such agency.

Accordingly, by ruling #715801 M, dated October 28, 1981, Customs has ruled that explosives, for which an intransit license has been issued by the Department of State, Office of Munitions Control, may be transported under a T&E entry (Customs Form 7512). The ruling involved a request by a Canadian manufacturer for permission to transport through the United States explosives manufactured in his plant in Canada and destined for exportation outside the United States. Most of the shipments were for North American Treaty Organization purposes. In effect, such transportation and exportation movement is made under the authority of the laws and regulations governing the agency which, in these circumstances, Customs believes overrides the prohibition set forth in 19 U.S.C. 1553. In the absence of such authorization from the governmental agency, the transportation and exportation movement would, of course, be denied.

Customs believes that the principles enunciated in that ruling should apply also to shipments of explosives authorized by the Bureau of Alcohol, Tobacco and Firearms (BATF). Thus, the issuance of the appropriate license by the Department of State or BATF would be their authorization of the requested movement of explosives under a T&E entry. Without the proposed change to section 18.21, Customs Regulations, the public would be precluded from utilizing the T&E procedures to ship explosives through the United States, and thus the license or permit issued by these agencies would be meaningless.

Therefore, to clarify the apparent statutory conflict, § 18.21 would be amended by adding a new paragraph (d) to permit explosives to be entered under a T&E entry.

Also, it is proposed to amend §18.25, Customs Regulations (19 CFR 18.25), by removing paragraph (e) which relates only to the limited situation whereby explosives are entered on arrival from a foreign port for immediate exportation bond by sea and are transferred directly from the importing to the exporting vessel for exportation. This situation would be covered in new § 18.21 (d).

List of Subjects in 19 CFR Part 18

Customs duties and inspection, Imports, Importers, Explosives.

Proposed Regulations Amendments

It is proposed to amend Part 18, Customs Regulations (19 CFR Part 18), in the following manner:

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. It is proposed to amend § 18.21 by adding a new paragraph (d) to read as follows:

§ 18.21. Restricted and prohibited merchandise.

* * * * * * *

(d) Explosives shall not be entered for transportation and/or exportation under an immediate exportation entry, a transportation and exportation entry, or an immediate transportation entry unless the importer has first obtained a license or permit from the proper governmental agency (either the Office of Munitions Control, Department of State, or Bureau of Alcohol, Tobacco and Firearms, depending upon the type of movement desired) authorizing such transportation movement.

§ 18.25 [Amended]

2. It is proposed to amend § 18.25 by removing paragraph (e) and marking it "Reserved".

Authority

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), sections 582, 624, 46 Stat. 731, as amended, 759 (19 U.S.C. 1502, 1624, 77A Stat. 14 (19 U.S.C. 1202)).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

Because this document will not result in a regulation which would be a "major" rule as defined by section 1(b) of E.O. 12291, a regulatory impact

analysis and review as prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the proposed amendments are not expected to have significant secondary or incidental effects on a substantial number of small entities or impose or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed amendments, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations & Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: January 5, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-1324 Filed 1-17-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

Sucrose; Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient

Correction

In FR Doc. 82-32495, beginning on page 53923, in the issue of Tuesday, November 30, 1982, make the following corrections to the middle column of page 53928:

1. Correct the first bold section head under Part 182 from **§ 82.1 [Amended]** to read **§ 182.1 [Amended]** and the second bold section head from **§ 82.90 [Amended]** To read **§ 182.90 [Amended].**

2. Correct **§ 184.1854 Sucrose**, line 2, "can" should read "cane" and line 4 "*Alpha*-d-glucopyranoside" should read "*Alpha*-D-glucopyranoside".

BILLING CODE 1505-01-M

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21 CFR Part 501

[Docket No. 82P-0030]

Pet Food Institute; Citizen Petition on Class and Collective Names; Advance Notice of Proposed Rulemaking; Opportunity for Public Comment

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on a citizen petition filed by the Pet Food Institute requesting that the agency establish a regulation providing for the use of class and collective names in pet food labeling in lieu of identifying each ingredient by its common or usual name.

DATE: Comments by March 21, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lea McGovern Kennedy, Bureau of Veterinary Medicine (HFV-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5362.

SUPPLEMENTARY INFORMATION: The Pet Food Institute (PFI), 1101 Connecticut Ave. NW., Washington, DC 20036, has petitioned FDA under provision of § 10.30 *Citizen petition* (21 CFR 10.30) to amend the labeling requirements for pet foods to expand the use of class names and permit the use of collective names for identification of ingredients. Such names would be used in lieu of listing each ingredient by its common or usual name. The regulation would be discretionary, that is, manufacturers could choose to continue following the present system of using common or usual names. PFI contends that the proposed regulation will simplify the labeling of dog and cat food products while retaining all needed information for purchases of those products. Further, PFI believes that the regulation will provide added flexibility to manufacturers in the use of byproducts in cost-effective formulation of pet foods. As a result, the cost of pet food will be reduced or stabilized, according to the petitioner.

PFI has proposed 23 new class names to be added to 10 names now provided for by 21 CFR 501.4. Each of the classes would group various forms of a particular basic ingredient, usually a recognized agricultural commodity. For example, PFI proposes that whole corn, cracked corn, ground corn, kibbled corn, and flaked screened cracked corn (each is a common or usual name) may be declared simply as "corn." In a comparable fashion, animal liver, animal liver and glandular meal, animal blood, spray-dried blood meal, conventional cooker dried or flash-dried casein, dried meat solubles, meat meal, meat and bone meal, and sodium caseinate may be declared by the class name "processed animal protein products."

The class names would, in turn, be grouped into eight collective names, each encompassing one or more of the 33 classes. The labeling would list, parenthetically, the classes of ingredients that the manufacturer might use and that would be covered by the collective name. Thus, an ingredient listing on a pet food label could appear as follows: "processed protein products (from animal protein, poultry or marine protein sources)."

Section 403(i)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(i)(2)) provides that a human or animal food that is fabricated from two or more ingredients is misbranded unless its label bears the common or usual name of each such ingredient. The statute also provides that, when compliance with this requirement is impracticable, or results in deception or unfair competition, exemptions shall be established by regulation. Under this authority the commissioner has allowed certain groupings of common or usual names for ingredients of human foods (21 CFR 101.4). FDA has also, in 21 CFR 501.110, adopted collective names for ingredients of livestock and poultry feed. These names are comparable to those proposed by PFI for pet food. In addition, 21 CFR 501.4 now provides, with respect to animal food generally (both pet food and livestock feed), for groupings of common or usual names into 10 categories that are comparable to the class names proposed by PFI. Thus, the PFI proposal would expand, for pet food, the list of class names to 33. It would also establish, for the first time, collective names for pet food.

A summary of PFI's argument in support of its proposal, taken form the petition, follows.

Summary of Petitioner's Views

Dog and cat foods are generally intended to be the sole ration of the animal. They are almost universally formulated to provide "complete and

balanced" nutrition for either the entire lifetime of a pet or for specific parts of its life. In this regard, pet food is fundamentally different from human food. FDA's current labeling regulations unnecessarily prohibit the most flexible and economical use of these ingredients, and thus deny the producer, and ultimately the consumer, the benefit of least cost formulation to meet the nutritional standards claimed for the products. Existing FDA labeling regulations for human foods, however, provide a model under which the desired and appropriate flexibility can be built into pet food labeling that can achieve significant economies for the producer and thus for the consumer. These human labeling models include two levels of consolidation: the grouping under a single generic name closely related agricultural commodities that differ primarily in processing form and the listing of alternative functional ingredients so that manufacturers may shift among these ingredients without altering the basic character of the food.

The petitioner proposes to adopt both forms of labeling options for pet foods. First, it proposes the adoption of 23 new class names that would permit the simplified labeling of various agricultural ingredients under headings indicative of their agricultural source.

Second, PFI proposes the adoption of eight collective names that would give additional flexibility in the use of various ingredients. In using these names, however, producers would have to disclose the commodities (classes) from which the actual ingredients are to be chosen. Thus, while the term "processed protein products" could be used, manufacturers would have to list parenthetically which of the permitted processed protein products would potentially appear in the product. A specific container of pet food would therefore contain one or more of the processed protein products that were listed parenthetically.

In the absence of the requirement that the common or usual name of each individual ingredient be included in the labeling, pet food manufacturers could at any time choose among available ingredients in order to achieve a mix of constant nutritional quality. This approach, called "liner programming," is feasible because computer technology, coupled with knowledge of the nutritional composition of feed ingredients, permits the development of "least cost" formulas that meet guaranteed minimum nutritional claims. This approach is desirable because ingredient availability and the relative cost of the ingredients vary from time to time. As a result, the manufacturer must either continue to purchase a particular ingredient whose price is increasing, maintain alternate label stocks, or continually revise labels as the selection of ingredients changes. Each of these approaches increases the ultimate cost of the product.

In its petition, PFI projects potential consumer savings at $200 million, half resulting from direct savings to manufacturers on the costs of raw materials and label changes, and half in the form of indirect benefits that it suggests will flow to all food purchasers from the more efficient utilization of feed materials in higher return uses such as pet food rather than fertilizer.

PFI's calculation of about $100 million direct savings proceeds from estimates of $28 million savings on ingredient costs (assuming average savings of $8 per ton on dry dog food and unstated savings per ton on other pet foods) and $10 to $12 million savings on avoiding (as little as) one label change per year per product. The manufacturing level total of $40 million is then multiplied by a factor of 2.5 on the assumption that manufacturers' cost savings will be passed through in full to consumers and will be accompanied by even larger aggregate price concessions from wholesalers and retailers via application of fixed price markups.

PFI states that an additional, indirect benefit would accrue to all consumers because "more efficient utilization" of animal feed materials and cereal grains and byproducts would raise the income of farmers and processors by $22.5 million (at 1974 price levels). PFI asserts that there would be a consumer benefit "based on this amount of farm income not being added to the cost of animal and grain products intended for human use." Application of the 2.5 markup factor as before raises this to $56 million "not added to 1974–level consumer prices." The total of $156 million in claimed direct and indirect consumer level cost benefits is stated to exceed $200 million at current price levels.

Proposed Regulation

PART 501—[AMENDED]

Specifically, the petitioner requests that the following new § 501.111 be added to the regulations:

§ 501.111 Pet food labeling: class and collective names for pet food ingredients.

(a) Subject to the conditions in this paragraph, the class names set forth in paragraph (b) of this section and the collective names set forth in paragraph (c) of this section may be used in lieu of the individual ingredient names required under Section 403(i)(2) of the Act on the labels of foods for domesticated companion animals.

(1) Where required in the listing in paragraph (c), of this section the collective names shall be followed by a parenthetical showing of the alternative ingredients or sources of ingredients that the individual pet food manufacturer uses in its products, *e.g.*, "cereal grain (corn, oats, or wheat)"; "plant fiber products (from corn, rice, or soybeans)." Where the parenthetical is introduced by the term "from," the succeeding sources may omit repetitive designations such as "processed," "by-product," etc.

(2) The class or collective name is used in descending order for the weight of the ingredients covered by the class or collective name.

(3) No ingredient may appear both separately (including as part of a class name) and parenthetically as part of a collective name.

(b) The following class names may be used:[1]

(1) Skim milk, concentrated skim milk (condensed skim milk), reconstituted skim milk, and nonfat dry milk (dried skim milk) may be declared as "skim milk" or "nonfat milk."

(2) Fluid milk, concentrated milk (condensed milk), reconstituted milk, and dry whole milk (dried milk) may be declared as "milk."

(3) Bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "made from cultured skim milk or cultured buttermilk."

(4) Sweetcream buttermilk, concentrated sweetcream buttermilk (condensed sweetcream buttermilk), reconstituted sweetcream buttermilk, and dried sweetcream buttermilk may be declared as "buttermilk."

(5) Whey, concentrated whey (condensed whey), reconstituted whey, and dried whey may be declared as "whey."

(6) Reduced lactose whey, reduced minerals whey, whey protein concentrate, and the concentrated, condensed or dried forms of each may be declared as "whey-products."

(7) The cheeses and cheese products identified in 21 CFR, Chapter 1, Part 133, nonstandardized cheese products and dried cheese rind may be declared as "cheese."

(8) Cream, reconstituted cream, dried cream, and plastic cream (sometimes

[1] Note.—Classes 1–5 and 8–12 would be recodified, with slight changes, from 21 CFR 501.4; thus, there would be 23 new classes, and a total of 33.

known as concentrated milkfat) may be declared as "cream."

(9) Butteroil and anhydrous butterfat may be declared as "butterfat."

(10) Dried whole eggs, frozen whole eggs, and liquid whole eggs may be declared as "eggs."

(11) Dried egg whites, frozen egg whites, and liquid egg whites may be declared as "egg whites."

(12) Dried egg yolks, frozen egg yolks, and liquid egg yolks may be declared as "egg yolks."

(13) Whole barley, cracked barley, pearled barley, and ground barley may be declared as "barley."

(14) Pearled barley by-products and brewers dried grains may be declared as "barley by-products."

(15) Whole corn, cracked corn, ground corn, kibbled corn, and flaked screened cracked corn may be declared as "corn."

(16) Corn bran, corn flour, corn starch (including gelatinized) corn germ meal, wet or dry milled, corn grits, corn gluten feed, hominy feed, including solvent extracted, and corn distillers dried grains with solubles, may be declared as "corn by-products."

(17) While grain sorghum, cracked grain sorghum, ground grain sorghum and flaked grain sorghum may be declared as "grain sorghum."

(18) Grain sorghum gluten feed, grain sorghum mill feed, grain sorghum cake or meal, grain sorghum grits, grain sorghum distillers dried grains with solubles, may be declared as "grain sorghum by-products."

(19) Whole oats, crimped oats, ground oats, and mixed feed oats may be declared as "oats."

(20) Flaked oats, oat flour, oat groats, and oat meal, feeding may be declared as "oat by-products."

(21) Oat hulls, and oat mill by-products may be declared as "oat fiber product."

(22) Whole rice, cracked rice, ground rice, ground rough rice of paddy rice, chipped rice, broken rice or brewers rice may be declared as "rice."

(23) Rice bran, including solvent extracted, rice flour, rice polishings, polished rice, and brewers dried grains may be declared as "rice by-products."

(24) Rice hulls, and rice mill by-products may be declared as "rice fiber product."

(25) Whole wheat, cracked wheat, ground wheat, and flaked wheat may be declared as "wheat."

(26) Wheat bran, wheat flour, including gelatinized wheat feed flour, including gelatinized, wheat middlings, wheat mill run, wheat shorts, wheat germ meal, including defatted, wheat starch, including gelatinized, wheat red dog, and wheat distillers dried grain with solubles may be declared as "wheat by-products."

(27) Cottonseed meal or flakes, including low gossypol, mechanical or solvent extracted, may be declared as "cottonseed protein product."

(28) Brewers dried yeast, dried yeast fermentation solubles, and dried yeast fermentation product may be declared as "yeast protein product."

(29) Soybean meal, mechanical or solvent extracted, meal, dehulled solvent extracted, grits or flour, full fat, protein concentrate, isolated protein, or meal, kibbled may be declared as "soybean protein product."

(30) Soybean hulls, and soybean mill run, soybean mill feed and soybean mill by-product may be declared as "soybean fiber product."

(31) Animal liver, animal liver and glandular meal, animal blood, spray-dried, blood meal, conventional cooker dried or flash-dried, casein, dried meat solubles, meat meal, and meat and bone meal, and sodium caseinate may be declared as "processed animal protein products."

(32) Poultry by-product meal and hydrolized poultry feathers may be declared as "processed poultry protein products."

(33) Crab meal, fish meal, condensed or dried fish solubles, fish protein concentrate, and shrimp meal may be declared as "processed marine protein products."

The following collective names are proposed:

(1) "Processed protein products (from * * * sources)," including one or more of the following: processed animal protein products, processed poultry protein products, and processed marine protein products.

(2) "Cereal grains (* * *," including one or more of the following: barley, corn, grain sorghum, oats, rice, and wheat.

(3) "Cereal grain by-products (from * * *)," including one or more of the following: barley by-products, corn by-products, grain sorghum by-products, oat by-products, rice by-Products, and wheat by-products.

(4) "Milk or cheese products," including one or more of the following: milk, skim milk, buttermilk, and cheeses.

(5) "Whey products," including whey and whey-products.

(6) "Vegetable products (* * *)" including one or more of the following in all varieties and whether or not dried: beans, carrots, celery, garlic, onion, peas, potatoes, and tomatoes.

(7) "Plant fiber products (from * * *)," including one or more of the following, whether or not dried: beet pulp, corn cobs, citrus pulp or meal, kelp, oat fiber products, peanut hulls, rice fiber product, soybean fiber product, sunflower hulls and tomato pomace.

The plant source of each ingredient may be listed without the specific form of the ingredient.

(8) "Plant protein products (from * * *)," including one or more of the following: cottonseed protein product, yeast protein product, corn gluten meal, grain sorghum gluten meal, linseed meal (mechanical or solvent-extracted), peanut meal (mechanical or solvent-extracted), rapeseed meal (mechanical extracted), soybean protein product, safflower meal (mechanical or solvent-extracted), and sunflower meal (dehulled, mechanical or solvent-extracted). The plant source of each ingredient may be listed without the specific form of the ingredient.

Request for Comments

The petition raises several issues that need to be addressed before FDA can make a final decision on the feasibility of the proposal. Therefore, in accordance with § 10.30(h)(3) (21 CFR 10.30(h)(3)), the Commissioner of Food and Drugs is seeking public comment before reaching any decision on the petition. The Commissioner asks for comments from the public on all aspects of the proposal including comments in regard to the following specific matters:

1. Whether the use of common or usual names is impracticable—whether such names deceive pet food purchasers or result in unfair competition within the pet food industry.

2. Whether the proposed class names and collective terms are sufficiently informative to the pet food purchaser.

3. Whether the use of collective terms will complicate or prevent definitive diagnosis and treatment of food allergies and other disease conditions in pets.

4. Whether any level of potential cost savings would represent sufficient benefit to offset the lack of detailed ingredient identification.

The Commissioner specifically requests comments from pet food industry sources as well as other members of the public on the economic issues underlying the petition and the proposal.

The Commissioner particularly solicits information and adequately supported estimates of potential cost savings or other benefits that might realistically be expected from adoption of the proposal, including, but not limited to, any of the following topics:

1. Current size and composition of pet food market and the proportion of it that would significantly increase switching of ingredients, in terms of sales, number of products and stockkeeping units, sellers, etc., by product category.

2. Current frequency of (a) ingredient switching and corresponding label

changes and (b) label changes for other reasons.

3. Projected frequency of ingredient switching if the proposal is adopted and corresponding savings to manufacturers, taking account of possible ingredient price impacts of the assumed demand shifts.

4. Projected decrease in frequency and costs of label changes.

5. Market structure (market shares by size of firm) nationally and regionally within competitive market segments, and other evidence related to the probability of manufacturer cost savings being passed on to consumers.

6. Wholesale and retail trade price markup practices bearing on the probability that any manufacturer price decreases, multiplied by markup factors of the order of 2.5 (or any other), will be passed on to consumers.

7. Merits of the case for "indirect benefits," in particular (a) the proposition that greater flexibility in use of pet food ingredients represents more efficient utilization capable of simultaneously decreasing total manufacturer outlays on ingredients and increasing farm income, and (b) the proposition that increased farm income from some products is likely to produce lower farm prices for others.

Interested persons may, on or before March 21, 1983, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The petition and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

If, after reviewing the comments and other information available to him, the Commissioner concludes that the petition has sufficient merit, he will propose adoption of the regulation or a modified version thereof. The Commissioner issues this notice under sections 403(i) and 701(a) of the Federal Food, Drug, and Cosmetic Act and 21 CFR 10.30.

Dated: January 11, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-1303 Filed 1-13-83; 11:51 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 867

[Docket No. R-83-1057]

PHA Owned Projects—Personnel Policies and Compensation; Certification of Housing Managers

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This rule would afford Public Housing Agencies (PHAs) greater discretion about payment of cost of certification and training for their employees under the Public Housing Manager Certification Program. The present regulations contain restrictions and requirements relating to training that HUD no longer considers necessary.

DATE: Comment due date: March 21, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Wayne Hunter, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone number (202) 472-4703. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The present rule, § 867.307, specifies those costs incurred in obtaining certification and training which qualify as eligible PHA operating expenditures. That section states that costs of specialized training directly related to qualifying for certification and costs of general education necessary for certification, shall be includable as eligible expenditures in PHA operating budgets. Such training must be approved in writing by an Approved Certifying Organization or by HUD, and be designed to enhance the skills of the trainee for the purpose of qualifying for certification. Where the PHA wishes to pay the costs of certification for an applicant employed as of the original date of issuance of Part 867 (September 29, 1976), such costs are includable as eligible expenditures in the PHA budgets submitted to HUD.

This proposed rule would amend § 867.307 to afford PHAs more discretion regarding payment of certification and training costs. The provisions which would be affected are as follows:

(1) The detailed descriptions of types of eligible costs will be replaced by the basic standard of "reasonable costs of certification and training."

(2) The restrictions against payment of certification costs for employees hired after September 29, 1976 will be deleted.

(3) The requirement that training must be approved by HUD or an Approved Certifying Organization will be deleted.

(4) Each PHA will have discretion as to whether to pay costs of certification and training provided to enable an employee to qualify for certification for its employees out of PHA funds. However, such cost incurred by a PHA must be paid within its existing operating subsidy availability under 24 CFR Part 890 and no additional subsidy will be paid to cover such costs.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50 which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or expert markets.

Pursuant to the provisions of U.S. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant

economic impact on a substantial number of small entities.

This rule was listed as item H–77–82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.156 (Lower Income Housing Assistance Program).

List of Subjects in 24 CFR Part 867

Public housing.

PART 867—[AMENDED]

Accordingly, the Department proposes to amend 24 CFR Part 867 by revising § 867.307 to read as follows:

§ 867.307 Costs of certification and related training.

Reasonable costs of certification and training provided to enable an employee to qualify for certification for any PHA employee (whether or not required to be certified under this part and including those hired after September 29, 1976) may, in the PHA's discretion, be included as eligible expenditures in the PHA's operating budget. However, such costs incurred by a PHA must be funded within its existing operating subsidy availability under 24 CFR Part 890 and no additional operating subsidy will be paid to cover the PHA's expenditures for such costs.

(Sec. 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)); sec. 6(c)(4) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437d); sec. 201(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 1437 note).)

Dated: January 6, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83–1136 Filed 1–17–83; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–104–81]

Time for Determination of Relationship of Persons Transferring Depreciable Property

Correction

In FR Doc. 83–257 beginning on page 667 in the issue of Thursday, January 6, 1983, make the following change: On that page, the middle column, the seventh line from the bottom, the Stat. citation should read "94 Stat. 2255".

BILLING CODE 1505–01–M

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26 CFR Part 1

[LR–183–76]

Disallowance of Certain Items as Deductions for Estate and Income Tax Purposes; Withdrawal of Notice of Proposed Rulemaking

Correction

In FR Doc. 83–252 beginning on page 436 in the issue of Wednesday, January 5, 1983, make the following change: On page 437, the first column, in the paragraph designated "Withdrawal of Notice of Proposed Rulemaking", the citation to the **Federal Register** which currently reads "47 FR 55607" should read "47 FR 55697".

BILLING CODE 1505–01–M

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26 CFR Part 1

[LR–255–82]

Registration Requirements With Respect to Debt Obligations; Proposed Rulemaking

Correction

In this issue of Thursday, December 30, 1982, on page 58297, a correction to FR Doc. 82–31123 was published. The correction inadvertently cited the original publication date as "Monday, November 14, 1982". It should read "Monday, November 15, 1982".

BILLING CODE 1505–01–M

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26 CFR Parts 1, 7 and 301

Ruling Requests Relating to Certain Transfers by United States Persons to Foreign Corporations

Correction

In FR Doc. 82–35039 beginning on page 57503 in the issue of Monday, December 27, 1982, make the following changes:

1. On page 57507, the middle column, the paragraph designated "(4)", the sixth line, "37(a)(1)" should read "367(a)(1)".

2. On page 57509, the middle column, in the *Example*, the eighth line, the word "grain" should read "gain". In the ninth line, "onthe" should read "on the".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

Surface Mining and Reclamation Operation Under a Federal Program for Nevada; Cancellation of Public Hearing

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Cancellation of public hearing.

SUMMARY: The Office of Surface Mining (OSM) is announcing the cancellation of the public hearing scheduled on the proposed Federal Program for surface coal mining because no requests were received by January 7, 1983, to testify at that hearing. See 47 FR 47792. The Director of the Office of Surface Mining has determined that no hearings are necessary and, in the interest of cost savings, is hereby cancelling the hearing which was scheduled for January 13, 1983, in Reno, Nevada.

This notice cancels the public hearing but does not alter the comment period during which interested persons may submit written comments on the proposed Federal program.

DATES: The following hearing is cancelled:

The public hearing on the proposed Federal program for the regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian Lands in Nevada originally scheduled for January 13, 1983.

Written comments must be received on or before 5:00 p.m., on January 18, 1983, to be considered.

ADDRESS: Written comments should be mailed or hand delivered to: Administrative Record Room (R&I-28), Office of Surface Mining, New Mexico Field Office, 219 Central Avenue NW., Albuquerque, New Mexico 87102

FOR FURTHER INFORMATION CONTACT: James M. Kress, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION: On October 27, 1982, the Office of Surface Mining proposed a Federal program for the State of Nevada in the **Federal Register** which would regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Nevada. The proposed Federal program provided for a public hearing to be held to receive

comments. It further provided that if no person indicated an intention to testify by January 7, 1983, the hearing would be cancelled. As of close of business on January 7, no persons had contacted OSM indicating that they wished to testify. Therefore, the Director of OSM is cancelling the hearing.

While there will be no public hearing in Reno, Nevada, interested persons may still submit written comments on the proposed Federal program. Written comments must be received on or before 5:00 p.m., on January 18, 1983, to be considered.

Dated: January 11, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 83-1228 Filed 1-13-83; 3:27 pm]
BILLING CODE 4310-05-M

POSTAL SERVICE

39 CFR Part 111

Virgin Islands; Mail Security Regulations

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: In accordance with a recently-enacted statute, the Postal Service proposes to amend its regulations to authorize its employees to assist Virgin Islands tax collection officials. The new statute authorizes the Postal Service to permit the tax collection officials to record the names and addresses on mail parcels appearing to contain taxable merchandise originating outside the islands that are to be delivered in the islands. This assistance is the same as that which is being provided to tax officials in Puerto Rico in accordance with law and postal regulations. No mail would be permitted to be opened, delayed, or interfered with under this rule.

DATE: Comments must be received on or before February 17, 1983.

ADDRESS: Written comments should be sent to the Assistant General Counsel, Special Projects Division, Law Department, U.S. Postal Service, Washington, D.C. 20260-1116. Comments will be available for public inspection and photocopying outside Room 9010, 475 L'Enfant Plaza West, SW., Washington, D.C. from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles R. Braun or Robert Kaneda, (202) 245-4620.

SUPPLEMENTARY INFORMATION: The proposed regulation would implement the Postal Service's responsibilities under Pub. L. No. 97-357, which was signed by the President on October 19, 1982. Section 302 of this act amends section 405 of Pub. L. No. 96-205 (94 Stat. 84, 89) (1980) to state that "officials of the Customs and Postal Services of the United States are directed to assist the appropriate officials of the United States Virgin Islands in the collection of [excise] taxes." Although the law does not specify the assistance to be rendered, its legislative history indicates that the Postal Service is expected only to allow "Virgin Islands tax collection officials to inspect the outside cover of parcels entering the Virgin Islands in the mails and to record the information thereon for purposes of collecting excise taxes payable at the time of importation for certain goods arriving through the mails." [1] The Senate report further states that "[n]o interference or delay in the delivery of mail would be contemplated or authorized by [section 302]." [2] The same assistance is rendered to the Commonwealth of Puerto Rico under a law written in nearly identical terms, 48 U.S.C. 741(a) (1976), which is implemented by a nearly identical postal regulation to the one here proposed, Domestic Mail Manual ("DMM") 115.96, *incorporated by reference*, 39 CFR 111.1 (1982). [3]

Present postal mail security regulations prohibit employees from disclosing "information on the outside cover of any piece of mail; information obtained from any inspection of the contents of mail; or any other information which concerns any mail sent or received by any particular sender, addressee, or group of senders or addresses, which the employee obtains or controls in the performance of his official duties." [4]

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of the Domestic Mail Manual, which is incorporated by reference in the Federal Register, see 39 CFR 111.1.

[1] S. Rep. No. 372, 97th Cong., 2d Sess. 9 (1982).

[2] *Id.* at 5.

[3] "Under 48 U.S.C. 741a, postal employees in any post office in the Commonwealth of Puerto Rico are authorized to permit excise tax collection officials of the Commonwealth to record for tax collection purposes the names and addresses that appear on the exterior of all incoming parcels which appear to contain taxable items, except those sent by registered mail. A postal employee must be present during such recording and no mail may be opened, detained, or delayed for this purpose."

[4] DMM 115.5.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Revise the Domestic Mail Manual as follows:

Part 115—Mail Security

In 115.9, revise .96 to read as follows:

.96 Excise Tax Collection in the Commonwealth of Puerto Rico and the United States Virgin Islands. Under 48 U.S.C. 741(a) and 48 U.S.C. 1574, respectively, postal employees in any post office in the Commonwealth of Puerto Rico and the United States Virgin Islands are authorized to permit local excise tax officials to record for tax collection purposes the names and addresses that appear on the exterior of all incoming parcels which appear to contain taxable items, except those sent by registered mail. A postal employee must be present during such recording and no mail may be opened, detained, or delayed for this purpose.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401, 403, 3623(d))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-1312 Filed 1-17-83; 8:45 am]
BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AMS-FRL-2287-2]

Motor Vehicle Emission Factors

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: This notice announces a public workshop which the Environmental Protection Agency will hold regarding possible revisions to the Agency's motor vehicle emission factors and the computer program MOBILE2 used to calculate composite emission factors for vehicle fleets. These emission factors are used by States in preparing State Implementation Plan revisions and by others engaged in determining the air quality impact of motor vehicles. The Agency's purpose in holding this workshop is to meet with those parties potentially possessing information which would be of use in revising the emission factors and to allow all interested parties to participate informally in the revision process.

DATES: The workshop is being held on January 26 and 27, 1983 at 9:00 a.m.

ADDRESS: The workshop will be held at EPA's Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

FOR FURTHER INFORMATION CONTACT: Lois Platte (313) 668–4306 or Phil Lorang (313) 668–4374, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

SUPPLEMENTARY INFORMATION: EPA's current estimates of emission factors for motor vehicles are contained in the report "Compilation of Air Pollutant Emission Factors: Highway Mobile Sources," March 1981 (EPA–460/3–81–005). The emission factors arithmetical procedures for combining them into an estimate of the composite emission factors for a motor vehicle fleet have been automated in the computer program MOBILE2. The report and computer program were developed in 1980, and EPA perceives that in the intervening period enough additional information has become available to warrant consideration of revisions to both.

Although EPA is not required to invite public participation during the revision of the motor emission factors, EPA believes a series of public workshops will facilitate EPA's revision process by enabling EPA to receive valuable technical information in a timely fashion and to receive suggestions from those parties who may otherwise be interested in the revision process and its outcome.

The workshop announced here will be the first of a series. At this first workshop, EPA would like to discuss and list with the help of the participants all of the aspects of the emission factors model which could be considered for revision. There are many such aspects, such as the basic emission factors for standard test conditions for each vehicle type and model year; the correction factors to adjust for non-standard conditions of speed, temperature, and humidity; and the estimates of the mix of vehicle types and model years in the national fleet. For each of these and other aspects, there are numerous issues and questions which could be addressed anew based on all currently available information or alternatively could be treated as they have been in the existing emission factors. EPA would like the workshop to list each such issue and question, identify what information is now available to address each issue or question or could be made available within the next twelve months or so, and discuss the participants' suggestions for the priority of re-addressing each issue or question anew. Because of the technical nature of the agenda, participants should be familiar with the existing emissions factors and MOBILE 2 to most fully contribute to the discussions.

If time permits, there will be a more extended discussion of emission factor issues for heavy-duty vehicles, specifically to discuss available information which could be used in revising these emission factors and possible joint EPA-industry efforts to obtain more information.

This workshop will discuss the merits of each issue or question. The discussion will be technical and not policy oriented. Once the important issues are identified at this workshop, future workshops will be scheduled to discuss related issues in more depth. This workshop also will not discuss the programming aspects of the MOBILE2 computer program, such as its interface with other programs used in preparing emission inventories and air quality plans, and the language and equipment requirements of the program. A workshop may be scheduled at a later date to meet with parties interested in these areas in particular.

No rulemaking action is anticipated in connection with the revisions that will be the subject of this workshop. Consequently, the workshop will be very informal. There will be no opportunity for prepared statements in general, although prepared remarks will be welcome on specific issues as those are brought up for discussion. Although no public docket will be kept, written submissions are welcome at any time and may be brought to the workshop or mailed to Lois Platte or Phil Lorang at the address set out above. EPA also invites participants to submit in advance of the workshop lists of issues they regard as important. EPA will combine all lists received with lists generated by EPA staff, and will use the combined list as a focal point for discussion during the workshop. Participants should send such lists to Lois Platte or Phil Lorang at the address set out above.

The Agency in addition requests that all persons planning to attend the workshop contact Lois Platte or Phil Lorang.

Dated: January 12, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

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40 CFR Part 158

[Opp–30063; PH–FRL 2147–4]

Pesticides Registration; Proposed Data Requirements

Correction

In FR Doc. 82–31904 beginning on page 53192 in the issue of Wednesday, November 24, 1982, the following sections contained errors in the tables and are being reprinted as corrected below:

Section	Page
§ 158.130	53209
§ 158.135	53210
§ 158.140	53211
§ 158.145	53212
§ 158.155	53213
§ 158.160	53214
§ 158.165 (first table)	53214

BILLING CODE 1505–01–M

§ 158.130 Environmental fate data requirements.

(a) TABLE.—SECTIONS 158.50 AND 158.100 DESCRIBE HOW TO USE THIS TABLE TO DETERMINE THE ENVIRONMENTAL FATE DATA REQUIREMENTS AND THE SUBSTANCES TO BE TESTED.

Kind of data required	(b) Notes	Environmental fate data requirements; general use patterns									Test substance		Guideline reference No.
		Terrestrial		Aquatic		Greenhouse		Forestry	Domestic outdoor	Indoor	Data to support MP	Data to support EP	
		Food crop	Nonfood	Food crop	Nonfood	Food crop	Nonfood						
Degradation studies-lab													
Hydrolysis		[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]		TGAI or PAIRA	TGAI or PAIRA	161-1
Photodegradation:													
In water		R	R	R	R			R			TGAI or PAIRA	TGAI or PAIRA	161-2
On soil	(1)	CR						CR			TGAI or PAIRA	TGAI or PAIRA	161-3
In air	(2)	CR									TGAI or PAIRA	TGAI or PAIRA	161-4
Metabolism studies-lab													
Aerobic soil		[R]	[R]			R	R	[R]	R		TGAI or PAIRA	TGAI or PAIRA	162-1
Anaerobic soil	(3)	R									TGAI or PAIRA	TGAI or PAIRA	162-2
Anaerobic aquatic				R	R						TGAI or PAIRA	TGAI or PAIRA	162-3
Aerobic aquatic				[R]	[R]						TGAI or PAIRA	TGAI or PAIRA	162-4
Mobility studies													
Leaching (adsorption/desorption)		R	R	R	R	R	R	R	R		TGAI or PAIRA	TGAI or PAIRA	163-1
Volatility:													
(Lab)	(2)	CR				CR	CR				TEP	TEP	163-2
(Field)	(2)	CR				CR	CR				TEP	TEP	163-3
Dissipation studies-field													
Soil		R	R						R		TEP	TEP	164-1
Aquatic (sediment)				R	R						TEP	TEP	164-2
Forestry								R			TEP	TEP	164-3
Combination and tank mixes	(2)												164-4
Soil, long-term	(4)	CR		CR							TEP	TEP	164-5
Accumulation studies													
Rotational crops:													
(Confined)	(5)	[CR]		[CR]							PAIRA	PAIRA	165-1
(Field)	(6)	CR		CR							TEP	TEP	165-2
Irrigated crops	(7)			CR	CR						TEP	TEP	165-3
In fish	(8)	[CR]	[CR]	[CR]	[CR]			[CR]			TGAI or PAIRA	TGAI or PAIRA	165-4
In aquatic nontarget organisms.	(8), (9)				CR			CR			TEP	TEP	165-5

Key: R = Required; CR = Conditionally required; [ ] = Brackets (i.e. [R], [CR]) indicate requirements that apply when an experimental use permit is being sought; TGAI = Technical grade of the active ingredient; PAIRA = "Pure" active ingredient-radio labeled; TEP = Typical end-use product; EP = End-use product.

(b) NOTES.—The following notes are referenced in column two of the table contained in paragraph (a) of this section.

(1) Not required if use involves application to soils solely by injection of the product into the soil or by incorporation of the product into the soil upon application.
(2) Required on case by case basis depending on product use pattern and other pertinent factors.
(3) Not required if anaerobic aquatic metabolism study has been conducted.
(4) Required if pesticide residues do not readily dissipate in soil.
(5) Confined accumulation study is required when it reasonably foreseeable that any food or feed crop may be subsequently planted on the site of pesticide application.
(6) Field accumulated study is required if signficant pesticide residue is likely to be present in soil at time of plant crop, as evidenced by residue data obtained from confined accumulation study.
(7) Required if it is resonably foreseeable that water at treated site may be used for irrigation purposes.
(8) Required if signficant concentrations of the active ingredient and/or its principal degradation products are likely to occur in aquatic environments and may accumulate in aquatic organisms.
(9) Required unless tolerance or action level for fish has been granted.

§ 158.135 Toxicology data requirements

(a) TABLE.—SECTIONS 158.50 AND 158.100 DESCRIBE HOW TO USE THIS TABLE TO DETERMINE THE TOXICOLOGY DATA REQUIREMENTS AND THE SUBSTANCE TO BE TESTED

Kind of data required	(b) Notes	Toxicology data requirements; general use patterns									Test substance		Guideline reference No.
		Terrestrial		Aquatic		Greenhouse		Forestry	Domestic outdoor	Indoor	Data to support MP	Data to support EP	
		Food crop	Nonfood	Food crop	Nonfood	Food crop	Nonfood						
Acute testing													
Oral LD_{50}—rat	(1)	[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	MP & TGAI	EP* or EP dilution* & TGAI	81-1
Dermal LD_{50}	(1), (2)	[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	MP & TGAI	EP* or EP dilution† & TGAI	81-2
Inhalation LC_{50}—rat	(16)	[R]	[R]	[R]	[R]	[R]	[R]		[R]	[R]	MP & TGAI	EP* & TGAI	81-3
Primary eye irritation—rabbit	(2)	[R]	[R]	[R]	[R]	[R]	[R]	R	[R]	[R]	MP	EP*	81-4
Primary dermal irritation	(1), (2)	[R]	[R]	[R]	[R]	[R]	[R]	R	[R]	[R]	MP	EP*	81-5
Dermal sensitization	(3)	[R]	[R]	[R]	[R]	[R]	[R]	R	[R]	[R]	MP	EP*	81-6
Acute delayed: Neurotoxicity—hen.	(4)	[R]	[R]	[R]	[R]	[R]	[R]	R	[R]	[R]	TGAI	TGAI	81-7
Subchronic testing													
90-day feeding—rodent, nonrodent.	(17)	[R]		[R]		[R]				CR	TGAI	TGAI	82-1
21-day dermal	(18)	CR	CR	CR	CR	CR	CR	CR	CR	CR	TGAI	TGAI & EP*	82-2

(a) TABLE.—SECTIONS 158.50 AND 158.100 DESCRIBE HOW TO USE THIS TABLE TO DETERMINE THE TOXICOLOGY DATA REQUIREMENTS AND THE SUBSTANCE TO BE TESTED—Continued

Kind of data required	(b) Notes	Toxicology data requirements; general use patterns									Test substance		Guideline reference No.
		Terrestrial		Aquatic		Greenhouse		Forestry	Domestic outdoor	Indoor	Data to support MP	Data to support EP	
		Food crop	Nonfood	Food crop	Nonfood	Food crop	Nonfood						
90-day dermal	(5), (19)	CR	CR	CR	CR	CR	CR	CR	CR	CR	TGAI	TGAI	82-3
90-day inhalation—rat	(6)	CR	CR	CR	CR	CR	CR	CR	CR	CR	TGAI	TGAI	82-4
90-day neurotoxicity		CR	CR	CR	CR	CR	CR	CR	CR	CR	TGAI	TGAI	82-5
Hen	(7)												
Mammal	(8)												
Chronic testing													
Chronic feeding—2 spp. rodent and nonrodent	(9), (13), (20)	[R]	CR	[R]	CR	[R]	CR	CR	CR	CR	TGAI	TGAI	83-1
Oncogenicity study—2 spp. rat and mouse preferred	(9), (21)	R	CR	R	CR	R	CR	CR	CR	CR	TGAI	TGAI	83-2
Teratogenicity—2 species	(10), (15)	[R]	CR	[R]	CR	[R]	CR	CR	CR	CR	TGAI	TGAI	83-3
Reproduction, 2-generation	(11), (14)	[R]	CR	[R]	CR	[R]	CR	CR	CR	CR	TGAI	TGAI	83-4
Mutagenicity testing													
Gene mutation	[22]	[R]	CR	[R]	CR	[R]	CR	CR	CR	CR	TGAI	TGAI	84-2
Chromosomal aberration	[22]	[R]	CR	[R]	CR	[R]	CR	CR	CR	CR	TGAI	TGAI	84-2
Other mechanisms of mutagenicity	(22)	[R]	CR	[R]	CR	[R]	CR	CR	CR	CR	TGAI	TGAI	84-4
Special testing													
General metabolism	(23)	R	CR	R	CR	R	CR	CR	CR	CR	PAI or PAIRA	PAI or PAIRA	85-1
Special requirement													
Domestic animal safety	(12)	CR	CR	CR	CR			CR	CR		Choice	Choice	86-1

Key: R=Required data; CR=Conditionally required; [ ]=Brackets (i.e. [R], [CR]) indicate data requirements that apply when an experimental use permit is being sought; MP=Manufacturing-use product; EP=End-use product (asterisk indicates that registrants of end-use products formulated from registered manufacturing-use products are responsible for submission of the data); TGAI=Technical grade of the active ingredient; PAI="Pure" active ingredient; PAIRA="Pure" active ingredient, radio-labeled; Choice=Choice of several test substances, depending on studies required.

(b) NOTES.—The following notes are referenced in column two of the table contained in paragraph (a) of this section.

(1) Not required if test material is a gas or highly volatile.

(2) Not required if test material has pH less than 2 or greater than 11.5; such a product will be classified as toxicity category I on the basis of potential eye and dermal irritation effects

(3) Not required if repeated contact with human skin does not result under condition of use.

(4) Not required unless test material, is an organophosphate, or a metabolite or degradation product there of which causes acetyl cholinesterase depression or is structurally related to a substance that causes delayed neurotoxicity.

(5) Required if use involves purposeful dermal application to, or prolonged exposure of, human skin.

(6) Required if use may result in repeated inhalation exposure at a concentration likely to be toxic. A test with duration of 21 days is required if pesticide is used on tobacco

(7) Required if acute delayed neurotoxicity test showed neuropathy or neurotoxicity or if closely related structurally to a compound which can induce these effects.

(8) Required if acute oral, dermal, or inhalation studies showed neuropathy or neurotoxicity.

(9) Studies designed to simultaneously meet the requirements of both the chronic feeding and oncogenicity studies can be conducted. If the pesticide is used on food, the chronic rodent feeding study must be least 24 months and the chronic nonrodent (i.e., dog) feeding study must be at least 12 months. For non-food uses, a duration of at least 12 months for the chronic rodent feeding study would usually be sufficient.

(10) Required to support products intended for food uses and to support products intended for non-food uses if significant exposure of human females of child bearing age may reasonably be expected.

(11) Required to support products intended for food uses and to support products intended for non-food uses if use of the product is likely to result in human exposure over a portion of the human lifespan which is significant in terms of the frequency of exposure, magnitude of exposure, or the duration of exposure (for example; pesticides used in treated fabrics for weaning apparel, diapers, or bedding; insect repellents applied directly to human skin; swimming pool additives; constant-release indoor pesticides which are used in aerosol form).

(12) Required on a case by case basis.

(13) In most cases, where theoretical maximum residue contribution (TMRC) exceeds 50% of the maximum permitted intake (MPI), a one year (or longer) interim report on a chronic feed study is required to support a temporary tolerance.

(14) In most cases, where theoretical maxium residue contribution (TMRC) exceeds 50% of the maximum permitted intake (MPI), a first generation (or longer) interim report on a multigeneration reproduction study is required to support a temporary tolerance.

(15) A terotology study in one species is required to support a temporary tolerance.

(16) Required on a case-by-case basis to support registration of products for indoor use.

(17) Required if intended use(s) of the pesticide product is expected to result in human exposure to the product, under the following conditions:

(i) Human exposure is via the oral route; and

(ii) Expected human exposure is over a limited portion of the human lifespan, yet is significant in terms of the frequency of exposure, magnitude of exposure, or the duration of exposure (for example, products requiring a temporary tolerance to support an experimental use permit or emergency exemption.

(18) Required if intended use(s) of the pesticide product is expected to result in human exposure to the product, under the following conditions.

(i) Human exposure is via skin contact.

(ii) Expected human skin contact is not purposeful, and such exposure is of limited frequency and duration (for example, such exposure could result from use of certain disinfectant, liquid fumigant or agricultural or home/garden pesticide products; and other circumstances where the Agency determines that more than acute dermal exposure is at issue); and

(iii) Data from a subchronic 90-day dermal toxicity study are not required.

(19) Required if pesticidal use will involve purposeful application to the human skin or will result in comparable human exposure to the product, (e.g., swimming pool algaecides, pesticides for impregnating clothing), and if either of the following criteria are met:

(i) Data from a subchronic oral study are not required; or

(ii) The active ingredient of the product is known or expected to be metabolized differently by the dermal route of exposure than by the oral route, and a metabolite of the active ingredient is the toxic moiety.

(20) Required if either of the following criteria are met:

(i) Use of the pesticide product is likely to result in repeated human exposure to the product, products over a significant portion of the human life-span (for example, products intended for use in and around residences, swimming pools, and enclosed working spaces or their immediate vicinity); or

(ii) The use requires a tolerance for the pesticide or an exemption from the requirement to obtain a tolerance, or requires issuance of a food additive regulation.

(21) Required if any of the following criteria are met:

(i) The active ingredient(s) or any of its (their) metabolites, degradation products, or impurities:

(A) Is structurally related to a recognized carcinogen; or

(B) Is a substance that cause mutagenic effect as demonstrated by *in vitro* or *in vitro* testing; or

(C) Produces in subchronic studies a morphologic effect (e.g., hyperplasia, metaplasia) in any organ that may lead to neoplastic change;

(ii) The use requires a tolerance for the pesticide or exemption from the requirement to obtain a tolerance, or requires the issuance of a food additive regulation; or

(iii) Use of the pesticide product is likely to result in human exposure over a portion of the human lifespan which is significant in terms of either the time the exposure occurs or the duration of exposure (for example; pesticides used in treated fabrics for weaning apparel, diapers, or bedding; insect repellants applied diretly to human skin; swimming pool additives; constant-release indoor pesticides which are used in aeroeol form).

(22)(i) Required if any of the following criteria are met:

(A) The pesticide product is to be used on food or feed; or

(B) The pesticide product is likely to result in significant human exposure, or

(C) The active ingredient(s) or any of its (their) metabolites is structurally related to a mutagen or oncogen, or belongs to any chemical class of compounds containing mutagens or oncogens.

(ii) The required battery of mutagenicity tests must include tests appropriate to address the following three categories in accordance with the objectives set forth in § 158.105;

(A) gene mutations.

(B) structural chromosomal aberrations.

(C) other genotoxic effects as appropriate for the test substances, e.g., numerical chromosome abberations, direct DNA damage and repair

(iii) Currently recognized tests for each of these categories are listed with the National Technical Information Service (NTIS). Selection of tests within the battery shall be supported, taking into account the limitations of the individual assay. Because of the rapid improvements in this field, registrants are encouraged to discuss with the Agency: testing battery selection, protocol design and results of preliminary testing.

(23) Required if chronic feeding and oncogenicity studies are required.

§ 158.140 Reentry protection data requirements

(a) TABLE.—SECTIONS 158.50 AND 158.100 DESCRIBE HOW TO USE THIS TABLE TO DETERMINE THE REENTRY PROTECTION DATA REQUIREMENTS AND THE SUBSTANCE TO BE TESTED

Kind of data required	(b) Notes	Reentry protection data requirements; general use patterns									Test substance		Guideline reference No.
		Terrestrial		Aquatic		Greenhouse		Forestry	Domestic outdoor	Indoor	Data to support MP	Data to support EP	
		Food crop	Nonfood	Food crop	Nonfood	Food crop	Nonfood						
Foliar dissipation	(1)	CR	CR	CR	CR			CR			TEP	TEP	133-1
Soil dissipation	(1), (4)	CR	CR	CR	CR			CR			TEP	TEP	133-1
Dermal exposure	(1), (2), (3)	CR	CR	CR	CR			CR			TEP	TEP	133-3
Inhalation exposure	(1), (2), (3)	CR	CR	CR	CR			CR			TEP	TEP	133-4

Key: CR=Conditionally Required; TEP=Typical end-use product.

(b) NOTES.—The following notes are referenced in column two of the table contained in paragraph (a) of this section.

(1) Data are required if the following conditions are met:

(i)(A) The acute dermal LD_{50} of the technical grade of active ingredient is less than 200 mg/kg (body weight); or (B) the acute inhalation LC_{50} of the technical grade of active ingredient is less than 200 mg/m³ (for a one-hour exposure); or (C) the acute oral LD_{50} of the technical grade of active ingredient is less than 50 mg/kg (body weight); or (D) neurotoxic, teratogenic, or oncogenic effect or other adverse effects as evidenced by subchronic, chronic, and reproduction studies would be expected entry of persons into treated sites; or (E) the Agency receives other scientifically validated toxicological or epidemiological evidence that a pesticide or residue of a pesticide could cause adverse effects to persons entering treated sites. In the last situation, reentry intervals and supporting data may be required on a case-by-case basis.

(ii) And if, end-use product is to be registered for: (A) Application to growing crops, such as to or around horticultural and agronomic crops that are field- or orchard-grown; (B) application to outdoor tree nursery and forestry operations; (C) application to turf crops and commercial applications to turf; (D) application to parks and arboretums; or (E) application to aquatic crops.

(iii) And if: human exposure to residues of the pesticide can be reasonably foreseen. This applies primarily to pesticides that will be used on crops where human tasks will involve substantial exposure to residues of the pesticide.

(2) Data required if appropriate surrogate data are not available.

(3) Data required if the applicant chooses to use the allowable exposure level method for proposal of a reentry interval.

(4) Soil dissipation data required if agricultural practice involves human tasks that would cause substantial exposure to residues sorbed to soil.

§ 158.145 Wildlife and aquatic organism data requirements

(a) TABLE.—SECTIONS 158.50 AND 158.100 DESCRIBE HOW TO USE THIS TABLE TO DETERMINE THE WILDLIFE AND AQUATIC ORGANISMS DATA REQUIREMENTS AND THE SUBSTANCE TO BE TESTED

Kind of data required	(b) Notes	Wildlife and aquatic organisms data requirements; general use patterns									Test substance		Guideline reference No. 1
		Terrestrial		Aquatic		Greenhouse		Forestry	Domestic outdoor	Indoor use	Data to support MP	Data to support EP	
		Food crop	Nonfood	Food crop	Nonfood	Food crop	Nonfood						
Avian and Mammalian Testing													
Avian oral LD_{50}	(1)	[R]	[R]	[R]	[R]	CR	CR	[R]	[R]	CR	TGAI	TGAI	71-1
Avian dietary LC_{50}	(1)	[R]	[R]	[R]	[R]	CR	CR	[R]	[R]	CR	TGAI	TGAI	71-2
Wild mammal toxicity	(2)	CR	CR	CR	CR			CR	CR		TGAI	TGAI	71-3
Avian reproduction	(3)	CR	CR	CR	CR			CR	CR		TGAI	TGAI	71-4
Simulated and actual field testing—mammals and birds.	(2)	CR	CR	CR	CR			CR	CR		TEP	TEP	71-5
Aquatic Organism Testing													
Freshwater fish LC_{50}	(1), (7)	[R]	[R]	[R]	[R]	CR	CR	[R]	[R]	CR	TGAI	TGAI	72-1
Acute LC_{50} freshwater invertebrates	(1), (7)	[R]	[R]	[R]	[R]	CR	CR	[R]	[R]	CR	TGAI	TGAI	72-2
Acute LC_{50} estuarine and marine organisms.	(4), (7)	CR	CR	CR	CR			CR	CR		TGAI	TGAI	72-3
Fish early life stage and aquatic invertebrate life-cycle.	(5)	CR	CR	CR	CR			CR	CR		TGAI	TGAI	72-4
Fish:—Life-cycle	(6)	CR	CR	CR	CR			CR	CR		TGAI	TGAI	72-5
Aquatic organism accumulation.	(2)	CR	CR	CR	CR			CR	CR		TGAI, PAI, or degradation product.	TGAI, PAI, or degradation product.	72-6
Simulated or actual field testing—aquatic organisms.	(8)	CR	CR	CR	CR			CR	CR		TEP	TEP	72-7

Key: R=Required; CR=Conditionally Required; [ ]=Brackets (i.e. [R], [CR] indicative data requirements that apply when an experimental use permit is being sought; TGAI=Technical grade of the active ingredient; TEP=Typical end-use product; PAI="Pure" active ingredient.

(b) NOTES.—The following notes are referenced in column two of the table contained in paragraph (a) of this section.

(1) Tests for pesticides intended solely for indoor application will be required on a case-by-case basis, depending on use pattern, production volume, and other pertinent factors.

(2) Tests required on a case-by-case basis depending on the results of lower tier studies such as acute and subacute testing, intended use pattern, and pertinent environmental fate characteristics.

(3) Data required if one or more of the following criteria are met:

(i) Birds may be subjected to repeated or continued exposure to the pesticide or any of its major metabolites or degradation products, especially preceding or during the breeding season;

(ii) The pesticide or any of its major metabolites or degradation products are stable in the environment to the extent that potentially toxic amounts may persist in avian feed;

(iii) The pesticide or any of its major metabolites or degradation products is stored or accumulated in plant or animal tissues, as indicated by its octanol/water partition coefficient, accumulation studies, metabolic release and retention studies, or as indicated by structural similarity to known bioaccumulative chemicals.

(iv) Any other information, such as that derived from mammalian reproduction studies that indicates that reproduction in terrestrial vertebrates may be adversely affected by the anticipated use of the pesticide product.

Note: Prior to conducting this test to support the registration of an avicide, the applicant should consult the Agency.

(4) Data required if the product is intended for direct application to the estuarine or marine environment, or the product is expected to enter this environment in significant concentrations because of its expected use or mobility pattern.

(iii) Data from fish early life-stage tests or life-cycle tests with aquatic invertebrates (on whichever species is most sensitive to the pesticide as determined from the results of the acute toxicity tests) are required if: the product is applied directly to water or expected to be transported to water from the intended use site, and when any one or more of the following conditions apply:

(a) If the pesticide is intended for use such that its presence in water is likely to be continuous or recurrent regardless of toxicity; or
(b) If any LC_{50} or EC_{50} value determined in acute toxicity testing is less than 1 mg/l; or
(c) If the estimated environmental concentration in water is equal to or greater than 0.01 of any EC_{50} or LC_{50} determined in acute toxicity testing; or
(d) If the actual or estimated environmental concentration in water resulting from use is less than 0.01 of any EC_{50} or LC_{50} determined in acute toxicity testing and of the following conditions exist:
(A) Studies of other organisms indicate the reproductive physiology of fish and/or invertebrates may be affected; or
(B) Physiochemical properties indicate cumulative effects; or
(C) The pesticide is persistent in water (e.g., half-life in water greater than 4 days).

(iv) Data are required if end-use product is intended to be applied directly to water or expected to transport to water from the intended use site, and when any of the following conditions apply:

(a) If the estimated environmental concentration is equal to or greater than one-tenth of the no-effect level in the fish early life-stage or invertebrate life-stage or invertebrate life-cycle test; or
(b) If studies of other organisms indicate the reproductive physiology of fish may be affected.

(v) Data from testing with the applicant's end-use product or a typical end-use product is required to support the registration of each end-use product which meets any one of the following conditions:

(a) the end-use pesticide will be introduced directly into an aquatic environment when used as directed;
(b) The LC_{50} or EC_{50} of the technical grade of active ingredient is equal to or less than the maximum expected environmental concentration (MEEC) or the estimated environmental concentration (EEC) in the aquatic environment when the end-use pesticide is used as directed; or
(c) An ingredient in the end-use formulation other than the active ingredient is expected to enhance the toxicity of the active ingredient or to cause toxicity to aquatic organisms.

(vi) Required if significant concentrations of the active ingredient and/or its principal degradation products are likely to occur in aquatic environments and may accumulate in aquatic organisms.

§ 158.155 Nontarget insect data requirements.

(a) TABLE.—SECTIONS 158.50 AND 158.100 DESCRIBE HOW TO USE THIS TABLE TO DETERMINE THE NONTARGET INSECT DATA REQUIREMENTS AND THE SUBSTANCE TO BE TESTED

Kind of data required	(b) Notes	Nontarget insect data requirements; general use patterns									Test substance		Guideline reference No.
		Terrestial		Aquatic		Greenhouse		Forestry	Domestic outdoor	Indoor use	Data to support MP	Data to support EP	
		Food crop	Nonfood	Food crop	Nonfood	Food crop	Nonfood						
Nontarget insect testing—pollinators													
Honey bee acute contact LD_{50}	(1)	[R]	[R]	[R]	[R]			[R]	[R]		TGAI	TGAI	141-1
Honey bee—toxicity of residues on foliage.	(1), (2)	CR	CR	CR	CR			CR	CR		TEP	TEP	141-2
Wild bees important in alfalfa pollination—toxicity of residues on foliage.	(3)	CR									TEP	TEP	141-3
Honey bee subacute feeding study (reserved).										---			141-4
Field testing for pollinators	(4)	CR	CR	CR	CR			CR	CR		TEP	TEP	141-5
Nontarget insect testing—aquatic insects													
Acute toxicity to aquatic insects (reserved).													142-1
Aquatic insect life-cycle study (reserved).													142-1
Simulated or actual field testing for aquatic insects (reserved).													142-3
Nontarget insect testing—predators and parasites (reserved).													143-1—145-3

Key: CR = Conditionally required; R = Required; [ ] = Brackets (ie [R], [CR]) indicate data requirements that apply to products for which an experimental use permit is being sought; TGAI = Technical grade of the active ingredient; TEP = Typical end-use product.

(b) NOTES.—The following notes are referenced in column two of the table contained in paragraph (a) of this section.

(1) Required only if proposed use will result in honey bee exposure.
(2) Required only when formulation contains one or more active ingredients having an acute LD_{50} of less than 11 micrograms/bee.
(3) Required only for products intended for foliar application to alfalfa grown for seed.
(4) May be required under the following conditions:
(i) Data from the honey bee subacute feeding study indicate adverse effects on colonies, especially effects other than acute mortality (reproductive, behavioral, etc.);
(ii) Data from residual toxicity studies indicate extended residual toxicity; or
(iii) Data derived from studies with organisms other than bees indicate properties of the pesticide beyond acute toxicity, such as the ability to cause reproductive or chronic effects.

§ 158.160 Product performance data requirements.

(a) TABLE.—SECTIONS 158.50 AND 158.100 DESCRIBE HOW TO USE THIS TABLE TO DETERMINE THE PRODUCT PERFORMANCE DATA REQUIREMENTS AND THE SUBSTANCE TO BE TESTED

Kind of data required	(b) Notes	Product performance data requirements; general use patterns									Test substance		Guideline reference No.
		Terrestrial		Aquatic		Greenhouse		Forestry	Domestic outdoor	Indoor	Data to support MP	Data to support EP	
		Food crop	Nonfood	Food crop	Nonfood	Food crop	Nonfood						
Efficacy of antimicrobial agents													
Products for use on hard surfaces.	(1)									CR		EP*	91-2
Products requiring confirmatory data.	(1)									CR		EP*	91-3

(a) TABLE.—SECTIONS 158.50 AND 158.100 DESCRIBE HOW TO USE THIS TABLE TO DETERMINE THE PRODUCT PERFORMANCE DATA REQUIREMENTS AND THE SUBSTANCE TO BE TESTED—Continued

Kind of data required	(b) Notes	Product performance data requirements; general use patterns									Test substance		Guidelines reference No.
		Terrestrial		Aquatic		Greenhouse		Forestry	Domestic outdoor	Indoor	Data to support MP	Data to support EP	
		Food crop	Nonfood	Food crop	Nonfood	Food crop	Nonfood						
Product for use on fabrics and textiles	(1)									CR		EP*	91-4
Air sanitizers	(1)									CR		EP*	91-5
Products for control of microbial pests associated with human and animal wastes.	(1)								CR	CR		EP°	91-7
Products for treating water systems.	(1)			[CR]						CR		EP°	91-8
Efficacy of fungicides and nematicides													
Products for control of organisms producing mycotoxins.	(1)	[CR]		[CR]		[CR]						EP°	93-16

Key: CR = Conditionally Required; [ ] = Brackets (i.e., [CR]) indicate data requirements that apply to products for which an experimental use permit is being sought; EP = End-use product (asterisk indicates that registrants of end-use products formulated from registered manufacturing use products are responsible for submission of these data).

(b) NOTES.—The following notes are referenced in column two of the table contained in paragraph (a) of this section.

(1) The Agency has waived all requirements to submit efficacy data except if use of the pesticide bears a claim to control pest microorganisms that pose a threat to human health and whose presence cannot readily be observed by the user including, but not limited to, microorganisms infectious to man in any area of the inanimate environment. However, all registrants must be able to ensure that their products are efficacious when used in accordance with label directions and commonly accepted pest control practices. The Agency reserves the right to require, on a case-by-case basis, submission of efficacy data for any pesticide product registered or proposed for registration when necessary.

§ 158.165 Biorational Pesticide Data Requirements

(a) TABLE.—SECTIONS 158.50 AND 158.100 DESCRIBE HOW TO USE THIS TABLE TO DETERMINE THE BIORATIONAL PESTICIDES—PRODUCT ANALYSIS DATA REQUIREMENTS AND THE SUBSTANCE TO BE TESTED

Kind of data required	(b) Notes	Biorational pesticides—product analysis data requirements; general use patterns									Test substance		Guidelines reference No.
		Terrestrial		Aquatic		Greenhouse		Forestry	Domestic outdoor	Indoor	Data to support MP	Data to support EP	
		Food crop	Nonfood	Food crop	Nonfood	Food crop	Nonfood						
Product analysis biochemical and microbial agents													
Product identity		[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	MP	EP*	151-10, 20
Manufacturing process	(1)	[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	MP	EP°	151-11, 21
Discussion of formation of unintentional ingredients.	(1)	[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	MP	EP°	151-12, 22
Analysis of samples	(2)	[CR]	[CR]	[CR]	[CR]	[CR]	[CR]	[CR]	[CR]	[CR]	MP	EP°	151-13, 23
Certification of limits	(3)	[R]	R	[R]	R	[R]	R	R	R	R	MP	EP°	151-15, 25
Analytical methods		R	R	R	R	R	R	R	R	R	MP	EP°	151-16
Physical and chemical properties.		[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	[R]	MP & TGAI	EP° & TGAI	151-17, 26
Submittal of samples	(4)	[CR]	[CR]	[CR]	[CR]	[CR]	[CR]	[CR]	[CR]	[CR]	MP	MP	151-18, 27

(b) NOTES.—The following notes are referenced in column two of the table contained in paragraph (a) of this section.

(1) If an experimental use permit is being sought, a schematic diagram and/or description of the manufacturing process will suffice if the pesticide is not already under full scale production.
(2) For pesticides in the production stage, a rudimentary product analytical method and data will suffice to support an experimental use permit.
(3) If tests are to be conducted on beginning materials, the Agency will waive the requirements for innocuous inert ingredients such as corn meal, water, silica and similar materials.
(4) Routinely required for products produced by an integrated formulation system. Required on a case-by-case basis for other products or materials.

BILLING CODE 1505-01-C

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 82-827; RM-4120; FCC 82-585]

Amendment of the Commission's Rules To Permit Operation of Field Disturbance Sensors in a Certain MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice proposes to amend Part 15 Subpart F of the FCC Rules to permit field disturbance sensors (i.e. intrusion detectors) to use the frequencies 40.66 to 40.70 MHz. This action is taken in response to a petition for rule making filed by the Senstar Security Systems Corporation requesting that the Commission amend Part 15 Subpart F to add the band 40.66 to 40.70 MHz to the permitted bands of operation for field disturbance sensors. This amendment would provide for the operation of Senstar's new "Sentrax" Perimeter Protection System which can be used to detect unauthorized entry or exit by persons at secured facilities such as nuclear power plants, penal institutions, etc.

DATES: Comments due by February 14, 1983.

Reply comments due by March 1, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sydney P. Bradfield, Federal Communications Commission, Office of Science and Technology, Washington, D.C. 20554, phone 202/653-8247.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 15

Communications equipment, Computer technology, Labeling, Radio, Reporting requirements, Security measures.

In the matter of amendment of Part 15 Subpart F to permit operation of field disturbance sensors in the band 40.66 to 40.70 MHz; Gen. Docket No. 82-827, RM-4120.

Notice of Proposed Rule Making

Adopted: December 22, 1982.

Released: January 6, 1983.

By the Commission: Commissioner Quello concurring in the result.

Introduction

1. This Notice of Proposed Rule Making is issued in response to a petition for rule making [1] submitted by the Senstar Security Systems Corporation (Senstar). This petition was put on public notice on June 1, 1982 (Report No. 1355). The Commission received no comments or objections to the petition.

2. Senstar requests that the Commission amend the rules for field disturbance sensors in Part 15 Subpart F to allow use of the band 40.66 to 40.70 MHz.[2] Senstar has developed a perimeter protection system, denoted as "Sentrax", which can be used to detect unauthorized entry or exit at secured installations such as as nuclear power plants, penal institutions,weapons and ammunition depots, chemical and explosive manufacturing facilities, etc. The Sentrax system employs "leaky" cable technology and, according to the petitioner, operates efficiently only in the very high frequency (VHF) region between 30 and 100 MHz.[3]

3. The system is composed of two open-ported coaxial cables that are buried underground and parallel to each other along the protected perimeter. The transmit cable establishes a surface wave. Objects which disturb this surface wave cause a reflected wave to be coupled into the receive cable. Any received reflected energy is detected to determine the movement of persons within the radio frequency field above the cables.

Discussion

4. The Commission first adopted rules for field disturbance sensors in 1971.[4] [5] Since most sensor technology at that time only contemplated microwave operation, the rules provided five microwave frequencies for this purpose.[6] To minimize the likelihood of interference to radio communications, the Commission placed four of the five permitted frequencies within bands designated domestically and internationally for operation of industrial, scientific and medical (ISM) equipment.[7] A subsequent amendment to these rules conditionally authorized the use of several HF bands for swept frequency sensors.[8] However, there are currently no frequencies provided for field disturbance sensors in the VHF region where Sentrax is designed to operate.

5. Inasmuch as the band 40.66 to 40.70 MHz is also allocated primarily for ISM use, it is extremely unlikely that the Sentrax system or other field disturbance sensors operated in this band will be a source of harmful interference. Furthermore, because the system utilizes surface wave techniques, radiated energy levels are very low. According to Senstar, radiated emissions from its system are below 10 uV/m at 30 meters. This relatively low radiation level dramatically reduces any potential for harmful interference to secondary communication users of this frequency.[9] Further, Senstar maintains

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[1] RM-4120 filed May 17, 1982.

[2] A field disturbance sensor is defined in Section 15.4(j) as "a restricted radiation device which establishes a radio frequency field in its vicinity and detects changes in that field resulting from movement of persons or objects within the radio frequency field". An intrusion detector is one example of a device operating under the provisions in Subpart F of Part 15.

[3] The specially designed cables apparently begin to lose their leakage characteristics below 30 MHz. A frequency of operation between 40 and 100 MHz appears to optimize the capability of the system for detecting humans. Lower frequencies in this range are described as desirable from the standpoint of lower cable attenuation and better discrimination between humans and small animals and birds. See Appendix C of RM-4120.

[4] Docket No. 13883: In the matter of amendment of Part 15 of the Commission's Rules to add regulations governing the use of field disturbance sensors (formerly designated as radio frequency operated intruder alarms). *Report and Order* adopted August 18, 1971 and released August 24, 1971 (31 FCC 2d 210).

[5] In the proceeding in Docket No. 13883, the Commission recognized the early development of perimeter protection systems using a transmission line as an "RF fence" around the protected property. However, since the scope of that proceeding was confined to field disturbance sensors using a point source of RF energy, no special provisions for perimeter protection systems were established. Nevertheless, the Commission did not object to the operation of a perimeter protection system within the provisions of the rules adopted. See paragraphs 8-9 and 18-19 in the *Third Notice of Propose Rule Making* in Docket No. 13883, 26 FCC 2d 597 (1970) and paragraph 17 in the *Report and Order*, supra.

[6] 915±13 MHz, 2450±15 MHz, 5800±15 MHz, 10525±25 MHz and 24125±50 MHz. Pursuant to Section 15.305 (a) in the adopted rules, a field disturbance sensor could conceivably be operated on any frequency subject to the condition that emissions not exceed 15 μV/m at a distance of $\lambda/2\pi$ [equivalent in feet to 157/f(in MHz)] from the sensor. As a practical matter, since the effective emission level at a constant distance would decrease with frequency, most operation under this requirement is only feasible at frequencies below approximately 2 MHz.

[7] ISM equipment is defined in § 18.3(F) as "devices which use radio waves for industrial, scientific, medical or any other purposes including the transfer of energy by radio and which are neither used nor intended to be used for radio communication".

[8] 1.7-2.3 MHz, 4.05-4.95 MHz and 7.4-8.0 MHz. See Docket No. 20620: In the matter of the amendment of Part 15 to provide for the operation of wide-band swept RF equipment used as antipilferage devices. *Report and Order* adopted July 27, 1977 and released August 5, 1977 (65 FCC 2d 607).

[9] Government radiocommunication services operate on a secondary basis on ISM frequencies. Use of frequencies in the band 40.66 to 40.70 MHz may also be authorized to both Government and non-Government stations on a secondary basis for tracking and telemetering of ocean buoys and wildlife.

that the Sentrax system is designed to exhibit high immunity to outside signals. Moreover, in order to minimize false alarms, Senstar asserts that the system incorporates extensive processing capability to discriminate between true and false signals.

Proposal

6. In view of the above, it appears that the Commission can make provision in the rules for this greater use of field disturbance sensor technology without any significant fisk of harmful interference to authorized radio communication services. We propose to amend Subpart F of Part 15 to add the band 40.66 to 40.70 MHz to the permitted bands of operation for field disturbance sensors. In addition to perimeter protection systems such as Sentrax, this amendment would privide for operation in this band of any device that meets the definition for a field disturbance sensor. Accordingly, the Commission would not be precluding any future or existing sensor technology from using these frequencies subject to minimum interference standards adopted in this proceeding. The Appendix sets out the proposed changes to Part 15 Subpart F.

7. To account for variation in design of different systems while maintaining control over interference potential, we are proposing an emission limitation of 50 uV/m for field disturbance sensors in the proposed band. This level of emission corresponds to current standards in Part 15 intended to protect radio communications in this band.[10] In respect to harmonic and spurious emissions, we are proposing an emission restriction of 5 uV/m at 30 meters. Alternatively, harmonic and spurious conducted levels at the transmitter output which are 40 dB below the output conducted level on the fundamental frequency will be considered to meet the harmonic and spurious field strength limitation. If the field disturbance sensor is intended to be connected to the public utility power lines, any power line conducted emissions are proposed to be limited to 250 uV over the frequency range between 450 KHz and 30 MHz. We specifically request comments on the suitability of the technical specifications proposed herein.

8. Measurement of emissions should follow, to the degree practical, the measurement techniques set out in FCC Measurement Procedure MP–1. In the case of perimeter sensor systems that utilize leaky transmission lines or ported cables such as Sentrax, we are proposing that radiated emissions from these systems be measured at each installed location. Since every installation will be unique, this approach assures valid measurements. Because these systems are sophisticated and have limited application, we do not expect a high number of installations.[11] However, the Commission encourages comments recommending a single test on a perimeter protection system which yields repeatable results and could show whether the system would be expected to comply in all installations.

9. As an example, one possible measurement scheme could consist of using a test configuration composed of a 30 meter straight-line length of the normal system layout of the actually used cables. In order to obtain the worst case emission and for practicality reasons, the cables would be laid on top of the ground during measurements. For systems where the cables are intended in the actual installation to be above ground, measurements could be performed with the cables supported 1 meter above the ground. The cables, of course, should be terminated in their characteristic impedance. The entire periphery of this configuration would be scanned to determine the point of highest emission before recording measurements. Another measurement technique could involve a conducted measurement at the output of the transmitter (terminated in a suitable load) while accounting for the leakage characteristics of the cables intended to be employed in the system. Comments are specifically requested on the suitability of these measurement methods and/or any other method which could assure compliance for all types of systems in every installation.

10. We propose that the frequency tolerance of the carrier shall meet a standard of ± 0.01%. This gives us adequate assurance that the signal will not drift outside the band edges. Currently, all field disturbance sensors and most low power communication devices operating under Part 15 are subject to certification.[12] We see no reason to deviate from this policy in this instance. Since Sentrax is a relatively new product requiring new test methods and other sensor systems operated in the proposed band will probably be novel products, we are proposing certification as the equipment authorization procedure in order to gain experience and confidence that this equipment can be expected to meet the standards.

Procedural Matters

11. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. Section 601 *et seq*, the Commission issues the following initial regulatory flexibility analysis:

I. *Reason for action.* This proceeding is in response to a petition for rulemaking requesting an additional band of operation for field disturbance sensors.

II. *The objective.* The Commission is proposing to allow operation of field disturbance sensors in the 40.66–40.70 MHz band.

III. *Legal basis.* The action proposed is in furtherance of Sections 4(i), 302(a), 303(g) and 303(r) of the Communications Act of 1934, as amended, which permits the Commission to make reasonable regulations governing the interference potential of RF equipment and to promote the larger and more effective use of radio in the public interest.

IV. *Entities affected; nature of economic impact; significant alternatives.* The proposal expands Part 15 of the FCC rules by providing for operation of field disturbance sensors on a new frequency. All manufacturers can benefit from this expansion. In respect to existing users of the 40.66 to 40.70 MHz band, we perceive no adverse impact on these entities. Use of existing bands is not suitable for this intended application. There appear to be no significant alternatives to this action.

V. *Recording, record-keeping and other compliance requirements.* We are proposing the equipment authorization procedure of certification for field disturbance sensors operating in the band 40.66 to 40.70 MHz. Since certification is currently required for other field disturbance sensors under Part 15 Subpart F, no new requirements would be imposed if proposed rule changes are adopted.

12. For the purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time that a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is issued by the Commission, whichever is earlier. In general, an *ex parte* presentation is

[10] For example, pursuant to § 15.122(c), a device that measures the characteristics of a material may operate at an emission level of 50 uV/m at 30 meters in the band 40.66 to 40.70 MHz.

[11] The petitioner speculates that 300 systems may be installed over the next 5 years.

[12] Certification requires that manufactures submit technical data and other information to the Commission for review. Marketing is prohibited until the Commission has issued a Grant of Equipment Authorization. See 47 CFR Part 2, Subpart I and J.

any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation, addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served and must also state by docket number the proceeding to which it relates. See § 1.1231 of the Commission's rules, 47 CFR 1.1231.

13. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis of the expected impact of these proposed policies and rules on small entities. The initial analysis is set forth in paragraph 11. Written public comments are requested on the initial analysis. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Notice, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601, et seq.).

14. Authority for issuance of this Notice is contained in Sections 4(i), 302, 303(g) and 303(r) of the Communications Act of 1934, as amended. In accordance with the applicable procedures set forth in § 1.415 of the regulations, interested persons may file Comments on or before February 14, 1983, and Reply Comments on or before March 1, 1983. All relevant and timely comments will be considered. In reaching its decision, the commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. A summary of these Commission procedures governing *ex parte* presentations in informal rule making is available from the Commission's Consumer Assistance Office, Washington, D.C. 20554.

15. In accordance with the provisions of § 1.419 of the regulations, an original and five copies of all comments, reply comments, briefs and other documents shall be furnished the Commission. To obtain the widest possible response in this proceeding, informal comments (without extra copies) will be accepted, but these comments should make specific reference to this proceeding. Responses will be available for public inspection during regular working hours in the Commission's Public Reference Room located at its headquarters at 1919 M Street, NW., Washington, D.C. 20554. For further information regarding this proceeding, contact Sydney P. Bradfield at (202) 653–8247.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 15—[AMENDED]

Part 15 Subpart F is proposed to be amended as set forth below:

1. Section 15.305 is amended by revising the table of frequencies in paragraph (b) to read as follows:

§ 15.305 General technical specification.

* * * * *

(b) * * *

40.68 MHz	5800 MHz
915 MHz	10.525 MHz
2450 MHz	24.125 MHz

* * * * *

2. Section 15.307 is amended by revising the title, designating the current text in this section as paragraph (a), revising the table in this section, and adding paragraph (b) to read as follows:

§ 15.307 Permitted bands of operation and frequency tolerance.

(a) * * *

Nominal operating frequency (MHz)	Band limits (MHz)
40.68	±0.02
915	±13
2450	±15
5800	±15
10525	±25
24125	±50

* * * * *

(b) The frequency tolerance of the carrier for sensors operating in the band centered on 40.68 MHz shall be ±0.01%. This tolerance shall be maintained for a temperature variation of −20° to +50°C at normal supply voltage and for a variation in the primary supply voltage from 85% to 115% of the rated supply voltage at a temperature of 20°C.

3. Section 15.309 is amended by revising the table in paragraph (a); redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively; adding a new paragraph (b); and adding a note below paragraph (b) to read as follows:

§ 15.309 Emission limitations.

(a) * * *

Frequency (MHz)	Field Strength (μV/m at 30 meters)
40.68	90
915, 2450, and 5800	50,000
10,525 and 24,125	250,000

(b) For sensors operating in the band centered on 40.68 MHz, harmonic and spurious radiated emissions shall not exceed a level of 5 microvolts per meter at 30 meters and power line conducted emissions shall not exceed 250 microvolts over the frequency range from 450 KHz to 30 MHz.

Note.—Conducted harmonic and spurious transmitter output levels which are 40 dB below the conducted output level on the fundamental frequency will be considered to comply with the harmonic and spurious field strength requirement in this paragraph. The transmitter shall be terminated in its rated output impedance during measurements.

(c) * * *

(d) * * *

* * * * *

4. A new § 15.310 is added to read as follows:

§ 15.310 Measurement procedure.

(a) For sensors operating in the band centered on 40.68 MHz, FCC Measurement Procedure MP–1 is used by the Commission in determining compliance with the emission requirements. If deviations from this procedure are necessary due to practical considerations, the measurement report shall include a description of the actual procedure used.

(b) Perimeter protection systems intended to establish a radio frequency field around or above transmission lines or cables shall be tested at each installation for compliance with the specified radiated emission limitations.

[FR Doc. 83–1306 Filed 1–17–83; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1051, 1320, 1321, 1322, 1323, and 1324

[Ex Parte No. MC–1; No. 73;[1] No. 73 (Sub.-1); No. 143; No. 170]

Rates and Charges

AGENCY: Interstate Commerce Commission.

ACTION: Revised notice of proposed rulemaking.

SUMMARY: A previous proposal to repeal credit regulations of rail, motor, water and express carriers and freight forwarders has been revised. The Commission now proposes to modify present credit time limits, make them applicable unless carriers elect to publish separate provisions in tariffs and authorize such separate provisions within prescribed boundaries. The proposal would authorize service charges and measure the credit period on "to the prepaid" shipments from the time of freight bill presentation rather than delivery at destination. The Commission proposes to determine whether time limits for rail and water carriers to present freight bills should be lengthened, delete household goods in the credit rules to the extent Part 1056 covers collection practices, make other minor changes, and update statutory references. It makes these proposals because the statute requires a substantive rule to implement its credit provisions, and the present outdated regulations should undergo change as part of a trend toward greater pricing flexibility. This proposal is intended to retain overall Commission control over credit practices, yet allow individual carrier freedom.

DATE: Comments of interested persons are due on or before February 17, 1983.

ADDRESS: Send an original and 15 copies of comments to: Room 5344, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer, (202) 275–7245,
or
Mont Burrup, (202) 275–6447.

SUPPLEMENTARY INFORMATION:

Background

In 1980 (45 FR 31766, May 14, 1980) the Commission reopened these proceedings and proposed that the present credit regulations be repealed and that carriers (all modes) be permitted to set their own nondiscriminatory credit terms through tariff publication. We noted that widespread noncompliance with present regulations was apparent (indicating that thay are not realistic); that their contribution to the statutory goal of nondiscrimination is subject to question; and that uniform rules by carrier type are of doubtful adequacy for reflecting the needs of individual carriers and shippers. The proposal also suggested that carriers can best determine whether to continue the present requirement that nonprofit shipper organizations and shippers' agents identify the beneficial owners of freight.

Comments were filed in mid-1980. As here pertinent, they included both challenges to the legality of the earlier proposal and opposition to it on the merits.

The statutory requirement for substantive credit regulations. Many persons who filed comments argued that the terms of the statute (49 U.S.C. 10743) require the Commission to promulgate substantive rules regulating credit upon which carriers' rights to relinquish possession of freight prior to their being paid are founded.

The Interstate Commerce Act was first amended to add credit provisions in 1920[2] when section 3(2) was added. During World War I the Federal government had taken control of the nation's railroads. Prior to that Federal control, the railroads had been without substantial restraint in the matter of extending credit for transportation charges. There was little uniformity among the railroads' practices and many of them had large amounts of outstanding receivables. On May 20, 1918, the Director General of Railroads issued General Order No. 25, which provided in part:

> [T]he collection of transportation charges by carriers under Federal control, for services rendered, shall be on a cash basis, and * * * credit accomodations * * * which may be in conflict with the following regulations shall be canceled.
>
> * * * * *
>
> 2. In cases where the enforcement of this rule with respect to freight will retard prompt forwarding or delivery of the freight or the prompt release of equipment or station facilities, carriers will be permitted to extend credit for a period of not exceeding forty-eight (48) hours after receipt for a shipment of a consignment if it be prepaid, or after delivery at destination if it be a collect consignment, provided the consignor * * * or the consignee * * * file a surety bond * * *.

Section 3(2) was added to the Act when control of the railroads passed back into private hands. It prohibited rail carriers from relinquishing possession of freight until all rates and charges had been paid, "except under such rules and regulations as the Commission may from time to time prescribe to assure prompt payment of all such rates and charges and to prevent unjust discrimination." The expressed intent of Congress was that, to the extent possible, the provisions of General Order No. 25 continue in effect.[3] The Mayfield-Newton Act,[4] passed in 1927, amended section 3(2) by, as pertinent here, substituting the words "govern the settlement" for the words "assure prompt payment." At subsequent dates similar credit provisions were included in the motor carrier, water carrier, and freight forwarder amendments to the Act. All of these provisions remained unchanged until their recent recodification ("without substantive change") as 49 U.S.C. 10743.[5] Neither the Motor Carrier Act of 1980 nor the Staggers Rail Act of 1980 effected any amendment of the recodified section.

We conclude that (1) section 10743 anticipates promulgation by the Commission of a substantive rule issued pursuant to statutory authority which implements the statute, and (2) the prior proposal does not implement the statute, which precludes carriers from relinquishing freight prior to payment except "[u]nder *regulations of the Commission governing the payment* for transportation and service and preventing discrimination" (emphasis supplied). Section 10743(b)(1). A revised proposal thus is necessary.

Changed conditions since previous opposition comments were filed. There was substantial opposition to the earlier proposal, including suggestions that other changes involving greater ratemaking freedom should come first. Subsequently, major changes in the motor and rail statutes were enacted and implemented.

Experience gained since regulation was substantially lessened will likely have altered the perspective of carriers, shippers, and other interested parties. Many changes have occurred since comments were submitted under the previous proposal. Pricing flexibility has been greatly enhanced. Railroads may now enter contracts with shippers that include modified credit terms. Expansion of motor contract carriage eliminates credit regulation applicability in a large segment of motor traffic. Many carrier operations ar now exempt from regulation, and carriers set their own

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[1] Embraces Docket No. 37152, Southern Railway Company—Petition for Rulemaking—Modification of 49 CFR 1320.1 Credit Regulations).

[2] Pub. L. No. 152, ch. 91, section 405, 41 Stat. 470.

[3] H.R. Rep. No. 650, 66th Cong. 1st Sess. 88 (1920).

[4] Pub. L. No. 804, ch. 510, 44 Stat. 1468.

[5] Pub. L. No. 95–473, 92 Stat. 1337, 1361 (1978).

credit standards for these traffic segments. While neither the Motor Carrier Act of 1980 nor the Staggers Rail Act of 1980 amended Section 10743 directly, other provisions of those acts have led to substantial changes in the economic environment in which carriers operate. Thus, the Commission proposes to revise its rules consistent with these changed conditions.

Goals of the revised proposal. This proposal is intended to retain overall Commission control over credit practices, yet allow individual carrier freedom. Our proposal:

(1) Modifies the present 4 or 5-day and 7-day time limits to make them more realistic in light of modern business practices;

(2) Makes extended limits applicable unless carriers elect to publish separate rules in tariffs;

(3) Authorizes such separate tariff rules and establishes their permissible boundaries; and

(4) Authorizes interested carriers to publish tariff rules establishing service charges.

This proposal is a blend of several approaches. While it continues to permit individual carrier flexibility, it avoids the anticipated massive initial impact that repeal of the regulations with total reliance on individual tariff provisions would have. Under this proposal individual differences in approach should develop in an orderly manageable manner.

The revised longer payment periods should reflect actual payment practices more accurately than the current regulations. Carrier working capital should not be adversely affected. Carriers that believe they would be harmed by the somewhat lengthened time period would have the right to shorten it. However, we have established limits on contracting the credit period to ensure that it is realistic and that compliance is feasible.

Setting the revised time period. Central payment systems using computers are common today. For reasons of economy businesses tend to use cyclical batch processing rather than continuous payments of individual bills. Mail service is used extensively, often to points remote from the vicinity of the transportation service. It is frequently slow. As a result, late payments are common and policing the regulations is hampered because chargeable violations are intertwined with situations where timely payment is impractical (or even impossible) by commercially reasonable standards. Several railroads claimed that the present system is working well, but their comments include data showing substantial noncompliance. One reported 19 percent of payments 15 days over the time limit. Another, one-third not timely paid. Another reported 6.36 days as the compliance time for 66 percent of the bills and 13.7 days for the remaining 34 percent. A motor carrier noted 22 percent of its bills were collected after 29 or more days and 30 percent within 15 to 28 days.

Evidently there is a pronounced contrast between payment timing applicable to shippers and railroad interline settlement practices. Comments by several railroads and the Association of American Railroads (AAR) suggests that settlement of interline accounts to get each carrier's share properly distributed typically takes place only on a specified day once a month. This happens even though large sums are invoved. Prompt cash flow is very important to the carriers, and each shipper now must be billed immediately after prepaid shipments are forwarded or collect shipments are delivered. Current motor carrier regulations allow twice as much time to pay owner-operators as shippers are granted to pay carriers.

a. *Revised time for payment.* We propose a 15 calendar day period for shipper payment of motor carrier and freight forwarder bills. In view of the present shorter period, railroad working capital conditions, and the smaller number of carriers that shippers would be dealing with, the proposed shipper payment period for railroad freight bills is 10 calendar days. Water carriers, which have similar credit regulations, will be treated the same as railroads.[6]

b. *Minimum time for payment.* Individual carriers could change the times we are proposing by tariff publication. However, we propose to retain the time requirements of the present rules as the absolute minimum regardless of tariffs in order to avoid substantial noncompliance.

c. *Maximum time for payment.* We have weighed commercial practices and the need to preclude unduly long credit periods in proposing the maximum allowable time a carrier may select. Moreover, the statute requires regulation of credit practices before shipments may be released without immediate payment, and our failure to set a reasonable maximum time for the extension of credit could be challenged as an abrogation of this requirement. In the prior comments, 30 days was most frequently mentioned in the context of a maximum allowable time. Airline regulations allow 30 days. Therefore, we propose 30 calendar days as the maximum limit.

d. *Time for presenting bills.* Motor carrier and freight forwarder time limits for presentation of freight bills do not appear to need revision. However, the same-day limits on rail and water carriers are unrealistic. Meaningful regulations must comport with modern practices. We request data on this issue and will make such revisions as are necessary. We propose a 4-day period.

Credit periods on prepaid shipments. In a declaratory order in *American Paper Institute Inc.—Petition*, 364 I.C.C. 171 (1980), the Commission interpreted the present rail credit regulations as establishing a maximum credit period on prepaid [7] shipments that runs from the date of delivery at destination, while noting that, as long as there is no discrimination, carriers may grant credit for shorter periods. Ex Parte No. 73 (Sub-No. 1) was concurrently initiated by the AAR in opposition to American Paper on that issue and is still pending. We note that *American Paper* only involved interpretation of the present credit regulations.

We propose that for all carrier modes the credit period on "to be prepaid" shipments will begin when freight bills are presented, and the time period within which carriers shall present their bills will begin when shipments are received by the carrier. This has been the usual carrier practice. Consignors and carrier origin or central billing offices do not routinely know the delivery dates of each shipment. Tracing such dates can be difficult and could take more time than the length of the credit period, especially for interline movements. A situation where frequently neither the consignor's payment office nor the carrier's collection office would know when the credit period begins and ends is counterproductive to credit regulation enforcement.

Service charges. We propose that carriers be permitted to publish tariff rules that provide service charges for extensions of credit periods. A general authorization would avoid the need for carriers filing, and this Commission deciding, individual requests for such authorization. One such petition, No. 38878, *Action Express, Inc., Petition for*

[6] Calendar days should be easier to compute than the current system which makes the computation of non-business days optional. Mail that takes several days can be moving on holidays and during weekends. Thus calendar day measurement seems more appropriate with the longer time periods.

[7] Although the word "prepaid" is often used in the sense of "to be paid by the consignor after the originating carrier sends it a freight bill" (as contrasted with "actually paid in advance"), we will use the more formal phrase "to be prepaid" in the proposed regulations for maximum clarity.

Exemption from 49 CFR Part 1322, has now been dismissed without prejudice on this basis. A proposal several years ago under which the Commission would prescribe the terms of such charges and require that all carriers impose them drew considerable opposition. This proposal, however, is permissive only.

A carrier would have to apply such provisions to all of its shippers to avoid discrimination. Charges could be based on a stated interest rate, and there could be a minimum charge. Carriers would be free to publish their own terms just as they initiate rates, subject to the right of shippers to challenge them if they are unreasonable. The credit period could be extended up to the maximum allowable time, subject to the shipper's payment of service charges for time taken past the standard due date in consideration of its election to exercise that option.

It is also appropriate to let carriers publish rules to collect service charges for unauthorized time beyond the maximum allowable so that unauthorized payment delays would not result in free use by shippers of funds due the carrier. The carrier, however, could authorize credit only until the end of the maximum period. Even though a service charge would be collected, failure to pay within the maximum credit period would be in violation of the credit regulations. Accordingly, corrective action such as placing shippers who exhibit an unwillingness to comply, on a cash-only basis would be necessary in such cases.

Discounts. We invite comments on whether, under the Interstate Commerce Act, the Commission has jurisdiction and should authorize carriers to publish tariff rules providing prompt payment incentives by offering discounts. We have not formulated a proposed rule in this area. We will consider adoption of a rule allowing discounts in this proceeding if warranted by the comments.

Other matters. Shippers must be informed of the time limits on freight bills when credit is extended, since they will not be able to rely on uniform periods. Accordingly, carriers will be required to include that information on freight bills. Codified motor carrier regulations (49 CFR Part 1051) now specify information to be shown on freight bills. Since there are no codified provisions for other modes, the proposed regulations will establish this requirement for all modes, and the noted motor carrier regulations will be amended to cross reference them.

We think it appropriate to retain the concept that, when the postal service is used, the date of mailing will be the date of presentment or collection within the meaning of these regulations. (See §§ 1320.11, 1320.13, 1322.4, 1322.5, 1323.5, and 1323.8 in the existing regulations.) This will apply whether the material mailed is paper documents, or computer tapes, disks, or other media. We have retained the use of mailing date as controlling because on ordinary mail there is no suitable way to identify delivery dates.

References stating that shippers may elect to have their freight bills presented by mail will be omitted. In reality, it is carriers, not shippers, who elect that method for presenting freight bills on paper, while use of electronic media is based upon agreement between both parties. See *Loss and Damage Claims and Freight Bills,* 365 I.C.C. 581 (1982).

We are retaining the proposal to remove the last sentence in 49 CFR 1320.1 requiring beneficial owners to be identified on rail traffic of nonprofit shippers' associations and shippers' agents. Carriers can best determine whether such information is necessary to ensure collection of their charges.

The regulations for express companies in Part 1321 are obsolete and will be removed. Parts 1322 (motor carriers), 1323 (water carriers), and 1324 (freight forwarders) will be incorporated in revised Part 1320.

There are also several miscellaneous proposed changes. Section 1320.16, which covers special rail rules for certain northern California points, will be deleted. Under the proposed changes, the carrier will be able to publish tariff provisions establishing those special credit periods if they are still needed. Revisions made in Part 1056 (46 FR 16218, March 11, 1981) following passage of the Household Goods Transportation Act of 1980 include credit regulations. Present § 1322.1(c) and (d) of the motor carrier credit rules are obsolete household goods credit regulations that will be deleted. Proposed § 1320.8(a) would remove motor common carrier household goods movements from revised Part 1320 credit rules to the extent Part 1056 covers collection practices and § 1320.8(b) contains the credit card chargeback provisions now found in § 1322.6. A provision in 49 CFR 1320.15, covering rail export traffic, will be rephrased and placed in proposed § 1320.3(e). Proposed §§ 1320.5 and 1320.7, covering additional charges and demurrage charges, and § 1320.6, covering icing charges by railroads[6], will specify calendar days and otherwise be substantially unchanged from the present rules.

It may be desirable for the Commission to establish guidelines on how carriers could implement their own freedom to change the length of credit periods. Different treatment for individual shippers would not seem to be permissible, yet uniform treatment of all shippers could be so inflexible that it would be difficult for individual carriers feasibly to make desired adjustments by a tariff rule. A middle ground consisting of suitably defined categories of shippers (perhaps based on their credit rating, for example) or shipment types (such as prepaid or collect, and single-line or interline, for example) may be possible. We seek suggestions on whether setting up such categories would be useful, and, if so, what separate, but not unjustly discriminatory, categories might be definable in advance for carrier guidance.

Environment and energy. This proposed action does not appear to affect significantly the quality of the human environment or conservation of energy resources. Comments on these issues are welcome.

Initial Regulatory Flexibility Analysis. This Commission's credit regulations have a significant economic impact on businesses and other entities who transport, ship, or receive goods in interstate commerce. That includes a substantial number of small entities.

Credit regulations are now in effect. The proposed changes are expected to make them easier to understand, will change credit and billing periods under which timely payments and collection often is impractical under modern commercial practices, and will authorize individual carrier flexibility. Boundaries for the latter have to be set because the statute (49 U.S.C. 10743) authorizes release of shipments without prior payment of transportation charges only in accordance with regulations established by this Commission. The proposed greater freedom (within those boundaries) for the seller of transportation services to set credit terms itself is another step in a continuing effort to reduce government interference and regulation in transportation.

Comments on an earlier proposal identified expectations of disruptive effects if all carriers had to publish their own credit terms by a set effective date. This proposal is intended to modify the present regulations to make them more realistic, and, unless and until carriers elect to publish different rules, have the

[6] Mechanical refrigeration, as well as the exemption from regulation of fresh fruits and vegetables, may have made § 1320.6 obsolete. Comments on this matter would be most helpful.

modified rules apply. That should allow flexibility while (1) avoiding unnecessary tariff publication burdens on carriers not wishing to have different rules and (2) resulting in more gradual and manageable changes when other carriers elect at their pace to publish different rules.

Carriers would be formally required for the first time to identify the length of the credit period on freight bills. To a large extent, this should minimize the burden on small shippers resulting from regulatory change. The carriers have ready access to their own credit rules and the additional printing costs for small carriers is negligible.

On the whole, we anticipate that the proposed changes will have positive effects on small entities and that lessening of governmental regulation is the preferable approach. Comments on the issue are invited.

List of Subjects

49 CFR Part 1051

Freight, Motor carrier.

49 CFR Part 1320

Credit, Freight, Freight forwarders, Maritime carriers, Motor carriers, Railroads.

Our proposal. We propose to amend the freight bill regulations in 49 CFR Part 1051, remove 49 CFR Part 1321 which applies to railway express companies, revise the credit regulations in 49 CFR Part 1320, and remove the regulations in 49 CFR Parts 1322, 1323, and 1324 and incorporate their provisions, as revised, in revised Part 1320. See the appendix.

(5 U.S.C. 553 and 49 U.S.C. 10321, 10701, 10702, 10741, 10743, and 10744)

Decided: January 3, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

Appendix

Title 49 of the CFR would be amended as follows:

PART 1051—INFORMATION REQUIRED ON RECEIPTS AND BILLS

(1) Part 1051—Information Required on Receipts and Bills would be amended by adding the following cross reference after § 1051.1(b)

§ 1051.1 [Amended]

* * * * *

Cross reference: For a requirement that credit information be included on freight bills, see § 1320.3(c).

(2) Part 1320, which now relates to extension of credit to shippers by rail carriers, would be reentitled to include motor and water carriers and freight forwarders and revised in content as follows:

PART 1320—EXTENSION OF CREDIT TO SHIPPERS BY RAIL COMMON CARRIERS, MOTOR COMMON CARRIERS, WATER COMMON CARRIERS, AND FREIGHT FORWARDERS

Sec.

1320.1 Scope of this part.
1320.2 Extension of credit to shippers.
1320.3 Presentation of freight bills.
1320.4 Effect of mailing freight bills or payments.
1320.5 Additional charges.
1320.6 Icing charges by railroads.
1320.7 Demurrage charges.
1320.8 Household goods shipments by motor common carriers.
1320.9–1320.16 [Reserved]
1320.17 Interline settlement of revenues.

Authority: 5 U.S.C. 553 and 49 U.S.C. 10321, 10701, 10702, 10741, 10743, and 10744.

§ 1320.1 Scope of this part.

Except as otherwise indicated, the regulations in this part apply equally to credit extensions by rail common carriers, motor common carriers, water common carriers, and freight forwarders.

§ 1320.2 Extension of credit to shippers.

(a) *Authorization to extend credit.* (1) A carrier that meets the requirements stated in paragraph (a)(2) of this section may—

(i) Relinquish possession of freight in advance of the payment of the tariff charges, and

(ii) Extend credit in the amount of such charges to those who undertake to pay them (such persons are called "shippers" in this part).

(2) For such authorization, the carrier shall take reasonable actions to assure payment of the tariff charges within the credit periods specified—

(i) In this part, or

(ii) In tariff provisions published pursuant to the regulations in paragraph (d) of this section.

(b) *When the credit period begins.* The credit period shall begin on the day following presentation of the freight bill.

(c) *Length of credit period.* Unless a different credit period has been established by tariff publication pursuant to paragraph (d) of this section, the credit period for railroads and water carriers is 10 days and for motor carriers and freight forwarders is 15 days. Those credit periods include Saturdays, Sundays, and legal holidays.

(d) *Carriers may establish different credit periods in tariff rules.* Carriers may publish tariff rules establishing credit periods different from those in paragraph (c) of this section. Such credit periods shall not be (1) shorter than 5 days for railroads and water carriers or 7 days for motor carriers and freight forwarders, or (2) longer (all carriers) than 30 days.

(e) *Service charges.* (1) Service charges shall not apply when credit is extended and payments are made within the standard credit period. The term "standard credit period," as used in the preceding sentence, means—

(i) The credit period prescribed in paragraph (c) of this section, or

(ii) A substitute credit period published in a tariff rule pursuant to the authorization in paragraph (d) of this section.

(2) Carriers may, by tariff rule, extend credit for an additional time period, subject to a service charge for that additional time. The combined length of the carrier's standard credit period (as defined in paragraph (e)(1) of this section) and its additional credit period shall not exceed the 30-day maximum credit period prescribed in paragraph (d) of this section. When such a tariff rule is in effect, shippers may elect to postpone payment until the end of the extended credit period if, in consideration therefore, they include the published service charges when making their payment.

(3) Carriers may, by tariff rule, establish service charges for payments made after the expiration of an authorized credit period. Such a rule shall—

(i) Institute such charges on the day following the last day of an authorized credit period, and

(ii) Notify shippers—

(A) That its only purpose is to prevent a shipper who does not pay on time from having free use of funds due to the carrier,

(B) That is does not sanction payment delays, and

(C) That failure to pay within the authorized credit period will, despite this provision for such charges, require the carrier to place noncomplying shippers on a cash-only payment basis until the carrier is able to conclude in good faith that the shipper will comply with the credit regulations.

(4) Tariff rules that establish charges pursuant to paragraphs (e)(2) or (3) of this section may establish minimum charges.

(f) *Discrimination prohibited.* Tariff rules published pursuant to paragraphs (d) and (e) of this section shall not result

in unreasonable discrimination among shippers.

§ 1320.3 Presentation of freight bills.

(a) *"To be prepaid" shipments.* (1) On "to be prepaid" shipments, the carrier shall present its freight bill for all transportation charges within the time period prescribed in paragraphs (a)(2) and (a)(3) of this section, except—

(i) As noted in paragraph (d) of this section, or

(ii) As otherwise excepted in this part.

(2) The time period for a carrier to present its freight bill for all transportation charges shall be measured from the date the carrier received the shipment.

(3) The time period referred to in (a)(2) of this section shall be 4 days for railroads and water carriers and 7 days for motor carriers and freight forwarders. These time periods do not include Saturdays, Sundays, or legal holidays.

(b) *"Collect" shipments.* (1) On "collect" shipments, the carrier shall present its freight bill for all transportation charges within the time period prescribed in paragraphs (b)(2) and (b)(3) of this section, except—

(i) As noted in paragraph (d) of this section, or

(ii) As otherwise excepted in this part.

(2) The time period for a carrier to present its freight bill for all transportation charges shall be measured from the date the shipment was delivered at its destination.

(3) The time period referred to in (b)(2) of this section shall be 4 days for railroads and water carriers and 7 days for motor carriers and freight forwarders. These time periods do not include Saturdays, Sundays, or legal holidays.

(c) *Bills shall state credit time limits and service charge terms.* When credit is extended, freight bills shall state the time limit by which payment must be made, and service charge terms if applicable.

(d) *When the carrier lacks sufficient information to compute tariff charges.* (1) When information sufficient to enable the carrier to compute the tariff charges is not then available to the carrier at its billing point, the carrier shall present its freight bill for payment within 4 days for railroads and water carriers and 7 days for motor carriers and freight forwarders following the day upon which sufficient information becomes available at the billing point. These time periods do not include Saturdays, Sundays, or legal holidays.

(2) A carrier shall not extend further credit to any shipper which fails to furnish sufficient information to allow the carrier to render a freight bill within a reasonable time after the shipment is tendered to the origin carrier.

(3) As used in this paragraph, the term "shipper" includes, but is not limited to, freight forwarders, and shippers' associations and shippers' agents within the meaning of 49 U.S.C. 10562 (3) and (4).

(e) *Freight bill presentation on railroad transported export traffic loaded into vessels.* The term "delivered at its destination" as used in paragraph (b)(2) of this section shall mean the time when the vessel is completely loaded, when—

(1) The traffic is export traffic that is loaded into vessels either—

(i) Direct from railroad cars or piers, or

(ii) From such cars or piers by means of lighters, and

(2) The freight bills are presented to vessel owners or their representatives.

§ 1320.4 Effect of mailing freight bills or payments.

(a) *Presentment by mail.* When carriers present freight bills by mail, the time of mailing shall be deemed to be the time of presentation of the bills. The term "freight bills," as used in this paragraph, includes both paper documents and billing by use of electronic media such as computer tapes or disks, when the mails are used to transmit them.

(b) *Payment by mail.* When shippers mail acceptable checks, drafts, or money orders in payment of freight charges, the act of mailing them within the credit period shall be deemed to be the collection of the tariff charges within the credit period for the purposes of the regulations in this part.

(c) *Disputes as to date of mailing.* In case of dispute as to the date of mailing, the postmark shall be accepted as such date.

§ 1320.5 Additional charges.

When a carrier—

(a) Has collected the amount of tariff charges represented in a freight bill presented by it as the total amount of such charges, and

(b) Thereafter presents to the shipper another freight bill for additional charges—

the carrier may extend credit in the amount of such additional charges for a period of 30 calendar days from the date of the presentation of the freight bill for the additional charges.

§ 1320.6 Icing charges by railroads.

(a) *Conditions for special credit rules regarding icing charges.* The rules in paragraph (b) of this section shall apply to icing charges by railroads, if—

(1) Icing charges are not published in railroad tariffs at fixed amounts determinable at the time the shipment moves from the point of origin,

(2) Freight charges are to be prepaid,

(3) Icing charges are to be paid by the consignor, and

(4) The carrier takes reasonable actions to assure payment of the tariff charges within the credit period.

(b) *Special credit rules for icing charges.* When each of the conditions in paragraph (a) of this section are met, the carrier may—

(1) Relinquish possession of the freight in advance of the payment of the icing charges,

(2) Delay presentation of bills for such charges for a period not exceeding 15 calendar days after the end of the calendar month during which the charges accrued, and

(3) Extend credit in the amount of such charges for 15 calendar days from the date of presentation of the bill for such charges.

§ 1320.7 Demurrage charges.

(a) *Conditions for special credit rules regarding demurrage charges.* The rules in paragraph (b) of this section shall apply to demurrage charges, if—

(1) The amount of demurrage charges is determinable under average agreements made in accordance with tariff provisions, and

(2) The carrier takes reasonable actions to assure payment of the tariff charges within the credit period.

(b) *Special credit rules for demurrage charges.* When both conditions in paragraph (a) of this section are met, the carrier may—

(1) Delay presentation of bills for such demurrage charges for a period not exceeding 15 calendar days after the end of the authorized demurrage period, and

(2) Extend credit, in the amount of the demurrage charges accrued during the demurrage period, for 15 calendar days from the date of presentation of the bill for such charges.

§ 1320.8 Household goods shipments by motor common carriers.

(a) *Not applicable to extent Part 1056 governs credit.* The regulations of this part do not apply to the payment of charges on the interstate transportation of household goods to the extent that collection practices on such operations are governed by the regulations in part 1056 of this chapter.

(b) *Charge card reversed transactions.* The regulations of this part apply when—

(1) Charges for household goods movements are paid by use of charge cards pursuant to 49 CFR 1056.18, and

(2) The shipper forces an involuntary extension of credit by the carrier by causing the charge card issuer to reverse the charge transaction and charge payments back to the carrier's account.

§ 1320.9–1320.16 [Reserved]

§ 1320.17 Interline settlement of revenues.

Nothing in this part shall be interpreted as affecting the interline settlement of revenues from traffic which is transported over through routes composed of lines of common carriers subject to Interstate Commerce Commission jurisdiction under subchapters I, II, or III of chapter 105 of title 49, subtitle IV, of the United States Code.

PART 1321—EXTENSION OF CREDIT TO SHIPPERS BY EXPRESS COMPANIES—[REMOVED]

(3) Part 1321—Extension of Credit to Shippers by Express Companies, is proposed to be removed because it is obsolete.

PARTS 1322, 1323, 1324—[REMOVED]

(4) Parts 1322, 1323, and 1324 covering, respectively, the extension of credit by motor carriers, water carriers, and freight forwarders, are proposed to be removed, with their provisions, as revised, being included in proposed revised part 1320.

[FR Doc. 83-1300 Filed 1-17-83; 8:45 am]
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Notices

Federal Register
Vol. 48, No. 12
Tuesday, January 18, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Louisiana Advisory Committee; Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S Commission on Civil Rights, that the press conferences listed below have been canceled.

Louisiana—Scheduled for February 3, 1983—published January 6, 1983 on page 683
New Mexico—Scheduled for January 20, 1983—published January 4, 1983 on page 317
Oklahoma—Scheduled for January 20, 1983—published January 4, 1983 on page 317
Texas—Scheduled for January 28, 1983—published January 5, 1983

Dated at Washington, D.C., January 12, 1983.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 83-1287 Filed 1-17-83; 8:45 am]
BILLING CODE 6335-01-M

Minnesota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 2:00 p.m., on February 19, 1983, at the Spanish Speaking Affairs Council, 508 Rice Street, in the Conference Room, St. Paul, Minnesota 55103. The purpose of this meeting will be to conduct orientation for the new members of the Advisory Committee, and discuss program plans for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ruth A. Myers, 1006 East Second Street, Duluth, Minnesota 55805; (218) 726-8878 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604; (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 13, 1983.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 83-1363 Filed 1-17-83; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Fresh Asparagus From Mexico; Postponement of Preliminary Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of Preliminary Countervailing Duty Determination.

SUMMARY: The preliminary countervailing duty determination involving fresh asparagus from Mexico is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the preliminary determination not later than February 22, 1983.

EFFECTIVE DATE: January 18, 1983.

FOR FURTHER INFORMATION CONTACT: Julia E. Hathcox, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-0164.

SUPPLEMENTARY INFORMATION: On November 23, 1982, we initiated a countervailing duty investigation to determine whether producers or exporters in Mexico of fresh asparagus receive any benefits that constitute bounties or grants (47 FR 53440). The notice stated that we would issue a preliminary determination by January 27, 1983.

The product covered by this investigation is fresh asparagus from Mexico. The imported merchandise is currently provided for in item 137.9520 of the *Tariff Schedules of the United States Annotated.*

As detailed in the notice of intitation of the countervailing duty investigation, the petition alleges that the government of Mexico provides various programs which constitute bounties or grants to prodicers or exporters in Mexico of fresh asparagus. The alleged subsidy practices are numerous and complex. The petitioners have made allegations concerning 19 different subsidy practices, which involve issues such as export financing programs, tax incentives for export promotion, investment and development practices, and agricultural sector subsidy practices.

In particular, petitioners allege novel issues regarding Mexican government construction and operation of irrigation facilities, the possible bounties or grants available through the Sistema Alimentario Mexicano (SAM) program, and certain development aspects of the Certificate of Fiscal Promotion (CEPROFI) program. These allegations have not yet been investigated in a Mexican case under the countervailing duty law. Petitioners have alleged that the Mexican government invests in the construction of irrigation facilities and, through the appropriate ministry, uses public funds to operate such facilities. The petitioners allege that under the SAM program benefits or bounties may be realized through numerous practices, including reductions in business tax rates for companies in the agricultural sector; preferential loans granted to Mexican agriculture; duty reductions for producers on imports of raw materials for the production and distribution of goods covered by the program; discounts on fertilizers, insecticides and seeds; and credits to producers selling products at prices fixed by the government. The petitioners also allege that under the developmental aspects of the CEPROFI program benefits or bounties may be realized through practices including fuel discounts to firms located in the zone adjoining the U.S. border, credits to promote increased employment or to maintain pre-devaluation employment, duty reductions on imports of raw materials for products sold in the free zone or border area for Mexican companies establishing wholesale warehouses, accelerated depreciation for such wholesale warehouse construction in border areas, and investment credits for the acquistion by purchasers located in border areas of new machinery and equipment manufactured in Mexico.

In addition, we consider this case to be extraordinarily complicated because

of the number of firms whose activities must be investigated and the need to determine the extent to which particular subsidies are used by individual producers and exporters.

We have determined that the government of Mexico and the other parties concerned are cooperating and that additional time is necessary to make the preliminary countervailing duty determination.

For these reasons we determine that this case is extraordinarily complicated in accordance with section 703(c)(1)(B)(i) of the Tariff Act of 1930, as amended (the Act), and that additional time is necessary to make the preliminary determination in accordance with section 703(c)(1)(B)(ii) of the Act. We intend to issue the preliminary determination not later than February 22, 1983.

This notice is published pursuant to section 703(c)(2) of the Act.

Judith Hippler Bello,

Acting Deputy Assistant Secretary for Import Administration.

January 17, 1983.

[FR Doc. 83-1382 Filed 1-17-83; 8:45 am]

BILLING CODE 3510-25-M

Roses and Other Cut Flowers From Colombia; Suspension of Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of suspension of investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving roses and other cut flowers from Colombia initiated on August 26, 1983. The basis for the suspension is an agreement by 93 Colombian producers and exporters of roses and other cut flowers to renounce all countervailable benefits under the Tax Reimbursement Certificate Program.

EFFECTIVE DATE: January 18, 1983.

FOR FURTHER INFORMATION CONTACT: Gary S. Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377-0161.

SUPPLEMENTARY INFORMATION:

Case History

On August 6, 1982, the Department of Commerce (the Department) received a petition from a group of independent producers of roses and other cut flowers (cut flowers) filed on behalf of the U.S. industry producing cut flowers. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Colombia of cut flowers.

We found the petition to be sufficient, and on August 26, 1982, we initiated a countervailing duty investigation (47 FR 38570). We stated that we expected to issue a preliminary determination by November 1, 1982.

We presented a questionnaire concerning the allegations to the government of Colombia in Washington, D.C. On October 6, 1982, we received the response to the questionnaire. On October 13 and December 3, 1982, supplemental responses were received.

On November 1, 1982, we preliminarily determined that the government of Colombia was providing bounties or grants to manufacturers, producers, or exporters of cut flowers under the Tax Reimbursement Certificate Program (CAT). We also stated that we would seek additional information on the Air Freight Reduction Program, alleged by the petitioners to provide bounties or grants to the manufacturers, producers, or exporters of cut flowers in Colombia.

Notice of the preliminary affirmative countervailing duty determination was published in the **Federal Register** on November 5, 1982 (47 FR 50314). We directed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise, entered or withdrawn from warehouse, for consumption on or after November 5, 1982, and to require a cash deposit or the posting of a bond in an amount equal to 4 percent of the f.o.b. value of the subject merchandise on entries made prior to January 1, 1983, and 5 percent of the f.o.b. value of the subject merchandise on entries made on or after January 1, 1983.

From December 7-10, 1982, we verified the responses to the countervailing duty questionnaire by a review of government documents and company books and records for certain members of Asocolflores, the Colombian association of cut flowers producers whose members represent over 85 percent of the volume of exports of cut flowers to the United States.

On December 10, 1982, the Department and counsel for the Colombian exporters initialed a proposed agreement to suspend the countervailing duty investigation involving cut flowers from Colombia. The primary basis for the proposed suspension agreement was that the exporters would renounce all bounties or grants on exports of cut flowers received under the CAT program to the United States. In addition, the exporters agreed to renounce all benefits which the Department believes benefit the subject product under any other program subsequently determined by the Department in this or any subsequent proceeding concerning other merchandise from Colombia to constitute bounties or grants under the Act.

In compliance with the procedural requirements of section 704(e) of the Act, we notified the petitioners and other interested parties of the terms of the proposed agreement, provided a copy of the proposed agreement to them, arranged to consult with counsel for the petitioners regarding specific aspects of the proposed agreement, and explained how the agreement would be carried out and how the proposed agreement would meet the requirements of section 704 (b) and (d) of the Act. In addition, all parties were invited to submit comments and information regarding the proposed agreement.

Scope of Investigation

The merchandise covered by this investigation is roses and other fresh cut flowers (excluding miniature carnations), and bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts. Roses are currently classifiable under item number 192.1800 and other fresh cut flowers (excluding miniature carnations) under item number 192.2100 of the *Tariff Schedules of the United States Annotated (TSUSA).*

The period for which we are measuring subsidization is January through June of 1982.

Changes Since the Preliminary Determination

Air Freight Reductions

We stated in our preliminary determination that we would seek additional information on the Colombian domestic air freight rates applicable to the transport of cut flowers, and on the international rates established by the Administrative Department of Civil Aeronautics (DAAC), an agency of the Colombian government, covering other products that are transported from Colombia to the United States to determine whether the rates for cut flowers are comparable. We have since received the Colombian domestic air cargo rate schedule issued by the DAAC.

At verification, we met with DAAC officials and the exporters of cut flowers and learned that there is no significant air transport of cut flowers within Colombia, since the three major growing areas (Bogota, Cali, Medellin) are also the three main distribution points for the product as well. As a result, there is little need to transport cut flowers by air from one of these cities to any other Colombian city.

In addition to domestic rate schedules, the DAAC publishes a general international air freight rate schedule and specific international rate schedules for particular products, including cut flowers. The maximum DAAC rate for cut flowers is considerably lower than the general air freight rates for other products carried over the same routes, thereby indicating a possible attempt to surpress cut flower freight rates in an effort to confer bounties or grants on the exporters of the merchandise to the United States.

During verification, we reviewed the freight documents of several Colombian exporters of cut flowers, and uniformly found that the actual rates negotiated by the exporters with the air carriers were substantially lower than the DAAC maximum rate, indicating that freight rates for cut flowers are a function of competition in the air freight market in Colombia, and not the DAAC maximum rate.

We therefore find that the Colombian air freight rates for cut flowers do not constitute the bestowal of bounties or grants upon the exporters of cut flowers to the United States.

The Department has consulted with the petitioners and Roses Inc., an interested party, and received the following comments on the proposed suspension agreement. Our responses are shown for each comment.

Comment 1: The ITA must not implement a suspension agreement that is opposed by the domestic industry unless there are compelling reasons to do so.

DOC Position: The approval or lack of disapproval by the domestic industry is not a prerequisite to our entering into a suspension agreement. Rather, the Department uses its own expertise and independent judgment in determinig whether a particular agreement is in the public interest. We believe that the suspension agreement serves the public interest and eliminates all benefits of bounties or grants.

Comment 2: Respondents do not qualify as a group eligible to conclude a suspension agreement unless they represent at least 85 percent by volume of Colombian exports of roses and other cut flowers to the United States. In addition, no reason is cited for the ITA's failure to obtain an agreement from all of the exporters.

DOC Position: The Exporters identified in Appendix I to the suspension agreement as parties to this agreement account for approximately 90 percent by volume of the exported merchandise subject to this investigation.

This exceeds the 85 percent required under the "substantially all" standard contained in section 704(b) of the Act and section 355.31 of the Department's Regulations and represents a large enough number of exporters to be deemed in the public interest.

Comment 3: The proposed agreement is unworkable with respect to present or future bounties or grants resulting from artificially low air freight rates mandated by the Colombian Government for cut flowers exported from Colombia.

DOC Position: We have found that countervailable benefits are not currently being bestowed upon the exporters of cut flowers as a result of government-established air freight rates in Colombia. *See* comment 10, *infra.* Under the monitoring provision of the suspension agreement, the Department will periodically review the continued status of air freight rates and will require the Colombian exporters to take appropriate action if necessary. Moreover, Section D(1) of the suspension agreement provides that if the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704 (b) or (d) of the Act, then section 704(i) shall apply.

Comment 4: The ITA must not implement the proposed agreement until it makes a final determination as to whether and to what extent the air freight rates for carriage of cut flowers from Colombia confer bounties or grants.

DOC Response: A "final determination" is not a prerequisite to a suspension agreement. However, section 704(g) of the Act provides for the continuation of the investigation if, within 20 days after the date of publication of this notice, a request for continuation is received from either the government of the country in which the subsidy practice is alleged to occur, or from an interested party. On the basis of information obtained during verification, we presently believe that the air freight rates for cut flowers do not constitute a countervailable bounty or grant, and conclude that the suspension agreement eliminates all other bounties or grants regarding cut flowers from Colombia.

Comment 5: If the ITA accepts the proposed agreement, it should require quarterly reports to specify the volume of flowers exported to the United States, the identity of the growers and exporters involved, the air carriers used, and the specific rates charged.

DOC Position: The monitoring provision has been amended to provide that the exporters will report on a quarterly basis their specific volume of exports of the subject merchandise to the United States, as well as the total volume of such merchandise exported to the United States from Colombia. Information regarding individual export transactions and air freight rates will be obtained periodically and verified at the time of the annual review under section 751 of the Act.

Comment 6: If the ITA accepts the proposed agreement, it should make the Government of Colombia a party to the agreement, and require the Government of Colombia to rescind the special air freight rate for cut flowers and to agree to refrain from implementing a mandated rate in the future.

DOC Position: The Act does not require the foreign government to be a party to the agreement of exporters who account for substantially all of the imports of the subject merchandise are parties to the agreement and the Department does not believe that the public interest requires the Government of Colombia to be a party to the agreement. Furthermore, the Department has verified that no countervailable benefits are conferred on these exports resulting from the special air freight rates. *See* comment 10, *infra.* We have, however, modified the agreement to take into account the possibility that cut flower freight rates may in the future approach a government-mandated maximum and to specifically require the monitoring of cut flower freight costs.

Comment 7: If the ITA accepts the proposed agreement, it should require the Government of Colombia, the monitoring bank, and the exporters to consent to the disclosure to petitioners' counsel of all information requested by the ITA, the responses thereto, and to any future verification reports prepared by or for the ITA.

DOC Position: All non-confidential information and non-confidential summaries of confidential responses will be made publicly available. Confidential submissions may be released under an administrative protective order, in accordance with section 355.20 of the countervailing duty regulations.

Comment 8: On the basis of action taken by the Colombian Government in

1974, the Treasury Department determined conditionally that no bounty or grant was paid or bestowed upon the flower producers or exporters within the meaning of section 303 of the Act (39 FR 28922 (1974)). Roses Inc. contends that before any new suspension agreement is signed, the status of the 1974 countervailing duty investigation on cut flowers from Colombia should be reviewed.

DOC Position: Regardless of what action the Colombian Government took in 1974 with regard to a prior countervailing duty investigation of cut flowers, the Department believes that the attached suspension agreement is in the public interest. Furthermore, the agreement will be periodically monitored to assure the exporters compliance with its terms.

Other Comments

Comment 9: Respondents assert that the petition filed on August 6, 1982, did not contain the signatures of the persons or firms seeking to initiate the investigation. Respondents note that the International Trade Commission (ITC) regulations (19 CFR 201.8 (d)–(e)) require that a signature be affixed to a countervailing duty petition.

DOC Position: Regardless of the ITC regulations, petitioners satisfied the requirements of section 355.26 of the Department's Regulations regarding the initiation of an investigation by petition.

Comment 10: Respondents state that the establishment by the Colombian government of maximum air freight rates does not confer countervailable benefits on the exporters of cut flowers. The air freight rates for cut flowers are freely negotiated and cannot serve as the basis for an affirmative subsidy determination.

DOC Position: We agree. If maximum freight rates are established by a governmental authority, and the actual rates charged to an exporter either approach or meet that maximum, then the possibility exists that the government may be attempting to suppress freight rates in an effort to bestow bounties or grants on an exporter of a particular product.

We verified the information submitted and have determined that the exporters of cut flowers in Colombia freely negotiate freight charges with the various privately-owned airlines. In fact, the exporters have been able to negotiate rates near, and sometimes below, the government-established *minimum* rates.

Comment 11: Respondents disagree with the Department's preliminary determination that, with respect to cut flowers, the CAT program does not meet the test announced in *Industrial Fasteners Group* v. *U.S.*, 585 F. Supp. 885 (CIT 1981), because its exclusive purpose was not the rebate of indirect taxes, but included the rebate of certain direct taxes as well. Respondents cite the final determination in *Certain Steel Wire Rod from Argentina* (47 FR 42393), in which the Department determined that the Reembolso was a *bona fide* program to rebate indirect taxes even though certain direct taxes were included in the calculation of the total tax incidence. In addition, respondents argue that the net bounty or grant calculated for the CAT program should be adjusted to reflect only that amount of the CAT rebate that exceeds the value of the indirect taxes on physically incorporated items that are allowed to be rebated under the Act.

DOC Position: The Department maintains that an allowable export payment program must primarily function as a rebate of indirect taxes. In its final determination in *Leather Wearing Apparel from Argentina* (46 FR 23090), the Department noted the presence of small amounts of direct taxes. In this regard it stated:

> However, had the actual tax programs involved been more heavily weighed toward taxes, which may not be rebated on export without involving a subsidy, our conclusion might have been different.

The Argentine Reembolso was by law explicitly designed to refund taxes that "bear directly or indirectly on export products." While the law establishing the CAT does relate the rebate to indirect taxes, only a very small portion (less than 5 percent) of the total taxes the government of Colombia claims to be eligible for rebate can be considered to be indirect taxes on physically incorporated items. Through the analysis of documentation provided, we are unable to conclude that the CAT payment, or an explicitly identified portion of that payment, is specifically intended as a rebate of indirect taxes. We therefore find that, with respect to cut flowers, the CAT program operates primarily to rebate taxes in general, and not indirect taxes.

Comment 12: Respondents argue that the value of the effective basic CAT rebate should be reduced to reflect the domestic value-added content of cut flowers in Colombia.

DOC Position: We verified that the basic CAT rate is applied to the domestic value-added content only when the exporters participate in a voluntary government plan which allows them to import raw materials on a duty-free basis. Those exporters not participating in this program receive CAT certificates based on the full f.o.b. value of the exported merchandise. Given the lack of uniformity in the exporters' participation in this voluntary plan and the administrative impossibility of verifying each of the 143 Colombian cut flower exporters' participation, we have determined that adjustment of the effective basic CAT rate to reflect the domestic added-value content is not warranted.

Comment 13: Respondents argue that the value of the effective basic CAT rebate should be reduced to reflect a government-mandated deferral of benefits.

DOC Position: Effective January 1, 1983, the government-mandated deferral of benefits was eliminated, making the CAT certificates redeemable at any time.

Comment 14: Roses Inc. states that documents submitted in support of changes in the laws and regulations governing Colombia's foreign currency exchange controls be included in the public file.

DOC Position: All non-confidential documents have been placed in the public file.

Comment 15: Roses Inc. notes that a market research study was submitted to the ITA on June 4, 1981 in connection with the antidumping petition it filed on roses from Colombia. The study indicates that: (1) Several airlines provide flower transportation service; (2) the freight rates for cut flowers charged on shipments between Bogota and Miami are considerably lower than rates for flowers and other products transported by air along other routes: and (3) cut flowers require special handling due to their delicate and perishable characteristics. In addition, petitioners state that the Colombian exporters of cut flowers are receiving bounties or grants amounting to the difference between the government-established rates for cut flowers and the air cargo tariff rates posted by the U.S. Civil Aeronautics Board. This freight rate differential serves a Colombian policy of promoting exports of cut flowers.

DOC Position: As already mentioned, we verified that there are several airlines carrying freight from Colombia to the United States, each of which is privately-owned, and that regardless of the published freight rates, the exporters are able to negotiate rates that are much lower than the government-established maximum rate. Through on-site inspections at the airport freight facilities in Bogota, we verified that cut flowers required neither special

handling by the airlines nor specially adapted aircraft.

Suspension of the Investigation

The Department consulted with the petitioners and has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement will completely eliminate the bounties or grants with respect to the subject merchandise exported directly or indirectly to the United States, that the agreement can be monitored effectively, and that the agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed January 12, 1983, are set forth in Annex 1 to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of cut flowers from Colombia effective November 5, 1982, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination, Roses and Other Cut Flowers from Colombia" is hereby terminated.

Any cash deposits on entries of cut flowers from Colombia pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an administrative review within twelve months of the anniversary date of publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

(Sec. 704(f)(1)(A) of the Act)

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 12, 1983.

Annex I—Suspension Agreement Roses and Other Cut Flowers From Colombia

Pursuant to the provisions of section 704 of the Tariff Act of 1930, as amended (the Act), and § 355.31 of the Commerce Regulations, the United States Department of Commerce (the Department) enters into the following suspension agreement with the Colombian exporters of roses and other cut flowers (excluding miniature carnations) identified in Appendix I (the Exporters). On the basis of this agreement, the Department shall suspend its countervailing duty investigation initiated on August 26, 1982, with respect to roses and other cut flowers (excluding miniature carnations) from Colombia in accordance with the terms and provisions set forth below.

A. *Product Coverage:* The agreement applies to "roses and other cut flowers" from Colombia (hereinafter referred to as the subject product). The subject product covers roses and other cut flowers (excluding miniature carnations), and bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts as currently provided for in items 192.1600 and 192.2100 of the *Tariff Schedules of the United States.*

B. *Basis of the Agreement:* 1. The Exporters account for over 85% of the total exports of the subject product to the United States from Colombia. These companies voluntarily agree to the following:

a. The Exporters will not apply for or receive any benefits that the Department has determined or determines to be countervailable under the Tax Reimbursement Certificate Program (CAT) with respect to exports of the subject product entering the United States, or withdrawn from warehouse, for consumption on or after the effective date of this agreement.

b. The Exporters will not apply for or receive benefits under any other program subsequently determined by the Department in this or any subsequent proceeding concerning other merchandise from Colombia to constitute bounties or grants under the Act which the Department believes benefit and the subject product.

c. If any additional program is found to be countervailable in this or a subsequent proceeding, the Department shall officially notify the Exporters.

d. The Exporters shall notify the Department, at least sixty days prior to taking any action, of any benefits they intend to apply for or of any benefits they will receive or expect to receive from the government of Colombia.

Renunciation of the receipt of benefits under the CAT program or any program subsequently found to be contervailable does not constitute an admission by the Exporters that such benefits are bounties, grants, or subsidies within the meaning of the U.S. countervailing duty law or any other U.S. law.

The exporters certify that no new countervailable benefits will be applied for or received with respect to exports of the subject product to the United States as a substitute for any benefits eliminated by this agreement.

2. In accordance with the provisions of the Act and applicable regulations, this agreement applies to the product described in Paragraph A which is produced in Colombia and exported directly or indirectly to the United States.

3. The effective date of this agreement is the date it is published in the Federal Register.

C. *Monitoring:* The Exporters agree to supply to the Department such information as the Department deems necessary, including freight costs, to demonstrate that they are in full compliance with this agreement and to permit such periodic verification and data collection as the Department deems necessary in order to monitor this agreement pursuant to section 751 of the Act. The Exporters will notify the Department if they: (1) Transship the subject product through third countries, (2) alter their position with respect to any terms of the agreement, or (3) apply for or receive directly or indirectly the benefits of the programs described in Paragraph B for the production of the subject product exported to the United States.

The Exporters certify that the Banco de la Republica (the Central Bank of the Republic of Colombia) has agreed voluntarily to monitor this agreement to ensure that benefits from the CAT certificate program are not received by the exporters, directly or indirectly. The Central Bank voluntarily agrees to notify the Department, on a quarterly basis, whether CAT certificates are received by the Exporters.

The Exporters certify that they will notify the Department on a quarterly basis of the volume of their specific exports of the subject merchandise to the United States, as well as the total volume of such merchandise exported to the United States from Colombia.

D. *Rescission of the Agreement:* 1. If the Department determines that the agreement is being or has been violated or no longer meets the requirements of Section 704(b) or (d) of the Act then Section 704(i) shall apply. Failure of the Central Bank of the Republic of Colombia to supply the quarterly reports described in Paragraph C in a timely fashion will constitute a violation of this agreement.

2. Should the Exporters' quarterly exports account for less than 85% of the subject product imported, directly or indirectly, to the United States from Colombia, the Department may rescind this agreement and reopen the investigation or issue a countervailing duty order, as appropriate, under § 355.32 of the Commerce Regulations.

3. In the event that air freight rates paid to export the subject product from

Colombia to the United States approach the government-mandated maximum air freight rates for the subject product, the Department may consider rescinding this agreement and reopening the investigation or issuing a countervailing duty order, as appropriate.

Signed on this 12th day of January 1983.
For the Exporters.

By Thomas A. Rothwell, Jr.
Counsel for the Exporters.

I have determined that the provisions of Paragraph B completely eliminate the bounties or grants being provided in Colombia with respect to roses and other cut flowers exported to the United States and that the provisions of Paragraph C ensure that this agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that this agreement meets the requirements of section 704(b) of the Act and is in the public interest as required in section 704(d) of the Act.

U.S. Department of Commerce.
Gary N. Horlick,
Deputy Assistant Secretary for Import Administration.

Appendix I

Aichalay
Agricola Benilda Ltda.
Agricola Papagayo Ltda.
Agrodex
Agrosuba Ltda.
Bogota Flowers Ltda.
CIBA Geigy Colombia S.A.
Claveles Colombianos Ltda.
CIA. Agricola y Commercial Ltda. (Roses Sabanilla)
Floramerica
Florandia Herrera Camacho
Florlinda Ltda.
Flores Alfaya Ltda.
Flores Colombianas Ltda.
Flores de Suba Ltda.
Flores de la Sabana S.A.
Flores del Campo Ltda.
Flores del Cielo Ltda.
Flores del Rio S.A.
Flores Estella Ltda.
Flores de Funza S.A.
Flores Jancalito Ltda.
Flores la Conchita
Flores la Macarnea Ltda. Monroy
Flores Los Rosales Ltda.
Flores Mountgar Ltda.
Flores San Carlos (Francisco Hennesy)
Flores Santa Fe Ltda.
Flores Technicas Ltda.
Flores Tejas Verdes Ltda.
Flores Tokai H.L de Colombia S.A.
Flores Tropicales
Florex S.A.
Flores de Los Andes Ltda.
Flores Monteverde Ltda.
Flores de la Pradera Ltda.
Hacienda Curubital Ltda.
Hana Ichi de Colombia
Industrial Agricola
Agroindustria Riofrio Ltda.
Agricola El Jardin Ltda.
Eduardo Cubillos
Dianticola Colombiana Ltda.
Edir Ltda.
Flores Calichana Ltda.
Flores El Chircal Ltda.
Flores de Hunza Ltda.
Flores la Union. Gomez Arango Y CIA. S. en C.
Flores S.A. "Floresa"
Flores del Tambo Ltda.
Florexpo Ltda.
Hacienda la Embarrada Ltda.
Inversiones Penas Blancas Ltda.
Monserrate Ltda.
Multiflores Ltda.
Orquideas Acatayma Ltda.
Santana Flowers Ltda.
Rosas Tesalia
Rosas el Juncal Ltda.
Universal de Flores Ltda. "Unflor"
Flores Timana Ltda.
Cultivos del Lago
Flores Monserrate Ltda.
Inversiones Istra L Ltda.
Iversiones Targa Ltda.
Jardines Bacata Ltda.
Jardines de Chia Ltdá.
Jardines de Colombia Ltda.
Jardines de Los Andes
Las Amalias S.A.
Las Flores Ltda.
Monteverde Ltda.
Plantas Ornamentales de Colombia Ltda.
Plantas S.A.
Pompones Ltda.
Rosaflor Ltda.
Rosales de Colombia Ltda.
Rosas de Colombia Ltda.
Rosas Colombia Ltda.
Rosas y Flores Ltda.
Roselandia Ltda.
Royal Carnations Ltda.
Santa Helena S.A.
Sansa Flowers Ltda.
Sun Flowers Ltda.
The Beall Company
Cultivos Del Caribe Ltda.
Exportaciones Bochica S.A.
Floral Ltda.
Flores Esmeralda Ltda.
Inv. Targa de Occidente Ltda.
Horticultura de la Sabana S.A.
Jardines del Muna

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BILLING CODE 3510-25-M

Wool From Argentina; Preliminary Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Argentina of wool, as described in the "Scope of Investigation" section of this notice. The estimated net bounties or grants are indicated in the "Suspension of Liquidation" section of this notice. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries of the product subject to this determination which are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on this product in an amount equal to the estimated net bounties or grants. If this investigation proceeds normally, we will make our final determination by March 30, 1983.

EFFECTIVE DATE: January 18, 1983.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Barbara E. Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, Telephone: (202) 377-1273 or 0192.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that the government of Argentina provides certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (the "Act"), to manufactures, producers, or exporters in Argentina of wool, as described in the "Scope of Investigation" section of this notice. For purposes of this investigation, the program of incentives for exports leaving from southern ports is found to provide benefits which constitute bounties or grants within the meaning of the countervailing duty law. We estimate the net bounties or grants to be the amount indicated in the "Suspension of Liquidation" section of this notice.

Case History

On September 21, 1982, we received a petition filed in proper form from the National Wool Growers Association Inc. on behalf of the wool industry in the United States. The petition alleged that certain benefits which constitute bounties or grants within the meaning of section 303 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters of wool from Argentina. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on October 18, 1982, we initiated a countervailing duty investigation (47 FR 46349).

Since Argentina is not a "country under the Agreement" within the meaning of section 701(b) of the Act,

section 303 of the Act applies to this investigation. Under section 303(a)(2) of the Act, the Department lacks authority to impose countervailing duties on duty-free goods where an international obligation of the U.S. exists which requires an injury determination (e.g., membership in the General Agreement on Tariffs and Trade or GATT), unless an affirmative injury determination is made. Argentina is a member of the GATT, and wool currently classified under items 306.3132 and 306.3334 of the *Tariff Schedules of the United States Annotated* (TSUSA) is duty-free. Therefore, the petitioner was required to allege and the International Trade Commission (ITC) is required to determine whether imports of this product cause or threaten to cause material injury to a U.S. industry. However, since the petitioner did not allege or provide information concerning injury on the duty-free items, we subsequently terminated our investigation of the wool classified under items 306.3132 and 306.3334 of the TSUSA (47 FR 57981). A complete listing of the TSUSA numbers covered by this determination is provided in the "Scope of Investigation" section of this notice.

On October 21, 1982, we presented a questionnaire concerning the allegations to the government of Argentina at its embassy in Washington, D.C. We received the response to the questionnaire on November 22, 1982. Subsequently, we determined that the case was "extraordinarily complicated" within the meaning of section 703(c)(1)(B)(i) of the Act, and we published a notice of postponement of the preliminary countervailing duty determination to not later than January 14, 1982 (47 FR 56532).

Scope of Investigation

The product covered by this investigation consists of wool currently classifiable under the following *Tariff Schedules of the United States Annotated* numbers:

306.3152	306.3273
306.3173	306.3354
306.3253	306.3374

The period for which we are measuring subsidization is January through June of 1982.

Analysis of Programs

Based on our analysis to date of the petition and response to our questionnaire, we have preliminarily determined the following.

I. Program Preliminarily Determined To Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to manufacturers, producers, or exporters in Argentina of wool under the following program.

Incentives for Exports Leaving From Southern Ports

In Resolutions No. 11 and 368 of January 6 and March 23, 1981, respectively, the Ministry of Economy established a 10 percent reembolso for exports of products shipped from designated ports located in the southern region of Argentina. A reembolso is generally a refund, upon exportation of the product, of taxes that bear directly or indirectly on the exported product and/or its component raw materials.

However, according to information contained in the response and obtained in subsequent meetings with Argentine officials, the reembolso established for exports shipped through southern ports is not a rebate of taxes, but rather an incentive to encourage firms to ship through southern ports and a compensation to cover the added expenses of shipping through these ports. All wool exporters who ship through the designated southern ports receive the level or reembolso established for that port. The reembolso is either added to any other reembolso, or subtracted from any export duty, generally established for the product being exported.

In October 1982, the Ministry of Economy passed Resolution No. 287 which established different levels for this reembolso according to port of shipment. Reembolsos ranging from five to nine percent were established for eight ports. These new reembolsos became effective on December 1, 1982. Under Resolution No. 287, the reembolso for each port is scheduled to be reduced one percentage point annually.

Since the dreembolso for exports shipped through designated southern ports is a program which provides incentives to exporters and also a program which targets a specific region, we preliminarily determine that this reembolso confers benefits which constitute bounties or grants within the meaning of the countervailing duty law.

According to the government of Argentina, the only designated southern port through which wool was shipped during the period of January through July, 1982 was the port of Madryn. The reembolso for the port of Madryn is currently 6.0 percent. The government of Argentina has also stated that during the period of May through August, 1982, 56 percent of the wool exported to the United States was shipped through the port of Madryn. Using this information as the best information available, we calculated the amount of the net bounty or grant by finding the weighted-average of the reembolso based on the value of all exports of wool to the United States from January through June, 1982. Accordingly, the net bounty or grant for all exports of wool to the United States is 3.36 percent *ad valorem*.

We will seek additional information on the percentage of wool shipped through the port of Madryn for the period of investigation which will be used in making our final determination.

II. Programs Preliminarily Determined To Be Suspended

We preliminarily determine that the following programs have been suspended, and that they are currently not available to producers, manufacturers, or exporters of wool in Argentina.

A. Indirect Tax Refund on Exports (Reembolso)

The reembolso program was established in 1971. It authorized a refund by cash payment upon export, of taxes "that bear directly or indirectly" on exported products and/or their component raw materials for the purpose of promoting exports. The amount of the reimbursement is equal to a fixed percentage of the f.o.b. value of the exported merchandise. This percentage varies by product.

In 1978, the reembolso program was restructured and reembolso levels were established in accordance with a prescribed methodology. The levels ranged from 0 percent for primary goods to 25 percent for manufactured goods. At that time, none of the wool covered by this investigation was granted a reembolso. On December 12, 1979, the Ministry of Economy established a 5 percent reembolso for washed wool, which is covered by this investigation, on the basis of a fiscal incidence analysis containing data as of November 1, 1979. Except for a short period in May 1981, this 5 percent reembolso on washed wool remained in effect until May 4, 1982. On May 5, 1982, Resolution No. 437 abolished the 5 percent reembolso and established a 5 percent export duty on washed wool. Resolution No. 437 was, in turn, superseded in July 1982 by Resolution No. 8 establishing a 15 percent export duty on washed wool. Exports of wool in the grease which is also covered by this investigation have been charged export duties since at least 1981.

Although exporters of washed wool may have received benefits through the reembolso established for washed wool, any benefits arising from this program would have been used on a current basis. Therefore, any wool that may have been accorded benefits under this program is not likely to enter the United States on or after the date of the suspension of liquidation of the merchandise.

Since export duties are currently levied on exports of wool covered by this investigation, we preliminarily determine that the reembolso program with respect to exports of wool has been suspended. If this investigation results in a countervailing duty order, and if the reembolso with respect to wool is reactivated, the Department will review its application to wool exporters in the annual reviews required under section 751 of the Act.

B. Multiple System of Exchange Rates

According to the questionnaire response, the currency market was divided into financial and commercial segments from June 22 through December 23, 1981, and from July 6 through October 31, 1982, and a dual exchange rate was in effect for foreign trade. The currency market was unified during the period for which we are measuring subsidization, and it has again been unified effective November 1, 1982. Therefore, we consider that this program has been suspended. However, we will seek additional information on the availability, timing and frequency of this program before making our final determination. If this investigation results in a countervailing duty order, and if the multiple system of exchange rates is reactivated, the Department will review its application to wool exporters in the annual reviews required under section 751 of the Act.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the programs listed below which were listed in the notice of "Initiation of Countervailing Duty Investigation: Wool from Argentina" are not being used by the manufacturers, producers, or exporters in Argentina of wool.

A. Pre-Financing of Exports Through Dollar Indexed Pesos

According to the government of Argentina, exports of wool, both washed and in the grease, are not included in the prefinancing of exports program.

B. Financial Reorganization Aids

The petitioner alleged that in July 1982, the government of Argentina through the Central Bank of the Argentine Republic changed all debts to five-year loans at six percent interest and offered subsidized interest rates on new loans. According to the government of Argentina, the wool sector has not received this type of loan.

IV. Program for Which Additional Information Is Needed

Government Assistance to Wool Producers in Patagonia

The petitioner alleged that the government of Argentina is providing state subsidized incentives to farmers. In the questionnaire response and in a supplemental letter, the government of Argentina states that wool producers in the Patagonian Zone received a compensation per kilogram of wool sold during the 1979/80, 1980/81, and 1981/82 wool harvests. The government also states that this program was discontinued during 1982. At this time, we lack sufficient information to determine whether the benefits accorded under this program would apply to wool entered into the United States after the date of publication of this notice. We will seek additional information on this program before reaching our final determination.

Verification

In accordance with section 776(a) of the Act, we will verify all the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of wool from Argentina which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond, for each such entry of the merchandise in the amount of 3.36 percent *ad valorem*.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity of comment on these preliminary determinations at 10:00 a.m. on February 10, 1983, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C., 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by February 3, 1983. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within thirty days of this notice's publication, at the above address and in at least ten copies.

Dated: January 12, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1330 Filed 1-17-83; 8:45 am]
BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on and Announcing Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile and Apparel Products From the People's Republic of China

January 14, 1983.

On December 28, 1982 a notice was published in the **Federal Register** (47 FR 57748) which advised the public that if no mutually satisfactory solution were reached by January 15, 1983 in negotiations between the Governments of the United States and the People's Republic of China in the effort to conclude a new bilateral agreement, the United States Government would take further action under Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), to control imports of cotton, wool, and man-made fiber textile products from the People's Republic of China, effective on January 1, 1983.

Further discussions have taken place, but no agreement has yet been reached. Accordingly, until modified, pursuant to agreement or otherwise, in order to avoid market disruption, or threat thereof, and to assure that the operation of the Arrangement Regarding International Trade in Textiles (MFA) is not frustrated, the Government of the United States has informed the Government of the People's Republic of China that, effective on January 1, 1983, imports of cotton, wool, and man-made fiber textile products, produced or manufactured in China, will be restrained to ensure that the following levels are not exceeded for the periods indicated below:

Category	Jan. 1, 1983–Dec. 31, 1983
315	[1]82,500,000
331	[2]3,362,165
334	[1]182,690
335	[3]265,000
338	[3]601,929
339 pt.	[3]487,750
339	[3]966,280
340	[3]564,054
341	[3]443,456
342	[3]94,744
347/348	[2]1,414,672
445/446	[3]252,520
445	[3]13,080
631	[2]423,879
645/646	[3]523,695
649	[3]465,816
	July 30, 1982–July 29, 1983
337	[3]717,382
640	[3]944,132
641	[3]759,996
648	[3]833,162
	Nov. 26, 1982–Nov. 25, 1983
333	[3]41,536
345	[3]59,448
443	[3]7,271
635	[3]231,890
	Oct. 20, 1982–Jan. 17, 1983
351	[3]70,416
363	[4]4,902,449
634	[3]103,425
647	[3]195,671
	Dec. 1, 1982–Feb. 28, 1983
350	[3]24,586
447	[3]20,634
	Jan. 18, 1983–Jan. 17, 1984
351	[3]244,469
363	[4]14,716,906
634	[3]318,926
647	[3]623,721
	Mar. 1, 1983–Feb. 29, 1984
350	[3]74,547
447	[3]63,999

[1] Square yards.
[2] Dozen pairs.
[3] Dozen.
[4] Number.

A description of the texile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

The foregoing levels, other than those established for the twelve-month period which began on January 1, 1983 and extends through December 31, 1983, supersede levels established for those categories under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 17, 1980, as amended, which expired on December 31, 1982. The United States reserves the right in light of future trade developments to adjust these levels during the indicated restraint periods and also to control additional categories of textile products.

As announced in the notice document preceding the directive of December 6, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs (See 47 FR 55407), charges of 36,351 dozen will be made to the level of restraint for cotton textile products in Category 335 to account for 1981 overshipments which were deducted from imports charged to the 1982 level for this category.

Cotton, wool, and man-made fiber textile products in Categories 331, 334, 335, 338, 339, 340, 341, 347/348, 445/446, and 645/646, exported to the United States during the twelve-month period which began on January 1, 1982 and extended through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of the restraint established for such goods during that period. Cotton textile products in Category 315, exported during the period which began on January 19, 1982 and extended through December 31,, 1982, shall, to the extent of any unfilled balance, be charged to the level of restraint established for that period. In the event the applicable restraint levels for these periods have been exhausted by previous entries, such goods shall be subject to the levels for the twelve-month period beginning on January 1, 1983.

Textile products in Categories 337, 640, 641, and 648 and 333, 345, 443, and 635, exported during the ninety-day restraint periods previously established, which are in excess of the levels stipulated for those periods, will be charged to the twelve-month levels established in the following letter to the Commissioner of Customs for the twelve-month periods which end, respectively, on July 29, 1983 and November 25, 1983.

Textile products in Categories 351, 362, 634, and 647 exported during the ninety-day period which began on October 20, 1982 which are in excess of the levels of restraint established for that period will be charged to the levels established for the twelve-month period ending on January 17, 1984.

Textile products in Categories 350 and 447 exported during the ninety-day period which began on December 1, 1982 which are in excess of the levels of restraint established for that period will be charged to the levels established for the twelve-month period ending on February 29, 1984.

All of these actions are taken pursuant to Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854). The decision to take such actions was made by the Textile Trade Policy Group at the recommendation of the Committee for the Implementation of Textile Agreements.

Further discussions are anticipated with the Government of the People's Republic of China. The letter published below is subject, therefore, to termination or revision as a result of those discussions.

Any party wishing to comment or provide data or information regarding the treatment of the categories specified in this document, or on any other aspect thereof, or to comment on domestic production or availability of textiles and apparel included in these categories, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of further discussions with the Government of the People's Republic of China is not certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

In the letter published below the Chairman of the Committee for the Implemention of Textile Agreements directs the Commissioner of Customs, effective on January 1, 1983 and for the stipulated restraint periods, to limit the amounts of cotton, wool, and man-made fiber textile products in the foregoing categories, produced or manufactured in the People's Republic of China, which may be entered or withdrawn from warehouse for consumption in the United States, to the designated levels.

Effective date: January 19, 1983.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive supersedes the directives of August 23, October 19, November 12, and December 3, 1982, which directed you to prohibit entry of certain cotton, wool, and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during specified periods.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 19, 1983 and for the twelve-month period beginning on January 1, 1983 and extending through December 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in Categories 315, 331,334, 335, 338, 339, 340, 341, 342, 347/348, 445/446, 448, 631, 645/646, and 649, produced or manufactured in China and exported during that twelve-month period, in excess of the following levels of restraint:

Category	12-Month Level of Restraint [1]
315	[2]92,500,000
331	[3]3,382,165
334	[3]192,800
335	[3]266,000
338	[3]601,329
338 pt. [1]	[3]467,750
339	[3]885,290
340	[3]584,064
341	[3]443,455
342	[4]94,744
347/348	[4]1,414,672
445/446	252,500
448	[3]13,050
631	[3]423,879
645/646	[3]563,495
649	[3]485,515

[1] In Category 338, only T.S.U.S.A. Numbers 379.0240 and 379.4050.
[2] Square yards.
[3] Dozen pairs.
[4] Dozens.

Also effective on January 19, 1982, you are directed to prohibit entry for consumption or withdrawal from warehouse for consumption, of cotton, wool, and man-made fiber textile products in the following categories in excess of the levels of restraint established for merchandise exported during the indicated time periods:

Category	July 30, 1982–July 29, 1983
337	[1]717,382
640	[1]944,132
641	[1]759,[illegible]
648	[1]833,162
	Nov. 26, 1982–Nov. 25, 1983
333	[1]41,536
345	[1]58,446
443	7,271
635	[1]331,840

Category	Oct. 20, 1982–Jan. 17, 1983
351	[1]70,416
363	[2]4,862,445
634	[1]103,429
647	[1]195,671
	Dec. 1, 1982–Feb. 28, 1983
350	[1]24,586
447	[1]20,634
	Jan. 18,1983–Jan.17, 1984
351	[1]244,462
363	[2]14,718,806
634	[1]318,605
647	[1]623,720
	Mar. 1, 1983–Feb. 29, 1984
350	[1]74,547
447	[1]53,599

[1] Dozens.
[2] Numbers.

In carrying out this directive, imports of cotton, wool, and man-made fiber textile products in Categories 331, 334, 335, 338, 339, 340, 341, 347/348, 445/446, and 645/646, produced or manufactured in China and exported to the United States during the twelve-month period which began on January 1, 1982 and extended through December 31, 1982, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during that period. Cotton textile products in Category 315, exported during the period which began on January 19, 1982 and extended through December 31, 1982, shall, to the extent of any unfilled balance, be charged to the level of restraint established for the category during that period. In the event the levels for those foregoing periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive for the twelve-month period which began on January 1, 1983. Cotton, wool, and man-made fiber textile products in Categories 342, 448, 631, and 649 which have been exported before January 1, 1983 shall not be subject to this directive.

Textile products in Categories 337, 640, 641, and 648 and in Categories 333, 345, 443, and 635 exported during the previously established ninety-day periods, shall, to the extent of any unfilled balances, be charged to the levels of restraint established for those ninety-day periods. Merchandise in Categories 337, 640, 641, and 648 and in Categories 333, 345, 443, and 635 which is in excess of those levels shall be charged to the levels established in this directive for the respective twelve-month restraint periods which end on July 29, 1983 and November 25, 1983.

Textile products in Categories 351, 363, 634, and 647 exported during the ninety-day period beginning on October 20, 1982 and extending through January 17, 1983, shall, to the extent of any unfilled balances be charged against the levels established for that period. Merchandise in Categories 351, 363, 634, and 647 which is in excess of the levels established for such goods during that ninety-day period shall be charged to the levels established for the twelve-month period beginning on January 18, 1983 and extending through January 17, 1984.

Textile products in Categories 350 and 447, exported during the ninety-day period which began on December 1, 1982 and extends through February 28, 1983, shall, to the extent of any unfilled balances, be charged against the levels established for that period. Merchandise in Categories 350 and 447 which is in excess of the levels established for such goods during that ninety-day period shall be charged to the levels established for the twelve-month period beginning on March 1, 1983 and extending through February 29, 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the People's Republic of China and with respect to imports of cotton, wool, and man-made fiber textile products from China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-1361 Filed 1-14-83; 10:28 am]
BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent to Prepare Environmental Impact Statement

The United States Air Force, Department of Defense, will prepare an environmental impact statement (EIS) for use in decision-making regarding the selection of land areas and sites for the proposed deployment and operation of the Peacekeeper strategic weapon system which is an advanced land based, intercontinental ballistic missile.

This notice of intent is published as required by the regulations of the Council on Environmental Quality in Title 40, Code of Federal Regulations, § 1501.7 on implementation of the provisions of the National Environmental Policy Act of 1969 (NEPA).

The Department of the Air Force will serve as the lead agency and will supervise the preparation of the EIS. Cooperating agencies, if any, will be specified in subsequent notices to be issued by the Department of the Air Force.

The EIS covered by this notice will describe the nature, range, degree and extent of impacts which may be associated with the siting of the Peacekeeper missile system and its support facilities on and within the region of F. E. Warren AFB, Wyoming.

The draft EIS is scheduled to be completed in the spring of 1983. Upon issuance of the draft statement, a public comment period and public hearings are planned to obtain comments. The final environmental statement is scheduled to be published in the fall of 1983.

The Department of the Air Force is planning to conduct a series of meetings to determine the nature, extent, and scope of the issues and concerns that should be addressed in the environmental impact statement related to the proposed action. The purpose of the scoping process is to reduce paperwork in the EIS process and focus impact statements on significant environmental issues, while limiting or eliminating the consideration of those that are not significant or beneficial in decision-making. This scoping process is planned to include affected Federal, regional, State and local agencies, organizations, interest groups, and the general public in the geographic areas potentially affected by the proposed Peacekeeper missile system. During the meetings, and subsequent to the meetings, individuals, organizations and governmental agencies will be invited to submit views on issues to be included in the environmental statement and on the Department of the Air Force's plan and approach on analyzing and evaluating the identified issues. Information packages of materials containing lists of issues, problem areas, and proposed studies resulting from the scoping meetings, will be made available to any organization or individual requesting them. Notice of the time and place of the planned scoping meetings will be made available to public officials and announced in the news media in the areas where the meetings will be held.

If the proposed action of basing 100 Peacekeeper Missiles in 100 silos near F. E. Warren AFB, Wyoming, is changed, the data collected during this scoping effort may still be valid. The Air Force will re-evaluate the data collected versus the basing mode selected and make a determination if further data collection is needed. This effort is necessary so that the Environmental Impact Analysis Process may be started in a timely manner, and it will also contribute to an early Initial Operating Capability for the Peacekeeper Missile System.

To assure that the Department of the Air Force will have sufficient time to consider public inputs on issues which are to be included in the development of an environmental impact statement, comments should be forwarded to the addressee listed below by 16 February 1983.

For further information concerning the Peacekeeper program and the environmental impact statement activities, contact the following: Lt Col William A. Verkest, AFRCE–MX/DEV, Norton Air Force Base, California 92409, (714) 382–4891.

Charlie C. Ratcliffe,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 83–1455 Filed 1–17–83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

January 10, 1983.

The USAF Scientific Advisory Board ad hoc committee on Software will meet at Research Triangle Park, Raleigh, North Carolina, February 6–7, 1983. The purpose of the meeting will be to make assignments to individual panel members, review the task statement and agree to the planned schedule of subsequent meetings. The meetings will convene at 8:00 p.m. and adjourn at 10:00 p.m. on both evenings. This planning meeting is scheduled in conjunction with the DOD Software Initiative Workshop.

The meeting will be open to the public, however, seating will be limited to those personnel presenting significant academic and industry credentials as well as discussion topics pertinent to the task statement before the committee.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83–1353 Filed 1–17–83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Public Information Collection Requirement Submitted To OMB for Review

The Department of the Navy has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

EXTENSION

Reference Questionnaire, Reserve Officer Training Corps (NAVCRUIT 1131/8).

Use to collect information by which to make a determination as to the applicant's academic and leadership potential and eligibility for an NROTC scholdarship.

Teachers and other adults well acquainted with the applicant and upon applicant's request: 36,000 responses, 12,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), IRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from CDR Maryanne Hayes, Navy Recruiting Command (Code 314), 4015 Wilson Boulevard, Arlington, Virginia 22203, telephone (202) 696–4581.

M.S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 13, 1983.

[FR Doc. 83–1377 Filed 1–17–83; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Science Board Task Force on the Transition of Weapon Systems From Development To Production; Notice of Advisory Committee Meeting

The Defense Science Board Task Force on the Transition of Weapon Systems from Development to Production will meet in closed session on 17 February 1983 in Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering

on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 17 February 1983 the Task Force will review, evaluate, and make recommendations concerning ways to improve and accelerate the transition of weapon systems into production. They will also consider training emphasis and possibilities for improvement in the internal management process.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

[FR Doc. 83-1378 Filed 1-17-83; 8:45 am]

BILLING CODE 3810-01-M

Privacy Act of 1974; New Systems of Records

AGENCY: Office of the Secretary of Defense DOD.

ACTION: Addition of a new system of records.

SUMMARY: The Office of the Secretary of Defense proposes to add a new system of records to its inventory of systems of records subject to the Privacy Act of 1974. The system notice for the new system is set forth below.

DATE: This system will become effective February 17, 1983.

ADDRESSES: Send all comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C315, The Pentagon, Washington, D.C. 20301. Telephone 202/695-0070.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) system notices for system of records subject to the Privacy Act of 1974, Title 5 United States Code, Section 552a (Pub. L. 93-579; 44 Stat. 1896 *et seq.*) have been published in the **Federal Register** at:

FR Doc. 82-674 (47 FR 2544) January 18, 1982
FR Doc. 82-3758 (47 FR 6462) February 12, 1982
FR Doc. 82-21537 (47 FR 34441) August 9, 1982
FR Doc. 82-23920 (47 FR 38574) September 1, 1982
FR Doc. 82-24630 (47 FR 39561) September 8, 1982
FR Doc. 82-25638 (47 FR 41156) September 17, 1982
FR Doc. 82-25636 (47 FR 41162) September 17, 1982
FR Doc. 82-27105 (47 FR 43416) October 1, 1982
FR Doc. 82-27593 (47 FR 44382) October 7, 1982
FR Doc. 82-28509 (47 FR 46353) October 18, 1982
FR Doc. 82-28515 (47 FR 46355) October 18, 1982

The proposed system is within the purview of the provisions of 5 U.S.C. 552a(o) of the Act and a system report was submitted on December 6, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 13, 1983.

DMRA&L 23.0

SYSTEM NAME:

Educator Certification/Recertification Files

SYSTEM LOCATION:

Records are maintained at the schools, regional offices, and the Office of Dependent Schools (ODS), Alexandria, Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system applies to all Department of Defense Dependents Schools (DoDDS) teachers, as the term "teacher" is defined in 20 United States Code 901, and to all DoDDS excepted service and ODS educators classified in the 1710 or related series.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of transcripts and/or othe documentary evidence, as necessary, for recertification reneval and maintenance. Also included are internal forms used to summarize this data and to certify that it has been reviewed by appropriate officials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

20 U.S.C. 931, recurring provisions of the annual DoD Appropriations Act, and Department of Defense Directive 1342.6, "Department of Defense Dependents Schools," October 17, 1978, and Change 1, thereto.

PURPOSE(S):

Dependents schools' administrators use this information to determine the eligibility of applicable employees to be certified/recertified.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information may be supplied to States with whom the Department of Defense Dependents Schools has reciprocal agreements for respect of certificates issued/revoked by the respective systems.

Records may be disclosed to educational accrediting institutions and organizations during review of a school or schools.

Records may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order. Every reasonable effort will be made to notify individuals when records pertaining to them are made available under compulsory legal process.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in file folders in locking cabinets, rooms, and/or secure buildings (when possible), located at schools, regional offices, and ODS.

RETRIEVABILITY:

The files are arranged alphabetically or by social security number (at the option of the custodian).

SAFEGUARDS:

Paper records are maintained in files which are located in locked cabinets, rooms, and/or buildings, which are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are maintained for the current as well as the upcoming certification cycles. Records for an expired certification cycle are retained for 2 years; then, they are destroyed or returned to the employee. If a teacher leaves the system, the file is maintained for two years following the current expiration date of the certificate and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Mr. Mervin Scott, Chief, Personnel Division, ODS, 2461 Eisenhower Avenue, Alexandria, VA 22331.

NOTIFICATION PROCEDURE:

Information may be obtained from the principal, regional certification coordinator, ODS certification coordinator, or the Chief, Personnel Division, ODS.

RECORD ACCESS PROCEDURES:

Educators may request to see their files from the individual in charge of certification at their particular location.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and contesting contents and for appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b and ODS Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information is obtained from the individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 83-1382 Filed 1-17-83; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Discretionary Grant Programs; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1983 Applications

AGENCY: Education Department.

ACTION: Application notice establishing closing dates for transmittal of certain Fiscal Year 1983 applications.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for awards under certain programs administered by the Department of Education.

Organization of Notice

This notice contains two parts. Part I includes, in chronological order, the list of all application closing dates covered by this notice and the application notices previously published. The previously published application notices are designated by an asterisk and the entry contains the publication date, the page number of the **Federal Register** issue where the application notice can be found, and the closing date. Part II contains the individual application announcements for each program.

Insturctions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications: Applications for new projects must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

If an application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: Applications must be addressed to the Department of Education Application Control Center, *Attention:* (insert appropriate CFDA Number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant for a new project will be notified that its application will not be considered.

Applications Delivered by Hand: Hand-delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

PART I.—LIST OF PROGRAM APPLICATION ANNOUNCEMENTS PUBLISHED IN THIS NOTICE AND THOSE PREVIOUSLY PUBLISHED

CFDA	Program		Closing date
*84.029	Handicapped Personnel Preparation—Noncompeting Continuations	47 FR, 32662, July 28, 1982	03/15/83
*84.042	Special Services for Disadvantaged Students—Noncompeting Continuations	47 FR, 35610, Aug. 17, 1982	03/20/83
*84.101	Program for Indian Tribes and Indian Organizations—Noncompeting Continuations	47 FR, 32663, July 28, 1982	10/01/82
*84.024	Handicapped Children's Early Education Program—Noncompeting Continuations	47 FR, 38365, Aug. 31, 1982	10/14/82
*84.133	Research and Training Center, Rehabilitation Engineering Centers, Research and Demonstration Projects, Knowledge Dissemination and Utilization—New Projects.	47 FR, 37281, Aug. 25, 1982	10/15/82
*84.019	Fulbright-Hays Training Grants Faculty Research Abroad—New projects	47 FR, 32663, July 28, 1982	10/29/82
*84.022	Fulbright-Hays Training Grants Doctoral Dissertation Research—New projects	47 FR, 32663, July 28, 1982	10/29/82
*84.036	Library Carreer Training Programs—New projects	47 FR, 38365, Aug. 31, 1982	11/01/82
*84.015	National Resource Centers Program and Foreign Language and Area Studies Fellowship Program—New projects.	47 FR, 38366, Aug. 31, 1982	11/01/82
*84.116E	Fund for the Improvement of Postsecondary Education Mina Shaughnessy Scholars Project—New projects.	47 FR, 44384, Oct. 7, 1982	11/09/82
*84.003F	Bilingual Education Fellowship Program—New projects	47 FR, 38367, Aug. 31, 1982	11/12/82
*84.091	Strengthening Research Library Resources Program—New projects	47 FR, 38368, Aug. 31, 1982	11/15/82
*84.066	Educational Opportunity Centers Program—Noncompeting Continuations	47 FR, 46881, Oct. 21, 1982	11/22/82
*84.044	Talent Search Program—Noncompeting Continuations	47 FR, 46881, Oct. 21, 1982	11/22/82
*84.003C	Bilingual Education Act Basic Projects in Bilingual Education Program—Noncompeting Continuations.	47 FR, 46735, Oct. 20, 1982	11/29/82 03/15/83
*84.120A	Minority Institutions Science Improvement Program—New projects Institutional, Design, and Cooperative Grants Special Projects Grants.	47 FR, 42608, Sept. 28, 1982	12/03/82 03/04/83
*84.003B	Bilingual Education Act—Demonstration Projects Program—Noncompeting Continuations	47 FR, 46737, Oct. 20, 1982	12/03/82 03/11/83
*84.072, *84.061, *84.062	Indian Education—Noncompeting Continuations	47 FR, 44833, Oct. 12, 1982	12/06/82
*84.021	Fulbright-Hays Training Grants Group Projects Abroad—New projects	47 FR, 45736, Oct. 20, 1982	12/06/82
*84.020	Fulbright-Hays Training Grants Foreign Curriculum Consultants Program—New projects	47 FR, 46736, Oct. 20, 1982	12/06/82
*84.116A	Fund for the Improvement of Postsecondary Education Comprehensive Program—Preapplications and New projects.	47 FR, 46737, Oct. 20, 1982	12/14/82

PART I.—LIST OF PROGRAM APPLICATION ANNOUNCEMENTS PUBLISHED IN THIS NOTICE AND THOSE PREVIOUSLY PUBLISHED—Continued

CFDA	Program		Closing date
*84.[illegible]	Bilingual Education Act Training Projects Program—(Activities A, B, C), Noncompeting Continuations.	47 FR, 46738, Oct. 20, 1982	12/15/82
*84.005	College Library Resources—New projects	47 FR, 44834, Oct. 12, 1982	12/15/82
*84.003H	Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance—New projects.	47 FR, 46739, Oct. 20, 1982	12/20/82
*84.003H	Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program—Noncompeting Continuations.	47 FR, 46739, Oct. 20, 1982	12/20/82
*84.[illegible]	Bilingual Education Act—School of Education Projects Program—New Projects	47 FR, 46740, Oct. 20, 1982	12/21/82
*84.[illegible]	Bilingual Education Act—School of Education Projects—Noncompeting Continuations	47 FR, 46741, Oct. 20, 1982	12/21/82
*84.[illegible]	Indian Education Grants to Local Educational Agencies and Tribal Schools—New and Noncompeting Continuations.	47 FR, 44834, Oct. 12, 1982	12/22/82
*84.087	Indian Education Fellowships for Indian Students—Noncompeting Continuations	47 FR, 44835, Oct. 12, 1982	12/30/82
*84.047	Upward Bound Program—New Projects	47 FR, 47628, Oct. 27, 1982	12/23/82
*84.077	Bilingual Vocational Training—New Projects	47 FR, 46741, Oct. 20, 1982	12/29/82
*84.077	Bilingual Vocational Training—Noncompeting Continuations	47 FR, 46742, Oct. 20, 1982	12/29/82
*84.099	Bilingual Vocational Instructor Training—New projects	47 FR, 46742, Oct. 20, 1982	12/29/82
*84.099	Bilingual Vocational Instructor Training—Noncompeting Continuations	47 FR, [illegible]743, Oct. 20, 1982	12/29/82
*84.072, *84.661, *84.062	Indian Education—New projects	47 FR, 44835, Oct. 12, 1982	01/04/83
*84.094	Graduate and Professional Study Fellowships Program—New and Noncompeting Continuations.	47 FR, [illegible]905, Nov. 2, 1982	01/05/83
*84.[illegible]	Bilingual Education Act—Basic Project in Bilingual Programs—New projects	47 FR, 46743, Oct. 20, 1982	01/07/83
*84.017	International Research and Studies Program—New and Noncompeting Continuations	47 FR, 46744, Oct. 20, 1982	01/07/83
*84.116D	Fund for the Improvement of Postsecondary Education-Comprehensive Program Final Year Dissemination—New projects.	47 FR, 38388, Aug. 31, 1982	01/11/83
*84.[illegible]	Bilingual Education Act—Demonstration Projects Program—New Projects	47 FR, 46745, Oct. 20, 1982	01/12/83
*84.005L	Bilingual Education Act—Training Projects Program (Activity D)—Noncompeting Continuations.	47 FR, 46746, Oct. 20, 1982	end. 01/25/83 01/14/83
*84.003N	Bilingual Education Act-Training Projects Program (Activity E)—Noncompeting Continuations	47 FR, 46747, Oct. 20, 1982	01/14/83
*84.128A	Special Projects for Demonstrations for providing Vocational Rehabilitation Services to Severely Handicapped Individuals—Noncompeting Continuations.	47 FR, 53451, Nov. 26, 1982	01/14/83
*84.128E	Special Project and Demonstrations for providing Vocational Rehabilitation Services to Severely Handicapped Individuals (Spinal Cord Injury System Projects)—Noncompeting Continuations.	47 FR, 53451, Nov. 26, 1982	01/14/83
*84.024C	Handicapped Children's Early Education Program; State Implementation—New Projects	47 FR, 53091, Nov. 24, 1982	01/14/83
*84.024B	Handicapped Children's Early Education Program; Outreach—New Projects	47 FR, 53092-53093, Nov. 24, 1982	01/17/83
*84.116C	Fund for the Improvement of Postsecondary Education—Noncompeting Continuations	47 FR, 38389, Aug. 31, 1982	01/18/83
*84.055	Cooperative Education Program	47 FR, 50945, Nov. 10, 1982	01/21/83
*84.029B	Handicapped--Preparation of Special Educators—New Projects	47 FR, 52743-52744, Nov. 23, 1982	01/21/83
*84.029D	Handicapped--Preparation of Leadership Personnel—New Projects	47 FR, 52744, Nov. 23, 1982	01/21/83
*84.029F	Handicapped--Preparation of Related Services Personnel—New Projects	47 FR, 52744, Nov. 23, 1982	01/21/83
*84.029H	Handicapped--State Educational Agency Programming—New Projects	47 FR, 52744, Nov. 23, 1982	01/21/83
*84.029K	Handicapped--Special Projects—New Projects	47 FR, 52744, Nov. 23, 1982	01/21/83
*84.029S	Handicapped--Specialized Training of Regular Educators—New Projects	47 FR, 52744, Nov. 23, 1982	01/21/83
*84.029P	Handicapped--Preparation of Trainers of Volunteers including Parents—New Projects	47 FR, 52744, Nov. 23, 1982	01/21/83
*84.128G	Handicapped Migratory Agricultural and Seasonal Farmworker Vocational Rehabilitation Service Projects—Noncompetng Continuations.	47 FR, 53452, Nov. 26, 1982	02/01/83
*84.132	Centers for Independent Living—Noncompeting Continuations	47 FR, 53452, Nov. 26, 1982	02/01/83
*84.003F	Bilingual Education Fellowship Program—Noncompeting Continuations	47 FR, 38389, Aug. 31, 1982	02/04/83
*84.129	Rehabilitation Long-Term Training Projects—Noncompeting Continuations	47 FR, 53452, Nov. 26, 1982	02/08/83
*84.024A	Handicapped Children's Early Education Program; Demonstration—New Projects	47 FR, 53092-53093, Nov. 24, 1982	02/11/83
*84.129D	Rehabilitation Continuing Education Programs—Noncompeting Continuations	47 FR, 53453, Nov. 26, 1982	02/15/83
*84.129I	Projects with Industry—Noncompeting Continuations	47 FR, 53453, Nov. 26, 1982	02/15/83
*84.141	Grants for Special Educational Programs for Students Whose Families are Engaged in Migrant and Other Seasonal Farmwork—High School Equivalency Program—New Projects.	47 FR, 55990, Dec. 14, 1982	02/16/83
*84.149	Grants for Special Educational Programs for Students Whose Families are Engaged in Migrant and Other Seasonal Farmwork—College Assistance Migrant Program—New Projects.	47 FR, 55991 Dec. 14, 1982	02/16/83
*84.094	Fellowships for Education for the Public Service Program—New and Noncompeting Continuations.		02/28/83
*84.023E	Research in Education for the Handicapped—Secondary Age/Level Projects—New Projects		03/07/83
*84.023F	Research in Education of the Handicapped—New Assessment Projects		03/07/83
*84.078	Regional Education Programs for Handicapped Persons—Noncompeting Continuations	47 FR, 38390, Aug. 31, 1982	03/18/83
*84.087	Law School Clinical Experience Program—New Projects		03/25/83
*84.073A	National Diffusion Network—New Projects		03/30/83
*84.023C	Field Initiated Research—Noncompeting Continuations	47 FR, 38390, Aug. 31, 1982	04/01/83
*84.129W	Training of Interpreters for the Deaf Individuals—Noncompeting Continuations		04/01/83

84.094—Fellowships for Education for the Public Service Program

Closing Date: February 28, 1983—New and Continuation Projects

Applications from institutions of higher education for grants to make fellowship awards are invited under the Education for the Public Service Program.

Authority for this program is contained in Part B of Title IX of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1134d–1134g).

The Education for the Public Service Program (Public Service) provides grants to institutions of higher education to support fellowships for graduate and professional study to students who demonstrate financial need and who plan to pursue a career in public service, especially at the State and local levels. Public Service fellowships are intended to provide opportunities for qualified students, particularly minorities and women who have traditionally been underrepresented in these areas.

Closing Date for Transmittal of Applications: An application for a grant must be postmarked or hand delivered by February 28, 1983.

Available Funds: In Fiscal Year 1982, a total of $1,920,000 was awarded to support a total of 234 fellowships at 44 institutions of higher education. It is estimated that approximately $1,920,000 will be available in Fiscal Year 1983. The Secretary will give first priority to providing continuation support for approximately 100 fellows in good

academic standing in their second year of study.

Each institutional applicant applying for new fellowships under this Application Notice will be ranked according to the selection criteria set forth at 34 CFR 649.13, governing the Public Service Program. Only one-year fellowship awards will be made in Fiscal Year 1983. Any continuation support needed for students to complete degree programs will be provided in subsequent years, subject to conditions in the regulations and the appropriation of funds.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Please note that requests for support of Public Service fellowships under the Graduate and Professional Study Fellowships Progam (GPOP) will not be considered for funding if Congress appropriates funds for the Public Service Program.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 14, 1983 and may be obtained by writing to the Graduate Programs Branch, Department of Education, (Room 3053, ROB–3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of a Public Service grant application not exceed 15 pages in length.

Applicable Regulations: Regulations applicable to this program include the following:

(1) Regulations governing the Education for the Public Service Program (34 CFR Part 649) which were published in the **Federal Register** on November 9, 1981 (46 FR 55255).

(2) Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, and 78.

Further Information: For further information contact Dr. William C. Young, Chief, Graduate Programs Branch, U.S. Department of Education, (Room 3053, ROB–3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2347.

(20 U.S.C. 1134d–1134g).

84.023E—Research in Education of the Handicapped—Secondary Age/Level

Closing Date: March 7, 1983—New Projects.

Applications are invited for new Secondary Age/Level projects under the program for Research in Education of the Handicapped.

Authority for this program is contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

The Secretary announces the selection of Secondary Age/Level as one of the priority areas for funding for Fiscal Year 1983 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(j), 324.10, and 324.11) and the Education Department's regulations governing the selection of priorities (34 CFR 75.105(b)).

The purpose of this program is to support projects related to hanicapped children who are of post-elementary age or grade level.

Closing Date for Transmittal of Applications: Applications for Secondary Age/Level projects must be mailed or hand delivered by March 7, 1983.

Available Funds: There is expected to be available $800,000 in FY 1983 for support of projects under this program. Projects should be designed for up to 18 months or less with budgets not to exceed $100,000 for the total period. These estimates do not bind the Department of Education to a specific number of awards or to the amount of any award unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Donohoe Building, Room 4839), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: For further information contact Allen Dittmann, Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 4839, Donohoe Building), Washington, D.C. 20202. Telephone: (202) 472–4840.

(20 U.S.C. 1441–1444)

84.023F—Research in Education of the Handicapped—Assessment Projects

Closing Date: March 7, 1983—New Projects.

Applications are invited for new Assessment Projects under the program for Research in Education of the Handicapped.

Authority for this program is contained in Section 641 and 642 of Part E of the Education of the Handicapped Act.

(20 U.S.C. 1441, 1442)

The Secretary announces the selection of Assessment Projects as one of the priority areas for funding for Fiscal Year 1983 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(c), 324.10, and 324.11) and the Education Department's regulations governing the selection of priorities (34 CFR 75.105(b)).

The purpose of this program is to support projects on assessment instruments and systems related to education of the handicapped.

Closing Date for Transmittal of Applications: Applications for new assessment projects must be mailed or hand delivered by March 7, 1983.

Available Funds: There is expected to be available $1,000,000 in FY 1983 for support of three projects under this program. Projects should be designed for 36 months or less with annual budgets of approximately $300,000.

Application Forms: Application forms and program information packages are

available and may be obtained by writing to the Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Donohoe Building, Room 4839), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Research in Education of the Handicapped (34 CFR Part 324).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: For further information contact Allen Dittmann, Research Projects Branch, Special Education Programs, Department of Education, 400 Maryland Avenue, SW., (Room 4839, Donohoe Building), Washington, D.C. 20202. Telephone: (202) 472–4640.

(20 U.S.C. 1441–1444)

84.087—Law School Clinical Experience Program

Closing Date: March 25, 1983—New Projects.

Applications are invited for new projects under the Law School Clinical Experience Program.

Authority for this program is contained in Title IX, Part E of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1134n–1134p)

This program issues awards to accredited law schools or combinations or consortiums of accredited law schools.

The purpose of the Law School Clinical Experience Program is to establish or expand projects at accredited law schools to provide supervised clinical experience to students in the practice of law.

Closing Date for Transmittal of Applications: Applications for awards must be mailed (postmarked) or hand delivered by March 25, 1983.

Program Information

Available funds: The program legislation permits the Secretary to pay up to 90 percent of the costs of projects at law schools. The program regulations permit the Secretary to establish annually a lower maximum Federal share. In Fiscal Year 1981 with a $3 million appropriation level the maximum Federal share was 80 percent. In Fiscal Year 1982 with a $960,000 appropriation, the maximum Federal share was 50 percent. It is estimated that approximately $605,000 will be available for Fiscal Year 1983. The Secretary is once again establishing a maximum Federal share of 50 percent. A major objective of this program is to increase the financial commitment of a law school to clinical legal education. Support of clinical legal education is not considered a permanent Federal responsibility. The setting of the Federal share at 50 percent supports the program's objective. The Secretary expects to make between 25 and 30 awards, with no individual grant exceeding $25,000.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless, that amount is otherwise specified by statute or regulations.

Final regulations governing the Law School Clinical Experience Program were published in the Federal Register on July 14, 1981. These regulations broadly define the types of projects the Secretary intends to support under this program. The regulations also specify the selection criteria to be used in evaluating applications.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 21, 1983. They may be obtained by writing to the Graduate Programs Branch, U.S. Department of Education, (Room 3068, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the criteria, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

Applicable Regulations: The regulations applicable to this program are:

(a) The Education Department General Administrative Regulations (EDGAR) in 24 CFR Parts 74, 75, 77, and 78; and

(b) The regulations in 34 CFR Part 639, published in the Federal Register on July 14, 1981, 46 FR 36338–36340.

Further Information: For further information contact Dr. William C. Young, Chief, Graduate Programs Branch, U.S. Department of Education, (Room 3068, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245–2347.

(20 U.S.C. 1134n–1134p)

84.073A—National Diffusion Network Program

Closing Date: March 30, 1983—New Projects.

Applications are invited for New Developer Demonstrator projects for Fiscal Year 1983 under the National Diffusion Network program.

The Secretary awards New Developer Demonstrator grants to public or nonprofit private agencies, organizations, and institutions that have developed an exemplary educational program as defined in the applicable regulations. The purpose of the program is to promote widespread installation across the Nation of rigorously evaluated, exemplary educational programs.

Authority for this program is contained in Section 583 of the Education Consolidation and Improvement Act of 1981 (Pub. L. 97–35).

(20 U.S.C. 3851)

Closing Date for Transmittal of Applications: Applications for New Developer Demonstrator grants must be mailed or hand delivered by March 30, 1983.

Program Information: It is expected that new awards will be for a period not to exceed four years contingent on performance and availability of funds. No New Facilitator project grants will be awarded.

Because of limited resources available, the Secretary has selected general content areas (these are called "absolute priorities" under EDGAR § 75.105(a)(3)) taking into account unmet national needs. This year, applications will be accepted in the following general content areas:

1. *Technology*—The Secretary invites applications which demonstrate programs that teach computer literacy and/or use technology to improve instruction in mathematics, science, reading for grades 6 and above, and writing.

2. *Science.*

3. *Mathematics.*

4. *Reading Programs* for Grades 6 and above, and for Language Arts—The Secretary invites applications which demonstrate programs for teaching foreign languages and which demonstrate programs that develop writing skills.

5. *Gifted and Talented.*

6. *Preservice or Inservice Training*—The Secretary invites applications which demonstrate programs designed to improve instruction in mathematics, reading (grades 6 and above), science, or writing, and programs designed to improve teacher utilization of technology in education.

7. *Bilingual Education*—The Secretary invites applications which demonstrate alternative programs for teaching English to students whose dominant language is not English.

Eligibility for applicants for new Developer Demonstrator grants is restricted as follows:

(a) An application may be submitted by any public or nonprofit private agency, organization, or institution that has developed an exemplary educational program; (b) if the agency that developed the exemplary educational program does not apply, another public or nonprofit private agency, organization, or institution may apply if the exemplary educational program continues in operation, is available for visitation, and if the staff is composed substantially of personnel who originally developed and operated the program; (c) both federally and nonfederally developed exemplary educational programs are eligible for NDN funding. "Exemplary educational program" means a program, product, or practice validated by the Joint Dissemination Review Panel (JDRP).

The Secretary selects applications for New Developer Demonstrator grants under each selected general content area separately. Thus, under this application notice there are seven separate competitions. The Secretary has also invited certain kinds of applications under some of the general content areas listed above (1, 4, 6, and 7). The Secretary seeks applications that meet these invitational priorities to encourage the submission of applications that address these specific needs. An application that meets an invitational priority receives no preference over other applications within the same general content area.

Available Funds: It is expected that approximately $500,000 will be available in Fiscal Year 1983 to support an estimated 10 new Developer Demonstrator projects averaging $50,000.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants under any of the priorities listed above or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms are included in a program information package that is expected to be ready for mailing by January 21, 1983. Interested persons may obtain program information packages by writing to the National Diffusion Network Division, U.S. Department of Education, Room 802, Riviere Building, 1832 M Street, NW., Washington, D.C. 20036.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion or the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the National Diffusion Network Program in 34 CFR Part 796 published in the Federal Register on April 21, 1980 (45 FR 26914).

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 75, 76, 77, and 78.

Further Information: For further information contact Mr. Robert M. Mulligan, National Diffusion Network Division, U.S. Department of Education, Room 802, Riviere Building, 1832 M Street, NW., Washington, D.C. 20036. Telephone: (202) 653–7000.

(20 U.S.C. 3851)

84.129W—Training of Interpreters for Deaf Individuals

Closing Date: April 1, 1983—Noncompeting Continuations.

Applications are invited for noncompeting continuation grants under the Training of Interpreters for Deaf Individuals Program.

Authority for this program is contained in Section 304(d) of the Rehabilitation Act of 1973, as amended.

(29 U.S.C. 774(d))

Awards are made under this program to public or private non-profit agencies or organizations including public or private non-profit postsecondary institutions.

The purpose of this program is to train skilled manual and oral interpreters available for employment in public and private agencies involved in the provision of health, education, welfare, rehabilitation, employment and related services to deaf people. This program was established to assist in the training of a sufficient number of interpreters to meet the communication needs of deaf individuals.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by April 1, 1983.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuations and may decline to accept it.

Avialable Funds: It is estimated that approximately $800,000 will be available for support of noncompeting continuation grants in Fiscal Year 1983. Not more than ten individual grants are expected to be awarded; the size of each grant will vary and may range from approximately $50,000 to approximately $125,000.

However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuations grants support under this notice.

Applications must be prepared and submitted in accordance with the instructions and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those

imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed fifteen (15) pages in length. The Secretary further urges applicants not submit information that is not requested.

Applicable Regulations: The regulations applicable to this program is the Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, and 78.

Further Information: For further information contact Dr. Paul R. Ackerman, Acting Director, External Affairs, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3119, Mary E. Switzer Building, 330 C Street, SW., Washington, D.C. 20201. Telephone: (202) 245-0341.

(29 U.S.C. 774(d))

Dated: January 11, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-1286 Filed 1-17-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Conservation and Renewable Energy Office

Fuel Economy of Motor Vehicles; Availability of the 1983 Gas Mileage Guide

The Department of Energy (DOE) herby gives notice of the availability of the 1983 *Gas Mileage Guide*. The Environmental Protection Agency (EPA) has issued regulations on Fuel Economy, Testing, Labelling and Information Disclosure Procedures and Requirements (40 CFR Part 600) which among other things, contain requirements for dealers of 1981 and later model year automobiles and light trucks to have copies of a booklet, the *Gas Mileage Guide*, available and on display in their showrooms and to keep an adequate stock on hand to meet public demand. In the booklet, prospective purchasers will be able to find the fuel economies of the various model vehicles certified as of August 31, 1982 for sale in the United States. DOE is required by Section 506(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), as added by Section 301 of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.), to publish and distribute this booklet. Section 600.405-77 of the EPA regulations states that dealers will be expected to make these booklets available as soon as they are received by them, but in no case later than 15 working days after notification is given of booklet availability. The publication today of this notice constitutes such notification.

The 1983 *Gas Mileage Guide* is available for display and distribution by dealers in their showrooms. Any dealer who has not already received *Guides* from DOE or requires additional copies should request copies in writing to the following address, specifying the quantity desired for the 49-State and/or the California version:

For bulk copies, write: Fuel Economy Distribution, Technical Information Center, Department of Energy, P.O. Box 62, Oak Ridge, Tennessee 37830.

Issued in Washington, D.C., January 6, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 83-1316 Filed 1-17-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 82-18-NG]

Natural Gas Imports, Tennessee Gas Pipeline Co.; Application for Interim Authorization to Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application for Interim Authorization to Import Natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on November 22, 1982, of an application from Tennessee Gas Pipeline Company (Tennessee) for interim authorization to import from Canada up to 84,000 Mcf per day of natural gas during the time that its related import application in ERA Docket No. 82-10-NG is pending decision by the ERA. The imported volumes are to be purchased from Canadian-Montana Pipe Line Company (Canadian-Montana) on an interruptible basis beginning as soon as regulatory approval is obtained.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m. on February 17, 1983.

FOR FURTHER INFORMATION CONTACT:
Norman Breckner (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration, Room GA-007 (RG-43), Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9482

Sue D. Sheridan (Office of General Counsel, Natural Gas and Mineral Leasing), Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: On November 22, 1982, Tennessee filed an application for authorization to import into the United States from Canada up to 84,000 Mcf per day of natural gas to be supplied by Canadian-Montana during the interim period until the ERA issues a decision on another import application Tennessee filed on August 10, 1982, in Docket No. 82-10-NG. In that docket, Tennessee requests authorization to import a total quantity of up to 309,000 Mcf per day of Canadian natural gas to be purchased under individual contracts from Canadian-Montana, KannGaz Producers, Ltd., and Ocelot Industries Ltd. over a 15 to 17 year period.

In its present application, Tennessee requests authorization to import gas to be purchased from Canadian-Montana under a Gas Purchase Agreement dated November 3, 1982 (Agreement). The Agreement provides for delivery of the gas either at an existing point of interconnection between the facilities of Tennessee and TransCanada PipeLines, Ltd. (TransCanada) near Niagara Falls, New York, or, at Tennessee's request, at the interconnection of TransCanada and another interstate pipeline system near Emerson, Manitoba. In addition, Tennessee states that the gas will be offered by Canadian-Montana and received by Tennessee strictly on an interruptible basis and the Agreement does not obligate Tennessee to take or Canadian-Montana to provide volumes during the interim period. The price of the proposed import would be the prevailing international border price which is currently $4.94 per MMBtu.

Tennessee states that Canadian-Montana has already received export authorization from the Canadian National Energy Board for the gas it proposes to import.

In support of its application, Tennessee asserts that having this supply of gas available on a best efforts basis will provide it flexibility to meet potentially heavy winter demand or emergency conditions which might impair its system operation. Tennessee further states that the proposed import will not impair its ability to render authorized natural gas service at

reasonable rates, and that therefore it will not be inconsistent with the public interest.

Other Information

Any person wishing to become a party to the proceeding, and thus to participate as a party in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to Northern's application. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the application.

All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977 in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Division, Economic Regulatory Administration, Room GA-007, RG-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. All protests and petitions to intervene must be filed no later than 4:30 p.m. February 17, 1983.

A hearing will not be held unless a motion is made by a party or person seeking intervention and is granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of Northern's application is available for inspection and copying in the Natural Gas Division Docket Room, located in Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on January 12, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-1317 Filed 1-17-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 4292-002]

Arkansas Electric Cooperative Corp.; Surrender of Preliminary Permit

January 12, 1983.

Take notice that Arkansas Electric Cooperative Corporation, Permittee for the proposed Irons Fork Dam Project No. 4292, requested by letter dated December 13, 1982, that its preliminary permit be surrendered. The preliminary permit was issued on December 4, 1981, and would have expired on July 1, 1983. the project would have been located on the Irons Fork of the Ouachita River in Polk County, Arkansas. The Premittee has determined that hydroelectric development will not be economically feasible at this time.

The surrender of the preliminary permit for Project No. 4292 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1299 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-196-000]

Mark L. Boyer; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 12, 1983.

On August 6, 1982, Mark L. Boyer, (Applicant) 15727 McCearly, Cypress, Texas 77429, filed with the Federal Energy Regulatory Commission (commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The wind powered small power production facility will be located at the Applicant's address. The electric power production capacity of the facility will be 6.5 kilowatts. There is no other wind powered small power production facility owned by the Applicant located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1302 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-129-000]

Caprock Pipeline Co.; Application

January 12, 1983.

Take notice that on December 15, 1982, Caprock Pipeline Company (Applicant), P.O. Box 511, Amarillo, Texas 79163, filed in Docket No. CP83-129-000 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states that it would comply with Section 284.221(d) of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the

certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1270 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-76-000]

Cogeneration of Tennessee, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 12, 1983.

On November 29, 1982, Cogeneration of Tennessee, Inc., 6364 JAE Valley Road, S.E., Roanoke, Virginia 24014, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at Red Boiling Springs, Tennessee. The primary energy source to the facility will be biomass in the form of sawdust which will be burned in gas turbines. An incidental amount of propane will be used for start up purposes; otherwise no natural gas, oil or coal will be used in the facility. The electric power production capacity of the facility will be 12,000 kilowatts. There is no other biomass-fueled small power production facility owned by the Applicant and located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1271 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-106-000]

Colorado Interstate Gas Co., Application

January 12, 1983.

Take notice that on November 29, 1982, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP83-106-000 an application pursuant to Section 7 of the National Gas Act for permission and approval to abandon certain facilities and services rendered in connection with a March 15, 1968, exchange agreement, as amended, between Applicant and Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) and for certificate of public convenience and necessity authorizing the sale of gas to Kansas-Nebraska at three additional locations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to abandon the following:

1. Facilities and exchange service at the Baker exchange meter station, Texas County, Oklahoma.

2. Exchange service at the Hugoton X-1 exchange meter station, Kearny County, Kansas.

3. Exchange service at the Weld County meter station, Weld County, Colorado.

4. Exchange service at the interconnection near the town of Lakin, Kearny County, Kansas.

5. Exchange service at the interconnection near the town of Deerfield, Kearny County, Kansas.

6. Exchange service at the interconnection near the town of Holcomb, Finney County, Kansas

Applicant states that the subject facilities and services are to be abandoned pursuant to Kansas-Nebraska's noticfication of its intent to cancel the exchange agreement effective December 1, 1982.

Applicant further states that to ensure continued gas deliveries to the towns of Lakin, Deerfield, and Holcomb, Kansas. Kansas-Nebraska has requested that deliveries to these towns be added to the service agreement under which Kansas-Nebraska purchases gas from Applicant. Applicant therefore requests certificate authority to add these sales delivery locations with maximum daily volume obligations of 2,750 Mcf, 900 Mcf, and 1,350 Mcf, respectively, at Lakin, Deerfield, and Holcomb. Applicant states that these volumes can be accommodated within the peak day and annual entitlements awarded to Kansas-Nebraska by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1272 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-128-000]

Columbia Gas Transmission Corp.; Application

January 12, 1983.

Take notice that on December 13, 1982, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP83-128-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas services provided under an operating agreement which constitutes Applicant's FERC Gas Tariff, Original Volume No. 2, Rate Schedule X-13, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the services sought to be abandoned were provided under an operating agreement dated November 1, 1956, between Atlantic Seaboard Corporation (Seaboard) and United Fuel Gas Company (United Fuel), predecessor companies of Applicant, and Hope Natural Gas Company (Hope), predecessor of Consolidated Gas Supply Corporation (Consolidated). It is further stated that the November 1, 1956, agreement has been rendered null and void by a gas purchase contract dated July 21, 1964, entered into by Hope, Seaboard and United Fuel, which contract, it is said, is Consolidated's FERC Gas Tariff, Original Volume No. 3, Rate Schedule F-6.

Applicant states that upon receipt of the Commission's order authorizing the requested abandonment, its FERC Gas Tariff, Original Volume No. 2 Rate Schedule X-13, would be cancelled. The service, it is aid, has been inoperative since 1965.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1273 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI78-242-002]

EPX Co.; Application of EPX Company To Amend a Certificate of Public Convenience and Necessity Previously Issued to Odessa Natural Corporation

January 12, 1983.

Take notice that on December 1, 1982, EPX Company ("Applicant") of Post Office Box 1492, El Paso, Texas 79978, filed an application as a Independent Producer, to amend the certificate of public convenience and necessity issued by the Commission at Docket No. CI78-242 by substituting EPX Company as certificate holder in lieu of Odessa Natural Corporation ("Odessa") effective from and after January 1, 1981. Applicant is also requesting redesignation of Odessa's rate schedule as the rate schedule of EPX Company to become effective June 3, 1980.

By Articles of Amendment to the Articles of Incorporation of Odessa Natural Corporation, dated December 9, 1980, the name of Odessa was changed to EPX Company, effective January 1, 1981.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission of its own review of the matter believes that a grant of the certificates of the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1275 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-19534-001, et al.]

Farmland Industries Inc. (Successor In Interest To CRA Inc.), et al.; Petition To Amend Certificates of Public Convenience and Necessity, Redesignate Rate Schedules, and Substitute Farmland Industries, Inc. as a Party

January 12, 1983.

Take notice that on August 31, 1982, Farmland Industries, Inc. (Farmland) of 3315 North Oak Trafficway, Kansas City, Missouri 64116, filed a petition with the Commission in Docket Nos. G-19534-001, *et al.*, to amend the certificates of public convenience and necessity heretofore issued to CRA Inc. (CRA), redesignate the related FERC Rate Schedules as designated in Exhibit A attached hereto and substitute Farmland as a party to proceedings in which it is a party in order to reflect the merger of CFR into Farmland effective August 1, 1982.

Effective August 1, 1982, CFR was merged into Farmland as evidenced by

the "Certificate of Ownership and Merger of CFR, Inc. into Farmland Industries, Inc.".

Any person desiring to be heard or to make any protest with reference to said application should on or before January 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission of its own review of the matter believes that a grant of the certificates of the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

FARMLAND INDUSTRIES, INC. ("FARMLAND") RATE SCHEDULES OF CRA, INC. ("CRA") AND PROPOSED REDESIGNATION SEQUENCES BY FARMLAND [1]

Rate schedule designation		Docket No.	Purchaser	Field
Farmland	CRA			
1	5	CI62-1525	Arkansas Louisiana Gas Company	Lamont Gas Products Plant, Grant and Garfield Counties, Oklahoma.
2	46	CI61-15	Arkansas Louisiana Gas Company	Quitman Gas Products Plant, Wood County, Texas.
3	[illegible]	G-19534	Northern Natural Gas Company	Mertzon Plant, Irion County, Texas.
4	[illegible]	CI63-780	Northern Natural Gas Company	Mertzon Plant, Irion County, Texas.
5	51	CI66-1106	Northern Natural Gas Company	Mertzon Plant, Irion County, Texas.
6	[illegible]	CI74-206	McCulloch Interstate Gas Corporation	Lazy "B" Gas Processing Plant, Campbell County, Wyoming.
7	55	CI74-214	Montana-Dakota Utilities Company	Joe Creek Gas Processing Plant, Campbell County, Wyoming.
8	50	CI65-700	Northern Natural Gas Company (gathering only)	Velrex Field, Schleicher County, Texas.

[1] Farmland holds a certificate of public convenience and necessity in Docket No. CP64-121 to operate certain facilities and transport certain gas from a point in the Velrex Field to its Mertzon processing plant in Irion County, Texas. The order which issued Farmland that certificate indicates that the Commission accepted Farmland's "Special Rate Schedule" covering this activity, effective August 1, 1968. Farmland Industries, Inc., 41 FPC 154, 156 (1969). Because the certificate in Docket No. CP 64-121 is the subject of a pending proceeding (see Farmland's Petition herein, at 2), Farmland proposes no redesignation for such "Special Rate Schedule."

MISCELLANEOUS PROCEEDINGS IN WHICH FARMLAND IS TO BE SUBSTITUTED FOR CRA

Title	Docket No.
Farmland Industries, Inc.	
CRA, Inc.	CP64-121
CRA, Inc.	CI65-700
	CI75-795

[FR Doc. 83-1276 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3367-001]

Hydro Corp. of Pennsylvania; Surrender of Preliminary Permit

January 12, 1983.

Take notice that Hydro Corporation of Pennsylvania, Permittee for the proposed Cowanesque Project No. 3367, has requested that its preliminary permit be terminated. The permit was issued on February 10, 1982, and would have expired on August 1, 1983. The project would have been located on the Cowanesque River in Tioga County, Pennsylvania.

Hydro Corporation of Pennsylvania has determined that hydro development at this site could not be commissioned prior to completion of the Corps of Engineers Reformulation Study which is to be completed in 1991.

Permittee filed its request on December 6, 1982. The surrender of the preliminary permit for Project No. 3367 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1277 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4630-001]

Hydro Light, Inc.; Surrender of Preliminary Permit

January 12, 1983.

Take notice that Hydro Light, Inc., Permittee for the proposed Pitville Hydroelectric Project No. 4630, has requested that its preliminary permit be terminated. The permit was issued on December 31, 1981, and would have expired May 31, 1983. The project would have been located on the Pit River in Lassen County, California.

The Permittee filed its request on December 3, 1982, and the surrender of the preliminary permit for Project No. 4630 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1278 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5937-001]

Kevin Jon Keizer; Surrender of Preliminary Permit

January 12, 1982.

Take notice that Kevin Jon Keizer Permittee for the proposed Keizer Hydro No. 5937, has requested that its preliminary permit be terminated. The permit was issued on March 16, 1982, and would have expired on August 31, 1983. The project would have been located on the Flat River in Montcalm County, Michigan.

The Permittee filed its request on December 8, 1983, and the surrender of the preliminary permit for Project No.

5937 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-1279 Filed 1-17-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ST79-26-002]

Louisiana Resources Co.; Extension Reports

January 12, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before February 7, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

Docket No.	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Effective date
ST79-26-002	Louisiana Resources Co., P.O. Box 3102, Tulsa, OK 74101.	Florida Gas Transmission Co	12/01/82	D	03/01/83
ST80-182-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001.	Columbia Gas Transmission Corp.	12/09/82	G	04/11/82
ST80-201-001	do	Trunkline Gas Co	12/08/82	G	05/02/82
ST81-165-001	Louisana Intrastate Gas Corp., P.O. Box 1352, Alexandria, LA 71301.	Columbia Gulf Transmission Corp	12/02/82	C	02/25/83
ST81-195-001	Valero Transmission Co., P.O. Box 500, San Antonio, TX 78292.	El Paso Natural Gas Co	12/03/82	C	03/08/83
ST81-197-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001.	Southern Natural Gas Co	12/14/82	G	03/16/83
ST81-258-001	Liberty Natural Gas Co., 906 Capital Bank Bldg., 5307 E. Mockingbird Lane, Dallas, TX 75206.	Tennessee Gas Pipeline Co	12/10/82	C	03/31/83
ST81-264-001	Colorado Interstate Gas Co., P.O. Box 1087, Colorado Springs, CO 80944.	Texas Gas Transmission Corp	12/13/82	G	03/16/83
ST81-321-001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	United Gas Pipe Line Co	12/10/82	G	03/17/83
ST82-331-001	Valero Transmission Co., P.O. Box 500, San Antonio, TX 78292.	Texas Eastern Transmission Corp	12/03/82	C	03/04/83
ST83-129-000	Transcontinental Gas Pipe Line Corp., P.O. Box 1396, Houston, TX 77251.	Public Service Electric and Gas Co	12/08/82	B	03/01/83

[FR Doc. 83-1280 Filed 1-17-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3057-001]

Maine Public Service Co.; Surrender of Preliminary Permit

January 12, 1983.

Take notice that Maine Public Service Company (MPSC), Permittee for the proposed Aroostook River Project No. 3057, has requested that its preliminary permit be terminated. The preliminary permit was issued on September 24, 1980, and would have expired on August 31, 1983. The proposed project would have been located on the Aroostook River in Aroostook County, Maine. MPSC stated that although the project appeared to be economically feasible it appears that it will not be able to secure necessary rates through the Maine Public Utilities Commission to support the project. In addition, MPSC stated that construction of the Masardis Development of the project would be in conflict with the Governor's Executive Order dated July 6, 1982, which precludes construction of new dams in certain river segments in Maine.

MPSC filed its request on December 13, 1982, and the surrender of its permit for Project No. 3057 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-1281 Filed 1-17-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CS72-0750-000, et al.]

Wm. W. McClure, Jr. and the First National Bank & Trust Co., Co-Trustees of the W. W. McClure Trust, et al.; Applications for "Small Producer" Certificates[1]

January 12, 1983.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 28, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS72-5790-000	[1] 1/3/82	Wm. M. McClure, Jr. and the First National Bank and Trust Co., Co-Trustees of the W. W. McClure Trust (W. W. and Dorothy M. McClure), Post Office Box One, Tulsa, Oklahoma 74193.
CS74-149-001	[2] 12/27/82	Partners Oil Company (Daniel Oil Company), 2400 Capital Bank Plaza, 333 Clay Street, Houston, Texas 77002.
CS77-396-001	[3] 12/30/82	H. H. Phillips, Ashton J. Fischer, Jane Houghton Phillips (Winnie A. Phillips) (Jane Phillips Ladouceur), 11 O Ranch, 314 Milam Building, San Antonio, Texas 78205.
CS83-21-000	12/16/82	L. Texas Petroleum Inc., 1601 Main Street, Suite 1000, Houston, Texas 77002.
CS83-22-000	12/16/82	A. Leon Derby III, Box 2103, Boise, Idaho 83701.
CS83-23-000	12/20/82	Gould's Electric Motor Repair Inc., P.O. Box 97, Indore, West Virginia 25111.
CS83-24-000	12/20/82	Lynx Exploration Company, 1560 Lincoln, Suite 800, Denver, Colorado 80203.
CS83-25-000	12/23/82	Amber Oil Company, Suite 360—Three Corporate Plaza, 3613 N.W. 56th, Oklahoma City, Oklahoma 73112.
CS83-26-000	12/27/82	The First National Bank and Trust Co. of Tulsa, Trustees of the Francis Joan Lewis Trust, Trust Energy Dept., P.O. Box 1, Tulsa, Oklahoma 74193.
CS83-27-000	12/27/82	The First National Bank and Trust Co. of Tulsa, Trustee of the D. F. Millard Trust B, Trust Energy Dept., P.O. Box 1, Tulsa, Oklahoma 74193.
CS83-28-000	12/27/82	The First National Bank and Trust Co. of Tulsa and Walter J. McAuley, Co-Trustees of the Eva Millard Trust, Trust Energy Dept., P.O. Box 1, Tulsa, Oklahoma 74101.
CS83-29-000	12/27/82	The First National Bank and Trust Co. of Tulsa and Joe M. Holliman, Co-Trustees of the Mabel Felt Trust, Trust Energy Dept., P.O. Box 1, Tulsa, Oklahoma 74101.
CS83-30-000	12/27/82	The First National Bank and Trust Co. of Tulsa and Joe M. Holliman, Co-Trustees of the Howard E. Felt Trust, Trust Energy Dept., P.O. Box 1, Tulsa, Oklahoma 74101.
CS83-31-000	12/27/82	The First National Bank and Trust Co. of Tulsa, Trustee of the Edward E. Noble Blind Trust, Trust Energy Dept., P.O. Box 1, Tulsa, Oklahoma 74193.
CS83-32-000	12/27/82	J. C. Walker, Mary Jo. Walker, and Christine Eldridge, Co-Trustees of the J. C. Walker Living Trust, 3119 South 69th East Avenue, Tulsa, Oklahoma 74145.
CS83-33-000	12/27/82	S T Joint Venture 1982 E, P.O. Box 552, Westport, Connecticut 06881.
CS83-34-000	12/28/82	Marjorie J. Porter and the First National Bank and Trust Co. of Tulsa, Co-Trustees of the Jack D. Porter Trust, P.O. Box 1, Tulsa, Oklahoma 74193.
CS83-35-000	12/28/82	Marjorie J. Porter, 3326 South Troost, Tulsa, Oklahoma 74105.
CS83-36-000	1/3/83	The First National Bank and Trust Co. of Tulsa, Successor Trustee of the Henly C. Bundy Trust A & B, Trust Energy Dept., P.O. Box 1, Tulsa, Oklahoma 74193.
CS83-37-000	1/3/83	Jack R. Sneddon Agency, P.O. Box 1, Tulsa, Oklahoma 74193.

[1] Letter received dated December 28, 1982 requesting that the Small Producer Certificate issued to W. W. and Dorothy M. McClure be transferred to Wm. M. McClure, Jr. and the First National Bank and Trust Co., Co-Trustees of the W. W. McClure Trust.
[2] Effective December 31, 1982, Daniel Oil Company has changed its name to Partners Oil Company.
[3] Letter received dated December 28, 1982, requesting that Small Producer Certificate be changed to delete the name of Winnie A. Phillips, deceased, to Ashton J. Fischer. Also to change the name of Jane Phillips Ladouceur to Jane Houghton Phillips.

[FR Doc. 83-1283 Filed 1-17-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 4215-001]

Metropolitan District Commission; Surrender of Preliminary Permit

January 12, 1983.

Take notice that the Metropolitan District Commission (MDC) of Hartford, Connecticut. Permittee for the proposed Tariffville Project No., 4215 has requested that its preliminary permit be terminated. The preliminary permit was issued on May 1, 1981, and would have expired on April 30, 1983. The proposed project would have been located at the Tariffville Gorge, Farmington River, Hartford County, Connecticut. MDC concluded that the only viable alternative project design would have required construction of a dam across the Tariffville Gorge and would have resulted in unacceptable damage to fisheries and recreational use.

MDC filed its request on December 10, 1982, and the surrender of its permit for Project No. 4215 has been deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1283 Filed 1-17-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-33-000]

Pacific Gas Transmission Co., Application

January 12, 1983.

Take notice that on October 21, 1982, Pacific Gas Transmission Company (PGT), 245 Market Street, San Francisco, California 94106, filed in Docket No. CP83-33-000 and application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the best-efforts transportation and exchange of up to 15,00 Mcf of natural gas per day for Phillips Pacific Chemical Company (Phillips Pacific), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that Phillips Pacific currently owns and operates an anhydrous ammonia plant at its fertilizer complex near Benton, Washington. It is asserted that Phillips Pacific has advised PGT that in order to provide a source of natural gas for feedstock in its Benton, Washington, plant, Phillips Pacific and Southern Union Gathering Company (Gathering

Company) have entered into a contract for sale and purchase of natural gas dated May 12, 1982. It is submitted that since the source of supply to be purchased by Phillips Pacific from Gathering Company is located in San Juan County, New Mexico, Phillips Pacific has entered into separate transportation agreements with El Paso Natural Gas Company and Northwest Pipeline Corporation (Northwest) which collectively provide for the transportation of such gas from its source in New Mexico to Phillips Pacific.

Phillips Pacific has advised PGT that Northwest is prevented from transporting the gas available to Phillips Pacific from Gathering Company in San Juan County, New Mexico, because of capacity constraints on the Northwest system at Kemmerer, Wyoming.

It is submitted that the transportation and exchange proposed by the instant application is designed to make available an alternative arrangement which would allow Phillips Pacific to deliver volumes of gas to Northwest at Spokane, Washington, thus circumventing the existing capacity constraint on Northwest's system.

It is asserted that pursuant to a gas transportation exchange agreement dated October 13, 1982, the subject transportation would be accomplished by means of a backoff of deliveries to Pacific Gas and Electric Company of up to 15,000 Mcf of natural gas per day and the delivery of such gas to Northwest for Phillips Pacific's account at an existing point of interconnection between PGT and Northwest at Spokane, Washington.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1284 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-34-000]

Pacific Gas Transmission Co.; Application

January 12, 1983.

Take notice that on October 21, 1982, Pacific Gas Transmission Company (PGT), 245 Market Street, San Francisco, California 94106, filed in Docket No. CP83-34-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the best-efforts transportation and exchange of up to 15,000 Mcf of natural gas per day for Beker Industries Corp. (Beker), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that Beker currently owns and operates an anhydrous ammonia plant at its fertilizer complex near Conda, Idaho. It is asserted that Beker has advised PGT that in order to provide a source of natural gas for feedstock in its Conda Plant, Beker and Southern Union Gathering Company (Gathering Company) have entered into a contract for sale and purchase of natural gas dated March 1, 1982. It is submitted that since the source of supply to be purchased by Beker from Gathering Company is located in San Juan County, New Mexico, Beker has entered into separate trasportation agreements with El Paso Natural Gas Company and Northwest Pipeline Corporation (Northwest) and Intermountain Gas Company which collectively provide for the transportation of such gas from its source in New Mexico to Beker's Conda Plant.

Beker has advised PGT that Northwest is prevented from transporting the gas from Gathering Company in San Juan County, New Mexico, because of capacity constraints on the Northwest system at Kemmerer, Wyoming.

It is submitted that the transportation and exchange proposed by the instant application is designed to make available an alternative arrangement which would allow Beker to deliver volumes of gas to Northwest at Spokane, Washington, thus circumventing the existing capacity constraint on Northwest's system.

It is asserted that pursuant to a gas transportation and exchange agreement dated October 13, 1982, the subject transportation would be accomplished by means of a backoff of deliveries to Pacific Gas and Electric Company of up to 15,000 Mcf of natural gas per day and the delivery of such gas to Northwest for Beker's account at an existing point of interconnection between PGT and Northwest at Spokane, Washington.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1286 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-5-000]

Pacific Southwest Realty Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 12, 1983.

On October 7, 1982, Pacific Southwest Realty Co., 333 South Hope Street, Los Angeles, California 90071, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. On December 23, 1982, information was filed to complete the application.

The topping-cycle cogneration facility is located at the Brea Data Processing Facility in Brea, California. The primary energy source to the facility in natural gas. The facility is a combined cycle system consisting of four 3000 kilowatt gas turbine generator sets (two operating, one spare, one future), two heat recovery steam generators and two 1800 kilowatt steam turbine generator sets. Thermal energy will be used in heating and cooling applications. Installation of the facility began in May 1982. No electric utility, electric utility holding company or any combination therof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the preceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1285 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4517-001]

Power Resources, Inc.; Surrender of Preliminary Permit

January 12, 1983.

Take notice that Power Resources, Inc., Permittee for the proposed Coffee Creek Project No. 4517, has requested that its preliminary permit be terminated. The permit was issued on April 20, 1982, and would have expired on October 31, 1983. The project would have been located on Coffee Creek, in Trinity County, California.

The Permittee filed its request on December 3, 1982, and the surrender of the preliminary permit for Project No. 4517 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1279 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-121-000]

Pulaski II Limited Partnership; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 12, 1983.

On December 30, 1982, The Pulaski II Limited Partnership, 300 East Joppa Road, 8th Floor, Baltimore, Maryland 21204, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located in Baltimore, Maryland. The primary energy source to the facility will be biomass in the form of municipal solid waste and municipal sewage sludge. The electric power production capacity of the facility will be 20 megawatts. The Applicant owns no other biomass-fueled small power production facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1288 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3559-002]

Richmond Power and Light Co.; Surrender of Preliminary Permit

January 12, 1983.

Take notice that Richmond Power and Light Company, Permittee for the proposed Brookville Dam Project No. 3559, has requested that its preliminary permit be terminated. The permit was issued on July 17, 1981, and would have expired on June 30, 1983. The project would have been located on the East Fork of the Whitewater River in Franklin County, Indiana.

The Permittee filed its request on December 22, 1982, and the surrender of the preliminary permit for Project No. 3559 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1289 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 5188-002 and 5191-001]

San Juan Hydro Inc.; Surrender of Preliminary Permits

January 12, 1983.

Take notice that San Juan Hydro Incorporated Permittee for the proposed Council Grove and Elk City Projects has requested that its preliminary permits be terminated. The preliminary permits were issued on February 17, 1982, and November 12, 1981, and would have expired on July 30, 1983, and April 30, 1982, respectively. The proposed projects would have been located at the U.S. Army Corps of Engineers Council Grove and Elk City Flood Control Dams in Morris and Montgomery Counties, Kansas. Permittee indicated that the

projects would not appear to be economic sources of energy.

Permittee filed its request on November 26, 1982, and the surrender of its permits for Projects Nos. 5188 and 5191 have been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1260 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Projects Nos. 5183-001 and 5316-001]

San Juan Hydro Inc.; Surrender of Preliminary Permits

January 12, 1983.

Take notice that San Juan Hydro Incorporated (SJH) Permittee for the proposed Cheney and El Dorado Projects Nos. 5183 and 5316 respectively, has requested that its preliminary permits be terminated. The preliminary permits were issued on February 19, 1982, and February 17, 1982, respectively, and would have expired July 31, 1984. The proposed projects would have been located at the U.S. Department of the Interior, Bureau of Reclamation's Cheney Dam and the U.S. Army Corps of Engineers' El Dorado flood control dam in Sedgwick and Butler Counties, Kansas. SJH concluded that the projects would not be economically feasible to develop.

SJH filed its request on October 2, 1982, and the surrender of its permits for Projects Nos. 5183 and 5316 have been deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1259 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4477-002]

Springfield Utility Board; Surrender of Preliminary Permit

January 12, 1983.

Take notice that Springfield Utility Board, Permittee for the proposed Fern Ridge Reservoir Project No. 4477, has requested that its preliminary permit be terminated. The premit was issued on August 12, 1981, and would have expired on January 31, 1983. The project would have been located on the Long Tom River, in Lane County, Oregon.

The Permittee filed its request on November 22, 1982, and the surrender of the preliminary permit for Project No. 4477 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1261 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5886-001]

Springfield Utility Board; Surrender of Preliminary Permit

January 12, 1983.

Take notice that Springfield Utility Board, Permittee for the proposed North Power #1 Project No. 5886, has requested that its preliminary permit be terminated. The preliminary permit was issued on September 29, 1982, and would have expired September 30, 1984. The project would have been located on the North Fork of the Middle Fork of the Willamette River in Lane County, Oregon.

The Permittee filed its request on November 22, 1982, and the surrender of the preliminary permit for Project No. 5886 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1262 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5419-001]

Devon E. Tassen et al.; Surrender of Preliminary Permit

January 12, 1983.

Take notice that Devon E. Tassen, Paula J. Tassen and David J. Williams, Permittee for the Upper Oak Water Power Project, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5419 was issued on February 17, 1982 and would have expired on July 31, 1983. The project would have been located on Oak Run Creek in Shasta County, California.

The Permittee stated that it has encountered too many problems with Department of Fish and Game and also with the individual property owners at the proposed project site.

The Permittee filed its request on November 1, 1982, and the surrender of the preliminary permit for Project No. 5419 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1274 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-117-000]

Texas Eastern Transmission Corp.; Application

January 12, 1983.

Take notice that on December 8, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP83-117-000 an application pursuant to Section 7(c) of the Natural Gas Act for certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Columbia Gas Transmission Corporation (Columbia Gas), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is stated that Applicant and Columbia Gas have previously entered into a service agreement dated September 4, 1980, providing for service under Applicant's Rate Schedule DCQ. Applicant proposes to accept on a firm basis from or for the account of Columbia Gas up to 60,000 dt equivalent of natural gas per day at the existing point of interconnection between the pipeline facilities of Applicant and Columbia Gas designated as Applicant's meter station No. 577 in Bucks County, Pennsylvania, and to transport and deliver by means of a backhaul such quantities to or for the account of Columbia Gas at the existing points of interconnection between the pipeline facilities of Applicant and Columbia Gas designated as Applicant's sales meter station Nos. 519, 321, 486, and 322 in Dauphin County, Lebanon County, and Berks County, Pennsylvania, respectively.

Applicant asserts it would charge Columbia Gas the presently applicable TS-1 excess rate per dt equivalent under Applicant's Rate Schedule TS-1 (such rate being subject to change from time to time) for delivery by Applicant to or for the account of Columbia Gas. Applicant states that applicable shrinkage would not be retained from the transportation volumes.

Applicant explains it would provide the subject transportation service pursuant to a transportation agreement dated October 28, 1982.

It is further stated that the proposed service would assist Columbia Gas in implementing its sales agreements with its customers in a rapidly expanding market area.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to

intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1283 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST81-113-001]

Texas Gas Corp.; Extension Reports

January 12, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before February 7, 1983 file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST81-113-001	Tejas Gas Corp., P.O. Box 2906, Corpus Christi, TX 78403.	United Gas Pipe Line Co.	11/02/82	C	02/16/83
ST81-140-001	Transwestern Pipeline Co., P.O. Box 2521, Houston, TX 77001.	Delhi Gas Pipeline Corp.	11/09/82	B	12/15/82
ST81-163-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001.	Transcontinental Gas Pipe Line Corp.	11/12/82	G	02/11/83
ST81-171-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001.	United Gas Pipe Line Co.	11/15/82	G	02/13/83
ST81-175-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001.	Monterey Pipeline Co.	11/01/82	B	02/03/83
ST81-180-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001.	Entex, Inc.	11/03/82	B	02/17/83
ST81-191-001	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201.	Michigan Wisconsin Pipe Line Co.	11/08/82	C	02/05/83
ST81-211-001	Texas Eastern Transmission Corp., P.O. Box 2521, Houston, TX 77001.	United Gas Pipe Line Co.	11/15/82	G	03/23/83
ST81-228-001	Southern Natural Gas Co., P.O. Box 2563, Birmingham, AL 35202.	United Gas Pipe Line Co.	11/03/82	G	01/20/83
ST81-241-001	Natural Gas Pipeline Co. of America, 122 South Michigan Ave., Chicago IL 60603.	Delhi Gas Pipeline Corp.	11/02/82	B	02/01/83
ST81-263-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001.	Valero Transmission Co.	11/01/82	B	03/01/83

[FR Doc. 83-1284 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-102-005, et al.

Texas Gas Transmission Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

January 12, 1983.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D.C. 20426, on or before January 26, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
10/28/82	Texas Gas Transmission Corp	RP81-102-005	LFUT reports.
10/29/82	Southern Natural Gas Co	RP80-102-014	Report.
12/17/82	Florida Gas Transmission Co	PR81-84-007	Report.
12/17/83	National Fuel Gas Supply Corp	RP81-126-008	LFUT report.
12/22/82	Consolidated Gas Supply Corp	RP-80-006	Report.
12/30/82	El Paso Natural Gas Co	CP81-312-007	Refund plan.
1/3/83	Kentucky-West Virginia Gas Co	TA82-2-46-004	Report.
1/4/83	Consolidated Gas Supply Corp	RP72-157-080	Report.

[FR Doc. 83-1265 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM79-34 and Docket No. ST83-2]

Transportation Certificates for Natural Gas Displacement of Fuel Oil and Michigan Wisconsin Pipe Line Co.; Self-Implementing Transactions

January 12, 1983.

Take notice that the following Transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to Section 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)2), the table lists the proposed rate and expriation date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 or the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeling pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,
Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Expiration date [1]	Transportation rate (cents per MMBtu)
ST83- 2	Michigan Wisconsin Pipe Line Co.	Cajun Natural Gas Co.	10/01/82	B	—	—
ST83- 3	Delhi Gas Pipeline Corp.	Natural Gas Pipeline Co. of America	10/01/82	C	2/28/83	[illegible]
ST83- 4	United Gas Pipe Line Co.	Panhandle Eastern Pipe Line Co.	10/01/82	G	—	—
ST83- 5	Tennessee Gas Pipeline Co.	Columbia Gas Transmission Corp.	10/04/82	G	—	—
ST83- 6	Florida Gas Transmission Co.	Southern Natural Gas Co.	10/04/82	G	—	—
ST83- 7	Chaparral Transmission, Inc.	Tennessee Gas Pipeline Co.	10/05/82	C	3/04/83	[illegible]
ST83- 8	Panhandle Eastern Pipe Line Co.	United Gas Pipe Line Co.	10/05/82	G	—	—
ST83- 9	do	MIGC, Inc.	10/04/82	G	—	—
ST83-10	El Paso Natural Gas Co.	El Paso Hydrocarbons Co.	10/04/82	B	—	—
ST83-11	Houston Pipe Line Co.	Natural Gas Pipeline Co. of America	10/04/82	C	—	—
ST83-12	Columbia Gulf Transmission Co.	Bridgeline Gas Distribution Co.	10/04/82	B	—	—
ST83-13	Trunkline Gas Co.	Northern Natural Gas Co.	10/05/82	G	—	—
ST83-14	GHR Pipeline Corp.	Natural Gas Pipeline Co. of America	10/06/82	C	—	—
ST83-15	Transwestern Pipeline Co.	Texas Eastern Transmission Corp.	10/06/82	G	—	—
ST83-16	Texas Eastern Transmission Corp.	Transwestern Pipeline Co.	10/06/82	G	—	—
ST83-17	Pantera Energy Corp.	Northern Natural Gas Co.	10/06/82	C	—	—
ST83-18	Columbia Gulf Transmission Co.	Louisiana Intrastate Gas Corp.	10/06/82	B	—	—
ST83-19	Southern Natural Gas Co.	do	10/07/82	B	—	—
ST83-20	MIGC, Inc.	Panhandle Eastern Pipe Line Co.	10/07/82	G	—	—
ST83-21	Seagull Pipeline Corp.	Northern Natural Gas Co.	10/07/82	C	3/06/83	15.00
ST83-22	GHR Pipeline Corp.	Transcontinental Gas Pipe Line Corp.	10/06/82	C	—	—

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Expiration date [1]	Transportation rate (cents per MMBtu)
ST83-23	Michigan Wisconsin Pipe Line Co.	Entex, Inc.	10/08/82	B	—	—
ST83-24	Mountain Fuel Supply Co.	Natural Gas Pipeline Co. of America	10/12/82	G	—	—
ST83-25	do	Colorado Interstate Gas Co.	10/12/82	G	—	—
ST83-26	do	Columbia Gas Transmission Corp.	10/12/82	G	—	—
ST83-27	United Gas Pipe Line Co.	Texas Eastern Transmission Corp.	10/12/82	G	—	—
ST83-28	Texas Eastern Transmission Corp.	Northern Natural Gas Co.	10/12/82	G	—	—
ST83-29	Gas Co. of New Mexico	Northwest Pipeline Corp.	10/12/82	G(HT)	—	—
ST83-30	Producer's Gas Co.	Florida Gas Transmission Co.	10/12/82	C	3/11/83	50.00
ST83-31	Florida Gas Transmission Co.	Texas Gas Transmission Corp.	10/12/82	G	—	—
ST83-32	Tennessee Gas Pipeline Co.	Transcontinental Gas Pipe Line Corp.	10/12/82	G	—	—
ST83-33	do	Louisiana Intrastate Gas Corp.	10/13/82	B	—	—
ST83-34	Columbia Gulf Transmission Co.	do	10/13/82	B	—	—
ST83-35	do	Texas Gas Transmission Corp.	10/14/82	G	—	—
ST83-36	United Gas Pipe Line Co.	Northern Natural Gas Co.	10/14/82	G	—	—
ST83-37	do	Tennessee Gas Pipe Line Co.	10/14/82	G	—	—
ST83-38	Mountain Fuel Supply Co.	Northern Natural Gas Co.	10/18/82	G	—	—
ST83-39	GHR Pipeline Corp.	Transcontinental Gas Pipe Line Corp.	10/19/82	C	—	—
ST83-40	Tennessee Gas Pipeline Co.	Granite State Gas Transmission, Inc.	10/19/82	G	—	—
ST83-41	Northern Natural Gas Co.	Natural Gas Pipeline Co. of America	10/21/82	G	—	—
ST83-42	Sugar Bowl Gas Corp.	Cajun Natural Gas Co.	10/21/82	C	—	—
ST83-43	United Texas Transmission Co.	Transcontinental Gas Pipe Line Corp.	10/21/82	C	—	—
ST83-44	Columbia Gulf Transmission Co.	Louisiana Intrastate Gas Corp.	10/21/82	B	—	—
ST83-45	Mountain Fuel Supply Co.	Natural Gas Pipeline Co. of America	10/22/82	G	—	—
ST83-46	Trunkline Gas Co.	Southern Natural Gas Co.	10/22/82	G	—	—
ST83-47	Panhandle Eastern Pipe Line Co.	The Kansas Power and Light Co.	10/22/82	B	—	—
ST83-48	Houston Pipe Line Co.	Natural Gas Pipeline Co. of America	10/22/82	C	—	—
ST83-49	MIGC, Inc.	Mountain Fuel Supply Co.	10/22/82	G	—	—
ST83-50	Producer's Gas Co.	Panhandle Eastern Pipe Line Co.	10/22/82	C	3/21/83	20.20
ST83-51	Southern Natural Gas Co.	Texas Eastern Transmission Corp.	10/25/82	G	—	—
ST83-52	Columbia Gulf Transmission Co.	Tennessee Gas Pipeline Co.	10/25/82	G	—	—
ST83-53	Northwest Pipeline Corp.	Natural Gas Pipeline Co. of America	10/25/82	G	—	—
ST83-55	United Gas Pipe Line Co.	Louisiana Resources Co.	10/26/82	B	—	—
ST83-56	Texas Eastern Transmission Corp.	United Gas Pipe Line Co.	10/25/82	G	—	—
ST83-57	Louisiana Intrastate Gas Corp.	Texas Eastern Transmission Corp.	10/27/82	C	3/26/83	20.00
ST83-58	ONG Red Oak Transmission Co.	Columbia Gas Transmission Corp.	10/28/82	C	—	—
ST83-59	do	United Gas Pipe Line Co.	10/28/82	C	—	—
ST83-60	Colorado Interstate Gas Co.	Mountain Fuel Supply Co.	10/26/82	G	—	—
ST83-61	Michigan Wisconsin Pipe Line Co.	Northern Natural Gas Co.	10/26/82	G	—	—
ST83-62	Florida Gas Transmission Co.	Transcontinental Gas Pipe Line Corp.	10/25/82	G	—	—
ST83-63	Valero Transmission Co.	Texas Eastern Transmission Corp.	10/29/82	C	—	—

[1] The intrastate pipeline has sought commission approval of its transportation rate pursuant to section 284.123(b)(2) of the commission's regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the commission does not take action by the date indicated.

[FR Doc. 83-1287 Filed 1-17-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-110-000]

Trunkline Gas Co.; Application

January 12, 1983.

Take notice that on December 3, 1982, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP83-110-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Texas Eastern Transmission Corporation (Texas Eastern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline proposes to transport on a firm basis on behalf of Texas Eastern pursuant to a transportation agreement dated October 19, 1982, up to 60,000 Mcf of natural gas per day less 0.25 percent fuel from the outlet of The Superior Oil Company Lowry Gas processing plant in Cameron Parish, Louisiana, to either or both of the existing points of interconnection between Trunkline and Texas Eastern located in Allen and Beauregard Parishes, Louisiana.

Trunkline proposes to charge Texas Eastern a monthly transportation charge of $52,800 and an excess/deficiency charge of 2.89 cents per Mcf.

Trunkline asserts the proposed service is the most efficient and economical means of transporting this gas for Texas Eastern.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participated as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Trunkline to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1286 Filed 1-17-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-124-000]

United Gas Pipe Line Co.; Application

January 12, 1983.

Take notice that on December 10, 1982 United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-124-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of up to 2,500 Mcf of natural gas per day on an interruptible basis, for sale to First Chemical Corporation (First Chemical), an existing on-system direct industrial customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is experiencing a situation in which its supplies of natural gas exceed the current demands of its customers and that at the same time, First Chemical has indicated that it would like to purchase additional volumes of gas from Applicant on an interruptible basis. The above volumes would be offered by Applicant only if both gas supply and capacity are available to satisfy the sale after meeting all the firm requirements of Applicant's customers. Applicant asserts that since the sale would be interruptible there would be no detriment to the existing certificated services on Applicant's system.

It is asserted that the rate proposed by Applicant would be determined in accordance with the provisions set forth in Interruptible Rate Schedule IRS 82-100 which is currently $0.45 per Mcf plus the weighted average cost of gas per Mcf on Applicant's system for the billing month. Applicant further states that unless exempted from The Natural Gas Policy Act of 1978's incremental pricing provisions the rate would be subject to an incremental pricing surcharge in accordance with the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1249 Filed 1-7-83; 8:45 am]

BILLING CODE 6717-01-M

United Texas Transmission Co., Extension Reports

[Docket No. ST81-184-001]

January 12, 1983

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1979 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additonal term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.148. A "G" indicates transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before February 7, 1983 file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Effective date
ST81-184-001	United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001.	Florida Gas Transmission Co.	11/19/82	D	02/25/83
ST81-202-001	Oasis Pipe Line Co., P.O. Box 1188, Houston, TX 77001.	El Paso Natural Gas Co.	11/22/82	C	[illegible]
ST81-203-001	Houston Pipe Line Co., P.O. Box 1188, Houston, TX 77001.	do	11/22/82	C	[illegible]

Docket No.	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Effective date
ST81-306-001	GHR Pipeline Corp., 823 North Belt East, Suite 600, Houston, TX 77060.	do	11/22/82	C	02/23/83
ST82-336-001	Valero Transmission Co., P.O. Box 500, San Antonio, TX 78292.	United Gas Pipe Line Co.	11/30/82	C	03/01/83

[FR Doc. 83-1250 Filed 1-17-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP81-168-012]

Valero Interstate Transmission Co.; Petition

January 12, 1983.

Take notice that on December 15, 1982,[1] Valero Interstate Transmission Company (Petitioner), P.O. Box 1569, San Antonio, Texas 78295, filed in Docket No. CP81-168-012 a petition pursuant to Section 385.207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for a declaratory order clarifying the quantities of natural gas sold to El Paso Natural Gas Company (El Paso) or in the alternative a petition to amend the order issued October 22, 1981, in Docket No. CP81-168-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the sale of an average of 25,000 Mcf of gas per day calculated over the accounting year, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Petitioner was authorized by order issued October 22, 1981, to sell up to 25,000 Mcf of natural gas per day to El Paso. Petitioner asserts that paragraph 1 of the January 28, 1981, gas sales agreement provides that commencing on the date of initial delivery, El Paso agrees to receive and purchase, or pay for if available for delivery and not taken, and Petitioner agrees to deliver and sell, subject to any limitations and conditions therein elsewhere provided, during each accounting year, a daily contract quantity equal to the sum of all the daily contract quantities established from time to time during the accounting year under Petitioner's gas purchase contracts dedicated thereunder, up to 25,000 Mcf per day. Petitioner also asserts that paragraph 4 of such agreement states that El Paso shall have the right to vary its daily rates of take thereunder, but none in excess of the daily variations provided for in the Petitioner's gas purchase contracts dedicated thereunder.

Petitioner states that it has interpreted the order issued October 22, 1981, as authorizing the Sale of up to an average of 25,000 Mcf per day in accordance with that stated in paragraph 1 of the January 28, 1981, gas sales agreement. Petitioner, therefore, requests the Commission to clarify its order issued in the instant docket on October 22, 1981, by recognizing that this order provides authorization for Petitioner to sell El Paso volumes in excess of 25,000 Mcf per day on any given day. In the alternative, petitioner requests the Commission to amend said order so as to authorize the sale of an average of 25,000 Mcf of gas per day to El Paso.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 3, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determinng the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1251 Filed 1-17-83; 8:45 am]
BILLING CODE 6717-01-M

[1] The petition was initially tendered for filing on December 15, 1982; however, the fee required by § 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until December 16, 1982; thus, filing was not completed until the latter date.

[Project No. 5047-001]

Village of Poland, Ohio; Surrender of Preliminary Permit

January 12, 1983.

Take notice that the Village of Poland, Ohio, Permittee for the proposed Muskingum River Lock & Dam No. 3 Project No. 5047, requested by letter dated December 2, 1982, that its preliminary permit be surrendered. The preliminary permit was issued on November 17, 1981, and would have expired on November 1, 1983. The project would have been located on the Muskingum River in Washington County, Ohio. The Village of Poland has determined that hydroelectric development will not be economically feasible at this time.

The surrender of the preliminary permit for project No. 5047 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1252 Filed 1-17-83; 8:45 am]
BILLING CODE 6717-01-M

[Project Nos. 6850-000, et al.]

Water—Watts Inc., et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: 5 MW or Less Exemption.

b. Project No: 6850-000.

c. Date Filed: November 15, 1982.

d. Applicant: Water—Watts Inc.

e. Name of Project: Cox's Hydroelectric Project.

f. Location: On Deep Creek, near Buhl, in Twin Falls County, Idaho.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705, and 2708 as amended.

h. Contact Person: Ms. Lura Morgan-Renk, 876 Eastwind Drive, Twin Falls, Idaho 83301.

i. Comment Date: February 11, 1983.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 50-foot-long concrete diversion structure; (2) a 650-foot-long existing canal to be upgraded and a 500-foot-long new canal; (3) two penstocks, each 25-foot-long, 36-inch-diameter; (4) a powerhouse containing two generating units with a total rated capacity of 300 kW; (5) a 400-foot-long tailrace channel; and (6) a 0.4-mile-long. 12.5-kV underground transmission line. The Applicant estimates that average annual energy production would be 0.77 million kWh.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A1, B, C, D3a.

2a. Type of Application: Preliminary Permit.

b. Project No: 6883–000.

c. Date Filed: November 26, 1982.

d. Applicant: City of Shawano, Wisconsin.

e. Name of Project: Hayman Falls Hydro Project.

f. Location: Pella, Shawano County, Wisconsin on the Embarass River.

g. Filed Pursuant to: Federal Power Act U.S.C. 791(a)–825(r).

h. Contact Person: James M. Waters, P.E., Water & Assocs., Inc., 995 Applegate Road, P.O. Box 4086, Madison, Wisconsin 53711.

i. Comment Date: March 4, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam approximately 13-foot high and 115-foot long; (2) a reservior with an estimated storage capacity of 414.8 acre-feet; (3) a new one-quarter mile long steel penstock; (4) a new powerhouse located on the east bank of the river; (5) new transmission lines; and (6) appurtenant facilities. The Applicant estimates the capacity of the project would be 780 kW with an average annual generation of 3.4 GWh. All power generated would be sold to either Wisconsin Power and Light Company or Wisconsin Public Service Corporation.

k. This notice also consists of the following standard paragraphs: A4a, A4d, B, and C.

l. Agency Comments: Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set, it will be presumed to have no comments.

3 a. Type of Application: Preliminary Permit

b. Project No: P–6852–000

c. Date Filed: November 15, 1982

d. Applicant: Trans Mountain Hydro Corporation

e. Name of Project: Lower Snake River Hydro Power Project

f. Location: on the Lower Snake River in Summit County, Colorado

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Herbert C. Young, 123 S. Paradise Road, Golden, Colorado 80401.

i. Comment Date: March 14, 1983

j. Description of Project: The proposed project would consist of totally new facilities as follows: (1) A 4-foot-high, 10-foot-long diversion structure; (2) a 2,500-foot-long penstock; (3) a powerhouse containing a single generating unit having a total rated capacity of 164 kW; (4) approximately ¼ mile of the 14.4-kV transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 709,920 kWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be Public Service Company of Colorado.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $80,000.

4 a. Type of Applicant: Preliminary Permit

b. Project No: 6758–000

c. Date Filed: October 6, 1982

d. Applicant: Holden Village, Incorporated

e. Name of Project: Railroad Creek Hydroelectric Project

f. Location: On Railroad Creek, near the town of Chelan, within the Wenatchee National Forest, in Chelan County, Washington

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. Contact Person: Mr. Werner Janssen, Business Manager, Holden Village, Incorporated, Chelan, Washington 98816

i. Comment Date: March 11, 1983

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 50-foot-long diversion structure; (2) a 24-inch-diameter, 5,000-foot-long steel penstock; (3) a powerhouse containing one generating unit with a rated capacity of 300 kW; and (4) a 25,000-foot-long, 7.2-kV transmission line. The Applicant estimates the average annual energy production at 2.5 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 24-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $15,000.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2

5 a. Type of Applicant: Preliminary Permit

b. Project No: 6789–000

c. Date Filed: October 12, 1982

d. Applicant: Hydro Management, Inc.

e. Name of Project: Sixmile Creek Water Power Project

f. Location: Sixmile Creek in Lake County, Montana

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) 825(r)

h. Contact Person: Mr. W. H. Edelman, Hydro Management, Inc., Route 1, Box 169, Ronan, Montana 59864

i. Comment Date: March 14, 1983

j. Description of Project: The proposed project would consist of: (1) A proposed diversion structure 3-foot-high and 19-foot-long, which will create no impoundment; (2) a proposed penstock 5,700-foot-long and 10 inches in diameter; (3) a proposed powerhouse containing a single generator/turbine unit with a total installed capacity of 200 kW; (4) a proposed transmission line approximately 1000 feet in length and interconnecting with Pacific Power and Light Company, and (5) appurtenant facilities. The Applicant estimate the average annual energy production to be 1,200 MWh.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, and C

l. Agency Comments: Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set, it will be presumed to have no comments.

6 a. Type of Application: Preliminary Permit

b. Project No: 6888–000

c. Date Filed: November 26, 1982

d. Applicant: Alabama Municipal Electric Authority

e. Name of Project: Aliceville Hydroelectric Project

f. Location: Tombigbee River in Pickens County, Alabama

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) 825(r)

h. Contact Person: Mr. Kenneth Everett, Secretary and Treasurer, Alabama Municipal Electric Authority, P.O. Box 2128, Dothan, Alabama 36301.

i. Comment Date: March 14, 1983

j. Description of Project: The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 6888 would consist

of: (1) A proposed 350-foot-long buried intake structure, connecting the existing diversion channel with the proposed powerhouse; (2) a proposed watertight powerhouse structure located in the existing diversion channel on the right side of the dam; (3) an opencut excavated tailrace, 1300-feet long and 150-feet-wide; (4) the installation of 2 double regulated, axial flow turbines with generators with a total installed capacity of 10 MW; (5) a proposed 10-mile-long transmission line interconnecting with the Alabama Power Company; and (5) appurtenant facilities. Applicant estimates the average annual energy production to be 27 GWh.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, and C

1. Agency Comments: Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set, it will be presumed to have no comments.

7 a. Type of Application: Preliminary Permit

b. Project No: 6889–000

c. Date Filed: November 26, 1982

d. Applicant: Alabama Municipal Electric Authority

e. Name of Project: Aliceville Hydroelectric Project

f. Location: Tombigbee River in Pickens County, Alabama

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a) 825(r)

h. Contact Person: Mr. Kenneth Everett, Secretary and Treasurer, Alabama Municipal Electric Authority P. O. Box 2128, Dothan, Alabama 36301.

i. Comment Date: March 14, 1983.

j. Description of Project: The Proposed project would utilize an existing U. S. Army Corps of Engineers, dam and reservoir. Project No. 6889 would consist of: (1) A proposed 650-foot-long and 150-foot-wide forebay and a 850-foot-long and 150-foot-wide tailrace, to be excavated from the bank on the left side of the dam; (2) a proposed watertight powerhouse structure to be built in the excavated forebay and tailrace channel; (3) the proposed installation of 3 double regulated, axial flow turbine/generator units with a total installed capacity of 15 MW; (4) a proposed transmission line 12 miles long and interconnecting with the Alabama Power Company; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output will be 52 GWh.

k. This notice also consists of the following standard paragraphs: A4a, A4c, B, and C.

1. Agency Comments: Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set, it will be presumed to have no comments.

8a. Type of Application: Preliminary Permit

b. Project No: 6895–000

c. Date Filed: November 29, 1982

d. Applicant: Hy-Tech Company

e. Name of Project: Fisher Creek

f. Location: On Fisher Creek, within the Payette National Forest, near McCall in Valley County, Idaho

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. Contact Person: Mr. Carl W. Haywood, 2109 Broadview Drive, Lewiston, Idaho 83501

i. Comment Date: March 14, 1983

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high, 60-foot-long diversion structure; (2) a 10,000-foot-long, 32-inch-diameter penstock; (3) a powerhouse containing three generating units with a total installed capacity of 3170 kW; and (4) a 50-foot-long, 12.5-kV transmission line connecting to an existing Idaho Power Company transmission line. The Applicant estimates that the average annual energy production would be 8.75 million kwh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which it would conduct technical, environmental and economic studies. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $40,000.

k. Purpose of Project: Project power would be sold to the Idaho Power Company.

1. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, D2.

9a. Type of Application: Preliminary Permit.

b. Project No: 6903–000.

c. Applicant: Batten Kill Hydro Associates.

d. Name of Project: Middle Greenwich.

f. Location: Town of Greenwich, Washington County, New York.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: Wayne L. Rogers, President, Synergics, Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

i. Comment: March 14, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 10-foot high, 235-foot long, concrete gravity spillway dam; (2) a 9-acre reservoir with no usable storage at elevation 320.0 feet M.S.L.; (3) an existing 150-foot long, 20-foot wide, 10-foot deep power canal; (4) an existing powerhouse to be rehabilitated and to contain two turbine-generators with a total rated capacity of 500 kW; (5) a tailrace channel; (6) a 3000-foot long transmission line; and (7) appurtenant facilities. The project would produce up to 2,600,000 kWh annually. The project dam and facilities are currently owned by the Village of Greenwich, Karlson Glass Works, and Mr. David Grimes.

k. Purpose of Project: Energy produced at the produced at the project would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit if issued, does not authorize construction. The work proposed under preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. The cost of the studies under the preliminary permit has been estimated by the Applicant to be $36,000.

10a. Type of Application: Preliminary Permit.

b. Project No: P–6833–000.

c. Date Filed: December 14, 1982.

d. Applicant: F and T Services Corporation.

e. Name of Project: Lake Anacoco.

f. Location: Lake Anacoco, Vernon Parish, Louisiana.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ralph L. Laukhuff, P.O. Box 64844, Baton Rouge, Louisiana 70896.

i. Comment Date: March 14, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 5,000-foot-long, 30-foot-high earthen dam with a 300-foot-long, 15–foot–high concrete spillway section; (2) an existing 4.06-square mile reservoir with a total storage capacity of 24,000 acre-feet at elevation 194.0 feet M.S.L.; (3) a new powerhouse located and adjacent to the spillway containing a single 1,200-kW turbine-generator; (4) a transmission line; and (5) appurtenant facilities. The

project is owned by the State of Louisiana.

k. Purpose of Project: Energy produced at the project would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A4a, B, C and D2.

11a. Type of Application: Exemption from Licensing.

b. Project No: 5786–001.

c. Date Filed: September 16, 1982.

d. Applicant: Lawrence J. McMurtrey.

e. Name of Project: Circle Creek Project.

f. Location: On Circle Creek, a tributary of Suiattle River, near the town of Darrington within the Mr. Baker-Snoqualmie National Forest, in Snohomish County, Washington.

g. Filed Pursuant to: Section 408 of the Energy Security Act, 16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122–198th N.E. Redmond, Washington 98052.

i. Comment Date: February 23, 1983.

j. Description of Project: The proposed project would consist of: (1) A 2-foot-high, 14-foot-long diversion structure on Circle Creek; (2) a 12,000-foot-long, 24-inch-diameter steel pipeline/penstock; (3) a powerhouse to contain one generating unit with a rated capacity of 2.27 MW; and (4) a 10-mile-long, 155-kV transmission line to connect to an existing Puget Sound Power and Light Company's transmission line. The Applicant estimated the average annual energy generation at 10.4 GWh.

k. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

12a. Type of Application: Preliminary Permit.

b. Project No: 6884–000.

c. Date Filed: November 26, 1982.

d. Applicant: Village of Sun, Louisiana.

e. Name of Project: Pearl River Navigation Canal Hydro Project.

f. Location: St. Tammany Parish, Louisiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mayor Nathan T. Wood, Village of Sun, P.O. Box 897, Sun, Louisiana 70463.

i. Comment Date: March 18, 1983.

j. Description of Project: The proposed project would utilize facilities owned by the U.S. Army Corps of Engineers and located on the Pearl River Navigation Canal involving three developments, Locks Nos. 1, 2, and 3. The proposed three developments would consist of:

(A) the Pearl River Lock No. 1 which would have: (1) A new steel penstock, 100 feet long and 7 feet in diameter; (2) a new 50-foot by 75-foot powerhouse having an installed capacity of 4210 kW; (3) a new tailrace; (4) a new transmission line; and (5) appurtenant facilities;

(B) the Pearl River Lock No. 2 which would have: (1) new steel penstocks, 100-feet long and 8 feet in diameter; (2) a new 50-foot by 75-foot powerhouse having an installed capacity of 2550 kW; (3) a new tailrace; (4) a new transmission line; and (5) appurtenant facilites.

(C) the Pearl River Lock No. 3 which would have: (1) new steel penstocks, 100 feet long and 8 feet in diameter; (2) a new 50-foot by 75-foot powerhouse having an installed capacity of 1650 kW; (3) a new tailrace; (4) new transmission line; and (5) appurtenant facilities. Applicant estimates the total capacity of the three developments would be 8.41 MW, and the average annual generation would be 44.2 GWh.

k.Purpose of Project: All generated power would be sold to the Louisiana Power & Light Company or a local cooperative.

l. This notice also consists of the following standard paragraphs: A4a, A4d, B,and C.

m. Agency Comments: Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set, it wil be presumed to have no comments.

13a. Type of Application: Preliminary Permit.

b. Project No: 6895–000.

c. Date Filed: December 6, 1982.

d. Applicant: Butte Creek Improvement Company.

e. Name of Project: Buttee Creek Hydroelectric Project.

f. Location: On Buttee Creek, within BLM lands, near Chico, in Butte County, California.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Geoff Fricker, President, Buttee Creek Improvement Company, 11922 Castle Rock Court, Chico, California 95926.

i. Comment Date: March 16, 1983.

j. Description of Project: The proposed project would consist of: (1) A 230-foot-high, 1,200-foot-long earthen dam creating a reservoir with a storage capacity of 25,000 acre-feet; (2) a 15,500-foot-long, 84-inch-diameter pipeline connected to a surge tank; (3) an 800-foot-long, 54-inch-diameter penstock; (4) a powerhouse containing two generating units with a total rated capacity of 12.6 MW; and (5) a 1,000-foot-long, 60-kV transmission line connecting to an existing Pacific Gas an Electric Company (PG&E) transmision line. The Applicant estimates that the average annual energy production would be 77.2 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct technical, environmental and economic studies. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $100,000.

k. Purpose of Project: Project power would be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

14a. Type of Application: Preliminary Permit.

b. Project No: 6912–000.

c. Date Filed: December 7, 1982.

d. Applicant: Weber Basin Water Conservancy District.

e. Name of Project: Willard Pumping Plant No. 1.

f. Location: Willard Canal in Box Elder County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Barbara E. Schneider, Esquire, Chapman, Duff and Paul, 1730 Pennsylvania Ave., NW., Washington, D.C. 20006.

i. Comment Date: March 21, 1983.

j. Description of Project: The proposed project would utilize the existing Willard Canal and Pumping Plant No. 1 which are operated and maintained by the Applicant, and owned by the Bureau of Reclamation. The project would include: (1) An existing 250-foot long intake conduit; (2) an existing pumping plant which would be modified by; (3) replacing the three existing pumps with three reversible pump-turbines, each rated at 650 kW, to operate under a 30-foot head; (4) retrofitting the existing motors for operation as generators; (5) three existing 60-inch diameter, 650-foot long steel penstocks; (6) the addition of trashracks to an existing canal discharge bay; (7) an existing bypass canal and control structure; (8) modification of station electrical equipment; and (9) appurtenant facilities. Applicant estimates that average annual generation would be 4,130 MWh.

k. Purpose of Project: Energy would be used by the Applicant to operate their pumping plants, well pumps, and water treatment plants, or exchanged with the Colorado River Storage Project.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $70,000.

15a. Type of Application: Preliminary Permit.

b. Project No: 6912–000.

c. Date Filed: December 13, 1982.

d. Applicant: Mountain West Hydro, Inc.

e. Name of Project: Dry Ridge Hydroelectric.

f. Location: On an unnamed tributary of the Roaring River in Clackamas County, Oregon; within the Mount Hood National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carl Rounds, General Energy Development, Inc., 1885 West Washington Avenue, Stayton, Oregon 97383.

i. Comment Date: March 16, 1983.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high reinforced concrete diversion structure at elevation 3,120 feet; (2) a 16-inch-diameter, 6,700-foot-long steel pipeline; (3) a powerhouse at elevation 1,120 feet containing a turbine-generating unit with an installed capacity of 1,373 kW and an average annual output of 7.7 GWh, and (4) a 3,800-foot-long transmission line.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a term of 36 months, during which engineering, economic and environmental studies would be conducted to ascertain project feasibility and to support an application for a license to construct and operate the project. The estimated cost of permit actitivities is $83,000.

k. This notice also consists of the following, standard paragraphs: A4b, A4c, A4d, B, C and D2.

16a. Type of Application: Minor License.

b. Project No: 3486–001.

c. Date Filed: November 16, 1982.

d. Applicant: Public Utility District No. 1 of Kittitas County.

e. Name of Project: Easton Dam Hydroelectric Project.

f. Location: On Yakima River, in Kittitas County, near Easton, WA.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Floyd M. Weir, Manager, PUD No. 1 of Kittitas County, 1400 East Vantage Highway, Ellensburg, WA 98926, with a copy to: Mr. Mark Keller, CH2M HILL, 1500 114th Ave. SE, Bellevue, WA 98004.

i. Comment Date: March 18, 1983.

j. Description of Project: The proposed run-of-the-river project, to be located at the base of the U.S. Bureau of Reclamation's existing Easton Dam, would consist of: (1) An existing 6-foot by 4-foot sluiceway; (2) a new 8-foot-diameter, 190-foot-Long steel penstock; (3) a powerhouse to contain a Kaplan-type, turbine-generating unit with a rated capacity of 1.5 MW operating under a head of 38 feet; (4) a 60-foot-long tailrace channel; (5) a 200-foot-long, 12.5-kV transmission line; and (6) other appurtenant facilities. The applicant also proposes to construct a new fish ladder to replace the existing fish ladder using the tailrace as attraction water. The estimated 7.36 million KWhs of energy produced at the project would for use or sale by the Applicant. The project cost is estimated at $2.8 million. The subject license application was filed as the result of a preliminary permit issued to the Applicant.

k. this notice also consists of the following standard paragraphs: A2, B, C, and D1.

17a. Type of Application: Major License.

b. Project No: 3489–001.

c. Date Filed: November 16, 1982.

d. Applicant: Public Utility District No. 1 of Kittitas County.

e. Name of Project: Roza Dam Hydroelectric Project.

f. Location: On Yakima river, in Kittitas County, near Ellensburg, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Floyd M. Weir, Manger, PUD No. 1 of Kittitas County, 1400 East Vantage Highway, Ellensburg, Washington 98926, with a copy to: Mr. Mark R. Ketter, CH2M Hill, 1500 114th Avenue, S.E., Bellevue, Washington 98004.

i. Comment Date: March 18, 1983.

j. Description of Project: The proposed run-of-the-river project, to be located at the base of the U.S. Bureau of Reclamation's (USBE) existing Roza Dam, would consist of: (1) An intake structure to include a radial gate and a 25-foot bay leading to; (2) a powerhouse to contain a Kaplan-type, turbine-generating unit with a rated capacity of 2.4 MW operating under a head of 28 feet; (3) approximately 900 feet of 12.5-kV transmission line to connect to an existing USBR line; and (4) other appurtenant facilities. The estimated 13.78 million kWhs of energy produced at the project would be for use or sale by the Applicant. The project cost is estimated at $5.8 million. The subject application was filed as the result of a preliminary permit issued to the Applicant.

k. This notice also consists of the following standard paragraphs: A2, B, C and D1.

18a. Type of Application: Preliminary Permit.

b. Project No: 6753–000.

c. Date Filed: October 4, 1982.

d. Applicant: Wallowa Power Company.

e. Name of Project: Wallowa Hydroelectric Power Project.

f. Location: Wallowa River, near the Towns of Kimmell and Randowa, in Wallowa County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Harry S.D. Adams, Manager, Wallowa Power Company, c/o Boise Power Company, c/o Boise Power Company, One Jefferson Square, P.O. Box 50, Boise, Idaho 83728.

i. Comment Date: March 21, 1983.

j. Description of Project: The proposed project would consist of: (1) A 210-foot-high, 1,100-foot-long earthen dam; (2) a 10-foot-diameter, 300-foot-long penstock; (3) a powerhouse containing two generating units with a total installed capacity of 20,500 kW; and (4) a 1.2-mile-long transmission line. The Applicant estimates the average annual energy production at 90.7 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $150,000. Applicant proposes under the work plan to do test borings and other sub-surface studies. All disturbed areas will be restored and no new roads will be required.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

19a. Type of Application: Preliminary Permit.

b. Project No: 6754–000.

c. Date Filed: October 4, 1982.

d. Applicant: Grande Ronde Power Company.

e. Name of Project: Grand Ronde Hydroelectric Power Project.

f. Location: On Grande River, near the Towns of Minam and Rondowa, Wallowa County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Harry S.D. Adams, Manager, Grande Ronde Power Company, c/o Boise Cascade Croporation, P.O. Box 50, Boise, Idaho 83729.

i. Comment Date: March 21, 1983.

j. Description of Project: The proposed project would consist of: (1) A 100-foot-high, 500-foot-long earthen dam; (2) a 12-foot-diameter, 150-foot-long penstock; (3) a powerhouse containing two generating units with a total rated capacity of 18,600 kW; and (4) a 8.2-mile-long transmission line. The Applicant estimates the average annual energy production at 81.50 million kWh.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $150,000. Applicant proposes under the work plan to do test borings and other ground disturbing studies. All disturbed areas will be restored and no new roads will be required.

k. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C and D2.

20a. Type of Application: Preliminary Permit.

b. Project No: P–6827–000.

c. Date Filed: November 10, 1982.

d. Applicant: Jackson Falls Hydroelectric Power Company.

e. Name of Project: Jackson Falls Water Power Project.

f. Location: on the Wildcat Brook, in Carroll County, New Hampshire.

g. Filed Pursuant to: the Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Jason M. Cortell, Jason M. Cortell and Associates, 244 Second Avenue, Waltham, Massachusetts 02154.

i. Comment Date: March 18, 1983.

j. Description of Project: The proposed project would consist of: (1) The rehabilitation of an existing diversion structure in Wildcat Brook; (2) an existing 1,035-foot-long penstock; (3) a new powerhouse containing a single generating unit having a rated capacity of 366 kW; (4) 800 feet of new transmission line; and (5) appurtenant facilities. The project facilities are owned by Mr. Ernest Mallett of North Conway, New Hampshire. The Applicant estimates that the average annual energy output would be 2,135 MWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the New Hampshire Cooperative Electric Corporation.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 18 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $57,000.

21a. Type of Application: Preliminary Permit.

b. Project No: 6877–000.

c. Date Filed: November 24, 1982.

d. Applicant: The Phoenix Hydro Corporation.

e. Name of Project: Nine Mile Creek Project.

f. Location: Onondaga County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary R. Schoonmaker, 2701 Howlett Hill Road, Marcellus, New York 13108.

i. Comment Date: March 18, 1983.

j. Description of Project: The proposed project would consist of four developments on the Nine Mile Creek described from downstream to upstream as follows:

(A) Marcellus Falls (Miller Dam) would consist of: (1) The existing concrete dam 11-feet-high and 90 feet long; (2) a reservoir having a surface area of one acre with negligible storage, and a normal water surface elevation of 540 feet USGS datum; (3) a new 4-foot diameter steel penstock 250 feet long; (4) a new powerhouse containing one unit with a generating capacity of 175 kW; (5) an existing tailrace 100 feet long; and (6) appurtenant facilities. Applicant estimates the annual average energy production would be 700,000 kWh. The dam is owned by Leo J. Miller and Leo P. Miller.

(B) Martisco Paper would consist of: (1) The existing concrete dam 10 feet high and 80 feet long; (2) a reservoir with negligible storage, a surface area of less than one acre, and a normal water surface elevation of 502 feet USGS datum; (3) a new 4-foot diameter steel penstock 150 feet long; (4) a new powerhouse containing one unit with a generating capacity of 75 kW; and (5) appurtenant facilities. The Applicant estimates the average annual energy production would be 300,000 kWh. The owner of the dam is the Martisco Paper Company.

(C) Lower Crown Mill would consist of: (1) The existing limestone and woodplank dam 10 feet high and 100 feet long; (2) a reservoir having negligible storage, a surface area of one acre, and a normal water surface elevation of 618 feet USGS datum; (3) a new 4-foot diameter steel penstock 200 feet long; (4) a new powerhosue containing one unit with a generating capacity of 75 kW; and (5) appurtenant facilities. Applicant estimates the average annual energy production would be 300,000 kWh. The dam is owned by Gus Aull.

(D) Upper Crown Mill would consist of: (1) An existing limestone structure dam 12 feet high and 90 feet long; (2) a reservoir having negligible storage elevation of 654 feet one acre, and a normal water surface elevation of 654 feet USGS datum; (3) a new intake structure; (4) a new powerhouse containing one unit with a generating capacity of 75 KW; (5) an existing tailrace 150 feet long; and (6) appurtenant facilities. Applicant estimates the average annual energy production would be 300,000 kWh. The dam is owned by Ted Stetler.

21k. Purpose of Project: All project power would be sold to the New York State Electric and Gas Corporation.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $27,500.

22a. Type of Application: Preliminary Permit.

b. Project No: 6948–000.

c. Date Filed: December 29, 1982.

d. Applicant: F and T Services Corporation.

e. Name of Project: Keystone Lock and Dam

f. Location: Bayou Teche, St. Martinville, St. Martin Parish, Louisiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ralph L. Laukhuff, P.O. Box 64844, 9107 Interline Avenue, Baton Rouge, Louisiana 70896.

i. Comment Date: March 18, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers Keystone Lock and Dam and would consist of a new powerhouse located near the east spillway abutment containing a single 400 kW turbine-generator, transmission line and appurtenant facilities. The project would generate up to 2,150,000 kWh annually.

k. Purpose of Project: Energy produced at the project would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months. The work to be performed under this preliminary permit would consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permits, consultation with the Corps of Engineers and preparing necessary documentation for the Commission's licensing requirements. Applicant estimates that the cost of the works to be performed under the permit would not exceed $5,000.

a. Type of Applicant: Preliminary Permit.

b. Project No: 6966–000.

c. Date Filed: December 27, 1982

d. Applicant: Brassworks Associates.

e. Name of Project: Brassworks.

f. Location: Mill River, town of Haydenville, Hampshire County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Curran Associates, Inc., 182 Main Street, Northampton, Massachusetts 01060.

i. Comment Date: March 18, 1983

j. Description of Project: The proposed project would consist of: (1) an existing 18-foot high, 150-foot long stone masonry dam with 16-inch high flashboards; (2) an existing 7-acre reservior with a normal water surface elevation restored to 439.5 feet M.S.L.; (3) an existing intake and 5-foot diameter, 200-foot long buried penstock; (4) an existing powerhouse containing a new 80kW turbine generator; (5) an existing tailrace channel; and (6) appurtenant facilities. The project would generate up to 350,000 kWh annually. The project is owned by the Applicant.

k. Purpose of Project: Energy produced would be utilized on site or sold to the local utility.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The work to be performed under this preliminary permit would consist of gathering necessary data, completing surveys and environmental studies, obtaining necessary Federal, State and local permits and preparing necessary documentation for the Commission's licensing requirements. Applicant estimates that the cost of works to be performed under the permit would not exceed $6,000.

Competing Applications

A1. Exemptions for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intend allows an interested person to file the competing license application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1982). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d).

A2. Applications for License—Anyone desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either the competing application itself (see 18 CFR 4.33 (a) and (d), and Part 16, where applicable) or a notice of intent (see 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in 4.33(c) or 4.101 to 4.104 (1982).

A3. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for license, exemption or preliminary permit, or notices of intent to file competing applications, will be accepted for filing in response to this notice (see 18 CFR 4.30 to 4.33 or 4.101 to 4.104 (1982), as appropriate). Any application for license or exemption from licensing, or notice of intent to file a license or an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or 4.101 to 4.104 (1982), as appropriate).

Preliminary Permits

A4a. Existing Dam of Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30-days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A4b. No existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or there are proposed to be major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.30 to 4.33 (1982)).

A4c. The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before the specified comment date for the particular application. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or 4.101 to 4.104 (1982), as appropriate).

A4d. Submission of a timely notice of intent to file an application for preliminary permit allows an interested person to file an acceptable competing application for preliminary permit no later than 60 days after the specified comment date for the particular application.

B. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214 (1982). In determining the appropriate action to take, the Commission will

consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

D1. License applications (5 MW or less capacity)—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. Preliminary permit applications—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Exemption applications (5 MW or less capacity)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Exemption applications (Conduit)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: January 13, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1329 Filed 1–17–83; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–140028; TSH–FRL 2286–6]

Computer Sciences Corp. et al.; Access to Data by Contractor and Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has recontracted with the Computer Sciences Corporation (CSC) and its subcontractors, InterAmerica Research Associates, Inc. (InterAmerica), and Informatics, Inc., to organize and operate a Confidential Business Information (CBI) Information Center for the Office of Toxic Substances (OTS); to analyze OTS programs with the aim of developing automated systems; and to operate a Document Processing Center for information received under the Toxic Substances Control Act (TSCA). Some of the material to which CSC, InterAmerica, and Informatics will have access will contain TSCA CBI.

DATE: Access to TSCA CBI will occur no sooner than January 28, 1983.

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, Acting Director, Industry Assistance Office (TS–799), Environmental Protection Agency, Rm. E–509, 401 M Street, SW, Washington, D.C. 20460, Toll Free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: EPA has recontracted with the Computer Sciences Corporation of Falls Church, Virginia, and its subcontractor InterAmerica Research Associates, Inc. of Rosslyn, Virginia, to organize and operate an Information Center for Confidential Business Information submitted to EPA under various provisions of the Toxic Substances Control Act (Contract No. 68–01–6639). The purpose of this CBI Information Center (CIC) is to organize and distribute efficiently within EPA the large quantity of CBI material received

to date and expected to be received in the future so as to facilitate its effective and timely use. The Office of Toxic Substances needs the assistance of CSC and InterAmerica because it does not have sufficient staffing and expertise for the kind and amount of work and amount of work which must be performed.

CSC and InterAmerica will manage and update EPA's TSCA CBI files and data bases, perform information searches and retrievals on those data bases, and index CBI files. In addition, CSC will analyze programs with the aim of developing automated systems for the use and retrieval of data.

Informatics, Inc., of Rockville, Maryland, under subcontract to CSC, will operate the OTS Document Processing Center to receive documents submitted to EPA under TSCA rulemaking. Informatics will process, index, and microfiche these documents and other OTS document collections.

The services to be provided by CSC, InterAmerica, and Informatics are a continuation of identical tasks performed under previous contracts.

Some of the material to which CSC, InterAmerica, and Informatics will have access will contain TSCA CBI. Pursuant to 40 CFR 2.306(j), EPA has determined that disclosure of CBI to CSC, InterAmerica, and Informatics is necessary for the satisfactory performance of this contract.

Informatics' facilities have been inspected and approved to receive CBI in accordance with the EPA security manual "Contractor Requirements for the Control and Security of TSCA CBI." At no time will CSC or InterAmerica be permitted to remove any CBI from EPA premises. In accordance with the security manual, CSC, InterAmerica, and Informatics are legally required to safeguard TSCA CBI from any unauthorized disclosure. Their employees will be briefed on appropriate security procedures which must be followed before they will be allowed access to any CBI.

Dated: January 7, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-1328 Filed 1-17-83; 8:45 am]

BILLING CODE [illegible]

FEDERAL COMMUNICATIONS COMMISSION

Radio Advisory Committee; Meeting

The nexat meeting of the Advisory Committee on Radio Broadcasting has been scheduled at 9:30 a.m., Thursday, February 3, 1983, in Room 330, 1200 19th Street, NW., Washington, D.C.

The Committee will consider recommendations to the FCC concerning:

—The development of a new bilateral agreement between the United States and Canada on AM broadcasting which will implement the Final Acts of the 1981 Rio De Janeiro Conference on AM broadcasting 2 and supersede the North American Regional Broadcasting Agreement (NARBA).

—The development of similar revisions to the U.S. Mexican AM Radio Broadcasting Agreement; and

—Other Business.

The meetings of the Committee are public, and are open for participation by all interested persons. The meeting scheduled for February 3, 1982 may if the participants so decide, be recessed for resumption at such other time and place as they may designate.

For further information please contact the Committee Chairman, Louis C. Stephens at FCC Headquarters, (202) 632-7792.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-1340 Filed 1-17-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group; Income and Other Accounts Subcommittee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of two meetings of the Telecommunications Industry Advisory Group's (TIAG) Income and Other Accounts Subcommittee scheduled to meet on Thursday, January 27, 1983 and Thursday, February 10, 1983. Each meeting will begin at 9:30 a.m. and will be open to the public. The meeting locations are as follows:

Thursday, January 27, 1983

Federal Communications Commission
Room 330
1200 19th Street, NW.
Washington, D.C.

Thursday, February 10, 1983

GTE Service Corporation
Suite 900
1120 Connecticut Avenue, NW.
Washington, D.C.

The agenda are as follows:

I. General Administrative Matters.
II. Discussion of Assignments.
III. Other Business.
IV. Presenttion of Oral Statements.
V. Adjournment.

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659-4700) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-1338 Filed 1-17-83; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee; Meeting

The Technical Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Thursday, February 10, 1983 at 10 a.m. in the Wasilewski Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

The Subgroup will continue its consideration of recommendations to the Federal Communications Commission concerning matters pertinent to the ongoing U.S.-Canadian discussions on the drafting of a new bilateral AM agreement which, it is expected, will replace the North American Regional Broadcasting Agreement (NARBA).

The Subgroup will also discuss preparations for bilateral discussions which have started with Mexico, looking toward post-Rio revision of the U.S.-Mexican AM Agreement.

The meeting, a continuing one, will be resumed after the February 10, 1983 session at such time and place as is decided at that session. It is open for participation by all interested persons.

For further information, please call the Subgroup Chairman, Mr. Wallace Johnson, at (703) 841-0500.

William J. Tricarico,

Secretary

Federal Communications Commission.

[FR Doc. 83-1335 Filed 1-17-83; 8:45 am]

BILLING CODE 6712-01-M

Performance Review Board; Appointment of New Members

As required by the Civil Service Reform Act of 1978 (Pub. L. 95-454), Chairman Mark S. Fowler has appointed the following SES members to the Performance Review Board:

Edward J. Minkel, Managing Director, Chairman

James C. McKinney, Chief, Private Radio Bureau, Member
Laurence E. Harris, Chief, Mass Media Bureau, Member
Gary M. Epstein, Chief, Common Carrier Bureau, Member
Richard M. Smith, Chief, Field Operations Bureau, Member

This announcement amends the announcement published October 12, 1982, 47 FR 44880.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-1339 Filed 1-17-83; 8:45 am]
BILLING CODE 6712-01-M

[FCC 82-578]

Continental Telephone Co. of Virginia; Prescription of Revised Percentages of Depreciation

AGENCY: Federal Communications Commission.
ACTION: Depreciation Rate Prescription Order.

SUMMARY: Pursuant to Sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), the Federal Communications Commission has ordered the Continental Telephone Company of Virginia to apply the percentages of depreciation which are set forth in the Appendix. This company filed for revised depreciation rates for various accounts and submitted studies and data to substantiate its request. The intended effect of this action is to charge, as accurately as circumstances will allow, the cost of the consumption of depreciable assets to the periods in which the assets are useful in the production of revenues.

EFFECTIVE DATE: The company is to apply the depreciation rates as of the date set forth in the Appendix.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moran, Chief, Depreciation Rates Branch, (202) 634–1861.

Adopted: December 22, 1982.
Released: December 30, 1982.
By the Commission:

In the matter of: The Prescription of Revised Percentages of Depreciation pursuant to Section 220(b) of the Communications Act of 1934, as amended for: Continental Telephone Company of Virginia.

I. Introduction

1. Section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), states that the Commission shall, as soon as practicable, prescribe classes of property for which depreciation charges may be included in operating expenses and the percentages of depreciation which shall be charged to each of the classes. It also states that the Commission may, when it deems necessary, modify the classes and percentages so prescribed.

2. By this order we prescribe revised percentages of depreciation (depreciation rates) for Continental of Virginia using the straight line equal life group (SLELG) method.

II. Background

A. Straight Line Equal Life Group Method

3. In FCC Docket No. 20188, 83 FCC 2d 267 (1980), *reconsideration*, 87 FCC 2d 916 (1981), we amended our rules to permit the use of the SLELG depreciation method for new additions to plant as an alternative to the straight line vintage group (SLVG) method, provided that adequate data is available for the proper application of the method.

4. The primary differences between the SLELG and SLVG methods lie in the definition of the basic depreciation groups and in the approach each takes in spreading the original cost of assets comprising the basic groups over their estimated average service lives. While SLVG forms its basic groups by combining all units placed in one year (i.e., a vintage group), SLELG creates its basic groups by combining all units within each vintage group which share an equal life expectancy (i.e., an equal life group). While the SLVG method is designed to depreciate 100% of the original cost of a vintage on average over the life cycle of each vintage, the SLELG method is designed to depreciate 100% of the original cost of each plant unit over its life. As a consequence, if projections are accurate, the SLELG method should allow for depreciation at a rate more representative of the actual consumption of units of property than SLVG. We concluded in Docket No. 20188 that the proper application and monitoring of this method would not only enhance the carriers' cash flow and present to all interested parties a more accurate and objective financial picture of the carriers' operations and capital requirements, but would also benefit their customers by encouraging innovation and the introduction of new technology.

5. Under both the SLVG and SLELG methods, retirement projections, service life estimates, and depreciation rates are normally determined, in part, through the use of survivor curves. These survivor curves define the relationship between the age of plant investment and the relative percentage expected to remain in service. Under the SLELG methodology, the survivor curves assume an added significance—that of defining the basic (equal life) groups. Under the SLVG method, most survivor curves have been selected only after the staff has completed detailed statistical analysis of historical retirement data. With the added significance of the survivor curves in the SLELG method, the availability and analysis of historical retirement data becomes even more important.

6. We recognized the importance of adequate data in Docket No. 20188 where we found that the SLELG method is acceptable, provided that:

> • • • it is assured that adequate data is available for proper application of the method; that record keeping and reporting practices will enable monitoring of the reasonableness of the rate of allocation of both original cost and provisions for salvage and removal; that such allocation of original cost will achieve allocation over the service life of the property neither more nor less than 100% of the investment net of salvage value.

Accordingly, we directed the staff to take such measures as may be necessary to insure the measurability and accountability of the results under the SLELG method.

7. We further directed the staff to phase in the implementation of SLELG depreciation rates beginning with the outside plant accounts, followed by the central office equipment accounts and concluding with all other plant accounts. In accordance with this directive, this year the staff reviewed SLELG rates for the outside plant and the central office equipment accounts for Continental of Virginia. Our findings and conclusions regarding the SLELG rates for Continental of Virginia are discussed below (see paragraph 17 ff). With the adoption of this order, we are beginning the implementation of SLELG rates for the Continental Telephone Corporation operating telephone companies.

B. Review Procedures

8. Since the late 1940's, the Commission has reviewed and prescribed the depreciation rates of approximately one-third of the larger FCC-subject telephone companies each year. In most cases we have prescribed rates for a carrier only after the following actions have been completed:

(1) Submittal of depreciation studies by the carrier.

(2) Staff review of the carrier's filings and studies in support of its proposed life and salvage factors.

(3) Independent staff analysis of such information as the carrier's plant mortality data and equipment retirement plans.

(4) Preparation of preliminary staff recommendations.

(5) Discussion of the carrier's filings and the preliminary Commission staff proposals at a conference in which representatives of the carrier and the staffs of the respective state commissions and the FCC participate (i.e., a three-way meeting).

9. During the past year, in addition to the filings in conjunction with the staff's normal triennial represcription cycle, we received SLELG proposals from Continental of Virginia. The need to resolve the issues raised by this filing in a timely manner required the staff to depart from its traditional procedures. Because it was apparent that there were insufficient stafff resources to allow the complete review of life and salvage factors for Continental of Virginia, the staff chose to omit portions of steps 2 and 3 above and instead use the life and salvage factors which underlie currently prescribed rates. In addition, time and resource constraints precluded the discussion of SLELG rates with the carrier and the Virginia State Corporation Commission at a three-way meeting. Instead, comments regarding the carrier filing and preliminary staff proposals were solicited from the carrier and state commission via correspondence.

10. Continental of Virginia submitted a proposal on July 1, 1982, requesting the SLELG depreciation rates be prescribed for future additions to the outside plant and central office equipment accounts effective January 1, 1982. The staff analyzed the carrier's proposal and arrived at its recommendations and, on October 12, 1982, issued a public notice (Report No. 2969) entitled, "Depreciation Rate Prescriptions Proposed For Domestic Telephone Companies." This public notice summarized the FCC staff's proposals for revised depreciation rates and the change in depreciation expense that would result if those proposed depreciation rates were approved. On October 14, 1982, the staff transmitted to the company and the Virginia Commission a copy of the October 12 public notice as well as schedules containing the proposed SLELG rates.

III. Summary of Comments

11. Reponses to the staff's October 12 1982 public notice were received from Continental of Virginia and the Virginia State Corporation Commission.

12. Continental of Virginia agreed with the FCC staff that the survivor curves and future net salvage factors which underlie the currently prescribed depreciation rates are the appropricate factors to use in the calculation of SLELG rates. Continental also agreed with the staff's proposal to use separate SLELG rates for original cost and net salvage. Continental agreed with the staff that survivor curves had not been developed during the review process for several of the switching accounts; however, it disagreed with the staff's assertion that survivor curves cannot be determined for these accounts. Continental contended that the final retirement pattern for these accounts can be derived from the information included in its studies. Nevertheless, Continental agreed with the staff's proposal to use the remaining-life method for these accounts, and to prepare technical updates annually.

13. Continental disagreed with the staff's proposed survivor curve for the COE-Digital account. Continental stated that the curve proposed by the staff is inappropriate because it ignores an expected truncation of life. Continental proposed, as a compromise between its original proposal and the staff's proposal, a different survivor curve which includes a truncation of life.

14. Continental noted that there were relatively minor variances between the company and the FCC staff proposals in several accounts. It believed that the differences were due to differences in the rounding techniques used in the FCC staff's and Continental's computer programs. Continental stated that it is willing to explore the possibility of bringing its programs in line with those used by the FCC staff in order to eliminate future conflicts.

15. The staff of the Virginia Commission reiterated its comments made in response to an earlier public notice; i.e., that SLELG is neither necessary nor in the best interests of Virginia telephone companies or customers. It expressed the concern that its comments with regard to an earlier SLELG filing for outside plant were dismissed without sufficient consideration in FCC Order 82–353, 90 FCC 2d 964 (1982). The Virginia Commission also questioned why our staff requested comments when we have already stated that the question of whether or not the SLELG method should be used was decided in Docket No. 20188.

IV. Discussion of Issues

A. The Use of SLELG

16. In our decision in Docket No. 20188, we considered the arguments expressed by the parties for and against the use of the SLELG method and determined that the use of SLELG rates is appropriate, provided adequate data is available. In the discussion in the Final Report and Order, we found that the use of SLELG comports with the mandate of Section 1 of the Communications Act, "to make available . . . a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges . . ." 47 U.S.C. § 151. We reaffirmed our decision allowing the use of SLELG in our Order on Reconsideration as well as in five prescription orders approved this year (viz., FCC 82–53, 88 FCC 2d 1567 (1982), FCC 82–353, *supra*, FCC 82–354, 90 FCC 2d 997 (1982), FCC 82–542, Mimeo No. 32468. and FCC 82–543, Mimeo No. 32469). Nevertheless, the Virginia Commission has again questioned whether the use of SLELG rates is warranted. Inasmuch as Virginia has not raised any new arguments or evidence regarding the use of SLELG rates, we have no basis to reverse our decision on this matter. Our rules, as amended in Docket No. 20188, clearly allow the use of SLELG for accounts in which adequate data is available to properly apply and monitor it. Therefore, we will allow its use.

B. Life and Net Salvage Factors

17. Our staff has stated that SLELG rates should be based upon the life and salvage factors determined in conjunction with the staff's last complete review of this company's rates, because this company is not scheduled for a complete review of depreciation rates until 1984, and staff resources did not permit a complete review of life and salvage factors this year. In the October 12, 1982 public notice, the staff clearly stated its preference for the use of current life and salvage factors, and with the exception of the COE-Digital account which is discussed below, no comments were received in opposition to the staff's life and salvage proposals. Furthermore, the company agreed with the staff and filed for SLELG rates based upon the factors determined in the last complete depreciation rate review. In this instance, we find that the benefits derived from implementing the new methods in a timely manner outweigh any advantages that may be derived from improving the precision of the estimates through the preparation and review of new studies of life and salvage. Furthermore, any inaccuracies that may result will be identified and resolved in the regularly scheduled review in 1984.

18. For the COE-Digital account, Continental of Virginia proposed a different survivor curve than that proposed by the staff. This account contains only the most modern equipment, as a result, very little data is available to support or reject either proposal. The difference in rate resulting from the use of these curves is slight (i.e., one-tenth of one percent per year). The only clear advantage one has over the other, is that the staff proposal is consistant with that used for many other companies for electronic switching equipment. We believe the staff proposal should prevail here; however, in future studies the curve selection for this account should be scrutinized further.

19. Although the Virginia Commission is correct that the issue of whether or not the SLELG method may be used has already been decided, this does not mean that it was meaningless to solicit comments. The primary purpose of the October 12, 1982, public notice was not to bring into question our rules, which clearly allow the use of the SLELG method, but rather to solicit comments regarding the effective dates proposed by the carriers and the life and net salvage factors that were under consideration for use in determining SLELG rates.

20. Continental proposed rates that were slightly different from those proposed by our staff, and attributed the differences to differences in the computer programs used by Continental and our staff. Inasmuch as the rates proposed by our staff were determined using the same programs as those used to determine the rates which were recently prescribed for the Bell and GTE operating telephone companies, and inasmuch as these programs yielded results essentially identical to those determined independently by Bell and GTE, we believe the rates proposed by the staff should be used in this case. In order to resolve such differences in the future, we direct the staff to work with Continental and explain its calculation of SLELG rates.

C. Accounts for which SLELG Rates Are Not Recommended

21. The staff proposes that new additions to the non-digital switching accounts not be depreciated using the SLELG method. The staff argues that it is impractical to determine reasonable future survivor curves for these additions because these accounts consist of classes of equipment which are being rapidly retired from service. The staff proposes that new additions, as well as embedded plant, in these accounts be depreciated using the remaining-life method, and asserts that the remaining-life method will assure timely and complete recovery of capital. Continental of Virginia accepted the staff's proposal of applying established remaining-lie rates to new additions to these accounts.

22. While we agree with the staff's reasoning on the use of the remaining-life method for the non-digital switching accounts, we also beleive that some special measure is required to assure full and timely capital recovery on these short remaining life assets. We, therefore direct the staff to update remaining-life depreciation rates for these acounts on an annual basis as requested by the companies or as is deemded necessary by the staff. These updates will assure that capital recovery is not unnecessarily deferred.

D. Original Cost and Net Salvage Rates for ELG

23. We are only prescribing SLELG rates for the original cost of investment for the first four years of new additions to most central office and outside plant accounts. These rates will be applied until the next triennial review of depreciation for these companies. At that time the actual results of the use of the SLELG method will be evaluated, and methods and rates will be modified as necessary.

24. Present carrier accounting practices do not allow carriers to accumulate net salvage data by vintage for all classes of plant. For example, retirement of a complete bay of central office equipment may involve removal of equipment of several vintages, but would normally result in a singlel aggregate cost of removal and salvage. In this situation it is not feasible to allocate that cost of removal or salvage among the vintages in a meaningful manner. For this reason, instead of prescribing net salvage depreciation rates for each vintage, we are prescribing a single net salvage depreciation rate which is to be applied to all new vintages until the next regular review. *See* FCC 82–53, FCC 82–353, and FCC 82–354.

E. Conclusion

25. Having considered the responses to the staff's review letters and public notice, the recommendations of the staff, and the proposals of the companies, we find the resulting SLELG rates listed in the Appendix to be appropriate rates to be applied, unless modified by further order of this Commission.[1]

V. Ordering Clause

26. Pursuant to Sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), it is ordered, that the percentages of depreciation set forth in the Appendix to this order are prescribed effective on the dates listed.

Federal Communications Commission.

William J. Tricarico

Secretary.

[1] We have today ruled that our depreciation prescription orders are binding at both the federal and state levels. *See* Amendment of Part 31, FCC 82——Mimeo No.—— (adopted December 22, 1982).

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGE OF DEPRECIATION CALCULATED UNDER THE EQUAL LIFE GROUP METHODOLOGY FOR CONTINENTAL TELEPHONE CO. OF VIRGINIA

Account No.	Class or Subclass of plant	Year	Projected life	Future net salv.	Original cost rates: Age at beginning of year 0.0	0.5	1.5	2.5	Net salv. rate
(a)		(b)[1]	(c)	(d)	(e)	(f)	(g)	(h)	(i)=d/c
			(Years)	(%)	(%)	(%)	(%)	(%)	(%)
221	Central office equipment:								
	Microwave	1982	16	0	8.9	8.3	7.7	7.2	0.
	Circuit	1982	15	10	10.5	9.8	9.2	8.7	−0.7
	Digital electronic	1982	21	3	5.6	5.5	5.4	5.3	−0.1
241	Pole lines	1982	23	−20	11.8	8.7	7.3	6.4	2.2
242.1	Aerial cable	1982	25	2	5.4	5.8	5.6	5.6	−0.1
242.2	Underground cable	1982	37	10	3.4	3.4	3.4	3.4	−0.3
242.3	Buried cable	1982	30	7	5.6	5.1	4.8	4.7	−0.2
242.4	Submarine cable	1982	30	0	4.8	4.2	4.1	4.0	0.

FEDERAL COMMUNICATIONS COMMISSION—SCHEDULE OF ANNUAL PERCENTAGE OF DEPRECIATION CALCULATED UNDER THE EQUAL LIFE GROUP METHODOLOGY FOR CONTINENTAL TELEPHONE CO. OF VIRGINIA—Continued

Account No.	Class or Subclass of plant	Year	Projected life	Future net salv.	Original cost rates				Net salv. rate
					Age at beginning of year				
					0.0	0.5	1.5	2.5	
	(a)	(b)*[1]	(c)	(d)	(e)	(f)	(g)	(h)	(i-d/c)
243	Aerial wire	1982	7	−66	31.2	23.8	16.8	14.1	9.4
244	Underground conduit	1982	50	0	2.1	2.1	2.1	2.1	0.

*[1] SLEG rates are effective January 1 of the year shown in column b and are to be applied to plant additions for that year and subsequent years.

[FR Doc. 83-1388 Filed 1-17-83; 8:45 am]
BILLING CODE 6712-01-M

[FCC 82-577]

General Telephone Co. of Florida et al.; Prescription of Revised Percentages of Depreciation

AGENCY: Federal Communications Commission.

ACTION: Depreciation Rate Prescription Order.

SUMMARY: Pursuant to Sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), the Federal Communications Commission has ordered six GTE operating companies to apply the percentages of depreciation which are set forth in the Appendix. These six companies filed for revised depreciation rates for various accounts and submitted studies and data to substantiate their requests. The intended effect of this action is to charge, as accurately as circumstances will allow, the cost of the consumption of depreciable assets to the periods in which the assets are useful in the production of revenues.

EFFECTIVE DATE: The companies are to apply the depreciation rates as of the date or dates set forth in the Appendix. In no case is an effective date prior to January 1, 1982.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moran, Chief, Depreciation Rates Branch, (202) 634-1861.

Adopted: December 22, 1982.

Released: December 30, 1982.

By the Commission:

In the matter of; The Prescription of Revised Percentages of Depreciation pursuant to section 220(b) of the Communications Act of 1934, as amended for; General Telephone Company of Florida, General Telephone Company of Indiana, Inc., General Telephone Company of Michigan, General Telephone Company of Ohio, General Telephone Company of the Southeast, General Telephone Company of the Southwest.

I. Introduction

1. Section 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(b), states that the Commission shall, as soon as practicable, prescribe classes of property for which depreciation charges may be included in operating expenses and the percentages of depreciation which shall be charged to each of the classes. It also states that the Commission may, when it deems necessary, modify the classes and percentages so prescribed.

2. By this order we prescribe revised percentages of depreciation (depreciation rates) for the six GTE companies listed above using the straight line equal life group (SLELG) method.

II. Background

A. Straight Line Equal Life Group Method

3. In FCC Docket No. 20188, 83 FCC 2d 267 (1980), *reconsideration*, 87 FCC 2d 916 (1981), we amended our rules to permit the use of the SLELG depreciation method for new additions to plant as an alternative to the straight line vintage group (SLVG) method, provided that adequate data is available for the proper application of the method.

4. The primary differences between the SLELG and SLVG methods lie in the definition of the basic depreciation groups and in the approach each takes in spreading the original cost of assets comprising the basic groups over their estimated average service lives. While SLVG forms its basic groups by combining all units placed in one year (i.e., a vintage group), SLELG creates its basic groups by combining all units within each vintage group which share an equal life expectancy (i.e., an equal life group). While the SLVG method is designed to depreciate 100% of the original cost of a vintage on average over the life cycle of each vintage, the SLELG method is designed to depreciate 100% or the original cost of each plant unit over its life. As a consequence, if projections are accurate, the SLELG method should allow for depreciation at a rate more representative of the actual consumption of units of property than SLVG. We concluded in Docket No. 20188 that the proper application and monitoring of this method would not only enhance the carrier's cash flow and present to all interested parties a more accurate and objective financial picture of the carriers' operations and capital requirements, but would also benefit their customers by encouraging innovation and the introduction of new technology.

5. Under both the SLVG and SLELG methods, retirement projections, service life estimates, and depreciation rates are normally determined, in part, through the use of survivor curves. These survivor curves define the relationship between the age of plant investment and the relative percentage expected to remain in service. Under the SLELG methodology, the survivor curves assume an added significance—that of defining the basic (equal life) groups. Under the SLVG method, most survivor curves have been selected only after the staff has completed detailed statistical analysis of historical retirement data. With the added significance of the survivor curves in the SLELG method, the availability and analysis of historical retirement data becomes even more important.

6. We recognized the importance of adequate data in Docket No. 20188 where we found that the SLELG method is acceptable, provided that:

> "* * * it is assured that adequate data is available for proper application of the method; that record keeping and reporting practices will enable monitoring of the reasonableness of the rate of allocation of both original cost and provisions for salvage and removal; that such allocation of original

cost will achieve allocation over the service life of the property neither more nor less than 100% of the investment net of salvage value."

Accordingly, we directed the staff to take such measures as may be necessary to insure the measurability and accountability of the results under the SLELG method.

7. We further directed the staff to phase in the implementation of SLELG depreciation rates beginning with the outside plant accounts, followed by the central office equipment accounts and concluding with all other plant accounts. In accordance with this directive, during tha past two years the staff reviewed SLELG rates for the outside plant account for the FCC-subject GTE companies As a result of that review, we adopted SLELG rates for new additions to most of the outside plant accounts for four of these companies in January (*see* FCC 82–53, 88 FCC 2d 1567 (1982)), for two additional companies in July (*see* FCC 82–354, 90 FCC 2d 997 (1982)) and for three additional companies in December (*see* FCC 82–543, Mimeo No. 32469). With the adoption of the December order, the prescription of SLELG rates for the outside plant accounts is complete for the FCC-subject GTE companies.

8. This year the staff also reviewed SLELG rates for the central office equipment accounts for most of the GTE companies. As a result of that review, we adopted SLELG rates for new additions to most of the central office equipment accounts for three of these companies in December (*see* FCC 82–543, Mimeo No. 32469). Our findings and conclusions regarding the SLELG rates for the six GTE companies listed in the caption of this proceeding are discussed below (*see* paragraph 28 ff). With the adoption of this order, the prescription of SLELG rates for the central office equipment accounts is essentially complete for the GTE companies.

B. Review Procedures

9. Since the late 1940's, the Commission has reviewed and prescribed the depreciation rates of approximately one-third of the larger FCC-subject telephone companies each year. In most cases we have prescribed rates for a carrier only after the following actions have been completed:

(1) Submittal of depreciation studies by the carrier.

(2) Staff review of the carrier's filings and studies in support of its proposed life and salvage factors.

(3) Independent staff analysis of such information as the carrier's plant mortality data and equipment retirement plans.

(4) Preparation of preliminary staff recommendations.

(5) Discussion of the carrier's filings and the preliminary Commission staff proposals at a conference in which representatives of the carrier and the FCC participate (i.e., a three-way meeting).

10. During the past year, in addition to the filings in conjunction with the staff's normal triennial represcription cycle, we received SLELG proposals from the GTE companies listed in the caption of this proceeding. The need to resolve the isues raised by these filings in a timely manner required the staff to depart from its traditional procedures. Because it was apparent that three were insufficient staff resources to allow the complete review of life and salvage factors for the carriers requesting SLELG rates, the staff chose to omit portions of steps 2 and 3 above and instead use the life and salvage factors which underlie currently prescribed rates. In addition, time and resource constraints precluded the discussion of SLELG rates with the carries and respective state commissions at there-way meetings. Instead, comments regarding the carrier filings and preliminary staff proposals were solicited from the carriers and respective state commissions via correspondence and telephone conversations.

. In 1981 the six companies listed on page 1 filed for SLELG rates for the central office equipment accounts to be effective on January 1, 1982 or January 1, 1983. The staff thoroughly reviewed the carriers' filings and found that, in most instances, the carriers had used the life and salvage factors underlying the currently prescribed rates.

12. On August 20, 1982, the staff sent review letters to the GTE companies and respective state commissions outlining its assessment of the companies' SLELG filings and its recommendations for SLELG rates. Comments were solicited from the companies and the respective state commissions regarding the company and staff recommendations. In response to these review letters, the GTE companies refiled for SLELG rates for the central office equipment accounts. Five of the six filings were consistent with the FCC staff recommendations. The other filing (i.e., GTE-Florida) indicated that there were a few areas of disagreement with the FCC staff. The areas of disagreement are identified later in this order (see paragraph 15). On October 12, 1982, the staff issued a public notice (Report No. 2969), entitled, "Depreciation Rate Prescription Proposed for Domestic Telephone Companies." This public notice summarized the FCC staff's proposals for revised depreciation rates and the change in depreciation expense that would result if those proposed depreciation rates are approved. On October 13, 1982, the staff transmitted to each company and respective state commission a copy of the October 12 public notice and schedules containing the proposed SLELG rates.

III. Summary of Comments

A. August 20, 1982 Review Letters

13. Responses to the staff's August 20, 1982 review letters were received from the GTE-Midwestern Operations (MTO), GTE-Florida, and the following state commissions: Michigan, Oklahoma, South Carolina, Texas and Virginia.

14. MTO, GTE-Florida and the Oklahoma and Texas commissions were in substantial agreement with the FCC staff position that SLELG rates should be used. The Virginia Commission opposed the use of SLELG rates. The Michigan and South Carolina commissions did not state whether they suported or opposed the use of SLELG.

15. MTO (on behalf of GTE-Indiana, GTE-Michigan and GTE-Ohio) and the staff of the Oklahoma Commission concurred with the FCC staff proposals as outlined in the August 20, 1982, review letters. GTE-Florida agreed with most of the FCC staff's proposals; however, it disagreed with the proposal *not* to prescribe SLELG rates for electromechanical switching equipment, particularly the COE-Manual account which contains investments in modern traffic service position systems (TSPS).[1] GTE-Florida further stated that the difference of opinion for the COE-Manual account could be minimized by its maintaining the TSPS investment in a separate category and using the SLELG method for that category and using the remaining-life method for investments in older manual switching equipment. In addition, GTE-Florida requested that, in our final order, we indicate the survivor curves used in determining the SLELG rates for central office equipment. It stated that this would help avoid confusion since the curve shapes proposed by GTE-Florida may be different for some accounts than those proposed by the FCC staff even though the results are essentially the same.

16. The staff of the Texas Commission agreed with our staff's position as to the application of the SLELG method where appropriate records exist. It expressed the concern that the life estimate underlying the FCC staff's electronic

[1] A TSPS is a computer controlled switching system which provides centralized automatic message accounting for customer-dialed toll calls such as person-to-person, collect, and credit card calls. Such a system allows for a more efficient handling of these special toll calls than the manual toll switchboards previously used.

switching equipment proposal is too short for digital switching offices. Texas further stated that, inasmuch as these life estimates will be restudied and revised as necessary during 1983 in conjunction with the regularly scheduled review of GTE-Southwest's rates, it is not necessary that its concern be dealt with in this proceeding.

17. The Virginia Commission reiterated its comments made in response to an earlier public notice; i.e., that SLELG is neither necessary nor in the best interests of Virginia telephone companies or customers.

18. The staff of the Michigan Commission stated that the use of SLELG rates for outside plant was under consideration at a hearing before the Michigan Commission. It believes that the Michigan Commission decision, when it is reached, may have a bearing on the use of SLELG rates for central office equipment.

19. The South Carolina Commission stated that it was concerned about several assumptions made by the staff as well as the underlying methodologies the staff used. It stated that a three-way meeting is the appropriate forum for a complete enunciation of all its concerns and alternative proposals; and it, therefore, requested the FCC to postpone consideration of the implementation of SLELG for central office equipment in South Carolina until after the scheduled three-way meeting in 1983.

B. October 12, 1982 Public Notice

20. Comments in response to the October 12, 1982 public notice were received from MTO and the state regulatory commissions of Arkansas, Florida, Michigan and Virginia.

21. MTO stated that it had reviewed the staff's proposed SLELG rates for central office equipment for GTE-Indiana, GTE-Michigan and GTE-Ohio and found them to be in agreement with the formal filing of September 17, 1982.

22. The staffs of the Arkansas and Michigan commissions stated that GTE-Southwest (Arkansas) and GTE-Michigan are authorized to use only the currently prescribed rates until formal applications for SLELG rates for central office equipment are filed with their commissions. The Michigan staff reiterated its earlier comments that the use of SLELG rates for the outside plant accounts is currently under consideration by its Commission and the outcome of that hearing may have a bearing on this matter. The staff of the Arkansas Commission expressed its objection to the FCC's interpretation of the comments it submitted in a prior proceeding concerning the use of SLELG. It stated that its refusal to accept the FCC's SLELG implementation plan in no way implied rejection of the SLELG concept.

23. The Florida Commission stated that the remaining-life rates that it approved in 1981 are still appropriate for GTE-Florida, and that it did not plan to recommend revised rates during this proceeding.

24. The staff of the Virginia Commission reiterated its earlier comments opposing the use of the SLELG method. It expressed the concern that its comments with regard to the GTE companies' SLELG filings for outside plant were dismissed without sufficient consideration in FCC Order 82-354, 90 FCC 2d 997 (1982). The Virginia Commission also questioned why our staff requested comments when we have already stated that the question of whether or not the SLELG method should be used was decided in Docket No. 20188.

IV. Discussion of Issues

A. Use of SLELG

25. In our decision in Docket No. 20188, we considered the arguments expressed by the parties for and against the use of the SLELG method and determined that the use of SLELG rates is appropriate, provided adequate data is available. In the discussion in the Final Report and Order, we found that the use of SLELG comports with the mandate of Section 1 of the Communications Act, "to make available . . . a rapid, efficient, nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges * * *" 47 U.S.C. 151. We reaffirmed our decision allowing the use of SLELG in our Order on Reconsideration as well as in five prescription orders approved this year (viz., FCC 82-53 88 FCC 2d 1567 (1982), FCC 82-353, *supra*, FCC 82-354, 90 FCC 2d 997 (1982), FCC 82-542, Mimeo No. 32468 and FCC 82-543, Mimeo No. 32469). Nevertheless, several states have again questioned whether the use of SLELG rates is warranted. Inasmuch as these states have not raised any new arguments or evidence regarding the use of SLELG rates, we have no basis to reverse our decision on this matter. Our rules, as amended in Docket No. 20188, clearly allow the use of SLELG for accounts in which adequate data is available to properly apply and monitor it. Therefore, we will allow its use.

26. Although the Virginia Commission is correct that the issue of whether or not the SLELG method may be used has already been decided, this does not mean that it was meaningless to solicit comments. The primary purpose of the October 12, 1982, public notice was not to bring into question our rules, which clearly allow the use of the SLELG method, but rather to solicit comments regarding the effective dates proposed by the carriers and the life and net salvage factors that were under consideration for use in determining SLELG rates. Virginia did not respond to these issues. However, several respondants did and their comments are considered in this order (see paragraph 28 ff).

B. Preemption of States

27. Several state commissions stated that they have not approved SLELG procedures for their jurisdictions. The presence or absence of state commission approval of SLELG rates does not control the prescription of SLELG rates in this order. The prescription of depreciation rates is plainly a matter within the Commission's jurisdiction under Section 220(b) of the Communications Act. We have today ruled that such depreciation orders are binding at both the federal and state levels. *See* Amendment of Part 31, FCC 82- , Mimeo No. (adopted December 22, 1982).

C. Life and Net Salvage Factors

28. Our staff has stated that SLELG rates should be based upon the life and salvage factors determined in conjunction with the staff's last complete review of these companies' rates, because these companies are not scheduled for a complete review of depreciation rates until 1983 or 1984, and staff resources did not permit a complete review of life and salvage factors this year. In the October 12, 1982 public notice, the staff clearly stated its preference for the use of current life and salvage factors, and there were no comments to the contrary in response to that public notice. Furthermore, the GTE companies agreed with the staff and filed for SLELG rates based upon the factors determined in the last complete depreciation rate review. In this instance, we find that the benefits derived from implementing the new methods in a timely manner outweigh any advantages that may be derived from improving the precision of the estimates through the preparation and review of new studies of life and salvage. Furthermore, any inaccuracies that may result will be identified and resolved in the regularly scheduled reviews in 1983 and 1984.

29. The South Carolina Commission contended that SLELG rates should not

be prescribed until it has had an opportunity to discuss the rates at a three-way meeting. We agree with South Carolina that it would be preferable to prescribe rates only after all the steps outlined in paragraph 9 have been completed; however, we believe that the completion of all the steps outlined in that paragraph would have resulted in an unacceptable delay in the implementation of SLELG rates. We, therefore, believe that the staff's departure from the traditional review procedures (i.e., especially the decision not to hold three-way conferences) was justified. Furthermore, we find that, with the staff review letters having been sent to the carriers and respective state commissions in August and with the public notice having been issued in October, South Carolina and all other parties has a reasonable opportunity to review the company and FCC staff proposals and submit their views for our consideration.

30. GTE-Florida suggested that, in our orders, we indicate the survivor curves underlying the rates that we prescribe. Inasmuch as there are a multiplicity of factors considered and used in developing the rates which are prescribed, we do not believe that it would be practical to list them all in the orders. We believe, however, that the carriers should be informed of such factors, and we direct the staff to work with the carriers in order to insure that they are so informed.

D. Accounts for which SLELG Rates Are Not Recommended

31. The staff proposes that new additions to the electromechanical switching equipment accounts not be depreciated using the SLELG method. The staff argues that it is impractical to determine reasonable future survivor curves for these additions because these accounts consist of classes of equipment which are being rapidly retired from service. The staff proposes that new additions, as well as embedded plant, in these accounts be depreciated using the remaining-life method, and asserts that the remaining-life method will assure timely and complete recovery of capital. The MTO agreed with the staff's proposal; however, GTE-Florida disagreed and stated that the Commission has authorized the use of SLELG rates for all central office equipment accounts.

32. The staff notes that estimated survivor curves for electromechanical switching equipment have *not* been determined in previous depreciation studies and that it is impractical to do so at this time. This is because it has not been demonstrated that the companies can accurately estimate further additions or retirements for individual switching units. With the remaining lives for electromechanical equipment in the three to eight year range, the error of these estimates will likely be significant. New additions to these accounts will clearly have very short and volatile estimated remaining lives, making the development of reliable survivor curves virtually impossible. Without reliable survivor curves, the development of an SLELG depreciation rate is illusory. This is because the remaining life "corrections" and curve shape changes would rapidly alter the overall depreciation rate for the account. We previously stated that SLELG rates should be used if adequate data exists to properly apply the method. Inasmuch as the future survivor curves cannot be practically determined, we do not believe that the proper application of the method can be accomplished for these accounts.

33. While we agree with the staff's reasoning on the use of the remaining-life method for the electromechanical accounts, we also believe that some special measure is required to assure full and timely capital recovery on these short remaining life assets. We, therefore, direct the staff to update remaining-life depreciation rates for these accounts on an annual basis as requested by the companies or as is deemed necessary by the staff. These updates will assure that capital recovery is not unnecessarily deferred.

34. We believe that GTE-Florida's suggestion that it segregate the investment in the COE-Manual account between the TSPS and older equipment, and that SLELG rates be developed for the TSPS equipment, has merit. Therefore, to the extent that the carriers can segregate and maintain such categories of plant for this account in the future, we direct the staff to consider the development of SLELG rates for the TSPS equipment.

E. Original Cost and Net Salvage Rates for ELG

35. We are only prescribing SLELG rates for the original cost of investment for the first four years of new additions to most central office and outside plant accounts. These rates will be applied until the next triennial review of depreciation for these companies. At that time the actual results of the use of the SLELG method will be evaluated, and methods and rates will be modified as necessary.

36. Present carrier accounting practices do not allow carriers to accumulate net salvage data by vintage for all classes of plant. For example, retirement of a complete bay of central office equipment may involve removal of equipment of several vintages, but would normally result in a single aggregate cost of removal and salvage. In this situation it is not feasible to allocate that cost of removal or salvage among the vintages in a meaningful manner. For this reason, instead of prescribing net salvage depreciation rates for each vintage, we are prescribing a single net salvage depreciation rate which is to be applied to all new vintages until the next regular review. *See* FCC 82-53, FCC 82-353, and FCC 82-354.

F. Conclusion

37. Having considered the responses to the staff's review letters and public notice, the recommendations of the staff, and the proposals of the companies, we find the resulting SLELG rates listed in the Appendix to be appropriate rates to be applied, unless modified by further order of this Commission.

V. Ordering Clause

38. Pursuant to Sections 4(i) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and 220(b), It is ordered, that the precentages of depreciation set forth in the Appendix to this order are prescribed effective on the dates listed.

Note.—Due to the continuing effort to minimize publishing costs, the Appendix of this document (Schedules of Annual Percentages of Depreciation) will not be printed herein. However, copies of this document in its entirety are available from any of the distribution centers listed in the FCC Office of Public Affairs, Rm. 202, 1919 M St., NW., Washington, D.C. 20554, (202) 254-7674. In addition, a copy is available for public inspection in the FCC Dockets Branch, Rm. 239, and the FCC Library, Rm. 639, both located at 1919 M St., NW.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-1337 Filed 1-17-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-3]

Arco International Oil & Gas Co. v. Maersk Line; Filing of Complaint and Assignment

Notice is given that a complaint filed by Arco International Oil & Gas Company v. Maersk Line was served January 12, 1983. Complainant alleges that respondent has subjected it to an overcharge of rates for ocean

transportation in violation of section 18(b)(3) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge John E. Cograve. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-1330 Filed 1-17-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-2]

New Orleans Steamship Association v. Plaquemines Port, Harbor & Terminal District; Filing of Complaint and Assignment

Notice is given that a complaint filed by New Orleans Steamship Association against Plaquemines Port, Harbor & Terminal District was served January 12, 1983. Complainant alleges that respondent has violated sections 16 First and 17 of the Shipping Act, 1916, in connection with establishment and assessment of Harbor Fees and Supplemental Harbor Fees.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-1334 Filed 1-17-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-4]

Westinghouse Electric Corp. v. Delta Steamship Lines, Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Westinghouse Electric Corporation against Delta Steamship Lines, Inc. was served January 12, 1983. Complainant alleges that respondent has subjected it to an overcharge of rates for ocean transportation in violation of section 18(b) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-1332 Filed 1-17-83; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 83-5]

Worldwide Technical Services Co., Inc. v. Maersk Line; Filing of Complaint and Assignment

Notice is given that a complaint filed by Worldwide Technical Services Co., Inc. Against Maersk Line was served January 12, 1983. Complainant alleges that respondent has subjected it to on overcharge on rates for ocean transportation in violation of section 18(b)(3) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge John E. Cograve. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-1331 Filed 1-17-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Fuentes International, Inc., c/o 5321 S.W. 1st Street, Miami, FL 33134, Officer: Clara Fuentes, President/ Director.

By the Federal Maritime Commission.

Dated: January 13, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-1306 Filed 1-17-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2331]

David Edward Mc Dermott, d.b.a. Hirdes International; Order or Revocation

On November 8, 1982, David Edward Mc Dermott, d.b.a. Hirdes International, 5097 No. Elston Avenue, Chicago, IL 60630 surrendered his Independent Ocean Freight Forwarder License No. 2331 for revocation effective January 1, 1983.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2331 issued to David Edward Mc Dermott, d.b.a. Hirdes International be revoked effective January 1, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal**

Register and served upon David Edward Mc-Dermott, d.b.a. Hirdes International.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-1307 Filed 1-17-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2482]

R. Brian, Inc.; Order of Revocation

On December 30, 1982, R. Brian, Inc., 4333 Trans World Road, Suite T-16 Schiller Park, IL 60176 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2482.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2482 issued to R. Brian, Inc., be revoked effective December 30, 1982, without prejudice to reapplication for a license in the future,

It is further ordered, that Independent Ocean Freight Forwarder License No. 2482 issued to R. Brian, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon R. Brian, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-1308 Filed 1-17-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 16]

Major Forwarding Company, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Major Forwarding Company, Inc., 19 Rector Street, New York, NY 10006 was cancelled effective December 17, 1982.

By letter dated November 18, 1982, Major Forwarding Company, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 16 would be automatically revoked unless a valid surety bond was filed with the Commission.

Major Forwarding Company, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 16 be and is hereby revoked effective December 17, 1982.

It is ordered, that Independent Ocean Freight Forwarder License No. 16 issued to Major Forwarding Company, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Major Forwarding Company, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing

[FR Doc. 83-1309 Filed 1-17-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

McKinstry, Inc.; Formation of Bank Holding Company

McKinstry, Inc., Julesburg, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 91.33 of the voting shares of The First National Bank of Julesburg, Julesburg, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

McKinstry, Inc., Julesburg, Colorado, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire 100 percent of the voting share of McKinstry-Campbell Insurance Agency, Julesburg, Colorado.

Applicant states that the proposed subsidiary would engage in the sale of general retail insurance in a town with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Julesburg, Colorado, and the geographic areas to be served are Sedgwick County, Colorado, and Deuel County, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 3, 1983.

Board of Governors of the Federal Reserve System, January 12, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1268 Filed 1-17-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 59]

Federal Procurement; Current Interest Rate

January 10, 1983.

To: Heads of Federal agencies.

Subject: Current interest rate.

1. *Purpose.* This bulletin provides, for the information of executive agencies, the current interest rate established by the Secretary of the Treasury (47 FR 57388, December 23, 1982).

2. *Expiration date.* This bulletin expires June 30, 1983, unless sooner revised or superseded.

3. *Background.* a. The Renegotiation Act of 1951 (Pub. L. 92-41), as amended, required the Secretary of the Treasury to determine semiannually an interest rate for use in connection with the Act. Subsequently, this rate was applied to various interest payment requirements in the FPR. Sections in the FPR which contain a reference to this interest rate include the following: Sections 1-3.1204-1, 1-3.1204-2, 1-7.203-15, 1-8.212-1(f), 1-8.701, 1-8.702, 1-8.703, 1-8.704-1, 1-8.706,

1-8.804-2(b), 1-8.808-4, 1-30.408, 1-30.414-2(k)(2), and 1-30.414-2(n)(3).

b. The interest rate determined by the Secretary of the Treasury for Renegotiation Act purposes is also applicable to the Contract Disputes Act of 1978 (Pub. L. 95-563).

c. The Prompt Payment Act (Pub. L. 97-177) provides that interest on late payments shall be computed at the rate which is applicable to the Contract Disputes Act of 1978.

4. *Current interest rate.* An interest rate of 11⅛ (11.250) percent has been established by the Secretary of the Treasury for the 6-month period beginning Janaury 1, 1983, and ending June 30, 1983.

Allan W. Beres,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 83-1262 Filed 1-17-83; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Blood Products Advisory Committee

Date, time, and place. February 7 and 8, 8:30 a.m., Rm. 121, Bldg. 29, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, February 7, 8:30 a.m. to 9:30 a.m. and 1 p.m. to 4 p.m.; closed committee deliberations, 9:30 a.m. to 12 noon; open public hearing, February 8, 8:30 a.m. to 12 noon; closed committee deliberations, 1 p.m. to 4 p.m.; Clay Sisk, National Center for Drugs and Biologics (HFN-6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluates data on the safety, effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee and relevant to its functions.

Closed committee deliberations. The committee will review trade secret or confidential commercial information relevant to pending notices of claimed investigational exemptions for new drugs and pending biological license applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privilieged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or

devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: January 11, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83-1141 Filed 1-17-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82D-0359]

Bioequivalence Studies for New Animal Drugs; Availability of Drug Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guideline prepared by its Bureau of Veterinary Medicine entitled "Bioequivalence Study Guideline." The guideline is intended for use in establishing the safety and effectiveness of certain new animal drugs through the use of bioequivalency studies. Although FDA advises that the agency will accept bioequivalence studies conducted as described in this draft guideline, it is being made available for public comment to provide FDA with views that will be considered in FDA's development of the final guideline.

ADDRESS: Written comments on the draft guideline and requests for single copies are to be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

DATE: Comments on or before May 18, 1983.

FOR FURTHER INFORMATION CONTACT: Richard P. Lehmann, Bureau of Veterinary Medicine (HFV-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3134.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act (the act) requires that a new animal drug be the subject of an approved new animal drug application (NADA) before it may be marketed. Section 512(b)(1) of the act (21 U.S.C. 360b(b)(1)) requires that each NADA include full reports of investigations which show that the drug is safe and effective for use. Section 512(d) of the act and § 514.111 (21 CFR 514.111) describe the criteria that an applicant for an NADA must meet to show that a new animal drug is safe and effective and therefore may be approved. In certain instances, the agency has determined that NADA's and supplements to NADA's need not include safety or efficacy data as specified in § 514.111, but may be approved on the basis of bioquivalency studies.

The Bureau of Veterinary Medicine (the bureau) has prepared a draft guideline entitled "Bioequivalence Study Guideline" that may be used where bioequivalency data are acceptable to the bureau, in lieu of safety or efficacy data, for new animal drug approval. The draft guideline is appropriate for use by sponsors seeking approval for either (1) a new animal drug product that is eligible for generic equivalence (at the present time, those that were reviewed by the National Academy of Sciences/National Research Council and deemed effective) that contains an active ingredient(s) in the same dosage form (pharmaceutical equivalent) as an approved new animal drug product of another sponsor; (2) a change in the manufacturing process, including a change in product formulation or dosage strength, for a product for which the sponsor holds an approved NADA; or (3) a different dosage form (pharmaceutical alternative) from that for which clinical data are available.

A significant aspect of this draft guideline is the provision that withdrawal periods for generic new animal drug products for which approval is sought for food animal use may in many cases be established by evaluating the serum level curves generated from a properly conducted study. Until now, companies wishing to market generic equivalent new animal drug products for food animal use have been required to conduct a tissue residue study in addition to the bioequivalency evaluation to determine the appropriate preslaughter withdrawal time. The change of bureau policy proposed in this draft guideline should result in savings of research animals and funds used in the development of certain new animal drug products, thereby providing regulatory relief to the affected industry while assuring the safety and effectiveness of the affected new animal drugs. The bureau is making this proposed change based on advances in knowledge in the field of pharmacokinetics and related disciplines, particularly the knowledge that if a generic new animal drug product is proven to be bioequivalent to an approved reference standard product (usually the pioneer approved product) then tissue residue levels will in many instances be identical and, therefore, the generic new animal drug product and the approved reference standard product should have the same withdrawal periods.

This notice of availability is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. A person who follows a guideline is assured that the procedures used for the study will be acceptable to the agency. A person may also choose to use alternative procedures even though they are not provided for in the guideline. A person who chooses to depart from the guideline should discuss the matter further with the agency to prevent expenditure of resources for work that the agency may later determine to be unacceptable.

FDA advises that bioequivalence studies conducted as described in this draft guideline will be accepted by the agency effective immediately. However, FDA is inviting comments from the regulated industry, academia, and other interested persons on the draft guideline. These comments will be considered in determining whether revision of the draft guideline is warranted. FDA will publish in the **Federal Register** a notice of availability of any final guideline adopted in response to this notice. The agency is also prepared to meet with interested parties during the comment period to discuss the draft guideline.

A copy of the draft guideline is on file with the Dockets Management Branch (address above) and interested persons may receive a single copy of the guideline by submitting a request to that office.

Interested persons may, on or before May 18, 1983, submit written comments on the draft guideline to the Dockets Management Branch. Two copies of any comments should be submitted, except that individuals may submit one copy. Submissions should be identified with the docket number found in brackets in the heading of this document. Received comments will be incorporated into the public file on the guideline and may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 6, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-1142 Filed 1-17-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0276; DESI 7630]

Certain Anabolic Steroids; Drug Efficacy Study Implementation; Revocation of Exemption; Opportunity for Hearing

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice revokes the temporary exemption for the continued marketing of certain anabolic steroid drug products. Under the exemption, these products have been allowed to remain on the market for continued study beyond the time limit scheduled for implementing the Drug Efficacy Study. This notice also reclassifies these products to lacking substantial evidence of effectiveness in the treatment of postmenopausal osteoporosis, proposes to withdraw approval of the new drug applications covering these products, and offers an opportunity for a hearing on the proposal. The manufacturers of these products have not complied with previously announced conditions for continued marketing and, in some cases, have informed FDA that they are no longer interested in marketing these products.

DATES: The exemption revocation is effective January 18, 1983, hearing requests are due February 17, 1983. Data supporting hearing request are due March 21, 1983.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 80N-0276 and DESI 7630, and directed to the attention of the appropriate office named below.

Requests for a hearing, supporting data, and comments: Dockets Management Branch (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of June 24, 1970 (35 FR 10327), FDA announced its conclusions on the effectiveness of certain anabolic steroids, based on reports received from the National Academy of Sciences-National Research Council. The drugs were classified as probably effective for adjunctive therapy in the treatment of senile and postmenopausal osteoporosis. They were also classified as probably effective for pituitary dwarfism because growth hormone was not readily available at that time. The products were classified as either possibly effective or lacking substantial evidence of effectiveness for their other labeled indications.

In a notice published in the Federal Register of December 14, 1972 (37 FR 26623), anabolic steroids were temporarily exempted from the time limits established for the Drug Efficacy Study Implementation (DESI) program pending completion of studies to determine effectiveness. The exemption was granted because there were no products classified as effective for the treatment of postmenopausal osteoporosis. The pituitary dwarfism indication was permitted to remain until growth hormone became more widely available.

Because of the lack of general agreement on parameters to be measured and the techniques for measurement, FDA developed guidelines for the clinical study of drugs used to treat osteoporosis. The availability of the guidelines was announced in the Federal Register of June 20, 1980 (45 FR 41705). Subsequently, FDA announced conditions for continued marketing of anabolic steroids, for the treatment of osteoporosis, while protocols were designed and studies were conducted (45 FR 72292, October 31, 1980). Manufacturers of products that were the subject of "deemed approved" new drug applications (NDA's) were to revise their labeling as required and submit protocols or notify the agency that they would rely on studies conducted by another manufacturer. Abbreviated new drug applications (ANDA's) were required for those products not provided for by an NDA. If one drug sponsor was conducting studies on a product, that was considered sufficient to permit marketing of all firms' products containing the same chemical entity in a similar dosage form provided each product met the other marketing conditions.

Additionally, because growth hormone had become readily available, the marketing conditions required that the indication for pituitary dwarfism be removed from the labeling of anabolic steroids.

Some manufacturers have submitted supplements or ANDA's under the conditions for continued marketing set forth in the October 31, 1980 Federal Register notice. Other manufacturers have not done so, and some have discontinued marketing their products.

I. Revocation of Exemption

This notice revokes the temporary exemption announced in the Federal Register of December 14, 1972, for those drug products whose sponsors have not complied with the October 31, 1980 notice. The exemption is therefore revoked for all products that contain methandriol, methandrostenolone, norethandrolone, or oxymetholone, because no person marketing a product containing any of these ingredients have conducted studies or submitted data in support of effectiveness.

II. Products not in Compliance

Because no data have been submitted demonstrating the effectiveness of the following anabolic steroids, for osteoporosis or any other indication, the Director of the National Center for Drugs and Biologics proposes to withdraw approval of the new drug applications listed below:

1. NDA 8-736; Methylandrostenediol Aqueous Suspension containing methandriol 25 or 50 mg/mL; Maurry Bilogical Co., Inc., South Western Ave., Los Angeles, CA 90047.

2. NDA 11-761; Adroyd Tablets containing oxymetholone 2.5, 5, or 10 mg/tablet; Parke-Davis, Division of Warner-Lambert Co., 201 Tabor Rd., Morris Plains, NJ 07950.

3. NDA 12-226; Dianabol Tablets containing Methandrostenolone 2.5 or 5 mg/tablet; Ciba Pharmaceutical Co., Division Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

4. NDA 12-733; Anadrol Tablets containing oxymetholone 2.5 mg/tablet; Syntex Laboratories, Inc., 3401 Hillview Ave., Stanford Industrial Park, Palo Alto, CA 94304.

Under the provisions of the October 31, 1980 Federal Register notice, the manufacturers of the following drug products submitted ANDA's and received conditional approval for marketing. However, because no sponsor is conducting clinical studies on any product containing the drug entity, the products are not in compliance with the conditions for marketing and the Director now proposes to withdraw the conditional approval of these ANDAs:

1. ANDA 87-465; Methandrostenolone 2.5 mg tablets; Bolar Pharmaceutical Co. Inc., 130 Lincoln St., Copiage, NY 11726.
2. ANDA 87-466; Methandrostenolone 5 mg tablets, Bolar Pharmaceutical Co. Inc.
3. ANDA 87-945; Methandrostenolone 5 mg tablets; Par Pharmaceutical Inc., 12 Industrial Ave., Upper Saddle River, NJ 07458.
4. ANDA 87-951; Methandrostenolone 2.5 mg Tablets; Par Pharmaceutical Inc.

NDA approval of the following products has been previously withdrawn for failure to file reports as required by section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). At the time notices withdrawing approval were published, no conclusions concerning the products' effectiveness had been reached.

1. NDA 7-630; Stenediol Injection containing methandriol 25 or 50 mg/mL; Organon, Inc., 375 Mount Pleasant Ave., West Orange, NJ 07052.
2. NDA 10-400; Nilevar Tablet containing norethandrolone 10 mg/tablet; G. D. Searle & Co., P.O. Box 5110, Chicago, IL 60680.
3. NDA 11-019; Nilevar Injection containing norethandrolone in sesame oil, 25 mg/mL; G. D. Searle & Co.
4. NDA 11-683; Nilevar Drops; containing norethandrolone 83 mg/mL; G. D. Searle & Co.

The four products named immediately above are included in this notice because they did not meet the conditions of the exemption notice. This notice offers the applicants an opportunity to request a hearing concerning all issues relating to the legal status of the product;

III. Products still Subject to the Exemption

This proposal does not apply to the following drug products.

1. NDA 11-891; Durabolin Injection containing nandrolone phenproprionate in sesame oil, 25 or 50 mg/mL; Organon, Inc.
2. NDA 12-885; Winstrol Tablets containing stanozolol, 2 mg/tablet; Winthrop Laboratories, Division of Sterling Drug Inc., 90 Park Ave., New York, NY 10016. (Note: NDA 13-268 for Winsteroid Tablets (stanozolol) listed in the June 24, 1970 notice has been assimilated into NDA 12-885 at the request of the holder because both NDA's cover the same product).
3. NDA 13-132; Deca-Durabolin Injection containing nandrolone decanoate 50 mg/mL; Organon, Inc.
4. ANDA 86-385; Nandrolone Decanote 50 mg/mL; Carter Glogau Laboratories, Inc., 5160 West Bethany Home Rd., Glendale, AZ 85301.
5. ANDA 88-386; Nandrolone Phenproprionate containing 25 mg/mL; Carter Glogau Laboratories, Inc.
6. ANDA 86-598; Nandrolone Decanoate 100 mg/mL; Carter Glogau Laboratories, Inc.
7. ANDA 87-488; Nandrolone Phenproprionate 50 mg/mL; Carter Glogau Laboratories, Inc.

IV. Opportunity for Hearing

On the basis of all data and information available to him, the Director of the National Center for Drugs and Biologics is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335) and 21 CFR 314.111(a)(5) demonstrating the effectiveness of the drugs that are not in compliance with the conditions established for continued marketing (items I and II above).

Therefore, notice is given to the holders of new drug application No's. 8-736, 11-761, 12-228, and 12-733 and of abbreviated new drug application No.'s 87-465, 87-466, 87-945, and 87-951, and to all interested persons, that the Director of the National Center for Drugs and Biologics proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval or conditional approval of the applications and all amendments and supplements thereto on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, shows there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holders of the applications specifically named above, this notice of opportunity for hearing applies to all persons (except those in compliance with the terms of the exemption) who manufacture or distribute a drug product, not the subject of an approved application, that is identical, related, or similar to a drug product name above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for a hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, contained in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated under it (21 CFR Parts 310, 314), the applicants and all other persons subject to this notice under 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before February 17, 1983, a written notice of appearance and request for hearing, and (2) on or before March 21, 1983, the data, information, and analysis relied on to justify a hearing as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of appearance and request for hearing, a submission of data, information, and analysis to justify a hearing, other comments, and a grant or denial of hearing are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice under 21 CFR 310.6 to file a timely written notice of appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate

regulatory action to remove such drug products from the market. Any new drug product marketed without an approved application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is not a genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner for Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in four copies. Such submissions, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the National Center for Drug and Biologics (see 21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982).

Dated: January 10, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-1144 Filed 1-17-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0300]

Hercules, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Hercules, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of hydrogenated styrene polymer resins as components of adhesives used in articles intended for packaging, transporting, or holding food.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAB 3B3692) has been filed by Hercules, Inc., Wilmington, DE 19899, proposing that Part 175 (21 CFR Part 175) be amended to provide for the safe use of hydrogenated styrene polymer resins as components of adhesives used in articles intended for packaging, transporting, or holding food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 6, 1983.

Sanford A. Miller,

Director, Bureau of Foods

[FR Doc. 83-1305 Filed 1-17-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona, Safford District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Safford District Grazing Advisory Board will be held on Friday, February 18, 1983.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546.

The agenda for the meeting will include:

1. Election of Chairman and Vice-chairman;
2. Discussion of Range Improvement policy;
3. Cooperative range improvement development and maintenance;
4. Asset management;
5. BLM management update;
6. Business from the floor.

The meeting will be open to the public. Interested persons may make oral statements to the Board between 10:00 a.m. and 11:00 a.m. A written copy of the oral statement must be provided at the conclusion of the presentation. Written statements may also be filed for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546, by 4:15 p.m., Thursday, February 17, 1983.

At the conclusion of that session the Board members will depart via BLM-provided vehicles for a field trip to Bonita Creek. Members of the public may accompany the tour but must provide their own transportation. It is expected the Board members will return to the Safford District Office at approximately 4:00 p.m.

Summary Minutes of the Board Meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Dated: January 10, 1983.

Vernon L. Saline,

Acting District Manager.

[FR Doc. 83-1311 Filed 1-17-83; 8:45 am]

BILLING CODE 4310-84-M

Meeting of the California Desert District Advisory Council

Notice is hereby given in accordance with Public Laws 92–463 and 94–579 that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet formally Friday, February 4 and Saturday, February 5, 1983, in the Pasadena Convention Center, 300 E. Green Street, Room 316, Pasadena, California. The meetings will be from 9 a.m. to 5 p.m. both days.

The two day session will provide a forum for public discussion and a critique of BLM's management of the public lands since adoption of the California Desert Plan in 1980. Interest groups will have the opportunity to raise new issues, evaluate the effect of the Plan with respect to their interests and submit recommendations for change.

The agenda will also include: the appointment of new members to the Council; a brief report on 1982 Plan Amendments; a subcommittee report on the Escondido Project and a report on a state-wide trail system for off-highway vehicles proposed by the State of California, Department of Parks and Recreation.

The meeting is open to the public, with time allotted for comments from the general public. Statements may be filed in advance to Desert Advisory Council Chairman Clayton A. Record, Jr., Public Affairs Office, 1695 Spruce Street, Riverside, California 92507.

For further information and meeting confirmation contact the California

Desert District, 1695 Spruce Street, Riverside, California (714) 351–6383.

Dated: January 10, 1983.

Gerald E. Hillier,

District Manager.

[FR Doc. 83-1349 Filed 1-17-83; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Indiana Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 10 a.m., CST, on Friday, February 11, 1983, at the Indiana Dunes National Lakeshore Visitor Center at U.S. Highway 12 and Kemil Road, Chesterton, Indiana.

The Commission was established by the Act of November 5, 1966, 80 Stat. 1309, 16 U.S.C. 460u–7, as amended by the Act of October 18, 1976, 90 Stat. 2530, 2533, to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. John R. Schnurlein (Chairperson)
Mr. Ronald Bensz
Ms. Anna R. Carlson
Mr. R. M. Gacki
Mr. James Holland
Ms. Lynne Kaser
Mr. James H. Lahey
Mr. William L. Lieber
Ms. Celia Nealon
Ms. Gail H. Harris
Dr. John A. Rackauskas
Dr. John Tucker
Mr. Norman E. Tufford

Matters to be discussed at this meeting include:

1. Chairman's Quarterly Report.
2. Status of land acquisition.
3. Quarterly Status Report of planning and development for Indiana Dunes National Lakeshore.
4. Quarterly Status Report of 1982 operations.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana 46304, telephone 219–926–7561.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at 1100 North Mineral Springs Road, Porter, Indiana.

Dated: January 7, 1983.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 83-1338 Filed 1-17-83; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 7, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 2, 1983.

Carol D. Shull,

Chief of Registration, National Register.

CALIFORNIA

Sacramento County

Sacramento, *Blue Anchor Building (California Fruit Exchange)*, 1400 Tenth St.

IOWA

Johnson County

Iowa City, *Pratt, A. W., House*, 503 Melrose Ave.

Monroe County

Lovilia vicinity, *Buxton Historic Townsite*, NE of Louilia

KENTUCKY

Jefferson County

Louisville, *Sears, Roebuck and Company Store*, 800 W. Broadway

MASSACHUSETTS

Bristol County

Fall River, *Algonquin Printing Co. (Fall River MRA)*, Bay St.
Fall River, *American Printing Co. and Metacomet Mill (Fall River MRA)*, Anawan St.
Fall River, *Anthony, David M., House (Fall River MRA)*, 368 N. Main St.
Fall River, *Ashley House (Fall River MRA)*, 3159 N. Main St.
Fall River, *Barnard Mills (Fall River MRA)*, 641–657 Quarry St.
Fall River, *Belmont Club/John Young House (Fall River MRA)*, 34 Franklin St.
Fall River, *Blossom, Barnabas, House (Fall River MRA)*, 244 Grove St.
Fall River, *Boguslavsky Triple-Deckers (Fall River MRA)*, 53–67 Albion St.
Fall River, *Borden, A. J., Building (Fall River MRA)*, 91–111 S. Main St.
Fall River, *Borden, Ariadne J. and Mary A., House (Fall River MRA)*, 92 Globe St.
Fall River, *Borden, N.B., School (Fall River MRA)*, 43 Morgan St.
Fall River, *Borden-Winslow House (Fall River MRA)*, 3063 N. Main St.
Fall River, *Brayton Methodist Episcopal Church (Fall River MRA)*, 284 Griffin St.
Fall River, *Brightman, Hathaway, House (Fall River MRA)*, 205 Crescent St.
Fall River, *Bristol County Superior Court (Fall River MRA)*, 441 N. Main St.
Fall River, *Canedy, Squire William B., House (Fall River MRA)*, 2894 N. Main St.
Fall River, *Cataract Engine Company No. 3 (Fall River MRA)*, 116 Rock St.
Fall River, *Central Congregational Church (Fall River MRA)*, 100 Rock St.
Fall River, *Chace Mills (Fall River MRA)*, Lewiston and Salem Sts.
Fall River, *Chace, A. B., Rowhouses (Fall River MRA)*, 655–685 Middle St.
Fall River, *Chace's, Oliver, Thread Mill (Fall River MRA)*, 505 Bay St.
Fall River, *Charlton Mill (Fall River MRA)*, 109 Howe St.
Fall River, *Chase-Hyde Farm (Fall River MRA)*, 1281–1291 New Boston Rd.
Fall River, *Children's Home (Fall River MRA)*, 427 Robeson St.
Fall River, *Church of the Ascension (Fall River MRA)*, 160 Rock St.
Fall River, *Collins, William, House (Fall River MRA)*, 3775 N. Main St.
Fall River, *Connell, William M., School (Fall River MRA)*, 650 Plymouth Ave.
Fall River, *Cornell Mills (Fall River MRA)*, Alden St.
Fall River, *Coughlin School (Fall River MRA)*, 1975 Pleasant St.
Fall River, *Crescent Mill (Fall River MRA)*, 50 Front St.
Fall River, *Davol School (Fall River MRA)*, 112 Flint St.
Fall River, *Davol, William C., Jr. House (Fall River MRA)*, 252 High St.
Fall River, *Downtown Fall River Historic District (Fall River MRA)*, N. and S. Main, Bedford, Granite, Bank, Franklin, and Elm Sts.
Fall River, *Durfee Mills (Fall River MRA)*, 359–479 Pleasant St.
Fall River, *Earle, John M., House (Fall River MRA)*, 352 Durfee St.
Fall River, *Fall River Bleachery (Fall River MRA)*, Jefferson St.
Fall River, *First Baptist Church (Fall River MRA)*, 200–228 N. Main St.
Fall River, *Flint Mills (Fall River MRA)*, Adliden St.
Fall River, *Foster Spinning Co. (Fall River MRA)*, Cover St.
Fall River, *Globe Yarn Mills (Fall River MRA)*, Globe St.
Fall River, *Greany Building (Fall River MRA)*, 1270–1286 Pleasant St.
Fall River, *Hargraves Mill #1 (Fall River MRA)*, Quarry St.
Fall River, *Hathaway, James D., House (Fall River MRA)*, 311 Pine St.

Fall River, *Highlands Historic District (Fall River MRA)*, Roughly bounded by June, Cherry, and Weetamoe Sts., Lincoln, Highland, President, N. Main, and Hood Aves.
Fall River, *Hiker The, (statue) (Fall River MRA)*, Pleasant St. at Plymouth Ave.
Fall River, *House at 108–112 Quarry Street (Fall River MRA)*, 108–112 Quarry St.
Fall River, *Jesus Marie Convent (Fall River MRA)*, 138 S. Joseph's St.
Fall River, *Kennedy Park (Fall River MRA)*, Bounded by S. Main St., Bradford Ave., Middle, and Bay Sts.
Fall River, *King Philip Mills (Fall River MRA)*, Kilburn St.
Fall River, *Lindsey, William, House (Fall River MRA)*, 373 N. Main St.
Fall River, *Massasoit Fire House #5 (Fall River MRA)*, 83 Freedom St.
Fall River, *Mechanics Mill (Fall River MRA)*, 1082 Davol St.
Fall River, *Narragansett Mills (Fall River MRA)*, 1567 N. Main St.
Fall River, *North Burial Ground (Fall River MRA)*, N. Main St. between Brightman and Cory Sts.
Fall River, *North Christian Congregational Church (Fall River MRA)*, 3538 N. Main St.
Fall River, *Notre Dame School (Fall River MRA)*, 34 St. Joseph's St.
Fall River, *Oak Grove Cemetery (Fall River MRA)*, 785 Prospect St.
Fall River, *Osborn Street School (Fall River MRA)*, 160 Osborn St.
Fall River, *Picard, Israel, House (Fall River MRA)*, 680 County St.
Fall River, *Pilgrim Mills (Fall River MRA)*, 847 Pleasant St.
Fall River, *Pine Street School (Fall River MRA)*, 880 Pine St.
Fall River, *Pocasset Firehouse #7 (Fall River MRA)*, 1058 Pleasant St.
Fall River, *Prince Henry the Navigator (statue) (Fall River MRA)*, Eastern Ave. at Pleasant St.
Fall River, *Quequechan Club (Fall River MRA)*, 306 N. Main St.
Fall River, *Quequechan Valley Mills Historic District (Fall River MRA)*, Quequechan, Jefferson, and Stevens Sts. between I–195 and Denver St.
Fall River, *Read, Nathan, House (Fall River MRA)*, 506 N. Main St.
Fall River, *Rugglee Park (Fall River MRA)*, Bounded by Seabury, Robeson, Pine and Locust Sts.
Fall River, *Sagamore Mill No. 2 (Fall River MRA)*, 1822 N. Main St.
Fall River, *Sagamore Mills #1 and #3 (Fall River MRA)*, Ace St.
Fall River, *Sanford Spinning Co. (Fall River MRA)*, Globe Mills Ave.
Fall River, *Santo Christo Church (Fall River MRA)*, 240 Columbia St.
Fall River, *Seaconnet Mills (Fall River MRA)*, E. Warren St.
Fall River, *Smith, John Mace, House (Fall River MRA)*, 399 N. Main St.
Fall River, *St. Anne's Church and Parish Complex (Fall River MRA)*, 780 S. Main St.
Fall River, *St. Joseph's Church (Fall River MRA)*, 1355 N. Main St.
Fall River, *St. Joseph's Orphanage (Fall River MRA)*, 56 St. Joseph's St.
Fall River, *St. Louis Church (Fall River MRA)*, 440 Bradford Ave.
Fall River, *St. Mary's Cathedral and Rectory (Fall River MRA)*, 407 Spring St.
Fall River, *St. Patrick's Church (Fall River MRA)*, 1588 S. Main St.
Fall River, *Stafford Mills (Fall River MRA)*, County St.
Fall River, *Union Mills (Fall River MRA)*, Pleasant St.
Fall River, *Valentine-French House (Fall River MRA)*, 5105 N. Main St.
Fall River, *Wampanoag Mills (Fall River MRA)*, Quequechan St.
Fall River, *Winslow, Luther Jr., House (Fall River MRA)*, 5225 N. Main St.
Fall River, *Woman's Club of Fall River (Fall River MRA)*, 542 Walnut St.

MINNESOTA

Ramsey County

St. Paul Vicinity, *Rohland, Otto W., Building*, 455–457–459 Old Fort Rd. W.

NEW JERSEY

Mercer County

Pennington vicinity, *Van Cleve, Col. John, Homestead (Hopewell Township Poor Farm)*, NW of Pennington on Poor Farm Rd.

NEW MEXICO

Bernalillo County

Albuquerque, *Veterans Administration Medical Center*, 2100 Ridgecrest, SE

NORTH CAROLINA

Person County

Bushy Fork vicinity, *Henry-Vernon House*, SW of Bushy Fork on NC 49

Swain County

Bryson City, *Frye-Randolph House and Fryemont Inn*, Fryemont Rd.

VERMONT

Addison County

Bristol, *Bristol Downtown Historic District*, Main St.

Washington County

Plainfield, *Plainfield Village Historic District*, High, School, Main and Water Sts., and Brook R.

Windham County

Bellows Falls, *Miss Bellows Falls Diner*, 90 Rockingham St.

Windsor County

South Reading, *South Reading Schoolhouse*, Felchville-Tyson's Corner Rd.
South Royalton vicinity, *Royalton Mill Complex*, N of South Royalton on Town Rd. 12

[FR Doc. 83–1327 Filed 1–17–83; 8:45 am]
BILLING CODE 4310–70–M

Office of the Secretary

Privacy Act of 1974; Revision and Update of Systems of Records

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of Section 3 of the Privacy Act of 1974, 5 U.S.C. 552a. Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other minor administrative revisions which have occurred since the publication of the material in the **Federal Register** on January 7, 1982 (47 FR 862). All the systems notices described herein pertain to records maintained by the U.S. Geological Survey.

One records system is being deleted from the Department's inventory of Privacy Act systems of records, as follows:

System Name: Management Information System, National Mapping Division—Interior, EGS–17 (Published at 47 FR 865). This system of records has been merged into the Geological Survey system of records titled: Employee Work Report Edit and Individual Employee Production Rates—Interior, EGS–24, which is published below.

The following system notices are updated and republished in their entirety below.

1. System Name: National Research Council Grants Program—Interior, EGS–9 (Published at 47 FR 862).

2. System Name: Security—Interior EGS–11 (Published at 47 FR 862).

3. System Name: Project Descriptions and Work Plans and Accomplishments—Interior, EGS–12, (Published at 47 FR 863).

4. System Name: Employee Work Report Edit and Individual Employee Production Rates—Interior, EGS–24 (Published at 47 FR 867).

Additional information regarding this notice may be obtained from the Departmental Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240, telephone 202–343–6191.

Dated: January 10, 1983.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

INTERIOR/EGS–9

SYSTEM NAME:

National Research Council Grants Program—Interior, GS—9.

SYSTEM LOCATION:

(1) Office of the Chief Geologist, Geologic Division, Reston, Virginia 22092 (2) National Research Council, 2101 Constitution Avenue, N.W., Washington, D.C. 20418.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for grants made through the National Research Council, who are assigned to the U.S. Geological Survey, Geologic Division under this program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, grade, title, organization, and place of birth of person being granted access. Also file of SF 171 and college transcripts for for each individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

43 U.S.C. 31 et seq., 5 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to evaluate individuals being considered for grants made through the National Research Council. Disclosures outside the Department of the Interior may be made: (1) To the National Research Council for evaluation purposes; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the Statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (6) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the insurance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual system maintained in cardex and legal files showing data on Research Associates assigned to U.S. Geological Survey, Geologic Division under this program.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records disposed of periodically as prescribed under records control system.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief Geologist, U.S. Geological Survey, National Center, Mail Stop 912, Reston, Virginia 22092.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific exemption authority of 5 U.S.C. 552a(k)(5), the Department of the Interior has adopted a regulation (43 CFR 2.79(2)) which exempts this system from the provisions of 5 U.S.C. 552(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) to the extent that the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility or qualifications for federal civilian employment. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 28, 1975).

INTERIOR/EGS–11

SYSTEM NAME:

Security—Interior, GS–11.

SYSTEM LOCATION:

(1) Office of the Chief Geologist, Geologic Division, Reston, Virginia 22092, (2) Central and Western Regional Offices of the Geologic Division. (Addresses may be obtained from the System Manager.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Geologic Division employees who have been granted security clearances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of Security Clearance, for Division personnel; contains name, grade, organization, social security number, and place and date of birth and type of security clearance of person being granted access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10501.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to keep current records on security clearances in the Geologic Division. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual systems maintained in locked cardex and legal size files.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with security meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records on former employes disposed under prescribed procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Officer, Geologic Division, U.S. Geological Survey, National Center, Mail Stop 912, Reston, Virginia 22092.

NOTIFICATION PROCEDURES:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

INTERIOR/EGS-12

SYSTEM NAME:

Project Description and Work Plans and Accomplishments-Interior, GS-12.

SYSTEM LOCATION:

Budget and Program Office, Office of the Chief Geologist, U. S. Geological Survey, Reston, Virginia 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Scientists who are in charge of one or more projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Project Description describes the objectives, location, and justification of the project. The Work Plans and Accomplishments is a yearly accountability of each project's scientific progress during the past year and a work plan for the coming year.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

43 U.S.C. 31, 48, 49.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary uses of the records are (a) to track and account for the progress of various projects; (b) to develop a work plan for the next year, (c) to keep scientists within the U.S. Geological Survey aware of the activities of the Geologic Division, either current or historic; and (d) to respond to various Congressional and other Federal and State requests regarding the activities of the Geologic Division. Disclosure outside the Department of the Interior may be made (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefits; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit; (6) information from these records is provided annually to State Geological Surveys to keep them informed on current activities pertinent to their States.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in an on-line computerized data base.

RETRIEVABILITY:

Data retrievable by project number and various ad hoc methods, i.e., key work, location of investigations, latitude and longitude, and name of Project Chief.

SAFEGUARDS:

Access to data for information purpose is unrestricted; however, data can only be appended or altered by authorized personnel such as the project chief or Information System Coordinators and Data Base Administrator in the Office of the Chief Geologist, Office of Program and Budget.

RETENTION AND DISPOSAL:

Completed project records are changed in status from "active" to "historic." Data is still available online; an archiving system will probably be developed over the next two years.

SYSTEM MANAGER(S) AND ADDRESS:

Policy and Budget Officer, Office of the Chief Geologist, U.S. Geological Survey, National Center, Mail Stop 910, Reston, Virginia 22092

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the System Manager. See 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

The information comes from the individuals who are in charge of one or more projects.

INTERIOR/EGS-24

SYSTEM NAME:

Employee Work Report Edit and Individual Employee Production Rates—Interior, GS–24.

SYSTEM LOCATION:

(1) U.S. Geological Survey, National Mapping Division, National Center, Stop 511, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (2) Eastern Mapping Center, National Mapping Division, National Center, Stop 567, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (3) Mid-Continent Mapping Center, National Mapping Division, USGS Building, 1400 Independence Road, Rolla, Missouri 65401. (4) Rocky Mountain Mapping Center, National Mapping Division, Box 25046, Stop 510, Denver, Colorado 80225. (5) Western Mapping Center, National Mapping Division, 345 Middlefield Road, Menlo Park, California 94025. (6) Office of Plans and Production Control, National Center, Stop 580, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Production employees in Mapping Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, social security number, cost and production rates, hours, and miles by individual production employee in each of the offices listed above, as well as GS professionals (geologists, hydrologists, etc.) who conducted research and investigations for which results are published in GS reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 43 U.S.C. 31, 1467.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for analysis of cost and production rate for individual employees and for units of National Mapping Division. Disclosure outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies, responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security

clearance, license, contract, grant or other benefits; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on punched cards, magtape, and disc.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Access restricted to authorized persons only from locked storage.

RETENTION AND DISPOSAL:

Records maintained for a period of 1 to 5 years and then destroyed in accordance with existing regulations for this class of records.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Chief, Branch of Management Systems and Reports, Office of Program Management, National Mapping Division, National Center, Stop 511, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (2) Chief, Program Management Branch, Eastern Mapping Center, National Mapping Division, National Center, Stop 567, 12201 Sunrise Valley Drive, Reston, Virginia 22092. (3) Chief, Branch of Plans and Production, Mid-Continent Mapping Center, National Mapping Division, USGS Building, 1400 Independence Road, Rolla, Missouri 65401. (4) Chief, Branch of Plans and Production, Rocky Mountain Mapping Center, National Mapping Division, Box 25046, Stop 510, Denver, Colorado 80225. (5) Chief, Branch of Plans and Production, Western Mapping Center, National Mapping Division, 345 Middlefield Road, Menlo Park, California 94025. (6) Chief, Office of Plans and Production Control, National Center, Stop 580, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

NOTIFICATION PROCEDURE:

A request for notification shall be addressed to the appropriate System Manager. See 43 CFR 2.60 for submission requirements.

RECORD ACCESS PROCEDURE:

A request for access shall be addressed to the appropriate System Manager. See 43 CFR 2.61 for submission requirements.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager. See 43 CFR 2.71 for submission requirements.

RECORD SOURCE CATEGORIES:

Data from work report prepared by individuals.

[FR Doc. 83-1321 Filed 1-17-83; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs Norfolk & Western Railway Co. et al.,

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway (202) 275-7278

or

Tom Smerdon (202) 275-7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board	Decided date
615	Illinois Central Gulf Railroad Co., ICC-ICG-C-0064, (Lard, nec; lard edible; grease, animal, inedible; grease; animal nec; tallow, animal, nec)	*2	1-10-83
616	Burlington Northern Railroad Co., ICC-BN-C-0256, (Iron or steel plate, sheet, coiled steel or iron or steel pipe) via Port of Portland, OR	*3	1-10-83
617	Missouri Pacific Railroad Co., ICC-MP-C-0217, (Lumber, plywood and particleboard)	**1	1-10-83
618	Missouri Pacific Railroad Co., ICC-MP-C-0141, (Corn, grain sorghums, soybeans and wheat) via MP ports in LA and TX	*2	1-10-83
620	Illinois Central Gulf Railroad Co., ICC-ICG-C-0011, Supplement 1, (Poly vinyl chloride)	*2	1-11-83
621	Chicago and North Western Transportation Co., ICC-ICG-C-0059, (Bituminous coal)	*1	1-11-83
622	Chicago and North Western Transportation Co., ICC-CNW-C-0412, (Woodpulp) via Port Green Bay, WI	*2	1-11-83
624	Missouri Pacific Railroad Co., ICC-MP-C-0219, (Steel coils)	*2	1-11-83
625	Burlington Northern Railroad Co., ICC-BN-C-0252, (Gilsonite (asphalt, natural))	*1	1-11-83
627	Burlington Northern Railroad Co., ICC-BN-C-0257, (Nitrogen fertilizer solution)	*1	1-11-83
628	Burlington Northern Transportation Co., ICC-BN-C-0258, (Bentonite clay)	*2	1-11-83

* Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

** Review Board No. 1, Members Parker, Chandler, and Fortier. Member Fortier not participating.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-1178 Filed 1-17-83; 8:45 am]

BILLING CODE 7035-01-M

Sub-No.	Name of railroad, contract No., and specifics	Review Board	Decided date
[illegible]	Norfolk and Western Railway Co., ICC-NW-C-0019, Supplement 3, (Grain) via Port of Norfolk, VA	*3	1-10-83

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

January 12, 1983.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice. No. 43985, Pacific Southcoast Freight Bureau, Agent (No. 569), reduced rates on groundwood paper, minimum weight 100,000 pounds, from Powell River, BC to Los Angeles, CA. Rates are to be published in Section 1 to Tariff ICC PSFB 4562-C. Grounds for relief—Market Competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-1180 Filed 1-17-83; 8:45 am]

BILLING CODE 7035-01-M

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

January 13, 1983.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of the notice. No. 43986, Consolidated Rail Corporation, reduced rates on automobile parts, in box cars, between points in the Official Territory, in Tariff ICC CR 4458, issued by Consolidated Rail Corporation. Grounds for relief: Motor Carrier Competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-1280 Filed 1-17-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice; Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 3, Members Krock, Joyce, Dowell.

Agatha L. Mergenovich,

Secretary.

Please direct status inquires to Team Four at (202) 275-7669.

Volume No. OP4-MCF-010

MC-F-15029, filed December 13, 1982. E. J. Christensen (Christensen) (P.O. Box 451, Vancouver, WA 98660)—continuance in control—SEA-PORT TRUCKING, INC. (Sea-Port) (9833 40th Ave. South, Seattle, WA 98118). Representative: Earle V. White, 2400 S.W. Fourth Ave., Portland, OR 97201. Christensen seeks authority to continue in control of Sea-Port upon Sea-Port's institution of operations in interstate and foreign commerce as a motor common carrier. Christensen presently controls Southwest Delivery Company, Inc., a motor common carrier under a certificate issued in MC-126714 and sub-numbers which authorizes the transportation of general and specified commodities: over a regular route between Portland, OR and Vancouver, WA, on the one hand, and, on the other, Olympia, Tacoma, Seattle, and Everett, WA; over irregular routes between points in northwestern OR counties on the one hand, and, on the other, points in western WA counties; and over irregular routes between points in southwest WA counties, on the one hand, and, on the other, points in eastern WA counties.

Notes.—(1) Sea-Port has filed as a directly related application, its initial common carrier application in No. MC-163786 which was published in the Federal Register on October 5, 1982, for authority to transport general commodities (with exceptions), between points in WA, OR, ID, MT, CA, NV,UT, AZ, AND AK. (2) As a condition to a grant of that authority, Christensen was required to file this continuance in control application or submit an affidavit indicating why such approval is unnecessary.

Volume No. OP4-F-011

Dated: January 13, 1983.

MC-F-15040, filed December 16, 1982. JACK LINK TRUCK LINE, INC. (LINK) (P.O. Box 127, Dyersville, IA 52040)—purchase (portion)—JOHNSRUD TRANSPORT, INC. (JOHNSRUD) (P.O. Box 447, Cresco, IA 52136). Representative: Jack H. Blanshan, 21363 N. Pheasant Trail, Barrington, IL 60010. Link seeks authority to purchase a portion of the interstate operation rights and property of Johnsrud. Emil J. Link, the president and owner of 39 percent of the stock of Link, and John E. Link, the Secretary-Treasurer and owner of 60 percent of the stock of Link, seek authority to acquire control of said rights through the transaction. Link is seeking to acquire that portion of Johnsrud's operating rights in No. MC-128075 (Sub-No. 44) X which supersedes No. MC-128075 (Sub-No. 3), authorizing the transportation over regular routes of (1) *Machinery, metal products, pulp, paper and related products, petroleum, natural gas and their products, clay, concrete, glass or stone products, and lumber and wood products,* (except commodities in bulk), between Chicago, IL, and Waukon, IA, serving all intermediate points and points in Allamakee, Winneshiek, Fayette and Clayton Counties, IA, as off-route points; and over irregular routes of (2) *Machinery and metal products,* between points in Fulton and Whiteside Counties, IL, Chicago, IL, and Minneapolis-St. Paul, MN, on the one

hand, and, on the other, points in certain IA and MN Counties; between points in Washington County, MN, on the one hand, and, on the other, points in certain IA Counties; and between points in Whiteside County, IL, and Moline, IL, on the one hand, and, on the other, points in certain IA Counties; (3) *Machinery*, between Moline, IL, on the one hand, and, on the other, points in Mitchell County, IL, and Mower County, MN; and between points in Black Hawk County, IA, on the one hand, and, on the other points in Mower County, MN; (4) *Building materials*, between Minneapolis and St. Paul, MN, and points in Mower and Freeborn Counties, MN, on the one hand, and, on the other, points in certain IA Counties; (5) *Machinery and metal products*, between Peoria, IL, on the one hand, and, on the other, points in Floyd, and Mitchell Counties, IA; and (6) *Machinery, metal products, lumber and wood products, rubber and plastic products, and clay, concrete, glass or stone products*, between points in certain IA Counties, on the one hand, and, on the other, points in MN and IL. Link is authorized to operate as a motor common carrier and contract carrier in MC–128497 and MC–124807, respectively and sub-numbers thereunder.

Notes.—(1) Transferor, in the recent past, has not operated. Thus, it appears that the operating rights to be acquired are dormant. (2) Link also seeks to eliminate specified gateways in No. MC–128497 (Sub-No. 23) Jack Link Truck Line, Inc.—Gateway Elimination; however, this application was denied by this Board in a decision of this same date.

[FR Doc. 83–1294 Filed 1–17–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision-Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC FC–80142. By decision of January 10, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR. 1161 Review Board Number 3 approved the transfer to TENNANT TRUCK LINES, INC., of Orion, IL of Permit No. MC–146643 all of (Sub–Nos. 58 and 59), portions of (Sub–Nos 51 and 66) and all of (Sub–Nos. 39F and 48F) and portion of (Sub–No. 9X), issued March 26, April 22, April 14, and January 30, 1981, November 24, 1980, and September 7, 1982, respectively, to INTER-FREIGHT TRANSPORATATION, INC., of Chicago, IL authorizing the Transportation of (1) such commodities as are dealt in or used by manufacturers and distributors of chemicals and allied products, between points in the U.S., under continuing contract(s) with Cook Paint and Varnish Company, of North Kansas City, MO; (2) general commodities (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives), between points in the U.S. under continuing contracts(s) with Ralston Purina Company, of St. Louis, MO; (3) automotive oils and automotive chemicals (except commodities in bulk), from Kanasas City, KS, and Edison, NJ, to those points in the U.S. in and east of ND, SD, NE, OK, and TX, under continuing contract(s) with Inter State Oil Co., of Kansas City, KS; (4) food and related products, between points in the U.S., under continuing contract(s) with D'Amico Foods Company, of Steger, IL; (5) flour (except in bulk), from the facilities of the Pillsbury Company, at or near Minneapolis, MN, to points in IL, IN, MI, MO, OH, and WI, under continuing contract(s) with the The Pillsbury Company, of Minneapolis, MN; (6) canned foodstuffs (except cold packed or frozen foodstuffs), from Chicago, IL, to St. Louis, Salem, Springfield and Sedalia, MO, under continuing contracts(s) with Campbell Soup Company (2) of Camden, NJ, (7) food and related products, between points in the U.S., under continuing contract(s) with the Pillsbury Company, of Minneapolis, MN and Campbell Soup Company, of Camden, NJ. Representatives: Thomas W. Drexler, 105 West Madison St., Chicago, IL 60602; Joseph Winter, 29 South LaSalle St., Chicago, IL 60603.

MC FC–80165. By decision of December 29, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1161, Review Board Number 3, approved the transfer to BRANCH TRANSFER, INC., of Harris, MN or Permit No. MC–133480 (Sub–Nos. 1, 3, 6, 8, 12F, 13F, 16X, 17 and 19), issued March 2, 1970, June 18, 1976, June 23, 1972, March 27, 1974, August 8, 1980, July 24, 1980, June 10, 1981, July 6, 1981 and June 28, 1982, respectively, to LEE's TRUCKING, INC., of North Branch, MN, authorizing the transportation of general commodities with named exceptions, and specified commodities, such as food and related products, lumber and wood products, clay, concrete, glass, and stone products, metal products, rubber and plastic products, between points in the U.S. under continuing contract(s) with TCB, Inc., Harney Bulders, Inc., Tuffy's a Division of Star-Kist Foods, Inc. and Federal Cartridge Corporation. Representative: Samuel Rubenstein, Box 5, Minneapolis, MN 55440.

Note.—No TA filed. Transferee holds no authority.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–1295 Filed 1–17–83; 8:45 am]

BILLING CODE 7035–01–M

[OP1FC–11]

Motor Carriers; Decision-Notice; Finance Applications

[OP1FC–11]

As indicated by the findings below, the Commission has approved the

following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,

Secretary.

Note.—Please direct status inquiries to Team 1, (202) 275–7992.

MC–FC–80105. By decision of December 28, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1161, Review Board Number 3, reopened the proceeding and approved the transfer to Jim Senske, doing business as Senske & Son Transfer, of Crookston, MN, of Certificate No. MC–136293 (Sub-No. 3) issued November 23, 1982, to Louie Senske and Jim Senske, doing business as Senske & Son Transfer, Crookston, MN, authorizing the transportation of general commodities (except classes A and B explosives and household goods), between points in six named counties in MN and three named counties in ND, on the one hand, and, on the other, points in the US (execpt AK and HI). Applicants' Representative: James B. Hovland, 525 Lumber Exchange Building, Ten South Fifth St., Minneapolis, MN 55402.

[FR Doc. 83–1206 Filed 1–17–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the Matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For icompliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e. g. unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presemptiopn shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract." Please direct status inquiries to Team Three at (202) 275–5223.

Volume No. OP3–04

Decided: January 11, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 165364, filed December 27, 1982. Applicant: TRAVEL IN STYLE, INC., 901 Electric St., Scranton, PA 18509. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165385, filed December 28, 1982. Applicant: AMERICAN STAGE LINES, 1488 Soccer Court, Concord, CA 94518. Representative: George Edwards McManus, (same address as applicant), (415) 687–7705. Transporting *passengers*, in special and charter operations, beginning and ending at points in San Francisco, San Mateo, Alameda, Contra Costa, Solano, Napa, Sonoma, and Marin Counties, CA, and extending to Reno, NV.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165425, filed December 28, 1982. Applicant: LONN W. NELSEN, INC., RR #1, Box 99, Avoca, IA 51521. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP3–77

Decided: January 11, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 40815 (Sub-10), filed December 27, 1982. Applicant: HARRAN TRANSPORTATION CO., INC., 1417 Jerusalem Ave., North Merrick, NY 11565. Representative: William H. Shawn, Suite 501, 1730 M St., N.W., Washington, D.C. 20036. (202) 296–2900. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 121044 (sub-10(B)), filed December 20, 1982. Applicant: ACTION EXPRESS, INC., P.O. Box 722, Boise, ID 83701. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701. (208) 343–3071. (1) Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons and munitions), between points in the U.S., and (2) As a *broker of general commodities* (except household goods), between points in the U.S.

MC 136225 (Sub-3), filed December 28, 1982. Applicant: PHILIPPS BUS SERVICE, INC., Route 3, Box 112, Winona, MN 55987. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 140094 (Sub-4), filed December 21, 1982. Applicant: LATIN EXPRESS SERVICE, INC., 901 N.W. 22nd Ave., Miami, FL 33125. Representative: Kim G. Meyer, P.O. Box 56282, Atlanta, GA 30343, (404) 523–1717. Over *regular routes*, transporting *passengers*, between Miami Beach, FL and New York, NY: From Miami Beach over McArthur Causeway to Miami, then over the FL Sunshine State Parkway to Orlando, FL, then over Interstate Hwy 4 to junction Interstate Hwy 95, then over Interstate Hwy 95 to the DE Memorial Bridge, then over the DE Memorial Bridge to the NJ Turnpike, then over the NJ Turnpike to Interchange 18–E, then over Interstate Hwy 495 to Union City, NJ, and then through the Lincoln Tunnel to New York, NY, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2) (B), and (2) this regular-route authority may be tacked with carrier's existing authority.

MC 165375, filed December 28, 1982. Applicant: NEOTERIC, INC., d.b.a. CHIEF BUS SERVICE, 9205 J St., Omaha, NE 68127. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392–1220. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165394, filed December 28, 1982. Applicant: TAE WEST CORPORATION, 3402 E. Fairway Drive, Suite 336, Coeur d'Alene, ID 83814. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701, (208) 336–5955. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 165395, filed December 28, 1982. Applicant: ROLLING THUNDER TOURS, INC., 77 Railroad Ave., Closter, NJ 07624. Representative: Roland I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Vloume No. OP4–009

Decided: January 11, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 126667 (Sub-7), filed December 17, 1982, previously noticed in the **Federal Register** issue of January 3, 1983, and republished this issue. Applicant: BRUSH HILL TRANSPORTATION COMPANY, 109 Norfolk St., Dorchester, MA 02124. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–3525. Transporting *passengers*, in charter and special operations, beginning and ending at points in CT, ME, MA, NH, NY, RI, and VT, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation. The purpose of this republication is to correct the territorial description.

MC 165416, filed December 29, 1982. Applicant: VAILSBURG BUS CO., INC., 123 Pershing Blvd., Lavallette, NJ 08735. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165417, filed December 27, 1982. Applicant: GLENN E. EKBERG, d.b.a. GLENN E. EKBERG TRUCKING, 13906 N.E. Rose Parkway, Portland, OR 97230. Representative: Glenn E. Ekberg, (same address as applicant), (503) 254–5670. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except HI).

MC 165447, filed December 30, 1982. Applicant: STEVE L. HURD, 1211 Keyes Rd., Yakima, WA 98901. Representative: Carol M. Cooper, 2802 Beaudry Rd., #881–A, Yakima, WA 98901, (509) 452–1177. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil*

conditioners, between points in the U.S. (except AK and HI).

MC 165457, filed January 3, 1982. Applicant: DERRELL K. JONES, d.b.a. STAGE COACH VIP, INC., 3504 Dickerson Rd., Nashville, TN 37207. Representative: Derrell K. Jones, (same address as applicant), (615) 868–6681. Transporting *passengers*, in charter or special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–006

Decided: January 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 157809 (Sub-1), December 23, 1982. Applicant: JOHN LAHOTSKI, STEPHEN LAHOTSKI, WILLIAM LAHOTSKI AND PAUL LAHOTSKI d.b.a. BLUE AND WHITE TRUCKING, 181 Phillips St., Throop, PA 18512. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517. Transporting *passengers*, in charter and special operations, beginning and ending at points in PA and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 161508 (Sub-1), December 29, 1982. Applicant: BOB ANDERSON TOURS, INC., 512 Washington Avenue, Woodbine, NJ 08270. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K Street, N.W., Washington, DC 20005, 202–783–3525. Transporting *passengers*, in charter and special operations, beginning and ending at points in DE, NJ, and PA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 160158 (Sub-1), December 27, 1982. Applicant: EDWIN J. PINA, SR. & SON, INC., 227 Bumps River Road, Osterville, MA 02655. Representative: Arthur M. White, 281 Pleasant Street, P.O. Box 2547, Framingham, MA 01701, 617–879–5000. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special operations.

MC 165439, December 27, 1982. Applicant: SEA-TAC PIGGYBACK, INC., 1406 54th Avenue East, Fife, WA 98424. Representative: Paul V. Kemp (same address as applicant), 206–922–2750. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165459, December 29, 1982. Applicant: NEWHURST, INC., R.D. #3, Box 102, Pine Grove, PA 17963. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K Street, N.W., Washington, DC 20005, 202–783–3525 Transporting *passengers*, in charter and special operations, beginning and ending at points in PA in and east of Fulton, Huntingdon, Centre, Clinton, and Potter Counties, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–1287 Filed 1–17–83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter Motor Carrier and Contract Carriers of Property (except fitness-only; Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 7 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly. Please direct status inquiries to Team One at (202) 275-7992.

Volume No. OP1-13

Decided: January 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 163711, filed December 13, 1982. Applicant: McCOY OF WISCONSIN, INC., d.b.a. FOOD LINER, P.O. Box 956, Monroe, WI 53566. Representative: Donal B. Levine, 180 North LaSalle Street, Chicago, IL 60601, (312) 368-0100. Transporting *food and related products and gift items*, between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This appliction is directly related to MC-F-15031, published in this same Federal Register issue.

Volume No. OP1-10

Decided: January 7, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Chandler not participating.)

MC 290 (Sub-11(A)), filed December 21, 1982. Applicant: JACK RABBIT LINES, INCORPORATED, 301 North Dakota Ave., Sioux Falls, SD 57102. Representative: James R. Becker, 412 West Ninth St., P.O. Box 1443, Sioux Falls, SD 57101-1443, (605) 336-2585. Over regular routes, transporting *passengers*, (1) between sioux Falls, SD, and Mankato, MN, (a) from Sioux Falls, SD, over SD Hwy 115 to Interstate Hwy 90, then over Interstate Hwy 90 to junction U.S. Hwy 71, then over U.S. Hwy 71, to junction MN Hwy 60, then over MN Hwy 60 to Mankato, MN, and return over the same route, (b) from Sioux Falls, SD, over SD Hwy 115 to Interstate Hwy 90, then over Interstate Hwy 90 to junction MN Hwy 60, then over MN Hwy 60 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy 14, then over U.S. Hwy 14 to junction MN Hwy 68, then over MN Hwy 68 to junction U.S. Hwy 169 (also MN Hwy 60), then over U.S. Hwy 169 (also MN Hwy 60) to Mankato, MN, and return over the same route, and (2) between Sioux City, IA, and Worthington, MN, from Sioux City, IA, over U.S. Hwy 75 to junction IA Hwy 60, then over IA Hwy 60 to junction IA Hwy 10, then over IA Hwy 10 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 18, then over U.S. Hwy 18 to junction IA Hwy 60, then over IA Hwy 60 to the IA-MN State line, then over MN Hwy 60 to Worthington, MN, and return over the same route, serving all intermediate points in (1) and (2) above.

Note.—Applicant seeks to provide regular-route service in intrastate commerced under 49 U.S.C. 10922(c)(2)(B). The fitness portion of this application is published in this same Federal Register issue docketed MC-290 Sub-11(B).

MC 37640 (Sub-14), filed December 21, 1982. Applicant: TEXAS BUS LINES, 805 E. Fourth St., Belton, TX 76513. Representative: Scott Keller (same address as applicant), (817) 939-3704. Over regular routes, transporting *passengers*, between Laredo, TX, and Grand Prairie, TX: (1) from Laredo over Interstate Hwy 35 to junction Interstate Hwy 35-East, then over Interstate Hwy 35-East to junction U.S. Hwy 80, then over U.S. 80 to Grand Prairie, serving all intermediate points; and (2) from Laredo over Interstate Hwy 35 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 45, then over Interstate Hwy 45 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Grand Prairie, serving all intermediate points.

MC 54591 (Sub-12), filed December 23, 1982. Applicant: SOUTHEASTERN TRAILWAYS, INC., P.O. Box 1287, Indianapolis, IN 46206. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751-2441. *Over regular routes*, transporting *passengers*, (1) between Chicago, IL, and Louisville, KY, from Chicago over Interstate Hwys 90 and 94 to junction Interstate Hwy 65, then over Interstate Hwy 65 to Louisville, and return over the same route, serving all intermediate points and the off-route points of Lafayette, Lebanon, Franklin, Camp Atterbury, Columbus, Seymour, and Jeffersonville, IN, (2) between Indianapolis, IN, and Cincinnati, OH, over Interstate Hwy 74, serving all intermediate points and the off-route points of Shelbyville, Greensburg, and Batesville, IN, and Cheviot, OH, (3) between Cincinnati, OH, and Knoxville, TN, over Interstate Hwy 75, serving all intermediate points and the off-route points of Williamstown, Georgetown, Lexington, Richmond, Mt. Vernon, London, Corbin, and Williamsburg, KY, and Jellico, TN, (4) between Cincinnati, OH, and Louisville, KY, over Interstate Hwy 71, serving all intermediate points, (5) between Louisville and Lexington, KY, over Interstate Hwy 64, serving all intermediate points and the off-route points of Frankfort and Versailles, KY, and (6) between Ft. Wayne and Indianapolis, IN, over Interstate Hwy 69, serving all intermediate points and the off-route point of Anderson, IN.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 129841 (Sub-4), filed December 16, 1982. Applicant: WHITFIELD BUS LINES, INC., 533 North Seventeenth St., P.O. Box 1339, Las Cruces, NM 88001. Representative: James G. Whitley, 215 Lincoln Ave., P.O. Box 2228, Santa Fe, NM 87501, (505) 982-2691. Transporting *passengers and their baggage*, between points in MO, IA, IL and TX, under continuing contract(s) with the United States Department of Justice, Immigration and Naturalization Service, of Omaha, NE.

MC 150231 (Sub-14), filed December 27, 1982. Applicant: MAVERICK TRANSPORTATION, 3223 East Broadway, North Little Rock, AR 72114. Representative: Larry Leahy (same address as applicant), (501) 945-6130. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 159451 (Sub-3), filed December 22, 1982. Applicant: GOLDEN WEST EXPRESS, INC., 4902 So. 61st St., Omaha, NE 68117. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397-9900. Transporting food and related products, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to convert contract carrier authority to common carrier authority.

MC 163400(a), filed December 14, 1982. Applicant: FRONTIER STAGES, INC., 360 North Wolcott, Casper, WY 82601. Representative: Ronald D. Hall, 4549 Country Side Court, Casper, WY 82604, (307) 237-8009. Over regular routes, transporting *passengers*, between Casper, WY, and Gillette, WY: from Casper over Interstate Hwy 25 and U.S. Hwy 87 to Edgerton, WY, they over WY Hwy 387 to Reno Junction, WY, then over WY Hwy 59 to Gillettee, WY, serving all intermediate points, and return over the same route.

Note.—Applicant has also filed a privately funded charter and special transportation

fitness case (MC–163400(b)) published in this same Federal Register.

MC 165390, filed December 27, 1982. Applicant: MOORE MOVING & STORAGE, INC., 4808 Commerce Dr., Newport News, VA 23607. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3809. Transporting *household goods*, between points in CT, DE, FL, GA, MA, MD, NC, NJ, NY, PA, RI, SC, TN, VA and DC.

MC 165420, filed December 27, 1982. Applicant: FRED MULL, d.b.a. MULL TRUCKING, 2683 Alvarado, Sidney, NE 69612. Representative: Fred Mull (same address as applicant), (308) 254–7138. Transporting *metal products*, between points in IL, KY, TX, NE, GA and WA.

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–019

Decided: January 10, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier. (Member Fortier not participating.)

FF 642, filed December 22, 1982. Applicant: ALL-AMERICAN FORWARDING, INC., 2320 Nob Hill Ave. No., Seattle, WA 98109. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036, (202) 785–0024. As a *freight forwarder*, in connection with the transportation of *household goods, baggage, and used automobiles*, between points in the U.S.

MC 59583 (Sub-190), filed December 16, 1982. Applicant: THE MASON AND DIXON LINES, INCORPORATED, P.O. Box 969, Kingsport, TN 37662. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, DC 20814, (301) 986–1410. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 119632 (Sub-128), filed December 27, 1982. Applicant: REED LINES, INC., 634 Ralston Ave Defiance, OH 43512. Representative: Owen B. Katzman, 1828 L St., N.W., Suite 1111, Washington, DC 20036, 202–822–8200. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 144832 (Sub-5), filed December 23, 1982. Applicant: JOE C. SIKES, dba. GLENN-LEE TRUCKING CO., P.O. Box 281, Springfield, GA 31329. Representative: Michael P. Hines (same address as applicant), 912–233–1540. Transporting *iron or steel articles*, between points in AL, FL, GA, MS, NC, SC, TN, and VA.

MC 153032 (Sub-2), filed December 10, 1982. Applicant: ROBERT A. DIEDERICH, JR., dba. DIEDERICH TRUCKING CO., 4085 Walden Ave., Lancaster, NY 14086. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202, 716–853–0200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160302, filed December 27, 1982. Applicant: THOMAS INDUSTRIES EXPRESS, INC., P.O. Box 769, 1700 Gilbert St., Hopkinsville, KY 42240. Representative: J. D. Youngblood, 207 East Broadway, P.O. Box 35120, Louisville, KY, 40232, (502) 582–3771. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in White County, TN, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, VA, VT, WB, WI, and DC.

MC 162392 (Sub-1), filed December 27, 1982. Applicant: SIMMS TRUCKING, INC., Route 5, Box 81, Festus, MO 63028. Representative: Edward P. Bocko, P.O Box 496, Mineral Ridge, OH 44440 (216) 652–2789. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Brasscraft Manufacturing Company, Inc., of Detroit, MI.

MC 165372, filed December 22, 1982. Applicant: CANNON EXPRESS, INC., 800 South Ave., Bridgeport, CT 06604. Representative: Stuart Rosenberg (same address as applicant), (203) 336–3826. Transporting *beer*, between points in the U.S., under continuing contract(s) with Gary Beer Distributors, Inc., of Bridgeport, CT.

MC 165383, filed December 28, 1982. Applicant: EMIL LAFAVE, GLEN LAFAVE, HUBERT LAFAVE, KAREN MATHIAS, AND CHARLES LAFAVE, A PARTNERSHIP, d.b.a. LAFAVE TRANSPORT, Route 1, Box 18, Wilson, MI 49896. Representative: William J. Bolognesi, P.O. Box 705, Iron Mountain, MI 49801, (906) 774–2209. Transporting *lumber, lumber products, wood products, forest products, heavy machinery, steel sheets and metal culverts*, between points in MI and WI.

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–78

Decided: January 10, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 3104 (Sub-9), filed December 27, 1982. Applicant: Z&M MOTOR LINE, INC., P.O. Box 2345, 205 Bowen St., Cumberland, MD 21502. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting (1) *clay, concrete, glass or stone products*, between points in Montgomery County, MO, on the one hand, and, on the other, points in Allegany County, MD, and (2) *such commodities* as are dealt in or used by a manufacturer of rubber products, between points in the U.S. (Except AK and HI).

MC 10875 (Sub-64), filed December 27, 1982. Applicant: BRANCH MOTOR EXPRESS CO., 114 Fifth Ave., New York, NY 10011. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, (313) 963–3750. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with K Mart Corporation, of Troy, MI.

MC 67234 (Sub-73), filed December 28, 1982. Applicant: UNITED VAN LINES, INC., One United Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Sears, Roebuck and Co. and its subsidiaries, of Chicago, IL.

MC 114015 (Sub-39), filed December 28, 1982. Applicant: HUSS, INCORPORATED, Highway 47 West, P.O. Box 666, Chase City, VA 23924. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *clay, concrete, glass or stone products*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons who are engaged in manufacturing and distributing clay, concrete, glass or stone products.

MC 121044 (Sub-10(A)), filed December 15, 1982. Applicant: ACTION EXPRESS, INC., P.O. Box 722, Boise, ID 83701. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. (1) Over *irregular routes*, transporting *general commodities*

(except classes A and B explosives, household goods, and commodities in bulk), between points in CA north of San Luis Obispo, Kern, and San Bernardino Counties, CA, ID, MT, NV, OR, UT, WA, and WY, and (2) *over regular routes,* transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (a) Between Provo, UT and Seattle, WA: From Provo over Interstate Hwy 15 to junction Interstate Hwy 80/84, then over Interstate Hwy 84 to junction Interstate Hwy 5, and then over Interstate Hwy 5 to Seattle; (b) Between Portland, OR and Eugene, OR: From Portland over Interstate Hwy 5, serving the off-route points of Corvallis and McMinnville, OR; (c) Between Ontario, OR and Portland, OR: From Ontario over U.S. Hwy 20 to junction U.S. Hwy 395, then over U.S. Hwy 295 to junction U.S. Hwy 26, and then over U.S. Hwy 26 to Portland, OR; (d) Between Burns Junction, OR, and Prineville, OR: From Burns Junction over U.S. Hwy 20 to junction U.S. Hwy 97, then over U.S. Hwy 97 to junction OR State Hwy 126, and then over OR State Hwy 126 to Prineville; (e) Between Boise, ID and Bonners Ferry, ID: From Boise over U.S. Hwy 55 to junction U.S. Hwy 95, and then over U.S. Hwy 95 to Bonners Ferry, ID; (f) Between Boise, ID, and New Meadows, ID: From Boise over Interstate Hwy 84 to junction U.S. Hwy 95, and then over U.S. Hwy 95 to New Meadows, ID, and return over U.S. Hwy 55 to Boise, ID; (g) Between Burley, ID and Idaho Falls, ID: From Burley over U.S. Hwy 30 to junction Interstate Hwy 84, then over Interstate Hwy 84 to junction Interstate Hwy 15, and then over Interstate Hwy 15 to Idaho Falls, ID; and (h) Between junction Interstate Hwy 84 and U.S. Hwy 30, near Delco, ID, and Bliss, ID: From junction Interstate Hwy 84 and U.S. Hwy 30 near Delco, ID, over U.S. Hwy 30 to junction Interstate Hwy 84, then over Interstate Hwy 84 to Bliss, serving all intermediate points in (2) (a) through (h) above.

Note.—The regular-route authority in (2) (a) through (h) may be tacked with carrier's existing authority.

MC 121834 (Sub-3), filed December 27, 1982. Applicant: EZZELL TRUCKING, INC., P.O. Box 67, Harrells, NC 28444. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 128075 (Sub-48), filed December 21, 1982. Applicant: JOHNSRUD TRANSPORT, INC., 5301 Northeast 17th Street, Des Moines, IA 50313. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting (1) *chemicals* and (2) *commodities* used in the manufacture of weed and tree killing compounds, between points in the U.S., under continuing contract(s) with Albaugh Chemical Corporation, of Ankeny, IA.

MC 133604 (Sub-20), filed December 23, 1982. Applicant: LYNN TRANSPORTATION COMPANY, INC., 712 S. 11th Street, Oskaloosa, IA 52577. Representative: Kenneth F. Dudley, P.O. Box 279 Ottumwa, IA 52501, (515) 682–8154. Transporting *general commodities* (except household goods, classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Banquet Foods Corporation, of Ballwin, MO.

MC 141255 (Sub-24), filed December 28, 1982. Applicant: TANDY TRANSPORTATION, INC., 2500 East Long Ave., Fort Worth, TX 76111. Representative: Donnie Brogdon (same address as applicant), (817) 834–0182. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Savannah Food & Industries and its subsidiaries, of Savannah, GA.

MC 142145 (Sub-12), filed December 27, 1982. Applicant: LINDSAY TRANSPORTATION, INC., P.O. Box 97, Lindsay, NE 68644. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 145835 (Sub-13), filed December 28, 1982. Applicant: ALL STATES TRANSPORTATION, INC., Rt. 1, Box 27, Fort Worth, TX 76179. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Forth Worth, TX 76112, (817) 457–0804. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 147375, filed December 28, 1982. Applicant: G. H. SINGH & SONS TRUCKING CO. LTD., 46806 Chilliwach Central Rd., R.R. 1, Chilliwack, B.C., Canada V2P 6H3. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017, (213) 627–8471. Transporting *commodities in bulk,* between ports of entry on the International Boundary line between the U.S. and Canada at points in WA, on the one hand, and, on the other, points in Multnomah County, OR, and Los Angeles and Orange Counties, CA.

MC 160785 (Sub-4), filed December 22, 1982. Applicant: CASTAR TRUCKING, INC., 7840 "F" St., Omaha, NE 68127. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9300. Transporting (1) *telephone equipment,* between points in MN, IA, ND, SD, NE, MT, WY, CO, NM, ID, UT, AZ, WA, and OR, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *printed matter,* between points in the U.S. (except AK and HI).

MC 160984, filed December 27, 1982. Applicant: DENNIS J. HUNEKE, d.b.a. HUNEKE TRUCKING, 23889 129th Ave. North, Rogers, MN 55374. Representative: Stanley C. Olsen, Jr., 5209 Wilson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with J & B Wholesale Distributing, Inc., of St. Michael, MN.

MC 164665, filed December 22, 1982. Applicant: MARKETING UNLIMITED INC., d.b.a. WAGON WHEEL FREIGHT INC., 2911 8th Ave., Chattanooga, TN 37407. Representative: C. E. Akins (same address as applicant), (615) 629–4737. Transporting (1) *food and related products,* (2) *general commodities* (except classes A and B explosives, household goods and commodities in bulk) and (3) *carpet and carpet materials,* between Chattanooga, TN, on the one hand, and, on the other, points in TN, GA, KY, IN, VA, OH, NC, SC, FL, MS, MO, NY, NJ, AL, PA, WV, IL and WI.

MC 165275, filed December 27, 1982. Applicant: Sheehy Mail Contractors, Inc., 644 11th Ave. N., Onalaska, WI 54650. Representative: Joseph E. Ladden, 2707 South Ave., P.O. Box 1587, La Crosse, WI 54601, (608) 788–2000. Transporting *printed matter* between points in Jefferson, Dane and Sauk Counties, WI on the one hand, and, on the other, points in MN, IA, MO, IL, IN, MI and OH, under continuing contracts with Perry Printing Corp. of Waterloo, WI.

MC 165294, filed December 20, 1982. Applicant: CRAIG HEFFINGTON, 208 East Hefner Road, Oklahoma City, OK 73114. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106, (405) 528–3684. Transporting *clay, concrete, glass or stone products,*

between points in AR, KS, LA, MO, OK, TN and TX.

For the following, please direct status calls to Team 4 (202) 275-7669.

Volume No. OP4-008

Decided: January 11, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 42487 (Sub-1066), filed November 15, 1982, previously noticed in the **Federal Register** issue of December 3, 1982, and republished this issue. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226-4692. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S (except AK and HI), under continuing contract(s) with Mattel, Inc., of Hawthorne, CA.

Note.—The purpose of this republication is to correctly state the contracting shipper.

MC 141707 (Sub-3), filed December 30, 1982. Applicant: JOE A. STEVENS TRUCKING, INC., 454 N. College St., Harrodsburg, KY 40330. Representative: George M. Catlett, 700-702 McClure Bldg., Frankfort, KY 40601, (502) 227-7384. Transporting (1) *waste and scrap materials,* between points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, NC, OH, SC, TN, VA, and WV, (2) *such commodities* as are dealt in by suppliers of building materials and steel products, between Louisville, KY, on the one hand, and, on the other, points in AL, CT, FL, GA, IL, IN, MD, MI, MN, NH, NY, OH, PA, SC, TN, and VA, and (3) *such commodities* as are dealt in by manufacturers of cement, between points in Jefferson County, KY, on the one hand, and, on the other, points in IN and TN.

MC 157457 (Sub-7), filed December 30, 1982. Applicant: CONGOLEUM CARTAGE CORP., 2323 So. 17th St., Elkhart, IN 46514. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge, #832, Portage, WI 53901, (608) 742-3579. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 158357 (Sub-1), filed December 28, 1982. Applicant: LEONARD ZERNONE, d.b.a. MEKIMLEN TRUCKING COMPANY, 1028 So. Walnut, Arlington Heights., IL 60005. Representative: Anthony E. Young, 29 So. LaSalle St., Suite 350, Chicago, IL 60603, (312) 782-8880. Transporting *paper and paper products, plastic and plastic articles,* between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, MO, OH, NE, WI, KS, ND and SD.

MC 163417, filed December 30, 1982. Applicant: MELVIN W. CRAFT, R.D. #1, Frenchville, PA 16836. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375, (212) 2632078. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Don Dine, Inc. of Allport, PA and Johnson & Morgan Contractors of Snow Shoe, PA.

MC 165087, filed January 3, 1983. Applicant: BREWER TRANSPORT COMPANY, INC., 5221 Railroad Ave., Palmetto, LA 71358. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *building materials,* between points in AR, LA, MS and TX.

MC 165426, filed December 30, 1982. Applicant: LINDSAY TRANSPORT, INC., 410 Lock St., Dade City, FL 33525. Representative: Clayton R. Byrd, 2870 Briarglen Dr., Doraville, GA 30340, (404) 491-1696. Transporting (1) (a) *food and related products,* (b) *food dispensing machines,* and (c) *such commodities* as are used in the operation of motor lodges, restaurants, and their manufacturing facilities, between Atlanta, GA, Chicago, IL, Baltimore, MD, New York, NY, and Dallas, TX, those points in Norfolk and Plymouth Counties, MA, Cuyahoga County, OH, and Bedford County, PA, and points in FL, on the one hand, and, on the other, points in the U.S. (except AK and HI); (2) *textile mill products, chemicals and related products* and *pulp, paper and related products,* between points in GA, NC and SC, on the one hand, and, on the other, points in AZ, CA, CO, ID, NV, NM, OR, TX, UT, WA, and WY; (3) *metal products,* between points in Marion County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (4) *rubber and plastic products,* between those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 165436, filed December 27, 1982. Applicant: CON-WAY WESTERN EXPRESS, INC., 3240 Hillview Ave., Palo Alto, CA 94303. Representative: Robert M. Bowden, P.O. Box 3062, Portland, OR 97208, (503) 226-4692. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, and NV.

MC 165467, filed January 4, 1983. Applicant: FORWARDERS TRANSFER, INC., 1620 SE Water St., Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226-3755. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OR, WA, ID and CA.

For the following, please direct status inquiries to Team 5 at 202-275-7289.

Volume No. OP5-007

Decided: January 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF 429 (Sub-1), filed December 27, 1982. Applicant: ALLIED FREIGHT FORWARDING, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60690, 312-681-8378. As a freight forwarder in connection with the transportation of *household goods,* between points in the U.S.

MC 72069 (Sub-46), filed December 29, 1982. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, DC 20005, 202-296-3555. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 102679 (Sub-8), filed December 30, 1982. Applicant: COLLINS MOVING SYSTEMS, INC., 904 West Morgan St., Kokomo, IN 46901. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638-1301. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with (a) Triangle Pacific Corp., of Dallas TX, and (b) Syndicate Sales, Inc., of Kokomo, IN.

MC 142239 (Sub-12), filed December 28, 1982. Applicant: NEBRASKA COAST, INC., 3125 South 11th St., Council Bluffs, IA 51501. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114, 402-397-9900. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 144008 (Sub-6), filed December 28, 1982. Applicant: STORE TRANSFER & DELIVERY SERVICE, INC., 12 Ferris Lane, Poughkeepsie, NY 12601. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239-4610. Transporting *such commodities* as are dealt in by retail department stores, between points in the U.S. (except AK and HI).

Note.—This application seeks to convert its contract authority to common carrier authority.

MC 144599 (Sub-10), filed December 28, 1982. Applicant: TRANSFER, INC., 4750 Kentucky Avenue, Indianapolis, IN 46241. Representative: Robert W. Loser II, 512 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, 317–635–2339. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., (except AK and HI), under continuing contract(s) with Trans-City Terminal Warehouse, Inc., of Indianapolis, IN.

MC 163979, filed January 3, 1982. Applicant: NIGHTINGALE EXPRESS, INC., 51 Fulton St., Poughkeepsie, NY 12601. Representative: Sam M. Robertucci (same address as applicant), 914–452–4095. Transporting *food and related products,* between Poughkeepsie, NY, and points in Orange County, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with EFCO Products, Inc., and Bridge City Distributors, Inc., both of Poughkeepsie, NY, and Wayne Beverage, Inc., of Chester, NY.

MC 165369, filed December 29, 1982. Applicant: PAPER-PAK PRODUCTS, INC., 1941 White Avenue, La Verne, CA 91750. Representative: W. G. Hopkins (same address as applicant), 714–596–1961. Transporting *pulp, paper and related products,* between AZ, OK and OR, on the one hand, and, on the other, points in CA, under continuing contract(s) with Orchids Paper Products Concel, Inc., of La Palma, CA.

MC 165418, filed December 30, 1982. Applicant: RATE TRANSPORT CO., INC., 12 Voorhis Pl., Pompton Plains, NJ 07444. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, 212–263–2078. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between New York, NY, on the one hand, and, on the other, points in CT, IL, IN, MA, MI, NC, NH, NJ, NY, OH, PA, RI, SC, and VA.

MC 165449, filed January 3, 1983. Applicant: PENNSYLVANIA AND NEW YORK TRUCKING COMPANY, INC., 630 New County Rd., P.O. Box 2472, Secaucus, NJ 07094. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW, Washington, DC 20036, (202) 223–5900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, MD, MA, ME, NH, NJ, NY, OH, PA, VT, RI, VA, WV, and DC.

MC 165468, filed December 30, 1982. Applicant: PE ELL FUEL AND TRANSFER, INC., 512 54th Avenue East, Tacoma, WA 98424. Representative: Jack R. Davis, 1200 IBM Building, Seattle, WA 98101, 206–624–7373. Transporting *construction materials,* between points in WA, OR, and ID. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirement of 49 U.S.C. 11343, (2) file an affidavit under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of this filing to Team 5, Room 2414.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–1298 Filed 1–17–83; 8:45 am]

BILLING CODE 7035–01–M

[MC–F–15031]

McCoy Group, Inc.—Continuance in Control Exemption—McCoy of Wisconsin, Inc., d.b.a. Food Liner, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97–261 (September 20, 1982), McCoy Group, Inc. (McCoy), and in turn, Robert L. McCoy, John R. McCoy, Robert S. McCoy, and R. Michael McCoy, who jointly control McCoy and who also control McMorhan Trucking, Co., Inc., GMC Motor Truck Service, Inc., and Korth Transfer, Inc., all of which are regulated motor carriers, seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of McCoy of Wisconsin, Inc., d.b.a. Food Liner (No. MC–163711), a motor carrier.

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Team 1, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representative, Donald B. Levine, 180 North LaSalle Street, Suite 2210, Chicago, IL 60601.

Comments should refer to No. MC–F–15031.

FOR FURTHER INFORMATION CONTACT: Joyce D. Lannon, (202) 275–7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contracting petitioner's representative.

In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 12, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–1299 Filed 1–17–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub–47)]

Illinois Central Gulf Railroad Co. Abandonment Between Milepost 0.0 at Cherokee, Iowa and Milepost 96.47 at Sioux Falls, South Dakota, in Cherokee, O'Brien, Sioux, and Lyon Counties, Iowa, Rock County, Minnesota, and Minnehaha County, South Dakota; Findings

The Commission has issued a decision authorizing Illinois Central Gulf Railroad Company to abandon its 96.47-mile rail line between Cherokee, IA (milepost 0.0) and Sioux Falls, SD (milepost 96.47) in Cherokee, O'Brien, Sioux, and Lyon Counties, IA, Rock County, MN, and Minnehaha County, SD. The abandonment certificate will be issued within 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be resubmitted within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.35 (formerly 49 CFR 1121.38).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–1296 Filed 1–17–83; 8:45 am]

BILLING CODE 7035–01–M

[No. 38959[1]]

Johnsrud Transport, Inc., et al.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Seven motor contract carriers have each requested exemption from the requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted in part.

DATES: Comments are due on February 2, 1983. The sought relief will become effective February 17, 1983, unless, in response to timely adverse comments filed, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Paul Grossman, (202) 275–7976,
or
Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant exemptions to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. 49 U.S.C. 10702(b), 10761(b), and 10762(f).

The seven motor contract carriers identified in the appendix filed individual petitions requesting exemptions under the three exemption provisions mentioned above. As the issues presented and the relief sought by these petitions are substantially similar, we are consolidating them for notice purposes.

The petitioners hold a number of contract carrier permits to serve various shippers transporting a wide variety of commodities. They argue, generally, that the tariff filing requirements represent an undue burden on their ability to compete effectively and to offer their shippers the immediate service often required. Petitioners assert that they are interested in avoiding unnecessary expenses which handicap their efforts to provide economical and efficient service. They also argue that the Motor Carrier Act of 1980 encourages the Commission to remove obstacles which keep contract carriers from realizing their full potential.

Numerous petitions, including those of Johnsrud Transport, RBC Transportation, Inc., Oneida—Columbus Express Company, Wegmans Express, Inc., and Clearfield Transportation Company, have requested exemptions for both existing and future contracts.

We see no reason to deny these carriers the savings to be realized from a tariff filing exemption for existing contracts. It appears that exemption of these carriers from the requirement that they file tariffs covering their existing contract operations is consistent with the public interest and the transportation policy of 49 U.S.C. 10101.

We are unable to conclude, however, that an exemption is justified for future contracts and services. Because the scope and terms of possible future contracts are unknown, an exemption as to future contracts could only be based on general findings about the continued need for any contract filing requirements for any motor contract carrier. A proceeding to investigate this issue on an industry-wide basis has been instituted in Ex Parte No. MC–165, *Exemption of Contract Carriers from Tariff Filing Requirements* 47 FR 57303 (December 23, 1982). Under these circumstances, we do not find that exemption of future contracts is consistent with the public interest or the transportation policy of 49 U.S.C. 10101. See No. 38879, *Aero Mayflower Transit Company, Inc.—Petition for Exemption From Tariff Filing Requirements* (not printed), decided October 12, 1982.

With the exception noted above, we provisionally grant the sought relief. The sought relief will become effective February 17, 1983, unless, in response to timely adverse comments filed, the Commission issues a further decision withdrawing this relief.

This decision does not appear to have a significant effect on either the human environment or conservation of energy sources. However, comments may be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b), and 10762(f))

Decided: January 4, 1983.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison. Commissioner Sterrett would also grant relief for future contracts.

Agatha L. Mergenovich,
Secretary.

Appendix

The dockets embraced by this proceeding are as follows:
No. 38959 Johnsrud Transport, Inc.
No. 38960 Case Heavy Hauling, Inc.
No. 38962 RBC Transportation, Inc.
No. 38963 Oneida-Columbus Express Company
No. 38964 Wegmans Express, Inc.
No. 38978 Harco Trucking Corporation
No. 38979 Clearfield Transportation Co.

[FR Doc. 83–1282 Filed 1–17–83; 8:45 am]
BILLING CODE 7035–01–M

[1] This proceeding embraces seven petitions for exemption. See Appendix.

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. RMI Company, et al.; Proposed Final Judgment, and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement (CIS) have been filed as to Martin Marietta Aluminum Inc., ("MMA") with the United States District Court for the Western District of Pennsylvania in *United States of America* v. *RMI Company, et al.*, Civil Action No. 78–1108. The complaint in this case originally alleged that five companies engaged in a combination and conspiracy to fix prices of titanium mill products in the United States in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. On July 29, 1980, the Court entered a consent judgment terminating the action as to all defendants except MMA, which had declined to join in that settlement. These other defendants were RMI Company, Crucible, Inc.; Lawrence Aviation Industries, Inc.; and Titanium Metals Corporation of America. On August 19, 1980, the Court granted a motion by MMA for partial summary judgment; the order dismissed the complaint insofar as it alleged violations by MMA related to titanium plate, sheet and strip, and to activities occurring prior to December, 1973. The United States appealed from that order, but the appeal was dismissed as not ripe. On June 8, 1982, the Court certified the partial summary judgment order as final under Rule 54(b) of the Federal Rules of Civil Procedure. An appeal from that order by the United States was pending when the settlement

agreement between MMA and the Government was reached.

The proposed Judgment which is similar to the one entered into by the other defendents, enjoins MMA from entering into or maintaining any combination, conspiracy, agreement, understanding or concert of action with any other person to fix the prices or other conditions or terms of sale of titanium bar and billet, or to submit collusive bids for such products. The Judgment further enjoins the defendant from directly communicating or exchanging with any other manufacturer or seller of bar and billet, products, or any association formed of or by such persons, information concerning prices or terms and conditions of sale of such products. An exception is made for *bona fide* conversion or sales transactions. The defendant is required to establish an antitrust compliance program which must include group and individual meetings with employees for the purpose of explaining the requirements of the antitrust laws and the Judgment and discussing problems related to compliance. Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to John Clark, Chief, Special Trial Section, Room 9120 Star Building, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone (202) 724–6335).

Joseph H. Widmar,

Director of Operations.

United States District Court for the Western District of Pennsylvania

United States of America, Plaintiff, v. RMI Company; Crucible, Inc.; Lawrence Aviation Industries, Inc.; Martin Marietta Aluminum, Inc.; and Titanium Metals Corporation of America, Defendants. Civil Action No. 78–1108; Filed: January 3, 1983.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated:

For the Plaintiff:

William F. Baxter,

Assistant Attorney General.

Joseph H. Widmar,

John W. Clark,

Frank N. Bentkover,

Attorneys, Department of Justice.

Robert W. Wilder,

Patricia G. Chick,

Thomas C. Black,

Christine A. Wardell,

Molly L. Debusschere,

Attorneys, Department of Justice, Antitrust Division, Washington, D.C. 20530, Tel. (202)724–6336.

For the defendant:

Bruce Chadwick,

Counsel for Martin Marietta Aluminum, Inc.

United States District Court for the Western District of Pennsylvania

United States of America, Plaintiff, v. RMI Company; Crucible, Inc.; Lawrence Aviation Industries, Inc.; Martin Marietta Aluminum, Inc.; and Titanium Metals Corporation of America, Defendants. Civil Action No. 87–1108; Filed: January 3, 1983.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on September 28, 1978, and the District Court by orders of August 19, 1980 and June 8, 1982 having dismissed that Complaint insofar as it alleges violations related (1) to titanium plate, sheet and strip, and (2) to activities occurring prior to December, 1973, and plaintiff and defendant Martin Marietta Aluminum, Inc. [hereinafter referred to as "defendant"], by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or any admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, Adjudged, and Decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act (15 U.S.C. 1). There is no just reason to delay the entry of this judgment.

II

As used herein:

(A) The term "titanium mill products" means titanium bar and billet;

(B) The term "person" means any individual, partnership, corporation, firm, association or other business or legal entity; and

(C) Ther term "conversion" means the contracting by a manufacturer of titanium mill products with another person for all or part of the intermediate manufacturing of titanium or titanium mill products to which it holds title.

III

This Final Judgment applies to the defendant and to its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise; *Provided, however,* That this Final judgment shall not apply to lawful transactions or communications solely between defendant and its owners, officers, directors, employees, or agents, or to transactions or communications solely between or among defendant and its parent company or companies, subsidiaries or companies fifty percent (50%) or more owned by the defendant or its parent(s), or to activities outside the United States which do not substantially affect, directly or indirectly, the commerce of the United States.

IV

The defendant is hereby enjoined and restrained from: (A) Directly or indirectly entering into, adhering to, maintaining, enforcing or furthering, or attempting to enter into, adhere to, maintain, enforce or further, any combination, conspiracy, agreement, understanding or concert of action with any other person to:

(i) Raise, fix, maintain or stabilize prices, discounts or other terms or conditions for the sale of titanium mill products; or

(ii) Submit noncompetitive, collusive or rigged quotations or bids for titanium mill products.

(B) directly communicating to or exchanging with any other person engaged in the manufacture and/or sale of titanium mill products, or any association or other body comprised of or organized by such persons, information concerning the prices at which, or terms or conditions upon which, such products are or have been sold or offered for sale, or may be sold or offered for sale in the future; except that this Paragraph IV(B) shall not preclude the communication or exchange between defendant and any other person, of any prices, terms or conditions of sale of such products solely in connection with conversion or a proposed or actual bona fide sale of such products or to any agreement to the prices, terms or conditions at which any such bona fide sale is actually made.

V

Any party that purchases or otherwise acquires all or substantially all of the assets used by defendant in the manufacture and/or sale of titanium, shall be required by defendant, as a condition of the sale or other disposition, to agree to be bound by the provisions of this Final Judgment, and such agreement shall be filed with the Court.

VI

Defendant shall:

(A) Within sixty (60) days after the entry of this Final Judgment, furnish a copy of same to each of its officers and directors, and to each employee and agent who is engaged in, or has responsibility for or authority over the pricing or selling of titanium mill products produced or sold in the United States.

(B) Furnish a copy of this Final Judgment to each successor to the individuals described in Paragraph VI(A), above, within 60 days after such successor becomes employed by or associated with the defendant.

VII

For the duration of this Final Judgment, defendant shall maintain a program to insure compliance with same, including at a minimum the following with respect to each of its directors, each of its officers who has management responsibility for the manufacture, pricing or sale of titanium mill products produced or sold in the United States, and each of its employees and agents who is engaged in the sale of or who has responsibility for or authority over pricing of titanium mill products produced or sold in the United States:

(A) The annual distribution of this Final Judgment.

(B) The annual submission to each of the individuals of a written directive setting forth the defendant's policy regarding compliance with the Sherman Act and with this Final Judgment, with such directive to include (a) an admonition that non-compliance with such policy and this Final Judgment will result in appropriate disciplinary action as determined by the defendant, which may include dismissal, and (b) advice that the defendant's legal advisors are available at all reasonable times to confer with such persons regarding any compliance questions or problems.

(C) The annual receipt from the individuals described of a signed certificate in substantially the following form:

"The undersigned hereby: (1) acknowledges receipt of a copy of the Final Judgment in *U.S.* v. *RMI Company, et al.*, and a written directive setting forth the Company policy regarding compliance with the antitrust laws and with such Final Judgment; (2) represents that the undersigned has read and understands such Final Judgment and directive; (3) acknowledges that the undersigned has been advised and understands that non-compliance with such policy and Final Judgment will result in appropriate disciplinary measures as determined by the Company and which may include dismissal; and (4) acknowledges that the undersigned has been advised and understands that non-compliance with the Final Judgment may result in conviction for contempt of court, and that violation of the antitrust laws may constitute a felony and could result in imprisonment and/or fine."

(D) The holding of at least one meeting every 12 months with each of the persons covered by this Paragraph VII, either in groups or individually, to review the requirements of the antitrust laws and the terms of this Final Judgment, and the obligations imposed upon them.

(E) The holding of at least one meeting every 12 months with each of the persons individually (except directors, for whom a group meeting may be held) to discuss problems related to compliance with the antitrust laws and this Final Judgment.

VIII

(A) For the duration of this Final Judgment, defendant shall file with the plaintiff, on or before each anniversary date of this Final Judgment, a sworn statement, by a responsible official designated by the defendant to perform such duties, setting forth all steps it has taken during the preceding year to discharge its obligations under Sections VI and VII. This statement shall be accompanied by copies of all written directives applicable to titanium operations issued by the defendant during the prior year with respect to compliance with the antitrust laws and with this Final Judgment. The sworn statement shall also contain a list of all those individuals in the company with whom meetings were held in accordance with paragraph VII(E) and a description of their respective positions and duties.

(B) Upon Order of the Court, on motion by the plaintiff for good cause shown, the designated official shall appear before the Court to give sworn testimony on the manner of compliance with this Final Judgment.

(C) The plaintiff may demand a more detailed statement of defendant's compliance with this Final Judgment if plaintiff determines that defendant's annual compliance statement incompletely states the steps it has taken to discharge its duties under this Section VIII.

IX

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted:

(1) Access during office hours of defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers, employees and agents of defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to defendant's principal office, defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any

representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days' notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendant is not a party.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XI

This Final Judgment shall be in effect for a period of ten (10) years from the date of its entry by this Court.

XII

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge

United States District Court for the Western District of Pennsylvania

United States of America, Plaintiff, v. RMI Company; Crucible, Inc.; Lawrence Aviation Industries, Inc.; Martin Marietta Aluminum, Inc.; and Titanium Metals Corporation of America, Defendants. Civil Action No. 78–1108; Filed: January 3, 1983.

Competitive Impact Statement

The United States of America, Plaintiff herein, has this day submitted a proposal for a consent judgment in this proceeding. The proposed Final Judgment, if entered by the Court, would terminate this action as to the only remaining defendant, Martin Marietta Aluminum, Inc. ("MMA"). Plaintiff hereby respectfully submits this Competitive Impact Statement pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16.

I

Nature and Purpose of the Proceeding

This is a civil antitrust action brought under Section 4 of the Sherman Act (15 U.S.C. § 4) to prevent and restrain violation of Section 1 of said Act. Originally named as defendants were five companies engaged in the production and sale of titanium mill products.

As originally framed, the Complaint alleged that, beginning at least as early as 1970 and continuing until approximately 1976, the defendants and their co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce, in violation of § 1 of the Sherman Act. This combination and conspiracy consisted of a continuing agreement, understanding and concert of action, the substantial terms of which were to raise, fix, maintain and stabilize the prices of titanium mill products. The Complaint also alleged that the combination and conspiracy charged may recur, and asked the Court to permanently enjoin each defendant and all persons acting on its behalf from continuing, maintaining or renewing the alledged combination and conspiracy or from engaging in any other combination or conspiracy with a similar purpose or effect.

On July 29, 1980, this Court entered a consent judgment terminating the action as to all defendants except MMA, which had declined to join in that settlement. On August 19, 1980, the Court granted a motion by MMA for partial summary judgment; the order dismissed the Complaint insofar as it alleged price fixing by MMA on sheet, strip or plate, or activities occurring prior to December, 1973. The United States appealed from that order, but the appeal was dismissed as not ripe. On June 8, 1982, the Court certified the partial summary judgment order as final under Rule 54(b) of the Federal Rules of Civil Procedure. An appeal from that order by the United States was pending when the settlement agreement between MMA and the Government was reached.

The Complaint was filed on September 28, 1978. The same day a Grand Jury for the Western District of Pennsylvania returned an indictment charging four of the defendants herein (RMI Company, Crucible, Inc., Lawrence Aviation Industries and Martin Marietta Aluminum, Inc.) and five of their employees (J. William Price, Jr., Andrew N. Eshman, Robert E. Thomas, Gerald Cohen and George Herman) with a felony violation of § 1 of the Sherman Act, 15 U.S.C. 1, based on the same facts that gave rise to this action. This indictment named Titanium Metals Corporation of America ("TMCA") and certain of its employees as unindicted co-conspirators. One defendant entered a plea of guilty and was sentenced before trial. Six defendants entered pleas of *nolo contendere* before trial [1] and were sentenced thereon. The remaining two defendants entered pleas of *nolo contendere* after three days of trial. The court sentenced the individual defendants to a total of 15 years imprisonment, of which all but 195 days was suspended. Fines for all corporate and individual defendants totalled $1,242,500.

The Nature of the Alleged Violation

Titanium is a silvery-gray semiprecious metal used predominantly in aircraft and aerospace applications. The titanium is extracted from ore and converted into a material called sponge. This sponge is then melted to form ingots, which in turn are made into mill products—bar, billet, plate, sheet and strip. It is these mill products that were alleged to have been the object of the price-fixing conspiracy charged. The mill product producers orginally named as defendants in the Complaint accounted for the great majority of all titanium mill products produced during the period of the conspiracy.

The Government contended and would have been prepared to offer evidence at trial that representatives of TMCA, RMI, Lawrence Aviation, and Crucible began discussing and agreeing on prices for various titanium mill products in 1970, and continued this activity until 1976. The Government also contended and would have been prepared to offer evidence that in 1973 the conspiracy was joined by representatives of MMA, who also remained in the conspiracy until 1976. The primary focus of the conspiracy was on price lists issued and/or used by the original defendants; in all, more than 100 price lists were subject to agreement among those companies. In addition,

[1] Two defendants—MMA and its employee defendant, George Herman—pled to a superseding felony information as part of a Rule 11 plea agreement with the Government. As to them a motion for severance was granted and thereafter the indictment was dismissed.

TMCA and RMI on one occasion reached agreement on prices they would submit in response to a request for a sealed bid.

The original defendants had telephone conversations and face-to-face meetings and exchanged price lists through the mails. There were no group sessions, however. All contacts were one-on-one, involving representatives of only two companies. Some people involved had no contact with some others of their co-conspirators. Moreover, the only company involved in every price list agreement was TMCA: none of the other companies made all the mill products that were the subject of agreement. For example, MMA made only bar and billet.

MMA contended that the Government could not prove that MMA was involved in a single conspiracy with all defendants covering all titanium mill products. As noted above, pursuant to a motion for partial summary judgment by MMA, the Court dismissed the Complaint insofar as it alleged price fixing by MMA on sheet, strip or plate, or activities occurring prior to December, 1973. An appeal by the Government from that order, as certified under Rule 54(b) of the Federal Rules of Civil Procedure, was pending when the settlement agreement between MMA and the Government was reached.

The conspiracy ended in 1976. On November 2, 1976, TMCA approached the Department of Justice and confessed that certain of its employees had been engaged in fixing prices. The investigation leading to the filing of the indictment and complaint was begun on the basis of the information provided by TMCA.

Explanation of Proposed Consent Judgment

The proposed Final Judgment, if entered by the Court, will terminate this action as to the only remaining defendant, MMA [hereafter referred to as "defendant"]. The Court will retain jurisdiction over this matter for such further proceedings as may be required to interpret, modify or enforce the proposed judgment.

A. Scope of the Judgment

The proposed consent judgment is, by its terms, in effect for 10 years from the date of entry. Pursuant to Section III, the decree applies to defendant and to each of its officers, directors, agents, employees, subsidiaries, successors and assigns and to all other persons in active concert with any of them who receive actual notice of this Final Judgment. In addition, pursuant to Section V of the decree, the judgment will apply to any party that purchases or otherwise acquires all or substantially all of the assets used by defendant in the manufacture and/or sale of titanium. Excepted, however, are lawful transactions solely within the defendant company or among the defendant and certain related companies. Also excepted are activities outside the United States, its territories and possessions which do not directly or indirectly affect the commerce of the United States.

B. Prohibited Conduct

Section IV(A) of the proposed decree enjoins the defendant from entering into or otherwise participating in any agreement to fix prices or other terms or conditions of sale of titanium mill products, defined in the decree as titanium bar and billet, or to submit non-competitive bids for titanium mill products. Section IV(B) prohibits defendant from directly communicating to or exchanging with any other person engaged in the manufacture and/or sale of titanium any price or term or condition of sale. This section also prohibits defendant from communicating such information to any association or other body comprised of or organized by titanium mill product producers. Section IV(B) does contain a proviso, however, to the effect that these prohibitions shall not preclude the defendant from independently negotiating for, entering into or carrying out a bona fide sale or purchase. This exception was necessary because the titanium industry is one in which, historically, many companies that compete in the manufacture of mill products also maintain customer/supplier relationships with regard to intermediate manufacture, raw materials, and/or the mill products themselves.

C. Defendant's Affirmative Obligations

Sections VI and VII of the proposed decree impose certain affirmative obligations on defendant which are designed to ensure, to the extent possible, that its employees comply with the terms of the decree and with the strictures of the federal antitrust laws.

Section VI requires that the defendant furnish a copy of the decree to each of its officers and directors, and to each of its employees and agents who are engaged in, responsible for, or have authority over pricing or selling titanium mill products made or sold in the United States. Copies of the decree are also to be furnished to each of those individuals' successors.

Under Section VII, the defendant is required, for the duration of the proposed Final Judgment, to furnish a copy of the decree annually to each of its directors, each officer having management responsibility for manufacture, pricing or sale of titanium mill products and to each employee and agent engaged in or having responsibility for or authority over pricing or sale of titanium mill products. In addition, the defendant must each year submit to these individuals a written directive setting forth the company's policy of compliance with the Sherman Act and with this Final Judgment, meet in groups or individually with each of these persons to review the antitrust laws and terms of the Final Judgment, meet individually with each person to discuss problems related to compliance with the antitrust laws or the decree,[2] and receive from each of these individuals a signed certificate acknowledging that the individual has received and understands the decree and has been advised of the consequences of noncompliance. The defendant is also required to file each year with the United States a sworn statement setting forth all steps it has taken to discharge its obligations under this section of the decree and listing all individuals covered by the program.

D. Effect of the Proposed Judgment on Competition

The prohibitions contained in Section IV of the Judgment are designed to ensure that the defendant will act independently in determining the prices, terms and conditions at which it will sell or offer to sell titanium mill products. The affirmative obligations of Sections VI and VII are directed toward reminding the defendant's employees of their obligations under the decree in order to avoid a repetition of behavior that occurred in the titanium mill products industry during the conspiracy period. Compliance with the proposed Judgment will prevent price collusion by the defendant in the sale of titanium mill products.

E. Effect of the Proposed Judgment on the Government's Damage Claims

The Department of Defense and other parts of the United States Government are purchasers of aircraft and other items containing titanium mill products. On December 30, 1981, the United States brought an action in the Eastern District of New York seeking damages from all of the original defendants in this case, including MMA. The United States has reached an agreement with MMA terminating that action as to MMA only,

[2] An exception is made for directors, for whom a group meeting is permissible.

in exchange for a money payment to the U.S. The damage action continues against the other defendants. The United States' damage claims are therefore not compromised in any way by the entry of the Judgment.

IV

Remedies Available to Private Plaintiffs

Any potential private plaintiff who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal or equitable remedies that they would have had were the proposed consent judgment not entered. As to these plaintiffs, however, the statute of limitations, which has been tolled during the pendency of this action pursuant to 15 U.S.C. 16(i) will begin to run again (with regard to suits against the defendant) one year after entry of this Final Judgment. Moreover, pursuant to Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), this Judgment may not be used as *prima facie* evidence against the defendant in private litigation.

V

Procedure Available for Modification of the Proposed Consent Judgment

The proposed Final Judgment is subject to a stipulation between the Government and the defendant which provides that the Government may withdraw its consent to the proposed Judgment any time before the Court has found that entry of the proposed Judgment is in the public interest. By its terms, the proposed Judgment provides for the Court's retention of jurisdiction of this action in order to permit any of the parties to apply to the Court for such orders as may be necessary or appropriate for the modification of the Final Judgment.

As provided by the Antitrust Procedures and Penalties Act (15 U.S.C. 16), any person wishing to comment upon the proposed Judgment may, with the 60-day comment period, submit written comments to the United States Department of Justice, Attention: John W. Clark, Chief, Special Trial Section, Antitrust Division, Washington, D.C. 20530. Such comments and the Government's response to them will be filed with the Court and published in the **Federal Register**. The Government will evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed Judgment.

VI

Alternatives to the Proposed Consent Judgment

This proceeding as constituted does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than entry of the proposed consent judgment. The proposed judgment includes all the relief requested in the Complaint, as limited by the Court's August 19, 1980 order, and in addition imposes affirmative obligations on defendant designed to ensure compliance therewith.

VII

Determinative Documents

No materials and documents of the type described in Section (b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)) were considered in formulating this proposed Judgment.

Respectfully submitted,
Robert W. Wilder,
Patricia G. Chick,
Thomas C. Black,
Christine A. Wardell,
Molly L. Debusschere,
Attorneys, Department of Justice.

[FR Doc. 83-1284 Filed 1-17-83; 8:45 am]
BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: February 1, 1983, 9:30 a.m., Rm. N3437 A & B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisiory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact:

Joseph S. Papovich, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6171.

Signed at Washington, D.C. this 12th day of January, 1983.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 83-1286 Filed 1-17-83; 8:45 am]
BILLING CODE 4510-28-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 28, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 28, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 10th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Dated received	Date of petition	Petition No.	Articles produced
Character Suburbanwear, Inc. (ILGWU)	New York, NY	1/4/83	12/13/82	TA-W-14,198	Suits, outerwear—women and misses.
Colorado & Wyoming Railway Co., Northern Div. (Brotherhood of Maintenance of Way).	Sunrise, WY	12/27/82	12/17/82	TA-W-14,199	Transports iron ore.
Colorado & Wyoming Railway Co., Southern Div. (Brotherhood of Maintenance of Way).	Allen Mine, CO	12/27/82	12/17/82	TA-W-14,200	Transport coal.
Grafton Apparel Manufacturing, Inc. (ILGWU)	Grafton, WV	12/15/82	12/7/82	TA-W-14,201	Pants—ladies.
Leemar Corp. (ILGWU)	Camden, NJ	12/21/82	12/14/82	TA-W-14,202	Dresses, sportswear—ladies.
Leemar Corp., (ILGWU)	Mantua, NJ	12/21/82	12/14/82	TA-W-14,203	Dresses and sportswear—ladies.
Leeney Products Corp. (workers)	Moonachie, NJ	1/4/83	12/27/82	TA-W-14,204	Vehicles—box, match, cast die.
Mercer Dress, Inc. (ILGWU)	Burgin, KY	12/20/82	12/14/82	TA-W-14,205	Dresses and sportswear—ladies.
T & W Manufacturing Corp. (workers)	Santa Rosa, CA	12/21/82	11/21/82	TA-W-14,206	Heads, cylinders, aluminum.
Wellco Enterprises, Inc. (company)	Hazelwood, NC	1/4/83	12/31/82	TA-W-14,207	Office-administration footwear-men, women and children.
Wheeling Pittsburgh Steel, Monessen Works (USWA)	Monessen, PA	1/5/83	1/4/83	TA-W-14,208	Slabs, rounds, billets and rails.
Allen Court Contractors, Ltd (workers)	Lindenhurst, NY	12/23/82	12/9/82	TA-W-14,209	Coats—ladies.
Armco Tubular Div. of National Supply (Armco Independent Union).	Logan, OH	12/28/82	12/21/82	TA-W-14,210	Tubes—infinishing and distribution.
Edgcomb Metals (workers)	Philadelphia, PA	12/30/82	12/21/82	TA-W-14,211	Steel processing.
General Cable Co. (workers)	Cadet, Mo	1/3/83	12/29/82	TA-W-14,212	Barite.
MO-KA Shoe Corp. (company)	Aguadilla, PR	1/4/83	12/31/82	TA-W-14,213	Uppers—shoes, shoes—men, women, children.
North American Refractories (USWA)	Bonne Terre, MO	12/30/82	12/17/82	TA-W-14,214	Dolomite—burned, dead.
Plumrose (company)	Elkhart IN	1/4/83	12/27/82	TA-W-14,215	Ham—can, boneing, cooking, boxing.
RCA Corp., Commercial Communication Systems Div. (company).	Camden, NJ	1/4/83	12/30/82	TA-W-14,216	Equipment, systems—electeonic.
RCA Corp. (workers)	Monticello, IN	12/30/82	12/22/82	TA-W-14,217	Caminents—TV, console.
Riverside Cement Co. (United Cement Lime and Gypsum Wkrs.).	Riverside, CA	1/3/83	12/24/82	TA-W-14,218	Cement,—type II, plastic, white.
RO-Search, Inc. (company)	Hazelwood, NC	1/4/83	12/31/82	TA-W-14,219	Machinery—footwear, making.
U.S. Steel Corp., Christy Park Plant (USWA)	McKeesport, PA	1/5/83	1/4/83	TA-W-14,220	Pipe and tubing, forged, roll, seamless.

[FR Doc. 83-1105 Filed 1-17-83; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications hae been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have compiled with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Metropolitan Mortgage and Securities Co., Inc., Spokane, Washington

[Exemption Application No. D-2791; Prohibited Transaction Exemption 83-5]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply effective July 12, 1977 to the purchase by certain self-employed retirement plans and individual retirement accounts (collectively, the Plans) or Plans established under a prototype custodial account program (the Custodial Accounts) of debt securities (the Debentures) issued by Metropolitan Mortgage and Securities Co., Inc. (Metropolitan) and to the extension of credit between Metropolitan and the Plans or Custodial Accounts resulting from the purchase of the Debentures provided that the following conditions are met with respect to the purchase of the Debenutres:

(1) The purchase price paid for the Debentures does not exceed the fair market value at the time of acquisition; and

(2) Effective October 24, 1982 the exemption is available only if each of the following conditions is satisfied in addition to the condition described in section (1) of this exemption:

(a) The independent sales representatives (the Sales Representatives) have disclosed in writing the nature of their relationship to Metropolitan and Metropolitan Investment Securities, Inc. (Investment) and that they are not acting as an investment advisor or other fiduciary with regard to investment decisions of the Plans or Custodial Accounts. Such disclosure also states that all decisions with respect to the purchase of the Debentures are the sole responsibility of the individual buyers as a fiduciary for their respective Plan or Custodial Account; and

(b) Following receipt of the information required to be disclosed and prior to the execution of the transaction, a plan fiduciary unrelated to Metropolitan, Investment or the Sales Representatives acknowledges in writing receipt of the information described in subsection (a) of this exemption and approves the transation on behalf of the Plan or Custodial Account.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 24, 1982 at 47 FR 42207.

Written Comments

Three comments were received by the Department from individuals maintaining retirement accounts with the applicant. All comments supported the granting of this exemption. Additionally, the applicant requested a clarification of one condition of the exemption where the Custodial Accounts involved were maintained by employees of Metropolitan or its subsidiaries. The condition described in section 2(b) of the notice of proposed exemption requires a plan fiduciary "unrelated" to Metropolitan, Investment or the Sales Representatives to acknowledge receipt of the information described in section 2(a) of such notice and to approve the transaction. It is not the intention of the Department that those individuals maintaining a Plan or Custodial Account who are related to Metropolitan, Investment or the Sales Representatives based on an employment relationship should be required to obtain approval for transactions which are the subject of this exemption from an unrelated third party. Where the approval is made by an individual on behalf of his own account, the safeguards intended by this condition would be deemed satisfied notwithstanding the noted relationship. Therefore, the Department has determined to grant this exemption as originally proposed.

For Further Information Contact: Paul R. Antsen of the Department, telephone (202) 523–6915. (This is not a toll-free number.)

The V.P.S. Brokerage Co. Profit Sharing Plan and Trust and the V.P.S. Brokerage Co. Money Purchase Pension Plan and Trust (the Plans), Watsonville, California

[Exemption Application Nos. D–3456 and D–3457; Prohibited Transaction Exemption 83–6]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the line of credit provided by Wells Fargo Bank, National Association to the Plans as described in the notice of pendency provided that the terms and conditions of the line of credit are at least as favorable to the Plans as those they could obtain from an unrelated third party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 3, 1982 at 47 FR 39030.

For Further Information Contact: Robert N. Sandler of the Department, telephone (202) 523–8195. (This is not a toll-free number.)

Employees Welfare Benefit Plans Maintained by Borg-Warner Acceptance Corporation, Borg-Warner Corporation and Subsidiaries of Borg-Warner Corporation (the Plans), Chicago, Illinois

[Exemption Application No. L–3486; Prohibited Transaction Exemption 83–7]

Exemption

The restrictions of section 406(a) and 406(b) of the Act shall not apply to the reinsurance of the risks and receipt of premiums therefrom by Arcadia Life Insurance Company (Arcadia), a party in interest with respect to the Plans, from the group health insurance contracts sold by the Equitable Life Assurance Society of the United States to the divisions and subsidiaries of Borg-Warner Corporation (the Employers), subject to the following conditions:

(a) Arcadia,

(1) Is a party in interest with respect to the Plans by reason of a stock or partnership affiliation with Borg-Warner Corporation and the Employers that is described in section 3(14)(E) or (G) of the Act,

(2) Is licensed to sell insurance in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Compliance from the Insurance Commissioner of its domiciliary state, Arizona, which has neither been revoked nor suspended, and

(4)(A) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction; or

(B) Effective January 1, 1982, has undergone a financial examination (within the meaning of the law of its domiciliary state, Arizona) by the Insurance Commissioner of Arizona within 5 years prior to the end of the year preceding the year in which the reinsurance transaction occurred.

(b) The Plans pay no more than adequate consideration for the insurance contracts or annuities;

(c) No commissions are paid with respect to the direct sale of such contracts, or the reinsurance thereof, after December 31, 1981; and

(d) For taxable years of Arcadia beginning after December 31, 1981, the gross premiums and annuity considerations received in the taxable year by Arcadia for life and health insurance or annuity contracts for all plans (and their employers) with respect to which Arcadia is a party in interest by reason of a relationship to such employer described in section 3(14) (E) or (G) of the Act do not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance in that taxable year by Arcadia. For purposes of this condition (d):

(1) The term "gross premiums and annuity considerations received" means the total of premiums and annuity considerations received, both for the subject reinsurance transactions as well as for any direct sale of life insurance, health insurance, or annuity contracts to such plans (and their employers) by Arcadia. This total is to be reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by Arcadia.

(2) All premiums and annuity considerations written by Arcadia for plans which it alone maintains are to be excluded from both the numerator and denominator of the fraction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 13, 1982 at 47 FR 35373.

Effective Dates: January 1, 1975, as to transactions exempted; January 1, 1982 as to the conditions: (a) Barring commissions on sales of contracts, (b) limiting the percentage of all covered premium receipts derived from the Plans and their Employers, and (c) requiring a financial examination of Arcadia by the Insurance Commissioner of Arizona.

For Further Information Contact: Louis Compagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Employees Pension and Investment Plan of L. J. Ley, M.D., Inc. Medical Corporation and the Employees Pension and Investment Plan of K. M. Burge, M.D., Inc. Medical Corporation (the Plans), Richmond, Indiana

[Exemption Application Nos. D-3494 and D-3495; Prohibited Transaction Exemption 83-8]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plans of improved real property located at 2035 Surfside, Vero Beach, Florida (the Property) to Drs. L. J. Ley and K. M. Burge, provided that the terms and conditions of sale are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction, and further provided that the cash payment received by the Plans is no less than the Plans' cash expenditures in connection with the Property through the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 30, 1982 at 47 FR 53964.

For Further Information Contract: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Seafirst Mortgage Corporation (SMC), Seattle, Washington

[Exemption Application No. D-3506; Prohibited Transaction Exemption 83-9]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the use of assets of employee benefit plans with regard to which SMC or an affiliate of SMC is a party in interest for permanent loans to persons who will use the loan proceeds to pay off construction loans originated by SMC.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 8, 1982 at 47 FR 44641.

For Further Information Contact: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 13th day of January 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-1371 Filed 1-17-83; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of forms under review

One each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The Standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions.

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Norman Frumkin, Telphone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

- Employment and Training Administration

State Governors' Requests for Advance from the Federal Unemployment Account or Voluntary Repayment
ETA–RC52
Recurring
State or local Governments
SIC: 944
112 responses; 224 hours

When State unemployment funds become insolvent, money can be borrowed by the State from the Federal unemployment account. To trigger a loan, the Governor requests such advances by a letter to the Secretary of Labor. Voluntary repayment of loans is triggered by a letter from the Governor to the Secretary of Labor.

Signed at Washington, D.C. this 13th day of January 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83–1369 Filed 1–17–83; 8:45 am]

BILLING CODE 4510–30–M

Business Research Advisory Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act and Office of Management and Budget Circular A–63 of March 1974, and after consultation with General Services Administration (GSA), I have determined that renewal of the Business Research Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of Labor.

The Council will advise the Commissioner of Labor Statistics on technical economic and statistical matters, in the analysis of the Bureau's statistics, and on the broader aspects of its program from an informed business point of view; and provide a realistic and timely two-way communications' structure between business users and reporters of basic economic statistics and a major governmental statistics-producing unit.

Council membership is selected to assure a technically competent group of economists, statisticians, and industrial relations experts who represent a cross section of American business and industry. The members serve in their individual capacities, not as representatives of their companies or their organizations.

The Council will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The charter has been filed with the GSA and the appropriate congressional committees.

Further information may be obtained from: Kenneth Van Auken, Executive Secretary, Bureau of Labor Statistics, Department of Labor, Room 1213, BC Building, 600 E Street, NW., Washington, D.C. 20212, phone 202–272–5241.

Dated: January 5, 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83–1367 Filed 1–17–83; 8:45 am]

BILLING CODE 4510–24–M

Labor Research Advisory Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act and Office of Management and Budget Circular A–63 of March 1974, and after consultation with General Services Administration (GSA), I have determined that renewal of the Labor Research Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of Labor.

The Council will advise the Commissioner of Labor Statistics regarding the statistical and analytical work of the Bureau of Labor Statistics, providing perspectives on these programs in relation to the needs of the labor unions and their members.

Council membership and participation in the Council and its committees are broadly representative of the union organizations in the United States. These include representation from organizations of all sizes of membership, with national coverage which reflects the geographical, industrial, and occupational sectors of the economy.

The Council will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The charter has been filed with the GSA and the appropriate congressional committees.

Further information may be obtained from: Joseph Goldberg, Executive Secretary, Bureau of Labor Statistics, Department of Labor, Room 1213, BC Building, 600 E Street, N.W., Washington, D.C. 20212, phone 202–272–5239.

Dated: January 5, 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83–1366 Filed 1–17–83; 8:45 am]

BILLING CODE 4510–24–M

MERIT SYSTEMS PROTECTION BOARD

Air Traffic Controllers, Former; Appeals

AGENCY: Merit Systems Protection Board.

ACTION: Notice of opportunity to file amicus briefs in certain appeals of former Air Traffic Controllers.

SUMMARY: The Merit Systems Protection Board provides an opportunity for the filing of amicus briefs from interested parties in certain appeals of former Air Traffic Controllers currently pending before the Board.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Goshorn, Special Presiding Official, Former Air Traffic Controller Appeals, Merit Systems Protection Board, (202) 653–7171. For copies of the Initial Decisions in the reference cases, contact Michael Hoxie, Director, Legal Publications Division, Merit Systems Protection Board, 5205 Leesburg Pike, Suite 1404, Falls Church, Virginia 22041, (703) 756–6388.

SUPPLEMENTARY INFORMATION: The Merit Systems Protection Board currently has before it numerous petitions for review of initial decisions issued by the Board's regional offices in appeals of former Air Traffic Controllers who were removed based on charges of participating in an unlawful strike in August of 1981. More than 10,000 such appeals are currently pending before the Board at some stage of the adjudicatory process.

Because the Board's adjudication of pending petitions for review will address issues of law common to large numbers of pending appeals, the Board believes it appropriate to provide an opportunity for the filing of amicus briefs addressing such common issues raised in certain cases currently pending before it. Those cases include the following:

Richard T. Adams, et al. v. *Federal Aviation Administration,* MSPB Docket No. NY075281F0424 (October 14, 1982).

Kipp C. Anderson, et al. v. *Federal Aviation Administration,* MSPB Docket No. SL075281F0347 (December 2, 1982).

Gary S. Barocco v. *Federal Aviation Administration,* MSPB Docket No. DC075281F0695 (November 22, 1982).

Robert L. Campbell, et al. v. *Federal Aviation Administration,* MSPB Docket No. DE075281F0674 (October 7, 1982).

Joseph R. Noa (Richard E. Golle, et al.) v. *Federal Aviation Administration,* MSPB Docket No. NY075281F0697 (NY075281F0560) (October 14, 1982).

This notice represents the Board's offer to receive and consider amicus briefs from interested parties on the issues relevant to these appeals including:

1. Whether the action of the Federal Aviation Administration ("FAA") in placing appellant(s) in a non-duty, non-pay status during the period of time

between commencement of the strike on August 3, 1981, and the effective date(s) of removal, constitutes "suspension(s)" over which the Board has appellate jurisdiction under 5 U.S.C. Chapter 75.

2. Whether the lawfulness of the removal of appellant(s) was affected by remarks made on national television by President Reagan at approximately 11:00 A.M. (E.D.T.) on Monday, August 3, 1981, and the instructions of FAA facilities by high officials of the Department of Transportation in implementing the policy enunciated by those remarks.

3. Whether the provision of less than seven days in which to respond to the charges against an appellant constitutes harmful procedural error under 5 U.S.C. 7701(c)(2)(A), and/or serves to render the FAA's decision in those cases not in accordance with law under 5 U.S.C. 7701(c)(2)(C).

4. Whether the FAA complied with 5 U.S.C. 7513(e) by making the requisite information available to appellant(s).

All briefs shall be captioned "*Former Air Traffic Controllers* v. *Federal Aviation Administration*, No. 48 FR 000 (1983)," and entitled "Amicus Brief." All briefs shall also contain separate, numbered headings for each issue discussed.

ADDRESSES: The original and one copy of each amicus brief submitted in response to this notice shall be filed with the Office of the Secretary of the Board and addressed as follows: Robert E. Taylor, Secretary, Merit Systems Protection Board, Attn: ATC Appeals, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

In addition, one copy of each brief shall be mailed to the designated representatives in the above-listed appeals and addressed as follows:

Thomas A. Bornholdt, Esquire, Bornholdt, Landeck & Owens, College Hills Office Building, 8650 College Boulevard, Suite 100, Overland Park, Kansas 66210.

Jack B. Solerwitz, Esquire, Solerwitz, Solerwitz & Leeds, 170 Old Country Road, Mineola, New York 11501.

David Trick, c/o Richard J. Leighton, Esquire, Leighton, Conklin, Lemov, Jacobs & Buckley, 2033 M Street, N.W. Suite 808, Washington, D.C. 20036.

Rex B. Campbell, 1325 Mt. Evans Drive, Longmont, Colorado 80501.

Robert M. Archer, Esquire, Suozzi, English & Cianciulli, P.C., 1505 Kellum Place, Mineola, New York 11501.

DATES: Amicus briefs submitted in response to this notice shall be filed with the Secretary of the Board on or before February 11, 1983.

Dated: January 12, 1983.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 83-1323 Filed 1-17-83; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting Change

January 12, 1983.

A change has been made to the meeting agenda of the National Advisory Committee on Oceans and Atmosphere (NACOA) scheduled to meet on Monday, Tuesday, and Wednesday, January 24–26, 1983 and published in the **Federal Register** of January 7, 1983 (Page 48 FR 913). A Plenary session has been added to the afternoon of the first day from 1:00 p.m.–2:00 p.m.

The Tentative Agenda is as follows:

Monday, January 24, 1983

Department of Commerce, 14th St. and Constitution Avenue, NW., Washington, D.C., Rooms 6802 and B–841

Plenary

9:00 a.m.–12:00 p.m.
9:00 a.m.–9:30 a.m.; Announcements, Room 6802
9:30 a.m.–12:30 p.m.; Sea Grant, Chairman: Jack R. Van Lopik, Room 6802
Speakers: Athelstan Spilhaus; Ned Ostenso, National Oceanic and Atmospheric Administration; Robert Corell, University of New Hampshire; James Curlin, Strategic Materials Management Newsletter; W. Wayne Shannon, University of Connecticut; Others To Be Announced

Lunch

12:00 p.m.–1:00 p.m.

Plenary

1:00 p.m.–2:00 p.m.; Review and Approval of Coast Guard Report; Panel Chairman: Michael R. Naess

Panel Meetings

2:00 p.m.–5:30 p.m.
2:00 p.m.–3:30 p.m.; Hydrology, Chairman: Paul Bock, Room B–841;
Topic: Panel Work Session
2:00 p.m.–5:30 p.m.; Radioactive Waste Disposal, Chairman: John A. Knauss, Room 6802
Speakers: Loring Mills, Edison Electric Institute; Colin Heath, NUS Corporation; Jon Hinck, Greenpeace; Christopher Roosevelt, The Oceanic Society; Susan Wiltshire, Research and Planning, Inc.; Bill Barnard, Office of Technology Assessment

Recess

5:00 p.m.

Tuesday, January 25, 1983

Department of Commerce, 14th St. and Constitution Avenue, NW., Washington, D.C., Rooms 6802 and B–841

Panel Meetings

8:30 a.m.–12:00 Noon
8:30 a.m.–10:00 a.m.; Sea Grant, Chairman: Jack R. Van Lopik, Room 6802;
Topic: Panel Work Session

Plenary

10:30 a.m.–12:00 noon; Hydrology, Chairman: Paul Bock, Room B–841
Topic: Tentative Recommendations from Panel Report

Lunch

12:00 Noon–1:00 p.m.

Plenary

1:00 p.m.–3:30 p.m.; Action Items; Review and Approval of Marine Transportation Report, Panel Chairman: Don Walsh; Panel Reports

Adjourn

3:30 p.m.; Regular Meeting

Wednesday, January 26, 1983

Page Building #1, Room B–100, 2001 Wisconsin Avenue, NW., Washington, D.C.

Panel Meeting

9:00 p.m.–3:00 p.m.
9:00 p.m.–3:00 p.m.; Undersea Research, Chairman: Sylvia Earle
Topic: Technology
Speakers: R. Frank Busby; Elliot Finkle, National Oceanic and Atmospheric Administration; Roger Cook, Harbor Branch Foundation; Graham Hawkes, Deep Ocean Technology, Inc.; Others To Be Announced

Adjourn

3:00 p.m.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 436, Page Building #1), Washington, DC 20235. The telephone number for NACOA is 202/653–7818.

Dated: January 12, 1983.
Steven N. Anastasion,
Executive Director.
[FR Doc. 83-1288 Filed 1-17-83; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (83-6)]

Government-Owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: January 18, 1983.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, John G. Mamix, Director of Patent Licensing, Code GP-4, Washington, D.C. 20546, telephone (202) 755-3854.

Patent application 132,364: Apparatus and Method for Improving the Fuel Efficiency of a Gas Turbine; filed March 20, 1980.
Patent application 245,571: Tip Cap for a Rotor Blade; filed March 20, 1981.
Patent application 296,137: Integrating IR Detector Imaging Systems; filed August 25, 1981.
Patent application 364,094: Workpiece Positioning Vise; filed March 31, 1982.
Patent application 383,086: Method of and apparatus for Measuring Temperature and Pressure; filed May 28, 1982.
Patent application 404,808: Chemical Approach for Controlling Nadimide Cure Temperature and Rate; filed August 3, 1982.
Patent application 406,820: Optical Distance measuring Instrument; filed August 10, 1982.
Patent application 407,240: A Solvent Resistancy Thermoplastic Aromatic Poly (Imidesulfone) and Process for Making Same; filed August 11, 1982.
Patent application 408,575: Vibration Isolation and Pressure Compensation Apparatus for Sensitive Instrumentation; filed August 16, 1982.
Patent application 414,108: Lower Body Negative Pressure Apparatus; filed September 2, 1982.
Patent application 415,878: Thumb-Actuated Two-Axis Controller; filed September 8, 1982.
Patent application 415,880: Metal Phthalocyanine Ploymers; filed September 8, 1982.
Patent application 415,879: Apparatus and Method to Keep the Walls of a Free-Space Reactor Free From Deposits of Solid Materials; filed September 8, 1982.
Patent application 416,443: Integrated Optics In An Electrically Scanned Imaging Fourier Transform Spectrometer; filed September 10, 1982.
Patent application 416,312: Method and Apparatus for Gripping Uniaxial Fibrous Composite Materials; filed September 15, 1982.
Patent application 416,188: Space Shuttle With Improved External Propellant Tank; filed September 15, 1982.
Patent application 415,295: Self-Charging Metering and Dispensing Device for Fluids; filed September 28, 1982.
Patent application 425,204: Retinally Stabilized Differential Resolution Television Display; filed September 28, 1982.
Patent application 425,202: Ranging System; filed September 28, 1982.
Patent application 431,421: Tool for Releasing Optical Elements; filed September 30, 1982.
Patent application 434,085: Reactanceless Bandpass Amplifier; filed October 13, 1982.
Patent application 434,084: Dielectric Based Submillimeter Backward Wave Oscillator Circuit; filed October 13, 1982.
Patent application 434,087: Improved High Temperature Resistant Polyimides; filed October 13, 1982.
Patent application 434,674: Heat Pipe Thermal Switch; filed October 15, 1982.
Patent application 434,672: Thermal Control System; filed October 15, 1982.
Patent application 433,196: Chalcogenophosphate Photoelectrodes; filed October 7, 1982.
Patent application 435,511: Shell Tile Thermal Protection System; filed October 20, 1982.
Patent application 434,912: Closed Loop Electrostatic Levitation System; filed October 29, 1982.
Patent application 437,913: Submillimeter Wave Schottky Barrier Diode With Low Series Resistance and Low Noise; filed October 29, 1982.
Patent application 437,917: Method of and Apparatus for Generating an Interstitial Point in a Stream of an Even Number of Data Points; filed October 29, 1982.
Patent application 436,448: X-Ray Determination of FV Weld Mismatch for Completely Assembled Dewar; filed November 12, 1982.
Patent application 440,666: Phthalocyanine Polymers; filed November 10, 1982.
Patent application 441,888: Elastomer-Modified Phosphorus Containing Imide Resins; filed November 15, 1982.
Patent application 441,896: Integrated Opto-Electronic Laser Beam Deflector-Position Detector; filed November 15, 1982.
Patent application 444,149: A Radionuclide Counting Technique for Measuring Wind Velocity and Direction; filed November 24, 1982.
Patent application 444,150: Acoustic Ground Impedance Meter; filed November 24, 1982.
Patent application 444,124: Ion Beam Sputter-Etched Ventricular Catheter for Hydrocephalus Shunt; filed November 24, 1982.
Patent application 444,125: Method and Apparatus for Suppressing Ignition Overpressure in Solid Rocket Propulsion Systems; filed November 24, 1982.

S. Neil Hosenball,
General Counsel.
[FR Doc. 83-1289 Filed 1-17-83; 8:45 am]
BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provided advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published December 22, 1982 (47 FR 57152). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in

part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the February 1983 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267. ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

* *Class 9 Accidents,* January 21, 1983, Washington, D.C. The Subcommittee will review the severe fuel damage research program. Notice of this meeting was published December 23.

* *Skagit/Hanford Nuclear Project,* January 24, and 25, 1983, Richland, WA. The Subcommittee will review the application of the Puget Sound Power and Light Company for a construction permit. Notice of this meeting was published December 30.

* *Decay Heat Removal,* January 27, 1983, Washington, DC. The Subcommittee will discuss the merits and problems associated with primary system depressurization (feed and bleed) and secondary system depressurization for decay heat removal. Notice of this meeting was published January 4.

* *Joint Metal Components and Three Mile Island (TMI) Unit 1,* January 28, 1983, Washington, DC. The Subcommittee will review the Steam Generator Generic Recommendation Report and the TMI-1 steam generator problems and fixes. Notice of this meeting was published January 4.

* *Clinch River Breeder Reactor (CRBR),* February 3 and 4, 1983, Washington, DC. The Subcommittee will continue the review of the Department of Energy (DOE) application for a permit to construct the CRBR.

* *Regulatory Policy and Procedures,* February 7 and 8, 1983, Washington, DC. The Subcommittee will review the matter of regulatory reform including "regionalization".

* *Emergency Core Cooling System (ECCS),* February 8, 1983, Washington, DC. The Subcommittee will review NRC/Babcock and Wilcox Program use of the GERDA facility to address concerns with the thermal hydraulic behavior of B&W plants during transients and accidents.

* *Safety Research Program,* February 9, 1983, Washington, DC. The Subcommittee will discuss the final draft of the ACRS Report to Congress on the NRC Safety Research Program for fiscal years 1984 and 1985.

Emergency Core Cooling System (ECCS), February 17 and 18, 1983, San Jose, CA. The subcommittee will continue the review of the General Electric SAFER/GESTER ECCS Licensing Code.

* *Class 9 Accidents and Reactor Radiological Effects,* February 22, 1983, Washington, DC. The Subcommittee will discuss the research program being proposed and conducted to confirm and verify the existing or a new radiation source term for severe accidents.

* *Systematic Evaluation Program (SEP),* February 23, 1983 (Tentative), Washington, DC. The Subcommittee will review the Yankee Rowe systematic evaluation program.

* *Clinch River Breeder Reactor (CRBR),* February 23, and 24, 1983, Washington, DC. The Subcommittee will continue the review of the CRBR construction permit application.

* *Systems Intergration and Instrumentation/Control,* Feruary 24, 1983 (Tentative), Washington, DC. The Subcommittee will continue to review the CRBR instrumentation and control and plant protection systems and the CRBR reliability program.

* *Catawba,* March 4 and 5, 1983 (Tentative), Rock Hill, SC. The Subcommittee will visit the plant and review the application of the Duke Power Company for an operating license.

Groupe Permanent/ACRS Meeting, March 24 and 25, 1983, Washington, DC. The Group Permanent and the ACRS will exchange views regarding existing and proposed regulatory policies, practices and criteria for the regulation of neclear facilities.

* *Joint Metal Components and Combination of Dynamic Loads,* March 30, 1983, Washington, DC. The Subcommittee will review the reevaluation of double-ended guillotine break design requirements for Westinghouse PWR plants.

* *Seabrook 1,* March 31 and April 1, 1983, Location to be determined. The Subcommittee will visit the plant and review the application of the Public Service Company of New Hampshire for an operating license.

* *Reactor Radiological Effects, Site Evaluation and Waste Management,* Date to be determined (March, Tentative), Washington, DC. The Subcommittee will review information and calculations used by the NRC Staff to assign priorities for action on the generic safety issues.

* *Waste Management,* Date to be determined (March, Tentative), Washington, DC. The Subcommittee will review and comment on NRC Staff's review of the Department of Energy's Site Characterization Report for the Basalt Waste Isolation Project (Hanford).

* *Reactor Radiological Effects,* Date to be determined (March, Tentative), Washington, DC. The Subcommittee will review the Shippingport Reactor decommissioning.

* *Metal Component Working Group,* Date to be determined (March, Tentative), Washington, DC. The Subcommittee will review the status of NRC pressurized thermal shock program.

* *Metal Components,* Date to be determined (March–April, Tentative), Washington, DC. The Subcommittee will review the NRC action plan on integrity of steel bolts.

* *Reactor Operations,* April 6, 1983, Washington, DC. The Subcommittee will review the draft final rules of 10 CFR 50.72, Immediate Notification Requirements and 10 CFR 50.73, the revised Licensee Event Report (LER) Rule.

* *GE Water Reactor/Westinghouse Water Reactors/Safeguards and Security,* Date to be determined (April, Tentative), Washington, DC. The Subcommittee will discuss applications for Final Design Approvals (FDA) by General Electric and preliminary design information for the Westinghouse advanced pressurized water reactor (APWR).

* *Clinch River Breeder Reactor (CRBR) Woirking Group on Thermal Hydraulic Design,* Date to be determined, Washington, DC. The Subcommittee will continue the review of the CRBR thermal hydraulic design.

* *Plants Features Important to Safety,* May 11, 1983, Washington, DC. The Subcommittee will obtain a status report and program plans on Equipment Qualification and Classification Systems dealing with both mechanical and electrical components. New initiatives in the quality assurance area will be explored, such as a "Graded QA" system.

ACRS Full Committee Meeting

February 10–12, 1983: Items are *tentatively* scheduled.

* A. *Clinch River Breeder Reactor* — Construction Permit (partial review).

* B. *Skagit/Hanford Nuclear Project* — Construction Permit.

*C. *NRC Safety Research Program and Budget*—Completed proposed ACRS report to the U.S. Congress regarding the proposed NRC safety research program and budget for fiscal years 1984 and 1985.

*D. *Reports of Responsible ACRS Subcommittees Regarding Safety-Related Activities*—Including proposed nuclear regulatory reform, TMI–1 steam generator tube repairs, generic activities regarding steam generator tube integrity, consideration of class-9 accidents, and decay heat removal system.

*E. *Seismic Fragility of Nuclear Power Plant Components*—Briefing regarding shock resistance of naval nuclear components/systems.

*F. *Meeting with NRC Commissioners (Tentative)*—Discuss ACRS role in the regulatory process.

*G. *Future ACRS Activities*—Discuss anticipated and proposed ACRS Subcommittee and full Committee activity as well as activities of ACRS members. Discuss ACRS role in the NRC regulatory process.

March 10–13, 1983—Agenda to be announced.

April 14–16, 1983—Agenda to be announced.

Dated: January 13, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-1354 Filed 1-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-413 and 50-414]

Duke Power Co.; Availability of Final Environmental Statement for the Catawba Nuclear Station, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement (NUREG–0921) prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed operation of the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina, is available for inspection by the public in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and in the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina. The Final Environmental Statement is also being made available at the State Clearinghouse, Office of the State Auditor, P.O. Box 11333, Columbia, South Carolina 29211 and at the Catawba Regional Planning Council, P.O. Box 862, Rock Hill, South Carolina 29730.

The notice of availability of the Draft Environmental Statement for the Catawba Nuclear Station, Units 1 and 2, and request for comments from interested persons was published in the Federal Register on August 24, 1982 (47 FR 37009). The comments received from Federal, State, and local agencies, and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies may be purchased at current rates directly from NRC by sending check or money order, payable to Superintendent of Documents, to Director, Division of Technical Information and Document Control, U.S. NRC, Washington, D.C. 20555. GPO Deposit Account Holders may charge their orders by calling (301) 492–9530. Copies are also available for purchase through the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 10th day of January 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-1356 Filed 1-17-83; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a second draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, CE 034–4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Spent Fuel Heat Generation in an Independent Spent Fuel Storage Installation" and is intended for Division 3, "Fuels and Materials Facilities." (The first draft of this guide was issued as Task FP 034–4.) The guide is being developed to present values of spent fuel heat generation rates that are acceptable to the NRC staff for use as design input for an independent spent fuel storage installation.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompained by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by March 24, 1983.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 10th day of January 1983.

For the Nuclear Regulatory Commission.

G. A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 83-1358 Filed 1-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-482]

Kansas Gas and Electric Co., et al., Order Extending Construction Completion Date

In the matter of Kansas Gas and Electric Company, Kansas City Power & Light Company, Kansas Electric Power

Cooperative, Inc., and Wolf Creek Generating Station, Unit No. 1.

Kansas Gas and Electric Company, Kansas Power & Light Company and Kansas Electric Power Cooperative, Inc. are holders of Construction Permit No. 1 located in Coffey County, Kansas.

By letter, dated November 24, 1982, Kansas Gas and Electric Company filed an application for extension of the latest construction completion date for the Wolf Creek Generating Station, Unit No. 1 Construction Permit. It was requested that Construction Permit CPPR-147 be extended from March 1, 1984 to July 1, 1986. The reasons given for the requested extension in time were: (1) The slow progression of construction due in part to increasingly stringent quality requirements; and (2) numerous changes and additional requirements for plant design, including those required as a result of the Commission's regulatory review of the Three Mile Island accident.

This action involves no significant hazards consideration, good cause has been shown for the delays, and the requested extension is for a reasonable period, the bases for which are set forth in the staff's safety evaluation for this extension.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

The applicant's letter, dated November 24, 1982, and the NRC staff's safety evaluation supporting the Order are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801.

It is hereby ordered that the latest construction completion date for CPPR-174 be extended from March 1, 1984 to July 1, 1986.

Dated: January 11, 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-1367 Filed 1-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District and Rancho Seco Nuclear Generating Station; Exemption Operation While Irradiating Reactor Vessel Surveillance Specimens at Davis-Besse, Unit No. 1

The U.S. Nuclear Regulatory Commission (the Commission) has granted an Exemption to the Sacramento Municipal Utility District (the licensee) for Rancho Seco Nuclear Generating Station (located in Sacramento County, California), from the requirement for a continuing in-vessel material surveillance program as set forth in Appendix H to 10 CFR Part 50. The Exemption is effective for a period of five years.

In granting this Exemption, the Commission determined that it is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission also determined that granting this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this action.

For further details, see: (1) The licensee's request by letter dated August 2, 1982, and (2) the Commission's letter to the licensee dated January 10, 1983. These items can be reviewed at the Commission's Public Document Room, 1717 H St., NW., Washington, D.C. 20555 and at the Business and Municipal Department, Sacramento, City-County Library, 828 I Street, Sacramento, California.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of January 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 83-1368 Filed 1-17-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Exemption

I

Sacramento Municipal Utility District (the licensee) is the holder of Facility Operating License No DPR-54 which authorizes the operation of the Rancho Seco Nuclear Generating Station (the facility) at steady-state power levels not in excess of 2772 megawatts thermal. The facility is a pressurized water reactor (PWR) located at the licensee's site in Sacramento County, California. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in affect.

II

On November 19, 1980, the Commission published a revised 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of those fifteen subsections, III.G, is the subject of this Exemption.

Subsection III.G specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3).

By letters dated March 17, 1981, and May 28, 1982, Sacramento Municipal Utility District requested the following exemptions:

1. Exemption from the requirements on Subsection III.G.2 of Appendix R to the extent that it requires an automatic fire suppression system to be installed in the following areas of the Auxiliary Building:

(a) Train A High Pressure Injection Pump Room.

(b) Makeup Pump Room.

(c) Corridor to Elevation 47 Feet.

(d) West Containment Valve Area.

2. Exemption from the requirements of Subsection III.G.2 of Appendix R to the extent that it requires a one-hour fire barrier to be installed in the following areas of the Auxiliary Building:

(a) Train A High Pressure Injection Pump Room.

(b) Makeup Pump Room.

We have reviewed the licensee's exemption requests and our evaluation of these requests is as follows:

1. Auxiliary Building—Train A High Pressure Injection Pump Room and Makeup Pump Room.

Each room contains a portion of a cooper pipe cross-tie between the two nuclear service raw water systems. The cross-tie piping provides cooling water to both high pressure injection pumps and the makeup pump depending on how the pumps are aligned. Fire damage to the silver brazed joints in the cross-tie piping would result in the loss of cooling water to the above mentioned pumps. Existing fire protection in each room consists of an automatic smoke detection system which alarms locally and in the control room, and one inch of calcium silicate insulation installed on the cross-tie piping to serve as a fire barrier.

The combustibles consist of 20 gallons of lube oil in each room contained in the high pressure injection makeup pumps. The lube oil comprises a fuel load of 8500 BTU/sq. ft. for each room which, if totally consumed, would correspond to a fire severity equivalent to about 6.5 minutes on the ASTM E–119 standard time temperature curve.

By letter dated May 28, 1982, the licensee provided test data to show that the one-inch calcium silicate insulation is a 30-minute fire rated barrier. We have reviewed the test data and agree with the licensee's findings.

The objective of the fire protection program is to ensure that at least one means of achieving safe shutdown conditions will remain available during and after a postulated fire in any area of the plant. In these rooms, the objective is to provide adequate cooling water to the high pressure injection pumps and makeup pump. This can be achieved if a fire would not melt the silver brazed joints.

In our survey of each room, we found the amount of in-situ combustibles to be low. A combination of passive (calcium silicate insulation) and active (automatic fire detection system) protection had been installed. In addition, the water inside the piping serves as a heat sink to further protect the silver brazed joints.

We find that existing fire protection provides reasonable assurance that the silver brazed joints will not fail as a result of a postulated exposure fire, including one which considers the in-situ fuel load, in addition to the anticipated transient combustibles consisting of 20 gallons of lube oil needed for an oil change. Therefore, we find the existing level of protection provided for safe shutdown systems provides an equivalent level of safety as required by Subsection III.G.2 of Appendix R.

The installation of an automatic fire supression system and one-hour barriers in these areas would not appreciably enhance fire safety above that already provided. Therefore, the exemption requested by the licensee should be granted.

2. Auxiliary Building—Corridor to Elevation 47 Feet.

The area serves as a corridor between elevations 30 feet and 47 feet in the Auxiliary Building. The area is separated from other plant areas by three-hour fire rated barriers. Fire protection is provided by ionization smoke detectors, standpipe hose stations and portable fire extinguishers.

The combustible in the area is cable insulation. The cable insulation in the area comprises a fuel load of 9,500 BTU/sq. ft. which, if totally consumed, would correspond to a fire severity of about seven minutes on the ASTM E–119 standard time temperature curve.

The cables in the area are installed in horizontal cable trays approximately 15 feet above the floor level. Redundant safe shutdown cabling in the area is installed in separate cable trays separated by five feet. One train of the safe shutdown cables has been wrapped with a one-hour fire rated barrier.

Subsection III.G.2 of Appendix R would require the installation of an automatic suppression system in addition to the fire detectors and one-hour fire rated barrier that are already installed. The primary purpose of the automatic suppression system is to extinguish exposure fires.

In our survey of the area, we found the amount of in-situ combustibles to be low. The fuel, in the form of cable insulation, is installed in open horizontal cable trays located 15 feet above the floor level and five feet below the ceiling. We find this arrangement of in-situ combustibles to be such that they are not susceptible to ignition from postulated exposure fires. A combination of passive (one-hour fire rated barrier) and active (fire detection system) protection has been provided to assure safe shutdown capability. The licensee provided an evaluation showing that the integrity of the barrier would not be challenged by heat flux produced by postulated transient combustible exposure fires, e.g. 20 gallons of lube oil. We find the licensee's evaluation reasonable.

We find that the existing active and passive protection provided for the safe shutdown cabling without the installation of an automatic suppression system will provide reasonable assurance that one train of safe shutdown cables will be free of fire damage and, therefore, provides an equivalent level of safety as required by Subsection III.G.2 of Appendix R.

Therefore, the installation of an automatic fire suppression system in this area would not appreciably enhance fire safety above that already provided and, the exemption requested by the licensee should be granted.

3. Auxiliary Building—West Containment Valve Area. The area is separated from the remainder of the plant by three-hour fire rated barriers. The fire protection consists of ionization smoke detectors, standpipe hose stations and portable fire extinguishers.

The combustible in the area is cable insulation. The cables in the area comprise a fuel load of approximately 4,500 BTU/sq. ft. which, if totally consumed, would correspond to a fire severity of about 3.5 minutes on the ASTM E–119 standard time temperature curve. The cables in the area are installed in horizontal cable trays approximately 18 feet above the floor level and five feet below the ceiling. One train of cables has been wrapped with a one-hour fire rated barrier.

Subsection III.G.2 of Appendix R would require the installation of an automatic suppression system in addition to the already installed fire detectors and one-hour fire rated barrier. The primary purpose of the automatic suppression system is to extinguish exposure fires.

In our survey of the area, we found the amount of in-situ combustibles to be low. The fuel, in the form of cable insulation, is installed in open horizontal cable trays located 18 feet above the floor level and five feet below the ceiling. We find this arrangement of in-situ combustibles to be such that they are not susceptible to ignition from postulated exposure fires. A combination of passive (one-hour fire rated barrier) and active (fire detection system) protection has been provided to assure shutdown capability. The licensee provided an evaluation showing that the integrity of the one-hour barrier would not be challenged by heat flux produced by postulated transient combustible exposure fires, e.g. 20 gallons of lube oil. We find the licensee's evaluation reasonable.

We find that the existing active and passive protection provided for the safe shutdown cabling without the installation of an automatic suppression system will provide reasonable assurance that one train of safe shutdown cables will be free of fire damage and, therefore, provides an equivalent level of safety as required by Subsection III.G.2 of Appendix R.

Since the installation of an automatic fire suppression system in this area would not appreciably enhance fire

safety above that already provided, the exemption requested by the licensee should be granted.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest and hereby grants an exemption from the requirements of Subsection III.G.2 of Appendix R to 10 CFR Part 50 to the extent that it requires:

1. An automatic Fire Suppression System to be installed in the following areas of the Auxiliary Building:

(a) Train A High Pressure Injection Pump Room.

(b) Makeup Pump Room.

(c) Corridor to Elevation 47 Feet.

(d) West Containment Valve Area.

2. One-hour fire barriers to be installed in the following areas of the Auxiliary Building:

(a) Train A High Pressure Injection Pump Room.

(b) Makeup Pump Room.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action

Dated at Bethesda, Maryland this 10th day of January 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-1359 Filed 1-17-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co. and Yankee Nuclear Power Station; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 79 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Company (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee) (the facility) located in Franklin County, Massachusetts. The amendment is effective as of its date of issuance.

The amendment incorporates changes to the Technical Specifications revising the maximum allowable peak rod linear heat generation rate limits as determined by the Core XVI LOCA analysis.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated January 7, 1983, (2) Amendment No. 79 to License No. DPR-3, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated in Bethesda, Maryland, this 12th day of January 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-1360 Filed 1-17-83; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Commitee Meetings

Pursant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, February 3, 1983
Thursday, February 10, 1983
Thursday, February 17, 1983
Thursday, February 24, 1983

These meetings will convene at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340,

1900 E Street, NW., Washington, D.C. 20415 (202–632–8710).
William B. Davidson, Jr.,
Chairman, Federal Prevailing Rate Advisory Committee.
January 5, 1983.
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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; Information on Imports During First 10 Months of 1982

This notice is for information only and has no legal effect. It is provided in order to inform the public of certain import statistics covering the period of January through October 1982. These statistics are relevant to the "competitive need" limits set forth in section 504(c) of the Trade Act of 1974 (19 U.S.C. 2464(c)), pertaining to the Generalized System of Preferences (GSP). Those limits provide, in effect, that any GSP eligible beneficiary country that exported to the United States during the most recent calendar year a quantity of any one GSP eligible article in excess of (1) a specified dollar limit adjusted annually to reflect changes in the U.S. Gross National Product or (2) 50 percent of total U.S. imports of the article, is to be removed from GSP eligibility not later than 90 days after the close of that calendar year. Based on preliminary data and subject to revision, the aforementioned dollar limit is expected to be approximately $54.5 million for calendar year 1982.

Section 1111 of the Trade Agreements Act of 1979 amends section 504(c)(1)(B) of the Trade Act of 1974 so that the President may disregard the 50 percent "competitive need" limit with respect to any eligible article if the value of total imports of the article during the most recent calendar year did not exceed $1 million, adjusted annually to reflect changes in the U.S. Gross National Product. This "de minimis" level is expected to be approximately $1.29 million for calendar year 1982.

An Executive order will be issued to be effective March 31, 1983, making the adjustments that are required by section 504(c) of the Trade Act, on the basis of official data covering all of calendar year 1982. It should be emphasized that the information set forth below covers only the first 10 months of 1982. While this is not complete information, it is being published now in order to provide the maximum possible advance indication as to adjustments that may be made to meet requirements of section 504(c) of the Trade Act.

List I below shows countries which have already exceeded competitive need limitations (country supplied over $54.5 million during Jan.–Oct. 1982) or have been graduated from the GSP pursuant to the President's discretionary authority.

List II below shows countries which are approaching the competitive need limitations (country accounted for over 47 percent of the value of total U.S. imports and/or over $42.5 million during Jan.–Oct. 1982).

List III below shows countries which, despite accounting for more than 50 percent of total U.S. imports, may be eligible to receive GSP benefits through the de minimis waiver (country accounted for over 50 percent of the value of total U.S. imports of the item and the value of total U.S. imports was less than $1.29 million during Jan.–Oct. 1982).

List IV below shows countries which are currently ineligible for the GSP but which may be eligible for redesignation to GSP status pursuant to the President's discretionary authority (country accounted for less than 50 percent of the value of total U.S. imports and the value of total U.S. imports was less than $45.4 million during Jan.–Oct. 1982).

The column headed "TSUS" in the lists below set forth item numbers of the Tariff Schedules of the United States (19 U.S.C. 1202), representing categories of imported articles.

Frederick L. Montgomery,
Chairman, Trade Policy Staff Committee.

LIST I.—COUNTIES GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS

TSUS	Country	Percent of world	country total	World total
12161	Agentina	62.0	387,433,674	$141,106,458
12710	Mexico	97.8	56,744,957	58,025,394
13783	Mexico	99.8	98,149,570	98,316,801
15520	Dominican Republic	13.8	94,367,447	[illegible]
15520	Brazil	9.4	65,134,018	[illegible]
15520	Thailand	13.3	92,134,994	[illegible]
19221	Colombia	72.0	81,339,819	85,184,845
24520	Brazil	51.7	11,[illegible]	22,523,847
35087	Mexico	[illegible].7	77,819,005	87,761,183
35581	Taiwan	15.3	4,074,510	[illegible]
38961	Hong Kong	31.1	20,906,261	[illegible]
40620	Isreal	60.6	1,067,661	1,762,718
44542	Taiwan	49.8	7,611,436	15,285,301
52221	Mexico	36.2	16,334,322	43,317,354
53231	Mexico	63.4	1,367,666	2,155,521
61203	Chile	77.5	107,837,366	139,737,401
61206	Chile	54.4	181,326,096	334,705,786
81602	Ghana	60.8	163,063,763	268,640,291
81606	Ghana	27.7	91,646,225	331,022,860
64214	Korea	71.4	2,139,396	2,996,906
64217	Korea	16.7	200,762	1,686,469
64897	Taiwan	58.5	68,082,126	116,525,300
65089	Hong Kong	21.0	263,062	1,248,096
65089	Taiwan	36.7	460,324	1,255,096
65146	Korea	42.5	436,662	1,024,299
65146	Taiwan	52.3	536,356	1,024,299
65284	Mexico	55.7	19,297,908	34,491,287
65348	Taiwan	47.6	4,460,691	10,065,360
65407	Taiwan	46.7	858,127	1,840,886
65413	Hong King	53.9	4,805,765	9,162,440
66042	Brazil	2.9	6,169,221	214,828,788
66048	Mexico	26.0	151,400,908	598,845,177
[illegible]	Brazil	23.3	92,576,237	398,845,177
66106	Hong Kong	36.5	135,948,181	372,088,226
66106	Taiwan	38.6	143,731,076	372,088,226
[illegible]	Singapore	37.1	18,036,617	48,664,291
[illegible]	Mexico	7.4	104,319,033	1,484,449,345

LIST I.—COUNTIES GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS—Continued

TSUS	Country	Percent of world	country total	World total
67652	Singapore	8.0	$116,450,541	$1,464,449,346
67652	Hong Kong	10.0	145,963,022	1,464,449,346
67652	Taiwan	4.6	66,606,537	1,464,449,346
67650	Korea	6.1	74,456,639	1,223,419,206
67650	Taiwan	8.8	107,367,960	1,223,419,206
67650	Hong Kong	2.9	34,982,471	1,223,419,206
68260	Mexico	17.2	82,836,455	481,301,919
68305	Taiwan	20.8	1,302,105	6,246,320
68315	Mexico	38.5	21,565,035	56,073,698
68370	Hong Kong	35.3	2,149,988	6,088,223
68370	Taiwan	19.5	1,184,996	6,088,223
68448	Hong Kong	55.6	75,306,480	135,405,319
68453	Taiwan	23.8	39,442	165,626
68470	Taiwan	20.5	83,120,929	405,553,875
68524	Hong Kong	28.0	140,181,412	500,194,353
68524	Korea	6.8	33,970,772	500,194,353
68524	Taiwan	7.4	37,141,007	500,194,353
68529	Taiwan	16.5	81,754,517	496,139,533
68560	Mexico	16.2	156,924,891	971,093,606
68560	Taiwan	5.8	55,918,512	971,093,606
68612	Mexico	80.6	109,961,774	136,391,128
68615	Mexico	47.7	76,536,161	164,576,662
68643	Hong Kong	14.7	55,936,943	381,132,140
69232	Mexico	11.2	163,125,028	1,455,178,629
70661	Hong Kong	33.7	5,424,498	16,075,805
70661	Taiwan	39.1	6,284,423	16,075,805
70647	Hong Kong	11.3	14,077,719	124,550,685
72711	Hong Kong	20.0	12,000,572	60,145,864
72735	Taiwan	20.0	66,321,038	331,979,492
72755	Taiwan	27.2	59,350,061	218,165,070
73130	Taiwan	39.6	344,659	869,566
73420	Hong Kong	28.0	228,546,301	815,879,164
73420	Taiwan	33.3	271,286,724	815,879,164
73508	Taiwan	45.2	7,699,424	17,039,786
73520	Taiwan	43.0	54,936,664	127,746,014
73721	Hong Kong	50.7	9,591,862	18,915,385
73730	Korea	54.3	38,637,134	71,188,769
73780	Hong Kong	38.9	12,210,365	31,425,258
73795	Hong Kong	38.2	109,402,496	286,686,975
73795	Taiwan	16.2	46,497,724	286,686,975
74011	Israel	0.9	123,234	13,712,013
74011	Hong Kong	0.1	20,339	13,712,013
74012	Hong Kong	0.6	24,844	4,031,874
74013	Hong Kong	0.6	1,764,224	288,303,992
74014	Hong Kong	11.2	31,177,568	277,910,884
74015	Hong Kong	51.2	31,031,151	60,583,915
75525	Hong Kong	37.4	7,868,597	21,070,239
77251	Korea	7.4	72,010,050	976,207,352

LIST II.—COUNTRIES APPROACHING COMPETITIVE NEED LIMITS

TSUS	Country	Percent of World	Country total	World total
[illegible]	Israel	49.0	[illegible]	[illegible]
10740	Brazil	52.5	[illegible]	[illegible]
10780	Argentina	56.6	1,680,404	2,973,704
11221	Peru	83.2	4,343,057	5,872,488
11501	Thailand	57.1	1,848,668	3,236,191
11450	Korea	67.2	1,359,694	2,024,546
12115	Taiwan	48.9	5,152	12,654
12151	India	49.9	1,776,146	3,562,144
12152	India	49.2	105,364	214,163
12153	India	76.5	3,412,006	4,457,835
12162	India	62.9	19,440,186	30,918,327
13032	Argentina	85.3	401,265	514,359
13040	Argentina	75.1	463,375	617,025
13178	Thailand	97.3	359,328	369,544
11651	Mexico	78.2	301,231	385,274
13660	Nicaragua	91.6	176,411	193,944
13661	Mexico	96.0	30,279,573	30,882,727
13665	Mexico	98.6	12,752,415	12,938,540
13800	Dominican Republic	86.9	4,751,304	5,466,472
13610	Mexico	98.0	1,459,791	1,490,136
13622	Mexico	99.4	5,281,974	5,314,678
13630	Mexico	68.4	10,111,982	14,778,782
13661	Mexico	94.3	5,354,474	5,680,287
13660	Mexico	58.6	2,490,799	4,293,079
11665	Dominican Republic	58.0	31,442	54,179
13700	Dominican Republic	97.0	987,366	1,017,647
13740	Mexico	81.3	710,711	874,204
13750	Mexico	98.7	21,320,550	21,385,369
13771	Mexico	97.4	2,543,284	2,781,160
13775	Costa Rica	96.5	1,397,575	1,448,000
13779	Mexico	100.0	1,691,486	1,692,278
11799	Dominican Republic	98.8	705,768	715,642
13805	Mexico	57.4	11,702,220	20,397,568
13835	Costa Rica	93.0	1,405,893	1,511,436
14021	Mexico	87.5	4,866,516	5,565,935

LIST II.—COUNTRIES APPROACHING COMPETITIVE NEED LIMITS—Continued

TSUS	Country	Percent of World	Country total	World total
*14054	Israel	95.7	$140,505	$213,610
*14135	Turkey	88.9	224,264	325,616
14177	Mexico	71.0	16,907,775	23,884,456
*14553	Turkey	91.01	443,745	487,114
14622	Turkey	40.2	2,825,329	7,162,523
*14642	Ecuador	76.2	79,397	7,104,207
14644	Philippines	84.9	2,936,985	3,460,170
14670	Mexico	97.7	16,994,870	17,100,427
*14733	Jamaica	90.0	72,788	80,925
*14780	Thailand	46.6	29,092	58,914
*14785	Brazil	52.9	295,560	634,642
14803	Mexico	73.2	3,806,132	5,238,334
14812	Mexico	93.4	6,550,864	7,015,719
14817	Mexico	99.6	19,001,480	19,071,767
*14819	Israel	87.1	40,337	46,067
14825	Mexico	99.2	5,038,209	5,077,112
14830	Mexico	52.9	4,075,057	7,709,417
14872	Chile	94.0	4,906,590	4,901,480
14950	Mexico	84.0	1,463,488	1,766,088
*15200	Jamaica	100.0	1,119	1,119
*15230	Dominican Republic	48.6	47,950	98,661
*15243	Dominican Republic	99.6	206,838	209,077
15254	Brazil	57.6	885,569	1,541,462
*15256	India	91.5	446,835	488,763
15272	Honduras	94.6	1,676,254	1,807,836
*15276	Honduras	98.6	46,151	99,079
*15440	Taiwan	68.0	210,248	309,318
*15443	Taiwan	69.9	39,200	56,083
15453	Taiwan	58.6	1,510,397	2,567,563
*15460	Taiwan	57.6	157,565	274,606
15520	Philippines	7.6	$2,361,173	$62,843,565
15535	Barbados	54.2	2,069,087	3,799,156
*16175	Israel	66.5	116,630	173,697
*16211	Syria	49.6	3,700	7,459
*16613	Trinidad Island	99.7	541,895	543,693
*16035	Peru	100.0	1,116	1,116
*16037	Argentina	86.2	87,097	94,062
*16841	Peru	100.0	869	869
*16842	Yugoslavia	65.2	7,730	11,864
*16854	Yugoslavia	77.5	233,848	287,278
*16859	Yugoslavia	71.4	46,668	66,162
*16861	Yugoslavia	98.8	13,195	85,000
16886	Mexico	49.6	12,400,110	$5,812,350
16945	Mexico	52.3	722,868	1,381,431
*16947	Brazil	100.0	4,218	4,218
17016	Cameroon	46.2	903,455	2,066,680
*17615	Brazil	95.7	177,129	185,051
*17670	India	57.7	321,529	557,028
*18250	Panama	71.7	791,892	1,104,305
*18453	Argentina	99.8	702,062	1,051,094
*18485	Taiwan	47.5	116,411	245,117
*19085	Bahamas	52.1	33,245	63,852
19285	Mexico	81.4	4,461,752	5,476,853
20091	Honduras	67.9	2,966,457	4,367,045
20252	Mexico	97.7	22,884,879	23,413,228
*20320	Taiwan	91.3	86,487	94,817
20440	Taiwan	30.4	9,032,914	29,689,362
*20545	Haiti	77.3	26,632	34,469
20547	Taiwan	70.5	2,141,194	3,016,630
20560	Mexico	65.2	20,076,825	30,796,428
20598	Taiwan	56.3	29,238,825	51,900,306
*22010	Portugal	98.8	864,558	875,149
*22015	Portugal	95.9	70,363	73,387
22020	Portugal	67.8	1,667,207	1,910,830
22025	Portugal	91.2	2,293,545	2,515,272
*22035	Portugal	98.8	25,918	29,268
*22037	Portugal	95.9	25,957	27,071
*22041	Portugal	94.2	49,050	52,062
22048	Portugal	98.7	9,104,390	9,226,475
22210	Hong Kong	58.5	4,462,196	7,630,300
*22234	Taiwan	99.6	23,741	25,443
*22236	Taiwan	94.8	156,320	334,451
22250	Taiwan	57.1	2,578,477	3,993,395
*24010	Brazil	93.0	714,568	768,492
*24012	Brazil	99.2	109,131	165,090
*30410	Taiwan	94.0	997,315	1,062,406
*24030	Costa Rica	100.0	800	800
*24032	Panama	97.9	13,666	16,162
*24050	Hong Kong	100.0	503	503
*24560	Argentina	100.0	2,462	2,462
24520	Brazil	51.7	11,068,199	21,393,647
*25125	Taiwan	100.0	869	869
*25440	Portugal	100.0	34,596	34,596
25660	Korea	50.0	11,186,250	22,377,500
*27423	Taiwan	93.0	8,440	9,062
30412	Egypt	52.9	754,075	1,424,191
*30440	Thailand	98.8	18,046	18,262
*30444	Brazil	92.7	62,300	67,202
*30446	Brazil	49.1	36,400	74,107
*30456	India	74.7	1,880	2,518
*30520	Thailand	80.8	351,398	620,429

LIST II.—COUNTRIES APPROACHING COMPETITIVE NEED LIMITS—Continued

TSUS	Country	Percent of World	Country total	World total
*30520	Thailand	[illegible]	$217,348	$367,045
*30530	Bangladesh	[illegible]	702,181	1,120,141
*30671	Chile	87.7	10,242	11,675
*30672	Argentina	87.1	43,759	50,251
*30810	Argentina	100.0	1,352	1,352
*30830	Brazil	73.5	270,314	367,926
31525	Mexico	[illegible]	1,834,675	[illegible]
*31530	Portugal	[illegible]	86,100	144,916
*31550	Thailand	95.7	[illegible]	[illegible]
*31585	Thailand	[illegible]	166,824	172,960
*31590	Thailand	[illegible]	137,782	[illegible]
*31595	Thailand	51.5	5,527	10,727
31901	India	[illegible]	1,803,418	1,847,358
31905	India	[illegible]	1,856,346	1,922,870
*31907	India	[illegible]	2,008,809	2,043,068
*31950	India	63.3	96,390	152,372
*32510	Mexico	[illegible]	71,883	[illegible]
*35625	Israel	63.7	[illegible]	826,754
*36000	India	55.7	[illegible]	1,222,803
*36121	Philippines	[illegible]	[illegible]	987,151
*36414	Taiwan	100.0	1,313	1,313
36584	Philippines	[illegible]	7,527	13,994
36584	Philippines	[illegible]	2,240,100	[illegible]
40800	Israel	49.5	2,145,635	4,339,073
40872	Korea	[illegible]	1,067,661	1,762,716
*41276	Israel	47.7	2,970,585	6,227,493
*41290	Mexico	[illegible]	341,375	[illegible]
41610	Turkey	[illegible]	[illegible]	[illegible]
41720	Mexico	[illegible]	1,389,200	1,744,611
*41800	Mexico	[illegible]	2,989,127	2,990,027
*41824	India	56.1	135,700	242,022
*41878	Mexico	[illegible]	312,346	[illegible]
*41900	Peru	57.1	[illegible]	1,015,771
*42054	Israel	[illegible]	321,064	[illegible]
*42070	Israel	51.8	275,942	532,734
*42082	Israel	[illegible]	103,853	109,242
*42276	Mexico	[illegible]	274,070	347,897
*42276	Mexico	100.0	[illegible]	[illegible]
*42388	Mexico	[illegible]	[illegible]	[illegible]
*42500	Taiwan	[illegible]	[illegible]	1,203,448
42570	Mexico	87.1	[illegible]	[illegible]
*42610	Portugal	[illegible]	3,265,148	3,439,973
*42716	Argentina	100.0	[illegible]	[illegible]
*42725	Argentina	[illegible]	231,340	[illegible]
42836	Argentina	74.2	14,907	[illegible]
[illegible]	Brazil	[illegible]	813,879	1,680,453
*43510	Costa Rica	52.0	1,424,233	2,739,945
*43713	India	77.7	[illegible]	90,123
*43714	India	[illegible]	106,551	155,551
43760	Argentina	100.0	156,955	156,955
43764	Brazil	[illegible]	3,057,340	[illegible]
44542	Taiwan	47.0	[illegible]	5,743,847
*44610	Malaysia	[illegible]	7,611,436	15,285,201
*45010	Singapore	71.6	178,111	[illegible]
*45720	Israel	61.3	50,000	81,515
45244	Brazil	95.7	54,567	[illegible]
*46515	Colombia	47.4	[illegible]	1,313,916
*46115	Bermuda	76.1	48,750	64,086
*46585	Costa Rica	[illegible]	74,842	[illegible]
*47006	Cyprus	100.0	1,000	1,000
47352	Mexico	[illegible]	11,125	[illegible]
*47356	Mexico	[illegible]	4,724,301	4,746,651
*47362	Korea	87.1	[illegible]	[illegible]
*48012	Malaysia	[illegible]	[illegible]	[illegible]
*48000	Israel	79.3	176,828	[illegible]
*48000	Taiwan	100.0	1,158	1,158
48382	Mexico	[illegible]	119,367	120,094
*51131	Mexico	[illegible]	1,872,129	3,682,218
*51151	Mexico	59.3	419,180	706,676
*51151	Hong Kong	47.3	[illegible]	[illegible]
[illegible]	Mexico	52.7	4,543	[illegible]
*51441	Taiwan	100.0	1,152	1,152
*51454	Mexico	[illegible]	6,427	17,375
*51451	Mexico	79.5	[illegible]	43,788
[illegible]	Brazil	59.7	9,700	16,246
*51671	India	100.0	[illegible]	[illegible]
*51673	India	91.9	[illegible]	[illegible]
*51674	India	92.9	50,707	54,564
*51694	India	76.4	160,422	[illegible]
[illegible]	India	63.6	172,420	271,137
[illegible]	Korea	[illegible]	31,771	37,179
[illegible]	Somalia	[illegible]	9,405,107	19,532,923
[illegible]	Taiwan	62.7	[illegible]	[illegible]
52394	Mexico	72.8	2,000	2,827
53222	Korea	79.1	1,492,922	[illegible]
53231	Mexico	[illegible]	7,460,494	8,870,173
*53215	Taiwan	[illegible]	1,367,665	2,155,521
*53474	Taiwan	70.2	[illegible]	[illegible]
53476	Taiwan	64.3	4,715	7,335
53481	Taiwan	[illegible]	[illegible]	419,957
		[illegible]	1,300,403	[illegible]

LIST II.—COUNTRIES APPROACHING COMPETITIVE NEED LIMITS—Continued

TSUS	Country	Percent of World	Country total	World total
53484	Taiwan	40.3	[illegible]	$17,842,025
[illegible]	Taiwan	46.1	4,194,121	8,725,481
[illegible]	Taiwan	40.7	[illegible]	112,888,007
53531	Mexico	57.8	5,285,320	9,317,667
54021	Mexico	48.1	1,753,526	3,647,420
54441	Mexico	54.6	[illegible]	[illegible]
*54585	Mexico	77.5	[illegible]	877,309
*54585	Taiwan	64.7	[illegible]	[illegible]
*54741	Hong Kong	74.3	[illegible]	[illegible]
60210	Honduras	58.5	4,850,151	8,293,162
60340	Chile	64.3	6,624171	10,305,115
60350	Chile	78.7	3,019,542	[illegible]
60548	Chile	62.9	1,762,835	2,801,030
[illegible]	Brazil	49.9	2,457,428	[illegible]
*60648	Portugal	61.1	747,169	[illegible]
*61205	Chile	100.0	91,030	91,030
*61215	Mexico	80.0	234,588	293,248
*61230	Yugoslavia	95.6	135,784	142,065
61815	Yugoslavia	49.4	4,320,688	8,744,423
*62220	Brazil	74.7	73,520	[illegible]
62222	Bolivia	99.9	2,214,806	2,216,030
*62434	Mexico	52.0	24,106	[illegible]
*62442	Mexico	83.1	37,666	[illegible]
*62995	Korea	100.0	3,060	3,060
*63260	Bolivia	72.4	419,070	579,603
64214	Korea	71.4	2,139,366	[illegible]
64310	Korea	52.6	[illegible]	[illegible]
*64245	Mexico	58.9	271,227	460,590
*64445	Brazil	96.3	84,023	[illegible]
*64604	Taiwan	87.0	9,000	10,346
*64647	Taiwan	65.3	62,414	[illegible]
*64688	Taiwan	53.4	97,275	182,221
*64695	Taiwan	58.8	171,897	[illegible]
*64699	Taiwan	91.1	40,844	44,830
*64696	Mexico	75.5	[illegible]	772,791
*64871	Taiwan	70.4	711	1,010
*64891	Taiwan	54.5	377,507	[illegible]
64937	Taiwan	53.1	11,444,574	[illegible]
*64971	Hong Kong	80.2	4,485	5,597
*64973	Korea	77.7	3,873	4,730
*64975	Taiwan	83.2	[illegible]	62,819
*65047	Taiwan	88.5	[illegible]	[illegible]
*65070	Taiwan	90.0	25,132	44,570
*65087	Hong Kong	71.3	77,921	109,330
*65101	India	66.8	[illegible]	[illegible]
*65103	Taiwan	51.6	47,347	[illegible]
*65104	Hong Kong	100.0	786	786
*65115	Taiwan	56.1	176,925	315,148
65121	Taiwan	92.8	4,129,390	[illegible]
65133	Hong Kong	84.7	[illegible]	6,998,769
65137	Taiwan	51.0	[illegible]	12,071,475
*65146	Taiwan	52.3	535,356	[illegible]
*65151	Korea	58.0	130,433	224,816
65153	Taiwan	50.7	1,454,658	[illegible]
*65162	Taiwan	75.8	1,344	1,774
65203	Korea	59.2	[illegible]	[illegible]
*65213	Taiwan	68.3	3,403	[illegible]
*65234	Hong Kong	73.8	75,423	102,166
*65245	Hong Kong	94.5	7,638	[illegible]
65260	Taiwan	50.5	[illegible]	[illegible]
65264	Mexico	55.7	[illegible]	[illegible]
*65300	Mexico	55.8	307,037	[illegible]
*65347	Taiwan	62.8	800,307	787,896
*65370	Taiwan	84.1	40,468	63,123
65385	Taiwan	92.5	[illegible]	[illegible]
65394	Korea	52.6	[illegible]	53,540,629
65399	Taiwan	54.4	1,574,998	[illegible]
65411	Colombia	52.5	[illegible]	11,546,018
65412	Taiwan	90.0	[illegible]	3,228,975
65413	Hong Kong	63.9	[illegible]	[illegible]
*65420	Hong Kong	48.8	10,749	22,004
65724	Taiwan	89.6	[illegible]	[illegible]
66080	Taiwan	54.3	962,548	1,775,104
[illegible]	Israel	47.7	4,481,041	[illegible]
[illegible]	Taiwan	100.0	899	899
66235	Mexico	94.1	2,834,649	[illegible]
66410	Taiwan	8.7	42,657,445	[illegible]
[illegible]	India	66.3	1,852	2,793
*67210	Hong Kong	88.1	592,271	[illegible]
67216	Taiwan	47.4	[illegible]	[illegible]
67415	Taiwan	8.4	[illegible]	[illegible]
67620	Taiwan	18.0	[illegible]	[illegible]
67652	Korea	2.9	[illegible]	[illegible]
68235	Mexico	55.9	[illegible]	[illegible]
[illegible]	Hong Kong	10.1	[illegible]	[illegible]
68260	Taiwan	9.4	[illegible]	[illegible]
68380	Hong Kong	79.6	4,060,779	[illegible]
68410	Taiwan	53.6	[illegible]	[illegible]
[illegible]	Singapore	66.3	20,881,838	31,500,441
69455	Mexico	53.8	5,090,947	[illegible]
[illegible]	Singapore	10.6	53,173,513	500,194,300

LIST II.—COUNTRIES APPROACHING COMPETITIVE NEED LIMITS—Continued

TSUS	Country	Percent of World	Country total	World total
68540	Korea	3.5	$50,741,649	$1,441,854,209
68630	Taiwan	55.7	11,295,465	20,270,042
68742	Taiwan	59.8	1,361,557	2,275,290
68810	Taiwan	81.2	46,354,146	59,545,018
68815	Romania	68.1	1,534,632	2,251,890
*68464	Romania	86.4	19,740	22,330
69610	Taiwan	45.7	48,121,091	105,343,165
*70215	Mexico	56.7	701	1,194
*70220	Korea	65.7	163,461	248,631
*70232	Mexico	67.3	278,560	414,231
*70235	Indonesia	70.1	61,421	87,610
*70245	Brazil	60.4	25,390	42,040
70247	Mexico	61.4	790,833	1,292,085
*70434	Taiwan	54.5	22,705	41,674
*70495	Philippines	63.1	105,607	167,237
*70633	Taiwan	51.7	8,563	16,545
*70637	Taiwan	67.3	210,323	312,352
70639	Taiwan	53.8	11,022,057	20,504,905
*70650	Hong Kong	74.8	156,888	209,696
70915	Israel	57.4	4,056,698	7,061,478
70940	Hong Kong	53.7	3,963,532	7,380,460
70966	Israel	59.8	11,200,345	18,737,064
*71006	Israel	98.6	262,299	265,929
*71067	Korea	79.0	3,752	4,695
*71131	Brazil	79.0	647,791	819,764
71136	Mexico	49.7	2,746,694	5,527,118
*71307	Taiwan	97.9	17,070	20,836
71315	Mexico	69.4	4,437,683	6,396,428
*71317	Taiwan	78.7	597,554	759,874
*71319	Taiwan	59.4	198,860	334,827
72214	Macao	55.6	894,460	1,609,310
*72520	India	55.3	56,324	101,872
72532	Taiwan	48.9	2,321,324	4,836,591
72550	Taiwan	89.4	15,181,066	30,732,857
72665	Mexico	54.3	1,051,971	1,937,404
72708	Mexico	80.9	26,304,256	46,451,057
72712	Philippines	53.5	12,559,049	23,474,876
72729	Yugoslavia	35.1	47,149,239	134,309,365
*73029	Philippines	94.9	527,429	556,071
*73110	Taiwan	62.2	439,852	705,478
*73150	Taiwan	47.8	291,482	609,188
*73250	Taiwan	57.3	126,024	219,922
73410	Taiwan	82.0	4,595,207	5,601,779
73425	Hong Kong	57.9	1,657,523	2,863,049
*73430	Hong Kong	58.6	329,000	543,839
*73434	Hong Kong	62.0	772,948	1,247,601
73451	Taiwan	78.7	2,672,476	3,396,234
73454	Taiwan	49.4	16,993,087	34,396,449
73456	Haiti	64.0	29,811,022	46,568,167
*73460	Taiwan	69.9	184,492	263,884
73470	Korea	55.9	7,589,922	13,577,207
*73471	Taiwan	47.9	190,522	397,762
*73472	Taiwan	54.8	580,816	1,060,591
73486	Taiwan	55.6	13,569,737	24,327,646
73487	Taiwan	84.3	7,653,600	9,074,610
73490	Taiwan	80.8	4,617,799	5,712,347
73507	Korea	69.5	4,865,386	9,234,582
*73511	Taiwan	84.1	182,777	217,261
73707	Hong Kong	55.5	12,185,949	21,962,139
73715	Hong Kong	49.0	47,169,717	96,326,275
73721	Hong Kong	90.7	9,591,982	18,913,395
73726	Taiwan	50.1	903,559	1,802,121
73728	Korea	56.0	1,972,783	3,520,070
73730	Korea	54.3	38,637,134	71,188,769
73740	Korea	43.8	47,541,144	108,583,689
73750	Hong Kong	52.4	1,088,729	2,075,873
73760	Hong Kong	59.8	3,292,433	5,501,414
73795	Taiwan	16.2	46,437,724	280,486,975
74011	Peru	77.2	10,579,398	13,712,013
74015	Hong Kong	51.2	31,031,151	60,583,915
74030	Hong Kong	66.3	1,131,619	1,708,551
74034	Hong Kong	89.3	4,370,713	4,893,317
74075	Korea	52.3	846,139	1,618,427
*74120	Hong Kong	92.7	86,767	93,759
*74550	Taiwan	64.1	7,225	11,261
74556	Malaysia	61.1	1,014,094	1,660,698
*74570	Taiwan	54.0	58,138	107,581
*74812	Haiti	67.6	77,056	115,016
*74815	Taiwan	69.0	307,150	444,878
*74838	Taiwan	52.4	109,878	210,201
*75005	Hong Kong	59.8	146,051	244,320
75020	Taiwan	47.1	6,966,420	14,826,221
75022	Taiwan	58.0	2,929,024	5,049,326
75025	Hong Kong	65.2	2,499,640	3,832,151
75035	Taiwan	57.2	758,955	1,327,933
75040	Hong Kong	60.6	3,247,303	5,357,705
75045	Korea	54.0	5,234,549	9,692,400
*75050	Korea	57.2	660,966	1,155,295
75105	Taiwan	76.4	31,445,626	41,138,872
*75110	Taiwan	97.2	30,637	45,586
*75115	Taiwan	53.5	11,475	21,465

LIST II.—COUNTRIES APPROACHING COMPETITIVE NEED LIMITS—Continued

TSUS	Country	Percent of World	Country total	World total
*75120	Taiwan	99.8	$ 754,988	$ 849,482
*75530	Malta	77.8	416,571	535,309
75604	Hong Kong	63.5	9,110,993	14,398,602
*75623	India	71.0	34,248	48,187
*75640	Hong Kong	78.4	8,258	10,534
*75645	Hong Kong	87.0	1,030,581	1,183,980
*75650	Hong Kong	49.8	9,425	18,918
77143	Taiwan	19.8	50,003,777	255,746,451
77145	Taiwan	64.5	1,671,812	2,591,290
77235	Taiwan	83.7	21,988,127	26,221,650
77295	Hong Kong	47.4	7,894,193	16,223,602
77306	Taiwan	46.7	1,529,172	3,141,870
*77435	Hong Kong	53.1	111,744	210,388
77445	Hong Kong	58.2	13,123,854	22,553,788
*78007	Hong Kong	49.8	1,813	3,640
*79015	Korea	63.6	702,582	1,104,751
79039	Taiwan	88.1	37,212,791	41,756,488
*79060	Taiwan	52.7	446,124	845,811
*79062	Taiwan	55.8	503,875	880,525
79070	Korea	85.7	29,933,048	33,743,704
*79110	Hong Kong	70.2	393,894	468,387
*79117	Peru	97.7	10,990	16,173
79128	India	56.4	8,063,044	14,296,840
79210	Mexico	57.2	1,813,429	3,171,911
79250	Philippines	62.3	4,677,664	7,504,508
79260	Hong Kong	71.0	3,170,096	4,464,977
79275	Hong Kong	80.4	1,443,016	1,796,019

*See List III.

LIST III.—POSSIBLE DE MINIMIS ITEMS

TSUS	Country	Percent of world	Country total	World total
10584	Israel	49.0	$254,690	$601,830
12115	Taiwan	68.9	8,192	12,654
12152	India	60.2	106,364	214,162
13032	Argentina	65.3	401,298	614,859
13040	Argentina	76.1	483,375	617,025
13135	Thailand	97.5	509,328	523,544
13551	Mexico	79.2	701,231	885,374
13580	Nicaragua	91.6	178,411	193,944
13695	Dominican Republic	58.8	81,443	94,179
13702	Dominican Republic	97.9	997,356	1,017,847
13740	Mexico	91.3	710,711	874,294
13789	Dominican Republic	98.6	705,786	715,842
14054	Israel	98.7	140,525	213,510
14135	Turkey	68.9	324,264	525,816
14553	Turkey	91.1	443,745	487,116
14642	Ecuador	76.2	79,397	104,207
14733	Jamaica	90.0	73,799	90,025
14780	Thailand	48.6	89,800	88,914
14785	Brazil	52.9	305,883	634,643
14815	Israel	97.1	40,337	90,087
15200	Jamaica	100.0	1,119	1,119
15230	Dominican Republic	48.5	47,950	98,861
15243	Dominican Republic	89.8	208,830	250,077
15258	India	51.4	446,626	868,763
15278	Honduras	98.8	88,151	89,079
15440	Taiwan	98.0	310,248	309,319
15442	Taiwan	69.5	39,200	56,093
15460	Taiwan	57.4	157,566	274,606
16175	Israel	66.5	115,630	173,897
16211	Syria	48.8	3,700	7,456
16813	Trinidad Island	99.7	541,595	543,663
16836	Peru	100.0	1,116	1,116
16837	Argentina	86.2	47,997	54,662
16841	Peru	100.0	869	869
16842	Yugoslavia	65.2	7,733	11,864
16854	Yugoslavia	77.8	223,946	287,778
16859	Yugoslavia	71.4	48,688	68,182
16861	Yugoslavia	66.0	13,195	20,000
16947	Brazil	100.0	4,218	4,218
17015	Brazil	95.7	177,170	185,051
17670	India	57.7	321,525	557,019
18290	Panama	71.7	791,892	1,104,205
18453	Argentina	66.9	702,062	1,051,064
18465	Taiwan	47.5	116,411	245,117
19065	Bahamas	62.1	80,246	129,862
20320	Taiwan	91.3	36,487	39,967
20545	Haiti	77.3	28,032	36,456
22010	Portugal	98.3	894,556	879,143
22015	Portugal	95.9	70,363	73,367
22035	Portugal	86.8	25,918	29,868
22037	Portugal	95.9	25,967	27,071
22041	Portugal	94.2	49,080	52,062
22234	Taiwan	90.6	83,741	29,948
22236	Taiwan	64.8	158,330	244,451
24010	Brazil	93.0	714,366	768,458

LIST III.—POSSIBLE DE MINIMIS ITEMS—Continued

TSUS	Country	Percent of world	Country total	World total
24092	Brazil	85.2	$ 169,191	$ 198,690
24018	Taiwan	84.0	867,345	1,032,466
24089	Costa Rica	100.0	480	480
24082	Panama	97.9	13,899	14,182
24080	Hong Kong	100.0	503	503
24589	Argentina	100.0	2,462	2,462
25325	Taiwan	100.0	889	889
25460	Portugal	100.0	34,596	34,596
25423	Taiwan	93.0	6,449	6,922
25440	Thailand	99.5	16,046	16,122
25446	Brazil	92.7	62,366	67,202
25448	Brazil	49.1	36,469	74,107
25460	India	74.7	1,860	2,516
30539	Thailand	56.6	351,366	620,429
30525	Thailand	56.2	217,349	387,945
30560	Bangladesh	62.7	702,161	1,120,141
30571	Chile	87.7	10,242	11,675
30572	Argentina	87.1	48,759	56,251
30610	Argentina	100.0	1,352	1,352
30609	Brazil	73.5	270,314	367,926
31530	Portugal	59.5	86,190	144,818
31589	Thailand	95.7	864,256	923,542
31585	Thailand	96.5	166,824	172,980
31580	Thailand	84.2	137,782	163,686
31585	Thailand	51.5	5,527	10,727
31607	India	63.3	96,393	152,372
33589	India	80.2	71,683	89,661
33910	Mexico	63.7	526,996	826,754
35625	Israel	55.7	680,703	1,222,803
36035	India	91.6	904,386	987,151
36121	Philippines	100.0	1,313	1,313
36414	Taiwan	53.8	7,527	13,994
41270	Israel	60.8	341,375	561,062
41286	Mexico	59.1	467,356	791,388
41600	Mexico	56.1	135,700	242,022
41824	India	87.2	312,346	358,066
41878	Mexico	57.1	580,138	1,015,771
41887	Peru	99.9	321,064	321,328
42024	Israel	51.8	275,942	532,734
42078	Israel	95.1	169,953	189,242
42082	Israel	78.8	274,970	347,887
42276	Mexico	100.0	324,964	324,964
42278	Mexico	82.5	644,880	782,016
42285	Mexico	81.6	982,166	1,203,448
42508	Taiwan	87.1	2,600	2,985
42610	Portugal	100.0	1,890	1,890
42715	Argentina	92.6	231,340	249,892
42725	Argentina	74.2	14,997	20,090
43518	Costa Rica	77.7	69,992	90,129
43713	India	68.5	106,551	155,551
43716	India	100.0	156,955	156,955
44510	Malaysia	71.6	178,111	248,903
45010	Singapore	91.3	50,060	61,515
45228	Israel	95.7	54,567	56,997
45518	Colombia	76.1	48,750	64,066
46115	Bermuda	82.3	74,842	90,929
46565	Costa Rica	100.0	1,000	1,000
47338	Cyprus	53.9	11,125	20,639
47356	Mexico	87.1	351,862	403,600
47362	Korea	99.4	466,663	469,668
48012	Malaysia	79.3	176,829	223,058
48030	Israel	100.0	1,158	1,158
48320	Taiwan	99.4	119,367	120,094
51131	Mexico	59.3	419,180	706,676
51151	Mexico	47.3	4,060	8,623
51191	Hong Kong	52.7	4,543	8,623
51434	Mexico	100.0	1,152	1,152
51441	Taiwan	46.5	8,427	17,375
51454	Mexico	79.5	34,804	43,788
51551	Mexico	59.7	9,700	16,246
51624	Brazil	100.0	36,000	36,000
51671	India	91.9	593,299	645,266
51673	India	92.9	50,707	54,564
51674	India	78.4	160,422	209,890
51694	India	63.6	172,420	271,137
52037	India	85.5	31,771	37,179
52271	Somalia	62.7	25,000	39,848
52351	Taiwan	72.8	2,058	2,827
53815	Taiwan	70.2	482,760	687,643
53474	Taiwan	64.3	41715	7,335
53478	Taiwan	47.9	201,055	418,957
54565	Mexico	77.5	680,016	877,308
54565	Taiwan	64.7	621,169	960,372
54741	Hong Kong	74.3	39,662	53,664
60648	Portugal	61.1	747,169	1,222,380
61205	Chile	100.0	91,030	91,030
61215	Mexico	80.0	234,566	293,248
61230	Yugoslavia	95.8	135,784	142,065
62229	Brazil	74.7	73,520	98,453
62434	Mexico	53.0	24,108	45,522
62442	Mexico	83.1	37,662	45,334

LIST III.—POSSIBLE DE MINIMIS ITEMS—Continued

TSUS	Country	Percent of world	Country total	World total
62695	Korea	100.0	$ 3,080	$ 3,080
63260	Bolivia	74.4	419,070	578,853
64245	Mexico	58.9	271,227	460,580
64446	Brazil	96.3	64,025	66,509
64604	Taiwan	97.0	9,000	10,348
64647	Taiwan	85.3	82,414	96,636
64682	Taiwan	53.4	97,376	182,221
64686	Hong Kong	59.6	171,897	288,252
64688	Taiwan	91.1	40,844	44,583
64808	Mexico	75.5	585,500	775,781
64871	Taiwan	70.4	711	1,010
64901	Taiwan	54.5	377,937	693,694
64971	Hong Kong	80.2	4,463	5,567
64973	Korea	77.7	3,673	4,729
64975	Taiwan	83.2	68,254	82,010
65047	Taiwan	85.5	249,460	291,971
65079	Hong Kong	56.6	25,132	44,373
65097	Hong Kong	71.3	77,921	109,300
65101	India	86.8	28,788	41,629
65103	Taiwan	61.8	42,347	68,593
65104	Hong Kong	100.0	786	786
65115	Taiwan	56.1	176,825	315,148
65145	Taiwan	52.3	525,356	1,004,269
65151	Korea	58.0	130,432	224,915
65162	Taiwan	75.8	1,344	1,774
65213	Taiwan	68.3	3,403	4,983
65236	Hong Kong	73.8	75,423	102,188
65245	Hong Kong	94.5	7,936	8,063
65303	Mexico	55.8	337,037	604,236
65347	Taiwan	62.8	500,307	979,286
65370	Taiwan	64.1	40,488	63,122
65620	Hong Kong	48.8	10,740	22,008
65218	Taiwan	100.0	899	899
66832	India	96.3	1,832	2,763
67210	Hong Kong	82.1	692,271	842,942
69464	Romania	98.4	19,740	22,230
70215	Mexico	58.7	701	1,194
70220	Korea	65.7	102,481	248,631
70232	Mexico	67.3	278,580	414,251
70235	Indonesia	79.1	61,421	87,615
70245	Brazil	89.4	25,350	32,840
70434	Taiwan	54.5	22,705	41,674
70495	Philippines	63.1	100,807	197,337
70633	Taiwan	91.7	8,553	10,548
70637	Taiwan	67.3	210,323	312,352
70650	Hong Kong	74.8	156,896	209,694
71005	Israel	98.6	262,299	265,929
71057	Korea	79.0	3,752	4,695
71131	Brazil	79.0	647,791	819,764
71307	Taiwan	81.5	17,570	21,528
71317	Taiwan	78.7	597,864	759,794
71319	Taiwan	59.4	199,980	334,837
72520	India	95.3	96,334	101,072
73029	Philippines	94.6	527,429	558,071
73110	Taiwan	62.3	438,852	705,476
73150	Taiwan	47.6	291,483	609,166
73250	Taiwan	57.8	126,024	219,922
73430	Hong Kong	56.6	309,900	543,536
73434	Hong Kong	62.0	772,948	1,247,601
73460	Taiwan	66.9	184,482	283,984
73471	Taiwan	47.9	190,522	397,762
73472	Taiwan	54.8	580,818	1,060,591
73511	Taiwan	84.1	162,777	217,261
74125	Hong Kong	92.7	90,767	97,758
74550	Taiwan	84.1	9,333	11,201
74570	Taiwan	54.0	58,128	107,501
74812	Haiti	67.0	77,006	115,016
74815	Taiwan	69.0	307,150	444,978
74836	Taiwan	50.6	109,878	216,791
75005	Hong Kong	59.9	146,081	244,320
75050	Korea	57.2	660,998	1,155,295
75110	Taiwan	67.2	30,637	45,586
75115	Taiwan	53.5	11,475	21,486
75120	Taiwan	69.8	754,979	1,080,462
75530	Malta	77.8	416,571	535,309
75623	India	71.0	34,342	48,187
75640	Hong Kong	78.4	8,258	10,534
75645	Hong Kong	87.0	1,030,891	1,183,960
75650	Hong Kong	49.6	9,429	19,018
77435	Hong Kong	53.1	111,744	210,326
79007	Hong Kong	48.8	1,813	3,640
79015	Korea	63.6	706,362	1,104,751
79069	Taiwan	52.7	446,124	845,811
79082	Taiwan	55.8	503,876	902,525
79110	Hong Kong	70.2	322,684	459,367
79117	Peru	97.7	10,950	16,173

LIST IV.—POSSIBLE REDESIGNATION ITEMS

ITSUS	County	Percent of world	County total	World total
11404	Thailand	[illegible]	[illegible]	[illegible]
12135	India	[illegible]	1,776,146	[illegible]
13037	Argentina	[illegible]	277,070	[illegible]
14011	Chile	[illegible]	60,370	[illegible]
14014	Thailand	[illegible]	280,070	[illegible]
14509	Dominican Republic	[illegible]	[illegible]	[illegible]
14822	Turkey	[illegible]	[illegible]	[illegible]
16520	Argentina	[illegible]	41,375,758	[illegible]
16529	Colombia	1.0	[illegible]	[illegible]
16529	Guatemala	[illegible]	[illegible]	[illegible]
16529	Panama	3.7	[illegible]	[illegible]
16529	Swaziland	3.9	[illegible]	[illegible]
16988	Mexico	[illegible]	12,400,103	[illegible]
24021	Philippines	[illegible]	[illegible]	[illegible]
24539	Brazil	[illegible]	[illegible]	[illegible]
31525	Mexico	[illegible]	[illegible]	[illegible]
39961	Taiwan	[illegible]	[illegible]	[illegible]
40212	Brazil	[illegible]	[illegible]	[illegible]
40695	Korea	[illegible]	[illegible]	[illegible]
40708	Argentina	[illegible]	[illegible]	[illegible]
41320	Mexico	[illegible]	[illegible]	[illegible]
41324	Korea	[illegible]	[illegible]	[illegible]
41880	Argentina	[illegible]	[illegible]	[illegible]
42584	Netherlands Antilles	[illegible]	[illegible]	[illegible]
42630	Brazil	[illegible]	[illegible]	[illegible]
42686	Brazil	[illegible]	[illegible]	[illegible]
43784	Brazil	[illegible]	[illegible]	[illegible]
45244	Brazil	[illegible]	[illegible]	[illegible]
52261	Brazil	[illegible]	[illegible]	[illegible]
54553	Mexico	[illegible]	[illegible]	[illegible]
61208	Peru	[illegible]	[illegible]	[illegible]
61208	Zambia	[illegible]	[illegible]	[illegible]
61815	Venezuela	[illegible]	[illegible]	[illegible]
63302	Bolivia	[illegible]	[illegible]	[illegible]
64632	Korea	[illegible]	[illegible]	[illegible]
65149	Taiwan	21.5	[illegible]	[illegible]
67435	Taiwan	[illegible]	1,141,558	[illegible]
67620	Taiwan	6.4	[illegible]	[illegible]
68453	Hong Kong	18.0	[illegible]	[illegible]
68455	Hong Kong	[illegible]	0	[illegible]
68470	Korea	17.0	1,609,791	[illegible]
68540	Taiwan	[illegible]	[illegible]	[illegible]
68730	Malaysia	[illegible]	[illegible]	[illegible]
68843	Hong Kong	41.3	12,377,123	[illegible]
68935	Taiwan	[illegible]	[illegible]	[illegible]
70356	Portugal	45.5	[illegible]	[illegible]
70844	Hong Kong	[illegible]	0	[illegible]
72532	Taiwan	[illegible]	501,620	[illegible]
72723	Taiwan	[illegible]	2,321,324	[illegible]
73091	Mexico	[illegible]	1,849,921	[illegible]
73416	Taiwan	37.2	282,545	[illegible]
73446	Taiwan	45.3	11,010,149	[illegible]
73485	Korea	22.0	125,823	[illegible]
73512	Taiwan	[illegible]	376,014	[illegible]
73723	Taiwan	[illegible]	1,005,361	[illegible]
74125	Hong Kong	[illegible]	[illegible]	[illegible]
77203	Hong Kong	42.7	405,633	1,138,504
79003	Taiwan	27.4	257,324	976,481
		42.5	3,784,225	8,848,547

[FR Doc. 83-1341 Filed 1-17-83; 8:45 am]
BILLING CODE 3190-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan No. 2072; Amdt. 2]

Arkansas; Declaration of Disaster Loan Area

Declaration #2072 (47 FR 57185) and Amendment #1 (48 FR 565) are amended in accordance with FEMA's declaration of December 23, 1982, to include Clay, Desha, Montgomery, and Monroe Counties in the State of Arkansas. All other information remains the same, i.e., the termination dates for filing applications for physical damage is close of business on February 11, 1983, and for economic injury until the close of business on September 13, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 29, 1982.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-1374 Filed 1-17-83; 8:45 am]
BILLING CODE 8025-01-M

[Declaration of Disaster Loan No. 2071; Amdt. 2]

Missouri; Declaration of Disaster Loan Area

The above numbered declaration (47 FR 57185) and Amendment #1 (48 FR 565) are amended by adding the adjacent Counties of Gasconade, Laclede, Madison, Scott and the City of St. Louis in the State of Missouri as a result of damage caused by severe storms, tornadoes and flooding beginning on December 1, 1982. All other

information remains the same, i.e., the termination date for filing applications for physical damage is close of business on February 10, 1983, and for economic injury until the close of business on September 12, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 3, 1983.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-1373 Filed 1-17-83; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Diego will hold a public meeting at 9 a.m., on Monday, February 14, 1983, at the Federal Building, 880 Front Street, Room 2-S-14, San Diego, California, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call George P. Chandler, Jr., District Director, U.S. Small Business Administration, 880 Front Street, Room 4-S-29, San Diego, California (714) 293-5430.

Jean M. Nowak,

Director, Office of Advisory Councils.

January 11, 1983.

[FR Doc. 83-1372 Filed 1-17-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Change in Reimbursement Provided To Financial Institutions Operating on Government Installations

This notice states Treasury's policy with respect to reimbursing financial institutions for providing banking services to Federal agencies in connection with operating offices on Government installations.

As of January 1, 1983, Treasury policy with respect to reimbursing such offices on military installations is:

(1) There will be no Treasury reimbursement for net operating expenses incurred by any military banking facility on a military base.

(2) There will be no Treasury reimbursement to banking offices for furnishing cash to military finance (disbursing) officers.

(3) (a) There will be no Treasury reimbursement for handling Treasury General Account deposits of self-sustaining banking offices and (b) only banking offices which are DOD-certified to be non-self-sustaining will be reimbursed for accepting and handling TGA deposits. Allowance by DOD of free rent and logistic support is essential to the non-self-sustaining certification which will support Treasury reimbursement.

Where reimbursement is provided, the amount will be the net loss reported by the bank in operating the banking office or the cost of servicing the Treasury's General Account, whichever is less.

The policy will be implemented on a phased-in basis after January 1, 1983 for those banks operating on military installations and receiving Treasury reimbursement. At a later date in 1983, the policy will be extended to financial institutions operating on civilian installations such as Government owned or leased buildings, after notice to the Federal agencies and financial institutions concerned.

The policy will also apply to all financial institutions which may, in the future, be authorized and designated to provide services to Federal agencies in connection with operating on Government installations.

Questions concerning this notice may be directed to the Office of the Fiscal Assistant Secretary, Department of the Treasury, Washington, DC 20220. Telephone (202) 566-2633.

Dated: January 12, 1983.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-1304 Filed 1-17-83; 8:45 am]

BILLING CODE 4810-35-M

Internal Revenue Service

Information Returns—Proposed Consolidated Forms 1099—MISC, Statement for Recipients of Miscellaneous Income; Form 1099-G, Statement for Recipients of Certain Government Payments; and Form 1096, Annual Summary and Transmittal of U.S. Information Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed consolidated information returns.

SUMMARY: The Internal Revenue Service is proposing for public comment a consolidation of the 1099/1087 information return reporting series. Under the present system there are 13 Forms 1099, 6 Forms 1087, and a Form 4347. Under the proposed system, there would be 9 Forms 1099 for payments made after 12-31-82.

The proposal includes the following features:

(1) Forms 1087 would be eliminated, and nominess (persons who receive Forms 1099 showing income received on behalf of another person) would file instead another Form 1099 showing the actual owner of the income as the recipient. Copy A of the "nominee" return would be sent to the appropriate Service Center using Form 1096 as the transmittal document with the appropriate nominee box checked.

(2) Form 1099-DIV has been changed so it can be used to report distributions made as a part of a liquidation. Cash payments will be shown in box 8 and noncash distributions in box 9. Box 4 will be used to report the 10% income tax withheld from payments of dividends made after June 30, 1983. Form 1099L has been eliminated. Form 1099-DIV is not illustrated in this notice.

(3) Form 1099-INT has been changed so it can be used to report interest from bearer certificates of deposit. That interest will be shown in box 1 with regular interest. Box 4 would be used to report the 10% income tax withheld from payments of interest made after June 30, 1983. Form 1099-BCD has been eliminated. Form 1099-INT is not illustrated in this notice.

(4) Form 1099-MISC would be used to report the following:

Type of income	Formerly reported on form 1099
Box 1. All types of rent	MISC.
Box 2. Royalties	MISC.
Box 3. Prizes and awards	MISC.
Box 4. Federal income tax withheld	
Box 5. Fishing boat crewmembers' shares	F.
Box 6. Medical and health care payments	MED.
Box 7. Nonemployee compensation	NEC.
Box 8. Direct sales of $5,000 or more	

Box 4 would be used in 1984 to show Federal income tax withheld where the Federal identifying number for the recipient is not furnished or is inaccurate. Forms 1099-F, 1099-MED, and 1099-NEC would be eliminated.

(5) Forms 1099-ASC, OID, PATR, and R would remain basically the same as the 1982 versions and are not illustrated in this notice. However, for 1983 a box for reporting the Federal income tax withheld would be added to Forms 1099-OID, 1099-PATR and 1099-R.

(6) New Form 1099-B, Statement for Recipients of Proceeds from Brokers and Barter Exchanges, will be developed to implement section 6045, as amended by the Tax Equity and Fiscal Responsibility Act of 1982. This form is still being developed and is not included in this notice.

(7) A New form 1099-G, Statement for Recipients of Certain Government Payments, would be developed (primarily for use by government agencies) to report the following:

a. Unemployment compensation,
b. State and local income tax refunds,
c. Agriculture program payments, and
d. Taxable government grants.

Form 1099–UC and 4347 would be eliminated.

(8) Form 1096 would be revised to reflect the consolidated returns. It is shown here primarily to illustrate the nominee return procedure that would replace the use of Forms 1087.

The Service will consider all comments and suggestions when deciding whether to adopt these proposals. Please comment specifically on any anticipated savings or additional costs of filers of Forms 1099.

The regulations under Code sections 6041 through 6050 would be revised accordingly to reflect these reporting requirements if the proposals are adopted.

DATE: Written comments and suggestions should be mailed or delivered by March 4, 1983.

ADDRESS: Written comments and suggestions should be mailed to Chairman, Tax Forms Coordinating Committee, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW., Washington, DC 2024.

FOR FURTHER INFORMATION, CONTACT: Mr. Ray Nolan, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone (202) 566–3601 (not a toll-free telephone number).

SUPPLEMENTARY INFORMATION:

Present Forms

1099–ASC Statement for Recipients of Interest on All-Saver Certificates
1099–BCD Statement for Recipients of Interest on Bearer Certificates of Deposit (would be eliminated and replaced by Form 1099–INT)
1099–DIV Statement for Recipients of Dividends and Distributions
1099–F Statement for Certain Fishing Boat Crewmembers (would be eliminated and replaced by Form 1099–MISC)
1099–INT Statement for Recipients of Interest Income
1099–L U.S. Information Return for Distributions in Liquidation During Calendar Year (would be eliminated and replaced by Form 1099–DIV)
1099–MED Statement for Recipients of Medical and Health Care Payments (would be eliminated and replaced by Form 1099–MISC)
1099–MISC Statement for Recipients of Miscellaneous Income
1099–NEC Statement for Recipients of Nonemployee Compensation (would be eliminated and replaced by Form 1099–MISC)
1099–OID Statement for Recipients of Original Issue Discount
1099–PATR Statement for Recipients (Patrons) of Taxable Distributions from Cooperatives
1099–R Statement for Recipients of Total Distributions from Profit-Sharing, Retirement Plans, and Individual Retirement Arrangements
1099–UC Statement for Recipients of Unemployment Compensation Payments (would be eliminated and replace by Form 1099–G)
1087–ASC, 1087–DIV, 1087–INT, 1087–MED, 1087–MISC, and 1087–OID, have the same titles as their 1099 counterparts. All Forms 1087 would be eliminated.

Department of Agriculture Payments are reported to IRS on tape and are processed without a form number. Form 4347, Information Return by Persons Receiving Program Payments From the U.S. Department of Agriculture, is the equivalent of a Form 1087 for those payments. In the future Form 4347 will be eliminated and replaced by Form 1099–G.

Proposed Forms: 1099–ASC, 1099–B, 1099–G, 1099–DIV, 1099–INT, 1099–MISC, 1099–OID, 1099–PATR, and 1099–R.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the **Federal Register** for Wednesday, November 8, 1978.

Nelson A. Brooke,

Chairman, Tax Forms Coordinating Committee.

BILLING CODE 4830-01-M

For Official Use Only

OMB No.
Statement for Recipients of **1983**
Miscellaneous Income
Copy A
For Internal Revenue Service Center

Type or print PAYER'S name, address ZIP code, and Federal identifying number.

95 ☐

Recipient's identifying number	1 Rents	2 Royalties	3 Prizes and awards	4 Federal income tax withheld
5 Fishing boat proceeds	6 Medical and health care payments	7 Nonemployee compensation	8 If you had direct sales of $5,000 or more, check this box . . . . . ▶ ☐	

Name ▶

Type or print RECIPIENT'S name, address, and ZIP code above (Name must align with arrow).

For Paperwork Reduction Act Notice and instructions on completing this form, see instructions for Form 1096.

Form **1099–MISC** 363–255–1 Department of the Treasury—Internal Revenue Service

OMB No.
Statement for Recipients of
Miscellaneous Income
Copy B
For Recipient

Type or print PAYER'S name, address ZIP code, and Federal identifying number.

Recipient's identifying number	1 Rents	2 Royalties	3 Prizes and awards	4 Federal income tax withheld
5 Fishing boat proceeds	6 Medical and health care payments	7 Nonemployee compensation	8 If you had direct sales of $5,000 or more, check this box . . . . . ▶ ☐	

Type or print RECIPIENT'S name, address, and ZIP code above (Name must align with arrow).

For Paperwork Reduction Act Notice and instructions on completing this form, see Instructions for Form 1096.

Form **1099–MISC** See Back of This Copy for Reporting Instructions 363–255–1 Department of the Treasury—Internal Revenue Service

Instructions to Recipient

Amounts shown on this return are required to be reported to you and to the Internal Revenue Service. They may, or may not, be taxable income to you. If you are an individual, report them on your tax return as follows: (Other taxpayers report the amounts on corresponding lines of your tax return.)

Box 1 and 2.—On Schedule E (Form 1040).

Box 3.—On Schedule C or F if it is trade or business income to you.

Box 4.—This is the Federal income tax withheld from your payments. You may take a credit for the tax withheld in computing your tax.

Box 5.—An amount in this box means the fishing boat operator considers you self-employed. Report this amount on your Schedule C if you are filing as self-employed. If you are not self-employed, report it.

Box 6.—Show this amount on Schedule C (Form 1040).

Box 7.—Generally these amounts are considered income from self-employment. Report them as part of your trade or business income on Schedule C or F (Form 1040). If you are not self-employed, amounts paid to you for services rendered are generally reported on Form 1040 on the line for Wages, Salaries, Tips, etc.

Box 8.—An entry in this box means sales to you of consumer products on a buy-sell, deposit-commission, or any other basis for resale, have amounted to $5,000 or more. The person filing this return does not have to show a dollar amount in this box.

See Publication 533, Self-Employment Tax for more information on amounts considered self-employment income. Further, since no income on social security taxes will be withheld by the payer you may be required to make a declaration of estimated taxes. See Form 1040–ES Declaration of Estimated Tax for Individuals.

☆ U.S. GOVERNMENT PRINTING OFFICE : 1981—O-363-255

363–255–1

OMB No.
Statement for Recipients of

Miscellaneous Income

Copy C
For Payer

Type or print PAYER'S name, address ZIP code, and Federal identifying number.

Recipient's identifying number	1 Rents	2 Royalties	3 Prizes and awards	4 Federal income tax withheld

5 Fishing boat proceeds	6 Medical and health care payments	7 Nonemployee compensation	8 If you had direct sales of $5,000 or more, check this box . . . . . ▶ ☐

Type or print RECIPIENT'S name, address, and ZIP code above (Name must align with arrow).

For Paperwork Reduction Act Notice and instructions on completing this form, see Instructions for Form 1096.

Form **1099–MISC** 363–255–1 Department of the Treasury—Internal Revenue Service

OMB No.
Statement for Recipients of **1983**
Certain Government Payments
Copy A
For Internal Revenue Service Center

Type or print PAYER'S name, address, ZIP code, and Federal identifying number

Recipient's identifying number	1 Unemployment compensation	2 Income tax refunds	3 Taxable grants	4 Federal income tax withheld

Type or print RECIPIENT'S name, address, and ZIP code below.

5 Agriculture payments

For Paperwork Reduction Act Notice see Instructions for Form 1096.

Form **1099–G** 363–117–1

Department of the Treasury—Internal Revenue Service

OMB No.
Statement for Recipients of **1983**
Certain Government Payments
Copy B
For Recipient

Type or print PAYER'S name, address, ZIP code, and Federal identifying number

Recipient's identifying number	1 Unemployment compensation	2 Income tax refunds	3 Taxable grants	4 Federal income tax withheld

Type or print RECIPIENT'S name, address, and ZIP code below.

5 Agriculture payments

This information is being furnished to the Internal Revenue Service

Form **1099–G** 363–117–1

Department of the Treasury—Internal Revenue Service

OMB No.
Statement for Recipients of **1983**
Certain Government Payments
Copy C
For Payer

Type or print PAYER'S name, address, ZIP code, and Federal identifying number

Recipient's identifying number	1 Unemployment compensation	2 Income tax refunds	3 Taxable grants	4 Federal income tax withheld

Type or print RECIPIENT'S name, address, and ZIP code below.

5 Agriculture payments

For Paperwork Reduction Act Notice see Instructions for Form 1096.

Form **1099-G** 363-117-1

Department of the Treasury—Internal Revenue Service

For Official Use Only

OMB No.

Form **1096** Department of the Treasury Internal Revenue Service

Annual Summary and Transmittal of U.S. Information Returns

▶ For Paperwork Reduction Act Notice, see Instructions for Form 1096.

1983

Enter in the appropriate space below the identifying number you used as the payer on the attached information returns. Do not fill in both numbers.

Enter number of documents

69 ☐ E. I. number | Social security number

Type or print PAYER'S name, address, and ZIP code below (Name must align with arrow.)

Name ▶

Place an "X" in the proper box to identify type of document being transmitted

1099 ASC 84	NONEMPLOYEE COMP RSC 73	1099 DIV 91	NONEMPLOYEE COMP DIV 71	1099 INT 92	NONEMPLOYEE COMP INT 72	1099 MISC 95	NONEMPLOYEE COMP MISC 77	1099 PATR 97	1099 R 96

If you are a nominee transmitting Forms 1099 that were used to report payments received by you on behalf of another use a separate Form 1096 and be sure to check the "nominee" block only.

(Magnetic tape filers: See the applicable Revenue Procedures regarding transmittal of returns on magnetic tape.)

Under penalties of perjury, I declare that I have examined this return, including accompanying documents and to the best of my knowledge and belief, it is true, correct, and complete. In the case of documents without recipients' identifying numbers I have complied with the requirements of the law by requesting such numbers from the recipients, but did not receive them.

Signature _____ Title _____ Date _____

363-296-1

Note: Form 1096 as shown here is for purposes of illustrating how the "nominee" form will be used. Forms 1099-G, 1099-B, and 1099-OID will appear on the 1983 form. The Service is also considering the addition of "total" boxes to reconcile money fields to the Form 1096.

EXCERPT FROM

1983 Department of the Treasury
Internal Revenue Service

Instructions for Form 1096

Unless otherwise noted, references are to the Internal Revenue Code.

Paperwork Reduction Act Notice.—We ask for the information to carry out the Internal Revenue laws of the United States. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

Highlights

For 1983, we have made some important changes. First, certain Forms 1099 have been consolidated:

1982 forms	1983 forms
1099–ASC	1099–ASC
1099–PATR	1099–PATR
1099R	1099R
1099–DIV	1099–DIV
1099L	" "
1099–INT	1099–INT
1099–BCD	" "
1099–OID	1099–OID
1099–MISC	1099–MISC
1099–NEC	" "
1099–F	" "
1099–MED	" "
1099–UC	1099–G
Form 4347	" "

Second, Forms 1087 have been eliminated. Form 1099 will be used for both regular 1099 reporting and also for nominee payments (formerly reported on Form 1087). When submitting forms to the Service Centers, you must use separate Forms 1096 to submit nominee forms. There will be no Forms 1087 for 1983.

Third, the Tax Equity and Fiscal Responsibility Act of 1982 added additional reporting requirements:

a. Withholding on dividends and interest.—A box has been added to Forms 1099–DIV, INT, and PATR to report amounts withheld.

b. Withholding on pensions and annuities.—A box has been added to Form 1099–R.

c. State and local income tax refunds.—A new Form 1099–G, Statement for Certain Government Payments, will be used.

d. Loans from retirement plans treated as distributions.—This required no change in the reporting form, but payers should be aware of the provision. See the 1099–R instructions.

e. Original issue discount.—The computation rules have been changed from monthly rates of inclusion to a daily rate. See Pub. 550, Investment Income and Expenses, for more information.

f. The definition of reportable interest has been changed.

g. Obligations issued after December 31, 1982 must be in a registered form or the interest paid on them is not tax-exempt.

h. "Backup withholding" will go into effect on 1/1/84. A box has been added to Form 1099–MISC and Form 1099–G to report the withholding. This box should not be used in 1983. It was added early to facilitate the writing of programs.

[FR Doc. 83–1131 Filed 1–17–83; 8:45 am]
BILLING CODE 4830–01–C

Office of the Secretary

[Department Circular Public Debt Series—No. 1–83]

Treasury Notes of January 31, 1985; Series Q–1985

Washington, January 13, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,250,000,000 of United States securities, designated Treasury Notes of January 31, 1985, Series Q–1985, Series Q–1985 (CUSIP No. 912827 PB 2). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated January 31, 1983, and will bear interest from that date, payable on a semiannual basis on July 31, 1983, and each subsequent 6 months on January 31 and July 31 until the principal becomes payable. They will mature January 31, 1985, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2 The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest therof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4 Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1 Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, January 19, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, January 18, 1983, and received no later than Monday, January 31, 1983.

3.2 Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3 Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ¼ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in

part, to allot more or less than the amount of securities specifiied in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, January 31, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, January 27, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the secruities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83-1457 Filed 1-14-83; 2:47 pm]
BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 12
Tuesday, January 18, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting, Thursday, January 20, 1983

January 13, 1983.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, January 20, 1983, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1—Petition for Reconsideration in the Gilbert Broadcasting Corporation, Newark, New Jersey comparative AM radio proceeding (Docket Nos. 20407-10).

Hearing—2—Application for Review of a final Review Board Decision and related pleadings in the Fort Myers Beach, Florida FM proceeding (Docket Nos. 80-205 and 80-207).

Hearing—3—Application for Review of Designation Order in the Vine & Branch, Inc., Roanoke, Virginia UHF television comparative proceeding (BC Docket Nos. 82-804 to 82-807).

These items are closed to the public because they concern adjudicatory Matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission: Hearing Items 1, 2 and 3, January 13, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp, voting to consider these items in Closed Session.

Issued: January 13, 1983.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S5 Filed 1-14-83; 3:00 pm]
BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, January 20, 1983

January 13, 1983.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, January 20, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Amendment of Part 83 of the Commission's rules to conform with the International Maritime Satellite Organization (INMARSAT) requirements. *Summary:* The Commission will decide whether to adopt a *Report and Order* which amends the Commission's rules and policies to conform with the INMARSAT requirements for maritime mobile-satellite ship stations.

General—2—*Title:* Further Notice of Proposed Rulemaking to amend Part 2 of the Commission's Rules to provide for an allocation of 6 MHz to the Government and non-Government for fixed service usage. (General Docket No. 82-243) *Summary:* The FCC is proposing to allocate the frequency bands 932-935 MHz, paired with 943-946 MHz, for fixed services to be shared on a co-equal, co-primary basis between Government and non-Government users. The FCC had previously planned to use the 899-902 MHz and 938-941 MHz bands for this purpose, but proposed use of the 898-902 MHz and 937-941 MHz bands by a new personal radio service would preclude fixed service use of these bands. Accordingly, a change in frequency bands for fixed services is being proposed.

General—3—*Title:* Requirements for Licensed Operators in Various Radio Services. *Summary:* The Commission will consider whether or not to adopt a Notice of Proposed Rule Making to eliminate licensed operator requirements in various radio services.

General—4—*Title:* Notice of Proposed Rulemaking to allocate spectrum for the establishment of a nationwide public air-ground telephone system. *Summary:* The Commission will consider the merits of RM-3524, filed by Airfone, Inc. and RM-3885, filed by Aeronautical Radio, Inc. Each petitioner has requested the allocation of spectrum in the 900 MHz region to establish a nationwide public air-ground telephone system.

Private Radio—1—*Title:* Amendment of Part 90 of the Commission's Rules and Regulations to Eliminate Certain restrictions on Non-voice Operations in the Private Land Mobile Radio Services. *Summary:* The Commission will consider whether to adopt a Report and Order which would relax two limitations on Private Land Mobile operations: (1) A two second limitation on non-voice communications; and (2) the secondary status of non-voice to voice communications.

Private Radio—2—*Title:* Temporary Permit for additional users of multiply-licensed mobile relay stations (repeaters) in the General Mobil Radio Service (GMRS). *Summary:* The Commission will consider whether or not to adopt final rules to provide for a Temporary Permit for certain users in the GMRS.

Private Radio—3—*Title:* Use of volunteers to prepare and administer operator examinations in the Amateur Radio Service. *Summary:* The Commission will consider whether or not to adopt a Notice of Proposed Rule Making to allow the use of volunteers for preparing and administering amateur radio examinations.

Private Radio—4—*Title:* Establishment of a class of amateur operator license not requiring proficiecy in the Morse code. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rule Making proposing to amend part 97 of the Rules to establish a class of amateur radio operator license that would not require applicants to demonstrate proficiency in the international Morse code.

Private Radio—5—*Title:* Inquiry in the matter of creation of an additipnal personal radio service. *Summary:* The Commission will consider whether to propose rules to create a new Citizens Band Land Mobile Private Radio Communications Service (PRCS) in the 898-902 MHz and 937-941 MHz bands.

Private Radio—6—*Title:* Notice of Proposed Rule Making to provide for the use of facsimile by the maritime mobile service. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rule Making to include in its rules provisions permitting use of the facsimile mode of communications between high seas vessels and the shore using frequencies between 2 and 27.5 MHz.

Private Radio—7—*Title:* Amendment of Part 87 of the rules to provide a transition period for the removal of the A3 class of emission (voice) from aeronautical radiobeacon stations. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rule Making which proposes to change the class of emission and emission designator authorized for the use at aeronautical radiobeacon stations. The action is necessary to make additional spectrum available for reassignment and to permit frequency assignments consistent with recommendations of the Federal Aviation Administration. The intended effect is to alleviate a frequency congestion problem associated with radiobeacon stations.

Common Carrier—1—*Title:* Amendment to the Uniform System of Accounts to revise Sections 31.2–21(e) and 31.100:4 (c)(3) of part 31 of the Commission's Rules and Regulations. *Summary:* The Commission will consider whether to adopt a Report and Order which raises the dollar amounts contained in the referenced sections thereby reducing the number of instances when carriers must obtain Commission approval of journal entries.

Common Carrier—2—*Title:* Amendment of Annual Report Form M for telephone companies to reflect changes in the depreciation techniques approved in Docket No. 20188. *Summary:* The Commission will consider whether to adopt a Report and Order amending the Annual Report Form M for telephone companies. The amendments are required to reflect changes in the carriers depreciation practices provided for the Docket No. 20188.

Common Carrier—3—*Title:* Application of Puerto Rico Telephone Company to be certified as an interstate and foreign carrier. *Summary:* The Commission will consider whether to certify the Puerto Rico Telephone Company (PRTC) under Section 214 of the Communications Act as an interstate and foreign carrier. PRTC wants to provide telephone service between Puerto Rico and points in and reached via the U.S. maintland and between Puerto Rico and the Virgin Islands.

Common Carrier—4—*Title:* Application of Puerto Rico Communications Authority for authority to provide off-island Telex and mailgram services. *Summary:* The Commission will consider whether to authorize the Puerto Rico Communications Authority to provide record communication services between Puerto Rico and the U.S. mainland.

Common Carrier—5—*Title:* Application of Puerto Rico Puerto Telephone Company to provide telephone service between Puerto Rico and Canada. *Summary:* The Commission will consider whether to authorize the Puerto Rico Telephone Company (PRTC) to acquire and operate up to 12 leased circuits for telephone service between Puerto Rico and Canada via the U.S. mainland.

Common Carrier—6—*Title:* AT&T and the BSOCs (Resale and Sharing of Interastate WATS Used for Completion of Interstate Communications). *Summary:* Satellite Business Systems (SBS) has filed a petition for a declaratory ruling by the Commission that the Bell System Operating Companies (BSOCs) should not refuse WATS connections within a state to carriers which intend to resell the service to endusers as a link in through interstate communications—despite any resale restrictions in the BSOCs' intrastate WATS tariffs. Other non-Bell interstate carriers, including Western Union, MCI, ARINC, and several certificated interstate resale carriers, have filed comments in support of SBS's petition; ARINC and the resellers advocate that the ruling be framed so as to encompass restrictions on shared use—as well as resale—of WATS for interstate distribution of interstate communications, whether by other common carriers or by private entities. AT&T (on behalf of the BSOCs), NARUC, and several state utilities commissions have filed in opposition. AT&T and NARUC urge the Commission to permit the BSOCs to continue to enforce resale and sharing restrictions on intrastate WATS used in interstate communications, until such time as the BSOCs shall have revised their interastate WATS rates to be more usage-sensitive.

Video—1—*Title:* Request by the New York State Teachers' Retirement System for a waiver of the 1% ownership benchmark of the Commission's multiple ownership rules (Sections 73.35, 73.240, and 73.636) and the cable television cross-ownership rule (Section 76.501). *Summary:* The Commission will consider whether the petitioner is a sufficiently passive investor to be afforded the 5% ownership benchmark that presently applies to insurance companies, banks, and investment companies.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: January 13, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–08 Filed 1–14–83; 3:07 pm]

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VOL

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federal register

Tuesday
January 18, 1983

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Permanent Regulatory Program; Submission of State Programs, Procedures and Criteria for Approval or Disapproval of State Programs and Small Operator Assistance

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 731, 732, and 795

Permanent Regulatory Program; Submission of State Programs, Procedures and Criteria for Approval or Disapproval of State Programs and Small Operator Assistance

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is amending its rules which relate to State Program submission requirements and approval or disapproval criteria for Small Operator Assistance, and which relate to revised standards for administration of the Small Operator Assistance Program (SOAP) under a permanent State regulatory Program or Federal regulatory program. The purpose of the revisions is to provide States with the flexibility needed for compliance with Section 507(c) of the Surface Mining Control and Reclamation Act of 1977.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Douglas Growitz, Division of State Program Assistance and Evaluation, Office of Surface Mining, U.S. Department of Interior, Phone (202) 343-8104.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Rules Adopted and Responses to Public Comments on Proposed Rules.
III. Procedural Matters.

I. Background

On June 25, 1982 (47 FR 27744), OSM proposed revisions to its Small Operator Assistance Program rules in 30 CFR Part 795 and revisions to allow States to determine for themselves the best way of meeting the small operator assistance requirements of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act). Public comments were received until July 26, 1982.

The Act requires the implementation of permanent programs to regulate surface coal mining and reclamation operations in each State where coal is or may be mined. The Small Operator Assistance Program is authorized under Sections 201, 501, 502, and 507(c) of the Act. Section 401(b)(1) of the Act provides for a maximum of ten percent of the fees assessed on the production of coal for the abandoned Mine Land reclamation program to be made available for the SOAP. Furthermore, funds from the abandoned Mine Lands Reclamation Fund for the SOAP cannot exceed $10,000,000 during any year. Section 507(c) of the Act authorizes assistance to any coal surface mining operator whose probable total annual production at all locations will not exceed 100,000 tons. If the operator is found eligible, a qualified laboratory will provide the determination of probable hydrologic consequences and the statement of results of test borings or core sampling required by Sections 507(b)(11) and 507(b)(15) of the Act.

This document contains revisions to rules so that the regulatory authority, under an approved State or Federal permanent regulatory program, will regulate and administer the SOAP.

II. Rules Adopted and Responses to Public Comments on Proposed Rules

A. State Program Submission Requirements

Part 731 prescribes the minimum requirements for State program submission. Previous § 731.14(g)(16) is being amended by revising the requirement that a State program include a small operator assistance grants component. It will require the State's submission to include a narrative description of how the State will meet the requirements of Section 507(c) of the Act to provide for small operators a determination of the probable hydrologic consequences of mining and a statement of the results of test borings or core samplings. Thus, under the revised rule, States will have the option of requesting grant assistance for funds appropriated for the SOAP and establishing a Small Operator Assistance Program in accordance with the requirements in new Part 795 which are discussed below or proposing alternative ways to meet the requirements of Section 507(c) of the Act. This revision recognizes that there are a variety of mechanisms through which the State may provide the required section 507(c) analyses and statements, including use of the State's existing technical staff, without requiring the States to participate in the SOAP grants program. Costs for providing SOAP services using alternative mechanisms would be eligible for funding under the State's Administration and Enforcement grant as outlined in 30 CFR Part 735. Overall, this change is expected to be particularly significant in those States that have relatively few and intermittent small operations, and where the administrative expense involved with staffing, administering, and maintaining a separate SOAP grants program may exceed the benefits from the program.

No comments were received on this paragraph which is adopted as proposed.

B. Criteria for Approval or Disapproval of State Program Submissions

Part 732 contains the criteria for approval or disapproval of state programs. A companion to the change in § 731.14, § 732.15(b)(13) is amended to require small operator assistance provisions in State programs. Unlike the previous § 732.15(b)(13), such provisions will not have to parallel the SOAP program under 30 CFR Part 795. Under the new rule, State program submissions will be evaluated on their merits, whether they are similar to Part 795 or contain alternative mechanisms for meeting the requirements of section 507(c) of the Act.

No comments were received on this paragraph which is adopted as proposed.

C. Small Operator Assistance

The rules for small operator assistance in 30 CFR Part 795 are removed from Subchapter G, which contains the procedures regarding permitting and coal exploration and added as a new separate Subchapter H. The CFR part designation, Part 795, remains the same. This change recognizes that small operator assistance is a separate program and not a part of the permit requirements for surface coal mining and reclamation operations.

The regulations in 30 CFR Part 795 establish procedures for providing assistance to eligible small operators to obtain technical data required for permit applications under the permanent regulatory program. Comments on the proposed regulations were received from eight commenters and are discussed below.

Two commenters recommended that general editorial changes be made in the proposed rule. The first commenter suggested that the sections of the proposed rule be numbered sequentially for the sake of clarity. OSM accepts this suggestion. Accordingly, §§ 795.10 and 795.11, as proposed, are renumbered as final §§ 795.4 and 795.5, respectively. Sections 795.13, 795.14, 795.15, 795.16, 795.17, 795.18, and 795.19 of the proposed rule are renumbered as §§ 795.6, 795.7, 795.8, 795.9, 795.10, 795.11 and 795.12 of the final rule. The second commenter felt that all references to "he or she" and "his or her" in the proposed rules should be replaced by the usual and customary usage of "he". This suggestion was not adopted. It is no longer customary to refer to one gender

when people of both sexes may apply for assistance.

Section 795.1

Section 795.1, as proposed, contained a general statement of the scope and purpose of the rules governing the Small Operator Assistance Program (SOAP). It provided that the part comprises the small operator assistance program (SOAP) and governs the procedures for providing assistance to qualified small mine operators by the program administrator. That statement has been adopted with two editorial changes, one of which replaces the phrase "qualified small mine operators" with the term "eligible operators."

One commenter noted that § 795.1 of the proposed rule failed to explain the purpose of the SOAP. OSM agrees with this comment and a statement of purpose has been added. The new § 795.1 makes clear that Part 795 is an *elective* means for a regulatory authority to satisfy the requirements of Section 507(c) of the Act. The stated purpose is to provide eligible operators with a determination of probable hydrologic consequences and a statement of results of test borings or core samplings that must be submitted with a permit application.

Section 795.2

Section 795.2, as proposed, would have stated that OSM could elect to implement a Federal Small Operator Assistance Program (SOAP) in a State under three circumstances. Under proposed § 795.2(a), OSM had the option to implement a Federal SOAP in a State which had declared its intention not to submit a permanent regulatory program. Section 795.2(b), as proposed, allowed OSM to implement a Federal SOAP in a State which has received final disapproval of its permanent regulatory program if the State has failed to indicate its intention to file again for permanent program approval. Under § 795.2(c), as proposed, OSM could choose to implement a Federal SOAP in a State which requests OSM to implement an interim program on behalf of the State. Upon further consideration, OSM has determined that it is not necessary to adopt a section in Part 795 that provides for the implementation of a Federal SOAP. The provisions of 30 CFR Parts 733 and 736 already allow a Federal SOAP to be established if required and an additional section would be repetitive.

One commenter recommended that a new paragraph be added to § 795.2 of the proposed rule. Paragraph (d), as suggested by the commenter, would allow for the implementation of a Federal SOAP in a State which "requests OSM to implement the Program based on a demonstration that the State has relatively few, if any, requests for assistance." The commenter advocated the addition of such a provision to the proposed rule since the administrative expenses of staffing, administering, and maintaining a separate Federal grants program would exceed the benefits to be derived from such a program in States having few, if any, requests for SOAP assistance. This commenter contended that his proposed alternative would only require OSM to administer the program since efforts to identify data requirements could be coordinated by the State and OSM.

OSM has not accepted this suggestion. In amending § 731.14(g)(16) OSM has indicated it will evaluate and consider all reasonable alternatives by a State to provide for small operator assistance. OSM does not require a separate organization within the structure of the regulatory authority to provide services to a limited number of small operators, but requires only that the mechanism to provide services be in place. For example, one unit within the regulatory authority could be responsible for other functions as well as small operator assistance. This flexibility is being provided specifically so that states with few requests for assistance can satisfy the mandate of Section 507(c) of the Act without setting up a separate formal SOAP.

Section 795.3

Section 795.3, as proposed, specified definitions for the terms "program administrator" and "qualified laboratory." Final § 795.3 defines the State or Federal official having authority and responsibility for overall management of the SOAP to be the "program administrator."

The new rule also defines a "qualified laboratory" to include any designated public agency, private firm, institution, or analytical laboratory which can prepare the required determination of probable hydrological consequences or statement of results of test borings or core samplings under the SOAP.

One commenter felt that the definition of "probable hydrologic consequences" ought to be reinserted into the final version of § 795.3 since the term was not defined elsewhere in the rules. This commenter argued that such a definition was necessary to provide guidance on the objectives to be achieved by the SOAP.

An explanation of what is needed for a probable hydrologic consequences determination will be provided in the revisions to § 780.21(g) and 784.14(g) which are being accomplished in a separate rulemaking and is also included in the existing permitting regulations. To discuss the concept again here would be redundant.

Section 795.4

Proposed § 795.10 provided that the information collection requirements contained in proposed § 795.14, 795.15, and 795.17 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0014, 1029–0060, and 1029–0062.

No comments were received on this section. This section is being renumbered as § 795.4 for the final rule and is discussed in more deatail in the Procedural Matters portion of this preamble.

Section 795.5

Under § 795.11, as proposed, a State intending to administer a SOAP under a grant from OSM could submit a grant application to OSM for funding of the program under the procedures of 30 CFR Part 735.

No comments were received on this section. This section is being adopted and renumbered as § 795.5 for the final rule.

Section 795.6

Section 795.13, as proposed, set forth the criteria governing an applicant's eligibility for assistance under SOAP. This section is being renumbered as § 795.6 for the final rule. New section 795.6 renders an applicant eligible for assistance if he or she meets all four of the criteria of paragraph (a). The first criterion requires that an applicant intend to apply for a permit under the Act. This is contained in § 795.6(a)(1).

The second set of criteria are contained in § 795.6(a)(2) which was proposed as § 795.13(a)(2). Under § 795.6, an applicant is eligible for assistance if he or she establishes that his or her probable total actual and attributed production from all locations will not exceed 100,000 tons during any consecutive 12-month period either during the term of his or her permit or during the first five years after issuance of his or her permit, whichever period is shorter.

One commenter felt that the phrase, "during the term of his or her permit" in §795.13(a)(2) of the proposed rule ought to be described to a greater extent. The same commenter asked whether the term of the permit expires when the operator has completed mining or when the bond has been released.

Permits are issued for specified terms not to exceed five years except when longer terms are authorized by the regulations. Complete bond release is not tied specifically to the permit term and occurs only after completion of all mining and reclamation activities and not before the end of the 5- or 10-year period of extended liability. Under new §§ 795.6(a)(2) and 795.12(a)(2), operator liability under the SOAP is related to total production after the permit is issued for a period not to exceed five years.

Specific provisions governing the attribution of production are also included for purposes of determining eligibility for SOAP assistance under new §§ 795.6(a)(2)(i) through 795.6(a)(2)(iv).

Referring to the standards for attribution of production in proposed § 795.13(a)(2), one commenter disputed the view expressed by OSM in the preamble to the proposal (47 FR 27745–27750, June 25, 1982) characterizing the proposed regulations as "more concrete and easier to apply." This commenter contended that the Act authorized OSM to promulgate rules which would approve individual State eligibility standards that comply with the 100,000 tons per year limitation provided in Section 507(c). The same commenter asserted that § 795.14(b), as proposed, took away the States' option to establish their own eligibility standards by requiring State regulatory authorities to comply with OSM's criteria on eligibility for assistance. On the latter point, the commenter felt that OSM should not expect coal-producing States to budget monies for SOAP beyond OSM's existing or proposed eligibility standards in view of the severe budget restraints on the States.

OSM believes that it has the authority and responsibility under the Act to set minimum standards, in this instance relating to eligibility. States in turn can develop eligibility standards that are no less effective than those established in this rulemaking and be fully reimbursed through the grants programs. Since Part 795 is an elective means of complying with Section 507(c) of the Act, setting less stringent standards for eligibility is not strictly prohibited. However, under new § 795.6(b), such alternative criteria may not be used as the basis for SOAP grant requests which exceed those that would be authorized under the criteria prescribed under § 795.6(a).

Under paragraph (i) of the proposed rule, the pro rata share of coal produced by operations in which the applicant owns more than a 5-percent interest must be attributed to the applicant.

No comments were received on § 795.6(a)(2)(i) and this paragraph is adopted as proposed.

Paragraph (ii) of the proposed rule required that the pro rata share of coal produced in other operations by persons owning more than 5 percent of the applicant's operation shall be attributed to the applicant, but only to the extent of the percentage of ownership of those operations. Paragraph (iii) of the proposed rule provided that all coal produced by operations owned by persons who directly or indirectly control the applicant by reason of ownership or direction of the management shall be attributed to the applicant, but only to the extent of the percentage of ownership of those operations.

One commenter complained that the criteria for determining eligibility for assistance under § 795.13(a)(2)(iii), as proposed, were still unclear. This commenter noted that although paragraph (iii) of the proposed rule seemed to overlap proposed paragraph (ii) with respect to a person owning the applicant's operation, the former provision omitted the five percent criterion. Paragraphs (ii) and (iii) have been restructured. Paragraph (ii) describes control through ownership, while paragraph (iii) describes control through direction of management. The 5 percent criterion is not included in new § 795.6(a)(2)(iii) because under that paragraph control of the applicant will not be specifically related to a fixed ownership percentage. Program administrators will be expected to examine carefully to determine whether indirect control of the applicant exists in fact, for instance, through contract mining arrangements.

The proposed references to "(A)ll coal produced * * * but only to the extent of the percentage of ownership of those other operations" was criticized by one commenter. OSM agrees with this comment in part. A change has been made to new § 795.6(a)(2) (ii) and (iii) which does not adopt the phrase "but only to the extent of the percentage of ownership of those operations." OSM believes that determination of the percentage of ownership of any operation other than the one for which the permit is sought becomes unnecessarily complex. Furthermore, the ownership information for outside operations may not be available to the regulatory authority.

One example illustrates the applicability of § 795.6(a)(2)(ii). Where a person who owns ten percent of the applicant also owns 50 percent of the production at another mine, the applicant must attribute to its operation ten percent of the entire production of the other mine. Although there could be other methods of determining the attributable production (*e. g.* 10 percent of 50 percent of the other mine's production, as was proposed), the method adopted is simple to administer and enables the regulatory authority to avoid considering the often complex and confusing ownership web of the other operations. This final provision is similar to but less restrictive than § 795.13(b)(3) of the previous rules.

Under paragraph (iv) of the proposed rule, all coal produced by operations owned by members of the applicant's family and their relatives had to be attributed to the applicant, unless it is established that there is no direct or indirect business relationship between or among them.

One commenter felt that the reference to "family and their relatives" in § 795.13(a)(2)(iv), as proposed, ought to be more specifically described. Accordingly, this commenter suggested that the proposed rule be revised to refer to the "applicant's family and their relatives who live under the same roof as the applicant."

OSM believes this suggestion would place too restrictive an interpretation on this term and could result in abuse and financial loss in the Program. The term family and relatives is commonly meant to include those persons related by blood or marriage. OSM deems this to be an appropriate interpretation as it may relate to attributed production in the SOAP and the proposed section is included in § 795.6(a)(iv).

Section 795.13(a)(3), as proposed, provided that an applicant is eligible for SOAP assistance if he or she is not restricted in any manner from receiving a permit under the permanent regulatory program. This was intended to deny assistance to those applicants who would be ineligible to receive permits, for instance, in cases of non-payment of reclamation fees required under Title IV of the act or where other necessary permit findings could not be made by the regulatory authority.

No comments were received and this paragraph is adopted as proposed in new § 795.6 (a) (3).

As proposed, §795.13(a)(4) precluded an applicant from being eligible for SOAP assistance if he or she organizes or reoganizes his or her company solely for the purpose of obtaining assistance.

No comments were received and this paragraph is adopted as proposed as new § 795.6(a)(4).

Under § 795.13 (b), as proposed, a State could provide alternate criteria or

procedures for determining the eligibility of an operator under the program, provided that such criteria may not be used as a basis for grant requests in excess of that which would be authorized under the criteria of paragraph (a) of proposed § 795.13. This paragraph has been adopted as § 795.6 (b).

Section 795.7

Section 795.14, as proposed, established the requirements for filing SOAP assistance applications. This section is being renumbered as § 795.7 for the final rule.

Proposed § 795.14 (a) required each application for assistance to include a statement of the operator's intent to file a permit application. No comments were received and this paragraph is adopted as proposed as § 795.7 (a).

Section 795.14(b), as proposed, provided that each application for assistance shall include the names and addresses of (1) the permit applicant, and (2) the operator if different from the applicant. No comments were received and this paragraph is adopted as proposed as § 795.7(b).

Section 795.14(c), as proposed, required an application for SOAP assistance to include a schedule of the estimated total production of coal from the proposed permit area and all other locations from which production is attributed to the applicant under proposed § 795.13. Proposed § 795.14(c) also specified four informational requirements which must be included in the schedule for each location: (1) The operator or company name under which coal is or will be mined; (2) the permit number and Mine Safety and Health Administration (MSHA) number; (3) the actual coal production during the year preceding the year for which the applicant applies for assistance and production that may be attributed to the applicant under proposed § 795.13; and (4) the estimated coal production and any production which may be attributed to the applicant for each year of the proposed permit. No comments were received on proposed § 795.14(c) which is adopted as proposed as new § 795.7(c).

Section 795.14(d) (1) and (2) of the proposed rule required each application for SOAP assistance to include descriptions of the proposed method of coal mining and the anticipated starting and termination dates of mining operations. No comments were received on these paragraphs which are adopted as proposed as new § 795.7(d) (1) and (2).

As proposed, § 795.14 (d)(3) provided that an application for assistance shall contain a description of the number of acres of land to be affected by the proposed mining operation. Under § 795.14(d)(4) of the proposed rule, the application was required to provide a general statement on the probable depth and thickness of the coal resource, including a statement of reserves in the permit area and the method by which they were calculated. Section 795.14(d)(5), as proposed, required a description of the mining equipment that will be used to be included in an application for assistance.

One commenter suggested that § 795.14 (d)(3) and (d)(4) be eliminated from the rule, as finally adopted, to simplify the operator's task of preparing an application for SOAP assistance. According to this commenter, elimination of the requirements would allow the operator to complete the application on his own. The commenter also observed that the laboratory could provide information on these items during the data collection stage.

Another commenter recommended that OSM seriously consider whether a statement of reserves in the permit area and a description of the mining equipment that will be used are really necessary to determine the reasonable accuracy of the operator's production information. This commenter characterized the information as proprietary and in most cases, sensitive. For this reason, the commenter felt that OSM should assure confidential treatment for such data as well as provide strict limitations on its use.

OSM agrees with these comments in part. Provisions have been adopted in § 795.7(d) (3) and (4). The information requirement of new § 795.7(d)(3) deals with the permit area, should be readily known, and is needed in defining the scope of the SOAP services to be provided. The information required in paragraph (d)(4) is a general statement and in many cases can be developed by the applicant. As discussed in the preamble to the proposed rule, this information is valuable in substantiating estimated production and thereby reducing the potential for initiating reimbursement procedures. OSM views this as protection for the applicant as well as for the regulatory authority. Finally OSM will assure that the information pertaining to the coal seam itself is exempt from public disclosure in accordance with provisions in 30 CFR 786.15. The provision in proposed § 795.7(d)(5) on mining equipment has not been adopted.

Proposed § 795.14(e) provided that an application for assistance shall include a topographic map which meets the requirements set forth in § 795.14(e)(1) through (4). The map must show the area of land to be affected by the proposed operation. OSM believes that the information in paragraph (e)(1) is necessary to determine the extent of the assistance to be provided. No comments were received and this paragraph is adopted as proposed as new § 795.7(e)(1).

Section 795.14(e)(2), as proposed, would have required that the names of property owners within the permit area and potentially impacted offsite areas be shown on the map included with the application for assistance.

One commenter suggested that the proposed rule be revised to require the names of owners *contiguous to the permit area* since a portion of the SOAP study would have to be conducted to determine which offsite areas would be potentially impacted by the applicant's proposed mining operation.

OSM concurs that requiring information relative to the "potentially impacted offsite area" would require a technical conclusion at a time when the study has not been initiated. Furthermore, the Office has decided not to adopt the information requirements of proposed § 795.14(e)(2) for several reasons. First, the information has no direct bearing on eligibility determinations. Second, it is not necessary in developing the scope of SOAP services to be provided. Finally, it may be duplicative in part of the information available through new § 795.17(f)(2).

As proposed, § 795.14(e) (3) and (4) required the map to show the location of any existing or proposed test borings as well as the location and extent of known workings of any underground mines. No comments were received and these sections are adopted as proposed in § 795.7(e) (2) and (3). These requirements must only be provided by the applicant if they are known. Such information may be supplemented or revealed as a result of the SOAP study.

Proposed § 795.14(f)(1) provided that an application for SOAP assistance shall include copies of documents showing the applicant's legal right to enter and commence mining within the permit area. No comments were received and this paragraph is adopted as proposed as new § 795.7(f)(1).

As proposed, § 795.14(f)(2) also required the application for assistance to include copies of documents which show that a legal right of entry has been obtained for the program administrator and laboratory personnel to inspect the lands to be mined and potentially impacted offsite areas for collection of

environmental data or installation of necessary instruments.

One commenter suggested that this requirement be eliminated since the potential impact of all offsite areas may not be known by the operator at the time of filing for assistance and since such areas will be determined during the assistance process of the SOAP.

Following the rationale given under the discussion of § 795.14(e)(2), as proposed, the Office will replace the term "potentially impacted offsite" with "adjacent". Otherwise, OSM believes having access to both the permit and adjacent areas is essential to performing the required SOAP studies and is adopting the requirement in new § 795.7(f)(2). Even if the precise impact on lands outside the permit area is not known, in general the applicant will know which lands are likely to be impacted and for which the right of entry is necessary.

Section 795.8

Proposed § 795.15 established the requirements for application approval and assistance. Section 795.15(a), as proposed, obliged the program administrator to provide the applicant written notice of the approval of his application for assistance if the administrator finds the applicant eligible and he or she does not have information readily available which would preclude issuance of a permit for mining in the area proposed.

One commenter suggested that the language "and he or she does not have information readily available which would preclude issuance of a permit to the applicant for mining in the area proposed," be deleted from the proposed rule since the same matter had been addressed in § 795.13(a)(3) of the proposed rule. OSM accepts this recommendation. Final rule § 795.8(a), as adopted by OSM, will provide that an applicant shall be informed in writing of the approval of his application if the program administrator finds the applicant eligible.

Under § 795.15(b) of the proposed rule, an applicant found ineligible for SOAP assistance had a right to written notice of the denial of his application, including a statement of reasons for the denial. No comments were received on this provision and this paragraph is adopted as proposed as § 795.8(b).

As proposed, § 795.15(c) would have provided that the granting of assistance shall not be a factor in decisions by the State or OSM on a subsequent permit application.

One commenter suggested that proposed § 795.15(c) should not be adopted because it is not a condition of receiving assistance. OSM accepts this suggestion. Because permit issuance is not related to SOAP assistance, there is no need to make such a statement in the assistance regulations.

Section 795.9

In new § 795.9, OSM is combining the provisions of former § 795.12(a) and proposed § 795.16. OSM proposed to delete previous § 795.12 which was the general provision in the SOAP program that directed the regulatory authority to select and pay a qualified laboratory to make the determination and prepare the statement required by Section 507(c) of the Act. The rationale for the proposed deletion was to avoid repeating language contained in proposed § 795.16. After further consideration, OSM has concluded that the two former sections should be combined but that a statement of the basic program services is necessary. Accordingly, new § 795.9(a) will provide that to the extent possible with available funds the program administrator shall select and pay a qualified laboratory to make the determination and statement referenced in Section 507(c) of the Act for eligible operators who request assistance. The regulatory authority through the program administrator shall not be required by OSM to provide funds for the purpose of § 795.9(a) beyond those funds authorized by Section 401(b)(1) of the Act and appropriated by Congress. Through this statement, OSM is enlarging upon, but not changing the intent of § 795.12 of the previous SOAP rules. Section 795.9(b) explains the determination and statement needed and new § 795.10 sets forth the standards for qualified laboratories.

New § 795.9(b) requires the program administrator to determine the data that must be collected for each applicant or group of applicants. It has been revised from proposed § 795.16(a) in response to a comment that recommended that the final rule reference the correct revised sections of OSM's hydrology and geology rules. Although the revisions to the other rules have not been completed, the proposed paragraph numbers are being referenced with the understanding that no decision has been made to adopt the proposed hydrology and geology rules. The final SOAP rule will require that data collected by the qualified laboratories and the results provided to the program administrator shall be sufficient to satisfy the requirements for: (1) The determination of the probable hydrologic consequences (phc) of the mining and reclamation operations in the proposed permit area and adjacent areas in accordance with 30 CFR 780.21(g) and 784.14(g) and any other applicable provisions; and (2) the statement of the results of test borings or core samplings for the proposed permit area required in accordance with 30 CFR 780.22(b) and 784.22(b) and any other applicable provisions. Until such time as proposed §§ 780.21(g) and 784.14(g) for hydrology and §§ 780.22(b) and 784.22(b) for geology become finalized, existing §§ 779.13–779.14, 780.21(c), 783.13, 783.14, and 784.14(c) and any other applicable provisions are in effect to delineate the necessary requirements for the phc determination and the statement of results of test borings.

Proposed § 795.16(b) which allowed data collection and analysis under SOAP to proceed concurrently with the development of the operators mining and reclamation plans is adopted in new § 795.9(c).

As proposed, § 795.16(c) provided that data collected under the SOAP shall be made available in accordance with 30 CFR 786.15, the section governing public availability of information in permit applications. As no comments were received to the contrary, OSM is adopting this provision as proposed in § 795.9(d). Proposed § 795.16(c) further obligated the program administrator to develop procedures for interstate coordination and exchange of data. No comments were received and this paragraph will be adopted as proposed.

Section 795.10

Proposed § 795.17, which is being renumbered as § 795.10 for the final rule, has been revised. As proposed, § 795.17(a) would have continued the requirement of the previous § 795.17(a) that a list of qualified laboratories be maintained and published in the **Federal Register**. The proposed rule would have allowed States to qualify laboratories and those that did so would have been required to coordinate with OSM to maintain the required list. States, at their option would have been allowed to continue to have OSM qualify laboratories on behalf of the State. The entire qualification procedure would not have been tied to particular applications for SOAP assistance.

Two comments were received on the proposed provision. One commenter cited several reasons for the Office to be responsible for laboratory qualifications. The other commenter favored a joint responsibility with the option of choice belonging to each State.

OSM has given serious thought to the entire concept of laboratory qualification including time and costs involved, benefits gained, and effectiveness of the qualification

program based on its experience to date under the previous regulations in which it had the major responsibility to qualify laboratories. In retrospect, the laboratory qualification program has been of limited value to the States and to OSM as part of several Federal SOAPs. Furthermore, the program has had the unintended effect of unrealistically raising the expectations of firms qualified with regard to receiving contracts for SOAP services.

Section 507(c) of the Act requires only that technical services to small operators be provided by qualified laboratories. Several options are available to determine which laboratories are qualified. The method that OSM has chosen in this final rule is to consider the qualification requirements contained in § 797.10(a) as part of the selection process under § 795.9(a) and not necessarily a separate procedure to be undertaken in advance of specific applications for assistance. In this manner the entire process will be streamlined and simplified. States will have the option of considering the qualifications of firms on a case-by-case basis or, if they choose, determining generally which firms meet the qualification criteria and establishing a list of qualified laboratories. In either case, the regulatory authority must assume full responsibility for selecting qualified laboratories in its State. OSM will not qualify laboratories or publish a list of qualified laboratories in the Federal Register. The final rule reflects this philosophy and there will be no provision prescribing the method by which firms will be determined to be qualified laboratories.

Section 795.17(b), as proposed, specified the criteria governing the qualification of laboratories. Under proposed § 795.17(b)(1), a laboratory could meet the basic qualification standard by demonstrating compliance with the requirements specified in § 795.17(b)(1) (i) through (v) of the proposed rule. In addition, § 795.17(b)(2) of the proposed rule required that a qualified laboratory shall be capable of performing services for the determination of probable hydrologic consequences or statement of results of test borings or core samplings under the rules referenced in proposed § 795.16(a). In the final rule, the above-mentioned requirements of proposed § 795.17(b) (1) and (2) have been combined without substantive change into new § 795.10(a) (1) through (6). In response to a comment, the cross-references to the hydrology and geology permitting regulations have been updated (with the understanding that existing hydrology and geology provisions remain in effect until replaced). The cross-references in new § 795.10(a)(6) to the determination and statement to be provided under the SOAP have been made more precise. Finally, proposed § 795.17(b)(2) is adopted as new § 795.10(b) and permits subcontractors to perform the basic services, provided their use is identified at the time a determination is made that a firm is qualified and they meet requirements specified by the program administrator.

Section 795.11

Under new § 795.11, which includes the requirements of proposed § 795.16(a), funds specifically authorized for the SOAP shall be used only to provide the services specified in § 795.9, but not for administrative expenses. These include technical services provided by qualified laboratories and the planning activities upon which these services are dependent. Planning activities must be directly related to individual assistance sites. Furthermore, they are limited to compiling and evaluating available hydrologic and geologic information and developing specifications, work statements, or monitoring plans for the work to be performed at each site. These planning activities are allowable costs for either the program administrator or laboratory under contract to the program administrator, depending on how these activities are accomplished.

One commenter assumed that the cost of drilling necessary test borings would be covered by funds authorized under proposed § 795.16(a) since the rule, as proposed, made no mention as to whether drilling costs for data collection purposes were excluded from costs covered by the SOAP. Another commenter requested revision of the proposed rule to allow funding for certain regional planning activities which would produce future benefits to any other specific assistance site in the same geographic region. The commenter stated that planning activities related to the calibration of a regional hydrologic model to predict hydrological consequences should be reimbursable even though they would not relate to an individual assistance site.

OSM believes well drilling costs can be authorized for the SOAP. However, observation well drilling is not to be considered a standard item routinely provided for all operators receiving SOAP assistance. The need for observation well drilling should be determined on a case-by-case basis. In general, wells should be drilled only where existing information available through reports and studies or from nearby existing wells and springs is inadequate to meet the permit application requirements. Alternatives to wells should be used to the extent such alternatives have been successfully used in the past to provide information for ground water evaluations or where there are indications that other alternatives may be successful. Furthermore, the need for wells at small operator sites should be consistent with the requirements placed on large operators.

Costs for coring or test borings related to the overburden analysis are not affected by this rule revision. Such costs remain the responsibility of the operators. State program administrators for SOAP should consider completing the sample collection plan for the overburden before identifying additional sites for observation wells. Such a procedure will ensure that the well drilling authorization is being administered in a responsible manner and is not being used to provide samples for the overburden analysis or to provide information for exploration purposes, both of which are the responsibility of the operator.

The rule authorizing payment for observation well drilling will not be retroactive. It will become effective on the date the SOAP rule becomes effective or, as necessary, upon modification of approved State programs.

OSM has not accepted the recommendation that regional planning activity costs and calibration costs for hydrologic models be reimbursable through the SOAP. However, OSM recognizes that regional approaches have the potential for being as effective as site specific approaches and for reducing costs in the SOAP. OSM would be amenable to the use of regional analyses in providing SOAP assistance if it can be demonstrated through specific requests that such technical approaches provide tangible cost saving benefits directly applicable to site-specific studies in individual States.

Proposed paragraph § 795.16(b) directed the program administrator to establish a formula for allocating funds to provide services for eligible small operators if available funds are less than those required to provide the services pursuant to Part 795. No comments were received on this paragraph which is adopted as proposed in new § 795.11(b). The allocation formula is intended to provide for an equitable distribution of Federal funds if such funds are insufficient to provide services for all eligible operators.

Section 795.12

Section 795.19(a), as proposed, prescribed the circumstances under which an applicant shall be held liable to the State or OSM for the cost of the laboratory services provided under Part 795. Proposed § 795.19(a)(1) provided the State or OSM the right to be reimbursed for such services by an applicant who submits false information, fails to submit a permit application within one year from the date of the approved laboratory report, or fails to mine after obtaining a permit.

Proposed § 795.19 is being renumbered as § 795.12 for the final rule.

One commenter requested that proposed § 795.19(a) be revised to allow the States to adopt their own liability standards. OSM has not accepted this suggestion because of its responsibility to set minimum standards. Thus, proposed § 795.19(a)(1) is adopted as new § 795.11(a)(1).

Proposed § 795.19(a)(2) is adopted as § 795.11(a)(2) and provides that an applicant shall be liable to reimburse the regulatory authority for costs of laboratory services provided under the SOAP upon a finding by the program administrator that the applicant's actual and attributed annual production of coal for all locations exceeds 100,000 tons during any consecutive twelve month period either during the term of the permit for which assistance is required or during the first 5 years after issuance of the permit whichever is shorter.

Section 795.19(a)(3), as proposed, provided that the applicant shall reimburse the State or OSM for the cost of SOAP laboratory services if the permit is sold, transferred, or assigned by the applicant to another mining company or to a family member whose production was included in the attributed production of the applicant and the cumulative production under the permit during the remaining period of the applicant's liability exceeds 100,000 tons annually.

One commenter requested that this provision be deleted. OSM has not accepted this suggestion because of the potential for companies to enter into informal arrangements so as to appear eligible and be provided SOAP assistance. Liability requirements are needed to reduce opportunities for abuse. Final § 795.12(a)(3) has been edited for clarity and will require reimbursement if the permit is sold, transferred or assigned to another person and the transferee's total actual and attributed production exceeds 100,000 tons annually during any consecutive 12-month period of the remaining term of the permit. In such situations, both the applicant and its successor in interest to the permit will be obligated to reimburse the regulatory authority.

As proposed, § 795.19(b) permitted the program administrator to waive the reimbursement obligation upon finding that the applicant acted in good faith at all times. No comments were received on this paragraph which is adopted as proposed in § 795.12(b).

III. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers.

Regulatory Flexibility Act

The DOI has also determined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed rules will allow States increased flexibility in effective and efficient administration of SOAP and should especially ease the regulatory burden on small coal operators in Appalachia.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) on this rule and has made a finding that it would not significantly affect the quality of the human environment. The EA is on file in the OSM Administrative Record at the address listed in the "Addresses" section of the preamble.

Federal Paperwork Reduction Act

The information collection requirements in existing 30 CFR Part 795 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned a new clearance number 1029–0014 on April 1, 1981. This approval was identified in a "Note" at the introduction to 30 CFR Part 795 under the old number R0501 under No. B–190462. OMS has deleted this "Note" and has codified the OMB approval under § 795.10 which has been redesignated as § 795.4. The approvals are as follows: For §§ 795.14, 795.16, and 795.17, redesignated §§ 795.7, 795.9 and 795.10, OMB clearance numbers 1029–0014, 1029–0060, 1029–0061, and 1029–0062 have been assigned.

The information required by 30 CFR Part 795 will be used by the regulatory authority in implementing the Small Operator Assistance Program. This information required by 30 CFR Part 795 is mandatory.

List of Subjects

30 CFR Parts 731 and 732

Coal mining, Intergovernmental relations, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 795

Coal mining, Grants programs—Natural resources, Small businesses, Surface mining, Technical assistance, Underground mining.

Accordingly, 30 CFR Parts 731, 732, and 795 are amended as set forth herein.

Dated: January 15, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 731—SUBMISSION OF STATE PROGRAMS

1. In § 731.14, paragraph (g)(16) is revised to read as follows:

§ 731.14 Content requirements for program submissions.

* * * * *

(g) * * *

(16) Providing the determination of probable hydrologic consequences and the statement of the results of test borings or core samples required by Section 507(c) of the Act.

* * * * *

PART 732—PROCEDURES AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF STATE PROGRAM SUBMISSIONS

2. In § 732.15, paragraph (b)(13) is revised to read as follows:

§ 732.15 Criteria for approval or disapproval of State programs.

* * * * *

(b) * * *

(13) Provide for small operator assistance.

* * * * *

3. Subchapter H entitled "Small Operator Assistance" is added consisting of Part 795, which is transferred from Subchapter G and revised to read as follows:

SUBCHAPTER H—SMALL OPERATOR ASSISTANCE

PART 795—PERMANENT REGULATORY PROGRAM

Sec.

795.1 Scope and purpose.
795.3 Definitions.
795.4 Information collection.

Sec.
795.5 Grant application procedures.
795.6 Eligibility for assistance.
795.7 Filing for assistance.
795.8 Application approval and notice.
795.9 Program services and data requirements.
795.10 Qualified laboratories.
795.11 Assistance funding.
795.12 Applicant liability.

Authority: Secs. 201, 501, 502, and 507, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*).

§ 795.1 Scope and purpose.

This part comprises the small operator assistance program (SOAP) and establishes the procedures for providing assistance to eligible operators by the program administrator. It is an elective means for a regulatory authority to satisfy the requirements of Section 507(c) of the Act. The purpose of the program is to provide for eligible operators a determination of probable hydrologic consequences and a statement of results of test borings or core samplings which are required components of the permit application under Subchapter G of this chapter.

§ 795.3 Definitions.

As used in this part—

Program administrator means the State of Federal official within the regulatory authority who has the authority and responsibility for overall management of the Small Operator Assistance Program; and

Qualified laboratory means a designated public agency, private firm, institution, or analytical laboratory which can prepare the required determination of probable hydrologic consequences or statement of results of test borings or core samplings under the Small Operator Assistance Program and which meets the standards of § 795.10.

§ 795.4 Information collection.

The information collection requirements contained in §§ 795.7, 795.9, and 795.10 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and have been assigned clearance numbers 1029–0014, 1029–0060, 1029–0061, and 1029–0062. The information is necessary to implement the Small Operator Assistance Program and its submission is mandatory.

§ 795.5 Grant application procedures.

A State intending to administer a Small Operator Assistance Program under a grant from the Office of Surface Mining may submit a grant application to OSM for funding of the program under the procedures of Part 735 of this chapter.

§ 795.6 Eligibility for assistance.

(a) An applicant is eligible for assistance if he or she—

(1) Intends to apply for a permit pursuant to the Act;

(2) Establishes that his or her probable total actual and attributed production from all locations during any consecutive 12-month period either during the term of his or her permit or during the first 5 years after issuance of his or her permit, whichever period is shorter, will not exceed 100,000 tons. Production from the following operations shall be attributed to the applicant—

(i) The pro rata share, based upon percentage of ownership of applicant, of coal produced by operations in which the applicant owns more than a 5 percent interest;

(ii) The pro rata share, based upon percentage of ownership of applicant, of coal produced in other operations by persons who own more than 5 percent of the applicant's operation;

(iii) All coal produced by operations owned by persons who directly or indirectly control the applicant by reason of direction of the management;

(iv) All coal produced by operations owned by members of the applicant's family and the applicants' relatives, unless it is established that there is no direct or indirect business relationship between or among them.

(3) Is not restricted in any manner from receiving a permit under the permanent regulatory program; and

(4) Does not organize or reorganize his or her company solely for the purpose of obtaining assistance under the SOAP.

(b) A State may provide alternate criteria or procedures for determining the eligibility of an operator for assistance under the program, provided that such criteria may not be used as a basis for grant requests in excess of that which would be authorized under the criteria of paragraph (a) of this section.

§ 795.7 Filing for assistance.

Each application for assistance shall include the following information:

(a) A statement of the operator's intent to file a permit application.

(b) The names and addresses of—(1) The permit applicant; and

(2) The operator if different from the applicant.

(c) A schedule of the estimated total production of coal from the proposed permit area and all other locations from which production is attributed to the applicant under § 795.6 The schedule shall include for each location—

(1) The operator or company name under which coal is or will be mined;

(2) The permit number and Mine Safety and Health Administration (MSHA) number;

(3) The actual coal production during the year preceding the year for which the applicant applies for assistance and production that may be attributed to the applicant under § 795.6; and

(4) The estimated coal production and any production which may be attributed to the applicant for each year of the proposed permit.

(d) A description of—(1) The proposed method of coal mining;

(2) The anticipated starting and termination dates of mining operations;

(3) The number of acres of land to be affected by the proposed mining operation; and

(4) A general statement on the probable depth and thickness of the coal resource including a statement of reserves in the permit area and the method by which they were calculated.

(e) A U.S. Geological Survey topographic map at a scale of 1:24,000 or larger or other topographic map of equivalent detail which clearly shows—

(1) The area of land to be affected;

(2) The location of any existing or proposed test borings; and

(3) The location and extent of known workings of any underground mines.

(f) Copies of documents which show that—

(1) The applicant has a legal right to enter and commence mining within the permit area; and

(2) A legal right of entry has been obtained for the program administrator and laboratory personnel to inspect the lands to be mined and adjacent areas to collect environmental data or to install necessary instruments.

§ 795.8 Application approval and notice.

(a) If the program administrator finds the applicant eligible, he or she shall inform the applicant in writing that the application is approved.

(b) If the program administrator finds the applicant ineligible, he or she shall inform the applicant in writing that the application is denied and shall state the reasons for denial.

§ 795.9 Program services and data requirements.

(a) To the extent possible with available funds, the program administrator shall select and pay a qualified laboratory to make the determination and statement referenced in paragraph (b) of this section for eligible operators who request assistance.

(b) The program administrator shall determine the data needed for each

applicant or group of applicants. Data collected and the results provided to the program administrator shall be sufficient to satisfy the requirements for:

(1) The determination of the probable hydrologic consequences of the surface mining and reclamation operations in the proposed permit area and adjacent areas in accordance with §§ 780.21(g) and 784.14(g) and any other applicable provisions of this chapter; and

(2) The statement of the results of test borings or core samplings for the proposed permit area in accordance with §§ 780.22(b) and 784.22(b) and any other applicable provisions of this chapter.

(c) Data collection and analysis may proceed concurrently with the development of mining and reclamation plans by the operator.

(d) Data collected under this program shall be made publicly available in accordance with § 786.15 of this chapter. The program administrator shall develop procedures for interstate coordination and exchange of data.

§ 795.10 Qualified laboratories.

(a) *Basic qualifications.* To be designated a qualified laboratory, a firm shall demonstrate that it—

(1) Is staffed with experienced, professional or technical personnel in the fields applicable to the work to be performed;

(2) Has adequate space for material preparation and cleaning and sterilizing equipment and has stationary equipment, storage, and space to accommodate workloads during peak periods;

(3) Meets applicable Federal or State safety and health requirements;

(4) Has analytical, monitoring and measuring equipment capable of meeting applicable standards; and

(5) Has the capability of collecting necessary field samples and making hydrologic field measurements and analytical laboratory determinations by acceptable hydrologic, geologic, or analytical methods in accordance with the requirements of §§ 780.21, 780.22, 784.14 and 784.22 and any other applicable provisions of this chapter. Other appropriate methods or guidelines for data acquisition may be approved by the program administrator.

(6) Has the capability of performing services for either the determination or statement referenced in § 795.9(b).

(b) *Subcontractors* Subcontractors, may be used to provide some of the required services provided their use is identified at the time a determination is made that a firm is qualified and they meet requirements specified by the program administrator.

§ 795.11 Assistance funding.

(a) *Use of funds.* Funds specifically authorized for this program shall be used to provide the services specified in § 795.9 and shall not be used to cover administrative expenses.

(b) *Allocation of funds.* The program administrator shall establish a formula for allocating funds to provide services for eligible small operators if available funds are less than those required to provide the services pursuant to this part.

§ 795.12 Applicant liability.

(a) The applicant shall reimburse the regulatory authority for the cost of the laboratory services performed pursuant to this part if—

(1) The applicant submits false information, fails to submit a permit application within 1 year from the date of receipt of the approved laboratory report, or fails to mine after obtaining a permit;

(2) The program administrator finds that the applicant's actual and attributed annual production of coal for all locations exceeds 100,000 tons during any consecutive 12-month period either during the term of the permit for which assistance is provided or during the first 5 years after issuance of the permit whichever is shorter; or

(3) The permit is sold, transferred, or assigned to another person and the transferee's total actual and attributed production exceeds the 100,000-ton annual production limit during any consecutive 12-month period of the remaining term of the permit. Under this paragraph the applicant and its successor are jointly and severally obligated to reimburse the regulatory authority.

(b) The program administrator may waive the reimbursement obligation if he or she finds that the applicant at all times acted in good faith.

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Part III

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Flexible Vinyl Coating and Printing Operations; Proposed Rule and Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AH-FRL 2053-1]

Standards of Performance for New Stationary Sources; Flexible Vinyl Coating and Printing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standard would limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed flexible vinyl printing and coating operations. The proposed standard implements Section 111 of the Clean Air Act and is based on the Administrator's determination that industrial fabric coating facilities cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. Printing of flexible vinyl is the largest contributor to air pollution in the industrial fabric coating category. The intended effect of this proposal is to require new, modified, and reconstructed flexible vinyl printing facilities to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

A public hearing will be held to provide interested persons an opportunity for oral presentations of data, views, or arguments concerning the proposed standard.

DATES: *Comments.* Comments must be received on or before April 1, 1983.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by February 23, 1983, a public hearing will be held on March 2, 1983, beginning at 9 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by February 23, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-80-8, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by February 23, 1983, the public hearing will be held at the Environmental Research Center Auditorium, Research Triangle Park, N.C. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. The background information document (BID) for the proposed standard may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Flexible Vinyl Coating and Printing Operations—Background Information for Proposed Standards," EPA-450/3-81-016a.

Docket. Docket Number A-80-8, containing supporting information used in developing the proposed standard, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gene W. Smith, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5624.

SUPPLEMENTARY INFORMATION:

Proposed Standard

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

For convenience, this system of reduction will be referred to as "best demonstrated technology."

The proposed standard would apply to new, modified, or reconstructed rotogravure printing lines used to print or coat flexible vinyl products. The term "vinyl printing" will be used to include the vinyl printing and coating processes. Similarly, the term "inks" will be used to mean inks and coatings.

The affected facility would be each rotogravure printing line used to print or coat flexible vinyl products. The owner or operator of each affected facility would be required to either reduce gaseous VOC emissions by 85 percent or use inks with an average VOC content of less than 1.0 kilogram (kg) VOC per kg ink solids. Reference Methods 1, 2, 3, and 4 and proposed Reference Method 25A would be used during the performance test to measure the gaseous VOC emissions from affected facilities using add-on control equipment to comply with the standard. Reference Method 24 or the ink manufacturer's formulation data would be used to determine compliance for affected facilities using low-solvent inks. The average VOC content of the inks [the weighted average mass (kg) of VOC per unit mass (kg) of ink solids] would be calculated over a time period that does not exceed 1 calendar month. Dilution solvent added at the rotogravure printing station would be included in the calculation of the weighted average. Each determination of the average VOC content of the inks would constitute a performance test. Only the initial performance test results would be reported to the Administrator.

The proposed standard of 85 percent reduction is based on an overall gaseous VOC emission reduction. The overall gaseous reduction for a control system is calculated by multiplying the efficiency of the control device (carbon adsorber) by the efficiency of the vapor capture system. The result is the overall gaseous VOC emission reduction achieved by the control system. Fixed-bed carbon adsorption systems are capable of meeting the proposed standard when operated in conjunction with an efficient vapor capture system. Currently, low-VOC content or waterborne inks are in the developmental stage in the flexible vinyl printing industry. Their present use is limited, but industry spokespersons expect their use to increase significantly in the next 5 years.

For facilities using inks with an average VOC content of 1.0 kg VOC per kg ink solids or greater, monitoring requirements are being proposed to ensure proper operation of the control system. The monitoring requirements would include continuous measurement and recording of VOC concentrations from the carbon adsorber. Deviations in these parameters beyond specified limits would serve as indicators to the Administrator and to the owner or operator that the control system may not be reducing emissions to performance test levels. There would be no excess emissions reports required by the proposed standard. Owners or operators would be required to maintain for 2 years the records of the control device operating parameters that must be

monitored, as specified in 40 CFR 60.7(d).

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and economic impacts of this new source performance standard (NSPS) are expressed as incremental differences between the impacts for facilities complying with the proposed standard and for those facilities if no NSPS were promulgated. In the absence of an NSPS, it is assumed that facilities would comply with the applicable State implementation plan (SIP) for VOC emissions. This SIP control level is referred to as the typical SIP and is based on the CTG level of 65 percent overall emission reduction (see complete discussion under section entitled "Regulatory Alternatives"). It is expected that States would impose this level of control for any new plants locating in nonattainment areas. This level of control may or may not be required in attainment areas, however, and would depend on the particular plant and state agency involved. Thus, to the extent that State requirements in attainment areas differ from the requirements of a typical SIP, the actual impacts may differ from the impacts presented in the following discussion.

A typical new flexible vinyl printing line, producing about 9 million square meters (10.8 million square yards) of material annually would emit about 660 megagrams (750 tons) of VOC per year if uncontrolled. Controlled to the level of the proposed standard, it would emit approximately 100 megagrams (110 tons) of VOC per year, which is about 140 megagrams (150 tons) of VOC per year less than an identical facility controlled by a typical SIP. The proposed standard would reduce VOC emissions by about 60 percent beyond the levels achievable under typical SIP's. Nationwide in 1987, the proposed standard would reduce VOC emissions from new, modified, or reconstructed flexible vinyl printing lines by 790 megagrams (870 tons) beyond the emission level required by typical SIP's.

Potential wastewater pollution from a controlled flexible vinyl printing line results from the use of a carbon adsorption emission control system. The annual wastewater discharge from a typical new flexible vinyl printing line controlled by the proposed standard would be 36 percent or 800,000 liters (190,000 gallons) greater than the discharge expected from a plant controlled by typical SIP's. National wastewater discharges would increase by 4,800,000 liters (1,300,000 gallons) in 1987 as a result of the proposed standard.

A typical new flexible vinyl printing line, using carbon adsorption, would have a solid waste load (spent carbon associated with the proposed standard of 25 percent or 0.9 megagram (1.0 ton) per year greater than a similar facility controlled by typical SIP's. Nationwide in 1987, the solid waste load associated with the proposed standard would be 5.4 megagrams (6.0 tons) greater than the load associated with typical SIP control. Carbon adsorption was the predominant VOC control technique found to be operating in the flexible vinyl printing industry, and therefore it was used to estimate energy impacts associated with the proposed standard. By comparing the potential national energy savings resulting from reusing captured solvent emissions with the energy required to operate emission control devices, a potential net national energy impact can be estimated. On a national basis in 1987, the proposed standard would result in an energy savings of 41,000 GJ (39 billion Btu). The proposed standard would save about 15 percent more energy than if all facilities were controlled by typical SIP's.

The capital cost for a typical new printing line is $1 million and the annualized costs are $6.1 million. The initial capital cost of a control system capable of achieving the typical SIP control level is $1 million and a control system capable of achieving the level of the proposed standard would cost $1.2 million. Because of the value of potentially recoverable solvent, annualized costs for control system operation represent about 1 percent of the total annualized cost for the controlled plant. At a typical new plant controlled to the typical SIP level, this annualized cost is about $69,000. At a plant controlled at the level of the proposed standard, because more solvent could be recovered, the annualized costs decrease to approximately $48,000. These costs (savings) do not include lost opportunity costs (i.e., the profit or return on investment which could be derived by investing in other than air pollution control equipment).

Projections show a growth rate of more than 8 percent per year for wallcovering products and little growth in the other sections of the industry through 1987. This is equivalent to slightly more than one plant per year. At this growth rate, the cumulative capital cost of control is approximately $6.2 million for typical SIP control and $7.4 million for the control level of the proposed standard. Annualized costs (i.e., control system operating costs less recovered solvent value) are approximately $414,000 for typical SIP control and $289,000 for the control level of the proposed standard. The expected worst case maximum price increase would be 0.05 percent. No major impacts are expected on geographical regions or local governments.

Standards of performance have other benefits in addition to achieving reductions in emissions beyond those required by a typical SIP. They establish a degree of national uniformity which precludes situations in which some States may attract new industries as a result of having relaxed air pollution standards relative to other States. Further, standards of performance provide documentation which reduces uncertainty in case-by-case determination of best available control technoilogy (BACT) for facilities located in attainment areas, and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analysis of alternative emission control technologies, development of associated cost, an evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternate technologies. The costs are provided for in an economic analysis that reveals the affordability of controls in an unbiased study of the economic impact of controls on an industry.

The rulemaking process that implements a performance standard assures adequate technical review and promotes participation by government, by the industry being considered for regulation, and by the public affected by that industry's emissions. The resultant regulation represents a balance in which government resources are applied in a well publicized national forum to reach a decision on a pollution emission level that allows for a dynamic economy and a healthful environment.

Rationale

Selection of the Source

The industrial fabric coating industry, of which flexible vinly printing is a segment, was ranked 10th out of 59 sources to be controlled on the "Priority List and Additions to the List of Categories of Stationery Sources," promulgated at 44 FR 49222 on August 21, 1979. This list ranked emission sources on a nationwide basis in terms of quantities of air pollutant emissions from the source category, the mobility

and competitive nature of each source category, and the extent to which each pollutant endangers public health and welfare.

The flexible vinyl printing and coating segment of the fabric coating industry has been selected for control for two main reasons. First, the flexible vinyl printing industry is distinct from other segments of the fabric coating industry because of emission types and rates, use of the rotogravure printing process, economics, and industry structure. second, the flexible vinyl printing industry constitutes the largest organic solvent-using segment of the fabric coating industry; and therefore, it produces a significant portion of the industry-wide VOC emissions.

Fabric coating generally involves the application of decorative or protective coatings to a supporting textile substrate. However, as explained later, some flexible vinyl products do not have a textile substrate. Coatings are normally applied using knife coating or roller coating techniques. The coated substrate is referred to as the web.

Flexible vinyl printing refers to the rotogravure process of printing and coating vinyl webs primarily with solvent solutions of polyvinyl chloride (PVC) resins. The web may consist of vinyl coated substrate referred to as a supported web, or a vinyl sheet with no substrate, referred to as an unsupported web. Printing and coating methods for supported and unsupported products are essentially identical. Supported products include, but are not limited to, wallcoverings, automobile and furniture upholstery, landau roofs, and leatherette products such as gloves, luggage, and shoe uppers. Examples of unsupported products include shower curtains and window shades.

Non-flexible vinyl products, primarily floorcoverings, were originally included in the development of the proposed standard. However, information obtained during this study indicated that the vinyl flooring industry is distinctly different from the flexible vinyl printing industry. The major difference between the two industries is the type of coating formulations used to produce the final products. These different coating formulations affect both emission types and rates. Other differences in equipment, economics, and industry structure are also prevalent. A separate NSPS for the vinyl flooring industry will be considered. The scope of the proposed standard is therefore limited to the printing and coating of flexible vinyl webs. Hand printing and dipping processes, which are not rotogravure processes, are not included in the flexible vinyl printing industry source category as defined under the proposed standard.

In 1980, nationwide uncontrolled emissions of VOC from existing flexible vinyl printing lines were estimated at 62,000 megagrams (68,000 tons) per year. Growth projections show that the supported sector of the flexible vinyl printing industry will experience little or no annual growth except for wallcovering production which is expected to grow at an annual rate of 8.9 percent through the year 1987. Little or no growth is expected in the unsupported sector of the industry during the same period. Potential VOC emissions from a typical, new, six print head printing line, producing supported vinyl materials would be about 240 megagrams (270 tons) per year for a plant regulated only by a SIP. In the year 1987, the cumulative potential VOC emissions from new flexible vinyl printing lines, if controlled only by typical SIP's, would be about 1,400 megagrams (1,500 tons) per year. The emission estimates for new facilities could vary depending on how rapidly waterborne inks are developed for the flexible vinyl printing industry.

Selection of Pollutants and Affected Facilities

Volatile organic compounds (VOC) are the primary air pollutants emitted from vinyl printing plants. VOC and nitrogen oxides are precursors to the formation of ozone and oxygenated organic aerosols (photochemical smog). Ozone and oxygenated organic aerosols result in a variety of adverse impacts on health and welfare, including impaired respiratory function, eye irritation, deterioration of materials such as rubber and necrosis of plant tissue. Further information on these effects can be found in the April 1978, EPA document "Air Quality Criteria for Ozone and Other Photochemical Oxidents," EPA–600/8–78–004. This document can be obtained from the EPA library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777.

Particulate matter emissions are also generated from vinyl printing plants. These particulate matter emissions are primarily vaporized plasticizers, some of which coalesce into an aerosol.

The three main sources of VOC emissions from printing operations are: (1) The rotogravure print heads and associated ink fountains from which solvent evaporates; (2) the exposed portions of the printed web traveling from the print station to the drying oven; and (3) drying ovens where the solvent is evaporated from the web. Solvent emissions from storage, formulation, and cleanup are not included in the proposed standard because the storage of hydrocarbons is to be covered under a separate NSPS; and formulation and cleanup emissions are low volume emissions that would be very costly to control. EPA is unaware of any control technology beyond what is currently in use that could be applied at a reasonable cost.

In addition to rotogravure printing stations, a flexible vinyl printing line may contain an embossing operation. The embossing operation uses rollers to set an image or pattern into the printed vinyl web. Emissions generated in embosser stations are low levels of VOC and vaporized plasticizers, some of which coalesce into aerosols. When VOC emissions are low in volume and concentration and combined with aerosols, they are difficult to control. In such cases, carbon absorbers do not function properly and their effectiveness has not been demonstrated. Incineration, the only technically feasible control option, would be much too costly to require for a low volume of VOC. Therefore, there is no best demonstrated technology for this emission source, and embosser generated emissions would not be limited by the proposed standard.

The main sources of particulate matter emissions are the web formation processes. (Webb formation includes the processes that transform the PVC resins, stabilizers, pigments, and plasticizers into a continous vinyl sheet.) These emissions are not limited by the proposed standard because no new, modified or reconstructed facilities are expected in the web formation sector of this industry.

For the reasons discussed above, the proposed standard limits VOC emissions from flexible vinyl rotogravure printing stations and their associated drying oven. Although embossers are sometimes operated in conjunction with the printing line, embossers are not selected for control as explained above.

The choice of the affected facility for the proposed standard is based on the agency's interpretation of Section 111 of the act, and judicial construction of its meaning. Under Section 111, the NSPS must apply to "new sources;" "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist of numerous pieces or groups of equipment that emit air pollutants, and that might be viewed as "sources." EPA therefore uses the term "affected facility" to designate the

equipment, within a particular kind of plant, that is chosen as the "source" covered by a given standard.

In choosing the affected facility, EPA must decide which pieces or groups of equipment are the appropriate units for separate emission standards in the particular industrial context involved. The Agency must do this by examining the situation in light of the terms and purpose of Section 111. One major consideration in this examination is that the use of a narrower definition may result in bringing replacement equipment under the NSPS sooner; if, for example, an entire plant were designated as the affected facility, no part of the plant would be covered by the standard unless the plant as a whole is "modified." If, on the other hand, each piece of equipment is designated as the affected facility, then as each piece is replaced, the replacement piece would be a new source subject to the standard. Since the purpose of Section 111 is to minimize emissions by the application of the best demonstrated control technology (considering cost, other health and environmental effects, and energy requirements) at all new and modified sources, there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if the Agency concludes that the relevant statutory factors (technical feasibility, cost, energy, and other environmental impacts) point to a broader definition.

The narrow designation of affected facility for flexible vinyl printing operations would be each rotogravure printing line, the smallest unit that can be independently controlled. With this designation, the proposed standard would cover new lines at new plants and new lines used to expand or refurbish existing plants. Expansions of plant capacity typically occur with the addition of an entire new printing line. The new line would be covered by the proposed standard as a new source, but the rest of the plant would not be affected. Because modification and reconstruction of existing lines is expected to be infrequent, there would be little or no impact on existing lines from this designation. Because the economic, energy, and other impacts associated with the narrow designation of affected facility are considered reasonable, there is no need for the broader designation. Therefore, the proposed standard designates as an affected facility each rotogravure printing line used to print or coat flexible vinyl products.

The proposed standard would cover VOC emissions from new, modified, or reconstructed flexible vinyl printing lines. Specific modifications and reconstructions applicable to flexible vinyl printing lines are given in Chapter 5 of the BID and in the preamble section, "Modification and Reconstruction Considerations."

Selection of Basis of Proposed Standard

This section describes the emission control technology applicable to the flexible vinyl printing industry; the regulatory alternatives considered by EPA in the development of this standard; a summary of the environmental, energy, and economic impacts of these alternatives; and a discussion of the alternative selected as the basis for the proposed standard.

Control Technologies. VOC emissions from flexible vinyl printing lines can be controlled enither by emission control systems or by the use of low-VOC content inks. Presently, most inks are solvent-based (i.e., they contain more than 2.3 kg VOC per kg ink solids), but research is currently being directed toward the development of low-VOC content inks. In the inks being developed, the mass of VOC to mass of ink solids ratio ranges from 0.0 to 0.75. Inks in this range are currently only in limited use in this industry. Some manufacturers are making a major commitment to develop these inks, indicating that their use is likely to increase.

The majority of the solvent used on a flexible vinyl printing line is driven off in the drying operation after the inks have been applied to the vinyl web. In a plant using emission control, these vapors would be contained in the oven and the oven gases would be drawn through a fan and ducted away from the work area to a control device. Solvent vapors not captured by the drying ovens may be collected by the vapor capture system. The vapors that are not captured and which escape directly to the atmosphere are called fugitive emissions. Of the total amount of solvent used at the printing line presses, the majority is captured by the drying ovens and the rest are potentially fugitive emissions unless captured by a system of hoods and ducts and vented to a control device.

During a normal production run, the other major sources of potential fugitive VOC emissions from flexible vinyl printing operations are the solvent that evaporates from the ink wells, the exposed part of the gravure printing cylinder, and exposed portions of the printed vinyl web prior to entering the drying oven. Newer flexible vinyl printing lines have closed ink supply drums and extended enclosure designs to minimize evaporative losses from gravure rollers and drying oven openings. However, some of these press areas must remain accessible because operators must occasionally repair web breaks, change gravure cylinders, and perform normal maintenance procedures.

The complete VOC emission control system for a modern flexible vinyl printing line consists of two sections: the vapor capture system and the emission control device. The vapor capture system is designed to collect VOC vapors which originate at the printing stations. These captured vapors are directed to a control device where they can either be recovered or destroyed. The overall recovery performance of a VOC emission control system is primarily influenced by its ability to efficiently capture what might otherwise become fugitive vapors.

The best capture system identified during the development of the proposed standard was observed on a line that incorporated a dryer in conjunction with each print station. These dryers were designed so that capture of vapors from the print stations was particularly effective. Further, the ink supply drums and the ink pumping systems at each print station were closed, greatly reducing the potential fugitive VOC emissions. The nearly complete enclosure of the gravure rollers and the wet, printed web also reduced potential fugutive emissions from the print station area.

Each print station at this type of facility is equipped with a drying plenum. This plenum captures VOC evaporating from the wet web as it is being dried. Unlike older plants where the wet web traveled some distance from the rotogravure rolls to the drying oven, the drying plenum for each print station on the newer lines encloses the wet web as soon as it leaves the rotogravure rollers. The amount of wet web exposed to the atmosphere is greatly reduced by designing the drying plenum to enclose the web closer to the point where the ink is applied. Excellent visibility of the process and easy access to the printing equipment are maintained by the use of large, movable plexiglass covering panels.

Capture efficiencies of 90 percent can be achieved by this type of control system. Capture efficiency is the fraction of the total gaseous solvent vapor emissions that are directed to the control device.

In order to achieve a high overall emission reduction, the capture system is combined with a control device which may either recover or destroy the captured VOC. Three types of VOC emission control devices were identified as technically feasible for controlling VOC emissions in the flexible vinyl printing industry: (1) Packed-column scrubbers, (2) incineration, and (3) fixed-bed carbon adsorption. Three applications of packed-column scrubbers for VOC control were found in a survey of the flexible vinyl printing industry. The scrubbing control technique was not considered a candidate for best demonstrated technology because: (1) Reported VOC reduction efficiencies have not been as high as those reported or measured by EPA for carbon adsorption, (2) there is a much larger wastewater problem than for carbon adsorption, and (3) solvent recovery has not been demonstrated for this process in this industry.

Incineration of organic emissions is an effective means of control. It could reduce VOC emissions by 95 to 99 percent. However, it would be economical only in certain cases. Conventional incineration would require large amounts of supplemental fuel. Waste heat recovery systems could partially offset the increased operating costs for fuel. Supplemental fuel requirements could also be lowered by the use of catalytic oxidation. Catalytic oxidation permits lower oxidation reaction temperatures and therefore requires less energy than thermal oxidation. Generally, the ability to recover heat and reduce supplemental fuel requirements would determine how economical incineration could be. Although incineration is technically viable, it is not presently used in this country for two reasons. First, the high continuous energy requirements may make it uneconomical in an industry with a large amount of inherent downtime. Second, the value of recovered solvent is likely to make carbon adsorption a more economically favorable control technique. Therefore, incineration was not considered a candidate for the best demonstrated technology.

In the flexible vinyl printing industry, preference for solvent recovery rather than incineration appears to be related to the increasing costs and lessening supply of solvents refined from crude oil. Because these trends are predicted to continue, solvent recovery by carbon adsorption appears to be an economically justifiable control technique. Fixed-bed carbon adsorption is a mature technology that has been applied to the control of VOC emissions from a wide range of industrial processes, including flexible vinyl printing. The theory and principles of VOC control by carbon adsorption are well-documented in the literature. Modern carbon adsorption systems can be expected to achieve a long-term average performance of at least 95 percent efficiency. All of the newer carbon adsorption systems operating in the flexible vinyl printing industry have been designed and guaranteed by the manufacturer to have minimum removal efficiencies of 95 percent.

For the reasons described above, the Administrator has concluded that modern carbon adsorption control systems can be expected to achieve a high, long-term average performance efficiency of greater than 95 percent. Similarly, a solvent vapor capture system operating in the flexible vinyl printing industry has been demonstrated to achieve 90 percent capture. This system of vapor capture and carbon adsorber control is applicable to any flexible vinyl printing line operating over the range of conditions found in this industry.

Regulatory Alternative. During the development of the proposed standard, three regulatory alternatives were considered. For each of these alternatives the overall reduction efficiency for the VOC emission control system was calculated as the product of the capture system efficiency and the control device efficiency.

Regulatory Alternative I, referred to as the baseline, assumes that no NSPS would be developed. In designating this baseline, it is assumed that States have adopted or will adopt the recommended guidelines in the control techniques guideline (CTG) document, "Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts—Rotogravure and Flexography," (EPA–450/2–78–033). This CTG calls for 65 percent overall reduction of VOC from flexible packaging rotogravure facilities. The 65 percent reduction level represents a system that captures 70 percent of the total solvent vapors evolved from the affected facility and recovers 95 percent of those vapors. The Volume VIII CTG was chosen instead of the Volume II CTG on fabric coating ["Control of Volatile Organic Emissions from Existing Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks," (EPA–450/2–77–008)] because the flexible vinyl printing industry uses gravure printing equipment. In addition, some States are controlling this equipment as flexible packaging rotogravure facilities.

Regulatory Alternative II represents the first level of NSPS control being considered. This control level is based on an overall VOC emission reduction of 75 percent. The control system for Alternative II would capture 80 percent of the total solvent vapors evolved in the printing operation and then recover 95 percent of those vapors.

Regulatory Alternative III is based on an overall VOC emission reduction of 85 percent. The 85 percent level represents a system that captures 90 percent of the total solvent vapors from the printing operation and then recovers 95 percent of those vapors. For all three alternatives, the control device efficiency was 95 percent. This emphasizes the fact that improving capture efficiency is the key to increasing overall emission control.

Environmental, Energy, and Economic Impacts

The analyses of the environmental, energy, and economic impacts are based on a comparison of the expected impacts of Regulatory Alternatives II and III versus Regulatory Alternative I. Estimates of these impacts were determined through the development of model plants which represent new facilities. The environmental, energy, and economic impacts of the regulatory alternatives were calculated based on the use of carbon adsorption.

Environmental Impacts. An analysis was made to compare the estimated nationwide impacts of VOC emissions, wastewater effluents, and solid waste generation associated with each regulatory alternative. This analysis was based on a projected annual growth rate for wallcovering of 8.9 percent through 1987. Little or no growth is expected for other products. Under Regulatory Alternative I, SIP control only with no NSPS, new, modified, or reconstructed flexibile vinyl printing lines would emit approximately 1400 megagrams (1500 tons) per year of VOC by the year 1987. Implementation of Regulatory Alternative II, the first level of NSPS control, would lower emissions by 30 percent from Alternative I to 1000 megagrams (1100 tons) per year of VOC in 1987. Implementation of Regulatory Alternative III would reduce VOC emissions by 57 percent from Alternative I to 610 megagrams (670 tons) per year from new, modified, or reconstructed printing lines in 1987.

For a typical plant, total annual emissions at the baseline level (SIP control) are 240 megagrams (260 tons) per year. Regulatory Alternative II

would decrease emissions by 30 percent to 170 megagrams (190 tons) per year in 1987. Likewise, compared to Alternative I, Alternative III would reduce emissions from a typical plant by 60 percent to 100 megagrams (110 tons) per year.

Wastewater is created by condensation of the steam used to regenerate carbon adsorption units and by sovent distillation processes. The environmental impact on natural water systems from this wastewater discharge would be minimal because: (1) The total volume of annual wastewater discharge is small, and (2) the discharge contains only trace amounts of organic solvents and chemicals such as calcium chloride or sodium hydroxide. Plants currently discharge their carbon adsorption/distillation wastewater stream to publicly owned treatment works without penalty or surcharge.

The nationwide wastewater discharge resulting from the implementation of emission controls on new, reconstructed, or modified flexible vinyl printing plants was estimated. In 1987, plants controlled at the level of Regulatory Alternative I would discharge approximately 13.2 million liters (3.5 million gallons) of wastewater per year. At the level of control represented by Regulatory Alternative II, 15.6 million liters (4.1 million gallons) would be discharged in 1987. Regulatory Alternative III would increase wastewater discharge to 18 million liters (4.8 million gallons) per year.

The wastewater streams from different plants would contain varying amounts of VOC. The worst case was estimated by assuming that all new facilities would use carbon adsorption devices to control VOC emissions. At the baseline control level, the nationwide wastewater discharge would contain 4.9 megagrams (5.4 tons) of VOC in 1987. Under Regulatory Alternative II this would increase to 5.7 megagrams (6.3 tons). Regulatory Alternative III would result in a VOC content in the wastewater of 6.5 megagrams (7.1 tons) per year. The total wastewater impacts associated with any of the three alternatives are considered reasonable in view of the potential nationwide reduction in VOC emissions from the flexible vinyl printing industry.

The only solid waste generated by the VOC emission control system is from the carbon adsorption device. The adsorption efficiency of the activated carbon gradually degrades to such a level that replacement of the carbon is necessary. This replacement creates a solid waste load for the plant. The most likely procedure for handling waste carbon is for the vinyl printing plant to return it to the carbon manufacturer for recycling. The manufacturer can process the waste carbon and reactivate it for use in carbon adsorption units. Other procedures are available for handling the waste carbon that minimize adverse environmental impact: (a) Properly landfilling the carbon, and (b) using the carbon as fuel. Nationwide, solid waste resulting from the VOC emission control systems of flexible vinyl printing plants would not pose significant adverse environmental impacts. In 1987, new, modified or reconstructed plants controlled to the Regulatory Alternative I and II levels would generate approximately 19 megagrams (21 tons) and 21 megagrams (23 tons) per year, respectively, of carbon waste. The same plants controlled at the more stringent Regulatory Alternative III level would generate about 24 megagrams (26 tons) per year of carbon waste. The nationwide solid waste impact for any of the three alternatives is considered reasonable when compared to the potential nationwide VOC emission reduction from flexible vinyl printing operations.

Energy Impact. The air pollution control equipment for the flexible vinyl printing industry utilizes electrical energy and steam energy from fuel oil combustion. The electrical energy is required to operate air fans, cooling tower pumps and fans, boiler support systems, and all control system instrumentation. Fuel oil, a typical fossil fuel, is combusted in boilers to produce steam for operation of carbon adsorption and distillation. For the energy impact analysis an 80 percent thermal efficiency was assumed for the fuel oil usage.

The incremental gross nationwide consumption of electricity by new, modified, or reconstructed flexible vinyl printing lines for VOC control purposes was estimated. In 1987, 15 percent more electrical energy would be required to increase control from Regulatory Alternative I to Regulatory Alternative II. Thirty percent more electrical energy would be required nationwide to increase control from Regulatory Alternative I to Regulatory Alternative III. In 1987, annual nationwide consumption of electricity by flexible vinyl printing lines under Regulatory Alternatives I, II and III would be 4300 GJ (4.0 billion Btu), 5000 GJ (4.7 billion Btu), and 5800 GJ (5.5 billion Btu), respectively. Electricity consumption by a single typical new flexible vinyl finishing line under Regulatory Alternatives I, II and III would be: 720 GJ (680 million Btu), 840 GJ (800 million Btu), and 970 GJ (920 million Btu) respectively.

Nationwide fuel oil energy requirements for VOC control were also estimated. In 1987, about 43,000 GJ (41 billion Btu) of fuel oil energy would be consumed by new, modified, or reconstructed flexible vinyl printing plants controlled at the level of Regulatory Alternative I. Increasing control to Regulatory Alternative II would require a 15 percent increase to 50,000 GJ (47 billion Btu) in the fuel oil energy consumption. Control to the level of Alternative III would increase fuel oil consumption to 58,000 GJ (55 billion Btu) or 35 percent more than that required under Alternative I control.

Net energy savings are possible if the solvent is recovered and its energy value is considered. The VOC or solvent emissions that would be controlled by the proposed standard have an energy value. Potentially these emissions can be recovered as liquid solvent and reused; therefore, less new solvent would have to be consumed. Consequently, if less new solvent is used, less crude oil would be required to produce organic solvents. If all new, modified, or reconstructed flexible vinyl printing lines built through 1987 were controlled to the level of Regulatory Alternative I, the gross national energy demand would be equal to about 48,000 GJ (45 billion Btu). The amount of solvent recoverable could be translated into about 83,000 GJ (79 billion Btu) of energy for a net energy savings of 35,000 GJ (33 billion Btu).

Under Regulatory Alternative II control, the gross national energy demand would approach 55,000 GJ (52 billion Btu). The energy equivalent of the recovered solvent would be 95,000 GJ (90 billion Btu) for a net energy savings of 40,000 GJ (38 billion Btu).

Under Regulatory Alternative III control, the gross national energy demand would equal approximately 64,000 GJ (61 billion Btu) in 1987. The higher control efficiency of this alternative would yield a solvent recovery equivalent to 105,000 GJ (100 billion Btu) of energy for a net energy savings of 41,000 GJ (39 billion Btu). The incremental energy savings of Regulatory Alternatives II and III compared to I would equal 5,000 GJ (5 billion Btu) and 6,000 GJ (6 billion Btu) respectively.

The estimates of energy savings assume that the full energy value of all recovered solvent is obtained. The favorable national energy impact is important because of the lessening supply and increasing cost of petroleum raw materials. The energy impacts of the regulatory alternatives, with and without the consideration of solvent

recovery credits, are reasonable in view of the national reduction in VOC emissions being achieved.

Economic Impact. On a nationwide basis, the cumulative capital cost of control for the baseline level would be approximately $6.2 million. Alternative II would require an additional $800,000 and Alternative III, an additional $1.2 million for a total capital cost of $7.4 million. Capital cost of control at a typical plant controlled to the baseline level would be approximately $1.04 million. Control to the Alternative II and III levels would require capital costs of approximately $1.14 million and $1.24 million, respectively, at a typical plant.

Annualized costs represent control system operating costs less the value of the recovered solvent. Nationwide, annualized costs of control are approximately $414,000, $351,000 and $289,000 for Alternatives I, II and III, respectively. At a typical plant, annualized costs would be approximately $69,000, $58,500 and $48,100 for Alternatives I, II and III, respectively. The decrease in estimates of annualized costs is attributable to the value of the additional solvent recovered under Alternatives II and III compared to the baseline level.

The potential economic impacts of the regulatory alternatives were examined by analyzing potential effects on the five model plants. Estimated production for the model plants ranges from 9 million to 110 million square meters per year. Estimated revenue ranges from $7.2 million to $84.0 million annually. A complete description of the model plants is in Chapter 6 of the BID.

A detailed explanation of the methodologies used for the economic analysis is found in Chapter 9 of the BID. Three types of analyses were conducted: (1) Return-on-investment (ROI), (2) price pass-through, and (3) capital availability.

The return-on-investment analysis examines the impact of control costs on the existing firms' viability and the attractiveness of investment in new plants. The basic measure of ROI employed in the analysis can be obtained by dividing net profit by total assets. Income statements for each model plant were calculated for the baseline case and Alternatives II and III. After the net income before taxes (EBIT) was calculated, the assets were estimated from the EBIT/assets ratio. Baseline ROI was calculated by dividing net income by the estimated assets. Appropriate adjustments were then made to both the cost of sales and assets to account for the additional costs of control.

When compared to the baseline case, the ROI for Regulatory Alternative II ranges (for the five model plants) between a 0.96 percent decline and an 8.38 percent increase. Likewise for Regulatory Alternative III, the ROI ranges between 1.20 percent decline and 17.77 percent increase. The favorable impact on four of the five model plants is due to the large solvent recovery credits that more than offset the costs of control.

The price pass-through analysis, or analysis of potential price increase, was limited to one model plant, Plant A. This analysis was not conducted for the other four plants because it was assumed that the positive impact of the recovery credits would produce no incentive for those plants to increase prices.

In summary, the worst case would suggest a very modest price increase for Model Plant A of 0.05 percent. The worst possible case for Model Plants B thru E would be no price change whatsoever, since the positive impacts on ROI provide no incentive for a price increase.

The capital availability analysis showed that the additional capital requirements for Regulatory Alternative II would reduce the debt service coverage ratios by 5.6 to 16.2 percent, depending upon model plant size. For Regulatory Alternative III the debt service coverage ratio would be reduced by 10.3 to 28.2 percent. For both of these alternatives, the absolute level of the ratios does not fall below 3 for any of the model plants. This very modest impact should not affect the capital financing capabilities of plants similar to the model plants.

The macroeconomic impact of a proposed regulation must be analyzed using three principal review criteria as listed in Executive Order 12291 in order to determine if a regulatory analysis is required. An analysis would be required if any of the following criteria were met:

1. An annual effect on the economy of $100 million or more;
2. A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
3. Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The macroeconomic impact for the regulatory alternatives is not large enough to meet any of these criteria. The worst case maximum price impact of 0.05 precent increase is minimal in light of the second criterion. Due to significant positive recovery credits, the total additional annual cost of control in the fifth year will be negative, that is, beneficial to the corporation. No significant adverse effects listed in the third criterion would result. The analysis concludes that no significant macroeconomic impacts are likely.

Comparison of the alternatives indicates that the beneficial impacts of setting standards based on Regulatory Alternative III outweigh the adverse impacts. A significant reduction in VOC emissions would result from setting the proposed standards and there would be minimal adverse water pollution, solid waste, and noise impacts. There would be an industry-wide savings in energy, and the costs and economic impacts would be reasonable. Therefore, Regulatory Alternative III, 85 percent overall control of VOC emissions, was selected as the basis for the proposed standards.

This level of control can be achieved with a carbon adsorber operated in conjunction with a well-designed VOC capture system. This control system is designated to be the best system of continuous emission reduction considering environmental and other impacts. As an alternative emission control technique, the flexible vinyl printing industry is researching the possibilities of using low-VOC content (waterborne) inks to reduce VOC emissions. As solvent content in waterborne inks decreases, the emission reduction achievable and thus the benefit of emission control systems decreases. In other words, waterborne inks contain such a small amount of VOC that any VOC emission reduction is limited. To date, waterborne inks for flexible vinyl printing have not been developed to the extent that they are universally applicable throughout the industry. Therefore, their use cannot form the basis of the proposed standard although they may be used in some cases to meet the standard. Waterborne inks are discussed in more detail in the section entitled "Selection of Numerical Emission Limits."

Selection of Format of Proposed Standard

The format of the proposed standard is a combination of a percent reduction of gaseous VOC emissions and a mass of VOC per mass of ink solids. Three types of formats were considered: mass of VOC emitted per unit of production, mass of VOC per mass of ink solids, and percent reduction of VOC emissions. The criteria for choosing the format were effectiveness in assuring application of the best system of

emission reduction, ease of compliance testing, and ease of application in the industry.

A format of mass of VOC emissions per unit of production directly relates emissions to individual plant production. However, this type of regulation would not reflect the best demonstrated technology for different types of inks. In the flexible vinyl printing industry, the quantity of VOC in inks used varies and therefore kilograms of VOC applied per unit area of production also varies. If this type of standard were established, plants that applied a small amount of VOC per unit of product and produced a large volume of product might not be required to achieve BDT levels of control while plants applying more VOC per unit of product and producing less product would be required to achieve the full 85 percent reduction even though both plants might use the same total quantity of VOC. This format does not meet the criterion of reflecting application of best demonstrated technology on all new sources, because some sources would not be required to achieve levels of control that the Agency believes are reasonable.

The second type of format considered was mass of VOC as applied per mass of ink solids. This format would require measurement of the quantity of ink and solvent used and knowledge of the ink formulation. Although it would not require measurement of VOC emissions, it would require measurement of the total amount of VOC used. Due to the broad range in VOC to ink solids ratios in most inks and the large number of different inks used on a print line, a single mass emission standard would not necessarily be achievable by all sources and would not accurately reflect best demonstrated technology. This format is, however, appropriate for plants which use low-VOC content inks in lieu of control devices to reduce VOC emissions.

The third format, percent reduction, was considered from the standpoint of a liquid material balance and from the standpoint of gaseous emissions recovery efficiency. A liquid material balance would compare the total amount of solvent in the ink before application to the amount of solvent recovered or destroyed. Compliance testing would require a material balance type test. For the vinyl printing industry, measurement of recovered solvent is difficult because of the variation from plant to plant in solvent lost in the recovery, distillation, and other solvent purification processes following carbon absorption. There is not adequate information available to characterize or quantify these solvent losses. This format is only applicable when a control device is used.

Finally, a format of percent reduction of gaseous emissions was considered based on the efficiency of the capture system and control device. This would include both fugitive VOC emissions and oven emissions. This type of format involves measuring all gaseous emissions only. Performance and compliance testing are more readily accomplished with this type of format than with a materials balance.

The format selected is a combination of a percent reduction of gaseous VOC emissions and a mass of VOC per mass of ink solids. This combination would assure the application of the best demonstrated technology on printing lines and provide a simple means of determining compliance.

There are, however, disadvantages to a percent reduction format. This approach does not give credit for some methods of emission reduction. For example, although reductions in the VOC content of the ink or in the amount of ink applied per unit of product can substantially reduce VOC emissions from these facilities, the percent reduction format provides no incentive (within the range of the VOC content of inks currently in use) for manufacturers to consider these measures.

The Agency recognizes that there may be important opportunities for reducing facility emissions through the adoption of such methods of emission reduction. This standard covers plants making a wide variety of products and, as a result, there is a considerable disparity across the facilities covered by this standard in the VOC content of the inks and the ink applied per unit product. The Agency solicits comments on the practicability of establishing a standard providing greater flexibility than that allowed by its percent reduction requirement. This may require the Agency to establish subcategories—e.g., automobile accessories, wallcovering, etc. The Agency requests that interested parties provide the information necessary to setting standards for industry subcategories—for example, information on such factors as the VOC content of inks used and the average application rate for these subcategories.

Selection of Numerical Emission Limits

The proposed standard would require facilities that use inks having a VOC-to-ink solids ratio greater than or equal to 1.0 to achieve an 85 percent reduction in VOC emissions. This 85 percent reduction may be achieved by a capture efficiency of 90 percent and a control device efficiency of 95 percent. However, other combinations of capture efficiencies and control device efficiencies are possible and would be acceptable as long as the 85 percent reduction is achieved.

The percent reduction standard is based on test data for the best system of emission reduction which was determined to be an efficient capture system combined with carbon adsorption. The data were obtained during emission source testing of a flexible vinyl printing line that was printing wallcovering products. The capture efficiency and emission reduction results determined during the test would be applicable to the entire flexible vinyl printing industry as it is defined in the proposed standard for several reasons. The rotogravure principles used in printing wallcovering are identical with the rotogravure principles involved in printing any other continuous vinyl web. All other continuous vinyl web products of the same width could be produced on the print line tested. An equivalent capture system and control device would be designed and installed on any continuous vinyl web rotogravure print line.

Air management around the print line is the most important factor in achieving the high capture efficiency demonstrated in the tests. The factors which affect the emissions from any flexible vinyl print line include air management equipment design parameters such as air velocities at capture points and configurations of dryers, print stations and capture systems. Emissions are also affected by process and product parameters such as solvent volatilities, resin types, web widths, line speeds and run lengths. Air management is not affected by the wide range of these process and product parameters. Therefore, the capture efficiency test results would not change for the printing of other products assuming good air management around the print line was maintained.

EPA conducted two testing programs at the wallcovering plant. After carefully studying the results from both testing programs, the Agency determined that data from the second testing program are representative of normal operations of the print line tested and for new print lines likely to be installed in the future. Data from the first testing program were not used in development of the standard because air management around the print line was adversely affected by air flow into and out of the room. An overhead fan designed to supply outside air to the room and a room exhaust wall fan cause such turbulence around the

rotogravure print stations that capture efficiency was lowered below design expectations. Both of these fans lacked adequate distribution systems and this poor air management caused the excessive turbulence. When the overhead fan and the wall fans were turned off during the second testing program, the capture efficiency met design expectations. During the test, make-up air was sunpplied through doorways.

Ambient monitoring of VOC concentrations in the press room indicated that this did not contribute additional VOC nor were OSHA threshold limit values exceeded. Plants designed with adequate air distribution systems and good air management would avoid the problem of excessive turbulence.

The proposed standard requires an 85 percent reduction in VOC emissions. This reduction is calculated as the product of the capture system efficiency times the carbon adsorber efficiency. During seven test runs conducted during actual printing operations, capture system efficiency ranged from 90 to 95 percent, averaging 92 percent. The average efficiency of the three lowest test runs was 90 percent and therefore 90 percent capture system efficiency was used in setting the standard. The efficiency of the carbon adsorber ranged from 99 to nearly 100 percent during three test periods. However, a carbon adsorber efficiency of 95 percent was used in determining the level of the proposed standard for three reasons. First, the vendor of the carbon adsorption unit used at the vinyl printing plant tested guarantees the unit to be 95 percent efficient. The second reason for using the 95 percent efficiency was that the carbon adsorber efficiencies recorded during the testing are somewhat higher than would be the case under design conditions. At the plant tested, the system was new, it was operated only eight hours per day, and the carbon bed was regenerated twice at the end of each day. The second regeneration increases efficiency by almost completely removing the remaining solvent left on the carbon. Finally, carbon adsorber efficiencies of 95 percent have been demonstrated and used as the basis for standards of performance for two other web coating industries.

Based on the test results, the overall control requirement of 85 percent was selected as the level that can be achieved by the best demonstrated technology in all control situations expected to occur at new, modified, and reconstructed facilities.

Considering that as solvent content decreases, the emissions reduction and thus the benefit of add-on controls decreases, the Administrator examined costs and benefits of controls on low-solvent inks.

The VOC content per unit of ink solids in currently used solvent-borne inks ranges from 2.3 to 19 kg VOC per kg ink solids and could not be lowered by the substitution of water for organic solvent. The resins and organic solvents in present solvent-borne formulations are not compatible with water. Waterborne inks will use different resins and slovents from those presently used in solvent-borne inks. Data and information gathered from several industry sources and ink suppliers indicate that the VOC content of waterborne inks being developed and used ranges from 0.0 kg VOC per kg ink solids to 0.75 kg VOC per kg ink solids. It is reported that the VOC content in these waterborne inks can only exceed 0.75 kg VOC per kg ink solids by a small degree because of technical problems involving the high boiling point characteristics of the organic solvents used. Increased quantities of these high boiling point solvents in the inks inhibit the drying process and cause product quality problems. Additional solvent is sometimes introduced at the press for viscosity control purposes and could possibly cause the total VOC content of the ink to be as much as 1.0 kg per kg ink solids.

The cost of installing, operating, and maintaining either carbon adsorbers or incinerators as control devices at plants using inks with less than 1.0 kg VOC per kg ink solids would be exorbitant, considering the small emission reduction which would be achieved for these low-solvent inks. At a typical plant, emissions would be reduced by 65 mg per year at an annualized cost of $300,000. Because of the exorbitant cost, additional control for affected facilities at which the inks used contain less than 1.0 kg VOC per kg ink solids would not reflect the best demonstrated technology, considering costs, and is therefore not required by the proposed standard. There is no precise basis for a limit of 1.0 kg of VOC per kg ink solids. As discussed above, however, the Agency believes that solvent-borne inks with a VOC content in the 1.0 to 2.3 kg VOC per kg ink solids range would not be developed in the absence of a standard due to technical application problems involving ink viscosity and drying of the printed web. The Agency does not want to unintentionally encourage the development of inks in this range. A standard with a cut-off at 1.0 kg VOC per kg ink solids achieves the greatest reduction possible without exorbitant cost and EPA is therefore proposing 1.0 kg VOC per kg ink solids as the level below which the percent reduction standard would not apply. The cost of carbon adsorber control systems for inks with VOC contents greater than 2.3 kg VOC per kg ink solids would be reasonable.

Modification and Reconstruction Considerations

The proposed standard would leave unchanged the requirements in the General Provisions (40 CFR 60.14 and 6.15) for modified and reconstructed facilities. Facilities which are modified or reconstructed after the date of proposal of this standard are subject to the standard.

A modification is any physical or operational change to an existing facility which results in an increase in emissions. In general, modifications are made to increase productivity or improve product quality. Certain changes have been exempted from coverage under the General Provisions in 40 CFR 60.14. These exemptions include: routine maintenance, repair and replacement; production increases achieved without any capital expenditure; production increases resulting from an increase in the hours of operation; use of an alternative fuel or raw material if the existing facility was designed to accommodate it; conversion to coal for energy considerations; addition or replacement of equipment for emission control (as long as the replacement does not increase emissions); and relocation or change of owership of an existing facility. Therefore, typical production debottlenecking, more efficient scheduling, and increased hours of operation are not likely to cause an existing facility to become subject to the standards. Changes in ink composition would also be exempted if the equipment were originally designed to handle the new inks.

Reconstruction is defined as the replacement of components of an existing facility to the extent that the fixed capital cost of the new components is greater than 50 percent of the fixed capital cost of a comparable entirely new facility and that compliance with the standard is technically and economically feasible. A change in the emission rate is inconsequential. Reconstruction determinations are made on a case-by-case basis.

Extensive equipment modifications and reconstructions are not expected to

occur in the flexible vinyl industry. In this industry, there are few changes that can be made to the print line that outside of routine maintenance would not require a large capital investment and therefore require a reconstruction determination to be made. In this case, it is likely that plant owners would choose to build a totally new print line since the cost of a new print line would be comparable to the cost of retrofitting an existing line. Although these changes are not expected, both modified and reconstructed existing facilities could achieve the proposed emission limit by using the best demonstrated technology. Environmental and energy impacts would be essentially equivalent to impacts for new facilities and would be reasonable. Economic impacts would vary with different site-specific requirements but would be comparable to the impacts for new facilities and would be reasonable.

Selection of Monitoring and Recordkeeping Requirements

Continuous monitoring requirements are included in the proposed standard to ensure proper operation and maintenance of the VOC emission control system. Monitoring procedures for the proposed standard were chosen based on three factors: reasonable cost, ease of execution, and utility of the resulting data to both the owner and to EPA for assuring continued proper operation.

Proposed monitoring requirements for the control system would include the continuous measurement and recording of VOC emissions from the carbon adsorber. Monitoring equipment is available to moniotor the operational variables associated with carbon adsorber operation. Monitoring of operations indicates whether the adsorber is being properly operated and maintained, and whether it is continuously reducing VOC emissions to an acceptable level. The variable that would yield the best indication of system operation is VOC concentration at the carbon adsorber outlet. Extremely accurate measurements would not be required since the purpose of the monitoring would not be to determine the exact outlet emissions but rather to indicate operation and maintenance practices regarding the carbon adsorber. Monitors for this type of continuous VOC concentration measurement typically cost about $6,000. To achieve representative VOC concentration measurements at the carbon adsorber outlet, the concentration monitoring device should be installed in the exhaust vent at least two equivalent stack diameters from the exit point, and protected from any interferences due to wind, weather, or other processes. A recording device must also be installed so that a permanent time record of the measurements is produced.

EPA has not yet developed performance specifications for these continuous monitors, but a program is underway to develop these specifications. Consequently, until EPA proposes and promulgates monitor performance specifications, owners and operators subject to the requirement to install a continuous monitoring system will not be required to do so.

During the performance test, concentrations of VOC in the carbon adsorber exhaust gases would be determined using EPA proposed Reference Method 25A and at the same time the corresponding continuous monitoring system readings would be taken, assuming the monitoring system performance specifications have been promulgated. After the performance test, records of all continuous monitoring data must be maintained in accordance with the General Provisions (40 CFR 60.13). The proposed standard would also require a record to be kept of all occurrences, during any three-hour period of solvent recovery emission control device operation, when the average concentration of VOC in the carbon adsorber exhaust gases indicated by the continuous monitoring system is more than 50 parts per million by volume and more than 20 percent greater than the exhaust gas concentration measured by the monitoring system during the most recent performance test. Such a discrepancy would indicate improper operation of the carbon adsorption system.

Selection of Performance Tests Methods

Performance test methods are being proposed to determine the overall control efficiency of the control system or to ensure the use of waterborne inks. For affected facilities using carbon adsorbers, performance is demonstrated by determining the overall control efficiency of the VOC control system. The overall efficiency is the product of the efficiency of the vapor capture system and the efficiency of the control device (when all efficiencies are expressed as fractions).

The performance test for affected facilities using an emission control system would consist of three test runs, each lasting a minimum of 30 minutes and not exceeding 180 minutes. During each of these test runs, the overall efficiency of the emission control system would be determined. Each test run must be a continuous run. This would require process monitoring and recording of beginning and ending of print line operation since no down time can occur during any test run. In this industry, down periods are commonly required to prepare the print line for operation. Much of this time is spent in changing patterns, adjusting inks to the correct color shade, and registering of each colored pattern. The emissions during these down periods vary from time to time, from plant to plant, and from product to product. Most of the emissions occur when the product is being printed.

Test runs of at least 30 minutes were chosen to demonstrate capture efficiency of the print line for the following reasons: (1) 30-minute periods are short enough to enable all vinyl printing lines to complete the period without a major line fluctuation or disturbance; (2) this period is long enough so that it represents a steady of the printing process; and (3) 30-minute runs are necessary to allow ample time for velocity flow measurements to be obtained in the stacks venting the printing room or exhausting to the control device. The maximum test run time period of 180 minute was set so that performance tests would not be excessively long and therefore penalize plants that use longer operating periods. The same periods was selected for the carbon adsorber test in order to provide the basis for calculating the overall recovery efficiency. The average of the three test runs would be defined as the overall VOC emission control efficiency attributable to that control system.

The efficiency of the vapor capture system is defined as the ratio of the volume of gaseous VOC emissions directed to the emission control device to the total volume of gaseous VOC emissions from the flexible vinyl printing line. In order to determine capture efficiency, all fugitive VOC emissions from the printing area must be captured and vented through stacks suitable for testing. A total enclosure around the print line will facilitate testing by serving to direct all fugitive VOC emissions through suitable testing stacks. If a permanent total enclosure or its equivalent exists on the line prior to the performance test and the enforcing agency is satisfied that the enclosure is capturing all fugitive emissions, the construction of a temporary enclosure would not be necessary. Otherwise, prior to the performance test, the owner or operator would need to construct a temporary total enclosure around the print line for the purpose of containing fugitive VOC emissions for measurement during the performance

test. In both cases, all doors and other opening through which fugitive VOC emissions might escape would be closed.

If an embosser is operated in the print line, the performance test would be conducted either with the embosser heat turned off and the embosser exhaust tested in the same manner as a room exhaust stack or by separating the embosser from the print line by a total enclosure around the print line. As discussed above, emissions generated by embossers are not being considered under the proposed standard.

Print line emissions would be measured following proposed Reference Method 25A, "Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer" and Reference Methods 1 through 4. The combined results yield the mass of VOC.

The efficiency of the emission control device would be determined by measuring the VOC mass flow rate in the inlet and outlet gas streams. The efficiency of the control device can then easily be calculated using these two measurements. These VOC emission measurements would also be accomplished following EPA proposed Reference Method 25A and Methods 1 through 4.

Demonstration of the efficiency of the control device must be performed simultaneously with the demonstration of the efficiency of the vapor capture system. Demonstration of an 85 percent overall emission reduction for the specified periods would indicate compliance with the proposed standard.

The total time required for one complete performance test is estimated at 24 hours, with an estimated cost of $6,000 for each vent measured. The number of vents to be measured varies with plant configuration and may range from three to six, for a total cost of $18,000 to $36,000. In order to measure all emissions from the print line being tested, it must be isolated from other sources of VOC. This can be done by testing while adjoining lines are down or by constructing a temporary total enclosure around the line. Costs of such an enclosure vary depending on configuration of the print line.

Proposed Reference Method 25A was selected to measure the VOC concentration because it provides a continuous record of VOC concentrations. A continuous record is necessary because of print line and control device fluctuations. Monitoring that is not continuous would not give a representative indication of emissions.

Owners or operators of affected facilities using waterborne inks would be required to record the VOC content of each ink as used at the press for any time periods when add-on control equipment is not used. Either the ink manufacturer's formulation data or Reference Method 24 could be used to analyze inks. The weighted average VOC content would be calculated over a time period not exceeding a calendar month. Each of these time periods would constitute a performance test, but results must be reported to the Administrator only for the initial performance test. If all inks used during the time period contain less than 1.0 kg VOC per kg ink solids, records of the VOC content of each ink must be kept, but calculation of the weighted average is not necessary.

The averaging period of 1 calendar month was selected to allow manufacturers that rely primarily on waterborne inks to use high solvent inks for a short period of time without requiring the expenditure for control equipment. This encourages the development of waterborne inks by allowing some degree of operational flexibility. At a meeting of the National Air Pollution Control Techniques Advisory Committee held September 22, 1981, one industry representative stated that an averaging period of 1 month is not long enough to allow sufficient operational flexibility. He suggested a 90 day averaging period, but did not provide data to support this recommendation. EPA has investigated this issue and on the basis of available information has determined that the 1 month averaging period is sufficient. This determination is filed in the Docket (A–80–8, II–B–49). Comments are specifically requested on this issue.

To determine the solvent content of the inks applied, the owners or operators of affected facilities would determine the VOC content of each ink used as well as the mass of all VOC solvent used at the print line. The method for meauring the solvent content in the inks if Reference Method 24, "Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings," promulgated at 45 FR 65956, October 3, 1980. This method combines several American Society of Testing and Materials (ASTM) standard methods to determine the volatile matter content, density, volume of solids, and water content of the inks and related surface coatings. From this information, the mass of volatile organic compounds (VOC) per unit mass of solids may be calculated.

Because the proposed flexible vinyl printing emission limit for VOC is in units of mass of VOC per mass of ink solids, only the portions of Reference Metod 24 discussed below need to be used. This shortens the test method by eliminating several steps. For non-aqueous inks, the procedure to be used is ASTM D 2369–81, "Provisional Test Method for Volatile Content of Paints." For aqueous inks, the previously mentioned procedure (ASTM D 2369–81) is combined with a second procedure which determines the water content of the inks. As indicated in Method 24, there are two acceptable procedures for this: (1) ASTM D 3792–80, "Standard Test Method for Water in Water Reducible Paint by Direct Injection Into a Gas Chromatograph," and (2) ASTM "Provisional Test Method for Water in Paint or Related Coatings by the Karl Fischer Titration Method." All three of the ASTM methods are part of Reference Method 24. The results from these procedures are the non-aqueous volatile content of the ink (as a weight fraction) and the water content (as a weight fraction). The weight fraction solids content in the inks is also determined from these results. The VOC content in the ink, in mass of VOC per mass of ink solids, may be determined by dividing the weight fraction of non-aqueous volatiles by the weight fraction of solids.

The estimated cost of analysis per ink sample is $50 for the total volatile content procedure (ASTM D 2369–81). For aqueous coatings, there is an additional $100 per sample for water content determination. Since the testing equipment is standard laboratory apparatus, no additional purchasing costs are expected.

Impacts of Reporting Requirements

The "Reports Impact Analysis of New Source Performance Standards for the Flexible Vinyl Printing Industry" is located in Docket No. A–80–8, category II–A. The results of the analysis are summarized in this section.

The reporting requirements specified by the proposed standard are authorized by Section 114 of the Clean Air Act. The proposed standard would require the preparation of two types of reports. First, the General Provisions (Subpart A of 40 CFR 60) would require notification reports that inform the Agency of facilities subject to new source performance standards (NSPS). These reports include notification of construction, anticipated start-up, actual start-up, and physical or operational changes. Second, reports of performance test results and performance evaluations of the continuous monitoring systems would be required. These reports show whether a facility is initially meeting the level of the standard. The proposed

standard would not require any additional reporting.

The respondent group to the reporting requirements of the proposed standards would be the flexible vinyl printing industry. It is estimated that through the fifth year of standard applicability, approximately six new sources will have been established which would have to comply with the reporting requirements of the proposed standard. Through the fifth year of applicability, those six sources would incur a manpower demand of about 2.1 man years to comply with the reporting requirements.

Public Hearing

A public hearing will be held to discuss the proposed standard in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for the printing of flexible vinyl products was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that industrial surface coating of fabric contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects fo the proposed regulation, including economic and technological issues.

This regulation will be reviewed within 4 years of the date of promugation. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, and improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the IID.

Comparisons of annualized costs per megagram of emission reduction at a typical plant were made between all three Regulatory Alternatives and an uncontrolled plant. Compared to an uncontrolled plant, Alternatives I, II, and III would result in emission reductions of 440 megagrams (485 tons), 510 megagrams (560 tons), and 580 megagrams (640 tons), respectively. Using these emission reduction figures, annualized costs per megagram (cost per ton) of emission reduction would be $160 ($140), $115 ($100), and $80 ($75), respectively for Alternatives I, II, and III.

At a typical plant, Alternative II would result in an annual emission reduction of 70 megagrams (77 tons) more than Alternative I. Alternative II would have an annualized cost of $11,400 less than Alternative I for a savings of $160 per megagram ($150 per ton) of emission reduction. Compared to Alternative I, the application of Alternative III would result in an increased emission reduction of 140 megagrams (150 tons). The annualized cost of Alternative III would $21,800 less than Alternative I for a savings of $160 per megagram ($140 per ton) of emission reduction.

Alternative III would result in an annual emission reduction of 70 megagrams (77 tons) more than Alternative II at a typical plant. Annualized control costs are $10,400 less for Alternative III and this would result in an annual savings of $150 per megagram ($135 per ton) of emission reduction.

To summarize, the additional solvent that could be recovered under Alternatives II and III would result in decreased annualized costs of control and thus in decreasing cost per ton of emission reduction when the three alternatives are compared to an uncontrolled plant. When higher control levels are compared to lower control levels, the potential credit for increased solvent appears as a savings in the cost of emission reduction. Alternative III would have the lowest annualized cost, the highest emission reduction and therefore the lowest annualized cost of emission reduction.
Alternative III reflected the best demonstrated technology and was therefore selected as the proposed level of control.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be major. The industry-wide annualized costs in the fifth year after the standard would go into effect would be $269,000. This is much less that the $100 million established as the first criterion for a major regulation in the Order. The estimated price increase of less than 0.05 percent associated with the proposed standards would not be considered a "major increase in costs or prices" specified as the second criterion in the Order. The economic analysis of the proposed standard's effects on the industry did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with foreign firms (the third criterion in the Order).

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket referenced in the addresses section of this preamble.

Section 605 of the Regulatory Flexibility Act (RFA) requires that the Administrator certify regulations that do not have a significant impact on a substantial number of small entities. This regulation, if promulgated, will not have a significant impact on any small

entities as shown by the economic analysis discussed earlier in this preamble.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminim, Ammonium sulfate plants, Asphalt, Cement industry, Coal copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc.

Dated: January 11, 1983.

Anne M. Gorsuch,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended by adding a new Subpart FFF to read as follows:

Subpart FFF—Standards of Performance for Flexible Vinyl Coating and Printing Operations

Sec.

60.580 Applicability and designation of affected facility.
60.581 Definitions and symbols.
60.582 Standard for volatile organic compounds.
60.583 Test methods and procedures.
60.584 Monitoring of operations and recordkeeping requirements.

Authority: Sec. 111, 301(a) of the Clean Air Act as amended 142 U.S.C. 7411, 7601(a)1, and additional authority as noted below.

Subpart FFF—Standards of Performance for Flexible Vinyl Coating and Printing Operations

§ 60.580 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each rotogravure printing line used to print or coat flexible vinyl products.

(b) This subpart applies to any affected facility which begins construction, modification, or reconstruction after January 18, 1983.

(c) For facilities controlled by a solvent recovery emission control device, the provisions of § 60.584(a) will not apply until EPA has promulgated performance specifications for the continuous monitoring system. After the promulgation of performance specifications, these provisions will apply to each affected facility under paragraph (b) of this section. Facilities controlled by a solvent recovery emission control device that become subject to the standard prior to promulgation of performance specifications must conduct performance tests in accordance with § 60.13(b) after performance specifications are promulgated.

§ 60.581 Definitions and symbols.

(a) All terms used in this subpart, not defined below, are given the same meaning as in the Act or in Subpart A of this part.

"Emission control device" means any solvent recovery device used to control VOC emissions from flexible vinyl rotogravure printing lines.

"Emission control system" means the combination of an emission control device and a vapor capture system for the purpose of reducing VOC emissions from flexible vinyl rotogravure printing lines.

"Flexible vinyl products" means those products, except for resilient floor coverings (1977 SIC industry code 3996), that consists of or contain a vinyl sheet or a vinyl coating, and are more than 50 micrometers (0.002 inches) thick.

"Gravure cylinder" means a planted cylinder with a printing image consisting of minute cells or indentations, specifically engraved or etched into the cylinder's surface to hold ink when continuously revolved through a fountain of ink.

"Ink" means any mixture of ink, coating solids, VOC, and water that is applied to the web substrate of a flexible vinyl rotogravure printing line.

"Ink solids" means the solids content of an ink as determined by Reference Method 24 or ink manufacturers' formulation data.

"Rotogravure print station" means any device designed to print or coat inks on one side of a continuous web or substrate using the intaglio printing process with a gravure cylinder.

"Rotogravure printing line" means any number of rotogravure print stations and associated dryers capable of printing or coating simultaneously on the same continuous vinyl web or substrate, which is fed from a continuous roll.

"Vapor capture system" means any device or combination of devices designed to contain, collect, and route solvent vapors released from the flexible vinyl rotogravure printing line.

(b) All symbols used in this subpart not defined below are given the same meaning as in the Act or in Subpart A of this part.

"a" means the gas stream vents exiting the emission control device.

"b" means the gas stream vents entering the emission control device.

"f" means the gas stream which is not directed to an emission control device.

"C_{aj}" means the average concentration of VOC in each gas stream (j) for the time period exiting the emission control device, in parts per million by volume.

"C_{bi}" means the average concentration of VOC in each gas stream (i) for the time period entering the emission control device, in parts per million by volume.

"C_{fk}" means the concentration of VOC in each gas stream (k) for the time period which is not directed to an emission control device, in parts per million by volume.

"G" means the weighted average mass of VOC per mass of ink solids applied, in kilograms per kilogram.

"M_{ci}" means the total mass of each ink (i) applied in the time period as determined from plant records, in kilograms.

"M_{di}" means the total mass of dilution solvent added at the print line for each ink (i) used in the time period determined from plant records, in kilograms.

"Q_{aj}" means the volumetric flow rate of each effluent gas stream (j) exiting the emission control device, in dry standard cubic meters per hour.

"Q_{bi}" means the volumetric flow rate of each effluent gas stream (i) entering the emission control device, in dry standard cubic meters per hour.

"Q_{fk}" means the volumetric flow rate of each effluent gas stream (k) not directed to an emission control device in dry standard cubic meters per hour.

"E" means the VOC emission reduction efficiency (as a fraction) of the emission control device during performance testing.

"F" means the VOC emission capture efficiency (as a fraction) of the vapor capture system during performance testing.

"W_{ci}" means the weight fraction of organics in each ink (i) used in the time period as determined from Reference Method 24 or manufacturers' formulation data, in kilograms per kilogram.

"W_{si}" means the weight fraction of solids in each ink (i) used in the time period as determined from Reference Method 24 or manufacturers' formulation data, in kilograms per kilogram.

§ 60.582 Standard for Volatile Organic Compounds.

(a) On and after the date on which the performance test required by § 60.8 has been completed, each owner or operator subject to this subpart shall either:

(1) Use inks with a weighted average VOC content less than 1.0 kg VOC per kg ink solids, at each affected facility, or

(2) reduce VOC emissions to the atmosphere by 85 percent from each affected facility.

§ 60.583 Test Methods and Procedures.

(a) Reference Methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with § 60.582(a) as follows:

(1) Method 24 for VOC content in inks;

(2) Method 25A for VOC concentration (the calibration gas shall be propane);

(3) Method 1 for sample and velocity traverses;

(4) Method 2 for velocity and volumetric flow rates;

(5) Method 3 for gas analysis;

(6) Method 4 for stack gas moisture;

(b) To demonstrate compliance with § 60.582(a)(1), the owner or operator of an affected facility shall determine and record the VOC content of each ink used at the print head, including any diluent VOC, for any time periods when VOC emission control equipment is not used and determine the weighted average VOC content of the inks. Each determination of the weighted average VOC content shall constitute a performance test for any period when VOC emission control equipment is not used. Only results of the initial performance test must be reported to the Administrator. Reference Method 24 or ink manufacturer's formulation data may be used to determine the VOC content. The Administrator may require the use of Reference Method 24 if there is a question concerning the accuracy of the ink manufacturer's data. The weighted average VOC content shall be computed by the following equation:

$$G = \frac{\sum_{i=1}^{n} [(W_{oi} M_{ci}) + M_{di}]}{\sum_{i=1}^{n} M_{ci} W_{si}}$$

The weighted average shall be calculated over a period that does not exceed a calendar month. If, during the time periods when emission control equipment is not used, all inks used contain less than 1.0 kg VOC per kg ink solids, the owner or operator is not required to calculate the weighted average VOC content, but must verify and record the VOC content of each ink used.

(c) To demonstrate compliance with § 60.582(a)(2), the owner or operator of an affected facility controlled by a solvent recovery emission control device shall conduct a performance test to determine overall VOC emission control efficiency. This performance test shall consist of three runs. Each test run must last a minimum of 30 minutes and may not exceed 180 minutes. During each test run, the print line shall be printing continuously and operating normally. The VOC concentration for each test run is averaged over the entire test period. For concentration values, each emission site shall be measured simultaneously. The volumetric flow rate for each run shall be determined from one Method 2 measurement conducted immediately prior to, during or after the test run time period. For volumetric flow rates, each site does not need to be tested simultaneously. An efficiency is calculated for each run as follows. For the emission control system,

$$E = \frac{\sum_{i=1}^{n} (Q_{bi} C_{bi}) - \sum_{j=1}^{m} (Q_{aj} C_{aj})}{\sum_{i=1}^{n} (Q_{bi} C_{bi})}$$

For the vapor capture system,

$$F = \frac{\sum_{i=1}^{n} (Q_{bi} C_{bi})}{\sum_{i=1}^{n} (Q_{bi} C_{bi}) + \sum_{k=1}^{p} (Q_{fk} C_{fk})}$$

In order to determine capture efficiency, all fugitive VOC emissons from the printing area must be captured and vented through stacks suitable for testing. For each affected facility, compliance with § 60.582(a)(2) has been demonstrated if the average value of (EF) for the three runs, as a percent, is equal to or greater than 85 percent.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

§ 60.584 Monitoring of Operations and Recordkeeping Requirements.

(a) The owner or operator of an affected facility controlled by a solvent recovery emission control device shall install, calibrate, operate, and maintain a continuous monitoring system which continuously measures the VOC concentration of the exhaust vent stream from the control device and shall comply with the following requirements:

(1) The continuous monitoring system shall be installed in a location that is representative of the VOC concentration in the exhaust vent, at least two equivalent stack diameters from the exhaust point, and protected from any interferences due to wind, weather, or other processes.

(2) Each continuous monitoring system shall be equipped with a recording device so that a permanent time record of the measurements is produced.

(3) The exhaust vent VOC concentration, in parts per million by volume, shall be continuously measured and recorded during the performance tests. The owner or operator shall record any three-hour clock periods, following the most recent performance test, during which the average value of the exhaust vent VOC concentration during periods of solvent recovery emission control device operation, is greater than 50 ppm and more than 20 percent greater than the average value measured during the performance test.

(b) The owner or operator of an affected facility shall record time periods of operation when an emission control device is not in use.

Note.—This regulation does not involve a "collection of information" as defined under the Paperwork Reduction Act of 1980. Therefore, the provisions of the Paperwork Reduction Act applicable to collections of information do not apply to this regulation.

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

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Part IV

Department of Labor

Employment and Training Administration

Implementing Regulations for Programs Under the Job Training Partnership Act; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638

Implementing Regulations for Programs Under the Job Training Partnership Act (Pub. L. 97-300)

January 14, 1983.

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: This document proposes new rules regarding the implementation of programs under Titles I, II and III of the Job Training Partnership Act. The Secretary is required to publish final regulations by March 15, 1983, so that states and service delivery areas can begin planning and preparing for implementation of the new Act by October 1, 1983. The purpose of this publication is to request comments on these proposed rules.

Final rules dealing with the establishment of state job training coordinating councils and private industry councils (PICs), and the designation of service delivery areas (SDAs), were previously published in the Federal Register, 47 FR 58492 (December 30, 1982) as 20 CFR Part 626. The text of §§ 626.2, 626.3 and 626.4 of those rules has been incorporated as §§ 627.4, 628.1 and 628.2 respectively. It is being republished at this time for consistency and completeness, and is not subject to this request for comments.

DATE: Comments must be submitted on or before February 17, 1983.

ADDRESS: Comments should be addressed to the Assistant Secretary of Labor for Employment and Training, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213. Attention: Patrick J. O'Keefe, Director, Transition Task Force.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Keefe, Telephone (202) 376-8444.

SUPPLEMENTARY INFORMATION:

A. Purpose of JTPA

On October 13, 1982, the President signed into law the Job Training Partnership Act, Pub. L. 97-300 (JTPA or the Act). The new statute replaces the Comprehensive Employment and Training Act with a new program and delivery system to train economically disadvantaged persons and others for permanent, private sector employment.

Title I of the Act sets forth the state and local service delivery system and planning requirements. It provides policies and procedures on the development and implementation of performance standards and defines basic administrative requirements under the Act. Title II authorizes and sets out requirements for adult and youth training programs to be administered by the state and planned and carried out through a partnership between the private sector and government at the local level. Title III provides for a state administered training and placement assistance program for dislocated workers. Title IV authorizes federally administered activities, including programs for Native Americans, migrant and seasonal farmworkers, veterans, labor market information, the Job Corps, and other national activities. Title V's provisions include amendments to the Wagner-Peyser Act and the Social Security Act.

B. Authority to Issue Regulations

General rulemaking authority is contained in section 169 of the Act. In addition, section 161 provides for the early publication of those regulations necessary to structure and implement the planning system under Title I of the new statute and all aspects of programs under Title II. By January 1, 1983, the Secretary must have published final regulations on the establishment of the state job training coordinating councils and the designation of SDAs. By January 15, 1983, the Secretary must have published final regulations governing the establishment of PICs. Final regulations governing all aspects of programs under Title II, including the general provisions which are found in Title I, must be published by March 15, 1983.

Combined regulations for the establishment of the state job training coordinating councils, the designation of SDAs and the establishment of PICs have been separately prepared and were published in final form December 30, 1982. To provide early and complete guidance for all programs operated at the state and local level, the combined regulations establishing the planning structure, and the provisions for employment and training assistance for dislocated workers under Title III are incorporated in these regulations. This will afford reviewers of this document an opportunity to place all planning and operational considerations in context, and at the same time alert states and service deliveres to their ultimate roles under the JTPA beginning October 1, 1983, and beyond. Comments received as a result of this publication will be reconciled by the Department so that final regulations for Titles I, II and III can be published by March 15, 1983.

C. The Act and Regulations

The Congress intended in the JTPA to give Governors and local officials, including PICs, maximum authority and flexibility in the design and administration of programs. The Secretary believes that the Act is sufficiently clear and, therefore, requires only limited and selective interpretation via regulations. Governors and other participants in the delivery system will need to be guided principally by the Act, as supplemented by the regulations. The Act and regulations must be read in concert, along with other documents referenced in these materials.

D. The Role of the PICs and Chief Elected Officials

JTPA establishes a partnership between business and local chief elected officials in each SDA. Through this partnership, the private sector, in cooperation with local elected officials, will play a decisive role in planning and implementing local programs to assure that training is responsive to the requirements of business and industry. JTPA also gives the PIC and local elected officials authority to review, monitor and evaluate local training programs.

Under section 103 of the Act, the PICs and chief elected official(s) in an SDA, through a joint agreement, determine procedures for development of the job training plan and select the SDA grant recipient and administering entity (either or neither of which may be the PIC or local government). Job training plans must be jointly approved by the PIC and local government officials and jointly submitted to the governor.

E. The Role of the Governors

Consistent with JTPA and New Federalism, the regulations establish the basic JTPA grant relationship between the federal government and the governors, on behalf of the states (§ 627.1). Sections 202 and 251 of the Act identify the governor as the recipient of basic Title II training program funds. The governor is also the recipient of Title III disclocated workers program funds (§ 631.1).

Under sections 101 and 105 of the Act, the governors are responsible for designation of service delivery areas, and review and approval of job training plans. The regulations clarify these responsibilities by authorizing the governors to issue instructions and schedules for submission of job training plans and modifications (§ 628.4) and to reconsider corrected plans or modifications initially disapproved by the governor (§ 628.5(a)(2)). In the event

of appeal from a governor's denial of SDA designation or disapproval of a job training plan, however, the Secretary will be predisposed to accept policy judgments made within the state, except where there is a failure to conform to the requirements of the Act or regulations (§§ 628.1(c)(4), 628.5(b)(3)).

The governors are also responsible, under the regulations, for administrative guidance. Governors must provide instructions for documentation of any locally developed formula or procedure for needs-based payments (§ 629.21(b)). They are also authorized to establish policies and procedures governing an SDA's use of income generated by its program (§ 629.32).

With respect to oversight and monitoring, governors have a lead role. Governors are responsible for ensuring maintenance of financial and participant data systems which meet federal monitoring, reporting, and evaluation purposes (§ 629.35). Under section 164(a) of the Act, the states must arrange for an audit of all Titles II and III funds for two years. The regulations clarify that such audits and their resolution are the responsibilities of the governors (§ 629.42).

The governors must also assess the performance of SDAs in their states under the performance standards and, as appropriate, provide incentive grants or technical assistance to SDAs which exceed or fail to meet their performance standards. In instances of repeated failure to meet performance standards, the governor is directed, under section 106(h) of the Act, to reorganize the SDA.

F. Liability and Repayment of Misexpenditures

A fundamental principle underlying the JTPA Act and regulations is that responsibility for the proper disposition of resources flows with the funds. Sections 141(f) and 164 (d), and (e) of the Act impose responsibility on both recipients and subrecipients to assure the proper expenditure of funds. Under section 164 (d) and (e) of the Act, recipients must repay all misexpenditures of funds to the United States. Before sanctioning a recipient for violations of a subrecipient, however, the Secretary must determine whether the four factors in section 162(e)(2) of the Act have been met. Thus, where a recipient's systems for awarding and monitoring contracts, the content of its contracts, its diligence in monitoring, and its actions upon discovering violations demonstrably comply with the forgiveness criteria of section 162(e)(2), the Secretary may waive sanctions against the recipient.

The regulations clarify that the Department's pursuit of misexpenditures will flow first to the governor, as state recipient, and then, through the state, to the SDA grant recipient and other subrecipients. The regulations require governors to resolve state-conducted audits as well as disallowances revealed through federal audits, investigations or monitoring reports (§§ 629.42(d), 629.44(d)). The regulations permit governors to request the Secretary's prior approval of "contemplated corrective actions," including requests to forego collection action where a subrecipient meets the forgiveness criteria in section 164(e) of the Act (§ 629.44(d) (3), (4)). The Governor is not released from liability, however, until the Secretary determines that further collection action would be inappropriate or would prove futile (§ 629.44(D)(5)). Moreover, relief of the governor's liability does not necessarily relieve the SDA grant recipient or other subrecipient of liability.

In addition to determining liability, the Secretary must determine the method of repayment. Section 164(e)(1) of the Act requires repayment from non-JTPA funds where the misexpenditure was due to "willful disregard" of the requirements of the Act, "gross negligence," or "failure to observe accepted standards of administration." In other cases the Secretary has the option, under section 164(d) of the Act, to recover misexpenditures through offset.

The regulations clarify that the Secretary will effect offset by withholding funds allotted to the state (§ 629.44(a)(1)). The governor, in turn, is authorized to pass along the Secretary's offset to the subrecipient incurring the misexpenditure (§ 629.44(e)). There is no requirement that grant expenditures be maintained at planned levels when funds are withheld.

Only those sanctions and corrective actions imposed directly by the Secretary against a recipient of funds are subject to federal administrative appeal provided by section 166(a) of the Act. In the usual case, the Secretary's sanction will be directed at the state recipient of funds, and federal administrative hearings on disallowances will be afforded only to governors. Subrecipients adversely affected by the results of an investigation, audit or monitoring activity are afforded a hearing at the state level (§ 629.54(c)(2)).

In sum, the Secretary retains the right and authority conferred by the Act to monitor and investigate any matters deemed necessary to assure compliance with the Act and these regulations. Similarly, the Secretary retains the right to conduct audits and impose sanctions, including the establishment of liability of misexpenditure of funds. Both recipients and subrecipients are liable for misexpenditures; the Secretary holds the governors accountable for collection of debts from subrecipients due to disallowed costs disclosed through audits to satisfy any financial liabilities, but does not waive the right to pursue such debts where the governor fails to do so.

G. Maximizing Training and Minimizing Administrative Burdens

The regulations reflect the principles of JTPA and New Federalism to devote maximum resources to training and to minimize federally-imposed administrative requirements.

Section 108 of the Act requires that, of the funds available to SDAs under Title II–A, a minimum of 70 percent must be devoted to training, with the remaining 30 percent being allowed for supportive services and work experience activities. Furthermore, of the 30 percent funds, no more than 15 percent may be devoted to administrative costs. The proposed regulations extend this 15 percent administrative cap to other Titles II and III program funds, and apply the 70/30 split both to the Title II statewide older worker programs and to funds distributed to SDAs as performance incentives (§ 629.39). The Department finds these applications of the administrative and non-training cost limitations to be consistent with the intent of JTPA to devote maximum resources to training.

The Department has also taken steps in the regulations to minimize administrative burdens. Following consultation with the Office of Management and Budget (OMB), the Secretary has been informed by the Director of OMB that, except for the few specific standards included in these regulations, the detailed administrative requirements of OMB Circulars A–87 and A–102 and implementing regulations in 41 CFR Part 29–70 do not apply to JTPA programs administered by the governors and their subrecipients (§ 629.1(c)). In addition, the regulations permit administrative cost pooling as a means of providing efficient program management (§ 629.39(g)).

With respect to reporting, only those minimal elements needed for basic fiscal reporting and/or the Secretary's establishment of performance standards will be collected in reports to the Secretary. The Department will require only annual reports, except during the

initial year when more frequent (quarterly) data will be needed (§ 629.38). These provisions are designed to keep federally imposed administrative requirements to a minimum.

The effectiveness of JTPA programs will be measured primarily through the use of performance standards. Under section 106 of the Act, the Secretary will define the performance standards and the parameters within which the standards may be adjusted by the governors to accommodate local conditions. The Act recognizes the complexity of the issues related to the development of reliable and meaningful performance standards and establishes January 31, 1984, as the Department's deadline for the establishment of performance standards for the first full program year. In developing performance standards, the Department will restrict data and paperwork requirements to those necessary to the implementation of Section 106 of the Act.

H. Grievances, Investigations and Hearings

To assure the fair and expeditious resolution of complaints and allegations of impropriety, the regulations contain procedural requirements for grievances, investigations and hearings. The Act and regulations establish separate federal and state procedures for various types of complaints and allegations.

The federal level complaint and hearing procedures provided under sections 164(f) and 166(a) of the Act are available only to JTPA recipients adversely affected by specified Department of Labor actions or sanctions (§ 629.57). Allegations at the federal level concerning violations of the Act of regulations are handled *ex parte* (§§ 629.54, 629.55). Discrimination complaints are handled under the Department's nondiscrimination regulations in 29 CFR Part 31. Pursuant to Section 166(a) of the Act, all other complaints for relief on behalf of individuals or groups asserting rights under the Act are handled exclusively under the state and/or subrecipient grievance procedures and applicable state or other laws.

Sections 629.52 and 629.53 of the regulations describe the grievance and review procedures at the state and subrecipient levels. In accordance with section 144(c) of the Act, the regulations provide for limited federal intervention in the state process, only upon exhaustion of the grievance and review procedures without decision (§ 629.52(d)). In such a case, the Secretary will determine whether reasonable cause exists to believe that the Act or its regulations have been violated. When reasonable cause does exist, the Secretary shall direct the Governor to issue a decision adjudicating the dispute pursuant to state and local procedures. The Secretary may sanction the Governor if a decision is not issued within 60 days of the Secretary's order.

The federal level complaint procedures provide an opportunity for parties to submit their dispute on a stipulated record to an informal reviewer for expedited decision (§ 629.56). Where informal reviewer procedures are not utilized or fail to provide a decision within 60 days, the Governor may request a federal hearing. The Department has proposed the adoption of the forthcoming uniform rules of practice and procedure now being developed by the Department of Labor Office of Administrative Law Judges for hearings at the Federal level.

I. Rulemaking Certifications

These proposed regulations are procedural in character and give direction to states and local service deliverers on the implementation of programs under Titles I, II and III of JTPA. Therefore, these rules are not classified as "major" under Executive Order 12291 on federal regulations, and no regulatory impact analysis is required.

The Department has determined that these rules will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 91 Stat. 1164 (5 U.S.C. 605(b)).

Pursuant to the authority contained in section 181(f)(5) of JTPA, Congress has provided for expedited rulemaking procedures to ensure that final rules are in place by March 15, 1983, as required by section 181(f)(3) of the Act. To meet this statutory deadline, Congress provided that "the Secretary shall be exempt from all requirements of law regarding rulemaking procedures," except that these rules must be published in the **Federal Register** for a comment period of 30 days, section 181(f)(5).

List of Subjects in 20 CFR Parts 626 through 631

Grant programs—Labor, Manpower training programs.

Accordingly, the Department proposes to revise 20 CFR Part 626, and add Parts 627, 628, 629, 630, and 631 and parts 632—638 are added and reserved as follows:

PART 626—INTRODUCTION TO THE REGULATIONS UNDER THE JOB TRAINING PARTNERSHIP ACT

Sec.
626.1 Scope and purpose of the Act.
626.2 Format of these regulations.
626.3 Table of contents for the regulations under the Job Training Partnership Act.
626.4 Definitions.

Authority: Job Training Partnership Act, Sec. 169, (29 U.S.C. 1501 et seq., Pub. L. 97-300, 96 Stat. 1322), unless otherwise noted.

§ 626.1 Scope and purpose of the Act.

(a) It is the purpose of the Act to:

(1) Establish programs to prepare youth and unskilled adults for entry into the labor force; and

(2) Afford job training to those economically disadvantaged individuals and others facing serious barriers to employment who are in special need of such training to obtain productive employment (Sec. 2).

(b) All provisions contained in these regulations and the Job Training Partnership Act shall take effect no later than October 1, 1983 (Sec. 181(f)).

§ 626.2 Format of these regulations.

(a) Regulations promulgated by the Department of Labor to implement the provisions of the Act are set forth in Parts 626 through 638 of Title 20 of the Code of Federal Regulations, with the exception of Job Corps regulations, which are set forth in Part 684 of Title 20.

(b) Nondiscrimination and equal opportunity requirements and procedures, including complaint processing and compliance reviews, will be governed by the provisions of 29 CFR Parts 31 and 32 and will be administered by the Office of Civil Rights.

(c) General authority for the regulations is found at Section 169 of the Act. Specific statutory authorities other than section 169 are noted throughout the regulations.

§ 626.3 Table of contents for the regulations under the Job Training Partnership Act.

Part 626—Introduction to the Regulations Under the Job Training Partnership Act

Sec.
626.1 Scope and purpose of the Act.
626.2 Format of these regulations.
626.3 Table of contents for the regulations under the Job Training Partnership Act.
626.4 Definitions.

Part 627—State Responsibilities Under the Job Training Partnership Act

Subpart A—State Planning Procedures

627.1 Eligible grant recipients.

Sec.
627.2 Governor's coordination and special services plan.
627.3 Funding.
627.4 State job training coodinating council.
627.5 Interstate agreements.

Subpart B—Statewide Programs

627.21 Distribution of State funds.
627.22 State education coordination and grants.
627.23 Training programs for older individuals.
627.24 State incentive grants.

Part 628—Service Delivery Areas Designated Under the Job Training Partnership Act

628.1 Service delivery areas.
628.2 Private industry council.
628.3 Selection of SDA grant recipient, administrative entity and service providers.
628.4 Job training plan.
628.5 Review and approval.
628.6 State SDA submission.

Part 629—General Provisions Governing Programs Under Titles I, II, and III of the Job Training Partnership Act

Subpart A—Program Design Requirements

629.1 General program requirements.
629.2 Public service employment prohibition.
629.3 Nonsectarian activities.

Subpart B—Payments, Benefits and Working Conditions

629.21 Needs-based payments.
629.22 Benefits and working conditions.

Subpart C—Administrative Standards and Procedures

629.31 Grant payments.
629.32 Program income.
629.33 Insurance.
629.34 Procurement.
629.35 Management systems, reporting and recordkeeping.
629.36 Reports required.
629.37 Allowable costs.
629.38 Classification of costs.
629.39 Limitation on certain costs.
629.40 Matching funds.
629.41 Property management standards.
629.42 Audits.
629.43 Oversight and monitoring.
629.44 Sanctions for violation of the Act.
629.45 Closeout.
629.46 Performance standards.

Subpart D—Grievances, Investigations and Hearings

629.51 Scope and purpose.
629.52 State grievance and hearing procedures for non-criminal complaints at the Governor and subrecipient level.
629.53 Non-criminal grievance procedure at employer level.
629.54 Federal handling of administrative and civil complaints.
629.55 Federal handling of criminal complaints and reports of fraud, abuse and other criminal activity.
629.56 Opportunity for informal review.
629.57 Hearings before the Office of Administrative Law Judges.
629.58 Other authority.

Part 630—Programs Under Title II of the Job Training Partnership Act

630.1 Adult and youth programs under Part A of Title II
630.2 Summer youth employment and training programs under Part B of Title II

Part 631—Programs Under Title III of the Job Training Partnership Act

Subpart A—General Provisions

631.1 Scope and purpose.

Subpart B—Formula Allocated Programs

631.11 General.
631.12 State plan.
631.13 Limitations on use of funds.

Subpart C—Discretionary Program

631.21 General.
631.22 Eligibility for funding.
631.23 Application for funding and selection criteria.

Subpart D—Program Design and Management

631.31 Allowable activities, coordination and consultation, planning and review.
631.32 Reallotment of funds based on non-utilization.
631.33 Reporting requirements.
631.34 Role of Title III training in determining unemployment benefit eligibility.

Part 632—Native American Programs Under Title IV, Part A of the Job Training Partnership Act [Reserved]

Part 633—Migrant and Seasonal Farmworker Programs Under Title IV, Part A of the Job Training Partnership Act [Reserved]

Part 634—Labor Market Information Programs Under Title IV, Part E of the Job Training Partnership Act [Reserved]

Part 635—Veterans' Employment Programs Under Title IV, Part C of the Job Training Partnership Act [Reserved]

Part 636—[Reserved]

Part 637—[Reserved]

Part 638—[Reserved]

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97–300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

§ 626.4 Definitions.

In addition to the definitions contained in Section 4 of the Act, the following definitions apply to these regulations.

"Family" shall be defined by the Governor. An adult handicapped individual shall be considered a family of one when applying for programs under the Act (Sec. 4(8)).

"Family income" shall be defined by the Governor, consistent with the definition of family income for other State administered needs-based programs.

"Recipient" means the Governor.

"SDA grant recipient" means the entity that receives JTPA funds for an SDA directly from the Governor.

"Secretary" means the Secretary of Labor or the Secretary's designated representative(s).

"Subrecipient" means any person, organization or other entity which receives JTPA funds either directly or indirectly from the Governor. Depending on local circumstances the PIC, local elected official, or administrative entity may be a subrecipient. SDA grant recipients are particular types of subrecipients.

PART 627—STATE RESPONSIBILITIES UNDER THE JOB TRAINING PARTNERSHIP ACT

Subpart A—State Planning Procedures

Sec.
627.1 Eligible grant recipients.
627.2 Governor's coordination and special services plan.
627.3 Funding.
627.4 State job training coordinating council.
627.5 Interstate agreements.

Subpart B—Statewide Programs

627.21 Distribution of State funds.
627.22 State education coordination and grants.
627.23 Training programs for older individuals.
627.24 State incentive grants.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97–300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.)

Subpart A—State Planning Procedures

§ 627.1 Eligible grant recipients.

In order to establish a continuing relationship under the Act, the Governor and the Secretary shall sign a Governor/Secretary Agreement, which shall consist of a statement ensuring that the State shall comply with: (a) The Job Training Partnership Act and the applicable rules and regulations and (b) the Wagner-Peyser Act, as amended, and all applicable rules and regulations.

§ 627.2 Governor's coordination and special services plan.

(a) *Submittal.* By a date established by the Secretary, any State seeking financial assistance under the Act shall submit to the Secretary a Governor's coordination and special services plan (sec. 121(a)(2)).

(b) *Plan review.* The Secretary shall check the plan for completeness and compliance with the provisions of the Act. If the plan is disapproved, the Secretary shall notify the Governor in

writing within 30 days of submission of the reasons for disapproval so that the Governor may modify the plan to bring it into compliance with the Act (Sec. 121(d)).

§ 627.3 Funding.

The Secretary will allot funds to the States in accordance with section 162 of the Act. The Secretary will obligate such allotments through a Notification of Obligation.

§ 627.4 State job training coordinating council.

The Governor shall appoint a State job training coordinating council (SJTCC) pursuant to section 122 of the Act. The SJTCC shall have the specific functions and responsibilities outlined in sections 122 and 501 of the Act.

§ 627.5 Interstate agreements.

The Secretary hereby grants authority to the several States to enter into interstate agreements and compacts in accordance with section 127 of the Act.

Subpart B—Statewide Programs

§ 627.21 Distribution of State funds.

(a) The funds made available to the Governor under section 202(b) of the Act shall be used to carry out activities and services in this subpart.

(b) Funds provided to the Governor under section 202(b)(4) of the Act may be used to conduct auditing activities, administrative activities, and other activities described in sections 121 of the Act (Sec. 202(b)(4)).

§ 627.22 State education coordination and grants.

(a) Expenditures for programs pursuant to section 123(c)(2)(B) of the Act shall be subject to § 629.39(a).

(b) Not less than 75 percent of the funds shall be expended for activities for economically disadvantaged individuals. The Governor may provide for meeting this requirement by using an alternative accounting methodology (e.g., 75 percent of participants) which insures comparable results (Sec. 123(c)(3)).

§ 627.23 Training programs for older individuals.

Expenditures for administration and participant support services for programs pursuant to section 124 of the Act shall be subject to § 629.39 of these regulations.

§ 627.24 State incentive grants.

Funds provided under section 202(b)(3)(A) of the Act shall be used by the Governor pursuant to sections 202(b)(3)(B) and 106(h)(1) of the Act.

PART 628—SERVICE DELIVERY AREAS DESIGNATED UNDER THE JOB TRAINING PARTNERSHIP ACT

Sec.

628.1 Service delivery areas.
628.2 Private industry council.
628.3. Selection of SDA grant recipient, administrative entity and service providers.
628.4 Job training plan.
628.5 Review and approval.
628.6 State SDA submission.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

§ 628.1 Service delivery areas.

(a) The SJTCC shall make recommendations to the Governor on proposed SDA designations in a form and by a date established by the Governor (Sec. 101(a) (1) and (2)).

(b) Pursuant to section 101 of the Act, the Governor shall designate service delivery areas (SDAs) for the State. All areas within the State must be covered by designated SDAs. Requests for designation shall be submitted in a form and by a date established by the Governor.

(c) Pursuant to section 101(a) (4) (C) of the Act, an entity described in section 101(a) (4) (A) may appeal the Governor's denial of service delivery area designation to the Secretary of Labor.

(1) Appeals shall be submitted to the Secretary, U.S. Department of Labor, Washington, D.C. 20210, Attention: ASET. A copy of the appeal shall simultaneously be provided to the Governor.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification of the denial from the Governor.

(3) The appealing party shall explain why it believes the denial is contrary to the provisions of section 101 of the Act.

(4) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the denial is inconsistent with section 101 of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 30 days after this appeal is received (Sec. 101(a) (4) (C)).

§ 628.2 Private industry council.

(a) The chief elected official(s) of the SDA shall establish and the Governor shall certify the private industry council (PIC) pursuant to section 102 of the Act.

(b) Pursuant to section 103 of the Act, the PIC shall provide policy and program guidance for all activities under the job training plan for the SDA. In accordance with agreements negotiated with the appropriate chief elected official(s), the PIC shall: Determine the procedures for development of the job training plan and select the grant recipient and administrative entity for the SDA. The PIC may exercise independent oversight over activities under the job training plan, and oversight shall not be circumscribed by agreements with the appropriate chief elected official(s) of the SDA.

(c) The employment service shall develop jointly with each appropriate PIC and chief elected official(s) for the SDA those components of the plans required under the Wagner-Peyser Act of 1933, as amended, applicable to the SDA (Sec. 501(d)).

§ 628.3 Selection of SDA grant recipient, administrative entity and service providers.

(a) Pursuant to section 103(b)(1) of the Act, a selection shall be made of the SDA grant recipient and the entity to administer the job training plan developed pursuant to section 104 of the Act. These may be the same or different entities. The specific functions and responsibilities of these entities shall be spelled out in accordance with the agreement(s) between the PIC and the chief elected official(s), which should specifically address the provisions of section 141(i) of the Act.

(b) Service providers shall be selected in accordance with: (1) The agreement negotiated pursuant to section 103(b)(1) of the Act, and (2) the provisions of sections 107, 181(j)(2) and 205(b)(4) of the Act.

§ 628.4 Job training plan.

The Governor may issue instructions and schedules that will assure that job training plans and modifications for SDAs within the State conform to all requirements of the Act.

§ 628.5 Review and approval.

(a)(1) If the Governor disapproves the SDA job training plan or modification, the Governor shall notify the PIC and the appropriate chief elected official(s) for the SDA in writing as provided in section 105(b)(2) of the Act.

(2) The Governor shall provide the PIC and the appropriate chief elected official(s) for the SDA 20 days to correct the deficiencies and resubmit the plan or modification. The Governor shall make a final decision and shall notify the PIC and the appropriate chief elected official(s) for the SDA of the final disapproval or approval within 15 days after the plan or modification was resubmitted.

(b) Pursuant to section 105(b)(2) of the Act, any final disapproval of the job

training plan or modification may be appealed to the Secretary.

(1) Appeals to the Secretary shall be submitted jointly by the PIC and the appropriate chief elected official(s) for the SDA to the Secretary, U.S. Department of Labor, Washington, D.C. 20210. Attention: ASET. A copy of the appeal shall be simultaneously provided to the Governor.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt of the final disapproval from the Governor.

(3) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the disapproval is clearly erroneous within the context of section 105(b)(1) of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 45 days after the appeal is received in accordance with Section 105(b)(2) of the Act.

§ 628.6 State SDA submission.

(a) Pursuant to section 105(d), when the SDA is the State, the Governor shall, not less than 60 days before the beginning of the first of the two program years covered by the job training plan, submit to the Secretary, in a form determined by the Governor, a summary of the approach taken to meet the requirements of section 104 of the Act as well as an assurance that the plan and the plan review comply with sections 105 and 106 of the Act.

(b) The State's plan shall be considered approved unless, within 30 days of receipt of the submission described in paragraph (a) of this section, the Secretary notifies the Governor in writing of discrepancies between the submission and specific provisions of the Act.

(c) Nothing in this section shall preclude the Secretary from revoking approval in the event the assurance is not met.

PART 629—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER TITLES I, II, AND III OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—Program Design Requirements

Sec.
629.1 General program requirements.
629.2 Public service employment prohibition.
629.3 Nonsectarian activities.

Subpart B—Payments, Benefits and Working Conditions

629.21 Needs-based payments.
629.22 Benefits and working conditions.

Subpart C—Administrative Standards and Procedures

Sec.
629.31 Grant payments.
629.32 Program income.
629.33 Insurance.
629.34 Procurement.
629.35 Management systems, reporting and recordkeeping.
629.36 Reports required.
629.37 Allowable costs.
629.38 Classification of costs.
629.39 Limitation on certain costs.
629.40 Matching funds.
629.41 Property management standards.
629.42 Audits.
629.43 Oversight and monitoring.
629.44 Sanctions for violation of the Act.
629.45 Closeout. [Reserved]
629.46 Performance standards.

Subpart D—Grievances, Investigations and Hearings

629.51 Scope and purpose.
629.52 State grievance and hearing procedures for non-criminal complaints at the Governor and subrecipient level.
629.53 Non-criminal grievance procedure at employer level.
629.54 Federal handling of administrative and civil complaints.
629.55 Federal handling of criminal complaints and reports of fraud, abuse and other criminal activity.
629.56 Opportunity for informal review.
629.57 Hearings before the Office of Administrative Law Judges.
629.58 Other authority.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

Subpart A—Program Design Requirements

§ 629.1 General program requirements.

(a) The conditions prescribed in sections 141 and 143 of the Act apply to all programs under Titles I, II and III of the Act, except as provided elsewhere in these regulations.

(b) Recipients shall ensure that:

(1) An individual enrolled in a JTPA program meets the requirements of sections 167(a)(5) and 504 of the Act and other requirements applicable to programs funded under the specific section or title of the Act under which the participant is enrolling; and

(2) An individual is determined to be eligible both at the time of application and at enrollment.

(c) Programs operated under Titles I, II and III of the Act are not subject to the provisions of 41 CFR Part 29-70, except as otherwise explicitly provided in these regulations.

§ 629.2 Public service employment prohibition.

No funds available under Titles I, II-A or III of the Act may be used for public service employment (Sec. 141(p)).

§ 629.3 Nonsectarian activities.

Pursuant to section 167(a) of the Act the employment or training of participants in sectarian activities is prohibited.

Subpart B—Payments, Benefits and Working Conditions

§ 629.21 Needs-based payments.

(a) Subject to the provisions of sections 106 and 142(a)(1) of the Act and in accordance with a locally developed formula or procedure, payments based on need may be provided to individual participants in cases where such payments are necessary to enable individuals to participate in a training program funded under the Act (Sec. 204(27)).

(b) The locally developed formula or procedure for needs-based payments shall be documented in accordance with instructions from the Governor.

(c) The formula or procedure shall provide for the maintenance of an individual record of the determination of the need for, and the amount of, any participant's needs-based payment.

§ 629.22 Benefits and working conditions.

(a) Where participants are not covered under a State's workers' compensation law, they shall be provided with adequate on-site medical and accident insurance. Income maintenance coverage is not required for these participants (Sec. 143(a)(3)).

(b) Where participants are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participants' health or safety. Participants employed or trained for inherently dangerous occupations, e.g., fire or police jobs, shall be assigned to work in accordance with reasonable safety practices (Sec. 143(a)(2)).

Subpart C—Administrative Standards and Procedures

§ 629.31 Grant payments.

(a) JTPA grant payments will be made to the Governor in accordance with section 203 of the Intergovernmental Cooperation Act (42 U.S.C. 4213) and Treasury Circular No. 1075 (31 CFR Part 205).

(b) The Governor shall establish procedures that will minimize the time elapsing between the receipt of advanced funds and disbursement. Failure to establish such procedures or to take action to correct deficiencies in:

(1) Financial management systems, or (2) fund drawdown and advance payment procedures may result in the Governor being funded through reimbursement by Treasury check payment.

§ 629.32 Program income.

Income generated under any program may be retained by the State and shall be used to further program objectives. Program income may be used to satisfy the matching requirements of sections 123(b) and 304 of the Act. The Governor may establish policies and procedures for the retention and use of program income by SDA grant recipients and subrecipients (Sec. 141(m)).

§ 629.33 Insurance.

(a) *General.* Each Governor, SDA grant recipient or subrecipient shall follow its normal insurance procedures except as otherwise indicated in this section.

(b) The DOL assumes no liability with respect to bodily injury, illness or any other damages or losses, or with respect to any claims arising out of any activity under a JTPA grant or agreement whether concerning persons or property in the Governor's SDA grant recipient's or other subrecipient's organization or any third party.

(c) Governors, SDA grant recipients and subrecipients shall secure insurance coverage for injuries suffered by participants who are not covered by existing workers' compensation. These costs are chargeable to participant support or training as appropriate (Sec. 143(a)(3)).

§ 629.34 Procurement.

Subject to the provisions of Section 107 of the Act, recipients and subrecipients shall administer procurement systems that reflect applicable State and local law, rules and regulations as determined by the Governor.

§ 629.35 Management systems, reporting and recordkeeping.

(a) The Governor shall ensure that financial systems within the State provide fiscal control and accounting procedures sufficient to: (1) Permit preparation of required reports; (2) permit the tracing of funds to a level of expenditure adequate to establish that funds have not been used in violation of the restrictions on the use of such funds; and (3) demonstrate compliance with matching requirements. (Secs. 104(b)(9), 164(a)(1), 165(a)(1), 165(c)(2), and 182).

(b) The financial management system and the participant data system shall provide federally-required records and reports that are uniform in definition, accessible to authorized Federal and State staff, and verifiable for monitoring, reporting, audit and evaluation purposes (Secs. 165(a)(1), 165(1)(2), and 182).

(c) The Governor shall ensure that records shall be maintained of each participant's enrollment in a JTPA program in sufficient detail to demonstrate compliance with the relevant eligibility criteria attending a particular activity and with the restrictions on the provision and duration of services and specific activities authorized by the Act (Sec. 165(a) (1) and (2)).

(d) The Governor shall ensure that records shall be maintained of such participant information as may be necessary to develop and measure the achievement of performance standards established by the Secretary.

(e) The Governor shall insure that procedures are developed for retention of all records pertinent to all grants and agreements, including financial, statistical, property and participant records and supporting documentation, for a period of three years from the date of obligation of funds. Records for nonexpendable property shall be retained for a period of three years after final disposition of the property.

(f) The aforementioned records will be retained beyond the three years if any litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records will be retained until the litigation, audit or claim has been finally resolved.

(g) In the event of the termination of the relationship with a subrecipient, the Governor or SDA grant recipient shall be responsible for the maintenance and retention of the records of any subrecipient unable to retain them.

§ 629.36 Reports required.

The Governor shall report to the Secretary pursuant to instructions issued by the Secretary. Reports shall be submitted quarterly for the first year and annually thereafter. Reports shall be submitted to the Secretary within 45 calendar days after the end of the report period (Sec. 165(a)(2)).

§ 629.37 Allowable costs.

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program, be allocable thereto under these principles, and, except as provided herein, not be a general expense required to carry out the overall responsibilities of the Governor or subrecipient. Costs charged to the program shall be consistent with those normally allowed in like circumstances in nonfederally sponsored activities and with applicable State and local law, rules or regulations, as determined by the governor.

(b) Direct and indirect costs shall be charged in accordance with 41 CFR 29-70.102.

(c) The governor shall issue guidelines on allowable costs for SDA and statewide programs that shall include provisions that:

(1) Legal costs associated with State and Federal administrative hearings are allowable JTPA costs only to the extent the party prevails;

(2) Costs resulting from violations of, or failure to comply with, Federal, State or local laws and regulations are not allowable;

(3) Entertainment costs are not allowable;

(4) Insurance policies offering protection against debts established by the Federal Government are not allowable JTPA costs; and

(5) Personal liability insurance for PIC members is allowable.

§ 629.38 Classification of costs.

(a) To comply with the limitations on certain costs contained in section 108 of the Act, allowable costs shall be charged against the following cost categories: training; administration; and participant support.

(b) Costs are allocable to a particular cost category to the extent that benefits are received by such category.

(c) For State-administered programs, the Governor is required to plan, control and charge expenditures against the aforementioned cost categories.

(d) The Governor is responsible for ensuring that SDA grant recipients and other subrecipients plan, control, and charge expenditures against the aforementioned cost categories.

(e) In assigning costs to the training category pursuant to paragraph (a) of this section, the Governor shall ensure that:

(1) Training costs include: The costs associated with on-the-job training services; employer outreach necessary to obtain job listings or job training opportunities; salaries, fringe benefits, equipment and supplies of personnel directly engaged in providing training; books and other teaching aids; equipment and materials used in providing training to participants; classroom space and utility costs; job related counseling for participants; and tuition and entrance fees that represent instructional costs which have a direct and immediate impact on participants. In addition, 50 percent of the costs of a limited work experience program and

250 hours of youth tryout employment, are considered allowable training costs. A limited work experience program is one that meets the requirements of section 108(b)(3) of the Act. Youth tryout employment is that which meets the requirements of section 205(d)(3)(B) of the Act.

(2) Costs which are billed as a single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training when the agreement:

(i) Is for training;

(ii) Is fixed unit price; and

(iii) Stipulates that full payment for the full unit price will be made only upon completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement.

(3) Training costs shall not include the direct or indirect costs associated with the supervision and management of the program.

(4) Training costs do not include supportive service costs as defined in section 4 of the Act or other participant support costs which are determined to be necessary at the local level.

(5) All costs of employment generating activities to increase job opportunities for eligible individuals in the area and the remaining 50 percent of the costs of a limited work experience program, as well as 100 percent of the costs of other work experience programs, are not allowable training costs (Sec. 108(b)(2)(A)).

(6) The salaries and fringe benefits of project directors, program analysts, labor market analysts, supervisors and other administrative positions shall not be charged to training. The compensation of individuals who both instruct and supervise other instructors shall be prorated among the training and administration cost categories based on time records or other verifiable means.

(7) Construction costs may be allowable training or participant support costs only when funds are used to:

(i) Purchase equipment, materials and supplies for use by participants while on the job and for use in the training of such participants. Examples of such equipment, materials and supplies are handtools, workclothes and other low cost items; and

(ii) Cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, books, and needs-based payments and compensation to participants.

(8) Contributions to a reserve for a self-insurance program, to the extent that the type and extent of coverage and the rates and premiums would have been allowed had insurance been purchased to cover the risks, are not allowable training costs, but may be charged to other cost categories as appropriate.

(9) The cost of incorporating a PIC or consortium administrative entity for the purpose of carrying out programs under the Act shall not be charged to training but may be charged to other cost categories as apporpriate.

(10) Any single cost which is properly chargeable to training and to one or more other cost categories shall be prorated among training and the other appropriate cost categories.

§ 629.39 Limitation on certain costs.

(a)(1) Not less than 85 percent of the funds for programs under Titles, I, II, and III of the Act may be expended for the costs of training and participant support, except as provided in paragraph (b) of this section.

(2) Administrative costs are limited to 15 percent of funds available. The 15 percent limitation on administrative costs may not be waived.

(b) Funds allotted under the following sections of the Act are exclusions to the requirement in paragraph (a) of this section:

(1) Section 202(b)(4);

(2) Section 202(b)(1), to carry out activities pursuant to section 123(c)(2)(A);

(3) Section 202(b)(3); and

(4) Section 301(a).

(c)(1) Not less than 70 percent of the funds for programs under Titles I, II–A, and III of the Act may be expended for the costs of training, except as provided in paragraphs (d) and (e) of this section.

(2) There is an established 30 percent limitation on combined administrative and participant support costs. This limitation may be waived by the Governor only in accordance with paragraph (e) of this section.

(d) Funds allotted under the following sections of the Act are exclusions to the requirement in paragraph (c) of this section:

(1) Section 202(b)(4);

(2) Section 202(b)(1), to carry out activities pursuant to section 123(c)(2);

(3) Section 202(b)(3), to provide technical assistance to SDAs within the State that do not qualify for incentive grants;

(4) Section 251; and

(5) Section 301(a).

(e) Expenditures may not be in excess of the limitation contained in paragraph (c) of this section exept as provided for in section 108(c).

(f) The provisions of this section do not apply to any designated service delivery area which served as a concentrated employment program grantee for a rural area under the Comprehensive Employment and Training Act (Sec. 108(d)).

(g) Administrative funds within a service delivery area may, at the discretion of and pursuant to requirements established by the Governor, be pooled and used for all administrative costs of programs within the service delivery area assisted with funds under the Act.

§ 629.40 Matching funds.

The governor shall define and assure the provision of adequate resources to meet the non-Federal matching requirements of sections 123(b) and 304 of the Act.

§ 629.41 Property management.

(a) Personal or real property procured with JTPA funds or transferred from programs under the Comprehensive Employment and Training Act must be used for purposes authorized by the Act. Subject to the Secretary's rights to such property, the Governor shall maintain accountability for property in accordance with State procedures and the records retention requirements of § 629.35.

(b) The JTPA program must be reimbursed the fair market value of any unneeded property retained by the Governor for use in a non-JTPA program. The proceeds from the sale of any property or transfer of property to a non-JTPA program must be used for purposes authorized under the Act.

§ 624.42 Audits.

(a) All audits conducted under this Act shall comply with applicable auditing standards set forth in section 164(a)(3) of the Act.

(b) At least once every two years, the State shall prepare or have prepared independent financial and compliance audits of the Title II and III funds received by the State and shall be responsible for assuring that audit requirements are met with respect to PICs, SDA grant recipients and other subrecipients receiving Title II and III funds throughout the State (Sec. 164(a)(2)).

(c) The Governor may request audit waivers from the Secretary for subrecipients except as otherwise provided in section 164(a)(2) of the Act. This waiver request may be approved by: (1) The Secretary or (2) the cognizant Federal audit agency, where the

Secretary delegates this authority to such agency (Sec. 164(a)(2)).

(d) The audit report(s), in addition to meeting the general requirements of this section, shall be accompanied by the following:

(1) The Governor's disposition of questioned costs in the audit(s), costs allowed and disallowed by the Governor, and the basis for costs allowed and disallowed. The dispostion must show the action (i.e., either allowed or disallowed) on all costs questioned in the audit(s).

(2) If the Governor intends to request waivers of liability under section 164(e)(2) of the Act, such requests must accompany the audit report(s), along with supporting documentation. Such documentation may include:

(i) Correspondence from the Secretary giving prior approval to corrective actions planned by the Governor, e.g., debt collection options which the Governor planned to initiate or to forego; and

(ii) Documentation of corrective actions taken by the State and the appropriate subrecipient, e.g., evidence of aggressive debt collection action.

(e) The Governor shall submit the audit report(s), covering all Title II and III funds received by the State, SDA grant recipients and subrecipients and audited during the period covered by the report, as well as the items described in paragraph (d) of this section, to the cognizant Federal audit agency or the Inspector General of the Department, as appropriate, within a two-year period as specified to section 164(a)(2) of the Act. The Inspector General shall determine the acceptability of audit reports pursuant to §§ 629.42(a) through 629.42(d) above, and shall forward each acceptable audit report to the Secretary for action pursuant to § 629.42(f) below.

(f) After receiving the audit report(s), the Secretary shall review the report(s), the Governor's disposition and any liability waiver request. If the Secretary is in agreement with all aspects of the Governor's disposition of the audit(s), the Secretary shall so notify the Governor, constituting final agency action on the audit(s). If the Secretary is in disagreement with the Governor's conclusion on specific points in the audit(s), the Secretary shall resolve the audit(s) through the initial and final determination process described in Subpart D of these regulations.

(g) The Comptroller General and the Inspector General of the Department shall have the authority to conduct audits, evaluations, or investigations necessary to meet their responsibilities under sections 164(c) (1) and 164(c) (2), respectively, of the Act.

(1) Audits conducted or arranged by the Inspector General will generally supplement rather than duplicate audits of recipients, PICs, SDAs, or other subrecipients.

(2) The findings of these investigations, audits and evaluations shall be handled as described in §§ 629.54(b) and 629.54(c) of Subpart D of these regulations.

§ 629.43 Oversight and monitoring.

(a) The Secretary is authorized to monitor and investigate pursuant to section 163 of the Act.

(b) The Governor is responsible for oversight of all SDA grant recipient activities and State supported programs.

(c) The PIC and local elected official(s) may conduct such oversight as they, individually or jointly, deem necessary or delegate to an appropriate entity pursuant to their mutual agreement.

§ 629.44 Sanctions for violations of the Act.

(a) Pursuant to section 164 (b), (d), (e), (f), (g), and (h) of the Act, the Secretary may impose appropriate sanctions and corrective actions for violations of the Act, regulations, or grant terms and conditions. Additionally, sanctions may include the following:

(1) Offsetting debts, arising from misexpenditure of grant funds, against amounts to which the Governor is or may be entitled under the Act, except as provided in section 164(e) (1) of the Act. The debt shall be fully satisfied when the Secretary reduces amounts allotted to the Governor by the amount of the misexpenditure; and

(2) Determining the amount of Federal cash maintained by the Governor or subrecipient in excess of reasonable grant needs, establishing a debt for the amount of such excessive cash, and charging interest on that debt.

(b) Except for actions under section 164(f) and 167 of the Act, to impose a sanction or corrective action, the Secretary shall utilize initial and final determination procedures outlined in Subpart D.

(c) To impose a sanction or corrective action regarding a violation of section 167 of the Act, the Secretary shall utilize the procedures of 29 CFR Part 31.

(d)(1) The Secretary shall hold the Governor responsible for all funds under the grant. The Governor shall hold subrecipients, including SDA grant recipients, responsible for JTPA funds received through the grant.

(2) The Secretary shall determine the liability of the Governor for misexpenditures of grant funds in accordance with section 164(e) of the Act, including the requirement that the Governor shall have taken prompt and appropriate corrective actions for misexpenditures by a subrecipient.

(3) Prompt, appropriate, and aggressive debt collection action to recover any funds misspent by subrecipients ordinarily shall be considered a part of the corrective action required by section 164(e)(2)(D) of the Act. In this regard, the Governor may request advance approval from the Secretary for contemplated corrective actions. Such requests may address debt collection actions or options which the Governor plans to initiate or to forego. The Governor's request shall include a description and assessment of all actions taken by the subrecipient to collect the misspent funds.

(4) In making the determination required by section 164(e)(2) of the Act, the Secretary may determine, based on a request from the Governor, that the Governor may forego certain collection actions against a subrecipient where that subrecipient was not at fault with respect to the liability criteria set forth in section 164(e)(2)(A) through section 164(e)(2)(D) of the Act. The Secretary shall consider such requests in assessing whether the Governor's corrective action was appropriate in light of section 164(e)(2)(D) of the Act. At that time, the Secretary shall also consider advance approvals (previously granted pursuant to § 629.44(d)(3) above) in light of the Governor's demonstrated efforts to undertake the approved course of action.

(5) The Governor shall not be released from liability for misspent funds under the determination required by section 164(e) of the Act until the Secretary determines that further collection action, either by the Governor or subrecipient, would be inappropriate or would prove futile.

(e) The Governor shall have the authority to reduce allocations to a service delivery area if: (1) The Secretary offsets a debt against funds allotted to the Governor and (2) the debt resulted from a misexpenditure by the SDA grant recipient, or its subrecipients.

(f) Nothing in this section shall preclude the Secretay from imposing a sanction directly against a subrecipient as authorized in section 164(e)(3) of the Act. In such a case, the Secretary shall inform the Governor of the Secretary's action.

§ 629.45 Closeout. [Reserved]

§ 629.46 Performance standards.

(a) The Secretary shall prescribe performance standards for adults and

youth under Title II–A and dislocated workers under Title III in accordance with section 106 of the Act. Standards for youth employment competencies shall prescribe the framework for competency development.

(b) The Governor shall establish SDA standards within the parameters set annually by the Secretary pursuant to Section 106 of the Act and apply the standards in accordance with section 202(b)(3) of the Act.

(c) Pursuant to initial and annual instructions issued by the Secretary, the Governor shall:

(1) Collect the data necessary to set standards pursuant to section 105 of the Act; and

(2) Submit reports according to sections 108 and 121(c)(3) of the Act.

(d) Pursuant to section 108(h)(1) of the Act, the Governor shall, after exhaustion of remedies below, impose a reorganization plan if a subrecipient fails to meet performance standards for two consecutive years.

(1) Prior to imposition of a reorganization plan, the Governor must offer the subrecipient opportunity for a hearing.

(2) Should the hearing determination uphold the Governor's imposition of a reorganization plan, the subrecipient may appeal to the Secretary.

(3) Appeals shall be submitted to the Secretary, U.S. Department of Labor, Washington, D.C. 20210, Attention: ASET. A copy of the appeal shall simultaneously be provided to the Governor.

(4) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification from the Governor.

(5) The appealing party shall explain why it believes the Governor's decision is contrary to the provisions of section 106 of the Act.

(6) The Secretary shall accept the appeal and make a decision only with regard to determining whether or not the Governor's decision is inconsistent with section 106 of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 60 days after this appeal is received (Sec. 106(h)).

Subpart D—Grievances, Investigations, and Hearings

§ 629.51 Scope and purpose.

(a) *General.* This subpart establishes the procedures to receive, investigate and resolve grievances, and conduct hearings to adjudicate disputes under the Act.

(b) *Non-JTPA remedies.* Whenever any person, organization or agency believes that a Governor, SDA grant recipient or other subrecipient has engaged in conduct that violates the Act and that such conduct also violates a Federal statute other than JTPA, or a State or local law, that person, organization or agency may, with respect to the non-JTPA cause of action, institute a civil action or pursue other remedies authorized under other Federal, State, or local law against the Governor, SDA grant recipient or other subrecipient without first exhausting the remedies in this subpart. Nothing in the Act or these regulations shall:

(1) Allow any person or organization to join or sue the Secretary with respect to the Secretary's responsibilities under JTPA except after exhausting the remedies in this subpart;

(2) Allow any person or organization to file a suit which alleges a violation of JTPA or these regulations without first exhausting the administrative remedies described in this subpart; or

(3) Be construed to create a private right of action with respect to alleged violations of JTPA or the regulations.

§ 629.52 State grievance and hearing procedures for non-criminal complaints at the Governor and subrecipient level.

(a) *Policy.* This section deals with the handling of non-criminal complaints. Criminal complaints are to be handled as specified in § 629.55.

(b) *Procedures at Governor and SDA levels.* (1) Pursuant to section 144(a) of the Act, each Governor shall insure the establishment of procedures for resolving any complaint alleging a violation of the Act, regulations, grant or other agreements under the Act. The procedures must include the handling of complaints and grievances arising in connection with JTPA programs operated by each SDA grant recipient and subrecipient under the Act. These procedures must also provide for resolution of complaints arising from actions, such as audit disallowances or the imposition of sanctions, taken by the Governor with respect to audit findings, investigations, or monitoring reports (Sec. 144(a)).

(2) The Governor may delegate the authority to operate and maintain the complaint and hearing procedure to its SDA grant recipients and other subrecipients except for complaints between the Governor and SDA grant recipients or other subrecipients (e.g., audit disallowances), complaints involving more than on SDA grant recipient, or complaints directly involving the operations or responsibilities of the Governor (Sec. 144(a)).

(3) The grievance hearing procedure shall include written notice of the date, time and place of the hearing and an opportunity to present evidence.

(c) *State review.* (1) If the Governor has delegated the authority to operate and maintain a grievance procedure, and a complainant does not receive a decision within 60 days of filing the complaint or receives a decision unsatisfactory to the complainant, the complainant then has a right to request a review of the complaint by the Governor. The request for review shall be filed within 10 days of receipt of the adverse decision or 10 days from the date on which the complainant should have received a decision. The Governor shall issue a decision within 30 days. The Governor's decision is final.

(2) The Governor shall also provide for an independent State review of a complaint initially filed at the State level on which a decision was not issued within 60 days or on which the complainant has received an adverse decision. A decision shall be made within 30 days. The Governor's decision is final.

(d) *Federal review of local level complaints without decision.* (1) Should the Governor fail to provide a decision as required in paragraph (c) of this section, the complainant may then request from the Secretary a determination whether reasonable cause exists to believe that the Act or its regulations have been violated.

(2) The Secretary shall act within 90 days of receipt of the request and where there is reasonable cause to believe the Act or regulations have been violated shall direct the Governor to issue a decision adjudicating the dispute pursuant to State and local procedures. The Secretary's action does not constitute Federal agency action and is not appealable under the Act (Sec. 166(a) and Sec. 144(c)). If the Governor does not comply with the Secretary's order within 30 days, the Secretary may impose a sanction upon the Governor for failing to issue a decision.

(3) The request shall be filed no later than 10 days from the date on which the complainant should have received a decision as required in paragraph (c). The complaint should contain the following:

(i) The full name, telephone number (if any), and address of the person making the complaint;

(ii) The full name and address of the respondent against whom the complaint is made;

(iii) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation;

(iv) The provisions of the Act, regulations, grant or other agreements under the Act believed to have been violated;

(v) A statement disclosing whether proceedings involving the subject of the request have been commenced or concluded before any Federal, State or local authority, and, if so, the date of such commencement or conclusion, the name and address of the authority and the style of the case; and

(vi) A statement of the date the complaint was filed with the Governor, the date on which the Governor should have issued a decision, and an attestation that no decision was issued.

(4) A request will be considered to have been filed when the Secretary receives from the complainant a written statement sufficiently precise to evaluate the complaint and the grievance procedure used by the State and SDA grant recipient.

§ 629.53 Non-criminal grievance procedure at employer level.

(a) Governor's, SDA grant recipients and other subrecipients shall assure that other employers, including private-for-profit employers of participants under the Act, also have a grievance procedure relating to the terms and conditions of employment available to their participants (Sec. 144(b)).

(b) Employers under paragraph (a) of this section may operate their own grievance system or may utilize the grievance system established by the Governor or SDA grant recipient under § 629.52. Employers shall inform participants of the grievance procedure they are to follow.

(c) An employer system shall provide for, upon request by the complainant, a review of an employer's decision by the SDA grant recipient and the Governor, if necessary, in accordance with § 629.52(b).

§ 629.54 Federal handling of administrative and civil complaints.

(a)(1) The Comptroller General and Inspector General's authority to conduct audits, evaluations and investigations is as specified in § 629.42.

(2) The Secretary is authorized to monitor States (Sec. 163(a)).

(3) The Secretary shall each fiscal year investigate several States to evaluate whether the use of funds received under the Act is in compliance with the provisions of the Act (Sec. 165(b)(1)(A)).

(4) The Secretary may receive complaints alleging violations of the Act or regulations through the Department's incident reporting system.

(b) As a result of the findings or content of any of the activities listed in paragraph (a), the Secretary may:

(1) Direct the Governor to handle a complaint through local grievance procedures established under § 629.52; or

(2) Investigate and determine whether the Governor or subrecipients are in compliance with the Act and regulations (Sec. 163 (b) and (c)).

(c)(1) The Secretary shall notify the Governor of the findings of the Secretary's investigation and shall give the Govenor a period of time, not to exceed 60 days, depending on the nature of the findings, to comment and to take appropriate corrective actions.

(2) The Governor shall offer an opportunity for a hearing at the State level to those subrecipients adversely affected by the results of an investigation, audit or monitoring activity as specified in § 629.52(b). The Governor shall inform the Secretary of actions undertaken, including any disposition of an audit conducted by the State to deal with the Secretary's findings if one was undertaken within the time frame specified by the Secretary.

(3) The Secretary shall review the complete file of the investigation and the Governor's actions. The Secretary's review shall take into account the provisions of § 629.44. If the Secretary is in agreement with the Governor's handling of the situation, the Secretary shall so notify the Governor. This notification shall constitute final agency action.

(d) *Initial and final determination.*—(1) *Initial determination.* If the Secretary is dissatisfied with the Governor's disposition of an audit as specified in § 629.42, with the Governor's response to findings pursuant to paragraph (c) above, or if the Governor failed to comply with the Secretary's decision pursuant to § 629.52(d)(2), the Secretary shall make an initial determination of the matter in controversy including the allowability of questioned costs or activities. Such determination shall be based upon the requirements of the Act, regulations, grants, contracts or other agreements, under the Act.

(2) *Informal resolution.* The Secretary shall not revoke a Govenor's grant in whole or in part, nor institute corrective actions or sanctions, without first providing the Governor with an opportunity to present documentation or arguments to resolve informally those matters in controversy contained in the Secretary's initial determination. In the case of an initial determination pursuant to an audit, the informal resolution period shall be at least 60 days from issuance of the initial determination and no more than 170 days from the receipt by the Secretary of the final approved audit report. If the matters are resolved informally, the Secretary shall issue a final determination pursuant to paragraph (d)(3) of this section which notifies the parties in writing of the nature of the resolution and may close the file.

(3) *Final determination.* (i) If the Governor and the Secretary do not resolve any matter informally, the Secretary shall provide each party with a final written determination by certified mail, return receipt requested. In the case of audits, the final determination shall be issued not later than 180 days after the receipt by the Secretary of the final approved audit report.

(ii) The final determination shall:

(A) Indicate that efforts to informally resolve matters contained in the initial determination have been unsuccessful;

(B) List those matters upon which the parties continue to disagree;

(C) List any modifications to the factual findings and conclusions set forth in the initial determination;

(D) Establish a debt if appropriate;

(E) Determine liability, method of restitution of funds and sanctions; and

(F) In the case of a final determination imposing a sanction or corrective action, offer an opportunity for a hearing in accordance with § 629.57.

(iii) The final determination constitutes the final agency action unless a hearing is requested.

(e) Nothing in this section shall preclude the Secretary from issuing an initial and final determination directly to a subrecipient in accordance with the authority of section 164(e)(3) of the Act. In such a case, the Secretary shall inform the Governor of the Secretary's action.

§ 629.55 Federal handling of criminal complaints and reports of fraud, abuse and other criminal activity

Any persons with knowledge of and all complaints involving fraud, abuse or other criminal activity shall be reported directly and immediately to the Secretary of Labor.

§ 629.56 Opportunity for informal review.

(a) Parties to a complaint under § 629.57 may choose to waive their rights to an administrative hearing before the Office of Administrative Law Judges (OALJ) by choosing to transfer the settlement of their dispute to an individual acceptable to the parties for

the purpose of conducting an informal review of the stipulated facts and rendering a decision in accordance with applicable law. A written decision will be issued within 60 days after the matter is submitted for informal review.

(b) The waiver of the right to request a hearing before the OALJ will automatically be revoked if a settlement has not been reached within the 60 days provided in (a) of this section.

(c) The decision rendered under this informal review process shall be treated as a final decision of an Administrative Law Judge pursuant to section 108(b) of the Act.

§ 629.57 Hearings before the Office of Administrative Law Judges.

(a) *Jurisdiction.* The jurisdiction of the OALJ extends only to those complainants identified in sections 164(f) and 166(a) of the Act.

(b) *Sanctions.* For the purpose of this section, "sanctions" will not include actions required by authority other than this Act. For example, the imposition of interest charges where required by the Debt Collection Act of 1982 is not a sanction for the purpose of this section.

(c) *Procedures for filing request for hearing.* (1) Within 21 days of receipt of the determination imposing the sanction or corrective action, or denying financial assistance, the applicant, Governor, SDA grant recipient or other subrecipient of funds may transmit by certified mail, return receipt requested, a request for hearing to the Chief Administrative Law Judge, United States Department of Labor, Room 700, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20036, with one copy to the departmental official who issued the determination and one copy to the Special Counsel to the Assistant Secretary of Labor.

(2) The 21-day filing requirement is jurisdictional; failure to timely request a hearing acts as a waiver of the right to hearing.

(3) The request shall specifically state those issues of the determination upon which review is requested. Those provisions of the determination not specified for review, or the entire determination when no hearing has been requested within the 21–days, shall be considered resolved and not subject to further review. Only alleged violations of the Act, regulations, grant or other agreements under the Act fairly raised in the determination and the request for hearing are subject to review.

(4) The same procedure set forth in paragraphs (a) (1) through (3) of this section applies in the case of a complainant who has not had a dispute adjudicated by the informal review process of § 629.56 within the 60 days, except that the request for hearing before the OALJ must be filed within 15 days of the conclusion of the 60-day period. In addition to including the determination upon which review is requested, the complainant must include a copy of any Stipulation of Facts and a brief summary of proceedings.

(d) *Service and filing.* Copies of all papers required to be served on a party or filed with the OALJ shall be filed simultaneously with the OALJ and served upon the parties of record or their representatives, and shall contain proof of such service.

(e) *Rules of procedure.* The rules of practice and procedure promulgated by the OALJ shall govern the conduct of hearings under this section.

(f) *Prehearing procedures.* In all cases, the OALJ should encourage the use of prehearing procedures to simplify and clarify facts and issues.

(g) *Subpoenas.* Subpoenas necessary to secure the attendance of witnesses and the production of documents or things at hearings shall be obtained from the OALJ and shall be issued pursuant to the authority contained in section 183(b) of the Act, incorporating 15 U.S.C. section 49.

(h) *Timely submission of evidence.* The OALJ shall not permit the introduction at the hearing of documentation relating to the allowability of costs if such documentation has not been made available for review either at the time ordered for any prehearing conference, or, in the absence of such an order, at least three weeks prior to the hearing date.

(i) *Burden of production.* The Department shall have the burden of production to support the Secretary's decision. Thereafter, the party or parties seeking to overturn the Secretary's decision shall have the burden of presuasion.

(j) *Relief.* In ordering relief, the OALJ shall have the full authority of the Secretary under section 184 of the Act, except with respect to the provisions of subsection (e) of that section.

(k) *Timing of decisions.* The OALJ should render a written decision not later than 90 days after the closing of the record.

§ 629.58 Other authority.

Nothing contained in this subpart shall be deemed to prejudice the separate exercise of other authorities in pursuit of remedies and sanctions available outside the Act.

PART 630—PROGRAMS UNDER TITLE II OF THE JOB TRAINING PARTNERSHIP ACT

Sec.

630.1 Adult and youth programs under Part A of Title II.

630.2 Summer youth employment and training programs under Part B of Title II.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97–300, 96 Stat. 1322 (29 U.S.C. 1501 *et seq.*).

§ 630.1 Adult and youth programs under Part A of Title II.

(a) Funding for programs under this section shall be provided in accordance with sections 162, 201 and 202 of the Act. Funds may be used to provide services specified in section 204 of the Act to persons meeting eligibility criteria specified in sections 141(c) and 203 of the Act.

(b)(1) Pursuant to section 203(b) of the Act, not less than 40 percent of funds shall be expended for services to eligible youth. The Governor may specify a different methodology that will yield comparable results.

(2) To the extent that the ratio of economically disadvantaged youth to economically disadvantaged adults in the SDA differs from the ratio of such individuals nationally as published by the Secretary, the percentage specified in paragraph (b)(1) of this section shall be reduced or increased by a local adjustment factor. This factor, which may be obtained by dividing the SDA ratio of economically disadvantaged youth to economically disadvataged adults by the national ratio as published by the Secretary, may be multiplied by 40 percent to derive the youth service level for the SDA. The Governor may provide for an alternative methodology to develop the local adjustment factor depending on the availability of data (Sec. 203(b)(2)).

(c) Funds may be used to conduct exemplary youth programs under section 205 of the Act, as follows:

(1) Except for tryout employment authorized under section 205(d)(2)(B) of the Act, exemplary youth programs may be modified to accommodate local conditions as specified in the job training plan (Sec. 205(a)); and

(2) Tryout employment in private for-profit worksites may be conducted only in accordance with section 205(d) of the Act (Sec. 141(k)).

§ 630.2 Summer youth employment and training programs under Part B of Title II.

(a) Funding for programs under this section shall be provided in accordance with sections 162 and 251 of the Act to provide services specified in section 252

of the Act to economically disadvantaged youth meeting eligibility criteria set forth in sections 141(e) and 253 of the Act.

(b) Not more than 15 percent of the funds available for programs under this section may be used for the costs of administration.

PART 631—PROGRAMS UNDER TITLE III OF THE JOB TRAINING PARTNERSHIP ACT

Subpart A—General Provisions

Sec.
631.1 Scope and purpose.

Subpart B—Formula Allocated Programs

631.11 General.
631.12 State plan.
631.13 Limitations on use of funds.
631.14 Matching funds.

Subpart C—Discretionary Program

631.21 General.
631.22 Eligibility for funding.
631.23 Application for funding and selection criteria.

Subpart D—Program Design and Management

631.31 Allowable activities, coordination and consultation, planning and review.
631.32 Reallotment of funds based on non-utilization.
631.33 Reporting requirements.
631.34 Role of Title III training in determining unemployment benefit eligibility.

Authority: Job Training Partnership Act, Sec. 169, Pub. L. 97-300, 96 Stat. 1322 (29 U.S.C. 1501 et seq.).

Subpart A—General Provisions

§ 631.1 Scope and purpose.

This part contains the regulations governing programs designed to serve dislocated workers as authorized under Title III of the Act. Programs are operated pursuant to two allotments: (a) At least 75 percent of the funds appropriated tor Title III shall be allotted by formula to the Governors; and (b) up to 25 percent of the funds appropriated for Title III may be reserved for distribution to Governors at the Secretary's discretion. Planning, application and other requirements applicable to formula funded programs are set forth in Subpart B of this part. Requirements applicable to discretionary programs are set forth in Subpart C of this part. Program design and management requirements applicable to all programs operated under Title III of the Act are set forth in Subpart D of this part.

Subpart B—Formula Allocated Program

§ 631.11 General.

(a) The Secretary shall allot at least 75 percent of the funds appropriated for Title III among the States pursuant to the formula in section 301(b) of the Act.

(b) The allotment for the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa and the Trust Territory of the Pacific Islands shall be based on the following computation: allotments for these areas, pursuant to section 201(a) of the Act, as a proportion of total allotments pursuant to section 201 of the Act, applied to total funds available for allotment, pursuant to section 301(b) of the Act.

§ 631.12 State plan.

(a) To receive financial assistance for formula allocated programs under Title III of the Act, the Governor shall include in the Governor's coordination and special services plan, submitted pursuant to section 121 of the Act, a statement of intent to operate programs in compliance with matching provisions of section 304 of the Act.

(b) If the Governor has stated, pursuant to paragraph (a) of this section, an intent to operate formula allocated programs under Title III and subsequently determines not to operate such programs during the period covered by the Governor's coordination and special services plan, the Governor shall notify the Secretary of such a determination in writing on a timely basis.

§ 631.13 Limitations on use of funds.

(a) Subject to paragraph (b) of this section, no more that 15 percent of the funds allotted pursuant to section 301(b) of the Act may be used for administrative costs. In addition, the total of administrative costs and participant support costs may not exceed 30 percent (Sec. 307(a)).

(b) These limitations apply to that amount of Federal funds which is equivalent to no more than 50 percent of the total combined amount of Federal and non-Federal funds allotted to the formula funded State programs (Sec. 307(b)).

§ 631.14 Matching funds.

To qualify for financial assistance under Title III of the Act, the Governor shall provide matching funds pursuant to section 304 of the Act as defined at § 629.40 of this Chapter.

Subpart C—Discretionary Program

§ 631.21 General.

Of the funds appropriated for Title III, up to 25 percent may be awarded to Governors submitting applications for such funds based upon selection criteria determined by the Secretary pursuant to the provisions of this subpart.

§ 631.22 Eligibility for funding.

The Secretary shall make available to Governors funds reserved under section 301(a) of the Act to serve individuals who are affected by mass layoffs, natural disasters, Federal Goverment actions (such as relocations of Federal facilities), high unemployment areas or designated enterprise zones. These circumstances must be sufficiently severe so that:

(a) The needs cannot be met by other JTPA programs or other State and local programs; and

(b) A substantial number of individuals concentrated in a labor market area or industry is affected.

§ 631.23 Application for funding and selection criteria.

In order to qualify for consideration for funding under this subpart, Governors shall submit applications to the Secretary pursuant to instructions issued by the Secretary on an annual basis specifying application procedures, selection criteria, and approval process.

Subpart D—Program Design and Management

§ 631.31 Allowable activities, coordination and consultation, planning and review.

(a) Allowable activities are specified in section 303 of the Act. They shall be coordinated with other programs in accordance with section 306 of the Act. Affected labor organizations shall be consulted pursuant to section 306 of the Act.

(b) Governors shall involve appropriate PICs and local elected officials in planning and providing opportunities for review in accordance with sections 302 and 305 of the Act.

§631.32 Reallotment of funds based on non-utilization.

(a) The Secretary may reallot any amount of any allotment under this part to the extent that it is determined that the Governor will not be able to obligate such amount within one year of allotment (Sec. 301(d)).

(b) When the Secretary determines that a reallotment from a Governor is appropriate, the Governor and the general public shall be given a notice of the proposed action to remove funds.

Such notice shall include specific reasons for the actions being taken and shall invite the Governor and the general public to submit comments on the proposed reallotment of funds. These comments shall be submitted to the Secretary within 30 days from the date of the notice. After considering any comments received, the Secretary shall notify the Governor of any decision to reallot funds.

(c) The procedures set out in this section are in lieu of any other procedures which might otherwise be applicable under the Grievances, Investigations and Hearings provisions in Part 629, Subpart D of this Chapter.

(d) The Secretary may reallot funds using:

(1) The formula allocation described at Subpart B of this part; or

(2) Procedures established in Subpart C of this part.

§ 631.33 Reporting requirements.

The reporting requirements in § 629.36 of this chapter apply to programs operated under this part, except that the Secretary may establish special requirements for discretionary programs operated under Subpart C of this part as part of the annual announcement of fund availability and selection criteria.

§ 631.34 Role of Title III training in determining unemployment benefit eligibility.

Whenever training opportunities pursuant to Section 302(c) of the Act are identified, information concerning the opportunities shall be made available to the individuals. Pursuant to section 302(d) of the Act, the acceptance of training assisted under Title III shall be deemed to be acceptance of training with the approval of the State within the meaning of any other provision of Federal law relating to unemployment benefits.

PART 632—NATIVE AMERICAN PROGRAMS UNDER TITLE IV, PART A OF THE JOB TRAINING PARTNERSHIP ACT [RESERVED]

PART 633—MIGRANT AND SEASONAL FARMWORKER PROGRAMS UNDER TITLE IV, PART A OF THE JOB TRAINING PARTNERSHIP ACT [RESERVED]

PART 634—LABOR MARKET INFORMATION PROGRAMS UNDER TITLE IV, PART E OF THE JOB TRAINING PARTNERSHIP ACT [RESERVED]

PART 635—VETERANS' EMPLOYMENT PROGRAMS UNDER TITLE IV, PART C OF THE JOB TRAINING PARTNERSHIP ACT [RESERVED]

PART 636—[RESERVED]

PART 637—[RESERVED]

PART 638—[RESERVED]

Signed at Washington, D.C., this 14th day of January 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83-1450 Filed 1-17-83; 8:45 am]

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January 18, 1983

Part V

The President

Executive Order 12401—Presidential Commission on Indian Reservation Economies

Executive Order 12402—National Commission on Social Security Reform

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Presidential Documents

Title 3—

The President

Executive Order 12461 of January 14, 1983

Presidential Commission on Indian Reservation Economies

By the authority vested in me as President of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), an advisory commission to promote the development of a strong private sector on Federally recognized Indian reservations, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established a Presidential Commission on Indian Reservation Economies.

(b) The Commission shall be composed of no more than nine members, who shall be appointed by the President from among the private sector, reservation tribal governments, economic academicians, and Federal employees.

(c) The President shall designate a non-Indian representative and an Indian representative to serve as cochairmen of the Commission.

Sec. 2. *Functions.* (a) The Commission shall advise the President on what actions should be taken to develop a stronger private sector on Federally recognized Indian reservations, lessen tribal dependence on Federal monies and programs and reduce the Federal presence in Indian affairs. The underlying principles of this mission are the government-to-government relationship, the established Federal policy of self-determination and the Federal trust responsibility.

(b) The Commission will focus exclusively on the following items, and not on new Federal financial assistance:

(1) Defining the existing Federal legislative, regulatory, and procedural obstacles to the creation of positive economic environments on Indian reservations.

(2) Identifying and recommending changes or other remedial actions necessary to remove these obstacles.

(3) Defining the obstacles at the State, local and tribal government levels which impede both Indian and non-Indian private sector investments on reservations.

(4) Identifying actions which these levels of government could take to rectify the identified problems.

(5) Recommending ways for the private sector, both Indian and non-Indian, to participate in the development and growth of reservation economies, including capital formation.

(c) The Commission should review studies undertaken in the last decade to obtain pertinent recommendations that are directly related to its mission.

(d) The Commission shall, unless sooner extended, submit a final report to the President and to the Secretary of the Interior within six months after appointment of the last Commissioner, or by September 30, 1983, whichever comes earlier.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Commission with such information as may be necessary for the effective performance of its functions.

(b) Members of the Commission may receive compensation for their work on the Commission. While engaged in the work of the Commission members may

be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707).

(c) The Secretary of the Interior shall, to the extent permitted by law and subject to the availability of funds, provide the Commission with such administrative services, funds, facilities, staff and other support services as may be necessary for the effective performance of its functions.

(d) The Commission will meet approximately 15 times at the call of the chairmen. All meetings of the Commission and all agenda must have prior approval of the chairmen.

(e) In carrying out its responsibilities, the Commission is authorized to:

(1) Conduct hearings, interviews, and reviews at field sites, or wherever deemed necessary to fulfill its duties.

(2) Confer with Indian tribal government officials and members, private sector business officials and managers, and other parties dealing with matters pertaining to the Commission's mission.

Sec. 4. *General Provisions.* (a) Notwithstanding the provisions of any other Executive order, the responsibilities of the President under the Federal Advisory Committee Act, as amended, except that of reporting annually to the Congress, which are applicable to the advisory commission established by this Order, shall be performed by the Secretary of the Interior, in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) The Commission shall terminate 60 days after it transmits its final report to the President, or on December 31, 1983, whichever comes earlier.

Ronald Reagan

THE WHITE HOUSE,
January 14, 1983.

[FR Doc. 83-1526
Filed 1-17-83; 11:41 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12402 of January 15, 1983

National Commission on Social Security Reform

By the authority vested in me as President by the Constitution and laws of the United States of America, and specifically the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered that Section 2(b) of Executive Order No. 12335, as amended, establishing the National Commission on Social Security Reform, is hereby further amended to provide as follows:

"The Commission shall make its report to the President by January 20, 1983.".

Ronald Reagan

THE WHITE HOUSE,
January 15, 1983.

[FR Doc. 83-1527
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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next workday following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
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DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
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List of Public Laws

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 5161 / Pub. L. 97-466 To designate certain lands in the Monongahela National Forest, West Virginia, as wilderness; and to designate management of certain lands for uses other than wilderness. (Jan. 13, 1983; 96 Stat. 2538) Price: $1.75.

H.R. 6538 / Pub. L. 97-467 To designate the Federal Building in Lima, Ohio, as the "Tennyson Guyer Federal Building". (Jan. 14, 1983; 96 Stat. 2542) Price: $1.75.

H.R. 3439 / Pub. L. 97-468 Making technical corrections to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, and for other purposes. (Jan. 14, 1983; 96 Stat. 2543) Price: $4.25.

H.J. Res. 635 / Pub. L. 97-469 Establishing the dates for submission of the Budget and Economic Report. (Jan. 14, 1983; 96 Stat. 2582) Price: $1.75.

H.R. 7102 / Pub. L. 97-470 Migrant and Seasonal Agricultural Worker Protection Act. (Jan. 14, 1983; 96 Stat. 2583) Price: $2.75.

S. 3105 / Pub. L. 97-471 To modify the judicial districts of West Virginia, and for other purposes. (Jan. 14, 1983; 96 Stat. 2601) Price: $1.75.

S.J. Res. 260 / Pub. L. 97-472 To designate the period commencing January 1, 1983, and ending December 31, 1983, as the "Tricentennial Anniversary Year of German Settlement in America". (Jan. 14, 1983; 96 Stat. 2603) Price: $1.75.

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Agricultural Marketing Service

Motor Carriers
Interstate Commerce Commission

Pesticides and Pests
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Poison Prevention
Consumer Product Safety Commission

Prisoners
Prisons Bureau

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R-0446]

Reserve Requirements of Depository Institutions; Money Market Deposit Accounts

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to implement Section 13 of Senate Joint Resolution 271, which exempts Money Market Deposit Accounts ("MMDAs") from the phase-in of reserve requirements under the Monetary Control Act of 1980 (Pub. L. 96–221; 12 U.S.C. 461(b)(8)). MMDAs were authorized by the Depository Institutions Deregulation Committee ("DIDC"), effective December 14, 1982, pursuant to section 327 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320; 96 Stat. 1501) ("Garn-St Germain Act"). Under this action, all depository institutions will be subject, without application of the phase-in provisions, to a reserve requirement of three percent on all nonpersonal MMDAs and to a zero percent reserve requirement on all personal MMDAs. The Board also has modified the procedure for allocating the exemption from reserve requirements for the first $2.1 million of an institution's reservable liabilities in order to provide the most benefit to depository institutions in light of the legislation exempting MMDAs from the phase-in of reserve requirements.

DATES: Effective January 13, 1983. The first reserve maintenance period to which these amendments apply begins on January 27, 1983.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Associate General Counsel (202/452–3625), or Paul S. Pilecki, Senior Attorney (202/452–3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Effective December 14, 1982, federally-insured commercial banks, savings and loan associations, and mutual saving banks were authorized by the DIDC, pursuant to section 327 of the Garn-St Germain Act, to offer MMDAs. The MMDA has the following principal characteristics: (1) An initial and average balance requirement of $2,500; (2) no minimum maturity requirement, but institutions are required to reserve the right to require at least seven days' notice prior to withdrawal; (3) no interest rate ceiling on deposits that satisfy the initial and average balance requirements, and (4) no more than six preauthorized, automatic, or other transfers per month, of which no more than three can be checks. The Board of Governors amended Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) on December 1, 1982, to subject MMDAs that are authorized to have no more than six transfers per month to the same reserve requirements as savings deposits (47 FR 55207, December 8, 1982). Such an MMDA in which any beneficial interest is held by a depositor that is not a natural person or that is transferable is subject to reserve requirements as a *nonpersonal time deposit* with a maturity of less than 3½ years, which presently has a reserve requirement of three percent. Under the Board's action, such an MMDA in which the entire beneficial interest is held by natural persons and that is not transferable is regarded as a *personal time deposit* not subject to basic reserve requirements of the Monetary Control Act of 1980 ("MCA").

In determining the application of reserve requirements to the MMDA, the Board determined that the transitional adjustment provisions of the MCA applied. In this regard, nonmember depository institutions generally are phasing in to the reserve requirements of the MCA over an eight-year period. Member banks generally are phasing in to the reserve requirements of the MCA, which are lower than pre-MCA requirements, over a four-year period. As a result, the effective reserve requirements that applied to MMDAs were as follows:

EFFECTIVE RESERVE RATIOS ON MMDAS (12/14/82)

	Nonmembers (8-yr phasein)	Members (4-yr phasein to lower Reserves)
Personal MMDAs	3	1.125
Nonpersonal MMDAs	1.125	3

On January 12, 1983, Senate Joint Resolution 271 was enacted. In order to provide competitive equity among depository institutions, section 13 of this legislation exempts MMDAs from the transitional adjustments of the Monetary Control Act. Since MMDAs are now exempt from the reserve requirement phase-in, member banks (and Edge and Agreement corporations and certain former member banks) will have a reduction in effective reserve requirements to zero percent on personal MMDAs. On the other hand, the reserve requirement on nonpersonal MMDAs for nonmember depository institutions will rise to an effective ratio of three percent, Nonmembers will continue to be subject to a zero percent reserve requirement on personal MMDAs, and members will continue to be subject to a three percent reserve requirement on nonpersonal MMDAs.

The Board of Governors has amended Regulation D to implement section 13 of the Senate Joint Resolution 271. For member banks, and other institutions subject to reserve requirements in the same manner as member banks, the reduction in reserve requirements on *personal* MMDAs shall be effective from December 14, 1982, the date on which such accounts were first offered. The Board believes that making the reduction in reserve requirements for member banks retroactive to December 14, 1982, is consistent with congressional intent in exempting MMDAs from the reserve requirement phase-in. Member banks will be reimbursed for reserve balances that have been maintained against personal MMDAs through "as of" adjustments to be calculated and administered by the Federal Reserve Banks.

Nonmember depository institutions will be subject to a full reserve requirement of 3 percent on all

nonpersonal MMDAs. The change in reserve requirements on nonpersonal MMDAs for nonmember depository institutions will be effective for the reserve computation period that begins January 13, 1983, which is the reserve computation period that begins after the date on which the bill in enacted. The first reserve maintenance period to which this change applies begins on January 27, 1983.

The change in reserve requirements on MMDAs will first apply to depository institutions that report deposits and maintain reserves on a quarterly basis starting with the reserve maintenance period that begins on January 27, 1983, for such institutions that submitted a Report of Transaction Accounts, Other Deposits, and Vault Cash (Form FR 2900) for the computation period of December 16–22, 1982. The exemption from the reserve requirements phase-in for MMDAs for other quarterly reporters will be effective with the reserves required to be maintained based on deposit reports to be submitted in either January 1983 or February 1983.

The exemption from reserve requirement phase-ins for MMDAs does not apply in the case of the phase-in for *de novo* institutions and has no effect in the case of those institutions that are now subject to full reserve requirements under the reserve requirement structure in the Monetary Control Act. In addition, this action does not affect nonmember depository institutions in Hawaii that do not begin maintaining reserves until January 1986; however, when such institutions begin to maintain reserves at that time, nonpersonal MMDAs will be subject to a three percent reserve requirement without the benefit of a phase-in. Depository institutions that are not subject to the jurisdiction of the DIDC, such as credit unions and certain non-federally insured savings and loan associations, also are not affected by this action.

Eliminating the phase-in on MMDAs will make it generally most beneficial to depository institutions to apply the exemption from reserve requirements for $2.1 million of reservable liabilities to nonpersonal MMDAs first. Accordingly, as indicated below, the Board also has revised the procedure for allocating the $2.1 million exemption in order to assure institutions subject to DIDC rules the maximum benefit of the reserve exemption.

For institutions subject to DIDC rules that are not allowed a phase-in on NOW accounts (except U.S. branches and agencies of foreign banks).

1. Nonpersonal MMDAs
2. Net NOW accounts (NOW accounts less allowable deductions)
3. Net other transaction accounts (other transaction accounts less allowable deductions)
4. Nonpersonal time and savings deposits with maturities of less than 3½ years—excluding nonpersonal MMDAs
5. Eurocurrency liabilities

For all other institutions subject to DIDC rules (including U.S. branches and agencies of foreign banks).

1. Nonpersonal MMDAs
2. Net transaction accounts
3. Nonpersonal time and savings deposits with maturities of less than 3½ years—excluding nonpersonal MMDAs
4. Eurocurrency liabilities.

The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with adoption of these amendments because the change involves the implementation of a statutory provision that is effective upon enactment and does not provide the Board with discretion to modify its terms. Thus, the Board has determined that notice and public participation is unnecessary. The effective date of the amendment has not been deferred pursuant to 5 U.S.C. 553(d), since deferring the effective date would be inconsistent with section 13 of Senate Joint Resolution 271.

List of Subjects in 12 CFR Part 204

Banks, banking, Currency, Federal Reserve System, Penalties, Reporting requirements.

Pursuant to its authority under section 19 of the Federal Reserve Act (12 U.S.C. 461 *et seq.*) and under section 13 of Senate Joint Resolution 271 (S.J. Res. 271, 97th Cong., 2d Sess. section 13 (1982)), the Board amends Regulation D (12 CFR Part 204) effective January 13, 1983, as follows:

PART 204—[AMENDED]

1. In § 204.3, by revising paragraph (a)(3)(i) to read as follows:

§ 204.3 Computation and maintenance.

(a) * * *

(3) *Allocation of exemption from reserve requirements.* (i) In determining the reserve requirements of a depository institution, the exemption provided for in section 204.9(a) shall apply in the following order of priorities: (A) First, to nonpersonal time deposits representing deposits or accounts issued pursuant to 12 CFR 1204.122; (B) second, to net transaction accounts that are first authorized by Federal law in any state after April 1, 1980; (C) third, to other net transaction accounts; and (D) fourth, to other nonpersonal time deposits or Eurocurrency liabilities starting with those with the highest reserve ratio under § 204.9(a) and then to succeeding lower reserve ratios.

* * * * *

2. In § 204.4, the last sentence of paragraph (a), paragraphs (b)(1) introductory text, (b)(1)(i), (b)(2) introductory text, and (b)(2)(i), and the last sentence of paragraph (c) are revised and paragraph (f) is amended by revising the first sentence and adding a sentence at the end to read as follows:

§ 204.4 Transitional adjustments.

* * * * *

(a) * * * However, an institution shall not reduce the amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any state after April 1, 1980, or on deposits or accounts issued pursuant to 12 CFR 1204.122.

(b) * * *

(1) A depository institution whose required reserves are higher using the reserve ratios in effect during a given computation period (§ 204.9(a)) than its required reserves using the reserve ratios in effect on August 31, 1980 (§ 204.9(b)) (without regard to required reserves on deposits or accounts issued pursuant to 12 CFR 1204.122):

(i) Shall maintain the full amount of required reserves on deposits or accounts issued pursuant to 12 CFR 1204.122; and

(ii) * * *

(2) A depository institution whose required reserves are lower using the reserve ratios in effect during a given computation period (§ 204.9(a)) than its required reserves computed using the reserve ratios in effect on August 31, 1980 (§ 204.9(b)) (without regard to required reserves on deposits or accounts issued pursuant to 12 CFR 1204.122):

(i) Shall maintain the full amount of required reserves on deposits or accounts issued pursuant to 12 CFR 1204.122; and

* * * * *

(c) * * * However, an institution shall not reduce the amount of required reserves on any category of deposits or accounts that are first authorized under Federal law in any state after April 1, 1980, or on deposits or accounts issued pursuant to 12 CFR 1204.122.

* * * * *

(f) *Nonmember depository institutions with offices in Hawaii.* Any depository institution that, on August 1, 1978, (i) was engaged in business as a depository institution in Hawaii, and (ii) was not a member of the Federal Reserve System at any time on or after such date shall

not maintain reserves imposed under this part against deposits, including deposits or accounts issued pursuant to 12 CFR 1204.122, held or maintained at its offices located in Hawaii until January 2, 1986. * * * However, after January 1, 1986, an institution shall not reduce the amount of required reserves on any deposits or accounts issued pursuant to 12 CFR 1204.122.

* * * * *

By order of the Board of Governors, January 13, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-1486 Filed 1-18-83; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 217

[Docket No. R-0447]

Regulation Q, Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in the Louisiana parishes of Allen, Beauregard, Calcasieu, Catahoula, Grant, LaSalle, Natchitoches, Ouachita, Rapides, and Winn.

EFFECTIVE DATE: January 11, 1983.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452-3711).

SUPPLEMENTARY INFORMATION: On January 11, 1983, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Louisiana parishes of Allen, Beauregard, Calcasieu, Catahoula, Grant, LaSalle, Natchitoches, Ouachita, Rapides, and Winn, major disaster areas. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and flooding beginning on or about December 19, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to January 11, 1983, and will remain in effect until 12 midnight, July 11, 1983.

List of Subjects in 12 CFR Part 217

Advertising, Banks, banking, Federal Reserve System, Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated parishes of Louisiana directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, January 13, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-1442 Filed 1-18-83; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 305

[Reg. PR-255; Procedural Reg. Amdt. No. 4 to Part 305]

Rules of Practice in Informal Nonpublic Investigations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB eliminates its requirement that orders initiating informal nonpublic investigations must designate specific staff attorneys of the Enforcement Division, Office of the General Counsel, as Investigation Attorneys. This change will reduce costs to the Board without disadvantage to any person.

DATES: Adopted: January 12, 1983; Effective: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Stephen A. Metoyer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5037.

SUPPLEMENTARY INFORMATION: 14 CFR 305.5 has required orders that begin informal nonpublic investigations to include the names of the Enforcement Division staff attorneys who will conduct the investigation. To comply with this rule, the Board has frequently had to amend its Part 305 orders to reflect changes in the Division staff by either adding or removing attorneys' names. Since the naming of the particular enforcement attorneys assigned to an investigation does not affect the rights of any person, the Board has now decided to change § 305.5 by eliminating this requirement. The change will reduce the cost and burden of the Board's enforcement effort, without disadvantage to any person. The name of the Investigation Attorney is easily obtainable from the Enforcement Division upon request.

Since this amendment is administrative in nature, affecting agency practice and procedure, the Board finds for good cause that notice and public procedure are unnecessary and that the amendment may become effective less than 30 days after publication in the **Federal Register.**

List of Subjects in 14 CFR Part 305

Administrative practice and procedure, Investigation.

PART 305—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 305, *Rules of Practice in Informal Nonpublic Investigations*, as follows:

1. The authority for Part 305 is:

Authority: Secs. 202, 204, 411, 416, 1001, 1002, 1006, 1007, Pub. L. 85-726, as amended; 72 Stat. 742, 743, 770, 771, 788, 792, 798; 49 U.S.C. 1322, 1324, 1381, 1385, 1481, 1482, 1484, 1487; 5 U.S.C. 555, 556.

2. Section 305.5, *Initiation of investigation*, is revised to read:

§ 305.5 Initiation of investigation.

An investigation may be initiated by order of the Board. Attorneys of the Enforcement Division, Office of the General Counsel, shall conduct such investigations pursuant to the provisions of this part and they shall be designated Investigation Attorneys. Investigation Attorneys and administrative law judges are hereby authorized to exercise and perform their duties and functions under this part in accordance with the provisions of the Act and the rules and regulations of the Board.

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.
[FR Doc. 83-1262 Filed 1-18-83; 8:45 am]
BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9149]

Ogilvy & Mather International Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.
ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a New York City advertising agency to cease, among other things, employing the name Aspercreme or any other trade name which erroneously implies that aspirin is an active ingredient of the product. The order also bars misrepresentations concerning the validity, conclusions, interpretations or results of any test or study; as well as unsubstantiated claims regarding the mode of action by which a drug treats, eases or cures any symptom, condition or disease. Further, the firm is prohibited from representing without reasonable substantiation that any topically applied drug is faster or more effective than aspirin in the treatment of arthritis, tendonitis, bursitis or rheumatism, or that is involves a new scientific or mechanical principle. Additionally, the order requires the company to retain all data that substantiates or contradicts advertised product claims for a period of three years following dissemination of any advertisement subject to the order.

DATES: Complaint issued Feb. 5, 1981. Decision issued Jan. 4, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/PA, Melvin H. Orlans, Washington, D.C. 20580. (202) 724-1529.

SUPPLEMENTARY INFORMATION: On Tuesday, Oct. 19, 1982, there was published in the **Federal Register**, 47 FR 46531, a proposed consent agreement with analysis In the Matter of Ogilvy & Mather International Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.45 Content; § 13.170 Qualities or properties of product or service; 13.170-52 Medicinal, therapeutic, healthful, etc.; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.280 Unique nature or advantages. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records. Subpart—Misrepresenting Oneself and Goods—Goods: § 3.1605 Content; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported; § 13.1770 Unique nature or advantages. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1850 Content; § 13.1885 qualities or properties; § 13.1895 Scientific or other relevant facts. Subpart—Using Misleading Name—Goods: § 13.2325 Qualities or properties.

List of Subjects in 16 CFR Part 13

Advertising, Drugs.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Carol M. Thomas,
Secretary.
[FR Doc. 83-1462 Filed 1-18-83; 8:45 am]
BILLING CODE 6750-01-M

16 CFR Part 13

[Docket 9102]

Kroger Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.
ACTION: Modifying order.

SUMMARY: As agreed to by the FTC and The Kroger Company, this Order modifies the Commission's Final Order issued on Sept. 25, 1981 (46 FR 53648). The Modified Final Order prohibits Kroger from advertising survey-based food price comparisions that refer to a particular city, metropolitan area or competitor, unless: (1) Employees responsible for pricing Kroger's products do not know which items have been selected for the survey prior to its completion; and (2) the claim does not generalize the results of the survey to a product catagory that has been systematically excluded from the survey, unless such generalization clearly and conspicuously discloses that the product category has been excluded from the survey. The Order, which will remain in effect until Dec. 31, 1984, dismisses the allegations contained in Paragraphs Six B and D, and Seven B and D of the complaint.

DATES: Final Order issued Sept. 25, 1981. Modified Final Order issued Dec. 29, 1982.

FOR FURTHER INFORMATION CONTACT: Barbara E. Arnold, Acting Director, 4R, Cleveland Regional Office, Federal Trade Commission, Suite 500, Mall Bldg., 118 St. Clair Ave., Cleveland OH 44114. (216) 522-4207.

SUPPLEMENTARY INFORMATION: In the Matter of The Kroger Company, a corporation. Codification appearing at 46 FR 53648 remains unchanged.

List of Subjects in 16 CFR Part 13

Grocery stores, Surveys, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Modified Final Order, including further order requiring report of compliance therewith, is as follows:

In the matter of The Kroger Company, a corporation. Docket No. 9102.

Modified Final Order

The Kroger Company having filed in the United States Court of Appeals for the Eleventh Circuit a petition for review of the order to cease and desist issued herein on September 25, 1981; and the Commission and the Kroger Company having subsequently agreed upon the provisions of a final order modifying the order of September 25; and the Commission having the authority to modify its order by virtue of the fact that the record in the proceeding has not been filed with the court of appeals (see 15 U.S.C. 45(b) and Commission Rule 3.72(a)); accordingly,

It is ordered that the order of September 25, 1981, be, and it hereby is, modified in accordance with the parties' agreement to read as follows:

Order

I

A. "Respondent" means the Kroger Company, a corporation, its successors and assigns, and its officers, representatives, agents and employees, acting directly or indirectly through any

corporation, subsidiary or other device in the sale of food, household items and other merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

B. "Survey-based food price comparison" means an advertised claim that refers to a survey of respondent's and any competitior's food prices and that projects the result obtained from the survey sample to items not included in the survey.

II

It is ordered that respondent cease and desist from advertising any survey-based food price comparison that refers, directly or indirectly, to a particular city, metropolitan area or competitor (or competitors) by name or other designation unless:

A. Employees responsible for pricing respondent's merchandise do not know which items have been selected for the survey prior to its completion, and

B. The claim does not generalize the results of the survey to a product category that has been systematically excluded therefrom; provided, however, that no such generalization will be deemed to extend to any product category whose systematic exclusion is disclosed clearly and conspicuously in respondent's advertisements.

III

It is further ordered that respondent shall, within sixty (60) days after service of this Order upon it, file with the Commission a written report setting forth in detail the manner and form in which it has complied, or intends to comply, with this Order.

IV

It is further ordered that respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, assignment, or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this Order.

V

It is further ordered that the provisions of this Order shall remain in effect until December 31, 1984.

VI

It is further ordered that the allegations contained in paragraphs Six B and D, and Seven B and D, of the Complaint be, and they hereby are, dismissed.

Issued: December 29, 1982.

By the Commission, Commissioner Pertschuk dissenting.

Carol M. Thomas,

Secretary.

Dissenting Statement of Commissioner Pertschuk

January 3, 1983.

I view the willingness of a majority of the Commission to accept what is essentially an illusory order as a product of the sustained ideologically-based attack on this case by the Chairman and the Director of the Bureau of Consumer Protection in connection with their proposals for weakening the Commission's deception and advertising substantiation standards.

Before I explain the inadequacies of the modified final order agreed to by Kroger and the Commission, I believe it is useful to review briefly the basic facts of the case to remind the Commission that its initial finding of liability and accompanying order were quite reasonable.

Kroger ran a lengthy and remarkably successful advertising campaign relying on its own price survey, comparing it to competitors. As those familiar with the history of *advertised* supermarket price surveys know, there is a powerful tendency to structure such surveys to produce results favorable to the advertiser. In Kroger's case, this incentive resulted in a number of survey characteristics. First, its comparison was limited to "dry groceries"—that is, fresh meat and produce were excluded though the record showed Kroger tended to be higher in those categories; second, the person in each marketing area who set prices for the items, the "grocery merchandiser," was responsible for selecting the items to be placed in the survey; third, in some cities, the grocery merchandiser systematically put items in the survey that Kroger was buying from manufacturers on special promotion and in turn temporarily reducing at retail.

Kroger almost always "won" its own survey and emphasized in weekly newspaper ads that it had again been shown to have the lowest prices in each metropolitan area. There is something of an abstract debate in the Commission's opinion about whether Kroger claimed to have *more* lower prices, or the *most* lower prices, compared to its competitors, but the key claims found by the Commission were that it was cheaper overall to shop at Kroger and that Kroger had a survey which backed up that claim. 98 F.T.C. 639, 736 (1981).

At the same time Kroger was conducting its advertised survey, it was regularly conducting two internal surveys for its own management. One of these was a market basket survey—that is, a survey which showed the cost of a typical "market basket" of food, purchased on a weekly basis for a household, compared with Kroger's competitors. The record evidence indicates that this market basket had all the earmarks of a reliable survey. The persons who chose the items did some rough and ready—but reasonable—weighing of the items and changed the items over time. Most importantly, they had no incentive to manipulate the items because the results were for internal use only.

The record in the case shows how Kroger's *internal* survey stacked up with its *advertised* survey. In general, Kroger did relatively well in the grocery category, and not so well in meat and produce. For example, of all the market basket checks conducted by Kroger in Ft. Wayne, Indiana, it was lowest on grocery items five out of nine times but lowest on produce two out of nine times and lowest on meat one out of nine times. The patterns in the other cities are similar. 69 F.T.C. at 683–86. Yet virtually every week, Kroger's advertised survey proclaimed it to be the chain with the lowest prices. The record contains numerous examples where both of Kroger's internal surveys—the market basket comparison and a comparison of the number of items on which Kroger was lower—showed Kroger to be higher than others at the same time the advertised survey showed Kroger to be lowest. (See CX 813)

In response to these practices the Commission issued an order covering any future advertised survey upon which Kroger bases a claim comparing its prices to those of its competitors in a particular area. That order, in its key parts, said that if Kroger advertised such a survey, it would have to: (1) Make sure the items were selected in a representative way and that employees responsible for pricing products did not know the items on the survey; and (2) make sure claims based on the survey fairly represented the results of the survey (for example, if major categories of food were left out, the claim would have to make that clear). There is little doubt that Kroger's own internal survey could have met those requirements. It is inconceivable to me that those standards are unreasonable and that American consumers would not feel misled if they were violated.

Yet most of the modest but fundamental standards contained in the final order have been jettisoned by the Commission in the settlement with Kroger, apparently on some theory that

meeting them would disrupt the flow of "useful" information. It is a highly dubious proposition that advertisements of surveys in which items aren't chosen representatively or which draw conclusions which do not fairly represent the actual survey are particularly useful for anything. Apparently believing that elimination of these requirements did not weaken the order enough, the Commission also finally gave in to Kroger's central demand for an automatic "sunsetting" of the order after a short period of time.

Neither the record, the reasonable exercise of our remedial discretion, nor considerations of competitive equity compel these major concessions and modifications to the final order that was once deemed by the Commission to be a reasonable and restrained resolution of this case. The majority opinion authored by Commissioner Clanton set forth clear justification for the prescribed sampling methods and survey misrepresentation provisions that are deleted from the modified order. Nothing has persuaded me since that time that these provisions are now either unnecessary or unwarranted. As explained in some detail in the opinion, the prescribed sampling methods provided reasonable flexibility and specificity to Kroger on suitable means of sampling for its price surveys. Also, the general fencing-in prohibition on survey misrepresentations was reasonably related to the core deception in Kroger's price patrol, e.g., overall price claims which were misleading because they failed to disclose the systematic exclusion of large product categories from the survey.

With respect to the two-year sunset provision, there are better ways of responding to any legitimate concerns of potential competitive inequity that Kroger may have from being "singled out" by the Commission. These could include serving the order on Kroger's competitors under the Commission's Section 205 authority, and reconsidering the order in the future should the Commission demonstrate a refusal to hold Kroger's competitors to the same standards. These alternatives would strike a much better balance between the agency's interest in preserving the integrity of its record findings and enforcement credibility in this case, with Kroger's interest in avoiding unfair competitive injury. With the inclusion of the short-term sunset provision, the order loses all credibility in the industry, assuring that no Kroger competitor will feel obliged to obey it, even if placed on notice of its requirements by the Commission. Further, and even more damaging to the Commission's enforcement interests, such an automatic sunset provision (which to my knowledge is virtually unprecedented in consumer protection cases) would create an irresistible temptation for other respondents to demand similar sunset relief on competitive equity or other grounds, particularly in this era of deregulation and decreased enforcement activity. If the basis of the Commission's concession to Kroger's demand for automatic sunset protection is that a majority of the Commission no longer believes in its own findings of liability or its ability to defend them on appeal, then it would be more straightforward simply to admit mistake and dismiss the case. At the very least, that would avoid the dangerous precedent that will be set for our consumer protection mission by acceptance of this sunset provision.

As my colleagues know, I was not averse to settlement of this case on justifiable grounds. But I am not so anxious to settle that I would acquiesce to settlement on these terms. Yet it seems to me that it is precisely such an overwhelming urge to settle this case at all costs that has driven the Commission toward acceptance of this modified order.

Because I am not prepared to pay such a price, I am dissenting from the Commission's agreement with Kroger.

[FR Doc. 83-1449 Filed 1-18-83; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 890

[Docket No. R-82-1036]

Annual Contributions for Operating Subsidy Performance Funding System; Correction

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Correction of interim rule.

SUMMARY: On December 23, 1982 (47 FR 57270), HUD published an interim rule that amended 24 CFR Part 890 to reinstate the Rolling Base Period in determining the Allowable Utilities Consumption Level (AUCL) to be utilized by public housing agencies (PHAs) in the Performance Funding System (PFS) calculation of the Utilities Expense Level. The purpose of this correction is to indicate that waiver of Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535)(o)(3)) has been received.

EFFECTIVE DATE: December 23, 1982.

FOR FURTHER INFORMATION CONTACT: J. Milton Slifkin, Fiscal Management Division, (202) 426-1872.

Accordingly, the following correction is made to the Interim Rule in FR Doc. 82-34671 appearing at 47 FR 57271 in the issue of December 23, 1982:

(1) On page 57271, column two, the second full paragraph is corrected to read, "Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in effectiveness for a period of 30 calendar days of continuous session of Congress after publication. A waiver of this requirement has been received from the Chairman and Ranking Minority members of the Senate Committee on Banking, Housing, and Urban Affairs, and the House Committee on Banking Finance, and Urban Affairs."

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535))

Dated: January 13, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-1440 Filed 1-18-83; 8:45 am]
BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

28 CFR Part 45

[Order No. 993-83]

Disqualification Arising From Personal or Political Relationships

AGENCY: Office of the Attorney General, Justice.

ACTION: Final rule.

SUMMARY: This rule provides for the disqualification of employees of the Department of Justice from participation in criminal investigations or prosecutions in which they may have a personal or political conflict of interest. The rule is required by statute and supplements the Department's current regulation on disqualifications arising from financial conflicts of interest.

EFFECTIVE DATE: January 6, 1983.

FOR FURTHER INFORMATION CONTACT: Robert B. Shanks, Deputy Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, Washington, D.C. 20530 (202) 633-3657.

SUPPLEMENTARY INFORMATION: This order pertains to agency management. Publication for notice and comment is not required under 5 U.S.C. 553. Further,

the order is not a rule within the meaning of, or subject to the requirements of, either Executive Order No. 12291 or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

PART 45—[AMENDED]

Accordingly, by the authority vested in me as Attorney General by 28 U.S.C. 528, Part 45 of Title 28, Code of Federal Regulations is amended by adding a new § 45.735–4, to read as follows:

§ 45.735–4 Disqualification arising from personal or political relationship.

(a) Unless authorized under paragraph (b) of this section, no employee shall participate in a criminal investigation or prosecution if he has a personal or political relationship with: (1) Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or (2) Any person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

(b) An employee assigned to or otherwise participating in a criminal investigation or prosecution who believes that his participation may be prohibited by paragraph (a) of this section shall report the matter and all attendant facts and circumstances to his supervisor at the level of section chief or the equivalent or higher. If the supervisor determines that a personal or political relationship exists between the employee and a person or organization described in paragraph (a) of this section, he shall relieve the employee from participation unless he determines further, in writing, after full consideration of all the facts and circumstances, that: (1) The relationship will not have the effect of rendering the employee's service less than fully impartial and professional; and (2) The employee's participation would not create an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution.

(c) For the purposes of this section.

(1) "Political relationship" means a close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal adviser thereto or a principal official thereof; and

(2) "Personal relationship" means a close and substantial connection of the type normally viewed as likely to induce partiality. An employee is presumed to have a personal relationship with his father, mother, brother, sister, child and spouse. Whether relationships (including friendships) of an employee to other persons or organizations are "personal" must be judged on an individual basis with due regard given to the subjective opinion of the employee.

(d) This section pertains to agency management and is not intended to create rights enforceable by private individuals or organizations.

List of Subjects in 28 CFR Part 45

Conflict of interests.

Dated: January 6, 1983.

William French Smith,

Attorney General.

[FR Doc. 83–1403 Filed 1–18–83; 8:45 am]

BILLING CODE 4410–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AH305PA; A 3–FRL 2246–2]

Approval and Promulgation of Implementation Plans; Approval of Revision to the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA approves revisions to the Pennsylvania State Implementation Plan (SIP) submitted to EPA by the Pennsylvania Department of Environmental Resources (DER). The approved revisions consist of reasonably available control technology (RACT) regulations for most Volatile Organic Compound (VOC) sources covered by EPA's Group II Control Technique Guidelines (CTG) documents, a generic VOC bubble regulation, Continuous Emission Monitoring (CEM) regulations and procedures, and Alternative Opacity Limit regulations. EPA approves these revisions since it has determined that they meet the requirements of Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51.

EFFECTIVE DATE: February 18, 1983.

ADDRESSES: Copies of Pennsylvania's SIP revision are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs & Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Mr. Raymond D. Chalmers at the address for EPA Region III above, or at telephone number (215) 597–8309.

SUPPLEMENTARY INFORMATION: EPA approved revisions to the Pennsylvania SIP submitted to EPA by the Pennsylvania DER. The approved revisions include RACT regulations for most VOC sources covered by EPA's Group II CTG documents, a generic VOC bubble regulation, CEM regulations and procedures, and Alternative Opacity Limit regulations. EPA approves these revisions since it has determined that they meet the requirements of Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51. The approved Pennsylvania SIP revisions are briefly described in the sections that follow. Those wishing a more detailed discussion of the revisions are advised to consult the proposed approval notice of May 26, 1982 (47 FR 23186).

I. Pennsylvania's SIP Revision

A. Group II VOC Regulations

Pennsylvania's approved SIP revisions include RACT regulations for most VOC sources covered by EPA's Group II CTG documents. The approved regulations cover the following source categories: (1) Petroleum Refinery Fugitive Emissions (Leaks); (2) Synthesized Pharmaceutical Manufacturing; (3) Pneumatic Rubber Tire Manufacturing; (4) Surface Coating of Miscellaneous Metal Parts and Products; (5) Graphic Arts (Printing); (6) Gasoline Tank Trucks (Leak Prevention); and (7) Petroleum Liquid Storage in External Floating Roof Tanks. The revisions are included in 25 PA Code Chapters 121, 129, and 130.

One regulation for a VOC source category covered by EPA's Group II CTG's, the Perchlorethylene Dry Cleaning regulation, has not been approved by EPA. Pennsylvania submitted a dry cleaning regulation to EPA that differs significantly from that adopted by most other states in that it does not specify an emission limit. Because an emission limit is not

specified, add-on control equipment is not required. As noted in the proposal notice, EPA will take no action on this regulation at this time. EPA is reviewing the reactivity of perchloroethylene and will continue to defer action on this regulation until the study is completed.

B. Generic VOC Bubble Regulation

EPA approves Pennsylvania's regulatory provision entitled "Alternative Standards Allowing Internal Offsets for Surface Coating and Graphic Arts Facilities" as a generic bubble provision. The bubble provision provides that an eligible source need not necessarily be bound by the exact limitations for each process given in Pennsylvania's regulations, but may be bound by an alternative set of emissions limitations, provided that no increase in emissions results from the alternative set of limitations. Approval of this provision as a "generic" bubble provision has the effect that Pennsylvania will not require EPA approval of each individual bubble it approves. Pennsylvania's generic bubble provision is found in 25 Pennsylvania Code Chapter 129.53.

C. Continuous Emission Monitoring

EPA approves Pennsylvania's CEM regulations. These regulations require installation of CEM equipment on fossil fuel-fired steam generators, fluid bed catalytic cracking catalyst regenerators, and sulfuric acid plants in accordance with the EPA requirements specified in 40 CFR Part 51, Appendix P. Nitric acid plants are not required to install CEM equipment because there are no nitrogen dioxide nonattainment areas in Pennsylvania. EPA also finds that Pennsylvania's "Continuous Source Monitoring Manual" specifies monitoring procedures and specifications that satisfy the EPA requirements given in 40 CFR Part 51, Appendix P and 40 CFR Part 60, Appendix B. Pennsylvania's CEM provisions are contained in 25 PA Code, Chapters 123, 127, 129, and 139.

D. Alternative Opacity Limits

EPA approves Pennsylvania's regulatory provision allowing establishment of alternative opacity limits (AOLs). This provision allows a source which meets all applicable mass-emission standards, but which nevertheless does not meet existing opacity standards, to be granted an AOL. A source granted an AOL must nevertheless seek to minimize opacity by operating and maintaining its equipment in a manner that will minimize opacity. This approval does not allow Pennsylvania to establish an AOL for sources subject to opacity limits specified aby EPA in a New Source Performance Standard or an EPA issued Prevention of Significant Deterioration permit. If an AOL is desired for any source subject to such an EPA specified limitation, EPA approval of the AOL must be obtained pursuant to 40 CFR 60.11's requirements, or EPA approval of a PSD permit modification must be obtained, whichever is appropriate.

II. Comments

EPA received comments from two companies on the proposed revisions. These comments are described below.

A. Comment I

The first commenter stated that "the regulation referred to as The Generic VOC Bubble Regulation should be modified to make VOC limitations in Pennsylvania consistent with BACT (Best Available Control Technology) requirements in other States." The commenter goes on to say that "The reduction the formula developed by the DER (PA Department of Environmental Resources) requires creates a requirement that is almost always as tight as BACT and exceeds LAER (Lowest Achievable Emission Rate) for many types of coatings." The commenter argues that this level of control is more stringent than the level of control other States require.

EPA's response is that EPA is required to approve any generic bubble regulation submitted by a State that meets the criteria found in EPA's "Emission Trading Policy Statement" (47 Fed. Reg. 15076 (April 7, 1982)). EPA has reviewed Pennsylvania's generic bubble and has determined that it meets all Federal criteria for approval. It should be noted that if the commenter believes the requirements of Pennsylvania's generic "bubble" regulations are too strict, the commenter has the option of complying with Pennsylvania's BACT requirements instead of applying for a "bubble."

B. Comment II

The second commenter was concerned by Pennsylvania's regulation requiring installation of continuous opacity monitoring equipment on fossil fuel-fired steam generators with 250 million BTU heat input or greater. The commenter stated that it believed this regulation should not require continuous monitors in cases "where there is no demonstrated need for opacity monitors, such as utility boilers equipped with baghouses."

EPA has approved Pennsylvania's CEM regulations because it has determined that they meet the requirements for EPA approval specified in 40 CFR 51.19; those requirements permit no exemption such as the commenter suggests. EPA would be required to revise 40 CFR 51.19 in accordance with the commenter's suggestions before any State could submit a regulation to EPA containing exemptions such as the commenter desires. As a result of this comment, EPA is now considering whether changes in 40 CFR 51.19 are appropriate. If EPA eventually makes such changes, Pennsylvania will then have the option of adopting CEM requirements consistent with the commenter's suggestions.

III. Conclusion

EPA is revising 40 CFR 52.2520 as indicated below to indicate the inclusion in the Pennsylvania SIP of these SIP revisions.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 21, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See Sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(42 U.S.C. 7401–7642.)

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Pennsylvania was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations is amended by adding paragraph (c)(48) to § 52.2020 to read as follows:

Subpart NN—Pennsylvania

§ 52.2020 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

(48) Volatile Organic Compound (VOC) regulations, a generic VOC bubble regulation, Continuous Emission Monitoring (CEM) regulations and procedures, and Alternative Opacity

Limit regulations submitted by Pennsylvania to EPA on July 13, 1981, August 17, 1981, August 26, 1981, and September 4, 1981.

* * * * *

[FR Doc. 83-1348 Filed 1-18-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-6-FRL 2259-3]

State of Oklahoma: Designation Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves the Oklahoma State Department of Health (OSDH) July 2, 1982, request to change Oklahoma County's existing nonattainment designation for ozone to attainment. On October 22, 1982, and November 3, 1982, the OSDH submitted additional information to support their request.

DATE: This action will be effective on March 21, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Incorporation by reference materials is available for inspection during normal business hours at the following locations:

The Office of the Federal Register, 1100 L Street, NW., Rm. 8401, Washington, D.C. 20460

Environmental Protection Agency, Public Information Reference Unit, EPA Library Rm. 2404, 401 M Street, SW., Washington, D.C. 20460

Environmental Protection Agency, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270

Oklahoma State Department of Health, Air Quality Service, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152

FOR FURTHER INFORMATION CONTACT: Kathryn M. Griffith, State Implementation Plan Section, Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Programs Branch, 1201 Elm Street, Dallas, Texas 75270 (214) 767-9853.

SUPPLEMENTARY INFORMATION: On July 2, 1982, the OSDH submitted a SIP revision requesting redesignation of Oklahoma County to attainment for ozone. On October 22, 1982, and November 3, 1982, the OSDH submitted additional information to support their request. EPA developed an evaluation report [1] based on conformance with criteria from the Clean Air Act of 1977, as amended, Section 107(d)(5); 40 CFR 50.9 National primary and secondary ambient air quality standards for ozone; 40 CFR Part 50, Appendix H—Interpretation of the National Ambient Air Quality Standards for Ozone; and, Guideline for Interpretation of Ozone Air Quality Standard, January 1979. This evaluation report is available for inspection during normal business hours at the EPA Region 6 Office and the other addresses listed above.

The State provided 1980, 1981, and 1982 ozone data for site 372200033F01. Since site 033 had one violation in 1980, EPA's redesignation to attainment is based on data for the last 3 years (1980, 1981, and 1982) from this site.

Site 033 had 1.1 expected number of exceedances in 1980, and 0.0 expected number of exceedances in 1981 and 1982. Therefore, Oklahoma County is attainment for ozones since the average of the expected number of exceedances is less than 1 for the past 3 years.

Based upon EPA's review of the 1980, 1981, and 1982 data, EPA is redesignating Oklahoma County from nonattainment to attainment.

Because EPA considers today's action to be noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on March 21, 1983. However, if we receive notice by February 18, 1983, that someone wishes to submit critical comments, *then* EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeal for the appropriate circuit by March 21, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Director 12291.

(Sec. 107(d) of the Clean Air Act, as amended 42 U.S.C. 7407(d))

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

[1] EPA Review of Oklahoma's Revisions for redesignation of Oklahoma County to attainment for Ozone,

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 81—[AMENDED]

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 81.337 Oklahoma, the attainment status designation table for Oxidant (O_x) is amended by revising the designation for Oklahoma County from "does not meet primary standards." to cannot be classified or better than national standards." The amended portion of the Oklahoma O_x Table for § 81.337 reads as set forth below.

§ 81.337 Oklahoma.

OKLAHOMA—O_x

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *		
AQCR 184:		
Oklahoma Co		X
Cleveland Co		X
Remainder of AQCR		X
* * * * *		

[FR Doc. 83-1388 Filed 1-18-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 123

[W-9-FRL 2276-6]

Utah Division of Environmental Health Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Utah has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV, and V injection wells. After careful review of the application, the Agency has determined that the States's injection well program for Classes I, III, IV, and V injection wells meet the requirements of Section 1422 of the Act and, therefore, approves it.

EFFECTIVE DATE: This approval is effective January 19, 1983.

FOR FURTHER INFORMATION CONTACT: Michael J. Salazar, Chief, Utah/Montana/South Dakota Section, Drinking Water Branch, Environmental

Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–2731. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SWDA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the Federal Register each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Utah was listed as needing a UIC program on September 25, 1978 (43 FR 43420). The State of Utah submitted complete applications March 22 and 23, 1982 for the approval of a UIC program. The portion of the State's program governing Class II wells will be administered by the Utah Division of Oil, Gas and Mining. This portion of the program was reviewed separately under Section 1425, and approved on October 8, 1982, (47 FR 44561). The portion of the program governing Class I, III, IV and V wells, which we are approving today under Section 1422, will be administered by the Utah Division of Environmental Health (UDEH). On April 7, 1982, EPA published notice of its receipt of the applications, announced the availability of the applications for review, requested public comments, and scheduled a public hearing. The public hearing was held on May 0, 1982, in Salt Lake City, Utah. After careful review of the Class I, III, IV and V application and comments received from the public, I have determined that the Utah UIC program submitted by the UDEH meets the requirements established by Federal regulations pursuant to Section 1422 of the SDWA, and hereby approve it.

EPA is publishing this approval effective immediately so that Utah can begin issuing UIC permits for Classes I, III, IV, and V wells under the UIC program.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Waster supply, Intergovernmental relations, Penalties, Confidential business information.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Utah Division of Environmental Health will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: January 5, 1983.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc. 83–1446 Filed 1–18–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 2E2606/R508; PH-FRL 2284-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 2,4-D

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide 2,4-D in or on the commodities nuts, pistachios, and stone fruits. This regulation to establish maximum permissible levels for residues of the herbicide in or on the commodities was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: January 19, 1983.

ADDRESS: Written objections may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M Sts., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Process Coordination Branch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 71D, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the Federal Register of November 24, 1982 (47 FR 53061), that announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2606 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Alabama, California, Hawaii, Idaho, Oregon, and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of 2,4-D (2,4-dichlorophenoxyacetic acid) in or on the raw agricultural commodities nuts, pistachios and stone fruits at 0.1 part per million (ppm). The petition was later amended to propose tolerance levels of 0.2 ppm is or on the commodities.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of the notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. (Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: January 4, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.142(b) is amended by adding and alphabetically inserting the raw agricultural commodities nuts, pistachios, and stone fruits to read as follows:

§ 180.142 2,4-D; tolerances for residues.

* * * * *

(b) * * *

Commodities	Parts per million
* * * * *	
Nuts	0.2
* * * * *	
Pistachios	0.2
* * * * *	
Stone Fruits	0.2
* * * * *	

[FR Doc. 83-667 Filed 1-18-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2668/R509; PH-FRL 2286-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide chlorpyrifos and its metabolite in or on the raw agricultural commodity figs. This regulation to establish a maximum permissible level for residues of chlorpyrifos in or on figs was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: January 19, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, 401 M St., SW., Rm. 3708, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Process Coordination Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of December 1, 1982 (47 FR 54106) that announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, had submitted pesticide petition 2E2668 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide chlorpyrifos (*O, O*-diethyl-*O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodity figs at 0.1 part per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking.

The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: January 6, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.342 is amended by adding and alphabetically inserting the raw agricultural commodity figs to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Figs	0.1
* * * * *	

[FR Doc. 83-1342 Filed 1-18-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2E2655/R507; PH-FRL 2286-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Magnesium Phosphide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of phosphine in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of phosphine in or on the commodities was submitted, pursuant to a petition, by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: January 19, 1983.

ADDRESS: Written comments to: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response Section, Process Coordination Branch, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking published in the **Federal Register** of November 24, 1982 (47 FR 53061) that announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station,

P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, has submitted pesticide petition 2E2655 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Florida, Hawaii and South Carolina.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of phosphine, resulting from postharvest application of magnesium phosphide, in or on the raw agricultural commodities avocados, bananas, Chinese cabbage, citrus citron, eggplants, endive (escarole), grapefruit, kumquats, lemons, lettuce, limes, mangoes, mushrooms, oranges, papayas, peppers, persimmons, pimentos, plantains, salsify tops, tangelos, tangerines, and tomatoes at 0.1 part per million (ppm). The petition was later amended to propose tolerance levels of 0.01 ppm in or on the commodities.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking. The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: January 6, 1983.

Edwin L. Johnson,

Director Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.375 is amended by adding and alphabetically inserting the following raw agricultural commodities to read as follows:

§ 180.375 Magnesium phosphide; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Avocados	0.01
Bananas	0.01
* * * * *	
Cabbage, Chinese	0.01
* * * * *	
Citrus citron	0.01
* * * * *	
Eggplants	0.01
Endive (escarole)	0.01
* * * * *	
Grapefruit	0.01
Kumquats	0.01
Lemons	0.01
Lettuce	0.01
Limes	0.01
Mangoes	0.01
* * * * *	
Mushrooms	0.01
* * * * *	
Oranges	0.01
Papayas	0.01
* * * * *	
Peppers	0.01
Persimmons	0.01
Pimentos	0.01
* * * * *	
Plantains	0.01
* * * * *	
Salsify tops	0.01
* * * * *	
Tangelos	0.01
Tangerines	0.01
* * * * *	
Tomatoes	0.01
* * * * *	

[FR Doc. 83–1343 Filed 1–18–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Health Care Payment Plans

Correction

In FR Doc. 82–35354 beginning on page 58252 in the issue of Thursday, December 30, 1982, make the following corrections:

1. On page 58258, third column, § 405.2093(b)(2), in the second line, "[effective date of these regulations]" should have read "January 31, 1983".

2. On page 58259, first column, under § 405.2094, the line "§ 405.2095 Cost apportionment." should be removed. (The same line below it in bold face type remains as the heading to the next section.)

BILLING CODE 1505–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 31

[CC Docket No. 79–105; RM–3017; FCC 82–581]

Amendment With Respect to Accounting for Station Connections, Optional Payment Plan Revenues and Customer Provided Equipment and Sale of Terminal Equipment

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order concerning further reconsideration.

SUMMARY: The order considers a petition for reconsideration filed by the American Telephone & Telegraph Co. and a petition for Declaratory Ruling filed by General Telephone of Ohio. Both petitions request that the Commission assert preemptive assertion with respect to depreciation policies and rates. On further reconsideration, the Commission reversed its earlier holding that states were free to follow accounting and depreciation practices of their own choosing for intrastate ratemaking. The order finds that Section 220(b) of the Communications Act of 1934, as amended, preempts state depreciations rates that are inconsistent with those prescribed by the FCC. Alternatively, the order finds that even if Section 220(b) were construed not to preempt, the Commission would preempt inconsistent state depreciation rates to avoid the frustration of federal policies. The order also grants the Petition for Declaratory Ruling. The first reconsideration order was printed at 47 FR 19361 (May 5, 1982).

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Douglas Slotten, 202–632–9342.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 31

Communications common carriers, Telephone, Uniform systems of accounts.

Memorandum Opinion and Order

Adopted: December 22, 1982.
Released: January 6, 1983.

In the matter of amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, of the Commission's Rules and Regulations with respect to accounting for station connections, optional payment plan revenues and customer provided equipment and sale of terminal equipment; petition for declaratory ruling on question of Federal preemption involving order of the Public Utilities Commission of Ohio in Conflict with (i) FCC Prescriptions Under Section 220 of the Communications Act and (ii) Established FCC Policies.

1. The Commission has before it a Petition for Reconsideration filed on June 7, 1982, by the American Telephone and Telegraph Company, on behalf of itself and the associated Bell System Operating Companies (AT&T). AT&T seeks reconsideration of the Commission's decision in *Amendment of Part 31,* 89 FCC 2d 1094 (1982) (hereinafter cited as *Preemption Order*), in which the Commission determined that Sections 220(a) and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 220(a) and 220(b), did not preempt state commissions from applying different accounting and depreciation procedures for purposes of intrastate ratemaking proceedings.[1] The *Preemption Order* was a reconsideration of *Amendment of Part 31,* 85 FCC 2d 818 (1981) (hereinafter cited as *Expensing Order*).

2. The Commission also has before it a Petition for Declaratory Ruling filed on June 7, 1982, by General Telephone Company of Ohio (GTE of Ohio). This petition requests that the Commission preempt an order of the Public Utilities Commission of Ohio (Ohio) that denied GTE of Ohio the same depreciation rates for intrastate purposes as had been prescribed by this Commission. GTE of Ohio contends that Section 220(b) established the rate prescribed by the Commission as the only depreciation rate the company could utilize.

3. The Commission established a joint reply period for the two petitions, utilizing the pleading cycle for comments in response to the Petition for Reconsideration, and allowed parties to cross-reference their pleadings where appropriate. In addition to pleadings filed by the petitioners and the GTE parties, comments or reply comments were filed by the Arkansas Public Service Commission (Arkansas), Ohio, the People of the State of California and the Public Utilities Commission of the State of California (California), the Virginia State Corporation Commission (Virginia), the National Association of Regulatory Utility Commissioners (NARUC), the United States Independent Telephone Association (USITA), the Office of Consumers' Counsel, State of Ohio (Consumers' Counsel), the United Telephone System Inc. and the Idaho Public Utilities Commission (Idaho). A summary of the comments is contained in Appendix A. Below we consider the issues raised on reconsideration, after which we shall consider the question presented by GTE of Ohio's Petition for Declaratory Ruling.

I. Background

4. In *Docket No. 19129,* 64 FCC 2d 1, 54–56 (1977), we concluded that it would be desirable to have the causative rate payer bear the costs associated with station connections. We directed AT&T to file a plan for accomplishing this objective. Following AT&T's submission we initiated this proceeding, albeit with a somewhat different approach for modifying the accounting for station connections than proposed by AT&T.

5. After reviewing the comments, we concluded that the drop, block and protector portion of station connections should not be included in any accounting or regulatory revisions. We also concluded that our objective of placing the costs of station connections on the cost causative customer could not be achieved by means of an accounting change alone. This is so because costs associated with the provision of inside wiring must be apportioned between the federal and state jurisdictions as long as inside wiring is provided as a tariffed service subject to dual jurisdiction. Complete unbundling could be achieved by requiring inside wiring to be provided on a detariffed basis, as was done with customer premises equipment. Accordingly, we initiated a further inquiry to explore the detariffing concept further, *Amendment of Part 31,* 86 FCC 2d 885 (1981).

6. Nevertheless, we concluded that changes in accounting and depreciation procedures that would begin expensing the inside wiring portion of the station connection account would be in the public interest, and would facilitate the deregulation of the provision of inside wiring if the Commission should later decide to take that approach. The principal changes required that future costs of installing inside wiring and similar costs be included as an expense in Account 605, Repair of Station Equipment. Such costs were previously capitalized in Account 232, Station Connections. The expensing of these costs would be phased in over a four year period unless a carrier obtained state commission approval to expense one hundred percent immediately. The *Expensing Order* also required that the present net investment in inside wiring and the investment capitalized during the phase-in period be amortized over a ten year period. These expensing and amortization rules replaced the depreciation procedures that had previously applied to the inside wiring portion of the station connections account.

7. On reconsideration, we concluded that the *Expensing Order* was not intended to preempt state commissions from utilizing other depreciation or accounting procedures for intrastate ratemaking proceedings, unless such preemption occurs as a matter of law. Our discussion was based in part on an assumption that most or all of the state commissions would follow our lead. We also indicated that Section 220 does not preclude state commissions from departing from accounting and depreciation rules prescribed by this Commission for purposes of regulating intrastate communications services. In reaching this conclusion, we reviewed Section 20(5), the Interstate Commerce Act predecessor of the accounting and depreciation provisions contained in Section 220. We concluded that nothing in the history of Section 20(5) provided any indication of whether that provision had been intended to preempt state commissions from prescribing divergent depreciation rates when the Interstate Commerce Commission (ICC) had prescribed a rate. We stated:

> [i]nasmuch as Section 20 had never been construed to restrict state commissions from requiring carriers to keep additional records for purposes of intrastate ratemaking and court decisions in analogous contexts did not adopt an expansive interpretation of that provision, the reenactment of that language should not be interpreted to restrict state commissions from keeping such additional records in the absence of clear evidence that the 1934 Congress intended to produce that result.

Preemption Order, supra at 1102.

8. We also reviewed the legislative history of the Communications Act and concluded that Congress had been uncertain of the preemptive effect of reenacting the Interstate Commerce Act language and that it apparently did not want to resolve the question at that time. We concluded that Congress had

[1] On June 8, 1982, GTE Service Corporation, on behalf of itself, United Telephone System, Inc., and Continental Telecom, Inc. (hereinafter referred to as GTE), filed a Petition for Clarification of the Commission's *Preemption Order.* This petition was dismissed as untimely. *Amendment of Part 31,* Mimeo No. 4766 (released June 24, 1982). However, the Commission stated that it would consider the substance of the petition in connection with AT&T's petition.

been attempting to obtain as much uniformity as possible without coercing any state commission to use ratemaking methods which it might find unacceptable. We found that we had proceeded in a manner consistent with this purpose for nearly four decades, noting that we had recognized divergent practices by state commissions from time-to-time. The language of Section 2(b)(1) was found to support the interpretation that state commissions are not precluded from applying different accounting and depreciation procedures from this Commission. The *Preemption Order* concluded by finding that nothing in the Act precluded us from preempting state commission actions that might interfere with or tend to frustrate policies or rules we have adopted to carry out statutory objectives with respect to interstate or foreign communications, but we also found that federal regulation would not be frustrated if carriers maintain additional records for intrastate ratemaking purposes.

II. Discussion

9. The question presented in the reconsideration petition is a clearly delineated controversy over whether Section 220(b) preempts state depreciation prescriptions that are inconsistent with the rates prescribed for classes of property by this Commission, or, whether Section 2(b)(1) or Section 221(b) reserve to the states the right to prescribe their own depreciation rates for intrastate regulatory purposes. Alternatively, it is argued that the Commission should preempt inconsistent state depreciation rates pursuant to its authority to preempt state actions which would frustrate or interfere with the accomplishment of federal objectives. *See North Carolina Utilities Commission* v. *FCC*, 537 F.2d 787 (4th Cir. 1976), *cert. denied*, 429 U.S. 1027 (1976) (hereinafter cited as *NCUC I*). The *Preemption Order* was the first time the Commission had squarely addressed the preemptive effect of a prescribed depreciation rate, despite having prescribed rates for more than thirty years. No federal court has addressed the question of the preemptive effect of a Commission prescribed depreciation rate.[2]

[2] The United States Supreme Court has held that state commissions may prescribe depreciation rates where the empowered federal commission has not prescribed rates. *Northwestern Bell Telephone Co. v. Nebraska State Railway Comm.*, 297 U.S. 471 (1936). The Court specifically reserved judgment on the effect of prescribed rates by the federal commission.

10. It is argued that the Commission erred in the earlier decision by concentrating on Sections 220(a), and 220(g) rather than properly analyzing Section 220(b), the provision dealing directly with depreciation. A careful review of AT&T's and GTE's pleadings and a thorough reevaluation of the entire question of the Commission's depreciation jurisdiction leads to the conclusion that the evaluation in the *Preemption Order* did not sufficiently consider the effect of Section 220(b). Accordingly, we shall undertake to evaluate anew the scope of the Commission's jurisdiction under Section 220(b).

11. Before turning to the analysis of the statutory provisions, it is necessary to understand the relationship between capitalizing and expensing a transaction or economic event. When an event is capitalized, its cost is recorded on the company's books to be recovered over some future period through depreciation charges to operating expense. Depreciation as used here is an accounting convention for allocatively spreading the original cost, less net salvage, over the useful life of a capital asset. Thus, for there to be depreciation there must be costs that are to be recovered over more than one accounting period. However, when the decision to expense is made, all costs are to be recovered at one time. Thus, the decision to expense is a determination that there is no category of asset for which depreciation expense will be allowed. It is therefore clear that the decision to commence expensing the inside wiring portion of station connections involves questions of depreciation policy.

12. The law is clear that federal regulation should not be presumed to preempt state regulations without clear evidence of either congressional design to preempt the field or that state regulatory activities would obstruct the accomplishment and execution of the full purposes and objectives of Congress. *Florida Lime and Advocado Growers, Inc.* v. *Paul*, 373 U.S. 132, 141 (1963), *Hines* v. *Davidowitz*, 312 U.S. 52, 67 (1941). Our review reveals that both criteria are satisfied in this case. In reaching this conclusion we analyzed the language of Section 220, the legislative history, relevant court cases, and our regulatory objectives.

A. Statutory Language

13. The Commission's express jurisdiction with respect to depreciation is set forth in Section 220(b). That section provides:

> The Commission shall, as soon as practicable, prescribe for such carriers the classes of property for which depreciation charges may be properly included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The Commission may, when it deems necessary, modify the classes and percentages so prescribed. Such carriers shall not, after the Commission has prescribed the classes of property for which depreciation charges may be included, charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or, after the Commission has prescribed percentages of depreciation, charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such carrier shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses.

14. The plain language of the statute is express and unequivocal. Section 220(b) says the Commission "shall" make depreciation prescriptions, and that carriers "shall not" charge depreciation different than that prescribed by the Commission. That this preempts inconsistent state action is further indicated in Section 220(h) which gives the Commission discretion to "except" carriers from the requirements of Section 220 "where such carriers are subject to state commission regulation."

15. The requirement of Section 220(i) that states be given an opportunity to comment before the Commission prescribes "any requirements as to accounts, records and memoranda" is consistent with an interpretation that states are preempted when the Commission has acted in the depreciation area. By providing that states be given notice, Congress ensured that state needs for accounts, records and memoranda brought to the Commission's attention would be considered. Such a procedure assures that the states' needs and legitimate interests are met.

16. In setting the duties of the Commission and the prohibitions on the carriers subject to the Act, Congress spoke of depreciation in general terms without any attempt to make distinctions between either "intrastate" or "interstate" property. This is significant because when Congress wanted to make such distinctions in the Act it did so. See, *e.g.*, 47 U.S.C. 221 (c) and (d), and 410(c). The fact that Congress did not make such a distinction here indicates that it intended no distinction.

17. Taken as a whole, the language of Section 220 appears clearly to preempt the states in connection with depreciation expense determinations and the related accounting. The language strongly implies that the states may not depart from depreciation rules prescribed by the FCC unless the Commission in its discretion allows them to do so. Otherwise, the federal statute would govern state depreciation practices in form only, allowing the states to treat substantive depreciation matters as they might choose. While that might be a plausible construction of Section 220, after full analysis we do not believe that Congress intended such a feeble gesture. There would be little purpose to require the carriers to keep all their books pursuant to an FCC prescription, and then allow the states to require the carriers to follow inconsistent depreciation practices. Instead, the language of the section and the comprehensive treatment given to this matter by the Congress demonstrate that more was intended. Accordingly, we find that the statutory language indicates that FCC depreciation prescriptions are to be followed in both the federal and state jurisdictions unless the FCC provides otherwise. As demonstrated below, this construction is also consistent with the legislative history.

B. Legislative History

18. In the *Preemption Order* we found that the legislative history of Section 220 was inconclusive and at most indicated that Congress was "not sure" about the preemptive effect of the new legislation. 89 FCC 2d at 1106. However, the reconsideration petition and comments supporting it show that Congress believed that the language ultimately adopted would preempt the states from prescribing depreciation rates for subject carriers when the Commission had prescribed rates.

19. In our *Preemption Order,* we observed that Section 220 of the Communications Act had been adopted from Section 20 of the Interstate Commerce Act, and our review of the few ICC cases touching upon preemption did not reveal the ICC to have possessed the kind of broad preemptive power now urged by GTE and AT&T. However, after reviewing the pre-1934 cases again, we find that, while not dispositive, the lean more toward GTE and AT&T's views than against them.

20. The closest the ICC came to delineating its position on this matter came in *Depreciation Charges of Telephone Companies*, 118 I.C.C. 295, 332 (1926), where it said:

> It seems to be well established that where a local telephone company undertakes to originate or deliver toll messages, and most of them do so undertake, practically all of its property is open for use in interstate commerce and at any time may be so used. Under such circumstances, no doubt would seem to exist as to the power of Congress to regulate the accounting practices of such companies with respect to their property, including the accounting for depreciation.

In the *Preemption Order* we focused on the fact that the ICC had not actually prescribed depreciation rates and thus there was uncertainty regarding the ICC's actual authority. However, after reviewing that case again we find that the better and more sensible interpretation is that if the ICC had prescribed depreciation rates, the state commissions would have been precluded from prescribing rates that diverged from those it prescribed. We cited *Smith v. Illinois Bell Tel. Co.*, 282 U.S. 133, 159 (1930), in the *Preemption Order* as supporting our conclusion that the ICC decision did not preempt the states. In that decision the Supreme Court held that absent ICC action prescribing depreciation rates, Section 20(5) did not preclude states from prescribing depreciation rates. Since the ICC proceeding did not actually prescribe depreciation rates, but only began a proceeding looking toward the ultimate prescription of depreciation rates, there were no depreciation rates prescribed that could have preempted state-prescribed depreciation rates. Thus *Smith* only stands for the proposition that until the ICC actually prescribed rates, there was no basis for preempting the states. It did not reach the question of whether Section 20(5) would preempt the states if the ICC prescribed depreciation rates.[3]

21. At the hearings pertaining to the Communications Act the then chairman of the ICC indicated his belief that the ICC depreciation rulings would govern both federal and state depreciation practices:

> Paragraph (j) * * * should be most carefully considered. It unquestionably directly conflicts with, and destroys the uniformity of systems of accounts and depreciation accounting required by the preceding provisions of the section. That is not true under the present law.[4]

22. Other witnesses who appeared at the hearings repeated the same view. See statements of Mr. Gifford,[5] Mr. Benton,[6] and Dr. Irvin Stewart.[7]

23. The *Preemption Order* relied heavily on the "silence contained in the Congressional Reports," 89 FCC 2d 1105, in concluding that the legislative history did not support a finding that Section 220 was intended to preempt state commissions from prescribing their own depreciation rates for intrastate purposes. However, a reexamination of the legislative history in light of the comments on reconsideration indicates that the committee reports accompanying the bills did contain language indicating that the committees believed that the predecessor provision had preempted the states. The House Report, in discussing the Section 220(j) provision (which was not adopted) that would have reserved jurisdiction over depreciation rates to the states for purposes of intrastate ratemaking, stated that the provision was "responsive to the requests of the State commissions that the present law be *changed so as to permit* those bodies to exercise, for State purposes, certain jurisdiction over . . . depreciation accounting." [8]

24. In remarks on the House floor, Representative Rayburn, Chairman, House Committee on Interstate and Foreign Commerce, explained Section 220 of the proposed bill as follows:

> [p]aragraphs (a) to (g), relating to accounts records, memoranda, and depreciation, are based upon sections 20 (5) to (8) of the Interstate Commerce Act with *changes necessary to permit State commissions to prescribe* the systems of accounts for the

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[3] Similarly, *Interstate Commerce Commission v. Goodrich Transportation Co.*, 224 U.S. 194 (1912) and *Kansas City Southern Ry. Co. v. I.R.S.*, 52 F. 2d 372 (8th Cir. 1931) do not appear to have any pertinence to the issue at hand. As noted in 89 FCC 2d at 1099, *Goodrich* did not raise any question with respect to the effect of ICC accounting rules upon activities not subject to ICC rate regulation. The *Kansas* holding simply reconciles two federal statutes, the Internal Revenue Code and the Interstate Commerce Act. It did not purport to establish new law on state preemption.

[4] Ltr. of F. McManamy, Hearings on S. 2910, p. 208.

[5] Hearings on H.R. 8301, pp 191–192 (See 89 FCC 2d at 1105, fn. 17). The *Preemption Order* had indicated that Mr. Gifford's preemption views were tentative. However, careful review of that testimony reveals that Mr. Gifford's uncertainty may have concerned the date Section 20(5) was enacted, not preemption.

[6] Hearings on S. 2910, 73rd Cong., 2d Sess., p. 181 (1943).

[7] Hearings on H.R. 8301, 73rd Cong., 2d sess., p. 17 (1934).

[8] H.R. Rep. No. 1850, 73rd Cong., 2d Sess. 7 (1934) (emphasis added). The section (j) proposed by the House would have provided: "Nothing in this section shall (1) limit the power of a State commission to prescribe, for the purposes of the exercise of its jurisdiction with respect to any carrier the percentage rate of depreciation to be charged to any class of property of such carrier, or the composite depreciation rate, for the purpose of determining charges, accounts, records, or practices; (2) relieve any carrier from keeping any accounts, records, or memoranda which may be required to be kept by any State commission in pursuance of authority granted under State Law." H.R. 8301, 73rd Cong., 2d Sess. Section 220(i) (February 27, 1934).

intrastate operation of carriers. Paragraphs (h) to (j) are new . . . *paragraph (j) removes any limitation upon the power of a State commission to prescribe, for the purposes of the exercise of its jurisdiction, rates of depreciation.* The last three paragraphs named were placed in the bill at the request of the State commissions which feel that their task of regulating intrastate communications will be greatly facilitated by the adoption of these paragraphs.[9]

25. The Senate version of Subsection (j) took a totally different approach than the House version. It called "for investigation and report to Congress instead of immediately turning over these matters to the State." S. Rep. No. 781, 73rd Cong., 2d Sess. 5 (1934).[10] The version of Section 220(j) finally enacted was the result of agreement in the conference committee. The conferees agreed to adopt the House provisions as to Sections 220 (h) and (i), but decided against the House Section 220(j) proposal to remove any limitation upon the power of states to prescribe rates of depreciation. Instead, Section 220(j) was modified along the lines of the Senate proposal to require the Commission to "investigate and report to Congress as to the need for legislation to define or further harmonize the powers of the Commission and of State commissions with respect to other matters to which this section relates." Conf. Comm. Rep. No. 1918, 73rd Cong., 2d Sess. 17 (1934). The obvious inference to be drawn is that the conferees were not prepared at that time to allow the states to prescribe depreciation rates different than those established at the federal level, but that matter might be considered later if the report required by Section 220(j) indicated it to be appropriate.

26. The hearing testimony and Committee reports therefore indicate that the language being recodified from Section 20(5) of the Interstate Commerce Act preempted the state commissions' jurisdiction over depreciation. The rules of statutory construction provide that where Congress reenacts a provision from an existing statute, it intends that the construction applicable to the existing provision apply as well to the new provision.[11] The legislative history thus supports the actual language of Section 220(b) and indicates that Congress intended to preempt state commission jurisdiction over depreciation rates for subject carriers when it recodified the language from the Interstate Commerce Act. Accordingly, we conclude that the analysis of the legislative history contained in the comments of AT&T and GTE accurately represents the intent of Congress and that the more persuasive reading of the legislative history supports the construction that Section 220(b) preempts inconsistent state action where the Commission has prescribed depreciation rates for a carrier.

C. Administrative and Court Decisions

27. The *Preemption Order* cited *Accounting Rules for Telephone Companies*, 203 ICC 13 (1934), as evidence that the FCC could not preempt state depreciation practices. There the ICC recognized that states might have additional accounting needs and indicated that it had permitted state-prescribed sub-accounts within the federally-required books of account. However, the adoption of a blanket subdivision rule does not lead to the conclusion that federally adopted accounting and depreciation rules are not preemptive. Rather, it reflects an awareness that state commissions may have special data requirements to properly administer their regulatory policies which may require additional detail beyond that prescribed by the federal agency. A subdivision rule, however, does not permit what is accounted for as an expense to be capitalized in the guise of subdividing an expense account. While we may allow subdivisions of accounts, we will not allow inconsistent accounting or depreciation methods unless such practices are otherwise consistent with the public interest. Any other policy would obliterate the prescriptive effect of our adoption of a uniform system of accounts.

28. In fact we have approved variations from the prescribed uniform system of accounts. For example, our rules give carriers blanket authority to subdivide certain prescribed accounts "provided such subdivisions do not impair the integrity of the accounts prescribed." 47 CFR 31.01–2(d)(1). CFR 31.01–2(f), authorizing carriers to subdivide accounts "in the manner ordered by any state commission having jurisdiction * * *" We also have approved state commission rate making treatment of plant under construction different from that adopted by us. See 89 FCC 2d at 1107.

29. There may well have been some instances of inconsistent state treatment of depreciation in the past. However, we do not seek controversy unless it is necessary to protect vital federal interests. Either such instances did not come to our attention or they may not have appeared threatening to federal interests.[12] In the past the communications marketplace was typified by monopoly conditions and life and salvage factors underlying the state rates were generally very similar, if not identical, to those used by the Commission. In that environment it was not essential that the Commission assert all the authority granted it. See *Computer and Communications Industry Association* v. *FCC*, No. 80–1471 (D.C. Cir. November 12, 1982). As discussed, *infra.*, in the more competitive conditions prevailing today, the utilization of proper methods and rates is more critical if the proper incentives are to be created to insure that the marketplace will function efficiently to bring the benefits of that competition to the ratepayers of this country. Therefore, where it is necessary to protect important federal policies against frustration by inconsistent state actions, we will exercise the full breadth of our depreciation powers. *See* para. 14 above.

30. Nor is there any merit to the argument that federal preemption of depreciation practices constitutes intrastate ratemaking which might run afoul of 47 U.S.C. 152(b). Section 220(b) only prohibits the states from setting depreciation rates for telephone property inconsistent from those prescribed by the FCC. It does not require that any particular tariff for intrastate service be accepted by the state commissions. The setting of depreciation rates and classes of depreciable property only resolves a single issue impacting the ratemaking process. It does not restrict the state commission's broad discretion in setting charges for individual services. In any event, Section 2(b) of the Act, 47 U.S.C. 152(b), has a well defined purpose which would not be implicated here: "To restrain the Commission from interfering with those essentially local incidents

[9] 78 Cong. Rec. 10314 (1934) (emphasis added).

[10] The Senate version of Section 220(j) provided: "The Commission shall investigate and report to the Congress whether in its opinion legislation is desirable (1) authorizing the Commission to except the carriers of any particular class or classes in any State from any of the requirements under this section in cases where such carriers are subject to State commission regulation with respect to matters to which this section relates; and (2) permitting the State commissions, in pursuance of authority granted under State Law, to prescribe their own percentage rates of depreciation or systems of accounts records, or memoranda to be kept by carriers." S. 3285, 73rd Cong., 2d Sess. Section 220(j) (March 28, 1934).

[11] Courts have given weight to interpretations of the Interstate Commerce Act in interpreting the Communications Act. See, *e.g., American Telephone and Telegraph Company* v. *FCC*, 487 F.2d 865 (2d Cir. 1973).

[12] *Pacific Telephone and Telegraph Company v. California*, 401 P. 2d 353 (1965), was cited in the *Preemption Order* to support nonpreemption. However, the California Supreme Court did not analyze Section 220(b) or its legislative history and its determination is therefore unpersuasive.

and practices of common carriage by wire that do not substantially encroach upon the administration and development of the interstate telephone network." *NCUC I, supra* at 794 n.6. Here the setting of depreciation rates is not an essentially local incident or practice and it has substantial effects upon the administration and development of the interstate telephone network.[13]

D. Preemption Under Federal Supremacy

31. Even if one were to assume that Section 220(b) did not automatically preempt the states whenever this Commission has acted, federal preemption of inconsistent state depreciation would be justified in this case to avoid frustration of validly adopted federal policies. The Fourth Circuit has stated:

> We have no doubt that the provisions of section 2(b) deprive the Commission of regulatory power over local services, facilities and disputes that in their nature and effect are separable from and do not substantially affect the conduct or development of interstate communications. But beyond that, we are not persuaded that section 2(b) sanctions any state regulation, formally restrictive only of intrastate communication, that in effect encroaches substantially upon the Commission's authority under sections 201 through 205.

NCUC I, supra at 793. To the same effect, see *Computer and Communications Industry Association v. FCC, supra* at 35.

32. The D.C. Circuit recently addressed the preemption question, observing:

> We fail to see any distinction in this case between preemption principles applicable to state ratemaking authority and those applicable to other state powers. The operative principle [is that] . . . preemption of state tariffs on CPE is justified because state tariffs would interfere with the consumer's right to purchase CPE separately from transmission service and would thus frustrate the validly adopted federal policy.

Id. at 38. The court went on to find that conflicting state regulation may be preempted even though there is some indirect effect on state ratemaking discretion, noting:

> the Act itself does not distinguish between authority over rates and authority over other aspects of communications. Sections 2 (a) and (b) of the Act allocate federal and state authority with regard to both "charges [and] * * * facilities." Therefore, conflicting federal and state regulations regarding dual use CPE are no more acceptable under the Act when equipment rates are involved, as here, than when interconnection policies are involved, as in the *NCUC* cases.

Id. at 38–39.

33. The provision for adequate capital recovery is important to "make available, so far as possible, to all the people of the United States a rapid, efficient, Nation-wide, world-wide wire and radio communication service with adequate facilities at reasonable charges * * *." 47 U.S.C. 151. State depreciation rate prescriptions that do not adequately provide for capital recovery in the competitive environment, which constitutes this Commission's policy in those markets found capable of supporting competition, would frustrate the accomplishment of that policy and are preemptable by this Commission.

34. Over the past decade the Commission has embarked in several areas of telecommunications to pursue a policy of encouraging competition wherever the market conditions will support such a policy and produce benefits to the public interest. In *MTS–WATS Market Structure Inquiry*, 81 FCC 2d 177 (1980), the Commission opened the domestic MTS–WATS market to competitive entry, reserving the question of entry to Alaska to a later phase since concluded with the adoption of a similar open entry policy, *MTS–WATS Market Structure Inquiry*, FCC 82–515 (released November 30, 1982). In *Computer Inquiry II*, 77 FCC 2d 384 (1980), *recon.*, 84 FCC 2d 50 (1980), *recon.*, 88 FCC 2d 512, *aff'd sub nom., Computer and Communications Industry Association v. FCC, supra*, the Commission opened the areas of enhanced services and customer premises equipment to competitive provision. These are just two examples of the policies which the Commission has pursued. However, they do point up the fact that if this policy is to be successful, it will be necessary for the marketplace to operate efficiently. Such efficient operation requires proper price signals generating from supply and demand conditions.

35. Capital recovery is an important determinant of the price at which services can be offered and significantly affects the amount of facilities provided to supply the needs of the communications industry. In *Amendment to Part 31*, 83 FCC 2d 267 (1980), *recon.*, 87 FCC 2d 916 (1981), the Commission adopted remaining life and straight line equal life group depreciation methods that recover capital on a basis that approximates straight line unit depreciation more closely than did the previously used methods. More timely capital recovery was anticipated to result in faster technological innovation with its accompanying benefits of more efficient service provision and lower costs resulting from more productive use of facilities.

36. Capital recovery issues are important in the implementation of *Computer Inquiry II* due to the part depreciation plays in the determination of net book value and the resultant gain or loss that may occur on the transfer of assets to the new subsidiary. It will also be significant in any later transfer of assets from the provision of regulated service to unregulated service or vice-versa. Thus, appropriate capital recovery will ease the regulatory burdens associated with supervising the transition to the new structure.

37. Depreciation is a significant portion of the revenue requirement of the regulated telephone companies. As such, it plays an important role in determining the price at which they offer their services. If competition is to be viable, it is necessary for prices to reflect depreciation expenses that are realistic for a competitive market. Absent such depreciation levels, improper signals will be given to the market. Since most plant is used interchangeably to provide interstate and intrastate communications service, supply and demand is determined by the combination of inputs from service demand in both regulatory jurisdictions. Approximately 75 percent of exchange plant is allocated to the intrastate jurisdiction. It is clear that unless telephone plant, including that portion subject to allocation to the intrastate jurisdiction, is depreciated at a reasonable rate, improperly timed capital recovery will occur. Indeed, in an increasingly competitive environment, it is possible that improper capital recovery could delay or prevent modernization which would add to the costs borne by ratepayers and could, ultimately, threaten carriers' ability to fully recovery their invested capital. Moreover, the extent of state action attempting to prevent carriers from utilizing our depreciation prescriptions places substantial burdens on carriers and could well impair their ability to raise the investment capital they will need to fully compete in the continually evolving competitive

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[13] Nor is federal preemption of depreciation practices inconsistent with 47 U.S.C. 221(b). Section 221(b) was intended to reserve state jurisdiction over exchange rates where exchange boundaries extend over two states. That provision was not intended to create new reservations to the states beyond that contained in Section 2(b) and the narrow circumstance encompassed by interstate exchanges. See *Computer and Communications Industry Association* v. *FCC, supra*, and *North Carolina Utilities Commission* v. *FCC*, 552 F.2d 1036, 1046 (4th Cir. 1976), *cert. denied*, 434 U.S. 874 (1977) (hereinafter cited as *NCUC II*).

telecommunications marketplace.[14] Such a result could undermine the achievement of the Commission's objective to develop policies that will engender a dynamic, efficient telecommunications marketplace with services being provided at reasonable prices.

38. NARUC contends that preemption with respect to station connections is unnecessary and will not produce competitive benefits because expensing is not the same as unbundling. While NARUC is correct in a strict sense, it avoids the critical issue, which is the proper timing of cost recovery. If the Commission preempts with respect to station connections and all states must expense these costs, current ratepayers will be paying these costs instead of future ratepayers as would be the case with capitalization. Thus, future prices will reflect the appropriate costs for providing those services. Moreover, if these costs are expensed and state commissions must allow rates to cover these costs, it is likely that the cost causative ratepayer will in many cases be charged for the costs being expensed in connection with the provision of inside wiring. Thus, the Commission's objective may be substantially achieved by preempting state commissions from departing from our expensing rules.

39. In 1971 Congress amended the Communications Act to change the procedures for allocating costs between federal and state jurisdictions by adding Section 410(c). The Commission was given the ultimate authority with respect to such allocations, further solidifying its superintendency over common carrier communications. See *NCUC I, supra* at 795. Section 410(c) procedures provide for uniformity in the separations process, thereby insuring that plant, expenses and revenues will be rationally accounted for in the dual jurisdictional environment. The utilization of one depreciation rate is the most effective method for insuring that this uniformity will be maintained and to insure that no jurisdiction bears a greater burden than another in the transition to a fully competitive marketplace. Several parties suggest that under or over recovery will result from one jurisdiction or another because of the shifting usage patterns for telephone plant over time and argue that if such a result were to occur, significant inequities would result to both ratepayers and carriers. A uniform depreciation rate for each class of property applicable to all property whether allocated to the federal or state jurisdiction clearly eliminates these potential problems.

40. For all of these reasons, it is apparent to us that a substantial impact on federal policies could result if state commissions were allowed to diverge from Commission prescribed depreciation rates and practices. Accordingly, it is essential to preempt inconsistent state depreciation practices to avoid frustration of these vital national policies.

III. Declaratory Ruling Petition

41. GTE of Ohio seeks to have the Commission preempt an order of the Ohio Public Utilities Commission that did not approve remaining life and equal life group rates for intrastate ratemaking purposes. As alleged by GTE of Ohio, the differential in rates amounts to seven million dollars per year. GTE of Ohio states that failure of this Commission to preempt the state will frustrate the achievement of federal policies adopted by this Commission. Its argument is similar to those cited in connection with the reconsideration petition.

42. Essentially the same arguments are made against the GTE of Ohio petition as were urged on reconsideration with regard to the substance of the issue. However, Ohio cites an Ohio statute that precludes the state commission from adopting remaining life depreciation for intrastate purposes.

43. One procedural argument is raised by Ohio with respect to the petition. It contends that the question presented is premature since the order is subject to further reconsideration before the Ohio Commission pursuant to a request filed by GTE of Ohio. We do not agree since the purpose of declaratory rulings is to give guidance to affected persons in areas where uncertainty or confusion exists. A case or controversy in the judicial sense is not required, *NCUC I, supra* at 790–1. In this case, it appears necessary to issue such a ruling to clarify for the state commissions and the carriers the effect of our depreciation prescriptions. The fact that reconsideration proceedings are underway in Ohio does not mitigate against such a course in light of the divergencies from this Commission's depreciation methods and rates that are occurring to the detriment of federal policies. Thus, we find it imperative to declare today that inconsistent state prescribed depreciation rates are preempted by the Communications Act and are accordingly void. The existence of a state statute preventing a state commission from adopting a particular method does not affect this determination. When federal preemption is involved, there is no difference between a statute or a regulation of a state commission. Both must fall in the face of overriding federal concerns and policies.

IV. Conclusion

44. We have carefully reviewed the record upon reconsideration. The issues raised concerning the *Preemption Order* caused us to reevaluate the statutory language of Section 220(b), the legislative history of the provision, and the relevant judicial and administrative proceedings relating to the subject. Our considered judgment after this review is that the *Preemption Order* must be reconsidered. We find that the most logical and reasonable interpretation of Section 220(b) of the Act is that where the Commission prescribes depreciation rates for classes of property, state commissions are precluded from departing from those rates. Since the depreciation method utilized is a material part in determining the rate to be applied, state commissions are also precluded from departing from the depreciation methods prescribed by the Commission. Thus, the *Expensing Order* is binding upon state commissions and they must expense additions to inside wiring in accordance with the plan established therein. Moreover, they must follow the amortization procedures adopted in that decision for the embedded inside wiring and any additions to the capitalized amount as a result of the phase-in of the expensing of inside wiring.

45. Even if Section 220(b) does not preempt state commissions, we would act under our authority to preempt state actions that interfere with the accomplishment of federal policies and objectives. *Computer and Communications Industry Association v. FCC, supra,* and *NCUC II.* We note that petitioner and the parties supporting the petition cite several states that have indicated they do not intend to follow the Commission's depreciation prescriptions or expensing of inside wiring, or have refused to follow either. In light of the concerns

[14] AT&T and GTE indicate several state commissions have refused to follow, have indicated an intent not to follow, or are being urged not to follow Commission determinations with respect to the expensing of inside wiring and/or the adoption of straight-line equal life group or remaining life depreciation methods. A staff review of state action in conjunction with AT&T intrastate tariff proceedings reveals that all but two states have approved expensing of station connections, that 13 states have rejected and 12 have approved equal life group depreciation, and that 9 states have rejected and 22 have approved remaining life group depreciation. Prior to issuing our *Order* in this docket we did not expect that such significant variance would be required by states.

expressed about an efficiently functioning market, we must find that inconsistent depreciation rates prescribed by state commissions will interfere with the efficient operation of the communications marketplace and thereby frustrate the achievement of the Commission's policies. Accordingly, we find that this Commission's depreciation policies and rates, including the expensing of inside wiring, preempt inconsistent state depreciation policies and rates.

46. Accordingly, it is ordered, pursuant to Sections 1, 4(i), and 220(b) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), and 220(b), that the Petition for Reconsideration filed by the American Telephone and Telegraph Company is granted.

47. It is further ordered, that the Petition for Declaratory Ruling filed by General Telephone Company of Ohio is granted to the extent reflected herein.

48. It is further ordered, that the Secretary shall cause this order to be published in the **Federal Register.**

49. It is further ordered, that the Secretary shall cause a copy of this order to be served on each state commission.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Due to the continuing effort to minimize publishing costs, the Appendix of this document (Summary of Comments) will not be printed herein. However, copies of this document in its entirety are available from any of the distribution centers listed in the FCC Office of Public Affairs, Room 202, 1919 M St., N.W., Washington, D.C. 20554, (202) 254–7674. In addition, a copy is available for public inspection in the FCC Dockets Branch, Rm. 239, and the FCC Library, Rm. 639, both located at 1919 M St., N.W.

Separate Statement of Commissioner Joseph R. Fogarty

In Re: Reconsideration of Docket No. CC 79–105.

Having dissented from the Commission's original decision declining to preempt State accounting and depreciation rules inconsistent with those prescribed by the FCC,[1] I am pleased that the Commission has reconsidered this issue and acted to preempt such inconsistent State regulation.

As this *Order* establishes in detail, a true reading of the statutory language and legislative history of Section 220(b) of the Communications Act clearly demonstrates that Congress intended FCC depreciation rules and policies to control the field.

Even if preemption were not explicitly mandated by Section 220(b), the effective implementation of our pro-competitive federal telecommunications policies dictates that inconsistent State depreciation regulation be preempted by this Commission. We cannot "defer to the States" on capital recovery issues. Telephone companies must be able to recover their cost of capital in a timely and effective manner if they are to price their services efficiently and to improve and expand their facilities to meet the challenges of competition and technologic innovation.

This preemption imperative is not merely theoretical. Too many States (e.g., Alabama, Louisiana, Nebraska, Ohio, New Jersey, Michigan, Arkansas) have already refused to recognize the critical necessity of the FCC's cost recovery principles. The resulting depreciation rate differentials are alarming: GTE of Ohio has indicated that it will be denied $7 million in capital recovery this year if the State of Ohio's disparate depreciation treatment is allowed to prevail.

The FCC cannot ignore the detrimental impacts of inconsistent State treatment of depreciation if our pro-competitive policies are to have any integrity and viability. This Commission now recognizes that preemption is both mandated as a matter of law and essential as a matter of policy, and our action today has my full endorsement and support.

[1] Amendment of Part 31, Joint Dissenting Statement of Commissioners Joseph R. Fogarty and Anne P. Jones, 89 FCC 2d 1109–1111 (1981).

[FR Doc. 83–1369 Filed 1–18–83; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 81–364; RM–3875]

Radio Broadcast Services; TV Broadcast Station in Victoria, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns and reserves UHF Channel *47 to Victoria, Texas, as its first noncommercial educational channel, in response to a petition by South Texas Educational Broadcasting Council.

DATE: Effective: March 15, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Mass Media Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order—Proceeding Terminated

Adopted: January 5, 1983.

Released: January 12, 1983.

1. A Notice of Proposed Rule Making in this proceeding was published in the **Federal Register** on September 28, 1981 (46 FR 47480). The Notice was issued in response to a petition by South Texas Educational Broadcasting Council ("petitioner") to reserve UHF Television Channel 25 already assigned at Victoria, Texas, for noncommercial educational use. Petitioner proposes to provide a translator service on the channel rebroadcasting its noncommercial educational station in Corpus Christi, Texas, Station KEDT (Channel *16). Petitioner is now the permittee of television translator Station K25AE, Victoria, Texas, and seeks modification of its permit to specify operation on Channel 25 if reserved for noncommercial educational service at Victoria. In the Notice, the Commission proposed the reservation of Channel 47 instead of Channel 25. Petitioner filed comments in support of the proposal, but requested a lower channel, if possible. A reply to petitioner's comments was filed by Community Television of Victoria ("CTV"), permittee of Television Station KVTX, Channel 31, Victoria. CTV contends that Channel 47 should be assigned and reserved, rather than a lower channel.

2. On March 4, 1982, the Commission adopted a *Report and Order* in Docket No. 78–253, *"In the Matter of an Inquiry into the Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System,"* published in the **Federal Register** on May 18, 1982 (47 FR 21468). It provided among other things that translators can operate with power up to one thousand watts on unassigned UHF channels. Previously only assigned channels could accommodate 1000 watt translators consistent with our rules. Although petitioner recognizes that it no longer needs an assigned channel to operate its proposed translator station, it nevertheless desires a reserved assignment to avoid competing filings by commercial translator or low power interests.[1]

[1] We also note that an assignment could enable a station to upgrade its operation to a full-service use without the need for another rule making proceeding. However, petitioner has not expressed an interest in upgrading.

3. Victoria (population 50,695] is the seat of Victoria County (population 68,804).[2] It has three local UHF TV channels—Channel 19 (Station KXIX); Channel 25 (Station KAVU-TV); and Channel 31 (CP issued for Station KVTX). Victoria has no channel reserved for noncommercial educational use.

4. As to the need for a noncommercial educational assignment at Victoria, the assignment could provide for a first such service. Although we have no commitment for a full broadcast use of the channel, the reservation would preserve the availability of such service at a future date. Since Channel 47 is the lowest available channel for assignment to Victoria (Channel 25 is already in use), we have selected that channel for assignment to Victoria.

5. Petitioner's request that its permit (for translator use on Channel 25) be modified to specify operation on Channel *47 would present a significant problem. Applications have been filed with the Commission for low power television stations to operate on Channel 47 in Corpus Christi and in San Antonio, Texas, and on Channel 48 in Victoria, Texas, all of which could involve interference with an operation on Channel *47 in Victoria. In our opinion such applications are entitled to simultaneous consideration before a grant of any of the applications, including the modification requested by petitioner. See *Ashbacker Radio Corp. v. F.C.C.*, 326 U.S. 327 (1945). We note that although there is a freeze on the filing of such translator applications, we have provided an exemption for the filing and processing of applications by holders of permits which must change frequencies pursuant to our *Report and Order* in Docket 78–253. Therefore petitioner's application for Channel *47 would be accepted.

6. As for petitioner's belief that there is a preference for educational rebroadcast on the reserved channel, the priority was eliminated by our *Report and Order* in Docket 78–253 (see par. 5, *supra*). That action, among others, is the subject of petitions for reconsideration.

7. To reiterate, we have provided an assignment for noncommercial educational use at Victoria. Petitioner does not have any right to automatic use of the new channel for its translator station but its application can be accepted as freeze-exempt. However, the use of that channel by petitioner may need to be considered on a comparative basis with the pending applications for Channel 48 at Victoria and Channel 47 at Corpus Christi and San Antonio.

8. Authority for the adoption of the amendment herein is contained in section 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules.

9. Accordingly, it is ordered, That effective March 15, 1983, § 73.606(b) of the Commission's Rules, the TV Table of Assignments, is amended with regard to the following community:

City	Channel No.
Victoria, Texas	19+, 25, 31, and *47.

10. It is further ordered, That this proceeding is terminated.

11. For further information concerning the above, contact Philip S. Cross, Mass Media Bureau, (202) 632–5414.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–1462 Filed 1–18–83; 8:45 am]

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47 CFR Part 81 and 83

[Docket No. 20813; FCC 82–574]

Changes in Frequencies, Operating Procedures, Technical Standards and Other Criteria Relating to the Use of Radiotelegraphy in the Maritime Services Adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends certain rules in the Maritime Services relating to the use of radiotelegraphy. These changes result from petitions filed by interested parties after earlier action in this proceeding. The intended effect of these changes is the improve ship-shore radiotelegraph communications.

EFFECTIVE DATE: January 30, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Walter E. Weaver, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 81

Coast stations, Radiotelegraph.

47 CFR Part 83

Radio, Ship stations, Telegraph.

In the matter of amendment of Parts 2, 13, 81 and 83 to implement changes in frequencies, operating procedures, technical standards and other criteria relating to the use of radiotelegraphy in the maritime services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974; Docket No. 20813.

Memorandum Opinion and Order

Adopted: December 22, 1982.

Released: December 30, 1982.

1. The Report and Order terminating this proceeding was released on June 10, 1977.[1] The Commission has received a Petition for Reconsideration from ITT Mackay Marine (Mackay); a Request for Partial Stay and Petition for Reconsideration from Mobile Marine Radio, Inc. (MMR); a Petition for Partial Reconsideration from RCA Global Communications, Inc. (RCA Globcom); and a request from the Maryland Port Administration (MPA) that it be joined with RCA Globcom in the Petition for Partial Reconsideration filed by RCA Globcom.

Mackay Petition for Reconsideration

2. Mackay refers to those provisions of the Report and Order (see Appendix 2, thereto) which became effective July 18, 1977, prohibiting the installation of transmitter type 2013 aboard new vessels or as a replacement transmitter aboard existing vessels. Mackay states that on the effective date of the Report and Order it had under contract, sold or delivered to shipyards a number of transmitters of the type 2013 which would be installed aboard new vessels over a period of time ending January 18, 1979. Mackay requested that the Commission permit the installation and licensing of these transmitters.

3. In a letter to Mackay dated July 19, 1977, the Chief, Private Radio Bureau stated that relief sought by Mackay was more properly a request for waiver; that the information submitted was persuasive; and, accordingly, that for this limited number of vessels a waiver would be granted permitting the installation of transmitter type 2013. Mackay was requested to identify each vessel and its associated shipyard. That information has been received and waivers have been granted to the vessels involved. In view of the above, the Petition for Reconsideration filed by Mackay will be dimissed as moot.

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[2] Population figures are taken from the 1980 U.S. Census, Advance Reports.

[1] FCC 77–380; 42 FR 30090; 65 FCC2d 49.

RCA Globcom Petition for Partial Reconsideration

4. RCA Globcom objects to various aspects of § 81.209(c)(1), 81.209(c)(2), 83.315 and 83.317.[2] Regarding § 81.209(c)(2), RCA Globcom construes that section as limiting to 500 Hz the permissible selectivity of coast station receivers used on the A1 Morse ship calling channels. We received several requests for clarification of this subparagraph, in consequence of which we released an Errata, on July 29, 1977, in which we amended § 81.209(c)(2) to delete the terminal phrase "500 Hz removed." This earlier action disposes of RCA Globcom's request that § 81.209(c)(2) be amended.

5. RCA also objects to § 81.209(c)(1). This section requires that general purpose tunable receiver(s) at a public coast radio telegraph (PCRT) station used for reception of ship station calling and/or working frequencies, have a capability to be accurately set to any one of the ship calling frequencies used by that PCRT station, retuned to the ship working frequency and then reset to the ship calling frequency.[3] The time limit provided, five seconds, applies to the time to tune from the ship calling frequency to the ship working frequency, or from the ship working frequency to the ship calling frequency. The maximum spacing from the bottom of the ship calling band to the top of the ship working band varies among the several megacycle order bands, from 40 kHz at 4 MHz to 140 kHz at 16 MHz. Most, if not all, commercial grade receivers marketed in the last 10 to 20 years provide the capability to tune over this range within the required time limit. We are not, therefore, persuaded that § 81.209(c)(1) should be amended.

6. With regard to § 83.315 and 83.317, RCA Globcom recommends that these rules be amended to provide access to all of the frequencies within each calling channel series to those ships that are fitted with synthesizers. We are amending § 83.317(a), as set forth in the attached Appendix, to permit ship stations desiring to do so to use the off-set frequencies 100 and 200 Hz above and 100 and 200 Hz below each frequency set forth in the table of § 83.317(b). This amendment permits a ship station to employ five frequencies in each of the 18 calling channels at each megacycle order. This increases the number of available frequencies from 111 to 555.

MMR's Request for Partial Stay and Request for Reconsideration

7. In its Request for Partial Stay, MMR requested the Commission to stay the application of § 81.143(c)(2) and 81.209(a). With its Request for Partial Stay, MMR filed a Petition for Reconsideration. In a letter dated July 13, 1977, the Chief, Private Radio Bureau, based on the information contained in MMR's petition for reconsideration, granted MMR's station, WLO, a temporary waiver of these sections until Commission action is taken on MMR's Petition for Reconsideration.

8. Section 81.143 applies to narrow-band direct-printing (NB-DP) radiotelegraph (radioteleprinter) equipment. MMR has two concerns about this section. The first pertains to subsection (c)(2), which specifies that the residual carrier of the suppressed carrier single sideband transmitter shall be suppressed to the 50 microwatt level, and that the audio subcarrier used to carry the digital information shall be shifted 85 Hz above and below a center frequency of 1700 Hz.[4]

9. MMR states that all of its equipment meets the 50 microwatt requirement, that its equipment uses a subcarrier of 1900 Hz; and that MMR's use of 1900 Hz predates the FCC requirement to use 1700 Hz. MMR asserts that since it suppresses the residual carrier to the required level, which protects the NB-DP channels below those used by MMR, there is no reason to impose upon MMR the unnecessary expense of shifting from 1900 Hz to 1700 Hz. We agree. Accordingly, § 81.143(c)(2) as set forth in the attached Appendix is amended to delete specification of the subcarrier center frequency.

10. MMR second concern pertains to subsection (d), which specifies the "mark" and "space" positions for stations using the 5-element telegraph alphabet. If the requirements of this section are applicable to the 7-unit system (referred to § 81.143(f)) which MMR operates, MMR advises that it will be unable to use their equipment. The matter raised by MMR is equally applicable to all PCRT licensees using NB-DP with error correction.

11. CCIR Recommendation 476-3 sets forth the internationally agreed error-detection or forward error correction system for use with NB-DP. It also provides a comparison of the bit arrangement of the emitted signal of both the 5-unit and 7-unit systems. The bit arrangement of the 5-unit system conforms to ITU Appendix 38(e) and to § 81.143(d).

12. For the bits which are common to the 5-unit and 7-unit systems, the "mark" and "space" bits of the 7-unit system are reversed from that of the 5-unit system. Thus, the "mark" and "space" of the 7-unit system do not conform to ITU Appendix 38(e) or to § 81.143(d). To correct this, § 81.143(d) is amended to limit its applicability to the 5-unit system, as set forth in the attached Appendix.

13. MMR again urges the Commission to require that vessels fitted with NB-DP also fit with Automatic Reply Request/Forward Error Correcting (ARQ/FEC) equipment. This proposal was discussed in paragraph 31 of the Report and Order. While some of the arguments included therein are no longer applicable, it continues to be our view that those in the marketplace who desire or require an improved NB-DP service will fit their vessels with the (ARQ/FEC) equipment, if not initially, then at a later date. We are not, therefore, adopting this additional regulation.

14. Regarding § 81.209(a) MMR expresses concern about the operation and staffing of PCRT stations. It argues (1) that the Commission is requiring PCRT stations to maintain a continuous listening watch on twenty distinct ship (A1 Morse) calling frequencies; and (2) that two staffs of operators will be required at PCRT stations, one to guard the calling channels and a second to operate the working frequencies. The Commission has not heretofore and is not in this proceeding specifying the frequency bands or the time of day a PCRT station will maintain a watch on the ship (A1 Morse) calling frequencies. Nor have we specified the staffing which will be provided at PCRT stations, or how the staff of such a station will be deployed. The PCRT station will select the frequency bands in which service will be provided. Once that decision is reached, this proceeding specifies that the PCRT station will, at each of those frequency bands, guard the ship (A1 Morse) common calling

[2] Additionally, in a letter dated August 25, 1977, RCA Globcom requested for all of its public coast radiotelegraph (Class I–A) stations a waiver of § 81.209 for a six months' period, which was granted by Chief, Private Radio Bureau in an Order released October 12, 1977. This Order was applicable to all public coast radiotelegraph (Class I–A) stations listed in the subject rule section.

[3] The wording of § 81.209(c)(1) effectively precludes the use of fixed-tuned, single-frequency, receivers. The use of multiple, fixed-tuned, single-frequency receivers, each for reception of a specific single channel, could be expected to provide a superior means of monitoring the required A1 Morse ship calling frequencies, with improved technical performance and at a reduced cost as compared to a general purpose, all-band receiver. Since the use of fixed-tuned, single-frequency receivers for this purpose is advantageous, we are amending § 81.209(c)(1), as set forth in the attached Appendix to provide for their use.

[4] This corresponds to the system specification of CCIR 476–3 Recommendation.

channels 5 and 6, plus one group channel for the area in which the PCRT station is located.

15. In regard to § 81.209(c)(1), MMR asks the question: Does this rule provision permit scanning as a means of meeting the watch requirement; if not, what is its import? [5] U.S. registry telegraph vessels are fitted with all of the calling and all of the working channels available for A1 Morse. Many foreign registry vessels are similarly fitted. For these U.S. and foreign registry vessels, scanning of the calling bands serves no useful purpose.

16. However, most communications by U.S. PCRT stations are with foreign registry vessels. The 1974 MWARC anticipated that most vessels would be fitted to employ the new calling procedure. The effective date of the 1974 MWARC agreement was January 1, 1976. We are now some seven years beyond that effective date and a substantial number of foreign registry vessels continue to employ the old procedure. In order to get traffic from these vessels PCRT stations must scan the calling bands. Arguably, as long as these vessels obtain service using the old procedure, they will have no incentive to fit for use of the proper calling channels. This, of course, will defeat implementation of the calling procedure adopted by the 1974 MWARC. The advantages of the new procedure far outweigh considerations to perpetuate the old procedure.

17. We are reluctant to say either that scanning of the ship calling bands shall be discontinued, or that we shall not implement the new calling procedure. Some compromise is desirable. In the Report and Order we concluded that once the PCRT station had determined which megacycle order bands were to be guarded, that PCRT station would, at those megacycle orders, guard calling channels 5 and 6, in addition to the group calling channel.

18. Channels 5 and 6 were imposed by the 1974 MWARC to cover those vessels which were not fitted for use of the group calling channels. It now appears that a substantial number of foreign registry vessels are not fitted for use of either channel 5 or 6, or the group calling channels. On the other hand, all U.S. registry and many foreign registry vessels are fitted for the use of all of the channels and should not be penalized by a return to the old procedure.

[5] Scanning means the process of tuning a general purpose receiver from one end to the other end of one of the ship calling bands, back and forth, over and over. There are calling bands at each of the megacycle orders, i.e., at 4, 6, 8, 12, 16 and 22 MHz. The widest calling band is at 16 MHz and it is 29 KHz wide.

19. We believe a reasonable compromise would be for each PCRT station, at each chosen megacycle order to: (1) Guard the group calling channel (East coast, channel 3; Gulf Coast, channel 9; West coast, channel 13) for service to vessels fitted with all channels; and (2) either guard channels 5 and 6, or scan the calling bands, at the option of the PCRT station licensee.

20. We view the above compromise in procedure as being of an interim nature. Those foreign registry vessels which have not done so are urged to fit for and to call on the group calling channels.

21. MMR notes correctly that the Commission stated in the Report and Order its intent to include in § 81.152(d) appropriate amendment to permit the holder of T–3 and P–3 licenses to operate radioteleprinter service. However, these amendments were not included in that section as it appeared in the Appendixes to the Report and Order. Following receipt of MMR's request, changes were made to § 81.152(d), providing for T–3 and P–3 operation of radioteleprinter, which were set forth in a Second Errata, released July 18, 1977, in the instant proceeding.

22. Finally, MMR disputes the allocation of narrow-band direct-printing (NB–DP) frequencies by radiotelegraph station call sign. [6] MMR argues the Commission should abandon the call sign allocation method in favor of assignment of these frequencies "on a first come-first served basis, subject to such showings or justification as the Commission and the Communications Act may require." We agree that it may be useful to revise the allocation method adopted in our Report and Order in this proceeding. At present, only 5 PCRT stations are offering NB–DP service on the frequencies assigned to them in the rules. We wish to foster more efficient use of these frequencies by exploring ways in which to encourage new providers of this service to enter the markeplace and to facilitate expansion of the service by existing providers. Accordingly, we are simultaneously releasing with this Memorandum Opinion and Order, a Notice of Proposed Rulemaking and Order which will address the NB–DP allocation problem. [7] To this degree this action grants MMR's petition that we reconsider the allocation question.

23. Accordingly, it is hereby ordered, That, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Parts 81 and 83 of the Commission's rules are amended effective January 30, 1983, as set forth in the attached Appendix.

24. It is further ordered, That, the Petition of Mackay, is dismissed; and that the Petitions filed by Mackay, MMR, RCA GLOBCOM and MPA are granted to the extent indicated herein and are denied in all other respects.

25. Regarding questions on matters covered by this document contact Walter E. Weaver, telephone (202) 632–7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[6] See § 81.204(c) of the rules.

[7] We are proposing among other things that MMR's method of allocation be considered, together with a proposed specific set of requirements for a showing.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

1. In § 81.143 paragraph (c)(2) and paragraph (d) are revised to read as follows:

§ 81.143 Narrow-band direct-printing radiotelegraph equipment.

* * * * *

(c) * * *

(2) When frequency shift keying is effected by applying audio signals (a frequency shifted subcarrier)[1] to the input of a single sideband transmitter, the suppressed (residual) carrier, when it falls outside the authorized bandwidth, shall be suppressed to the level prescribed by § 81.140. Further, the subcarrier shall appear on the higher frequency side of the residual carrier, shall have a frequency stability of ±5 Hz, and shall be shifted 85 Hz above and below the frequency of the subcarrier.

(d) In systems using the 5-element International Telegraph Alphabet No. 2, the higher of the emitted frequencies shall correspond to "space" (Start, A, or no perforation) and the lower of the emitted frequencies shall correspond to "mark" (stop, Z, or perforation).

[1] CCIR Recommendation 476–3 recommends a subcarrier of 1700 Hz.

* * * * *

2. In § 81.209 paragraph (c)(1) is revised to read as follows:

§ 81.209 Watch on ship calling frequencies.

* * * * *

(c) The receivers employed shall:

(1) If tunable receivers, be capable of being set to and of being reset to any one of the designated calling frequencies in each band for which the receiver is intended to operate. The time required to set or to reset the receiver to frequency shall not exceed five seconds.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.143, paragraph (d) is revised to read as follows:

§ 83.143 Narrow-band direct-printing radiotelegraph equipment.

* * * * *

(d) In systems using the 5-element International Telegraph Alphabet No. 2, the higher of the emitted frequencies shall correspond to "space" (start, A, or no perforation) and the lower of the emitted frequencies shall correspond to "mark" (stop, Z, or perforation).

* * * * *

2. In § 83.317, paragraph (a) and footnotes [1], [2] and [4] of this section are revised to read as follows:

§ 83.317 Calling frequencies—A1 Morse radiotelegraphy.

(a) Ship radiotelegraph calling frequencies in the bands between 2 and 27.5 MHz are set forth in the seven tables of this section. All of these frequencies are available to all properly authorized ship stations. Ship stations may, in addition, employ the frequencies 100 and 200 Hz above and 100 and 200 Hz below each of the frequencies listed in the table of paragraph (b) of this section. In paragraphs (c) through (f) of this section the calling frequencies are arranged by Channel Series numbers. The Channel Series which is routinely guarded by coast radiotelegraph stations at United States locations is marked by appropriate footnote. The specific frequencies of the Channel Series which are guarded at a coast station will vary subject to normal propagation conditions. For vessels operating internationally, the calling frequencies which are routinely guarded at coast stations at other than United States locations can be determined by reference to the ITU publication entitled "List of Coast Stations". The world-wide plan for the distribution and use of calling frequencies appears in Appendix 34 [previously Appendix 15C] and Resolution No. 312 [previously designated MAR 2–5] to the current edition of the ITU Radio Regulations.

* * * * *

[1] Routinely guarded by all coast radiotelegraph stations, including coast stations of the USCG for AMVER and other communications.

[2] Routinely guarded by East coast radiotelegraph stations, including coast stations of the USCG for AMVER and other communications.

* * * * *

[4] Routinely guarded by West coast and Pacific radiotelegraph stations, including coast stations of the USCG for AMVER and other communications.

3. In § 83.319, paragraph (a) is revised and paragraph (b) is removed and reserved to read as follows:

§ 83.319 Working frequencies—A1 Morse Radiotelegraphy.

(a) Ship radiotelegraph working frequencies are set forth in Tables (d)(1) through (d)(6) of this section. Two Series Nos. of working frequencies, for example W1 and W31, are assigned to each radiotelegraph ship station. Frequencies from the two Series Nos. assigned to each radiotelegraph ships stations should be used for normal working. Other Series Nos., and frequencies therefrom, may be used by a ship station when the frequencies of the two assigned Series Nos. are not adequate.

(b) [Reserved.]

* * * * *

[FR Doc. 83–1387 Filed 1–18–83; 8:45 am]
BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1240

[No. 38889]

Elimination of Regulations on Classes of Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This rule eliminates 49 CFR Part 1240, Classes of Carriers. The Commission has concluded that 49 CFR Part 1240 duplicates the requirements for classification of carriers included in 49 CFR Part 1201, Instruction 1–1; 49 CFR Part 1206, Instruction 2–1; and 49 CFR Part 1207, Instruction 1. The information on carrier classification can be obtained from these instructions, thus, 49 CFR Part 1240 is unnecessary.

DATE: This rule is effective for the accounting and reporting year beginning January 1, 1982.

ADDRESS: Copies of this rule may be purchased by contacting: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, D.C. 20423, (202) 289–4357, D.C. Metropolitan Area; (800) 424–5403, toll free for outside D.C. area.

FOR FURTHER INFORMATION CONTACT: Leonardo A. Rodriguez, (202) 275–7448.

SUPPLEMENTARY INFORMATION: As a part of the Commission's continuing effort to simplify regulatory requirements and eliminate duplicative and extraneous regulations, the Commission is eliminating 49 CFR Part 1240, Classes of Carriers. After reviewing 49 CFR Parts 1200 to 1299, we have concluded that 49 CFR Part 1240 is duplicative and is no longer necessary. The accounting and reporting classification for carriers shall be determined by applying the rules in 49 CFR Part 1201, Instruction 1–1; 49 CFR Part 1206, Instruction 2–1; and 49 CFR Part 1207, Instruction 1.

The Commission finds that a notice of proposed rulemaking as defined under the Administrative Procedure Act, 5 U.S.C. 553(b), is not required to adopt this revision because it involves the elimination of duplicative carrier classification regulations. However, in keeping with our belief that any rule can benefit from public scrutiny, we are requesting that the public study the rule and report, within 45 days, any suggested changes. If the Commission concludes after reviewing the comments that it is necessary to reconsider this rule, a further notice will be published in the **Federal Register**. Otherwise, the provisions of this final rule are in effect.

Regulatory Flexibility

The Commission certifies this final rule will not have a significant economic impact upon a substantial number of small entities. In this proceeding, we do not propose any new instructions; rather, we are eliminating a duplication. Thus, we anticipate no adverse economic impact on businesses, organizations or other small entities.

This final rule does not significantly affect the qualify of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1240

Motor carriers, Railroads, Classes of carriers.

Accordingly, we adopt the changes to Title 49 of the Code of Federal Regulations as set forth in Appendix A.

(49 U.S.C. 10321 and 5 U.S.C. 553)

Decided: January 10, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam,

Andre, Simmons, and Gradison.
Commissioner Gilliam did not participate.

James H. Bayne,
Acting Secretary.

Appendix A

Title 49 CFR shall be amended by making the following changes:

1. Amend the center heading **PARTS 1240–1259—REPORTS** by removing the number 1240 and inserting in it place, the number 1241.

PART 1240—[REMOVED]

2. Remove 49 CFR Part 1240, Classes of Carriers.

[FR Doc. 83-1483 Filed 1-18-83; 8:45 am]
BILLING CODE 7035-01-M

Propo

This section contains noti proposed iss regulations. T is to give in opportunity t making prior rules.

DEPARTME

Agricultural

7 CFR Part

[Docket No. A

Milk in the T Reschedulii Amendmen Agreement

AGENCY: Ag USDA.

ACTION: Res on proposed

SUMMARY: T February 1, consider pro milk order. T scheduled to Cooperative large segmen the north cen requested a that they nee prepare for t

ADDRESSES: Specialist, D Marketing Se Agriculture D D.C. 20250.

FOR FURTHER Robert Groe

SUPPLEMENT documents in Hearing—Iss published Ja

A notice w 1982 giving n be held Janu proposed am marketing ag regulating th Texas marke

Notice is h rules of pract proceedings said hearing the Sheraton Worth Airpo Boulevard, D

Proposed Rules

Federal Register
Vol. 48, No. 13
Wednesday, January 19, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1126

[Docket No. AO-231-A49]

Milk in the Texas Marketing Area; Rescheduling of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Rescheduling of public hearing on proposed rules.

SUMMARY: This notice reschedules for February 1, 1983, a public hearing to consider proposals to amend the Texas milk order. The hearing was initially scheduled to begin on January 18, 1983. Cooperative associations representing a large segment of the dairy industry in the north central United States requested a postponement, indicating that they need additional time to prepare for the hearing.

ADDRESSES: Robert Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Agriculture Department, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert Groene, (202) 382-9376.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued December 27, 1982, published January 3, 1983 (48 FR 28).

A notice was issued on December 27, 1982 giving notice of a public hearing to be held January 18, 1983, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Texas marketing area.

Notice is hereby given, pursuant to the rules of practice applicable to these proceedings (7 CFR Part 900) that the said hearing is rescheduled to be held at the Sheraton Grand Hotel, Dallas-Ft. Worth Airport, Highway 114 and Esters Boulevard, Dallas, Texas 75261, beginning at 9:30 a.m., local time, on February 1, 1983.

List of Subjects in 7 CFR Part 1126

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C. on January 14, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-1501 Filed 1-18-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-81-04]

Tertiary Incentive Program

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Analysis of Comments.

SUMMARY: The Economic Regulatory Administration (ERA) is publishing its analysis of the comments on the proposals set forth in the May 6, 1981 Notice of Proposed Rulemaking concerning the Tertiary Incentive Program. As announced previously, ERA decided not to adopt any of these proposals as a final rule. This analysis was initially prepared in the summer of 1981, but its publication was deferred pending resolution of the tertiary litigation.

FOR FURTHER INFORMATION CONTACT:

F. Scott Bush, Office of Fuels Programs, Economic Regulatory Administration, Room GA-017, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2202

William Funk, Assistant General Counsel for Regulatory Oversight, U.S. Department of Energy, Room 6A-141 (GC-12), 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6736

Jack Vandenberg (Office of Public Information), Economic Regulatory Administration, Room 4309, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8100.

SUPPLEMENTARY INFORMATION: On March 17, 1981, ERA issued an advance notice of proposed rulemaking (46 FR 17566, March 19, 1981) announcing that it would propose to rescind the Tertiary Incentive Program ("incentive program") with respect to allowed expenses that had not been incurred and paid on or before March 19, 1981. ERA stated that its basis for such action was its assumption that continuation of the incentive program beyond March 19 would not meaningfully increase the production of crude oil. This assumption was based on ERA's belief that expenses with respect to those enhanced oil recovery ("EOR") projects which the incentive program was intended to encourage most likely already had been incurred and paid.

On April 28, 1981, ERA issued a notice of proposed rulemaking (46 FR 25315, May 6, 1981) that proposed the action discussed in the advance notice. This notice also proposed to rescind the incentive program with respect to all in-house allowed expenses and with respect to those prepaid allowed expenses that were not incurred and paid prior to January 28, 1981. ERA's basis for such action was its assumption that many of the in-house and prepaid allowed expenses that had been incurred and paid in the months immediately following decontrol related to EOR activities that would have been undertaken on the same time schedule, without regard to the incentive program. With respect to in-house expenses, statements by some members of the industry indicated their belief that, in most instances, they represented no new commitment by a firm to EOR activity but merely accounting entries between affiliated entities that result in a "wash" between the two entities and a positive cash flow to a firm as a whole. With respect to prepaid expenses, statements by some members of the industry indicated their belief that most of the prepaid expenses incurred and paid after decontrol represented an attempt by producers to receive the market price for all their price-controlled crude oil without any corresponding new commitment to EOR activity.

ERA recognized the retroactive nature of the proposals. However, it indicated that adoption of these proposals might not be an impermissible retroactive final rule since very few firms may have acted in reliance on the regulations that were proposed to be rescinded. Moreover, ERA stated that in many situations where firms had relied, a firm might be able to undo the agreement

relating to the allowed expenses in question and thus would suffer no detrimental reliance damage.

On July 8, 1981, ERA issued a notice of its determination not to adopt any of these proposals as a final rule. (46 FR 36103, July 13, 1981). ERA made this decision after a careful review of the available data on the incentive program and the public comments on the proposals. This notice is intended to set forth ERA's analysis of the comments.[1]

ERA received comments from sixty-one different sources. Comments from thirty-eight of these sources opposed the adoption of the proposals, while comments from twenty-two of these sources favored their adoption.[2] The opposition to the proposals came from independent crude oil producers, suppliers of goods and services to enhanced oil recovery ("EOR") projects, and some refiners. The support came from other refiners.[3]

In general, those refiners that favored the adoption of the proposals argued that, as a matter of law, Executive Order 12287 (46 FR 9909, January 30, 1981) terminated the incentive program after January 27, 1981. On the basis of this argument, refiners, tended to view the rulemaking as unnecessary, but supported adoption of the proposals relating to the period after January 27 as a means of clarifying the situation surrounding the incentive program. DOE's office of General Counsel had considered this argument and rejected it since Executive Order 12287 *did not eliminate* the then existing price and allocation regulations, but only *exempted* from those regulations crude oil and petroleum products sold after January 27. This position had been stated publicly in Ruling 1981–1 (46 FR 12945, February 18, 1981). Moreover, Ruling 1981–1 specifically considered the effect of Executive Order 12287 on the incentive program and stated that crude oil sold on or before January 27 could be certified as tertiary incentive crude oil on the basis of allowed expenses incurred, paid and reported through March 31, 1981.[4] Thus, rather than clarifying the situation surrounding the incentive program, proposed amendments would have represented a substantive change in the program. Accordingly, ERA did not find persuasive those arguments that treated the proposals as interpretative matters rather than as substantive changes in the regulations.

In a related vein, many refiners argued that the continued effectivess of the regulations that related to the incentive program beyond January 27, 1981, would be contrary to the policy of Executive Order 12287 and the original intent of the incentive program.

With respect to Executive Order 12287, they argued that the President had intended to return the oil industry to a free market by terminating all aspects of the then existing price and allocation regulations, except for certain designated provisions, such as the Entitlements Program. The continuing effectiveness of the tertiary regulations after January 27, they said, would run counter to a free market since it would cause producers to make decisions concerning EOR projects not only on the basis of normal market forces but on the basis of governmentally created price incentives which had only a limited time to run. With respect to the original intent of the incentive program, they argued that since the program had been adopted to overcome the disincentives for EOR activity created by the crude oil price regulations, the removal of price controls from all crude oil sold after January 27 eliminated any regulatory disincentives for EOR activity. Furthermore, they argued that the continued effectiveness of the regulations after January 27 would be arbitrary and capricious since it would provide an unnecessary windfall to project operators able to attract private investment on their own merits, while also wasting scarce economic resources on projects unable to justify such investment in a free market.

ERA does not find the continued effectiveness of the tertiary regulations through March 1981 to be inconsistent with the return to a free market that occurred on January 28, 1981. These regulations did not affect crude oil sold on or after that date, but only crude oil sold before that date. Thus, the continued effectiveness of the regulations operated to compensate for disincentives created by and suffered under the crude oil price regulations and did not distort free market forces in the sale of crude oil. More importantly, the continued effectiveness of the regulations carried out the Congressional mandate to provide "additional price incentives for bona fide tertiary recovery techniques". Energy Conservation and Production Act section 122, 15 U.S.C. 757(j)(1)(A).[5] The removal of price controls on January 28 did not eliminate the results of price controls in effect prior to that date and, accordingly, did not terminate the regulatory basis for provisions intended to eliminate the disincentives created by the former price controls. In fact, the continued effectiveness of the teritary regulations was not only consistent with the removal of price controls, but actually increased the volume of decontrolled oil in the marketplace prior to the President's Executive Order.

Another argument made in support of the proposals was that the operation of the incentive program, especially those aspects of it that related to in-house or prepaid allowed expenses, had resulted in many firms being placed in a position in the Entitlements Program substantially more detrimental than their historical position. These refiners asserted that since the issuance of Executive Order 12287 there had been a remarkable increase in the volume of old and new crude oil certified or recertified as tertiary incentive crude oil and that most of these certifications resulted from in-house and/or prepaid allowed expenses incurred or paid after January 27, 1981. This certification of old and new crude oil as tertiary incentive crude oil meant that there was less deemed old oil whose benefit would be distributed by means of the Entitlements Program.

ERA agrees that the incentive program did operate to reduce the amount of deemed old oil whose benefit could be distributed by means of the Entitlements Program. However, ERA cannot agree that this situation in itself supported adoption of the proposals, since any action that decontrols crude oil has the same effect. The effect of the incentive program on the amount of deemed old oil in the Entitlements

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[1] ERA originally intended to publish this analysis soon after its July 13, 1981 notice. However, prior to completion of the analysis for publication, that portion of Ruling 1981–1 relating to the tertiary program was held invalid by the District Court for the Central District of California on Setember 30, 1981. See *Union Oil Company of California* v. *Department of Energy*, 530 F. Supp. 717 (C.D. Cal. 1981). Since such a holding, if upheld, would have made the rulemkaing essentially moot, ERA suspended its efforts to publish an analysis. On September 1, 1982, the Temporary Emergency Court of Appeals reversed the district court and upheld Ruling 1981–1. See *Union Oil Company of Californic* v. *Department of Energy*, 686 F.2d 797 (TECA 1982), petition for cert. filed, 51 U.S.L.W. 3380 (No. 82–771 November 4, 1982).

[2] One firm stated that it did not have sufficient information on which to make a decision to support or to oppose the proposals.

[3] Among refiners, 14 out of the 16 small and independent refiners and 8 out of 15 major integrated refiners supported the proposals.

[4] This position has been upheld by the Temporary Emergency Court of Appeals. *Union Oil Co.* v. *DOE*, 686 F.2d 797 (TECA 1982).

[5] This conclusion was also reached by the Temporary Emergency Court of Appeals in *Union Oil Co.* v. *DOE*, *supra*.

program would have provided support for the adoption of the proposals only if the incentive program had not promoted the objectives of the Emergency Petroleum Allocation Act of 1973. ERA had proposed to rescind the tertiary provisions with respect to the allowed expenses in question because of its tentative assumption that the disallowance of recovery of such expenses would not be a disincentive to EOR activity, and thus that recovery of such expenses did not promote the objectives of the EPAA. Although many of the refiners that supported the proposals stated that they agreed with ERA's assumption, none offered any actual examples of sitiuations in which the recovery of such expenses had not encouraged EOR activity.

Those firms that opposed the proposals disagreed strongly with ERA's assumptions concerning the operation of the incentive program in early 1981, especially with respect to the allowed expenses in question. They also disputed ERA's estimte that they would suffer only minor injury through retroactive rescission of the teritiary provisions.

While many of these comments acknowledged the large increase in the amount of allowed expenses reported in the first months of 1981, they did not accept the contention that this increase represented a "last-minute" attempt to participate in the program before Executive Order 12287 eliminated the possibility. They stated that because of the complex nature of most EOR activity, the long lead times involved, and the large overall investment, few, if any, of the recently reported allowed expenses could relate to EOR activity generated "overnight" in response to Executive Order 12287. In support of this position, several producers that only recently had begun to report allowed expenses detailed the degree and length of planning that was required in connection with the EOR project to which the expenses related.

The comments suggest that a combination of factors could explain the increase in the amount of crude oil certified as tertiary incentive crude oil in early 1981. One factor was the growing realization within the industry that the incentive program existed and that it could provide significant incentives to EOR activity. The major factor cited by the commenters, however, was a series of actions by DOE to clarify and expand the scope of the program with respect to prepaid expenses,[6] in-house expenses [7] and arrangements to acquire price-controlled crude oil.[8] In addition, they cited several mechanical aspects of the price regulations that probably had contributed to the increase in the volume of crude oil certified as tertiary incentive crude oil in early 1981.[9]

ERA has concluded on the basis of the comments, as well as its own projections of tertiary activity in 1981, that most of the expenses incurred and paid after January 27, 1981, would have been expended under the tertiary program absent immediate decontrol. Specifically, ERA has concluded that both on-going and incipient tertiary projects were accelerated during the period after January 27 in order to obtain some of the up-front financing that producers expected would be available through September 30, 1981, under phased decontrol. As a result of this increased activity, producers incurred and paid a larger volume of expenses during the period January 28 through March 31 than they would have absent immediate decontrol. These expenses, however, would likely have been incurred and paid before September 30 under phased decontrol. Thus, while these expenses permitted more crude oil to be decontrolled with respect to December and January than would otherwise have occurred, this merely represented a compression into two months of a portion of the expenses that otherwise would have been spread out over several months. ERA has found no evidence of "bogus" projects that were initiated solely to obtain benefits during the period January 28 through March 31.

ERA considered the primary issue in this rulemaking to be whether the recovery of the allowed expenses in question promoted the original intent of the incentive program, that is, the encouragement of EOR activity. The commenters that opposed adoption of the proposals addressed this issue directly. In general, they stated that the ability to recover such expenses had encouraged them to participate in EOR projects and that retroactive rescission of the incentive program would cause them to reconsider their participation in those and, possibly other, EOR projects. In this regard, several of the major refiners disputed the notion that the incentive program was a windfall for them just because they did not have as much difficulty in raising capital as smaller producers. They pointed out that the amount of funds available to any firm for investment is finite and that EOR projects had to compete for available funds with more conventional and predictable crude oil production as well as other investment opportunities for the available funds. Thus, by making EOR projects better investment opportunities the incentive program encouraged major refiners to undertake some EOR projects that probably would not otherwise have been undertaken, at least during this time period.

Many of the comments that opposed the proposals challenged ERA's assumptions concerning the post-March 19, 1981 period and concerning in-house and prepaid allowed expenses. With respect to allowed expenses incurred or paid after March 19, 1981, the comments and ERA's analysis indicated that very few allowed expenses had been incurred and paid after that date. However, those comments from producers that had incurred and paid such expenses stated that they were made as part of an organized and continuing commitment to EOR activity. In fact, several of these producers indicated that it was adherence to a prior plan of investment that prevented these expenses from being incurred and paid at an earlier date.

With respect to in-house expenses, many of the comments objected to the characterization of these expenses as accounting entries. These comments stated that in-house expenses represented a real commitment to EOR

[6] Many producers had hesitated to incur and pay prepaid expenses because they were not certain that such expenses were recoverable under the incentive program. ERA did not state publicly that the recovery of such expenses was permissible under the program until July 1980. 45 FR 40108, 40107 (Aug. 15, 1980).

[7] Many producers believed that it would be more efficient for them to acquire goods and services internally rather than externally. ERA did not amend the regulations to permit the recovery of in-house expenses until January 5, 1981. 46 FR 1246 (Jan. 5, 1981).

[8] Many producers did not possess sufficient quantities of price controlled crude oil to participate fully in the program. They were unable to conclude agreements to acquire access to sufficient quantities until DOE issued a series of interpretations concerning the acceptaility of such agreements. The first two of these interpretations were not issued until September 1980. *See Barber Oil Corp.*, Interpretation 1980–22, 45 FR 61563 (September 16, 1980); *Mitchell Energy Corp.*, Interpretation 1980–23, 45 FR 61564 (September 16, 1980).

[9] The price regulations provided for the gradual conversion of old (lower tier) oil to new (upper tier) oil. As a result of this shift in the composition of price-controlled oil, it would be expected that a greater volume of controlled crude oil would be certified as tertiary incentive crude oil since less additional revenue is generated on a per barrel basis by selling new oil at the market price than by selling old oil at the market price.

The price regulations also provided that a producer could sell at the market price that quantity of price-controlled crude oil necessary for a producer to recover its allowed expenses and to pay related Windfall Profit Tax liability. This provision had the effect of a multiplier on the amount of crude oil certified as tertiary incentive crude oil.

activity since in order to supply the goods or services to which the expenses related, the firm would have to expend a portion of the limited internal resources available to it. Moreover, many firms indicated that these in-house expenses related to EOR activity that had been undertaken as a result of the incentive program. These firms stated that they would have utilized the incentive program to undertake this activity by means of external suppliers, had not the in-house option been available and more economically efficient; thus, they would be harmed by a retroactive rescission.

With respect to prepaid expenses, many firms disagreed with the assumption that a large portion of such expenses represented a major abuse of the program. Firms stated they had been encouraged to make an expanded commitment to EOR activity because of the ability to recover prepaid expenses. Some of these firms also offered an explanation for the increasingly large amount of prepaid expenses reported, reasoning that since the incentive program had a fixed duration and since most EOR expenses related to items that normally were acquired over a much longer period of time, the only practical way for many firms to utilize the incentive program was to prepay expenses. Many firms also noted they could recover only seventy-five percent of the cost of the good or service for which they had prepaid and, thus, that they had made a substantial current commitment to future EOR activity that they most likely would not have been made in the absence of the incentive program.

Most of the comments in opposition also argued that the adoption of the proposals concerning in-house and prepaid allowed expenses would result in a retroactive final rule that would adversely affect them.[10] They disagreed with ERA's assumption that they may not have relied on the recoverability of the allowed expenses and that it might not be difficult to rescind arrangements that related to such expenses. These producers stated that the recoverability of such expenses was a determinative consideration in their participation of EOR projects. In addition, they stated that if the program was rescinded with respect to these allowed expenses they would be forced to reconsider their commitment to these EOR projects. Further, even if they decided to continue these particular projects, the rescission of the program could affect their decision to undertake or to continue other EOR projects. Moreover, they stated that they had entered into contracts at the time they incurred and paid the allowed expenses, and any attempt to terminate or amend these contracts would be subject to substantial legal controversy. In this regard, some suppliers of EOR equipment opposed the proposals on the ground that they had relied on the contracts with project operators and had expended substantial sums to produce the needed equipment. Thus, they would be financially harmed if project operators were able to terminate these contracts.

In light of the many statements that firms had acted in reliance on the recoverability of the allowed expenses in question and that many of these firms would be substantially harmed if the incentive program was rescinded with respect to such expenses, ERA decided that it would not be appropriate to adopt these proposals retroactively. As previously stated, the comments persuaded ERA that the recovery of these allowed expenses had promoted EOR activity and that there was no regulatory reason to rescind retroactively the provisions in question.

Upon consideration of these comments on the allowed expenses in question, ERA decided that its assumptions about these expenses had been erroneous since the rulemaking record and its own analysis strongly indicated that the recovery of these expenses did promote new or expanded commitments to EOR activity. Moreover, it was clear that participants had relied on the program and that its termination prior to March 31 would detrimentally affect not only many of the participating firms but also future tertiary production. Accordingly, ERA decided that the program had made a positive contribution to EOR activity and, thus, that it would not have been appropriate to rescind it with respect to these allowed expenses.

Issued in Washington, D.C., January 11, 1983.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 83-1487 Filed 1-18-83; 8:45 am]

BILLING CODE 6450-01-M

[10] Most of the comments on the retroactivity issue referred to *Retail, Wholesale and Department Store Union* v. *NLRB*, 466 F. 2d 380 (D.C. Cir. 1972) in which the court set forth five factors to be considered in determining whether it was permissible to adopt a rule on a retroactive basis. These five factors are: (1) Whether the particular case is one of first impression; (2) whether the new rule represents an abrupt departure from well established practice or merely attempts to fill a void in an unsettled area of law; (3) the extent to which the party against whom the new rule is applied relied on the former rule; (4) the degree of the burden which a retroactive order imposes on a party; and (5) the statutory interest in applying a new rule despite the reliance of a party on the old standard. The commenters that analyzed these factors indicated that in their view each of these factors cut against adopting the proposals retroactively.

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 523, 526, 541, 545, 555, 561 and 563

[No. 82-813]

Implementation of New Powers; Limitations on Loans to One Borrower

Dated: December 16, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board is proposing amendments to its regulations to implement the expanded authority for Federal savings and loans contained in the Garn-St Germain Depository Institutions Act of 1982. The proposed regulations would permit Federal associations to offer demand deposit accounts and governmental unit NOW accounts, and to engage in leasing and commercial lending; and expand the authority of Federal associations to offer consumer loans, educational loans, real estate loans and to invest in government obligations. In addition, the Board proposed to revise Part 545 of its regulations governing the general operations of Federal associations in order to remove obsolete or unnecessary provisions and to facilitate use by improving the organization of the Part. These amendments would expand the investment authority of, and services offered by, Federal savings and loan associations.

DATE: Comments must be received by March 10, 1983. Due to the complexity of the proposal, no late comments will be considered.

ADDRESS: Send comments to Director, Information Services, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available at this address for public inspection.

FOR FURTHER INFORMATION CONTACT:

Michael D. Schley, Attorney, Office of General Counsel (202-377-6444) for information on leasing, commercial lending, letters of credit, manufactured home lending, and loans-to-one borrower limitations.

Neil R. Crowley, Attorney, Office of General Counsel (202–377–6417) for information on real estate lending.
Robert H. Ledig, Attorney, Office of General Counsel (202–377–7057) for information on Demand Deposit Accounts and Governmental Unit NOW Accounts.
Wendy B. Samuel, Deputy Director, Policy & Projects Division, Office of General Counsel (202–377–6465) for information on Consumer lending, educational loans, and investment in government securities.
Wendy B. Samuel (202–377–6465), Deputy Director, or Peter M. Barnett (202–377–6445), Director, Policy and Projects Division, Office of General Counsel for information on all other aspects not specifically listed above.

SUPPLEMENTARY INFORMATION: On October 15, 1982, President Reagan signed into law the Garn-St Germain Depository Institutions Act of 1982 ("Act"), Pub. L. No. 97–320, 96 Stat. 1469, which included broad new powers for Federally chartered savings and loans and mutual savings banks ("Federal associations"). Among the purposes of this legislation is to revitalize the housing industry, to strengthen home mortgage lenders and to ensure the availability of mortgage loans. Title III of the Act is specifically designed to give associations the flexibility necessary to maintain their role of providing credit for housing. To this end, the legislation amended the Home Owners' Loan Act of 1933, 12 U.S.C. 1461–1470, to permit Federally chartered thrift institutions to exercise new powers, and to increase the scope of existing authorizations. The Act permits Federal associations to offer demand deposit accounts, including overdraft privileges, to offer NOW accounts to governmental units, to make time deposits in institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions"), to make commercial loans, and to engage in leasing operations. Existing powers were extended in the areas of real estate lending, investment in governmental securities, investment in commercial paper and corporate debt securities, educational lending, and consumer lending. Certain of these authorities have already been implemented by the Board on an interim basis. Board Resolution No. 82–730 (November 4, 1982), 47 FR 51732 (November 17, 1982). The Board now proposes these regulations as the first step in fully implementing the new powers. The temporary authorizations will remain in effect until permanent regulations are adopted.

Federal Preemption

The proposal would add a new section stating specifically the Board's intention that these regulations preempt any state laws or regulations purporting to affect the operations of Federally chartered institutions. This would codify a long-standing position taken by the Board and supported by a line of court decisions from *People v. Coast Federal Savings and Loan Association*, 98 F. Supp. 311 (S.D. Cal. 1951) through the recent Supreme Court decision in *Fidelity Federal Savings and Loan Association v. De La Cuesta*, 102 S. Ct. 3014 (1982).

Savings Accounts

The proposal would revise substantially the various regulations governing the issuance of savings accounts by Federal associations, thus completing the process begun by Board Resolution No. 82–193 (47 FR 13776 (1982)) to grant Federal associations the ability to structure savings accounts as required by the financial marketplace. The proposal would authorize Federal associations to issue savings accounts as permitted by their charters and bylaws subject to regulatory requirements applicable to all insured institutions. These are the requirements of the Board's Bank System Regulations (12 CFR Part 526) and Insurance Regulations (12 CFR Part 563) and the regulations of the Depository Institutions Deregulation Committee (12 CFR part 1204). The proposal would delete from the Federal Regulations provisions regarding rates of return and renewal of fixed-term accounts that currently only apply to Federal associations.

The proposal also would eliminate the prohibition on collateralization of savings deposits at Federal associations contained in 12 CFR 545.24 (1982). Currently, Federal associations are authorized to give security for public deposits (12 CFR 545.24–2), for Eurodollar certificates (12 CFR 545.1–4, 563.3–3), for outside borrowings (12 CFR 563.8), and in their capacity as a depository and fiscal agent of the government (12 CFR 545.24–3). The Board believes that the extension of the power to give security would enhance the ability of Federal Associations to attract large savings deposits which exceed FSLIC insurance coverage. The amendment also would equalize the authority of Federal associations and state-chartered insured institutions.

To limit the risk exposure of the FSLIC, the Board proposes to require that the FSLIC have the same right to purchase the collateral securing savings deposits as provided by current regulations concerning Eurodollar certificates and outside borrowings, which require an association to provide the FSLIC the right upon the default of an obligation to be given 30 days, subsequent to notification, to purchase the collateral at the price set by sale or other means. The FSLIC right to purchase would not extend to liquid assets, as defined in 12 CFR 523.10, or to assets which would be liquid but for their remaining term to maturity.

Furthermore, the proposal would make express the authority of Federal associations to issue savings accounts in book-entry form. Current regulations already have been interpreted to permit the issuance of certificate accounts in book entry form, and the proposal would codify this interpretation. By permitting such accounts to be issued, without a requirement tht a formal certificate or document be presented to the depositor, the Board believes that a cost savings to depositors and institutions will result and that the development of a secondary market will be facilitated.

The Board is also proposing to consolidate present 12 CFR 545.24–2, "Public deposits or investments," and § 545.24–3, "Tax and loan depositories; depositaries of public money and fiscal agents," into a single section, § 545.1–5, to be entitled "Public deposits, depositaries, and fiscal agents." The substance of the present regulations would not be changed by this amendment. With respect to the "Additional suretyship" provision of the proposed § 545.1–5(c), the Board requests public comment on the issue of a Federal association's authority to act as surety, subject to Board approval, on, for example, industrial development bonds. Specifically, the Board request comment on the most appropriate procedures to be used in granting an association authority to act as surety under this provision.

Governmental Unit NOW Accounts

Section 706 of the Act authoritzes member institutions of the Fedral Home Loan Bank System to offer NOW accounts for deposit of public funds by a unit of a Federal, state or local government. The proposal would amend 12 CFR 526.1(l) (as amended by 47 FR 13781 (1982)) to implement this authority.

Demand Deposits

Section 312 of the Act permits Federal associations to accept non-interest-bearing demand accounts under certain circumstances. The proposal would

implement this new power by authorizing associations to accept demand accounts from persons or organizations with a business, corporate, commercial or agricultural loan relationship with the association. The proposal specifies that a business, corporate, commercial or agricultural loan relationship is any loan other than a loan on a home to be occupied by the borrower or a loan to a natural person for personal, family or household use. A loan relationship would be defined to include any outstanding loan, the establishment of a line of credit, or a previous loan and a reasonable expectation of the renewal of a lending relationship. Associations also would be permitted to accept demand accounts from a commercial, corporate, business, or agricultural entity for the sole purpose of effectuating payments to the entity by nonbusiness customers of the entity; the nonbusiness customers need not have any relationship with the association. This provision is not intended to prevent a business from making a payment to such an account when acting in a capacity equivalent to that of an individual consumer. For example, a utitlity company with or without a loan relationship with a Federal association could maintain a demand account to allow all of its customers, including corporate customers, to pay their monthly bills.

The Act also authorizes associations to offer overdraft privileges on demand accounts. The proposal would implement the overdraft loan authority subject to the percentage-of-assets and other limitations on commercial loans. The Board solicits comments regarding whether there is a need to define the overdraft lending authorized in conjunction with demand and NOW accounts.

Real Estate Loans

Section 322 of the Act revised the statutory authority of Federal associations to make loans on the security of "residential" and "nonresidential" real property. In implementing this provision, the Board is proposing to define these terms and to restructure its real estate lending regulations. "Residential real property" (or "residential real estate") would be defined essentially the same as in section 5(c)(6) of the Home Owners' Loan Act, 12 U.S.C. 1464(c)(6) (Supp. IV 1980), and would include homes, multi-family dwellings, combinations of either of these and business property, farm residences, combinations of farm residences and commercial farm real estate, or property that will be improved by the construction of such structures. "Nonresidential real property" (or "nonresidential real estate") would include all other real estate.

The definition of residential real estate would include "real estate used for primarily residential purposes other than a home." Combinations of such real estate and business property involving only minor business use would also be included within the definition. The Board is proposing to use this description of real estate in lieu of the definition of "other dwelling unit" (currently 12 CFR 541.16 (1982)). The term proposed would include those types of real estate specified in 12 CFR 541.16, such as multifamily dwellings, structures (or parts thereof) designed or used as fraternity or sorority houses which include sleeping accommodations for students of a college or university, structures used principally for living accommodations for students, employees, or staff of a college university, or hospital or for a nursing home or convalescent home. The Board believes that the definition is unnecessary if the type of real estate is adequately described in the definition of residential real estate.

The Board is also proposing to revise further the definitions in Part 541 by removing certain definitions that are unnecessary in light of the amendments made to the real estate lending regulations and by amending certain others. Section 541.3, "Combination of dwelling units, including homes, and business property, involving only minor or incidental business use," would be amended by deleting the reference to "other dwelling units," the definition of which at § 541.16 is being deleted, as mentioned above. Section 541.12, "Improved real estate", would be amended by deleting the reference to § 541.16, adding the language currently at 12 CFR 541.17(b), and amending the title to "Improved residential real estate." A new section 541.33, "Improved nonresidential real estate," would be added and would consist of the present § 541.17 (a) and (c). Section 541.17, "Other improved real estate," would be deleted, its provisions being incorporated into the proposed §§ 541.12 and 541.33. Section 541.29, "Unimproved real estate," would be amended to include a reference to the new § 541.33. The Board requests public comment on the effect, if any, of these changes and whether any of the remaining definitions in Part 541 of the Federal Regulations may be clarified, amended, or eliminated as a means of further simplifying the Board's real estate lending regulations.

In revising the real estate lending regulations, the Board is proposing to consolidate into one section, 12 CFR 545.6, the authority for Federal associations to make loans on the security of real estate and most of the limitations on that authority. As amended, § 545.6 would provide broad authority for Federal associations to invest in real estate loans, subject to the limitations in that Part. A real estate loan is defined as one made on the security of residential or nonresidential real estate where the real estate is the primary security for the loan. The proposed language would eliminate the current requirement that loans on nonresidential real estate be secured by a first lien. In addition, the authorization would include specifically the brokerage, warehousing and servicing of real estate loans as part of an association's authorized investments. The proposal would also provide that a loan would be considered to be secured by a lien on real estate if it is secured by an interest in fee or in a leasehold or subleasehold extending or renewable automatically at the option of the holder or the Federal association for five years beyond the loan maturity. Loans secured by an assignment of such a loan would also be included. The existing provision in 12 CFR 541.14 pertaining to this matter would be deleted as being no longer necessary.

The Board has considered including within the investment authorization of its real estate lending regulations a provision pertaining to loans secured by time-sharing units. In some states the interest conveyed in the unit may be a fee interest in the shared real estate, on which an association may foreclose to the same extent as with a fee interest in any other real estate. In these circumstances, a loan made on the security of the property could be categorized as a real estate loan rather than a consumer loan, as it is currently viewed. The Board acknowledges that the value of the security property will be less than the value of the aggregate number of time-share units in the security property. The Board recognizes, however, that an individual time-share unit will also include other rights and privileges that incidentally enhance its value. A foreclosing association could rely on this incidental value to ensure that a subsequent resale of the unit would cover its outstanding loan. In states where the owner of a time-share unit has only a right to use the property, a loan on the security of the would not be deemed to be a real estate loan. The Board is requesting comment on whether it would be appropriate to

include within its real estate lending regulations a provision allowing loans on the security of fee interests in time-share units.

Because the value of a time-share unit is attributable in part to the fee interest in the real estate and in part to the incidental rights and privileges, the Board believes that such a provision if adopted should limit the amount of any real estate loan on a unit to the owner's *pro rata* interest in the appraised value of the real estate alone. Any excess amount of the loan (i.e., that attributable to the incidental rights) would be made under the consumer lending authority.

Those parts of the present § 545.6 pertaining to the determination of loan-to-value ratios would be retained, except for the amendments noted below, although the Act eliminated the statutory loan-to-value requirements. This is not indictive, however, of a decision by the Board that these are necessary in their present form. To the contrary, the Board believes that it may be appropriate to eliminate or reduce these requirements, and specifically requests comments on what loan-to-value ratios, if any, are a necessary component of a regulatory program to ensure safe and sound operation.

Paragraph (b) of the proposed § 545.6 would apply to loans made on the security of residential real estate. The provisions pertaining to home loans would be substantially the same as the present regulations. The proposal would provide, however, that interest on a home loan need not be paid semi-annually, as would be otherwise required, in the case of a reverse annuity mortgage. The loan contract would also be permitted to provide that an association receive a portion of the interest on the loan in the manner permitted by proposed new section 555.19, pertaining to interest expressed as a percentage of income from security property. In addition, the proposal would add a sentence to § 545.6(b)(1)(*a*) specifically allowing Federal associations to make a loan on which the percentage or dollar amount of the payments may very pursuant to a formula or schedule set forth in the loan contract. The Board is proposing this change to make clear that the loan contract may provide that the initial interest rate on a home loan may be increased at intervals agreed to in the loan contract independent of any interest-rate index. The existing loan-to-value limitations for home loans would be retained.

The provision pertaining to multi-family dwelling loans would be changed to reflect the proposed deletion of the term "other dwelling units" from the definitions in Part 541. The Board believes that the use of descriptive language is adequate to indicate the type of dwelling that would constitute a multi-family dwelling. The provision allowing minor or incidental business use would be retained. The Board is also proposing to allow an association to include in the contract for a multi-family dwelling loan a provision allowing negative amortization of interest, essentially to the same extent as is currently allowed on nonresidential real estate loans.

Proposed paragraph (c) of § 545.6 would allow a Federal association to make loans on the security of nonresidential real estate up to 40 percent of its assets. There would be no requirement that such loans be secured by a first lien. No such loan, however, could exceed the existing limit of 90 percent of the value of the security property.

The Board is proposing to consolidate into paragraph (d) of § 545.6 the authority and limitations for making acquisition loans, development loans, loans on the security of building lots and sites, construction loans, and rehabilitation loans. At present, these provisions (with the exception of construction loans) pertain solely to loans made on the security of residential real estate. The Board is proposing to allow associations to make loans pursuant to paragraph (d) on the security of both residential and nonresidential real estate because it believes that there is no reason to distinguish between the two types of loans in light of the increased investment authority for nonresidential real estate loans.

The loan-to-value limitations for development loans and loans on the security of lots and sites would remain at 75 percent of the value of the secruity property. The Board believes that acquisition loans for unimproved land involve essentially similar risks as the latter two types of loans and, for that reason, is proposing to increase the loan-to-value ratio to 75 percent, from the existing 66⅔ percent of the security property. The Board is also proposing to allow associations to make construction or rehabilitation loans to 90 percent of the property's value. At present, construction loans on residential real estate may not exceed 75 percent of the property's value, while those on commercial real estate may be made to 90 percent. The Board believes that the construction of structures or the improvement of existing structures on real estate is sufficient reason to allow loans to 90 percent, regardless of whether the structure is to be used for residential or nonresidential purposes.

The Board is also proposing to amend those provisions pertaining to the maximum loan terms for construction and rehabilitation loans, loans (other than for an individual residence) on the security of building lots and sites, loans to finance the development of real estate, and combination loans. Currently, the regulations provide specified maximum terms for each of the types of loans and allow extensions for various periods. Because an association may readily extend the loan term as a matter of practice, the Board believes that it should eliminate the provisions regarding extensions and instead allow loans to be made within new maximum terms equal to the present term plus the length of the permissible extension for each type of loan.

With respect to combination loans authorized by the proposed § 545.6(e), the Board is proposing to simplify the method of amortizing the principal loan balance over the remaining term. At present, the regulations require amortization at a rate of 1½ percent of that portion of the loan balance applicable to any home after 3 years, and not applicable to the construction of any home after 4 years. The proposal would require that the amortization be calculated on a straight-line basis, rather than at the rate of 1½ percent.

In all other respects, the existing regulatory provisions for these types of loans would be in substance unchanged. In comformity with the amendments regarding real estate lending generally, however, §§ 545.6–2, 545.6–6, and 545.6–4 would be removed.

In order to simplify the existing regulations pertaining to the permissible investments that an association may make in loans insured or guaranteed by a government agency, the Board is proposing to consolidate present 12 CFR 545.6–1, 545.6–11, 545.6–13, 545.6–14, and 545.7–2 into a single section to be designated as § 545.6–1, "Insured and guaranteed loans." The substance of the prior sections would not be changed by this amendment.

In conjunction with its revision of the real estate lending regulations, the Board is proposing to adopt a ruling to clarify the extent to which a Federal association may participate with the borrower in the income generated by the security property. It has become commonplace for lenders to take an interest in the security property or a share of the income generated by the property as a means of protection against changing interest rates. Because Federal associations, in general, lack the

authority to acquire ownership interest in real estate, they may not acquire an equity interest with the borrower in the security property. This prohibition against acquiring an ownership interest has been construed to preclude an association from sharing with the borrower in the net income generated by the security property. At present, a share in the gross income from the property is not considered to constitute an equity interest in the property. To clarify any confusion that may arise from the existing interpretation, the Board is proposing to adopt a ruling setting forth the instances in which an association may participate with the borrower in the income from the property.

In principle, the Board believes that a share of the income from the security property does not necessarily constitute a prohibited equity interest because it is calculated as a percentage of the income from the property. If the share of the income received in substance constitutes a part of the compensation for the use of an association's funds, it should be considered interest for purposes of this regulation, regardless of the manner in which it is calculated. Accordingly, the proposed ruling states that if an association receives "a substantial payment of interest calculated periodically as a percentage of the outstanding principal loan balance, it may receive additional interest in the form of a share of the income" generated by the security property.

Although the proposed ruling would pertain only to real estate loans, the Board solicits comment as to the applicability of this ruling to commercial loans made by a Federal association.

Manufactured Home Financing

The Board is taking this opportunity to propose two changes to its regulation on manufactured home financing that do not relate to new powers conferred by the Act, but would enhance the ability of Federal associations to invest in manufactured home chattel paper. Section 545.7–6(e)(2) of the Board's regulations currently requires that a manufactured home be occupied by the owner or a relative in order for a Federal association to lend on security of the home. The Board believes that owner occupancy does not necessarily provide significant enhancement of the security afforded by manufactured home collateral. Consequently, the Board proposes to delete the owner-occupancy requirement.

Section 545.7–6(e)(4) of the Board's regulations also restricts the purchase of retail manufactured home chattel paper by providing that such paper secured by property located outside the association's normal lending territory may be purchased only if the seller retains a 25-percent interest in each document evidencing a loan secured by the paper. This requirement has prevented Federal associations from participating as investors in secondary market offerings of pass-through securities based on manufactured home loans. Although restated in the proposal at § 545.7(e)(4), the Board is considering either deleting this 25-percent retention requirement or imposing substitute or alternative requirements calling for: (1) Primary credit insurance; (2) pool insurance (for pass-through and similar securities); (3) an investment-grade rating of the chattel paper by a nationally recognized rating service; or (4) any combination of the prior three factors. The Board requests specific comments on the desirability of each of these options.

In addition to these two changes, the Board proposes to make a technical change in the language of proposed § 545.7(e)(2)(iii)(*a*) to clarify that that provision applies only to new manufactured homes.

Commercial Loans

Proposed § 545.8 would implement the commercial lending authority set forth in section 325 of the Act. In implementing this authority it is the intent of the Board to give associations the broadest authority permitted by section 325 in order to maximize potential benefits while limiting the risks inherent in this previously unauthorized activity.

The definition of "commercial loan" in paragraph (a) of the proposed regulation is purposefully broad. Any loan made to a business or government entity would be presumed to satisfy the "commercial, corporate, business, or agricultural purposes" test of the regulation. An association would be able to rely on a natural person's statement of purpose for requesting a loan.

Paragraph (b)(1) would authorize investment and dealing in commercial loans, subject to statutory percentage-of-assets limits. The percentage-of-assets limitations would generally apply to a loan only if an association has not elected to make it under another applicable section; however, the 5%, 7½%, or 10% commercial loan "basket" would always include overdraft loans on business demand deposits and standby letters of credit. The Board believes, however, that Congress did not intend that the limitations apply to other authorized loans and investments that may have a business purpose, such as nonresidential real estate loans, but are subject to separate statutory percentage-of-assets limitations. For purposes of applying the percentage-of-assets limitations, the proposed regulation would clarify that a loan commitment is not a "loan" until funds have been advanced under it, and loans sold are not included in the basket unless sold with recourse.

Section 325 of the Act subjects commercial loans of Federal associations to the same limitations on loans to one borrower that apply to national banks. The proposed rules implementing this requirement are discussed under the heading "Limitations on Loans to One Borrower" below.

In connection with the issuance of these proposed rules on commercial lending, the Board requests comments on whether any special requirements regarding recordkeeping and lending practices (other than those in proposed § 545.8–7) would be appropriate.

Letters of Credit

Proposed § 545.8–2 would provide general authority for Federal associations to issue commercial and standby letters of credit, and would set forth basic requirements relating to this activity. (As discussed under the heading "Limitations on Loans to One Borrower," standby letters of credit would be subject to special loans-to-one-borrower limitations under § 563.9–3.)

A Federal association's authority to issue letters of credit flows from two sources. First, as instruments of commercial credit, letters of credit are authorized by the commercial lending provisions of the Act discussed above. Second, to the extent letters of credit are used to secure performance of an obligation, they may be authorized by Board regulation pursuant to section 5 (b)(2) of the Home Owners' Loan Act of 1933 (12 U.S.C. 146(b)(2)).

The basic requirements set forth in the proposed regulation are based on comparable provisions in the regulations of the Comptroller of the Currency (12 CFR 7.7016, 7.1160), and are dictated by principles of sound banking practice. The Board expects to issue in the near future more detailed guidelines for letters of credit through its Office of Examinations and Supervision.

Consumer Loans

Section 329 of the Act expands the consumer lending authority of Federal associations to include loans reasonably incident to personal, family, or household purposes. The legislative history indicates that this authorization

is intended to include inventory and floor planning financing in conjunction with extensions of consumer credit, and the proposal implements this expanded authority. The Board is also considering whether this authority should permit loans secured by accounts receivable derived from credit sales of consumer goods, and specifically requests comments on this question and suggestions of other types of financing that might be included in this broadened consumer authority. The proposal also would increase to 30 percent the proportion of an association's assets that may be invested in consumer loans, and would substitute the commercial loans-to-one-borrower limitations for the more restrictive limits contained in the current section.

Educational Loans

Current regulations provide that Federal associations can invest in loans for payment of expenses of college, university or vocational education. The Act expands this authority to include loans for any educational purpose. The proposed amendment would make a corresponding change in the language of the regulation.

Finance Leasing

The Board proposes to expand Federal assocations' authority to engage in leasing activities that are the functional equivalent of lending. In the Board's view, Federal associations have the power to engage in such leasing activities under the lending authority provided by the Home Owners' Loan Act of 1933, as amended. Currently, 12 CFR 545.7–10a of the regulations authorizes Federal associations to become legal or beneficial owners of personal property to be leased to consumers for personal, family or household purposes. Such leases must be net, full-payout leases, which are defined to be leases under which a Federal association has no responsibility for maintenance of the leased property and under which the association expects to receive a full return of its investment plus the estimated cost of financing the property over the lease term from rentals, estimated tax benefits, and the residual value of the property. The regulation specifies that the estimated residual value of the leased property may not exceed 25 percent of its acquisition cost, unless the excess over 25 percent is guaranteed. The regulation is substantially similar to the ruling of the Office of the Comptroller of the Currency ("OCC") governing consumer leasing by national banks. 12 CFR 7.3400 (1982). Both the OCC's ruling and the Board's regulation reflect the guidelines established by the courts for bank leasing activities that are the functional equivalent of lending. *See M & M Leasing Co. v. Seattle First National Bank*, 563 F.2d 1377 (9th Cir. 1977), *cert. denied*, 436 U.S. 956 (1978).

The Board proposes to expand Federal associations' existing consumer leasing authority consistent with the new commercial lending authority. The Board also proposes to permit real property leasing that is the functional equivalent of real estate lending. As proposed, leases of personal and real property would have to be structured as net, full-payout leases, and the estimated residual value of the property at the end of the initial lease term could not exceed 25 percent, in the case of personal property, or 20 percent, in the case of real property, of the acquisition cost of the property. In addition, associations would be required to liquidate their interest in the property as soon as practicable upon expiration of the lease. The Board specifically requests comment on whether these percentages are appropriate for finance leases.

A "net" lease would be defined so as to preclude an association from directly or indirectly becoming obligated to provide for the repair or maintenance of the property, the purchasing of parts or accessories, the loan of replacement or substitute property, the purchasing of insurance for the lessee, or the renewal of any license, registration or filing required for the property. A "full-payout" lease would be defined to be one from which an association reasonably could expect to recover its investment in the property, plus the cost of financing it over the lease term, from rental payments, estimated tax benefits (*e.g.*, investment tax credit, net economic gain from tax deferral due to accelerated depreciation), and the estimated residual value of the property upon expiration of the initial lease term. The proposed regulation would also permit an association to include in a lease such provisions and to enter such additional agreements as would be necessary to protect the value of the property or its interest as the lessor or lessor's assignee.

Since the proposed financial leasing authority would be the functional equivalent of lending on the security of the leased property, the proposed regulation would provide that leases entered into pursuant to the finance leasing authority would be subject to all of the limitations on investment in comparable loans, including limitations on total investment in a particular type of loan as well as limitations on individual loan transactions (*e.g.*, loans to one borrower). Thus, a lease of personal property to a consumer for personal, family or household purposes would be subject to the limitations applicable to investment in consumer loans. A lease of personal property for corporate, commercial, agricultural or business purposes would be subject to the limitations applicable to commercial loans. Finally, a lease of real property would be subject to the limitations applicable to real estate loans. It is noted that, with respect to the limitations on total investments in loans or leases of a particular type, an association entering into a finance lease would be able to issue the lease either under the finance lease regulation, which would tie the association to the limitations applicable to loans, or under the leasing regulation (discussed below), which provides independent authority to invest up to ten percent of assets in leasing activities.

General Leasing Authority

The Board also proposes to implement the authority provided Federal associations by section 330 of the Act to invest up to ten percent of assets in all types of tangible personal property for the purpose of leasing such property. The proposed § 545.12–6 would permit investments in both financing and operating leases. Thus, associations would not be limited to entering into net, full-payout leases, but would be permitted to assume responsibility for, among other things, servicing and maintaining the property. In addition, an association would not have to expect to be reimbursed for its investment in the leased property within the lease term.

The only limitation in the proposed regulation would prohibit entering into a lease under which the estimated residual value of the leased property would exceed 70 percent of the acquisition cost of the property. The effect of this limitation would be to prevent an association from entering into extremely short-term leases, such as daily rentals of cars, where the value of the property could not be expected to drop 30 percent during the term of the lease. The Board specifically requests comment on whether a limitation or 70 percent is appropriate for limiting the leasing authority in this way.

In connection with the authorization for Federal association to engage in leasing activities, the Board proposes to permit similar authority for service corporations of Federal associations. In addition, the Board requests comment on whether service corporations should

be permitted to engage in leasing activities without limitation as to the estimated residual value of the leased property. In this regard, the Board notes that section 330 of the Act contains no such limitation.

Also in connection with Federal associations' proposed leasing authority, the Board notes that, under the definition of scheduled items as the definition is proposed to be amended (see discussion below), both leases on which the required payments are overdue and real and personal property repossessed by an association because of the lessee's failure to make the required lease payments would be defined to be a scheduled item.

Finally, the Board requests comment on what recordkeeping requirements would be appropriate for institutions engaged in leasing activities, including state-chartered institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation. The Board's existing recordkeeping requirements do not directly address such activities.

Government Securities

Section 324 of the Act authorizes Federal associations to invest in obligations of or obligations issued by any state or political subdivision thereof, including any instrumentality of a state or political subdivision. Accordingly, the Board proposes to implement this authority by authorizing Federal associations, which currently are limited to investing in *general* obligations of a state, territory or possession of the United States, or political subdivision thereof, to invest in any obligation of a governmental unit, including an agency, corporation of instrumentality of a governmental unit, provided that (1) as section 324 requires, investment in the obligations (other than general obligations) of any one issuer does not exceed 10 percent of the sum of an institution's regulatory net worth (as defined in 12 CFR 561.13), excluding the amount of regulatory net worth attributable to appraised equity capital, plus reserves for loan losses, *and* (2) such obligations whether or not they are general obligations continue to hold one of the four highest national investment grades, or are issued by a public housing agency and are backed by the full faith and credit of the United States.

Implementation of this authority would be accomplished by amending 12 CFR 523.10(g)(6) defining liquid assets, which section is referenced by the regulation authorizing Federal associations' investment in securities. In addition, the Board would retain Federal associations' authority to invest up to one percent of assets in such obligations without regard to their investment ratings. Finally, the Board notes that the authority currently provided associations by 12 CFR 545.7–11 to invest in state and local housing obligations is subsumed into the broader authority granted by section 324. Therefore, the Board proposes to delete § 545.7–11.

In connection with this implementation of authority, the Board proposes to permit members of the Federal Home Loan Bank System to count such obligations, subject to the investment limitations described above, in satisfaction of their liquidity requirements. Such obligations would count as liquid assets only if their remaining terms to maturity were two years or less, and as short-term liquid assets only if their remaining terms to maturity were six months or less. The Board also proposes to make minor technical changes to paragraph (h)(3) of § 523.10 to conform the wording to amendments adopted by the Board on October 27, 1982, 47 FR 50201 (1982).

Service Corporations

Although the Act does not directly address the activities of service corporations, several of its sections have an impact on the service corporation authority. First, the legislative history, while suggesting that service corporation activities generally should not be expanded, stated that new regulations to permit service corporations to engage in the same activities authorized to parent associations would not be objectionable. Secondly, the commercial lending authorization specifically requires loans by an association's service corporation to be included in calculating the amount of an association's assets devoted to this type of lending. For these reasons, the proposal includes amendments to the service corporation authority to include commercial lending and investments in tangible personal property as preapproved activities. The proposal would also rearrange this section and make various technical amendments.

Corporate Debt Securities and Commercial Paper

Current regulations permit investment in commercial paper and corporate debt securities, defined at 12 CFR 541.27 and 541.28, provided that such investments together with consumer loans do not exceed 20 percent of an association's assets. The proposal would remove this limit, which has been deleted from the Home Owners' Loan Act. Purchases of commercial paper would be limited to instruments of investment quality rated in the top two grades by a national rating service. Corporate debt securities would be required to be rated in the top four grades and marketable. A new provision would permit limited investment in commercial paper and corporate debt securities not subject to specific requirements as to quality. The current limitations on purchases of commercial paper and corporate debt securities from a single issuer would be deleted and replaced by the new limitations applicable to commercial loans to one borrower. Conforming changes to § 523.10(g)(9) are also proposed.

Funds Transfer Services

Existing § 545.1–6 (12 CFR 545.1–6), sets forth the authority of federal associations to provide funds transfer services to their customers. Because the existing regulation expressly recognizes only certain types of funds transfer mechanisms, the Board has received numerous inquiries regarding the authority of associations to use other mechanisms and devices. In order to clarify the Board's position, § 545.1–6 would be amended to authorize funds transfer by any means conforming with applicable laws and established commercial practices. In addition to transfers of customers' funds, the proposed regulation would confirm an association's authority to use any of these payment mechanisms to transfer its own funds for purposes relating to its everyday operations.

Election Regarding Classification of Loans

Proposed § 545.5 would expressly permit a Federal association to choose the lending or investment authority provision under which a loan or investment would be made if the transaction met the requirements of more than one provision. This section would replace comparable provisions found in various lending authority regulations (e.g., § 545.7–10(b)) and codify an established interpretation of the Board's lending and investment regulations.

Limitations on Loans to One Borrower

The Board proposes to amend § 563.9–3 to impose stricter limitations on the extension of commercial credit to one borrower by insured institutions. The limitations imposed would be comparable to those applicable to national banks under 12 U.S.C. 84, which are also applicable to commercial lending by Federal associations pursuant to section 325 of the Act. The

Board believes the application of these restrictions to insured state-chartered institutions is recommended by safety and soundness considerations, even though it is not required by statute, because of the increased insurance risk posed by excessive commercial lending to one borrower.

The loans-to-one-borrower limitations applicable to national banks are expressed in terms of percentages of "unimpaired capital and unimpaired surplus." Mutual institutions do not have equity accounts designated "capital" and "surplus"; therefore, it is necessary for the Board to define "unimpaired capital and unimpaired surplus" for purposes of these limitations. The Board believes the legislative purpose behind tying these limitations to "capital" and "surplus" was to ensure that a lending institution would be able to absorb potential losses on commercial loans.

The Board proposes to define "unimpaired capital and unimpaired surplus" to mean regulatory net worth (as defined in 12 CFR 561.13) plus specific reserves for loan losses, less appraised equity capital. The Board proposes to exclude the "appraised equity capital" account from the definition of "unimpaired capital and unimpaired surplus" because national banks have no comparable account and this account is only authorized temporarily for insured institutions. Finally, the Board proposes to include all specific reserves for loan losses, even though they are not part of regulatory net worth, because they constitute reserves for absorption of losses. The Board notes that at present the Comptroller of the Currency's regulations include only 50 percent of loan loss reserves in "unimpaired capital and unimpaired surplus"; however, the Comptroller has proposed to amend the regulatory definition to include all such reserves. *See* 46 FR 40520, Aug. 10, 1981.

The proposed amendments would apply the limitations in 12 U.S.C. 84 (i.e., 10% of unimpaired capital and unimpaired surplus until April 14, 1983; thereafter, 15% for unsecured loans and an additional 10% for fully secured loans) to the aggregate of: (1) Loans to one borrower for commercial, corporate, business, or agricultural purposes, except those fully secured by real estate or deposit accounts; (2) all investments in commercial paper and corporate debt securities of one issuer; (3) financial leases to one lessee for commercial, corporate, business, or agricultural purposes; and (4) standby letters of credit. Commercial loans secured by real estate or deposit accounts would be excluded because (1) insured institutions have expertise in assessing the riskad involved in real estate loans, (2) account loans involve very little risk, and (3) the Board believes Congress generally did not intend the limitations in 12 U.S.C. 84 to be applied to loans of the type authorized for Federal associations prior to the Act. The proposed rule for commercial paper and corporate debt securities is in recognition of the similarity between the risks posed by these investments and commercial loans. The proposed inclusion of commercial financial leases is warranted because these are the substantive equivalent of direct commercial loans. Finally, the limitations would apply to a standby letter of credit for which the issuer-institution has not been "put in funds" by the account party, since the risks posed by the obligation on the letter of credit are comparable to those involved in a commercial loan.

The Board also proposes to make a technical correcting amendment to § 563.9–3 to incorporate a change that was formally adopted by Board action on January 3, 1980 (Res. No. 80–18) but, through inadvertence, was never reproduced in the Code of Federal Regulations. As explained in the Board's 1980 action, the amendment was intended to exclude from the loans-to-one-borrower limitations loans made under HUD's former Section 23 program only, not loans made under the Section 8 program. A detailed discussion of the amendment may be found at 47 FR 1849 (Jan. 9, 1980).

Definition of Scheduled Items

The Board uses the term "scheduled items" to describe assets whose carrying value on an institution's books may not be fully realized. The amount of scheduled items is factored into the calculation of net-worth requirements pursuant to § 563.13(b) of the Board's regulations, and is utilized as one of several indicators of an institution's financial soundness. Section 561.15 of the Board's regulations defines "scheduled items" to include slow loans and real estate acquired as a result of or in lieu of foreclosure. Currently, however, due to broadened lending authority provided to both state and Federally chartered savings and loan associations, a significantly larger portion of the lending activities engaged in by institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") ("insured institutions") involves loans secured by assets other than real estate, such as securities, manufactured homes, and other types of personal property.

There does not appear to be a basis for distinguishing between real estate acquired by an insured institution by or in lieu of foreclosure and other types of assets acquired through enforcement of a security interest. Therefore, the Board proposes to amend its definition of scheduled items to incorporate all types of assets acquired through enforcement of a security interest.

The proposal would incorporate the changes by amending paragraphs (g), (h), (i) and (j) of § 561.15. Paragraphs (i) and (j) would be amended to parallel the treatment given real estate under paragraphs (c) and (d) by including within the definition of scheduled items personal property acquired through enforcement of a security interest as well as loans secured by personal property thus acquired.

Paragraph (g) would be amended to provide that *any* asset, whether real or personal property, acquired in exchange for any scheduled item is itself a scheduled item. Thus, assets acquired in exchange for slow consumer loans of any type (as defined in § 561.16a), and assets acquired in exchange for assets that previously had been acquired through enforcement of a security interest, would be included within the definition of scheduled items. However, as currently is the case, securities with market values equal to or exceeding their book values at the time of acquisition, securities qualifying as liquid assets under § 523.10(g), and assets owned pending transfer to an insuring or guaranteeing agency of the United States Government (*e.g.*, Veterans' Administration, Federal Housing Administration) would be excluded from the definition.

The proposal would also amend paragraph (h) to include within the definition of scheduled items any assets transferred by an insured institution to a service corporation or to any corporation in which an insured institution has an investment, to the same extent the assets would have been so included if not transferred.

Finally, as is discussed above with respect to leasing activities, the definition of scheduled items would be amended to include both leases on which the required payments are overdue and personal or real property that is repossessed by an insured institution because of a lessee's failure to make payments on a financing lease. The Board believes this change is necessary to accommodate an expected increase in the leasing activities of insured institutions. The change would apply only to financing leases and would be accomplished by adding a new

paragraph (k) to § 561.15 providing that a financing lease would be treated as a loan secured by the leased property for purposes of the definition. The Board specifically requests comment on whether other types of leases also should be included within the definition of scheduled items.

Other Amendments

Passive Trusts. The Board proposes to permit a Federal association to serve as the trustee for passive trusts such as funeral trusts without requiring it to apply for trust powers under 12 CFR 550.2. This authority will be available to Federal associations only if it is granted by state law to other financial institutions. Since the only duties of the trustee of such trusts are to invest funds in savings accounts or certificates of deposit and to disburse the funds upon the termination of the trust, the Board believes it is unnecessary to apply the requirements of Part 550 to associations that wish to engage in this limited activity.

Escrow Accounts. The proposal would amend the Board's regulations (currently at 12 CFR 545.8–3 (b), (c)) governing the establishment of, and payment of interest on, escrow accounts. These regulations currently restate the requirements of the Real Estate Settlement Procedures Act of 1974, as amended (12 U.S.C. 2601–2617) ("RESPA"). The amendments would reference rather than incorporate the requirements of RESPA, thus simplifying the regulation. The regulations also currently require the payment of interest on escrows in connection with owner-occupied single-family dwellings if state law requires state-chartered lenders to pay interest. The amendments would liberalize these requirements by permitting Federal associations full discretion to contract to pay interest on escrow accounts. In addition to these amendments, the Board solicits comments on how the terms governing escrow accounts should be disclosed to borrowers.

Late Charges. The proposal would amend the regulations governing the imposition of late charges (12 CFR 545.8–3 (d), (e)) that currently limit the assessment of late charges on owner-occupied single-family dwellings. In part, the regulations require a 15-day grace period after the due date of a periodic installment payment before a late charge may be imposed and limit late charges to a dollar amount not exceeding 5 percent of the aggregate amount of principal and interest included in the delinquent payment. The amendments would delete these restrictions and permit associations to specify the duration of the grace period, if any, and the amount of the late charge in the loan contract. In addition to comments on these specific amendments, the Board solicits comments on how late charge provisions should be disclosed to borrowers.

Due-on-Sale Clause. The proposal would amend the regulations (currently at 12 CFR 545.8–3 (f), (g)) governing the use of due-on-sale clauses by Federal associations to conform them to the Federal preemption provided by section 341 of the Act.

Prepayment Penalties. The proposal would amend the regulations (currently at 12 CFR 545.8–5) governing the imposition of a penalty on the prepayment of loans to provide that a Federal association may impose a penalty on prepayment of a loan as provided in the loan contract, provided that the association complies with certain disclosure requirements. On any adjustable-rate mortgage, however, the borrower would be entitled to prepay without penalty within 90 days of the notice of adjustment. An association wishing to include a prepayment penalty in the loan contract must disclose to the applicant, in plain language and prior to accepting the application, the existence of the penalty provision and the manner in which the penalty will be calculated. Specifically, the disclosure must include the maximum amount of the penalty that could be imposed under the contract. For penalties based on a fixed percentage of the outstanding loan balance, the percentage to be used must be specified. If the penalty is to be determined according to an interest-rate index, the disclosure must include a table or similar guide that shows the extent to which the penalty may vary as the index changes, and the minimum penalty, if specified in the contract.

Liquidity Base Amendments. The proposal would amend the definition of net withdrawable accounts contained in § 523.10(d) to exclude specifically accounts to the extent that security has been given upon them. The Board believes that since such deposits are collateralized, an additional liquidity requirement is not necessary.

Agencies. Section 545.16 of the regulations currently permits a Federal association to establish agencies to service and originate loans and contracts and to manage or sell real estate owned by the association. Establishment of agencies within the same state as the association's home office requires only approval of the board of directors of the association and not Board approval. Since in certain circumstances Federal associations may now operate branches outside the state where the home office is located, the proposal would amend § 545.16 to permit associations to establish agencies without Board approval in the same state as the home office of the association or in which any branch office approved by the Board was located.

General Solicitation of Comments

The Board has solicited comments from the public concerning various specific questions arising from this proposal. In addition, the Board affirmatively requests comments on any other apsects of these proposed amendments or existing Part 545 that would be of aid in producing a unified, clear, concise, logical body of regulations that incorporates as much of the spirit of deregulation as is commensurate with the Board's responsibility to ensure safe and sound operation of Federal institutions.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–35, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objective, and legal basis underlying the proposed rules.* These elements have been incorporated elsewhere into the supplementary information regarding the proposal.

2. *Small entities to which the proposed rules will apply.* The proposed rule would apply only to Federal savings and loan associations and institutions the accounts of which are insured by the FSLIC.

3. *Impact of the proposed rules on small institutions.* The proposal would permit institutions to expand their services and investment activities regardless of size. There would be no disproportionate effect on small institutions.

4. *Overlapping or conflicting federal rules.* There are no known Federal rules that may duplicate, overlap, or conflict with the proposal.

5. *Alternatives to the proposed rules.* To the extent that there are alternatives to any elements of the proposed rule, discussion of them has been incorporated into the supplementary information.

Regulatory Analysis

The elements of regulatory analysis for major proposed regulations required by Board Resolution No. 80–584 (September 11, 1980) have been incorporated into the supplementary information regarding the proposal.

List of Subjects

12 CFR Part 523

Federal Home Loan banks, Savings and loan associations, Applications.

12 CFR Part 526

Federal Home Loan banks.

12 CFR Parts 541, 545, 555, 561 and 563

Savings and loan associations.

CROSS-REFERENCE TABLE

Proposal (section)	[illegible]	Present (section)
523.10	Definitions for purposes of this section, § 523.11 and § 523.12.	[illegible]
526.1	Definitions used in this part	526.1.
541.3	Combination of residential real estate and business property involving only minor or incidental business use.	541.3.
541.12	Improved residential real estate	541.12, 541.17(b).
541.14	Loans secured by liens on real estate	541.14.
541.16	Other dwelling unit	541.16.
541.17	Other improved real estate	541.17.
541.29	Unimproved real estate	541.25.
541.31	Residential real estate	[None.]
541.32	Nonresidential real estate	[None.]
541.33	Improved nonresidential real estate	541.17(a), 541.17(c).
545.0	Federal preemption	545.6a.
545.1	Insured accounts	545.1, 545.1-1, 545.1-2, 545.1-3.
545.1-1	Account records	545.2.
545.1-2	Distribution of earnings	545.3.
545.1-3	Withdrawls	545.4.
545.1-3(e)	Payments to third parties	545.4-1.
545.1-4	Give-aways	545.5.
545.1-5	Public deposits, suretyship, depositaries, and fiscal agents.	545.24-2, 545.24-3.
545.1-6	Funds transfer services	545.4-1.
545.2	Issuance of stock	[None.]
545.2-1	Issuance of mutual capital certificates	545.5-1.
545.3	Issuance of net worth certificates	[None.]
545.4	Borrowing	545.24.
545.4-1	Borrowing from a state-chartered central reserve [illegible]	545.24a.
545.5	Election regarding classification of loans or investments.	545.7-10.
545.6	Real estate loans	545.6, 545.6-2, 545.6-5, 545.6-6, 545.8-4.
545.6-1	Insured and guaranteed loans	545.6-1, 545.6-11, 545.6-13, 545.6-14, 545.7-2.
545.6-2	Home improvement loans	545.5-3.
545.6-3	Loans on low-rent housing	545.6-9.
545.6-4	Community development loans and investments	545.6-10.
545.6-5	State housing corporation investment-insured	545.7-3a.
545.6-6	Insured loans for title purchase	545.7-5.
545.6-7	General provisions respecting loans	545.8-2, 545.8-3, 545.8-5, 545.8-6.
545.6-8	Mortgage transactions with the Federal Home Loan Mortgage Corporation.	545.8-10.
545.7	Manufactured home financing	545.7-6.
545.8	Commercial loans	545.5-5.
545.8-1	Overdraft loans	545.4-1.
545.8-2	Letters of credit	[None.]
545.8-3	Loans on securities	545.7-1.
545.8-4	Loans to and investments in business development credit corporations.	545.7-3.
545.9	Consumer loans	545.7-10.
545.9-1	Credit cards	545.7-7.
545.9-2	Educational loans	545.7-4.
545.9-3	Loans on savings accounts	545.7.
545.10	Financing leases	545.7-10a.
545.10-1	Collateral loans	545.7-9.
545.11	Equalization of interest rates	545.9-9.
545.12	Securities and other investments	545.9.
545.12-1	Service corporations	545.9-1.
545.12-2	Investment in savings and demand accounts	545.9-2.
545.12-3	Investments in corporations and partnerships authorized by title IX of the Housing and Urban Development Act of 1968.	545.9-3.
545.12-4	Commercial paper and corporate debt securities	545.9-4.
545.12-5	Real estate for office and related facilities	545.10.
545.12-6	Leasing	[None.]
545.12-7	Gold transactions	545.8-11.
545.13	Home office	545.13.

CROSS-REFERENCE TABLE—Continued

Proposal (section)	Title	Present (section)
545.14	Branch offices	545.14.
545.14–1	Upgrading of approved branch office	545.14–1.
545.14–2	Closing a branch office	545.14–2.
545.15	Change of office location and redesignation of offices.	545.15.
545.16	Agency	545.16.
545.17	Fiscal agency	545.17.
545.17–1	Trustee	545.17–1.
545.18	Adjustments to book value of assets	545.18.
545.19	Real estate owned	545.19.
545.20	Accounting records	545.20.
545.21	Monthly reports	545.22.
[illegible]	Statement of condition	545.23.
[illegible]	Indemnification of directors, officers and employees	545.25.
545.23–1	Employment contracts	545.25–1.
545.24	Advisory boards and committee	545.26.
545.25	Referral of insurance business	545.27.
[illegible]	Communication between members of a Federal mutual association.	545.28.
545.27	Financial futures transactions	545.29.
545.28	Financial options transactions	545.29–1.
545.29	Data-processing services	545.16–1.
545.30	Insurance of GNMA-guaranteed, mortgage-backed securities.	545.24–1.
545.31	Correspondent services and accounts	545.30.
545.32	Remote Service Units (RSUs)	545.4–2.
[illegible]	Real estate	555.3.
555.11	Loans for acquisition and development of land	555.11.
555.15	Prepayment penalty on mortgage loans	555.15.
555.19	Receipt of interest expressed as a percentage of the income from the security property.	[None.]
561.15	Scheduled items	561.15.
563.3–3	Eurodollar deposits	563.
563.8	Borrowing limitations	563.8.
563.8–2	Corporation's right of purchase	[None.]
563.9–3	Loans to one borrower	563.9–3.

Accordingly, the Board hereby proposes to amend Parts 523 and 526 of Subchapter B, Parts 541, 545 and 555 of Subchapter C, and Parts 561 and 563 of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 523—MEMBERS OF BANKS LIQUIDITY

1. Revise paragraphs (d), (g)(6) and (9), and (h)(3) and (5) of § 523.10, as follows:

§ 523.10 Definitions for purposes of this section, § 523.11 and § 523.12.

* * * * *

(d) *Net withdrawable accounts.* All withdrawable accounts less the unpaid balance of all loans secured by such accounts, but not including tax and loan accounts, note accounts, accounts to the extent that security has been given upon them pursuant to § 563.8–2 of this Chapter, United States Treasury General Accounts, or United States Treasury Time Deposit-Open Accounts.

* * * * *

(g) *Liquid assets.* * * *

(6) Obligations of or obligations issued by (other than gold-related obligations) any state, territory or possession of the United States or political subdivision thereof, including any agency, corporation or instrumentality of a state, territory, possession or political subdivision: *Provided,* That a member's investment in the obligations (other than general obligations) of any one issuer shall not exceed 10 percent of the sum of its regulatory net worth, as defined in § 561.13 of this Chapter, excluding the amount of regulatory net worth attributable to appraised equity capital, plus reserves for loan losses, and that:

* * * * *

(9) Corporate debt obligations and commercial paper issued by a non-governmental entity, but not including investments in the commercial paper or corporate debt obligations of a single issuer in amounts in excess of one percent of such institution's assets, if:

(i) Such corporate debt obligations (*a*) continue to be rated in one of the four highest grades by the most recently published rating of such obligations by a nationally recognized investment rating service, (*b*) are marketable as defined by § 545.12–4(b)(2) of this Part, (*c*) will mature in three years or less, and (*d*) are not convertible to common stock;

(ii) Such commercial paper (*a*) continues to be rated in one of the two-highest grades by the most recently published rating of such paper by a nationally recognized investment rating service, or, if unrated, is issued by a company or subsidiary of a company having outstanding paper that is so rated, (*b*) will mature in 270 days or less; and

* * * * *

(h) *Short-term liquid assets.* * * *

(3) Savings accounts, including loans of unsecured day(s) funds, that qualify as liquid assets under paragraph (g)(4) of this section, and, in the case of negotiable savings accounts, will mature in six months or less;

* * * * *

(5) Obligations specified in paragraph (g)(6)(i)(*b*) of this section that will mature in 6 months or less;

* * * * *

PART 526—LIMITATIONS ON RATE OF RETURN

2. Amend § 526.1 by removing the word "notice" from the first sentence of paragraph (e) thereof and adding in its place the word "note", and revising paragraph (l) thereof, as follows:

§ 526.1 Definitions used in this Part.

* * * * *

(l) *NOW (negotiable order of withdrawal) account.* A savings account on which interest is paid subject to the rate limitation in § 526.3 of this Part, and from which the owner may make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties. The entire beneficial interest in a NOW account must be held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit, or with respect to public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof. For purposes of the preceding sentence,

(1) An organization shall be deemed "operated primarily for religious, philanthropic, charitable, educational, or other similar purposes * * * and not for profit" if it is described in sections 501(c)(3) through (13), 501(c)(19), or 528 of the Internal Revenue Code, and

(2) The funds of a sole proprietorship or unincorporated business owned by a husband and wife shall be deemed benefically owned by "one or more individuals."

* * * * *

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 541—DEFINITIONS

3. Revise § 541.3 as follows:

§ 541.3 Combination of residential real estate and business property involving only minor or incidental business use.

Residential real estate for which no more than 20 percent of the total value of the real estate is attributable to the business use.

4. Revise § 541.12 as follows:

§ 541.12 Improved residential real estate.

Any of the real estate defined in §§ 541.3, 541.4, 541.5, or 541.11 of this Part or any real estate containing offsite or other improvements sufficient to make the property ready for primarily residential construction, and real estate in the process of being improved by a building or buildings to be constructed or in the process of construction for primarily residential use.

5. Remove § 541.14 as follows:

§ 541.14 Loans secured by liens on real estate.

(Removed effective_____.)

6. Remove § 541.16 as follows:

§ 541.16 Other dwelling unit.

(Removed effective_____.)

7. Remove § 541.17 as follows:

§ 541.17 Other improved real estate.

(Removed effective_____.)

8. Revise § 541.29 as follows:

§ 541.29 Unimproved real estate.

Real estate that will be improved, as defined in §§ 541.12 or 541.33 of this Part.

9. Add a new § 541.31 as follows:

§ 541.31 Residential real estate.

The terms "residential real estate" or "residential real property" mean homes (including condominiums and cooperatives), combinations of homes and business property, other real estate used for primarily residential purposes other than a home (but which may include homes), combinations of such real estate and business property involving only minor business use, farm residences and combinations of farm residences and commercial farm real estate, property to be improved by the construction of such structures, or leasehold interests in the above real estate.

10. Add a new § 541.32 as follows:

§ 541.32 Nonresidential real estate.

The terms "nonresidential real estate" or "nonresidential real property" mean real estate that is not "residential real estate," as that term is defined in § 541.31 of this Part.

11. Add a new § 541.33 as follows:

§ 541.33 Improved nonresidential real estate.

Nonresidential real estate: (a) Containing a permanent structure(s) constituting at least 25 percent of its value, or (b) containing improvements which make it usable by a business or industrial enterprise; or (c) used, or to be used within a reasonable time, for commercial farming, excluding hobby and vacation property.

12. Revise Part 545 in its entirety as follows:

PART 545—OPERATIONS

Sec.

545.0 Federal Preemption.

Capital Formation

545.1 Insured Accounts.
545.1–1 Account Records.
545.1–2 Distribution of earnings.
545.1–3 Withdrawals.
545.1–4 Give-aways.
545.1–5 Public deposits, suretyship, depositiories, and fiscal agents.
545.1–6 Funds transfer services.
545.2 Issuance of stock.
545.2–1 Issuance of mutual capital certificates.
545.3 Issuance of net worth certificates.
545.4 Borrowing.
545.4–1 Borrowing from a state-chartered central reserve institution.

Investments

545.5 Election regarding classification of loans or investments.
545.6 Real estate loans.
545.6–1 Insured and guaranteed loans.
545.6–2 Home improvement loans.
545.6–3 Loans on low-rent housing.
545.6–4 Community development loans and investments
545.6–5 State housing corporation investment—insured
545.6–6 Insured loans for title purchase.
545.6–7 General provisions respecting loans.
545.6–8 Mortgage transactions with the Federal Home Loan Mortgage Corporation.
545.7 Manufactured home financing.
545.8 Commercial loans.
545.8–1 Overdraft loans.
545.8–2 Letters of credit.
545.8–3 Loans on securities.
545.8–4 Loans to and investments in business development credit corporations.
545.9 Consumer loans.
545.9–1 Credit cards.
545.9–2 Educational loans.
545.9–3 Loans on savings accounts.
545.10 Financing leases.
545.10–1 Collateral loans.
545.11 Equalization of interest rates.
545.12 Securities and other investments.
545.12–1 Service corporations.
545.12–1 Investment in savings and demand accounts.
545.12–3 Investments in corporations and partnerships authorized by title IX of the Housing and Urban Development Act of 1968.
545.12–4 Commercial paper and corporate debt securities
545.12–5 Real estate for office and related facilities
545.12–6 Leasing.
545.12–7 Gold Transactions.

General Operations

545.13 Home office.
545.14 Branch office.
545.14–1 Upgrading of approved branch office.
545.14–2 Closing a branch office.
545.15 Change of office location and redesignation of offices.
545.16 Agency.
545.17 Fiscal agency.
545.17–1 Trustee.
545.18 Adjustments to book value of assets.
545.19 Real estate owned.
545.20 Accounting records.
545.21 Monthly reports.
545.22 Statement of condition.
545.23 Indemnification of directors, officers and employees.
545.23–1 Employment contracts.
545.24 Advisory boards and committees.
545.25 Referral of insurance business.
545.26 Communication between members of a Federal mutual association.
545.27 Financial futures transactions.
545.28 Financial options transaction.
545.29 Data-processing services.
545.30 Issuance of GNMA-guaranteed, mortgage-backed securities.
545.31 Correspondent services and accounts.
545.32 Remote Service Units (RSUs)

Authority: Title III, Pub. L. No. 97–320, 96 Stat. 1469, amending 12 U.S.C. 1461 *et seq.*; Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425); Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947; 3 CFR 1943–48 Comp., p. 1071

§ 545.0 Federal preemption.

The regulations in this Part 545 are promulgated pursuant to the plenary and exclusive authority of the Board to regulate all aspects of the operations of Federal associations, as set forth in section 5(a) of the Home Owners' Loan Act of 1933, 12 U.S.C. 1464 ("the Act"), as amended. This exercise of the Board's authority is preemptive of any state law purporting to address the subject of the operations of a Federal association as set forth in this Part.

Capital Formation

§ 545.1 Insured accounts.

(a) *General.* A Federal association may issue insured accounts as defined in § 561.3 of this Chapter in the form of demand deposit accounts and savings accounts for indefinite or fixed terms ("certificate accounts") as authorized by its charter in the form of shares of

deposits. Payments on insured accounts may be in cash or property in which the association is authorized to invest. The authority of an association to issue insured accounts pursuant to this Part is subject to any applicable provisions of Parts 526 and 563 of this Chapter and Part 1204 of this title.

(b) *Eligibility*—(1) *NOW accounts.* A Federal association may issue savings acounts subject to withdrawal by negotiable or transferable instruments for the purpose of making transfers to third parties ("NOW accounts") only to persons described in § 526.1 of this Chapter.

(2) *Demand deposit accounts.* A Federal association may issue non-interest-bearing demand accounts only to persons or organizations that have a business, corporate, commercial, or agricultural loan relationship with the association. An association also may issue non-interest-bearing demand accounts to a commercial, corporate, business, or agricultural entity for the sole purpose of effectuating payments thereto by nonbusiness customers.

(i) For purposes of this paragraph (b)(2) of this section, a business, corporate, commercial or agricultural loan is any loan other than a home loan on property occupied or to be occupied by the borrowers; a loan to a natural person for personal, family, or household use; or a participation interest in such loans.

(ii) A loan relationship is established where there is any outstanding loan, the establishment of a line of credit, or a previous loan and a reasonable expectation of the renewal of a lending relationship based on the usual and customary activities and needs of the borrower.

(c) *Rates of return*—(1) *Savings accounts.* An association may issue accounts earning interest at different rates of return. The annual rate of return paid on a savings account either may be fixed at the time the account is issued or may vary on any basis specified at the time the deposit is accepted.

(2) *Demand deposit accounts.* Demand deposit accounts shall not earn interest.

(d) *Premiums.* An association may pay premiums to account holders in the form of merchandise, credit or cash, subject to the limitations of § 545.1–4 of this Part on give-aways.

(e) *Classes of accounts.* An association may establish classes of insured accounts distinguished on any reasonable basis that does not violate otherwise applicable law.

(f) *Fees.* An association may charge fees in connection with the administration of insured accounts.

(g) *Sales commissions.* An association may pay commissions or fees in cash or merchandise for soliciting insured accounts to any employee of the association or to any broker or agent as determined by the association.

(h) *Eurodollar certificates.* An association may issue Eurodollar certificate accounts in conformity with § 563.3–3 of this Chapter.

§ 545.1–1 Account records.

(a) *Evidence of ownership.* When a Federal association issues an insured account, it shall obtain and preserve in its records evidence of ownership sufficient to identify the accountholder.

(b) *Evidence of account.* At the time of issuing an acount, an association shall present to the accountholder evidence of the accountholder's interest in the account and written evidence of the terms of the account contract. Accounts in statement, book-entry, or other form may be evidence by a written agreement with transactions confirmed by issuance of a receipt or advice.

(c) *Filing.* Prior to issuing any form of savings account, an association shall comply with the applicable filing requirements of § 563.1 of this Chapter.

(d) *Ownership of record.*—(1) *General rule.* An association may treat the holder of record of an insured account as the owner, regardless of any notice to the contrary, until the account is transferred on the association's books. Insured accounts shall be transferable only on the association's books on proper application by the transferee and acceptance of the transferee as a member on terms approved by the board of directors.

(2) *Exception.* Paragraph (d)(1) of this section notwithstanding, an association may issue negotiable certificate accounts in bearer form without recording ownership on the books of the association: *Provided,* that any provisions of the association's charter regarding membership and voting shall not apply to such certificates.

(e) *Duplicate evidence of accounts.* Except for accounts issued in negotiable instrument form, an association may issue a new evidence of account in the name of the holder of record, if the holder of record, or the legal representative of the holder, files an affidavit with the association that the accountholder's evidence of account was lost or destroyed, and that no part of the account has been pledged or assigned except as disclosed to the association. The association's board of directors may require bond sufficient to indemnify the association against any loss that might result from issuance of the new evidence of account.

(f) *Use of collecting agent.* An association may authorize any bank that is a member of the Federal Deposit Insurance Corporation or any institution that is a member of the Federal Savings and Loan Insurance Corporation to prepare, sign and deliver evidence of accounts and to collect and transmit funds obtained from those accounts. The association may provide for issuance of duplicate certificates, bond, security and other protection in connection with such issuance.

§ 545.1–2 Distribution of earnings.

(a) *Time of distribution.* A Federal association may distribute earnings on savings accounts, or designated classes thereof, as provided in its charter and bylaws and the terms of the account. No distribution of earnings on share accounts may be made under this paragraph until provision has been made for payment of expenses and for the *pro rata* portion of credits to reserves required by the association's charter and by Part 563 of this Chapter.

(b) *Small accounts.* An association may establish minimum balance requirements for savings accounts to be eligible for distribution of earnings.

(c) *Amounts withdrawn between distribution dates.* An association may provide for distribution of earnings on amounts withdrawn from savings accounts between regular distribution dates.

(d) *Determination date.* With regard to insured accounts for indefinite terms, an association may prescribe a determination date, not later than the 20th of the month, and while the resolution is in force, pay earnings on savings accounts received on or before that date as if the account was received on the first of the month, and payments received after that date will receive earnings from the first of the next month.

(e) *Compounding of earnings.* An association may compute earnings for distribution on its savings accounts on a compounded basis.

§ 545.1–3 Withdrawals.

(a) *Withdrawal of certificate accounts prior to expiration of term.* (1) A Federal association may assess a penalty upon withdrawal of any part of the principal or accrued interest on a savings account with a fixed term before expiration of the term except as provided by § 526.7(c). If earnings were distributed on the account before the withdrawal, deduction shall be made from the amount withdrawn to adjust for the applicable penalty.

(2) An association may provide that an account owner cannot withdraw any part of a savings account with a fixed term before its term expires except in the event of death, or adjudication of incompetence, of an account owner or under such other emergency circumstances as may be set forth in the certificate evidencing the account.

(b) *Travelers' convenience withdrawals.* Subject to the requirements of otherwise applicable law, a Federal association may permit an accountholder to make a withdrawal from an insured account through a disbursing institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation. The withdrawal may be made only after the association receives a specific withdrawal request (oral or electronic) from the accountholder, and the amount paid shall be immediately withdrawn from the account. The association permitting the withdrawal may charge a fee to the accountholder, limit the amount of such withdrawal, or pay a fee to the disbursing institution. A Federal association may act as the disbursing institution in such a withdrawal from a savings account in an institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation, and may collect a fee for that service.

(c) *Payment of withdrawal requests.* Unless otherwise specified in its charter, when a Federal association cannot pay withdrawal requests within 14 days of the date of receipt of written request therefor, it shall number and file all requests in the order received and proceed in the following manner while any request remains unpaid for more than 14 days:

(1) Requests shall be paid in numerical order, and as each number is reached the accountholder shall be paid the lesser of $1,000 or the amount of the withdrawal request. If the amount of the request is not paid in full the request shall be renumbered, placed at the end of the list of requests, and acted upon in the same way when its new number is reached, until the request is paid in full. However, when a request is reached for payment, the association shall so notify the accountholder by registered mail to his last address as recorded on the association's books and, unless the holder, within 14 days from the mailing of the notice, applies in person or in writing for payment, the request shall be cancelled and not paid. Regardless of any other provision in this section, the board of directors may pay on an equitable basis an amount not exceeding $200 to any accountholder in any calendar month; and

(2) The association shall allot to the payment of withdrawal requests the remainder of the association's receipts from all sources after deducting therefrom amounts for expenses, required payments on indebtedness, earnings distributable in cash to holders of savings accounts, and a fund for general corporate purposes of not more than 20 percent of the association's receipts from its accountholders and its borrowers.

(d) *Grace period with respect to withdrawals.* As association may compute earnings on amounts withdrawn from its insured accounts having an indefinite term during the last 3 business days of any period for which earnings are distributable as if the withdrawal had been made immediately after the close of that period.

(e) *Payments to third parties.* An association may permit withdrawals and transfers from an account by means of orders and authorizations, pursuant to § 545.1–6 of this Part.

§ 545.1–4 Give-aways.

(a) *Definitions used in this section.* (1) "Give-away" means any thing of value, or service performed in any part outside an association's premises, given without adequate payment, but not including (i) providing safety deposit facilities at reduced rental to members of the association, or (ii) repaying to members of any part of amounts paid by them for safe deposit facilities located outside the association's facilities.

(2) "Doing business" has the meaning it has in the statute described in paragraph (c), and "domestic association" means any savings and loan, building and loan, homestead association, or cooperative bank which is a domestic association under that statutory provision.

(b) *Prohibition.* No Federal association doing business in a state which has in effect a statutory provision as described in paragraph (c) of this section and regulatory restrictions adopted under that statute, shall (1) condition the distribution of a give-away on the recipient's possessing, opening, or adding to a savings account, or maintaining a minimum balance therein; (2) except under paragraph (d) of this section, refer in any of its advertising to any give-away, other than printed material of an educational or informational nature or a coin bank, with a cost not exceeding $2.50; or (3) enter any agreement with, or accept funds for investment in a savings account from, any person engaging in such activities.

(c) *Reciprocal statutory provision.* The statutory provision referred to in paragraph (b) of this section must authorize a specified state official to impose by regulation restrictions on domestic associations of the state equivalent to those imposed on Federal associations by paragraphs (b) (1) and (2) of this section if, while the restriction is in force, Federal associations doing business in the state are likewise restricted.

(d) *Exception.* Notwithstanding paragraph (b) of this section, a Federal association may advertise give-aways during a single period of 30 days ending not more than one year after it opens its first office.

§ 545.1–5 Public deposits, suretyship, depositaries, and fiscal agents.

(a) *Definitions.* As used in this section—

(1) "Moneys" includes "monies" and has the meaning it has in applicable state law;

(2) "State law" includes actions by a governmental body which has a charter adopted under the constitution of the state with provisions respecting deposits of public money of that body;

(3) "Surety" means surety under real and/or personal suretyship, and includes guarantor; and

(4) Terms in paragraph (b) of this section have the meanings they have under applicable state law.

(b) *Authority to act as surety.* (1) A Federal association that is a deposit association may give bond or security for deposit in it of public moneys or investment in it by a governmental unit if required to do so by state law, either as an alternative condition or otherwise, regardless of the amount required. Any bond or security may be given and any substitution or increase thereof may be made under this section at any time.

(2) If state law requires as a condition of such deposit or investment that the association or its bond or security, or any combination thereof, be surety for or with respect to other deposits or instruments, whether of that depositor or investor or of any other(s), and whether in the association of in any other institution(s) having, when the investments or deposits were made, insurance by the Federal Savings and Loan Insurance Corporation, the same shall become, or if the state law is self-executing shall be, such surety.

(3) An association may also be surety to the extent that (i) it could have been surety if section 5(b) of the Act had not been amended by section 101(e) of Public Law 93–495, and (ii) the Board

otherwise authorizes in writing or by regulation.

(c) *Depositaries and fiscal agents.* Subject to regulation of the U.S. Treasury Department, a Federal association may serve as a depositary for Federal taxes, as a Treasury tax and loan depositary, as a depositary of public money and fiscal agent of the Government, or any other instrumentality thereof when designated for that purpose by such instrumentality and approved by the Board, and satisfy any requirement in connection therewith, including: (1) Maintaining accounts described in § 526.1(n), (o), (p) and (q) of this Chapter, (2) pledging collateral, and (3) performing the services outlined in 31 CFR 202.3(b) (1981), or any section that supersedes or amends § 202.3(b).

§ 545.1–6 Funds transfer services.

A Federal association may transfer its customer's funds from any account (including a line of credit) of the customer at the association or at another financial intermediary to third parties or to other accounts of the customer on the customer's order or authorization by any mechanism or device conforming with applicable laws and established commercial practices. An association may assess fees for providing any service authorizes by this section. An association also may use cashier's checks or any other mechanism or device to effectuate transfers of its own funds in connection with any activities authorized under its charter or Board regulations.

§ 545.2 Issuance of stock.

A Federal association with a stock charter may raise capital by issuance of stock as provided by its charter and applicable provisions of this Chapter.

§ 545.2–1 Issuance of mutual capital certificates.

A Federal mutual association may issue mutual capital certificates as its charter permits, subject to the requirements of § 563.7–4 of this Chapter or as the Board may otherwise authorize in writing.

§ 545.3 Issuance of net worth certificates.

A Federal association may issue net worth certificates as its charter permits, in accordance with Part 572 of this Chapter or as the Board may otherwise authorize in writing.

§ 545.4 Borrowing.

A Federal association may borrow, issue notes, bonds, debentures, obligations or securities and give security as authorized by its charter or approved in writing by the Board, subject to the requirements of §§ 563.8 and 563.8–2 of this Chapter.

§ 545.4–1 Borrowing from a State-chartered central reserve institution.

A Federal association which has amended its charter under § 544.2(d) of this Subchapter may borrow from a state-chartered central reserve institution, including a state mortgage finance agency, if:

(a) The association's general reserves, surplus, and undivided profits aggregate over 5 percent of its withdrawable accounts;

(b) The reserve institution is located in the state where the association's home office is located;

(c) The amount borrowed does not exceed the amount a state-chartered savings and loan in that state could borrow from that institution;

(d) The association does not use the loan proceeds to make loans at an interest rate exceeding by one and three-quarters percent per year the interest rate paid for the borrowed funds; and

(e) The association maintains any documentation required by the state regarding use of the loan proceeds or other matters.

Investments

§ 545.5 Election regarding classification of loans or investments.

If a loan or other investment is authorized under more than one section in this Part, an association may designate under which section the loan or investment has been made.

§ 545.6 Real estate loans.

(a) *General.*—(1) *Authorization.* A Federal association may originate, invest in, sell, purchase, service, participate, or otherwise deal in (including brokerage or warehousing) real estate loans or interests therein, subject to the restrictions of this Part. A real estate loan is any loan made on the security of residential or nonresidential real estate where the association relies substantially upon that real estate as the primary security for the loan. A loan secured by a lien on real estate is (i) a loan secured by an interest in real estate in fee or in a leasehold or subleasehold extending or renewable automatically at the option of the holder or the Federal association for 5 years after maturity of the loan, (ii) a loan secured by assignment of such loans, or (iii) any real-estate-related loan purchased from the Federal Savings and Loan Insurance Corporation and guaranteed by the Corporation under a guaranty contract made by the Corporation with the purchasing association.

(2) *Determination of loan-to-value ratios.* (i) In determining compliance with maximum loan-to-value limitations in this Part, at the time of making a loan an association shall add together the unpaid amount of all recorded loans secured by prior mortgages, liens or other encumbrances on the security property that would have priority over the association's loan, and shall not make such a loan unless the total amount of such loans (including the one to be made but excluding loans that will be paid off out of the proceeds of the new loan) does not exceed applicable maximum loan-to-value limitations prescribed in this Part.

(ii) In valuing the real estate security, an association shall use the current appraised value of the security property, which may include any expected value of improvements to be financed. "Value" for a real estate loan means market value.

(b) *Residential real estate loans.* A Federal association may make loans on the security of residential real estate, subject to the following restrictions:

(1) *Home loans.* A home loan is a loan made on the security of homes (including condominiums and cooperatives), combinations of homes and business property, farm residences, and combinations of farm residences and commercial farm real estate, including non-amortized, partially-amortized and line-of-credit loans. The interest rate, the payment, the loan balance or the term to maturity may vary as provided in paragraph (b)(1) (i) of this paragraph (b)(1). Home loans shall have a term not to exceed 40 years, with interest payable at least semi-annually, except as expresaly authorized in this paragraph (b)(1).

(i) *Adjustments to rate, payment, balance or term; refinancing.* Subject to such limitations on adjustment as are set forth in the loan contract:

(*a*) Adjustments to the interest rate shall correspond directly to the movement of an interest-rate index or of an index that measures the rate of inflation or the rate of change in consumer disposable income, which index is readily available to and verifiable by the borrower and is beyond the control of the association: *Provided,* that an association may decrease the interest-rate at any time, and: *Provided further,* That an association may increase the interest rate pursuant to a formula or schedule that specifies the amount of the increase and the time at which it may be made, and which is set forth in the loan contract;

(*b*) Adjustments to the payment and the loan balance that do not reflect an interest-rate adjustment may be made if (*i*) the adjustments reflect a change in a national or regional index that measures the rate of inflation or the rate of change in consumer disposable income, is readily available to and verifiable by the borrower, and is beyond the control of the association, or (*ii*) in the case of a payment adjustment, the adjustment reflects a change in the loan balance or is made pursuant to a formula, or to a schedule specifying the percentage or dollar change in the payment and set forth in the contract;

(*c*) Any combination of indices or a moving average of index values may be used as an index, and an association may use more than one index during the term of a loan;

(*d*) A loan contract may provide for the deferral and capitalization of a portion of interest, or of all interest on loans to natural persons secured by borrower-occupied property and on which periodic advances are being made, and may provide that a portion of the consideration to be received by the association in return for making the loan shall be interest in the form of a percentage of the amount by which the current market value of the property, during the loan term or at maturity, exceeds the original appraised value or as provided in § 555.19 of this Subchapter;

(*e*) At least 30 but not more than 120 days prior to an adjustment and at least 90 but not more than 120 days prior to the expected maturity of a non- or partially-amortized loan (including a loan with a "call" provision pursuant to subparagraph (b)(1)(i)(*f*) of this section, an association shall provide the borrower with notice of the adjustment or of maturity. However, where the loan contract provides that changes in the interest rate shall occur more frequently than changes in the payment, the association need not notify the borrower of changes in the rate, nor of changes in the loan balance or term resulting from a rate change, until notice of a payment adjustment is given. (For purposes of notification, a payment adjustment is considered to occur as of the date of the interest-rate change immediately preceding the due date of the adjusted payment.) In addition, where the loan contract sets out a schedule of payment adjustments, notice need not be given of payment changes made pursuant to that schedule;

(*f*) The loan term may be adjusted only to reflect a change in the interest rate, the payment or the loan balance. A loan contract may provide an association with the right to call the loan due and payable either after a specified number of years has elapsed following closing or upon the occurrence of a specified event external to the loan; and

(*g*) If, at maturity of a loan that provides for adjustments pursuant to this paragraph (b)(1)(i), the ratio of the loan balance to the current market value of the security property exceeds 95 percent, the association may offer to refinance the loan, subject to the requirements of paragraphs (b)(ii)(*a*) and (ii)(*c*) of this paragraph (b)(1) and other applicable provisions of this Part.

(ii) *Loan-to-value ratio.* A home loan shall not at the time of origination exceed 90 percent of the value of the security property, except as provided in paragraph (b)(1)(i)(*g*) of this section and this paragraph (b)(1)(ii). During the term of the loan, the loan-to-value ratio may increase above 90 percent if the increase results from a change authorized by paragraph (b)(1)(i) of this section.

The Board will assume continued compliance with the loan-to-value ratio limitations where the original ratio met the requirements of this paragraph (b)(1)(ii), but in no event may the loan balance exceed 125 percent of the original appraised value of the property during the term loan unless pursuant to paragraph (b)(1)(i)(*b*)(*i*) of this section or unless the loan contract provides that the payment shall be adjusted at least once each five years, beginning no later than the tenth year of the loan, to a level sufficient to amortize the loan at the then-existing interest rate and loan balance over the remaining term of the loan. The 125-percent limitation shall not apply to that portion of a loan balance that is interest received in the form of a percentage of the appreciation in value of the security property pursuant to paragraph (b)(1)(i)(*d*) of this section. Nothwithstanding the foregoing, the loan-to-value ratio at the time of origination may be up to 95 percent if:

(*a*) The loan contract requires that, in addition to full or partial amortization of the loan, the *pro rata* portion, based on the number of installments due annually, of estimated annual taxes and assessments on the security property be paid in advance to the association with each installment payment;

(*b*) The borrower, including a purchaser who assumes the loan, has executed a certificate stating that the borrower occupies, or in good faith intends to occupy, the property (or one dwelling on the property) as the borrower's principal residence; and

(*c*) During the time that the unpaid balance of the loan exceeds 90 percent of the value of the security property, determined at the time of origination, the part of such balance exceeding 80 percent of value is guaranteed or insured by a mortgage insurance company which the Federal Home Loan Mortgage Corporation has determined to be a "qualified private insurer": *Provided,* That any unpaid loan balance secured by a pledged savings account shall not be required to be guaranteed or insured under this provision.

(iii) *Loans on cooperatives.* A loan made on the security of a cooperative under this paragraph (b)(1) of this section shall comply with the following requirements:

(*a*) *Loans on the security of cooperative housing developments ("blanket" loans).* The association shall require that the cooperative housing development maintain reserves at least equal to those required for comparable developments insured by the Federal Housing Administration.

(*b*) *Loans on individual cooperative units.* Such loans may be made on the security of (i) a security interest in stock, membership certificate, or other evidence of ownership issued to a stockholder or member by a cooperative housing organization; and (ii) an assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by such organization.

(iv) *Loans to facilitate trade-in or exchange.* Loans made to facilitate the trade-in or exchange of security property shall not exced 80 percent of value shall be repayable within 18 months.

(v) *Pledged-account loans.* Loans made on the combined security of real estate and savings accounts may be made in excess of the maximum loan-to-value ratios specified in this paragraph (b)(1) with such excess secured by savings accounts: *Provided,* that loans that exceed 90 percent of the value of the combined security are subject to the following restrictions:

(*a*) The loan shall not exceed the appraised value of the real estate;

(*b*) The savings account shall consist of only of funds belonging to the borrower, members of his family, or his employer; and

(*c*) The association shall fully disclose to the prospective borrower the differences (including interest, private-mortgage-insurance costs, and equity interest) between a loan secured by real estate and savings accounts and a loan secured by real estate alone.

(vi) *Disclosure.* Prior to accepting an application for a home loan, an association must disclose to each loan applicant, in one or more documents other than the loan documents and in plain language, the terms of the type(s)

of loan(s) offered to the applicant. The purpose of this disclosure requirement is to ensure full understanding of the operation of the loan for which the individual is applying; the disclosures do not constitute a commitment on the part of an association to make a loan to a loan applicant. The disclosure material provided to an applicant shall include at least such of the following information as is relevant to the type of loan being offered:

(*a*) A general explanation of the fact that (*1*) the association and the applicant become bound by the terms of the loan contract upon signing it, (*2*) even though subsequently either party may request modification of the contract, neither party is bound to agree to such a request, and (*3*) since normally the loan contract and mortgage (or deed of trust) establish the rights of the borrower, the borrower should become familiar with and understand the provisions of those documents;

(*b*) The term to maturity;

(*c*) The intial interest rate, if known, or the manner in which the initial interest rate will be established;

(*d*) The amount of the initial payment, if known, and an explanation of how the association establishes an amortization schedule for the loan, including how the association determines both the amount of each payment and what proportion of each payment is credited to interest;

(*e*) A full explanation of how the interest rate, the payment, the loan balance, or the term to maturity may be adjusted (including identification of the index(es) to be used and how index values may be obtained by the borrower), and how the adjustment of one item may affect the others;

(*f*) What information will be contained in each notice of an adjustment and, in the case of a non- or partially-amortized loan (including a loan giving the association the right to call the loan due and payable after a number of years or upon the occurrence of an event external to the loan), on the notice of maturity, and how far in advance of an adjustment or maturity each notice will be provided;

(*g*) A description of all contractual contingencies under which the loan may become due or which may result in a forced sale of the home;

(*h*) In the case of a non- or partially-amortized loan, unless the association unconditionally obligates itself to refinance the loan, a statement that a large payment will be due at maturity of the loan and that the association is under no obligation to refinance the loan; if the loan gives the association the right to call the loan due and payable after a number of years or upon the occurrence of an event external to the loan, a statement that a large payment may be due at such time and that the association is not obligated to refinance the loan;

(*i*) A description of any prepayment penalty provided for by the loan contract;

(*j*) Whether the loan contract will produce for escrow payments, the purpose of requiring escrow payments, how the amount of an escrow payment is established and whether interest will be paid on escrow accounts; and

(*k*) An example of the interaction of all variable features of the loan over any period of time.

(2) *Multi-family dwelling loans.* A multi-family dwelling loan is a loan made on the security of real estate that is not a home (but which may include homes) and that is used primarily for residential purposes, or combinations of such real estate and business property that involves only minor or incidental business use. A multi-family dwelling loan shall not exceed 90 percent of the value of the security property and shall be repayable within 30 years: *Provided,* That nonamortized loans shall be repayable within 5 year. Interest shall be payable at least semi-annually except to the extent that the loan contract provides for the deferral and capitalization of interest: *Provided,* That the ratio of the loan balance to the current appraised value of the security property may not at any time during the loan term exceed 90 percent as a result of the deferral and capitalization of interest. The loan contract may provide that a portion of the consideration for making the loan shall be in the form permitted by § 555.19 of this Subchapter.

(c) *Nonresidential real estate loans.* (1) A Federal association may make loans on the security of nonresidential real estate: *Provided,* That any such loan shall not exceed 90 percent of the value of the security property, and shall be repayable within 30 years, except that construction loans and non-amortized loans shall be repayable within 5 years. Interest shall be payable at least semi-annually except to the extent that the loan contract provides for deferral and capitalization of interest: *Provided,* That the ratio of the loan balance to the current appraised value of the security property may not at any time during the loan term exceed 90 percent as a result of deferral and capitalization of interest. The loan contract may provide that a portion of the consideration for making the loan shall be in the form permitted by § 555.19 of this Subchapter.

(2) An association's aggregate investment under this paragraph shall not exceed 40 percent of assets.

(d) *Loans to acquire or to improve real estate.* (1) Subject to the limitations in paragraphs (b) and (c) of this section, a Federal association may make real estate loans for the purpose or acquiring unimproved real estate, for financing the development of real estate, on the security of building lots and sited, for construction of structures on real estate, or for the rehabilitation of real estate. The interest on any such loan shall be payable at least semi-annually.

(2) Loans authorized by this paragraph (d) shall not exceed the following loan-to-value ratios:

(i) Seventy-five percent of the value of the security property for land acquisition loans, loans to finance the development of real estate, or loans of the security of building lots and sites;

(ii) Ninety percent of the value of the security property for construction loans and rehabilitation loans.

(3) Loans authorized by this paragraph (d) shall be repayable within the following terms:

(i) Two years: loans for the construction or rehabilitation of an individual single-family dwelling;

(ii) Three years: loans for the acquisition of land;

(iii) Five years: loans for the construction or rehabilitation of nonresidential real estate;

(iv) Six years: loans for the construction or rehabilitation of multi-family dwellings, or of more than one single-family dwelling, and loans on the security of building lots and sites (other than for a borrower's principal residence);

(v) Eight years: loans to finance the development of real estate;

(vi) Fifteen years: loans on the security of building lots and sites for single-family dwellings to be used as the borrower's principal place of residence (as evidenced by a borrower's certification of intention that the property will be so used);

(4) For loans made to finance the development of real estate, loans on the security of building lots and sites, and construction loans; upon release of any portion of the security property from the lien securing the loan, the principal balance of the loan shall be reduced by an amount at least equal to that portion of the outstanding loan balance attributable to the value of the property to be released. "Value" for the purposes of the preceding sentence is the value fixed at the time the loan was made.

(5) Loan documentation for development loans shall contain a

preliminary development plan that is satisfactory to the association. In addition, the limitation on loans to one borrower as defined in § 563.9–3 of this Chapter shall be 2 percent of an association's assets with regard to loans on any one development project made under this paragraph (d). A development project includes all primarily residential, recreational, or other facilities in an integrated development plan. With respect to construction loans, associations shall reserve the right to impose limits on the number of structures under construction at a given time.

(e) *Combination loans.* (1) Any loans authorized by this section may be combined, with the term of each loan beginning at the end of the term of the preceding loan and interest and principal payment requirements as specified in the applicable paragraphs of this section.

(2) With respect to a combination of loans to finance development and loans on building lots and sites and/or construction loans, whether or not development has been completed, (i) beginning not more than 3 years after the initial disbursement of loan proceeds for construction purposes, the borrower shall make monthly payments sufficient to amortize, on a straight-line basis, that portion of the principal loan balance applicable to any improvement, including the building site, over the remaining term of the loan, and (ii) beginning not more than 4 years after such disbursement, the borrower shall make monthly payments sufficient to amortize, on a straight-line basis, that portion of the loan balance not applicable to the construction of any improvement and its building site, over the remaining term of the loan.

(3) If the development or construction to be financed by a loan made pursuant to paragraph (e) of this section has not commenced by the end of the third year from the initial disbursement the loan proceeds, the loan balance outstanding shall be due and payable.

(4) Notwithstanding any other provisions of this section, a combination loan for construction inclusive of acquisition and/or development shall be repayable within 11 years.

(f) *Leeway authority for loans relating to residential real estate and farms.* (1) In addition to loans in which it may invest under other provisions of this Part, an association may invest an amount not exceeding the greater of its surplus, undivided profits, and reserves or 5 percent of its assets in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate, where the association relies substantially for repayment on: (i) the borrower's general credit standing and forecast of income, with or without other security, or (ii) other assurances of repayment, including but not limited to a third-party guaranty or similar obligation.

(2) In addition to loans in which it may invest under other provisions of this Part, an association may invest an amount not exceeding 5 percent of its assets in loans, advances of credit, and interests therein, secured by real estate for primarily residential use or real estate used or to be used for commercial farming that are not otherwise authorized under this Part: *Provided,* that home loans made under this authority must conform to the notice and disclosure requirements of § 545.6(b)(1)(i) and (vi) of this Part.

§ 545.6–1 Insured and guaranteed loans.

Without regard to any of the limitations in § 545.6 of this Part pertaining to loan amounts or terms and conditions of repayment, a Federal association may make or invest in any of the following loans guaranteed or insured by a government agency:

(a) Loans on the security of residential real estate that are insured or guaranteed by a public mortgage insurer, provided the amounts, terms, and conditions of repayment are acceptable to the insuring or guaranteeing agency. A loan is insured or guaranteed by a public mortgage insurer if: (1) It comes within the definitions of §§ 541.10 or 541.13 of this Subchapter, or within the provisions of Title X of the National Housing Act, or (2) it is insured or guaranteed by an agency or instrumentality of a state (i) whose full faith and credit is pledged to support the insurance or guarantee, or (ii) whose insurance or guarantee program is approved by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(b)(1) Loans on residential real estate guaranteed under the Farmers Home Administration (FmHA) Rural Housing Program: *Provided,* (i) FmHA guarantees at least 80% of the principal amount and accrued interest of each loan made under the program; (ii) the loan terms must be acceptable to FmHA; and (iii) the association invests not more than the greater of 2.5 percent of its assets or one-half of its net worth in the aggregate outstanding balance of the non-guaranteed portions of all loans made under the program and held by the association.

(2) An association shall maintain records to verify compliance with the requirements for each investment made under this paragraph including the loan note guarantee, lender's agreement, and documentation that the investment limitation has not been exceeded.

(c)(1) Housing project loans with any guaranty under section 221 of the Foreign Assistance Act of 1961, as in effect before December 30, 1968; loans with any guaranty under section 224 of that Act, as in effect before December 30, 1968; or loans with any guaranty under section 221 or 222 of that Act, as in effect after December 29, 1969.

(2) No association may invest in any loans, or interests therein, under this paragraph, unless (i) the loan agreement specifies what constitutes an event of default, and provides that upon default in payment of principal or interest under such agreement, the entire amount of the outstanding indebtedness thereunder shall become immediately due and payable, at the lender's option; and (ii) the contract of guaranty covers 100 percent of any loss of investment thereunder, except for any portion of the loan arising out of fraud or misrepresnetation for which the party seeking payment is responsible, and provides that the guarantor shall pay for any such loss in U.S. dollars within a specified reasonable time after the date of application for payment;

(3) No association shall invest in any loan, or interest therein, under this paragraph if, as a result, the aggregate outstanding principal amount of such investments of the association and investments made under § 545.12(h) of this Part would exceed 1 percent of its assets.

(d) Loans on the security of non-residential real estate that are guaranteed by one of the following agencies under the authority specified herein, provided the loan terms are acceptable to the guaranteeing agency: (1) Economic Development Administration (under the Public Works and Economic Development Act of 1965, as amended, or the successor to that Act, or the Trade Act of 1974, as amended); (2) Farmers Home Administration (under the Consolidated Farm and Rural Development Act of 1974, as amended); (3) Small Business Administration (under the Small Business Investment Act of 1958, as amended; or the Small Business Act of 1953, as amended).

(e) Loans or obligations, or interests therein, guaranteed in whole or in part or as to which a commitment or agreement for any such guaranty has been made under the New Communities Act of 1968 or under Part B of the Urban Growth and New Community Development Act of 1970, as amended.

§ 545.6–2 Home improvement loans.

A Federal association may invest in loans, with or without security, for residential real property alteration, repair or improvement, or for equipping or furnishing residential real property, with installments payable at least quarterly, the first installment due no later than 120 days from the date the loan is made and the final installment due no later than 20 years and 32 days from such date. Installments shall be substantially equal except to the extent that the loan complies with mortgage provisions authorized under § 545.6(b)(1) of this Part.

§ 545.6–3 Loans on low-rent housing.

(a) *General.* Limitations in this Part relating to maximum loan terms and loan-to-value ratios shall not apply to any loan secured by a lien on real estate which is, or is being constructed, remodeled, rehabilitated, or renovated to be, the subject of (1) an annual contributions contract for low-rent housing under former Sections 23 or 5 of the United States Housing Act of 1937, as amended, or (2) a Housing Assistance Payment (HAP) contract for low-income housing under Section 8 of the United States Housing Act of 1937, as amended, which the borrower has agreed in writing to enter into for the maximum term available for the particular project type and financing: *Provided*, That no loan by a Federal association pursuant to the authority of this section shall exceed 90 percent of the appraised value of the security property or, in lieu of such appraisal, 90 percent of the purchase price if the security property is to be purchased by a local public housing authority, and in no event, shall loan proceeds in excess of 80 percent of such appraised value be disbursed to the borrower until the Department of Housing and Urban Development has issued its final approval of the project under the subsidy program. Loans insured under the National Housing Act may be made on terms and conditions permitted by the insuring agency as provided in § 545.6–1 of this Part.

(b) *Appraisals.* The appraisals of any real estate required by § 545.6–7(e) shall be rendered in accordance with the general appraisal guidelines issued by the Office of Examinations and Supervision.

§ 545.6–4 Community development loans and investments.

(a) *General.* A Federal association may invest in real property, or in interests in real property, located within any of the following areas, and in loans on the security of liens, and in other obligations secured by liens, on real property so located; (1) Any neighborhood stategy area (as defined in 24 CFR 570.301(c)) receiving concentrated development assistance under Title I of the Housing and Community Development Act of 1974, as amended; (2) Any general location (as specified in 24 CFR 570.306(b)(3) (ii)) which is specified in a community's Housing Assistance Plan (as defined in 24 CFR 570.306) as an area for housing assistance goals and which is receiving such concentrated assistance; (3) Any urban renewal area (as defined in section 110(a) of the Housing Act of 1949, as amended) receiving such concentrated assistance in order to finish uncompleted urban renewal projects; and (4) Any locales specified by a community as receiving Urban Development Action Grants or otherwise receiving significant amounts of such concentrated assistance.

(b) *Investment in loans and other obligations secured by liens on real estate.* Such investments shall conform to all limitations in this Part 545 applicable to the type of real estate securing the investments.

(c) *Investments in real estate.* An association may invest up to 2 percent of assets in real property or interests therein described in paragraph (a) of this section. Investments may not exceed the appraised value of the property plus usual settlement costs. In determining the 2-percent investment limit, the following rules shall apply:

(i) A reasonable allowance for depreciation computed under the straight-line method may be deducted from the cost of improved real property or investments in improved real property owned by the association:

(ii) If a leasehold interest in land is acquired, the amount of the investment as to rental obligations under the lease shall be determined on the basis of the "present value of an annuity due" and for the purpose of such determination, the worth of money shall be deemed to be 10 percent; and

(iii) The investment in improvements to land in which the association has a leasehold interest shall be the cost to the association of the improvement, less reasonable allowance for amortization computed under the straight-line method.

(d) *Amount of Investment.* Total investment under this section shall not exceed 5 percent of assets.

§ 545.6–5 State housing corporation investment-insured.

(a) A Federal association may make investments in, commitments to invest in, loans to, or commitments to lend to any state housing corporation (as defined in § 571.8 of this Chapter), provided that such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the National Housing Act, as amended, and that in the event of default, the holder of such obligations or loans has the right directly, or indirectly through a fiduciary, to subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds.

(b) The aggregate outstanding direct investment and investment in loans and loan commitments under paragraph (a) of this section shall not exceed 30 percent of the association's assets at the time of investment, and shall not exceed 10 percent of such assets for investments in state housing corporations located outside the association's home state.

§ 545.6–6 Insured loans for title purchase.

Without regard to any other provision of this Part, a Federal association may invest in loans, or interests therein, made for financing the purchase by homeowners of fee simple title to property on which their homes are located and as to which the association has benefit of insurance under section 240 of the National Housing Act, as amended, or of a commitment or agreement for such insurance.

§ 545.6–7 General provisions respecting loans.

(a) *Initial loan fees and charges.* A Federal association may charge fees in connection with a commitment to make a real estate loan (whether or not the making of a loan follows the commitment), or in connection with the acquisition, making, refinancing or modification of a loan. Subject to § 563.35(d) of this Chapter, an association may require a borrower to pay necessary initial charges connected with making a loan, including the actual costs of title examination, appraisal, credit report, survey, drawing of papers, loan closing, and other necessary incidental services and costs. The association may collect initial charges from the borrower and pay the persons rendering services.

(b) *Contract provisions.*—(1) *Required and authorized provisions.* Each loan shall be evidenced by note, bond, or other debt instrument and be secured by a security instrument which is consistent with sound lending practices. Loan instruments shall comply with applicable provisions of law, governmental rules and regulations, and the association's charter and bylaws,

and provide for full protection to the Federal association. They shall be recorded and, among other protections, shall provided specifically for full protection with respect to insurance, taxes, assessments, other governmental levies, maintenance, and repairs. They may provide for an assignment or rents. The association may pay taxes, assessments, insurance premiums, and other similar charges for protection of its interest in the security property. If such payments are consistent with this Part, they may be added to the unpaid balance of the loan. The association may require life insurance to be assigned to it by the borrower as additional collateral for a loan on the security of real estate. It may advance premiums on such life insurance and, if consistent with this Part, add the premiums so advanced to the unpaid balance of the loan. A Federal association shall keep a record of the status of taxes, assessments, insurance premiums, and other charges on all real estate on which it has loans or which it owns.

(2) *Escrow accounts.—General.* (i) Subject to the requirements of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601–2617), an association may require that all or any Part of the estimated annual taxes, assessments, insurance premiums, and other charges on any loan be paid in advance to the association to enable the association to pay such charges as they become due. If the association determines there will be a deficiency on the due date of such charges, it may require that additional deposits, sufficient to make up the deficiency, be submitted in equal amounts with each payment up to the date upon which such charges become due and payable. After giving the borrower notice of such deficiency and of the additional deposits required to make up the deficiency, the association may deduct the necessary amounts from the borrower's regularly scheduled installment payments if the borrower fails to make the additional deposits.

(ii) *Payment of interest on escrow accounts.* Unless obligated by contract, an association shall have no obligation to pay interest on escrow accounts.

(3) *Late Charges.—General.* (i) An association's loan instruments may, as a matter of contract between it and the borrower, provide for assessment, imposition, and collection of a late charge respecting payment of any delinquent periodic installment payment. The charge may be in any form necessary and appropriate to full protect the association. No form of such late charge shall be considered as interest to the association. The association shall not deduct late charges from regular periodic installment payments on the loan, but shall collect them as such from the borrower. Except as provided in this paragraph (b)(3), assessment, imposition, and collection of such late charges shall be exclusively governed by the terms of the loan contract. Collection of a late charge shall not impair, alter, or abrogate any other right of the association granted by contract or law respecting delinquent installment payments.

(ii) *Limitations on late charges.* With respect to any loan made after July 31, 1976, on the security of a home occupied or to be occupied by the borrower, no late charge, regardless of form, shall be assessed or collected by an association, unless any monthly billing, coupon, or notice the association may provide regarding installment payments due on the loan discloses the date after which the charge may be assessed; or more than one time for late payment of the same installment. Any installment payment made by the borrower shall be applied to the longest outstanding installment due. An association, in an appropriate case, may elect to waive all or any portion of an authorized late charge.

(4) *Due-on-sale clauses.* An association may include a provision in its loan instrument whereby the association may, at its option, declare immediately due and payable sums secured by the association's security instrument if all or any part of the real property securing the loan is sold or transferred by the borrower without the association's prior written consent. Subject to the provisions of 12 U.S.C. 1701j–3, exercise by the association of such option shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the association and borrower shall be fixed and governed by that contract.

(c) *Initial payments on real estate loans.* Payments on real estate loans shall begin not later than 60 days after the loan is disbursed: *Provided,* That if such loans are for construction, substantial alteration, repair or improvement loans, payments may begin not later than 36 months (18 months for loans secured by real estate consisting solely of one or more homes or combination of home and business property) after the date of the first disbursement, and interest shall be payable at least semi-annually until regular periodic payments become due.

(d) *Loan payments and prepayments.* Except for loans to natural persons secured by borrower-occupied property and on which periodic advances are being made, payments on the principal indebtedness of all loans on real estate shall be applied directly to reduction of such indebtedness, but prepayments made on an installment loan may be reapplied from time to time wholly or partly to offset payments which subsequently accrue under the loan contract. An association may impose a penalty of prepayment of a loan as provided in the loan contract: *Provided,* That prior to accepting an application for a real estate loan an association must disclose to each applicant, in one or more documents other than the loan documents and in plain language, the existence of the penalty provision in the loan contract and the manner in which the penalty would be calculated. The documents must disclose the amount of the maximum possible penalty that could be incurred by the applicant pursuant to the penalty provision. If the penalty is to be calculated as a fixed percentage of the outstanding loan balance, the disclosure must include a statement identifying that percentage. If the penalty is to be calculated by reference to an index that measures the change in interest rates, the disclosure must include a table or similar guide that indicates the extent to which the amount of the penalty may vary as interest rates (as measured by the index) change, as well as the amount of the penalty to be imposed if the index decreases or remains unchanged. Notwithstanding the above, for any mortgage instrument on which the yield may be adjusted an association may not impose a penalty on any prepayment made within 90 days of the notice of an adjustment.

(e) *Appraisals.* A Federal association may make a real estate loan only after a qualified person designated by its board has submitted a signed appraisal of the security property, except that an insured or guaranteed loan may be made on the basis of a valuation of the security property furnished to the association by the insuring or guaranteeing agency. The association shall pay the cost of any appraisal of the security property obtained by the association after loan closing but prior to maturity of a loan unless the borrower specifically requested the appraisal or the appraisal is made pursuant to the borrower's request to modify or refinance the loan.

§ 545.6–8 Mortgage transactions with the Federal Home Loan Mortgage Corporation.

Without regard to any other provisions of this Part, a Federal association may enter into and perform

any mortgage transaction with the Federal Home Loan Mortgage Corporation specified in section 305(a) of the Federal Home Loan Mortgage Corporation Act. For purposes of this section, the term "mortgage" shall have the meaning prescribed in section 302(d) of such Act.

§ 545.7 Manufactured home financing.

(a) *Definitions used in this Part.*

(1) "Manufactured home" shall have the same definition as that contained in the National Manufactured Home Construction and Safety Standards Act, 42 U.S.C. 5402(6).

(2) "Manufactured home chattel paper"—a document evidencing an installment sales contract or a loan or interest in a loan secured by a lien on one or more manufactured homes and equipment installed or to be installed therein.

(3) "Manufacturer's invoice price"—a manufacturer's itemized charges, shown on its invoice, for a specifically identified manufactured home, furnishings, equipment, and accessories installed by the manufacturer, and freight.

(b) *General investment authority.* An association may invest in manufactured home chattel paper and interests therein without limitation as to percentage of assets.

(c) *Sound investment practices.* Appraisals or other generally accepted systems of valuation of used manufactured homes shall substantiate the term to maturity of loans made. Chattel paper shall have provisions to protect the association, specifically regarding insurance, taxes, other governmental levies, and maintenance and repairs, and may include any other protection provision which is lawful and appropriate. The association may pay taxes or other governmental levies, and insurance premiums or other similar charges to protect its security interest, and may, when lawful, add such payments to the debt evidenced by the chattel paper. The association shall seasonably perfect its security interest. The association is responsible for current knowledge of regulations and requirements pertaining to Federal insurance and guarantee programs for manufactured home loans in which it invests, including portfolio limitations on coverage, and is expected to make underwriting decisions as carefully for such loans as for conventional loans.

(d) *Inventory financing.* An association may invest in manufactured home chattel paper which finances a manufactured home dealer's acquisition of inventory, if:

(1) The inventory is held for sale by the dealer in its ordinary course of business;

(2) The loan evidenced by the chattel paper is the dealer's obligation; and

(3) The loan amount does not exceed the following:

(i) For new manufactured homes, 100 percent of manufacturer's invoice price for each manufactured home and equipment to be installed by the dealer;

(ii) For used manufactured homes, 75 percent of appraised market value or other generally accepted valuation of each manufactured home, including installed equipment.

(e) *Retail financing.* (1) *Insured and guaranteed loans.* An association may invest in retail manufactured home chattel paper that is insured or guaranteed, as defined in § 541.10 or § 541.13 of this Subchapter, or that has a commitment for such insurance or guarantee.

(2) *Conventional loans.* An association may invest in conventional retail manufactured home chattel paper if:

(i) The manufactured home is located at a manufactured home park or other permanent or semi-permanent site;

(ii) The manufactured home chattel paper is payable within 20 years, in monthly payments which are substantially equal except to the extent that the financing complies with mortgage provisions authorized under § 545.6(b)(1)(i) of this Part; and

(iii) The financed amount (excluding time-price differential or interest, however computed) does not exceed;

(*a*) In the case of a new manufactured home, 90 percent of buyer's total costs, including freight, itemized set-up charges, sales or other taxes, filing and recording fees imposed by law and premiums for related insurance, or

(*b*) In the case of a used manufactured home, 90 percent of the appraised market value or other generally accepted valuation of the manufactured home plus sales and other taxes, filing and recording fees imposed by law, premiums for related insurance, and freight and itemized set-up changes, if any.

(3) *Combination loans.* An association may invest in manufactured home chattel paper secured by combinations of manufactured homes and lots on the following terms:

(i) *Affixed manufactured homes.* If the wheels and axles have been removed and the manufactured home is permanently affixed to a foundation, a loan secured by a combination of manufactured home and lot on which it sits may be treated as a residential real estate loan under § 545.6(b) of this Part.

(ii) *Unaffixed manufactured homes.* If the manufactured home is not affixed in the manner described in (e)(3)(i) of this section, an association may make a loan secured by a combination of manufactured home and lot on which it is or is to be located if the financing complies with the requirements of paragraphs (e)(2)(i), (ii) and (iii) of this section and the loan-to-value ratio does not exceed 75 percent of the appraised value of the lot and lot improvements and 90 percent of the buyer's total costs of the manufactured home (or valuation of used manufactured home) as defined in paragraph (e)(2)(iii) of this section.

(iii) *Insured and guaranteed loans.* Notwithstanding the other provisions of this paragraph (e)(3), an association may invest in a combination manufactured home and lot chattel paper that is insured or guaranteed as defined in §§ 541.10 or 541.13 of this Subchapter, or that has a commitment for such insurance or guarantee.

(4) *Purchase of retail paper.* With regard to purchase of an interest in retail mobile home chattel paper where the security property is or will be located outside the association's normal lending territory (as defined in § 561.22), the seller of the interest (unless the seller is the association's service corporation) shall retain at least a 25 percent interest in each document evidencing a loan secured by the chattel paper.

(f) *Sale of paper.* (1) All manufactured home chattel paper sold by an association shall be sold without recourse, as defined in § 561.8 of this Chapter.

(2) No association may sell manufactured home chattel paper if, at the close of its most recent semi-annual period, it has manufactured home chattel paper scheduled items (other than assets acquired in a supervisory merger) in excess of 5 percent of its total portfolio in such paper: *Provided,* That application may be made to the Board for a waiver of this restriction.

§ 545.8 Commercial loans.

(a) *Definition.* As used in this section, the term "commercial loan" means a secured or unsecured loan to any person or organization for commercial, corporate, business, or agricultural purposes. In determining whether a loan to a natural person is a commercial loan, a Federal association may rely on the borrower's statement of purpose if accepted in good faith.

(b) *Investment authority.* (1) An association may invest in, sell, purchase, participate in, or otherwise deal in commercial loans: *Provided,* That at any

one time the total investment made under this section shall not exceed 5 percent of the association's assets (or 7½ percent in the case of a savings bank) prior to January 1, 1984, and 10 percent thereafter.

(2) Notwithstanding the provisions of § 545.5 of this Chapter, the percentage-of-assets limitations in paragraph (b)(1) of this section shall apply to:

(i) Overdraft loans on demand accounts;

(ii) Standby letters of credit; and

(iii) Commercial loans not secured by real estate that are made by a service corporation of the association: *Provided,* That, in the case of a service corporation with multiple stockholders, the amount of such loans attributed to one stockholder association will be calculated *pro rata* on the basis of the percentage of the service corporation's stock owned by the association.

(3) Loans sold to a third party will be included in the percentage-of-assets calculation required by paragraph (b)(1) of this section only if they are sold with recourse.

(4) Loan commitments will not be subject to the percentage-of-assets limitation in paragraph (b)(1) of this section. A "loan in process" is not a loan commitment for purposes of this exception.

§ 545.8–1 Overdraft loans.

Associations may extend secured or unsecured credit to cover payment of drafts or other funds transfer orders in excess of the available balance of an account on which they are drawn. Overdraft credit relating to demand accounts is subject to specific limitations set forth in § 545.8 of this Chapter.,

§ 545.8–2 Letters of credit.

An association may issue commercial and standby letters of credit in conformance with the Uniform Commercial Code or the Uniform Customs and Practice for Documentary Credits, subject to the following requirements:

(a) Each letter of credit must conspicuously state that it is a letter of credit;

(b) The issuer's undertaking must contain a specified expiration date or be for a definite term, and must be limited in amount;

(c) The issuer's obligation to pay must be solely dependent upon the presentation of confirming documents as specified in the letter of credit, and not upon the factual performance or nonperformance by the parties to the underlying transaction; and

(d) The account party must have an unqualified obligation to reimburse the issuer for payments made under the letter of credit.

§ 545.8–3 Loans on securities.

A Federal association may invest in loans secured by obligations of, or by obligations fully guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States named in § 523.10(g)(3) of this Chapter, if:

(a) The borrower is a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or is a broker or dealer registered with the Securities and Exchange Commission; and

(b) The market value of the securities for each loan at least equals the amount of the loan at the time it is made.

§ 545.8–4 Loans to and investments in business development credit corporations.

Notwithstanding any other provisions of this Part, a Federal association whose general reserves, surplus, and undivided profits aggregate more than 5 percent of its withdrawable accounts may invest in, lend to, or commit itself to lend to any business development credit corporation incorporated in the state in which the association's home office is located, in the same manner and to the same extent as the statutes of that state authorize a savings and loan association organized under the laws of that state to so invest, lend, or commit itself to lend: *Provided,* That the aggregate amount of investments, loans, and commitments to such a corporation outstanding at any time shall not exceed the lesser of one-half of one percent of the total outstanding loans of the association or $250,000.

§ 545.9 Consumer loans.

(a) *General.* A Federal association may originate, purchase, sell, service and participate in direct or indirect consumer loans and loans to dealers in consumer goods to finance inventory and floor-planning. Consumer loans are loans for personal, family or household purposes and loans reasonably incident thereto, including overdrafts on NOW accounts.

(b) *Limitations.* (1) At any one time, the total investment made under this section shall not exceed 30 percent of an association's assets.

(2) The total balances of all outstanding loans, as defined in § 563.9–3(a), of this Chapter, that may be made under this section in unsecured loans to one borrower, as defined in § 563.9–3(a), may not exceed the limitations contained in § 545.8 of this Part concerning commercial loans. For purposes of the loans-to-one-borrower calculation, inventory and floor planning loans shall be treated as commercial loans.

§ 545.9–1 Credit cards.

An association may issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations. Such operations may be subject to § 545.16–1 of this Part. If a personal security identifier, as defined in § 545.16–1(a)(2), is used in conjunction with a credit card, the identifier may not be disclosed to a third party.

§ 545.9–2 Educational loans.

A Federal association may invest in loans, obligations, and advances of credit (all referred to herein as "loans") made for the payment of educational expenses, if the principal amount of the investment and of all other investments in loans under this section, exclusive of any investment which is, or which at the time of its making was, otherwise authorized, would not exceed 5 percent of the association's assets. The borrower shall certify to the association that the loan proceeds are to be used solely by a student for payment of such expenses. The loan may be secured, partly secured, or unsecured, and the association may require a co-maker(s), insurance, guaranty under a governmental student loan guarantee plan, or other protection.

§ 545.9–3 Loans on savings accounts.

A Federal association may make loans on the security of its savings accounts, whether or not the borrower is the owner of the account, if the association obtains a lien on, or a pledge of, such accounts as security therefor. Such a loan shall not exceed the withdrawal amount of the savings account and shall not be made when the association has any unpaid application for withdrawal on file more than 30 days.

§ 545.10 Financing leases.

(a) *General.* (1) A Federal association may become the legal or beneficial owner of tangible personal property or real property for the purpose of leasing such property, may obtain an assignment of a lessor's interest in a lease of such property, and may incur obligations incidental to its position as the legal or beneficial owner and lessor of the leased property, if (i) the lease is a net, full-payout lease representing a noncancelable obligation of the lessee, notwithstanding the possible early

termination of the lease and (ii) at the expiration of the lease, the association's interest in the property shall be liquidated or released on a net basis as soon as practicable.

(2) A lease of tangible personal property made to a natural person for personal, family or household purposes pursuant to this section shall be subject to all limitations applicable to the amount of a Federal association's investment in consumer loans. A lease made for commercial, corporate, business or agricultural purposes pursuant to this section shall be subject to all limitations applicable to the amount of a Federal association's investment in commercial loans. A lease of residential or nonresidential real property made pursuant to this section shall be subject to all limitations applicable to the amount of a Federal association's investment in real estate loans.

(b) *Definitions.* For the purposes of this section:

(1) A "net lease" is a lease under which the association will not, directly or indirectly, provide or be obligated to provide for:

(i) The servicing, repair or maintenance of the leased property during the lease term;

(ii) The purchasing of parts and accessories for the leased property: *Provided,* That improvements and additions to the leased property may be leased to the lessee upon its request in accordance with the full-payout requirements of this section;

(iii) The loan of replacement or substitute property while the leased property is being serviced;

(iv) The purchasing of insurance for the lessee, except where the lessee has failed to discharge a contractual obligation to purchase or maintain insurance; or

(v) The renewal of any license, registration or filing for the property unless such action by the association is necessary to protect its interest as an owner or financer of the property.

(2) A "full-payout" lease is one from which the lessor can reasonably expect to realize a return of its full investment in the leased property, plus the estimated cost of financing the property over the term of the lease, from rentals, estimated tax benefits, and the estimated residual value of the property at the expiration of the initial term of the lease. The estimated residual value of the property shall not exceed 25 percent, in the case of personal property, or 20 percent, in the case of real property, of the acquisition cost of the property to the lessor *unless* the estimated residual value is guaranteed by a manufacturer, the lessee, or a third party not an affiliate of the association and the association makes the determination that the guarantor has the resources to meet the guarantee. In all cases, however, both the estimated residual value of the property and that portion of the estimated residual value relied upon by the lessor to satisfy the requirements of a full-payout lease must be reasonable in light of the nature of the leased property and all relevant circumstances so that realization of the lessor's full investment plus the cost of financing the property depends primarily on the creditworthiness of the lessee and of any guarantor of the residual value, and on the residual market value of the leased property. The maximum term of a full-payout lease shall be 40 years.

(c) *Salvage powers.* If, in good faith, an association believes that there has been an unanticipated change in conditions that threatens its financial position by significantly increasing its exposure to loss, the provisions of paragraphs (a) and (b) of this section shall not prevent the association:

(1) As the owner and lessor under a net, full-payout lease, from taking reasonable and appropriate action to salvage or protect the value of the property or its interest arising under the lease;

(2) As the assignee of a lessor's interest in a lease, from becoming the owner and lessor of the leased property pursuant to its contractual right, or from taking any reasonable and appropriate action to salvage or protect the value of the property or its interest arising under the lease; or

(3) From including any provisions in a lease, or from making any additional agreements, to protect its financial position or investment in the circumstances set forth in paragraphs (c) (1) and (2) of this section.

§ 545.10–1 Collateral loans.

An association may make a loan secured by assignment of loans to the extent that it could, under applicable law and regulations, make or purchase the underlying assigned loan(s).

§ 545.11 Equalization of interest rates.

Any loan contract entered into by a Federal association may provide for charging any time/price differential or any interest (whether on an add-on, discount, gross charge, or other similar basis) permitted to be charged on the same type of loan by a building and loan, savings and loan, homestead association, cooperative bank, or mutual savings bank organized under the laws of the State, District, Commonwealth, territory, or possession in which the home office of the lending Federal association is located.

§ 545.12 Securities and other investments.

A Federal association may invest in:

(a) Assets that qualify as liquid assets, as defined in § 523.10(g) of this Chapter, and assets,other than time deposits and bankers' acceptances, that would so qualify except for their maturities: *Provided,* That any investment in corporate debt obligations and commercial paper shall be subject to the limitations of § 545.12–4 of this Part;

(b) Obligations fully guaranteed as to principal and interest by the United States;

(c) Securities guaranteed by the Government National Mortage Association under section 306(g) of the National Housing Act, as amended;

(d) Obligations of, or participations or other instruments fully guaranteed as to principal and interest by, the Federal Home Loan Mortgage Corporation;

(e) Obligations of or obligations issued by (other than gold-related obligations) any state, territory or possession of the United States or political subdivision thereof (including any agency, corporation, or instrumentality), without regard to investment-grade rating, if the association's home office or a branch office is located in such state, territory, possession or political subdivision, and the association's aggregate investment in such obligations does not exceed 1 percent of its assets;

(f) The stock of a Federal Home Loan Bank and the Federal National Mortgage Association;

(g) Obligations or other instruments or securities of the Student Loan Marketing Association;

(h) The share capital and capital reserve of the Inter-American Savings and Loan Bank, subject to the following conditions:

(1) The association's net worth meets the requirements of § 563.13 of this Chapter, its scheduled items do not exceed 2.5 percent of its specified assets, and all appraised losses have been offset by specific loss reserves to the extent required by § 563.17–2 of this Chapter;

(2) The association's aggregate investment pursuant to this parapraph, including the amount of any obligations undertaken to provide said Bank with reserve capital in the future (callable capital), will not, as a result of such investment, exceed one-quarter of one percent of its assets or $100,000, whichever is less; and

(3) The association's aggregate investment under this paragraph and its aggregate outstanding principal amount of investment under § 545.8–1(c) of this Part, will not, as a result of such investment, exceed one percent of its assets; and

(i) Shares or certificates in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such management company's investment policy, changeable only if authorized by shareholder vote, solely to investments that an association is authorized, without limitation as to percentage of assets, to invest in, sell, redeem, hold, or otherwise deal with. The authority to invest in such companies includes the authority to redeem or hold the shares or certificates of such companies.

§ 545.12–1 Service corporations.

(a) *Definitions.* As used in this section—

(1) "Aggregate outstanding investment" means the sum of amounts paid to acquire capital stock or securities and amounts invested in obligations of service corporations less amounts received from the sale of capital stock or securities of service corporations and amounts paid to the association to retire obligations of service corporations.

(2) "Conforming loan" means a loan or portion thereof which a Federal association may make under any provision of this Part other than this section, except a loan made under § 545.8(f). A guarantee or take-out commitment of a loan which could have been made by a Federal association as a conforming loan may be deemed a conforming loan for purposes of this section if the Federal association complies with all requirements of this Chapter, including appraisal and recordkeeping requirements, as though it were itself making the loan subject to its guarantee or take-out commitment.

(3) "Insured institution" has the meaning prescribed in § 561.1 of this Chapter.

(4) "Joint venture" means any joint undertaking by a service corporation or a wholly-owned subsidiary thereof with one or more persons or legal entities in any form, including a joint tenancy, tenancy in common, or partnership and including investment in a corporation other than a wholly-owned subsidiary.

(5) "Scheduled items" and "specified assets" have the meanings prescribed in §§ 561.15 and 561.17 of this Chapter.

(6) "Subsidiary" includes a wholly-owned subsidiary and any joint venture in which a service corporation or wholly-owned subsidiary thereof (i) owns, controls, or holds with power to vote more than 25 percent of the capital stock, (ii) is a general partner, or (iii) is a limited partner and has contributed more than 25 percent of the limited partnership's capital.

(7) "Unsecured debt" and "unsecured loan" exclude accounts payable incurred in the ordinary course of business and paid within 60 days.

(b) *Qualified service corporations.* A Federal association may invest in the capital stock, obligations, or other securities of the following types of service corporations organized under the laws of the State (including District, Commonwealth, territory or possession) in which the association's home office is located:

(1) A statewide service corporation in which:

(i) All of the capital stock is available for purchase by, any only by, any and all savings and loan associations with a home office in such state;

(ii) No savings and loan association owns, or may own, more than 10 percent of the service corporation's outstanding capital stock, except that in any state in which the home offices of fewer than 15 savings and loan associations are located, no association owns, or may own, more than one-third of such stock;

(iii) Every eligible savings and loan association may own an equal amount of capital stock or may, on such uniform basis as the service corporation may determine, own an amount of such stock equal to a stated percentage of its assets or savings capital at the time the stock is purchased, but capital stock outstanding on December 31, 1964, may be disregarded in determining compliance with this requirement; and

(iv) Substantially all of the service corporation's activities, performed directly or through one or more wholly-owned subsidiaries or joint ventures, consist of one or more of the activities set forth in paragraph (c) of this section;

(2) A multi-owned service corporation in which:

(i) All of the capital stock is held by at least five savings and loan associations with a home office in such state, and no one association holds more than 40 percent of such stock; and

(ii) The service corporation's activities, performed directly or through one or more wholly-owned subsidiaries or joint ventures, consist solely of one or more of the activities set forth in paragraph (c) of this section; or

(3) A solely owned or multi-owned service corporation in which:

(i) All of the capital stock is held by fewer than five savings and loan associations, or more than 40 percent of such stock is held by one savings and loan association, with a home office in such State;

(ii) The consolidated debt outstanding at any one time (to holders of its capital stock and to others) of the service corporation and its subsidiaries does not exceed:

(*a*) Ten times the total of the service corporation's consolidated net worth and its unsecured debt to holders of at least 25 percent of its capital stock; or

(*b*) Twenty times such total if the service corporation is engaged solely in the activities set forth in paragraph (c)(1)(i) of this section. The consolidated debt of the service corporation and its subsidiaries shall include the entire amount of any obligation of the service corporation or subsidiary resulting from the sale of loans with recourse;

(iii) Approval of the Board is obtained before any activity of the service corporation is performed through one or more joint ventures if a director, officer, or controlling person of any stockholder of the service corporation has a direct or indirect beneficial interest in the joint venture;

(iv) Approval of the Board is obtained for any investment by:

(a) A Federal association in a service corporation or in a corporation which will become a service corporation as a result of that investment, or

(b) A service corporation directly or indirectly through one or more of its wholly-owned subsidiaries or joint ventures, if the purpose of the investment is to acquire a going business for an amount exceeding the fair market value of the tangible net assets of that business from a director or officer of a Federal association which owns any of the capital stock of the service corporation or from an entity in which a director or officer of the Federal association has a direct or indirect beneficial interest or is a director, officer, controlling person, partner, or trustee;

(v) The service corporation's activities, performed directly or through one or more wholly-owned subsidiaries or joint ventures, consist solely of one or more of the activities set forth in paragraph (c) of this section.

(c) *Permitted activities.* A service corporation in which a Federal association may invest is permitted to engage in activities reasonably related to the activities of Federal associations as the Board may approve. In addition, a service corporation may engage in the

following activities without prior Board approval:

(1) *Loans.* Originating, investing in, selling, purchasing, servicing, or otherwise dealing in (including brokerage or warehousing), any of the following:

(i) Loans, and participations in loans, on a prudent basis and secured by real estate or liens on manufactured homes;

(ii) Loans, and participations in loans with or without security, for altering, repairing, improving, equipping, or furnishing real estate;

(iii) Loans and participations in loans for business purposes secured in part by real estate and insured or guaranteed by an agency of the United States;

(iv) Educational loans and participations therein;

(v) Consumer loans and participations therein;

(vi) Commercial loans and participations therein: *Provided,* That: such loans together with commercial loans made by the parent association pursuant to § 545.8 of this Part do not exceed five percent of the assets of the parent, or 7.5 percent if the parent is a Federally chartered savings bank, prior to January 1, 1984, or ten percent thereafter. Where a service corporation is owned by more than one association, each parent for purposes of this calculation shall include a portion of the subsidiary's commercial loans in the proportion of that parent's investment in the service corporation.

(2) *Services primarily for financial institutions.* Performing any of the following services, primarily for financial institutions:

(i) Credit analysis, appraising, construction loan inspection, and abstracting;

(ii) Developing and administering personnel benefit programs, including life insurance, health insurance, and pension or retirement plans;

(iii) Research, studies, and surveys;

(iv) Developing and operating storage facilities for microfilm or other or other duplicate records;

(v) Advertising, brokerage and other services to procure and retain both savings accounts and loans, but not pooling savings accounts or soliciting or promoting pooled savings accounts;

(vi) Serving as escrow agent or as trustee under deeds of trust, including executing and delivering conveyances, recoveyances, and transfers of title;

(vii) Providing liquidity management, investment, advisory and consulting services;

(viii) Providing clerical, accounting, data processing and internal auditing services;

(ix) Establishing, owning, leasing, operating or maintaining remote service units;

(3) *Real estate services.* (i) Maintaining and managing real estate, including real estate used for agricultural purposes;

(ii) Managing owners' associations for condominium, cooperative, Planned Unit Development or other rental real estate projects;

(iii) Providing homeownership and financial counseling;

(iv) Providing relocation services;

(v) Providing real estate brokerage services for property owned by an association that owns capital stock of the service corporation, the service corporation, or a joint venture in which the service corporation participates, but not for property owned by third parties;

(vi) Acquiring real estate for prompt development or subdivision, for construction of improvements, for resale or leasing to others for such construction, or for use as manufactured home sites: *Provided,* That any development, subdivision, and construction of improvements is to be completed within three years after commencement of development of the real estate and within five years after acquistition of the real estate, unless such period is extended by the Principal Supervisory Agent (as defined in § 541.18 of this Subchapter) upon written application by the service corporation, which application shall be supported by information evidencing that the service corporation will proceed or has proceeded in accordance with a prudent development plan and has not caused undue delay in the completion of construction: and *Provided further,* That acquisition of an option to purchase is not an acquisition for the purpose of determining the periods provided for in this subparagraph;

(vii) Acquiring improved real estate or manufactured homes to be held for rental or resale, or for remodeling, renovating, or demolishing and rebuilding for sale or rental;

(viii) Acquiring, maintaining and managing real estate (improved or unimproved) to be used for offices and related facilities of a stockholder of the service corporation, or for such offices and related facilities and for rental or sale, if such acquisition, maintenance and management is performed under a prudent program of property acquisition to meet either the stockholder's present needs or reasonable future needs for office and related facilities: *Provided,* That without prior approval of the Board, no service corporation shall acquire such real estate if, as a result of the acquisition, the outstanding aggregate book value of all such real estate owned by the stockholder and its service corporations would exceed their consolidated net worth.

(4) *Other investments.*

(i) Making investments in securities and in corporations or partnerships authorized by title IX of the Housing and Urban Development Act of 1968 specified in § 545.12–3 of this Part;

(ii) Investing in savings accounts in an insured institution that is a stockholder of the service corporation: *Provided,* That the service corporation receives no consideration, other than interest at the current market rate, for opening or maintaining any such account;

(iii) Investing in the capital stock or in the accounts of an interim Federal association or an interim state institution that has been chartered solely for the purpose of becoming a constituent in a merger that will result in the acquisition of a stock association by a savings and loan holding company or by a company which will, after the acquisition, be a savings and loan holding company;

(iv) Investing in tax-exempt bonds of state governments or political subdivisions thereof used to finance residential real property for family units and issued pursuant to section 103 of the Internal Revenue Code, and tax-exempt obligations of public housing agencies used to finance housing projects with rental assistance subsidies and issued pursuant to section 11(b) of the United States Housing Act of 1937, as amended; and

(v) Investing in the capital of a small business investment company or minority enterprise small business investment company licensed pursuant to section 301(d) of the Small Business Investment Act of 1958 by the U.S. Small Business Administration to invest in small businesses engaged exclusively in the activities listed in paragraphs (c) (1)–(5) of this section.

(5) *Other services.* (i) Preparing state and Federal tax returns for individuals or organizations that are not corporations operated for profit;

(ii) Insurance brokerage or agency for liability, casualty, automobile, life, health, accident, or title insurance, but not private mortgage insurance;

(iii) Providing fiduciary services upon application to the Board pursuant to § 550.2, and subject to the conditions provided in §§ 550.1–550.16, of this Subchapter;

(iv) Issuing notes, bonds, debentures, or other obligations or securities;

(v) Issuing credit cards, extending credit in connection therewith, and

otherwise engaging in or participating in credit card operations;

(vi) Acquiring real or personal property for the purpose of leasing such property or obtaining an assignment of a lessor's interest in a lease of such property: *Provided,* That the estimated residual value of the property at the expiration of the initial term of the lease shall not exceed 70 percent of the acquisition cost to the lessor. A service corporation may sell real or personal property in connection with its leasing activities;

(6) Activities reasonably incident to those listed in subparagrphs (c) (1)–(5) of this section.

(d) *Amount of investment.* (1) An association may invest under this section in the capital stock, obligations, or other securities of service corporations: *Provided,* That its aggregate outstanding investment does not exceed 3 percent of assets, and any investment in excess of 2 percent of assets serves primarily community, inner-city or community development purposes. The investment limitations of this paragraph shall include all loans, secured and unsecured, and all guarantees or take-out commitments of such loans, to service corporations or any subsidiaries thereof, and to joint ventures of such service corporations or subsidiaries, whether or not the association is a stockholder therein. An association with an aggregate outstanding investment in excess of 2 percent of assets shall designate investments that serve primarily community, inner-city or community development purposes which shall include the following:

(i) Investments in governmentally insured, guaranteed, subsidized or otherwise sponsored programs for housing, small farms, or businesses that are local in character;

(ii) Investments for the preservation or revitalization of either urban or rural communities;

(iii) Investments designed to meet the community development needs of, and primarily benefit, low- and moderate-income communities; or

(iv) Other community, inner city or community development-related investments approved by the Principal Supervisory Agent (as defined in § 541.18 of this Subchapter).

(2) In addition to amounts which it may invest under paragraph (d)(1) of this section, an association that has a net worth at least equal to the minimum net-worth requirement for an association on the annual closing date of the twentieth anniversary of insurance of accounts as provided in paragraph (b) of § 563.13 of this Chapter, and that has a ratio of scheduled items (other than assets acquired in a merger instituted for supervisory reasons) to specified assets of not more than 2.5 percent (except as provided in paragraph (d)(4) of this section), may loan additional amounts as follows:

(i) An aggregate outstanding amount not to exceed 20 percent of the association's net worth may be invested in conforming loans made to service corporations, or subsidiaries thereof, and to joint ventures of such service corporations and subsidiaries; and

(ii) An aggregate outstanding amount, including loans included in paragraph (d)(2)(i) of this section, not to exceed 50 percent of such Federal association's net worth may be invested in conforming loans made to a service corporation of which the association owns or holds with power to vote not more than 10 percent of the capital stock or to a joint venture in which service corporations in which the association is a stockholder, including subsidiaries of such service corporations, (*a*) own or hold with power to vote not more than a total of 10 percent of the capital stock, or (*b*) are limited partners and have contributed not more than 10 percent of such joint venture's capital.

(3) The limitation in paragraph (d)(1) of this section does not apply to conforming loans to any service corporation in which the lending association does not have any investment made under authority of this section.

(4) An association that has a net worth at least equal to the minimum net-worth requirement for an association on the annual closing date of the twentieth anniversary of insurance of accounts as provided in paragraph (b) of § 563.13 of this Chapter, may apply to the Board for an exception from the scheduled-items limitation in paragraph (d)(2) of this section. The application shall be supported by information evidencing the association's sound investment, lending, appraisal, and underwriting policies and favorable operating results. The application shall be filed with the Principal Supervisory Agent with a copy to the Director, Office of Examinations and Supervision. The application is approved if, within 30 calendar days after the date the Principal Supervisory Agent receives it, he has not notified the applicant that approval is withheld. If approval is withheld, the Principal Supervisory Agent shall promptly cause the application to be submitted to the Board for its decision. The Principal Supervisory Agent may request additional information from the applicant, but need not consider such additional information received less than 5 calendar days before the end of the 30-day period.

(e) *Examination.* A Federal association may invest in the capital stock, obligations, or other securities of a service corporation only if the service corporation has executed and filed with the Supervisory Agent a written agreement, in a form prescribed by the Board, that:

(1) If the service corporation is described in paragraph (b) of this section, it will permit and pay the cost of examination of it by the Board to determine the propriety of any investment by a Federal association under this section; and

(2) If the service corporation is described in paragraph (c) of this section, it will permit and pay the cost of such examination and/or audit by the Board as the Board deems necessary.

(f) *Disposal of investment.* Whenever a service corporation, including any subsidiary thereof, engages in an activity which is not permissible for, or exceeds limitations on, a service corporation in which a Federal association may invest, or whenever the capital stock ownership requirements of this section are not met, a Federal association having an interest in the corporation, including any subsidiary thereof, shall dispose of its investment promptly unless, within 90 days after the Board mails written notice to the association, the impermissible activity is discontinued, the limitation is complied with, or the capital stock ownership requirements are met.

(g) *Corporate name.* No Federal association may invest in, or retain any investment, the capital stock, obligations, or other securities of any service corporation whose corporate name or the designation of whose subsidiary or office (1) includes the words "National", "Federal", or "United States", or the initials "U.S." or (2) could identify it with any insured institution which has not invested in it.

(h) *Applications.* Any application made to the Board under this section shall be in the form it prescribes and filed with the Supervisory Agent. One or more Federal associations which propose investment in a service corporation which is not yet organized may make any application required by this section.

(i) *Revision of specified activities and limitations.* Activities and limitations specified in this section may be revised from time to time.

(j) *Limitation on activities.* Service corporations in which Federal associations may invest shall not be used to acquire scheduled items from an

insured institution, except that such a service corporation may, for the purpose of providing housing, acquire real estate owned by an insured institution.

§ 545.12–2 Investment in savings and demand accounts.

A Federal association may invest in the savings and demand accounts of any institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation. In addition, a Federal association may maintain a non-interest-bearing account at an institution whose accounts are insured pursuant to a state deposit insurance program if the account is necessary or incidental to a correspondent relationship.

§ 545.12–3 Investments in corporations and partnerships authorized by title IX of the Housing and Urban Development Act of 1968.

Without regard to any other provision of this Part, a Federal association may invest an aggregate amount not exceeding 1 percent of its assets in:

(a) Shares of stock issued by the National Corporation for Housing Partnerships or by any other corporation created under title IX of the Housing and Urban Development Act of 1968;

(b) Limited partnership interests in the National Housing Partnership or in any other limited partnership formed under section 907(a) of that Act; and

(c) Any partnership, limited partnership, or joint venture formed under section 907(c) of that Act.

§ 545.12–4 Commercial paper and corporate debt securities.

(a) *General.* A Federal association may invest in, sell, or hold commercial paper and corporate debt securities, including corporate debt securities convertible into stock, subject to the limitations set forth in paragraph (b) of this section. An investment under this section includes the investing in, redeeming, or holding shares of any open-end management investment company which has registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and whose portfolio is restricted by such management company's investment policy, changeable only if authorized by shareholder vote, solely to the investments that an association is authorized to invest in pursuant to this section and paragraph (i) of § 545.12 of this Part.

(b) *Limitations.* (1) Commercial paper must be of investment quality. Investment quality paper is paper that (i) as of the date of purchase, as shown by the most recently published rating made of such investments by at least one nationally recognized investment rating service, is rated in either one of the two highest grades or (ii) if unrated, is issued by a company or a subsidiary of a company having outstanding paper that is rated as provided in paragraph (b)(1)(i) of this paragraph.

(2) Corporate debt securities must be marketable. To be considered marketable for purposes of this regulation, a security must be one that may be sold with reasonable promptness at a price which corresponds reasonably to its fair value. A corporate debt security must be rated in one of the four highest grades by at least one nationally recognized investment rating service at its most recent published rating before the date of purchase of the security.

(3) An association's total investment in the commercial paper and corporate debt securities of any one issuer, or issued by any person or entity affiliated with such issuer, together with other commercial loans, shall not exceed the limitations on loans to one borrower contained in § 563.9–3: *Provided,* That this provision shall not apply to investments in the shares of an open-end management investment company. In such cases, an association's total investment in the shares of any one such company shall not exceed five percent of the association's assets.

(4) Investments in corporate debt securities convertible into stock are subject to the following additional limitations: (i) The purchase of securities convertible into stock at the option of the issuer is prohibited; (ii) at the time of purchase, the cost of such securities must be written down to an amount which represents the investment value of the securities considered independently of the conversion feature; (iii) such securities must be traded on a national securities exchange; and (iv) associations are prohibited from exercising the conversion feature.

(5) At any one time, the average maturity of an association's portfolio of corporate debt securities may not exceed six years.

(6) An association shall maintain information in its files adequate to demonstrate that it has exercised prudent judgment in making investments under this section.

(c) Notwithstanding other limitations contained in this section, an association may invest up to one percent of its assets in commercial paper and corporate debt securities if in the exercise of its prudent business judgment it determines that there is adequate evidence that the obligor will be able to perform all that it undertakes to perform in connection with such securities, including all debt service requirements.

§ 545.12–5 Real estate for office and related facilities.

(a) *General.* A Federal association may invest in real estate (improved or unimproved) to be used for office and related facilities of the association, or for such office and related facilities and for rental or sale, if such investment is made and maintained under a prudent program of property acquisition to meet the association's present needs or its reasonable future needs for office and related facilities. The association shall obtain Board approval before making an investment which would cause the outstanding aggregate book value of all such investments (including investments under § 545.12–1(c)(3)(viii) of this Part) to exceed its net worth. The association shall also obtain Board approval before investing in real estate which the Board has not approved for the establishment or maintenance of an office facility, if the investment, together with the association's other investments in real estate lacking such approval, would exceed 25 percent of its net worth.

(b) *Requests for Board approval of exceptions.* An association shall send requests for Board approval of exceptions to limitations in this section to the Supervisory Agent, with a copy to the Director, Office of Examinations and Supervision.

§ 545.12–6 Leasing.

(a) *General.* A Federal association may become the legal or beneficial owner of tangible personal property for the purpose of leasing such property, may obtain an assignment of a lessor's interest in a lease of such property, and may take such actions and incur such obligations as are incidental to its position as the lessor, legal or beneficial owner, or assignee: *Provided,* That the estimated residual value of the property at the expiration of the initial term of the lease shall not exceed 70 percent of the acquisition cost to the lessor. An association also may sell tangible personal property if such sales are incidental to its leasing activities.

(b) *Limiation on investment.* An association's total investment under this section shall not exceed ten percent of its assets.

§ 545.12–7 Gold transactions.

No Federal association shall engage in any transaction or activity involving gold (including gold coins) or gold-related instruments or securities.

General Operations

§ 545.13 Home office.

All operations of a Federal association shall be subject to direction from the home office.

§ 545.14 Branch offices.

(a) *General.* A branch office of a Federal association is any office other than its home office, agency office, data processing or administrative office, or a remote service unit. Except as limited by this section, any business of a federal association may be transacted at a branch office. Except as provided in paragraph (j) of this section, a Federal association shall not establish a branch office without prior written approval of the Board or its Principal Supervisory Agent.

(b) *Eligibility.* A Federal association may apply for a branch regardless of the number of branch applications it has pending before the Board, unless otherwise currently restricted under an agreement between the Board and a state agency that regulates state-chartered savings and loan associations.

(c) *Application form; filing; completion; supervisory objection.* Applicants shall obtain Board-approved application and notice forms and related instructions from the Supervisory Agent. An application is filed when four copies are delivered to the Supervisory Agent; the application is complete when the Supervisory Agent determines that all required information has been submitted. The Board shall not accept an application if in its opinion the association is not eligible or its policies, condition, or operations afford a basis for supervisory objection. The Supervisory Agent shall determine that the application is complete, the applicant is eligible, and that as a preliminary matter there is no basis for supervisory objection to the application, before giving direction for publication of notice.

(d) *Processing of application.* Processing of an application under this Part shall follow the procedures set forth in § 543.2(d), (e), and (f) of this Subchapter except that the applicant shall publish the required newspaper notice of application in the applicant's home office community and in the community to be served by the proposed branch office.

(e) *Approval by the Board or the Principal Supervisory Agent.* (1) The Board shall approve an application only if, in its opinion: (i) The branch can be established without undue injury to properly conducted existing local thrift and home-financing institutions; (ii) the policies, condition, and operation of the applicant afford no basis for supervisory objection; and (iii) the proposed branch will open with 12 months of approval unless otherwise allowed by the Board or the Supervisory Agent. In addition, in considering whether to approve an application, the Board will assess and take into account an institution's record of helping to meet the credit needs of its entire community, including low-and moderate-income neighborhoods, pursuant to Part 563e of this Chapter; assessment of an institution's record of performance may be the basis for denying an application. An application may also be denied on the basis of restrictions imposed by the Board pursuant to an existing agreement between the Board and a state agency that regulates state-chartered savings and loan associations.

(2) The Principal Supervisory Agent may approve, on behalf of the Board, an application for permission to establish a branch office if no substantial protest based on undue injury or Part 563e of this Chapter has been filed. Such application shall be deemed to be approved by the Board 30 days after notification that the application is complete, unless the applicant is notified by the Principal Supervisory Agent that objection has been taken on grounds set forth in paragraph (e)(1) of this section.

(f) *Approval of temporary or permanent location.* The Supervisory Agent may approve a temporary and/or permanent location of an approved branch office if the new location is in the immediate vicinity of the approved location and would not be more strongly competitive to any other properly conducted existing thrift and home-financing institution than at the approved location.

(g) *Offices not requiring prior written approval.* A Federal association may establish without prior approval a drive-in and/or pedestrian office opened in conjunction with an approved branch or home office of the association, located within 500 feet of a public entrance of that office and closer to that entrance than to a public entrance of any other FSLIC-insured institution, and the functions of which are limited to the ordinary functions performed at a teller-window.

(h) *Application for and maintenance of branch office after conversion, consolidation, purchase of bulk assets, or merger.* (1) An existing institution which converts to a Federal association may not maintain an existing office, and a Federal association which acquires offices through consolidation, purchase of bulk assets, or merger, may not maintain any acquired office, without written Board approval.

(2) A Federal association may not file a branch application after having filed an application to merge or otherwise surrender its Federal charter, unless the merger or conversion application has been pending for at least six months.

(3) The Board may deny a branch application if it determines that the applicant will not in fact operate such branch as an office of a Federal association.

(i) *Exclusive agreements prohibited.* A Federal association may not enter into any kind of agreement(s) that would result in the exclusive right to operate a branch office in a regional shopping center, as defined in § 571.11(b) of this Chapter, or in a majority of all locations of a chain store, or enter into an agreement under which other financial institutions would be excluded from operating offices ina regional shopping center or any location of a chain store where the Federal association does not have an office.

(j) *Effective date; effect on existing applications.* (1) This regulation applies to any branch application published for its first required notice on or after January 1, 1981; all other pending applications will be evaluated under the regulations in effect immediately prior to such date.

(2) An applicant may withdraw a pending application at any time without prejudice.

§ 545.14-1 Upgrading of approved branch office.

(a) *General.* A branch office is upgraded if the association is relieved of any of the restrictions imposed on operation of the office when it opened.

(b) *Notice.* A Federal association operating a limited, mobile, or satellite facility approved before January 1, 1981, or a branch office with conditions imposed on its operation shall notify the Supervisory Agent at least 30 days before upgrading the facility.

(c) *Approval.* If, within 30 days of receipt of the notice, the Supervisory Agent does not notify the association of supervisory objection which would require the association to submit an application or additional information before upgrading, the association may upgrade the facility.

(d) *Upgrading with change of location.* Any upgrading which involves a permanent change of location must be approved under § 545.15 of this Part.

§ 545.14-2 Closing a branch office.

A Federal association shall notify the Supervisory Agent not less than 90 days

or, in the case of an emergency, as early as circumstances permit, before closing a branch office.

§ 545.15 Change of office location and redesignation of offices.

(a) *General.* A Federal association shall not change the permanent location of its home office or any approved branch office, or redesignate a home or branch office, without prior approval of the Board or the Supervisory Agent.

(b) *Processing of application.* Processing of an application for a change of office location or redesignation of a home or branch office shall follow the procedures set forth in § 545.14 (c), (d), (e), (f), (g), (h), and (i) of this Part, except that (1) the applicant shall publish the required newspaper notice of application in (i) the applicant's home office community, (ii) the community to be served by the new office, and (iii) the community where the office is to be closed or the home office is to be redesignated as a branch; and (2) the applicant shall post notice of the application for 17 days from the date of first publication in a prominent location in the office to be closed or redesignated.

(c) *Approval by the Board.* An application shall be approved only if the applicant complies with the standards of § 545.14(h) of this Part.

(d) *Short-distance relocations.* (1) Notwithstanding paragraph (a) of this section, an association may change the permanent location of a home or branch office, without applying for Board approval, to a site within the market area and short-distance relocation area of the office site that has been approved in accordance with § 545.14 of this Part or paragaph (a) of this section. The short-distance relocation area of an office site is:

(i) The area within a 1,000-foot radius of the site if it is located within a central city of a Standard Metropolitan Statistical Area ("SMSA") designated by the U.S. Department of Commerce;

(ii) The area within a one-mile radius of the site if it is located-within a SMSA designated by the U.S. Department of Commerce but not within a central city; or

(iii) The area within a two-mile radius of the site if it is not located within an SMSA.

(2) An association shall notify the Supervisory Agent in writing at least 30 days before such an office relocation and may proceed with the relocation unless, within 30 days of receipt of the notice, the Supervisory Agents notifies the association that the relocation does not satisfy the criteria in the first sentence of this paragraph (d), in which case the association must file an application and obtain Board approval in accordance with paragraphs (b) and (c) of this section. The Supervisory Agent shall provide a timely written acknowledgment to the association stating when notice was received. The Supervisory Agent's determination of whether the proposed relocation is within the market area and the short-distance relocation area of the former site shall be final.

(3) This paragraph (d) does not permit an office relocation that would violate a restriction imposed by the Board pursuant to an agreement between the Board and a state agency that regulates state-chartered savings and loan associations.

§ 545.16 Agency.

(a) *General.* A Federal association may, without approval of the Board, to the extent authorized by its board of directors, establish or maintain, within the same state as the home office of the association or the same state as any branch office approved by the Board, agencies which only service and originate (but do not approve) loans and contracts and/or manage or sell real estate owned by the association.

(b) *Additional services.* Except for payment of savings accounts and loan approval services, offering of any services not listed in paragraph (a) of this section may be approved by the Principal Supervisory Agent.

(c) *Records.* An agency shall maintain records of all business it transacts and transmit copies to a branch or home office of the association.

(d) *Notice.* A Federal association shall notify the Supervisory Agent when it opens or closes an agency.

§ 545.17 Fiscal agency.

A Federal association designated fiscal agent by the Secretary of the Treasury or, with Board approval by another instrumentality of the United States, shall, as such, perform such reasonable duties and exercise only such powers and privileges as the Secretary of the Treasury or such instrumentality may prescribe.

§ 545.17-1 Trustee.

A Federal association may act (a) as a trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit sharing plan qualifying for specific tax treatment under section 401(d) of the Internal Revenue Code of 1954, and (b) as trustee or custodian of an individual retirement account within the meaning of section 408(a) of the Code, if the funds of the trust or account are invested only in the association's savings accounts or deposits or its obligations or securities. If state law authorizes a financial institution to hold funds in a trust capacity involving no active fiduciary duties a Federal association may so act. The association may receive reasonable compensation for acting in any such capacity.

§ 545.18 Adjustments to book value of assets.

If the Supervisory Agents determines that an asset's stated book value exceeds its value or that documentation in the association's loan file is inadequate to demonstrate that an investment made under §§ 545.6(f) is sound, the Supervisory Agent may require the association to charge off the asset immediately or establish and maintain a special reserve(s) equalling the overvaluation.

§ 545.19 Real estate owned.

A Federal association may not carry real estate on its books for a sum in excess of the total amount invested by the association on account of such real estate, including advances, costs, and improvements, but excluding accrued but uncollected interest.

§ 545.20 Accounting records.

(a) *Accounting practices.* Each Federal association shall use such forms and follow such accounting practices as the Board may require, and shall close its books at least annually as of the end of such month(s) as the association's board of directors may designate. The date of the association's annual closing shall be not less than 15 days or more than 3 months and 15 days before its annual meeting.

(b) *Maintenance of records.* An association shall maintain a complete record of its business transactions and maintain at its home office, or at a branch or service office located within 100 miles of the home office, all general accounting records, including control records, of its business transactions. The association may not transfer the general accounting or control records or the maintenance thereof from any of its offices to another, unless its board of directors has (1) by resolution authorized the transfer or maintenance and (2) sent a certified copy of the resolution to the District Director—Examinations of its district. An association which determines to maintain any of its records by means of data processing services shall so notify the District Director—Examinations, in writing, at least 90 days before such maintenance will begin. Notification

shall include identification of the records and the location at which they will be maintained. Any contract, agreement, or arrangement under which data processing services are to be performed shall expressly provide that the records maintained by such services shall at all times be available for examination and audit.

§ 545.21 Monthly reports.

A Federal association's officers shall make a monthly report to the association's board of directors on forms prescribed by the Board and available from any Federal Home Loan Bank. The association shall send a copy of the report to the Bank of which it is a member and two copies to the Board.

§ 545.22 Statement of condition.

Within the month after the annual closing of a Federal association's books, the association shall mail to all of its members, or if it is a Charter S association to all of its depositors and borrowers, at their last address appearing on the association's books, or publish in an English-language newspaper of general circulation in the county in which the association's home office is located, a statement of the association's condition as of such closing, on forms prescribed by the Board and available from any Federal Home Loan Bank or from the Board. Within 5 days after mailing or publishing the statement, the association shall send a certification to that effect signed by one of its executive officers, and a copy of the statement, to the Bank of which it is a member. This section shall not apply in a year in which the association sends to its voting members an annual report as required by § 563.45(a) of this Chapter.

§ 545.23 Indemnification of directors, officers and employees.

A Federal association shall indemnify its directors, officers, and employees in accordance with the requirements in § 522.72 of this Chapter regarding indemnification of persons by Federal Home Loan Banks. In applying that section "Federal association" shall be read for "Bank" and "Supervisory Agent" shall be read for "Secretary". Before making advance payment of expenses under § 522.72(e), the association shall obtain an agreement that the association will be repaid if the person on whose behalf payment is made is later determined not to be entitled to such indemnification. The requirements of § 522.72(f) notwithstanding, an association which has a bylaw in effect relating to indemnification of its personnel shall be governed solely by that bylaw, except that its authority to obtain insurance shall be governed by § 522.72(d) of this chapter.

§ 545.23-1 Employment contracts.

(a) *General.* A Federal savings and loan association with bylaws amended under § 544.6(k), a Federal mutual savings bank or a Charter S or Charter T association, upon specific approval of its board of directors, may enter into employment contracts with its officers and other employees in accordance with § 563.39 of this Chapter.

(b) *Contracts with other entities or persons.* An officer of an association shall have no other written or oral agreement concerning employment as an officer of the association with any entity or person other than the association.

§ 545.24 Advisory boards and committees.

A Federal association's board of directors may establish one or more advisory boards of directors or advisory committees to advise the association as the board of directors may authorize. Each member of such a board or committee shall be appointed by the board of directors on a year-to-year basis. Such members may be permitted to attend meetings of the board of directors, but they shall have no vote on matters acted upon by the board of directors.

§ 545.25 Referral of insurance business.

(a) For purposes of this section the terms "owned" and "referral" have the meanings prescribed in § 555.17(a)(1) and (3) of this Subchapter.

(b) No Federal association shall refer any insurance business to an agency owned by officers or directors of the association, or by persons having power to direct its management, unless:

(1) A specific state statute or regulation precludes Federal associations' service corporations (or wholly-owned subsidiaries thereof) from engaging in the insurance business;

(2) The association, after filing any necessary applications and making a bona fide attempt to obtain any necessary approval (with or without instituting legal proceedings against state officials to compel approval) has been denied permission by the appropriate state licensing or regulatory authorities for its service corporation, or a wholly-owned subsidiary thereof, to engage in the insurance business;

(3) Such state authorities follow an established and well-known policy of refusing to accept or approve such applications (the association need not demonstrate existence of such a policy by instituting legal proceedings against such authorities to compel approval);

(4) The referral takes place within a reasonable period of time (not exceeding 18 months) after a change in such state law, regulation, or policy for the association to investigate the feasibility and desirability of acquiring or establishing its own service corporation insurance business; or

(5) An application for permission to establish or acquire a service corporation insurance business is on file with the appropriate state agencies and/or the Board.

§ 545.26 Communication between members of a Federal mutual association.

(a) *Disclosure of membership list prohibited.* (1) As used in this section, "membership lists" means any document of the association containing: (i) A list of members of the association; (ii) their addresses; (iii) their savings account or loan balances or records; or (iv) any data from which that information reasonably could be constructed.

(2) Federal mutual associations may not disclose in any manner, directly or indirectly, their membership lists to any person (other than officers of the association, or others employed by them, in the usual course of conducting the association's business) except with prior written approval of the Board.

(3) The Supervisory Agent may approve of disapprove requests made under paragraph (a)(2) of this section, and may specify terms and conditions of approval.

(b) *Right of inspection of member's own records.* A member of a Federal mutual association has the right to inspect the association's books and records pertaining solely to the member's own savings or borrowing account(s).

(c) *Right of communication with other members.* A member of a Federal mutual association has the right to communicate, as prescribed in paragraph (d) of this section, with other members of the association regarding any matter related to the association's affairs, except for "improper" communications, as defined in paragraph (e) of this section. The association may not defeat that right by redeeming a savings member's savings account in the association.

(d) *Member communication procedures.* If a member of a Federal mutual association desires to communicate with other members, the following procedures shall be followed:

(1) The member shall give the association a written request to communicate;

(2) If the proposed communication is in connection with a meeting of the association's members, the request shall be given at least 30 days before the annual meeting or 10 days before a special meeting;

(3) The request shall contain—

(i) The member's full name and address;

(ii) The nature and extent of the member's interest in the association at the time the information is given;

(iii) A copy of the proposed communication; and

(iv) If the communication is in connection with a meeting of the members, the date of the meeting;

(4) The association shall reply to the request within either—

(i) 14 days;

(ii) 10 days, if the communication is in connection with the annual meeting; or

(iii) 3 days, if the communication is in connection with a special meeting;

(5) The reply shall provide either—

(i) The number of the association's members and the estimated reasonable cost to the association of mailing to them the proposed communication; or

(ii) Notification that the association has determined not to mail the communication because it is "improper", as defined in paragraph (e) of this section;

(6) After receiving the amount of the estimated costs of mailing and sufficient copies of the communication, the association shall mail the communication to all members, by a class of mail specified by the requesting member, either—

(i) Within 14 days;

(ii) Within 7 days, if the communication is in connection with the annual meeting;

(iii) As soon as practicable before the meeting, if the communication is in connection with a special meeting; or

(iv) On a later date specified by the member;

(7) If the association refuses to mail the proposed communication, it shall return the requesting member's materials together with a written statement of the specific reasons for refusal, and shall simultaneously send to the Supervisory Agent two copies each of the requesting member's materials, the association's written statement, and any other relevant material. The materials shall be sent within (i) 14 days, (ii) 10 days if the communication is in connection with the annual meeting, or (iii) 3 days, if the communication is in connection with a special meeting, after the association receives the request for communication.

(e) *Improper communication.* A communication is an "improper communication" if it contains material which: (1) At the time and in the light of the circumstances under which it is made (i) is false or misleading with respect to any material fact or (ii) omits a material fact necessary to make the statements therein not false or misleading, or necessary to correct a statement in an earlier communication on the same subject which has become false or misleading; (2) relates to a personal claim or a personal grievance, or is solicitous of personal gain or business advantage by or on behalf of any party; (3) relates to any matter, including a general economic, political, racial, religious, social, or similar cause, that is not significantly related to the business of the association or is not within the control of the association; or (4) directly or indirectly and without expressed factual foundation (i) impugns character, integrity, or personal reputation, (ii) makes charges concerning improper, illegal, or immoral conduct, or (iii) makes statements impugning the stability and soundness of the association.

§ 545.27 Financial futures transactions.

A Federal association may engage in financial futures transactions in compliance with § 563.17–4 of this Chapter.

§ 545.28 Financial options transactions.

A Federal association may engage in financial options transactions in compliance with § 563.17–5 of this Chapter.

§ 545.29 Data-processing services.

(a) *Definition.* As used in this section, "data-processing services" means maintenance of bookkeeping, accounting, or other records primarily by mechanical or electronic methods.

(b) *Data-processing office.* (1) An association may establish or maintain a data-processing office with functions limited to providing data-processing services for its own use and/or primarily for other depository institutions without observing the application and approval procedures for branch offices set forth in this Part. Data processing services may be provided to others on a for-profit basis only if they are authorized by § 545.31(a) of this Part.

(2) An association may participate with others in establishing or maintaining a data-processing office: *Provided,* That the association may participate in establishing or maintaining a data-processing office controlled by an entity not subject to examination by a Federal agency regulating financial institutions only if such entity has agreed in writing with the Board that it will permit and pay for such examination of the office as the Board deems necessary, and that it will make available for such purposes any records in its possession relating to the operation of the office.

§ 545.30 Issuance of GNMA-guaranteed, mortgage-backed securities.

Without regard to any other provision of this part, a Federal association may, in accordance with regulations prescribed by the Government National Mortgage Association (GNMA) in 24 CFR Part 1665, Subpart A:

(a) Issue and sell trust certificates or other securities: (1) Backed by a trust or pool composed or mortgages insured under the National Housing Act or title V of the Housing Act of 1949, or insured or guaranteed under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38, United States Code, and (2) guaranteed as to principal and interest by GNMA under section 306(g) of the National Housing Act; and

(b) Do all things necessary and proper for carrying out such issuance and sale.

§ 545.31 Correspondent services and accounts.

(a) *General.* A Federal association may provide correspondent services primarily to other depository institutions to the extent such activity is consistent with the purposes set forth in the Act and does not violate other regulations in this Chapter or any other provisions of law.

(b) *Correspondent accounts.* An association may receive noninterest-bearing deposits from correspondent institutions for use as compensating balances, for settlement purposes, or for other purposes incidental to a correspondent relationship. Such deposits may be payable on demand and subject to withdrawal by negotiable or transferable instrument, order, or authorization. Such deposits shall not give rise to voting rights or other rights of membership in a Federal mutual association.

§ 545.32 Remote Service Units (RSUs)

(a) *Definitions.* As used in this section—

(1) "Generic data" means statistical information which does not identify any individual accountholder.

(2) "Personal security identifier" (PSI) means any word, number, or other security identifier essential for an

accountholder to gain access to an account.

(3) "Remote service unit" (RSU) means an information processing device, including associated equipment, structures and systems, by which information relating to financial services rendered to the public is stored and transmitted, instantaneously or otherwise, to a financial institution. Any such device not on the premises of a Federal association that, for activation and account access, requires use of a machine-readable instrument and PSI in the possession and control of an accountholder, is an RSU. The term includes, without limitation, point-of-sale terminals merchant-operated terminals, cash-dispensing machines, and automated teller machines. It excludes automated teller machines on the premises of a Federal association, unless shared with other financial institutions. An RSU is not a branch, satellite, or other type of facility or agency of a Federal association under § 545.14 *et seq.* of this Part.

(4) "RSU account" means a savings or loan account that may be accessed through use of an RSU.

(b) *General.* Subject to the requirements of the Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) and Regulation E of the Federal Reserve Board (12 CFR 205.2), a Federal association may establish or use RSUs and participate with others in RSU operations, on an unrestricted geographic basis. No RSU may be used to open a savings account or establish a loan account.

(c) *RSU access techniques.* A Federal association shall provide a PSI to each accountholder and require its use when accessing an RSU; it may not employ RSU access techniques that require the accountholder to disclose a PSI to another person. The association must inform each accountholder that the PSI is for security purposes and shall not be disclosed to third parties. Any device used to activate an RSU shall bear the words "Not Transferable" or their equivalent. A passbook may not be such a device.

(d) *Service charges.* A Federal association may impose service charges for RSU financial services.

(e) *Privacy of account data.* A Federal association shall allow accountholders to obtain any information concerning their RSU accounts. Except for generic data or data necessary to identify a transaction, no Federal association may disclose account data to third parties, other than the Board or its representatives, unless express written consent of the accountholder is given, or applicable law requires. Information disclosed to the Board will be kept in a manner to ensure compliance with the Privacy Act, 5 U.S.C. 552(a). A Federal association may operate an RSU according to an agreement with a third party or share computer systems, communications facilities, or services of another financial institution only if such third party or institution agrees to abide by this section as to information concerning RSU accounts in the Federal association.

(f) *Bonding.* A Federal association shall take all steps necessary to protect its interest in financial services processed at each RSU, including obtaining available fidelity, forgery, and other appropriate insurance.

(g) *Security.* A Federal association shall protect electronic data against fraudulent alterations or disclosure. All RSUs shall meet the minimum security devices requirements of Part 563a of this Chapter as though such units were offices, as defined in § 563a.1 of said Part, except to the extent that an association satisfies the Board's Supervisory Agent that those requirements are inappropriate. In such a case, alternative measures satisfactory to the Board's Supervisory Agent must be taken for installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries, larcenies, and computer theft and to assist in identification and apprehension of persons who commit such acts.

(h) *Board supervision.* A Federal association may share an RSU controlled by an institution not subject to examination by a Federal regulatory agency only if such institution has agreed in writing that the RSU is subject to such examination by the Board as its deems necessary.

PART 555—BOARD RULINGS

13. Amend § 555.3 by removing paragraph (b) thereof, redesignating paragraph (c) as paragraph (b) and revising the first sentence of paragraph (a) as follows:

§ 555.3 Real estate.

(a) For lending purposes, a motel is generally considered "improved nonresidential real estate." * * *

* * * * *

14. Revise § 555.11 as follows:

§ 555.11 Loans for acquisition and development of land.

A Federal association may make a loan under § 545.6(c) of this Subchapter to finance development of land to which the borrower already has title, but it may not make a development loan under that section to finance the purchase of land already completely developed into building sites.

15. Amend § 555.15 by removing all references to "§ 545.6–5(b)" and inserting in their place "§ 545.6–7(d)", and by amending the first sentence to read as follows:

§ 555.15 Prepayment penalty on mortgage loans.

Section 545.6–7(d) makes clear that, with the exception of certain instances enumerated therein, the charging of a prepayment penalty is a matter of contract between a Federal association and a borrower, and that the borrower may wholly or partly prepay the loan without penalty unless the loan contract contains an express provision imposing a prepayment penalty. * * *

* * * * *

16. Add a new § 555.19 as follows:

§ 555.19 Receipt of interest expressed as a percentage of the income from the security property.

Pursuant to § 545.6 of this Subchapter a Federal association may make loans on the security of residential or nonresidential real estate. With limited exceptions, Federal associations lack the statutory authority to acquire an equity interest in real estate and, accordingly, cannot, as part of a loan transaction, acquire an ownership interest in the security property. The issue has arisen as to whether the receipt of a share of the income generated by the security property, or any similar participation with the borrower in the project, would constitute the acquisition of an equity interest in the security property.

The Board has determined that the receipt of such income should not be considered an equity interest if the income in substance constitutes no more than a part of the compensation received for the use of the association's funds. Accordingly, if an association receives a substantial payment of interest calculated periodically as a percentage of the outstanding principal loan balance, it may receive additional interest in the form of a share of the income. The means by which an association calculates its share of the income (i.e., a percentage of the gross or net receipts, or of the appreciation of the property) would therefore not be a material consideration in determining whether the share consititutes an equity interest in the property.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

17. Amend § 561.15 by revising paragraphs (g) through (i) paragraph (k) and the introductory text of paragraph (j) as follows:

§ 561.15 Scheduled items.

* * * * *

(g) Assets acquired in exhange for any of the scheduled items described in this section except (1) securities, if the market value of a security when it is acquired at least equals its unpaid principal balance, or (2) securities that qualify as liquid assets under § 523.10(g) of this Chapter.

(h) Assets transferred by an insured institution to a service corporation referred to in § 545.9–1 of this Chapter, or to any other corporation in which an insured institution has an investment, to the same extent that they, or the amount invested therein, would be counted as scheduled items if not transferred.

(i) The amount invested in personal property acquired through enforcement of a security interest, including manufactured homes and any personal property in the possession of any servicing company or dealer acting on behalf of an insured institution but excluding personal property owned pending transfer to an issuing or guaranteeing agency of the U.S. Government.

(j) The unpaid principal balance of any loan secured by, and any contract for the sale of, personal property described in paragraph (i) of this section, if the unpaid balance exceeds any applicable lending limitation or 100 percent of the wholesale value, including any installed equipment, of the personal property as established at the time of sale in a dealer's market or by appraisal; except that, with respect to loans secured by or contracts for the sale of manufactured homes, only 20 percent of the unpaid principal balance of any such loan or contract will be included in "scheduled items" if all of the following requirements are met:* * *

(k) For purposes of this section, a lease made or otherwise invested in by an insured institution that conforms to the description of a financing lease, as set out in § 545.10 of this Chapter, shall be treated as if it were a loan secured by the type of property leased.

* * * * *

PART 563—OPERATIONS

18. Amend § 563.3–3 by revising paragraph (c) as follows:

§ 563.3–3 Eurodollar deposits.

* * * * *

(c) *Collateralization of certificates.* An institution may give security for Eurodollar deposits subject to the provisions of § 563.8–2 of this Part.

* * * * *

19. Amend § 563.8 by revising paragraph (c) as follows:

§ 563.8 Borrowing limitations.

* * * * *

(c) An institution may give security for borrowings other than from a Federal Home Loan Bank or state-chartered central reserve institution subject to the provisions of § 563.8–2 of this Part.

* * * * *

20. Add a new § 563.8–2 as follows:

§ 563.8–2 Corporation's right of purchase.

(a) *General rule.* For any security given by an insured institution other than for borrowings from a Federal Home Loan Bank or state-chartered central reserve institution, the terms of the security agreement or other documentation shall provide that the Corporation receive prompt written notification of any default on the obligation and, before a sale or other disposition of any portion of the collateral, that the Corporation shall have thirty (30) days after receipt of written notice of the proposed sale or other disposition to exercise a right to repurchase the collateral at the price to be paid at the sale or to acquire the collateral at the value to be assigned to it in any other disposition.

(b) *Exceptions.* The notice and right of purchase required by paragraph (a) of this section shall not apply to collateral consisting of liquid assets as defined in § 523.10 of this Chapter or collateral that would qualify as liquid assets but for its remaining term to maturity.

21. Revise paragraphs (a) and (b) of § 563.9–3 as follows:

§ 563.9–3 Loans to one borrower.

(a) *Definitions used in this section.* (1) The term "one borrower" means (i) any person or entity that is, or that upon the making of a loan will become, obligor on a loan, (ii) nominees of such obligor, (iii) all persons, trusts, partnerships, syndicates, and corporations of which such obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning 10 percent or more of the capital stock, and (iv) if such obligor is a trust, partnership, syndicate, or corporation, all trusts, partnerships, syndicates, and corporations of which any beneficiary, partner, member, or record or beneficial stockholder owning 10 percent or more of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning 10 percent or more of the capital stock of such obligor.

(2) *Outstanding loans.* The term "outstanding loans" means the original amounts loaned by an insured institution plus any additional advances and interest due and upaid, less repayments and participating interests sold and exclusive of any loan of the security of such institution's savings accounts or real estate the title to which has been conveyed to a bona fide purchaser of such real estate. The term does not include loan commitments.

(3) *Outstanding commercial loans to one borrower.* (i) The term "outstanding commercial loans to one borrower" means: (*a*) outstanding loans to one borrower for commercial, corporate, business, or agricultural purposes, unless fully secured by real estate or one or more deposit accounts; (*b*) investments in commercial paper and corporate debt securities of one issuer; (*c*) financing leases, to one lessee made for commercial, corporate, business, or agricultural purposes and satisfying the criteria set forth in § 545.10(a)(1) of this Chapter; and (*d*) standby letters of credit issued for one account party for commercial, corporate, business, or agricultural purposes.

(ii) For purposes of this definition, the terms "one issuer," "one lessee," and "one account party" shall be construed in accordance with the principles used to define "one borrower" in subparagraph (1) of this paragraph.

(iii) The term "commercial loans to one borrower" includes the portion of commercial loans to one borrower by an institution's service corporation affiliate calculated *pro rata* on the basis of the percentage of the service corporation's stock owned by the institution.

(4) *Unimpaired capital and unimpaired suplus.* The term "unimpaired capital and unimpaired surplus" means regulatory net worth plus specific reserves for loan losses, less appraised equity capital, as set forth in an institution's most recent Semiannual Financial Report.

(5) *Standby letter of credit.* The term "standby letter of credit" means any letter of credit, or similar arrangement however named or described, that represents an obligation of the issuer to the beneficiary to repay money borrowed by or advanced to or for the account of the account party, to make payment on account of any indebtedness undertaken by the account party, or to make payment on account of any default by the account party in the performance of an obligation. A letter of

credit is not a "standby letter of credit" if, prior to or at the time of issuance:

(i) The issuer is paid an amount equal to its maximum liability under the letter of credit; or

(ii) The issuer has set aside sufficient funds in a segregated deposit account, clearly designated for that purpose, to cover the issuer's maximum liability under the letter of credit.

(b) *Limitations.*—(1) *Aggregate loans.* No insured institution shall have outstanding any loan to one borrower, as defined in paragraph (a) of this section, if the sum of (1) the amount of such loan and (2) the total balances of all outstanding loans owed to such insitution and its service corporation affiliates by such borrower exceeds an amount equal to 10 percent of such institution's withdrawable accounts or an amount equal to such institution's net worth, whichever amount is less: *Provided,* That, notwithstanding any other limitation of this sentence, any such loan may be made if the sum of paragraphs (b) (1) and (2) of this section does not exceed $200,000 and, beginning on January 1, 1982, and annually thereafter, such amount adjusted by the dollar amount that reflects the percentage increase, if any, in the Consumer Price Index during the previous 12 months as shown in the November-to-November index, or if such loan is secured by a first lien on real estate subject to an annual contributions contract under former section 23 of the United States Housing Act of 1937, as amended.

(2) *Commercial loans.* No insured institution may have outstanding at one time commercial loans to one borrower in excess of the amount a national bank having an identical unimpaired capital and unimpaired surplus could lend such borrower. The general rule stated in section 5200 of the Revised Statutes (12 U.S.C. 84) is that total loans and extensions of credit by a national bank to one borrower are limited to 10 percent of the bank's unimpaired capital and unimpaired surplus prior to April 14, 1982, and 15 percent, plus an additional 10 percent for fully secured loans, thereafter. Several exceptions to these limits are set forth in section 5200; and additional limitations on loans to one borrower are found in sections 11(m) and 13 of the Federal Reserve Act (12 U.S.C. 248(m), 372). All investments in commercial paper of one issuer shall be included for purposes of calculating the loans-to-one-borrower limitations of section 5200 of the Revised Statutes, notwithstanding the exception stated therein.

* * * * *

(Title III, Pub. L. No. 97-320, 96 Stat. 1469, amending 12 U.S.C. 1461 *et seq.*; Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425); Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947; 3 CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-1621 Filed 1-18-83; 8:45 am]

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12 CFR Parts 545, 556, 590, and 591

[No. 83-17]

Preemption of State Due-on-Sale Laws

January 13, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") proposes to revise its regulations pertaining to preemption of state laws restricting the use of due-on-sale clauses with regard to both federally and non-federally chartered lenders, to implement section 341 of the Garn-St Germain Depository Institutions Act of 1982 ("Act"). The Act provides for federal preemption of all state laws restricting the right of any lender to exercise its contractual option to declare immediately due and payable sums secured by the lender's security instrument if all or any part of the real property securing the loan is sold or transferred by the borrower without the lender's prior written consent. The revisions would: (1) Describe real property lenders subject to the statute and regulations; (2) restate the right of federally-chartered associations and savings banks to exercise such option, with the option governed exclusively by the terms of the loan contract; (3) provide for preemption of state law with regard to all other lenders of real property loans; (4) provide, as to lenders other than federally-chartered savings and loan associations and savings banks, a "window period" where preemption would not apply, for loans made or assumed during the period beginning on the date a state law or judicial decision prohibited exercise of due-on-sale clauses and ending October 15, 1982; (5) provide, as to all lenders, a list of circumstances, involving transfers otherwise subject to the general preemption, in which lenders shall not exercise the due-on-sale clause; and (6) provide notice that the Board will issue interpretations of the statute upon written request and explain the procedure for filing such requests.

DATES: Comments must be received by March 18, 1983.

ADDRESS: Send comments to Director, Information Services Section, Office of Communications, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Gwenn Hibbs, Deputy Director, Legislative Counsel (202-377-6448), Office of General Counsel, Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: As authorized under section 341(e)(1) of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, 96 Stat. 1469, 1507, the Board is proposing revisions to its regulations governing the preemption of state laws restricting the exercise of due-on-sale clauses by federal associations, and is proposing to adopt new regulations regarding preemption of such laws with regard to all other lenders.

The Board's current due-on-sale clause regulations are codified in 12 CFR 545.8-3(f), (g) and 556.9. Section 545.8-3(f), promulgated in 1976 (initially codified at 12 CFR 545.6-11(f)), expressly affirmed the continued right of federal associations to exercise due-on-sale clauses notwithstanding restrictive state laws, and § 545.8-3(g) set out four circumstances in which a federal association could not exercise the due-on-sale option with regard to future loans on homes occupied or to be occupied by the borrower. 41 FR 18288; *see also,* 4 FR 39124 (1981).

The express language of section 545.8-3(f) was deemed a desirable clarification of pre-existing Board policy on the due-on-sale issue, due to increasing controversy as to the rights of federal associations regarding due-on-sale clauses. *See* 41 FR 6283, 6285 (1976). Prior to 1976, the Board had no regulation which specifically mentioned due-on-sale clauses. However, the Board had affirmed the right of federal associations to use such clauses, notwithstanding restrictive state law, pursuant to a regulation in effect since 1948 which specifically required that each "loan contract" of a federal savings and loan association "shall provide for full protection to the Federal association." 12 CFR 545.6-11 (1975); Advisory Opinion of Federal Home Loan Bank Board, Resolution No. 75-647, *In the Matter of Scott v. Mission Federal Savings and Loan Association.*

The preemptive effect and validity of the 1976 Board regulation as to federal

associations were upheld by the Supreme Court in *Fidelity Federal Savings and Loan Association* v. *de la Cuesta*, 102 S. Ct. 3014 (1982).

Aside from the *de la Cuesta* ruling on the Board's regulations governing federal associations, there are no judicial decisions construing the authority of other federal financial institutions' supervisors to preempt state laws restricting the use of due-on-sale clauses. However, the National Credit Union Administration (NCUA) Board did promulgate a preemptive regulation for federally-chartered credit unions (12 CFR 701.21–6(d) (1982)), which included restrictions on exercise on due-on-sale clauses parallel to those contained in § 545.8–3(g). The Office of the Comptroller of the Currency (OCC) issued proposed preemptive regulations for national banks in September 1981, but has not yet taken final action on the proposal. 46 FR 46964 (1981). The proposal contained no limitations on exercise of the clause by national banks parallel to those applicable to federal associations under § 545.8–3(g).

Prior to enactment of the Garn-St Germain Act on October 15, 1982, there was no uniform national policy governing the use of due-on-sale clauses by either federally or non-federally chartered lenders. Section 341 of the Act established such a uniform policy, affirming the federal preemption of state due-on-sale prohibitions or restrictions (by statute or judicial decision) afforded federal associations, and generally extended that preemption to all other lenders making real property loans, whether such loans were commercial or residential. Act section 341(b)(1), (c)(2)(C).

The statutory federal preemption is not, however, a "blanket" federal preemption for all financial institutions. S. REP. NO. 536, 97th Cong. 2d Sess. 22 (1982) (hereafter "S. REP."). For loans originated by financial institutions other than federal associations and federal savings banks, Congress created a "window period" exception to the federal preemption for mortgages originated or assumed after state action prohibited the enforcement due-on-sale clauses.

The statutory language defines the window period as beginning on the date state law prohibited the exercise of the clause, and ending on October 15, 1982. Act section 341(c)(1). Loans originated by a state-chartered institution or assumed on or after the opening date of the window period will generally be subject to state law prohibitions for three years from the date of enactment of the new legislation, *unless* the state legislature (or, in the case of national banks, the OCC, and in the case of federal credit unions, the NCUA) takes action to regulate such window-period loans during a three-year period commencing on the effective date of the new legislation. States that do not have window periods may not take action to restrict due-on-sale enforcement, and states with window periods may take action only with respect to the window-period loans. S. REP. at 23. If a state, the OCC, or NCUA elects to take no action during the three-year period, the federal preemption would become effective three years after the date of enactment and due-on-sale clauses in window-period loans would become fully enforceable upon the *transfer* of such loans on or after October 15, 1985. Act section 341(c)(1). Subsequent to passage of the Act, the NCUA Board issued regulations regarding window-period loans made by federal credit unions and preempted state law applicable to such loans in cases of transfers made after November 18, 1982. 47 FR 54425, 54428 (1982).

The proposed regulations are designed to restate and clarify, where necessary, the basic statutory framework set out in Act section 341. With regard to current Board regulations on due-on-sale, the revisions also consolidate and simplify the provisions of §§ 545.8–3(f), (g) and 556.9, which are overlapping to some extent.

A description of each of the most significant revisions proposed by the Board follows: The Board requests comments on the appropriateness of the proposed clarifications and amplification of the statutory framework, and whether the proposals adequately serve the stated regulatory objectives.

Definitions

1. *Lender.* The proposed regulation reflects Congressional intent that the statutory definition of lender, which speaks in terms of "a person or government agency making a real property loan," is to be interpreted expansively to include individuals and all manner of corporate and governmental entities extending mortgage credit. The entities listed in the regulation follow the language of the legislative history; however, the enumeration is intended to be representative rather than exhaustive.

2. *Loan secured by a lien on real property; Loan secured by a lien on stock in a residential cooperative housing corporation; Loan secured by a lien on a residential manufactured home, whether real or personal property.* The definitions of these terms are adapted from definitions in § 590.2 (Usury Preemption) relating to certain loans secured by first liens on various loans. The proposed definitions vary significantly from Part 590 only in the omission of the "first lien" requirement.

3. *Residential manufactured home.* This definition incorporates the language of § 590.2(g), which the proposed amendments would revise to follow the definition in section 603(6) of the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5402(6), as amended in 1980. The revision is necessary to update § 590.2(g), which currently follows the language of 42 U.S.C. 5402(6) as originally enacted in 1974.

4. *Reverse mortgage.* Act section 341(e)(2) provides that, notwithstanding the general prohibitions on the exercise of a due-on-sale clause set out in Act section 341(d), Board regulations may permit exercise of such clauses with respect to a real property loan and related agreement "pursuant to which a borrower obtains the right to receive future income." The Board believes that this language is most appropriately used to authorize exercise of the due-on-sale clause in the case of "reverse mortgages," as explained in more detail below. The definition proposed here closely follows the language describing "reverse annuity mortgage" used in prior § 545.6–4(c)(1) (removed August 16, 1982, 47 FR 36620 (1982)), and provides sufficient flexibility to include instruments based on the same principle which may evolve in the future.

5. *Window-period loan.* The definition clarifies that state laws "prohibiting" the exercise of due-on-sale clauses, as set out in Act section 341(c)(1), are those which prohibit the unrestricted exercise of such clauses upon outright transfers of the property subject to the lien. This language follows legislative history concerning window-period loans. S. REP. at 22.

The definition also clarifies that the window-period does not apply to any loan originated by a federal association. The express language of Act section 341(c)(2)(C) and the legislative history of the Act § 341 provide that due-on-sale practices of federal thrifts will continue to be governed exclusively by the regulatory authority of the Board. However, the history also provides that the identity of the lender at the time the loan was originated determines whether a loan is subject to the window-period restrictions. Thus, where a loan is originated by a state-chartered savings and loan association, during the window period, and that association subsequently converts to a federally-chartered thrift, that loan will be subject to any applicable state due-on-sale

restrictions for three years, unless state action provides other treatment for such loans. S. REP. at 24, 57–58.

Finally, it should be noted that, consistent with the express statutory language of Act section 341(c)(1), the regulation recognizes that window periods are created and state law which may affect real property loans originated in the state pursuant to section 341(c)(1)(A) is limited to the adoption of state statutes or constitutional provisions, and certain judicial decisions. Restrictions adopted by state voters through the referendum process do not create window periods.

Preemption—Federal Associations

Regulations providing for preemption of state due-on-sale laws as applied to federal associations are currently found in §§ 545.8–3(f), (g) and 556.9 of the Federal Savings and Loan System Regulations. Section 545.8–3(f) provides the basic preemption authority as to due-on-sale clauses, while § 545.8–3(g) lists certain circumstances applicable to loans made after July 31, 1976, in which a federal association may not exercise its due-on-sale option, prohibits the assessment of a prepayment fee when the due-on-sale clause is invoked, and provides for a waiver of the due-on-sale option as to a specific transfer if, prior to the transfer, the association and prospective transferor agree in writing that the transferor's credit is satisfactory and that the transferor will pay an interest rate requested by the association.

Section 556.9 sets forth additional non-mandatory policy guidelines regarding disclosure of imposition of late charges, prepayment charges, and due-on-sale clauses; sets forth additional circumstances in which federal associations should refrain from exercising the due-on-sale option, and restates and reaffirms the Board's position regarding preemption of state due-on-sale restrictions for federal associations.

The Board proposes to consolidate and simplify the current regulations, which are overlapping to some degree, by eliminating paragraphs (f) and (g) of § 545.8–3 and paragraphs (c) through (f) of § 556.9.[1] The text of paragraph (f) of § 545.8–3 would be recodified as § 591.3 (a) and (b). The language would be changed in two ways. The first sentence of new § 591.3(a) would be revised by adding language clarifying that the preemption applies with regard to all loans which have been or will be originated by a federal association. This change reflects the language of the Act, as discussed earlier in this proposal. Since the Act also expressly provides that the various window-period and retroactive transfer provisions of section 341(c) do not apply to loans "originated" by federal associations and federal savings banks (Act section 341(c)(2)(C)), the premption authority previously codified in § 545.8–3(f) would be amended to clarify that any insured institution or other lender holding a mortgage loan originated by a federal association may exercise a due-on-sale clause contained in the contract without regard to restrictive state law.

This result is appropriate for two reasons. First, the express statutory language and legislative history compel such treatment. Second, such a result fully comports with underlying Congressional intent to allow unrestricted exercise of due-on-sale clauses based on the borrower's expectations and reliance on contract terms as they existed at the time of origination. Where a borrower has entered a loan contract with a federal association containing a due-on-sale clause, he or she cannot rely upon the status of the contract changing simply because the loan may be sold subsequently to a state-chartered association or other lender in the secondary market. Conversely where the borrower's original contract was with a state-chartered association, there is a protected reliance on the fact that the due-on-sale clause cannot be exercised if state law would have prevented it at the time of origination.

Second, the second sentence of paragraph (f) of § 545.8–3 would be revised to clarify that exercise of the clause is limited by the restrictions set out in new § 591.5, which incorporates the statutory proscriptions on the exercise of due-on-sale clauses of the Act section 341(d) and the regulatory restrictions contained in § 545.8–3(g).

Preemption—All Other Lenders

Proposed new § 591.4 provides for preemption of state due-on-sale restrictions for lenders holding loans not originated by federal associations. The provisions setting out restrictions on retroactive exercise of such clauses, and limiting the use of the clauses during the window period, basically follow the statutory language of Act section 341(c), with minor additions to clarify that the restrictions apply only to loans not originated by a federal association.

The Board's proposal does not contain language paralleling the statutory "encouragement" of allowing "blended rate" assumptions for federal associations or other lenders. Neither does it provide language paralleling the statutory proviso that a lender subject to window-period provisions may nevertheless invoke a due-on-sale clause if a prospective transferor fails to meet the lender's customary credit standards. The Board has tentatively determined that implementing language in these two instances is not necessary in view of the self-explanatory nature of Act sections 341(b)(3) and 341(c)(2)(B). The Board seeks comments on whether specific procedures or clarification in either case would be helpful for lenders.

Due-on-Sale Restrictions

New paragraph (a) of proposed § 591.5 recodifies with some revisions the second sentence of paragraph (f)(2) of current § 556.9. In view of the vesting of rulemaking authority regarding Act section 341 solely in the Board (in consultation with the NCUA Board and the OCC) pursuant to Act section 341(e)(1), the language has been recodified to reflect the fact that Board regulations regarding restrictions on due-on-sale practices are the exclusive authority governing all loans covered by the statutory due-on-sale preemption. An exception from the preemptive effect of Board regulations is made for "window period" state laws affecting nonfederally chartered entities, and for regulations affecting national banks which may be promulgated by the OCC and for regulations already promulgated for federal credit unions by the NCUA Board pursuant to Act section 341(c)(1)(B) and implementing proposed § 591.4(b)(1)(ii).

Paragraph (b) of proposed § 591.5 sets out a list of statutory restrictions on the exercise of a due-on-sale option, which would apply to loans originated by all lenders, including window period loans. While the list of restrictions is substantially similar to the circumstances listed in Act section 341(d), the Board proposes to make three modifications to the statutory scheme.

First, the restrictions listed in the statute would apply only to loans made on homes occupied or to be occupied by the borrower. Thus, construction, development, and other loans made for commercial purposes would not be subject to the list of restrictions. The Board believes this exclusion is

[1] The removal of paragraphs (f) and (g) of § 545.8–3 would become unnecessary if the Board takes final action regarding extensive revisions to Part 545 proposed on December 16 in Federal Home Loan Bank Board Resolution No. 82–813. The December 16 resolution would recodify the substance of paragraph (f) at proposed new § 545.6–7(b)(4), subject to the statutory requirements of Act § 341.

consistent with the Congressional purpose of providing restrictions on due-on-sale exercise to protect consumers. S. Rep. at 24–25.

In addition, the Board proposes that certain transfers rearranging ownership rights should be protected only where the transferee is a person who is currently occupying, or will occupy, the property. The occupancy requirement would also be mandated in the case of a borrower who transfers the property subject to the lien into an *inter vivos* trust. These limitations generally are intended to protect borrowers while preventing a transferee from withdrawing from occupancy and using the property for investment purposes. The Board does not believe that any legitimate consumer protection goals would be served in the latter case.

It should be noted that proposed subparagraphs (i)–(iv) of paragraph (b)(1) are substantially similar to the provisions of current § 545.8–3(g)(1) (i)–(iv), while proposed subparagraph (v) is substantially similar to the current policy statement in paragraph (c) of current § 556.9.

Paragraph (b)(1) of proposed § 591.5 represents a clarification of Act section 341(e)(2), which literally provides that regulations implementing the Act may, notwithstanding the restrictions list in section 341(d), permit a lender to exercise its due-on-sale option with respect to "a real property loan and any related agreement pursuant to which a borrower obtains the right to receive future income." The Board has determined that this authority can most appropriately be used to permit the exercise of a due-on-sale clause upon the transfer of a reverse annuity mortgage.

The regulatory limits set out in proposed new § 591.5(b) (2) and (3) simply recodify the portions of current regulations which restrict use of the due-on-sale clauses by federal associations and make them applicable to other lenders as well. Thus, paragraphs (b)(2) and (b)(3) recodify the proscription on assessment of prepayment charges and waiver of the due-on-sale clause pursuant to a written agreement with a prospective transferor which now appear at paragraphs (g) (2) and (3) of current § 545.8–3. As under current regulations, these limits would continue to apply only to loans made after July 31, 1976, with respect to federal associations, and to other lenders beginning with loans made after the effective date of any final action on this proposal.

Paragraph (c) of proposed § 591.5 incorporates the advisory language of current § 556.9(e). Paragraphs (c) and (d) of § 556.9 have been eliminated because generally superseded by the statutory restrictions in Act section 341(d) and proposed corresponding regulations at new § 591.5(b)(1).

Interpretations

Proposed § 591.6 would implement Act section 341(e)(1), which authorizes the Board, in consultation with the OCC and the NCUA Board, to issue rules and regulations and publish interpretations governing the implementation of Act section 341. Accordingly, pursuant to this process, the Board believes that it is appropriate to establish, either through interpretation or an expanded definition in proposed new paragraph 591.2(p), an exclusive list of those broad categories of laws which are of a type that, as a matter of federal law, can be said to be those "prohibiting the exercise" of due-on-sale clauses within the meaning of Act section 341(c)(1). Consistent with the legislative history of Act section 341, the Board solicits comment on whether the following types of laws should be regarded as the exclusive list of those which create window periods by virtue of prohibiting the "unrestricted exercise" of a due-on-sale clause upon outright transfer of the liened property (S. REP. at 23): (1) Those which allow use of the due-on-sale clause only where the lender's security interest is impaired; (2) those which permit use of the due-on-sale clause only where the person assuming the loan fails to meet customary credit standards; (3) those which condition use of the due-on-sale clause on the existence of "legitimate grounds" or similar circumstances; (4) those which restrict or disallow interest-rate changes during the term of the loan, or upon assumption; and (5) those which limit the fee a lender may charge for transfer of a loan. Any other types of burdens on the exercise of a due-on-sale clause would not be viewed as "prohibiting the exercise" of such clause, although they would be preempted pursuant to the broad express language of Act section 341(b) (1)–(2), which states that the rights and remedies of the parties shall be "exclusively" governed by the loan contract, except as provided in Act section 341(d). *See also*, 128 CONG. REC. S12235 (1982). The Board solicits comment on the appropriateness of such an approach to the "window period" issue, and as to the effectiveness of such an approach in providing additional certainty to lenders.

Balloon Payment Loans

Act section 341(g) provides that Board regulations restricting the use of a balloon payment loan shall not apply to any loan within the scope of section 341. In view of this language, the Board is proposing to revise § 590.4(e), which currently prohibits a creditor from making a balloon payment loan in connection with financing a residential manufactured home, if the creditor seeks to use the usury preemption authority of § 590.4(b). Under the proposed regulation, federal associations would be authorized to make "balloon payment" non-amortized or partially-amortized loans on residential manufactured homes subject to the cumulative consumer protection provisions governing such loans made by federal associations in § 545.8–2 [3] and those generally applicable in cases of usury preemption under § 590.4.

Lenders other than federal associations may make balloon payment loans subject to the general provisions of § 590.4 only to the extent authorized by other applicable federal or state law or regulation.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objective, and legal basis underlying the proposed rule.* These elements have been incorporated elsewhere into the supplementary information regarding the proposal.

2. *Small entities to which the proposed rule will apply.* The proposed rule will apply to all federally-chartered and insured depository institutions, all state-chartered and state-insured depository institutions, and all other government or corporate entities who fall within the definition of "lender" in Pub. L. 97–320, section 341(a)(2).

3. *Impact of the rule on small businesses.* The rule would not have a disproportionate effect on small businesses. By creating competitive parity between all lenders as to the use of due-on-sale clauses, the rule will benefit small lenders. Thus, it is expected that the proposed rule would have no significant economic impact on a substantial number of small entities.

4. *Overlapping or conflicting federal rules.* Any inconsistent state or federal law or regulation is superseded by the Board's proposed rule, and in particular by the regulatory authority granted exclusively to the Board under subsection (e)(1) of Pub. L. 97–320. That subsection grants the Board broad

[3] Proposed to be recodified at § 545.6(b)(1) under Federal Home Loan Bank Board Resolution No. 82–813 (December 16, 1982).

authority to promulgate regulations governing preemption of due-on-sale clauses by all lenders making real property loans. It is expected that any overlapping or inconsistency will be eliminated through revisions of other law after final consideration of this proposal.

5. *Alternatives to the proposed rules.* Most of the proposed provisions are mandated by statute; moreover, to the extent that any alternatives to the proposed rules were able to be considered, they are discussed elsewhere in the supplementary information regarding the proposal.

Regulatory Analysis

The elements of regulatory analysis for major proposed regulations required by Board Resolution No. 80–584 (September 11, 1980) have been incorporated into the supplementary information regarding the proposal.

List of Subjects in 12 CFR Parts 545, 566, 590, and 591

Savings and loan associations, Banks, Banking, Mortgages.

Accordingly, the Board hereby proposes to amend Parts 545 and 556, Subchapter C, and Part 590, Subchapter G, and to add new Part 591 to Subchapter G, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

§ 545.8–3 [Amended]

1. Amend § 545.8–3 by removing paragraphs (f) and (g).

PART 556—STATEMENTS OF POLICY

§ 556.9 [Amended]

2. Amend § 556.9 by removing from the first sentence of paragraph (b)(1) thereof the phrase "§ 545.8–3(g) of this subchapter" and inserting in its place "§ 591.5(b)(2) of Subchapter G of this Chapter", and by removing paragraphs (c), (d), (e) and (f) thereof.

3. Revise the title of Subchapter G to read as follows:

SUBCHAPTER G—PREEMPTION OF STATE LENDING RESTRICTIONS

4. Amend § 590.2 by revising paragraph (g), as follows:

§ 590.2 Definitions.

* * * * *

(g) "Residential manufactured home" shall mean a manufactured home as defined in the National Manufactured Home Construction and Safety Standards Act, 42 U.S.C. § 5402(6), which is or will be used as a residence.

* * * * *

5. Revise paragraph (e) of § 590.4 to read as follows:

§ 590.4 Consumer protection rules for Federally-related loans, mortgages, credit sales and advances secured by first liens on residential mobile homes.

* * * * *

(e) *Balloon payments.*

(1) *Federal associations.* Federal association creditors may enter into agreements with debtors which provide for non-amortized and partially-amortized loans on residential manufactured homes, and such loans shall be governed by the provisions of this section and 545.6–2 of this Chapter.

(2) *Other creditors.* All other creditors may enter into agreements with debtors which provide for non-amortized and partially-amortized loans on residental manufactured homes to the extent authorized by applicable federal or state law or regulation.

* * * * *

6. Add a new Part 591 to read as follows:

PART 591—PREEMPTION OF STATE DUE-ON-SALE LAWS

Sec.
591.1 Authority, purpose, and scope.
591.2 Definitions.
591.3 Loans originated by Federal associations.
591.4 Other lenders.
591.5 Limitation on exercise of due-on-sale clauses.
591.6 Interpretations.

Authority: Sec. 5, 48 Stat. 132 (12 U.S.C. § 1464), as amended by Sec. 401, 94 Stat. 160, Sec. 311, 97 Stat. 1498; Sec. 341, Pub. L. 97–320, 96 Stat. 1469, 1505–1507.

§ 591.1 Authority, purpose, and scope.

(a) *Authority.* This part contains regulations issued under section 5 of the Home Owners' Loan Act of 1933, as amended, and under section 341 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320, 96 Stat. 1469, 1505–1507.

(b) *Purpose and scope.* The purpose of this permanent preemption of state prohibitions on the exercise of due-on-sale clauses by all lenders, whether Federally or State chartered, is to reaffirm the authority of Federal savings and loan associations to enforce due-on-sale clauses, and to confer on other lenders generally comparable authority with respect to the exercise of such clauses. This Part applies to all real property loans, and all lenders making such loans, as those terms are defined in § 591.2 of this Part.

§ 591.2 Definitions.

For the purposes of this Part, the following definitions apply:

(a) "Assumed" includes transfers of real property subject to a real property loan by assumption, installment land sales contracts, wraparound loans, contracts for deed, transfers subject to the mortgage or similar lien, and other like transfers.

(b) "Due-on-sale clause" is a contract provision which authorizes a lender, at its option, to declare due and payable sums secured by the lender's security instrument if all or any part of the property, or an interest therein, securing the real property loan is sold or transferred without the lender's prior written consent.

(c) "Federal association" has the same meaning as provided in § 541.8 of this Chapter.

(d) "Federal credit union" means a credit union chartered under the Federal Credit Union Act.

(e) "Home" has the same meaning as provided in § 541.11 of this Chapter.

(f) "Insured institution" has the same meaning as provided in § 561.1 of this Chapter.

(g) "Lender" means a person or government agency making a real property loan, including without limitation individuals, Federal savings and loan associations, state-chartered savings and loan associations, national banks, state-chartered banks and state-chartered mutual savings banks, mortgage banks, finance companies which make real property loans, manfactured-home retailers who extend credit, agencies of the Federal government, any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act, and any assignee or transferee, in whole or part, of any such persons of agencies.

(h) "Loan secured by a lien on real property" means a loan on the security of any instrument (whether a mortgage, deed of trust, or land contract) which makes the interest in real property (whether in fee, or in a leasehold or subleasehold extending, or renewable, automatically or at the option of the holder or the lender, for a period of at least five years beyond the maturity of the loan) specific security for the payment of the obligation secured by the instrument.

(i) "Loan secured by a lien on stock in a residential cooperative housing corporation" means a loan on the security of: (1) a security interest in stock or a membership certificate issued to a tenant stockholder or resident

member by a cooperative housing organization; and (2) an assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by such organization.

(j) "Loan secured by a lien on a residential manufactured home, whether real or personal property," means a loan made pursuant to an agreement by which the party extending the credit acquires a security interest in the residential manufactured home.

(k) "Loan originated by" a Federal association or other lender means any loan for which the lender makes the first advance of credit thereunder, provided that such lender then held a benefical interest in the loan, whether as to the whole loan or a portion thereof, and whether or not the loan is later held by or transferred to another lender.

(l) "Real property loan" means any loan, mortgage, advance or credit sale secured by a lien on real property, the stock or membership certificate allocated to a dwelling unit in cooperative housing corporation, or a residential manufactured home, whether real or personal property.

(m) "Residential manufactured home" has the same menaning as provided in § 590.2(g) of this Subchapter.

(n) "Reverse mortgage" is any instrument providing periodic payments to homeowners based on accumulated equity, whether the payments are made directly by the lender, through purchase of an annuity through an insurance company or in any other manner. The loan may be due either upon a specific date or when a specified event occurs, such as the sale of the property or death of the borrower.

(o) "State" means the several states, Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(p) A "window-period loan" is a real property loan, not originated by a Federal association, which was made or assumed during a window period created by state law. Such window period begins on the date a state adopted a constitutional provision or statute prohibiting the unrestricted exercise of due-on-sale clauses upon outright transfers of property subject to real property loans, or the date on which the highest court of such state has rendered a decision prohibiting such exercise (or if the highest court has not so decided, the date on which the next highest appellate court has rendered a decision resulting in a final judgment which applies statewide), and ends on October 15, 1982.

§ 591.3 Loans originated by Federal associations.

(a) With regard to any real property loan originated or to be originated by a Federal association, as a matter of contract between it and the borrower, an association may include a provision in its loan instrument allowing it, at its option, to declare immediately due and payable sums secured by the association's security instrument if all or any part of the real property (or an interest therein) securing the loan is sold or transferred by the borrower without the association's prior written consent.

(b) Except as provided in § 591.5 of this Part with respect to any such loan made on the security of a home occupied or to be occupied by the borrower, exercise by any lender of a due-on-sale clause in a loan originated by a Federal association shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the association and borrower at any and all times, shall be fixed and governed by that contract.

§ 591.4 Other lenders.

(a) Except as otherwise provided in paragraph (b) of this section and § 591.5 of this Part, the exercise of due-on-sale clauses in loans originated by lenders other than Federal associations shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the lender and the borrower shall be fixed and governed by that contract.

(b)(1) In the case of a window-period loan, the provisions of paragraph (a) of this section shall apply only in the case of a transfer of the property subject to the real property loan and only if such transfer occurs on or after October 15, 1958: *Provided,* That: (i) with respect to real property loans originated in a state by lenders other than national banks, Federal associations, and Federal credit unions, a state may otherwise regulate such contracts by state law enacted prior to October 16, 1985, in which case paragraph (a) of this section shall apply only if such state law so provides; and (ii) with respect to real property loans originated by national banks and Federal credit unions, the Comptroller of the Currency or the National Credit Union Administration Board, respectively, may otherwise regulate such contracts by regulations promulgated prior to October 16, 1985, in which case paragraph (a) shall apply only if such regulation so provides.

(2) A lender may not exercise its option pursuant to a due-on-sale clause contained in a window-period loan in the case of a transfer of such a loan where the transfer occurred prior to October 15, 1982.

§ 591.5 Limitation on exercise of due-on-sale clauses.

(a) *General.* Except as provided in § 591.4(b) of this Part, due-on-sale practices of Federal associations and other lenders shall be governed exclusively by the Board's regulations, in preemption of and without regard to any limitations imposed by state law on either their inclusion or exercise including, without limitation, state law prohibitions against restraints on alienation, prohibitions against penalties and forfeitures, equitable restrictions and state law dealing with equitable transfers.

(b) *Specific limitations.* With respect to any loan on the security of a home occupied or to be occupied by the borrower, a lender:

(1) Shall not (except with regard to a reverse mortgage) exercise its option pursuant to a due-or-sale clause upon:

(i) The creation of a lien or other encumbrance subordinate to the lender's security instrument which does not relate to a transfer of occupancy of the property;

(ii) The creation of a purchase-money security interest for household appliances;

(iii) A transfer by devise, descent, or operation of law or the death of a joint tenant or tenant by the entirety;

(iv) The granting of a leasehold interest which has a term of three years or less and which does not contain an option to purchase (that is, either a lease of greater than three years or a lease with an option to purchase will allow the exercise of a due-on-sale clause);

(v) A transfer, in which the transferee is a person who occupies or will occupy the property, which is: (A) A transfer to a relative resulting from the death of the borrower; (B) a transfer where the spouse or child(ren) becomes an owner of the property; or (C) a transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse becomes an owner of the property;

(vi) A transfer into an *inter vivos* trust in which the borrower is and remains the beneficiary and occupant of the property;

(2) Shall not impose a prepayment charge or equivalent fee for acceleration of the loan by exercise of a due-on-sale clause;

(3) Waives its option to exercise a due-on-sale clause as to a specific transfer if, before the transfer, the lender and the existing borrower's prospective

successor in interest agree in writing to an assumption of the loan and that interest on sums secured by the lender's security interest will be payable at a rate the lender shall request.

(4) Paragraphs (b) (2) and (3) of this section apply to all loans made by a Federal association after July 31, 1976, and to all loans made by other lenders after the effective date of this regulation.

(c) *Policy considerations.* Paragraph (b) of this section does not prohibit a lender from requiring, as a condition to an assumption, continued maintenance of mortgage insurance by the existing borrower's successor in interest, whether by endorsement of the existing policy or by entrance into a new contract of insurance.

§ 591.6 Interpretations.

The Board periodically will publish Interpretations under Section 341 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, 96 Stat. 1469, 1505-1507, in the **Federal Register** in response to written requests sent to the Secretary to the Board, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Sec. 341, 96 Stat. 1469, 1505-1507; Reorg. Plan No. 3 of 1947; 3 C.F.R., 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,
Secretary.

[FR Doc. 83-1486 Filed 1-18-83; 8:45 am]
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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch.VII

Corporate Federal Credit Union Bylaws

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments.

SUMMARY: The purpose of this action is to solicit comments on a set of proposed bylaws for corporate Federal credit unions. Corporate Federal credit unions provide credit union services to other credit unions rather than to individuals. By establishing separate bylaws for corporate Federal credit unions, NCUA will be in a better position to address the needs of this type of credit union. This action is consistent with the provisions of the recently passed Garn-St Germain Depository Institutions Act of 1982 which authorized the NCUA Board to differentiate the activities of corporate credit unions from natural person credit unions through rules, regulations, and orders of the NCUA Board.

DATE: Comments must be received on or before March 3, 1983.

ADDRESS: Send comments to Rosemary Brady, Secretary, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Mike Fischer, Director, Division of Supervision, Department of Supervision and Examination, telephone number (202) 357-1065.

SUPPLEMENTARY INFORMATION: Since corporate Federal credit unions provide services to other credit unions rather than to individuals, the operation of a corporate Federal credit union can differ greatly from that of a natural person credit union. Many of the provisions of the standard Federal Credit Union Bylaws, as they now exist, are not applicable to corporate credit unions and, conversely, the standard bylaws do not fully address the needs of the corporate credit unions. There is, then, a need for a set of bylaws that specifically addresses the operations of a corporate Federal credit union. For instance, the wording in the proposed Corporate Federal Credit Union Bylaws has been modified from that present in the standard Federal Credit Union Bylaws so that the aim and the mission of a corporate Federal credit union is clearly defined. This is set out in Article I, section 2, which states:

> The purpose of this credit union is to foster and promote the economic well-being, growth and development of its members through effective funds management, interlending, investment service and such other activities and services which may be of benefit to its members and are authorized either directly or indirectly by the Federal Credit Union Act and/or rules and regulations.

In addition to the above change, several other significant changes have been made, including:

(1) Wording changes to clarify that natural person members and designated representatives of member credit unions can serve as board and committee members. This change would enable a corporate Federal credit union to function without any natural person members.

(2) Wording changes to permit the board to establish the par value of shares. Under the proposed wording the board could establish a par value of shares tied to the asset size or to some other characteristic of the subscribing member.

(3) Wording changes to replace nominations from the floor with nominations by petition for vacancies on the board and the committees. The board would have the authority to specify the petition process.

(4) Wording changes to permit the board to establish the titles of board officers and management officials and to specify which board member can be compensated.

(5) Wording changes to replace the specific duties of the financial officer (treasurer) with general duties and to provide the financial officer with the authority to hire employees.

(6) Wording changes were also made or wording eliminated which pertained exclusively to natural person members, such as the requirement that loans must be for provident and productive purposes and be of benefit to the borrower and that the credit union should assist applicants in solving their financial problems.

By establishing separate bylaws for corporate credit unions, the National Credit Union Administration will be in a better position to address the needs of this type of institution. This action is consistent with the provisions of the recently passed Garn-St Germain Depository Institutions Act of 1982, which authorized the Board to differentiate the activities of corporate credit unions from natural person credit unions through rules, regulations, and orders of the Board.

The NCUA Board recognizes that there has been extensive coordination and communication between NCUA staff and the corporate credit union community in developing these proposed bylaws. The NCUA Board further recognizes and appreciates the efforts of several corporate credit union managers in preparing the initial draft of the proposed corporate bylaws.

However, the NCUA Board believes that there are significant issues which are of interest and concern to the credit union community at large. Therefore, the NCUA Board requests comment from all interested parties on the proposed bylaws as a whole, on specific provisions of the bylaws, and particularly on the changes identified above.

Accordingly, the NCUA Board requests comments on the Corporate Federal Credit Union Bylaws as set forth below.

Dated: January 11, 1983.

Authority: Sec. 526, Pub. L. 97-320, 96 Stat. 1535 (12 U.S.C. 1766(a)); 12 U.S.C. 1758.

Rosemary Brady,

Secretary of the NCUA Board.

Corporate Federal Credit Union Bylaws

December 1982.

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Bylaws

Article I. Name—Purposes

Section 1. The name of this credit union is as stated in Section 1 of the charter (approved organization certificate) of this credit union.

Section 2. The purpose of this credit union is to foster and promote the economic well-being, growth and development of its members through effective funds management, interlending, investment service and such other activities and services which may be of benefit to its members and are authorized directly or indirectly by the Federal Credit Union Act and/or rules and regulations.

Article II. Qualifications for Membership

Section 1. The field of membership of this credit union is limited to that stated in Section 5 of its charter.

Section 2. Applications for membership eligibility under Section 5 of the charter shall be signed by the applicant on forms approved by the board. Upon approval of such an application by a majority of the directors or a majority ot the members of a duly authorized executive committee or by a membership officer and upon subscription to a share with par value as established by the board in Article III and the payment of a uniform entrance fee if required by the board, the applicant is admitted to membership. If a membership application is denied, the reasons therefor shall be furnished in writing to the applicant, upon written request.

Section 3. A number shall be assigned to each member as a means of identifying the member's account with the credit union.

Section 4. Membership of any member whose account contains less than the minimum required in Section 2 of this article is automatically terminated.

Section 5. The membership of members who are no longer within the field of membership on the day this bylaw is effective or thereafter is terminated.

Article III. Shares of Members

Section 1. The par value of each share shall be ———. Subscriptions to shares are payable at the time of subscription or in installments of at least ——— per month.

Section 2. The maximum amount of shares which may be held by any one member may be established from time to time by resolution of the board.

Section 3. Shares of a member may be transferred between the member's accounts or to another member in such manner as the board may prescribe. This section shall not be construed as a limitation on, or prohibition of, share drafts or other payment systems or programs.

Section 4. Unless otherwise provided by the board, shares may be withdrawn on any day when payment on shares may be made; *Provided, however,* That:

(a) No member may withdraw shareholdings that are pledged as required security on loans without the written approval of the credit committee or a loan officer, except to the extent that such shares exeed the member's total primary and contingent liability to the credit union.

(b) Shareholdings may not be reduced below the amount of the member's primary or contingent liability to the credit union if that member is delinquent as a borrower, or if borrowers for whom that member is a comaker, endorser, or guarantor are delinquent, without written approval of the credit committee or loan officer, except that shares issued in trust are not subject to restrictions upon withdrawals except as stated in the trust agreement.

Section 5. Subject to applicable law, shares may be issued in a revocable or irrevocable trust with or without the credit union serving as trustee. Trusts may be established only by members but may be established for the benefit of nonmembers. Every trust shall be evidence by a trust agreement, a copy of which must be retained in the files of the credit union.

Section 6. The board shall have the right, at any time, to require members to give, in writing, not more than 60 days' notice of intention to withdraw the whole or any part of the amounts so paid in by them except for those amounts paid into share draft accounts and daily balance share accounts.

Article IV. Receipting for Money.

Section 1. Transactions involving the members of this credit union, including money paid in or out on accounts, shall be evidenced by a statement of account.

Section 2. Statement of accounts shall be presumed to be accurate unless a member objects in writing within ten (10) days of receipt of the statement.

Article V. Meeting of Members.

Section 1. The annual meeting of the members shall be held at such time and place as the board shall determine and announce in the notice.

Section 2. At least ten (10) days before the date of any annual or special meeting of the members, the recording officer shall cause written notice to be mailed to each member at the address that appears on the records of this credit union. Any meeting of the members, whether annual or special, may be held without prior notice, at any time or place, if all members entitled to vote and who are not present at such meeting shall, in writing, waive notice thereof, before, during, or after such meeting. At any meeting of the members, either annual or special, attendance at the meeting by the member, or a duly authorized representative of the member, shall constitute a waiver of notice of such meeting by the member.

Section 3. Special meetings of the members may be called by the executive officer or the supervisory committee as provided in these bylaws or by applicable law or regulation and may be held at any place permitted for the annual meeting. A special meeting shall be called by the executive officer within 45 days of receipt of a written request of at least 25 members or 5 percent of the members as of the day of request, whichever number is larger, provided, however, that a request of no more than 100 members shall be required. Notice shall be given as provided in Section 2 of this article and shall state the purpose for which it is to be held, and no business other than that related to this purpose shall be transacted at the meeting.

Section 4. Fifteen (15) members shall constitute a quorum at any annual or special meeting. If a quorum is not present on the date first designated for the meeting, said meeting shall be

adjourned for not less than seven (7) days or more than thirty (30) days, and a second notice shall be given to all members setting forth the date, time, and place of the adjourned meeting. The members then present shall constitute a quorum, regardless of the number of members present.

Article VI. Elections

Section 1. At least 30 days prior to each annual meeting, the executive officer shall appoint a nominating committee of not fewer than three from among the members and/or designated representatives of member credit unions. It shall be the duty of the nominating committee to nominate at least one eligible candidate for each vacancy, including any unexpired-term vacancy, for which elections are being held.

Section 2. After the nominations of the nominating committee have been placed before the members, the executive officer shall report any nominations by petition, submitted in accordance with procedures established by the board of directors. Such procedures shall be made available to any member upon request. Nominations shall then be closed; tellers shall be appointed by the executive officer; ballots shall be distributed; the vote shall be taken and tallied by the tellers; and, the results shall be announced. All elections shall be determined by plurality vote and shall be by ballot except where there is only one nominee for the office.

Section 3. No member shall be entitled to vote by proxy, but a member other than a natural person may vote through a voting representative designated for the purpose. No voting representative may serve as a voting representative of more than one member. A trustee shall not be entitled to vote. Irrespective of the number of shares held, no member shall have more than one vote.

Section 4. The names and addresses of members of the board, executive officers, executive committee, and members of the credit and supervisory committees shall be forwarded to the Administration in accordance with the Act and regulations in such manner as may be required by said Administration.

Article VII. Board of Directors

Section 1. The board shall consist of ——— members elected from among the members and/or designated representatives of member credit unions. The number of directors may be changed to an odd number not fewer than five nor more than 15 by resolution of the board. No reduction in the number of directors may be made unless corresponding vacancies exist as a result of deaths, resignations, expiration of terms of office, or other actions provided by these bylaw. A copy of the resolution of the board covering any increase or decrease in the number of directors shall be filed with the official copy of the bylaws of this credit union.

Section 2. Regular terms of office for directors shall be for periods of either 2 or 3 years as the board shall determine; provided, however, that all regular terms shall be for the same number of years and until the election and qualification of successors. The regular terms shall be so fixed at the beginning, or upon any increase or decrease in the number of directors, that approximately an equal number of regular terms shall expire at each annual meeting.

Section 3. Any vacancy on the board, credit committee, or supervisory committee shall be filled by vote of a majority of the directors then holding office. Directors and credit committee members so appointed shall hold office only until the next annual meeting, at which any unexpired terms shall be filled by vote of the members, and until the qualification of their successors. Members of the supervisory committee so appointed shall hold office until the first regular meeting of the board following the next annual meeting of members at which the regular term expires and until the appointment and qualification of their successors.

Section 4. A regular meeting of the board shall be held each month at the time and place fixed by resolution of the board; provided, however, that conference-telephone-call meetings may replace a regular meeting of the board under the conditions described in this section. Conference-telephone-call meetings may replace the regular monthly board meetings for 2 months during a calendar quarter. At least 7 days prior to each conference-telephone-call meeting, the recording office shall cause the following information to be distributed to each director:

(a) Minutes of the last meeting;

(b) Reports of officers, standing committees, or of any special committees;

(c) Special orders, or matters which have been assigned priority; and,

(d) Any written information on unfinished business or new business that has been given to the recording officer by any director.

Minutes of conference-call meetings must be signed by each conferee at the next regularly convened meeting of the board at which the conferee is present.

The executive officer or, in his absence, the ranking assistant executive officer may call a special meeting of the board at any time and shall do so upon written request of a majority of the directors then holding office. Unless the board prescribes otherwise, the executive officer or, in his absence, the ranking assistant executive officer shall fix the time and the place of special meetings. Notice of all meetings shall be given in such manner as the board may from time to time by resolution prescribe.

Section 5. The board shall have the general direction and control of the affairs of this credit union and shall be responsible for establishing programs to achieve the purposes of this credit union as stated in Article I, section 2, of these bylaws.

Section 6. A majority of the number of directors shall constitute a quorum for the transaction of business at any meeting thereof, but fewer than a quorum may adjourn from time to time until a quorum is in attendance.

Section 7. If a director or a credit committee member fails to attend three consecutive regular meetings of the board or credit committee, respectively, or otherwise fails to perform any of the duties devolving upon him/her as a director or a credit committee member, his/her office may be declared vacant by the board and the vacancy filled as herein provided. The board may remove any board officer from office for failure to perform the duties thereof, after giving the officer reasonable notice and opportunity to be heard.

When any board officer, membership officer, executive committee member or investment committee member is absent, disqualified, or otherwise unable to perform the duties of his/her office, the board may, by resolution, designate another member of this credit union to act temporarily in his/her place. The board may also, by resolution, designate another member or members of this credit union to act on the credit committee when necessary in order to obtain a quorum.

Section 8. Any member of the supervisory committee may be suspended by a majority vote of the board of directors. The members of this credit union shall decide, at a special meeting held not fewer than 7 nor more than 14 days after any such suspension, whether the suspended committee member shall be removed from or restored to the supervisory committee.

Section 9. No member of the board of directors may receive any compensation or benefit solely as a result or by virtue of service as a member of the board of directors. Notwithstanding the foregoing, a member of the board may be reimbursed for reasonable expenses

incurred in the performance of official duties.

Section 10. The board of directors shall determine that monthly financial statements are prepared showing the condition of this credit union. These financial statements shall be made available to members on a monthly basis in a manner deemed appropriate by the board.

Article VIII. Board Officers, Executive Committee, Investment Committee and Management Staff

Section 1. The board officers of this credit union shall be an executive officer, one or more assistant executive officers, a financial officer, and a recording officer, all of whom shall be elected by the board and from their number. The board shall determine the title and rank of each board officer and shall record them in the addendum to this article. One board officer, the ———, may be compensated for his services to such extent as may be determined by the board. If more than one assistant executive officer is elected, the board shall determine their rank as first assistant executive officer, second assistant executive officer, et cetera. The offices of financial officer and recording officer only may be held by the same person. Unless sooner removed as herein provided, the officers elected at the first meeting of the board shall hold office until the first meeting of the board following the first annual meeting of the members and until the election and qualification of their respective successors.

Section 2. Board officers elected at the meeting of the board next following the annual meeting of the members, which shall be held not later than 7 days after the annual meeting, shall hold office for a term of 1 year and until the election and qualification of their respective successors; provided, however, that any person elected to fill a vacancy caused by the death, resignation, or removal of an officer shall be elected by the board to serve for the unexpired term of such officer and until his successor is duly elected and qualified.

Section 3. The executive officer shall preside at all meetings of the members and at all meetings of the board unless disqualified through suspension by the supervisory committee. He shall countersign all notes of this credit union and all checks, drafts, and other orders for disbursement of its funds unless the board, by resolution, has eliminated the requirement of countersigning. The executive officer shall also perform such other duties as customarily appertain to the office of the executive officer or as he may be directed to perform by resolution of the board not inconsistent with the Act and regulations and these bylaws.

Section 4. The ranking assistant executive officer available shall have and exercise all the powers, the authority, and the duties of the executive officer during the absence of the latter or his inability to act.

Section 5. Unless the board employs a separate management official, the financial officer shall be responsible for the day-to-day management of the credit union and shall have such authority and such powers as are necessary to conduct business from day to day. In addition, the financial officer shall have such other powers as may be specifically designated by the board of directors. If actually managing the credit union, the financial officer may be compensated as may be determined by the board. The financial officer may employ or designate one or more assistants, as well as other employees, and may authorize them to perform any of the duties devolving on the financial officer, including the signing of checks. When so designated by the financial officer or the board, any assistant may also act as financial officer during the temporary absence of the financial officer or in the event of the financial officer's inability to act.

Section 6. The board may employ a management official who shall not be a member of the board and who shall be under the direction and control of the board, and who shall have all of the duties, powers, rights and responsibilities of the financial officer described in Section 5. The board is empowered to enter into a management agreement, and the persons or entities with whom the board contracts may be compensated in accordance with the agreement. The board shall determine the title and the rank of each management official and shall record them in the addendum to this article.

Section 7. The recording officer shall cause to be prepared and maintained full and correct records of all meetings of the members and of the board, which records shall be prepared within 7 days after the respective meetings. The recording officer shall promptly inform the Administration in writing of any change in the address of the office of this credit union or the location of its principal records. The recording officer shall give, or cause to be given, in the manner prescribed in these bylaws, proper notice of all meetings of the members, and shall perform such other duties as he/she may be directed by resolution of the board not inconsistent with the Act and regulations and these bylaws.

The board may employ one or more assistant recording officers, none of whom may also hold office as executive officer, assistant executive officer, or financial officer, and may authorize them under direction of the recording officer to perform any of the duties devolving on the recording officer.

Section 8. The board may appoint an executive committee of not fewer than three directors to act for it with respect to specifically delegated functions and subject to such limitations as prescribed by the board.

Section 9. The board may appoint one or more membership officers to approve applications for membership under such conditions as the board and these bylaws may prescribe. Such membership officer or officers may not be a person authorized to disburse funds.

Section 10. The board may appoint an investment committee composed of not less than two to have charge of making investments under rules and procedures established by the board.

Section 11. No member of the executive committee or investment committee, or membership officer may be compensated as such. Members of the executive committee, investment committee, and membership officers shall serve at the pleasure of the board of directors.

Addendum. The title and rank of the board officers and management officials of this credit union are as follows:

(a) The executive officer is to have the title of ————.

(b) The assistant executive officer is to have the title of ————.

(c) The financial officer is to have the title of ————.

(d) The assistant financial officer is to have the title of ————.

(e) The recording officer is to have the title of ————.

(f) The assistant recording officer is to have the title of ————.

(g) The management official is to have the title of ————.

(h) The assistant management official is to have the title of ————.

Article IX. Credit Committee

Section 1. The credit committee shall consist of —— members. Members of the credit committee shall be selected from among the members of the credit union and/or the designated representatives of member credit unions. The number of members of the credit committee may be changed to not fewer than three nor more than seven by resolution of the board. No reduction in

the number of members may be made unless corresponding vacancies exist as a result of deaths, resignations, expiration of terms of office, or other action provided by these bylaws. A copy of the resolution of the board covering any increase or decrease in the number of committee members shall be filed with the official copy of the bylaws of this credit union.

Section 2. Regular terms of office for credit committee members shall be for periods of either 2 or 3 years as the board shall determine; provided, however, that all regular terms shall be for the same number of years and until the election and qualification of successors. The regular terms shall be so fixed at the beginning, or upon any increase or decrease in the number of committee members, that approximately an equal number of regular terms shall expire at each annual meeting.

Section 3. The credit committee shall choose from their number a chairman and a secretary. The secretary of the committee shall prepare and maintain full and correct records of all actions taken by it, and such records shall be prepared within 3 days after the action. The offices of chairman and of secretary may be held by the same person.

Section 4. The credit committee may, by majority vote of its members, appoint one or more loan officers to serve at its pleasure and delegate its powers to such loan officers.

Section 6. The credit committee or loan officer shall inquire into the financial condition of each loan applicant. No loan or line of credit shall be made unless approved by the committee or a loan officer in accordance with applicable law and regulations.

Section 7. Subject to the limits imposed by law, these bylaws, and the general policies of the board, the credit committee, or a loan officer, shall determine the security, if any, required for each application and the terms of repayment.

Article X. Supervisory Committee

Section 1. The supervisory committee shall be appointed by the board from among the members and/or from among the member credit unions' designated representatives. The board shall determine the number of members on the committee, which shall not be fewer than three nor more than five. No member of the credit committee or any employee of this credit union may be appointed to the committee. Regular terms of committee members shall be for periods of 1, 2, or 3 years as the board shall determine; provided, however, that all regular terms shall be for the same number of years and until the appointment and qualification of successors. The regular terms shall expire at the first regular meeting of the board following each annual meeting.

Section 2. The supervisory committee members shall choose from among their number a chairman and a secretary. The secretary of the supervisory committee shall prepare, maintain, and have custody of full and correct records of all actions taken by it. The offices of chairman and of secretary may be held by the same person.

Section 3. The supervisory committee shall cause to be made such audits and to prepare and submit such written reports as are required by the Act and regulations.

Section 4. The supervisory committee shall verify or cause to be verified the accounts of members in accordance with the Act and regulations.

Section 5. By unanimous vote, the supervisory committee may suspend until the next meeting of the members any director, executive officer, or member of the credit committee. In the event of any such suspension, the supervisory committee shall call a special meeting of the members to act on said suspension which meeting shall be held not fewer than 7 nor more than 14 days after such suspension. The chairman of the committee shall act as chairman of the meeting unless the members select another person to act as chairman.

Section 6. By the affirmative vote of a majority of its members, the supervisory committee may, after notification to the board, call a special meeting of the members to consider any violation of the provisions of the Act or of the regulations, or of the charter, or of the bylaws of this credit union, or to consider any practice of this credit union which the committee deems to be unsafe or unauthorized.

Article XI. Loans and Lines of Credit

Section 1. Loans shall be made in accordance with applicable law. Loans or lines of credit to a member, other than a member credit union, shall not be in excess of its shareholdings in this credit union unless otherwise authorized by applicable law.

Section 2. Within the limitations prescribed by applicable law, the board shall fix from time to time the interest rates on loans; the rate of interest refund, if any, to be made to members; the maximum maturities and terms of payment or amortization of loans to members; the security; and, the maximum amount which may be loaned.

Section 3. Lines of credit may be extended to members in accordance with applicable law. The board shall fix from time to time the interest rates, the maximum maturity, terms of payment or amortization, the security, and the maximum amount which may be loaned under a line of credit agreement within the limitations prescribed by applicable law.

Section 4. The aggregate amount of loans and lines of credit to any one member and the terms and conditions of such loans and lines of credit shall not exceed the limits permitted by applicable law.

Section 5. Subject to any limitations of applicable law, any member whose loan is delinquent may be required to pay a late charge in accordance with the loan agreement.

Article XII. Reserves

Section 1. All amounts as required by the Act and regulations shall be set aside as a regular reserve; provided, however, that, when the regular reserve thus established shall reach the minimum balance required by the Act and regulations, no further transfers shall be required except up to such amounts permitted by law and as may be needed to maintain such minimum balance. Amounts in excess of the above requirements may be transferred to the regular reserve by authorization of the board. The regular reserve shall be used only for losses as authorized by law.

Section 2. In addition to the regular reserve, special reserves to protect the interests of members shall be established in accordance with the Act and regulations. The board may also authorize the establishment of any additional reserves which it deems necessary.

Article XIII. Dividends

The board shall establish dividend periods and declare dividends as permitted by law.

Article XIV. Deposit and Disbursement of Funds—Investments and Borrowing

Section 1. All funds of this credit union shall be deposited in such qualified depositories as the board may from time to time by resolution designate.

Section 2. All disbursements of funds of this credit union shall be made by means authorized by the board of directors.

Section 3. The funds of this credit union shall be invested in such manner as to obtain the best return while preserving any necessary liquidity and avoiding any unnecessary or excessive risk; provided, however, that the funds

of this credit union may not be placed in investments which are not authorized by law.

Section 4. The board may authorize borrowing and discounting operations on behalf of this credit union within the limitations of applicable law.

Article XV. Expulsion and Withdrawal

Section 1. A member may be expelled only in the manner provided by the Act. Expulsion or withdrawal shall not operate to relieve a member of any liability to this credit union. All amounts paid in on shares by expelled or withdrawing members, prior to their expulsion or withdrawal, shall be paid to them in the order of their withdrawal or expulsion, but only as funds become available and only after deducting therefrom any amounts due from such members to this credit union.

Article XVI. Definitions

Section 1. When used in these bylaws the terms:

(a) "Act" means the Federal Credit Union Act, as amended.

(b) "Administration" means the National Credit Union Administration.

(c) "Regulation" or "regulations" means rules and regulations issued by the National Credit Union Administration.

(d) "Net earnings," for a given period, means the balance remaining after deducting from the gross income actually received during such period all expenses paid or payable during such period, and any losses sustained therein (as determined by the board) for which no specific reserve has been set aside. Amounts set aside during such period as a reserve shall not be deemed items of expense.

(e) "Paid in and unimpaired capital," as of a given date, means the balance of the paid-in shares account as of such date, less any losses that may have been incurred for which there is no reserve or which have not been charged against undivided earnings.

(f) "Surplus," as of a given date, means the credit balance of the undivided earnings account on such date after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom, as the case may be. Reserves shall not be considered as a part of the surplus.

(g) "Share" or "shares" means any amount deposited for the credit of a member or other account holder and includes, but is not limited to, share accounts, share certificate accounts, share draft accounts, and nonmember accounts (however denominated) as permitted by law.

Section 2. If included in the definition of the field of membership in the organization certificate (charter) of this credit union, the term or expression "organization of such members" means an organization or organizations composed of entities which are within the field of membership of this credit union.

Article XVII. General

Section 1. The officers, directors, members of committees, and employees of this credit union shall hold in confidence all transactions of this credit union with its members and all information respecting their business affairs, except to the extent deemed necessary by the board.

Section 2. No director, committee member, officer, agent, or employee of this credit union shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his pecuniary interest or the pecuniary interest of any corporation, partnership, or association (other than this credit union) in which he is directly or indirectly interested. In the event of the disqualification of any director respecting and matter presented to the board for deliberation or determination, such director shall withdraw from such deliberation or determination and, in such event, the remaining qualified directors present at the meeting, if constituting a quorum with the disqualified director or directors, may exercise with respect to this matter, by majority vote, all the powers of the board. In the event of the disqualification of any member of the credit committee or the supervisory committee, such committee member shall withdraw from such deliberation or determination.

Section 3. The board shall have the right, at any time, to impose fees for such services and activities as it deems necessary or desirable.

Article XVIII. Operations Following an Attack on the United States

Section 1. In the event of an attack upon the United States, the officers and employees of the credit union shall continue to conduct the affairs of the credit union under such guidance from the directors as may be available and subject to conformance with any governmental directives during the emergency.

Section 2. In the event of an attack upon the United States of sufficient severity to prevent the conduct and management of the affairs and business of the credit union by its regularly elected directors, officers, and properly constituted committees as contemplated by these bylaws, any three available members of the then incumbent board of directors shall constitute a quorm of the board of directors for the full conduct and management of the affairs and business of the credit union including the approval of loans to members if the regularly elected credit committee is not available. In the event of the unavailability at such time of three members of the board, the vacancies, in order to provide a quorum of three, shall be filled as follows:

(a) If the regularly elected executive officer or a regularly elected assistant executive officer is not available, the available person who is highest on the succession list for executive officer last authorized by the board of directors shall automatically become an acting director if he is not a member of the board and acting executive officer.

(b) If the regularly elected financial officer is not available, the available person who is highest on the succession list for financial officer last authorized by the board of directors shall automatically become an acting director if he is not a member of the board and acting financial officer.

(c) If a third director is necessary to make a quorum, he shall be the next highest available person on the succession list for executive officer or upon the exhaustion of such list, the next highest available person on the succession list for financial officer.

The quorum of the board of directors as regularly constituted or as constituted above shall appoint additional directors as necessary to provide for a full board of five members, provided that: If there is available an even number of regularly elected directors in excess of five, the board shall appoint one additional director, in which case, a quorum shall then be a majority of the full board thus constituted. Persons selected as provided in this section shall hold office only until their successors are elected at the next annual meeting or at a special meeting called for that purpose and until the qualification of their successors; provided that the person selected pursuant to subsection (a) shall hold office as acting executive officer and as acting director only until the regularly elected executive officer or a regularly elected assistant executive officer becomes available; and that the person selected pursuant to subsection (b) shall hold offices as acting financial officer and as acting director only until the regularly elected financial officer becomes available. This bylaw shall be subject to implementation by resolutions by the board of directors passed from time to time for that purpose, and any

provisions of these bylaws (other than this section) and any resolutions which are contrary to the provisions of this section or to the provisions of any such implementary resolutions shall be suspended until a regularly constituted board of directors can be obtained.

Section 3. In the event that the office of the credit union becomes unusable, as a result of an attack upon the United States, the credit union shall, if possible, establish temporary substitute quarters. The office of the credit union shall be established as soon as practicable thereafter at a suitable permanent location within the limits permitted by the charter of this credit union.

Article XIX. Amendments of Bylaws and Charter

Section 1. Amendments of these bylaws may be adopted and amendments of the charter may be requested by the affirmative vote of two-thirds of the authorized number of members of the board at any duly held meeting thereof if the members of the board have been given prior written notice of said meeting and the notice has contained a copy of the proposed amendment or amendments. No amendment of these bylaws or of the charter shall become effective, however, until approved in writing by the Administration.

[FR Doc. 83-1506 Filed 1-18-83; 8:45 am]
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CIVIL AERONAUTICS BOARD

14 CFR Part 223

[EDR-452; Econ. Regs. Docket 41193.]

Free and Reduced-Rate Transportation

Dated: December 30, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to reorganize its rule that allows airlines to charge less than tariff rates in specified situations. This action is taken in light of recent regulatory changes and the "sunset" of domestic tariffs on January 1, 1983. The proposal would eliminate obsolete portions of the rule and codify various exemptions concerning free and reduced-rate transportation.

DATES: Comments by: March 18, 1983.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: February 1, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41193, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Section 403(a) of the Federal Aviation Act, 49 U.S.C. 1373(a), has required all airline fares and rates to be set forth in tariffs filed with the Board. These tariffs must also specify any conditions or restrictions applicable to the fares. Section 403(b)(1) of the Act prohibits airlines from charging a lesser or greater amount than that reflected in their tariffs on file with the Board. Section 403(b)(1), however, contains several exceptions to this prohibition, listing groups that are eligible to receive air transportation at less than tariff rates. These include airline employees and their immediate families, attorneys and witnesses attending legal proceedings involving the airline, and ministers, retirees, and the handicapped on a space available basis. In addition, section 416 of the Act authorizes the Board to grant exemptions from section 403 to permit airlines to offer free or reduced-rate air transportation to other groups. The Board has done so on several occasions. Most of these groups are listed in Part 223 of the Board's rules, 14 CFR Part 223.

The Board is now proposing to revise Part 223. In 1978 Congress enacted the Airline Deregulation Act, Pub. L. 95-504, 92 Stat. 1705, for the purpose of phasing out most of the Act's regulatory requirements. Under this statute, the tariff filing and compliance requirements for domestic fares will end on January 1, 1983. Section 1601(a)(2)(A), 49 U.S.C. 1551(a)(2)(A). Airlines will no longer file tariffs and will be able to charge any fare they wish for domestic travel. To allow for a gradual transition to domestic fare freedom, the Board exempted air carriers and travel agents from the Act's tariff requirements to the extent necessary to allow them to charge less than the tariff rate for domestic tickets. ER-1246, 46 FR 46787, September 23, 1981, *Aff'd per curiam, American Express Co.* v. *CAB*, D.C. Cir. No. 81-2087 (decided February 3, 1982). This effectively made everyone eligible for free and reduced-rate domestic travel, notwithstanding the limited number of exemptions in Part 223.

In light of these statutory and regulatory changes, much of Part 223 is obsolete. Part 223 is presently divided into three subparts. Subpart A contains definitions of key terms and a series of exemptions from the certification and tariff requirements that permit airlines to provide free and reduced-rate transportation to members of the designated groups. Subparts B and C list those for whom airlines are required to provide free transportation, as well as air traffic transportation on a limited basis.

As revised, Subpart A would continue to include the definitions that are still relevant. The exemption from section 401 of the Act that is now in § 223.2(e) would remain in Subpart A and would become § 223.2. The mandatory free transportation now in Subparts B and C would be moved to a new § 223.3 in Subpart A.

Subpart B, as revised, would cover only domestic air transportation. It would state that airlines are free to charge any fare for domestic travel. This conforms Part 223 to the changes in Part 221 that were made of ER-1246 as discussed above, and to the sunset of section 402 of the Act for domestic transportation at the end of 1982.

Neither ER-1246 nor the sunset provision of the Act apply to foreign air transportation. The exemptions from section 403 that are now in Subpart A of Part 223 therefore are still necessary to allow free and reduced-rate international travel. These would be moved to the new Subpart C. Section 223.22 in Subpart C would continue the exemptions allowing free and reduced-rate transportation that are now in current § 223.2 Paragraphs (k) (transportation in return for goods or services) and (l) (promotional transportation) of that section would be carried forward to the new § 223.22 without change except that they would be redesignated paragraphs (d) and (e) respectively. The others would be eliminated or combined, as explained below.

Currently, there are several paragraphs in § 223.2 that authorize a carrier to provide free or reduced-rate transportation to directors, officers, and employees and members of their immediate families of other carriers. Paragraph (b)(1) authorizes such transportation in overseas or foreign markets to the affiliates of any carrier

engaged in overseas or foreign air transprotation. The affiliate must be included on the list of affiliates filed by the carrier under § 223.7. Paragraph (b)(2) authorizes such transportation in overseas or foreign markets to a carrier operating in a foreign country. This authorization also applies only to flights in overseas and foreign air transportation. Parpagrph (i) extends the authorization to flights in interstate markets. Paragraph (h) authorizes free and reduced-rate transportation to intrastate carriers. It authorizes such discounts for the retirees of these carriers as well as for their directors, officers, and employees.

As revised, § 223.22(a) would combine the current paragraphs (b), (h), and (i). It would authorize free or reduced-rate transportation to the directors, officers, and employees and members of their immediate families of any carrier and the affiliates of any carrier. "Carrier" is broadly defined as including air taxis, certificated air carriers, foreign air carriers as defined by section 101(22) of the Act, and any person operating as a common carrier by air in a foreign country. The reference to "overseas or foreign air transportation," and the requirement that a list of affiliates be filed with the Board, would be eliminated as no longer necessary. The inclusion of retirees would be made applicable to all carriers.

Present § 223.2(b)(3) permits any carrier engaged in overseas or foreign air transportation to provide such transportation free or at reduced rates to persons to whom the carrier is required to provide free or reduced-rate transportation by a foreign government. The provision requires that the foreign government's directive be filed with the Board and gives the Board the power to disapprove it. The provision was the subject of controversy in Docket 35392. In that proceeding the Board proposed to add a new paragraph (1) to § 223.2 to allow airlines to carry persons involved in promoting air transportation free or at reduced rates if the transportation was undertaken for a promotional purpose. EDR–391, 44 FR 64429, November 7, 1979. Several commenters raised the question whether free or reduced-rate travel under this new paragraph should be made available to government officials. Pan American asked that government officials be excluded from eligibility for such transportation because carriers operating in foreign countries are "virtually powerless to deny free or reduced-rate transportation to these officials, and their immediate families, if the Board does not expressly exclude this category of travel."

In ER–1161, 45 FR 46797, July 11, 1980, the Board adopted the new paragraph (1) without excluding government officials from eligibility for free and reduced-rate promotional travel. The Board noted that § 223.2 allowed carriers to provide such travel to foreign government officials. This provision had been in effect since 1940. Regulation 81, 5 FR 2015, June 1, 1940. "Thus, the carrying of government officials at free or reduced rates is now a widespread practice." ER–1161 at p. 6. Although the Board made no change with respect to government officials, it did state that it was "considering issuing a proposed amendment to alter this practice, as Pan American suggested."

The Board is proposing to continue the exemption for reduced-rate travel at the directive of a foreign government, redesignated § 223.22(b). Comments are invited on whether government officials should be excluded from this provision and from the promotional travel exemption in proposed § 223.22(e).

Present paragraphs (c) and (d) of § 223.2 authorize carriers to provide free transportation to representatives of companies that have been engaged in the manufacture, development, or testing of a particular type of aircraft or aircraft equipment. The provision of this transportation is subject to several conditions. One of these conditions is that the details of the transportation be reported to the Board within 10 days after the end of the calendar month in which that transportation took place. The Board is proposing to continue to authorize this free transportation, but to eliminate the reporting requirement. Paragraphs (c) and (d) would be combined and redesignated § 223.22(c).

Section 223.2(f) of the present rule grants exemptions to carriers to permit them to provide free and reduced-rate transportation to travel agents on familiarization tours. A "familiarization tour" is currently defined in § 223.1 as "a tour organized by one or more carriers for the purpose of promoting the sale of air transportation by familiarizing a travel agent with tourist attractions, accommodations, and recreational facilities."

In the Board's view, the travel agent exemption has been fully subsumed by the exemption allowing carriers to offer free and reduced-rate transportation to promoters of air transportation when the transportation is undertaken for a promotional purpose. (present § 223.2(l) and proposed § 223.22(e)). A travel agent is clearly a promoter of air transportation and a familiarization tour is transportation undertaken for a promotional purpose. The Board is therefore proposing to eliminate the separate travel agent exemption as no longer necessary. This will not affect in any way the ability of carriers to offer free and reduced-rate transportation to travel agents.

The Board is also proposing to eliminate present § 223.2(g). This paragraph authorizes any air carrier to provide reduced-rate air transportation to students who are citizens of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands. It only applies to transportation between one of these islands and one of the fifty States. As such, it is domestic transportation and is therefore covered by proposed Subpart B of this rule. Furthermore, air carriers now have the discretion under § 221.3(e) of the Board's rules to carry students from these islands at a discount so that the specific authorization in § 223.2(g) is no longer needed.

In addition to reorganizing the free and reduced-rate travel exemptions now in Part 223, the Board is proposing to codify similar exemptions that are now in various orders. Order 78–12–49 (December 7, 1978) as interpreted by Order 80–2–155 (February 28, 1980) permits an airline to provide free or reduced-rate transportation to passengers that file a claim or complaint against it. This exemption would be § 223.22(h).

Order 80–10–83 (October 17, 1980) permits airlines to provide transportation rather than cash as a contribution to a charitable organization. This exemption would be § 223.22(i).

Under present § 223.8, a carrier may apply for permission to carry free or at reduced-rate persons not covered by the Act or this rule. This section would be retained as proposed § 223.23, except that the required statement that the carrier intends to furnish the requested transportation if the application is granted would be eliminated.

Present § 223.9 sets forth the standards that the Board follows in deciding whether to grant applications filed under § 223.8 for free and reduced-rate transportation on inaugural flights. It states that free transportation may be authorized on an aircraft type that is being introduced for the first time by a carrier "on its system of routes or a part thereof." Paragraph (c) of that section sets out in great detail what is considered to be the carrier's system of routes. The Board finds this detailed requirement to be unnecessary now. The proposed rule (§ 223.22(f)) merely authorizes free transportation of persons

on an inaugural flight as defined in proposed § 223.1.

Section 223.21 of the present rule requires airlines to carry security guards who are guarding against hijacking and permits airlines to carry bodyguards of foreign government officials. The security guard requirement would be moved to proposed § 223.3(a). The permission to carry bodyguards would be moved to proposed § 223.22(g) and broadened to include any law-enforcement official.

Section 223.23 permits the carriage of air traffic controllers, aircraft communicators of the FAA, and weather forecasters without charge "for the purpose of more fully and adequately acquainting such persons with the problems affecting in flight use of air traffic control and communications and weather forecast services provided by the U.S. Government." This authorization would be continued (proposed § 223.22(j)) but would be broadened to include any person in an aviation-related occupation when the transportation is provided for technical in-flight observation. This would include, for example, civilian air traffic controllers of the Department of Defense under P.L. 96–347, as well as those now listed in § 223.23. The current restrictions on their eligibility for free transportation (no more than one trip per year unless specifically authorized) would no longer be in effect.

Proposed § 223.25 incorporates and enlarges upon the earlier Board proposal to modify or withdraw the exemptions granted by this Part when that would be in the public interest. EDR–428, 46 FR 36714, July 15, 1981.

The only wholly new provision being proposed would be a new § 223.4. This section would give carriers the discretion to allow recipients of free and reduced-rate travel passes to transfer them to unrelated third parties. The question of transferring passes first arose in the context of ER–1181, where the Board permitted airlines to provide free and reduced-rate transportation in return for goods and services. It deferred action at that time on whether the transportation received could be transferred or sold to a third person. In Order 81–1–107 (January 21, 1981), however, the Board decided that a person may resell scrip or other representations of value, other than actual tickets, that it receives in a barter transaction with an airline. In ER–1269, 47 FR 30236, July 13, 1982, the Board, in response to inquiries from airline employees, interpreted ER–1181 as permitting airline employees to direct the transportation they receive, as incidents of their employment, to a friend or other third party.

Although the decisions summarized above were all made in the context of the "for goods or services" exemption in present § 223.2(k), there does not appear to be any reason to limit the permission to transfer free travel passes to such transactions. For example, employees may receive their travel passes as gifts rather than as compensation for their services or as fringe benefits. It could be argued that ER–1269 does not cover this situation. Yet, for purposes of transferability, there is little practical difference between a travel pass received as a fringe benefit and a pass received as a gift. Proposed § 223.4 would therefore permit persons receiving any pass under this rule to give or sell that pass to third parties. This would be permissive in nature; nothing would prevent the issuing carrier from putting restrictions on the transfer or prohibiting it altogether.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that this rule, if adopted as proposed, will not have a significant economic impact on a substantial number of small entities. It primarily codifies and reorganizes existing requirements and exemptions for certificated air carriers. Most of the reporting and record-keeping requirements of the present rule would be eliminated.

List of Subjects in 14 CFR Part 223

Air rates and charges, Handicapped, Travel agents.

Accordingly, the Board proposes to revise 14 CFR Part 223, *Free and Reduced-Rate Transportation*, to read as follows:

PART 223—FREE AND REDUCED-RATE TRANSPORTATION

Subpart A—General Provisions

Sec.

223.1 Definitions.
223.2 Exemption from section 401 of the Act.
223.3 Mandatory free transportation.
223.4 Transferability of passes.
223.5 Responsibility of agencies.

Subpart B—Domestic Travel

223.11 Free and reduced-rate transportation permitted.

Subpart C—International Travel

223.21 Free and reduced-rate transportation authorized by statute.
223.22 Other persons to whom free and reduced-rate transportation may be furnished.
223.23 Applications for authority to carry other persons.
223.24 Transportation of empty mail bags.
223.25 Withdrawal of exemptions.

Authority: Secs. 204, 403, 404, 405(j), 407, 416, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 766, 771, 49 U.S.C. 1324, 1373, 1374, 1375, 1377, 1386, sec. 2 of the Postal Reorganization Act, 84 Stat. 767, 39 U.S.C. 5007.

Subpart A—General Provisions

§ 223.1 Definitions.

As used in this part, unless the context otherwise requires:

An "affiliate" of a carrier means a person:

(a) Who controls that carrier, or is controlled by that carrier or by another person who controls or is controlled by that carrier; and

(b) Whose principal business in purpose or in fact is:

(1) The holding of stock in one or more carriers;

(2) Transportation by air or the sale of tickets therefor;

(3) The operation of one or more airports, one or more of which are used by that carrier or by another carrier who controls or is controlled by that carrier or that is under common control with that carrier by another person; or

(4) Activities related to the transportation by air conducted by that carrier or by another carrier that controls or is controlled by that carrier or which is under common control with that carrier by another person.

"Air carrier" means the holder of a certificate of public convenience and necessity issued by the Board under section 401 of the Act authorizing the carriage of persons.

"Attendant" means any person required by a handicapped person in order to travel, whether or not that person's services are required while the handicapped passenger is in an aircraft.

"Carrier" means:

(i) An air carrier;

(ii) An all-cargo air carrier operating under section 401 or section 418 of the Act;

(iii) A foreign air carrier;

(iv) An intrastate carrier;

(v) An air taxi (including a commuter air carrier) operating under Parts 294 or 298 of this chapter; and

(vi) Any person operating as a common carrier by air, or in the carriage of mail by air, or conducting transportation by air, in a foreign country.

"Control," as used in this section, means the beneficial ownership of more than 40 percent of outstanding capital stock unless, in a specific case, the Board determines under section 408 of the Act that control does not exist.

Control may be direct or by or through one or more intermediate subsidiaries likewise controlled or controlling through beneficial ownership of more than 40 percent of outstanding voting captial stock.

"Foreign air carrier" means the holder of a permit issued by the Board under section 402 of the Act authorizing the carriage of persons.

"Free transporation" means the carriage by an air carrier or foreign air carrier of any person or property (other than property owned by that carrier) in air transportation without compensation therfor.

"Handicapped passenger" means any person who has a physical or mental impairment (other than drug addiction or alcoholism), that substantially limits one or more major life activities.

"Inaugural flight" means a flight on an aircraft type being introduced by a carrier for the first time on a route, even if that aircraft type has been used by that carrier on other routes or on that route by other carriers.

"Pass" means a written authorization, other than actual ticket stock, issued by a carrier for free or reduced-rate transportation of persons or property.

"Reduced-rate transportation" means the carriage by an air carrier or foreign air carrier of any person or property (other than property owned by such carrier) in air transportation for a compensation less than in the tariffs of that carrier on file with the Board and otherwise applicable to such carriage.

"Retired" means not regularly working at a full-time paying job, and not intending to do so in the future.

§ 223.2 Exemption from section 401 of the Act.

Any carrier not authorized to carry persons is exempted from section 401 of the Act to the extent necessary to carry, for purposes of in-flight observation, technical representatives of companies that have been engaged in the manufacture, development, or testing of aircraft or aircraft equipment.

§ 223.3 Mandatory free transportation.

Every carrier shall carry, without charge, on any aircraft that it operates, the following persons:

(a) Security guards who have been assigned to the duty of guarding such aircraft against unlawful seizure, sabotage or other unlawful interference upon the exhibition of such credentials as may be prescribed by the Administrator of the Federal Aviation Administration;

(b) Safety inspectors of the National Transporation Safety Board or of the Federal Aviation Administration who have been assigned to the duty of inspecting during flight such aircraft or its equipment, route facilities, operational procedures, or airman competency upon the exhibition of credentials or a certificate from the agency involved in authorizing such transportation; and

(c) Postal employees on duty in charge of the mails or traveling to or from such duty, upon the exhibition of the credentials issued by the Postmaster General.

§ 223.4 Transferability of passes.

Any pass issued by an air carrier or foreign air carrier under this part may, at the discretion of that carrier, be sold or otherwise transferred by the holder of that pass to any other person.

§ 223.5 Responsibility of agencies.

The Federal Aviation Administration, National Transportation Safety Board, National Weather Service, and the Postal Service shall be responsible for the following:

(a) The issuance of any credentials or certificates to personnel eligible for free or reduced-rate transportation under this part; and

(b) The promulgation of any internal rules that are necessary to obtain compliance by such personnel with this part.

Subpart B—Domestic Travel

§ 223.11 Free and reduced-rate transportation permitted.

Air carriers may charge any rate or fare for interstate and overseas air transportation.

Subpart C—International Travel

§ 223.21 Free and reduced-rate transportation authorized by statute.

(a) Any air carrier or foreign air carrier may provide free or reduced-rate foreign air transportation to any classes of persons specifically named in section 403(b) of the Act.

(b) Carriers offering reduced fares on a space-available basis to ministers of religion, the elderly, retired, and handicapped passengers, and to attendants required by handicapped passengers, in accordance with subsection 403(b)(1) of the Act, shall file tariffs for such fares. Carriers may establish reasonable tariff rules to assist in identifying those who qualify for reduced fares. A carrier's rule need not entitle all passengers falling within the definition of handicapped in § 223.1 to reduced fares if the differences between the Board's definition and the scope of the carrier's rules are reasonably related to the carrier's administrative needs.

§ 223.22 Other persons to whom free and reduced-rate transportation may be furnished.

Air carriers and foreign air carriers are exempted from sections 403 and 404(b) of the Act and Part 221 of this chapter to the extent necessary to provide free or reduced-rate foreign air transportation, including passes, to the following:

(a) Directors, officers, employees, and retirees, and members of their immediate families, of any carrier or of any affiliate of such carrier;

(b) Persons to whom the carrier is required to furnish such transportation by law or government directive or by a contract or agreement between the carrier and the government of any country served by the carrier. The Board may, without prior notice, direct the carrier to file a tariff covering such transportation if it finds that the law or government directive in question requires the provision of such transportation. This transportation may be provided only if:

(1) The contract or agreement is filed with the Board, and it is not disapproved by the Board; and

(2) The law or government directive does not require the furnishing of such transportation to the general public or any segment thereof.

(c) Technical representatives of companies that have been engaged in the manufacture, development or testing of a particular type of aircraft or aircraft equipment, when the transportation is provided for the purposes of in-flight observation;

(d) In return for goods or services provided by a person, whether the transportation is used by that person or any designees of such person. This exemption includes free or reduced-rate transportation furnished as an employee fringe benefit;

(e) Persons engaged in promoting transportation and their immediate families, when such transportation is undertaken for a promotional purpose;

(f) Persons being transported on an inaugural flight of the carrier;

(g) Any law-enforcement official, including any person who has the duty of guarding government officials traveling on official business against unlawful interference;

(h) As compensation to persons that file a complaint or claim against the carrier;

(i) Charitable organizations; and

(j) Any person in an aviation-related occupation when the transportation is provided for the purpose of technical in-flight observation.

§ 223.23 Applications for authority to carry other persons.

(a) Any carrier desiring special authorization to provide free or reduced-rate foreign air transportation to persons to whom the carrier would not otherwise be authorized to furnishing such transportation under the previous provisions of this part may apply to the Board, by letter or other writing, for such authorization.

(b) The application shall include the following information:

(1) The identity of the persons to whom the transportation is to be furnished;

(2) The points between which the transportation is to be furnished;

(3) The approximate time of departure; and

(4) The carrier's reasons for desiring to furnish such transportation.

(c) No transportation for which approval is required shall be furnished by the carrier until that approval is received by the carrier.

§ 223.24 Transportation of empty mail bags.

Any carrier authorized to engage in foreign air transportation may transport in foreign air transportation empty air mail bags from any country to the country of origin of such bags, free of charge, on a voluntary space-available basis.

§ 223.5 Withdrawal of exemptions.

The exemptions granted to any air carrier or foreign air carrier by this subpart may be modified or terminated by the Board at any time without hearing as the public interest may require.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1344 Filed 1-18-83; 8:45 am]

BILLING CODE 6320-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Requirements for the Special Packaging of Household Substances; Advance Notice of Proposed Rulemaking and Notice of Opportunity for Oral Presentations

AGENCY: Consumer Product Safety Commission.

ACTION: Advance notice of proposed rulemaking

SUMMARY: The Commission may decide to amend its child-resistant packaging requirements, under the Poison Prevention Packaging Act, for certain household substances. Since the existing requirements were developed before the widespread use of such packaging, there may be ways to improve their effectiveness and efficiency. This notice solicits suggestions and comments on all possible changes. In addition to (or instead of) submitting written comments, interested parties may present their comments to the Commission orally.

DATE: Written suggestions and comments are due no later than March 21, 1983. The opportunity for presentation of oral comments will be on March 10, 1983, at 10:00 am.

ADDRESS: Written suggestions and comments should be sent, preferably in five copies, to Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. The oral presentations will be in the third floor conference room at 1111 18th Street N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia White, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6957.

SUPPLEMENTARY INFORMATION:

I. Introduction and Purpose.

The Poison Prevention Packaging Act of 1970 (PPPA), 15 U.S.C. 1471 *et seq.*, authorizes the Consumer Product Safety Commission to issue requirements that certain household substances be sold in child-resistant packaging. Under the PPPA, the Commission has defined and established standards for such "special" packaging. 16 CFR 1700.1(b)(4), 1700.3, 1700.15 and 1700.20. (The Commission has also determined which household substances require the special packaging. 16 CFR 1700.14.)

To comply with the special packaging requirements, a package must resist entry by most young children and must not be difficult for most adults to open and properly resecure, within specified time periods. The existing requirements were developed before the widespread use of child-resistant packaging and, therefore, without the benefit of the actual use experience and test data that have since become available.

Information now available, including recent consumer surveys, reveals that many consumers find child-resistant packaging to be either too difficult or too inconvenient to use. When given the choice, therefore, many consumers purchase products in conventional packaging rather than child-resistant packaging. [1] Consumers are also making a substantial number of child-resistant packages ineffective after bringing them home. [2]

The Commission believes that the special packaging requirements can be amended so they will be more effective in achieving child resistance. Special packaging should make the contents as inaccessible to children and as accessible to adults as possible. Increased consumer acceptance and use of special packaging would likely result in fewer childhood poisonings and deaths due to accidental ingestions of hazardous household substances. [3] Further, the requirements should impose the smallest econmic burden on the industry that is necessary to achieve the objective of child resistance. They should be made as quick, easy, and inexpensive to administer as possible, without causing any reduction in special packaging effectiveness.

The purpose of this advance notice is to explore whether the special packaging requirements should be amended to achieve these, or perhaps other, objectives. It discusses some of the Commission's specific ideas for amendments and solicits public comments on them. In addition, this advance notice is designed to obtain, from the public, ideas and supporting data on other possible methods to improve the effectiveness of child-resistant packaging and to provide for more efficient testing.

II. Current Special Packaging Requirements

A. Child Test and Criteria

The current child test protocol (16 CFR 1700.20(a) (1), (2) and (3)) specifies the use of 200 children, ages 42 through 51 months, distributed in ten groups by specific age. Each age group consists of approximately one-half boys and one-half girls. The test period is ten minutes. The children are given test packages and asked to open them. After the first five minutes, the test is stopped, and the children are given a single visual demonstration of the method of opening the package. The children are also told that they may use their teeth to open the package, if they wish. The test is started

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[1] The PPPA permits conventional packaging under specified conditions. In general, the physician or patient may order conventional packaging of prescription drugs and one size of a non-prescription product subject to a PPPA standard may be sold in conventional packaging. 15 U.S.C. 1473 (a), (b) and (c).

[2] A Pilot Study of Effectiveness and Functionality of Child-Resistant Containers and Related User Attitudes. Final Report—August 1980.

[3] A Special Study of Ingestions to Children Under 5 Years of Age Treated in NEISS Hospital Emergency Departments. February 1—April 30, 1980.

again and continues for another five minutes.

For a package to meet the PPPA effectiveness criteria, at least 85 percent of the children must be unable to open the package within the first five minutes, and at least 80 percent of the children must be unable to open the package by the end of the second five minutes. 16 CFR 1700.15(b)(1).

B. Adult Test and Criteria

The current adult test protocol (16 CFR 1700.20(a) (4) and (5)) specifies the use of 100 adults, ages 18 through 45 years. Seventy percent of the adults must be females, and 30 percent must be males. The test period is five minutes. The adults are given the test package and asked to open, then properly close the package. For a package to meet the PPPA effectiveness criteria, at least 90 percent of the adults must be able to open and properly close the package within the five minute test period. 16 CFR 1700.15(b)(2). The present PPPA regulations contain no specific procedure to determine whether or not a package has been properly closed.

III. Possible Approaches for Amendments to Packaging Requirements

The Commission is considering the following approaches to make the child-resistant packaging requirements more effective and more efficient.

A. Use of Sequential Child Test

Experience has shown that most of the 200 children needed to determine the effectiveness of a child-resistant package can be located and tested within a reasonable amount of time. However, a disproportionately longer time may be required to locate and test the remaining few children needed to meet the very specific age and sex criteria. This causes a delay in obtaining test results, and also tends to increase testing costs.

To address this problem, the Commission is considering whether the test might be conducted initially on 50 children, divided equally between the sexes, with five children in each of ten age intervals from 42 through 51 months. Depending on the results of this test of 50 children, the package would be determined to be child-resistant; the package would be determined not to be child-resistant; or the results would be inconclusive for making the determination. If the results are inconclusive, a second group of 50 children would be tested. Testing would continue by groups of 50 children until a determination concerning child resistance can be reached. If testing goes to 200 children, a final determination will be reached in the same manner as with the present test protocol.

Table 1 is an example of the acceptance and rejection criteria that might be used. At the completion of any test of 50 children, if the number of packages opened (failures) is in the "pass" range, the package would meet the effectiveness criteria. If the number is in the "fail" range, the package would not meet the effectiveness criteria. Whenever the number of packages opened falls within the "continue" range, another group of 50 children is tested (until four groups, 200 children, have been tested).

An advantage of sequential testing is that decisions regarding the effectiveness of child-resistant packaging frequently can be made before all 200 children are tested. The rationale is that a relatively small sample is required to determine that a package is extremely child-resistant or extremely non-child-resistant.

B. Use of Fewer Age Groups in Child Test

The number of age groups might be reduced from the present ten, with about 20 children in each of the age intervals from 42 through 51 months. For example, the ten groups could be combined into three groups of ages 42 to 44 months, 45 to 48 months, and 49 to 51 months. The number of children in each group could be 60, 80, and 60, respectively, with approximately the same number of boys and girls in each group.

An advantage of reducing the number of age groups is that, generally less time is required to locate and test a child within a three or four month age bracket than to locate a child whose age falls within a specific month. After examining the theoretical consequences of reducing the number of age groups tested, the Commission staff believes that the selection of children at random within each age group, without concentrating them toward the high or low ages within the group, will provide test results essentially the same as those provided under the prersent test protocol.

C. Use of Test Limitations and Uniform Instructions for Testers

A possible problem associated with both child and adult testing may be the introduction into the final results of unwanted variability due to differences in the testers. Another possible problem of unwanted variability may be associated with differing test results among test sites (but only if one site is sampled too heavily and dominates the final results).

If these are problems, the Commission could modify the child test protocol to (a) limit any one tester to no more than 30 percent of the children tested, and (b) limit any one site to no more than 20 percent of the total number of children tested. In addition, the Commission could modify the adult test protocol to (a) limit any one tester to no more than 35 percent of the total number of adults tested and (b) limit any one site to no more than 35 percent of the total number of adults tested. The purpose of these limitations would be to protect against biasing the test results due to non-representative testers or due to too much weight being given to one site.

Unwanted variability resulting from tester differences, if it exists, might also be reduced if all the testers are given the same instructions. Therefore, the Commission is making available to the public a set of instructions that can be used by testers who conduct child testing and another set for use in adult testing. These instructions, Appendix 1 and Appendix 2 to this advance notice, follow the procedures used in the Commission's compliance testing. They are being provided as suggested guidelines that supplement the existing test protocols of 16 CFR 1700.29. They are not requirements and they do not change the test requirements contained in the existing protocols. The Commission is seeking comments on the content of the instructions. If they are changed in response to any comments or otherwise, the public will be informed.

The Commission is also seeking comments on the possible tester and site limitations that are discussed above. Before any such limitations are established as requirements, they would be incorporated into the protocols following notice and comment rulemaking.

D. Use of More Stringent Effectiveness Specifications

Currently, at least 90 percent of the adults tested must be able to open and properly close a package within five minutes. At least 85 percent of the children tested must be unable to open the package within five minutes and 80 percent must be unable to open the package within ten minutes. If these specifications were made more stringent, some currently-used packages would probably have to be replaced with packages that are more resistant to children and easier for adults to use. For example, the specifications could be changed to 95 percent for adults and to 90/85 percent for children. The Commission believes that some packages on the market already comply

with these more stringent specifications and that some do not.

The Commission seeks comments on whether more stringent specifications would be likely to increase the effectiveness of child-resistant packaging. Comments are also sought on the specific percentages that might be appropriate, if changes are made.

E. Shortening of Adult Test Time

The current five minute time period in the adult test may not realistically represent the length of time an adult is willing to spend attempting to open a package during home use. The Commission has conducted a statistical analysis of data from a limited number of adult tests to estimate the length of time required for adults to open child-resistant packaging. The results indicate that it may be possible to reduce the test time, but they do not provide sufficient evidence to determine a particular length of time that would be appropriate. Any change in the time period would require additional analysis and refinement to assure that certain package concepts will not be unfairly affected and that the child resistance of the packages will not be reduced. The Commission is seeking both general and specific comments on this issue.

F. Extending the Age Range of Adults Tested

The current adult protocol specifies the testing of adults aged 18 through 45 years because that is the age range of adults who generally have young children in the home. However, older adults are also exposed to child-resistant packaging, and poison control center data indicate that accidental ingestions do occur when children visit or are visited by adults over the age of 45. Extending the age range to include older adults would provide a means of evaluating the ability of older adults to use child-resistant packaging.

The results of preliminary Commission-conducted tests indicate that fewer of the older adults (65–70 years of age) were as successful at opening and closing the child-resistant packaging as the adults aged 18–45. These tests results are scant, however, and additional data need to be evaluated before the appropriateness of extending the age range can be fully determined. (If the age range were extended, it would be possible to establish lower effectiveness specifications—80 percent for example—for adults aged 46–70 years.) For now, the Commission believes that the inclusion of older adults in the testing could result in new or revised child-resistant packaging designs that are easier for most adults to use properly. Comments on this issue and any available data are solicited.

G. Adding a Test for Adult Resecuring

At present, any reliable scientific technique can be used to determine whether a child-resistant package has been properly resecured. In many cases, a visual or mechanical determination is reliable. For some types of packages, however, neither visual observation nor mechanical testing is reliable. For such packages, the Commission has devised a procedure to evaluate resecuring: Packages which have been opened and appear to have been resecured in the adult test are given to a panel of children to determine if they are, in fact, properly resecured and thus child-resistant. To eliminate bias, the panel of children is evenly distributed by age and sex, in conformance with the existing test procedure.

The adult resecuring test used by the Commission is described in Appendix 3. While that test is based on the most likely household situation, there may be other suitable and acceptable scientific methods for determining if a package has been properly resecured.

If children are used to test for proper resecuring, it might be appropriate to combine the child and adult tests into a complete special packaging protocol series.

The Commission is soliciting all possible comments and suggestions on whether an adult resecuring test should be added to the existing protocols and, if so, what the test should be.

IV. Solicitation of Comments

As described above, the Commission is considering how to make the child-resistant packaging requirements more effective and more efficient. While some specific ideas for improvements are discussed above, the Commission is not limiting itself to those possibilities.

Therefore, the Commission is seeking suggestions and comments from all interested members of the public on how to improve the special packaging requirements. This includes (a) comments on the possibilities discussed; (b) suggestions for other ideas to achieve the same or other objectives; and (c) any data that relate to the adequacy or inadequacy of the existing requirements, to the need for improvements in specific areas, or generally to child-resistant packaging issues.

All written suggestions and comments should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 no later than March 21, 1983.

In addition to accepting written comments, the Commission is providing an opportunity for the presentation of oral comments. The presentations will be made on March 10, 1983, beginning at 10:00 a.m. in the third floor conference room at 1111 18th Street NW., Washington, D.C. Any members of the public who want to make oral presentations should write to Sheldon Butts, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 or telephone him at (301) 492–6800, no later than March 1. The Commission requests that they provide Mr. Butts with a written text or summary of their presentations by the same date.

The oral presentations will be informal, with an opportunity for questions by the Commissioners, and will generally be conducted in accordance with the regulations at 16 CFR Part 1109. Depending on the number of presentations, the Commission may limit the length of some or all of them. In addition, the Commission reserves the right to place limits on duplicative presentations.

List of Subjects in 16 CFR Part 1700

Consumer protection, Toxic substances, Packaging and containers, Poison prevention, Infants and children.

(15 U.S.C. 1472)

Dated: January 13, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety, Commission.

TABLE 1

Sample	Sample size	Cumulative sample size	Acceptance and rejection criteria (based on number of openings)		
			Pass	Continued	Fail
First	50	50	1 to 5	6 to 14	15 or more.
Second	50	100	6 to 15	16 to 24	25 or more.
Third	50	150	16 to 25	26 to 34	35 or more.
Fourth	50	200	26 to 40		41 or more.

Appendix 1—Instructions for Child Testing

1. The testing shall be done in a location that is isolated from all outside distractions and is well-lighted.

2. The children shall participate in the test in pairs. They are to be seated so that they can watch each other and so that the tester can observe them both at the same time.

3. The paired children shall each receive an identical package from the tester with the verbal instruction: "When I tell you to start, I want you to try to open this package for me."

4. Each child is allowed up to five minutes to open his/her package.

a. The children are not to be given the impression that they are in a race or contest. They are not to be offered a reward for participating. On the other hand, they are not to be discouraged in any way.

b. If a child refuses to participate after the test has started, the tester shall gently encourage the child to try. If the child continues to refuse, the tester shall ask the child to hold the package and just to stay in his/her seat until the other child is finished. This pair of children should not be eliminated from the results.

c. The children are to be allowed freedom of movement to work on their packages (e.g., they can get down on the floor, bang, or pry the package under the table).

d. If a child is endangering himself/herself or others at any time, the test should be stopped and the pair of children eliminated from the final results.

e. The children are not to be allowed to trade packages.

f. If a child is successful, he/she should not be asked to try to open the package again.

g. The paired children are to be allowed to talk to each other about opening the packages and observe each other's actions.

5. After five minutes, the paired children are given a single visual demonstration on how to open the package (unless both have already open it).

a. A separate identical package is to be used for the demonstration so that any progress a child may have made on his/her package is not negated.

b. Before the demonstration is given, the tester shall secure the children's full attention. The tester shall take the packages from the children and put them in front of each child. The tester shall then say "I have a package just like yours and I want you to watch me open it."

c. The demonstration shall be conducted in a normal opening fashion and at a normal speed for the type closure, as if the tester were going to be using the contents. There shall be no exaggerated motions.

d. The demonstration shall be conducted at a distance no closer than two feet from the children. The maximum distance shall be dictated by package size and testing conditions.

6. Following the demonstration, an additional five minute period is allowed for those children who were unsuccessful in the first five minutes. If one or both of the paired children have not tried to open the package with their teeth during the first five-minute period, they shall be told: "When I tell you to start, I want you to try to open your package; you can use your teeth if you want to." No further encouragement regarding use of teeth is to be given after this statement.

7. If the same child or pair of children tests a second package, it shall be a different type. In other words, two snap closures cannot be tested by the same child or children.

Appendix 2—Instructions for Adult Testing

1. Each adult shall participate in the test individually and not in the presence of adults other than the tester(s).

2. The test area shall be isolated from all outside distractions.

3. Verbal instructions that the tester gives to the adult shall be "When I say begin, you will have 5 minutes to open and properly close this package according to the instructions on the cap (specify other location if appropriate)". No other instructions shall be given.

4. Each adult is then allowed 5 minutes to open and, for all packages that are not single use, resecure the package. The tester shall not remind the adult to close the package, except in cases where the adult asks or is clearly waiting for further instructions.

5. The adult is allowed to remove and replace the closure more than once during the test if these actions are intiated on his/her own. After the adult has finished resecuring the package or at the end of 5 minutes (whichever comes first), the tester shall take the package from the adult. After the tester has taken the package, the adult shall not be allowed to handle it again.

Appendix 3—Procedure for Calculating Adult-Use Effectiveness

To calculate adult-use effectiveness	Sample calculation
1. Test normal adults between the ages of 18–45; 70 percent female.	100−95=5.
2. Subtract the number of packages that were opened and *appeared* to be resecured by the adults (95) [1] from 100 to determine the number of packages that were not opened or resecured by the adults.	
3. Use children to test only packages that were opened and appeared to be resecured by the adults. Determine the number of packages that were opened by the children (21).	21 out of 95 packages opened.
4. Multiply the number of packages from the adult test that were opened and appeared to be resecured by 20% [2].	95×.20=19.
Subtract this number (19) from the total number of packages that were opened by the children (21) to determine the number of failures in excess of 20% (2).	21−19=2.
5. Add failures in excess of 20% (2) to the adult failures (5).	5+2=7.
Subtract this total (7) from 100 to determine the number of packages opened and *properly* resecured.	100−7=93.
6. Calculate the percent of packages opened and properly resecured to determine the adult-use effectiveness.	93÷100×100=93%.

[1] Numbers in parentheses correspond to sample calculation only.

[2] This takes into consideration that one out of five children (20%) may be able to open even a properly resecured child-resistant package and the package would still be considered to be child-resistant by the current effectiveness specifications.

[FR Doc. 83-1370 Filed 1-18-83; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket Nos. RM79-76-135 (West Virginia-3); and RM79-76-134 (West Virginia-2)]

High-Cost Gas Produced From Tight Formations; West Virginia Technical Conference

January 14, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed rule related notice.

SUMMARY: At the request of West Virginia and several commenters, a technical conference will be held to review the recommendations of West Virginia that certain formations described in the above-captioned dockets be designated as tight formations under § 271.703 of the Federal Energy Regulatory Commission's regulations.

DATE: The conference will be held on March 1, 1983 at 10:00 a.m.

ADDRESS: The conference will be held in Room 6200, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Elisabeth Y. Pendley, (202) 357–8571, or Matthew Charsky, (202) 357–8311.

SUPPLEMENTARY INFORMATION:

In the matter of High-Cost Gas Produced From Tight Formations; Docket No. RM79–76–134 (West Virginia–2) (47 FR 53740, November 29, 1982; and Docket No. RM79–76–135 (West Virginia–3) (47 FR 43986, October 5, 1982).

Notice of Technical Conference

January 14, 1983.

Take notice that on Tuesday, March 1, 1983, a conference will be held in the above-captioned docket. The conference was requested by West Virginia and several interested commenters. The conference will convene at 10:00 a.m. in Room 6200, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

The conference is opened to the public and all interested persons are invited to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1366 Filed 1–18–83; 8:45 am]

BILLING CODE 6717–01–M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM83–5]

Automatic Participant Status

AGENCY: Postal Rate Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Current commission rules, 39 CFR 3001.20 and 19a require interested persons seeking to participate in Commission proceedings pursuant to 39 U.S.C. 3624(a) to petition the Commission and obtain a Commission ruling granting intervention. This process is time consuming and inefficient, as almost without exception such requests are non-controversial, and granted without objection. It is proposed to amend these rules to grant participant status automatically, subject to reconsideration for good cause shown.

DATES: Comments responsive to this Notice should be filed on or before February 18, 1983.

ADDRESSES: Comments and correspondence relating to this Notice should be sent to David F. Harris, Secretary of the Commission, 2000 L Street, NW., Washington, D.C. 20268 (telephone: 202/254–3880).

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, Assistant General Counsel, 2000 L Street, NW., Washington, D.C. 20268 (telephone: 202/254–3836).

SUPPLEMENTARY INFORMATION: Requests to change postal rates or mail classifications, and certain complaints against the Postal Service, are subject to the requirements of 39 U.S.C. 3624(a), that the Postal Rate Commission shall not issue a recommended decision "until the opportunity for a hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mails, and a Officer of the Commission who shall be required to represent the interests of the general public." Commission rules presently provide that persons who wish to participate in such a proceeding are to petition to become a party or participant. 39 CFR 3001.20; 3001.19a. Interested persons have no status before the Commission pending action on their petition.

It is proposed that this procedure be changed. Interested persons would be able to file a notice of intervention indicating whether they wish full party or limited participator status. The notice of intervention would include an explanation of why party status was appropriate, and would serve to enable the prospective intervenor to participate immediately in Commission procedures.

This change has two major benefits. First, it will enable the Commission to more efficiently utilize its time and develop a more complete record. The Commission is obligated to issue a recommended decision within 10 months of initiation of rate requests and certain classification proposals with significant rate impact, 39 U.S.C. 3624(c). Commission proceedings are extremely complex and it is difficult to develop a complete record and prepare a comprehensive decision within this time frame. Under present rules, interested persons cannot fully participate in developing an administrative record for the Commission's use until after a petition for party status has been granted. This proposal would encourage interested persons to file a notice of intervention, and begin discovery, at an early date.

The second major benefit of this proposal is its elimination of largely unnecessary procedural steps. It is clear that title 39 was drafted to encourage the Commission to hear from a broad spectrum of interests. The language of 39 U.S.C. 3624(a) specifically provides that the opportunity for a hearing shall be accorded to "users of the mails," a category which encompasses the vast majority of individual citizens and businesses within the country. Only under extraordinary circumstances will the Commission have cause to reject a petition for intervention. Under these circumstances it is far more efficient to allow persons wishing to participate to immediately begin to do so, rather than requiring the filing of numerous individual requests, which require formal, albeit automatic, action by the Commission. This proposal preserves the right of any participant to file in opposition to a notice of intervention, and the Commission retains the right to determine that intervenor status is not appropriate should it be convinced that the Act does not contemplate participation by the particular interest in question.

There are additional factors which support this proposal. In a recent proceeding, Docket No. MC83–2, service of a legal objection was not effected on all interested persons because several had not yet been officially accorded party status. These rule changes would prevent reoccurrence of that problem. Further, it has been noted that the statutory praticipants, the Postal Service and the Officer of the Commission, can be active before persons who must petition for party status. Our proposal will significantly reduce any inequity in that situation.

In sum, the proposal will enable interested persons to immediately gain party status and participate in the process of evaluating rate and classification change proposals without waiting for the formalistic grant of a petition to intervene. The Commission's docket section will maintain an update service list, and as now, it will periodically distribute an updated version to all parties. The proposed changes should enable parties to more effectively utilize the 10-month period for decision provided to the Commission by Congress, and eliminate the need for several meaningless procedural orders.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Freedom of information, Postal service.

PART 3001—RULES OF PRACTICE AND PROCEDURE

For the reasons set out above, the Commission proposes to revise §§ 3001.19a and 3001.20 of the rules of practice [39 CFR 3001.19a, 3001.20] as follows:

§ 3001.19a Limited participation by persons not parties.

Notwithstanding the provisions of § 3001.20, any person may appear as a limited participator in any case that is notice for a proceeding pursuant to § 3001.17, in accordance with the following provisions.

(a) *Form of intervention.* Notices of intervention as a limited participator shall be in writing, shall set forth the nature and extent of the requestor's interest in the proceeding, shall include the name and full mailing address of the person or persons who are to receive service of documents by the Secretary, and shall be served on the Postal Service (and on the complaintant in a complaint proceeding) pursuant to § 3001.12. Except where good cause for late filing is shown, notices of intervention as a limited participator shall be filed not later than the date fixed for the filing of notices of intervention pursuant to § 3001.20(c).

(b) *Oppositions.* Oppositions to notice to intervene as a limited participator may be filed by any participant or limited participator in the proceeding no later than 10 days after the notice of intervention as a limited participator is filed.

(c) *Scope of participation.* Subject to the provisions of § 3001.30(f), limited participators may present evidence which is relevant to the issues involved in the proceeding and their testimony shall be subject to cross-examination on the same terms applicable to that of formal participants. Limited participants may file briefs or proposed findings pursuant to §§ 3001.34 and 3001.35, and within 15 days after the release of an intermediate decision, or such other time as may be fixed by the Commission, they may file a written statement of their position on the issues. The Commission or the presiding officer may require limited participators having substantially like interests and positions to join together for any or all of the above purposes. Sections 3001.25 through 3001.28 shall not be applicable to limited participators. However, limited participators, particularly those making contentions under 39 U.S.C. 3622(b)(4), are advised that failure to provide relevant and material information in support of thier claims will be taken into account in determining the weight to be placed on their evidence and arguments.

§ 3001.20 Formal interventions.

(a) *Who may intervene.* A notice of intervention will be entertained in those cases that are noticed for a proceeding pursuant to § 3001.17 for any person claiming an interest of such nature that his intervention is allowed by the Act, or appropriate to its administration.

(b) *Contents.* A notice of intervention shall clearly and concisely set forth the nature and extent of the petitioner's interest in the issues to be decided, including the classifications of postal serivce utilized by the petitioner giving rise to his interest in the proceeding, and the position of the petiioner with regard to the proposed changes in postal rates, fees, classifications, or services, or the subject matter of the complaint, as described in the notice of the proceeding Such notice shall state whether or not the petitioner requests a hearing or in lieu thereof, a conference, and whether or not the petitioner intends to actively participate in a hearing. Such petition shall also include on page one thereof the name and full mailing address of the person or persons who are to receive service of any documents relating to such proceeding.

(c) *Form and time of filing.* Notices of intervention shall be filed no later than the date fixed for such filings in any notice or order with respect to the proceeding isued by the Commission or its Secretary, unless in extraordinary circumstances for good cause shown, the Commission authorizes a late filing. Notices of intervention shall conform to the requirements of §§ 3001.9 to 3001.11 and shall be served on the Postal Service and the complaintant in a complaint proceeding pursuant to § 3001.12.

(d) *Oppositions.* Oppositions to notices of intervention may be filed by any participatn in the proceeding no later than 10 days after the notice of intervention is filed.

(e) *Effect of intervention.* A person filing a notice of intervention shall be a party to the proceeding subject, however, to a determination by the Commission, wither in response to an opposition, or sua sponte, that party status is not appropriate under the Act. Intervenors are also subject to the right of the Commission or the presiding officer as specified in § 3001.24 to require two or more intervenors having substantially like interests and positions to join together for purposes of service of ducuments, presenting evidence, making and arguing motions and objections, cross-examining witnesses, filing briefs, and presenting oral arguments to the Commission or presiding officer. No intervention shall be deemed to constitute a decision that the intervening party has such an interest in the proceeding that he would be aggrieved by an ultimate decision by order of the Commission.

David F Harris,
Secretary.

[FR Doc. 83-1680 Filed 1-18-83; 8:45 am]
BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 461

[WH-FRL 2267-1]

Battery Manufacturing, Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On November 10, 1982, EPA proposed a regulation under the Clean Water Act to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in battery manufacturing operations (47 FR 51052). EPA is extending the period for comment on the proposed regulation from January 10, 1983 to January 24, 1983. Furthermore, EPA is extending the period for comment on the proposed requirements for the Lead Subcategory to February 7, 1983.

The extension is needed to allow the battey manufacturing industry additional time to fully comment and to supply data supporting their comments. Also, the lead manufacturers have raised specific issues respecting their ability to modify water use practices and to treat wastewaters, therefore a longer comment period is appropriate.

DATES: Comments on the proposed regulation for the battery manufacturing category (47 FR 51052) must be submitted to EPA by January 24, 1983, or, in the case of requirements for the Lead Subcategory, by February 7, 1983.

ADDRESSES: Send comments to Ms. Mary L. Belefski, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: Docket Clerk, Proposed Battery Manufacturing. The supporting information and all comments on this proposal are available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213. The comments will be added to the record as they are received. The EPA Information Regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ernst P. Hall (202) 382–7126.

SUPPLEMENTARY INFORMATION: On November 10, 1982, EPA proposed a regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in battery manufacturing operations (47 FR 51052). The November 10, 1982, notice stated that comments on the proposal were to be submitted on or before January 10, 1983.

The Agency has received numerous comments from the battery manufacturing industry, and from lead battery manufacturers in particular, that additional comment time is needed to allow them to comment fully and to supply data to support their comments. Given the size and diversity of the industry and the complexity of issues raised by this rulemaking, EPA has determined that it is necessary to extend the comment period fourteen (14) days to allow the public adequate time to review and comment on this proposed regulation. Due to specific issues raised by the lead battery manufacturers with respect to their ability to modify water use practices and to retreat their wastewaters to proposed levels, a longer extension of twenty-eight (28) days is appropriate for the lead subcategory.

EPA believes that the comment period, as extended provides sufficient time (74 days in general, and 88 days for the lead subcategory) for diligent commenters to review and comment upon the proposed rule. Much of the background information for the proposed rule was made publicly available in a draft background document in September 1980.

The extension of time should be sufficient for commenters to complete their analyses of new information and concepts contained in the proposed rule.

Dated: January 10, 1983.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 83–1494 Filed 1–18–83, 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 302

Withholding of Unemployment Benefits for Support Purposes

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Notice of proposed rule making.

SUMMARY: These proposed regulations would implement section 454(20) of the Social Security Act as required by section 2335 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1081. Section 2335 requires child support enforcement (IV–D) agencies to determine on a periodic basis whether individuals receiving unemployment compensation owe support obligations that are not being met. It further requires IV–D agencies to enforce unmet support obligations in accordance with State developed guidelines for obtaining an agreement with the individual to have a specified amount of support withheld from unemployment compensation otherwise due the individual or, in the absence of an agreement, by bringing legal process to require the withholding. The IV–D agency must reimburse the State employment security agency (SESA) for the administrative costs attributable to enforcing support obligations by withholding, unemployment compenastion.

DATE: Consideration will be given to comments received by March 21, 1983.

ADDRESSES: Address comments to Director, Office of Child Support Enforcement, Department of Health and Human Services, Room 1010, 6110 Executive Boulevard, Rockville, Maryland 20852. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5 P.M., in Room 1010 of the Department's office at the address above.

FOR FURTHER INFORMATION CONTACT: Carol Jordan, (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Statutory Provisions

Section 2335 of Pub. L. 97–35, which provides for withholding of unemployment compensation for support purposes, contains provisions affecting both IV–D agencies and SEASs. These proposed regulations would implement only those provisions of section 2335 that affect IV–D agencies. The remaining provisions have been implemented under instructions issued by the Department of Labor. (See Unemployment Insurance Program Letter No. 15–82, dated April 8, 1982.) Although these proposed regulations affect only the Child Support Enforcement Program under title IV–D of the Social Security Act (the Act), all of the provisions of the statute are discussed here to provide a complete picture of the roles of the IV–D agency and the SESA in relation to the withholding of unemployment compensation for the purpose of paying unmet support obligations.

With respect to the Child Support Enforcement program, section 2335 amends section 454 of the Act by adding a new paragraph (20). The new subparagraph 454(20)(A) provides that, under the IV–D State plan, the IV–D agency must determine on a periodic basis whether any individuals receiving compensation under the State's unemployment compensation law (including amounts payable under any agreement under a Federal unemployment compensation law) owe support obligations that are being enforced by the IV–D agency. This periodic determination is to be made from information supplies by the SESA under section 508 of the Unemployment Compensation Amendments of 1976. The information available to the IV–D agency under section 508 is discussed later in this preamble under the heading "Regulatory Provisions". Also discussed below is the related requirement in section 2335 that the SESA notify the IV–D agency if an individual discloses to the SESA that he or she owes child support.

The new subparagraph 454(20)(B) provides that, under the IV–D State plan, the IV–D agency must enforce support obligations that are not being met by individuals identified as described above. In enforcing an obligation under this process, the IV–D agency must first attempt to obtain an agreement with the individual to have a specified amount withheld from the unemployment compensation otherwise due the individual. If an agreement is obtained, the SESA is entitled to receive a copy of it. In the absence of an agreement, the IV–D agency must bring legal process in appropriate cases, pursuant to State or local law, to require the withholding of unemployment compensation. The applicable legal process is defined in paragraph 462(e) of the Act as a a writ, order, summons, or other similar process in the nature of a garnishment.

With respect to the Department of Labor's unemployment insurance program under title III of the Act, section 2335 amends paragraph 303(e) of the Act to impose several requirements on SESAs. Subparagraph 303(e)(1) is amended to specify that the provisions for withholding unemployment compensation for support purposes are applicable only to "child support obligations" being enforced pursuant to the IV–D State plan described in section 454 of the Act. Because section 454 now permits collection of certain spousal support obligations, the withholding of

unemployment compensation is permissible for child support and for spousal support that has been included in the same support obligation, if the State IV–D agency elects to collect spousal support. However, section 2335 does not require the SESA to collect spousal support or to inquire whether the individual owes spousal support.

A new subparagraph 303(e)(2) specifies that the SESA will (i) ask each new applicant for unemployment compensation whether he or she owes a child support obligation being enforced under the IV–D State plan; (ii) notify the State of local IV–D agency when an eligible applicant discloses that he or she owes support being enforced under the IV–D State plan; (iii) withhold an amount from unemployment compensation when asked to do so by the applicant, or when notified to do so by the IV–D agency as a result of an agreement the IV–D agency has obtained from the individual or as a result of legal process; and (iv) pay any amount withheld to the appropriate State or local IV–D agency. Subparagraph 303(e)(2) also defines unemployment compensation as any compensation payable under State law (including amounts payable pursuant to agreements under any Federal unemployment compensation law). Finally, subparagraph 303(e)(2) requires the IV–D agency to reimburse the SESA for the administrative costs incurred in the withholding process which are attributable to support obligations being enforced by the IV–D agency.

Under the new subparagraph 303(e)(3), the Secretary of Labor, after giving the SESA reasonable notice and opportunity for hearing, may cease to certify payments to the States under section 302 of the Act if the State fails to comply with subparagraphs 303(e)(1) and (2).

Section 2335 requires both IV–D agencies and SESAs to engage in activities resulting in the withholding of unemployment compensation for support purposes beginning October 1, 1982. Between August 13, 1981 and the required implementation date, it is optional for a State to engage in the withholding process.

Regulatory Provisions

OCSE believes that care must be taken to ensure that this new program activity is implemented in a cost-effective manner in order to avoid situations in which administrative costs outweigh collections made. We have developed proposed regulations specifying that IV–D agencies shall agree to pay only for SESA activities they believe will be cost-effective (i.e., cost-effective in relation to the collections that will result from the process) and to periodically review overall program operations and costs in relation to collections for the purpose of identifying modifications to improve program and cost effectiveness.

These proposed regulations at 45 CFR 302.65 begin at paragraph (a) with three definitions that are applicable to this regulation section. The first, legal process, is based on the definition in paragraph 462(e) of the Act. Legal process is defined as a writ, order, summons or other similar process in the nature of a garnishment, which is issued by a court of competent jurisdiction or by an authorized official pursuant to an order of such court or pursuant to State or local law. We believe this definition is broad enough to encompass the pertinent legal processes in all States, since it does not require garnishment action per se, but permits legal action by "similar process." We are interested in receiving comments on this point from any States that consider the definition too limiting. The second term, State employment security agency or SESA, is defined as the agency charged with the administration of State unemployment compensation laws in accordance with title III of the Act. The third and final definition characterizes unemployment compensation as any compensation payable under State unemployment compensation law (including amounts payable in accordance with agreements under any Federal unemployment compensation law) and then lists, by name, the specific categories of benefits that qualify as unemployment compensation.

Paragraph (b) of the proposed §302.65 specifies that the State IV–D agency shall enter into a written agreement with the SESA in its State to carry out the process of withholding unemployment compensation from individuals with unmet support obligations that are being enforced by the IV–D agency. The agreement may specify direct contacts between the SESA and local IV–D agencies, as permitted by the statute. To keep requirements at the absolute minimum, we have not specified what the agreement must contain, although we suggest that States include the functions to be performed by each agency, the SESA's charges as agreed upon, and the duration of the agreement. We would expect agencies to expand their agreements to cover other important points as necessary. For a comprehensive treatment of the provisions that might be addressed in a IV–D/SESA agreement for the process of withholding unemployment compensation, the State IV–D agency may wish to review the guidelines issued as an attachment to OCSE–AT–82–2, dated March 30, 1982. Because we believe it is important to establish a withholding program that is expected to be cost-effective, we have specified cost-effectiveness as a key consideration in negotiation IV–D/SESA agreements under paragraph (b) of the proposed regulations.

Section 1102 of the Social Security Act authorizes the Secretary of HHS to publish regulations necessary to efficiently administer his functions under the Act. We believe that paragraph (b) of the proposed § 302.65 is necessary to administer the process of withholding unemployment compensation efficiently and effectively. Also, section 454 of the Act provides the Secretary with the authority to prescribe requirements and standards necessary to establish an effective title IV–D program.

Paragraph (c) of the proposed § 302.65 contains the functions that the IV–D agency must perform with respect to the process of withholding unemployment compensation. Three of these functions are set forth in section 2335 of Pub. L. 97–35 and four are being proposed by OCSE to improve the administration and management of the withholding process.

The statutorily imposed functions are the following. First, under paragraph (c) the IV–D agency must periodically determine whether individuals applying for, or receiving unemployment compensation owe support obligations which are being enforced by the IV–D agency. This determination is to be made from information available from the SESA under section 508 of Pub. L. 94–566, the Unemployment Compensation Amendments of 1976. Under section 508, the IV–D agency may obtain (1) information about whether an individual is receiving, has received, or has made application for, unemployment compensation and the amount of any compensation being received; (2) the individual's current or most recent home address; and (3) information about whether an individual has refused an offer of employment and, if so, a description of the employment offered, including terms, conditions and rate of pay.

The second statutory requirement incorporated in paragraph (c) is that the IV–D agency must enforce *unmet* support obligations via the process of withholding unemployment compensation through a voluntary agreement with the individual who owes the support, or if an agreement cannot be obtained, through legal process. The IV–D agency should pursue cases which meet the specific case selection criteria

established under paragraph (c)(3) and discussed below. Under section 2335, the IV–D agency must give the SESA a copy of the voluntary agreement.

The third statutory requirement in paragraph (c) is that the IV–D agency reimburse the SESA for the administrative costs that are attributable to the process of withholding unemployment compensation for support purposes. We have added the provision that reimbursement must be made only insofar as the actual, incremental costs have been agreed upon by the SESA and the IV–D agency. The purpose of this stipulation is to ensure that the IV–D agency maintains control over expenditures related to the withholding process. In practice, we believe this provision will be protective of both parties to the agreement by precluding unnecessary and/or unauthorized expenditures for which the SESA will not be reimbursed.

To complement the IV–D functions specified by the statute, we are proposing four additional functions in paragraph (c) of § 302.65 that we believe are necessary for proper implementation of the withholding process. First, we are proposing that the IV–D agency provide a receipt at least annually to an individual who requests a receipt for the amount of unemployment compensation withheld for purposes of support. The intent of this measure is to guarantee that the individual can verify to appropriate authorities, such as a court or the Internal Revenue Service, that support has been paid in the amount of the unemployment compensation withheld.

Second, we are proposing that the IV–D agency must process its withholding cases through the SESA in its own State or through the IV–D agencies in other States. The SESA will forward all amounts it withholds to the appropriate State of local child support enforcement agency in its own State. Therefore, we are also proposing that, if a IV–D agency receives a payment on behalf of a IV–D agency in another State, it must forward that payment to the appropriate IV–D agency. The purpose of these provisions is to place primary reliance for withholding activity on the IV–D agency and the SESA in the same State, thus precluding the need for interstate IV–D/SESA agreements and costly variations in procedures.

Third, we are proposing that States must establish and use written criteria for the selection of cases for withholding. We do not plan to impose specific requirements concerning cases the IV–D agency must refer to the SESA under this paragraph, nor do we wish to specify how often the IV–D agency must make the referrals. However, the IV–D agency must design and implement case selection criteria to insure maximum referral of cases and to avoid uncertainty and excessive discretion on the part of the selecting case worker because of the lack of clear guidance. Case selection criteria might include, for example, that the individual whose unemployment compensation will be withheld will be eligible for continued receipt of benefits for a specified period of time, or, that withholding of any amount of unemployment compensation should not reduce the amount of benefits below a spedified amount per week. Case selection criteria should also address cases which may *not* be excluded solely on the basis of one particular circumstance, for example, the fact that the individual has a current responsibility to a spouse and additional children. The purpose of this requirement is to insure that States establish and implement specific case selction criteria to maximize case selection and to provide clear, complete instructions to be used in the selection process.

Finally, we are proposing that the IV–D agency review and document at least annually program operations, including case selection criteria established under paragraph (c)(3), and costs of the withholding process versus amounts collected. Based on this review, the IV–D agency must modify its procedures and renegotiate the services provided by the SESA, as necessary, to improve program and cost effectiveness. The purpose of this provision is self-evident. It is our contention that such a review is necessary to assure that the IV–D agency takes advantage of any obvious modifications that will, as a result of new conditions or cost considerations, result in a more efficient withholding process.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the State plan amendment that is required by this regulation has been approved by the Office of Management and Budget (OMB) under existing OMB number 0960–0253.

List of Subjects in 45 CFR Part 302

Child welfare, Grant programs/social programs.

PART 302—[AMENDED]

45 CFR Part 302 is amended by adding a new § 302.65 to read as follows:

§ 302.65 Withholding of unemployment compensation.

The State plan shall provide that the requirements of this section are met.

(a) *Definitions.* When used in this section:

"Legal process" means a writ, order, summons or other similar process in the nature of a garnishment, which is issued by a court of competent jurisdiction or by an authorized official pursuant to an order of such court or pursuant to State or local law.

"State employment security agency" or "SESA" means the State agency charged with the administration of the State unemployment compensation laws in accordance with title III of the Act.

"Unemployment compensation" means any compensation payable under State unemployment compensation law (including amounts payable in accordance with agreements under any Federal unemployment compensation law). It includes extended benefits, unemployment compensation for Federal employees, unemployment compensation for ex-servicemen, trade readjustment allowances, disaster unemployment assistance, and payments under the Redwood National Park Expansion Act.

(b) *Agreement.* The State IV–D agency shall enter into a written agreement with the SESA in its State for the purpose of withholding unemployment compensation from individuals with unmet support obligations being enforced by the IV–D agency. The IV–D agency shall agree only to a withholding program that it expects to be cost-effective and to reimbursement for the SESA's actual, incremental costs of providing services to the IV–D agency.

(c) *Functions to be performed by the IV–D agency.* The IV–D agency shall:

(1) Determine periodically from information provided by the SESA under section 508 of the Unemployment Compensation Amendments of 1976 whether individuals applying for or receiving unemployment compensation owe support obligations that are being enforced by the IV–D agency.

(2) Enforce unmet support obligations by arranging for the withholding of unemployment compensation based on a voluntary agreement with the individual who owes the support, or in appropriate cases which meet the case selection criteria established under paragraph (c)(3), through legal process pursuant to State or local law, if a voluntary agreement cannot be obtained. The IV–D agency must give the SESA a copy of the voluntary agreement.

(3) Establish and use written criteria for selecting cases to pursue via the withholding of unemployment compensation for support purposes. These criteria must be designed to insure maximum, case selection and minimal discretion in the selection process.

(4) Provide a receipt at least annually to an individual who requests a receipt for the support paid via the withholding of unemployment compensation, if receipts are not provided through other means.

(5) Maintain direct contact with the SESA in its State:

(i) By processing cases through the SESA in its own State or through IV–D agencies in other States; and

(ii) By receiving all amounts withheld by the SESA in its own State and forwarding any amounts withheld on behalf of IV–D agencies in other States to those agencies.

(6) Reimburse the administrative costs incurred by the SESA that are actual, incremental costs attributable to the process of withholding unemployment compensation for support purposes insofar as these costs have been agreed upon by the SESA and the IV–D agency.

(7) Review and document, at least annually, program operations, including case selection criteria established under paragraph (c)(3), and costs of the withholding process versus the amounts collected and, as necessary, modify procedures and renegotiate the services provided by the SESA to improve program and cost effectiveness.

Note.—The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have a significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

(Section 1102 of the Social Security Act [42 U.S.C. 1302) and Section 454(20) of the Social Security Act (42 U.S.C. 654(20))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: September 29, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: December 3, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 83–1487 Filed 1–18–83; 8:45 am]

BILLING CODE 4150–11–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 387 (Sub-200)]

Contract Implementation Date

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: The question of whether a rail contract under 49 U.S.C. 10713 may be implemented prior to Commission approval pursuant to section 10713(e) is of substantial interest to contracting parties. In the past we have interpreted section 10713(e) as a requirement for a 30-day public notice before transportation under the contract may begin. However, numerous parties have questioned the propriety of this view and point to the delay it causes. This notice proposes rules at 49 CFR 1039.2 to implement, upon filing, rail contracts made under 49 U.S.C. 10713. Transportation could begin if compliance is made with the rules. The contracts would remain under Commission jurisdiction and subject to Commission approval or disapproval.

DATES: Comments are due by February 18, 1983.

ADDRESS: Send original and 15 copies of any comments to: Ex Parte No. 387 (Sub-No. 200), Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7278,
or
Thomas Smerdon, (202) 275–7277

SUPPLEMENTARY INFORMATION: The question of whether a rail contract under 49 U.S.C. 10713 may be implemented prior to Commission approval pursuant to section 10713(e) is of substantial interest to contracting parties.

In the past we have interpreted section 10713(e) as a requirement for a 30-day public notice before transportation under the contract may begin. However, numerous parties have questioned the propriety of this view and point to the delay it causes. In light of our experience with section 10713 and the needs of the contracting parties, we are instituting this proceeding on our own motion to propose rules allowing the contracting parties to implement the rail contract provisions before formal Commission approval provided certain conditions are met.

The proposed rules would eliminate delayed implementation without affecting the 30-day statutory notice period, and are designed to accommodate legitimate shipper-requirements for prompt contract performance.

Whether transportation may begin under a contract before Commission approval is not apparent on the face of the statute.[1] Section 10713(e) discusses only the date when approval of the contract is effective,[2] but the statute does not refer to the effective date of the contract itself. Pursuant to section 10713(i), the result of Commission approval is that the transportation performed under the contract is removed from Commission jurisdiction and is not subject to Subtitle IV of 49 U.S.C. However, the legislation does not address the status of the contract during the time between the date of filing and the date of Commission approval.

The document which is filed constitutes a contract, since section 10713(b) states that each "contract entered into under this section shall be filed * * *" The only remaining element is to obtain Commission approval under the limited review standards of section 10713.

The proposed rules are compatible with section 10713. They allow the contract to become effective on the date of filing and the transportation or services thereunder to begin immediately; however, the effective date for Commission approval will not change. Potential complainants are still afforded the 30-day notice period. The contract summary provides notice to others who may be affected by the contract so that they may have the opportunity to complain. Under the proposed rules, the potential complainant still retains the right to file a petition and to obtain any remedies which are warranted. All interests remain protected.

The proposed rules are consistent with congressional intent. Congressional authorization of rail contracts was "a significant aspect of the new freedom allowed carriers to market transportation more effectively," H.R. Rep. No. 1430, 96th Cong., 2d Sess. 100 (1980). Section 10713 is intended to encourage contracting parties to make widespread use of such agreements. H. Rep. No. 1430, *supra*, at 98–99.

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[1] The common carrier regulatory concepts used in exigent circumstances are not appropriate as governing principles, because contract carrier service is a separate and fundamentally distinct class of service [Section 10713(1)]. Common carrier tariff rules, such as special permission regulations and the 10-day notice period for rate reductions, do not apply to contracts.

[2] Under 49 U.S.C. 10713(e), not earlier than 30 days after the contract is filed, nor later than 60 days.

Congressional encouragement of contracts, when considered in conjunction with the relatively short time frames for Commission approval or disapproval after a contract is filed [section 10713(e)], also indicates an intent for the transportation to commence as soon as possible.

The proposed rules are set out at 49 CFR 1039.2. Section 1039.2(a) states that performance under the contract may begin on the date of filing of the appropriate documents, subject to certain conditions.

The first condition, set out in paragraph (a)(1), is that both the contract and contract summary (or contract amendment and supplement) must specifically state that performance under the contract may begin on the filing date and that performance is subject to these rules. This requirement is to provide adequate public notice of the intended duration of the contract.

Paragraph (a)(2) does not allow implementation of a contract or amendment under these rules if the rail equipment required by the contract exceeds the 40-percent equipment capacity limitations of section 10713(k), unless prior relief from this section has been granted. If prior relief has been obtained, it must be identified in the contract summary. The purpose of paragraph (a)(2) is to restrict the application of the proposed rules when they would be in direct conflict with the statutory requirements for limiting equipment used in rail contracts.

Paragraph (a)(3) states that the otherwise applicable tariff rates will apply in the event the contract is disapproved or rejected. This reflects the fact that performance prior to approval is predicated on the lawfulness of the contract. Consequently, a contract which is subsequently disapproved cannot provide the legally applicable transportation charges and other governing terms between the purchaser of rail services and the carrier. Application for reparations or waiver of undercharges could be made in these circumstances; thus adequate safeguards exist to remedy inequities.[3]

Paragraph (a)(4) permits transportation under the contract prior to Commission approval, with the explicit provision that the Commission still retains jurisdiction. This is consistent with section 10713(i) which prevents challenge to contractual matters only after approval of the contract.

Paragraph (a)(5) provides that the implementation date for a contract or amendment is the date either is filed.

Regulatory Flexibility Statement

Pursuant to section 605(b), we certify that the proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities, including both purchasers of transportation and carriers. No statutory rights to file complaints under 49 U.S.C. 10713 are foreclosed, and the identical remedies remain available under the proposal. Accordingly, a Regulatory Flexibility Analysis under 5 U.S.C. 601 et seq. is unnecessary.

It does not appear that this decision will significantly affect the quality of the human environment or the conservation of energy resources. Comments on these (as well as all other) matters, however, are invited.

List of Subjects in 49 CFR Part 1039

Railroads, Transportation.

Decided: January 10, 1983.

(49 U.S.C. 10321 and 10713; 5 U.S.C. 553)

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison.

[3] Application for reparations or waiver of undercharges is available through a petition for exemption under 49 U.S.C. 10505. See No. 38866, *Denver and Rio Grande Western Railroad Company—Petition For Authority to Pay Reparations*, decided December —, 1982.

Commissioner Gradison concurred. Vice Chairman Gilliam did not participate.

James H. Bayne,
Acting Secretary.

Appendix

PART 1039—[AMENDED]

Title 49 CFR would be amended by revising § 1039.2 to read as follows:

§ 1039.2 Contract implementation date.

Transportation or service performed under a contract or amendment may begin, without specific Commission authorization, on or after the date the contract and contract summary or contract amendment and supplement are filed and before Commission approval as defined at 49 CFR 1039.3(f), subject to the following conditions:

(a) The contract or contract amendment shall specifically state that the transportation or service may begin on the date of filing and that performance is subject to the conditions of 49 CFR 1039.2. The contract summary or supplement shall separately reflect the date of commencement of service under this provision under "duration of the contract," 49 CFR 1300.313(a)(4).

(b) If the rail equipment standards of 49 U.S.C. 10713(k) are exceeded, prior relief shall be obtained from the Commission and shall be specifically identified in the contract summary.

(c) If the Commission disapproves or rejects the contract or amendment, the appropriate non-contract tariffs in effect during the period before Commission action will be applicable.

(d) Before Commission approval, the contract or amendment and transportation are subject to Commission jurisdiction, 49 U.S.C. 10713, and applicable regulations.

(e) Transportation or service may not begin under a contract or an amendment to a contract before the filing date of either the contract or the amendment, respectively.

[FR Doc. 83-1461 Filed 1-18-83; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 48, No. 13
Wednesday, January 19, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

January 14, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Charles E. Caudill, Acting Statistical Clearance Officer, (202) 447-6201.

Revised

• Agricultural Marketing Service
Oregon-Washington-California Winter Pears—Marketing Order 927
On occasion, monthly
Farms, business: 6,757 responses; 3,713 hours; not applicable under 3504(h)
William J. Doyle (202) 447-5975

Extension

• Food and Nutrition Service
Evaluation of the Food Stamp Work Registration and Job Search Demonstration
Monthly
Individuals of households: 7,785 responses; 3,289 hours; not applicable under 3504(h)
Boyd Kowal (703) 756-3115

Charles E. Caudill,
Acting Statistical Clearance Officer.

[FR Doc. 83-1420 Filed 1-18-83; 8:45 am]
BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Modification No. 3 to Permit No. 336

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and § 222.25 of the Regulations Governing Endangered Species Permits (50 CFR Part 222), Scientific Research Permit No. 336 issued to Dr. Richard H. Lambertsen, Department of Physiological Sciences University of Florida on May 19, 1981, is modified to include the importation of specimens of all species. Accordingly, Section A-1 is deleted and replaced by:

"1. An unspecified number of specimen materials from all species of cetaceans in the North Atlantic Ocean may be imported when taken legally in the country of origin."

Section B-1 is deleted and replaced by:

"1. The specimens to be imported shall have been collected from animals taken according to the schedule of the International Whaling Commission and as permitted under the laws of the country of origin."

This modification became effective on January 13, 1983.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W. Washington, D.C.;
Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and
Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: January 13, 1983.

R. B. Brumsted,
Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-1505 Filed 1-18-83; 8:45 am]
BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Extension of Coverage of the Hong Kong Export Visa To Include Certain Textiles and Textile Products of Cotton, Wool, and Man-Made Fibers

January 14, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Extending coverage of the existing Hong Kong export visa requirement to include cotton, wool, and man-made fiber textiles and textile products in Categories 300-320 and 360-369, 400-429 and 464-469, and 600-627 and 665-669, produced or manufactured in Hong Kong.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of June 23, 1982, as amended, between the Governments of the United States and Hong Kong, provides for extension of coverage of the existing export visa requirement to include cotton, wool, and man-made fiber textiles and textile products. This coverage is in addition to the previously established coverage of cotton, wool, and man-made fiber apparel products in Categories 330-359, 431-459, and 630-659.

EFFECTIVE DATE: March 1, 1983 for cotton, wool, and man-made fiber textiles in Categories 300-369, 400-469, and 600-669, produced or manufactured in Hong Kong and exported on and after

January 1, 1983. Cotton, wool, and man-made fiber apparel products in Categories 330–359, 431–459, and 630–659, which have been exported before January 1, 1983 will not be denied entry for consumption, or withdrawal from warehouse for consumption in the United States, if visaed in accordance with previously established procedures.

FOR FURTHER INFORMATION CONTACT: Cordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On January 5, 1978 a letter dated December 30, 1977 from the Chairman of the Committee for the Implementation of Textile Agreements was published in the **Federal Register** (43 FR 993), which established an export visa requirement for cotton, wool, and man-made fiber apparel products, produced or manufactured in Hong Kong and exported to the United States on and after Janaury 1, 1978. Under the terms of the amended bilateral agreement of June 13, 1982, the Governments of the United States and Hong Kong have agreed to extend coverage of the existing export visa requirement to include cotton, wool, and man-made fiber textiles and textile products, in addition to apparel. In the interest of clarity and efficiency of administration, the letter published below from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs cancels the directive of December 30, 1977, as amended, and establishes an export visa requirement for both textiles and apparel exported from Hong Kong on and after January 1, 1983 which are subject to the terms of the amended bilateral agreement, effective on March 1, 1983. Facsimiles of the visa stamps that are currently valid are published as enclosures to that letter.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This letter cancels and supersedes the letter of December 30, 1977, as amended, from the Chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber apparel products in Categories 330–359, 431–459, and 630–659, produced or manufactured in Hong Kong and exported on and after January 1, 1978, for which the Government of Hong Kong had not issued an appropriate export visa.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1972, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of June 23, 1982, as amended, between the Governments of the United States and Hong Kong; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on March 1, 1983 and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in Categories 300–369, 400–469, and 600–669, produced or manufactured in Hong Kong and exported on and after January 1, 1983, for which the Government of Hong Kong has not issued an appropriate export visa, fully described below. Cotton, wool, and man-made fiber apparel in Categories 330-359, 431–459, and 630–659, which has been exported before January 1, 1983 shall not be denied entry, provided the merchandise has been visaed in accordance with previous requirements.

The visa will be a signed copy of a Hong Kong export license with a stamp on the front side. A facsimile of the currently valid visa stamp is enclosed. The category or categories and quantities shall be correctly indicated on the visa, i.e., the export license; otherwise, the goods are to be denied entry. The only exceptions will be instances in which the quantity indicated on the visa exceeds the actual quantity of the shipment or in which categories are merged, as described in the following paragraph.

Visas covering cotton, wool, and man-made fiber textile and apparel products classified in categories which have been merged without subcategories under the terms of the bilateral agreement, e.g., Categories 333/334, 445/446, 447/448, 633/634, 638/639, and 645/646, shall cite either or both of the categories comprising the merger. Part categories 338/339 and 338/339 (1) shall be treated in accordance with the instructions set forth in the directive of December 29, 1982 concerning correct subcategory designations and parts of categories to be shown on visas.

Visas for textile and apparel products of cotton, wool, and man-made fibers, valued at U.S. $250 or less need not show the correct category or quantity but shall indicate: "Approved for export to the U.S.A. goods valued at U.S. $250 or less and not debited against restraint limits." A facsimile of this visa stamp is also enclosed.

A description of the textile categories in terms of T.S.U.S.A. number was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Hong Kong and with respect to imports of cotton, wool, and man-made fiber textiles and textile products from Hong Kong has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Enclosures.

In accordance with the terms of the 1982-1987 HK/USA Textiles Agreement, the shipment made under this licence, covering the quantity(ies) and category(ies) specified below, has been approved for export to the USA. This copy is for presentation to the competent authorities in the USA.

_____ in Cat. _____
_____ in Cat. _____
_____ in Cat. _____

_____
Licensing Officer No. for Director of Trade Hong Kong

Approved for export to the USA
Goods valued at US$250 or less and not debited against restraint limits.

for Director of Trade
Hong Kong

[FR Doc. 83-1420 Filed 1-18-83; 8:45 am]
BILLING CODE 3510-25-M

DEPARTMENT OF EDUCATION

National Commission on Excellence in Education; Amended Notice of Meeting

AGENCY: National Commission on Excellence in Education, Education Department.

ACTION: Amended Notice of Meeting.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (FR 11-10-82, Page 50945)

SUMMARY: This notice amends the schedule of the seventh full meeting of the National Commission on Excellence in Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: January 21, 1983 (9:30 a.m. until 12:00 noon); January 22, 1983 (9:00 a.m. until 10:00 a.m.) (*Tentative:* Anyone planning to attend this session should confirm this schedule by calling the Commission office (202-254-7920) on Friday or the hotel (202-543-6000) on Saturday.)

LOCATION: January 21 & 22, 1983, Capitol Hill Hotel, Conference Center, 200 C Street, SE., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Milton Goldberg, Executive Director, or Betty Baten, Administrative Officer, (202) 254-7920, 1200 19th St., N.W., Washington, D.C. 20208.

The National Commission on Excellence in Education is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90-247 as amended; 20 U.S.C. 1233 et seq.) and the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory committees. The Commission is established to advise and make recommendations to the nation and to the Secretary of Education.

The session on January 21 will include a discussion of issues for possible treatment in the Final Report.

The session *tentatively* scheduled for January 22, will address the same topics.

All meetings of the Commission are open to the public.

Records are kept of all Commission meetings and are available for public inspection at the office of the National Commission on Excellence in Education, 1200 19th Street, N.W., Room 222, from 8:00 a.m. until 5:00 p.m.

Dated: January 14, 1983.

Fred W. Decker,

Deputy Assistant Secretary for Educational Research and Improvement.

[FR Doc. 83-1483 Filed 1-18-83; 8:45 am]
BILLING CODE 4000-01-M

National Commission on Excellence in Education; Cancelled Meeting

AGENCY: National Commission on Excellence in Education; Education Department.

ACTION: Cancellation of meeting.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (FR 11-10-82, Page 50945).

DATES AND TIMES: The following meeting has been *cancelled.* February 18 & 19, 1983.

FOR FURTHER INFORMATION CONTACT: Milton Goldberg, Executive Director, or Betty Baten, Administrative Officer, (202) 254-7920, 1200 19th St., N.W. Washington, D.C. 20208.

Dated: January 14, 1983.

Fred W. Decker,

Deputy Assistant Secretary for Educational Research and Improvement.

[FR Doc. 83-1484 Filed 1-18-83; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Muddy Ranch Point of Delivery; Finding of No Significant Impact

AGENCY: Bonneville Power Administration, DOE.

ACTION: Finding of No Significant Impact (FONSI) for Bonneville Power Administration's (BPA's) proposed Muddy Ranch Point of Delivery.

SUMMARY: BPA, an Administration within the DOE, in cooperation with the Bureau of Land Management (BLM) and Rural Electrification Administration (REA), has prepared an environmental assessment (EA), DOE/EA-0198, evaluating a proposal to provide a new point of delivery of electricity near the town of Antelope in north-central Oregon. A complete description of the proposed action is presented in the EA.

Based on the EA, and after consideration of public comment, the Department of Energy has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, an environmental impact statement is not required.

SUPPLEMENTARY INFORMATION: The purpose of this proposal is to maintain electrical system reliability and to meet future load growth in the Clarno Basin. The Wasco Electric Cooperative (WEC, a preference customer of BPA) would build a new substation and a 6.8-mile tapline, built at 115-kV standards and operated at 69-kV, with a tower voltage 12.5-kV circuit underbuild for local distribution of power. The proposed line would be built mainly in an existing right-of-way and would replace an existing distribution line, beginning at a point along Oregon Highway No. 218 approximately one and one-half miles east of the John Day River crossing (see Figure 2 on page 6 of the EA) and continuing south and southwest to the proposed Muddy Ranch Substation. Most of the line will follow field roads, either along the road or cross country, and either on private right-of-way or BLM right-of-way. Much of the line will follow the route of an existing 7.2/12.5-kV distribution line and will replace this line. Single wood-pole structures will be used for the length of the line, except for several wooden H-frame structures.

The proposed tapline and the alternative both call for crossing the John Day River and locating structures in portions of the Muddy Creek, John Day River, and Pine Creek floodplains for the following reasons: (1) The environmental impact of using the existing 12.5-kV distribution line rights-of-way which cross the floodplains would be much less than the impact of establishing new rights-of-way and access roads in separate locations; (2) after a field survey of the area, it was determined that the 30 to 32 poles which would be located in the floodplains would not change the natural and beneficial values served by the floodplains; (3) the use of an existing right-of-way would be less costly than establishing a new right-of-way; and (4) electrical service from the existing distribution line has not been disrupted as a result of past floods. The Wasco County Planning Department confirmed that the proposed action does not conflict with State or local floodplain

control standards. The complete floodplain assessment is contained in the EA (pages 28–29).

Environmental impacts which could be caused by construction and/or operation of the proposed project and reasons why they would not be significant are as follows:

(1) The proposed action will not affect any listed or proposed endangered or threatened species or their habitats. This was determined through consultation with the U.S. Fish and Wildlife Service (see page 27 of the EA).

(2) The proposed action will not affect any properties eligible for inclusion in the National Register of Historic Places or any other protected resources. This was determined through consultation with the Oregon State historic Preservation Office (see page 27 of the EA).

(3) The proposed action is consistent and compatible with State and local plans and programs. The EA was distributed to appropriate A–95 State and local clearinghouses for review and comment.

The proposed action has been found to be consistent or compatible with each of the Oregon statewide planning goals: citizen involvement (Goal 1), by preparing and distributing the EA; agricultural lands (Goal 3), by using an existing right-of-way and converting no more than a few square feet of farmland where new poles will be erected; green spaces, scenic and historic areas, and natural resources (Goal 5), by avoiding significant areas and consulting with agencies having special expertise; areas subject to natural disasters and hazards (Goal 7), by building those few poles in the floodplain to strengths that will withstand floods; economy of the State (Goal 9), by responding to demand for additional electrical power; energy conservation (Goal 13), by reducing line losses caused by the overload system as it presently exists.

(4) Substation and tapline/distribution-line construction activities will cause short-term increases in noise, soil erosion, stream turbidity, and soil compaction. Impacts from tapline construction will be minor as they will result from replacing old poles with new poles along an existing right-of-way and therefore will not require clearing of land. Substation construction impacts will also be minor as ground disturbance during construction will be kept to a minimum and sites will be returned to natural ground contours to prevent excessive soil erosion. The cut and fill areas outside the substation yard will be graded and seeded to avoid soil erosion (see pages 14–17 of the EA).

(5) At most, 25 square feet of farmland will be converted to new use to support the tapline poles. Removing this small amount of soil from cultivation will not significantly lessen the productivity of the farmland in the area (see pages 29 and 30 of the EA).

(6) There may be short-term disturbance of existing wildlife habitat during construction. This habitat is expected to return to near existing conditions after construction (see pages 14–17 of the EA).

(7) The substation transformer will cause an increase in the noise level surrounding it, but the level will be kept well within State standards. Noise levels of the substation transformer will be approximately 60 dB at the transformer, diminishing outward to approximately 48 dB at the property line of the substation (see pages 18 and 32 of the EA).

(8) The taller poles of the new tapline will reduce visual quality in the area. The 15-foot increase in the height of new poles will only slightly reduce the existing visual quality of the area as poles are already part of the landscape (see pages 16, 17, and 30 of the EA).

The following measures will be taken to mitigate the environmental impacts as part of the proposed action. More detailed mitigation procedures are identified on pages 15 and 20 of the EA.

(a) 12.5-kV distribution line will be underbuilt on 115-kV structures as much as possible to avoid impacts of constructing two lines.

(b) No chemicals will be used for vegetation control on the line route.

(c) Beaded creosote will be removed from replaced poles and placed in barrels for disposal according to Federal, State, and local regulations.

(d) Narrow profile 114-kV single-pole line structures with post insulators and 12.5-kV underbuild will cause less visual impacts than if multiple-pole structures were used. A single lattice structure with mounted switches will be used for the Clarno tap structure; this will have less visual impact than the stand-mounted switches which are often standard utility practice.

(e) Power-pole design and conductor arrangements will conform to suggested practices for raptor protection (see page 20 of the EA).

(f) To reduce impacts in the unlikely event of an oil spill from the substation transformer and regulators, the substation site will be surfaced with a layer of 6-inch crushed rock which would serve as an absorbant. The transformer will use non-PCB oils for cooling. A berm will surround and contain the area. In case of spills, the contaminated switchyard rock will be properly disposed of and replaced (see pages 12, 20, and 32 of the EA).

FOR FURTHER INFORMATION CONTACT: Copies of the EA and further information are available from Anthony R. Morrell, Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland Oregon 97208; telephone (503) 230–5136.

Issued in Washington, D.C. December 30, 1982.

William A. Vaughan,

Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83-1410 Filed 1-18-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA–FC–82–002; FC Case Nos. 61020–9140–01–12, 61020–9140–05–12, and 61020–9140–06–12]

Proposed Modification of an Order Granting Permanent Fuels Mixture Exemptions to Convent Chemical Corporation, Convent Plant, Convent, Louisiana

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice and Proposed Modification of an Order Granting Permanent Fuels Mixture Exemptions to Convent Chemical Corporation, Convent Plant, Convent, Louisiana.

SUMMARY: In response to a request dated December 6, 1982 from Convent Chemical Corporation (Convent), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has commenced a proceeding under the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq. ("FUA" or "the Act"), and 10 CFR Part 501, Subpart G, to modify the permanent fuels mixture exemptions granted by Order ("Order") to three major fuel burning installations (MFBI's), identified as boilers Nos. 1, 5, and 6, owned and operated by Convent at its Convent, Louisiana industrial chemical plant. The modification would delete an annual reporting requirement, consistent with current applicable regulations.

Based upon its review of Convent's modification request, ERA is proposing to modify the Order on the basis of its determination that significantly changed circumstances as defined in 10 CFR 501.102(b) exist with respect to the applicability of the original exemptions. Accordingly, ERA is hereby giving notice to all parties to the original proceeding of their right, pursuant to 10 CFR 501.101(d), to file a written

response to ERA's proposal within 30 days of the publication of this Notice in the **Federal Register** (see DATE section, below). If no responses are received within this period, the Order modification, as proposed, for each boiler shall become final upon the expiration of the period, without further action by ERA.

A detailed discussion of the Order and Convent's request for modification thereof is provided in the SUPPLEMENTARY INFORMATION section below.

DATE: Written responses to ERA's proposed modification of the Convent Order must be received by ERA no later than February 18, 1983.

ADDRESS: Written responses must be addressed to Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, GA–093, 1000 Independence Avenue, SW., Washington, D.C. 20585. The case numbers, FC 81020–8140–01–12, 05–12, and 06–12, should be printed on the outside of the envelope and the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone (202) 252–8162.

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–222, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone (202) 252–2967.

SUPPLEMENTARY INFORMATION: On October 2, 1980, ERA exempted, by Order, Convent's boilers Nos. 1, 5 and 6 located at Convent, Louisiana from the prohibitions of Section 202 of FUA, which prohibits the use of natural gas or petroleum as a primary energy source by certain MFBIs (45 FR 67124, October 9, 1980). Subject to the terms and conditions set forth in the Order, the permanent exemptions permitted the use of a fuels mixture of coal and natural gas or No. 2 fuel oil in boiler No. 1; a fuels mixture of natural gas and industrial waste-gas in boiler No. 5; and a fuels mixture of natural gas or No. 2 fuel oil with industrial waste-gas in boiler No. 6. Convent's exemption petition was filed and granted under Section 505.28 of ERA's interim rules for new facilities and Section 212(d) of FUA.

By letter dated December 6, 1982, Convent requested that ERA modify the Order to delete the reporting requirement that Convent must, pursuant to 10 CFR 503.38(g), annually file with ERA a certified statement identifying the actual quantities of coal, waste-gas, natural gas, and No. 2 fuel oil used in each boiler during the preceding year as well as the heating value (in Btu's) of each of these fuels and the percentage of total annual heat input of each fuel used in each boiler.

Convent based its request on the fact that since the issuance of the Order with its annual reporting requirements, DOE has revised its final rules so as to eliminate such annual reporting requirements for any facility granted a fuels mixture exemption uner 10 CFR 503.38 (46 FR 59872, December 7, 1981).

As requested, ERA has, pursuant to 10 CFR 501.101(a), commenced a proceeding to modify the Order. The procedures and criteria governing this proceeding are found in 10 CFR Part 501, Subpart G, (46 FR 59872, 59898, December 7, 1981). Based upon the information contained in Convent's modification request and upon the record as a whole, ERA proposes:

(1) To find that the revision of 10 CFR 503.38, so as to eliminate the annual reporting requirements from any order granting a permanent fuels mixture exemption, constitutes significantly changed circumstances that warrant a modification of the Order, as provided by 10 CFR 501.102(b); and

(2) To modify the Order to delete therefrom term and condition number 7, relating to the annual reporting requirement.

Parties to the original Order proceeding are hereby notified of ERA's proposed modification of the Order and of their right pursuant to 10 CFR 501.101(d) to file a response thereto within 30 days of the publication of this Notice in the **Federal Register**. If ERA receives no responses within this period, the Order modification shall become final as proposed, without further ERA action, upon expiration of the period.

Issued in Washington, D.C., January 13, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–1470 Filed 1–18–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. G–18907–001]

Valero Interstate Transmission Co. (South Texas Natural Gas Gathering Co.); Notice of Filing

January 13, 1983.

Take notice that on December 17, 1982, Valero Interstate Transmission Company (Vitco) tendered for filing its FERC Gas Rate Schedule No. 17 for service to Edwin L. Cox (Cox). Vitco states that the rate schedule be made effective February 1, 1983, the effective date of Vitco's contract with Cox for the transportation of shrinkage. It is stated that the rate for such service is the transportation rate approved by the Commission in Vitco's Docket Nos. RP81–60–000, RP82–25–000 and RP82–28–000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 20, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1473 Filed 1–18–83; 8:45 am]

BILLING CODE 6717–01–M

[Volume 809]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 14, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-SHELL OIL CO				RECEIVED:	12/14/82	JA: MI			
8313420		2114100000		102-2		STATE ALLIS 2-29	ALLIS 29A	64.0	MICHIGAN CONSOLID
8313419		2113735374		102-2		STATE CORWITH 1-14	CORWITH 14	195.0	MICHIGAN CONSOLID
NORTH DAKOTA INDUSTRIAL COMMISSION									
-GULF OIL CORPORATION				RECEIVED:	12/14/82	JA: ND			
8313440		3303300097		102-2		BARKLAND 1-18-2A	UNDESIGNATED	25.0	
-PENNZOIL COMPANY				RECEIVED:	12/14/82	JA: ND			
8313434		3305301386		102-2		BOWLINE CREEK #35-24BN	NORTH BRANCH	70.9	KERR-MCGEE CORPOR
8313439		3305301299		102-2		BULL MOOSE SOUTH #33-43BN	SOUTH BULL MOOSE	52.8	KOCH HYDROCARBON
8313436		3305301487		102-2		BURNING MINE BUTTE #9-21DN	BURNING MINE BUTTE	53.5	KERR-MCGEE CORPOR
8313435		3305301345		102-2		FLAT TOP BUTTE #15-34BN	FLAT TOP BUTTE	20.2	KOCH HYDROCARBON
8313438		3305300969		102-2		PENNZOIL-DEPCO #27-31BN	BULL MOOSE	20.8	KOCH HYDROCARBON
8313437		3305301120		102-2		SATERSTOL #22-N3	BULL MOOSE	10.2	KOCH HYDROCARBON
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ALPHA TWENTY-ONE PRODUCTION CO				RECEIVED:	12/15/82	JA: NM			
8313416		3002527515		103		TONI NO 1	NADINE DRINKARD ABO	70.0	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	12/16/82	JA: NM			
8313433		3004511741		108		STATE GAS COM "BI" NO 1	BASIN DAKOTA	20.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO				RECEIVED:	12/20/82	JA: NM			
8313451		3004511650		108		GALLEGOS CANYON UNIT NO 212 (3RD)	BASIN - DAKOTA	19.0	EL PASO NATURAL G
-C & E OPERATORS INC				RECEIVED:	12/15/82	JA: NM			
8313415		3004525388		103		FEE #7-A (PICTURED CLIFFS)	AZTEC-PICTURED CLIFFS	40.0	EL PASO NATURAL G
-CALVIN PETROLEUM CORPORATION				RECEIVED:	12/16/82	JA: NM			
8313425		3004500000		108		# 1 APPERSON	BASIN DAKOTA 1850' FW	15.0	EL PASO NATURAL G
-CITIES SERVICE COMPANY				RECEIVED:	12/20/82	JA: NM			
8313449		3001524151		102-3		YARBRO A COM #1	OTIS LOVING ATOKA	183.0	
-CONSOLIDATED OIL & GAS INC				RECEIVED:	12/16/82	JA: NM			
8313432		3004500008		108-PB		CHAVEZ #1	BLANCO MESAVERDE	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/16/82	JA: NM			
8313423		3004518366		108		ATLANTIC A #6	BLANCO - MESA VERDE	15.0	EL PASO NATURAL G
8313424		3004521601		108		HUBBELL #19 FARM	BLOOMFIELD FARMINGTON	1.0	EL PASO NATURAL G
8313422		3003521795		108		LINDRITH UNIT #94	SOUTH BLANCO - PICTUR	22.0	EL PASO NATURAL G
-ELK OIL COMPANY				RECEIVED:	12/15/82	JA: NM			
8313417		3002527611		103		STATE P H #1	DEAN PERMO PENN	29.0	WARREN PETROLEUM
-EXXON CORPORATION				RECEIVED:	12/16/82	JA: NM			
8313429		3000561585		102-2	107-TF	NEW MEXICO "CS" STATE #1	WILDCAT ABO	61.0	
-EXXON CORPORATION				RECEIVED:	12/20/82	JA: NM			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313448		3001523942		103		NEW MEXICO "DE" STATE #1	UNDESIGNATED CISCO CA	219.0	CONOCO INC
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/20/82	JA: NM			
8313446		3002524070		108		PARKS #7	DRINKARD	0.0	EL PASO NATURAL G
-JEROME P MCHUGH				RECEIVED:	12/20/82	JA: NM			
8313445		3003922497		103		FULLERTON'S FOLLIE #12	SOUTH BLANCO PICTURED	115.0	EL PASO NATURAL G
-LAURITSEN R E				RECEIVED:	12/20/82	JA: NM			
8313453		3004500000		103		HATCH #1	CHA-CHA GALLUP	11.0	INTRASTATE GATHER
-LIVELY ENERGY & DEVELOPMENT CORP				RECEIVED:	12/20/82	JA: NM			
8313441		3000500000		103		CONOCO #1	CHAVEROO SA	13.1	WARREN PETROLEUM
8313443		3000500000		103		CONOCO #2	CHAVEROO SA	15.0	WARREN PETROLEUM
8313444		3000500000		103		CONOCO #3	CHAVEROO SA	26.6	WARREN PETROLEUM
8313442		3000500000		103		CONOCO #4	CHAVEROO SA	3.2	WARREN PETROLEUM
-MANANA GAS INC				RECEIVED:	12/15/82	JA: NM			
8313418		3004522683		108		ANNE B #1	BASIN DAKOTA	17.0	EL PASO NATURAL G
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	12/16/82	JA: NM			
8313428		3002506990		108-SA		H CORRIGAN NO 3	EUMONT YATES 7 RVRS G	19.4	NORTHERN NATURAL
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/15/82	JA: NM			
8313414		3002524387		108		E VAC GB/SA U TR 3315 NO 811	VACUUM GB/SA	2.0	EL PASO NATURAL G
8313413		3002523552		108		E VAC GB/SA UNIT TR 0449 NO 115	VACUUM GB/SA	1.0	EL PASO NATURAL G
8313412		3002511478		108		WOOLWORTH GB3 #2	JALMAT - YATES - 7 RI	19.0	EL PASO NATURAL G
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/16/82	JA: NM			
8313426		3002509677		108		C D WOOLWORTH NO 14	JALMAT YATES-7 RIVERS	1.0	EL PASO NATURAL G
8313427		3002501268		108		NEW MEX A NO 1	KEMNITZ LOWER-WOLFCAM	6.0	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	12/20/82	JA: NM			
8313450		3004320450		108		DON EVANS #1	BLANCO	11.0	EL PASO NATURAL G
-STEVENS OPERATING CORP				RECEIVED:	12/20/82	JA: NM			
8313452		3000561633		103		CITGO STATE #7	TWIN LAKES - SAN ANDR	5.0	MAPCO PRODUCTION
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/20/82	JA: NM			
8313447		3001524156		103		NEW MEXICO "Z" STATE NO 1	MILLMAN (Q-G) EAST	12.0	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	12/16/82	JA: NM			
8313431		3002500000		103		C H WEIR "A" NO 14	UNDESIGNATED ABO	395.7	
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	12/16/82	JA: NM			
8313430		3002506902		108		H T MATTERN (NCT-B) #5	EUMONT GAS & PENROSE	6.4	EL PASO NATURAL G
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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
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-ABARTA OIL & GAS INC				RECEIVED:	12/14/82	JA: NY			
8313508	4228	3102917828		103		EDIE #1 E-82-013 ABARTA	LAKE SHORE	12.0	NATIONAL FUEL GAS
8313512	4224	3102917622		103		EVANS LAND #1 E-82-012 ABARTA	LAKE SHORE	6.0	NATIONAL FUEL GAS
8313507	4225	3102917176		103		LAMBRIX#1 02325	LAKE SHORE	12.0	NATIONAL FUEL GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	12/14/82	JA: NY			
8313519	2838	3101316821		107-TF		A WINTON #1	WILDCAT	9.0	COLUMBIA GAS TRAN
8313517	2836	3101316822		107-TF		A WINTON UNIT #2	WILDCAT	12.0	COLUMBIA GAS TRAN
8313516	2891	3101316881		107-TF		BARGAR UNIT #6	WILDCAT	9.0	COLUMBIA GAS TRAN
8313521	2867	3101316823		107-TF		CHAUTAUQUA COUNTY #1	WILDCAT	6.0	COLUMBIA GAS TRAN
8313520	2824	3101316824		107-TF		CHAUTAUQUA COUNTY #2	WILDCAT	12.0	COLUMBIA GAS TRAN
8313515	2889	3101316878		107-TF		CHAUTAUQUA COUNTY UNIT #5	WILDCAT	12.0	COLUMBIA GAS TRAN
8313518	2869	3101316880		107-TF		H OAG #1	WILDCAT	9.0	COLUMBIA GAS TRAN
8313465	2871	3101316886		107-TF		HALLER UNIT #4	WILDCAT	9.0	COLUMBIA GAS TRAN
8313522	2379	3101316257		107-TF		N Y S CHAUT REF AREA #1 WELL #8	CHERRY CREEK	30.0	COLUMBIA GAS TRAN
-BOUNTY OIL & GAS INC				RECEIVED:	12/14/82	JA: NY			
8313458	3200	3101317084		107-TF		ENOS/FRANKSON #1	WILDCAT	0.0	NATIONAL FUEL GAS
8313465	2949	3101315722		107-TF		JOHNSON UNIT #1	BUSTI	0.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	T	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313514	3605	3101317085		107-TF		MAZZARISI #1	BUSTI	0.0	COLUMBIA GAS TRAN
-CLOVER OIL CO				RECEIVED:	12/14/82	JA: NY			
8313506	4294	3103715848		103		ANSBROW #1	ALDEN-DARIEN	0.0	NATIONAL FUEL GAS
-DORAN & ASSOCIATES INC				RECEIVED:	12/14/82	JA: NY			
8313466	3764	3101317119		107-TF		W BURGETT UNIT #I NV-19	CARROLL	30.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	12/14/82	JA: NY			
8313471	4314	3101313346		108		ALDAY #1	LAKESHORE	6.0	NATIONAL FUEL GAS
8313481	4304	3101313216		108		BOSTWICK #1	LAKESHORE	8.0	NATIONAL FUEL GAS
8313490	4295	3101313218		108		CALDWELL #2	LAKESHORE	3.0	NATIONAL FUEL GAS
8313487	4299	3101313021		108		COCHRANE FARMS INC #1	LAKESHORE	11.0	NATIONAL FUEL GAS
8313470	4315	3101313118		108		COCHRANE FARMS INC #2	LAKESHORE	5.0	NATIONAL FUEL GAS
8313480	4305	3101313119		108		COCHRANE FARMS INC #3	LAKESHORE	5.0	NATIONAL FUEL GAS
8313486	4300	3101313120		108		COCHRANE FARMS INC #4	LAKESHORE	13.0	NATIONAL FUEL GAS
8313485	4298	3101313121		108		COCHRANE FARMS INC #5	LAKESHORE	3.0	NATIONAL FUEL GAS
8313472	4313	3101314362		108		D BABO #1	LAKESHORE	4.0	NATIONAL FUEL GAS
8313476	4309	3101313086		108		ELLIS #1	LAKESHORE	11.0	NATIONAL FUEL GAS
8313475	4310	3101313088		108		ELLIS #2	LAKESHORE	8.0	NATIONAL FUEL GAS
8313479	4306	3101313547		108		J ORTON #1	LAKESHORE	2.0	NATIONAL FUEL GAS
8313527	4316	3101313548		108		J ORTON #2	LAKESHORE	3.0	NATIONAL FUEL GAS
8313477	4308	3101314363		108		J ORTON #3	LAKESHORE	10.0	NATIONAL FUEL GAS
8313528	4317	3101313219		108		JONES #1	LAKESHORE	16.0	NATIONAL FUEL GAS
8313529	4318	3101313220		108		JONES #2	LAKESHORE	4.0	NATIONAL FUEL GAS
8313478	4307	3101313022		108		LITTLE #1	MINA-RIPLEY	11.0	NATIONAL FUEL GAS
8313488	4297	3101312952		108		MCCUTCHEON #1	LAKESHORE	13.0	NATIONAL FUEL GAS
8313473	4312	3101312953		108		MCCUTCHEON #2	LAKESHORE	12.0	NATIONAL FUEL GAS
8313482	4303	3101313544		108		MCDONALD #1	LAKESHORE	8.0	NATIONAL FUEL GAS
8313462	2346	3101315938		107-TF		NYS REFORESTATION AREA 3/ #6	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8313461	2342	3101315939		107-TF		NYS REFORESTATION AREA 3/ #7	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8313464	2340	3101315940		107-TF		NYS REFORESTATION AREA 3/ #8	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8313483	4302	3101313087		108		OSSMAN #1	LAKESHORE	8.0	NATIONAL FUEL GAS
8313509	2495	3101315386		103		R HAYES #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8313460	2226	3101316582		107-TF		R HEWES #3-A	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8313463	2348	3101316308		107-TF		R MORRIS #1	WILDCAT	18.0	COLUMBIA GAS TRAN
8313474	4311	3101312842		108		THORPE #1	LAKESHORE	4.0	NATIONAL FUEL GAS
8313489	4296	3101313221		108		WAKELEY #1	LAKESHORE	7.0	NATIONAL FUEL GAS
8313484	4301	3101313222		108		WAKELEY #2	LAKESHORE	5.0	NATIONAL FUEL GAS
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	12/14/82	JA: NY			
8313496	4347	3100916918		103		ARTHUR BUGENHAGEN #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313492	4339	3100916927		103		CHARLES VAN ETTEN #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313511	4220	3100916422		103		CLIFFORD GIBBS #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313495	4333	3100916963		103		CLIFFORD SCHUELER #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313510	4222	3100916407		103		DONALD WILLIAMS #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313493	4337	3100917706		103		EUGENE RISSELL #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313498	4353	3100916922		103		FRANK HUBER #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313497	4351	3100917050		103		GARY SARGENT #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313500	4355	3100917704		103		HOWARD EATON #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313501	4357	3100916413		103		LARIMER/NORTON #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313494	4335	3100916830		103		MCDONALD #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313499	4349	3100916831		103		MCDONALD #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8313513	4218	3100916410		103		WALTER WILDER #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-MAYNARD OIL COMPANY				RECEIVED:	12/14/82	JA: NY			
8313524	4325	3102917674		103		ARTHUR MONTGOMERY #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS
8313526	4329	3102917768		103		GARY MILLER #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313525	4327	3102917735		103		HARRISON #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS
8313523	4323	3102917767		103		NANCY SMITH #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS
8313530	4321	3102917762		103		RICHARD H SHELDON #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS
8313531	4319	3102917767		103		WILLIAMPAC #1	CONCORD PROSPECT	0.0	NATIONAL FUEL GAS
-NRM PETROLEUM CORPORATION				RECEIVED:	12/14/82	JA: NY			
8313459	3108	3100916335		107-TF		PARKER #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
-NYS NATURAL GAS COMPANY				RECEIVED:	12/14/82	JA: NY			
8313503	4367	3101317863		103		BEST #1	LAKESHORE	2.0	NATIONAL FUEL GAS
8313502	4369	3101317862		103		NORTHROP #1	RIPLEY	28.0	NATIONAL FUEL GAS
-SEIS-EX GEOPHYSICAL LTD				RECEIVED:	12/14/82	JA: NY			
8313467	2986	3101315908		107-TF		R RETTIG #1	WILDCAT	18.0	COLUMBIA GAS
-SUBSEA OIL & GAS INC				RECEIVED:	12/14/82	JA: NY			
8313491	4331	3103717339		103		ZINTER NO 1	ALDEN LANCASTER	25.0	NATIONAL FUEL GAS
-TRAHAN PETROLEUM INC				RECEIVED:	12/14/82	JA: NY			
8313505	3277	3101317195		107-TF		BENTLEY 3	ELLINGTON	36.0	COLUMBIA GAS TRAN
8313455	2639	3101312514		107-TF		ERNEST CHASE NY #46	LEON	36.0	COLUMBIA GAS TRAN
8313457	3278	3101316511		107-TF		KENNEY 1 31-013-16511	ELLINGTON	36.0	COLUMBIA GAS TRAN
8313504	3121	3101312487		107-TF		PIERROTT NY 25	LEON	36.0	COLUMBIA GAS TRAN
8313468	3129	3101312495		107-TF		RICE CHAUTAUQUA #2	LEON	36.0	COLUMBIA GAS TRAN
8313456	2641	3101316371		107-TF		RICHARD ALNATT NY #24	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8313454	2637	3101315522		107-TF		W COWEN #1 31-013-15522	WILDCAT	36.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-ANADARKO PRODUCTION COMPANY				RECEIVED:	12/09/82	JA: OK			
8313384	18357	3505320521		108		KENNEDY A 1-31	RENFROW	18.0	PANHANDLE EASTERN
-ARGONAUT ENERGY CORPORATION				RECEIVED:	12/09/82	JA: OK			
8313400	15860	3505921053		103		BILLINGS #2	MOCANE-LAVERNE	497.0	NORTHERN NATURAL
-BAMCO OIL & GAS INC				RECEIVED:	12/09/82	JA: OK			
8313374	18017	3504722740		103		POSPISIL NO 34-1	CANEY DEL	73.0	PANHANDLE EASTERN
-BEARD OIL COMPANY				RECEIVED:	12/09/82	JA: OK			
8313411	18129	3507323492		103		#2 BOECKMAN	SOONER TREND-DOVER WE	21.0	PHILLIPS PETROLEU
8313408	18128	3507323406		103		#2 WENDT	SOONER TREND-DOVER WE	21.0	PHILLIPS PETROLEU
-BECK PRODUCTION CO				RECEIVED:	12/09/82	JA: OK			
8313404	17687	3503723805		103		J J #1	OLIVE	0.0	ARCO OIL & GAS
-BENTLEY & LAING				RECEIVED:	12/09/82	JA: OK			
8313409	18107	3501900000		108		RUPERT MARTIN #1		14.0	AMINOIL USA INC
-BOGERT OIL CO				RECEIVED:	12/09/82	JA: OK			
8313366	17996	3507323553		103		CAPPIE 1-8	SOONER TREND	278.0	CONOCO INC
-BROOKS HALL OIL CORP				RECEIVED:	12/09/82	JA: OK			
8313351	16578	3501320055		103		CANARD NO 1	WILDCAT	0.0	LONE STAR GAS COM
-CHARLES NESBITT TRUSTEE				RECEIVED:	12/09/82	JA: OK			
8313401	07809	3507100000		108		O B MCCORGARY NO 2	OILWORTH DISTRICT	3.7	CITIES SERVICE GA
-CN OPERATING CO				RECEIVED:	12/09/82	JA: OK			
8313377	18025	3503700000		103		HOLEMAN NO 1	OLIVE	3.0	ARCO OIL & GAS CO
8313407	16033	3503700000		108		JESSIE BRUNER NO 15	CUSHING	8.3	ARCO OIL & GAS CO
8313378	18026	3503700000		103		MARY CLARK NO 4	CUSHING	3.8	ARCO OIL & GAS CO
8313375	18021	3503700000		103		MCGEEHEE NO 1	CUSHING	4.6	ARCO OIL & GAS CO
8313376	18024	3503700000		103		PATTY NO 2	CUSHING	5.8	ARCO OIL & GAS CO
-CONOCO INC				RECEIVED:	12/09/82	JA: OK			
8313362	17954	3507323388		103		BETTY TRIPLETT NO 1	N E DUNLAP	22.8	PHILLIPS PETROLEU
-COOK OPERATING CO				RECEIVED:	12/09/82	JA: OK			
8313386	18245	3511720692		108		STATE "B" - B-3	UNKNOWN	14.3	H J D CATTLE COMP

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313387	18244	3516720510		108		STATE "B" - B-4	UNKNOWN	14.3	H J D CATTLE COMP
8313388	18243	3516720511		108		STATE "B" - B-5	UNKNOWN	14.3	H J D CATTLE COMP
8313389	18242	3516720512		108		STATE "B" - B-6	UNKNOWN	14.3	H J D CATTLE COMP
8313390	18241	3516720513		108		STATE "B" - B-7	UNKNOWN	14.3	H J D CATTLE COMP
8313391	18240	3516720514		108		STATE "B" - B-8	UNKNOWN	14.3	H J D CATTLE COMP
8313392	18239	3516720515		108		STATE "B" - B-9	UNKNOWN	14.3	H J D CATTLE COMP
8313393	18238	3516720516		108		STATE "B" - B-10	UNKNOWN	14.3	H J D CATTLE COMP
8313394	18237	3516720517		108		STATE "B" - B-11	UNKNOWN	14.3	H J D CATTLE COMP
8313395	18236	3516720518		108		STATE "B" - B-12	UNKNOWN	14.3	H J D CATTLE COMP
8313396	18235	3516720519		108		STATE "B" - B-13	UNKNOWN	14.3	H J D CATTLE COMP
8313397	18234	3516720520		108		STATE "B" - B-14	UNKNOWN	14.3	H J D CATTLE COMP
-PANHANDLE EASTERN PIPE LINE CO				RECEIVED:	12/09/82	JA: OK			
8313382	18355	3505320519		108		KENNEDY A 1-29	RENFROW	18.0	PANHANDLE EASTERN
-PETROLEUM PROPERTIES INC				RECEIVED:	12/09/82	JA: OK			
8313383	18356	3505320520		108		KENNEDY A 1-30	RENFROW	18.0	PANHANDLE EASTERN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/09/82	JA: OK			
8313410	18130	3507323493		103		#1 BOECKMAN	SOONER TREND-DOVER WE	21.0	PHILLIPS PETROLEU
-PRIDE ENERGY CO				RECEIVED:	12/09/82	JA: OK			
8313406	18126	3507323404		103		#1 WENDT	SOONER TREND-DOVER WE	21.0	PHILLIPS PETROLEU
-SAMSON RESOURCES COMPANY				RECEIVED:	12/09/82	JA: OK			
8313405	18125	3507323403		103		#1 WENDT	SOONER TREND-DOVER WE	21.0	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/09/82	JA: OK			
8313385	18244	3516720521		108		STATE "B" - B-15	UNKNOWN	14.3	H J D CATTLE COMP
-TEXACO INC				RECEIVED:	12/09/82	JA: OK			
8313381	18354	3505320518		108		KENNEDY A 1-28	RENFROW	18.0	PANHANDLE EASTERN
-TRAVIS PEAY PRODUCING				RECEIVED:	12/09/82	JA: OK			
8313379	18352	3505320516		108		KENNEDY A 1-26	RENFROW	18.0	PANHANDLE EASTERN
8313380	18353	3505320517		108		KENNEDY A 1-27	RENFROW	18.0	PANHANDLE EASTERN
-WILLIAMS & DAVIS				RECEIVED:	12/09/82	JA: OK			
8313402	18124	3507323402		103		#1 WENDT	SOONER TREND-DOVER WE	21.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313387	18244	3511720542		108		STATE "B" B-1	UNKNOWN	7.2	H J D CATTLE COMP
8313388	18243	3511720662		108		STATE "B" B-2	UNKNOWN	12.1	H J D CATTLE COMP
8313385	18246	3511720743		108		STATE "B" B-4	UNKNOWN	7.3	H J D CATTLE COMP
-CRAWLEY PETROLEUM CORPORATION				RECEIVED:	12/09/82	JA: OK			
8313361	17943	3509322396		103		J O HOWELL HEIRS #1	DANE	75.0	PHILLIPS PETROLEU
-GENZER J W				RECEIVED:	12/09/82	JA: OK			
8313486	17972	3511123564		102-4		PINE NO 1		107.7	PHILLIPS PETROLEU
-HAMILTON BROTHERS OIL CO				RECEIVED:	12/09/82	JA: OK			
8313394	18095	3514920236		102-2		BROOKS NO 1-14		0.0	EL PASO NATURAL G
8313395	18094	3514920231		102-2		KAUGER NO 1-16		0.0	EL PASO NATURAL G
-HAWKINS OIL & GAS INC				RECEIVED:	12/09/82	JA: OK			
8313393	18101	3500722328		103		SWAN #1-B	LORENA EXTENSION	91.0	
-JAMES C MEADE				RECEIVED:	12/09/82	JA: OK			
8313383	18507	3507920426		102-4		EDERLY & MEADE GREAT NATL #1-10	SHADY POINT	0.0	ARKANSAS LOUISIAN
8313384	18508	3507920419		102-4	103	EDERLY & MEADE JARRETT #1-2	PANAMA	0.0	ARKANSAS LOUISIAN
-JICO EXPLORATION INC				RECEIVED:	12/09/82	JA: OK			
8313365	17593	3507323343		103		JICO-DEANNA #1	SOONER TREND	0.4	PHILLIPS PETROLEU
-KIRKPATRICK OIL CO				RECEIVED:	12/09/82	JA: OK			
8313373	18510	3509322383		103		KLIEWER #2-15	CHEYENNE VALLEY	0.0	AMINOIL USA INC
-LADD PETROLEUM CORPORATION				RECEIVED:	12/09/82	JA: OK			
8313363	17958	3504320812		103		SCHAFER B-3	CANTON S W	0.0	TRANSOK PIPE LINE
-LRF CORP				RECEIVED:	12/09/82	JA: OK			
8313391	18113	3506300000		103		ELLIS #1	N HILLTOP	102.2	HILL TOP INVESTME
-NATIONAL COOP REFINERY ASSOC				RECEIVED:	12/09/82	JA: OK			
8313372	18006	3509322456		103		DIRKS #2	ORIENTA	80.0	UNION TEXAS PETRO
-NRM PETROLEUM CORPORATION				RECEIVED:	12/09/82	JA: OK			
8313371	18007	3500722150		103		DAVIS #1	MOCANE-LAVERNE	0.0	MICHIGAN WISCONSI
-ONYX ENERGY CORP				RECEIVED:	12/09/82	JA: OK			
8313356	17927	3510300000		103		CHAMP #1-19	CHAMP	45.6	AMINOIL U S A INC
-OXXO INC				RECEIVED:	12/09/82	JA: OK			
8313399	17592	3513300000		102-3		V V HARRIS NO 1		190.9	
-PAUL WALKER				RECEIVED:	12/09/82	JA: OK			
8313405	17680	3503320467		102-2	103	ROBERTS B-1	HULEN	40.0	ARKANSAS-LOUISIAN
8313402	17678	3503320569		102-2	103	URICE C #1	HULEN	50.0	ARKANSAS-LOUISIAN
-RED EAGLE OIL CO				RECEIVED:	12/09/82	JA: OK			
8313390	18148	3509322497		103		WINTER NO 1	FAIRVIEW	160.0	PIONEER GAS PRODU
-RODMAN PETROLEUM CORP				RECEIVED:	12/09/82	JA: OK			
8313397	18576	3508321837		102-2		STATE 36-1	MERIDIAN	270.8	BUCKEYE NATURAL G
-SAMSON RESOURCES COMPANY				RECEIVED:	12/09/82	JA: OK			
8313352	17402	3504321388		103		ZIEBER NO 1	SOUTH TALOGA	140.3	DELHI GAS PIPELIN
-SENECA OIL COMPANY				RECEIVED:	12/09/82	JA: OK			
8313405	17625	3504321400		102-2		MCNEILL #1-26		689.0	TRANSOK PIPE LINE
-SILVAN SUPPLY CO				RECEIVED:	12/09/82	JA: OK			
8313382	17937	3503722370		103		DAILEY #3B		5.0	ARCO OIL AND GAS
8313360	17938	3503722509		103		DAILEY #5-B		5.0	ARCO OIL AND GAS
8313359	17929	3503723014		103		DAILEY B #6		5.0	ARCO OIL AND GAS
8313358	17930	3503722371		103		DAILEY TR 2 #11		2.8	ARCO OIL AND GAS
8313357	17931	3503722738		103		DAILEY TR 2 #12		2.8	ARCO OIL AND GAS
8313379	17932	3503722739		103		DAILEY TR 2 #14		2.8	ARCO OIL AND GAS
8313380	17933	3503721725		103		DAILEY TR2 #10		2.8	ARCO OIL AND GAS
8313381	17935	3503721979		103		JONES HEIRS TR 4 #3		2.8	ARCO OIL AND GAS
-TENNECO OIL COMPANY				RECEIVED:	12/09/82	JA: OK			
8313389	18174	3509322516		103		JANZEN #1-15	N W OKEENE	366.0	OKLAHOMA NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313392	18108	3504722980		103		THOMAS #2-7	EAST KREMLIN	13.0	ARKANSAS LOUISIAN
-TRANS-WESTERN EXPLORATION INC				RECEIVED:	12/09/82	JA: OK			
8313364	17969	3500722157		103		DICKINSON NO 1-33	UNKNOWN	75.0	PHILLIPS PETROLEU
-W P LERBLANCE JR				RECEIVED:	12/09/82	JA: OK			
8313368	14867	3512112060		103		W R LEE #1	FEATHERSTONE	180.0	SOUTHEAST TRANSMI
-WALKER CORP				RECEIVED:	12/09/82	JA: OK			
8313410	18130	3501722735		103		BROADY 9-2	YUKON	160.0	CONOCO INC
-WAYMAN W BUCHANAN				RECEIVED:	12/09/82	JA: OK			
8313369	18061	3504722823		103		BAYLOR NO 1	WILDCAT	91.2	EXXON COMPANY U S
8313396	18063	3513921548		103		RICE NO 1	UNDESIGNATED (MORROW	195.9	PHILLIPS PETROLEU
8313370	18062	3513921562		103		THRASHER NO 1	WILDCAT	73.0	PHILLIPS PETROLEU
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	12/09/82	JA: OK			
8313367	18003	3507323539		103		OPECKER #1-30	NORTHEAST OKARCHE	15.3	SID RICHARDSON CA
-WOODS PETROLEUM CORPORATION				RECEIVED:	12/09/82	JA: OK			
8313354	17797	3501722242		103		HICKMAN #A-2	EAST NILES	1095.0	CITIES SERVICE GA
8313353	17786	3504921536		103		MCDANIEL NO 15-1	E ANTOICH	100.0	BUCKEYE NATURAL G
8313355	17798	3500722151		103		WINCHELL #10-1	EAST BOYD	354.0	PHILLIPS PETROLEU
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	12/10/82	JA: PA			
8313217	18035	3703321392		103		KENNETH HARCHICK #1	HASTINGS	24.0	COLUMBIA GAS TRAN
8313218	18038	3703321394		103		KENNETH HARCHICK #3	HASTINGS	22.0	COLUMBIA GAS TRAN
-ASHTOLA PRODUCTION CO				RECEIVED:	12/10/82	JA: PA			
8313220	18221	3705120311		103		CHARLES MIGYANKO #1	HIGHHOUSE	17.3	UGI DEVELOPMENT C
8313223	18224	3705120297		103		CURTIS COTTOM #1	WALTERSBURG	30.0	UGI DEVELOPMENT C
8313224	18225	3705120298		103		CURTIS COTTOM #2	WALTERSBURG	31.0	UGI DEVELOPMENT C
8313222	18223	3705120296		103		H SHIROCKY #1	WALTERSBURG	50.0	UGI DEVELOPMENT C
8313219	18217	3705120303		102-3		HERMAN AND PATRICK #1	WALTERSBURG	34.8	UGI DEVELOPMENT C
8313221	18222	3705120310		103		WENDELL H HUSTEAD #2	HIGHHOUSE	5.8	UGI DEVELOPMENT C
-ATLAS RESOURCES INC				RECEIVED:	12/10/82	JA: PA			
8313225	10802	3708520325		102-2		LINN NO 1		0.0	COLUMBIA GAS TRAN
8313230	10810	3708520309		102-2		MACIEJEWSKI NO 1		0.0	COLUMBIA GAS TRAN
8313232	10813	3708520280		102-2		MCCANN NO 1		0.0	COLUMBIA GAS TRAN
8313228	10808	3708520334		102-2		MORRISON NO 1		0.0	COLUMBIA GAS TRAN
8313227	10807	3708520326		102-2		NYSTROM NO 1		0.0	COLUMBIA GAS TRAN
8313226	10805	3708520282		102-2		PALP NO 1		0.0	COLUMBIA GAS TRAN
8313233	10814	3708520279		102-2		SIMMONS NO 1		0.0	COLUMBIA GAS TRAN
8313229	10809	3708520302		102-2		UNANGST NO 1		0.0	COLUMBIA GAS TRAN
8313231	10811	3708520327		102-2		WILSON NO 1		0.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION				RECEIVED:	12/10/82	JA: PA			
8313234	18283	3703921831		102-2		W BLACK #2	WILDCAT	14.0	COLUMBIA GAS TRAN
8313235	18282	3703921831		107-TF		W BLACK #2	WILDCAT	14.0	COLUMBIA GAS TRAN
-CASTLE GAS CO INC				RECEIVED:	12/10/82	JA: PA			
8313244	18050	3706324921		108		A C IRWIN #1 (C-478) IND-24921	WHITE TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313245	18051	3706324922		108		A C IRWIN #2 (C-479) IND-24922	WHITE TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313246	18052	3706324923		108		A C IRWIN #3 (C-480) IND-24923	WHITE TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313236	18042	3706324979		108		A P BRACKEN #1 (C-510) IND-24979	CENTER TOWNSHIP	16.0	COLUMBIA GAS TRAN
8313237	18043	3706324980		108		A P BRACKEN #2(C-511) IND-24980	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313238	18044	3706324496		108		A W COCHRAN #2 (C-521) IND-24496	WHITE TOWNSHIP	5.5	COLUMBIA GAS TRAN
8313239	18045	3706324519		108		A W COCHRAN #3(C-520) IND-24519	WHITE TOWNSHIP	5.5	COLUMBIA GAS TRAN
8313247	18053	3706324988		108		D KRIBBS #1(C-544) IND-24988	CENTER TOWNSHIP	4.9	COLUMBIA GAS TRAN
8313248	18054	3706324615		108		D KRIBBS #2 (C-547)IND-24615	CENTER TOWNSHIP	5.7	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313249	18055	3706324936		108		D KRIBBS #3 (C-548) IND-24936	CENTER TOWNSHIP	4.9	COLUMBIA GAS TRAN
8313240	18046	3706324495		108		D W COCHRAN #1 (C-522) IND-24495	WHITE TOWNSHIP	5.5	COLUMBIA GAS TRAN
8313241	18047	3706324497		108		D W COCHRAN #2 (C-523) IND-24497	WHITE TOWNSHIP	5.5	COLUMBIA GAS TRAN
8313242	18048	3706324518		108		D W COCHRAN #3 (C-524) IND-24518	WHITE TOWNSHIP	5.5	COLUMBIA GAS TRAN
8313243	18049	3706324498		108		D W COCHRAN #4 (C-525) IND-24498	WHITE TOWNSHIP	5.5	COLUMBIA GAS TRAN
8313250	18056	3706324937		108		E KRIBBS #1 (C-549) IND-24937	CENTER TOWNSHIP	4.9	COLUMBIA GAS TRAN
8313251	18057	3706324938		108		E KRIBBS #2 (C-550) IND-24938	CENTER TOWNSHIP	4.9	COLUMBIA GAS TRAN
8313252	18058	3706324939		108		E KRIBBS #3 (C-551) IND-24939	CENTER TOWNSHIP	4.9	COLUMBIA GAS TRAN
8313253	18059	3706324940		108		E KRIBBS #4 (C-552) IND-24940	CENTER TOWNSHIP	4.9	COLUMBIA GAS TRAN
8313254	18060	3706324941		108		E KRIBBS #5 (C-553) IND-24941	CENTER TOWNSHIP	4.9	COLUMBIA GAS TRAN
-CATALYST ENERGY DEVELOPMENT CORP				RECEIVED:	12/10/82	JA: PA			
8313255	18064	3706324942		108		A J BRACKEN #1 (C-554) IND-24942	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313256	18065	3706324943		108		A J BRACKEN #2 (C-555) IND-24943	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313257	18066	3706324944		108		A J BRACKEN #3 (C-556) IND-24944	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313258	18067	3706324945		108		A J BRACKEN #4 (C-557) IND-24945	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313259	18068	3706324946		108		A J BRACKEN #5 (C-558) IND-24946	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313260	18069	3706324947		108		A J BRACKEN #6 (C-559) IND-24947	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313261	18070	3706324948		108		A J BRACKEN #7 (C-560) IND-24948	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313262	18071	3706324949		108		A J BRACKEN #8 (C-561) IND-24949	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313263	18072	3706324950		108		A J BRACKEN #9 (C-562) IND-24950	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313264	18073	3706324951		108		A J BRACKEN #10 (C-563) IND-24951	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313265	18074	3706324952		108		A J BRACKEN #11 (C-564) IND-24952	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313266	18075	3706324953		108		A J BRACKEN #12 (C-565) IND-24953	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313267	18076	3706324954		108		A J BRACKEN #13 (C-566) IND-24954	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313268	18077	3706324955		108		A J BRACKEN #14 (C-567) IND-24955	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313269	18078	3706324956		108		A J BRACKEN #15 (C-568) IND-24956	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313270	18079	3706324957		108		A J BRACKEN #16 (C-569) IND-24957	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313271	18080	3706324958		108		A J BRACKEN #17 (C-570) IND-24958	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313272	18081	3706324959		108		A J BRACKEN #18 (C-571) IND-24959	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313273	18082	3706324960		108		A J BRACKEN #19 (C-572) IND-24960	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313274	18083	3706324961		108		A J BRACKEN #20 (C-573) IND-24961	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313275	18084	3706324962		108		A J BRACKEN #21 (C-574) IND-24962	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313276	18085	3706324963		108		A J BRACKEN #22 (C-575) IND-24963	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313277	18086	3706324964		108		A J BRACKEN #23 (C-576) IND-24964	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313278	18087	3706324965		108		A J BRACKEN #24 (C-577) IND-24965	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313279	18088	3706324966		108		A J BRACKEN #25 (C-578) IND-24966	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313280	18089	3706324967		108		A J BRACKEN #26 (C-579) IND-24967	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313281	18090	3706324968		108		A J BRACKEN #27 (C-580) IND-24968	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313282	18091	3706324969		108		A J BRACKEN #28 (C-581) IND-24969	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313283	18092	3706324970		108		A J BRACKEN #29 (C-582) IND-24970	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313284	18093	3706324971		108		A J BRACKEN #30 (C-583) IND-24971	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313285	18094	3706324972		108		A J BRACKEN #31 (C-584) IND-24972	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313286	18095	3706324973		108		A J BRACKEN #32 (C-585) IND-24973	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313287	18096	3706324974		108		A J BRACKEN #33 (C-586) IND-24974	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313288	18097	3706324975		108		A J BRACKEN #34 (C-587) IND-24975	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313289	18098	3706324976		108		A J BRACKEN #35 (C-588) IND-24976	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313290	18099	3706324977		108		A J BRACKEN #36 (C-589) IND-24977	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313291	18100	3706324978		108		A J BRACKEN #37 (C-590) IND-24978	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
-CATALYST ENERGY DEVELOPMENT CORP				RECEIVED:	12/10/82	JA: PA			
8313292	18101	3706324981		108		A J BRACKEN #38 (C-591) IND-24981	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313293	18102	3706324982		108		A J BRACKEN #39 (C-592) IND-24982	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313294	18103	3706324983		108		A J BRACKEN #40 (C-593) IND-24983	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313295	18104	3706324984		108		A J BRACKEN #41 (C-594) IND-24984	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313296	18105	3706324985		108		A J BRACKEN #42 (C-595) IND-24985	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313297	18106	3706324986		108		A J BRACKEN #43 (C-596) IND-24986	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN
8313298	18107	3706324987		108		A J BRACKEN #44 (C-597) IND-24987	CENTER TOWNSHIP	5.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313249	18055	3706324936		108		D KRIBBS #3 (C-549) IND-24936	CENTER TOWNSHIP	4.9	COLUMBIA GAS TRAN
8313250	18056	3706324748		108		D KRIBBS #4 (C-560) IND-24748	CENTER TOWNSHIP	4.9	COLUMBIA GAS TRAN
8313251	18057	3706324937		108		D KRIBBS #5 (C-561) IND-24937	CENTER TOWNSHIP	4.9	COLUMBIA GAS TRAN
8313252	18058	3706324709		108		D KRIBBS #8 (C-562) IND-24709	CENTER TOWNSHIP	4.9	COLUMBIA GAS TRAN
8313240	18046	3706324785		108		J FEATH #1(C-517) IND-24785	WHITE TOWNSHIP	5.5	COLUMBIA GAS TRAN
8313253	18060	3706324475		108		J R PANTALL #1(C-518) IND-24475	WHITE TOWNSHIP	5.5	COLUMBIA GAS TRAN
8313241	18047	3706324518		108		S W GETTY #1(C-527) IND-24518	RAYNE TOWNSHIP	5.5	COLUMBIA GAS TRAN
8313243	18049	3706324495		108		S W GETTY #3 (C-529) IND-24495	RAYNE TOWNSHIP	5.5	COLUMBIA GAS TRAN
8313242	18048	3706324494		108		S W GETTY#2(C-528) IND-24494	RAYNE TOWNSHIP	5.5	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:		12/10/82 JA: PA			
8313257	18085	3706327153		103		DEAN J LEARN ET AL WN-1946	GREEN	4.0	GENERAL SYSTEM PU
8313256	18266	3706326937		102-4		EDWARD GOSS NO 2 WN-1908		36.0	GENERAL SYSTEM PU
8313254	18264	3706324970		102-2		J CLYDE JOHNS WN-1755	GREEN	3.0	GENERAL SYSTEM PU
8313258	18267	3702120172		103		LORETTA PAWLOWSKI WN-1917	SUSQUEHANNA	96.0	GENERAL SYSTEM PU
8313255	18265	3706325437		102-3		T M BERRINGER WN-1791	PINE	15.0	GENERAL SYSTEM PU
-DELTA DRILLING CO				RECEIVED:		12/10/82 JA: PA			
8313260	15945	3706300000		103		GRESKO #4 IND 26929	CHERRYHILL FIELD	0.0	COLUMBIA GAS TRAN
8313261	16102	3706326914		103		R ST CLAIR #6 IND 26914	CHERRYHILL FLD	0.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED:		12/10/82 JA: PA			
8313262	18260	3706326839	D	102-2		LEONARD GOSS #1 KA-126	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
8313264	18262	3706324316	D	102-2		MEARS COAL COMPANY #1 KL-103	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
8313263	18261	3703320783	D	102-2		PHILIP CHURA #1 KA-13	UPPER DEVONIAN SANDS	30.0	T W PHILLIPS GAS
-ENVIROGAS INC				RECEIVED:		12/10/82 JA: PA			
8313302	18293	3704920575		108		A PHILLIPS #1	NORTH EAST DEEP	11.0	NATIONAL FUEL GAS
8313311	18307	3704920645		108		ALLISON #1	ERIE DEEP	6.0	NATIONAL FUEL GAS
8313295	18286	3704920428		108		ARCHER #1	NORTH EAST DEEP	7.0	NATIONAL FUEL GAS
8313296	18287	3704920436		108		ARCHER #2	NORTH EAST DEEP	0.4	NATIONAL FUEL GAS
8313268	18162	3704920451		108		ARCHER #3	NORTH EAST DEEP	7.0	NATIONAL FUEL GAS
8313297	18288	3704920476		108		ARCHER #4	NORTH EAST DEEP	3.0	NATIONAL FUEL GAS
8313274	18168	3704920506		108		ARCHER #5	NORTH EAST DEEP	11.0	NATIONAL FUEL GAS
8313298	18289	3704920671		108		ARCHER #8	NORTH EAST	8.0	NATIONAL FUEL GAS
8313281	18176	3704920599		108		BARD #1	NORTH EAST DEEP	5.0	NATIONAL FUEL GAS
8313318	18314	3704920623		108		BAUER #1	NORTH EAST DEEP	0.8	NATIONAL FUEL GAS
8313319	18315	3704920650		108		BAUER #3	ERIE DEEP	0.5	NATIONAL FUEL GAS
8313312	18308	3704920718		108		BLASKO #1	ERIE DEEP	7.0	NATIONAL FUEL GAS
8313313	18309	3704920708		108		BLASKO #2	ERIE DEEP	5.0	NATIONAL FUEL GAS
8313316	18312	3704920758		108		BOWSER #1	NORTH EAST	1.0	NATIONAL FUEL GAS
8313317	18313	3704920590		108		BURNHAM #2	NORTH EAST DEEP	2.0	NATIONAL FUEL GAS
8313275	18169	3704920487		108		C LUKE #2	NORTH EAST DEEP	1.0	NATIONAL FUEL GAS
8313266	18160	3704920548		108		CHIZEWICK #1	NORTH EAST DEEP	10.0	NATIONAL FUEL GAS
8313283	18178	3704920484		108		COLETTA #1	NORTH EAST DEEP	0.5	NATIONAL FUEL GAS
8313286	18181	3704920501		108		D MOORHEAD #1	NORTH EAST DEEP	3.0	NATIONAL FUEL GAS
8313287	18182	3704920499		108		D MOORHEAD #2	NORTH EAST DEEP	6.0	NATIONAL FUEL GAS
8313280	18175	3704920510		108		DESIN #1	NORTH EAST DEEP	2.0	NATIONAL FUEL GAS
8313303	18294	3704920596		108		E ORTON #1	NORTH EAST DEEP	0.9	NATIONAL FUEL GAS
8313276	18170	3704920488		108		F LUKE #1	NORTH EAST DEEP	1.0	NATIONAL FUEL GAS
8313314	18310	3704920731		108		FALKOWSKI #1	ERIE DEEP	0.1	NATIONAL FUEL GAS
8313305	18296	3704920444		108		FELTON #1	NORTH EAST DEEP	1.0	NATIONAL FUEL GAS
8313306	18297	3704920445		108		FELTON #2	NORTH EAST DEEP	9.0	NATIONAL FUEL GAS
8313269	18163	3704920465		108		HARRIS #1	NORTH EAST DEEP	3.0	NATIONAL FUEL GAS
8313279	18174	3704920517		108		J BARTLETT #1	NORTH EAST DEEP	3.0	NATIONAL FUEL GAS
8313278	18173	3704920490		108		J MOORHEAD #2	NORTH EAST DEEP	7.0	NATIONAL FUEL GAS
8313320	18316	3704920928		108		L BRUMAGIN #1	NORTH EAST	12.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313272	18166	3704920592		108		LECHTNER #1	NORTH EAST DEEP	16.0	NATIONAL FUEL GAS
8313278	18164	3704920468		108		LICK #1	NORTH EAST DEEP	7.0	NATIONAL FUEL GAS
8313265	18304	3704921961		107-TF		M CAPLAN #1	WATERFORD	18.0	COLUMBIA GAS TRAN
8313307	18298	3704920446		108		MASSEY #1	NORTH EAST DEEP	8.0	NATIONAL FUEL GAS
8313282	18177	3704920620		108		MAYNARD #1	NORTH EAST DEEP	6.0	NATIONAL FUEL GAS
8313308	18299	3704920454		108		MCCOMD #2	NORTH EAST DEEP	4.0	NATIONAL FUEL GAS
8313294	18285	3704920497		108		MCCOMD VINEYARDS #2	NORTH EAST DEEP	8.0	NATIONAL FUEL GAS
8313293	18284	3704920498		108		MCCOMD VINEYARDS #3	NORTH EAST DEEP	3.0	NATIONAL FUEL GAS
8313310	18301	3704920452		108		MEAD #1	NORTH EAST DEEP	8.0	NATIONAL FUEL GAS
8313289	18184	3704920485		108		MEEHL #1	NORTH EAST DEEP	2.0	NATIONAL FUEL GAS
8313284	18179	3704920502		108		MOORHEAD VINEYARDS #1	NORTH EAST DEEP	1.0	NATIONAL FUEL GAS
8313291	18186	3704920660		108		NORDER #1	ERIE DEEP	8.0	NATIONAL FUEL GAS
8313315	18311	3704920784		108		PASTORE INC	ERIE DEEP	0.1	NATIONAL FUEL GAS
8313304	18295	3704920629		108		PECK #1	NORTH EAST DEEP	3.0	NATIONAL FUEL GAS
8313309	18300	3704920438		108		PETERS #1	NORTH EAST DEEP	6.0	NATIONAL FUEL GAS
8313271	18165	3704920514		108		R BARTLETT #2	NORTH EAST DEEP	8.0	NATIONAL FUEL GAS
8313292	18187	3704920495		108		RAHAL #1	NORTH EAST DEEP	2.0	NATIONAL FUEL GAS
8313273	18167	3704920466		108		SANDHOFF #1	NORTH EAST DEEP	5.0	NATIONAL FUEL GAS
8313300	18291	3704920439		108		SOUTHWICK #1	NORTH EAST DEEP	8.0	NATIONAL FUEL GAS
8313301	18292	3704920448		108		SOUTHWICK #2	NORTH EAST DEEP	7.0	NATIONAL FUEL GAS
8313288	18183	3704920483		108		SUL #1	NORTH EAST DEEP	1.0	NATIONAL FUEL GAS
8313321	18317	3704920661		108		SUL #2	ERIE DEEP	2.0	NATIONAL FUEL GAS
8313290	18185	3704920579		108		SZKLENSKI FARMS #1	NORTH EAST DEEP	1.0	NATIONAL FUEL GAS
8313285	18180	3704920544		108		SZKLENSKI FARMS #2	NORTH EAST DEEP	14.0	NATIONAL FUEL GAS
8313299	18290	3704920426		108		VALONE #1	NORTH EAST DEEP	4.0	NATIONAL FUEL GAS
8313267	18161	3704920447		108		VALONE #2	NORTH EAST DEEP	6.0	NATIONAL FUEL GAS
8313277	18171	3704920469		108		W SEMELKA #1	NORTH EAST DEEP	1.0	NATIONAL FUEL GAS
-FAIRMAN DRILLING CO				RECEIVED:	12/10/82	JA: PA			
8313322	18214	3703321356		103		JAMES G BEATTY #1 F-3474	BIG RUN	20.0	CONSOLIDATED GAS
8313323	18215	3706326847		103		LINDSEY COAL MINING CO NO 2 F-3488	MARION CENTER	60.0	CONSOLIDATED GAS
8313324	18216	3706326848		103		LINDSEY COAL MINING CO NO 3 F-3489	MARION CENTER	60.0	CONSOLIDATED GAS
-FLEMING FRANK				RECEIVED:	12/10/82	JA: PA			
8313326	17990	3700500000		108		FRANK FLEMING #1	PLUMCREEK TWP	1.7	PEOPLES NATURAL G
8313325	17989	3700500000		108		FRANK FLEMING #2	PLUMCREEK TWP	1.7	PEOPLES NATURAL G
-FORBESERV INC				RECEIVED:	12/10/82	JA: PA			
8313259	18125	3706326927		103		JOSEPH DASKIVICH-EARNEY #1	HOMER CITY	36.0	COLUMBIA GAS TRAN
-GLENDALE GAS VENTURE				RECEIVED:	12/10/82	JA: PA			
8313327	18226	3706326530		103		DASKIVICH NO 4	JOSEPH DASKIVICH PROP	36.0	COLUMBIA GAS TRAN
-HANLEY & BIRD				RECEIVED:	12/10/82	JA: PA			
8313328	18257	3700522739		103		R MCKISSICK #2 SN1713 5H011	GASTOWN	55.0	T W PHILLIPS
-JENNINGS THOMAS F				RECEIVED:	12/10/82	JA: PA			
8313329	18318	3700720057		108		EDWIN H TOBIAS #1	COAL BANK RUN	4.0	PEOPLES NATURAL G
-KEPCO INC				RECEIVED:	12/10/82	JA: PA			
8313331	18070	3705921680		102-4		JOHN L BRADLEY NO 2 (PK-17)	RUFF CREEK	14.0	NEW JERSEY NATURA
8313330	18069	3705921750		102-4		MARY J & GEORGE E HOGE NO 1 (PK-48)	RUFF CREEK	9.5	NEW JERSEY NATURA
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	12/10/82	JA: PA			
8313332	17758	3706327084		103		BERGMAN #1	CARL BERGMAN	44.0	COLUMBIA GAS TRAN
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/10/82	JA: PA			
8313336	18252	3708520200		107-TF		MILLER #1-74	NEW LEBANON (MEDINA &	0.0	COLUMBIA GAS TRAN
8313333	18123	3708520454		103		S C SLATER UNIT #1	NEW LEBANON (MEDINA/W	411.0	COLUMBIA GAS TRAN
8313334	18124	3708520454		107-TF		S C SLATER UNIT #1	NEW LEBANON (MEDINA/W	411.0	COLUMBIA GAS TRAN
8313335	18251	3708520224		107-TF		SROCK #1-73	JAMESTOWN - MEDINA SA	35.0	COLUMBIA GAS TRAN
-PEACOCK/DOVERSPIKE GAS VENTURE - 79				RECEIVED:	12/10/82	JA: PA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

UM VOL 48 ISS 13 JAN 19 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313338	18274	3703321418		103		DIMELING #1 CLE-2141M	BRADY	36.0	T W PHILLIPS GAS
8313337	18273	3703321419		103		DIMELING #2 CLE-21419	BRADY	36.0	T W PHILLIPS GAS
8313341	18277	3703321373		103		KORB #1 CLE-21373	BLOOM	36.0	CONSOLIDATED GAS
8313340	18276	3706326954		103		WANCHISN #1 IND-26954	GRANT	36.0	COLUMBIA GAS TRAN
8313339	18275	3706326955		103		WANCHISN #2 IND-26955	GRANT	36.0	COLUMBIA GAS TRAN
-PEOPLES NATURAL GAS CO				RECEIVED:	12/10/82	JA: PA			
8313342	18305	3712922081		103		ELEANOR G MORRIS #1 WES 22081	W PENNA LOWER DEVONIA	121.0	THE PEOPLES NATUR
-PHILLIPS PRODUCTION CO				RECEIVED:	12/10/82	JA: PA			
8313343	15679	3706326969		103		HELEN M PELES ET AL #1		25.0	
-S T JOINT VENTURE 82-C				RECEIVED:	12/10/82	JA: PA			
8313344	16127	3706522648		103		BOBOIGE #1		25.0	NATIONAL FUEL GAS
-WAINOCO OIL & GAS CO				RECEIVED:	12/10/82	JA: PA			
8313347	17724	3703921725		102-2		DANA H MARTIN #1 (W-173A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8313349	17725	3703921725		107-TF		DANA H MARTIN #1 (W-173A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8313345	17718	3703921777		102-2		EDWARD G FINK #1 (W-176A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8313350	17726	3703921777		107-TF		EDWARD G FINK #1 (W-176A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8313346	17722	3703921788		102-3		MATTHEW W FINK #1 (W-170A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
8313348	17723	3703921788		107-TF		MATTHEW W FINK #1 (W-170A)	ATHENS FIELD	35.4	COLUMBIA GAS TRAN
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
**********									
-CONSOLIDATED OIL & GAS INC				RECEIVED:	12/14/82	JA: NM 4			
8313421	NM-4210-79	3004510936		108-PB		FREEMAN #1-11	BASIN DAKOTA	0.0	EL PASO NATURAL G

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Categories within each MGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservior
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–CB: Geopressued brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1479 Filed 1-18-83; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 14, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MISSISSIPPI OIL & GAS BOARD									
-CALLON PETROLEUM COMPANY				RECEIVED:	12/16/82	JA: MS			
8313685		2312720066	103			DIXON ET AL GU WELL NO 1	SOUTH OAK GROVE	438.0	SYSTEM FUELS INC
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/16/82	JA: MS			
8313682		2302520030	102-2			SIMMONS 17-5	WALKER LAKE	0.0	TEXAS EASTERN TRA
-HUNT ENERGY CORPORATION ET AL				RECEIVED:	12/16/82	JA: MS			
8313684		2304520080	107-DP			GORDON BROWN #1	CATAHOULA CREEK	393.0	TENNESSEE GAS PIP
-INEXCO OIL COMPANY				RECEIVED:	12/16/82	JA: ME			
8313683		2307720021	107-DP			SMITH ESTATE NO 1	MONTICELLO FIELD SLIG	0.0	UNITED GAS PIPELI
-JOSEPH F FRITZ OPERATING CO				RECEIVED:	12/16/82	JA: ME			
8313668		2309120104	107-DP			SANDY HOOK GAS UNIT 27 NO 1	WEST SANDY HOOK FIELD	839.0	SOUTHERN NATURAL
-PRUET PRODUCTION CO				RECEIVED:	12/16/82	JA: MS			
8313673		2308720066	102-2	103		ALDRIDGE 18-9 NO 1	MAPLE BRANCH FIELD	365.0	TENNESSEE GAS PIP
8313669		2301720045	102-2	103		ASHBY 22-1 NO 1	BACON FIELD	112.0	TEXAS EASTERN
8313676		2309520344	102-2	103		DAVIS 10-15 NO 1	GREENWOOD SPRINGS FIE	394.0	UNITED GAS PIPELI
8313670		2309520356	102-2	103		EASTER 15-2 NO 1	GREENWOOD SPRINGS FIE	301.0	UNITED GAS PIPELI
8313678		2308720070	102-2	103		EGGER 10-1 NO 1	MAPLE BRANCH FIELD	0.0	TENNESSEE GAS PIP
8313671		2309520362	102-2	103		IRVIN 11-14 NO 1	GREENWOOD SPRINGS FIE	219.0	UNITED GAS PIPELI
8313674		2308720061	102-2	103		STEPHENSON 7-15 NO 1	MAPLE BRANCH FIELD	736.0	TENNESSEE GAS PIP
8313681		2309520355	102-4	103		THOMPSON 28-4 NO 1	MCKINLEY CREEK FIELD	547.0	TENNESSEE GAS PIP
8313672		2309520348	102-2	103		VAN WELLS 6-9 NO 1	MAPLE BRANCH FIELD	10.0	TENNESSEE GAS PIP
8313677		2312720078	102-4	103		YELVERTON 2-8 NO 1	MAGEE FIELD	402.0	UNITED GAS PIPELI
-SHELL OIL CO				RECEIVED:	12/16/82	JA: MS			
8313667		2311320131	102-4			MAC INTOSH ET AL UNIT NO 2	OLIVE	40.0	
-SYSTEM FUELS INC				RECEIVED:	12/16/82	JA: MS			
8313680		2306220205	107-DP			CARTER ET AL NO 1	HOLIDAY CREEK FIELD	73.0	TENNESSEE GAS PIP
8313679		2306520186	107-DP			CORENE ROWLAND 25-6 NO 1	HOLIDAY CREEK FIELD	0.2	TENNESSEE GAS PIP
-TRANSCONTINENTAL OIL CORPORATION				RECEIVED:	12/16/82	JA: MS			
8313675		2312120080	102-4			PUCKETT GU NO 5 - WELL NO 4	PUCKETT	8.0	UNITED GAS PIPELI
OKLAHOMA CORPORATION COMMISSION									
-AN-SON CORPORATION				RECEIVED:	12/13/82	JA: OK			
8313574	22062	3514920287	107-DP			JUDY #1-22		350.0	
-AN-SON CORPORATION				RECEIVED:	12/16/82	JA: OK			
8313709		3514920237	102-2			REEDER #1	WILDCAT	357.7	
-AN-SON CORPORATION				RECEIVED:	12/17/82	JA: OK			
8313752	16720	3506720439	103			DILLARD #1	E RINGLING	50.0	
8313753	16158	3501922336	103			PATRICK #1	JOINER CITY	0.0	
-ANADARKO PRODUCTION COMPANY				RECEIVED:	12/17/82	JA: OK			
8313771	17639	3500700000	108			EDWIN FISHER #1	LIGHT	20.2	PANHANDLE EASTERN
8313773	17692	3500700000	108			GREGG B #1	MOCANE	8.0	INTER NORTH INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ANDOVER OIL COMPANY				RECEIVED:	12/13/82	JA: OK			
8313605	18070	3501121686		103		KEPHART #18-1		180.0	OKLAHOMA GAS PIPE
8313580	18250	3501121687		103		KEPHART #32-1		0.0	OKLAHOMA GAS PIPE
8313633	18137	3501121625		102-4		SCHOOL LAND #36-1		0.0	OKLAHOMA GAS PIPE
-ANDOVER OIL COMPANY				RECEIVED:	12/17/82	JA: OK			
8313784	18352	3507323384		103		SHAFENBERG 18-1		180.0	PHILLIPS PETROLEU
-ARKOMA GAS CO				RECEIVED:	12/17/82	JA: OK			
8313718	06707	3512120481		108		W J HILGEWECK GAS UNIT #1-8	N W CABANISS	12.0	ARKANSAS LOUISIAN
-ARKOMA PRODUCTION CO				RECEIVED:	12/13/82	JA: OK			
8313660	18100	3506120517		103		FEDERAL KING #2	KINTA	365.0	ARKANSAS LOUISIAN
-AUSTIN PRODUCTION CO				RECEIVED:	12/17/82	JA: OK			
8313749	16917	3501100000		103		STATE 1-36	STATE	0.0	OKLAHOMA GAS & EL
-BARNES OIL CO				RECEIVED:	12/17/82	JA: OK			
8313772	17642	3503700000		108		MACHIR #2	OLIVE	10.2	ARCO OIL & GAS CO
-BARUCH-FOSTER CORP				RECEIVED:	12/13/82	JA: OK			
8313623	18073	3511921433		103		STATE OF OKLAHOMA "D"-1	AVERY	30.0	CITIES SERVICE GA
8313582	18260	3503723653		103		WOODROW CHILDERS "E"-1	WEST SHAMROCK	10.0	CITIES SERVICE GA
-BECK PRODUCTION CO				RECEIVED:	12/17/82	JA: OK			
8313800	18383	3503723990		103		J J #2	OLIVE	0.0	ARCO OIL & GAS CO
-BERRY PETROLEUM CORP				RECEIVED:	12/13/82	JA: OK			
8313593	18282	3504722662		103		VAVERKA #1-29	NW MARSHALL	37.0	PANHANDLE EASTERN
-BETA OIL & GAS DEVELOPMENT				RECEIVED:	12/13/82	JA: OK			
8313621	18083	3511100000		103		PINE #A-2		0.5	PHILLIPS PETROLEU
8313624	18081	3511123127		103		PINE #G-2		0.2	PHILLIPS PETROLEU
-BLAIK OIL COMPANY				RECEIVED:	12/13/82	JA: OK			
8313629	18002	3504722968		103		ESTILL UNIT #4	SOONER TREND	36.0	EXXON COMPANY USA
8313639	18147	3500320927		103		SHEPARD #2		27.0	AMINOIL USA INC
-BLUE QUAIL ENERGY INC				RECEIVED:	12/17/82	JA: OK			
8313767	18264	3501722071		103		KOERNER #1	KOERNER	175.0	PHILLIPS PETROLEU
-BOGERT OIL CO				RECEIVED:	12/13/82	JA: OK			
8313587	18291	3508322025		103		WALTER #1-19	SOONER TREND	97.0	EASON OIL COMPANY
-BOW VALLEY PETROLEUM INC				RECEIVED:	12/13/82	JA: OK			
8313637	18144	3504721489		103		A A KOKOJAN #2-3	SOONER TREND	8.3	PHILLIPS PETROLEU
-BROWN & BORELLI INC				RECEIVED:	12/17/82	JA: OK			
8313746	17314	3501722223		103		K-FARMS #1	NW YUKON	146.0	CONOCO INC
-BUD OIL CO				RECEIVED:	12/13/82	JA: OK			
8313579	18205	3513723104		103		WILK NO 1		30.0	LONE STAR GAS COM
-C J CASSELMAN				RECEIVED:	12/17/82	JA: OK			
8313764	18172	3511123852		103		BARNETT 4	MORRIS	18.3	PHILLIPS PETROLEU
8313793	18297	3511123825		103		KING 1-A	MORRIS	18.3	PHILLIPS PETROLEU
8313808	18298	3511123816		103		KING 2-A	MORRIS	18.3	PHILLIPS PETROLEU
8313763	18171	3511123724		103		ROBERTSON #3	MORRIS	18.3	PHILLIPS PETROLEU
8313765	18173	3511123722		103		ROBERTSON 2	MORRIS	18.3	PHILLIPS PETROLEU
-CALVERT DRILLING CO				RECEIVED:	12/17/82	JA: OK			
8313720	18263	3511921881		103		HELDRETH #1	SE RIPLEY	8.0	SUN GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/13/82	JA: OK			
8313589	18278	3504700000		108		RANDOLPH NO 1	N E ENID	13.0	CHAMPLIN PETROLEU
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/17/82	JA: OK			
8313743	17535	3500300000		103		S K LEIERER "A" #2	E CHANEY DELL	66.0	CHAMPLIN PETROLEU
-CIMARRON MANAGEMENT CORP				RECEIVED:	12/17/82	JA: OK			
8313760	18380	3511721341		103		WARD #3-B	HALLETT	11.0	EMPIRE PIPELINE C
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313575	18138	3507323800		103		BERNITA29-1	SOONER TREND	40.0	CITIES SERVICE GA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313576	18139	3507323801		103		BERNITA29-2	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313577	18140	3507323802		103		BERNITA29-3	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313578	18141	3507323803		103		BERNITA29-4	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313574	18137	3507323799		103		BERNITA29-5	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313573	18136	3507323798		103		BERNITA29-6	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313572	18135	3507323797		103		BERNITA29-7	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313571	18134	3507323796		103		BERNITA29-8	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313570	18133	3507323795		103		BERNITA29-9	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313569	18132	3507323794		103		BERNITA29-10	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313568	18131	3507323793		103		BERNITA29-11	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313567	18130	3507323792		103		BERNITA29-12	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313566	18129	3507323791		103		BERNITA29-13	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313565	18128	3507323790		103		BERNITA29-14	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313564	18127	3507323789		103		BERNITA29-15	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313563	18126	3507323788		103		BERNITA29-16	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313562	18125	3507323787		103		BERNITA29-17	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313561	18124	3507323786		103		BERNITA29-18	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313560	18123	3507323785		103		BERNITA29-19	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313559	18122	3507323784		103		BERNITA29-20	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313558	18121	3507323783		103		BERNITA29-21	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313557	18120	3507323782		103		BERNITA29-22	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313556	18119	3507323781		103		BERNITA29-23	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313555	18118	3507323780		103		BERNITA29-24	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313554	18117	3507323779		103		BERNITA29-25	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313553	18116	3507323778		103		BERNITA29-26	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313552	18115	3507323777		103		BERNITA29-27	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313551	18114	3507323776		103		BERNITA29-28	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313550	18113	3507323775		103		BERNITA29-29	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313549	18112	3507323774		103		BERNITA29-30	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313548	18111	3507323773		103		BERNITA29-31	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	12/13/82	JA: OK			
8313547	18110	3507323772		103		BERNITA29-32	SOONER TREND	40.0	CITIES SERVICE GA

JD NO	JA DKT	API NO	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313576	18139	3509322507	103		CARL 29-1	SOONER TREND	165.0	CITIES SERVICE GA
8313603	18112	3507323488	103		PARIS 28-1	SOONER TREND	40.0	CITIES SERVICE GA
-CLARK RESOURCES INC			RECEIVED:	12/16/82	JA: OK			
8313687	18211	3507323548	103		KLINNERT 10-1	SOONER TREND	200.0	CITIES SERVICE GA
-CLARK RESOURCES INC			RECEIVED:	12/17/82	JA: OK			
8313783	18345	3509322489	103		CAMPBELL 22-2	SOONER TREND	85.0	CITIES SERVICE GA
8313797	18338	3507323619	103		EMERY 19-1	SOONER TREND	130.0	CONOCO INC
-CN OPERATING CO			RECEIVED:	12/13/82	JA: OK			
8313596	18335	3503700000	108		FIELDS NO 1	CUSHING	6.0	ARCO OIL AND GAS
-CN OPERATING CO			RECEIVED:	12/17/82	JA: OK			
8313779	18030	3503700000	108		BOWERS #10	CUSHING	0.9	ARCO OIL & GAS CO
8313762	18032	3503700000	108		HUGHES-RICKNER #2	CUSHING	0.5	ARCO OIL & GAS CO
8313775	18023	3503700000	108		JOHNNY JACOBS #2	CUSHING	0.5	ARCO OIL & GAS CO
8313776	18027	3503700000	103		JOHNNY JACOBS #3	CUSHING	0.1	ARCO OIL & GAS CO
8313774	18022	3503700000	103		JOHNNY JACOBS #4	CUSHING	0.1	ARCO OIL & GAS CO
8313777	18028	3503722781	108		RYAN #1	OLIVE	2.0	ARCO OIL & GAS CO
8313778	18029	3503700000	108		SMITH #11	CUSHING	3.4	ARCO OIL & GAS CO
-COBRA OIL AND GAS CORPORATION			RECEIVED:	12/13/82	JA: OK			
8313597	18449	3515321348	103		REGER "12" #1	TANGIER	450.0	NORTHERN NATURAL
-COTTON PETROLEUM CORPORATION			RECEIVED:	12/13/82	JA: OK			
8313573	19970	3505121250	107-CP		ALFRED NO 1	COTTONWOOD S W	0.0	UNITED GAS PIPELI
-CROUCH PETROLEUM COMPANY			RECEIVED:	12/17/82	JA: OK			
8313770	17444	3509122000	103		DICK MARTIN #1-29	S E CHECOTAH	72.0	COLUMBIA GAS TRAN
-CUMMINGS OIL CO			RECEIVED:	12/13/82	JA: OK			
8313659	15269	3507323455	102-A		CORBIN "A" #1	SOONER TREND	0.0	CITIES SERVICE GA
-DAVIS OIL COMPANY			RECEIVED:	12/13/82	JA: OK			
8313627	18018	3502720160	103		MARCOTT #1	CRAWFORD	18.0	SUN EXPLORATION &
8313581	18251	3501700000	103		RADCLIFF #1-A	EL RENO	8.0	PHILLIPS PETROLEU
-DAVIS OIL COMPANY			RECEIVED:	12/17/82	JA: OK			
8313734	18019	3508720593	103		DORA #1	CRINER CREEK	0.0	SUN EXPLORATION &
-DEPCO INC			RECEIVED:	12/17/82	JA: OK			
8313731	18176	3508520551	103		GRAY #1-21	N MARIETTA	6.0	AMINOIL USA INC
8313730	18177	3508520577	103		TESTERMAN #1-21	N MARIETTA	22.0	AMINOIL USA INC
-DIASU OIL & GAS CO INC			RECEIVED:	12/13/82	JA: OK			
8313626	18071	3505320801	103		HARRIS NO 1	RED FORK FORMATION SE	21.0	SUN GAS COMPANY
8313625	18072	3505320884	103		TIFFANY NO 1	RED FORK FORMATION SE	45.0	SUN GAS COMPANY
-DYCO PETROLEUM CORPORATION			RECEIVED:	12/16/82	JA: OK			
8313686	18204	3503920530	103		HUTCHISON #1-7		258.0	
-DYCO PETROLEUM CORPORATION			RECEIVED:	12/17/82	JA: OK			
8313756	16287	3513921328	103		JOLIFFEE TRUST #1		40.0	PANHANDLE EASTERN
8313745	17484	3500920466	103		WHITE #1-13		250.0	MICHIGAN WISCONSI
-EAGLE OIL CO			RECEIVED:	12/17/82	JA: OK			
8313798	18336	3510721239	103		BROOK #2	W BLAKELY	84.0	PHILLIPS PET CO
-EL PASO NATURAL GAS COMPANY			RECEIVED:	12/13/82	JA: OK			
8313599	19132	3500900000	108-PP		PUCKETT A #2		0.0	EL PASO NATURAL G
-ENERGY LOCATION & DEVELOPMENT			RECEIVED:	12/13/82	JA: OK			
8313585	18275	3514722797	103		HOPPER NO 1		0.0	PHILLIPS PETROLEU
8313586	18276	3514722884	103		HOPPER NO 2		0.0	PHILLIPS PETROLEU
-F C D OIL CORP			RECEIVED:	12/16/82	JA: OK			
8313688	18215	3507323579	103		CROSSWHITE 1-11	SOONER TREND	36.5	EXXON CO U S A
8313696	18281	3509322532	103		OLGA 1-17	N W FAIRVIEW	127.0	PHILLIPS PETROLEU
-FOUR CHIEFS ENERGY INC			RECEIVED:	12/17/82	JA: OK			
8313713	8921	3506300000	108		ADA ID #063-38820	SOUTH OUSTIN	6.0	TRANSOK PIPELINE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8313716	8918	3506300000		108		HICKS ID #063-38819
8313717	8917	3506300000		108		MEADORS ID #063-38821
8313714	8920	3506300000		108		RYAN ID #063-38822
8313715	8919	3506300000		108		TRIBAL ID #063-38818
				RECEIVED:	12/13/82	JA: OK
-FUSULINA PETROLEUM CORP						
8313662	18110	3509322388		103		THOMAS 2-2
				RECEIVED:	12/13/82	JA: OK
-GULF OIL CORPORATION						
8313578	18161	3500320181		108		EASTERLING - STATE NO 1
				RECEIVED:	12/17/82	JA: OK
-GULFSTREAM PETROLEUM CORP						
8313799	18378	3510321494		103		ROSA SEEGERS #2-11
				RECEIVED:	12/17/82	JA: OK
-H & L OPERATING COMPANY						
8313724	18202	3504521006		103		SUE HILL #1
				RECEIVED:	12/13/82	JA: OK
-HAMILTON BROTHERS OIL CO						
8313646	18057	3514920192		102-2		THOMPSON HEIRS #1-26
				RECEIVED:	12/17/82	JA: OK
-HANOVER MANAGEMENT CO						
8313811	18422	3508720640		103		GREEN #1
				RECEIVED:	12/13/82	JA: OK
-HARPER OIL COMPANY						
8313634	18140	3509322515		103		DAISY #2
				RECEIVED:	12/17/82	JA: OK
-HAWKINS OIL & GAS INC						
8313796	18321	3500722308		103		WEST #1-17
				RECEIVED:	12/17/82	JA: OK
-HERNDON OIL & GAS CO						
8313780	18338	3505921093		103		HOLCOMB #1
				RECEIVED:	12/17/82	JA: OK
-HESTON OIL CO						
8313787	18372	3504723019		103		DULICK #32-1
				RECEIVED:	12/16/82	JA: OK
-HILL RESOURCES INC						
8313698	18302	3508121695		103		BECK #1-A
				RECEIVED:	12/13/82	JA: OK
-HUNT OIL COMPANY						
8313661	18104	3509322384		103		CORNELSEN #1
				RECEIVED:	12/17/82	JA: OK
-INDIANOLA OIL INC						
8313725	18184	3514700000		103		FOSTER PETROLEUM #3A
				RECEIVED:	12/13/82	JA: OK
-INTERNORTH INC						
8313613	22001	3503920751		107-DP		THORNBROUGH 35 #1
				RECEIVED:	12/13/82	JA: OK
-IREX CORP						
8313612	18519	3505921123		102-4		LOGAN #1
				RECEIVED:	12/17/82	JA: OK
-J & G OPERATING CO						
8313748	09928	3508100000		108		MILLER #1-A
				RECEIVED:	12/13/82	JA: OK
-JACKSON EXPLORATION INC						
8313611	18570	3511921728		102-4	103	MCCALEB #1
				RECEIVED:	12/17/82	JA: OK
-JET OIL COMPANY						
8313722	18207	3504722777		103		BENNETT #2
8313723	18206	3504722758		103		DALKE #1
8313739	17608	3504722533		103		HONNOLD #2
8313740	17606	3504722787		103		IRENE #1
8313755	18305	3504722951		103		KNOPFEL #2
8313742	17604	3504723000		103		KNOPFEL "B" #1
8313741	17605	3504722750		103		MURPHY #2
				RECEIVED:	12/17/82	JA: OK
-JIMMY W GRAY						
8313758	18411	3504900000		103		MANESS #1
				RECEIVED:	12/13/82	JA: OK
-JOHN A HENRY & CO						
8313647	17988	3501722307		103		JOHN HENRY #2
				RECEIVED:	12/13/82	JA: OK
-JOHN A TAYLOR						
8313610	18590	3503920585		102-2		BEESON #1
8313608	18591	3503920601		102-2		BIBB #1

FIELD NAME	PROD	PURCHASER
SOUTH DUSTIN	7.5	TRANSOK PIPELINE
SOUTH DUSTIN	15.0	TRANSOK PIPELINE
SOUTH DUSTIN	6.0	TRANSOK PIPELINE
SOUTH DUSTIN	0.6	TRANSOK PIPELINE
SOONER TREND	0.0	UNION TEXAS PETRO
OAKDALE SW	0.7	DELHI GAS PIPELIN
E BILLINGS PROSPECT (	36.0	ARCO OIL & GAS CO
MOCANE-LAVERN AREA	100.0	TRANSWESTERN PIPE
WILDCAT	0.0	EL PASO NATURAL G
	29.2	SUN EXPLORATION &
RINGWOOD	127.0	PHILLIPS PETROLEU
ALLEN & PARKER	73.0	INTER NORTH INC
LAVERNE	375.0	MICHIGAN WISCONSI
	0.0	UNION TEXAS PETRO
	185.0	MERIDIAN ENERGY I
DANE	300.0	DELHI GAS PIPELIN
OCHELATA	350.0	GARON PIPELINE
CLINTON SOUTH	0.0	NORTHERN NATURAL
N WOODWARD SECTION 17	0.0	DELHI GAS PIPELIN
MILLER #1-A	0.0	SUN GAS CO
WILDCAT	150.0	LINK SYSTEMS INC
WILSON PROSPECT	137.0	AMINOIL USA INC
WILSON PROSPECT	51.0	EASON OIL CO
WILSON	0.0	EASON OIL CO
WILSON	0.0	EASON OIL CO
BROWN-EAST	121.0	AMINOIL USA INC
BROWN EAST	0.0	EASON OIL COMPANY
WILSON	0.0	EASON OIL CO
ANTIOC	73.0	WARREN PETROLEUM
YUKON	365.0	CONOCO INC
NE MOOREWOOD FIELD	0.0	ARKANSAS LOUISIAN
NE MOOREWOOD FIELD	0.0	ARKANSAS LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-JOHN A BROWN						
				RECEIVED:	12/13/82	JA: OK

FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-JOHN L BROWN				RECEIVED:	12/13/82	JA: OK			
8313590	19104	3514723499		102-2		VINSON #1	VINSON FARM	73.0	MARION CORP
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/13/82	JA: OK			
8313656	17029	3504700000		108-ER		GOLDTRAP #1-8	E SPRING VALLEY	34.0	GRACE PETROLEUM C
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/16/82	JA: OK			
8313697	18290	3515121240		103		BOSWELL #1	N W AVARD	250.0	PANHANDLE EASTERN
-KEITH F WALKER				RECEIVED:	12/13/82	JA: OK			
8313615	18159	3504971105		103		JO SUE EVANS #1	MCCARTY	10.9	WARREN PETROLEUM
8313653	17696	3501972590		103		MCCRORY-WOERZ #1		71.0	MOBIL OIL CORPORA
-KETAL OIL PRODUCING CO				RECEIVED:	12/17/82	JA: OK			
8313721	18208	3504723021		103		CAUDLE #1	SOUTH HAYWARD	40.5	EASON OIL CO
8313766	18209	3504723039		103		KNOPPEL #1	SOUTH HAYWARD	36.5	EASON OIL CO
-L G WILLIAMS OIL COMPANY INC				RECEIVED:	12/13/82	JA: OK			
8313644	18167	3503920474		103		POTTER NO 1-9	CRANE	1.0	
-LANDERS & MUSGROVE				RECEIVED:	12/17/82	JA: OK			
8313768	18412	3507100000		103		ANDREWS #1	UNNAMED	25.0	CITIES SERVICE CO
-LEEDE OIL & GAS INC				RECEIVED:	12/13/82	JA: OK			
8313592	18200	3508720713		103		FALLON NO 1		100.0	TRANSOK PIPE LINE
-LEEMAN ENERGY CORP				RECEIVED:	12/16/82	JA: OK			
8313690	18329	3504921825		103		FOGELSON #1	NE ANTIOCH	36.0	WARREN PETROLEUM
-LONG ROYALTY CO				RECEIVED:	12/13/82	JA: OK			
8313654	17515	3503128947		103		ROBERT TALIAFERRO #1-5	NELLIE N FIELD	0.0	ARKLA GAS
-LUBELL OIL CO				RECEIVED:	12/16/82	JA: OK			
8313694	18253	3506321581		103		ANTHONE #1-24	YEAGER	180.0	OKLAHOMA NATURAL
-LUBELL OIL CO				RECEIVED:	12/17/82	JA: OK			
8313750	18252	3506321608		103		BLACKBURN #1-26	YEAGER	150.0	OKLAHOMA NATURAL
-MACK OIL CO				RECEIVED:	12/17/82	JA: OK			
8313795	18320	3505320902		103		HENDERSON #1	NORTHEAST MILLSDALE	26.0	
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	12/13/82	JA: OK			
8313641	18154	3515121210		103		FEDERAL #1		257.0	MAGIC CIRCLE GAS
8313640	18153	3515121220		103		NELSEY #1	S E WAYNOKA	175.0	MAGIC CIRCLE GAS
8313617	18155	3508321883		103		SAM #1	WEST CRESCENT	36.5	CONOCO
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	12/17/82	JA: OK			
8313810	18421	3500320547		103		DAVIS #1	WEST CARMEN	135.0	MAGIC CIRCLE GAS
-MAJOR OIL CORP				RECEIVED:	12/17/82	JA: OK			
8313744	17534	3509322335		103		BURPO 2-7	RINGWOOD	75.0	PIONEER GAS PRODU
-MAY PETROLEUM INC				RECEIVED:	12/13/82	JA: OK			
8313655	17238	3510321653		103		VANN "C" #1 (103-73600)		365.0	
-MEWBOURNE OIL COMPANY				RECEIVED:	12/13/82	JA: OK			
8313583	18261	3508722279		103		HENRY "35" NO 1	COMO S E (TONKAWA)	4.0	PHILLIPS PETROLEU
-MGF OIL CORP				RECEIVED:	12/13/82	JA: OK			
8313598	18578	3505121228		102-4		METHVIN 1-12	SOUTH NORGE	401.0	ARKANSAS LOUISIAN
-MIDCO DRILLING INC				RECEIVED:	12/16/82	JA: OK			
8313712	18203	3500722187		103		EXLINE #1	MOCANE-LAVERNE	9.0	EL PASO NATURAL G
-MONSANTO COMPANY				RECEIVED:	12/17/82	JA: OK			
8313729	18178	3504321440		103		FOX #5	S E TALOGA	25.0	MOBIL OIL CORP
8313728	18179	3504321441		103		FOX #6	S E TALOGA	25.0	MOBIL OIL CORP
-MULTISTATE OIL PROPERTIES NV				RECEIVED:	12/13/82	JA: OK			
8313604	18109	3500720936		108		BECKER #1	LIBERAL SE	5.0	MICHIGAN WISCONSI
-NATIONAL OIL COMPANY				RECEIVED:	12/17/82	JA: OK			
8313747	15584	3502720566		103		BOSWELL #1 02771881	NW NORMAN	0.2	SUN GAS CO
-NORTEX GAS & OIL CO				RECEIVED:	12/17/82	JA: OK			
8313790	18651	3505920691		102-4		CRAWFORD 32 #1	MOCANE - LAVERNE	198.0	INTERNORTH INC

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313791	22152	3505121144		107-DP		DAVIS 7 #1		0.0	EL PASO NATURAL G
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	12/13/82	JA: OK			
8313628	18008	3509322512		103		KNOPF 1-A	NW OKEENE	200.0	CITIES SERVICE CO
-NU-HOPE OIL CO				RECEIVED:	12/13/82	JA: OK			
8313650	17762	3503700000		108		PUCKETT -SELLERS #4	EAST DRUMRIGHT	1.4	ARCO OIL & GAS CO
8313651	17761	3503700000		108		PUCKETT-SELLERS #3	EAST DRUMRIGHT	0.7	ARCO OIL & GAS CO
-NU-HOPE OIL CO				RECEIVED:	12/17/82	JA: OK			
8313751	17760	3503700000		108		PUCKETT-SELLERS WELL #1	EAST DRUMRIGHT	1.5	ARCO OIL & GAS CO
-OIL LIFT INC				RECEIVED:	12/13/82	JA: OK			
8313650	16851	3510500000		108-ER		SMITH #1-16		0.0	PELICAN PIPELINE
8313657	16852	3510500000		108-ER		TITUS #1		0.0	PELICAN PIPELINE
-PELTO OIL CO				RECEIVED:	12/17/82	JA: OK			
8313689	18410	3510721146		103		COLLINS #1	IRON POST	300.0	KERR-MCGEE CORP
-PENNACO RESOURCES CORP				RECEIVED:	12/13/82	JA: OK			
8313622	18082	3508371965		103		ELLISON #16-2		0.0	EASON OIL COMPANY
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	12/13/82	JA: OK			
8313636	18143	3512120573		103		LOGAN #1-9	WEST CROWDER - NW REA	100.0	ARKLA GAS COMPANY
8313635	18142	3512100000		103		WALKER #1-2	NORTHWEST REAMS - NW	100.0	ARKLA GAS COMPANY
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/13/82	JA: OK			
8313577	18157	3513900000		108		IRENE #1	GUYMON HUGOTON	0.0	MICHIGAN WISCONSI
8313606	18068	3504721052		108		STEPHENSON A #1	SOONER TREND	8.1	TRANSOK PIPELINE
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/16/82	JA: OK			
8313691	18237	3501722313		103		HUFNAGEL "D" #1	WEST OKARCHE	0.5	
-PIONEER PRODUCTION CORPORATION				RECEIVED:	12/13/82	JA: OK			
8313614	21233	3512920857		107-DP		PARR #1-36	UPPER MORROW	0.0	
-PLAINS RESOURCES INC				RECEIVED:	12/17/82	JA: OK			
8313788	18373	3504722991		103		KNOPFEL #1	HAYWARD	0.0	ARCO OIL & GAS CO
-PRODUCERS 88 OIL CORP				RECEIVED:	12/17/82	JA: OK			
8313792	18315	3510721218		103		MASSEY #1	LAST CHANCE	180.0	OKLAHOMA GAS & EL
-PROEX ENERGY CORP				RECEIVED:	12/13/82	JA: OK			
8313638	18146	3507323299		103		GARMS-MCCLELLAND #1		35.0	PHILLIPS PETROLEU
-PYRO ENERGY CORP				RECEIVED:	12/13/82	JA: OK			
8313616	18156	3509322470		103		F J EDWARDS 31-2	WEST CHEYENNE VALLEY	0.0	TENNESSEE GAS PIP
-QUAD OPERATING COMPANY				RECEIVED:	12/13/82	JA: OK			
8313601	18131	3511100000		108		BOHNEFELD #1	MOUNDS	0.0	PHILLIPS PETROLEU
8313602	18118	3511100000		108		BROWN #3	MOUNDS	15.0	PHILLIPS PETROLEU
8313607	18051	3511100000		108		CARL LEE #1	MOUNDS	9.0	PHILLIPS PETROLEU
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	12/17/82	JA: OK			
8313754	18324	3501722100		103		BRENDA #1	WEST PIEDMONT	100.0	PHILLIPS PETROLEU
-RAMBLER OIL CO				RECEIVED:	12/17/82	JA: OK			
8313738	17990	3504900000		103		GORDEN #1-21		0.0	
8313736	18000	3504900000		103		HINTON #1-2	BASAL OIL CREEK	0.0	WARREN PETROLEUM
8313737	17998	3504921897		103		LEDGERWOOD #1-7	GOLDENTREND	0.0	
-RICK BUCK OIL & GAS INVESTMENTS				RECEIVED:	12/16/82	JA: OK			
8313689	18219	3504722870		103		GABE #1-26	SOONER TREND	0.0	UNION TEXAS PETRO
-RICK BUCK OIL & GAS INVESTMENTS				RECEIVED:	12/17/82	JA: OK			
8313807	18400	3507323475		103		MUEGGENBORG #1-29	SOONER TREND	0.0	PHILLIPS PETROLEU
8313806	18399	3507323476		103		PAUL #1-32	SOONER TREND	0.0	PHILLIPS PETROLEU
8313759	18398	3504722650		103		RANDY #1-25	SOONER TREND	0.0	UNION TEXAS PETRO
-RICKS EXPLORATION CO				RECEIVED:	12/13/82	JA: OK			
8313645	18086	3501521200		103		MARY LOU #2	S W BINGER	95.0	PIONEER GAS PRODU
8313618	18085	3501521927		103		WILLIAMS #1	WILDCAT	42.0	PIONEER GAS PRODU
-RICKS EXPLORATION CO				RECEIVED:	12/17/82	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313805	18390	3502720559		103		WARD 31B	N W NORMAN	20.0	SUN EXPLORATION &
8313804	18389	3502720669		103		WARD 31D	N W NORMAN	157.0	SUN EXPLORATION &
-ROBINSON BROS DRILLING CO INC				RECEIVED:	12/16/82	JA: OK			
8313711	22145	3501521458		107-DP		STEVENS #18-1	NORTH OAKLEY	1825.0	
-RODMAN PETROLEUM CORP				RECEIVED:	12/16/82	JA: OK			
8313692	18247	3508321808		103		ROY 27-1	MERIDIAN	183.0	CITIES SERVICE GA
-ROLLYSON CORP				RECEIVED:	12/17/82	JA: OK			
8313757	18274	3504921909		103		T S HOLLOWAY #1	MAYSVILLE	76.0	WARREN PETROLEUM
-SAMEDAN OIL CORPORATION				RECEIVED:	12/13/82	JA: OK			
8313643	18165	3515321237		103		BARANSY #2	NO NAME	700.0	NATURAL GAS PIPEL
8313649	17827	3501722132		103		LEMKE NO 1	NO NAME	150.0	PHILLIPS PETROLEU
-SAMSON RESOURCES COMPANY				RECEIVED:	12/13/82	JA: OK			
8313600	21935	3512520748		107-DP		ROWEN NO 1	SOUTH REYDON	146.0	EL PASO NATURAL G
-SEIGEL PETROLEUM CO				RECEIVED:	12/17/82	JA: OK			
8313732	18201	3511921663		103		ALVIN #1	MARKHAM	254.0	PARKS ENERGY CO
-SENECA OIL COMPANY				RECEIVED:	12/13/82	JA: OK			
8313584	18273	3509322465		103		WOODSON #1-18		156.0	PIONEER GAS PRODU
-SENECA OIL COMPANY				RECEIVED:	12/17/82	JA: OK			
8313769	17133	3501722248		102-A	103	PRUITT #1-27		21.9	PHILLIPS PETROLEU
-SHAR-ALAN OIL CO				RECEIVED:	12/16/82	JA: OK			
8313695	18259	3509322542		103		ROBERT HODGDEN #2	RINGWOOD	0.0	PANHANDLE EASTERN
-SIERRA DRILLING & EXPLORATION INC				RECEIVED:	12/16/82	JA: OK			
8313701	18310	3507122522		103		BILL ECKERT #1		0.0	CHASE GATHERING S
8313699	18308	3507122443		103		CHERI MICKEY #1		0.0	CHASE GATHERING S
8313704	18313	3507122514		103		DOUG MICKEY #1		0.0	CHASE GATHERING S
8313702	18311	3507122472		103		GENEIVE ECKERT #1		0.0	CHASE GATHERING S
8313703	18312	3507122444		103		JOANNE SPRAGUE #1		0.0	CHASE GATHERING S
8313700	18309	3507122548		103		MARGARET ECKERT #1		0.0	CHASE GATHERING S
8313705	18314	3507122481		103		WADE MICKEY #1		0.0	CHASE GATHERING S
-SIMCOE OIL CO				RECEIVED:	12/17/82	JA: OK			
8313735	18015	3507323610		103		KITTY #1	SOONER TREND	30.0	EASON OIL CO
-SITCO INC				RECEIVED:	12/17/82	JA: OK			
8313883	18387	3508321381		103		MIKE #1		35.0	EASON OIL CO
8313882	18386	3508321945		103		PFRIMMER #1	CRESCENT	60.0	EASON OIL CO
-SOONER PIPE & SUPPLY CORPORATION				RECEIVED:	12/13/82	JA: OK			
8313652	17756	3503700000		108		CATLETT #1	EAST DRUMRIGHT	3.6	ARCO OIL & GAS CO
-STEVE JERNIGAN INC				RECEIVED:	12/17/82	JA: OK			
8313761	18325	3508720748		103		BURKES #1	GOLDEN TREND	0.0	WARREN PETROLEUM
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/17/82	JA: OK			
8313785	18359	3508720379		103		E CRINER BROMIDE SAND UNIT 4-3	EAST CRINER	110.0	OKLAHOMA GAS & EL
8313733	18194	3510900000		108		INLAND-HARN #2	OKLAHOMA CITY	12.0	PHILLIPS PETROLEU
8313786	18360	3505320699		103		S W WAKITA #9-4	CHEROKEE	29.0	CITIES SERVICE GA
-TENNECO OIL COMPANY				RECEIVED:	12/16/82	JA: OK			
8313693	18249	3507323596		103		GALES #1-30	E CHEYENNE	59.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	12/17/82	JA: OK			
8313781	18340	3502920303		103		HOCKETT #1-3	WILDCAT	65.0	
8313782	18341	3509322448		103		JORDAN #1-25	CHEYENNE VALLEY	220.0	MICHIGAN-WISCONSI
-TEXACO INC				RECEIVED:	12/17/82	JA: OK			
8313727	18188	3513921623		103		C N TREECE #2	S W RICE POOL	763.0	TRANSWESTERN PIPE
-TEXAS AMERICAN OIL CORP				RECEIVED:	12/13/82	JA: OK			
8313665	18123	3507322360		103		FRANK HLADIK #1	SOONER TREND	47.5	PANHANDLE EASTERN
8313632	18127	3504722345		103		J C NELSON #1	SOONER TREND	83.6	PANHANDLE EASTERN
8313631	18126	3504722107		103		J M MCGEE #1	SOONER TREND	113.5	PANHANDLE EASTERN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8313664	18122	3510320798		103		JON L WEBB #1
8313630	18125	3504721596		103		LEON WALTERS #1
8313666	18124	3504721706		103		MYRTLE WALTERS #1
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	12/17/82	JA: OK
8313719	18267	3509322418		103		JOHN F EDWARDS #1
-TRIGG DRILLING COMPANY INC				RECEIVED:	12/13/82	JA: OK
8313642	18168	3500920405		103		HEFLEY #1
8313595	18308	3515121252		103		MAY NO 1
-TRISUN ENERGY CORP				RECEIVED:	12/13/82	JA: OK
8313620	18091	3514321358		103		FRANK M SCAGGS #1
-TXO PRODUCTION CORP				RECEIVED:	12/17/82	JA: OK
8313794	18316	3508500000		103		RAINES "A" #1
-UNION OIL COMPANY OF CALIF				RECEIVED:	12/13/82	JA: OK
8313591	18279	3509520299		103		STATE #1-7
-UNION TEXAS PETROLEUM				RECEIVED:	12/16/82	JA: OK
8313707	18318	3509322531		103		I MOODY #2
8313708	18319	3509322529		103		L C NEWMAN #2
8313706	18317	3509322447		103		R H NASH #2
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	12/13/82	JA: OK
8313609	17568	3509322011		103		L K 1-23
8313663	18119	3501722257		103		RUNES 1-19
-VIERSEN & COCHRAN				RECEIVED:	12/16/82	JA: OK
8313710	18605	3512920683		102-2		HOLLINGSWORTH #1-35
-W R EARNHARDT				RECEIVED:	12/13/82	JA: OK
8313588	18377	3503700000		108		SALMON NO 1
-WALKER CORP				RECEIVED:	12/13/82	JA: OK
8313594	18283	3501722256		103		MAY WHITE #36-1
-WARREN DRILLING CO INC				RECEIVED:	12/17/82	JA: OK
8313726	18181	3509300000		103		ENEMINGER #2
-WESSELY ENERGY CORPORATION				RECEIVED:	12/17/82	JA: OK
8313801	18385	3504521055		103		STATE MILLER #1-8
-WESTERN OIL RESOURCES LTD				RECEIVED:	12/13/82	JA: OK
8313619	18092	3511721013		103		NEJ 1-14
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	12/13/82	JA: OK
8313648	17851	3510920549		102-4	103	ADAIR #1-6
-WOODS PETROLEUM CORPORATION				RECEIVED:	12/17/82	JA: OK
8313789	18615	3512920783		102-2		PETERSON #10-1

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WEST VIRGINIA DEPARTMENT OF MINES

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-BOW VALLEY PETROLEUM INC			RECEIVED:	12/13/82	JA: WV
8313551	4710500942	103		C N WELCH #965	
8313559	4710500942	107-DV		C N WELCH #965	
8313549	4703902772	103		CREWS #760	
8313548	4703902775	103		LILLY #761	
8313550	4710500945	103		WELCH #968	
8313558	4710500945	107-DV		WELCH #968	
-CABOT OIL & GAS CORP			RECEIVED:	12/13/82	JA: WV
8313532	4703900085	108-ER		HUNTINGTON 37-55A	
8313546	4700501340	103		LITTLE COAL LAND C-12	
8313567	4700501340	107-DV		LITTLE COAL LAND C-12	
8313547	4700501339	103		LITTLE COAL LAND C-6	
8313565	4700501339	107-DV		LITTLE COAL LAND C-6	

FIELD NAME	PROD	PURCHASER
BILLINGS EAST	96.7	ARCO OIL & GAS CO
SOONER TREND	39.4	UNION TEXAS PETRO
SOONER TREND	98.5	UNION TEXAS PETRO
SOONER TREND	8.2	PHILLIPS PETROLEU
SW ELK CITY	456.0	EL PASO NATURAL G
	145.0	
SPENCER	81.0	PHILLIPS PETROLEU
THACKERVILLE	16.0	UNION TEXAS PETRO
CUMBERLAND	70.0	LONE STAR GAS CON
HODGE AREA	584.0	PANHANDLE EASTERN
HODGE AREA	146.0	PANHANDLE EASTERN
HODGE AREA	219.0	PANHANDLE EASTERN
	0.0	DELHI GAS PIPELIN
	0.0	DELHI GAS PIPELIN
NW HAMMOND	200.0	
SW SW NW SEC 29-15N-8	5.7	KERR-MCGEE CORPOR
YUKON	262.0	CONOCO INC
RINGWOOD	77.0	PHILLIPS PETROLEU
S HARMON	725.0	PRODUCERS GAS CO
NORTHEAST JENNINGS	16.6	MID-AMERICA GAS L
EDMOND	10.0	PHILLIPS PETROLEU
S W LEEDEY	1095.0	DELHI GAS PIPELIN
CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
CLAY DISTRICT	0.0	COLUMBIA GAS TRAN
UNION DISTRICT	0.0	COLUMBIA GAS OF W
UNION DISTRICT	0.0	COLUMBIA GAS OF W
BURNING SPRINGS DIST	0.0	COLUMBIA GAS TRAN
BURNING SPRINGS DIST	0.0	COLUMBIA GAS TRAN
CABIN CREEK	30.4	TENNESSEE GAS PIP
WASHINGTON	20.0	TENNESSEE GAS PIP
WASHINGTON	20.0	TENNESSEE GAS PIP
WASHINGTON	33.0	TENNESSEE GAS PIP
WASHINGTON	33.0	TENNESSEE GAS PIP

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME

FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313544		4700501350		103		LITTLE COAL LAND C-8	WASHINGTON	50.0	TENNESSEE GAS PIP
8313566		4700501358		107-DV		LITTLE COAL LAND C-8	WASHINGTON	50.0	TENNESSEE GAS PIP
8313545		4700501341		103		LITTLE COAL LAND C-9	WASHINGTON	35.0	TENNESSEE GAS PIP
8313543		4708100555		103		WESTMORELAND COAL CO E-2	TOWN	16.0	TENNESSEE GAS PIP
-CARSON PETROLEUM CORP				RECEIVED:	12/13/82	JA: WV			
8313568		4701702370		108		DROPPLEMAN #I-624 (#1)	ST CLAIR	21.0	CONSOLIDATED GAS
-CHESTERFIELD CORP				RECEIVED:	12/13/82	JA: WV			
8313553		4709702363		103		BAILEY #2		0.0	COLUMBIA GAS CORP
8313552		4709702394		103		HANIFAN #3		0.0	COLUMBIA GAS CORP
8313554		4709702343		103		LAW HINKLE #1		0.0	COLUMBIA GAS CORP
8313555		4709702397		103		SANDRIDGE #2		0.0	PETRO LEWIS
-DORAN & ASSOCIATES INC				RECEIVED:	12/13/82	JA: WV			
8313541		4703301156		108		ERNEST DUNCAN #2 KE-1	TEN MILE DISTRICT	20.0	CONSOLIDATED GAS
8313572		4703301930		108		INEZ ROBINSON KE-6	EAGLE DISTRICT	20.0	CONSOLIDATED GAS
8313542		4703301056		108		J STROTHER #3 KH-5	COAL DISTRICT	20.0	CONSOLIDATED GAS
8313540		4703301211		108		J STROTHER #4 KH-10	TEN MILE DISTRICT	20.0	CONSOLIDATED GAS
8313539		4703301928		108		JOHN DOLAN #3 KE-8	CLARK DISTRICT	20.0	CONSOLIDATED GAS
8313538		4703301929		108		JOHN DOLAN #4 KE-9	CLARK DISTRICT	20.0	CONSOLIDATED GAS
-HAUGHT INC				RECEIVED:	12/13/82	JA: WV			
8313537		4708505440		103		STANLEY H-1302	GRANT DISTRICT	20.0	CONSOLIDATED GAS
-J C BAKER & SONS INC				RECEIVED:	12/13/82	JA: WV			
8313536		4700701570		108		HARRY DYOR #1	SALT LICK DIST	18.0	CONSOLIDATED GAS
-KEITH CRIMFIELD				RECEIVED:	12/13/82	JA: WV			
8313559		4701300421		108		JOE CONLEY #1	CHLOE	5.0	CONSOLIDATED GAS
8313560		4701300493		108		JOE CONLEY #2	CHLOE	5.0	CONSOLIDATED GAS
8313571		4700700107		108		P S GERWIG #4	CHAPEL	12.0	CONSOLIDATED GAS
8313570		4700700229		108		P S GERWIG #7	CHAPEL	12.0	CONSOLIDATED GAS
-M & S PETROLEUM INC				RECEIVED:	12/13/82	JA: WV			
8313535		4700101105		108		TURNER #1	VALLEY	7.3	PARTNERSHIP PROPE
8313534		4700101072		108		WILLIAMS #1	VALLEY	10.8	PARTNERSHIP PROPE
-ROSS-WHARTON GAS CO				RECEIVED:	12/13/82	JA: WV			
8313564		4704103128		107-DV		BLAIR COTTRILL HEIRS NO 1	WESTON-JANE LEW	30.0	
8313562		4708300518		107-DV		BRENNAN HEIRS NO 2	ELLAMORE	50.0	COLUMBIA GAS TRAN
8313557		4700101410		103		ISAAC WARD #J-326	ELK CREEK	50.0	CONSOLIDATED GAS
8313556		4708300492		103		ROSS NO 2	ELLAMORE	30.0	COLUMBIA GAS TRAN
8313563		4708300492		107-DV		ROSS NO 2	ELLAMORE	30.0	COLUMBIA GAS TRAN
-TRIPPITT OIL & GAS				RECEIVED:	12/13/82	JA: WV			
8313561		4701303413		103		B B SHIMER #4	YELLOW CREEK	12.0	ROARING FORK GAS
-WARREN R HAUGHT AGENT				RECEIVED:	12/13/82	JA: WV			
8313533		4707301270		107-DV		PEN CUNNINGHAM H-1208	MCKIM DISTRICT	22.0	COLUMBIA GAS TRAN

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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO

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-CHANDLER & ASSOCIATES INC				RECEIVED:	12/17/82	JA: CO 1			
8313817	CD 0495-82	0510308930		103		107-TF FORK UNIT 12-11-1-2	DOUGLAS CREEK NORTH	100.0	NORTHWEST PIPELIN
8313813	CD 0491-82	0510308912		103		107-TF FORK UNIT 12-22-1-2	DOUGLAS CREEK NORTH	180.0	NORTHWEST PIPELIN
8313816	CD-494-82	0510308887		103		107-TF FORK UNIT 16-5-2-1	DRAGON TRAIL	105.0	NORTHWEST PIPELIN
8313812	CD 0496-82	0510306924		103		107-TF FORK UNIT 3-15-1-2	DOUGLAS CREEK NORTH	100.0	NORTHWEST PIPELIN
8313814	CD 0492-82	0510308922		103		107-TF FORK UNIT 4-14-1-2	DOUGLAS CREEK NORTH	73.0	NORTHWEST PIPELIN
8313815	CD 0493-82	0510308898		103		107-TF FORK UNIT 8-13-1-2	DOUGLAS CREEK NORTH	190.0	NORTHWEST PIPELIN
-EXXON CORPORATION				RECEIVED:	12/17/82	JA: CO 1			
8313824	CD-324-CE	0507708411		103		107-TF ROGERS FEDERAL #1	PLATEAU	102.0	NORTHWEST PIPELIN
-FUEL RESOURCES DEVELOPMENT CO				RECEIVED:	12/17/82	JA: CO 1			

VOLUME 81C PAGE 010

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8313822	CD-484-82	0510308799		102-2	107-TF	A-21-3-101-S	CATHEDRAL	4.8	MOUNTAIN FUEL SUP
8313823	CD-483-82	0510308801		103	107-TF	D-13-3-101-S	CATHEDRAL	19.2	NORTHWEST PIPELIN
-NORTHWEST EXPLORATION COMPANY				RECEIVED: 12/17/82		JA: CO 1			
8313826	CD-346-82	0510308066		108		PHILADELPHIA CRFEK #18	PHILADELPHIA CREEK MA	0.8	NORTHWEST PIPELIN
-CHEVRON U S A INC				RECEIVED: 12/17/82		JA: UT 1			
8313820	UD 0501-82	4304731081		103		RWU #271	RED WASH	0.0	NORTHWEST PIPELIN
8313821	UD 0498-82	4304731053		103		RWU #276	RED WASH	71.9	NORTHWEST PIPELIN
8313818	UD 0499-82	4304731076		103		RWU #278	RED WASH	4.4	NORTHWEST PIPELIN
8313819	UD 0500-82	4304731080		103		RWU #282	RED WASH	5.8	NORTHWEST PIPELIN
-COASTAL OIL & GAS CORP				RECEIVED: 12/17/82		JA: UT 1			
8313829	UD-481-82	4304731097		103	107-TF	NBU 63N3 (12-9-21)	NATURAL BUTTES	173.0	COLORADO INTERSTA
-COTTON PETROLEUM CORPORATION				RECEIVED: 12/17/82		JA: UT 1			
8313828	UD-433-82	4304731179		103	107-TF	BARTON FEDERAL #1-26	NATURAL BUTTES	0.0	UNITED GAS PIPELI
-EXXON CORPORATION				RECEIVED: 12/17/82		JA: UT 1			
8313825	UD-380-82	4304730937		103		UTE #1-29 A1E	BLUEBELL	60.0	GARY ENERGY CORP
-NP ENERGY CORPORATION				RECEIVED: 12/17/82		JA: UT 1			
8313827	UD-350-82	4301930878		102-4		FEDERAL 14-4	CISCO DOME	182.5	NORTHWEST PIPELIN

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Categories within each MGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–CB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PK: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1477 Filed 1–18–83; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of November 22 Through November 26, 1982

During the week of November 22 through November 26, 1982 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Edward T. Cotham, Jr., 11/22/82, HFA–0093

Edward T. Cotham, Jr. filed an Appeal from a partial denial by the ERA's Office of Fuels Program of a Request for Information which he had submitted under the Freedom of Information Act (FOIA). The Director of the Office of Fuels Programs had determined that a particular intra-agency memorandum was predecisional, part of the deliberative decisionmaking process of the agency, and should be withheld under Exemption 5. In considering the Appeal, the DOE found that the Director properly withheld the document under Exemption 5.

An important issue considered in the Decision and Order was the applicability of a subject matter waiver—recognized by some courts in discovery proceedings—to the withholding of intra-agency memoranda pursuant to Exemption 5 of the FOIA. The DOE determined that the concept of subject matter waiver was not applicable to FOIA proceedings and, accordingly, found that the voluntary release to Appellant of documents containing the same subject matter of the withheld document will not require release of the withheld document.

Petition for Special Redress

Crystal Oil Company, 11/24/82, BEG–0042

Crystal Oil Company filed a Petition for Special Redress in which it alleged a violation by Shell Oil Company of its obligation under 10 CFR 211.63 to supply Crystal with sufficient quantities of crude oil during the period March through November 1979. Crystal had previously filed a complaint with the Office of Special Counsel under Subpart N of the procedural regulations, which that office had declined to pursue. Since the decontrol of crude oil precluded issuance of a supply order, Crystal requested that compensatory adjustments be ordered through the Entitlements Program. In considering the Petition, the DOE determined that, in substance, Crystal was requesting that the Office of Hearings and Appeals order the enforcement arm of the agency to initiate a prosecution, a function which judicial bodies have traditionally been reluctant to assume. Finding that Crystal had been provided with a reasonable and tenable explanation for the agency's decision not to initiate an enforcement action, the DOE concluded that further administrative action was not warranted. Accordingly, Crystal's Petition for Special Redress was denied.

Request for Exception

Edgington Oil Co., Inc. 11/24/82, BEE–1556, BEX–0230

Edgington Oil Co., Inc. (Edgington) filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought entitlements benefits for crude oil purchased to increase permanent inventory to support the firm's expanded refinery capacity. In considering the request, the DOE found that the firm had failed to increase its crude oil inventory. The DOE further found that even if the firm had increased its inventory, the firm had failed to utilize its increased refinery capacity. Finally, the DOE considered the firm's contention that it was entitled to exception relief on an independent equitable ground, *i.e.*, that its expansion resulted in a restructured slate of products that furthers national energy objectives. The DOE found that any environmental benefit that might result from the firm's expansion would not of itself form the basis for the approval of inventory adjustment exception relief. Accordingly, the firm's request for exception relief was denied.

Motion for Discovery

Texaco, Inc., 11/23/82, HRD–0077

Texaco, Inc. filed a motion for Second Wave Discovery in connection with its objections to a Proposed Remedial Order which the Office of Special Counsel (OSC) issued to the firm on May 1, 1979. At a hearing on November 18, 1982, the DOE issued rulings on the Motion. On November 23, 1982, the DOE issued a written order confirming the rulings made at the hearing. The order authorizes the firm to depose an OSC audit team leader in the Texaco audit, concerning specified areas of inquiry.

Interlocutory Order

Gulf Energy & Development Corp., 11/22/82, HRZ–0068

Gulf Energy & Development Corporation filed a "Motion to Dismiss, or, Alternatively, Motion to Rescue and Grant Discovery Regarding Improper Communications" with the Office of Hearings and Appeals. That motion concerned certain improper communications between a former OHA case analyst and DOE enforcement personnel, concerning the merits of a proposed remedial order pending against the firm. The OHA had disclosed the communications to the firm and to the Economic Regulatory Administration shortly after discovering their existence.

In considering the Motion, the DOE noted, *inter alia*, that the individuals involved in the communications had already left the agency, and that those individuals had not passed on the effects of the communications to the OHA personnel currently handling the case. Based on this, the DOE found that the firm had not been prejudiced by the communications. Accordingly, the Motion to Dismiss the PRO was denied. The DOE found that the discovery sought by the firm was unnecessary. With regard to the firm's request for recusal, the DOE agreed with the firm that the individuals involved in the improper communications should be recused from the case. The DOE further found, however, that since those individuals had already left the agency, no further action was necessary with respect to those individuals. Finally, the DOE found that the firm would not be harmed by the continued participation in the case of individuals who had merely examined evidence of the improper communications. Accordingly, the firm's alternative requests for discovery and recusal were also denied.

Refund Application

Vickers Energy Corp./Koch Industries, Inc., 11/25/82, RF1–132

Koch Industries, Inc. (Koch) filed an Application for Refund pursuant to a Decision and Order issued on July 17, 1981 in *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). In its Application, Koch sought a portion of a fund obtained by the DOE through a consent order entered into by the DOE and the Vickers Energy Corporation on May 11, 1979.

In considering its request, the DOE found that Koch had purchased motor gasoline from Vickers at prices below the average market prices for that product and was therefore not injured by the alleged overcharges. Accordingly, the Application for Refund filed by Koch was denied.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

LeClair Operating Company, HRO–0070
Standard Oil Co. (OH), DRO–0197, HRZ–0074, HRZ–0083, HRK–0060.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: January 10, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-1418 Filed 1-18-83; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Order; Week of December 27 through December 31, 1982

During the week of December 27 through December 31, 1982, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order on final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of the decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: January 10, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Basin, Inc., Midland, Texas; BEE-1670, Crude Oil

On July 1, 1981, Basin, Inc. filed an Application for Exception from the provisions of 10 CFR 212.131(b)(2). The exception request, if granted, would permit Basin to recertify certain crude oil sold to Cities Service Company during the period January through December 1979. On December 29, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 83-1417 Filed 1-18-83; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs

Grand Portage Indian Reservation; Proclaiming Certain Lands as Part of the Grand Portage Indian Reservation; "Correction"

In FR Doc. 82–14782, appearing on page 23813, in the issue for Tuesday, June 1, 1982, the land description is hereby corrected by deleting "R. 63" on the first line of the fifth paragraph and inserting in lieu thereof "T. 64".

Dated: December 14, 1982.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 83-1409 Filed 1-18-83; 8:45 am]
BILLING CODE 4310-02-M

DEPARTMENT OF ENERGY
Federal Energy Regulatory Commission

Issuance of Proposed Decisions and Orders by the Office of Hearings and Appeals; Week of December 20 Through December 24, 1982

During the week of December 20 through December 24, 1982, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 12, 1983.

Brassfield's Oil Company, Nampa, Idaho; HEE–0011, Reporting Requirement

Brassfield's Oil Company, Inc. (Brassfield's) filed an Application for Exception from the provisions of the EIA Filing Requirements. The exception request, if granted, would permit Brassfield's to be relieved of the obligation to file Forms EIA–172 and EIA–9A. On December 20, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Gulf States Oil Refining Company, Corpus Christi, Texas; HEE–0008, HEN–0008

On January 25, 1982, Gulf States Oil and Refining Co. filed both an Application for Exception from the provisions of 10 CFR 211.69 and a Motion for Interim Order. The exception request, if granted, would permit Gulf States to file amended ERA–49 forms with the Economic Regulatory Administration for a period prior to the October 1, 1980 cut-off date specified in § 211.69. The Motion request, if granted, would have implemented exception relief immediately upon the issuance of the Proposed Decision and Order. On December 21, 1982, the Department of Energy issued a Proposed Decision and Order

which determined that the exception request be denied, and the Motion for Interim Order be dismissed.

[FR Doc. 83-1466 Filed 1-18-83; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

International Atomic Energy Agreements; Proposed Subsequent Arrangement; International Atomic Energy Agency

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for supply of the following material:

Contract Number WC-IA-129, to the IAEA Safeguards Analytical Laboratory, Vienna, Austria, 4 grams of plutonium oxide, for use in the evaluation of analytical capability.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 14, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-1469 Filed 1-18-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Control Techniques Guidelines; Density Adjustment for Dibasic Ester Coating Solvent

[AD-FRL-2287-3]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: E. I. du Pont de Nemours and Company (Du Pont) has petitioned that the EPA allow States to permit a density adjustment for dibasic ester (DBE) coating solvent when determining compliance with State regulations for volatile organic compound (VOC) emissions from surface coating operations. On June 18, 1982, the EPA published a notice in the Federal Register (47 FR 26452) which stated that the Agency would approve Du Pont's petition unless comments giving sufficient reasons to deny it were received. Based upon the comments submitted, the EPA is denying Du Pont's petition.

ADDRESS: Docket No. A-82-25, containing material relevant to Du Pont's petition is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. James C. Berry, Chemicals and Petroleum Branch, Emission Standards and Engineering Division (MD-13), U.S Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone number (919) 541-5605.

SUPPLEMENTARY INFORMATION: DBE coating solvent is a mixture of dimethyl adipate, dimethyl glutarate, and dimethyl succinate. Its density is about 9.0 pounds per gallon.

DBE is a relatively low-cost solvent because the raw material from which it is made, diabasic acid (DBA), is a by-product of a Du Pont manufacturing process. DBA is a mixture of adipic acid, glutaric acid, and succinic acid.

DBE is now a constituent in the solvent mixture used for some lacquer and enamel automotive topcoats, epoxy primers, polyester coil coatings, and can coatings. About 25 million pounds were so used in 1980, mostly in automotive coatings. The total amount of organic solvents used in coatings annually is about 4 billion pounds.

Du Pont believes DBE has the potential for use in any coating which contains organic solvent. This includes the higher-solids coatings which many coaters are, or soon will be, using to comply with State regulations for VOC emissions. Du Pont estimates that DBE could constitute from 10-40 percent, by weight, of such higher-solids coatings.

In spite of its low vapor pressure and cost, which Du Pont claims make DBE a very desirable solvent for higher-solids coatings, DBE has not been so used. Du Pont claims this is because State regulations, which limit the mass of VOC emitted from coating operations, have led coating formulators to seek less dense solvents.

Du Pont petitioned the EPA to provide States with the option of allowing the owners or operators of surface coating operations to make an adjustment for the relatively high density of DBE when determining compliance with State VOC emission regulations. Specifically, Du Pont requested that an assumed 7.36 pounds per gallons be used for calculations regarding the quantity of DBE in a coating rather than its actual density of 9.0 pounds per gallon.

On June 18, 1982, the EPA published a notice in the Federal Register (47 FR 26452) which stated that the Agency would approve Du Pont's petition unless comments giving sufficient reasons to deny it were received. Eleven comments were submitted in response to this notice. Four were from State air pollution control agencies (Illinois, Maryland, New Jersey and Rhode Island). Six were from manufacturers of coatings, solvents, and resins (Angus Chemical, Dow Chemical, Eastman Kodak, Glidden, Union Carbide, and the petitioner, Du Pont). One was from a consultant (Mr. John H. Daniel, Jr.).

The Comments from Illinois, Rhode Island, John Daniel, Jr., Eastman Kodak, Glidden, Dow Chemical, and Union Carbide, recommended against approving the Du Pont petition. The comments from Angus Chemical and Du Pont recommend the petition be approved. The comments from Maryland and New Jersey do not specifically state a position on the petition. A summary of the comments follows:

One State agency and three manufacturers expressed concern that EPA Reference Method 24 (particularly ASTM D-2369-81) could no longer be used to determine the VOC content of coatings which contain DBE if the petition were approved. The State agency suggested approval of the petition would create a problem of enforceability because it would render the relatively inexpensive ASTM-D-2369-81 ineffective, and force the need for a more costly and time-consuming analysis. The three manufacturers said they knew of no acceptable analytical method that could be used to determine the solvent content of a coating if the petition were approved. Two of these manufacturers added that approval of the petition would create confusion over the VOC content of coatings.

Two manufacturers commented on the discussion of the toxicity of DBE and other coating solvents in the petition. One stated that toxicity is irrelevant since the purpose of State regulations which limit VOC emissions from surface coatings is to reduce ambient ozone levels. The other took issue with the petitioner's statement that ethylene glycol monomethyl and monoethyl

ethers, two solvents for which Du Pont indicated there were some unfavorable toxicity data, are competitors with DBE in the formulation of coating solvent mixtures. This manufacturer stated that since these two solvents are more volatile than DBE, DBE is not an appropriate substitute. He suggested that ethylene glycol ethers and ether esters, which have evaporation rates comparable to that of DBE, are more likely to compete directly with DBE. The commenter knew of no data which raised any concern about the toxicity of these less volatile solvents.

Four manufacturers and the consultant commented on the possibility of similar petitions being submitted for other high-density (greater than 7.36 pounds per gallon) solvents. One manufacturer supported Du Pont's petition and named several other solvents for which he felt a similar density adjustment would be appropriate. The other three manufacturers and the consultant all suggested that approval of Du Pont's petition would lead to numerous additional requests for density adjustments. One of these manufacturers stated that EPA's use of 7.36 pounds per gallon as the average solvent density already accounts for the wide density range of coating solvents. All three of these manufacturers produce and sell solvents which would be candidates for similar waivers, yet none favored approval of the petition.

Two manufacturers and the consultant commented that there is no sound scientific foundation for approval of the petition. Another manufacturer suggested that the market place should be allowed to evaluate competitive products without interference from an artificial exemption. One State agency stated that approving DuPont's petition would result in reverse discrimination against other solvents.

Two manufacturers and three State agencies questioned the effect that approval of Du Pont's petition would have no State efforts to reduce ambient ozone levels. They asked if DBE is an ozone generator and what the effect of allowing greater mass emissions of DBE would be.

The comments on toxicity, lack of agreement on competing solvents, and possibility of similar petitions for many other solvents emphasize the competitiveness and complexity of the coating solvents market. Many different solvents and solvent mixtures can be used with the same resin system. This freedom of substitution is not unlimited in that the solvent system can affect the final appearance and performance of the dry coating. Certainly, Du Pont believes that approval of the petition would enhance the marketability of DBE. If, however, similar waivers were authorized for other high-density solvents, many of which appear to compete directly with DBE, at least part of this advantage would be lost and other factors such as solvency properties, cost and toxicity (or absence thereof) would return to preeminence as the determinants of the market demand for specific solvents. Since as DBE is formed from a by-product of another process, it likely will remain a low-cost solvent, thereby maintaining some advantage over its competition.

DBE is photochemically reactive, and when emitted to the atmosphere, contributes to the formation of ozone. Du Pont claimed in its petition that DBE forms less ozone per unit mass emitted than many other common coating solvents. This claim was based upon a theoretical reactivity scale developed by Bufalini (see "Ozone Formation Potential of Organic Compounds," *Environmental Science and Technology*, September 1976). The validity of this theoretical scale has not been proven.

The atmospheric photochemical reactions which form ozone are very complex. They depend not only on the type and quantity of VOC present, but also on meteorological conditions and the presence of other precursors. The EPA recognized these complexities and the impracticality of trying to base an ozone control program on either the rate of ozone formation or the quantity of ozone formed from each individual VOC. In its July 8, 1977, (42 FR 35314) policy statement for the control of VOC's, the EPA classified all but a few organic compounds as photochemically reactive.

Since 1977, the EPA has continued to study atmospheric photochemical reactions. These studies will continue, and, in time, may provide a better understanding of the contribution of specific organic compounds to the formation of ozone. The present state of the science, however, does not permit EPA to discriminate between the relative ozone formation potential of specific compounds other than to identify those that are of negligible photochemical reactivity.

Many different VOC's are used as coating solvents and each individual coating contains a mixture of several solvents. This wide variety of solvent mixtures adds to the impracticality of any attempt to quantify the reaction rate or total ozone potential of the solvents in an individual coating. For these reasons, both the EPA and States have chosen to restrict the total mass of photochemically reactive VOC's that can be emitted from coatings.

The June 16, 1982, **Federal Register** notice stated that EPA would approve Du Pont's petition unless comments were received giving sufficient reasons to deny it. Seven commenters recommended denying the Du Pont petition and gave several reasons for their recommendation. Because of this, the EPA is denying Du Pont's petition.

Dated: January 7, 1983.

Kathleen Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 83-1435 Filed 1-18-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing it (Space WARC Advisory Committee)

January 12, 1983.

TASK Group B-4 of Working Group B: Institutional Accommodations of New Services and Technologies.

Chairman: S. A. Levy (202) 331-2624

Date: Friday, January 28, 1983

Time: 9:30 A.M.—12 Noon

Location: Hogan & Hartson, 7th Floor, 815 Connecticut Avenue, NW., Washington, D.C. 20006

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-1461 Filed 1-18-83; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing it (Space WARC Advisory Committee); Meeting

January 14, 1983.

Meeting:

Main Committee

Friday, February 18, 1983, 9:30 A.M.—1:00 P.M., Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, D.C. 20554

Agenda:

(1) Adoption of Agenda
(2) Review of Minutes

(3) Review of Plenipotentiary Conference Results—Urbany
(4) Status of BSS Conference Preparations—E. Jacobs
(5) Working Group Status Reports
(A) Working Group A—W. Schnicke
(B) Working Group B—R. Stowe
(C) Working Group C—P. Ackerman
(6) Expected Next Steps
(7) Date of Next Meeting
(8) Other Business
(9) Adjournment

Chairman: Stephen E. Doyle (916) 355–6941.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–1471 Filed 1–18–83; 8:45 am]

BILLING CODE 6712–01–M

[CC Docket No. 83–3, File No. 26105–CL–P–(8)–82]

American Mobile Communications of Washington and Oregon et al.; Memorandum Opinion and Order Designating Applications for Hearing

Adopted January 10, 1983.
Released January 12, 1983.

In re applications of American Mobile Communications of Washington and Oregon, CC Docket No. 83–3, File No. 26105–CL–P–(8)–82; Interstate Mobilephone Co., File No. 26148–CL–P–(9)–82; Cellular Mobile Systems of Washington, Inc., File No. 26182–CL–P–(13)–82; for a Construction permit to establish a cellular system operating on frequency block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Seattle, Washington, Standard Metropolitan Statistical Area; designating applications for consolidated hearing on stated issues.

By the Common Carrier Bureau:

1. Presently before the Chief, Common Carrier Bureau, under delegated authority are: (a) the captioned applications of American Mobile Communications of Washington and Oregon (Amcom),[1] Interstate Mobilephone Company (Interstate), and Cellular Mobile Systems of Washington, Inc. (CMS), to construct cellular radio systems to serve the Seattle, Washington, Standard Metropolitan Statistical Area (SMSA); and (b) various petitions, pleadings and amendments related to the applications.[2]

2. As discussed below, we find that the petitions fail to raise any substantial and material issues requiring designation for hearing. However, the Amcom, Interstate and CMS applications are electrically mutually exclusive; accordingly, we are designating those applications for a comparative hearing in accordance with the Commission's *Report and Order* in CC Docket 79–318, 86 FCC 2d 469 (1981), *modified*, 89 FCC 2d 58 (1982), and *further modified*, 90 FCC 2d 571 (1982).

Amcom's Application

3. CMS filed a Petition to Deny Amcom's[3] application alleging that Amcom has failed to demonstrate its financial qualifications. Specifically, CMS argues that Amcom has not included various application costs (preparation, filing and hearing expenses) in its financial analysis or demonstrated sufficient funds to finance these costs. CMS acknowledges that pursuant to the Amcom joint venture agreement, one joint venturer (Ram) is solely responsible for all of the application expenses. However, CMS argues that Amcom has not demonstrated Ram's ability to finance these costs.

4. We find CMS's allegations to be without merit. We agree with Amcom that the Commission's primary concern in terms of financial qualifications is to ensure that an applicant who obtains a license has sufficient funds to construct the system and provide service to the public. Therefore, costs of preparing, filing and litigating an application are only relevant to the extent that they might deplete the resources available for construction and operation of the system. Due to the structure of Amcom's joint venture, application costs will be provided from different funds than those committed to construction and system operation. Amcom has clearly demonstrated the availability of funds in excess of $19 million for construction and first year operating expenses of $14,109,000. Therefore, it appears that excess funds will be available for application costs even if Ram is remiss in meeting its financial obligation.[4] Based on our disposition of this issue and our review of Amcom's application, we find Amcom financially qualified to be a cellular licensee.[5]

Interstate's Application

5. CMS and Amcom challenge Interstate's financial qualifications. Interstate must demonstrate the availability of $9,914,139 for its applications in two markets, Seattle, Washington, and Portland, Oregon. It is relying on (1) $1,250,000 in capital contributions from its partners[6] and (2) $8.7 million from the Seattle First National Bank or an alternative $8.7 million loan commitment from the Bank of California. Petitioners allege that Interstate has overestimated its available funds and understated its total operating costs. Specifically, they claim that three of the five partners (Skyline, Western and Pacific) cannot meet their $250,000 commitments in light of insufficient capital resources and inadequate bank letters lacking essential terms and guarantees.[7] Petitioners state further that Interstate cannot rely on either of the $8.7 million bank letters because they are contingent on conditions which have not been satisfied, *i.e.*, the partners' advancing $1,250,000 porior to construction, guarantees for the bank debt by each partner and its parent company, the partners' agreeing to contribute $500,000 additional capital for five years beginning the second year after construction commences, the execution of a security agreement and the submission of a detailed and comprehensive business plan acceptable to the bank. Petitioners also argue that Interstate has underestimated its first-

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[1] Formerly American Radio Telephone Communications of Washington and Oregon (ARTCOM).

[2] Two applications were also filed requesting the wireline allocation (frequency block B) in this SMSA. The two applications subsequently filed a settlement agreement for the SMSA. *See* Public Notice, Mimeo 1072, dated November 29, 1982. We will consider the wireline allocation in a separate order.

[3] Amcom is a joint venture of Ram Cellular Communications of Washington and Oregon, Inc. (Ram), Western Union Telegraph Co., (Western) Rapid American Corp. (Rapid) and Stellar Communications Corporation (Stellar).

[4] It is well-settled that the provision of an adequate surplus of available funds in circumstances such as these obviates the need for a hearing issue. James B. Francis, *et al.*, 41 FCC 2d 303, 310 (Rev. Bd. 1973), and Home Service Broadcasting Corporation, *et al.*, 21 FCC 2d 168, 184, (Rev. Bd. 1970).

[5] On August 6, 1982, Amcom submitted an amendment pertaining to its name change and including additional financial information. We will accept the financial information as a minor amendment because it merely clarifies bank letters submitted with the application, and the name change is a minor amendment pursuant to Section 1.85 of the Commission's Rules.

[6] Interstate is a general partnership consisting of Tribune Communication Company, a subsidiary of the Tribune Publishing Company; Pacific Portaphone, Inc., a subsidiary of Pacific Paging Inc. (Pacific); Skyline Communications Service (Skyline), a subsidiary of Mobile Radio Communication Service, Inc. (Mobile); Western Telepage, Inc. (Western), a subsidiary of McCaw RCC Communication, Inc. (McCaw); and Kelley's Radio Telephone, Inc. (Kelley's), a subsidiary of Kelley's Telephone Answering Service, Inc. On November 29, 1982, Interstate proffered an Amendment No. 5 to its application proposing to add a sixth partner, The Washington Post Company. That amendment is discussed *infra*, at paras. 12 and 13.

[7] We have reviewed the financial information submitted from the two partners whose finances have not been challenged, and we find that they have sufficient funds to meet their $250,000 contributions.

year operating expenses by failing to include certain costs in its financial projections. In this regard, Amcom alleges that Interstate has substantially understated its costs by proposing to operate cellular systems which are inadequate to meet the projected subscriber demand of its own marketing experts.

6. *Partner contributions, Skyline and Western.* Both Skyline and Western are relying upon irrevocable pledges of $250,000 from their parent corporations. In turn, the parent corporations have submitted balance sheets and bank letters reflecting loan commitments for $250,000. The petitioners challenge the sufficiency of the bank letters based on (1) Interstate's failure to submit personal guarantees from the partners and their parent corporations and (2) the lack of essential terms in the bank letters, such as amortization and interest costs.

7. We find that Interstate has provided reasonable assurance that these loans are available to the parent corporations. All of the necessary guarantees have been submitted as attachments to Interstate's reply pleading,[8] and it appears that the guarantees were executed on May 28, 1982, before the application was filed. With respect to the lack of interest terms, we agree with Interstate that these terms are not essential to the validity of this loan since the funds are committed to the parent corporation and not the the applicant itself. The interest payments of a parent corporation are irrelevant to the applicant's cost projections and financial qualifications. Therefore, we do not find that the absence of interest terms render these bank letters deficient.[9] *See Western Communications, Inc.*, 39 FCC 2d 1077 (Rev. Bd. 1973).

8. *Pacific Porta-Phone.* Pacific Porta-Phone demonstrates its ability to meet the $250,000 capital commitment by providing an irrevocable pledge of funds from its parent corporation, Pacific Paging, Inc. (Pacific). Pacific is relying on current liquid assets in excess of $125,000 and a bank letter of credit for $125,000 from the Pacific Western Bank of Oregon. Petitioners question the sufficiency of the bank letter and the liquidity of Pacific's current assets.

9. We find that Pacific has sufficiently demonstrated the availability of these funds. Although the bank letter is terse, Interstate has attached to its reply an additional bank letter which increases the amount of the loan to $250,000 and details its terms. We will not credit Pacific with the *additional* funds; however, this letter provides reasonable assurance that the $125,000 loan is available. Moreover, we find that Pacific has net liquid assets in excess of $125,000. Despite petitioner's exclusion of all accounts receivable, we will credit Pacific with 90% of these assets based upon Interstate's explanation of Pacific's receivables as of March 31, 1982 (Reply, attachment 4).[10] We will include the $13,136 labeled "other receivables" because Interstate explains that it was converted to cash in June 1982. Therefore, we find that Pacific has sufficient capital to fund its $250,000 contribution.

10. *Bank letters.* We also find that Interstate has provided reasonable assurance of the $8.7 million bank loan from the Seattle First National Bank and the alternate bank loan from the Bank of California. Contrary to petitioners' arguments, the following loan conditions have been satisified: the five partners have demonstrated the availability of $1,250,000 ($250,000 each); the partners have agreed in the partnership agreement to contribute $500,000 in future capital (Application, Exhibit 3, p. 24);[11] Interstate has attached letters from the partners and their parents evidencing their willingness to execute guarantees; and Interstate has indicated that it will submit a detailed business plan when the loan is made. With respect to the condition requiring a security agreement, CMS argues that the bank's commitment letter should have contained a notification provision, pursuant to § 22.917(f) of the Commission's Rules.[12] Interstate replies that this notification provision is unnecessary in the commitment letter but that it will be provided for in the final loan agreement. We are satisfied that Interstate will comply with this condition at the appropriate time.

11. *Other Objections.* Petitioners argue that Interstate has underestimated its costs by failing to include certain costs such as training, promotion, cost of equipment, sales tax, property tax, etc. in its financial projection. In addition, Amcom alleges that Interstate has understated its costs by proposing to construct and operate systems that are inadequate to meet the projected subscriber demand of its own marketing experts. Contrary to petitioners allegations, we find that Interstate has adequately detailed its operating costs and included all relevant costs (Application Exhibit 7, Attachment 2.) In addition, Interstate has stated that some costs are omitted because it intends to utilize the existing equipment and personnel resources of its partners. Nothing in the Cellular Rules prohibits this type of proposal and we are satisfied with Interstate's explanation. Finally, we reject Amcom's agruments that Interstate will not be able to accommodate its first year subscriber demand. We will not analyze at this stage of the proceeding the marketing studies provided by Interstate. An applicant's need projections and ability to satisfy this demand are issues to be examined in the comparative portion of this proceeding. *Report and Order, supra,* at para. 78.

12. *Ownership Amendment.* On November 29, 1982, Interstate submitted an Amendment No. 5 pursuant to § 1.65 of the Commission's Rules to reflect the addition of the Washington Post Company (Post) as a sixth partner. Post initially contributes $400,000 and receives one-sixth ownership interest in the partnership. CMS opposed the amendment on the ground that good cause for its acceptance had not been shown. Alternatively, CMS contended

[8] We note some of the financial information which Interstate submitted with its Reply pleading was returned by the Commission on August 26, 1982. On September 23, 1982, Interstate filed a Petition for Reconsideration of the action returning the amendment and resubmitted the amendment. We hereby dismiss the Petition because our rules provide that reconsideration of interlocutory actions by delegated authority will not be entertained. *See* § 1.102, 1.106. However, on our own motion we will reconsider and accept this amendment because it contains guarantees and terms of bank loans which were already committed to in the original application. We find that this information is minor because it merely clarifies and confirms information submitted in the application. To the extent that one of the bank letters offers additional funds, this information will be disregarded because it is new financial information, and thus a major amendment.

[9] We note that Interstate has attached to its reply a letter from one of the banks outlining the parent corporation corporation's interest costs.

[10] Traditionally, the Commission credits an applicant with 75% of its accounts receivable. Kaiser Broadcasting, 62 FCC 2d 246 (1977). Interstate submits an accounts receivable liquidity report which indicates that historically 90% of Pacific Paging, Inc.'s accounts receivable are collected within 90 days of the billing date. Accordingly, we have credited Pacific Paging, Inc. with 90% of these assets.

[11] The bank letter expressly request an *agreement* by the partners to contribute future capital—$500,000 per year for five years beginning in the second year after construction—and the partners have fully satisfied this condition in the partnership agreement. It is not necessary for Interstate to demonstrate the availability of these funds since they are not relevant to first year construction and operation costs but relate to a period beginning with the second year after construction. Moreover, the bank is apperently satisfied that the partners will meet this obligation and we will not second guess its decision.

[12] Section 22.917(f) provides: (f) In addition to the disclosures required by paragraph (d) of this section, any loan or other credit arrangement providing for a chattel mortgage or secured interest in any proposed radio station facility must include a provision for a minimum of ten (10) days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provision of the agreement.

that, if the amendment were accepted, no comparative advantage should accrue to Interstate.

13. We will accept Amendment No. 5 as a minor amendment, but we will not accord any comparative credit for the change in ownership.[13] Interstate itself stated that it would not claim any comparative advantage. All of the precedents cited by *CMS* in its opposition deal with *post-designation* amendments and are inapposite. Interstate's amendment could have been filed as a matter of right before designation had the Commission not cut off amendments on September 13, 1982.[14] In taking that action, the Commission expressly authorized amendments reflecting "changes in ownership of an applicant which do not result in transfers of control." To the extent that a "good cause" requirement exists even for these types of amendments, as CMS argues, such amendments have been routinely accepted when they do not prejudice any other party and do not inject new parties or issues into the proceeding.[15]

CMS Application

14. *Financial qualifications.* Amcom and Interstate argue that CMS has underestimated its costs and does not have sufficient funds to contruct and operate its Seattle system, along with the costs of its other communications projects.

15. We find these arguments to be without merit. First the CMS cost estimates do not appear unreasonable, and they include the full costs of constructing its thirteen cell sites and the channel equipment necessary for the first year of operation. The Commission has long found that the general allegation that one applicant's estimated costs are lower than another's is insufficient to warrant the addition of a financial issue.[16] Second, Graphic Scanning Corp. (Graphic), CMS' parent company, has committed itself to fund $6,600,000 for the Seattle, Washington, system. The Graphic commitment letter expressly states that none of these funds have been committed to other cellular systems. We find that this satisfies the requirement of Rule Section 22.917(b) that resources used to demonstrate financial ability regarding one cellular system may not include funds committed elsewhere. Finally, in *Advance Mobil Phone Service Inc., et al. (Chicago Order)*, FCC 82–452, released November 1, 1982, the Commission found that Graphic and its cellular subsidiaries have provided reasonable assurance that they will have sufficient funds available to cover construction of 30 cellular systems in the top 30 markets. The Commission concluded further that no financial issues should be designated for hearing against any Graphic subsidiary based on the ability of Graphic to finance the construction and operation for one year of 30 cellular systems. Those findings control the disposition of the financial arguments here.

16. We have also considered the other objections made against CMS' application, and we find that they raise no substantial issues. These allegations involve (a) criticisms of CMS' direct case presentation; (b) failure to submit a frequency plan; (c) failure to conform to height/power limitations; and (d) failure to provide an antenna polar plot. With regard to these allegations, alleged deficiencies in the direct case are matters properly raised before the Administrative Law Judge; objections (b) and (c) were purely technical problems which CMS cured with minor amendments filed on July 7, and August 2, 1982, respectively; and objection (d) is not well-taken because CMS' antenna polar plot for its directional antenna at cell site #12 is included in the Application, Exhibit IV, Figure IV–3.

Conclusions

17. Based on our analysis of the applications and our resolution of the contested issues in this order, we find the applicants to be legally, technically, financially and otherwise qualified to construct and operate their proposed systems.

18. Accordingly, it is ordered pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of American Mobile Communications of Washington and Oregon, File No. 26105–CL–P–(8)–82, Interstate Mobile Phone Company, File No. 26148–CL–P–(9)–82, and Cellular Mobile Systems of Washington, Inc., File No. 26182–CL–P–(13)–82, are designated for hearing in a consolidated proceeding upon the following issues:[17]

(a) To determine on a comparative basis the geographic area and population that each applicant proposes to serve; to determine and compare the relative demand for the services proposed in said areas; and to compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;[18]

(b) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner within its proposed CGSA in order to meet anticipated increasing demand for local and roamer service;[19]

(c) To determine on a comparative basis the nature and extent of the service proposed by each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities);[20]

(d) To determine, in light of the evidence adduced under the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

19. It is further Ordered that the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common

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[13] Attachment 4 to Amendment No. 5 contains a "Revised Financial showing." We have not relied on that portion of the Amendment in assessing Interstate's financial qualifications.

[14] Order FCC 82–409, 47 FR 39,685 (1982).

[15] *See, e.g.*, Gross Broadcasting Co., 46 RR 2d 1091, 1097–98 (1979).

[16] *E.g.*, Salem Broadcasting Co., Inc., 37 FCC 2d 115, 117 (Rev. Bd. 1972).

[17] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–502 (1981). We have found the applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualifications of Cellular Mobile Systems of Washington or its parent, Graphic, to the extent that such qualifications may be affected by the issues included in the Commission's order designating certain 35 and 43 MHz paging applications for hearing. A.S.D. Answer Service, Inc., *et al. (ASD)*, FCC 82–391, released August 24, 1982. Those issues will be thoroughly reviewed in that separate proceeding and should not be reargued in the context of a cellular hearing. As set forth in para. 24, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Washington to hold a cellular license should ASD be resolved adversely to any of CMS's affiliate or parent companies or to any of their principals. *See* Chicago Order, at n. 19.

[18] For purposes of comparison, the geographic area that an applicant proposes to serve includes that area within the proposed 39 dBu contours which, in turn, falls within the proposed Cellular Geographic Service Area and the relevant Standard Metropolitan Statistical Area. Consideration should be given to the presence of densely populated regions, highways and areas likely to have high mobile usage characteristics as well as indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[19] In making this comparison, preference should be given to designs entailing efficient frequency use, including not only the applicant's plans with regard to cell-splitting and additional channels, but also the degree of frequency reuse the system will be capable of, and the applicant's ability to coordinate the use of channels with adjacent or nearby cellular systems. *See* 86 FCC 2d at 502–503.

[20] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

Carrier Bureau is made a party to the proceeding.[21]

20. It is further Ordered, that the applicants shall file written notices of appearances under § 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the Federal Register.

21. It is further Ordered that the hearing shall be held according to the procedures specified in § 22.916 of the Rules, except as otherwise noted herein, at a time and place and before an Administrative Law Judge to be specified in a later order.

22. It is further Ordered that exceptions to the intitial decision of the Administrative Law Judge under § 1.276 of the Commission's Rules shall be taken directly to the Commission.

23. It is further Ordered that, the Petitions to Deny filed by American Mobile Communications of Washington and Oregon, Interstate Mobilephone Company and Cellular Mobile Systems of Washington, Inc. and Interstate Mobile Phone Company's Petition for Reconsideration are denied.

24. It is further Ordered that any authorization granted to CMS as a result of the comparative hearing shall be conditioned on, and without prejudice to, reexamination and reconsideration of that company's qualifications to hold a cellular license following a decision in the hearing designated in *A.S.D. Answering Service, Inc., et al.*, FCC 82–391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

25. It is further ordered, that any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances and Canadian coordination where needed.

26. This Order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority*, FCC 82–435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under § 1.115 of the Rules may be filed within the time limits specified in those sections. *See also* Rule 1.4(b)(2).

27. The Secretary shall cause a copy of this order to be published in the Federal Register.

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-1459 Filed 1-18-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 82-849, File No. BPH-810218AE; MM Docket No. 82-850, File No. BPH-810818AG]

Argonaut Broadcasting Corp. and Camden Broadcasters, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

Hearing Designation Order

Adopted: December 28, 1982.
Released: January 13, 1983.

By the Chief, Mass Media Bureau.

In re applications of Argonaut Broadcasting Corp., Camden, Maine, Req. 102.5 MHz, Channel 273B, 9.5 kW (H&V), 1110 feet, MM Docket No. 82–849, File No. BPH–810218AE; Camden Broadcasters, Inc., Camden, Maine, Req. 102.5 MHz, Channel 273B, 9.6 kW (H&V), 1092 feet, MM Docket No. 82–850, File No. BPH–810818AG, For Construction Permit for a New FM Station.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Argonaut Broadcasting Corporation (ABC) and Camden Broadcasters, Inc. (CBI). Also under consideration is an informal objection filed by Coastal Communications, Inc. (Coastal) alleging that the proposed transmitter sites of ABC and CBI will interfere with the reception of its Marine Radio Telephone Service.[1]

2. *ABC.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. We have no evidence that ABC published the required notice. To remedy this deficiency, ABC must publish local notice of its application, if it has not already done so, and so inform the presiding Administrative Law Judge within 30 days of the release of this Order.

3. *Other matters.* The material submitted in the applications does not demonstrate the financial qualifications of ABC and CBI. ABC will require $201,600 to construct and operate the proposed facility for three months. It plans to finance construction with: $25,000 from each of the three shareholders, and a bank loan for $175,000. However, only two of the shareholders provide balance sheets demonstrating their ability to provide the required contribution, and the applicant fails to include a bank letter with the application. Accordingly, the applicant has only shown the ability to provide $50,000 toward its construction and operation costs for the proposed facility.

4. CBI will require $152,211 to construct and operate its proposed facility for three months. It plans to finance construction and operation costs with a loan, and with corporate assets. The loan for $150,000 is adequately supported by a letter and CBI has $1,000 in corporate cash. Accordingly, CBI has only $151,000 available to meet its construction and operation costs for the proposed facility.

5. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicants will be given 30 days from the date of the mailing of this Order to review their financial proposals in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to their financial qualifications. If either applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82–378.

6. Coastal alleges in its informal objection that the transmitter location of Ragged Mountain in Camden, Maine chosen by ABC and CBI may cause RF interference, and in turn may block reception of Coastal's receiving channels in the Marine Radio Telephone Service. The applicants, in their joint response, submit that FM, TV and two-way land mobile installations in close proximity can have a compatible co-existence. In support of their position, the applicants indicate that filters or traps normally can alleviate potential interference. Additionally, ABC and CBI state that if any interference occurs during program test authority they will

[21] Members of the Separated Trial Staff are non-decision making personnel and they will not participate in decision making or agency review on an *ex parte* basis in this case, either directly or through contact with other Common Carrier Bureau personnel. Any investigative or prosecuting functions will be performed by the Separated Trial Staff in connection with its role as a party to the adjudication of these cellular radio applications. All other personnel of the Common Carrier Bureau, unless identified in a subsequent order as required to be separated, are designated as decision-making and they may advise the Commission as to the ultimate disposition of any appeal of an Initial Decision in this proceeding. *See* Communications Act of 1934 as amended section 409(c) (47 U.S.C. 409(c)); Administrative Procedure Act section 554(d) (5 U.S.C. 554(d)); § 1.1221 of the Commission Rules.

[1] Coastal's informal objection was actually filed against ABC's application, however, since ABC and CBI both propose Ragged Mountain in Camden, Maine as their transmitter sites, the objection is in essence lodged against both applicants. Accordingly, the applicants responded to Coastal's objection jointly.

alleviate it by installing the necessary filters or traps. Accordingly, a grant of either application will be conditioned upon its elimination of any harmful interference which might occur to Coastal.

7. Data submitted by the applicants indicate that there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and population which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

8. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding.

9. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applicants are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That ABC shall, within 30 days of the release of this Order, inform the presiding Administrative Law Judge as to whether it has complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

11. It is further ordered, That ABC and CBI shall submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

12. It is further ordered, That the informal objection filed by Coastal is granted to the extent indicated and is denied in all other respects.

13. It is further ordered, That in the event of the grant of either the ABC or CBI application, the construction permit shall contain the following condition:

Permittee shall have responsibility for eliminating harmful interference which it causes the operations of Coastal as a result of its operation from its proposed transmitter site on Ragged Mountain in Camden, Maine.

14. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

15. It is further Ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistant with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-1466 Filed 1-18-83; 8:45 am]
BILLING CODE 6712-01-M

[MM Docket No. 82-830; File No. BP-810728AE et al.]

Astro Enterprises, Inc., et al.; Designating Application for Consolidated Hearing on Stated Issues

In re applications of Astro Enterprises, Inc., WWBC, Rockledge, Florida, Has: 1510 kHz, 1 kW, D (Cocoa, Florida), Req; 770 kHz, 0.5 kW, 5 kW–LS, DA–2, U, MM Docket No. 82–8329, File No. BP–810728AE; Jerry J. Collins, North Fort Myers, Florida, Req: 770 kHz, 1 kW, 5 kW–LS, DA–2, U, MM Docket No. 82–840, File No. BP–811015AE; Richey Airwaves, Inc., Port Richey, Florida, Req: 770 kHz, 0.5 kW, 1 kW–LS DA–N, U, MM Docket No. 82–841, File No. BP–811015AF; Astro Enterprises, Inc., Palm City, Florida, Req: 760 kHz, 0.25 kW, 2.5 kW–LS, DA–2, U, MM Docket No. 82–842 File No. BP–811015AM; Hercules Broadcasting Co., North Fort Myers, Florida, Req: 770 kHz, 1 kW, 10 kW–LS, DA–2, U, MM Docket No. 82–843, File No. BP–811015AW; for construction permit.

Hearing Designation Order

Adopted: December 27, 1982.

Released: January 5, 1983.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration: (a) the above-captioned mutually exclusive applications for new standard broadcast stations and for changes in the facilities of an operating station; (b) petitions to deny the Astro Enterprises, Inc. (Astro), applications [1] filed by Hercules Broadcasting Co. (Hercules); (c) a petition to deny the Jerry J. Collins' (Collins) application filed by Hercules; (d) a petition to dismiss the Hercules application filed by Collins; (e) a petition to deny the Richey Airwaves, Inc. (Richey), application and comments concerning the Astro (Rockledge only), Collins and Hercules applications filed by American Broadcasting Companies, Inc. (ABC), licensee of station WABC, New York, New York; (f) a petition to deny the Astro (Palm City) application filed by Cox Broadcasting Corporation (Cox) licensee of station WSB, Atlanta, Georgia; and, (g) relevant pleadings.[2]

2. *Technical questions. ABC* [3] filed a petition to deny the Richey application alleging: (a) Incorrect assumptions may have been used in the directional antenna array which could invalidate the design; (b) information critical to the array calculations may not have been supplied as required by the rules; and (c) serious questions regarding the monitoring and stability of the array have not been addressed by the applicant. Specifically, ABC asserts that the theoretical radiation could exceed the standard pattern and cause interference to the WABC 0.5 mV/m 50% skywave contour. Richey in its opposition pleading denies the allegations and asserts and the computations supplied by ABC with its petition to deny do not indicate the standard pattern will be exceeded by its proposed operation. ABC in its reply pleading continues to object to the proposal based on what it considers are the undesirable engineering aspects of the proposal, the applicant's failure to make "extremely minor changes" in the proposal and the unwillingness of the

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[1] These include a petition to deny or return as unacceptable for filing against the Astro (Palm City) application and a petition to deny both Astro applications.

[2] These include comments by Collins concerning the Hercules petition to deny the Astro application and requests by Hercules for official notice of two recent Commission actions. The two are a Memorandum Opinion and Order by the Commission in *Clay Television Inc.*, FCC 82–417, released September 21, 1982, BC Docket No. 81–690 and a Hearing Designation Order pursuant to delegated authority by the Chief of the Broadcast Bureau, *Trio Broadcasters, Inc.*, BC Docket No. 82–701, released October 6, 1982. The requests are hereby granted.

[3] A showing of possible electrical interference to ABC's Class I–A station WABC by the above proposals gives it standing as a party in interest within the meaning of Section 309(d) of the Communications Act of 1934, as amended. *FCC v. National Broadcasting Co., Inc.*, 319 U.S. 239 (1943).

applicant to accept operating restrictions if found necessary by the Commission. ABC filed comments to the Astro (Rockledge), Collins and Hercules applications; it does not object to grant of any of these aplications, but asserts that the results of computer stability anlaysis show that theoretical radiation could exceed the standard patterns of these proposals and cause interference to the WABC 0.5 mV/m 50% night skywave contour. ABC requests that these three applications be designated critical arrays.

3. In examining the stability of proposed directional antenna systems it has been our policy to consider directional antenna arrays which do not exceed their radiation limits (standard patterns) with 1.0 percent and 1.0 degree current ratio and phase deviation, respectively, as being generally stable. Those arrays which exceed their radiation limits with parameter variations of 0.1 percent and 0.1 degree are considered highly unstable. See *Radio Nevada Corp. (KDWN)*, BC Docket 79–313, released November 28, 1978. With regard to the Richey proposal, we find that sufficient information has been submitted to permit a thorough technical evaluation of the proposed directional antenna array. This is particularly so in light of the extensive technical information and calculations concerning the proposal supplied by petitioner. Our computer study using the data supplied by both petitioner and the applicant show that when the Richey proposal's parameters are varied by as much as one percent (1%) amplitude (current) ratio deviation and one degree (1°) phase deviation, the radiation standard values will not be exceeded. Thus ABC has failed to make a threshold showing that the Richey proposal will cause interference to its station WABC, and we will deny its petition to deny.

4. With respect to the ABC objections to the other three applications, our computer studies using the data supplied by ABC and the applicants show the proposals of Astro and Collins do not exceed their radiation limits with 1.0 percent and 1.0 degree current ratio and phase deviation and are, therefore, considered stable under our benchmarks. We will deny the ABC requests that these two proposals be designated critical arrays. With respect to the Hercules proposal our computer study shows that the proposed nighttime array is sensitive to changes in the operating parameters in that variations of one percent (1%) current-ratio deviation and one degree (1°) phase deviation could result in radiation greater than the specified standard radiation values. In order to ensure operation within the standard pattern limits we will place appropriate operating conditions on the Hercules application should it be granted. To that extent the ABC request to designate the Hercules application a critical array is granted.

5. *Character questions.* Hercules filed petitions to deny the Collins and the Astro applications. The allegations arise from the same events, and the petitions will be considered here together.

6. Jerry J. Collins is president and 51% stockholder of WKKQ, Inc., licensee of stations WKKQ AM and FM, Hibbing, Minnesota. An application to make changes in the facilities of AM station WKKQ (BP–780901AG) was designated for hearing by Memorandum Opinion and Order, released April 29, 1982, BC Docket No. 82–227. Robert A. Jones, vice president, director and 33% stockholder of Astro, was consulting engineer to WKKQ, Inc., in connection with the application, and certain field strength measurements were taken by Jones and Collins and submitted to the Commission. Paragraph 20 of the hearing order states, in part, "(t)here is * * * a substantial and material question that either the measurements were not made with sufficient care to assure their validity, or the measurements were not made as reported." Based on the WKKQ hearing order, Hercules requests that character qualification issues concerning Collins and Astro be added to the instant hearing designation order. Collins, in its opposition pleading asserts the petition is untimely and unsupported; Astro contests Hercules' standing and in addition asserts that Robert A. Jones has never been and is not proposed to be in a "management capacity" for any of its facilities. In addition, Astro states, it is taking necessary measures to sever its official relationship with Mr. Jones.

7. The Hercules petitions to deny are petitions to add issues. All predesignation issue pleadings between parties must be presented after designation to the presiding Administrative Law Judge. *Revised Procedures for the Processing of Contested Broadcast Applications*, 72 FCC 2d 202, 214 (1979). We will, therefore, dismiss the Hercules petitions.

8. The fact remains, however, that misrepresentation to the Commission is a serious offense, and the evidence adduced in the WKKQ proceeding could have an adverse impact on the basic and comparative qualifications of both Collins and Astro. Since Jones is not a party in Docket 82–227, however, the issue in that proceeding will be slightly different from what it would be in the instant proceeding. Nevertheless, we are reluctant to expend scarce Commission resources trying essentially the same facts in different hearings. Therefore, we are conditioning the Collins and Astro applications, should they be granted, on whatever action the presiding judge, upon appropriate motion, or the Commission considers warranted in light of the findings and conclusions in Docket 82–227.

9. *Astro Enterprises, Inc.* Astro has filed petitions for leave to amend its applications. On November 1, 1982, an amendment noted changes in its stockholders and officers. A November 17, 1982 amendment certified compliance with the public notice requirements of § 73.3580 of the Rules and certified as to the applicant's financial qualifications with respect to its Palm City application. A November 23, 1982 amendment certified as to the applicant's compliance with the public notice requirements and to its financial qualifications with respect to its Rockledge application. These amendments are either required by Section 1.65 of the Rules or were to cure disqualifying defects in the applications. No other applicant will be prejudiced because of these amendments and Astro will gain no comparative advantage. We will therefore, grant the petitions for leave to amend and accept the amendments. See *James River Broadcasting Corp., v. F.C.C.*, 399 F. 2d 581 (D.C. Cir. 1968) *North American Broadcasting Co.*, 14 FCC 2d 617 (1968).

10. *Jerry J. Collins.* We have no evidence that Collins published the local notice of the filing of its application as required by § 73.3580 of the Rules; it must therefore publish the required notice if it has not done so and certify to the Administrative Law Judge that it has complied with the rules as required.

11. *Richey Airwaves, Inc.* This applicant has failed to describe the antenna height in its local notice as required by § 73.3580(f)(6) of the rules; it must do so and certify to the Administrative Law Judge as required.

12. Richey's environmental narrative statement failed to include information as to whether the proposed construction has been a source of controversy in the community as required by § 1.1311(a)(4) of the Rules; it must file the required information with the Administrative Law Judge.

13. Richey is the licensee of standard broadcas station WGUL, New Port Richey, Florida. The 1 mV/m will overlap in violation of § 73.37(a) of the Rules. The applicant proposes to divest

itself of station WGUL if its application is granted. We will therefore place an appropriate condition on the construction permit if the Richey application should be granted.

14. *Astro Enterprises, Inc. (Palm City).* Cox filed a petition to deny[4] this application alleging the proposal will cause objectional interference in the 0.5 mV/m 50% skywave contour of its station WSB, Atlanta, Georgia.

15. Section 73.182(c)(1) of the Commission's rule states that the secondary (skywave) service area of Class I stations are not protected from adjacent channel interference. Station WSB is authorized to operate at 750 kHz. The Astro proposal is for 760 kHz and is therefore, an adjacent channel to WSB. Station WSB will receive all the protection from the Astro proposal that it is entitled to under the rules. We will deny the Cox petition to deny.

16. Hercules timely filed a petition to deny or return as unacceptable for filing alleging that Astro has two applications on file which are mutually exclusive with each other in violation of Section 73.3518 of the Commission's Rules.

17. On March 5, 1982, Astro filed an amendment to its Palm City application. The amendment eliminated any prohibited overlap with its other pending application (Rockledge application). Since 1968, applicants have been permitted to cure minor disqualifying defects in their applications subsequent to the cut-off date. *James River Broadcasting Corp.*, v. *F.C.C.*, 399 2d 581 (D.C. Cir. 1968), *North American Broadcasting Co.*, 14 FCC 2d 617 (1968). The petition to deny is now moot and will be dismissed.

18. *Technical questions.* The March 5, 1982, amendment to the Astro Palm City) application purported to eliminate all mutual exclusivity between the Astro application and all other applicants, which initial staff review appeared to confirm. Subsequent examination of all the applications, however, shows that there is prohibited 0.5 mV/m contour overlap between the Astro (Palm City) proposal and the first adjacent channel Hercules proposal; the two applications are mutually exclusive.[5] The Hercules proposal and the Astro (Rockledge), Collins and Richey proposals, all involve 0.5–0.025 mV/m co-channel prohibited overlap, thus, all five applications are mutually exclusive.[6] The amendment did not remove all the mutual exclusivity between the Palm City proposal and the other proposal as alleged; it is however, a minor technical change in the proposal and does not prejudice the other applicants. We will accept the amendment.

19. *Hercules Broadcasting Co.* Collins timely filed a petition to dismiss the Hercules application alleging prohibited overlap with authorized co-channel station BP–801017AD at Lafayette, Louisiana. Hercules, by opposition pleading, asserts that any possible prohibited overlap has been cured with an amendment it filed November 9, 1981. Since 1968 applicants have been permitted to cure minor disqualifying defects in their applications prior to designation for hearing. *James River Broadcasting Corp.* v. *FCC*, 399 F. 2d 581 (D.C. Cir. 1968). There is now no prohibited overlap between the Hercules proposal and the Lafayette proposal. The Collins petition to dismiss is now moot and will be dismissed.

20. On January 18, 1982, the B cut-off date, Hercules filed an amendment to its application which altered the daytime directional radiation[7] pattern. Collins filed a further petition to dismiss alleging the amendment contains errors and defects which render it "totally worthless." In addition, according to Collins, the amendment either by itself or in conjunction with the November 9 amendment constitutes a major change in the Hercules application, which pursuant to § 1.227 of the Rules must be dismissed. Collins concedes that the combination of changes in the Hercules proposal does not constitute a major change under § 73.3571(a)(1) of the Rules. The rule however, gives the staff discretion to consider any application a major change application. Collins urges the staff exercise its discretion and declare the amendments to the Hercules application to be a major change requiring a new file number and dismissal as a competing applicant. In support of its contention, Collins asserts that the Hercules amended application bears no resemblance to the original application. Further, Collins asserts, its engineer has used the correct FCC graph 8 and has plotted the amended Hercules 0.5 mV/m contour which shows there is a 66.1% change in area coverage within this contour and a 69.48% change in population. Further, according to Collins, there are several communities within the gain area with populations greater than the population of North Fort Myers, the proposed city of license. Hercules, in its opposition, states it did not file tables of areas and populations within its various proposed contours because the revised Form 301 does not require this information. In addition, Hercules states, the reason petitioner's calculation of the Hercules contours varies from those submitted by Hercules in that petitioner's engineer used miles rather than kilometers as required since Janaury 4, 1981. Collins concedes, in its reply pleadings, that its engineer erroneously plotted the Hercules contours in miles. However, it asserts that its conclusion that the Hercules amendments are major amendments has not been affected.

21. Section 73.3571(a)(1) of the rules provides that for AM station facilities a major change is any increase in power, change in frequency, hours of operation or station location. Clearly the Hercules amendments, either apparently or combined, do not constitute a major change in the application, and we can find no reason to treat them in any manner other than that clearly mandated by the rule. This is particularly so when the action urged will result in the elimination of a competing applicant and is counter to well established Commission policy that the public interest is served by having a choice among many qualified applicants who appear together at a hearing. See *Trio Broadcasters, Inc.*, B.C. Docket No. 82–701, (Br. Bur., released October 6, 1982). We will deny Collins' further petition to dismiss.

22. Hercules' local notice of the filing of its application did not list the antenna height as required by § 73.3580(f)(1)(5) of the Rules; it must republish a corrected local notice and certify to the Administrative Law Judge as required.

23. The environmental narrative statement filed by Hercules does not contain information as to whether the proposal has been a source of controversy in the community as required by § 1.1311(4) of the Rules. It must file the required information.

24. Except as indicated by the issues specified below, all five applicants are qualified to construct and operate as proposed.[8] However, since the proposals

[4] Cox has standing because of the possibility of electrical interference to its Class I–A station WSB, see note three (3), supra.

[5] It should be noted that Hercules' application does not meet the exception of § 73.37(b) (as Astro Palm City does) because its proposed designated community (North Fort Myers, Florida) is inside an urbanized area and its population is less than 25,000.

[6] The two Astro applications are not mutually exclusive with each other. They are each in connected chain of mutually exclusive applications. However, they could both be granted, but for the chain, and therefore the two Astro applications are not inconsistent applications under Section 73.3518 of the Rules.

[7] The amendment also contained revised legal qualifications and financial certification from the revised FCC Form 301 and information concerning the applicant's broadcast interests.

[8] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on

are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although the applications are for different communities, they would serve substantial areas in common. Therefore, in addition to an issue to determine pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

25. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place in to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive primary service for each proposal and the availability of other primary aural services to such areas and populations.

2. To determine in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

3. To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

26. It is further ordered, That the petition to deny the Richey Airwaves, Inc., proposal and the requests that the Astro Enterprises, Inc., and the Jerry J. Collins proposals be designated critical arrays all filed by American Broadcasting Companies, Inc., are denied.

27. It is further ordered, That the request that the Hercules Broadcasting, Co., proposal be designated a critical array, filed by American Braodcasting Companies, Inc., is granted to the extent set out in paragraph four, *supra*, and in the event the Hercules application is granted the construction permit shall contain the following conditions:

An antenna monitor of sufficient accuracy and repeatability, and having a minimum resolution of 0.1 degrees phase and 0.1 percent sample current ratio deviation shall be installed and continuously available to indicate the relative phase and magnitude of the sample currents of each element in the aray to insure maintenance of the radiated fields within the standard pattern values of radiation.

Upon receipt of operating specifications and before issuance of a license, permittee shall submit the results of observations made daily of the base currents and their ratios, relative phases, sample currents and their ratios and sample current ratio deviations for each element of the array along with the final amplifier plate voltage and current, the common point current, and the field strengths at each monitoring point for both the nondirectional and directional nighttime operations for a period of at least thirty days, to demonstrate that the array can be maintained within the specified tolerances.

28. It is further ordered, That the petitions to deny filed by Hercules against the Astro Enterprises, Inc., and the Jerry J. Collins applications are dismissed.

29. It is further ordered, That the petition to deny filed by Cox Broadcasting Corporation is denied.

30. It is further ordered, That in the event the Richey Airwaves, Inc., application is granted, the construction permit shall contain the following condition:

Before program test authority can be granted, Richey Airwaves, Inc., and its principals must divest all interest in AM station WGUL, New Port Richey, Florida.

31. It is further ordered, That the petitions for leave to amend mentioned above in paragraph 9 filed by Astro Enterprises, Inc. are granted, and the corresponding amendments are accepted.

32. It is further ordered, That the petition for leave to amend mentioned above in paragraph 17 filed by Astro Enterprises, Inc. is granted, and the corresponding amendment is accepted.

33. It is further ordered, That the petition to dismiss the Hercules Broadcasting Co., application filed by Jerry J. Collins is dismissed, and its further petition to dismiss, is denied.

34. It is further ordered, That Jerry J. Collins, Richey Airwaves, Inc., and Hercules Broadcasting Co., comply with the local notice provision of § 73.3580 of the Commission's Rules, as discussed in the relevant paragraphs above, and certify as to compliance with the Administrative Law Judge within forty (40) days after this order is published in the **Federal Register**.

35. It is further ordered, That Richey Airwaves, Inc., and Hercules Broadcasting Co., comply with § 1.1311 of the Commission's Rules and file the environmental statement information as discussed in the relevant paragraphs above with the Administrative Law Judge within thirty (30) days of the date this Order is published in the **Federal Register**.

36. It is further ordered, That in the event that the Astro applications are granted the construction permit shall contain the following condition:

The grant of this application is without prejudice to any action the Commission may deem necessary in light of BC Docket No. 82-227.

37. It is further ordered, That in the event that the Collins application is granted the construction permit shall contain the following condition:

The grant of this application is without prejudice to any action the Commission may deem necessary in light of BC Docket No. 82-227.

38. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules the applicants shall, within 20 days of the mailing of this order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the dates fixed for the hearing and to present evidence on the issues specified in this order.

39. It is further ordered, That pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed by the rule, and shall advise the Commission of the publication of the notices as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-1464 Filed 1-18-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 82-837, File Nos. BL-14,185, BP-21,223, BP-820212AC]

Clovis Broadcasters; Designating Application for Hearing on Stated Issues

Hearing Designation Order

Adopted: December 27, 1982.

Released: January 12, 1983.

In re application of Clovis Broadcasters, KXQR, Clovis, California, Has: 790 kHz, 0.5 kW,D, Req: 790 kHz, 5 kW, DA-D, Req: 790 kHz, 2.5 Kw, 0.5

Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

kW–LS, DA N, D; For license and construction permits.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (a) A petition filed by the International Church of the Foursquare Gospel (KHIS) [1] seeking reconsideration of our grant of a license to Clovis Broadcasters for station KXQR, Clovis, California; (b) an application to increase the power of KXQR to 5 kW; (c) a petition to deny this application filed by KHIS: (d) an application for nighttime authority for KXQR; (e) a petition to deny the application for nightime authority filed by KHIS: and (f) related pleadings.[2]

2. In August 1973, KXQR received a construction permit for a new AM station with daytime power of 500 watts. *Clovis Broadcasters*, 42 FCC 2d 412 (Init. Dec. 1973). A modification of this construction permit (BMP–14,177) was granted on June 11, 1976, and the station began operating pursuant to program test authority. Petitioner's former licensee. Thunderbird Broadcasting Company, sought reconsideration of the modification claiming overlap of the 0.5 mV/m contours of KHIS (then KUZZ) and KXOR in violation of § 73.37(a) of our Rules. In support the petitioner submitted groundwave field intensity measurements, the accuracy of which we accepted to a distance of approximately 16 miles. Based upon these measurements we found overlap prohibited by our Rules, set aside the construction permit accordingly and authorized special temporary operation at 330 watts, a figure which we found would eliminate any overlap, *Clovis Broadcasters*, 61 FCC 2d 382 (1976).

3. Shortly after our decision, on November 23, 1976, KHIS submitted new measurement data beyond the 16-mile distance, which indicated ground conductivity greater than that calculated with the use of our Figure M–3. KXQR then amended its directional pattern, but without taking this latest measurement data from KHIS into account. Commission staff also overlooked the November submission and on February 10, 1978, granted the amended construction permit that had earlier been set aside, authorizing the permittee to operate with power of 500 watts. No objection was received from petitioner before or after this grant; nor was one lodged against KXQR's application for a license to cover the construction permit. Only after our actual grant of the license request did petitioner seek reconsideration. Petitioner sought as well denial of two later KXQR requests, one for a daytime power to 5 kW, and a second for nightime operating authority.[3] In the first instance, petitioner maintained that prohibited overlap would increase with greater power. As for the nighttime proposal, it was KHIS' view that a grant would explicitly legitimize and approve the daytime operation.

4. Our analysis of the data before us [4] indicates significant overlap between the 0.5 mV/m contours of KHIS and KXQR, overlap which we find would be reduced but still present with the proposed 5 kW operation. [5] At issue is how to approach this overlap in light of the peculiar circumstances to be found here. It is beyond question that our staff erred in overlooking KHIS' November, 1976 submission. Had we considered these measurements when filed, we would not have awarded KXQR its original construction permit. At the same time, we are troubled by KHIS' failure to bring the omission to our attention in a timely fashion, not as KXQR suggests because of considerations of administrative finality,[6] but rather because of the public interest in the continuation of a service now over six years old. We believe on balance that the administrative hearing process is the proper vehicle for weighing and balancing these interests and equities. Hence we will authorize an inquiry into the various KXQR proposals now before us and, to the extent that these proposals would modify the operation of KHIS, into the public interest factors justifying such a change.

5. Except as indicated by the issues specified below, Clovis Broadcasters is qualified to construct and operate as proposed. However, in view of the foregoing, the Commission cannot determine whether grant would serve the public interest, convenience and necessity.

6. Accordingly, it is ordered, That pursuant to Sections 309(e) and 316 of the Communications Act of 1934, as amended, the license of Clovis Broadcasters to operate station KXQR and its applications to modify the facilities, and the license of the International Church of the Foursquare Gospel to operate station KHIS, are designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the operation of station KXQR pursuant to the license granted Clovis Broadcasters causes interference to the operation of station KHIS prohibited by § 73.37(a) of the Commission's Rules, and, if so, (1) The nature and extent thereof, (2) the areas and populations affected thereby, and (3) the availability of other primary service to such areas and populations.

2. To determine, in light thereof whether the license of station KHIS should be modified, or the license of station KXQR rescinded.

3. To determine whether the proposals of Clovis Broadcasters to modify the facilities of station KXQR would cause interference to the operation of station KHIS prohibited by § 73.37(a) of the Commission's Rules, and, if so, (1) the nature and extent thereof, (2) the areas and populations affected thereby, (3) and the availability of other primary service to such areas and populations.

4. To determine, in light thereof whether the license of station KHIS should be modified and the applications granted.

7. It is further ordered, That the International Church of the Foursquare Gospel is make a party to the proceeding.

8. It is further ordered, That (a) with respcet to the alleged modification of the license of Station KHIS, the burden of introducing evidence and the burden of proof shall be upon the Broadcast Bureau though the other parties may introduce evidence on this issue as well; (b) with regard to the alleged public interest benefits resulting from the existing and proposed operations of station KXQR, the burden of introducing evidence shall be upon Clovis Broadcasters: and (c) the ultimate burden of proof shall be upon Clovis Broadcasters.

9. It is further ordered, That the petition for reconsideration and the petitions to deny filed by the International Church of the Foursquare Gospel are granted to the extent indicated above and are denied in all other respects.

10. It is further ordered, That to avail themselves of the opportunity to be

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[1] License of first adjacent channel station KHIS, Bakersfield, California.

[2] Both parties have requested extensions of time to file various pleadings and these requests are granted. Further, KHIS filed a petition for hearing which, since it raises no new issues but merely duplicates previous pleadings, will not be treated separately.

[3] KHIS' allegations of prohibited interference give it standing as a petitioner to deny, *FCC* v. *National Broadcasting Co., Inc.*, 319 U.S. 239 (1943).

[4] This includes additional measurements submitted by KHIS.

[5] This reduction of overlap reflects Clovis' modification of its directional antenna system.

[6] As we stated in *Clovis Broadcasters, supra* "* * * the apparent interference within the normally protected contour * * * outweighs considerations of administrative orderliness and demands that we reconsider the entire matter," 61 FCC 2d at 384.

heard and pursuant to § 1.221 (c) and (e) of the Commission's Rules, the parties shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

11. It is further ordered, That pursuant to Section 311(a) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of its notice as reuired by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 83-1491 Filed 1-18-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 82-84Y, File No. BPTC-820712KI; MM Docket No. 82-845; File No. BPCT—820909KI]

Lea County Television and Nathan R. Berke; Memorandum Opinion and Order

Adopted: December 30, 1982.

Released: January 5, 1983.

In re applications of Lea County Television, Gallup, New Mexico, MM Docket No. 82-844, File No. BPCT-820712KI; Nathan R. Berke, Gallup, New Mexico, MM Docket No. 82-845, File No. BPCT-820909KI; For construction permit for a new television station; designating applications for consolidated hearing on stated issues.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Lea County Television (Lea) and Nathan R. Berke (Berke) for a new commercial television station to operate on Channel 3, Gallup, New Mexico; and a petition to deny filed by Road Runner Radio, Inc. (RRR), licensee of Radio Stations KYVA(AM) and KOVO(FM), Gallup, New Mexico.

2. RRR claims standing as a party in interest under Section 309(d) of the Communications Act of 1934, as amended, 47 U.S.C. 309(d), on the grounds that Lea proposes to mount its antenna on the present KYVA(AM) tower. RRR states that it will not make its site available to Lea. RRR, however, has not shown that Lea's specification of RRR's tower would inflict any economic or electrical injury on RRR, which would confer standing within the meaning of Section 309(d) of the Act. We will, however, consider RRR's pleading as an informal objection filed pursuant to § 73.3587 of the Commission's Rules.

3. The basis for RRR's informal objection to the Lea application is that, although Lea proposes to mount its antenna on KYVA(AM)'s tower, RRR is unwilling to make the tower, available for that purpose. Under these circumstances, a question is raised as to whether the site will be available to Lea and an appropriate issue will be specified.

4. On November 5, 1982, Lea filed an amendment seeking, among other things, to change the name of the applicant, to make changes in the ownership interests of the partners, and change the transmitter site in a manner which would stisfy RRR. The engineering part of the amendment, however, was so deficient that it was impossible to process the amendment and the entire amendment was, therefore, returned to the applicant as not being substantially complete. Lea will be permitted to file a proper and complete amendment (minor amendment only) to effect the changes it wishes to make in its application with the Administrative Law Judge within 30 days of the release of this Order. In no event will Lea be permitted to accrue a comparative advantage as the result of such an amendment.

5. Applicants for new broadcast stations are required to give local notice of the filing of their applications, in accordance with § 73.3580 of the Commission's Rules. They must then file proof of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that Lea has done either. If it has not already done so, Lea will be required to file a statement that he has or will comply with the public notice requirement with the Administrative Law Judge within 30 days of the release of this Order.

6. Lea proposes to mount its antenna on the existing tower of Station KYVA(AM). In the event that the problems described in paragraphs three and four, above, are resolved, any grant of a construction permit to Lea will be conditioned to assure that KYVA(AM)'s non-directional operation is not adversely affected by the construction of the proposed station.

7. Berke proposes to locate his antenna on one of the towers of the KGAK directional array. Any grant of a construction permit to Berke will be conditioned to assure that KGAK's radiation pattern is not adversely affected by the construction of the proposed station.

8. No determination has been reached that the tower height and location proposed by Berke would not constitute a hazard to air navigation. Accordingly, an issue will be specified.

Conclusion and Order

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding on the issues specified below.

10. Accordingly, it is ordered, That the Petition to Deny filed by Road Runner Radio, Inc. is dismissed for lack of standing, but considered as an Informal Objection, filed pursuant to § 73.3587 of the Commission's Rules, is granted and Road Runner Radio, Inc. is made a Party respondent to this proceeding with respect to issue 1, below.

11. It is further ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Lea County Television, whether there is reasonable assurance that its specified transmitter site will be available.

2. To determine, with respect to Nathan R. Berke, whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 2.

13. It is further ordered, That Lea County Television may, within 30 days of the release of this Order, file with the Administrative Law Judge a proper and complete minor amendment to its application in accordance with paragraph 3, above.

14. It is further ordered, That Lea County Television shall, within 30 days of the release of this Order, certify to the Administrative Law Judge that local notice of the filing of its application has or will be published.

15. It is further ordered, That, in the event of a grant of the application of Lea County Television, the construction

permit shall contain the following condition:

During installation of the TV antenna, AM Station KYVA shall determine operating power by the indirect method. Upon completion of the installation, antenna impedance measurements of the AM antenna shall be made. The results shall be submitted to the Commission, along with a tower sketch of the installation, in an application for the AM station to return to the direct method of power determination. Thereafter, the TV station may commence *Limited Program Tests.*

16. It is further ordered, That in the event of a grant of the application of Nathan B. Berke, the construction permit shall contain the following condition:

Prior to the construction of the TV tower authorized herein, permittee shall notify AM Station KGAK so that the station may determine operating power by the indirect method and, if necessary, request temporary authority from the Commission in Washington to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of the detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to the construction of the TV tower and subsequent to the installation of all appurtenances thereon, a paritial proof of performance, as defined by § 73.154 (a) of the Commission's Rules, shall be conducted to establish that the array of the AM station has not been adversely affected. The results shall be submitted to the Commission and the AM station. Thereafter, the TV station may commence *Limited Program Tests.*

17. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the parties respondent herein shall, pursuant to § 1.221 (c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

18. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-1466 Filed 1-18-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-1, file No. 23436-CD-P-(1)-82; CC Docket No. 83-2, File No. 24265-CD-P-(1)-82]

Radio Telephone Co. of Gainesville, Inc. and Call-Com, Inc.; Order Designating Applications for Hearing

In re applications of Radio Telephone Co. of Gainesville, Inc., CC Docket No. 83-1, File No. 23436-CD-P-(1)-82; for a construction permit to construct an additional facility for Station KFL922 to operate on frequency 454.175 MHz in the Domestic Public Land Mobile Radio Service of Ocala, Florida; and Call-Com, Inc., CC Docket No. 83-2, File No. 24265-CD-P-(1)-82, for a construction permit to establish a new two-way station to operate on frequency 454.175 MHz in the Domestic Public Land Mobile Radio Service at Silver Spring, Florida; designating applications for consolidated hearing on stated issues.

Adopted January 4, 1983.

Released January 7, 1983.

By the Common Carrier Bureau:

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of Radio Telephone Company of Gainesville, Inc. (RTC) and Call-Com, Inc. RTC proposes to add an additional facility to operate on frequency 454.175 MHz for its existing two-way Station KFL922 at Ocala, Florida. Call-Com proposes to establish a new two-way station at Silver Springs, Florida, to operate on frequency 454.175 MHz. The proposals of RTC and Call-Com to use frequency 454.175 MHz in the same geographic area are electrically mutually exclusive; therefore a comparative hearing will be held to determine which applicant would better serve the public interest.

2. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Radio Telephone Company of Gainesville, Inc., File No. 23436-CD-P-82 and Call-Com, Inc., File No. 24265-CD-P-82, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 39 dBu contours,[1] based upon the standards set forth in Section 22.504(a) of the Commission's Rules,[2] and to determine and compare the relative demand for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

3. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

4. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, That the applicants may file written notices of appearances under § 1.221 of the Commission's Rules within 20 days of the release date of this Order.

6. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 83-1467 Filed 1-18-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-6, File No. 23592-CD-P-(1)-82; and CC Docket No. 83-3, File No. 23468-CD-P-(2)-82]

Southeast Mobilphone, Inc. and Telpage of Tennessee, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Southeast Mobilphone, Inc., CC docket No. 83-6, File No. 23592-CD-P-(1)-82; and for a construction permit for a new one-way Station to operate on frequency 158.70 MHz in the DPLMRS at Athens, Tennessee; and Telpage of Tennessee,

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[1] For the purpose of this proceeding, the interference-free area is defined as the area within the 39 dBu contour as calculated from Section 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6404, equation 8.

[2] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 39 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in two-way communications service on frequencies in the 450 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

Inc., CC Docket No. 83–9, File No. 23468–CD–P–(2)–82, for construction permit to operate one-way Station KLF619 on frequencies 158.70 and 152.24 MHz in the DPLMRS at Falling Water, Tennessee.

Order Designating Applications for Hearing

Adopted January 11, 1983.
Released January 13, 1983.

By the Common Carrier Bureau:

1. Presently before the Chief, Mobile Services Division pursuant to delegated authority, are the captioned applications of Telpage of Tennessee, Inc. (Telpage) for two fill-in facilities, and Southeast Mobilphone, Inc. (Mobilphone) for a new one-way station. The Mobilphone and Telpage applications are mutually exclusive on frequency 158.70 MHz; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest on that frequency. The Telpage request for frequency 152.24 MHz is not mutally exclusive.

2. We find both Mobilphone and Telpage to be legally, technically, and otherwise qualified to construct and operate the proposed facilities. We further find that a grant of the request by Telpage to operate on frequency 152.24 MHz will serve the public interest, convenience and necessity.

3. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the application of Telpage of Tennessee, Inc., File No. 23468–CD–P–(2)–82 is granted in part to the extent that the request for frequency 152.24 MHz is granted, and that the applications of Southeast Mobilphone, Inc., File No. 23592–CD–P–(1)–82 and Telpage of Tennessee, Inc., File No. 23468–CD–P–(2)–82, to operate on frequency 158.70 MHz are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) to determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 43 dBu contours,[1] based upon the standards set forth in § 22.504(a) of the Commission's Rules,[2] and to determine and compare the relative demand for the proposed services in said areas; and

(c) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

4. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

5. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

6. It is further ordered, that the applicants shall file written notices of appearances under § 1.221(c) of the Commission's Rules within 20 days of the release date of this Order.

7. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 83–1458 Filed 1–18–83; 8:45 am]
BILLING CODE 6712–01–M

[1] For the purpose of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6602, equation 8.

[2] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 150 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

FEDERAL MARITIME COMMISSION

[Docket No. 83–1]

Transeurope Shipping, Inc.; Order of Investigation and Hearing

Transeurope Shipping, Inc. (Transeurope) was issued independent ocean freight forwarder license number 2064 or April 3, 1978. A routine post-licensing compliance investigation of Transeurope's operations was conducted during February, 1980. No violations of the Shipping Act, 1916 or General Order 4 were found and no questionable practices were noted during the compliance investigation. Later in 1980, however, information was received by the Commission's staff indicating that Transeurope may have been involved in misstating cargo measurements to consignees and/or various steamship lines.

As a result of an investigation of these allegations it was learned that Transeurope apparently kept two different sets of invoices and ledger sheets. It is believed that a false set of these documents was shown to the Commission's staff during the compliance check. An examination of the correct set of ledger sheets and invoices disclosed that Transeurope had billed its forwarding clients inflated ocean freight charges, bunker surcharges and currency adjustment factor charges. Thus, Transeurope appears to have violated (1) section 510.23(d) of General Order 4 (46 CFR 510.23(d)(1980)), for failure to exercise due diligence to ascertain the correctness of information imparted to a principal concerning a forwarding transaction; (2) section 510.23(e) of General Order 4 (46 CFR 510.23(e) (1980)), for withholding information relative to a forwarding transaction from its principal; (3) section 510.23(j) of General Order 4 (46 CFR 510.23(j) (1980)), for not using proper invoices; (4) section 510.23(k) of General Order 4 (46 CFR 510.23(k) (1980)), for not maintaining it files in an orderly, systematic and correct manner; and (5) section 510.23(l) of General Order 4 (46 CFR 510.23(l) (1980)), for not making all records and books of account in connection with carrying on the business of forwarding available for inspection upon request by the Commission's staff.[1]

The investigation also revealed that Transeurope was acting as a deconsolidation agent for Transworld Shipping GMBH (Transworld)[2] of Hamburg, Germany, which apparently was operating as an untariffed NVOCC in the United States inbound trades. Transeurope, as part of its functions as an agent for Transworld, billed consignees for higher measurements than the measurements declared to the underlying ocean carriers and purged its files of certain documents in an apparent attempt to cover up this practice.

Forwarders are to be held to a high standard not only in terms of technical ability, but also moral character, business intergrity and veracity. The above described allegations, if true, adversely reflect on Transeurope's continued fitness to be licensed as an independent ocean freight forwarder and may therefore warrant revoking or suspending Transurope's license.

[1] General Order 4 was revised effective October 1, 1981, 46 CFR Part 510 (1981). The corresponding sections in the revised rules to the sections cited above are (1) § 510.32(d), (2) § 510.32(c), (3) § 510.32(h), (4) § 510.34, and (5) § 510.34.

[2] Transeurope and Transworld are related in that Peter K. Laser, owner of Transeurope and its Chief Executive Officer, is also the manager and majority stockholder of Transworld.

Therefore, a proceeding will be initiated to determine whether it has violated various sections of the Commission's regulations, cited herein, and, if so, whether civil penalties should be asessed, and ultimately, whether Transeurope's independent ocean freight forwarder license should be suspended or revoked.

Therefore it is ordered that, pursuant to sections 22, 32, and 44 of the Shipping Act, 1916, as amended (46 U.S.C. 821, 831, and 841(b)), a proceeding is hereby instituted to determine:

1. Whether Transeurope Shipping, Inc. violated the Commission's General Order 4 (46 CFR Part 510 (1980)), section 510.23(e), withholding information; section 510.23(d), due diligence; section 510.23(j), invoices; section 510.23(k), records required to be kept and/or section 510.23(l), failure to make records available;

2. Whether civil penalties should be assessed against Transeurope Shipping, Inc., pursuant to section 32 of the Shipping Act, 1916, (46 U.S.C. 831(e)), if found to be in violation of the Commission's regulations and, if so, the amount of any such penalty which should be imposed, taking into consideration factors in possible mitigation of such a penalty; and

3. Whether the license of Transeurope Shiping, Inc. to act as an independent ocean freight forwarder should be revoked or suspended pursuant to Section 44(d), Shiping Act, 1916, and/or § 510.17 of Revised General Order 4 (46 CFR 510.17 (1981)) for:

a. Willfully violating section 510.23(e), 510.23(d), 510.23(j), 510.23(k), and/or 510.23(l) of General Order 4 (46 CFR 510 (1980)); or

b. Conduct which the Commission determines renders the licensee unfit or unable to carry on the business of forwarding.

It is further ordered, that a public hearing shall be held in this proceeding and that the matter shall be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge, but no later than 180 days after service of this order. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are geniune issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, that in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42 (1981)), the Director of the Bureau of Hearings and Field Operations shall be a party to this proceeding;

It is further ordered, that notice of this Order shall be published in the **Federal Register**, and a copy served upon all parties of record;

It is further ordered, that any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72 (1981));

It is further ordered, that all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, that all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118 (1981)), as well as being mailed directly to all parties of record.

By the Commission

Francis C. Hurney,

Secretary.

[FR Doc. 83-1480 Filed 1-18-83; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Office of the Assistant Secretary for Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter H (Public Health Service) and Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318), December 2, 1977, as amended most recently at 48 FR 1231, January 11, 1983) are amended to reflect new Statements for the Mission, Organization and Functions for the Public Health Service (H) and the Office of the Assistant Secretary for Health (HA).

Public Health Service

Under *Part H, Chapter H, Public Health Service,* delete in their entirety Section H–00, Mission; Section H–10, Organization; and H–20, Functions, and substitute the following:

Section H–00, Public Health Service—Mission. The mission of the Public Health Service is to promote the protection and advancement of the nation's physical and mental health by: Coordinating with the States to set and implement national health policy and pursue effective intergovernmental relations; generating and upholding cooperative international health-related agreements, policies and programs; conducting medical and biomedical research; sponsoring and administering programs for the development of health resources, prevention, control of diseases, and alcohol and drug abuse; providing resources and expertise to the States and other public and private institutions in the planning, direction, and delivery of physical and mental health care services; and enforcing laws to assure the safety and efficacy of drugs and protection against impure and unsafe foods, cosmetics, medical devices and radiation-producing projects.

Section H–10. Public Health Service—Organization. The Public Health Service is under the leadership and direction of the Assistant Secretary for Health (ASH), who is directly responsible to the Secretary of Health and Human Services. The Public Health Service (PHS) consists of the:

Office of the Assistant Secretary for Health (HA)
Health Resources and Services Administration (HB)
Centers for Disease Control (HC)
Food and Drug Administration (HF)
Alcohol, Drug Abuse, and Mental Health Administration (HM)
National Institutes of Health (HN)
PHS Regional Offices (HD)

Section H–20. Public Health Service—Functions. The Public Health Service functions to: Assess needs and promote national and international health; assure effective intergovernmental relations on health matters; provide scientific and technological input for the establishment of health standards and the development of quality assurance programs; provide services to the States in the development of health resources and education for the health professions; assist in the development and improvement of the delivery of mental and physical health services to all Americans; conduct and support research in the medical and related

sciences and disseminate health and scientific information; protect the health of the Nation against impure and unsafe foods, drugs, cosmetics, and other potential health hazards; provide national leadership for the prevention and control of communicable diseases; environmentally related health problems, and other preventable conditions; and, reduce and eliminate, where possible, health problems caused by the abuse of alcohol and drugs.

Office of the Assistant Secretary for Health

Under Part H, Chapter HA, Office of the Assistant Secretary for Health, delete in their entirety HA–00, Mission; and Section HA–10, Organization and substitute the following:

Section HA–00. Office of the Assistant Secretary for Health—Mission. The Office of the Assistant Secretary for Health (OASH), under the direction of the Assistant Secretary for Health, is responsible for all programs administered by PHS and provides executive leadership to PHS. The Office supports the Assistant Secretary for Health in the discharge of his/her responsibilities for planning and directing the activities of PHS; provides assistance to the States and PHS agencies in the areas of health systems planning, disease prevention and health technology assessment and transfer activities and programs. The OASH responsibilities include; conducting international health affairs; formulating health policy; maintaining relationships with other Federal, State, and local governmental and private agencies concerned with health; providing policy guidance for health-related activities throughout the Department; serving as the principal advisor and assistant to the Secretary on all policies and programs of PHS and health-related policies and activities of the Department for protecting the health of the American public, including environmental; providing leadership in biomedical and health services research; and providing leadership, coordination, and direction of a nationwide program of disease prevention and health promotion.

Section HA–10. Office of the Assistant Secretary for Health—Organization. The Office of the Assistant Secretary for Health (HA) consists of the:

1. Senior Advisor for Environmental Affairs (HA3)
2. Office of Public Affairs (HAB)
3. President's Council on Physical Fitness and Sports (HAC)
4. Office of International Health (HAE)
5. Office of Refugee Health (HAF)
6. Office of Health Legislation (HAJ)
7. Office of Equal Employment Opportunity (HAK)
8. Office on Smoking and Health (HAG)
9. Office of Population Affairs (HA5)
10. PHS Executive Secretariat (HA6)
11. National Center for Health Statistics (HAS)
12. National Center for Health Services Research (HAR)
13. Office of Intergovernmental Affairs (HA7)
14. Office of Disease Prevention and Health Promotion (HAB)
15. Office of Planning and Evaluation (HA9)
16. Office of Management (HAU)

Under *Chapter HA, Section HA–20—Functions* make the following changes by organization:

Delete the statement for the *Immediate Office of Assistant Secretary for Health (HA)* in its entirety and substitute the following:

Office of the Assistant Secretary for Health (HA). The Assistant Secretary for Health (ASH) is responsible to the Secretary of Health and Human Services for the performance of PHS in meeting its goals. The Office provides national leadership in the direction of the major PHS agencies and the administration of their programs. The immediate office of ASG supports ASH in addressing special health initiatives and provision of support to the President's Council on Physical Fitness and Sports. The major health specialty offices of ASH assist and report to ASH in carrying out the legislatively and administratively mandated PHS responsibilities.

After the statement for the *Office of the Assistant Secretary for Health (HA),* add the following title and functional statements:

President's council on Physical Fitness and Sports (HAC). The Executive Director and staff provide support to the President's Council on Physical Fitness and Sports (PCPFS) which is responsible for the following functions: (1) Develops and coordinates a comprehensive national program for physical fitness and sports, and promotes cooperative efforts with business and labor to foster employee fitness and sports programs; (2) advises the President, the Secretary and the Assistant Secretary for Health on matters pertaining to the national program; (3) serves as the advisory body and provides advice and guidelines to the Office of Health Information, Health Promotion, Physical Fitness and Sports Medicine on all physical fitness programs and activities supported by the Office as part of the national prevention strategy; (4) appoints and coordinates volunteer advisors and medical consultants to enhance the effectiveness of Council activities; (5) fosters, assists and enlists the support of State and local governments and public, private and voluntary organizations in raising the awareness of, promoting, and coordinating physical fitness and sports programs to aid in overall human development; and (6) collects and disseminates research and statistical information and stimulates research in the area of physical fitness.

Office of Refugee Health (ORH)

The *Office of Refugee Health (ORH)* in the Office of the Assistant Secretary for Health provides a central focal point for the direction and coordination of PHS efforts in all refugee and entrant health matters. Specifically, the Staff: (1) Develops and implements policy and guidelines relating to refugee and entrant health and mental health screening and care; (2) directs and coordinates camp health and mental health operations and provides guidance to PHS agencies in meeting their responsibilities for the support of these operations; (3) negotiates interagency agreements between PHS and other Federal components and between ORH and PHS agencies concerning specific assignments of program responsibility, the allocation of resources and the establishment of program accountability; and (4) represents the Assistant Secretary for Health and serves as the PHS focal point for liaison with the Office of Refugee Resettlement, ORR/DHHS, other components of the Department, the Department of Justice, other Federal components and the private sector on all matters pertaining to refugee and entrant health and mental health.

Under the heading entitled *Office of Public Affairs (HAB)* amend items (2) and (3) to read: "(2) coordinated the public affairs activities of the five health agencies with policy direction of the Assistant Secretary for Health and with the overall public affairs policies of the Department of Health and Human Services; (3) provides a focal point for the public on freedom of information; and"; add new items (4) and (5) to read: "(4) serves as the focal point for the publication of *Public Health Reports;* and (5) reviews and clears all print, audiovisual and exhibit plans and materials intended for external dissemination and, through the Assistant Secretary for Health, serves as clearance liaison with the Assistant Secretary Public Affairs."

Delete the statement for the *Office of Health Maintenance Organizations (HA2).*

Under the heading and statement for the *Office of Population Affairs (HA5)* delete the title only for the *Office of Adolescent Family Life Programs (HA52)* and substitute the title *Office of Adolescent Pregnancy Programs (HA52).*

Under the heading entitled *PHS Executive Secretariat (HA6)* delete the statement and substitute following:

PHS Executive Secretariat (HA6). The PHS Executive Secretariat: (1) maintains system of control of all correspondence for ASH; (2) makes assignments to the PHS agencies and OASH staff offices of correspondence requiring response; monitors follow up and assures completion of such assignments; assures appropriate clearances and comments are included in correspondence system; (3) provides final substantive review and quality control on all documents moving to ASH for signature or clearance; (4) monitors activities of interest to ASH and assures quality and timely completion of assignments to PHS from the Secretary of ASH; (5) develops and publishes criteria and requirements for the preparation of correspondence for signature of OASH officials.

Delete the statement for the *Office of Health Research, Statistics and Technology (HAT).*

Under the heading *National Center for Health Services Research (HAT1)* delete the title and the statement in their entirety and substitute the following:

Naational Center for Health Services Research (HAR). Provides national leadership and administration of a program of research, demonstrations, and evaluations to study: (1) The accessibility, acceptability, planning, organization, distribution, technology, utilization, quality, and financing of health services and systems; (2) the supply and distribution, education and training, quality, utilization, organization, and costs of health manpower; (3) the design, construction, utilization, organization, and cost of health facilities and equipment; (4) the role of market forces in the health care system and the appropriate role they may play in restraining cost increases and improving the availability and quality of care; (5) the factors that affect the use of health care technologies in the United States; (6) the methods for disseminating information on health care technologies; and (7) the effectiveness, cost effectiveness, and social, ethical, and economic impacts of particular medical technologies. In carrying out these responsibilities, the National Center engages in the following activities: (1) Supports by means of grants and contracts with public and private entities health services and health care technology research, demonstration, and evaluation projects; (2) conducts research, demonstrations, and evaluations through the use of staff and facilities of the Center; (3) administers and supports health services research training programs; (4) assists public and nonprofit private entities in meeting the costs of planning, establishing, and operating centers for multidisciplinary health services research, evaluations, and demonstrations; (5) coordinates all health services and health care technology research, evaluations, and demonstrations undertaken and supported through units of PHS in the Department of Health and Human Services; (6) consults with public and private organizations and individuals to identify the critical issues and problems to be addressed through the research programs; (7) publishes and disseminates the findings and the data obtained in the course of research, evaluations, and demonstrations supported or undertaken by the Center and undertakes programs to develop new and improved methods for making such information available; (8) provides technical assistance and consultation to organizations and individuals within and outside the Department engaged in or concerned with the results of health services of health care technology research, evaluations, and demonstrations; and (9) participates in and otherwise cooperates in international meetings, conferences, or other activities concerned with health services research or health care technology.

Office of the Director (HAR1). Provides leadership for and directs the activities of the National Center for Health Services Research. Specifically: (1) Oversees and directs the formulation of program objectives and policies for the Center consistent with the law and with departmental and PHS policy; (2) plans, directs, coordinates, and evaluates the research, demonstration, and evaluation activities undertaken and supported by the Center; (3) oversees, coordinates, and evaluates national efforts to improve and expand the field of health services and health care technology research; (4) oversees and directs the response to inquiries received by the Center and clearance of documents dealing with matters of internal policy; (5) directs and coordinates Center activities in support of Equal Employment Opportunity programs; and (6) serves as scientific and technical advisor to the Office of the assistant Secretary for Health, and the Office of the Secretary on matters related to health services and health care technology research.

Office of Program development (HAR12). Oversees and coordinates the development of a research plan for the Center and provides analyses to assist in the formulation of health policy. Specifically: (1) Directs and coordinates the process of formulating a plan for health services and health care technology research, evaluations, and demonstrations; (2) participates in the Forward Planning process of PHS and the Department; (3) advises the Center Director on the types of projects which should be undertaken by the staff of the Center, and the mechanism to be used for research, demonstrations, and evaluation activities to be conducted outside the Center; (4) monitors the research programs and prepares periodic and special reports that describe, integrate, and assess the results of research, evaluations, and demonstrations undertaken and supported by the Center; (5) maintains liaison with other Federal agencies, with State and local government organizations, and with the research community, and organizes conferences to review and recommend modification in the research plan of the Center; (6) assists the Office of the Director in coordinating the research program of the Center with other research efforts within PHS and the Department; (7) plans and directs studies to evaluate the various programs and activities of the Center; and (8) provides analyses of research findings that have implications for health policies and health legislative initiatives.

Office of Program Support (HAR13). Within guidance and policies provided by the Office of Management, directs and conducts administrative management activities to provide services in the areas of organization and management analysis, manpower utilization, ADP management, telecommunications management, information systems, delegations of authority, paperwork management, grants and contracts processes, and other logistical operations to support the Center. Specifically, within the framework of PHS management policy: (1) Monitors, reviews and comments on legislative and policy proposals which impact on Center authorities and operations; (2) develops and oversees the implementation of methods and procedures for controlling operations of the Center; (3) develops budget proposals, and provides financial accounting services for the Center; (4) develops annual ADP plans, and assures the timely issuance of reports; (5)

conducts continuing appraisal of Center processes, organizational and functional structures, and manpower requirements and allocations to assure optimum utilization of the Center's resources; (6) implements award processes of grants and contracts proposals; and (7) maintains liaison with the OASH Office of Management on policy and operational issues and matters affecting the Center.

Office of Health Technology Assessment (HAR14). The Office: (1) Provides national leadership, coordination and administration of a comprehensive program for health care technology assessment and transfer to improve the quality and reduce the cost of medical care; (2) establishes criteria for public and private organizations and individuals both within and outside the Office to identify the critical technologies to be assessed; (3) administers a program of assessments of health care technology which take into account their safety, efficacy, cost effectiveness, and social, ethical and economic impacts; (4) makes recommendations respecting health care technology issues in the administration of the laws under ther the Assistant Secretary for Health's jurisdiction, including preparation of the Public Health Service position regarding appropriateness of Medicare coverage of health care technology; (5) publishes and disseminates the information obtained as a result of activites supported by the Office and undertakes programs to develop new and improved methods for making such information available; (6) provides technical assistance and consultation to organizations and individuals within and outside the Department engaged in or concerned with the results of health care technology assessments, research, evaluations, and demonstrations; and (7) coordinates PHS research, evaluations and demonstrations respecting the assessment of health care technology undertaken and supported by DHHS components.

Division of Academic and External Liaison (HAR2). Provides leadership and direction for the general academic programs of the Center, oversees the activities designed to disseminate the results of research supported by the Center, and supervises the general effort to coordinate the research program of the Center with the research programs and concerns of other governmental nonprofit private organizations and academic institutions. Specifically: (1) Assists in planning and directly oversees the health services research training programs of the Center; (2) directs and monitors the research centers program of the Center; (3) administers and sets policies for the program to publish and disseminate research reports prepared by or with the support of the Center; (4) participates with the Offices of Program Develpment and Health Terchnology Assessment in coordinating the research programs of the Center with the research programs being conducted in other parts of PHS and the Department; (5) serves as the principal liaison with academic institutions, private foundations, and other organizations conducting or supporting health services research programs; (6) advises the Center Director on the non-Federal membership of various review and advisory groups set up to assist the Center; (7) informs the Center Director of general administrative policy and program concerns which exist in the research institutions, private foundations, the Department, and other Government agencies; and (8) assists in developing policies for and oversees activities of the Center pertaining to the Regional Offices; and (9) is responsible for the grants review activities.

Division of Extramural Research (HAR3). Provides the professional expertise required by the Center to manage health services and health care technology research, demonstration, and evaluation activities supported by means of grants and contracts. Specifically: (1) Determines the structure and content of research studies supported by contract which address the critical issues and research questions identified in the research plan of the Center; (2) develops and administers a program to monitor research studies supported by grant or contract; (3) provides general guidance and assistance to groups and individuals seeking support for research, demonstration, or evaluation projects; (4) provides technical support for advisory bodies responsible for reviewing grant and contract proposals for scientific merit; (5) particpates in the preparation of periodic reports which describe, analyze, and integrate the results of various research, demonstration, and evaluation projects supported by the Center; (6) provides a summary of current extramural studies and informs the Offices of Program Development and Health Technology Assessment of results that might have an impact on health policy and legislation; and (7) maintains liaison with professional and scientific organizations, foundations, and other groups engaged in health services and health care technology research, demonstration, and evaluation activities.

Division of Intramural Research (HAR5). Provides professional expertise required by the Center to undertake directly health services and health care technology research, demonstration, and evaluation activities. Specifically: (1) Designs and carries out research, demonstration, and evaluation projects which address the critical issues and research questions identified in the research plan of the Center; (2) provides information, analyses, and technical support to the Division of Extramural Research with regard to the structure and content of contracts awarded by the Center and the monitoring of grants; (3) provides consulation and technical assistance to the Office of the Assistant Secretary for Health and the Department with regard to the development, experimental design, management, and interpretation of research projects; (4) prepares and participates in the dissemination of reports which describe and analyze the findings of research, demonstration, and evaluation projects undertaken by the Center; (5) analyzes program operations to ensure responsible administration of resources allocated for intramural research; (6) provides a summary of findings of current intramural research projects and informs the Offices of Program Development and Health Technology Assessment of results that might have an impact on health policy and legislation; and (7) maintains liaison with professional and scientific organizations, foundations, and other groups engaged in health services and health care technology research activities.

National Center for Health Statistics (HAS). (1) Provides national leadership in health statistics and epidemiology; (2) collects, analyzes, and disseminates national health statistics on vital events and health activities, including the physical, mental, and physiological characteristics of the population, illness, injury, impairment, the supply and utilization of health facilities and manpower, the operation of the health services system: health costs and expenditures, changes in the health status of people, and environmental, social and other health hazards; (3) administers the Cooperative Health Statistics System; (4) stimulates and conducts basic and applied research in health data systems and statistical methodology; (5) coordinates to the maximum extent feasible, the overall health statistical and epidemiological activities of the program and agencies of PHS and provides technical assistance

in the planning, management and evaluation of statistical programs of PHS; (6) maintains operational liaison with statistical units of other health agencies, public and private, and provides technical assistance within the limitations of staff resources; (7) fosters research, consultation and training programs in international statistical activities; (8) participates in the development of national health statistics policy with other Federal agencies; (9) directs the environmental and epidemiological statistics programs of the Center; and (10) in its role as the Government's principal general-purpose health statistics organization as designated by the Office of Management and Budget, provides the Assistant Secretary for Health with consulation and advice on statistical matters.

Office of the Director (HAS1). (1) Plans, directs, administers, coordinates and evaluates the total vital, health, and health-related statistics programs of the Center; (2) stimulates basic and applied research and developmental activities; (3) provides national and international leadership in vital and health statistics and epidemiology; (4) conducts a variety of professional activities to provide assistance to government agencies, to foster international relationships and to improve the broad fields of vital and health statistics and epidemology; (5) coordinates the Center's activities with public and private health statistical agencies; (6) provides advice and guidance on disease classification problems in the Center; coordinates activities within the Center on classification of diseases and procedures; and has responsibility for development of revision proposals and U.S. position on decennial revisions of the International Classification of Diseases; (7) directs the Center's environmental and epidemiological statistics programs; (8) directs the Cooperative Health Statistics Systems; (9) provides management and administrative support for the Center; (10) provides program planning and development for the Center; (11) develops and coordinates legislative activities; and (12) directs and coordinates Center activities in support of the Department's Equal Employment Opportunity program.

Office of International Statistics (HAS12). (1) Plans and conducts the National Center for Health Statistics (NCHS) foreign research, consultation, and training programs; (2) coordinates or represents the Center's interests in international statistical activities in vital and health statistics, epidemology and financing of health care; (3) stimulates NCHS staff to develop research programs in foreign countries; (4) develops and conducts academic and applied courses for foreign statisticians; (5) assembles data and prepares reports on comparative international health statistics; and (6) develops and conducts analytical studies in international vital and health statistics.

Office of Management (HAS13). (1) Participates in the development of policly, long-range plans, and programs of the National Center for Health Statistics; (2) plans, coordinates, directs and conducts the management operations of the National Center for Health Statistics; (3) reviews the effectiveness and efficiency of the operation and administration of all programs of the Center; (4) conducts organizational and procedural studies; (5) monitors the performance appraisal system; (6) develops and directs systems for financial, personnel, procurement, paperwork management, staff resources utilization and management by objectives; (7) plans, develops and conducts a Centerwide management information system; (8) develops administrative policies and procedures; (9) manages the Reimbursable Work Program for the Center; and (10) provides services in the areas of delegations of authority, grants and contracts management, reports and records management, and organization and management analysis.

Office of Research and Methodologly (HAS14). (1) Participates in the development of policy, long-range plans, and programs of the Center; (2) plans, coordinates and stimulates the Center's applied and basic research program which includes the fields of mathematical statistics, survey design and methodolgy; (3) formulates statistical standards regarding the survey design, data collection, coding, data analysis, data presentation and statistical computing for all NCHS data systems and coordinates activities directed at the implementation and maintenance of these standards; (4) actively supports all of the Center's basic and applied research activities by serving as the Center's consultants in the fields of mathematical statistics, survey design and methodology, and statistical methodology; (5) consults and collaborates on statisticals research projects with PHS agencies and other Federal organizations, State and local governments, universities, private research organizations and international health agencies; and (6) reviews for statistical merit all research contracts and intramural projects and all research projects undertaken through contracts, interagency agreements, or intramural activities.

Office of Program Planning, Evaluation, and Coordination (HAS15). (1) Participates in the development of policy, long-range plans, and programs of the Center; (2) develops proposed policies for the coordination of NCHS programs with external agencies, both public and private; (3) serves as the focal point for coordination of health statistical activities within NCHS and for developing and coordinating the collaborative statistical activities of NCHS with other organizations and agencies; (4) provides a focus within NCHS for statistical program planning, evaluation, and coordination and for legislative affairs; (5) evaluates or arranges for the evaluation of the adequacy, completeness and responsiveness of Center programs both nationally and internationally to the NCHS mission and user needs for data; (6) directs the definition, development, and coordination of the cooperative program in health statistics, working with the Regional Offices, local governments, and other organizations in the development and strengthening of sub-national statistical systems; (7) provides program leadership and coordination for the NCHS Reimbursable Work Program; (8) provides guidance and staff support for major Center conferences and committee organizations in the conduct of statistical training activities; (10) participates with appropriate agencies and organizations to improve the quality, comparability, and timeliness of standard health data sets and to promote and disseminate their use; maintains current information concerning Federal and non-Federal health statistics systems; and (11) coordinates required clearances of NCHS projects.

Office of Vital and Health Care Statistics Program (HASB). (1) Participates in the development of policy, long-range plans and programs of the Center; (2) directs, plans, and coordinates the Vital and Health Care Statistics Program of the Center; (3) provides policy guidance, technical liaison, leadership, and evaluation of Federal-State conjoint Vital and Health Care Statistics Program; (4) provides leadership for the monitoring and statistical evaluation of national vital and health care statistics; (5) provides operating liaison with other programs of the center on vital and health care statistics and other public and private agencies; (6) determines the need for new data systems or capabilities in present systems to provide needed

health statistics; (7) provides statistical consultation and technical assistance to other producers and users of health statistics; and (8) conducts developmental and evaluation research to assess the quality and cost-effectiveness of the vital and health care statistics program.

Division of Vital Statistics HASB2). (1) Plans and administers statistical programs based on the nationwide collection of data from vital records, vital records followback surveys, and demographic surveys of women in the childbearing ages; (2) produces statistical data in tabular and machine-readable form; (3) analyzes data and prepares reports for publication; (4) provides data to users through publications, computer tapes, special tabulations and unpublished data; (5) plans and administers the Division of Vital Statistics programs related to the Cooperative Health Statistics System; (6) develops standards for data collection, data reduction, and tabulation; (7) conducts or participates in research on data collection methodology and data quality and reliability in the vital statistics area; (8) participates in the development of quality control specifications; (9) conducts methodological research in presentation, evaluation and utilization of vital statistics data; (10) monitors, evaluates, and provides technical assistance for State and local registration areas on matters of legal and statistical concern; (11) prepares life tables and analyses of life table data; and (12) plans and administers a National Death Index.

Division of Health Care Statistics (HASB3). (1) Plans and administers statistical programs based on nationwide collection of data on the characteristics and use of health resources; (2) produces statistical data in tabular and machine-readable form; (3) analyzes data and prepares statistical reports for publication; (4) provides health care data to the using public through publications, computer tapes, special tabulations, and unpublished data; (5) plans and administers its programs which are related to the Cooperative Health Statistics System (CHSS); (6) develops standards for data collection, data reduction, and tabulation; (7) conducts or participates in a research program on survey methodology and data quality and reliability in the field of health care statistics; (8) participates in the development of quality control specifications; (9) conducts methodological research on presentation, evaluation, and utilization of data in the field of health resources and utilization statistics; (10) plans, supports and conducts special projects on health care; (11) provides specialized responses to requests from data users; and (12) provides technical assistance to other producers and users of health care statistics.

Office of Interview and Examination Statistics Program (HASC). (1) Participates in the development of policy, long-range plans and programs of the Center; (2) directs, plans, and coordinates the Interview and Examination Statistics Program of the Center; (3) provides operating liaison with other statistical programs of the center on interview and examination statistics and other public and private health agencies; (4) determines the need for new data systems or capabilities in present systems to provide needed health statistics; (5) provides statistical consultation and technical assistance to other producers and users of health statistics; (6) conducts developmental and evaluation research to assess the quality and cost-effectiveness of the interview and examination statistics program.

Division of Health Interview Statistics (HASC2). (1) Plans, develops, and administers statistical programs based on systematic nationwide household interview surveys; (2) produces statistical data in tabular and machine-readable form, analyzes data and prepares statistical reports for publication on the prevalence and incidence of disease and associated disabilities and on the utilization of medical care resources, medical care expenditures and other health-related topics; (3) develops and monitors quality control programs for ongoing data collection and processing activities; (4) conducts a research program on survey methodology, data quality, and reliability as related to household interview statistics; (5) provides technical assistance in health interview survey design and methodology; and (6) provides specialized responses to requests from data users.

Division of Health Examination Statistics (HASC3). (1) Plans, develops, and administers statistical programs based on systematic nationwide and special health and nutrition examination surveys; (2) procures statistical data in tabular and machine-readable form, analyzes data and prepares statistical reports for publication on the prevalence of disease or health-related characteristics, including data on dental, psychological, mental health and health behavior areas, on needs for care, on descriptive or normative data, and on the interrelationship of these variables as observed in the general population; (3) develops and monitors quality control programs for ongoing data collection activities; (4) conducts a research program on survey methodology, data quality, and reliability as related to health examination statistics; (5) plans, supports and conducts special projects on health examination of individuals; (6) provides technical assistance in health examination survey design and methodology; and (7) provides specialized responses to requests from data users.

Office of Data Processing and Services Program (HASD). (1) Participates in the development of policy, long-range plans, and programs of the Center; (2) directs, plans, and coordinates the Data Services and Data Processing program of the Center; (3) provides policy guidance and direction regarding the intramural data collection, data processing services, publication services, and scientific and technical information dissemination services of the Center; and (4) provides operating liaison with other programs of the Center and other public and private health agencies on data processing and services activities; and (5) directs the computer users service staff which carries out research and developmental activities, such as use and modification of special software packages, statistical computing, consultation and review, computer assisted graphics and provides Centerwide training in the use of systems hardware and software packages and systems.

Division of Data Processing (HASD2). (1) Plans, directs, coordinates, and evaluates data processing, i.e., computer operations for the Center; (2) conducts data reduction and data preparation services in support of NCHS data collection and analysis programs; (3) provides systems programming services to all Center operations; (4) conducts research programs to improve data processing technology and methodology; and (5) implements the NCHS Automated Data Processing (ADP) security program and procedures.

Division of Data Services (HASD3). (1) Plans, directs, coordinates, and evaluates data dissemination, publications, and intramural data collection services for the Center; (2) provides technical information services to all NCHS data users; (3) provides publication services and data collection services for NCHS programs; (4) coordinates data services with other NCHS divisions and programs to effectively meet Center goals; (5)

promotes and conducts research to improve methods and operations of intramural data collection, data dissemination and publication services; and (6) provides specialized data services to the Center.

Office of Analysis and Epidemiology Program (HASE). (1) Participates in the development of policy, long-range plans and programs of the Center; (2) directs, plans, and coordinates the Analysis and Epidemiology Program of the Center; (3) develops policy for the Analysis and Epidemiological Health Statistics Program of the Center; (4) provides operating liaison with other programs of the Center and other public and private health agencies on analytic and epidemiologic activities; (5) provides consultation and technical assistance to other Federal agencies, States, and other public and private sector institutions in the areas of environmental epidemiology and in the analysis and interpretation of national health statistics; and (6) conducts developmental and evaluation research in the field of environmental epidemiology and analysis of national health statistics.

Divison of Epidemiology and Health Promotion (HASE2). (1) Plans, directs, and manages the Center's epidemiologic research program on the effects of social, behavioral and environmental factors on health; (2) conducts epidemiologic research and research on the epidemiologic uses of alternative concepts of levels of health status; (3) conducts research, demonstrations, and evaluations of the utility of environmental health statistics and health status measurements in health program planning, policy analysis and program direction; (4) provides operational liaison with health statistical programs of other public and private agencies concerned with environmental and health status measurement; (5) recommends the need for new health data systems or improvements in capabilities of present systems to meet the needs of the Center's overall epidemiologic and health status research programs; (6) provides technical assistance to other producers and users of health status and environmental data; (7) collects and disseminates sources of current information on the conceptualization and measurement of health status, including the maintenance of a Clearinghouse on Health Indices; and (8) coordinates the health promotion and disease prevention related data collection activities of the Center and serves as a liaison with the Department's health promotion and disease prevention initiative.

Division of Analysis (HASE3). (1) Plans, directs, and conducts a program of in-depth analysis of health and demographic data; (2) stimulates the development of concepts and statistical data programs throughout the Center; (3) conducts economic analyses of health, including health status resources and utilization, cost and financing of services; (4) conducts research related to the use and analysis of health data in planning and evaluating health programs and policy; (5) augments the policy analysis activities of HRSA; (6) proposes a general schedule of data to be collected by the Center; (7) prepares an overall plan for the analysis and presentation of data on Center programs; and (8) conducts a research program on etiologic inference from observation studies.

Under the heading entitled *Office of Planning and Evaluation (HA9)* delete the title and statement in their entirety and substitute the following:

Office of Planning and Evaluation (HA9). The Deputy Assistant Secretary for Health Planning and Evaluation: (1) Serves as the principal advisor to ASH concering the development of national health policy, planning, legislation and regulations and the conduct of evaluations; (2) represents PHS in the above areas within the Department and recommends new approaches and initiatives as required; (3) requests, directs or conducts PHS health policy analysis and evaluation, including selected research projects; (4) directs PHS participation in the Department's planning efforts and serves as liaison with all components of PHS and other related organizations on these matters; (5) analyzes developments outside PHS which may influence health policies; (6) directs and coordinates the efforts of PHS components in legislative development, planning, evaluation, and policy analysis, providing analytical assistance relative to these efforts; (7) directs the PHS review of plans and strategies for resources development; (8) cooperates and coordinates with the health-related activities of the Assistant Secretary for Planning and Evaluation, OS, and the Health Care Financing Administration (HCFA); (9) directs the Federal regulations process for PHS; and (10) provides leadership and technical direction on all matters related to statistical policy for PHS.

Division of Planning and Evaluation, Legislation and Regulation (HA9-3). The Division: (1) Coordinates the review of planning issues analyses and the preparation of planning and recommendations to ASH; (2) works closely with the Office of Management concerning PHS activities, including submission of the PHS annual budget; (3) identifies policy research questions and with other Office of Planning and Evaluation (OPE) divisions, OASH staff offices and the PHS agencies, sets priorities for such research and assures that such policy research is undertaken, either by the PHS agencies or this division; (4) manages evaluation activities within PHS and arranges for consultation to the PHS agencies on evaluation methodology and design; (5) contracts for policy research as needed; (6) in cooperation with other OPE divisions, PHS staff offices, PHS agencies, and the Office of the Assistant Secretary for Planning and Evaluation, OS, sets priorities for evaluation of programs; (7) coordinates the review and approval of evaluation plans; (8) conducts or contracts for program evaluation and monitors evaluation programs and assesses the results; (9) coordinates the office of DASH/PE responses to GAO reports and serves as liaison for GAO studies of general concern to PHS for the office of DASH/PE; (10) coordinates development of legislative planning for PHS; (11) directs the Federal regulations process for PHS, including the coordination, review, and technical assistance leading toward the approval of new and revised regulations; (12) distributes and insures review of notices of proposed rulemaking and final regulations, and policy-impacting general notices; (13) provides technical assistance in the development and implementation of new and revised regulations; (14) provides advice and guidance on the development of Federal Register notices and (15) coordinates the drafting and clearance of Federal Register notices.

Division of Policy Analysis (HA9-6). The Division serving as the policy staff for the Assistant Secretary for Health: (1) Initiates and conducts policy analyses in relevant issue areas including biomedical research, environmental factors in health, disease prevention, technology assessment and transfer, the development of health resources and the planning, delivery and financing of health care services; (2) represents PHS and ASH on health policy analyses and development activities within the Department; (3) analyzes the relevancy of current policies on health programs and recommends new approaches and analzses developments outside PHS which may influence health policies and programs; (4) reviews proposed regulations and guidelines for

consistency with ASH policy; (5) provides analytical assistance in legislative and budget analyses, planning, evaluation, and policy research; (6) develops planning issues for analysis by OPE and other PHS components; (7) reviews legislation for consistency with PHS policy; (8) serves as policy liaison with all components of PHS and other health-related organizations; and (9) coordinates interagency efforts affecting the Division's areas of program responsibility.

Division of Data Policy (HA9–7). The Division: (1) Serves as the PHS focal point for policy analysis, development and coordination of all health data and statistical policy; (2) coordinates all matters regarding PHS health data policy standardization, collaborating with other Federal agencies, as appropriate; (3) serves as statistical policy liaison with all components of PHS and other health-related organizations; (4) provides leadership and staff support to the DHHS Health Information Policy Council and the PHS Health Statistics Cooordinating Committee on the identification of intermediate and long-range health data needs and in the development and modification of data gathering plans; (6) provides centralized policy and technical oversight to PHS for clearance and inventorying of public use reporting and recordkeeping requirements; (7) directs preparation and execution of the annual PHS Information Collection Budget; and (8) serves as focal point for coordinating PHS efforts in implementation of the Paperwork Reduction Act of 1980.

Under the *Office of Management (HAU)* make the following changes:

Under the heading entitled *Office of Organization and Management Systems (HAU2)* delete the titles and statements in its entirety and substitute the following:

Office of Organization and Management Systems (HAU2). The Director of the Office of Organization and Management Systems (OOMS) serves as the principal advisor on all PHS organization and management activities, nationwide. (1) Develops and disseminates PHS policies for organization, ADP, telecommunications and management systems; (2) evaluates or directs the review of PHS-wide and agency management systems, procedures, and activities; (3) serves as a focal point for coordinating agency management activities, including emergency preparedness, with the Office of the Secretary and other Federal agencies and offices; (4) provides leadership and direction for the development and implementation of: (a) agency cross-servicing arrangements; (b) compatible organization, ADP systems, and management systems, and procedures designed to improve efficiency and economy of operations in PHS; (5) fosters the efficient management of PHS manpower through a manpower utilization program; and (6) serves as the Chairman and provides the Executive Secretariat for the Board for Corrections of PHS Commissioned Corps Personnel Records.

Division of ADP and Telecommunications Management (HAU22). (1) Provides guidance and leadership to PHS in areas affecting the development and use of ADP and Telecommunications (TC) resources; (2) serves as the principal office for developing and implementing ADP and TC policies and plans; (3) develops, plans and supports management information systems and ADP systems security on a PHS-wide basis; (4) reviews and assesses systems activities, plans, proposals and budgets; (5) coordinates the integration of program and management data to support PHS-wide information management goals and objectives; (6) conducts technical studies and surveys as appropriate; (7) maintains liaison with the Office of the Secretary and other Federal agencies in areas affecting ADP and Telecommunications management; and (8) represents the Department on Interdepartmental Radio Advisory Committee; manages radio frequency assignments for the Department.

Division of Directives and Authorities Management (HAU25). (1) Develops, coordinates, implements, and interprets PHS policies, standards, and procedures in the management of PHS systems for: (a) Delegations of authority; (b) interagency agreements; (c) forms management; (d) directives management; (e) employee suggestions; (f) records management; (g) mail management; (h) reports management; (i) Privacy Act of 1974; (j) committee management; and (k) legislative implementation planning; (2) conducts studies and implements approved recommendations in the above administrative areas for the purpose of applying new technology, opportunities for cost containment and improved productivity; (3) establishes PHS cost/performance standards for the management of forms, records, reports, and mail; (4) develops periodic profiles of performance and evaluates overall effectiveness of management systems under the Division's purview; (5) maintains controls and serves as a clearance point to assure appropriate development and timely disposition of: (a) PHS forms; (b) record control schedules; (c) congressional reports; (d) issuances in PHS staff manuals; (e) delegations of authority; (f) certain interagency agreements; (g) employee suggestions; (h) establishment and continuance of health committees; (i) systems of records subject to the Privacy Act; (j) legislative implementation plans; and (k) the U.S.P.S. Official Reimbursement Program; (6) assures reviews, clearances and control of internal and intergovernmental reports; (7) provides consultation and assistance to PHS officials in the development of authorities, directives and agreements in relation to enacted legislation, regulations, and policies; (8) develops and publishes the PHS Manual of Laws and Regulations; and (9) Provides technical assistance and training to staff specialists at various levels supporting management systems, procedures, and activities.

Division of Management Planning and Analysis (HAU26). (1) Develops, coordinates, and implements PHS policies, standards, and procedures governing the establishment and maintenance of effective organization structures and functional alignments within PHS and the administration of the Standard Administration Code system; (2) initiates, reviews and/or conducts studies of proposals for establishing or modifying PHS organizations and functions, negotiating solutions to problems both within PHS and with the Department; (3) provides management consultant assistance to PHS elements, conducts management studies and special management problem analyses, and directs or provides support to task forces and study groups addressing organization and management problems and issues; (4) provides advice and assistance to PHS managers in the design and installation of management planning and control systems; (5) develops standards and policy for the development of quantitative staffing systems; (6) administers the system for justifying staffing authorizations by PHS agencies, and periodically evaluates those systems for conformance to PHS policies; (7) as an intergral part of the PHS budget review process, participates in the review of all requests for personnel resources and prepares recommendations on appropriate position levels to be supported by ASH's request to the Department; (8) participates in the development of systems and procedures used to formulate the annual PHS budget

request; (9) conducts staffing assessment studies utilizing quantitative analysis and/or work measurement techniques; (10) assures the efficient and effective use of information systems in PHS by: (a) planning and executing information system reviews; (b) providing technical assistance in the application of information technology; and (c) serving as a focal point for the evaluation of information resource management; and (11) coordinates PHS cost savings initiatives internal to the Office of Management.

Division of Emergency Coordination (HAU27). The Division of Emergency Coordination: (1) Is the PHS focal point for emergency management planning, preparedness, and operations activities; (2) provides staff suport to assist ASH in the accomplishment of emergency preparedness responsibilities assigned by Presidential Executive Order 11490 as amended, the Disaster Relief Act of 1974, and other pertinent statues, directives, and delegations of authority; (3) provides central emergency prepardeness policy guidance, coordination, and assistance to heads of PHS agencies and to Regional Health Administrators and monitors their performance and emergency readiness status; (4) works closely with the Federal Emergency Management Agency and other Federal departments and agencies to develop plans and maintain operational readiness required for timely and effective PHS response to Federal, State and local government requests for assistance following major disasters; (5) develops PHS policies and programs and coordinates PHS planning and response activities related to other types of emergencies, including resource shortages, civil disturbances, mass immigration emergencies and other actual or imminent crises; (6) maintains PHS liaison and working relationships with the Federal Emergency Management Agency and with other Federal departments and agencies; and (7) maintains PHS central files of classified emergency plans and other mobilization documents.

Under the heading entitled *Office of Personnel Management (HAU3),* delete the title and statement for the *Division of Human Resources Planning and Development (HAU36)* and substitute the following:

Division of Human Resources Planning and Development (HAU36). (1) Develops policies and programs in the areas of training, career planning, human resources development, social actions and special concerns, staffing and recruitment; (2) conducts and/or coordinates studies and programs to forecast future staffing requirements; (3) plans and develops policies and guidelines to provide for effective programs that recognize future personnel needs and maximum utilization of PHS human resources; (4) plans, develops and/or coordinates policies and programs for training, development and career planning for persons occupying positions common to all PHS agenices and OASH, with particular emphasis on health professions, minorities and women, lower graded employees, and managerial and executive manpower; (5) provides leadership, advice and assistance to PHS officials on recruitment, placement, retention, performance appraisal, reduction in force, career development and training programs; and (6) provides and encourages participation in common needs training for all PHS employees in the Parklawn Complex.

Section HB. Delegations of Authority. All delegations made to the Deputy Assistant Secretary for Health Research, Statistics, and Technology/OASH are hereby revoked. All delegations and redelegations made to officials of the National Center for Health Services Research, the National Center for Health Statistics and the National Center for Health Care Technology which were in effect immediately prior to the effective date of this reorganization shall continue in effect in them or their successors pending further redelegation. All delegations and redelegations made to other officials within the Office of the Assistant Secretary for Health, which were in effect immediately prior to this reorganization, shall continue in effect in them or their successors pending further redelegation.

Dated: January 13, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-1486 Filed 1-18-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Nez Perce Tribe; Use and Distribution of the Nez Perce Tribe of Idaho Judgment Funds in Dockets 179–A, 523–71 and 524–71 Before the United States Court of Claims

January 7, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on October 8, and October 16, 1981, in satisfaction of the awards granted to the Nez Perce Tribe of Idaho in United States Court of Claims Dockets 179–A, 523–71 and 524–71. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated July 9, 1982, and was received (as recorded in the Congressional Record) by the House of Representatives on July 12, 1982, and by the Senate on July 22, 1982. The plan became effective on December 5, 1982, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on October 8 and October 16, 1981, in satisfaction of awards granted by the United States Court of Claims in Dockets 179–A, 523–71 and 524–71 to the Nez Perce Tribe of Idaho, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided.

A. *Per Capita Distribution.* The Nez Perce Tribe of Idaho's latest approved membership roll shall be brought current to include all eligible members born on or prior to and living on the effective date of this Plan.

Subsequent to the preparation and approval by the Secretary of this roll, the Secretary shall make a per capita distribution of eighty (80) percent of the funds, in a sum as equal as possible, to each enrollee. Any amount remaining after the per capita payment to the enrollees shall be utilized pursuant to the provisions of Part B of this Plan. Payment of the per capita is subject to the following conditions.

Those living enrollees who have delinquent tribal debts shall have their per capita shares placed in Individual Indian Money (IIM) accounts. Subject to the provisions of 25 CFR 115.9, the Agency Superintendent shall cause all or part of the delinquent tribal indebtedness of an enrollee to be paid to the tribe and any remainder of the per capita share in the IIM account shall be available to the enrollee subject to the provisions of 25 CFR, Part 115 governing IIM accounts (25 CFR Part 104 redesignated to 25 CFR Part 115, as published in **Federal Register** of March 30, 1982, page 13327). Living competent adult enrollees who have no delinquent tribal debts shall have their per capita shares paid directly to them. The ownership of the per capita shares of deceased individual enrollees shall be determined and the shares, subject to tribal claims, distributed in accordance

with 43 CFR, Part 4, Subpart D. The per capita shares of legal incompetents who do not have delinquent tribal debts shall be handled pursuant to 25 CFR 115.5. The per capita shares of minors shall be handled pursuant to 25 CFR 87.10(a) and (b)(1) and 115.4.

B. *Programing Aspect.* The remaining twenty (20) percent of these funds shall be utilized by the Nez Perce Tribal Executive Committee, subject to the approval of the Secretary, for social and economic programing purposes on an annual budgetary basis.

None of the funds distributed per capita or held in trust under the provisions of this Plan shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act."

Dated: January 7, 1983.

John W. Fritz,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 83-1410 Filed 1-18-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[W-83950]

Wyoming; Invitation for Coal Exploration License Ark Land Company

January 10, 1983.

Ark Land Company hereby invites all interested parties to participate on a pro rata cost sharing basis in its coal exploration program concerning Federally owned coal underlying the following described land in Carbon County, Wyoming:

Lands in Application:

Sixth Principal Meridian

T. 23 N., R. 83 W.,
Sec. 30, lots 1, 2, E½NW¼ (NW¼).
T. 24 N., R. 83 W.,
Sec. 28, W½NE¼, S½;
Sec. 29, N½NE¼, NE¼NW¼, NE¼SE¼.
T. 23 N., R. 84 W.,
Sec. 1, lot 2, SW¼NE¼, SW¼NW¼, SW¼;
Sec. 2, SE¼SE¼;
Sec. 11, NW¼NE¼, SE¼NW¼, E½SW¼, SW¼SW¼;
Sec. 13, SW¼SW¼;
Sec. 14, E½, N½NW¼, SE¼N½;
Sec. 24, W½NE¼NE¼, NW¼NE¼, E½NE¼, E½W½, SE¼;
Sec. 25, E½NE¼, N½NW¼;
Sec. 26, E½, E½SW¼;
Sec. 35, E½NW¼.
T. 24 N., R. 84 W.,
Sec. 36, E½SW¼, W½SE¼.

Containing 2373.86 acres.

A detailed description of the proposed drilling program is available for review during normal business hours in the following offices (under Serial Number W-83950): Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001, and the Bureau of Land Management, 1300 Third Street, Rawlins, Wyoming 82301.

This notice of invitation will be published in this newspaper once each week for two consecutive weeks beginning the week of January 17, 1983, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Ark Land Company, Western Exploration Division no later than thirty days after publication of this invitation in the **Federal Register**. The written notices should be sent to the following addresses: Ark Land Company, Western Exploration Division, Attention: Mr. Jack Cully, Manager, P.O. Box 340, Hanna, Wyoming 82327, and the Bureau of Land Management, Wyoming State Office, Attention: Branch of Energy Minerals, P.O. Box 1828, Cheyenne, Wyoming 82001.

The foregoing notice is published in the **Federal Register** pursuant to Title 43 of the Code of Federal Regulations, § 3410.2-1(d)(1).

Harold G. Stinchcomb.

Chief, Branch of Energy Minerals.

[FR Doc. 83-1480 Filed 1-18-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Outer Continental Shelf Advisory Board; Renewal

This notice is published in accordance with the provisions of section 7(a) of the Office of Management and Budget Circular A-63 (Revised). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), the Secretary of the Interior has determined that renewal of the Outer Continental Shelf (OCS) Advisory Board is necessary and in the public interest.

The purpose of the OCS Advisory Board is to provide advice to the Secretary and other officers of the Department of the Interior in the performance of discretionary functions of the OCS Lands Act (43 U.S.C. 1331 et. seq.), including all aspects of leasing, exploration, development, and protection of the resources of the OCS.

The General Services Administration concurred in the renewal of this Board on December 2, 1982.

Further information regarding this renewal may be obtained from the Deputy Associate Director for Offshore Leasing, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091, 202/343-3530.

Dated: January 12, 1983.

Harold E. Doley,

Director, Minerals Management Service.

[FR Doc 83-1478 Filed 1-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf; Notice of Jurisdiction of the Department of the Interior Relating to Minerals Other Than Oil, Gas, and Sulphur; Clarification

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of jurisdiction; clarification.

SUMMARY: Pending completion of a study of the limits of U.S. Continental Shelf jurisdiction, nothing in the Notice dated December 8, 1982, at page 55313 of the **Federal Register** by the Department of the Interior shall be construed to apply to areas beyond 200 nautical miles from the baselines from which the breadth of the territorial sea of the United States is measured.

Dated: January 12, 1982.

Harold E. Doley, Jr.,

Director.

[FR Doc. 83-1437 Filed 1-14-83; 1:09 pm]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Alaska Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for OCS mineral pre-lease and exploration proposals on the Alaska OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal regulations (40 CFR § 1501.4 and § 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs) prepared by the MMS for the following oil and gas pre-lease and exploration activities proposed on the Alaska OCS. This listing includes all proposals for which environmental documents were prepared by the Alaska OCS Region in the 3-month period preceding this notice.

Activity/Operator

Exploration Drilling Program for Shelikof Strait; Chevron USA Inc., as operator for itself.

Location

The proposed wells will be located within the boundaries of OCS Leases Y–0248 and Y–0249, situated about 25 miles west of Black Cape of Afognak Island. After drilling of the first well, the decision to drill subsequent wells will depend upon the results and interpretation of well data obtained in the preceding wells. The location of each well is described as follow:

Lease and well No.	Location	Latitude/ longitude
OCS Y-0248 No. 1	3700' FNLL 7575' FWLL	58°21'54" N. 153°32'05" W.
OCS Y-0248 No. 2	7050' FSLL 2850' FWLL	58°21'06" N. 153°33'34" W.
OCS Y-0248 No. 3	3450' FSLL 6250' FWLL	58°20'29" N. 153°32'31" W.
OCS Y-0249 No. 1	7150' FSLL 1950' FWLL	58°18'26" N. 153°43'36" W.
OCS Y-0249 No. 2	1850' FNLL 5300' NWLL	58°19'34" N. 153°42'36" W.
OCS Y-0249 No. 3	10050' FSLL 3650' FWLL	58°18'56" N. 153°43'00" W.

Environmental Assessment

No. AK–82–3

FONSI Date

SUPPLEMENTARY INFORMATION: The MMS prepares EAs and FONSIs for proposals which relate to exploration for oil and gas resources on the Alaska OCS.

The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposal constitutes major Federal actions that signficantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

The FONSI and associated EA for the activity listed above are available for public inspection between the hours of 8 a.m. and 4 p.m., Monday through Friday (including lunch hour, 11:30 a.m. to 12:30 p.m.) at: Mineral Management Service, Alaska OCS Region, Office of the Regional Supervisor, Offshore Field Operations, 800 A Street, Suite 205, Anchorage, Alaska 99501, Phone: (907) 271–4303.

Persons interested in reviewing specific environmental documents or obtaining information about EAs and FONSIs prepared for activities on the Alaska OCS are encouraged to contact the above listed MMS office.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Irven F. Palmer,

Acting Regional Manager, Alaska OCS Region, Mineral Management Service.

[FR Doc. 83–1381 Filed 1–18–83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Grant Village, Yellowstone National Park; No Significant Impact

AGENCY: National Park Service, Interior.

ACTION: Finding of No Significant Impact for Amendment One to the Development Concept Plan.

SUMMARY: The National Park Service announces the Finding of No Significant Impact, approved November 17, 1982, for Amendment One, to the Grant Village Development Concept Plan, Yellowstone National Park.

The selected plan will relocate the proposed site of the concession store building and accompanying parking area. The proposed building site is centrally located for convenient vehicular and pedestrian access. The site is large enough to accommodate a 12,000 square foot store building with an 8,000 square foot sales area, and a 125-car parking area. The building and parking will be located in a previously disturbed area.

The 1974 park master plan includes expansion of visitor use facilities at Grant Village in order to reduce the environmental impact on primary park resources by removing overnight visitor accommodations at Old Faithful and Fishing Bridge areas.

An Environmental Assessment was prepared for Amendment One to the Grant Village Development Concept Plan. A public review period including the A–95 review process was held from October 1, 1982, to November 1, 1982.

The following are alternatives considered in the environmental assessment number one:

No Action Alternative (Existing conditions alternative)

Develop a 3,000 square foot store at the camper services building. A store of this size is not adequate to accommodate visitor needs at Grant Village and the south end of Yellowstone National Park (438 campsites and 700 rental units). This store site is out of the primary vehicular and pedestrian circulation pattern. The site would not accommodate adequate parking.

Alternative A (The selected alternative)

Develop a 12,000 square foot building with an 8,000 square foot sales area ground level store facility with room for management functions in the basement. The site has been previously disturbed when the trees were removed, utilities placed underground, and area graded for the registration office parking. Both the store and registration office will be located outside of the view corridor and views of the 125 car parking area will be minimized through grading, earth berms, and plant material screening.

Alternative B.

Development would be at the same magnitude as Alternative A but located in a previously undisturbed area of mature Lodgepole Pine forest. The site is limited in size due to existing terrain and is not as convenient to pedestrian circulation as Alternative A.

Other Alternative Considered

Two other sites were considered, but rejected. These sites are located in mature Lodgepole Pine forests and the terrain on one site is too steep to develop a concession store and associated parking without heavy excavation.

All practical means to avoid and/or minimize environmental harm has been considered in the alternative selected.

A copy of alternatives and preferred alternative along with the record of decision and finding of no significant impact is available from the Superintendent, Yellowstone National Park, Wyoming, 82190.

Dated: January 6, 1983.

L. Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 83–1432 Filed 1–18–83; 8:45 am]

BILLING CODE 4310-70-M

Kenilworth Park and Aquatic Gardens; Availability of Record of Decision and Finding of No Significant Impact for the Development Concept Plan

The National Park Service has prepared the Record of Decision and FONSI for the Kenilworth Park and Aquatic Gardens Development Concept Plan. This record documents the selected course of action for the management and use of the Park and Gardens.

Written comments will be accepted for a period of 30-days following the

publication of this notice and should be addressed to the Superintendent, National Capital Parks—East 1900 Anacostia Drive, S.E., Post Office Box 36104, Washington, D.C. 20020.

Copies of the Record of Decision are available from the same address.

Dated: January 12, 1983.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 83-1433 Filed 1-18-83; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Wyoming; Receipt of Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of Receipt of a Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations and Request for Comments.

SUMMARY: Notice is given that the Office of Surface Mining Reclamation and Enforcement (OSM) received a petition to designate certain Federal lands in the Medicine Bow, Wyoming, area as unsuitable for surface coal mining operations, pursuant to Section 522 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272). Interested persons are requested to submit relevant information and comment on the issues raised in the petition.

DATE: In order to be considered in a timely manner, comments should be received by February 18, 1983.

ADDRESS: Comments should be sent to: Office of Surface Mining, Western Technical Center, Charles Albrecht, Brooks Towers, 2nd floor, 1020 15th Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht at the address listed above. Telephone: (303) 837-5656 or FTS 327-5656.

SUPPLEMENTARY INFORMATION: Under Section 522 of the Surface Mining Control and Reclamation Act of 1977 (Act) and its implementing regulations, persons with interests which are or may be adversely affected by surface coal mining operations may petition OSM to have an area of Federal land designated as unsuitable for all or certain types of mining. The petition alleges that:

1. Surface mining would destroy sage grouse leks resulting in possible deleterious effects on species reproductive success and on long-term population levels.

2. Black-footed ferrets (Federal endangered species) have been sighted in the area. Mining could eliminate any such petition area populations and could thwart any potential species reintroduction efforts for the area.

3. Pronghorn antelope populations on the area would be severely decimated by coal mining activities.

4. Nesting locations and feeding habitat of ferruginous hawks (high federal interest species) would be destroyed by mining.

5. Nesting locations and feeding habitat of golden eagles (protected by the Bald Eagle Protection Act) would be destroyed by mining.

6. Presistent sepal watercress, *Rorippa calycina*, presently under consideration as a Federal threatened or endangered species and four rare plants species (Ward's goldenweed, *Happlopappus wards;* stemless wildlife buckwheat, *Erlogonurn acaule*; simple leaved milkvetch, *Astragalus simplicifolius*; and Brandeye's hopsage, *Grayia brandegii*) could be located on the area and could be adversely affected by coal mining. Suitable habitats for the species on the area would be destroyed by mining.

7. The 34 known archeological sites, as well as an unknown number of undiscovered sites, are irreplaceable and would be destroyed by mining.

8. Three historic sites listed on the National Register of Historic Places, and an additional 12 sites eligible for listing on the register, are irreplaceable and would be destroyed by mining.

9. The receational and esthetical values of the area would be adversely affected by air, water, and noise pollution and by the intrusion of surface coal mining in the area.

The petition was originally received by the Wyoming Environmental Quality Council on February 5, 1982; OSM received a copy of the petition from the Wyoming Department of Environmental Quality (DEQ) on February 25, 1982. On March 5, 1982, OSM informed the petitioner that the petition for Federal lands would have to be formally submitted to OSM (Casper, Wyoming, office); at the same time, OSM identified, in general, information still needed in the petition. The revised petition, in response to OSM's request for additional information, was received by OSM on November 24, 1982 and was determined to be complete on December 21, 1982. The petition for Federal lands will be processed by OSM in accordance with the procedures as set forth in 30 CFR Part 769. The petition for non-Federal lands will be processed by Wyoming DEQ in accordance with the procedures as set forth in Section 35-11-425 of the Wyoming Environmental Quality Act.

The following describes the petitioners and the land involved:

Petitioner: Cheyenne High Plains Aududon Society
State: Wyoming
Counties: Carbon and Albany

The petition area (92.160 acres) is described as Federal Land contained within:

T. 21 N., R. 77 W.
T. 21 N., R. 78 W.
T. 21 N., R. 79 W.
T. 22 N., R. 79 W.

A review of the Federal land area's suitability for mining will be undertaken by OSM. Factual information such as coal resource data of Federal lands will be supplied by the Bureau of Land Management (formerly the Minerals Management Service). In addition, the Bureau of Land Management, as the surface managing agency, will make recommendations on the petition. A decision on the petition will be made by November 23, 1983.

Copies of the petition may be obtained upon request from OSM at the address listed above. The public record on the petition is available for public review during normal working hours at the OSM office listed above and at the three following locations:

Bureau of Land Management, 1300 North 3rd Street, Rawlins, Wyoming 82301, Telephone: (307) 324-7171
Office of the County Clerk, Carbon County Courthouse, Fifth and Spruce Street, Rawlins, Wyoming 82301, Telephone: (307) 777-7756
State of Wyoming, Department of Environmental Quality, Equality State Bank Building, 401 West 19th Street, Cheyenne, Wyoming 82002, Telephone: (307) 777-7756

After reviewing and analyzing available information, OSM will issue a draft evaluation document which will be available for public review. This will be followed by a public hearing held near the area covered by the petition. The time and place of the hearing will be announced at a later date.

After completion of the analyses and public hearing, the Department of the Interior may designate the area or a portion thereof as unsuitable for all or certain types of surface coal mining operations. The Department may also decline to designate all or part of the area as unsuitable.

Dated: January 14, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 83-1503 Filed 1-18-83; 8:45 am]
BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-58 (Final)]

Hot-Rolled Carbon Steel Plate From Romania; Suspension of Final Antidumping Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

EFFECTIVE DATE: January 4, 1983.

SUMMARY: On January 4, 1983, the United States Department of Commerce suspended its antidumping investigation involving hop-rolled carbon steel plate from Romania (48 FR 317). The basis for the suspension is an agreement by Metalimportexport, an exporter which accounts for all known U.S. imports of this product from Romania, to revise its prices to eliminate sales of such merchandise to the United States at less than fair value. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of its antidumping investigation involving hot-rolled carbon steel plate, provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated, from Romania (investigation No. 731-TA-58 (Final)).

EFFECTIVE DATE: January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger (202-523-0312), Office of Investigations, U.S. International Trade Commission.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR § 207.40).

By order of the Commission.

Issued: January 11, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-1494 Filed 1-18-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-114]

Certain Miniature Plug-In Blade Fuses; Issuance of Exclusion Order

AGENCY: International Trade Commission.

ACTION: Issuance of exclusion order.

SUPPLEMENTARY INFORMATION: On November 22, 1982, the Commission unanimously determined with respect to the above-captioned investigation that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. §1337) in the importation of certain miniature plug-in blade fuses into the United States, and in their sale, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States. The Commission subsequently determined on December 1, 1982, that a general exclusion order pursuant to subsection (d) of section 337 is the most appropriate remedy for the violation found to exist, that the public-interest factors enumerated in subsection (d) do not preclude the issuance of such an order, and that the amount of the bond under subsection (g) of section 337 should be 90 percent of the entered value of the articles concerned. The Commission's Action and Order and the Commission Opinion in support thereof were issued on January 13, 1983.

The notice instituting the investigation and defining its scope was published in the **Federal Register** on January 13, 1982 (47 FR 1448).

The Commission Action and Order, the Commission Opinion, and all other nonconfidential documents on the record of the investigation are available for public inspection Monday through Friday during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: P. N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0350.

By order of the Commission.

Issued: January 13, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-1488 Filed 1-18-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway, (202) 275-7278

or

Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No. and specifics	Review board[1]	Decided date
519	Burlington Northern Transportation Co., ICC-BN-C-0236, (Grain or grain products) via BN ports in OR or WA	3	1-12-83
523	Soo Line Railroad Co., ICC-SOO-C-0314, Supplement 1, (Chlorine gas, liquefied, sodium, caustic)	3	1-12-83
525	Burlington Northern Railroad Co., ICC-BN-C-0255, (Soybean or vegetable oil)	3	1-12-83

[1]Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-1383 Filed 1-18-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

As indicated by the following below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board 3, Members Krock, Joyce, and Dowell.

James H. Bayne,

Acting Secretary.

Note.—Please direct status inquiries to Team 1, (202) 275–7992.

Vol. No. OPI–FC–17

No. MC–FC–81050. By decision of January 11, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3 approved the transfer to ROY–L–T TRUCKING, INC., Fontana, CA, of Certificates No. MC–146771 (Sub–Nos. 1 and 2) Issued March 9, 1981 and June 17, 1982, respectively, and Permits No. MC–143058 and (Sub–Nos. 1, 2, 4F, 7F, and 8F) issued February 21, 1979, March 7, 1978, March 13, 1978, August 10, 1979, November 12, 1980, November 6, 1980, respectively, to TRANS WEST CARRIERS, INC., Fontana, CA, authorizing the transportation (A) as a common carrier of (1) *such merchandise* as is dealt in by wholesale, retail, chain grocery and food business houses and agricultural feed business houses, soy products, paste flour products and dairy based products, and (2) *materials, equipment, and supplies* used in the manufacture, distribution and sales of the products in (1), between points in the U.S. in and west of Montana, Wyoming, Colorado, Oklahoma and Texas (restricted to traffic moving to or from the facilities of Ralston Purina Company), and (3) *building materials, carpet and carpet padding,* from points in CA to those points in the U.S. in and west of MT, WY, CO, OK and TX (except AK and HI), and (B) as a contract carrier of (1) *plumbing supplies,* (2) *expanded plastic articles,* (3) *paper and paper products,* and (4) *such commodities* as are dealt in by manufacturers of toilet articles and cosmetics, from and to named points and western States under contract with (a) Norris Industries, of City of Industry, CA, (b) Dolco Packaging Corp., of Burbank CA, (c) Concel, Inc., of La Palma, CA, (d) Kimberly-Clark Corporation, of Fullerton, CA, (e) Publishers Paper Co., of Portland, OR, (f) Treasure Chest Advertising Company, Inc., of Glendora, CA, and (g) Avon, of New York, NY. Transferee is a carrier holding authority under No. MC–151418. An application for TA has been filed. Condition: Prior to consummation in this proceeding and prior to a final decision in No. MC–146771 (Sub–No. 3X2), a request for substitution of applicant must be filed by the parties. Representative: Miles L. Kavaller, Suite 315, 315 South Beverly Drive, Beverly Hills, CA 90212.

For status please call Team 2 (202) 275–7030.

Vol. No. OP2–FC–021

No. MC–FC–81026. By decision of January 11, 1983, issued under 49 U.S.C. 10926, and the transfer rules at 49 CFR 1181, Review Board Number 3, approved the transfer to Freightways, Inc., North Sioux City, SD, of Certificate No. MC–155993 (Sub-No. 1), issued July 8, 1982, to Isis Leasing Corporation (John R. Stonitsch, Trustee in Bankruptcy), Kansas City, MO, authorizing the transportation of such commodities, as are dealt in or used by grocery, restaurant and food business houses, and hotels, between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, VA, WA, WV, WI, and WY. An application for temporary authority has been filed. Representative: D. Douglas Titus, 340 Insurance Exchange Bldg., Sioux City, IA, 51101, for transferee, and John R. Stonitsch, 5800 Stillwell, Kansas City, MO, 64420, for transferor.

Note.—Coincidental with consummation, the authority in MC–155993 and MC–155993 (Sub-No. 2), will be cancelled.

No. MC–FC–81086. By decision of December 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules of 49 C.F.R. 1181, Review Board Number 3 approved the transfer to CORA C. KOLBERG, DBA AMERICAN EAGLE LINE, INC., Nunica, MI, of Permit No. MC–151982 (Sub-No. 1), issued November 4, 1982, to AMERICAN EAGLE LINE, INC., Grand Rapids, MI, authorizing the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with National Box Corporation, of Grand Rapids, MI. Representative: Lyle V. McCrumb, 530 76th St., SW, Grand Rapids, MI 49509.

No. MC–FC–81077. By decision January 10, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3, approved the transfer to DENNY & SIMPSON TRUCKING CO., INC., Harrisburg, IL, of Certificate No. MC–142803, issued October 6, 1981, to SIMPSON TRUCKING, INC., Harrisburg, IL, authorizing the transportation of coal and coal products, as a common carrier over irregular routes, between points in IL, IN, KY, MO, and TN. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL., for transferee and transferor.

No. MC–FC–81093. By decision of January 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3 approved the transfer to RTC DISTRIBUTION CO., Inc., Philadelphia, PA, of Certificate No. MC–44373 (Sub-No. 1), issued October 1, 1981, to RAGEN TRANSPORTATION COMPANY, INC., Gloucester City, NJ, authorizing the transportation, over regular routes, of *cork, cork products, rugs, carpets, olives, mushrooms, and poultry,* between Gloucester City, NJ and New York, NY, serving no intermediate points, but serving the off-route points of Clarksboro and Swedesboro, NJ; over irregular routes, transporting *cork, cork products, and olives,* between Gloucester City, NJ and Philadelphia, PA; *textile machinery,* between Beverly, NJ, on the one hand, and, on the other, Norristown, Pottstown, and Spring City, PA; *general commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Beverly, NJ, and Philadelphia, PA; *general commodities* (except those of unusual value, classes A and B explosives, livestock, used furniture, household goods, commodities in bulk, commodities requiring special

equipment, and those injurious or contaminating to other lading), between points in Monmouth, Burlington and Camden Counties, NJ, on the one hand, and, on the other, Philadelphia and Bristol, PA, New York, Verplanck and Poughkeepsie, NY, and points in Westchester County, NY. An application for temporary authority has been filed. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113.

No. MC–FC–81097. By decision of January 10, 1983 issued under 49 U.S.C. 10926 and the transfer rules of 49 C.F.R. 1161, Review Board Number 3 approved the transfer to transferee H. F. FRIESE, INC., dba H. F. FRIESE AND FRIESE FEED STORE, Friedheim, MO, of Certificates No. MC–59752 and (Sub-No. 1), issued October 11, 1949, and February 8, 1960, respectively, to transferor, H. F. FRIESE, Friedheim, MO, authorizing the transportation of (a) general commodities, with the usual exceptions, over regular routes, (1) between Daisy, MO, and National Stock Yards, IL, and return over the same route, service is authorized to and from the intermediate and off-route points of Biehle, MO, those in MO, within 8 miles of Daisy, MO, and those in St. Clair County, IL, and (2) between Daisy, MO, and Murphysboro, IL, and return over the same routes, service is authorized to and from the intermediate and off-route points of Chester, IL, and those in MO within 8 miles of Daisy, (b) livestock and farm products, from Patton, MO, to National Stock Yards, IL, serving the intermediate points of St. Louis, MO, intermediate and off-route points in Bollinger County, MO, within 15 miles of Patton, MO, and those in St. Clair County, IL, and (c) general commodities with the usual exceptions, from National Stock Yards, IL, to Patton, MO, serving the same intermediate and off-route points as in (b) above. Representative: John P. Lichtenegger, P.O. Box 403, 1210 Greenway Drive, Jackson, MO 63755 for transferee and transferor.

No. MC–FC–81103. By decision of January 11, 1983 issued under 49 U.S.C. 10926 and the transfer rules of 49 C.F.R. 1161, Review Board Number 3 approved the transfer to FRESH EXPRESS, INC., St. Louis, MO, of Permits No. MC–119552 (Sub-Nos. 13, 15X, and 16), issued August 12, 1981, July 22, 1981, and April 6, 1982, respectively, to transferor, J. T. L., INC. (Norman W. Pressman, Trustee in Bankruptcy), St. Louis, MO, authorizing the transportation of (1) general commodities (except classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) Ralston Purina Company, of St. Louis, MO, (b) Fram Corporation and Campbell Filter Company, a subsidiary of Facet Enterprises, Inc., of East Providence, RI, (c) Potlatch Corporation, of Sikeston, MO, (d) Denton Sales Company, of Dallas, TX, (e) Thompson Can Company, of Dallas, TX, and (f) Lever Brothers Company, of Pagedale, MO, (2) pulp paper and related products, between points in the U.S., under continuing contract(s) with Simkins Industries, Inc., of Dallas, TX, and (3) general commodities (except A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with McQuay-Norris, Inc., of St. Louis, MO, and SKF Industries, Inc., of King of Prussia, PA. Representative: Robert L. Cope, 1730 M Street, NW, Ste. 501, Wash, DC 20036 for transferor and transferee. Condition: The permits under No. MC–119552 (Sub-Nos. 5 and 7 through 12), will be canceled as requested by the parties.

[FR Doc. 83–1388 Filed 1–18–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

In the matter of; Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 40 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be

issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly. Please direct status inquiries to Team One at (202) 275–7992.

Vol. No. OP1–15

Decided: January 12, 1983.

By the Commission, Review Board No. 1, Members Chandler, Parker, and Fortier.

MC 2900 (Sub-461), filed January 3, 1983. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant), (904) 359–3111. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Allied Corporation, of Morristown, NJ, and its subsidiaries.

MC 124170 (Sub-199), filed January 4, 1983. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Dr., Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521, (312) 629–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 124511 (Sub-77), filed January 3, 1983. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Highway 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, Suite 1515, 140 South Dearborn St., Chicago, IL 60603, (312) 580–2210. Transporting *such commodities* as are dealt in or used by manufacturers of refractories, between points in the U.S. (except AK and HI).

MC 129080 (Sub-3), filed December 29, 1982. Applicant: REPUBLIC PORTSMOUTH STORAGE CORP., P.O. Box 927, Portsmouth, VA 23704. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* as defined by the Commission, between points in AL, AZ, AR, CO, CA, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VA, WA, WV, WI, WY, and DC.

MC 142640 (Sub-6), filed December 27, 1982. Applicant: P.W.K. TERMINALS, INC., 625 N. 12th Ave., St. Charles, IL 60174. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, (312) 726–6525. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143591 (Sub-7), filed December 29, 1982. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, MN 56258. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting (1) *furniture and fixtures,* (2) *general commodities* (except classes A and B explosives, household goods and commodities in bulk, (3) *food and related products,* and (4) *building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) in (1) with Office Equipment Warehouse, Inc., of Minneapolis, MN, in (2) with Graybow Daniels, Co., of Plymouth, MN, in (3) with Amalgamated Sugar Co., of Ogden, UT, and in (4) with Mid-American Distributing Co., of Minneapolis, MN.

MC 144381 (Sub-4), filed December 29, 1982. Applicant: RIVER CITY FREIGHT, INC., 2843 Deborah Ann, Arnold, MO 63010. Representative: James S. Goode, 2055 Castle Drive, Edwardsville, IL 62025, (618) 656–1597. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, TN, TX and WI.

MC 145921 (Sub-5), filed January 5, 1983. Applicant: NEXT DAY MOTOR FREIGHT, INC., 9470 Aerospace Drive, St. Louis, MO 63134. Representative: Warren A. Goff, 109 Madison Ave., Memphis, TN 38103, (901) 526–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, WI, MI, IN, KY, OH, TN, AR, MS, LA, OK, MO, KS, IA and NE.

MC 148300 (Sub-1), filed January 3, 1983. Applicant: ALL STAR VAN & STORAGE, INC., 2309 Mills Street, El Paso, TX 79901. Representative: Albert Christiansen (same address as applicant), (915) 532–1653. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in NM, AZ, and those points in TX on and west of U.S. Hwy 83.

MC 153081 (Sub-1), filed December 14, 1982, and previously noticed in FR issue of December 29, 1982. Applicant: FRAZIER–FARRIS, INC., P.O. Box 178, Gower, MO 64454. Representative: Tom B. Kretsinger, Jr., 20 East Franklin, Liberty, MO 64068, (816) 781–6000. Transporting *commodities in bulk,* between points in MO and KS. NOTE: This republication reflects the territorial description requested.

MC 156361 (Sub-7), filed January 3, 1982. Applicant: BIGBEE TRANSPORTATION COMPANY, P.O. Box 3610, American Lane, Greenwich, CT 06836–3610. Representative: Raymond L. Pucci (same address as applicant), (203)–552–3513. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Reed Lignin, Inc., of Greenwich, CT.

MC 156361 (Sub-8), filed January 3, 1983. Applicant: BIGBEE TRANSPORTATION COMPANY, P.O. Box 3610, American Lane, Greenwich, CT 06836–3610. Representative: Raymond L. Pucci (same address as applicant), (203)–552–3513. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Consumer Products Division of Borden Incorporated, of Columbus, OH.

MC 157671 (Sub-1), filed January 4, 1982. Applicant: TROBEC'S BUS SERVICE, INC., Rural Rt. 1, St. Joseph, MN 56374. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612)–452–8770. Transporting *passengers,* in charter and special operations, beginning and ending at points in MN, Cass, Richland, Trail and Grand Forks Counties, ND, Roberts, Grant, Deuel, Brookings, Moody, Lincoln, Minnehaha and Union Counties, SD and Pierce, Douglas, Burnett, Polk and St. Croix Counties, WI, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 160650, filed January 3, 1983. Applicant: OSBORNES TRUCKING, INC., 3908 Wilbarger, P.O. Box 2100, Vernon, TX 76384. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except

AK and HI), under continuing contract(s) with Osborne Distributing Company, of Vernon, TX.

MC 161571, filed January 4, 1983. Applicant: AMERICAN DELIVERY SERVICE, INC., 8415 Envoy Ave., Philadelphia, PA 19153. Representative: Richard Rueda, 135 North Fourth St., Philadelphia, PA 19106, (215) 627–1923. Transporting *such commodities* as are dealt in or used by retail department stores, between points in NY, NJ, CA, AZ, NM and NY, under continuing contract(s) with H.R.T. Industries, Inc., of Los Angeles, CA. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. § 11343(e) seeking an exemption from the requirements of 49 U.S.C. § 11343, (2) file an application under 49 U.S.C. § 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, 2379.

MC 163931 (Sub-1), filed January 3, 1983. Applicant: ELLIFSON TRUCKING, INC., 641 Jacobus Rd., Edgerton, WI 53534. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in Rock County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164890, filed January 3, 1983. Applicant: CROZIER-DIX, LTD., 1560 Broadway, Room 807, New York, NY 10036. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *oil paintings, drawings, and sculptures,* between New York, NY, on the one hand, and, on the other, Chicago, IL, St. Louis, MO, Minneapolis, MN, Milwaukee, WI, Indianapolis, IN, Pittsburgh, PA, and Boston, MA.

MC 165451, filed January 3, 1983. Applicant: SKYLAND CONTRACT CARRIERS, INC., P.O. Box 781, Skyland, NC 28776. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NY 28204, (704) 372–6730. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Clark Equipment Company, of Buchanan, MI.

MC 165461, filed January 29, 1983. Applicant: W. F. MARTIN COMPANY, 3 Toquo Center, 2821 North Central Avenue, Knoxville, TN 37917. Representative: Joseph W. Gibbs, 21st Floor, First American Center, Nashville, TN 37238, (615) 244–2582. Transporting (1) *textile mill products,* and (2) *rubber and plastic products,* between points in the U.S. under continuing contract(s) with Furtex, Inc., of Jacksboro, TN in (1) and (2) above, and Carlisle Tire and Rubber Company, of Carlisle, PA in (2) above.

MC 165470, filed December 30, 1982. Applicant: MACK'S AUTO SALES TRUCKING COMPANY, INC., 4620 Old Jonesboro Rd. Forest Park, GA 30050. Representative: James W. Hightower, Suite 301, Allied Bank-Southwest Bldg., 5801 Martin D. Love Freeway, Dallas, TX 75237–2385, (214) 339–4108. Transporting *automobiles and trucks,* between points in the U.S. (except AK and HI).

MC 165490, filed January 4, 1983. Applicant: ROBERT MOSQUEDA d.b.a. FRESNO CHARTER SERVICE, 724 B St., Fresno, CA 93706. Representative: Robert Mosqueda (same address as applicant), (209)–485–8299. Transporting *passengers,* in charter and special operations, between points in CA, AZ, NV, and UT. NOTE: Applicant seeks to provide privately funded charter and special transportation.

MC 165491, filed January 4, 1983. Applicant: JRJ ENTERPRISES, 6350 Upper Road, Cincinnati, OH 45238. Representative: James R. Jones, (same address as applicant), (513) 941–3155. Transporting *food and related products,* between Cincinnati, OH, on the one hand, and, on the other, points in the U.S. (Except AK and HI).

MC 165521, filed January 4, 1983. Applicant: GODWIN MATERIAL SERVICE, INC., P.O. Box 214, Brantley, AL 36009. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104, (205)–262–2756. Transporting (1) *commodities in bulk,* and (2) *bagged fertilizer,* between points in AL, FL, GA, MS, NC, SC, and TN.

MC 165541, filed January 6, 1983. Applicant: J. C. VAUGHAN, 7080 Crown Road, S.W., Roanoke, VA 24018. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with National Pools, of Roanoke, Inc., of Roanoke, VA.

For the following, please direct status calls to Team 4 at (202) 275–7669.

Volume No. OP4–012

Decided: January 12, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–646, filed December 15, 1982. Applicant: SOUND FORWARDERS, 130 N.W. 54th St., Seattle, WA 98107. Representative: Roy E. Bequette (same address as applicant) (206) 789–0589. As a freight forwarder, in connection with the transportation of *used household goods, unaccompanied baggage, and used automobiles,* between points in the U.S.

MC 59247 (Sub-26), filed December 29, 1982. Applicant: LINDEN MOTOR FREIGHT CO., INC., 1300 Lower Rd., Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 84687 (Sub-7), filed January 3, 1983. Applicant: VETERANS TRUCK LINE, INC., P.O. Box 216, Bristol, WI 53104. Representative: Steven I. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840–8565. Transporting *general commodites* (except classes A and B explosives, household goods and commodities in bulk), between St. Louis, MO and points in IL and WI.

MC 104057 (Sub-9), filed January 4, 1983. Applicant: CRAFT TRANSPORT COMPANY, INC., P.O. Box 367, Gate City, VA 24251. Representative: Gorman Barger (same address as applicant), (703) 386–7112. Transporting (1) *petroleum, natural gas and their products,* between points in TN, KY, WV, NC and VA; and (2) *farm products,* between points in KY and VA.

MC 110197 (Sub-21), filed January 4, 1983. Applicant: DAVID S. DRACUP, d.b.a. DSD TRUCKING, 20 S. Hanford Ave., Jamestown, NY 14701. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *pipe and related products,* between points in Kanawha, Putnam and Upshur Counties, WV; Portage, Trumbull and Washington Counties, OH, and Chautauqua County, NY.

MC 114227 (Sub-14), filed January 4, 1983. Applicant: A & C CARRIERS, INC., 2909 E. Laketon Ave., Muskegon, MI 49442. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *chemicals and related products,* between points in MI, IN, IL and OH.

MC 114757 (Sub-7), filed January 3, 1983. Applicant: EMPIRE BUS LINES, d.b.a. LEPRECHAUN LINES, P.O.Box 2628, Newburgh, NY 12550. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Over regular routes, transporting *passengers*, between Fishkill and Arlington, NY: from Fishkill over U.S. Hwy 9 to Poughkeepsie, NY, then over U.S. Hwy 44 to Arlington, serving all intermediate routes, and the off-route points of Downstate Correctional Facility and Beacon Correctional Facilities, near Beacon, NY.

Note— (1) Applicant seeks to provide regular-route service in interstate or foreign commerce.

(2) Applicant states it intends to tack the authority herein with its presently authorized operations.

MC 129057 (Sub-6), filed January 3, 1983. Applicant: ACADEMY MOVERS, INC., 421 W. Sycamore, Junction City, KS 66441. Representative: Alan F. Wohlstetter, 1700 K. St., NW, Washington, DC 20006, (202) 833–8884. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S.

MC 133296 (Sub-17), filed December 27, 1982. Applicant: YULE TRANSPORT, INC., P. O. Box 56, Medford, MN 55049. Representative: Robert S. Lee, 1600 TCF Tower, 121 South 6th St., Minneapolis, MN 55402, (612) 333–1341. Transporting (1) *such commodities* as are dealt in or used by liquor stores, grocery stores and food business houses, between points in IL, MN, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Des Moines, IA, and points in Montgomery County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation of the Permits in MC–133296 Sub 2, issued October 2, 1069, MC–133296 Sub 4, issued March 1, 1971, MC–133296 Sub 6, issued October 31, 1974, MC–133296 Sub 7, issued July 1, 1977, MC–133296 Sub 8, issued April 9, 1979, MC–133296 Sub 10, issued May 4, 1979, MC–133296 Sub 13, issued March 4, 1981, MC–133296 Sub 15, issued August 12, 1981, and MC–133296 Sub 16, issued May 6, 1982.

MC 134836 (Sub-1), filed December 28, 1982. Applicant: I.C. KING TRUCKING, INC., 7434 West 300 North 27th St., Converse, IN 46919. Representative: Mel P. Booker, Jr., P.O. Box 1281, Old Town Station, Alexandria, VA 22313, (703) 836–6115. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Howard County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 140827 (Sub-29), filed January 3, 1983. Applicant: MARKET TRANSPORT, LTD., 110 N. Marine Dr., Portland, OR 97217. Representative: Richard H. Streeter, 1729 H Street NW., Washington, DC 20006, (202) 337–6500. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with The Clorox Company, of Oakland, CA.

MC 142857 (Sub-11), filed January 3, 1983. Applicant: MCC TRANSPORTATION CO., INC., Route 2, Box 107–B, Hope, AR 71801. Representative: Mark J. Andrews, Suite 1100, 1660 L Street NW., Washington, DC 20036, (202) 452–7438. Transporting *plastic products*, between points in the U.S., under continuing contract(s) with Mobil Chemical Company, of Macedon, NY.

Mc 143427 (Sub-5), filed December 27, 1982. Applicant: WINSTON LIMOUSINE SERVICE, INC., 1650 Sycamore Ave., Bohemia, NY 11716. Representative: Sidney J. Leshin, 3 E. 54th St., New York, NY 10022, (212) 759–3700. Over regular routes, transporting *passengers*, between junction U.S. Hwy 1 and CT Hwy 121 at or near Milford, CT, and the Airports of J.F.K. International and LaGuardia, NY: from junction U.S. Hwy 1 and Ct Hwy 121 to junction Interstate Hwy 95, then west over Interstate Hwy 95 to Bridgeport, CT, then west over Railroad Ave. to junction Interstate Hwy 95, then over Interstate Hwy 95 to Stamford, CT, then west over U.S. Hwy 1 to junction Interstate Hwy 95, then west over Interstate Hwy 95 to Bruckner Expressway, then south on Brunckner Expressway to Whitestone Bridge, then over the Whitestone Bridge to the Whitestone Expressway, then south over Whitestone Expressway to (a) Van Wyck Expressway, then south on Van Wyck Expressway to J.F.K. International Airport, and (b) Astoria Blvd., then west on Astoria Blvd., to 94th St., Then north on 94th St. to LaGuardia Airport, serving all intermediate points. Note: Applicant seeks to provide regular-route service in interstate or foreign commerce.

MC 144867 (Sub-13), filed December 30, 1982. Applicant: R & J TRANSPORT, INC., 608 N. 41st. St., Manitowoc, WI 54220. Representative: Michael, J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *general commodities* (except commodities in bulk, household goods, and classes A and B explosives), between points in WI on the east of U.S. Hwy 51, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145587 (Sub-2), filed January 4, 1983. Applicant: MD TRUCKING CORPORATION 1221 E. Costilla Ave., Littleton, CO 80122. Representative: Nancy P. Bigbee, 745 E. 18th Ave., #101, Denver, CO 80203, (303) 839–0057. Transporting *petroleum and petroleum products*, between those points in the U.S. in and west of MN, IA, MO, AR, and LA (except AK and HI).

MC 147027 (Sub-5), filed January 3, 1983. Applicant: REEVES' TRUCK LINES, Rt. 2, Honoraville, AL 36042. Representative: J. Douglas Harris, 200 S. Lawrence St., Montgomery, AL 36104, (205) 265–0251. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 150806 (Sub-11), filed December 28, 1982. Applicant: WECO, INC., 500 Scott St., P.O. Box 5128, Kansas City, KS 66119. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603, (913) 232–0601. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Weber Transportation Company, Inc. of Kansas City, KS.

MC 151257 (Sub-3), filed January 3, 1983. Applicant: SHO LEN, INC, d.b.a. PACIFIC TRANSPORTATION, 10869 Drury Lane, Lynwood, CA 90262. Representative: Don R. Shores, Jr. (same address as applicant), (213) 639–9560. Transporting *batteries and battery supplies*, between points in the U.S. (except AK and HI).

MC 158576 (Sub-1), filed January 3, 1983. Applicant: ROSS TRUCK LEASING, INC., d.b.a. ROSS TRUCKING COMPANY, Hwy 129 North, Ocilla, GA 31774. Representative: John W. Greer, III, 925 Healey Building, 57 Forsyth Street NW., Atlanta, GA 30303, (404) 523–1601. Transporting *coal tar and coal tar creosote*, between points in AL, FL, GA, NC, SC, TN, and VA.

MC 159986 (Sub-4), filed December 29, 1982. Applicant: AMAZON INDEPENDENT TRANSPORTATION, INC., 12480 24th Ave., Marne, MI 49435. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general*

commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in MI and GA, under continuing contract(s) with Bishop Distribution Co., of Grand Rapids, MI, Grand Distributing and Johnson Carpet, Inc., both of Grandville, MI.

MC 160246 (Sub-2), filed January 3, 1983. Applicant: NIMROD CORPORATION, 244 E. Ogden Ave., Suite 114, Hinsdale, IL 60521. Representative: Daonald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting (1) *petroleum and coal products,* (2) *chemicals and related products,* (3) *machinery,* and (4) *metal products,* between points in IL, IN, OH, PA, on the one hand, and, on the other, points in AL, CO, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, PA, SC, TN, TX, VA, WV, WI, and DC.

MC 162247, filed January 3, 1983. Applicant: SABER TRANSPORT, INC., P.O. Box 18, Paulsboro, NJ 08066. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting (1) *cleaning compounds and chemicals,* between points in Burlington County, NJ, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX; (2) *air conditioning* and *home heating products,* between points in Mercer County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI); (3) *lighting fixtures and equipment,* between points in the U.S. (except AK and HI); and (4) *building materials,* between points in PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162817 (Sub-1), filed January 4, 1983. Applicant: NORTHWEST CONTRACT CARRIERS, INC., 2050 Antelope Rd., P.O. Box 2564, White City, OR 97503. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163116 (Sub-1), filed December 20, 1982. Applicant: TRAIL CAR, INC., P.O. Box 94982, Schaumburg, IL 60194. Representative: Robert L. Cope, Suite 501, 1730 M Street NW., Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 164977 (Sub-1), filed December 22, 1982. Applicant: BEAM TRANSPORT, INC., 3484 Union St., P.O. Box 557, Mineral Ridge, OH 44440. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Liberty Steel Products, Inc., of North Jackson, OH, Hynes Industries, Inc., and Industrial Steel Company, Inc., both of Youngstown, OH.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1304 Filed 1–18–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of: Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7992.

Vol. No. OPI–14

Decided: January 12, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 30521 (Sub-4), filed December 28, 1982. Applicant: H&L BLOOM, INC., 427 Cohannet St., Taunton, MA 02780. Representative: Arthur M. White, 281 Pleasant St., P.O. Box 2547, Framingham, MA 01701, (617) 879–5000. Transporting *passengers*, in charter and special operations, beginning and ending at points in MA, RI, and CT, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 45721 (Sub-13), filed December 27, 1982. Applicant: WHITE BUS COMPANY, INC., 907 South Orange Ave., East Orange, NJ 07018. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 95320 (Sub-3), filed January 5, 1983. Applicant: JACKSON-ROCK SPRINGS STAGES, INC., 2016 Carson St., Rock Springs, WY 82901. Representative: James P. Zanetti (same address as applicant), (307) 362–6161. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 96021 (Sub-5), filed January 4, 1983. Applicant: SUPER SERVICE BUS CO., Route 35, South Amboy, NJ 08879. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004, (202) 737–1030. Transporting *passengers*, in charter and special operation, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 144721, filed January 3, 1983. Applicant: ANNAPOLIS BUS CO., INC., P.O. Box 3247, Annapolis, MD 21403. Representative: Paul F. Sullivan, Suite 202, 3408 Wisconsin Ave., N.W., Washington, DC 20016, (202) 363–1848. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 146450 (Sub-2), filed January 4, 1983. Applicant: UNITED CHARTER SERVICE, INC., 1047 Mississippi St., San Francisco, CA 94107. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 147781 (Sub-1), filed December 30, 1982. Applicant: DELANEY BUS LINES LIMITED, R.R. 1, Avonmore, Ontario, Canada KOC 1 CO. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148870 (Sub-2), filed January 3, 1983. Applicant: GOODHALL'S CHARTER BUS SERVICE, INC., 5010 Market St., San Diego, CA 92102. Representative: William J. Monheim, P.O. Box 1756 Whittier, CA 90609, (213) 945–2745. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant intends to provide privately-funded charter and special transportation.

MC 161011, (Sub-1), filed January 4, 1983. Applicant: TRIUMPH CHARTERS, 18488 Prospect Road, Suite Two, Saratoga, CA 95070. Representative: Mark Yim Sun Leung, (same address as applicant), (408) 996–0254. Transporting *passengers*, in charter and special operations, between points in the U.S. (Except HI).

Note.—Applicant intends to provide privately-funded charter and special transportation.

MC 161250 (Sub-1), filed January 5, 1983. Applicant: C. VERN WEST d.b.a. SIERRA WEST LIMOUSINE, 7525 Vista View, Reno, NV 89506. Representative: C. Vern West (same address as applicant), (702) 329–4310. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 163231 (Sub-1), filed December 28, 1982. Applicant: THE TROLLEY COMPANY, 1721 Delaware Ave., Wilmington, DE 19806. Representative: Robert R. Harris, 1730 M St., N.W. Suite 501, Washington, DC 20036, (202) 296–2900. Transporting *passengers*, in special and charter operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 163980 (Sub-1), filed December 27, 1982. Applicant: CRUSADER TOURS AND COACH, INC., One Oxford Ave., Jersey City, NJ 07304. Representative: LARSH B. MEWHINNEY, 555 Madison Ave., New York, NY 10022, (212) 838–0600. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165450, filed January 3, 1983. Applicant: FRANK W. BLAIR, d.b.a. BLAIR FARMS, INC., 9367 Stayton Rd., S.E., Aumsville, OR 97325. Representative: Frank W. Blair (same address as applicant), (503–769–5440). Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165460, filed December 29, 1982. Applicant: NORTHFIELD BUS LINES, INC., P.O. Box 532, Northfield, MN 55057. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *passengers*, in charter and special operations, beginning and ending at points in MN, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165471, filed January 3, 1983. Applicant: DOOR THRU DOOR TRANSPORTATION CORP., 114 Railroad Ave., Huntington Station, NY 11746. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165481, filed December 28, 1982. Applicant: FUGAZY EXPRESS, INC., 767 3rd Ave., New York, NY 10017. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173, (212) 755–9500. Transporting *passenger*, in charter and special operations, between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under U.S.C. 11343(A), or (3) submit an

affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165501, filed January 5, 1983. Applicant: AMERICAN DISTRIBUTION SERVICES, 12 Deer Run Rd., Marlborough, CT 06447. Representative: Erving T. Arnold III (same address as applicant), (203) 295–4643. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165520, filed January 4, 1983. Applicant: LORITINE OF CALIFORNIA, INC., 12928 Midway Place, Cerritos, CA 90701. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at 202–275–7669.

Vol. No. OP4–013

Decided: January 12, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 95466 (Sub-8), filed January 4, 1983. Applicant: DATTCO, INC., 583 South St., New Britain, CT 06051. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017, (212) 532–5100. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 115306 (Sub-3), filed December 28, 1982. Applicant: HAROLD E. COLEMAN d.b.a. COLEMAN SERVICE, P.O. Box 353, Chester, IL 62233. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *passengers,* in charter and special operations, beginning and ending at points in IL and MO, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 116677 (Sub-5), filed December 28, 1982. Applicant: NIAGARA FALLS SIGHTSEEING BY SHERIDAN, INC., 3486 Niagara Falls Blvd., N. Tonawanda, NY 14120. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202, (716) 853–0200. Transporting *passengers,* in special and charter operations, beginning and ending at points in NY and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 117486 (Sub-2), filed December 27, 1982. Applicant: HAST, INC. d.b.a. ROYAL MESSENGER SERVICE, 9 Indian Neck Ave., Branford, CT 06405. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, (203) 728–0700. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 128876 (Sub-5), filed December 29, 1982. Applicant: BUTLER MOTOR TRANSIT, INC., P.O. Box 1902, 210 South Monroe St., Butler, PA 16001. Representative: Samuel P. Delisi, 1500 Bank Tower, 307 4th Ave., Pittsburgh, PA 15222, (412) 232–3505. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 128306 (Sub-5), filed December 30, 1982. Applicant: T.R.Y., INC. d.b.a. YOUNG'S TRANSPORTATION, 943 Riverside Dr., Asheville, NC 28804. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. (202) 737–1030. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 128577 (Sub-8), filed January 3, 1983. Applicant: CLYDE'S CHARTER BUS SERVICE, INC., 301 Furnace Branch Road E., Glen Burnie, MD 21601. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–3525. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 136546 (Sub-8), filed January 4, 1983. Applicant: PELTON BROTHERS TRANSPORT LIMITED, R.R. #3, Paris, Ontario, CD POM 2LO. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202, (716) 853–0200. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 144407 (Sub-29), filed December 29, 1982. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 96 Route 23, Riverside, NJ 07457. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234–0301. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 146467 (Sub-1), filed January 3, 1983. Applicant: TRAID LINES, INC., Routes 8, Box 374, Burlington, NC 27215. Representative: Jeffrey A. Vogelman, 123 S. Royal St., Alexandria, VA 22314, (703) 683–6304. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148236 (Sub-1), filed January 3, 1983. Applicant: JOSEPH WARD SHUBAT d.b.a. SHUBAT BUS COMPANY, 117 East Caspian Ave., P.O. Box 275, Caspian, MI 49915. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 157046 (Sub-1), filed January 3, 1983. Applicant: VARIETY TOURS, INC., 3840 Crenshaw Blvd., Suite 205, Los Angeles, CA 90008. Representative: William C. Robinson, 16133 Ventura Blvd., Penthouse Suite B, Encino, CA 91436, (213) 784–9993. Transporting *passengers,* in charter and special operations, beginning and ending at points in CA and AZ, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165336, filed December 21, 1982. Applicant: DAVID & CASSANDRA BONNER, d.b.a BONNER ENTERPRIZE, R.D. 1, Box 237, Guyton, GA 31312. Representative: David J. Bonner (same address as applicant), (912) 728–3715. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165446, filed December 27, 1982. Applicant: LEON B. KERR, 4011 14th St., Greeley, CO 80634. Representative: Leon B. Kerr (same address as applicant),

(303) 353–6848. Transporting *food and other edible products and by products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

MC 165456, filed January 3, 1983. Applicant: JOE HARD, d.b.a HART MOVING & STORAGE, 302 Ave. L, Lubbock, TX 79401. Representative: Joe Hart (same address as applicant), (806) 763–4191. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in Lubbock, Lamb, Hockley, Terry, Lynn, Garza, Crosby, Floyd, Hale, Castro, Swisher, Briscoe, Motley, Cottle, Dickens, King, Kent, Yoakum, Cochran, Andrews, Dawson, Gaines, and Martin Counties, TX.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1386 Filed 1–18–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. OP 3–9]

Motor Carrier; Permanent Authority Decisions; Decision-Notice

Decided: January 13, 1983.

90-Day Intrastate Motor Common Carriers of Passengers.

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922(c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Finding

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decisions is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed Applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Carleton, Williams, and Ewing.

James H. Bayne,

Acting Secretary.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquiries to Team 3, (202) 275–5223.

MC 74 (Sub-15), filed December 30, 1982. Applicant: VALLEY TRANSIT COMPANY, INC., P.O. Box 1870, Harlingen, TX 78551. Representative: Paul D. Angened, P.O. Box 2207, Austin, TX 78768, (512) 476–6391. Applicant seeks authority to transport *passengers* in intrastate commerce at all intermediate points on routes in No. MC 74 (Sub-Nos. 9, 10 and 11) as follows: In each of the above authorities, over all of the routes which traverse TX.

[FR Doc. 83–1401 Filed 1–18–83; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 322]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: January 11, 1983.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

James H. Bayne,

Acting Secretary.

MC 9251 (Sub-5)X, filed December 17, 1982. Applicant: S & M TRUCK LINE, INC., P.O. Box 813, Mt. Angel, OR 97362. Representative: John A. Anderson, Suite 801, The 1515 Bldg., 1515 SW Fifth Ave., Portland, OR 97201. Lead and Sub-4 certificates: (1) broaden to "general commodities (except classes A and B explosives, household goods and commodities in bulk)" from general commodities (with usual exceptions), in lead and Sub-4; (2) authorize service to all intermediate points, in lead; (3) expand off-route points to counties (a) in

lead, Clackamas and Marion Counties, OR (Scott Mills, Marquam, St. Benedict, Monitor, Mt. Angel, OR), and Marion and Polk Counties, OR (points within three miles of OR Hwy. 213 between Silverton and Salem, OR), and (b) in Sub-4, Marion and Linn Counties, OR (Aumsville, Victor Point School, and points within 5 miles of authorized routes between Silverton and Stayton, OR); (4) remove the pickup at and delivery at restriction in lead.

MC 61396 (Sub-409)X, filed December 21, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Sub-No. 367F certificate, broaden (1) commodity description to "clay, concrete, glass or stone products," from cement; (2) facilities and city points to countywide authority: Knox County, TN (Knoxville), and Marion County, TN (facilities near Richard City); and (3) one-way service to "radial" authority.

MC 86782 (Sub-7)X, filed December 27, 1982. Applicant: RICHARD L. EDGAR, d.b.a. SAMSON TRUCK LINE, P.O. Box 456, Mt. Home, ID 83647. Representative: Kenneth G. Bergquist, P.O. Box 1775, Boise, ID 83701. Sub-3, (1) broaden to "general commodities (except classes A and B explosives)," and remove the exceptions: those of unusual value, livestock, and commodities requiring special equipment; (2) authorize service to all intermediate points; and (3) remove: the restriction against serving the Mountain Home Air Force Base near Mountain Home, ID, and the originating at or destined to restriction.

MC 111397 (Sub-140)X, filed December 16, 1982. Applicant: DAVIS TRANSPORT, INC., 1345 South Fourth St., Paducah, KY 42001. Representative: H. S. Melton, Jr., P.O. Box 7406, Paducah, KY 42001. Sub-Nos. 1, 32, 35, 46, 50, 51, 53, 58, 59, 63, 64, 67, 68, 69, 73, 74, 78, 79, 80, 82, 84, 89, 95, 98, 100, 103, 110, 117, 124F, 126F, 129F, 130F, and 134F certificates. (1) Broaden commodity descriptions in (a) Sub 1, to: petroleum or coal products (petroleum and petroleum products, in bulk, in tank vehicles); chemicals or allied products and petroleum or coal products (coal tar and coal tar products, in bulk, in tank vehicles); petroleum or coal products (coke, in hopper trailers); containers (empty containers used in the transportation of coke); chemicals or allied products (compressed gases in shipper-owned cylinders and manifold-tube semitrailers); containers, carriers or devices, shipping, returned empty, and transportation equipment (empty gas containers and shipper-owned semitrailers used in transporting compressed gases); chemicals or allied products (oxygen, hydrogen, and nitrogen, in bulk, in shipper-owned vehicles); transportation equipment (empty shipper-owned vehicles); and, petroleum or coal products (carbon black, in bulk, in hopper-type trailers; (b) Subs 32 and 58, clay, concrete, glass or stone products (fire brick, tile, refractory materials, and accessories used in the building and maintenance of coke ovens); (c) Sub 35, petroleum or coal products (coke, in hopper-type trailers); (d) Subs 46, 50, 51 and 129, clay, concrete, glass or stone products (cement, cement in bulk, and cement and mortar in bulk and bags); (e) Subs 53 and 73, petroleum or coal products (carbon black, in bulk, in hopper or pneumatic-type trailers); (f) Subs 59 and 63, clay, concrete, glass or stone products (limestone, in bulk, and granulated limestone); (g) Sub 64, petroleum or coal products (emulsified asphalt in bulk, in tank vehicles); (h) Sub 67, chemicals or allied products (dry fertilizer, in bulk); (i) Sub 68, lumber or wood products (wood chips); (j) Sub 69, chemicals or allied products (anhydrous ammonia, in bulk, in tank vehicles, and dry urea, in bulk); (k) Subs 74, 78, and 124, clay, concrete, glass or stone products (clay in bulk, absorbent clay in bags, and clay); (l) Sub 79, chemicals or allied products (hydrated alumina and calcined alumina); (m) Sub 80, clay, concrete, glass or stone products (feldspar in bulk, in dump hopper vehicles, and in bags); (n) Sub 82, chemicals or allied products (ferrophosphorous, in bulk, in dump vehicles); (o) Sub 84, chemicals or allied products (ammonium nitrate fertilizer); (p) Subs 89 and 98, chemicals or allied products (liquid synthetic latex, in bulk); (q) Sub 95, chemicals or allied products (dry calcium chloride); (r) Sub 100, clay, concrete, glass or stone products (fly ash in bulk); (s) Sub 103 chemicals or allied products (dry fertilizer, dry fertilizer material, and dry urea, in bulk); (t) Sub 110, coal (ground coal, in bulk); (u)(Subs 117, 126, and 134, clay, concrete, glass or stone products (granulated slag); and, (v) Sub 130, primary metal products, including galvanized (zinc, zinc oxide, zinc dust, zinc dross, metallic cadimum, and lead sheet); (2) broaden plantsites and cities to countywide authority: (a) Sub 1, Gibson County, IN (pipeline terminal near Princeton, Gibson County, IN); Warren County, OH (pipeline terminal near Lebanon, Warren County, OH); and, Marshall County, KY (Calvert City); (b) Sub 32, Marshall County, KY (Calvert City,and that portion of Marshall County, KY located between U.S. Hwy 62 and the Tennessee River); (c) Subs 46 and 95, McCracken County, KY (Paducah); (d) Sub 51, Massac County, IL (plantsite near Joppa); (e) Sub 58, Callaway and Audrain Counties, MO (Fulton and Vandalia); (f) Sub 63, Caldwell County, KY (plantsite near Fredonia); (g) Sub 68, Pulaski County, IL (Karnak), and Marshall County, KY (Calvert City); (h) Sub 69, Orleans Parish, LA (plantsite at Avondale); (i) Sub 74, Graves County, KY (plantsite near Mayfield); (j) Sub 78, Henry County, TN (plantsite at Paris); (k) Sub 79, Lawrence County, OH (plantsite at Ironton); (l) Sub 80, Jasper County, GA (plantsite at Monticello); (m) Sub 82, Maury County, TN (plantsite at Mt. Pleasant); (n) Sub 84, Williamson County, IL (plantsite at Ordill); (o) Sub 89, Graves County, KY (plantsite at Mayfield), and Madison County, TN (plantsite near Jackson); (p) Sub 98, Graves County, KY (plantsite near Mayfield, and Adams County), MS (plantsite near Natchez); (q) Sub 100, Massac County, IL (Metropolis), and Livingston County, KY (project site near Dog Island); (r) Sub 103, Hamilton County, OH (plantsite near Cincinnati); (s) Sub 110, Kanawha County, WV (plantsite near Hansford), Marion County, IN (Indianapolis), Seneca County, OH (Tiffin), and Wayne County, MI (Detroit); (t) Sub 117, Shelby County, TN (Memphis); (u) Sub 126, Shelby County, TN (facilities at Memphis); (v) Sub 129, Cape Girardeau, MO (facilities at Cape Girardeau); (w) Sub 130, Beaver County, PA (facilities at Josephtown), and St. Louis City and St. Louis County, MO (St. Louis); and, (x) Sub 134, Muhlenburg County, KY (facilities near Greenville); (3) broaden one-way service to "radial authority" in all certificates; and (4) remove restrictions in Subs 32, 50, 95, and 100, which restrict (a) against transportation of "commodities which because of size or weight require the use of special equipment," (b) transportation to shipments having a prior rail or barge movement, and, (c) transportation to traffic having an immediately prior movement by rail.

MC 141733 (Sub-5)X, filed December 22, 1982. Applicant: UNION TRANSIT COMPANY, INC., 2406 Boston Road, Wilbraham, MA 01095. Representative: James M. Burns, Suite 403, 1365 Main Street, Springfield, MA 01103. Lead and Subs 2F and 4F: (1) Broaden commodity description from (a) tools, forgings, tool boxes, packing containers, and materials, supplies and equipment used in the manufacture and distribution of such commodities to "tools, metal products, toolboxes, packing containers and materials, equipment and supplies used in the manufacture thereof" in the

lead and Sub 2F; and (b) paper and paper articles, and materials and supplies to "pulp, paper and related products" in Sub 4F; (2) broaden territorial descriptions to between points in the U.S. under continuing contract(s) with Easco Hand Tools, Inc., in the lead and Sub 2F, and American Pad & Paper Company in Sub 4F; and (3) remove the except commodities in bulk restrictions from all permits.

MC 148083 (Sub-2)X, filed December 14, 1982. Applicant: J. D. TRANSPORTS, INC., P.O. Box 179, Memphis, TN 38101. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Ave., Memphis, TN 38103. Sub 1F permit: broaden territorial description to between points in the United States, under continuing contract(s) with John Deere Company of East Moline, IL.

[FR Doc. 83-1200 Filed 1-18-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-231

The following applications were filed in region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 134783 (Sub-5-7TA), filed January 6, 1983. Applicant: DIRECT SERVICE, INC., P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 1600 Sherman St., Suite 665, Denver, CO 80203. *Such commodities as are dealt in or used by manufacturers and distributors of office and school supplies, printing supplies, and paper and paper products,* from St. Louis, MO and points in its commercial zone, and Webster and Morehouse Parishes, LA to points in TX. Supporting shipper: Jim Walter Papers, Inc., Jacksonville, FL.

MC 144609 (Sub-5-4TA), filed January 5, 1983. Applicant: DOMINGUEZ BROS. TRUCKING CO., 1500 South Zarzamora St., San Antonio, TX 78207. Representative: Kenneth R. Hoffman, 1600 W. 38th Street, Suite 410, Austin, TX 78731. *Food and related products* between points in CA, OR and WA. Supporting shipper: Texsun Corp., Weslaco, TX.

MC 149147 (Sub-5-5TA), filed January 6, 1983. Applicant: DECKERT TRANSPORT, INC., 12223 East Fourth Place, Tulsa, OK 74128. Representative: David R. Worthington, 1916 East Valley Road, Sapulpa, OK 74066. *(1) Paper Bags, In Packages (2) Non-Refigerated Single-Strength Juice In Glass Bottles* (1) From Hodge, LA to Tulsa, OK (2) From Bradenton, FL to Tulsa, OK. Shipments destined to Quik-Trip Corp. in Tulsa, OK. Supporting shipper: Quik-Trip Corp., Tulsa, OK.

MC 150440 (Sub-5-8TA), filed January 6, 1983. Applicant: UNIVERSAL EXPRESS, LTD., 3820 University, West Des Moines, IA 50265. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Pneumatic tires,* from Hopkins County, KY, to Des Moines, IA and points in Bartow County, GA; Weakley County, TN; and Washington County, WI. Supporting shipper: Dico Company, Inc., Des Moines, IA.

MC 166560 (Sub-5-1TA), filed January 7, 1983. Applicant: JAMES W. TONEY, R.R. 1, Box 7, Decatur City, IA 50067. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Potash, in bulk,* from Carlsbad, NM to points in IA, KS and MO. Supporting shipper(s): Mid-West Fertilizer, Inc., Paola, KS.

James H. Bayne,
Acting Secretary.

[FR Doc. 83-111301 Filed 1-18-83; 8:45 am]
BILLING CODE 7035-01-M

Agricultural Cooperative; Notice of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: January 14, 1983.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Dairylea Cooperative Inc.
(2) 831 James Street, Syracuse, NY 13203
(3) P.O. Box 395, Tannery Lane, Vernon, NY 13476
(4) Frank Reile, P.O. Box 395, Tannery Lan, Vernon, NY 13476

(1) Indiana Farm Bureau Cooperative Association, Inc.
(2) 120 East Market St., Indianapolis, IN 46204
(3) 120 East Market St., Indianapolis, IN 46204
(4) Charles Shaw, 120 East Market St., Indianapolis, IN 46204

(1) Knouse Foods Cooperative, Inc.
(2) Peach Glen, PA 17306
(3) Peach Glen, PA 17306
(4) William H. Horner, Peach Glen, PA 17306

(1) Southern States Cooperative, Inc.
(2) 6606 West Broad St., P.O. Box 26234, Richmond, VA 23260

(3) 6606 W. Broad St., P.O. Box 26234, Richmond, VA 23260
(4) Garry L. Horn, P.O. Box 26234, Richmond, VA 23260

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-1382 Filed 1-18-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers; Decision

Decided: January 5, 1983.

Kingsway Transports Limited (No. MC-122908) an Kingsway Dalewood Limited (No. MC-133690), commonly controlled, petition for waiver of Subpart B, §§ 1057.11 (except paragraph (b)) and 1057.12 of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057) with respect to equipment augmented between them, provided they agree in writing that the lesee will control and be responsible for the equipment during the lease period, that a copy of the agreement be carried on the vehicle while in lessee's possession, and that a receipt as required by paragraph (b) of § 1057.11 be furnished only to the lessor.

We find:

1. Petitioners are commonly controlled and jointly administer a common safety program, and they have acceptable fitness records.

2. Greater economy and efficiency would result if the requirements of Subpart B were waived in part.

3. Petitioners have presented no evidence warranting waiver of the requirements of paragraph (b) of § 1057.11 that the receipt required by paragraph (b) of § 1057.11 be turned over to the lessee at the time equipment is returned to the lessor or given to another authorized carrier in an interchange of equipment.

It is ordered:

The petition of Kingsway Transport Limited and Kingsway Dalewood Limited, for waiver of Subpart B, of the leasing regulations is granted with respect to equipment leased between them, provided petitioners or their authorized representatives agree in writing that control and responsibility for operating the equipment shall be that of the lessee from the time possession is taken by lessee, and the receipt required by paragraph (b) of § 1057.11 is furnished to the lessor until possession is returned to lessor or the equipment is interchanged with another authorized carrier, and that a copy of the agreement is carried on the vehicle while in the lessee's possession, and, further provided that petitioners remain under common control.

By the Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1398 Filed 1-18-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30072]

Amherst Industries, Inc.; Exemption From 49 U.S.C. Subtitle IV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Amherst Industries, Inc. from 49 U.S.C. Subtitle IV in connection with its current rail operations.

DATES: This exemption is effective on February 18, 1983. Petitions to stay the effectiveness of this decision must be filed by January 31, 1983, and petitions for reconsideration must be filed by February 8, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423
(2) Petitioner's Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210.

Pleadings should refer to Finance Docket No. 30072.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Avenue, NW., Washington, D.C. 20423, (202) 289-4357—DC metropolitan area (800) 424-5403—Toll free for outside the DC area.

Decided: January 11, 1983.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Sterrett, Andre, Simmons, and Gradison. Vice Chairman Gilliam did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1400 Filed 1-18-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15063]

Gary McLean, Terry McLean, Doug McLean, and Rod McLean—Continuance in Control Exemption—Northwest Contract Carriers, Inc., Interstate Distributor Co., and Interstate Draying Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte no. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343*, 47 Fed. Reg. 53303 (November 24, 1982), Gary McLean, Terry McLean, Doug McLean, and Rod McLean, who jointly control Interstate Distributor Co. (No. MC-117201) and Interstate Draying Co. (No. MC-151925) seek an exemption from the requirements of prior regulatory approval under 49 U.S.C. 11343 for their continuance in control of Northwest Contract Carrier, Inc. (No. MC-162817).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Team 1, Room 2379, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative, Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210.

Comments should refer to No. MC-F-15063.

FOR FURTHER INFORMATION CONTACT: Joyce Lannon, (202) 275-7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 13, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1399 Filed 1-18-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30068]

Southern Pacific Transportation Co.; Abandonment Exemption—In Fresno County, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 et seq. the abandonment by the Southern Pacific Transportation Company of 2.55 miles of its Coalinga Branch between milepost 296.387 at Coalinga and milepost 293.837 near Ora in Fresno County, CA, subject to conditions for protection of employees.

DATES: This exemption will be effective on February 18, 1983. Petitions to stay the effective date must be filed by January 31, 1983, and petitions for reconsideration must be filed by February 8, 1983.

ADDRESSES: Send pleadings to: (1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 10423.

Petitioner's Representative: Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

Pleadings should refer to Finance Docket No. 30068.

FOR FURTHER INFORMATION CONTACT: Louise E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Avenue NW., Washington, DC 20423, (202) 289–4357—DC metropolitan area (800) 424–5403—Toll free for outside the DC area.

Decided: January 11, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1300 Filed 1-18-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. MC-F-15072]

Philip E. Lattavo—Continuance in Control Exemption—Action Transit Company, Inc., Lattavo Brothers, Inc., and Peoples Cartage, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1) *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343*, 47 *FR.* 53303 (November 24, 1982), Philip E. Lattavo seeks an exemption from requirements under section 11343 of prior regulatory approval for his continuance in control of Action Transit Company, Inc. (No. MC–149604), Lattavo Brothers, Inc. (No. MC–45149), and Peoples Cartage, Inc. (No. MC–123685).

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESS: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioner's representative, M. Diane Neal, Esq., 2230 Shepler Church Avenue, SW. P.O. Box 6270, Canton, OH 44706

Comments should refer to No. MC–F–15072

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 13, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1300 Filed 1-18-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Judgment on Consent in Action To Remedy Violations of the Clean Air Act and for Civil Penalties

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 15, 1982, a proposed Judgment on Consent in *United States* v. *Gulf Oil Corporation* was lodged with the United States District Court for the Eastern District of New York. The proposed judgment would require Gulf to make corrections to the vapor recovery systems at its Oceanside terminal and to pay a penalty of $25,000.00.

The Department of Justice will receive for thirty (30) days from the date of publication of this Notice, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States of America* v. *Gulf Oil Corporation,* D.J. No. 90–5–2–1–539.

The proposed Judgment on Consent may be examined at the Office of the United States Attorney, U.S. Courthouse, 225 Cadman Plaza East, Brooklyn, N.Y. 11201, at the Region II Office of the Environmental Protection Agency, Office of Regional Counsel, 26 Federal Plaza, New York, New York, 10278, and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice (Room 1515), Ninth and Pennsylvania Avenue, Washington, D.C. 20530. A copy of the proposed Judgment on Consent can be obtained in person or by mail from the Environmental Enforcement Section at the above address.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-1411 Filed 1-18-83; 8:45 am]

BILLING CODE 4410-01-M

Buffelen Woodworking Co., Inc.; Proposed Consent Decree in Action To Enforce the Clean Air Act

In accordance with the Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on December 29, 1982, a consent decree in *United States* v. *Buffelen Woodworking Company, Inc.,* Civil No. C82–86IT, was submitted to the United States District Court for the Western District of Washington. The decree provides for settlement of a suit under the Clean Air Act concerning the defendant's facility in Tacoma, Washington. The decree requires that the defendant comply with the particulate and visible emission standards promulgated pursuant to the Clean Air Act, pay a penalty for past violations of the visible emission standard and pay stipulated penalties in the event of a breach of the terms of the consent decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Buffelen Woodworking Company, Inc.,* D.J. Ref. No. 90–5–2–1–569.

A copy of the consent decree may be examined at the office of the United

States Attorney, Western District of Washington, 3600 Sea-First Fifth Avenue Plaza, 800 Fifth Avenue, Seattle, Washington 98104; at the Region 10 Office of the United States Environmental Protection Agency, Office of Regional Counsel, 1200 6th Avenue, Seattle, Washington 98101; and the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting the consent decree, please send a check or money order in the amount of $1.00 (10 cents per page reproduction charge) made payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-1402 Filed 1-18-83; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 82-30]

Drug Fair of Bayonne; Bayonne, New Jersey; Hearing

Notice is hereby given that on October 29, 1982, the Drug Enforcement Administration, Department of Justice, issued to Drug Fair of Bayonne an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, AD1548152.

Thirty days having elapsed since the said Order To Show Cause was received by Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on Tuesday, January 25, 1983 in Courtroom No. 2-A, Room 305, U.S. Claims Court, 717 Madison Place, NW., Washington, D.C.

Dated: January 12, 1983.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 83-1439 Filed 1-18-83; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL SCIENCE FOUNDATION

Committee Management, Ad Hoc Advisory Group on Crustal Studies; Notice of Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the Ad Hoc Advisory Group on Crustal Studies is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration, pursuant to Section 9(a) of the Federal Advisory Committee Act and other applicable issuances.

NAME OF COMMITTEE: Ad Hoc Advisory Group on Crustal Studies.

PURPOSE: To provide advice, recommendations, and counsel on major goals and priorities pertaining to NSF activities and programs relating to crustal studies, including drilling programs.

EFFECTIVE DATE OF ESTABLISHMENT AND DURATION: This establishment is effective upon filing the charter with the Director, NSF, and with the standing committees of congress having legislative jurisdiction of the Foundation. The Group will operate on an ad hoc basis for three months.

GSA has waived the requirement that the Notice of Establishment appear in the **Federal Register** 15 days prior to the filing of the charter because this Group needs to meet before the first congressional hearings on the budget which are scheduled to begin on February 15, 1983.

MEMBERSHIP: The membership of this Group shall be fairly balanced in terms of the points of view represented and expertise in the appropriate scientific desciplines. Members will be individuals eminent in the related scientific fields. Due consideration will be given to achieving membership that reasonably represents the academic research community; not-for-profit and for-profit research organizations; and other balance, including geographic regions of the country.

OPERATION: The Group will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463), Foundation policy and procedures, OMB Circular A-63, Revised, and other directives and instructions issued in implementation of the Act.

Edward A. Knapp,

Director.

January 17, 1983.

[FR Doc. 83-1486 Filed 1-18-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence; Radiological Contamination From Well Logging Operations

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). One of the general criteria notes that moderate release of radioactive material licensed by or otherwise regulated by the Commission can be considered an abnormal occurrence. While no individual internal or external exposure limits were exceeded, the importance of the event was enhanced by the widespread nature of the radiological contamination (including unrestricted areas) and the significant clean up efforts and costs required. The following description of the incident also contains information on the remedial actions planned and taken.

Date and Place—On September 1, 1982, the NRC Region I office was notified by Consolidation Coal Company, Library, Pennsylvania, that one, and possibly two americium-241 sealed sources had been ruptured during well logging operations at a field site near Jollytown, Pennsylvania.

Nature and Probable Cause—The licensee's well logging device, used in coal exploration, included two sealed sources each containing 250 millicuries of americium-241 (a radioisotope with a 432 year half-life) as powdered oxide, compacted into a double-walled capsule. The sources are attached to a suspension cable which is lowered into a drill hole.

The licensee's procedure is to lower the device (and sources) to the bottom of the drill hole, and then to withdraw the device at a controlled rate to log (profile) the hole. If the well logging device becomes wedged in the hole, the cable is designed to release, at the point

of attachment to the device, when extreme tension is exerted on the cable. Recovery operations for the device can include the use of drilling to enlarge the diameter of the drill hole. The licensee had successfully retrieved wedged devices on nine previous occasions using such a procedure.

During well logging operations at a field site near Jollytown, Pennsylvania on August 19, 1982, the device became wedged at the 420 foot level in a drill hole of 950 feet total depth. While exerting considerable tension on the cable, the cable broke off about 80 feet above the device, rather than releasing at the device as designed.

During recovery operations on August 27, 1982, while drilling at a level which the licensee thought was well above the expected level of the stuck device, one (or both) of the americium-241 sealed sources was apparently ruptured by the drill bit. Apparently, the drill bit cutting through the 80-foot cable caused the device to move from the original wedged level to the drill bit. Americium-241 contamination mixed with drilling mud used to cool and lubricate the bit. This mud was discharged to a nearby retention basin for recycling. The americium-241 contamination was not detected during licensee surveys because the survey instrument was not sufficiently sensitive for the procedures being used. Licensee representatives, believing the americium-241 sources still intact, replaced the first drilling rig with one more suited for planned recovery operations. The first drilling rig was sent to a second site nearby. On September 1, 1982, licensee representatives identified americium-241 contamination in the retention basin and immediately notified the NRC.

The immediate concerns were to determine the extent of the contamination and its concentration. The principal radioactive decay scheme of the americium series is predominately a series of alpha particle emitters. For example, both americium-241 and its daughter neptunium-237 are alpha emitters; the latter also generates low energy X-rays. The radioactive material could be hazardous, particularly if inhaled or ingested.

Radiological surveys and contamination evaluations, both on and offsite, were performed by the NRC, the Commonwealth of Pennsylvania, and the licensee. On September 1, 1982, a Pennsylvania state inspector found contamination onsite as high as 10 millirem per hour in a small area of drilling mud. On September 2, 1982, an NRC Region I inspector found spots of contamination near the drilling rig as high as 6 millirem per hour at contact; most spots were less than 1 millirem per hour. The onsite surveys identified contamination at both drilling rigs, five vehicles and various drilling pipes, casings and hand tools. Contamination levels ranged from 100 to greater than 1,000,000 disintegrations per minute per 100 square centimeters. The latter value is equivalent to about 0.5 microcuries per 100 square centimeters. Offsite surveys were performed at 20 private residences, a motel, and the licensee's corporate offices. These surveys identified contaminated shoes, clothing, and/or equipment at the motel, the corporate office, and nine private residences ranging from 20 to 600,000 disintegrations per minute per 100 square centimeters. Seven of the homes where contaminated articles were found belonged to work crew members, and two homes belonged to local residents who had walked onto the drilling sites prior to the identification of the contamination incident. All contaminated articles were bagged and returned to the original site for storage. No skin contamination was identified on any person. The licensee is presently decontaminating equipment and the sites. The NRC guidelines for release of facilities and equipment for unrestricted use are 20 and 100 disintegrations per minute per 100 square centimeters for removable and non-removable contamination, respectively, for the radioactive material involved.

Film badges worn by licensee personnel on the sites indicated minimal exposures. Ten individuals who had the most intimate contact with the americium-241 contamination were given whole body counts and urine bio-assays. No internal contamination was identified.

The consequences of this incident were that, while no individual external or internal exposure limits were exceeded, there were 11 locations where loose radioactive material was found in unrestricted areas frequented by members of the general public. The financial impact on the licensee will be substantial; clean up costs are estimated by the licensee to be as much as $1,000,000.

Cause or Causes—The direct cause of this contamination incident is the rupture of at least one of the americium-241 sources by the drill bit. The most likely cause was the presence of 80 feet of cable, still attached to the source, a recovery problem which had not been previously encountered. The drill bit cutting through the 80 foot cable apparently moved the device (from the expected, original wedged location) closer to the drill bit until the drill bit ruptured one of both sources.

A contributing cause was the inadequate use of survey instrumentation which failed to identify the americium-241 contamination even though the licensee was making periodic radiological surveys.

Actions Taken to Prevent Recurrence

Licensee—The licensee, in addition to the State of Pennsylvania and NRC inspectors, performed radiological surveys to determine the extent of the contamination, both on and offsite. Contaminated articles found were returned to the original site for storage. Equipment and any contaminated areas are being decontaminated. All sealed sources containing powdered americium-241 oxide used in well logging devices will be replaced with americium-241 sealed sources composed of ceramic microspheres. In addition, instrumentation will be purchased which is sensitive to low levels of radioactive contamination. Recovery procedures have been changed to eliminate drilling operations during recovery attempts.

NRC—The investigation into this incident is continuing. In addition, the NRC will review the incident to determine whether more specific information on recovery techniques will be necessary during license reviews of well logging operations.

An Inspection and Enforcement Information Notice is being considered to send to licensees to inform them of this event.

Dated at Washington, D.C. this 13th day of January 1983.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-1469 Filed 1-18-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 91 to Facility Operating License No. DPR-31 and Amendment No. 85 to Facility Operating License No. DPR-41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to correctly identify horizontal tendon 64H50, which

was incorrectly identified as 04H51, as one of the tendons surveyed during the first, third, fifth and tenth year surveillance.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 5, 1982, (2) Amendment Nos. 91 and 85 to License Nos. DPR–31 and DPR–41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of January, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83–1490 Filed 1–18–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. STN 50–546 and STN–547]

Public Service Company of Indiana and Wabash Valley Power Association, Inc., Marble Hill Nuclear Generating Station, Units 1 and 2; Order Extending Construction Completion Dates

Public Service Company of Indiana, Inc. and Wabash Valley Power Association, Inc., are the holders of Construction Permit Nos. CPPR–170 and CPPR–171 issued on April 4, 1978 by the U.S. Nuclear Regulatory Commission for construction of the Marble Hill Nuclear Generating Stations, Units 1 and 2 to be located in Saluda Township, Jefferson County, Indiana.

By letter, dated November 24, 1982, Public Service Company of Indiana, acting for itself and the Wabash Valley Power Association, Inc., filed a request for extension of the earliest and latest construction completion dates for the Marble Hill Nuclear Generating Stations, Units 1 and 2 Construction Permits. It was requested that Construction Permit No. CPPR–170 for Unit 1 be extended from January 1, 1982 and January 1, 1984, earliest and latest dates, respectively, to March 1, 1986 and March 1, 1986, respectively, and for Construction Permit CPPR–171, Unit 2 to be extended from January 1, 1984 and January 1, 1986, earliest and latest dates, respectively to September 1, 1987 and September 1, 1989, respectively. The reasons given for the requested extension in time were:

1. Voluntary suspension of safety-related work stoppage in August 1979 due to growing concerns about the adequacy and effectiveness of the quality assurance program, followed by a confirmatory order ceasing safety-related work issued by the Commission's Director of Inspection and Enforcement in August 1979. This rescission order remained in effect until February 12, 1982.

2. Subsequent design revisions, added work complexities, additional scope, increased regulatory requirements and the applicants' expanded commitment to quality assurance for the remaining construction activities further expanded the schedule for a projected four years.

The NRC staff has determined that no extension of the earliest completion dates are needed and have not acted on the applicant's request on that matter.

This action involves no significant hazards consideration, good cause has been shown for the delays, and the requested extension of the latest completion date is for a reasonable period, the bases for which are set forth in the staff's safety evaluation for this extension.

The Commission has determined that this action will not result in any significant environmental impact and, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

The applicant's letter, dated November 24, 1982, and the NRC staff's safety evaluation supporting the Order are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Madison-Jefferson County Public Library, 420 West Main Street, Madison, Indiana 47250.

It is hereby ordered that the latest construction completion date for CPPR–170, Unit 1 be extended from January 1, 1984, to March 1, 1986, and that the latest construction completion date for CPPR–171, Unit 2 be extended from January 1, 1986 to September 1, 1989.

Date of Issuance: January 13, 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Acting Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83–1491 Filed 1–18–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–395]

Virgil C. Summer Nuclear Station, Unit No. 1; Issuance of Amendment to Facility Operating License No. NPF–12

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensees) for the Virgil C. Summer Nuclear Station, Unit No. 1 (the facility) located in Fairfield County, South Carolina. The amendment was authorized by telephone on December 28, 1982, and was confirmed by letter on December 29, 1982. The amendment authorizes, through July 1, 1983, operation of the facility with certain containment isolation valves inoperable. The amendment was issued on an expedited basis so the facility could change power modes. The amendment was effective December 28, 1982.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) South Carolina Electric & Gas Company letter, dated December 28, 1982, (2) Amendment No. 8 to Facility Operating License No. NPF–12 with Appendix A Technical Specifications page changes, and (3) the Commission's related safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180. A copy of Amendment No. 8 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of January 1983.

For the Nuclear Regulatory Commission.

Ronald W. Herman,

Acting Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 83-1462 Filed 1-18-83; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. MC83-2; Order No. 476]

Mail Classification Schedule, 1983 ZIP+4 First-Class Subclasses; Order Granting Petitions for Intervention and Allowing Participation and Establishing Tentative Procedural Schedule

Issued: January 5, 1983.

On December 10, 1982, this Commission issued a Notice [1] stating that the United States Postal Service had filed a Request for a Recommended Decision on establishing two new subclasses of first class, ZIP+4 letters and ZIP+4 cards. The Notice directed those desiring to participate in the proceeding to file, on or before December 30, 1982, petitions for leave to intervene (39 CFR 3001.20) or requests to be heard as a limited participant (39 CFR 3001.19a). In addition, persons wishing to express their views informally, but not desiring to become a party or limited participant, were permitted to file comments (39 CFR 3001.19b).

In response to the Notice, this Commission has received 10 petitions to intervene. These parties are listed in Attachment A. In addition, 9 requests to be heard as limited participators were received. These parties are listed in Attachment B.

Any answers to such petitions are to be filed by January 10, 1983. In order to advise those filing petitions of their status at the earliest possible date, and to establish an initial service list for this proceeding, we have decided to rule on the petitions at this time, subject to reconsideration on the basis of any answers which may yet be filed.

The petitioners listed in Attachments A and B are either users of the mail or have otherwise demonstrated an interest in this proceeding. Accordingly, their requests for participation will be granted.

Concurrent with the issuance of this Order, the Secretary is transmitting a service list to be employed by all parties, whether full or limited participants, in making filings in the proceeding. The Postal Service, pursuant to section 65 of our rules of practice (39 CFR 3001.65) will be required to serve copies of its Request and its prepared direct evidence upon the parties identified in Attachments A and B, and upon the Officer of the Commission. Where service upon more than one representative has been requested in the petition to intervene or leave to be heard as a limited participator, service will be required only on the first two named representatives in the petition.[2]

Procedural Schedule. We have established a tentative schedule, which balances the goal of expedition and the time necessary for adequate consideration of a proposal of such significance. The schedule is attached to this order as Attachment C. Anyone who wishes to comment on the tentative schedule and/or the special rules of practice described in the following paragraph may either file written comments by January 19, 1983, or address the subject at the prehearing conference, which will be held January 20, 1983, at 10:00 a.m. in the Commission's hearing room at 2000 L Street, NW., Suite 500, Washington, D.C. All other hearings in this case will begin at 9:30 a.m. in the Commission's hearing room.

Special Rules. We are attaching to this Order a copy of the special rules of practice we propose to use in this case. We believe using these rules may assist in streamlining our procedures in this case. We have included in our special rules a new procedure which should assist parties in introducing interrogatories and answers into the record. We have decided in this case to have the Secretary of the Commission compile the interrogtories which the parties designate for inclusion in the record. We hope thereby to streamline the procedure.[3]

The Commission orders:

(1) Each of the petitioners identified in Attachment A to this Order is hereby permitted to intervene in this proceeding, subject to the provisions of paragraph (3), below.

(2) Each of the petitioners identified in Attachment B to this Order is hereby permitted to become a limited participator in this proceeding, subject to the provisions of paragraph (C), below.

(3) The participation of the intervenors and limited participators permitted by paragraphs (A) and (B), above, is subject to the rules and regulations of the Commission: *Provided, however,* That their participation shall be limited to matters affecting rights and interests specifically set forth in their respective petitions to intervene and requests to become limited participators, and *Provided, further,* That the admission of such intervenors and limited participators shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(4) The Postal Service shall serve copies of its request and its prepared direct evidence upon representatives of petitioners permitted to intervene and the representatives of the limited participators. For purposes of such service, where service upon more than one representative has been requested in the petition to intervene or in a request for leave to be heard as a limited participator, including those petitions and requests filed jointly and severally by two or more persons, only the first two named representatives in the petition need be served.

(5) The procedural schedule, Attachment C, is tentatively established.

By the Commission.

David F. Harris,

Secretary.

Attachment A—Intervenors

Alliance of Third-Class Nonprofit Mailers
American Bankers Association (ABA)
Council of Public Utility Mailers (CPUM)
Council to Save the Post Card (CSPC)
Direct Marketing Association, Inc. (DMA)
J. C. Penney Company, Inc. (Penney)
Newsweek, Inc.

[1] Published in the **Federal Register** on December 15, 1982 (47 FR 56221–22).

[2] *See* sections 12 (c) and (d) of the rules of practice [39 CFR 3001.12(c) and 3001.12(d)].

[3] This idea was first offered by counsel for OMA and modified as suggested by the Postal Service. We are trying the innovation with the Postal Service's modification.

Mail Order Association of America (MOAA)
Reader's Digest Association, Inc.
Time Incorporated (Time Inc.)

Attachment B—Limited Participators

American Newspaper Publishers Association (ANPA)
American Retail Federation (ARF)
Classroom Publishers Association (CPA)
E-Systems, Inc. (ESY)
Envelope Manufacturers Association (EMA)
Meredith Corporation
National Association of Greeting Card Publishers (NAGCP)
Third Class Mail Association (TCMA)
United Parcel Service (UPS)

Attachment C—Tentative Hearing Schedule for Proceedings—ZIP+4 Subclasses Docket No. MC83–2

January 20, 1983—Prehearing Conference (10:00 a.m. in the Commission hearing room).
February 14, 1983—Completion of all discovery directed to the Postal Service.
March 17, 1983—Beginning of hearings, *i.e.*, cross examination of the Postal Service's case-in-chief.
April 4, 1983—Filing of the case-in-chief of each participant (including that of OOC).
April 25, 1983—Completion of all discovery directed to the intervenors.
May 23, 1983—Beginning of evidentiary hearings as to the case-in-chief of other participants.
June 13, 1983—Rebuttal evidence of the Postal Service and each participant. (No discovery to be permitted on this rebuttal evidence; only oral cross-examination.)
June 27, 1983—Beginning of evidentary hearings on rebuttal evidence.
July 18, 1983—Initial briefs filed.
August 1, 1983—Reply briefs filed.
August 8, 1983—Oral argument (if scheduled).

Attachment D—Proposed Special Rules of Practice

1. Discovery

A. *General.* The discovery procedures set forth herein are not exclusive. The parties are encouraged to engage in informal discovery wherever possible to clarify exhibits and testimony. The results of such efforts may be introduced into the record by stipulation, by supplementary testimony or exhibit, by presenting selected written interrogatories and answers for adoption by a witness at the hearing, or by other appropriate means.

B. *Objections to Discovery.* In the interest of expedition, the bases for objecting to (1) interrogatories, (2) requests for production of documents or things for the purposes of discovery, and (3) requests for admissions for purposes of discovery shall be clearly and fully stated. A participant claiming privilege shall identify the specific evidentiary privilege asserted and state the reasons for applicability. A participant claiming undue burden shall state with particularity the effort which would be required to answer the interrogatories or requests, providing estimates of costs and workhours required to the extent possible. The party objecting to interrogatories or requests for production of documents or things shall within 10 days serve its objections on the party who served the interrogatories or requested production of documents or things. Copies of objections to interrogatories and/or requests shall be filed with the Secretary and as provided in special rule 1.F., below.

C. *Compelled Answers or Production of Documents or Things.* Parties who have objected to interrogatories or requests for production of documents or things which are the subject of a motion to compel shall have seven days to answer such a motion. Answers will be considered supplements to the arguments presented in the initial objection.

Upon motion of any participant to the proceeding, the Commission or the presiding officer may compel production of documents or things, or compel an answer to an interrogatory or request for admissions if the objection is found not to be valid.

Compelled answers, documents or things shall be made available to the party making the motion within 10 days of the grant of a motion to compel or such other period designated by the presiding officer or Commission. Copies of the answers or documents or things ordered to be produced shall also be made available to the Secretary pursuant to § 3001.9 and to the other participants who request them.

D. *Supplemental Answers to Interrogatories.* Participants are expected to serve supplemental answers whenever appropriate. Participants filing supplemental answers shall indicate whether the answer merely supplements the previous answer to make it current, or whether it is intended as a complete replacement for the answer previously given.

E. *Follow-up Interrogatories.* Follow-up interrogatories shall be served within five days of receipt of the answer to the prior interrogatory unless extraordinary circumstances are shown.

F. *Service.* Interrogatories, objections, and answers thereto should be served in conformance with § 3001.12 on the Commission, the Officer of the Commission (three copies), on the complimentary party, and on any other participant so requesting. Participants will be deemed to have requested service for purposes of these special rules unless they file a document to the contrary with the Commission.

2. Case-in-Chief

The case-in-chief of all participants shall be in writing and shall include the participant's direct case and its rebuttal, if any, to the United States Postal Service's case-in-chief. It may be accompanied by legal memoranda, where appropriate.

3. Exhibits

Exhibits should be self-explanatory. They should contain appropriate footnotes or narrative explaining the source of each item of information used and the methods employed in statistical compilations. The principal title of each exhibit should state what it contains and may also contain a statement of the purpose for which the exhibit is offered; however, such a statement will not be considered part of the evidentiary record. Where one part of the multi-page exhibit is based on another part, as on another exhibit, appropriate cross references should be made. Relevant exposition should be included in the exhibits or given in the accompanying testimony.

4. Motions to Strike

Motions to strike are requests for extraordinary relief and are not substitutes for briefs or rebuttal evidence. All motions to strike testimony or exhibit materials are to be submitted in writing at an early date, and at least 10 days before the scheduled appearance of the witness. Responses to such motions shall be made five days after the filing of the motion.

5. Official Notice

Parties requesting official notice should refer to the page and paragraph of such material and should furnish copies of the referenced item for the record and for other parties.

6. Cross-examination

A. *Written cross-examination.* Written cross-examination will be

utilized as a substitute for oral cross-examination whenever possible, particularly to introduce factual or statistical evidence. The scope of oral cross-examination is set forth in special rule 6.B., below.

Designations or written cross-examination should be served three working days before the announced appearance of a witness on the Commission, on the Officer of the Commission (three copies), on the witness' counsel, and on any participant so requesting. Designations shall identify every item to be offered as evidence, listing the participant which initially posed the request, the witness or party to whom the question was addressed (if different from the witness answering) and, if more than one answer was provided, the dates of all answers to be included in the record.

The Secretary of the Commission shall prepare for the record a packet containing all materials designated for written cross-examination, alphabetically, by participant which initially posed the question. The witness will verify the answers and materials in the packet, and they will be entered into the transcript by the presiding officer. Counsel for a witness may object to written cross-examination at that time, and any designated answers or materials found objectionable will be stricken from the record.

B. *Oral cross-examination.* Oral cross-examination will be permitted for testing assumptions, conclusions, or other opinion evidence. Requests for permission to conduct oral cross-examination should be served three days before the announced appearance of a witness accompanied by (1) specific references to the subject matter to be examined, and (2) page references to the relevant direct testimony.

7. General

Argument will not be received in evidence. It is the province of the lawyer, not the witness. It should be presented in brief or memoranda.

New affirmative matter (not in reply to another party's direct case) should not be included in rebuttal testimony or exhibits.

Cross-examination will be limited to testimony which is adverse to the participant wishing to cross-examine.

Legal memoranda, where appropriate, will be welcome at any stage of the proceeding.

[FR Doc. 83-1944 Filed 1-18-83; 8:45 am]
BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12954; (812-5307)]

American Investors Money Fund, Inc.; Filing of an Application

January 11, 1983.

In the matter of American Investors Money Fund, Inc., 88 Field Point Road, Box 2500, Greenwich, Connecticut 06836.

Notice is hereby given that American Investors Money Fund, Inc. ("Applicant"), which is registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on September 7, 1982 and amendment thereto on December 29, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to calculate its net asset value per share in accordance with the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of those provisions thereof for which an exemption is being sought.

Applicant states that it intends to operate as a "money market" fund designed as an investment vehicle for savings and reserve funds of investors. Applicant's investment objective is to provide stability of principal and as high a rate of current income as is consistent with preservation of capital and liquidity. In order to achieve this objective, Applicant states that its assets will be invested in high quality money market instruments having maturities of one year or less, consisting of: (a) obligations issued by or guaranteed as to principal and interest by the U.S. Government or its agencies or instrumentalities; (b) obligations (including certificates of deposit, letters of credit and bankers' acceptances) of banks or other financial institutions organized under the laws of the United States, or any state or territory thereof, that are members of the Federal Reserve System, the Federal Deposit Insurance Corporation ("FDIC") or the Federal Savings and Loan Insurance Corporation ("FSLIC") if either (i) the principal amount of the obligation is insured in full by the FDIC or the FSLIC or (ii) the issuer of the obligation has total assets of $1 billion; (c) commercial paper issued by corporations which at the time of the purchase (i) are rated "A-1" by Standard & Poor's Corporation or "Prime-1" by Moody's Investors Service, Inc. or (ii) if not rated, are issued by a corporation, which at the date of purchase, has an outstanding debt issue rated at least "AA" by Standard & Poor's or Moody's and as to which the Applicant's investment adviser, American Investors Corporation ("Manager-Adviser"), under direction of Applicant's board of directors, has made an independent determination that the instrument presents minimal credit risks and is of "high quality"; (d) corporate bonds and debentures which at the time of purchase have a rating of at least "AA" by Standard & Poor's or "Aa" by Moody's and which mature in one year or less at the time of purchase; and (e) certain repurchase agreements with respect to obligations which, without regard to maturities, Applicant is authorized to invest.

Applicant states that its board of directors has concluded that potential stockholders desire to invest their cash balances in a vehicle which offers stability of principal and a steady flow of investment income commensurate with prevailing money market yields. Applicant also states that its board of directors has determined that the only practicable method of fulfilling this investor desire is to determine its net asset value per share on the amortized cost basis.

Applicant states that prior to the filing of this application, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires portfolio instruments of "money market" funds to be valued with reference to market factors and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act, if and to the exent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it believes that use of the amortized cost method of valuation for its portfolio assets will

enable its stockholders to have the convenience of determining the value of their holdings by maintaining a constant net asset value per share (preferably at $1.00 per share) and by paying dividends which do not fluctuate due to daily changes in the value of portfolio securities. Applicant states that in light of the perceived desires of potential stockholders and in light of competitive conditions in the marketplace, the valuation of investment securities on the amortized cost basis will benefit its stockholders by enabling it to more effectively maintain its net asset value per share at $1.00, while providing stockholders with the opportunity to receive a flow of investment income less subject to fluctuation than would be the case under procedures whereby its daily dividend would be adjusted by all realized and unrealized gains and losses on its portfolio securities. Applicant also states that its board of directors has determined that the amortized cost method of calculating net asset value per share under such circumstances is appropriate and in the best interests of its stockholders. Moreover, Applicant contends that granting of the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that in any order of the Commission granting the exemptive relief requested, it agrees that the following conditions may be imposed:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors of Applicant shall be the following:

(a) Review by the Applicant's board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the Applicant's net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds 0.50 of 1 percent, a requirement that the Applicant's board of directors will promptly consider what action, if any, should be initiated.

(c) Where the Applicant's board of directors believes the extent of any deviation from the $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which its board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above, was taken during the preceding calendar quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 4, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–1424 Filed 1–18–83; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant intends to use actual quotations chosen by its board of directors (or estimates of market value reflecting current market conditions chosen by its Manager-Adviser, under direction of its board of directors) in the exercise of its discretion to be appropriate indicators of value, which may include, inter alia, (i) quotations or estimates of market value for individual portfolio instruments or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 12965; (812–5372)]

CG Fund, Inc., et al; Filing of Application

January 12, 1983.

In the mater of CG Fund, Inc., CG Income Fund, Inc., CG Municipal Bond Fund, Inc., CG Money Market Fund, Inc., CIGNA Cash Fund, Inc., CIGNA Tax-Exempt Cash Fund, Inc., Companion Fund, Inc., Companion Income Fund, Inc., Hartford CT 06152.

Notice is hereby given that CG fund, Inc. ("CG Fund"), CG Income Fund, Inc.

("CG Income"), CG Municipal Bond Fund, Inc. ("CG Municipal"), CG Money Market Fund, Inc. ("CG Money Market"), CIGNA Cash Fund, Inc. ("CIGNA Cash"), CIGNA Tax-Exempt Cash Fund, Inc. ("CIGNA Tax-Exempt"), Companion Fund, Inc. ("Companion") and Companion Income Fund, Inc. ("Companion Income") (collectively, the "Applicants"), open-end, diversified, management investment companies registered under the Investment Company Act of 1940 (the "Act"), filed an application on November 8, 1982, requesting an order of the Commission, pursuant to Sections 6(c) and 17(d) of the Act and Rule 17d–1 thereunder, exempting Applicants from the provisions of, and rules under, Sections 13(a)(2), 17(d), 18(f)(1) and 22 (f) and (g) of the Act, in connection with a proposed Standard Deferred Fee Agreement to be entered into by each Applicant except CIGNA Cash and a proposed CIGNA Cash Deferred Fee agreement to be entered into by CIGNA Cash (collectively, the "Agreements") and transactions to be effected by the Funds and certain of their directors pursuant to the Agreements. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, CG Fund and Companion have as their investment objectives long-term growth of capital, principally through the purchase of common stocks; CG Income seeks current income with reasonable concern for safety of principal through investments primarily in fixed and convertible corporate debt, dividend-paying common stock, preferred stocks and government obligations; CG Municipal seeks as high a level of current interest income exempt from Federal taxation as is consistent with preservation of capital by investing in municipal bonds; Companion Income has as its investment objective providing as high a level of income as is consistent with preservation of principal through investment in marketable debt securities; CG Money Market, CIGNA Cash and CIGNA Tax-exempt are all money market funds; CG Money Market, and CIGNA Cash invest in money market instruments; CIGNA Tax-Exempt invests in municipal money market instruments the interest on which is exempt from Federal taxation. CG Fund, CG Income, CG Municipal and CG Money Market are sold to the public by representatives of CIGNA Securities, Inc. (formerly CG Equity Sales Company) and by other authorized brokerdealers. CIGNA Securities is an affiliate of Connecticut General Corporation ("CGC"), which is wholly-owned by CIGNA Corporation ("CIGNA"). Companion and Companion Income are sold without a sales load as underlying investment vehicles to CG Variable Annuity Account I and CG Variable Annuity Account II, both unit investment trusts registered under the Act, which are separate accounts issued by Connecticut General Life Insurance Company ("CG Life"), also an affiliate of CGC and CIGNA. CIGNA Cash and CIGNA Tax-Exempt Cash are sole to the public without a sales load. All the Applicants are advised and managed by CIGNA Investment Management Company ("CIGNA Investment Management"), a subsidiary of CGC and CIGNA.

The Applicants state that each Applicant's board of directors consists of twelve persons, a majority of whom are not "interested persons" of each Applicant within the meaning of Section 2(a)(19) of the Act. Each director who is not an interested person of CIGNA, CGC, CC Life or CIGNA Investment Management receives a retainer of $7,800 for serving as a director of all the Applicants plus a meeting fee of $525 for each board or committee meeting attended. All the Applicants currently have audit, nominating and contracts committees. Directors acting as chairmen of committees receive an additional retainer of $1,500 per year. With two exceptions, no director of who is an interested person of CIGNA, CGC, CG Life or CIGNA Investment Management receives any remuneration from the Applicants. Those exceptions are Mr. James H. Torrey, a Director of CIGNA, who receives a retainer of $26,000 per year for acting as Chairman of the Board of each Applicant in lieu of all other fees, and Mr. Harold H. Bigler, a former officer of CG Life and currently president and majority shareholder of Bigler Investment Management Company, Inc., who receives the standard amount of director's fees.

According to the application, the total remuneration payable to the directors is allocated among all the Applicants based on their relative net assets. Applicants pay no other remuneration to their directors. The amounts paid to the directors are, and are expected to continue to be, insignificant in comparison to the total net assets of each Applicant.

Applicants state that the requested order would cover two forms of proposed deferred director's fee agreements: an agreement to be available for the deferral of fees payable by all Applicants except CIGNA Cash (hereinafter referred to as the "Standard Deferred Fee Agreement") and a deferred fee agreement for fees payable by CIGNA Cash (the "CIGNA Cash Deferred Fee Agreement") (collectively, the "Agreements"). Each Agreement will allow each individual director to elect to defer receipt of all director's fees which otherwise would become payable to him for sevices performed after the date of the Agreement. According to the application, the purpose of the Agreements is to permit a director of each of the Applicants to elect to defer receipt of his director's fees, in order to avoid diminution or loss of social security benefits to which the director may otherwise be entitled, to enable the directors to defer payment of income taxes on such fees, or for other reasons.

Under both forms of Agreement, the deferred director's fees will be credited to a book reserve account (the "Deferred Fee Account") as of the date such fees would have been paid. Director's fees that become payable for attending board meetings or meetings of committees of the board will be credited to the Deferred Fee Account on the following business day. The principal difference between the two forms of Agreement relates to the manner in which the deferred fees accrue interest. Under the Standard Deferred Fee Agreement, deferred fees will accrue interest on a daily basis from and after the date of credit to the Deferred Fee Account in an amount equal to the amount that would have been earned had an amount equal to such deferred fees (plus all interest earned thereon on a daily basis) been invested in CIGNA Cash. Under the CIGNA Cash Deferred Fee Agreement, deferred fees will accrue interest on a daily basis from and after the date of credit to the Deferred Fee Account in an amount equal to the amount that would have been earned had an amount equal to such deferred fees (plus all interest earned thereon on a daily basis) been invested in Aetna Money Trust, a no-load money market fund, that is not affiliated with CIGNA, CGC, CG Life, CIGNA Investment Management or any of the Funds.

Both forms of Agreement provide that each Applicant's obligation to make payments of deferred fees and interest accrued thereon will be a general obligation of that Applicant, and payments made pursuant to the Agreements will be made from the Applicant's general assets and property. The relationship of the director to the Applicant will be only that of a general unsecured creditor. Both forms of Agreement also provide that the

Applicant will be under no obligation to purchase, hold or dispose of any investments under the Agreement, but, if the Applicant chooses to purchase investments to cover its obligations under such Agreement, then any and all such investments will continue to be a part of the general assests and property of the Applicant.

According to the application, the deferred director's fees and any interest thereon will become payable in cash upon termination of the director's services in a lump sum or in such number of annual installments as shall be determined by each Applicant in its sole discretion. In the event of the director's death, amounts payable to him under the Agreements will thereafter be payable to his designated beneficiary; in all other events, the director's right to receive payments will be nontransferable.

Applicants state that deferral of director's fees in accordance with the Agreement will have a negligible effect on the assets, liabilities, net assets and net income per share of each Applicant. Further, Applicants state that the Agreement will not obligate an Applicant to pay any (or any particular level of) director's fees to any director. Applicants represent that participation in the deferred fee arrangement will be available to all directors who currently receive director's fees from each Applicant, *i.e.*, those directors who are not "interested persons" of the Applicants within the meaning of Section 2(a)(19) of the Act and Messrs. Torrey and Bigler.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Rule 17d–1 under the Act provides that Commission may, by order upon application, grant exemptions from the prohibitions of Section 17(d) and Rule 17d–1 regarding certain joint enterprises or arrangements and profit-sharing plans involving a registered investment company. Rule 17d–1(b) further provides that in passing upon such an application the Commission will consider whether the participation of the registered investment company in such enterprise, arangement, or plan is consistent with the policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants submit that the agreements are in the best interests of Applicants and their shareholders and consistent with the purposes fairly intended by the policy and provisions of the Act. In addition, Applicants submit that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors.

With respect to the requested exemptions from Sections 18(f) (1) and 13(a) (2), Applicants contend that the Agreements possess none of the characteristics of senior securities which led Congress to enact the restrictions on the issuance of such securities set forth in Section 18 and 13(a)(2) of the Act. Applicants submit that they would not be "borrowing" from their directors in the sense which concerned Congress and that all liabilities created by credits to the Deferred Fee Accounts under the Agreements would be offset by essentially equal assets of the Applicants which would not otherwise exist if the directors' fees were paid on a current basis. Applicants further argue that the Agreements would not induce speculative investments by Applicants or provide opportunity for manipulative allocations of Applicants' expenses and profits; that control of the Applicants would not be affected; and, given the common existence of deferred compensation agreements today, the Agreements would not confuse investors, make it difficult for them to value the Applicants' share or convey a false impression of safety.

With respect to the requested exemption from Section 22(f) of the Act, Applicants argue that this section was designed to bar only those restrictions on transferability or negotiability either not disclosed to the holder of the subject security or expressly prohibited by Commission rule or regulation, neither of which circumstances would apply here. Applicants point out that the restriction on transferability of a director's benefits would be clearly set forth in the Agreements, would be included primarily to benefit the director and would not adversely affect the interests of the director or of any shareholder of Applicants.

Applicants contend that the legislative history of the Act indicates that in Section 22(g) of the Act Congress was primarily concerned with the dilutive effect on the equity and voting power of the common stock of or units of beneficial interest in, and open-end company if securities were issued for consideration not readily valued. Applicants submit that the Agreements would not have this effect, particularly in view of current disclosure requirements applicable to director compensation. Applicants also contend that their obligation to make payments under the Agreements need not be viewed as being "issued" for services or for property other than cash or securities, because, while any director's fees which might become payable to a director would clearly be for services, any such fees would become payable independent of the Agreements. Thus, according to the Applicants, the Agreements would merely provide for deferral of payment of such fees and thus may be viewed as being "issued" not in return for services but in return for the Applicants' not being required to pay such fees on a current basis. For these reasons, Applicants submit that the requested exemption of the Agreements and future transactions effected pursuant to them from Section 22 (f) and (g) of the Act also would be consistent with the protection of investors and the purposes of the Act.

Applicants assert that neither form of Deferred Fee Agreement is a joint transaction between an Applicant and its directors within the meaning of Section 17(d) and Rule 17d–1 thereunder, as the interest to be accrued on the deferred amounts under the Standard Deferred Fee Agreement is to be based on the yield of CIGNA Cash, not that of the Applicant entering into the Agreement, while the interest to be accrued under the CIGNA Cash Agreement is based on the yield of Aetna Money Trust, an unaffiliated money market fund, so that neither agreement possesses the profit-sharing characteristics of a joint transaction. If the Agreements are considered to be joint transactions, the Applicants state in support of their requested exemption that the use of CIGNA Cash's or Aetna Money Trust's yield to determine interest on deferred amounts does not inherently differ from (but might be fairer than) the use of the prime rate or another assumed rate of interest.

Applicants argue that the effect of both Agreements would merely be to defer the payment of fees that the Applicants would otherwise be obligated to pay on a current basis as services are performed by the director. Applicants contend that deferral of a director's fees in accordance with the Agreements would essentially maintain the parties, viewed both separately and in their relationship to one another, in the same position as if the fees were paid on a current basis. On a

comparative basis, deferral would have a negligible effect on each Applicant's assets, liabilities, net assets and net income per share.

In addition, Applicants assert that the total fees paid to the Applicants' directors which would be eligible for deferral will be *de minimis* as compared to the Applicants' total assets. Applicants emphasize their view that their ability to recruit and retain highly qualified directors would be enhanced if they were able to offer their directors the option of deferred payment of their directors' fees. Applicants submit that this benefit to the Applicants and their shareholders outweighs any tax, social security or other benefit that may be realized by an individual director under the proposed Agreements.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 4, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1429 Filed 1-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12960; (812-5197)]

Guaranty U.S. Government Securities Trust; Filing of Application

January 11, 1983.

In the matter of Guaranty U.S. Government Securities Trust, 2100 66th Street North, St. Petersburg, Florida 33710.

Notice is hereby given that Guaranty U.S. Government Security Trust ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on November 22, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a money market fund, states that it is organized as a Massachusetts business trust and that it has filed a registration statement under the Act and under the Securities Act of 1933. It is also stated that Guaranty Securities, Inc. is the proposed investment adviser of Applicant. Applicant represents that its investment objective is to seek as high a level of current income as possible, while maintaining liquidity and safety of capital. Applicant further states that it pursues this objective by investing only in a portfolio that consists of short-term debt securities issued or guaranteed by the U.S. Government, its agencies or instrumentalities, including those securities subject to repurchase agreements.

Applicant requests exemptions from Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit its portfolio investments to be valued according to the amortized cost valuation method. Under the amortized cost valuation method, portfolio instruments are valued at their cost as of the date of acquisition and thereafter assuming a constant rate of amortization of maturity of any discount or premium, regardless of the impact of fluctuating interest rates on the market value of such instruments. Applicant states that, prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in pertinent part, that upon application the Commission may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Applicant states that it believes that, to meet the needs and expectations of present and potential investors and to offer them relative stability of principal and steady flow of predictable income at currently competitive rates, it wishes to price its portfolio at amortized cost. In addition, Applicant represents that as a condition to the granting of the exemptions requested, Applicant's Board of Trustees shall have determined, in good faith based on a full consideration of all material factors, that, absent unusual circumstances, the valuation method hereby applied for will fairly reflect the value of each shareholder's interest in Applicant and that Applicant will continue to use such method only so long as the Board of Trustees believes that it fairly reflects the value of each shareholder's interest. In addition, Applicant has agreed, to adhere to the following express conditions to the granting of the exemptive relief it seeks.

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within its overall duty of care owed to shareholders of Applicant to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize its net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included among the procedures to be adopted by the Board of Trustees of Applicant shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's amortized cost price per share, and maintenance of records of such review.[1]

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[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board of Trustees in the exercise of its discretion to be appropriate indicators of value, which may include, among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes or money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes that the extent of any deviation from Applicant's amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average portfolio maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity [2] appropriate to its objective of maintaining a stable net asset value per share; provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[3]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 2 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the meeting of the Board of Trustees. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which its Board of Trustees determines present minimal credit risks, and which are of "high quality" as determined by any major rating service, or in the case of any instrument that is not rated, is of comparible quality as determined by the Board of Trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 3(c) was taken during the preceding fiscal quarter, and, if any such action was taken, will describe the nature and circumstances of such action.

Notice if further given that any interested person wishing to request a hearing on the application may, not later than February 7, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1435 Filed 1-18-83; 8:45 am]

BILLING CODE 8010-01-M

[2] In determining dollar-weighted average portfolio maturity or the maturity of any instrument, Applicant will use the definition of "maturity of an instrument" contained in proposed Rule 2a–7 as set forth in Release No. IC–12206 (January 29, 1982), or, on the effectiveness of a final rule, the definition contained in such final rule (whether or not such proposed rule is withdrawn). Applicant will also treat instruments called for redemption in one year or less as maturing within one year.

[3] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 12951; (812–4983)]

Investors Syndicate of America, Inc., et al.; Application

January 11, 1983

In the matter of Investors Syndicate of America, Inc., Investors Diversified Services, Inc., and IDS Life Insurance Co., IDS Tower, Minneapolis, Minnesota 55402.

Notice is hereby given that Investors Syndicate of America, Inc. ("ISA"), registered under the Investment Company Act of 1940 ("Act") as a face-amount certificate company, Investors Diversified Services, Inc. ("IDS"), the sole shareholder of and distributor and manager for ISA, and IDS Life Insurance Company ("IDS Life"), an insurance company subsidiary of IDS organized under Minnesota law (hereinafter referred to collectively as "Applicants"), filed an amendment to a previously granted application on October 27, 1982, and a further amendment on January 7, 1983, requesting that the Commission, pursuant to Sections 6(c) and 17(b) of the Act, amend its prior order (Investment Company Act Release No. 12060, November 27, 1981) ("Prior Order") exemption certain transactions from the provisions of Sections 12(d)(3) and 17(a) of the Act and permitting the transactions pursuant to Section 17(d) and Rule 17d–1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below. Such persons are also referred to the act and the rules thereunder for the complete text of those provisions thereof from which exemption is being sought.

The Prior Order permitted ISA to sell certain marketable securities to IDS and, as part of the purchase transaction, the issuance by IDS of a note to ISA representing the difference between the fair market value of the securities purchased, which was to be paid by IDS in cash, and their book value on the date of purchase. The application states that the representations made in the original application are still applicable.

Applicants state that, pursuant to the Prior Order, IDS purchased certain securities from ISA at a price equal to the greater of ISA's book value of fair market value on the date of actual transfer of the securities. Applicants assert that ISA benefitted from the transaction in that it improved its portfolio liquidity, reinvested the proceeds of the sales higher yielding securities and converted the unrealized book depreciation of the securities into a subordinated 15% earning asset. Applicants further assert that IDS benefitted from the transaction because, as explained in the original application, it realized a taxable loss from the transaction which offset capital gains it had incurred. Applicants state that it was the desire of ISA that the securities sold would have unrealized depreciation, and the taxable loss for IDS would be approximately $100 million at the dates of sale. Applicants state that market conditions changed after the Prior Order was granted and the value of the securities increased. Applicants state that, as a result, the unrealized depreciation or capital loss amounted to approximately $85 million, rather than $100 million. Applicants state that it is the desire of the parties to

amend the original application to permit ISA to sell to IDS additional securities with additional unrealized depreciation of approximately $15 million no later than December 31, 1983. Applicants represent that IDS will receive similar benefits as stated in the original application and IDS will realize additional tax losses of approximately $15 million. Applicants state that it is the opinion of ISA and IDS that this amendment is consistent with the original intent of the parties.

Applicants state that under the original application, ISA was obligated to sell the securities to IDS, which sold the securities it purchased in the marketplace to realize capital losses for federal income tax purposes. The securities ISA desires to sell as this time, however, are securities which it purchased directly from the issuer in a private placement transaction or in the secondary market from those who held such privately placed securities. Applicants state that such securities do not have a quoted market price but are valued at the price which represents fair value in the opinion of ISA's Board of Directors. Applicants state that estimated fair values are determined by the Board of Directors after review of values provided by ISA personnel arrived at using an established procedure involving, among other things, review of market indices, price levels of current offerings and comparable issues, price estimates and market data from independent brokers, and financial files. Applicants state that the independent brokers, which were selected at the time the securities were purchased, have experience and expertise in the particular industry of the issuer. Applicants state that the independent pricing broker reviews the issues and assigns a price and a yield to each issue, which Applicants believe is comparable to current market value. Applicants state that, although the securities are privately placed securities, they believe there is an institutional market available and such securities have not been treated as restricted securities by ISA.

Applicants state that, under the current proposal, ISA is not required to sell the securities to IDS. Applicants state that IDS would agree to pay ISA a price equal to the greater of ISA's book value or the fair value for such securities on the date of sale to IDS. Applicants state that at the time of the sale, IDS will pay ISA an amount in cash equal to the fair value of the securities at the date of sale. Applicants state that the excess, if any, of the book value over the amount to be paid in cash by IDS will be paid by adding that amount to the principal of the note issued by IDS to ISA for that purpose. Applicants state that the note, described in the original application, provides that IDS pay to ISA interest quarterly on the unpaid balance at the rate of 15% per annum. Applicants represent that IDS has made all payments in accordance with the terms of the original note. Applicants further represent that the financial position of IDS is substantially the same as it was when the Prior Order was granted on November 27, 1981. Applicants represent that ISA is of the opinion that the note it received from IDS is a marketable note, and that the terms will be the same as contained in the original note.

Applicants state that under the current proposal IDS desires to sell the securities to IDS Life, a subsidiary of IDS, and therefore an affiliate of ISA, at the fair value as determined above. Applicants represent that IDS Life is subject to regulations by the Minnesota insurance department. Applicants further represent that such rules and regulations are designed to protect against overreaching on the part of its parent, IDS, or any subsidiary of IDS (namely, ISA). Applicants state that the securities ISA intends to sell are of the kind and quality which IDS Life is permitted to, and does in the ordinary course of business, invest in under state insurance laws. Applicants represent that IDS Life has determined that the price it will pay for the securities is a fair price.

Applicants represent that they believe the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any persons concerned. The conditions for granting an amendment to the Prior Order are claimed to be present. Applicants further assert that ISA believes the proposed transaction is consistent with its own policies as recited in its registration statements and reports. Applicants state that while ISA normally purchases fixed income securities with a view to holding such securities until their maturity, the current transaction offers ISA an additional opportunity to improve its portfolio liquidity on very favorable terms at a time when ISA believes it is desirable to do so. Applicants state that ISA is specifically aware that IDS intends to achieve tax payment savings for itself by this transaction by selling the securities to its subsidiary, IDS Life, which will benefit through elimination of any brokerage costs. Applicants submit that ISA does not believe that IDS' or IDS Life's advantage detracts from the advantages which ISA receives. Finally, Applicants submit that they believe and represent that the transaction taken as a whole, including every relevant part thereof taken in the context of the transaction, is protective of the certificate holders of ISA and in all respects is consistent with the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 4, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1423 Filed 1-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12957; (812-5391)]

The New Hampshire Intra-State "MICRO" Money Market Fund, Inc.; Application

January 11, 1983.

In the matter of the New Hampshire Intra-State "MICRO" Money Market Fund, Inc., 132 North Main Street, Concord, New Hampshire 03301.

Notice is hereby given that The New Hampshire Intra-State "MICRO" Money Market Fund, Inc., ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 9, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit applicant to value its assets through use of the

amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund organized under the laws of the State of New Hampshire, and that its shares of beneficial interest are available only to residents of that state. It is further stated that Applicant's investment objective is to seek to provide the maximum level of current income available from short-term securities, to the extent consistent with stability of principal and maintenance of liquidity, by investing in domestic and foreign certificates of deposits, repurchase agreements and bankers' acceptances, issued by banks or savings and loan associations the principal place of business of which is located in New Hampshire, and by investing in United States Treasury bills. It is further stated that to be fully invested each day, Applicant will place excess funds in overnight or weekend instruments, such as one-day repurchase agreements. Applicant states that Arthur N. Economou & Co., Inc., will serve as Applicant's investment adviser.

Applicant represents that its board of directors intends to establish procedures designed to stabilize, to the extent reasonably possible, the net asset value of its shares, computed for the purposes of distribution, redemption and repurchase, at $1.00. It is further stated that experience indicates that a money market fund must be able to provide (1) stability of principal, and (2) a steady flow of predictable and competitive investment income. Applicant asserts that it can offer these features to investors by maintaining a portfolio of high quality securities valued on the basis of the amortized cost method of valuation. Applicant states that in accordance with the amortized cost method of valuation, a portfolio security is valued at its historic cost (purchase price), and the interest to be earned on the security (plus any discount received, or minus any premium paid upon purchase) is accrued ratably over the remaining maturity of the security. It is stated that by declaring these accruals to shareholders as a daily dividend, the value per share will generally remain constant.

In relevant part, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the investment company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). Therefore, Applicant requests that the Commission issue an order pursuant to Section 6(c) of the Act permitting it to use the amortized cost method of valuation in pricing its shares for sale, redemption and repurchase.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant represents that its board of directors has determined in good faith that, in light of Applicant's characteristics, the amortized cost method of valuation of portfolio securities is, absent unusual or extraordinary circumstances, preferable to the use of a market valuation method. Applicant states that, given the nature of its policies and operations, there should be a negligible discrepancy between prices obtained by the amortized cost method and those obtained by a market valuation method. Therefore, it is asserted that Applicant's use of the amortized cost valuation method would not be inconsistent with the policy of the Act as implemented by Rule 2a-4, not would it detract from the protection of investors afforded by the Rule. Applicant's board of directors has determined, Applicant also states, to monitor continuously values indicated by valuation methods other than the amortized cost valuation method in order to assure that the method of valuation which Applicant is utilizing approximately represents fair value in view of all pertinent factors.

Applicant has agreed, in addition, that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving management of Applicant's portfolio to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

[1] To fulfill this condition, Applicant will use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classed of money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio securities prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; selling portfolio instruments prior to maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, the Applicant will not (a) purchase any security with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as through such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase and reverse repurchase agreements, to those United States dollar-denominated instruments which the board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 7, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–1421 Filed 1–18–83; 8:45 am]

BILLING CODE 8010–01–M

[2] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 12961; (812–5377)]

Rockwell International Overseas Capital Corp.; Application

January 12, 1983.

In the matter of Rockwell International Overseas Capital Corp., 600 Grant Street, Pittsburgh, PA 15219.

Notice is hereby given that Rockwell International Overseas Capital Corporation ("Applicant") filed an application on November 16, 1982, and an amendment thereto on December 13, 1982, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a corporation incorporated under the laws of the State of Delaware in 1982. According to the application, Applicant's outstanding securities consist entirely of capital stock held by Rockwell International Finance Corporation ("Finance"), a wholly-owned, subsidiary of Rockwell International Corporation ("Rockwell"), a publicly-held Delaware corporation subject to the periodic reporting requirements of the Securities Exchange Act of 1934.

Applicant proposes to raise funds in the foreign Eurodollar market by issuing its unsecured notes (the "Notes"), through underwriters or otherwise, in one or more transactions structured to prevent distribution of the Notes to nationals and residents of the United States, its territories and possessions and otherwise designed to cause the Notes to be exempt from registration under the Securities Act of 1933. According to the application, payment of the principal of and premium, if any, and interest on the Notes will be fully guaranteed by Rockwell. Applicant represents that the Rockwell guarantees will provide that in the event of a default by Applicant with respect to the Notes, legal proceedings may be instituted by holders of the Notes directly against Rockwell to enforce the Rockwell guarantees without their first proceeeding against Applicant.

Applicant further states that the Notes will rank *pari passu* with other unsecured debt, if any, of Applicant, and the Rockwell guarantees will rank *pari passu* with other unsecured debt of Rockwell. Applicant represents that, although the fiscal agency agreement and the other agreements relating to the issuance of the Notes will not place limitations on the issuance of additional debt by Applicant, no such issuance of additional debt is currently contemplated.

Applicant states that substantially all of the proceeds from the sale of the Notes will be loaned by Applicant to Finance or Rockwell and will be used in financing Rockwell's requirements, including the requirements of Finance, for capital expenditures and working capital and for direct and indirect investments. It is intended that the sole business of Applicant will be the provision of funds to Rockwell or subsidiaries of Rockwell, and, accordingly, a substantial portion of Applicant's assets will consist of amounts receivable from Rockwell or such subsidiaries.

Applicant states that it might be deemed an investment company under Section 3(a)(3) of the Act on the ground that it proposed loans to Rockwell or Finance might be deemed "investment

securities" which would constitute over 40 percent of Applicant's assets. In order to eliminate any doubt that it would be entitled, without registration under the Act, to issue and sell the Notes, Applicant requests an exemption from all provisions of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts, in the support of the requested exemption, that the return to investors who purchase the Notes will not turn upon Applicant's management of a portfolio of securities of unaffiliated issuers, but rather upon the solvency of Rockwell and its operating subsidiaries. Applicant further asserts that, if Rockwell itself issued the Notes to be issued by Applicant, neither Rockwell nor any of its subsidiaries would be subject to the Act; that Rockwell has chosen to use Applicant as a conduit for this borrowing for reasons unrelated to any policy or provision of the Act, principally savings in interest; that Applicant will not be engaged in the kind of business the Act was intended to regulate; and that the proposed use of Applicant gives investors the same protection they would have if Rockwell itself issued the Notes.

Applicant further represents as follows:

(a) Applicant will not issue any equity securities to any person other than Rockwell and its wholly-owned subsidiaries.

(b) Applicant will not hold equity securities of any issuer and will not hold notes or other evidences of indebtedness issued by any person other than Rockwell and its wholly-owned subsidiaries, except for temporary investments in short-term, high quality debt instruments of the kind in which Rockwell and Finance customarily invest.

(c) Applicant will not make any material change in its business as described in the application without giving prior notice of such change to the Commission and undertakes if necessary either to file a request for amendment or modification of the exemption or a request that the exemption be continued in effect or to notify the Commission that it will no longer rely on the exemption.

On the basis of the foregoing, Applicant submits that granting the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 4, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-1428 Filed 1-18-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 19422; File No. SR-OCC-82-8]

Options Clearing Corp. ("OCC"); Order Approving Proposed Rule Change

January 12, 1983.

On April 27, 1982, OCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b-4 thereunder, a proposed rule change that would add Interpretations and Policies to OCC Rule 604 (i) formalizing certain of OCC's criteria for approving domestic banks as issuers of letters of credit for margin purposes; and (ii) allowing OCC to accept, for the first time, letters of credit issued by foreign banks.[1] Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of Securities Exchange Act Release No. 18721 (May 10, 1982), 47 FR 21170 (May 17, 1982). No letters of comment were received.

I. Description of the Proposed Rule Change

The proposal would permit OCC to approve as an issuer of letters of credit for margin purposes and non-United States-based financial institution ("foreign bank"), provided that the bank (i) is organized under the laws of a country other than the United States and has a Federal or state branch or agency, as defined in the International Banking Act of 1978,[2] located in New York, New York or Chicago, Illinois; (ii) has, at the time of approval, and continuously thereafter, shareholders' equity in excess of U.S. $200,000,000; (iii) has its principal executive office located in a country that (a) is rated "AAA" by Moody's Investor Service ("Moody's") and/or Standard & Poor's Corporation ("Standard & Poor's") or (b) has been approved by OCC's margin committee as a "AAA"-equivalent country, based on the committee's consultations with at least two entities which, in the margin committee's opinion, are experienced in international banking and finance; and (iv) issues commercial paper and other short-term obligations rated "P-1" by Moody's or "A-1" by Standard & Poor's.[3]

The proposal would further restrict OCC's acceptance of foreign bank letters of credit in the following ways: (i) no more than 50% of a participant's margin obligation to OCC could be

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[1] OCC's margin requirements should be distinguished from customer margin requirements in Regulation T (12 CFR 220.1 *et seq.*). Regulation T governs, among other things, the amount of money that a broker-dealer's customer can borrow to purchase securities and the amount and type of collateral that those customers must deposit to secure their obligations. In contrast, OCC's daily margin requirements are imposed on OCC's clearing members with respect to the positions that they maintain at OCC and help insure that those members meet their daily obligations to OCC.

Currently, OCC holds approximately $3 billion worth of letters of credit as margin, representing about 90% of all margin held by OCC. In addition to letters of credit, OCC participants may deposit margin in the form of cash, certified checks, government securities, or common stocks underlying outstanding classes of options. OCC Rule 604.

[2] Pub. L. No. 95-369, 92 Stat. 607 (the "IBA"). Sections 1(b)(1), (3), (5), (6), (11) and (12) of the IBA respectively define the terms "agency," "branch," "Federal agency," "Federal branch," "state agency," and "state branch."

[3] Moody's commercial paper ratings represent Moody's "opinions of the ability of issuers to repay punctually" their short-term debt obligations. The ratings include, in order of preference, Prime 1, Prime 2, Prime 3, and Not Prime. Prime 1 issuers have a "superior capacity for repayment of short-term promissory obligations." Moody's Bond Rec., Dec. 1982, at 80. Similarly, Standard & Poor's commercial paper ratings indicate the likelihood of timely repayment of the instrument. Commercial paper is rated A, B, C, or D, with A being the highest rating and D being the lowest. These ratings are further divided into categories 1, 2, and 3, with 1 being the highest subclassification. Accordingly, an A-1 rating is Standard & Poor's highest rating for commercial paper and "indicates that the degree of safety regarding timely payment is very strong." Standard & Poor's Corp., Standard & Poor's ratings Guide 331 (1979).

secured by such letters of credit; (ii) no greater than 20% of a participant's OCC margin obligation could be secured by letters of credit from any one foreign bank; and (iii) the total amount of letters of credit that one foreign bank may issue for any one participant may not exceed 10% of the foreign bank's worldwide shareholders' equity.[4] In addition, a letter of credit issued by a foreign bank on behalf of a participant would have to be issued and payable at a Federal or state branch or agency of that bank.[5]

In addition, the proposal would formalize OCC's policy of approving a domestic financial institution ("domestic bank") as an issuer of letters of credit, provided that the bank (i) is organized under the laws of the United States or a state thereof; (ii) is regulated and examined by Federal or state authorities having regulatory authority over banks or trust companies; and (iii) has, at the time of approval by OCC and continuously thereafter, shareholders' equity of at least $100,000,000.

Finally, the proposal would establish several requirements that apply to both foreign and domestic banks. First, each bank applying to OCC for approval as an issuer of letters of credit would have to provide OCC with a copy of its most recent annual financial report.[6] Second, a bank approved by OCC would have to provide OCC with copies of its annual reports and quarterly financial statements at the time of their issuance. Third, each bank would have to provide, in written form satisfactory to OCC, the names of individuals authorized to sign letters of credit on behalf of the bank and a statement of the bank's legal authority to issue letters of credit. Fourth, the proposal would provide that OCC would reserve the right, in its sole discretion, to refuse to approve, or to revoke the approval of, any bank as an issuer of letters of credit at any time.[7]

[4] OCC's proposed ten percent requirement is stricter than the comparable current Federal lending limitation of 15% of shareholders' equity. *See* Pub. L. No. 97–320, 96 Stat. 1510.

[5] Letter Amendment to the staff dated December 1, 1982, from Marc L. Berman, Executive Vice President and General Counsel of OCC.

[6] If the applicant bank's annual financial report was issued more than 90 days prior to the date of its application to OCC, the bank also would have to provide OCC with its most recent published quarterly financial statements.

[7] OCC has informed the Commission staff that, if OCC revoked the approval of any issuing bank, affected participants would be required to supply substitute margin in accordance with OCC's rules. Because OCC monitors continuously its approved banks to detect banks experiencing difficulties, OCC ordinarily could advise affected participants at an early stage and thereby facilitate orderly margin substitution.

II. OCC's Rationale For the Proposed Rule Change

In its filing, OCC stated that because of recent developments affecting the availability of unsecured letters of credit,[8] OCC wants to expand the forms of margin available to OCC participants to include letters of credit from foreign banks. OCC represented that domestic banks, for a short time, reduced their issuance of, and increased their fees for, margin-related letters of credit. Also, such banks increasingly have been requiring letters of credit to be partially or fully collateralized by the bank's customers. In reponse to these developments, OCC now desires to include foreign banks in the universe of banks eligible as issuers of letters of credit, which should increase the supply of letters of credit available to OCC's participants and should reduce OCC's dependence on letters of credit issued by domestic banks.

Despite that desire, OCC believes that it should not accept letters of credit issued by foreign banks for margin purposes unless OCC has adopted strict criteria, which those foreign banks must meet, to compensate for differences in bank regulation between the United States and other countries and to insure that OCC approves only foreign banks it reasonably believes to be financially responsible. For example, OCC's proposal makes eligible only those foreign banks that have an office in New York City or Chicago to enable OCC to litigate disputes in American courts and to insure that foreign banks doing business in the United States will be subject to domestic banking regulations, with which OCC is familiar. Also, because OCC states that it is not familiar with foreign regulations respecting foreign bank parent organizations, the proposal will allow OCC, in part, to rely on ratings assigned to foreign countries by nationally-known independent rating services in determining whether to approve a foreign bank. Furthermore OCC's proposal includes important concentration and aggregate lending limitations that are designed to preclude dependence by OCC and its participants on any one foreign bank. OCC's proposal will formalize various criteria for approval of banks as issuers of letters of credit.

[8] For example, Chase Manhattan Bank, N.A. stopped issuing unsecured letters of credit to broker-dealers after incurring losses during the insolvencies of Drysdale Government Securities, Inc. and Lombard-Wall, Inc., two government-securities firms. *See* Wall St. J., September 1, 1982 at 4.

III. Discussion

Although OCC has allowed its participants to satisfy their margin obligations to OCC with letters of credit since OCC's inception in 1973, the Commission has not had the opportunity to review OCC's letter of credit program prior to the filing of this proposed rule change.[9] Accordingly, in reviewing OCC's filing pursuant to Section 19(b) of the Act, the Commission believes it appropriate to assess the proposal in light of OCC's entire program of financial safeguards to assure the proposal's consistency with the requirements of the Securities Acts Amendments of 1975, and in particular, with Section 17A of the Act.

A. The Commission's General Policy Concerns Regarding the Use of Letters of Credit by Clearing Agencies

The Commission has approved the controlled use of letters of credit by clearing agency participants in a related context. In August 1981, the Commission approved a proposal submitted by National Securities Clearing Corporation ("NSCC") that enabled NSCC's participants to secure their clearing fund obligations with letters of credit issued by banks approved by NSCC.[10] In reviewing NSCC's proposal, the Commission noted several factors relevant to its determination that a clearing agency's letter of credit program could promote the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible. *See* Section 17A(b)(3)(F) of the Act. A number of the most relevant factors are discussed below.

First, the Commission believes that a clearing agency should take measures to ensure that it accepts letters of credit only from banks that are likely to be financially responsible. Accordingly, a clearing agency should adopt reasonable criteria to determine whether a bank is financially responsible ("bank standards"), including, for example, those that (i) would prevent a bank from issuing amounts of letters of credit

[9] Before Congress's enactment in 1975 of Section 17A of the Act, clearing agencies were not subject to pervasive direct regulation by the Commission. With the adoption of Section 17A, however, clearing agencies must apply for registration with the Commission, and the Commission must review those applications for compliance with the Act. The Commission currently is reviewing OCC's application. Absent the filing of the proposed rule change, the Commission's analysis of OCC's letter of credit program would be limited to review in the context of that application.

[10] Securities Exchange Act Release No. 18062 (August 21, 1981), 46 FR 43341 (August 27, 1981).

disproportionate to the bank's size [11] and (ii) would allow the clearing agency to accept letters of credit from issuer banks with high ratings by a recognized financial rating service.[12] Second, the Commission further believes that a clearing agency should have sufficient liquidity in its systems for safeguarding funds and securities to protect itself and its participants if payment of a letter of credit is delayed or refused. If a participant becomes insolvent and cannot meet its settlement obligations, and if payment on the participant's letters of credit is delayed by the issuing bank,[13] the clearing agency must have access to other liquid assets that could be used to satisfy the defaulting participant's settlement obligations. Accordingly, the Commission believes it important that clearing agencies adopt measures insuring liquidity in their back-up systems in the event a letter of credit is not paid promptly or is dishonored by an issuing bank ("liquidity requirements").[14] Third, the Commission believes that a clearing agency should not become excessively dependent upon any one bank as an issuer and, for that reason, believes that a clearing agency should adopt measures insuring the diversification of each participant's letters of credit and the clearing agency's letters of credit among a number of banks ("concentration requirements").[15]

The Commission does not believe, however, that all clearing agencies that wish to establish letters of credit programs must have uniform bank standards, liquidity requirements, and concentration requirements. Indeed, because the Act recognizes that legitimate variations may exist among different clearing agencies, the Commission believes it appropriate to examine all of the facts and circumstances surrounding a clearing agency's proposal for the use of letters of credit to determine whether the proposed program, in the context of that clearing agency's other systems for safeguarding funds and securities, are consistent with the requirements of the Act.

B. Determination of Whether OCC's Proposal Is Consistent with the Requirements of the Act

The Commission believes that OCC's proposed rule change includes concentration requirements and eligibility criteria that should enable OCC to control safely and effectively the use of letters of credit issued by foreign banks. As noted, the proposal includes eligibility standards for foreign banks that should reduce significantly the likelihood that a foreign bank issuer will be unwilling or unable to pay a letter of credit. Moreover, the proposal includes effective concentration prevent OCC or any of its participants from becoming unduly dependant on foreign banks generally or one foreign bank in particular. As noted above, OCC can approve, as foreign bank issuers, sizable, highly-rated institutions having domestic branches in OCC's principal locations. In addition, OCC's proposal would limit in important respects the percentage of participants' margin obligations that can be secured by the use of bank letters of credit.[16] Finally, by accepting letters of credit from foreign banks, OCC will expand the universe of banks approved as issuers of letters of credit, which should reduce OCC's dependence on domestic issuers.[17]

The Commission further believes that OCC's proposal includes various additional safeguards, applicable to both foreign and domestic banks, that should further reduce the risks associated with the use of letters of credit. For example, as part of its continuous monitoring program, OCC periodically will receive financial reports from approved banks. Moreover, OCC maintains a substantial clearing fund consisting only of liquid assets. In the event of participant solvency, OCC clearing fund rules enable it to pledge clearing fund assets in exchange for cash that OCC can apply to participant defaults.[18]

III. Conclusion

Because the proposal provides significant benefits to OCC and its participants and furthers the purposes and requirements of the Act, including in particular, Section 17A of the Act, the Commission believes that the proposal should be approved.

Accordingly, it is therefore ordered, pursuant to Section 19(b) of the Act, that the proposed rule change (SR–OCC–82–8) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1431 Filed 1-18-83; 8:45 am]

BILLING CODE 8010-01-M

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[11] The Commission anticipates that, as a general matter, a clearing agency may safely accept larger amounts of letters of credit from larger banks because the value of those letters of credit would constitute a smaller percentage of the larger bank's total liabilities and total assets.

[12] *See, e.g.*, File No. SR–NSCC–80–15. For example, NSCC generally will not approve a domestic or a foreign bank as an issuer of letters of credit unless its commercial paper is highly rated by a national rating service and/or the bank has a specified amount of assets.

[13] The essential characteristic of an irrevocable letter of credit is that the obligation of the issuer to pay the beneficiary is independent of any contract between the beneficiary and the bank's customer. *See, e.g.*, N.Y.U.C.C. § 5–114(1) (McKinney). In general, the only defenses that an issuing bank has against paying a letter of credit are fraud, forgery, or prior payment to a holder in due course. *Sztejn v. J. Henry Schroder Banking Corp.*, 177 Misc. 719, 31 N.Y.S. 2d 631 (Sup. Ct. 1941). *See also KMW Int'l v. Chase Mathattan Bank, N.A.*, 602 F.2d 10 (2d Cir. 1979). Thus, unless a clearing agency were a party to a fraud or forgery, a clearing agency would routinely be entitled to draw down on a letter of credit without delay. That entitlement exists even when the participant is bankrupt. *Westinghouse Credit Corp. v. Page (In re Page)*, 18 B.R. 713 (D.D.C. 1982). *But see Twist Cap, Inc. v. Southeast Bank of Tampa (In re Twist Cap, Inc.)*, 18 B.R. 284 (D. Fla. 1979).

[14] For example, NSCC (i) requires a participant using letters of credit to increase the minimum cash contribution to the clearing fund and (ii) has authority to pledge a solvent participant's letters of credit to obtain a loan to NSCC in the event payment on a letter of credit is delayed. In addition, NSCC has other significant systems for safeguarding securities and funds, such as the authority (i) to reverse certain securities deliveries; (ii) to mark-to-the-market failed trades; and (iii) to require participants to provide further assurances of operational and financial stability.

[15] For example, NSCC's rules limit the aggregate value of letters of credit that any bank may issue in favor of NSCC. NSCC's rules also require that no one bank issue more than a maximum stated percentage of the clearing fund, absent NSCC's board of director's express approval.

[16] In particular, under the proposed rule change, OCC will not accept with respect to any OCC participant letters of credit from any one foreign issuer to secure more than twenty percent of that participant's margin obligation. Therefore, as a practical matter, OCC will always have letters of credit from a variety of foreign banks for each participant that makes full use of foreign bank letters of credit. While that arrangement does not directly increase the liquidity of OCC's margin collateral, it does reduce the risk associated with a particular issuing bank's insolvency.

[17] Recently, the Commission approved a rule change filed by OCC that enables participants to meet their OCC margin obligations by pledging common stocks underlying outstanding option classes. Securities Exchange Act Release No. 18994 (August 20, 1982), 47 FR 37731 (August 26, 1982). OCC anticipates that this rule change will reduce significantly its dependence on letters of credit.

Although the proposal contains concentration requirements for foreign banks, OCC's existing rules do not preclude OCC from becoming unduly dependent upon any one domestic issuer. By letter dated January 3, 1983, from Marc L. Berman of OCC to the staff, OCC agreed to study its letter of credit program to determine whether any additional regulatory limitations are necessary to insure the safeguarding of funds and securities at OCC. The Commission welcomes this commitment by OCC and urges it to complete its study promptly.

[18] Under OCC's rules, letters of credit cannot be used for clearing fund purposes.

[Release No. 19421; File No. SR-PCC-82-5]

The Pacific Clearing Corp. ("PCC"); Order Approving Proposed Rule Change

January 12, 1983.

On July 19, 1982, PCC submitted a proposed rule change (SR-PCC-82-5) under Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act") that would amend Article XI of PCC's By-Laws, with respect to the indemnification of PCC's directors, officers, employees and agents, to conform with recent amendments to the California Corporation Code. On December 9, 1982, PCC filed with the Commission a letter amendment which clarified and substantively altered the provisions of the proposed rule change.[1] The Commission published notice of the proposal in the **Federal Register** on December 10, 1982, and invited interested persons to comment.[2] No comments were received by the Commission.

Description of the Proposed Rule Change

In its filing, PCC represents that its current By-Law provisions with respect to the indemnification of officers, directors and employees are consistent with pre-1977 California indemnification law. Under those By-Laws, PCC must seek to indemnify any person who is or was a director, officer or employee of PCC against any action arising out of that person's misfeasance or nonfeasance in the performance of their duties or out of any alleged wrongful act. The By-Law provides that such a person shall be indemnified for all reasonable expenses, including attorney's fees, if (1) the person sued is successful[3] or the suit is settled with court approval, and (2) the court finds that indemnity is warranted in light of the person's conduct and the amount of indemnification is reasonable.

The current By-Law also allows PCC's board of directors to indemnify any present or former director, officer or employee for satisfying a judgment or fine imposed on such director, officer or employee for an action allegedly committed by such person while (1) the person acted in good faith, and (2) the person reasonably believed the action to be within the scope of employment and for a purpose to be in the best interests of PCC.[4] Indemnification under this provision is permissive.

PCC states in its filing that the proposed rule change would conform Article XI of PCC's By-Laws to the 1977 amendments to the California Corporation Code.[5] Under the proposed rule change, which would delete the current provision in its entirety and substitute for it the new provision, PCC could indemnify its "agents" to the maximum extent permitted by the California Corporation Code against all expenses, judgments, fines, settlements and other amounts reasonably incurred in connection with any proceeding arising from that person's agency relationship with PCC. An "agent," as defined by the proposal, would include

> any person who is or was a director, officer, employee or other agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation.

Discussion

As noted above, the proposed rule change would integrate into PCC's By-Laws the indemnification provisions of the California Corporation Code by expanding the class of eligible persons to be indemnified to include all agents rather than merely directors, officers and employees, as provided in the current By-Law. The Commission believes that this limited expansion is appropriate because PCC, like any business, must be able to provide valuable financial support to persons that are carrying out its business activities. The Commission further believes that PCC's financial exposure will not increase significantly under the proposal because the class of persons that qualify for indemnification is not enlarged materially, and, in any event, PCC has comprehensive liability insurance to guard against potential financial exposure that could arise out of the operation of its indemnification provisions.

Accordingly, the Commission believes that the proposed rule change is appropriate because it does not significantly differ from PCC's current indemnification provisions, and because PCC maintains substantial financial safeguards against the potential financial exposure inherent in any indemnification scheme. In addition, as PCC's filing indicates, the proposal would enhance PCC's ability to attract top quality directors, officers and employees. The Commission believes that the proposed rule change is consistent with the Act, and in particular with Section 17(b)(3)(F).

Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1427 Filed 1-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19420; File No. SR-PSDTC-82-2]

Pacific Securities Depository Trust Co. ("PSDTC"); Order Approving Proposed Rule Change

January 12, 1983.

On July 19, 1982, PSDTC submitted a proposed rule change (SR-PSDTC-82-2) under Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act") that would amend Article XIII of PSDTC's By-Laws, with respect to the indemnification of PSDTC's directors, officers, employees and agents, to conform with recent amendments to the California Corporation Code. On December 9, 1982, PSDTC filed with the Commission a letter amendment which clarified and substantively altered the provisions of the proposed rule change.[1] The Commission published notice of the proposal in the **Federal Register** on December 10, 1982, and invited

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[1] PCC's outside counsel, Munger, Tolles and Rickershauser, indicated in a November 9, 1982 letter to the Commission that PCC's original filing inadvertently omitted a necessary sentence from PCC's proposed rule change. The December 10, 1982 letter amendment corrected the omission and thereby fully conformed the filing to the California statute regarding indemnification.

[2] Securities Exchange Act Release No. 19321 (December 10, 1982), 47 FR 56761 (December 20, 1982).

[3] The By-Law states that one need be successful "in whole or in part."

[4] This provision is not applicable to derivative actions.

[5] *See* California Corporation Code (Sections 317 and 2306).

[1] PSDTC's outside counsel, Munger, Tolles and Rickershauser, indicated in a November 9, 1982 letter to the Commission that PSDTC's original filing inadvertently omitted a necessary sentence from PSDTC's proposed rule change. The December 10, 1982 letter amendment corrected the omission and thereby fully conformed the filing to the California statute regarding indemnification.

interested persons to comment.[2] No comments were received by the Commission.

Description of the Proposed Rule Change

In its filing, PSDTC represents that its current By-Law provisions with respect to the indemnification of officers, directors and employees are consistent with pre-1977 California indemnification law. Under those By-Laws, PSDTC must seek to indemnify any person who is or was a director, officer or employee of PSDTC against any action arising out of that person's misfeasance or nonfeasance in the performance of their duties or out of any alleged wrongful act. The By-Law provides that such a person shall be indemnified for all reasonable expenses, including attorney's fees, if (1) the person sued is successful[3] or the suit is settled with court approval, and (2) the court finds that indemnity is warranted in light of the person's conduct and the amount of indemnification is reasonable.

The current By-Law also allows PSDTC's board of directors to indemnify any present or former director, officer or employee for satisfying a judgment or fine imposed on such director, officer or employee for an action allegedly committed by such person while (1) the person acted in good faith, and (2) the person reasonably believed the action to be within the scope of employment and for a purpose to be in the best interests of PSDTC.[4] Indemnification under this provision is permissive.

PSDTC states in its filing that the proposed rule change would conform Article XIII of PSDTC's By-Laws to the 1977 amendments to the California Corporation Code.[5] Under the proposed rule change, which would delete the current provision in its entirety and substitute for it the new provision, PSDTC could indemnify its "agents" to the maximum extent permitted by the California Corporation Code against all expenses, judgments, fines, settlements and other amounts reasonably incurred in connection with any proceeding arising from that person's agency relationship with PSDTC. An "agent," as defined by the proposal, would include any person who is or was a director, officer, employee or other agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a corporation which was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation.

Discussion

As noted above, the proposed rule change would integrate into PSDTC's By-Laws the indemnification provisions of the California Corporation Code by expanding the class of eligible persons to be indemnified to include all agents rather than merely directors, officers and employees, as provided in the current By-Law. The Commission believes that this limited expansion is appropriate because PSDTC, like any business, must be able to provide valuable financial support to persons that are carrying out its business activities. The Commission further believes that PSDTC's financial exposure will not increase significantly under the proposal because the class of persons that qualify for indemnification is not enlarged materially, and, in any event, PSDTC has comprehensive liability insurance to guard against potential financial exposure that could arise out of the operation of its indemnification provisions.

Accordingly, the Commission believes that the proposed rule change is appropriate because it does not significantly differ from PSDTC's current indemnification provisions, and because PSDTC maintains substantial financial safeguards against the potential financial exposure inherent in any indemnification scheme. In addition, as PSDTC's filing indicates, the proposal would enhance PSDTC's ability to attract top quality directors, officers and employees. The Commission believes that the proposed rule change is consistent with the Act, and in particular with Section 17(b)(3)(F).

Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and is hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1426 Filed 1-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19423; File No. SR-SCCP-81-5]

Stock Clearing Corporation of Philadelphia ("SCCP"); Order Withdrawing Proposed Rule Change

January 12, 1983.

On July 21, 1981, SCCP filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 87s(b)(1), (the "Act") and Rule 19b–4 thereunder, a proposed rule change that would authorize SCCP participants to satisfy the non-cash portion of their clearing fund contribution by pledging letters of credit issued by banks approved by SCCP.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of Securities Exchange Act Release No. 18381 (December 31, 1981), (47 FR 3249, January 22, 1982). No letters of comment were received by the Commission.

By letter dated December 30, 1982, SCCP has requested that the proposal be withdrawn. SCCP believes that letters of credit have become increasingly difficult and expensive for participants to obtain and, therefore, no longer offer meaningful cost savings to participants. In response to this request, the Commission grants the withdrawal of the proposed rule change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, withdrawn.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1430 Filed 1-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19418; Files No. SR-AMEX-82-25]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc.

Pursuant to Section 19 (b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b) (1), notice is hereby given that on January 3, 1983, the American Stock Exchange, Inc. filed with the

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[2] Securities Exchange Act Release No. 19321 (December 10, 1982), 47 FR 56761 (December 20, 1982).

[3] The By-Law states that one need be successful "in whole or in part."

[4] This provision is not applicable to derivative actions.

[5] *See* California Corporations Code (Sections 317 and 2306).

Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" or "the Exchange") proposes to amend Rules 904 and 905, regarding position and exercise limits, as set forth below. Italics indicate material proposed to be added. Brackets [] indicate material proposed to be deleted.

Rule 904. Position Limits

Except with the prior written approval of the Exchange in each instance, no member or member organization shall effect, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, an opening transaction (whether on the Exchange or on another Participating Exchange) in an option contract of any class of options dealt in on the Exchange if the member or member organization has reason to believe that as a result of such transaction the member or member organization or partner, officer, director or employee thereof or customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate position in option contracts (whether long or short) of the put class and the call class on the same side of the market covering any underlying security in excess of:

(i) [2,000] *3,000* contracts covering an underlying stock; or

(ii) through (v)–no change.

Rule 905. Exercise Limits

Except with the prior approval of the Exchange in each instance, no member or member organization shall exercise, for any account in which such member organization has an interest or for the account of any partner, officer, director, or employee thereof or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange if as a result thereof such member or member organization, or partner, officer, director or employee thereof or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five (5) consecutive business days aggregate long positions in excess of:

(i) [2,000] *3,000* contracts in a class of options for which the underlying security is a stock; or

(ii) through (v)–no change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to increase position and exercise limits for stock options, from 2,000 contracts to 3,000 contracts.

Position and exercise limit rules were originally adopted by option exchanges in order to minimize the manipulative potential which could result from the accumulation of large options positions. In 1978, the Special Study of the Options Market ("Study") recognized a number of significant problems which resulted from the position limit rule restrictions, including the inability of large portfolio managers to utilize options as a vehicle to properly balance a portfolio's risk and potential reward. The Study recommended that existing Exchange rules, which limited the size of options positions held by market participants, be reviewed and that their relaxation or elimination be considered. As a result of re-examination of position limits, as suggested in that Study, the Exchange proposed rule changes which were adopted in October 1980 to raise position and exercise limits from 1,000 to 2,000 contracts. In view of the increased use of the options markets and the experience gained during the two years since the position limits were increased in 1980, the Exchange believes that it is appropriate at this time to again increase position and exercise limits from 2,000 to 3,000 contracts.

In its 1980 release approving position and exercise limit increases, the Commission made the following statements (Release, No. 34–17237) that the Exchange believes also apply to the current proposal to increase limits to 3,000 contracts:

> * * * There is substantial reason to believe that the current ceiling serves to constrict significantly the options activities of certain market professionals and institutions, possibly to the detriment of market depth and liquidity. In addition, the Commission believes that the surveillance capabilities of the options exchanges with respect to large options positions should minimize the possibility of manipulation. Finally, the Commission believes that the information and experience gained from approval of the proposed modification will enhance the ability of the options exchanges and the Commission to responsibly propose and effectively evaluate possible further modifications * * *

A major concern in any raising of position and exercise limits is the greater potential for "short squeezes" that could result. A "short squeeze" can conceivably occur when there is an accumulation of large option positions, which are exercised day after day, so that, for example, uncovered call option writers who are assigned to deliver stock on the exercises must buy that stock at increasingly higher prices because fewer shares are available. While the theoretical peril of a short squeeze is created by the size of the uncovered short interest in any option class, it should be noted that each options exchange has the ability to impose limitations on uncovered writing as well as the uncovering of existing short positions. (See Exchange Rule 908—Limit on Uncovered Short Positions.) In addition, the Exchange has the power to restrict the exercise of option contracts as it deems advisable in the interests of maintaining a fair and orderly market in the options or the underlying securities (see Exchange Rule 909—Other Restrictions on Exchange Transactions and Exercises) and the Options Clearing Corporation, under appropriate circumstances, has the authority to require cash settlement of exercises. In sum, "short squeezes" can be handled directly, rather than indirectly by means of position limits.

Further, position limits cannot be justified as a protection against financial exposure. While unhedged larger positions do entail financial risks, position limits are cumbersome and inefective mechanisms for limiting those risks. Rather, those rules which have been designed specifically to limit risk exposure should be used for this purpose, namely, suitability, margin and net capital rules.

The proposed changes are consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and rules and regulations thereunder

applicable to the Exchange in that the expansion of position limits will provide increased market depth and liquidity, while maintaining adequate surveillance and protection of the investing public from manipulative activities.

Therefore the proposed rule changes are consistent with Section 6 (b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Options Committee, a committee of the Board of Governors comprised of Exchange members and representatives of member firms, endorsed the proposed rule change.

No written comments have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 11, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1422 Filed 1-18-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Delegation of Authority No. 151]

Director General of the Foreign Service; Delegation of Authority

By virtue of the Authority vested in me as Acting Secretary of Stateincluding tha authority of Section 4 of the Act of May 26, 1949 [22 U.S.C. 2658], and Executive Order 12391 of November 4, 1982 [47 FR 50457, November 8, 1982], the authority to Act in a consultative role to the Secretary of Defense pursuant to Section 2 of Executive Order 12391, is hereby delegated to the Director General of the Foreign Service. The Director General will confer with the Special Assistant to the Secretary and Coordinator for International Labor Affairs and other appropriate officers of the Department of State in the carrying out of this delegation of authority.

Dated: December 23, 1982.

Kenneth W. Dam,

Acting Secretary.

[FR Doc. 83-1404 Filed 1-18-83; 8:45 am]

BILLING CODE 4710-37-M

[Public Notice 843]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a proposed collection of information to the Office of Management and Budget for review.

PURPOSE: The Bureau of Oceans and International Environmental and Scientific Affairs of the Department of State has requested the Nuclear Regulatory Commission to conform United States reporting to the new International Atomic Energy Agency format. The Nuclear Regulatory Commission requires its licensees to provide certain information regarding exports and imports in order for the U.S. to fulfill certain undertakings to the International Atomic Energy Agency made in connection with implementation of the Treaty on the Non-Proliferation of Nuclear Weapons.

SUMMARY: The following summarizes the information collection proposal submitted to OMB:

(1) Type of request—Revision of instructions.

(2) Number of forms submitted—Two.

(3) Form numbers—DOE/NRC Forms 740M & 741.

(4) Title of information collection—Nuclear Material Transaction Report Instructions.

(5) Estimated number of responses—2500.

(6) Estimated total number of hours needed to fill out form—725.

Section 3504(h) of Pub. L. 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed format and supporting documents may be obtained from Gail J. Cook, Departmental Clearance Officer (202) 632-3602. Comments and questions should be directed to (OMB) Francine Picoult (202) 395-7231.

Dated: December 30, 1982.

Thomas M. Tracy,

Assistant Secretary for Administration.

[FR Doc. 83-1406 Filed 1-18-83; 8:45 am]

BILLING CODE 4710-22-M

[Public Notice 842]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a proposed collection of information to the Office of Management and Budget for review.

PURPOSE: The proposed information collection is to determine the representativeness of the candidates selected for the Foreign Service and to determine the focus of the recruitment effort.

SUMMARY: The following summarizes the information collection proposal submitted to OMB:

(1) Type of request—extension.

(2) Number of forms submitted—one.
(3) Form number—DSP-24.
(4) Title of information collection—Registration/Application Record Form—Foreign Service Examination.
(5) Frequency—Annual.
(6) Respondents—Individuals seeking employment in the Foreign Service.
(7) Estimated number of responses—28,000.
(8) Estimated total number of hours needed to fill out form—7,000. Section 3504(h) of Pub. L. 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed format and supporting documents may be obtained from Gail J. Cook, Departmental Clearance Officer (202) 632-3602. Comments and questions should be directed to (OMB) Francine Picoult (202) 395-7231.

Dated: December 30, 1982.

Thomas M. Tracy,
Assistant Secretary for Administration.

[FR Doc. 83-1407 Filed 1-18-83; 8:45 am]
BILLING CODE 4710-23-M

[Public Notice 841]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted proposed collections of information to the Office of Management and Budget for review.

PURPOSE: The proposed information collections are for use by the Bureau of Consular Affairs of the Department of State in connection with the issuance of passports and visas.

SUMMARY: The following summarizes the information collection proposal submitted to OMB:
(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—DSP-19.
(4) Title of information collection—Application for Amendment of Passport.
(5) Frequency—On occasion.
(6) Respondents—Passports applicants.
(7) Estimated number of responses—52,000.
(8) Estimated total number of hours needed to fill out form—4,333.

The following summarizes the information collection proposal submitted to OMB:
(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—DSP-82.
(4) Title of information collection—Application for Passport by Mail.
(5) Frequency—On occasion.
(6) Respondents—Passport applicants.
(7) Estimated number of responses—1,000,000.
(8) Estimated total number of hours needed to fill out form—83,333.

The following summarizes the information collection proposal submitted to OMB:
(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—DSP-11.
(4) Title of information collection—Passport Application.
(5) Frequency—On occasion.
(6) Respondents—Applicants seeking passports.
(7) Estimated number of responses—3,500,000.
(8) Estimated total number of hours needed to fill out form—291,000.

The following summarizes the information collection proposal submitted to OMB:
(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—OF-178.
(4) Title of information collection—Application for Passport or Registration.
(5) Frequency—On occasion.
(6) Respondents—Passport applicants.
(7) Estimated number of responses—350,000.
(8) Estimated total number of hours needed to fill out form—33,300.

The following summarizes the information collection proposal submitted to OMB:
(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—OF-195.
(4) Title of information collection—Application for Renewal, Amendment, Extension of Passport.
(5) Frequency—On occasion.
(6) Respondents—Passport applicants residing abroad.
(7) Estimated number of responses—65,000.
(8) Estimated total number of hours needed to fill out form—6,600.

The following summarizes the information collection proposal submitted to OMB:
(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—FS-240.
(4) Title of information collection—Report of Birth (U.S. Citizens Born Abroad).
(5) Frequency—On occasion.
(6) Respondents—Parents of U.S. citizen children born abroad.
(7) Estimated number of responses—40,000.
(8) Estimated total number of hours needed to fill out form—13,333.

The following summarizes the information collection proposal submitted to OMB:
(1) Type of request—extension.
(2) Number of forms submitted—one.
(3) Form number—OF-230.
(4) Title of information collection—Application for Immigrant Visa and Alien Registration.
(5) Frequency—On occasion.
(6) Respondents—Foreign nationals seeking to immigrate to the U.S.
(7) Estimated total number of responses—350,000.
(8) Estimated total number of hours needed to fill out form—116,666.
Section 3504(h) of Pub. L. 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed format and supporting documents may be obtained from Gail J. Cook, Departmental Clearance Officer (202) 632-3602. Comments and questions should be directed to (OMB) Francine Picoult (202) 395-7231.

Dated: December 30, 1982.

Thomas M. Tracy,
Assistant Secretary for Administration.

[FR Doc. 83-1408 Filed 1-18-83; 8:45 am]
BILLING CODE 4710-23-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 83-30]

Commerce and Treasury Departments Agreement—Entry of Steel Products

AGENCY: Customs Service, Treasury.

ACTION: General Notice.

SUMMARY: This document advises the public of an agreement between the U.S. Department of Commerce and the U.S. Department of the Treasury concerning the release into the commerce of the United States of steel products subject to arrangements between the European Communities and the United States.

EFFECTIVE DATE: January 19, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph Spetrini, Acting Director, Agreements Compliance Division, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3793) or Frank Brennan, Director, Duty Assessment Division, U.S. Customs Service, Washington, D.C. 20229 (202-566-8121).

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1982, the United States Government concluded two

Arrangements with the European Communities (EC) restricting exports of certain steel products and steel pipes and tubes to the United States. These Arrangements, which will be in effect from November 1, 1982 through December 31, 1985, were published as an appendix to a notice published by the International Trade Administration, U.S. Department of Commerce, in the **Federal Register** on October 29, 1982 (47 FR 49058), relating to the termination of countervailing duty and antidumping investigations of steel imports from the EC. One of the Arrangements involves the immediate restraint by the EC of exports of certain steel products to the United States through a system of export licenses. The United States Government has agreed to require presentation to the U.S. Customs Service of a properly executed EC export certificate, issued by EC member state customs officials against an export license, as an absolute condition for making entry of steel products covered by the Arrangement. Under this Arrangement and a separate Arrangement on EC exports of steel pipes and tubes, requirements by the U.S. Customs Service of presentation of a valid export certificate or other documents issued by the EC or their member states for additional steel mill products may become necessary as a condition of entry.

The procedure set forth in the Agreement was formulated to ensure that the Arrangement were effectively administered while at the same time not unnecessarily delaying imports of steel from the EC.

The text of the Agreement is set forth below.

Dated: January 14, 1983.

John P. Simpson,

Director, Office of Regulations and Rulings.

Memorandum of Agreement Between the U.S. Department of Commerce and the U.S. Department of the Treasury Concerning the Release Into the Commerce of the United States of Steel Subject to Arrangements Between the European Communities and the United States of America

On October 21, 1982, the United States Government concluded two Arrangements with the European Communities (EC) restricting exports of certain steel products and steel pipes and tubes to the United States. These Arrangements will be in effect from November 1, 1982 through December 31, 1985. One of the Arrangements involves the immediate restraint by the EC of exports of certain steel products to the United States through a system of export licenses. The United States Government has agreed to require presentation to the U.S. Customs Service of a properly executed EC export certificate, issued by EC member state customs officials against an export license, as an absolute condition for making entry of steel products covered by the Arrangement. Under this Arrangement and a separate Arrangement on EC exports of steel pipes and tubes, requirement by the U.S. Customs Service of presentation of a valid export certificate or other documents issued by the EC or their members states for additional steel mill products may become necessary as a condition of entry.

The authority for this condition for entry into the United States is provided by section 626 of Title IV of the Tariff Act of 1930, as amended by section 153 of Pub. L. 97–276. President Reagan and the Head of the Delegation of the Commission of the European Communities to the United States, Sir Roy Denman, have requested in writing that Secretary of the Treasury Regan utilize his authority under section 626 to enforce the export measure taken by the EC under these Arrangements.

On November 5, 1982, U.S. Customs Headquarters issued a press release announcing that: "These shipments will be released from Customs custody only after formal acceptance of entry summary documents." This method of enforcement is referred to as "live entry." Since the time of that announcement, U.S. Customs Headquarters and Department of Commerce, Import Administration personnel have closely consulted to develop an effective alternative to the so-called live entry method that would preserve the required certainty in Arrangement enforcement but prove less burdensome on the importing community. During the course of these discussions, Customs and DOC personnel developed alternative measures which will meet these goals within the framework of existing Customs regulations. Accordingly, in order to carry out the purposes of the Arrangements and to ensure compliance with the terms thereof, the U.S. Department of Commerce and the U.S. Department of the Treasury have agreed to the following:

1. As an alternative to the live entry method, the U.S. Customs Service will allow entry release of steel products from the EC subject to the following conditions:

a. With respect to steel products that are currently subject to the export licensing provisions of the Arrangements or which become subject to licensing in the future, proper documentation sufficient to ensure the security and integrity of the Arrangements must be provided to and reviewed by the appropriate Customs officer prior to entry release. Such documentation shall include:

(i) a Customs Form 3461; (ii) a Special Steel Summary Invoice; (iii) a rated invoice; and (iv) an essentially correct export certificate.

b. With respect to EC steel products covered by the Arrangements but not currently subject to export licensing, the documentation listed in subparagraph a., above, with the exception of the export certificate, must be provided to and reviewed by the appropriate Customs officer prior to entry release.

2. Should entry release occur without the submission of the documentation listed in paragraph 1, or should review of the complete entry documentation reveal that release was improper, the appropriate District Director of Customs will promptly demand immediate redelivery of the entire shipment. The failure to redeliver in accordance with the demand of the District Director will result in the immediate revocation of entry release privileges (entry release privileges—sometimes referred to as immediate delivery—being described in 19 CFR 142.1 through 142.8 *et seq.*) for the importer concerned. In addition, the failure to redeliver the entire shipment will cause the U.S. Customs Service to assess liquidated damages in accordance with Customs Regulations. The authority to mitigate liquidated damages will be exercised by the Deputy Assistant Secretary of the Treasury for Operations or such Department of the Treasury or U.S. Customs Service Headquarters official as he may designate. The Deputy Assistant Secretary for Operations, or his delegate, will also consult with the Deputy Assistant Secretary of Commerce for Import Administration, or his delegate, regarding the assessment of liquidated damages. The Deputy Assistant Secretary for Operations, or his delegate, also will seek and follow the recommendation of the Deputy Assistant Secretary for Import Administration, or his delegate, regarding the degree of mitigation, if any, of liquidated damages. In the event that the Deputy Assistant Secretary of the Treasury for Operations or such Department of the Treasury for U.S. Customs Service Headquarters official as he may designate does not follow the recommendation of the Department of Commerce, the Deputy Assistant Secretary for Operations will in writing provide the reason to the Deputy Assistant Secretary for Import Administration.

3. The U.S. Customs Service will use its best efforts to ascertain whether a violation of section 592 of the Tariff Act of 1930, as amended, has occurred in connection with any improper release of steel products into the commerce of the United States, and will vigorously pursue any investigations of such occurrences. The Department of Commerce will provide any relevant information which it develops concerning such violations to the Deputy Assistant Secretary of the Treasury for Operations, or his delegate, and such information will be carefully considered during the course of the investigative process.

4. The Deputy Assistant Secretary of the Treasury for Operations, or his delegate, and the Deputy Assistant Secretary for Import Administration, or his delegate, will consult on other matters arising out of the administration of the U.S.-EC Arrangements on steel, as necessary.

Dated: January 8, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce.

January 4, 1983.

David Q. Bates,

Deputy Assistant Secretary for Operations, U.S. Department of the Treasury.

[FR Doc. 83-1412 Filed 1-18-83; 8:45 am]

BILLING CODE 4230-02-M

UNITED STATES INFORMATION AGENCY

[Delegation Order No. 83-5]

General Counsel and Congressional Liaison; Delegation of Authority

Pursuant to the authority vested in me as Director of this Agency by Reorganization Plan No. 2 of 1977, and by Executive Order 12048 of March 27, 1978, there is hereby delegated to the General Counsel and Congressional Liaison, the following described authority:

1. The authority to designate Exchange Visitor Programs under the sponsorship of a reputable U.S. or international agency or organization and designed to promote the interchange of persons, knowledge and skills, and the interchange of developments in the field of education, the arts and sciences, and concerned with one or more foreign national participants, in order to promote mutual understanding between the people of the United States and the people of other countries.

2. The authority to designate a Responsible Officer and alternates among the officials of a sponsoring organization.

3. The authority to grant or deny applications for favorable recommendations of the waiver of the foreign residency requirement imposed on persons admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, to issue authoritative opinions concerning the applicability or interpretation thereof, and to authorize extensions of duration of stay.

4. To approve and promulgate regulations concerning any aspect of this authority.

5. To exercise in full any authority vested in the Director by law relating to Exchange Visitor Program designations, visa waiver review, and to authorized periods of duration of stay.

6. The authority to redelegate any authority granted herein together with the power of further redelegation.

7. Notwithstanding any other provision of this Order, the Director may at any time exercise any function or authority delegated herein.

This Order shall take effect on January 10, 1983.

Dated: January 13, 1983.

Charles Z. Wick,

Director.

[FR Doc. 83-1412 Filed 1-18-83; 8:45 am]

BILLING CODE 8230-01-M

[Delegation Order No. 83-4]

Associate Director for Broadcasting; Delegation of Authority

Pursuant to the authority vested in me as Director of this Agency by Reorganization Plan No. 2 of 1977, and by Executive Order 12048 of March 27, 1978, there is hereby delegated to the Associate Director for Broadcasting, the following described authority.

1. The authority to acquire or to produce program-relevant audio-visual materials. The authority to acquire these materials from sources outside the United States Information Agency shall be exercised by means of requisitions issued in accordance with paragraph 8 of Delegation Order No 83-2.

2. The authority to redelegate any authority granted herein together with the power of further redelegation.

3. Notwithstanding any other provision of this Order, the Director may at any time exercise any authority delegated herein.

Dated: January 13, 1983.

Charles Z. Wick,

Director.

[FR Doc. 83-1413 Filed 1-18-83; 8:45 am]

BILLING CODE 8230-01-M

[Delegation Order No. 83-3]

Associate Director for Educational and Cultural Affairs; Delegation of Authority

Pursuant to the authority vested in me as Director of this Agency by Reorganization Plan No. 2 of 1977, and by Executive Order 12048 of March 27, 1978, there is hereby delegated to the Associate Director for Educational and Cultural Affairs, the following described authority:

1. The authority to direct academic programs including academic relations, academic exchange programs, student and academic support services and American studies.

2. The authority to direct institutional relations, including cultural presentations, international visitor and private sector programs; and to develop and to coordinate official international educational and cultural exchanges policy.

3. The authority to conduct and to administer functions relating to the Board of Foreign Scholarships.

4. The authority to conduct and to administer programs with respect to studies abroad of the United States, including the authority to provide logistical support and to develop operating policies for libraries, Bi-National Centers and other centers; and to conduct book and English teaching programs.

5. The authority to conduct and to administer relations with respect to the East-West Center and the East-West Center Corporation, including the authority to request the initiation or continuation of grant-in-aid agreements with the East-West Center Corporation, to coordinate with representatives of the East-West Center Corporation annual budget presentations and other relations with Congress, and to be Governor of the Corporation.

6. The authority to be an alternate member of the U.S. panel of the U.S.-Japan Friendship Commission and of the U.S.-Japan Conference on Cultural and Educational Exchange.

7. The authority to conduct and to administer relations with respect to international agreements involving programs in the field of educational and cultural affairs.

8. The authority to exercise the functions of section 102(a)(2)(iv) of the Mutual Educational and Cultural Exchange Act of 1961, as amended, for purposes of determining that the participation therein specified is in the national interest.

9. The authority to prepare for and to participate in conferences or negotiations with foreign governments or international organizations with respect to the functions delegated hereunder, in association with other elements of the Agency as may be appropriate. The assistance and participation of the Office of the General Counsel shall be considered necessary in all negotiations of consequence.

10. The authority to exercise any authority or to discharge any responsibility arising out of any existing interagency agreement between the United States Information Agency or the International Communication Agency, and the Department of State, or between either of the foregoing and any other agency or department, or component thereof, which agreement was concluded under functions transferred or delegated to the Director or to the Agency and is related to the authorities granted herein.

11. The authority to enter into interagency agreements to further the

discharge of responsibilities set forth herein.

12. The authority to issue requisitions for personal property, services (including construction) and real property to be acquired by the Agency's Office of Contracts; to identify potential recipients of grants and grants-in-aid; to initiate requisitions for the issuance of grants and grants-in-aid; to review grants and grants-in-aid and Bi-National Center loan proposals and to make recommendations thereon. This order does not include the authority to make contracts, grants or grants-in-aid.

13. The authority to assign or authorize the assignment for service to or in cooperation with a foreign government of any person in the employ or service of the United States having special scientific or other technical or professional qualifications (in other than the field of radio broadcasting) with the approval of the Government agency in which such person is employed or serving. No such person shall be assigned for such services unless (1) The Associate Director finds that such assignment is necessary in the national interest of the United States, or (2) the foreign government agrees to reimburse the United States in an amount equal to the compensation, travel expenses and allowances payable to such person during the assignment in accordance with the provisions of section 302 of the United States Information and Educational Exchange Act of 1948, as amended, or (3) the foreign government shall have made an advance of funds, property or services as provided in section 902 of the Act. This delegated authority does not extend to the assignment of such personnel for service relating to the organization, training, development or combat equipment of the armed forces of a foreign government.

14. The authority to redelegate any authority granted herein together with the power of further redelegation.

15. Except as otherwise expressly provided, all delegations of authority in force on May 14, 1982 and related to the exercise of functions and responsibilities herein granted to the Associate Director for Educational and Cultural Affairs shall remain in force.

16. Notwithstanding any other provision of this Order, the Director may at any time exercise any function of authority delegated herein.

17. All actions pursuant to any authority delegated prior to this Order or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order, are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended or suspended.

18. This Order supersedes Delegation Order No. 78-3 of April 3, 1978.

Dated: January 12, 1983.

Charles Z. Wick,

Director, United States Information Agency.

[FR Doc. 83-1414 Filed 1-18-83; 8:45 am]

BILLING CODE 8230-01-M

[Delegation Order No. 83-2]

Associate Director for Broadcasting; Delegation of Authority

Pursuant to the authority vested in me as Director of this Agency by Reorganization Plan No. 2 of 1977, and by Executive Order 12048 of March 27, 1978, there is hereby delegated to the Associate Director for Broadcasting the following described authority:

1. The authority to direct radio broadcasting conducted by the Voice of America, including its broadcasting studios, and radio transmitting and radio relay stations within the United States or in foreign countries.

2. The authority to make arrangements domestically and in foreign countries for the collection of news and information on current affairs; to analyze and to make preparation for the broadcasting thereof.

3. The authority for technical aspects of the planning, design, preparation of specifications, and construction of radio transmitting and radio relay stations within the United States and in foreign countries.

4. The authority to implement any international radio regulations, executive agreements or treaties reached with foreign countries or international organizations to the extent involving the exercise of authorities granted under other paragraphs of this Order or to the extent specifically authorized by the Director.

5. The authority to prepare for and to participate in conferences or negotiations with foreign governments or international organizations on radio broadcasting, in association with other elements of the Agency as may be appropriate. The assistance and participation of the Office of the General Counsel shall be considered necessary in all negotiations of consequence.

6. The authority to negotiate and to sign implementing or cooperative arrangements within the scope of existing executive agreements for radio stations in foreign countries, subject in each case to the prior clearance of the General Counsel on the legality and form of the proposed arrangements.

7. The authority to exercise any authority or to discharge any responsibility arising out of any existing interagency agreement between the United States Information Agency or the International Communication Agency and the Department of State, or between either Agency and any other agency or department, or component thereof, which agreement was concluded under functions delegated or transferred to the Director or to the Agency and is related to authorities granted herein.

8. The authority to enter into interagency agreements to further the discharge of the responsibilities set forth herein.

9. The authority to issue requisitions for personal property, services (including construction) and real property to be acquired by the Agency's Office of Contracts. This Order does not include the authority to make contracts or grants.

10. The authority to assign or authorize the assignment for service to or in cooperation with a foreign government of any person in the employ or service of the United States having special scientific or other technical or professional qualifications in the field of radio broadcasting with the approval of the Government agency in which such person is employed or serving. No such person shall be assigned for such services unless (1) The Associate Director finds that such assignment is necessary in the national interest of the United States, or (2) the foreign government agrees to reimburse the United States in an amount equal to the compensation, travel expenses and allowances payable to such person during the assignment in accordance with the provisions of section 302 of the United States Information and Educational Exchange Act of 1948, as amended, or (3) the foreign government shall have made an advance of funds, property or services as provided in section 902 of the Act. This delegated authority does not extend to the assignment of such personnel for service relating to the organization, training, development or combat equipment of the armed forces of a foreign government.

11. Notwithstanding any other delegation at any time made by the Director, the authority independently to provide personnel services throughout the world for the Associate Directorate for Broadcasting (including by appointment in the civil service or in the foreign service of overseas specialists, and by employment of foreign nationals both domestically and in foreign countries); to establish training and

development programs with respect to any category of personnel; to conduct employe-management relations; and to administer systems for the resolution of employee grievances. The civil service personnel system may be administered on a separate competitive basis if legally proper and deemed desirable in the discretion of the Associate Director for Broadcasting. The Associate Director for Broadcasting and the Associate Director for Management shall coordinate their activities to ensure operational efficiency and harmony of Agency-wide personnel policies and procedures to the extent practicable.

12. Except as otherwise limited by law, the authority to exercise any authority delegated directly by the Director or the Agency Procurement Executive to any subordinate officer or employee of the Associate Director for Broadcasting.

13. Except as provided in paragraph 12, the authority to redelegate any authority granted herein together with the power of further redelegation. The power of redelegation shall not diminish or limit the right of the Associate Director for Broadcasting to exercise any redelegated authority.

14. Notwithstanding any other provision of this Order, the Director may at any time exercise any function or authority delegated herein.

15. All actions pursuant to any authority delegated prior to this Order or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order, are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended or suspended.

16. This Order supersedes Delegation Order No. 81–1 of October 9, 1981.

Dated: January 12, 1983.

Charles Z. Wick,

Director, United States Information Agency.

[FR Doc. 83–1415 Filed 1–18–83; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 13
Wednesday, January 19, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M–371, Amdt 2; Jan. 12, 1983]

Deletion From and Addition To the January 12, 1983 Meeting and Change of Status of Item 18 From Open to Closed

TIME AND DATE: 10 a.m., January 12, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

18. Dockets 40823, 40880, Capitol Air, Inc., and United Air Lines, Inc., for issuance or amendment of certificate of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended, to add authority to serve various Caribbean and Latin American points. (Memo 1642, BIA, OGC, BALJ)

21. Docket 40887, *U.S.-People's Republic of China Service Proceeding. (Phase II).* Request for instructions. (OGC)

21a. Discussion of Negotiations with Ireland. (BIA).

STATUS: 18, 21a closed, 21 open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

S–69–83 Filed 1–17–83; 4:03 pm]

BILLING CODE 6320–01–M

2

CIVIL AERONAUTICS BOARD

[M–371 Amdt 1; Jan. 10, 1983]

Addition to the January 12, 1983 meeting

TIME AND DATE: 10 a.m., January 12, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

25. Position Concerning Negotiations with Thailand. (BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–70–83 Filed 1–17–83; 4:03 pm]

BILLING CODE 6320–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 24, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389–4425.

Dated: January 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–72–83 Filed 1–17–83; 4:04 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 24, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of the minutes of previous meetings.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,564–L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee

Case No. 45,573 (Amended)—Establishment of the Division of Liquidation Midwest, Area Office, Chicago, Illinois

Memorandum and Resolution re: Mt. Pleasant Bank & Trust Company, Mount Pleasant, Iowa

Memorandum and Resolution re: Elm Creek State Bank, Elm Creek, Nebraska

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.
Sidley & Austin, Chicago, Illinois, in connection with the receivership of The Des Plaines Bank, Des Plaines, Illinois.

Memorandum and Resolution re: Final amendment to Part 348 of the Corporation's rules and regulations, entitled "Management Official Interlocks," which will (1) permit a management official of a depository organization who terminated a grandfathered interlock because of a change in circumstances to resume the interlock for the duration of the grandfather period under the Depository Institution Management Interlocks Act, and (2) permit management officials currently serving in grandfathered interlocks to continue such service until November 10, 1988, despite the occurrence of a change in circumstances.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–73–83 Filed 1–17–83; 4:04 pm]

BILLING CODE 6714–01–M

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FEDERAL MARITIME COMMISSION

TIME AND DATE: 3:45 p.m., January 14, 1983.

PLACE: Room 12313, 1100 L Street, NW., Washington, D.C. 20573

STATUS: Closed.

MATTER TO BE CONSIDERED: Docket No. 82–58: Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Venezuela Trade—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–71–83 Filed 1–17–83; 4:03 pm]

BILLING CODE 6730–01–M

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FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Monday, January 24, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20651.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 14, 1983.

James McAfee,

Associate Secretary of the Board

[S–67–83 Filed 1–14–83; 5:10 pm]

BILLING CODE 6210–01–M

7

FEDERAL RESERVE SYSTEM

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR, 1262, Tuesday, January 11, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, January 17, 1983.

CHANGES IN THE MEETING: Addition of the following closed items(s) to the meeting:

Proposed acquisition of check sorters within the Federal Reserve System. (This item was previously announced for a meeting on January 19, 1983.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 14, 1983.

James McAfee,

Associate Secretary of the Board.

[S–68–83 Filed 1–14–83; 5:10 pm]

BILLING CODE 6210–01–M

federal register

Wednesday
January 19, 1983

Part II

Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment, and Instruction of Inmates; Rule and Proposed Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 527

Control, Custody, Care, Treatment, and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: The Bureau of Prisons is amending its final rule on Transfer of Offenders to or from Foreign Countries. The amendment identifies limitations on the transfer of offenders to foreign countries. One revision states that an inmate with a civil contempt commitment may not be returned to the inmate's country of citizenship for service of the sentence or commitment imposed in a United States court. The inmate may be considered for transfer once the contempt commitment is purged, served, or otherwise terminated by judicial authority. A second revision states that an inmate with a committed fine may not be returned to the inmate's country of citizenship for service of a sentence imposed in a United States court without the concurrence of the court imposing the fine. These amendments are intended to clearly identify limitations on the transfer of offenders who have been convicted and sentenced in federal courts to foreign countries.

EFFECTIVE DATE: February 20, 1983.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is amending its final rule on Transfer of Offenders to or from Foreign Countries. A final rule on this subject was published in the **Federal Register**, December 4, 1981 (at 46 FR 59506 et seq.). The present amendment was published in the **Federal Register** as a proposed rule October 22, 1982 (at 47 FR 47170). The amendment adds § 527.46, "Limitations on transfer of offenders to foreign countries", to the final rule. This new section concerns limitations on the return of an inmate to the inmate's country of citizenship for service of a sentence or commitment imposed in a United States court. Specifically, the changes concern an inmate who has a civil contempt commitment (may not be transferred) and an inmate whose detention is the result of a committed fine (may be considered for transfer only with the concurrence of the federal court imposing the fine).

No public comments were received on the proposed rule. Members of the public may submit comments on the final rule by writing the previously cited address. These comments will be considered but will receive no formal response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 527

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR Chapter V is amended by adding § 527.46 to Part 527, Subpart E.

Dated: January 13, 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

In Subchapter B, Part 527 is amended as follows:

PART 527—TRANSFERS

1. The authority citation for Part 527, Subpart E reads as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3565, 3569, 4001, 4042, 4081, 4082, 4100-4115, 4161-4166, 5006-5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart E—Transfer of Offenders to or From Foreign Countries

3. In Part 527, amend Subpart E by adding a new § 527.46 to read as follows:

§ 527.46 Limitations on transfer of offenders to foreign countries.

(a) An inmate while in custody for civil contempt may not be considered for return to the inmate's country of citizenship for service of the sentence or commitment imposed in a United States court.

(b) An inmate with a committed fine may not be considered for return to the inmate's country of citizenship for service of a sentence imposed in a United States court without the permission of the court imposing the fine. When considered appropriate, the Warden may contact the sentencing court to request the court's permission to process the inmate's application for return to the inmate's country of citizenship.

[FR Doc. 83-1383 Filed 1-18-83; 8:45 am]

BILLING CODE 4410-05-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 500 and 571

Control, Custody, Care, Treatment, and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rules.

SUMMARY: The Bureau of Prisons is publishing its proposed rule on Fines and Costs. The rule provides that when a federal court orders an inmate confined until a fine and/or costs are paid, the Bureau of Prisons will so confine that inmate, unless the inmate qualifies for release as an indigent under 18 U.S.C. 3569. The rule is intended to discuss Bureau of Prisons procedures with respect to the inmate who is ordered committed until a fine and/or costs are paid, and who requests a discharge from imprisonment because of indigency. This subject was previously published in the **Federal Register** as a proposed rule January 12, 1979. That proposed rule is now withdrawn.

This document also contains proposed amendments to two definitions used by the Bureau of Prisons. These amendments are intended to clarify what is meant by the terms "inmate" and "contraband".

DATE: Comments must be received on or before March 14, 1983.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534. Comments received will be available for examination by interested persons at the above address.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724–3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(q), notice is hereby given that the Bureau of Prisons intends to publish in the **Federal Register** its proposed rule on Fines and Costs. A proposed rule on this subject was previously published in the **Federal Register** January 12, 1979 (at 44 FR 2991 et seq.). That rule is now withdrawn. The new proposed rule describes Bureau of Prisons procedures with respect to the inmate who is committed by the court for non-payment of a fine and/or costs and who subsequently requests discharge from imprisonment on the basis of indigency (see 18 U.S.C. 3569).

This document also proposes to amend Bureau of Prisons definitions for "inmate" and "contraband". The present definitions were published in the **Federal Register** June 29, 1979 (at 44 FR 38244). The intent of the revisions is to clarify the scope of these terms. It has suggested that the Bureau's present definition of "inmate" does not clearly recognize the intent to include all persons (e.g., sentenced, pre-trial, detained aliens) committed to the custody of the U.S. Attorney General. The definition of "contraband" is changed from "anything that an inmate is not authorized to possess in an institution" to material prohibited by law, or by regulation, or material which can reasonably be expected to cause physical injury or adversely affect the security, safety, or good order of the institution. As revised, the language is consistent with the Department of Justice Federal Standards for Prisons and Jails.

The Bureau of Prisons has determined that these rules are not major rules for the purpose of EO 12291. With respect to the proposed amendments to the two Bureau of Prisons definitions, the Bureau has determined that EO 12291 does not apply since these definitions involve agency management. After review of the law and regulations, the Director, Bureau of Prisons has certified that these rules, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), do not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 760, 320 1st Street, NW., Washington, DC. 20534. Comments received on or before March 14, 1983 will be considered before final action is taken. The proposed rules may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Parts 500 and 571

Prisoners.

In consideration of the foregoing, it is proposed to amend Subchapters A and D of 28 CFR, Chapter V as follows:

1. In Subchapter A, Part 500, revise § 500.1(c) and (h); and

2. In Subchapter D, Part 571, add a new Subpart F.

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 500—GENERAL DEFINITIONS

1. The authority citation for Part 500 reads as follows:

Authority: 5 U.S.C. 301, 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. By revising § 500.1(c) and (h) to read as follows:

§ 500.1 Definitions.

* * * * *

(c) "Inmate" means any person who is committed to, or in the custody of, the U.S. Attoney General and who is placed in, or designated to be placed in, a Bureau of Prisons institution. "Inmate" also includes any person who is committed for civil contempt to an institution of the Bureau of Prisons.

* * * * *

(h) "Contraband" is material prohibited by law, or by regulation, or material which can reasonably be expected to cause physical injury or adversely affect the security, safety, or good order of the institution.

3. In Subchapter D, Part 571 is amended by adding a new Subpart F to read as follows:

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

PART 571—RELEASE FROM CUSTODY

Subpart F—Fines and Costs

Sec.

571.50 Purpose and scope.
571.51 Definitions.
571.52 Procedures—committed fines.
571.53 Determination of indigency by Warden.
571.54 Determination indigency by U.S. Magistrate.
571.55 Review by Regional Director.

Authority: 5 U.S.C. 301; 18 U.S.C. 3565, 3568, 3569, 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart F—Fines and Costs

§ 571.50 Purpose and scope.

When the court orders a prisoner's confinement until a fine and/or costs are paid, the Bureau of Prisons shall confine that inmate until the fine and/or costs are paid, unless the inmate qualifies for release under 18 U.S.C. 3569.

(a) An inmate who is unable to pay such fine and/or costs and whose non-exempt property does not exceed $20 may request discharge from imprisonment on the basis of indigency (see 18 U.S.C. 3569).

(b) 18 U.S.C. 3569 states that the determination of indigency may be made by the Warden of the federal institution where the inmate is confined or by the U.S. Migistrate. Where the Warden and/or U.S. Magistrate make a finding of non-indigency based on the inmate's application for a determination of his ability to pay the committed fine and/or costs, the appropriate Regional Director shall review the application for

the purpose of making a final decision on the inmate's discharge under 18 U.S.C. 3569. It is to be noted that 18 U.S.C. 3569 provides for confining an indigent inmate for thirty days for nonpayment of a committed fine. By court decision, such an indigent inmate may not be held for any time past his regularly established release date for nonpayment of a fine.

§ 571.51 Definitions.

(a) Fine—a monetary penalty associated with an offense imposed as part of a judgment and commitment. There are two types of fines.

(1) Committed fine—a monetary penalty imposed with a condition of imprisonment until the fine is paid.

(2) Non-committed Fine—monetary penalty which has no condition of confinement imposed.

(b) Costs of the prosecution—monetary costs of the legal proceeding which the court may levy.

Imposition of costs is similar in legal effect to imposition of a fine. The court may also impose costs with a condition of imprisonment.

§ 571.52 Procedures—committed fines.

(a) Staff shall inform the inmate that there is a committed fine on file against the inmate, as part of the sentence. Staff shall then impound the inmate's trust fund account until the fine is paid except—

(1) The inmate may spend money from his trust fund account for the purchase of commissary items not exceeding the maximum monthly allowance authoried for such purchases.

(2) Staff may authorize the inmate to make withdrawals from his trust fund account for emergency family or emergency personal needs or for furlough purposes.

This rule on impounding an inmate's trust fund account applies when the inmate is confined in a federal institution. It does not apply to a federal inmate confined in a state institution or in a contract community-based facility.

(b) If the inmate pays the committed fine, or if staff verifies payment prior to confinement, staff shall document payment in the appropriate file and release the inmate's trust fund account from impoundment.

(c) Inmates with committed fines may be transferred or committed directly to contract community-based facilities or to state institutions as boarders.

(d) Inmates with committed fines may be transferred or designated to state institutions for service of federal sentences concurrently with state sentences.

(e) Staff shall interview an inmate with an unpaid committed fine at least 60 days prior to the inmate's pending release date. Staff shall explain to the inmate that to secure release without paying the committed fine in full, the inmate must make an application, on the appropriate form, to either the Warden or the U.S. Magistrate for a determination on whether the inmate is considered indigent under 18 U.S.C. 3569.

§ 571.53 Determination of indigency by Warden.

An inmate in a federal institution who has a committed fine may apply to the Warden of that institution for a determination on the inmate's ability to pay the committed fine. If application is made to the Warden and the Warden determines that the inmate is not indigent under 18 U.S.C. 3569, the inmate may elect to apply to the U.S. Magistrate for a determination on the inmate's ability to pay the committed fine.

(a) The Warden's decision as to the inmate's indigency must be made on the basis of the inmate's property and the determination as to whether such property exceeds "* * * $20.00 in value, except such as is by law exempt from being taken on execution for debt * * *" (18 U.S.C. 3569).

(b) If the Warden finds that the inmate is indigent, the Warden shall notify the inmate that the inmate may take the "Pauper's Oath" (see 18 U.S.C. 3569) on the inmate's regularly established date of release providing the inmate's indigency status does not change.

(c) If the Warden finds that the inmate is not indigent under 18 U.S.C. 3569, the Warden shall refuse to administer the oath and notify the inmate in writing as to the reasons for this refusal. The Warden shall advise the inmate that, if the inmate disagrees with the Warden's non-indigency finding, an application, if not previously made, may be submitted to the nearest U.S. Magistrate for a determination as to the inmate's indigency under 18 U.S.C. 3569. The Warden shall also advise the inmate that in the event a finding of non-indigency is made by the Warden and, if submitted, a similar finding is made by the U.S. Magistrate, the inmate's application for a determination of indigency under 18 U.S.C. 3569 shall be forwarded by staff to the Regional Director for final disposition.

§571.54 Determination of indigency by U.S. Magistrate.

(a) An inmate with a committed fine who is imprisoned in a federal institution may make application directly to the U.S. Magistrate for a determination of the inmate's indigency under 18 U.S.C. 3569.

(b) An inmate with a committed fine who is imprisoned in a contract community-based facility or state institution and who desires to file for release on the basis of indigency under 18 U.S.C 3569 must make application directly to the U.S. Magistrate.

(c) An inmate who elects to apply to the U.S. Magistrate after a finding of non-indigency by the Warden must complete a new application. Staff shall offer to forward the completed forms and any other applicable information the inmate chooses to the U.S. Magistrate.

(d) If the U.S. Magistrate finds that the inmate is indigent, the U.S. Magistrate will administer the oath to the inmate. The inmate shall be released no earlier than the inmate's regularly established release date.

(e) If the U.S. Magistrate finds that the inmate is not indigent, Bureau staff shall forward a referral package to the Regional Director for a final determination as to the inmate's ability to pay the committed fine.

§ 571.55 Review by Regional Director.

(a) When a finding of non-indigency is made by the Warden and/or U.S. Magistrate, staff shall forward material to the Regional Director who will make a final determination as to the inmate's ability to pay the committed fine. This authority may not be delegated below the level of acting Regional Director.

(b) If the Regional Director determines that the "* * * retention by such convict of all of such property is reasonably necessary for his support or that of his family, such convict shall be released without further imprisonment solely for the nonpayment of such fine, and costs; or if he finds that the retention by such convict of any part of such property is reasonably necessary for his support or that of his family, such convict shall be released without further imprisonment solely for nonpayment of such fine or fine and costs upon payment on account of his fine and costs, of that portion of his property in excess of the amount found to be reasonably necessary for his support or that of his family." (18 U.S.C 3569)

(c) After making a determination as to the property that the inmate possesses in excess of what is exempt by law, and what property the inmate may need in the community, the Regional Director may take one of the following three actions: (1) Release the inmate without any payment toward the fine: (2) require partial payment of the fine prior to the

inmate's release; or (3) require payment of the fine in full prior to the inmate's release. Regardless of the action taken, the Regional Director shall furnish the inmate with a written statement stating the action taken and the reasons for that action.

Dated: January 13, 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 83-1384 Filed 1-18-83; 8:45 am]

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federal register

Wednesday
January 19, 1983

Part III

Environmental Protection Agency

Hazardous Waste Management System; Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Hazardous Waste Permit Program; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 260, 264, and 265

[SW-FRL 2036-3]

Hazardous Waste Management System; Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Hazardous Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today promulgating in final form the interim final rule promulgated November 19, 1980, which addressed responsibilities of persons who undertake hazardous waste treatment and storage activities in immediate response to a spill of a hazardous waste, or of a material which, when spilled, becomes a hazardous waste. In the interim final rule EPA made clear that the Resource Conservation and Recovery Act (RCRA) regulations governing treatment and storage of hazardous waste are not applicable to actions taken to immediately contain and treat spills of hazardous waste and materials which, when spilled, become hazardous waste. Thus, persons who treat or store hazardous waste in immediate response to a spill need not obtain a RCRA permit for those activities. Today's action finalizes the interim final rule with two changes. First, the term "spill" has been replaced with the term "discharge". Second, the applicability of the exemption has been extended to include immediate responses to imminent and substantial threats of discharges of hazardous waste.

EPA anticipates that protection of human health and the environment will be improved by this action. This action will encourage prevention and timely control of discharges of hazardous waste by relieving persons who respond to such emergencies of having to first obtain permits for their activities. However, this action does not reduce the regulatory requirements that pertain to persons who treat or store hazardous waste after immediate response is over; neither does it reduce the substantial penalties which exist for improper disposal of hazardous waste.

EPA estimates that this action will result in a savings to the regulated community of approximately $200,000 per year.

EFFECTIVE DATE: These amendments become effective on January 19, 1983.

ADDRESSES: The public docket for this regulation is located in Room S-269C, U.S. Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: For general information, contact Amy Mills, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. (202) 382-4755. For information on implementation, contact your EPA Regional Office.

SUPPLEMENTARY INFORMATION:

I. Introduction

On November 19, 1980, EPA published an interim final rule in the **Federal Register** (45 FR 76630) concerning the application of the hazardous waste management regulations promulgated pursuant to the Resource Conservation and Recovery Act (RCRA), to the immediate response to spills of hazardous waste and materials which, when spilled, become hazardous waste. The action was taken in response to concerns voiced by members of the regulated community as to whether certain activities taken in immediate response to such spills constitute treatment (e.g., neutralizing the hazardous waste) or storage (e.g., containing the waste in order to prevent its spread). Treatment and storage of hazardous wastes, under normal circumstances, must be carried out in facilities that have interim status under Section 3005(e) of RCRA or that have a treatment or storage permit from either EPA or a State authorized to implement the RCRA hazardous waste program.

Spills are often sudden events which require immediate response actions. In many cases, immediate response in the form of treatment or storage of hazardous waste will not be covered by a RCRA permit or interim status. This is particularly true for generators who do not treat, store or dispose of hazardous waste and transporters who would have neither a permit nor interim status. It also may be true for owners and operators of treatment, storage or disposal facilities where their permit or interim status may not cover the types of treatment or storage performed in responding to a particular spill. Persons responding to spills would be placed in the uncomfortable position of taking actions necessary to protect human health and the environment while being in violation of RCRA.

To correct this situation, EPA promulgated an interim final rule (45 FR 76630), November 19, 1980) amending 40 CFR Parts 264 and 265 to exempt immediate spill treatment and containment activities from the regulations governing treatment and storage of hazardous waste. Part 122 was amended to indicate that persons who perform such response activities do not have to have a RCRA permit or interim status. The rulemaking action did not however, exempt owners and operators of hazardous waste management facilities regulated under 40 CFR Parts 264 and 265 from the requirements listed in Subparts C (Preparedness and Prevention) and D (Contingency Plan and Emergency Procedures) of those parts.

The November 19, 1980, action also added a definition of "spill" in §§ 260.10 and 122.3. The term "spill" was defined essentially as an accidental discharge incident. EPA sought initially to limit the exemption to persons who respond to unintentional discharges, believing that if the exemption applied to intentional discharges as well, persons who intentionally discharge hazardous waste in an unlawful manner would be granted relief from RCRA permit regulations. The Agency sought to avoid that result, and therefore limited the exemption to persons responding to accidental discharges, i.e., spills.

Since promulgation of the interim final rule, EPA has determined that this distinction between intentional and accidental discharges is unnecessary and in some cases may actually delay prompt cleanup action. Emergency response personnel such as Federal On-Scene-Coordinators and state and local response teams should have the latitude to implement this exemption whether or not the discharges they respond to are of an intentional or unintentional nature. If immediate treatment and storage were restricted to only unintentional discharges (i.e., spills), discharge response personnel would be in an untenable position in two respects. First, they would have to make the difficult determination of whether or not the discharge was caused accidentally. Second, if the discharge was not accidental, they would be required to obtain a RCRA permit before commencing any treatment or storage activities. Timely, effective response would be inhibited by such requirements. Unnecessary delays in cleanup actions would be detrimental to human health and the environment.

Further, EPA has determined that expanding the scope of the exemption to include persons who respond to

intentional discharges would not, in fact, relieve persons who deliberately discharge hazardous waste in an unlawful manner of their obligations under RCRA. The exemption concerns only treatment and storage activities; it does not relieve anyone of complying with any requirements for the disposal of hazardous waste. In addition, the exemption applies only during immediate response; all hazardous waste management activities thereafter are fully subject to the RCRA regulations. Moreover, anyone who violates any provision of RCRA or regulations thereunder by unlawfully discharging hazardous waste remains fully liable for civil or criminal penalties. EPA therefore has concluded that the interim final rule should be amended so that the exemption applies to treatment and storage activities in response to both accidental and intentional discharges of hazardous waste.

In order to accomplish this change, and equalize the application of the RCRA regulations to all immediate response situations, EPA has replaced the term "spill" with the term "discharge" which, as defined in § 260.10 includes both accidental and intentional spills. Unlike the definition of "spill", the definition of "discharge" does not include materials which, when spilled, become hazardous wastes. However the regulatory language in §§ 264.1(g)(8) and 265.1(c)(11) indicates that the exemption applies to activities taken in response to discharged materials which become hazardous wastes.

Today's rule also broadens the response exemption to include persons undertaking activities to immediately respond to an imminent and substantial threat of a discharge of hazardous waste, as well as the discharge itself. This addition to the interim final rule is being taken in recognition of the fact that the same time constraints which render compliance with the facility standards and permitting requirements impractical during immediate response to an actual discharge also render compliance impractical during immediate response to an imminent and substantial threat of a discharge.

Imminent and substantial threats of discharges can include a variety of situations where persons handling hazardous waste determine that a discharge is about to occur. One example would be a bulging or smoking drum containing a reactive hazardous waste. A second example would be a highway collision of tank trucks carrying ignitable hazardous wastes. In such cases, immediate treatment or storage may be necessary to prevent or to mitigate a serious discharge. The Agency believes that in order to encourage rapid response, persons performing hazardous waste treatment or containment actions in immediate response to such impending discharges should be relieved of the facility standards and permitting requirements as are persons responding to actual discharges.

The final rule promulgated today therefore includes a regulatory exemption for persons responding to imminent and substantial threats of discharges. The intended effect of this final action is to augment hazardous waste discharge prevention and control by relieving persons engaged in immediate response to discharges and serious threats of discharges from time-consuming requirements. Persons who treat or store hazardous waste past the immediate response phase are subject to all applicable requirements of Parts 264, 265, and 122.

The Agency has also clarified the language used in the amendments to Parts 264, 265, and 122. The only substantive changes have been a replacement of the term "spill" with the term "discharge" (thus, the definition of "spill" has been deleted from Parts 260 and 122), and the addition of a provision for immediate response to imminent and substantial threats of discharges of hazardous waste. The "comment" that appeared at the end of §§ 264.1(g)(8), 265.1(c)(11), and 122.21(d)(3) of the interim final rule has been deleted. The substance of the comment has been integrated into the regulatory language of those sections.

II. Response to Comments

1. Most of the comments received on the interim final rule promulgated November 19, 1980, supported EPA's decision to waive the RCRA requirements for treatment and storage activities undertaken to immediately respond to spills. Most commenters agreed that compliance with the treatment and storage regulations during immediate spill response would be burdensome and in some cases counter-productive to pollution abatement efforts. The general support received on the spill response exemption has been based on the belief that immediate response to spills can be more timely and therefore more effective if procedural delays inherent in regulatory compliance can be kept to a minimum.

2. Comments were received suggesting that the exemption be extended to include responses to non-accidental spills. For reasons cited in this preamble, the Agency agrees, and has broadened the exemption to include responses to both accidental and non-accidental discharges.

3. Two commenters objected to the exclusion of spills which occur during routine maintenance of machinery from the exemption provision. EPA stated in the preamble to the interim final rule (45 FR 76628) that the exemption did not apply to such situations. The rationale was that discharges during routine maintenance could be expected and controlled, and therefore do not qualify as spills. However, because EPA now finds the distinction between intentional and unintentional discharges to be unnecessary and unworkable in the context of this rule, the Agency is extending the exemption to cover immediate responses to all discharges, including those which occur during maintenance of machinery.

4. Some concern was expressed over the restriction of the exemption to immediate response only. The point was made that response cannot always be immediate, due to a variety of reasons, and that the exemption should be extended to cover treatment and storage activities in "direct response" to a spill. EPA promulgated the spill response exemption in recognition of the fact that in emergency situations, where immediate response in the form of treatment or storage is necessary to protect human health and the environment, there may be no time available to comply with the regulatory standards or to obtain an emergency permit from EPA, pursuant to 40 CFR 122.27. When the response is not of an immediate nature, the Agency believes that sufficient time would be available to contact EPA to obtain an emergency permit for treatment or storage activities. (Emergency permits can be granted orally and can be valid for up to 90 days.) In addition, persons who generate hazardous waste as a result of a discharge may temporarily store those wastes without a permit if they comply with the requirements for 90-day accumulation described in 40 CFR 262.34. Thus, the Agency does not believe that an extension of the exemption beyond the immediate response phase is necessary.

5. Several persons commented that the term "immediate response" is vague, and needs to be defined. EPA has not explicitly defined this term because we believe that individual incidents will dictate what "immediate response" will entail on a case-by-case basis. A rigid definition would most likely restrict the application of this exemption to a time-frame or set of activities which would be reasonable in some instances but

unreasonable in others. The Agency wishes to encourage rapid response to discharge and discharge threat situations by relieving persons engaged in response actions from restrictive regulations. The extent of immediate response therefore must be judged by persons responding to discharges on an individual basis. Problems with persons who abuse the intent of this provision can be better controlled through the enforcement provisions of RCRA than through more restrictive definitions.

6. Several commenters requested a clarification of the requirements for persons who discharge a material listed in 40 CFR 261.33 (commercial chemical products, off-specification species, containers, and spill residues thereof) but use, reuse, recycle, or reclaim the material after the discharge. Materials listed in § 261.33 become hazardous wastes when discarded or intended to be discarded.[1] EPA explained in the preamble to the final rule promulgating § 261.33 (45 FR 78532, 78540, November 25, 1980) that a material listed in that Section which spills but is subsequently used, reused, recycled or reclaimed has not been discarded, and therefore is not a hazardous waste. Thus, the RCRA Subtitle C regulations do not apply in those instances when all of a discharged material is reused; however, any quantity of such discharged material which is not reused is a hazardous waste.

In the preamble to the interim final rule on spills (November 19, 1980), EPA stated that spilling a material listed in § 261.33 is tantamount to discarding it, and therefore all such materials which spill automatically become hazardous wastes. That statement was made in error. The act of discharging a material listed in § 261.33 constitutes discarding only as provided in § 261.2 of the regulations.

7. Several persons have asked how to determine whether a discharged material is a hazardous waste. If no manifest or other hazardous waste documentation is available, a person wishing to characterize a discharged material should consult 40 CFR Parts 260 and 261. Part 260 defines hazardous waste as a subset of solid waste. In Part 261, §§ 261.31 and 261.32 list hazardous waste from non-specific and specific sources. Knowledge of the origin of the discharged material can thus be helpful to the person in determining whether the material is the product of a hazardous waste stream. § 261.33 lists materials which become hazardous wastes when discharged if they are subsequently discarded. These materials are also listed on the Department of Transportation hazardous materials table (49 CFR Part 171). If a hazardous materials shipping paper accompanies the material, the name of the material should be compared to the § 261.33 list. If it cannot be determined whether a discharged material is a listed hazardous waste, §§ 261.20 through 261.24 describe criteria for determining whether a solid waste exhibits the hazardous waste characteristics of ignitability, corrosivity, reactivity, or toxicity.

8. There have been some questions regarding the applicability of 40 CFR 261.5, the small quantity generator exemption, to discharges of materials listed in Section 261.33. A person who discharges a § 261.33 material and discards any or all of that material becomes a generator of hazardous waste. (This is also true of persons who discharge any other kind of material which, as a result of discharging, becomes a hazardous waste.) If the quantity of hazardous waste produced by that generator in that calendar month at that site totals less than the amount specified in § 261.5 (May 19, 1980, with amendments November 19, 1980) the generator is subject to reduced regulatory requirements for small quantity generators under § 261.5 for the handling of that waste.

The small quantity generator exemption does not apply to discharged hazardous wastes which were subject to 40 CFR Parts 262–265 of the regulations prior to the discharge.

9. Several commenters noted that persons who discharge and subsequently discard a material listed in § 261.33 may become hazardous waste generators or transporters as a result of their actions. The RCRA regulations require generators and transporters to possess EPA identification numbers. Commenters expressed the opinion that the procedure for acquiring an EPA identification number is too time consuming in the emergency situations discharges often produce.

In response to these concerns EPA published a notice in the Federal Register of December 24, 1980 (45 FR 85022) advising persons of the availability of provisional EPA identification numbers for generators and transporters of hazardous waste during spills and other unanticipated events. This provision applies to generators and transporters who did not obtain an EPA identification number through the standard procedures under Section 3010 of RCRA or §§ 262.12 and 263.11 of the regulations but who, due to unforeseen circumstances, need one in order to transport hazardous waste to a designated facility.

According to § 263.30(b), a Federal, State, or local official acting within the scope of his official responsibilities may temporarily waive the EPA identification number requirement for persons engaged in immediate hazardous waste removal following a discharge incident during transportation. In cases where a waiver is not authorized, or even if a waiver is authorized but the generator or transporter still identifies a practical need to obtain a number before transporting the waste, a provisional number may be requested from EPA.

In the preamble to the interim final spill response exemption (45 FR 76629) EPA stated that "* * * persons who anticipate that they generate hazardous waste in the future may obtain an EPD ID number in advance." The procedure for issuing provisional identification numbers established since that statement was made obviates the need for persons who think they may become generators or transporters of hazardous waste as the result of a discharge incident to obtain numbers in advance.

10. One commenter claimed that since some hazardous waste dischargers may be subject to liability under the Comprehensive Environmental Response, Compensation, and Liability Act ("Superfund") for discharge cleanup, regulation under RCRA is redundant and unfair, particularly in the sense that a discharger could incur penalties under both Acts for the same incident.

EPA believes that the discharge response exemption, promulgated in final form today, reduces this area of duplication considerably. Treatment and storage activities undertaken in immediate response to discharges of hazardous waste, or materials which become hazardous wastes as a result of a discharge are exempt from most RCRA regulations. However, ultimate disposal of any hazardous waste residue resulting from cleanup operations is fully subject to the regulations, and must be accomplished at a facility with a RCRA permit or interim status.

If a person improperly disposes of the hazardous waste residue, he can be held liable under both Superfund and RCRA. Nothing precludes EPA or the courts from assessing penalties under both laws for the same incident. EPA will

[1] It should be noted that on Nov. 19, 1981, EPA published an interim final amendment to § 261.3(a)(2) (46 FR 56588) which, among other things, exempts from Subtitle C regulation certain *de minimis* losses of § 261.33 materials from manufacturing operations where the losses are mixed with wastewater and discharged in conformance with regulations under Sec. 402 or 307(b) of the Clean Water Act.

exercise enforcement discretion on a case-by-case basis in situations of duplicate statutory or regulatory coverage. The Agency must carry out the mandates of both Acts, but does not wish to place an undue burden on the regulated community.

Persons affected by today's rulemaking should note that these amendments do not affect requirements regarding notification of releases of hazardous substances under § 103 of Superfund.

III. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. In addition, Section 553 of the Administrative Procedure Act requires that substantive rules not become effective until at least 30 days after promulgation. The purpose of these requirements is to allow persons affected by the rulemaking sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments proposed today however, the Agency believes that delaying the effective date for any period of time would cause substantial and unnecessary disruption in the implementation of the regulations and would be contrary to the public interest. These amendments were promulgated as interim final rules on November 19, 1980 in substantially the same form, and have been in effect since that date. In addition, the interim final amendments and today's final amendments grant an exemption from numerous EPA requirements. Persons affected by these amendments will not need lead time to prepare to comply with new regulatory requirements. For these reasons, EPA believes that good cause exists for making these amendments effective immediately. Accordingly, EPA is making this final rule effective upon promulgation.

IV. Compliance With Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not a major rule because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. In fact, this regulation will reduce the overall costs and economic impact of EPA's hazardous waste management regulations. There will be no adverse impact on the ability of U.S.-based enterprises to compete with the foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation, no Regulatory Impact Analysis is being conducted.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

V. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information collection request contained in a proposed or final rule. This final rule will not impose any new information requirements on the regulated community. In fact, this rule would reduce the information collection requirements contained in the cleared OMB request #2000–0380.

List of Subjects

40 CFR Part 260

Administrative practice and procedure, Confidential business information, Hazardous materials, Waste treatment and disposal.

40 CFR Part 264

Hazardous materials, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR Part 265

Hazardous materials, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PARTS 122, 260, 264, AND 265 [AMENDED]

Title 40 of the Code of Federal Regulations Parts 260, 264, 265, and 122 are amended as follows:

1. The authority citation for Parts 260, 264, 265, and 122 is revised to read as follows:

Authority: Secs. 1006, 2002(a), 3001 through 3007, 3010, and 7004, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, and 6974.

§ 260.10 [Amended]

2. Remove the definition of "spill" from § 260.10.

3. Add the following paragraph (g)(8) to §264.1:

§ 264.1 Purpose, scope, and applicability.

* * * * *

(g) * * *

(8)(i) Except as provided in paragraph (g)(8)(ii) of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a hazardous waste;

(B) An imminent and substantial threat of a discharge of hazardous waste;

(C) A discharge of a material which, when discharged, becomes a hazardous waste.

(ii) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D.

(iii) Any person who is covered by paragraph (g)(8)(i) of this Section and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and Parts 122–124 of this chapter for those activities.

* * * * *

4. Add the following paragraph (c)(11) to § 265.1:

§ 265.1 Purpose, scope, and applicability.

* * * * *

(c) * * *

(11)(i) Except as provided in paragraph (c)(11)(ii) of this Section, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a hazardous waste;

(B) An imminent and substantial threat of a discharge of a hazardous waste;

(C) A discharge of a material which, when discharged, becomes a hazardous waste.

(ii) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D.

(iii) Any person who is covered by paragraph (c)(11)(i) of this Section and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and Parts 122–124 of this chapter for those activities.

* * * * *

§ 122.3 [Amended]

5. Remove the definition of "spill" from § 122.3.

6. Add the following paragraph (d)(3) to § 122.21:

§ 122.21 Purpose and scope of Subpart B.

* * * * *

(d) * * *

(3)(i) *Further exclusions.* A person is not required to obtain a RCRA permit for treatment or containment activities taken during immediate response to any of the following situations:

(A) A discharge of a hazardous waste;

(B) An imminent and substantial threat of a discharge of hazardous waste;

(C) A discharge of a material which, when discharged, becomes a hazardous waste.

(ii) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part for those activities.

* * * * *

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Wednesday
January 19, 1983

Part IV

Environmental Protection Agency

Harzardous Waste Management System; Standards for Owners and Operators of Hazardous Waste, Treatment, Storage and Disposal Facilities

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 265

[SWH—FRL 2170-2]

Hazardous Waste Management System; Interim Status Standards for Owners and Operators of Hazardous Waste, Treatment, Storage and Disposal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment to rule and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to amend the regulations for hazardous waste management under the Resource Conservation and Recovery Act to clarify the scope and applicability of the interim status standards to hazardous waste management facilities. It is proposing to amend the provision that explains who is subject to the interim status regulations to clarify that these regulatiohns apply to all hazardous waste management facilities in existence on November 19, 1980, including those facilities which have failed to qualify fully for interim status. This amendment would make more explicit an EPA policy that has been in effect since November 19, 1980.

DATE: The Agency will accept comments on this amendment until February 18, 1983.

ADDRESS: Comments should be addressed to Docket Clerk, Office of Solid Waste (WH-562), Docket 3004, Scope of Interim Status Standards, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346, or in Washington D.C., 382-3000; or Deborah Wolpe, Office of Solid Waste, U.S. Environmetal Protection Agency, Washington. D.C. 20460, (202) 382-4754.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 26, 1980, and May 19, 1980, EPA promulgated regulations implementing Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6901 *et seq.*, establishing a comprehensive program for the handling and management of hazardous waste (40 CFR Parts 260-265, 122-124, 45 FR 33066-33580). The regulations, among other things, require facilities which treat, store, or dispose of hazardous waste to obtain a permit from EPA or an authorized state [1] and require that hazardous wastes be designated for, delivered to, and treated, stored, or disposed of only in these permitted facilities.

Recognizing that EPA would not be able to issue permits to all hazardous waste management (HWM) facilities before the Subtitle C program became effective, Section 3005(e) of RCRA provides that a hazardous waste management facility that meets certain requirements will be treated as having been issued a permit until final administrative action is taken on its permit application. This satutory authorization to operate a HWM facility between the effective date of the Subtitle C program (November 19, 1980) and the issuance or denial of a final permit is known as "interim status." Facilities operating under interim status are subject only to the operating standards in 40 CFR Part 265, which are known as the "interim status standards." These standards do not contain the full set of technical design and operating standards contained in 40 CFR Part 264, the Standards to be used when issuing permits to such facilities.

Interim status is conferred directly by Section 3005(e) upon a person who:

(1) Owns or operates a facility which is required to have a permit under Section 3005 and is in existence on November 19, 1980;

(2) Has complied with the requirements of Section 3010(a) of RCRA, regarding notification of hazardous waste activity; and,

(3) Has complied with the requirements of 40 CFR 122.22 (a) and (c), governing submission of Part A applications.

Interim Status cannot be granted or conferred by EPA. Therefore if an owner or operator of a facility failed to meet one or more of the statutory requirements for interim status, EPA cannot, under a literal construction of Section 3005(e) consider the facility as having achieved interim status. Moreover, any person treating, storing or disposing of hazardous waste without a permit or without having achieved interim status may be ordered by the Agency to cease that operation (Section 3008(a)), may be subject to civil penalties (Section 3008(c, g)), and may be subject to fine and imprisonment (Section 3008(d)).

As EPA indicated in its **Federal Register** notice of November 19, 1980 (45 FR 76630), the Agency recognizes that such a literal construction of Section 3005(e) may have the effect of preventing owners or operators of certain well-managed facilities from qualifying for interim status and require that they cease operations until such time as they receive a RCRA permit. Accordingly, the Agency has adopted a policy that allows certain facilities in existence on November 19, 1980, that have failed to achieve interim status to continue operations pursuant to the exercise of enforcement discretion, if continued operation is in the public interest, and the facility owner or operator complies with the appropriate RCRA performance standards. See 45 FR 76630-36, November 19, 1980. Under this policy, EPA may, by compliance order issued under Section 3008 of RCRA, extend the date by which the owner or operator of an existing facility may submit Part A of its permit application, thereby allowing the facility to obtain interim status, if that is the only requirement for interim status that the facility fails to meet. (40 CFR 122.22(a)(3)). An existing facility which has failed to notify as required by Section 3010(a) of RCRA, however, can never achieve interim status but may be allowed to continue operation through the issuance of either a compliance order under Section 3008 (or an Interim Status Compliance Letter (ISCL), which was available to facilities which notified no later than one year after the required date or after September 18, 1981, whichever date was later). See 45 FR 76630-36, November 19, 1980. As a part of this enforcement policy EPA will require facilities operating under compliance orders or ISCL's to comply with appropriate management practices as a condition of continued operation. Therefore, EPA must consider whether existing facilities operating without interim status or a permit should comply with the Part 264 general permitting standards or with the Party 265 interim status standards.

II. Amendment to and Clarification of Application of Interim Status Regulations

Section 3004 of RCRA requires EPA to promulgate performance standards which apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes. These Section 3004 standards are independently enforceable national standards which are separable from the Section 3005 permitting requirements. See 45 FR 33158, May 19, 1980.

EPA promulgated both the Part 264 general permitting standards and the

[1] Section 3006 of RCRA provides that the Administrator of EPA shall authorize state hazardous waste management programs which meet minimum EPA guidelines to operate in their states in lieu of the Federal program. See 40 CFR Part 123, Subparts A, B, and F.

Part 265 interim status standards under the authority of Section 3004. EPA has, by regulation, limited the requirements for facilities with interim status to those found in 40 CFR Part 265. See 40 CFR 122.23(d). The language of 40 CFR 265.1(b), which defines the general application of the interim status standards provides that "[t]he standards in this Part apply to owners and operators of facilities which treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status * * *" This regulatory language has created some uncertainty as to whether the Part 265 standards apply to existing facilities which have failed to qualify for interim status. EPA believes that this language does not preclude application of the interim status standards to non-interim status facilities given that Part 265.1(b) does not expressly limit the application of the Part 265 standards to only interim status facilities. Therefore, EPA believes that it has both the statutory and regulatory authority to apply either the Part 264 general permitting standards or the Part 265 interim status standards to existing facilities which have failed to qualify for interim status.

On November 19, 1980 (45 FR 76630), EPA announced its intent to excercise prosecutorial discretion where appropriate to allow continued operation of existing facilities that did not have interim status if such facilities complied with applicable EPA Part 265 regulations. For the reasons discussed below, EPA still believes it is sound enforcement policy to require facilities in existence on November 19, 1980 that have failed to achieve interim status to comply with the Part 265 interim status standards until such time as final administrative disposition of the permit application is made.

This proposed amendment would clarify in the regulations that such facilities are required to meet the Part 265 regulatory requirements. EPA promulgated the interim status standards (40 CFR Part 265) to ensure that existing facilities meet those threshold requirements for hazardous waste management under Section 3004 during the interim status period which apply generally to all facilities and which will definitely be included in all permits. Section 3008(e)(1)(B)(ii) of RCRA recognizes explicitly the interim status regulations and provides for enforcement action for knowing non-compliance with those regulations.

The interim status regulations, for the most part, consist of general administrative and non-technical operating standards. These standards were designed to be self-implementing, without need for substantial interpretation by, or negotiation with, EPA. These same considerations suggest that the Part 265 regulations are the most appropriate standards to apply to all existing unpermitted facilities, including those facilities which have failed to qualify for interim status. EPA also believes that, in order to ensure consistent application of the RCRA regulations, the Agency should apply the same set of RCRA performance standards to all existing unpermitted facilities.

As stated above, EPA believes that it has clear authority to apply the Part 265 standards to these facilities that have not fully qualified for interim status. However, to avoid any possible confusion on this point, and to clarify in the regulatory language the intent explained in this preamble, EPA is today proposing an amendment to 40 CFR 265.1(b) in order to provide clear notice to owners or operators of existing facilities without interim status or a permit that they must comply with the Part 265 regulations until such time as final administrative disposition of their permit application is made.

III. Request for Comments

The Agency invites comments on all aspects of this proposed regulation, including all issues raised in the preamble.

IV. Regulatory Impacts

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis (RIA). A major rule is one which results in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices to industry, consumers, Federal, State or local government agencies or geographic region; (3) or cause significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Agency does not anticipate that today's amendment will have any of the effects which characterize a rule as "major" under the Executive Order. It merely clarifies how the existing regulations apply to existing facilities which have failed to achieve interim status.

This amendment was submitted to the Office of Management and Budget as required by Executive Order 12291. Any comments from OMB and any EPA response to those comments are available at the Office of Solid Waste Docket, Room 2638, U.S. EPA, Washington, D.C. 20460.

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., Federal agencies must estimate the paperwork burden created by any information collection requests in a proposed or final rule. Because there would be no information collection activities created by this proposed amendment, the requirements of the Paper Reduction Act do not apply.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., whenever an agency is required to publish general notice of proposed rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the proposed rule on small entities (i.e., small businesses, small organizations, and small governmental entities). The Administrator may certify, however, that the rule will not have a significant impact on a substantial number of small entities.

This amendment will generally have no economic impact on small entities. It merely clarifies already existing responsibilities.

Accordingly, I hereby certify that this proposed regulation would not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 265

Hazardous materials, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

Dated: January 7, 1983.

John W. Hernandez, Jr.,

Acting Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

1. Authority: This amendment is issued under the authority of Sections 2002(a), 3004, and 3005 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6912(a), 6924, and 6925.

2. Section 265.1(b) is revised to read as follows:

§ 265.1 Purpose, scope and applicability.

* * * * *

(b) The standards in this Part apply to owners and operators of facilities which

treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status under Section 3005(e) of RCRA and § 122.22 of this Chapter, *and to those owners and operators of facilities in existence on November 19, 1980, who have failed to provide timely notification as required by Section 3010(a) of RCRA, and/or failed to file Part A of the Permit Application as required by 40 CFR 122.22 (a) and (c),* until final administrative disposition of their permit application is made. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after the effective date of these regulations, except as specifically provided otherwise in this Part or Part 261 of this Chapter.

Comment: As stated in Section 3005(a) of RCRA, after the effective date of regulations under that Section, i.e., Parts 122 and 124 of this Chapter, the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility which meets certain conditions until final administrative disposition of the owner's and operator's permit application is made.

* * * * *

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Last Listing January 18, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R 5470 / Pub. L. 97-473 To amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness, and for other purposes. (Jan. 14, 1983; 96 Stat. 2605) Price: $2.25.

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Patent and Trademark Office

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Civil Aeronautics Board

Air Pollution Control
Environmental Protection Agency

Authority Delegations (Government Agencies)
Transportation Department

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Conflict of Interests
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Fish and Wildlife Service

Excise Taxes
Internal Revenue Service

Hazardous Materials
Environmental Protection Agency

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Research and Special Programs Administration

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Agricultural Marketing Service

Military Air Transportation
Civil Aeronautics Board

Railroads
Interstate Commerce Commission

Uniform System of Accounts
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DEPART

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7 CFR Pa

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AGENCY: A
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Rules and Regulations

Federal Register
Vol. 48, No. 14
Thursday, January 20, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of the Navel Orange Administrative Committee functioning under Marketing Order 907. Funds to administer this program are derived from assessments on handlers of navel oranges regulated under the order.

EFFECTIVE DATES: November 1, 1982–October 31, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Room 2532 South Building, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA Procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on the recommendation submitted by the Navel Orange Administrative Committee (NOAC) established under the marketing order, and upon other available information. It is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking, and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The order requires that the rate of assessment for the fiscal period shall apply to all assessable navel oranges handled from the beginning of such period. To enable the committee to meet current fiscal obligations, approval of expenses is necessary without delay. It is necessary to effectuate the declared policy of the act to make these provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—NAVEL ORANGES GROWN IN CALIFORNIA AND ARIZONA

Therefore, § 907.220 is added to read as follows (the following section prescribes the annual expenses and the rate of assessment and will not be published in the Code of Federal Regulations):

§ 907.220 Expenses and assessment rate.

Expenses of $912,500 by the Navel Orange Administrative Committee are authorized, and an assessment rate of $0.021 per carton of navel oranges is established for the fiscal year ending October 31, 1983; and a portion of unexpended funds from the fiscal year ended October 31, 1982, shall be carried over as a reserve in accordance with § 907.42.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 14, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–1531 Filed 1–19–83; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 907

[Navel Orange Reg. 562 and Navel Orange Reg. 561, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 21–27, 1983, and increases the quantity of such oranges that may be so shipped during the period January 14–20, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective January 21, 1983, and the amendment is effective for the period January 14–20, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is

hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on September 21, 1982. The committee met again publicly on January 18, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is improved.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Agricultural marketing service, Marketing agreements and orders, California, Arizona, Oranges (navel).

PART 907—[AMENDED]

1. Section 907.862 is added as follows:

§ 907.862 Navel orange regulation 562.

The quantities of navel oranges grown in Arizona and California which may be handled during the period January 21, 1983, through January 27, 1983, are established as follows:

(a) District 1: 1,650,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. Section 907.861 Navel Orange Regulation 561 (48 FR 1481), paragraphs (a), (b), (c), and (d) are hereby revised to read:

§ 907.861 Navel orange regulation 561.

* * * * * *

(a) District 1: 1,650,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 19, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–9 Filed 1–19–83; 11:26 am]

BILLING CODE 3410-02-M

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7 CFR Part 915

Avocados Grown in South Florida; Amendment to Subpart—Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule modifies voting procedures at grower nomination meetings by limiting proxy voting to growers residing outside the production area. Such action is designed to encourage more active grower participation at meetings held to nominate grower members of the Avocado Administrative Committee.

DATE: Effective January 20, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, and will not substantially affect costs for the directly regulated handlers.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

This final rule is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Avocado Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This final rule modifies voting procedures by limiting proxy voting at grower nomination meetings to those growers who reside outside the production area. Currently, all growers are permitted to vote by proxy at such nomination meetings, including growers residing in the production area. The committee is of the opinion that it is not necessary to extend the privilege of proxy voting to growers residing in the production area. Such growers live relatively close to the place where nomination meetings are held, and should not find it difficult or burdensome to attend such meetings in person. This final rule is designed to encourage more active participation at such meeting where growers nominate fellow growers to serve on the committee.

It is further found that it is impracticable and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for issuing these regulatory provisions as specified, to become effective upon publication in the **Federal Register.** Interested persons were given an opportunity to submit information and views on this final rule at an open committee meeting. The provisions in this final rule are the same as those in a proposed rule, which was published in the **Federal Register** (47 FR 56500), on December 17, 1982. The proposed rule explained the recommendation of the committee, and allowed 15 days for written comments. No comments were received. Furthermore, this final rule should become effective as soon as possible, so the committee will have adequate time to notify growers of its provisions prior to a nomination meeting scheduled for February 10, 1983.

List of Subjects in 7 CFR Part 915

Marketing agreements and orders, Avocados, Florida.

PART 915—[AMENDED]

Accordingly, § 915.115 *Nomination procedure,* under Subpart—Rules and

Regulations is amended by revising paragraph (a) to read as follows:

§ 915.115 Nomination procedure.

(a) Any grower who resides outside the production area and desires to be represented in a nomination meeting by a duly authorized agent and to have such grower's vote cast by such agent in the nomination and election of nominees for grower members and alternate members to fill positions on the Avocado Administrative Committee, as provided in § 915.22(b)(2), shall submit to the committee, not later than January 20, a written statement containing the following:

(1) Name of grower;

(2) Mailing address;

(3) Location of each avocado grove (either legal or from established landmarks);

(4) Number of avocado trees owned;

(5) Number of 55-pound units of avocados marketed to date during the current season;

(6) Name of the handler of the fruit marketed;

(7) Authorization, including the name and address, of the person who is to represent said grower at the nomination meeting.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 17, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 83-1593 Filed 1-19-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

10 CFR Parts 375, 376, 378, 390 and 391

30 CFR Parts 259, 260, 261, 262 and 263

Transfer and Redesignation of Department of Energy Regulations Governing Minerals Leasing

Correction

In FR Doc. 83–693 beginning on page 1161, in the issue of Tuesday, January 11, 1983, make the following correction.

On page 1181, first column, sixth line of the **SUMMARY** paragraph, the word "not", should read "now".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-51; Amdt. 39-4539]

Airworthiness Directives; Detroit Diesel Allison (DDA) Model 250–C28B and 250–C28C Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires an inspection and pressure test of the No. 8 bearing sump on affected turbine assemblies. The AD is necessary to prevent oil from being forced through the No. 8 bearing seal onto the No. 1 turbine wheel, resulting in possible oil fires and damage to the first-stage turbine wheel.

DATES: Effective January 24, 1983.

Comments due March 24, 1983.

Compliance as prescribed in body of AD.

ADDRESSES: The applicable Service Bulletin may be obtained from Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206. A copy of the applicable Service Bulletin and a historical file on this AD are contained in the Rules Docket at the FAA, Office of Regional Counsel, Attn: Rules Docket No. 82–ANE–51, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Royace Prather, Chicago Aircraft Certification Office, ACE–140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694–7132.

SUPPLEMENTARY INFORMATION: There have been reports of oil fires and first-stage turbine wheel damage due to an air leak of the No. 8 bearing sump, forcing oil through the No. 8 bearing seal onto the No. 1 turbine wheel. The cause has been traced to either improper installation of P/N 6871541 U-ring gasket or incorrect installation of the very similar but smaller U-ring gasket, P/N 6875350, at the No. 8 bearing retainer plate. The inspection is to determine if the proper U-ring gasket is installed, and the pressure test is to ensure it is installed correctly.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action, which involves requirements affecting immediate flight safety, is in the form of a final rule and thus was not preceded by notice and public comment, comments are now invited on the rule. When the comment period ends, the FAA will use the comments submitted together with other available information to review the regulation. Public comments are helpful in evaluating the effects of the rule and in determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule.

List of Subjects in 14 CFR Part 39

Engine, Propellers, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following AD:

Detroit Diesel Allison: Applies to Detroit Diesel Allison (DDA) Model 250–C28B and –C28C series engines with turbine assembly serial numbers CAT 70082 thru 70186, 70188, and 70191.

Compliance required, as indicated, unless already accomplished. To prevent possible damage to the first stage turbine wheel due to oil fires caused by the improper U-ring gasket or the proper U-ring gasket incorrectly installed at the No. 8 bearing retainer plate, accomplish the following:

a. Within the next 5 hours time in service after the effective date of this AD, inspect and pressure test the No. 8 bearing sump area, in accordance with Detroit Diesel Allison Commercial Engine Alert Bulletin CEB–A–72–2062, dated January 3, 1983 or later FAA approved revisions, on affected turbine assemblies that meet either of the following conditions:

1. Turbine Assemblies with less than 500 hours time since new.

2. Turbine Assemblies that are experiencing or have experienced oil consumption in excess of one quart (0.9 liter) per hour.

Note.—Turbine Assemblies that have been overhauled and have had the pressure check accomplished or have been operated for more than 500 hours time since new, and have less than one quart (0.9 liter) per hour oil consumption are not required to have the inspection and pressure test.

b. Inspect and pressure test, before initial flight, uninstalled affected turbine assembly No. 8 bearing sump area per Detroit Diesel Allison Commercial Engine Alert Bulletin CEB–A–2062, dated January 3, 1983, or later FAA approved revisions.

Special flight permits may be issued in accordance with FARs 21.197 and 21.199 to

operate aircraft to a base where compliance with this AD can be accomplished.

Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

This amendment becomes effective January 24, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); Sec. 11.89 Federal Aviation Regulation (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on January 10, 1983.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 83-1388 Filed 1-19-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 290

[Economic Reg. Amdt. No. 1 to Part 290, Docket No. 40947; Reg. ER-1315]

Transfer of Airlift Among Air Carriers in Certain Emergencies

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB eliminates the exemption for aircraft leases for Civil Reserve Air Fleet operators. This exemption is no longer needed in light of the liberalizing of the exemption for all aircraft leases in another CAB rule.

DATES: Adopted: January 6, 1983. Effective: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Part 290 of the Board's rules allow Civil Reserve Air Fleet (CRAF) operators to lease aircraft to replace those used in CRAF operations without having to obtain prior Board approval under sections 408(a)(2) and 412 of the Act. Part 290 also gives an exemption from section 401 (certificate route authority) and section 403 (tariffs and fares) of the Act to the lessor to operate replacement aircraft over the lessee's routes. These exemptions were designed to encourage airlines to enter agreements that would provide for lease and charter of aircraft on a voluntary basis to take care of equipment shortages in emergencies. The Board proposed to eliminate Part 290 in EDR-446, 47 FR 40633, September 15, 1982.

By ER-1314, issued simultaneously, the Board is amending Part 299 of its rules to exempt all aircraft leases, except those that would result in one carrier controlling another, from the prior-approval requirements of section 408 of the Act. The exemption in Part 299, as revised, now covers leases previously governed by Part 290. The exemption from section 408 provided by Part 290 is therefore no longer necessary.

The Board has also concluded that the exemptions from sections 401, 403, and 412 are no longer necessary. The elimination of these exemptions was also proposed and justified in EDR-446. No comments were received opposing their elimination. For the reasons stated in EDR-446, therefore, the Board is eliminating Part 290.

Since this action merely removes an unnecessary rule and imposes no additional burdens, the Board finds for good cause that an effective date of less than 30 days from publication is in the public interest.

List of Subjects in 14 CFR Part 290

Military air transportation.

PART 290—[REMOVED]

Accordingly, the Board removes and reserves 14 CFR Part 290, *Transfer of Airlift Among Air Carriers in Certain Emergencies.*

(Secs. 204, 401, 403, 408, 412, 416, Pub. L. 85-726, 72 Stat. 743, 754, 758, 767, 770, 771; 49 U.S.C. 1324, 1371, 1373, 1378, 1382, 1386.)

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1559 Filed 1-17-83; 4:09 pm]

BILLING CODE 6320-01-M

14 CFR Part 299

[Economic Reg. Amdt. No. 6, Docket 40947, Reg. ER-1314]

Exemption From Section 408 for Aircraft Acquisitions

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB grants relief from the statutory requirement that aircraft acquisitions be approved by the Board. This expands the present rule to include all types of aircraft acquisitions regardless of the size of the transaction. This action is taken to further the goal of the Airline Deregulation Act that the airline industry be treated like other industries under the antitrust laws.

DATES:

Adopted: January 6, 1983.
Effective: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-637-5442.

SUPPLEMENTARY INFORMATION: Section 408 (a)(2) and (a)(3) of the Federal Aviation Act (49 U.S.C. 1378 (a)(2) and (a)(3)) require air carriers and certain other persons to obtain approval from the Board before buying, leasing, or contracting to operate the aircraft of another air carrier. In Part 299 of its rules, however, the Board has exempted some aircraft acquisition transactions from this prior approval requirement. The Board has declined to exercise jurisdiction over transactions involving air carriers where less than 20 percent of the seller's of lessor's fleet is affected (§ 299.2). The Board has exempted transactions of more than 20 percent where the transaction does not involve a purchase or lease from a certificated carrier, a lease with crew or an interchange agreement, or a purchase or lease under which payment is directly related to the gross revenue or profits resulting from operation of the aircraft (§ 299.3). Indirect air carriers, such as charter operators, do not have the benefit of the exemption in § 299.3.

By EDR-446, 47 FR 40633, September 15, 1982, the Board proposed to amend Part 299 to exempt all persons from the section 408 approval requirement for purchases or leases of aircraft. The exemption would apply to all transactions involving either direct or indirect air carriers without exceptions and without regard to the percentage of the fleet affected. The proposal was intended to further the goal of the Airline Deregulation Act (Pub. L. 95-504)

to treat the airline industry like other industries with respect to the antitrust laws.

Comments were filed by Air Florida and Delta Air Lines. Both supported the proposal. Air Florida agreed that prior Board approval of aircraft transactions was not necessary for the Board to carry out its responsibilities under section 408. It noted that since the adoption of part 299 in 1959, the Board's antitrust policies have undergone significant changes. It considered the Board's proposal in EDR–446 to be fully consistent with the Board's current approach.

Delta considered the Board's proposal to be "a modest but necessary step toward real deregulation of the airline industry." It stated that the current requirements complicate and delay air carrier transactions and unnecessarily consume airline and government resources. It called on the Board to eliminate "unnecessary and outdated requirements of section 408 and the attendant Board regulations."

For the reasons stated in EDR–446, and in light of the comments received, the Board has decided to amend part 299 as proposed. Increased competition and unsettled economic conditions sometimes require carriers to add or eliminate capacity quickly. The Board finds that it is in the public interest to remove regulatory barriers to aircraft transactions that do not amount to merger or control transactions. Aircraft transactions that would result in one carrier controlling another would still require Board approval under section 408 of the Act (§ 299.5.(c)).

Although prior approval requirements for leases and purchases of aircraft by indirect air carriers are being eliminated by this rule, these carriers will still have to obtain the required government approvals to operate these aircraft.

The wording of § 299.5(c) has been altered for clarity.

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities. Small air carriers, which use only small aircraft, are already exempt from the statutory provisions affected by this rule.

Since this rule grants an exemption, relieves restrictions, and imposes no additional burdens, the Board finds for good cause that an effective date of less than 30 days from publication is in the public interest.

List of Subjects in 14 CFR Part 299

Air carriers, Antitrust.

PART 299—[AMENDED]

Accordingly, the Board amends 14 CFR Part 299, *Exemption From Section 408 For Aircraft Acquisitions*, as follows:

1. The authority for Part 299 is:

Authority: Secs. 204, 408, 416, Pub. L. 85–726, 72 Stat. 743, 767, 771, 92 Stat. 1726, 49 U.S.C. 1324, 1378, 1386.

§ 299.1 [Amended]

2. In § 299.1, paragraph (b) is removed.

§ 299.2 [Removed]

3. Section 299.2 is removed.

4. Section 299.3 is revised to read:

§ 299.3 Exemption.

All persons are hereby exempted from section 408 (a)(2) and (a)(3) of the Act for any purchase, lease, or lease with purchase option of aircraft.

5. In § 299.5, paragraph (c) is revised, as follows:

§299.5 Effect of exemption.

* * * * *

(c) This rule does not affect any duty that a person may have under section 412 with respect to a purchase, lease, or lease with purchase option of aircraft that is contained in an agreement on file and approved by the Board, or under the provisions of section 408 other than those described in § 299.3.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–1556 Filed 1–17–83; 4:00 pm]

BILLING CODE 6320–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Ch. VII

Availability of Final Supplemental Environmental Impact Statement to OSM–EIS–1

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Rule related notice; availability of final supplemental environmental impact statement (EIS).

SUMMARY: The Office of Surface Mining (OSM) is making available a final supplement to OSM–EIS–1 on proposed revisions to the permanent program regulations implementing section 501(b) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, that may or would significantly affect the quality of the human environment or that may or would result in impacts over which public controversy exists.

DATE: Agency waiting period ends 30 days from publication by the Environmental Protection Agency (EPA) of notice of filing of this EIS.

ADDRESSES: Copies of the final supplemental EIS are available for inspection or may be obtained at the following OSM offices:

Administrative Record, Room 5315, Office of Surface Mining, 1100 L Street, NW., Washington, D.C.

Branch of Environmental Analysis, Room 134, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240, (telephone, 202–343–5854).

Technical Center East, Room 54, Office of Surface Mining, U.S. Department of the Interior, Ten Parkway Center, Pittsburgh, PA 15220 (telephone, 412–937–2897).

Technical Center West, Library, Office of Surface Mining, U.S. Department of the Interior, Brooks Towers, 1020 15th Street, Denver, CO 80202 (telephone, 303–837–5656).

FOR FURTHER INFORMATION CONTACT: Dr. Mark Boster, Chief, Branch of Environmental Analysis, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240 (telephone, 202–343–5854).

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act of 1969, OSM has prepared this final supplement to OSM–EIS–1 in three volumes as follows:

Volume I—Analysis and responses to public comments.

Volume II—Public comments.

Volume III—Draft of final regulations.

The five alternative actions discussed in this final supplemental EIS are to adopt—

A. Draft final regulations;

B. No action/minimum action regulations;

C. Other OSM proposed regulations;

D. All or some modifications that diminish adverse environmental impacts;

E. All or some modifications that diminish the regulatory burden.

A notice of availability of the draft supplemental EIS was published in the **Federal Register** on June 18, 1982 (47 FR 26405).

Public hearings on the draft supplemental EIS were held on July 27, 28, 29, 30, and August 2, 1982, in Pittsburgh, Pa., Indianapolis, Ind., Lexington, Ky., Denver, Colo., and Washington, D.C., respectively.

Comments received during these hearings and the comment period, which ended August 25, 1982, and was extended to September 10, 1982, were considered in preparation of this final supplement, which analyzed the draft of the final regulations.

Pursuant to the Council on Environmental Quality's regulations (40 CFR 1506.10), the Department's decision on adoption of an action will not be made until 30 days after publication by EPA of a notice that this final supplemental EIS has been filed.

Dated: January 14, 1983.

J. Steven Griles,
Acting Director, Office of Surface Mining.

[FR Doc. 83-1886 Filed 1-19-83; 8:45 am]
BILLING CODE 4310-05-M

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30 CFR Part 950

Disapproval of Amendment to the Wyoming Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document disapproves a proposed revision to the Wyoming State program consisting of a change in Wyoming Statute 35-11-406(b)(xx) to allow approval of alternatives by the State to State regulations without review by the Secretary of the Department of the Interior.

The amendment is disapproved because pending and completed revsions to the Federal regulations negate the need for it and the amendment exceeds the limit of State program flexibility established in section 503(a)(7) of the Surface Mining Control and Reclamation Act.

EFFECTIVE DATE: The disapproval of this proposed program amendment is effective September 30, 1983.

FOR FURTHER INFORMATION CONTACT: William B. Schmidt, Assistant Director, Program Operations and Inspection, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION:

A. Background on the Wyoming Program Submission

On August 15, 1979, OSM received a proposed regulatory program from the State of Wyoming. Following a review of that proposed program as outlined in 30 CFR Part 732, the Secretary determined that certain parts of the Wyoming program met the minimum requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the Federal permanent regulations and that others did not. Accordingly, the Secretary approved the Wyoming program in part on February 15, 1980. The State of Wyoming resubmitted its program for approval on May 30, 1980. Following a review of the resubmitted program, the Secretary approved the program subject to the correction of seven minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 26, 1980, **Federal Register** (45 FR 78637-78684).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Wyoming program can be found in the November 26, 1980 **Federal Register** (45 FR 78637-78684).

B. Program Amendment Background

On September 29, 1980, OSM received from the State of Wyoming, notice of a proposed revision to the State program consisting of a change in Wyoming Statute 36-11-406(b)(xx) to allow approval of alternatives to State regulations. The proposed revision was submitted formally as an amendment under 30 CFR 732.17 on February 27, 1981. OSM published a notice in the **Federal Register** on September 9, 1981, announcing receipt of this provision and others, and inviting public comment on whether the Secretary should approve the proposed amendments to the State program (46 FR 44995-44998). The public comment period ended October 6, 1981. A public hearing scheduled October 6, 1981, was not held because no one expressed a desire to present testimony. On February 18, 1982, OSM published a notice in the **Federal Register** which, among other things, deferred action on the amendment to allow alternatives to State regulations (47 FR 7218-7220). In a letter dated April 26, 1982, from Governor Herschler of Wyoming to the Secretary, the State requested a final decision on the proposed amendment. The proposed amendment is as follows:

35-11-406. Application for permit; generally; denial; limitations. (b) The application shall include a mining plan and reclamation plan dealing with the extent to which the mining operation will disturb or change the lands to be affected, the proposed future use or uses and the plan whereby the operator will reclaim the affected lands to the proposed future use or uses. The mining plan and reclamation plan shall be consistent with the objectives and purposes of this act and of the rules and regulations promulgated. The mining plan and reclamation plan shall include the following:

(xx) For surface coal mining operations, a request for approval of any alternatives which may be proposed to the provisions of the regulations promulgated by the council. For each alternative provision the applicant shall:

(A) Identify the provision in the regulations promulgated by the council for which the alternative is requested;

(B) Describe the alternative proposed and provide an explanation including the submission of data, analysis and information in order to demonstrate that the alternative is in accordance with the application provisions of the act and consistent with the regulations promulgated by the council. In addition, the applicant shall demonstrate that the proposed alternative is necessary because of local requirements or local environmental or agricultural conditions.

C. Secretary's Finding

The Secretary disapproves the proposed amendment for two reasons. First, the Secretary believes that under Section 503(a)(7) of SMCRA, in order for its regulatory program to be approved, a State must demonstrate that it has rules "consistent with regulations issued by the Secretary" under SMCRA. Similar consistency is required by Section 505(a) of SMCRA for State rules which may become effective any time thereafter.

The limit to State flexibility inherent in the concept of consistency with the Federal regulations is described somewhat in the legislative history of SMCRA. Congress expected Federal regulations to implement the general provisions of SMCRA in more detailed fashion. H.R. Rep. No. 95-218, 95th Cong., 1st Sess. 85 (1977). It also expected that a State, in order to have its program approved, would have to specifically demonstrate that its regulations are consistent with all the nationwide Federal regulations:

> The State program must specifically show that the State has a law providing for the regulation of surface mining and reclamation in accordance with all provisions of the Act and subsequent regulations. S. Rep. No. 95-128, 95th Cong., 1st Sess. 195 (1975); S. Rep. No. 29, 94th Cong., 1st Sess. 203 (1975).

The Secretary believes that under the Act and the legislative history, he

should conduct a detailed review of each individual provision of a State program. Under Wyoming's proposal, the Secretary would not be able to review all proposed State provisions since they could be varied site-by-site. He therefore would find it difficult to determine that the State had specifically demonstrated that its program met all the Federal regulations.

Second, the Secretary understands that there was a clear need for flexibility such as Wyoming's proposed amendment when it was passed by the State in 1980. Many States had complained that the existing regulations were not sufficiently flexible to respond to the particular needs of the individual States and that the existing regulations in many instances were burdensome, counterproductive and did not account for differences among the coal-producing regions of the nation.

To remedy the situation, OSM began two actions. The first was to amend the standard for approval of State programs. Under the amended standard, which became effective on November 27, 1981, State laws and regulations must be "no less effective than" the Secretary's regulations in meeting the requirements of the Act. This amendment was designed to introduce sufficient flexibility to respond to the particular needs of the individual States while retaining the Federal regulations as the benchmark for evaluation of State proposals. This flexibility was not available at the time Wyoming developed and submitted its proposal. The amendment was upheld on September 17, 1982, by the U.S. District Court for the District of Columbia in a case entitled *Sierra Club v. Watt*, Civil Action No. 81–315 F (D.D.C. September 16, 1982).

The second action OSM undertook has been a major effort to revise the Federal regulations contained in 30 CFR Chapter VII in order to make the regulations more flexible and less burdensome while still implementing the standards and requirements of SMCRA. In its effort, OSM is giving full consideration to allowing additional flexibility in terms of site-by-site considerations and variations in each standard. The current Federal regulations tend to prescribe specific practices and design criteria for mining and reclamation. The proposed revisions would offer additional flexibility by replacing many of these specific practices and design criteria, with performance standards sufficiently flexible to meet the needs of specific sites. The revised Federal regulations, however, will retain design criteria and other specific standards where difficulty in fashioning enforceable performance standards effectively precludes their use, and where SMCRA requires them. OSM expects to finalize these regulation changes in the near future so that they will become effective early in 1983.

In summary, the Federal regulations with which State programs are compared have been and are being significantly revised, and the standard of comparison by which State programs are evaluated already has been modified. Through these actions, the Secretary believes he has negated the need for the Wyoming proposal.

The Secretary believes the best course for Wyoming, and other States which opt for more flexible State programs, is to amend their State programs to incorporate as many of the revised Federal provisions as desired. The States may also take advantage of the increased flexibility under the revised standard for approval of State programs to develop alternative provisions to meet their unique circumstances.

OSM will work with Wyoming to amend its State program to remove burdensome provisions and to incorporate requirements that respond to the unique needs of the State.

As the regulatory reform effort cited above has not yet been completed by the OSM, the Secretary has delayed the effective date of this final rule until September 30, 1983. Through this action, the State of Wyoming will be afforded ample time to analyze and adopt the additional flexibility in the Wyoming State program through utilization of both the "no less effective than" standard and the revised Federal rules. The effective date of September 30, 1983, will also preserve the State's and commenter's rights to take legal action challenging this decision. That is, the 60-day period for judicial challenge under section 526(a)(1) of SMCRA would begin on September 30, 1983

With its proposed amendment, Wyoming submitted three alternative provisions as examples of how the proposed amendment would have been used if it were being approved. The first example concerns existing State regulations establishing time and distance limits for rough backfilling. Wyoming indicates that State rules require rough backfilling to follow coal removal with 180 days and that additional time may be approved where the applicant demonstrates, on the basis of mining conditions, that additional time is necessary. The example states that an operator may want to mine an intermittent drainage out of his logical mining sequence (running the cut with the drainage) so that he can restore the drainage and divert the runoff back through the drainage much earlier than if he had continued to run cuts perpendicular to the drainage. In that case, he may want to apply for an alternative backfilling plan which would not require him to attain the required backfilling until the mining (perpendicular cuts) had move through the area. Otherwise, if he were to attain backfilling, he would probably end up reaffecting the margins of the cut which paralleled the drainage by subsequent perpendicular cuts.

The State notes that any departure from the 180-day time period could not be approved because it is not due to mining conditions. They point out that under the State's proposed amendment, the operator could apply to have an alternative backfilling procedure approved based on environmental need to mine and restore the drainage as quickly as possible.

The Secretary does not see the need for the proposed amendment in order for the State to allow an extension of time for backfilling in the situation described in the example. There are several methods available to the State to deal effectively with this case. First, the Secretary interprets the condition described to be a mining condition for which the operator would be eligible for additional time under the existing State rule. Second, the existing Federal regulations at 30 CFR 816.101(a) differ from the State rule in that they provide for the approval of additional time on the basis simply that it is necessary. Therefore, the State could amend its program to incorporate the flexibility in the existing Federal regulations. Third, it is OSM's intention to revise the Federal regulations to a more general requirement that reclamation efforts, including backfilling and grading, shall occur as contemporaneously as practicable with mining. The State could amend its program to incorporate the revised standard when it becomes effective. In any event, the State has three alternative means of solving the problem in this example without use of its proposed program amendment.

In the second example, Wyoming cites State regulation requirements that permanent impoundments must be authorized in accordance with requirements for an alternative land use. They state that an operator often wants to reestablish stockwater ponds or irrigation ponds that will be destroyed by mining. Because of the agricultural and wildlife value of these ponds, operators may want to pursue the alternative that these type permanent

impoundments do not constitute an alternative land use.

Under the Federal regulations the return of stockwater ponds or irrigation ponds that will be destroyed by mining does not constitute a land use change. Neither could the construction of a new permanent impoundment that is consistent with the current land use be construed as causing a land use change. The existing regulations would allow the State to approve the type of permanent impoundments described in the examples.

In the third example Wyoming suggests the need for a variance to State requirements that runoff from affected lands must be treated prior to leaving the affected lands, generally by sedimentation ponds. The State indicates that, for a particular site, the required treatment could detain runoff sufficient to impact downstream water rights and the operator may not receive an appropriation for his proposed sediment pond. Because of this local requirement, the operator would pursue an alternative to the performance standard that waters leaving the permit area must meet effluent standards and not degrade the receiving waters. In the example the operator proposes that an irrigation structure downstream and outside the permit area would function as a treatment device for waters further down the stream. Wyoming contends that the proposed amendment could be used to approve the alternative.

In this example the variance being considered is an alternative to the requirements of SMCRA Section 515(b)(10) (B)(i) that provide for the conduct of surface coal mining and reclamation operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, *or runoff outside the permit area*, but in no event shall contributions be in excess of requirements set by applicable State or Federal law. The latter would involve the Clean Water Act. As such, the type of variance considered in the example is not acceptable since it would involve an impermissible variance from requirements of SMCRA and the Clean Water Act. None of the efforts OSM is undertaking to provide additional flexibility lessen the requirement to comply with all provisions of SMCRA and other State and Federal laws. The Secretary understands that the circumstances described in the example may exist in Wyoming and other western States. However, SMCRA precludes mining in situations where all requirements of the Act cannot be met.

A solution to the situation described in the example may be for the applicant to permit the stream and the downstream structure so that treatment is applied within the permit area. Also, OSM is currently beginning a study to determine if any means other than sediment ponds might qualify as best technology currently available to prevent contributions of suspended solids to streamflow or runoff outside the permit area.

D. Public Comments

1. Three commenters objected to Wyoming's proposed amendment, claiming that it amounts to a general variance from SMCRA, which notion Congress and the courts have rejected. Further, the commenters disagreed with Wyoming's argument that 30 CFR 731.13 (since repealed) authorizes this amendment. They stated that SMCRA section 201(c) provides variances for State programs, not for individual operators. The Secretary is disapproving the proposed amendment for the reasons stated above under *Secretary's Finding.*

2. The U.S. Geological Survey suggested adding a paragraph to the proposed amendment which would defer to the Secretary the approval by the State of any alternatives for surface coal mining operations on Federal lands which impact on the Secretary's responsibilities under the Mineral Leasing Act of 1920, as amended. For the reasons set forth in the section above, the Secretary has disapproved this provision and therefore there will be no alternatives under consideration.

Additional Determinations

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), this rule is not a major Federal action. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, this rule is exempt from the requirements of an Environmental Assessment, EIS or FONSI.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 6, 1982.

J. R. Harris,
Director, Office of Surface Mining.

[FR Doc. 83–1504 Filed 1–19–83; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

33 CFR Part 52

49 CFR Part 1

[OST Docket No. 72]

Requests for Correction of Coast Guard Military Records

AGENCY: Board for Correction of Military Records, Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This rule permits the Board for Correction of Military Records to take final action, on behalf of the Secretary, in certain categories of cases. The rule also establishes the categories of cases on which final action has to be taken by the Secretary. The rule will reduce the time necessary to process several categories of requests for correction of Coast Guard military records.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: William T. Underwood, Chairman, Board for Correction of Military Records, U.S. Department of Transportation, 400 Seventh Street, SW., Room 9414, Washington, D.C. 20590. (202) 755–8750.

SUPPLEMENTARY INFORMATION: The Department of Transportation's Board for Correction of Military Records (Board), established under 10 U.S.C. 1552, considers applications by present and former members of the Coast Guard and Coast Guard Reserve to correct their military records. Applications for the correction of military records include a wide variety of matters, such as requests for the upgrade of discharges, correction of officers' fitness reports, changes in reenlistment codes, and assignment or modification of disability ratings for disability retirement purposes.

Applications for the correction of a military record are administratively processed by the Board's staff. The Chairman may informally deny an application pursuant to 33 CFR 52.15–5. Applications which are not informally denied by the Chairman, pursuant to 33 CFR 52.15–5, are referred to a three-member Board, drawn from a precept of civilian attorneys who work for the Department of Transportation, for a formal decision. Requests for reconsideration of informal denials and requests for reconsideration of formal Board decisions approved by the General Counsel are also considered by a three-member Board. After the Board members sign a formal decision, other than a denial of a request for

reconsideration of an informal denial, it is transmitted to the Office of the General Counsel for review. The General Counsel has been delegated the Secretary's authority to take final action on requests for the correction of military records (see 49 CFR 1.57(e)).

This rule is concerned with the above authority to take final action. The rule identifies a series of Board actions which, if taken unanimously by all three members of a Board, are not transmitted to the General Counsel for review. In these cases, the action of the Board itself is administratively final. The purpose of the change is to speed the processing of routine and uncontroversial cases by eliminating an extra layer of review.

All unanimous Board decisions to grant relief, in matters falling into the categories identified in § 52.35–15(a)(2), are made administratively final by the Board, unless the Chief Counsel of the Coast Guard states that the application raises a significant issue of Coast Guard policy. A unanimous Board may approve any other application, as long as the Coast Guard recommends relief. A unanimous Board may also deny any application. All other Board actions are still referred to the Office of the General Counsel for final action. A technical conforming amendment is also made, in this final rule, to 49 CFR 1.57(e) to make that delegation of authority consistent with this change to 33 CFR Part 52.

A notice of proposed rulemaking was published on September 20, 1982. Comments from the public were solicited by the notice; however, no comments were received.

This rule is not a major rule within the meaning of Executive Order 12291 or a significant rule under the Department of Transportation's Regulatory Policies and Procedures. This rule relates to agency management and personnel and, therefore, it may be made effective in fewer than thirty days after publication in the **Federal Register**.

Since this rule only applies to individual Coast Guard personnel, under the criteria of the Regulatory Flexibility Act, the Department certifies that this rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects

33 CFR Part 52

Military personnel.

49 CFR Part 1

Authority delegations (Government Agencies), Organization and functions (Government Agencies)

TITLE 33—[AMENDED]

PART 52—[AMENDED]

Accordingly, 33 CFR 52.35–15, "Action of the Secretary," is revised and reads as follows:

§ 52.35–15 Final action.

(a) Final Action by the Board. The Board may take final action on behalf of the Secretary, under 10 U.S.C. 1552, as follows, provided that the Board acts unanimously:

(1) The Board may deny any application for the correction of military records.

(2) The Board may approve an application for the correction of military records in one of the following categories, unless the Chief Counsel of the Coast Guard, in submitting the views of the Coast Guard under § 52.45–5(c), states that the application involves a significant issue of Coast Guard policy:

(i) An application to correct an enlistment or reenlistment contract or agreement to extend an enlistment for the purpose of effecting or increasing entitlement to a Selective Reenlistment Bonus;

(ii) An application to modify an election to participate in the Survivor Benefit Plan;

(iii) An application to change a reenlistment eligibility code;

(iv) An application to correct the character of or reason for a discharge or separation.

(3) The Board may approve any application for the correction of military records not falling into one of the categories in paragraph (a)(2) of this section, provided that the Chief Counsel of the Coast Guard recommends relief. The Board may not take final action under this subsection if the Chief Counsel recommends relief substantially different from that requested by the applicant.

(b) *Final Action by the Secretary.* Except in cases where the Board takes final action under paragraph (a) of this section, the Board shall forward the record of its proceedings to the Secretary for approval, disapproval, or return for additional consideration. After taking final action, the Secretary returns the record to the Board for disposition.

TITLE 49—[AMENDED]

PART 1—[AMENDED]

In addition, 49 CFR 1.57 is amended by revising paragraph (e) to read as follows:

§ 1.57 Delegations to General Counsel.

* * * * *

(e) Review and take final action on referrals of the findings of the Board for Correction of Military Records of the Coast Guard (except with respect to those matters on which the Secretary's authority to take final action is exercised by the Board pursuant to 33 CFR 52.35–15) and the Coast Guard Discharge Review Board.

* * * * *

(10 U.S.C. 1552; 49 U.S.C. 1655(b))

Issued at Washington, D.C. on January 10, 1983.

Andrew L. Lewis,

Secretary of Transportation.

[FR Doc. 83–1245 Filed 1–19–83; 8:45 am]

BILLING CODE 4910–62–M

POSTAL SERVICE

39 CFR Part 447

Code of Ethical Conduct; Filing of Confidential Statements

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service amends its conflict of interest regulations to require that all employees in the Postal Career Executive Service file Confidential Statements of Employment and Financial Interests, unless they are required by the Ethics in Government Act to file a public financial disclosure report. The Postal Service also deletes a requirement, now rendered inappropriate by the general increase in salary levels, that all employees receiving a basic salary of $30,000 a year or more file confidential statements. The Service also amends its regulations to permit an employee representing the Postal Service to accept commemorative items of reasonable value presented in the course of public events, such as a convention. Other minor or editorial changes in the regulations are also made.

EFFECTIVE DATE: February 21, 1983.

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley (202) 245–4584.

SUPPLEMENTARY INFORMATION: This action amends the Code of Ethical Conduct for Postal Employees in several respects. The principal changes are to Subpart D which governs the submission of financial disclosure statements by postal employees who occupy positions having duties which may affect private financial interests. Postal employees in these positions file either the public Financial Disclosure Report required by the Ethics in Government Act (Pub. L. 95–521) or the Confidential Statement of Employment and Financial Interests which is required generally within the Executive Branch by

Executive Order 11222, as made applicable to the Postal Service by Executive Order 11590.

By the terms of the Code of Ethical Conduct, postal employees in level 24 of the Executive and Administrative Salary Schedule (EAS–24) or higher levels are to file a confidential statement if their duties involve contracting with or auditing non-postal enterprises or involve responsibilities, such as the design of postal rates or the approval of claims, which may have an economic impact on private interests.

Since 1974, when the present Code was adopted, it has also required the filing of confidential statements by all employees, receiving a basic annual salary of $30,000 or more. In 1974, this salary level identified key executive and management positions. Due to inflation and resultant increases in wage levels throughout the ecomomy, however, it no longer serves this purpose. Experience, moreover, suggests that any specific salary figure would similarly be overtaken by changes in wage levels. Accordingly, the Postal Service will no longer use a salary level expressed in dollars as a basis for requiring the filing of confidential statements, but instead will require that they be filed by all employees in the Postal Career Executive Service (PCES).

The PCES consists of all of the Officers (see 39 CFR 221.7) and most of the senior executives of the Postal Service, including the postmasters of more than 200 major post offices and executives holding responsible positions in national and regional headquarters and in the Postal Inspection Service. While most, if not all, of these executives occupy positions otherwise required to file these statements on the basis of their duties, as described above, we think it a convenient simplification of the task of identifying relevant positions to make the requirement generally applicable to PCES executives.

A second, related change relieves those senior postal employees who file the more comprehensive public Financial Disclosure Report of the duty also to file the confidential statement.

The existing sections of Subpart D have been renumbered as § 447.41(a)—(h) to permit the convenient adoption in the near future of a parallel section governing the filing of the public Financial Disclosure Reports noted above. Other minor or editorial changes have also been made in these sections.

One other section of the Code is also being amended at this time. Section 447.24 relates to the acceptance of gifts and entertainment from persons having business dealings with, or financial interests which may be affected by the Postal Service. Following Executive Order 11222, § 447.24(b) of the Code permits the acceptance of gifts of limited value, or what might be considered gifts, under circumstances in which the integrity of the Postal Service is adequately safeguarded. We are amending § 447.24(b) to permit the acceptance of publicly-offered commemorative items of reasonable value by persons who represent the Postal Service at public events such as a convention or conference. This change is intended, for example, to permit a postal executive who represents the Postal Service as a guest speaker at a convention of a trade association or employee organization to accept a memento or souvenir which is presented to him or her in an open session of the convention. Such a gift typically has no great value and may bear an inscription of the event and often the speaker's name so that it cannot effectively be returned. To refuse or return the item is sometimes embarrassing, often awkward and, we think, unnecessary for the protection of the integrity of the Postal Service. We consider, moreover, that the requirement that the item be publicly presented serves as a substantial protection, if additional protection is needed, against the possible abuse of the provision. We are also deleting from this section an existing reference to inaugural flights.

A further amendment to § 447.24(f) relating to Postal Service implementation of the Foreign Gifts and Decorations Act (5 U.S.C. 7342, as amended), incorporates by reference Postal Service Headquarters Circular 80–11 which provides detailed instructions for compliance with the Act.

These amendments have been reviewed and approved by the Office of Personnel Management, as required by Executive Order 11222 and 5 CFR 735.104.

Accordingly, 39 CFR is amended as follows:

List of Subjects in 39 CFR Part 447

Conflict of interests, Government employees, Postal Service.

PART 447—CODE OF ETHICAL CONDUCT FOR POSTAL EMPLOYEES

1. In § 447.24, paragraph (b)(5) and paragraph (f) are revised to read as follows:

§ 447.24 Conflicts of interests—gifts, entertainments, and favors.

* * * * *

(b) * * *

(5) Participate as an authorized representative of the Postal Service in a public event such as a convention or conference and accept without payment transportation or meals which are an integral part of the event or commemorative items of reasonable value which are publicly presented in the course of the event.

* * * * *

(f) No employee shall accept a gift, present, decoration, or any other thing from a foreign government unless authorized in accordance with section 7342 of title 5, United States Code. See USPS Headquarters Circular 80–11 for instructions on the implementation of this statute.

* * * * *

2. In Part 447, revise Subpart D to read as follows:

Subpart D—Reports of Employment and Financial Interests

§ 447.41 Confidential statements.

(a) *Employees required to file statements.*

(1) Each employee who is in one or more of the following categories, (other than a special employee or one required by Public Law 95–521, the Ethics in Government Act, to file a Financial Disclosure Report for Executive Branch Personnel (Standard Form 278)) shall file a Confidential Statement of Employment and Financial Interests (Postal Service Form 2417):

(i) Each employee who is a member of the Postal Career Executive Service.

(ii) Each employee who is in pay grade EAS–24 or a comparable or higher pay grade whose basic duties and responsibilities require the employee to make or recommend a decision, or take or recommend official action, in regard to—

(A) Contracting or procurement. For the purpose of this section contracting or procurement includes all functions that pertain to the authorization, award, or administration of contracts with non-Postal Service entities.

(B) Auditing enterprises other than the Postal Service, including the supervision of auditors engaged in audit activities or the participation in the development of policies and procedures for performing such audits.

(C) Activities in which the decision may have an economic impact on the interests of any enterprise other than the Postal Service, including the design and maintenance of the Postal Service rate structure, the selection of carriers for the transportation of mail, the selection of sites for postal facilities, and the recommending or approval of claims of any person against the Postal Service or any such claims by the Postal Service against any person.

(2) An employee temporarily performing the duties of a position which meets the criteria in paragraph (a)(1) of this section shall also be subject to the filing requirement in this section if he performs those duties for more than 60 calendar days.

(3) Determination as to whether an employee is in one or more of the categories set forth in paragraphs (a) (1) and (2) of this section and is therefore required to submit a Confidential Statement of Employment and Financial Interests shall be made by the employee's Associate Ethical Conduct Officer in consultation with the Ethical Conduct Officer.

(4) With the prior approval of the Office of Government Ethics, an employee in pay grade EAS–23, or a comparable or lower pay grade, who is in a position which otherwise meets the criteria of paragraph (a)(1)(ii) of this section, shall submit a Statement when it is essential to protect the integrity of the Postal Service and to avoid employee involvement in possible conflict-of-interest situations. Associate Ethical Conduct Officers may recommend to the Ethical Conduct Officer, with full justification in writing, that the approval of the Office be sought with respect to specific positions.

(5) Each special employee, regardless of the rate of compensation received, if any, shall submit a Confidential Statement of Employment and Financial Interests (For Use By Special Government Employees) (Postal Service Form 2418). The Ethical Conduct Officer, however, may waive the requirement for the submission of a statement by a special employee, other than a consultant or an expert, when he finds, either by general regulation or in a specific instance that the duties of the position held by that special employee are of a nature and are at such a level of responsibility that the submission of the statement is not necessary to protect the integrity of the Postal Service.

(6) An employee who believes that his position has been improperly included as one required to submit a statement in accordance with this subpart may obtain review of his complaint to that effect through the grievance procedure provided by collective bargaining agreement or Postal Service regulations, as applicable.

(b) *Persons to whom statements should be submitted.*

(1) Employees required to submit statements who are within the jurisdiction of a District Manager shall submit their statements to the District Manager. District Managers shall review the statements, after which they will forward the statements directly to their Associate Ethical Conduct Officer with any recommendations for action in accordance with paragraph (h) of this section.

(2) Associate Ethical Conduct Officers required to submit confidential statements shall submit them to the Ethical Conduct Officer.

(3) All other employees shall submit their statements directly to their Associate Ethical Conduct Officers.

(c) *Time for submission of statements.*

(1) An employee required to file a Statement shall submit that Statement no later than 30 days after he first becomes subject to the reporting requirements.

(2) Changes in, or additions to, the information contained in an employee's Statement shall be reported in a supplementary Statement, in the format prescribed by the Ethical Conduct Officer, as of June 30 each year. If no changes or additions occur, a report to that effect is required.

(3) In addition to filing the Statement required by this subpart, each employee shall, at all times, avoid acquiring a financial interest, or taking any action that could result, in a violation of the conflicts of interest provisions of this part, and in particular § 447.22(b)(7) which generally prohibits acting officially in any matter in which he or she has a personal financial interest.

(d) *Confidentiality and retention of statements.*

(1) Statements and Supplementary Statements shall be held in confidence and may not be disclosed to anyone other than the Postmaster General, the Ethical Conduct Officer, the employee's Associate Ethical Conduct Officer, or their designees, without express written approval of the Ethical Conduct Officer. The Statements and Supplementary Statements shall be retained under appropriate security by the Associate Ethical Conduct Officer except as may be otherwise directed by the Ethical Conduct Officer. When Statements are transmitted, they shall be enclosed in opaque inner and outer envelopes. The inner envelope shall be sealed and plainly marked "Restricted Information To Be Opened Only by Authorized Reviewer" and addressed to the authorized reviewer. The outer envelope shall also be sealed and addressed, but shall bear no legend indicating the contents. Employees, when transmitting their Statements and Supplementary Statements, are authorized to use this double envelope procedure.

(2) Statements and Supplementary Statements do not require that amounts be shown. An authorized reviewer, however, may require disclosure if he deems it essential to making a determination as to whether a conflict of interest, or appearance of a conflict, exists.

(3) The Statement and any Supplementary Statements submitted by an employee or special employee shall be destroyed two years after the employee leaves the Postal Service, or two years after he ceases to occupy a position for which the submission of a Statement is required, whichever is earlier.

(e) *Information not known by employees.* If any information required to be included in a Statement or Supplementary Statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit the information in his behalf, except when the trust is a blind, no-control trust, in which case a copy of the trust shall be submitted for review. Failure by the other person or trustee to furnish the needed information shall not constitute a violation by the employee of this provision if he certifies that he made a bona fide effort to have the information submitted and it was refused.

(f) *Information not required.* This section does not require an employee to submit any information relating to his connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. Savings accounts in credit unions, loan associations or banks, savings certificates and interests in mutual funds are not interests in "business enterprises." For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Postal Service are "business enterprises" and are required to be included in an employee's statement.

(g) *Exclusions.* An employee who is otherwise required to file a statement under § 447.41(a) may be relieved of the reporting requirement if the Ethical Conduct Officer determines that:

(1) His duties are such that the likelihood of his involvement in a conflict of interest situation is remote; or

(2) The duties of the position are at such a level of responsibility that the submission of a Statement is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect of the position on the integrity of the Government.

(h) *Reviewing statements and remedial action.* Associate Ethical Conduct Officers shall review all Statements received by them whether submitted to them directly or forwarded by District Managers. Whenever the employee's Statement reveals a possible conflict of interest or appearance of a conflict of interest, appropriate action shall be taken pursuant to § 447.32.

(39 U.S.C. 401 and E.O. 11222, as amended by E.O. 11590)

W. Allen Sanders,

Associate General Counsel.

[FR Doc. 83-1891 Filed 1-19-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50 and 58

[AH-FRL 2215-4]

National Ambient Air Quality Measurement Methodology; Ambient Air Quality Surveillance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Current EPA regulations in 40 CFR Parts 50 and 58 require that pollutant concentration standards used to calibrate and audit air monitoring instruments be traceable to National Bureau of Standards (NBS) Standard Reference Materials (SRM's). This requirement has created a substantial demand for SRM's which NBS has found difficult to fulfill in a timely manner.

To help alleviate this problem, NBS and EPA have jointly established a program to allow gas manufacturers to produce and sell high quality gas standards called Certified Reference Materials (CRM). These CRM's are prepared and certified according to NBS/EPA CRM procedures (described in EPA publication No. EPA-600/7-81-010), and they are considered equivalent to SRM's for purposes of establishing traceability of working standards used for calibrations and audits. These amendments revised appropriate paragraphs of Parts 50 and 58 to specifically allow CRM's in lieu of SRM's for those purposes. Also, the term "traceable" is formally defined to specify that not more than one intermediate standard may be used in certifying a working standard against an SRM or CRM.

DATE: This action becomes effective February 22, 1983.

ADDRESS: Docket No. A-81-35, containing the public comments received by EPA and other information pertinent to this action is located at the U.S. Environmental Protection Agency, Central Docket Section (A-130), West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. This docket may be inspected at this address between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Darryl J. von Lehmden, Senior Scientific Advisor (MD-77), Quality Assurance Division, Environmental Monitoring Systems Laboratory, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-2415.

SUPPLEMENTARY INFORMATION: These amendments were proposed for public comment in the January 14, 1982 issue of the **Federal Register** (47 FR 2127). EPA received comments from 12 commenters representing industrial or commercial organizations (8) and government agencies (4). Eleven of the commenters supported the amendments, agreeing with EPA that the proposed changes will help to relieve the demand on NBS for SRM's, make primary standards less expensive and more readily available, and cause no significant loss of accuracy.

One commenter suggested that permeation devices should be considered for approval as CRM's. However, at the present time, the necessary test and comparison techniques and protocol have been developed only for cylinder gas standards. Hence, no permeation device CRM's will be available initially. If procedures are eventually developed for permeation devices and such devices can be shown to meet the necessary requirements, then permeation device CRM's will become available in the future.

Another commenter recommended a formal mechanism for notifying CRM users in the event that a defect or problem is discovered in a particular batch of CRM's. This comment applies to the CRM approval protocol and not to the monitoring regulations, so no changes were made to the amendments as proposed. However, the suggestion is a good one, and such a notification requirement will be considered for subsequent incorporation into the EPA/NBS CRM protocol.

A third comment indicated that two sentences that were deleted from Section 2.3.1.2 of Appendix F of Part 50 should be retained. The first sentence was a reminder that local NO standard cylinders should be recertified on a regular basis. EPA agrees that such a reminder is appropriate in this section, and the original sentence has been restored. The other sentence indicated that a procedure for determining the amount of NO_2 impurity in an NO cylinder was given in Reference 13. This sentence had been simply relocated to Section 2.3.1, which appears to be a more appropriate place for it.

An objection to the proposed definition of "traceable" was raised by one commenter, who believed that allowing working standards to be traceable to an SRM or CRM via an intermediate local primary standard was inadvisable because of the potential errors that may exist in local standards. An alternative definition was proposed, allowing only direct certification against an SRM, CRM, or other *USEPA*-approved standard. The wording of the suggested alternative definition was simpler and clearer than that of the proposed definition, but EPA still believes that one intermediate standard should be permitted to allow for possible situations where direct comparison to an SRM or CRM is not practical. However, the proposed allowance for an alternative certification approved by the Administrator or Regional Administrator was deleted. The definition has been revised to incorporate this change and the clearer language, and also to more correctly define traceable as an adjective.

A final comment suggested that permeation devices should not be allowed to be traceable to a CRM because some commercial permeation devices have been inaccurately assayed by their manufacturer, and allowing traceability to CRM's rather than SRM's would only increase the errors. EPA rejected this comment, however, for two reasons. First, the rigid requirements for CRM's should not cause any significant decrease in accuracy compared to SRM's. Second, observed inaccuracies in some commercially-assayed permeation devices is not the fault of the primary standard and should not prevent other manufacturers or users from assaying their permeation devices against CRM's.

As discussed above, the amendments have been modified slightly and are now ready for final promulgation.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. This rule is not a major regulation because it will result in no

increased costs to state and local air monitoring agencies.

This rule has been exempt from review under Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This rule will impose no new regulatory requirements; it will merely revise existing air monitoring regulations to specifically allow the use of commercially available Certified Reference Materials in lieu of Standard Reference Materials to establish the traceability of pollutant concentration standards used to calibrate and audit air monitoring instruments.

List of Subjects

40 CFR Part 50

Air pollution control, Carbon monoxide, Ozone, Sulfur oxides, Particulate matter, Nitrogen dioxide, Lead.

40 CFR Part 58

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Pollutants standard index, Ambient air quality monitoring network.

Dated: January 13, 1983.

Anne M. Gorsuch,

Administrator.

Chapter I, Title 40, Parts 50 and 58 are amended as follows:

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

1. By amending § 50.1 to include an additional definition to read as follows:

§ 50.1 Definitions.

* * * * *

(h) "Traceable" means that a local standard has been compared and certified either directly or via not more than one intermediate standard, to a primary standard such as a National Bureau of Standards Standard Reference Material (NBS SRM), or a USEPA/NBS-approved Certified Reference Material (CRM).

Appendix F—[Amended]

2. By revising paragraphs 1.3.1, 2.3.1, 2.3.1.1 and 2.3.1.2 in the *Calibration* section of Appendix F, "Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence)," to read as follows:

Calibration

* * * * *

1.3.1 NO concentration standard. Gas cylinder standard containing 50 to 100 ppm NO in N_2 with less than 1 ppm NO_2. This standard must be traceable to a National Bureau of Standards (NBS) NO in N_2 Standard Reference Material (SRM 1683 or SRM 1684), an NBS NO_2 Standard Reference Material (SRM 1629), or an NBS/EPA-approved commercially available Certified Reference Material (CRM). CRM's are described in Reference 14, and a list of CRM sources is available from the address shown for Reference 14. A recommended protocol for certifying NO gas cylinders against either an NO SRM or CRM is given in section 2.0.7 of Reference 15. Reference 13 gives procedures for certifying an NO gas cylinder against an NBS NO_2 SRM and for determining the amount of NO_2 impurity in an NO cylinder.

* * * * *

2.3.1 *Calibration Standards.* Calibration standards are required for both NO and NO_2. The reference standard for the calibration may be either an NO or NO_2 standard, and must be traceable to a National Bureau of Standards (NBS) NO in N_2 Standard Reference Material (SRM 1683 or SRM 1684), and NBS NO_2 Standard Reference Material (SRM 1629), or an NBS/EPA-approved commercially available Certified Reference Material (CRM). CRM's are described in Reference 14, and a list of CRM sources is available from the address shown for Reference 14. Reference 15 gives recommended procedures for certifying an NO gas cylinder against an NO SRM or CRM and for certifying an NO_2 permeation device against an NO_2 SRM. Reference 13 contains procedures for certifying an NO gas cylinder against an NO_2 SRM and for certifying an NO_2 permeation device against an NO SRM or CRM. A procedure for determining the amount of NO_2 impurity in an NO cylinder is also contained in Reference 13. The NO or NO_2 standard selected as the reference standard must be used to certify the other standard to ensure consistency between the two standards.

2.3.1.1 *NO_2 Concentration Standard.* A permeation device suitable for generating NO_2 concentrations at the required flow-rates over the required concentration range. If the permeation device is used as the reference standard, it must be traceable to an SRM or CRM as specified in 2.3.1. If an NO cylinder is used as the reference standard, the NO_2 permeation device must be certified against the NO standard according to the procedure given in Reference 13. The use of the permeation device should be in strict accordance with the instructions supplied with the device. Additional information regarding the use of permeation devices is given by Scaringelli et al. (11) and Rook et al. (12).

2.3.1.2 *NO Concentration Standard.* Gas cylinder containing 50 to 100 ppm NO in N_2 with less than 1 ppm NO_2. If this cylinder is used as the reference standard, the cylinder must be traceable to an SRM or CRM as specified in 2.3.1. If an NO_2 permeation device is used as the reference standard, the NO cylinder must be certified against the NO_2 standard according to the procedure given in Reference 13. The cylinder should be recertified on a regular basis as determined by the local quality control program.

3. By adding the following references to Appendix F:

References

* * * * *

14. A Procedure for Establishing Traceability of Gas Mixtures to Certain National Bureau of Standards Standard Reference Materials. EPA–600/7–81–010, Joint publication by NBS and EPA. Available from the U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory (MD–77), Research Triangle Park, North Carolina 27711, May 1981.

15. *Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Specific Methods.* The U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory, Research Triangle Park, North Carolina 27711. Publication No. EAP–600/4–77–027a.

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

4. By revising § 58.1 to include an additional definition to read as follows:

§ 58.1 Definitions.

* * * * *

(r) "Traceable" means that a local standard has been compared and certified, either directly or via not more than one intermediate standard, to a primary standard such as a National Bureau of Standards Standard Reference Material (NBS SRM) or a USEPA/NBS-approved Certified Reference Material (CRM).

Appendix A—[Amended]

5. By revising paragraph 2.3.1 of Appendix A, "Quality Assurance Requirements for State and Local Air Monitoring Stations (SLAMS)," to read as follows:

* * * * *

2.3.1 Gaseous standards (permeation tubes, permeation devices or cylinders of compressed gas) used to obtain test

concentrations for CO, SO_2, and NO_2 must be traceable to either a National Bureau of Standards (NBS) Standard Reference Material (SRM) or an NBS/EPA-approved commercially available Certified Reference Material (CRM). CRM's are described in Reference 7, and a list of CRM sources is available from the address shown for Reference 7. A recommended protocol for certifying gaseous standards against an SRM or CRM is given in References 2 and 3. Direct use of a CRM as a working standard is acceptable, but direct use of an NBS SRM as a working standard is discouraged because of the limited supply and expense of SRM's

6. By adding "CRM," to the third sentence of the fourth paragraph of section 3.1.2 of Appendix A to read: * * * The auditing standards and calibration standards may be referenced to the same NBS SRM, CRM, or primary UV photometer. * * *

7. By adding the following reference to Appendix A:

References

* * * * *

7. A procedure for Establishing Traceability of Gas Mixtures to Certain National Bureau of Standards Standard Reference Materials. EPA-600/7-81-010, Joint publication by NBS and EPA. Available from the U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory (MD-77), Research Triangle Park, North Carolina 27711, May 1981.

Appendix B—[Amended]

8. By revising paragraph 2.3.1 of Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring," to read as follows:

* * * * *

2.3.1 Gaseous standards (permeation tubes, permeation devices or cylinders of compressed gas) used to obtain test concentrations for CO, SO_2, and NO_2 must be traceable to either a National Bureau of Standards (NBS) gaseous Standard Reference Material (SRM) or an NBS/EPA-approved commercially available Certified Reference Material (CRM). CRM's are described in Reference 7, and a list of CRM sources is available from the address shown for Reference 7. A recommended protocol for certifying gaseous standards against an SRM or CRM is given in References 2 and 3. Direct use of a CRM as a working standard is acceptable, but direct use of an NBS SRM as a working standard is discouraged because of the limited supply and expense of SRM's.

9. By adding, "CRM," to the third sentence of the second paragraph of section 3.2 of Appendix B to read: * * * The auditing standards and calibration standards may be referenced to the same NBS SRM, CRM, or primary UV photometer. * * *

10. By adding the following reference to Appendix B:

References

* * * * *

7. "A Procedure for Establishing Traceability of Gas Mixtures to Certain National Bureau of Standards Standard Reference Materials." EPA-600/7-81-010, Joint publication by NBS and EPA. Available from the U.S. Environmental Protection Agency, Environmental Monitoring Systems Laboratory (MD-77), Research Triangle Park, North Carolina 27711 May 1981.

[FR Doc. 83-1447 Filed 1-19-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 261

[SWH-FRL 2254-4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule and request for comment.

SUMMARY: Regulations implementing the Resource Conservation and Recovery Act of 1976 (RCRA), provide a set of management standards for persons managing recycled hazardous wastes. The Agency is today making several changes to these rules to correct mistakes in regulatory language. The effect of these changes will be to clarify any misunderstandings the regulated community may have regarding these rules' applicability to facilities that store hazardous wastes prior to recycling.

DATES: Effective date: Interim final rule effective January 20, 1983. There is one possible exception. We have made several changes to these rules to clarify any misunderstandings the regulated community may have regarding the applicability of these rules. Although we believe that this amendment merely revises 40 CFR 261.6 to read as it was intended to apply, and as it is understood to apply, as a practical matter, we do not intend to penalize any individual for good faith failure to comply with the technical standards. Therefore, any person who legitimately misunderstood the scope of 40 CFR 261.6(b)(5) has until July 20, 1983 to comply with the technical interim status standards for Subparts F and K. Comment date: EPA will accept public comment on this amendment until March 7, 1983.

ADDRESSES: Comments on this interim final rule may be mailed to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 3001/Changes to Facility Standards in 40 CFR 261.6." The public docket for this rule making is located in Room S-269C, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800)424-9346 or at (202)382-3000. For technical information contact Matthew A. Straus, Office of Solid Waste (WH-565B), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; (202)382-4770.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1980, EPA promulgated the first phase of regulations implementing the hazardous waste management system established by Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA). A vital aspect of the regulations is a definition of solid waste which, among other things, provides the regulatory provision stating which materials are solid wastes when recycled (see 40 CFR 261.2). In addition, the regulations provide that persons who generate, transport, or store hazardous sludges or wastes listed in 40 CFR 261.31 or 261.32 prior to use, reuse, recycling, or reclamation (referred to as "recycling" in this notice), are subject to regulation as hazardous waste generators, transporters, or storage facilities, respectively (See 40 CFR 261.6(b)).[1]

In reviewing the regulations regarding the management standards for hazardous wastes that are recycled, the Agency has identified several unintended omissions from the facility standards in 40 CFR 261.6(b) (*i.e.*, the standards for new and existing storage facilities contained in 40 CFR Parts 264 and 265 and cross-referenced in § 261.6(b)). This amendment is designed to correct these mistakes, and merely amends the regulation to read as it already is understood to apply.

[1] It should be noted that unlisted hazardous wastes, other than hazardous sludges, which exhibit a hazardous waste characteristic, and are beneficially used, reused, recycled, or reclaimed, are excluded from regulation under the hazardous waste management regulations (40 CFR 261.6(a)).

The remainder of this preamble discusses these corrections.

II. Technical Corrections To the Facility Standards Cited in 40 CFR 261.6(b)

A. Correction to the Part 265 Interim Status Standards Cited in 40 CFR 261.6(b)(5)

Section 261.6(b)(5) of the regulations sets forth the standards applicable to those facilities storing hazardous wastes prior to recycling which are eligible for interim status. As promulgated, these facilities must comply with the following Subparts of the Part 265 interim status standards; the administrative requirements (Subparts A through E), the financial responsibility requirements (Subparts G and H), and the substantive technical standards for wastes stored in containers (Subpart I), tanks (Subpart J), and in waste piles (Subpart L). In reviewing these regulations, we discovered that they failed to include the substantive technical standards for wastes stored in surface impoundments (Subpart K) prior to being recycled and the ground water monitoring requirements (Subpart F) for surface impoundments.

These omissions were accidental, as is clear from our discussion of the purpose of the regulation and the text of the regulation itself. In promulgating § 261.6(b), we noted that "(w)astes which present a hazard in storage * * * arguably pose the same danger in storage * * * irrespective of whether they are destined for disposal or for use, reuse, recycle, or reclamation" (45 FR at 33091, May 19, 1980). Accordingly, we developed a regulation which regulated waste storage prior to recycling (*id.*, at 33093). We did not intend to differentiate between various types of storage facilities nor among the technical standards for these facilities. Nor would the rationale for the regulation support any such omission.[2] Thus, impoundments used to store hazardous wastes prior to recycling should be and were meant to be included in the regulation, and should be required to meet ground water monitoring requirements.

The text of the regulation likewise shows that the Agency meant for Subparts F and K to apply. As written, facilities storing wastes in surface impoundments prior to recycling are still subject to the administrative and financial responsibility requirements of Part 265. It makes no sense for facilities to be subject to these requirements and not to the technical standards in Subparts F and K.

We also believe most persons already interpret the regulation as it was intended to apply; *i.e.*, that all of the technical standards for impoundments are applicable. Various members of the regulated community have indeed told us that they read the rules to include Subparts F and K.

Therefore, in order to clarify this unintended omission, the Agency is amending 40 CFR 261.6(b)(5) by requiring facilities that store hazardous wastes in surface impoundments under interim status prior to recycling to comply with the Subpart F and K standards.

B. Correction to the Part 264 Permitting Standards Cited in 40 CFR 261.6(b)(4)

When the Agency promulgated the May 19 definition of solid waste and the special requirements for hazardous wastes which are used, reused, recycled, or reclaimed, the only standards promulgated by the Agency under Part 264 were the administrative requirements in Subparts A to E. Thus, at that time, the only standards a facility would have to comply with to obtain a permit to store listed hazardous wastes and hazardous sludges prior to recycling were the administrative requirements.

The Agency then amended Part 264 by promulgating substantive technical storage standards. (See 46 FR 2802, January 12, 1981). Included in these regulations are standards for: Closure and Post-Closure (Subpart G), Financial Responsibility (Subpart H), Use and Management of Containers (Subpart I), Tanks (Subpart J), Surface Impoundments (Subpart K), and Waste Piles (Subpart L). The standards for waste piles and surface impoundments were later superseded by the interim final rules promulgated on July 26, 1982. (See 47 FR 32274.) This regulation included revisions to the ground water monitoring and protection requirements (Subpart F). The Agency, however, neglected to conform 40 CFR 261.6(b)(4) to include these standards as requirements for facilities that store listed hazardous wastes and hazardous sludges prior to recycling. Thus, unless we amend this section of the regulation, a facility could still obtain a RCRA permit to store such hazardous wastes before recycling by meeting only the administrative requirements under Part 264 (Subparts A to E), conditions much less rigorous than the interim status standards promulgated under Part 265. This result obviously was never intended by the Agency. Nor are the regulations understood to include only the administrative standards of Part 264. In fact, the only recycling facility to receive a storage permit to date has a permit reflecting the technical standards of Subparts G, H, I, and J. To correct this oversight, EPA is today amending this regulation to include Subparts F through L under 40 CFR 261.6(b)(4) as requirements that must be met to receive a permit for storing listed hazardous waste and hazardous sludges before recycling.

C. Clarification That Only Wastes Listed in 40 CFR 261.31 and 261.32 Are Included in 40 CFR 261.6(b)

Section 261.6(b) states that the provision applies to wastes "listed in Subpart D" of Part 261. This language is overbroad. The provision applies to wastes listed in §§ 261.31 and 261.32, but not to the discarded commercial chemical products (and related materials) listed in § 261.33. The Agency already has made this clear (see 45 FR at 78540, November 25, 1980). In addition, under the language of the regulations, § 261.33 materials are not solid wastes when recycled, because they are wastes only when "discarded," as defined in 40 CFR § 261.2(c). However, in order to clarify that § 261.6(b) does not apply to commercial chemical products being recycled, we are also amending the language of that provision.

III. Effective Date

Section 3010(b) of RCRA provides that the hazardous waste management regulations ordinarily take effect six months after promulgation. The purpose of this requirement is to allow persons handling hazardous waste sufficient lead time to prepare and to comply with new regulatory requirements.

We do not think the reasons underlying the six month effective date apply here, and we are making this technical amendment effective immediately. This amendment merely revises § 261.6 to read as it was intended to apply, and as it is understood to apply. We thus do not believe that, as a practical matter, we are changing the present regulatory scope of the provision, and there consequently is no need to allow time for persons to prepare to comply with these standards. (In addition, no facilities could even arguably be newly added to the universe of hazardous waste management facilities as a result of these technical changes, because all of these facilities are presently subject to the adminstrative standards of Parts 264 and 265.)

If the owner or operator of any existing surface impoundment, however,

[2] We note that the interim status standards for surface impoundments do indeed apply to "facilities that use surface impoundments to * * * store * * * hazardous wastes * * *" 40 CFR 265.220.

legitimately misunderstood the scope of § 261.6(b)(5), he has until July 20, 1983 to comply with the technical interim status standards for Subparts F and K. Owners and operators of facilities whose Part B permit applications are called in by the Agency after publication of this notice must comply with the standards of Subparts F–L, assuming the Agency issues a final permit to the facility. New facilities applying for final RCRA permits likewise must comply with these standards. Owners and operators of container and tank storage facilities will be subject to the permit standards published on January 12, 1981. Owners and operators of surface impoundments and piles will be subject to the permit standards published on July 26, 1982.

IV. Interim Final Rule and Request for Comment

EPA has determined under section 553 of the Administrative Procedure Act, U.S.C. 553, that there is good cause for promulgating these amendments as interim final rules [3] without prior notice and comment. These amendments are technical corrections to the rules which conform the rules to reflect actual understanding. The underlying rules (*i.e.*, § 261.6 and the Part 264 technical storage standards) already have been subject to notice and comment. We thus believe that the policy behind the notice and comment provision has been fully satisfied. In case anyone disagrees, we have allowed a 45-day comment period.

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This interim final rule is not a major rule because it will not result in an effect on the economy of $100 million or more, nor will it result in an increase in costs or prices to industry. In fact, this amendment is primarily a technical correction which clarifies requirements applicable to facilities that manage hazardous waste which is recycled. Thus, there will be no adverse impact on the ability of U.S. based enterprises to compete with the foreign-based interprises in domestic or export markets. Because this amendment is not a major regulation, no regulatory impact analysis is being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., whenever an agency is required to publish general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on small entities. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: January 13, 1983.

Anne M. Gorsuch,

Administrator.

PART 261—[AMENDED]

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

1. The authority citation for Part 261 reads as follows:

Authority: Sections 1006, 2002(a), 3001, and 3002 of the solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. Section 261.6 is amended by revising the introductory test of paragraph(b) and paragraphs (b)(4) and (b)(5) to read as follows:

§ 261.6 Special requirements for hazardous waste which is used, re-used, recycled or reclaimed.

* * * * *

(b) Except for those wastes listed in paragraph (a)(3) of this section, a hazardous waste that is a sludge, or that is listed in §§ 261.31 or 261.32, or that contains one or more hazardous wastes listed in §§ 261.31 or 261.32; and that is transported or stored prior to being used, re-used, recycled, or reclaimed is subject to the following requirements with respect to such transporation or storage:

* * * * *

(4) Applicable provisions of Subparts A through L of Part 264 of this Chapter;

(5) Applicable provisions of Subparts A through L of Part 265 of this Chapter.

* * * * *

[FR Doc. 83-1448 Filed 1-19-83; 8:45 am]

BILLING CODE 6560-50-M

[3] We are promulgationg these corrections as interim final rules because § 261.6 itself is an interim final regulation.

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40 CFR Part 256

[SW-7-FRL 2281-2]

Partial Approval of Nebraska Solid Waste Management Plan

AGENCY: Environmental Protection Agency (EPA), Region VII.

ACTION: Final rule; partial approval.

SUMMARY: As provided by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), the State of Nebraska has received Federal financial assistance for development of a State solid waste management plan. The State of Nebraska has submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State solid waste management plan. Today, EPA is announcing its partial approval of the Nebraska solid waste management plan. Only partial approval is given as Nebraska is lacking adequate authority for the following criteria: Open burning; disease; application of waste to land; and safety. In addition, Nebraska exempts from licensing requirements solid waste management facilities serving cities of the second class and villages. In obtaining partial approval of its plan, the State has committed to completing the plan in a timely and orderly manner.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Robert L. Morby, Chief, Waste Management Branch, EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374–6536.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1979, (44 FR 45066) EPA published Guidelines for the Development and Implementation of State Solid Waste Management Plans. These guideline were required by section 4002(b) of the Solid Waste Disposal Act, as amended by RCRA.

On September 23, 1981, (46 FR 47048) EPA published amendments to the Guidelines for Development and

Implementation of State Solid Waste Management Plans and Criteria for the Classification of Solid Waste Disposal Facilities and Practices (40 CFR Part 256 and 257). In part, these amendments allow EPA to give partial approval for an adopted State plan that is inadequate while the State is developing the other parts of the plan. The completion of the remaining parts of the plan will be conducted in a timely and orderly manner as set forth in schedule mutually agreed upon by the State and EPA.

Response to comments: On August 20, 1982, at 47 FR 36452 the Nebraska solid waste management plan was noticed for public review and comment. Comments on the Nebraska plan were received for 30 days. No comments were received.

Finding: I have reviewed the solid waste management plan submitted by Nebraska. I have found that the Nebraska plan does not meet all of the requirements of section 4007(a) of RCRA for approval because of limitations in State statutory authority and because of the need for amendments to their State regulations. The State statutory or regulatory authority is inadequate to ensure compliance with the criteria that are contained in 40 CFR Part 257 for open burning, disease, application of waste to land, and safety.

In addition State statutes exempt from licensing requirements solid waste management facilities serving cities of the second class and villages. Nebraska statute section 81–1528(6) Provides that: cities of the second class and villages shall be exempt * * *pertaining to licensing and control of solid waste disposal facilities; *Provided*, that such cities and villages provide solid waste disposal systems so that no pollution of waters of the state result * * *; *and provided further*, that such cities and villages comply with minimum standards for identification and disposition of hazardous wastes. The department * * * shall have the right to inspect solid waste disposal sites and evaluate them according to site evaluation criteria promulgated pursuant to the Resource Conservation and Recovery Act.

I am today approving all of the plan except for those areas described above. In accordance with § 256.04 Nebraska has submitted a schedule outlining in a timely and orderly manner the steps that will be taken in completing the plan to meet the remaining requirements of section 4007(a) of RCRA for approval of the complete plan. Necessary legislative changes will be sought by the Nebraska Department of Environmental Control during the 1984 legislative session. Rulemaking will follow thereafter.

Compliance with Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "major", and therefore subject to the requirement for a Regulatory Impact Analysis. Partial approval of the Nebraska solid waste management plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; results in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise not from EPA's partial aproval but because the plan complies with earlier requirements issued by EPA [Guidelines, 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257, as amended]. Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget ("OMB") for review under Executive Order 12291.

Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the partial plan approval if the Nebraska solid waste management plan will not have a significant economic impact on substantial number of small entities. This approval will reduce burdens on some small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 256

Grant programs—environmental protection, Waste treatment and disposal.

(Sec. 4005(a), Pub. L. 94–580, 90 Stat. 2817 (42 U.S.C. 6947))

Dated: December 29, 1982.

Morris Kay,

Regional Administrator.

[FR Doc. 83–1632 Filed 1–19–83; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 124

Evaluation of the Impact and Effectiveness of Title XVI Uncompensated Services Assurance

AGENCY: Health Resources and Services Administration, PHS, HHS.

ACTION: Rule related notice.

SUMMARY: The purpose of this notice is to solicit comments on an evaluation plan which has been developed to examine the impact and effectiveness of the regulations (42 CFR 124.501 *et seq.*) governing the provision of uncompensated services by health facilities obligated under Titles VI and XVI of the Public Health Service Act to provide a reasonable volume of services to persons unable to pay.

DATE: The Department will consider comments received on or before February 22, 1983.

ADDRESS: Interested persons may request copies of the evaluation plan from, and submit comments to: Florence B. Fiori, Dr. P.H., Acting Associate Director for Health Facilities, Bureau of Health Maintenance Organizations and Resources Development, 3700 East-West Highway, Room 5–44, Hyattsville, Maryland 20782.

All comments received in timely response to this notice will be considered and will be available for public inspection at the above address between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles A. Wells, Ph. D., Chief, Assurances Data and Analysis Branch, Division of Facilities Compliance, Bureau of Health Maintenance Organizations and Resources Development, 3700 East-West Highway, Room 5–44, Hyattsville, Maryland 20782, (301) 436–6993.

SUPPLEMENTARY INFORMATION: Health facilities which received assistance under Titles VI and XVI of the Public Health Service Act provided an assurance that they would make available a reasonable volume of services to persons unable to pay. On May 18, 1979, the Secretary published regulations (42 CFR 124.501 *et seq.*) governing the assurance to provide uncompensated services. In the preamble to the rules (44 FR 29374), the Secretary announced the Department's intent to develop a plan to evaluate the administrative compliance costs and the

impact of the inflation factor, and to seek public comment on the plan. This notice implements the Secretary's directive.

Dated: January 17, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83-1589 Filed 1-19-83; 8:45 am]

BILLING CODE 4150-15-M

Office of Child Support Enforcement

45 CFR Parts 302 and 303

Collection of Past-Due Support From Federal Tax Refunds

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: These regulations implement section 2331 of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, and respond to comments made with respect to our interim final regulations published in the **Federal Register** on February 19, 1982 (47 FR 7425). Section 2331 amplifies statutory authority for collection of past-due support from Federal tax refunds by making such collection a State plan requirement of the Child Support Enforcement program. Under section 2331, only AFDC cases are eligible for referral to the IRS for collection by tax refund offset. Child support agencies must reimburse the IRS for the cost of applying the offset procedure.

DATES: These regulations are adopted as final effective on publication (January 20, 1983).

FOR FURTHER INFORMATION CONTACT: Carol Jordan, (301) 443-5350.

SUPPLEMENTARY INFORMATION:

Statutory Provisions

Effective October 1, 1981, section 2331 of Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, provides for collection of certain past-due child and spousal support from Federal tax refunds. This section provides separate statutory authority and contains specific procedures for tax refund offset that are distinct from the IRS full collection process authorized by section 452(b) of the Social Security Act (the Act). (For regulations on the IRS full collection process, see the **Federal Register**, 47 FR 16027, dated April 14, 1982.)

Section 2331 of Pub. L. 97-35 adds section 464 and paragraph 454(18) to title IV-D of the Act and amends section 6402 of the Internal Revenue Code of 1954.

Section 464 of the Act provides that, upon receiving notice from a State IV-D agency that an individual owes past-due support that has been assigned to the State, the IRS shall determine whether any tax refund is payable to the individual. If a refund is due, the IRS shall withhold from the refund an amount up to the amount of the past-due support and pay the withheld amount to the State IV-D agency with a notice of the individual's home address. Section 464 further provides that the Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services (HHS), setting standards and requirements for child support enforcement agencies to follow in requesting tax refund offsets. In this context, it is OCSE's role to participate in the process by acting as the agent of the IRS.

Paragraph 454(18) of the Act specifies that the State plan for child support enforcement must provide that the State has in effect procedures necessary to obtain payment of past-due support from Federal tax refunds as set forth in section 464 of the Act and that the State will take all steps necessary to implement and use the procedures.

Statutory Effective Date

The provisions being implemented by these regulations have a statutory effective date of October 1, 1981, unless a State effectively demonstrates to the Secretary of HHS that the effective date should be postponed for the State. OCSE-AT-81-24, dated October 7, 1981, contains instructions for requesting such postponements. All States must have and use procedures for collection of past-due support by tax refund offset, unless a postponement is approved for a State.

Provisions of Interim Final Regulations

The IRS published regulations implementing section 2331 of Pub. L. 97-35 on February 8, 1982 in the **Federal Register** (47 FR 5712). Those regulations establish standards and requirements for child support enforcement agencies to follow when requesting tax refund offsets. OCSE published interim final regulations implementing section 2331 on February 19, 1982 in the **Federal Register** (47 FR 7425). OCSE's regulations establish the new State plan requirement for State IV-D agencies and procedures related to collecting past-due support from Federal tax refunds.

OCSE's interim final regulations added a new 45 CFR 302.60 to IV-D regulations that contains the State plan requirement for tax refund offset as specified in paragraph 454(18) of the Act. Under § 302.60, the State plan must provide that the IV-D agency has in effect procedures to obtain payment of past-due support from Federal tax refunds, and that the IV-D agency shall take the steps necessary to implement and use the procedures. Section 302.60 cross-references the requirements of section 464 of the Act, 45 CFR 303.72 which is discussed below, and IRS regulations at 26 CFR 304.6402-1. We have not changed § 302.60 in this document.

OCSE's interim final regulations also added a new 45 CFR 303.72 to IV-D regulations entitled Requests for Collection of Past-Due Support from Federal Tax Refunds. This section defines past-due support, specifies which past-due support qualifies for offset, and describes procedures States must follow to refer a case for Federal tax refund offset, to distribute collections received, and to respond to complaints received from individuals whose refunds were offset. By agreement with IRS, OCSE is acting as IRS's agent in processing State requests.

The definition of past-due support provides important specifications concerning amounts that may be referred to the IRS for collection by Federal tax refund offset. First, the definition of past-due support rules out requesting that current support be collected by refund offset. Second, the past-due amount must be for a support obligation determined under a court order or an order of an administrative process established under State law. Third, past-due support collected by refund offset must be support owed on behalf of a child or on behalf of the child and the parent with whom the child is living.

Not all past-due support qualifies for offset. Under § 303.72, past-due support qualifies for offset only if: the support is assigned under 45 CFR 232.11 to the State making the request for offset; the State has made reasonable efforts to collect the amount of the obligation; the amount of past-due support is not less than $150; the past-due support has been delinquent for three months or longer; and a notification of liability for past-due support has been received by the IRS. These criteria are also specified by the IRS in their regulations at 26 CFR 304.6402-1 as requirements of the offset process.

Section 303.72 further specifies that the IV-D agency (defined for purposes of the refund offset process as the *State* IV-D agency) shall submit, by October 1 of each year, a notification of liability for past-due support on magnetic tape to OCSE as specified in instructions and shall provide specified information on

each debtor. The required information is the minimum needed by the IRS and OCSE to process a refund offset case. It consists of the individual's name and social security number, the amount of the arrearage, and the State code. In addition, the State IV–D agency may submit the county code where the case originated and the individual's case number if the agency wants this information to accompany any collection sent to the State. Procedures for submitting changes in case status are also included in this section.

Section 303.72 mentions that the IRS provides a notice to an individual upon offset of his or her tax refund. The notice informs the individual of the amount and date of the offset for past-due support and of the State to which the amount has been paid.

Under this section, in the event of a complaint from an individual concerning a tax refund offset, the IV–D agency must take steps to investigate the individual's concerns to determine if an error has been made. If the amount offset is found to exceed the past-due support owed, the child support agency must refund the excess to the individual because the statute provides for collection and distribution of past-due support only.

Under § 303.72, the State IV–D agency is billed by the Secretary of HHS, or designee, for the IRS processing fee associated with execution of the offset process. The amount of the fee is agreed to by the Secretary of the Treasury and the Secretary of HHS and must be sufficient to reimburse the IRS for the full cost of the offset procedure.

Changes to Interim Final Regulations

This document amends parts of § 303.72 (a), (b), (e), (f), (g) and (h) of the interim final regulations in response to comments received and as a result of OCSE experience with this year's offset program.

Section 303.72(a) defines "past-due support" for purposes of refund offset referrals. We are revising the definition in response to requests that we clarify whether it is the past-due amount or the support obligation that must be determined by court or administrative order. The amount of the delinquency is not required to be determined by court order or administrative process. The revised definition clarifies that it is the support obligation, not the delinquency amount, that must be determined under a court order or an order of an administrative process established under State law.

A new § 303.72(b)(4) has been added to require that, before the case is submitted, the State IV–D agency must verify the accuracy of the name and social security number of the individual whose case is being submitted, and the accuracy of the arrearage amount. If the State IV–D agency has verified this information previously, it need not reverify it. The provision contained in paragraph (b)(4) of the interim final regulations has been included in a new paragraph (b)(5) under § 303.72 of the final regulations.

We have amended § 303.72(e) in response to comments received from several States during the July 1982 OCSE workshops on Federal tax refund offset. Because the regulations specify that only the State that has an assignment may refer a case for offset, the responding State, in interstate situations, is often unaware of the referral for offset and of any collections made. This can lead to duplicative collection activity by a responding State, and result in inconsistent records between the initiating and responding States. Thus, we are amending this section by adding paragraph (e)(1) to provide that the initiating State must notify the responding State when it submits an interstate case for offset and when it receives the offset amount from the IRS.

Section 303.72(e) also requires States to notify OCSE of a decrease in, or elimination of, an amount referred for collection by Federal tax refund offset. In response to comments that States be permitted to establish thresholds for determining when the State agency must notify OCSE of decreases in arrearage amounts, this document amends § 303.72 by adding paragraph (e)(2) to require States to notify OCSE of decreases in arrearage amounts only if the decrease is significant according to guidelines developed by the State. We would suggest, however, that, if the original amount submitted for offset is $1000 or less, any decrease in the arrearage should be reported.

We have also revised § 303.72(e) to delete the requirement that States include the original arrearage amount when submitting changes in case status and to add the requirement that States submit changes within time frames established by OCSE in instructions.

Section 303.72(f)(1) is a new provision which did not appear in the interim final regulations. As a result of OCSE experience with the first year's offset program, and in response to comments from a legal advocacy group, we have added paragraph (f)(1) to the final regulations. This paragraph specifies that OCSE will send advance notices to individuals before referring their names to the IRS for offset if the State IV–D agency does not choose to send advance notices. If the IV–D agency sends the advance notices, the agency must ensure that they meet the conditions for timeliness specified by OCSE in instructions. OCSE's notices will refer addressees to the IV–D agency if they have any questions, want to report an error, or want to pay past-due support to avoid offset of their tax refund.

Section 303.72(g) contains procedures that States must follow when handling complaints from an individual concerning a tax refund offset. The IV–D agency must take steps to investigate the complaint and must refund any offset amounts that exceed the past-due support owned. We have revised these procedures, in response to comments and as a result of experience with the current year's tax refund offset program, to require that the IV–D agency refer individuals to IRS if a complaint involves a joint tax return. In addition, the IV–D agency must have procedures that include a mechanism for reimbursing excess offset amounts promptly. We believe it is improper for the State to avoid reimbursing an individual until collections are received from the IRS.

Section 303.72(h) specifies that amounts collected by refund offset are to be distributed as past-due support under 45 CFR 302.51(b)(4). This document revises paragraph (h) by adding 45 CFR 302.51 (b)(5) as another cross-reference regarding distribution of past-due support. We are including this cross-reference to provide complete instructions on the relevant distribution procedures for amounts collected by refund offset. 45 CFR 302.51(b)(5) requires the State to pay the family any amounts collected which are in excess of the amount owed to the State as reimbursement for past assistance payments but not in excess of the assigned support arrearage. A new paragraph (h)(3) clarifies that States may apply collections from offset only against the accrued arrearage which was specified in the advance notice to the taxpayer.

Response to Comments

We received nine comments in response to the interim final regulations published in the **Federal Register** on February 19, 1982. Seven State agencies, one governor and one legal advocacy group submitted comments. A discussion of these comments and our responses follow:

1. Section 303.72(a)

Comment: Two State agencies requested that we revise the definition of "past-due support" to clarify: (1) The

effect of court orders containing payment schedules of arrearages on the amount that may be offset, and (2) the effect of judgments that payment be delayed until a later date or until the payor is able to pay.

Response: Because IV–D statute and regulations do not specify how States must treat court orders containing payment schedules of arrearages or delayed payment dates, the State may use the total arrearage amount to determine the liability against which the IRS will offset, if permitted by State law, or take into consideration the court-ordered payment schedule. We encourage States to recognize good faith efforts to pay on past-due support and to use discretion in referring such cases for offset.

Comment: Two State agencies requested clarification of the definition of "past-due support" regarding whether it is the amount of the deliquency or the amount of the support obligation that must be established by court order.

Response: The definition of "past-due support" in the interim final regulations is the definition used in the statute (section 464 of the Act). This document revises the definition used in the interim final regulations to clarify that the support obligation must be established by court or administrative order. There is no requirement that the amount of the delinquency referred for offset must be determined by court order or administrative process.

2. Section 303.72(b)(1)

Comment: Two State agencies recommended that the responding jurisdiction be responsible for submitting the offset request for interstate cases.

Response: We have required that offset referrals be made by the State having the assignment of support rights to reduce the likelihood of more than one State submitting a request for IRS collection of the same debt in interstate cases. We discussed this situation with many of the States at meetings held in July, 1981 and again at workshops held in July, 1982. The majority of States preferred having the State that secures the assignment make the IRS collection request, since that State has the ultimate responsibility for managing the case and because that State is where distribution of the collection will be made under section 457 of the Act. We recognize the importance of maintaining accurate records in interstate cases, however, and, as suggested by several States during the July, 1982 workshops, have revised the final regulations to require initiating States to notify any other involved State of the offset referral and the support collection.

Comment: One State agency pointed out that several States might have past-due support owed to them because of assignments of rights to support by the same individual for different time periods. This would result in more than one State submitting a request for offset of the same individual's tax return.

Response: Any State may submit a request for collection of past-due support by Federal tax refund offset if there has been an assignment of the support obligation under 45 CFR 232.11 and if the referral meets the additional criteria specified at 45 CFR 303.72(b). We realize that over a period of time more than one State might have an assignment of rights to support from the same individual. This situation is unavoidable although we believe duplication will occur less often than if responding jurisdictions submitted cases for offset. Because IRS will accept only one offset request per individual, the first submittal received will be referred to the IRS by OCSE.

Comment: One commenter recommended that States be permitted to determine under State law what constitutes a "reasonable effort" to collect child support obligations before referring a case for collection by refund offset. Another asked that the phrase be clarified if we do not intend States to have discretion in this area.

Response: We agree that States should have discretion in determining what constitutes a "reasonable effort" to collect the support and, therefore, we have not defined "reasonable effort" in the regulation. While we wish to provide flexibility to the States, at the same time we wish to ensure that States refer cases for offset that are appropriate and accurate. For this reason, we have revised the interim final regulations at § 303.72(b)(4) to require States to verify the name, social security number and arrearage amount before submitting a case. If the State has verified the information previously, it need not reverify it. It is crucial that cases being referred for offset include the name and social security number of the correct individual. States should limit cases referred for offset to those in which there is no question about the identity of the individual to avoid the erroneous offset of an individual's tax refund because of mistaken identity, an occurrence which can seriously damage the success of the offset program. States must also ensure that the amount of the arrearage submitted is as accurate as possible.

3. Section 303.72(b)(2) and (b)(3)

Comment: One State agency recommended that States be permitted to establish their own policy regarding the age of the arrearages submitted for refund offset.

Response: We believe uniform policy in this area is more equitable. OCSE and the IRS agree that the 3-month minimum arrearage age will ensure that enough time is provided to account for late payments. The IRS offset process should not be treated as a collection method of first resort. Rather, it is a method for collecting arrearages in cases in which other enforcement techniques have not resulted in collection of full amounts owed.

Comment: One State agency recommended that States be permitted to refer cases for offset if part of the arrearage is at least three months old.

Response: This recommendation was not adopted because it would be difficult to determine arrearage amounts accurately. There would not be sufficient control to ensure that the arrearage amount is correct because the IV–D agency would not be able to take late payments on recent months' obligations into consideration before the case is referred for offset. Further, this proposal would weaken the requirement that a IV–D agency must attempt to collect on the obligation before referring a case for the IRS offset.

4. Section 303.72(c)

Comment: One State agency recommended that the due date of October 1 for State IV–D agencies to notify OCSE of offset cases be changed to December 1 or November 15.

Response: This recommendation was not adopted because the time after October 1 is needed by OCSE to edit the information on the tapes, make corrections, transmit the tapes to the IRS, and provide advance notice to individuals whose names are being referred for IRS offset.

5. Section 303.72(e)

Comment: A commenter requested that we establish parameters or thresholds for determining when the State agency must notify OCSE of decreases in arrearage amounts.

Response: These final regulations clarify that the State IV–D agency must notify OCSE of a decreased arrearage only if the decrease is significant according to guidelines developed by the State. As mentioned above, we suggest that, if the arrearage amount referred to the IRS is $1,000 or less, the State should notify OCSE of any decrease.

6. Section 303.72(f)

Comment: One State agency recommended that the regulations indicate that the State has no responsibility to notify delinquent payers that their cases are being submitted to the IRS for tax refund offset.

Response: The interim final regulations have been revised to specify that OCSE will provide an advance notice to taxpayers whose names will be referred to the IRS for tax refund offset if the State does not wish to send its own notice. Our reasoning for including this provision is discussed earlier under the heading "Changes to Interim Final Regulations." These notices will provide individuals with the opportunity to contact the State before an offset occurs if, for example, the amount of the arrearage, or other facts, are in error.

Comment: One comment received from a legal advocacy group stated that the regulations do not provide adequate notice requirements and appeal rights.

Response: As already discussed, we have revised the regulation to specify that OCSE or the State will send a notice to the individual before a case is referred to the IRS for offset. In addition, § 303.72(g) requires IV–D agencies to investigate complaints from individuals concerning tax refund offsets. We believe these provisions will result in an efficient and timely response to individuals whose tax refunds may have been erroneously offset.

7. Section 303.72(g)

Comment: One State agency recommended that OCSE regulations clarify that the IRS is responsible for resolving joint tax return issues.

Response: We agree with the commentor's recommendation and have revised the interim final regulations accordingly. Final regulations at § 303.72(g) specify that, if an individual's complaint involves a joint tax return, the State IV–D agency shall refer the individual to the IRS.

Comment: A legal advocacy group recommended that States be required to consider factors other than a numerical comparison of the amount of past-due support owed and the amount of the offset when determining that the offset is correct. The other factors included situations where a joint tax return is filed or State law prohibits collection of the child support debt from individuals receiving AFDC.

Response: Factors such as those mentioned above that could result in erroneous offsets should be considered both before a State refers a case for offset and in determining whether the offset amount is correct. If a case is inappropriate for offset under State law, the case need not be submitted under these regulations.

Certain information cannot be considered prior to the referral to the IRS. For example, the State IV–D agency will not know if an individual is filing a joint tax return at the time a referral for offset is made. These regulations at paragraph (g)(2) now specify that joint return complaints should be referred to the IRS.

The State IV–D agency should be aware of any State law that precludes referring certain groups of individuals for offset. This knowledge should prevent erroneous referrals because the decision that an amount of past-due support qualifies for offset is initially made by the State pursuant to State law and within parameters established by these regulations. If an offset is nonetheless made in conflict with a provision of State law, nothing prohibits the State from making restitution to the individual.

8. Section 303.72(h)

Comment: One State agency recommended that we include 45 CFR 302.51(b)(5) in our cross-references at 45 CFR 303.72(h).

Response: We agree with the recommendation and have revised § 303.72(h) (1) and (2) to cross-reference 45 CFR 302.51(b)(5) in order to provide complete instructions concerning the relevant distribution process for offset collections. § 302.51(b)(5) provides that amounts collected in excess of the total unreimbursed AFDC payments but not in excess of the assigned support arrearage must be paid to the family. If the amounts collected exceed the total assigned support arrearage, that excess amount must be refunded to the taxpayer.

Comment: One State agency recommended that States be permitted to apply excess offset amounts to arrearages accumulated after the offset referral was made. One requested clarification regarding whether the offset amount is applied to the arrearage owed at the time of the offset or to the arrearage owed at the time of referral.

Response: States may only apply the offset collection to the accrued arrearage which was specified in the advance notice. Any arrearage which accrues thereafter may not be offset for reason that the taxpayer will not have been notified and will not have had an opportunity to contest the offset. This has been clarified in the regulations at §303.72(h)(3).

9. Section 303.72(i)

Comment: One State Governor recommended that we deduct fees automatically from the amounts collected through the offset process before collections are forwarded by the IRS to the IV–D agency.

Response: Section 464 of the Act does not authorize the Secretary of the Treasury to deduct fees from the amounts withheld through the offset process. It requires the Secretary of the Treasury to pay such amounts to the State agency for distribution under section 457(b)(3) of the Act.

10. General Comment

Two States have recommended that the IRS provide the IV–D agency with an advance list of individuals whose returns are being held by the IRS for offset.

Response: The IRS cannot provide IV–D agencies with a list of individuals whose refunds are being held for offset because it would violate IRS confidentiality requirements under section 6103 of the Internal Revenue Code of 1954. However, States will be provided with a list of the cases referred that do not match against the IRS listing of taxpayers. A State IV–D agency will be able to determine, based on this list the individuals whose refunds will be offset if a refund is available.

Paperwork Reduction Act

In accordance with the paperwork Reduction Act of 1980 (Pub. L. 96–511), the information collection requirement contained in this regulation (§302.60) has been approved by the Office of Management and Budget and assigned OMB No. 0980–0253.

List of Subjects in 45 CFR Parts 302 and 303

Child welfare, Grant programs/social programs.

PART 303—[AMENDED]

The interim final regulations published in the **Federal Register** on February 19, 1982 (47 FR 7425) are adopted as Final rules and amended at 45 CFR §303.72 by revising paragraphs (a), (b)(1), (b)(4), (e), (f), (g) and (h), and by adding a new paragraph (b)(5) as follows:

§ 303.72 Requests for collection of past-due support by Federal tax refund offset.

(a) *Definition.* "Past-due support" means the amount of support determined under a court order or an order of an administrative process established under State law, for support and maintenance of a child or of a child

and the parent with whom the child is living, which has not been paid.

(b) *Past-due support qualifying for offset.* Past-due support qualifies for offset if:

(1) There has been an assignment of the support obligation under 45 CFR 232.11 of this title to the State making the request for offset and that State has made reasonable efforts to collect the amount of the obligation, using methods available under state law, as appropriate.

* * * * *

(4) Before the case is submitted, the State IV–D agency has verified the accuracy of the name and social security number of the individual whose case is being submitted, and the accuracy of the arrearage amount. If the State IV–D agency has verified this information previously, it need not reverify it.

(5) A notification of liability for past-due support has been received by the Secretary of the Treasury as prescribed by paragraph (c) of this section.

* * * * *

(e) *Notification of changes in case status.* (1) The initiating State must, in interstate situations, notify the responding State when it submits an interstate case for offset when it receives the offset amount from the IRS.

(2) The State IV–D agency shall, within time frames established by the Office in instructions, notify the Deputy Director in writing of any decrease in, or elimination of, an amount referred for collection by Federal tax offset if the decrease is significant according to guidelines developed by the State. The notification shall contain the information specified in paragraph (c) of this section.

(f) *Notice to taxpayer of offset.* (1) The Office, or the State IV–D agency if it elects to do so, shall send a written advance notice to inform an individual that the amount of his or her past-due support is being referred to the IRS for collection by Federal tax offset. If the IV–D agency sends the notice, it must meet the conditions for timeliness specified by the Office in instructions.

(2) The Internal Revenue Service shall notify the taxpayer in writing of the amount and date of the offset for past-due support and of the State to which this amount of past-due support has been paid.

(g) *Complaint procedure.* (1) Upon receipt of a complaint from an individual concerning a tax refund which has been offset, the State IV–D agency shall take steps to investigate the complaint to determine its validity.

(2) If the complaint from an individual concerns a joint tax return, the State IV–D agency shall refer the individual to the IRS.

(3) If the offset is found to exceed the amount of the past-due support owed, the State IV–D agency shall take steps to refund the excess amount to the individual as specified in paragraph (h) of this section in accordance with procedures that include a mechanism for promptly reimbursing the individual.

(h) *Distribution of collections.* (1) Collections received by the IV–D agency as a result of refund offset shall be distributed as past-due support as required under § 302.51(b) (4) and (5) of this chapter.

(2) If the amount collected is in excess of the amounts required to be distributed under § 302.51(b) (4) and (5) of this chapter, the IV–D agency must repay the excess to the individual whose refund was offset within a reasonable period in accordance with State law.

(3) Collections from offset may be applied only against the accrued arrearage which was specified in the advance notice described in paragraph (f) of this section.

* * * * *

Note.—The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section 1 of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302), section 464 of the Social Security Act (42 U.S.C. 664), and section 454(18) of the Social Security Act (42 U.S.C. 654(18)

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: September 28, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: January 4, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83–1498 Filed 1–19–83; 8:45 am]

BILLING CODE 4190–11–M

Public Health Service

45 CFR Part 51

Exchange Visitors Program—Criteria for Evaluating Comprehensive Plan To Reduce Reliance on Alien Physicians

AGENCY: Public Health Service, HHS.

ACTION: Interim-final rule with request for comments.

SUMMARY: These interim final regulations establish the criteria for evaluating the comprehensive plan by programs of graduate medical education or training to reduce reliance on alien physicians under Section 212(j)(2)(A)(ii) of the Immigration and Nationality Act as amended by Pub. L. 97–116.

EFFECTIVE DATE: These interim final regulations are effective January 20, 1983. As discussed below, comments on the regulations are invited, but must be received on or before March 21, 1983.

ADDRESS: Written comments, preferably in triplicate, should be addressed to the Director, Bureau of Health Professions, Health Resources and Services Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782. All comments received will be available for public inspection and copying in the Office of Program Support, Room 4–22, at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Kenneth P. Moritsugu, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Room 3–22, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782 (Telephone: (301) 436–6418).

SUPPLEMENTARY INFORMATION: Amendments made to Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182(j)(2)(A)) by Pub. L. 94–484, effective January 1977, prescribed requirements aliens had to satisfy in order to enter the United States as exchange visitors to participate in programs of graduate medical education or training, including the requirement that each alien pass Parts I and II of the National Board of Medical Examiners examination or an equivalent examination, as determined by the Secretary of Health and Human Services (HHS). In a separate provision not made a part of the Immigration and Nationality Act, Pub. L. 94–484 also provided for the suspension, upon certain conditions, of certain of these exchange visitor requirements in the event that there would be a "substantial disruption" in the health services provided by a training program if an alien physician were not permitted to enter the United States due to failure to meet those requirements.

Applications for "substantial disruption waivers," as these suspensions of requirements are

referred to, have been submitted primarily by programs which have traditionally relied heavily on alien graduates of foreign medical schools. These residency training programs generally provide health services to low income population groups who live in urban areas for which it is difficult to recruit adequate number of physicians in certain specialities or subspecialities such as psychiatry, pediatrics and neonatalogy (the care of high-risk newborn infants). If the use of exchange visitor physicians in these residency programs were curtailed, a substantial disruption of health services in these areas would result. While the actual number of physicians involved has been small, these physicians have been critical to the adequate provision of health care to the areas affected.

The Immigration and Nationality Act Amendments of 1981 (Pub. L.97–116, enacted on December 29, 1981) further amended Section 212 of the Immigration and Nationality Act to limit substantial disruption waivers. As so amended, Section 212 allows such waivers only if (1) The Secretary of HHS determines, on a case-by-case basis, that there would be a substantial disruption in the health services provided in the program because such alien was not permitted, because of his or her failure to meet the requirements, to enter the United States to participate in the program, and (2) the program has a comprehensive plan to reduce reliance on alien physicians that the Secretary finds, in accordance with criteria published by the Secretary, to be satisfactory. The legislation also describes the basic elements that an acceptable plan must include.

The Secretary is issuing these regulations to provide general information about the application process for obtaining substantial disruption waivers and to set forth the criteria for determining whether a program has a satisfactory comprehensive plan to reduce reliance on alien physicians. These criteria specify, for each of the basic elements described in the legislation, the types of factors to be weighed in deciding whether or not a proposed plan is satisfactory, including: (1) Specific problems the applicant anticipates without a waiver, (2) the adequacy of alternative resources and methods, (3) changes that have been considered to attract more U.S. citizens who are medical school graduates, (4) recruitment efforts to attract more such graduates, and (5) the extent to which dependency on foreign medical graduates is in fact being reduced at the institution. In sum, an applicant must demonstrate a real commitment to reduction in reliance on alien graduates of foreign medical schools in order to receive favorable action on a substantial disruption waiver.

E.O. 12291, Federal Regulation

The Department has determined that these interim-final rules are not "major rules" under Executive Order 12291. Thus, a regulatory impact analysis is not required because they will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in cost or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions; or

(3) Result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The regulations establish the criteria for evaluating the comprehensive plan to reduce reliance on alien physicians. The administrative costs of implementation will be minimal.

Regulatory Flexibility Act

I certify that the regulations will not have a significant impact on a substantial number of small entities, including small business, small organizational units, and small governmental jurisdictions.

List of Subjects in 45 CFR Part 51

Aliens, Health care, Passport and visas, Public health.

Justification for Omitting Notice of Proposed Rulemaking

The residency training programs which apply for substantial disruption waivers have been unable to recruit adequate numbers of physicians to provide health services within their geographic areas. While the dependency of hospitals on alien physicians to provide service has decreased considerably over the past few years, there continue to be chronic shortages in certain geographic areas of physicians in important medical fields, primarily in pediatrics and neonatalogy. Without exchange visitors to help fill this gap, a substantial disruption in the health services to these areas would result.

Although the actual number of physicians for which waivers are required is relatively small, these physicians are necessary for the adequate provision of health care and the need of the hospitals for the physicians is critical. For example, many of the substantial disruption waiver requests come from hospitals serving highly vulnerable populations who are dependent on the pediatric and neonatal services provided by these hospitals. These populations are in congested urban areas, are by and large medically indigent, and contain a disproportionately high number of newborn infants and children. With the loss of the services provided by alien physicians in these areas, many children and newborn infants would simply not be able to obtain the necessary medical care due to financial constraints and lack of mobility.

Consequently, in order to avoid any unwarranted disruption in such care and to implement Pub. L. 97–116 as soon as possible, the Secretary has determined, in accordance with 5 U.S.C. 553 and Departmental policy, that it would be unnecessary and contrary to the public interest to follow proposed rulemaking procedures in the issuance of regulations or to delay their effective date. However, comments will be accepted at the above listed address for a period of 60 days following the publication of these regulations.

Accordingly, Part 51 is added to Title 45 of the Code of Federal Regulations.

Dated: December 8, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: January 4, 1983.

Richard S. Schweiker,

Secretary.

PART 51—CRITERIA FOR EVALUATING COMPREHENSIVE PLAN TO REDUCE RELIANCE ON ALIEN PHYSICIANS

Sec.

51.1 Purpose.
51.2 Application.
51.3 Who is eligible to apply?
51.4 How will the plans be evaluated?

Authority: Sec. 212, the Immigration and Nationality Act. Pub. L. 82–114, as amended by Pub. L. 97–116, 95 Stat. 1611 (8 U.S.C. 1182(j)(2)(A)).

§ 51.1 Purpose.

The purpose of this regulation is to establish criteria for review and evaluation of the comprehensive plans of Graduate Medical Education Programs to reduce reliance on alien physicians, as required by the Immigration and Nationality Act Amendments of 1981, Pub. L. 97–116, for the waiver of certain requirements for exchange visitors who are coming to the United States to participate in programs of graduate medical education or training.

§ 51.2 Application.

Materials covering procedures for applying for substantial disruption waivers (including the comprehensive plan) may be obtained from the Educational Commission for Foreign Medical Graduates, 3624 Market Street, Philadelphia, Pennsylvania 19104.

Explanatory note.—The Department of State entered into an agreement with the Educational Commission for Foreign Medical Graduates in 1971 whereby the latter was designated the authority to administer the issuance of the Form IAP–66 in all cases involving the admission, certification, transfer or extension of stay for foreign physicians in exchange visitor status who are receiving graduate medical education or training. The Commission was further designated the authority Federal Register, Volume 44, No. 59, March 26, 1979), to process waiver requests under the "substantial disruption" provision of Pub. L. 94–484, as amended, within criteria to be provided by the United States Information Agency on advice from the Department of Health and Human Services (formerly Department of Health, Education, and Welfare).

§ 51.3 Who is eligible to apply?

Sponsors which had alien physicians in their exchange visitor programs on January 10, 1978, are eligible to apply. For purposes of this regulation, the term "program" relates to a graduate medical education program having an exchange visitor program for physicians participating in graduate medical education or training. An "exchange visitor program" is a program of a sponsor, designed to promote interchange of persons, knowledge and skills, and the interchange of developments in the field of education, the arts and sciences, and is concerned with one or more categories of participants to promote mutual understanding between the people of the United States and the people of other countries.

§ 51.4 How will the plans be evaluated?

After consultation with the Federal Substantial Disruption Waiver Board (seven Federal representatives charged with the responsibility of reviewing substantial disruption waiver applications), the Secretary of Health and Human Services will make recommendations to the Director, United States Information Agency, for the purpose of granting waivers. The Secretary will consider the following factors in determining whether or not a plan is satisfactory:

(a) The extent of the specific problems that the program or institution anticipates without a waiver, including, for example,

(1) Curtailment of services currently provided,

(2) Downgrading of medical care currently being provided,

(3) Reduction in the number of inpatients and outpatients receiving care,

(4) Inadequate medical coverage for population served, or

(5) Inadequate supervision of junior residents.

(b) The adequacy of the alternative resources and methods (including use of physician assistants (as defined in 42 CFR 57.802), nurse practitioners (as defined in 42 CFR 57.2402), and other non-physician providers) that have been considered and have been and will be applied to reduce such disruption in the delivery of health services, especially in primary medical care manpower shortage areas, as established under Section 332 of the Public Health Service Act, and for medicaid patients. This may include, for example:

(1) Greater reliance on fully licensed physicians, and on physician assistants, nurse practitioners and other non-physician personnel in an expanded role in the delivery of health care, such as admission patient histories, making patient rounds, recording patient progress notes, doing the initial and follow-up evaluation of patients, performing routine laboratory and related studies, or

(2) Utilization of the team approach to health care delivery (individuals functioning as an integral part of an interprofessional team of health personnel organized under the leadership of a physician working toward more efficient and/or more effective delivery of health services).

(c) The extent to which changes (including improvement of educational and medical services) have been considered and which have been or will be applied to make the program more attractive to graduates of medical schools who are citizens of the United States, as demonstrated, for example, by:

(1) Adding additional services to the existing programs to provide a broader educational experience for residents,

(2) Expanding affiliations with other residency programs to offer a broader experience for residents,

(3) Expanding undergraduate clerkships to provide a broader educational experience.

(4) Creating or modifying administrative units which will provide broader clinical experiences, or

(5) Initiating research projects.

(d) The adequacy of the recruitment efforts which have been and will be undertaken to attract graduates of medical schools who are citizens of the United States, as demonstrated, for example, by:

(1) Broad-based advertisement of the program and of the institution through notices in journals, contacts with medical schools, etc.

(2) Forming committees for the purpose of recruiting U.S. citizens.

(3) Working with national organizations which are involved with medical students and U.S. graduate medical trainees, e.g., the American Medical Student Association and the Physician National House Staff Association, to attract U.S. citizens.

(e) The extent to which the program on a year-by-year basis has phased down its dependence upon aliens who are graduates of foreign medical schools so that the program will not be dependent upon the admission to the program of any additional such aliens after December 31, 1983.

[FR Doc. 83–1539 Filed 1–19–83; 8:45 am]
BILLING CODE 4160–16–M

Office of Child Support Enforcement

45 CFR Part 302

Elimination of Double Support Payments

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Interim rule.

SUMMARY: Section 173 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, amends section 454(5) of the Social Security Act to require a State to pay directly to a family any child support payments for any month following the first month in which the amount collected is sufficient to cause ineligibility for Aid to Families with Dependent Children (AFDC). This will eliminate the situation which existed prior to the enactment of section 173 of Pub. L. 97–248 in which a family would receive, during the first month of ineligibility, both the support payment which caused AFDC ineligibility and the support payment collected during the first month of ineligibility. To implement section 173, these regulations amend 45 CFR 302.32 to require the State to use the support payment used to determine a family ineligible for AFDC to reimburse itself and the Federal government, in accordance with 45 CFR 302.51, for assistance payments made to the family.

DATES: Effective upon publication, except where the Secretary determines that State legislation is required in order to conform the State plan to these

requirements. In such an event, the State plan shall not be regarded as failing to comply with these requirements solely by reason of its failure to meet the requirements prior to the end of the first session (whether regular, special, budget or other session) of the State legislature which begins after October 1, 1982 or which began prior to October 1, 1982, and remained in session until at least October 26, 1982. This is in accordance with section 176 of Pub. L. 97–248. Requests for extension of the effective date must be sent to the Regional Representative of the appropriate OCSE Regional Office and a copy of the request to the Secretary, Department of Health and Human Services. Consideration will be given to comments received by March 21, 1983. Response to comments and changes made to the regulation as a result of comments received will be published in the **Federal Register.**

ADDRESSES: Address comments to Director, Office of Child Support Enforcement, Department of Health and Human Services, Room 1010, 6110 Executive Boulevard, Rockville, Maryland 20852. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5:00 p.m., in Room 1010 of the Department's office at the address above.

FOR FURTHER INFORMATION CONTACT: Carol Jordan, (301) 443–5350.

SUPPLEMENTARY INFORMATION:

Background

Prior to enactment of section 173 of Pub. L. 97–248, section 454(5) of the Social Security Act (the Act) required IV–D agencies to pay directly to the family the full amount of the child support which was collected and used to determine the family's ineligibility for an assistance payment under the AFDC program. This amount was paid to the family in the first month the family was ineligible for an AFDC payment. In addition, the family is entitled to receive any current support which is paid during the first month of ineligibility.

The following example illustrates a typical situation occurring under the old section 454(5). The IV–A agency makes the January assistance payment to the family. On January 15 the IV–D agency collects a payment equal to the current support obligation for January. The IV–D agency notifies the IV–A agency of the amount of this collection on February 14. The IV–A agency uses the amount of the January support collection to redetermine the family's eligibility for AFDC, and on March 7 determines that the amount collected is sufficient to cause ineligibility. The IV–A agency then notifies the family and the IV–D agency that assistance terminates effective March 31. The IV–D agency pays the family the January support collection in April, the first month of ineligibility for AFDC. The IV–D agency also forwards any April support collection to the family as soon as it is received. The family thus receives two child support payments in the first month of ineligibility for AFDC and the State and Federal governments are not reimbursed for the January assistance payment. Another way to describe this situation is that the family receives both the AFDC payment and the child support collection for January.

Statutory Provision

Section 173 of Pub. L. 97–248 amends section 454(5) of the Act to require States to pay directly to the family any support payments for any month following the first month in which the amount collected is sufficient to make the family ineligible for assistance. The effect of this amendment is that the State will use the support payment which caused AFDC ineligibility to reimburse itself and the Federal government for any AFDC payment made to the family. The effective date of this amendment is October 1, 1982.

Regulatory Provisions

These regulations revise 45 CFR 302.32 (a) and (b) to implement section 454(5) of the Act as amended by Pub. L. 97–248. Current regulations at § 302.32(b) require the IV–D agency to pay directly to the family any child support payment which was sufficient to make the family ineligible for AFDC. These regulations amend § 302.32(b) by deleting the requirement that the IV–D agency must pay the support which caused ineligibility directly to the family. Instead, they require the IV–D agency to distribute the amount collected pursuant to 45 CFR 302.51. Therefore, the IV–D agency will use the child support which makes the family ineligible to reimburse the State and Federal governments for any assistance payment made to the family. Thus, the family would no longer receive two support payments in the first month of ineligibility; the first being the collection which caused the ineligibility and the second being the support collected during the first month of ineligibility. We are making a technical change to § 302.32(a) to conform with the revised § 302.32(b).

The changes made by these regulations would have the following effect on the example described earlier under **Background.** The IV–A agency terminates assistance effective March 31 based on a support payment collected by the IV–D agency in January and reported to the IV–A agency in February. The State uses the January support collection which caused AFDC ineligibility to reimburse itself and the Federal government for assistance paid to the family and forwards the April (the first month of ineligibility) support collection to the family as soon as it is received. It is essential that the IV–D agency forward the support payment collected during the first month of ineligibility to the family as quickly as possible. Since AFDC will have been terminated, the family may be totally dependent on the support payment to meet its needs. Therefore, we urge States to forward that support payment to the family within 2 days of its receipt, if possible, to insure continued self-sufficiency and to avoid a return to the public assistance rolls.

Waiver of Proposed Rulemaking

Section 173 of Pub. L. 97–248 was effective October 1, 1982. Since the legislation was not signed into law until September 3, 1982, it was not feasible to issue these regulations under a Notice of Proposed Rulemaking, as this would have delayed the issuance of final regulations until early 1983. Since the amendments made by Pub. L. 97–248 will require changes in State agency procedures, States must have some reasonable assurance that new Federal regulations under which these changes are to be implemented will not change in "mid-stream." The only way to assure States that significant changes in Federal policy will not be made after they have begun to implement the provisions of the new statute is to issue interim final regulations.

In addition, Congress clearly intended that the statutory provisions affecting savings under the AFDC program go into effect on October 1, 1982, unless the Secretary determines that State legislation is required for implementation. Accordingly, we believe that under 5 U.S.C. 553(b)(B) good cause exists for waiver of Notice of Proposed Rulemaking since issuance of proposed regulations would be impracticable and contrary to the public interest. While Notice of Proposed Rulemaking is being waived, we are interested in comments and advice regarding changes which should be made to these regulations. We will review any comments on these regulations which we receive within 60 days of the publication date of this rule and publish in the **Federal Register** response to comments and changes made to the regulation as a result of comments received.

Paperwork Reduction Act

This regulation contains no information collection requirements which require Office of Management and Budget approval under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

List of Subjects in 45 CFR Part 302

Child welfare, Grant programs/social programs.

PART 302—[AMENDED]

45 CFR Part 302.32 is amended by revising the introductory text and paragraphs (a) and (b) as follows:

§ 302.32 Child support payments to the IV–D agency.

The State plan shall provide that:

(a) In any case in which child support payments are collected for a recipient of aid under the State's title IV–A plan with respect to whom an assignment under § 232.11 is effective, such payments shall be made to the IV–D agency and shall not be paid directly to the family.

(b) As soon as possible but not later than 30 days after the end of a month, the IV–D agency will inform the agency administering the State's title IV–A plan of the amount of the collection which represents payment on the required support obligation for that month as determined in § 302.51(a). Upon being informed of this amount, the IV–A agency will determine if such amount is sufficient to make the family ineligible for an assistance payment pursuant to the State's IV–A plan (See § 232.20 of Chapter II of this title). If such amount is sufficient to make the family ineligible for an assistance payment, the IV–A agency will notify the IV–D agency and the IV–D agency will distribute the amount collected pursuant to § 302.51 of this part. The IV–D agency will notify the family if it will continue to collect and distribute current support payments pursuant to § 302.51(e)(1) of this part.

* * * * *

Note.—The Secretary has determined that this document is not a major rule as described by Executive Order 12291, because it does not meet any of the criteria set forth in Section I of the Executive Order. The Secretary certifies that because these regulations apply to States and will not have a significant economic impact on a substantial number of small entities, they do not require a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302 and section 454(5) of the Social Security Act (42 U.S.C. 654(5))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement program)

Dated: October 21, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: January 4, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83–1499 Filed 1–19–83; 8:45 am]
BILLING CODE 4190–11–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1201 and 1241

[No. 38559]

Railroad Classification Index

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission is adopting a new railroad classification methodology. This methodology will continue to base carrier classification on gross operating revenues. However, this methodology will use the Price Index for Railroad Freight, developed by the Bureau of Labor Statistics, to deflate revenues for comparison with established revenue thresholds. The use of a price deflator in revenue classification will prevent unwarranted upward reclassification on the basis of revenue increases due solely to inflation.

The Commission has also concluded that a carrier should not be reclassified upward until it exceeds the upward revenue threshold for three consecutive years instead of one year as currently prescribed. This revision will make the upward and downward reclassification rules uniform.

The Commission is also adopting a Carrier Classification Index Survey Form for carriers not filing Annual Report Form R–1 with the Commission. Any carrier whose calculation based on the deflator results in a different revenue level than its current classification shall notify the Commission.

DATES: Effective for the reporting year beginning January 1, 1982.

ADDRESSES: Copies of this rule may be purchased by contacting: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423; (202) 289–4357, D.C. Metropolitan Area; (800) 424–5403, toll free for outside D.C. area.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr. (202) 275–7448.

SUPPLEMENTARY INFORMATION:

Background

By Notice of Proposed Rulemaking (NPR) served in Docket No. 38559 on August 5, 1981, and published in the **Federal Register** on August 6, 1981 (46 FR 40060), the Commission announced its intent to revise the method of classifying railroads for accounting and reporting purposes. The new methodology would continue to classify carriers based on operating revenues. However, a price deflator formula was proposed to assess whether a carrier's revenue increases were caused by inflation or a real expansion in the carrier's business. All interested parties were given the opportunity to submit their views and comments in writing by September 21, 1981.

Review of Responses

Three respondents submitted comments to the NPR. These respondents requested that the Commission reconsider certain aspects of the classification rules.

Particularly, the American Short Line Railroad Association (ASLRA) requested that the Commission withdraw the proposed use of a price deflator formula to reclassify railroads. The ASLRA believes that adoption of this proposal would result in unnecessary work for both the Commission and smaller railroads. The ASLRA asserted that the Commission would be required to review the submissions of numerous railroads, calculate the deflator and then notify those affected carriers that their classification had changed. Further, they observed that under the proposed classification methodology, railroads would be unaware of what revenue standards apply.

While concurring with the proposal to give recognition to the impact of inflation on the revenue used to determine the classification of railroads, the Association of American Railroads suggests a voluntary system be adopted for non-reporting carriers. This alternative would require the Commission to notify the industry of revised revenue limits for the current year and request any carrier exceeding the revenue threshold for the next higher classification (or falling below the applicable threshold) to notify the Commission.

The Association of American Railroads and the Consolidated Rail Corporation requested certain classification rules be revised. These respondents maintain that the three year "phase-in" criteria for determining reclassification to a lower class should

be the same for reclassification to a higher class.

Discussion and Conclusions

The Commission currently classifies railroads based on operating revenues for accounting and reporting purposes. The general inflation level of the economy has caused increases in operating revenues without increases in operations. As a result, some carriers have been reclassified and unnecessarily subjected to detailed accounting and reporting regulations of a higher class.

To alleviate this problem, the Commission has in the past updated the revenue levels to reflect changes due to inflation. With each reclassification, some carrriers were dropped to a lower class, while others were placed in a higher class. The reclassification, however, affected the continuity of the Commission's data base and made it difficult to perform time series analysis and forecasting. In order to avoid the need to increase the classification levels every few years, we intend to use an annual price deflator formula to determine railroad classifications.

In initiating this proceeding our intention was to: (a) Provide stability in revenue classification standards so that the continuity of the Commission's data base would be maintained and to (b) avoid escalating a carrier's classification on the basis of revenue increases due to inflation. In order to eliminate the effects of inflation on carrier classification, we will implement the following methodology.

(1) Rail revenue thresholds will remain as:

Class I—$50 million or more
Class II—$10 million to less than $50 million
Class III—Less than $10 million

These revenue thresholds will be fixed, and the dollar amounts designated as 1978 year-end dollars (42 FR 35016, dated 7–7–77).

(2) In order to avoid the need to increase these classification levels every few years, we will use a price deflator formula to determine a railroad's classification. The Price Index for Railroad Freight is a well prepared index and is generally considered satisfactory by the Commission and railroads. This index will be used in the price deflator formula. The conversion formula is:

19XX Revenues in constant dollars = 19XX Revenues in nominal dollars × 1978 year-end index / current year's average index

(3) Upward or downward reclassification will be effected as of January 1 of the year immediately following the third consecutive year of revenue qualification.

(4) All carriers will annually review their classification. Class II and Class III railroads are currently exempted from filing any financial reports with the Commission. Section 217(b) of the Staggers Rail Act of 1980 (Pub. L. 96–448) requires the Commission to classify all rail carriers. The Carrier Classification Index Survey Form will provide a means for carrier participation in the classification process with little reporting burden.

The Carrier Classification Index Survey Form, Appendix A, will be distributed to carriers not filing Annual Report Form R–1 by January 30. Based upon the revised classification rules in 49 CFR Part 1210, any carrier whose calculation based on the deflator results in a different revenue level than its current classification shall notify the Commission.

For those carriers filing Annual Report Form R–1, the Commission will apply the deflator to carrier operating revenues reported in the Schedule of Results of Operations. The index used in the Commission's price deflator formula will be published by the ICC in the **Federal Register**.

We believe the adoption of the aforementioned revisions will provide stability in carrier classification, minimize the problems associated with the implementation of the uniform system of accounts and reports, and eliminate any delay in carrier reclassification.

Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities. In this proceeding, we are implementing a new classification methodology which will prevent railroads from being subjected to unnecessary accounting and reporting regulations as a result of inflation. This rule will not impose any additional reporting burden on Class I railroads. Class II and III railroads will notify the Commission only if the calculation results in a different revenue level than its current classification. Therefore the burden imposed by this form will not be significant or effect a large number of small entities.

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Parts 1201

Railroads, Uniform system of accounts.

49 CFR Parts 1241

Railroads, Reporting and recordkeeping requirements.

The classification rules in Part 1240, Classes of Carriers, have not been revised in this proceeding. The Commission has recently initiated a proceeding to eliminate Part 1240 and include all classification rules in the appropriate sections of the uniform system of accounts.

This action is taken under authority of 5 U.S.C. 553 and 49 U.S.C. 10321.

We adopt the Classification Index Survey Form set forth in Appendix A and the changes to 49 CFR Parts 1201 and 1241 set forth in Appendix B to this final rule.

Decided: January 7, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

James H. Bayne,
Acting Secretary.

Appendix A

Calendar Year Ended December 31, 19—
Check appropriate box
☐ Line Haul
☐ Switching/Terminal

CLASSIFICATION INDEX SURVEY FORM FOR RAILROAD COMPANIES THAT DO NOT FILE AN ANNUAL REPORT WITH THE INTERSTATE COMMERCE COMMISSION

Attach address label here	Carrier name and address, if different than shown

Carrier operating revenues are to be adjusted by using the deflator derived from the average 1978 and average current year Railroad Freight Price Index. The Rail Index Deflator (column C) equals the 1978 year-end Railroad Freight Price Index divided by the current year's average Railroad Freight Price Index.

Carrier Operating Revenues include the following revenues: Freight, passenger, passenger-related, switching, water transfers, demurrage, incidental, joint facility (debit and credit), transfers from government authorities for current operations and amortization of deferred transfers from government authorities.

Carrier Operating Revenues do not include the following: Income from

property used in other than carrier operations, miscellaneous rent income, profit from separately operated properties, dividend income, interest income, income from sinking and other funds, release of premiums of funded debt, contributions from other companies, income from affiliates and miscellaneous nonoperating income.

Instructions:

(1) Using the guidelines listed above, carriers should enter their carrier operating revenues for the calendar years 19—, 19— and 19— in column (b).

(2) Multiply Column (b) by Column (c) and enter adjusted revenues in column (d).

Year (a)	Carrier operating revenues in nominal dollars (thousands) (b)	Rail index deflator (c)	Adjusted revenues in constant dollars (thousands) (d)
19		.XX	
19		.XX	
19		.XX	

(3)(a) If a carrier's adjusted revenues do not exceed $10 million for each of the three years it will be classified as a Class III carrier for 1983.

(b) If a carrier's adjusted revenues exceeds $10 million for each of the three years it will be classified as a Class II carrier for 1983.

(c) If a carrier's adjusted revenues exceed $50 million for each of the three years it will be classified as a Class I carrier for 1984.

(d) If there is any change in a carrier's classification, the Commission shall be notified by filing a copy of this form with the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423.

(e) Newly organized carriers shall be classified on the basis of their adjusted annual carrier operating revenues for the first year of operations.

Questions concerning this form should be addressed to the Bureau of Accounts or telephone (202) 275–7448.

Certification

I hereby certify that this form was prepared by me or under my supervision, that I have examined it, and that the carrier operating revenues reported are correctly shown on the basis of my knowledge and belief.

Name and title	Date
Address (Street address, city, state and zip code)	Telephone number (Including area code)

Appendix B

We amend Title 49 CFR as follows:

PART 1201—RAILROAD COMPANIES

1. In General Instruction 1–1 revise paragraphs (a), (b) and (c) to read as follows:

1–1 *Classification of carriers.* (a) For purposes of accounting and reporting carriers are grouped into the following three classes:

Class I: Carriers having annual carrier operating revenue of $50 million or more after applying the railroad revenue deflator formula shown in Note A.

Class II: Carriers having annual carrier operating revenues of less than $50 million but in excess of $10 million after applying the railroad revenue deflator formula shown in Note A.

Class III: Carriers having annual carrier operating revenues of $10 million or less after applying the railroad revenue deflator formula shown in Note A.

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after the railroad revenue deflator adjustment. Upward and downward reclassification will be effected as of January 1 in the year immediately following the third consecutive year of revenue qualification.

(2) If Class II or Class III carrier's classification is changed based on three years adjusted revenues, the carrier shall complete and file the Classification Index Survey Form with the Commission by March 31.

(3) Newly organized carrriers shall be classified on the basis of their annual carrier operating revenues after railroad revenue deflator adjustment for the latest period of such operation. If actual data are not available, new carriers shall be classified on the basis of their carrier operating revenue known and estimated for a year, (after railroad revenue deflator adjustment).

(4) When a business combination occurs, such as merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective January 1 of the next calendar year on the basis of the combined revenue for the year when the combination occurred (after railroad revenue deflator adjustment).

(5) In unusual circumstances, such as partial liquidation, and the curtailment or elimination of contracted services, where the classification regulations will unduly burden the carrier, the carrier may request the Commission for an exception to the regulations. This request shall be in writing specifying the conditions justifying an exception.

(c) Class I carriers shall keep all of the accounts of this system which are applicable to their operations. Class II and III carriers are not required to maintain the accounts of this system.

* * * * *

2. In General Instruction 1–1 add the following Notes to follow paragraph (d):

* * * * *

(d) * * *

Note A.—The classification of railroads is based on the Railroad Freight Price Index developed by the Bureau of Labor Statistics. The formula is as follows:

$$\text{Current Year's Revenues} \times \frac{\text{1978 average index}}{\text{current year's average index}}$$

Note B.—See related Regulations 49 CFR 1241.13, "Railroad classification index survey form."

* * * * *

PART 1241—ANNUAL, SPECIAL OR PERIODIC REPORTS—CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

3. Add § 1241.15 to read as follows:

§ 1241.15 Railroad classification survey form.

Commencing with the year ending December 31, 1982, and thereafter, until further order, all railroad companies not required to file an Annual Report (Form R–1) shall compute their adjusted revenues using the railroad revenue deflator formula. If there is a change in a carrier's classification the survey form shall be filed with the Bureau of Accounts, Interstate Commerce Commission, Washington, DC 20423, on or before March 31.

[FR Doc. 83–1537 Filed 1–19–83; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 675

[Docket No. 30113-09]

Foreign Fishing, Groundfish of the Gulf of Alaska, and Groundfish of the Bering and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule related notice; inseason adjustment.

SUMMARY: This document announces the apportionment of amounts of Alaska groundfish that were eligible in August 1982 for apportionment to the total allowable level of foreign fishing and to the domestic annual harvest, under provisions of the fishery management plans (FMPs) for Groundfish of the Bering Sea and Aleutian Islands Area and for the Groundfish of the Gulf of Alaska. Apportionment is prescribed by regulations implementing those FMPs. The intended effect of this action is to assure optimum use of groundfish resources.

DATES: Effective through December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, 907-586-7221.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields (OY) for various groundfish species are established by the fishery management plan (FMP) for the Groundfish of the Bering Sea and Aleutian Islands Area and by the FMP for the Groundfish of the Gulf of Alaska. The FMPs, developed under the Magnuson Fishery Conservation and Management Act, are implemented by rules appearing at 50 CFR 611.92 and 611.93 and 50 CFR Parts 672 and 675. The OYs are apportioned initially to domestic annual harvest (DAH), reserve, and total allowable level of foreign fishing (TALFF). Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b). In addition, surplus amounts of the three components of DAH (DAP—domestic processed fish, DNP—fish retained for bait or consumption, and JVP—joint venture (foreign) processed fish) may be apportioned to TALFF during the fishing year under those same regulations. It is under these authorities that the adjustments described below are made.

Apportionments scheduled for February, April, and June were published on February 22, 1982 (47 FR 7674), June 28, 1982 (47 FR 27862), and September 7, 1982 (47 FR 39186), respectively. This notice announces disposition of reserve amounts eligible for apportionment in August and surplus amounts of DAH.

1. *Bering Sea and Aleutian Islands Area.* U.S. fisheries in this area have continued to expand at an unprecedented rate. Expansion of shoreside and floating processing capacity were expected to facilitate processing of most DAP amounts. The execution of all planned joint ventures and the initiation of new ones were anticipated to result in harvests of the entire JVP amounts. All DNP amounts were expected to be taken.

DAP. U.S. fishermen delivering to U.S. processors were expected to harvest fully the DAP amounts of pollock in the Bering Sea, Pacific cod, Pacific ocean perch, yellowfin sole, "other flatfishes" and "other species". None of these amounts was apportioned to TALFF. U.S. fishermen were not expected to harvest the entire DAP amounts of sablefish, turbots, and rockfish. The amounts not expected to be harvested were reapportioned to TALFF (see Summary Table of Apportionments to TALFF).

DNP. U.S. fishermen were expected to harvest all of the DNP amounts of pollock in the Bering Sea, yellowfin sole, "other flatfishes", Pacific cod, and "other species." None of these amounts was apportioned to TALFF.

JVP. U.S. fishermen delivering to joint venture processors were expected to harvest fully the JVP amounts of pollock in the Bering Sea, Pacific ocean perch, Atka mackerel, Pacific cod, turbots, "other flatfishes", "other species", and squid. None of these amounts was apportioned to TALFF.

Those U.S. fishermen, however, were not expected to harvest some of the JVP apportionments of sablefish in the Bering Sea and Aleutian Islands Area yellowfin sole, and rockfish. The amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Reserves. U.S. fishermen engaged in joint ventures were expected to harvest large amounts of pollock in the Bering Sea, Atka mackerel, and "other flatfishes". Previous JVP amounts for these three species were insufficient. Therefore, all remaining reserves for these species were apportioned to JVP (see Summary Table of Apportionments to DAH). Remaining reserves for all other species categories were apportioned to TALFF (see Summary Table of Apportionments to TALFF)

2. *Gulf of Alaska.* U.S. fishermen had harvested large amounts of some species in the Gulf of Alaska, mostly in the Western and Central Regulatory Areas. Additional activity by joint ventures and floating processors was expected. Apportionment of reserves and DAH components are addressed by individual regulatory areas.

Western Regulatory Area

DAP. U.S. fishermen had harvested all the available Pacific cod and were expected to fully harvest the DAP amounts of pollock, flounders, Pacific ocean perch, Atka mackerel, and sablefish. No DAP amounts were apportioned to TALFF.

DNP. U.S. fishermen were expected to fully harvest the DNP amounts of Pacific cod. No surplus existed for apportionment to TALFF.

JVP. A jount-venture fishery was scheduled to begin harvesting Pacific cod late in 1982. All JVP amounts of Pacific cod, flounders, and sablefish were expected to be harvested fully in this joint venture. No JVP amounts of these species were apportioned to TALFF.

However, those parts of the JVP amounts of pollock, Pacific ocean perch, and Atka mackerel that U.S. fishermen were not expected to harvest were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Reserves. U.S. fishermen were not expected to harvest any of the remaining reserves of pollock, flounders, Pacific ocean perch, Atka mackerel, and sablefish. The remaining reserves of these species, therefore, were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Central Regulatory Area

DAP. U.S. fishermen had harvested fully all the DAP amounts of pollock. No surplus existed for apportionment to TALFF. U.S. fishermen were not expected to harvest fully the DAP amounts of Pacific cod, flounders, Pacific ocean perch, and sablefish. The amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments of TALFF).

DNP. U.S. fishermen were expected to harvest fully the DNP amounts of Pacific cod. No surplus existed for apportionment to TALFF.

JVP. Although U.S. fishing effort in joint ventures was significant earlier in the year and large amounts of fish (mostly pollock), were harvested, recent effort was expected to remain low for

the rest of the year. U.S. fishermen had harvested fully the JVP amounts of pollock. No surplus existed for apportionment to TALFF. U.S. fishermen were not expected to harvest some of the JVP amounts of Pacific cod, flounders, Pacific ocean perch, Atka mackerel, and sablefish. The amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Reserves. U.S. fishermen had harvested fully the pollock reserve. None was available for apportionment to TALFF. U.S. fishermen were not expected to harvest any of the remaining reserves of Pacific cod, flounders, Pacific ocean perch, Atka mackerel, and sablefish. Thus the remaining reserves for these species were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Eastern Regulatory Area

DAP. U.S. fishermen were expected to harvest fully the DAP amounts of sablefish. No surplus existed for apportionment to TALFF. U.S. fishermen were not expected to harvest fully the DAP amounts of pollock, Pacific cod, flounders, and Pacific ocean perch. The amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

DNP. U.S. fishermen were not expected to harvest the Pacific cod DNP amounts. The entire DNP was apportioned to TALFF (see Summary Table of Apportionments to TALFF).

JVP. Following the closure of the directed sablefish fishery in the Southeast Outside District, U.S. fishermen had directed significant effort on stocks in the Yakutat District. In addition to harvesting fully the DAP amounts of sablefish, U.S. fishermen were likely to harvest an additional amount equal to the JVP. The JVP amount of sablefish would not be harvested in joint-venture operations, but it was retained to supplement DAP.

U.S. fishermen were not expected to harvest the JVP amounts of pollock, Pacific cod, flounders, Pacific ocean perch, and Atka mackerel. These amounts were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Reserves. U.S. fishermen were not expected to harvest any of the remaining reserves of pollock, Pacific cod, flounders, Pacific ocean perch, sablefish, and Atka mackerel. These amounts were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

3. *Gulf of Alaska-wide. DAP.* U.S. fishermen were expected to harvest the DAP amount of thornyhead rockfish; none was available for apportionment to TALFF. U.S. fishermen were not expected to harvest fully the DAP amounts of "other rockfish" and "other species." The amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

DNP. U.S. fishermen were not expected to harvest fully the DNP amounts of "other species." The amount not expected to be harvested was apportioned to TALFF (see Summary Table of Apportionments to TALFF).

JVP. U.S. fishermen were expected to harvest fully the JVP amounts of "other species." None was apportioned to TALFF. However, U.S. fishermen were not expected to harvest fully the JVP amounts of "other rockfish" and squid. Amounts not expected to be harvested were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Reserves. U.S. fishermen were not expected to harvest the reserve amounts of "other rockfish, thornyhead rockfish, squid, and other species." These amounts were apportioned to TALFF (see Summary Table of Apportionments to TALFF).

4. *Summary Table of Apportionments to TALFF (metric tons).*

	Reserves	Source			TALFF as adjusted
		DAP	DNP	JVP	
Bering Sea and Aleutians					
Pacific ocean perch					
Bering Sea	40				1,870
Aleutians	94				6,120
Sablefish					
Bering Sea				150	8,300
Aleutians				100	1,300
Yellowfin sole	5,850			7,000	97,800
Pacific cod					35,435
Turbots	1,125				
Other species					72,249
Squid	125				9,950
Other rockfish	125	1,000		400	7,577
Gulf of Alaska					
Pollock					
Western				4,500	55,725
Eastern	864	600		1,520	16,505
Pacific cod					
Central	1,342			1,000	
Eastern	397	210	1,200	590	
Flounders					
Western	416				
Central				700	14,480
Eastern				460	
Pacific ocean perch					
Western					2,555
Central	316				7,745
Eastern	35	200			775
Atka mackerel					
Western	187			200	4,588
Central				1,000	20,756
Eastern	127			700	3,186
Sablefish					
Western	170				[1]1,830
Central	152	270			3,050
Eastern	852				2,110
Other rockfish					7,200
Squid				100	4,950
Other species		100			[1]15,380
Thornyhead rockfish	150				3,744

[1] Correction to TALFF amount as printed in § 611.20. Appendix 1 at 47 FR 39186 on September 7, 1982.

5. *Summary Table of Apportionments to DAH (metric tons) Bering Sea.*

	Reserve amount apportioned	DAH as adjusted	JVP as adjusted
Pollock (Bering Sea)		44,550	34,050
Other flatfishes		7,250	
Atka mackerel	1,240	1,340	1,340
Total		53,140	414,440

Comments and Responses

In accordance with 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), recent aggregated reports were made available for public inspection regarding the level of catch and effort by U.S. vessels fishing for Alaska groundfish and the U.S.-harvested groundfish processed by U.S. processors or foreign vessels. In addition, those provisions afforded the public an opportunity to submit timely comments on the extent to which U.S. vessels will harvest the Alaska groundfish reserves or DAH amounts and to which U.S. fish processors will process these amounts. One comment was received during the comment period provided.

Comment: Reserves and DAH of Pacific cod, sablefish, and turbots are excess to the needs of domestic fishermen and should be apportioned to TALFF.

Response: All remaining reserves of sablefish, turbots, and Pacific cod in the Bering Sea and Aleutians, and sablefish and Pacific cod in the Gulf of Alaska were apportioned to TALFF. Certain surplus DAH amounts of sablefish and turbots in the Bering Sea and Aleutians, and sablefish and Pacific cod in the Gulf of Alaska were also apportioned to TALFF. U.S. fishermen were expected to harvest fully all the Pacific cod DAH in the Bering Sea; therefore, none was apportioned to TALFF.

Classification

The apportionment to TALFF of reserve and initial DAH amounts of groundfish is announced in this notice without amendment to the "TALFF table," which was formerly codified as Appendix 1 to 50 CFR 611.20, but which was removed by a rule appearing at 47 FR 44264 (October 7, 1982). The apportionment of groundfish reserves to DAH is announced in this document without amendment to 50 CFR 675.20, Table 1, because that table specifies initial rather than current DAH, DAP, JVP, DNP, reserve, and TALFF specifications (as of January 1 for the relevant fishing year).

This action is taken under the authority of 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), and is taken in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

Dated: January 17, 1983.

Carmen Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-1894 Filed 1-17-83; 5:00 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 14
Thursday, January 20, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 12553; Notice No. SC-82-7-CE]

Special Conditions; Piper PA-60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed amendment to special conditions.

SUMMARY: This notice proposes to amend Special Conditions No. 23-48-WE-15 to permit their application to Piper Aircraft Corporation (Piper) Models PA-60-601P, PA-60-602P, and PA-60-700P airplanes as well as future derivative PA-60 pressurized airplanes. The FAA has determined that these Special Conditions, originally developed for pressurized Aerostar Model 600/601 airplanes when the Type Certificate (TC) was held by Ted Smith Associates, are also applicable to the aforementioned airplanes as well as future derivative PA-60 airplanes. The amendment will allow future PA-60 derivative airplanes to be added to the TC without revising the Special Condition document.

DATES: Comments must be received by February 22, 1983.

ADDRESSES: Comments on this amendment may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, ATTN: Rules Docket Clerk, Docket No. 12553, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 12553. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: William L. Olson, Aerospace Engineer, Aircraft Certification Division, 601 East 12th Street, Room 1656, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these Special Conditions by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on this proposal. The proposals contained in this Notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons both before and after the closing date.

Type Certification Basis

The certification basis for the Piper Model PA-60-601P airplane is as follows: Part 23 of the Federal Aviation Regulations (FAR), effective February 1, 1965 through Amendment 23-6, effective August 1, 1967; Amendment 23-7 § 23.1091, effective August 13, 1969; Amendment 23-14 §§ 23.929 and 23.1419, effective November 19, 1973; Amendment 23-18 §§ 23.1093 and 23.1193, effective March 17, 1977; Amendment 23-23 § 23.1416, effective December 1, 1978; Part 36 of the FAR, effective December 1, 1969 through Amendment 36-9; Special Federal Aviation Regulations (SFAR) 27, effective February 1, 1974; and Special Conditions No. 23-48-WE-15.

The certification basis for the Piper Model PA-60-602P airplane includes all applicable requirements of the Model PA-60-601P airplane and the following: Amendment 23-7 § 23.1041, effective August 13, 1969 and Amendment 23-21 § 23.1043, effective January 6, 1978.

The certification basis for the Piper Model PA-60-700P airplane includes all applicable airworthiness requirements of the Model PA-60-602P airplane and the following: Amendment 23-7 §§ 23.207, 23.909, and 23.1527, effective August 13, 1969; Amendment 23-14 §§ 23.201, 23.203, 23.205 and 23.435, effective November 19, 1973; Amendment 23-17 § 23.1143, effective February 1, 1977; Amendment 23-18 § 23.901, effective March 17, 1977; Amendment 23-20 §§ 23.1301 and 23.1351, effective September 1, 1977; Amendment 23-21 § 23.1047, effective January 6, 1978; Part 36 of the FAR effective December 1, 1969 through Amendment 36-12; and any other Special Conditions that may result from this proposed action.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.17(a)(1) of the FAR do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane. Special Conditions, as appropriate, are issued in accordance with §§ 21.16 and 21.101(b)(2) of the FAR and become part of the type certification basis in accordance with § 21.17(a)(2) of the FAR.

Background

On November 5, 1980, the Piper Aircraft Corporation's Vero Beach Division, P.O. Box 1328, Vero Beach, Florida 32960, submitted an application to amend TC No. A17WE to add a new Model PA-60-700P airplane in the normal category. This new airplane, like its predecessor pressurized models, PA-60-601P and PA-60-602P, is a high-performance, turbocharged, twin-engine mid-wing aircraft with seats for six occupants. The Model PA-60-700P differs from the PA-60-601P and PA-60-602P models in that engine power has been increased from 290 to 350 horsepower and maximum gross weight has been increased from 6000 to 6200 pounds.

TC No. A17WE, originally issued to Ted Smith Associates for the Aerostar Model 600, has been amended to include growth models and was eventually transferred to the Piper Vero Beach Division. In the development process, pressurization was added and Special Conditions were developed for the novel or unusual design features associated with an outward opening external cabin door. These Special Conditions, No. 23-48-WE-15, which were issued on February 7, 1973, provide a level of safety equivalent to that required by Part 23 of the FAR and were necessary because the applicable airworthiness regulations did not contain adequate or appropriate safety standards for such an

outward opening cabin door on a pressurized airplane. The Special Conditions for type certification of the Piper PA-60-601P airplane are applicable to Piper Models PA-60-602P and PA-60-700P airplanes and other PA-60 series airplanes for the same novel or unusual features for which these Special Conditions were developed. Accordingly, this amendment proposes to extend the applicability status of Special Conditions No. 23-48-WE-15 to all pressurized Piper PA-60 series airplanes, as appropriate, to Type Certificate No. A17WE without revising the Special Condition document. This does not preclude the application of later amendments under the provisions of § 21.101(b)(1) of the FAR or the issuance of Special Conditions that may be necessary under the provisions of § 21.101(b)(2) of the FAR for future PA-60 series airplanes.

List of Subjects in 14 CFR Part 21

Aviation safety, Aircraft, Air transportation and safety.

The Proposed Special Condition Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA proposes to amend Special Conditions No. 23-48-WE-15 which were isued on February 7, 1973 to Ted Smith Associates for type certification of the Aerostar Model 601P airplane under Type Certificate No. A17WE to read as follows:

Special Conditions for the type certification of Piper PA-60 series airplanes under Type Certificate No. A17WE.

(Sec. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); §§ 11.28 and 11.29(b) of th Federal Aviation Regulations (14 CFR 11.28 and 11.29(b))

Issued in Kansas City, Missouri, January 12, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-1512 Filed 1-19-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 82-ASO-55]

Proposed Establishment of Temporary Restricted Areas, Camp LeJeune, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This action corrects a proposed rule to designate temporary restricted areas in the vicinity of Camp LeJeune, NC, as published in **Federal Register** Document 82-34385 appearing in the **Federal Register** of December 20, 1982 (47 FR 56656). This correction is necessary to include additional lateral and vertical limits to the proposed areas which were inadvertently omitted from the proposal.

DATES: Comments must be received on or before February 3, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Manager, Air Traffic Division, Docket No. 82-ASO-55, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

Send comments on environmental aspects to: Captain C. M. Zucker, USN, CINCLANT N37, Norfolk, VA 23511. Telephone: Autovon—690-6575.

Send comments on land use aspects to: Mr. Roy S. Futrell or Mr. C. M. Wash, Maneuver Real Estate Office, Army Corps of Engineers, P.O. Box 99, Cory, NC 27511. Telephone: Commercial—(919) 755-4071.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8777.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASO-55." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Correction to Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this Correction. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Correction to the Proposal

In **Federal Register** Document 82-34385 appearing in the **Federal Register** of December 20, 1982 (47 FR 56656), the altitudes for proposed temporary restricted areas R-5505E and R-5505F were incorrectly stated as "6,000 feet MSL up to and including 14,000 feet" and "10,000 feet MSL up to and including 14,000 feet MSL" respectively. The corrected altitude for R-5505E is "6,000 feet MSL to but not including FL 180" and for R-5505F is "10,000 feet MSL to but not including FL 180." Additionally, R-5505D boundaries are corrected to reflect the airspace necessary to contain the exercise activities.

List of Subjects in 14 CFR Part 73

Restricted areas, Aviation safety.

Correction to the Proposed Amendment

Accordingly, pursuant to the authority

delegated to me, Federal Register Document 82-34385 appearing at page 56656 in the Federal Register of December 20, 1982, is corrected as follows:

1. On page 56658, column 2, § 73.53, R-5505D boundaries is corrected to read:

"Boundaries. Beginning at lat. 35°05'30" N., long. 77°17'00" W.; to lat. 35°43'50" N., long. 76°35'30" W.; thence counterclockwise along the boundaries of R-5314J-B to lat. 35°34'40" N., long. 75°48'20" W.; to lat. 35°27'00" N., long. 75°48'20" W.; to lat. 35°27'00" N., long. 75°25'10" W.; thence southwest along the boundary of W-122A to lat. 35°00'30" N., long. 76°01'00" W.; to lat. 35°18'15" N., long. 76°16'40" W.; to lat. 35°23'15" N., long. 76°34'40" W.; thence counterclockwise along the boundary of R-5306A to lat. 34°46'45" N., long. 76°24'45" W.; to lat. 34°43'30" N., long. 76°22'00" W.; thence southwest along the boundary of W-122D to lat. 34°36'45" N., long. 76°43'00" W.; to lat. 34°57'00" N., long. 77°02'30" W.; to point of beginning."

2. On page 56658, column 3, § 73.53, R-5505E designated altitudes is corrected to read:

"Designated altitudes. 6,000 feet MSL to but not including FL 180."

3. On Page 56658, column 3, § 73.53, R-5505F designated altitudes is corrected to read:

"Designated altitudes. 10,000 feet MSL to but not including FL 180."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transporation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 14, 1983.

John W. Baier,

Acting Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-1587 Filed 1-19-83; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

23 CFR Part 650

[FHWA Docket No. 82-18]

National Bridge Inspection Standards; Frequency of Inspections and Inventory

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is requesting comments on proposed revisions to its regulation on the National Bridge Inspection Standards (NBIS). The revised regulation would permit States to increase the maximum time interval between the inspections for certain types or groups of bridges, as opposed to retaining the mandatory 2-year interval as required under the regulation currently in effect. The proposed revision would require that inventory data on newly completed or modified structures be entered in a State's record within 6 months as opposed to 90 days under the existing regulation. The proposed revision would provide State highway agencies greater flexibility with which to utilize available inspection resources in a cost-effective manner. It is intended that the proposed revision would encourage the efficient utilization of resources without compromising the safety of the travelling public.

DATE: Comments must be received on or before March 21, 1983.

ADDRESS: Submit written comments preferably in triplicate, to FHWA Docket No. 82-18, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Ahlskog, Chief, Design and Inspection Branch, Bridge Division, Office of Engineering and Operations, (202) 472-7697, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 am. to 4:15 p.m. e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: The National Bridge Inspection Standards for bridges on all public roads are set forth in 23 CFR Part 650, Subpart C. Section 650.305 currently requires each bridge to be inspected at regular intervals not to exceed 2 years. Section 650.311 currently requires inventory data on newly completed or modified structures to be entered in the State's records within 90 days. These two provisions are the subjects of this notice of proposed rulemaking.

Each State highway department is required to maintain a bridge inspection organization capable of performing inspections, preparing reports and determining ratings in accordance with the provisions of 23 CFR Part 650, Subpart C. Prior to the enactment of the Surface Transportation Act of 1978 (Pub. L. 95-599), the inspection standards only applied to bridges on the federal-aid system. Section 124 of the Act required that all bridges located on public roads be inventoried and thus subject to the bridge inspection standards. By regulation published on May 1, 1979 (44 FR 25434), the National Bridge Inspection Standards were amended to reflect the legislative change. In effect the number of bridges that became subject to inspection standards increased by approximately 100 percent Consequently, the scope and costs of the inspection program also increased. Available inspection resources, including equipment, manpower and funds, have been extended in order to meet the increased inspection work load. This impact on resources results in possible diversion of funds and personnel from the primary objective of the program, which is to replace or rehabilitate bridges. For this reason, the FHWA decided to review the 2-year inspection requirement in order to explore possible changes which would result in the maximum utilization of inspection resources without compromising the safety of the travelling public, which is the paramount concern.

Using National Bridge Inventory data, which does not necessarily encompass all factors which may be relevant to such determinations, the FHWA has made the tentative determination that the inspection interval can be increased for some categories of bridges with only a minimal or negligible increase in risk to the public. Any funds saved by this action could cost-effectively be applied toward the removal from service of additional deficient bridges.

Based on inventory data which has been compiled from inspections conducted on all Federal-aid bridges and the majority of off-system bridges, the FHWA proposes to permit variations in the mandatory 2-year interval between inspections under certain approved conditions. The physical data and experience derived from continuous

inspections since 1968 have identified certain groups or categories of bridges where a longer inspection interval may be warranted. One category might include modern, recently completed structures for which the initial 2–year inspection indicates no change from the condition of the bridge as constructed. Inspection experience and records of similar older bridges would be useful to to States in making these determinations Culverts are another example of a bridge category where an increased interval of inspection might be warranted. Most of the approximately 78,000 bridge length culverts are under a landfull. Even if a failure occured, the result would only be a dip in the roadway over the culvert.

Although a maximum time interval between inspections is not specified in this proposal, an FHWA review of National Bridge Inventory data and management review of the bridge program indicate that a 4–year maximum time interval may be appropriate in some uses. With the 2–year interval retention for some bridges, inspection of others at multiples of the 2–year interval would seem appropriate for efficient utilization of resources and planning purposes.

If a State proposes to inspect a group or category of bridges at intervals of greater then 2 years, the proposed revision would require that State to submit for approval by the Federal Highway Administration a documented analysis with supporting data justifying the increased time interval. Relevant factors to be considered would include:

1. *Past experience.* Records of past inspections for individual or groups of bridges would provide valuable documentation for establishing trends in deterioration of structures.

2. *Age.* Tables derived from National Bridge Inventory data show that general deterioration increases with age.

3. *Condition of bridges.* The known condition of bridges, such as deteriorated structural members of reduced load capacities would be an important part of any decision to lengthen the time between inspections.

4. *Type and frequency of traffic volume.* Bridges with a high total volume of traffic, or a high percentage of truck traffic, particularly when the truck weight approaches the bridge capacity, deserve special consideration in determining appropriate frequencies of inspection.

5. *Other relevant factors.* Factors unique to individual States or localities should be considered in evaluating individual proposals. The resulting study of relevant factors would need to demonstrate that safety would not be compromised.

Culverts and modern, recently completed structures noted earlier are two categories which might be considered for review and possible lengthening of the interval between inspections. The listed factors are not all inclusive. It is anticipated that individual States will, of necessity, modify and add to this list factors or items which are of special concern. In order to better identify additional national common categories and factors, comments are specifically requested concerning appropriate candidate bridge groups and factors which should be included in the evaluation of safe intervals between inspections.

The proposed revision would provide State highway agencies greater flexibility with which to utilize available inspection resources in a cost-effective manner. It is intended that the proposed revision would encourage the efficient utilization of resources without compromising the safety of the travelling public.

In addition to the proposed revision to the mandatory 2–year interval between inspections, the FHWA is proposing to make changes to § 650.311(b). The first sentence in this section requires the bridges that are subject to the standards be inventoried by December 31, 1980, as required by the Surface Transportation Act of 1978. This sentence would be deleted since the inventory is essentially completed. The second sentence in this section would be revised to allow 6 months before inventory data on newly completed or modified structures must be entered in the State's record. This proposed revision allows for a more realistic time frame without any adverse impacts placed on the overall bridge program.

It is anticipated that the proposed revisions would have a positive economic impact on State highway agencies. If for example, 30 percent of the Nation's bridges could be inspected at a 4-year frequency rather than the 2-year frequency, it is estimated that $8.4 million of annual inspection costs could be saved.

Due to the fact that States would be under no obligation to propose greater inspection time intervals, it is not anticipated that this proposal will have a significant economic effect. Accordingly a full regulatory evaluation is not required at this time. For the foregoing reasons, it is certified that this proposal under the criteria of the Regulatory Flexibility Act, will not have a significant economic impact on a substantial number of small entities.

Comments are requested on the proposed revisions from all interested parties. The comments should specifically address the effects of the proposed revisions on the national bridge inspection program in the States and the requirement that States submit a detailed proposal and supporting data to justify a longer inspection time interval.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular A–95 regarding State and local clearinghouse review of Federal and federallly assisted programs and projects apply to this program.)

List of Subjects in 23 CFR Part 650

Grants programs—transportation, Bridges, Highways and roads.

Issued on: January 6, 1982.

Ray Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 650—[AMENDED]

In consideration of the foregoing, and under the authority of 23 U.S.C. 116(d), 144, 315 and 49 CFR 1.48(b), the FHWA proposes to revise Part 650, Subpart C of Title 23, Code of Federal Regulations, as set forth below.

The FHWA proposes to amend 23 CFR Part 650, Subpart C as follows:

Subpart C—National Bridge Inspection Standards

1. Section 650.305 is amended by adding paragraph (c) to read as follows:

§ 650.305 Frequency of inspections.

* * * * *

(c) The maximum inspection interval may be increased for certain types or groups of bridges where past inspection reports and favorable experience and analysis justifies the increased interval of inspection. If a State proposes to inspect some bridges at greater than the specified 2-year interval, the State shall submit a detailed proposal and supporting data to the Federal Highway Administrator for approval.

2. Section 650.311 is amended by revising paragraph (b) to read as follows:

§ 650.311 Inventory.

* * * * *

(b) Newly completed structures or any modification of existing structures which would alter previously recorded

data on the inventory forms shall be entered in the State's records within 6 months.

[FR Doc. 83-1438 Filed 1-19-83; 8:45 am]
BILLING CODE 4810-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-217-81]

Oil From a Stripper Well Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under sections 4991 and 4994(g) dealing with the definition of oil from a stripper well property for purposes of tier 2 oil and for the exemption from the windfall profit tax for exempt stripper well oil. Changes to the applicable law were made by the Crude Oil Windfall Profits Tax Act of 1980 and the Economic Recovery Tax Act of 1981. These regulations would provide the public with the guidance needed to comply with the law as amended by that Act.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 21, 1983. The amendments under section 4991 would be effective for periods after February 29, 1980, and the amendments under section 4994(g) would be effective for crude oil removed from the premises after December 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attn: CC:LR:T (LR-217-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John G. Schmalz of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attn: CC:LR:T) (202-566-3829).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Excise Tax Regulations under the Crude Oil Windfall Profit Tax Act of 1980 (26 CFR Part 51) under sections 4991 and 4994(g) of the Internal Revenue Code of 1954. Generally, these amendments are proposed to conform the Excise Tax Regulations to section 101(a)(1) of the Crude Oil Windfall Profit Tax Act of 1980 (94 Stat. 230) and to section 603(b) of the Economic Recovery Tax Act of 1981 (95 Stat. 338) and are to be issued under the authority contained in section 4997(b) and 7805 of the Internal Revenue Code (94 Stat. 250, 26 U.S.C. 4997(b); 68A Stat. 917, 26 U.S.C. 7805).

Stripper Well Property

Sections 4991(d)(1)(A) and 4994(g)(1)(B) state that stripper well property is defined in accordance with the June 1979 energy regulations. However, under section 4997(b), the Secretary of the Treasury is authorized to change the application of the energy regulations to carry out the purposes of the windfall profit tax. Thus, the definition of stripper well property provided in the proposed regulations generally follows the definition of stripper well property as contained in the energy regulations. In general, a stripper well property is a property where the average daily production of crude oil per oil-producing well was 10 barrels or less per day during any 12 consecutive month measuring period beginning after December 31, 1972. As under the energy regulations, in order to prevent a producer from artificially manipulating production to qualify for the exemption, the proposed regulations provide that production during the measuring period must be at the maximum feasible rate consistent with sound conservation practices.

The proposed regulations also adopt the rule in the energy regulations that in calculating average daily production, crude oil produced in non-associated production is to be disregarded. However, the proposed regulations distinguish between associated (oil well) production and non-associated (gas well) production by use of a gas-oil ration test which was not applied under the energy regulations. Under this test a well is treated as an oil-producing well if some crude oil is produced through that well and the gas-oil ratio for the well is not more than 50,000 cu-ft of gas per barrel of crude oil produced. This rule applies for taxable periods beginning on or after March 21, 1983. For taxable periods beginning before the aforementioned effective date, the proposed regulation distinguish between associated and non-associated production in accordance with certain published DOE rulings. Furthermore, consistent with the DOE regulation, "oil-producing well" is defined so as not to include an injection well, a disposal well, a dry well, a shut-in well, a spent well, an observation well, or a plugged and abandoned well.

In order to conform the newly discovered oil definition to the stripper well oil definition, the proposed regulations provide a rule to deal with the application of the average daily production standard to a property on which a new reservoir is put into production after the property has qualified as a stripper well property. In such cases, the proposed regulations provide that if no new property election is made for the new reservoir, the property's status for future periods much be redetermined. In other words, the property must again qualify under the average daily production standard when the new reservoir is put into production. Failure to adopt such a rule will permit producers to transform newly discovered oil into stripper well oil. A redetermination of stripper well property status for the previously developed reservoir may be avoided if an election is made to treat the new reservoir as a separate property. This rule will be effective for taxable periods beginning on or after March 21, 1983. This rule will not affect taxable periods beginning before the effective date.

Tier 2 Stripper Well Oil

Section 4991(d) defines tier 2 oil so as to include oil from a stripper property within the meaning of the June 1979 energy regulations. Therefore, the definition of stripper well property is to be used for the purposes of tier 2 oil as well as for determining qualification for the stripper well exemption.

Exemption for Independent Producers

Beginning on January 1, 1983, section 4994(g) of the Code exempts qualifying independent producer stripper well oil from the windfall profit tax. In order to qualify for the exemption, the producer of the oil must be an independent producer (as defined in section 4992(b)(1)). Second, the oil must be produced from a stripper well property. Third, the oil must be attributable to the independent producer's working interest in the stripper well property. The proposed regulations define working interest in accordance with section 4992(d)(2). Finally, the oil may not be attributable to an interest in any property which at any time after July 22, 1981, was owned by a person other than an independent producer. The proposed regulations make it clear that there is no requirement that exempt stripper well oil be classified as tier 2 stripper well oil but for the exemption. In other words, if the oil meets all of the tests in section 4994(g) for exempt stripper well oil, it is immaterial that the oil would otherwise be classified, for example, as tier 3 oil. Also the classification of oil as exempt stripper well oil with respect to an independent producer holding a working interest in such oil will have no effect on

the classification of such oil to a nonqualifying producer such as, for example, a producer holding a royalty interest in such oil.

Exemption Certificate

The proposed regulations also provide rules relating to an exemption certificate for exempt stripper well oil. The certification requirement can currently be satisfied by furnishing a completed Form 6458 to the operator, purchaser, partnership, or other disburser and by filing a completed Form 6458 with the Internal Revenue Service Center, Austin, Texas.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 7 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request of any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Special Analyses

The Commissioner of Internal Revenue has determined that the proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analyses is not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is John G. Schmalz of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations both on matters of substance and style.

List of Subjects in 26 CFR Part 51

Excise tax, Petroleum, Crude Oil Windfall Profit Tax Act of 1980.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 51 are as follows:

PART 51—[AMENDED]

Paragraph 1. Section 51.4991–1 is amended by revising paragraph (b) to read as set forth below:

§ 51.4991–1 Taxable crude oil; tiers of oil.

* * * * *

(b) *Tiers of oil*—(1) *In general.* Section 4991 defines the tiers of taxable crude oil. Tier 1 oil is any taxable crude oil other than tier 2 oil and tier 3 oil. Tier 2 oil is any oil other than exempt oil which is produced from a stripper well property (as defined in paragraph (b)(3) of this section) and any oil from an economic interest in a national Petroleum Reserve held by the United States. However, the term "tier 2 oil" does not include tier 3 oil. Tier 3 oil is newly discovered oil, heavy oil, and incremental tertiary oil. For the definition of incremental tertiary oil, see § 51.4993–1.

(2) *Heavy oil.* The term "heavy oil" means all crude oil which is produced from a property if crude oil produced and sold from that property during either the last month before July 1979 in which crude oil was produced and sold from that property, or the taxable period, had a weighted average gravity of 16.0 degrees API or less (corrected to 60 degrees Fahrenheit).

(3) *Stripper well property*—(i) *In general.* Stripper well property means a property within the meaning of § 51.4996–1(i)) whose average daily production of crude oil (as defined in § 51.4996–1(1)) from oil-producing wells (as defined in paragraph (b)(4) of this section) was 10 barrels per day or less per oil-producing well during any preceding consecutive 12-month measuring period beginning after the applicable date in paragraph (b)(5) of this section.

(ii) *Average daily production.* The term "average daily production of crude oil per oil-producing well," as used in paragraph (b)(3)(i) of this section, means the maximum total production of crude oil from all oil-producing wells on that property during the 12-month measuring period divided by the product of the number of days in the measuring period times the number of oil-producing wells on the property and can be expressed by the following formula:

$$A = \frac{Q}{D \times W}$$

Where:

A = Average daily production of crude oil.
Q = Qualified maximum total production of crude oil from all oil-producing wells on the property during the measuring period.
D = Number of days in the measuring 12-month period.
W = Number of "oil-producing wells" on the property.

To qualify as maximum total production, each oil-producing well on the property must have been maintained for the full 12-month period at the maximum feasible rate of production, in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production, or the insertion of devices that restricit the flow of production from the well. Whether the maximum feasible requirement in the preceding sentence is met is to be determined from all the facts and circumstances. The facts and circumstances to be taken into consideration include: The rate at which crude oil in the reservoir flows to the well; the allowable production levels established by state regulatory bodies, if any; and production levels occurring before and after the measuring period for the property. The average daily production calculation for any well that does not meet the maximum production requirement provided by this paragraph (b)(3)(ii) must be adjusted to reflect the extent to which the production during the 12-month period was not at the maximum feasible level. An adjustment is also required in the case of a producing well converted during the 12-month period to an injection well or in the case of any well that begins production after the beginning of the 12-month period, such as, for example, a newly-drilled well.

(iii) *Examples.* The provisions of paragraph (b)(3) of this section are illustrated by the following examples:

Example (1). Assume that X operated 4 oil-producing wells at the maximum feasible rate of production on property A during a 12-month measuring period and produced 14,000 barrels of qualifying crude oil. Under these facts, the average daily production from property A is 9.59 barrels per day per well (14,000 barrels/365 days x 4 wells). Since the average daily production per well is less than 10 barrels, property A qualifies as stripper well property.

Example (2). Assume that X operated 4 oil-producing wells on property B which also

produced 14,000 barrels of crude oil during the 12-month measuring period, but that 2 of the 4 wells did not not begin to produce crude oil until one-half of the measuring period expired. Under these facts, X would compute the average daily production from property B as follows:

$$A = \frac{\text{14,000 barrels}}{\text{365 days x (2 wells + ½ well + ½ well)}}$$

A = 12.79 barrels per day per well

Since the average daily production per well is greater than 10 barrels, property B does not qualify as stripper well property.

Example (3). Assume that X operates 5 wells on property C which produces 14,000 barrels of crude oil during the 12-month measuring period, but that 2 of the 5 wells were used for the entire measuring period as injection wells in order to aid in the production of crude oil from the three oil-producing wells. Under these facts, the average daily production from property D is 12.79 per day per well (14,000 barrels/365 days x 3 wells). Since the average daily production per oil-producing well on property D is greater than 10 barrels, property D does not qualify as stripper well property.

(4) *Oil-producing well*—(i) *In general.* The term "oil-producing well", as used in paragraph (b)(3)(i) of this section, means any well through the bore of which some crude oil is produced, and the gas-oil ratio of which is not more than 50,000 cu-ft of gas per barrel of crude oil. Gas-oil ratio means the number of cubic feet of gas produced per barrel of crude oil produced. For purposes of this subdivision, gas means a mixture of hydrocarbons that at a pressure of 14.7 psia and a temperature of 60°F will exist in a gaseous state. The gas-oil ratio test for determining whether a well is an oil-producing well or not will be made by using production data during the measuring period used by the taxpayer to determine average daily production under paragraph (b)(3)(ii) of this section. This computation will be made by dividing the well's production of oil in barrels by the well's production of gas in cubic feet.

(ii) *Special rule for taxable periods beginning before March 21, 1983.* (A) *In general.* For taxable periods beginning before March 21, 1983, the term "oil-producing well", as used in paragraph (b)(3)(i) of this section, means any well that produces crude oil other than condensate recovered in non-associated production (within the meaning of paragraph (b)(4)(ii)(B) of this section) from a reservoir through that well during the 12-month measuring period.

(B) *Condensate recovered in non-associated production.* For purposes of his subdivision, the term "condensate recovered from non-associated production" means condensate produced from a well only in association with gas. Non-associated production occurs when both liquid and gaseous hydrocarbons are jointly produced from a reservoir in which they exist in the reservoir only in a gaseous state. On the other hand, a reservoir in which gas occurs in solution with crude oil would produce crude oil and gas in associated production. Generally, the state of the hydrocarbon mixture in the reservoir can be determined by an analysis of the hydrocarbon stream produced from the reservoir and how the stream is brought to the surface. The presence of the following facts would tend to indicate that the joint production of oil and gas from a reservoir is non-asssociated: A phase test which determines that under production conditions of pressure reduction at reservoir temperature, the hydrocarbon stream exhibits a dewpoint; production at the surface in a single stream having a gravity of 45° API or lighter; and the use of a production method whereby the hydrocarbon stream rises to the surface under its own underground pressure. On the other hand the existence of any of the following facts would tend to indicate that the joint production of oil and gas from a reservoir is associated: A phase test that finds that as the hydrocarbon stream rises from the reservoir to the surface a bubble point occurs (that is, the entrained dissolved gas separates from the liquid into bubbles); a production method whereby the hydrocarbon stream is raised to the surface by a pump; and production at the surface consisting of two streams, one having a gravity heavier than 45° API and the other 45° API or lighter.

(iii) *Exclusion of injection wells, etc.* For purposes of this paragraph (b)(4), the term "oil-producing well" does not include an injection well (*i.e.*, a well through which water, air, gas, steam, or other materials are injected into a reservoir in order to produce crude oil through another well), nor does it include a disposal well, a dry well, a shut-in well, a spent well, an observation well, or a plugged and abandoned well.

(5) *Applicable date.* Except as otherwise provided in this paragraph (b)(5), the applicable date for purposes of the stripper well property determination under paragraph (b)(3) of this section is December 31, 1972. However, for taxable periods beginning on or after March 21, 1983 if a new reservoir was discovered on a property after December 31, 1972, and not treated as a separate property (see § 51.4996–1(i) for rules concerning the election to treat a new reservoir as a separate property), the applicable date with respect to production from such property occurring after the new reservoir is put into production is the last day of the month in which production from the new reservoir commences. As a result, for taxable periods beginning on or after March 21, 1983 absent an election to treat a new reservoir as a separate property, a property's qualification as stripper well property must be redetermined when production commences from a new reservoir on the property.

Par. 2. Section 51.4994–1 is revised to read as follows:

§ 51.4994–1 Definitions relating to exemptions.

(a) *In general.* Section 4991 (b) provides that the term "exempt oil" (oil not subject to the windfall profit tax) means—

(1) Any crude oil from a qualified governmental interest,

(2) Any crude oil from a qualified charitable interest,

(3) Any exempt Indian oil,

(4) Any exempt Alaskan oil,

(5) Any exempt front-end oil,

(6) Any exempt royalty oil, and

(7) Any exempt stripper well oil.

(b) *Qualified governmental interest.* [Reserved]

(c) *Qualified charitable interest.* [Reserved]

(d) *Exempt Indian oil.* [Reserved]

(e) *Exempt Alaskan oil.* [Reserved]

(f) *Exempt royalty oil.* [Reserved]

(g) *Exempt stripper well oil*—(1) *General rule.* The term "exempt stripper well oil" means any crude oil (as defined in § 51.4996–1(l))—

(i) The producer of which is an independent producer (within the meaning of § 51.4492–1(b)),

(ii) Which is produced from a stripper well property (within the meaning of § 51.4991–1(b)(3)),

(iii) Which is attributable to the independent producer's working interest (as defined in § 51.4992–1(d)(2)) in the stripper well property,

(iv) Which is not attributable to an interest in any property which at any time after July 22, 1981, was owned by a person other than an independent producer (within the meaning of § 51.4992–1(b)), and

(v) Which is removed from the premises after December 31, 1982.

(2) *Classification of oil.* With respect to a qualifying independent producer holding a working interest, any oil attributable to such interst which meets the requirements in paragraph (g)(1) of this section will be considered to be

exempt stripper well oil regardless of how that oil might otherwise be classified. For example, with respect to a qualifying independent producer holding a working interest in oil that would qualify as tier 3 oil if it were taxable and that also meets the requirements for exempt oil in paragraph (g)(1) of this section, such oil will be considered exempt stripper well oil even though it also qualifies as tier 3 oil. In addition, the classification of such oil as exempt stripper well oil with respect to a qualifying independent producer holding a working interest will have no effect on the classification of such oil with respect to a nonqualifying producer (such as, for example, a producer holding only a royalty interest in such oil).

Par. 3. Section 51.4995–2 is amended by revising the first sentence of paragraph (a) and by revising paragraph (b)(1) to read as follows:

§ 51.4995–2 Producer's certificate.

(a) *In general.* A producer of "exempt Indian oil" (as defined in section 4994(d)), "exempt royalty oil" (as defined in section 4994(f)), exempt stripper well oil (as defined in section 4994(g)), or the holder of any interest in crude oil that is a "qualified governmental interest" (as defined in section 4994(a)) or is a "qualified charitable interest" (as defined in section 4994(b)), generally may execute an exemption certificate with respect to such oil. * * *

(b) *Exemption certificate*—(1) *In general.* For purposes of this section, an exemption certificate is a written statement certifying that the producer's oil is exempt from the tax imposed by section 4986 because the crude oil constitutes exempt Indian oil, exempt royalty oil, exempt stripper well oil or the oil is from a qualified governmental enterest or a qualified charitable interest. Any producer who furnishes an exemption certificate (other than an exempt royalty owner's certificate) to an operator, purchaser, partnership, or other disburser shall also file an exemption certificate with the Internal Revenue Service Center, Austin, Texas. Only one such certificate need be filed even though the producer may furnish certificates to more than one operator, purchaser, partnership, or other disburser. In the case of exempt stripper well oil, an exemption certificate must be filed even though a qualified producer has previously certified its status as an independent producer and the propery was certified as being stripper well property.

* * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 83–1500 Filed 1–19–83; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On December 17, 1982, the State of Iowa submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of this State Plan.

DATE: Written comments on the Plan must be received on or before 5:00 p.m., February 22, 1983.

ADDRESSES: Copies of the full text of the proposed Iowa Plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Missouri Field Office, 818 Grand Avenue, Kansas City, Missouri 64106
Iowa Department of Soil Conservation, Wallace State Office Building, Des Moines, Iowa 50319
Office of Surface Mining Reclamation and Enforcement, Administrative Record, 1100 L Street, NW., Rm. 5315, Washington, D.C. 20240

Written comments must be mailed or hand carried to: Director, Missouri Field Office listed above. Comments received after 5:00 p.m. February 22, 1983, will not be considered or included in the administrative record for this rulemaking.

The Administrative Record will be available in two locations for public review at the OSM Offices above, on Monday through Friday, 8:00 a.m. to 4:30 p.m. excluding holidays.

FOR FURTHER INFORMATION CONTACT: Richard D. Rieke, Director, Office of Surface Mining, Missouri Field Office, 818 Grand Avenue, Kansas City, Missouri 64106. Telephone (816) 374–5527.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State of Federal law.

Title IV provides that if the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisons of Title IV, the Secretary may approve the State program and grant to the State exclusive responsibility and authority to implement the approved program.

On December 17, 1982, OSM received a proposed Abandoned Mine Land Reclamation Plan from the State of Iowa. The purpose of this submission is to demonstrate both the State's intent and capability to assume responsiblity for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Land Reclamation (AMLR) program (30 CFR Chapter VII, Subchapter R) as published in the **Federal Register** (FR) of June 30, 1982, FR 28593–28804.

This notice describes the proposed program and sets forth information concerning public participation in the Assistant Secretary's determination of whether or not the submitted Plan may be approved. The public participation requirements for the consideration of a State Plan are found in 30 CFR 884.13. Additional information may be found under corresponding sections of the preamble to OSM's AMLR Program Final Rules (47 FR 28574–28593 (1978)).

The receipt of the Iowa Plan submission is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands in the State of Iowa.

By submitting a proposed Plan, Iowa has indicated that it wishes to be primarily responsible for the reclamation of abandoned mine lands in that State. If the program is disapproved and the State does not choose to revise the Plan, a Federal AML program will be implemented and OSM will have

primary responsibility for these activities.

The Field Director has determined that the public was provided adequate notice and opportunity to be heard on the Plan and that the record does not reflect any major unresolved controversies. Therefore, a public hearing will not be held.

Representatives of the Field Director's Office will be available to meet Monday through Friday, excluding holidays, between 8:00 a.m. and 4:00 p.m. in the Field Director's office at the request of members of the public to receive their advice and recommendations concerning the proposed Iowa Reclamation Plan and Program.

Persons wishing to meet with representatives of the Field Director's Office during this time period may place such request with Floyd Klaveter, telephone (816) 374–3920, at the Field Director's Office.

The Department intends to continue to discuss the State's Plan with representatives of the State throughout the review process. All contacts between Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979 at FR 54454.

The Office of Surface Mining has examined this proposed rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities. The reasons for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable cost, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Iowa Plan will not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual DM 5162.3(A)(1), the Assistant Secretary's decision on the Iowa Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment nor environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The Iowa Reclamation Plan for Abandoned Mine Land Reclamation can be approved if:

1. The Assistant Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure to carry out the Plan.

4. The Plan meets all requirements of the OSM, AMLR Program Provisions.

5. The State has an approved Regulatory Program.

6. It is determined that the Plan is in compliance with all applicable State and Federal laws and regulations.

The following constitutes a summary of the contents of the Iowa Reclamation Plan submission: The Iowa Department of Soil Conservation has been designated by the Governor of the State of Iowa to implement and enforce the Abandoned Mine Land Reclamation program in accordance with SMCRA. The Department has developed State regulations to carry out the State mandate. Contents of the State Plan submission include:

(a) Designation of authorized State Agency to administer the Program;

(b) State's chief legal officer's opinion on the authority of the designated agency to conduct the program in accordance with Title IV of the SMCA;

(c) Description of the policies and procedures to be followed in conducting the Program including:

(1) Goals and objectives;

(2) Project ranking and selection procedures;

(3) Coordination with other reclamation projects;

(4) Land acquisition, management and disposal;

(5) Reclamation on private land;

(6) Rights of entry; and

(7) Public participation in the Program.

(d) Description of the administrative and management structure to be used in the Program including:

(1) Description of the organization of the designated agency and its relationship to other organizations that will participate in the Program;

(2) Personnel staffing policies;

(3) Purchasing and procurement systems and policies; and

(4) Description of the accounting system including specific procedures for operation of the reclamation fund;

(e) Description of the public's participation in the preparation of the Plan;

(f) A general description of activities to be conducted under the Plan including:

(1) Known or suspected eligible lands and water requiring reclamation, including a map;

(2) General description of the problems identified and how the Plan proposes to deal with them;

(3) General description of how the lands to be reclaimed and proposed reclamation relate to the surrounding lands and land uses;

(4) A table summarizing the quantities of land and water affected and an estimate of the quantities to be reclaimed during each year covered by the Plan;

(5) General description of the social, economic, and environmental conditions in the different grographic areas where reclamation is planned, including:

(i) The economic base;

(ii) Sociologic and demographic characteristics;

(iii) Significant aesthetic, historic or cultural, and recreational values;

(iv) Hydrology, including water quality and quantity problems associated with past mining;

(v) Flora and fauna, including endangered and threatened species and their habitat;

(vi) Underlying or adjacent coal beds and other minerals and projected methods of extraction; and

(vii) Anticipated benefits from reclamation.

List of Subjects in CFR Part 915

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: January 11, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

Dated: January 13, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

[FR Doc. 83-1586 Filed 1-19-83; 8:45 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1207

[Docket No. 38837]

Revision to Accounting Rules for Class I and II Common and Contract Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to revise the Uniform System of Accounts for Class I and II Common and Contract Motor Carriers of Property (USOA) to make the Uniform System of Accounts more responsive to the Commission's data requirements. The proposed revision would: (1) make the USOA a single-class system, generally based on the present requirements for Class II carriers; (2) eliminate recognition of gains on trade-ins of operating equipment; (3) eliminate the requirement for household goods carrier principals to obtain financial reports from their carrier agents; and (4) make miscellaneous technical changes to clarify the regulations.

DATES: Written responses should be filed on or before March 7, 1983. The effective date of the proposed revision, if adopted, will be January 1, 1983.

ADDRESS: An original and 15 copies of any comments should be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Copies of this Notice may be purchased from: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, D.C. 20423, (202) 289-4357, D.C. Metropolitan Area, (800) 424-5403, toll free for outside D.C. area.

FOR FURTHER INFORMATION CONTACT: Thomas Carter (202) 275-7448.

SUPPLEMENTARY INFORMATION: In a notice issued on May 25, 1982 in Docket No. 38837, Revision to Motor Carrier of Property Accounting Rules (47 FR 22569), the Commission announced that it was reviewing its uniform system of accounts for Class I and II common and contract motor carriers of property (49 CFR Part 1207) and requested comments on what changes are necessary. Generally, the comments we received stated that the present rules are adequate and that major changes are not necessary. While one household goods carrier suggested restructuring carrier and non-carrier operating revenue and expense accounts to eliminate the distinction between carrier and non-carrier operating activities, such changes do not appear to be warranted at this time. While the request has some merit, we elected not to propose it because: (1) No other household goods carrier expressed a desire to change from the present accounting structure; and (2) because the present regulatory environment leaves some doubt as to the future role of prescribed accounting systems; we do not want to propose an expensive and time-consuming change at this time and then determine that a detailed prescribed system is not needed.

The revisions we propose would correct some technical errors, clarify several of the instructions and adjust the accounting requirements to reflect the Commission's present data reporting requirements. The proposed revisions are:

1. *Adopt a single-class system:* (a) The USOA presently has less detailed accounting requirements for Class II carriers than for Class I carriers. The proposed revision would reduce the requirements for balance sheet accounts to those presently required for Class II carriers and combine the present seven prepayment accounts into one account (refer to Appendix A for the proposed balance sheet accounts). This revision would eliminate 50 accounts for Class I carriers and 12 accounts for Class II carriers.

(b) The income statement accounts proposed for other than Instruction 28B carriers (see Appendix B) would be those now required for Class II carriers except that all carriers would have to maintain accounts 5370, Amortization Expense-Improvements to Leasehold Property, and 5380, Depreciation Expense-Undistributed Property. This revision would eliminate 109 accounts for Class I carriers while adding six accounts for Class II carriers.

(c) The income statement accounts proposed for Instruction 28B carriers (see Appendix C) would be those now required for class II carriers thereby eliminating 222 accounts for class I carriers.

2. *Accounting for Gains from Trade-Ins:* The Commission would adopt the provision of APB Opinion No. 29, Accounting for Nonmonetary Transactions, regarding gains on property traded in for similar property. Our present rules require that when operating equipment is traded in for similar property, the gain (loss) is credited (charged) to operating expense. Under a rule based on Opinion No. 29, carriers would not recognize a gain but would record the new property at an amount equal to monetary consideration paid plus the recorded value of the property traded in. In effect, carriers would record the gain as an offset to the property account. By adopting this change, the Commission would eliminate a major difference between its rules and generally accepted accounting principles.

3. *Elimination of Agent Reporting:* We would eliminate Instruction 2(f) in 49 CFR Part 1207. Instruction 2(f) requires household goods carrier principals to obtain a balance sheet and detailed schedule of operating revenues and expenses from their agents by May 15 of each year. On May 24, 1982, the Commission, Accounting and Valuation Board, voted to relieve principals from this requirement. The Board granted the relief because Instruction 2(f) was based on 49 CFR 1056.19, Required Filings Relating to Agency Agreements, which the Commission revised in Ex Parte MC-19(9a) served July 7, 1978. That revision deleted the requirement in Part 1056 for principals to keep evidence of the financial condition of agents.

4. *Miscellaneous Revisions:* The following miscellaneous revisions would be made: (a) When the Commission adopted special accounting for carriers of liquid petroleum products in tank trucks, some instructions were not amended to refer to Instruction 28C carriers. These references would be added to Definition 2 and Instructions 1, 22, 23, 27, 29 and 33.

(b) Definition 21, Depreciation and depreciation methods, would be revised to show that the term "vehicles" in paragraph 21(b) includes revenue and service vehicles.

(c) Definition 26, Methods of depreciation, would be deleted and reserved because its only purpose is to refer to Definition 21.

(d) Definition 29, Nominally issued, would be deleted and reserved, related account 2621, Nominally Issued Securities, would be deleted, and Instruction 16, Capital Stock, would be revised to delete references to account 2621. These changes would be made because when carriers nominally issue stock they should make a memorandum entry rather than an accounting entry. Therefore, an account for this stock does not belong in the balance sheet.

(e) Instruction 1, Classification of carriers, would be revised to eliminate paragraph (b)(3) because the

Commission no longer uses the Carrier Classification Form.

(f) Instruction 8, Accounting changes, would be revised to clarify that carriers need not seek approval of their accounting for accounting changes if the changes are the result of a Commission order or directive (accounting series circular, audit findings, etc.).

(g) Account 1140, Prepayments (as amended to include accounts 1141 through 1147), would be revised to clarify that carriers must choose to use either the prepaid or the direct charge method for accounting for tires and tubes. Both methods cannot be used at the same time.

Regulatory Flexibility Act

We certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. In this proceeding we are reducing the requirements for all Class I carriers (operating revenues exceed $5 million) and proposing an insignificant increase on Class II carriers ($1–5 million in operating revenues) due to adoption of a single-class system. However, the proposed accounting procedures will achieve uniformity without significant alteration from the current procedures.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1207

Uniform system of accounts.

(49 U.S.C. 11142 and 5 U.S.C. 553)

Decided: January 11, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

James H. Bayne,

Acting Secretary.

Appendix A—etc. Proposed Balance Sheet

Assets

Current Assets

1010 Cash and Working Funds
1020 Special Deposits
1030 Temporary Cash Investments
1033 Allowance for Net Unrealized Loss on Current Marketable Equity Securities
1111 Notes Receivable; Officers, Stockholders and Employees
1112 Notes Receivable; Others
1121 Loans and Notes Receivable from Affiliated Companies
1122 Interest and Dividends Receivable from Affiliated Companies
1123 Accounts Receivable from Affiliated Companies
1131 Accounts Receivable; Customers and Interline
1133 Accounts Receivable; Officers, Stockholders and Employees
1135 Accounts Receivable; Other
1138 Allowance for Uncollectible Accounts
1140 Prepayments
1151 Materials and Supplies
1160 Other Current Assets
1170 Deferred Income Tax Charges

Tangible Property

1211 Land
1213 Structures
1214 Accumulated Depreciation—Structures
1221 Revenue Equipment
1222 Accumulated Depreciation—Revenue Equipment
1223 Service Cars and Equipment
1224 Accumulated Depreciation—Service Cars and Equipment
1233 Shop and Garage Equipment
1234 Accumulated Depreciation—Shop and Garage Equipment
1235 Furniture and Office Equipment
1236 Accumulated Depreciation—Furniture and Office Equipment
1237 Miscellaneous Equipment
1238 Accumulated Depreciation—Miscellaneous Equipment
1241 Improvements to Leasehold Property
1242 Accumulated Amortization—Improvements to Leasehold Property
1243 Undistributed Property
1244 Accumulated Depreciation—Undistributed Property
1245 Unfinished Construction
1251 Carrier Operating Property Leased to Others
1252 Accumulated Depreciation—Carrier Operating Property Leased to Others
1261 Property Used in Other Than Carrier Operations
1262 Accumulated Depreciation and Amortization—Property Used in Other Than Carrier Operations

Intangible Property

1310 Organization, Franchises and Permits
1312 Accumulated Amortization—Organization, Franchises and Permits
1341 Other Intangible Property
1342 Accumulated Amortization—Other Intangible Property

Investment Securities and Advances

1410 Investments and Advances—Affiliated Companies
1428 Adjustments—Investments and Advances, Affiliated Companies
1430 Other Investments and Advances
1448 Adjustments—Other Investments and Advances
1449 Allowance for Net Unrealized Loss on Noncurrent Marketable Equity Securities
1451 Special Funds

Deferred Charges

1512 Deferred Debits
1520 Accumulated Deferred Income Charges
1551 Clearing Accounts

Liabilities

Current Liabilities

2011 Notes—Payable
2012 Matured Long-term Obligations
2021 Loans and Notes Payable to Affiliated Companies
2022 Interest and Dividends Payable to Affiliated Companies
2023 Accounts Payable to Affiliated Companies
2031 Accounts Payable; Officers, Stockholders, and Employees
2032 Accounts Payable; Interline
2033 Accounts Payable: Employee Withholding
2034 Accounts Payable; Other
2041 Salaries and Wages Payable
2051 C.O.D.'s Unremitted
2110 Accrued Operating Taxes and Licenses
2121 Accrued Federal Income Taxes
2122 Accrued State Income Taxes
2123 Accrued Other Income Taxes
2130 Other Current and Accrued Liabilities
2161 Current Equipment Obligations and Other Debt
2181 Other Current Liabilities

Long Term Debt

2310 Advances Payable—Affiliated Companies
2320 Other Advances Payable
2331 Equipment Obligations
2332 Bonds and Debentures
2333 Capitalized Lease Obligations
2334 Other Long-Term Obligations
2336 Unamortized Discount on Debt
2339 Unamortized Premium on Debt
2341 Reacquired Long-Term Obligations

Deferred Credits and Estimated Liabilities

2412 Deferred Credits
2420 Accumulated Deferred Income Tax Credits
2511 Estimated Liabilities

Owners' Equity

Capital Stock

2611 Capital Stock—Preferred
2612 Capital Stock—Common

2613 Subscribed Capital Stock

Additional Capital

2631 Premiums and Assessments on Capital Stock
2632 Discount on Capital Stock
2633 Commission and Expense on Capital Stock
2641 Other Capital in Excess of Par or Stated Value

Retained Earnings—Corporate

2651 Retained Earnings—Appropriated
2652 Retained Earnings—Unappropriated
2855 Net Unrealized Loss on Noncurrent Marketable Equity Securities
2661 Treasury Stock

Sole Proprietors' Equity

2711 Sole Proprietorship Capital
2721 Drawings
2731 Profit and Loss

Partnership Equity

2811 Partnership Capital
2821 Drawings
2831 Profit and Loss

Retained Earnings—Corporate; Closed Annually

2911 Credit Balance Transferred from Income
2921 Other Credits to Retained Earnings
2931 Debit Balance Transferred from Income
2941 Dividend Appropriations
2951 Other Appropriations of Retained Earnings
2961 Other Debits to Retained Earnings

APPENDIX B.—CLASS I AND II MOTOR CARRIERS, CHART OF ACCOUNTS MATRIX OF OPERATING EXPENSES FOR INSTRUCTION 27 AND 28A CARRIERS

Natural Classification	Control	Line Haul	Pick-up and delivery	Billing and collecting	Platform	Terminal	Maintenance	Traffic and sales	Insurance and safety	General and administrative
	0	1	2	3	4	5	6	7	8	9
410 Salaries—Officers and Supervisors	4100	X	X	X	X	X	X	X	X	X
420 Salaries and Wages	4200									
1 Clerical and Administrative	4210	X	X	X	X	X	X	X	X	X
2 Drivers and Helpers	4220	X	X							
3 Cargo Handlers	4230				X	X				
4 Vehicle Repair and Service	4240	X	X			X	X	X	X	X
5 Owner-operator Drivers	4250	X	X							
9 Other Labor	4290	X	X	X	X	X	X	X	X	X
430 Miscellaneous Paid Time Off	4300									
1 Clerical and Administrative	4310	X	X	X	X	X	X	X	X	X
2 Drivers and Helpers	4320	X	X							
3 Cargo Handlers	4330				X	X				
4 Vehicle Repair and Service	4340	X	X				X			
5 Owner-Operator Drivers	4350	X	X							
9 Other Labor	4390	X	X	X	X	X	X	X	X	X
440 Other Fringes	4400									
1 Federal Payroll Taxes	4410	X	X	X	X	X	X	X	X	X
2 State Payroll Taxes	4420	X	X	X	X	X	X	X	X	X
3 Workmen's Compensation	4430	X	X	X	X	X	X	X	X	X
9 Other Fringes	4490	X	X	X	X	X	X	X	X	X
450 Operating Supplies and Expenses	4500									
1 Fuel, Oil, Lubricants and Coolants for Motor Carriers.	4510	X	X			X	X			
2 Vehicle Parts/Outside Vehicle Maintenance.	4520	X	X			X	X	X	X	X
3 Tires and Tubes	4530	X	X			X	X	X	X	X
9 Other Operating Supplies and Expenses.	4590	X	X		X	X	X			
460 General Supplies and Expenses	4600									
1 Office Supplies	4610	X	X	X	X	X	X	X	X	X
2 Tariffs, Schedules and Advertising.	4620							X		
3 Commissions and Outside Fees	4630		X	X	X	X		X		
9 Other General Supplies and Expenses.	4690	X	X	X	X	X	X	X	X	X
470 Operating Taxes and Licenses	4700									
1 Gas, Diesel Fuel and Oil Taxes (Federal).	4710	X	X			X	X			
3 Vehicle License and Registration Fees—Usage (Federal).	4730	X	X							
4 Other Taxes (Federal)	4740									X
5 Real Estate and Personal Property Taxes.	4750	X	X	X	X	X	X	X	X	X
6 Gas, Diesel Fuel and Oil Taxes (State and Other).	4760	X	X			X	X			
7 Vehicle License and Registration Fees—(State and Other).	4770	X	X			X	X	X	X	X
9 Other Taxes (State and Other).	4790									X
480 Insurance	4800									
1 PL and PD	4810	X	X						X	
2 Cargo Loss and Damage	4820	X	X		X	X				
3 Fire, Theft and Collision	4830	X	X						X	
4 Building and Structure	4840	X	X	X	X	X	X			X
9 Other Insurance	4890								X	
510 Communication and Utilities	5100	X	X	X	X	X	X	X	X	X
530 Depreciation and Amortization	5300									
1 Buildings and Structures	5310	X	X	X	X	X	X			X
2 Revenue Equipment	5320	X	X							
3 Service Cars and Equipment	5330					X	X	X	X	X
4 Shop and Garage Office Equipment.	5340						X			
5 Furniture and Office Equipment.	5350	X	X	X	X	X	X			X

APPENDIX B.—CLASS I AND II MOTOR CARRIERS, CHART OF ACCOUNTS MATRIX OF OPERATING EXPENSES FOR INSTRUCTION 27 AND 28A CARRIERS—Continued

Natural Classification	Control	Line haul	Pick-up and delivery	Billing and collecting	Platform	Terminal	Maintenance	Traffic and sales	Insurance and safety	General and administrative
	0	1	2	3	4	5	6	7	8	9
6 Miscellaneous Equipment	5960	X	X	X	X	X	X	X	X	X.
7 Improvements to Household Property.	5970	X	X	X	X	X	X			X.
8 Undistributed Property	5980									X.
9 Amortization	5990									X.
540 Revenue Equipment Rents and Purchased Transportation.	5400									
1 Vehicle Rents with Driver	5410	X	X							
2 Vehicle Rents with Driver—Vehicle Only.	5420	X	X							
3 Vehicle Rents Without Driver	5430	X	X							
4 Other Purchased Transportation—Motor Carriers.	5440	X	X							
5 Other Purchased Transportation—Railroads.	5450	X								
6 Other Purchased Transportation—Water Carriers.	5460	X								
7 Other Purchased Transportation—Airlines and Other.	5470	X	X							
8 Allowances to Shippers	5480		X							
9 Equipment Rents—Credit	5490	X	X							
550 Building and Office Equipment Rents.	5501	X	X	X	X	X	X	X	X	X.
570 Gain or Loss on Disposition of Operating Assets.	5700									
1 Gains on Disposition of Operating Assets.	5710									X.
2 Losses on Disposition of Operating Assets.	5720									X.
590 Miscellaneous Expenses	5900									
1 Joint-Facility Expense—Net	5910					X	X			X.
3 Professional Services—Net	5930									X.
5 Uncollectible Revenue	5950									X.

APPENDIX C.—CLASSIFICATION OF OPERATING REVENUES AND EXPENSES CLASS I AND II CARRIERS OF HOUSEHOLD GOODS

Revenue classification	Carrier								Noncarrier	
	Control	Interstate	Intrastate	Local	Indirect operating	General and administrative	Packing and crating	Warehousing	Overseas import and export	Indirect operating
	0	1	2	3	4	5	6	7	8	9
310 Moving Revenue—Intercity common carrier, own rights.	3100									
1 Company driver	3110	X	X							
2 Owner operator	3120	X	X							
3 Agent	3130	X	X							
4 Overseas import and export—company driver.	3140	X	X							
5 Overseas import and export—owner operator.	3150	X	X							
6 Overseas import and export—agents.	3160	X	X							
320 Moving Revenue—Intercity contract carrier, own rights.	3200	X	X							
1 Overseas import and export	3210	X	X							
330 Moving revenue—local	3300			X						
1 Overseas import and export	3310			X						
340 Moving revenue—intercity transportation for other motor carriers.	3400									
1 Company driver	3410	X	X							
2 Owner operator	3420	X	X							
3 Overseas import and export—company driver.	3430	X	X							
4 Overseas import and export—owner operator.	3440	X	X							
350 Containers, packing and unpacking services.	3500									
1 Packing only—interstate	3510						X			
2 Unpacking only—interstate	3520						X			
3 Packing and unpacking—intrastate.	3530						X			
7 Thru-container packing and loading.	3570								X	
9 Other packing and crating service revenue.	3590						X		X	
360 Supplementary transportation service	3600	X	X							
370 Warehousing revenue	3700									
1 Storage household goods—SIT interstate.	3710							X		
2 Warehouse handling In/Out SIT interstate.	3720							X		

APPENDIX C.—CLASSIFICATION OF OPERATING REVENUES AND EXPENSES CLASS I AND II CARRIERS OF HOUSEHOLD GOODS—Continued

Revenue classification		Carrier								Nonca	
		Control	Interstate	Intrastate	Local	Indirect operating	General and administrative	Packing and crating	Warehousing	Overseas import and export	Indirect operating
		0	1	2	3	4	5	6	7	8	9
	3 Storage household goods—SIT interstate.	3730							X		
	4 Warehouse handling In/Out—SIT intrastate.	3740							X		
	5 Storage—other than carrier shipments.	3750							X		
	6 Warehouse handling In/Out—other than carrier shipments.	3760							X		
380	Commission revenue	3800									
	1 Booking commissions	3810	X	X							
	2 Origin commissions	3820	X	X							
	3 Packing commissions	3830						X			X
390	Other operating revenue	3900				X					X
	Expense Classification										
410	Salaries	4100	X	X	X	X	X	X	X	X	X
420	Operating wages-transportation only	4200									
	1 Intercity drivers	4210	X	X							
	2 Intercity helpers	4220	X	X							
	3 Driver-helper—local moving only.	4230			X						
	4 Drivers-Drayage labor—over-seas containers.	4240			X						
430	Packer wages	4300									
	1 Interstate moves	4310						X			
	2 Intrastate moves	4320						X			
	3 Overseas shipments	4330								X	
440	Warehouse labor	4400									
	1 Household goods	4410							X		
	2 SIT interstate	4420							X		
	3 SIT intrastate	4430							X		
460	Repair wages	4600									
	1 Transportation equipment only	4610	X	X	X	X	X				
	2 Other repair wages	4620						X	X	X	X
470	Commission agent fees	4700				X					X
490	Other wages	4900	X	X	X	X	X	X	X	X	X
500	Fringe benefits	5000									
	1 Contributions to union welfare funds and employees' group insurance	5010	X	X	X	X	X	X	X	X	X
	3 Workmen's compensation	5030	X	X	X	X	X	X	X	X	X
	4 Pension and retirement plans	5040	X	X	X	X	X	X	X	X	X
	7 Miscellaneous paid time off	5070	X	X	X	X	X	X	X	X	X
	9 Other employee benefits	5090	X	X	X	X	X	X	X	X	X
610	Gasoline and diesel fuel	6100	X	X	X	X	X	X	X	X	X
620	Tires and tubes	6200	X	X	X	X		X	X		X
630	Other vehicle supplies	6300	X	X	X	X		X	X		X
640	Vehicle repair parts	6400	X	X	X	X	X	X	X		X
650	Repair materials (other than vehicle)	6500				X	X	X	X	X	X
660	Printing and office supplies	6600	X	X	X	X	X	X	X	X	X
670	Packing and crating materials and supplies.	6700						X	X	X	
680	Miscellaneous supplies	6800	X	X	X	X	X	X	X	X	X
690	Purchased transportation—overseas import and export.	6900									
	2 Tractor rents with driver-agents.	6920	X	X	X						
	3 Owner operators	6930	X	X	X						
	4 Tractor—trailer-agents	6940	X	X	X						
	5 Tractor—trailer-owner operators.	6950	X	X	X						
	8 Other transportation	6980	X	X							
710	Outside services—vehicle repairs and maintenance.	7100	X	X	X	X	X	X	X		X
720	Outside services—repairs (other than vehicles).	7200				X	X	X	X	X	X
730	Other outside services	7300									
	1 Janitorial, alarm and watch services.	7310				X	X	X	X	X	X
	3 Professional services	7330				X	X				X
	6 Advertising	7360				X					X
740	Utilities	7400				X	X		X	X	X
750	Communications services	7500				X	X			X	X
760	Purchased labor and transportation	7600									
	1 Equipment rents without drivers.	7610	X	X	X			X			
	2 Tractor rents with driver from agent.	7620	X	X							
	3 Tractor rents with driver from owner operator.	7630	X	X	X						
	4 Tractor-trailer rents with driver from agent.	7640	X	X							
	5 Tractor-trailer rents with driver from owner operator.	7650	X	X	X						
	6 Purchased labor-temporary help.	7660	X	X	X			X			
	8 Purchased transportation—other transportation modes.	7680	X	X							

APPENDIX C.—CLASSIFICATION OF OPERATING REVENUES AND EXPENSES CLASS I AND II CARRIERS OF HOUSEHOLD GOODS—Continued

Revenue Classification		Carrier								Noncarrier	
	Control	Interstate	Intrastate	Local	Indirect operating	General and administrative	Packing and crating	Warehousing		Overseas import and export	Indirect operating
	0	1	2	3	4	5	6	7		8	9
9 Equipment rents—credit	7590	X	X								
770 Travel expenses-company drivers and other operating employees	7700	X	X	X	X		X	X		X	X
780 Travel and entertainment—sales, office and management personnel	7800	X	X	X	X	X	X	X		X	X
790 General expenses	7900	X	X	X	X	X	X	X		X	X
810 Depreciation	8100										
1 Revenue equipment	8110	X	X	X			X				
2 Shop and garage equipment	8120				X						X
3 Service cars and equipment	8130				X	X	X	X		X	X
4 Buildings and structures	8140			X		X	X	X		X	X
5 Furniture and office equipment	8150				X	X	X	X		X	X
7 Undistributed property	8170					X					X
9 Miscellaneous equipment	8190	X	X	X	X	X	X	X		X	X
820 Amortization expense	8200										
1 Leasehold improvements	8210					X		X		X	X
2 Other	8220					X					X
830 Rent—other than revenue equipment	8300				X	X	X	X		X	X
840 Taxes and licenses	8400										
1 Real estate and personal property taxes	8410	X	X	X	X	X		X		X	X
2 Vehicle license and registration fees	8420	X	X	X	X	X	X				X
4 Gas, diesel fuel and oil taxes—state and local	8440	X	X	X	X		X				
5 Gas, diesel fuel and oil taxes—federal	8450	X	X	X	X		X				
8 Other taxes—federal	8480				X	X					X
9 Other taxes—state and local	8490				X	X					X
850 Insurance	8500										
1 Cargo loss and damage—premiums	8510	X	X	X			X	X		X	X
2 Public liability and property damage—premiums	8520	X	X	X	X		X				X
3 Public liability and property damage—collections from haulers (credit)	8530	X	X	X							
4 Fire, theft and collision—premiums and collections from haulers	8540	X	X	X			X				X
6 Buildings and structures	8560					X	X	X			X
9 Other	8590					X					X
870 Provision for claims	8700	X	X	X	X		X	X		X	X
880 Uncollectible revenue	8800					X					X
890 Gains and losses on disposition of operating assets	8900										
1 Gains	8910					X					X
2 Losses	8920					X					X

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Listing of 17 Species of Foreign Reptiles as Endangered and Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that 17 species of foreign reptiles be listed as Endangered or Threatened species as provided for by the Endangered Species Act of 1973, as amended. The threats that are believed to be causing the declines of these species are habitat destruction, the introduction of non-native predators, exploitation as a source of human food mainly by local people, vandalism, and overcollection; these threats are briefly discussed in the text for each species. If made final, this rule would provide additional protection to wild populations of these species and allow cooperative research programs to be undertaken on their behalf.

DATE: Comments from the public and from the governments of the countries where these species occur must be received by March 21, 1983. Public hearing requests must be received by March 7, 1983.

ADDRESSES: Submit comments to Director, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rule are available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

On August 15, 1980, the Service published a notice of review in the **Federal Register** (45 FR 54685–54686) to the effect that a review of the status of 18 species of foreign reptiles would be conducted to determine whether enough

information existed to list them as Endangered or Threatened species under provisions of the Endangered Species Act of 1973, as amended. The Service received seven comments in response to the notice, most of which supported listing, especially of the land iguanas (*Cyclura* sp.) and Central American river turtle (*Dermatemys mawii*). However, there were a number of comments on the Asiatic box turtle (*Cuora trifasciata*) and Chinese big-headed turtle (*Platysternon megacephalum*) which noted that these species are more widely distributed at this time. The Service agrees; more data will be necessary to document the status of these species throughout their ranges before a determination can be made as to whether they qualify for listing under the definitions of the Act.

However, the Service will continue to review the status of these turtles, as there is at least circumstantial evidence which leads scientists to believe they might be declining.

Gray's monitor lizard, *Varanus grayi*, was also included in the notice of review. Based on the preliminary work of Dr. Walter Auffenberg (Auffenberg, 1976b, 1979a, b), this large lizard was believed to be threatened through habitat destruction and killing by local people for food. In 1981, the Service funded (in part) additional research and surveys on the lizard to develop a management plan. The Service has received a final report (Auffenberg, 1982b) in which Dr. Auffenberg states that while Philippine protection is necessary, listing under provisions of U.S. Federal law is not warranted at this time. Hence, this species is not included in this proposed rule.

One additional species from the notice, the Hierro giant lizard (*Gallotia simonyi*), is not included in this proposal, since it is now believed extinct (R. Honegger, pers. comm.). The Service has reviewed additional literature references and believes that sufficient data exist to propose the Round Island skink, *Leiolopisma telfairii*, as a Threatened species even though it was not originally included in the notice. Finally, the notice treated the iguana *Cyclura nubila* as a single species; in the proposal, the subspecies are treated individually because of different degrees of threats to them.

The species included in this proposed rule, their proposed status and their IUCN status are as follows:

Common name	Scientific name	Proposed status	IUCN
Serpent Island gecko	*Cyrtodactylus serpensinsula*	Threatened	Rare.
Acklins ground iguana	*Cyclura rileyi nuchalis*	Threatened	Rare.
Allen's Cay iguana	*Cyclura cychlura inornata*	Threatened	Rare.
Andros Island ground iguana	*Cyclura cychlura cychlura*	Threatened	Rare.
Cayman Brac ground iguana	*Cyclura nubila caymanensis*	Threatened	Vulnerable.
Cuban ground iguana	*Cyclura nubila nubila*	Threatened	Vulnerable.
Exuma Island iguana	*Cyclura cychlura figginsi*	Threatened	Rare.
Grand Cayman ground iguana	*Cyclura nubila lewisi*	Endangered	Vulnerable.
Jamaican iguana	*Cyclura collei*	Endangered	
Mayaguana iguana	*Cyclura carinata bartschi*	Threatened	Rare.
Turks and Caicos iguana	*Cyclura carinata carinata*	Threatened	Rare.
Watling Island ground iguana	*Cyclura rileyi rileyi*	Endangered	Endangered.
White Cay ground iguana	*Cyclura rileyi cristata*	Threatened	Rare.
Round Island skink	*Leiolopisma telfairii*	Threatened	Rare.
Central American river turtle	*Dermatemys mawii*	Endangered	Vulnerable.
Aruba Island rattlesnake	*Crotalus unicolor*	Threatened	Rare.
Lar Valley viper	*Vipera latifii*	Endangered	Endangered.

A brief description of these species and applicable threats is as follows:

Serpent Island gecko—This lizard is restricted to Round Island (151 hectares) where it is rare and Serpent Island (20 hectares) where it is considered very rare; both islands are near Mauritius. Predation from feral animals and habitat destruction are the chief causes of its decline (Honegger, 1979). There are estimated to be between 3,600 and 4,500 lizards remaining. The overall problems of the Round Island ecosystem and its resident herpetofauna have been presented in detail (Bullock, 1977). Round Island is presently a nature reserve and endemic lizards cannot, by law, be captured or exported from Mauritius. The lizards have also been discussed by Vinson and Vinson (1969) and Temple (1977).

Bahame species of Cyclura—All these species are listed in the International Union for the Conservation of Nature and Natural Resources (IUCN) Red Date Book as being of concern (Honegger, 1979). The main threats to their continued survival include habitat destruction for resort development and the introduction of feral animals, particularly mongooses, cats, and dogs which prey upon the iguanas, especially the young and juveniles, and destroy nests (Iverson, 1978). Introduced goats may compete for food (these species are vegetarian) and humans kill them for food or malicious"sport." Nearly all these iguanas have very small ranges; many are limited to a single island. Discussions of the threats to these species are contained in Honegger (1979), Carey (1966, 1975), Iverson and Auffenberg (1979), Iverson (1978), Auffenberg (1975, 1976a, 1982), and Gicca (1980). While legal protection is afforded these iguanas in the Bahamas, the law is not enforced (Honegger, 1979). The Service has funded research on *C. r. rileyi* to study a potentially serious fungal disease.

Cuban and Cayman Islands iguanas—There are three subspecies of *Cyclura nubila* inhabiting Cuba (mainland and Isla de Pinos) and the Cayman Islands. These are: *C. n. caymenensis* (one colony on Cayman Brac), *C. m. lewisi* (no less then 50 individuals on Grand Cayman Island, and *C. n. nubila* (Cuba and adjacent islands and cays). The threats to these iguanas are similar to those of the Bahamas *Cyclura* (Honegger, 1979) and Townson (1981) has noted additional potential threats from habitat destruction. *C. n. nubila* is protected in Cuba.

Turks and Caicos iguana—The same threats which apply to the Bahama *Cyclura* also apparently apply to this species (Honegger, 1979). It is found on most of the islands in the Turks and Caicos group. No specific protection laws have been enacted and although several cays where this species occurs are supposed to be reserves, protection is nil (Honegger, 1979).

Jamaican iguana—The following is taken from Woodley (1980) who has reviewed the history and status of this species:

"For a hundred years, they were only known to survive on the Goat Islands but, after the introduction of the mongoose and the interference consequent to the Second World War, that population became extinct in about 1948. But iguanas had, after all, survived on the mainland; in the Hellshire Hills.

Hog-hunters have been catching occasional specimens up to 1978 and one of these, killed in 1969, was obtained by the author and positively identified. It is unlikely that the Jamaican iguana, already very rare, will survive the proposed development of the Hellshire Hills."

Round Island skink—This species is presently confined to Round Island off the coast of Mauritius. It was once found on Flat Island and Gunner's Quoin until exterminated by rats. In 1974, the population was thought to be between 4,000–5,000 but declining. Those factors contributing to the decline of other species on Round Island (Bullock, 1977) are also thought to be contributing to the decline of this species (Honegger, 1979; also, see Temple, 1977, and Vinson and Vinson, 1969).

Aruba Island rattlesnake—According to Honegger (1979), the habitat of this rattlesnake is shrinking as a result of increasing human activity. Collection may also be contributing to its decline.

Lar Valley viper—Andren and Nilson (1979) have reviewed the biology of this species and state:

"*Vipera latifii* Mertens, Darevsky and Klemmer, a recently described viper from northern Iran, is in severe need of conservation. Its range is restricted to unique, alpine Lar Valley, which in a few years will be used as a huge water reservoir. Observations on the biology of *Vipera latiffii* are given. Sympatric amphibians and reptiles show ecotypic adaptations."

Central American river turtle—This large river turtle is found only in the coastal lowlands of southern Mexico, northern Guatemala, and Belize. It is hunted extensively for its meat and has been seriously depleted throughout much of its range. According to Alvarez del Toro *et al.* (1979), this exploitation could lead to its extinction. Additional information on its biology is contained in Smith and Smith (1979) and Iverson and Mittermeier (1980). The Service will follow Iverson and Mittermeier (1980) in the spelling of the specific epithet (i.e., *mawii).*

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) states that the Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. This authority has been delegated to the Assistant Secretary for Fish and Wildlife and Parks. These factors are as follows:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence."

The reptiles proposed for listing as Endangered and Threatened species relate to these factors as follows (numbers refer to factors above):

Serpent Island gecko—(A) Rabbits and goats were introduced onto Round Island in 1840 and these animals have destroyed the island's vegetation so that severe erosion has resulted. The loss of this vegetative cover is thought to have resulted in the loss of available habitat for this species. (C) Since there are no palms on Serpent Island, the scarcity of this species on Round Island has also been attributed to predation.

Acklins ground iguana—(A) This species is found only on Fortune Island and Guana Cay in Acklin's Bight. There are probably less than 1,000 individuals remaining. Increased human settlement in the Bahamas has resulted in the loss of available habitat for this species. (C) Predation by people who use this species for food is thought to have decreased its numbers. (D) While legally protected in the Bahamas, the law is not enforced.

Allen's Cay iguana—(A) This species is found in the Allen Cay group at the northern end of the Exuma Island chain. Like other species of Bahamian iguanas, this species has lost habitat because of human encroachment. There are 75–100 individuals remaining on each island of the group. (C) This subspecies is threatened by being needlessly slaughtered by tourist fishermen for "sport" and is sometimes hunted by local people for food. (D) This iguana is legally protected by the Bahamas, but the law is not enforced.

Andros Island ground iguana—(A) This species is primarily found along the western two-thirds of the Andros group. This iguana is losing habitat to agricultural and commercial development and from lumbering. (B) According to Honegger (1979), there is extensive commercial exploitation. (C) This species is used for food by local people who hunt it with dogs. Hog predation on its eggs is also a problem. (D) This iguana is legally protected by the Bahamas, but the law is not enforced.

Cayman Brac ground iguana—(C) This iguana is known only from Cayman Brac and Little Cayman Islands although introduced onto Grand cayman. The population has been reduced by predation from feral pigs, cats, and dogs. Humans also hunt the ground iguana.

Cuban ground iguana—(C) This iguana is known from Cuba, Isla de Pinos, and a number of offshore islands and cays. All populations are probably suffering from predation by feral pigs, cats, and dogs. Humans also occasionally hunt the ground iguanas.

Exuma Island iguana—(A) This iguana is found on Bitter Guana Cay, Guana Cay, Prickley Pear Cay, and Allen Cay in the Exuma group. This subspecies is threatened by the development of its remaining habitat primarily for commercial and residential purposes. (B) Honegger (1979) states that commercial trade is a threat to this subspecies. (C) Hunting of the iguanas for food and shooting them for "sport" by tourists are threats to this iguana. (D) While this iguana is protected by Bahamian law, the law is not enforced.

Grand Cayman ground iguana—(C) This iguana is known only for Grand Cayman; there is believed to be a population of not less than 50 individuals remaining. Threats to the population are mainly thought to be predation from feral pigs, cats, and dogs. Humans also hunt the ground iguanas in the Cayman Islands.

Jamaican iguana—(A) Until recently, this species was thought extinct. However, it survives probably is very low numbers in the Hellshire Hills. This area is proposed to be developed. If this occurs, the remaining small population will become extinct. (C) Dogs and people are known to kill these iguanas. Any such loss to the population is a threat to its continued existence.

Mayaguana iguana—(A) This subspecies is known only from Bobby Cay east of Mayaguana. According to Honegger (1979), there has been some loss of habitat due to human activities. (C) This species is hunted by local people for food. (D) While legally protected by Bahamian law, the law is not enforced.

Turks and Caicos ground iguana—(A) This iguana is found throughout the Turks and Caicos group. According to Honegger (1979), it is declining because of the loss of suitable habitat through housing development and agriculture. (C) Like other ground iguanas, this species is subject to predation from humans and feral dogs and cats. (D) While some of the islands on which this

species occurs have been designated as reserves, enforcement is nil.

Watling Island (San Salvador) ground iguana—(C) This species is known only from Green Key, Man Head Key, Pidgeon Key, Low Key, and Goulding Key. Though previously reported from White Key and a number of adjacent keys, Gicca (1980) and Auffenberg (1982) note that none were found on these keys during surveys in 1974 and 1981, respectively. There may be a small remnant on San Salvador in the interior of the island. Causes for extirpation and decline include predation by humans for food and the introduction of feral predators. In addition, a serious fungal disease has in the past affected this subspecies; its cause and long term effects are unknown but many iguanas have been scarred by it.

White Cay ground iguana—(A) This iguana is known only from White Cay in the Bahamas where there are believed to be less than 1,000 individuals. The main threat to this species is from the loss of habitat from an encroaching human population. (B) According to Honegger (1979), the live animal trade could be having an adverse effect on this species. (C) Humans are predators on this species for food.

Round Island skink—(A) This species is now restricted to Round Island. Rabbits and goats were introduced onto Round Island in 1840 and these animals have destroyed the island's vegetation so that severe erosion has resulted. The loss of this cover is though to have resulted in the loss of available habitat for this species. (C) Rats are known predators and are thought to have eliminated this species on Flat Island and Gunner's Quoin.

Central American River turtle: (B) This large river turtle is found only in the coastal lowlands of southern Mexico, northern Guatemala, and Belize. It is hunted extensively for food and has been seriously depleted throughout its range. If this intensive exploitation continues, not only will the turtle disappear, but the local inhabitants will lose an important part of their diet. Turtle meat labeled as from *Dermatemys* has occasionally been imported into the United States. However, as shown in a recent law enforcement case, this meat was actually from sea turtles. The extent of possible international commercial trade in meat from this turtle is impossible to gauge, but could be significant as there have been numerous inquiries from soup companies as to its legality for trade.

Aruba Island rattlesnake—(A) According to Honegger (1979), the habitat of this rattlesnake is shrinking as a result of increasing human activity. (B) The extent of this problem is unknown, although overcollecting may be a problem for this species. However, captive propagation, such as undertaken at the Houston Zoo (Carl *et al.*, in press) should be able to provide needed specimens for education and zoological display.

Lar Valley viper—(A) This species is confined to the alpine Lar Valley in Iran. According to Andrew and Nilson (1979), there is the threat of construction of a dam for a water reservior which would eliminate its habitat.

Effects of the Proposal if Published as Final Rule

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered and Threatened species. The regulations referred to above, which pertain to Endangered and Threatened species, are found at §§ 17.21 and 17.31 of Title 50, and are summarized below.

With respect to the 17 species of reptiles in this proposed rule, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21 and 17.31 would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered and Threatened species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22, and 17.23, and 17.32. Such permits are available for scientific purposes, the enhancement or propagation or survival of the species, and economic hardship.

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Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of these Endangered and Threatened species. Therefore, any comments or suggestions from the public, other

concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

1. Biological and other relevant data concerning any threat (or lack thereof) to these species, and

2. Additional information concerning the range and distribution of the species.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests should be made in writing to the Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Final promulgation of the regulations on these foreign reptiles will take into consideration the comments and any additional information received by the Service, and such communications may lead it to adopt a final rule that differs from this proposal.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours (7:45–4:15pm). A determination will be made at the time of a final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508).

Author

The primary author of this proposed rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is proposed that Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations be amended as follows:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; and Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*)

2. It is proposed to amend § 17.11(h) by adding, in alphabetical order, the following to the list under reptiles:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Historic range	Population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Gecko, Serpent Island	*Cyrtodactylus serpensinsula*	Mauritius	Entire	T		N/A	N/A.
Iguana, Acklins ground	*Cyclura nileyi nuchalis*	Bahamas	Entire	T		N/A	N/A.
Iguana, Allen's Cay	*Cyclura cychlura inornata*	Bahamas	Entire	T		N/A	N/A.
Iguana, Andros Island ground	*Cyclura cychlura cychlura*	Bahamas	Entire	T		N/A	N/A.
Iguana, Cayman Brac ground	*Cyclura nubila caymanensis*	Cayman Islands	Entire	T		N/A	N/A.
Iguana, Cuban ground	*Cyclura nubila nubila*	Cuba	Entire	T		N/A	N/A.
Iguana, Exuma Island	*Cyclura Cychlura figginsi*	Bahamas	Entire	T		N/A	N/A.
Iguana, Grand Cayman ground	*Cyclura nubila lewisi*	Cayman Islands	Entire	E		N/A	N/A.
Iguana, Jamaican	*Cyclura collei*	Jamaica	Entire	E		N/A	N/A.
Iguana, Mayaguana	*Cyclura carinata bartschi*	Bahamas	Entire	T		N/A	N/A.
Iguana, Turks and Caicos	*Cyclura carinata carinata*	Turks and Caicos Islands	Entire	T		N/A	N/A.
Iguana, Wading Island ground	*Cyclura nileyi nileyi*	Bahamas	Entire	E		N/A	N/A.
Iguana, White Cay ground	*Cyclura nileyi cristata*	Bahamas	Entire	T		N/A	N/A.
Skink, Round Island	*Leiolopisma telfairii*	Mauritius	Entire	T		N/A	N/A.
Turtle, Central American river	*Dermatemys mawii*	Mexico, Belize, Guatemala	Entire	E		N/A	N/A.
Rattlesnake, Aruba Island	*Crotalus unicolor*	Aruba Island (Netherlands Antilles)	Entire	T		N/A	N/A.
Viper, Lar Valley	*Vipera latifi*	Iran	Entire	E		N/A	N/A.

Dated: December 16, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83–1454 Filed 1–19–83; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 48, No. 14
Thursday, January 20, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Fremont National Forest Grazing Advisory Board; Meeting

The Fremont National Forest Grazing Advisory Board will meet at 10:00 A.M. on Friday, March 4, 1983 at the Forest Supervisor's Office, 34 North D Street, Lakeview, Oregon 97630. The purpose of this meeting is:

1. Discuss use of range betterment funds.
2. Review range allotment management planning.

The meeting will be opened to the public. Persons who wish to attend should notify Ralph B. Roberts, 34 North D Street, Lakeview, Oregon 97630, phone 947–2151. Written statements may be filed with the Board before or after the meeting.

The committee has established the following rules for public participation:

1. Must have prenotice and placed on agenda.
2. Time limit will be announced at meeting.
3. May be oral or written.
4. General public.

a. Open input on agenda items permitted.

b. May present topics or concerns if prearranged.

Dated: January 10, 1983.

Orville D. Grossarth,

Forest Supervisor.

[FR Doc. 83–1572 Filed 1–19–83; 8:45 am]

BILLING CODE 3410–11–M

Inyo National Forest Grazing Advisory Board; Meeting

The Inyo National Forest Grazing Advisory Board will meet at 10 a.m. on February 22, 1983 in the Inyo National Forest conference room in Bishop, California. The purpose of the meeting is:

Review proposed FY 83–84 range improvement projects and advise Forest Supervisor on use of range betterment funds.
Discuss development of allotment management plans.
Receive Grazing Advisory Board recommendations.
Establish subcommittees.
Establish next meeting date.

The meeting will be open to the public. Persons who wish to attend may notify Inyo National Forest by calling (619) 873–5841. Written statements may be filed with the committee before or after the meeting. Members of the public wishing to speak at the meeting will be recognized by the committee chairman at the appropriate time.

Dated: January 12, 1983.

James L. Cooper,

Acting Forest Supervisor.

[FR Doc. 83–1563 Filed 1–19–83; 8:45 am]

BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

[Docket 41218; Order 83–1–36]

Order Granting Blanket Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of January 1983.

In the matter of a blanket exemption to indirect air carriers serving as Air Ambulance Operators under section 416(b) of the Federal Aviation Act of 1958, as amended.

Section 401 of the Federal Aviation Act requires air carriers to obtain a certificate of public convenience and necessity from the Board in order to conduct air transportation operations. Under section 416(b) of the Act the Board has granted exemptions from these requirements to allow indirect air carriers to hold out, arrange, and coordinate air ambulance services of direct air carriers. In granting these exemptions to indirect air carriers, we have concluded that, since these operators offer the public a unique service, it is in the public interest to permit them to develop and coordinate the air ambulance capabilities of air carriers throughout the country and make it possible for persons requiring these services to secure them in a systematic and expedited manner.[1] Over 30 carriers have been granted exemptions from Title IV of the Act[2] as indirect air carriers to provide air ambulance services. We have conditioned the exemptions on the requirement that the air ambulance operator use only the services of carriers holding appropriate Board and FAA authority to engage in such operations.

We have during the past two years received eight applications for exemptions to perform air ambulance services. Without exception, all of these applications have been granted, subject only to the condition mentioned above.

In acting on these recent applications, we have not performed any fitness evaluation of the applicant *per se*. Rather, we have concentrated our attention on the direct air carriers that the operators intended to use in their services, conditioning such exemptions on the requirement noted above.[3] We have now decided that we can accomplish the same purpose by granting a blanket exemption from Title IV of the Act to any person desiring to conduct air ambulance services as an indirect air carrier. This exemption will, as in the past, be conditioned upon the air ambulance operator using only Board and FAA authorized air carriers. In addition, we will require the air ambulance operator itself to obtain any safety authorization that may be required by the FAA to conduct this service.

The grant of this exemption will eliminate the need for proposed operators to file and prosecute individual applications for such authority and is in line with our continuing efforts to eliminate regulatory controls which no longer appear necessary. For these reasons, we find that the proposed exemption from Title IV is in the public interest.

Accordingly,

1. We grant a blanket exemption from the provisions of Title IV of the Act to persons proposing to operate as indirect

[1] See, e. g., *Application of Air Medic*, Docket 25135, Order 73–3–62, March 19, 1973.

[2] Except for the obligation under section 404(a) of the Act to provide safe and adequate service.

[3] Most of the direct air carriers that air ambulance operators use for their services are air taxi operators which are required by the Board to register and maintain minimum insurance coverage and to hold an air carrier operating certificate and operations specifications from the FAA.

air carriers to the extent necessary to permit them to hold out, arrange and coordinate the operation of air ambulance services; *Provided* that this relief does not exempt the indirect air carriers from their obligations under section 404(a) to provide safe and adequate service, equipment, and facilities in the conduct of the operations; and *Provided further,* that:

(i) They will utilize only those air carriers that hold appropriate Board and FAA authorization to engage in such air transportation operations; and

(ii) They will themselves obtain any safety authority that may be required by the FAA to conduct such operations.

2. We reserve the right to amend, modify, or revoke this order at any time in our discretion without hearing; and

3. We will publish a copy of this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1574 Filed 1-19-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41221]

California-Alberta Service Case; Notice of Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated at Washington, D.C., January 17, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83-1573 Filed 1-19-83; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-1-40; Docket 41221]

California-Alberta Service Case; Order Instituting Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice.

SUMMARY: The Board is instituting the *California-Alberta Service Case* to select primary and back-up carriers to provide schedule service between Los Angeles/San Francisco, California and Calgary and Edmonton, Alberta, Canada (U.S. Routes F.2 and F.3 of the U.S.-Canada Air Transport Services Agreement). The proceeding will also consider whether Republic Airlines' certificate authority for these routes should be deleted under section 401(g) of the Act. The complete text of Order 83-1-40 is available as noted below.

DATES: Applications, motions to consolidate applications conforming to the scope of this proceeding, petitions from interested persons, and petitions for reconsideration shall be filed by January 31, 1983. Answers shall be filed by February 10, 1983.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41221, *California-Alberta Service Case.*

FOR FURTHER INFORMATION CONTACT: Ronald A. Brown, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5203.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-1-40 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-1-40 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: January 12, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1575 Filed 1-19-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Final Affirmative Countervailing Duty Determination; Cabron Steel Plate From Brazil

AGENCY: International Trade Administration,

ACTION: Final Affirmative Countervailing Duty Determination.

SUMMARY: We have determined that certain benefits that constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of carbon steel plate. The estimated net subsidy is 11.75 percent *ad valorem.* The U.S. International Trade Commission (ITC) will determine within 45 days of the publication of this notice whether these imports are materially injuring, or threatening to materially injure, a U.S. industry.

The Department of Commerce (the Department) and the government of Brazil have entered into a suspension agreement. We continued the investigation at the request of the petitioners. If the final determination by the ITC is negative, the suspension agreement shall have no force or effect. If the final determination by the ITC is affirmative , the suspension agreement shall remain in force.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Paul J. McGarr, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that certain benefits that constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Brazil of carbon steel plate. The following programs are found to confer subsidies:

- Industrialized Products Tax (IPI) export credit premium.
- IPI rebates for capital investment.
- Preferential working capital financing for exports: Resolution 674.
- Industrial Development Council program.

We determine the estimated net subsidy on carbon steel plate from Brazil to be 11.75 percent *ad valorem.*

The Department and the government of Brazil have entered into a suspension agreement. If the ITC makes a final affirmative determination, the agreement will remain in force, and we will not issue a countervailing duty order as long as the requirements of section 704(f)(3)(B) of the Act are met.

Case History

On January 11, 1982, the Department received petitions from United States Steel Corporation, and counsel for Republic Steel Corporation, Inland Steel Company, Jones & Laughlin Steel, Inc., National Steel Corporation, and Cyclops Corporation (the Five), filed on behalf of the U.S. industry producing carbon steel plate. The petitions alleged that certain benefits that constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to manufacturers, producers, or exporters in Brazil of carbon steel plate. Counsel for the Five alleged that "critical circumstances" exist, as defined in section 703(e) of the Act.

We found the petitions to contain sufficient grounds upon which to initiate a countervailing duty investigation and on February 1, 1982, we initiated a countervailing duty investigation (47 FR 5751).

We stated that we expected to issue a preliminary determination by April 6,

1982. We subsequently determined that the investigation was "extraordinarily complicated", as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until June 10, 1982 (47 FR 11736).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On February 26, 1982, the ITC determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 9087).

On February 18, 1982, we presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. On April 22, 1982, we received the response to the questionnaire. A supplemental response was received on June 7, 1982.

On June 10, 1982, we issued our preliminary determination in this investigation (47 FR 26310). We stated in our preliminary determination that the government of Brazil was providing its manufacturers, producers, or exporters of carbon steel plate with benefits that constitute subsidies. The programs preliminarily determined to bestow subsidies were:

- IPI export credit premium.
- IPI rebates for capital investment.
- Preferential working capital financing for exports: Resolution 674.

On August 24, 1982, the Department and the government of Brazil signed a suspension agreement, as provided for under section 704 of the Act. The agreement became effective with its publication in the **Federal Register** on September 7, 1982 (47 FR 39394). Under the agreement, the government of Brazil is required to offset completely by an export tax the amount of the net subsidy determined by the Department to exist on Brazilian exports of carbon steel plate to the United States. The petitioners are challenging this agreement in the Court of International Trade in the case of *United States Steel Corp. v. United States,* Court No. 82–10–01361.

By letters of September 21, 22 and 27, 1982, counsel for the Five, United States Steel and counsel for Bethlehem Steel, respectively, requested that the investigation be continued under section 704(g) of the Act. Therefore, we are required to complete the investigation and issue a final determination.

United States Steel submitted new allegations too late to offer the Department a reasonable opportunity to investigate prior to August 24, 1982. Following petitioners' request to continue the investigation, the Department presented a supplemental questionnaire on October 29, 1982 to the government of Brazil, which addressed these late allegations. The supplemental questionnaire addressed the following new programs:

- Non-indexation of overdue accounts payable.
- FINAME loans to producers of steel-making equipment.
- Partial relief from payment of retirement benefits to employees.
- Charcoal used in steel production.
- Ferrovia do Aco, the "Steel Railway".

We received a response to that questionnaire on November 26, 1982.

Scope of Investigation

The product covered by this investigation is hot-rolled carbon steel plate manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States. The term "carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6615 or 607.94 of the *Tariff Schedules of the United States Annotated (TSUSA);* and hot- or cold-rolled carbon steel plate which has been coated or plated with zinc including any material which has been painted or otherwise covered after having been coated or plated with zinc, as currently provided for in items 608.0710 or 608.11 of the TSUSA. Semi-finished products of solid rectanglar cross section with a width at least four times the thickness in the as cast condition or processed only through primary mill hot rolling are not included.

Companhia Siderurgica Paulista (COSIPA) and Usinas Siderurgicas de Minas Gerais S.A. (USIMINAS) are the only known exporters in Brazil of carbon steel plate to the United States. The period for which we are measuring subsidization is calendar year 1981. COSIPA's and USIMINAS' fiscal years coincide with the calendar year.

Analysis of Programs

In its responses, the government of Brazil provided data for the applicable periods. Throughout this notice, general principles and conclusions of law applied by the Department of Commerce to the facts of this investigation are described in detail in Appendices 2 and 4, which appeared with the notice of "Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Belgium" (47 FR 39304).

I. Programs Determined To Confer Subsidies

We have determined that subsidies are being provided under the programs described below to manufacturers, producers, or exporters in Brazil of carbon steel plate.

A. Industrialized Products Tax (IPI) Export Credit Premium. The IPI export credit premium has been found to be a subsidy in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981.

Exporters of carbon steel plate are eligible for the maximum IPI export credit premium. During the applicable period, 15 percent of the "adjusted" f.o.b. invoice price of the exported merchandise was reimbursed in cash to the exporter through the bank involved in the export transaction. Subsequently, the government of Brazil reduced the benefit to 14 percent on March 31, 1982, 12.5 percent on June 30, 1982, and 11 percent on September 30, 1982.

In calculating the amount the exporter is to receive, several deductions may be made to the invoice price to obtain the "adjusted" f.o.b. value. These adjustments include: any agent commissions, rebates, or refunds resulting from quality deficiencies or damage during transit, contractual penalties, and the value of imported inputs. In order to receive the maximum export credit premium, the exported product must consist of a minimum of 75 percent value added in Brazil. If this minimum limit is not met, there is a specific calculation to reduce the f.o.b. invoice price when calculating the base upon which the IPI export credit premium is paid. Since the companies involved in this investigation import large quantities of slab, they received substantially less than a 15 percent benefit on the gross value of many shipments.

Our preliminary determination on this program was based on IPI credits received from July 1, 1981 to December 31, 1981, divided by the value of exports for the same period. We noted at the time two concerns: (1) That the subsidy may have been understated, and (2) that the import of slab may have been a temporary phenomenon.

At verification, the first concern proved correct. The companies record IPI credits when received, which are based on shipments that may have taken place two to three months before. The export figures we used as the denominator in the preliminary

determination bore little relation to the IPI credits received during the same period.

We stated in our preliminary determination that we would ascertain whether the use of imported slab, a major factor in reducing the level of subsidy from this program, was a temporary situation. At verification, we examined imports of slab and determined that COSIPA, which was responsible for 80 percent of the exports of carbon steel plate from Brazil, was still importing substantial quantities of slab which, having entered under duty drawback, must be further manufactured and exported.

To calculate the value of the IPI credits, we sampled COSIPA's and USIMINAS' receipts of IPI credits and traced each to the appropriate shipment. We established that a substantial portion of plate shipments are made with imported slab which enters subject to duty drawback, the value of which is deducted from the value of the shipment before the IPI is calculated. For each shipment, we calculated the value of the IPI credits as a percentage of the gross value of the shipment. We made this calculation as of the date of shipment rather than the date of receipt and did not take into account the devaluation of the cruzeiro between the date of shipment and the date of receipt in accordance with section 771(6)(B) of the Act.

Instead of the 5.40 percent *ad valorem* subsidy reported in our preliminary determination, we calculated a subsidy value during 1981 of 11.05 percent. This rate is premised on an IPI export credit premium of 15 percent.

The government of Brazil has made three reductions in the level of the IPI credit during 1982, the most recent on September 30, 1982 to 11 percent. Accordingly, we have made a proportional reduction in our calculation above. On this basis, we calculated a current *ad valorem* export subsidy of 8.10 percent.

B. IPI Rebates for Capital Investment. Decree Law 1547 (April 1977) provides funding for the expansion of the Brazilian steel industry through a rebate of the IPI, the Brazilian federal excise tax. Under this tax system, a company determines its liability for the tax at the end of each month. The net tax owed is calculated as the difference between the total IPI the company paid on purchases and the total IPI it collected on domestic sales. Normally, within five months after the end of each month, a company must pay the amount of the net tax owed directly to the Brazilian government. This net IPI tax is the basis for calculating the rebate for investment. A Brazilian steel company may deposit 95 percent of the net IPI tax due in a special account with the Banco do Brasil. The amounts deposited are to be applied to steel expansion projects, and when rebated to the firms constitute tax-free capital reserves which must eventually be converted into subscribed capital.

COSIPA and USIMINAS received benefits under this program from 1977 to 1981. With the enactment of Decree Law 1843 (December 1980), COSIPA and USIMINAS must now pay the IPI tax to the government which in turn rebates 95 percent to SIDERBAS, the government holding company to which COSIPA and USIMINAS belong, to increase its capital.

We consider the amount rebated each year as an untied capital grant received in that year. As such, we have allocated the grants over 15 years, the estimated average life of capital assets in integrated steel mills (based on Internal Revenue Service studies of actual experience in integrated mills in the United States).

In making the calculation for our preliminary determination, we took the amount of the rebate received in each year, converted the cruzeiro value to dollars by using the average exchange rate for the year, and used as the discount rate for each year the average LIBOR (London Interbank Offered Rate) plus the prevailing spread over LIBOR in Brazil in that year. The grants were amortized over 15 years and the total benefit for 1981 was divided by the total value of sales, converted into dollars using the average exchange rate for 1981.

We chose the above method for our preliminary determination because at that time we did not have sufficient information to employ the indexing procedure that establishes the rate of return on long-term cruzeiro debt instruments in Brazil. At verification we learned that government bonds and long-term cruzeiro loans are fully indexed to the inflation rate in Brazil and have fixed real interest rates. The index used is the ratio established for the Readjustable Bonds of the National Treasury (ORTN). In the case of a loan, the cruzeiro value is converted to an ORTN value by using the ORTN index rate in the month of receipt. The stream of principal and interest payments over the life of the loan is then calculated in ORTN and when a payment is made, the ORTN value due is converted into cruzeiros at the ORTN index rate in the month of payment.

Based on this information, we have recalculated the benefit from these grants in accordance with Appendix 2. We have taken the amount of the rebate received in each month, converted the cruzeiro value to an ORTN value by using the ORTN index rate in the month of receipt, added the monthly ORTN amounts to determine the amount of the grant in each year, and used as the discount rate for each year the interest rate of 4% on ORTN-indexed government debt. The total benefit in ORTN for 1981 was converted into cruzeiros using the average ORTN index rate for the year and then divided by the total value of sales for 1981. The *ad valorem* benefit of this subsidy is 0.67 percent.

C. Preferential Working Capital Financing for Exports: Resolution 674. Under this program, companies are declared eligible to receive working capital loans by the Department of Foreign Commerce of the Banco Central do Brasil (CACEX). These loans may have a duration of up to one year. Firms in the steel industry can obtain this financing at preferential rates for up to 20 percent of the net f.o.b. value of the previous year's exports. The maximum dollar eligibility under this program is established by CACEX and is stated on the "Certificado de Habilitacao" issued to recipients. We have determined that such financing is an export subsidy.

The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports.

To determine the value of loans in existence under this program during the 1981 fiscal year, we prorated under this program during the 1981 fiscal year, we prorated any loans that straddled other fiscal years. For loans taken out in fiscal year 1980, only that portion extending into fiscal year 1981 was included in our calculation. Any fiscal year 1981 loans extending into fiscal year 1982 were similarly adjusted. We then divided the total value of these loans by the total value of exports of the two companies under investigation to calculate the amount of preferential financing they received.

As in previous Brazilian countervailing duty cases, we are using the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. We have used this comparison because information provided by the government of Brazil indicates that,

within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. Currently, the annual rate for discounting sales of accounts receivable is 59.6 percent plus a 6.9 percent tax on financial transactions (IOF). The subsidy is the difference between the interest rate available under Resolution 674 and the commercial rate.

The interest rate on loans under Resolution 674 is 40 percent, with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. These loans are also exempt from the IOF. Therefore, the differential between these two types of financing is 22.5 percent. When multiplying this differential by the amount of preferential financing received as a percent of exports, we calculated an *ad valorem* export subsidy of 1.73 percent.

D. Industrial Development Council (CDI) Program. This program allowed an exemption of 80 percent of the customs duties and 80 percent of the IPI tax on certain imported machinery for projects approved by the CDI. Decree Law 1726 repealed this program in 1979 and no new projects are eligible for these benefits. However, companies with projects approved prior to repeal may still receive these benefits pending the completion of the project. The government of Brazil stated in its response that neither COSIPA nor USIMINAS received such benefits during 1981. Consequently, we preliminarily determined that this program was not used.

During verification we discovered that benefits had been received in 1981 under this program. We consider this subsidy a savings on current expenses and have allocated the entire benefit to the year received. For equipment puchased during 1981, we added the savings in import duties and in IPI taxes and divided the benefit received by the total sales of the companies under investigation. We calculated the *ad valorem* benefit of this subsidy to be 1.25 percent.

II. Programs Determined Not to Confer Subsidies

We have determined that subsidies are not being provided under the following programs described below to manufacturers, producers, or exporters in Brazil of carbon steel plate.

A. Government Purchase of Equity. The government of Brazil has owned a portion of the equity in USIMINAS and COSIPA since they were established in the 1950's and 1960's respectively. This ownership takes several institutional forms but consists chiefly of shares owned by SIDERBRAS and the National Bank for Economic Development (BNDE). Currently, COSIPA is 99.9 percent owned by government entities (81.5 percent SIDERBRAS, 12.4 percent BNDE, 6.0 percent others) and USIMINAS is 80.7 percent owned by them (34.3 percent SIDERBRAS, 46.4 percent BNDE). Nippon Steel has owned shares in USIMINAS since it was established and currently holds 17.3 percent of the equity. Neither company's stock is freely traded.

Between the years 1977–81, COSIPA made a profit in only one year, 1978. USIMINAS has made a profit in all but one of these years, 1979, which was a difficult year financially for COSIPA, USIMINAS and any other company with substantial foreign currency debt, because of a 30 percent devaluation of the cruzeiro in December 1979.

In the 1977–81 period, both companies experienced significant growth financed largely through debt, but also by government equity infusions. COSIPA's growth has been more substantial, and it has been the greater beneficiary of the government equity purchases. Most of this equity funding has come from government purchases of SIDERBRAS' equity, which in turn has purchased equity in its subsidiaries.

The petitioners alleged that these equity infusions are capital grants which constitute subsidies, in that they are investments in unprofitable companies without expectations of a reasonable return. They further alleged that prudent investors would not invest in COSIPA and USIMINAS, that government investment is "on terms inconsistent with commercial considerations," and that the government purchase of equity is "the grant of funds * * * to cover operating losses." As set forth in Appendix 2, where such allegations were made we looked to see whether the companies concerned appeared to present sound investment opportunities when an investment was made.

USIMINAS has a history of being profitable. For the one year in the recent past when it was not, 1979, that failure was largely attributable to the cruzeiro devaluation.

For COSIPA, the losses have been frequent in recent years, but the government of Brazil stated that this was largely because of the strain placed on the company's resources by expansion. To support its claim that COSIPA is a commercially sound investment, the Brazilian government cited a 1975 feasibility study prepared by the World Bank regarding COSIPA's Phase III expansion project, which included a financial and commercial analysis of the project. Some of the conclusions of that analysis were as follows: (1) "the project provides a * * * rate of return (after taxes) of 10.7 percent in constant terms;" (2) "the company's financial position is expected to allow reaonable dividends after project completion;" and (3) "by 1982, the first full year of Stage III production, net profits * * * as a percentage of average equity * * * would be about 12 percent." In the context of its analysis, the World Bank report noted the substantial increase in steel consumption in Brazil during the previous two decades, particularly for flat products. In addition, COSIPA has been able to attract loans from numerous foreign private banks from the 1970's to the present.

Because of USIMINAS' record of profits in recent years and the returns reasonably expected by the government of Brazil when COSIPA's expansion project began, we have determined that the purchase of equity in these companies by the government is not "inconsistent with commercial considerations."

B. Long-Term Loans. We stated in our preliminary determination that we required addditional information on long-term loans to COSIPA and USIMINAS before making a determination on the allegation that such loans confer subsidies. At verification, we examined several foreign currency loans, both guaranteed and unguaranteed by the government, and found that guarantees apparently made no difference in the terms of the loans and that such loans are granted with interest rates of LIBOR plus a spread that approximates the average spread available on such LIBOR loans in Brazil. We further verified that loans from BNDE and FINAME, a program of BNDE for the purchase of capital equipment manufactured in Brazil, are fully indexed and are made at fixed real interest rates ranging from 5 to 11 percent, depending on the time and the program under which the loan was granted. FINAME loans are granted through commercial banks rather then directly from BNDE and carry higher real interest rates than BNDE loans.

Because long-term financing in cruzeiros is available in Brazil only through government-controlled financial institutions such as BNDE, we do not have a benchmark in Brazil for fixed interest rate long-term loans to compare with the interest rates on these loans. However, since these loans are indexed by ORTN, the interest rates are real interest rates. This allows us to constuct a benchmark based on the real interest

rates of the only private long-term loans commercially available in Brazil—the foreign currency loans mentioned above. The comparison of that constructed benchmark and the interest rates on these loans, as described below, suggests that they are not made at preferential rates.

Since LIBOR loans are continually readjusted at the prevailing interest rates, we constructed the benchmark by calculating the average real interest component of LIBOR-plus-spread on long-term loans to Brazil for the period 1977–81 during which these BNDE and FINAME loans were made. We then compared that average real interest rate-plus-spread to the rates at which the long-term BNDE and FINAME loans were made. Our comparison showed that all the BNDE and FINAME loans to COSIPA and USIMINAS were made at rates above the benchmark, which indicates that they were not made at preferential rates. We will monitor loans made by BNDE and FINAME to COSIPA and USIMINAS in future section 751 administrative reviews in order to evaluate whether such loans were made at preferential rates.

C. Investment Credit to the Corporate Income Tax. Brazilian tax law allows any corporation that owes corporate income taxes to elect to apply up to 51 percent of its corporate income taxes owed to the government to specified investment funds. The investment funds generally are for the economic development of certain regions, industries or national interests (e.g., the Amazon, the Northeast, fisheries, tourism and reforestation). The steel industry is not among the targeted sectors. If a corporation elects to direct the taxes it owes to the government into one or more of the specified investment funds, it receives stock for its investment in those funds. Upon receipt of the stock, which must be held at least five years, the investment is included in the equity holdings of the corporation.

COSIPA and USIMINAS have taken part in this program, but not during the applicable period. We have determined that election to participate in this program does not constitute a subsidy to carbon steel plate, however, since all corporations which pay corporate income taxes are eligible to participate in the program on equal terms.

D. Export Financing Under Communication 331. Communication 331 is a set of rules and regulations established by the Brazilian government to govern foreign exchange contracts for export transactions. Beyond establishing these rules, the government has not further involvement. Banks that act as intermediaries in export transactions operate under these rules but are free to choose whether they will discount an account receivable denominated in foreign currency, the type of transaction at issue in this program.

The government of Brazil has stated that it provides no resources to banks to enable them to perform these operations nor does it establish the discount rates. The rate of discount reflects commercial considerations such as the bank's relationship with its customer, its own circumstances, and market rates of interest, which generally track LIBOR rates. As such, we have determined that the discounting of foreign exchange accounts receivable under these conditions is not a subsidy.

E. Purchase of Inputs from a Related Company. Companhia Siderurgica Nacional (CSN) is a member of the SIDERBRAS group and both COSIPA and USIMINAS have purchased slab from CSN. The petitioners alleged that CSN received the same types of subsidies from the government as COSIPA and USIMINAS and that subsidies to CSN are consequently indirect subsidies to COSIPA and USIMINAS.

The government of Brazil stated that COSIPA's and USIMINAS' purchases the slab from CSN have ended and this slab was not used in producing carbon steel plate. We have verified information that this situation was temporary and that the last purchase of CSN slab by COSIPA was in August 1981 and by USIMINAS in June 1981.

F. Transportation Subsidies. The Brazilian government stated that COSIPA and USIMINAS receive no preferential rates when using railroads and ports. At verification, we found no evidence that any programs exist which give preferential freight or insurance rates to steel exporters.

G. Income Tax Deductions for Employee Training and Meals. COSIPA and USIMINAS have tax deductible training programs for which they may take special deductions for training costs, and COSIPA also has a program for which it may take special deductions for employee meals. The maximum deduction for training costs is 10 percent of taxes owed, and for meals 5 percent of taxes owed, although the combined deduction may not exeed 10 percent of taxes owed. Neither company received any benefits under these programs during the applicable period.

The government of Brazil stated that under applicable tax law any manufacturer, without sectoral or regional preference, may take above deductions for training and meal expenditures for employees. Consequently, we have determined that the benefits conferred under this program are not countervailable because they are generally available on equal terms.

H. Non-Indexation of Overdue Accounts Payable. U.S. Steel alleged that public sector companies, such as COSIPA and USIMINAS, have substantial overdue debts with private suppliers, and that these companies are not required to index the value of late payments to private sector companies while such a requirement exists for late payments by the private sector to public sector companies. U.S. Steel argues that such preferential treatment confers a subsidy to state-owned companies.

The government of Brazil stated that no standard accounting principle exists for indexing accounts payable nor is there a special provision which provides preferential treatment for late payments by public sector companies. The terms for payment and adjustments for inflation are negotiated with individual suppliers and are specifically indicated in contracts with suppliers. The government of Brazil provided several examples of such contracts entered into by COSIPA, some of which provided for indexing from the date of sale and others which required indexing only if payment was late. Based on this information, we have determined that the provisions for indexing accounts payable in Brazil do not confer a subsidy to state-owned steel companies.

I. FINAME Loans to Producers of Steel-Making Equipment. U.S. Steel alleged that long-term FINAME loans to producers of steel-making equipment are made at preferential rates and that these subsidized loans provide indirect subsidies to producers of carbon steel plate.

We have determined that long-term FINAME loans to COSIPA and USIMINAS are not made at preferential rates (see discussion on *Long-Term Loans*). The government of Brazil has stated that FINAME loans to producers of steel-making equipment are made according to the same criteria and at approximately the same rates as to all other sectors. Therefore, we have determined that there is no indirect subsidy to producers of carbon steel plate from FINAME loans granted to producers of steel-making equipment.

III. Programs Determined Not To Be Used

We have determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation" were not used by manufacturers, producers,

or exporters in Brazil of carbon steel plate.

A. Income Tax Exemption for Export Earnings. Exporters of carbon steel plate are eligible to participate in this program, under which the percentage of their profit attributable to export revenue is exempt from income tax. To arrive at this percentage, export revenue is divided by total revenue. The amount of profit exempt from the income tax is then multiplied by the 35 percent corporate income tax rate to determine the amount of the benefit.

In a program of this kind, benefits cannot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 income tax statements to determine if any benefit was received in fiscal year 1981. Since neither COSIPA nor USIMINAS had a taxable profit in fiscal year 1980, neither company was eligible to receive benefits under this program.

B. The Commission for the Granting of Fiscal Benefits for Special Export Programs (BEFIEX). BEFIEX grants several types of benefits to companies that are part of certain targeted industries and that sign contracts that include specific export commitments. These benefits include the following: A reduction of between 70 percent and 90 percent of the import duties and the IPI tax on the import of machinery, equipment, apparatus, instruments, accessories and tools necessary to meet the approved export commitment; an extension of the period for carrying tax losses forward from four to six years, provided no dividends are paid during that time; and amortization of pre-operational expenses of BEFIEX projects at the discretion of the company rather than the normal straight-line amortization over ten years. As a general rule, companies that sign BEFIEX contracts guaranteeing these and any other benefits must make an export commitment that over the life of the project it will generate export earnings of at least three times the value of imports for the project. The government of Brazil has stated that the steel industry in Brazil has been developed primarily to supply the domestic market. Since manufacturers of carbon steel plate export only a small portion of their production, they are not in a position to make the required export commitment. In addition, because COSIPA and USIMINAS have large trade deficits, they are effectively ineligible for this program and did not receive any benefits in 1981.

C. Preferential Financing for the Storage of Merchandise Destined for Export: Resolution 330. This program provides financing for up to 80 percent of the value of merchandise placed in a warehouse and destined for export. Interest rates for such loans are 40 percent per annum, with interest payable semiannually. Neither COSIPA nor USIMINAS used this program because both companies' exports are manufactured to order and there is no need to warehouse their merchandise.

D. Accelerated Depreciation for Capital Goods Manufactured in Brazil. This program allows companies that purchase Brazilian-made capital equipment as part of an approved CDI expansion project to depreciate this equipment at twice the rate normally permitted under tax laws. Since neither COSIPA nor USIMINAS used the accelerated depreciation provisions to reduce its tax liabilities in its fiscal year 1980 income tax statement, no benefit was received in fiscal year 1981.

E. Export Financing Under Resolution 68. This program provides financing for the export of Brazilian goods for a minimum period of 181 days. Such financing is granted on a transaction-by-transaction basis and may cover up to 85 percent of the f.o.b. invoice price of the merchandise (plus freight and insurance). To be eligible, the exporter must show that the foreign purchaser has prepaid 15 percent of the invoice price. Neither COSIPA nor USIMINAS used Resolution 68 to finance exports of carbon steel plate to the United States in 1981.

F. Partial Relief from Payment of Retirement Benefits to Employees. Two major pension funds exist in Brazil to provide retirement benefits for employees: PIS for private sector employees and PASEP for public sector employees. PIS is funded through employer contributions and PASEP through an earmarked portion (1 percent) of the state value-added (ICM) tax. U.S. Steel alleged that employees of state-owned companies such as COSIPA and USIMINAS are members of PASEP, and that these companies receive a subsidy because they can partially finance their contributions for employees by using a portion of the ICM tax they have collected on sales while private sector companies, whose employees are members of PIS, must fully finance contributions for employees from their own resources.

The government of Brazil stated that employees of COSIPA and USIMINAS are not participants in the PASEP program. This program is mainly for municipal, state and federal employees, and COSIPA and USIMINAS are treated as private enterprises in this regard, and as such are participants in the PIS program. Therefore, we have determined that no subsidy is conferred to manufacturers, producers or exporters of carbon steel plate under this program.

G. Charcoal Used in Steel Production. U.S. Steel alleged that government incentives for reforestation and the expansion of charcoal production for use as a fuel in the steel industry confer indirect subsidies to the production of carbon steel plate. The government of Brazil stated that neither COSIPA nor USIMINAS use wood charcoal to produce steel. Thus, we have determined that no benefit to carbon steel plate is conferred under this program.

H. Ferrovia do Aco, the "Steel Railway". U.S. Steel alleged that construction of a steel railway by the government, solely to benefit steel companies, constitutes a subsidy. They claim that the railway was designed to reduce the reliance on trucking and thus reduce transportation costs.

The government of Brazil stated that no section of this railway is in operation. Since no companies, steel or otherwise, have yet used this railway, we have determined that no benefit was received by manufacturers, producers or exporters of carbon steel plate.

IV. Program Determined To Be No Longer in Existence

We have determined that the following program which was listed in the notice of "Initiation of Countervailing Duty Investigation" is no longer in existence.

Merchandise Circulation Tax (ICM) Export Credit Premium. This program, which provided Brazilian companies an overrebate of a state value-added tax on goods destined for export, was eliminated by Convention 01-79, published January 12, 1979.

Petitioners' Comments

In addition to comments made at the hearing, in pre- and post-hearing briefs, and with respect to the suspension agreement, U.S. Steel submitted further comments (after their request for a continuation of the investigation) on October 29 and November 19, 1982. Counsel for Bethlehem Steel submitted additional comments on November 23, 1982. All comments applicable to this final determination are addressed below.

Comment 1

The petitioners state that the absence of private investment in COSIPA and USIMINAS in recent years is a stong indication that government investment is inconsistent with commercial considerations and therefore

countervailable. In addition, petitioners argue that in measuring the reasonableness of an investment, the standard should be whether the government could have obtained a higher return at comparable risk, while the Five claim that the Department's preliminary determination of this issue was inconsistent with its own standards as set forth in Appendix B to the notice of "Preliminary Affirmative Countervailing Duty Determinations: Certain Steel Products from Belgium" (47 FR 26300).

DOC Position

The Department is required to determine whether government equity purchases are inconsistent with commercial considerations at the time made. The presence or absence of private investment is not dispositive of the issue. The Department remains consistent with the standards set forth in Appendix 2. These standards on equity did not change substantially from the position the Department set forth in Appendix B. If a company has a record of profitability, as does USIMINAS, we do not normally consider government purchase of equity based on that record to be inconsistent with commercial considerations. In the case of COSIPA, there is a recent history of losses. Accordingly, we examined whether government purchase of equity was inconsistent with commercial considerations.

As noted in our preliminary determinations, there is evidence on the record (a 1975 World Bank appraisal of COSIPA's Phase III expansion) that COSIPA would achieve a respectable level of profitability once the expansion project was completed. On this basis, we preliminarily determined that the government's purchase of equity in COSIPA was not inconsistent with commercial considerations. Because we did not consider government purchase of equity in COSIPA and USIMINAS a subsidy, we did not make a comparison with the average rate of return on equity investment in Brazil. We use this standard as a measure of the amount of a subsidy after we have determined that the government purchased equity is on terms inconsistent with commercial considerations, *not* as the criterion for determining *whether* government equity purchases constitute a subsidy.

Petitioners have noted press reports of 1976 and 1977 World Bank analyses that were critical of COSIPA's expansion project, and they claim that the 1975 World Bank report relied on by the Department is no longer valid. These analyses are discussed in some detail in an April 1981 draft World Bank project audit report of COSIPA's Phase II expansion project, which also includes a financial analysis of the Phase III expansion project. Apparently these reports strongly criticized COSIPA's management in handling the Phase II expansion project, which led to financial difficulties for the company. The 1981 draft World Bank report states that these management problems were expeditiously corrected and that COSIPA's financial picture has improved. While the effects of these financial problems are still being felt, and COSIPA in 1981 was a riskier investment than in 1975, the World Bank in its appraisal of Phase III indicates that the Phase III expansion was a viable commercial venture from 1975 to 1981 and it continues to expect that the ongoing Phase III expansion project will bring a respectable return once fully operational. We will monitor the financial performance of COSIPA in future section 751 administrative reviews in order to evaluate whether equity purchases made in the future are inconsistent with commercial considerations.

Comment 2

U.S. Steel claims that private Brazilian investors are, as a rule, willing to provide loans to a company but are almost never willing to provide equity capital. Consequently, the Department must follow its practice of examining the provision of capital and loans in the context of the capital market of the country of the recipients and make a determination that, in Brazil, the provision of equity capital to COSIPA and USIMINAS is "on terms inconsistent with commercial considerations."

DOC Position

Both the provision of loans and the purchase of equity involve risk-taking for which there should be a commensurate rate of return. Generally, purchasing equity is riskier than making a loan and the provider of the capital expects a higher rate of return on an equity purchase. If it is expected that an equity purchase will provide an adequate return, then the purchase of that equity is not "on terms inconsistent with commercial considerations."

A company's choice of how to raise capital or the factors influencing a provider of that capital either to purchase equity or make a loan are not at issue. There may well be a host of institutional or legal factors which influence where and in what form capital is provided to various companies in a particular country. The relevant question is whether, given the relative riskiness of purchasing equity, the expected return was sufficient to warrant the risk.

In Brazil, the capital market consists of three main actors: the government, private Brazilian investors and foreign investors. The relative strength of these actors and the Brazilian government's definition of its national interests have influenced where capital is invested and by whom. The Department cannot rule on these circumstances; it can only examine whether in a particular case there have been benefits provided that constitute subsidies. With respect to the government purchase of equity in COSIPA and USIMINAS, we have determined that no subsidy was conferred.

Comment 3

U.S. Steel alleges that the government of Brazil has been providing loss coverage through its equity purchases in COSIPA, since the company has experienced frequent losses in recent years while receiving equity from the government. U.S. Steel argues that, under the Act, funds provided for loss coverage constitute a countervailable subsidy regardless of whether the terms of the equity purchases were consistent with commercial considerations.

DOC Position

Since funds for loss coverage are noted separately under the Act, it is necessary to examine this potential subsidy on its own rather than simply considering the equity purchases. This does not mean, however, that equity purchases in a company experiencing losses necessarily constitute funds to cover those losses rather than a sound commercial investment. In this regard, the losses experienced by COSIPA were moderate and it was reasonable to assume at the time of the government purchases of equity that the company could provide a fair return on the investment. Further, COSIPA was making investments at the time that far exceeded the amount of the equity purchases, while the amount of the losses was much less than the amount of the government equity purchases. Strong evidence to the contrary would be needed to alter a conclusion that the equity purchases represented an investment and did not involve the coverage of the losses incurred.

Comment 4

U.S. Steel and the Five state that artificially low rates of depreciation prior to 1981 understate COSIPA's losses, creating a distortion which COSIPA itself belatedly recognized in

its 1981 financial statements. Further, the petitioners suggest that such depreciation methods have overstated the profits of USIMINAS.

DOC Position

In its 1975 financial statements, COSIPA notes that it adopted the system of depreciation, criticized by the Five, based on "criteria approved by an independent consulting engineering company." The Department will not second-guess the validity of this depreciation method, which is legally permissible in Brazil. In its 1981 financial statement, COSIPA noted a change in its depreciation method based on a standardization of accounting practices within the SIDERBRAS group. Without commenting on the accuracy of the prior practice, it noted that the new system sought "to conform the estimated economic useful lives with the international parameters adopted in similar companies." As a result of this change, COSIPA experienced a considerable depreciation cost in 1981 with a significant negative effect on its profitability.

USIMINAS notes in its 1981 financial statements that the change in depreciation methods established by SIDERBRAS in 1981 represented a shift from an 8-year to a 15-year estimate of the useful life of mill assets. Thus, the shorter depreciation schedule used by USIMINAS prior to 1981 led to higher depreciation costs and lower profits in those years.

Comment 5

U.S. Steel contends that the government's true rate of return on its equity purchases can be measured only if all other government subsidies to COSIPA and USIMINAS are subtracted out. Further, U.S. Steel states that, when relying on the 1975 World Bank report concerning COSIPA, the Department must consider the extent to which World Bank predictions of COSIPA's future profitability depended on the existence of such government subsidies.

DOC Position

To subtract out all government assistance from a company's income statement before determing whether government purchases of equity constitute a subsidy would be to judge the government's investment behavior by a different standard than that used for private investors. The purchase of equity by the government of Brazil is not a subsidy *per se*. In order to determine whether government equity purchases are on terms consistent with commercial considerations, it is necessary to look at the reasonableness of an investment from the viewpoint of the private investor. One assumes that a private investor, when assessing the prospects of a reasonable return on an investment, would consider any government subsidies an important factor in his investment decision. Those government subsidies may be separately countervailable, but the investment made with those subsidies taken into account may itself be reasonable.

The World Bank, in its 1975 report on COSIPA's Phase III expansion project, did not address the question of government subsidies in its evaluation of the financial merits of the project. Primarily, the World Bank discussed the growing market for steel in Brazil, COSIPA's capabilities for handling a project that was designed to help meet that demand, and the anticipated rate of return which justified the World Bank's investment in the project.

Comment 6

U.S. Steel and the Five assert that in calculating the net subsidy under Resolution 674 financing, the Department used an incorrect benchmark. They state that the rate for discounting accounts receivable is not a proper benchmark because that market is "illiquid" and the Department must factor in the resulting high compensating balances (although illegal in Brazil) to determine an effective interest rate; that the Department has not used its own standard of a national average commercial rate as a benchmark; that the Department should follow the standards of Paragraph (k) of Annex A of the Subsidies Code when determining such a benchmark, or use as a basis of comparison the rate for borrowing in international financial markets.

DOC Position

The Department believes from evidence available to it that there is no meaningful commercial market for short-term working capital loans in Brazil. Instead, most firms meet their needs for working capital through the sale of accounts receivable. Therefore, the Department has determined that the discounting of accounts receivable provides the most appropriate basis for comparison.

In determining a national benchmark, the Department chose the Banco do Brasil rate because prior case precedent and statements of the government of Brazil suggested that this was the appropriate standard. As the largest single banking entity in Brazil (representing 35–40% of all banking assets), the Banco do Brasil acts as a price leader from which the rates of other banks vary. Documents received at verification support our preliminary determination in several respects. First, the annual Banco do Brasil discount rate is 59.6 percent, as claimed; numerous banks, both state-owned and private, discount receivables at rates near (both above and below) the rate set by the Banco do Brasil. Second, as it applies to COSIPA and USIMINAS, the market is not "illiquid". During the period of investigation both companies discounted a significant percentage of their domestic accounts receivable with a wide variety of banks, and used this facility as the chief method of raising working capital. During verification, we found no evidence of compensating balances in company records; the amount received by the company after discounting a receivable was the value of the receivable minus the discount rate, the tax on financial transactions (IOF) and a small commission. Third, Paragraph (k) does not apply in this analysis. It is concerned with official export credits for medium- and long-term loans. Resolution 674 financing is not comparable to such export financing. Lastly, in our preliminary determination we addressed the issue of comparability between cruzeiro and foreign currency sources for working capital. Our analysis has not changed since that time.

Comment 7

Counsel for Bethlehem Steel contends that the investment subsidy from credit to the corporate income tax program is countervailable, even though generally available.

DOC Position

We have determined that this program is not countervailable because it is generally available on equal terms to all industries in Brazil. For our position on generally available programs see Appendix 4.

Comment 8

U.S. Steel and counsel for Bethlehem Steel argue that, without the availability of long-term cruzeiro loans from BNDE and FINAME, firms would have to borrow short-term. In particular, they claim that a short-term line of credit can be transformed into a longer-term arrangement because short-term financing is often rolled over, effectively turning it into long-term, variable-rate financing. Therefore, in the absence of a benchmark for long-term cruzeiro loans, the Department should use as a benchmark the interest rate on short-term cruzeiro loans, which serve as a measure of long-term interest rates.

DOC Position

We do not consider short-term interest rates and long-term interest rates comparable because they reflect different types of borrower needs and different degrees of risk on the part of the lender.

A short-term line of credit, even if constantly renewed over a long period of time, is still short-term financing. It provides working capital on an ongoing basis, and the borrower's need, the lender's risk and the rate of interest are subject to constant re-evaluation which may lead to readjustments. Such is not the case with a long-term loan. At the outset, need and risk must be determined. Generally, funds from a long-term loan are disbursed early on to finance major expenditures, such as capital equipment with a long useful life, and a borrower cannot meet these needs through short-term credit lines.

Further, short-term interest rates may be very volatile, reflecting ongoing changes in the credit markets and government monetary policy. Long-term interest rates change more gradually and, as one would expect, the rise in interest rates for short-term borrowing in Brazil since early 1981 has also led to a notable, through less dramatic, rise in the real interest rate on long-term loans.

Comment 9

U.S. Steel and counsel for Bethlehem Steel allege that explicit and implicit guarantees from the Brazilian government with regard to loans obtained from non-governmental sources by COSIPA and USIMINAS constitute countervailable benefits.

DOC Position

Government ownership of a firm does not implicitly guarantee the debt of the firm, and thus does not confer *per se* a subsidy. An explicit loan guarantee by the government, however, bestows a benefit to the extent that the recipient of the guaranteed loan pays less for the debt than it would have absent the guarantee. In the cases of COSIPA and USIMINAS, we found that, while some of the long-term loans to the two companies obtained in foreign currency were explicitly guaranteed by the Brazilian government, others were guaranteed by the companies' own assets. Loans explicitly guaranteed by the Brazilian government carried terms no more favorable than loans guaranteed by company assets. Therefore, we determine that the guarantee of COSIPA's and USIMINAS' loans by the Brazilian government does not provide a countervailable benefit.

Comment 10

U.S. Steel contends that the benefits received by COSIPA and USIMINAS since at least 1975 on imported machinery under the CDI program reduce the cost of capital equipment and therefore are capital subsidies. Thus, the Department should follow its standard practice and allocate such benefits over several years.

DOC Position

The benefits under this program are a reduction of taxes. It is the Department's policy to expense tax-based benefits in a single year rather than carry them forward.

Comment 11

Counsel for Bethlehem Steel has noted that with the decline in imports of steel into Brazil in 1982, it is unlikely that the import content of exports of carbon steel plate, in 1982, has exceeded the 25 percent level that would lead to a reduction in the value of the IPI export credit premium on these exports. Accordingly, counsel urged that we use the nominal rate of the IPI export credit premium, verified by the Department to be received by carbon steel plate manufacturers in 1982, in determining the benefits bestowed under this program.

DOC Position

General statistics of imports of steel into Brazil are not a relevant indicator of the import content of carbon steel plate exports. The average import content of total exports does not determine the amount of the IPI export credit premium received on exports of a product. The deduction for imported slab in the calculation of the amount of the IPI export credit premium received is done on a *shipment-by-shipment* basis. The amount of the benefit received under this program is the sum of the IPI credits earned on all shipments divided by the total value of those shipments.

Further, we cannot take into account conjecture about what may have occurred with respect to the import content of a company's carbon steel plate exports in 1982. Whatever the situation, it will be addressed during a section 751 administrative review.

Respondent's Comments

Comment 1

The respondent claims that IPI rebates for capital investment under Decree Law 1547 are not countervailable for the following three reasons. First, as a result of a revamping of legislation concerning the IPI tax that began in 1979, the IPI tax is currently applicable to only fourteen product sectors and exemption from the tax is the rule while the obligation to pay is the exception. Thus, the elimination of the tax is the generally available situation and the reduction of the tax on any of the remaining sectors subject to it does not constitute a subsidy. Second, since the IPI tax is paid by the Brazilian steel producers, the funds for the rebates do not originate from the government of Brazil. Thus, the rebates do not constitute subsidies. Third, the rebates are generated solely by domestic, not export, sales and it is not within the purview of the U.S. countervailing duty law to countervail benefits received on production not destined for the United States.

DOC Position

The IPI tax is an indirect tax and as such is passed forward to the consumer. A steel company collects this tax on sales as the agent for the government; the company does not, itself, pay the tax. Decree Law 1547 is a mechanism by which a steel company is permitted to collect funds due the government and then receive a 95 percent rebate of the taxes due. The program does not involve the rebate of payments made from the company's own funds.

Not all steel companies receive this rebate. Although the same level of IPI tax is applicable to all steel products, only companies producing certain priority products, with approved expansion projects, can receive the rebate. Fabricators of steel products, such as pipe and tube manufacturers who purchase coil, are not eligible for the rebate. Even COSIPA and USIMINAS have not been eligible for the rebates since December 1980, when Decree Law 1843 directed that rebates of the IPI tax collected on sales by state-owned steel companies go to SIDERBRAS. Thus, the rebates are not generally available within the steel sector and represent a selective benefit to priority producers.

These rebates, when received, are applied to capital investment projects. The IPI tax is collected on domestic sales and the rebate is simply a mechanism to raise capital for the companies that receive them. That the rebates are generated only by domestic sales does not alter the fact that they benefit all production, including exports.

Comment 2

The respondent claims that the IPI rebates, which are capital contributions that eventually become equity shares, are one method of fulfilling the government's capital commitments to the Phase II and Phase III expansion

programs of COSIPA and USIMINAS. They further claim that these funds were invested for the same purposes and under the same assumptions concerning the viability of COSIPA and USIMINAS as the government purchases of equity which the Department has determined do not constitute subsidies.

DOC Position

The Department has determned that government purchases of equity in COSIPA and USIMINAS were not made "on terms inconsistent with commercial considerations." We made this determination based upon an analysis of the government's investment in each of these companies in which it, through SIDERBRAS, acted as an individual investor expecting a reasonable return on its investment. Although funds derived from the IPI rebates for capital investment also become equity, and in the case of COSIPA and USIMINAS most of the equity shares go to the government, we have determined that government equity shares derived from this program are grants and are countervailable.

Decree Law 1547 established a mechanism for generating capital funds to expand the steel sector and meet certain priority needs. Under this program, the government gives grants to both privately-owned and state-owned steel companies. When issued, equity shares derived from these funds are distributed proportionately to current shareholders in accordance with their ownership of the company's outstanding shares. Accordingly, the government receives no equity in privately-owned companies that receive these grants.

Further, these grants are earned through domestic sales performance, not disbursed based upon separate investment decisions as to the amount, the need and the appropriate timing of equity purchases. That state-owned steel companies received grants and the government received equity in this manner does not make it any less a subsidy. The subsidy nature of a program to aid the steel sector does not change depending upon who owns the steel companies.

An indication that the government of Brazil has sought to give greater direction to the use of these funds going to state-owned companies can be seen in Decree Law 1843. With this law, COSIPA, USIMINAS and other state-owned steel companies no longer receive these rebates; instead, the rebates earned by their sales go to fund the investments of SIDEBRAS, the government steel holding company. SIDEBRAS may use these funds where it chooses, investing in a particular company more or less than the amount it has generated, or none at all. Our determination that the government purchase of equity was not countervailable concerned the purchases of equity by SIDEBRAS; it was not a general determination concerning government equity acquired by whatever means.

Comment 3

The respondent claims that, absent a showing of immediate competitive advantage by the Department, we must allocate in equal installments the *face* value of the grants received from the IPI rebates for capital investment over the full useful life of the assets purchased, as required by the legislative history and the Court of International Trade in *Michelin Tire Corporation v. United States,* 2 C.I.T. 143 (1981). Respondent further alleges that the use of the present value methodology for the calculation of grant benefits violates Article 4(2) of the Subsidies Code in that the U.S. government will collect countervailing duties in excess of the face value of a grant.

DOC Position

We have allocated these grants over the full useful life of the assets purchased in accordance with *Michelin Tire Corporation v. United States,* Slip Op. 82–115 (December 15, 1982). In this case, the Court did not rule how the Department should allocate the benefit from a grant over the useful life of the asset. The Court did, however, suggest that a method which recognizes the time value of money be "an acceptable and recognizable means of analyzing financial benefit" from a grant. The present value concept is such a recognized principle of financial analysis and its use is fully consistent with the Subsidies Code and U.S. countervailing duty law. So long as the present value (in the year of grant receipt) of the amounts allocated over time does not exceed the face value of the grant, the amount countervailed will not exceed the total net subsidy.

Comment 4

The respondent claims that the government of Brazil has the right to exempt loans received under Resolution 674 from the IOF tax because it is the exemption of an indirect tax on the financing of products for export. Therefore, for the Department to determine the interest-rate subsidy by considering the IOF tax an integral part of the commercially-available rate (considering exemption of the IOF tax a subsidy) is contrary to the GATT and U.S. law.

DOC Position

We addressed this issue in our preliminary determination. Our analysis has not changed since that time.

Comment 5

The respondent argues that the Department, based upon information for 1982 it has verified, must make adjustments in the amount of net subsidy determined to exist under Resolution 674 financing and the IPI export credit premium. Otherwise, the Department overstates the amount of subsidy conferred on 1982 exports.

DOC Position

When conducting an investigation to determine the existence and extent of subsidization, we choose an appropriate period of investigation. In this case, the period for which we are measuring subsidization is calendar year 1981. Normally, the period of investigation provides the most current information available.

We recognize that for any one company the level of benefit from a particular subsidy program (such as Resolution 674 financing) may change after the period of investigation and that in some cases this may be known prior to the final determination. But, we cannot make adjustments for that program when complete information is unavailable for determining the amount of subsidization in its entirety from any of the several programs that a company may be eligible for and use. For this reason, we determine the estimated net subsidy based on the period of investigation. Changes in the amount of benefit a company receives from a program subsequent to the period of investigation, whether that increases or decreases the level of subsidization, can be adjusted for during a section 751 administrative review.

However, when there is a fundamental change in the benefit from a program after the period of investigation (or after the review period in a section 751 administrative review), which is applicable to all recipients, we take cognizance of that change if we have been able to confirm that the change has occurred and if there is no reason to believe that there has been a shift of these benefits to other programs. We then announce the adjustment in the rate for the deposit of estimated countervailing duties in the next notice published in the normal course of the proceeding. In the case of the IPI export credit premium, there have been three verified reductions in the maximum available benefit during 1982. Currently, the rate is 11 percent as opposed to the

15 percent rate that prevailed during most of 1981. Using 1981 information on the amount of benefit received, we have made a proportional reduction in the amount of estimated net subsidy from this program.

Comment 6

The respondent argues that the Department's calculation of the benefit from the IPI export credit premium on the basis of the IPI credits earned on the date of export of each shipment rather than on the actual date of receipt by the company of the IPI credits for each shipment reflects an improper interpretation of section 771(6)(B) of the Act. Further, respondent claims that this procedure will result in the collection of countervailing duties in excess of the benefit actually received, which is contrary to the Subsidies Code and U.S. countervailing duty law.

Respondent states that because of the ongoing devaluation of the cruzeiro, the Department, in order to determine the dollar value of the benefit to the company on each export shipment, should convert the cruzeiro amount of the IPI credits into dollars at the exchange rate on the date of their receipt rather than at the exchange rate on the date of shipment. This procedure allegedly would not involve use of an impermissible offset and would allow a precise measure of the effects of devaluation on the veal value of the IPI credits received, since it would compare dollar-value received to dollar-denominated exports and take into account economic realities in Brazil.

DOC Position

The language in the Act concerning permisible offsets in unabiguous. Under section 771(6)(B), an offset is allowed for "any loss in the value of the subsidy resulting from its deferred receipt, if the deferral is mandated by Government order." In the case of the IPI export credit premium, no such government mandate exists. Delays in a company's receipt of the IPI credits are purely administrative, frequently the result of a company's delayed application for it. When a company applies for the IPI credits it must determine the amount for which it is eligible by using the exchange rate in effect on the date of shipment, even if application is made months later and the exchange rate has changed substantially.

Further, a company quotes its export prices in dollars but receives cruzeiros. The amount of cruzerios received is determined at the exchange rate in effect when the exchange contract for the shipment is negotiated. This occurs on or before the date of shipment. Any change in the exchange rate after the date of shipment has no effect on the cruzeiro amount to be received by the company for either the IPI credits or the gross value of the shipment, their exchange value in terms of dollars having already been predetermined.

Negative Determination of Critical Circumstances

Counsel for the Five alleged that imports of carbon steel plate from Brazil present "critical circumstances." Under section 355.29 and 355.33(b) of the Department's regulations, critical circumstances exist when the alleged subsidies include an export subsidy inconsistent with the Agreement and there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

In our preliminary determination we found, based upon the most recent information then available, that critical circumstances did not exist for carbon steel plate from Brazil. Information is now available on all entries made prior to the suspension of liquidation ordered on June 17, 1982 by our preliminary affirmative countervailing duty determination. In addition to the data used in our preliminary determination, we have examined import statistics from May through July 1982, because many entries made prior to June 17, 1982, may not have been included in U.S. import statistics before July. Based on these data, we have determined that critical circumstances do not exist for carbon steel plate from Brazil.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During this verification, we followed normal procedures, including inspection of documents, discussions with company and government officials and inspection of manufacturers' records.

Administrative Procedures

The Department has offered interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). A public hearing was held on July 16, 1982. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have been received and considered.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine within 45 days of the publication of this notice whether imports of carbon steel plate from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the suspension agreement will be voided and this proceeding will be terminated. If, however, the ITC determines that such injury does exist the suspension agreement shall remain in effect in accordance with its terms.

In the event the suspension agreement is violated, the Department, in accordance with section 703(i) of the Act, will direct the U.S. Customs Service to suspend liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise and will issue a final countervailing duty order as required by section 704(i)(1)(C) of the Act.

This determination is published in accordance with section 705(d) of the Act.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

January 11, 1983.

[FR Doc. 83-1310 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-25-M

Certain Scissors and Shears From Brazil; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain scissors and shears from Brazil. The review covers the period March 1, 1980 through February 28, 1981. As a result of the review, the Department has preliminarily determined the amount of the net subsidy to be 3.88 percent of the f.o.b. invoice price of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Laura K. Kneale or Edward F. Haley, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 10, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 10266) the final results of its last administrative review of the countervailing duty order on certain scissors and shears from Brazil (T.D. 77–64, 42 FR 8634) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are scissors and shears valued over $1.75 per dozen, imported directly or indirectly from Brazil. Such imports are currently classifiable under items 650.9000 and 650.9200 of the Tariff Schedules of the United States Annotated.

The review covers the period March 1, 1980 through February 28, 1981 and three programs found countervailable in the original investigation: preferential financing for exports, income tax exemptions for export earnings, and an overrebate of indirect taxes.

There are two unknown Brazilian exporters of this merchandise to the United States. The review is based on information provided by the Government of Brazil covering one of these exporters, ZIVI, S.A.—Cutelaria, whose shipments represented 92% of Brazilian exports of this merchandise to the United States during the period.

Analysis of Programs

(1) Preferential Financing For Exports. Under this program companies are declared eligible by the Department of Foreign Commerce of the Banco Central do Brazil ("CACEX") to receive working capital loans. These loans have a duration of up to one year. Each firm producing scissors and shears can obtain preferential financing for up to 30 percent of the value of its previous year's exports.

We calculated the subsidy under this program by multiplying the value of loans outstanding under the program during the period by the differential between the commercial interest rate and the preferential interest rate for each loan. For loans granted prior to the period, only that portion extending past March 1, 1980 was included in our calculation. We similarly prorated loans extending past February 28, 1981.

Then commercial rate for short-term working capital is the rate established by the Banco do Brazil for discounting sales of accounts receivable. We chose this as the benchmark rate because information provided by the Government of Brazil indicates that working capital is normally raised within the Brazilian financial system through the sale of accounts receivable. The commercial rate includes the tax on financial transactions, from which loans under the preferential financing progfam are exempt, and varied from 25.08 to 66.5 percent during the period April 20, 1979 to February 28, 1981.

During the period ZIVI had loans outstanding under Resolutions 515 (effective February 8, 1979) and 602 (effective March 5, 1980) of the Banco do Brazil. The effective annual rate under the former was 8.7 percent and for all loans taken out by ZIVI under Resolution 602 was 26.39 percent. The differential between the commercial and preferential rates was 16.38 percent for loans granted under Resolution 515, and 33.48 and 37.98 percent for loans granted under Resolution 602. We calculated the benefit conferred by the program for the period to be 2.77 percent *ad valorem*.

With the publication of successor Resolution 674, effective January 22, 1981, there was a considerable increase in benefits under the program. The effective rate of interest for loans under this resolution is 44 percent. The comparable rate for discounting sales of accounts receivable is 59.6 percent plus the 6.9 percent tax on financial transactions. The differenetial is 22.5 percent.

ZIVI did not contract for loans under Resolution 674 during the period from January 22, 1981 through February 28, 1981. To estimate the potential benefit and cash deposit of estimated duties for this program, we summed the prorated value of loans outstanding during the current review period, and found an actual utilization rate of 31.78 percent. We then multiplied the differential between the benchmark commercial rate and the preferential interest rate by the loan utilization rate and found a potential benefit under this program of 7.15 percent *ad valorem*.

(2) Income Tax Exemptions for Export Earnings. Exporters of scissors and shears are eligible under this program for exemption from income tax of the percentage of profit attributable to export revenue. The Brazilian government calculates the tax-exempt fraction of profit as the ratio of export revenue to total revenue. The benefit equals the product of the amount of tax-exempt profit and the prevailing 35 percent corporate income tax rate. We calculated the benefit from this program to be 1.11 percent *ad valorem* for the period.

(3) IPI Export Credit Program. The IPI is a tax on manufactured products. The Brazilian government provides a cash payment upon export as a rebate of this tax. In previous investigations and reviews, we found the IPI export credit to be a countervailable overrebate of indirect taxes. The Brazilian government eliminated IPI overrebates on December 7, 1979 but reinstated them on April 1, 1981. Therefore, this program provided no benefit during the period of review. Currently, the Government of Brazil collects a tax on exports of scissors and shears to the U.S. which fully offsets the benefit received under this program. Therefore, for purposes of the cash deposit of estimated duties, the subsidy under this program is zero percent.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the aggregate net subsidy conferred by the three programs during the period of review is 3.88 percent *ad valorem*. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 3.88 percent of the f.o.b. inovice price on all shipments of Brazilian scissors and shears exported on or after March 1, 1980 and on or before February 28, 1981.

Further, as provided by section 751(a)(1) of the Tariff Act, we intend to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 8.26 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first wordkay thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the

results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: January 17, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1582 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-25-M

Services Subcommittee of the President's Export Council; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The President's Export Council was initially established by Executive Order 11753 of December 20, 1973. The Council was reconstituted by Executive Order 12131 of May 4, 1979, and continued by Executive Order 12258 of December 31, 1980 and Executive Order 12399 of December 31, 1982. The Council's purpose is to advise the President on matters relating to United States export trade. The Services Subcommittee was formed by the Council to study service trade issues.

Time and Place

February 10, 1983, 10:00 a.m.–12:30 p.m. The meeting will take place in Room 4830 of the Herbert C. Hoover Building, 14th & Constitution Ave., NW., Washington, D.C. 20230.

Agenda

The agenda will include the following:

An assessment of the insurance industry's competitive situation in the U.S. and abroad

New approaches to opening up markets in developing countries to U.S. insurers

New ways to promote U.S. insurance operations abroad

Public Participation

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION CONTACT:

Copies of Minutes

Elisabeth Vermilye, Room 3213, U.S. Department of Commerce, 14th & Constitution Avenue NW., Washington, D.C. 20230, Telephone: (202) 377–1125.

Dated: January 17, 1983.

Brant Fries,

Director, Office of Service Industries.

[FR Doc. 83-1579 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-25-M

Steel Wire Rope From Korea; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary antidumping determination.

SUMMARY: The preliminary determination of steel wire rope from Korea is being postponed until not later than April 26, 1983.

EFFECTIVE DATE: January 20, 1983.

FOR FURTHER INFORMATION CONTACT: Paul Thran, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377–1766.

SUPPLEMENTARY INFORMATION: On October 22, 1982, we announced our initiation of an antidumping investigation to determine whether steel wire rope from Korea is being, or is likely to be, sold in the United States at less than fair value (47 FR 47054). The notice stated that we would issue a preliminary determination by March 7, 1983.

Section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), provides that the Department of Commerce may postpone its preliminary determination if it concludes that the parties involved are cooperating in the investigation, if it detemines that the case is extraordinarily complicated, and if additional time is needed to make the preliminary determination. We find these factors to exist in the present case. Specifically, we determine that the case is extraordinarily complicated by reason of the number and complexity of the transactions to be investigated and the adjustments to be made. We intend to issue a preliminary determination not later than April 26, 1983.

This notice is published pursuant to section 733(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 17, 1983.

[FR Doc. 83-1584 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-25-M

Trade Information Services; Fee Schedule

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce announces a new user fee program for Country Market Surveys and for Global Market Surveys, which were previously provided on a cost-free basis. The program also includes an increase in fees for more current International Market Research reports.

EFFECTIVE DATE: January 12, 1983.

FOR FURTHER INFORMATION CONTACT: Requests for services described in this notice should be directed to International Market Research Services, OTIS/ITA, ROOM 1320, U.S. Department of Commerce, Washington, D.C. 20230, or to the nearest Department of Commerce District Office.

SUPPLEMENTARY INFORMATION: Descriptions of the products offered for sale, as well as the prices which will be applied as of January 12, 1983, are as follows:

Country Market Surveys (CMS)s

CMSs offer a wealth of marketing information relevant to the potential U.S. exporter, information that is often difficult to obtain from other sources. They are summaries of full-length International Market Research (IMR) reports which analyze U.S. export opportunities in a specific country market for a particular U.S. industry. The surveys describe the current marketing situation, trends expected in the next five years, best sales prospects, estimates and projection of market size figures, imports from the United States, domestic production, and end-user industry sectors. The CMSs also provide sources of information on regulations and technical standards. The publications are available for a fee of $7.50 for each CMSs or $6.50 each if six or more CMSs are ordered.

Global Market Surveys (GMS)s

GMSs are a combination in loosleaf binder form of all Country Market Surveys prepared and distributed before July 1982 on a selected industry or product theme. They offer the potential exporter the opportunity to purchase all the earlier CMSs for a particular industry theme at a price significantly below the individual CMS price. A fee of between $30 and $100 has been established for each GMS depending on the number and age of country surveys contained in the GMS.

International Market Research (IMR) Reports

IMR reports are original studies of growth export markets for selected U.S. industries. They are prepared on the spot, in the country of research, by market consultants under contract to the U.S. Department of Commerce or by the U.S. Foreign Commercial Service. The reports reflect the opinions and view of the surveyed country's end users, importers, agents, distributors and government officials. Fees for such reports are between $50 and $100, depending on length of the report.

Stephen B. Strauss,

Deputy Assistant Secretary for Trade Information and Analysis.

[FR Doc. 83-1585 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Status Report on Voluntary Product Standards

AGENCY: National Bureau of Standards, Commerce.

ACTION: Development, maintenance, and withdrawal of certain voluntary standards.

SUPPLEMENTARY INFORMATION: On August 30, 1982, the Department of Commerce (Department) announced in the **Federal Register** (47 FR 38171) the status of 26 standards classified as voluntary standards. The announcement was made in accordance with the revised "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10).

The August 30, 1982, notice specified the retention of specific standards for fixed periods of time. The updated status of all existing voluntary standards is indicated below.

The following Voluntary Product Standards will continue to be maintained by the Department:

Standard and Proponent Organization

PS 1–74 "Construction and Industrial Plywood", American Plywood Association
PS 20–70 "American Softwood Lumber Standard", American Lumber Standards Committee
PS 73–77 "Carbonated Soft Drink Bottles", Glass Packaging Institute

The Department has agreed to sponsor the development of a Voluntary Product Standard for the production of carbonated soft drinks in glass bottles, which was requested by the National Soft Drink Association. It has been determined that this standards project meets the six requirements for Department sponsorship stated in § 10.0(b) of the mentioned Procedures.

The following standards will be retained by the Department until January 20, 1984, to permit the orderly transfer of sponsorship of such standards from the Department to the identified organizations.

PS 56–73 "Structural Glued Laminated Timber", American Institute of Timber Construction
PS 67–76 "Marking of Gold Filled and Rolled Gold Plate Articles Other Than Watchcases", Jewelers Vigilance Committee
PS 68–76 "Marking of Articles Made of Silver in Combination with Gold", Jewelers Vigilance Committee
PS 69–76 "Marking of Articles Made Wholly or in Part of Platinum" Jewelers Vigilance Committee
PS 70–76 "Marking of Articles Made of Karat Gold", Jewelers Vigilance Committee
PS 71–76 "Marking of Jewelry and Novelties of Silver", Jewelers Vigilance Committee
PS 72–76 "Toy Safety", American Society for Testing and Materials

In accordance with § 10.13 of the mentioned Procedures, notice is hereby given of the withdrawal of the following standards. This action is taken in furtherance of the Department's announced intentions as set forth in the August 30, 1982, notice to withdraw these standards. The effective date for the withdrawal of the standards will be March 21, 1982. This withdrawal action terminates the authority to refer to these standards as voluntary standards developed under the Department of Commerce procedures. The organizations listed below have assumed responsibility for the standards.

PS 38–70 "Body Measurements for the Sizing of Boys' Apparel", American Society for Testing and Materials
PS 42–70 "Body Measurements for the Sizing of Women's Patterns and Apparel", American Society for Testing and Materials
PS 45–71 "Body Measurements for the Sizing of Apparel for Young Men (Students)", American Society for Testing and Materials
PS 51–71 "Hardwood and Decorative Plywood", Hardwood Plywood Manufacturers Association
PS 54–72 "Body Measurements for the Sizing of Girls' Apparel", American Society for Testing and Materials
PS 63–75 "Latex Foam Mattresses for Hospitals", American Society for Testing and Materials
PS 66–75 "Safety Requirements for Home Playground Equipment", American Society for Testing and Materials
CS 151–50 "Body Measurements for the Sizing of Apparel for Infants, Babies, Toddlers and Children (for the Knit Underwear Industry)", American Society for Testing and Materials

FOR FURTHER INFORMATION CONTACT: Karl G. Newell, Jr., Office of Product Standards Policy, National Bureau of Standards, Washington, D.C. 20234, Telephone: (301) 921–2368.

Dated: January 6, 1983.

Ernest Ambler,

Director.

[FR Doc. 83-827 Filed 1-19-83; 8:45 am]

BILLING CODE 3510-13-M

Office of the Secretary

President's Private Sector Survey on Cost Control; Open Meeting

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice of Public meeting of the Executive Committee of the President's Private Sector Survey on Cost Control.

SUMMARY: The President's Private Sector Survey on Cost Control was established by the President pursuant to Executive Order 12369 of June 30, 1982, and extended by Executive Order 12386 of December 31, 1982. The Executive Committee of the Survey is chartered by the Department of Commerce as a public advisory committee in accord with the Federal Advisory Committee Act.

The purpose of the President's Private Sector Survey on Cost Control is to conduct a private sector survey on cost control in the Federal Government and to advise the President, the Secretary of Commerce, and other Executive agency heads with respect to improving managment and reducing costs.

Time and Place

February 4, 1983 at 11:00 a.m. The meeting will take place at the U.S. Department of Commerce Auditorium, First Floor, Herbert C. Hoover Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Agenda

(1) Receive a status report on activities of the President's Private Sector Survey.

(2) Establish a Subcommittee of the Executive Committee. The purposes of the Subcommittee are: (i) To review the recommendations submitted, including task force reports and public comments, and (ii) determine which recommendations should be made to the President and Departments and Agencies.

SUPPLEMENTARY INFORMATION: To accomplish the President's objective that the survey be funded, to the

maximum extent practicable, by the private sector, staff support for the Executive Committee is provided by a not-for-profit organization, under a joint agreement with the Department of Commerce. This organization, The Foundation for the President's Private Sector Survey on Cost Control, Inc., provides the staffing for 36 separate Task Forces which have examined the operations of various Federal agencies and programs to gather and process the information necessary for the Executive Committee to accomplish its objectives.

It is expected that the Subcommittee will hold approximately six public meetings between late February and late April, 1983. Exact dates will be noticed in the **Federal Register**. Copies of the draft reports will be publicly available approximately two weeks prior to the date of the pertinent meeting. Copies will be available for public inspection at the Department of Commerce's Central Reference and Records Inspection Facility, Room 6628 Main Commerce (Hoover Building) at 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Please telephone Ms. Geraldine LeBoo at (202) 377–3271 for information concerning fees and procedures for obtaining copies by mail.

The public may file written statements for consideration by the Subcommittee any time before or after the meetings. It is strongly recommeded that statements be filed after the draft reports are made public, but before the pertinent Subcommittee meeting is held, to ensure that the comments are considered by the Subcommittee before adoption of a report. The comments should be filed at the Department of Commerce's Central Reference and Records Inspection Facility, address and phone number as above. All public statements received will be available for public review. It is expected that the full Executive Committee will hold a final meeting probably in late May or early June, to consider and act upon a summary report for the President.

Public Participation

The February 4 meeting will be open to the public. Seating will be on a first-come, first-serve basis, up to the safe capacity of the meeting room. Media representatives are encouraged to call Mr. Malcolm Barr, Director, News Relations, Department of Commerce, 377–4901, to facilitate coverage of the meeting. The meeting agenda will not include time for oral statements from public attendees. Although the February 4 meeting will not consider any draft reports, the public may file any written statements it wishes to file. The place to file and procedures to be followed are the same as that described above for the forthcoming Subcommittee meetings.

Copies of minutes of each meeting will be publicly available from the Department's Centeral Reference and Records Inspection Facility, address and phone number as above.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Colson, Committee Control Officer for the Executive Committee of the President's Private Sector Survey on Cost Control, telephone (202) 466–5170.

Dated: January 19, 1983.

Marilyn S. McLennan,

Chief, Information Policy and Management Division, Office of the Secretary.

[FR Doc. 83–1794 Filed 1–19–83; 11:19 am]

BILLING CODE 3510-CW-M

National Oceanic and Atmospheric Administration

Issuance of Letters of Authorization

An amendment made to the Marine Mammal Protection Act in 1981 directs the Secretary to allow, on request, the taking of small numbers of non-depleted marine mammals incidental to specific activities in specified geographical areas, if the Secretary makes certain findings concerning the effects of the activities and establishes regulations covering these activities. In 1982, the National Marine Fisheries Service issued Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities. These included specific regulations allowing the taking of ringed seals incidental to on-ice seismic activities in the Beaufort Sea. Any company or contractor wishing to be covered by these regulations must apply for and receive a Letter of Authorization, which is valid for one operating year. We have received four applications for a Letter of Authorization to conduct on-ice seismic activities in the Beaufort Sea in 1983. We have determined that requests are consistent with findings made for the specific regulations and that the level of taking will have a negligible impact on the ringed seals species or stock and its habitat and its availability for subsistence use.

Therefore, notice is being given that the National Marine Fisheries Service issued four Letters of Authorization unde the authority of the Marine Mammal Protection Act of 1972, as amended, to conduct activities allowed under 50 CFR Part 228, Subpart B—Taking of Ringed Seals Incidental to on-Ice Seismic Activities to the following:

Western Geophysical Company, 351 E. International Airport Road, Anchorage, Alaska 99502, Issued on January 14, 1983

Consolidated Georex Geophysics, 699 Hampshire Road, Suite 203, Westlake Village, California 91361, Issued on January 14, 1983

Geophysical Service Inc., 5801 Silverado Way, Anchorage, Alaska 99502, Issued on January 14, 1983; and

Dames & Moore, 800 Cordova, Suite 101; Anchorage, Alaska 99501, Issued on January 14, 1983.

These Letters of Authorization are valid for 1983 and are subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities (50 CFR Part 228, Subparts A and B).

These Letters of Authorization are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: January 14, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83–1589 Filed 1–19–83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Cotton Fiber Textile Products From Thailand

January 17, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of cotton gloves and mittens in Category 331 at a level of 632,386 dozen pairs during the eighteen-month period which began on January 1, 1982 and extends through June 30, 1983. A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of October 4, 1978, as amended and extended, between the Governments of the United States and Thailand, the United States

Government has decided to control imports of cotton textile products in Category 331, produced or manufactured in Thailand and exported to the United States during the eighteen-month period which began on January 1, 1982, in addition to those categories previously designated.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212).

SUPPLEMENTARY INFORMATION: On October 14, 1982, there was published in the **Federal Register** (47 FR 45896) a letter dated October 8, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Thailand, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the eighteen-month period which began on January 1, 1982 and extends through June 30, 1983. In accordance with the terms of the bilateral agreement, as amended and extended, the United States Government has decided also to control imports of cotton textile products in Category 331, produced or manufactured in Thailand and exported to the United States during the same period. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 331 in excess of the designated level of restraint. The level has not been adjusted to reflect any imports after December 31, 1981. Imports during the January 1–November 30, 1982 period have amounted to 319,025 dozen pairs in Category 331 and will be charged. As the data become available, further charges will be made to account for imports during the period which began on December 1, 1982 and extends to the effective date of this action, as well as thereafter.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 17, 1983.

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on October 8, 1982 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Thailand.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man Made Fiber Textile Agreement of October 4, 1978, as amended, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 21, 1983 and for the eighteen-month period which began on January 1, 1982 and extends through June 30, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 331, produced or manufactured in Thailand, in excess of 632,366 dozen pairs.[1]

Textile products in Category 331 which have been exported before January 1, 1982 shall not be subject to this directive.

Textile products in Category 331 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

In carrying out the above directions, the Commissoner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Thailand and with respect to imports of cotton textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commission of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreeemnts.

[FR Doc. 83–1529 Filed 1–19–83; 8:45 am]

BILLING CODE 3510–25–M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1981. Imports in Category 331 during the January-November 1982 period have amounted to 319,025 dozen pairs.

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 81–1]

A&B Wiper Supply, Inc., a Corporation; Provisional Acceptance of a Consent Order Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a Consent Order Agreement under the Consumer Product Safety Act.

SUMMARY: Published below is a provisionally-accepted Consent Order Agreement with A&B Wiper.

DATES: Any interested person may ask the Commission not to accept this agreement by filing a written request with the Office of the Secretary by February 4, 1983.

ADDRESS: Persons wishing to comment on this Consent Order Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Earl A. Gershenow, directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6626.

SUPPLEMENTARY INFORMATION: (Below signature).

Dated: January 14, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

United States of America, Consumer Product Safety Commission

In the matter of A&B WIPER SUPPLY, INC., a corporation, and ALBERT KANEFSKY, as an officer of the corporation, and JOEL KANEFSKY, as an officer of the corporation. CPSC Docket No. 81–1.

Consent Agreement and Order

This Consent Agreement is made by and between A&B Wiper supply, Inc., Joel Kanefsky and Albert Kanefsky (hereinafter collectively referred to as ("A&B"), respondents in the above matter, and the Consumer Product Safety Commission (the "Commission") pursuant to § 1025.20 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.20, in full and complete settlement of the above-captioned enforcement action against A&B. Attached to this Consent Agreement is an Order which the Commission shall issue upon its final acceptance of this Consent

Agreement, which Order shall then constitute the final decision and order of the Commission within the meaning of § 1025.52 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.52.

It is hereby agreed between the Commission and A&B that:

1. A&B Wiper Supply, Inc. is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with its principal place of business at 116 Fountain Street, Philadelphia, Pennsylvania. Albert Kanefsky is the president of A&B Wiper Supply, Inc. Joel Kanefsky is secretary and treasurer of A&B Wiper Supply, Inc. A&B Wiper Supply, Inc., Albert Kanefsky and Joel Kanefsky are the respondents in this action.

2. For the purposes of this Consent Agreement and Order, A&B consents to the jurisdiction of the Commission over the subject matter of this action under the Consumer Product Safety Act, 15 U.S.C. 2051 et seq.

3. This Consent Agreement and Order resolve all allegations set forth in the complaint of the Commission staff in this matter, described in paragraph 5 below. The Order shall take effect upon its issuance by the Commission and service upon A&B.

4. This Consent Agreement and Order relate to certain children's sleepwear manufactured by the William Carter Company and treated with a chemical flame retardant TRIS (2,3-dibromophophyl) phosphate ("TRIS"), purchased by A&B from Vinyl Sales, Inc. of Haverhill, Massachusetts. Said sleepwear is a consumer product as that term is defined in Section 3(a)(1) of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. 1052(a)(1).

5. The staff of the Commission has alleged that A&B sold approximately 80,000 pounds (approximately 280,000 garments) of TRIS-treated children's sleepwear in commerce without having first cut such sleepwear into rags and without having reported such sales to the Commission pursuant to Section 15(b) of the CPSA, 15 U.S.C. 2064(b). The staff of the Commission has further alleged that A&B had information which reasonably supported the conclusion that the uncut TRIS-treated children's sleepwear contained a product defect which could create a substantial product hazard as those terms are used in Section 15(b) of the CPSA, and that, therefore, A&B violated Sections 19(a)(3) and 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(3) and 2068(a)(4), in failing to report those sales to the Commission.

6. Without admitting the existence of a substantial product hazard or a violation of any reporting requirement, A&B agrees as follows:

(a) A&B will repurchase any and all uncut TRIS-treated fabric sold by it which is still in commerce and will pay the cost of shipping such fabric to A&B's factory in Philadelphia, regardless of its present location.

(b) A&B will pay to the Commission, in accordance with the Order attached hereto, the sum of $10,000.

This Consent Agreement and Order constitute a complete settlement and resolution of any violation that has been or might have been alleged against A&B concerning any hazard associated with TRIS-treated fabric.

7. Upon final acceptance by the Commission of this Consent Agreement, A&B will knowingly and voluntarily waive any right it may have to an administrative or judicial hearing or any other procedural steps in this matter and any right it may have to seek judicial review or otherwise to contest the validity of the Commission's Order.

8. Upon provisional acceptance by the Commission of this Consent Agreement, this Consent Agreement and Order will be placed on the public record, on the Commission's Public Calendar and in the **Federal Register** pursuant to 16 CFR 1115.20(b). Upon final Commission acceptance, the Commission will make this Consent Agreement and Order available for public viewing at the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

A&B Wiper Supply, Inc., Joel Kanefsky and Albert Kanefsky.

Joel Kanefsky,

Consumer Product Safety Commission.

By: ———

In the matter of A&B Wiper Supply, Inc., a corporation, and Albert Kanefsky, as an officer of the corporation, and Joel Kanefsky, as an offier of the corporation. CPSC Docket No. 81-1.

Order

Upon consideration of the foregoing Consent Agreement, the Commission having accepted the terms thereof, and in full and final settlement of this administrative proceeding;

It is hereby ordered that A&B Wiper Supply, Inc., Albert Kanefsky and Joel Kanefsky ("A&B") shall repurchase any and all uncut TRIS-treated fabric sold by A&B which remains, as of the date of this Order, in the stream of commerce and shall pay the cost of shipping such fabric to A&B; and

It is further ordered that A&B shall pay to the Commission the sum of $10,000 in equal semi-annual installments of $2,500 over two years, the first payment to be made within 20 days of service of this Order.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-1543 Filed 1-19-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; Amendment to a System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Amendment of one system of records notice.

SUMMARY: The Department of the Navy proposes to amend one system of records to its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed action will be effective without further notice on February 22, 1983, unless comments are received which would result in a contrary determination.

ADDRESS: Any comments, to include written data, views or arguments concerning the action proposed should be addressed to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op-09B1P), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 694-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy inventory of systems of records notices as prescribed by the Privacy Act have been published in the **Federal Register** at:

FR Doc. 81-674 (47 FR 2574) January 16, 1982
FR Doc. 81-9204 (47 FR 14944) April 7, 1982
FR Doc. 82-9844 (47 FR 15636) April 12, 1982
FR Doc. 82-12593 (47 FR 20018) May 10, 1982
FR Doc. 82-15596 (47 FR 25041) June 9, 1982
FR Doc. 82-23533 (47 FR 37948) August 27, 1982
FR Doc. 82-27420 (47 FR 44134) October 6, 1982
FR Doc. 82-27692 (47 FR 44381) October 7, 1982

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense:

January 14, 1983.

N05890-1

SYSTEM NAME:

Automated Claims Information System (ACIS) (47 FR 2704) January 18, 1982.

CHANGES:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

At the end of the entry, add the following sentence: "Any medical personnel involved in medical malpractice claims against the Department of the Navy."

CATEGORIES OF RECORDS IN THE SYSTEM:

At the next to the last line after the word" . . . incident . . .", add the phrase: ". . . and medical personnel involved (if applicable) . . ."

N05890-1

SYSTEM NAME:

Automated Claims Information System (ACIS)

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have filed claims against the Department of the Navy under the Federal Tort Claims Act, the Foreign Claims Act, Military Claims Act, the 'Nonscope' Claims Act, Legislative Reorganization Act, or Military and Civilian Employees' Claims Act. All individuals who have filed claims with the U.S. Postal Service for loss or damage to mailed matter, and which claims have been paid by the U.S. Postal Service and thereafter forwarded for reimbursement by the Department of the Navy pursuant to 39 U.S.C. 712. All individuals who have asserted claims or instituted suits under the Public Vessels Act and Suits in Admiralty Act against third parties who have impleaded the Department of the Navy in the name of the United States. All individuals against whom the Navy has claims sounding in tort, and all individuals who are in the military or are dependents of military members and have been provided medical care by a Naval medical facility for injuries resulting from such tortious conduct. All common carriers against whom recovery has been sought by the Department of the Navy. Any medical personnel involved in medical malpractice claims against the Department of the Navy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, social security number, office processing the claim, dollar amount of claim, dollar amount paid, type of claim, type of property damage, type of personal injury, date of incident that caused the claim, date the claim was presented to the Navy, date payment was made or claim was closed, amount claimed against individual, amount received from individual, location of incident, medical personnel involved (if applicable), and government bill of lading (if applicable).

* * * * *

[FR Doc. 83-1207 Filed 1-19-83; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., February 15, 1983 in MRA&L Conference Room No. 3E794, The Pentagon, and from 9:30 a.m. to approximately 12:00 noon, February 16, 1983 in MRA&L Conference Room No. 3E794, The Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to review the OSD/Services responses to the recommendations/requests for information/continuing concerns made at the 1982 Fall Meeting, discuss current issues relevant to women in the Services, and to finalize the itinerary/program for the next Semiannual Meeting scheduled for April 24-28, 1983 in Washington, D.C.

Persons desiring to: (1) Attend the Executive Committee Meeting or (2) make oral presentations or submit written statements for consideration at the Meeting must contact Captain Mary J. Mayer, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Room 3D769, The Pentagon, Washington, D.C. 20301, telephone (202) 697-2122 no later than February 9, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 14, 1983.

[FR Doc. 83-1540 Filed 1-19-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Secretary of Education invites comments on the proposed information collection requests as required by the Paperwork Reduction Act.

DATES: Interested persons are invited to submit comments on or before February 22, 1983.

ADDRESSES: Written comments or requests should be addressed to Richard Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Room 3208 New Executive Office Building, Washington, D.C. 20503 and/or Margaret Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: William Wooten, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The requirement for public consultation may be amended or waived by OMB to the extent that the public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform the statutory obligations.

The Secretary of Education publishes this notice containing proposed information requests prior to the submission of these requests to the Office of Management and Budget. Public comment is invited and copies of the requests may be obtained from the addressees named above.

Dated: January 14, 1983.

T. H. Bell,

Secretary of Education.

Office of Elementary and Secondary Education

New

- **State Performance Report—Chapter 1, Education Consolidation and Improvement Act (ECIA), Local Educational Agency Program**

To be assigned
Annual
State or local governments
SIC: 941
Responses: 58; Burden Hours: 4,400
Federal Cost: $1,000; Public Cost: $44,000
One form submitted for approval

Abstract: Section 406A of the General Education Provisions Act requires the Secretary to collect certain data on Federal education programs. The use of this report would satisfy the requirement as it applies to Chapter 1.

- **Financial and Performance Reports—Chapter 1, ECIA, Transition Services Program**

ED 880–1, –2
Annual
State or local governments
SIC: 941
Responses: 30; Burden Hours: 540
Federal Cost: $650; Public Cost: $5,400
Two forms submitted for approval

Abstract: Chapter 1 of the Education Consolidation and Improvement Act of 1981 authorizes grants to SEAs and LEAs to support projects to facilitate the transition of children from State-operated institutions for neglected or delinquent youth into locally-operated educational programs. These reports will allow the collection of common performance data on these projects.

Extension

- Grant Application for the Chapter 1, ECIA, Transition Services Program

ED 880
Annual
State or local governments
SIC: 941
Responses: 50; Burden Hours: 1,000
Federal Cost: $3,950; Public Cost: $10,000
One form submitted for approval

Abstract: Chapter 1 of the Education Consolidation and Improvement Act of 1981 authorizes funding for grants to SEAs and LEAs to support projects to facilitate the transition of children from State-operated institutions for neglected or delinquent youth into locally-operated programs. This application is necessary to conduct a competition for grant funds.

Office of Special Education and Rehabilitative Services (OSERS)

New

- Comprehensive Service Delivery Model for Severely Handicapped Children—State of Kansas

To be assigned
Nonrecurring
State or local governments/businesses or other institutions
SIC: 821/822/892/941
Responses: 500; Burden Hours: 500
Federal Cost: $30,000; Public Cost: $5,000
One form submitted for approval

Abstract: The Kansas State Department of Education is conducting a three-year project to implement a comprehensive service delivery system for severely handicapped children and youth. The delivery system focuses on providing the best service available to each individual child and youth in the least restrictive environment.

- Comprehsive Service Delivery Model for Severely Handicapped Children—State of Georgia

To be assigned
Nonrecurring
State or local governments/businesses or other institutions
SIC: 941/892/821/822
Responses: 150; Burden Hours: 150
Federal Cost: $35,000; Public Cost: $1,500
One form submitted for approval

Abstract: This project will plan for, demonstrate, and evaluate ways to reshape service delivery to severely handicapped children and youth, birth through 21, in the State of Georgia. The project will include identification of service and delivery gaps, replacement of piece-meal programming with comprehensive service.

- Comprehensive Service Delivery Model for Severely Handicapped Children—State of New York

To be assigned
Nonrecurring
State or local governments/businesses or other institutions
SIC: 941/892/821/822
Responses: 500; Burden Hours: 500
Federal Cost: $30,000; Public Cost: $5,000
One form submitted for approval

Abstract: This project will establish an integrated state-wide system for delivering special education and related services to approximately 45,000 severely handicapped children. It is expected that 22,500 children located near their homes will have greater access to a broader range of services than at present. They will be served in least restrictive environments.

Extensions

- State Plan for Vocational Rehabilitation Services

ED SPVR
Annual/Triennial
State or local governments
SIC: 944
Responses: 82; Burden Hours: 820
Federal Cost: $10,000; Public Cost: $8,200
One form submitted for approval

Abstract: This form fulfills the requirements for a State Plan, as stipulated in the Rehab. Act. The Plan serves as the basis for giving monies to the States under Title I of P.L. 93–112. The current three-year Plan covers the period FY 1983 through 1985.

- Quarterly Cumulative Caseload/ Expenditure Report—Rehabilitation Services ED 113

Quarterly
State or local governments
SIC: 944
Responses: 336; Burden Hours: 638
Federal Cost: $20,000; Public Cost: $5,185
One form submitted for approval

Abstract: This instrument provides for evaluation of state agency productivity and for monitoring caseloads progress of 110, SSDI, SSI programs, and of the severely disabled. It serves to document the number of rehabilitations meeting the "Substantial Gainful Employment: (SGE) requirement for the allocation of SRA program funds."

- Annual Date Report—Part B of Education of the Handicapped Act (EHA) and State Agency Programs for Handicapped Children, Title 1, Elementary and Secondary Act (ESEA), as amended

ED 869
Annual
State or local governments
SIC: 941
Responses: 58; Burden Hours: 7,882
Federal Cost: $10,000; Public Cost: $78,820
One form submitted for approval

Abstract: This data form is used annually to collect and count data for determining grant allotments under Part B, EHA, as amended and Pub. L. 89–313, Title 1 of ESEA, as amended by Pub. L. 95–561. Evaluation data required under Pub. L. 94–142, Section 618 also is collected on this form.

- Performance Report for Special Education Programs (SEP) Discretionary Grant Programs

ED 9037–1
Annual/Biennially/Triennial
State or local governments/businesses or other institutions
SIC: 821/822/892/941
Responses: 400; Burden Hours: 6,000
Federal Cost: $25,000; Public Cost: $80,000
One form submitted for approval

Abstract: This report is used by Special Education Programs to determine whether and to what extent progress is being made by grantees toward achieving project goals and objectives. The report is due at the end of the grant award period (usually a three-year period).

- FY 84–86 State Plan, under Part B of the Education of the Handicapped Act, as amended by Pub. L. 94–142

ED 9055
Triennial
State or local governments
SIC: 941
Responses: 58; Burden Hours: 1,450
Federal Cost: $30,000; Public Cost: $14,500
One form submitted for approval

Abstract: Any State meeting the eligibility requirements of Section 612, Pub. L. 94–142, may apply for participation in the Part B. EHA, state grant program by submitting an application as prescribed in ED 9055. The State Plan also is used as the basis for a compliance review and as determination of technical assistance

needs. States may apply at any time during the cycle.

Office of Vocational and Adult Education

Extensions

- Financial Status and Performance Report for Direct Grants-OVAE

ED 360,360–1
Annual
State or local governments
SIC: 941
Responses: 30; Burden Hours: 240
Federal Cost: $2,200; Public Cost: $2,400
Two forms submitted for approval

Abstract: The reports are used by grant officers and project officers to monitor the expenditure and use of funds and the performance of approved activities.

- Financial Status and Performance Reports for the Adult Education State Program

ED 365,365–1
Annual
State or local governments
SIC: 941
Responses: 57; Burden Hours: 570
Federal Cost: $2,400; Public Cost: $5,700
Two forms submitted for approval

Abstract: Regulations require all grantees to report on the status of funds and the performance of activities conducted. Data collected are needed for the purposes of accounting for the expenditures of funds and assessing the effectiveness of the carrying out of State plans under the Adult Education State Program.

- Annual Plan and Accountability Report for Vocational Education

ED 576–3,576–4 Annual (Three year plans can be submitted in lieu of annual plan)
State or local governments
SIC: 941
Responses: 57; Burden Hours: 18,240
Federal Cost: $262,000; Public Cost: $228,000
Two forms submitted for approval

Absdtract: Section 108 of the Vocational Education Act requires State Boards for Vocational Education to submit Annual Plans and Accountability Reports in order to receive Federal funds for vocational education Programs.

- Annual Evaluation Report of the State Advisory Councils for Vocational Education

ED 576–5
Annual
State or local governments
SIC: 941
Responses: 57; Burden Hours: 21,375
Federal Cost: $175,000; Public Cost: Public Cost: $285,000
One form submitted for approval

Abstract: The Vocational Education Act requires the State Advisory Council to submit an annual report to the Secretary of Education evaluating the vocational education programs conducted in its State.

- State-administered Vocational Education Program Improvement Projects—Abstracts

ED 590
On Occasion
State or local governments
SIC: 941
Responses: 912; Burden Hours: 228
Federal Cost: 47,780; Public Cost: $2,280
One form submitted for approval

Abstract: Section 171 of the Vocational Education Act mandates that the National Center for Research in Vocational Education act as a clearinghouse for contracts made by the States for research, exemplary and innovative programs, and curriculum development.

- Application for Vocational Education Direct Grant Programs

ED 3176
Annual
State or local governments
SIC: 941
Responses: 67; Burden Hours: 1,340
Federal Cost: $45,000; Public Cost: $13,400
One form submitted for approval

Abstract: The standard OMB Circular No. A-102 application form is used to apply for vocational education direct grants.

Office of Postsecondary Education, Office of Student Financial Assistance (OSFA)

New

- Statement of LEEP Account/ Participants Certification Statement Law Enforcement Education Program

LEEP 6 & 6A
Monthly
Individuals of households
SIC: NA
Responses: 98,176; Burden Hours: 9,818
Federal Cost: $392,227; Public Cost: $1,963
Two forms submitted for approval

Abstract: This form serves as a bill or a certification of law enforcement employment. The form serves to collect information on the recipient of funds. This information must be certified by an official of the employing agency. Information is fed into the computer file which automatically credits the recipient's account with the appropriate amount of forgiveness.

- Call Report—Lender's Annual Report on Guaranteed Student Loans Outstanding

- ED 799–1

Annual
Businesses or other institutions
SIC: 822/801/802/803/804/805
Responses: 22,500; Burden Hours: 45,000
Federal Cost: $20,000; Public Cost: $180,000
One form submitted for approval

Abstract: This form is completed by the lender and provides the GSLB updated information of the lender's loan portfolio. It is also used to determine the amount that the lender can bill for interest in the next quarter.

- Student Confirmation Report for Guaranteed Student Loan Program P.L. 89–329

ED 1072
Semiannually
Businesses or other institutions
SIC: 822/824
Responses: 22,500; Burden Hours: 22,500
Federal Cost: $60,000; Public Cost: $90,000
One form submitted for approval

Abstract: Data from this form are used to update the Student Status Transaction Statement which will indicate if and when a student ceases attendance. The lender then establishes a repayment schedule with the student.

- Loan Transfer Statement Guaranteed Student Loan Program

Ed 1074
Businesses or other institutions
SIC: 822/801/802/803/804/805
Responses: 16,265; Burden Hours: 32,530
Federal Cost: $85,000; Public Cost: $130,120
One form submitted for approval

Abstract: This form is used to report the selling and buying of existing loans between lenders. Both lenders must sign and date the form prior to submission to ED by the buying lender.

- Federal Loan Transaction Statement Federally Insured Student Loan Program

ED 1199
Monthly
Businesses or other institutions
SIC: 822/801/802/803/804/805
Responses: 133,000; Burden Hours: 133,000
Federal Cost: $23,854; Public Cost: $1,368,000
One form submitted for approval

Abstract: This form is used by ED's Guaranteed Student Loan Branch to bill lenders for insurance premiums. It is also used by lenders to report changes in the status of existing loans and to report loans paid in full.

- Summary Data Sheet (National Direct Student Loan) Listing Form

ED 1209, –1

Annual
Businesses or other institutions
SIC: 941
Responses: 57; Burden Hours: 1,140
Federal Cost: $149,000; Public Cost: $20,000
Two forms submitted for approval

Abstract: This form was designed to provide pertinent information to ED for compliance and statutory provisions governing the National Direct (Defense) Student Loan Program.

• Application for State Student Incentive Grant Program
ED 1288
Annual
State or local governments
SIC: 941
Responses: 57; Burden Hours: 171
Federal Cost: $50,000; Public Cost: $1,710
• One form submitted for approval

Abstract: Completed application shows' states qualification for Federal funds, specifying matching and maintenance of effort capability, methods of determining student financial need, and extent of institutional eligibility. With its signed assurances, the document commits a state to administer the Federal funds and state matching funds in compliance with the statute. Data are used in program management.

• Financial Status and Performance Report, State Student Incentive Grant Program
ED 1288–1, –2
Annual
State or local governments
SIC: 941
Responses: 57; Burden Hours: 171
Federal Cost: $50,000; Public Cost: $1,800
Two forms submitted for approval

Abstract: This annual report fulfills the statutory requirement of Sec. 415C(b) (8), Higher Education Act, (HEA). The collected data provides fiscal information about use of allotments and describes program accomplishments. The analyzed data is used for program evaluation, various budget/policy decisions, and to assist States in program development.

Revisions

• Student Aid Report
ED 255–1
Annual
Individuals or households
SIC: NA
Responses: 2,328,000; Burden Hours: 1,157,185
Federal Cost: $7,712,000; Public Cost: $0
One form submitted for approval

Abstract: The student completes an application form (ED 255) on which he/she provides income and asset information necessary to determine an expected family contribution toward educational expenses. The student sends the form to an ED contractor which determines the amount of the expected family contribution. The ED contractor then sends the student a SAR which is a notification of the results of that determination.

• Fiscal-Operations Report/ Application to Participate in National Direct Student Loan (NDSL), Supplemental Education Opportunity Grant (SEOG), and College Work Study (CWS) Programs
ED 646,–1
Annual
Businesses or other institutions
SIC: 822,824
Responses: 4,650; Burden Hours: 174,750
Federal Cost: $40,000; Public Cost: $758,415
Two forms submitted for approval

Abstract: The application data will be used to compute the amount of funds needed by each institution during the 1983–84 award period. The fiscal-operation's report data will be used to assess program effectiveness and accountability of funds expended during the award period 1981–82.

Extensions

•PELL Grant Program Student Validation Roster
ED 255–4
Annual
Businesses or other institutions
SIC: 823
Responses: 5,000; Burden Hours: 80,000
Federal Cost: $750,000; Public Cost: $800,000
One form submitted for approval

Abstract: The student Validation Roster is the vehicle through which end-of-year adjustments to the authorization of PELL funds are made, based on the actual and accepted disbursement of funds as reflected by the number of eligible PELL recipients at the institution.

• Physician's Certification of Borrower's Total and Permanent Disability for Student Loan Program
ED 1172
Annual
Individuals or households
SIC: NA
Responses: 7,000; Burden Hours: 2,167
Federal Cost: $2,500; Public Cost: $124,583
One form submitted for approval

Abstract: The Guaranteed Student Loan Program was established in 1965 under Title IV Part B of the Higher ED Act. The GSLP's chief objective is to provide a program of student loan insurance for students attending eligible postsecondary schools. This form is used to request cancellation of loans owned. The law provides that the Federal Government will cancel the loan if the borrower becomes permanently and totally disabled.

Office of Postsecondary Education (OPSE)

New

•Financial Status and Performance Report for Talent Search Program
To be assigned
Annual
Businesses and other institutions
SIC: 822
Responses: 167; Burden Hours: 668
Federal Cost: $5,500; Public Cost: $10,020
Two forms

Abstract: Data collected from these reports are reviewed and analyzed in accordance with the Education Division General Administrative Regulations (EDGAR)

• Application for Grants under the Education for Public Service Program
ED 404
Annual
State or local governments/businesses or other institutions
SIC: 822
Responses: 120; Burden Hours: 2,400
Federal Cost: $1,700; Public Cost: $36,000
One form submitted for approval

Abstract: This information is required of institutions of higher education applying for an allocation of fellowships under Title IX, B of the Higher Education Act, as amended. The information will be used in the evaluation process to determine with institutions will be funded.

Reinstatements

• Financial Status and Performance Report for Veterans Cost of Instruction Program
ED 269–1, –2
Annual
Businesses or other institutions
SIC: 822
Responses: 880; Burden Hours: 1,320
Federal Cost: $8,000; Public Cost: $17,160
Two forms submitted for approval

Abstract: This data instrument will be used to obtain an accounting of funds expended, obligated and remaining in accordance with regulations. Regulations also require an annual program performance report in accordance with established criteria.

• Institutional List of Candidates for Foreign Language and Area Studies Fellowship Program.
ED 7632
Annual

State or local governments/businesses or other institutions
SIC: 822
Responses: 120; Burden Hours: 30
Federal Cost: $1,000; Public Cost: $300
One form submitted for approval

Abstract: This form is necessary to comply with program intent and is used to monitor results of grantees.

Revisions

- Program Announcement—Comprehensive Program Awards—Fund for the Improvement of Postsecondary Education

ED 0001 0002
Annual
State or local governments/businesses or other institutions
SIC: 822/941
Responses: 2,200; Burden Hours: 45,540
Federal Cost: $497,000; Public Cost: $129,000
Two forms submitted for approval

Abstract: This is a grant application for competitive awards with a 2-stage application process

- Performance/Financial Status Reports for the Cooperative Education Grant Program

ED 411 –1
Annual
Businesses or other institutions
SIC: 822
Responses: 220 Burden Hours: 1,155
Federal Cost: $3,758; Public Cost: $10,230
Two forms submitted for approval

Abstract: The Performance and Financial Reports are needed by the U.S. Dept. of Education to monitor and close out grants awarded by the Cooperative Education Program.

- Application for College Housing Loan Program

ED 866
Annual
Businesses or other institutions
SIC: 821/822
Responses: 300; Burden Hours: 9,600
Federal Cost: $490,000; Public Cost: $144,000
One form submitted for approval

Abstract: This data collection contains application materials for the College Housing Loan Program. It is based on OMB Circulara, EDGAR and specific program regulations.

- Performance/Financial Reports for the Supplemental Funds Program for Cooperative Education

ED 886–1, –2
Businesses or other institutions
SIC: 822
Responses: 446; Burden Hours: 446
Federal Cost: $3,452; Public Cost: $4,014
Two forms submitted for approval

Abstract: The Performance and Financial Reports are needed by the US Department of Education to monitor and close out grants awarded by the Cooperative Education Program.

- Financial Status and Performance Report for Special Programs for Disadvantaged Students

ED 1231
Annual
Businesses or other institutions
SIC: 822
Responses: 640; Burden Hours: 2,560
Federal Cost: $15,000; Public Cost: $38,400
Two forms submitted for approval

Abstract: Data collected from these reports are reviewed and analyzed in accordance with the Education Division General Administrative Regulations (EDGAR).

- Financial Status and Performance Report for Discretionary Programs

ED 1294
Annual
State or local governments/businesses or other institutions
SIC: 822
Responses: 375; Burden Hours: 7,500
Federal Cost: $5,500; Public Cost: $75,000
Two forms submitted for approval

Abstract: Data collection instrument is needed to comply with EDGAR regulations. The information will be used to assess and monitor project effectiveness and to determine if the program is meeting the projected goals of the grants.

- Foreign Language and Area Studies Fellowship Application

ED 7606, 7610
Biennially
State or local governments/businesses or other institutions
SIC: 822
Responses: 2,000; Burden Hours: 2,000
Federal Cost: $8,500; Public Cost: $20,000
Two forms submitted for approval

Abstract: The fellowship application will be used by ED to review and evaluate the institution's selection of individuals designated for fellowships.

Extensions

- Application for Foreign Language and Area Studies

ED 324
Annual
State or local governments/businesses or other institutions
SIC: 822
Responses: 500; Burden Hours 25,000
Federal Cost: $5,000; Public Cost: $375,000
One form submitted for approval

Abstract: The information collected in these applications are reviewed by outside panelists and the requesting Agency and recommendations made for awards under these programs.

- Financial Status and Performance Report for Educational Information Centers

ED 366, –1.
Annual
State or local governments/businesses or other institutions
SIC: 822/821/824
Responses: 32; Burden Hours: 128
Federal Cost: $1,795; Public Cost: $1,000
Two forms submitted for approval

Abstract: Data collection instrument is needed to comply with EDGAR regulations. The information will be used (a) to assess and monitor project effectiveness and (b) to determine if the program is meeting the needs of the target populations.

- Application for Grants Under the Law School Clinical Experience Program

ED 595
Annual
State or local governments/businesses or other institutions

SIC: 822
Responses: 100; Burden Hours: 3,000
Federal Cost: $2,000; Public Cost: $39,000
One form submitted for approval

Abstract: This data instrument will collect information to be used in the evaluation of applications to determine which proposed programs should be funded.

- Financial Status and Performance Report for Biomedical Sciences Program

ED 822
Annual
- Businesses and other institutions

SIC: 822
Responses: 12; Burden Hours: 48
Federal Cost: $275; Public Cost: $480
Two forms submitted for approval

Abstract: Data collected from these reports are reviewed and analyzed in accordance with the Education Division General Administrative Regulations (EDGAR).

- Designation as Eligible Institution

ED 1049–6
Annual
Businesses and other institutions
SIC: 822
Responses: 800; Burden Hours: 800
Federal Cost: $39,570; Public Cost: $12,000
One form submitted for approval

Abstract: This data will be used to determine if an institution meets the specific program qualifications to receive Title III funds as provided for in the legislation and regulations governing the insitutional aid programs.

- Request for Institutional Eligibility under Title IV, HEA, as amended

ED 1059
Recurring
Businesses or other insitutions/state or local governments
SIC: 822
Responses: 1,000; Burden Hours: 1,000
Federal Cost: $205,000; Public Cost: $15,000
One form submitted for approval

Abstract: The Secretary of Education must determine whether postsecondary educational institutions meet the statutory and regulatory requirements for eligibility for funding. This data is used to determine eligibility of institutions.

- Certificate of Project Costs

ED 1143
Recurring
Businesses or other institutions
SIC: 822
Responses: 300; Burden Hours: 150
Federal Cost: $6,700; Public Cost: $1,800
One form submitted for approval

Abstract: The information collected will enable the Department to determine if insititutions are meeting the statutory and regulatory requirements relating to existing academic facilities projects.

- Terminal Report for Holders of Foreign Language and Area Studies Fellowships

ED 7814
Annual
State or local governments/businesses or other institutions
SIC: 822
Responses: 1,000; Burden Hours: 500
Federal Cost: $2,700; Public Cost: $2,500
One form submitted for approval

Abstract: The information collected in the data instrument is used by ED staff to review the progress and achievements of awardees.

Office of Educational Research and Improvement

New

- A Study of Impacts of General Purpose Dissemination Assistance

To be assigned
Nonrecurring
State or local governments
SIC: 941/821/822/823/829
Responses: 250; Burden Hours: 145
Federal Cost: $100,000; Public Cost: $1,460
One form submitted for approval

Abstract: Gain understanding of impacts of different kinds of dissemination activities sponsored by three NIE programs that are based on a general purpose dissemination assistance model. To be used to strengthen conceptualization, design, and management of dissemination programs.

- Library Services and Construction Act (Pub. L. 85–597, as amended) Application and Project Plan under the Library Services and Construction Act—Titles I and III

ED 893
Annual
State or local governments
SIC: 941/823
Responses: 54; Burden Hours: 1,620
Federal Cost: $20,000; Public Cost: $16,200
One form submitted for approval

Abstract: The application is initiated through the Basic State Plan (State Federal Agreement), the long-range program amendments and submission of projects for Titles I and III. The Annual Program Project Plan and Evaluation form determines if targeted priority populations have been served through the identification of projects. It notes expenditures for priority areas under the law from all sources. It also notes planned expenditures of State funds for administration.

- Library Services and Construction Act (Pub. L. 85–597, as amended) Titles I and III Financial Status and Performance Reports

ED 893–1
Annual
State or local governments
SIC: 941/823
Responses: 54; Burden Hours: 1,620
Federal Cost: $20,000; Public Cost: $16,200
Two forms submitted for approval

Abstract: This is a final expenditures report for services to handicapped, institutionalized, MURL, public library services from all sources from which we determine maintenance of effort. The expenditures of State funds for administration are checked to determine if matching requirement is met. Overall expenditures of State funds are checked to determine if either matching or maintenance of effort is met. Expenditures are checked to determine if grant has been expended under compliance timelines. Also includes expenditures on interlibrary cooperation programs. Performance Report summarizes program activities and gives evaluation of progress toward reaching the goals of the long-range program for Titles I and III.

- Survey of Teacher Demand and Shortage

ED 2406–1
On occasion
State or local governments/businesses or other institutions
SIC: 821/941
Responses: 2,800; Burden Hours: 1,960
Federal Cost: $400,000; Public Cost: $19,600
Two forms submitted for approval

Abstract: This survey responds to the mandate in the General Education Provision Act for NCES to determine the demand for, and the availability of, qualified teachers. The information gathered is needed by Congress, the Executive Branch, and others who effect education policy at all levels of government. Specific areas of inquiry are the number of filled and unfilled teacher position openings and methods by which shortages may be alleviated.

- Verification Survey—Postsecondary Education

ED 2454
Nonrecurring
Businesses or other institutions
SIC: 822
Responses: 30,000; Burden Hours: 5,000
Federal Cost: $75,000; Public Cost: $11,662
One form submitted for approval

Abstract: Conduct a survey to establish the characteristics of the universe of postsecondary institutions to help reduce respondent burden through use of sample rather than universe surveys.

[FR Doc. 83–1506 Filed 1–19–83; 8:45 am]
BILLING CODE 4000–01–M

Assessment Policy Committee, National Assessment of Educational Progress (NAEP)

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: The Secretary announces a meeting of the Assessment Policy Committee for the National Assessment of Educational Progress (NAEP). The purpose of the meeting is to provide policy guidance and direction to the NAEP project which is supported by the National Institute of Education. The entire meeting will be open to the public and interested persons are invited to attend.

DATE: February 25, 1983, 9:00 a.m. to 5:00 p.m.; meeting will continue on February 26, 9:00 a.m. to the conclusion of the agenda.

LOCATION: Holiday Inn—Denver Downtown, 15th and Glenarm Place, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Mr. Dunlap Scott, Jr., Director, Utilization and Liaison, National Assessment of Educational Progress, 1860 Lincoln Street, Room 700, Denver, Colorado 80295 (303/830–3721).

SUPPLEMENTARY INFORMATION: NAEP has a primary purpose the assessment of the performance of children and young

adults in the basic skills of reading, mathematics, and communications. The Assessment Policy Committee is established by section 405(k)(2)(A) of the General Education Provisions Act, 20 U.S.C. 1221e. The Assessment Policy Committee is responsible for the design of NAEP, including the selection of learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting, dissemination of results, and studies to evaluate and improve the form and utilization of the NAEP.

The proposed agenda for the meeting includes:

- Action on previous minutes
- Director's report
- Review design changes for the 1983–84 assessment
- Report from the APC Innovations Committee
- Public comments
- Miscellaneous housekeeping items.

In order to assure adequate seating arrangements and to obtain an advance copy of the final agenda, persons may contact Mr. Dunlap Scott, Jr.

(Catalog of Federal Domestic Assistance 84.117, Education Research and Development)

Dated: January 17, 1983.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 83–1577 Filed 1–19–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: High Energy Physics Advisory Panel.

Date and time: Monday, February 7, 1983—9:00 a.m.–6:00 p.m.; Tuesday, February 8, 1983—9:00 a.m.–4:00 p.m.

Place: Department of Energy, Room A–410, Germantown, Maryland.

Contact: Dr. P. K. Williams, Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–221, Washington, DC 20545, Telephone 301–353–4829.

Purpose of Committee: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative agenda:

—Discussion of the FY 83 DOE/HEP Continuing Resolution and the NSF/EPP Budget,

—Discussion of the FY 84 Presidential Budget Requests (if available) for DOE/HEP and NSF/EPP,

—Discussion of the planned 1983 Subpanel on Future HEP Facilities,

—Discussion of the progress of the technical assessment panels for university programs and non-accelerator experiments,

—Status of international bilateral agreements in HEP.

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact P. K. Williams at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 14, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83–1578 Filed 1–19–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER83–225–000]

Centel Corp.; Filing

January 17, 1983.

Take notice that on January 3, 1983, Centel Corporation (Centel), Southern Colorado Power Division (Southern Colorado) tendered for filing a Wheeling Agreement dated September 26, 1980, between Centel and Arkansas River Power Authority (ARPA), providing delivery of ARPA power through the transmission facilities of Centel's Southern Colorado Power Division.

Centel requests an effective date of September 26, 1980, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon ARPA and the Colorado Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1583 Filed 1–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA83–1–46–000]

Kentucky West Virginia Gas Company; Informal Settlement Conference

January 17, 1983.

Take notice that an informal settlement conference will be convened in the above-captioned docket at 10:00 a.m. on February 8, 1983, in a room to be designated at the offices of the Federal Energy Regulatory Commission., 825 North Capitol Street, NE., Washington, D.C. 20426.

All interested parties and staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1584 Filed 1–19–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP82–35–000]

Western Gas Interstate Co.; Informal Settlement Conference

January 17, 1983.

Take notice that an informal settlement conference will be convened in the above-captioned dockets at 10:00 a.m. on January 26, 1983, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1560 Filed 1-19-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[TSH-FRL 2287-5; OPTS-140005]

Captial Systems Group and Dynamac, Inc., Transfer of Data to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer to its contractor and subcontractor information submitted by manufacturers, processors, and importers of chemical substances recommended for consideration by the Interagency Testing Committee under section 4 of the Toxic Substances Control Act (TSCA). Some of this information may be claimed to be confidential. Capital Systems Group (CSG) of Kensington, Maryland, and its subcontractor, Dynamac, Incorporated, of Rockville, Maryland, will review and analyze this information for the purpose of developing technical support documents concerned with environmental and health effects of these chemical substances and to identify exposure situations.

DATE: The transfer of data submitted to EPA and claimed to be confidential will occur no sooner than 10 working days after publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Chris C. Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St. SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (202-554-1404), Outside the USA: (Operator-202-544-1404).

SUPPLEMENTARY INFORMATION: Under section 4 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2603, EPA is authorized to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health or the environment. To accomplish this, EPA will need to use production data and exposure information submitted by manufacturers, processors, and importers of chemical substances recommended for consideration by the Interagency Testing Committee under section 4. Some of these submissions may be claimed confidential. EPA has selected Capital Systems Group of Kensington, Maryland, and its subcontractor, Dynamac, Inc., of Rockville, Maryland, to provide outside assistance in performing analyses of these submissions for EPA's use in its evaluation of these chemical substances (Contract No. 68-01-6530). CSG and Dynamac, Inc., will review and analyze the information for the purpose of developing technical support documents concerned with environmental and health effects of the substances and to identify possible exposure situations and determine the magnitude of such exposure.

Pursuant to 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to CSG and its subcontractor, Dynamac, inc. EPA is publishing this notice to inform TSCA submitters that CSG and Dynamac, Inc., will have access to confidential business information from EPA.

Captial Systems Group and Dynamac, Inc., are legally required under the terms of their contract and subcontract to safeguard the confidential business information they receive from any unauthorized disclosure. Any reports they prepare using this information will also be treated as confidential. All confidential business information will be returned to EPA when CSG and Dynamac, Inc., have completed their work.

Under the EPA manual "Contractor Requirements for the Control and Security of TSCA Confidential Business Information," CSG and Dynamac, Inc., have been authorized to have access to this information. EPA has approved CSG's security plan and has conducted the required inspection of the CSG facilities and found them to be in compliance with the provisions of the manual. No confidential business information will be transferred to Dynamac, Inc.'s, facilities under this contract and subcontract.

CSG and Dynamac, Inc., are required to treat all confidential business information in accordance with the requirements of the "TSCA Confidential Business Information Security Manual" and the Contractor Requirements manual. Their personnel will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: December 27, 1982.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-1560 Filed 1-19-83; 8:45 am]

BILLING CODE 6560-50-M

[A-6-FRL 2287-4]

Final Agency Action on a PSD Permit for Endevco, Inc.

Notice is hereby given that on July 6, 1982, Region 6 of the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-AR-386, to Endevco, Incorporated for approval to modify its existing natural gas sweetening plant located 8 miles northeast of Fouke, Miller County, Arkansas, pursuant to 40 CFR 52.21. On July 23 and August 5, 1982, Mr. John A. Buckley, Jr., Attorney at Law, petitioned the Administrator on behalf of several landowners and residents in the vicinity of the plant for review of the PSD permit.

Because a petition for review was filed with the Administrator, the issuance of the permit was no longer a final agency action and the PSD permit for Endevco was not effective. *See* 40 CFR 124.15(b)(2). The petition for review was denied by the Administrator on October 22, 1982. Pursuant to 40 CFR 124.19(f)(1), a final permit decision on PSD-AR-386 was issued by Region 6 on November 23, 1982.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-AR-386 is available only by the filing of a petition for review in the United States Court of Appeals for the Eighth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of all of the materials concerning PSD-AR-386 are available for public inspection upon request at the following location: Environmental Protection Agency, Region 6, Air and Waste Management Division, Air Branch, First International Building, 1201 Elm Street, Dallas, Texas 75270.

Frances E. Phillips,

Acting Regional Administrator, Region 6.

January 6, 1983.

[FR Doc. 83-1561 Filed 1-19-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Forms Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of forms submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection

Application for Capital Assistance.

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office gf Management and Budget a form SF–83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments may be sent to Mr. Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429 and to Mr. Richard Sheppard, Reports Management Branch, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503. Because this submission is seeking expedited OMB review and approval, comments are requested within 10 business days after date of publication.

FOR FURTHER INFORMATION CONTACT: For a complete copy of the "Request for OMB Review" or related information, contact the Office of the Executive Secretary, telephone (202) 389–4351.

SUMMARY: Pub. L. 97–320—The Garn-St Germain Depository Institutions Act of 1982—in Title II "Net Worth Certificate Act," authorizes FDIC to augment the capital structure of banks through the issuance to FDIC of capital instruments known as Net Worth Certificates in exchange for promissory notes. The application furnishes the data necessary to establish initial eligibility of the institution to receive such capital assistance and to compute the amount of assistance to be requested.

It is estimated that the collection of this information will create a reporting burden of 50 hours per application filing for each of the estimated 35 applicants.

Dated: January 14, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83–1554 Filed 1–19–83; 8:45 am]

BILLING CODE 6714–01–M

Forms Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of forms submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection.

Quarterly Report of Pledged Assets.

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF–83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments may be sent to Mr. Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429 and to Mr. Richard sheppard, Reports Management Branch, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: For a complete copy of the "Request for OMB Review" contact the Office of the Executive Secretary, telephone (202) 389–4351.

SUMMARY: The Federal Deposit Insurance Act provides that before any U.S.-located branch of a foreign bank becomes an insured branch, the bank shall deliver to the FDIC a surety bond, a pledge of assets, or both, in such amounts and of such types as FDIC may require. The pledged assets are to be lodged at a designated depository. These assets will protect the FDIC against the risks entailed in insuring the domestic deposits of a U.S.-based branch of a foreign bank.

It is estimated that the collection of this information will create a reporting burden of 4 hours per year for each of the estimated 30 respondents.

Dated: January 14, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83–1560 Filed 1–19–83; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL HOME LOAN BANK BOARD

[No. 83–32]

Federal Savings and Loan Advisory Council; Renewal of Charter

Pursuant to the provisions of Section 8a of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1428a), the following notice has been adopted by the Federal Home Loan Bank Board for publication in the **Federal Register.**

Pursuant to the provisions of Section 9 of the Federal Advisory Committee Act (5 U.S.C. App. I), and the implementing regulations issued by the Office of the General Services Administration, the Federal Home Loan Bank Board, having determined that the continuation of the Federal Savings and Loan Advisory Council is in the public interest in connection with the performance of the duties imposed on it by law, hereby renews the existence of the Federal Savings and Loan Advisory Council for two years to January 31, 1985, and in connection therewith reissues the following charter (which appears as Section 8a of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1428a)) to the said Council:

Federal Savings and Loan Advisory Council Charter

There is hereby created a Federal Savings and Loan Advisory Council, which shall continue to exist as long as the Bank Board bi-annually determines, as a matter of formal record with timely notice in connection with the performance of duties imposed on the Council by law. The Council shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act. The Council shall consist of one member of each Federal Home Loan Bank district to be elected annually by the Board of directors of the Federal Home Loan Bank in such district and twelve members to be appointed annually by the Bank Board to represent the public interest. Each such elected member shall be a resident of the district for which he is elected. All members and alternates of the Council may be compensated as provided for in Section 354 of the Garn-St Germain Depository Institutions Act of 1982 amending section 8a of the Federal Home Loan Bank Act, and shall be entitled to reimbursement from the Bank Board for traveling expenses incurred in attendance of meetings of such Council, and subsistence expenses not to exceed $75.00 per day, in accordance with the Federal Travel Regulations, as amended. The Council shall meet in Washington, District of Columbia, at least twice a year and oftener if requested by the Bank Board. The Council may select its chairman, vice chairman, and secretary, and adopt methods of procedure, and shall have power—

(1) To confer with the Bank Board on general business conditions, and on special conditions affecting the Federal Home Loan Banks and members and the

Federal Savings and Loan Insurance Corporation.

(2) To request information, and to make recommendations with respect to matters within the jurisdiction of the Bank Board and the Federal Savings and Loan Insurance Corporation.

The Federal Home Loan Bank Board also has directed, in connection with the foregoing that—

1. The Federal Savings and Loan Advisory Council's expenses is to be paid for by the self-supporting Federal Home Loan Bank System, and none of its annual operating costs shall be charged to or paid by the United States;

2. The said Charter of the Federal Advisory Council shall not be amended, altered or repealed except by Congress or by the Federal Home Loan Bank Board; and

3. The said Charter shall terminate on January 31, 1985, unless reissued prior to that date by the Federal Home Loan Bank Board.

Dated: January 14, 1983.

Federal Savings and Loan Advisory Council.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 83-1979 Filed 1-19-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Dewco Agency, Inc.; Formation of Bank Holding Company

Dewco Agency, Inc., Timber Lake, South Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Dewey County Bank, Timber Lake, South Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Dewco Agency, Inc., Timber Lake, South Dakota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activities of acting as insurance agent or broker in a community that has a population not exceeding 5,000. These activities would be performed from offices of Applicant in Timber Lake, South Dakota, and the geographic area to be served is that area within a 35 mile radius from Timber Lake, South Dakota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than February 12, 1983.

Board of Governors of the Federal Reserve System, January 13, 1983.

James McAfee,

Deputy Secretary of the Board.

[FR Doc. 83-1913 Filed 1-19-83; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) Ti-Caro, Inc.'s proposed acquisition of all voting securities of Charles H. Flynt, Jr..	Jan. 6, 1983.
(2) Pacific Power & Light Company's proposed acquisition of all voting securities of Occidental Minerals Company.	Do.
(3) Transco Energy Company's proposed acquisition of certain assets of Conoco, Inc..	Jan. 5,1983.
(4) Getty Oil Company's proposed acquisition of certain assets of Conoco, Inc..	Do.
(5) The Stop & Shop Companies, Inc.'s proposed acquisition of certain assets of Memco Stores, Inc., a wholly-owned subsidiary of Lucky Stores, Inc..	Jan. 7, 1983.
(6) City Investing Company's proposed acquisition of certain assets of AMREP Corp..	Do.
(7) Pilkington Brothers, P.L.C.'s proposed acquisition of certain voting securities of Libbey-Owens-Ford Company.	Dec. 30, 1982.
(8) Kaufman and Broad, Inc.'s proposed acquisition of certain voting securities of San Francisco Real Estate Investors Trust.	Do.
(9) Mr. Alfred L. Griggs' proposed acquisition of certain assets of Albany and Syracuse Groups of the New York Division of Associated Coca-Cola Bottling Company, a subsidiary of The Coca-Cola Company.	Do.
(10) Lamar Financial Corporation's proposed acquisition of all voting securities of Realty Development Corporation.	Do.
(11) Ms. Lisa Garrett's proposed acquisition of certain assets of the Amoco Oil Company.	Do.
(12) ANR Production Company's proposed acquisition of certain assets of Conoco, Inc..	Do.
(13) Manville Corporation's proposed acquisition of certain assets of Crown Zellerbach Corporation.	Dec. 28, 1982.

FOR FURTHER INFORMATION CONTACT:
Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 83-1587 Filed 1-19-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Maternal and Child Health Research Grants Review Committee; Reestablishment

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 (5 U.S.C. Appendix I), the Health Resources and Services Administration announces the reestablishment by the Secretary, HHS, with concurrence by the General Services Administration, of the following advisory committee:

Designation: Maternal and Child Health Research Grants Review Committee.

Purpose: The Commmittee shall advise the Secretary and the Administrator, Health Resources and Services Administration, regarding research grants in the field of maternal and child health and reviews applications for grants to improve the operation, functioning, and general usefulness and effectiveness of maternal and child health services of all kinds by providing financial support for studies that may contribute to the advancement of health services for mothers and children.

Authority for this Committee will expire on June 30, 1984, unless the Secretary, HHS, with the concurrence of the General Services Administration, formally determines that continuance is in the public interest.

Dated: January 14, 1983.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 83-1522 Filed 1-19-83; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-83-1199]

Section 8 Housing Assistance Payments Program—Contract Rent Annual Adjustment Factors

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice Updating Contract Rent Annual Adjustment Factors.

SUMMARY: This Notice sets forth updated Annual Adjustment Factors which are to be used to adjust rents under the Section 8 Housing Assistance Payments Programs.

FOR FURTHER INFORMATION CONTACT: Cecilia D. Livingston, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation, (202) 755-5353; Jerry Noel, Management Procedures Division, Office of Multifamily Housing Management and Occupancy, (202) 755-6870; Monica Sussman, Office of State Agencies and Bond Financed Programs, (202) 755-7172; for technical information regarding the development of the schedules for specific areas or the method used for calculating the adjustment factors, Ellis V. St. Clair, Economic and Market Analysis Division, Office of Policy Development and Research, (202) 755-5590. Mailng address for above persons: Department of Housing and Urban Development, 451 Seventh Stret, SW., Washington, D.C. 20410. (Telephone numbers are not toll-free.)

EFFECTIVE DATE: November 8, 1982.

SUPPLEMENTARY INFORMATION: In accordance with Section 8(c)(2)(A) of the U.S. Housing Act of 1937, the Department is revising the Annual Adjustment Factors which are to be used to adjust rents under the Section 8 Housing Assistance Payments Programs. Pursuant to 24 CFR 888.202, the Factors are required to be published in the Federal Register at least annually by Notice. The annual anniversary date for publication of the Factors is November 8, 1982. For the Section 8 existing program ("finders-keepers") the revised factors set forth in this Notice shall be applied on HAP Contract anniversary dates which fall on or after the publication date of the revised factors. For the other Section 8 programs, the revised factors shall be applied on HAP Contract anniversary dates which fall on or after November 8, 1982. This Notice is effective as of November 8, 1982.

Different adjustment factors are provided for 37 Standard Metropolitan Statistical Areas (SMSAs) and for the four Census Regions. The adjustment factors for each area have been calculated in two stages. In the first stage, a single gross rent adjustment factor was developed for each area based on the changes in the rent and utility components of the Consumer Price Index (CPI) for the most recent twelve-month period. In the second stage, separate adjustment factors for contract rents including utilities and for contract rents excluding utilities were developed for selected rent ranges, based on data obtained from the 1980 Annual Housing Survey (AHS) national sample. Adjustment factors have been developed for each fifty dollar rent interval covering contract rents from less than $200 per month to contract rents of $600 or more per month.

The new factors apply to rental units of all bedroom-sizes in each rent interval, reflecting a change from the format for previous years that included slightly different factors for units of different sizes.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); Section 8(c)(2)(A), U.S. Housing Act of 1937 (42 U.S.C. 1437f)).

Dated: January 13, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

Contract Rent Automatic Annual Adjustment Factors, Section 8 Housing Assistance Payments Programs

TABLE NO. 1.—ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY—BY RENT RANGE

Area	Under $200	$200 to $249	$250 to $299	$300 to $349	$350 to $399	$400 to $449	$450 to $499	$500 to $549	$550 to $599	$600 plus
Northeast Census Region	1.095	1.089	1.084	1.078	1.073	1.068	1.062	1.057	1.052	1.046
North Central Census Region	1.100	1.094	1.089	1.083	1.077	1.072	1.066	1.060	1.055	1.049
South Census Region	1.119	1.112	1.106	1.099	1.092	1.086	1.079	1.072	1.066	1.059
West Census Region	1.131	1.124	1.117	1.109	1.101	1.094	1.086	1.079	1.072	1.064
Anaheim-Santa Ana-Garden Grove, CA SMSA	1.160	1.151	1.143	1.132	1.124	1.115	1.105	1.097	1.088	1.078
Anchorage, AK SMSA	1.273	1.256	1.244	1.227	1.212	1.198	1.181	1.166	1.151	1.134
Atlanta, GA SMSA	1.118	1.112	1.105	1.098	1.092	1.085	1.078	1.072	1.065	1.058
Baltimore, MD SMSA	1.106	1.101	1.095	1.088	1.083	1.077	1.070	1.064	1.059	1.052

TABLE NO. 1.—ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS INCLUDING HIGHEST COST UTILITY—BY RENT RANGE—Continued

Area	Under $200	$200 to $249	$250 to $299	$300 to $349	$350 to $399	$400 to $449	$450 to $499	$500 to $549	$550 to $599	$600 plus
Boston, MA SMSA	1.105	1.100	1.094	1.087	1.082	1.076	1.070	1.064	1.058	1.052
Buffalo, NY SMSA	1.095	1.090	1.085	1.079	1.074	1.068	1.063	1.058	1.053	1.047
Chicago, IL SMSA	1.109	1.103	1.097	1.090	1.085	1.079	1.072	1.066	1.060	1.053
Cincinnati, OH-KY-IN SMSA	1.056	1.005	1.061	1.057	1.053	1.049	1.045	1.041	1.038	1.034
Cleveland, OH SMSA	1.116	1.109	1.103	1.096	1.090	1.084	1.076	1.070	1.064	1.057
Dallas-Fort Worth, TX SMSA	1.141	1.133	1.125	1.117	1.109	1.102	1.093	1.085	1.078	1.069
Denver-Boulder, CO SMSA	1.181	1.171	1.162	1.150	1.141	1.131	1.120	1.110	1.100	1.089
Detroit, MI SMSA	1.083	1.078	1.074	1.069	1.064	1.060	1.055	1.050	1.046	1.041
Gary-Hammond-East Chicago, IN SMSA	1.105	1.103	1.097	1.090	1.085	1.079	1.072	1.066	1.060	1.053
Honolulu, HI SMSA	1.060	1.057	1.054	1.050	1.047	1.044	1.040	1.037	1.033	1.030
Houston, TX SMSA	1.201	1.190	1.180	1.167	1.156	1.145	1.133	1.122	1.111	1.099
Jersey City, NY SMSA	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
Kansas City, MO-KS SMSA	1.154	1.146	1.137	1.128	1.120	1.111	1.102	1.093	1.085	1.076
Los Angeles-Long Beach, CA SMSA	1.160	1.151	1.143	1.132	1.124	1.115	1.105	1.097	1.090	1.078
Miami, FL SMSA	1.067	1.062	1.056	1.055	1.050	1.046	1.044	1.041	1.037	1.032
Milwaukee, WI SMSA	1.120	1.114	1.107	1.100	1.093	1.087	1.080	1.073	1.067	1.059
Minneapolis-St. Paul, MN-WI SMSA	1.132	1.125	1.118	1.110	1.103	1.096	1.087	1.080	1.073	1.065
Nassau-Suffolk, NY SMSA	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
New Brunswick-Perth Amboy-Sayreville, NJ	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
New York, NY-NJ SMSA	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
Newark, NJ SMSA	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
Northeast Pennsylvania, SMSA	1.054	1.051	1.048	1.045	1.042	1.039	1.036	1.033	1.030	1.026
Oxnard-Simi Valley-Ventura, CA SMSA	1.160	1.151	1.143	1.132	1.124	1.115	1.105	1.097	1.088	1.076
Patterson-Clifton-Passaic, NJ SMSA	1.079	1.075	1.071	1.066	1.061	1.057	1.052	1.048	1.044	1.039
Philadelphia, PA-NJ SMSA	1.120	1.113	1.107	1.099	1.093	1.087	1.079	1.073	1.066	1.059
Pittsburgh, PA SMSA	1.102	1.096	1.091	1.085	1.079	1.074	1.067	1.062	1.056	1.050
Portland, OR-WA SMSA	1.044	1.042	1.039	1.036	1.034	1.032	1.029	1.027	1.024	1.022
Riverside-San Bernardino-Ontario, CA SMSA	1.160	1.151	1.143	1.132	1.124	1.115	1.105	1.097	1.088	1.076
St. Louis, MO-IL SMSA	1.148	1.140	1.132	1.122	1.115	1.107	1.097	1.090	1.082	1.072
San Diego, CA SMSA	1.174	1.164	1.155	1.144	1.135	1.126	1.115	1.106	1.096	1.085
San Francisco-Oakland, CA SMSA	1.178	1.168	1.158	1.147	1.138	1.128	1.117	1.108	1.098	1.087
Seattle-Everett, WA SMSA	1.057	1.054	1.051	1.047	1.044	1.041	1.038	1.035	1.032	1.029
Washington, DC-MD-VA SMSA	1.123	1.116	1.110	1.102	1.095	1.089	1.081	1.075	1.068	1.060

Contract Rent Automatic Annual Adjustment Factors, Section 8 Housing Assistance Payments Programs

TABLE NO. 2.—ANNUAL ADJUSTMENT FACTORS FOR CONTRACT RENTS EXCLUDING HIGHEST COST UTILITY—BY RENT RANGE

Area	Under $200	$200 to $249	$250 to $299	$300 to $349	$350 to $399	$400 to $449	$450 to $499	$500 to $549	$550 to $599	$600 plus
Northeast Census Region	1.111	1.096	1.086	1.077	1.068	1.061	1.054	1.047	1.047	1.047
North Central Census Region	1.070	1.066	1.062	1.057	1.051	1.047	1.042	1.036	1.036	1.036
South Census Region	1.109	1.098	1.090	1.082	1.079	1.069	1.059	1.051	1.051	1.051
West Census Region	1.103	1.098	1.091	1.085	1.079	1.072	1.065	1.058	1.050	1.050
Anaheim-Santa Ana-Garden Grove, CA SMSA	1.115	1.107	1.100	1.093	1.083	1.076	1.068	1.058	1.058	1.058
Anchorage, AK SMSA	1.360	1.310	1.275	1.247	1.219	1.197	1.176	1.154	1.152	1.150
Atlanta, GA SMSA	1.076	1.072	1.066	1.064	1.057	1.052	1.047	1.049	1.049	1.049
Baltimore, MD SMSA	1.108	1.095	1.086	1.079	1.070	1.063	1.056	1.049	1.049	1.049
Boston, MA SMSA	1.134	1.116	1.103	1.093	1.082	1.074	1.066	1.058	1.057	1.057
Buffalo, NY SMSA	1.071	1.065	1.061	1.057	1.051	1.046	1.041	1.035	1.035	1.035
Chicago, IL SMSA	1.069	1.066	1.063	1.058	1.053	1.048	1.043	1.036	1.036	1.036
Cincinnati, OH-KY-IN SMSA	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000
Cleveland, OH SMSA	1.077	1.073	1.069	1.064	1.058	1.052	1.047	1.040	1.040	1.040
Dallas-Fort Worth, TX SMSA	1.097	1.091	1.085	1.079	1.071	1.065	1.058	1.049	1.049	1.049
Denver-Boulder, CO SMSA	1.146	1.133	1.123	1.114	1.102	1.092	1.082	1.071	1.071	1.071
Detroit, MI SMSA	1.055	1.052	1.049	1.045	1.041	1.037	1.033	1.029	1.029	1.029
Gary-Hammond-East Chicago, IN SMSA	1.069	1.066	1.063	1.058	1.053	1.048	1.043	1.036	1.036	1.036
Honolulu, HI SMSA	1.048	1.044	1.041	1.038	1.034	1.030	1.027	1.023	1.023	1.023
Houston, TX SMSA	1.186	1.169	1.155	1.141	1.126	1.114	1.102	1.089	1.058	1.058
Jersey City, NJ SMSA	1.082	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
Kansas City, MO-KS SMSA	1.110	1.102	1.096	1.089	1.080	1.072	1.065	1.055	1.055	1.055
Los Angeles-Long Beach, CA SMSA	1.115	1.107	1.100	1.093	1.083	1.076	1.068	1.058	1.058	1.058
Miami, FL SMSA	1.090	1.078	1.069	1.062	1.055	1.049	1.044	1.038	1.038	1.037
Milwaukee, WI SMSA	1.085	1.087	1.081	1.074	1.067	1.060	1.054	1.046	1.046	1.046
Minneapolis-St. Paul, MI-WI SMSA	1.112	1.102	1.094	1.086	1.077	1.070	1.062	1.054	1.054	1.054
Nassau-Suffolk, NY SMSA	1.092	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
New Brunswick-Perth Amboy-Sayreville, NJ	1.092	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
New York, NY-NJ SMSA	1.092	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
Newark, NJ SMSA	1.092	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
Northeast Pennsylvania, SMSA	1.048	1.042	1.036	1.035	1.032	1.029	1.026	1.022	1.022	1.022
Oxnard-Simi Valley-Ventura, CA SMSA	1.115	1.107	1.100	1.093	1.083	1.076	1.068	1.058	1.058	1.058
Patterson-Clifton-Passaic, NJ SMSA	1.092	1.080	1.072	1.065	1.057	1.052	1.046	1.040	1.040	1.040
Philadelphia, PA-NJ SMSA	1.122	1.116	1.104	1.094	1.084	1.075	1.067	1.059	1.059	1.059
Pittsburgh, PA SMSA	1.077	1.071	1.066	1.061	1.055	1.050	1.045	1.038	1.038	1.038
Portland, OR-WA SMSA	1.050	1.044	1.039	1.035	1.032	1.029	1.026	1.022	1.022	1.022
Riverside-San Bernardino-Ontario, CA SMSA	1.115	1.107	1.100	1.093	1.083	1.076	1.068	1.058	1.058	1.058
St. Louis, MO-IL SMSA	1.103	1.096	1.090	1.084	1.075	1.068	1.061	1.052	1.052	1.052
San Diego, CA SMSA	1.128	1.119	1.111	1.103	1.092	1.084	1.075	1.064	1.064	1.064
San Francisco-Oakland, CA SMSA	1.132	1.122	1.114	1.106	1.095	1.088	1.077	1.066	1.066	1.066
Seattle-Everett, WA SMSA	1.030	1.030	1.029	1.027	1.025	1.022	1.020	1.017	1.017	1.017
Washington, DC-MD-VA SMSA	1.119	1.106	1.097	1.088	1.079	1.071	1.063	1.055	1.055	1.055

[FR Doc. 83-1992 Filed 1-19-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[I-18932]

Idaho; Realty Action; Exchange of Public and Private Lands in Elmore and Owyhee Counties

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

Owyhee County, Idaho

T. 6 S., R. 8 E., Boise Meridian,
Sec. 4, W½SW¼, SE¼SW¼, SW¼SE¼;
Sec. 5, Lot 4, S½NW¼, S½;
Sec. 6, Lot 1, SE¼NE¼;
Sec. 7, S½NE¼, SE¼, E½SW¼;
Sec. 8, All;
Sec. 9, All;
Sec. 10, SW¼NW¼, SW¼, W½SE¼;
Sec. 15, W½;
Sec. 16, All;
Sec. 17, E½, N½NW¼, SE¼NW¼, SW¼.
Containing 4,127.99 acres.

In exchange for these lands, the United States will acquire the following described lands from Robert S. Rich:

Elmore County, Idaho

T. 1 S., R. 8 E., Bosie Meridian
Sec. 8, Lots 4, 5, 6, 7, 8;
Sec. 15, Lots 7, 8;
Sec. 17, Lots 1, 2, 3, 4, 5, 6, 9, 10, SE¼NW¼, NW¼SE¼;
Sec. 18, Lot 7;
Sec. 20, NE¼NE¼;
Sec. 21, NE¼NE¼, NW¼NW¼
Containing 640.86 acres.

The purpose of this exchange is to acquire the non-Federal lands, which have high public values for recreation, wildlife habitat and some livestock grazing. These lands will provide 2.75 miles of public access and use on the South Fork of the Boise River. the Federal lands that would be taken out of public ownership were being considered for disposal under the Carey or Desert Land Acts. The majority of these lands were also privately owned and cultivated at one time, before reverting to public ownership through litigation for fraud under the Desert Land Act. The public interest will be well served by making the exchange.

The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions.

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States Act of August 1890. (43 U.S.C. 945).

2. The patent will be subject to any valid existing rights.

3. Reserving to the United States a right-of-way over and across a strip of land in Sections 15, 16, and 17, T. 6 S., R. 8 E., Boise Meridian, 33 feet wide beginning at the section corner common to Sections 17, 18, 19, and 20, T. 6 S., R. 8 E., Boise Meridian, and extending east along the section line of Sections 17, 16, and 15 for 13,200 feet. This right-of-way is for the full use as a road by the United States of America, its licensees and permittees, including the right of access and use for and by the people of the United States generally, to lands owned, administered, or controlled by the United States.

The publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), and subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Detailed information concerning the exchange, including the environmental assessment and the record of public discussions, is available for review at the Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

For a period of 45 days from the date of publication in the Federal Register (January 20, 1983), interested parties may submit comments to the District Manager, Bureau of Land Management, at the above address.

J. David Brunner,
Associated District Manager.
January 7, 1983.
[FR Doc. 83-1220 Filed 1-19-83; 8:45 am]
BILLING CODE 4310-84-M

Salmon District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held at 10:00 a.m., Wednesday, March 9, 1983.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92-463 and 94-579. The purpose of the meeting will be to discuss (1) Rangeland improvement policy; (2) Status of the Ellis-Pahsimeroi EIS; (3) Status of Mackay-Big Lost EIS; (4)Proposed projects for FY 83; and (5) Weed Control.

The meeting is open to the public. Anyone may make oral statements to the Board or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467, by March 2, 1983.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection within 30 days following the meeting.

Dated: January 7, 1983.

Kenneth G. Walker,
District Manager.
[FR Doc. 83-1225 Filed 1-19-83; 8:45 am]
BILLING CODE 4310-84-M

[AA-6659-A]

Alaska Native Claims Selection; Publication

On December 4, 1973, Choggiung Limited filed selection application AA-6659-A, as amended, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vincinity of Dillingham.

As to the lands described below, the application, as amended, submitted by Choggiung Limited, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a) of ANCSA, aggregating approximately 2 acres, is considered proper for acquisition by Chggiung Limited and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian, Alaska (Surveyed)
T. 13 S., R. 58 W.

Tract A:

Beginning at the point for corner No. 1, identical with corner No. 3, Lot 10, U.S. Survey No. 4985; thence S. 0°03' E., on a portion of line 3–2, Lot 10, U.S. Survey No. 4985, 2.50 chains to corner No. 2, on line 3–2, Lot 10, U.S. Survey No. 4985; thence N. 89°57' E., approximately 8.50 chains to corner No. 3, a meander corner at the line of mean high-tide on the right bank of the Nushagak River; thence northerly, with meanders along the line of mean high-tide on the right bank of the Nushagak River, approximately 2.50 chains to coner No. 4, a meander corner at the line of mean high-tide on the right bank of the Nushagak River at the intersection of the easterly extension of line 4–3, Lot 10, U.S. Survey No. 4985 and the line of mean high-tide on the right bank of the Nushagak River; thence S. 89°57' W., on the easterly extension of line 4–3, Lot 10, U.S. Survey No. 4985, approximately 8.50 chains to corner No. 1, the point of beginning.

Containing approximately 2 acres.

All named and unnamed water bodies within the above-described lands were reviewed and, based on existing evidence, they were determined to be nonnavigable.

There are no easements to be reserved to the United States pursuant to section 17(b) of ANCSA.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, section 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to section 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c) (Supp. IV, 1980)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Choggiung Limited is entitled to a conveyance of 161,280 acres of land selected pursuant to section 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 153,632 acres. The remaining entitlement of approximately 7,648 acres will be conveyed at a later date.

Pursuant to sectin 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Bristol Bay Native Corporation when the surface estate is conveyed to Choggiung Limited, and shall be subject to the same conditions as the surface conveyance, except for those provisions under section 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in the lands within the boundaries of the Native village shall be subject to the consent of Choggiung Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, any agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43, Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Public Law 96–487, this decision consititutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until February 22, 1983 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appea lis timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Choggiung Limited, P.O. Box 247, Dillingham, Alaska 99576

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 83–1580 Filed 1–19–83; 8:45 am]

BILLING CODE 4310–84–M

Designation of Public Lands Within the Sonoma-Gerlach Resource Area as the Soldier Meadow Desert Dace Area of Critical Environmental Concern; Winnemucca District, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of public lands within the Sonoma-Gerlach Resource Area as the Soldier Meadow Desert Dace Area of Critical Environmental Concern (ACEC).

SUMMARY: Pursuant to the authorities in the Federal Land Policy and Management Act (FLPMA) of 1976 and the authorization from the Director, I hereby designate the following described public lands within the Sonoma-Gerlach Resource Area as an Area of Critical Environmental Concern:

Mt. Diablo Base and Meridian

T.40 N., R. 24 E., Section 23, Lots 2, 3, 5, 6, 8, 9, 12.

The area described aggregates about 307.22 acres of public land.

In accordance with 43 CFR 1601.6–7, formal designation of this ACEC area is documented in the Paradise-Denio Management Framework Plan. Decisions made available to the public on August 6, 1982. Subsequent to a 30 day comment period this ACEC designation became effective September 6, 1982.

FOR FURTHER INFORMATION CONTACT: Frank C. Shields, District Manager,

Winnemucca District, Bureau of Land Management, Winnemucca, NV 89445.

SUPPLEMENTARY INFORMATION: ACEC as defined by FLPMA is an area "within the public lands where special management attention is needed (when such areas are developed or where no development is required) to protect and prevent irreparable damage to important historical, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards."

The Bureau of Land Management has adopted as its policy that these areas must meet the criteria of importance and relevance as defined in the ACEC policy and procedures guidelines published in June 1980.

The Soldier Meadow Desert Dace ACEC is the crucial habitat for the Soldier Meadow Desert Dace, which is a federal candidate endangered species. The relevance criteria is met by the area's location.

The importance criteria is met because the desert dace occurs nowhere else in the world, and this is the only place where this fish can be managed on public land.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 83-1567 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13501]

Geothermal Resources Lease Sale for Beckwourth Peak, Geysers-Calistoga, Glass Mountain, Knoxville, and Lake City Surprise Valley KGRA's

Notice is hereby given that approximately 61,355.38 acres of land in 37 parcels within Beckwourth Peak (1,917.68 acres), Geysers-Calistoga (30,985.93 acres), Glass Mountain (7,029.00 acres), Knoxville (2,201.00), and Lake City Surprise Valley (19,221.77 acres) KGRA's in Plumas, Lake, Mendocino, Napa, Sonoma, Siskiyou, Yolo, and Modoc Counties, California, will be offered competitively for lease under the Geothermal Steam Act of 1970 through sealed bids to the qualified responsible bidder of the highest cash amount per parcel. Bids will be received until 10 a.m. on March 24, 1983.

For further information contact the California State Office, Division of Operations, Room E-2605, 2800 Cottage Way, Sacramento, California 95825. Phone (916) 484-4492.

Dated: January 13, 1983.

Walter F. Homes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-1568 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Public Participation in Water Service and Repayment Contract Negotiations

AGENCY: Bureau of Reclamation (Bureau), Interior.

ACTION: Proposed notice of revised procedures (1983) for public participation in water service and repayment contract negotiations pursuant to the Reclamation Reform Act of 1982.

SUMMARY: The Department of the Interior is proposing to revise the "Final Revised Procedures" for public participation in the water service and repayment contract negotiations published in the **Federal Register**, Volume 47, No. 35, February 22, 1982. This revision is prompted by section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), which requires certain public participation procedures be followed for entering into or amending any contract for delivery of irrigation water. We believe the intent of section 226 is being met substantially by application of the "Final Revised Procedures" presently in force. However, to fully implement section 226, the "Final Revised Procedures" need to be further revised to encompass the requirement of the 1982 Act to publish notice of proposed irrigation or amendatory irrigation contract actions no less than 60 days in advance of contract execution in newspapers of general circulation in the affected area.

DATE: Thirty calendar days from the date of this publication are allowed for receipt of comments. Following review and consideration of the public comments, the "Final Revised Procedures (1983)" will be published in the **Federal Register** as soon as possible thereafter.

ADDRESS: Comments or requests for further information should be addressed to: Commissioner Robert N. Broadbent, Bureau of Reclamation, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240, Attention: W.O. Code 440.

FOR FURTHER INFORMATION CONTACT: Telephone inquiries concerning the proposed revised procedures should be made to Contracts and Repayment Specialist Messrs. Frank Ellis or Donald Walker, telephone (202) 343-5671.

Background

The Secretary of the Interior is authorized by the Congress to approve and execute proposed water service and repayment contracts pursuant to the Reclamation Act of 1902 (32 Stat. 388-390), as amended and supplemented by but not limited to, the Reclamation Project Act of 1939 (53 Stat. 1187-1198), and the Reclamation Reform Act of 1982 (96 Stat. 1263-1274). Portions of the Secretary's authority are delegated to the Commissioner of Reclamation as set forth in Part 255 of the Departmental Manual. Portions of the delegated authority are redelegated to Regional Directors as set forth in Part 053 of the Reclamation Instructions.

The repayment of reimbursable costs associated with Bureau of Reclamation construction and loan program is secured by consummation of contracts between the United States and beneficiaries of these programs. Such contracts are required before funds will be released for construction. The terms and conditions of such contracts (including but not limited to such matters as quantities of water to be furnished, water delivery schedules, construction of facilities, terms and conditions of repayment) sometimes affect a wider range of the public than the immediate parties to the contracts.

It is the policy of the Department of the Interior to afford the affected public an opportunity to be aware of and provide comment on water service and repayment contract negotiations being conducted by the Bureau of Reclamation.

The opportunity for the public to observe negotiations, and review and comment on newly proposed water service or repayment contracts and amendments or supplements to existing contracts, was expanded in 1979. On January 2 of that year, procedures were established requiring notices to be published in the **Federal Register** announcing the Bureau's intent to negotiate terms and conditions for "all" proposed water service and repayment contracts. That procedure was modified on February 22, 1982, with the publication of the "Final Revised Procedures" for public participation in water service and repayment contract negotiations. The new procedures were designed to encourage and continue effective public participation programs at the regional and project office levels with support and oversight from the Commissioner's office. Also, the new procedures were designed to substantially reduce the **Federal Register** notices published each year in

line with this Administration's desire to eliminate excessive, burdensome, and counterproductive regulations.

In response to the public comments on the proposed revised procedures published November 2, 1981, a commitment was made to publish a quarterly status tabulation of all pending contractual actions in the **Federal Register**. **Federal Register** notices covering specific contracts are used only when there is evidence of widespread public interest in a proposed contract beyond the local project area.

The proposed revised procedures that follow are drafted to incorporate the requirements of section 226 into the "Final Revised Procedures" which will become the "Final Revised Procedures (1983)."

Publication and implementation of the "Final Revised Procedures (1983)" will not significantly affect the quality of the human environment and is categorically excluded under 516 DM 6 Appendix 9.4A(1) from further compliance with the National Environmental Policy Act of 1969, as amended.

Proposed Revised Procedures (1983)

Public participation procedures for water service or repayment contracts encompass two basic processes; publicizing proposed contractual actions and receiving public comment on such proposed actions. Both processes are addressed in section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), which amends section 9 of the Reclamation Project Act of 1939 (53 Stat. 1196), by adding the following subsection (f):

(f) No less than sixty days before entering into or amending any repayment contract or any contract for the delivery of irrigation water (except any contract for the delivery of surplus or interim irrigation water whose duration is for one year of less) the Secretary shall—

(1) Publish notice of the proposed contract or amendment in newspapers of general circulation in the affected area and shall make reasonable efforts to otherwise notify interested parties which may be affected by such contract or amendment, together with information indicating to whom comments or inquiries concerning the proposed actions can be addressed; and

(2) Provide an opportunity for submission of written data, views and arguments, and shall consider all substantive comments so received.

When the Bureau has determined that contract actions may or will have significant environmental effects, the public participation procedures that follow will be coordinated with those involved in compliance with the National Environmental Policy Act.

Publicity

Pursuant to and consistent with section 226(f)(1) of the Reclamation Reform Act of 1982, the Bureau of Reclamation (Bureau) will determine the extent and means by which a given contractual action shall be publicized. The determination will be based on a staff assessment and recommendations included in each request to the Commissioner of the Bureau of Reclamation for approval of a basis for negotiation. When the assessment identifies a proposed contract action that is not controversial with little or no economic, social and/or environmental impact, the Bureau may determine that no public announcement will be made beyond that required by section 226(f)(1). When the assessment identifies a contract proposal that is potentially controversial and/or has identifiable economic, social and/or environmental impact, the Bureau will identify and use appropriate means of publicizing the intent to negotiate.

Pursuant to section 226 of the Reclamation Reform Act of 1982, the Bureau will publish notice of proposed irrigation or amendatory irrigation contract actions no less than 60 days prior to contract execution, in newspapers of general circulation in the affected area. (Contracts proposed for the sale of irrigation water surplus to storage capacity or project needs, or contracts with a term of 1 year or less are excluded from requirements of section 226 of the act.) However, a wide variety of publicity resources; i.e., the telphone, form letters, local news releases, public notices, meetings, workshops, hearings, etc., will be used selectively to provide local publicity appropriate for any proposed contractual action.

To provide national publicity of pending water service and repayment contract actions, the Bureau will publish a status tabulation of all pending contractual actions on or about the 15th day of January, April, July and October in the **Federal Register**. The **Federal Register** will also be used, selectively, to announce the intent to negotiate, to announce the availability of a given contract for public review, and to announce public meetings and hearings, when the Bureau determines that there is public interest in a particular contractual action beyond the local project area.

Each public notice or news release announcing the intent to negotiate a contract, announcing public meetings, hearings, or negotiating sessions regarding a proposed contract, and announcing the availability of a contract for public review and comment shall include, as appropriate, a brief description of the proposed contract, identification of specific legislative authority for the proposed contract, terms and conditions being negotiated, date, time, place of meetings or hearings, the address and telephone number of a public contact for inquiries and comments, and the period of time in which comments will be received.

Submission and Receipt of Comments

Pursuant to section 226(f)(2), opportunity for public participation in contract negotiations and submission of comments on contract negotiations and submission of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) All meetings or negotiating sessions scheduled by the Bureau with a potential contractor for the purpose of discussing terms and conditions of a proposed contract will be open to the general public for observation. Only those people with authority to act on behalf of the appropriate public entities may negotiate the terms and conditions of a specific contract proposal. Advance notice of such meetings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau.

(2) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(3) Written comments on a proposed contract must be submitted to the appropriate Bureau officials at locations and within time limits set forth in advance public notices or as otherwise established by Bureau officials. Such written comments received and testimony presented at any public hearing will be reviewed and summarized by regional staff for use by the appropriate contract approving authority; i.e., a Regional Director, the Commissioner of Reclamation, or the Secretary of the Interior.

(4) As specific proposed contracts become available for review and comments, copies may be obtained from the appropriate Regional Director of the Bureau. Regional offices are located at 550 West Fort Street, Boise, Idaho 83724; 2800 Cottage Way, Sacramento, California 95825; P.O. Box 427, Boulder City, Nevada 89005; P.O. Box 11568, Salt Lake City, Utah 84147; 714 South Tyler, Amarillo, Texas 79101; P.O. Box 2553, Billings, Montana 59103; and P.O. Box 25247, Denver, Colorado 80225.

Contracts and repayment officers, project managers, and others also may be designated as public contacts.

Dated: January 10, 1983.

David G. Houston,

Acting Assistant Secretary of the Interior.

[FR Doc. 83-1523 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-09-M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Atlantic Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for OCS mineral exploration proposals on the Atlantic OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EA's) and Findings Of No Significant Impact (FONSI's) prepared by the MMS for the following oil and gas exploration activities proposed on the Atlantic OCS. This listing includes all proposals for lease operations for which environmental documents were prepared by the Atlantic OCS Region in the 3-month period preceding this Notice.

Operator/activity	Location	FONSI date
ARCO/ Exploration Plan.	OCS Blocks 709 and 710 (47 miles ESE of Cape Lookout, NC, South Atlantic.	10/27/82

Person interested in reviewing environmental documents for the proposal listed above or obtaining information about EA's and FONSI's prepared for activities on the Atlantic OCS are encouraged to contact the appropriate offices in the Atlantic OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Offshore Field Operations, Atlantic OCS Region, Minerals Management Service, Suite 601, 1951 Kidwell Drive, Vienna, Virginia 22180, (703) 285-2169, FTS-8-285-2169.

FOR COPIES CONTACT: Records Management Section, Minerals Management Service, Suite 601, 1951 Kidwell Drive, Vienna, Virginia 22180, (703) 285-2191, FTS-8-285-2191.

There will be a charge for the reproduction of these documents.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Atlantic OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Donald P. Truesdell,

Acting Minerals Manager, Atlantic OCS Region.

[FR Doc. 83-1561 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-MR-M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Richard Otis, at 202-395-7340.

- Title: Report of Sales and Royalty Remittance, 30 CFR Parts 221, 250.

Bureau Form Number: MMS-2014.

Frequency: Monthly.

Description of Respondents: Lessees of Federal and Indian Oil and Gas leases.

Annual Responses: 34,800.

Annual Burden Hours: 34,800.

Bureau Clearance Officer: Dorothy Christopher.

Direct questions to: Raymond A. Hicks 303-231-3357.

Dated: January 6, 1983.

Robert E. Boldt,

Associate Director for Royalty Management.

[FR Doc. 83-1562 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 016, Block 31, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated January 13, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-1570 Filed 1-19-83; 8:45 am]

BILLING CODE 4310-21-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Amoco Production Company (USA) has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 5000, Block 622, Matagorda Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 12, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83–1571 Filed 1–19–83; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Capitol Reef National Park; Management Plan

AGENCY: National Park Service, Interior.

ACTION: Notice of availability for the General Management Plan Final Environmental Statement.

SUMMARY: The approved Final Environmental Statement for the General Management Plan for Capitol Reef National Park is available for public distribution.

The General Management Plan addresses the issues of management zoning, resources management, visitor use and interpretation, general development, and boundary adjustments. The final environmental impact statement describes the affected environment; five alternatives, including the preferred alternative, for the management of the park; and the environmental consequences of implementing these alternatives. Also included is the statement of findings for flood plains and wetlands.

A copy of the final environmental statement may be obtained from the Superintendent, Capitol Reef National Park, Torrey, Utah 84775 or Regional Director, Rocky Mountain Region, National Park Service, 655 Parfet Street, Post Office Box 25287, Denver, Colorado 80225. Copies of the document are also available for review at the locations noted above.

Dated: January 12, 1983.

L. Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 83–1563 Filed 1–19–83; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized guaranties of a loan or loans to the Government of Jamaica (Borrower) as part of A.I.D.'s development assistance program. The proceeds of these loans, amounting to Fifteen Million Dollars ($15,000,000), will be used to finance shelter projects for low income families residing in Jamaica. The following is the name, address and telephone number of the representative of the Borrower to be contacted by interested U.S. lenders or investment bankers:

Jamaica

Project: 532–HG–011—$15,000,000, Paul Chen-Young, Financial Consultant to Jamaica Mortgage Bank, 7 Trinidad Terrace, Kingston 5, Jamaica, Telephone: 929–3400, 926–8640

The Borrower will receive the loan proceeds in two disbursements. The first disbursement will be approximately $6,000,000–$9,000,000 and will be made on March 31, 1983. The remainder of the funds will be disbursed approximately six months following the initial disbursement. Investors should contact the Borrower as soon as possible and indicate their interest in providing financing for this Housing Guaranty project. The Borrower will travel to the United States during the week of February 7, 1983 to discuss the loan with investors who have expressed an interest in lending to the Borrower. Following such discussions, the Borrower will select an investor and expects to sign a loan agreement within three weeks of the selection of an investor.

Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty covering the loans. Disbursements under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to the authority of Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. Housing Guaranty program can be obtained from: Director, Office of Housing and Urban Development, Agency for International Development, Room 625, SA–12, Washington, D.C. 20523, Telephone: (202) 632–9837.

Dated: January 14, 1983.

John T. Howley,

Deputy Director, Office of Housing and Urban Development.

[FR Doc. 83–1538 Filed 1–19–83; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275–7276; or Tom Smerdon, (202) 275–7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board[1]	Decided date
629	Norfolk and Western Railway Co., ICC-NW-C-0039, (malt liquors)	3	1-13-83
630	Denver and Rio Grande Western Railroad Co., ICC-DRGW-G-0020-B, 0024-A, 0032-B, 0046-A, 0048-A, 0052-A, and 0064-A, (canned goods)	3	1-13-83
631	Chicago, Milwaukee, St. Paul and Pacific Railroad Co., ICC-MILW-C-0313, (lime, common)	1	1-13-83
632	Southern Pacific Transportation Co., ICC-SP-C-0336, (gravel)	2	1-13-83
633	Southern Pacific Transportation Co., ICC-SP-C-0257, Supplement 2, (petroleum products)	3	1-13-83
634	Kansas City Southern Railway Co., ICC-KCS-C-0044, (alumina)	1	1-13-83
635	Kansas City Southern Railway Co., ICC-KCS-C-0043, (corn or grain sorghums or soybeans)	2	1-13-83
637	Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0135, (feed ingredients and soybeans)	1	1-13-83
638	Missouri Pacific Railroad Co., ICC-MP-C-0087, Supplement 1, (whole grains and soybeans) via ports served by MP in LA and TX	2	1-13-83
639	Missouri Pacific Railroad Co., ICC-MP-C-0222, (sorghum)	3	1-13-83
640	Seaboard System Railroad, Inc., ICC-SCL-C-0015, Supplement 2, (brick)	1	1-13-83
641	Southern Pacific Transportation Co., ICC-SP-C-0318, (corn and grain sorghums)	1	1-13-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier.
Review Board No. 2, Members Carleton, Williams, and Ewing.
Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

49 U.S.C. 10505

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1387 Filed 1-19-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311 (Sub-No. 4)]

Modification of the Motor Carrier Fuel Surcharge Program

AGENCY: Interstate Commerce Commission.

ACTION: Change in owner-operator fuel reimbursement figure.

SUMMARY: Due to a change in the nationwide average cost of diesel fuel, owner-operator reimbursement has changed from 13.5 to 13 cents per mile.

EFFECTIVE DATE: This decision will be effective on February 4, 1983.

FOR FURTHER INFORMATION CONTACT:
Lee Alexander (202) 275–7723
Ted Kalick (202) 275–6446
Alan Rothenberg (202) 275–7597
Boston, MA (603) 223–2372
Philadelphia, PA (215) 597–4460
Atlanta, GA (404) 881–2167
Chicago, IL (312) 353–6204
Ft. Worth, TX (817) 334–2794
San Francisco, CA (415) 974–7125

SUPPLEMENTARY INFORMATION: In a decision served December 28, 1982 (47 FR 58390, December 30, 1982), the Commission established owner-operator reimbursement at 13.5 cents per mile for all carrier-related business miles. This change became effective January 14, 1983. As noted in the October 8, 1981 decision (46 Fr 50070, October 9, 1981), the mileage payment will change when the price of fuel in conjunction with the reimbursement formula causes the figure to rise or decline by .5 cents per mile.

As of January 10, 1983, the current price of diesel fuel was 123.0 cents per gallon. The reimbursement figure is 12.6. Ten working days after publication of the notice in the **Federal Register** (effective February 4, 1983), carriers shall reimburse owner-operators at a minimum of 13 cents per mile.

During this 10-day period or after, if they choose, carriers may adjust their rates to reflect the change in owner-operator reimbursement by using the 10-day notice provisions of Special Permission No. 81–2500 (see Part 2 of Appendix B and Appendix C to the October 8 decision). All other normal rate-making avenues are also available.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by depositing a copy with the Director, Office of the **Federal Register**, for publication.

Decided: January 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1388 Filed 1-19-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance porcedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the

transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–023

Decided: January 13, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 3252 (Sub-123), filed December 28, 1982. Applicant: MERRILL TRANSPORT CO., 1037 Forest Ave., P.O. Box 739, Portland, ME 04104. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043, (617) 749–6500. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 14743 (Sub-33), filed December 28, 1982. Applicant: E. I. POWELL & SONS TRUCKING CO., INC., 3777 South Jackson, P.O. Box 356, Tulsa, OK 74101. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101, (703) 893–3050. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 61832 (Sub-6), filed December 27, 1982. Applicant: PITZER TRANSFER & STORAGE CORP., 341 Reserve Ave., SW, P.O. Box 12986, Roanoke, VA 24005. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425–13th St. NW., Washington, DC 20004, (202) 737–1030. Transporting *household goods*, between those points in the U.S. in and east of MI, WI, IA, NE, CO, OK, and TX.

MC 80443 (Sub-52), filed December 28, 1982. Applicant: OVERNITE EXPRESS, INC., P.O. Box 250, Newport, MN 55055. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 87872 (Sub-3), filed December 29, 1982. Applicant: EDWARD EYRING & SONS, INC., 1803 W. 58th St., Cleveland, OH 44102. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *household goods and furniture and fixtures*, between points in OH, on the one hand, and, on the other, points in AR, KS, NE, OK, and TX.

MC 107162 (Sub-85), filed December 27, 1982. Applicant: NOBLE GRAHAM TRANSPORT, INC., R.R. 1, Brimley, MI 49715. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701, (608) 255–8891. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Weyerhaeuser Company, of Chicago, IL.

MC 108453 (Sub-48), filed December 22 1982. Applicant: BARBLINE, INC., P.O. Box 1166, 51027–State Rd. 13, Middlebury, IN 46540. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., (except AK and HI), under continuing contract(s) with L. Perrigo Company, of Allegan, MI.

MC 121212 (Sub-5), filed December 30, 1982. Applicant: CUMBERLAND TRUCKING CO., INC., 2550 Lunt Ave., Elk Grove Village, IL 60007. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, 312–726–6525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) (a) between points in IL, IN, MI, OH, and WI, and (b) between pints in IL, IN, MI, OH, and WI, on the one hand, and, on the other, points in AL, AR, FL, IA, KY, MN, MO, NC, OK, SC, TN, and TX.

MC 121293 (Sub-5), filed December 29, 1982. Applicant: PHILIP E. REEDY d.b.a. VALLEY TRANSFER, Elkhorn, NE 68022. Representative: James F. Crosby & Associates, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods), between points in IA dnd NE.

MC 123432 (sub-12), filed December 30, 1982. Applicant: WISCONSIN COACH LINES, INC., 901 Niagara St., P.O. Box 1085, Wasukesha, WI 53187. Representative: Edward G. Bazelon, 135

South La Salle St., Chicago, IL 60603, 312–236–9375. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 142603 (Sub-68), filed December 28, 1982. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Leslie Delisle (same address as applicant), (413) 732–6283. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Bay State National Corporation, of Springfield, MA.

MC 165442, filed December 27, 1982. Applicant: CON–WAY EASTERN EXPRESS, INC., 3240 Hillview Ave., Palo Alto, CA 94303. Representative: Robert M. Bowden, P.O. Box 3062, Portland, OR 97208, (503) 226–4692. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, and DC. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. 11343(e) to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control or the petition for exemption to Team 2, Room 2379.

Volume No. OP 2–025

Decided: January 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF–643, filed December 28, 1982. Applicant: AAA INTERNATIONAL FORWARDING SERVICE, 18502–84th Ave. West, Edmonds, WA 98020. Representative: Robert R. Brinker, Suite 1100, 1660 L St. NW., Washington, DC 20036, 202–452–7456. As a *freight forwarder*, in connection with the transportation of used *household goods, unaccompanied baggage and used automobiles*, between points in the U.S.

MC 47583 (Sub-154), filed December 27, 1982. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Rd., Kansas City, KS 66115. Representative: Pamela J. Clayton (same address as applicant), 913–321–6914. Transporting *general commodities* (except household goods and classes A and B explosives) between points in the U.S. (except AK and HI), under continuing contract(s) with the Phillips Petroleum Company, of Bartlesville, OK, and its wholly owned subsidiaries.

MC 52793 (Sub-119), filed December 28, 1982. Applicant: BEKINS VAN LINES CO., 333 South Center St., Hillside, IL 60162. Representative: David A. Gallagher (same address as applicant), 312–547–2184. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Honeywell, Inc., of Minneapolis, MN.

MC 138209 (Sub-6), filed December 30, 1982. Applicant: CURTIS BROTHERS TRUCKING COMPANY, INC., Route 12, Box 177, Fredericksburg, VA 22405. Representative: Floyd L. Curtis (same address as applicant), 703–752–4224. Transporting *lumber and wood products*, between points in Stafford County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with B 7 H Millwork, Inc., of Hartwood, VA.

MC 146853 (Sub-18), filed December 27, 1982. Applicant: HAWKEYE WOODSHAVINGS, Route 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *cabinets and vanities*, between points in Otter Tail County, MN, on the one hand, and, on the other, those points in the U.S. in and west of MI, IN, KY, MO, AR, and LA. (except AK and HI).

MC 158733 (Sub-4), filed December 23, 1982. Applicant: LEONARD FEED & GRAIN, INC., 5511 16th Ave., SW., Cedar Rapids, IA 52404. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *beer*, between La Crosse County, WI, St. Paul, MN, and Memphis, TN, on the one hand, and, on the other, points in Montgomery County, IA.

MC 165393, filed December 22, 1982. Applicant: IMPERIAL TRUCKING COMPANY, INC., 1323 North Main St., Pearland, TX 77581. Representative: Joe G. Fender, 9801 Freeway, Houston, TX 77024, 713–827–1407. Transporting *household goods and used automobiles*, between points in the U.S. (except AK and HI).

MC 165432, filed December 27, 1982. Applicant: LUEDTKE'S ELIMINATOR TRUCKING, INC., Highway 33 West, P.O. Box 97, Allenton, WI 53002. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. Transporting (1) *tractor pulling sleds and accessories*, between points in the U.S. (except AK and HI), under continuing contract(s) with Lloyd Luedtke d/b/a Luedtke's Eliminator, of West Bend, WI, and (2) *metal products and machinery*, between points in the U.S. (except AK and HI), under continuing contract(s) with Luedtke's Mfg., Inc., of Allenton, WI.

MC 165463, filed December 27, 1982. Applicant: ALBERT SKORUPA, d.b.a. RIFFLINE, 539 Oaklawn Ave., Cranston, RI 02920. Representative: Albert Skorupa, Jr., 105 Hoffman Ave., Cranston, RI 02920, 401–493–7117. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in RI, MA, CT and NY.

For the following, please direct status calls to Team 3 (202) 275–5223.

Volume No. OP3–05

Decided: January 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–644, filed December 28, 1982. Applicant: ATLANTIC AND PACIFIC CO., INC., P.O. Box 102, Fairfax Station, VA 23039. Representative: John J. Durant, 8706 Rosedale Lane, Annadale, Va 22003, (703) 978–5199. As a *freight forwarder*, in connection with the transportation of *household goods, unaccompanied baggage, and used automobiles*, between points in the U.S.

MC 8744 (Sub-17), filed December 27, 1982. Applicant: CONSOLIDATED MOTOR EXPRESS, INC., 900 Grant St., Bluefield, WV 24701. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526, (304) 562–3460. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in KY, MD, NC, OH, PA, TN, VA, and WV. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), or submit an affidavit stating why Commission approval is unnecessary, or submit a petition of exemption to the Secretary's Office. In order to expedite issuance of any authority please submit a copy of the affidavit or petition or proof of filing the application(s) for common control to Team 3, Room 2158.

MC 61264 (Sub-43), filed December 30, 1982. Applicant: PILOT FREIGHT CARRIERS, INC., P.O. Box 27153, Winston-Salem, NC 27153–0000. Representative: A. R. Hastings (same

address as applicant), (919) 722–3421. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Southeastern Bonded Warehouses, Inc., of Atlanta, GA.

MC 107544 (Sub-162), filed December 29, 1982. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, P.O. Box 580, Marion, VA 24354. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., N.W., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Ashland Oil, Inc., of Ashland, KY.

MC 111785 (Sub-65), filed December 29, 1982. Applicant: BURNS MOTOR FREIGHT, INC., P.O. Box 149, Marlinton, WV 24954. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., Suite 301, McLean, VA 22101, (703) 893–4924. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 115904 (Sub-145), filed January 4, 1983. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801)531–1300. Transporting *pulp, paper and related products,* and *metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Boise Cascade Corporation, of Boise, ID.

MC 123885 (Sub-3), filed December 20, 1982. Applicant: LING TRANSFER, INC., Box 192, Dixon, IL 61021. Representative: James A. Andreoni, 222 E. St. Paul St., Spring Valley, IL 61362–0187, (815) 664–2393. Transporting *coal and coal products, ores and minerals,* and *commodities in bulk,* between points in IL, on the one hand, and, on the other, points in WI.

MC 146395 (Sub-5), filed December 27, 1982. Applicant: W. C. PITTS CONSTRUCTION CO., INC., P.O. Box 112, Highway 84 West, Waynesboro, MS 39367. Representative: W. C. Pitts (same address as applicant), (601) 735–4855. Transporting *Mercer commodities, lumber and wood products, building materials,* and *those commodities which because of their size or weight require the use of special handling or equipment,* between points in MS, on the one hand, and, on the other, points in OK, LA, TX, MA, TN, FL, AL, NC, SC, KY, OH, MI, GA, VA, WV, AR, KS, NM, AZ, and CA.

MC 146724 (Sub-11), filed December 30, 1982. Applicant: DEAN RAPPLEYE, INC., 7444 South 2200 West, P.O. Box 204, West Jordan, UT 84084. Representative: Daniel O. Hands, 104 South Michigan Avenue, Chicago, IL 60603, (312) 641–1944. Transporting (1)(a) *lime* and (b) *chemicals and related products,* between ports of entry on the United States-Canada Boundary in ID, MT, and WA, on the one hand, and, on the other, points in CA, ID, MT, NV, OR, UT, WA, and WY, and (2) *lumber and wood products,* between the ports of entry on the United States-Canada boundary line in ID, MT, ND, and WA, on the one hand, and, on the other, points in the U.S. in and west of ND, SD, NE, KS, OK, and TX.

MC 147825 (Sub-6), filed December 30, 1982. Applicant: VERNE'S AUTO SALES, INC., 2804 Neva Rd., Antigo, WI 54409. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *lumber and lumber products,* between points in MN, WI, and the Upper Peninsula of MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162134, filed December 22, 1982. Applicant: TABANI, P. O. Box 8391, Des Moines, IA 50301. Representative: Mark U. Abendroth, P.O. Box 2745, Des Moines, IA 50315, (515) 285–0461. Transporting *malt beverages,* between points in IA, MN, WI, IL and MO, under continuing contract(s) with Hamm's Des Moines Co., Inc. of Des Moines, IA 50305.

MC 164005, filed December 27, 1982. Applicant: JIM BYRNE, D.B.A. JBT., 17A Hillcrest Dr., Glen Head, NY 11545. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills NY 11375, (212) 363–2078. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Stainless Steel Stock Exchange, Inc. of Ridgefield Park, NJ.

MC 165374 (Sub-1), filed December 27, 1982. Applicant: P & F TRANSPORT, INC, 4223 Pines Rd., Paduach, KY 42001. Representative: George M. Catlett, 700–702 McClure Bldg., Frankfort, Ky 40601, (502) 227–7384. Transporting *chemicals and related products, petroleum and coal products,* between points in AL, FL, GA, IL, IN, KY, MI, MO, OH, PA, TN, VA and WV.

MC 165435, filed December 27, 1982. Applicant: TELE-TRANSPORT, INC. P.O. Box 11509, Clearwater, FL 33516. Representative: Etta Netherton (same address as applicant), (813) 442–6975. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with 91 North, Inc., of Springfield, MA.

MC 165455, filed December 30, 1982. Applicant: COMMERCIAL FREIGHT CARRIERS, INC., P. O. Box 18722, Atlanta, GA 30326. Representative: John W. Brown (same address as applicant). Transporting (1) *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Mobile, AL, New Orleans, LA, and Houston, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *building materials,* between points in FL, GA, SC, NC, TN, AL, MS, LA, AR, TX and KY.

For the following, please direct status calls to Team 4 (202) 275–7669.

Volume No. OP4–014

Decided: January 13, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–647, filed January 3, 1983. Applicant: ZIP INTERNATIONAL FORWARDING, INC., 225 Broadway, Suite 2100, San Diego, CA 92101. Representative: Kenneth D. Polin (same address as applicant), (619) 234–1966. As a *freight forwarder,* in connection with the transportation of *household goods, baggage and used automobiles,* between points in the U.S.

MC 121496 (Sub-81), filed January 3, 1983. Applicant: ENTERPRISE TRANSPORTATION COMPANY, 2727 N. Loop West, P.O. Box 4324, Houston, TX 77210. Representative: John E. Smith, II (same address as applicant), (713) 880–6562. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Delta Solvents & Chemicals Co., of Longview, TX.

MC 148107 (Sub-12), filed December 29, 1982. Applicant: JESSE J. MESA TRUCKING CO., INC., 1500 S. Zarzamora St., San Antonio, TX 78207. Representative: Ronald Mercier (same address as applicant), (512) 223–1859. Transporting *food and related products,* between points in TX, on the one hand, and, on the other, points in IL, CO, NE, KS, MO, IA, LA, GA, SC, NC, FL, NJ, AL, MS, WI, IN, KY, TN, OK, AR, and VA.

MC 153497 (Sub-2), filed December 27, 1982. Applicant: UNITED AMERICAN FREIGHT, INC., 9324 Harrison Rd.,

Romulus, MI 48174. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226, (313) 962–6492. Transporting *such commodities* as are used in the manufacture, distribution and servicing of motor transportation and construction vehicles, between Detroit, MI, on the one hand, and, on the other, points in the U.S. (except MI, OH, IN, KY, IL, WI, AK and HI).

MC 157366 (Sub-1), filed January 3, 1983. Applicant: KIT CONSTRUCTION CO., Rt. 1, Box 236, Joseph, OR 97846. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *machinery and construction materials*, between points in OR in and east of Morrow, Grant and Harney Counties, OR, on the one hand, and, on the other, points in WA and ID.

MC 165427, filed December 29, 1982. Applicant: R. WORRALL & SONS TRUCKING, INC., 8799 Jay Court, Arvada, CO 80003. Representative: Roy Worrall (same address as applicant), (303) 420–5609. Transporting (1) *food and related products*, between points in CO, on the one hand and, on the other, points in the U.S. (except AK and HI), and (2) *building materials*, between Denver, CO and points in Whiteside County, IL.

MC 165476, filed December 27, 1982. Applicant: BERRY-HINCKLEY TERMINAL, INC., 147 S. Stanford Way, Sparks, NV 89431. Representative: Barbara A. Inama, 290 S. Arlington Ave., Reno, NV 89501, (702) 322–4081. Transporting *petroleum and petroleum products*, between points in Washoe County, NV, on the one hand, and, on the other, points in CA, under continuing contract(s) with Western Mountain Oil, Inc., of Reno, NV.

MC 165486, filed January 4, 1983. Applicant: JOHN J. GURZYNSKI, d.b.a. JAMESWAY TRANSPORTATION, 80 Volcic Court, Box 161, Rock Springs, 82901. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting (1) *wood excelsior* and *wood excelsior products*, (2) *carpet padding*, (3) *plastic products*, and (4) *agricultural and horticultural mulch*, between points in the U.S. (except AK and HI), under continuing contract(s) with American Excelsior, of Arlington, TX.

MC 165506, filed December 30, 1982. Applicant: HOWARD F. GUNDRUM, d.b.a. GUNDRUM TRUCKING, 5232 Hwy 144 South, Route 5, West Bend, WI 53905. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705, (608) 238–3119. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Borden, Inc., of Milwaukee, WI.

MC 165537, filed January 4, 1983. Applicant: DAVID C. HUBBS TRUCKING, R.D #4, Box 480, Quarryville, PA 17566. Representative: George E. Campbell, 985 Old Eagle School Rd., Suite 501, Wayne, PA 19087, (215) 293–9220. Transporting (1) *lumber and wood products*, (2) *pulp, paper and related products*, (3) *printed matter*, (4) *chemicals and related products*, (5) *rubber and plastic products*, (6) *machinery*, (7) *building materials*, (8) *furniture and fixtures*, (9) *metal products*, (10) *textile mill products*, and *clay, concrete, glass or stone products*, between points in the U.S. (except AK and HI).

Volume No. OP4–017

Decided: January 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 98396 (Sub-5), filed December 9, 1982. Applicant: TOWER BUS, INC., 363 N. Gratiot, Mt. Clemens, MI 48043. Representative: Thomas W. Fisher (same address as applicant), (313) 469–2000. (A) Over irregular routes, transporting *passengers*, in charter and special operations, between points in the U.S.; and (B) Over regular routes, transporting *passengers*, (1) between Mt. Clemens, MI and Lansing, MI, from Mt. Clemens over MI Hwy 50 to junction Interstate Hwy 96, then over Interstate Hwy 96 to junction Interstate Hwy 496, then over Interstate Hwy 496 to Lansing, (2) between Mt. Clemens, MI and Ann Arbor, MI, from Mt. Clemens over MI Hwy 59 to junction U.S. Hwy 10, then over U.S. Hwy 10 to Orchard Lake Road, then over Orchard Road to Grand River Ave., then west to Farmington Road, then over Farmington Road to 8 mile Road, then over 8 mile Road to Interstate Hwy 275, then over Interstate Hwy 275 to Ann Arbor Road, then west to Ann Arbor Road to Main St., then over Main St. to Ann Arbor Trail, then over Ann Arbor Trail to Sheldon Road, then over Sheldon Road to junction MI Hwy 14, then over MI Hwy 14 to Ann Arbor, (3) between Detroit, MI and Port Huron, MI, from Detroit over MI Hwy 3 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Port Huron, (4) between Dearborn, MI and Frankenmuth, MI, (a) from Dearborn over Interstate Hwy 94 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction MI Hwy 83 to Frankenmuth, and (b) from Dearborn over Interstate Hwy 94 to junction Interstate Hwy 275, then over Interstate Hwy 275 to Interstate Hwy 96, then over Interstate Hwy 96 to U.S. Hwy 23, then over U.S. Hwy 23 to Frankenmuth, and (5) between Port Huron, MI and Detroit, MI, over MI Hwy 19, and return over the same routes, serving all intermediate points in (1), (2), (3), (4), and (5) above.

Note.—Applicant seeks to provide privately-funded charter and special transportation in (A) above, and in (B) above applicant seeks to provide regular route service in interstate or foreign commerce.

Note.—Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this Federal Register issue. Part A will be published in VOL #OP4–017. Part B will be published in VOL #OP4–018.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–020

Decided: January 12, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 109638 (Sub-41), filed December 20, 1982. Applicant: EVERETTE TRUCK LINE, INC., P.O. Box 1927, Cherry Rd., Washington, NC 27889. Representative: Cecil W. Bradley (same address as applicant), 919–927–4971. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI) under continuing contract(s) with Weyerhaeuser Company of Plymouth, NC.

MC 145128 (Sub-2), filed January 3, 1983. Applicant: MARKET SUPPORT SERVICES, INC., P.O. Box 1900, Camden, NJ 08101. Representative: Robert L. Cope, 1730 M Street, N.W., Suite 501, Washington, DC 20036, 202–296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Mutual Distribution Systems, Inc., of Gloucester City, NJ.

MC 146129 (Sub-2), filed January 3, 1983. Applicant: DIRECT DELIVERY SERVICE, INCORPORATED, P.O. Box 91160, Los Angeles, CA 90009. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, 213–655–3573. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA.

MC 146669 (Sub-19), filed January 3, 1983. Applicant: BLUE CHIP TRANSPORTATION COMPANY, 261 Maplewood Dr., Pottstown, PA 19464. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting

general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, PA, NY, NJ, and MD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148018 (Sub-11), filed November 24, 1982. Original published in the **Federal Register** on December 15, 1982 (republication). Applicant: JAMES S. BATT, d.b.a. BATT TRUCKING, P.O. Box 921, Caldwell, ID 83605. Representative: Kevin M. Clark, 2417 Bank Dr., Ste 8, Boise, ID 83705, 208–344–7714. Transporting *building materials, construction equipment and construction supplies,* between points in the U.S. (except AK and HI).

Note.—This application is republished to modify the commodity description.

MC 148159, filed January 4, 1983. Applicant: WAYNE SMITH, d.b.a. WAYNE SMITH TRUCKING, Highway 64-West, Morrilton, AR 72110. Representative: Fredrick S. Wetzel III, 727 Pyramid Place, 211 West Second Street, Little Rock, AR 72201, 501–372–5745. Transporting *paper and paper products,* between points in Conway, Pulaski, Mississippi, Poinsett, and Pope Counties, AR, Shelby County, TN, Tulsa County, OK, on the one hand, and, on the other, points in Muskogee, Mayes and Tulsa Counties, OK, Shelby County, TN, Conway County, AR, and Dallas County, TX.

MC 151078 (Sub-6), filed January 5, 1983. Applicant: COASTAL FAST FREIGHT, INC., P.O. Box 445, Jersey City, NJ 07303. Representative: Owen B. Katzman, 1828 L Street, N.W., Suite 1111, Washington, DC 20036, 202–822–8200. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 153009 (Sub-2), filed January 3, 1983. Applicant: SPUR TRUCK LINES, INC., 5211 Allen Street, Houston, TX 77007. Representative: Thomas F. Sedberry, P.O. Box 2023, 2600 Austin National Bank Tower, Austin, TX 78701, 512–472–8355. Transporting *Mercer commodities,* between points in TX and OK.

MC 153679 (Sub-9) filed January 3, 1983. Applicant: CUMBERLAND FREIGHT LINE, INC., 13th Street, Smyrna, TN 37167. Representative: J. Greg Hardeman, 618 United Southern Bank Bldg., Nashville, TN 37219, 615–244–8100. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with National Transportation Consultants, Inc., of Northfield, OH.

MC 165339, filed December 21, 1982. Applicant: CONSOLIDATED CARGOS INC., 7605 N. Upland Dr., Portland, OR 97203. Representative: Kenneth M. Booze (same address as applicant), 503–2866–8361. Transporting *wearing apparel,* between points in the U.S. under continuing contract(s) with Nike, Inc. of Beaverton, OR.

MC 165498, filed January 4, 1983. Applicant: WILLIAMSBURG TRANSPORT, INC., 2850 South Broadway, St. Louis, MO 63118. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036, 202–457–1124. Transporting *containers and container parts* between points in the U.S. (except AK and HI), under continuing contract(s) with Ball Corporation, of Muncie, IN.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1535 Filed 1–19–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications

for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–024

Decided: January 13, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 8243 (Sub-3), filed December 30, 1982. Applicant: VILLANI BUS COMPANY, INC., 811 East Linden Ave., Linden, NJ 07036. Representative: Jeremy Kahn, 1511 K St. NW—Suite 733, Investment Bldg., Washington, DC 20005, 202–783–3525. Transporting *passengers,* in special and charter operations, beginning and ending at points in NJ, NY, CT, DE, PA, and MD, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 153412 (Sub-1), filed December 30, 1982. Applicant: QUALITY COACH LINES, INC., 1923 N. Carson St., Suite 104, Carson City, NV 89701. Representative: Mike Pavlakis, 402 North Division St., P.O. Box 646, Carson City, NV 89701, 702–882–0202. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165333, filed December 21, 1982. Applicant: RYAN EXPRESS, INC., 831 Field Club Road, Fox Chapel, PA 15238. Representative: John J. Connors (same as applicant) (412) 963–1473. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165423, filed December 30, 1982. Applicant: FREEWAY ENTERPRISES, INC., 3322 Curtis Drive, Hillcrest Heights, MD 20746. Representative: Iris E. Crawford, 1911 R Street NW., Washington, DC 20009, (202)462–1047. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

Volume No. OP2–026

Decided: January 11, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 1423 (Sub-3), filed December 27, 1982. Applicant: MELNI BUS SERVICE, INC., 29 River Rd., Chatham, NJ 07928. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, DC 20005 202–783–3525. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately funded charter or special transportation.

MC 142453 (Sub-2), filed December 29, 1982. Applicant: UPSTATE TRANSIT, INC., Geyser Rd., P.O. Box 190, Saratoga Springs, NY 12866. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, 703–522–0900. Transporting *passengers,* in charter and special operations, between points in the U.S. (including AK, but excluding HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of buses, or is an operator for such a recipient.

MC 164802, filed November 22, 1982. Applicant: MILROC'S BUS LINES, INC. (Green Road) R.D. #2, Box 28, Sharon Springs, NY 13459. Representative: Michael E. LaRocca (same address as applicant), (518) 284–2517. Transporting *passengers,* in charter and special operations, beginning and ending at points in NY, and extending to points in the U.S. (except AK and HI).

Note.— Applicant seeks to provide privately funded charter and special transportation.

MC 165143, filed December 9, 1982. Applicant: AAA FREIGHT BROKERS, INC., 2100 Alaskan Way, Seattle, WA 98101. Representative: Wallace B. Farbo, P.O. Box 1181, Milton, WA 98354, (206) 922–9812. As a *broker of general commodities,* (except household goods), between points in the U.S. (including AK and HI).

MC 165382, filed December 27, 1982. Applicant: MO-TRAN BUS LINES, INC., 104 Clark St., Moberly, MO 65270. Representative: Stephen G. Newman, P.O. Box 456, Jefferson City, MO 65102, 314–635–7166. Transporting *passengers,* in charter operations, between points in MO, IA, IL, KY, TN, AR, OK, KS, and NE.

Note.— Applicant seeks to provide privately-funded charter transportation.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–015

Decided: January 13, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 156436 (Sub-4), filed December 21, 1982. Applicant: I.W. TRANSPORT, INC., 325 N. Baldwin Park Blvd., City of Industry, CA 91746. Representative: Jerome Paul (same address as applicant), (213) 960–8661. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI)

MC 159628 (Sub-1), filed January 4, 1983. Applicant: ORANGE BLOSSOM LINES INC., 407 Roe Paw Way, Placentia, CA 92670. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667–8107. Transporting *passengers,* in charter and special operations, beginning and ending at points in Ventura, Los Angeles, Orange, Riverside, San Bernardino and San Diego Counties, CA and extending to points in the U.S. (except AK and HI).

Note.— Applicant seeks to provide privately funded charter and special transportation.

MC 165516, filed December 27, 1982. Applicant: HUBER & HUBER TRANSPORT, 5944 S. Main St., Murray, UT 84107. Representative: Howard Reynolds (same address as applicant), (801) 262–9281. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165527, filed January 5, 1983. Applicant: JAMES L. ABBOTT, d.b.a. J. L. ABBOTT TRUCKING, 3950 Coburg Rd. Space 21, Eugene, OR 97401. Representative: James L. Abbott (same address as applicant). Transporting *food and other eldible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–016

Decided: January 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 98396 (Sub-5), filed December 9, 1982. Applicant: TOWER BUS, INC., 363 N. Gratiot, Mt. Clemens, MI 48043. Representative: Thomas W. Fisher (same address as applicant), (313) 469–2000. (A) Over irregular routes, transporting *passengers,* in charter and special operations, between points in the U.S.; and (B) Over regular routes, transporting *passengers,* (1) between Mt. Clemens, MI and Lansing, MI, from Mt. Clemens over MI Hwy 59 to junction Interstate Hwy 96, then over Interstate Hwy 96 to junction Interstate Hwy 496, then over Interstate Hwy 496 to Lansing, (2) between Mt. Clemens, MI and Ann

Arbor, MI, from Mt. Clemens over MI Hwy 59 to junction U.S. Hwy 10, then over U.S. Hwy 10 to Orchard Lake Road, then over Orchard Road to Grand River Ave., then west to Farmington Road, then over Farmington Road to 8 mile Road, then over 8 mile Road to Interstate Hwy 275, then over Interstate Hwy 275 to Ann Arbor Road, then west to Ann Arbor Road to Main St., then over Main St. to Ann Arbor Trail, then over Ann Arbor Trail to Sheldon Road, then over Sheldon Road to junction MI HWY 14, then over MI Hwy 14 to Ann Arbor, (3) between Detroit, MI and Port Huron, MI, from Detroit over MI Hwy 3 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Port Huron, (4) between Dearborn, MI and Frankenmuth, MI, (a) from Dearborn over Interstate Hwy 94 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction MI Hwy 83 to Frankenmuth, and (b) from Dearborn over Interstate Hwy 94 to junction Interstate Hwy 275, then over Interstate Hwy 275 to Interstate Hwy 96, then over Interstate Hwy 96 to U.S. Hwy 23, then over U.S. Hwy 23 to Frankenmuth, and (5) between Port Huron, MI and Detroit, MI, over MI Hwy 18, and return over the same routes, serving all intermediate points in (1), (2), (3), (4), and (5) above.

Note.—Applicant seeks to provide privately-funded charter and special transportation in (A) above, and in (B) above applicant seeks to provide regular route service in interstate or foreign commerce.

Note.—Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this Federal Register issue. Part A will be published in VOL #OP4–017. Part B will be published in VOL #OP4–018.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–010

Decided: January 12, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 154838, filed January 5, 1983. Applicant: PAUL J. MARSH, 20 Alvina Boulevard, Albany, NY 12203. Representative: W. Norman Charles, P.O. Box 724, Glens Falls, NY 12801, 518–792–0957. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 164799 (Sub-1), filed January 3, 1983. Applicant: 48 FREIGHTWAYS, INC., 1875 North State Street, Belvidere, IL 61008. Representative: Richard D. Armstrong, 925 Hyland Drive, Stoughton, WI 53589, 608–873–8929. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, (3) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (4) *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), agricultural limestone anf fertilizers, and other soil conditioners by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165488, filed January 4, 1983. Applicant: FAST DEER BUS CHARTER, INC., 1625 S. Alameda St., Rm 8, Los Angeles, CA 90021. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, 714–667–8107. Transporting *passengers*, in charter and special operations, beginning and ending at points in CA and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165499, filed January 5, 1983. Applicant: SIERRA LINES, INC., d.b.a. SIERRA PACIFIC TOURS, P.O. Box 5305, Concord, CA 94520. Representative: Harold O. Orlofske, P.O. Box 368, Neenah, WI 54956, 414–722–2848. Transporting *passengers*, in charter and special operations, beginning and ending at points in CA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165509, filed January 5, 1983. Applicant: HARVEY CADILLAC COMPANY, 2600 28th Street SE., Grand Rapids, MI 49508. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting *passengers*, in charter and special operations, between points in MI, IL, IN, OH and WI.

Note.—Applicant seeks to provide privately funded charter and special transportation.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1586 Filed 1–19–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the Federal Register of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Please direct status inquiries to Team 3, at (202) 275–5223.

Volume No. OP3–03

Decided: January 14, 1983.

MC 1515 (Sub-323)X, filed January 5, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower—1510, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant), (602) 248–2942. Deviation No. 735: broaden to serve all intermediate points on a route between Texarkana, TX and Memphis, TN.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–016

Decided: January 13, 1983.

MC 118806 (Sub-82)X, filed January 4, 1983. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Blvd., Winnipeg, Manitoba, Canada R2J 3K4. Representative: Bernard J. Kompare, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600.

Sub 80 certificate: broaden to "(3) machinery and transportation equipment" from "(3) self propelled articles, each weighing 15,000 lbs. or more".

Volume No. 323

Decided: January 13, 1983.

For status, call 202-275-0957.

MC 115180 (Sub-106)X, filed December 21, 1982. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 465 W. 14th St., New York, NY 10014. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Subs 1, 2, 3, 4, 5, 9, 10, 12, 13, 14, 15, 17, 18, 20, 22, 23, 24, 26, 28, 32, 34, 35, 36, 37, 39, 47, 49, 50, 51, 52, 53, 55, 56, 57, 58, 60, 61, 62, 63, 66, 67, 68, 70, 72, 74, 77, 78, 79, 80, 81, 83, 86, 89, 91, 96, 97, 99F, 101F, and 102F: (1) Broaden (a) frozen sea foods, frozen poultry, frozen fruit, frozen vegetables, and frozen meat, frozen foods, candy and confections, excluding molded chocolate, sea foods, fruit and vegetables, and poultry, dressed or cold packed, fresh oysters, clams and scallops, poultry, dressed, fresh frozen, meats, fresh, butter, cheese, and oleomargarine (Sub 1), meats, meat products and meat by-products, dairy products, and articles distributed by meat packinghouses (Subs 1, 2, and 81, edible animal fats, animal oils, and vegetable oils, and products thereof in packages, and oleomargarine, in packages (Sub 3), meats, meat products and meat by-products, and articles distributed by meat packinghouses (Subs 4, 5, 9, 10, 12, 13, 14, 15, 17, 20, 28, 35, 37, 39, 47, 49, 51, 52, 53, 58, 60, 63, 66, 68, 70, 72, 74, 77, 78, 79, 80, 86, 89, 97, 102F), food products and fresh meat, in vehicles equipped with mechanical refrigeration and advertising materials, supplies, display materials, and premiums, when moving at the same time and in the same vehicle (Sub 18), frozen meats (Subs 23 and 61), candy, confectionery, and confectionery products and advertising matter, premiums, prizes and display materials, when shipped in the same vehicle (Sub 24), non-frozen foodstuffs (Sub 26), foodstuffs and advertising matter, display racks and premiums, when moving at the same time and in the same vehicle (sub 32), foodstuffs in vehicles equipped with mechanical refrigeration (Subs 55 and 67), edible meats, canned goods, gelatines, tails, vegetable oils and vegetable oil shortenings, dairy products, and foodstuffs, in vehicles equipped with mechanical refrigeration (Sub 56), cheese products and meats, meat products and meat by-products (Sub 57), frozen foods (Sub 62), food and foodstuffs, in vehicles equipped with mechanical refrigeration (Sub 83), meat, meat products, and meat by-products (Sub 91), shortenings, lards, tallow, cooking oils and oleomargarine, in packages (Sub 96), canned goods (Sub 99F), and foodstuffs (Sub 101F) to "food and related products" (b) plaster board, lime, and cement to "building materials" (sub 1); (c) stationery and paper or pulpboard school supplies, paper cups and paper wrappers, and paper products, and loose leaf binders or covers to "pulp, paper and related products" (Sub 1); (d) plastic articles to "rubber and plastic products" (Sub 22); (e) cosmetics, toilet preparations, perfumes, soap and advertising materials, and displays, in mechanically refrigerated equipment (Sub 34) and drugs and pharmaceuticals, in vehicles equipped with mechanical refrigeration (Sub 67) to "chemicals and related products"; and (f) general commodities, except those of unusual value, classes A and B explosives, livestock, household goods, commodities in bulk, and those requiring special equipment, to "general commodities, except classes A and B explosives, household goods, and commodities in bulk" (Sub 50); (2) remove the following restrictions; (a) except meat, fresh or frozen, dairy products, butter, cheese and oleomargarine (Sub 1); (b) except liquid commodities in bulk, in tank vehicles (Subs 2 and 4); (c) except hides and commodities in bulk, in tank vehicles (Subs 5, 9, 10, 12, 13, 14, 15, and 17); (d) except fresh meat (Sub 12); (e) except commodities in bulk (Subs 18, 32, 55, 56, and 67); (f) except hides and commodities in bulk (Subs 20, 28, 39, 47, 49, 51, 52, 53, 58, 60, 63, 66, 70, 72, 74, 77, 78, 79, 80, 81, 86, 89, 91, and 97); (g) except commodities in bulk, in tank vehicles (Subs 22, 24, 26, and 83); (h) except hides and liquid commodities in bulk (Sub 35); (i) except commodities in bulk, in tank vehicles, hides and pelts (Sub 37; (j) except hides and skins and commodities in bulk (Sub 102F); and (k) except Columbus Junction, Mason City, Waterloo, Fort Dodge, Ottumwa, Cherokee and Dubuque, IA (sub 14); (3) remove the facilities limitations (Subs 2, 3, 4, 5, 9, 10, 12, 13, 15, 20, 22, 23, 24, 26, 28, 32, 34, 35, 36, 37, 39, 47, 51, 52, 53, 55, 58, 60, 61, 62, 63, 66, 67, 68, 70, 72, 74, 77, 78, 79, 80, 81, 83, 86, 89, 91, 96, 99F, and 102F) and the originating at and/or destined to restrictions (Subs 3, 4, 5, 9, 10, 12, 13, 15, 17, 20, 23, 24, 26, 28, 32, 37, 39, 47, 49, 51, 52, 53, 55, 56, 57, 58, 60, 61, 62, 63, 66, 67, 68, 70, 72, 74, 77, 78, 79, 81, 83, 86, 89, 91, 96, 97, 99F, and 102F); (4) change one-way to radial authority (above applicable Subs); and (5) broaden cities to county-wide authority: (a) Altoona, PA (Blair County), Corning, NY (Steuben County), Genoa, OH (Ottawa County), Oakfield, NY (Genesee County), Huntingdom, PA (Huntingdom County), Bridgeport, Norwalk, and Stamford, CT (Fairfield County), Hartford, CT (Hartford County), Meriden, New Haven, and Waterbury, CT (New Haven County), Greensburg, IN (Decatur County), Vincennes, IN (Knox County), and Kokomo, IN (Howard County), Sub 1; (b) Rochelle, IL (Ogle County), Sub 2; (c) Bradley and Kankakee, IL (Kankakee County), Sub 3; (d) Momence, IL (Kankakee County), Sub 4; (e) Sterling, IL (Whiteside County), Sub 5; (f) Worthington, MN (Nobles County), Sub 9; Grand Island, NE (Hall County), Sub 10; (g) Monmouth, IL (Warren County), Sub 12; (h) Cherokee, IA (Cherokee County), Sub 13; (i) Garden City, KS (Finney County), Sub 15; (j) Sioux City, IA (Woodbury County), Sub 17; (k) East Rutherford, NJ (Bergen County), Sub 18; (l) Phelps City, MO (Atchison County), Sub 20; (m) Kenilworth, NJ (Union County), Danville, IL (Vermilion County), and Racine, WI (Racine County), Sub 22; (n) Worthington, MN (Nobles County), and Mankato, MN (Blue Earth County), Sub 23; (o) Duryea, PA (Luzerne County), Sub 24; (p) Milton, PA (Northumberland County), Sub 26; (q) Bureau, IL (Bureau County), Sub 28; (r) La Porte, IN (La Porte County), Sub 32; (s) Mountaintop, PA (Luzerne County), Sub 34; (t) South Kearny, NJ (Hudson County), and Delawanna, NJ (Passaic County), Sub 36; (u) Aurora, IL (Kane County), Sub 37;' (v) Beardstown, IL (Cass County), Sub 39; (w) Logansport, IN (Cass County), Sub 47; (x) Monmouth, IL (Warren County), Sub 49; (y) Newark, NJ, and points in NJ within 15 miles of Newark (Bergen, Passaic, Hudson, Essex, Union Middlesex, Monmouth, Somerset, Morris Counties), Sub 50; (z) Logansport, IN (Cass County), Sub 51; (aa) Harlan, IA (Shelby County), Sub 52; (bb) Clarinda, IA (Page County), Postville, IA (Allamakee County), and Storm Lake, IA (Buena Vista County), Sub 53; (cc) Lafayette, IN (Tippecanoe County), Sub 55; (dd) St. Cloud, MN (Stearns, Benton, and Sherburne Counties), Worthington, MN in Part 2 (Nobles County), St. Charles, MN (Winona County), Albert Lea and Twin Lakes, MN (Freeborn County), Faribault, MN (Rice County), Portage, WI (Columbia County), Marshfield, WI (Wood County), Monroe, WI (Green County), and Fairmont, MN (Martin County), Sub 56; (ee) Evansville, IN (Vanderburgh County), Indianapolis, IN (Marion County), and Washington, IN

(Daviess County), Sub 57; (ff) Omaha, NE (Douglas County), Sub 58; (gg) Cedar Rapids, IA (Linn County), Sub 60; (hh) Lafayette, IN (Tippecanoe County), Sub 61; (ii) Deerfield, IL (Lake County) and Chicago, IL (Cook County), Sub 62; (jj) Albert Lea, MN (Freeborn County), Sub 63; (kk) Sioux City, IA (Woodbury County), Sub 66; (ll) Champaign County), Mattoon, IL (Coles County), Park Forest and Glenwood, IL (Cook County), and Bradley, IL (Kankakee County), Sub 67; (mm) Hereford, TX (Deaf Smith County), Sub 68; (nn) Joslin, IL (Rock Island County), Sub 70; (oo) Omaha, NE (Douglas County), Glenwood, IA (Mills County), and Marshalltown, IA (Marshall County), Sub 72; (pp) Denison, IA (Crawford County) and Iowa Falls, IA (Hardin County), Sub 74; (qq) St. Charles, IL (Kane County), Sub 77; (rr) Denison, IA (Crawford County), Fort Dodge, IA (Webster County), Le Mars, IA (Plymouth County), Mason City, IA (Cerro Gordo County), Emporia, KS (Lyon County), Luverne, MN (Rock County), Dakota City, NE (Dakota County), and West Point, NE (Cuming County), Sub 78; (ss) Carroll, IA (Carroll County) and Omaha, NE (Douglas County), Sub 79; (tt) Fargo, ND (Cass County), Sub 80; (uu) Marshall, MO (Saline County), Sub 81; (vv) Fogelsville, PA (Lehigh County), Sub 83; (ww) Carroll, IA (Carroll County) and Omaha, NE (Douglas County), Sub 88; (xx) York, NE (York County), Sub 89; (yy) Hawarden, IA (Sioux County), Sub 91; (zz) Bradley, IL (Kankakee County), Sub 96; (aaa) Oakland, IA (Pottawattamie County), Sub 97; (bbb) Eau Claire, WI (Eau Claire and Chippewa County), La Crosse, WI (La Crosse County), and Superior, WI (Douglas County), Sub 99F; and (ccc) Omaha, NE (Douglas County), Sub 102F.

MC 148970 (Sub-2)X, filed December 20, 1982. Applicant: BEACH PARK FREIGHT LINES, INC., 38433 North Holdridge Ave., Waukegan, IL 60085. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg. 421 South Second St., Elkhart, IN 46516. Lead permit: (1) Broaden to "building materials and clay, concrete, glass or stone products" from building and insulating materials, insulating board, and materials and supplies used in the manufacture and distribution of the above commodities; (2) remove the "commodities in bulk" restriction; and (3) broaden to "between points in the U.S. (except AK and HI), under continuing contract(s) with named shipper.

MC 163710 (Sub-2)X, filed December 16, 1982. Applicant: WESTERN LIQUID TRANSPORT, 2120 Harbor Street, Pittsburg, CA 94565. Representative: Eldon M. Johnson, 650 California St., Ste. 2808, San Francisco, CA 94108. Sub 1 permit: Broaden to (A)(1) "commodities in bulk" from (a) liquid paraffin wax, in bulk, in tank equipment or vehicles, parts 1 and 2; and (b) lubricating oils, used lubricating oils, oil additives and drain oil, part 3; and (B) "between points in the U.S. (except AK and HI), under continuing contract(s) with named shippers, all parts.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1534 Filed 1-19-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Friday February 11, 1983, starting at 9:00 a.m., at the Federal Correctional Institution, Old N. Carolina Highway 75, Butner, North Carolina, 27509.

At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Allen F. Breed,

Director.

[FR Doc. 83-1524 Filed 1-19-83; 8:45 am]

BILLING CODE 4410-05-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (83-7)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces the forthcoming meeting of the NASA Advisory Council, Informal Ad Hoc Solar System Exploration Committee.

DATE AND TIME: February 8-9, 1983, 9:00 a.m. to 5:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, Building 31, Room 193, Houston, Texas 77058.

FOR FURTHER INFORMATION CONTACT: Mrs. Diane M. Mangel, National Aeronautics and Space Administration, Code EL-4, Washington, D.C. 20546 (202/755-6038).

SUPPLEMENTARY INFORMATION: The Informal Ad Hoc Solar System Exploration Committee was established under the NASA Advisory Council to translate the scientific strategy developed by the Committee on Planetary Exploration (COMPLEX) into a realistic, technically sound sequence of missions consistent with that strategy and with resources expected to be available for solar system exploration.

The committee will report its findings to the Council and to NASA. The committee is chaired by Dr. David Morrison and is composed of six other members of the Council and its standing committees, who will meet about 9 other invited participants and certain NASA personnel.

The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons, including committee members and invited meeting participants). Visitors will be requested to sign a visitor's register.

Type of meeting: Open.

Agenda:

February 8, 1983

9 a.m.—Program Status/fiscal year 1984 Budget Plans.

1 p.m.—Galileo Saturn.

February 9, 1983

9 a.m.—Committee Report.

1 p.m.—Future Plans.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

January 14, 1983.

[FR Doc. 83-1510 Filed 1-19-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice 83-8]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee.

DATE AND TIME: February 17, 1983, 8:30 a.m. to 5:30 p.m.; and February 18, 1983, 8:30 a.m. to 3:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Room B226-A,

600 Independence Ave. SW.
Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:
Dr. Jeffrey D. Rosendhal, Code E, National Aeronautics and Space Administration, Washington, D.C. 20546 (202/755–3653).

SUPPLEMENTARY INFORMATION: The NAC Space and Earth Science Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space and Earth Science programs. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants.) Topics to be addressed at this meeting will include discussion of the Office of Space Science and Applications (OSSA) FY 1984 budget, status reports on the Solar System Exploration Committee, and Global Habitability activities, and a consideration of the issue of program prioritization and program balance.

Type of Meeting: Open.

Agenda:

February 17, 1983
- 8:30 a.m.—Introduction, Announcements, Meeting Logistics, Other Administrative Matters.
- 8:45 a.m.—OSSA FY 1984 Budget and Program Status.
- 10:30 a.m.—Solar System Exploration Committee Status Report.
- 11:30 a.m.—Global Habitability Status Report.
- 1:30 p.m.—NASA/University Study.
- 2:30 p.m.—Research and Analysis Program Status Report.
- 4:00 p.m.—Discussion.
- 5:30 p.m.—Adjourn.

February 18, 1983
- 8:30 a.m.—Space Station Program.
- 9:30. a.m.—Office of Technology Assessment (OTA) Report on Space Science.
- 10:30 a.m.—Program Prioritization and Program Balance.
- 1:00 p.m.—Arrangements for next meeting, assignments, general discussion, meeting summary.
- 3:30 p.m.—Adjourn.

Richard L. Daniels,
Director, Management Support Office, Office of Management.
January 14, 1983.
[FR Doc. 83–1511 Filed 1–19–83; 8:45 am]
BILLING CODE 7510–01–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on Friday, February 4, 1983, from 9:00 a.m.–6:00 p.m. and on Saturday, February 5, 1983, from 9:00 a.m.–6:00 p.m. at the Four Seasons Hotel, 2800 Pennsylvania Avenue, N.W., wWshington, D.C.

A portion of this meeting will be open to the public on Friday, February 4, 1983, from 9:00 a.m.–6:00 p.m. and on Saturday, February 5, 1983, from 9:00 a.m.–2:30 p.m. Topics for discussion will include Program Review and Guidelines for: Opera-Musical Theater, Inter-Arts, Orchestra, Chorus, Music Professional Training, Folk Arts, Touring/Presenting Initiative, and the Endowment Fellows Programs; Cross-Cutting Program Issues; International and Private Sector Activities; Touring/Presenting Policy; and Planning for Budget Development.

The remaining sessions of this meeting on Saturday, February 5, 1983, from 2:30 p.m.–6:00 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.
January 13, 1983.
[FR Doc. 83–1569 Filed 1–19–83; 8:45 am]
BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Ad Hoc Advisory Group on Crustal Studies; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Advisory Group on Crustal Studies
Place: National Science Foundation, 1800 G Street, NW.—Room 543, Washington, D.C. 20550
Date: Thursday, February 3 and Friday, February 4, 1983
Time: 9:00 a.m.–5:00 p.m.
Type of meeting: Open
Contact person: Dr. H. Frank Eden, Senior Science Associate, Astronomical, Atmospheric, Earth and Ocean Sciences Directorate, National Science Foundation, 1800 G Street, NW., Room 510, Washington, D.C. 20550, Telephone: (202) 357–7357
Purpose of advisory group: The purpose of the Advisory Group is to provide advice to the Assistant Director for Astronomical, Atmospheric, Earth and Ocean Sciences, National Science Foundation, on priorities for future research on the Earth's crust.
Summary minutes: May be obtained from the contact person at above stated address.
Agenda: The Advisory Group is asked to consider future research priorities for crustal studies within realistic budgetary constraints. Topics considered will cover both continental and oceanic research and include drilling programs.

M. Rebecca Winkler,
Committee Management Coordinator.
January 17, 1983.
[FR Doc. 83–1686 Filed 1–19–83; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–368]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. NPF–6 issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit 2 (the facility), located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment allows modification to eliminate recirculation actuation signals to the minirecirculation valves controlling a limited bypass flow from the high pressure safety injection system pumps to the refueling water tank and changing actuation of these valves from automatic to manual. The Technical Specification requiring channel functional tests of certain functional units channelled through related plant protection system electrical cabinets is relaxed for the month of January 1983. The amendment also deletes the requirement for verification at intervals of at least every 18 months of the closing of the recirculation valve to the refueling water tank upon recirculation actuation test signals.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the

Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see: (1) The applications for amendment dated January 5, 1983 (2 letters), as supplemented by letter dated January 6, 1983, (2) Amendment No. 39 to Facility Operating License No. NPF–6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this seventh day of January 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83–1550 Filed 1–19–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–318]

Baltimore Gas & Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR–69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 2 located in Calvert County, Maryland. The amendment is effective as of the date of issuance.

The amendment authorizes operation of Calvert Cliffs Nuclear Power Plant, Unit No. 2 during Cycle 5 at a rated thermal power of 2700 MWt. Our evaluation of Cycle 5 included the consideration of extended burnup, equivalent to approximately 18 months of plant operation, and also the use of new analytic methods in predicting fuel and thermal-hydraulic performance. In addition to Technical Specification changes associated with Cycle 5 operation, we have also approved a special test exception which will facilitate startup testing of the auxiliary feedwater system. Changes to the requirements for post-accident monitoring have also been approved.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Consideration of Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on December 8, 1982 (47 FR 55350). No request for a hearing or petition for leave to intervene was filed following notice of proposed action.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see: (1) The application for amendment dated October 15, 1982, as supplemented November 17, 1982, (2) Amendment No. 61 to License No. DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Pulic Document Room, 1717 H Street, N.W., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may be obtained upon request addressed to the U.S Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 10th day of January 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83–1551 Filed 1–19–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–[illegible]]

Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR–49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center (DAEC), located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The Technical Specification changes incorporate: (1) Revised position titles related to the plant and mangement organizations, (2) a change of the management official to which reportable occurrences are directed and (3) deletions of redundant sections in the technical specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated November 16, 1982, (2) Amendment No. 80 to License No. DPR–49, and (3) the Commission's letter to Iowa Electric Light and Power Company dated January 7, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401. A copy to items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 7th day of January 1983.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 83-1552 Filed 1-19-83; 8:45 am]

BILLING CODE 7590-01-M

POSTAL SERVICE

Privacy Act of 1974; Systems of Records

AGENCY: Postal Service.

ACTION: Notice of Computer Matching Programs: U.S. Postal Service and Philadelphia School District, and advance notice of modification to an existing system of records.

SUMMARY: The purpose of this document is to provide information for public comment concerning the Postal Service's proposal to conduct a computer matching program, and to propose the addition of a new temporary routine use to system USPS 050.020, Finance Records—Payroll System.

DATE: Any interested party may submit written comments regarding the matching program and the proposed new routine use. Comments on this notice must be received on or before February 21, 1983.

ADDRESS: Comments may be mailed to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260, or delivered to Room 8121 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may also be inspected in Room 8121 between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, (202) 245-5568.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing a new temporary routine use for system USPS 050.020, Finance Records—Payroll System, in connection with its plans to begin identifying postal employees who are also on the employment rolls of the Philadelphia, Pennsylvania School District. The routine use, if adopted, will be in effect for a period of one year from its effective date. The purpose of this proposed action is to determine whether suspected violations of federal or state laws or Postal Service regulations have occurred in connection with the improper receipt of dual benefits by these employees. Of particular concern is the possible misuse of sick leave or the improper receipt of continuation of pay under the workers' compensation program.

Set forth below is the information required by the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget (47 FR 21656; May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Report of Computer Matching Program

In accordance with 39 U.S.C. 404, the Postal Service proposes to perform a match by computer of employees on the payroll of the Philadelphia Post Office against the Philadelphia School District's listing of its employees. At the request of the Postal Service, the Philadelphia School District (PSD) has tentatively agreed to provide a computer tape listing of its employees by name and social security number which the Postal Service will match against its Payroll System files for the purpose of identifying Postal Service employees common to both lists—i.e., "hits." Postal Service Payroll System files contain general payroll information, including name, social security number, salary, family compensations, benefit deductions, accounts receivable, leave data, addresses, records of attendance and other relevant payroll information.

Upon completion of the match, and after the list is compiled, the Postal Service will return to PSD its computer tape and will disclose to PSD only relevant details for the "hits" but not other information or names in its payroll system. All information obtained or utilized will remain under the control of the Postal Inspection Service and/or the investigative service for the PSD Internal Controller's Office. Except for any individual investigative case file that may be established within the parameters of system USPS 080.010, Inspection Requirements Investigative File System (last published in 47 FR 1298 of January 11, 1982), all other information compiled as a result of this matching effort will be destroyed as soon as the determination is made that it relates to a legitimate, non-fraud situation.

Proposed System Modification To Add New Routine Use

On a one-time basis, the Postal Service proposes to disclose a limited amount of information from the payroll records of certain postal employees to the Internal Controller's Office of the Philadelphia, Pennsylvania School District (PSD). This information will be used to identify postal employees who have fraudulently received compensation benefits from either the Postal Service or the PSD. The Postal Service believes that an integral part of the reason that employee payroll records are maintained is to protect the legitimate interests of the Government and, therefore, such a routine use is compatible with the purpose or maintaining these records. System 050.020 last appeared in 46 FR 1979 dated January 7, 1981. As provided in 5 U.S.C. 552a(e)(11) for new routine uses, interested persons are invited to submit written views or arguments on the routine use proposed. After any comments submitted have been considered, final notice of the routine use will be published. Accordingly, it is proposed to modify system USPS 050.020, Finance Records—Payroll System, to add a new temporary routine use to allow this disclosure as follows:

USPS 050.020, Finance Records—Payroll System

"28. (Temp.) Disclosure of information about postal employees on the employment rolls of the Philadelphia, Pennsylvania School District (PSD) may be made to the PSD for a one-time comparison with the PSD's time/attendance/payment files. (Note.—This routine use will be in effect for a period of one year from its effective date.)"

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-1587 Filed 1-19-83; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-19419; File No. SR-CBOE-82-20]

Self-Regulatory Organizations; Proposed Rule Change; Chicago Board Options Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 10, 1983, the Chicago Board Options Exchange, Incorporated, filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Item 1 *Text of Proposed Rules Change.*

Rule 24.1 Definitions. (h) The term "covered" in respect of a short position in an index call option contract means that the writer holds in the same account a long position in an index call option for the same underlying index

with the same index multiplier as the short call where the expiration date of the long call is the same as or subsequent to the expiration date of the short call and the exercise price of the long call is equal to or less than the exercise price of the short call. The term "covered" in respect of a short position in an index call option contract means that the writer holds in the same account a long position in an index put option for the same underlying index with the same index multiplier as the short put where the expiration date of the long put is the same as or subsequent to the expiration date of the short put and the exercise price of the long put is equal to or greater than the exercise price of the short put.

Rule 24.2 Designation of the Index. The rules change previously approved by the Commission, SR–CBOE–82–11, in Securities Exchange Act of 1934 Release No. 19264, November 22, 1982, noted that the CBOE–100 Index had been set to equal 50 as of January 2, 1976, the start date of the index. In order to calculate the current market value, the aggregate market value is divided by the base value and multiplied by 50. The Exchange has decided to reset the current index value to 100 as of the start date and to adjust the subsequent index values accordingly. Under the old system, on December 1, 1982, the current index value was 67.74. Under the new system, on December 1, the current index value was 135.48.

The Exchange is making this change because of the relationship between the current index value and strike price intervals. The Exchange generally uses strike price intervals that are five points apart for securities trading below 100. However, this would be inappropriate for options on the CBOE–100 because it is a stable index, and with the index at 67.74 and strike prices of 65 and 70, it might take a very long time for a strike price to be reached. The Exchange believes it would improve depth and liquidity to increase the frequency with which strike prices may be reached. This will be accomplished by maintaining 5 point intervals but doubling the size at which the current index value is quoted. This is intended to facilitate trading by the public, which is accustomed to trading equity options with 5 point intervals.

At the same time, the Exchange has decided to change the index multiplier from 500 to 100 in order to increase the similarity of index options to equity options. In the initial filing, if the current index value was 70, the market value of a contract would be $35,000. Under the amended system, an index value previously quoted at 70 will be quoted at 140, and the market value of a contract would be $14,000. Thus, the price of an index options contract will be 100 times the current index value, similar to equity options in which the price of a contract is 100 times the quoted price of the options.

Rule 24.11 Margins. (a) This rule sets forth the minimum amount of margin which must be deposited and maintained in margin accounts of customers having positions in index option contracts dealt in on the Exchange. The Exchange may at any time impose higher margin requirements in respect of such positions when it deems such higher margin requirements to be advisable. The initial deposit of margin required under this rule must be made within seven full business days after the date on which a transaction giving rise to a margin requirement is effected. For purposes of this Rule, the term "current market value" of an index option shall mean the total cost or net proceeds of the option transaction on the day the option was purchased or sold and at any other time shall mean the closing price of that series of options on the Exchange on any day with respect to which a determination of current market value is made.

(b) For each put or call index option contract carried in a short position in the account, margin must be deposited and maintained equal to at least 100% of the current market value of the contract plus 10% of the current index value times the index multiplier.

(c) The requirement set forth in paragraph (b) hereof is subject to the following exceptions, which in each case may be applied at the discretion of the Member Organization with which the account is maintained.

(1) *Short option offset by long option where long option expires with or after short option.* This subparagraph (c)(1) applies to accounts carrying positions in long call index options (or long put index options) which are offset by positions in short index call options (or short put index options) for the same underlying index with the same index multiplier, provided that the expiration date of the long calls (or long puts) is the same as or subsequent to the expiration date of the offsetting short calls (or short puts).

(A) When the exercise price of the long call index option (or short put index option) is less than or equal to the exercise price of the offsetting short call index option (or long put index option), no margin is required.

(B) When the exercise price of the long call index option (or short put index option) is greater than the exercise price of the offsetting short call index option (or long put index option) margin is required equal to the difference in aggregate exercise prices.

(2) *Short put and short call.* This subparagraph (c)(2) applies to accounts carrying positions in short put index options which are offset by positions in short call index options for the same underlying index with the same index multiplier. The margin required for such a position shall be the margin required for the short put option contract or the margin required for the short call option contract (pursuant to paragraph (b) of this Rule), whichever is greater, as determined by (b) above, increased by the amount of any unrealized loss on the other option contract.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement for the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Rules 24.1 and 24.11 "Cover" and Margin. The rules approved by the Commission did not contain a definition of "cover" and the margin rules for the index options. Following the discussions with other exchanges that intend to offer index options for trading, CBOE is filing a proposal that is substantially similar to the proposals that have been or will be filed by the other Exchanges.

Rule 24.2 Designation of the Index. The changes to the CBOE–100 Stock Index proposed herein are designed to decrease the size of the contract in order to make it more useful to the public, and the change the index multiplier from 500 to 100 in order to increase the similarity to equity options.

The statutory basis for the proposed rules change is Section 6(b)(5) under the Securities Exchange Act of 1934 in that the rules are designed to facilitate transactions in stock index options.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed amendment will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed amendment were neither solicited not received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for the Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW. Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

Dated: January 11, 1983.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1540 Filed 1-19-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-83-1]

Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: February 9, 1983.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW. Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on January 12, 1983.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23477	Experimental Aircraft	14 CFR 103.1(a)	To permit two-place ultralight vehicles to be used for the purpose of training persons in the operation of ultralight aircraft.
23439	AOPA Air Safety Foundation	14 CFR 103.1(a), (b) & (e)(1)	To permit petitioner to operate powered ultralight vehicles of not more than 330 pounds empty weight with two occupants for the purpose of flight instruction.
23440	Bar Harbor Airlines	14 CFR 91.171(a)(3), & 91.172(b)	To permit petitioner to operate its aircraft for a period of 90 flight hours for scheduling purposes until it is able to obtain air traffic control (ATC) transponder test equipment.
23466	CAA of United Kingdom on Behalf of Pilatus Britten-Norman.	14 CFR 23.1303(e)(1)	To permit type certification of the Pilatus Britten-Norman Model BN-2T airplane without complying with the requirements of the section, which requires a speed-warning device for turbin-engine powered airplanes.
23461	Flying Carpet Marketing Company	14 CFR 103.1	To permit petitioner to operate ultralight aircraft for purposes other than sport or recreation, specifically banner towing.
18020I	World Airways, Inc.	14 CFR Part 121	To extend Exemption 2947, as amended, to permit petitioner to conduct scheduled passenger service authorized by the CAB over certain routes utilizing the flight following/dispatch system procedures, communication procedures for pilots, and enroute servicing and maintenance procedures of Part 121 that are applicable to supplemental air carriers.
23462	Rocky Mountain Helicopters, Inc.	14 CFR 135.261	To permit petitioner to operate its Cessna Conquest in an air ambulance and rescue service without complying with the duty time limitations.
23411	John M. Houston	14 CFR 121.411(a)(1)	To permit petitioner to exercise the privileges of a check airman in a simulator or other training device that meets the requirements of § 121.407 even though petitioner does not possess a valid medical certificate.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
23449	Coastal Aviation Services, Inc.	14 CFR 135.261	To permit petitioner to operate helicopters from Tallahassee Memorial Regional Medical Center, Tallahassee, FL, without complying with duty-time limitations.
19929	Transamerica Airlines, Inc.	14 CFR Part 121	To extend Exemption 2947, as amended, to permit petitioner to conduct scheduled passenger service, authorized by the CAB over certain routes utilizing the flight control dispatch procedures, communications procedures, airport and route qualification procedures of Part 121 that are applicable to supplemental air carriers.
23412	Jack O'Neill	14 CFR Part 61	To permit petitioner to apply for a private pilot certificate although he has not obtained instruction in certain areas of aeronautical knowledge appropriate for a helium type airship. The aircraft he operates is a hot air airship.
23402	Airway Corp.	14 CFR Parts 21 & 91	To permit petitioner to utilize the British Aerospace Corp's master minimum equipment list for its two BAC 1–11 aircraft.
23401	Air Continental, Inc.	14 CFR 135.89(b)(3)	To permit petitioner to operate Learjet 23, 24, & 24D aircraft up to and including flight level (FL) 410 (41,000 feet) without one pilot having to wear and use an oxygen mask.
23403	Reeder Air, Inc.	14 CFR 43.3(h)	To permit petitioner to train certain of its pilots to inspect Bell Model 206B airframe and Allison Model 250C engine magnetic chip detectors under certain circumstances in remote locations.
23458	McDonnell Aircraft Co.	14 CFR 91.70(a)	To allow the operation of test flights at speeds in excess of 250 knots (286 mph) IAS below 10,000 feet MSL. Test flights would be flown in specified areas within 200 nm of St. Louis, MO and 90 nm of Whiteman AFB, MO.
23404	Richard L. Wyatt	14 CFR 103.1, 103.7, & 103.15	To permit petitioner to operate ultralight vehicles in congested areas for purposes other than sport and recreation.
ASW-83-3-E	Bell Helicopter Textron, Inc.	14 CFR 29.855(a), & portions of § 29.855(d)	To allow carriage of flammable and nonflammable cargo in the passenger compartment and to allow the passenger compartment to be an extension of the cargo compartment. Model 222 series helicopters are approved for single pilot operations. Protective breathing equipment and an extra crewmember would be available only while having flammable cargo.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23451	People Express Airlines, Inc.	14 CFR 121.613, 121.619, 121.625	To amend Exemption No. 3585 to permit petitioner to dispatch to a destination and list a first alternate when the main body of the weather forecast indicates that weather conditions of either or both are at or above minimums, as long as the pilot-in-command, while enroute, ensures by way of air-ground voice communication, that he is in receipt of the most current relevant weather reports and forecasts for the destination and alternate airports. *Partial Grant 12/29/82.*
23132	Interstate Airlines	14 CFR 121.311(b)	To permit petitioner to operate its modified aircraft for the purpose of transporting live animals, without each person on board occupying an approved seat or berth with a separate safety belt properly secured about him/her. *Granted 1/3/83.*
23422	Aeronaves De Puerto	14 CFR 121.3	To permit petitioner to operate as a domestic, flag, or supplemental air carrier without an air carrier operating certificate when using aircraft wet-leased from Guy America Airways, Inc. *Granted 12/13/83.*
23292	Regional Airline Assn., Inc.	14 CFR 135.261(b)	To delete condition Number 2 of Exemption 3535. Condition No. 2 limited the exemption to passenger-carrying flights scheduled to arrive at or after 1900 hours local time, at an airport which is not the crewmember's domicile, when scheduled departure time is before 0600 hours local time the following morning. *Granted 12/15/83.*
18116	Flying Tiger Line	14 CFR 121.547(c), 121.583(a)	Renewal of Exemption No. 2600 to permit petitioner to carry a reporter, photographer, or journalist aboard its B–747 and DC–8 airplanes without complying with the passenger-carrying requirements of Part 121. *Granted 12/22/82.*
23418	Joanne Yvonne Renne	14 CFR 61.83(a)	To permit the issuance of a student pilot certificate to petitioner to operate airplanes before her 16th birthday. *Denied 12/20/82.*
23225	Hughes Helicopters, Inc.	14 CFR 91.119(a)(2)	To permit petitioner to conduct Special VFR operations into and out of Hughes Airport when less than basic VFR weather conditions are reported within the Los Angeles Control Zone. *Granted 12/17/82.*
20779	The Department of Int'l Affairs of the Gen. Admin. Of CAAC & Pan Am World Airways, Inc.	14 CFR Portions of Parts 21, 43, & 121	To permit CAAC to operate two U.S. registered B–747SP aircraft using FAA-approved MEL and PAA's continuous airworthiness maintenance program. *Granted 12/29/82.*
23476	Eastern Airlines	14 CFR 121.581(a)	To permit petitioner to operate its Boeing 757 aircraft without meeting the observer's seat requirements. *Granted 12/29/82.*
23462	Alitalia Airlines	14 CFR 21.181	To permit petitioner to operate 9 leased U.S.-registered Douglas DC–9–30 aircraft, utilizing the FAA-approved minimum equipment list. *Granted 12/*
23466	Trans-Colorado Airlines, Inc.	14 CFR 135.181(a)(2)	Extension of Exemption No. 3078 to permit petitioner to use alternate means of compliance with the performance requirements, the use of procedures, and operations authorized by § 121.201(b) for compliance with the enroute limitations. *Granted 12/29/82.*
ANE-83	Garrett Turbine Engine Company, Phoenix, AZ	14 CFR 33.88	To permit petitioner to conduct the rotor test for only 5 minutes in lieu of the existing requirements. *Granted 12/23/82.*
20635	Beech Aircraft Corp.	14 CFR 21.197	Renewal of Exemption No. 3140 to permit the issuance of special flight permits to petitioner for ferrying aircraft, for purposes of completion and certification, between the various Beech Aircraft locations. *Granted 12/*
18104	FlightSafety Int'l.	14 CFR 91.57(a)(1)	To renew Exemption No. 2592c to permit petitioner to permit pilots who accomplished a biennial flight review to count that review as the biennial flight review required subject to certain conditions and limitations. *Granted 12/13/82.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
10947	Eli Lilly Int'l Corp	14 CFR 61.58(c)	Renewal of Exemption No. 2935 to permit petitioner's pilots to complete a 24-month pilot-in-command check in an FAA-approved flight simulator. *Granted 12/13/82.*
23399	Aero Virgin Islands, Corp	14 CFR 121.311(f)	To permit petitioner to operate its DC-3 airplanes without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the requirements of § 25.785. *Granted 8/31/82.*
20899	United Air Lines, Inc.	14 CFR 121.311(f)	To extend Exemption No. 3242, as amended, to permit petitioner's required flight attendants to occupy passenger seats on B-727 and DC-8 airplanes, which do not meet requirements of § 25.785h, until March 6, 1983. *Granted 1/5/83.*
15691	Air Logistics	14 CFR 43.3(h)	To amend Exemption No. 2313 to also permit petitioner's appropriately trained and certificated pilots to remove, check and reinstall magnetic chip detector plugs on Allison 250C turbine engines, transmissions, and tail rotor gearboxes installed on Aerospatiale Model 355 series, and magnetic chip detector plugs in 42° and 90° tail rotor gearboxes installed on Bell Model 412 series helicopters. *Granted 1/4/83.*
23438	AirLifeLine of Texas, Inc	14 CFR 61.118	To permit petitioner's volunteer pilots who hold private certificates to be reimbursed when serving on public service missions. *Partial grant 1/5/83.*
23383	Braniff Airways, Inc	14 CFR 91.305(b)(2)(ii)	To allow petitioner to operate five Boeing 727 aircraft in the U.S. from January 1, 1983 until January 1, 1984 without meeting the operating noise limit requirements. *Denied 12/30/82.*
22567	Emerald Airlines	14 CFR 121.311(f)	To extend Exemption 3461, as amended, to June 1, 1983, to permit petitioner to operate certain transport category airplanes without each flight attendant having a seat for takeoff and landing in the passenger compartment that meets the seat requirements of § 25.785. *Granted 1/6/83.*
23794	Best Airlines, Inc	14 CFR 91.307	Requests a service to small communities exemption for relief from the noise level requirements for civil, subsonic planes under Subpart E of Part 91. *Granted 1/4/83.*
23469	Jet Fleet Int'l	14 CFR 91.307	Requests a service to small communities exemption for relief from the noise level requirements for civil, subsonic planes under Subpart E of Part 91. *Granted 1/4/83.*

[FR Doc. 83-1319 Filed 1-19-83; 8:45 am]
BILLING CODE 4910-13-M

Airport Traffic Control at Bethel, Alaska; Opening

Notice is hereby given that on or about January 16, 1983, the FAA will commission a visual flight rules Airport Traffic Control Tower at Bethel, Alaska. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313 (a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Anchorage, Alaska, January 6, 1983.

Franklin L. Cunningham,

Acting Director, Alaskan Region.

[FR Doc. 83-1318 Filed 1-19-83; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Licking County, Ohio

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) is being prepared for a proposed highway project in Licking County, Ohio.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McBee, Division Administrator, or Mr. Lawrence J. Kastner, District Engineer, Federal Highway Administration, 200 North High Street, Columbus, Ohio 43215. Telephone (614) 469–6896 or 469–7443. Columbus, Ohio 43215. Telephone (614) 469–6896 or 469–7443.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (HWA), in cooperation with the Ohio Department of Transportation (ODOT), has been preparing a draft environmental impact statement (EIS) since 1977 on the proposed construction of approximately 1.34 miles of new four-lane, divided, limited access highway in the City of Newark and Licking County, Ohio. This proposed facility, a relocation of State Route 79, would have its northerly terminus at a partially completed interchange with State Route 16, an east-west expressway crossing the City of Newark. The southerly terminus would be a connection just south of Newark with existing State Route 79, the route providing access to and from Interstate Route 70.

All residences and businesses within the right-of-way for the proposed project have already been acquired and the clearing of the right-of-way has been virtually complete for several years. The proposed project will also require the use of land from Mound Builders State Memorial, a park and historic site, and from White Field, an athletic facility owned by the Newark Public Schools. Arrangements for the transfer of these lands have been concluded.

Because of the long history of planning for this project, the fixing of the northerly terminus by the partial construction of the interchange with State Route 16, the completion of right-of-way acquisition, and the constraints of existing urban development, only one build alternative and the no-build alternative are now under consideration.

The proposed project will complete the missing link in a planned freeway system, relieve traffic congestion on local streets, and improve local and regional access.

To date, there has been extensive federal, state, local and public involvement with the proposed project. It is envisioned that such involvement will continue throughout further development of the project and, therefore, a formal scoping meeting has not been scheduled.

Top insure that the full range of issues related to this proposed action are addressed and that all significant issues are identified, comments or questions concerning this action and the EIS should be addressed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued: January 10, 1983.

James J. Steele,
Assistant Division Administrator and Engineering Coordinator.

[FR Doc. 83-1465 Filed 1-19-83; 8:45 am]
BILLING CODE 4910-06-M

Federal Railroad Administration

[Waiver Petition Docket Nos. RSGM-81-46, -48, and -50 RSGM-82-1; RSGM-82-3 through RSGM-82-31]

Safety Glazing Standards; Petitions Submitted for Temporary or Permanent Waivers of Compliance

Notice is hereby given that thirty-three petitioners have submitted requests for temporary or permanent waivers of compliance with the Safety Glazing Standards (49 CFR Part 223). The Federal Railroad Administration (FRA) published a final rule on December 31, 1979, that requires all newly built and most existing railroad equipment to have improved safety glazing materials installed in order to reduce the risk of death or serious injury resulting from flying objects, including bullets. The regulations provide for the affected locomotives, passenger cars and cabooses to be equipped with certified glazing in all windows after June 30, 1983.

The individual petitions for a waiver of compliance with these standards are described below. The description of each petition indicates the nature and extent of the relief requested as well as the information that has been submitted in support of that petition.

Interested persons are invited to participate in these proceedings by submitting written data, views, or comment. FRA does not anticipate scheduling an opportunity for oral comment since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g., FRA Waiver Petition Docket Number RSGM–82–1) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington. D.C. 20590. Communications received befor Febuary 28, 1983, will be considered by the FRA before final action is taken. All comments will be available both before and after the closing date for comments, during regular business hours (8:30 a.m.–5:00 p.m.), in room 7321a, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Longview, Portland & Northern Railway Company

(Waiver Petition Docket No. RSGM–81–48)

The Longview, Portland & Northern Railway Company (LP&N) seeks a permanent waiver of compliance with Part 223 for its two locomotives. The LP&N, which has had no incidents of vandalism since it began operations in Douglas County, Oregon in 1951, states that the installation of the prescribed safety glazing on these locomotives would only add to their costs and would provide no benefit.

Chesapeake Western Railway Company

(Waiver Petition Docket No. RSGM–81–49)

The Chesapeak Western Railway Company (CW), a wholly owned but separately operated subsidiary of the Norfolk and Western Railway Company seeks a permanent waiver of compliance with part 223 for the three locomotives it operates over its 52 miles of track in rural and industrial switching areas. The locomotives will be moved in "designated service" as defined in § 223.5(m) whenever they leave the CW for repairs or servicing.

The Lowville and Beaver River Railroad Company

(Waiver Petition No. RSGM–81–50)

The Lowville and Beaver River Railroad Company (LBR) of Beaver Falls, New York, seeks a permanent waiver of compliance with the requirements of part 223 for its two locomotives. Both locomotives are now equipped with ¼ inch AS–40 and AS WS–17 safety glass mounted in rubber and steel frames. The cost of retrofitting each locomotive to comply with part 223 is estimated to be $2,600. No acts of vandalism such as gunfire or the throwing of rocks or other projectiles have been directed at LBR locomotives in the past 29 years. Crew members do not object to this waiver request.

Farmrail Corporation

(Waiver Petition No. RSGM–82–1)

The Farmrail Corporation (Farmrail) seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives. Farmrail operates these locomotives over 34 miles of track in rural southwestern Oklahoma. It has experienced no incidents of vandalism, rock throwing or gunfire since it commenced operations on November 18, 1981. Farmrail contends that the retrofitting of its locomotives to comply with Part 223 to protect against situations that it does not encounter in its operations would impose an undue financial burden.

Valley & Siletz Railroad Company

(Waiver Petition No. RSGM–82–3)

The Valley & Siletz Railroad Company (V&S) seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives. V&S operates one train per day over several miles of track in Polk County, Oregon. since it has never experienced any vandalism, it believes that the cost of complying with Part 223 would provide no safety benefit.

Canton Railroad Company

(Waiver Petition No. RSGM–82–4)

The Canton Railroad Company (Canton) seeks a permanent waiver of compliance with the requirements of Part 223 for its seven locomotives. Canton operates on 7.7 miles of main line in the southeastern area of Baltimore and the adjacent area of Baltimore County, Maryland. It has performed industrial switching for many years and has never experienced glass breakage caused by rock throwing or gunshot. Canton states that it would incur a cost of more than $2,500 to retrofit each locomotive to protect against situations that it does not encounter in its operations.

LaSalle & Bureau County Railroad

(Waiver Petition No. RSGM–82–5)

The LaSalle & Bureau County Railroad (L&BC) seeks a permanent waiver of compliance with the requirements of Part 223 for its three locomotives. One of these locomotives operates over seven miles of track through farmland in La salle County and the other two operate over Rock Island track from Blue Island to the Chicago International Port. L&BC has no history of vandalism of any kind.

Chattahoochee Valley Railway Company

(Waiver Petition No. RSGM–82–6)

The Chattahoochee Valley Railway Company seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives. Both locomotives are operated over twelve miles of rail line in east central Alabama and west central Georgia. This railroad has experienced no shooting incidents or other vandalism. Its employees do not object to the waiver request; most noted that the locomotive windows were open most of the time. The cost of retrofitting each locomotive to protect against situations that are not encontered would exceed $3,000

East Jersey Railroad and Terminal Company

(Waiver Petition No. RSGM–82–7)

The East Jersey Railroad and Terminal Company seeks a permanent waiver of compliance with the requirements of Part 223 for two locomotives that are operated over 2.39 miles of track in Bayonne, New Jersey, which are within the confines of a walled-in industrial park that is patrolled by mobile, radio equipped guards. The railroad has experienced no vandalism and its employees do not object to the waiver request. The cost of modifications to accommodate the retrofit would exceed $5,000 for each locomotive.

Kansas City Terminal Railway Company

(Waiver Petition No. RSGM–82–8)

The Kansas City Terminal Railway Company (KCT) seeks a permanent waiver of compliance with the requirements of Part 223 for its ten locomotives. The locomotives are equipped with Viracon, Laminated Safety Glass, M 22–1–AS–2 DOT 129. Whenever it is necessary to replace glass, KCT uses Laminated Safety Glass .030. No KCT employee has ever been injured as a result of acts of vandalism against a locomotive.

St. Lawrence Railroad

(Waiver Petition No. RSGM–82–9)

The St. Lawrence Railroad, a 43 mile railroad in rural upstate New York, seeks a permanent waiver of compliance with the requirements of Part 223 for its three locomotives. It has experienced virtually no vandalism and wishes to avoid the high cost of retrofitting its locomotives.

Aliquippa and Southern Railroad Company

(Waiver Petition No. RSGM–82–10)

The Aliquippa and Southern Railroad Company (A&S), a terminal switching carrier located entirely in the city of Aliquippa, Pennsylvania, seeks a permanent waiver of compliance with the requirements of Part 223 for its entire fleet of 33 locomotives. The front and rear windows of its locomotives are equipped with two-ply glazing with a .030 inch vinyl interlayer and have a combined thickness of ¼ inch; the side windows have single sheet ¼ inch Lexan. No incidents of a locomotive window being struck or broken have occurred during the past ten years. Because the exposure of crew members to thrown objects and bullets is practically nil, A&S believes that little, if any, benefit would result from the costly retrofitting of its locomotives and the railroad believes that the costly retrofitting of these locomotives is not justified.

The Monongahela Connecting Railroad Company

(Waiver Petition No. RSGM–82–11)

The Monongahela Connecting Company of Youngstown, Ohio, seeks a permanent waiver of compliance with the requirements of Part 223 for nine locomotives. These locomotives, which are operated almost entirely within the confines of a steel plant, have ¼ inch PPG–ASI in all windows except sliding windows which have ¼ inch GE Lexan MR 4000. Since its locomotives and crews have not experienced vandal-related damage, the railroad contends that the costly retrofit of these locomotives would not provide any additional benefits.

The Mahoning Valley Railway Company

(Waiver Petition No. RSGM–82–12)

The Mahoning Valley Railway Company seeks a permanent waiver of compliance with the requirements of Part 223 for eight locomotives. This railroad is a terminal switching carrier. The glazing on the front and rear of its locomotives is two-ply with a .030 inch vinyl interlayer and has a combined thickness of ¼ inch; the side windows have single sheet, ¼ inch Lexan, MR 4000. Since the risk or exposure of crew members to thrown objects or bullets in their operating environment is practically nil, the benefits of the costly retrofit of these locomotives would be minimal.

The Cuyahoga Valley Railway Company

(Waiver Petition No. RSGM–82–13)

The Cuyahoga Valley Railway Company seeks a permanent waiver of the requirements of Part 223 for fifteen locomotives. This railroad operates entirely within a series of connecting yards at a steel mill facility and is surrounded by that facility and other railroad yards. Its locomotives have two-ply glazing with a .030 inch vinyl interlayer that has a combined thickness of ¼ inch. No locomotive window has been struck or broken by vandals during the past six years.

Metropolitan Transportation Authority & Connecticut Department of Transportation

(Waiver Petition No. RSGM–82–14)

The Metropolitan Transportation Authority (MTA) and the Connecticut Department of Transportation (CDOT) have requested a temporary waiver of compliance with the requirements of Part 223. They seek to operate 178 M–1 cars and 244 M–2 cars with existing glazing until those cars receive routine heavy repairs or overhaul. As an alternative, they request that the compliance date for the retrofit of these cars be extended to June 30, 1985. The principal reasons for these requests are: severe budgetary restraints resulting from reduced Federal and State financial support and the transfer of commuter service operation from Conrail mandated by the Northeast Rail Service Act of 1981; the serious passenger car shortage that inhibits the removal of these cars from service for retrofitting; the significant level of protection provided to passengers and employees by the existing Lexan glazing as evidenced by the absence of data on injuries due to the breaking of windows; and the unavailability of suitable emergency escape window units for installation.

Southern Pacific Transportation Company

(Waiver Petition No. RSGM–82–15)

The Southern Pacific Transportation Company (SP) seeks a temporary waiver of compliance with the requirements of Part 223 for 427 SP and 43 St. Louis Southwestern Railway Company (SSW) cabooses and 2226 SP and 292 SSW locomotives. Because of a shortage of resources and materials, SP requests that the compliance date for retrofitting these cabooses and locomotives with certified glazing be extended three years to June 30, 1986.

The Western Pacific Railroad Company

(Waiver Petition No. RSGM–82–16)

The Western Pacific Railroad Company (WP) seeks a temporary waiver of compliance with the requirements of Part 223 for 50 percent of its locomotives and 73 percent of its cabooses. Because the severe economic climate places heavy restraints on its expenditures, WP request at least another 12 months to complete this retrofit program.

Chessie System Railroads

(Waiver Petition No. RSGM–82–17)

The Chessie System Railroads (Chessie), which consists of the Chesapeake and Ohio Railway Company, the Baltimore and Ohio Railroad Company, and Western Maryland Railway Company, seek a temporary waiver of compliance with the requirements of Part 223 for an estimated 352 cabooses of its fleet of

1,250 cabooses. Chessie requests that the compliance date for completing its caboose retrofit program be extended to October 31, 1984. It contends that acceleration of its current retrofit program would be disruptive and may even decrease safety since it would require reallocation of scarce resources from more efficacious safety related programs.

The Turtle Creek Industrial Railroad

(Waiver Request No. RSGM–82–18)

The Turtle Creek Industrial Railroad seeks a permanent waiver of compliance with the requirements of Part 223 for its one engine and one caboose. This railroad operates once or twice weekly over ten miles of track between Trafford and Export, PA. It contends that the retrofitting of its locomotive and caboose would place a very burdensome cost on it.

General Electric Company

(Waiver Petition No. RSGM–82–19)

The General Electric Company, Pittsfield, Massachusetts, seeks a permanent waiver of compliance with the requirements of Part 223 for two locomotives it uses for industrial switching service. These locomotives are operated almost entirely on seven miles of track within the General Electric plant and are only occasionally operated over adjacent Conrail track. GE is seeking this waiver because of the limited exposure of these locomotives and their crews to acts of vandalism.

El Dorado and Wesson Railway Company

(Waiver Petition No. RSGM–82–20)

The El Dorado and Wesson Railway Company (EDW) seeks a waiver of compliance with the requirements of Part 223 for two switcher locomotives until they are removed from service for general overhaul or rebuilding. These locomotives operate over 5.5 miles of industrial and rural track in and adjacemt to the city of El Dorado, Arkansas. EDW has not experienced any incidents of objects striking a locomotive since 1950. Accordingly, it believes that the thousands of dollars that would be spent to retrofit these locomotives can be better utilized for other purposes.

Dow Chemical U.S.A.

(Waiver Petition No. RSGM–82–21)

The Dow Chemical Company U.S.A., Texas Division, at Freeport, Texas, (Dow) seeks a permanent waiver of compliance with the requirements of Part 223 for three locomotives. These locomotives are used exclusively in captive service to perform switching within two plants and are also operated over two short segments (one 800 feet and the other one-half mile in length) of Missouri Pacific Railroad track (Mopac). Except for this Mopac trackage, the locomotives are operated entirely within the confines of the Dow plants, which are always under the surveillence of the Dow Industrial Security Department. Since these locomotives are not exposed to acts of vandalism, Dow believes that the requirement to retrofit them should be waived.

Mary Lee Railroad

(Waiver Petition No. RSGM–82–22)

The Mary Lee Railroad of Birmingham, Alabama, seeks a permanent waiver of compliance with the requirements of Part 223 for its four locomotives. These locomotives are operated primarily inside a Jim Walters Resources installation but are also operated over 13 miles of Louisville and Nashville Railroad track. The Mary Lee Railroad has not experienced any damaged windows due to vandalism since it began operations in 1924.

Amherst Industries, Inc.

(Waiver Petition No. RSGM–82–23)

Amherst Industries, Inc. of Landisville, Pennsylvania, seeks a permanent waiver of compliance with Part 223 for its single locomotive. The locomotive operates over less than two miles of track in a rural area of Lancaster County, Pennsylvania. Since this area has a limited vandalism history, Amherst believes the retrofitting of this locomotive with safety glazing is not necessary for safety and would not be cost beneficial.

Maryland Midland Railway Company

(Waiver Petition Docket No. RSGM–82–24)

The Maryland Midland Railway Company seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives and two passenger cars, which are operated in a rural area over 18 miles of track owned by the State of Maryland. No acts of vandalism have been experienced.

Terminal Railroad Association of St. Louis

(Waiver Petition No. RSGM–82–25)

The Terminal Railroad Association of St. Louis (TRRA) seeks a permanent waiver of compliance with Part 223 for forty cabooses. During the past twenty years, TRRA has experienced only four minor personal injuries due to foreign objects penetrating a caboose window or door and none during the past eight years. TRRA contends that it cannot afford the expenditure of more than $40,000 to retrofit these cabooses and intends in the near future to phase out the use of cabooses in its operations. Moreover, its employees and their labor representatives prefer the old glazing over the required safety glazing that has been installed on two cabooses.

Pocono Northeast Railway, Inc.

(Waiver Petition No. RSGM–82–26)

The Pocono Northeast Railway seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives. These locomotives are operated in Luzerne County, Pennsylvania, over lines formerly operated by Conrail. The railroad has a low operating budget. The cost of retrofitting these locomotives with safety glazing would be high and no benefits would be realized since the railroad has no vandalism problem.

Roblin Steel Company

(Waiver Petition Docket No. RSGM–82–27)

The Robin Steel Company of North Tonawanda, New York seeks a permanent waiver of compliance with the requirements of Part 223 for its two locomotives. Except for a weekly movement over ¼ mile of Conrail track, these locomotives are operated exclusively within a facility that is completely fenced and patrolled by a security service. Roblin contends that modifying these locomotives is economically infeasible and would not produce any safety benefit.

The Apache Railway Company

(Waiver Petition No. RSGM–82–28)

The Apache Railway Company of Snowflake, Arizona, seeks a permanent waiver of compliance with the requirements of Part 223 for three of its seven locomotives. These locomotives are operated in consists of up to five units over 45 miles of track located in a rural area that has a very low population and has no history or rock throwing or firearm related vandalism. The three locomotives are older locomotives and are usually placed in the middle of the consist. Since the lead or controlling locomotive unit of each train is one of the four locomotive units equipped with safety glazing, the crew members are provided the protection prescribed in Part 223.

Batten Kill Railroad

(Waiver Petition No. RSGM–82–29)

The Batten Kill Railroad of Greenwich, New York, seeks a permanent waiver of compliance with the requirements of Part 223. Its operations are confined to a rural area in Washington County of upstate New York where acts of vandalism are very rare. It contends that it cannot afford the cost of a retrofit.

Green Bay & Western Railroad Company

(Waiver Petition No. RSGM–82–30)

The Green Bay & Western Railroad Company requests an indefinite temporary waiver of compliance with the requirements of Part 223 because of financial difficulties and shortage of labor force. Installation of cab safety glass has been completed in seventeen units and safety glass side windows have been installed in all of its twenty-four units.

Soo Line Railroad Company

(Waiver Petition No. RSGM–82–31)

The Soo Line Railroad Company (Soo Line) seeks a permanent waiver of compliance with the requirements of Part 223 for four locomotives used exclusively in snow plow service. Since it plans to retire these locomotives in a few years, Soo Line believes that "the benefit received from the expense of installing new safety glazing would not be realized".

(Sec. 202 of the Federal Railroad Safety Act of 1970, 84 Stat. 97 (45 U.S.C. 431) and § 1.49(m) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(m))

Issued in Washington, D.C., on January 14, 1983.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 83–1886 Filed 1–19–83; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

Public Proceeding Regarding Defect Investigation: 1980 X-Body Front Wheel Drive Vehicles Manufactured by General Motors Corporation

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (Pub. L. 93–492, 88 Stat. 1470; October 2, 1974), 15 U.S.C. 1412 (the Act), the Associate Administrator for Enforcement, National Highway Traffic Safety Administration (NHTSA), has made an initial determination that a safety-related defect exists in the rear braking system of certain Chevrolet Citation, Pontiac Phoenix, Oldsmobile Omega and Buick Skylark vehicles also know as X-body vehicles, manufactured by General Motors Corporation in the 1980 model year. A NHTSA investigation indicates that the subject vehicles' rear brakes tend to lock up in moderate to hard braking action which may cause the vehicles to spin out of their lanes or otherwise lose control. The initial determination includes all such vehicles equipped with automatic transmissions and manufactured prior to May 1, 1979; and all 1980 vehicles equipped with manual transmissions. Both of these groups of vehicles are equipped with similar rear brake shoe linings which may contribute to the apparent defect. In addition, a recall campaign conducted by General Motors, which covered the 1980 manual transmission vehicles manufactured prior to August 29, 1979, may not have met the statutory requirements for notification and remedy. The number of that recall campaign is 81V-095.

NHTSA will hold a public proceeding pursuant to sections 152 and 156 of the Act at 10:00 a.m. on February 14, 1983, in Room 2230 of the Department of Transportation Headquarters, 400 Seventh Street, SW., Washington, D.C. 20590, at which time General Motors Corporation will be afforded an opportunity to present data, views and arguments regarding the initial determination of defect and the apparent inadequacy of campaign number 81V-095.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Ms. Joyce Tannahill, Office of Defects Investigation, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 5326, Washington, D.C., 20590 (telephone (202) 426–2850) before close of business on January 31, 1983.

The agency's investigative file in this matter is available for public inspection during regular working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Library, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued on January 14, 1983.

(Secs. 152, 156, Pub L. 93–492, 88 Stat. 1470 (15 U.S.C. 1412, 1416); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8)

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 83–1601 Filed 1–19–83; 1:43 pm]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

During the period January 7 through January 13, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

- OMB Number: 1545–0080
  Form Number: 3672 and 3672A
  Title: Application for Approval of Master or Prototype Defined Contribution Plan for Self-employed Individual/Defined Benefit Plan
  OMB Reviewer: Michael Abrahams, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Alcohol, Tobacco and Firearms

- OMB Number: 1512–0061
  Form Number: ATF F 703 (5120.23)
  Title: Transfer of Wine in Bond
- OMB Number: 1512–0175
  Form Number: ATF F 4027 (5150.11)
  Title: Limited Withdrawal Permit to Produce Specially Denatured Alcohol or Tax-Free Alcohol
- OMB Number: 1515–0199
  Form Number: ATF F 5110.30
  Title: Drawback on Distilled Spirits Exported
- OMB Number: 1512–0158
  Form Number: ATF F 3019 (5130.13)
  Title: Process for Concentration or Reconstitution of Beer
- OMB Number: 1512–0124
  Form Number: ATF F 2051 (5130.5)
  Title: Record of Brewer Operations
- OMB Number: 1512–0188
  Form Number: ATF F 5100.1
  Title: Signing Authority for Corporate Officials
- OMB Number: 1512–0077
  Form Number: ATF F 1512 (5150.14)
  Title: Application Permit to Produce Sample of Specially Denatured Spirits
- OMB Number: 1512–0079
  Form Number: ATF F 1534 (5000.8)

Title: Power of Attorney
• OMB Number: 1512–0186
Form Number: ATF F 5000.12
Title: Application for Enrollment to Practice Before ATF
• OMB Number: 1512–0218
Form Number: ATF F 5120.36
Title: Withdrawal of Wine Spirits to Bonded Wine Cellar
• OMB Number: 1512–0156
Form Number: ATF F 2987 (5210.8)
Title: Computation of Tax and Agreement to Pay Tax on Puerto Rican Cigars and Cigarettes
OMB Reviewer: Arnold Strasser, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joy Tucker,

Departmental Reports Management Officer.

January 14, 1983.

[FR Doc. 83–1588 Filed 1–19–83; 8:45 am]

BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

Book and Library Advisory Committee Meeting

The third meeting of the Book and Library Advisory Committee, originally scheduled for January 28, 1983, has been postponed until Friday, February 25. The meeting will be held in Conference Room 600, 1750 Pennsylvania Ave. NW., Washington, D.C., from 9:00 a.m. to 1:00 p.m. The agenda will include a review of the FY 1983 budget, the Five-Year Plan, the Agency's library collections, and a discussion of the book selection process. (The first hour will be devoted to old business.)

Mary Jane Winnett,

Management Assistant, Management Plans, Analysis, and Directives Staff, Bureau of Management.

[FR Doc. 83–1578 Filed 1–19–83; 8:45 am]

BILLING CODE 8230-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Services Policy Advisory Committee; Meeting and Determination of Closing of Meeting

The meeting of the Services Policy Advisory Committee (SPAC) (the Advisory Committee) to be held Friday, January 28, 1983, from 9:30 a.m. to 12:00 noon at the Federal Home Loan Bank Board, Board Room, will involve a review and discussion of the current issues involving the trade policy of the United States. The review and discussion will deal with information submitted in confidence by the private sector members of the Committee under Section 135(g)(1)(A) of the Trade Act of 1974, as amended, (the Act); information submitted by government officials under Section 135(g)(2) of the Act the disclosure of which could be reasonably expected to prejudice United States negotiating objectives; information the disclosure of which would be likely to significantly frustrate implementation of proposed government action; and information properly classified pursuant to Executive Order 12356 and specifically required by such Order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have all necessary security clearances. Consistent with previous determinations concerning other advisory committees, established under Section 135(c) of the Act, I hereby determine that the meeting of the Advisory Committee will be concerned with matters listed above and with matters listed in Section 552b(c) of Title 5 of the United States Code. Therefore, the meeting of the Services Policy Advisory Committee will be closed to the public.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 83–1542 Filed 1–19–83; 8:45 am]

BILLING CODE 3190-01-M

VETERANS ADMINISTRATION

240-Bed Nursing Home Care Unit, Veterans Administration Medical Center, Lyons, New Jersey; Finding of No Significant Impact

The Veterans Administration has assessed the potential environmental impacts that may occur as a result of the construction of a 240-Bed Nursing Home Care Unit (NHCU) at the Veterans Administration Medical Center (VAMC) Lyons, New Jersey. The VAMC at Lyons is eligible for listing on the National Register of Historic Places.

The NHCU project will provide new construction for 240 beds for long term care. The proposed project will aid in meeting the identified need for additional and replacement beds within VA Medical District 4. The proposed action will consist of a two-story structure built with associated parking for possibly 80 automobiles. A limited amount of exterior recreational area would also be constructed as identified within the project scope. The NHCU will be developed based on the latest projections for need in the demographic area.

Project alternatives have been considered in the project planning to date. Two different project locations were analyzed along with the "No Action" alternative. Location No. 1 involves a large expanse of gently sloping land southeast of Building No. 1 with a small grove of trees nearby. Site Location No. 2 includes open, slightly rolling fields with a few minor trees.

The "No Action" alternative would sustain all facilities as they are with only continued yearly maintenance. No offsite construction alternative was considered, primarily because available site area for development exists at the VAMC.

Development of the project will have impacts on the human and natural environment affecting open space and air quality. Additionally, architectural significance of existing structures, near the project locations, will require consideration be given to the project's visual impact. Consultation will occur with the State Historic Preservation Officer (SHPO) and this agency.

Mitigation will occur during project development. Construction contract documents will include Environmental Protection specifications, section EP, which specifically addresses the action which will be undertaken to avoid adverse environmental effects and the impacts identified above. Design compatibility of both building form and materials will be achieved.

Findings conclude the proposed action will not cause a significant effect on the physical and human environment and, therefore, does not require preparation of an Environmental Impact Statement.

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs, (088C), Room 423, Veterans Administration, 811 Vermont Avenue, NW., Washington, D.C. 20420, (202–389–3316). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: January 14, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 83-1548 Filed 1-19-83; 8:45 am]

BILLING CODE 8320-01-M

Pay and Work Schedules for Nurses and Certain Other Health-Care Personnel

AGENCY: Veterans Administration.

ACTION: Public notice and request for comment.

SUMMARY: The Veterans Administration is publishing for public notice and comment a proposed VA Circular to implement section 2 of the Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982 (Pub. L. 97-251) concerning the pay and work schedules for nurses and certain other health-care personnel. Under the law, the Administrator of Veterans' Affairs may take the following actions in order to obtain or retain the services of certain health-care personnel in the Department of Medicine and Surgery: (1) Increase rates of additional pay, commonly referred to as premium pay, for nurses and certain other health-care personnel on a nationwide, local, or other geographic basis; (2) Extend additional pay for Sunday work to all or part of a Saturday tour of duty for nurses and certain other health-care personnel on a nationwide, local, or other geographic basis; and (3) Provide that nurses who work two regularly scheduled 12-hour tours of duty in the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered, for most purposes, to have worked a full 40-hour basic workweek. Section 2(d) also requires the Administrator to publish policies in the **Federal Register** to implement subsection (g) of section 4107 of title 38, United States Code, which grants the Administrator authority to increase the minimum, intermediate, or maximum rates of basic pay for Department of Medicine and Surgery employees providing direct patient care or services incident to direct patient care, in order to obtain or retain services which would not otherwise be available to veterans.

DATE: Comments must be received on or before February 22, 1983.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed circular to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection only at the Veterans Administration Central Office, Veterans Services Unit, Room 132, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until March 8, 1983.

FOR FURTHER INFORMATION CONTACT: Charles J. Kelley, Director, Salary and Wage Administration Service, (202) 389-2226.

SUPPLEMENTARY INFORMATION: This publication contains a proposed VA Circular entitled "Pay and Work Schedules for Nurses and Certain Other Health-Care Personnel." The proposed circular is to be implemented after public comments have been received and VA has met its labor relations obligations under chapter 71 of title 5, United States Code. However, notwithstanding the above, the policies in this circular when finalized shall be effective on or before July 5, 1983, as required by section 2(d)(2) of Pub. L. 95-251. Veterans Administration Department of Medicine and Surgery nurses, physician assistants, and expanded-function dental auxiliaries receive additional pay for overtime service, for service on night tours of duty, for on-call service outside of regular duty hours, and for service on Sundays and holidays in accordance with section 4107(e) of title 38, United States Code. Sections (2) (a) and (b) of Pub. L. 97-251 allow the Administrator to increase these additional rates of pay and extend additional pay for Sunday service to all or part of a Saturday tour of duty on a nationwide, local, or other geographic basis when such actions are necessary to obtain or retain the services of the above personnel. Under Pub. L. 97-251, additional rates of pay may be increased to an amount competitive with, but not exceeding, the same type of pay that is paid to the same category of employees at non-Federal health-care facilities in the geographic area involved.

Extensions of additional pay for Sunday work to all or part of a Saturday tour of duty may be made when the Administrator determines that an extension is justified on the basis of a review of the need for such an extension in such geographic area. Section 4107(h) of title 38, United States Code also authorizes the Administrator, when necessary to obtain or retain the services of nurses, to provide, within specific limitations, that nurses who work two regularly scheduled 12-hour tours of duty commencing at midnight Friday and ending at midnight the following Sunday shall be considered, for most purposes, to have worked a full 40-hour basic workweek. This is commonly referred to as the "Baylor Plan." The Administrator may also increase the minimum, intermediate, or maximum rates of basic pay for Department of Medicine and Surgery employees who provide direct patient care or services incident to direct patient care in order to obtain or retain services which would not otherwise be available to veterans. These rates may be approved on a nationwide, local, or other geographic basis in accordance with section 4107(g) of title 38, U.S.C. (Section 112, Pub. L. 96-330, August 26, 1980, 94 Stat. 1037). Typically, salary rates above the regular pay schedules are authorized when non-Federal pay levels affect the ability of the VA to recruit and retain well-qualified employees.

The policies contained in this proposed circular are not being proposed for inclusion in the Code of Federal Regulations, since they only regulate internal pay administration and work scheduling practices within the Department of Medicine and Surgery. In addition, these matters relate to Agency management and personnel, and as such are generally exempt from the Administrative Procedures Act (5 U.S.C. 551, et seq.).

Approved: January 14, 1983.

Everett Alvarez, Jr.,

Deputy Administrator.

Circular 00-83-____

Date:_____

Pay and Work Schedules for Nurses and Certain Other Health-Care Personnel

1. Purpose. The Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982 (Section 2(d), Public Law 97-251) requires the VA to issue policies concerning its authority to approve higher additional rates of pay (i.e. premium pay) and additional pay for Saturday work under 38 U.S.C. 4107(e)(10), increased minimum intermediate and maximum rates of basic pay for Department of Medicine and Surgery employees under 38 U.S.C. 4107(g), and policies concerning use of the Baylor Plan under 38 U.S.C. 4107(h).

2. Definitions. For the purposes of this circular, the following definitions shall apply:

a. "Above-minimum entrance rate" means an increase in the minimum rate of basic pay for a grade with no corresponding increase in higher intermediate rates or the maximum rate of pay for the grade.

b. "Additional pay" means an additional rate of pay authorized under 38 U.S.C. 4107(e) (2) through (8) and (10). These are night pay, Sunday pay, holiday pay, overtime pay, Saturday pay, and pay for employees scheduled to be on-call outside their regular duty hours or on a holiday.

c. "Additional pay for Saturday work" means additional pay for all or part of a tour of duty within the period commencing at midnight Friday and ending at midnight Saturday.

d. "Baylor Plan" means two regularly scheduled 12-hour tours of duty contained entirely within the period commencing at midnight Friday and ending at midnight the following Sunday.

e. "Hourly rate of pay" means:

(1) For service on the Baylor Plan, the hourly rate of pay equals the annual rate of basic pay to which the employee is entitled divided by one thousand two hundred and forty-eight (1,248).

(2) For all other service, the hourly rate of basic pay equals the annual rate of basic pay to which an employee is entitled divided by two thousand and eighty (2,080).

f. "Nurse" means a nurse or nurse anesthetist appointed under 38 U.S.C. 4104(1) or 4114(a)(1)(A).

g. "Special salary rate range" means the increased minimum, intermediate and maximum rates of basic pay for a grade established under 38 U.S.C. 38 U.S.C. 4107(g).

h. "Workweek" means a period of seven (7) consecutive calendar days which shall coincide with the calendar week, Sunday through Saturday.

3. ABOVE MINIMUM ENTRACE RATES AND SPECIAL SALARY RATE RANGES FOR DEPARTMENT OF MEDICINE AND SURGERY EMPLOYEES

a. Scope. The Administrator may increase minimum, intermediate and maximum rates of basic pay for:

(1) Physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants, and expanded-function dental auxiliaries appointed under 38 U.S.C. 4104(1) or 4114(a)(1)(A);

(2) Department of Medicine and Surgery employees paid under the General Schedule who are providing direct patient care services or services incident to direct patient care.

b. Applicability. Increased minimum, intermediate, or maximum rates of basic pay may be approved on a nationwide, local or other geographic basis and may only be used to:

(1) Assist in the recruitment and retention of well-qualified employees where there is evidence of recruitment and retention problems which are being cause by higher non-Federal rates of pay;

(2) Provide basic pay in amounts competitive with, but not exceeding, the amount of the same types of pay to the same category of health-care personnel at non-Federal health-care facilities in the same labor market;

(3) Achieve adequate staffing at particular facilities; or

(4) Recruit personnel with specialized skills, especially those which are difficult or demanding.

c. Submission of Requests and Approval Authority

(1) Requests for above-minimum entrance rates and special salary rate ranges will be submitted, approved, adjusted or terminated in accordance with criteria established by the Administrator.

(2) If the Administrator proposes to increase the minimum, intermediate or maximum rates of basic pay for DM&S General Schedule employees, that proposal shall be forwarded to the President, or designee, who has 90 days to review such proposed approvals.

d. Review of Adjustments. Above-minimum entrance rates and special salary rate ranges authorized under this paragraph shall be reviewed for continued need in accordance with criteria established by the Administrator.

4. Increase in Additional Rates of pay and Additional Pay for Saturday Work

a. Scope and Applicability. The Administrator is authorized to increase additional rates of pay (i.e., premium pay) and extend additional pay for Sunday work to all or part of a Saturday tour of duty, for nurses, physician assistants, and expanded-function dental auxiliaries, or any category of these employees, when necessary to obtain or retain their services. Such increases may be approved for any specific Veterans Administration health-care facility and may be made on a nationwide, local, or other geographic basis.

b. Submission of Requests and Approval authority. Increased rates of additional pay, and extensions of additional pay to all or part of a Saturday tour of duty, shall be requested, approved, adjusted and discontinued in accordance with criteria established by the Administrator.

5. Baylor Plan

a. Scope and Applicability. The Administrator is authorized to provide that nurses who work two regularly scheduled 12-hour tours of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered to have worked a full 40-hour workweek (except for the computation of FTEE for personnel ceiling purposes). The Administrator may futher provide that nurses working under the Baylor Plan may be paid overtime for all or part of the actual hours of officially ordered and approved service in excess of 40 hours in a workweek, if such an action is necessary to recruit and retain nurses.

b. Submission of Requests and Approval Authority

(1) Requests to use the Baylor Plan, and requests for nurses on the Baylor Plan to receive overtime pay for all or part of the actual hours of officially ordered or approved service in excess of 40 hours in a workweek, are to be submitted by facility Directors through appropriate channels to the Administrator for approval.

(2) The Administrator may:

(a) Authorize the use of the Baylor Plan when necessary to obtain or retain the services of nurse;

(b) Authorize the payment of overtime for all or part of the actual amount of officially ordered and approved overtime service in excess of 40 hours in a workweek. Tours of duty under the Baylor Plan will be computed on an hour-for-hour basis in computing the actual amount of service under this subparagraph;

(c) Discontinue the use of the Baylor Plan at any Veterans Administration health-care facility.

c. Miscellaneous Provisions

(1) Holidays. A nurse on the Baylor Plan shall not excused from duty as result of a holiday.

(2) Hourly Rate of Basic Pay. The hourly rate of basic pay for employees covered by this paragraph shall be computed in accordance with paragraph 2(e) above.

(3) Leave Charges. A nurse on the Baylor Plan who is on approved annual or sick leave during a regularly scheduled 12-hour weekend tour of duty shall be charged five hours of leave for each three hours of absence. A nurse on the Baylor Plan shall not, however, be charged leave for absences on any other tour of duty.

(4) Additional Rates of Pay:

(a) A nurse is not entitled to any additional pay for service performed on a regularly scheduled 12-hour tour of duty under the Baylor Plan;

(b) A nurse is entitled to overtime pay under 38 U.S.C. 4107(e)(5), or other applicable law, for performing officially ordered and approved service as follows:

1. Service in excess of 24 hours within the period commencing at midnight Friday and ending at midnight the following Sunday.

2. Service in excess of eight (8) hours on a day other than Saturday or Sunday.

3. Service in excess of 40 hours in a workweek when authorized under this paragraph.

(c) A nurse who performs service outside a regularly scheduled 12-hour weekend tour of duty under the Baylor Plan shall be entitled to additional pay under 38 U.S.C. 4107(e)(2) through (4), (6) through (8) and (10).

(d) Computation of additional rates of pay under subparagraphs (2) and (3) of this paragraph shall be based on the hourly rate of pay as defined in paragraph 2(e).

6. Effective Date. This circular shall not be effected until public comments have been received and the VA has met its labor relations obligations under chapter 71, title 5, United States Code. However, notwithstanding the above, this circular shall be effective on or before July 5, 1983, as required by section 2(d)(2) of Public Law 97-251.

7. Rescission: This circular expires July 31, 1984.

[FR Doc. 83-1547 Filed 1-19-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 14
Thursday, January 20, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 17, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

APPLICATION OF United Mutual Savings Bank, Tacoma, Washington, for consent to transfer certain assets to Tri-Cities Savings & Loan Association, Kennewick Washington, in consideration of the assumption of liabilities for deposits made in the Richmond, Walla Walla and Yakima branches of United Mutual Savings Bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,566–L–Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Case No. 45,569–NR (Amended)—United States National Bank, San Diego, California

Memorandum and Resolution re: United States National Bank, San Diego, California

The board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: January 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–79–83 Filed 1–18–83; 3:39 pm]

BILLING CODE 6714–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, January 17, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Request of Suburban Bank, Bethesda, Maryland, for an exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks."

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

By the same majority vote, the Board also voted to withdraw from the agenda for consideration in open session and to add to the agenda for consideration at the Board's closed meeting held at 2:30 p.m. the same day, the following matter:

Application of Bossier Bank and Trust Company, Bossier City, Louisiana, for consent to establish a branch at 2950 East Texas Street, Bossier City, Louisiana.

In voting to move this matter from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matter in a meeting open to public observation; that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)); and that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: January 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–80–83 Filed 1–18–83; 3:39 pm]

BILLING CODE 6714–01–M

3

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 2097, Monday, January 17, 1983.

PLACE: Board room sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board meeting scheduled Thursday, January 20, 1983 at 10 a.m.:

Branch Office Approval

[No. 4, January 18, 1983]

[S–81–83 Filed 1–18–83; 3:42 pm]

BILLING CODE 6720–01–M

4

FOREIGN CLAIMS SETTLEMENT COMMISSION

[Meeting Notice No. 2–83]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time and Subject Matter

Oral hearings on objections to decisions issued under the second Czechoslovakian Claims Program:
Monday, January 31, 1983 at 9:30 a.m.
CZ–4346—Frederick Wyman/Thomas G. Wyman
CZ–4349—Frederick Wyman/Frank H. Wyman
CZ–4352—Hans Wyman/Henry, Ralph and Russell
CZ–4347—Ella and Frank H Wyman
CZ–4348—Ella and Thomas G. Wyman
CZ–3548—Francis L. Prybergh (Estate); Geraldine F. Yarroll, Administratrix
Monday, January 31, 1983 at 2:00 p.m.
CZ–2977—Eric Walter Weismann
CZ–4113—Mary Dayton
CZ–4123—Paul Dayton
Tuesday, February 1, 1983 at 9:30 a.m.
CZ–2382—Frank P. Lester
CZ–2383—Elizabeth Weinberger
CZ–4190—Eric K. Petschek
CZ–4191—Ruth Petschek Stein
CZ–2454—Joseph Saxton, Andrew Barton and Stephen J. Kuffler
Tuesday, February 1, 1983 at 2:00 p.m.
CZ–3362—Blanka Maria Neumann
CZ–2117—Gertrude Dennis
CZ–2118— Estate of Elsa Pollak, Deceased
CZ–3891—Estate of Ernest T. Smolka, Deceased; William W. Reiner, Successor Executor
Wednesday, February 2, 1983 at 9:30 a.m.
Consideration of decisions issued under the Vietnam Prisoner of War Claims Program.
Wednesday February 2, 1983 at 9:30 a.m.
Hearing on the Record:
CZ–4406—Emmy Molles
CZ–4419—Edith Durand
CZ–3687—Gertrude M. Farno
Wednesday, February 2, 1983 at 9:30 a.m.
Petition to Reopen:
CZ–3015—Gordon Atter Poppere
CZ–2666—Walter L. Speyer
CZ–2667—Ernest A. Speyer
Wednesday, February 2, 1983 at 2:00 p.m.
CZ–2368—Estate of Charles Stiassni, Deceased
CZ–2369—Joseph Stiassni
CZ–4834—Susan Martin, Assignee of Alfred and Hermine Stiassni
CZ–3384—Marie Kreysa Melvin
Thursday, February 3, 1983 at 10:00 a.m.
CZ–4809—Estate of William Petschek, Deceased; Charles Petschek and Ralph E. Lowenberg, Executors
CZ–4810—Estate of Frank C. Petschek, Deceased; Maria Smith, Janina Petschek and Elizabeth De Picciotto Executrixes
CZ–4811(a)—Charles Petschek, Deceased; Charles, Max, Thea and Thomas Petschek, Trustees
CZ–3812—Estate of Ernest Petschek, Deceased; Annelise Fitzgerald, Successor Executrix
CZ–4811—Estate of William Petschek, Deceased
CZ–4813—Charles Petschek and Ralph E. Lowenberg, Executrixes, Estate of Frank C. Petschek and Elisabeth De Picciotto, Executrixes, Trust Under article "third" of the Will of Charles Petschek, Deceased; Charles I. Petschek, Max L. Petschek, Thea and Thomas Petschek, Trustee.
Thursday, February 3, 1983 at 2:00 p.m.
Friday, February 4, 1983 at 9:30 a.m.
Completion of hearings on objections and matters continued from previous agendas and matters under submission.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111—20th Street, NW., Room 409, Washington, DC 20579. Telephone: (202) 653–6155.

Dated at Washington, DC, on January 16, 1983.

Judith H. Lock,

Administrative Officer.

[S–76–83 Filed 1–18–83; 2:30 pm]

BILLING CODE 4410–01–M

5

INTERNATIONAL TRADE COMMISSION

[USITC SE–82–01A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 370 January 4, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, January 19, 1983.

CHANGES IN THE MEETING: Emergency notice of change in location of the meeting.

By action Jacket SE–83–01, approved January 18, 1983, the United States International Trade Commission, voted to change the location of the meeting for Wednesday, January 19, 1983, from room 117 to the Hearing Room due to public interest in the briefing and vote on Item No. 5 (Investigation TA–201–47 (Motorcycles and Motorcycle Power Train Subassemblies)—briefing and vote). There are no other changes to the agenda.

Commissioners Eckes, Stern, and Haggart determined by recorded vote that Commission business requires the change in scheduling, affirmed that no earlier announcement of this change was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–82–83 Filed 1–18–83; 3:48 pm]

BILLING CODE 7020–02–M

6

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–1]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 1143, January 10, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, January 11, 1983.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following item was deleted from the agenda:

3. *Board Position* on Ultralight Vehicle Accedents.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

January 17, 1983.

[S–74–83 Filed 1–17–83; 4:54pm]

BILLING CODE 4910–58–M

7

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–83–2]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 769, January 6, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, January 13, 1983.

CHANGE IN MEETING: A majority of the Board determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. The following item was discussed in open session:

3. *Board Position* on Ultralight Vehicle Accidents.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

January 17, 1983.

[S–75–83 Filed 1–17–83; 4:54 pm]

BILLING CODE 4910–58–M

8

PAROLE COMMISSION

[3P0401]

AGENCY HOLDING MEETING: United States Parole Commission.

TIME AND DATE: 9:30 a.m. to 2:30 p.m., Wednesday, January 26, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: 1. Appeals to the Commission of approximately 8 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S–76–83 Filed 1–18–83; 2:29 pm]

BILLING CODE 4410–01–M

9

PAROLE COMMISSION

[3P0401]

AGENCY HOLDING MEETING: United States Parole Commission.

TIME AND DATE:

2:30 p.m.—5:30 p.m., Wednesday, January 26, 1983;

9:00 a.m.—5:30 p.m., Thursday and Friday, January 27 and 28, 1983.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting of October 21 and 22, 1982.
2. Reports from the Chairman, Vice Chairman, Commissioners, General Counsel, Director of Research, Case Operations, and Administrative Section.
3. Consideration of a proposed revision of the Commisson's rules at 28 CFR 2.40 concerning search and seizure.
4. Consideration of a proposed rule at 28 CFR 2.61 concerning inmate representatives.
5. Workload and Delegation Report.
6. Original Jurisdiction decisions following Statutory Interim Hearings.
7. Designation of Orignial Jursidiction Cases.
8. Waiver of Hearings.
9. Procedures at 28 CFR 2.24–08 concerning duplicate reasons.
10. Community Service.
11. Feedback from recent training sessions.

CONTACT PERSON FOR MORE INFORMATION: Mr. Peter B. Hoffman, Director of Research, United States Parole Commission (301) 492–5980.

[FR Doc. S–77–83 Filed 1–19–83; 2:29 pm]

BILLING CODE 4410–01–M

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federal register

Thursday
January 20, 1983

Part II

Department of Transportation

Research and Special Programs Administration

Exemption and Enforcement Procedures and Related Miscellaneous Provisions

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 106, 107, 171, and 173

[Docket No. HM-138A; Amdt. Nos. 106-4, 107-11, 171-70, 173-161]

Exemption and Enforcement Procedures and Related Miscellaneous Provisions

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: The amendments adopted herein make changes, both substantive and editorial, in the procedures used by MTB in administering its exemption and enforcement programs. Principal changes involve enhancing the enforcement of exemptions; recodifying the enforcement procedures to remove redundancies and improve the process for both respondents and MTB; and clarifying definitions, statements of applicability, and key terms, prohibitions, and sanctions.

DATE: The changes adopted in these amendments are effective on March 1, 1983.

FOR FURTHER INFORMATION CONTACT: George W. Tenley, Jr. Office of the Chief Counsel, Research and Special Programs Administration, Washington, D.C. 20590, Telephone (202) 755-4973.

SUPPLEMENTARY INFORMATION: These amendments are based on proposals made in Notice 81-6 (46 FR 47091; September 24, 1981). A Total of 21 commenters responded to the Notice, representing 10 trade associations, 7 corporations, 3 Federal agencies, and one state agency. The majority of the comments were well developed and in several cases offered alternative approaches or language. Consequently, several important changes have been made to the proposals in the Notice. These changes take the form of additional clarifying information, or a return to previous provisions in lieu of specific proposals. The following section-by-section analysis discusses the comments, the changes made in response to them, and reason for not making some of the changes suggested.

Part 107

Subpart A—General Provisions

Section 107.13. One commenter suggested that the reference in paragraph (a) to the "official designated to preside over a hearing" be changed to include a reference to an administrative law judge. The change has not been made since § 107.13 is a general section which includes other proceedings, in addition to enforcement hearings, which would not necessarily be conducted by an administrative law judge.

The same commenter stated that paragraph (h) should provide that an application to quash or modify an administrative subpoena issued under § 107.13 be submitted to an official other than the person who issued the subpoena. MTB does not agree. The person who issued the subpoena is in the best position to correctly and expeditiously weigh the reasons to quash or modify against the reasons on which he or she relied in issuing the subpoena.

Subpart B—Exemptions

Section 107.109. In responding to paragraph (c)(1), three commenters expressed concern that MTB's efforts to cull out at the application stage exemption requests based on false or misleading statements could lead to denials where the statements or omissions were the result of inadvertency or were so inconsequential as to have no bearing on the merits of the application. MTB agrees that the proposed language could be misunderstood and has adopted the change suggested by two commenters that the words "false" and "misleading" be qualified by the word "materially," so that an exemption will be denied under paragraph (c)(1) only when the information in question relates directly and substantially to the requirements prescribed in § 107.103.

Section 107.119. Of all the proposals in the Notice, none received more adverse comments than those relating to exemption amendment and suspension (paragraph (b)(2)) and exemption termination (paragraph (c)(4)). After reviewing the 11 comments received, in light of the intent of the proposals and the enforcement needs of MTB, § 107.119 has been changed substantially from the proposals in the Notice.

Recognizing, as the comments point out, the potential unfairness and operational hardship that could result from action against an exemption holder based on enforcement actions not necessarily involving the exemption or not yet resolved, proposed paragraphs (b) and (c) have been redone to substantially reflect current language. A new paragraph (e) has been added to provide the Associate Director for HMR with the enforcement tool which MTB still believes is necessary for oversight of operations conducted under exemptions. As adopted, paragraph (e) permits the Associate Director for HMR to refer an exemption to the Associate Director for OOE for initiation of an enforcement case based on that exemption. If the enforcement case results in a finding of violation against the holder or a party to the exemption, the Associate Director for HMR could use that finding as a basis for amending, suspending, or terminating the exemption as to the exemption holder or party involved.

This approach should be an appropriate response to those commenters who felt that paragraphs (b) and (c) would have permitted the Associate Director for HMR to take action against one exemption for alleged failure to comply with other exemptions or other unrelated regulatory provisions.

Subpart D—Enforcement

Section 107.229. Although only four comments were addressed to the proposed definition of "knowledge" or "knowingly," they reflect generally a disagreement either as to the need for the definition or the approach used. Two commenters stated that basing the definition in part on *United States v. International Minerals and Chemical Corporation*, 402 U.S. 558 (1971), was improper because, as one commenter argued, under that case ignorance could be a defense, or as stated by the other commenters, the Hazardous Materials Transportation Act was not involved in the *International Minerals* case.

Notwithstanding those comments opposed to the definition, MTB believes that it is appropriate to include a definition of this critical concept in the enforcement procedures. However, MTB recognizes that modification of the proposed definition is necessary. Accordingly, these amendments to Part 107 adopt a definition of these key terms which is simpler than that proposed while still addressing a point raised in the vast majority of enforcement proceedings held to date, i.e., the respondent's inadvertency and lack of intent to violate the regulations.

Section 107.301. Although the proposed change to paragraph (e) was not discussed in the preamble to the Notice, and was only provided to describe the jurisdiction of the various modal administrations in DOT having hazardous materials enforcement responsibilities, three commenters opposed its adoption. The proposal was included to reflect the fact that MTB has an overlapping and secondary jurisdiction over shipments which move by more than one mode of transportation. Although the range of this jurisdiction is theoretically large due to the fact that a large number of

hazardous materials shipments move by more than one mode of transportation, in fact and in practice the overlap is quite small, and through coordination with other DOT elements, does not burden regulated persons unreasonably. In response to the comments, and to clarify the enforcement jurisdiction of the MTB, this section has been changed to reference the delegation of authority cited in 49 CFR Part 1 (§ 1.53).

Section 107.305. One commenter contended that paragraph (a) relating to the authority of OOE to conduct investigations was overboard in its statement of OOE's investigative jurisdiction. In linking the actual extent of OOE's investigative jurisdiction with OOE's enforcement jurisdiction, the commenter states that OOE cannot investigate what it is not authorized to enforce. Although paragraph (a) was intended to reflect the investigation-enforcement relationship suggested by the commenter, MTB agrees that the clarity of this relationship could be improved. Accordingly, paragraph (a) has been emended to make specific reference to the delegations cited in 49 CFR Part 1.

Another suggestion by the same commenter concerning termination of an investigation under paragraph (d) also has been adopted. As amended, paragraph (d) requires OOE to notify a person who has been the subject of an investigation when the investigation is terminated.

Four comments were received concerning the confidentiality provision of paragraph (e). Three of those comments stated that the protection afforded respondents during the pendency of a case is undermined by the statement that confidentiality will be granted "unless otherwise determined by the OOE." Despite the fact that this language is currently in paragraph (e) and was thus not a part of the Notice, MTB agrees with the commenters that the provision should be amended to remove any reference to a discretion in OOE to deny confidentiality of information or persons identified in an investigation. However, it should be noted that OOE could be directed by a court in a given case to reveal information or identities granted confidentiality under paragraph (e).

Finally, MTB rejects the suggestion of one commenter that reference should be made in paragraph (e) to 18 U.S.C. 1905 concerning criminal sanctions for government employees who unlawfully disclose information arising out of investigations such as those authorized by § 107.305. It is not appropriate to place in these procedural requirements a citation to sanctions against Federal employees where such requirements apply independently of the enforcement program of MTB.

Section 107.307. MTB's reference in paragraph (a) to violation of an approval as a basis for enforcement action was criticized by two commenters. Arguing that failure to comply with the requirements of an approval is in essence noncompliance with the underlying regulation requiring the approval, these commenters contend that a person does not violate the approval and thus cannot be the subject of an enforcement action for an alleged failure to comply with an approval. MTB has reevaluated this proposal in light of these comments and believes that there is merit to their position. Recognizing that there is a fundamental difference between exemptions and approvals, MTB is persuaded that they cannot be treated in the same manner. As noted by one commenter, an approval is merely an extension of the regulation that establishes it, and as such the responsibility to comply is based on the regulation not the approval. Accordingly, it is appropriate as recommended by these commenters to delete the reference to approvals where appropriate throughout the proposals, and these changes have been adopted herein. However, it is important to note that failure to comply with a condition or term prescribed in an approval would be considered failure to comply with the underlying regulation requiring the approval, and could be the basis for an enforcement action.

Another commenter objected to paragraph (a) because "The revision essentially permits OHMR (sic) to assess a civil penalty or issue an order directing compliance without first taking the time to evaluate the nature of the violation." The point raised by this comment does not address a revision to paragraph (a), but rather deals with existing language. In addition, the commenter is incorrect in its view of what paragraph (a) authorizes the Associate Director for OOE to do. The paragraph merely authorizes the conduct of proceedings by which appropriate sanctions are determined and applied. Section 110(a) of the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 1809(a)) mandates the consideration of several assessment criteria before an order imposing a civil penalty may be issued. It is the proceeding which establishes the record on which a sanction is based.

Section 107.309. Only one commenter expressed any reservation concerning the proposal dealing with the issuance of warning letters. The commenter contends that the proposal is deficient because it provides no guidance to regulated persons as to circumstances under which warning letters would be issued in lieu of compliance orders or civil penalties. The preamble discussion of this proposal in the Notice gave an example of a typical situation in which a warning letter is frequently used. MTB believes that the preamble language is sufficient to describe generally how warning letters are used, and accordingly, has not made any changes to the proposal.

Section 107.311. One commenter recommended that this section be amended to include language requiring issuance of notices in a timely manner. The commenter states that delays between inspection and issuance of notices can exceed a year, and that such delays are per se prejudicial to the respondent. MTB disagrees strongly that delay between inspection and notice is "per se prejudicial." Clearly if a delay does adversely affect a respondent's ability to respond, that fact would be a relevant part of the respondent's defense to the allegations in the notice. At the conclusion of every inspection, the person inspected is put on notice during an exit interview as to any probable violations noted and the possible sanctions that could result. Given the small staff available to conduct inspections and the technical nature of the subject matter, delays are inevitable, but the OOE strives to keep them to a minimum. Accordingly, the suggested change to § 107.311 has not been made.

Another commenter argued that under paragraph (c), amendments to notices should be allowed only where the new information relates directly to the allegations in the original notice. In all other cases, OOE should have to issue a new notice based on new allegations. MTB believes this recommendation has merit, and paragraph (c) has been changed accordingly.

Section 107.313. As noted in the preamble to the Notice, one of the primary features of the proposals was elimination of redundancies between the procedures applicable to compliance orders and civil penalties. One aspect of that consolidation was the combining in one enforcement case of both a civil penalty and a compliance order. However, that proposal in paragraph (b) was objected to by a commenter who argued that even if such action was legal (which the commenter doubted), use of the proposed standard "where appropriate" was unclear and unreasonable. Furthermore, the commenter argued that in no event "should it be deemed 'appropriate' to

assess a civil penalty if the notice of probable violation has not proposed such penalty."

The decision as to which enforcement sanction to apply in a given matter can only be determined on a case-by-case basis. The responsibility of MTB in each case is to provide an adequate basis in the notice of probable violation to inform the respondent of the nature of the allegations and sanctions selected so he can respond effectively. As to the commenter's second point, the intent of the proposal was to provide for a double sanction in the notice, and MTB agrees that it should be made clear that in no case should a double sanction be applied at the order stage without having first been proposed at the time of the notice (or amended notice under § 107.311). Accordingly, a clarification has been added to paragraph (b).

Another commenter, noting the variation in enforcement procedures between the five administrations in DOT having enforcement responsibility under the HMTA, contends that the enforcement procedures proposed in Notice 81-6 do not make it clear that failure to request a hearing under this section and § 107.319 constitutes a waiver of the right to request a hearing. The commenter is correct in stating that any reply other than under paragraph (a)(3) and § 107.319 constitutes a waiver of the right to request a hearing. To clarify this fact, express waiver language has been added to paragraph (b).

Section 107.315. The only comment addressed to this proposal argued that it was deficient because it failed to deal with the possibility that a respondent may wish to admit some probable violations while denying others. MTB believes that a respondent in this position could, and is encouraged to, respond under §§ 107.313(a)(2) and 107.317 by making an informal response, or under §§ 107.313(a)(3) and 107.319 by requesting a hearing. Under either course, the case would proceed only with respect to those probable violations put at issue by the respondent.

Section 107.317. Although not specifically identifying the proposal, one commenter apparently opposed the provision that would require a respondent, as part of its request for an informal conference, to state which allegations are admitted and which are denied, as well as the issues that will be raised at the conference. The commenter stated that this requirement would frustrate what the commenter described as "settlement conferences."

It should be noted that the informal conference is not intended to be a settlement conference, although the discussion of that point could be relevant. Rather, the informal conference is an aspect of the informal response that is designed to allow an effective and less costly alternative to a hearing. However, MTB does believe that this purpose could be served without a need for the respondent to state which allegations are admitted or denied, and that proposal has been deleted. The proposal to require a statement of the issues to be raised has been retained, however.

Finally, pursuant to a comment received, language has been added to paragraph (c) enabling a respondent to request that an informal conference be held by telephone.

Section 107.319. As proposed in the Notice, paragraph (b)(2) of this section contained a typographical error which stated that issues in a case that was to be the subject of hearing had to be admitted or denied. Under current language to which no proposed change was to be made, paragraph (b)(2) requires that a respondent requesting a hearing "state with respect to each allegation (made in the Notice) whether it is admitted or denied."

In commenting on this erroneous proposal, one commenter pointed out the burden it would place on a respondent at the notice stage of the proceeding. Because the comment deals primarily with what the commenter believes to be an unfair demand for detail at the earliest stage in the proceeding, it is relevant to paragraphs (b)(2) and (b)(3) which do require the respondent to "state with particularity the issues to be raised by the respondent at the hearing." MTB believes that there is merit to the points raised by the commenter to the extent they suggest changes that would enable MTB to know generally with what issues the hearing will deal, while at the same time not prejudicing the respondent's case at the hearing. Accordingly, the language or paragraphs (b)(2) and (b)(3) has been modified to require the respondent to identify which allegations of violation, if any, it admits, generally what issues it will raise at the hearing, and provides that issues not raised in the hearing request will not be barred from presentation later.

Section 107.321. In response to the points made by one commenter, two important changes have been made to the procedural requirements of this proposal. In order to achieve the consistency between cases, cited by the commenter as being valuable in establishing precedents and providing a more uniform record, paragraph (b) has been modified to require that all hearings are held in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Evidence. Authority has been granted the Administrative Law Judge (ALJ) to modify their application where the ALJ determines modification is necessary in a given case. As noted by the commenter, this change will avoid problems that have arisen where non-DOT ALJs, with varying backgrounds, use procedures with which they are familiar but which may appear awkward for practitioners who are not familiar with them.

Another change recommended by the commenter, and adopted herein, is deletion of the requirement that all testimony be given orally. To the extent that written testimony can contribute to a more orderly process, more effective determination of the issues and facts in a case, and a better record for appellate review, its use should not be discouraged. Accordingly, the procedures have been amended to remove the provision, and thereby leave to the ALJ and parties the determination as to the type of testimony to be used.

Proposed paragraph (c) has been modified to remove, as superfluous, the reference to OOE offering information "necessary to fully inform the presiding officer * * *." Reference to OOE having the burden of proof is all that is necessary in addressing its responsibility to provide information in support of its allegations.

Another commenter suggested that the phrase "in defense of the allegations" appearing in paragraph (d) be changed to reflect the fact that the repondent is not providing a defense of the allegations, but rather is disputing those allegations. MTB agrees with this point and an appropriate change to paragraph (d) has been made.

Section 107.323. One commenter noted that paragraph (a) states that the decision by an ALJ in a hearing proceeding represents "the final decision" in the proceeding. The commenter questions how the decision of the ALJ can be considered final when an appeal to the Director, MTB is available to both parties under proposed § 107.325. The commenter's point is well taken and an appropriate change to paragraph (a) has been made to remove the reference to "final decision."

The same commenter noted what it considered other inappropriate language in paragraph (a). The commenter contends that the reference to "the relief sought by the OOE" should be changed to more accurately reflect what OOE seeks to obtain through the proceeding. MTB agrees that the language should be

clarified, and accordingly, the word "relief" has been changed to "sanction."

Section 107.325. The proposal to permit the OOE to appeal an adverse ruling by an ALJ to the Director, MTB was objected to by three commenters. Basing their opposition primarily on the view that since OOE is in effect a "prosecutor," and should not, therefore, be able to appeal an adverse ruling, these commenters argue that if an appeal is to be granted due process dictates that the appeal be to someone other than the person who has ultimate responsibility over OOE's program.

As to the contention that OOE should not be able to appeal an adverse ruling by an ALJ, MTB does not agree that due process considerations preclude this right of appeal. The enforcement program of the OOE is clearly civil in nature—both in practice and as contemplated by Congress in passage of the HMTA, and consequently, OOE is not precluded from appealing adverse rulings.

The commenter's argument against OOE's right to appeal to the Director, MTB, however, is sound. To avoid, to the degree practicable, the appearance of a conflict of interest, these amendments adopt the approach used by the Federal Railroad Administration, and permit an aggrieved party to appeal an adverse decision of an ALJ to the administrator, Research and Special Programs Administration. This action elevates consideration of issues on appeal to the highest level in the agency and represents a desired separation between the office presenting the case and the ultimate decision maker on appeal. In non-hearing cases, the Director, MTB would continue to decide all appeals.

Another commenter argued that the proposal in paragraph (f) to make violation of the terms of a compliance order the basis for an enforcement proceeding, was contrary to the HMTA. A review of the HMTA and the comment confirms the correctness of the commenter's argument, and the proposal has been deleted accordingly. Also, the identical language in § 107.327(b)(3) has been deleted.

The same commenter objected to language in proposed paragraph (e) authorizing the Director, MTB to maintain an order in effect despite an appeal to the order if he determines that action to be necessary "in the public interest." MTB agrees with the commenter that standards for making that decision should be stronger, and has adopted the commenter's suggestion that it be based on a finding of "immediate danger to the public."

Section 107.327. Two commenters objected to the failure of the compromise procedures to provide for settlement of an enforcement proceeding with no admission by the respondent of violation. One commenter argued that without a provision for settlement resulting in no finding of violation, amicable resolutions of enforcement proceedings will be frustrated and respondents will be required to bear the expense of fighting allegations of violations to conclusion. The other commenter contended that without a provision for settlement accompanied by no finding of violation, respondents will be unreasonably exposed to "private challenges based upon an admission of guilt."

To the extent that these arguments establish a need for providing for the settlement of cases without a finding of violation, MTB believes they have merit. In fact, settlements of the type contemplated by the commenters have been reached in a few cases. However, these amendments retain the concept of compromise currently in use in MTB's hazardous materials enforcement program. In the vast majority of cases to date, the facts upon which the allegations of violation have been based have not been in dispute. As such, the commission of those violations is pertinent under the assessment criteria in the HMTA and the HMR in subsequent cases involving the same respondent.

On the other hand, there have been cases where a settlement involving only the payment of money by the respondent is the most reasonable solution. Consequently, these amendments adopt a specific provision for settlement without a finding of violation. However, discretion remains with the Associate Director for OOE to reject settlement offers, and this discretion would most likely be exercised in cases where only the amount of civil penalty is in dispute.

In response to comments, two other changes have been made to this section. The proposal that a compromise offer be in the form of a certified check or money order submitted prior to an agreement accepting the offer has been deleted, since the language of new paragraph (a)(1) now speaks to the compromise offer being initiated by either respondent or OOE. The requirement that the respondent include, as part of a proposed consent agreement, an acknowledgement that the notice of probable violation may be used to construe the terms of the compliance order resulting from the agreement, has been deleted as being unnecessary as a rule of general applicability.

Section 107.329. Although not representing a new proposal in Part 107, this section was objected to by one commenter who contended that provision in the HMR for a compliance order for immediate compliance has no legal basis in the HMTA. Viewing § 107.329 as a means of addressing imminent hazard situations through the administrative process, the commenter argues that the HMTA provides for imminent hazard situations in section 111(b) (49 U.S.C. 1810(b)) by requiring DOT to proceed judicially, either on its own motion or through the Attorney General. Consequently, this section, which enables the waiving by OOE of the administrative procedures otherwise applicable to compliance order proceedings, represents, argues the commenter, a denial of due process.

MTB agrees that, with respect to cases involving imminent hazard situations as defined in section 111(b) of the HMTA, use of § 107.329 would operate to abrogate the due process rights of the respondent by denying it the right to be heard. However, § 107.329 was designed to reach cases falling short of the imminent hazard standard, but which are of sufficient potential safety impact to warrant extraordinary treatment.

Notwithstanding the purpose and intent of § 107.329, experience does not indicate a need to retain it. With the range of legal and equitable remedies available under the HMTA, particularly the imminent hazard provisions of section 111(b), as implemented in § 107.341, all factual situations likely to occur are provided for. Accordingly, § 107.329 has been deleted.

Section 107.331. (§ 107.329, as adopted). The proposal to amend the maximum penalty provision applicable to container manufacturers, reconditioners, repairers, and retesters received numerous adverse comments due to the interpretation given the proposal in the preamble. Although the amendment to this section merely adopts the language of section 110(a) of the HMTA, the preamble noted that ". . . each violation means each container found to have been in violation of an applicable requirement."

A common thought expressed in most of the comments was that the above view was not possible under the HMTA, since Congress has applied the concept of a continuing violation only to violations involving shippers and carriers of hazardous materials and not to the manufacturers, rebuilders, reconditioners, and retesters of the containers in which those materials are transported. Consequently, those commenters argue that it would be

unlawful for MTB to cite, for example, each of 200 cylinders in a given lot for a violation common to that lot, e.g., improper marking. To do so would be to cite a continuing violation.

MTB has reviewed thoroughly the questions posed by the commenters regarding this issue, particularly the contention that to cite each container in a lot would be to cite a continuing violation, and although not agreeing totally with the analyses offered by the commenters, does believe that adjustments to its interpretation are warranted. Moreover, these changes will not, based on experience gained under the HMTA, frustrate the purposes of the enforcement policy, since the actual amendment merely reflects the language of the HMTA.

Throughout the container specifications in Part 178, there are numerous requirements for sample testing where one container, or a portion of one container, is authorized to represent the compliance status of all other containers of the same lot. Similarly, there are certain testing requirements which must be performed at regular intervals, e.g., every four months or at the start or restart of production. Violations involving groups of containers which are permitted to be certified, marked, and sold based on representative functions being performed on a certain number of samples of those groups, are considered as a single violation. Thus, if a leakage test for 17E drums under § 178.116–13 is improperly performed and constitutes the basis for a violation, only one violation has been committed regardless of how many 17E drums of a given size and type are produced during the four months covered by the leakage test. Similarly, the physical test requirements of § 178.37–16, if improperly performed, would result in one violation for each type of test and not for each of the 200 cylinders for which the sample (coupon) is representative.

In stating this enforcement position on the issue, it is MTB's intent to reflect a level of regulation appropriate to observed enforcement needs. If in the future it should appear that those needs require the expanded civil penalty authority possible under section 110 of the HMTA, that authority would be asserted through additional rulemaking.

Part 171

Section 171.2. Several changes have been made in the proposals in this section based on the views of a commenter. First, as noted in the discussion of § 107.307, the references to approvals have been deleted, since, as the commenter pointed out, an approval is merely an aspect of an underlying substantive regulation, and any failure to comply with the terms of an approval would constitute a failure to comply with the underlying regulation.

Secondly, paragraph (d)(4) has been deleted as being vague. Should cases of misleading marking involving marks other than those described in subparagraphs (d)(1), (d)(2), and (d)(3) arise, such marks could be identified in subsequent rulemaking. Finally, paragraph (e) has been deleted as superfluous because the provisions of paragraphs (c) and (d) adequately address container manufacturers, reconditioners, repairers, fabricators, and retesters.

Section 171.8. The proposal to amend the definition of person to include governmental entities received several comments, each of them opposed to the provision as proposed. The two Federal agencies that responded to the expansion of the definition both argued that since the HMTA did not define the term person, the regulations cannot create a definition. Furthermore, since the current definition in § 171.8 was carried over from predecessor regulations adopted pursuant to 18 U.S.C. 831 *et seq.*, where the statutory definition did not include governmental entities, there is no basis in law to include them in this rulemaking. In light of the comments received, and based on a review of interpretative difficulties that have arisen over the absence of a definition of "person" in the HMTA, the MTB has decided to withdraw the proposal to adopt one in this rulemaking, and pursue instead a statutory amendment to the HMTA. This effort will commence with a proposal in the Department's legislative initiatives submitted to the 98th Congress.

Miscellaneous changes. In addition to the amendments discussed above, two other changes have been adopted in this rulemaking. These changes, neither of which appeared in the Notice, are designed to facilitate activities under the HMR and impose no regulatory burden on persons operating thereunder.

Section 171.19 has been amended to delete the termination date applicable to approvals and authorizations issued by the Bureau of Explosives of the Association of American Railroads. Section 171.19 was adopted pursuant to MTB's phased program to withdraw preexisting approvals and authorizations issued by the Bureau of Explosives, and recognized the need to provide for transition between the elimination of such approvals and authorizations and the issuance thereof by MTB. However, it now appears that numerous Bureau of Explosives approvals and authorizations were issued without termination dates. Consequently, to withdraw them on December 31, 1984, would place a prohibitive administrative burden on MTB, and a concomitant burden on affected industries. Accordingly, in lieu of the current termination date, MTB has adopted all written approvals previously issued by the Bureau of Explosives as if they had been issued by MTB. This action in no way precludes MTB from taking future rulemaking action to terminate specific classes of approvals and authorization if it determines that conditions of safety and administrative efficiency warrant. It must be stressed that as conditions to the conduct of operations under such preexisting approval, the approval must be in writing, be available for inspection by personnel from the Department on demand, and must have been issued without a termination date. If any or all of these conditions are not met, the approval is a nullity and operations under the invalid "approval" would subject the person conducting them to all applicable sanctions under the HMTA. Furthermore, it should be noted that these approvals are viewed as equivalent to MTB issued approvals from an enforcement standpoint, and enforcement action may be taken against a person who fails to comply with all terms and conditions prescribed in the approval.

Another change, to § 173.22, has been made to enable a shipper to rely on exemption or approval markings in discharging its responsibility under that section to determine that a packaging or container is in compliance with an applicable specification in Part 178 or 179, or, as adopted herein, an approval or exemption. This change is necessary to clearly articulate the shipper's duty, while enabling it to rely on the most immediate evidence of compliance. Absent this change, the shipper would be technically in violation if he used a packaging or container, that bore no specification marking under Parts 178 and 179 (this does not abrogate any exception authorized by this subchapter). It should be noted, however, that compliance with these requirements, and reliance on the actions of others permitted by this section do not in any way relieve a person from complying with all other applicable requirements or conditions of use.

In addition, the shipper may also rely on specification markings which were, at the time of manufacture of the container, the appropriate markings,

although at the time of the offering for transportation are no longer in effect.

List of Subjects

49 CFR Part 106

Rulemaking procedures.

49 CFR Part 107

Hazardous materials program procedures.

49 CFR Part 171

Hazardous materials transportation, regulations and definitions.

49 CFR Part 173

Hazardous materials transportation, packaging and containers.

In consideration of the foregoing, 49 CFR Parts 106, 107, 171, and 173 are amended as follows:

PART 106—RULEMAKING PROCEDURES

1. In § 106.17, a new paragraph (c) is added to read as follows:

§ 106.17 Particpation by interested persons.

* * * * *

(c) For the purposes of this part, an interested person includes any Federal or State government agency or any political subdivision of a State (as defined in § 107.201(b) of this subchapter).

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

2. The table of Contents for Part 107 is amended by revising Subpart D to read as follows:

* * * * *

Subpart D—Enforcement

Sec.

107.299 Defintions.
107.301 Delegated authority for enforcement.
107.303 Purpose and scope.
107.305 Investigations.

Compliance Orders and Civil Penalties

107.307 General.
107.309 Warning letters.
107.311 Notice of probable violation.
107.313 Reply.
107.315 Admission of violations.
107.317 Informal response.
107.318 Request for a hearing.
107.321 Hearing.
107.323 ALJ's decision.
107.325 Appeals.
107.327 Compromise and settlement.
107.329 Maximum penalties.
107.331 Assessment considerations.

Criminal Penalties

107.333 Criminal penalties generally.
107.335 Referral for prosecution.

Injunctive Action

107.337 Injunctions generally.
107.339 Imminent hazards.

Subpart A—General Provisions

3. In § 107.13, the portion of the first sentence through the word "hearing" of paragraph (a), and paragraph (h) are revised to read as follows:

§ 107.13 Subpoenas, witness fees.

(a) The Director, MTB, the Chief Counsel, Research and Special Programs Administration, or the Official designated to preside over a hearing * * *

* * * * *

(h) Any person to whom a subpoena is directed may apply no later than 10 days after service thereof, to the person who issued the subpoena to quash or modify it. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein. The person who issued the subpoena may:

* * * * *

Subpart B—Exemptions

4. In 107.109, paragraph (c) is revised to read as follows:

§ 107.109 Processing of application.

* * * * *

(c) The Associate Director for HMR denies an application in accordance with the following:

(1) The application is denied if it does not contain adequate justification or if it contains any materially false or materially misleading statements, or fails to state a material fact.

(2) If the Associate Director for HMR denies an application under this paragraph, he notifies the applicant in writing of his reason therefore and publishes notice of the denial in the Federal Register.

* * * * *

5. Section 107.119 is revised to read as follows:

§ 107.119 Amendment, suspension, termination, and referral for enforcement action.

(a) An exemption and any renewal thereof terminates according to its terms but not later than two years after the date of issuance unless terminated sooner under paragraph (c) of this section.

(b) The Associated Director for HMR may amend or suspend an exemption if—

(1) He determines that an activity under the exemption is not being performed in accordance with the terms of the exemption; or

(2) On the basis of information not available at the time the exemption was granted or renewed, such action is necessary to protect against risk to life or property.

(c) The Associate Director for HMR may terminate an exemption if—

(1) He determines that the exemption is no longer consistent with the public interest;

(2) The exemption is no longer necessary because of an amendment to the regulations; or

(3) The exemption was granted on the basis of false or misleading material information.

(d) Unless the Associate Director for HMR determines that immediate amendment, suspension, or termination of an exemption is necessary to abate the risk of an imminent hazard, he notifies the holder of the exemption or a party thereto in writing of the reasons therefore and provides that person an opportunity to show cause why the exemption should not be amended, suspended, or terminated under paragraph (b) or (c) of this section.

(e) Notwithstanding paragraphs (b), (c) and (d) of this section, the Associate Director for HMR may refer an exemption to the Associate Director for OE for initiation of an enforcement case under Subpart D of this part. If, as the result of the enforcement proceeding, the holder of the exemption or a party thereto is determined to have violated the terms of the exemption, the Associate Director for HMR may amend, suspend, or terminate the exemption.

Subpart C—Preemption

6. In Subpart C, the designations "OE" and "OOE" are changed to read "HMR" and "OHMR", respectively, wherever they appear.

§§ 107.203 and 107.215 [Amended]

7. In §§ 107.203 and 107.215, paragraph (b)(1) is amended by changing the words "Office of Operations and Enforcement" to read "Office of Hazardous Materials Regulation."

8. Subpart D is revised to read as follows:

Subpart D—Enforcement

§ 107.299 Definitions.

In this subpart, and in enforcement actions initiated thereunder, "Investigation" includes investigations authorized under 49 U.S.C. 1809(a) and inspections authorized under 49 U.S.C. 1809(c).

"Knowledge" or "knowingly" means that a person who commits an act which is a violation of the Act or of the

requirements of this subchapter or Subchapter C of this chapter commits that act with knowledge or knowingly when that person (1) has actual knowledge of the facts that give rise to the violation, or (2) should have known of the facts that give rise to the violation. A person knowingly commits an act if the act is done voluntarily and intentionally. Knowledge or knowingly means that a person is presumed to be aware of the requirements of the Act and this subchapter and Subchapter C of this chapter. Knowledge or knowingly does not require that a person have an intent to violate the requirements of the Act or the requirements of this subchapter or Subchapter C of this chapter.

§ 107.301 Delegated authority for enforcement.

Under redelegation from the Administrator, Research and Special Programs Administration, the MTB exercises its authority for enforcement of the Act, this subchapter, and Subchapter C of this subchapter, in accordance with § 1.53 of this Title.

§ 107.303 Purpose and scope.

This subchapter describes the various enforcement authorities exercised by the OOE and the associated sanctions and prescribes the procedures governing the exercise of those authorities and the imposition of those sanctions.

§ 107.305 Investigations.

(a) *General.* In accordance with its delegated authority under Part 1 of this title, the OOE may initiate investigations relating to compliance by any person with any provisions of this subchapter or Subchapter C of this chapter, or any exemption, approval, or order issued thereunder, or any court decree relating thereto. The OOE encourages voluntary production of documents in accordance with and subject to § 107.13, and hearings may be conducted, and depositions taken pursuant to section 109(a) of the Act. The OOE may conduct investigative conferences and hearings in the course of any investigation.

(b) *Investigators.* Investigations under Section 109(a) of the Act are conducted by MTB personnel duly authorized for that purpose by the Director, MTB. Inspections under Section 109(b) of the Act, are conducted by OOE Hazardous Materials Enforcement Specialists who are duly designated for that purpose. Each official so designated may administer oaths and receive affirmations in any matter under investigation by the MTB.

(c) *Notification.* Any person who is the subject of an OOE investigation and who is requested to furnish information or documentary evidence is notified as to the general purpose for which the information or evidence is sought.

(d) *Termination.* When the facts disclosed by an investigation indicate that further action is unnecessary or unwarranted at that time, the person being investigated is notified and the investigative file is closed without prejudice to further investigation by the OOE.

(e) *Confidentiality.* Information received in an investigation under this section, including the identity of the person investigated and any other person who provides information during the investigation, shall remain confidential under the investigatory file exception, or other appropriate exception, to the public disclosure requirements of 5 U.S.C. 552.

Compliance Orders and Civil Penalties

§ 107.307 General.

(a) When the OOE has reason to believe that a person is knowingly engaging or has knowingly engaged in conduct which is a violation of the Act or any provision of this subchapter or Subchapter C of this chapter, or any exemption, or order issued thereunder, for which the OOE exercises enforcement responsibility, and if time, the nature of the violation, and the public interest permit, the OOE may conduct proceedings to assess a civil penalty or to issue an order directing compliance, or both, or seek any other remedy available under the Act.

(b) In the case of a proceeding initiated for failure to comply with an exemption, the allegation of a violation of a term or condition thereof is considered by the OOE to constitute an allegation that the exemption holder or party to the exemption is failing, or has failed to comply with the underlying regulations from which relief was granted by the exemption.

§ 107.309 Warning letters.

(a) In addition to the initiation of proceedings under § 107.307 for the imposition of sanctions or other remedies, the OOE may issue a warning letter to any person whom the OOE believes to have committed a probable violation of the Act or any provision of this subchapter, Subchapter C of this chapter, or any exemption issued thereunder.

(b) A warning letter issued under this section includes—

(1) A statement of the facts upon which the OOE bases its determination that the person has committed a probable violation;

(2) A statement that the recurrence of the probable violations cited may subject the person to enforcement action; and

(3) An opportunity to respond to the warning letter by submitting pertinent information or explanations concerning the probable violations cited therein.

§ 107.311 Notice of probable violation.

(a) The OOE begins an enforcement action under § 107.307, by serving a notice of probable violation on a person alleging the violation of one or more provisions of the Act, this subchapter, or Subchapter C of this chapter, or any exemption issued thereunder.

(b) A notice of probable violation issued under this section includes the following information:

(1) A citation of the provisions of the Act, this subchapter, Subchapter C of this chapter, or the terms of any exemption issued thereunder which the OOE believes the respondent is violating or has violated.

(2) A statement of the factual allegations upon which the demand for remedial action, a civil penalty, or both, is based.

(3) A statement of the respondent's right to present written or oral explanations, information, and arguments in answer to the allegations and in mitigation of the sanction sought in the notice of probable violation.

(4) A statement of the respondent's right to request a hearing and the procedures for requesting a hearing.

(5) In addition, in the case of a notice of probable violation proposing a compliance order, a statement of the proposed actions to be taken by the respondent to achieve compliance.

(6) In addition, in the case of a notice of probable violation proposing a civil penalty—

(i) A statement of the maximum civil penalty for which the respondent may be liable;

(ii) The amount of the preliminary civil penalty being sought by OOE, which constitutes the maximum amount OOE may seek throughout the proceeding; and

(iii) A description of the manner in which the respondent makes payment of any money due the United States as a result of the proceeding.

(c) The OOE may amend a notice of probable violation at any time before issuance of a compliance order or an order assessing a civil penalty. If OOE alleges any new material facts or seeks new or additional remedial action or an increase in the amount of the proposed

civil penalty, it issues a new notice of probable violation under this section.

§ 107.313 Reply.

(a) Within 30 days of receipt of a notice of probable violation, the respondent must either—

(1) Admit the violation under § 107.315;

(2) Make an informal response under § 107.317; or

(3) Request a hearing under § 107.319.

(b) Failure of the respondent to file a reply as provided in this section constitutes a waiver of the respondent's right to appear and contest the allegations and authorizes the Associate Director for OE, without further notice to the respondent, to find the facts to be as alleged in the notice of probable violation and issue an order directing compliance or assess a civil penalty, or, if proposed in the notice, both. Failure to request a hearing under paragraph (a)(3) of this section constitutes a waiver of the respondent's right to a hearing.

(c) Upon the request of the respondent, the OOE may, for good cause shown and filed within the 30 days prescribed in the notice of probable violation, extend the 30-day response period.

§ 107.315 Admission of violations.

(a) In responding to a notice of probable violation issued under § 107.311, the respondent may admit the alleged violations and agree to accept the terms of a proposed compliance order or to pay the amount of the preliminarily assessed civil penalty, or, if proposed in the notice, both.

(b) If the respondent agrees to the terms of a proposed compliance order, the Associate Director for OE issues a final order prescribing the remedial action to be taken by the respondent.

(c) Payment of a civil penalty must be made by certified check or money order payable to the Treasurer of the United States and sent to the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street, S.W., Room 8420, Washington, D.C. 20590.

§ 107.317 Informal response.

(a) In responding to a notice of probable violation under § 107.311, the respondent may submit to the OOE official who issued the notice, written explanations, information, or arguments in response to the allegations, the terms of a proposed compliance order, or the amount of the preliminarily assessed civil penalty.

(b) The respondent may include in his informal response a request for a conference. Upon the request of the respondent, the conference may be either in person or by telephone. A request for a conference must set forth the issues the respondent will raise at the conference.

(c) Upon receipt of a request for a conference under paragraph (b) of this section, the OOE, in consultation with the Chief Counsel's Office, arranges for a conference as soon as practicable at a time and place of mutual convenience.

(d) The respondent's written explanations, information, and arguments as well as the respondent's presentation at a conference are considered by the Associate Director for OE in reviewing the notice of probable violation. Based upon a review of the proceeding, the Associate Director for OE may dismiss the notice of probable violation in whole or in part. If he does not dismiss it in whole, he issues an order directing compliance or assessing a civil penalty, or, if proposed in the notice, both.

§ 107.319 Request for a hearing.

(a) In responding to a notice of probable violation under § 107.311, the respondent may request a formal administrative hearing on the record before an Administrative Law Judge (ALJ) obtained by the Office of the Chief Counsel.

(b) A request for a hearing under paragraph (a) of this section must—

(1) State the name and address of the respondent and of the person submitting the request if different from the respondent;

(2) State which allegations of violations, if any, are admitted; and

(3) State generally the issues to be raised by the respondent at the hearing. Issues not raised in the request are not barred from presentation at the hearing.

(c) After a request for a hearing that complies with the requirements of paragraph (b) of this section, the Chief Counsel obtains an ALJ to preside over the hearing and notifies the respondent of this fact. Upon assignment of an ALJ, all further matters in the proceeding are conducted by and through the ALJ.

§ 107.321 Hearing.

(a) To the extent practicable, the hearing is held in the general vicinity of the place where the alleged violation occurred or at a place convenient to the respondent. Testimony by witnesses shall be given under oath and the hearing shall be recorded verbatim.

(b) Hearings are conducted in accordance with the Federal Rules of Evidence and Federal Rules of Civil Procedure; however, the ALJ may modify them as he determines necessary in the interest of a full development of the facts. In addition, the ALJ may:

(1) Administer oaths and affirmations;

(2) Issue subpoenas as provided by § 107.13;

(3) Adopt procedures for the submission of motions, evidence, and other documents pertinent to the proceeding;

(4) Take or cause depositions to be taken;

(5) Rule on offers of proof and receive relevant evidence;

(6) Examine witnesses at the hearing;

(7) Convene, recess, reconvene, adjourn and otherwise regulate the course of the hearing;

(8) Hold conferences for settlement, simplification of the issues, or any other proper purpose; and

(9) Take any other action authorized by, or consistent with, the provisions of this subpart and permitted by law which may expedite the hearing or aid in the disposition of an issue raised therein.

(c) The OOE official who issued the notice of probable violation, or his representative, has the burden of proving the facts alleged therein.

(d) The respondent may appear and be heard on his own behalf or through counsel of his choice. The respondent or his counsel may offer relevant information including testimony which he believes should be considered in opposition to the allegations or which may bear on the sanction being sought and conduct such cross-examination as may be required for a full disclosure of the facts.

§ 107.323 ALJ's decision.

(a) After consideration of all matters of record in the proceeding, the ALJ shall issue an order dismissing the notice of probable violation in whole or in part or granting the sanction sought by the OOE in the notice. If the ALJ does not dismiss the notice of probable violation in whole, he issues an order directing compliance or assessing a civil penalty, or, if proposed in the notice, both. The order includes a statement of the findings and conclusions, and the reasons therefore, on all material issues of fact, law, and discretion.

(b) If, within 20 days of receipt of an order issued under paragraph (a) of this section, the respondent does not submit in writing his acceptance of the terms of an order directing compliance, or, where appropriate, pay a civil penalty, or file an appeal under § 107.325, the case may be referred to the Attorney General with a request that an action be brought in the appropriate United States District Court to enforce the terms of a

compliance order or collect the civil penalty.

§ 107.325 Appeals.

(a) *Hearing proceedings.* A party aggrieved by an ALJ's decision and order issued under § 107.323, may file a written appeal in accordance with paragraph (c) of this section with the Administrator, Research and Special Programs Administration (RSPA), 400 Seventh Street, S.W., Washington, D.C. 20590.

(b) *Non-Hearing proceedings.* A respondent aggrieved by an order issued under § 107.317, may file a written appeal in accordance with paragraph (c) of this section with the Director, MTB, 400 Seventh Street, S.W., Washington, D.C. 20590.

(c) An appeal of an order issued under this subpart must—

(1) Be filed within 20 days of receipt of the order by the appealing party; and

(2) State with particularity the findings in the order that the appealing party challenges, and include all information and arguments pertinent thereto.

(d) If the Administrator, RSPA or Director, MTB, as appropriate, affirms the order in whole or in part, the respondent must comply with the terms of the decision within 20 days of the respondent's receipt thereof, or within the time prescribed in the order. If the respondent does not comply with the terms of the decision within 20 days of receipt, or within the time prescribed in the order, the case may be referred to the Attorney General for action to enforce the terms of the decision.

(e) The filing of an appeal stays the effectiveness of an order issued under § 107.317 or § 107.323. However, if the Administrator, RSPA or the Director, MTB, as appropriate, determines that it is in the public interest, he may keep an order directing compliance in force pending appeal.

§ 107.327 Compromise and settlement.

(a) At any time before an order issued under § 107.317 or § 107.323 is referred to the Attorney General for enforcement, the respondent or the OOE may propose a compromise as follows:

(1) In civil penalty cases, the respondent or the OOE may offer to compromise the amount of the penalty by submitting an offer for a specific amount to the other party. An offer in compromise by the respondent shall be submitted to the Chief Counsel who may, after consultation with OOE, accept or reject it.

(i) A compromise offer stays the running of any response period then outstanding.

(ii) If a compromise is agreed to by the parties, the respondent is notified in writing. Upon receipt of payment by OOE, the respondent is notified in writing that acceptance of payment is in full satisfaction of the civil penalty proposed or assessed, and OOE closes the case with prejudice to the respondent.

(iii) If a compromise cannot be agreed to, the respondent is notified in writting and is given 10 days or the amount of time remaining in the then outstanding response period, whichever is longer, to respond to whatever action was taken by the OOE or the Director, MTB.

(2) In compliance order cases, the respondent may propose a consent agreement to the Associate Director for OE. If the Associate Director for OE accepts the agreement, he issues an order in accordance with its terms. If the Associate Director for OE rejects the agreement, he directs that the proceeding continue. An agreement submitted to the Associate Director for OE must include—

(i) A statement of any allegations of fact which the respondent challenges;

(ii) The reasons why the terms of a compliance order or proposed compliance order are or would be too burdensome for the respondent, or why such terms are not supported by the record in the case;

(iii) A proposed compliance order suitable for issuance by the Associate Director for OE;

(iv) An admission of all jurisdictional facts; and

(v) An express waiver of further procedural steps and all right to seek judicial review or otherwise challenge or contest the validity of the order.

(b) Notwithstanding paragraph (a)(1) of this section, the respondent or OOE may propose to settle the case. If the Associate Director for OE agrees to a settlement, the respondent is notified and the case is closed without prejudice to the respondent.

§ 107.329 Maximum penalties.

(a) A person who knowingly violates a requirement of the Act, this chapter or an exemption issued under Subchapter B of this chapter applicable to the transporting of hazardous materials or the causing of them to be transported or shipped is liable for a civil penalty of not more than $10,000 for each violation. When the violation is a continuing one, each day of the violation constitutes a separate offense.

(b) A person who knowingly violates a requirement of the Act, this chapter or an exemption issued under Subchapter B of this Chapter applicable to the manufacture, fabrication, marking, maintenance, reconditioning, repair, or testing of a packaging or container which is represented, marked, certified or sold by that person as being qualified for use in the transportation of hazardous materials in commerce is liable for a civil penalty of not more than $10,000 for each violation.

§ 107.331 Assessment considerations.

In assessing a civil penalty under this subpart, the Associate Director for OE takes into account:

(a) The nature and circumstances of the violation;

(b) The extent and gravity of the violation;

(c) The degree of the respondent's culpability;

(d) The respondent's history of prior offenses;

(e) The respondent's ability to pay;

(f) The effect on the respondent's ability to continue in business; and

(g) Such other matters as justice may require.

Criminal Penalties

§ 107.333 Criminal penalties generally.

Section 110(b) of the Act (49 U.S.C. 1809(b)) provides a criminal penalty of a fine of not more than $25,000 and imprisonment for not more than five years, or both, for any person who willfully violates a provision of the Act or a regulation issued under the Act.

§ 107.335 Referral for prosecution.

If the OOE becomes aware of a possible willful violation of the Act, this chapter, Subchapter C of this chapter, or any exemption, or order issued thereunder, for which the OOE exercises enforcement responsibility, it shall report it to the Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590. If appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

Injunctive Action

§ 107.337 Injunctions generally.

Whenever it appears to the OOE that a person has engaged, or is engaged, or is about to engage in any act or practice constituting a violation of any provision of the Act, this subchapter, Subchapter C of this chapter, or any exemption, or order issued thereunder, for which the OOE exercises enforcement responsibility, the Director, MTB, or his delegate, may request the Attorney General to bring an action in the appropriate United States District Court for such relief as is necessary or appropriate, including mandatory or

prohibitive injunctive relief, interim equitable relief, and punitive damages as provided by section 111(a) of the Act.

§ 107.339 Imminent hazards.

Whenever it appears to the OOE that there is a substantial likelihood that death, serious illness, or severe personal injury will result from the transportation of a particular hazardous material or hazardous materials container, before a compliance order proceeding or other administrative hearing or formal proceeding to abate the risk of that harm can be completed, the Director, MTB, or his delegate, may bring an action under section 111(b) of the Act in the appropriate United States District Court for an order suspending or restricting the transporation of that hazardous material or those containers or for such other equitable relief as is necessary or appropriate to ameliorate the hazard.

PART 171—HAZARDOUS MATERIALS TRANSPORTATION, REGULATIONS AND DEFINITIONS

9. Section 171.2 is revised to read as follows:

§ 171.2 General requirements.

(a) No person may offer or accept a hazardous material for transportation in commerce unless that material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized by this subchapter (including §§ 171.11, 171.12, and 176.11), or

(b) No person may transport a hazardous material in commerce unless that material is handled and transported in accordance with this subchapter, or an exemption issued under Subchapter B of this chapter.

(c) No person may represent, mark, certify, sell, or offer a packaging or container as meeting the requirements of this subchapter or an exemption issued under Subchapter B of this chapter, governing its use in the transportation in commerce of a hazardous material, whether or not it is used or intended to be used for the transportation of a hazardous material, unless the packaging or container is manufactured, fabricated, marked, maintained, reconditioned, repaired, or retested, as appropriate, in accordance with this subchapter, an approval issued thereunder, or an exemption issued under Subchapter B of this chapter.

(d) The representations, markings, and certifications subject to the prohibitions of paragraph (c) of this section include:

(1) Specification identifications that include the letters "DOT" or "UN";

(2) Exemption, approval, and registration numbers that include the letters "DOT;" and

(3) Test dates displayed in association with specification, registration, approval, or exemption markings indicating compliance with a test or retest requirement of this subchapter, an approval issued thereunder, or an exemption issued under Subchapter B of this chapter.

10. Section 171.19 is revised to read as follows:

§ 171.19 Approvals or authorizations issued by the Bureau of Explosives.

Unless otherwise specifically restricted by other requirements of this subchapter, any written approval or authorization issued by the Bureau of Explosives that is valid at the time the Bureau of Explosives authority to issue that approval or authorization is withdrawn or assumed by the Associate Director for HMR and which is available for inspection by representatives of the Department of Transportation, will be considered as having the same validity as if issued by the Associate Director for HMR, and remains valid under the conditions and for the period established by the Bureau of Explosives.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

11. In § 173.1, paragraph (a) is revised to read as follows:

§ 173.1 Purpose and scope.

(a) This part includes—

(1) Definitions of hazardous materials for transportation purposes;

(2) Requirements to be observed in preparing hazardous materials for shipment by air, highway, rail, or water, or any combination thereof; and

(3) Inspection, testing, and retesting responsibilities for persons who retest, recondition, maintain, repair and rebuild containers used or intended for use in the transportation of hazardous materials.

* * * * *

12. In § 173.22, paragraph (a) is revised, paragraphs (b) and (c) are redesignated (c) and (d) respectively, and a new paragraph (b) is added, to read as follows:

§ 173.22 Shipper's responsibility.

(a) Except as otherwise provided in this part, a person may offer a hazardous material for transportation in a packaging or container required by this part only in accordance with the following:

(1) The person shall class and describe the hazardous material in accordance with Parts 172 and 173 of this subchapter, and

(2) The person shall determine that the packaging or container has been manufactured, assembled, and marked in accordance with—

(i) Part 178 or 179 of this subchapter;

(ii) A specification of the Department in effect at the date of manufacture of the packaging or container;

(iii) An approval issued under this subchapter; or

(iv) An exemption issued under Subchapter B of this chapter.

(3) In making the determination under paragraph (a)(1) of this section, the person may accept—

(i) The manufacturer's certification, specification, approval, or exemption marking (see §§ 178.0–2 and 179.1 of this subchapter); or

(ii) With respect to cargo tanks provided by a carrier, the manufacturer's identification plate or a written certification of specification or exemption provided by the carrier.

(b) When a person performs a function covered by or having an effect on a specification prescribed in Part 178 or 179 of this subchapter, an approval issued under this subchapter, or an exemption issued under Subchapter B of this chapter, that person must perform the function in accordance with that specification, approval, or exemption, as appropriate.

* * * * *

(49 U.S.C. 1803, 1804, 1808, and 1809; 49 CFR 1.53, App. A. to Part 1)

Note.—Because these amendments relate to: (a) Agency practices and procedures; or (b) clarifications of existing regulations and policies, the Materials Transportation Bureau has determined that these amendments: (1) Are not "major" under Executive Order 12291; (2) are not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) do not warrant preparation of a regulatory evaluation as the anticipated impact would be so minimal; (4) will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act; and (5) do not require an environmental impact statement under the National Environment Policy Act (49 U.S.C. 4321 et seq.)

Issued in Washington, D.C., on January 11, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

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Part III

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Basic Oxygen Process Furnaces

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2200-2]

Standards of Performance for New Stationary Sources; Basic Oxygen Process Furnaces

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would establish a new Subpart Na that limits secondary emissions (those not captured by the primary capture system) of particulate matter from new, modified, and reconstructed basic oxygen process furnaces (BOPF's), hot metal transfer stations, and skimming stations in iron and steel plants. The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that the previously promulgated standards for BOPF's no longer reflect application of the best demonstrated technology (BDT) for these facilities. The intent is to require new, modified, and reconstructed BOPF's hot metal transfer stations, or skimming stations in BOPF shops to be equipped with the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts. Also proposed are revisions to the existing standard for primary emissions of particulate matter from BOPF's in iron and steel plants (40 CFR 60.140, Subpart N).

A public hearing will be held to provide interested persons an opportunity for oral presentations of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before April 5, 1983.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by February 24, 1983, a public hearing will be held on March 8, 1983, beginning at 10 a.m. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541–5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by March 3, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A–130), Attention: Docket Number A–79–6, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. If anyone requests a public hearing, it will be held on March 8, 1983, at the Office of Administration Auditorium, Research Triangle Park, N.C. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541–5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

Background Information Document. The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777.

Please refer to "Revised Standards for Basic Oxygen Process Furnaces—Background Information for Proposed Standards," (EPA–450/3–82–005a).

Docket. Docket No. A–79–6, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gene Smith, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5624.

SUPPLEMENTARY INFORMATION:

Proposed Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect" * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)]." for convenience, this system will be referred to as "best demonstrated technology" (BDT).

The proposed standards would limit secondary emissions of particulate matter from certain basic oxygen process steelmaking facilities, the construction, modification, or reconstruction of which commences after January 20, 1983. Under the proposed rulemaking, existing Subpart N would also be revised to clarify the definition of BOPF, specify a shorter sampling time for determining compliance, and adjust the mass emission limit to compensate for the shorter sampling time. These proposed revisions are discussed in the section of this preamble entitled "Review of the Primary Standard." The proposed revisions to the new source performance standard (NSPS) for primary emissions of particulate matter from a BOPF (40 CFR 60/140, Subpart N) would also apply to any BOPF, the construction, modification, or reconstruction of which commences on or after January 20, 1983.

The basic oxygen process steelmaking facilities that would be affected by the proposed standards are the BOPF, hot metal transfer station, and skimming station. To ensure the proper capture of secondary emissions from these facilities, the proposed standards would establish limits for visible emissions from the BOPF shop roof monitor. During operation of a top blown furnace, no 3-minute average of visible emissions from the shop roof monitor could exceed an opacity of 10 percent, except that one 3-minute average greater than 10 percent opacity, but not exceeding 20 percent opacity, could occur once per steel production cycle. During operation of a bottom blown furnace, no 3-minute average of visible emissions from the shop roof monitor could exceed an opacity of 30 percent, except that two 3-minute averages greater than 30 percent opacity, but not exceeding 60 percent opacity, could occur once per steel production cycle.

To ensure the collection of captured emissions, a mass concentration standard of 23 mg/dscm (0.010 gr/dscf) and an opacity standard of 5 percent based on 3-minute averaging are proposed for emissions from a device used solely to collect secondary emissions from an affected facility.

For the control of secondary emissions from a top blown furnace, BDT is considered to be the use of the open hood primary emission control system to also control secondary emissions. For a bottom blown furnace, BDT is considered to be the use of a furnace enclosure with local hooding ducted to a baghouse. For the control of emissions from hot metal transfer and skimming stations, BDT is considered to be the use of local hooding ducted to a baghouse. However, the proposed standards are performance standards and therefore do not require the use of specific control equipment. Any control

equipment that would meet the performance standards could be used.

Compliance with the proposed opacity standards for emissions from the shop roof monitor and from the secondary emission control device would be determined by a series of visible emissions observations using the observational techniques specified in EPA Reference Method 9. However, compliance would be based on 3-minute averaging rather than the 6-minute averaging specified by Reference Method 9. Compliance with the proposed limits for mass emissions from the secondary emission control device would be determined by the results of a performance test using EPA Reference Method 5. Process monitoring would be required during all tests. The proposed standards would require the installation and operation of a device to monitor continuously and record the rate of exhaust ventilation through any gas cleaning equipment used to achieve the proposed standards for each phase of steel production cycle.

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and economic impacts of the proposed standards were estimated and compared to the impacts that would occur in the absence of the standards, referred to as "baseline" impacts. The results of this analysis are presented for a typical new BOPF shop that would install BDT to meet the standards. The results of the impact analysis for facilities other than the typical new shop may be found in the BID. Included also are the industry-wide impacts of the proposed standards for the 5-year period from 1981 to 1986. This information is included to provide an indication of the longer term impacts of the proposed standards and to provide a basis for comparison with other standards. The choice of a 5-year period is not meant to imply that the benefits or impacts of the standards are limited to 5 years.

Particulate emissions from a typical new BOPF shop operating two 272–Mg (300–ton) top blown furnaces, each equipped with a closed hood and scrubber, would total about 1,374 Mg/yr (1,515 tons/yr) without the proposed standards. Implementation of the proposed standards would cause a reduction in particulate emissions from this shop of about 978 Mg/yr (1,078 tons/yr) to about 396 Mg/yr (437 tons/yr) with the use of BDT, a 71-percent reduction from the baseline.

It is estimated that the construction of three BOPF shops will commence during the period 1981 to 1986. Particulate emissions from facilities at these shops would total about 3,221 Mg/yr (3,551 tons/yr) in the absence of the proposed standards. Under implementation of the proposed standards, these emissions would be reduced to about 929 Mg/yr (1,024 tons/yr).

Implementation of the proposed standards could cause an increase in the level of solid waste at a typical new shop by about 978 Mg/yr (1,078 tons/yr), or about 2 percent. The level of solid waste generated industrywide for the control of primary and secondary emissions would rise by about 2,292 Mg/yr (2,526 tons/yr), also about a 2-percent increase.

Electrical energy requirements for air pollution control at a typical new shop would increase by about 9.7 million kWh/yr. Industrywide electrical energy requirements would increase by about 22.8 million kWh/yr.

Implementation of the proposed standards would result in an increase in capital costs for air pollution control at a typical new shop of about $7.8 million over a baseline level of approximately $187.5 million. Annualized costs would increase by about $2.4 million/yr. The cost of fugitive particulate removal would thus be about $2,475/Mg ($2,245/ton). Industrywide capital costs for emission control would increase approximately $18.2 million due to the proposed standards, and annualized costs would increase by about $5.6 million/yr. Economic analysis indicates that the price of raw steel would increase less than two-tenths of a percent due to the proposd standards and that the effect on employment and steel imports would be minor as well. These impacts are considered reasonable and are not expected to prevent or hinder expansion of BOPF steelmaking facilities in the future.

The impacts presented above are based on the assumption that secondary emissions from a new BOPF shop would be uncontrolled in the absence of the proposed standards. This may not be the case. Even after primary emissions are well controlled, BOPF shops are large sources of particulate emissions, and they tend to be located in urban areas where particulate emissions to the atmosphere from other industrial sources are also high. It is therefore likely that some secondary control at a new shop would be required by other programs designed to protect air quality on a local basis. However, control of secondary emissions from new sources in this manner would be done on a case-by-case basis. Determinations regarding control technology, costs, and other impacts would have to be made repeatedly as new sources are built.

In contrast, the establishment of standards of performance on a national basis is a more efficient way of achieving long-term air quality goals as well as industrial growth. These standards provide documentation that includes the identification and comprehensive analysis of alternative emission control technologies, the development of associated costs, an evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternate technologies. The costs are provided for an economic analysis that reveals the affordability of controls in a study of the economic impact of controls on an industry.

The development of such a technical and cost basis for standards reduces uncertainty for industry and regulatory agencies in determinations of best available control technology (BACT) for facilities located in attainment areas and of lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This gives industry a better basis for long-term planning and reduces delay in permitting new sources. In addition, the standards establish a degree of national uniformity, which precludes situations in which some States may attract new industries as a result of having relaxed air pollution standards relative to other States.

The rulemaking process that implements a performance standard ensures adequate technical review and promotes participation of representatives of the industry being considered for regulation, the Government, and the public affected by that industry's emissions. The resultant regulation represents a balance in which Government resources are applied in a well publicized national forum to reach a decision on a pollution emmission level that allows for a dynamic economy and a healthful environment.

Rationale

Background

The United States iron and steel industry is composed of approximately 200 companies operating throughout 38 States. Of the 200 companies, approximately 19 have BOPF steelmaking facilities, with an estimated production capacity of 100 million Mg/yr (100 million tons/yr) of finished steel industry wide. A geographical concentration of large integrated steel plants has developed in five States: Illinois, Michigan, Indiana, Ohio, and Pennsylvania. The plants located in these States account for about 80 percent of domestic steel production.

The iron and steel industry is the largest single industrial category of those producing particulate emissions from primary metal manufacture. Particulate matter generated from the iron and steel industry during 1979 totaled approximately 470 Gg/yr (0.58 million tons/yr), or about 5.5 percent of the 9.5 Tg (10.5 million tons) generated nationwide. The BOPF segment of the steel industry accounts for about 64.9 thousand Mg/yr (71.5 thousand tons/yr), or about 13 percent of the steel industry total.

New source performance standards applicable to primary particulate emissions from BOF's in the iron and steel industry were promulgated gy EPA in 1974 (39 FR 9318, March 8, 1974). The Clean Air Act Amendments of 1977 require that the Administrator review, and if appropriate, revise established standards of performance for new stationary sources at least every 4 years. Review of the standards of performance for BOF's at iron and steel plants (40 CFR 60.140, Subpart N) was completed in 1979. The review of the primary standard result in the conclusion that secondary emissions from BOPF's represent a major air pollution source and stated that EPA would initiate a project to revise the existing NSPS to include standards for secondary emissions. The review also recommended that the definition of a BOPF and of the sampling period used to determine compliance with the primary standard be clarified. These clarifications would remove ambiguity in the applicability and compliance provisions of the existing standard. A notice of review, including an invitation for comments regarding the results of the review, was published on March 21, 1979 (44 FR 17460). No comments were received opposing the conclusions of the review. EPA has completed the background work necessary to support the revisions recommended in the 1979 review and the action proposed today would implement them.

Selection of Affected Facilities for Secondary Emission Standards

The existing NSPS limits primary mass emissions of particulate matter to 50 mg/dscm (0.022 gr/dscf) at the outlet of the primary emission control device for the BOPF. The standard also requires that visible emissions from the pollution control device not exceed and opacity level of 10 percent, although visible emissions may reach 20 percent opacity once per steel production cycle (40 CFR 60.140). However, a significant amount of fugitive or "secondary" emissions are not captured by the primary emission control system. For example, uncontrolled secondary emissions at a shop operating two 272–Mg (300-ton) top blown furnaces equipped with a closed hood primary emission control system are estimated at about 1,331 Mg/yr (1,467 tons/yr), while uncontrolled secondary emissions from a similar shop operating bottom blown furnaces are estimated at 2,596 Mg/yr (2,862 tons/yr).

Particulate matter is generated in varying quantities during each step in the basic oxygen process (BOP) steelmaking operation. The first step of the process necessarily occurring at the BOPF shop involves the transfer of molten iron from railroad torpedo cars to the shop ladle at the ladle transfer or "hot metal transfer" station. Uncontrolled secondary emissions of particulate matter from hot metal transfer are estimated at 89.5 g/Mg (0.179 lb/ton) of raw steel produced at shops with top or bottom blown furnaces. Before the molten iron is charged to the vessel, the mixture may be "skimmed" with a mechanical rake to remove slag from the surface of the hot metal. This may be done at the hot metal transfer station or at a separate location.

When the BOPF vessel is ready for charging, it is tilted from beneath the hood system (generally 26° to 30° from the vertical) toward the charging aisle. The charging box containing scrap metal is then lifted and dumped into the vessel. The ladle of molten iron is then poured into the vessel over the scrap. The charging of molten iron in the vessel results in a dense cloud of emissions that may be particularly severe if the scrap is dirty or wet. Unless specific control measures are adopted, tilting the vessel for hot metal charging operations allows fugitive emissions, estimated at 189 g/Mg (0.38 lb/ton) of steel for a top blown vessel and 310 g/Mg (0.62 lb/ton) of steel for a bottom blown vessel, to escape collection by the primary control system.

After the charging operation, the vessel is turned upright under the primary hood. In a top blown vessel, a lance is lowered into the vessel through which oxygen is blown into the hot metal. In a bottom blown vessel, also known as a quality basic oxygen process (Q–BOP) furnace, oxygen and natural gas are injected through concentric tuyeres in the bottom of the vessel or through tuyeres in the bottom and sides of the vessel (KMS conversion furnace). Particulate emissions from the oxygen blowing operation, estimated at about 14.3 kg/Mg (28.5 lb/ton) of steel, are controlled mainly by the primary hood.

When the primary oxygen blow is completed, the vessel is again tilted for testing of the heat. Emissions generated from a bottom blown vessel during turndown may be particularly severe, because a flow of nitrogen must be maintained in the bottom tuyeres in order to prevent clogging by molten metal or slag. If testing shows that the steel meets specifications, the vessel is tapped. If not, the vessel is returned to the upright position and more oxygen is blown. For about two-thirds of the production cycles, no reblow is necessary. The primary blow lasts about 12 to 20 minutes, while the duration of reblows varies from a few seconds to as long as several minutes.

Between the sampling and deslagging operations, the vessel is tilted toward the teeming aisle, and the molten steel is poured into the steel ladle. This "tapping" operation results in uncontrolled secondary emissions of particulate matter estimated at 146 g/Mg (0.29 lb/ton) of steel for a top blown vessel and 460 g/Mg (0.92 lb/ton) of steel for a bottom blown vessel.

After tapping, the vessel is tilted away from the teeming aisle and toward the charging aisle. The residual slag is poured from the vessel into a slag pot located below the BOPF vessel.

After the deslagging operation has been completed, a transfer car moves the steel ladle into the teeming aisle, where the ladle is picked up by a crane and carried to a train of ingot molds or to a continuous casting machine for the teeming operation. The teeming of molten steel results in estimated particulate emissions of 35 g/Mg (0.07 lb/ton) of steel for a top blown or a bottom blown furnace. However, uncontrolled particulate emissions observed during the teeming operation at two plants did not result in measurable levels of visible emissions from the shop roof monitor.

The remaining ancillary operations include scrap handling, flux handling, skull burning, and slag disposal. Total particulate emissions from these operations account for only 8 percent of the identified fugitive emissions from BOPF shops. These ancillary operations may vary widely from plant to plant. In addition, the operations may be distributed at various locations within a plant and may not necessarily be conducted within the confines of the shop.

Technology has been demonstrated for the control of secondary emissions emanating from the operation of the BOPF vessel, the hot metal transfer station, and the hot metal skimming station. Uncontrolled fugitive emissions

from these sources account for at least 92 percent of the identified fugitive emissions from BOPF shops. For these reasons, the BOPF vessel, hot metal transfer station, and hot metal skimming station have been selected as affected facilities under the proposed standards. Although technology is available for the control of emissions from other ancillary operations, the costs of control would be highly disproportionate to the amount of particulate captured. Therefore, ancillary operations were not selected as affected facilities for control under the proposed standards.

Selection of the Basis of the Proposed Standards

In the development of new source performance standards, applicable emission control technologies are first examined. Regulatory alternatives, based on the control techniques identified and representing different levels of overall emission control, are then developed. The environmental, economic, and energy impacts of each alternative on individual model plants and the industry as a whole are compared. One alternative is selected on the basis of this comparison as representing BDT. The following is a summary of this development process for the proposed standards for BOPF steelmaking operations.

Control Technologies

The control technologies available for the capture of secondary emissions from the furnace are determined by the method of primary emission control. Therefore, secondary control cannot be discussed without also discussing primary control methods.

Primary emissions can be captured by an open hood or a closed hood system. In the open hood system, the off-gases that are generated during the primary oxygen blow, comprised largely of CO with a small portion of CO_2, are drawn into a water-cooled hood located over the vessel mouth. The gases are burned in the hood and then enter a hood cooling section where much of the heat generated by CO combustion is absorbed. If an electrostatic precipitator (ESP) is used as the control device, the gases pass through a conditioning chamber, where they are cooled to the required temperature and humidified for proper operation of the ESP. Because the CO is combusted under the open hood, there is little explosion danger, and all of the vessels in the shop may be connected to a common gas cleaning system. Controlled particulate primary emissions from an open hood system during the primary oxygen blow are estimated to be about 2.35 g/min/Mg (0.0047 lbs/min/ton) of steel produced.

A open hood primary emission capture system can also be used for the capture of secondary emissions from charging and tapping operations, if certain equipment changes and operating modifications are made. Equipment such as flanges from the primary hood into the charging and tapping aisles and an extension of the pouring spout on the charging ladle help direct the open hood draft closer to the points of emission. A full or partial furnace enclosure also aids capture of confining emissions in the furnace area. The use of operating practices conducive to lesser fume generation is also very important. The use of clean scrap, the slow pouring of hot metal into the furnace, the careful positioning of the hot metal ladle with respect to the hood face and furnace mouth, and the proper furnace tilt angle are all means of reducing secondary emissions. However, this technique has only been demonstrated for top blown furnaces.

In a closed hood primary control system, the lower portion of the hood is equipped with a movable skirt that is dropped nearly onto the mouth of the vessel during the oxygen blow, reducing the space between the hood and the vessel. The CO generated is not burned prior to treatment but is flared when it is discharged from the stack. By limiting the excess air and cleaning only the CO and CO_2 gases, the gas volume to be handled and cleaned is reduced by as much as 75 percent, in comparison to the open hood system. This means that less fan power, smaller ductwork, and smaller collection devices are required, resulting in cost savings relative to the open hood system. A high-energy venturi scrubber is used to clean the combustible gases because of the explosion hazard that could occur in a precipitator due to the presence of CO. The use of a closed hood system to control primary emissions requires a separate scrubber system for each vessel because of the potential explosion danger resulting from air leakage into the system. Controlled primary emissions from a closed hood system during primary oxygen blow are estimated to be about 0.5 g/min/Mg (0.001 lbs/min/ton) of steel produced, or about one-fifth of the controlled emissions from an open hood system.

Mainly due to the lower air flow capability, the use of a closed hood primary system to also control secondary emissions from the furnace cannot be as effective as the open hood system. Therefore, to achieve a similar efficiency, a separate capture and collection system is required. An effective capture system in this case is a furnace enclosure evacuated using a hood system. The furnace enclosure is a structure that partially or fully encloses a furnace vessel and serves to confine secondary emissions in a small area around the furnace. Auxiliary hoods located inside the enclosure and activated during nonblowing operations capture the secondary emissions and exhaust them to a high-efficiency collection device such as a baghouse. The capture effectiveness of the auxiliary hooding depends largely on the fan capacity of the hood system and the location of each hood with respect to the emission generation points. An enclosure with hoods located over the charging and tapping areas may achieve a capture effectiveness of 90 percent or better. This control system has been demonstrated for both top and bottom blown furnaces.

For the control of emissions from hot metal transfer and skimming, operations that are conducted away from the furnace area, local hooding evacuated a baghouse is usually a completely effective system for fume capture. Again, the capture effectiveness depends on the fan capacity and the location of the auxiliary hooding. At shops where hot metal transfer and skimming are conducted at the same location, the same emission control system can be used for both operations.

Secondary emissions from all facilities can also be captured by a building evacuation system. In this system, air from the entire building is constantly evacuated and filtered through a control device to effect capture of the pollutant. Building evacuation systems may be characterized by the number of air changes over time. Although the capture efficiency of this system is high (theoretically up to 100 percent), the cost and energy requirements are higher than for auxiliary hooding. Although demonstrated at electric arc furnace (EAF) shops, building evacuation has not been demonstrated at existing BOPF shops. However, there is no technical reason why building evacuation could not be used at a new BOPF shop.

An alternative for the control of secondary emissions is to install an ESP system in the shop roof monitor of the emission sources. There are several advantages to roof-mounted ESP's. Chief among them is energy savings relative to other control systems. The roof-mounted ESP is a passive device that takes advantage of the thermal buoyancy of the escaping emissions and natural plant ventilation to carry the exhaust

gases to the control device located in the roof monitor. Little or no suction fanpower is required, resulting in substantial energy savings. A roof-mounted ESP may use as little as one-tenth the energy of a control system using forced suction. Other advantages of roof-mounted ESP's include lower capital costs and no noise or vibration.

Roof-mounted ESP's are used by the iron and steel industry in Japan (including installations at BOPF shops) but as yet have not been used by the iron and steel industry in the United States. No data are available at this time to assess the performance capabilities of this control technique. However, because of the advantages of roof-mounted ESP's, it is likely that the U.S. iron and steel industry will consider this technique as a control alternative in the future.

Emission Testing

The performance of secondary emission control systems was evaluated at eight plants. Of the systems evaluated, those at three top blown furnace shops and one bottom blown furnace shop were judged to represent the most effective systems of secondary emission control, based on roof monitor opacity observations. More detailed information regarding the control technologies employed at each of these four shops is presented in Chapter 4 of the BID.

Secondary emissions from two top blown furnaces, each equipped with an open hood primary emission control system ducted to an ESP, were observed at the Bethlehem Steel Corporation facility at Bethlehem, Pennsylvania. Each furnace is partially enclosed by side walls, with no enclosure on the charging or tapping sides. An awning-like structure has been constructed on the tapping side between the side enclosures that extends toward the teeming aisle. This awning acts as a flanged extension of the primary hood and helps direct tapping fumes into the primary hood. There is also an extension from the primary hood on the charging side of the furnace. Emissions from hot metal transfer and skimming are controlled by a hood system.

The capture effectiveness of the secondary emission control system was evaluated on the basis of visible emissions observed exiting the shop roof monitor over a number of steel production cycles. The opacities of roof monitor visible emissions were observed using the observation procedures of EPA Reference Method 9, with readings being taken at 15-second intervals. The data were analyzed by first computing the maximum 3-minute average opacity for each steel production cycle observed. Similarly, the second highest average opacity was computed for each cycle (without using any readings previously used in computing the maximum opacity). The means of the maximum and second highest averages were then determined. The data were analyzed according to 3-minute, rather than 6-minute, averages because a 3-minute average better reflects the brief duration of visible emissions characteristic of the BOPF steel production cycle. All of the 3-minute averages were segregated by furnace cycle. The data represent single-furnace operation and include slag pot dumping, ladle deskulling, hot metal transfer, and teeming emissions. Analysis of the data indicates a mean maximum opacity of 1.4 percent and a second highest mean maximum opacity of 0.30 percent.

Secondary emissions from three top blown furnaces, equipped with an open hood primary emission control system ducted to two ESP's, were also observed at the Jones and Laughlin (J&L) Steel Corporation shop at Aliquippa, Pennsylvania. Each furnace is enclosed on three sides. The front or charging side may be partially enclosed while the oxygen blow is in progress by means of a curtain mounted on a trolley rail.

The gas capture and cleaning system for the shop consists of open hoods above each furnace, an evaporation chamber for each furnace, downcomers to a common manifold and damper arrangement, two ESP's, an outlet manifold leading to a draft arrangement with seven fans, and two discharge stacks. In addition, a water ring and water sprays are used to reduce fugitive emissions from the hood during furnace puffing. Emissions from hot metal transfer and skimming are controlled by a hood system.

As previously described, emissions from the shop roof monitor were observed as specified by EPA Reference Method 9, but analyzed on the basis of 3-minute rather than 6-minute averages. The data are representative of simultaneous two-furnace operation and include hot metal transfer and teeming, which occurred during the tests. The overall mean maximum 3-minute average opacity was 3.9 percent, as compared to 1.4 percent for Bethlehem. The second highest mean opacity was 2.1 percent, as compared to 0.30 percent for Bethlehem.

Secondary emissions from a top blown vessel equipped with a closed hood primary emission control system and a separate secondary emission control system were observed at the Kaiser Steel BOPF facility at Fontana, California. This system captures secondary furnace emissions from charging, tapping, and vessel turndown by means of a full furnace enclosure equipped with charging and tapping hoods. The furnace enclosure can be evacuated at a rate of 17,000 acmm (600,000 acfm). Emissions from hot metal transfer and hot metal skimming operations are controlled by an auxiliary hood ducted to the baghouse collecting secondary emissions from furnace operations.

Emission were observed and the data analyzed in the same manner as for the previously described plants. The data represent single-furnace operation and include the effects of hot metal transfer, hot metal skimming, charging, tapping, teeming, and other secondary emission sources. Analysis of the data revealed a mean maximum opacity of 5.4 percent and a second highest mean opacity of 1.5 percent.

At present, only three plants in this country operate bottom blown furnaces, also known as Q-BOP vessels. The operation of the Q-BOP during charging and vessel turndown requires gas to be blown through the tuyeres to prevent them from being clogged by liquid metal, slag, or solids. More secondary emissions are generated during the operation of a bottom blown furnace than for a top blown furnace, and capture of the secondary emissions is more difficult.

The capture efficiency of the secondary emission control system was evaluated for the Republic Steel Corporation Q-BOP shop at South Chicago, Illinois. Secondary emission control at the Republic shop is effected by exhausting furnace enclosures to a common collection device at a rate of 10,500 acmm (370,000 acfm). Each furnace is also equipped with a supplementary charging hood that is evacuated to the furnace primary emission control system during hot metal and scrap charging. Emissions from hot metal transfer are ducted to a separate system.

Draft for the charging hood at the Republic plant is obtained from the closed hood primary control system. Each furnace has its own primary gas cleaning system and typically only one furnace is operated at a time. A crossover duct between the two furnaces permits the primary system for the nonoperating furnace to be used to evacuate the auxiliary charging hood on the operating furnace. During turndown and tapping, the charging hood is drafted by the scrubbing system of the nonoperating vessel. Fume capture during these latter operations is assisted

by drafting the primary hood. However, there are no tapping hoods.

Roof monitor visible emissions data representing single-furnace operation at the Republic shop were gathered and analyzed in the same manner as previously described. Analysis of the data indicated a mean maximum opacity of 17.5 percent, as compared to 5.4 percent for top blown furnace operation at the Kaiser shop where furnace enclosures and hooding are also used. The second highest mean opacity was 10.0 percent, as compared to 1.5 percent for Kaiser. The higher opacity of roof monitor emissions from the Republic BOPF shop is attributable to three factors: (1) emissions are more difficult to capture from a bottom blown furnace than from a top blown furnace; (2) the Kaiser facility includes both a charging and a tapping hood, as compared to only a charging hood at the Republic shop; and (3) the furnace enclosure evacuation rate capability is 17,000 acmm (600,000 acfm) as compared to 10,500 acmm (370,000 acfm) at the Republic bottom blown shop. It is not possible to estimate what the opacity of roof monitor emissions would be if the furnaces at the Republic shop were equipped with tapping hoods and the furnace enclosure exhaust ventilation rates were similar to those at the Kaiser shop.

Performance test data were also examined to evaluate the collection efficiency of secondary emission control devices. Baghouses are generally used to collect secondary emissions, although a few scrubbers are currently used for secondary emission control. Performance test data for baghouses as applied to EAF enclosures and to BOPF hot metal transfer stations were evaluated for seven plants. The data included 54 individual test runs made in accordance with EPA Reference Method 5. The range of all runs was from 2.28 to 22.8 mg/dscm (0.001 to 0.010 gr/dscf), with all except one run below 18.0 mg/dscm (0.0079 gr/dscf).

Visible emissions data for discharged gases leaving BOPF secondary emission baghouses have been obtained for three sources. Visible emissions were read during the performance testing of the Wheeling-Pittsburgh Steel hot metal transfer baghouse in Mingo Junction, Ohio. Similar data were obtained from two baghouses at the U.S. Steel Q-BOP facility in Fairfield, Alabama. One of the two baghouses serves the canopy hood above Furnace C for collecting fugitive hot metal charging emissions and the south hot metal mixer and transfer station. The other baghouse serves the north hot metal mixer and transfer station.

The test method used was EPA Reference Method 9. The data were analyzed, however, by computing 3-minute averages instead of 6-minute averages. Again, a 3-minute average was used for data analysis because a 3-minute average better reflects the brief duration of visible emissions characteristic of the BOPF steel production cycle. Of the 664 3-minute averages computed, all but 25 were less than 1 percent. There was one 3-minute average of 5 percent, which was the highest average. The next highest average was 4.2 percent.

Regulatory Alternatives

Based on the various technologies identified for the control of primary and secondary particulate emissions from BOPF steelmaking operations, four regulatory alternatives were selected for consideration as the basis for the proposed standards. Each regulatory alternative represents a different approach to setting standards for BOPF facilities and corresponds to a level of emission control demonstrated to be achievable with the use of a particular control technology.

Regulatory Alternative I corresponds to no additional Federal standards for emissions from BOPF steelmaking facilities. The level of emission control of this alternative is represented by the current NSPS that limits the mass and opacity of primary particulate emissions from an affected BOPF. These emission limits can be met with either an open or closed hood capture system in combination with a precipitator or scrubber for particulate collection. However, due to the advantages of closed hood control when only primary emission control is required, new BOPF shops would probably incorporate closed hood systems under this alternative.

Under Regulatory Alternative II, an additional NSPS would be proposed to limit secondary emissions from the BOPF, hot metal transfer station, and skimming station. Regulatory Alternative II would involve no change in the current NSPS for primary emissions, and thus would allow the use of either closed or open hood control of BOPF primary emissions. Standards for secondary emissions associated with this alternative would be achievable using auxiliary hooding ducted to a baghouse for the control of emissions from hot metal transfer and skimming and either of two methods for the control of top blown furnace emissions. If open hooding were used for the control of primary emissions from top blown furnaces, the primary control system could also be used to capture and collect secondary emissions as demonstrated at the Bethlehem/Bethlehem and J&L/Aliquippa shops. If closed hooding were the primary emission control method, a furnace enclosure with hooding evacuated to a baghouse could be used to meet the standards, as demonstrated at Kaiser/Fontana. The level of control for secondary emissions is comparable with either system. Use of the furnace enclosure and hooding system as at Republic/South Chicago is the only demonstrated technique for the control of secondary emissions from bottom blown furnaces and therefore would be the basis for standards for this type of furnace.

Because primary emissions are controlled to a greater degree with a closed hood system, total emissions (primary and secondary) to the atmosphere from a new BOPF shop would be less if closed hooding were used Due to this difference in total emissions to the atmosphere, an alternative was considered that would, in effect, require the use of closed hooding as the primary emission control method for furnaces at a new shop. Under Regulatory Alternative III, the existing NSPS for primary emissions would be revised to a limit that could only be achieved with the use of a closed hood system. Standards for secondary emissions would be based on the use of a furnace enclosure with hooding evacuated to a baghouse for the control of emissions from top or bottom blown furnaces plus auxiliary hooding ducted to a baghouse for the control of emissions from hot metal transfer and skimming.

Finally, under Regulatory Alternative IV, standards would be set for secondary emissions from the affected facilities based on the use of a total building evacuation system. The limits of the primary NSPS would not be changed, therefore allowing the use of either closed or open hooding for primary emission control.

Impacts of Regulatory Alternatives

EPA estimated the environmental, energy, and economic impacts of each regulatory alternative based on an analysis of "model plants." A model plant is a BOPF shop comprised of facilities of the size and type that could be affected by the regulatory action under consideration. Many plants were analyzed mainly to reflect the different sizes, types, and configurations of furnaces possible at a shop. An NSPS could apply to individual new, modified,

or reconstructed facilities within an existing ship; thus, in addition to entirely new shops, it was also necessary to analyze cases in which one or more facilities are required to have secondary emission control while other facilities at the same shop are not (e.g., the addition of a new furnace to an existing shop). The results of this analysis for all model plants are presented in the BID.

To assess the relative effect of the alternatives, the impacts of each alternative on the same "typical plant" were compared. A typical plant for this analysis was defined as a new BOPF shop with two 270-Mg (300-ton) top blown furnaces.

Under Alternative I, it is assumed that closed hooding would be used as the primary emission control method to meet the existing NSPS. Particulate emissions to the atmosphere from a typical plant with closed hood primary control on the furnaces and uncontrolled secondary emissions would be approximately 1,374 Mg/yr (1,515 tons/yr). Of these emissions, primary emissions controlled to the level required by the existing NSPS would be about 44 Mg/yr (48 tons/yr), while uncontrolled secondary emissions would be about 1,331 Mg/yr (1,467 tons/yr). EPA recognizes that individual States may require secondary emission control at new BOPF shops, even in the absence of new Federal standards. However, at this time it is not possible to identify where new plants will be built or to determine to what degree secondary control might be required. Therefore, for the purpose of this analysis, it is assumed that secondary emissions would be uncontrolled. The solid waste generated by the collection of primary particulate emissions would be approximately 41,325 Mg/yr (45,552 tons/yr). The electrical energy required for emission control under this alternative would be about 16 million kWh/yr for the typical plant. The capital cost of a typical new shop is estimated at $187.5 million (1980 dollars). Of this investment, approximately $13 million would be needed for the closed hood primary emission control system. An additional $5 million would be needed for water pollution control, if scrubbers were used with the closed hood system. Annualized costs (including the cost of capital, operation, and maintenance) for primary emission control at a typical new shop are estimated at about $5.4 million/yr. The cost of producing raw steel at a typical plant under Alternative I would be approximately $320/Mg ($353/ton). The estimated impacts of the other alternatives on a typical plant, as measured against the baseline impacts of Alternative I, as shown in Table 1.

TABLE 1.—IMPACTS OF REGULATORY ALTERNATIVES ON A TYPICAL NEW PLANT AS COMPARED TO ALTERNATIVE I

	Alternative II	Alternative III	Alternative IV
Environmental impacts:			
• Emission reduction	976 Mg/yr (1,078 tons/yr)	1,052 Mg/yr (1,160 tons/yr)	173 Mg/yr (191 tons/yr).
• Percent emission reduction	71	77	13.
• Percent increase in solid waste	2	3	1.
• Water pollution	No impact	No impact	No impact.
Energy impacts:			
• Electrical energy increase for emission control	9.7 million kWh/yr	20 . illion kWh/yr	118 million kWh/yr.
• Percent increase	61		738.
Economic impacts:			
• Increase in capital costs (1980$)	7.8 million	. million	42.9 million.
• Increase in annual costs (1980$)	2.4 million	...0 million	11.9 million.
• Cost of pollutant removal	$2,475/Mg ($2,245/ton)	$3,649/Mg ($3,310/ton)	$69,036/Mg ($62,360/ton).
• Percent increase in cost of producing raw steel.	0.3	0.5	n.p.

n.p.—Analysis not performed for this alternative.

The longer term effects of the alternatives were evaluated by estimating what would be the sum effect of each alternative on all BOPF steelmaking facilities for which construction was commenced during the period from 1981 to 1986. The computation of these industry wide impacts was based on an estimated increase in BOPF steelmaking capacity of 6.8 million Mg/yr (7.5 million tons/yr) by 1986. This projected new capacity is equivalent to the construction of approximately three new BOPF shops.

EPA is aware that there are other forecasts for growth in BOPF steelmaking capacity that differ from the one cited above. For instance, some forecasters claim that all demand for new steelmaking capacity will be accommodated by the construction of new electric arc furnaces (EAF's); the growth projection EPA used assumes a mix of new BOPF's and EAF's. Another possibility is that there could be an increase in BOPF capacity due to the conversion of existing open hearth furnaces to bottom blown BOPF's rather than, or in addition to, the building of new shops. Given the current economic climate, it is difficult to predict future growth in BOPF capacity. The public is specifically invited to comment on this issue.

Under Alternative I, EPA estimates that industry wide particulate emissions (controlled primary emissions plus uncontrolled secondary emissions) would be approximately 3,221 Mg/yr (3,551 tons/yr) for facilities commencing construction from 1981 to 1986. The solid waste to be handled due to the collection of emissions would be 96,855 Mg/yr (106,763 tons/yr). Industry wide electrical energy requirements under this alternative would be about 37.5 million kWh/yr. Industry wide capital and annualized costs for emission control would be $42 million and $12.6 million/yr, respectively. The market price of raw steel under this alternative is estimated to be $380/Mg ($418/ton), as measured in 1980 dollars.

The estimated industry wide impacts of the other alternatives, as measured against the baseline impacts of Alternative I, are shown in Table 2.

TABLE 2.—Industrywide Impacts of Regulatory Alternatives as Compared to Alternative I

	Alternative II	Alternative III	Alternative IV
Environmental impacts:			
• Emission reduction	2,292 Mg/yr (2,527 tons/yr)	2,466 Mg/yr (2,718 tons/yr)	404 Mg/yr. (445 tons/yr).

TABLE 2.—Industrywide Impacts of Regulatory Alternatives as Compared to Alternative I—Continued

	Alternative II	Alternative III	Alternative IV
● Percent emission reduction	71	77	13.
● Percent increase in solid waste	2	3	1.
● Water pollution	No impact	No impact	No impact.
Energy impacts:			
● Electrical energy increase for emission control	22.8 million kWh/yr	46.9 million kWh/yr	278 million kWh/yr.
● Percent increase	61	125	738.
Economic impacts:			
● Increase in capital costs (1980$)	18.2 million	28.4 million	88.4 million.
● Increase in annual costs (1980$)	5.6 million	3.0 million	28.0 million.
● Cost of pollutant removal	$2,245/Mg ($2,245/ton)	$3,649/Mg ($3,310/ton)	$90,209/Mg ($82,360/ton).
● Percent increase in market price of raw steel	0.2	0.4	n.p.

n.p.=Analysis not performed for this alternative.

Selection of Basis of the Proposed Standards

Based on the use of a building evacuation system, the costs associated with Regulatory Alternative IV, are significantly higher than the costs of the control systems described under Regulatory Alternatives II and III. The higher cost of this alterative cannot be justified since the emission reduction associated with it is much less than the reduction associated with Alternatives II and III. For this reason, Regulatory Alternative IV was not considered further as the basis of the proposed standards.

Under Regulatory Alternative II, combined primary and secondary emissions to the atmosphere at a typical new shop would total about 396 Mg/yr (434 tons/yr), an overall emission reduction of about 978 Mg/yr (1,078 tons/yr) from the baseline level. The cost per ton of pollutant removed of this alternative over Alternative I would be $2,475/Mg ($2,245/ton). In comparison, implementation of Regulatory Alternative III would result in combined primary and secondary emissions at a typical new shop of about 323 Mg/yr (354 tons/yr), an overall emission reduction of about 1,052 Mg/yr (1,160 tons/yr) from the baseline level. The cost per ton of pollutant removed over Alternative I would be $3,649/Mg ($3,310/ton). Although both alternatives can be characterized as affordable, the additional emission reduction of about 74 Mg/yr (82 tons/yr) that would be achieved by going from Alternative II to Alternative III would have an incremental cost of approximately $19,000/Mg ($17,300/ton). In addition, the selection of Regulatory Alternative III would result in an increase of about 20 million kWh/yr in electrical energy requirements for emission control at a typical new shop, as compared to an increase of about 9.7 million kWh/yr under Regulatory Alternative II. The other impacts of Alternatives II and III are considered acceptable.

Although implementation of Regulatory Alternative III would ensure the greatest total reduction in primary and secondary emissions, the additional cost required to achieve an additional emission reduction of about 74 Mg/yr (82 tons/yr) at a typical new shop in comparison to Regulatory Alternative II is considered exorbitant. For this reason, the Administrator considered it inappropriate to base the proposed standards on Alternative III, an alternative that would necessitate the use of the closed hood system in all cases. In comparison, Alternative II would also result in significant emission reduction, but at a potentially lower cost than Alternative III. Therefore, Regulatory Alternative II was selected as the basis for the proposed standards. Due to the lower cost, BDT at a typical new shop under this alternative corresponds to the use of the open hood primary control system to also control secondary emissions from the furnace and local hooding evacuated to a baghouse to control secondary emissions from hot metal transfer and skimming.

Due to the high capital cost and high cost per ton of BOPF secondary emission controls relative to the cost of controlling other sources of particulate emissions, the Administrator closely examined the benefits of requiring additional emission controls at BOPF shops. As noted earlier, BOPF shops are large sources of particulate emissions to the atmosphere, even after primary emissions are effectively controlled. For perspective, the typical emission rate is approximately double the particulate emission rate from a large (500 MW) coal-fired utility boiler and 10 to 15 times greater than the particulate emission rate of a typical cement plant. These emissions are predominately fine particulates. Considering that BOPF shops tend to be located near population centers and have a long operating life, the impacts of leaving secondary emission uncontrolled would be significant. Furthermore, the most efficient time to incorporate emission controls is at the time a source is built, both in terms of reducing emissions and minimizing the cost of the controls; to retrofit emission controls at a later time would be more costly. Given the magnitude of BOPF shops as sources of particulate emissions, any action now to defer the cost of secondary emission control would only result in higher costs in the future. Therefore, the Administrator believes it is reasonable to proceed with secondary emission standards for new sources at this time, despite the relatively high cost per ton of emission reduction.

Selection of Format of the Proposed Standards

Under Section 111 of the Clean Air Act, a standard of performance must be expressed in terms of an emission limit whenever possible. An emission limit is commonly based on the measurement of the mass of a pollutant in terms of concentration, mass emissions per unit of time, or mass emissions per unit of production. As an alternative or supplement to a standard of this type, an emission limit may be a restriction on visible emissions.

To implement Alternative II, two types of standards are required. First, a standard is necessary to ensure the capture of secondary emissions and second, a standard is necessary to ensure the collection of the captured emissions. No secondary emission control system has been demonstrated as 100 percent effective in the capture of primary or secondary particulate emissions. For any type of mass limit to be effective in ensuring the capture of secondary emissions, it would have to be possible to measure emissions that escape capture. Methodology does not exist to do this for BOPF steelmaking operations and, therefore, mass limits cannot be considered.

Emissions that escape capture by the primary and the secondary systems rise to the top of the BOPF shop and exit the shop roof monitor. Therefore, visible emissions observed exiting the shop roof monitor are a good indicator of the performance of the fugitive emission

capture systems on the affected facilities in the shop.

As previously discussed, EPA has gathered roof monitor visible emissions data from several BOPF shops in assessing the performance of various capture techniques. The Administrator considers these data to represent a reasonable basis for establishing visible emission limits for emissions exiting the roof monitor to ensure the effective capture of fugitive particulate emissions from the affected facilities within the shop. Therefore, the proposed standards for the capture of secondary emissions from the furnace, hot metal transfer station, and skimming station are expressed as opacity limits for visible emissions from the BOPF shop roof monitor.

Polluting emissions from collection devices are generally characterized by the concentration and flow rate of the pollutant stream. An emission limit for a pollutant exiting these devices is typically expressed in terms of an allowable mass emission rate (mass of pollutant per unit of time), an allowable concentration (mass of pollutant per volume of gas), or an allowable process weight limit (weight of pollutant per unit of product).

A process weight format was not considered appropriate for the determination of secondary emissions because this format assumes that there is a direct relationship between the quantity of particulate matter emitted from the secondary emission control device (in this case, a baghouse) and the amount of raw steel produced. This relationship would be difficult to establish for BOPF steelmaking operations, because particulate emissions from a wide range of operations would be captured and collected by the baghouse, a device not particularly sensitive to inlet concentrations (i.e., the outlet concentration remains fairly constant regardless of changes in inlet concentration).

Because of wide differences in operating procedures, such as the length of the steel production cycle, control technologies, vessel capacities, and other operating parameters between BOPF shops, a single emission rate that is uniformly applicable to the industry or to a specific type of vessel is not practicable and would not necessarily correspond to the performance of BDT. For these reasons, a format expressed in terms of an allowable emission rate was not selected for the proposed standards.

With Reference Method 5 techniques, it is comparatively simple to measure mass emissions per unit volume of gas sampled to determine compliance with a concentration standard. Since a concentration standard is consistent with the existing standard for the primary control device, it was selected as the format for the proposed mass emission limits for the secondary emission control device. An opacity standard is also proposed for emissions that exit the secondary emission control device to aid in enforcement and as an indicator of proper operation and maintenance of the device.

Selection of Emission Limits

To implement Alternative II, emission limits were selected based on the measured performance of control systems representative of BDT. The test results used to determine emission limits were for facilities considered representative of those that would be subject to the proposed standards.

Analysis of the roof monitor visible emission test results showed that emissions from the best controlled BOPF shops in this country equipped with top blown vessels are more effectively controlled than emissions from the best controlled shops equipped with bottom blown vessels. Bottom blown vessels are generally more difficult to control because it is necessary to purge the tuyeres in bottom blown vessels during charging and tapping to prevent plugging. The purge gases tend to move away from the furnace hood when the vessel is tilted, making it more difficult to capture particulates than when no purging is necessary, as in the case of top blown vessels. For this reason, the proposed standards would include separate roof monitor opacity standards for top blown and bottom blown furnaces.

To determine roof monitor opacity limits for facilities at shops with top blown furnaces, the performance of the secondary emission capture systems used for the control of secondary emissions was evaluated at the Bethlehem Steel BOPF shop at Bethlehem, Pennsylvania, the J&L BOPF shop at Aliquippa, Pennsylvania, and the Kaiser Steel BOPF shop at Fontana, California. The Bethlehem/Bethlehem and J&L/Aliquippa shops employ open hood primary control systems that are also used to control furnace secondary emissions. At Kaiser Fontana, closed hooding is the primary emission control method and enclosure/hooding systems are used to control furnace secondary emissions.

Visible emission data were gathered by using the observational techniques of EPA Reference Method 9 and analyzed on the basis of 3-minute average opacities (the average of 12 consecutive observations at 15-second intervals). Selection of the maximum 3-minute average opacity was made by computing moving averages for each steel production cycle. The highest moving average was chosen; then the second highest average was chosen in such a way that none of the individual readings used to compute either average were common.

The results of these computations for the Bethlehem/Bethlehem performance data revealed a mean maximum 3-minute average of 1.4 percent and a mean second highest average of 0.3 percent. At a 95-percent prediciton level, the maximum 3-minute average was 6 percent, and the second highest 3-minute average was 2 percent. A 95-percent prediction level indicated that there was a 5-percent probability (1 chance in 20) that a further observation at the plant or another plant performing equally well would exceed this value. In comparison, statistical analysis of the performance data for the J&L/Aliquippa shop revealed a mean maximum 3-minute average of 3.9 percent and a mean second highest 3-minute average of 2.1 percent. For a 95-percent prediction level, the maximum 3-minute average and the second highest 3-minute average were computed at 11 and 6 percent, respectively.

Statistical analysis of the Kaiser/Fontana roof monitor opacity data was based on an examination of 3-minute average opacities, using the same techniques as previously discussed for the Bethlehem/Bethlehem and J&L/Aliquippa data. Statistical analysis of the Kaiser/Fontana data revealed the mean of the maximum 3-minute average and the mean of the second highest 3-minute average to be 5.4 percent and 1.5 percent, respectively. At a 95-percent prediction level, the maximum 3-minute average was 16 percent, while the second highest average was 7 percent.

Due to the difference in the highest and second highest average opacities observed for the production cycles at the shops with top blown furnaces, one roof monitor opacity limit based on the highest average opacity observed would not adequately reflect the continuous performance of BDT on the affected facilities. Therefore, the Administrator proposes to set one basic limit on roof monitor opacity (based on the second highest average opacities observed) with one 3-minute average per cycle allowed up to a limit based on the highest average opacities observed.

In the selection of these limits, the Administrator considered proposing separate roof monitor opacity standards for facilities at open and closed hood BOPF shops. But while the observed

performance of the secondary emission control system at one of the open hood shops, Bethlehem/Bethlehem, was better than Kaiser/Fontana's the performance of the secondary control system at J&L/Aliquippa, also an open hood shop, was not significantly different from Kaiser/Fontana's. Analysis of the data shows that there is not a statistical basis for proposing a different set of roof minitor opacity limits for facilities at open and closed hood shops.

The Administrator has concluded that one basic and one upper limit, demonstrated to be achievable by facilities at open and closed hood shops, can be established that would result in the use of BDT or equivalent on new and modified facilities at both types of BOPF shops. Therefore, based on analysis of the roof monitor opacity data for all three effectively controlled BOPF shops, a proposed roof monitor opacity standard of 10 percent, with an upper limit of 20 percent opacity (one 3-minute average of up to 20 percent opacity during the steel production cycle), is proposed for facilities at BOPF shops equipped with top blown furnaces.

Test data reflecting the performance of secondary emission controls for bottom blown furnaces were obtained from the Republic Steel/South Chicago shop. Test data were available from 9 days of roof monitor observations conducted at the Republic Steel shop. Three-minute moving averages were computed in the same manner as described for top blown furnaces. The results of this computation revealed that the mean of the maximum 3-minute average was 17.5 percent. The means of the second and third highest 3-minute averages were 10.0 percent and 6.6 percent, respectively. Of the 42 individual test runs, a total of 15 of the maximum 3-minute averages exceeded 20 percent opacity, whereas none of the 3-minute averages for the closed hood, top blown furnace at Kaiser exceeded 20 percent opacity. Statistical analyses of the Republic data for 95 percent prediction limits for Kaiser yield 55 percent for the maximum 3-minute averages and 26 percent for the third highest 3-minute averages. Based on these data, a proposed roof monitor opacity limit of 30 percent (with two 3-minute averages of up to 60 percent during the cycle) was selected for bottom blown furnaces.

For the collection of emissions captured by a hooding system, a baghouse is considered BDT. Data on the effectiveness of baghouses for controlling particulates from steelmaking operations were used to select mass emission limitations for secondary emissions from BOPF's. The recommended mass emission limits are based on tests of nine different baghouses, with over 50 test runs. All of the test reports on baghouses applied for control of secondary emissions from steelmaking operations show that emission levels were well below the 23 mg/dscm (0.010 gr/dscf) limit selected.

Visible emissions test data were obtained for discharged gases exiting BOPF secondary emission baghouses. The data base is composed of three tests. Visible emissions measurements were taken according to EPA Reference Method 9 and analyzed on the basis of 3-minute averages. Results of these computations reveal that the majority (96 percent) of the 3-minute averages were below 1 percent opacity with the highest 3-minute average being 5 percent opacity. Thus, an emission limit of 5 percent opacity from the secondary emission control device was selected for inclusion in the proposed standards.

Roof-Mounted Electrostatic Precipitators

BDT involves the capture of secondary emissions close to the generation point. Emissions that escape local capture rise and exit the shop roof monitor without further control. Captured emissions are ducted to a collection device.

Based on the use of BDT, the proposed regulation would set limits on secondary emissions exiting the BOPF shop from two points: the shop roof monitor and the control device. Thus, the total emissions that would be allowed to escape to the atmosphere are the sum of those exiting the shop roof monitor and those exiting the control device. However, if a roof-mounted ESP were used, the capture and collection of secondary emissions would take place at the shop roof monitor, a configuration different than if BDT were used. If the limits for a secondary control device (23 mg/dscm and 5 percent opacity) were applied to a roof-mounted ESP, allowable emissions may be less than if BDT were used to control secondary emissions. In effect, a shop using a roof-mounted ESP could be required to control emissions to a greater degree than a shop using BDT. This might discourage the owner or operator of a new BOPF shop from using a roof-mounted ESP, a device that may be as efficient as, and more cost-effective than, BDT.

Due to the variables involved, it is not possible to make a direct comparison between allowable emissions from a roof-mounted ESP subject to the proposed secondary collector standards and allowable emissions from the same roof-mounted ESP subject only to the proposed roof monitor opacity standards. However, EPA estimates that the emission reduction achieved by a roof-mounted ESP would most likely be as good or better than BDT if it met the proposed roof monitor opacity limits. Therefore, the proposed standards would not require a roof-mounted ESP to meet the limits for a secondary control device. Rather, only the roof monitor opacity standards would apply.

The intent in this is to make the proposed standards as applied to RMESP's equivalent, in terms of allowable emissions, to what they would be as applied to BDT. EPA solicits comments on the issue of whether or not the proposed exception would accomplish this.

In general, it is the Administrator's intent to encourage the use of cost-effective, innovative technology such as the roof-mounted ESP. Section 111(j) of the Clean Air Act provides a mechanism whereby the Administrator may grant a temporary waiver of compliance with NSPS for an innovative technology that has not yet been demonstrated but which holds the promise of achieving continuous emission reduction greater than BDT or at least an equivalent reduction at lower cost in terms of energy, economic, or nonair quality environmental impact. An owner or operator who proposes to install an innovative technology should contact EPA to discuss the applicability of Section 111(j).

Selection of Monitoring Requirements

Section 302(l) of the Clean Air Act defines the term standard of performance to mean "a requirement of continous emission reduction, *including any requirement relating to the operation or maintenace of a source to assure continuous emission reduction*" (emphasis added). In general, requirements relating to the operation and maintenance of a source *are* included in NSPS in the form of monitoring requirements, if there are operating parameters related to the performance of the emission control system that can be monitored without an unreasonable burden on the owner or operator.

For BOPF steelmaking facilities, a good indicator of the effectiveness of the secondary emission capture system is the exhaust ventilation rate. Therefore, the proposed secondary emissions standards would require the owner or operator to install a monitoring device that continuously records, for each steel production cycle, the exhaust ventilation rate from each gas cleaning device. In addition, checks of the monitoring device would be required annually to

determine that the device is performing adequately. The cost of purchasing, installing, and maintaining this device is reasonable considering that the monitoring of exhaust ventilation would help ensure that the fume capture system continues to operate effectively after it is installed.

Under § 60.7(d) of the General Provisions, the owner or operator is required to maintain the monitoring records at the source for a minimum of 2 years and to make these records available for inspection, upon request, by Agency personnel or their representatives.

The existing NSPS for the control of primary emissions of particulate matter (40 CFR 60.140, Subpart N) requires the installation of a monitoring device to record the duration of each steel production cycle and continuous monitoring devices for the measurement of pressure loss through the primary control system and for the measurement of water supply pressure to the primary control equipment. These monitoring device requirements would continue to be applicable for primary emission control.

Selection of Test Methods

The method selected for determining compliance with the BOPF shop roof monitor standards is similar to EPA Reference Method 9, with certain modifications in how the data are evaluated. Visible emission observations would be made as specified by Method 9, with readings required every 15 seconds. Experience gained from six fugitive emissions test programs indicates that most of the emissions observed from roof monitors lasted well over 15 seconds and typically lingered for 1 to 2 minutes. Therefore, the requirement that readings be taken at 15-second intervals does not pose a problem to its application for roof monitor testing at BOPF shops. It is essential that visible emission observers should position themselves to read across the shortest dimension of the roof monitor and not through the long dimension from the end of the monitor. Failure to observe this precaution in positioning would result in a high bias in opacity determinations.

The steel production cycle was selected to characterize BOPF shop visible emissions rather than a given time period, such as on an hourly basis, because analysis of test data shows a correlation between opacity readings and specific operations during the steel production cycle such as charging, oxygen blowing, turndown, tapping, and deslagging. If a specific time span were specified, more than one production cycle may occur during the time period selected. Specifying the time of one production cycle would eliminate this problem.

Also, the data for characterizing roof monitor visible emissions from the Kaiser Steel/Fontana shop, the Republic Steel/South Chicago shop, and the Bethlehem Steel/Bethlehem shop were gathered during the operation of only one of the two vessels. Therefore, for BOPF shops where two vessels are normally operated at the same time, the owner or operator would have the option of operating only one vessel during observations of emissions existing the shop roof monitor. It should be noted that roof monitor visible emissions data were obtained at J&L/Aliquippa during two-furnace operation. The data indicated better performance than those for Kaiser. However, because it is an open hood shop and only one of four shops tested, it was not presumed to suggest that the proposed limits could be achieved during two-furnace operation at all shops.

In addition to the operation of the affected facilities, normal shop activities, such as teeming, deslagging, flux handling, skull burning, and slag disposal, were conducted during the evaluation testing at all shops. Consequently, the limits selected reflect the emission limitations that can be achieved by top blown and bottom blown systems under similar conditions.

Under the proposed secondary opacity standards, compliance would be determined on the basis of 3-minute average opacities rather than on the basis of 6-minute average opacities, as is done with Reference Method 9. This is because emissions are of such short duration that they are better characterized by a 3-minute average. To determine compliance with the proposed roof monitor opacity standards and the proposed opacity standard for secondary emission control devices, opacity observations would be recorded to the nearest 5 percent at 15-second intervals for a minimum of three steel production cycles. The steel production cycles need not be consecutive cycles. The opacity of the visible emissions would be determined as an average of 12 consecutive observations recorded at 15-second intervals. The observations for each steel production cycle would be divided into sets of 12 consecutive observations. A set would be composed of any 12 consecutive observations; sets would not need to be consecutive in time and in no case should any two sets overlap. The average for each set of 12 observations would be computed by summing the opacity of the 12 observations and dividing this sum by 12.

To determine compliance with the roof monitor opacity standards for shops with top blown furnaces, the sets yielding the highest and second highest 3-minute average opacities for each steel production cycle would be identified. Compliance would be achieved when the highest 3-minute average for each cycle observed does not exceed 20 percent and the second highest 3-minute average does not exceed 10 percent. For shops with bottom blown furnaces, the sets yielding the highest and third highest 3-minute average opacities for each cycle would be identified. Compliance would be achieved when the highest 3-minute average for each cycle observed does not exceed 60 percent, and the third highest 3-minute average does not exceed 30 percent. Compliance with the proposed opacity standard for the outlet of a secondary emission control device would be achieved when no 3-minute average exceeds 5 percent.

Emissions from particulate emission control equipment would be measured according to EPA Reference Method 5. Compliance with roof monitor emission limitations would be evaluated during steel production cycles. The rationale for selection of the production cycle is discussed in conjunction with regulatory alternatives.

Performance tests for secondary mass emission limitations from particulate emission control systems, such as baghouses, would be conducted only during the steel production cycle. Sampling would be conducted during a sufficient number of cycles to ensure a sampling volume of at least 2.27 dscm (80 dscf).

Costs for conducting performance tests of BOPF secondary emissions are estimated to range between $10,000 and $30,000. The higher estimate of $30,000 would include the cost of a performance test for hot metal transfer and skimming emissions. Variations in costs depend primarily upon the number of sources requiring testing at a given plant. Testing costs can be minimized if observations are limited to the BOPF shop roof monitor by Reference Method 9 alone. Related processes not under the same roof monitor would require separate testing.

Review of the Primary Standard

The Clean Air Act Amendments of 1977 require that the Administrator review and, if appropriate, revise established standards of performnce for new stationary sources at least every 4 years. Review of the standards of

performance for BOPF's at iron and steel plants (40 CFR 60.140, Subpart N) was completed in 1979 and a notice of review was published on March 21, 1979 (44 FR 17460). Further information regarding the review of the primary standard may be found in the EPA document, "A Review of Standards of Performance of New Stationary Sources—Iron and Steel Plants/Basic Oxgen Process Furnaces" (EPA–450/3–78–116).

Review of the primary standard resulted in recommendations for revisions to the standard in three areas: (1) The inclusion of controls for secondary emissions; (2) the clarification of the definition of a basic oxygen process furnace (BOPF); and (3) the clarification of the sampling period used to determine compliance.

Based on the first recommendation, a new Subpart Na has been proposed for the control of secondary emissions from BOPF's hot metal tranfer stations, and skimming stations in BOPF shops at iron and steel plants. The control of secondary emissions and the relationship between primary and secondary emissions are discussed under earlier sections of this preamble concerning the proposal of NSPS for secondary emissions from these sources.

Under the existing primary standard, a BOPF is defined as "any furnace producing steel by charging scrap steel, hot metal, and flux materials into a vessel and introducing a high volume of an oxygen-rich gas." This definition could also be used to describe an oxgen-lanced open hearth furnace, so any modifications of open hearth furnaces to include oxygen lancing could be subject to the current standard. The primary standard is based on the performance of emission controls on BOPF's. EPA has not assessed the achievability of the primary standard for open hearth furnaces and does not intend for it to apply to open hearths. In addition, the definition does not clearly indicate that top blown furnaces, bottom blown furnaces, and combination top and bottom blown furnaces are considered as BOPF's. Thus the current definition of a BOPF would be revised to mean any top blown, bottom blown, or top and bottom blown furnace with a refractory lining that produces steel by charging scrap metal, molten iron, and flux materials or alloy additions into a vessel and introducing a high volume of an oxygen-rich gas. The definition would also state that open hearth furnaces using oxygen lances were not considered as BOPF's.

The existing standard limits emissions of particulate at the outlet of the primary emission control device to 50 mg/dscm (0:022 gr/dscf). This emission limit is currently applicable to both open hood and closed hood systems. Compliance with the standard is determined by the sampling of emissions starting at the beginning of either the scrap preheat or the oxygen blow and ending immediately prior to tapping. This definition could allow one plant a longer sampling time than another when determining compliance. In addition, nonblowing periods in the BOPF steel production cycle may vary from plant to plant. For these reasons, and considering that the bulk of primary emissions (between 95 and 98 percent for top and bottom blown furnaces, respectively) occurs during the primary oxgen blow portion of the steel production cycle, the existing standard would be revised to specify that compliance be determined by the sampling of emissions only during the primary blow portion of the steel production cycle. Reblows would not be considered as part of the primary oxygen blow under the proposed revision because of their varying durations from plant to plant. Because this proposed revision would shorten the sampling period used to determine compliance, BOPF performance test data from the period between 1971 and 1978 were collected and analyzed to determine the capability of both open and closed hood systems to meet the curent emissions limit, as measured for the primary oxygen blow.

Performance data for well-controlled open hood furnaces were collected for a total of four plants, including a total of 23 individual test runs. Of these four plants, a scrubber is used as the collection device at one plant and an ESP is used as the collection device at each of the remaining three plants. At each of the four plants, emission testing was conducted according to EPA Reference Method 5, with emission measurements taken only during the oxygen blow.

Analysis of the open hood performance data revealed that none of the three-run averages exceeded 50 mg/dscm (0.022 gr/dscf), as measured for the oxygen blow. The highest individual run was at 50 mg/dscm. Further statistical analyses of these data were performed to obtain a 95-percent prediction limit for a three-run average. This limit for open hood furnaces was 39 mg/dscm (0.017 gr/dscf), which is below the present NSPS level. The Administrator believes that this data base provides a reasonable basis for concluding that the emission limit of 50 mg/dscm (0.022 gr/dscf), as measured for the primary below reflects the performance of BDT for open hood furnaces. For this reason, the existing emission limit, as applied to open hood furnaces, would not be adjusted to compensate for the proposed revision to the existing standard that would require that compliance be determined by the sampling of emissions produced only during the primary oxygen blow portion of the steel production cycle.

Performance data for closed hood furnaces were collected for a total of three plants (five control systems), incorporating a total of 15 individual test runs. Emission testing at each plant was conducted according to EPA Reference Method 5. Each of the plants was considered to be well controlled, with pressure drops on the primary scrubbers exceeding 60 inches. At one plant (two control systems), emission test measurements were taken only during the primary oxygen portion of the steel production cycle. At the remaining two plants (three control systems), emission test measurements were obtained by sampling over the period beginning with the oxygen blow and ending just prior to tapping. These data were adjusted to an oxygen blow basis by multiplying emissions measured during the whole sampling period by the quotient of the total sampling time divided by the total oxygen blow time.

Analysis of the performance data for one plant (two control systems) revealed that the three-run averages were 45 mg/dscm (0.020 gr/dscf) and 34 mg/dscm (0.015 gr/dscf), which are below the current emission limit of 50 mg/dscm (0.022 gr/dscf). Of the remaining two plants, analysis indicated that the three-run average for one plant was 55 mg/dscm (0.024 gr/dscf), which exceeds the current emission limit, while the three-run averages for the other plant (two control systems) were 50 mg/dscm (0.022 gr/dscf) and 49 mg/dscm (0.022 gr/dscf). The 95-percent prediction level for primary emissions from the closed hood collection devices was 66 mg/dscm (0.029 gr/dscf). The Administrator believes that these performance data provide a reasonable basis for concluding that well-controlled closed hood systems may not be capable of meeting the current emission limit, as measured for the primary blow only. For this reason, a separate standard of 66 mg/dscm (0.030 gr/dscf) for the control of primary emissions from closed hood systems has been included as a proposed revision to the existing NSPS.

The proposed emission limit of 66 mg/dscm (0.030 gr/dscf) as measured for the primary oxygen blow would apply to any BOPF controlled by a closed hood system for which construction, modification, or reconstruction occurs after January 20, 1983. A BOPF

controlled by an open hood system for which construction, modification, or reconstruction commences after this date would be required to meet the current limit of 50 mg/dscm (0.022 gr/dscf), but as measured for the primary oxygen blow. A BOPF controlled by either an open or closed hood system that is subject to the current NSPS but constructed, modified, or reconstructed before January 20, 1983, would not be affected by the proposed revisions.

On a concentration basis, the proposed emission limit for closed hood systems is higher than the emission limit applicable to open hood systems. However, when a mass emission rate of 12.4 g/Mg of steel for closed hood scrubber systems (based on 9.0 dscm/min/Mg of steel and a 20-minute oxygen blow) is compared to a mass mean emission rate of 31.2 g/Mg of steel for open hood scrubber systems (based on 31.2 dscm/min/Mg of steel and a 20-minute oxygen blow), it is evident that closed hood systems meeting the proposed new emission limit would continue to emit less mass emissions to the atmosphere than would open hood systems meeting the existing standard of 50 mg/dscm (0.022 gr/dscf). As discussed earlier, the Administrator concluded that it was inappropriate to preclude the use of open hood primary control, which may be more economically attractive than closed hood primary control.

Impacts of Reporting and Recordkeeping Requirements

Two types of reporting would be associated with the proposed standards. First, there would be notification requirements, which would enable EPA to keep abreast of facilities subject to the standards. Second, there would be reporting of the results of performance tests that would be conducted to determine compliance with the standards. These reports are required by the General Provisions of 40 CFR Part 60, which apply to all NSPS. No other reports would be required by the proposed standards.

In addition, as required by 40 CFR 60.7(d), any owner or operator subject to the proposed standards would have to maintain a file of the monitoring device measurements in a form suitable for inspection for at least 2 years.

The Paperwork Reduction Act (PRA) of 1980 (Pub. L. 96–511) requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR) before the reporting and recordkeeping requirements are promulgated as final reporting and recordkeeping requirements.

The reporting and recordkeeping requirements associated with the proposed standards do not qualify as an ICR and, therefore, are not required to be approved by OMB. Nevertheless, EPA has evaluated the burden of these requirements. During the first 2 years of effectiveness of the standards, the total industry wide burden of the reporting and recordkeeping requirements would be about 600 person-hours, based on one respondent in 2 years.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) to allow interested parties to readily identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. To comply with this requirement, EPA determines if small businesses are likely to be affected by a proposed regulation and if so, performs a small business impact analysis.

For the purpose of the Regulatory Flexibility Act, a small business is one "which is independently owned and operated and not dominant in its field of operation." Small Business Act Section 3; 5 U.S.C. 601(3). A firm owning plants that operate basic oxygen steelmaking furnaces is classified in SIC 3312. The Small Business Administration has determined that any firm classified in SIC 3312 that employs less than 1,000 workers will be considered small in regard to the Small Business Act.

A total of 18 independently owned businesses that now operate basic oxygen process steelmaking shops can be identified. Of this total, the company that employed the fewest workers in 1979 employed a total of 5,862 workers. Thus, even the smallest BOPF firm does not qualify as a small company under the Small Business Act.

The proposed regulation would apply to new, modified, or reconstructed facilities. A modified or reconstructed facility affected by the regulation would be owned by an existing firm. In addition, it is likely that any new facility affected by the regulation would be built by one of the existing firms. If, however, a new firm were to enter the industry, it is unlikely that it would be a small business due to the capital required to build facilities in the steel industry. Also, any new BOPF shop would have to be part of an integrated steel mill.

Based on these considerations, it is the Administrator's determination that the proposed regulation would not have a significant economic impact on a substantial number of small businesses. Therefore, a small business impact analysis has not been prepared.

Miscellaneous

In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test methods. Comments are specifically invited on the reporting requirements of the proposed regulation. Any comments submitted to the Administrator should contain specific information and data pertinent to an evaluation of the magnitude and severity of any adverse impact and should suggest alternative courses of action to avoid this impact. Recommended alternative reporting requirements should contain complete instructions and should state all the reasons the recommended requirements would be considered an improvement.

This regulation will be reviewed within 4 years from the date of promulgation, as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the

existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not major because: (1) The national annualized compliance costs, including capital charges resulting from the standards, total less than $100 million; (2) the standards do not cause a major increase in prices or production costs; and (3) the standards do not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation, or competition in foreign markets.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 122291. Any comments from OMB to EPA and any EPA response to those comments are included in Docket Number A–79–6. The docket is available for public inspection at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Tires, Waste treatment and disposal, Zinc.

Dated: January 13, 1983.

Anne M. Gorsuch,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended as follows:

1. By revising paragraph (a) and adding paragraph (d) to § 60.141 as follows:

§ 60.141 Definitions.

(a) "Basic oxygen process furnace" (BOPF) means any top blown or bottom blown furnace with a refractory lining in which molten steel is produced by charging scrap metal, molten iron, and flux materials or alloy additions into a vessel and introducing a high volume of oxygen-rich gas. Open hearth, blast, and reverberatory furnaces are not included in this definition.

* * * * *

(d) "Primary oxygen blow" means the period in the steel production cycle of a basic oxygen process furnace during which a high volume of oxygen-rich gas is introduced to the bath of molten iron by means of a lance inserted from the top of the vessel or through tuyeres in the bottom or through the bottom and sides of the vessel. This definition does not include any additional or secondary oxygen blows made after the primary blow or the introduction of nitrogen through tuyeres in the bottom or bottom and sides of the vessel.

2. By amending § 60.142 as follows:

(a) By inserting the words "Except as provided under paragraph (b) of this section," at the beginning of paragraph (a);

(b) By adding paragraph (b) as follows:

§ 60.142 Standard for particulate matter.

(a) * * *

(b) On or after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator of an affected facility constructed, modified, or reconstructed after January 20, 1983, and for which closed hooding is the primary emission control method, shall cause to be discharged into the atmosphere from the facility any gases that:

(1) Contain particulate matter in excess of 68 mg/dscm (0.030 gr/dscf).

(2) Exit from a control device and exhibit 10 percent opacity or greater except that an opacity of greater than 10 percent but less than 20 percent may occur once per steel production cycle.

3. By revising paragraph (b) of § 60.144 as follows:

§ 60.144 Test methods and procedures.

(a) * * *

(b) For Method 5, the sampling time shall be as follows:

(1) For affected facilities that commence construction, modification, or reconstruction on or before January 20, 1983, the sampling for each run shall continue for an integral number of cycles with total duration of at least 60 minutes. The minimum sample volume shall be at least 9.9 dscm (32 dscf). Shorter sampling times and smaller sample volumes, when necessitated by process variables or other factors, may be approved by the Administrator. A cycle shall start at the beginning of either the scrap preheat or the oxygen blow and shall terminate immediately prior to tapping.

(2) For affected facilities that commence construction, modification, or reconstruction after January 20, 1983, the sampling for each run shall continue for an integral number of primary oxygen blows with total duration of at least 60 minutes. The minimum sample volume shall be at least 0.9 dscm (32 dscf). Shorter sampling times and smaller sample volumes, when necessitated by process variables or other factors, may be approved by the Administrator.

* * * * *

4. By adding a new Subpart Na to 40 CFR Part 60 as follows:

* * * * *

Subpart Na—Standards of Performance for Secondary Emissions From Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.

Sec.

60.140a Applicability and designation of affected facilities.
60.141a Definitions.
60.142a Standards for particulate matter.
60.143a Monitoring of operations.
60.144a Test methods and procedures.
60.145a Compliance provisions.

Authority: Section 111 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7601(a)], and additional authority as noted below.

* * * * *

Subpart Na—Standards of Performance for Secondary Emissions From Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.

§ 60.140a Applicability and designation of affected facilities.

(a) The provisions of this subpart apply to the following affected facilities in an iron and steel plant: basic oxygen process furnace (BOPF), hot metal transfer station, and skimming station.

(b) This subpart applies to any facility identified in paragraph (a) of this section that commences construction, modification, or reconstruction after January 20, 1983.

(c) Any basic oxygen process furnace subject to the provisions of this subpart shall also be subject to the provisions of Subpart N of this part.

§ 60.141a Definitions.

All terms in this subpart not defined below are given the same meaning as in the Act or in Subpart A of this part.

"Basic oxygen process furnace" (BOPF) means any top blown or bottom blown furnace with a refractory lining which molten steel is produced by charging scrap metal, molten iron, and flux materials or alloy additions into a vessel and introducing a high volume of oxygen-rich gas. Open hearth, blast, and reverberatory furnaces are not included in this definition.

"Bottom blown furnace" means any basic oxygen process furnace in which oxygen and other combustion gases are introduced to the bath of molten iron through tuyeres in the bottom of the vessel or through tuyeres in the bottom and sides of the vessel (KMS conversion furnace).

"Hot metal transfer station" means the facility where molten iron is emptied from the railroad torpedo car or hot metal car to the shop ladle (or to any intermediate vessel where used). This facility may also be known as the reladling station or ladle transfer station.

"Primary oxygen blow" means the period in the steel production cycle of a basic oxygen process furnace during which a high volume of oxygen-rich gas is introduced to the bath of molten iron by means of a lance inserted from the top of the vessel or through tuyeres in the bottom or through the bottom and sides of the vessel. This definition does not include any additional or secondary oxygen blows made after the primary blow or the introduction of nitrogen through tuyeres in the bottom or bottom and sides of the vessel.

"Primary emissions" means particulate emissions from the BOPF generated during the primary oxygen blow and captured by the BOPF primary control system.

"Secondary emissions" means particulate emissions that escape capture from the BOPF primary control system.

"Skimming station" means the facility where slag is mechanically ranked from the top of the bath of molten iron.

"Steel production cycle" means the operations conducted within the BOPF steelmaking facility that are required to produce each batch of steel, and includes the following operations: scrap charging, hot metal charging, primary oxygen blowing, sampling (vessel turndown), reblowing (if needed), tapping, and deslagging. Hot metal transfer and skimming operations for the next steel production cycle are also included when the hot metal transfer station or skimming station is an affected facility.

"Startup" means the setting into operation for the first steel production cycle of a relined BOPF or a BOPF that has been out of production for a minimum continuous time period of 8 hours.

"Top blown furnace" means any basic oxygen process furnace in which oxygen is introduced to the bath of molten iron by means of an oxygen lance inserted from the top of the vessel.

§ 60.142a Standards for particulate matter.

(a) Except as provided under paragraphs (b) and (c) of this section, on and after the date on which the performance test under § 60.8 is required to be completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any secondary emissions that:

(1) Exit from a control device and contain particulate matter in excess of 23 mg/dscm (0.010 gr/dscf).

(2) Exit from a control device and exhibit more than 5 percent opacity.

(3) Exit from the BOPF shop roof monitor or other building opening and exhibit more than 10 percent opacity during the operation of any top blown furnace; except that an opacity of greater than 10 percent but less than 20 percent may occur once per steel production cycle.

(4) Exit from the BOPF shop roof monitor or other building opening and exhibit more than 30 percent opacity during the operation of any bottom blown furnace; except that an opacity of greater than 30 percent but less than 60 percent may occur twice per steel production cycle.

(b) A roof mounted electrostatic precipitator used to control secondary emissions from an affected facility is not subject to paragraphs (a)(1) and (a)(2) of this section.

(c) A device used to control both primary and secondary emissions from a BOPF is not subject to paragraphs (a)(1) and (a)(2) of this section.

§ 60.143a Monitoring of operations.

(a) Each owner or operator of an affected facility shall install, calibrate, operate, and maintain a monitoring device that continuously records during each steel production cycle the various rates of exhaust ventilation at each phase of the cycle through the system used to control secondary emissions. The monitoring device or devices are to be placed at appropriate locations to monitor adequately such flows or in alternative locations approved by the Administrator.

(b) All monitoring devices are to be certified by the manufacturer to be accurate to within ±10 percent as compared to EPA Reference Method 2. The owner or operator shall recalibrate and check the device annually in accordance with the written instructions of the manufacturer and by comparing the device against EPA Reference Method 2 and at such other times as the Administrator may require. [Section 114 of the Clean Air Act as amended (42 U.S.C. 7414).]

§ 60.144a Test methods and procedures.

(a) The reference methods in Appendix A to this part, except as provided under § 60.8(b) shall be used to determine compliance with § 60.142a as follows:

(1) Method 1 for sample and velocity traverses;

(2) Method 2 for volumetric flow rate;

(3) Method 3 for gas analysis; and

(4) Method 5 for concentration of particulate matter and associated moisture content;

(5) Method 9 for visible emissions except as provided in paragraph (b) of this section.

(b) For Method 9 the following instructions for recording observations and reducing data shall apply instead of Sections 2.3, 2.4, and 2.5 of Method 9:

(1) *Section 2.3.* Opacity observations shall be made at the point of greatest opacity in that portion of the plume where condensed water vapor is not present. The observer shall not look continuously at the plume, but instead shall observe the plume momentarily at 15-second intervals. In the cases where visible emissions from the affected facilities occur from multiple building openings (e.g., discontinuous roof monitors, building ventilators, or other building openings) during the steel production cycle, the plume shall be considered to consist of the aggregate of emissions exiting the shop from affected facilities, and each observation shall be made at the opening where plume opacity is the greatest.

(2) *Section 2.4.* Opacity observations shall be recorded to the nearest 5 percent at 15-second intervals. Observations shall be made and recorded in this manner for a minimum of three steel production cycles.

(3) *Section 2.5.* Opacity shall be determined as an average of 12 consecutive observations recorded at 15-second intervals. For each steel production cycle, divide the observations recorded into sets of 12 consecutive observations. A set is composed of any 12 consecutive observations. Sets need not be consecutive in time and in no case shall two sets overlap. For each set of 12 observations, calculate the average by summing the opacity of 12 observations and dividing this sum by 12.

(c) For the sampling of secondary emissions by Method 5, the sampling for each run is to continue for a sufficient number of steel production cycles to ensure a total sample volume of at least 2.27 dscm (80 dscf) for each run. Sampling is to be conducted only during the steel production cycle.

(d) Reference Method 2 in Appendix A to this part shall be used to determine compliance with § 60.143a(b) as follows: compare velocity readings of the monitoring device against the velocity readings obtained by Method 2. Take Method 2 readings at a point or points that would properly characterize the monitoring device's performance and that would adequately reflect the various rates of exhaust ventilation. Obtain readings at 3- to 5-minute intervals to obtain 12 pairs of readings. Compare the average of the two sets. Compliance is achieved when the monitoring device velocity compares within ±10 percent of the Method 2 average.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414).)

§ 60.145a Compliance provisions.

(a) During opacity observations to determine compliance with § 60.142a (a)(3) and § 60.142a (a)(4) at a BOPF shop that normally operates two furnaces with overlapping cycles, the owner or operator may operate only one furnace. If an owner or operator chooses to shut down one furnace during opacity observations, he shall be allowed a reasonable time period to adjust his production schedule before the observations are conducted.

(b) During performance testing, only one basic oxygen process furnace shall be in operation. The owner or operator of an affected facility may also suspend shop operations not subject to this subpart during performance testing.

(c) For the purpose of determining compliance with visible and mass emission standards, a steel production cycle begins when the scrap or hot metal is charged to the vessel (whichever operation occurs first) and terminates 3 minutes after slag is emptied from the vessel into the slag pot. Where a hot metal transfer or skimming station is an affected facility, the production cycle also includes the hot metal transfer or skimming operation for the next steel production cycle for the affected vessel. Consecutive steel production cycles are not required for the purpose of determining compliance.

(d) To determine compliance with § 60.142a (a)(3), select the data sets [§ 144a (b)(2)] yielding the highest and second highest 3-minute average opacities for each steel production cycle. Compliance is achieved when the highest 3-minute average for each cycle observed does not exceed 20 percent and the second highest 3-minute average does not exceed 10 percent.

(e) To determine compliance with § 60.142a (a)(4), select the data sets yielding the three highest 3-minute average opacities for each steel production cycle. Compliance is achieved when the highest 3-minute average for each cycle observed does not exceed 60 percent and the third highest 3-minute average does not exceed 30 percent.

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Part IV

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing Industry; Propcsed Rule and Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 1907-8]

Standards of Performance for New Stationary Sources; Rubber Tire Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit volatile organic compound (VOC) emissions from new, modified, and reconstructed facilities within rubber tire manufacturing plants. The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that emissions from rubber tire manufacturing plants cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed facilities at rubber tire manufacturing plants to control emissions to the levels achievable through use of the best demonstrated systems of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before April 1, 1983.

Public Hearing. A public hearing will be held on March 3, 1983 beginning at 9 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by February 9, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-80-9, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. The public hearing will be held at the Office of Administration Auditorium, Research Triangle Park, N.C. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information document. The Background Information Document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Rubber Tire Manufacturing Industry—Background Information for Proposed Standards," EPA 450/3-81-006a.

Docket: Docket No. A-80-9, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Susan R. Wyatt, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION:

Proposed Standards

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> * * * Application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated (Section 111(a)(1)).

The proposed standards would limit VOC emissions from new, modified, and reconstructed facilities. The affected facilities would be each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each inside green tire spraying operation, each outside green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C-automatic operation.

Facilities affected by the proposed standards would be those where components for agricultural, airplane, industrial, mobile home, light-duty truck or passenger vehicle tires which have a bead diameter up to and including 0.5 meter (m) [19.7 inches (in)] and cross section dimension up to and including 0.325 m (12.8 in) are mass produced in assembly-line fashion.

VOC emissions from the rubber tire industry are caused by solvent application to different components of a tire during the manufacturing process. To meet the proposed standards for each undertread cementing and sidewall cementing operation, an owner or operator would have the option of using less solvent and maintaining emissions at or below 25 grams per tire (a level currently achieved at some plants) without the use of an emission reduction system, or installing a 75 percent efficient emission reduction system if solvent use exceeds 25 g/tire. Using less solvent has the advantages of no cost (other than possibly developmental cost), no energy usage, and solvent conservation. The proposed standards for four affected facilities are based on the use of less solvent and would require that emissions be limited to 10 grams per tire (g/tire) for each tread end cementing and each bead cementing operation, 1.2 g/tire for each inside green tire spraying operation, and 9.3 g/tire for each outside green tire spraying operation. Thus, the proposed standards are structured so they could be met through solvent use reductions without employment of a control device.

The proposed standards would require 75 percent emission reduction for each Michelin-B operation and 65 percent emission reduction for each Michelin-A and Michelin-C-automatic operation.

Separate testing, monitoring, and recordkeeping requirements are proposed for each combination of standard format (g/tire or percent emission reduction), control technique (low solvent use or emission reduction system), and compliance method (performance tests or equipment specifications). Initial performance tests would be required for each affected facility, unless the owner or operator chooses to demonstrate compliance with the recommended standards by meeting the equipment specifications. An exemption has been provided for facilities that meet the equipment specifications. The proposed standards would require the owner or operator to report the results of all initial performance tests.

Monthly performance tests would be required to determine compliance with each of the g/tire limits. Whether or not monthly performance tests would be required to determine compliance with the percent emission reduction standards depends primarily on the type of control device used, and then on the method of demonstrating compliance. The proposed standards would not

require an owner or operator to report results of monthly performance tests.

The proposed standards would require continuous monitoring and recording of thermal incinerator combustion temperature and the temperature before and after the catalyst for catalytic incinerators. The requirement for a continuous monitor on a solvent recovery system is not applicable until performance specifications for the monitor have been proposed and promulgated. The proposed standards would require that the owner or operator maintain at the source for a period of at least two years records of all data and calculations used to determine VOC emissions for each affected facility.

Reference Method 24 would be used to determine the VOC content of cements and green tire spray materials. Reference Method 25 would be used to determine the concentration of VOC in exhaust gas streams.

Summary of Environmental, Energy, and Economic Impacts

The incremental impacts of the proposed standards in the Background Information Document were determined using the levels of emission reduction recommended in the control technique guidelines (CTG) document, "Control of Volatile Organic Compound Emissions from Manufacture of Pneumatic Rubber Tires" (EPA–450/2–78–030), as the regulatory baseline. This assumes that in the absence of standards of performance, all new, modified, and reconstructed facilities would be required to limit volatile organic compound emissions to the levels recommended in the CTG. The CTG recommends an average overall emission reduction of about 70 percent from undertread cementing, tread end cementing, bead cementing, and inside and outside green tire spraying operations. This reduction would be achieved by using emission reduction systems at each of these affected facilities. Water-based sprays could also be used at inside and outside green tire spraying operations.

State Implementation Plans (SIPs) are currently being revised, and the level of control which would actually be required for a particular rubber tire plant in the absence of these proposed standards of performance is uncertain. Some States may adopt regulations that require different levels of emission reduction than the regulatory baseline or that allow the use of emission reduction strategies different from those assumed for the regulatory baseline. Some States may not include regulations limiting VOC emissions from rubber tire manufacturing plants in their SIPs. Therefore, basing the impacts of the proposed standards on the assumption that all plants would be controlled to the level recommended in the CTG tends to underestimate the emission reductions and costs of the proposed standards. Therefore, in this summary, the impacts of the proposed standards are presented two ways: (1) As the difference between uncontrolled levels and the proposed standards, and (2) as the difference between the regulatory baseline and the proposed standards. The actual impacts of the proposed standards will depend on the mix of control levels required by States and the location of newly constructed, modified, and reconstructed facilities, and will be between the two sets of numbers presented here.

Compared to the regulatory baseline, the proposed standards would reduce nationwide emissions from newly constructed, modified, and reconstructed facilities by 1,430 Mg (1,570 tons) in the fifth year after proposal. This represents a 46 percent reduction in emissions beyond the CTG baseline. For a single medium-sized plant, the emission reduction compared to the baseline, would be 375 Mg (415 tons).

Compared to the uncontrolled levels, the proposed standards would reduce nationwide emissions by 8,285 Mg (9,130 tons). This represents an 83 percent reduction from uncontrolled levels. For a single medium-sized plant, the emission reduction compared to uncontrolled levels would be 1,775 Mg (1,960 tons) per year.

Compared to the regulatory baseline, the proposed standards would not result in an increase from baseline levels of water pollution and solid waste or energy consumption. Since baseline levels of water pollution, solid waste, and energy consumption show no significant increase over uncontrolled levels, the proposed standards also show no significant increase over uncontrolled levels.

Control costs calculated for the regulatory baseline assume that each affected facility would use a VOC emission reduction system to control emissions except for inside and outside green tire spraying operations, where water-based sprays were assumed to be used. Since the proposed standards are partially based on process modifications, both the capital and annualized costs to comply with the proposed standards are smaller than the costs projected to comply with the baseline levels. The total nationwide capital cost for VOC emission reduction from uncontrolled levels to the level of the proposed standards would be about $10.8 million during the first five years. The total nationwide annualized cost in the fifth year would be about $1.5 million, with solvent recovery credits. (Without solvent recovery credits, the nationwide annualized cost would be about $3.4 million; recovery credits are anticipated.) For a single medium-sized plant controlling all affected facilities to the level of the proposed standards, the annualized cost would be approximately $110,000 if credit is given for solvent recovery or $403,000 without solvent recovery credit.

Price increases and reductions in return on investment (ROI) are projected to be zero compared to those projected for the baseline control level. Assuming all costs are passed through to consumers, the average increase in the retail price of a tire from uncontrolled levels would be about 0.26 percent in the worst case. Upon full cost absorption, using no control as a base of comparison, the return on investment (ROI) of new radial tire manufacturing plants may decline from an assumed rate of 5.17 percent to 5.04 percent in the worst case. Worst case conditions in both situations are represented by the use of a separate capture system and carbon adsorber control device at each affected facility where control equipment is used to achieve emission reductions. These impacts are not expected to inhibit industry growth.

Standards of performance have other benefits in addition to achieving reductions in emissions beyond those required by a typical SIP. They establish a degree of national uniformity, which precludes situations in which some States may attract new industries as a result of having less stringent air pollution standards relative to other States. Further, standards of performance provide documentation which reduces uncertainty in case-by-case determinations of best available technology (BACT) for facilities located in attainment areas, and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analysis of alternative emission control technologies. The costs are provided for an economic analysis that reveals the affordability of controls in an unbiased study of the economic impact of controls on an industry.

The rulemaking process that implements a performance standard assures adequate technical review and promotes participation of representatives of the industry being considered for regulation, government,

and the public affected by that industry's emissions. The resultant regulation represents a balance in which government resources are applied in a well publicized national forum to reach a decision on a pollution emission level that allows for a dynamic economy and a healthful environment.

Rationale

Selection Source

The EPA Priority List (40 CFR Part 60, § 60.16, 44 FR 49222, August 21, 1979) reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution, which may reasonably be anticipated to endanger public health or welfare. The Priority List identifies major sources of emissions on a nationwide basis in order of priority for regulation based on three factors: (1) quantities of emissions from source categories, (2) the mobility and competitive nature of each source category, and (3) the extent to which each pollutant endangers health or welfare. Tire manufacturing is included on the Priority List as a subcategory under Synthetic Rubber, which is ranked number 20 out of a total of 59 source categories. Rubber tire manufacturing industry VOC emissions for 1979 were estimated to be about 59,000 Mg (65,000 tons).

About 140,000 tires per day will be produced by new, modified and reconstructed facilities in operation by 1985. In the absence of additional regulation, new, modified, and reconstructed facilities would emit about 3,120 Mg of VOC per year (3,430 tons/yr).

Emission reduction systems composed of a capture system and control device are available to the industry for reducing VOC emissions. Water-based green tire sprays with low VOC content are in use at many plants. Techniques which minimize solvent use can reduce emissions from tread end cementing and bead cementing operatings. The predicted growth of this industry with its attendant increase in emissions and the availability of control technology further support the development of standards of performance for this industry.

Selection of Pollutants and Affected Facilities

At a rubber tire manufacturing plant, raw rubber and chemicals are first mixed in proportions determined by specifications for the tire component in which the rubber will be used. The rubber is then transported to different parts of the plant for processing into various components, such as treads, sidewalls, beads, plies, and belts. In some of these processes rubber is combined with fabric, steel, or fiberglass. Manufactured components are brought together and assembled at a tire building area. The assembled green tire is sprayed with a green tire spray, which acts as a mold release agent and lubricant, and placed in a press where, with a specific combination of time, temperature, and pressure, the tire is molded to its final form and the rubber is cured. Tires are then inspected for quality and appearance, or "finished."

VOC is used at several points in the tire manufacturing process. Organic solvents or organic solvent-based cements are aplied to components during production or during tire building to facilitate adhesion. Organic solvents are used in many green tire sprays to facilitate application of mold release and lubricating agents and at finishing, where minor cosmetic repairs are made.

The processes used to manufacture components and to assemble tires vary among companies and among plants owned by the same company. Whether any VOC is used in a process and in what amounts also vary among companies and plants owned by the same company. Each company considers some or all of its production precesses to be proprietary. In developing the proposed standards, EPA was requested to maintain the confidentiality of much of the process and solvent use data submitted by industry. At the same time EPA sought to develop regulations which reflect use of best systems of continuous emission reduction and which apply equitably to each manufacturer. Futher, EPA sought to avoid proposing any requirement which would adversely affect tire safety and performance.

Volatile organic compounds (VOC) are the principal pollutants emitted to the atmosphere from rubber tire manufacturing plants. The VOC emitted from all but one company's plants is predominantly white gasoline and petroleum naphtha. Heptane is the major solvent used at one company's plants. Toluene, xylene, ketones, and esters are also used throughout the industry, but in smaller amounts.

About 98 percent of the VOC emitted from an average uncontrolled existing plant results from solvent application in seven solvent-using processes. These processes and their average contribution to overall plant VOC emissions, as calculated from solvent use and tire production data, provided by industry, are shown below:

Process	Emission contribution (percent)
Undertread cementing	20.5
Sidewall cementing	13.3
Tread end cementing	4.9
Bead cementing	2.7
Tire building	10.7
Inside green tire spraying (rogenic solvent-based)	15.8
Outside green tire spraying (organic solven-based)	26.9
Finishing	1.8
Non solvent-using facilities	1.8
Total	100

Industry-supplied data show wide variations in solvent usage rates among companies and among plants owned by the same company. These differences occur for a variety of reasons, including differences in specifications for how tires are to be produced, and the types of tires produced.

Emissions are significant at undertread cementing, sidewall cementing, tread end cementing, bead cementing, inside green tire spraying, and outside green tire spraying operations. Further, emission reduction technology is available and is technically and economically feasible for use at each of these types of operations. Therefore, these operations were selected for control by the proposed standards.

Tire building, while contributing about 11 percent of total plant emissions, is characterized by low VOC concentrations emanating from 50 or more individual machines within each plant. The need for liberal worker access dictates that machines be open, and, as a result, high ventilation rates would be needed to remove organic vapors to a control device. Technically, control systems could be constructed to reduce VOC emissions from tire building. The air in the tire building room could be ducted to a control device such as an incinerator or carbon adsorber. However, exhaust stream VOC concentrations in existing tire building areas where general dilution ventilation is employed are very low, ranging from 0.01 to 0.32 g/m^3 (0.6×10^{-6} to 20.0×10^{-6} lb/ft^3). The cost of such a system would range from $68,000 per Mg of VOC removed ($62,000/ton) to $306,000 per Mg of VOC removed ($280,000/ton). The Administrator concluded that these costs are exorbitant for the emission reduction achieved and has not included tire building in the proposed standards.

Finishing contributes about 2 percent of total plant emissions. Organic solvent is used in protective coatings for whitewalls and in coating used for cosmetic purposes. Both uses, while

performed in separate areas, are part of the finishing process. Solvent application is intermittent and is performed at worker discretion. For these reasons, finishing has not been included in the proposed standards.

Compounding, milling, extrusion, calendering, and curing, where no organic solvent is used, together account for less than 2 percent of total plant VOC emissions, and have not been included in the proposed standards.

Michelin Tire Corporation uses three operations, referred to in this preamble and in the regulation as "Michelin-A," "Michelin-B," and "Michelin-C," for which they have claimed confidentiality. EPA is currently treating the specific information provided by Michelin on these operations as confidential and has initiated a confidentiality determination in accordance with 40 CFR Part 2. Since Michelin-A, Michelin-B, and Michelin-C are operations believed unique to the Michelin Tire Corporation, emissions from these operations were not included in the above list. VOC emissions from each of these operations are significant, and collectively account for a substantial portion of total uncontrolled emissions from each Michelin plant.

Emission reduction technology which is technically and economically feasible is available for use at Michelin-A and Michelin-B operations. Therefore, Michelin-A and Michelin-B operations were selected for control by the proposed standards.

The Michelin-C operation is performed with either manual or automatic cement application depending on the type of tire being made. Emission reduction technology, which is technically and economically feasible, is available for use at automatic Michelin-C operations. Therefore, Michelin-C-automatic operations were selected for control by the proposed standards. VOC concentrations in the exhaust streams from manual Michelin-C operations are reportedly very low, ranging from 0.10 to 0.30 g/m^3. The cost of operating an emission reduction system at a manual Michelin-C operation would be similar to that previously stated for tire building. The Administrator has concluded that these costs are exorbitant for the emission reduction achieved and has not included manual Michelin-C operations in the proposed standards. Not all tires manufactured by Michelin Tire Corporation can be made using the Michelin-C-automatic operation. Therefore, the proposed standards do not preclude the use of manual Michelin-C operations.

Affected Facilities

The choice of the affected facility(ies) for this standard is based on the Agency's interpretation of Section 111 of the Act and judicial construction of its meaning. Under Section 111, the NSPS must apply to "new sources;" "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist of numerous pieces or groups of equipment which emit air pollutants, and which might be viewed as "sources." EPA therefore uses the term "affected facility" to designate the equipment, within a particular kind of plant, which is chosen as the "source" covered by a given standard.

In choosing the affected facility, EPA must decide which pieces or groups of equipment are the appropriate units for separate emission standards. The Agency must do this in light of the terms and purpose of Section 111. One major consideration is that the use of a narrower definition results in bringing replacement equipment under the NSPS sooner. For example, if an entire plant were designated as the affected facility, no part of an existing plant would be subject to the standard unless the plant as a whole were "modified." If on the other hand, each piece of equipment were designated as an affected facility, then as each piece was replaced, the replacement piece would be a new source subject to the standard. Since the purpose of Section 111 is to minimize emissions by the application of the best demonstrated control technology (considering cost, other health and environmental effects, and energy requirements) at all new and modified sources, there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources would be subject to the standards as they are installed. This presumption can be overcome, however, if the Agency concludes that relevant statutory factors (technical feasibiltiy, cost, energy, and ther environmental impacts) point to a broader definition.

In a rubber tire plant, the narrowest designation of affected facility for which standards of performance might be appropriate is each individual operation. The rubber tire industry maintains that much of the anticipated growth in the industry by 1985 will result from non-routine replacement of existing operations with new operations. New individual operations would qualify as new sources subject to standards of performance under this narrowest definition of affected facility. As a result, control costs were calculated assuming each operation would be controlled separately. In practice, however, a single control device could be used to control emissions from several operations. Examination of these costs showed that control is economically feasible (i.e., the costs would not inhibit growth or replacement) in all cases where a separate emission reduction system would be used at an individual operation. Defining an affected facility as each separate operation is supported by technical, cost, and economic considerations. The Agency requests comments from interested parties about this definition of an affected facility.

With each operation defined as an affected facility, any change which qualified as a modification or reconstruction would cause only that changed operation to become subject to standards of performance. Further, if a new operation were constructed at an existing plant where other operations were not subject to standards of performance, only the new operation would be subject to standards of performance.

Undertread cementing and tread end cementing are usually performed at different points on the same tread line. At an undertread cementing operation, cement is applied to a continuous strip of tread rubber or to a combined tread/sidewall component. The tread rubber is usually transported from the extruder to the undertread cementing operation by a conveyor. After cement is applied, the tread rubber strip passes along a conveyor where it air dries and then usually through a water bath for cooling. At undertread cementing operations, VOC is emitted from cement storage and application equipment and from cemented rubber as VOC evaporates after application. Therefore, an undertread cementing operation consists of a cement application station and all other equipment, such as the cement supply system, and feed and takeaway conveyors, which are necessary to apply cement to tread or combined tread/sidewall components and to allow evaporation of solvent from tread or combined tread/sidewall components. Each undertread cementing operation is an affected facility.

After the water bath and forced-air drying, the continuous strip is cut to specified lengths and then is usually conveyed to a tread end cementing operation. At a tread end cementing operation, cement is applied to one or both tread ends. Cement is usually applied to tread ends either by spraying with an electronically-triggered automatic spray arm or manually by a

worker equipped with a pot of cement and an applicator. VOC is also emitted from cement storage and application equipment and from cemented treads as VOC evaporates after application. Therefore, a tread end cementing operation consists of a cement application station and all other equipment, such as the cement supply system, and feed and takeaway conveyors, which is necessary to apply cement to tread end components and to allow evaporation of solvent from tread ends. Each tread end cementing operation is an affected facility. Although undertread cementing and tread end cementing operations are usually performed on the same tread line, they are separate emission points and each can be controlled separately. This supports designating each tread end cementing operation as an affected facility separate from each undertread cementing operation.

For some types of tires, sidewalls may be extruded as part of the tread. Cement application for this tread/sidewall component usually occurs at an undertread cementing operation, and VOC emissions are counted as part of those from undertread cementing. When sidewall cementing is performed as a separate operation, the extrusion, conveying, cementing, and cooling equipment is usually similar to but smaller than that used for undertread cementing. Instead of being cut to specific lengths, however, the continuous sidewall strip is rolled in a non-stick fabric and stored until needed. VOC is emitted from cement storage and application equipment and from cemented rubber as VOC evaporates after application. Therefore, a sidewall cementing operation consists of a cement application station and all other equipment, such as the cement supply system, and feed and takeaway conveyors, which is necessary to apply cement to sidewall components and to allow evaporation of solvent from sidewall components. Each sidewall cementing operation is an affected facility.

Bead cementing may occur before or after the rubber-coated wire is fashioned into a bead. If cement is applied before bead fashioning, the cement application apparatus is usually a swab or roller suspended in a trough of cement attached to the bead fashioning equipment. Cement is applied as the rubber-coated wire passes over the trough. If cement is applied after beads are fashioned, it is usually accomplished by spraying or by dipping the beads into a vat of cement. Spraying or dipping equipment is separate from bead fashioning equipment. A bead cementing operation consists of a cement application station, such as a dip tank, spray booth and nozzles, cement trough, and roller or swab applicator; and all other equipment necessary to apply cement to beads or bead components and to allow the evaporation of solvent from cemented beads. Each bead cementing operation is an affected facility.

Green tire sprays are usually applied inside and outside with automatic spray nozzles. Whether water-based or organic solvent-based inside and outside green tire sprays are used, outside sprays usually contain more VOC than inside sprays. Inside and outside sprays are usually applied using different nozzles in the same booth. However, different booths may be employed at some plants. The spray booth is designed to contain overspray and vent it to a dust collector or uncontrolled to the atomosphere. Inside green tire spraying and outside green tire spraying are separate operations and are separate affected facilities. An inside green tire spraying operation consists of the inside spray application station and related equipment, such as the lubricant supply system, the booth where spraying is performed, and associated fans and ductwork. Each inside green tire spraying operation is an affected facility. An outside green tire spraying operation consists of the outside spray application station and related equipment, such as the lubricant supply system, the booth where spraying is performed, and associated fans and ductwork. Each outside green tire spraying operation is an affected facility.

Cement is applied to tire components at Michelin-A, Michelin-B, and Michelin-C-automatic operations. Each of these operations is distinct and has VOC emissions which can be accounted for and controlled independently. Each operation consists of cement storage and application equipment, and other equipment necessary for the application of cement to and the evaporation of VOC from tire components processed at the operation. Each Michelin-A, Michelin-B, and Michelin-C-automatic operation is an affected facility.

Selection of Basis of Proposed Standard

Three general methods of emission reduction technology are available to the rubber tire manufacturing industry: (1) emission reduction systems (capture and control); (2) low solvent use techniques; and (3) low VOC content materials.

Emission Reduction Systems

Current use of emission reduction systems is limited in the rubber tire industry. Only two such systems are present in this industry, both employing carbon adsorbers as the control device. One of these systems is part of the original design of the undertread cementing process at a new plant. This plant has not yet operated at full production capacity, and emission control data on the new system are not yet available. The other system is the only emission reduction system in full use in the industry. It consists of a capture system and carbon adsorber installed on an undertread cementing line in 1973 and has been shown by materials balance calculations to have an average solvent recovery efficiency of about 63 percent. The carbon adsorber has been tested separately and shown to be about 90 percent efficient, thus the capture system averages about 70 percent efficiency. The company operating this system has submitted information concerning factors which limit system performance. Factors which according to the company limit system efficiency include:

(1) About 8 percent of VOC applied to a rubber component is absorbed by the rubber and is not immediately available for capture (emissions from cemented rubber account for about 30 percent of total VOC emissions from this line, thus about 2.4 percent of VOC used is absorbed);

(2) Enclosure system access doors are open for a finite period for periodic threading of new tread sizes;

(3) Length of the drying area conveyor is limited by the configuration of existing extrusion equipment;

(4) The switching damper installed for enclosure emergency situations is not equipped with vapor loss seals;

(5) Operating practices do not provide for containment of VOC emissions during weekend shutdown, either by draining cement tanks or by equipping tanks with tight fitting covers;

(6) Operating practices do not provide for air drying and cooling of the desorbed carbon bed prior to the next adsorption cycle; and

(7) The company does not account for vapor losses from cement mixing churns, recirculating cement distribution system storage tanks, recovered solvent storage tanks, pumping, and venting from decanter.

In EPA's judgment, this type of emission reduction system could be improved to achieve an overall efficiency of 75 percent or better. VOC loss during periods of worker access

could be minimized by restricting access opening size and by maintaining sufficient ventilation to contain VOC. Where cemented rubber components are allowed to dry on a conveyor after cement is applied, enclosed conveyors could be employed to contain VOC emitted from cemented rubber. The length of conveyor enclosed would depend upon conveyor speed and the time required to contain VOC emitted. Analysis of evaporation rates has shown that about 90 percent of VOC applied to rubber components is emitted within 30 seconds after application. Other design features to minimize VOC loss, such as vapor loss seals attached to a switching damper, could also improve overall system efficiency. Cement tanks could be covered during periods of non-use. Desorbed carbon beds could be air dried and cooled between cycles. These improvements in operating practices would improve overall system efficiency. VOC loss due to absorption is the only area in which improvements in design and operating practices would have little or no effect.

Several sources of information were used to establish the level of control that could be achieved by emission reduction systems in the rubber tire industry. Information was obtained from: (1) Available technical literature concerning emission reduction systems applicable for the control of VOC emissions in the rubber industry; (2) hood and enclosure design parameters from *Industrial Ventilation: A Manual of Recommended Practice;* (3) VOC use and process information supplied by the rubber tire industry; (4) visits to rubber tire manufacturing plants; (5) results of emission measurements and materials balance tests conducted by EPA; and (6) results of tests of VOC absorption by rubber conducted by industry.

Thermal and catalytic incinerators are effective VOC emission control devices for the types of solvents used in rubber tire manufacturing operations. A thermal incinerator operating at 870°C (1600°F) with 3/4 second residence time will typically achieve 98 percent VOC reduction efficiency or 20 parts per million on a continuous basis. A catalytic incinerator can be designed to achieve a 98 percent emission reduction efficiency on a continuous basis. In both cases, primary heat recovery should be employed to reduce operating costs.

Carbon absorbers have been demonstrated in the rubber processing industry, the pressure sensitive tape and label industry, and in other industries to achieve better than 95 percent removal of VOC emissions on a continuous basis when applied to exhaust gas streams similar to those generated in the rubber tire industry. Steam is usually employed for carbon bed regeneration, although any hot, non-reactive gas may be used.

The overall degree of continuous emission reduction achieved is not only a function of control device efficiency, but also of capture efficiency. A capture system contains VOC vapors at the emission source and directs them to the control device. VOC emissions from rubber tire plant operations result primarily from two activities: (1) application of cement or spray to rubber components; and (2) evaporation of VOC from cement or spray applied to a rubber component. Effective capture of VOC must account for both of these sources of VOC emissions.

Industry-supplied data show that at an undertread cementing operation about 70 percent of total emission is attributable to evaporation of VOC from application equipment, and about 30 percent is attributable to evaporation of VOC from rubber component surfaces. Similar data for tread end cementing and green tire spraying show that about 80 percent of total emissions is attributable to evaporation of VOC from application equipment, and about 20 percent is attributable to evaporation of VOC from rubber component surfaces. No such data are available to show a ratio for sidewall cementing or bead cementing. However, since sidewall cementing is a process very similar to undertread cementing, the ratios for these processes should be similar. Both tread end cementing and bead cementing involve the application of cement to relatively small surface areas. Therefore, EPA estimates that the ratio for bead cementing resembles the 80:20 ratio for tread end cementing.

To approach total vapor collection, a completely sealed enclosure of the emission source would be necessary. However, completely sealed enclosures are not practical in the rubber tire industry. Some affected facilities require intermittent worker access, usually for startup, maintenance, and repair purposes, while other facilities, such as manual tread end cementing, require continual worker access to the tire component.

Capture systems for cement application areas that require only intermittent access to the equipment, such as automatic tread end cementing, undertread cementing, sidewall cementing, and roller bead cementing, could consist of enclosures containing access ports equipped with self-closing doors. The capture system currently in use at one undertread cementing operation which was discussed earlier could be adapted for use at other undertread cementing operations as well as at automatic tread end cementing and sidewall cementing. Capture efficiencies of at least 80 percent could be achieved on a continuous basis.

Capture systems for cement application areas that require constant worker access could be similar to those used on portable chipping and grinding tables or soldering tables in other industries. These enclosures provide worker access and conveyor movement through side openings and are designed to minimize pressure losses through the openings. Associated with these cement application areas are conveyors that transport the cemented component. Solvent evaporates from the component while it is on the conveyor. To achieve maximum capture efficiency, the conveyors must be enclosed to allow for capture of the evaporated solvent. Conveyor enclosures such as those used for straight-line automatic buffing would be appropriate. These enclosures consist of hoods, with hinged access doors, that surround the top, sides, and underside of the conveyor. Each end of the hood is partially covered by flaps to minimize the opening size. Capture efficiencies of such enclosures are related to the percentage of total solvent that evaporates off the component while it is inside the enclosed area; however, efficiencies of at least 80 percent could be achieved on a continuous basis. The length of the enclosure would depend on the conveyor speed and the rate of evaporation of the solvent.

Dip bead cementing and inside and outside green tire spraying operations usually consist only of a cement or spray application area. For dip bead cementing, the beads are lowered into a tank which can be enclosed and the enclosure equipped with access ports. Beads could be placed in the enclosure through access ports which would remain open only until the beads were inside. The beads could be dipped into the cement, then raised, and would remain in the enclosure for enough time to allow maximum evaporation of solvent. For inside and outside green tire spraying, spray booths are usually used for application. Tires could remain inside the booths for a sufficient time after cement application to allow for maximum evaporation. Capture efficiencies of at least 80 percent could be achieved on a continuous basis.

The most effective capture systems applicable at reasonable cost to Michelin-B operations are similar to those described above for undertread and sidewall cementing operations and can achieve at least 80 percent capture

efficiency. Capture systems for Michelin-A and Michelin-C-automatic operations must allow for continual intrusion of mechanical devices, frequent worker access, and introduction of additional tire components into both the cement application and drying areas. These features limit capture efficiency at these operations. EPA has determined that the most effective capture system applicable at reasonable cost to Michelin-A and Michelin-C-automatic operations is capable of achieving 70 percent capture efficiency.

Technology exists for new and retrofit systems to achieve emission reductions of 75 percent at undertread cementing, sidewall cementing, tread end cementing, bead cementing, inside and outside green tire spraying, and Michelin-B operations, and of 65 percent at Michelin-A and Michelin-C-automatic operations. Control devices demonstrated in other industries, which achieve an average removal or destruction efficiency of at least 95 percent, are available and can be used in conjunction with capture systems similar to those described above to achieve these levels of overall emission reduction.

Low Solvent Use Techniques

Emission reduction in the rubber tire industry can also be achieved by reducing cement usage. For tread end cementing and for bead cementing operations, each company reporting solvent use data has demonstrated that it can achieve an emission rate of 10 g/tire without the use of an emission reduction system. Solvent use rates as low as 2 g/tire have been reported for some plants.

Most of the low solvent use rates reported for tread end cementing operations were for those where cement is applied manually. However, low solvent use rates were also reported for operations where cement is applied by automatic spray arms. Most low solvent use rates for bead cementing operations were for facilities that use rollers to apply the cement. However, low solvent use rates were also reported for facilities that use a bead dipping method. EPA identified the following good work practices as helping to achieve low solvent use rates: minimizing the surface area for openings on cement pots at manual tread end cementing stations, covering cement tanks used for bead dipping, and minimizing overspray at automatic tread end cementing stations. In EPA's judgment, any new, modified, or reconstructed tread end or bead cementing operation can use 10 g/tire or less of VOC.

Substitution of Low VOC Content Materials

Green tire spraying represents another affected facility where significant emission reduction can be achieved without the use of emission reduction systems. Water-based sprays have been substituted for organic solvent-based sprays at inside and outside green tire spraying operations in a number of plants. Uncontrolled emission rates calculated for water-based inside tire sprays ranged from zero to 1.2 g/tire; uncontrolled emission rates calculated for water-based outside sprays ranged from zero to 9.3 g/tire. Product quality considerations have been cited by industry as the reason for retaining a small amount of VOC in some water-based sprays. Emissions from water-based green tire sprays are at least 90 percent less than average uncontrolled emissions from solvent-based sprays. Water-based sprays have been widely used under conditions representative of the industry and are available to all companies.

Selection of the Regulatory Alternatives

The regulatory alternatives considered in developing the standards of performance are based on the methods available to control the VOC emissions from the rubber tire industry. The three control methods considered were emission reduction systems (capture and control technology), low solvent use techniques, and low VOC content materials were considered. Impacts calculated for the regulatory alternatives were based on the use of carbon adsorber control devices where emission reduction systems are used. The proposed standards would allow the use of other types of control devices.

Regulatory Alternative I represents the regulatory baseline. State Implementation Plan (SIP) regulations for control of VOC emissions from rubber tire manufacturing plants are expected to be based on information presented in the control techniques guideline (CTG) document "Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires" (EPA–450/ 2–78–030). Therefore, Regulatory Alternative I has been set at the level of control recommended in the CTG. Under Regulatory Alternative I, VOC emissions from undertread cementing, tread end cementing, bead cementing, and inside and outside green tire spraying operations would be reduced by an average of about 70 percent. Sidewall cementing operations and Michelin-A, Michelin-B, and Michelin-C-automatic operations were not addressed in the CTG; therefore, Regulatory Alternative I does not limit VOC emissions from these affected facilities.

Emission reduction systems could be used for all affected facilities under Regulatory Alternative I to achieve a 70 percent emission reduction efficiency. Water-based sprays could be used at inside and outside green tire spraying facilities to meet or exceed a 70 percent emission reduction for Regulatory Alternative I.

Regulatory Alternative II is based upon the use of 75 percent efficient emission reduction systems for undertread cementing, sidewall cementing, tread end cementing, and bead cementing facilities, and upon the use of water-based sprays (90 percent emission reduction) for inside and outside green tire spraying facilities.

Since Michelin-A, Michelin-B, and Michelin-C-automatic operations are believed unique to Michelin Tire Corporation, they were not included in Regulatory Alternative II. Regulation of these operations was considered separately and is discussed under the section on "Best System of Continuous Emission Reduction."

Emission reductions achievable with water-based green tire sprays are significantly greater than the reductions achievable where organic solvent-based spray VOC emissions are reduced with the use of an emission reduction system. Water-based inside and outside green tire sprays have been adequately demonstrated in the industry and are available to all companies.

Environmental Impacts

Under Regulatory Alternative I (the regulatory baseline), emissions in the fifth year from new, modified, and reconstructed affected facilities would be about 3,120 Mg/year (3,430 tons/yr). The fifth year air quality impact of Regulatory Alternative II would be a reduction of about 1,700 Mg/yr (1,870 tons/yr) from baseline emissions. This is a reduction of 55 percent from the baseline.

Under each of the regulatory alternatives there could be effluent from steam regeneration of carbon adsorption beds and from overspray of inside and outside water-based green tire sprays. The VOC used in tire manufacturing is virtually insoluble in water. Therefore, most adsorbed VOC which escapes decanting and most VOC contained in overspray from inside and outside water-based green tire sprays will volatilize rather than remain in the water. Wastewater flow in 1985 under

Regulatory Alternative I would be about 4.8 million m^3/yr (1.3 billion gal/yr). Regulatory Alternative II would not increase the wastewater flow beyond the baseline.

Under Regulatory Alternative I, solid waste generated in 1985 would be about 238,000 Mg/yr (263,000 tons/yr). Regulatory Alternative II would not increase the quantity of solid waste generated. Solid waste could result from disposal of spent carbon from carbon adsorbers. Spent carbon can be recycled for other industrial uses, incinerated or disposed of by landfilling.

Energy Impacts

Energy use for pollution control equipment is based on the use of carbon adsorbers as the control technique for both regulatory alternatives. Under Regulatory Alternative I, facilities that are built, modified, or reconstructed by 1985 would use a total of about 2.5×10^{17} joules/yr of electricity for process, non-process, and pollution control purposes. Emission reduction to the level of Regulatory Alternative II would not increase the fifth-year energy usage.

Economic Impacts

A detailed analysis of the economic impact of the regulatory alternatives on the rubber tire manufacturing industry has been developed. Price increases or alternative decreases in return on investment (ROI) were determined to be reasonable for both regulatory alternatives, even under worst case conditions. In no case do capital costs of control exceed 1 percent of total investment requirements.

Regulatory Alternative I (baseline) fifth-year cumulative capital control costs would be about $16.3 million. Fifth-year annualized control costs without solvent recovery credits would be about $4.9 million; with solvent recovery credits, annualized control costs would be about $3.3 million.

Regulatory Alternative II fifth-year cumulative capital control costs would be about $7.9 million above the baseline. Fifth-year annualized costs without solvent recovery credits would increase above the baseline figure by about $2.3 million. The increase above the baseline in fifth-year annualized costs with solvent recovery credits would be about $1.5 million. Under full cost pricing, the product price would increase by about 0.14 percent under worst case conditions. Under full cost absorption, the ROI of new radial tire manufacturing plants may decline from an assumed rate of 5 percent to 4.93 percent in the worst case. In either situation the worst case is represented by the use of a separate capture system and a carbon adsorber control device at each affected facility where control equipment is used to reduce emissions. Neither impact would inhibit industry growth or replacement.

Best Systems of Continuous Emission Reduction

Regulatory Alternative II is technically and economically feasible for all affected facilities, would achieve greater emission reduction than Regulatory Alternative I, and would cause no adverse water, solid waste, or energy impacts. Capture and control technology is available to meet Regulatory Alternative II emission reductions for undertread cementing, sidewall cementing, tread end cementing, and bead cementing. Water-based inside and outside green tire sprays are available to all rubber tire manufacturers and are already is use by most companies at one or more plants. Water-based sprays can meet or exceed Regulatory Alternative II emission reductions. Alternative II would decrease overall VOC emissions from the affected facilities by about 55 percent below the baseline. Annualized costs without recovery credits would increase by about 47 percent; with recovery credits the increase would also be about 47 percent. The increase is due primarily to addition of sidewall cementing as an affected facility. Based on consideration of these factors, Regulatory Alternative II was judged superior to Regulatory Alternative I, and Regulatory Alternative II was used as the basis for selecting the best system of continuous emission reduction.

Data on existing plants indicate that there is a wide variation in solvent use rates (and a corresponding wide range in uncontrolled emission rates) from each type of affected facility. At some low solvent use rate, the cost of employing an emission rduction system could be unreasonably high for the amount of emission reduction achieved. Since the cost per unit of emission reduction achieved is an important factor in determining the reasonableness of control at facilities with low uncontrolled emissions, the Agency considered requiring less efficient emission reduction at facilities with low solvent use rates and/or establishing solvent use cutoffs, below which no level of control would be required. These choices would be considered if, indeed, there was a solvent use rate at which the control costs were judged to be unreasonably high when compared to the emmission reduction.

As a first step in the Agency's determination, annualized costs of applying a 75 percent efficient emission reduction system were calculated for the range of solvent use rates (numbers equal to the uncontrolled emission rates) at undertread cementing, sidewall cementing, tread end cementing, and bead cementing facilities. Annualized costs per megagram of VOC emission reduction were then plotted across the range of solvent use rates. (See Figures 8–1 and 8–2 in the BID.) It was assumed that a separate capture system and control device would be used for each operation and that flow rates and capital costs for each operation are constant over the entire range of solvent use rates. These costs do not represent the actual amounts of money spent for any particular plant. Rather, the costs are estimates which represent additional lines and plants likely to be built. The costs of VOC emission reduction systems will vary according to production rate, production equipment, plant layout, geographic location, and company preferences and policies.

As was expected, the annualized cost per megagram of emission reduction increases as the solvent use rate decreases. For solvent use rates above 50 grams per tire (g/tire), the total annualized costs for a carbon adsorber, assuming recovery credits, would be about $400 per megagram of VOC emissions reduced. As the solvent use rate decreases, through changes in process and manufacturing techniques, from 50 to 25 g/tire, the costs gradually increase to about $1250 per megagram. From 25 to 15 g/tire costs begin rising at a more rapid rate. However, there is no point on the curve at which a sharp upward swing is distinguishable. In the 25 to 15 g/tire range, costs begin to exceed $2,000 per megagram. Based on VOC emission control costs in other industries regulated by standards of performance, costs above $2,000 per megagram are generally considered to be unreasonably high (although, in some instances, there may be overriding considerations that affect the determination of reasonable cost).

To reduce the cost per megagram of pollutant removed for facilities within the 25 to 15 g/tire range, the Agency considered less effective and less costly emission reduction systems for those facilities. However, systems which are less than 75 percent efficient are not significantly lower in cost than 75 percent efficient systems. Consequently, requiring a level of control less than 75 percent efficient for facilities between 25 and 15 g/tire would not bring the cost per megagram significantly below the level generally considered unreasonably high.

To identify a cutoff point betwen 25 and 15 g/tire, the Agency considered other cost-related factors in selecting the exact cutoff. Specifically, the Agency considered the additional cost savings that would be achieved by establishing a cutoff at 25 g/tire rather than 15 g/tire. These cost savings are associated with: conservation of energy required to operate these systems, conservation of resources required for their operation and maintenance, and the encouragement of solvent conservation at facilities that can, or may develop methods to, reduce solvent usage to meet the cutoff limits rather than install capture and control systems. In light of these benefits and the general view that the Agency should set standards that encourage development of inherently low-emitting processes, and in the absence of a clearly identified VOC use rate at which the control costs per megagram reduction are clearly unreasonable, the Administrator is proposing 25 g/tire as the cutoff solvent use rate for undertread cementing and sidewall cementing facilities. While solvent use rates average about 63 g/tire for existing undertread cementing and 41 g/tire for existing sidewall cementing facilities, solvent use rates below 25 g/tire have been reported for each of these operations. The costs to reduce emissions by 75 percent at solvent use rates above 25 g/tire are considered reasonable, and 25 g/tire is an appropriate cutoff point considering both the benefits which accrue and the rapidly increasing cost per megagram associated with control at solvent use rates below 25 g/tire. Therefore, the best system of continuous emission reduction for undertread and sidewall cementing operations is an emission reduction system that achieves 75 percent overall control for facilities that use more than 25 g/tire, and low solvent techniques for facilities that use 25 g/tire or less. The 75 percent efficient emission reduction system was based on an 80 percent efficient capture system and a 95 percent efficient carbon adsorber control device. The proposed standards would also allow use of other types of control devices, and any combination of capture and control efficiencies that result in at least a 75 percent overall emission reduction.

A similar analysis was done for tread end cementing and bead cementing, and cutoffs of 25 and 20 g/tire respectively were selected. (See Figures 8–3 to 8–5 in BID.) These cutoffs were higher than VOC use rates for most existing tread end cementing and bead cementing facilities. No new tread end or bead cementing operations are expected to use more than the 25 or 20 g/tire cutoffs. Therefore, requiring those tread end cementing or bead cementing operations that use more than the cutoff amounts of VOC to reduce emissions by 75 percent would achieve no emission reduction. However, an alternative means of minimizing emissions has been adequately demonstrated to achieve effective control at tread end cementing and bead cementing facilities. Industry-supplied solvent use data show that each company has at least one plant that uses 10 g/tire or less at each of these operations. Further, many existing plants already use substantially less than 10 g/tire. Emission rates of 10 g/tire, or less, could be achieved without the use of emission reduction systems. A 10 g/tire emission limit for all tread end cementing and bead cementing operations would result in a greater nationwide emission reduction than would be achieved by requiring installation of a 75 percent efficient emission reduction system for those facilities that use more than the cutoff amounts of VOC. Since no emission reduction systems would be used, capital and operating costs, and water, solid waste and energy impacts would be reduced. For the above reasons, the best system of continuous emission reduction for tread end and bead cementing operations is low-solvent techniques that use less than 10 g/tire.

The best system of continuous emission reduction for inside green tire spraying and outside green tire spraying operations is water-based green tire sprays. Water-based green tire sprays result in lower emissions than when solvent-based sprays are used in conjunction with emission reduction systems.

Choosing low solvent use techniques as the best system of continuous emission reduction for tread cementing and bead cementing operations, and setting 25 g/tire cutoffs for undertread cementing and sidewall cementing operations result in the impacts of the proposed standards being different from the impacts of Regulatory Alternative II. Under the proposed standards, baseline emissions from undertread cementing, sidewall cementing, tread end cementing, bead cementing, inside green tire spraying, and outside green tire spraying would be reduced by about 1,430 Mg (1,570 tons) in the fifth year, a 46 percent reduction. This emission reduction would be about 9 percent less than the emission reduction estimated for these affected facilities under Regulatory Alternative II. The amounts of energy used, and water pollution and solid waste generated under the proposed standards would be less than under Regulatory Alternative II.

Because the proposed standards would not in most cases require the use of emission reduction systems for affected facilities other than undertread cementing and sidewall cementing, capital and annualized costs would be less than those for Regulatory Alternatives I and II. Fifth-year cumulative capital costs would be about $10.8 million above uncontrolled levels, about 34 percent less than the baseline and about 55 percent less than Regulatory Alternative II. Annualized costs in the fifth year without recovery credits would be about $3.4 million above uncontrolled levels; with recovery credits the fifth-year annualized cost would be about $1.5 million above uncontrolled levels. These annualized costs represent reductions from the baseline of about 31 percent and 54 percent, respectively; they represent cost reductions from Regulatory Alternative II of about 53 percent and 69 percent, respectively. The average product price would rise about 0.26 percent above uncontrolled levels in the worst case. The product price is not expected to increase above baseline levels. Under full cost absorption, using uncontrolled levels as a base comparison, the ROI would decrease from an assumed rate of 5.17 percent to about 5.04 percent under worst case conditions. The ROI is not expected to decrease below baseline levels.

Based on EPA's analysis of information submitted by Michelin Tire Corporation, the Agency has determined the best technological system of continuous emission reduction for the Michelin-B operation to be a VOC capture system and carbon adsorber control device that will achieve a 75 percent overall emission reduction. For Michelin-A and Michelin-C-automatic operations, EPA has determined the best technological system of emission reduction to be a VOC capture system and carbon adsorber control device that will achieve a 65 percent overall emission reduction. EPA has determined that these systems are available at reasonable cost and do not impose unreasonable adverse water, solid waste, or energy impacts. The proposed standards would also allow the use of control devices other than carbon adsorbers.

Selection of Format of Proposed Standard

Concentration, mass units, and efficiency were considered as formats for the proposed standards. A concentration format for the proposed

standards would limit the amount of VOC per unit volume of exhaust gas discharged into the atmosphere but not the total mass of VOC discharged. The advantage of the concentration format is that the test method would not require measurement of gas flow or composition of the solvent. The primary disadvantage of using a concentration format is that solvent application rates (hence emissions) are variable, and, as a result, vapor concentrations also vary widely. A further complication is the assertion by some industry representatives that air flow rates affect product quality, and companies may therefore differ in their ventilation specifications. For these reasons, concentration units were rejected as a format for the proposed standards.

A second option is to express the proposed standards in terms that limit VOC emissions to a maximum allowable mass per unit of production. A mass standard for this industry could be expressed in grams of VOC emitted per tire processed (g/tire). A g/tire standard is suitable where low solvent use techniques are employed to minimize VOC emissions at tread end cementing and bead cementing facilities, and where water-based sprays are employed to minimize VOC emissions at inside and outside green tire spraying facilities. As a result, the proposed standards for tread end cementing, bead cementing, and green tire spraying facilities are expressed as grams of VOC emitted per tire processed (g/tire).

Gram per tire emission limits were not considered to be appropriate where the best system of continuous emission reduction is an emission reduction system. Establishing g/tire emission limits based on reduction from the highest uncontrolled emission rates would ensure achievability of the standards but would require installation of the best system of continuous emission reduction only on the few facilities with the highest emission rates. Facilities with lower uncontrolled rates could achieve the standards without using best control technology. Gram per tire emission limits based on reduction from less than the highest (e.g., the average) uncontrolled emission rates could result in limits that may not be achievable by all facilities, especially those with the highest uncontrolled emissions. Further, some industry representatives expressed concern at the December 2, 1980, meeting of the National Air Pollution Control Techniques Advisory Committee that gram per tire emission limits based on a reduction from even the highest reported emission rate may not be achievable. This concern was based on the possibility that a new facilty could have an uncontrolled emission rate higher than those reported for existing facilities. These problems could be overcome by choosing an efficiency format, which would reflect the use of capture and control systems irrespective of the uncontrolled emission rate at the facility. Therefore, an efficiency format was chosen for the standards for undertread and sidewall cementing operations that use more than 25 g/tire and for Michelin-A, Michelin-B, and Michelin-C-automatic operations. To ensure that all aspects of the issue have been considered adequately, the Agency requests comments from interested parties about the recommended percent reduction format.

Selection of Numerical Emission Limits

Based on the best systems of continuous emission reduction, the proposed standards consist of the following numerical emission limits. Each undertread cementing operation and each sidewall cementing operation where more than 25 grams of VOC are used per tire would be required to reduce emissions by at least 75 percent. Undertread cementing and sidewall cementing operations that use less than 25 g/tire would not be required to install emission reduction systems. Each tread end and bead cementing facility would be required to limit emissions to no more than 10 g/tire. Each inside green tire spray operation would be required to limit emissions to no more than 1.2 g/tire, and each outside green tire spray operation would be required to limit emissions to no more than 9.3 g/tire. Each Michelin-B operation would be required to reduce emissions by at least 75 percent. Each Michelin-A operation and each Michelin–C-automatic operation would be required to reduce emissions by at least 65 percent. As stated above, these emission limits reflect application of the best demonstrated system of emission reduction at each affected facility in a rubber tire manufacturing plant.

Rubber tire industry representatives have requested EPA to consider adding a provision to the proposed standards which would allow a plant owner or operator the option of meeting an emission limit calculated for a group of individual affected facilities rather than individual limits for each affected facility. The emission limit for the group would be calculated by combining prescribed emission limits for individual affected facilities and, for purposes of the following discussion, is termed an NSPS compliance bubble, i.e., a tradeoff of emissions among affected facilities for compliance purposes.

EPA believes a compliance tradeoff for rubber tire manufacturing may be appropriate and may be consistent with Section 111 of the Clean Air Act and is considering incorporating such a tradeoff in the standards before promulgation. Standards currently proposed or promulgated under Section 111 of the Act do not contain such a provision. EPA is in the early stages of evaluating a general policy for Section 111 standards which, if adopted, would provide for compliance tradeoffs where determined appropriate for plants containing multiple affected facilities. Until EPA establishes a policy for Section 111 standards in general, the Agency is not prepared to propose such a policy in the rubber tire standard. However, EPA will make a decision on this policy before the rubber tire standard is promulgated. Therefore, EPA is requesting comments on the use of a compliance tradeoff as a part of this package. It is anticipated that any compliance tradeoff incorporated into the rubber tire standard would allow aggregation of individual emission limits only for those facilities within a plant which are subject to the standards (newly constructed, modified, or reconstructed) and which are present in that specific plant.

Modification/Reconstruction Considerations

Modification, as defined in § 60.14 of Chapter I, Title 40 of the Code of Federal Regulations (CFR), may occur when any physical or operational change to an existing facility results in an increase in emission rate to the atmosphere of any pollutant to which a standard applies. However, there are several changes that result in increased emission rates which are exempt from the modification provision. Once such provision is for a production rate increase that is accomplished without a "capital expenditure" as defined in § 60.2.

The production rate of a rubber tire manufacturing plant is usually directly related to the capacities of the tire building or curing press operations, which are not subject to the proposed standards. Other operations, including operations selected as affected facilities, normally run at less than full capacity, and their production rates can usually be increased up to full capacity without a capital expenditure. Most changes expected to occur would be of this nature. As a result, few, if any, modifications are expected.

Reconstruction, as defined in § 60.15 of Chapter I, Title 40 of the CFR, occurs

when the fixed capital cost of replacement components of an existing facility exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility and compliance is technically and economically feasible. Upon replacement of components, the Administrator will determine, on a case-by-case basis, whether a reconstruction has taken place and whether the existing facility becomes an affected facility under the NSPS.

Investigation of the rubber tire manufacturing industry has indicated that repair or rebuilding of an existing facility where costs would exceed 50 percent of the cost of replacing the facility is unusual.

Selection of Performance Test Methods

The proposed standards would require two types of performance tests, initial performance tests and monthly performance tests. Initial performance tests would be required for all affected facilities except those facilities that demonstrate compliance with the percent emission reduction requirements by meeting certain equipment specifications. These facilities would conduct an initial performance test on the control device but not on the capture system. However, the owner or operator would be required to state in the initial compliance report whether or not each capture system specification has been met. Monthly performance tests would be required for most, but not all, affected facilities.

Monthly performance tests were chosen, where practical, to ensure continual compliance. Requiring only an initial performance test would somewhat reduce the monitoring workload on the owner or operator, but would not be as useful to either the owner or operator or to the Agency for ensuring continual compliance. In addition, most of the data required for monthly performance tests are routinely collected and maintained by the source as part of production and inventory records. Performance tests that consist of costly stack testing are not required on a monthly basis in order for EPA to ensure that compliance costs are maintained at a reasonable level.

Monthly performance tests would be required to determine compliance with each of the g/tire limits. Whether or not monthly performance tests would be required to determine compliance with the percent emission reduction standards depends primarily on the type of control device used, and then on the method of demonstrating compliance. If the control device recovers VOC and compliance is demonstrated by achieving a 75 percent emission reduction, monthly performance tests would be required. If the control device recovers VOC but compliance is demonstrated by meeting the equipment specifications, monthly performance tests would not be required. If the control device destroys VOC, monthly performance tests would not be required, regardless of the method used to demonstrate compliance.

Performance test procedures for each type of affected facility vary depending on the format of the standard (g/tire or percent emission reduction) and the type of emission control device, if any, that is used. The performance test procedures are outlined below.

For each affected facility that complies with a g/tire limit, the mass of VOC emitted per tire processed for a calendar month would be determined during the initial performance test. This determination would necessitate a materials balance calculation if compliance is achieved by reducing solvent usage or by using a control device that recovers VOC. If a control device that destroys VOC is used, the determination would require a stack test.

Monthly performance tests for facilities that comply with g/tire limits would be the same as the initial performance test except for those affected facilities where a control device that destroys VOC is used. For these affected facilities, the overall emission reduction efficiency determined in the initial performance test could be used for monthly performance tests until the Administrator requests that the efficiency be redetermined, or the operating conditions of the system are changed. The rationale for this provision is that a requirement for an owner or operator to conduct monthly stack tests could result in unreasonable costs.

For each affected facility for which the owner or operator choose to use an emission reduction system with a control device that recovers VOC to meet a percent reduction requirement, the overall efficiency of the emission reduction system for a calendar month would be determined during the initial performance test. This would be done by comparing the mass of VOC recovered by the emission reduction system to the mass of VOC used at the affected facility. No stack testing would be required. Monthly performance tests would be the same as the initial performance test.

For each affected facility for which the owner or operator chooses to use an emission reduction system that destroys VOC to meet a percent reduction requirement, the overall efficiency of the emission system would be determined by a stack test performed during the initial performance test. No monthly performance test would be required. The emission reduction system efficiency would be redetermined by a stack test when requested by the Administrator or when the operating conditions of the system are changed.

Data necessary to calculate the VOC content of cement or spray material would be obtained from formulation data supplied by the manufacturer of the spray, or through the analysis of each cement or spray material by Reference Method 24 "Determination of Volatile Organic Compound Content of Paint, , Varnish, Lacquer, or Related Products" or an alternative or equivalent method acceptable to the Administrator. Reference Method 24 would serve as the reference method for the calculation of the VOC content of the cement or spray materials in case of dispute.

Alternative Compliance Method

As an alternative method for demonstrating compliance with the proposed standards for undertread cementing, sidwall cementing, or Michelin-B operations, the owner or operator may elect to meet equipment specifications for capture systems used in conjunction with a 95 percent efficient control device. These specifications include enclosure of cement application and drying areas, maintenance of 100 feet per minute face velocity through each permanent opening to an enclosure, and an upper limit on the area of permanent openings to an enclosure. The Administrator has determined that meeting these specifications in conjunction with operating a 95 percent efficient control device is an acceptable means of demonstrating compliance.

An initial performance test of the control device would be required within 180 days after initial start-up of the affected facility. This test would be repeated when requested by the Administrator or when control device operating conditions are changed. The owner or operator would be required to continuously monitor the control device as described in the section on Selection of Monitoring Requirements. No monthly performance tests would be required because the cost of monthly stack tests could be unreasonable.

Neither an initial performance test nor monthly performance tests would be required for the capture system. However, the owner or operator would be required to include in the initial compliance report a statement

indicating whether each of the equipment specifications has been met.

Selection of Monitoring Requirements

Monitoring requirements are included in standards of performance to provide a means for ensuring proper operation and maintenance of emission reduction systems and to provide plant and enforcement personnel with sufficient data to determine compliance with the proposed standards.

Where thermal incineration is used to achieve compliance, the owner or operator would be required to install, calibrate, operate, and maintain a monitoring device to continuously record the combustion (firebox) temperature of the control device. If catalytic incineration were used, the owner or operator would be required to install a monitoring device to continuously record the gas temperature both upstream and downstream of the catalyst bed. The owner or operator would be required to continually record these values.

Where a control device that recovers VOC is used to achieve compliance with a percent reduction requirement by meeting equipment specifications, the owner or operator would be required to install a continuous monitoring device. Equipment is available to monitor the operational variables associated with solvent recovery system operation. Monitoring of operations indicates whether the solvent recovery system is being properly operated and maintained, and whether the system is continuously reducing VOC emissions to an acceptable level. The variable which would yield the best indication of system operation is VOC concentration at the solvent recovery system outlet.

EPA has not yet developed performance specifications for solvent recovery system monitors, but a program is underway to develop these specifications. Consequently, until EPA proposes and promulgates monitor performance specifications, owners and operators subject to the requirement to install a continuous monitor on the solvent recovery system will not be required to do so.

Recordkeeping and Reporting Requirements

The proposed standards would require that the owner or operator maintain records of all data and calculations used to determine VOC emissions from each affected facility for at least two years. For each affected facility which uses thermal incineration to achieve compliance, continuous records of the incinerator combustion chamber temperature must be maintained at the source for a period of at least two years. Where catalytic incineration is used, continuous records of the gas temperature, both upstream and downstream of the incinerator catalyst bed, must be maintained at the source for a period of at least two years. Where a control device that recovers VOC is used to achieve compliance with a percent reduction requirement by meeting the equipment specifications, the owner or operator must maintain at the source for a period of at least two years continuous records of VOC concentration at the solvent recovery system outlet.

The proposed standards would require the owner or operator to maintain records of all 3-hour periods during which the average temperature of a thermal incinerator is more than 28°C (50°F) less than the average temperature during the most recent performance test at which the destruction efficiency was determined. For catalytic incinerators the owner or operator would maintain records of all 3-hour periods during which the average temperature immediately before the catalyst bed is more than 28°C (50°F) less than the average temperature during the most recent performance test at which the destruction efficiency was determined or the temperature difference across the catalyst bed is less than 80 percent of the average temperature difference during the most recent performance test at which the destruction efficiency was determined. Where a control device that recovers VOC is used to achieve compliance with a percent reduction requirement by meeting the equipment specifications, the owner or operator must maintain records of all 3-hour periods during which the average VOC concentration from the outlet of the solvent recovery system is greater than the average value measured during the most recent test of the control device.

The proposed standards would require notification reports and reports of all initial performance tests, as required by the General Provisions.

Impacts of Reporting Requirements

A reports impact analysis for the rubber tire manufacturing industry was prepared. The purpose of the analysis is to estimate the economic impact of the reporting and recordkeeping requirements that would be imposed by the proposed standards and by those appearing in the General Provisions of 40 CFR Part 60. Included in the analysis are the rationale for the selection of the proposed requirements, an evaluation of the major alternatives considered prior to the selection of the proposed requirements, and a description of the information required by the General Provisions and by the proposed standards. A copy of the reports impact analysis is included in the rubber tire manufacturing docket (EPA Docket No. A–80–9–II–B–14).

Based on the reports impact analysis, a maximum of 3 person-years would be required industry-wide to comply with the recordkeeping and reporting requirements through the first five years of applicability.

The Paperwork Reduction Act of 1980 (Pub. L. 96–511) requires clearance from the Office of Management and Budget (OMB) of certain public reporting/recordkeeping requirements before this rulemaking can be promulgated as final. The reporting/recordkeeping requirements associated with this standard have been submitted to OMB for approval.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for those portions of the docket excluded from the record under Section 307(d)(7)(A)).

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for rubber tire manufacturing plants was preceded by the Administrator's determination (40

CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test methods.

It should be noted that standards of performance for new stationary sources established under Section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. (Section 111(a)(1).)

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources located in nonattainment areas, i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, Section 173 of the Act requires that a new or modified source constructed in an area where ambient pollutant concentrations exceed the National Ambient Air Quality Standard (NAAQS) must reduce emissions to the level that reflects the "lowest achievable emission rate" (LAER), as defined in Section 171(3), for such category of source. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

> (A) The most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or
>
> (B) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard (Section 171(3)).

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources (referred to in Section 169(1)) employ "best available control technology" (BACT) as defined in Section 169(3) for all pollutants regulated under the Act. Best available control technology must be determined on a case-by-case basis, taking energy, environmental and economic impacts and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to Section 111 (or 112) of the Act.

In all events, State Implementation Plans (SIPs) approved or promulgated under Section 110 of the Act must provide for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose, SIPs must in some cases require greater emission reduction than those required by standards of performance for new sources.

States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111 or those necessary to attain or maintain the NAAQS under Section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than standards of performance under Section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

This regulation will be reviewed four years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the Background Information Document.

"Major Rule" Determination. Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to certain requirements of the Order. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." Fifth-year annualized costs of the standard, compared to an uncontrolled situation, would be about $3.4 million in the worst case. The product wholesale price is not expected to increase. The Agency has therefore concluded that the proposed regulation is not a "major rule" under Executive Order 12291.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in Docket No. A–80–9, EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Regulatory Flexibility Analysis Certification. The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. According to current Small Business Administration guidelines, a small business in the SIC category 3011, "Tires and innertubes," is one that has 1,000 employees or less. This is the criterion to qualify for SBA loans or for the purpose of government procurement. Of the 16 tire manufacturing companies, 3 existing companies have less than 1,000 employees. An industry representative has stated that employment in a typical new plant is expected to average 1,400, with a range of 1,000 to 2,000. Thus, it is unlikely that any new plant would be considered a small entity. Existing small entities are not expected to become subject to the NSPS through new construction, modification, or reconstruction. However, if a small business did become subject to the NSPS, the cost of compliance would have minimal impacts.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires.

Dated: January 5, 1983.

John W. Hernandez, Jr.,

Acting Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended by adding a new Subpart BBB to read as follows:

Subpart BBB—Standards of Performance for the Rubber Tire Manufacturing Industry

Sec.

60.540 Applicability and designation of affected facilities.
60.541 Definitions.
60.542 Standards for volatile organic compounds.
60.543 Performance test and compliance provisions.
60.544 Monitoring of emissions and operations.
60.545 Reporting and recordkeeping requirements.
60.546 Reference methods and procedures.

Authority: Secs. 111 and 301(a), Clean Air Act, as amended, (42 U.S.C. 7411, 7601(a)), unless otherwise noted.

* * * * *

Subpart BBB—Standards of Performance for the Rubber Tire Manufacturing Industry

§ 60.540 Applicability and designation of affected facilities.

(a) The provisions of this subpart apply to the following affected facilities in rubber tire manufacturing plants: each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each inside green tire spraying operation, each outside green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C-automatic operation.

(b) The provisions of this subpart apply to each affected facility which is identified in paragraph (a) of this section and which commences construction or modification after January 20, 1983.

(c) The provisions of § 60.544(c), § 60.545(c)(3), § 60.545(f), and § 60.545(h) will not apply until EPA has established and promulgated performance specifications for the VOC concentration monitoring device. After the promulgation of performance specifications, these provisions will apply to each affected facility under paragraph (b) of this section.

§ 60.541 Definitions.

(a) All terms which are used in this subpart and are not defined below are given the same meaning as in the Act and in Subpart A of this part.

(1) "Bead" means rubber covered strands of wire, wound into a circular form, which ensure a seal between a tire and the rim of the wheel onto which the tire is mounted. Each tire usually contains two beads.

(2) "Bead cementing operation" means the system which is used to apply cement to the bead rubber before or after it is wound into its final circular form. A bead cementing operation consists of a cement application station, such as a dip tank, spray booth and nozzles, cement through and roller or swab applicator; and all other equipment necessary to apply cement to wound beads or bead rubber and to allow evaporation of solvent from cemented beads.

(3) "Component" means a piece of tread, combined tread/sidewall, or separate sidewall rubber of the length needed to manufacture a tire of the size and type for which the component is produced.

(4) "Drying area" means the area where VOC from applied cement or green tire sprays is allowed to evaporate.

(5) "Enclosure" means a structure, designed to contain evaporated VOC, which surrounds a cement, solvent, or spray application area, and/or drying area and ducts contained VOC to a control device(s). Enclosures may have permanent and temporary openings.

(6) "Green tire" means an assembled, uncured tire.

(7) "Inside green tire spraying operation" means the system used to apply a mold release agent and lubricant to the inside of green tires to facilitate the curing process and prevent rubber from sticking to the curing press. Sprays may be organic solvent-based or water-based. An inside green tire spraying operation consists of the inside spray application station and related equipment, such as the lubricant supply system, the booth where spraying is performed, and associated fans and ductwork.

(8) "Michelin-A operation" means that operation where cement is applied which is identified as Michelin-A in the Emission Standards and Engineering Division confidential file as referenced in Docket A-80-9-II-B-12.

(9) "Michelin-B operation" means that operation where cement is applied which is identified as Michelin-B in the Emission Standards and Engineering Division confidential file as referenced in Docket A-80-9-II-B-12.

(10) "Michelin-C-automatic operation" means that operation where cement is automatically applied which is identified as Michelin-C-automatic in the Emission Standards and Engineering Division confidential file as referenced in Docket A-80-9-II-B-12.

(11) "Outside green tire spraying operation" means the system used to apply a mold release agent to the outside of green tires to facilitate the curing process and prevent rubber from sticking to the curing press. Sprays may be organic solvent-based or water-based. An outside green tire spraying operation consists of the outside spray application station and related equipment, such as the lubricant supply system, the booth where spraying is performed, and associated fans and ductwork.

(12) "Permanent opening" means an opening designed into an enclosure to allow tire components to pass through the enclosure by conveyor or other mechanical means, to provide access for permanent mechanical or electrical equipment, or to direct air flow through the enclosure. A permanent opening is not equipped with a door or other means of obstruction.

(13) "Sidewall cementing operation" means the system used to apply cement to a continuous strip of sidewall component. A sidewall cementing operation consists of a cement application station and all other equipment, such as the cement supply system and feed and takeaway conveyors, necessary to apply cement to sidewall strips and to allow evaporation of solvent from cemented sidewall.

(14) "Temporary opening" means an opening into an enclosure that is equipped with a means of obstruction, such as a door, window, or port, which is normally closed.

(15) "Tire" means any agricultural, airplane, industrial, mobile home, light-duty truck and/or passenger vehicle tire which has a bead diameter less than or equal to 0.5 meter (m) [19.7 inches] and cross section dimension less than or equal to 0.325 m (12.8 in.) and is mass produced in an assembly-line fashion.

(16) "Tread end cementing operation" means the system used to apply cement to one or both ends of tread or combined tread/sidewall component. A tread end cementing operation consists of a cement application station and all other equipment, such as the cement supply

system and feed and takeaway conveyors, necessary to apply cement to tread ends and to allow evaporation of solvent from cemented tread ends.

(17) "Undertread cementing operation" means the system used to apply cement to a continuous strip of tread or combined tread/sidewall component. An undertread cementing operation consists of a cement application station and all other equipment, such as the cement supply system and feed and takeaway conveyors, necessary to apply cement to tread or combined tread/sidewall strips and to allow evaporation of solvent from cemented tread or combined tread/sidewall.

(18) "VOC emission control device" means equipment that destroys or recovers VOC.

(19) "VOC emission reduction system" means a system composed of an enclosure, hood, or other device for containment and capture of VOC emissions and a VOC emission control device.

(b) Notations used under this subpart are defined below:

C_a=Concentration of VOC in gas stream in vents after control device (parts per million by volume)

C_b=concentration of VOC in gas stream in vents before control device (parts per million by volume)

C_f=concentration of VOC in gas stream in vents from affected facility to atmosphere (parts per million by volume)

D_c=density of cement or spray material (grams per litre)

D_r=density of VOC recovered by an emission control device (grams per litre)

E=emission control device efficiency, inlet versus outlet (fraction)

F_c=capture efficiency, VOC captured and routed to one control device versus total VOC used for an affected facility (fraction)

F_o=fraction of total mass of VOC used in a calendar month by all facilities served by a common cement or spray material distribution system that is used by a particular affected facility served by the common distribution system

G=monthly average mass of VOC used per complete tire processed for a particular affected facility (grams per tire)

L_c=volume of cement or spray material used for a calendar month (litres)

L_r=volume of VOC recovered by an emission control device (litres)

M=total mass of VOC used for a calendar month by all facilities served by a common cement or spray material distribution system (grams)

M_o=total mass of VOC used at an affected facility for a calendar month (grams)

M_r=mass of VOC recovered by an emission control device (grams)

N=mass of VOC emitted to the atmosphere per complete tire processed for an affected facility for a calendar month (grams per tire)

Q_a=volumetric flow rate in vents after control device (dry standard cubic meters per hour)

Q_b=volumetric flow rate in vents before control device (dry standard cubic meters per hour)

Q_f=volumetric flow rate in vents from affected facility to atmosphere (dry standard cubic meters per hour)

R=overall efficiency of an emission reduction system (fraction)

T_o=total number of tires processed at a particular affected facility for a calendar month

W_o=weight fraction of VOC in a cement or spray material.

§ 60.542 Standards for volatile organic compounds.

(a) On and after the date on which § 60.8(b) requires a performance test to be completed, each owner or operator subject to the provisions of this subpart shall not cause to be discharged into the atmosphere more than:

(1) For each undertread cementing operation:

(i) 25 percent of the VOC used (75 percent emission reduction) for each calendar month if the operation uses more than 25 grams of VOC per tire processed; or

(ii) 25 grams of VOC per tire processed for each calendar month if the operation uses 25 grams or less of VOC per tire processed and does not employ a VOC emission reduction system.

(2) For each sidewall cementing operation:

(i) 25 percent of the VOC used (75 percent emission reduction) for each calendar month if the operation uses more than 25 grams of VOC per tire processed; or

(ii) 25 grams of VOC per tire processed for each calendar month if the operation uses 25 grams or less of VOC per tire processed and does not employ a VOC emission reduction system.

(3) For each tread end cementing operation: 10 grams of VOC per tire process for each calendar month.

(4) For each bead cementing operation: 10 grams of VOC per tire processed for each calendar month.

(5) For each inside green tire spraying operation: 1.2 grows per tire processed for each calendar month.

(6) For each outside green tire spraying operation: 9.3 grams per tire processed for each calendar month.

(7) For each Michelin-A operation: 35 percent of the VOC used for each calendar month (65 percent emission reduction).

(8) For each Michelin-B operation: 25 percent of the VOC used for each calendar month (75 percent emission reduction).

(9) For each Michelin-C-automatic operation: 35 percent of the VOC used for each calendar month (65 percent emission reduction).

§60.543 Performance test and compliance provisions.

(a) Section 60.8(d) does not apply to the monthly performance test procedures required by this subpart. Section 60.8(d) does apply to initial performance tests. Section 60.8(f) does not apply when Reference Method 24 is used.

(b) The owner or operator of an affected facility shall conduct an initial performance test as required under § 60.8(a) except as described in paragraph (h) of this section. The owner or operator of an affected facility shall thereafter conduct a performance test each calendar month except as described in paragraphs (e)(1) and (h) of this section. Initial and monthly performance tests shall be conducted according to the procedures in this section.

(c) For each undertread cementing, sidewall cementing, tread end cementing, bead cementing, inside green tire spraying, and outside green tire spraying operation which does not use a VOC emission reduction system, the owner or operator shall use the following procedure to determine compliance with the applicable g/tire limit specified under § 60.542(a).

(1) Calculate the total mass of VOC (M_o) used at the affected facility for the calendar month by the following procedure.

(i) For each affected facility for which cement or spray is delivered in batch or via a distribution system which serves only that affected facility:

$$M_o = \sum_{i=1}^{n} L_{ci} D_{ci} W_{ci}$$

where: n equals the number of different cements or sprays used during the calendar month.

(ii) For each affected facility for which cement or spray is delivered via a common distribution system which also

serves other affected or existing facilities.

(A) Calculate the total mass (M) of VOC used for all of the facilities served by the common distribution system for the calendar month:

$$M=\sum_{i=1}^{n} L_{ai} D_{ai} W_{ai}$$

where: n equals the number of different cements or sprays used during the calendar month.

(B) Determine the fraction (F_e) of M used by the affected facility by comparing the production records and process specifications for the material cemented or sprayed at the affected facility for the calendar month to the production records and process specifications for the material cemented or sprayed at all other facilities served by the common distribution system for the calendar month or by another procedure acceptable to the Administrator.

(C) Calculate the total monthly mass of VOC(M_e) used by the affected facility:

$$M_e=MF_e$$

(2) Determine the total number of tires (T_e) processed at the affected facility for the calendar month by the following procedure.

(i) For undertread cementing, T_e equals the number of tread or combined tread/sidewall components which receive an application of undertread cement.

(ii) For sidewall cementing, T_e equals the number of sidewall components which receive an application of sidewall cement, divided by 2.

(iii) For tread end cementing, T_e equals the number of tread or combined tread/sidewall components which receive an application of tread end cement.

(iv) For bead cementing, T_e equals the number of beads which receive an application of bead cement, divided by 2.

(v) For inside green tire spraying, T_e equals the number of green tires which receive an application of inside green tire spray.

(vi) For outside green tire spraying, T_e equals the number of green tires which receive an application of outside green tire spray.

(3) Calculate the mass of VOC used per tire processed (G) by the affected facility for the calendar month:

$$G=\frac{M_e}{T_e}$$

(4) Calculate the mass of VOC emitted per tire processed (N) for the affected facility for the calendar month:

$$N=G$$

(5) Where the value of the mass of VOC emitted per tire processed (N) is less than or equal to the applicable g/tire limit specified under § 60.542(a), the affected facility is in compliance.

(d) The owner or operator shall use the following procedure for each tread end cementing, bead cementing, inside green tire spraying, and outside green tire spraying operation which uses a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator) to comply with the applicable g/tire limit specified under § 60.542(a).

(1) Calculate the mass of VOC used per tire processed (G) for the affected facility for the calendar month as described under § 60.543(c)(3).

(2) Calculate the mass of VOC emitted per tire processed (N) for the affected facility for the calendar month:

$$N=G(1-R)$$

For the initial performance test, the overall reduction efficiency (R) shall be determined as prescribed in (d)(2) (i), (ii), and (iii) of this section. In subsequent months, the owner or operator may use the most recently determined overall reduction efficiency (R) for the performance test providing the control device and capture system operating conditions have not changed. The procedure in (d)(2) (i), (ii), and (iii) of this section shall be repeated when directed by the Administrator or when the owner or operator elects to operate the control device or capture system at conditions different from the most recent determination of overall reduction efficiency.

(i) Determine the fraction (F_e) of total VOC used for the affected facility which enters the control device, the owner or operator of an affected facility shall construct a temporary total enclosure around the application and drying areas during the performance test for the purpose of capturing fugitive VOC emissions and use the following equation:

$$F_e=\frac{\sum_{i=1}^{m} C_{ai} Q_{ai}}{\sum_{i=1}^{m} C_{ai} Q_{ai}+\sum_{i=1}^{n} C_{ai} Q_{ai}}$$

where: m is the number of vents from the affected facility to the control device and n is the number of vents from the affected facility to the atmosphere.

(ii) Determine the destruction efficiency (E) of the control device by using values of the volumetric flow rate of each of the gas streams and the VOC content (as carbon) of each of the gas streams in and out of the control device by the following equation:

$$E=\frac{\sum_{i=1}^{n} Q_{ai} C_{ai}-\sum_{j=1}^{m} Q_{aj} C_{aj}}{\sum_{i=1}^{n} Q_{ai} C_{ai}}$$

where: n is the number of vents before the control device, and m is the number of vents after the control device.

(iii) Determine the overall reduction efficiency (R) using the following equation:

$$R=EF_e$$

(3) Where the value of the mass of VOC emitted per tire processed (N) is less than or equal to the applicable g/tire limit specified under § 60.524(a), the affected facility is in compliance.

(e) The owner or operator shall use the following procedure for each undertread cementing, sidewall cementing, Michelin-A, Michelin-B, and Michelin-C-automatic affected facility which uses a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator) to comply with the applicable percent emission reduction requirement specified under § 60.542(a).

(1) For the initial performance test, the overall reduction efficiency (R) shall be determined as prescribed in § 60.543(d)82)(i)—(iii). The performance test shall be repeated using this same procedure when directed by the Administrator or when the owner or operator elects to operate the control device or capture system at conditions different from the most recent determination of overall reduction efficiency. No monthly performance tests are required.

(2) Each undertread cementing, sidewall cementing, or Michelin-B facility where R is greater than or equal to 0.75 is in compliance.

(3) Each Michelin-A or Michelin-C-automatic facility where R is greater than or equal to 0.65 is in compliance.

(f) The owner or operator shall use the following procedure for each tread end cementing, bead cementing, inside green tire spraying, and outside green tire spraying affected facility which uses a

VOC emission reduction system with a control device that recovers VOC (e.g., carbon adsorber) to comply with the applicable g/tire limits specified under § 60.542(a).

(1) Calculate the mass of VOC used per tire processed (G) at the affected facility for the calendar month as described under § 60.543(c)(3).

(2) Calculate the total mass of VOC recovered (M_r) from the affected facility for the calendar month using the following equation:

$$M_r = L_r D_r$$

(3) Calculate the overall reduction efficiency (R) for the VOC emission reduction system for the calendar month using the following equation:

$$R = \frac{M_r}{M_o}$$

(4) Calculate the mass of VOC emitted per tire processed (N) for the affected facility for the calendar month using the following equation:

$$N = G(1-R)$$

(5) Where the value of the mass of VOC emitted per tire processed (N) is less than or equal to the applicable g/tire limit specified under § 60.542(a), the affected facility is in compliance.

(g) The owner or operator shall use the following procedure for each undertread cementing, sidewall cementing, Michelin-A, Michelin-B, and Michelin-C-automatic affected facility which uses a VOC emission reduction system with a control device that recovers VOC (e.g., carbon adsorber) to comply with the applicable percent reduction requirement specified under § 60.542(a).

(1) Calculate the total mass of VOC used at the affected facility (M_o) for the calendar month as described under § 60.543(c)(1).

(2) Calculate the total mass of VOC recovered (M_r from the affected facility for the calendar month using the following equation:

$$M_r = L_r D_r$$

(3) Calculate the overall reduction efficiency (R) for the VOC emission reduction system for the calendar month using the following equation:

$$R = \frac{M_r}{M_o}$$

(4) Each undertread cementing, sidewall cementing, or Michelin-B facility where R is greater than or equal to 0.75 is in compliance.

(5) Each Michelin-A or Michelin-C-automatic facility where R is greater than or equal to 0.64 is in compliance.

(h) Rather than demonstrate compliance with the provisions of § 60.542(a)(1),(2), or (8) using the performance test procedures described in paragraphs (e) and (g) of this section, an owner or operator of an undertread cementing, sidewall cementing, or Michelin-B affected facility that uses a VOC emission reduction system may demonstrate compliance by meeting the equipment design and performance specifications listed in (1)–(5) below and by conducting a performance test to demonstrate compliance with (5) below. The owner or operator shall conduct this performance test of the control device efficiency (as specified in § 60.8(a)) not later than 180 days after initial startup of the affected facility. The Administrator has decided that meeting the capture system design and performance specifications, in conjunction with operating a 95 percent efficient control device, is an acceptable means of demonstrating compliance with the standard. Therefore, in accordance with § 60.8(b), the Administrator has waived the requirement for a performance test on the enclosure (as required by § 0.8(a)). No monthly performance tests are required.

(1) The cement application and drying area of the affected facility shall be contained in an enclosure which meets the criteria in paragraphs (h) (2), (3), and (4) of this section;

(2) The drying area shall be enclosed between the application area and the water bath or to the extent necessary to contain all tire components for at least 30 seconds after cement application, whichever distance is less;

(3) A minimum face velocity of 100 feet per minute shall be maintained through each permanent opening into an enclosure;

(4) The total area of all permanent openings into the enclosure shall not exceed the area that would be necessary to maintain the VOC concentration of the exhaust gas stream at 25 percent of the lower explosive limit (LEL) under the following conditions:

(i) The affected facility is operating at maximum solvent use rate;

(ii) The face velocity through each permanent opening is 100 feet per minute;

(iii) All temporary openings are closed.

(5) All captured VOC are ducted to a VOC emission control device which achieves at least 95 percent destruction or recovery efficiency. To determine the efficiency (E) of the control device, for the initial performance test, use values of the volumetric flow rate of each of the gas streams and the VOC content (as carbon) of each of the gas streams in and out of the control device by the following equation:

$$E = \frac{\sum_{i=1}^{n} Q_{bi} C_{bi} - \sum_{j=1}^{m} Q_{aj} C_{aj}}{\sum_{i=1}^{n} Q_{bi} C_{bi}}$$

The control device efficiency shall be redetermined when directed by the Administrator or when the owner or operator elects to operate the control device at conditions different from the most recent determination of control device efficiency.

§ 60.544 Monitoring of emissions and operations.

(a) Each owner or operator subject to the provisions of this subpart and using a VOC emission reduction system with a thermal incinerator shall continuously monitor and record the temperature of the gas in the combustion zone. The monitoring instrument shall have an accuracy equal to ±0.75 percent of the temperature being measured in °C or ±2.5°C, whichever is greater.

(b) Each owner or operator subject to the provisions of this subpart and using a VOC emission reduction system with a catalytic incinerator shall continuously monitor and record the temperature in the gas stream immediately before and after the catalyst bed. The monitoring instruments shall have an accuracy equal to ±0.75 percent of the temperature being measured in °C or ±2.5°C, whichever is greater.

(c) Each owner or operator of an undertread cementing, sidewall cementing, or Michelin–B operation which uses a VOC emission control device that recovers VOC to meet the requirements of § 60.543(h)(5) shall continuously monitor and record the VOC concentration of the exhaust gas stream from the VOC recovery device. The VOC concentration monitoring device shall be installed in a location that is representative of the VOC concentration in the exhaust vent, at least two equivalent stack diameters from the exhaust point, and protected from any interferences due to wind, weather, or other processes.

(d) Each monitoring device shall be installed, calibrated, operated, and maintained according to accepted practices and the manufacturer's specifications.

§ 60.545 Reporting and recordkeeping requirements.

(a) Each owner or operator of an affected facility shall include the following data in the initial performance test report required under § 60.8(a).

(1) For each affected facility which complies with a g/tire limit specified in § 60.542(a) without the use of a VOC emission reduction system.

(i) The mass of VOC used (M_o), the number of tires processed (T_o), and the mass of VOC emitted per tire processed (N).

(ii) A description of the method used to determine M_o and T_o.

(2) For each affected facility which uses a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator) to comply with a g/tire limit specified in § 60.542(a).

(i) The mass of VOC used (M_o), the number of tires processed (T_o), the mass of VOC emitted per tire processed (N), the mass of VOC used per tire processed (G), the emission control device efficiency (E), the capture system efficiency (F_c), the overall system emission reduction (R), and the mass of VOC emitted per tire processed (N).

(ii) A description of the method used to determine M_o, T_o, E, and F_c.

(3) For each affected facility which uses a VOC emission reduction system with a control device that destroys VOC (e.g., incinerator) to comply with a percent emission reduction requirement specified in § 60.542(a).

(i) The emission control device efficiency (E), the capture system efficiency (F_c), and the overall system emission reduction (R).

(ii) A description of the method used to determine E and F_c.

(4) For each affected facility which uses a VOC emission reduction system with a control device that recovers VOC (e.g., carbon adsorber) to comply with a g/tire limit specified in § 60.542(a).

(i) The mass of VOC used (M_o), the number of tires processed (T_o), the mass of VOC used per tire processed (G), the mass of VOC recovered (M_r), the overall system emission reduction (R), and the mass of VOC emitted per tire processed (N).

(ii) A description of the method used to determine M_o and T_o.

(5) For each affected facility which uses a VOC emission reduction system with a control device that recovers VOC (e.g., carbon adsorber) to comply with a percent emission reduction requirement specified in § 60.542(a).

(i) The mass of VOC used (M_o), the mass of VOC recovered (M_r), and the overall system emission reduction (R).

(ii) A description of the method used to determine M_o.

(b) Each owner or operator of an undertread cementing, sidewall cementing, or Michel in-B affected facility where the method in § 60.543(h) has been chosen to demonstrate compliance shall include in the initial compliance report a statement indicating which of the equipment design and performance specifications have been met and identifying each which has not been met. The initial compliance report shall also include the following data.

(1) The emission control device efficiency (E), the airflow through all permanent enclosure openings with all temporary enclosure openings unobstructed, the total area of all permanent enclosure openings, the total area of all temporary enclosure openings, the maximum solvent use rate (kg/hr), the type(s) of VOC used, the lower explosive limit (LEL) for each VOC used, and the length of time each component is enclosed after application of cement or spray material.

(2) A description of the method used to determine E, the system airflow, and the maximum solvent use rate.

(c) Each owner or operator of an affected facility shall include the following data, as measured by the continuous monitoring device(s), in the initial performance test report.

(1) The average combustion temperature during the test of incinerator destruction efficiency for each thermal incinerator.

(2) The average temperature before and after the catalyst during the test of incinerator efficiency for each catalytic incinerator.

(3) The average VOC concentration of the exhaust gas stream from the VOC recovery device during the test of VOC recovery device efficiency for each undertread cementing, sidewall cementing, or Michel in-B operation that uses a VOC emission control device that recovers VOC to meet the requirements of §60.543(h)(5).

(d) Each owner or operator of an affected facility which uses a thermal incinerator shall maintain at the source, for a period of at least two years, records of all 3-hour periods of operation for which the average combustion temperature was more than 28°C (50°F) below the temperature at which the destruction efficiency of the thermal incinerator was last determined.

(e) Each owner or operator of an affected facility which uses a catalytic incinerator shall maintain at the source, for a period of at least two years, records of all 3-hour periods of operation for which the average temperature before the catalyst bed is more than 28°C below the temperature at which the destruction efficiency of the catalytic incinerator was last determined, and all 3-hour periods for which the average temperature difference across the catalyst bed is less than 80 percent of the temperature difference when the destruction efficiency of the catalytic incinerator was last determined.

(f) Each owner or operator of an undertread cementing, sidewall cementing, or Michelin-B operation which uses a VOC emission control device that recovers VOC to meet the requirements of § 60.543(h)(5) shall maintain at the source, for a period of at least two years, records of all 3-hour periods of operation for which the average VOC concentration of the exhaust gas stream from the VOC recovery device exceeds the average value measured during the most recent test of the control device.

(g) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least two years, records of all data and calculations used to determine VOC emissions from each affected facility. At affected facilities where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain at the source, for a period of at least two years, continuous records of the incinerator combustion chamber temperature. If catalytic incineration is used, the owner or operator shall maintain at the source, for a period of at least two years, continuous records of the gas temperature, both upstream and downstream of the incinerator catalyst bed.

(h) Each owner or operator of an undertread cementing, sidewall cementing, or Michelin-B operation that uses a VOC emission control device that recovers VOC to meet the requirements of § 60.543(h)(5) shall maintain at the source, for a period of at least two years, continuous records of the VOC concentration of the exhaust gas stream from the VOC recovery device.

(i) Each owner or operator is exempted from the quarterly reports required under § 60.7(c).

§ 60.545 Reference methods and procedures.

(a) The reference methods in Appendix A to this part, except as provided in § 60.8, shall be used to conduct performance tests.

(1) Reference Method 24 for the determination of the VOC content of cements or green tire spray materials. In the event of dispute, Reference Method 24 shall be the reference method.

(2) Reference Method 25 for the determination of the VOC concentration in the effluent gas in each stack entering and leaving an emission control device. The owner or operator shall notify the Administrator 30 days in advance of any stack test by Reference Method 25. The following reference methods are to be used in conjunction with Reference Method 25:

(i) Method 1 for sample and velocity traverses,

(ii) Method 2 for velocity and volumetric flow rate,

(iii) Method 3 for gas analysis, and

(iv) Method 4 for stack gas moisture.

(b) For Reference Method 24, the cement or green tire spray sample must be a 1-litre sample collected in a 1-litre container at a point where the sample will be representative of the material as applied in the affected facility.

(c) For Reference Method 25, the sampling time for each of three runs must be at least one hour. The minimum sample volume must be 0.003 dscm except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Administrator.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

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Thursday
January 20, 1983

Part V

Department of Commerce

Patent and Trademark Office

Revision of Patent Procedure

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 5

[Docket No. 21223-259]

Revision of Patent Procedure

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in patent cases, Part 1 of 37 CFR, to implement the sections of Pub. L. 97-247 of 1982 which become effective on February 27, 1983, and to make other miscellaneous changes. The other miscellaneous changes are being made to clarify and improve the rules where appropriate. The rulemaking also is amending Part 5 of 37 CFR to establish procedures for expediting the granting of a license under 35 U.S.C. 184 permitting the filing of a of patent application in a foreign country.

EFFECTIVE DATE: February 27, 1983.

FOR FURTHER INFORMATION CONTACT: R. Franklin Burnett by telephone at (703) 557-3054 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This rule change is designed primarily to (1) Implement the changes in practice in the Patent and Trademark Office provided for in Pub. L. 97-247 enacted on August 27, 1982; (2) clarify or rewrite certain rules; and (3) expedite the granting of licenses under 35 U.S.C. 184.

This rule change contains a number of changes in practice designed to benefit both the Patent and Trademark Office in its handling of its mission and the public the Office serves.

Certain of the changes are housekeeping in nature.

A number of final rules have already been issued to implement Pub. L. 97-247. A final rule on "Revision of Patent and Trademark Fees" was published on July 30, 1982 at 47 FR 33086-33112 with corrections in the printing thereof being published on August 4, 1982, at 47 FR 33688 and on August 5, 1982, at 47 FR 33959. The final rule was also published in the Official Gazette on August 10, 1982, at 1021 O.G. 19-94. A final rule relating to definitions of "independent inventor" and "nonprofit organizations" was published on September 10, 1982 at 47 FR 40134-40140 and on September 21, 1982 at 1022 O.G. 29-46. A "Revision of Patent and Trademark Fees Confirmation" was published on September 17, 1982 at 47 FR 41272-41283 and on September 28, 1982 at 1022 O.G. 61-97. A final rule relating to the definition of "small business concern" was published on September 30, 1982 at 47 FR 43272-43276 and on October 19, 1982 at 1023 O.G. 23-29.

Discussion of Specific Rules and Significant Differences Between Proposed and Final Rules

Section 1.4

Section 1.4 is amended as proposed to add a reference to Subpart D relating to citation of prior art and reexamination.

Section 1.6

Section 1.6 is amended as proposed to insert "federal" before "holidays" in paragraphs 1.6(a)-(c) in accordance with § 21(b) of Title 35, United States Code, as amended by Pub. L. 97-247. New paragraph 1.6(d) will establish in the regulations a procedure under which papers and fees which could not be filed on a particular date because of an interruption or emergency in the United States Postal Service which is so designated by the Commissioner, may be promptly filed after the ending of such a designated interruption or emergency and be considered as having been filed on that particular date. Authority for such a practice is found in § 21(a) of Title 35, United States Code, as amended by Pub. L. 97-247.

Section 1.7

Section 1.7 is amended as proposed to insert "federal" before "holiday" in accordance with 35 U.S.C. 21(b), as amended by Pub. L. 97-247.

Section 1.8

Section 1.8 is amended to remove in paragraph § 1.8(a) the references to §§ 3.55 and 4.23, which sections were removed from the rules by the rulemaking entitled "Revision of Patent and Trademark Fees" published in the Federal Register on September 10, 1982 at 47 FR 40134-40140. The change in paragraph 1.8(a)(i) results from the change made in § 111 of Title 35, United States Code, by Public Law 97-247. Under the revised rule, the certificate of mailing procedure would be available for filing patent oaths or declarations and filing fees. However, the certificate of mailing procedure could not be used for filing patent specifications and drawings to obtain a filing date. Such papers can be filed under new § 1.10. The final rule clarifies that each paper or fee filed under § 1.8 must include its own certificate of mailing. The proposed amendment to § 1.8(a)(viii) referring to the Court of Appeals for the Federal Circuit rather than to the Court of Customs and Patent Appeals, has been adopted as a final rule as published on October 26, 1982 at 47 FR 47380-47382 and therefore is not republished here.

Section 1.10

Section 1.10 is amended as proposed to provide a procedure for assigning the date on which any paper or fee is deposited as "Express Mail" with the United States Postal Service as the filing date of the paper or fee in the Patent and Trademark Office. Authority for the Commissioner to establish such a procedure is provided in section 21(a) of Title 35, United States Code, as amended by Pub. L. 97-247 for any paper or fee required to be filed in the Patent and Trademark Office. This procedure covers the filing of all documents, including patent and trademark applications, and fees since they are required to be filed in the Patent and Trademark Office for processing. Questions were raised during the public hearing and in the written comments regarding the authority of the Commissioner to promulgate § 1.10 insofar as it would provide for the use of "Express Mail" to file patent and trademark applications. The argument advanced was that the amendment of 35 U.S.C. 21(a) by Pub. L. 97-247 did not permit the Commissioner to adopt rules whereby "Express Mail" could be used to file patent and trademark applications since such applications are not papers or fees "required to be filed in the Patent and Trademark Office." It was urged that this language of 35 U.S.C. 21(a), in conjunction with amended 35 U.S.C. 111 which states that the "filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office," prevents adoption of proposed § 1.10.

The arguments presented are not supported by the legislative history or by the literal language of the statute. Section 111 of Title 35, United States Code, before and after Pub. L. 97-247, requires patent applications to be made "in writing to the Commissioner." This is apparent from the first sentence of 35 U.S.C. 111 which provides that "[a]pplication for patent shall be made * * * in writing to the Commissioner." Thus, one seeking a patent is "required" to make application for the same "in writing to the Commissioner." The written application clearly constitutes a "paper or fee required to be filed in the Patent and Trademark Office." Section 21(a) of Title 35, United States Code, authorizes the Commissioner to adopt rules whereby "any paper or fee required to be filed in the Patent and

Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service." The authority provided by section 21(a) extends to "any paper or fee" to which the Commissioner, by an appropriate rulemaking, so extends it. The Commissioner can, therefore, by rule, establish that "any paper or fee," including a patent or trademark application, is "filed" or "received in the Patent and Trademark Office" when it is deposited with the United States Postal Service. The terms "filed" and "received" as used in 35 U.S.C. 21(a) and 111 can therefore be given the same meaning by an appropriate rulemaking by the Commissioner.

The legislative history, H.R. Rep. No. 542, 97th Cong., 2nd Sess. 8A (1982), clearly supports the interpretation set forth herein.

In discussing new subsection (a) which has been added to section 21 of Title 35, United States Code, the Report emphasizes that the authority extends to "any paper or fee which is required to be filed" in the Patent and Trademark Office. The Report specifically states that the "requirements governing whether any given paper or fee may be given the filing date of the day on which it was * * * deposited with the United States Postal Service will be set forth in regulations established by the Commissioner." Clearly no restrictions were placed by the statute or the legislative history on the types of papers of fees which the Commissioner can consider as having been filed in the Patent and Trademark Office on the date of deposit with the United States Postal Service.

The new procedure, in paragraph 1.10(a), requires the use of the "Express Mail Post Office to Addressee" service of the United States Postal Service. This service provides for the use of a mailing label on which the Post Office clearly indicates the date on which it was deposited. Paragraph § 1.10(b) requires: (1) That the number of the "Express Mail" mailing label be placed on each paper or fee and (2) that a certificate of mailing by "Express Mail", signed by the person mailing the paper or fee, be included on each paper or fee and state the date of deposit as "Express Mail" in the United States Postal Service. The requirement that each paper or fee have the number of the "Express Mail" mailing label and the certificate of mailing by "Express Mail" included thereon is necessary so that the Patent and Trademark Office can verify when each paper or fee was filed if questions relating thereto arise. The number and certificate must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. It is not necessary that the number and certificate be placed on each page of a particular paper or fee transmittal. Merely placing the number and certificate in one prominent location on each separate paper or fee transmittal will be sufficient.

Under new paragraph § 1.10(c), the Office will accord the paper or fee the date of deposit as "Express Mail" as the filing date without further proof unless a question is present regarding the date of mailing. If, however, more than a reasonable time has elapsed between the certificate date and the Patent and Trademark Office receipt date, or if other questions regarding the date of mailing are present, new paragraph § 1.10(c) provides that the person mailing the paper or fee may be required to file: (1) A copy of the "Express Mail" receipt showing the actual date of mailing and (2) a statement from the person who mailed the paper or fee averring to the fact that the mailing occurred on the date certified. Such statement must be a verified statement (oath or declaration) unless made by a person registered to practice before the Patent and Trademark Office.

The certificate of mailing procedure of § 1.8(a) continues to be available in addition to the proposed procedure under § 1.10. The final rule (§ 1.10) has been changed from that proposed to allow for a reasonable time between mailing and delivery rather than only for one day since actual delivery in one day is not always provided from all areas of the country. The final rule clarifies that each paper or fee must include its own certificate of mailing by "Express Mail." This rule is being promulgated at this time so that individuals who desire to use the service may do so after the effective date.

The "Express Mail" service is seen to be preferable to other types of postal services because a readily legible mailing date is provided to both the applicant and the Patent and Trademark Office on the "Express Mail" label. Also, the labels are of uniform size and can therefore be kept on file relatively easily by the Office, if such is determined to be necessary or desirable. Registered mail and certified mail, on the other hand, provide only a postmark for the mailing date when such mail arrives in the Patent and Trademark Office and such postmarks are often illegible. Also, such mail arrives in various size envelopes which do not easily lend themselves to being filed so that the postmark may be retained. Administrative burdens including lack of certainty of mailing date and storage are considered greater for registered or certified mail than for "Express Mail." The Patent and Trademark Office will monitor closely the use of "Express Mail" by the public and may reconsider permitting the use of other forms of service provided by the United States Postal Service.

Section 1.17

Section 1.17, paragraph (h), is amended as proposed to remove the reference to § 1.45 and add a reference to new § 1.48 relating to the correction of inventorship in patent applications.

Section 1.22

Section 1.22 is amended to recognize that filing dates may be assigned wihout payment of the basic filing fee as authorized by § 111 of Title 35, United States Code, as amended by Pub. L. 97–247. New paragraph § 1.22(b) indicates that fees paid to the Office should be itemized in such a manner that the purpose for which the payment is submitted can be clearly determined by Office personnel for proper processing. The final rule includes clarification that it refers to patent and trademark fees and charges.

Section 1.24

Section 1.24 is amended as proposed to remove the reference to coupons in denominations of forty cents since coupons in this denomination are no longer necessary.

Section 1.41

Section 1.41 is amended as proposed to require in paragraph § 1.41(a) that a patent be applied for in the name of the actual inventor or inventors and that the full names of the inventors be stated. Paragraph § 1.41(b), as amended, clarifies the definition of the word "applicant". New paragraph 1.41(c) permits any person authorized by the applicant to file an application for patent in order to receive a filing date on behalf of the inventor or inventors, but the oath or declaration for the application must be made by all of the actual inventors in accordance with §§ 1.63 and 1.64. Under new paragraph 1.41(d), a showing may be required from the person initially filing an application that the filing was authorized.

Sections 1.42 and 1.43

Sections 1.42 and 1.43 are amended as proposed to remove the requirement that the legal representative sign the application papers in view of the changes in 35 U.S.C. 111, as amended by Pub. L. 97–247. The oath or declaration

must still be signed. Several occurrences of the masculine gender in § 1.42 have been removed.

Section 1.45

Section 1.45 is amended as proposed to remove present paragraphs § 1.45(b) and (c) in view of new § 1.46 and remove the requirement that joint inventors sign the application papers. The joint inventors are, however, still required to make the oath or declaration in accordance with new §§ 1.63 and 1.64.

Section 1.46

Section 1.46 is amended as proposed, with two commas being added for clarity, to permit anyone to file the application if authorized by the inventor or inventors or one of the persons mentioned in §§ 1.42, 1.43, or 1.47.

Section 1.47

Section 1.47 is amended as proposed to change the reference for the rule on oaths or declarations from § 1.65 to § 1.63.

Section 1.48

Section 1.48 adds a new section relating to correction of inventorship as authorized by Section 116 of Title 35, United States Code, as amended by Pub. L. 97–247. Under § 1.48, if the correct inventor or inventors are not named in an application for patent, the application could be amended to name only the actual inventor or inventors so long as the error in the naming of the inventor or inventors occurred without any deceptive intention on the part of the actual inventor or inventors. Section 1.48 requires that the amendment be diligently made and be accompanied by (1) a petition including a statement of facts verified by the original named inventor or inventors establishing when the error without deceptive intention was discovered and how it occurred; (2) an oath or declaration by each actual inventor or inventors as required by § 1.63; (3) the fee set forth in § 1.17(h); and (4) the written consent of any assignee. Correction will be permitted, if diligently requested, in cases where the person originally named as inventor was in fact not the inventor of the subject matter contained in the application. If such error occurred without any deceptive intention on the part of the true inventor, the Office has the authority to substitute the true inventor for the erroneously named person. If deceptive intention was present on the part of other individuals substantively involved in the preparation or prosecution of the application their conduct will be considered and appropriate action taken under 37 CFR 1.56. Although probably rarer, instances such as changes from a mistakenly identified sole inventor to different, but actual, joint inventors; conversions from erroneously identified joint inventors to different but actual, joint inventors; and conversions from erroneously identified joint inventors to a different, but actual, sole inventor will also be permitted. In each instance, however, the Office will have to be assured of the presence of innocent error, without deceptive intention on the part of the true inventor or inventors, before permitting a substitution of a true inventor's name. The final rule language has been modified from that proposed to follow more precisely the language of the statute and the legislative history by permitting correction where the error occurred without any deceptive intention on the part of the actual inventor or inventors.

Section 1.51

Section 1.51 is amended to change the reference in paragraph (a) (2) to new § 1.63 for the requirements of an oath or declaration and to change paragraph (b) with regard to the required time for filing information disclosure statements. The final rule has been modified from that proposed by eliminating the word "material" before the "information disclosure statement" and the title has been changed to substitute "a complete" for "an" to be more precise

Section 1.52

Section 1.52 is amended as proposed to revise paragraph § 1.52(c) relating to interlineations, erasures, cancellations or other alterations in application paper to specify that such changes must be made before the signing of any accompanying oath or declaration and should be dated and initialed or signed by the applicant on the same sheet of paper. Paragraph § 1.52(c), as amended, prohibits making alterations in the application papers after the signing of an oath or declaration referring to such application papers. Under paragraph § 1.52(c), as amended, amendments to application papers made after the signing of an oath or declaration referring to the application papers can only be made in the manner provided by §§ 1.121 and 1.123–1.125.

Section 1.53

Section 1.53 is amended to revise the title to indicate that the section, as amended, relates to application serial numbers, filing dates and completion of applications. Paragraph § 1.53(a) indicates that a serial number is assigned to any filed application for identification purposes, even if the application is incomplete or informal. Paragraph § 1.53(b) provides that a filing date is assigned to an application as of the date a specification containing a description and claim and any required drawing are filed in the Patent and Trademark Office. Although the filing fee and oath or declaration can be submitted later, no amendments can be made to the specification or drawings which will introduce new matter. This practice is authorized by 35 U.S.C. 111 as amended by Pub. L. 97–247. New paragraph § 1.53(c) provides for notifying applicant of any application incomplete because the specification or drawing is missing and giving the applicant a time period to correct any omission. If the omission is not corrected within the time period given, the application will be returned or otherwise disposed of and a handling fee of $50.00 will be retained from any refund of a filing fee. New paragraph § 1.53(d) provides that, where a filing date has been assigned to a filed specification and drawing, the applicant will be notified and be given a period of time in which to file the missing fee, oath or declaration and to pay the surcharge due. The time period the Office plans to set is one month from the date of notification by the Patent and Trademark Office, but in no case less than two months after the date of filing of the application. New paragraph § 1.53(e) indicates that a patent application will not be forwarded for examination on the merits until all required parts have been received. New paragraph § 1.53(f) indicates that international applications filed under the Patent Cooperation Treaty which designate the United States of America are considered to have a United States filing date under PCT Article 11(3), except as provided in 35 U.S.C. 102(e), on the date the requirements of PCT Article 11(1) (i) to (iii) are met. Paragraphs § 1.53(b) and (c) have been modified from those proposed by changing the word "received" to the word "filed." The word "receipt" in paragraph § 1.53(c) has also been changed to "filing". These changes have been made to ensure that the language of § 1.53 cannot be considered to conflict with the use of "Express Mail" to file patent applications and obtain a filing date as of the date of deposit as "Express Mail" with the United States Postal Service.

Section 1.54

Section 1.54 is amended as proposed to designate the existing section as paragraph (a) and add a reference to

§ 1.53. Paragraph § 1.54(b) is added to indicate that applicant will be informed of the serial number and filing date of the application.

Section 1.55

Section 1.55 is amended to limit the section to claims for foreign priority by removing paragraphs (a) and (d) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b). Paragraph 1.55(a) is amended to change the reference from § 1.65 to new § 1.63. The final rule language includes a reference to 35 U.S.C. 172 which modifies 35 U.S.C. 119 for design patents.

Section 1.56

Section 1.56 is amended to revise paragraph (c) to remove reference to signing of the application but to add reference to signing of the oath or declaration pursuant to new § 1.63. Paragraph § 1.56(c) has also been modified from that proposed to break it down into four items as suggested by a comment. Under paragraph § 1.56(c), an application may be stricken from the files if an oath or declaration pursuant to § 1.63 is signed in blank, is signed without review of the oath or declaration by the person making the oath or declaration, or is signed without the review of the specification, including the claims, as required by § 1.63(b). Paragraph § 1.56(c) also provides for an application to be stricken from the files if application papers filed in the Office are altered after the signing of an oath or declaration pursuant to § 1.63 referring to those application papers.

Section 1.57

Section 1.57 is removed as proposed since the requirements relating to applicant's signature to the oath or declaration of the application are adequately covered in other sections.

Section 1.59

Section 1.59 is rewritten as proposed to refer to and conform with the changes proposed in § 1.53.

Section 1.60

Section 1.60 is amended to require the applicant to supply a copy of the originally signed application in all cases where the § 1.60 filing procedure is used. The Office will no longer prepare copies. The Office, by a separate final rule, published at 47 FR 47242 on October 25, 1982, has adopted a new § 1.62 to provide for the filing of a file wrapper continuing application which greatly lessens the need for the Office to continue to prepare copies under § 1.60. The final rule language makes clear that the statement accompanying a true copy of the parent application must be a verified statement unless made by a person registered to practice before the Office.

Section 1.62

Section 1.62 is amended to avoid inconsistency with 35 U.S.C. 111 which becomes effective on February 27, 1983. 35 U.S.C. 111 as of that date permits filing dates to be granted to patent applications without receipt of the basic filing fee, or oath or declaration. Section 1.62 is therefore being amended to permit the granting of a filing date in accordance with § 111. This amendment of § 1.62 is necessary to ensure compliance with 35 U.S.C. 111. The Patent and Trademark Office finds that it would be impractical not to amend § 1.62 so as to grant a filing date in accordance with 35 U.S.C. 111 and not doing so might also be construed to prevent applicants from taking advantage of the provisions of 35 U.S.C. 111 authorizing the delay in the filing of the fee and oath or declaration. If § 1.62 is not amended in the manner set forth in this final rule, questions may be raised as to compliance with 35 U.S.C. 111 as it will exist effective February 27, 1983. Revised paragraph 1.62(a) indicates the minimum requirements for granting of a filing date. Paragraphs § 1.62 (b) and (c) cover the filing fee and oath or declaration requirements, respectively. Paragraph 1.62(d) relates to later filing of the filing fee or oath or declaration as provided for in 35 U.S.C. 111. Paragraphs § 1.62(e)–(i) are identical to former paragraphs 1.62(b)–(f).

Section 1.63

Section 1.63 is added to replace § 1.65 relating to the required content and execution of an oath or declaration filed as a part of a patent application and is intended to state the minimum contents thereof. An applicant may, if desired, choose to include one or more additional averments in the oath or declaration such as, for example, stating that the patent is not barred under the provisions of 35 U.S.C. 102. Paragraph 1.63(a) provides that the oath or declaration: (1) Be executed in accordance with § 1.66 or § 1.68; (2) identify the specification to which it is directed in some definite manner such as giving the title of the invention or serial number of the application, if previously filed; (3) identify each inventor and his or her residence and country of citizenship; and (4) state whether the inventor is a sole or joint inventor of the claimed invention. Paragraph § 1.63(b) further requires the oath or declaration to state that the person signing the oath or declaration: (1) Has reviewed and understands the contents of the identified specification; (2) believes the named inventor is the original and first inventor; and (3) acknowledges the duty to disclose information which is material. While paragraph 1.63(b) requires the person signing the oath or declaration to review and understand the specification including the claims, it is not intended to require that such person be skilled in patent law so as to grasp the legal implications of claim language and drafting. The person must recognize, however, that what is being claimed is the subject matter which that person regards as his or her invention pursuant to 35 U.S.C. 112.

Paragraph § 1.63(c) requires that any application in which a claim for foreign priority is made identify in the oath or declaration the foreign application for patent or inventor's certificate on which priority is claimed, and any foreign application having a filing date before that of the application on which priority is claimed.

Paragraph § 1.63(d) requires that the oath or declaration in a continuation-in-part application, which discloses and claims subject matter in addition to that disclosed in the prior copending application, state that the person making the oath or declaration acknowledges the duty to disclose material information as defined in § 1.56(a) which occurred between the filing date of the parent application and the national or PCT international filing date of the continuation-in-part application. This latter requirement is not new, but is included to serve as a reminder to the person making the oath or declaration of this duty to disclose material information such as foreign patenting, publication, or public use or sale in the United States which occurred more than one year prior to the filing date of the continuation-in-part application. For example, in circumstances where the claims of the continuation-in-part application are not fully supported by the disclosure of the parent application so as to be entitled to an earlier effective filing date under 35 U.S.C. 120, the duty to disclose extends to any material information, as defined in § 1.56(a) measured from the filing date of the continuation-in-part application. This would include the first foreign patenting, and any foreign patenting subsequent to the first which materially differs therefrom, of the subject matter of the parent application which occurred more than one year prior to the national or PCT international filing date of the continuation-in-part application. Any

publication of the parent application, other than foreign patenting, or any public use or sale in the United States of the subject matter of the prior application, which occurred more than one year prior to the national or PCT international filing date of the continuation-in-part application, would also come within § 1.56(a) in such circumstances. See *In re Ruscetta and Jenny*, 118 U.S.P.Q. 101 (C.C.P.A. 1958); *In re van Langenhoven*, 458 F. 2d 132, 173 U.S.P.Q. 426 (C.C.P.A. 1972), and *Chromalloy American Corp.* v. *Alloy Surfaces, Co., Inc.*, 339 F. Supp. 859, 173 U.S.P.Q. 296 (Del. 1972).

Section 1.64

Section 1.64 is added as proposed to clearly indicate who must sign the oath or declaration of a patent application.

Section 1.65

Section 1.65 is removed as proposed because the oath or declaration requirements set forth therein are covered by new § 1.63.

Section 1.67

Section 1.67 is amended as proposed to remove all of paragraphs (a) and (b) and substitute therefor new wording. Paragraph 1.67(a) indicates that a supplemental oath or declaration meeting the requirements of new § 1.63 may be required to correct deficiencies or inaccuracies present in an earlier oath or declaration. Paragraph § 1.67(b) requires a supplemental oath or declaration to be filed: (1) When a claim is presented embracing material not originally claimed; and (2) when a subsequently filed oath or declaration under § 1.53(d) refers to an amendment which includes improper new matter. Paragraph 1.67(b) also clearly states the prohibition against entry of new matter after the filing date of the application.

Section 1.69

Section 1.69, paragraph (b), is amended as proposed to change the time at which a translation of a non-English language oath or declaration which has not been supplied by the Office must be filed. The time period for filing the translation is changed to two months after notification that a translation is required. The reference to § 1.65 in paragraph § 1.69(b) is changed to § 1.63.

Section 1.70

Section 1.70 is amended to refer to § 1.63 for the requirements to be met when an oath or declaration is filed under 35 U.S.C. 371(c)(4). The wording of the title in the final rule is changed to reflect more clearly the subject matter of the rule.

Section 1.77

Section 1.77 is amended as proposed to change paragraphs (h) and (i) to refer to the abstract of the disclosure and signed oath or declaration, respectively.

Section 1.97

Section 1.97 is amended to change the title from "prior art statement" to "information disclosure statement". This change is appropriate since the designation "information disclosure statement" more accurately characterizes the nature and content of the information which may be included in such a statement. Information which is required to be submitted pursuant to § 1.56 may ultimately be determined not to be "prior art," but nevertheless may be "material" pursuant to § 1.56. Section 1.97 has also been modified from that proposed by eliminating the word "material" since information submitted pursuant to § 1.97 may considered to be of questionable materiality or may be determined, upon examination, not to be "material". Section 1.97 now provides that an information disclosure statement should be filed with the application or within the later of three months after the filing date of the application or two months after applicant receives the filing receipt. Paragraph § 1.97(b) has been amended in recognition that applicant may choose to furnish other material information in another manner or statement. Paragraph § 1.97(b) now also refers to § 1.56(a) for the definition of "material information". The amendments to paragraph § 1.97(b) do not in any manner reduce the obligation to submit material information as defined in § 1.56(a).

Section 1.98

Section 1.98 indicates that information disclosure statements should list prior art with all of the information which is required to print such citations on the front page of a patent. The final rule states clearly that the publication date indicated on the document should be submitted. This will not serve to preclude a showing of a different, actual publication date. Another purpose of the citation requirements in this section is to permit ready reference to the document from its citation.

Section 1.99

Section 1.99 is amended to change the title to be consistent with the amendment to § 1.97.

Section 1.101

Section 1.101 is amended to indicate specifically that applications which are to have their examination advanced pursuant to § 1.102 will be taken up for examination out of order by the examiner. The final rule is also modified to set out when international applications which have complied with the requirements of 35 U.S.C. 371(c) are taken up for action.

Section 1.118

Section 1.118 is amended as proposed to designate the previous section as new paragraph (a) and amend it to clearly state that no new matter may be introduced into an application and to make specific reference to §§ 1.53, 1.63 and 1.67. New paragraph 1.118(b) indicates how improper amendments which introduce new matter in the specification or claims will be handled by the examiner.

Section 1.123

Section 1.123 is amended to require all corrections to drawings to be made by bonded draftsmen at applicant's expense since the Office does not have sufficient draftsmen to make such corrections. Sketches of any desired corrections will, however, still require approval of the examiner. The final rule makes clear that changes in the drawing may be made by submission of substitute drawings.

Section 1.125

Section 1.125 is amended to relax the prohibition against substitute specifications which are not required by the examiner. The section, however, adds the requirement that any substitute specification filed must be accompanied by a statement that the substitute specification includes no new matter. Under the section the statement must be a verified statement if made by a person not registered to practice before the Office. The final rule specifies that a substitute specification may not be accepted unless it is clear to the examiner that processing of the application would be facilitated thereby.

Section 1.131

Section 1.131 is amended as proposed to refer to the use of affidavits or declarations under the section during reexamination of a patent as long as the patent upon which the rejection is based does not claim the rejected invention. Section 1.131 cannot be used to overcome a rejection based upon a United States patent claiming the rejected invention. This is true regardless of whether the rejected claims are contained in an application being examined or a patent being reexamined. Section 1.31 is inapplicable if the same invention is being claimed by the United States patent upon which

the rejection is based. Under the section as amended, the same person or persons who would make the affidavit or declaration in an application will be required to make the affidavit or declaration on behalf of the owner of the patent under reexamination.

Section 1.132

Section 1.132 is amended as proposed to refer to the use of affidavits or declarations under the section during reexamination of a patent.

Section 1.137

Section 1.137 is amended as proposed to except from the provisions of paragraph (b) those applications abandoned pursuant to § 1.53(d) because the fee, oath, or declaration and the surcharge were not submitted. Section 111 of Title 35, United States Code, as amended by Pub. L. 97–247, requires that any delay in submission of the fee and oath be shown to be unavoidable. Thus, paragraph (b) of § 1.37 permitting revival where abandonment was unintentional is inapplicable to the revival of applications which become abandoned pursuant to § 1.53(d).

Section 1.141

The proposed amendments to § 1.141 are withdrawn infra to permit the public to study the issues involved and make any further recommendations considered appropriate.

Section 1.153

Section 1.153 is amended to change the reference for oath and declaration requirements from § 1.65 to § 1.63 and to conform the language of the rule to be consistent therewith.

Section 1.154

Section 1.154 is amended as proposed to revise paragraph (e) to refer to the signed oath or declaration requirements of § 1.153(b).

Section 1.162

Section 1.162 is amended as proposed to change the reference from § 1.65 to § 1.63.

Section 1.163

Section 1.163 is amended as proposed to change the wording of the section to clearly indicate that a signed oath or declaration is required rather than a signed specification.

Section 1.172

Section 1.172 is amended to indicate clearly that the reissue oath is signed and sworn to rather than the reissue application. The final rule has been modified from that proposed by referring to a "reissue oath" rather than to "reissue oaths."

Section 1.174

Section 1.174 is amended as proposed to remove the requirement that photoprints of original drawings be securely mounted or pasted on sheets of drawing board because paper drawings are acceptable.

Section 1.175

Section 1.175 is amended as proposed to change the reference to the oath or declaration from § 1.65 to § 1.63.

Sections 1.301, 1.302 and 1.303

The proposed amendments to sections 1.301, 1.302 and 1.303, referring to the Court of Appeals for the Federal Circuit rather than to the Court of Customs and Patent Appeals, have been adopted as final rules as published on October 26, 1982 at 47 FR 47380–47382 and corrected on November 5, 1982 at 47 FR 50142 and therefore are not republished here.

Section 1.324

Section 1.324 is amended to include wording similar to that in § 1.48 for correction of inventorship in applications.

Section 1.325

Section 1.325 is amended as proposed to include reference to the reexamination procedure.

Section 1.335

Section 1.335 is added as proposed to provide a new section relating to the filing in the Patent and Trademark Office of notices of arbitration awards. Such filing is required under section 294 of Title 35, United States Code, as added by Pub. L. 97–247. The final rule has also been modified in response to a comment to indicate that the notices of arbitration awards are intended to be placed in the patent files.

Section 1.565

The proposed amendments to § 1.565 are withdrawn infra to permit the public to study the issues involved and make any further recommendations considered appropriate.

Section 5.12

Section 5.12 is amended as proposed to separate the section into two paragraphs. Paragraph (a) provides that the filing of an application for an invention made in the United States is considered to include a petition for a license for foreign filing. If a license is granted, it will be indicated on the filing receipt. If it is not granted, no indication of the denial will appear. Failure to grant a license should be considered a denial of a first petition for a license. A subsequent petition may be filed under § 5.12(b). Section 5.12(b) is essentially the text of § 5.12 in its previous form. No rights to file a petition for license are being removed.

Withdrawal of Proposed Amendments to Sections 1.141 and 1.565

A number of the speakers at the public hearing held on December 16, 1982, urged that the amendments to §§ 1.141 and 1.565 be deferred or dropped pending further study. Those urging that the proposed amendments to § 1.141 not be adopted at this time included speakers from the American Patent Law Association, from Committee 103 of the American Bar Associations' Patent, Trademark & Copyright Section, and from the Bar Association of the District of Columbia. The Boston Patent Law Association urged that the amendment to § 1.565 be removed or held in abeyance. The American Patent Law Association indicated that more time was needed for its committees to analyze the issues in the proposed amendments to §§ 1.141 and 1.565.

In response to the recommendations received at the public hearing, the proposed amendments to §§ 1.141 and 1.565 are being withdrawn at this time to permit the public to study the issues involved and make any further recommendations considered appropriate. Pending the further study referred to by the speakers at the hearing and consideration of any recommendations resulting therefrom, the Office will continue to operate under present §§ 1.141 and 1.565 as interpreted by the Manual of Patent Examining Procedure and relevant Patent and Trademark Office and judicial precedents.

Responses to Comments on the Rules

Specific comments were received on a number of the sections. All of the comments, including the written comments and the oral testimony, were considered in adopting the changes set forth herein.

Forty-eight letters presenting written comments were received and seven persons testified at the public hearing on December 16, 1982.

Comments appear below along with responses thereto.

Comment: One comment objected to inadequate notice regarding these proposed rule changes.

Reply: The proposed rules notice was published in the Federal Register on

October 27, 1982. This is more than seven weeks prior to the date of the hearing and four months prior to the effective date of the final rules. Such periods are considered to be reasonable in view of the fact that the legislation requiring the rule changes was only enacted on August 27, 1982 and that other rule changes were required to be implemented by October 1, 1982.

Comment: One comment proposed that "Patent and Trademark Office" should be used in the rules rather than merely "Office".

Reply: The proposal has been adopted in the final rules in those locations where confusion may otherwise result.

Comment: Five comments requested that promulgation of §§ 1.10, 1.63, 1.97, 1.141 and 1.565(e) be delayed and the period for comment extended until March 30, 1983.

Reply: Amendments to §§ 1.141 and 1.565 are not being promulgated at this time to provide time for further consideration and study as requested. If after study, a rule change is felt desirable, a new proposal will be issued. New § 1.10 is being promulgated to make it available to applicants as it was intended in the statute. New § 1.63 is being added and § 1.65 deleted to reduce the formal statements required. If desired, the old oath and declaration forms may continue to be used if the statement is included that applicant "has reviewed and understands the contents of the specification, including the claims". For continuation-in-part applications, it is necessary to also include language in conformance with § 1.63(d). Section 1.97 is being promulgated to remove problems relating to the time period in the current wording and to clarify the section in general.

Comment: One person questioned why Sunday was not mentioned in § 1.6(b) or (c).

Reply: Section 1.6(b) and (c) are limited to weekdays which by definition excludes Sunday.

Comment: Two comments were received which proposed that only a certificate of mailing procedure as in § 1.8(a) be used for determining the date of deposit under 35 U.S.C. 21.

Reply: The filing date of an application is considered to be much more critical than the filing dates of papers accepted under § 1.8. The application filing date is often critical for determining if a statutory bar exists, whether foreign priority can be claimed and who is the senior party in an interference. Therefore, papers filed for purposes of receiving an application filing date should have some clear indication of the date of receipt by the United States Postal Service. Such a practice would also probably require storing all of the envelopes in the file wrapper for record purposes.

Comment: Three comments were received which stated that private courier services should also be provided for in § 1.10.

Reply: Section 21(a) as amended by Pub. L. 97–247 provides for filing dates being given only when "deposited with the United States Postal Service." Although private courier services may be used to deliver papers to the Patent and Trademark Office, the actual date of receipt by the Patent and Trademark Office will be considered to be the filing date.

Comment: A comment was received which argued that the Post Office date stamp should be stamped on the mailing label instead of having to enter the label number on each document.

Reply: Stamping the mailing label would not add anything since the postal clerk receiving the "Express Mail" must already indicate the date and time of deposit and initial the label. A purpose of placing the label number on each paper is to permit several papers to be placed in a single envelope. The mailing labels may be retained in the Patent and Trademark Office for later verification.

Comment: Seven comments were received that the requirement that the item be received the following day (§ 1.10(b)) was unnecessarily restrictive.

Reply: Section 1.10 does not require that the item be received the next day in the Patent and Trademark Office in order to receive the date of deposit as the mailing date. The one day reference has been deleted. Further proof of mailing may be required where an unreasonable period of time is involved and supporting evidence is not otherwise available to the Patent and Trademark Office. Documents deposited with the United States Postal Service will be given a filing date which corresponds to the date of receipt indicated by the postal clerk on the "Express Mail" mailing label.

Comment: Four comments indicated that § 1.10 does not assist in placing applicants and attorneys outside the Washington area on the same footing as those in Washington.

Reply: The main purpose of § 1.10 is to implement 35 U.S.C. 21(a) in a manner which would provide for granting filing dates for papers and fees as of the date of their deposit with the United States Postal Service. Certainly these provisions using "Express Mail," together with the certificate of mailing procedure available under § 1.8, will go a long way in reducing last minute deliveries to the Patent and Trademark Office by persons outside the Washington area.

Comment: Two comments stated that the comments accompanying §1.10(c) should be clarified to explain the meaning of "more than one day."

Reply: The final rule has been clarified.

Comment: It was proposed by one person that the "affidavit or declaration" under § 1.10(c) be waived if the statement is made by a registered attorney or agent.

Reply: The suggestion has been adopted.

Comment: It was indicated by one person that certified mail provides proof of mailing date under § 1.10 by virtue of the Post Office stamp on the certified mail receipt card.

Reply: The information on the certified mail receipt card is of no benefit to the Patent and Trademark Office since it is immediately returned to the sender. The Patent and Trademark Office would not be able to retain any information which gives proof of the date of mailing.

Comment: Three comments raised questions as to the need to make the acceptance of the "Express Mail" contingent upon the performance of the Post Office in § 1.10(c).

Reply: The acceptance of the "Express Mail" is not contingent upon "next day delivery". The reference in § 1.10(c) to proof of mailing merely provides a basis for the Office requiring proof of mailing where an explanation appears to be necessary to clarify the record. Such information is expected to be required only in a few instances. The rule has also been revised to clarify this matter.

Comment: Five persons suggested the use of registered or certified U.S. mail for obtaining filing dates under 35 U.S.C. 21.

Reply: Registered mail does not provide any information or evidence to the Patent and Trademark Office as to the date of mailing other than the postmark, which is often unreadable. Storage of envelopes containing such postmarks is also burdensome. The deficiency of certified mail has already been discussed.

Comment: One person questioned what treatment will be accorded a paper placed in an "Express Mail" box receptacle after the box has been cleared for the last time on a given day.

Reply: The paper will be considered to be deposited as of the date of receipt indicated on the "Express Mail" mailing label by the Postal Service clerk.

Comment: One person commented that he found the idea of using a declaration or affidavit to establish a

date of deposit unacceptable because it exposes the integrity of the assignment of filing dates to the risk of deception.

Reply: The use of declarations or affidavits is usually intended to help explain activities which can be supported by exhibits. For example, if the Office copy of the mailing label was not entirely readable, applicant's copy of the "Express Mail" mailing label could accompany a declaration and serve as the basis for granting a filing date.

Comment: Three persons objected to permitting only the individual who places the correspondence in an "Express Mail" facility to execute the certificate of express mailing under § 1.10(c).

Reply: The wording of § 1.10(c) differs from § 1.8 because the documents which are expected to be filed under § 1.10 are patent and trademark applications. The filing dates of such documents are very important and should therefore be based on personal knowledge.

Comment: One comment was received which suggested that § 1.10 be adopted with an effective date retroactive to a year earlier.

Reply: Such an earlier date is not possible since the statutory authority for § 1.10 does not come into effect until February 27, 1983.

Comment: One comment proposed designating the Patent and Trademark Office as an "Express Mail" Post Office to make lower rates available.

Reply: Such a designation is not possible.

Comment: One person requested that the Patent and Trademark Office publish a form of certificate of mailing by "Express Mail" suitable for purposes of § 1.10(b).

Reply: A suggested form is included in the preamble of this rule change.

Comment: One comment proposed that § 1.10(c) clearly state what evidence will be necessary and sufficient to prove a filing date by mailing.

Reply: A specific answer cannot be given since it is dependent upon the particular fact situation and what evidence is actually available.

Comment: Two comments questioned whether Pub. L. 97–247 authorized a rule such as § 1.10 granting filing dates as of the mailing date.

Reply: The question raised by this comment has been treated in the discussion of § 1.10 supra.

Comment: One comment proposed that § 1.10 be corrected to read—Any paper or fee *required* to be filed—to more closely conform with 35 U.S.C. 21(a).

Reply: No need is seen to change § 1.10 as suggested since, if a patent is desired, it is "required" that each paper relating to an application be filed in the Patent and Trademark Office.

Comment: One comment indicated that the requirement to place the "Express Mail" label number on each paper and fee is not realistic.

Reply: The placement of the label number on each paper or fee allows later verification of the mailing dates of all different papers mailed in one envelope and is not seen to be overly burdensome.

Comment: A question was raised as to whether the "Express Mail" label number should be placed on every page.

Reply: The label number need not be placed on each page. It should, however, be placed on the first page of each separate document, such as, a new application, amendment, assignment, and transmittal letter for a fee, along with the certificate of mailing by "Express Mail". Although the label number may be on checks, such a practice is not required.

Comment: A question was raised by one party as to the location within the Patent and Trademark Office of the mailing labels where papers to different applications are placed in the same envelope.

Reply: The mailing labels from all "Express Mail" packages are expected to be removed and initially retained centrally in the Mail Room of the Patent and Trademark Office. The number on each document will allow direct access to the appropriate mailing label if any questions should arise.

Comment: One comment suggested that § 1.22(b) be amended to exclude itemization of all fees where a general authorization to charge a deposit account has been given.

Reply: Even where fees are charged to a deposit account, it is desirable to know specifically which fees are to be paid. Therefore, the suggestion has not been adopted.

Comment: One comment was received which suggested adding a sentence to § 1.41(d) indicating that the filing of an oath or declaration executed by the applicant would constitute proof of authority to file the application.

Reply: Such an additional sentence is not considered to be necessary since the Patent and Trademark Office does not intend to utilize the provisions of § 1.41(d) unless a controversy arises.

Comment: One comment was received which suggested the addition to the end of § 1.42 of the words "except for patents granted to the assignee either of the inventor or of the legal representative of the inventor."

Reply: No change is considered to be necessary since few, if any, problems have arisen without such additional wording in the past. The existing rule wording "upon proper intervention" also provides protection for assignees.

Comment: One comment was received which indicated that § 1.48 does not clearly authorize an assignee of a part interest to cause an application to be placed on file.

Reply: Although § 1.48 may not make this point clear, it is clear from § 1.41(c).

Comment: One comment recommended that the requirement to show diligence in correcting inventorship under § 1.48 be deleted.

Reply: It is felt that corrections of inventorship should be diligently made in patent applications. The naming of correct inventorship is necessary for the Patent and Trademark Office to make decisions on topics such as double patenting, priority claims and first inventorship.

Comment: It was recommended in one comment that the verified statement of facts required by § 1.48 "by the original named inventor or inventors" be replaced by a requirement that he or they merely assent to the statement of the facts since others may be better able to provide the best evidence.

Reply: Since it is the original inventorship that is being changed, it is believed that all of the previously named inventors should positively indicate their agreement with the facts in the case. Affidavits by other individuals may also be supplied where such persons have direct personal knowledge of certain aspects of the case.

Comment: One comment indicated that "it seems a reasonable presumption that if ownership is unaffected, deceptive intent is absent" in a § 1.48 correction of inventorship situation and that such a presumption could be written into the rules.

Reply: Even if applications are commonly owned, the wrong inventorship could be deceptively named to obtain rights which are only available to the same inventive entities. The report on Pub. L. 97–247 also states that "the Commissioner must be assured of the presence of innocent error, without deceptive intention * * *" before permitting a substitution of a true inventor's name.

Comment: One person suggested that the deceptive intent in § 1.48 refers to the acts of the actual inventors rather than to both the alleged and actual inventor or inventors.

Reply: This suggestion has been adopted in both §§ 1.48 and 1.324, but

deceptive intention on the part of other parties is subject to review under § 1.56.

Comment: One person suggested that in § 1.48, line 3 "may" be changed to —must—.

Reply: The suggestion has not been adopted. Corrections may only be made if the conditions set forth in § 1.48 are satisfied.

Comment: Two comments objected to the insertion of "material" in § 1.51(b).

Reply: This word has been removed and does not appear in the final rule.

Comment: One comment suggested changing "an" to —a complete— in the title of § 1.51.

Reply: This suggestion has been adopted.

Comment: One comment indicated that §§ 1.52(c) and 1.56(c) seemed overly inflexible and harsh when considering minor grammatical changes.

Reply: Although § 1.56 indicates that applications "may" be stricken, rather than "must" be stricken, it is still considered important to maintain a clear line in the regulations against changes in the original applications made after the execution of the application oath or declaration. The line between grammatical changes and changes relating to the merits is frequently unclear.

Comment: Three comments noted an apparent inconsistency between proposed §§ 1.10 and 1.53 as to whether § 1.10 relates to the filing of patent applications.

Reply: Section 1.10 does relate to the filing of patent applications. In order to clarify the wording, "received" in § 1.53(b) has been changed to "filed".

Comment: One comment was received suggesting that a sentence be added to § 1.53(d) to indicate that PCT applicants cannot submit late filing fees, oaths or declarations under 35 U.S.C. 371.

Reply: Such a reference in § 1.53 does not appear appropriate because this section relates to "filing dates". In the PCT situation, the filing date was already granted at the time of filing the PCT international application.

Comment: One comment was received which suggested that § 1.53(a) be rewritten to indicate all application are assigned serial numbers but not accorded filing dates.

Reply: The proposal was not adopted since it is considered unnecessary.

Comment: One person suggested that § 1.53(b) be amended to specify that only "a specification *purporting* to contain a description and at least one claim * * *" is needed to obtain a filing date.

Reply: No change is being made since a determination must be initially made as to whether or not a specification has been filed. In any case, sufficiency of the specification must later be checked by the examiner.

Comment: One person indicated that the time period for filing a correction to a defect in an application is left entirely within the discretion of the commissioner and that any setting of periods of time would be tantamount to an exercise of rulemaking authority. Section 1.53(d) should be provided with an explicit time limitation.

Reply: No specific time period is considered to be necessary in the regulations. The Commissioner has full authority and discretion under the statute in 35 U.S.C. 111 to set periods of time. The statute does not require the Commissioner to use the rulemaking process to set time periods for response to an action or requirement by the Patent and Trademark Office in a patent application.

Comment: Two comments were received objecting to the use of the words "or otherwise disposed of" in § 1.53(c).

Reply: This wording has existed in § 1.53(b) in the past without objection. No need is seen to depart from this wording at this time.

Comment: One person questioned whether the change in § 1.54(b) would result in return post cards not being stamped with the application serial number.

Reply: No change is intended in the existing return post card practice.

Comment: One comment proposed adding another sentence to § 1.154(b) indicating that foreign priority claims will be acknowledged on the filing receipt.

Reply: This proposal is not being adopted since the examiner must determine whether the statutory requirements of 35 U.S.C. 119 have been met before an acknowledgment can be sent.

Comment: One comment suggested that the Patent and Trademark Office indicate on the filing receipt both the filing date under § 1.10 and the actual date of receipt.

Reply: The actual date of receipt can be obtained by requesting a receipt from the Postal Service. The actual date of receipt cannot be placed on the filing receipt because of current computer limitations. The suggestion is therefore not being adopted at this time.

Comment: One comment was received indicating that it is not clear whether or not an application based on a specification and drawing, but containing no oath or declaration or filing fee, could serve as the basis for a priority claim under 35 U.S.C. 120.

Reply: If the filed specification and drawings fully disclose the invention as required by 35 U.S.C. 112, the application may serve as a basis for a priority claim under § 120 even if no oath or declaration, or no fee has been filed, as long as the continuing application is filed prior to the abandonment of the first application under § 1.53(d).

Comment: One comment suggested that § 1.55(b) be removed since the requirements of the statute are fully set forth in 35 U.S.C. 119.

Reply: Although the statutory requirements set forth basic requirements, it is felt that the more specific details of § 1.55(b) provide needed guidance for applicants.

Comment: Two persons questioned the meaning of "inspection and review" in § 1.56(c) and suggested certain amendments.

Reply: The words "inspection and" are being removed to eliminate any redundancy. The paragraph has also been broken down into four items as proposed by a comment.

Comment: One suggestion was made that applicant be allowed to order a copy of the parent patent, with payment of fee, when filing a § 1.60 application.

Reply: Such a practice is contrary to the intent of the rule change. The problems the Patent and Trademark Office is attempting to solve by the change, which are caused by poor copies and delays in processing, would remain with such a practice.

Comment: Two persons suggested that § 1.60 be amended to drop "and claimed" from the title.

Reply: The suggestion has been adopted.

Comment: One person suggested that § 1.60 be modified to drop the requirement for verification by affidavit when the statement is made by a registered patent attorney or agent.

Reply: The suggestion has been adopted.

Comment: One comment noted that there is no specific requirement in §§ 1.56, 1.63 or 1.98 to identify foreign applications filed more than one year prior to the U.S. filing date.

Reply: Section 1.63(b)(3) broadly requires applicant to acknowledge the duty to disclose information material to the examination of the application. This information includes foreign patents based on applications filed more than a year prior to the filing date of the United States application and which issue before the filing date of the United States application.

Comment: One person felt that § 1.63 (b)(1) will be a disaster for the patent

system since the inventor may not be physically able to review and understand the invention or because the legal language format used in claims may not be understood by the inventor. Five persons argued that adoption of § 1.63 would result in raising the defense that the inventor did not understand the claims in each patent infringement suit.

Reply: The inventor is not expected to understand all the legal interpretations or limitations in a claim. The inventor is expected to recognize that what is being claimed is the subject matter which the inventor regards as his or her invention pursuant to 35 U.S.C. 112. The physical factors have to some extent existed in past practice and have been handled on a case-by-case basis where necessary. The situation outlined would exist in any signing of a legal document. The wording of § 1.63 has been explained in the preamble to minimize occurrences of problems.

Comment: One comment noted that many inventors do not know whether additional subject matter is claimed in a continuation-in-part application under § 1.63(d).

Reply: The wording in § 1.63(d) is considered to be appropriate and in accordance with case law. If uncertainty exists the attorney or agent, if any, should clarify the matter and § 1.63(d) should be followed.

Comment: One person proposed that § 1.63(d) be modified to explicitly require the disclosure of foreign patents granted before the filing of the continuation-in-part application.

Reply: Section 1.63(d) has been amended to clearly indicate that material information pursuant to § 1.56(a) between the filing date of the parent application and the filing date of the continuation-in-part application must be disclosed. The discussion of new § 1.63 refers to material foreign patents published during this time interval.

Comments: Two comments indicated concern with the parenthetical language in proposed § 1.63(d) in that it would create severe problems.

Reply: Paragraph (d) of § 1.63 has been amended to remove such problems.

Comment: One comment suggested adding—he or she is aware of—after information in § 1.63(b) (3) and (d).

Reply: This suggestion is not adopted since such wording is already present in § 1.56(a).

Comment: One comment suggested that § 1.63(c) clarify what is intended by "the first filed foreign application," particularly in view of 35 U.S.C. 119, third paragraph.

Reply: The rule has been amended to clarify the matter.

Comment: One comment was received suggesting changes be made in the title and that paragraph (b) of § 1.70 refer to § 1.63 instead of "this section."

Reply: The change suggested to the title has been made. The suggestion to paragraph (b) has not been made since it is considered unnecessary.

Comment: Three comments were received which indicated that the wording of § 1.97(a) would require an immediate filing of disclosure information if the filing receipt is received just before three months after filing.

Reply: The wording of § 1.97(a) has been changed to remove this problem.

Comment: One comment was received which urged that the title of § 1.97 and contents of § 1.97(b) not be changed, since the proposed wording would not require filing of the closest prior art.

Reply: The proposed changes are not intended to make any changes in the type of information which is to be submitted to the Office. The proposal has been adopted in modified form.

Comment: One person indicated preference for the use of "prior art" in §§ 1.51(b), 1.97, 1.98, and 1.99 since it does not create an inferred admission that the information submitted is material. Five comments favored the removal of "prior art" from § 1.97 but objected to the addition of "material".

Reply: The rule change was proposed to answer arguments that the use of the term "prior art" implied that the information was a reference against applicant's invention. Since the majority of the comments supported modifying the rule, the use of the terms "prior art" as well as "material" are being dropped.

Comment: Two comments were received concerning § 1.96(a) suggesting that the "place of publication" be clarified or removed.

Reply: This suggestion has not been adopted since the "place of publication" is not mandatory. It is intended to mean the city and country of publication. Also the citation of the "place of publication" is consistent with the § 1.107(a) requirements.

Comment: It was suggested by one person that § 1.101 be amended to clarify when PCT international applications which have entered the national stage should be taken up for examination.

Reply: An amendment has been made to § 1.101 as suggested to clarify that they are taken up in order based on the date they have entered the national stage by compliance with the requirements of 35 U.S.C. 371(c).

Comment: One comment was presented suggesting that the words "which are not examined on the merits" in § 1.101 be removed.

Reply: The suggestion has been adopted.

Comment: One comment urged returning to the use of the Office draftsmen for minor corrections to reduce the burden under proposed § 1.123.

Reply: Some minor corrections may be made by the Office draftsmen on a time-available basis. However, since the Office currently has only a few draftsmen who are responsible for reviewing and approving all drawings, very little time is presently available for making corrections.

Comment: Four suggestions were made to amend § 1.123 to specifically provide for the filing of substitute drawings if corrections are required.

Reply: These suggestions have been adopted.

Comment: One comment was received indicating that § 1.125 should indicate to whom it should be clear that acceptance of a substitute specification would facilitate processing.

Reply: An amendment has been made to clarify that it should be clear to the examiner.

Comment: One comment suggested removal of the last sentence of § 1.137(b) to permit § 1.183 petitions to be filed to waive time periods for requesting revival of unintentionally abandoned applications.

Reply: No change in § 1.137(b) is considered to be appropriate at this time since § 1.37(b) only became effective on October 1, 1982.

(Since changes to § 1.141 are not being promulgated in this rule change, comments and replies to this section are not included.)

Comment: One comment pointed out that the reference to a "period of twelve months" in § 1.153 was indefinite.

Reply: Section 1.153 has been amended to remove the indefiniteness.

Comment: One comment was presented which suggested that § 1.172 refer to a "reissue oath" rather than to "reissue oaths."

Reply: This suggestion has been adopted.

Comment: One comment suggested the insertion of "the filing of" before "each patent" in §1.335 (a) and (b).

Reply: The suggestion has been adopted.

(Since the proposed addition of a new paragraph (e) to § 1.565 is not being adopted in this rule change, comments and replies to this section are not included.)

Comment: One suggestion was made that a procedure be designed in which

foreign filing licenses could be granted by return post card without losing the time required to send the filing receipts.

Reply: It is felt that the procedure under § 5.12 should be adopted at this time and be placed into operation. If after some experience additional modifications are found desirable, further changes could be made. To introduce several alternative procedures at this time is considered to be too complex and may endanger the success of the proposed procedure.

Comment: One comment requested that the Office grant a prospective foreign filing license under §5.12 for all data and amendatory material to be filed abroad.

Reply: Such petitions are not part of this proposed change but this concept is being considered in a separate rule change proposal.

Comment: One comment suggested that the Filing Receipt specifically indicate whether or not a license has been denied under §5.12.

Reply: The proposed practice under § 5.12 would indicate on the Filing Receipt when a license is granted. On other cases in which a license is not granted further review is required. A license may still be granted at a later date.

Comment: One comment stated that it should be possible to petition at any early date for a foreign filing license as well as obtain one on the filing receipt.

Reply: It will still be possible to petition earlier for a license under revised § 5.12.

Implementation of Patent Procedure Revisions

The effective date of the patent procedure revisions contained in this rulemaking is February 27, 1983. The various sections will be implemented in the manner set forth below:

Section 1.10 Filing of papers and fees by "Express Mail" with certificate.

The "guidelines under § 1.10" set forth below provide guidance in implementing § 1.10:

Guidelines Under § 1.10

(A) The certification under § 1.10 requires a signature of the person depositing the paper with the United States Postal Service as "Express Mail". Specifically, if the certification under § 1.10 appears on a paper that requires a signature, two signatures are required, one for the paper and one for the certification under §1.10.

(B) When possible, the certification under § 1.10 should appear on an upper portion of the first page of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, such as in the case of the patent issue fee transmittal form PTO–85, the certification should be on a separate sheet securely attached to the paper.

(C) When the certification is presented on a separate sheet, that sheet must (1) Be signed and (2) fully identify and be securely attached to the paper or fee it accompanies. The required identification should include the serial number and filing date of the application as well as the type of paper being filed, e.g., complete application, specification and drawings, responses to rejection or refusal, notice of appeal, etc. If the serial number of the application is not known, the identification should include at least the name of the inventor(s) and the title of the invention. An unsigned certification will not be considered acceptable.

Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.

(D) In situations wherein the correspondence includes papers for more than one application e.g., a single envelope containing separate applications or papers for various parts of the Patent and Trademark Office, each paper must have its own certification and the "Express Mail" label number as a part thereof or attached thereto.

(E) In situations wherein the correspondence includes several papers directed to the same application (e.g., a proposed response under 37 CFR 1.116 and a notice of appeal), each paper should also have its own certification as a part thereof or attached thereto.

(F) Practitioners may place the certification language on the first page of a paper with an inked stamp. Such a practice is encouraged because the certification is not only readily visible but also forms an integral part of the paper. An example of a preferred stamp is:

"Express Mail" mailing label number ——
Date of Deposit ————————

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

(Typed or printed name of person mailing paper of fee)

(Signature of person mailing paper or fee)

Section 1.48 Correction of inventorship.

Any patent application pending on or after February 27, 1983, is subject to the provisions of this section.

Section 1.53 Serial number, filing date, and completion of application.

The provisions of this section apply to any patent application filed on or after February 27, 1983.

Section 1.63 Oath or declaration.

The provisions of § 1.63 will become effective on February 27, 1983, and will apply to any oath or declaration filed on or after that date. However, in order to provide a smooth transition from the old oath or declaration requirements to the new, the Office will continue to accept between February 27, 1983, and June 30, 1983 any oath or declaration in compliance with § 1.65 as it existed immediately prior to February 27, 1983, so long as that oath or declaration is attached to and was executed as a part of an application to be filed in the Patent and Trademark Office. Effective July 1, 1983, all oaths or declarations filed under § 1.51(a)(2) as a part of a patent application must fully comply with §1.63.

A suggested format for a declaration is set forth below:

Declaration for Patent Application

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

————————————

the specification of which

(check one)

☐ is attached hereto.
☐ was filed on ———— as Application Serial No. —— and was amended on ———— (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a

filing date before that of the application on which priority is claimed:

PRIOR FOREIGN APPLICATION(S)

			Priority claimed	
(Number)	(Country)	(Day/month/year filed)	☐ Yes	☐ No
(Number)	(Country)	(Day/month/year filed)	☐ Yes	☐ No
(Number)	(Country)	(Day/month/year filed)	☐ Yes	☐ No

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.)	(Filing date)	(Status) (patented, pending, abandoned)
(Application Serial No.)	(Filing date)	(Status) (patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor _____
Inventor's signature _____
Date _____
Residence _____
Citizenship _____
Post Office Address _____

Full name of second joint inventor, if any _____
Second Inventor's signature _____
Date _____
Residence _____
Citizenship _____
Post Office Address _____

(Supply similar information and signature for third and subsequent joint inventors.)

The declaration form set forth above is specifically designed for use where the specification is attached to the form and the specification and declaration are filed at one time, and also where the decaration form is filed after the specification and drawings in accordance with § 1.53. The form can be used where foreign priority is claimed under 35 U.S.C. 119 and where the benefit of one or more United States applications is claimed under 35 U.S.C. 120. Appropriate modifications can be made in the form so long as compliance with the rules is maintained. For example, if the form is being used as a supplemental declaration form which is being submitted after numerous amendments the form might appropriately be modified by changing the words "was amended on" to "with amendments through."

Section 1.335 Filing of notice of arbitration awards

The written notices required by this section should be directed to the attention of the Office of the Solicitor, which Office will be responsible for processing of such notices.

Other Considerations

Environmental, energy, and other considerations: The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The rule change is in conformity with the requirements of the Regulatory Flexibility Act. (Pub. L. 96–354), Executive Order 12291, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.*

The rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act. Pub. L. 96–354) for several reasons. Pub. L. 97–247 has taken into consideration the impact it may have on small entities. In general, the rule change will also expedite proceedings before the Patent and Trademark Office, changing existing procedures where they can be simplified.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule change will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.*, since no significant additional record keeping or reporting requirements are placed upon the public. In fact, some paperwork, especially that related to foreign filing license petitions, will be reduced.

List of Subjects in 37 CFR Parts 1 and 5

Administrative practice and procedure, Courts, Inventions and patents.

Notice is hereby given that, pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and Pub. L. 97–247, the Patent and Trademark Office is amending Title 37 of the Code of Federal Regulations as set forth below.

37 CFR Parts 1 and 5, are amended as follows:

PART 1—[AMENDED]

1. Section 1.4 is amended by revising paragraph (a) to read as follows:

§ 1.4 Nature of correspondence.

(a) Correspondence with the Patent and Trademark Office comprises: (1) Correspondence relating to services and facilities of the Office, such as general inquiries, requests for publications supplied by the Office, orders for printed copies of patents or trademark registrations, orders for copies of records, transmission of assignments for recording, and the like, and (2) correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing, processing, or other proceedings of national applications in Subpart B, §§ 1.31 to 1.352; of international applications in Subpart C, §§ 1.401 to 1.482; of reexamination of patents in Subpart D, §§ 1.501 to 1.570; and of trademark applications, §§ 2.11 to 2.189.

* * * * *

2. Section 1.6 is revised to read as follows:

§ 1.6 Receipt of letters and papers.

(a) Letters and other papers received in the Patent and Trademark Office are stamped with the date of receipt. No papers are received in the Patent and Trademark Office on Saturdays, Sundays or federal holidays within the District of Columbia.

(b) Mail placed in the Patent and Trademark Office pouch up to midnight on weekdays, excepting Saturdays and federal holidays, by the post office at Washington, D.C., serving the Patent and Trademark Office, is considered as having been received in the Patent and Trademark Office on the day it was so placed in the pouch.

(c) In addition to being mailed or delivered by hand during office hours, letters and other papers may be deposited up to midnight in a box provided at the guard's desk at the lobby of building 3 of the Patent and Trademark Office at Crystal Plaza, Arlington, Virginia and at the main entrance (14th Street) of the Department of Commerce Building, Washington, D.C., on weekdays except Saturdays and federal holidays, and all papers deposited therein are considered as received in the Patent and Trademark Office on the day of deposit.

(d) If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any paper or fee which is: (1) Promptly filed after the ending of the designated interruption or emergency; and (2) Accompanied by a statement indicating that such paper or fee would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service. Such statement must be a verified statement if made by a person not registered to practice before the Patent and trademark Office.

3. Section 1.7 is revised to read as follows:

§ 1.7 Times for taking action: Expiration on Saturday, Sunday or federal holiday.

Whenever periods of time are specified in this part in days, calendar days are intended. When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the Patent and Trademark Office falls on Saturday, Sunday, or on a federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding day which is not a Saturday, Sunday, of a federal holiday. See § 1.304 for time for appeal or for commencing civil action.

4. Section 1.8 is amended by revising the introductory text of paragraph (a) and paragraphs (a)(1), (a)(2) introductory text, and (a)(2)(i) to read as follows:

§ 1.8 Certificate of mailing.

(a) Except in the cases enumerated below, papers and fees required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if: (1) They are addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, and deposited with the U.S. Postal Service with sufficient postage as first class mail prior to expiration of the set period: and (2) They also include a certificate for each paper or fee stating the date of deposit. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed on or before the date indicated. The actual date of receipt of the paper or fee will be used for all other purposes. This procedure does not apply to the following:

(i) The filing of a national patent application specification and drawing or other papers for the purpose of obtaining an application filing date;

* * * * *

5. A new § 1.10 is added to read as follows:

§ 1.10 Filing of papers and fees by "Express Mail" with certificate.

(a) Any paper or fee to be filed in the Patent and Trademark Office can be filed utilizing the "Express Mail Post Office to Addressee" service of the United States Postal Service and be considered as having been filed in the Office on the date the paper or fee is shown to have been deposited as "Express Mail" with the United States Postal Service.

(b) Any paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing, be addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, and any such paper or fee must also include a certificate of mailing by "Express Mail" which states the date of mailing by "Express Mail' and is signed by the person mailing the paper or fee.

(c) The Patent and Trademark Office will accept the certificate of mailing by "Express Mail" and accord the paper or fee the certificate date under 35 U.S.C. 21(a) without further proof of the date on which the mailing by "Express Mail" occurred unless a question is present regarding the date of mailing. If more than a reasonable time has elapsed between the certificate date and the Patent and Trademark Office receipt date or if other questions regarding the date of mailing are present, the person mailing the paper or fee may be required to file a copy of the "Express Mail" receipt showing the actual date of mailing and a statement from the person who mailed the paper or fee averring to the fact that the mailing occurred on the date certified. Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office.

6. Section 1.17 is amended by revising paragraph (h) to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(h) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph—$120.00

—§ 1.47—for filing by other than all the inventors or a person not the inventor

—§ 1.48—for correction of inventorship

—§ 1.182—for decision on questions not specifically provided for

—§ 1.183—to suspend the rules

—§ 1.266—for late filing of interference settlement agreement

* * * * *

7. Section 1.22 is revised to read as follows:

§ 1.22 Fees payable in advance.

(a) Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable with the exception that under § 1.53 applications for patent may be assigned a filing date without payment of the basic filing fee.

(b) All patent and trademark fees paid to the Patent and Trademark Office should be itemized in each individual application, patent or other proceeding in such a manner that it is clear for which purpose the fees are paid.

8. Section 1.24 is revised to read as follows:

§ 1.24 Coupons.

Coupons in denominations of one dollar are sold by the Patent and Trademark Office for the convenience of regular purchasers of U.S. patents and trademark registrations; these coupons may not be used for any other purpose. The one dollar coupons are sold individually and in books of 50 with stubs for record for $50. These coupons are good until used; they may be transferred but cannot be redeemed.

9. Section 1.41 is revised to read as follows:

§ 1.41 Applicant for patent.

(a) A patent must be applied for in the name of the actual inventor or inventors. Full names must be stated, including the family name and at least one given name without abbreviation together with any other given name or initial.

(b) Unless the contrary is indicated the word "applicant" when used in these sections refers to the inventor or joint inventors who are applying for a patent, or to the person mentioned in §§ 1.42, 1.43, or 1.47 who is applying for a patent in place of the inventor.

(c) Any person authorized by the applicant may file an application for patent on behalf of the inventor or inventors, but an oath or declaration for the application (§ 1.63) can only be made in accordance with § 1.64.

(d) A showing may be required from the person filing the application that the filing was authorized where such authorization comes into question.

10. Section 1.42 is revised to read as follows:

§ 1.42 When the inventor is dead.

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.

11. Section 1.43 is revised to read as follows:

§ 1.43 When the inventor is insane or legally incapacitated.

In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent.

12. Section 1.45 is amended by removing paragraphs (b) and (c) and the designation (a) to the first paragraph and by revising the text to read as follows:

§ 1.45 Joint inventors.

Joint inventors must apply for a patent jointly and each must make the required oath or declaration: neither of them alone, nor less than the entire number, can apply for a patent for an invention invented by them jointly, except as provided in § 1.47.

13. Section 1.46 is revised to read as follows:

§1.46 Assigned inventions and patents.

In case the whole or a part interest in the invention or in the patent to be issued is assigned, the application must still be made or authorized to be made, and an oath or declaration signed, by the inventor or one of the persons mentioned in §§ 1.42, 1.43, or 1.47. However, the patent may be issued to the assignee or jointly to the inventor and the assignee as provided in § 1.334.

14. Section 1.47 is revised to read as follows:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the omitted inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts and by the required fee (§ 1.17(h)) and must state the last known address of the omitted inventor. The Patent and Trademark Office shall forward notice of the filing of the application to the omitted inventor at said address. Should such notice be returned to the Office undelivered, or should the address of the omitted inventor be unknown, notice of the filing of the application shall be published in the *Official Gazette*. The omitted inventor may subsequently join in the application on filing an oath or declaration of the character required by § 1.63. A patent may be granted to the inventor making the application, upon a showing satisfactory to the Commissioner, subject to the same rights which the omitted inventor would have had if he or she had been joined.

(b) Whenever an inventor refuses to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may make application for patent on behalf of and as agent for the inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, and by the required fee (§ 1.17(h)) and must state the last known address of the inventor. The assignment, written agreement to assign or other evidence of proprietary interest, or a verified copy thereof, must be filed in the Patent and Trademark Office. The Office shall forward notice of the filing of the application to the inventor at the address stated in the application. Should such notice be returned to the Office undelivered, or should the address of the inventor be unknown, notice of the filing of the application shall be published in the *Official Gazette*. The inventor may subsequently join in the application on filing an oath or declaration of the character required by § 1.63. A patent may be granted to the inventor upon a showing satisfactory to the Commissioner.

15. A new § 1.48 is added to read as follows:

§ 1.48 Correction of inventorship.

If the correct inventor or inventors are not named in an application for patent through error without any deceptive intention on the part of the actual inventor or inventors, the application may be amended to name only the actual inventor or inventors. Such amendment must be diligently made and must be accompanied by (1) a petition including a statement of facts verified by the original named inventor or inventors establishing when the error without deceptive intention was discovered and how it occurred; (2) an oath or declaration by each actual inventor or inventors as required by § 1.63; (3) the fee set forth in § 1.17(h); and (4) the written consent of any assignee.

16. Section 1.51 is amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 1.51 General requisites of a complete application.

(a) * * *

(2) An oath or declaration, see §§ 1.63 and 1.68.

* * * * *

(b) Applicants are encouraged to file an information disclosure statement. See §§ 1.97 through 1.99.

17. Section 1.52 is amended by revising paragraph (c) to read as follows:

§ 1.52 Language, paper, writing, margins.

* * * * *

(c) Any interlineation, erasure, cancellation of other alteration of the application papers filed must be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper. No such alterations in the application papers are permissible after the signing of an oath or declaration referring to the application papers (§ 1.56(c)). After the signing of the oath or declaration referring to the application papers, amendments may only be made in the manner provided by §§ 1.121 and 1.123–1.125.

* * * * *

18. Section 1.53 is revised to read as follows:

§ 1.53 Serial number, filing date, and completion of application.

(a) Any application for a patent received in the Patent and Trademark Office will be assigned a serial number for identification purposes.

(b) The filing date of an application for patent is the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) Any drawing required by § 1.81(a), are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date (§ 1.118).

(c) If any application is filed without the specification or drawing required by paragraph (b) of this section, applicant will be so notified and given a time period within which to submit the omitted specification or drawing in order to obtain a filing date as of the date of filing of such submission. If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less a $50.00 handling fee.

(d) If an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include the appropriate filing fee or an oath or declaration by the applicant, applicant will be so notified and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application. The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section.

(e) An application for a patent will not be placed upon the files for examination until all its required parts, complying with the rules relating thereto, are received, except that certain minor informalities may be waived subject to subsequent correction whenever required.

(f) The filing date of an international application designating the United States of America shall be treated as the filing date in the United States of America under PCT Article 11(3), except as provided in 35 U.S.C. 102(e)

19. Section 1.54 is revised to read as follows:

§ 1.54 Parts of application to be filed together; filing receipt.

(a) It is desirable that all parts of the complete application be deposited in the Office together; otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. See § 1.53 with regard to completion of an application.

(b) Applicant will be informed of the application serial number and filing date by a filing receipt.

20. Section 1.55 is revised to read as follows:

§ 1.55 Claim for foreign priority.

(a) An applicant may claim the benefit of the filing date of a prior foreign application under the conditions specified in 35 U.S.C. 119 and 172. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.63. The claim for priority and the certified copy of the foreign application specified in the second paragraph of 35 U.S.C. 119 must be filed in the case of interference (§ 1.224); when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner; and in all other cases they must be filed not later than the date the issue fee is paid. If the papers filed are not in the English language, a translation need not be filed except in the three particular instances specified in the preceding sentence, in which event a sworn translation or a translation certified as accurate by a sworn or official translator must be filed. If the priority papers are submitted after the date the issue fee is paid, they must be accompanied by a petition requesting their entry and the fee set forth in § 1.17(i).

(b) An applicant may under certain circumstances claim priority on the basis of an application for an inventor's certificate in a country granting both inventor's certificates and patents. When an applicant wishes to claim the right of priority as to a claim or claims of the application on the basis of an application for an inventor's certificate in such a country under 35 U.S.C. 119, last paragraph (as amended July 28, 1972), the applicant or his attorney or agent, when submitting a claim for such right as specified in paragraph (b) of this section, shall include an affidavit or declaration including a specific statement that, upon an investigation, he or she has satisfied himself or herself that to the best of his or her knowledge the applicant, when filing his or her application for the inventor's certificate, had the option to file an application either for a patent or an inventor's certificate as to the subject matter of the identified claim or claims forming the basis for the claim of priority.

21. Section 1.56 is amended by revising paragraph (c) to read as follows:

§ 1.56 Duty of disclosure; fraud; striking or rejection of applications.

* * * * *

(c) Any application may be stricken from the files if:

(1) An oath or declaration pursuant to § 1.63 is signed in blank;

(2) An oath or declaration pursuant to § 1.63 is signed without review thereof by the person making the oath or declaration;

(3) An oath or declaration pursuant to § 1.63 is signed without review of the specification, including the claims, as required by § 1.63(b); or

(4) The application papers filed in the Office are altered after the signing of an oath or declaration pursuant to § 1.63 referring to those application papers.

* * * * *

§ 1.57 [Removed]

22. Section 1.57 is removed.

23. Section 1.59 is revised to read as follows:

§ 1.59 Papers of application with filing date not to be returned.

Papers in an application which has received a filing date pursuant to § 1.53 will not be returned for any purpose whatever. If applicants have not preserved copies of the papers, the Office will furnish copies at the usual cost.

24. Section § 1.60 is revised to read as follows:

§ 1.60 Continuation or divisional application for invention disclosed in a prior application.

A continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121), which discloses and claims only subject matter disclosed in a prior application may be filed as a separate application before the patenting or abandonment of or termination of proceedings on the prior application. Signing and execution of the application papers by the applicant may be omitted provided the copy is supplied by and accompanied by a statement by, the applicant or his or her attorney or agent that the application papers comprise a true copy of the prior application as filed. Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. Only amendments reducing the number of claims or adding a reference to the prior application (§ 1.78(a)) will be entered before calculating the filing fee and granting the filing date.

25. Section § 1.62 is revised to read as follows:

§ 1.62 File wrapper continuing procedure.

(a) A continuation, continuation-in-part, or divisional application, which uses the specification and drawings from a prior application to be abandoned, may be filed before the payment of the issue fee, abandonment of, or termination of proceedings on a prior application. The filing date of an application filed under this section is the date on which a request is filed for an application under this section including identification of the Serial Number, filing date, and applicant's name of the prior application.

(b) The filing fee for a continuation, continuation-in-part, or divisional application under this section is based

on the number of claims remaining in the application after entry of any preliminary amendment and entry of any amendments under § 1.116 unentered in the prior application which applicant has requested to be entered in the continuing application.

(c) In the case of a continuation-in-part application which adds and claims additional disclosure by amendment, an oath or declaration as required by § 1.63 must also be filed. In a continuation or divisional application which discloses and claims only subject matter disclosed in a prior application, no additional oath or declaration is required.

(d) If an application which has been accorded a filing date pursuant to paragraph (a) of this section does not include the appropriate filing fee pursuant to paragraph (b) of this section, or an oath or declaration by the applicant in the case of a continuation-in-part application pursuant to paragraph (c) of this section, applicant will be so notified and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent adandonment of the application. The notification pursuant to this paragraph may be made simultaneously with any notification of a defect pursuant to paragraph (a) of this section.

(e) An application filed under this section will utilize the file wrapper and contents of the prior application to constitute the new continuation, continuation-in-part, or divisional application but will be assigned a new application serial number.

(f) The filing of an application under this section will be construed to include a waiver of secrecy by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, or information concerning either the prior application or any continuing application filed under the provisions of this section may be given similar access to, or similar information concerning, the other application(s) in the file wrapper.

(g) The filing of a request for a continuing application under this section will be considered to be a request to expressly abandon the prior application as of the filing date granted the continuing application.

(h) The applicant is urged to furnish the following information relating to the prior application to the best of his or her ability:

(1) Title as originally filed and as last amended;

(2) Name of applicant as originally filed and as last amended;

(3) Current correspondence address of applicant;

(4) Identification of prior foreign application and any priority claim under 35 U.S.C. 119.

(i) Envelopes containing only application papers and fees for filing under this section should be marked "Box FWC".

26. A new § 1.63 is added to read as follows:

§ 1.63 Oath or declaration.

(a) An oath or declaration filed under § 1.51(a)(2) as a part of an application must:

(1) Be executed in accordance with either § 1.66 or § 1.68;

(2) Identify the specification to which it is directed;

(3) Indentify each inventor and the residence and country of citizenship of each inventor; and

(4) State whether the inventor is a sole or joint inventor of the invention claimed.

(b) In addition to meeting the requirements of paragraph (a), the oath or declaration must state that the person making the oath or declaration:

(1) Has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration;

(2) Believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought; and

(3) Acknowledges the duty to disclose information which is material to the examination of the application in accordance with § 1.56(a).

(c) In addition to meeting the requirements of paragraphs (a) and (b) of this section, the oath or declaration in any application in which a claim for foreign priority is made pursuant to § 1.55 must identify the foreign application for patent or inventor's certificate on which priority is claimed, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month and year of its filing.

(d) In any continuation-in-part application filed under the conditions specified in 35 U.S.C. 120 which discloses and claims subject matter in addition to that disclosed in the prior copending application, the oath or declaration must also state that the person making the oath or declaration acknowledges the duty to disclose material information as defined in § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

27. A new § 1.64 is added to read as follows:

§ 1.64 Person making oath or declaration.

(a) The oath or declaration must be made by all of the actual inventors except as provided for in §§ 1.42, 1.43, or 1.47.

(b) If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43, or 1.47), the oath or declaration shall state the relationship of the person to the inventor and, upon information and belief, the facts which the inventor is required to state.

§ 1.65 [Removed]

28. Section 1.65 is removed.

29. Section 1.67 is revised to read as follows:

§ 1.67 Supplemental oath or declaration.

(a) A supplemental oath or declaration meeting the requirements of § 1.63 may be required to be filed to correct any deficiencies or inaccuracies present in an earlier filed oath or declaration.

(b) A supplemental oath or declaration meeting the requirements of § 1.63 must be filed: (1) When a claim is presented for matter originally shown or described but not substantially embraced in the statement of invention or claims originally presented; and (2) When an oath or declaration submitted in accordance with § 1.53(d) after the filing of the specification and any required drawings specifically and improperly refers to an amendment which includes new matter. No new matter may be introduced into an application after its filing date even if a supplemental oath or declaration is filed (§ 1.53(b); § 1.118). In proper cases the oath or declaration here required may be made on information and belief by an applicant other than inventor.

30. Section 1.69 is amended by revising paragraph (b) to read as follows:

§ 1.69 Foreign language oaths and declarations.

* * * * *

(b) Unless the text of any oath or declaration in a language other than English is a form provided or approved by the Patent and Trademark Office, it must be accompanied by a verified English translation, except that in the case of an oath or declaration filed under § 1.63, the translation may be filed in the Office no later than two months

from the date applicant is notified to file the translation.

31. Section 1.70 is amended by revising the title and paragraph (a) to read as follows:

§ 1.70 Oath or declaration under 35 U.S.C. 371(c)(4).

(a) When an applicant of an international application, if the inventor, desires to enter the national stage under 35 U.S.C. 371, he or she must file an oath or declaration in accordance with § 1.63.

* * * * *

32. Section 1.77 is amended by revising paragraphs (h) and (i) to read as follows:

§ 1.77 Arrangement of application elements.

* * * * *

(h) Abstract of the disclosure.

(i) Signed oath or declaration.

* * * * *

33. The center heading preceding § 1.97 and § 1.97 are revised to read as follows:

Information Disclosure Statement

§ 1.97 Filing of information disclosure statement.

(a) As a means of complying with the duty of disclosure set forth in § 1.56, applicants are encouraged to file an information disclosure statement at the time of filing the application or within the later of three months after the filing date of the application or two months after applicant receives the filing receipt. If filed separately, the disclosure statement should, in addition to the identification of the application, include the Group Art Unit to which the application is assigned as indicated on the filing receipt. The disclosure statement may either be separate from the specification or may be incorporated therein.

(b) A disclosure statement filed in accordance with paragraph (a) of this section shall not be construed as a representation that a search has been made or that no other material information as defined in § 1.56(a) exists.

34. Section 1.98 is amended by revising the title and paragraph (a) to read as follows:

§ 1.98 Content of information disclosure statement.

(a) Any disclosure statement filed under § 1.97 or § 1.99 shall include: (1) A listing of patents, publications or other information; and (2) A concise explanation of the relevance of each listed item. The disclosure statement shall be accompanied by a copy of each listed patent or publication or other item of information in written form or of at least the portions thereof considered by the person filing the disclosure statement to be pertinent. All United States patents listed should be identified by their patent numbers, patent dates and names of the patentees. Each foreign published application or patent should be cited by identifying the country or office which issued it, the document number and publication date indicated on the document. Each printed publication should be identified by author (if any), title of the publication, pages, date and place of publication.

* * * * *

35. Section 1.99 is revised to read as follows:

§ 1.99 Updating of information disclosure statement.

If prior to issuance of a patent an applicant, pursuant to his or her duty of disclosure under § 1.56, wishes to bring to the attention of the Office additional patents, publications or other information not previously submitted, the additional information should be submitted to the Office with reasonable promptness. It may be included in a supplemental information disclosure statement or may be incorporated into other communications to be considered by the examiner. Any transmittal of additional information shall be accompanied by explanations of relevance and by copies in accordance with the requirements of § 1.98.

36. Section 1.101 is amended by revising paragraph (a) to read as follows:

§ 1.101 Order of examination.

(a) Applications filed in the Patent and Trademark Office and accepted as complete applications are assigned for examination to the respective examining groups having the classes of inventions to which the applications relate. Applications shall be taken up for examination by the examiner to whom they have been assigned in the order in which they have been filed except for those applications in which examination has been advanced pursuant to § 1.102 and those applications in which the Office has accepted a request for waiver of patent rights filed under § 1.139. International applications which have complied with the requirements of 35 U.S.C. 371(c) will be taken up for action based on the date on which such requirements were met. However, unless a request has been filed under 35 U.S.C. 371(f), no action may be taken prior to 21 months from the priority date.

* * * * *

37. Section 1.118 is revised to read as follows:

§ 1.118 Amendment of disclosure.

(a) No amendment shall introduce new matter into the disclosure of an application after the filing date of the application (§ 1.53(b)). All amendments to the specification, including the claims, and the drawings filed after the filing date of the application must conform to at least one of them as it was at the time of the filing of the application. Matter not found in either, involving a departure from or an addition to the original disclosure, cannot be added to the application after its filing date even though supported by an oath or declaration in accordance with § 1.63 or § 1.67 filed after the filing date of the application.

(b) If it is determined that an amendment filed after the filing date of the application introduces new matter, claims containing new matter will be rejected and deletion of the new matter in the specification and drawings will be required even if the amendment is accompanied by an oath or declaration in accordance with § 1.63 or § 1.67.

38. Section 1.123 is revised to read as follows:

§ 1.123 Amendments to the drawing.

No change in the drawing may be made except by permission of the Office. Permissible changes in the construction shown in any drawing may be made only by bonded draftsmen, at applicant's expense, or by the submission of substitute drawings by applicant. A sketch in permanent ink showing proposed changes, to become part of the record, must be filed for approval by the examiner. The paper requesting amendments to the drawing should be separate from other papers.

39. Section 1.125 is revised to read as follows:

§ 1.125 Substitute specification.

If the number or nature of the amendments shall render it difficult to consider the case, or to arrange the papers for printing or copying, the examiner may require the entire specification, including the claims, or any part thereof, to be rewritten. A substitute specification may not be accepted unless it has been required by the examiner or unless it is clear to the examiner that acceptance of a substitute specification would facilitate processing of the application. Any substitute specification filed must be accompanied by a statement that the substitute specification includes no new matter. Such statement must be a verified statement if made by a person not registered to practice before the Office.

40. Section 1.131 is amended by revising paragraph (a) to read as follows:

§ 1.131 Affidavit or declaration of prior invention to overcome cited patent or publication.

(a) When any claim of an application or a patent under reexamination is rejected on reference to a domestic patent which substantially shows or describes but does not claim the rejected invention, or on reference to a foreign patent or to a printed publication, and the applicant or the owner of the patent under reexamination shall make oath or declaration as to facts showing a completion of the invention in this country before the filing date of the application on which the domestic patent issued, or before the date of the foreign patent, or before the date of the printed publication, then the patent or publication cited shall not bar the grant of a patent to the applicant or the confirmation of the patentability of the claims of the patent, unless the date of such patent or printed publication is more than one year prior to the date on which the applicant's or patent owner's application was filed in this country.

* * * * *

41. Section 1.132 is revised to read as follows:

§ 1.132 Affidavits or declarations traversing grounds of rejection.

When any claim of an application or a patent under reexamination is rejected on reference to a domestic patent which substantially shows or describes but does not claim the invention, or on reference to a foreign patent, or to a printed publication, or to facts within the personal knowledge of an employee of the Office, or when rejected upon a mode or capability of operation attributed to a reference, or because the alleged invention is held to be inoperative or lacking in utility, or frivolous or injurious to public health or morals, affidavits or declarations traversing these references or objections may be received.

42. Section 1.137 is amended by revising paragraph (b) to read as follows:

§ 1.137 Revival of abandoned application.

* * * * *

(b) An application unintentionally abandoned for failure to prosecute, except pursuant to § 1.53(d), may be revived as a pending application if the delay was unintentional. A petition to revive an unintentionally abandoned application must be filed within one year of the date on which the application became abandoned or be filed within three months of the date of the first decision on a petition to revive under paragraph (a) of this section which was filed within one year of the date of abandonment of the application. A petition to revive an unintentionally abandoned application must be accompanied by: (1) A statement that the abandonment was unintentional; (2) A proposed response unless it has been previously filed, and (3) a petition fee as set forth in § 1.17(m). Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the abandonment was unintentional. The three month period set forth in this paragraph may be extended under the provisions of § 1.136(a), but no further extensions under § 1.136(b) will be granted. Petitions to the Commissioner under § 1.183 to waive any time periods for requesting revival of an unintentionally abandoned application will not be considered, but will be returned to the applicant.

* * * * *

43. Section 1.153 is amended by revising paragraph (b) to read as follows:

§ 1.153 Title, description and claim, oath or declaration.

* * * * *

(b) The oath or declaration required of the applicant must comply with § 1.63.

44. Section 1.154 is amended by revising paragraph (e) to read as follows:

§ 1.154 Arrangement of specification.

* * * * *

(e) Signed oath or declaration (See § 1.153(b)).

45. Section 1.162 is revised to read as follows:

§ 1.162 Applicant, oath or declaration.

The applicant for a plant patent must be the person who has invented or discovered and asexually reproduced the new and distinct variety of plant for which a patent is sought (or as provided in §§ 1.42, 1.43, and 1.47). The oath or declaration required of the applicant, in addition to the averments required by § 1.63, must state that he or she has asexually reproduced the plant. Where the plant is a newly found plant the oath or declaration must also state that it was found in a cultivated area.

46. Section 1.163 is amended by revising paragraph (b) to read as follows:

§ 1.163 Specification.

* * * * *

(b) Two copies of the specification (including the claim) must be submitted, but only one signed oath or declaration is required. The second copy of the specification may be a legible carbon copy of the original.

47. Section 1.172 is amended by revising paragraph (a) to read as follows:

§ 1.172 Applicants, assignees.

(a) A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§ 1.42, 1.43, 1.47), and must be accompanied by the written assent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent.

* * * * *

48. Section 1.174 is amended by revising paragraph (a) to read as follows:

§ 1.174 Drawings.

(a) The drawings upon which the original patent was issued may be used in reissue applications if no changes whatsoever are to be made in the drawings. In such cases, when the reissue application is filed, the applicant must submit a temporary drawing which may consist of a copy of the printed drawings of the patent or a photoprint of the original drawings of the size required for original drawing.

* * * * *

49. Section 1.175 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 1.175 Reissue oath or declaration.

(a) Applicants for reissue, in addition to complying with the requirements of § 1.63, must also file with their applications a statement under oath or declaration as follows:

* * * * *

50. Section 1.324 is revised to read as follows:

§ 1.324 Correction of inventorship in patent.

Whenever a patent is issued and it appears that the correct inventor or inventors were not named through error without deceptive intention on the part of the actual inventor or inventors, the Commissioner may, on petition of all the parties and the assignees and satisfactory proof of the facts and

payment of the fee set forth in § 1.20(b), or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors.

51. Section 1.325 is revised to read as follows:

§ 1.325 Other mistakes not corrected.

Mistakes other than those provided for in §§ 1.322, 1.323, 1.324, and not affording legal grounds for reissue or for reexamination, will not be corrected after the date of the patent.

52. A new § 1.335 is added to read as follows:

§ 1.335 Filing of notice of arbitration awards.

(a) Written notice of any award by an arbitrator pursuant to 35 U.S.C. 294 must be filed in the Patent and Trademark Office by the patentee, or the patentee's assignee or licensee. If the award involves more than one patent a separate notice must be filed for placement in the file of each patent. The notice must set forth the patent number, the names of the inventor and patent owner, and the names and addresses of the parties to the arbitration. The notice must also include a copy of the award.

(b) If an award by an arbitrator pursuant to 35 U.S.C. 294 is modified by a court, the party requesting the modification must file in the Patent and Trademark Office, a notice of the modification for placement in the file of each patent to which the modification applies. The notice must set forth the patent number, the names of the inventor and patent owner, and the names and addresses of the parties to the arbitration. The notice must also include a copy of the court's order modifying the award.

(c) Any award by an arbitrator pursuant to 35 U.S.C. 294 shall be unenforceable until any notices required by paragraph (a) or (b) of this section are filed in the Patent and Trademark Office. If any required notice is not filed by the party designated in paragraph (a) or (b) of this section, any party to the arbitration proceeding may file such a notice.

PART 5—[AMENDED]

53. Section 5.12 is revised to read as follows:

§ 5.12 Petition for license.

(a) Filing of an application for patent for inventions made in the United States will be considered to include a petition for license under 35 U.S.C. 184 for the subject matter of the application. The filing receipt will indicate if a license is granted. If the initial automatic petition is not granted, a subsequent petition may be filed under paragraph (b) of this section.

(b) Petitions for license under 35 U.S.C. 184 should be presented in letter form and should include petitioner's address, and full instructions for delivery of the requested license when it is to be delivered to other than the petitioner.

Dated: December 23, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 83-1507 Filed 1-19-83; 8:45 am]

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federal register

Thursday
January 20, 1983

Part VI

Environmental Protection Agency

Control of Air Pollution From Aircraft Engines; Emission Standard for JT3D Engines

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[AMS FRL-2269-6]

Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standard for JT3D Engines

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This amendment eliminates the requirement for retrofitting the remaining unmodified JT3D aircraft engines on aircraft in service to and from United States point with low smoke combustors. This action responds to a petition from AVMARK, Inc., 1120 19th Street, N.W., Washington, D.C. 20036.

EFFECTIVE DATE: January 20, 1983.

ADDRESS: U.S. Environmental Protection Agency, Office of Mobile Sources (ANR-455).

FOR FURTHER INFORMATION CONTACT: Mr. George D. Kittredge, U.S. Environmental Protection Agency, Office of Mobile Sources (ANR-455), 401 M Street, S.W., Washington, D.C. 20460; telephone (202) 382-4981.

SUPPLEMENTARY INFORMATION:

I. Background

The EPA aircraft engine emission standards promulgated in response to Section 231 of the Clean Air Act include a requirement that Pratt and Whitney JT3D engines in service on aircraft serving United States points be retrofitted to comply with smoke standards on a schedule matching that for FAA noise retrofit standards applicable to the same aircraft § 87.31(c), Title 40, Code of Federal Regulations).

On October 21, 1981 the AVMARK Corporation, of Washington, D.C., submitted a petition in behalf of "Ports of Call" travel club of Denver, Colorado, and a group of other small operators of JT3D-powered aircraft, requesting that EPA eliminate this requirement from that aircraft engine emission standards.

On May 11, 1982, EPA published a Notice of Proposed Rulemaking (47 FR 20153), inviting comments on the AVMARK petition and proposing that it be granted. The NPRM also presented additional information, assembled by EPA from available FAA records, which summarized trends in the population and usage of commercial aircraft powered by JT3D engines since the EPA aircraft engine emission standards were first proposed on December 12, 1972 (37 FR 26488).

Comments on the NPRM were received from 26 organizations, including the Air Transport Association (ATA), the International Air Transport Association (IATA), the Airport Operators Council International (AOCI), the Federal Aviation Administration (FAA), one aircraft engine servicing organization and a group of airlines and charter operators of aircraft powered by JT3D engines, who were the intended beneficiaries of the AVMARK petition.

II. Discussion of Issues

The comments were overwhelmingly in favor of granting the petition; only one recommended a denial and one a partial denial. They will be summarized by category. A complete "Summary and Analysis of Comments" document is available for inspection and copying in Docket No. A-82-18 at the address given earlier.

Economic Impact

Twelve commenters, including both large and small aircraft operators and leasing concerns, claimed that cost savings would be realized as a result of eliminating the standard prior to January 1, 1983 (the next scheduled partial compliance date, which requires that 50 percent of each operator's engines be retrofitted). However, only two commenters provided quantitative estimates of cost savings, which each estimated as roughly $500-560,000 over the next two-and-one-half years.

Concerning cost penalties if the standard were eliminated, only one commenter (the Airport Operators Council International) recommended against rescinding the standard, claiming that the costs saved by the aircraft operators would be transferred to their member airports. They offered no evidence to substantiate this position, however.

In response to questions asked in the NPRM, commenters representing large airlines which had incurred some costs in complying with the January 1, 1981 partial compliance date already passed, nevertheless recommended that the standard be withdrawn in any case as being economically beneficial to industry on the whole.

None of the other comments responded affirmatively to the questions in the NPRM which asked whether economic losses or other adverse effects would be experienced by aircraft operators which had made good faith efforts to comply or by the installers of the smoke retrofit kits.

No comments were received on this point from the manufacturer of the smoke retrofit kit.

Environmental Impact

Most of the comments were essentially the same, to the effect that the intent of the JT3D smoke retrofit standard will be met even if the standard is withdrawn, because the aircraft will all have to be retired from U.S. service on January 1, 1985 to comply with the FAA noise standard. The only environmental benefit would be represented by those few aircraft which might be retrofitted to meet the January 1, 1983 50-percent compliance date by operators who found it impossible to develop and submit an acceptable aircraft replacement plan.

One comment challenged this position (AOCI), on the grounds of expected increases in complaints to airport authorities about smoky aircraft engines from residential areas in and around large metropolitan airports. They did not substantiate this position, however, with data which documents any history of complaints of this sort. EPA has received only one or two complaints per year relating to aircraft smoke (or fuel venting) ever since completion of the JT3D smoke retrofit program in 1974. The steadily diminishing number of JT3D-powered aircraft and their reduced usage would suggest that the incidence of complaints will continue to diminish between now and 1985, with or without completion of the retrofit program.

Subsequent to the public comment period, EPA was advised by FAA that an effort was being made by a private organization to develop and certificate a noise retrofit system which could be installed on at least some JT3D-powered aircraft by 1985. To the extent that this effort is successful, it could adversely influence the environmental impact of eliminating the JT3D smoke retrofit requirement. This is because the reduced smoke combustor developed to comply with the smoke standard also results in hydrocarbon emissions less than half the level produced by the original combustor, as shown in the following table.

GASEOUS EMISSIONS FROM JT3D-7 ENGINE

[Kilograms/landing-takeoff cycle]

Pollutant	Original combustors	Reduced smoke combustors
HC	30.3	13.4
CO	24.8	19.6
NO_x	2.6	4.5

EPA estimates that up to 50 of the remaining B707 aircraft might be

retrofitted with the candidate noise suppression system and continue to operate at the rate of 160 hours per month after January 1, 1985. Their annual emissions of hydrocarbons would be roughly 2282 tons per year higher if the remaining three engines per aircraft were not retrofitted with low smoke combustors as required by the present standard. This assumes that one engine per aircraft has already been retrofitted to comply with the January 1, 1981, 25 percent compliance requirement. Therefore, under this scenario, which depends on the advent of a successful noise retrofit system before 1985, there would be a small environmental penalty in terms of hydrocarbon emissions associated with complete withdrawal of the JT3D smoke retrofit standard.

There would also be a lesser increase in carbon monoxide emissions but this is of much less concern with respect to airport air pollution, as pointed out in the preamble to a recently published final rulemaking action (47 FR 58462) which amends other EPA aircraft engine emissions standards.

Concerning the increased visible smoke itself, while this could conceivably result in a higher incidence of public complaints to airport officials as claimed by AOCI, it appears doubtful, in EPA's judgment, that there would be any detectable difference—not enough to justify the costs of installing low smoke combustors on 50 aircraft. These costs could approach $6 million," assuming an installed cost of $40,000 per engine. (This estimate does not allow for any economies which might result if the noise and smoke retrofit operations were done at the same time and place.)

Alternatives To Eliminating Standard

The present regulations provide several mechanisms for achieving relief. An operator can submit a replacement plan to FAA documenting his business arrangements for replacing JT3D-powered aircraft by January 1, 1985, or he can apply to EPA for a temporary exemption to cover problems such as delays in obtaining delivery of replacement parts. He can also simply withdraw the aircraft from U.S. service on or before the compliance date.

Accordingly, the NPRM asked for comments on whether complete elimination of the standard offers any advantages over the various avenues of relief in the existing provisions. Five organizations offered comments on this point, and four advocated complete elimination of the standard. Arguments were that: (1) Time-consuming preparation of exemption requests or aircraft replacement plans would be eliminated, (2) selling or leasing the aircraft between now and 1985 would be easier, and (3) operators still in possession of "retired" aircraft would have the flexibility to reactivate them in response to sudden traffic expansion.

The fifth comment, by FAA, recommended that only the 1983 50-percent compliance date be eliminated. The most important concerns raised by FAA in this regard are: (1) The possibility of penalizing those who have made a good faith effort to comply, and (2) the environmental benefits of the regulation.

In response to FAA's first concern, those operators who have made good faith efforts to comply with the standard—by purchasing and installing smoke retrofit kits—nonetheless recommend that the standard be rescinded. They stated that this would allow them to avoid further costs and give them more flexibility to operate and/or lease the remaining aircraft until 1985.

The intended environmental benefits of the standard suppression of visible smoke during takeoff operations at large metropolitan airports will largely be realized as a by-product of the FAA noise standard which applies to the same aircraft. Compliance with the noise standard will likely be achieved through substitution of a completely different engine (the GE/SNECMA CFM 56) on some DC8 aircraft plus withdrawal of most, if not all, of the remaining DC8 and B707 aircraft from the U.S. service. As the FAA pointed out in its comments, some B707 aircraft may be retrofitted with a noise suppression system which is still under development and has not yet been certificated by the FAA. If this should happen, up to 50 aircraft or so may continue operating after January 1, 1985. Their environmental impact is most readily quantified in terms of hydrocarbon emissions, as pointed out earlier, and the 50 aircraft could emit annual emissions of about 4085 tons HC/year nationwide if the remaining three engines on each of them are not modified to comply with the smoke standard compared to 1803 tons HC/year if they are modified, which yields a net HC penalty of 2282 tons HC/year. However, to put this in perspective, the smallest category of volatile organic emissions source presently included in EPA's Control Technique Guideline Documents for stationary source controls (Magnet Wire Coating) emits 32,500 tons/year nationwide. Therefore, the possible impact of nationwide HC emissions from operations of up to 50 aircraft either with or without reduced smoke combustors after 1985 falls well below the range heretofore considered worth controlling by EPA.

If the costs of the low smoke combustor were charged completely against HC control, the cost effectiveness would amount to $2629/ton, which is higher than that for other sources of volatile organic emissions regulated either by EPA or by the States as control strategies for achieving the National Ambient Air Quality Standard for ozone. Therefore, it does not appear that the small nationwide increase in HC emissions which may result if some B707 aircraft are retrofitted to comply with the noise standard represents a convincing reason to retain the smoke standard. As discussed earlier, the lesser increase in CO emissions and the visual impact of continued operations with a few smoky aircraft do not alter this conclusion.

III. Public Participation

Twenty-six comments were received on the Notice of Proposed Rulemaking and on the benefits, penalties, cost and equity considerations associated with granting the petition. These comments and an EPA analysis are available for review at the EPA Central Dockets Section (Docket Number A–82–18) at the address given earlier.

IV. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements for a Regulatory Analysis. This rulemaking is not major because it will result in annual adverse effects on the economy of less than $100 million. No comments were received on the overall costs estimated in the proposal.

There are no discernible effects on competition, productivity, investment employment or innovation. For these reasons EPA has not prepared a formal Regulatory Impact Analysis.

This proposal has been sent to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12291.

V. Impacts on Reporting Requirement

There are no reporting requirements directly associated with this rulemaking.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to determine when a regulation will have significant effect on a substantial number of small entities so as to require a regulatory flexibility analysis. This rulemaking action will presumably have some effect on the small operators of surplus B707 and DC8 aircraft who are

its intended beneficiaries, although t effect cannot be established accurately because the exact plans of each such organization are not known to EPA. In fact, only one of the organizations in whose behalf the petition was submitted was identified. There is no reason to believe at this time that the effect would be "significant" and would require a regulatory analysis. Accordingly, I hereby certify that this rulemaking will not have a significant effect on a substantial number of small entities.

VII. Other Information

This rule becomes effective on the date of publication because it is a "substantive rule" which "relieves a restriction" under 5 U.S.C. 553(d)(1) by rescinding the aircraft smoke limitation. Also, EPA finds that there is "good cause" under 5 U.S.C. 553(d)(3) for making this rule immediately effective. Under a later effective date, owners of affected aircraft would, under the existing regulation, be required to retrofit aircraft to meet a smoke standard which became effective on January 1, 1983, while the standard would be rescinded by this rule only a few weeks later. Imposing the existing smoke standard on aircraft owners only to rescind it a few weeks later would create confusion and impose an unreasonable burden on the regulated parties as well as wasting EPA enforcement resources.

List of Subjects in 40 CFR Part 87

Air pollution control, Aircraft.

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 87—[AMENDED]

For the reasons set forth above, 40 CFR Part 87 is amended as follows:

1. The authority for Part 87 reads as follows:

Authority: Secs. 231, 301(a), Clean Air Act, as amended (42 U.S.C. 7571, 7601(a)).

2. In § 87.31, paragraph (c) is removed; and paragraph (d) is redesignated as (c) and is revised to read as follows:

§ 87.31 Standards for exhaust emissions.

* * * * *

(c) The standards set forth in paragraphs (a) and (b) of this section refer to exhaust smoke emissions emitted during operations of the engine as specified in the applicable section of Subpart H of this part, and measured and calculated in accordance with the procedures set forth in this subpart.

[FR Doc. 83-1516 Filed 1-19-83; 8:45 am]

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federal register

Thursday
January 20, 1983

Part VII

Department of Agriculture

Office of the Secretary

Special and Alcohol Fuels Research Grants Programs for Fiscal Year 1983; Solicitation of Applications

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Special and Alcohol Fuels Research Grants Programs for Fiscal Year 1983; Solicitation of Applications

Special Research Grants Program. Notice is hereby given that under the authority of section 2(c)(1) of the Act of August 4, 1965, Pub. L. 89–106, as amended (7 U.S.C. 450i), the Cooperative State Research Service (CSRS) of the U.S. Department of Agriculture (USDA) will award project grants for certain areas of research. Fundamental and innovative approaches will be sought for the resolution of program problem areas. The total amount available for this program during the Fiscal Year 1983 is $8,934,225. This solicitation is being announced to allow adequate time for potential recipients to prepare and submit applications. See Appendix I for application procedures The research to be supported is in the following areas:

Soybean Research	$501,455
CSRS Contact: Dr. C. I. Harris; Telephone 202–447–4587.	
Antidesertification	$1,003,878
CSRS Contact: Dr. C. I. Harris; Telephone 202–447–4587.	
Animal Health Research	$6,927,437
CSRS Contact: Dr. Earl Splitter; Telephone 202–447–5007.	
Aquaculture Research	$501,455
CSRS Contact: Dr. Howard S. Teague; Telephone 202–447–3847...	

Alcohol Fuels Research Grants Program

In addition, notice is hereby given that pursuant to the authority of section 1419 of the Food and Agriculture Act of 1977, Pub. L. 95–113, as amended (7 U.S.C. 3154), CSRS, USDA, will award project grants for research in the area of alcohols and industrial hydrocarbons from agricultural commodities and forest products and agricultural chemicals and other products from coal derivatives. The total amount available for this program during Fiscal Year 1983 is $522,752. This solicitation is being announced to allow adequate time for potential recipients to prepare and submit applications. See Appendix I for application procedures. The research to be supported is in the following area:

Biomass Research	$522,752
CSRS Contact: Dr. Paul Schlesener; Telephone 202–447–5680.	

The Alcohol program funds are intended to stimulate and support energy-related research. Such research is national in scope, is not designed to meet the needs or address the problems of a particular State, area or locality, does not include demonstration or pilot research projects, and does not involve capital construction.

Proposals submitted in response to this notice will be evaluated in competition with proposals from other institutions. Grants will be awarded for research proposals selected by CSRS, utilizing recommendations of Peer Panels, from funds appropriated for Fiscal Year 1983 (October 1, 1982 through September 30, 1983). Projects may be up to 5 years' duration unless a shorter duration is specified. According to the requirements for Federal assistance program announcements under Pub. L. 95–220, The Federal Program Information Act, the following information is provided with respect to the areas of research described in this announcement for which project grants will be awarded:

(1) As outlined by OMB Circular No. A–89, the official program number and title for the Special Research grants are: 10.200, Grants for Agricultural Research, Special Research Grants.

(2) As outlined by OMB Circular No. A–89, the official program number and title for the Alcohol Research grants are: 10.206, Alcohol Fuels Research.

(3) OMB Circular No. A–95, regarding State and local clearinghouse review of Federal and Federally assisted programs, does not apply.

Subject Matter Guidelines for Fiscal Year 1983, Grants Under Section 2(c)(1) of Pub. L. 89–106, as amended, and Section 1419 of Pub. L. 95–113 as amended.

A. The applicable program should be indicated in Block 7 and the applicable program area and specific area of inquiry should be indicated in Block 8 of Form S&E–661 provided in the Grant Application Kit. Select one program and one program area only. The final determination of the program and program area will be made by the program staff and/or the appropriate panel. The number assigned to the specific area of inquiry must also be cited, if applicable (e.g., 2.1, 2.2), in Block 8 of Form S&E–661.

B. Information concerning the selection of proposals for funding is included in Appendix II. The appropriate format for preparation of the proposal is described in Appendix III. Appendix IV shows the scoring form which will be utilized by peer panel members and Appendix IV–A provides general information concerning proposal evaluation and grant administration. Detailed descriptions of the program areas to be supported follow.

Program Research Grants Program

Program Areas

1.0 *Soybean Research.* The total amount available for soybean research during Fiscal Year 1983 is $501,455. Grant awards will be limited to a maximum of $100,000 for the support of any project in this program area. Proposals requesting in excess of $100,000 will not be evaluated. Proposals submitted for funding should address the following specific areas of inquiry:

1.1 Soybean production research to sustain or increase yields and conserve natural resources. Preference will be given to strategies with broad or national implication.

1.2 Research on soybean genetic mechanisms contributing to tolerance to biotic and abiotic stress.

2.0 *Antidesertification Research.* The total amount available in Fiscal Year 1983 is $1,003,878. Grants will be awarded to fund research proposals seeking solutions to the sustained decline in biological productivity of arid and semiarid lands caused by man-made stresses sometimes in conjunction with extreme natural events. The overall objective is to develop strategies to quantify desertification trends, and sustain or increase productivity of lands undergoing desertification. Proposals submitted for funding should address the following specific areas of inquiry:

2.1 Laboratory or field studies focusing on systems processes (biological, physical, economic and behavioral) for quantifying trends, preventing or reversing desertification. Grant awards will be limited to a maximum of $80,000 for the support of any project in this specific area of inquiry. Proposals requesting in excess of $80,000 will not be evaluated.

2.2 Subsystem and systems oriented, interdisciplinary research projects using generated or extant information and including combinations of at least two of the following disciplines: biological, physical, economic, and socio-political sciences. The spirit of interdisciplinary research from planning to completion should be demonstrated. Grant awards will be limited to a maximum of $200,000 for the support of any project in this specific area of inquiry. Proposals requesting in excess of $200,000 will not be evaluated.

3.0 *Animal Health.* The total amount available for this area during Fiscal Year 1983 is $6,927,437. These funds will be awarded to support research seeking solutions to health problems of liverstock and poultry and major aquaculture species. Grant awards will be limited to a maximum of $150,000 for

the support of any project in this program area. Proposals requesting in excess of $150,000 will not be evaluated. The overall objective of this research is to develop and/or refine abiotic and biotic methodologies for suppression of animal losses due to infectious and noninfection diseases and internal and external parasites of livestock, poultry, and major aquaculture species. Research will be directed toward: (1) Clarification of infectious and noninfectious diseases and parasites or their interactive effects on animal health; and (2) development of practical implementable management systems for the producer to prevent or alleviate these causes of animal losses. Research may include clarification of complex or unknown etiologies including environmental interactions; development of improved methods of detecting disease agents or antibodies in animals, animal product, tissues, etc.; clarification of disease pathogenesis; determination of methods of disease transmission including transmission by embryo transfer, artificial insemination and importation of animal products—such studies should mimic as close as possible the normal conditions of collection, preparation and use of these items; development of improved methods of immunization against disease agents that will provide solid and persistent protection without compromising diagnosis; development of alternative pest eradication methods so as to limit the use and dependence on biotoxic substances—such alternatives may include biologic methods, sterile male techniques, artificial pheromones, etc.; and development of other disease prevention, control and eradication technology.

The specific areas of inquiry in which projects will be funded are listed below. The specific areas of inquiry are broken down into subcategories which will be funded in the approximate amounts listed. In the event that there are insufficient meritorious proposals recommended by peer panels to utilize all funds in each specific area of inquiry or in each subcategory, the balance of any such funds will be awarded to meritorious proposals recommended by peer panels under the other subcategories within the specific area of inquiry or the other specific areas of inquiry. Utilizing the recommendations of the peer panels, the Administrator of CSRS will make the final determination on specific grants to be awarded. Only proposals dealing with the following specific areas of inquiry will be selected for funding:

3.1 Beef Cattle. (1) Respiratory disease complex. (Approximately 17 percent of available funds)

(2) Reproductive diseases, especially brucellosis and including but not limited to anestrus, leptospirosis and vibriosis. (Approximately 12 percent of available funds)

(3) Enteric diseases, including but not limited to Johne's Disease. (Approximately 8 percent of available funds)

(4) Parasites (internal and external), including but not limited to anaplasmosis, ticks, flukes, nematodes and interactive effects of internal and external parasites. Metabolic diseases, especially bloat, grass tetany and mineral imbalance. (Approximately 4 percent of available funds)

3.2 Dairy Cattle. (1) Mastitis. (Approximately 6 percent of available funds)

(2) Reproductive diseases, including but not limited to non-detected estrus. (Approximately 5 percent of available funds)

(3) Respiratory diseases. (Approximately 3 percent of available funds)

(4) Digestive and enteric diseases, including but not limited to Johne's Disease. (Approximately 2 percent of available funds)

(5) Foot Rot. (Approximately 2 percent of available funds)

3.3 Swine. (1) Enteric diseases. Viral enteritis, coccidiosis, salmonellosis, colibacillosis and proliferative enteritis. (Approximately 5 percent of available funds)

(2) Respiratory diseases. Hemophilus pleuropneumonia, mycoplasma pneumonia, atrophic rhinitis, and *Pasteurella multocida*. (Approximately 5 percent of available funds)

(3) Reproductive diseases. Parvovirus, Mastitis-metritis-agalactia, pregnancy loss and anestrus. (Approximately 4 percent of available funds)

(4) Other swine diseases. Trichinosis, pseudorabies, external parasites, mycotoxicosis, and lameness. (Approximately 4 percent of available funds)

3.4 Poultry. (1) Respiratory diseases. (Approximately 5 percent of available funds)

(2) Skeletal problems such as femoral head necroses, tibial dyschondroplasia and reovirus infections. (Approximately 4 percent of available funds)

(3) Enteric disorders such as salmonellosis and malabsorption syndrome; immunologic disorders such as infectious bursal disease and adenovirus infections; neoplastic diseases. (Approximately 4 percent of available funds)

3.5 Sheep and Goats. Bluetongue, foot rot, chlamydial polyarthritis, gastrointestinal parasites, caseous lymphadenitis, pneumonia, mastitis, bacterial scours, ram epididymitis and predator control. (Approximately 5 percent of available funds)

3.6 Horses. Especially respiratory diseases, and including but not limited to enteric diseases, reproductive diseases, and musculoskeletal diseases (especially laminitis and lameness). (Approximately 3 percent of available funds)

3.7 Aquaculture. Infectious diseases and parasites. (Approximately 2 percent of available funds)

4.0 Aquaculture Research. The total amount available for this area during Fiscal Year 1983 is $501,455. Grant awards will be limited to a maximum of $80,000 for the support of any project in this program area. Proposals requesting in excess of $80,000 will not be evaluated. The objective of this research is to provide and improve upon the scientific and technical base needed by the aquaculture industry.

Increased production of freshwater species having high commercial potential such as catfish, trout, bait minnows, crawfish and freshwater shrimp will be included. Proposals focused on aquaculture production in the following specific areas of inquiry will be considered:

4.1 Improved production efficiency in diet formulation, reproduction and breeding, and disease and parasite control.

4.2 Improved water quality for production and factors affecting the quality of water discharge.

Alcohol Fuels Research Grants Program

5.0 Alcohol Research. The total amount available for this program during Fiscal Year 1983 is $522,752. Grant awards will be limited to a maximum of $80,000 for the support of any project in this project in this program area of 2 or 3 years' duration. Proposals requesting in excess of $80,000 or proposing a project period of more than 3 years will not be evaluated. This program will cover research on the evaluation (including economic), treatment, and conversion of biomass resources for manufacture of alcohol.

At least 25 percent of these funds shall be made available for research relating to the production of alcohol, to identify and develop agricultural commodities (including alfalfa, sweet sorghum, black locust and cheese whey) which may be suitable for such

production. At least 25 percent of these funds shall be made available for research relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including processes of cellulose conversion and cell membrane technology.

It has been determined that, because of the need to implement these programs so that research relating to plant production can be initiated in the spring of 1983, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Further, this action has been reviewed under Executive Order 12291 and it has been determined that this is not a major rule. Although this Notice establishes the procedures and criteria under which the recipients of Special and Alcohol Fuels Research grants in Fiscal Year 1983 will be selected, and the terms and conditions under which such grants will be administered, it does not involve a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

Done at Washington, D.C., this 11th day of January 1983.

Orville G. Bentley,

Assistant Secretary for Science and Education.

APPENDIX I—APPLICATION PROCEDURES

1. Eligible Institutions

Special Research Grants Program

Grants under section 2(c)(1) of Pub. L. 89–106, as amended, may be made to land-grant colleges and universities, research foundations established by land-grant colleges and universities, State agricultural experiment stations, and to all colleges and universities having a demonstrable capacity in food and agricultural research.

Alcohol Fuels Research Grants Program

Grants under section 1419 of Pub. L. 95–113, as amended, may be made to any college, university, Government corporation on Federal laboratory. Research foundations are not eligible to receive research grants under section 1419 of Pub. L. 95–113 unless they independently meet the definition of college and university as set out in section 1404 of Pub. L. 95–113, as amended.

Section 1404 of Pub. L. 95–113, as amended (7 U.S.C. 3103) defines "college" and "university" as an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association.

Foreign universities or colleges are not eligible under either of the above programs.

2. Proposal Submission

A. Before submission, write or call the Grants Administrative Management Office (address and telephone number below) for a copy(ies) of the Grant Application Kit.

Proposals should be submitted to the Grants Administrative Management Office at the address shown below. Your submission should include an original and 19 copies of the proposal and Form S&E–661, Grant Application, which is included in the Grant Application Kit. The Form S&E–661 submitted with the original proposal should have original signatures of the principal investigator(s) and the authorized organizational representative. CSRS must have original signatures on file for each application. A principal investigator whose signature does not appear on the Grant Application will not be listed as a principal investigator in the event of an award.

Grants Administrative Management Office, Office of Grants and Program Systems, U.S. Department of Agriculture, Suite 103, Rosslyn Commnowealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209, Telephone: (703) 235–2638.

All copies of the proposal should be mailed in one package, if at all possible. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identity. If copies of the proposal *are* mailed in more than one package, the number of packages should be marked on the outside of each. It is important that *all packages be mailed at the same time.* The acknowledgement of receipt of the proposal will contain a proposal number and title. Later inquires, addenda, etc., should include this information. However, every effort should be make to *assure* that the proposal contains *all pertinent information when initially submitted.* Prior to mailing, compare your proposal with the Application Requirements checklist contained in the Grant Application Kit and the format cited in Appendix III of this announcement.

B. To be considered for award, proposals must be prepared in the format prescribed in Appendix III and must be *received* in the Grants Administrative Management Office (GAMO) by the *close of business* on the date specified for each program area as listed below:

Soybean Research—deadline is March 11, 1983
Antidecertification Research—deadline is March 11, 1983
Animal Health Research—deadline March 25, 1983
Aquaculture Research—deadline is April 1, 1983
Alcohol Research—deadline is April 15, 1983

Proposals should not exceed 10 pages (single spaced) excluding the literature citation, vitae appendices, and required forms from the Grant Application Kit.

When proposals exceed 10 pages in total, only the first 10 pages, excluding the pages referenced in the above paragraph, will be evaluated.

C. Research Involving Special Consideration. A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the proposal should so indicate. Since some types of research targeted for CSRS support have a high probability of involving either recombinant deoxyribonucleic acid (DNA) or human subjects, special instructions follow:

Recombinant DNA. Principal investigators and endorsing performing organization officials must comply with the guidelines of the National Institutes of Health (see NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131) and subsequent revisions).

Human Subjects. Safeguarding the rights and welfare of human subjects used in research supported by CSRS grants is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Pub. L. 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46).

If the project involves human subjects at risk, the grantee must furnish CSRS with a statement that the research plan

has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization and that the grantee is in compliance with Department of Health and Human Services (DHHS) policies, as amended, regarding the use of human subjects. Form S&E–84, Protection of Human Subjects, may be used for this purpose.

3. Budget and Report Requirements

The following items apply only to those proposals that are selected for funding:

A. The grant will be awarded on the basis of all financial support, from any source, that is shown in the proposal budget (Form S&E–55). While cost sharing is encouraged, it will not be a factor in the selection process.

B. Annual financia reports (Standard Form 269) will be required.

C. An annual progress report not to exceed 2 pages will be required in addition to a shorter summary for insertion into a computerized research information service. Annual reports will be organized around the objectives and research timetable as specified in the project proposal.

D. Comprehensive (performance and financial) final reports must be submitted to CSRS within 90 calendar days after the termination date of the grant.

E. Grants awarded under the authority of section 2(c)(1) of Pub. L. 89–106, as amended, and section 1419 of Pub. L. 95–113, as amended, do not require matching or cost sharing, but cost sharing is encouraged.

APPENDIX II—SELECTION OF PROPOSALS FOR FUNDING

A. Selection Criteria. A panel of peer scientists for each specific area of inquiry will evaluate the proposals utilizing selection criteria listed in Appendices IV and IV–A. The peer panel, when appropriate, can recommend a reduced level of funding for a proposal or that the research be confined to certain objectives for proposal under review. Utilizing the recommendations of peer panels, CSRS will select the proposals to be funded within the amount availble for each program area.

B. When the peer panel recommends that the amount of award be reduced below the amount proposed for a project or where the panel recommends that only research dealing with selected objectives be funded, these changes will be discussed with the submitting institution. If the institution elects not to make these changes as a condition of the award, the proposal will be dropped from the area of inquiry and another proposal selected from those recommended by the peer panel will be funded. A copy of the summary evaluation made by the peer panel will be provided for each unfunded proposal.

C. Disposition of Proposals. After the grants are awarded, the CSRS program manager will retain one copy of unfunded proposals on file for 5 years. The remaining copies will be destroyed. Confidential business information in applications will be protected to the extent allowable by law from disclosure under the Freedom of Information Act, Pub. L. 93–502 (5 U.S.C. 552).

D. Grant Award. The applicants submitting proposals judged most meritorious under the criteria in Appendix IV will be awarded grants for periods not to exceed five years, within the limitations of available funds.

Appendix III—Format for Research Proposal

The Research Grant Application Kit (available from the Grants Administrative Management Office) includes forms, instructions, and other information to be used in applying for research grants which will be awarded in the areas described earlier.

Additional information and/or instructions relating to the format and content of the Research Proposal follow:

1. Grant Application (Form S&E–661). A Grant Application with all relevant original signatures must be included with the proposal. All other copies of the proposal should also contain a Grant Application, but facsimile or photocopied signatures will be accepted.

2. Title of Proposal. A brief, clear, specific designation of the subject of the research. The title (80 characters maximum) will be used for the USDA Current Research Information System (CRIS), for information to Congress, and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used.

3. Approval Signatures of Appropriate Officials. All proposals from a university, college, or institution must be signed by an authorized official.

4. Objectives. A clear, concise, complete, and logically arranged statement of the specific aims of the research.

5. Procedures. A statement of the essential working plans and methods to be used in attaining each of the stated objectives. Procedures should correspond to the objectives and follow the same order. Procedures should include items such as the sampling plant, experimental design, and analyses anticipated.

6. Justification. This should describe: (1) The importance of the problem to the needs of the Department of Agriculture and to the States or region, being sure to incldue estimates of the magnitude of the problem; (2) the importance of starting the work now; and (3) reasons for the work being performed in your particular institution.

7. Literature Review. A summary of pertinent publications with emphasis on their relationship to the research. Cite important and recent publications from other institutions, as well as your own institution. Citations should be accurate and complete including the title of the article. Literature citations should be appended to the proposal and are not included in the 10-page limit.

8. Current Research. Describe the relevancy of the proposed research to ongoing and as yet unpublished research at your own and at other institutions. Show other grants or support in this and related areas.

9. Facilities and Equipment. The location of the work and the needed and available facilities and equipment should be clearly indicated. This section may be combined with Section 5, Procedures, but the combination must clearly show needed and available facilities and equipment.

10. Research Timetable. Show all important research phases as a function of time, year by year.

11. Personnel Support. Identify clearly all personnel who will be involved in the research. For each scientist involved, include: (1) An estiamte of the time commitments necessary and (2) vitae of the principal investigator, senior associates, and other professional personnel to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support. The vitae also can be provided as an appendix and will not be included in the 10-page limit. The vitae are to be no more than 2 pages each in length excluding publication listings. Provide for each person a chronological list of the most recent representative publications during the preceding 5 years, including those in press. List the authors in the same order as they appear on the paper, the full title, and the complete reference as they usually appear in journals.

12. Additions to Project Description (if any). Each project description is expected by the members of review committees and the program staffs to be complete in itself. Distribution of

additional materials, other than for the records, will be limited to the principal reviewers. In those instances in which the submission of additional material is necessary (e.g., photographs which do not reproduce well, and reprints or other especially pertinent material which are not suitable for inclusion in the proposal), 8 copies or sets, identified by title of the research project and name of the principal investigator(s), should accompany the proposal.

APPENDIX IV—PEER PANEL SCORING FORM

Proposal Identification No.

Institution and Project Title

I. Basic Requirement:
Proposal falls within guidelines? ——— yes ——— no. If no, explain why proposal does not meet guidelines under comment section of this form.

II. Selection Criteria:

		Score 1–10	Weight factor	Score X weight factor	Comments
1.	Scientific and technical quality of the idea		8		
2.	Scientific and technological quality of the approach		8		
3.	Relevance and importance of proposed research to solution of specific areas of inquiry		6		
4.	Feasibility of attaining objectives during life of proposed research		8		
5.	Adequacy of professional training or research experience of research team in essential disciplines needed to conduct the proposed research		8		
6.	Adequacy of facilities, equipment, and professional and technical staffing		5		

Score ———

Summary Comments:

APPENDIX IV-A—EVALUATION OF PROPOSALS

The peer panel, subject to final determination by the Administrator of CSRS, will determine whether a proposal falls within the guidelines. If the proposal does not meet the guidelines, the proposal will be eliminated from competition and returned to the institution submitting the proposal. Proposals not meeting the guidelines will not be scored on selection criteria by the peer panel.

Proposals reflecting a total budget which exceeds the maximum budget allowed for a particular program area will be considered outside the guidelines.

Proposals satisfactorily meeting the guidelines will be evaluated and scored by the peer panel for each criterion utilizing a scale of 1 to 10. A score of one is low for the selection criterion. A score of 10 is high for the selection criterion. A weighting factor is used for each criterion.

Grant Administration and Allowable Costs

The grants awarded will be administered in accordance with the USDA Uniform Federal Assistance Regulations (7 CFR Part- 3015), applicable OMB Circulars and Form S&E-638, General Provisions for Grants and Cooperative Agreements. A copy of Form S&E-638 is included in the Grant Application Kit.

The determination of allowable costs shall be made in accordance with the following applicable Federal Cost Principles in effect on the effective date of the Agreement:

Educational Institutions—OMB Circular A-21
Nonprofit Organizations—OMB Circular A-122
Commercial Firms—FPR 1-15.2

Information collection requirements contained in this document have been approved by OMB Document No. 0524-0010.

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**OFFICE O
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5 CFR Pa

**Personne
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AGENCY: O
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ACTION: F

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Rules and Regulations

Federal Register
Vol. 48, No. 15
Friday, January 21, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 470

Personnel Management Research Programs and Demonstration Projects

AGENCY: Office of Personnel Management.

ACTION: Final regulation.

SUMMARY: Under the authority granted by the Civil Service Reform Act of 1978, the Office of Personnel Management is publishing final regulations to implement statutory provisions which permit OPM to conduct or sponsor personnel management research and demonstration projects.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Donald Hill, Office of Planning and Evaluation, (202) 254–6486.

SUPPLEMENTARY INFORMATION:

Background.

Authorities to conduct personnel management research and demonstration projects were enacted October 13, 1978, under Title VI of the Civil Service Reform Act of 1978 (Pub. L. 95–454, 92 Stat. 1185) and codified under chapter 47 of title 5, United States Code. The purposes of these authorities are to stimulate and conduct personnel management research and to test, evaluate, and disseminate new and different personnel management concepts under controlled conditions. Proposed regulations were published in the **Federal Register** on September 18, 1981 (46 FR 46330). While both proposed and final regulations contain provisions for research programs and demonstration projects, Title VI research programs are not currently being funded by OPM and demonstration projects must be funded by the agencies proposing them. These regulations are not a solicitation for submission of research proposals to OPM.

Comments.

The Office of Personnel Management received comments from five organizations during the comment period which ended November 17, 1981. As a result of comments and suggestions received during this period, the Office has modified the final regulations as discussed below. The Office will be supplementing the regulations with guidance which will be issued as new Chapter 470 of the Federal Personnel Manual.

1. An official in the Office of the Chief of Naval Operations, Department of the Navy, suggested that additional provisions be added to guard against abuse of the demonstration authority by unauthorized duplication of approved demonstration projects and the extension of demonstration projects to additional unauthorized groups of employees. These safeguards have been placed in a revised § 470.315. The project evaluation provisions which were proposed for § 470.315 have been redesignated as § 470.317.

2. One labor organization requested no changes of its own to the proposed regulations, but stated that there are no restrictions inherent in the statute precluding a labor organization from proposing a demonstration project. It felt that OPM appears to recognize this in the proposed 5 CFR 470.205 by stating that unsolicited proposals for research projects may be accepted. The union fully concurred with the comments provided by another labor organization in "3" below.

3. Another labor organization submitted several comments. It requested that demonstration projects be collectively bargained. OPM made no changes to the regulations regarding this request since collective bargaining is covered by 5 U.S.C. 4703(f) and the regulations remind agencies of their relevant obligations in § 470.307. Secondly, it requested that OPM amend the regulations to encourage demonstration sites where unions represent the workforce. OPM has decided that it will maintain its neutrality on the selection of demonstration sites by agencies. Thirdly, the labor organization suggests that the regulations provide for employee organization roles in developing the criteria by which demonstration projects are judged. The opportunity to participate in the development of criteria for judging demonstration projects occurs during the consultation process on proposed regulations and on future amendments to regulations. Finally, the labor organization feels that § 470.311, which requires that the union be notified of the content of the final project plan being sent to Congress, does not provide an effecive union role. OPM believes that the union role begins with working with the agency prior to submission to OPM of the project proposal (§ 470.305(c)), continues with consultation and negotiation during the public comment period after the project has been tentatively approved by OPM (§ 470.307), and includes providing comments during public hearings (§ 470.309). The final project plan is the end result of the consultation/negotiation/hearing processes. However, OPM added a provision to § 470.311 stating that OPM will not permit implementation of a demonstration project until completion of all required consultation or negotiation.

4. A faculty member of a New Jersey technological university suggested editorial changes which describe better the purposes of research conducted under these regulations. The suggested phrases, except for the term "personnel management philosophy" which is not defined in Federal personnel regulations, have been included in § 470.201 of the regulations.

OPM Changes

OPM made several changes to the proposed regulations in response to internal comments and because of discovered omissions.

1. Section 470.301(b)(5) required the use of control groups in evaluating demonstration projects. OPM has deleted § 470.301(b)(5) because it believes that this requirement is too restrictive since there are alternative evaluation design methods which are equally effective. The guidance in the Federal Personnel Manual will recommend the use of control groups where appropriate.

2. Section 470.303(b) permitted an agency to be assisted in the conduct and

evaluation of a project by contract or agreement with individuals or other public or private institutions and organizations, while also stating that only a Federal agency may propose and conduct a demonstration project. Because 5 U.S.C. 4703(a) authorizes contracting and agreements with Federal agencies (with certain exclusions) and public and private organizations only, OPM has deleted references to "individuals" in 5 CFR 470.203(e) and 470.303(b). In addition, OPM has decided that the role of external organizations is primarily in the development and evaluation of demonstration projects. Because of the nature of demonstration projects and the responsibilities placed on the agencies which conduct them, OPM has so modified § 470.303(b).

3. The definition of "demonstration project" contained in § 470.103 referred to the waiver of law but omitted references to the waiver of rules and regulations, as is provided for in 5 U.S.C. 4703. The definition has been amended to include projects which require the waiver of eligible provisions of law, rule, or regulation.

4. Section 470.317(a) discusses OPM's authority to terminate an experiment which is not meeting legal, regulatory, or project plan requirements but does not discuss OPM's authority to terminate an experiment which is being conducted properly but is resulting in substantial hardship to, or is not in the best interest of, employees or the public. This omission has been incorporated into § 470.317(b).

5. The sentence in § 470.301(a) encouraging agencies to propose demonstrations whether or not a waiver of law or regulation is needed has been deleted because it conflicts with the definition of a demonstration project for purposes of these regulations as defined in section 470.103.

6. Section 470.305 has been clarified as to the circumstances under which OPM will delay action on a demonstration proposal.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it is primarily concerned with demonstration projects which are conducted by and in Federal agencies. The research provisions of the regulation offer opportunities for small entities to conduct research under contract or agreement for the Government, when funds are available, but do not impose reporting or other financial burdens on small entities.

List of Subjects in 5 CFR Part 470

Administrative practice and procedure, Government contracts, Research.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management adds a new Part 470 to Title 5 of the Code of Federal Regulations to read as follows:

PART 470—PERSONNEL MANAGEMENT RESEARCH PROGRAMS AND DEMONSTRATIONS PROJECTS

Subpart A—General Provisions

Sec.

470.101 Statutory authority.
470.103 Definitions.

Subpart B—Regulatory Requirements Pertaining to Research Programs

470.201 Purposes of research programs.
470.203 Eligible parties.
470.205 Initiation of research programs.

Subpart C—Regulatory Requirements Pertaining to Demonstration Projects

470.301 Program expectations.
470.303 Eligible parties.
470.305 Submission of proposals for demonstration projects.
470.307 Notification responsibilities.
470.309 Public hearing.
470.311 Final project approval.
470.313 Project implementation regulations.
470.315 Project modification and extension.
470.317 Project evaluations.

Authority: 5 U.S.C. 4706.

Subpart A—General Provisions

§ 470.101 Statutory authority.

(a) Section 4702, title 5, United States Code, provides the Office of Personnel Management (OPM) with the authority to:

(1) Establish and maintain, and assist in the establishment and maintenance of, research programs to study improved methods and technologies in Federal personnel management;

(2) Evaluate the research programs established under paragraph (a)(1) of this section;

(3) Establish and maintain a program for the collection and public dissemination of information relating to personnel management research, and for encouraging and facilitating the exchange of information among interested persons and entities; and

(4) Carry out the preceding functions directly or through agreement or contract.

(b) Section 4703, title 5, United States Code, provides OPM with the authority to conduct and evaluate demonstration projects to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management.

(c) This part supplements and implements the provisions of chapter 47 of title 5, United States Code, relating to the conduct of personnel research programs and demonstration projects, and must be read together with those provisions of law.

§ 470.103 Definitions.

In this part:

"Demonstration Project" means a project conducted by the Office of Personnel Management, or under its supervision, to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management (5 U.S.C. 4701). The project must require the waiver of a provision of law, rule, or regulation which is eligible for waiver under the demonstration authority contained in 5 U.S.C. 4703. A project which can be undertaken under an agency's own authority and does not require the waiver of a provision of law, rule, or regulation is not considered a "demonstration project" for purposes of this part.

"Research" means systematic, intensive study directed toward fuller scientific knowledge or understanding of the subject studied. Activities classified as research are structured experimental or descriptive investigations conducted according to sound methodological principles.

"Research Program" means a planned study of the manner in which public management policies and systems are operating or have operated, the effects of those policies and systems, the possibilities for change, and comparisons among policies and systems.

Subpart B—Regulatory Requirements Pertaining to Research Programs

§ 470.201 Purposes of research programs.

The purposes of research programs undertaken under this subpart are to stimulate and conduct personnel management research which:

(a) Develops new knowledge, techniques, and materials about personnel management;

(b) Seeks solutions to personnel management problems;

(c) Provides a factual base to support existing or proposed changes in personnel management policies, techniques, and materials;

(d) Modifies or develops personnel management systems which improve the management of the Federal Government's human resources;

(e) Gathers, makes explicit, systematizes, and transmits the knowledge and techniques of practicing managers for the guidance of others and as a factual basis for research needs determination;

(f) Develops new methods or provides new standards for conducting personnel management research; or

(g) Designs systems for the assessment and transmittal of relevant personnel management strategies.

§ 470.203 Eligible parties.

Research may be conducted by the Office of Personnel Management, or under contract or agreement, as appropriate, by:

(a) Federal agencies;

(b) State and local governments;

(c) Institutions of higher education; or

(d) Other public or private institutions or organizations, profit or nonprofit.

§ 470.205 Initiation of research programs.

OPM will announce opportunities for research contracts by issuing Requests for Proposals (RFP's) in accordance with Federal procurement regulations. Unsolicited proposals may be accepted; however the relevance of the proposed research to OPM research needs will determine the acceptability of the proposal.

Subpart C—Regulatory Requirements Pertaining to Demonstration Projects

§ 470.301 Program expectations.

(a) Demonstration projects permit the Office of Personnel Management and Federal agencies to test alternative personnel management concepts in controlled situations to determine the likely effects and ramifications of proposed changes before putting them into general effect. OPM will assist agencies, within available resources, in developing projects which demonstrate new or improved personnel methods.

(b) The demonstration project must be proposed in a research context. The project plan must include a research design which contains:

(1) Measurable goals or objectives;

(2) Acceptable expected results or outcomes;

(3) A description of the procedures, methods and techniques to be demonstrated in achieving the desired goals or objectives;

(4) An evaluation section describing the data collection and analysis procedures to be used to assess the success or failure of the project from a qualitative and quantitative standpoint; and

(5) An itemization of all costs and benefits associated with the project, to the agency, the Government, and the community.

(c) OPM may establish and maintain activities which publish, exchange and apply the results of demonstration projects.

(d) OPM may seek legislation, or to the extent already authorized by law, make changes in regulation to implement permanently successful procedures, techniques, new management knowledge, and materials which improve personnel management programs or techniques.

§ 470.303 Eligible parties.

(a) Any Federal agency, or groups of two or more Federal agencies, eligible to propose demonstration projects under 5 U.S.C. 4701(a)(1) and 4701(b) may conduct demonstration projects after approval by the Office of Personnel Management and required Congressional and public review.

(b) While only a Federal agency may propose and conduct a demonstration project, the agency may be assisted in the development and evaluation of the project under contract or agreement with public or private institutions and organizations.

§ 470.305 Submission of proposals for demonstration projects.

(a) OPM will accept project proposals at any time. However, OPM may delay action for a reasonable amount of time on submitted proposals until comparisons can be made with other existing projects or with project proposals of a similar nature not yet received by OPM but known to be under development.

(b) Agencies must submit the project proposal in the form of a project plan to OPM for approval. OPM will prescribe the content of a project plan in its guidance and instructions, which at a minimum will contain the items identified in 5 U.S.C. 4703(b)(1) and 5 CFR 470.301(b).

(c) Agencies will outline, at the time proposed demonstration projects are submitted to OPM for approval, what discussions of the project have been held with labor organizations which have been accorded exclusive recognition for bargaining units containing employees involved in or affected by the proposed demonstration project.

(d) OPM may combine and evaluate similar project proposals received from different agencies as a single project, with the approval of the agencies involved.

§ 470.307 Notification responsibilities.

(a) 5 U.S.C. 4703 requires notification of tentatively approved demonstration project plans to Congress, employees, labor organizations, and the public.

(b) OPM shall:

(1) Notify each House of the Congress 180 days in advance of the beginning of each project; and

(2) Publish each tentatively approved project plan as a notice in the **Federal Register**.

(c) Each agency having a tentatively approved project plan shall:

(1) Notify and make available copies of the project plan to:

(i) All employees who may be interested in or affected by the activities of the demonstration project; and

(ii) All labor organizations accorded exclusive recognition for bargaining units which include employees in or affected by the project plan.

(2) Certify to OPM in writing when and how the requirements of § 470.307(c)(1) were carried out and document the manner in which it insured that all affected employees were notified.

(3) Observe the consultation and negotiation requirements of 5 U.S.C. 4703 (f) and (g).

§ 470.309 Public hearing.

(a) *Notice of public hearing.* OPM shall hold a public hearing no less than 30 days after the date of its notice in the **Federal Register** during which interested persons or organizations may present their written or oral views concerning the proposed demonstration project. The notice of public hearing shall be published in the **Federal Register** and shall:

(1) State the date, time, place and purpose of the hearing;

(2) Describe briefly the project;

(3) Indicate where more information and a copy of the project plan may be obtained;

(4) State the name and address of the person who will receive written comments from those unable to attend the hearing; and

(5) Indicate the date by which written comments must be received to be considered.

(b) *Nature of public hearing.* The hearing will be informal to encourage effective oral presentations by

interested individuals and organizations. The presiding officer, designated by the Director, OPM, shall in his or her reasonable discretion regulate the course of the proceedings and the conduct of those present at the hearing by appropriate means.

(c) A written summary shall be made of the oral evidence.

(d) The record shall be left open for 2 weeks after the conclusion of the hearing to receive additional written data, views, and arguments from the parties participating in the hearing.

§ 470.311 Final project approval.

(a) The Office of Personnel Management will consider all timely relevant oral and written views, arguments, and data before final approval or disapproval of a project plan. OPM may request that the agency modify the tentatively approved project plan before final approval because of comments and data received from the Congress, the public, labor organizations, and affected employees. OPM will not permit the agency to implement the project until all required consultation or negotiation has been completed, including the conclusion of impasse resolution and negotiability disputes.

(b) The Office of Personnel Management shall provide a copy of the final version of the project plan to each House of the Congress at least 90 days in advance of the date the project is to take effect.

(c) Agencies involved in the project shall communicate the content of the final project plan to:

(1) Labor organizations and affected employees; and

(2) Individuals and groups known to be interested in the project's activities.

§ 470.313 Project implementation regulations.

Agencies will prepare demonstration project implementing regulations, as appropriate, to replace Government-wide statutes and regulations waived for the project. Demonstration project implementing regulations issued pursuant to an OPM-approved demonstration project must be approved by OPM and shall have full force and authority pursuant to Title VI of the Civil Service Reform Act of 1978.

§ 470.315 Project modification and extension.

OPM-approved projects permit the testing of alternative personnel systems and procedures in accordance with the provisions of the project plan. The provisions of approved project plans will not be modified, duplicated in organizations not listed in the project plan, or extended by agencies to individuals or groups of employees not included in the project plan without the approval of the Office of Personnel Management. OPM will inform the agency of notification responsibilities under § 470.307. The extent of notification requirements will depend on the nature and extent of the requested project modification.

§ 470.317 Project evaluation.

(a) *Compliance evaluation.* OPM will review the operation of the project periodically to determine its compliance with the requirements of this part and the approved project plan. If OPM determines that an agency is not meeting legal, regulatory, or project plan requirements, it may, as appropriate, direct the agency to take corrective action or terminate the project.

(b) *Results evaluation.* All approved project plans will contain an evaluation section to measure the impact of the project results in relation to its objectives and to determine whether or not permanent changes in law and/or regulation should be considered or proposed. Where the project plan provides for agency evaluation of project results, OPM will review those project evaluation efforts, may conduct evaluations of its own, on a sample basis, to verify results, and may report its own conclusions. If OPM or the agency determines that an experiment is creating a substantial hardship on, or is not in the best interest of, the public, the Federal Government, employees, or eligibles, even though the experiment is being conducted properly, OPM or the agency may jointly or unilaterally terminate the project.

[FR Doc. 83-1530 Filed 1-20-83; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 560]

Navel Oranges Grown in Arizona and Designated Part of California; Minimum Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This regulation requires fresh California-Arizona navel oranges shipped from the production area to be of a size not smaller than 2.32 inches in diameter for the period January 21, 1983 through March 24, 1983. Such action is necessary to promote orderly marketing of suitable sizes of fresh navel oranges in the interest of producers and consumers.

DATES: January 21, 1983 through March 24, 1983; comments which are received by February 22, 1983 will be considered prior to issuance of a final rule to become effective March 25, 1983.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona navel orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement and Order No. 907 (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon recommendation and information submitted by the Navel Orange administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Under the terms of the regulation, size requirements would be effective January 21, 1983 through March 24, 1983. The final regulation will be effective for the period March 25, 1983 through July 28, 1983.

The committee met on January 4, 1983 to consider crop and market conditions and other factors affecting the need for regulation and recommended that navel oranges shipped from the production area be limited to sizes not smaller than 2.32 inches in diameter during the period January 21, 1983 through March 24, 1983.

The 1982-83 season crop of navels is currently estimated at 79,900 carlots, compared to 55,800 carlots during the past season. The committee reports that

demand in regulated fresh channels is expected to require about 56 percent of this volume. The remaining 44 percent would be available for utilization in export and processing outlets. The committee indicates that volume and size composition of the crop of navels are such that more than ample supplies of the more desirable larger sizes will be available to satisfy the demand in regulated channels. The committee also reports that when more than ample supplies of larger sizes are available for shipment, disposition of the sizes which would be eliminated by this regulation can be accomplished only at a substantial price discount and this tends to depress the market for all sizes. Navel oranges failing to meet such requirements could be shipped to fresh export markets, left on trees to attain further growth, or utilized in processing. In those circumstances, elimination of sizes smaller than those specified is appropriate in the interest of producers and consumers.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 533), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. Handlers have been apprised of such provisions and the effective date.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

Therefore, § 907.860 is added to read as follow: (§ 907.860 expires March 24, 1983, and will not be published in the annual code of Federal Regulations):

§ 907.860 Navel orange regulation 560.

(a) During the period Janaury 21, 1983, through March 24, 1983, no handler shall handle any navel oranges grown in the production area which are of a size smaller than 2.32 inches in diameter: *Provided,* that not to exceed 5 percent, by count, of the oranges in any container may measure smaller than 2.32 inches in diameter.

(b) As used in this section, "handler", "handle" and "production area" mean the same as defined in the marketing order. Diameter shall mean the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 17, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–1592 Filed 1–20–83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 910

[Lemon Reg. 395]

Lemons Grown in California and Arizona Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 23–29, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 23, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on January 18, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.695 is added as follows:

§ 910.695 Lemon Regulation 395.

The quantity of lemons grown in California and Arizona which may be handled during the period January 23, 1983, through January 29, 1983, is established at 180,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 20, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–1905 Filed 1–20–83; 11:49 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Environmental Qualification of Electric Equipment Important to Safety for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations applicable to nuclear power plants to clarify and strengthen the criteria for environmental qualification of electric equipment important to safety. Specific qualification methods currently contained in national standards, regulatory guides, and certain NRC publications for equipment qualification have been given different interpretations and have not had the legal force of an agency regulation. This amendment codifies the environmental qualification methods and criteria that meet the Commission's requirements in this area.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Satish K. Aggarwal, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 443–5946.

SUPPLEMENTARY INFORMATION:

Previous Notice

On January 20, 1982, NRC published in the **Federal Register** a notice of proposed rulemaking on environmental qualification of electric equipment for nuclear power plants (47 FR 2876). The comment period expired March 22, 1982. A total of 69 comment letters raising 10 major issues were received by April 6, 1982. An additional 10 comment letters were received by April 21, 1982, but no new issues were raised. The major issues are discussed below.

Nature and Scope of the Rulemaking

Nuclear power plant equipment important to safety must be able to perform its safety functions throughout its installed life. This requirement is embodied in General Design Criteria 1, 2, 4, and 23 of Appendix A, "General Design Criteria for Nuclear Power Plants," to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities"; in Criterion III, "Design Control," and Criterion XI, "Test Control," of Appendix B, "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," to 10 CFR Part 50; and in paragraph 50.55a(h) of 10 CFR Part 50, which incorporates by reference IEEE 279–1971,[1] "Criteria for Protection Systems for Nuclear Power Generating Stations." This requirement is applicable to equipment located inside as well as outside the containment.

The NRC has used a variety of methods to ensure that these general requirements are met for electric equipment important to safety. Prior to 1971, qualification was based on the fact that the electric components were of high industrial quality. For nuclear plants licensed to operate after 1971, qualification was judged on the basis of IEEE 323–1971. For plants whose Safety Evaluation Reports for construction permits were issued since July 1, 1974, the Commission has used Regulatory Guide 1.89, "Qualification of Class 1E Equipment for Light-Water-Cooled Nuclear Power Plants," which endorses IEEE 323–1974,[2] "IEEE Standard for Qualifying Class IE Equipment for Nuclear Power Generating Stations," subject to supplementary provisions.

Currently, the Commission has under way a program to reevaluate the qualification of electric equipment in all operating nuclear power plants. As a part of this program, more definitive criteria for environmental qualification of electric equipment important to safety have been deveolped by the NRC. A document entitled "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors" (DOR Guidelines) was issued in November 1979. In addition, the NRC has issued NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," which contains two sets of criteria: the first for plants originally reviewed in accordance with IEEE 323–1971 and the second for plants reviewed in accordance with IEEE 323–1974.

By its Memorandum and Order CLI–80–21 dated May 23, 1980, the Commission directed the staff to proceed with a rulemaking on environmental qualification of safety-related equipment and to address the question of backfit. The commission also directed that the DOR Guidelines and NUREG–0588 form the basis for the requirements licensees and applicants must meet until the rulemaking has been completed. This rule is based on the DOR Guildelines and NUREG–0588. The Commission recognizes the qualification efforts of the industry as a result of CLI–80–21. Therefore, the rule provides that requalification of electric equipment will not be required by applicants for and holders of operating licenses for nuclear power plants previously required by NRC to qualify equipment in accordance with DOR Guidelines or NUREG–0588 (Category I or II). Category I requirements of NUREG–0588, which supplement the recommendations of and apply to equipment qualified in accordance with IEEE 323–1974, apply to nuclear power plants for which the construction permit safety evaluation report was issued after July 1, 1974. Category II requirements, which supplement the recommendations of and apply to equipment qualified in accordance with IEEE 323–1971, apply to nuclear power plants for which the construction permit safety evaluation report was issued prior to July 1, 1974.

In CLI–80–21, the Commission stated that unless there were sound reasons to the contrary, replacement parts should be qualified to the standards set forth in Category I of NUREG–0588 or IEEE 323–1974. The Commission reaffirms that position in this rulemaking. Such qualification constitutes compliance with the provisions of paragraph 50.49(1). The Commission's position is designed to promote the policy of upgrading the environmental qualification and reliability of installed electric equipment. Situations may arise, however, in which such upgrading will not be feasible or compatible with overall plant safety. Licensee must review each situation on a case-by-case basis to determine that "sound reasons to the contrary" do exist to justify an exception from upgrading. Examples of acceptable "sound reasons to the contrary" will be included in Regulatory Guide 1.89.

The dates specified in this rule for completion of environmental qualification of electric equipment important to safety apply to all licensees and applicants and supersede any date previously imposed. No changes to licenses or technical specifications are necessary to reflect these new completion dates.

The scope of the final rule covers that portion of equipment important to safety commonly referred to as "safety-related" (which the Commission interprets as essentially "Class 1E" equipment defined in IEEE 323–1974), and nonsafety-related electric equipment whose failure under postulated environmental conditions could prevent the satisfactory accomplishment of required safety functions by safety-related equipment. Safety-related structures, systems, and components are those that are relied upon to remain functional during and following design basis events to ensure (i) the integrity of the reactor coolant pressure boundary, (ii) the capability to shut down the reactor and maintain it in a safe shutdown condition, and (iii) the capability to prevent or mitigate the

[1] Incorporation by reference approved by the Director of the Office of Federal Register on January 1, 1982. Copies may be obtained from the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, N.Y. 10017.

[2] Copies may be obtained from the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, N.Y. 10017.

consequences of accidents that could result in potential offsite exposures comparable to the guidelines of 10 CFR Part 100. Design basis events are defined as conditions of normal operation, including anticipated operational occurrences; design basis accidents; external events; and natural phenomena for which the plant must be designed to ensure functions (i) through (iii) above. Also covered in the scope of the final rule is certain postaccident monitoring equipment specified as "Category 1 and 2," in Revision 2 of Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident."

Included in the final rule are specific technical requirements pertaining to (a) qualification parameters, (b) qualification methods, and (c) documentation. Qualification parameters include temperature, pressure, humidity, radiation, chemicals, and submergence. Qualification methods include (a) testing as the principal means of qualification and (b) analysis in combination with partial type test data or operating experience. The final rule requires that the qualification program include synergistic effects, radiation, environmental conditions and margin considerations. Also, a record of qualification must be maintained. Proposed Revision 1 to Regulatory Guide 1.89, which has been issued for public comment, describes methods acceptable to the NRC for meeting the provisions of this rule and includes a list of typical equipment covered by it. Revision 1 to Regulatory Guide 1.89 will be issued after resolution of public comments.

NRC will generally not accept analysis alone in lieu of testing. Experience has shown that qualification of equipment without test data may not be adequate to demonstrate functional operability during design basis event conditions. Paragraph 50.49(f) provides four methods for qualification. Testing will be preferred. To ensure integrity of a testing program, the Commission expects that the same piece of equipment will be used throughout the complete test sequence.

The final rule requires that each holder of an operating license provide a list of electric equipment important to safety within the scope of this rule previously qualified based on testing, analysis, or a combination thereof, and a list of equipment that has not been qualified. These lists and the schedule for completion of qualification of electric equipment must be submitted by May 20, 1983.

The general requirements for seismic and dynamic qualification for electric equipment are contained in the General Design Criteria and are not included within the scope of this rule. Further guidance is provided in Regulatory Guide 1.100, "Seismic Qualification of Electric Equipment for Nuclear Power Plants," (Revision 1) and NUREG–0800, "Standard Review Plan." NRC is considering future rulemaking concerning requirements for the environmental qualification of electric equipment important to safety and the requirements for seismic and dynamic qualification of electric equipment.

Comments On The Proposed Rule

The Commission received and considered the comments on the proposed rule contained in the 69 letters received from the public by April 6, 1982. Copies of those letters and a staff response to each comment are available for public inspection and copying for a fee at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

The major issues raised by the comments and NRC staff responses are as follows:

(1) Seismic and Dynamic Qualification—Paragraph 50.49(c)

Issue: Seismic and dynamic qualifications are an integral part of environmental qualification. It is therefore inappropriate to codify these requirements separately.

Response: Electric equipment at operating nuclear power plants was generally qualified for environmental and seismic stresses separately, i.e., by using separate prototypes for environmental and seismic qualification tests. The Commission has decided, after considerable deliberation, to pursue the issue of seismic and dynamic qualification separately at a future date. A future seismic rule may not require retesting for environmental stresses because a single prototype was not used during the original qualification. Also, the Commission has concluded that protection of electric equipment important to safety against other natural phenomena and external events should not be within the scope of this rule.

(2) Scope—Cold Shutdown Requirement—Paragraph 50.49(b)

Issue: The rule introduces a new requirement to qualify "equipment needed to complete one path of achieving and maintaining a cold shutdown condition." A change of this magnitude, at this advanced stage of the industry's qualification effort, most certainly introduces significant new costs and obligations with no demonstrated improvement in safety.

Response: Regulatory requirements in effect at the time of licensing of the majority of operating reactors did not require that all electric equipment and systems necessary to bring the reactor to cold shutdown be classified as safety related. However, electric equipment and systems necessary to shut down the reactor and maintain it in a safe shutdown condition are required to be classified as safety related and therefore are covered by the rule.

The Commission is currently studying the requirements for shutdown decay heat removal under Unresolved Safety Issue (USI) A–45. The overall purpose of A–45 is to evaluate the adequacy of current licensing requirements to ensure that failure to remove shutdown decay heat does not pose an unacceptable risk. Under A–45 a comprehensive and consistent set of shutdown cooling requirements for existing and future plants is being developed. The final technical resolution of A–45 is presently scheduled for October 1984.

The Commission believes it would be premature at this time to impose the requirement to environmentally qualify electric equipment and systems necessary to achieve and maintain cold shutdown prior to the final resolution of A–45. Therefore, this requirement is not included in the final rule.

(3) Scope—Equipment in a Mild Environment—Paragraph 50.49(b)

Issue: The rule makes no distinction between equipment located in a harsh or mild environment. The stresses for equipment in a mild environment are less severe than for those in a harsh environment.

Response: The final rule does not cover the electric equipment located in a mild environment. The Commission has concluded that the general quality and surveillance requirements applicable to electric equipment as a result of other Commission regulations, including 10 CFR Part 50, Appendix B (see for example, Regulatory Guide 1.33, "Quality Assurance Program Requirements (Operation)," Revision 3) are sufficient to ensure adequate performance of electric equipment important to safety located in mild environments. Since it has been concluded that no further environmental qualification requirements are needed for such equipment provided they fully satisfy all other applicable regulations, the Commission has determined that no additional requirements are necessary

with respect to electric equipment important to safety located in mild environments in order for licensees to satisfy, with respect to such equipment, existing license conditions or technical specifications calling for qualification of safety-related electric equipment in accordance with DOR Guidelines or NUREG–0588.

(4) Scope—Previous Qualification Efforts—Paragraph 50.49(b)

Issue: The rule does not recognize that plants have completed qualification of equipment to the DOR Guidelines or NUREG–0588. Without such recognition, industry efforts, manpower, and billions of dollars will go down the drain.

Response: The final rule has been expanded to alleviate this concern. See Paragraph 50.49(k).

(5) Humidity—Paragraph 50.49(e)(2)

Issue: The effects of time-dependent variations of relative humidity during normal operation cannot be considered for all equipment. There are no detailed standards for how this type of testing should be performed.

Response: The Commission agrees. Humidity variation during normal operation are difficult to predict. It has not been demonstrated that the time-dependent variation in humidity will produce any differences in degradation of electric equipment. The words "Time-dependent variation of relative" have been deleted from Paragraph 50.49(e)(2).

(6) Aging—Paragraph 50.49(e)(5)

Issue: The requirement that ongoing qualifications be done using "prototype equipment natually aged" is overly restrictive. Use of accelerated aging to define a qualified life is not technically feasible.

Response: Preconditioning by accelerated aging is technically feasible for simple electric equipment for plant life and for complex electric equipment for a shorter designated life. The Commission recognizes that state-of-art technology will be utilized in any aging program. Reference to qualified life has been deleted from paragraph 50.49(e)(5).

(7) Margins—Paragraph 50.49(e)(8)

Issue: The margins applied in addition to known conservatisms lead to excessive stress that could lead to failures of equipment in unrealistic qualification tests.

Response: The Commission agrees. This requirement could have caused excessive margins. The paragraph has been modified to recognize conservatisms that can be qualified.

(8) Analysis and partial test data—Paragraph 50.49(f)(4)

Issue: If partial type test data that adequately support the analytical assumptions and conclusions are available, their analysis should be allowed to extrapolate or interpolate these results for equipment, regardless of purchase date.

Response: The Commission agrees. Reference to "purchase date" has been deleted.

(9) Requirement for a central file—Paragraph 50.49(j)

Issue: The requirement for a central file should be deleted since it is not cost effective and has no safety benefit.

Response: The Commission agrees. This requirement has been subject to different interpretations. A record of qualification must be maintained in an "auditable form" but not necessarily in a central file for the entire period during which the covered item is installed in a nuclear power plant. Recordkeeping requirement of 10 CFR Part Appendix B must be met. Certain records can be kept at the vendor's shop.

(10) Justification of continued operation for operating plants.

Issue: The requirement to submit justification for the continued operation of operating plants should be deleted since this information has been previously submitted to NRC.

Response: This requirement has been satisfactorily met and Paragraph 50.49(j) of the proposed rule has been deleted in its entirety from the final rule.

In addition, Paragraph 50.49(g) of the proposed rule has been deleted from the final rule since it is too prescriptive. It will be included in Regulatory Guide 1.89.

Effective Date: This rule replaces the "interim rule" published in the **Federal Register** on June 30, 1982 (47 FR 28363). The "interim rule" suspended environmental qualification deadlines contained in license conditions or technical specifications of operating plants. On the effective date of this rule (see above), the "interim rule" is superseded and the schedule for environmental qualification contained in this rule takes effect for all plants.

Paperwork Reduction Act

The final rule contains information collection requirements that have been approved by the Office of Management and Budget; OMB approval number is 3150–0011.

Regulatory Flexibility Statement

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This final rule affects the method of qualification of electric equipment by utilities. Utilities do not fall within the definition of a small business found in Section 3 of the Small Business Act, 15 U.S.C. 632.

In addition, utilities are required by the Commission's Memorandum and Order CLI–80–21, dated May 23, 1980, to meet the requirements contained in the DOR "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors," (November 1979) and NUREG–0588, "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment," which form the basis of this rule. Consequently, this rule codifies existing requirements and imposes no new costs or obligations on utilities.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, 10 CFR Part 50 is amended as follows:

PART 50—[AMENDED]

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 50.49 is revised to read as follows:

§ 50.49 Environmental qualification of electric equipment important to safety for nuclear power plants.

(a) Each holder of or each applicant for a license to operate a nuclear power plant shall establish a program for qualifying the electric equipment defined in paragraph (b) of this section.

(b) Electric equipment important to safety covered by this section is:

(1) Safety-related electric equipment:[3] This equipment is that relied upon to remain functional during and following design basis events to ensure (i) the integrity of the reactor coolant pressure boundary, (ii) the capability to shut down the reactor and maintain it in a safe shutdown condition, and (iii) the capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposures comparable to the 10 CFR Part 100 guidelines. Design basis events are defined as conditions of normal operation, including anticipated operational occurrences, design basis accidents, external events, and natural phenomena for which the plant must be designed to ensure functions (i) through (iii) of this paragraph.

(2) Nonsafety-related electric equipment whose failure under postulated environmental conditions could prevent satisfactory accomplishment of safety functions specified in subparagraphs (i) through (iii) of paragraph (b)(1) of this section by the safety-related equipment.

(3) Certain post-accident monitoring equipment.[4]

(c) Requirements for (i) dynamic and seismic qualification of electric equipment important to safety, (ii) protection of electric equipment important to safety against other natural phenomena and external events, and (iii) environmental qualification of electric equipment important to safety located in a mild environment are not included within the scope of this section. A mild environment is an environment that would at no time be significantly more severe than the environment that would occur during normal plant operation, including anticipated operational occurrences.

(d) The applicant or licensee shall prepare a list of electric equipment important to safety covered by this section. In addition, the applicant or licensee shall include the following information for this electric equipment important to safety in a qualification file:

(1) The performance specifications under conditions existing during and following design basis accidents.

(2) The voltage, frequency, load, and other electrical characteristics for which the performance specified in accordance with paragraph (d)(1) of this section can be ensured.

(3) The environmental conditions, including temperature, pressure, humidity, radiation, chemicals, and submergence at the location where the equipment must perform as specified in accordance with paragraphs (d)(1) and (2) of this section.

(e) The electric equipment qualification program must include and be based on the following:

(1) *Temperature and Pressure.* The time-dependent temperature and pressure at the location of the electric equipment important to safety must be established for the most severe design basis accident during or following which this equipment is required to remain functional.

(2) *Humidity.* Humidity during design basis accidents must be considered.

(3) *Chemical Effects.* The composition of chemicals used must be at least as severe as that resulting from the most limiting mode of plant operation (e.g., containment spray, emergency core cooling, or recirculation from containment sump). If the composition of the chemical spray can be affected by equipment malfunctions, the most severe chemical spray environment that results from a single failure in the spray system must be assumed.

(4) *Radiation.* The radiation environment must be based on the type of radiation, the total dose expected during normal operation over the installed life of the equipment, and the radiation environment associated with the most severe design basis accident during or following which the equipment is required to remain functional, including the radiation resulting from recirculating fluids for equipment located near the recirculating lines and including dose-rate effects.

(5) *Aging.* Equipment qualified by test must be preconditioned by natural or artificial (accelerated) aging to its end-of-installed life condition. Consideration must be given to all significant types of degradation which can have an effect on the functional capability of the equipment. If preconditioning to an end-of-installed life condition is not practicable, the equipment may be preconditioned to a shorter designated life. The equipment must be replaced or refurbished at the end of this designated life unless ongoing qualification demonstrates that the item has additional life.

(6) *Submergence* (if subject to being submerged).

(7) *Synergistic Effects.* Synergistic effects must be considered when these effects are believed to have a significant effect on equipment performance.

(8) *Margins.* Margins must be applied to account for unquantified uncertainty, such as the effects of production variations and inaccuracies in test instruments. These margins are in addition to any conservatisms applied during the derivation of local environmental conditions of the equipment unless these conservatisms can be quantified and shown to contain appropriate margins.

(f) Each item of electric equipment important to safety must be qualified by one of the following methods:

(1) Testing an identical item of equipment under identical conditions or under similar conditions with a supporting analysis to show that the equipment to be qualified is acceptable.

(2) Testing a similar item of equipment with a supporting analysis to show that the equipment to be qualified is acceptable.

(3) Experience with identical or similar equipment under similar conditions with a supporting analysis to show that the equipment to be qualified is acceptable.

(4) Analysis in combination with partial type test data that supports the analytical assumptions and conclusions.

(g) Each holder of an operating license issued prior to February 22, 1983, shall, by May 20, 1983, identify the electric equipment important to safety within the scope of this section already qualified and submit a schedule for either the qualification to the provisions of this section or for the replacement of the remaining electric equipment important to safety within the scope of this section. This schedule must establish a goal of final environmental qualification of the electric equipment within the scope of this section by the end of the second refueling outage after March 31, 1982 or by March 31, 1985, whichever is earlier. The Director of the Office of Nuclear Reactor Regulatory may grant requests for extensions of this deadline to a date no later than November 30, 1985, for specific pieces of equipment if these requests are filed on

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[3] Safety-related electric equipment is referred to as "Class 1E" equipment in IEEE 323–1974. Copies of this standard may be obtained from the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, NY 10017.

[4] Specific guidance concerning the types of variables to be monitored is provided in Revision 2 of Regulatory Guide 1.97, "Instrumentation for Light-Water Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Copies of the Regulatory Guide can be obtained from Nuclear Regulatory Commission, Document Management Branch, Washington, DC 20555.

a timely basis and demonstrate good cause for the extension, such as procurement lead time, test complications, and installation problems. In exceptional cases, the Commission itself may consider and grant extensions beyond November 30, 1985, for completion of environmental qualification.

(h) Each licensee shall notify the Commission of any significant equipment qualification problem that may require extension of the completion date provided in accordance with paragraph (g) of this section within 60 days of its discovery.

(i) Applicants for operating licenses that are to be granted on or after February 22, 1983, but prior to November 30, 1985, shall perform an analysis to ensure that the plant can be safely operated pending completion of equipment qualification required by this section. This analysis must be submitted to the Director of the Office of Nuclear Reactor Regulation for consideration prior to the granting of an operating license and must include, where appropriate, consideration of:

(1) Accomplishing the safety function by some designated alternative equipment if the principal equipment has not been demonstrated to be fully qualified.

(2) The validity of partial test data in support of the original qualification.

(3) Limited use of administrative controls over equipment that has not been demonstrated to be fully qualified.

(4) Completion of the safety function prior to exposure to the accident environment resulting from a design basis event and ensuring that the subsequent failure of the equipment does not degrade any safety function or mislead the operator.

(5) No significant degradation of any safety function or misleading information to the operator as a result of failure of equipment under the accident environment resulting from a design basis event.

(j) A record of the qualification, including documentation in paragraph (d) of this section, must be maintained in an auditable form for the entire period during which the covered item is installed in the nuclear power plant or is stored for future use to permit verification that each item of electric equipment important to safety covered by this section—

(1) Is qualified for its application; and

(2) Meets its specified performance requirements when it is subjected to the conditions predicted to be present when it must perform its safety function up to the end of its qualified life.

(k) Applicants for and holders of operating licenses are not required to requalify electric equipment important to safety in accordance with the provisions of this section if the Commission has previously required qualification of that equipment in accordance with "Guidelines for Evaluating Environmental Qualification of Class 1E Electrical Equipment in Operating Reactors," November 1979 (DOR Guidelines), or NUREG–0588 (For Comment version), "Interim Staff Position on Environmental Qualification of Safety-Related Electrical Equipment."

(l) Replacement equipment must be qualified in accordance with the provisions of this section unless there are sound reasons to the contrary.

Dated at Washington, D.C. this 17th day of January, 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83–1722 Filed 1–20–83; 8:45 am]

BILLING CODE 7590–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 140 and 145

Commission Headquarters Office and Western and Southwestern Regional Offices; Change of Address

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule amendments.

SUMMARY: The Commodity Futures Trading Commission is amending its regulations in an attempt to clarify that both the physical location and the mailing address of the Commission's headquarters office are one and the same for all practical purposes. In addition, the Commission is amending its regulations to include new addresses for its recently relocated Western and Southwestern regional offices. The Western Regional office has been moved from San Francisco to Los Angeles, California. The Southwestern Regional office, located in Kansas City, Missouri, has moved to a different suite of offices in the same building.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Donald L. Tendick, Acting Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254–7556.

SUPPLEMENTARY INFORMATION: Commission regulation § 140.1 currently provides a separate physical location and mailing address for the Commission's headquarters office. The Commission is amending regulation § 140.1 to clarify that there is no meaningful distinction between its physical location and mailing address. The sole address of the Commission's headquarters office as of January 18, 1983 will be 2033 K Street, N.W., Washington, D.C. 20581.

The Commission is amending regulation 140.2 to reflect the fact that the Western Regional office of the Commission has moved from San Francisco to 10850 Wilshire Boulevard, Suite 510, Los Angeles, California 90024. The telephone number for general information is (213) 209–6783. In addition, regulation § 140.2 is being amended to note the Southwestern Regional office has moved from Room 208 to Suite 400 at 4901 Main Street, Kansas City, Missouri 64112. The telephone number for general information remains (816) 374–5425.

Certain other provisions of the Commission's regulations contain references to or addresses of the Commission's Western and Southwestern Regional offices. The appropriate changes have been made to reflect the new addresses in each of these provisions.

Based on the foregoing, pursuant to its authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j) (1976), the Commission hereby amends Parts 140 and 145 of the Code of Federal Regulations as follows:

PART 140—[AMENDED]

1. Section 140.1 is revised to read as follows:

§ 140.1 Headquarters Office.

(a) *General.* The headquarters office of the Commission is located at 2033 K Street, NW., Washington, D.C. 20581.

2. Section 140.2 is amended by revising paragraphs (c) and (d) to read as follows:

§ 140.2 Region offices—Regional directors.

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(c) The Western Regional office is located at 10850 Wilshire Boulevard, Suite 510, Los Angeles, California 90024, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

(d) The Southwestern Regional office is located at 4901 Main Street, Suite 400, Kansas City, Missouri 64112, and is responsible for enforcement of the Act

and administration of the programs of the Commission in the States of Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

PART 145—[AMENDED]

3. In § 145.6, paragraph (a) is revised to read as follows:

§145.6 Commission Offices To Contact for Assistance; Registration Records Available at Chicago Regional Office.

(a) Whenever this Part 145 directs that a request be directed to the FOI, Privacy and Sunshine Acts compliance staff at the principal office of the Commission in Washington, D.C., it shall be addressed or otherwise directed to the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. The telephone number of the compliance staff is (202) 254–6314. Whenever this Part 145 permits an inquiry or request to be directed to a regional office of the Commission (see §§ 145.2, 145.6(b) (Chicago regional office only) and 145.7 (a), (b) and (c)), it may be directed to the FOI, Privacy and Sunshine Acts compliance staff for direct response or referral or to the appropriate regional office (or Minneapolis sub-office) of the Commission at the following locations and telephone numbers:

Division of Economics and Education, Commodity Futures Trading Commission, One World Trade Center, Suite 4747, New York, New York 10048, Telephone: (212) 466–2071.

Division of Trading and Markets, Commodity Futures Trading Commission, Sears Tower, Suite 4600, 233 South Wacker Drive, Chicago, Illinois 60606, Telephone: (312) 353–9499.

Division of Trading and Markets, Commodity Futures Trading Commission, 510 Grain Exchange Building, Minneapolis, Minnesota 55415, Telephone: (612) 725–7025.

Division of Trading and Markets, Commodity Futures Trading Commission, 4901 Main Street, Suite 400, Kansas City, Missouri 64112, Telephone: (816) 374–2994.

Division of Enforcement, Commodity Futures Trading Commission, 10850 Wilshire Boulevard, Suite 510, Los Angeles, California 90024, Telephone: (213) 209–6783.

* * * * *

The foregoing rules shall be effective immediately. The Commission finds that the amendments relate solely to agency organization, practice and procedure and that the public procedures and publication prior to the effective date of the amendments, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, D.C. this 18th day of January, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83–1689 Filed 1–20–83; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 102

[Docket No. 80N–0140]

Common or Usual Name for Nonstandardized Foods; Diluted Fruit or Vegetable Juice Beverages; Extension of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; extension of effective date.

SUMMARY: The Food and Drug Administration (FDA) is extending the period of time for compliance with the labeling requirements of the common or usual name for diluted fruit or vegetable beverages regulation for all affected products initially introduced or initially delivered for introduction into interstate commerce from July 1, 1982 to July 1, 1984.

EFFECTIVE DATE: July 1, 1984, for all affected products initially introduced or initially delivered for introduction into interstate commerce.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202–245–3092.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 10, 1980 (45 FR 39247), FDA published a final regulation concerning label statements for diluted fruit or vegetable juice beverages (21 CFR 102.33). The effective date was deferred until July 1, 1982, by a document published in the **Federal Register** of December 5, 1980 (45 FR 80497). Subsequently, FDA published a proposal in the **Federal Register** of March 26, 1982 (47 FR 13003) to extend the effective date to July 1, 1984, for compliance with the labeling requirements of the common or usual name for diluted fruit or vegetable juice beverages regulation.

As required by the Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act of 1980, FDA is currently reviewing the regulations concerning diluted orange juice beverages (21 CFR 102.32) and noncarbonated beverage products containing no fruit or vegetable juice (21 CFR 102.30). Because of the similarity of §§ 102.30, 102.32, and 102.33, FDA has concluded that it would be appropriate to review them together. Consequently, to avoid substantial compliance cost that may be found unnecessary should the review process result in a decision to revoke or modify the regulation, FDA published the 1982 proposal to extend the effective date to allow sufficient time for this review.

Comments in response to the proposal were received from growers and processors of cranberry products, juice trade associations, juice processors (other than cranberry juice), a State government, and one consumer. The majority of the comments received were from the cranberry growers and processors favoring the granting of the extension to allow a review of the applicability of the final regulation to high acid juice products. These comments stated that since a review of all regulations is required by the Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act of 1980, the review of this diluted juice regulation would be more cost effective if it were conducted before the regulation became effective and labels had been modified.

The agency agrees and therefore is scheduling the review of this regulation to be accomplished within the extension period.

The other comments, submitted by a State government, one consumer, a trade association, and three manufacturers, expressed concern that extending the effective date of the regulation would be a disservice to the manufacturers who had, in good faith, relabeled their products to meet the effective date. A State official stated that the continued extension of the effective date for this regulation undermines the efforts made by State and local food regulatory agencies to encourage industry compliance with new and existing regulations.

It is true that many of the manufacturers in the diluted juice industry have already brought their labels into compliance with the labeling regulations for diluted juice beverages. It is also true that primarily the high acid juice industry is concerned about revising their labeling before the required review of the regulation is complete. FDA is not unsympathetic to the positions in which each segment of the industry finds itself. Therefore, in light of the ongoing retrospective review, the agency believes that it has articulated in this document the most resonable course to follow: the granting

of the extension. In response to the comments of manufacturers who have relabeled their products, the agency feels that the public interest is served by the relabeling because the regulations were structured to aid the consumer. However, to force all manufacturers to comply with the regulation would create an unworkable conflict: The agency would have to actively promote a position while at the same time critically and objectively reevaluating it. The agency's conclusion to grant the extension is strengthened by the fact that the manufacturers who are currently in compliance with the regulations have submitted no evidence that being in compliance with the regulation places their products at a market disadvantage or results in consumer deception. Similarly, the State comment was not supported by any specific details, without which the agency cannot fully respond, much less alter its views of the propriety of this action.

List of Subjects in 21 CFR Part 102

Common or usual name, Food labeling.

PART 102—COMMON OR USUAL NAME FOR NONSTANDARDIZED FOOD

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321(n), 343, 371(a))) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), the effective date for compliance with the labeling requirements of the common or usual name for diluted fruit or vegetable juice beverages regulation (21 CFR 102.33) is extended from July 1, 1982, to July 1, 1984, as follows: All affected diluted fruit or vegetable juice beverages initially introduced or initially delivered for introduction into interstate commerce after July 1, 1984, shall comply with 21 CFR 102.33 (45 FR 39247; June 10, 1980).

(Secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321(n), 343, 371(a))

Dated: January 4, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 83-1660 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 133

[Docket No. 77N-0331]

Nine Natural Cheeses; Revision Based on International Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the "Definitions" section for all standardized cheeses and related cheese products, establishing a new "Methods of Analysis" section for all standardized cheeses and related cheese products, and revising and updating the standards of identity for nine cheeses and appropriate cross-referenced standards to bring the nine cheese standards into closer conformance with the recommended international Codex standards for these cheeses, thereby facilitating international trade.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date; voluntary compliance beginning March 22, 1983; objections by February 22, 1983. The incorporation by reference is effective March 22, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF–215), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: A proposal was published in the **Federal Register** of September 19, 1978 (43 FR 42127), to revise the standards of identity for blue cheese (21 CFR 133.106), cheddar cheese (21 CFR 133.113), edam cheese (21 CFR 133.138), gouda cheese (21 CFR 133.142), gruyere cheese (21 CFR 133.149), limburger cheese (21 CFR 133.152), provolone cheese (21 CFR 133.181), samsoe cheese (21 CFR 133.185), swiss and emmentaler cheese (21 CFR 133.195), and, by cross-reference, cheddar cheese for manufacturing (21 CFR 133.114), low sodium cheddar cheese (21 CFR 133.116), and swiss cheese for manufacturing (21 CFR 133.196).

The purpose of the proposed revisions was to: (1) Provide for full ingredient declaration; (2) relax recipe requirements to permit the use of safe and suitable ingredients that do not change the basic identity of the food or adversely affect the physical or chemical characteristics; and (3) amend compositional requirements to be consistent with the "recommended international Codex standards" (Codex standards), where such consistency will promote honesty and fair dealing in the interest of consumers. The proposal would also amend the "Definitions" section and establish a new "Methods of Analysis" section.

A notice published in the **Federal Register** of December 19, 1978 (43 FR 59053) extended the comment period to March 19, 1979.

Twenty-six letters, each containing one or more comments, were received in response to the September 19, 1978, proposal. The issues raised in the comments and FDA's responses are as follows:

Definitions

1. One comment requested that the phrase "the milk may be clarified and may be adjusted by separating part of the fat therefrom" be added to the proposed definition of milk in § 133.3(a) (21 CFR 133.3(a)).

FDA agrees and the definition for "milk" is changed accordingly.

2. One comment requested that "dehydrated cream" be added to the list of products included in the definition for "cream" in § 133.3(c).

FDA advises that this addition is unnecessary because it considers dry and dehydrated to be the same, and dry cream is already provided for in the definition for cream.

3. One comment requested that a definition for "milkfat", which would include all the products in the proposed definition for cream as well as products like anhydrous milkfat, butter, and butteroil, be added to § 133.3 and that each of the standards provide for the use of milkfat as an optional dairy ingredient. The comment asserted that these products are all commonly known as milkfat and that by defining them as such they could be declared as "milkfat" in the ingredient statement.

FDA does not agree that butter, butteroil, and anhydrous milkfat are commonly known as milkfat. While milkfat is the starting material for all three ingredients, changes in the physical characteristics of milkfat occur during the manufacturing procedures (i.e., from a fat-in-water emulsion to a water-in-fat emulsion) which make these ingredients immiscible with the milk and other dairy ingredients that are combined to make cheese. Further, butter, butteroil, and anhydrous milkfat are not provided for in the standards of identity for cheeses and related cheese products and no petition has been

submitted to the agency to include such products in a definition of milkfat and amend each of the standards in 21 CFR Part 133 to provide for the use of "milkfat" as an optional dairy ingredient. Under these circumstances, to concur with the comment would have the effect of authorizing the use of ingredients which have not been shown, to be suitable for the desired use. In addition, FDA points out that a definition of "milkfat" to facilitate declaration of listed ingredients as "milkfat" is unnecessary because the ingredient labeling provisions in the final regulations set forth below already state that the dairy ingredients may be declared, in descending order of predominance, by the terms "milkfat and nonfat milk" or "nonfat milk and milkfat" as appropriate. FDA, therefore, concludes that the changes requested by this comment are inappropriate and is not so providing in the regulations.

4. One comment requested that a definition for "microbial cultures" be included in § 133.3. This would permit label declaration of flavor- and acid-producing microbial cultures as "cultures" in the ingredient statement.

A definition of "microbial cultures" is not necessary. The current labeling regulations (21 CFR Part 101) permit bacterial cultures to be declared in the ingredient statement by use of the word "cultured" followed by the name of the substrate (e.g., "cultured milkfat and nonfat milk"). This method of declaring the use of bacterial cultures is consistent with the provisions of other cheese standards of identity. Furthermore, FDA is currently considering a petition to amend Part 101 to permit the term "cheese cultures" to be used on the label to encompass all of the types of microbial cultures (bacterium, yeast, mold) that might be used in the manufacture of cheese. Therfore, FDA s not establishing a definition for "microbial cultures" in § 133.3.

Methods of Analysis

5. One comment requested that a method of determining the milkfat content in the solids, or fat on a dry basis, be added to the proposed "Methods of Analysis" section (§ 133.5). The comment expressed the opinion that the traditional fat on a dry basis method is a better enforcement tool which will prevent manipulation of the product and which will afford greater protection to the consumer as well as greater stability to the industry. The comment suggested that the method for calculating milkfat content from dry matter, now in the current cheddar cheese standard (§ 133.113(c)), be added to the proposed "Methods of Analysis" section as § 133.5(d).

FDA agrees and is adding paragraph (d) to § 133.5 to provide for the requested method of calculating fat on a dry basis. FDA also advises that it is updating the "Methods of Analysis" section to reference the 13th edition of the "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC).

General Comments Related to All the Proposed Cheese Varieties

6. One comment suggested that the concept of "safe and suitable" apply only to functional ingredients such as enzymes, stabilizers, and antimicrobial agents. The comment stated that the "Dairy ingredients should not be classified in the same category as 'safe and suitable ingredients'." The comment asserted that inclusion of dairy ingredients under "safe and suitable" will lead to economic deception by allowing use of "nonstandardized undefined 'safe and suitable' milk-derived ingredients" and that the consumer will have no assurance that the standardized product contains basic dairy ingredients.

FDA considered changing its "safe and suitable" policy to apply only to categories of optional functional ingredients that are used at levels of less than 5 percent and do not alter the basic characteristics of the food. A notice requesting public comment on a tentative proposed revision was published in the **Federal Register** of December 21, 1979 (44 FR 75990). Upon review and evaluation of the comments received in response to the tentative proposed revision, FDA has determined that, at this time, it would be in the best interest of consumers and regulated industry to retain the current policy for use of safe and suitable optional ingredients in standardized foods. Elsewhere in this issue of the **Federal Register** FDA is announcing this decision. The regulation set forth below provides for the use of "safe and suitable" ingredients consistent with this policy. In addition, FDA advises that the dairy ingredients that may be used in the cheeses included in the proposal are specifically listed in the individual standards. Milk-derived ingredients are not among the optional dairy ingredients listed and may not be used in these cheeses.

7. One comment opposed permitting the use of caseinates as safe and suitable dairy ingredients.

Caseinates were not among the dairy ingredients proposed for use nor are they provided for in the final regulation.

8. One comment requested that the provision allowing the use of lactic acid-producing bacteria naturally present in milk be retained in all the appropriate standards. The comment contended that these naturally occurring bacteria would have to be destroyed before the culture is added if the naturally occurring bacteria are not specifically permitted for use.

The proposed standards provided that the dairy ingredients used are "subjected to the action of a lactic acid-producing bacterial culture" without specifying whether the source of the culture was added to the milk or natural to the milk (see § 133.106(a)(3); proposed as § 133.106(a)(4)). Therefore, FDA does not believe that it is necessary to specifically provide for naturally occurring bacteria that are desirable to the cheese-making process and is not making the requested change in the final regulation. FDA advises that naturally occurring harmless lactic acid-producing bacteria in milk are permitted for use in these cheeses.

9. One comment pointed out that the method of declaring ingredients on the label of cheeses is deceptive because neither salt nor color need be declared. The comment stated that this situation could be remedied by requiring manufacturers to title the ingredient statement "partial list of ingredients" or "incomplete list of ingredients".

FDA does not have the authority under section 401 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 341) to require the label declaration of mandatory ingredients in standardized foods (e.g., salt in several types of cheese). Color in butter, cheese, and ice cream is exempted from label declaration by section 403(k) of the act (21 U.S.C. 343(k)) (§§ 74.1705 and 101.22 require that FD&C Yellow No. 5, when used in butter, cheese, or ice cream, be declared on the label). FDA urges manufacturers to declare, voluntarily, the presence of these exempted ingredients, when used, on the label of the cheese. FDA is not requiring that manufacturers who do not choose to declare the presence of these ingredients title the ingredient statement on their foods "partial list of ingredients" or "incomplete list of ingredients" because such a title may be confusing to consumers.

10. One comment expressed the opinion that a better method of label declaration of ingredients would be by specific ingredient rather than by general terms such as "milkfat and nonfat milk", "nonfat milk and milkfat", or "milk". This change would prevent potential consumer confusion when the

use of reconstituted or concentrated milk is declared simply as "milk".

FDA does not agree with this comment. This method of ingredient declaration is not deceptive because differences in the form of the dairy ingredients used (i.e., liquid, concentrated, or dried) have no perceptible effect on the final product.

FDA notes that dairy ingredients used in cheese may be declared as "milkfat and nonfat milk", "nonfat milk and milkfat", or in accordance with Part 101 (21 CFR Part 101) labeling regulations which, in § 101.4(b)(4), provide that milk, concentrated milk, reconstituted milk, and dry whole milk may be declared as "milk" in the ingredient statement. Therefore, the requested change is not being made in the final regulation.

11. One comment stated that FDA apparently misinterpreted the intention of the Codex standards committee in providing for multiple milkfat and moisture levels in blue, limburger, and samsoe cheeses, and in expanding this Codex concept to cheddar and swiss and emmentaler cheeses. The comment maintained that the Codex committee provided for variable milkfat levels in the former three cheeses in recognition of differing fat levels traditional for those varieties in certain member countries and to encourage those countries to accept the proposed Codex standards. The comment asserted that the intent of the Committee was that a country would adopt only the minimum milkfat and maximum moisture level combination traditional in that country. Several comments were against multiple milkfat and moisture levels in cheese standards because they work to destroy the integrity of the standards and of the cheeses. Others asserted that the cheese standards establish a definite identity, name, and minimum level of composition for these foods, which would be destroyed with the inclusion of variable milkfat and moisture levels. Several of those commenting thought that allowing cheeses of various milkfat and moisture levels to be marketed under the same name would be confusing to the consumer and would result in destruction of consumer trust in traditional products. Some comments, while recognizing the value of lower fat cheeses, suggested that lower fat types of standardized cheeses should not be identified with traditional names. It was suggested that separate standards with new names be established.

FDA advises that, while there may have been the understanding that some countries would not accept multiple composition requirements, as provided for in the recommended Codex standards, these provisions are, in fact, part of the Codex standards and were considered in accordance with 21 CFR 130.6. Because compositional variations of several cheese varieties that are covered by U.S. standards of identity were appearing in the marketplace, FDA extended the multiple composition concept to cheddar and swiss cheeses. However, FDA has been persuaded by the comments received that consumers may be confused if multiple milkfat and moisture levels are provided for in U.S. varietal cheese standards of identity under the same varietal name and that the physical attributes of a specific cheese variety could be altered. Therefore, FDA is not providing for multiple fat and moisture level requirements, but is retaining the minimum fat and maximum moisture requirement as now set forth in paragraph (a) of §§ 133.106, 133.113, 133.152, 133.185, and 133.195 of the standards of identity for blue, cheddar, limburger, samsoe, and swiss and emmentaler cheeses.

12. Most of the comments opposed, for various reasons, the declaration of the percent fat as part of the name of the cheese.

FDA is not establishing variable milkfat and moisture levels in any of the natural cheese standards. Therefore, a percent fat declaration as part of the name of the cheese is no longer necessary and is not provided for in the final regulation.

FDA advises that it is retaining the current method of expressing fat content (i.e., on a dry weight or solids basis) in §§ 133.106, 133.113, 133.136, 133.142, 133.149, 133.152, 133.181, 133.185, and 133.195. This method of expressing fat content is consistent with that in the Codex standards as well as in other U.S. standards of identity for cheeses.

13. Several comments were received in response to FDA's request for information about the use of the hydrogen peroxide/catalase treatment of milk to be used for cheese manufacturing. Two comments requested that the use of this treatment be retained in the standards of identity for cheddar cheese (§ 133.113) and swiss and emmentaler cheese (§ 133.195) because it destroys harmful bacteria without destroying beneficial enzymes. The comments asserted that the treatment also produces a more consistent flavor in the cheeses. One comment, by a large producer of cheese, stated that it regularly uses a process relying on this method of milk treatment. Another comment maintained that the hydrogen peroxide/catalase method should be retained even if it isn't widely used because it could prove to be a low-energy alternative to pasterization and of increasing value in the future.

FDA proposed to eliminate provisions for the use of the hydrogen peroxide/catalase treatment of milk from the standards for cheddar cheese and swiss and emmentaler cheese and cross-referenced standards because it was not aware that any manufacturers were using the process. In view of the fact that some manufacturers are still using this method of reducing the bacterial population of cheese milk, provisions for the use of the hydrogen peroxide/catalase treatment of milk are being retained in §§ 133.113 (a)(3) and (b)(3)(v) and 133.195 (a)(3) and (b)(3)(vi) (cheddar and swiss and emmentaler cheese, respectively).

14. One comment requested that whey proteins be permitted as optional ingredients in natural cheeses. The comment asserted that allowing the direct incorporation of such proteins would recognize the desirability of retaining as many of the nutrients of the milk source as possible in the final cheese product.

FDA is not making the requested change because whey proteins might adversely affect the physical quality of the cheese (e.g, slow rennetting, poor matting, and short texture) and because it has no information to substantiate the possible nutritional benefits arising from the use of whey proteins. FDA invites any interested person to submit a petition, with supporting data, consistent with the requirements of 21 CFR 10.30, proposing to amend specific cheese standards of identity to permit the use of whey proteins.

15. One comment requested permitting only *beta*-carotene as coloring in the proposed cheese standards because it has vitamin A activity and all the cheeses are yellow. The comment expressed the opinion that the U.S. standards are too broad because they allow the use of artificial color, whereas Codex standards allow only *beta*-carotene to be used.

FDA believes that the request is inappropriate. FDA is aware of the vitamin A activity of *beta*-carotene, but emphasizes that the purpose of permitting the use of *beta*-carotene in the standard is as a coloring agent, and not as a nutrient. Further, the comment incorrectly characterized the Codex standard. That standard permits the use of annatto, as well as *beta*-carotene, to impart a yellow color to those cheeses where a yellow color is desired. Finally, the comment is incorrect in asserting that all cheeses are yellow. Certain cheeses, such as provolone cheese and blue cheese, are made from types of

milk (animal source and season) which result in a relatively white cheese. When the cheese curd used in formulating these cheeses is made from milk relatively high in yellow pigments, as is true at certain times of the year, a blue or green color is used to mask the yellow color and thus to produce the near-white color which is characteristic of such cheeses. FDA, therefore, is not making the requested changes.

16. One comment requested that the minimum age requirement for blue (§ 133.106), gruyere (§ 133.149), and swiss and emmentaler (§ 133.195) cheeses be moved from the description paragraph to the paragraph delineating the manufacturing procedure so that manufacturers may use alternate procedures using shorter curing times with the provision that the resulting cheese is chemically and physically identical to the cheese produced by the prescribed manufacturing procedure. No data were submitted in support of this comment.

FDA is not making the requested changes because it has no data which indicate that the organoleptic and physical qualities characteristic of these cheeses can be developed using shorter curing times. FDA notes that the proposed curing times for these cheeses are the same as those now required for these three cheeses and are consistent with the Codex requirements.

17. One comment requested that proposed paragraph (b)(3)(iv) of § 133.113 (cheddar cheese), § 133.136 (edam cheese), § 133.181 (provolone cheese), § 133.185 (samsoe cheese), and § 133.195 (swiss and emmentaler cheese), proposed paragraph (b)(3)(iii) of § 133.149 (gruyere cheese) which limits use of antimycotics to the surface of cuts and slices in consumer-sized packages, and proposed paragraph (b)(3)(iv) of § 133.106 (blue cheese) which permits the use of antimycotics on the surface of the blue cheese be expended to read "Antimycotic agents, applied to the surface of the cheese." The comment also requested that the cross-referenced standards for cheddar cheese for manufacturing (§ 133.114) and swiss cheese for manufacturing (§ 133.196) permit the use of antimycotic agents. The comment maintained that this requested extension of the use of antimycotics is necessary to improve the quality of the product and protect consumers. No supporting data were submitted with the comments.

FDA concludes that it is inappropriate to make the requested changes at this time because such changes should be subject to the proposed rulemaking proceedings whereby interested persons have an opportunity to comment. FDA invites interested persons to submit a petition supported by adequate data demonstrating that extending the use of antimycotics will not lead to these cheeses being prepared, packed, or held under unsanitary conditions whereby they may become contaminated with filth or otherwise be rendered injurious to the health of the consumer. One comment, which supported restricting the use of antimycotics, pointed out that the requested extended use of antimycotics would result in companies that cut and pack cheese in consumer-sized packages incurring additional costs for either testing to determine the quantity of antimycotics already in the cheese or for trimming the whole cheese in an effort to remove antimycotics from the surface. Both of these procedures result in added costs to the company which would be passed on to consumers.

Comments Related to the Proposed Amendments to Specific Cheese Varieties

Blue Cheese

18. One comment stated that the 60-day curing period required in paragraph (a) of § 133.106 (blue cheese) is no longer technologically necessary if the cheese meets the mold development requirement specified in proposed paragraph (a)(1) (i.e., "It is characterized by the presence of bluish-green mold throughout the cheese"). The comment suggested that the 60-day holding period requirement for all blue cheese be replaced with the standard requirement that blue cheese made from unpasteurized dairy ingredients be held at not less than 35° F for a minimum of 60 days. No data were submitted in support of this comment.

FDA is not making the requested change in the final regulation because it has no data which demonstrate that the 60-day holding period requirement for blue cheese is no longer necessary to ensure that the enzymes produced by the *Penicillium roquefortii* have had an opportunity to break down fats and proteins in the curd to produce flavor components characteristic of blue cheese. The mere presence of blue-green mold is not a guarantee that these flavor components are present.

19. One comment stated that the requirement that *Penicillium roquefortii* spores be added to the curd is out of date. The standard for blue cheese would be more technically correct if proposed § 133.106(a)(4) were changed to permit the addition of spores to the dairy ingredients rather than only to the curd.

FDA concludes that this change is not necessary because the procedure described in proposed § 133.106(a)(4) may be modified as provided for in § 133.106(a)(1) which states that any other procedure may be used which produces a finished cheese having the same physical and chemical properties.

20. One comment requested that FDA continue to allow the use of vegetable fat or oil as a coating on the rind of the cheese because such coating limits the oxygen available to microorganisms that may grow on the surface, thereby having a preservative effect.

FDA agrees and is providing for the optional use of vegetable fat or oil as a coating on the rind in § 133.106(b)(3)(vi). FDA notes that the word "homogenized" was omitted from § 133.106(a)(3) of the proposal. Currently, § 133.106(b) provides for homogenization of the dairy ingredient used in the manufacture of blue cheese. Obviously the omission was inadvertent. FDA has corrected the omission by inserting the word "homogenized" in the final regulation.

Cheddar Cheese

21. One comment favored retaining the word "cheese" as an alternative name for "cheddar cheese" (§ 133.113) because the word "cheese" is erroneously used generically, and this usage could confuse or mislead consumers.

FDA does not agree with this comment. The word "cheese", as pointed out by another comment, is understood by consumers as a generic term describing a universe of cheese varieties, not as a specific reference to "cheddar cheese". Consequently, FDA believes that retention of the word "cheese" as an alternative name will create more confusion. Therefore, FDA is not retaining the word "cheese" as an alternative name for "cheddar cheese".

22. One comment requested that cultured milk, cultured nonfat milk, and cultured cream be added to the list of optional dairy ingredients that may be used in the manufacture of cheddar cheese because, technologically, they can be used to produce the same cheddar cheese produced using traditional, noncultured forms of these dairy ingredients. No data or grounds to support this change were submitted.

FDA is not convinced, nor are there data to support the contention, that cultured forms of dairy ingredients, used as basic ingredients, will produce the same cheese as produced from the traditional, noncultured dairy ingredients. FDA also has no information about whether the microorganisms used in the cultured

dairy ingredients might interfere with the microorganisms necessary to the production of the cheese. Therefore, the requested change is not being made in the final regulation.

Cheddar Cheese for Manufacturing

23. One comment requested that the proposed amendment of the standard for cheddar cheese for manufacturing (§ 133.114) be changed to require pasteurization of the diary ingredients used. The comment asserted that the lack of this requirement in the proposed standard "ignores the potential public health hazard and does not help ensure safety of the product." The comment further asserted that this requested change would be consistent with proposed amendments to the standard for skim milk cheese for manufacturing (21 CFR 133.189), published in the **Federal Register** of October 4, 1977 (42 FR 53979).

Requiring pasteurization for cheddar cheese for manufacturing is not necessary because the cheese is to be used in the manufacture of cheese products, such as pasteurized process cheese and other foods, and not for direct human consumption. The manufacturing process for these foods (e.g., pasteurized process cheese products) includes a pasteurization heat treatment that is sufficient to destroy pathogenic bacteria that may have been present in the original cheese ingredients. Therefore, FDA is not making the requested change. FDA notes that the purpose of the proposed amendments to the standard for skim milk cheese for manufacturing (reproposed Docket No. 77P-0071, November 30, 1982 (47 FR 53914)) was to provide a cheese for direct human consumption as well as for manufacturing purposes.

Low Sodium Cheddar Cheese

24. One comment pointed out that salt need not be excluded from the standard for low sodium cheddar cheese (§ 133.116) since a maximum level of sodium is set by the standard. The comment stated that even a small quantity of salt is technologically important as an aid in removing moisture from the curd and producing a more palatable product.

FDA agrees and in the final rule is deleting paragraph (a) of § 133.116 and is redesignating proposed paragraphs (b), (c), (d), and (e), of § 133.116 as (a), (b), (c), and (d), respectively.

Gouda Cheese

25. One comment asked that the proposed milkfat minimum for gouda cheese (§ 133.142) be raised to 28 percent, by weight, which is comparable to 48 percent on a dry basis, the minimum set by the Codex standard.

FDA does not believe that it is necessary to raise the minimum milkfat level of gouda cheese to 48 percent, on a dry basis, to be consistent with the Codex standard. The minimum milkfat content, on a dry basis, in the current U.S. standard for gouda cheese is 46 percent. This 46 percent minimum is not in conflict with the Codex standard because, as a minimum, it does not impede either the production of a higher fat gouda cheese in this country or the importation of a higher fat gouda cheese from another country into this country. Therefore, this requested change is not being made in the final regulation.

Provolone Cheese

26. Several comments objected to inclusion of the word "smoked", being proposed in § 133.181(c)(2)(ii), in the name of the food when provolone cheese is smoked because this term may be deceptive and potentially confusing to consumers who expect provolone cheese to have a smoked flavor. Therefore, the comments requested that the requirement for the label declaration of the term "smoked" for the smoked product be replaced with the label declaration of "not smoked" for the product that is not smoked, as in the current standard.

FDA agrees that the potential for consumer confusion exists in requiring the word "smoked" as part of the name of the food, so it is also providing for use of the term "not smoked", when appropriate. Therefore, the standard for provolone cheese has been changed accordingly in § 133.181(c)(2)(i) and (ii).

27. Several comments objected to the ingredient declaration requirement for provolone cheese because such a declaration would imply to the consumer that provolone is not a standardized cheese. The declaration would further imply that the manufacturer, rather than FDA, has control over the selection of the various ingredients that can be used to produce provolone cheese. The comments requested that the required ingredient declaration be dropped.

FDA does not agree with this comment. The ingredient declaration is required because cheese manufacturers have many choices of ingredients within specified classes of ingredients. Furthermore, consumers have expressed the desire to know what ingredients are in the foods they consume. Therefore, FDA is not making the requested change.

28. One comment wanted to retain the alternative name "pasta filata" in the provolone cheese standard because the name provides a basis for the designation of different shapes and sizes with which the consumer is familiar (e.g., "salami pasta filata").

The term "pasta filata" more correctly refers to a family of cheeses, each of which have a pasta filata (curd kneading and stretching) step in their manufacturing procedure. Examples of pasta filata-type cheeses are mozzarella, caciocavallo siciliano, and provolone. Furthermore, FDA believes that the name "provolone" is more commonly associated with shape or size designations such as "salami" or "bacchini" than is the term "pasta filata". Therefore, FDA is not retaining "pasta filata" as an alternative name for provolone cheese.

29. Several comments pointed out an apparent error in proposed § 133.181(a)(1) of the standard for provolone cheese. The last sentence of the paragraph reads "If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of 35° F for at least 60 days." The comments pointed out that the words "not less than" should precede "35° F".

FDA agrees and the final regulation is changed accordingly.

30. One comment suggested that language be added to the proposed amendment of the provolone standard that would allow the use of rope or twine to encase the cheese before drying, the addition of smoke flavor, and the use of paraffin and similar coatings. The comment maintained that the addition of this language will protect the integrity of the standard and the traditional characteristics of provolone cheese.

FDA doe not believe that either the integrity of the standard or the traditional characteristics of the cheese would be adversely affected if the suggested language is not added to the proposed standard for provolone cheese. There is no need to specifically provide for the use of rope, twine, or paraffin or other coatings. It should be noted that the standard does not prevent their usage as packaging materials. Provision for the addition of smoke flavor, which is in the current standard, was removed from the proposed standard because the smoke-flavored cheese is covered by the standard of identity for spiced, flavored standardized cheeses (§ 133.193). Therefore, the requested language is not being added to the standard for provolone cheese.

31. Several comments objected to listing "clotting enzymes" and "milk" as optional ingredients in the proposed amendment of the standard for

provolone cheese. The comments said that some form of milk is absolutely essential to cheese production and that clotting enzymes are intrinsic to the cheesemaking process. Therefore, there is no need for confusing and mandatory listing of these ingredients on the label. One of the comments noted that the Codex standard lists "necessary additions" such as starter, rennet, and salt, and "optional additions" such as smoke and calcium chloride. Another of the comments asserted that the listing of "milk" and "clotting enzymes" as optional ingredients is contrary to section 401 of the act (21 U.S.C. 341).

These comments apparently misunderstood FDA's purpose in providing for ingredients by class, rather than by specific name, in the proposed standard. As explained in the preamble to the proposal, FDA believes that it is technologically feasible to use many dairy ingredients other than fluid milk to produce cheese. Therefore, classes of dairy ingredients were defined and included under the designation "Optional Dairy Ingredients". Because manufacturers would have many options within the group of permitted dairy ingredients, FDA is requiring that the dairy ingredients used be declared in a label statement of ingredients by either of the options offered in paragraph (d)(2) of the proposed standard. This requirement is in keeping with FDA's policy, developed under section 401 of the act and stated in 21 CFR 101.6 to provide consumers with more complete information about the food they eat. FDA does not believe that this method of providing for forms of dairy ingredients other than fluid milk implies that dairy ingredients are not necessary to the manufacture of cheese, nor does FDA believe that listing the ingredients used in a food on the label of that food is confusing to consumers. The same holds true for optional clotting enzymes. It is not FDA's intention to adopt the Codex method of designating permitted ingredients because it is too restrictive and contrary to FDA's policy of permitting manufacturers the flexibility, within reason, to choose ingredients according to their availability in the marketplace and, thus, reduce consumer costs. Therefore, no change is made in the final regulation.

Samsoe Cheese

32. One comment requested that the maximum moisture level in the Codex standard for samsoe cheese be adopted. The maximum moisture level in the current U.S. standard (§ 133.185) is 41 percent; the maximum in the Codex standard is 44 percent. The comment pointed out that most of the samsoe cheese sold in the United States is produced in Denmark, a country that has accepted the Codex standard. Another comment from a national cheese producers' trade association stated that it is unaware of any of its members manufacturing samsoe cheese in this country.

FDA believes that raising the maximum moisture level by 3 percent would have a negative effect on the nutritional value of samsoe cheese. Because the milkfat minimum is to remain unchanged, a raise in the moisture maximum level would result in the milk solids content being proportionately reduced. Among the more important nutrients that would be reduced in quantity are protein and its associated minerals, calcium and phosphorus. Therefore, FDA is not raising the maximum moisture level to 44 percent, as requested.

Swiss and Emmentaler Cheese

33. Two comments were in favor of raising the minimum milkfat level in the proposed swiss and emmentaler cheese standard (§ 133.195) to conform to the minimum of 45 percent specified in the Codex standard. (The minimum milkfat requirement in the current U.S. standard is 43 percent. Both minima are calculated on a dry basis.) One other comment requested that the milkfat minimum level not be changed because the best quality swiss cheese has a milkfat content between 44 and 45.5 percent, on a dry basis, and that a milkfat content of 46 percent or more leads to poor eye formation and generally poor quality cheese. The latter comment did not want the minimum raised to 45 percent because, to assure that cheese meets this minimum, some would contain 46 percent or more milkfat and thus be of poorer quality.

FDA does not believe that the 43-percent minimum milkfat level for swiss cheese is in conflict with the Codex standard because it neither prevents manufacturers from producing swiss cheese with the higher milkfat content nor prevents other countries from exporting higher fat swiss and emmentaler cheese to the United States. Also, FDA has no technological data, nor were any supplied in the comments, to show that a 46-percent fat swiss cheese would be of poorer quality than a 43-percent or a 45-percent fat swiss cheese. Therefore, FDA is not raising the minimum milkfat level to conform to the Codex standard for swiss and emmentaler cheese.

Swiss Cheese for Manufacturing

34. One comment requested that the phrase "curing is not required" be added to the proposed standard for swiss cheese for manufacturing (§ 133.196) because the safety and esthetic reasons for curing the cheese are not applicable because it would undergo further processing.

FDA recognizes that curing of the cheese in lieu of pasteurization of the milk from which the cheese is made is not applicable to cheeses for manufacturing, but, in this case, curing is necessary to ensure that the flavor characteristics normally associated with swiss cheese are developed. Since swiss cheese for manufacturing must have the flavor of swiss cheese, and a curing period of at least 60 days is necessary for the characteristic flavor to develop, the curing requirement is being retained in the standard.

Monterey Cheese for Manufacturing

35. One comment requested that a standard for monterey cheese for manufacturing be established. The comment stated that monterey cheese is the only American-type cheese that does not have a manufacturing standard.

It is not appropriate for FDA to establish a standard of identity for monterey cheese for manufacturing at this point in the rulemaking proceedings. FDA invites any interested person who believes that a standard of identity for this food should be established to submit a petition presenting reasonable grounds in support of such action.

After considering the comments received, FDA concludes that it will promote honesty and fair dealing in the interest of consumers to revise the standards of identity for nine natural cheeses and appropriate cross-referenced standards.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

List of Subjects in 21 CFR Part 133

Cheese; Food standards, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 133 is amended as follows:

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

1. By revising § 133.3 to read as follows:

§ 133.3 Definitions.

(a) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which may be clarified and may be adjusted by separating part of the fat therefrom; concentrated milk, reconstituted milk, and dry whole milk. Water, in a sufficient quantity to reconstitute concentrated and dry forms, may be added.

(b) "Nonfat milk" means skim milk, concentrated skim milk, reconstituted skim milk, and nonfat dry milk. Water, in a sufficient quantity to reconstitute concentrated and dry forms, may be added.

(c) "Cream" means cream, reconstituted cream, dry cream, and plastic cream. Water, in a sufficient quantity to reconstitute concentrated and dry forms, may be added.

(d) "Pasteurized" when used to describe a dairy ingredient means that every particle of such ingredient shall have been heated in properly operated equipment to one of the temperatures specified in the table of this paragraph and held continuously at or above that temperature for the specified time (or other time/temperature relationship which has been demonstrated to be equivalent thereto in microbial destruction):

Temperature	Time
145° F[1]	30 min.
161° F[1]	15 s.
191° F	1 s.
204° F	0.05 s.
212° F	0.01 s.

[1] If the dairy ingredient has a fat content of 10 percent or more, the specified temperature shall be increased by 5° F.

(e) "Ultrapasteurized" when used to describe a dairy ingredient means that such ingredient shall have been thermally processed at or above 280° F for at least 2 seconds.

2. By adding new § 133.5, to read as follows:

§ 133.5 Methods of analysis.

Moisture, milkfat, and phosphatase levels in cheeses will be determined by the following methods of analysis from "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th ed., 1980, which is incorporated by reference (copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408):

(a) Moisture content—section 16.233 "Method I (52)—Official Final Action", under the heading "Moisture".

(b) Milk fat content—section 16.255 "Fat (60)—Official Final Action".

(c) Phenol equivalent value—section 16.275 "Reagents", section 16.276 "Sampling", and section 16.277 "Determination", under the heading "Residual Phosphatase (27) Official Final Action".

(d) Milkfat in solids (fat on a dry basis)—Subtract the percent of moisture found from 100; divide the remainder into the percent milkfat found. The quotient, multiplied by 100, shall be considered to be the percent of milkfat contained in the solids.

3. By revising § 133.106, to read as follows:

§ 133.106 Blue cheese.

(a) *Description.* (1) Blue cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. It is characterized by the presence of bluish-green mold, *Penicillium roquefortii,* throughout the cheese. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 46 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used may be pasteurized. Blue cheese is at least 60 days old.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of blue cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be homogenized, bleached, warmed, and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into smaller portions and allowed to stand for a time. The mixed curd and whey is placed in forms permitting further drainage. While the curd is being placed in forms, spores of the mold *Penicillium roquefortii* are added. The forms are turned several times during drainage. When sufficiently drained, the shaped curd is removed from the forms and salted with dry salt or brine. Perforations are then made in the shaped curd, and it is held at a temperature of approximately 50° F. at 90 to 95 percent relative humidity, until the characteristic mold growth has developed. During storage the surface of the cheese may be scraped to remove surface growth of undesirable microorganisms. Antimycotics may be applied to the surface of the whole cheese. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Blue or green color in an amount to neutralize the natural yellow color of the curd.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages or to the surface of the bulk cheese during curing.

(v) Benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate used to bleach the dairy ingredients. The weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(vi) Vegetable fats or oils, which may be hydrogenated, used as a coating for the rind.

(c) *Nomenclature.* The name of the food is "blue cheese."

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

4. By revising §133.113, to read as follows:

§ 133.113 Cheddar cheese.

(a) *Description.* (1) Cheddar cheese is the food prepared by the procedure set forth in paragraph (a)(4) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 31 percent by weight of the solids, and the maximum moisture content is 39 percent by weight, as determined by the methods described in § 133.5. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35° F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of cheddar cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed, treated with hydrogen peroxide/catalase, and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is so cut, stirred, and heated with continued stirring, as to promote and regulate the separation of whey and curd. The whey is drained off, and the curd is matted into a cohesive mass. The mass is cut into slabs, which are so piled and handled as to promote the drainage of whey and the development of acidity. The slabs are then cut into pieces, which may be rinsed by sprinkling or pouring water over them, with free and continuous drainage; but the duration of such rinsing is so limited that only the whey on the surface of such pieces is removed. The curd is salted, stirred, further drained, and pressed into forms. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in §133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial orgin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(v) Hydrogen peroxide, followed by a sufficient quantity of catalase preparation to eliminate the hydrogen peroxide. The weight of the hydrogen peroxide shall not exceed 0.05 percent of the weight of the milk and the weight of the catalase shall not exceed 20 parts per million of the weight of the milk treated.

(c) *Nomenclature.* The name of the food is "cheddar cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order or predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

5. By revising § 133.114, to read as follows:

§ 133.114 Cheddar cheese for manufacturing.

Cheddar cheese for manufacturing conforms to the definition and standard of identity prescribed for cheddar cheese by § 133.113, except that the milk is not pasteurized, curing is not required, and the provisions of paragraph (b)(3)(iv) of that section do not apply.

6. By revising § 133.116, to read as follows:

§ 133.116 Low sodium cheddar cheese.

Low sodium cheddar cheese is the food prepared from the same ingredients and in the same manner prescribed in § 133.113 for cheddar cheese and complies with all the provisions of § 133.113, including the requirements for label statement of ingredients, except that:

(a) It contains not more than 96 milligrams of sodium per pound of finished food.

(b) The name of the food is "low sodium cheddar cheese". The letters in the words "low sodium" shall be of the same size and style of type as the letters in the words "cheddar cheese", wherever such words appear on the label.

(c) If a salt substitute is used, the label shall bear the statement "_____ added as a salt substitute", the blank being filled in with the common name or names of the ingredient or ingredients used as a salt substitute.

(d) Low sodium cheddar cheese is subject to § 105.69 of this chapter.

7. By revising § 133.138, to read as follows:

§ 133.138 Edam cheese.

(a) *Description.* (1) Edam cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 40 percent by weight of the solids, as determined by the methods described in § 133.5, and the maximum moisture content is 45 percent by weight. If the dairy ingredients used are not pasturized, the cheese is cured at a temperature of not less than than 35° for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of edam cheese is not more than 3 micrograms, as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. After coagulation the mass is cut into small cube-shaped pieces with sides approximately three-eighths-inch long. The mass is stirred and heated to about 90° F. and so handled by further stirring, heating, dilution with water or salt brine, and salting as to promote and regulate the separation of curd and whey. When the desired curd is obtained, it is transferred to forms permitting drainage of whey. During drainage the curd is pressed and turned. After drainage the curd is removed from the forms and is salted and cured. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedures.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* The name of the food is "edam cheese."

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat," as appropriate.

8. By revising § 133.142, to read as follows:

§ 133.142 Gouda cheese.

Gouda cheese conforms to the definition and standard of identity and complies with the requirements for label declaration of ingredients prescribed for edam cheese by § 133.138, except that the minimum milkfat content is 46 percent by weight of the solids, as determined by the methods described in § 133.5 and the maximum moisture content is 45 percent by weight.

9. By revising § 133.149, to read as follows:

§ 133.149 Gruyere cheese.

(a) *Description.* (1) Gruyere cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. It contains small holes or eyes. It has a mild flavor, due in part to the growth of surface-curing agents. The minimum milkfat content is 45 percent by weight of the solids, as determined by methods described in § 133.5. The dairy ingredients used may be pasteurized. The cheese is at least 90 days old.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of gruyere cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of lactic acid-producing and propionic acid-producing bacterial cultures. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into particles similar in size to wheat kernels. For about 30 minutes the particles are alternately stirred and allowed to settle. The temperature is raised to about 126° F. Stirring is continued until the curd becomes firm. The curd is transferred to hoops or forms, and pressed until the desired shape and firmness are obtained. The cheese is surface-salted while held at a temperature of 48° to 54° F for a few days. It is soaked for 1 day in a saturated salt solution. It is then held for 3 weeks in a salting cellar and wiped every 2 days with brine cloth to insure growth of biological curing agents on the rind. It is then removed to a heating room and held at progressively higher temperatures, finally reaching 65° F with a relative humidity of 85 to 90 percent, for several weeks, during which time small holes, or so-called eyes, form. The cheese is then stored at a lower temperature for further curing. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Calcium chloride in an amount not more than 0.002 percent (calculated as anhydrous calcium chloride) of the weight of the dairy ingredients, used as a coagulation aid.

(ii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iii) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* The name of the food is"gruyere cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

10. By revising § 133.152, to read as follows:

§ 133.152 Limburger cheese.

(a) *Description.* (1) Limburger cheese is the food prepared by one of the procedures set forth in paragraph (a)(3) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. The minimum milkfat content is 50 percent by weight of the solids and the maximum moisture content is 50 percent by weight, as determined by the methods described in § 133.5. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of 35° F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of limburger cheese is not more than 4 micrograms as determined by the method described in § 133.5.

(3) One of the following procedures may be followed for producing limburger cheese:

(i) One or more of the dairy ingredients, unpasteurized, specified in paragraph (b)(1) of this section is warmed to about 92° F and subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into cubes with sides approximately one-half inch long. After a few minutes the mass is stirred and heated, gradually raising the temperature to 96° to 98° F. The curd is then allowed to settle, most of the whey is drained off, and the remaining curd and whey dipped into molds. During drainage the curd may be pressed. It is turned at regular intervals. After drainage the curd is cut into pieces of desired size and dry-salted at intervals for 24 to 48 hours. The cheese is then cured with frequent applications of a weak brine solution to the surface, until the proper growth of surface-curing organisms is obtained. It is then wrapped and held in storage for development of as much additional flavor as is desired. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(ii) One or more of the dairy ingredients specified in paragraph (b)(1) of this section is pasteurized, brought to a temperature of 89° to 90° F. after pasteurization, and is subjected to the

action of a lactic acid-producing bacterial culture. The procedure is then the same as in paragraph (a)(3)(i) of this section, except that heating is to 94° F. After most of the whey is drained off, salt brine at a temperature of 66° to 70° F is added, so that the pH of the curd is about 4.8. The mixed curd, whey, and brine is dipped into molds, and the remaining procedure specified in paragraph (a)(3)(i) of this section is followed.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(c) *Nomenclature.* The name of the food is "limburger cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

11. By revising § 133.181, to read as follows:

§ 133.181 Provolone cheese.

(a) *Description.* (1) Provolone, a pasta filata or stretched curd-type cheese, is the food prepared by the procedure set forth in paragraph (a)(3) of this section, or by any other method which produces a finished cheese having the same physical and chemical properties. It has a stringy texture. The minimum milkfat content is 45 percent by weight of the solids, as determined by the methods described in § 133.5 and the maximum moisture content is 45 percent by weight. If the dairy ingredients used are not pasteurized, the cheese is cured at a temperature of not less than 35° F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of provolone cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be bleached, warmed, and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut, stirred, and heated so as to promote and regulate the separation of whey from the curd. The whey is drained off, and the curd is matted and cut, immersed in hot water, and kneaded and stretched until it is smooth and free from lumps. Antimycotics may be added to the curd during the kneading and stretching process. Then it is cut and molded. During the molding the curd is kept sufficiently warm to cause proper sealing of the surface. The molded curd is then firmed by immersion in cold water, salted in brine, and dried. It is given some additional curing. Provolone cheese may be smoked, and one or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Blue or green color in an amount to neutralize the natural yellow color of the curd.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages or added to the curd during the kneading and stretching process.

(v) Benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate used to bleach the dairy ingredients. The weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(c) *Nomenclature.* (1) The name of the food is "provolone cheese". The name of the food may include the common name of the shape of the cheese, such as "salami provolone".

(2) One of the following terms, in letters not less than one-half the height of the letters used in the name of the food, shall accompany the name of the food wherever it appears on the principal display panel or panels:

(i) "Smoked" if the food has been smoked.

(ii) "Not smoked" if the food has not been smoked.

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

12. By revising § 133.185, to read as follows:

§ 133.185 Samsoe cheese.

(a) *Description.* (1) Samsoe cheese is the food prepared by the procedure set forth in paragraph (a)(3) of this section or by any other procedure which produces a finished cheese having the same physical and chemical properties. It has a small amount of eye formation of approximately uniform size of about five-sixteenths inch (8 millimeters). The minimum milkfat content is 45 percent by weight of the solids and the maximum moisture content is 41 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used may be pasteurized. Samsoe is cured at not less than 35°F for at least 60 days.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of samsoe cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be warmed and is subjected to the action of a lactic acid-producing bacterial culture. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added

to set the dairy ingredients to a semisolid mass. After coagulation the mass is cut into small cube-shaped pieces with sides approximately three-eighths inch (1 centimeter). The mass is stirred and heated to about 102° F, and so handled by further stirring, heating, dilution with water, and salting as to promote and regulate the separation of curd and whey. When the desired curd is obtained, it is transferred to forms permitting drainage of whey. During drainage, the curd is pressed. After drainage, the curd is removed from the forms and is further salted by immersing in a concentrated salt solution for about 3 days. The curd is then cured at a temperature of from 60° to 70° F for 3 to 5 weeks to obtain the desired eye formation. Further curing is conducted at a lower temperature. One or more of the other optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(c) *Nomenclature.* The name of the food is "samsoe cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

13. By revising § 133.195, to read as follows:

§ 133.195 Swiss and emmentaler cheese.

(a) *Description.* (1) Swiss cheese, emmentaler cheese, is the food prepared by the procedure set forth in paragraph (a)(3) of this section, or by any other procedure which produces a finished cheese having the same physical and chemical properties. It has holes or eyes developed throughout the cheese. The minimum milkfat content is 43 percent by weight of the solids and the maximum moisture content is 41 percent by weight, as determined by the methods described in § 133.5. The dairy ingredients used may be pasteurized. Swiss cheese is at least 60 days old.

(2) If pasteurized dairy ingredients are used, the phenol equivalent value of 0.25 gram of swiss cheese is not more than 3 micrograms as determined by the method described in § 133.5.

(3) One or more of the dairy ingredients specified in paragraph (b)(1) of this section may be bleached, warmed, or treated with hydrogen peroxide/catalase, and is subjected to the action of lactic acid-producing and propionic acid-producing bacterial cultures. One or more of the clotting enzymes specified in paragraph (b)(2) of this section is added to set the dairy ingredients to a semisolid mass. The mass is cut into particles similar in size to wheat kernels. For about 30 minutes the particles are alternately stirred and allowed to settle. The temperature is raised to about 126° F. Stirring is continued until the curd becomes firm. The acidity of the whey at this point, calculated as lactic acid, does not exceed 0.13 percent. The curd is transferred to hoops or forms and pressed until the desired shape and firmness are obtained. The cheese is then salted by immersing it in a saturated salt solution for about 3 days. It is then held at a temperature of about 50° to 60° F. for a period of 5 to 10 days, after which it is held at a temperature of about 75° F. until it is approximately 30 days old, or until the so-called eyes form. Salt, or a solution of salt in water, is added to the surface of the cheese at some time during the curing process. The cheese is then stored at a lower temperature for further curing. One or more of the optional ingredients specified in paragraph (b)(3) of this section may be added during the procedure.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) *Dairy ingredients.* Milk, nonfat milk, or cream, as defined in § 133.3, used alone or in combination.

(2) *Clotting enzymes.* Rennet and/or other clotting enzymes of animal, plant, or microbial origin.

(3) *Other optional ingredients.* (i) Coloring.

(ii) Calcium chloride in an amount not more than 0.02 percent (calculated as anhydrous calcium chloride) by weight of the dairy ingredients, used as a coagulation aid.

(iii) Enzymes of animal, plant, or microbial origin, used in curing or flavor development.

(iv) Antimycotic agents, applied to the surface of slices or cuts in consumer-sized packages.

(v) Benzoyl peroxide or a mixture of benzoyl peroxide with potassium alum, calcium sulfate, and magnesium carbonate used to bleach the dairy ingredients. The weight of the benzoyl peroxide is not more than 0.002 percent of the weight of the milk being bleached, and the weight of the potassium alum, calcium sulfate, and magnesium carbonate, singly or combined, is not more than six times the weight of the benzoyl peroxide used. If milk is bleached in this manner, vitamin A is added to the curd in such quantity as to compensate for the vitamin A or its precursors destroyed in the bleaching process, and artificial coloring is not used.

(vi) Hydrogen peroxide, followed by a sufficient quantity of catalase preparation to eliminate the hydrogen peroxide. The weight of the hydrogen peroxide shall not exceed 0.05 percent of the weight of the milk and the weight of the catalase shall not exceed 20 parts per million of the weight of the milk treated.

(c) *Nomenclature.* The name of the food is "swiss cheese", or alternatively, "emmentaler cheese".

(d) *Label declaration.* The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of part 101 of this chapter, except that:

(1) Enzymes of animal, plant, or microbial origin may be declared as "enzymes"; and

(2) The dairy ingredients may be declared, in descending order of predominance, by the use of the terms "milkfat and nonfat milk" or "nonfat milk and milkfat", as appropriate.

14. By revising § 133.196, to read as follows:

§ 133.196 Swiss cheese for manufacturing.

Swiss cheese for manufacturing conforms to the definition and standard of identity prescribed for swiss cheese by § 133.195, except that the holes, or eyes, have not developed throughout the entire cheese, and the provisions of paragraph (b)(3)(iv) of that section do not apply; however, the labeling requirements of paragraph (d) of that section do apply.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 22, 1983, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin March 22, 1983, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985 shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: January 17, 1983.

William F. Randolph,

Acting Assistant Commissioner for Regulatory Affairs.

[FR Doc. 83-1642 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 145

[Docket No. 79N-0231]

Canned Berries; Standard of Identity; Confirmation of Effective Date and Further Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date and further amendment.

SUMMARY: The Food and Drug Administration (FDA) confirms the effective date for compliance with the provisions of the amended standard of identity for canned berries and further amends the standard to provide for the use of safe and suitable nutritive carbohydrate sweeteners as optional ingredients.

DATES: Compliance with the provision being revised herein may begin March 22, 1983. Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date.

Objections to the provision being revised herein by February 22, 1983.

Compliance with the provisions amended in the **Federal Register** of January 9, 1981 (46 FR 2339) may have begun February 10 1981, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 9, 1981 (46 FR 2339), FDA issued a final rule amending the U.S. standard of identity for canned berries (21 CFR 145.120(a)) in consideration of the identity provisions of the Recommended International Standard for Canned Raspberries and the Recommended International Standard for Canned Strawberries developed by the Codex Alimentarius Commission of the Food and Agriculture Organization of the United Nations and of the World Health Organization (FAO/WHO). The final rule was based on a proposal published in the **Federal Register** of September 25, 1979 (44 FR 55191). Any person who would be adversely affected by the final rule could have, at any time on or before February 9, 1981, filed written objections to the final regulation and requested a hearing on the specific provisions to which there were objections.

The Whey Products Institute (WPI) objected to and requested a hearing on the limitation of the use of optional sweeteners to those named in the final rule (21 CFR 145.120 (a) (4) (iv)) because lactose was not included. WPI said that failure to allow the use of any safe and suitable nutritive carbohydrate sweetener, such as lactose, as an optional ingredient in canned berries is inconsistent with the generic permission given to the use of optional flavors, organic acids, and fruit juices as found in this rule. It pointed out that lactose, obtained from whey, is considered a safe and suitable optional nutritive carbohydrate sweetener and referred to the standard of identity for lactose in 21 CFR 168.122. WPI also asserted that appropriate sweeteners cannot be excluded solely because FDA is not aware of their use in canned berries.

The September 25, 1979, proposal to amend the standard of identity for canned berries provided for the use of safe and suitable nutritive carbohydrate sweeteners. Subsequent to the proposal, FDA, the United States Department of Agriculture (USDA), and the staff of the Federal Trade Commission's Bureau of Consumer Protection (FTC) announced in the **Federal Register** of December 21, 1979 (44 FR 75990) their tentative positions on a variety of food-related issues. A revision in FDA's policy with regard to safe and suitable ingredients in standardized foods was considered. The January 9, 1981, final rule reflected FDA's December 21, 1979, tentative policy by specifically listing those safe and suitable nutritive carbohydrate sweeteners allowed in canned berries.

Upon review and evaluation of the comments received in response to the December 21, 1979, tentative position, however, FDA has determined that, at this time, it would be in the best interest of the consumers and the regulated industry to retain its established policy for use of safe and suitable optional ingredients in standardized foods. Elsewhere in this issue of the **Federal Register** FDA is announcing this decision. This decision has the effect of acceeding to WPI's objection that all safe and suitable nutritive carbohydrate sweeteners should be optional ingredients.

Therefore, FDA is removing § 145.120(a)(4)(iv) that would have listed permitted nutritive carbohydrate sweeteners as optional ingredients and is revising § 145.120(a)(3)(i) to allow the use of safe and suitable nutritive carbohydrate sweeteners in canned berries as proposed.

List of Subjects in 21 CFR Part 145

Canned fruit, Food standards, Fruits.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the

standard of identity for canned berries (21 CFR 145.120(a)) as amended in the **Federal Register** of January 9, 1981 (46 FR 2339) will become effective July 1, 1983, except § 145.120(a)(4)(iv) which is removed, and § 145.120(a)(3)(i) which is revised to read as follows:

PART 145—CANNED FRUITS

§ 145.120 Canned berries.

(a) * * *

(3) *Packing media.* (i) the optional packing media referred to in paragraph (a)(1) of this section as defined in § 145.3 are:

(*a*) Water.

(*b*) Fruit juice(s) and water.

(*c*) Fruit juice(s).

Such packing media may be used as such or any one or any combination of two or more safe and suitable nutritive carbohydrate sweeteners may be added. Sweeteners listed in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

* * * * *

Any person who will be adversely affected by the foregoing amendment to the final regulation to provide for the use of safe and suitable nutritive carbohydrate sweeteners as optional ingredients may at any time on or before February 22, 1983, submit to the Dockets Management Branch (HFA–305) (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to the amendment that may be stayed by the filing of proper objections, compliance with this amendment to the final regulation may begin March 22, 1983. The mandatory compliance date for this amendment shall be July 1, 1985. Notice of the filing of objections or lack thereof will be published in the **Federal Register.** Accordingly, except as to the provisions herein amended, the effective date of § 145.120(a) as published in the **Federal Register** of January 9, 1981 (46 FR 2339) is confirmed as follows: Compliance with this regulation, including any required labeling changes, may have begun on February 10, 1981, and all affected products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1983, shall fully comply.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: January 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–1682 Filed 1–20–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 173

[Docket No. 76G–0117]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Esterase-Lipase Enzyme Derived From Mucor Miehei; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the regulation that provides for the use of esterase-lipase enzyme derived from *Mucor miehei* as a food additive.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF–355), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: In FR Doc. 82–17501 at page 28089 in the issue for Tuesday, June 29, 1982, FDA added new § 173.140 *Esterase-lipase derived from Mucor miehei* (21 CFR 173.140).

In the introductory paragraph of the added section, FDA inadvertently omitted two words, "maltodextrin or", although the agency stated in the preamble of the document that maltodextrin could be used as a carrier. The agency is now correcting this omission.

Therefore, the introductory paragraph of § 173.140 is corrected to read as follows:

§ 173.140 Esterase-lipase derived from Mucor miehei.

Esterase-lipase enzyme, consisting of enzyme derived from Mucor *miehei* var. *Cooney et Emerson* by a pure culture fermentation process, with maltodextrin or sweet whey as a carrier, may be safely used in food in accordance with the following conditions:

* * * * *

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–1518 Filed 1–20–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 176

[Docket No. 81F–0403]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of soluble anthraquinones, 1,4,4a,9a-tetrahydro-9,10-anthracenedione and the disodium salt of 1,4-dihydro-9,10-dihydroxyanthracene, as catalysts in the production of paper and paperboard for contact with aqueous and fatty foods. This action is in response to a petition filed by Kawasaki Kasei Chemicals, Ltd.

DATES: Effective January 21, 1983; objections by February 22, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 15, 1982 (47 FR 2407), FDA announced that a petition (FAP 1B3585) had been filed by Kawasaki Kasei Chemicals, Ltd., Tokyo, Japan, proposing that § 176.170 (21 CFR 176.170) be amended to provide for the safe use of soluble anthraquinones, 1,4,4a,9a-tetrahydro-9,10-anthracenedione and the

disodium salt of 1,4-dihydro-9,10-dihydroxyanthracene, as components of paper and paperboard in contact with aqueous and fatty foods.

FDA has evaluated data in the petition and other relevant material, and concludes that the proposed food additive use is safe and that § 176.170 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 176 is amended in § 176.170(a)(5) by alphabetically inserting two new items in the list of substances to read as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	
Disodium salt of 1,4-dihydro-9,10-dihydroxyanthracene (CAS Reg. No. 73347-80-5).	For use only as a catalyst in the alkaline pulping of lignocellulosic materials at levels not to exceed 0.1 percent by weight of the raw lignocellulosic materials.
1,4,4a,9a-Tetrahydro-9, 10-anthracenedione (CAS Reg. No. 56136-14-2).	For use only as a catalyst in the alkaline pulping of lignocellulosic materials at levels not to exceed 0.1 percent by weight of the raw lignocellulosic materials.
* * * * *	

* * * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 22, 1983 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 21, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: January 13, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1520 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 176

[Docket No. 82F-0215]

Indirect Food Additives; Paper and Paperboard Components; Styrene-Butadiene-Vinylidene Chloride and Styrene-Vinylidene Chloride Copolymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of styrene-butadiene-vinylidene chloride copolymers and styrene-vinylidene chloride copolymers, with minor monomers, as components of paper and paperboard in contact with aqueous and fatty foods. This action responds to a petition filed by Dow Chemical Co.

DATES: Effective January 21, 1983; objections by February 22, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of September 3, 1982 (47 FR 38988), FDA announced that a petition (FAP 2B3630) had been filed by Dow Chemical Co., 1803 Building, Midland, MI 48640, proposing that Part 176 (21 CFR Part 176) of the food additive regulations be amended to provide for the safe use of styrene-butadiene-vinylidene chloride copolymers, with one or more of the minor monomers acrylic acid, fumaric acid, 2-hydroxyethyl acrylate, itaconic acid, and methacrylic acid, and styrene-vinylidene chloride copolymers, with one or more of the minor monomers acrylic acid, fumaric acid, itaconic acid, and methacrylic acid, as components of paper and paperboard in contact with food.

FDA has evaluated the data in the petition and other material and concludes that the proposed food additive use is safe and that § 176.170(b)(2) of the food additive regulations should be amended as set forth below. The agency believes, however, that the regulated substance can be more precisely identified by the description set forth in the regulation below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the potential environmental effects of this regulation as announced in the notice of filing published in the **Federal Register**. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 176 is amended in § 176.170(b)(2) by alphabetically inserting two new items in the list of substances, to read as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *
(2) * * *

List of substances	Limitations
* * * * *	
Styrene-butadiene-vinylidene chloride copolymers containing not more than 40 weight percent of vinylidene chloride in the finished copolymers. The finished copolymers may contain not more than 10 weight percent of total polymer units derived from acrylic acid, fumaric acid, 2-hydroxyethyl acrylate, itaconic acid, and/or methacrylic acid.	For use only as coatings or components of coatings.
* * * * *	
Styrene-vinylidene chloride copolymers containing not more than 40 weight percent of vinylidene chloride in the finished copolymers. The finished copolymers may contain not more than 5 weight percent of total polymer units derived from acrylic acid, fumaric acid, itaconic acid, and/or methacrylic acid.	For use only as coatings or components of coatings.
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 22, 1983 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 21, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–1517 Filed 1–20–83; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 178

[Docket No. 80F–0445]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Lubricants With Incidental Food Contact

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of an ethoxylated resin phosphate ester mixture consisting of specified proportions of dihydrogen phosphate and monohydrogen phosphate esters of poly(methylene-*p-tert*-butylphenoxy)poly(oxyethylene), poly(methylene-*p*-nonylphenoxy)poly(oxyethylene), and *n*-tridecyl alcohol. The mixture is used as a surfactant in lubricating fluids with incidental food contact. This action is in response to a petition filed by the Witco Chemical Corp.

DATES: Effective January 21, 1983; objections by February 22, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204; 202–472–5740.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 5, 1980 (45 FR 80593), FDA announced that a petition (FAP 0B3526) had been filed by the Witco Chemical Corp., 3230 Brookfield St., Houston, TX 77045, proposing that § 178.3570 *Lubricants with incidental food contact* (21 CFR 178.3570) be amended to provide for the safe use of poly(methylene-*p-tert*-butylphenoxy)poly(oxyethylene), poly(methylene-*p*-nonylphenoxy) poly(oxyethylene), and α-tridecylhydroxy, mixture of dihydrogen phosphate and monohydrogen phosphate esters. The agency believes that the substance can be more precisely identified as ethoxylated resin phosphate ester mixture consisting of specified proportions of dihydrogen phosphate and monohydrogen phosphate esters of the following chemicals: poly(methylene-*p-tert*-butylphenoxy)poly(oxyethylene), poly(methylene-*p*-nonylphenoxy)poly(oxyethylene), and *n*-tridecyl alcohol. The agency has used this nonmenclature in the regulation set forth below. The ethoxylated resin phosphate ester mixture is used as a lubricant with incidental food contact.

Having evaluated data in the petition and other relevant material, FDA concludes that the proposed food additive use is safe and that § 178.3570 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch

(address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 178 is amended in § 178.3570(a)(3) by alphabetically inserting a new item in the list of substances, to read as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

§ 178.3570 Lubricants with incidental food contact.

* * * * *

(a) * * *

(3) * * *

Substances	Limitations
* * *	* *
Ethoxylated resin phosphate ester mixture consisting of the following compounds: 1. Poly(methylene-*p*-*tert*-butylphenoxy)poly-(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters (0 to 40 percent of the mixture). The resin is formed by condensation of 1 mole of *p*-*tert*-butylphenol with 2 to 4 moles of formaldehyde and subsequent ethoxylation with 4 to 12 moles of ethylene oxide; 2. Poly(methylene-*p*-nonylphenoxy)poly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters (0 to 40 percent of the mixture). The resin is formed by condensation of 1 mole of *p*-nonylphenol with 2 to 4 moles of formaldehyde and subsequent ethoxylation with 4 to 12 moles of ethylene oxide; and 3. *n*-Tridecyl alcohol mixture of dihydrogen phosphate and monohydrogen phosphate esters (40 to 80 percent of the mixture; CAS Reg. No. 56831–62–0).	For use only as a surfactant to improve lubricity in lubricating fluids complying with this section at a level not to exceed 5 percent by weight of the lubricating fluid.
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 22, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective January 21, 1983.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: January 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–1681 Filed 1–20–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 310 and 314

[Docket No. 78N–0093]

Abbreviated New Drug Applications; Related Drug Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new drug regulations to clarify FDA's policy on abbreviated new drug application (ANDA) acceptability. The rule states that when FDA finds that the abbreviated form of a new drug application is suitable for a drug product, the finding will apply only to drug products identical to the product that was the subject of the finding. The rule also establishes a petition procedure whereby prospective applicants may ask FDA to determine whether an abbreviated new drug application is suitable for similar or related products. This action is taken because abbreviated applications are frequently submitted, improperly, for products that are clearly not subject to such a finding. These changes clarify when FDA will accept an ANDA for a duplicate version of a pre–1962 approved drug product and provide a more effective process for making an earlier determination about ANDA suitability for similar or related products thus permitting applicants to submit the appropriate form of an application earlier. The agency also will make publicly available a list of specific drug products for which FDA has made a finding that an ANDA is suitable. Such a list will benefit prospective applicants who are not necessarily aware of all products that have been found suitable for ANDA's.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Watson, National Center for Drugs and Biologics (HFN–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3640.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 1, 1978 (43 FR 39126), FDA proposed to amend the new drug regulations as they pertain to abbreviated new drug applications (ANDA's). Under the proposed rule, a Drug Efficacy Study Implementation (DESI) notice announcing that an ANDA may be submitted instead of a full new drug application (NDA) for a drug product would authorize ANDA's only for products identical to the specific DESI drug product. The proposed rule also would establish the petition procedure (21 CFR 10.30) as the mechanism by which prospective applicants could seek a determination of ANDA suitability for similar or related products. This procedure is a more appropriate and effective process for making this determination than the variety of procedures now used, e.g., letters of inquiry, telephone calls, and the filing-over-protest procedure, because it is designed to focus specifically on those issues necessary to make a determination on a requested type of action; in this case, whether and the degree to which the safety and effectiveness of one product can be extended to another. Further, if an application is submitted in the form of an ANDA for a related product that is not subject to the finding that an ANDA is suitable, it would not be regarded as an ANDA but as a petition, and would be processed as such under § 10.30. It could not be filed over protest (21 CFR 314.110(d)), nor would it be entitled to procedural rights afforded NDA's under section 505(d) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(d)).

Six drug companies commented on the proposal. A summary of the comments and the agency's conclusions are discussed below. Minor editorial changes have been made in the regulations.

1. Several comments stated that the proposal failed to establish any factual basis (or at most only an insubstantial basis) for the proposed changes and that a factual basis is necessary for these regulations to be sustained. One comment assumed that additional personnel and a larger agency payroll would be required to implement the changes.

FDA disagrees with these comments, both in terms of relevant law and practical effect. The preamble to the proposed regulation described specifically an existing problem in implementing current FDA regulations: that in "a number of instances, firms have submitted ANDA's for drug products that vary in some aspect from the DESI product" and in many situations, two examples of which were described and numerous other examples of which were alluded to, "ANDA's [are] submitted for drug products [that are] clearly not within the scope of a finding that an ANDA is sufficient." The agency believes that these statements set forth a substantial factual basis for the proposed change.

FDA is not required to identify by name each ANDA that has been submitted to the agency that did not qualify for an ANDA in order to justify the proposal. The agency is generally constrained by its current regulations, which implement various Federal statutes protecting trade secrets and confidential commercial information, from disclosing the existence of pending NDA's or ANDA's (21 CFR 314.14(b)). Nonetheless, a reliable indication of the scope of the problem can be found in the number of requests by firms that abbreviated applications be "filed over protest," in which case FDA must either approve the application or publish in the **Federal Register** a notice of opportunity for hearing on the application (21 CFR 314.110(e) and 314.200(a)(2)). Since 1977, FDA has received requests to file over protest 43 ANDA's in which the critical question was whether an ANDA or an NDA was the authorized form of new drug application. Additional cases exist in which FDA refused to file an ANDA and the applicant did not request that the application be filed over protest. In many cases in which a filing over protest has occurred, the subsequent notice of opportunity for hearing has been published and is part of the public record. (See e.g., notices published in the **Federal Register** of April 29, 1977 (42 FR 21847), June 10, 1977 (42 FR 30002), August 9, 1977 (42 FR 40248), and September 16, 1977 (42 FR 46592).)

The amount of agency resources needed to address individual ANDA submissions is significant. Often, FDA reviewers must make extensive literature searches to determine whether there is a reasonable basis for extending the ANDA finding to the related or similar drug product. The proposed change in the current regulations would reduce the need for FDA to conduct this literature review. Moreover, the agency's resource investment is generally far greater when it must resolve an applicant's filing over protest, with the attendant possibility of a hearing, than it is when it need only respond to a citizen's petition. Thus, contrary to the comment that the proposal would lead to increased agency personnel and budgets, FDA believes that it will likely decrease the need for additional resources, as it will decrease the need to divert current personnel from their principal duties to resolving "filing over protest" actions.

2. Some comments stated that the proposed revisions would deny applicants the right to a hearing that section 505(d) of the act affords them to resolve disputes with FDA. Moreover, one comment suggested that various legal procedural rights provided by section 505 of the act to applicants would be abridged or compromised by the changes. The comment argued that in a section 505 hearing the burden of proof rests with FDA, as opposed to the applicant, and that the agency's conclusions must be supported by substantial evidence in the record. The proposed petition procedure, the comment believed, shifted this burden of proof and lowered the standard for judicial review to "arbitrary and capricious." Several comments also stated that a proper issue in a section 505(d) hearing is whether the proposed product is related to the DESI drug product; this issue is one of fact and requires a full hearing.

FDA disagrees with this analysis. The agency does not view the requirement of section 505(d) of the act, that applicants be given a notice of opportunity for hearing when an application is not to be approved, to apply to the question of whether an abbreviated application is suitable for obtaining approval of a similar or related product. Section 505(c) of the act provides for an opportunity for hearing only on whether an application may be approved on the basis of the information submitted under section 505(b) of the act; that is, whether the application contains the requisite information, and whether that information justifies approval. The issue for ANDA applicants, however, and that which was addressed by the proposal, is whether products purportedly related to those subject specifically to DESI notices may rely on DESI conclusions, and thus avail themselves of abbreviated applications in seeking approval. The question of whether and the degree to which one product is related to another does not depend on information that is required to be submitted in a new drug application under section 505(b) of the act, nor is it characteristically submitted by pioneer manufacturers or ANDA applicants as part of applications. Thus, there is no legal requirement that the hearing opportunity provided by section 505(c) be made available to ANDA applicants who disagree with an adverse agency decision on whether their products may rely on DESI conclusions. Appropriate review of such decisions may be had, assuming compliance with the petition procedures set forth in the regulation, under the applicable standard—that applicable to administrative decisionmaking generally—which is whether the agency's decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law (5 U.S.C. 706(2)(A)). The comment is incorrect, moreover, in asserting that the burden of proof lies with FDA in a section 505 hearing. The burden of establishing safety or efficacy of a new drug in such a hearing lies with the applicant.

FDA is fully authorized to alter the rules governing the extent to which related and similar products may rely on DESI conclusions. The use of abbreviated applications is based on agency-promulgated regulations, and the agency is free to amend those regulations, with appropriate justification, to modify the conditions of ANDA suitability. Thus, although under the former FDA regulation the agency permitted applicants to raise the question of whether their products were subject to DESI announcements in a section 505(d) hearing, FDA believes it important to change that procedure in order to eliminate documented abuses, even if the changes will eliminate the use of hearings to interpret the scope of the DESI notice as to ANDA suitability. A related use of general rulemaking authority to establish threshold tests before the use of new drug approval hearing procedures, and thereby eliminate the need for a hearing in certain disputes, in lieu of case-by-case administrative adjudication of those disputes, has previously been upheld under section 505 of the act. *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973). Consequently, the changes in §§ 310.6 and 314.1 (21 CFR 310.6 and 314.1) and the adoption of

§ 314.2 (21 CFR 314.2) (proposed as § 314.3) deprive applicants of no rights they are otherwise entitled to under section 505 of the act.

3. One comment attempted to show that the proposed amendments are not valid by describing how the related-drug policy developed. The comment stated that in publishing § 310.6, FDA declared that all DESI announcements would apply not only to drugs named in them, but also to all related drugs and, further, that a statement in the preamble to that regulation demonstrated the agency's intent to apply the regulation equally to effective drugs and ineffective drugs. Thus, the comment contends, as far back as 1972 it has been FDA's position that when the DESI review finds a drug effective, that determination should, as a scientifically justifiable fact, apply to all drugs pharmacologically related to the DESI drug.

The comment's position is erroneous. The specific language to which the comment refers was far more limited. It stated: "The Commissioner agrees that efficacy notices *may* be applied to a similar or related drug product *provided that* experts would conclude that the drug in question is sufficiently similar * * * to justify a reasonable application of the efficacy conclusions * * *. It is possible that, *with limited confirmatory testing,* a related drug product may also be evaluated as safe and effective for its indications. Efficacy ratings do apply to *identical* drugs * * * *except* that where questions of bioavailability between different formulations are present, evidence to establish bioavailability may be necessary." (Emphasis added.) In short, the preamble obligated FDA only to consider whether DESI findings apply to similar or related drugs in individual cases, and did not impose the blanket rule the comment suggests.

Additionally, in discussing the applicability of an effectiveness finding to a related drug, the preamble to the final rule, § 310.6, stated, "There will be * * * areas where the judgments of experts must determine the applicability of the efficacy findings. The determination will be based on the chemical structure of the drug, recommended use, route of administration, its pharmacological properties and any other information available on the action or properties of the drug." Drugs that are pharmacologically related cannot, solely by reason of that relationship, be presumed to be equivalent in efficacy, and FDA's original policy was not based on any such conclusion.

4. One comment suggested that the regulation identify certain variations in products that allow a similar product to be considered identical for purposes of ANDA suitability. The comment interpreted the proposal as equating a tablet dosage form with a capsule dosage form to the extent that the finding of ANDA suitability for one would apply to the other. The comment went on to suggest other variations: a higher strength tablet if the dosage is within the recommended dosage for the lower strength DESI product and if the tablet can be scored; a liquid form when a DESI drug is a tablet; timed-release products employing a release mechanism that is different from that of a DESI drug; and a drug product identical to a post-1962 approved product which in itself is related to a DESI drug product.

Although the preamble to the proposed rule discussed the likelihood of a capsule being considered appropriate for an ANDA when its equivalent in tablet form has been found suitable, it was not intended to reflect the conclusion that an ANDA is always acceptable for one of these dosage forms when the DESI product is the other dosage form. FDA anticipates that ANDA's would usually be acceptable for different solid dosage forms; it is not FDA's intent to restrict ANDA submissions unreasonably but rather to encourage ANDA's after FDA has determined that an ANDA is suitable. There are, however, drugs whose abuse potential depends, in part, on the dosage form. Thus, neither the proposal nor the final rule as adopted here considers these dosage forms to be identical. Similarly, FDA has not adopted the specific examples of dosage form variance suggested in the comment for a "blanket" finding of ANDA suitability. If an applicant follows the petition procedure, and presents persuasive evidence that supports a finding of ANDA suitability for a related product, FDA will accept an ANDA for it.

This final rule does not apply to a post-1962 approved drug, whether or not the post-1962 drug product is related to a DESI or pre-1962 drug. The regulation on similar and related drugs (21 CFR 310.6) was intended to show the relationship between drug products approved before October 10, 1962, and subsequently evaluated for effectiveness in the DESI program, and identical, similar, or related products on the market without having been approved though the new drug procedures. Ordinarily, if a drug product was approved after 1962 it is outside the scope of consideration for ANDA suitability as a related drug. Duplicates of that product remain subject to the full NDA requirements. The requirement for safety and effectiveness data, however, may be satisfied by reports of studies that appear in the published literature. Or, if the drug product is closely related to a DESI drug for which ANDA's have been determined to be suitable, it may suffice to include only limited evidence to show that the characteristics that make the product different from the DESI drug do not alter the safety and effectiveness. Policy regarding the suitability of ANDA-type procedures for post-1962 drugs is currently under review, and the Department would plan to propose any changes found appropriate in a future **Federal Register** notice.

5. One comment argued that the rule, if adopted, should not be applied retroactively to products which are already the subject of ongoing proceedings under provisions of the regulations before the amendment.

FDA agrees with the comment. The new regulations apply only to ANDA's submitted after the effective date. Matters concerning ANDA's that are the subject of ongoing administrative proceedings will be resolved on a case-by-case basis by appropriate administrative processes.

The agency advises that many notices implementing the Drug Efficacy Study have in previous years included language that permitted an ANDA to be submitted for a related drug product before FDA had the opportunity to consider its differing characteristics. Because "related" is an imprecise term and because FDA continues to receive ANDA's for drugs not sufficiently related to be encompassed by a finding of ANDA suitability, all previous DESI notices containing a finding of ANDA suitability for a drug product are amended as of the effective date of this rule to limit that finding to drug products that are identical to the product that was the subject of the finding. As used here, "identical" means a product that is the same in dosage form, strength, and route of administration, contains the same active ingredient, and is recommended for use under the same conditions of use. Related drug products may be suitable for ANDA's only if FDA has made a separate finding of ANDA suitability.

6. One comment on § 310.6(b) argued that, as proposed, the section "does not provide logical rationale for decision making on the part of FDA, but rather permits decisions to be made arbitrarily on a personnel (sic) basis." The comment specifically suggested deletion of the wording "Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs * * *. A combination drug product * * * is safe or effective." In

place of the deleted language, the comment suggested inserting the statement "An identical, related or similar drug does not include drugs with more or different active ingredients than stipulated as determined by the Commissioner of Food and Drugs."

The agency does not agree with the comment and rejects the suggested wording change. The agency believes that it is scientifically sound, equitable, and in the public interest for conclusions of the Drug Efficacy Study to be applied to all identical drug products, and to appropriately related and similar drug products. The finding that a DESI product is both safe and effective is clearly applicable to other brands of that product, if the other brands are appropriately formulated, manufactured, tested, and labeled, and are bioequivalent. Similarly, a finding of lack of safety or effectiveness is clearly applicable to other brands when no contrary data in support of the other brands exist. With similar or related drugs, however, such findings may not be clearly applicable. This is particularly true when the question is one of applying findings of effectiveness (as opposed to lack of effectiveness) to other products. In these cases, the agency believes that it is logical to use, as the test of applicability, the determination that would be made by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs. In the absence of safety or effectiveness studies using the similar or related drug product, this determination will be based on the chemical structure of the drug, recommend use, route of administration, its pharmacological properties, and any other information available on the action or properties of the drug. Where a similar or related drug does in fact have different actions or effects, it is incumbent on the sponsor of the drug to have data showing this difference. In the absence of such data, it is reasonable to conclude that a finding of lack of safety or effectiveness for a DESI drug product can be extrapolated to the related drug product. Both § 310.6 and DESI notices invite inquiries and consultations regarding the applicability of a DESI notice to a related product. The ultimate decision, based on scientific judgment, on whether a DESI notice applies to a related product rests with FDA.

7. Several comments addressed the statement in the preamble that expressed an intent to extend ANDA acceptability, at a later time, to drug products approved after 1962.

The agency will not respond to these comments in this document but will consider them as it reviews its policy on post-1962 approved drugs.

On its own initiative, the agency has revised § 310.6 by changing the section title to read "Applicability of 'new drug' or safety or effectiveness findings in drug efficacy study implementation notices and notices of opportunity for hearing to identical, related, and similar drug products." FDA believes this revised title more accurately reflects the scope of the section. Additionally, the agency has revised § 310.6(b) by omitting the proposed sentence "However, a finding that a single active entity drug * * * as described in § 300.50 of this chapter." The sentence has been restated and appears as § 314.2(b)(4).

The agency is redesignating § 314.1(f) as § 314.2 rather than § 314.3 as proposed.

The agency has restated the contents of proposed § 314.3(b) for clarification. The requirements appear as § 314.2(b)(1), (2), and (3).

Although the ANDA procedure permits a manufacturer of a product that duplicates the product specifically named in a DESI notice to rely on the DESI evaluation of safety and effectiveness in obtaining approval of an ANDA, the agency is concerned that some manufacturers may erroneously believe the procedure automatically confers approval of the duplicate product upon submission of ANDA. Thus, to clarify this point, the agency has included in § 314.2(b)(2) the statement that FDA's acceptance of an ANDA for a drug product does not signify that the product is safe and effective until the application is approved. The agency emphasizes that each ANDA must include information on the applicant's ability to manufacture a product of acceptable quality. An ANDA must contain information on the drug product's formulation, its manufacture, quality control, and labeling, and, if necessary, data to show that the product is bioavailable.

List of Products for Which a Finding of ANDA Suitability Has Been Made

This final rule provides for ANDA's to be accepted for drug products identical to a DESI drug that has been the subject of a finding that an ANDA is suitable and for drug products identical to a product which is similar or related to a DESI drug that has been found to be suitable for an ANDA. Because prospective applicants are not necessarily aware of all products that have been found suitable for ANDA's, the agency will make available a list of these products. A notice of the availability of the list will be published in the **Federal Register.**

Prior DESI Notices and Proposals for ANDA's

The agency advises that all prior DESI notices that contain a finding of ANDA suitability are amended as of the effective date of this rule to conform to the rule. The amendment limits findings of ANDA suitability in those notices specifically to drug products that are (1) identical to the DESI product that was the subject of that finding, (2) identical to similar or related products specifically described in the notice as suitable for ANDA's, or (3) identical to other similar or related products for which FDA has already accepted an ANDA.

It was anticipated at the time the proposal was published, and the preamble so stated, that FDA would publish a regulation simultaneously with this final rule to finalize the proposal of June 20, 1975 (40 FR 26156) that would revise the requirements for information in ANDA's. The agency now plans to withdraw that proposal. FDA is reconsidering the information that is needed in an ANDA as part of its comprehensive reevaluation and rewrite of its new drug regulations.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

In accordance with Executive Order 12291, FDA has determined that this final rule does not warrant designation as a "major rule" under any of the criteria specified under section 1(b) of the Order. The assessment that led to the determination that this is not a major rule has been placed on file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects

21 CFR Part 310

Administrative practice and procedure, Drugs, Medical devices, Reporting and recordkeeping requirements.

21 CFR Part 314

Administrative practice and procedure, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a))) and

under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 310 and 314 are amended as follows:

PART 310—NEW DRUGS

1. Part 310 is amended in § 310.6 by revising the section heading, the seventh sentence of paragraph (a), and paragraphs (b) and (c), to read as follows:

§ 310.6 Applicability of "new drug" or safety or effectiveness findings in drug efficacy study implementation notices and notices of opportunity for hearing to identical, related, and similar drug products.

(a) * * * However, it is essential that the findings and conclusions that a drug product is a "new drug" or that there is a lack of evidence to show that a drug product is safe or effective be applied to all identical, related, and similar drug products to which they are reasonably applicable. * * *

(b)(1) An identical, related, or similar drug includes other brands, potencies, dosage forms, salts, and esters of the same drug moiety as well as of any drug moiety related in chemical structure or known pharmacological properties.

(2) Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings and conclusions, stated in a drug efficacy notice or notice of opportunity for hearing, that a drug product is a "new drug" or that there is a lack of evidence to show that a drug product is safe or effective are applicable to an identical, related, or similar drug product, such product is affected by the notice. A combination drug product containing a drug that is identical, related, or similar to a drug named in a notice may also be subject to the findings and conclusions in a notice that a drug product is a "new drug" or that there is a lack of evidence to show that a drug product is safe or effective.

(3) Any person may request an opinion on the applicability of such a notice to a specific product by writing to the Food and Drug Administration at the address shown in paragraph (e) of this section.

(c) Manufacturers and distributors of drugs should review their products as drug efficacy notices are published and assure that identical, related, or similar products comply with all applicable provisions of the notices.

* * * * *

PART 314—NEW DRUG APPLICATIONS

2. Part 314 is amended:

a. In § 314.1 by removing paragraph (f) and by revising the first sentence of paragraph (a)(1), to read as follows:

§ 314.1 Applications.

(a)(1) Applications to be filed under section 505(b) of the act shall be submitted in the form described in paragraph (c) of this section or optionally in the form described in paragraph (d) of this section and assembled as required by paragraph (e) of this section; if the drug product is one for which an abbreviated new drug application has been found by the Food and Drug Administration to be sufficient, the application may be limited to the information described in § 314.2 unless otherwise specified in such finding.

* * * * *

b. By adding new § 314.2, to read as follows:

§ 314.2 Abbreviated new drug applications.

(a) The Food and Drug Administration has determined that many drug products covered by the drug efficacy study may be approved for marketing without the submission of additional evidence of preclinical and clinical studies (other than in vivo bioavailability studies) to show safety and effectiveness. When such a finding has been made for a drug product, an abbreviated form of a new drug application is sufficient for that product.

(b)(1) The Food and Drug Administration will accept an abbreviated new drug application only if it has made a finding that an abbreviated application is suitable for the drug product.

(2) A finding by the Food and Drug Administration that an abbreviated new drug application is suitable for a drug product applies only to a product that is the same in active ingredient, dosage form and strength, route of administration, and conditions of use as the drug product that was the subject of the finding. For a drug product that is similar but different in one or more of these characteristics, an abbreviated new drug application will be accepted only if the Food and Drug Administration has made a separate finding of suitability. However, acceptance of an abbreviated new drug application for a drug product does not signify that the product is safe and effective until the application is approved.

(3) A finding that a drug product is a "new drug," because it is similar to a product that is a "new drug," and, therefore, is subject to either a full or abbreviated new drug application does not include a finding that an abbreviated application is suitable for the similar product.

(4) A finding that a single-active-entity drug product is safe and effective and that an abbreviated new drug application is suitable is not a basis for determining that a combination drug product containing that entity as one of its ingredients is either safe or effective or that an abbreviated new drug application is suitable. The finding also is not a basis for determining that the combination drug product meets all of the requirements for combination drugs as described in § 300.50 of this chapter.

(c) A prospective applicant may seek a determination of the suitability of an abbreviated new drug application for a product that the applicant believes similar or related to a drug product that has been declared to be suitable for an abbreviated new drug application. Extension of the finding that a drug product is safe and effective to another product will ordinarily be limited to other dosage forms for the same route of administration or to closely related ingredients. If preclinical or clinical evidence is needed to support the safety, or if clinical evidence is needed to support the effectiveness, of the proposed product, then an abbreviated new drug application is not suitable for the similar or related drug product.

(d) A person seeking a determination that an abbreviated new drug application is suitable for a similar or related drug product shall use the procedures established in § 10.30 of this chapter. The petitioner shall set forth the reasons that justify extending the finding that an abbreviated new drug application is suitable for one product to the similar or related product proposed to be marketed.

(e) A new drug application submitted in the form of an abbreviated new drug application for a drug product that has not been the subject of a finding that allows an abbreviated application for the product will be considered to be a petition under § 10.30 of this chapter and will be processed as such.

(f) Each abbreviated new drug application is required to contain a reference to the finding of the Food and Drug Administration that an abbreviated application is suitable for the specific product that is the subject of the application. Each abbreviated new drug application shall also contain:

(1) Satisfactory information of the kinds described in items 1 (table of contents), 4 (label and all other labeling), 5 (R_x or OTC statement), and 6 (components) of the new drug application Form FD–356H (OMB approval number 0910–0001), and in lieu of full information described under items 7 and 8 (composition and methods, facilities and controls), brief statements that:

(i) Include the composition of the drug, stating the name and amount of each ingredient whether active or not, contained in a stated quantity of the drug in the form in which it is to be distributed.

(ii) Identify the place where the drug will be manufactured, processed, packaged, and labeled and the name of the supplier of the active ingredient(s).

(iii) Identify any person other than the applicant who performs a part of those operations and designate the part.

(iv) Include certifications from the applicant and from any person identified in paragraph (f)(1)(iii) of this section that the methods used in, and the facilities and controls used for, the manufacture, processing, packing, and holding of the drug are in conformity with current good manufacturing practice in accord with Parts 210 and 211 of this chapter.

(v) Assure that the drug dosage form and components will comply with the specifications and tests described in an official compendium, if such article is recognized therein, or, if not listed or if the article differs from the compendium drug, that the specifications and tests applied to the drug and its components are adequate to assure their identity, strength, quality, and purity.

(vi) Outline the methods used in, and the facilities and controls used for, the manufacture, processing, and packaging of the drug.

(2) Labeling that is in accord with the labeling conditions described in the finding that an abbreviated new drug application is sufficient.

(3) If the drug finding so specifies for the formulation intended for marketing, data adequate to assure the biological availability of the drug. For preparations claiming sustained action, timed-release, or other delayed or prolonged effect, such data should show that the drug is available at a rate of release that will be safe and effective.

(4) Any information available to the applicant, including preclinical or clinical data developed by the applicant or by other persons on behalf of the applicant, on adverse effects of the drug that is not reflected in the labeling.

(5) Additional information that may be required for the approval of the application as specified in a written communication from the Food and Drug Administration.

(6) An environmental impact analysis report analyzing the environmental impact of the manufacturing process and ultimate use or consumption of the drug pursuant to § 25.1 of this chapter.

(7) Statements contained in the application regarding each clinical investigation involving human subjects, that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter, or was not subject to such requirements in accordance with § 56.104 or § 56.105, and that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

(8) With respect to each nonclinical laboratory study contained in the application, either a statement that the study was conducted in compliance with good laboratory practice regulations set forth in Part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a statement that describes in detail all differences between the practices used in the study and those required in the regulations.

(9) The signature of the applicant or responsible official or agent on a completed Form FD–356H.

c. In § 314.110 by adding new paragraph (f), to read as follows:

§ 314.110 Reasons for refusing to file applications.

* * * * *

(f) An application submitted in the form of an abbreviated new drug application in the absence of a prior finding that the abbreviated form of a new drug application is suitable for the drug product, as required by § 314.2, will not be accepted as an application within the meaning of section 505(b) of the act. It will be considered as a petition, under § 10.30 of this chapter, for a determination on the suitability of abbreviated new drug applications for the product.

Effective date. This regulation will become effective February 22, 1983.

(Secs. 201(p), 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a)))

Dated: December 23, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 83–1847 Filed 1–20–83; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Trichlorfon, Phenothiazine, and Piperazine Dihydrochloride Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to codify a previously approved new animal drug application (NADA) sponsored by Fort Dodge Laboratories, Inc. The NADA provides for safe and effective use of an equine anthelmintic containing trichlorfon, phenothiazine, and piperazine dihydrochloride. The drug combination is administered by stomach tube for removal of bots, large and small strongyles, large roundworms, and pinworms.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Terence Harvey, Bureau of Veterinary Medicine (HFV–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–3420.

SUPPLEMENTARY INFORMATION: Fort Dodge Laboratories, Inc., Fort Dodge, IA 50501, is sponsor of NADA 15–154 providing for use of Dyrex T.F. in horses. The drug is a water dispersible powder containing trichlorfon, phenothiazine, and piperazine dihydrochloride which is mixed with warm water to form a suspension. The suspension is administered to horses by stomach tube for removal of bots, large and small strongyles, large roundworms, and pinworms.

The NADA was originally approved March 4, 1964. At that time, approvals were not codified by publication in the **Federal Register.** Accordingly, the regulations are now amended to codify Fort Dodge Laboratories' approved NADA.

This action, reflecting an approved NADA, does not constitute reaffirmation of the safety and effectiveness data supporting this approval. Since the NADA was approved before July 1, 1975, the sponsor has not been required to submit a summary of the safety and effectiveness data and information in accordance with the freedom of information provisions of the animal drug regulations in 21 CFR 514.11(e)(2)(ii).

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact

on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.2520g to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.2520g Trichlorfon, phenothiazine, and piperazine dihydrochloride powder.

(a) *Specifications.* Each 54.10 grams (1.91 ounces) of water dispersible powder contains 9.10 grams of trichlorfon, 6.25 grams of phenothiazine, and the equivalent of 20.0 grams of piperazine base (as piperazine dihydrochloride).

(b) *Sponsor.* See No. 000856 in § 510.600(c) of this chapter.

(c) *Special considerations.* Labeling shall bear the following statements: The drug is a cholinesterase inhibitor. Do not use this product in horses simultaneously with, or within 2 weeks before or after treatment with, or exposure to, neuromuscular depolarizing agents (e.g., succinylcholine) or to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(d) *Conditions of use*—(1) *Amount.* 18.2 milligrams of trichlorfon, 12.5 milligrams of phenothiazine, and 40.0 milligrams of piperazine base per pound of body weight.

(2) *Indications for use.* For horses for removal of bots (*Gastrophilus nasalis, Gastrophilus intestinalis*), large strongyles (*Strongylus vulgaris*), small strongyles, large roundworms (ascarids, *Parascaris equorum*), and pinworms (*Oxyuris equi*).

(3) *Limitations.* Mix powder and vial contents together in warm water to form suspension. Administer by stomach tube. Do not fast horses before or after treatment. Treatment of mares in late pregnancy is not recommended. Surgery or any severe stress should be avoided for at least 2 weeks before or after treatment. Do not administer to sick, toxic, or debilitated horses. Not to be used in horses intended for use as food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: January 21, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 14, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-1691 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bambermycins and Carbarsone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by American Hoechst Corp. providing for safe and effective use of a complete turkey feed manufactured by combining separately approved bambermycins and carbarsone premixes. The feed is used for improved feed efficiency or increased rate of weight gain and as an aid in the prevention of blackhead.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4317.

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Animal Health Division, Rt. 202-206 North, Somerville, NJ 08876, filed NADA 130-661 providing for use of bambermycins at 1 or 4 grams per ton in combination with carbarsone (not U.S.P.) at 227 grams per ton (0.025 percent) in complete turkey feeds for improved feed efficiency or increased rate of weight gain and to aid in prevention of blackhead. The firm submitted data that comply with the requirements of the Bureau of Veterinary Medicine's combination drug guidelines. The NADA is approved and the regulations are amended to reflect this approval.

Approval of this NADA relies in part upon safety data contained in American Hoechst's NADA 44-759 for bambermycins and Whitmoyer Laboratories' NADA 10-285 for carbarsone (not U.S.P.). Whitmoyer has authorized use of the data contained in its NADA to support this approval. This approval does not change the dosage levels or indications for the drugs. Residue depletion data have shown that levels and persistence of residues from each drug are not affected by use of the drugs in combination. The data demonstrate that bambermycins meet the negligible tolerance requirements according to 21 CFR 556.1. The data further show that the arsenic levels in muscle, liver, kidney, and skin-fat tissues are below tolerance levels for samples assayed within the 5-day withdrawal period currently established for individual use of carbarsone. Therefore, the agency concludes that this approval poses no increased risk to humans from exposure to residues of the drugs. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this NADA has been treated as a Category II supplement, which did not require a reevaluation of the underlying human safety data in NADA's 44-759 and 10-285.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above).

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. In § 558.95 by adding new paragraph (e)(3)(iv) to read as follows:

§ 558.95 Bambermycins.

* * * * *

(e) * * *

(3) * * *

(iv) *Amount per ton.* Bambermycins, 1 or 4 grams plus carbarsone, 227 grams (0.025 percent).

(*a*) *Indications for use.* For improved feed efficiency (1 gram per ton) or increased rate of weight gain (4 grams per ton); as an aid in the prevention of blackhead.

(*b*) *Limitations.* Feed continuously 2 weeks before blackhead is expected and continue as long as prevention is needed; withdraw 5 days before slaughter; use as sole source of organic arsenic; carbarsone by 011794 in § 510.600(c) of this chapter.

2. In § 558.120 by adding new paragraph (e)(2)(iii) to read as follows:

§ 558.120 Carbarsone (not U.S.P.).

* * * * *

(e) * * *

(2) * * *

(iii) Bambermycins as in § 558.95.

Effective date: January 21, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 14, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-1648 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulation for tylosin to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co. providing for administrative waiver of the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) with regard to the manufacture of finished feeds from premixes containing not more than 40 grams of tylosin per pound.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4317.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 S. Alabama St., Indianapolis, IN 46285, filed supplemental NADA 12-491 providing for waiver of the requirements of section 512(m) of the act (21 U.S.C. 360b(m)) for making finished feeds from premixes containing not more than 40 grams of tylosin (as tylosin phosphate) per pound for all species for which the drug is approved. Tylosin has been approved for use in these species since 1975. A similar waiver for use of premixes containing up to 10 grams per pound in making swine feeds is currently in effect.

Tylosin as a sole drug premix meets the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memorandum for administrative waiver of the ministerial requirements of section 512(m) of the act. The pertinent provisions of the memorandum indicate that waiver is appropriate if:

1. The feeding of 1.5X to 2X level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on an existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classified with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional data since this documentation is by definition a part of the NADA.

4. The margin of safety to the animal and the consumer is such that the product label does not have to contain a statement such as "Use as sole source of tylosin."

5. Data are on file to demonstrate that the product is effective over the approved range. This data should generally satisfy current standards for the demonstration of effectiveness.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Application of this criterion requires a review of the available drug experience reports.

The 1971 memorandum explains that waiver of the ministerial requirements of section 512(m) of the act is permitted only for specific effectiveness claims or at specific levels of the drug, and that distinct products with corresponding labeling for those claims or levels should exist. This is necessary to cover those premixes that can be made into finished feeds using various concentrations of drug.

By granting the administrative waiver of the requirements of section 512(m) of the act with regard to making finished feeds from intermediate premixes containing not more than 40 grams of tylosin per pound, existing waivers in 21 CFR 558.625(d) (1) and (2) are rendered obsolete. The term "finished feeds" includes feed supplements, feed concentrates, and complete feeds.

The foregoing criteria established in the 1971 memorandum constitute an interim agency policy. In waiving the ministerial requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice regulations under Part 225 (21 CFR Part 225) for feed mills mixing such feeds.

In the **Federal Register** of January 9, 1981 (46 FR 2456), the agency published a proposal to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. In that proposal (46 FR 2463), the agency announced that it would no longer grant exemptions from the requirement of an approved medicated feed application because the interim policy would be terminated by publication of a regulation establishing a permanent policy. At that time FDA believed that a final rule on the proposed medicated feed regulations could be published within a short time. Because of the length of time that has transpired since publication of the proposal, the agency concluded that it would be unfair to continue denying waivers to those drug sponsors whose products meet the criteria set forth in the 1971 memorandum on the basis that the program is to be restructured in the future. Accordingly, as stated in the **Federal Register** of May 28, 1982 (47 FR 23446), the agency has withdrawn its policy terminating the granting of section 512(m) exemptions based on the 1971 memorandum (January 9, 1981; 46 FR 2456) and has resumed the granting of exemptions on an interim basis.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Approval of this supplement is an administrative action that did not require the generation of new effectiveness or safety data in support of the waiver. Therefore, a freedom of information summary is not required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

List of Subjects in 21 CFR Part 558

Animal feeds, Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner

of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (d) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 Tylosin.

* * * * *

(d) *Special considerations.* Finished feeds processed from premixes containing not more than 40 grams of tylosin (as tylosin phosphate) per pound and conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Effective date: January 21, 1983.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 13, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-1648 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 630

[Recodification Docket No. 2]

Biologics; Recodification and Republication; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting its biologics regulations on Poliovirus Vaccine, Live, Oral, by removing a sentence that was inadvertently introduced in the recodification published in the **Federal Register** of November 20, 1973. By removing the sentence, FDA will eliminate any confusion that could occur in the application of the regulation.

FOR FURTHER INFORMATION CONTACT: Rada Proehl, National Center for Drugs and Biologics (HFN-813), Food and Drug Administration, 5600 Fishers Lane, 8800 Rockville Pike, Bethesda, MD 20205; 301-443-1306.

SUPPLEMENTARY INFORMATION: In FR Doc. 73-24521 appearing at page 32048 in the issue for Tuesday, November 20, 1973, the following correction is made: On page 32070, third column, under § 630.10 *Poliovirus Vaccine, Live, Oral,* in paragraph (b)(2)(ii), remove the second sentence that reads "Susceptibility shall be demonstrated by §§ 630.11, 630.15 and 630.16(b)."

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1649 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 203

Registration of Agencies for Voluntary Foreign Aid

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: This regulation is being amended in its entirety to clarify the purposes of registration and to emphasize that organizations must be private and voluntary in nature in order to be registered.

EFFECTIVE DATE: November 30, 1982.

FOR FURTHER INFORMATION CONTACT: Deborah Mace (703) 235-1684.

SUPPLEMENTARY INFORMATION: On December 8, 1981, the Agency published in the **Federal Register** (46 FR 60009-13) a proposed revision of Part 203. An extension of the comment period from January 3, 1982 to March 3, 1982, was published in the **Federal Register** on February 1, 1982 (47 FR 4535-36).

The agency received comments from eighty-five private individuals as well as comments from organizations, and AID overseas missions. The following summarizes the principal comments, and actions taken:

1. *Purpose.* The statement of purpose of § 203.1 was amended to indicate that the principal purpose of registration is to facilitate cooperation between AID and the private sector and to indicate that registration also serves as a basis for computing the amount of funding made available to private and voluntary organizations (PVOs) and whether a PVO meets the twenty percent test of section 123(g) of the Foreign Assistance Act of 1961, as amended ("FAA").

2. *Twenty Percent Test.* The proposed rule required as a condition of registration that twenty percent of PVO's overseas program costs be from private U.S. sources. However, after publication of the proposed rule, section 123(g) of the FAA became law. The twenty percent test of section 123(g) was different in several respects from the test of the proposed rule and the agency extended the comment period to provide for comments on the effect of section 123(g).

Almost all of the eighty-five comments from the general public were directed towards the twenty percent test and, without exception, were opposed to the test of the proposed regulation.

The requirement for twenty percent private funding has been deleted completely from the rule. Therefore, the twenty percent test is not a condition for registration. However, the twenty percent test of section 123(g) of the FAA will be used as a condition of eligibility for the PVO grant program as stated in § 203.1(e). The requirements of section 123(g) are effective on January 1, 1985. In the intervening period, the Agency will encourage a progressive phase-in.

3. *Citizenship of Board Members.* The proposed regulation deleted the requirement that the governing body be composed principally of U.S. citizens. The only comment received on this change was favorable.

4. *Presidential Task Force on Regulatory Relief.* One suggestion was to submit the regulation to the Presidential Task Force on Regulatory Relief chaired by Vice President Bush to provide the private and voluntary community an opportunity to comment on the proposed regulations. Pursuant to the requirement of Executive Order 12991 the regulation in both proposed and final form has been submitted to, and reviewed by, the Office of Regulatory Review of OMB which functions as the staff office of the Task Force.

5. *IRS Statements of Tax Exemptions.* One respondent suggested that the agency use the list of 501(c)(3) organizations published periodically by the IRS, rather than requiring a copy of the Statement of Tax Exemption. This was not adopted for several reasons. Applicants are often new organizations that have just received their tax exempt certificate and would not be on the IRS list. Moreover, the Statement of Tax Exemption is required only at the time of initial registration and need not be submitted annually. Therefore, its submission poses little, if any, administrative burden.

6. *Section 501(c)(6) Organizations.* One commentator noted that the reference in the proposed regulations to "cooperatives or credit union under section 501(c)(6)" of the Internal Revenue Code is inconsistent because credit unions are exempt under IRC section 501(c)(14) and most 501(c)(6) organizations are not cooperatives as that term is used in IRC section 1381(a)(2). Section 203(c)(1) has been amended to delete the reference to

cooperatives and credit unions, thus retaining only the reference to IRC section 501(c)(6). The reference was intended to refer to nonprofit associations of credit unions and cooperatives which qualify as 501(c)(6) organizations; it was not intended to refer to for-profit cooperatives and credit unions which are governed by other provisions of the Internal Revenue Code.

The information collection requirements in §§ 203.2 and 203.3 have been reviewed and approved by OMB pursuant to 44 U.S.C. Chapter 35 and have been assigned number 0412–0035.

List of Subjects in 22 CFR Part 203

Foreign aid, Nonprofit organizations.

Accordingly, Part 203 of Chapter II of Title 22 of the Code of Federal Regulations is revised as follows:

PART 203—REGISTRATION OF AGENCIES FOR VOLUNTARY FOREIGN AID

Sec.

203.1 Purpose.
203.2 Conditions of registration and documentation requirements for U.S. private and voluntary organizations.
203.3 Annual requirements.
203.4 Certificates of registration.
203.5 Denial of registration and reconsideration.
203.6 Registration of foreign private and voluntary organizations.
203.7 Termination of registration.
203.8 Delegation of authority.
203.9 Access to records.
203.10 Waiver authority.

Authority: Sec. 621, Foreign Assistance Act of 1961, as amended (22 U.S.C. 2381).

§ 203.1 Purpose.

(a) AID maintains two registries of PVOs engaging in, or intending to engage in, voluntary foreign aid operations—one of U.S., the other of foreign PVOs. The registry facilitates cooperation between AID and the nonprofit private sector by providing a mechanism for identifying which organizations are eligible for AID resources intended for PVOs.

(b) Registration is a condition of eligibility for assistance under Sections 123b and 607(a) of the FAA (the payment of transportation charges and the sale of services or commodities such as excess property) and confers a preference for assistance under Section 202 of Pub. L. 480. Other eligibility requirements apply, however, including a program review.

(c) Registration is a condition of eligibility for assistance under the "PVO grant program." However, it is only one of several eligibility requirements for such assistance. Others include: (1) Program review; (2) pre-grant award review, including compliance with OMB Circulars A–110 and A–122; and (3) funding requirements of Section 123(g) of the FAA.

(d) The registry serves as the basis for computing the amount of AID funding made available to PVOs.

(e) Registration provides the information necessary to determine whether a PVO meets the funding requirements of Section 123(g) of the FAA. Section 123(g) provides that a PVO must obtain at least 20 percent of its total annual financial support for its international activities from sources other than the United States Government to be eligible to receive funding under the PVO grant program. Further, a preference is given to those PVOs which receive cash from private, i.e., nongovernmental, sources.

(f) It is not the purpose of registration to make, or enable to be made, any representation to the public concerning the meaning of being registered.

(g) Definitions: As used in this part:

(1) "AID" means Agency for International Development.

(2) "FAA" means the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 *et seq.*

(3) "Funds from private U.S. sources" means cash contributions received from private nongovernmental U.S. sources, e.g., private individuals, groups, foundations and corporations. Cash contributions received directly or indirectly from the U.S. Government, state or local governments, the United Nations and other public international organizations, and foreign governments, institutions and individuals are not included. All in-kind contributions are excluded.

(4) "Overseas program costs" means the costs of all voluntary foreign aid operations conducted outside the U.S. and includes that portion of applicable indirect costs incurred in the U.S. (excluding fund-raising costs) necessary to carry out those voluntary foreign aid operations.

(5) "Pub. L. 480" means the Agricultural Trade and Development Assistance Act of 1954, as amended. 7 U.S.C. 1691 *et seq.*

(6) "PVO" means private and voluntary organizations.

(7) "PVO grant program" means those grants which AID has determined as a matter of policy can be made to only those PVOs which are registered and which meet the funding requirements of Section 123(g) of the FAA, 22 U.S.C. 215u(g).

(8) "Subventions" means (i) The payment of transportation charges under Section 123(b) of the FAA, 22 U.S.C. 215u(b); (ii) The sale of services or commodities, e.g., excess property, under Section 607(a) of the FAA, 22 U.S.C. 2357(a); and (iii) The furnishing of agricultural commodities under Section 202 of Pub. L. 480, 7 U.S.C. 1722.

§ 203.2 Conditions of registration and documentation requirements for U.S. private and voluntary organizations.

An applicant shall be registered with A.I.D. as a U.S. PVO if A.I.D. finds that the applicant has satisfied all the conditions and documentation requirements of registration listed below. An applicant seeking registration shall submit to A.I.D., Washington, D.C. 20523, the documentation listed below accompanied by a letter stating the reasons for seeking registration signed by its chief executive officer and supported by a resolution of its governing body. In addition, the applicant shall submit such other information as A.I.D. may reasonably require to determine if the applicant should be registered.

(a) *Condition and Documentation Requirement No. 1.*—(1) *Condition.* That the applicant is a private nongovernmental organization which is organized under U.S. law and maintains its principal place of business in the United States and is not a university, college, accredited degree-granting institution of education, private foundation, organization engaged exclusively in research or scientific activities, church, or organization engaged exclusively in religious activities.

(2) *Documentation Requirement.* Articles of incorporation, bylaws, relevant documents establishing its legal status, and a statement as to the location of the organization's principal offices.

(b) *Condition and Documentation Requirement, No. 2.*—(1) *Condition.* That the applicant receives funds from private U.S. sources, as defined in paragraph (g)(3) of § 203.1.

(2) *Documentation Requirement.* The latest audited financial statement (see Condition No. 6 at § 203.2(f) below).

(c) *Condition and Documentation Requirement No. 3.*—(1) *Condition.* That the applicant is a nonprofit organization and has a tax exemption under any one of the following provisions of the Internal Revenue Code: Section 501(c)(3), except private foundations under Section 509(a)(2); as a social welfare organization under Section 501(c)(4); Section 501(c)(5); or Section 501(c)(6).

(2) *Documentation Requirement.* IRS Statement of Tax Exemption, and a copy

of IRS Form 990 or 990–PF "Return of Organization Exempt from Income Tax," or one comparable to the Internal Revenue Service document.

(d) *Condition and Documentation Requirement No. 4.*—(1) *Condition.* That the applicant is a voluntary organization, i.e., receives voluntary contributions of money, staff time or in-kind support from the general public.

(2) *Documentation Requirement.* Latest annual report (or similar document) and audited financial statement (see Condition No. 6 at § 203.2(f)).

(e) *Condition and Documentation Requirement No. 5.*—(1) *Condition.* That the applicant is, or anticipates becoming, engaged in voluntary charitable or development assistance operations abroad (other than religious), including but not limited to services of relief, rehabilitation, disaster assistance, development assistance, welfare, training, or program support and coordination for such services, in the fields of health, education, population planning, nutrition, agriculture, industry, environment, ecology, refugee services, emigration, resettlement, and development of capacities in indigenous PVOs and institutions to meet basic human needs; and that such operations are consistent with its articles of incorporation and related documentation included in the application, and with the broad purposes of the Foreign Assistance Act and Pub. L. 480.

(2) *Documentation Requirement.* Latest annual report (or similar document) describing the development assistance operations. For organizations who anticipate initiating overseas activities, a statement should be included in the letter accompanying the registration documentation describing steps taken to date to undertake a program of development assistance overseas.

(f) *Condition and Documentation Requirement No. 6.*—(1) *Condition.* That the applicant accounts for its funds in accordance with generally accepted accounting principles ("GAAP"); has a sound financial position as evidenced by its audited financial statements; and exercises financial planning through the preparation of an annual budget for the year subsequent to that covered in the annual audit.

(i) Further tests of the financial management systems of a PVO are part of the A.I.D. pre-grant award process. In judging the financial management systems of grant applicants the requirements set by the Office of Management and Budget (OMB) Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Nonprofit Organizations," Attachment F, "Standards for Financial Management Systems" will apply, and by reference, OMB Circular A–122 "Cost Principles for Nonprofit Organizations" will also apply. The determination as to whether an applicant can conform to these requirements is made through a pre-grant award review which is the responsibility of the grant officer with information provided by the A.I.D. Inspector General.

(2) *Documentation Requirement.* The most recent audited financial statement including Balance Sheet, Statement of Support, Revenue and Expenditure and Statement of Change in Financial Position prepared in accordance with generally accepted accounting principles ("GAAP") disclosing administrative, program, and fund-raising costs; and separately disclosing overseas program costs and sources and amounts of funds received for overseas programs. The audit shall be conducted by an independent Certified Public Accountant in accordance with the generally accepted auditing standards ("GAAS") of the "Statement on Auditing Standards" of the American Institute of Certified Public Accountants. A budget for the year subsequent to that covered in the year reported in a format consistent with the audit, including the detailing of anticipated amounts and sources of support and revenue.

(i) New organizations which have been incorporated less than a year must provide an independent CPA's statement that financial statements can be prepared in accordance with GAAP, along with an unaudited financial statement covering the period between incorporation and application for registration. The CPA's statement for new organizations will also indicate whether the organization has installed internal controls to enable the execution of an audit in accordance with the applicable auditing standards at the end of the first year of operations.

(g) *Condition and Documentation Requirement No. 7.*—(1) *Condition.* That the applicant has a Board of Directors which meets at least annually, whose members serve without compensation for such services, and that paid officers or staff members do not constitute a majority in any decision.

(2) *Documentation Requirement.* A statement indicating that paid officers or staff members who serve on the Board do not constitute a majority in any decision and members of the governing body receive no compensation for their services on that body; the names and addresses of members; and minutes of meetings or excerpts from minutes which demonstrate that the Board holds meetings at least annually.

(h) *Condition and Documentation Requirement No. 8.*—(1) *Condition.* That the applicant expends and distributes its funds and resources in accordance with the stated purposes of the organization, without unreasonable cost for salaries, promotion, publicity, fund raising and administration, at home or abroad, and provides public disclosure of its financial circumstances.

(i) In determining whether an applicant obtains, expends, and distributes its funds without unreasonable cost for promotion, publicity, fund raising, and administration, A.I.D. shall consider fund raising costs as presumptively unreasonable if they exceed 20 percent of the total cash and in-kind contributions to the organization (as reflected in the audited financial statement).

(ii) An applicant for registration or a registered agency whose fund raising costs exceed the 20 precent limitation must demonstrate that such costs are not unreasonable in light of the nature of the organization's operations. Upon such a showing, A.I.D. may permit exceptions to the 20 percent limitation on a case-by-case basis.

(iii) "Contributions" as used in this section, include U.S. Government financial support, both cash and in-kind, as well as private support; similarly, it is expected that fund raising costs will include costs incurred in securing government contributions.

(2) *Documentation Requirement.* A certification that audited financial statements are available to the public upon request and a statement indicating salaries and allowances of the top five principal headquarters positions (determined by salary level) and country director positions. When provided directly by the applicant, salaries and/or allowances may be valued at actual cost; when provided by the recipient country or local institution, they may be valued at fair market value. Any other documentation or evidence which the applicant wishes to submit addressing the degree to which annual program spending has been consistent with the stated purposes of the organization and annual expenses are reasonable in amount.

§ 203.3 Annual requirements.

In order to maintain its registration, each registered PVO shall submit annually, within 180 days after the close of the fiscal year, the following

documents: An independently audited financial statement; a report of income and expenditures (A.I.D. Form 1550–2), which is relatable to the audited financial statements; an annual report (or similar document); a copy of IRS Form 990 or 990–PF; a budget for the new fiscal year; and a statement that all other circumstances described in the original registration material remain unchanged except as noted. A.I.D. may revise the above list of documents from time to time. In addition, each registrant shall submit such other information as A.I.D. may reasonably require to determine that the organization continues to meet the conditions of registration.

§ 203.4 Certificates of registration.

Certificates of Registration will be issued by A.I.D. to applicants which A.I.D. finds satisfy the conditions and documentation requirements for registration set forth in § 203.2.

§ 203.5 Denial of registration and reconsideration.

(a) *Notification of denial of registration.* If A.I.D. decides to deny an applicant registration, the applicant will be informed in writing of the denial with a specific statement of those conditions and documentation requirements of registration in § 203.2 that the applicant has failed to satisfy.

(b) *Reconsideration.* An applicant may, within 30 days after receipt of a notification of denial of registration, request that A.I.D. reconsider its application for registration and may submit additional information to A.I.D. bearing on its suitability for registration. An applicant requesting reconsideration will be informed in writing of A.I.D.'s decision upon reconsideration. In addition, A.I.D. may, at its own discretion, reconsider a denial of registration at any time.

(c) An applicant may resubmit an application for registration in accordance with § 203.2 at any time.

§ 203.6 Registration of foreign private and voluntary organizations.

(a) For the purpose of this part, foreign PVOs shall consist of the following:

(1) An "indigenous" PVO is a non-U.S. PVO which conducts operations in the country under the laws of which it is organized.

(2) A "regional" PVO is a non-U.S. PVO that is organized under the laws of a country in an A.I.D. geographic region, and conducts operations in more than one country in that region but not in more than one such region.

(3) A "third country" PVO is a non-U.S. PVO which is not organized under the laws of any country in the A.I.D. geographic region or regions in which it conducts its operations.

(4) An "international" PVO is an organization which is not registered as a U.S. PVO, receives funds from two or more countries, has an international governing body, and conducts operations in one or more A.I.D. geographic regions.

(b) Foreign PVOs shall be registered in accordance with guidance for eligibility of non-U.S. private and voluntary organizations for participation in A.I.D.-supported programs approved by the Deputy Administrator of A.I.D., March 15, 1978 and A.I.D. handbooks, policies, regulations (published or otherwise) and procedures as they may be amended, supplemented or supported from time to time.

§ 203.7 Termination of registration.

(a) Registration shall remain in force until: (1) Relinquished voluntarily by the registrant upon written notice to A.I.D.; or

(2) Terminated by A.I.D. for failure of the registrant to fulfill and maintain the conditions of registration.

(b) Termination proceedings pursuant to § 203.7(a)(2) above shall include prior written notice to the registrant of the grounds for the proposed termination and opportunity for the registrant to file a written statement as to why its registration should not be terminated.

§ 203.8 Delegation of authority.

(a) The authority to register and to terminate registrations is delegated to: (1) The Assistant Administrator for Food for Peace and Voluntary Assistance, or his/her designee for U.S., international, and third country PVOs.

(2) The Regional Assistant Administrator, or their designees, for regional PVOs within their respective regions; and

(3) The principal A.I.D. officer, or, if there is none, the United States Ambassador, or their designees, for indigenous PVOs.

(b) Notices of registration and terminations of registration issued by the officials in paragraphs (a) (2) and (3) of this section will be forwarded to the Bureau for Food for Peace and Voluntary Assistance within 30 days for inclusion in the registry.

§ 203.9 Access to records.

All records, reports, and other documents which are made available to A.I.D. pursuant to this part shall be made available for public inspection and copying pursuant to and under the procedures established by the public information regulation (22 CFR Part 212) of the Agency for International Development.

§ 203.10 Waiver authority.

The Administrator of the Agency for International Development or his/her designee may waive, withdraw, or amend from time to time, any or all of the provisions of the regulations in this part.

Dated: November 30, 1982.

Julia Chang Bloch,

Assistant Administrator for Food for Peace and Voluntary Assistance.

[FR Doc. 83–1082 Filed 1–20–83; 8:45 am]
BILLING CODE 6116–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[T.D. ATF–126; Ref: Notice No. 433]

Extension of Mandatory Compliance Dates for Appellations of Origin, Name and Address Requirements, and Geographical Brand Names

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule amends the mandatory compliance date of January 1, 1983, to January 1, 1985, with respect to certain labeling requirements for wine. The affected regulations concern the type size prescribed for appellations of origin when required to be set forth on labels, name and address requirements, and the "brand" requirement for brand names having geographical significance. This action was requested in petitions from the Wine Institute. *All other 27 CFR Part 4 regulations having a mandatory compliance date of January 1, 1983, such as the percentage requirements for appellations of origin and varietal designations, remain mandatory January 1, 1983.*

These regulations were first promulgated under Treasury Decision ATF–53, published in the **Federal Register** on August 23, 1978 (43 FR 37672, 54824). However, certain regulations promulgated in T.D. ATF–53 were challenged in court. *Wawszkiewicz v. Department of the Treasury*, 480 F. Supp. 739 (D.D.C. 1979), affirmed in part, reversed in part and remanded with directions, 670 F. 2d 296 (D.C. Cir. 1981). This final rule results from a notice of proposed rulemaking published as a result of this litigation.

EFFECTIVE DATE: These amendments are effective for the calendar year beginning January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Roger Bowling, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20226, 202–566–7626.

SUPPLEMENTARY INFORMATION:

Background

Among the regulatory amendments published in Treasury Decision ATF–53 were the requirements that:

(a) Beginning January 1, 1983, appellations of origin must appear in the same size of type and in lettering as conspicuous as the class and type designation under certain circumstances. 27 CFR 4.34(c);

(b) Beginning January 1, 1983, the principal place of business and registry number of the bottler may not be stated on the label in lieu of the actual place where bottled; after December 31, 1982, the post office address shall be the address shown on the basic permit and each address where each designated wine-making operation took place must be shown; and after December 31, 1982, the registry number of the bottler must be shown on the label in direct conjunction with the name and address of the bottler and in type as conspicuous as the name and address. 27 CFR 4.35(a), (c), and (d), respectively; and

(c) Beginning January 1, 1983, to be used on a wine label a brand name having viticultural significance must be qualified by the word "brand" immediately following the brand name in the same size of type and as conspicuous as the brand name itself unless the winery using such a brand name is physically located in the geographical area used in the brand name and the wine meets the appellation of origin requirements for the geographical area named. 27 CFR 4.39(i).

The Wine Institute petitioned ATF to defer the mandatory compliance dates of 27 CFR 4.34 and 4.39(i) for an additional two year period from January 1, 1983, to January 1, 1985. Subsequent to submitting this petition, the Wine Institute then petitioned ATF to defer the effective date of the name and address requirements in 27 CFR 4.35 as well. In Notice No. 433 (November 15, 1982; 47 FR 51423), ATF proposed the deferral of the mandatory compliance date set forth in these regulations to January 1, 1985.

Comment Analysis

Notice No. 433 had a 30-day comment period. The only issue raised was whether the mandatory compliance date should be extended. A total of seven comments were received. Five commenters supported the proposal; another opposed the proposal; and one believed that the requirement to label each location where a winemaking operation occurred should not be extended.

Regulatory Change

ATF gave serious consideration to the comments received on this issue in light of the impact the *Wawszkiewicz* litigation has had on the wine labeling regulations. Due to the *Wawszkiewicz* litigation, industry members were uncertain as to whether the wine labeling regulations would ultimately be sustained as promulgated in T.D. ATF–53. Accordingly, they could not redesign their labels and be sure that the labels would conform to the requirements of law as of January 1, 1983. Since the Court of Appeals' decision was handed down in late December 1981, ATF has determined that the wine industry does not have sufficient time to redesign labels and introduce them into the market place before the January 1, 1983, mandatory compliance date. Moreover, since ATF is currently reconsidering the regulations in light of the court's decision and since there may be further changes in the regulations, any redesign of labels at this time may later prove to have been unnecessary or insufficient. Accordingly, ATF is extending the mandatory compliance date of the regulations described herein for an additional two year period.

This action does not extend the mandatory compliance date on any other provisions in T.D. ATF–53, such as: the new varietal minimum percentage requirements and the provision that any varietal used as the class and type designation requires an appellation of origin; the appellation of origin percentages and requirements for use, as set forth in 27 CFR 4.25a; the estate bottled requirements in 27 CFR 4.26; and the requirement in 27 CFR 4.27 that all vintage wines, imported or American, must be labeled with an appellation of origin other than a country.

Accordingly, a conforming change is made to 27 CFR 4.34(b)(1) to reflect the fact that 27 CFR 4.23a became mandatory on January 1, 1983. This change makes it clear that whenever a grape wine bears the name of a grape variety as the type designation the wine must be labeled with an appellation of origin. In the absence of this amendment, 27 CFR 4.34(b)(1) could have conveyed the erroneous impression that an appellation of origin is required only when a grape variety name having geographic significance is employed as the type designation.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" since it does not result in:

(a) An annual effect on the economy of $100 million or more;

(b) Major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provision of 5 U.S.C. 604(b) of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities.

Disclosure

Copies of the petition, the notice, the Treasury decision, and all comments are available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is Roger L. Bowling, Specialist, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, and Wine.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205, 27 CFR Part 4 is amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Subpart D—Labeling Requirements for Wine

Paragraph 1. Section 4.34 is amended to change the mandatory compliance dates in paragraphs (b) and (c); and to make a conforming change relating to varietal designations in paragraph (b)(1). As revised, § 4.34(b) and (c) read as follows:

§ 4.34 Class and type.

(a) * * *

(b) Prior to January 1, 1985, an appellation of origin such as "American," "California," "New York State," or "Spanish," disclosing the true place of origin of the wine, shall appear in direct conjunction with and in lettering substantially as conspicuous as the class and type designation if (1) a grape type (varietal) designation is used under the provisions of § 4.23a, (2) a semi-generic type designation of geographic significance is employed as the type designation of the wine pursuant to § 4.24(b), or (3) the label bears any statement, design, device, or representation which indicates or infers an origin other than the true place of origin of the wine.

(c) Beginning January 1, 1985, an appellation of origin, such as "American," "California," "Napa Valley," or "Chilean," disclosing the true place of origin of the wine, shall appear in direct conjunction with, in the same size of type, and in lettering as conspicuous as the class and type designation if (1) a grape type (varietal) designation is used under the provisions of § 4.23a, (2) a semi-generic type designation is employed as the type designation of the wine, or a product name is qualified with the word "Brand" as required by the provisions of § 4.39(i) or (j).

Paragraph 2. Section 4.35 is amended to change the mandatory compliance dates in paragraphs (a), (c), and (d). The introductory text of paragraph (a), the first two sentences of paragraph (c), the first sentence of paragraph (d) and the date appearing in the second sentence of paragraph (d) of § 4.35 are revised as follows:

§ 4.35 Name and address.

(a) *American wine.* On labels of containers of American wine, there shall be stated the name of the bottler or packer and the place where bottled or packed (or until January 1, 1985, in lieu of such place, the principal place of business of the bottler or packer if in the same State where the wine was bottled or packed, and, if bottled or packed on bonded premises, the AFT registry number of the premises) immediately preceded by the words "bottled by" or "packed by" except that:

* * * * *

(c) *Form of address.* The "place" stated shall be the post office address (after December 31, 1984, the post office address shall be the address shown on the basic permit or other qualifying document of the premises at which the operations took place; and there shall be shown the address for each operation which is designated on the label. An example of such use would be "Produced at Gilroy, California, and bottled at San Mateo, California, by XYZ Winery, BW–CA–10001.", * * *

(d) *Trade or operating names.* The trade or operating name of any person appearing upon any label shall be identical with a name appearing on the basic permit or notice. In addition, after December 31, 1984,* * *

* * * * *

Paragraph 3. Section 4.39 is amended to extend the mandatory compliance date of paragraph (i). The heading of § 4.39 (i) is revised to read as follows:

§ 4.39 Prohibited practices.

* * * * *

(i) Geographical brand names (not mandatory before January 1, 1985). * * *

* * * * *

Dated: December 28, 1982.

Stephen E. Higgins,

Acting Director.

Approved: January 14, 1983.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 83–1841 Filed 1–19–83; 1:11 pm]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–365]

Occupational Exposure to Coal Tar Pitch Volatiles; Modification of Interpretation

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final interpretation.

SUMMARY: OSHA is modifying its interpretation of coal tar pitch volatiles (CTPV) found in § 1910.1002. This interpretation has been the subject of a number of requests for clarification. The requests have concerned primarily the inclusion of asphalt fumes as coal tar pitch volatiles. This new interpretation makes it clear that the CTPV standard does not cover petroleum asphalt.

EFFECTIVE DATE: February 22, 1983.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Consumer Affairs, Occupational Safety and Health Administration, Room N–3718, U.S. Department of Labor, Washington, D.C. 20210, 202–523–8184.

SUPPLEMENTARY INFORMATION: In May 1971, in accordance with section 6(a) of the Occupational Safety and Health Act, OSHA published its national consensus and established federal safety and health standards at 29 CFR Part 1910 (36 FR 10466). Included in this package were standards governing exposure to airborne contaminants (§ 1910.1000) that were first issued by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1968. These were adopted by the Department of Labor under the Walsh-Healey Public Contracts Act, 41 U.S.C. 35 *et seq.* in 1969 (34 FR 7946) and became OSHA standards as noted in 1971.

Among these standards was a permissible exposure limit (PEL) for occupational exposure to "coal tar pitch volatiles." Section 1910.1000, Table Z–1, listed "coal tar pitch volatiles (benzene soluble fraction) anthracene, benzo(a)pyrene, phenanthrene, acridine, chrysene, and pyrene," and designated the permissible exposure limit as an eight-hour time-weighted average (TWA) not to exceed 0.2 milligrams per cubic meter of air (0.2 mg/m^3). Apart from the language quoted, the meaning of the term "coal tar pitch volatiles" was not clearly defined in either the original 1968 listing or in the OSHA standard, which made OSHA enforcement of this standard difficult. Specifically, no

further explanation was included as to sources of CTPV.

In 1969, ACGIH proposed a threshold limit value (TLV) for asphalt different from the TLV for CTPV, and adopted it in 1971. ACGIH proposed and adopted a TLV of 5 mg/m³ for asphalt, while its TLV for CTPV remained at 0.2 mg/m³. The documentation accompanying the new asphalt TLV gave the pertinent scientific information and data used to determine each limit.

In November 1972, OSHA published an interpretation of the term "coal tar pitch volatiles" in 29 CFR 1910.1002 (37 FR 2474) as follows:

> As used in § 1910.1000 (Table Z–1) coal tar pitch volatiles include the fused polycyclic hydrocarbons which volatilize from the distillation residues of coal, petroleum, wood, and other organic matter.

The preamble explained the reasons for the interpretation:

> Although the term suggests that it only refers to the distillation residues of coal, it is considered to include other hydrocarbons with the same chemical composition. The term "coal tar pitch volatiles" thus denotes the complete class of fused polycyclic hydrocarbons which volatilize from the distillation residues of organic matter rather than from the distillation residues of coal alone. Since all of these volatiles have the same basic chemical composition and since all of them present the same dangers to a person's health, the standard prescribed by § 1910.93 (now redesignated as § 1910.1000), is applied to the use of all of them. (37 FR 24749, November 21, 1972)

Under this interpretation of CTPV the standard now covered asphalt fumes since asphalt is a product of the distillation of petroleum. Although this published interpretation did not explicitly include the term "asphalt fumes," an earlier reference in OSHA Program Directive #72–21 (July 5, 1972) indicated that § 1910.1000 was intended to apply to asphalt fumes. The Agency defined CTPV to include asphalt fumes because asphalt is a complex mixture of materials, and the Agency believed that some of the polycyclic aromatic hydrocarbons that are referred to in Table Z–1 under "coal tar pitch volatiles" may be detected in the volatile emissions from both asphalt and coal tar pitch.

In a letter dated October 15, 1973, the American Petroleum Institute (API) recommended to OSHA that the definition of coal tar pitch volatiles be amended to refer only to those distillations that are destructive, such as occur from coal or wood distillation, and not to the common petroleum distillations that are nondestructive. Subsequently, on August 1, 1975, the Asphalt Institute endorsed the 1973 letter from API and recommended deletion of the standard insofar as it applied to materials not containing significant amounts of hazardous fused polycyclic hydrocarbons. It was also the Asphalt Institute's view that the inclusion of the word "destructive" would correct the interpretation rendered by OSHA.

In September 1977, the National Institute for Occupational Safety and Health (NIOSH) submitted a criteria document for a recommended standard for occupational exposure to asphalt fumes. That document stated that the toxic effects produced by asphalt, tars, and pitches are quantitatively and qualitatively different. Based on these findings, NIOSH recommended a ceiling concentration limit of 5 mg/m³, based on total particulates, for asphalt fumes.

On February 23, 1979, the Asphalt Institute wrote OSHA urging that asphalt fumes and CTPV be differentiated and that NIOSH's recommended standards be adopted. In a letter dated September 7, 1979, the Agency addressed the Asphalt Institute's recommendations. The Agency acknowledged that asphalt and coal tar pitch may be produced differently and have different uses and properties, but reiterated that both are complex polycyclic aromatic hydrocarbons. The OSHA letter described the air sampling techniques for asphalt and CTPV and indicated that citations for violations of 29 CFR 1910.1002 would be issued only in the following limited circumstances:

(1) At the time of inspection employees are found to be exposed to volatile emissions from distillation residues of coal, petroleum, wood, or other organic matter, and

(2) Samples obtained to determine employee exposure to the volatile emissions are found to contain more than 0.2 mg of benzene-soluble material per cubic meter of air, and

(3) Laboratory analysis of the benzene-soluble fraction described in (2) confirms the presence of benzo(a)pyrene and/or one or more the five additionally named fused polycyclic hydrocarbons to which the standard refers; anthracene, acridine, pyrene, chrysene and phenanthrene.

On June 9, 1980, the Asphalt Institute submitted to OSHA a formal petition requesting that the 0.2 mg/m³ level be declared unenforceable and inapplicable to asphalt fumes and that 29 CFR 1910.1002 be amended to exclude asphalt. The petition also requested a rulemaking to amend 29 CFR 1910.1000 to establish an occupational health standard for exposure to asphalt fumes of 5 mg/m³ as recommended in the NIOSH criteria document and ACGIH's 1971 TLV documentation. That petition was denied on November 25, 1980, by Assistant Secretary Bingham who reiterated the rationale for the interpretation of CTPV that was given in the November 21, 1972 (37 FR 24749) preamble explanation and repeated the limited circumstances that would result in citations.

On April 24, 1981, the Asphalt Institute filed a petition for reconsideration of the Assistant Secretary's denial. It asked that the Assistant Secretary overrule and withdraw the response on the ground that the decision was contrary to law. It also asked for confirmation that 29 CFR 1910.1000 is inapplicable and unenforceable as to asphalt fumes because 29 CFR 1910.1002 was issued without notice and comment. The Asphalt Institute again requested that OSHA amend 29 CFR 1910.1002 to exclude asphalt and that rulemaking procedures be instituted to establish the 5 mg/m³ limit for asphalt fumes.

In reviewing the appeal submitted by the Asphalt Institute, as well as the available NIOSH and ACGIH data and the circumstances surrounding the original interpretation, OSHA determined that its 1972 interpretation of CTPV was not consistent with what ACGIH intended to cover as a coal tar pitch volatile when it adopted its 1968 TLV. This determination was supported by ACGIH's adoption in 1971 of a separate TLV for asphalt fumes and its accompanying documentation. ACGIH adopted the separate asphalt TLV based on its explanation that:

> Asphalt is a native mixture of hydrocarbons which occurs as an amorphous, brownish black solid or semisolid. It results from evaporation of the lighter hydrocarbons from petroleum and partial oxidation of residue. Petroleum asphalt thus is to be differentiated from tar or pitch which results from the destructive distillation of coal.

Thus OSHA believed that the original ACGIH 1968 standard for CTPV, which was adopted by OSHA in 1971, was not intended to cover asphalt and that OSHA's 1972 interpretation was therefore in error. To correct this erroneous interpretation of CTPV, OSHA published a notice in the **Federal Register** (47 FR 23482, May 28, 1982) announcing its intention to amend the definition of coal tar pitch volatiles.

OSHA further indicated in the notice that while petroleum asphalt would no longer be covered by the coal tar pitch volatiles standard under this corrected interpretation, the Agency considered asphalt fumes to present a recognized hazard to exposed employees and

would reevaluate its view as to the appropriate regulatory response for protecting employees from this hazard. In the interim, OSHA stated that the agency would use section 5(a)(1) of the Act (general duty clause) to provide protection to employees from exposure to asphalt fumes.

Public Participation

As explained in the May 26, 1982, FR notice, a modification of an interpretation ordinarily would not have required notice and comment under either the Administrative Procedure Act (APA) or section 6(b) of the Act. However, OSHA decided to give notice and to invite public comment on this action since the previous interpretation had been followed since 1972 and had been published and codified in the Code of Federal Regulations.

A total of 39 comments were received by OSHA regarding this modification. Views were expressed on issues dealing with: (1) The legality of this action, (2) the validity of the previous interpretation, (3) the relative toxicities of CTPV and asphalt volatiles, and (4) the regulatory impact of this action. These issues will be discussed in turn.

(1) A few commentors contended that OSHA's modification of its 1972 interpretation was in fact a change in a rule which necessitates a section 6(b) rulemaking (Ex. 2–20, 2–26, 2–28). As stated above, OSHA regards its action today as a modification of an interpretation and not as substantive rulemaking. Nonetheless, OSHA has provided prior notice and comment as required for section 6(b) actions to allow effective participation in the rulemaking process by employers, employees and the general public.

As noted, extensive comments from interested parties have been received and considered by OSHA. No requests for a hearing were submitted. Accordingly, OSHA concludes that all procedural requirements were met, and indeed exceeded, in this proceeding. There is no basis in the record for the argument that parties with an interest in the present action have been deprived of an opportunity to participate.

(2) The proposal would have exempted all non-coal distillation residues from the CTPV standard. The final interpretation, however, exempts only petroleum asphalt while it continues to place all other distillation residues of coal, petroleum, wood and other organic matter under the coverage of the standard.

This modification of the proposed interpretation is based on comments which demonstrated that the proposal was over-broad in attempting to apply the exemption beyond petroleum asphalt. As noted in more detail below, the rationale for the proposal really applied only to petroleum asphalt. Thus, ACGIH developed a separate standard for petroleum asphalt but not for other non-coal distillation products. Further, petroleum asphalt is chemically different from the other distillation products in that the percentage of aromatic hydrocarbons in the volatiles of petroleum asphalt is significantly lower. The CTPV standard, which lists the polycyclic aromatic hydrocarbons found in coal tar pitch, may therefore be viewed as being applicable to other distillation residues which have significant amounts of polycyclic aromatic hydrocarbons but not applicable to petroleum asphalt.

The majority of comments received agreed with OSHA's judgement that the previous interpretation was invalid. There was basic agreement that the original 1968 ACGIH standard was not intended to apply to volatiles arising from asphalt. (Exs. 2–1, 2–3, 2–6, 2–7, 2–9, 2–16, 2–20, 2–25, 2–27, 2–30, 2–32).

The Asphalt Institute commented on this issue as follows:

> * * * The 1968 ACGIH TLVs contained a TLV of 0.2 mg/m³ for "coal tar pitch volatiles," but there was no listed TLV for "asphalt fumes." Nor was there any interpretation or understanding that the ACGIH standard for "coal tar pitch volatiles" applied to asphalt fumes. The ACGIH committee which formulated the CTPV standard considered no scientific data and no public comment concerning "asphalt fumes" in establishing its TLV of 0.2 mg/m³ for coal tar pitch volatiles. Thus, it would be scientifically unsound to interpret that TLV as an exposure standard for "asphalt fumes."
>
> Moreover, the history of the adoption of a TLV for "asphalt (petroleum) fumes" by the ACGIH demonstrates that the ACGIH never included the substance "asphalt (petroleum) fumes" within the class of substances called "coal tar pitch volatiles." A TLV for asphalt fumes was first proposed in 1969, with an indication that the TLV for this substance was being proposed as a new addition, not a change in a TLV for a substance already contained on the Adopted List of TLVs. When the ACGIH adopted a TLV of 5 mg/m³ for "asphalt (petroleum) fumes" in 1971, it indicated that this substance was being placed on the TLV Adopted List for the first time. Consequently, the TLV for "coal tar pitch volatiles" and the TLV for "asphalt (petroleum) fumes" have been separate values since each was adopted. This means that, when the 1968 ACGIH standards were incorporated by reference into the regulations promulgated under the Walsh-Healey Act, there was no TLV applicable to asphalt fumes. In turn, when OSHA adopted the Walsh-Healey standards as "established Federal standards" under Section 6(a) of the OSH Act, OSHA was adopting an occupational health standard for CTPV which was inapplicable to asphalt fumes (Ex. 2–19).

One commentor that disagreed with OSHA's assessment as to the original intent of the 1968 standard was NIOSH (Ex. 2–35), which stated:

> We are concerned that the proposed OSHA definition of coal tar pitch volatiles is too narrow. The 1968 TLV, which was adopted as the 1910.1000 standard had used coal tar pitch volatiles (CTPV) as a traditional descriptor for groups of polycyclic aromatic hydrocarbons (PAH's). A list of such PAH's (anthracene, BaP, phenanthrene, acridine, chrysene and pyrene) was included in the 1968 TLV list and in the 1910.1000 standard. In the TLV documentation (ACGIH, 1966) for CTPV and PAH's mentioned included naphthalene, fluorene, anthracene, acridine and phenanthrene as examples of lower molecular weight types and benzo(a)pyrene as an example of higher molecular weight PAH's. The ACGIH Documentation states that "(P)olycyclic hydrocarbons known to be carcinogenic are of this large molecular type."

This argument may have merit for substances other than asphalt. The fact that asphalt was listed as a new addition by ACGIH in 1969 leads to the conclusion that asphalt was not intended to be within the scope of the CTPV standard. Further, data in the record indicates that there are qualitative and quantitative differences between the volatiles arising from coal tar and asphalt. For example, a 1982 study by Niemeier et al. comparing the skin carcinogenicity of "roofing asphalt" and "coal tar pitch" fumes reported that the asphalt fume material is less than 1% aromatic, which are the hydrocarbons listed in 1910.1000 as CTPV's while the coal tar pitch fume indicated greater than 90% aromatic. The NIOSH criteria documents for asphalt (1977) and coal tar products (1977) supports this distinction. Indeed, the following discussion taken directly from the 1966 Documentation (American Conference of Governmental Industrial Hygienists (ACGIH), 1966 Documentation of Threshold Limit Values) leaves little doubt that the recommended TLV of 0.2 mg/m³ was not intended to apply to volatiles arising from asphalt because of this quantitative difference. Note that in the third paragraph below, asphalt and coal tar fumes are differentiated.

> Coal tar pitch volatiles contain a large quantity of lower molecular weight polycyclic hydrocarbons. As these hydrocarbons (naphthalene, fluorene, anthracene, acridine, phenanathrene) sublime into the air, there is an increase of benzo(a)pyrene (BaP or 3,4-benzpyrene) and other higher weight polycyclic hydrocarbons in the tar and in the

fumes. Polycyclic hydrocarbons known to be carcinogenic are of this large molecular type.
* * * * * *

Coal tar pitch polluted air is characterized by large amounts of phenanthrene, anthracene, pyrene and carbazole. Coal tar pitch contains approximately 10% polycyclic hydrocarbons, and three different samples analyzed by Sawicki et al. gave a concentration of 1.4% BaP alone.
* * * * * *

Fairhall states that fumes of dust from native asphalt do not present a substantial health hazard in comparison with coal tar fume or dust, citing the work of Hueper and Davies.
* * * * * *

Since no "safe" limit of exposure can be established for carcinogens and because of instability in the composition of volatiles from coal tar pitch a limit of 0.2 milligrams of benzol-soluble components of coal tar pitch volatiles per cubic meter of air is recommended. A limit of 0.2 mg/m³ of the total components present should minimize exposure to these carcinogens.

Accordingly, evidence in the record supports the reasoning behind OSHA's current determination that its 1972 interpretation was in error regarding the inclusion of asphalt. The same cannot be said, however, for other distillation residues of petroleum, wood, and other organic matter. These residues contain much higher proportions of polycyclic aromatic hydrocarbons than does asphalt (Ex. 2–19, NIOSH criteria document for asphalt—1977). Inasmuch as the Asphalt Institutes' petition only addressed the exclusion of asphalt, and inasmuch as the correct application of the CTPV standard is unclear with regard to residues other than asphalt, based on consideration of chemical composition and health effects, the CTPV standard will continue to apply to distillation residues of coal, petroleum (other than asphalt), wood, and other organic matter.

The continued coverage of residues other than asphalt is supported by NIOSH's argument that the term "coal tar pitch volatiles" had been used "as a traditional descriptor for groups of polycyclic aromatic hydrocarbons * * *." There is no data in the record to refute this argument other than with respect to asphalt. The Agency's action in 1972 to include asphalt, while taken in an attempt to be as protective as possible, in fact expanded the meaning of "coal tar pitch volatiles" beyond what had been originally intended. OSHA does not want to do the reverse and limit the meaning to less than what had been intended.

(3) The relative toxicity of CTPV and asphalt volatiles has been raised during this administrative proceeding. Arguments to retain the previous interpretation were based primarily on concern over the adverse health effects presented by asphalt, which would no longer be covered by a specific PEL (Exs. 2–8, 2–23, 2–26, 2–28, 2–29, 2–31), rather than on the question as to whether the 1968 ACGIH coal tar pitch TLV was intended to apply to asphalt.

At least 2 commentors who opposed amendment to the interpretation clearly indicated that their position was based on their concern regarding the toxicity issue, rather than the issue of the validity of the original interpretation. For example, the United Steelworkers of America stated:

The USWA strongly opposes the manner in which OSHA intends to modify its interpretation of coal tar pitch volatiles (CTPV) found in 1910.1002. The USWA fully recognizes the advantages in clarifying existing OSHA standards. However, we vehemently oppose the deletion of essential health standards, especially recognized human carcinogens, as a means of clarifying these standards (Ex. 2–26).

The American Iron and Steel Institute, another objecting party, acknowledged that:

The current interpretation as to asphalt as being the same as other pitch residues is arguable since asphalt is primarily an aliphatic material with virtually no polycyclic hydrocarbon content. It is also arguable that asphalt, per se, is not a "distillation residue" and should not have been included in the interpretation. A distinction has been presented by NIOSH in its criteria document on Asphalt Fumes. This does not mean that exposure to asphalt fumes is without health consequences (Ex. 2–31).

As noted earlier, OSHA is evaluating the subsequent appropriate regulatory response to asphalt. Comments regarding this substance will be given full consideration in the Agency's determination of the appropriate regulatory response for protection of employees from the hazards presented by asphalt fumes.

Thus, based on data in the record which indicates that asphalt should be differentiated from CTPV because of differing health effects (ACGIH, NIOSH) and differing chemical composition (aliphatic versus aromatic) OSHA is amending § 1910.1002 accordingly.

Several commentors differed in their opinion as to how OSHA should approach the question of providing employees regulatory protection from asphalt fumes. A number of comments expressed the belief that OSHA was abandoning its congressionally designated duty to "set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity * * *." As noted OSHA concedes that asphalt fumes are hazardous and is cognizant of its legislative mandate to protect employee health and does not intend to terminate its efforts in pursuing appropriate rulemaking activities with regard to asphalt fumes. A small number of commentors stressed that OSHA's intent to use the general duty clause in section 5(a)(1) was tantamount to removing protection of employee health because of enforcement problems regarding the general duty clause and the absence of an accepted exposure standard for the deleted substances. However, others expressed support for OSHA's decision to use section 5(a)(1) in the interim while considering more appropriate rulemaking for the deleted substance. OSHA's Instruction CPL 2.50 dated March 17, 1982, contains Agency guidelines for enforcement of section 5(a)(1).

Summary of Regulatory Impact Assessment and Regulatory Flexibility Certification

In the notice of intention to modify the interpretation of CTPV, the Secretary determined that the action was not "major" as defined by the Executive Order 12291, Section 1(b). The Secretary also certified that the action will have no significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act of 1980 (U.S.C. Title 6). The Secretary reaffirms both of these findings after review of comments in response to the notice.

No quantitative data were submitted to support an argument that the interpretation would have a major impact. Some commentors argued that removing all substances except those distillates of coal from the definition of CTPV as proposed in the May, 1982, notice, would incorrectly signal to the users of CTPV that the deleted substances were safer and less subject to regulation. Several commentors expressed the concern that if only coal tar pitch remained regulated there may be a "chilling effect" on consumers of the product. It was argued that this may result in a switch from coal tar pitch to petroleum pitch and, in the view of one commentor could result in "an economically devastating market disruption" (Ex. 2–20). This concern about a dramatic market shift toward petroleum pitch was also reflected in comments by representatives of steel workers (Ex. 2–26) who are also concerned about the effect this may have on employee health protection if the change in interpretation were made as proposed. They believed that a

modified interpretation of the CTPV standard may create an economic incentive for companies to substitute petroleum pitch for coal tar pitch thereby reducing or avoiding the expense of implementing engineering controls to reduce occupational exposure to hazardous pitch volatiles.

These concerns have been mitigated by the final interpretation by exclusion of asphalt alone from the CTPV standard. The only market for coal tar pitch where the excluded substance asphalt is in competition is in roofing. Coal tar pitch roofs account for approximately 10 percent of coal tar pitch sales, which much compete against initially lower cost asphalt roofing. Because OSHA compliance costs were determined to be an insignificant component in the price of asphalt roofing, the exemption of asphalt from the CTPV standard is not likely to result in an important cost advantage for this product. For both of these reasons, the exemption of asphalt will not result in a major shift in demand from coal tar products to asphalt. Finally, given that the total 1980 sales value of coal tar pitch was $245.9 million, and that a major share of that market was insensitive to relative prices, it is clear that this action is not "major." This conclusion is further supported by information submitted by representatives of the potentially affected industries detailing the unique properties and applications of coal tar pitch (Ex. 2–20).

List of Subjects in 29 CFR Part 1910

Chemicals, Coal tar, Health, Occupational safety and health.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Accordingly, pursuant to section 8(g) of the Act, 29 CFR Part 1910 is amended by revising § 1910.1002 to read as follows:

§ 1910.1002 Coal tar pitch volatiles; interpretation of term.

As used in § 1910.1000 (Table Z-1), coal tar pitch volatiles include the fused polycyclic hydrocarbons which volatilize from the distillation residues of coal, petroleum (excluding asphalt), wood, and other organic matter. Asphalt (CAS 8052–42–4, and CAS 64742–93–4) is not covered under the "coal tar pitch volatiles" standard.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(Sec. 8, 84 Stat. 1600, (29 U.S.C. 657); 5 U.S.C. 553; Secretary of Labor's Order No. 876 (41 FR 25059))

Signed at Washington, D.C. this 10th day of January 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83–1528 Filed 1–20–83; 8:45 am]

BILLING CODE 4510–26–M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Additional Eligibility Period

Correction

In FR Doc. 83–690, beginning on page 1196, on Tuesday, January 11, 1983, on page 1197, in the First column, in § 21.1044 (c) (2), in the fourth line "December 31, 1983" should read "December 31, 1981".

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–3–FRL 2266–8]

Approval of a Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Commonwealth of Pennsylvania has requested revisions to its State Implementation Plan (SIP). EPA is approving these revisions which consist of regulations for certain sources of Volatile Organic Compound (VOC) emissions, changes to the air pollution episode regulations, and an increase in permit fees for air pollution sources in Allegheny County.

EPA has determined that the revisions being approved will not cause or contribute to a violation of any of the National Ambient Air Quality Standards (NAAQS) and that they meet all applicable requirements of Section 172(b) of the Clean Air Act concerning reasonably available control technology.

EPA is also correcting the numbering of 40 CFR 52.2020, in Subpart NN—Pennsylvania. This is an administrative change.

DATE: Effective January 21, 1983.

ADDRESSES: Copies of this SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Programs and Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106; ATTN: Gregory Ham (3AW11);

Allegheny County Bureau of Air Pollution Control, 301 Thirty-ninth Street, Pittsburgh, PA 15201;

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120; or

Public Information Reference Unit, Room 2922, EPA Library, Environmental Protection Agency, 401 M Street, SW., (Waterside Mall), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Ham, Environmental Protection Agency, Region III, Air Programs and Energy Branch, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, PA 19106; (215) 597–2745.

SUPPLEMENTARY INFORMATION: On February 23, 1982, the Commonwealth of Pennsylvania submitted revisions to the Pennsylvania SIP. The revisions consist of regulations controlling VOC emissions from sources specified in EPA's Group II Control Technique Guidelines (Group II CTG's), changes to the air pollution episode regulations, and an increase in permit fees for Allegheny County, Pennsylvania. The following paragraphs discuss each of these revisions.

Group II VOC Regulations

Provisions of the Clean Air Act enacted in 1977 require States to revise their SIP's for areas that have not attained the NAAQS. For States with ozone nonattainment areas, EPA has stated that the minimum acceptable level of ozone control includes Reasonably Available Control Technology (RACT) requirements for sources of VOC emissions for which EPA has published a CTG by January 1978 and additional RACT requirements on an annual basis for VOC sources covered by CTGs published by January of the preceding year. (See 44 FR 20372 (April 4, 1979) as supplemented at 44 FR 38583 (July 2, 1979); 44 FR 50371 (August 28, 1979); 44 FR 53761 (September 17, 1979); 44 FR 67182 (November 23, 1970); and 44 FR 50371 (August 28, 1979).)

EPA published the CTGs in order to assist the States in determining RACT. The CTGs provide information on

available air pollution control techniques to provide recommendations on what EPA calls the "presumptive norm" for RACT. Group II CTGs cover the following source categories: (1) Factory Surface Coating of Flatwood Paneling; (2) Petroleum Refinery Fugitive Emissions (Leaks) ; (3) Synthesized Pharmaceutical Manufacturing; (4) Pneumatic Rubber Tire Manufacturing; (5) Surface Coating of Miscellaneous Metal Parts and Products; (6) Graphic Arts (Printing); (7) Dry Cleaning Perchloroethylene; (8) Gasoline Tank Trucks (Leak Prevention) ; (9) Petroleum Liquid Storage in External Floating Roof Tanks.

On February 23, 1982, Pennsylvania submitted to EPA revisions to its SIP for Allegheny County which consist of regulations for all of the above categories except: (1) Factory Surface Coating of Flatwood Paneling; (2) Petroleum Refinery Fugitive Emissions (Leaks), (3) Pharmaceutical Manufacture; and (4) Rubber Tire Manufacture. The Allegheny County Bureau of Air Pollution Control (BAPC) has certified that none of these sources currently operate in the County.

EPA has reviewed these regulations and finds them approvable except for the dry cleaning regulations. In addition, the compliance schedule established for control of VOC emissions from inks used to print on non-porous substrates allows for extensions up to December 31, 1986. This extension is not consistent with the Commonwealth of Pennsylvania's regulation, which allows extensions up to December 31, 1985. EPA requested comments in the proposed notice on the acceptability of an extension for this category of source until December 31, 1986. One comment was received which favored the additional year. No adverse comments were received. Therefore, this regulation is being approved with the 1986 compliance date.

Where variations from EPA's recommended RACT occur in other regulations, documentation showing insignificant impact has been submitted by the BAPC.

The County's regulation for Perchloroethylene Dry Cleaning is significantly different than that adopted by most other States in that no emission limit is specified. Therefore, the County's regulation does not require add-on control equipment. As noted in the proposal notice, EPA will take no action on this regulation at this time.

Air Pollution Episode Regulations

The air pollution episode regulations establish procedures for alerting the public when air pollution reaches or is forecasted to reach specified levels which may affect the health of people in the area. The County currently has episode regulations in effect. The regulation being approved today revises the method used for setting the levels at which various alert stages are called.

The previous regulations set one level of pollution for each stage. This level applied to all monitoring sites which measure the potential for episodes. The revised regulations allow the level to be set specifically for each monitor. This is necessary because of the variable characteristics of the particulates which are being monitored. Each monitor is impacted by different ranges of particulate sizes and characteristics. The monitors are affected by the size and characteristics of the particles, and can give different readings because of this variation, even if total particulate levels are the same. Therefore, each monitor site must be studied to establish site-specific values at which the alert stages are called. The new regulations establish procedures for this, and were developed in accordance with EPA's "Guidance for Selecting TSP Episode Monitoring Methods" (EPA No. 1.2–114, February 1979). The revisions do not change the levels at which episodes are declared, but change the way in which the levels are determined.

EPA has reviewed these regulations and finds them to be approvable.

Permit Fee Increase

The revisions to the permit fee regulations consist of an increase of 15% in the fees for installation, operating and non-complying source operating permits. These fees cover the costs of inspections, permit processing, and evaluation of source compliance. The County is increasing the fees to offset rising costs of performing these functions.

EPA has reviewed these regulation changes and finds them to be approvable. In addition, no adverse comments were submitted on any of the items being approved today.

In a **Federal Register** notice of June 9, 1982, EPA published an approval of revisions to Allegheny County's asphalt regulation which satisfied conditional approvals on the County's Part D SIP. In that approval, the documents pertaining to it were inadvertantly placed in Section (C)(43) of § 52.2020, Subpart NN—Pennsylvania. These documents should have been placed in Section (C)(45). EPA is making this correction in this notice, and has shown both Sections (C)(43) and (C)(45) in this notice as they should appear in the Code of Federal Regulations.

The Office of Management and Budget has exempted this regulation from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b) the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(42 U.S.C. 7401–7642)

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF INPLEMENTATION PLANS

Title 40, Part 52, Subpart NN of the Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

In § 52.2020 paragraphs (c)(43) and (45) are revised and paragraph (c)(49) is added to read:

§ 52.2020 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(43) Amendments to Air Management Regulations II and III, with supporting documents, submitted by Governor Dick Thornburgh on December 8, 1981, allowing the continued burning of anthracite coal in existing space heating units currently burning coal.

* * * * *

(45) Revisions submitted to the Commonwealth of Pennsylvania on February 23, 1982 to correct the conditionally-approved portions of the 1979 State Implementation Plan, specifically the two asphalt regulations in Allegheny County.

* * * * *

(49) Group IIVOC regulations, a revision of the Air Episode Regulations, and an increase in Permit Fees, for Allegheny County, Pa. These revisions

were submitted by Secretary Peter S. Duncan on February 23, 1982.

[FR Doc. 83-1548 Filed 1-20-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 81

[Docket No. 107PA-8; A-3-FRL 2270-6]

Designation of Areas for Air Quality Planning Purposes; Approval of Redesignation of Attainment Status for the State of Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving changes Pennsylvania has requested in the Total Suspended Particulate (TSP) designations of several areas. These designations are used for purposes of planing to attain and maintain TSP standards, and are required by Section 107 of the Clean Air Act (CAA). EPA is approving Pennsylvania's requested changes because the agency has found them to be justified by recent air quality and/or modeling data.

EFFECTIVE DATE: February 22, 1983.

ADDRESSES: Copies of Pennsylvania's request for the redesignations and associated support materials are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs and Energy Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, PA. 19106;
Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA. 17120; or
Public Information Reference Unit, EPA Library, U.S. Environmental Protection Agency, 401 M. Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond D. Chalmers at the address for EPA Region III above, or telephone (215) 597-8309.

SUPPLEMENTARY INFORMATION: EPA approves changes Pennsylvania has requested in the Total Suspended Particulate (TSP) air quality designations of several areas. EPA approves these changes since they are justified by recent air quality and/or monitoring data. EPA's approval of these changes modifies the list of attainment status designations in 40 CFR Part 81 that is published pursuant to the requirements of Section 107 of the Clean Air Act.

Pennsylvania requested most of the redesignations as a result of a decision to change from designating nine of its air basins in their entirety to designating individual townships, boroughs, etc. Pennsylvania also requested redesignations in cases where recent air quality or modeling data indicated they were appropriate. In most cases Pennsylvania had sufficient information available to make definite designations of areas as either "Does not meet Primary Standards," "Does not meet Secondary Standards" or "Better than National Standards." However, in a few cases available information was insufficient or conflicting. In these cases Pennsylvania designated areas as "Cannot be Classified."

Pennsylvania's redesignations bring the State's TSP designations up to date for all areas except Allegheny County and Philadelphia. Pennsylvania did not review the TSP designations of these areas because local agencies have been delegated the responsibility for such reviews.

Pennsylvania's approved redesignations apply to areas in six Air Quality Control Regions (AQCRs). The redesignations are described below on an AQCR by AQCR basis.

I. Metropolitan Philadelphia Interstate AQCR

EPA approves changes in the designations of several areas in the Southeast Pennsylvania Air Basin. EPA approves a change in the designation of Phoenixville Borough from "Does not meet Secondary Standards" to "Better than National Standards." EPA also approves changes in the designations of the following areas from "Cannot be Classified" to "Better than National Standards": West Conshohocken Borough, Lower Merion Borough, Narberth Borough, Upper Merion Township, Bridgeport Borough, Norristown Borough, Plymouth Township, Whitemarsh Township, Upper Moreland Township, Lower Pottsgrove Township, Upper Providence Township, Caln Township, Downingtown Borough, East Followfield Township, Modena Borough, Valley Township, North Coventry Township, East Coventry Township, and Schuylkill Township.

II. Northeast Pennsylvania Interstate AQCR

EPA approves Pennsylvania's proposal to change from designating the Scranton/Wilkes-Barre, Allentown-Bethlehem-Easton, and Reading Air Basins in their entirety to designating individual minor civil divisions (MCDs) within them as described below:

A. *Scranton Wilkes-Barre Air Basin*—EPA approves Pennsylvania's proposal to change from designating this air basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs as follows: the City of Wilkes-Barre and the Borough of Throop remain designated "Does not meet Secondary Standards" and all remaining MCDs are redesignated to "Better than National Standards."

B. *Allentown-Bethlehem-Easton Air Basin*—EPA approves Pennsylvania's proposal to change from designating this air basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs as follows: the Boroughs of Northampton and Coplay and the Townships of Allen and Whitehall remain designated "Does not meet Secondary Standards" and all remaining MCDs are redesignated to "Better than National Standards."

C. *Reading Air Basin*—EPA approves Pennsylvania's proposal to change from designating this air basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs as follows: Laureldale and Temple Boroughs and Muhlenberg Township remain designated "Does not meet Secondary Standards" and all other MCDs are redesignated to "Better than National Standards."

EPA also approves Pennsylvania's request to redesignate one non-air basin area in this AQCR. EPA approves a change in the designation of the City of Palmerton from "Better than National Standards" to "Cannot be Classified."

III. South Central Pennsylvania Intrastate AQCR

EPA approves the following designation changes:

A. *Harrisburg Air Basin*—EPA approves the redesignation of this air basin in its entirety from "Does not meet Secondary Standards" to "Better than National Standards."

B. *Lancaster Air Basin*—EPA approves Pennsylvania's proposal to change from designating this air basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs as follows: the City of Lancaster and the Township of Manheim remain designated "Does not meet Secondary Standards" and all remaining MCDs are redesignated to "Better than National Standards."

C. *York Air Basin*—EPA approves Pennsylvania's proposal to change from designating this air basin in its entirety as "Does not meet Primary Standards" to designating individual MCDs in the air basin as follows: York City, West York Borough, and West Manchester Township remain designated "Does not meet Secondary Standards" and all

remaining MCDs are redesignated to "Better than National Standards."

IV. Central Pennsylvania Intrastate

EPA approves Pennsylvania's proposal to change from designating the Johnstown Air Basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs as follows: Johnstown City, East Conemaugh Borough, Franklin Borough and Dale Borough remain designated "Does not meet Secondary Standards," the Township of East Taylor, Middle Taylor and West Taylor are redesignated "Cannot be Classified" and the remaining MCDs are classified "Better than National Standards."

V. Southwest Pennsylvania Intrastate AQCR

EPA approves Pennsylvania's proposal to change from designating the Monongahela Air Basin in its entirety as "Does not meet Secondary Standards" to designating individual MCDs in the air basin as follows: Donora Borough, Monessen City, and the Townships of Carrol and Rostraver remain designated "Does not meet Primary Standards," the Borough of Brownsville is redesignated to "Does not meet Secondary Standards," and all remaining MCDs are redesignated to "Better than National Standards."

EPA also approves Pennsylvania's proposal to change the designation of one non-air basin area. EPA approves a change in the designation of the City of New Kensington in Westmoreland County from "Better than National Standards" to "Cannot be Classified."

IV. Northwest Pennsylvania Interstate AQCR

EPA approves Pennsylvania's proposal to change from designating the Erie Air Basin in its entirety to designating indivdual MCDs in the air basin as follows: City of Erie, Lawrence Park Township and the Borough of Wesleyville are redesignated to "Does not meet Secondary Standards" and the remaining MCDs are redesignated "Better than National Standards."

EPA received some general comments on the TSP situation in Pennsylvania and a request for additional information on Pennsylvania's proposed redesignations from one commentor. EPA considered the general comments submitted but did not find them relevant to the question of whether to approve or disapprove any of the particular redesignations Pennsylvania had requested. The commentor submitted no additional comments on specific issues after EPA forwarded to him the additional information he had requested.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (see sec. 307(b)(2)).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d), 171(2), and 301(a) of the Clean Air Act as amended (42 U.S.C. 7407(d), 7501(2), 7602(a)))

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

In § 81.339, the table headed "Pennsylvania-TSP" is revised to read:

§ 81.339 Pennsylvania.

PENNSYLVANIA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
I. Metropolitan Philadelphia Interstate AQCR:				
(A) City of Philadelphia:				
Census tracts 1-12, 125-142, 144-157, 162-177, 190-205, 293, 294, 298-302, 315-321, 323, 325, 326, 329-332.		X		
Census tracts 13-75, 143, 158-161, 178-189, 295-297, 322, 324, 327			X	
Balance of city				X.
(B) Montgomery County:				
Conshohocken Boro		X		
Pottstown Boro		X		
West Pottsgrove Township			X	
Upper Pottsgrove Township			X	
(C) Chester County:				
South Coatesville Boro		X		
City of Coatesville			X	
(D) Bucks County: Doylestown Township			X	
(E) Remaining Pennsylvania Portions of AQCR				X.
II. Northeast Pennsylvania Interstate AQCR:				
(A) Scranton, W-B Air Basin:				
Lackawanna County: Throop Boro		X		
Luzerne County: City of Wilkes-Barre		X		
(B) A-B-E Air Basin:				
Lehigh County:				
Coplay Boro	X			
Whitehall Township	X			
Northampton County:				
Northampton Boro	X			
Allen Township	X			
(C) Reading Air Basin:				
Berks County:				
Laureldale Boro		X		
Temple Boro		X		
Muhlenberg Township		X		

PENNSYLVANIA—TSP—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
(D) Carbon County: City of Palmerton			X	
(E) Remaining Portions of AQCR				X.
III. South Central Pennsylvania Intrastate AQCR:				
(A) Harrisburg Air Basin				X.
(B) Lancaster Air Basin:				
Lancaster County:				
City of Lancaster	X			
Manheim Township	X			
(C) York Air Basin:				
York County:				
City of York	X			
West York Boro	X			
West Manchester Township	X			
(D) Remaining Portions of AQCR				X.
IV. Central Pennsylvania Intrastate AQCR:				
(A) Johnstown Air Basin:				
Cambria County:				
City of Johnstown	X			
Dale Boro	X			
East Conemaugh Boro	X			
Franklin Boro	X			
East Taylor Township			X	
Middle Taylor Township			X	
West Taylor Township			X	
(B) Blair County:				
City of Altoona		X		
Allegheny Township			X	
Logan Township			X	
(C) Lycoming County:				
City of Williamsport		X		
South Williamsport Boro			X	
Duboistown Boro			X	
Armstrong Township			X	
Susquehanna Township			X	
Woodward Township			X	
Old Lycoming Township			X	
Loyalsock Township			X	
Montoursville Boro			X	
(D) Remaining Portions of AQCR				X.
V. Southwest Pennsylvania Intrastate AQCR:				
(A) Monongahela Valley Air Basin:				
Fayette County: Brownsville Boro		X		
Washington County:				
Donora Boro	X			
Carroll Township	X			
Westmoreland County:				
City of Monessen	X			
Rostraver Township	X			
(B) Allegheny County Air Basin:				
(1) A three mile wide strip which is within a perpendicular distance two miles north and east and one mile south and west of the river center line with terminus points as follows:				
(a) The Beaver County line to the I-79 Bridge on the Ohio River			X	
(b) I-79 to the McKees Rocks Bridge on the Ohio River	X			
(c) McKees Rocks Bridge to the Birmingham Bridge on the Ohio and Monongahela Rivers	X			
(d) Birmingham Bridge to the Glenwood Bridge on the Monongahela River	X			
(e) Glenwood Bridge to the Mansfield Bridge (Dravosburg) on the Monongahela River	X			
(f) Mansfield Bridge to the Westmoreland County line on the Monongahela River	X			
(2) The area within a half-mile radius of the Greater Pittsburgh Airport monitor	X			
(3) The one mile wide strip centered on Turtle Creek running from area (V)(B)(1)(e) above to the Westmoreland County line.	X			
(4) The area within Allegheny County within a radius of two miles of the Springdale monitor		X		
(5) The remaining portions of the Allegheny County Air Basin				X.
(C) Lower Beaver Valley Air Basin	X			
(D) Westmoreland County: City of New Kensington			X	
(E) Remaining Portions of AQCR				X.
VI. Northwest Pennsylvania Interstate AQCR:				
(A) Upper Beaver Valley Air Basin	X			
(B) Erie Air Basin:				
City of Erie		X		
Wesleyville Boro		X		
Lawrence Park Township		X		
(C) Mercer County:				
City of Sharon	X			
City of Farrell	X			
Sharpsville Boro			X	
Wheatland Boro			X	
Hickory Township			X	
(D) Remaining Portions of AQCR				X.

[FR Doc. 83-1545 Filed 1-20-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 264

[SWH-FRL 2288-6]

Regulatory Flexibility Analysis of Land Disposal Regulations

AGENCY: Environmental Protection Agency.

ACTION: Rule Related Notice.

SUMMARY: On July 26, 1982, the Environmental Protection Agency (EPA) promulgated interim-final rules governing the land disposal of hazardous waste under Part 264 of the Resource Conservation and Recovery Act (RCRA). The Regulatory Flexibility Act (5 U.S.C. 601 et seq) requires a Federal agency to prepare a Regulatory Flexibility Analysis (RFA) for any rule or regulation that must undergo "notice and comment" under section 553(b) of the Administrative Procedure Act.

This notice announces that EPA has completed the Regulatory Flexibility Analysis for the Part 264 land disposal regulations and summarizes the conclusions of the analysis.

ADDRESS: The Regulatory Flexibility Analysis is available for public review from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays, in the libraries of EPA Regional Offices and in Room S269C, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: For further information on the technical aspects of this analysis contact: Richard Mertens, Environmental Protection Specialist, Economic and Policy Analysis Branch, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone (202) 382-4646.

SUPPLEMENTARY INFORMATION:

Summary

EPA prepared this Regulatory Flexibility Analysis to assess the effects on small entities of the Part 264 land disposal regulations the Agency promulgated on July 26, 1982. This analysis examined the incremental impact of these regulations on small entities in all industry groups that have both available financial information and more than a minimal number of land disposal facilities. A total of forty-six industry groups (defined by four digit Standard Industrial Classification Code) was examined.

The analysis revealed no industry groups where a substantial number (defined in this analysis as twenty percent) of small firms might experience significant impacts under "best case" assumptions. The analysis found, however, that under circumstances where small firms would be required to take corrective action to protect ground water, the costs to small firms in some industries could often exceed by a large percentage their average annual capital expenditures. The following industry groups contain a substantial number of small firms that the analysis predicts would experience significant impacts if required to take corrective action: Wood preserving (SIC 2491), Cellulosic man-made fibers (SIC 2823), Organic fibers (SIC 2824), Phosphatic fertilizers (SIC 2874), Explosives (SIC 2892), and Secondary smelters—nonferrous metals (SIC 3341).

The analysis suggests that the design and operating requirements of the regulations alone do not have a significant impact on small firms within any of the industry groups. The costs of the corrective action requirements may be sufficient to have a significant impact on those small firms required to take corrective action. The regulations are designed so that corrective action costs will be incurred in those situations where protection of human health and the environment requires removing hazardous constituents from the ground water. EPA has provided a procedure for a variance to the corrective action requirements where the owner or operator is able to show that the actual concentrations of hazardous constituents in the ground water pose no substantial present or potential hazard to human health or the environment. The Agency believes, therefore, that although some small firms may experience significant impacts due to these requirements, the corrective action requirements are necessary to ensure adequate protection of human health and the environment.

Regulatory Flexibility Analysis

This Regulatory Flexibility Analysis (RFA) drew extensively from existing regulatory analyses for the Part 264 land disposal regulations promulgated on July 26, 1982. In particular, this RFA relied on the analyses and compliance cost estimates of the Part 264 Land Disposal design and operating requirements, closure and post-closure requirements, groundwater monitoring and corrective action requirements. These requirements and cost estimates are described in the Preamble to the July 26, 1982 **Federal Register** Notice (47 FR 32274) and are documented in detail in the report placed in the EPA Docket on August 24, 1982. The definitions and criteria used to identify impacts in this analysis followed the guidelines EPA developed for implementing the Regulatory Flexibility Act to the extent the available data would permit.

This Regulatory Flexibility Analysis examined the incremental impact of these Part 264 land disposal requirements on:

- Small entities which generate hazardous waste and dispose on-site and small commercial facilities (landfills, surface impoundments, waste piles, and land treatment facilities) which are subject to the regulations and will directly incur the costs of complying with regulations, and
- Small entities which generate hazardous waste and send the waste off-site and may pay higher prices for services as a result of the increased costs incurred by commercial facilities.

The EPA obtained information on the universe of facilities with on-site land disposal units primarily from the Part A permit application data base, and from a recent Telephone Verification Survey that EPA conducted to verify the Part A permit information. EPA estimated the number of hazardous waste generators using Notification data from the Hazardous Waste Data Management System.

Using this facility and generator information and Dun and Bradstreet data on establishment size, EPA developed establishment size categories, defined by the number of employees.[1] These categories enabled EPA to distinguish differences in impacts among small establishments, both for generators that dispose off-site, and for facilities that own or operate on-site land disposal units. In general, establishments with fewer than 100 employees are defined as "small" in this analysis.

The analysis used cost functions under three sets of cost assumptions to screen for impacts on small entities in each industry. In general, the "best case" cost estimate assumed that facilities meet the minimum design and operating requirements of the regulations and do not require corrective action. The "worst case" assumed that all facilities take the most expensive design options available and in spite of these actions, all facilities require

[1] The distinction between establishments and firms is critical in this analysis. An establishment is the smallest unit in which business activity is conducted and on which statistical information is collected. A firm, however, may be one or more establishments. Establishments that are branches or subsidiaries owned by larger firms cannot legitimately be considered small businesses.

immediate corrective action. The analysis used a "corrective action case" incorporating the costs associated with the minimum design and operating requirements allowed under the regulations but requiring corrective action to determine the impact of the corrective action requirements. This analysis used the most expensive corrective action scenario for assessing the impacts of the "worst" and "corrective action" cases. Using the least expensive corrective action scenario, however, does not substantially change the results.

The Analysis applied the three cost scenarios to selected industries to indicate initially the potential severity of the economic impacts. This initial screening included all industries in the Hazardous Waste Data Management System with more than a minimal number of land disposal facilities and with financial data available for assessing impacts. Table 1 lists the industries the RFA examined, and their SIC codes. The screening analysis assessed the following four economic components for these industries:

- *Increase in production cost:* Identified industries and size categories for which annual compliance costs are more than five percent of non-capital production costs;
- *Relative compliance costs as a percent of sales:* Identified industries in which the ratio of annual compliance cost to value of shipments (a proxy for value of sales) is more than ten percent higher for small firms than for large;
- *Capital availability:* Calculated the ratio of first year cash expenditures required to achieve compliance to annual capital expenditures. Industry size categories for which the required expenditures represent a substantial portion of typical capital expenditures may experience difficulty financing the required expenditures; and
- *Potential plant closures:* Calculated the ratio of annual compliance costs to value added as a measure of potential decrease in profitability. The analysis assumed that industry size categories with high ratios of cost to value added (defined in this analysis as 5 percent or greater) may experience plant closures.

The initial screening identified industry groups that contained a "substantial number" of small establishments that could potentially experience "significant impacts". The analysis defined a "substantial number" of small establishments to be twenty percent of these entities in an industry group.

Because data at the firm level were available for only a portion of the firms affected by this rule, the initial screening for "significant impacts on a substantial number of small entities" was conducted at the establishment level. For those industries where the initial screening had determined that a substantial number of small establishments might experience significant impacts and where firm level data were available, the analysis determined if the small establishments were branches or subsidiaries of large firms and should, therefore, not be considered small entities.

Using the above definitions of "significant impact" and "substantial number", the analysis identified three industry groups that contained a substantial number of small establishments that would experience significant impacts under the "best case" assumptions. A detailed analysis of these industry groups, however, revealed that the small establishments were owned by relatively large firms.

The analysis found six industry groups containing small firms that would experience significant impacts under the "worst case" assumptions. Of these six industry groups, five also experienced impacts under the "corrective action case" assumptions. Impacts experienced by small firms under the "corrective action" and "worst" case assumptions are caused primarily by the capital expenditures required for corrective action. The analysis found that the capital expenditures for corrective action often exceed by a large percentage the average annual capital expenditures of these small firms. The analysis suggests that although the costs of the design and operating requirements alone do not have a significant impact on small firms, the costs of the corrective action requirements may be sufficient to have significant impacts on those small firms required to take corrective action.

TABLE I.—INDUSTRIES INCLUDED IN THE LAND DISPOSAL REGULATORY FLEXIBILITY ANALYSIS

SIC code	Industry
2421	Sawmills and Planing Mills, Gen-
2491	Wood Preserving.
2511	Wood Household Furniture.
2812	Alkalies and Chlorine.
2816	Inorganic Pigments.
[illegible]	Industrial Inorganic Chemicals.
2821	Plastic Materials and Resins.
2823	Cellulosic Man-made Fibers.
2824	Organic Fibers, Noncellulosic.
2833	Medicinals and Botanicals.
2851	Paint and Allied Products.
2861	Gum and Wood Chemicals.
2865	Cyclic Crudes and Intermediates.
[illegible]	Industrial Organic Chemicals.
2873	Nitrogenous Fertilizers.
2874	Phosphatic Fertilizers.
2879	Agricultural Chemicals.
2892	Explosives.
2899	Chemical Preparations, NEC.
2911	Petroleum Refining.
2992	Lubricating Oils and Greases.
3079	Miscellaneous Plastics Products.
3111	Leather Tanning and Finishing.
3221	Glass Containers.
3292	Asbestos Products.
3312	Blast Furnaces and Steel Mills.
3315	Steel Wire and Related Products.
3321	Gray Iron Foundries.
3325	Steel Foundries, NEC.
3341	Secondary Smelters Nonferrous Metals.
3351	Copper Rolling and Drawing.
3356	Nonferrous Rolling and Drawing, NEC.
3429	Hardware, NEC.
3469	Metal Stampings, NEC.
3471	Plating and Polishing.
3479	Metal Coating and Allied Serv-
3483	Ammunition, except for Small Arms, NEC.
3559	Special Industry Machinery, NEC.
3573	Electronic Computing Equipment.
3651	Radio and TV Receiving Sets.
3662	Radio and TV Communications Equipment.
3679	Electronic Components, NEC.
3711	Motor Vehicles and Bodies.
3714	Motor Vehicles Parts and Accessories.
3721	Aircraft.
3724	Aircraft Engines and Engine Parts.

Dated: January 18, 1983.

Rita Lavelle,

Assistant Administrator for Office of Solid Waste and Emergency Response.

[FR Doc. 83-1715 Filed 1-20-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 403 and 413

[OW-FRL 2276-7]

General Pretreatment Regulations for Existing and New Sources and Effluent Guidelines and Standards; Electroplating Point Source Category Pretreatment Standards for Existing Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule; change in compliance, application, and reporting deadlines.

SUMMARY: On October 4, 1982, the United States Court of Appeals for the Third Circuit issued an order staying for ninety days certain deadlines in the Environmental Protection Agency's pretreatment standards for the Electroplating Point Source Category (40 CFR Part 413) and General Pretreatment Regulations for Existing and New Sources (40 CFR Part 403). The purpose

of this rulemaking is to implement the stay and explain its effects.

DATES: The compliance deadline for the non-integrated segment of the electroplating industry is now April 27, 1984. The compliance deadline for the integrated segment of the electroplating industry is now June 30, 1984. The deadline for submission of category determination requests (49 CFR 403.6(a)), baseline monitoring reports (40 CFR 413.12), fundamentally different factors variance requests (40 CFR 403.13) and net/gross adjustments requests (40 CFR 403.15) is extended ninety days for facilities subject to these submission deadlines as of October 4, 1982.

FOR FURTHER INFORMATION CONTACT: Bill Diamond, Environmental Protection Agency, Permits Division (EN–336), 401 M St., SW., Washington, D.C. 20460, (202) 426–4793.

SUPPLEMENTARY INFORMATION: This notice addresses two interrelated regulations: (1) The Environmental Protection Agency's Electroplating Pretreatment Standards for existing sources (40 CFR Part 413) and (2) EPA's General Pretreatment Regulations for Existing and New Sources (40 CFR Part 403). The Electroplating Pretreatment Standards were initially promulgated on September 7, 1979 and amended on January 28, 1981, (see, 44 FR 52590 and 46 FR 9462). The General Pretreatment Regulations for Existing and New Sources (40 CFR Part 403) were originally promulgated on June 26, 1978 and amended on January 28, 1981 (see, 43 FR 77736 and 46 FR 9404). A number of cases challenging these two regulations are currently lodged in the United States Court of Appeals for the Third Circuit.

On September 24, 1982 the Third Circuit conducted a prehearing conference in these cases in an attempt to resolve various threshold issues concerning consolidation of the cases, establishment of a briefing schedule and other matters. At this conference, the Court recommended entry of an order staying certain compliance, application and reporting deadlines in the Electroplating Pretreatment regulations and General Pretreatment regulations to "accommodate the unique management problems imposed upon the Court by these complex cases."

Out of deference to the Court and in the interest of helping to relieve the Court's management problem, EPA informed the Court several days after the prehearing conference that it would not object to entry of the order. In this communication, EPA noted that it had elected not to oppose the order "solely to accommodate the unique burdens imposed on the Court by this complex litigation." EPA added that it did not believe the Agency itself had the authority to stay the statutorily-mandated compliance deadlines contained in the electroplating regulations nor did it concede that the narrowly defined circumstances warranting a judicial stay of regulations were present. The Agency concluded:

> In short, EPA's action is not intended to compromise in any way the generally accepted principle that those who challenge its regulations must 'litigate on their own time' and are not ordinarily entitled to a stay of regulations pending judicial review. Consistent with this intention, EPA can not generally be expected to agree to entry of a stay order in other cases involving judicial review of other regulations. Moreover, EPA in all likelihood would vigorously oppose any further stay of the electroplating or general pretreatment regulations in these cases. EPA believes it proper to expect industry petitioners to treat the stay as an opportunity for additional time in which to effectuate compliance with EPA's regulations, and not as a basis for halting or deferring their compliance efforts.

After receiving word from EPA that the Agency would not oppose entry of the order, the Court, on October 4, 1982, entered an order staying for ninety days the compliance deadlines contained in the Electroplating regulations and all deadlines applicable to industrial users contained in the General Pretreatment regulations.

The practical effects of the Third Circuit's order are essentially threefold. First, it extends the compliance deadline for the non-integrated segment of the electroplating industry from January 28, 1984 to April 27, 1984.

Second, it extends the compliance deadline for the integrated segment of the electroplating industry from March 30, 1984 to June 30, 1984. As we explained in a September 28, 1982 Federal Register notice, the March 30, 1984 deadline was brought into being by the Third Circuit's decision ordering EPA to retroactively reinstate the amendments to the General Pretreatment regulations in *Natural Resources Defense Council, Inc.* v. *EPA*, No. 81–2068 (47 FR 42688).

Third, the order extends for ninety days various application and reporting deadlines in the General Pretreatment regulations currently applicable to industrial users. These deadlines are the application deadline for category determination requests (40 CFR 403.6(a)); the deadline for submission of baseline monitoring reports (40 CFR 403.12); the deadline for submission of fundamentally different factors variance requests (40 CFR 403.13); and the application deadline for net/gross adjustments (40 CFR 403.15). The Court's order requires alteration of these application and reporting deadlines only for industrial users subject to these deadlines as of the date of the Court's order. It thus does not apply to facilities which have become subject to these deadlines since the October 4, 1982 order or which, at some time in the future, will become subject to these deadlines. By the same token, since the order only extends the deadlines for ninety days, it does not apply to facilities whose deadlines expired ninety days prior to October 4. Given this and the fact that the deadlines are all keyed to the effective date of categorical pretreatment standards, it is possible to accurately identify the facilities who benefit from the ninety day extension of application and reporting deadlines. The beneficiaries are integrated electroplating plants, iron and steel facilities, and inorganic chemical facilities subject to the pretreatment standards promulgated on June 29, 1982. (47 FR 28280). All these facilities are subject to recently effective categorical pretreatment standards. The following chart identifies the new application and reporting deadlines for these facilities.

Industry	Category determination requests		Baseline monitoring report		Fundamentally different factors variance requests		Net gross adjustments	
	Old deadline	New deadline	Old deadline	New deadline	Old deadline	New deadline	Old deadline	New deadline
Integrated electroplating	Nov. 27, 1982	Feb. 25, 1983	Mar. 27 1983	June 25, 1983	Mar. 27, 1983	June 25, 1983	Nov. 27 1982	Feb. 25, 1983.
Iron and steel	Sept. 8,1982	Dec. 7, 1982	Jan. 6, 1983	Apr. 6, 1983	Jan. 6, 1983	Apr. 6, 1983	Sept. 8, 1982	Dec. 7, 1982.
Inorganic chemicals	Oct. 11, 1982	Jan. 9, 1983	Feb. 8, 1983	May 9, 1983	Feb. 8, 1983	May 9, 1983	Oct. 11, 1982	Jan. 9, 1983.

Non-integrated electroplating facilities will not benefit from the Court's extension of application and reporting deadlines because their deadlines have long since expired.

List of Subjects

40 CFR Part 403

Confidential business information, reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

40 CFR Part 413

Electroplating, Metal, Water pollution control, Waste treatment and disposal.

Dated: January 5, 1983.

John W. Hernandez, Jr.,
Acting Administrator.

PART 413—ELECTROPLATING POINT SOURCE CATEGORY

For the reasons set forth above, EPA is amending 40 CFR Part 413 as follows:

1. The authority citation for Part 413 is as follows:

Authority: Secs. 301, 304(g), 307, 308, 309, 402, 405, 501(a), Clean Water Act, as amended, (33 U.S.C. 1311, 1314(g), 1317, 1318, 1319, 1322, 1325 and 1341(a)).

2. The last two sentences of 40 CFR 413.01(a) are revised as follows:

§ 413.01 Applicability.

(a) * * * The compliance deadline for integrated facilities is June 30, 1984. The compliance deadline for non-integrated facilities is April 27, 1984.

* * * * *

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

For the reasons set forth above, EPA is amending 40 CFR Part 403 as follows:

1. The authority citation for Part 403 is as follows:

Authority: Sec. 54(c)(2), Clean Water Act of 1977 (Pub. L. 95–217), 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)–(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405 and 501(a), Federal Water Pollution Control Act (Pub. L. 92–500), as amended by the Clean Water Act of 1977.

2. Section 403.1 is amended by adding a new paragraph (c) as follows:

§ 403.1 Purpose and applicability.

* * * * *

(c) The deadlines for submission of category determination requests (§ 403.6(a)), baseline monitoring reports (§ 403.12), fundamentally different factors variance requests (§ 403.13), and applications for net/gross adjustments (§ 403.15) are extended ninety days for integrated facilities subject to the electroplating pretreatment standards (40 CFR Part 413), industrial users subject to the inorganic chemicals pretreatment standards promulgated on June 29, 1982 (47 FR 28260; 40 CFR Part 415) and industrial users subject to the iron and steel pretreatment standards (40 CFR Part 420).

[FR Doc. 83–1686 Filed 1–20–83; 8:45 am]
BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–11

[FPMR Amdt. B–51]

Transfer of Records to Federal Records Center

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration is amending its regulations to require specific permission from the Office of Federal Records Centers before agencies may retire records without a specific disposition date to Federal records centers. This action is taken to ensure that all records scheduled for final disposition after an unspecified future event should be so scheduled. Some agencies have a contingent disposition for certain records series, resulting in excessive retention periods and the necessity for records centers to contact agencies repeatedly concerning the disposal of these records. This change will eliminate the waste of time in contacting agencies, and will provide the National Archieves with an opportunity to negotiate with the agencies concerning the most appropriate disposition for certain records. Regulations also are changed to increase from 1 year to 3 years the minimum amount of time that records being transferred to the records centers are required to remain in the centers before being destroyed. Finally, in the past, records centers accepted records—otherwise eligible for disposal—that were being retained because of agency imposed or court ordered freezes. Such records no longer will be accepted for storage. The changes are being made so that the records center system can use its space and other resources in a more effective and efficient manner.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Linda N. Brown, Acting Assistant Archivist for Federal Records Centers (202–724–1614).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–11

Advisory committees, Archives and records, Classified information, Freedom of Information, Government property management, Interagency reports, Micrographics, Privacy, Records and information management, Word processing.

PART 101–11—[AMENDED]

Section 101–11.410–2 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 101–11.410–2 Procedures for transfers to Federal records centers.

* * * * *

(a) * * *

(1) The records are properly scheduled. if the records are not scheduled, or if the records are scheduled for final disposition after the occurrence of an event at some unspecified future time, an exception to this regulation must be obtained by submitting a request in writing to the General Services Administration (NC), Washington, DC 20408.

(2) The records are not authorized for disposal less than 3 years after transfer to the records centers and transportation costs are not in excess of

the resulting savings. In addition, records otherwise eligible for immediate disposal but being retained because of an agency-imposed or court-ordered freeze are not eligible for retirement to Federal records centers.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 23, 1982.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-1685 Filed 1-20-83; 8:45 am]

BILLING CODE 6820-26-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Forty-Sixth Rev. Service Order No. 1473; Amdt. 1]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Forty-sixth Revised Service No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This amendment permits carriers to continue to provide service to shippers, which would otherwise be deprived of essential rail transportation, by extending the expiration date.

EFFECTIVE DATE: 11:59 p.m., January 31, 1983, and continuing in effect until 11:59 p.m. July 31, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

SUPPLEMENTARY INFORMATION:

Decided: January 17, 1983.

Upon further consideration of Forty-sixth Revised Service Order No. 1473 (47 FR 53392), and good cause appearing therefor:

§ 1033.1473 [Amended]

It is ordered, that § 1033.1473 *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor, (William M. Gibbons, Trustee),* Forty-sixth Revised Service Order No. 1473 is amended by revising paragraph (n) thereof:

* * * * *

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This order shall become effective at 11:59 p.m., January 31, 1983.

(49 U.S.C. 10304-10305 and Sec. 122, Pub. L. 96-254)

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard and John H. O'Brien.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1675 Filed 1-20-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Emergency Determination of Endangered Status for the Population of Woodland Caribou Found in Washington, Idaho, and Southern British Columbia

Correction

In FR Doc. 83-1116, beginning on page 1722 is the issue of Friday, January 14, 1983, make the following correction.

On page 1726, third column, first line of amendatory language "2.", "Section 17.11(n)" should read "Section 17.11(h)".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 48, No. 15
Friday, January 21, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1251

Investigative Authority of the Special Counsel

AGENCY: Office of the Special Counsel, Merit Systems Protection Board.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking relating to the rights and responsibilities of witnesses during investigations by the Office of the Special Counsel. Pursuant to evaluation of comments, and research, the rule is deemed not presently necessary. The notice initially appeared in the **Federal Register** on Friday, April 30, 1982 (47 FR 18602). The action will have no significant impact on the office's ability to carry out its functions under law.

EFFECTIVE DATE: January 21 1983.

FOR FURTHER INFORMATION CONTACT: Alma Hepner, Office of the Special Counsel, 1120 Vermont Avenue, NW., Washington, D.C., 20419, (202) 653–7984.

SUPPLEMENTARY INFORMATION: The Office of the Special Counsel has authority to investigate and prosecute those who commit prohibited personnel practices, 5 U.S.C. 1206(a), and authority to investigate alleged violations of the Hatch Act, arbitrary and capricious withholding of information prohibited under the Freedom of Information Act, involvement of employees in any prohibited discrimination found by a court or an administrative authority to have occurred in the course of any personnel action, and other activities prohibited by civil service law, rule or regulation. 5 U.S.C. 1206(e). In accordance with 5 U.S.C. 1206(k), the notice of proposed rulemaking, published for comment on April 30, 1982, is hereby withdrawn.

Dated: January 14, 1983.

K. William O'Connor,

Special Counsel.

[FR Doc. 83-1589 Filed 1-20-83; 8:45 am]
BILLING CODE 7400-02-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-163 (Colorado-31)]

High-Cost Gas Produced From Tight Formations; Colorado

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Mesaverde Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on March 3, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on February 1, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: January 17, 1983.

I. Background

On December 15, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Mesaverde Formation located in Rio Blanco County, Colorado, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposaed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Mesaverde Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation underlies certain lands in Rio Blanco County, Colorado, and is located approximately 26 miles southwest of Meeker, Colorado. The recommended area is approximately 14,004 acres and consists of Township 2 South, Range 96 West, Section 31 S½, S½NW¼, Section 32 S½S½, Section 33 SW¼SW¼; Township 2 South, Range 97 West, Section 4 W½W½, Sections 5, 8, 9, 16, 17, 20, 21, 22, All, Section 23 W½, Section 25 SW¼, Section 26 W½, SE¼, Sections 27, 28, 29, 31 through 36, All; Township 3 South, Range 97 West, Sections 3 through 7, All, all 6th P.M. The average depth to the top of the Mesaverde Formation varies from 8,130 feet in the east to 7,480 feet in the west with an average depth of approximately 7,790 feet, and the thickness of the formation varies from 4,000 feet to 5,600 feet with an average thickness of approximately 4,800 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG 35–1 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells

completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Mesaverde Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant of § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federaal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before March 3, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–67–163 (Colorado-31), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than February 1, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

PART 271—[AMENDED]

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Direction, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 amended is by adding paragraph (d)(156) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(156) *Mesaverde Formation-in Colorado.* RM79–76–163 (Colorado-31).

(i) *Delineation of formation.* The Mesaverde Formation is located in Rio Blanco County. Colorado, in Township 2 South, Range 96 West, Section 31 S½, S½ NW¼, Section 32 S½ S½, Section 33 SW¼ SW¼; Township 2 South, Range 97 West, Section 4 W½ W½, Sections 5, 8, 9, 16, 17, 20, 21, 22, All, Section 23 W½, Section 25 SW¼, Section 26 W½, SE¼, Sections 27, 28, 29, 31 through 36, All; Township 3 South, Range 97 West, Sections 3 through 7, All, all 6th P.M.

(ii) *Depth.* The average depth to the top of the Mesaverde Formation is approximately 7,790 feet. The producing interval is approximately 4,800 feet in thickness and begins at the base of the Ohio Creek Conglomerate and extends to the top of the Marine Mancos Shale.

[FR Doc. 83–1627 Filed 1–20–83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 79P–0349]

Cheese and Cheese Products; Proposal To Permit Use of Antimycotics on Surface of Bulk Cheeses and To Provide for Declaration of Animal, Plant, and Microbial Enzymes as "Enzymes"

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the standards of identity for several cheeses to permit the use of safe and suitable antimycotics on the surface of the bulk form of those cheeses while being held for curing and storage, as well as on cuts and slices of those cheeses which are in consumersized packages. The use of antimycotics on the surface of bulk cheese will permit the use of labor-saving practices and will reduce cheese losses caused by surface mold growth during the periods that cheese is held before being cut and packaged, thus minimizing production costs of the food. This action is based on a petition filed by the National Cheese Institute. FDA is also proposing to establish label declaration of ingredient requirements in those standards that do not already contain them, as well as permit label declaration of animal, plant, and microbial enzymes by the general term "enzymes," rather than by specific name.

DATES: Comments by March 22, 1983.

The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the **Federal Register** and which is not sooner than 1 year following publication of any final rule based upon this proposal. See **SUPPLEMENTARY INFORMATION** for full discussion of proposed effective date.

ADDRESS: Written commetns to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HHF–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: The National Cheese Institute, Inc. (NCI) has petitioned FDA to amend the standards of identity for several cheeses to permit the use of safe and suitable antimycotics on the surface of bulk cheeses during curing and storage and to establish uniform provisions for the declaration of ingredients. The cheese standards included in the petition are: § 133.102 (21 CFR 133.102), asiago fresh and asiago soft cheese: § 133.111 (21 CFR 133.111), caciocavallo siciliano cheese: § 133.148 (21 CFR 133.148), hard grating cheeses; § 133.150 (21 CFR 133.150), hard cheeses; § 133.155 (21 CFR 133.155), mozzarella cheese and scamorza cheese; § 133.156 (21 CFR 133.156), low-moisture mozzarella and scamorza cheese; § 133.165 (21 CFR 133.165), parmesan and reggiano cheese; § 133.181 (21 CFR 133.181), provolone and pasta filata cheese; and § 133.183 (21 CFR 133.183),

romano cheese. The petition also would amend cross-referenced standards of identity. These include § 133.103 (21 CFR 133.103), asiago medium cheese; § 133.104 (21 CFR 133.104), asiago old cheese; § 133.157 (21 CFR 133.157), part-skim mozzarella and scamorza cheese; and § 133.158 (21 CFR 133.158), low-moisture part-skim mozzarella and scamorza cheese. A copy of the petiton is on file with the Dockets Management Branch (address above).

As grounds in support of their petition, NCI states that the use of antimycotics on the surfaces of bulk cheeses will benefit consumers in the following ways: (1) The cost of energy and labor required to remove mold from cheese surfaces during curing and storage will be reduced and (2) the quantity of cheese lost when mold is removed (referred to as "trim") will be reduced. The potential overall effect will be reduced costs to consumers and increased industry productivity. Furthermore, NCI contends that reduction of mold growth during the initial stages of production will minimize the potential contamination of the cheese with mold spores throughout the production process. The petitioner points out that mold and mold spores are everywhere and, realistically, cannot be eliminated from the normal manufacturing environment, but they can be reduced in number. This proposed broader use of antimycotics is not meant to replace the use of current good manufacturing practices or sanitary procedures, but to supplement them. The limiting factor in this broader use, or in any use of antimycotics, is that the cumulative level of antimycotics shall not exceed current good manufacturing practice as determined by 21 CFR Parts 172, 182, and 184.

Antimycotics are currently permitted for use on the surface of cuts and slices, in consumer-sized packages, of all of the cheeses included in this proposal. In addition, the standards of identity for the pasta filata-type cheeses (i.e., caciocavallo siciliano cheese, mozzarella cheese and scamorza cheese, low-moisture mozzarella and scamorza cheese, provolone and pasta filata cheese, and the cross-referenced standards for part-skim mozzarella and scamorza cheese and low-moisture part-skim mozzarella and scamorza cheese) also provide for the addition of antimycotics directly to the curd during the kneading and stretching step of the manufacturing procedure. NCI contends that provision for use of antimycotics on the surface of bulk pasta filata-type cheeses is necessary because some manufacturers do not have the facilities to add the antimycotic to the curd and, thus, need the surface protection in lieu of protection afforded by internal use of antimycotics.

Based on NCI's petition, FDA proposes to permit the use of safe and suitable antimycotics on cheeses during the storage, curing, and packaging operations by revising paragraph (d) of §§ 133.102, 133.111, 133.148, 133.150, 133.155, 133.156, 133.165, 133.181, and 133.183.

NCI also petitioned to have uniform ingredient declaration provisions in the standards of identity for asiago fresh and asiago soft cheese (§ 133.102), hard grating cheeses (§ 133.148), hard cheeses (§ 133.150), parmesan and reggiano cheese (§ 133.165), and romano cheese (§ 133.183). FDA, therefore, proposes to amend §§ 133.102, 133.148, 133.150, 133.165, and 133.183 accordingly. The standards for caciocavallo siciliano cheese, mozzarella cheese and scamorza cheese, and provolone and pasta filata cheese already include these labeling requirements.

On its own initiative, FDA proposes to provide for declaration of animal, plant, and microbial enzymes simply as "enzymes" in the label statement of ingredients. These provisions are consistent with the provisions published in the **Federal Register** of September 19, 1978 (43 FR 42127) (Docket No. 77N–0331), which proposed, among other things, inclusion of "enzyme" labeling provisions in standards of identity for nine natural cheeses and appropriate cross-referenced standards. The current standards of identity for cottage cheese (§ 133.128 (21 CFR 133.128)), dry curd cottage cheese (§ 133.129 (21 CFR 133.129)), and lowfat cottage cheese (§ 133.131 (21 CFR 133.131)) contain this "enzyme" labeling provision. In addition, the agency has received a petition (Docket No. 77P–0146) to amend labeling regulations in § 101.4 (21 CFR 101.4) to permit enzymes of animal, plant, or microbial origin used in the manufacture of cheeses and cheese products to be declared by the word "enzymes". However, to date, a proposal based on this petition has not been published. Therefore, FDA proposes to include enzyme labeling provisions in these revised standards.

The standards of identity for hard grating cheeses and hard cheeses contain nomenclature provisions in two different paragraphs of each standard. To place all the nomenclature provisions in one paragraph in each of the standards, FDA proposes to redesignate (§ 133.148(f)(1) as (§ 133.148(e)(3) and (§ 133.150(f)(1) as (§ 133.150(e)(3).

FDA notes that the standard of identity for provolone cheese (§ 133.181) is involved in another rulemaking procedure published in the **Federal Register** of September 19, 1978 (43 FR 42127) (Docket No. 77N–0331), which proposed to provide for the optional use of antimycotics as paragraph (b)(3)(iv) and to include the "enzyme" labeling language in the "Label declaration of optional ingredients" paragraph as (d)(1). These paragraph designations differ from those found in this proposal because this document proposes to revise only paragraphs (d) and (f) of the current effective standard of identity, where the September 19, 1978 proposal involves a complete revision of the standard of identity. In the event that final rules issue based upon both proposals, the language found in § 133.181(d) of this proposal will be incorporated into the final version of § 133.181(b)(3)(iv) of the September 19, 1978 proposal.

The agency periodically announces by notice in the **Federal Register** uniform effective dates for compliance with food labeling requirements. (See, for example, the **Federal Register** of August 13, 1982 (47 FR 35185).) The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the **Federal Register** and which is not sooner than 1 year following publication of any final rule based upon this proposal. Affected products initially introduced or initially delivered for introduction into interstate commerce on or after the effective date would be required to comply with any final rule other than provisions that are stayed by the filing of proper objections.

The agency has determined pursuant to 21 CFR 25.24(b)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the Regulatory Flexibility Act (Pub. L. 96–354) (5 U.S.C. 601), FDA has reviewed the proposed rule to permit the use of antimycotics on the surface of certain bulk cheeses to determine its impact on small entities including small businesses. The petitioner, NCI, presented 1978 data indicating that there were approximately 872 million pounds of Italian-type cheeses produced in the United States, with monetary values

ranging from $1.20 to $1.90 per pound. NCI's best estimate is that there is a 1 to 2 percent minimum loss of cheese caused by surface mold growth during curing and storage of these cheeses. Using 1 percent loss as the basis of their calculation NCI calculated that surface mold growth resulted in a loss of 8,720,000 pounds of cheese worth $11,121,000 during 1978. On a per pound basis, the use of antimycotics, as proposed, reduces curing costs from 6 cents to 3 cents. Reduction in cheese loss and in labor account for the reduction in curing costs. NCI included the costs of the antimycotics and their application into the reduced cost of curing. It should be noted that current monetary losses would be substantially higher than those cited for 1978, due to increases in both monetary value and cheese production. It is not possible to estimate what part of the total annual cheese losses could be recouped through this proposed use of antimycotics because it is not known how many manufacturers would implement the proposed use of antimycotics. FDA determined that the proposed action would not result in a significant economic impact on a substantial number of small entities. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

List of Subjects in 21 CFR Part 133

Cheese, Food grades and standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 133 be amended as follows:

PART 133—CHEESES AND RELATED CHEESES PRODUCTS

1. In § 133.102 by revising paragraphs (d) and (e), to read as follows:

§ 133.102 Asiago fresh and asiago soft cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(e) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

2. In § 133.111 by revising paragraphs (d) and (f), to read as follows:

§ 133.111 Caciocavallo siciliano cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

3. In § 133.148 by revising paragraph (d), redesignating paragraph (f)(1) as (e)(3), and revising paragraph (e)(3) and (f), to read as follows:

§ 133.148 Hard grating cheeses.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(e) * * *

(3) When milk other than cow's milk is used, in whole or in part, the statement "made from ———", the blank being filled in with the name or names of the milk used, in order of perdominance by weigth.

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) When milk other than cow's milk is used, in whole or in part, the common or usual name of each such milk ingredient shall be declared in order of predominance by weight; and

(2) Enzymes of animal, plant, or microbial origin may be declared as "enzymes".

4. In § 133.150 by revising paragraph (d), redesignating paragraph (f)(1) as (e)(3), and revising paragraphs (e)(3) and (f), to read as foliows:

§ 133.150 Hard cheeses.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(e) * * *

(3) When milk other than cow's milk is used, in whole or in part, includes the statement "made from ———", the blank being filled in with the name or names of the milk used, in order of predominance by weight.

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) When milk other than cow's milk is used, in whole or in part, the common or usual name of each such milk ingredient shall be declared in order or predominance by weight; and

(2) Enzymes of animal, plant or microbial origin may be declared as "enzymes".

5. In § 133.155 by revising paragraph (d) and (f), to read as follows:

§ 133.155 Mozzarella cheese and scamorza cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * *

(f) Label declaration: The common or usual name or name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

6. In § 133.156 by revising paragraph (d) and (f), to read as follows:

§ 133.156 Low-moisture mozzarella and scamorza cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

7. In § 133.165 by revising paragraphs (d) and (e), to read as follows:

§ 133.165 Parmesan and reggiano cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels, of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

(e) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

8. In § 133.181 by revising paragraphs (d) and (f), to read as follows:

§ 133.181 Provolone and pasta filata cheese.

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(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the cheese during the kneading and stretching process and/or applied to the surface of the cheese.

* * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections or Part 101 of this chapter, except that enzymes of animal, plant, or microbial origin may be declared as "enzymes".

9. In § 133.183 by revising paragraphs (d) and (f), to read as follows:

§ 133.183 Romano cheese.

* * * * *

(d) Safe and suitable antimycotic agent(s), the cumulative levels of which shall not exceed current good manufacturing practice, may be added to the surface of the cheese.

* * * * *

(f) Label declaration: The common or usual name of each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter, except that:

(1) When milk other than cow's milk is used, in whole or in part, the common or usual name of each such milk ingredient shall be declared in order of predominance by weight; and

(2) Enzymes of animal, plant, or microbial origin may be declared as "enzymes".

Interested persons may, on or before March 22, 1983 submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1660 Filed 1-20-83; 8:45 am]

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21 CFR Parts 182 and 184

[Docket No. 75N-0281]

Magnesium Carbonate, Magnesium Chloride, Magnesium Hydroxide, Magnesium Oxide, Magnesium Phosphate, Magnesium Stearate, and Magnesium Sulfate; Proposed Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm that certain magnesium salts are generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency. The proposal would take no action on the listing of magnesium oxide, magnesium phosphate, and magnesium sulfate as GRAS substances for use in dietary supplements.

DATE: Comments by March 22, 1983.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of magnesium carbonate, magnesium chloride, magnesium hydroxide, magnesium oxide, magnesium phosphate, magnesium stearate, and magnesium sulfate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of these ingredients for use in conventional foods [1] and infant formulas.

The GRAS status of the use of magnesium oxide, magnesium phosphate, and magnesium sulfate in dietary supplements (i.e., over-the-counter vitamin preparations in forms such as capsules, tablets, liquids, wafers, etc.) is not affected by this proposal. The agency did not request consumer exposure data on dietary supplement uses when it initiated this review. Without exposure data, the agency cannot evaluate the safety of using these ingredients in dietary supplements. The use of these ingredients in dietary supplements will continue to be permissible under Subpart F of Part 182 (21 CFR Part 182).

Magnesium gluconate, magnesium glycerophosphate, and magnesium silicate are not included in this proposal. Their GRAS status will be addressed in proposals on gluconates, glycerophosphates, and silicates, respectively.

Magnesium is a natural constituent of fruits, vegetables, grains, meats, and seafoods. It occurs in these foods as a divalent action in association with various anions. Magnesium is an essential nutrient for plants and animals because it is necessary for the production and transfer of energy, for contractility in muscle and excitability in nerves, and for the activity of numerous enzyme systems, including those responsible for protein, fat, and nucleic acid biosynthesis.

Magnesium occurs naturally in many mineral forms; however, the commercially important sources of magnesium are the minerals brucite (magnesium hydroxide), dolomite (a mixture of magnesium and calcium carbonates), magnesite (magnesium carbonate), and olivine (a complex magnesium iron silicate), as well as sea water and high magnesium content brines. Occasionally, certain of the minerals occur in nature in a form pure enough for commercial use. Normally, however, they are processed to produce the magnesium compounds required by industry.

Magnesium salts considered in this proposal are generally either insoluble or only slightly soluble in water or alcohol but are soluble in acidic solution. The exceptions are magnesium chloride, which is soluble in both water and alcohol, and magnesium sulfate, which is soluble in water.

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[1] FDA is using the term "conventional food" to refer to food that would fall within any of the 43 categories listed in § 170.3(n) (21 CFR 170.3(n)).

Magnesium carbonate (molecular formula approximately $(MgCO_3)_4 \cdot Mg(OH)_2 \cdot 5H_2O$) is the magnesium salt most widely used in food. It occurs naturally as the minerals artinite and hydromagnesite. It is prepared either by adding an alkaline carbonate, such as sodium carbonate, to a solution of magnesium sulfate or by carbonation of a slurry of magnesium hydroxide followed by boiling of the resulting magnesium carbonate. Pure magnesium carbonate ($MgCO_3$) is stable only in an atmosphere of carbon dioxide, and when exposed to air, it is transformed slowly into the salt used in food.

Magnesium chloride occurs naturally as the mineral bischofite. Commercially, magnesium chloride is produced either as the colorless, crystalline hexahydrate ($MgCl_2 \cdot 6H_2O$) or as the white, crystalline, anhydrous $MgCl_2$. The hexahydrate is, however, the only form of magnesium chloride that is used as a human food ingredient. It is prepared by dissolving magnesium oxide, hydroxide, or carbonate in hydrochloric acid solution and crystallizing out magnesium chloride hexahydrate.

Magnesium hydroxide ($Mg(OH)_2$) occurs naturally as the colorless, crystalline mineral brucite. It is obtained commercially as a white precipitate resulting from the addition of a solution of sodium hydroxide to a solution of a soluble magnesium salt or by hydration of reactive grades of magnesium oxide.

Magnesium oxide (MgO) occurs naturally as the colorless, crystalline mineral periclase. Commercially, it is produced either as a bulky white powder (light) or a relatively dense white powder (heavy) by heating magnesium hydroxide or carbonate. Both forms of magnesium oxide are used as food ingredients. Heating magnesium oxide or carbonate under moderate conditions (400° to 900° C for a few hours) produces light magnesium oxide, which is readily soluble in dilute acid and hydrates rapidly in cold water. Heating magnesium oxide or hydroxide under more rigorous conditions (1200° C for 12 hours) produces heavy magnesium oxide, which is virtually insoluble in concentrated acids and indifferent to water unless very finely pulverized. Light magnesium oxide is converted to heavy magnesium oxide by sustained heating at high temperatures.

Magnesium phosphate (dibasic) occurs naturally as the white crystalline mineral newberyite. The form used in food is the trihydrate ($MgHPO_4 \cdot 3H_2O$), which is prepared commercially as a precipitate formed by treating a solution of magnesium sulfate with disodium phosphate under controlled conditions.

Magnesium phosphate (tribasic) is a white, odorless, tasteless, crystalline powder. The octahydrate ($Mg_3(PO_4)_2 \cdot 8H_2O$) occurs in nature as the mineral bobierrite. The food-grade product may contain 4, 5, or 8 molecules of water of hydration and is prepared as a precipitate formed by the addition of phosphoric acid to an aqueous solution of a soluble magnesium salt.

Magnesium stearate ($Mg(C_{17}H_{35}COO)_2$) is the magnesium salt of stearic acid. It is a white powder produced as a precipitate by the addition of an aqueous solution of magnesium chloride to an aqueous solution of sodium stearate.

Magnesium sulfate occurs naturally as the hydrated, colorless, crystalline minerals kieserite and epsomite. There are several commercial methods for preparing magnesium sulfate; however, food-grade magnesium sulfate ($MgSO_4 \cdot 7H_2O$) is made by neutralization of magnesium oxide, hydroxide, or carbonate with sulfuric acid and evaporating the solution to crystallization.

Magnesium carbonate was listed as GRAS as a buffer and neutralizing agent and as a miscellaneous substance in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, it was reclassified as a miscellaneous and general purpose food ingredient in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938), and reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the **Federal Register** of March 15, 1977 (42 FR 14640). Magnesium carbonate was also listed as GRAS as a substance migrating to food from paper and paperboard products used in food packaging in a regulation published in the **Federal Register** of June 17, 1961 (26 FR 5421). Magnesium carbonate is currently listed as GRAS in § 182.1425 (21 CFR 182.1425) as a multiple purpose GRAS food substance and in § 182.90 (21 CFR 182.90) as a substance migrating to food from paper and paperboard products. Magnesium carbonate is listed as a component of an optional bleaching mixture, in combination with benzoyl peroxide, for use in some cheeses and related products (21 CFR Part 133) and in flour (21 CFR 137.105); and as an optional neutralizing ingredient in cacao nibs (21 CFR 163.110). Magnesium carbonate is listed in 21 CFR 177.2600 as an activator in vulcanization of rubber for rubber articles intended for repeated use.

FDA stated in a 1980 opinion letter that it considers magnesium chloride to be GRAS as a component of cotton fabrics for dry food packaging. FDA also stated in two 1961 opinion letters that it considers magnesium chloride to be GRAS in foods for special dietary use and as a nutritional source of magnesium in food. Magnesium chloride was listed as GRAS as a substance migrating to food from paper and paperboard products and is currently listed as GRAS in § 182.90 for this use. Magnesium chloride is also listed in 21 CFR 177.1650 as a substance used in the manufacture of polysulfide polymer-polyepoxide resins.

Magnesium hydroxide was listed as GRAS as a miscellaneous substance in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, it was reclassified as a miscellaneous and general purpose food ingredient in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938), and reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the **Federal Register** of March 15, 1977 (42 FR 14640). Magnesium hydroxide was also listed as GRAS as a substance migrating to food from paper and paperboard products used in food packaging in a regulation published in the **Federal Register** of June 17, 1961 (26 FR 5421). Magnesium hydroxide is currently listed as GRAS in § 182.1428 (21 CFR 182.1428) as a multiple purpose GRAS food substance and in § 182.90 as a substance migrating to food from paper and paperboard products. Magnesium hydroxide is also listed in 21 CFR 176.210 as a component of defoaming agents used in the manufacture of paper and paperboard.

Magnesium oxide was listed as GRAS as a buffer and neutralizing agent in a regulation published in the **Federal Register** of November 11, 1959 (24 FR 9368). Subsequently, it was reclassified as a miscellaneous and general purpose food ingredient in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938), and reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the **Federal Register** of March 15, 1977 (42 FR 14640). Magnesium oxide was also listed as GRAS as a nutrient and dietary supplement in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, FDA divided the nutrient/dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients in regulation published in the **Federal Register** of September 5, 1980 (45 FR 58837). Currently, magnesium oxide is listed as GRAS in § 182.1431 (21 CFR 182.1431) as a multiple purpose GRAS food

substance, in § 182.5431 (21 CFR 182.5431) as a dietary supplement, and in § 182.8431 (21 CFR 182.8431) as a nutrient. Magnesium oxide is listed in the standard of identity for cacao nibs as an optional neutralizing ingredient (21 CFR 163.110). It is also listed in 21 CFR 175.300 as a pigment and colorant in resinous and polymeric coatings and in 21 CFR 177.2600 as an activator in vulcanization of rubber for rubber articles intended for repeated use.

Magnesium phosphate (di- and tribasic) was listed as GRAS as a nutrient and dietary supplement in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, FDA divided the nutrient/dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients in a regulation published in the **Federal Register** of September 5, 1980 (45 FR 58837). Currently magnesium phosphate is listed as GRAS in § 182.5434 (21 CFR 182.5434) as a dietary supplement and in § 182.8434 (21 CFR 182.8434) as a nutrient. Magnesium hydrogen phosphate (magnesium phosphate, dibasic) and magnesium phosphate are prior sanctioned (21 CFR 181.29) as stabilizers employed in the manufacture of food packaging materials. Also, di- and trimagnesium phosphates are listed in 21 CFR 175.300 as miscellaneous materials used to prepare resinous and polymeric coatings for food contact surfaces.

FDA has stated in opinion letters that it considers magnesium stearate that is prepared from stearic acid derived from edible fats or oils and is free from chick edema factor to be GRAS for use as (1) a tableting aid, (2) a dietary supplement, (3) an anticaking agent in table salt, and (4) a pan release agent in the baking of bread. Magnesium stearate was listed as GRAS as a miscellaneous substance from packaging materials when used as a stablizer in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, it was reclassified as a miscellaneous and general purpose food ingredient in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938) and reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the **Federal Register** of March 15, 1977 (42 FR 14640). Both listings included the stipulation that "[t]his substance is generally recognized as safe when used as a migratory substance from packaging materials when used as a stabilizer in accordance with good manufacturing practice." Currently, magnesium stearate is listed as GRAS in § 182.1440 (21 CFR 182.1440) as a multiple purpose GRAS food substance with the restriction that it is a migratory substance from packaging materials when used as a stabilizer. The ingredient is also prior sanctioned (21 CFR 181.29) for use as a stabilizer in food-packaging materials. Magnesium stearate is regulated as a food additive in 21 CFR 172.863 for use as a binder, emulsifier, and anticaking agent in food, in 21 CFR 173.340 for use as a defoaming agent in processing beet sugar and yeast, in 21 CFR 175.300 for use as a miscellaneous material and drier in resinous and polymeric coatings, and in 21 CFR 179.45 for use as a component of packaging materials used during the irradiation of prepackged foods.

Magnesium sulfate was listed as GRAS as a nutrient and dietary supplement in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). However, FDA divided the nutrient/dietary supplement category into separate listings for GRAS dietary supplements and GRAS nutrients in a regulation published in the **Federal Register** of September 5, 1980 (45 FR 58837). Magnesium sulfate was also listed as GRAS as a substance migrating to food from paper and paperboard products used in food packaging in a regulation published in the **Federal Register** of June 17, 1961 (26 FR 5421). Currently, magnesium sulfate is listed as GRAS in § 182.5443 (21 CFR 182.5443) as a dietary supplement, in § 182.8443 (21 CFR 182.8443) as a nutrient, and in § 182.90 as a substance migrating to food from paper and paperboard products.

Magnesium (salt not specified) is listed in 21 CFR 102.23 as a required nutrient in peanut spreads; in 21 CFR 104.20 as a nutrient that may be added to food to restore a level of magnesium representative of the food prior to storage, handling, and processing; and in 21 CFR 105.65 as a nutrient in infant formulas. Section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) lists magnesium as a required nutrient in infant formula, subject to level restrictions. FDA is reviewing all nutrient levels in infant formulas under a contract with the American Academy of Pediatrics. Any necessary modifications in the nutrient levels of magnesium in infant formula will be proposed by a separate rulemaking under section 412(a)(2) of the act.

In 1971, the National Academy of Sciences/National Research Council (NAS-NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which magnesium salts were used and the levels of usage. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to these ingredients. FDA estimates from the NAS-NRC survey that during the decade 1960–1970, use of magnesium oxide increased 43-fold and the use of magnesium stearate increased 13-fold. FDA also estimates from this survey that the total amount of magnesium salts used by the U.S. foods industry in 1970 was as follows: magnesium carbonate, 830,000 pounds; magnesium hydroxide, 284,000 pounds; magnesium oxide, 7,000 pounds; magnesium phosphate dibasic, 21,000 pounds; magnesium stearate, 389,000 pounds; and magnesium sulfate, 25,000 pounds. No poundage data are available for magnesium phosphate (tribasic) or magnesium chloride.

The NAS-NRC survey reported the following food uses of magnesium salts: Magnesium carbonate is used as a nutrient supplement, anticaking agent, pH control agent, and lubricant in a large number of food categories; magnesium hydroxide is used as a nutrient supplement in milk products; magnesium sulfate is used as a processing aid, flavor enhancer, and nutrient supplement in condiments and relishes and nonalcoholic beverages; magnesium stearate is used as an anticaking agent in seasonings and flavorings and as a lubricant, formulation aid, and processing aid in chewing gum, confections and frostings, and soft candy; magnesium oxide is used as a nutrient supplement, pH control agent, firming agent, and lubricant in snack foods, imitation dairy products, processed vegetables, and hard candy; magnesium phosphate is used as a pH control agent in soft candy; and magnesium chloride is used as a flavoring agent and nutrient supplement in soups and nonalcoholic beverages. The survey also reported the use of magnesium oxide, magnesium phosphate, and magnesium chloride as nutrient supplements in infant formula.

Magnesium salts have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity; (2) occupational hazards; (3) metabolism; (4) reaction products; (5) degradation products; (6) carcinogenicity, teratogenicity, or mutagenicity; (7) dose response; (8) reproductive effects; (9) histology; (10) embryology; (11) behavioral effects; (12) detection; and (13) processing. A total of 856 abstracts was reviewed, and 93 particularly pertinent reports have been

summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available safety information on magnesium carbonate, magnesium chloride, magnesium hydroxide, magnesium oxide, dibasic magnesium phosphate, tribasic magnesium phosphate, magnesium stearate, and magnesium sulfate.[2] In the Select Committee's opinion:

> Magnesium is a dietary essential. It is involved in myriad metabolic reactions and is necessary for the activity of many intracellular enzymes. Also, with certain other cations, it is important in electrolyte balance. Magnesium is present in fruits, vegetables, grains, milk, meat and fish and the natural content of these foods is the major source of the current dietary intake. The Food and Nutrition Board, NRC, has recommended that cereal grain products be fortified with magnesium in view of potential risk of deficiency among significant segments of the population. The usual adult intake is about 300 mg or less per day from all sources and the contribution of food addititives to total magnesium intake is very small.
>
> The administration of magnesium sulfate in very high doses to humans occasionally has resulted in severe and even fatal episodes, especially in the presence of pre-existing disease. These occurrences should not be prejudicial to the use of magnesium salts as food ingredients since the dosages given were orders of magnitude greater than the daily dietary intake of magnesium added to food.
>
> While chronic toxicity data are lacking, the status of magnesium as a ubiquitous and essential dietary ingredient for the maintenance of homeostatic and bioenergetic mechanisms leads to the opinion that none of the available evidence suggests any probable hazard when any of the GRAS compounds of magnesium is used as a food ingredient.[3]

The Select Committee concludes that no evidence in the available information on magnesium carbonate, magnesium chloride, magnesium sulfate, magnesium hydroxide, magnesium oxide, magnesium stearate, dibasic magnesium phosphate, and tribasic magnesium phosphate demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future.[4]

FDA has undertaken its own evaluation of all available information on uses of magnesium salts in conventional foods and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of these ingredients is justified. Therefore, the agency proposes that magnesium carbonate, magnesium chloride, magnesium sulfate, magnesium hydroxide, magnesium oxide, magnesium stearate, dibasic magnesium phosphate, and tribasic magnesium phosphate be affirmed as GRAS for use in conventional foods. However, because the NAS/NRC survey did not specifically request data on dietary supplement use, FDA does not have adequate data upon which to judge the exposure from the use of magnesium oxide, magnesium phosphate, and magnesium sulfate as dietary supplements. Without such exposure data, the agency cannot evaluate the safety of the use of these substances in dietary supplements and can take no action on the GRAS status of magnesium oxide, magnesium phosphate, and magnesium sulfate for this use. Therefore, FDA is taking no action on the listing of magnesium oxide, magnesium phosphate, and magnesium sulfate in §§ 182.5431, 182.5434, and 182.5443, respectively, for use as dietary supplements.

In proposing GRAS affirmation for these magnesium salts, the agency considered a number of issues that affected details in the proposed GRAS affirmation regulations.

Direct food uses of magnesium stearate as an anticaking agent, binder, and emulsifier are regulated by § 172.863 (21 CFR 172.863). However, the NAS/NRC survey of food manufacturers also found that this salt is being used as a lubricant (in chewing gum, confections and frostings, and soft candy) and as a processing aid (in confections and frostings), uses that are not covered by § 172.863. The agency believes that the information developed for this safety review establishes that these limited additional uses of magnesium stearate are safe and thus forms a sound scientific basis for affirming them as GRAS. Therefore, FDA proposes that magnesium stearate be affirmed as GRAS for these reported direct food uses that are not authorized by § 172.863.

The agency also believes that the magnesium stearate utilized for these uses should be of the same purity as that used in accordance with § 172.863. Therefore, the agency is proposing to require under § 184.1440(a) that the stearate moiety be derived from edible sources and under § 184.1440(b) that magnesium stearate meets not only the specifications for the ingredient in the Food Chemicals Codex, 3d Ed., but also the specifications for fatty acids under § 172.860(b)(2).

In addition, FDA is not affirming magnesium stearate as GRAS as a stablizer in food-packaging materials. This use of the ingredient is prior sanctioned (21 CFR 181.29) when used in accordance with current good manufacturing practice. Therefore, the GRAS listing of magnesium stearate as a stabilizer in packaging materials is superfluous and should not be retained.

In the **Federal Register** of April 13, 1973 (38 FR 9310), FDA proposed to remove a number of compounds, including magnesium phosphate (tribasic), from the GRAS list because no evidence of use of these ingredients was reported during the NAS/NRC survey of food manufacturers. One response to this proposal indicated that magnesium phosphate (tribasic) is used as a stabilizer to prevent the loss of water of crystallization of dibasic calcium phosphate. The agency recognizes this use of magnesium phosphate (tribasic) but considers it unnecessary to affirm this use as GRAS. Any safety-related problem that might result from this use of magnesium phosphate (tribasic) is more appropriately addressed in the food-grade specifications for dibasic calcium phosphate. However, the agency has reconsidered removing magnesium phosphate (tribasic) from the GRAS list. The current listings of magnesium phosphate as a nutrient and as a dietary supplement in Part 182 include both the dibasic and tribasic forms. Furthermore, the dibasic and tribasic forms of magnesium phosphate are produced by the same basic manufacturing process, with minor variations in conditions. Therefore, the agency concludes that there is no safety justification for differentiating between these forms of magnesium phosphate, and that it has no concern about the free exchange in food of dibasic and tribasic magnesium phosphate. Therefore, the agency has

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[2] "Evaluation of the Health Aspects of Magnesium Salts as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1976, pp. 9–15. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preamble to proposals that affirm the GRAS status in accordance with current good manufacturing practice.

[3] *Ibid.*, pp. 15–16.

[4] *Ibid.*, p 16.

evaluated the safety of magnesium phosphate (dibasic and tribasic) based upon known uses of dibasic magnesium phosphate and is proposing to affirm magnesium phosphate (including both the dibasic and tribasic forms) as GRAS for use in conventional foods under conditions of current good manufacturing practice. In addition, the agency is requesting as comments on its proposal information on any additional food uses of magnesium phosphate (dibasic or tribasic) not covered in its proposal.

At one time, magnesium carbonate, magnesium hydroxide, and magnesium oxide were listed in § 155.170 (21 CFR 155.170) as optional ingredients in the preparation of processed peas. However, FDA published a regulation in the **Federal Register** of June 27, 1980 (45 FR 43394) that removed these magnesium salts from the list of optional ingredients in § 155.170. Recently, on the basis of an industry petition, FDA published a proposal in the **Federal Register** of August 31, 1982 (47 FR 38346) that would reinstate these substances as optional ingredients in processed peas. Although this use of these ingredients in processed peas was not reported in the 1971 NAS/NRC survey, the agency has evaluated this use and has tentatively concluded that the available safety data are adequate to affirm this use as GRAS. Therefore, the agency is proposing to include the food category "processed vegetables and vegetable juices" (21 CFR 170.3(n)(36)) in the GRAS affirmation regulation for magnesium hydroxide. This food category was already included in the proposed GRAS affirmation regulation for magnesium oxide, based on information reported in the 1971 NAS/NRC survey. The proposed GRAS affirmation regulation for magnesium carbonate does not specify food categories of use.

As stated above, section 412(g) of the act authorizes the use of magnesium (salt not specified) in infant formula. The 1971 NAS/NRC survey reported the use of magnesium chloride, magnesium oxide, and magnesium phosphate as nutrient supplements in infant formula. The agency has evaluated this use of these ingredients and has concluded, on the basis of available data, that this use is safe. Consequently, the agency is proposing to affirm as GRAS the use of magnesium chloride, magnesium oxide, and magnesium phosphate in infant formula. The 1971 NAS/NRC survey also reported the use of magnesium carbonate, magnesium hydroxide, and magnesium sulfate as nutrient supplements but did not report their use in infant formula. Consequently, the agency is not proposing to affirm as GRAS the use of these ingredients in infant formula. However, the agency will reconsider the GRAS status of this use of these magnesium salts if it receives as comments on this proposal information that establishes that these ingredients are used for this purpose.

FDA is aware of a concern expressed by the Food and Nutrition Board regarding the potential risk of magnesium deficiency among significant segments of the population and of the Board's recommendation to fortify cereal grain products with 200 milligrams per pound.[5] The agency has evaluated this potential use of magnesium salts in food and has concluded that it presents no health hazard and, if technically feasible, may present a health benefit to a considerable portion of the population. The technical feasibility of this proposed fortification of cereal grain products is currently being investigated by interested food processing companies. Therefore, the agency is taking no action at this time on this potential use of magnesium salts in food.

In the past, when a substance has been listed in Part 182 (21 CFR part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of magnesium carbonate, magnesium chloride, magnesium hydroxide, and magnesium sulfate. The indirect uses of these ingredients would be authorized under §§ 184.1425, 184.1246, 184.1428, 184.1443, respectively, and § 184.1(a).

[5] "Proposed Fortification Policy for Cereal-Grain Products," prepared by the Food and Nutrition Board, Division of Biological Sciences, Assembly of Life Sciences, National Research Council (1974), p. 2. Copies can ber obtained from: Printing and Publishing Office, National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20418.

In the case of magnesium carbonate, magnesium chloride, magnesium hydroxide, and magnesium sulfate, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended uses in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and be used in accordance with current good manufacturing practice are sufficient to ensure the safe use of these ingredients. Therefore, the agency has not proposed any specific purity specifications for their indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the **Federal Register** of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

Additionally, FDA is proposing not to include in the GRAS affirmation regulations for magnesium carbonate, magnesium chloride, magnesium hydroxide, magnesium oxide, magnesium phosphate, magnesium stearate, and magnesium sulfate the levels of use reported in the NAS-NRC 1971 survey for these ingredients. Both FASEB and the agency have concluded that a large margin of safety exists for the use of these substances, and that a reasonably foreseeable increase in the level of consumption of these substances will not adversely affect human health. Therefore, the agency is proposing to affirm the GRAS status of these ingredients when they are used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of magnesium carbonate is based on currently known uses, the proposed regulation sets forth the technical effects that FDA evaluated, and that the affirmation of the GRAS status of the other magnesium salts is based on the evaluation of limited uses, the regulations set forth both technical effects and food categories.

In the **Federal Register** of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good

manufacturing practice only when the agency determines that it is appropriate to do so.

Copies of the scientific literature review on magnesium salts, mutagenicity reports on magnesium oxide and magnesium stearate, and the report of the Select Committee on magnesium salts are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price[1]
Magnesium salts (scientific literature review).	PB-228-550/AS	A09	$12.00
Magnesium oxide (mutagenicity report)	PB-245-472/AS	A03	6.00
Magnesium stearate (mutagenicity report).	PB-257-875/AS	A03	6.00
Magnesium salts (Select Committee report).	PB-265-509/AS	A03	6.00

[1] Price subject to change.

This proposed action does not affect the current use of these magnesium salts in pet food or animal feed.

The format of the proposed regulations is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1425, 184.1426, 184.1428, 184.1431, 184.1434, 184.1440, and 184.1443 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including both the technical effects and, except for magnesium carbonate, the food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavoring.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.90 [Amended]

a. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entries for "Magnesium carbonate", "Magnesium chloride", "Magnesium hydroxide", and "Magnesium sulfate".

§§ 182.1425, 182.1428, 182.1431, 182.1440, 182.8431, 182.8434, 182.8443 [Removed]

b. By removing § 182.1425 *Magnesium carbonate*, § 182.1428 *Magnesium hydroxide*, § 182.1431 *Magnesium oxide*, § 182.1440 *Magnesium stearate*, § 182.8431 *Magnesium oxide*, § 182.8434 *Magnesium phosphate*, and § 182.8443 *Magnesium sulfate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1425, to read as follows:

§ 184.1425 Magnesium carbonate.

(a) Magnesium carbonate (molecular formula approximately $(MgCO_3)_4 \cdot Mg(OH)_2 \cdot 5H_2O$, CAS Reg. No. 39409–82–0) is also known as magnesium carbonate hydroxide. It is a white powder formed either by adding an alkaline carbonate (such as sodium carbonate) to a solution of magnesium sulfate or by carbonation of a slurry of magnesium hydroxide followed by boiling of the resulting magnesium carbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 177, which is incorporated by reference. Copies are available from the National Academy Press, 2102 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an anticaking and free-flow agent as defined in § 170.3(o)(1) of this chapter; a flour treating agent as defined in § 170.3(o)(13) of this chapter; a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; a nutrient supplement as defined in § 170.3(o)(20) of this chapter; a pH control agent as defined in § 170.3(o)(23) of this chapter; a processing aid as defined in § 170.3(o)(24) of this chapter; and a synergist as defined in § 170.3(o)(31) of this chapter.

(2) The ingredient is used in foods at levels not to exceed current good manufacturing practice.

b. By adding new § 184.1426, to read as follows:

§ 184.1426 Magnesium chloride.

(a) Magnesium chloride ($MgCl_2 \cdot 6H_2O$, CAS Reg. No. 7786–30–3) is a colorless, deliquescent, crystalline material that occurs naturally as the mineral bischofite. It is prepared by dissolving magnesium oxide, hydroxide, or carbonate in aqueous hydrochloric acid solution and crystallizing out magnesium chloride hexahydrate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 177, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the

following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter and a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter and soups and soup mixes as defined in § 170.3(n)(40) of this chapter. The ingredient may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

c. By adding new § 184.1428, to read as follows:

§ 184.1428 Magnesium hydroxide.

(a) Magnesium hydroxide ($Mg(OH)_2$), CAS Reg. No. 1309-42-8) occurs naturally as the colorless, crystalline mineral brucite. It is prepared as a white precipitate by the addition of sodium hydroxide to a water soluble magnesium salt or by hydration of reactive grades of magnesium oxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 178, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter; a pH control agent as defined in § 170.3(o)(23) of this chapter; and a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: confections and frostings as defined in § 170.3(n)(9) of this chapter; milk products as defined in § 170.3(n)(31) of this chapter; and processed vegetables and vegetable juices as defined in § 170.3(n)(36) of this chapter.

d. By adding new § 184.1431, to read as follows:

§ 184.1431 Magnesium oxide.

(a) Magnesium oxide (MgO, CAS Reg. No. 1309-48-4) occurs naturally as the colorless, crystalline mineral periclase. It is produced either as a bulky white powder (light) or a relatively dense white powder (heavy) by heating magnesium hydroxide or carbonate. Heating these magnesium salts under moderate conditions (400° to 900° C for a few hours) produces light magnesium oxide. Heating the salts under more rigorous conditions (1200° C for 12 hours) produces heavy magnesium oxide. Light magnesium oxide is converted to heavy magnesium oxide by sustained heating at high temperatures.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 178, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter; a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; a nutrient supplement as defined in § 170.3(o)(20) of this chapter; and a pH control agent as defined in § 170.3(o)(23) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: cheeses as defined in § 170.3(n)(5) of this chapter; dairy product analogs as defined in § 170.3(n)(10) of this chapter; hard candy and cough drops as defined in § 170.3(n)(25) of this chapter; processed vegetables and vegetable juices as defined in § 170.3(n)(36) of this chapter; and snack foods as defined in § 170.3(n)(37) of this chapter. The ingredient may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

e. By adding new § 184.1434, to read as follows:

§ 184.1434 Magnesium phosphate.

(a) Magnesium phosphate includes both magnesium phosphate, dibasic, and magnesium phosphate, tribasic. Magnesium phosphate, dibasic ($MgHPO_4.3H_2O$, CAS Reg. No 7782-75-4) occurs naturally as the white, crystalline mineral newberyite. It is prepared commercially as a precipitate formed by treating a solution of magenesium sulfate with disodium phosphate under controlled conditions. Magnesium phosphate, tribasic ($Mg_3(PO_4)_2.xH_2O$, CAS Reg. No. 7757-87-1) may contain 4, 5, or 8 molecules of water of hydration. It is produced as a precipitate from a solution of magnesite with phosphoric acid.

(b) Magnesium phosphate, dibasic, meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), P. 179, which is incorportated by reference. Magnesium phosphate, tribasic, meets the specifications of the Food Chemicals, Codex, 3d Ed. (1981), p. 180, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 29418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter and a pH control agent as defined in § 170.3(o)(23), of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice; soft candy as defined in § 170.3(n)(38) of this chapter. The ingredient may be used in infant formula in accordance with section 412(g) of the Federal Food, Drug, and Cosmetic Act (the act) or with regulations promulgated under section 412(a)(2) of the act.

f. By adding new § 184.1440, to read as follows:

§ 184.1440 Magnesium stearate.

(a) Magnesium stearate ($Mg(C_{17}H_{35}COO)_2$, CAS Reg . No. 557-04-0) is the magnesium salt of stearic acid. It is produced as a white precipitate by the addition of an aqueous solution of magnesium chloride to an aqueous solution of sodium stearate derived from edible sources.

(b) The ingredient meets the specifications of § 172.860(b)(2) of this chapter and the Food Chemicals Codex, 3d Ed. (1981), p. 182, which is incorporated by reference. Copies are

available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a lubricant and release agent as defined in § 170.3(o)(18) of this chapter and a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; chewing gum as defined in § 170.3(n)(6) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; herbs, seeds, spices, seasoning blends, extracts, and flavorings as defined in § 170.3(n)(26) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

g. By adding new § 184.1443, to read as follows:

§ 184.1443 Magnesium sulfate.

(a) Magnesium sulfate ($MgSO_4.7H_2O$, Cas Reg. No. 10034–99–8) occurs naturally as the mineral epsomite. It is prepared by neutralization of magnesium oxide, hydroxide, or carbonate with sulfuric acid and evaporating the solution to crystallization.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 183, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavor enhancer as defined in § 170.3(o)(11) of this chapter; a nutrient supplement as defined in § 170.3(o)(20) of this chapter; and a processing aid as defined in § 170.3(o)(24) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter and condiments and relishes as defined in § 170.3(n)(8) of this chapter.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before March 22, 1983 submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 29, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–1663 Filed 1–20–83; 8:45 am]
BILLING CODE 4160–01–M

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21 CFR Parts 182 and 184

[Docket No. 81N–0381]

Manganese Salts; Proposed Affirmation and Removal of GRAS Status as Direct Human Food Ingredients

Correction

In FR Doc. 82–34257, beginning on page 56513 in the issue of Friday, December 17, 1982, make the following correction.

On page 56513, third column, twelfth line of the second complete paragraph, the last word in the line reading "the" should read "and".

BILLING CODE 1505–01–M

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21 CFR Part 201

[Docket No. 82N–0158]

Labeling of Salicylate-Containing Drug Products; Correction

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the advance notice of proposed rulemaking advising that the agency is considering proposing to require certain over-the counter (OTC) and prescription salicylate-containing drug products for human use to bear a warning against the use of the products for the treatment of flu or chicken pox in children or adolescents under 16 years of age, because salicylates may be associated with the development of Reye Syndrome in this age group. The advance notice of proposed rulemaking was published in the **Federal Register** of December 28, 1982.

FOR FURTHER INFORMATION CONTACT: Paul O. Fehnel, Jr., National Center for Drugs and Biologics (HFN–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490

SUPPLEMENTARY INFORMATION: In FR Doc. 82–35065 at page 57886 in the **Federal Register** of Tuesday, December 28, 1982, the following corrections are made:

1. On page 57892 in the third column, in the first sentence of the first full paragraph, "antecent" is changed to "antecedent."

2. On page 57896 in the third column in the next to last sentence in the second full paragraph, "(Refs. 113 and 114)" is added after "undertaken"; and in the fourth sentence in the third paragraph, "(Ref. 105)" is added after "announced".

3. On page 57898 in the fourth line in the first column, "(Refs. 113 and 114)" is added after "products".

4. On page 57901 in the third column, two references are added after reference 112. The references are:

113. HHS press release on Reye Syndrome dated September 20, 1982.

114. Statement by Edward N. Brandt, Jr., M.D., before the Subcommittee on National Resources, Agriculture Research and Environment, Committee on Science and Technology, U.S. House of Representatives, September 29, 1982.

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1521 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 201

[Docket No. 82N-0158]

Labeling for Salicylate-Containing Drug Products

Correction

In FR Doc. 82-35065 begining on page 57886 in the issue of Tuesday, December 28, 1982 make the following corrections.

1. On page 57886, column one summary, line five "saliciylate-containing" should read salicylate-containing."

2. On page 57886, column two, paragraph two, lines thirteen, fourteen, and fifteen, delete "but its incidence may be 30 to 60 per 100,000 persons under 18 years of age (Ref. 2),".

3. On page 57886, column three, paragraph three, line two "by" should read "be."

4. On page 57887, column one, paragraph one, line thirteen, "amont" should read "among."

5. On page 57887, column one, paragraph two, line four, "on" should read "of."

6. On page 57887, column one, paragraph two, line eleven "the" should appear between "about" and "accuracy."

7. On page 57887, column one, paragraph three, line six, "too" should read "took."

8. On page 57887, column one, paragraph designated as "B.", line nine, delete the word "as."

9. On page 57887, column three, paragraph designated as "3.", line one, "wrtitten" should read "written."

10. On page 57889, column two, paragraph one, line twenty-four, "user" should read "use" and "by" should appear between "use" and "cases."

11. On page 57890, column one, paragraph designated as "3.", line seven, "statistial" should read "statistical."

12. On page 57892, column one, paragraph three, line two from the bottom, "has" should read "had."

13. On page 57892, column three, line twenty-three, delete the word "a."

14. On page 57892, column three, paragraph one, line twenty, "Rs" should read "RS."

15. On page 57893, column one, paragraph designated as "8.", line twelve, "salicylate" should read "salicylates."

16. On page 57893, column two, paragraph two, line nine, "diffeential" should read "differential."

17. On page 57893, column three, line eight, the words "acetaminophen product longer than they would remember administering a" should appear between "an" and "salicylate."

18. On page 57894, column two, paragraph designated as "12.", line 16, there should be a space between "I" and "RS."

19. On page 57894, column three, paragraph two, line eight, "case" should read "cases."

20. On page 57895, column one, paragraph two, line five, "results" should read "result."

21. On page 57895, column one, paragraph two, line fourteen "salicylism" should read "salicylate."

22. On page 57895, column one, paragraph designated as "14.", line twelve, "phosphorylatin" should read "phosphorylation."

23. On page 57895, column three, paragraph one, line eighteen "rhevmatoid" should read "rheumatoid."

24. On page 57896, column two, line twenty-four, "delegate" should read "delegated."

25. On page 57896, column two, paragraph two, line seven "100,0900" should read "100,000."

26. On page 57896, column two, paragraph two, line eleven "result" should read "results."

27. On page 57896, column two, paragraph two, line fifteen "take" should read "taken."

28. On page 57897, column one, paragraph one, line twelve, "necesarily" should read "necessarily."

29. On page 57897, column two, paragraph designated as "5.", line five "Reyes" should read "Reye."

30. On page 57897, column three, paragraph designated as "B.", line twelve "Reyes" should read "Reye".

31. On page 57898, column one, lines thirteen and twenty-two, "Reyes" should read "Reye."

32. On page 57898, column one, line twenty-eight, "working" should read "wording."

33. On page 57898, column three, line six, "us" should read "use".

34. On page 57901, column two, paragraph designated as "106.", line two "dted" should read "dated."

BILLING CODE 1505-01-M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-236-81]

Credit for Increasing Research Activity

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the income tax regulations to provide rules for the new credit for increasing research activities. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981.

DATE: Written comments and requests for a public hearing must be delivered or mailed by March 25, 1983. These amendments are proposed to be effective for purposes of determining if and to what extent amounts paid or incurred after June 30, 1981, and before January 1, 1986, qualify for the research credit. The amendments to § 1.174-2 are proposed to be effective for taxable years beginning after 1953, but the Internal Revenue Service will not require changes in the treatment of expenses for purposes of section 174 on returns filed before the publication of a treasury decision on this subject merely because of these amendments.

ADDRESS: Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (LR-236-81).

FOR FURTHER INFORMATION CONTACT: John R. Harman of the Legislation & Regulations Division, Office of Chief Counsel, 202-566-3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

The credit for increasing research activities is provided by section 44F of the Internal revenue Code of 1954, as added by section 221 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34; 95 Stat. 241). These proposed amendments, if adopted, will be issued under the authority contained in section 44F (f) (1)-(4) and section 7805 of the Internal Revenue Code of 1954 (95 Stat.

243, 26 U.S.C. 44F (f) (1)–(4); 68A Stat. 917, 26 U.S.C. 7805).

Explanation

These proposed amendments to the regulations deal only with certain provisions of section 44F and section 174. Many rules found in the statute are not found in the proposed amendments. Thus, it will be necessary to refer to both the statute and the regulations for guidance in computing the credit.

Section 1.44F–1 indicates the provisions of section 44F that are dealt with in the regulations.

Section 1.44F–2 clarifies certain provisions contained in section 44F (b) relating to the trade or business requirement, in-house research expenses, and contract research expenses. Section 1.44F–2 (a) (4) (ii), together with § 1.44F–7 (a) (3) (ii), explains a rule not found in the Code, concerning the treatment of certain joint ventures of partnerships. The legislative history of section 44F indicates that, under regulations, the research expenses of a partnership may be eligible for the credit even if the expenses are not paid or incurred in carrying on a trade or business of the partnership. The expenses will be eligible for the credit only if each of the partners: (1) Is engaged in a trade or business to which the research relates and (2) is entitled to the research results. The regulations explain that, in such a case, the credit is determined at the partner level with each partner taking its allocable share of the partnership's qualified research expense into account as if the expense were incurred directly by the partner.

Section 1.44F–3 deals with the rules for base period research expenses found in section 44F(c). It clarifies the transitional rules applicable to the determination of base period and the rule for the determination of base periods expenses of new taxpayers.

Section 1.44F–4, together with the proposed amendments to § 1.174–2, clarifies the definition of qualified research found in section 44F(d). The proposed regulations address several issues with respect to this definition.

Section 44F(d) provides that the term "qualified research" generally has the same meaning as the term "research or experimental" in section 174. The report of the Senate Finance Committee, recognizing that the existing regulations under section 174 were somewhat vague, stated that it anticipated further regulatory guidance under section 44F and section 174 "not inconsistent with existing regulations." Accordingly, the proposed regulations include extensive clarifications of the regulations under section 174, including a clarification of the treatment of computer software. The new rules contained in § 1.174–2(a) are consistent with the explanation congressional intent perpared by the Staff of the Joint Committee on Taxation.

Although the amendments to § 1.174–2(a) are proposed to be effective for taxable years beginning after 1953, the Internal Revenue Service will not require changes in the treatment of expenses for purposes of section 174 or returns filed before publication of a Treasury decision on this subject merely because of these amendments. However, the amendments will be taken into account for all taxable years for purposes of determining the credit under section 44F.

Section 44F(d) (2) excludes from qualified research, "research in the social sciences or humanities." The proposed regulations, in accordance with the only available explanation of the exclusion (the House Ways and Means Committee report), adopts a broad interpretation of the exclusion. Section 1.44F–4(c) provides that the provision excludes "all areas of research other than research in a field of laboratory science (such as physics or biochemistry), engineering or technology."

This interpretation is consistent with the general background against which the exclusion was adopted. The National Science Foundation (NSF) in 1971 had formulated a definition of research and development that specifically excluded "research in the social sciences or psychology, and other nontechnological activities." The Financial Accounting Standards Board in 1974 decided to modify the NSF definition to include "research and development activities in the social sciences such as those conducted by service-type business enterprises." The statutory exclusion appears to represent a decision in favor of the NSF approach that looks to technological developments.

Section 44F(d)(3) excludes from qualified research, research to the extent funded by any person or government entity. Proposed § 1.44F–4(d) provides that, for purposes of computing the credit, research performed solely on behalf of another person is treated as completely funded. The proposed regulations explain how to determine the extent of funding when the researcher retains substantial rights in the research. In addition, the proposed regulations clarify the effect of governmental funding programs like the Department of Defense's Independent Research and Development program.

Section 1.44F–5 deals with the basic research rule found in section 44F(e). It provides that all basic research expenses are deemed to have been paid or incurred in carrying on a trade or business. The proposed regulation also specifies the prerequisites of a valid written research agreement and the method by which an organization may elect to be treated as a qualified fund.

Section 1.44F–6 deals with the aggregation rule of section 44F(f)(1), which requires that commonly controlled entities compute the credit as if the entities constituted a single taxpayer. The proposed regulations provide special rules for commonly controlled groups when one member performs research for another or the members use different taxable years. Section 1.44F–7 explains certain other rules found in section 44F (f) and (g).

Drafting Information

The principal authors of these proposed regulations are John R. Harman and Herman B. Bouma of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, Personnel from other offices in the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking the solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553(b) do not apply. Accordingly no Regulatory Flexibility Analysis is required.

List of Subjects

26 CFR 1.0–1—1.58–8

Income taxes, Tax liability, Tax rates, credits.

26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. The following new §§ 1.44F–1 through 1.44F–7, are added in the appropriate place.

§ 1.44F–1 Introduction to regulations under section 44F.

Sections 1.44F–2 through 1.44F–7 deal only with certain provisions of section 44F. The following table identifies the provisions of section 44F that are dealt with, and lists each below the regulation section in which it is covered:

Section 1.44F–2	Section 1.44F–3	Section 1.44F–4	Section 1.44F–5	Section 1.44F–6	Section 1.44F–7
(b)(1)	(c)(2)	(d)	(e)(1)	(f)(1)	(f)(2)
[illegible]	(f)(4)		(e)(3)(A)		[illegible]
(b)(2)(A)(ii)			[illegible]		(g)(1)(B)
(b)(2)(B)			(e)(4)(C)(ii)		(g)(2)
(b)(3)					

Section 1.44F–3 also deals with the special rule in section 221(d)(2) of the Economic Recovery Tax Act of 1981 relating to taxable years overlapping the effective dates of section 44F.

§ 1.44F–2 Qualified research expenses.

(a) *Trade or business requirement*—(1) *In general.* An in-house research expense of the taxpayer or a contract research expense of the taxpayer is a qualified research expense only if the expense is paid or incurred by the taxpayer in carrying on a trade or business of the taxpayer. The phrase "in carrying on a trade or business" has the same meaning for purposes of section 44F(b)(1) as it has for purposes of section 162: Thus, expenses paid or incurred in connection with a trade or business (within the meaning of section 174(a), relating to the deduction for research and experimental expenses) are not necessarily paid or incurred in carrying on a trade or business for purposes of section 44F. A research expenses must relate to a particular trade or business being carried on by the taxpayer at the time the expense is paid or incurred in order to be qualified research expense. In general, a contract research expense of the taxpayer is not qualified research expense if the product or result of the research is intended to be transferred to another in return for license or royalty payments and the taxpayer does not use the product of the research in the taxpayer's trade or business.

(2) *New business.* Expenses paid or incurred prior to commencing a new business (as distinguished from expanding an existing business) may be paid or incurred in connection with a trade or business but are not paid or incurred in carrying on a trade or business. Thus, research expenses paid or incurred by a taxpayer in developing a product the sale of which would constitute a new trade or business for the taxpayer are not paid or incurred in carrying on a trade or business.

(3) *Research performed for others*—(i) *Taxpayer not entitled to results.* If the taxpayer performs research on behalf of another person and retains no substantial rights in the research, that research shall not be taken into account by the taxpayer for purposes of section 44F. See § 1.44F–4 (d)(2).

(ii) *Taxpayer entitled to results.* If the taxpayer in carrying on a trade or business performs research on behalf of other persons but retains substantial rights in the research, the taxpayer shall take otherwise qualified expenses for that research into account for purposes of section 44F to the extent provided in § 1.44F–4(d)(3).

(4) *Partnerships*—(i) *In general.* An in-house research expense or a contract research expense paid or incurred by a partnership is a qualified research expense of the partnership if the expense is paid or incurred by the partnership in carrying on a trade or business of the partnership, determined at the partnership level without regard to the trade or business of any partner.

(ii) *Exception for certain joint ventures.* An in-house research expense or a contract research expense paid or incurred by a partnership other than in carrying on a trade or business of the partnership constitutes a qualified research expense if the following conditions are met—

(A) All of the partners are entitled to the results of the research, and

(B) The following is true with respect to each partner: If the partner had carried on the research that was in fact carried on by the partnership, all the research expenses paid or incurred in carrying on the research would have been paid or incurred by the partner in carrying on a trade or business of the partner.

For purposes of section 44F, research expenditures to which this paragraph (a)(4)(ii) applies shall be treated as paid or incurred directly by the partners. See § 1.44F–7(a)(3)(ii) for special rules regarding these expenditures.

(b) *Supplies and personal property used in the conduct of qualified research*—(1) *In general.* For purposes of section 44F(b)(2)(A)(ii) and (iii), supplies and personal property are used in the conduct of qualified research if they are used in the performance of qualified services (as defined in section 44F(b)(2)(B), but without regard to the last sentence thereof) by an employee of the taxpayer. Expenditures for supplies or for the use of personal property that are indirect research expenditures or general and administrative expenses do not qualify as in-house research expenses.

(2) *Certain utility charges.* In general, amounts paid or incurred for utilities such as water, electricity, and natural gas used in the building where qualified research is performed are treated as expenditures for general overhead. However, such amounts shall be treated as amounts paid or incurred for supplies used in the conduct of qualified research to the extent the taxpayer can establish that the special character of the qualified research required extraordinary expenditures for utilities. For example, amounts paid for electricity used for general laboratory lighting are treated as general overhead, but amounts paid for electricity used in operating high energy equipment for qualified research (such as laser or nuclear research) may be treated as expenditures for supplies to the extent the taxpayer can establish that the special character of the research required an extraordinary additional expenditure for electricity.

(3) *Right to use personal property.* The determination of whether an amount is paid or incurred to another person for the right to use personal property in the conduct of qualified research shall be made without regard to the characterization of the transaction as a lease under section 168(f)(8). See § 5c.168(f)(8)–1(b).

(c) *Qualified services*—(1) *Engaging in qualified research.* The term "engaging in qualified research" as used in section 44F(b)(2)(B) means the actual conduct of qualified research (as in the case of a scientist conducting laboratory experiments).

(2) *Direct supervision.* The term "direct supervision" as used in section 44F(b)(2)(B) means the immediate supervision of qualified research (as in the case of a research scientist who

directly supervises laboratory experiments, but who may not actually perform experiments).

(3) *Direct support.* The term "direct support" as used in section 44F(b)(2)(B) means services in the direct support of either—

(i) Persons engaging in the actual conduct of qualified research, or

(ii) Persons who are directly supervising persons engaging in the actual conduct of qualified research.

For example, direct support of research includes the services of a secretary for typing reports describing laboratory results derived from qualified research, of a laboratory worker for cleaning equipment used in qualified research, of a clerk for compiling research data, and of a machinist for machining part of an experimental model used in qualified research. Direct support of research activities does not include general administrative services, or other services only indirectly of benefit to research activities. For example, services of payroll personnel for preparing salary checks of laboratory scientists, of an accountant for accounting for research expenses, of a janitor for general cleaning of a research laboratory, or of officers engaged in supervising financial or personnel matters do not qualify as direct support of research.

(d) *Wages paid for qualified services*—(1) *In general.* Wages paid or incurred to an employee constitute in-house research expenses only to the extent the wages were paid or incurred for qualified services performed by the employee. If an employee has performed both qualified services and nonqualified services, only the amount of wages apportioned to the performance of qualified services constitute an in-house research expense. In the absence of another method of apportionment that the taxpayer can demonstrate to be more appropriate, the amount of in-house research expense shall be determined by multiplying the total amount of wages paid or incurred to the employee during the taxable year by the ratio of the total time actually spent by the employee in the performance of qualified services for the taxpayer to the total time spent by the employee in the performance of all services for the taxpayer during the taxable year.

(2) *"Substantially all."* Notwithstanding paragraph (d)(1) of this section, if substantially all of the services performed by an employee for the taxpayer during the taxable year consist of services meeting the requirements of section 44F(b)(2)(B) (i) or (ii), then the term "qualified services" means all of the services performed by the employee for the taxpayer during the taxable year. Services meeting the requirements of section 44F(b)(2)(B) (i) or (ii) constitute substantially all of the services performed by the employee during a taxable year if and only if the wages apportioned (on the basis used for purposes of paragraph (d)(1) of this section) to services meeting the requirements of section 44F(b)(2)(B) (i) or (ii) constitute at least 80 percent of the wages paid or incurred by the taxpayer to the employee during the taxable year.

(e) *Contract research expenses*—(1) *In general.* A contract research expense is 65 percent of any expense paid or incurred in carrying on a trade or business to any person other than an employee of the taxpayer for the performance on behalf of the taxpayer of—

(i) Qualified research as defined in § 1.44F–4, or

(ii) Services which, if performed by employees of the taxpayer, would constitute qualified services within the meaning of section 44F(b)(2)(B).

Where the contract calls for services other than services described in this paragraph (e)(1), only 65 percent of the portion of the amount paid or incurred that is attributable to the services described in this paragraph (e)(1) is a contract research expense.

(2) *Performance of qualified research.* an expense is paid or incurred for the performance of qualified research only to the extent that it is paid or incurred pursuant to an agreement that—

(i) Is entered into prior to the performance of the qualified research,

(ii) Provides that research be performed on behalf of the taxpayer, and

(iii) Requires the taxpayer to bear the expense even if the research is not successful.

If an expense is paid or incurred pursuant to an agreement under which payment is contingent on the success of the research, then the expense is considered paid for the product or result rather than the performance of the research, and the payment is not a contract research expense.

(3) *"On behalf of."* Qualified research is performed on behalf of the taxpayer if the taxpayer has a right to the research results. Qualified research can be performed on behalf of the taxpayer notwithstanding the fact that the taxpayer does not have exclusive rights to the results.

(4) *Prepaid amounts.* Notwithstanding paragraph (e)(1) of this section, if any contract research expense paid or incurred during any taxable year is attributable to qualified research to be conducted after the close of such taxable year, the expenses so attributable shall be treated for purposes of section 44F(b)(1)(B) as paid or incurred during the period during which the qualified research is conducted.

(5) *Examples.* The following examples illustrate provisions contained in paragraphs (e) (1) through (4) of this section.

Example (1). *A*, a cash-method taxpayer using the calendar year as its taxable year, enters into a contract with *B* Corporation under which *B* is to perform qualified research on behalf of *A*. The contract requires *A* to pay *B* $300x, regardless of the success of the research. In 1982, *B* performs all of the research and *A* makes full payment of $300x under the contract. Accordingly, during taxable year 1982, $195x (65 percent of the payment of $300x) constitutes contract research expense of *A*.

Example (2). The facts are the same as in *example (1)* except that *B* performs 50 percent of the research in 1983. Of the $195x of contract research expense, paragraph (e)(4) of this section provides that $97.5x (50 percent of $195x) is contract research expense for 1982 and the remaining $97.5x is contract research expense for 1983.

Example (3). The facts are the same as in *example (1)* except that rather than a flat payment of $300x, *A* agrees to reimburse *B* for all expenses plus to pay *B* $100x. *B* incurs expenses attributable to the research as follows:

Labor	$80x
Supplies	20x
Depreciation on equipment	60x
Overhead	40x
Total	200x

Under this agreement *A* pays *B* $300x during 1982. Accordingly, during taxable year 1982, $195x (65 percent of $300x) of the payment constitutes a contract research expense of *A*.

Example (4). The facts are the same as in *example (3)* except that *A* agrees to reimburse *B* for all expenses and *A* agrees to pay *B* an additional amount of $100, but only if the research is successful. The research is successful and *A* pays *B* $300x during 1982. Paragraph (e)(2) of this section provides that the contingent portion of the payment is not an expense incurred for the performance of qualified research. Thus, for taxable year 1982, $130x (65 percent of the payment of $200x) constitutes contract research expense of *A*.

Example (5). *C* conducts in-house qualified research in carrying on its trade or business. In addition, *C* pays *D* Corporation, a provider of computer services, $100x to develop software to be used in analyzing the results *C* derives from its research. Because the software services, if performed by an employee of *C*, would constitute qualified services, $65x of the $100x constitutes a contract research expense of *C*.

Example (6). *C* conducts in-house qualified research in carrying on its trade or business. In addition, *C* contracts with *E* Corporation, a provider of temporary secretarial services, for the services of a secretary for a week. The secretary spends the entire week typing reports describing laboratory results derived from *C*'s qualified research. *C* pays *E* $400 for the secretarial service, none of which constitutes wages within the meaning of section 44F(b)(2)(D). These services, if performed by employees of *C*, would constitute qualified services within the meaning of section 44F(b)(2)(B). Thus, pursuant to paragraph (e)(1) of this section, $260 (65 percent of $400) constitutes a contract research expense.

Example (7). *C* conducts in-house qualified research in carrying on its trade or business. In addition, *C* pays *F*, an outside accountant, $100x to keep *C*'s books and records pertaining to the research project. The activity carried on by the accountant does not constitute qualified research as defined in section 44F(d); the services performed by the accountant, if performed by an employee of *C*, would not constitute qualified services (as defined in section 44F(b)(2)(B)). Thus, under paragraph (e)(1) of this section, no portion of the $100x constitutes a contract research expense.

§ 1.44F–3 Base period research expenses.

(a) *Number of years in base period.* The term "base period" generally means the 3 taxable years immediately preceding the year for which a credit is being determined ("determination year"). However, if the first taxable year of the taxpayer ending after June 30, 1981, ends in 1981 or 1982, then with respect to that taxable year the term "base period" means the immediately preceding taxable year. If the second taxable year of the taxpayer ending after June 30, 1981, ends in 1982 or 1983, then with respect to that taxable year the term "base period" means the 2 immediately preceding taxable years.

(b) *New taxpayers.* If, with respect to any determination year, the taxpayer has not been in existence for the number of preceding taxable years that are included under paragraph (a) of this section in the base period for that year, then for purposes of paragraph (c)(1) of this section (relating to the determination of average qualified research expenses during the base period), the taxpayer shall be treated as—

(1) Having been in existence for that number of additional 12-month taxpayer years that is necessary to complete the base period specified in paragraph (a) of this section, and

(2) Having had qualified research expenses of zero in each of those additional years.

(c) *Definition of base period research expenses.* For any determination year, the term "base period research expenses" means the greater of—

(1) The average qualified research expenses for taxable years during the base period, or

(2) Fifty percent of the qualified research expenses for the determination year.

(d) *Special rules for short taxable years*—(1) *Short determination year.* If the determination year for which a research credit is being taken is a short taxable year, the amount taken into account under paragraph (c)(1) of this section shall be modified by multiplying that amount by the number of months in the short taxable year and dividing the result by 12.

(2) *Short base period year.* For purposes of paragraph (c)(1) of this section, if a year in the base period is a short taxable year, the qualified research expenses paid or incurred in the short taxable year are deemed to be equal to the qualified research expenses actually paid or incurred in that year multiplied by 12 and divided by the number of months in that year.

(3) *Years overlapping the effective dates of section 44F*—(i) *Determination years.* If a determination year includes months before July 1981 (or after December 1985), the determination year is deemed to be a short taxable year including only the months after June 1981 (or before January 1986). Accordingly, paragraph (d)(1) of this section is applied for purposes of determining the base period expenses for such year. See section 221(d)(2) of the Economic Recovery Tax Act of 1981.

(ii) *Base period years.* No adjustment is required in the case of a base period year merely because it overlaps June 30, 1981.

(4) *Number of months in a short taxable year.* The number of months in a short taxable year is equal to the number of whole months contained in the year plus fractions for any partially included months. The fraction for a partially included month is equal to the number of days in the month that are included in the short taxable year divided by the total number of days in the month. Thus, if a short taxable year begins on January 1, 1982, and ends on June 9, 1982, it consists of five and 9/30 months.

(e) *Examples.* The following examples illustrate the application of this section.

Example (1). *X* Corp., an accrual-method taxpayer using the calendar year as its taxable year, is organized during 1979 and incurs qualified research expenses as follows:

1979	[illegible]0x
1980	[illegible]0x
Jan. 1 to June 30, 1981	0x
July 1 to Dec. 31, 1981	110x
1982	250x
1983	450x

(i) *Determination year 1981.* For determination year 1981, the base period consists of the immediately preceding taxable year, calendar year 1980. Because the determination year includes months before July 1981, paragraph (d)(3)(i) requires that the determination year be treated as a short taxable year. Thus, for purposes of paragraph (c)(1), as modified by paragraph (d)(1), the average qualified research expenses for taxable years during the base period is $75x ($150x, the average qualified research expenses for the base period, multiplied by 6, the number of months in the determination year after June 30, 1981, and divided by 12). Because this amount is greater than the amount determined under paragraph (c)(2) (50 percent of the determination year's qualified research expense of $110x or $55x), the amount of base period research expenses is $75x. The credit for determination year 1981 is equal to 25 percent of the excess of $110x (the qualified research expenditures incurred during the determination year including only expenditures accrued on or after July 1, 1981, through the end of the determination year) over $75x (the base period research expenses).

(ii) *Determination year 1982.* For determination year 1982, the base period consists of the 2 immediately preceding taxable years, 1980 and 1981. The amount determined under paragraph (c)(1) of this section (the average qualified research expenses for taxable years during the base period) is $175x (($150x+200x) divided by 2). This amount is greater than the amount determined under paragraph (c)(2) (50 percent of $250x, or $125x). Accordingly, the amount of base period research expenses is $175x. The credit for determination year 1982 is equal to 25 percent of the excess of $250x (the qualified research expenses incurred during the determination year) over $175x (the base period research expenses).

(iii) *Determination year 1983.* For determination year 1983, the base period consists of the 3 immediately preceding taxable years 1980, 1981 and 1982. The amount determined under paragraph (c)(1) of this section (the average qualified research expenses for taxable years during the base period) is $200x (($150x+$200+$250x) divided by 3). The amount determined under paragraph (c)(2) is $225x (50 percent of the $450x of qualified research expenses in 1983). Accordingly, the amount of base period research expenses is $225x. The credit for determination year 1983 is equal to 25 percent of the excess of $450x (the qualified research expenses incurred during the determination year) over $225x (the base period research expenses).

Example (2). *Y*, an accrual-basis corporation using the calendar year as its taxable year comes into existence on July 1, 1983. *Y* incurs qualified research expenses as follows:

July 1 to Dec. 31, 1983	[illegible]0x
1984	200x
1985	200x

(i) *Determination year 1983.* For determination year 1983, the base period consists of the 3 immediately preceding taxable years: 1980, 1981 and 1982. Although *Y* was not in existence during 1980, 1981 and 1982, *Y* is treated under paragraph (b) of this section as having been in existence during those years with qualified research expenses of zero. Thus, the amount determined under paragraph (c)(1) of this section (the average qualified research expenses for taxable years during the base period) is $0 (($0x+$0x+$0x) divided by 3). The amount determined under paragraph (c)(2) of this section is $40x (50 percent of $80x). Accordingly, the amount of base period research expenses is $40x. The credit for determination year 1983 is equal to 25 percent of the excess of $80x (the qualified research expenses incurred during the determination year) over $40x (the base period research expenses).

(ii) *Determination year 1984.* For determination year 1984, the base period consists of the 3 immediately preceding taxable years: 1981, 1982, and 1983. Under paragraph (b) of this section, *Y* is treated as having been in existence during years 1981 and 1982 with qualified research expenses of zero. Because July 1 through December 31, 1983 is a short taxable year, paragraph (d)(2) of this section requires that the qualified research expenses for that year be adjusted to $160x for purpose of determining the average qualified research expenses during the base period. The $160x is the actual qualified research expenses for that year ($80x) multiplied by 12 and divided by 6 (the number of months in the short taxable year). Accordingly, the amount determined under paragraph (c)(1) of this section (the average qualified research expenses for taxable years during the base period) is $53⅓x[($0x+$0x+$160x) divided by 3). The amount determined under paragraph (c)(2) of this section is $100x (50 percent of $200x). The amount of base period research expenses is $100x. The credit for determination year 1984 is equal to 25 percent of the excess of $200x (the qualified research expenses incurred during the determination year) over $100x (the base period research expenses).

(iii) *Determination year 1985.* For determination year 1985, the base period consists of the 3 immediately preceding taxable years: 1982, 1983, and 1984. Pursuant to paragraph (b) of this section, *Y* is treated as having been in existence during 1982 with qualified research expenses of zero. Because July 1 through December 31, 1982, is a short taxable year, paragraph (d)(2) of this section requires that the qualified research expense for that year be adjusted to $160x for purposes of determining the average qualified research expenses for taxable years during the base period. This $160x is the actual qualified research expenses for that year ($80x) multiplied by 12 and divided by 6 (the number of months in the short taxable year). Accordingly, the amounts determined under paragraph expenses for taxable years during the base period) is $120x (($0x+$160x+$200x) divided by 3). The amount determined under paragraph (c)(2) of this section is $100 (50 percent of $200x). The amount of base period research expenses is $120x. The credit for determination year 1985 is equal to 25 percent of the excess of $200x (the qualified research expenses incurred during the determination year) over $120x (the base period research expenses).

§ 1.44F–4. Qualified research.

(a) *General rule.* Except as otherwise provided in section 44F(d) (1), (2) and (3) and this section, the term "qualified research" for purposes of section 44F means research, expenditures for which would be research and experimental expenditures within the meaning of section 174. Expenditures that are ineligible for the section 174 deduction elections are not expenditures for qualified research. For example, expenditures for the acquisition of land or depreciable property used in research, and mineral exploration costs described in section 174(d), are not expenditures for qualified research.

(b) *Activities outside the United States*—(1) *In-house research.* In-house research conducted outside the United States (as defined in section 7701(a)(9)) cannot constitute qualified research. Thus, wages paid to an employee scientist for services performed in a laboratory in the United States and in a test station in Antarctica must be apportioned between the services performed within the United States and the services performed outside the United States, and only the wages apportioned to the services conducted within the United States are qualified research expenses unless the 80 percent rule of § 1.44F–2(d)(3) applies.

(2) *Contract research.* If contract research is performed partly within the United States and partly without, only 65 percent of the portion of the contract amount that is attributable to the research performed within the United States can qualify as contract research expense (even if 80 percent or more of the contract amount was for research performed in the United States).

(c) *Social sciences or humanities.* Qualified research does not include research in the social sciences or humanities. For purposes of section 44F(d)(2) and this section, the term "research in the social sciences or humanities" encompasses all areas of research other than research in a field of laboratory science (such as physics or biochemistry), engineering or technology. Examples of research in the social sciences or humanities include the development of a new life insurance contract, a new accounting procedure or a new cookbook. However, the programing costs of developing software associated with such products is qualified research if the expenses of developing the software are research or experimental expenditures within the meaning of § 1.74–2(a)(3).

(d) *Research funded by any grant, contract, or otherwise*—(1) *In general.* Research does not constitute qualified research to the extent it is funded by another person (including any governmental entity). All agreements (not only research contracts) entered into between the taxpayer performing the research and other persons shall be considered in determining the extent to which the research is funded. Amounts paid under any agreement that are contingent on the success of the research and thus considered to be paid for the product or result of the research (see § 1.44F–2(e)(2)) are not treated as funding. For a special rule regarding funding between commonly controlled businesses, see § 1.44F–6(e).

(2) *Research in which taxpayer retains no rights.* If a taxpayer performing research for another person retains no substantial rights in the research under the agreement providing for the research, the research is treated as fully funded for purposes of section 44F(d)(3), and no expenses paid or incurred by the taxpayer in performing the research are qualified research expenses. For example, if the taxpayer performs research under an agreement that confers on another person the exclusive right to exploit the results of the research, the taxpayer is not performing qualified research because the research is treated as fully funded under this paragraph (d)(2). Incidental benefits to the taxpayer from performance of the research (for example, increased experience in a field of research) do not constitute substantial rights in the research.

(3) *Research in which taxpayer retains substantial rights*—(i) *In general.* If a taxpayer performing research for another person retains substantial rights in the research under the agreement providing for the research, the research is funded to the extent of the payments (and fair market value of any property) to which the taxpayer becomes entitled by performing the research. Except as otherwise provided in paragraph (d)(3)(ii) of this section, the taxpayer shall reduce the amount paid or incurred by the taxpayer for the research that would, but for section 44F(d)(3), constitute qualified research expenses of the taxpayer by the amount of funding determined under the preceding sentence.

(ii) *Pro rata allocation.* If the taxpayer can establish to the satisfaction of the district director—

(A) The total amount of research expenses,

(B) That the total amount of research expenses exceed the funding, and

(C) That the otherwise qualified research expenses (that is, the expenses which would be qualified research expenses if there were no funding) exceed 65 percent of the funding,

the taxpayer may allocate the funding pro rata to non-qualified and otherwise qualified research expenses, rather than allocating it 100 percent to otherwise qualified research expenses (as provided in paragraph (d)(3)(i) of this section). In no event, however, shall less than 65 percent of the funding be applied against the otherwise qualified research expenses.

(iii) *Project by project determination.* The provisions of this paragraph (d)(3) shall be applied separately to each research project undertaken by the taxpayer.

(4) *Independent research and development under the Armed Services procurement regulations and similar provisions.* The Armed Services procurement regulations and similar rules and regulations relating to contracts with government entities provide for allocation of certain "independent research and development costs" and "bid and proposal costs" of a contractor to cost-plus and incentive-type contracts entered into with that contractor. Any amount paid to a taxpayer by reason of such allocation shall be treated as funding the underlying research activities to the extent provided in paragraph (d)(3) of this section. If because of cost overruns the amount paid to the taxpayer under an incentive-type contract is less than the taxpayer's costs for the contract, the shortage shall be allocated pro rata to all costs (both direct and indirect) of the contract that are allowable under the applicable regulations.

(5) *Funding determinable only in subsequent taxable year.* If at the time the taxpayer files its return for a taxable year, it is impossible to determine to what extent particular research performed by the taxpayer during that year may be funded, the taxpayer shall treat the research as completely funded for purposes of completing that return. When the amount of funding is finally determined, the taxpayer should amend the return and any interim returns to reflect the proper amount of funding.

(6) *Examples.* The following examples illustrate the application of the principles contained in this paragraph.

Example (1) *A* enters into a contract with *B* Corporation, a cash-method taxpayer using the calendar year as its taxable year, under which *B* is to perform research that would, but for section 44F(d)(3), be qualified research of *B*. The agreement calls for *A* to pay *B* $120x, regardless of the outcome of the research. In 1982, *A* makes full payment of $120x under the contract, *B* performs all the research, and *B* pays all the expenses connected with the research, as follows:

In-house research expenses	$100x
Outside research (amount *B* paid to third parties for research, 65 percent of which ($26x) is treated as a contract research expenses of *B*)	40x
Overhead and other expenses	10x
Total	150x

If *B* has no rights to the research, *B* is fully funded. Alternatively, assume that *B* retains the right to use the results of the research in carrying on *B*'s business. Of *B*'s otherwise qualified research expenses of $126x ($100x plus $26x), $120x is treated as funded by *A*. Thus, $6x ($126x less $120x) is treated as a qualified research expense of *B*. However, if *B* establishes the facts required under paragraph (d)(2) of this section, *B* can allocate the funding pro rata to non-qualified and otherwise qualified research expenses. Thus $100.8x ($120x multiplied by ($126x/$150x)) would be allocated to otherwise qualified research expenses. B's qualified research expenses would be $25.2x ($126x − $100.8x).

Example (2). The facts are the same as in *example (1)* except that, although *A* makes full payment of $120x during 1982, *B* does not perform the research or pay the associated expenses until 1983. The computations are unchanged. However, B's qualified research expenses determined in *example (1)* are qualified research expenses during 1983.

Example (3). The facts are the same as in *example (1)* except that, although *B* performs the research and pays the associated expenses during 1982, *A* does not pay the $120x until 1983. The computations are unchanged and the amount determined in *example (1)* is a qualified research expense of *B* during 1982.

Example (4). The facts are the same as in *example (1)* except that, instead of agreeing to pay *B* $120x, *A* agrees to pay *B* $100x regardless of the outcome and an additional $20x only if *B*'s research produces a useful product. *B*'s research produces a useful product and *A* pays *B* $120x during 1982. The $20x payment that is conditional on the success of the research is not treated as funding. Assuming that *B* establishes to the satisfaction of the district director the actual research expenses, *B* can allocate the funding to non-qualified and otherwise qualified research expenses. Thus $84x ($100x multiplied by (126x/150x)) would be allocated to otherwise qualified research expenses. *B*'s qualified research expenses would be $42x ($126x minus $84x).

Example (5). *C* enters into a contract with *D*, a cash-method taxpayer using the calendar year as its taxable year, under which *D* is to perform research in which both *C* and *D* will have substantial rights. *C* agrees to reimburse *D* for 80 percent of *D*'s expenses for the research. *D* performs part of the research in 1982 and the rest 1983. At the time that *D* files *D*'s return for 1982, *D* is unable to determine the extent to which the research is funded under the provisions of this paragraph. Under these circumstances, *D* may not treat any of the expenses paid by *D* for this research during 1982 as qualified research expenxes on *D*'s 1982 return. When the project is complete and *D* can determine the extent of funding, *D* should file an amended return for 1982 to take into account any qualified research expense for 1982.

§ 1.44F–5 Basic research.

(a) *In general.* The amount expended for basic research within the meaning of section 44F(e) equals the sum of the money transferred plus the taxpayer's basis in tangible property (other than land) transferred for use in the performance of basic research.

(b) *Trade or business requirement.* Any amount treated as a contract research expense under section 44F(e) (relating to basic research) shall be deemed to have been paid or incurred in carrying on a trade or business, provided the corporation that paid or incurred the expense is actually engaged in carrying on some trade or business.

(c) *Prepaid amounts*—(1) *In general.* If any basic research expense paid or incurred during any taxable year is attributable to research to be conducted after the close of such taxable year, the expense so attributable shall be treated for purposes of section 44F(b)(1)(B) as paid or incurred during the period during which the basic research is conducted.

(2) *Transfers of property.* In the case of transfers of property to be used in the performance of basic research, the research in which that property is to be used shall be considered to be conducted ratably over a period beginning on the day the property is first so used and continuing for the number of years provided with respect to property of that class under section 168(c)(2). For example, if an item of property that is 3-year property under section 168(c)(2) is transferred to a university for basic research on January 12, 1983, and is first so used by the university on March 1, 1983, the research in which that property is used is considered to be conducted ratably from March 1, 1983, through February 28, 1986.

(d) *Written research agreement*—(1) *In general.* A written research agreement must be entered into prior to the performance of the basic research.

(2) *Agreement between a corporation and a qualified organization after June 30, 1983*—(i) *In general.* A written research agreement between a corporation and a qualified organization (including a qualified fund) entered into after June 30, 1983, shall provide that the organization shall inform the corporation within 90 days after the close of each taxable year of the

corporation what amount of funds provided by the corporation pursuant to the agreement were expended on basic research during the taxable year of the corporation. In determining amounts expended on basic research, the qualified organization shall take into account the exclusions specified in section 44F(e)(3) and in paragraph (e) of this section.

(ii) *Transfers of property.* In the case of transfers of property to be used in basic research, the agreement shall provide that substantially all of use the property is to be for basic research, as defined in section 44F(e)(3).

(3) *Agreement between a qualified fund and a qualified edcuational organization after June 30, 1983.* A written research agreement between a qualified fund and a qualified educational organization (see section 44F(e)(4)(B)(iii)) entered into after June 30, 1983, shall provide that the qualified organization shall furnish sufficient information to the qualified fund to enable the qualified fund to comply with the written research agreements it has entered into with grantor corporations, including the requirement set forth in paragraph (d)(2) of this section.

(e) *Exclusions*—(1) *Research conducted outside the United States.* If a taxpayer pays or incurs an amount for basic research to be performed partly within the United States and partly without, only 65 percent of the portion of the amount attributable to research performed within the United States can be treated as a contract research expense (even if 80 percent or more of the contract amount was for basic research performed in the United States).

(2) *Research in the social sciences or humanities.* Basic research does not include research in the social sciences or humanities, within the meaning of § 1.44F–4(c).

(f) *Procedure for making an election to be treated as a qualified fund.* An organization shall make an election to be treated as a qualified fund by filing with the IRS service center with which it files its annual return a statement that—

(1) Sets out the name, address, and taxpayer identification number of the electing organization and of the organization that established and maintains the electing organization.

(2) Identifies the election as an election under section 44F(e)(4) of the Code,

(3) Affirms that the parent and the taxpayer are section 501(c)(3) organizations,

(4) Provides that the taxpayer elects to be treated as a private foundation for all Code purposes other than section 4940,

(5) Affirms that the taxpayer satisfies the requirement of section 44F(e)(4)(B)(iii), and

(6) Specifies the date on which the election is to become effective.

If an election to be treated as a qualified fund is filed before February 1, 1982, the election may be made effective as of any date after June 30, 1981, and before January 1, 1986. If an election is filed on or after February 1, 1982, the election may be made effective as of any date on or after the date on which the election is filed and before January 1, 1986.

§ 1.44F–6 Aggregation of expenditures.

(a) *Controlled group of corporations; trades or businesses under common control*—(1) *In general.* In determining the amount of the research credit allowed with respect to a trade or business that at the end of its taxable year is a member of a controlled group of corporations or a member of a group of trades or businesses under common control, all members of the group are treated as a single taxpayer and the credit (if any) allowed to the member is determined on the basis of its proportionate share of the increase in qualified research expenses of the aggregated group.

(2) *Definition of trade or business.* For purposes of this section, a trade or business is a sole proprietorship, a partnership, a trust, an estate, or a corporation, that is carrying on a trade or business (within the meaning of section 162). For purposes of this section, any corporation that is a member of a commonly controlled group shall be deemed to be carrying on a trade or business if any other member of that group is carrying on any trade or business.

(3) *Determination of common control.* For rules for determining whether trades or businesses are under common control, see paragraphs (b)–(g) of 26 CFR 1.52–1 (Revised as of April 1, 1982) except that the words "singly or" in § 1.52–1(d)(1)(i) shall be treated as deleted.

(4) *Examples.* The following examples illustrate provisions of this paragraph.

Example (1). (i) Facts. A controlled group of four corporations (all of which are calendar-year taxpayers) had qualified research expenses ("research expenses") during the base period and taxable year as follows:

Corporation	Base period (average)	Taxable year	Change
A	$60	$40	($20)
B	10	15	5
C	30	70	40
D	15	25	10

(ii) *Total credit.* Because the research expenses of the four corporations are treated as if made by one taxpayer, the total amount of incremental expenses eligible for the credit is $35 ($55 increase attributable to B, C, and D less $20 decrease attributable to A). The total amount of credit allowable to members of the group is 25% of the incremental amount or $8.75.

(iii) *Allocation of credit.* No amount of credit is allocated to *A* since *A* 's research expenses did not increase in the taxable year. The full $8.75 credit is allocated to *B*, *C*, and *D*, the members of the group that increased their research expenses. This allocation is made on the basis of the ratio of each corporation's increase in its research expenses to the sum of increases in those expenses. Inasmuch as the total increase made by those members of the group whose research expenses rose (*B*, *C*, and *D*) was $55, B's share of the $8.75 credit is 5/55; *C*'s share is 40/55; and *D*'s share is 10/55.

Example (2). The facts are the same as in *example (1)* except that *A* had zero research expenses in the taxable year. Thus, the controlled group had a decrease rather than an increase in aggregate research expenses. Accordingly, no amount of credit is allowable to any member of the group even though *B*, *C*, and *D* actually increased their research expenses in comparison with their own base period expenses.

(b) *Minimum base period research expenses.* For purposes of this section, the rule in section 44F(c)(3) (pertaining to minimum base period research expenses) shall be applied only to the aggregate amount of base period research expenses. See the treatment of corporation *C* in example (1) of paragraph (a)(4) of this section.

(c) *Tax accounting periods used*—(1) *In general.* The credit allowable to a member of a controlled group of corporations or a group of trades or businesses under common control is that member's share of the aggregate credit computed as of the end of such member's taxable year. In computing the aggregate credit in the case of a group whose members have different taxable years, a member shall generally treat the taxable year of another member that ends with or within the determination year of the computing member as the determination year of that other member. The base period research expenses taken into account with respect to a determination year of another member shall be the base period research expenses determined for that year under § 1.44F–3, except that § 1.44F–3(c)(2) shall be applied only at the aggregate level.

(2) *Special rule where timing of research is manipulated.* If the timing of research by members using different tax accounting periods is manipulated to generate a credit in excess of the amount that would be allowable if all members of the group used the same tax accounting period, the district director may require all members of the group to calculate the credit in the current taxable year and all future years by using the "conformed years" method. Each member computing a credit under the "conformed years" method shall compute the credit as if all members of the group had the same taxable year and base period as the computing member.

(d) *Membership during taxable year in more than one group.* A trade or business may be a member of only one group for a taxable year. If, without application of this paragraph, a business would be a member of more than one group at the end of its taxable year, the business shall be treated as a member of the group in which it was included for its preceding taxable year. If the business was not included for its preceding taxable year in any group in which it could be included as of the end of its taxable year, the business shall designate in its timely filed return the group in which it is being included. If the return for a taxable year is due before July 1, 1983, the business may designate its group membership through an amended return for that year filed on or before June 30, 1983. If the business does not so designate, then the district director with audit jurisdiction of the return will determine the group in which the business is to be included.

(e) *Intra-group transactions*—(1) *In general.* Because all members of a group under common control are treated as a single taxpayer for purposes of determining the research credit, transfers between members of the group are generally disregarded.

(2) *In-house research expenses.* If one member of a group performs qualified research on behalf of another member, the member performing the research shall include in its qualified research expenses any in-house research expenses for that work and shall not treat any amount received or accrued as funding the research. Conversely, the member for whom the research is performed shall not treat any part of any amount paid or incurred as a contract research expense. For purposes of determining whether the in-house research for that work is qualified research, the member performing the research shall be treated as carrying on any trade or business carried by the member on whose behalf the research is performed.

(3) *Contract research expenses.* If a member of a group pays or incurs contract research expenses to a person outside the group in carrying on the member's trade or business, that member shall include those expenses as qualified research expenses. However, if the expenses are not paid or incurred in carrying on any trade or business of that member, those expenses may be taken into account as contract research expenses by another member of the group provided that the other member—

(i) Reimburses the member paying or incurring the expenses, and

(ii) Carries on a trade or business to which the research relates.

(4) *Lease payments.* Amounts paid or incurred to another member of the group for the lease of personal property owned by a person outside the group shall be taken into account as in-house research expenses for purposes of section 44F only to the extent of the lesser of—

(i) The amount paid or incurred to the other member, or

(ii) The amount of the lease expense paid to a person outside the group.

The amount paid or incurred to another member of the group for the lease of personal property owned by a member of the group is not taken into account for purposes of section 44F.

(5) *Payment for supplies.* Amounts paid or incurred to another member of the group for supplies shall be taken into account as in-house research expenses for purposes of section 44F only to the extent of the lesser of—

(i) The amount paid or incurred to the other member, or

(ii) The amount of the other member's basis in the supplies.

§ 5c.44F–7 Special rules.

(a) *Allocations*—(1) *Pass-through in the case of a subchapter S corporation.* In the case of an electing small business corporation (as defined in section 1371), the amount of the research credit computed for the corporation for any taxable year shall be apportioned pro rata with the stockholdings among the presons who are shareholders of the corporation on the last day of the corporation's taxable year.

(2) *Pass-through in the case of an estate or trust.* In the case of an estate or trust, the amount of the research credit computed for the estate or trust for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(3) *Pass-through in the case of a partnership*—(i) *In general.* In the case of a partnership, the research credit computed for the partnership for any taxable year shall be apportioned among the persons who are partners during the taxable year in accordance with section 704 and the regulations thereunder.

(ii) *Certain expenditures by joint ventures.* Research expenses to which § 1.44F–2(a)(4)(ii) applies shall be apportioned among the persons who are partners during the taxable year in accordance with section 704 and the regulations thereunder. For purposes of section 44F, these expenses shall be treated as paid or incurred directly by the partners rather than by the partnership. Thus, the partnership shall disregard these expenses in computing the credit to be apportioned under paragraph (a)(3)(i) of this section, and each partner shall aggregate the portion of these expenses allocated to the partner with other research expenses of the partner in making the computations under section 44F. The limitation on the amount of the credit set out in section 44F(g)(1)(B) and in paragraph (c) of this section shall not apply because the credit is computed by the partner, not the partnership.

(4) *Year in which taken into account.* An amount apportioned to a person under this paragraph shall be taken into account by the person in the taxable year of such person in which or with which the taxable year of the corporation, estate, trust, or partnership (as the case may be) ends.

(5) *Credit allowed subject to limitation.* Any person to whom any amount has been apportioned under paragraph (a) (1), (2) or (3)(i) of this section is allowed, subject to section 44F(g), a credit for that amount.

(b) *Adjustments for certain acquisitions and dispositions—Meaning of terms.* For the meaning of "acquisition," "separate unit," and "major portion," see paragraph (b) of 26 CFR 1.26 CFR 1.52–2 (Revised as of April 1, 1982). An "acquisition" includes an incorporation or a liquidation.

(c) *Special rule for pass-through of credit.* The special rule contained in section 44F(g)(1)(B) for the pass-through of the credit in the case of an individual who owns an interest in an unincorporated trade or business, is a partner in a partnership, is a beneficiary of an estate or trust, or is a shareholder in an electing small business corporation shall be applied in accordance with the principles set forth in 26 CFR 1.53–1 (Revised as of April 1, 1982).

(d) *Carryback and carryover of unused credits.* The taxpayer to whom the credit is passed through under paragraph (c) of this section shall not be prevented from applying the unused portion in a carryback or carryover year (under section 44F(a)(2)) merely because the entity that earned the credit changes its form of conducting business. In this regard, the special rules for the carryback and carryover of unused credits in section 44F(g)(2) shall be applied in accordance with the principles set forth in 26 CFR 1.53–1(f) (Revised as of April 1, 1982).

Par. 2. Section 1.174–2 is amended as follows:

1. Paragraph (a)(1) of § 1.174–2 is revised to read as set forth below.

2. Paragraph (a)(2) is redesignated as paragraph (a)(5).

3. Paragraph (a)(3) is redesignated as paragraph (a)(6) and is amended by deleting "subparagraph (2)" and inserting in lieu thereof "subparagraph (5)".

4. New paragraphs (a) (2), (3), and (4) are added to read as set forth below.

§ 1.174–2 Definition of research and experimental expenditures.

(a) *In general.* (1) The term "research or experimental expenditures," as used in section 174, means expenditures incurred in connection with the taxpayer's trade or business which represent research and development costs in the experimental or laboratory sense. The term includes generally all such costs incident to the development or improvement of an experimental or pilot model, a plant process, a product, a formula, an invention, or a similar property. It includes research aimed at the discovery of new knowledge and research searching for new applications of either research findings or other knowledge. The term does not include—

(i) Efficiency surveys or management studies;

(ii) Consumer surveys (including market research) or market testing and development (such as advertising or promotions);

(iii) The routine or ordinary testing or inspection of materials or products for quality control;

(iv) The routine, periodic, or cosmetic alteration or improvement (such as seasonal design or style changes) of existing products, commercial production lines, or other ongoing operations;

(v) The routine design of tools, jigs, molds, and dies;

(vi) The construction of copies of prototypes after construction and testing of the original prototype has been completed;

(vii) Planning for commerical production and trial production runs;

(viii) Engineering follow-through or trouble-shooting during commerical production;

(ix) The adaptation of an existing capability to a particular requirement or customer's need as part of a continuing activity;

(x) Routine data collections; or

(xi) the cost of acquiring another person's patent, model, or production process.

However, the term includes the costs of obtaining a patent, such as attorney's fees expended in making and perfecting a patent application.

(2) The following examples illustrate the application of principles contained in paragraph (a)(1) of this section.

Example (1). X, a designer and manufacturer of automobiles, undertakes to redesign its product line for a new model year. The redesign includes adding accessories, restyling that incidentally improves aerodynamics, and making minor modifications to the engine to improve fuel efficiency. These costs are not research and experimental expenditures as used in section 174 because they are only routine alterations or improvements of an existing product.

Example (2). X in *example (1)* above, also performs research to discover whether light-weight alloys can replace steel in a high stress position in an automobile frame. The costs of that research are research or experimental expenditures within the meaning of section 174.

Example (3). X, in *example (1)* above, designs a new type of engine. The costs incurred by X in producing a pilot engine constitute research and experimental expenditures. However, costs incurred in producing the assembly line that will be used in the first manufacture of this engine are not research and experimental expenditures within the meaning of section 174 because they are either the routine design of tools, jigs, molds and dies or other costs of planning for commercial production.

Example (4). X, in *example (1)* above, also designs a novel type of computer-assisted robot to be used in manufacturing. The costs of developing the manufacturing robot are research or experimental expenditures within the meaning of section 174.

Example (5). Y, which is in the business of making cranes to be used for building construction, uses the same type of parts for each crane it manufactures. Y designs and manufactures each crane differently depending on the type of building being constructed, the situation of the building on the building site, and the distances between the site and the nearest streets. The costs of designing and manufacturing the cranes are not research or experimental expenditures within the meaning of section 174 because they are only costs of adapting an existing capability to a particular requirement or customer's need as part of a continuing commercial activity.

(3) Generally, the costs of developing computer software are not research or experimental expenditures within the meaning of section 174. However, the term "research or experimental expenditures," as used in section 174, includes the programming costs paid or incurred for new or significantly improved computer software. The term does not include costs paid or incurred for the development of software the operational feasibility of which is not seriously in doubt. The costs of modifying previously developed computer software programs, such as the costs of adapting an existing program to specific customer needs, or the costs of translating an existing program for use with other equipment, do not constitute research or experimental expenditures. Whether software is "new or significantly improved" will be determined with regard to the computer program itself rather than the end use of the program. For example, the costs of developing a program to perform exonomic analysis which involves only standard or well known programming techniques are not research or experimental expenditures even if the economic principles embodied in the program are novel. However, if the programming itself involves a significant risk that it cannot be written, the costs of developing the program are research or experimental expenditures regardless of whether the economic principles or formulas embodied in the program are novel.

(4) The following examples illustrate the application of principles contained in paragraph (a)(3) of this section.

Example (1). A, a manufacturing business with old software, updates its software so that it will be more efficient and more versatile. The new program is written by applying known programming techniques. The costs of developing the updated software are not research or experimental expenditures within the meaning of section 174.

Example (2). C, which is in the business of designing computers and developing software, designs a computer using a new central processing system. The costs of modifying C's existing software for use with the new system are not research or experimental expenditures within the meaning of section 174 unless the operational feasibility of modifying the software is seriously in doubt.

Example (3). C, a manufacturing business, purchases a computer with a different central processing system than its old computer and undertakes to update its old software to use the new system. Although experienced programmers would clearly be able to update the software, C's use of inexperienced programmers puts the operational feasibility of modifying the programs seriously in doubt.

The costs of developing the updated software are not research or experimental expenditures within the meaning of section 174.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-1741 Filed 1-20-83; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 51

[LR-34-82]

Definition of Property for Purposes of the Windfall Profit Tax; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the definition of "property" for purposes of the windfall profit tax.

DATES: The public hearing will be held on March 1, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by February 15, 1983.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-34-82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 4996 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, November 10, 1982, at page 50924 (47 FR 50924).

The rules of § 601.601 (a) (3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject by February 15, 1983.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director Legislation and Regulations Division.

[FR Doc. 83-1742 Filed 1-20-83; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Public Comment and Opportunity for Public Hearing on Proposed Modifications to the Ohio Regulatory Program and Abandoned Mine Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; notice of receipt of permanent program modifications; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing procedures for a public comment period and for a public hearing on the substantive adequacy of program amendments submitted by Ohio to the State's Permanent Regulatory Program and the Abandoned Mine Reclamation Plan (hereinafter referred to as the Ohio regulatory program and the AML plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Ohio regulatory program and AML plan and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the information about the public hearing.

DATES: Written comments from the public must be received by 4:30 p.m., e.s.t. on February 25, 1983, to be considered in the Secretary's decision on whether the proposed amendments should be approved and incorporated into the Ohio regulatory program and AML plan. A public hearing on the proposed amendments has been scheduled for February 23, 1983. Any person interested in making an oral presentation at the hearing should contact Ms. Nina Rose Hatfield at the address or telephone number listed below by February 3, 1983. If no person has contacted Ms. Hatfield by this date to express an interest in this hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register**.

ADDRESSES: The public hearing will be held between 1 p.m. and 5 p.m. in Room 202 of the Ohio Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227. Written comments and requests for an opportunity to speak at the public hearing should be sent to Ms. Nina Rose Hatfield, Field Office Director, at the above address for the Ohio Field Office.

Copies of the Ohio regulatory program and AML plan, the proposed modifications to the program and plan and all written comments received in response to this notice will be available for public review at the OSM Field Office above and at the OSM headquarters office and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224, Telephone: (614) 265-6633

Office of Surface Mining, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Abbs, Chief, Division of State Programs Assistance, Office of Surface Mining Reclamation and Enforcement, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: On January 22, 1982, the State of Ohio resubmitted to the Department of the Interior its permanent regulatory program under SMCRA. The resubmission followed an initial disapproval, notice of which was published in the **Federal Register** October 1, 1980 (45 FR 64962-64971). After opportunity for public comment and thorough review of the program

resubmission, the Secretary of the Interior determined that the Ohio regulatory program meets the requirements of SMCRA and the Federal permanent program regulations, except for minor deficiencies.

Accordingly, the Secretary of the Interior conditionally approved the Ohio program subject to the correction of eleven minor deficiencies. Information pertinent to the general background, revisions, and modifications to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register** (47 FR 34688–34718). The approval was effective on August 16, 1982.

In accepting the Secretary's conditional approval, Ohio agreed to correct deficiency (e) by submitting to the Secretary by September 16, 1982, revised program regulations. Ohio did submit to OSM on September 16, 1982, a revised program regulation satisfying condition (e). The Secretary approved the revised regulation and lifted condition (e), notice of which was published in the **Federal Register** January 17, 1983.

Ohio agreed to submit to OSM by February 8, 1983, copies of promulgated regulations and statements of policy amending the State regulatory program to satisfy conditions (d), (f), (g), (i), (j) and portions of conditions (h) and (k).

Ohio also agreed to submit to OSM by August 8, 1983, copies of enacted legislation amending the Ohio Revised Code to satisfy conditions (a), (b), (c) and the remaining portions of conditions (h) and (k).

The Ohio Abandoned Mine Reclamation Plan as submitted on October 20, 1980, was approved by the Assistant Secretary for Energy and Minerals, effective August 16, 1982. Information pertinent to the general background as well as the Department's findings, the disposition of comments and a detailed explanation of the approval of the AML plan can be found in the August 10, 1982 **Federal Register** (47 FR 34718).

On January 6, 1983, Ohio submitted materials to OSM intended to amend the conditionally approved State regulatory program and the approved AML plan. The materials included proposed regulation changes to the following sections of the Ohio Administrative Code:

1501:13–1–01	Effective Date
1501:13–6–03	Small Operator Assistance Program
1501:13–7–01	General Bond Requirements
1501:13–7–03	Form, Condition, and Terms of Performance Bond
1501:13–8–01	Coal Exploration
1501:13–9–04	Protection of Hydrologic System
1501:13–9–07	Disposal of Excess Spoil
1501:13–9–09	Coal Processing Waste Banks
1501:13–9–12	Slides and Other Damage
1501:13–9–13	Contemporaneous Reclamation
1501:13–9–14	Backfilling and Grading
1501:13–9–15	Revegetation
1501:13–12–02	Subsidence Control

The materials included Am. Sub. S.B. No. 240 to amend sections 1513.01, 1513.02, 1513.05, 1513.07, 1513.13, 1513.131, 1513.14, and 1513.16, to enact section 1513.074, and to repeal section 1513.06 of the Revised Code to amend the coal surface mining and reclamation law, to grant the Reclamation Board of Review exclusive original jurisdiction to review on appeal notices of violations, orders, and decisions issued by the Chief of the Division of Reclamation, to repeal the requirement for a license to conduct coal surface mining and reclamation operations, and to make other changes in the coal surface mining and reclamation law.

The materials included Am. Sub. S.B. No. 323 to amend sections 127.16, 1513.02, 1513.07, 1513.08, 1513.17, 1513.18, 1513.27, 1513.28, 1513.32, 1513.37, 1513.99, 3745.11, and 5749.02, to enact section 6111.035, and to repeal section 4153.44 of the Ohio Revised Code and section 5 of Am. Sub. H.B. 1051 of the 113th Ohio General Assembly to revise the coal surface mining permit provisions, to change the names of two funds in the Division of Reclamation and allow additional transfers between funds, to grant the Chief of the Division of Reclamation additional powers to contract for reclamation of defaulted and abandoned lands, to apply the severance tax to reclamation of all defaulted lands, to allow the Director of Environmental Protection to issue general permits for coal mining and reclamation operations, to require the Chief of the Division of Reclamation to submit to the Board on Unreclaimed Strip Mined Lands for review and approval project proposals for specific reclamation projects to be funded from Federal reclamation funds before the expenditure of any such funds to implement any specific reclamation projects, and to repeal a mine reporting requirement.

In addition, the materials submitted included two policy statements of the Division of Reclamation regarding Data Coordination and Exchange and Expenditure of SOAP Operational Funds.

The materials submitted are intended to amend the State regulatory program and the AML plan and to satisfy the conditions of approval of the regulatory program established by the Secretary of the Department of the Interior and published in the **Federal Register** on August 10, 1982 (47 FR 34688–34718).

The materials submitted by Ohio are available for public review at the addresses listed above. The Director seeks comment on whether the materials submitted should be approved and incorporated into the Ohio regulatory program.

Additional Determinations

1. *Compliance With the National Environmental Policy Act.* The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Compliance With the Regulatory Flexibility Act.* The Secretary hereby determines that this proposed rule will not have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. *Compliance With Executive Order No. 12291.* On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs and AML plans, actions, or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OBM is not needed for this program amendment.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: January 18, 1983.

J. Steven Griles,

Director, Office of Surface Mining.

[FR Doc. 83–1743 Filed 1–20–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL 2253–4]

Approval and Promulgation and Implementation Plans; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On July 14, 1982, the State of Ohio submitted a revision to the total

suspended particulate (TSP) and sulfur dioxide (SO_2) portions of its State Implementation Plan (SIP). This revision is in the form of individual variances for each of the four boilers at the Toledo Edison Company, Bay Shore Station, located in Washington Township (Lucas County) Ohio. The revision includes an alternative particulate emission control strategy "bubble" along with an equivalent visible emission limitation (EVEL), as well as a provision to allow compliance with the existing SO_2 emission limitation to be based on a rolling weighted 30-day average. The purpose of this notice is to discuss EPA's evaluation of the bubble strategy and the SO_2 30-day averaging provision and to solicit public comment on EPA's proposed action.

DATE: Comments on this revision to the Ohio SIP and EPA's proposed action must be received by February 22, 1983.

ADDRESSES: Copies of this SIP revision are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

Comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Regulatory Analysis Section, Air Programs Branch, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On April 7, 1982 (47 FR 15076), the Environmental Protection Agency issued a proposed Emissions Trading Policy Statement, General Principles for Creation, Banking, and Use of Emission Reduction Credits. This statement indicated that it is the policy of EPA to encourage use of emissions trades to achieve more flexible, rapid, and efficient attainment of national ambient air quality standards. This policy statement describes emissions trading, sets out general principles EPA will use to evaluate emissions trades under the Clean Air Act, and expands opportunities for states and industry to use these less costly control approaches. The April 7, 1982 notice indicates that until EPA takes final action on its policy statement, state actions involving emission trades would be evaluated under the provisions set forth in the proposed policy statement.

In accordance with the provisions contained in the proposed Emissions Trading Policy Statement, the State of Ohio on July 14, 1982, submitted to EPA a revision to the TSP and SO_2 portions of its SIP. This revision is in the form of individual variances for each of the four boilers located at the Toledo Edison Company, Bay Shore Station, in the City of Oregon, Washington Township, Lucas County, Ohio. Washington Township is designated as a secondary nonattainment area for particulates (43 FR 46012). The variances contain particulate and sulfur dioxide emission limitations, equivalent visible emission limitations, and associated test methods and procedures. The State is requesting (1) The establishment of an alternative emission strategy "bubble" that will incorporate the emissions of particulate matter from all four boilers under one limit, and (2) an equivalent visible emission limitation for the common stack serving the four boilers at the facility.

This notice is subdivided into three sections below: (I) Bubble Strategy, (II) Proposed Approval of the Bubble and (III) No Action on Sulfur Dioxide 30-Day Averaging Provisions.

I. Bubble Strategy

• *Particulate Limitation.* Ohio has submitted variances which contain total suspended particulate (TSP) emissions limitations for boilers number 1 through 4 at the Bay Shore Station. The limitations in the variance which are applicable to these sources are derived from Rule 3745-17-10 of the Ohio Administrative Code (OAC). Under Rule 10, the maximum allowable emission limitation for a unit, based on maximum heat input, is determined by referring to either the P-1 or P-2 curves specified in the Figure 1 graph which is part of the rule. EPA has proposed to approve this rule for boilers in a September 21, 1982 notice of proposed rulemaking (47 FR 41584). From the graph in Rule 10 a limit of 0.1 lb/MMBTU is applicable for each boiler stack at the Bay Shore Station.

These limits are identical to those which would be applicable to these sources under the existing Federally approved Ohio SIP regulation, AP 3-11. EPA believes the 0.1 lb/MMBTU limit is an appropriate RACT baseline emission level for this bubble.

Particulate emissions from the four boilers at the Bay Shore Station are now vented to the atmosphere through one stack instead of the individual four stacks used in the past. (Operation with all four boilers being served by the new, single stack began in January 1981). The State is requesting a TSP allowable emission limitation of no greater than 0.1 lb/MMBTU for the four boilers, considering the total heat input to all four boilers, rather than the current limitation of 0.1 lb/MMBTU for each boiler. The bubble would allow the individual boilers to vary above and below the 0.1 lb/MMBTU limitation as long as the weighted average emission are equal to or below that limitation.

• *Visible Emission Limitation.* The variances which Ohio has submitted for the four boilers at the Bay Shore Station also contain visible emission limitations which have been adopted pursuant to Rule 3745-17-07 of the Ohio Administrative Code. This rule specifies, for each stack, a general 20 percent opacity limitation with a 6 minute exemption up to 60 percent opacity. In the September 21, 1982 notice (47 FR 41584) EPA proposed to approve this opacity limitation as an acceptable RACT limit. Subparagraph (F) of Rule 3745-17-07 allows companies to establish equivalent visible emission limitations (EVELs).

An EVEL is an opacity limit which exceeds the general opacity limit but represents the opacity when the source has been found to be in compliance. The State, pursuant to its authority in paragraph F, is requesting EPA approval of an equivalent visible emission limitation of no greater than 29 percent opacity, with a 6 minute exemption up to 60 percent opacity, for the one stack.

• *Compliance with Requested Particulate and Visible Emission Limitations.* The State is requesting a TSP allowable emission limitation of no greater than 0.1 lb/MMBTU for the four boilers, considering the total heat input to these boilers. A demonstration of compliance would be based upon testing at the one stack venting emissions from all four boilers into the atmosphere. On August 18, 1981, three particulate emission stack test runs were conducted in which the four boilers were performing at full load. The three test runs showed actual particulate emission levels of 0.067, 0.042 and 0.070 lb/MMBTU respectively, or an average of .059 lb/MMBTU. Thus, EPA expects that Toledo Edison will be able to achieve compliance with the 0.1 lb/MMBTU limit.

The State is requesting an EVEL of no greater than 29 percent opacity, with a 6 minute exemption of up to 60 percent opacity, for the one stack. The 29 percent EVEL was established in accordance with Ohio Engineering Guides which essentially consist of setting the EVEL as the second highest nonoverlapping 6 minute average that exceeds 20 percent when the source is in compliance with the applicable

particulate limit. When the three emission test runs were conducted on August 18, 1981, in which Bay Shore Station was found to be in compliance with the 0.1 lb/MMBTU limit, three simultaneous test runs were conducted to determine the EVEL. Twenty-nine percent was the second highest average for test run number 1 in which the actual particulate limit was 0.067 lb/MMBTU. Thus, the 29 percent EVEL should ensure that Toledo Edison Company will be in compliance with the 0.1 lb/MMBTU limit.

Under the proposed Emission Trading Policy, no modeling is needed to support the proposed Toledo Edison revision. This is because the trade does not result in a net increase in the appropriate RACT baseline emission level, the relevant sources are located in the same immediate vicinity (i.e., within 60m here), and no increase in emissions will occur at the sources with the lower effective plume height. Thus, the proposed trade passes the Level I screening requirements and, consequently, satisfies the necessary ambient air quality tests of the proposed Emission Trading Policy.

II. Proposed Action on the Bubble Strategy

EPA is proposing to approve the 0.1 lb/MMBTU particulate emission limitation for the combined emissions from boilers 1 through 4 at Toledo Edison Company's Bay Shore Station. EPA believes this to be an appropriate RACT limit for these boilers. EPA is also proposing to approve the EVEL of 29 percent which represents operation of these boilers in compliance with a RACT level of operation.

III. No Action on Sulfur Dioxide (SO_2) 30-Day Averaging Provisions

As stated above, these variances also contain provisions to allow Toledo Edison to achieve compliance with its current Federally approved SO_2 limitation based on a rolling, 30-day weighted average of its fuel. EPA will take no action on this provision. This is consistent with EPA's position in an April 13, 1982 notice (47 FR 15782). In that notice, EPA announced its decision to withhold action on 30-day averaging provisions in the Ohio SO_2 SIP until a general review of 30-day averaging is complete. Since this review is still in process, EPA maintains its position that it is administratively more efficient and equitable to take no action on 30-day averaging at this time.

At this time EPA is proposing action on variances for the Toledo Edison Company's Bay Shore Station, boilers 1 through 4. EPA is not proposing action on Ohio Administrative Code rules 3745-17-07 or 10. Final rulemaking on the adequacy of these rules will be discussed in a separate rulemaking after review of the public comments received in response to EPA's September 21, 1982 (47 FR 41584) notice of proposed rulemaking on the Ohio TSP SIP.

EPA is providing a thirty day comment period on this notice of proposed rulemaking. Public comment received on or before February 22, 1983 will be considered in EPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public information at the locations listed in the "Addresses" section of this notice.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

(Sec. 110 of the Clean Air Act, as amended)

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: November 17, 1982.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 83-1616 filed 1-20-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[A-4-FRL 2264-1; KY-009]

Designation of Areas for Air Quality Planning Purposes, Kentucky; Redesignation for Muhlenberg County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a request by Kentucky to redesignate Muhlenberg County as attainment for the primary sulfur dioxide (SO_2) standards. This is based on the fact that the SO_2 emissions from the Tennessee Valley Authority's Paradise Plant are now attaining an emission rate of 5.2 lbs/MMBTU. The public is invited to submit written comments on these proposed actions.

DATE: To be considered, comments must be received on or before February 22, 1983.

ADDRESS: Written comments should be addressed to Melvin Russell of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the material submitted by Kentucky may be examined during normal business hours at the following locations:

Air Management Branch, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365

Division of Air Pollution Control, Kentucky Department for Environmental Protection, 18 Reilly Road, Building #2, Ft. Boone Plaza, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Melvin Russell, Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365, 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: The primary sulfur dioxide (SO_2) nonattainment designation for Muhlenberg County, Kentucky, was based on noncompliance with the applicable SO_2 emission limit (which was 5.2 lbs/MMBTU at the time of the nonattainment designation) by one source (Tennessee Valley Authority's Paradise Plant). This 5.2 lbs/MMBTU limit was subsequently changed to 3.1 lbs/MMBTU to assure protection of the secondary SO_2 standard. EPA's determination of the applicable SO_2 emission limit was based on dispersion modeling. Dispersion modeling indicates that the 5.2 lbs/MMBTU emission rate presently being met by the plant is adequate to attain the primary standard. As a result of the dispersion modeling, on December 1, 1982, Kentucky requested that Muhlenberg County be redesignated as attainment for the primary SO_2 standards as a result of the attainment of an emission rate of 5.2 lbs/MMBTU at the Paradise Plant. Ambient monitoring data for the last three years also shows the area to be in attainment of the primary SO_2 standard.

The 1979 Kentucky State Implementation Plan (SIP) for Muhlenberg County which was approved by EPA in the **Federal Register** on October 31, 1980, (45 FR 72153), states in part that "Modeling with CRS-1 had been done for the August, 1975 State Implementation Plan to obtain the previous emission rate for Class IV Counties of 5.2 lbs of SO_2/MM BTU. However, application of the CRSTER

model demonstrated that the standard was not adequate to attain the 3-hour ambient standard. Subsequent modeling was done by U.S. EPA and the Commonwealth using CRSTER. Based upon these studies, new emission standards were established for TVA-Paradise Plant (3.1 lbs of SO_2/MM BTU) and Kentucky Utilities—Green River Plant (3.5 lbs of SO_2/MM BTU)."

A 5.2 lbs/MMBTU SO_2 emission limit which provides for primary attainment will be a legally enforceable requirement of a proposed amendment to the consent decree which will be filed with the Court in the civil enforcement litigation in the United States District Court for the Middle District of Tennessee (*Tennessee Thoracic Society* v. *Freeman,* Case No. 77–3286 and consolidated cases). This proposed emission limit is being met and all parties have agreed to the amendment to the consent decree. The proposed amendment to the consent decree will require that the Paradise Plant meet the 5.2 lbs/MMBTU limit until November 1, 1983, at which time the plant must meet the 3.1 lbs/MMBTU limit. The 3.1 lbs/MMBTU limit is presently part of the State's EPA approved SIP (45 FR 72153; 10/31/80), and is currently enforceable by EPA.

Action: EPA proposes to approve the redesignation of Muhlenberg County to attainment for the primary SO_2 standards as requested by Kentucky on December 1, 1982. This proposed approval is based on compliance certification that the TVA Paradise Plant is meeting a 5.2 lb/MMBTU emission limit. This limit has been demonstrated through dispersion modeling to be sufficient to protect the primary SO_2 standards. Ambient data supports the modeling results.

As previously stated, written comments must be received on or before February 22, 1983. A thirty (30) day comment period is being used because the SIP submission and the issues involved are not so complex as to warrant a longer comment period. At the close of the comment period, EPA will review all comments and publish a notice of final rulemaking.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks Wilderness area.

(Sec. 107 of the Clean Air Act, as amended (42 U.S.C. 7407))

Dated: December 3, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83–1746 Filed 1–20–83; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 430

[WH-FRL 2268–7]

Pulp, Paper, and Paperboard Point Source Category, Effluent Limitations Guidelines, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On November 18, 1982, EPA proposed a regulation under the Clean Water Act limiting the discharge of polychlorinated biphenyls (PCBs) into waters of the United States from mills in the pulp, paper, and paperboard industry where fine and tissue papers are made from deinked wastepaper (47 FR 52066). The comment period was scheduled to expire January 17, 1983. EPA is hereby extending the period thirty days, until February 16, 1983.

DATE: Comments on this proposal must be sumitted to EPA by February 16, 1983.

ADDRESS: Send comments to: Mr. Robert W. Dellinger or Ms. Wendy D. Smith, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Attention: Pulp, Paper, and Paperboard Rules.

The entire record for this rulemaking, including the technical and economic documents, is available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM–213 (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Dellinger or Ms. Wendy D. Smith at (202) 382–7137.

SUPPLEMENTARY INFORMATION: On November 18, 1982, EPA proposed regulations to limit discharges of polychlorinated biphenyls (PCBs) into waters of the United States from mills in the pulp, paper, and paperboard industry where fine and tissue papers are made from deinked wastepaper. Comments on the proposal were to be submitted on or before January 17, 1983. Industry representatives petitioned for an extension of the comment period by thirty days, claiming that additional time was required to complete data gathering activities and to review the public record.

After reviewing this request, the Agency has decided to extend the comment period thirty days until February 16, 1983. The vast majority of information supporting the proposed PCB limitations was gathered in response to comments on the effluent limitations reflecting the best available technology economically achievable (BAT) which were proposed by EPA on January 6, 1981 (46 FR 1430). This information was first made available to the public on November 18, 1982, when the proposal appeared in the **Federal Register**. This is in contrast to our normal practice of publishing a preliminary data base (usually in the form of a contractor's draft report) prior to proposal of regulations. Because the period for comment on the proposed PCB limitations is the initial opportunity for the public to review most of the supporting materials, we believe that an extension of the comment period by an additional 30 days is appropriate.

We believe that, by extending the comment period until February 16, 1983, interested parties will have sufficient opportunity to review and comment on the documents and the record supporting this proposed regulation.

Dated: January 14, 1983.

Rebecca W. Hanmer,

Deputy Assistant Administrator for Water.

[FR Doc. 83–1865 Filed 1–20–83; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 48, No. 15
Friday, January 21, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Subcommittee for Biological Stress on Plants; Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee for Biological Stress on Plants of the Technical Advisory Committee for Science and Education Research Grants Program
Date and time: February 28, March 1, and 2, 1983, Monday—9:00 a.m. to 5:30 p.m. Tuesday—9:00 a.m. to 5:30 p.m. Wednesday—9:00 a.m. to 5:30 p.m.
Place: U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia
Type of meeting: Closed
Contact person: Anne Holiday Schauer, Associate Chief, Competitive Research Grants Office, U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia 22209, Telephone: (703) 235–2630
Purpose of subcommittee: To provide advice and recommendation concerning support for research in the Biological Stress on Plants Program
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act
Authority to close meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92–463.

Orville G. Bentley,

Assistant Secretary, Science and Education.

[FR Doc. 83–1713 Filed 1–20–83; 8:45 am]
BILLING CODE 3410–03–M

Subcommittee for Biological Stress on Plants; Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee for Biological Stress on Plants of the Technical Advisory Committee for Science and Education Research Grants Program
Date and time: March 10, 11, and 12, 1983, Thursday—9:00 a.m. to 5:30 p.m. Friday—9:00 a.m. to 5:30 p.m. Saturday—9:00 to 5:30 p.m.
Place: U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia
Type of meeting: Closed
Contact person: Anne Holiday Schauer, Associate Chief, Competitive Research Grants Office, U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia 22209, Telephone: (703) 235–2630
Purpose of subcommittee: To provide advice and recommendation concerning support for research in the Biological Stress on Plants Program
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act
Authority to close meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92–463

Orville G. Bentley,

Assistant Secretary, Science and Education.

[FR Doc. 83–1714 Filed 1–20–83; 8:45 am]
BILLING CODE 3410–03–M

Subcommittee for Genetic Mechanisms for Crop Improvement; Meeting

In accordance with the Federal Advisory Committee Act Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee for Genetic Mechanisms for Crop Improvement of the Technical Advisory Committee for Science and Education Research Grants Program
Date and time: May 11, 12, 13, and 14, 1983, Wednesday—9:00 a.m. to 5:30 p.m. Thursday—9:00 a.m. to 5:30 p.m. Friday—9:00 a.m. to 5:30 p.m. Saturday—9:00 a.m. to 5:30 p.m.
Place: U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia
Type of meeting: Closed
Contact person: Machi F. Dilworth, Associate Program Manager, Genetic Mechanisms for Crop Improvement Program, U.S. Department of Agriculture, 1300 Wilson Boulevard, Suite 103, Rosslyn, Virginia 22209, Telephone: (703) 235–2842
Purpose of subcommittee: To provide advice and recommendation concerning support for research in the Biological Stress on Plants Program.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92–463.

Orville G. Bentley,

Assistant Secretary, Science and Education.

[FR Doc. 83–1712 Filed 1–20–83; 8:45 am]
BILLING CODE 3410–03–M

Economic Research Service

National Agricultural Cost of Production Standards Review Board; Meeting

The National Agricultural Cost of Production Standards Review Board will meet at the U.S. Department of Agriculture, Washington, D.C. on February 9–11. The purpose of this meeting is to organize the Board and to review the methods that USDA currently uses to estimate the costs of producing major agricultural commodities. The meeting's morning session on February 9 will convene at 8:30 in room 104–A, U.S. Department of Agriculture and will end at 12:00 p.m. The afternoon session will convene at 1:00 p.m. in room 330, 500 12th St., SW. and end at 4:30. All sessions on February 10 and 11 will be held in room 330, 500 12th St., SW. The meeting on February 10 will convene at 9:00 a.m. and adjourn at 5:00 p.m. The meeting on February 11 will convene at 9:00 a.m. and adjourn at 3:00 p.m.

All sessions will be open to members of the public who wish to observe.

For further information, contact David Brewster at 202 447–8576.

John E. Lee, Jr.,

Administrator.

[FR Doc. 83–1630 Filed 1–20–83; 8:45 am]

BILLING CODE 3410–16–M

Soil Conservation Service

Galax Roadbank Critical Area Treatment RC&D Measure, Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Galax Roadbank Critical Area Treatment RC&D Measure, Galax, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Manly S. Wilder, State Conservationist, Soil Conservation Service, 400 North Eighth Street, P.O. Box 10026, Richmond, Virginia 23240, telephone 804–771–2455.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Manly S. Wilder, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area stabilization on the roadbanks and ditches within the City of Galax. The planned work will include installation of lined ditches, jute matting, hydroseeding, and grading and shaping. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Manly S. Wilder.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable

Dated: January 10, 1983.

Manly S. Wilder,

State Conservationist.

[FR Doc. 83–1350 Filed 1–20–83; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–003]

Fireplace Mesh Panels From Taiwan; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on fireplace mesh panels from Taiwan. The review covers 12 of the 14 known manufacturers and/or exporters of this merchandise to the United States and the period October 1, 1981 through May 31, 1982. The review indicates the existence of dumping margins for certain firms.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their shipments during the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 24616) an antidumping duty order on fireplace mesh panels from Taiwan and announced its intent to conduct an administrative review by the end of June 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of fireplace mesh panels. Such panels are defined as precut, flexible mesh panels, both finished and unfinished, which are constructed of interlocking spirals of steel wire and are of a kind used in the manufacture of safety screening for fireplaces. Fireplace mesh panels are currently classifiable under item numbers 642.8700 and 654.0045 of the Tariff Schedules of the United States Annotated.

The Department knows of 14 manufacturers and/or exporters of Taiwanese fireplace mesh panels to the United States. The review covers 12 of them and the period October 1, 1981 through May 31, 1982. Four of the firms provided inadequate responses to the Department's questionnaires, seven firms did not respond, and one firm had no shipments to the U.S. in the period reviewed. For the firms with inadequate or no responses, we used the best information available to determine the assessment and estimated antidumping duty cash deposit rates. The best information available is the highest rate calculated during the original fair value investigation. For the firm with no shipments the cash deposit rate will be the rate calculated for that firm during the fair value investigation. The two remaining firms among the 14 did not begin exporting to the U.S. until after the period of review and therefore, will be covered in the next review.

Preliminary Results of the Review

As a result of our review we preliminarily determine that the following margins exist for the period October 1, 1981 through May 31, 1982:

Manufacturer/exporter	Margin (percent)
Chung Yi Factory/Taipoly Industries Ltd	6.4
Chung Yi Factory/Taiwan Fita Industries	6.4
Foremost Industries Corp	[1]6.4
Fuan Da Industrial Co., Ltd	6.4
Kent & J.M. Enterprise	6.4
Moa Shng Enterprises Co., Ltd	6.4
Taiwan Urano Metalware Co	[illegible]
Teh We Steel Industrial Co., Ltd	[illegible]
United Jacob (a.k.a. Jackson Industrial Inc.)	[illegible]
Ya Seng Manufacturing Co. (a.k.a. Yeh Sheng Wire Mesh & Screen Co., Ltd.)/Tah Chung Iron of Superior Quality Co., Ltd	[illegible]

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time period involved. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins shall be required on all shipments of Taiwanese fireplace mesh panels from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a) (1) of the Tariff Act (19 U.S.C. 1675(a) (1)) and 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 17, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1701 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-25-M

[A-122-012]

Potassium Chloride, Otherwise Known as Muriate of Potash, From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On March 26, 1982, The Department of Commerce published the preliminary results of its administrative review of the antidumping finding on potassium chloride, otherwise known as muriate of potash, from Canada. The review covers the 15 known exporters still covered by the finding and varying periods through November 30, 1980.

Interested parties were given an opportunity to submit written comments or request disclosure and/or a hearing. Four exporters provided comments. Based on these comments the Department has made adjustments to the margins for two firms. In addition, the Department has changed the period of review for one firm, has deferred appraisement of entries made by that firm, and has deleted one firm from the list of exporters. The margins in the preliminary results remain unchanged for the other twelve firms.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On December 19, 1969, a dumping finding with respect to potassium chloride, otherwise known as muriate of potash ("potash"), from Canada was published in the **Federal Register** as Treasury Decision 69-265 (34 FR 19904). On April 15, 1981, the International Trade Commission ("the ITC") published in the **Federal Register** its determination that an industry in the United States would not be materially injured, not threatened with material injury, by reason of imports of potash from Canada if the finding were to be modified or revoked (46 FR 22083). As a result, the Department of Commerce ("the Department") revoked the finding on June 11, 1981 (46 FR 30842), effective on the date of the ITC's negative injury determination. However, at the time of revocation the Department has not yet reviewed entries made by the 15 known firms still covered by the finding for varying periods ending November 30, 1980. The Department published in the **Federal Register** the preliminary results of its administrative review of these entries on March 26, 1982 (47 FR 13021). The Department has not completed that administrative review.

Scope of the Review

Imports covered by this review are shipments of potassium chloride, otherwise known as muriate of potash, currently classifiable under item 480.5000 of the Tariff Scheduled of the United States Annotated.

The Department knows of 15 Canadian firms, still covered by the finding at the time of revocation, engaged in the manufacture and/or exportation of potash to the United States. The review covers varying periods for these firms through November 30, 1980.

Analysis of Comments Received

Interested parties were invited to comment on our preliminary results. We received the following comments from four exporters.

(1) *Comment:* Agrico Canada requested the opportunity to submit a belated response to our questionnaire, though the firm had not responded prior to publication of the Department's preliminary results.

Department's Position: Due to mitigating circumstances concerning Agrico's attempts to answer our questionnaire, we are acceding to this request. Accordingly, we are deferring appraisement of entries made by Agrico during this review period, and will analyze Agrico's response in the course of our next section 751 administrative review.

(2) *Comment:* Agrico asserted that the review period given in the preliminary results was incorrect, in that the Treasury Department had issued appraisement instructions ("master lists") covering entries made through December 31, 1976.

Department's Position: We agree. Therefore, the time period to be covered in our next section 751 administrative review will be January 1, 1977 through April 15, 1981.

(3) *Comment:* Texasgulf noted some erroneous choices by the Department for comparison purposes in calculating the foreign market value for certain entries of coarse and granular grade potash made in September 1980. The Department had compared these September shipments with November home market sales. Texasgulf asserted that the comparisons should have been made to home market sales made in June rather than in November.

Department's Position: We agree. When contemporaneous home market sales are not available, it is ordinarily our policy to use the most recent home market sale preceding a given U.S. date of purchase for comparison purposes, up to a maximum of 90 days. When no such sales occurred we use the first home market sale following the given U.S. date of purchase for comparison purposes, up to a maximum of 45 days. We adjusted our calculations accordingly.

(4) *Comment:* L. V. Patteson objected to its being categorized as non-responsive due to the failure of its suppliers to respond to our

questionnaire. The firm asserted that it should have been excluded from the finding, since both of its suppliers had been excluded from the finding in 1976, and the potash obtained from those firms was shipped by L. V. Patteson only to the U.S.

Department's Position: We agree and are deleting L. V. Patteson from the list of exporters covered by the finding.

(5) *Comment:* Tiger Chemicals contended that, since it sold only coarse grade potash in the Canadian market and only standard grade potash in the U.S. market, an adjustment for physical differences in the merchandise is warranted. Tiger claimed that, if such an adjustment were made, it had no sales at less than fair value during our review period.

Department's Position: We agree and have made the appropriate adjustments to the margins based on differences in cost between the two grades.

Final Results of the Review

Based on our analysis of the comments received, we have made adjustments to the margins for two firms. In addition, we have shortened the period of review and have deferred appraisement of entries made by one firm, and have deleted another firm from the list of exporters. Our preliminary results remain unchanged for all other firms.

Manufacturer/exporter	Time period	Margin (percent)
Canadian Fracmaster	01/01/79–11/30/80	13.57
Chemtec Chemical	01/01/79–11/30/80	13.57
C.I.L., Inc	01/01/80–11/30/80	13.57
Dresser Industries	07/01/73–11/30/80	13.57
Edenwold Fertilizer	09/01/79–11/30/80	13.57
Herbec Fertilizer	09/01/68–11/30/80	13.57
Northwest Nitrochemical	05/01/69–11/30/80	13.57
Panther Packaging	01/01/80–11/30/80	0
Panther Packaging/ Prairie Industrial	01/01/79–11/30.80	13.57
Ridgeway Mill & Garden Centre	01/01/78–11/30/80	13.57
Terra-Gro	01/01/80–03/31/80	0.12
	04/01/80–06/30/80	0
	07/01/80–09/30/80	0.04
	10/01/80–12/31/80	0
Tiger Chemicals	09/01/79–11/30/80	0
Vanroboys Enterprises	01/01/78–11/30/80	13.57
Wilbur-Ellis	01/01/79–11/30/80	13.57

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and section 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 12, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1700 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-25-M

[A-427-044]

Stainless Steel Wire Rods From France; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Anitdumping Finding.

SUMMARY: On August 23, 1982, the Department of Commerce published the preliminary results of its administrative review of the anitdumping finding on stainless steel wire rods from France. The review covers the only known exporter of this merchandise to the United States, Ugine Aciers, and generally the period July 1, 1980 through June 30, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of the petitioners, we held a public hearing on October 12, 1982. After our analysis of the comments received, we have made no changes in the final results from those contained in our preliminary results of review.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On August 20, 1973, the Treasury Department published in the **Federal Register** an antidumping finding with respect to stainless steel wire rods from France (T.D. 73–243, 38 FR 9094). On August 23, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 36687) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of stainless alloy steel wire rods, tempered, treated or partly manufactured. Such rods are currently classifiable under item 607.4300 of the Tariff Schedules of the United States Annotated.

The Department knows of only one exporter of French stainless steel wire rods to the United States, Ugine Aciers. The review covers the period July 1, 1980 through June 30, 1981, and certain 1979 sales not previously reported and therefore not addressed by the Department's prior section 751 review.

Analysis of Comments Received

Interested parties were given an opportunity to submit oral or written comments on our preliminary results. The petitioners, Al Tech Specialty Steel Corporation, Armco Inc., Carpenter Technology Corporation, Crucible Stainless Steel Division of Colt Industries, Inc., and Republic Steel Corporation, requested a hearing which was conducted by the Department on October 12, 1982.

(1) *Comment:* The petitioners argue that the Department has failed to show that the Customs Service has not already liquidated entries covered by this review.

Department's Position: On October 4, 1982, the Department notified the Customs Service that assessment instructions issued by the Department in July were in error in that they did not require the continued suspension of liquidation of entries sold to the United States during the period of review. We also asked all Customs ports of entry to determine whether any of the involved entries had been liquidated.

The Customs Service has informed the Department that five entries were liquidated pursuant to the erroneous instructions. The Department has decided to instruct the Customs Service to reliquidate these entries. The Department has separately notified the petitioners of this decision.

(2) *Comment:* The petitioners argue that the Department must verify all information submitted by Ugine Aciers.

Department's Position: In section 751 administrative reviews verification by the Department is discretionary. *See, e.g.*, "Final Results of Administrative Review of Antidumping Finding" with regard to portable electric typewriters from Japan (47 FR 33306) and with regard to animal glue from Yugoslavia (47 FR 42768). We have determined that

verification was not required for this review.

(3) *Comment:* The petitioners argue that the Department must investigate whether Ugine Aciers' sales in its home market during the period were at less than its cost of production.

Department's Position: The Department conducts cost of production investigations whenever it has reasonable grounds to believe or suspect that such sales occurred. The allegations made by the petitioners for this review period are supported by little date concerning the production of stainless steel wire rods from France; most of the data submitted concerns steel production generally. Therefore, the Department does not possess sufficient evidence to justify initiation of a cost of production investigation. In addition, the Department did not receive the allegations until the petitioners submitted their prehearing brief, that is, after the notice of preliminary results was published. We consider any data submitted after our preliminary results to be untimely submitted. *See* "Final Results of Administrative Review of Antidumping Finding" with regard to bicycle speedometers from Japan (47 FR 28978). Although the annual administrative review process was in part created to grant speedy relief to injured domestic industries, it was also intended to relieve importers of the economic uncertainties connected with lengthy delays in assessment of antidumping duties. Any parties in an antidumping proceeding wishing to allege that sales in the home market are at less than cost of production should make their allegations, properly supported by appropriate cost data, at the earliest possible time during the course of a review in order to avoid unduly delaying the review.

Final Results of the Review

After analysis of the comments received, the final results of our review are the same as those presented in our preliminary results of review, and we determine that a *de minimis* margin of 0.3 percent exists for the period July 1, 1980 through June 30, 1981.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time period involved. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Since the most recent margin for Ugine Aciers is less than 0.5 percent and, therefore, *de minimis*, the Department shall waive requirement of a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, on all shipments of French stainless steel wire rods entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This waiver of deposit shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of August 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 11, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1699 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-25-M

[A-475-079]

Viscose Rayon Staple Fiber From Italy; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On November 8, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on viscose rayon staple fiber from Italy. The review covers the only know exporter of this merachandise to the United States, Snia Fibre S.p.A., and the period June 1, 1981 through May 31, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1979, the Treasury Department published in the **Federal Register** (44 FR 33878-9) an antidumping finding with respect to viscose rayon staple fiber from Italy. On November 8, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 50539-40) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments), currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated.

The review covers the only known exporter of Italian viscose rayon staple fiber to the United States, Snia Fibre, S.p.A., and the period June 1, 1981 through May 31, 1982. There were no known shipments to the United States during the period and there are no known unliquidated entiries.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent margin calculated for the firm, 18.6 percent, shall be required on all shipments of Italian viscose rayon staple fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of June 1984. The Department encourages interested parties to review the public record and submit

applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 17, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1702 Filed 1-20-82; 8:45 am]

BILLING CODE 3510-25-M

Leather Wearing Apparel From Mexico; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on leather wearing apparel from Mexico. The review covers the period January 14, 1981 through December 31, 1981. As a result of this review, the Department has preliminarily determined the amount of net bounty or grant to be zero for three firms (Elegance de Baja California, Karen International, and Manufacturas Industriales de Nogales), and 13.35 percent of the f.o.b. invoice price for all other firms. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 10, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 21357) a countervailing duty order on leather wearing apparel from Mexico and announced its intent to conduct an administrative review of the order within twelve months. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are currently classifiable under items 791.7620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated. These products include leather coats and jackets for men, boys, women, girls and infants, and other leather apparel products including leather vests, pants and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel. The review covers the period January 14, 1981, the date liquidation of entries was suspended in the preliminary affirmative determination (46 FR 21357), through December 31, 1981, and three programs: CEDI, the countervailable program cited in the final determination, as well as FOMEX and CEPROFI, two programs found countervailable in the final determination on ceramic tile from Mexico.

Analysis of the Programs

(1) CEDI. The Certificado de Devolucion de Impuesto ("CEDI") is a certificate issued by the Government of Mexico in an amount equal to a percentage of the value of exported leather wearing apparel. The CEDI certificates may be used to pay a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties). We preliminarily determine that the CEDI rate, and therefore the amount of net bounty or grant, for exports of leather wearing apparel by uncertified firms during 1981 was 10 percent of the f.o.b. invoice price.

(2) FOMEX. The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust fund administered by the Mexican Treasury Department, with the Bank of Mexico (Mexico's central bank) acting as trustee. The Bank of Mexico, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters of leather wearing apparel for two purposes: Pre-export (production) financing and export financing.

We found that the maximum annual interest rate that financial institutions may charge borrowers for FOMEX pre-export financing, in Mexican pesos, is 8 percent. The maximum annual interest rate for FOMEX export financing, in the currency of the country of importation, is 6 percent.

The Government of Mexico provided no information on the commercial rate of interest in Mexico for comparable short-term peso or dollar denominated loans. For peso loans, the Department used as the best information available the average cost of funds to Mexican banks during 1981, plus a markup of 12 percent to arrive at the equivalent of a prime rate of interest. For dollar loans, we used interest rate information obtained from the Federal Reserve Board.

Based on this information, we preliminarily determine that, during 1981, comparable peso-denominated loans were available commercially at 40.58 percent, and comparable dollar-denominated loans were available at 21.29 percent.

For the FOMEX loans obtained by firms during 1981, we computed the difference in interest expense between the FOMEX loans and the commercial rates. Both export and pre-export FOMEX loans are considered export subsidies since these loans are given only on merchandise destined for export. For export FOMEX loans, the Government of Mexico was able to identify the loans applicable to exports destined for the U.S. However, for pre-export FOMEX loans, the information supplied by the Government of Mexico covered the loans applicable to exports for all countries. Therefore, we allocated the amount of benefit over the value of total exports during 1981 in the case of pre-export loans, and over the value of exports to the U.S. during 1981 in the case of export loans. The denominator did not include the exports from those certified firms which we preliminarily determine did not receive any benefits.

On this basis, we preliminarily determine the amount of net bounty or grant from FOMEX pre-export loans to be 2.41 percent and from FOMEX export loans to be 0.94 percent, for a total net bounty or grant under FOMEX to uncertified firms in 1981 of 3.35 percent of the f.o.b. invoice price.

(3) CEPROFI. Certificates of Fiscal Promotion ("CEPROFI") are tax certificates which are used to promote the goals of the National Industrial Development Plan and are granted in conjunction with investments in designated priority industrial activities and geographic regions. CEPROFI certificates can be used to pay a wide range of federal tax liabilities.

The Government of Mexico reported that no leather wearing apparel firms applied for or received CEPROFI benefits. Since leather wearing apparel manufacture is not designated as a priority activity, such firms are ineligible to receive CEPROFI benefits. Our verification produced no contradictory evidence. We preliminarily determine the amount of net bounty or grant under

CEPROFI to uncertified firms in 1981 was zero.

Firms not Receiving any Benefits

In the countervailing duty order on ceramic tile from Mexico (47 FR 20012, May 10, 1982), the Department set forth a certification process that would allow an adjustment of the rate of cash deposit of estimated countervailing duties to zero for those firms certified and verified as having neither applied for nor received countervailable benefits. On June 17, 1982, the Department sent a letter to the Government of Mexico stating that company and government certificates should be included with the questionnaire response for any companies which wanted to request a zero deposit rate for this administrative review. On July 2, 1982, we received the needed certificates from three firms stating that they have neither applied for nor received benefits under the CEDI, FOMEX or CEPROFI programs and would not do so in the future, as well as certificates from the Government of Mexico stating that these firms have neither applied for nor received benefits under these programs. The three firms covered by the certificates are:

Elegance de Baja California, S.A. ("Elegance")
Karen International, S.A. de C.V. ("Karen")
Manufacturas Industriales de Nogales, S.A. ("M.I.N.S.A.")

Verification

We verified the information presented through examination of documents and records of the Government of Mexico, as well as company books and records.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the aggregate net bounty or grant conferred during the period of review by the three programs was zero for the firms of Elegance, Karen and M.I.N.S.A., and 13.35 percent of the f.o.b. invoice price for all other firms. Section 707 of the Tariff Act provides that the difference between the deposit of an estimated countervailing duty and the final assessed duty under a countervailing duty order shall be disregarded to the extent that the estimated duty is less than the final assessed duty, and refunded to the extent that the estimated duty is higher than the final assessed duty, for merchandise entered, or withdrawn from warehouse, for consumption before the date of the countervailing duty order. The amount of estimated duty under the preliminary affirmative determination of January 14, 1981 was 5.2 percent. Accordingly, the Department intends to instruct the Customs Service to assess no countervailing duties on shipments of this merchandise from Elegance, Karen or M.I.N.S.A. which were entered, or withdrawn from warehouse, for consumption on or after January 14, 1981, and exported on or before December 31, 1981; to assess countervailing duties of 5.2 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after January 14, 1981 but prior to April 10, 1981; and to assess countervailing duties of 13.35 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after April 10, 1981 and exported on or before December 31, 1981.

The Government of Mexico suspended the CEDI program by an executive order published in the *Diario Oficial* (Official Gazette) on August 25, 1982. The order abrogates prior executive orders which contained the lists of products eligible for CEDI. The suspension of the eligibility for the CEDI program was effective the day after publication. Thus, the only program currently in effect for this merchandise is the FOMEX loan program.

Therefore, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of zero on shipments of this merchandise from Elegance, Karen or M.I.N.S.A. and 3.35 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: January 17, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-1765 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-25-M

Villanova University et al.; Applications for Duty-Free Entry of Scientific Instruments

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a)(3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the Federal Register.

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 2097, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83-24. Applicant: Villanova University, Villanova, PA 19085. Instrument: Electron Microscope, Model H-600-2 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of instrument: The instrument is intended to be used for research on the ultrastructure of the synaptic connections and the muscles in the dimorphic claws of snapping shrimps (*Alpheus*). The instrument will be used in the teaching of a graduate course in electron miscroscopy for M.S. students in Biology to enable them to complete theses using the instrument and to enhance their ability to gain employment on graduation or further their research and education. Application received by Commissioner of Customs: October 20, 1982.

Docket No. 83-66. Applicant: U.S. Army Aeromedical Research Laboratory, P.O. Box 577, Fort Rucker,

AL 36362. Instrument: Electron Microscope, EM 10C. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used for research in the area of neuroanatomy of vertebrate visual systems. Actual living tissue will be excised from retinas or brains of specific vertebrates which have been properly anesthetized and sacrificed. Once the tissue is extracted, it will be fixed, dehydrated, embedded, sectioned and stained for study. Only small sections taken from specific levels in the vertebrate visual system will be studied at one time. Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83–97. Applicant: Loyola University of Chicago, Department of Anatomy, Stritch School of Medicine, 2160 South First Avenue, Maywood, IL 60153. Instrument: Electron Microscope, Model H–600–3. Manufacturer: Hitachi, Japan. Intended use of Instrument: The instrument is intended to be used in conducting research work on the following: (1) lymphatic microcirculation, (2) the effects of environmental lighting on the structure and function of the pineal gland of vertebrates, (3) the role of lymphoid cells in alveolar bone resorption, and (4) investigation of tumor cell invasion of bone surfaces. In addition, the article will be used in the courses (1) Basic Ultrastructure—Anatomy 425 and (2) Advanced Ultrastructure—Anatomy 426. Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83–98. Applicant: University of Southern California, Department of Materials Science VHE 602, Los Angeles, CA 90089—0241. Instrument: Electron Microscope, EM 420 and Accessories. Manufacturer: Philips Electronic Instruments Incorporated, The Netherlands. Intended use of instrument: The instrument is intended to be used in a wide range of research projects including but not limited to the following:

(1) Interface studies in ceramics,

(2) The application of materials science principles to the design of low alloy steels,

(3) Crystallization of non-equilibrium structures produced by laser melting,

(4) Laser/interface interactions,

(5) Laser induced interfacial mixing in semiconductor systems,

(6) Superplasticity and creep,

(7) Properties of heavily ion-implanted semiconductors,

(8) Electron energy loss spectroscopy, and

(9) Molecular beam epitaxy and STEM.

The article will also be used in the following courses offered in the Department of Materials Science:

(1) Transmission Electron Microscopy (MASC 535)

(2) Transmission Electron Microscopy Laboratory (MASC 599)

(3) Materials Characterization (MASC 534).

Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83–103. Applicant: Mellon Institute, 4400 Fifth Avenue, Pittsburgh, PA 15213. Instrument: Electron Microscope, Model EM 420 and Accessories. Manufacturer: Philips Electronic Instrument Incorporated, The Netherlands. Intended use of instrument: The instrument is intended to be used for research involving the characterization of a wide variety of materials, including steels, nickel aluminum and titanium based alloys, and glasses. Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83–00106. Applicant: Duke University Medical Center, Department of Physiology, Box 3709–PH, Durham, NC 27710. Instrument: Electron Microscope, Model JEM 100CX–II and Accessories. Manufacturer: JEOL Limited, Japan. Intended use of instrument: The instrument is intended to be used by several investigators to carry out high resolution transmission electron microscopy of cell ultrastructural features in conjunction with energy dispersive x-ray analyses of subcellular composition and scanning electron microscopy of cell surface structures. The instrument will also be used in the training of a limited number of post-doctoral fellows and M.D.-Ph. D. students requiring correlation of ultrastructure with subcellular composition in their work. Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83–109. Applicant: U.S. Department of Labor, OSHA Analytical Laboratory, 390 Wakara Way, Salt Lake City, UT 84108. Instrument: Gas Chromatograph/Mass Spectrometer/Data System, MS–80. Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended use of instrument: The instrument is intended to be used to increase the analytical capabilities for confirming the presence of known compounds, very specific quantitation of compounds, and identification of unknown materials that could pose a hazard in the workplace. The organic compounds requested for analysis cover a broad range of structures and properties due to the wide variety of industries inspected by field personnel. All types of solvents, pesticides, carcinogens, and unknown materials from industrial processes are analyzed. Application received by Commissioner of Customs: January 4, 1983.

Docket No. 83–111. Applicant: The Ohio State University, Materials Research Laboratory, 174 W. 18th Avenue, Columbus, OH 43210. Instrument: Fourier Transform Optical Spectrometer P/N 1ZM01 with Accessories. Manufacturer: Bomem, Incorporated, Canada. Intended use of instrument: The instrument is intended to be used for studies of composite materials such as mixtures of metals (e.g. Ag) and insulators, (e.g. KCl) as a function of the volume fraction of the metal present in the samples. Of particular interest is the concentration range near the percolation limit where a metal-insulator transition can occur. Mixtures of glass and metal particles will also be studied. The objectives of these experiments are:

(a) To discover new materials and new classes of materials that will be conductors of electricity even though the volume fraction of metal particles in the samples is about 25%.

(b) To study in detail the effects of electron localization in these composite materials.

Application received by Commissioner of Customs: January 6, 1983.

Docket No. 83–112. Applicant: University of Washington, Seattle, WA 98195. Instrument: High Linear Energy Transfer (LET) Clinical Neutron Therapy System and Accessories. Manufacturer: Instrument AB Scanditronix, Sweden. Intended use of instrument: The instrument is intended to be used in the Clinical Neutron Therapy Program to definitively determine if neutron therapy can significantly increase local tumor control over optimal photon therapy, and if so, to quantify the improvement observed. A secondary objective of this program will be to determine if improved local control leads to significantly prolonged disease-free survival of patients with these tumors, and if so, to quantify that improvement. The overall objective of this research program is to accurately define the role of fast neutron beam radiation therapy in the treatment of human malignancies. Application received by Commissioner of Customs: December 15, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-1703 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program; Quarterly Report (October 1 to December 31, 1982)

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of the NVLAP quarterly report.

SUMMARY: The National Bureau of Standards (NBS) announces laboratory accreditation actions for the fourth quarter of 1982. In addition, the status of all NVLAP laboratory accreditation programs (LAPs) is summarized.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, National Bureau of Standards, TECH B141, Washington, D.C. 20234, (301) 921-3431.

SUPPLEMENTARY INFORMATION: This report has been prepared in accordance with sections 7a.17(a), 7b.17(a), and 7c.17(a) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR Parts 7a, 7b, and 7c). In addition, to fulfill NVLAP requirements for monthly reporting of accreditation actions, notice of such actions taken under NVLAP for the month of December is included in this report.

NVLAP accreditation does not relieve the laboratories from the necessity of observing and complying with existing Federal, State, and local statutes, ordinances; and regulations that may be applicable to their operations, including consumer protection and antitrust laws.

Accreditation is granted for a period of one year. However, before expiration, accreditation may be terminated at the request of the laboratory or may be revoked due to violation of the accreditation criteria or other conditions of the laboratory's accreditation. The criteria are described in sections 7a.19-7a.30 of the NVLAP Procedures (15 CFR Parts 7a, 7b, and 7c).

New Accreditations Granted

Two laboratories were newly accredited during December, 1982. The name and address of each laboratory and the test methods for which accreditation has been granted are listed below. In each case accreditation is for the period ending December 31, 1983.

Gulf Coast Testing Laboratories, Inc., Attn: Doyne Reynolds, 1205 North Tancahua Street, P.O. Box 1148, Corpus Christi, TX 78403;

Parratt-Wolff, Inc., Attn: Bruce L. Higgins, Fisher Road, East Syracuse, NY 13057.

Test method	Short title
ASTM C31	Making and Curing Concrete Test Specimens in the Field
ASTM C172	Sampling Fresh Concrete
ASTM C143	Slump of Portland Cement Concrete
ASTM C138	Unit Weight, Yield, and Air Content (Gravimetric) of Concrete
ASTM C231	Air Content of Freshly Mixed Concrete by the Pressure Method
ASTM C39	Compressive Strength of Cylindrical Concrete Specimens
ASTM C173	Air Content of Freshly Mixed Concrete by the Volumetric Method

Expired Accreditations

The following laboratories chose not to renew their accreditation for 1983.

American Admixtures and Chemicals, Inc.
Armstrong World Industries (Marietta, PA)
Atec Associates, Inc.
Bowser-Morner Testing Laboratories, Inc., Maysville, KY
Bowser-Morner Testing Laboratories, Inc., Dayton, OH
Bowser-Morner Testing Laboratories, Inc., Toledo, OH
Dynatherm Engineering
Hauser Laboratories
Southwestern Laboratories, Inc.
Thermtron Research Laboratory
Trend/Roxbury Div. of WWG Industries
The Upjohn Company, Donald S. Gilmore Laboratories

Accreditation for Engineering Testing Laboratory, City of Akron expired during the fourth quarter of 1982 and it has not applied for renewal as of December 31, 1982.

Renewed Accreditations

The following laboratories were accredited during the fourth quarter of 1982 for one or more test methods available under NVLAP. Each laboratory received a certificate of accreditation and a corresponding list of test methods for which each is accredited. Anyone wishing to know the test methods for which each laboratory is accredited should request the listing from the laboratory directly or from Mr. Locke at the address given above. Note that many of the laboratories change the test methods for which they are accredited from year to year, so the user should be sure to secure the current list of accredited test methods.

LAP Within Which Accreditation Is Granted

Thermal Insulation Materials

Butler Manufacturing Company Research Center
Certainteed Corporation Insulation Group, R & D Lab
Commercial Testing Company, Inc.
Dow Chemical USA, Granville Research Center
Dynatech R/D Company
Factory Mutual Research Corp.
Geoscience Ltd.
Hardwood Plywood Manufacturers Association
Insta-Foam Products, Inc.
Intest Laboratories, Inc.
Jim Walter Research Corporation
Lander Thermal Conductivity Laboratory
Louisiana-Pacific Corporation, Pabco R & D Laboratory
Manville Corporation, R & D Center
NAHB Research Foundation, Inc.
Olin Corporation, Physical Testing Laboratory
Owens-Corning Fiberglas Corp., Technical Center Laboratory
Owens-Corning Fiberglas Corp., Barrington, New Jersey Plant Laboratory
Owens-Corning Fiberglas Corp., Delmar, New York Plant Laboratory
Owens-Corning Fiberglas Corp., Fairburn, Georgia Plant Laboratory
Owens-Corning Fiberglas Corp., Kansas City, Kansas Plant Laboratory
Owens-Corning Fiberglas Corp., Newark, Ohio Plant Laboratory
Owens-Corning Fiberglas Corp., Santa Clara, California Plant Laboratory
Owens-Corning Fiberglas Corp., Waxahachie, Texas Plant Laboratory
Sparrell Engineering Research Corporation
Twin City Testing & Engineering Laboratory, Inc.
Underwriters Laboratories Inc., Northbrook, Illinois
Underwriters Laboratories Inc., Santa Clara, California
United States Testing Company, Inc., Hoboken, New Jersey Laboratory
United States Testing Company, Inc., California Division
United States Testing Company, Inc., Tulsa Division

Freshly Mixed Field Concrete

Aguirre Engineers, Inc.
The Arundel Corporation, Greenspring Laboratory
Capitol Cement
Central Ready Mixed Concrete, Research & Technical Center
Conrock Co.-Laboratory
Construction Technology Laboratory, Division of Portland Cement Assn.
Contractors Supply Corporation of West Virginia, Inc.
The Dolese Company, Engineering Laboratory
Garco Testing Laboratories
General Testing Laboratories, Inc.
Genstar Stone Products Co., Quality Control Laboratory
Gulf Coast Testing Laboratory, Inc.

The H. C. Nutting Company
Hales Testing Laboratories, Inc.
Herron Consultants, Inc.
Kelso Industries, Inc.
Lewis Engineering, Inc.
Material Service Corporation, Quality Control
Northern Testing Laboratories, Inc., Billings Area Laboratory
Northern Testing Laboratories, Inc., Boise Area Laboratory
Northern Testing Laboratories, Inc., Great Falls Area Laboratory
Parratt-Wolff, Inc.
R.W. Sidley, Inc., Sidley Quality Control Lab
Smith Emery Company
Standard Testing & Engineering, Co., Oklahoma City, Oklahoma,
STS Consultants, Ltd.
The Tanner Companies, United Metro Division Laboratory
Testing Engineers, Inc., Oklahoma Division
Testing Engineers, Inc., Santa Clara Division
Texas Testing Laboratories, Inc.
Twin City Testing & Engineering Laboratory, Inc.
W.R. Grace & Company
The Walt Keeler Company, Inc.
Western Technologies, Inc.

Carpet

American Carpet Laboratories, Inc.
Bigelow-Sanford, Inc., Georgia Rug Mill
Bigelow-Sanford, Inc., Technical Services
C. H. Masland and Sons
Certified Testing Laboratories, Inc.
Chisholm Trail Testing and Engineering Company, Inc.
Commercial Testing Company, Inc.
Coronet Carpets, Inc.
E&B Carpet Mills, Inc.
Factory Mutual Research Corp.
Galaxy Carpets Inc., Galaxy Testing Laboratory
Hardwood Plywood Manufacturers Association
Independent Textile Testing Service, Inc.
Shaw Industries, Inc.
Southwest Research Institute, Department of Fire Technology
United States Testing Company, Inc., Hoboken New Jersey Laboratory
United States Testing Company, Inc., California Division
Walter Carpets West Point Pepperell
World Carpets, Inc., R & D

Solid Fuel Room Heaters (Stove)

Arnold Greene Testing Laboratories, Inc.
Energy Systems, Inc.
Energy Testing Laboratory of Maine
PFS Corporation
Underwriters Laboratories, Inc., Northbrook, Illinois
Underwriters Laboratories, Inc., Santa Clara, California

Accreditation for Walter H. Flood & Company, Inc., has been changed to reflect the new name for the laboratory, A & H Flood/Engineering.

This list updates the list in the 1981 Annual Report and Directory of Accredited Laboratories and this notice should be filed with the Annual Report so as to keep it current. The names of all other accredited laboratories are included in the 1981 Annual Report and the July 1-September 30, 1982, quarterly report. The quarterly report was published in the **Federal Register** on October 27, 1982 (47 FR 47625–47626). Copies of these reports are available from Mr. Locke at the address given above.

Insulation LAP Status

The LAP for thermal insulation materials has 63 test methods for which accreditation may be granted. A total of 33 laboratories are currently accredited to perform one or more of these test methods.

Concrete LAP Status

The LAP for freshly mixed field concrete has two groups of test methods and one optional test method for which accreditation can be granted. A total of 46 laboratories are currently accredited under the Concrete LAP.

Carpet LAP Status

The LAP for carpet has 12 test methods for which accreditation may be granted. A total of 23 laboratories are currently accredited for one or more of these test methods.

Stove LAP Status

The LAP for solid fuel room heaters has 21 test methods in three categories for which accreditation may be granted. Six laboratories are currently accredited for one or more of these test methods.

Acoustics LAP Status

The LAP for acoustical testing services has 49 test methods for which accreditation may be granted. A NVLAP orientation for the assessors was held on November 16–17, 1982 at the National Bureau of Standards. The acoustical laboratories scheduled for on-site visits are: Armstrong World Industries, Gold Bond Division of National Gypsum, Jim Walter Research Corporation, Manville Corporation, Owens-Corning Fiberglas Corporation, and Riverbank Acoustical Laboratories. The first set of accreditation actions are expected by the end of March, 1983.

LAPs under Development

Dosimetry LAP—A draft LAP Handbook has been sent to the industry overview committee for comments. A request for proposal (RFP) for procuring the services of a testing laboratory has been distributed to potential contractors. The deadline for submittal was January 14, 1983. An award is expected to be made by April, 1983. Fifty-one persons have indicated interest in serving as technical experts. An evaluation is presently in progress. We expect to announce the formal establishment of this LAP in May, 1983.

Electromagnetic Calibration Services LAP—A draft LAP Handbook is expected to be ready in the second quarter of 1983. Final details for the proficiency testing and the relationship of a Measurement Assurance Program are still being developed.

Dated: January 17, 1983.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 83-1682 Filed 1-20-83; 8:45 am]
BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Receipt of Application for Permit; Dennis Kelly

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: Mr. Dennis Kelly, Orange Coast College, 2701 Fairview Road, Costa Mesa, California 92626 (P316).

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Pacific bottlenose dolphins (*Tursiops truncatus*), 200.

4. Type of Take: Potential harassment.

5. Location of Activity: Orange and Los Angeles Counties, California.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice, Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 18, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-1764 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-22-M

Modification No. 3 to Permit No. 288; Steven R. Morello

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 288, issued to Steven R. Morello, 60 Kip Avenue, Rutherford, New Jersey 07070 on July 24, 1980 (45 FR 50627), as modified on December 22, 1980 (45 FR 86524) and February 4, 1982 (47 FR 5283), is further modified to extend the period of authorized taking for one year.

Section B-5 is deleted and replaced by:

"5. This Permit is valid with respect to the taking authorized herein until December 31, 1983."

This modification becomes effective upon publication in the **Federal Register.**

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930

Dated: January 18, 1983.

Richard B. Roe,

Acting Director,

Office of Protected Species & Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-1763 Filed 1-20-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletion from Procurement List.

SUMMARY: This action adds to and delete from Procurement List 1983 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

DATE: January 21, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-145.

SUPPLEMENTARY INFORMATION: On June 11, 1982, September 17, 1982, September 30, 1982, October 15, 1982, (October 27, 1982 correction), October 29, 1982, November 12, 1982, and December 10, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 25399, 47 FR 41154, 47 FR 43107, 47 FR 46126, 47 FR 47627, 47 FR 49066, 47 FR 51180, and 47 FR 55512) of proposed additions to and deletion from Procurement List 1983, November 18, 1982 (47 FR 52101).

Additions

After consideration of the relevent matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1983:

Class 7210

Blanket, Bed/Bath (Flame-Resistant), 7210-01-141-2458.

Class 7520

Stand, Calendar Pad, 7520-00-162-6150 (For GSA Regions 4, 5, 6, 7, 8, 9, 10).

Class 8115

Box, Wood
8115-00-935-5887
8115-00-935-6518
8115-00-935-6525
8115-00-935-6528
8115-00-935-6530

Class 8415

Apron, Food Handling, 8415-00-899-3026

Apron, Laboratory, 8415-00-634-5023

Class 9920

Cleaner, Tobacco Pipe, 9920-00-292-9946.

Sic 7349

Janitorial/Minor Mechanical Services, Federal Building, 3rd Avenue and 1st Street, Cullman, Alabama

Janitoral Servcie, Annex Building, Bureau of Engraving and Printing, 14th and C Streets, SW., Washington, D.C.

Janitorial/Custorial, Armed Forces Examining Station, and Bureau of Mines Building, 1100 Filmore Street, Amarillo, Texas

Janitorial Service, U.S. Post Office and Courthouse, 600 Granby Mall, Norfolk, Virginia

Deletion

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby deleted from Procurement List 1983:

Class 8465

Cover, Water Canteen, Nylon, 8465-00-860-0256.

C. W. Fletcher,

Executive Director.

[FR Doc. 83-1695 Filed 1-20-83; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1983; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1983 commodities to be produced by and

services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: February 23, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additons, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 8455

Medal Set, Good Conduct, Air Force, Regular, 8455–00–082–5528
Medal Set, Good Conduct, Army, 8455–00–269–5761
Medal Set, Asiatic-Pacific Campaign, 8455–00–269–5764
Medal Set, Good Conduct, Marine Corps, Regular, 8455–00–261–4501
Medal Set, Good Conduct, Navy, Regular, 8455–00–753–2906
Medal Set, Womens Army Corps, 8455–00–269–5783
Medal Set, World War II Victory, 8455–00–269–5782
Medal Set, Army of Occupation, WWII, 8455–00–269–5763

SIC 7349

Janitorial/Custodial Services, National Zoological Park, Washington, D.C.

Janitorial/Custodial Service for the following locations in Chicago, Illinois:

U.S. Customshouse, 610 South Canal Street
Interagency Motor Pool, 701 South Clinton Street
Federal Parking Facility, 450 South Federal Street
Janitorial Service, U.S. Courthouse, 123 East Walnut Street and Leased Space at 603–11 East 2nd Street, Des Moines, Iowa
Janitorial/Custodial Services, Paul E. Garber Complex, 3904 Old Silver Hill Road, Suitland, Maryland

SIC 7399

Repair of Air Cargo Pallet, Top and Side Nets, Wright-Patterson Air Force Base, Ohio.

SIC 7699

Drill Sharpening, Department of the Navy, U.S. Naval Supply Center, San Diego, California.

SIC 9199

Publications Distribution, Naval Construction Battalion Center, Gulfport, Mississippi.

C. W. Fletcher,

Executive Director.

[FR Doc. 83–1694 Filed 1–20–83; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

January 14, 1983.

The USAF Scientific Advisory Board ad hoc committee on Software meeting published in the **Federal Register**, Volume 47, page 58341, Thursday, December 30, 1982, has been cancelled.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Darwin W. Berg,

Chief, Special Projects Branch, Administration Management Division, 1947 Administration Support Group.

[FR Doc. 83–1696 Filed 1–20–83; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Advisory Committee on Military Personnel Testing; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Defense Advisory Committee on Military Personnel Testing is scheduled to be held from 9:00 AM to 5:00 PM on March 3 and 4, 1983 at the Shelter Island Marina Inn; 2051 Shelter Island Drive; San Diego, California 92106.

The purpose of the meeting is to review the development of DoD's computerized adaptive testing (CAT) system scheduled for nationwide implementation as the military operational selection and classification test in FY 1985. The agenda for the next Committee meeting, scheduled for June 1983, in Washington, D.C., will also be discussed.

Persons desiring to make oral presentations or submit written statements for consideration at the Committee meeting must contact Dr. W. S. Sellman, Executive Secretary, Defense Advisory Committee on Military Personnel Testing, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), Room 2B271, The Pentagon, Washington, D.C. 20301, telephone (202) 695–5525 no later than February 15, 1983.

January 17, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–1677 Filed 1–20–83; 8:45 am]

BILLING CODE 3810-01-M

President's Commission on Strategic Forces; Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed session on January 11, 1983 at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. Because of the stringent deadline imposed by the President, timely notice of the meeting cannot be provided.

Discussions during the meeting will involved classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separate classified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with Section 10(d) of Pub. L. 92–463, the "Federal Advisory Committee Act", and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83–1676 Filed 1–20–83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Inactive Uranium Mill Tailings Site Near Grand Junction, Colo.; Compliance With the National Environmental Policy Act; Intent To Prepare an Environmental Impact Statement and Conduct Public Scoping Meetings for Remedial Actions

AGENCY: Energy Department.

AGENCY: Notice is hereby given that the Department of Energy intends to prepare an environmental impact statement (EIS) to assess the environmental implications of remedial actions to be performed on the inactive uranium mill tailings pile and vicinity properties near Grand Junction, Colorado.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS, in accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA), to provide environmental input into the selection of an appropriate remedial action in connection with uranium mill tailings and other residual radioactive materials at an inactive uranium mill near Grand Junction, Colorado and at residences, commercial buildings, and open lands in the Grand Junction area which are contaminated with mill tailings derived from the inactive uranium mill. The DOE's proposed action is to perform remedial action pursuant to Pub. L. 95–604, the Uranium Mill Tailings Radiation Control Act of 1978. Such remedial actions consist of those measures taken to stabilize or control the mill tailings to the extent necessary to ensure that the radiological and non-radiological impacts from the mill tailings do not exceed the standards for the protection of the public health, safety, and environment promulgated by the Environmental Protection Agency (EPA). The EIS will consider the options of remedial action and no remedial action. In addition, the EIS will consider the following remedial action alternatives: stabilization of the tailings in their present location and removal of the tailings to either of three new disposal sites. The DOE is serving as the lead agency for preparation of the EIS; the Nuclear Regulatory Commission (NRC) will participate as a cooperating agency.

The DOE invites interested agencies, organizations, and members of the general public to submit comments or suggestions for consideration in connection with the preparation of the draft EIS. Comments or suggestions to assist the DOE in identifying significant environmental issues and the appropriate scope of the draft EIS are requested. Comments may be submitted by mail or presented at scoping meetings to be held in Grand Junction, Colorado, on February 8 & 9, 1983. On completion of the draft EIS, its availability will be announced in the Federal Register and local news media, and comments will be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

ADDRESS: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meeting may be submitted to Mr. James A. Morley, Uranium Mill Tailings Project Office, Albuquerque Operations Office, Department of Energy, P.O. Box 5400, Albuquerque, NM 87115, (505) 844–3941. Envelopes should be marked "DEIS for Grand Junction tailings pile."

General information on the process followed by the DOE in preparing environmental impact statements may be obtained from Office of Environmental Compliance, Office of the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, U.S. Department of Energy, ATTN: Mr. Steven R. Woodbury, Room 4G–064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–4610.

DATES: Written comments postmarked by February 14, 1983, will be considered in the preparation of the DEIS. Comments postmarked after that date will be considered to the maximum extent practicable. Scoping meetings will be held in Grand Junction, Colorado, on February 8 & 9, 1983. Requests to speak at this meeting should be received by J. A. Morley at the above address by February 1, 1983. Requests to speak may also be made during registration for the meeting.

Background Information

In 1978 the U.S. Congress passed the Uranium Mill Tailings Radiation Control Act. Pub. L. 95–604. In this Act the Congress found that uranium mill tailings may pose a potential and significant radiation health hazard to the public and directed the DOE to designate processing sites for remedial action to remove this potential hazard. The DOE has designated 24 sites for remedial action, including the former Climax Uranium Company site near Grand Junction, Colorado. Public Law 95–604 requires that the DOE carry out remedial action at each site in cooperation with other agencies and with the States and Indian tribes affected by the action. The NRC's statutory responsibilities include consulting with the DOE over a range of subjects concerning the conduct of the remedial action, concurring with the selected remedial action and with any cooperative agreement with a State or Indian tribe, and licensing the long-term maintenance and monitoring of each tailings-disposal site after the remedial action is completed. In view of its statutorily-prescribed role in connection with the remedial action program, the NRC has agreed to participate as a "cooperating agency" as defined by the Council on Environmental Quality regulations implementing NEPA (40 CFR 1508.5). In addition, the EPA was given the responsibility to set standards to protect public health, safety, and the environment at the tailings sites and the disposal sites. Any remedial action must be in accordance with these EPA standards. The EPA published final standards governing the cleanup and disposal of the mill tailings and other residual radioactive materials in the Federal Register of January 5, 1983 (48 FR 590).

Pursuant to Pub. L. 95–604, the DOE and the Sate of Colorado entered into a cooperative agreement, effective October 19, 1981, in order to implement the remedial action program at the nine Colorado processing sites designated by the DOE, including the former Climax Uranium Company site near Grand Junction. The State of Colorado will assist the DOE in scoping, scoping meetings, hearings on the draft EIS, and in connection with other NEPA process matters.

The former Climax Uranium Company site is south of Grand Junction, just outside the city limits. From 1951 to 1970 a mill built on the site processed uranium and vanadium ores. Between 1951 and 1966 uranium and some vanadium was produced under contract to the Federal government. The rest of the vanadium was sold commercially, as was the uranium produced after 1966. The original 203-acre site was owned by the Climax Uranium Company, but between 1970 and 1976 the land was divided and sold. Some of the mill buildings are still standing, and the tailings from the operations remain in one large pile covering about 59 acres. The tailings pile, the mill-building area, and the area of the old effluent ponds now comprise the processing site designated for remedial action by the DOE. Portions of the designated site are owned by the Sand Extraction Company (61 acres), Bess Investments (7 acres), and the State of Colorado (40 acres). The remaining 95 acres, although not included in the designated site, will be considered for clean up as vicinity properties.

In addition, about 300,000 tons of tailings were carried offsite and used locally in building materials and as fill on properties in the vicinity of Grand Junction. In 1972, Congress passed Pub. L. 92–314 (later amended by Pub. L. 95–236) authorizing a cooperative Federal and State program to perform remedial actions on structures in Grand Junction. Several hundred structures have been cleaned up under this program. The tailings and other contaminated materials removed during this work are being temporarily stored on the State-owned portion of the designated site and will be permanently disposed of along with the undisturbed tailings as part of the present remedial action program.

The DOE has made preliminary assessments of the tailings pile at the former Climax Uranium Company site and of possible remedial actions. A document describing the preliminary assessments of the Grand Junction tailings is the "Phase II Title I Engineering Assessment of Inactive Uranium Mill Tailings, Grand Junction Site, Grand Junction, Colorado" (DOE/UMT–0105), which is available for public inspection at the locations listed at the end of this notice. The State of Colorado investigated several areas in which the tailings might safely be permanently disposed of and recommended four of them to the DOE as possible candidate disposal sites for further study. The DOE has selected three of these sites for detailed analysis in the draft EIS.

In order to proceed with the selection of an appropriate remedial action, the DOE will prepare an EIS that will analyze the effects of a range of reasonable alternatives. After the completion of a final EIS, the plan for remedial action on the Grand Junction tailings will be selected, probably in 1984. The remedial action could then begin in 1985 and be completed during 1989, subject to the appropriation of sufficient funds by the Congress and by the State of Colorado to cover the remedial action costs.

Preliminary Identification of Environmental Issues

Major issues to be analyzed during the preparation of the EIS will include:

1. Exposures to radiation that the public and the workers on the project will receive from routine operations.
2. Exposures to radiation from hypothetical accidents that release radioactive material.
3. Effects on surface and ground waters.
4. Effects on transportation networks, including changes in traffic patterns and volumes.
5. Effects of accidents other than effects arising from releases of radioactive material.
6. Impacts to and within the floodplain of the Colorado River.

Other issues to be analyzed will include:

1. Changes in air quality caused by dust and other pollutants.
2. Effects on soils and mineral resources.
3. Effects on plants and animals.
4. Changes in land use.
5. Changes in noise levels during the actions.
6. Effects on scenic, historic, and cultural resources.
7. Changes in population and effects on housing, social structure, services, and economic structure in the communities near the affected places.
8. Expected use of energy and other resources.
9. Benefits of reprocessing the tailings to recover minerals.

The lists are not intended to be all-inclusive nor to be a predetermination of impacts.

Analyses of the listed effects will be made for the mill-tailings site, the disposal sites, the reprocessing sites if any, the transportation routes, and (to the extent feasible) the sites where cover material is obtained. The analyses will cover both the time when the remedial action is in progress and the time after it has been completed.

Preliminary Definition of Alternatives

The DOE will consider all reasonable alternatives to the proposed action and their environmental impacts. The alternative actions presently proposed for analysis in the draft EIS are briefly listed below. This list will be finalized following the scoping process.

Alternative 1: No Action

Under this alternative, the tailings pile would be left in place; no measures would be taken to control or stabilize the tailings.

Alternative 2: Stabilization in Place

This alternative consists of decontaminating Grand Junction vicinity properties and consolidating all residual radioactive materials removed from such properties with the tailings pile at the former Climax Uranium Company site. All mill tailings and residual radioactive materials would then be stabilized at the site, including the emplacement of cover material to reduce the radon flux in accordance with prescribed EPA standards.

Alternative 3: Decontamination of the Former Climax Uranium Company Site and Removal of the Tailings to a New Disposal Site

This alternative involves selecting a site for stabilization and control of the tailings and other residual radioactive materials other than the former Climax Uranium Company site. All residual radioactive materials removed from Grand Junction vicinity properties and the uranium mill tailings pile at the former Climax Uranium Company site would be transported to one of the following State-recommended sites:

a. 6&50 Reservoir Site. The site is about 24 miles northwest of Grand Junction and about 6 miles west of the community of Mack. Route 6&50 runs north of the site, and Interstate 70 passes to the south. The site is used for grazing, and there are no oil and gas leases on the site. The site is underlain by Mancos Formation shale.

b. Cheney Reservoir Site. The site is about 17 miles southwest of Grand Junction and 5 miles southeast of the community of Whitewater. The site lies near Route 50 and is used for grazing. An electric power-transmission line runs across the site. The area just north, along Kannah Creek, is intensively farmed. There are a number of oil and gas leases on the site. Parcels of privately owned land adjoin the site on three sides. The site is underlain by Mancos Formation shale.

c. Lucas Mesa Site. The Lucas Mesa site is 2 miles south of the Colorado River on a mesa that rises about 1000 feet above the surrounding terrain. It is about 4 miles from the town of DeBeque and about 40 miles east of Grand Junction. The site, which is Federally owned, is used for grazing and is subject to several leases for oil and gas exploration. The site is surrounded by privately owned parcels of land, and the land to the north in the Colorado River valley is intensively farmed. The site is underlain by the Wasatch Formation.

Disposal of the Grand Junction tailings at Lucas Mesa is a reasonable alternative only if the Rifle tailings are also disposed of there. The EIS being prepared for remedial action on the Rifle tailings will address the cumulative site-specific impacts of disposal at Lucas Mesa. The decision on the Rifle tailings will be made prior to or concurrently with the decision on the Grand Junction tailings.

The other site nominated by the State is the East Salt Creek site, which is similar to and in the same area as the 6&50 Reservoir site.

Comments and Scoping Meeting

The DOE invites all interested parties to submit written comments or suggestions on the draft EIS and to attend the scoping meetings. The purposes of the meetings and of the request for written comments are to provide the DOE, the NRC, and the State with as much information from as many viewpoints as possible and to provide interested persons with opportunities to express their views. The DOE will then determine, in consultation with the NRC and the State, the scope of the issues to be addressed in the draft EIS and will identify the significant issues related to the remedial action.

Public scoping meetings will be held in Grand Junction, Colorado, on February 8 & 9, 1983. The time and place will be announced in local news publications; they may also be obtained from J. A. Morley at the address given above.

Persons desiring to make oral comments at the meetings should mail their requests to J.A. Morley at the above address and should write "Grand Junction scoping meetings" on the envelope. They should notify the DOE of their desire to speak before February 1, 1983, so that the DOE may arrange a schedule for the presentations.

The DOE will establish procedures governing the conduct of the meetings. The meetings will not be conducted as evidentiary hearings, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, the DOE may allow longer times for representatives of organizations; persons wishing to speak on behalf of an organization should identify the organization in their request. Persons who have not submitted a request to speak in advance may register to speak at the scoping meetings; they will be called on to present their comments if time permits.

Written comments and suggestions for issues to be addressed in the draft EIS should be sent to J.A. Morley at the address given above by February 14, 1983. Written comments will be considered and given equal weight with oral comments in the preparation of the EIS.

On the completion of the draft EIS, notice of its availability will be announced in the **Federal Register**, and the Department of Energy will again solicit comments. Persons who do not desire to submit comments or suggestions during the scoping period but who wish to receive a copy of the draft EIS for review and comment when it is issued should notify J. A. Morley at the above address. Persons seeking further information may inquire at either of the addresses given above.

Transcripts of the scoping meetings will be prepared by the DOE. Members of the public may inspect the transcripts of the scoping meetings and other documents now planned for use in preparing the draft EIS at the following locations:

Freedom of Information Reading Room, Room 1E–190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585

Bendix Field Engineering Corporation Library, P.O. Box 2557, Grand Junction, Colorado 81502

Mesa County Library, 530 Grand Avenue, Grand Junction, Colorado 81501, Attn: Terry Pickens

Learning Resource Center, Mesa College, P.O. Box 2647, Grand Junction, Colorado 81502, Attn: Mr. Charles Hendrickson

Rifle Branch Library, 337 East Avenue, Rifle, Colorado 81650

Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, Colorado 80210

Dated at Washington, D.C., this 17th day of January 1983, for the United States Department of Energy.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83–1669 Filed 1–20–83; 8:45 am]

BILLING CODE 6450–01–M

Inactive Uranium Mill Tailings Sites Near Rifle, Colo.; Compliance With the National Environmental Policy Act; Intent To Prepare an Environmental Impact Statement and Conduct a Public Scoping Meeting for Remedial Actions

AGENCY: Energy Department.

ACTION: Notice is hereby given that the Department of Energy intends to prepare an environmental impact statement (EIS) to assess the environmental implications of remedial actions to be performed on the inactive uranium mill tailings piles and vicinity properties near Rifle, Colorado.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS, in accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA), to provide environmental input into the selection of an appropriate remedial action in connection with uranium mill tailings and other residual radioactive materials at two inactive uranium mills near Rifle, Colorado, and at residences, commercial buildings, and open lands in the Rifle area which are contaminated with mill tailings derived from the inactive uranium mills. The DOE's proposed action is to perform remedial action pursuant to Pub. L. 95–604, the Uranium Mill Tailings Radiation Control Act of 1978. Such remedial actions consist of those measures taken to stabilize or control the mill tailings to the extent necessary to ensure that the radiological and non-radiological impacts from the mill tailings do not exceed the standards for the protection of the public health, safety, and environment promulgated by the Environmental Protection Agency (EPA). The EIS will consider the options of remedial action and no remedial action. In addition, the EIS will consider the following remedial action alternatives: stabilization of the tailings in their present locations, consolidation and stabilization of the tailings at one of the present locations, and removal of the tailings from both locations to a new disposal site. The DOE is serving as the lead agency for preparation of the EIS; Nuclear Regulatory Commission (NRC) will participate as a cooperating agency.

The DOE invites interested agencies, organizations, and members of the general public to submit comments or suggestions for consideration in connection with the preparation of the draft EIS. Comments or suggestions to assist the DOE in identifying significant environmental issues and the appropriate scope of the draft EIS are requested. Comments may be submitted by mail or presented at scoping meetings to be held in Rifle, Colorado, on February 7 & 8, 1983. On completion of the draft EIS, notice of its availability will be announced in the **Federal Register** and local news media, and comments will be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

ADDRESS: Written comments or suggestions on the scope of the EIS and requests to speak at the scoping meetings may be submitted to: Mr. James A. Morley, Uranium Mill Tailings Project Office, Albuquerque Operations Office, Department of Energy, P.O. Box 5400, Albuquerque, NM 87115, (505) 844–3941.

Envelopes should be marked "DEIS for Rifle tailings piles."

General information on the process followed by the DOE in preparing environmental impact statements may be obtained from: Office of

Environmental Compliance, Office of the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, U.S. Department of Energy, ATTN: Mr. Steven R. Woodbury, Room 4G–064, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–4610.

DATES: Written comments postmarked by February 14, 1983 will be considered in the preparation of the DEIS. Comments postmarked after that date will be considered to the maximum extent practicable. Scoping meetings will be held in Rifle, Colorado, on February 7 and 8, 1983. Requests to speak at these meeting should be received by J. A. Morley at the above address by February 1, 1983. Requests to speak may also be made during registration for the meetings.

Background Information

In 1978 the U.S. Congress passed the Uranium Mill Tailings Radiation Control Act, Pub. L. 95–604. In this Act the Congress found that uranium mill tailings may pose a potential and significant radiation health hazard to the public and directed the DOE to designate processing sites for remedial action to remove this potential hazard. The DOE has designated 24 sites for remedial action, including the two Union Carbide Corporation sites near Rifle. Public Law 95–604 requires that the DOE carry out remedial action at each site in cooperation with other agencies and with the States and Indian tribes affected by the action. The NRC's statutory responsibilities include consulting with the DOE over a range of subjects concerning the conduct of the remedial action, concurring with the selected remedial action and with any cooperative agreement with a State or Indian tribe, and licensing the long-term maintenance and monitoring of each tailings-disposal site after the remedial action is completed. In view of its statutorily-prescribed role in connection with the remedial action program, the NRC has agreed to participate as a "cooperating agency" as defined by the Council on Environmental Quality regulations implementing NEPA (40 CFR 1508.5). In addition, the EPA was given the responsibility to set standards to protect public health, safety, and the environment at the tailings sites and the disposal sites. Any remedial action must be in accordance with these EPA standards. The EPA published final standards governing the cleanup and disposal of the mill tailings and other residual radioactive materials in the Federal Register of January 5, 1983 (48 FR 590).

Pursuant to Public Law 95–604, the DOE and the State of Colorado entered into a cooperative agreement, effective October 19, 1981, in order to implement the remedial action program at the nine Colorado processing sites designated by the DOE, including the inactive Union Carbide Corporation sites near Rifle. The State of Colorado will assist the DOE in scoping, scoping meetings, hearings on the draft EIS, and in connection with other NEPA process matters.

The Old Rifle site is 0.3 mile east of the City of Rifle in Garfield County, Colorado. The 22-acre site is owned by the Union Carbide Corporation. Initially, only vanadium was produced, but in 1946 a uranium-recovery capability was added. Between 1947 and 1958, over 2100 tons of uranium produced by the mill were purchased by the Federal government. After 1958, about half of the tailings originally on the site was transferred to the New Rifle site for reprocessing. The remaining 400,000 tons of tailings occupy about 11 acres. The old mill area occupies the rest of the site, but only one building is still standing. The rather flat tailings pile is stabilized with vegetative cover maintained by the Union Carbide Corporation. On the south the site is separated from the Colorado River by the tracks and embankment of the Denver and Rio Grande Western Railroad; Route 6 & 24 passes just north of the site. Over half of the base of the pile is below the 200-year flood elevation. The pile, however, is separated from the Colorado River by the railroad embankment, which would be barely overtopped by the 200-year flood.

The New Rifle site is 2 miles west of the City of Rifle. The 300-acre site is owned by the Union Carbide Corporation. About half the site is occupied by the mill, which is still in intermittent operation processing vanadium liquors. The New Rifle mill began operating in 1958, and between 1958 and 1970, over 5000 tons of uranium produced by the mill were purchased by the Federal government. The uranium produced during 1971 and 1972 and all of the vanadium produced by the mill were sold commercially. About 2.7 million tons of tailings, which cover about 32 acres, are in a two-level pile, the upper terrace of which is about 70 feet high and the lower terrace of which is about 45 feet high. The pile is stabilized with vegetative cover maintained by the Union Carbide Corporation. In addition to the mill area and the tailings pile, the site includes 2 ore-storage areas, settling and effluent ponds, and a large unused area west of the tailings pile. The site is bounded on the east and south by the Colorado River, and on the south Interstate 70 runs at the edge of the site between the river and the tailings. About half of the base of the pile is below the 200-year flood elevation. A levee on the east protects the site, but the top of the levee is of approximately the same elevation as the 200-year flood. Highway 6 & 24 and the Denver and Rio Grande Western Railroad pass just north of the site.

Vicinity properties contaminated with either windblown tailings or other residual radioactive material from either site will be cleaned up as a part of the remedial action program.

The DOE has made preliminary assessments of the tailings piles at the Rifle sites and of possible remedial actions. A document describing the preliminary assessments of the Rifle tailings is the "Engineering Assessment of Inactive Uranium Mill Tailings, Old and New Rifle Sites, Rifle, Colorado" (DOE/UMT–0108), which is available for public inspection at the locations listed at the end of this notice. The State of Colorado investigated several areas in which the tailings might safely be permanently disposed of and recommended four of them to the DOE as possible candidate disposal sites for further study. The DOE has selected one of these sites for detailed analysis in the draft EIS.

In order to proceed with the selection of an appropriate remedial action, the DOE will prepare an EIS that will analyze the effects of a range of reasonable alternatives. After the completion of a final EIS, the plan for remedial action on the Rifle tailings will be selected, probably in 1984. The remedial action could then begin in 1985 and be completed during 1987, subject to the appropriation of sufficient funds by the Congress and by the State of Colorado to cover the remedial action costs.

Preliminary Identification of Environmental Issues

Major issues to be analyzed during the preparation of the EIS will include:

1. Exposures to radiation that the public and the workers on the project will receive from routine operations.

2. Exposures to radiation from hypothetical accidents that release radioactive material.

3. Effects on surface and ground waters.

4. Effects on transportation networks, including changes in traffic patterns and volumes.

5. Effects of accidents other than effects arising from releases of radioactive material.

6. Impacts to and within the floodplain of the Colorado River.

Other issues to be analyzed will include:

1. Changes in air quality caused by dust and other pollutants.

2. Effects on soils and mineral resources.

3. Effects on plants and animals.

4. Changes in land use.

5. Changes in noise levels during the actions.

6. Effects on scenic, historic, and cultural resources.

7. Changes in population and effects on housing, social structure, services, and economic structure in the communities near the affected places.

8. Expected use of energy and other resources.

9. Benefits of reprocessing the tailings to recover minerals.

The lists are not intended to be all-inclusive nor to be a predetermination of impacts.

Analyses of the listed effects will be made for the mill-tailings site, the disposal sites, the reprocessing sites if any, the transportation routes, and (to the extent feasible) the sites where cover material is obtained. The analyses will cover both the time when the remedial action is in progress and the time after it has been completed.

Preliminary Definition of Alternatives

The DOE will consider all reasonable alternatives to the proposed action and their environmental impacts. The alternative actions presently proposed for detailed analysis in the draft EIS are briefly listed below. This list will be finalized following the scoping process.

Alternative 1: No Action

Under this alternative, the tailings piles would be left in place; no measures would be taken to control or stabilize the tailings.

Alternative 2: Stabilization in Place

This alternative consists of decontaminating the Rifle vicinity properties and consolidating all residual radioactive materials removed from such properties with the tailings piles at the Union Carbide Corporation sites. All mill tailings and residual radioactive materials would then be stabilized at the sites; stabilization will include the emplacement of cover material to reduce the radon flux in accordance with EPA standards.

Alternative 3: Consolidation and Stabilization in Place at the Union Carbide Corporation New Rifle Site

This alternative involves consolidating all residual radioactive materials from Rifle vicinity properties and the tailings from one of the Union Carbide Corporation sites at the remaining Union Carbide Corporation site. The New Rifle site is the only one of the two sites with enough unused area to conveniently accommodate additional tailings. The uranium mill tailings from the Old Rifle site would be moved to the New Rifle site, and the former would be decontaminated and released for other use. The material consolidated at the New Rifle site would be stabilized as in Alternative 2 above.

Alternative 4: Decontamination of the Union Carbide Corporation Sites and Removal of the Tailings to a New Disposal Site

This alternative involves selecting a site for stabilization and control of the tailings and other residual radioactive materals other than the Union Carbide Corporation sites. All residual radioactive materials removed from Rifle vicinity properties and the uranium mill tailings piles at the Union Carbide Corporation sites would be transported to a State-recommended site on Lucas Mesa. The Lucas Mesa site is 2 miles south of the Colorado River on a mesa that rises about 1000 feet above the surrounding terrain. It is about 4 miles from the town of DeBeque and about 33 miles west of Rifle. The site, which is Federally owned, is used for grazing and is subject to several leases for oil and gas exploration. The site is surrounded by privately owned parcels of land, and the land to the north in the Colorado River valley is intensively farmed. The site is underlain by the Wasatch Formation.

The other sites nominated by the State include the East Salt Creek site and the 6 & 50 Reservoir site, both of which are west of Grand Junction, and the Cheney Reservoir site, which is southeast of Grand Junction. They are more suitable for disposal of the tailings from the Grand Junction site, and two of them will be examined in detail in a separate EIS on the Grand Junction tailings. In addition, disposal of the Grand Junction tailings at the Lucas Mesa site is being considered, and any cumulative site-specific impacts will be addressed in the present EIS. Lucas Mesa is a reasonable alternative for disposal of the Grand Junction tailings only if the Rifle tailings are being disposed of there. The decision on the Rifle tailings will be made prior to or concurrently with the decision on the Grand Junction tailings.

Comments and Scoping Meeting

The DOE invites all interested parties to submit written comments or suggestions on the draft EIS and to attend the scoping meetings. The purposes of the meetings and of the request for written comments are to provide the DOE, the NRC, and the State with as much information from as many viewpoints as possible and to provide interested persons with opportunities to express their views. The DOE will then determine, in consultation with the NRC and the State, the scope of the issues to be addressed in the draft EIS and will identify the significant issues related to the remedial action.

Public scoping meetings will be held in Rifle, Colorado, on February 7 & 8, 1983. The times and place will be announced in local news publications; they may also be obtained from J. A. Morley at the address given above.

Persons desiring to make oral comments at the meetings should mail their requests to J. A. Morley at the above address and should write "Rifle scoping meetings" on the envelope. They should notify the DOE of their desire to speak before February 1, 1983, so that the DOE may arrange a schedule for the presentations.

The DOE will establish procedures governing the conduct of the meetings. The meetings will not be conducted as evidentiary hearings, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, the DOE may allow longer times for representatives of organizations; persons wishing to speak on behalf of an organization should identify the organization in their request. Persons who have not submitted a request to speak in advance may register to speak at the scoping meetings; they will be called on to present their comments if time permits.

Written comments and suggestions for issues to be addressed in the draft EIS should be sent to J. A. Morley at the address given above by February 14, 1983. Written comments will be considered and given equal weight with oral comments in the preparation of the EIS.

On the completion of the draft EIS, its availability will be announced in the **Federal Register**, and the Department of Energy will again solicit comments. Persons who do not desire to submit

comments or suggestions during the scoping period but who wish to receive a copy of the draft EIS for review and comment when it is issued, should notify J. A. Morley at the above address. Persons seeking further information may inquire at either of the addresses given above.

Transcripts of the scoping meetings will be prepared by the DOE. Members of the public may inspect the transcripts of the scoping meetings and other documents now planned for use in preparing the draft EIS at the following locations:

Freedom of Information Reading Room, Room 1E–190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585
Bendix Field Engineering Corporation Library, P.O. Box 2567, Grand Junction, Colorado 81502
Mesa County Library, 530 Grand Avenue, Grand Junction, Colorado 81501, Attn: Terry Pickens
Learning Resource Center, Mesa College, P.O. Box 2647, Grand Junction, Colorado 81502, Attn: Mr. Charles Hendrickson
Rifle Branch Library, 337 East Avenue, Rifle, Colorado 81650
Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, Colorado 80210

Dated at Washington, D.C., this 17th day of January 1983, for the United States Department of Energy.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83–1830 Filed 1–20–83; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Dalco Petroleum Corp. and Subsidiaries and Louis Porter; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Dalco Petroleum Corporation and its subsidiaries and Louis Porter and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by February 22, 1983.

ADDRESS: Send comments to: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, 440 S. Houston, Room 306, Tulsa, OK 74127.

FOR FURTHER INFORMATION CONTACT: John W. Sturges, Director, Tulsa Office, Economic Regulatory Administration, 440 South Houston, Room 306, Tulsa, Oklahoma 74127, (918) 581–7781.

Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On December 28, 1982, the ERA executed a proposed Consent Order with Dalco Petroleum Corporation, an Oklahoma Corporation, and Louis Porter of Tulsa, Oklahoma. Under 10 CFR 205.199J(b) a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the Federal Register requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

The Consent Order

Dalco Petroleum Corporation, with its home office located in Tulsa, Oklahoma, and Louis Porter, an individual, engaged in the resale of crude oil and the sale of natural gas liquids and natural gas liquid products. Dalco Petroleum Corporation and Louis Porter were subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, and 213 in connection with Dalco Petroleum Corporation's and Louis Porter's transactions involving the resale of crude oil and sales of natural gas liquids and natural gas liquid products during the period April 1, 1974 through January 27, 1981 ("the period covered by this Consent Order"), the ERA, Dalco Petroleum Corporation, and Louis Porter entered into a Consent Order, the significant terms of which are as follows:

A. During the period March 1976 through January 27, 1981, Dalco Petroleum Corporation and its subsidiaries and Louis Porter engaged in the resale of crude oil. During the period April 1974 through January 27, 1981 Dalco Petroleum Corporation and its subsidiaries and Louis Porter engaged in the sale of natural gas liquids and natural gas liquid products.

B. DOE has alleged that during the period covered by this Consent Order, Dalco Petroleum Company and Louis Porter improperly priced and certified crude oil in violation of 10 CFR Part 212, Subparts F and L and improperly priced propane and butane in violation of 10 CFR Part 212, Subparts E, F, and K.

C. The execution of this Consent Order constitutes neither an admission by Dalco Petroleum Corporation and its subsidiaries or Louis Porter nor a finding by DOE of any violation by the Dalco Petroleum Corporation and its subsidiaries or Louis Porter of any statute or regulation administered by DOE.

II. Refunds

Under this Consent Order, Dalco Petroleum Corporation will pay the sum of four million dollars ($4,000,000) to DOE for deposit in the U.S. Treasury as miscellaneous receipts in twelve yearly installments commencing August 31, 1983. If installment payments are not made as provided in the Consent Order, Dalco shall pay installment interest on the unpaid payment from the date due until paid at the average prime rate for that calendar quarter and for each subsequent calendar quarter. Payment of the sums is secured by the assignment to DOE of an interest in the net proceeds from the sale of oil and gas production attributable to the working interest held by Dalco in a well located in Pointe-Coupee Parish, Louisiana. DOE shall receive the greater of four million dollars or the amount attributable to the assignment of net proceeds. Upon full satisfaction of the terms and conditions of this Consent Order by Dalco Petroleum Corporation, the DOE releases Dalco Petroleum Corporation from all civil claims that the DOE may have arising out of Dalco Petroleum Corporation's and its subsidiaries' compliance with the statutes and regulations administered by the DOE during the period covered by this Consent Order.

Under this Consent Order, Louis Porter will pay the sum of one million dollars ($1,000,000) to DOE for deposit in the U.S. Treasury as miscellaneous receipts in four installments commencing January 2, 1984. Payment of the sums is secured by the assignment by Louis Porter of certain assets to an escrow agent as agent for the DOE. If installment payments are not made as provided in the Consent Order, Louis Porter shall pay installment interest from the date due until paid at the

average prime rate for that calendar quarter and for each subsequent calendar quarter. Upon full satisfaction of the terms and conditions of this Consent Order by Louis Porter, the DOE releases Louis Porter from all civil claims that the DOE may have arising out of Louis Porter's compliance with the statutes and regulations administered by the DOE during the period covered by the Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Dalco Petroleum and Louis Porter Consent Order". The ERA will consider all comments it receives by 4:30 pm, local time, on February 22, 1983. Any information or data considered confidential by the person submitting it may be identified as such in accordance with the procedure in 10 CFR 205.9(f).

Issued in Tulsa, Oklahoma on the 7th day of January 1983.

James E. Pohl,

Acting Director, Tulsa Office, Economic Regulatory Administration.

[FR Doc. 83-1605 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Santa Fe Energy Company; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Action Taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with Santa Fe Energy Company as a final order of the Department.

EFFECTIVE DATE: January 7, 1983.

FOR FURTHER INFORMATION CONTACT: Sandra K. Webb, Director, Houston Office, Economic Regulatory Administration, One Allen Center, 500 Dallas Street, Suite 610, Houston, Texas 77002.

SUPPLEMENTARY INFORMATION: On November 30, 1982, ERA published a notice in the **Federal Register** (47 FR 53941) that it had executed a proposed Consent Order with Santa Fe Energy Company on November 9, 1982 which would not become effective sooner than 30 days after publication of that notice. Pursuant to 10 CFR 205.199J(c), interested persons were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The proposed Consent Order involved the resolution of certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, 212, in connection with certain Santa Fe transactions involving first sales of domestic crude oil during the period September 1, 1973 through January 28, 1981. Pursuant to the proposed Consent Order, Santa Fe Energy Company will pay the sum of $2,700,000 within thirty (30) days of the effective date of the Consent Order for deposit in the U.S. Treasury as miscellaneous receipts.

Comments were received from four states. Although none of the commentors objected to the terms of the proposed Consent Order, they did object to the method of distributing the refund contemplated by the proposed Consent Order and suggested instead that the refund be distributed to the various states.

Because the sales of crude oil were to refiners that were able to pass on the alleged overcharges to subsequent purchasers, ERA was unable to identify specific parties, if any that ultimately may have been injured.

In this case ERA has determined that deposit in the U.S. Treasury is an appropriate remedy under these circumstances. Therefore, the proposed Consent Order was made final and effective without modification on January 7, 1983.

Issued in Houston, Texas on the 7th day of January, 1983.

Sandra K. Webb,

Houston Office, Economic Regulatory Administration.

[FR Doc. 83-1604 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 82-CERT-025]

American Cyanamid Co.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On February 3, 1982, American Cyanamid Company (American Cyanamid), One Cyanamid Plaza, Wayne, New Jersey 07470, was granted a recertification of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 81-CERT-028, effective February 5, 1982). The certification involved the purchase of natural gas from Conecuh-Monroe Counties Gas District for use by American Cyanamid at its acrylic fiber plant located in Pensacola, Florida. The ERA certificate expires on February 4, 1983.

On December 15, 1982, American Cyanamid filed an application for recertification of an eligible use of natural gas to displace fuel oil at its Pensacola plant pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA Natural Gas Division Docket Room, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, American Cyanamid states that the volume of natural gas for which it requests recertification is up to 3,000 Mcf per day. The use of this gas is estimated to displace the use of up to 20,000 gallons (476 barrels) of No. 6 fuel oil (2.5 percent sulfur) per day at the Pensacola plant. The eligible seller of the natural gas is Conecuh-Monroe Counties Gas District, P.O. Box 310, Evergreen, Alabama 36401. The gas will be transported by United Gas Pipe Line Company, 700 Milam, P.O. Box 1478, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-007, RG-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Paula A. Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to American Cyanamid and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C. on January 14, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-1606 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-82-035]

Powerplant and Industrial Fuel Use Act of 1978; Electric Utility Conservation Plans

AGENCY: Economic Regulation Administration, Energy.

ACTION: Notice of Approval of Conservation Plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received a number of electric utility conservation plans developed and submitted for DOE approval pursuant to section 808 of the Powerplant and Industrial Fuel Use Act of 1978, as amended, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"). Pursuant to 10 CFR 508.5(b), DOE hereby gives Notice of Approval of Conservation Plans submitted by the electric utility owners or operators listed in the **SUPPLEMENTARY INFORMATION** section below.

The public file for each of the listed electric utility owners or operators containing this Notice of Approval of Conservation Plans and all other pertinent documents is available for inspection at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, telephone (202) 252-6020. Approval of each conservation plan is based on ERA's consideration of the entire record of the proceeding, including any comments received during the public comment period for each plan.

DATE: In accordance with 10 CFR 508.5(b), this Notice shall take effect on January 21, 1983.

FOR FURTHER INFORMATION CONTACT:

Edward Peters, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073 G, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-8162;

Henry Garson, Esq., Acting Assistant General Counsel for Coal Regulations, Office of the General Counsel, Forrestal Building, Room 6D-033, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-6947

SUPPLEMENTARY INFORMATION: Section 1023 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (OBRA) amended FUA by adding a new Section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981. Approved plans must be fully implemented during the five year period following DOE approval.

Notices of Receipt of the proposed conservation plans described below, providing for a thirty (30) day public comment period during which interested persons were invited to submit written comments concerning the content of any such proposed conservation plan, were published in the **Federal Register** on August 12 and 27, 1982 and September 17, 1982 (47 FR 35033, 37952 and 41163, respectively). No comments on these proposed plans were received.

Based upon the entire record of this proceeding, ERA has determined that the conservation plans of each of the following utilities meet the requirements for approval contained in 10 CFR 508.8. ERA is restricted by the 120 day time limitation imposed by the Act on the plan approval process as to the amount of information which can be analyzed in order to ascertain the environmental significance of approval of these plans. However, based on the information contained in each utility's submittal, ERA has determined, pursuant to 10 CFR 508.5, that the conservation programs contained in the plan of each utility listed below should not produce environmental consequences significant enough to warrant detailed documentation pursuant to the National Environmental Policy Act or its implementing regulations (40 CFR Part 1500 *et seq.*). Thus this action clearly does not represent a major Federal action significantly affecting the quality of the human environment. Pursuant to 10 CFR 508.5 and section 808 (d)(1) of FUA, DOE hereby approves the electric utility conservation plans submitted by the utilities listed below.

Each of the electric utilities whose plans are approved herein shall annually submit a report to ERA pursuant to 10 CFR 508.7 identifying the steps taken during the preceding year to implement its approved plan. Each such report shall be submitted within thirty (30) days after the close of a calendar year, beginning with the close of calendar year 1983. The report shall be sent to: Steven Ferguson, Director, Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-093, 1000 Independence Avenue, SW., Washington D.C. 20585.

The following utilities conservation plans are approved:

Utilities	FC Case No.
Chugach Electric Association, Anchorage, Alaska	50552-9999-00-49
City of Alexandria, Alexandria, La	50043-9999-00-49
Hutchinson Utilities Commission, Hutchinson, Minn	51375-9999-00-49
City of Ottawa, Ottawa, Kans	52204-9999-00-49
City of Winfield, Winfield, Kans	53320-9999-00-49
Columbus & Southern Ohio Electric Co., Columbus, Ohio	50633-9999-36-49
Montana Dakota Utilities Co., Bismarck, N. Dak	51913-9999-36-49
New Mexico Electric Service Co., Hobbs, N. Mex	52023-9999-36-49
Tennessee Valley Authority, Chattanooga, Tenn	52957-9999-36-49
The Empire District Electric Co., Joplin, Mo	50904-9999-00-49
Tucson Electric Power Co., Tucson, Ariz	52970-9999-00-49
Wisconsin Public Service Corp., Green Bay, Wis	53333-9999-00-49

Issued in Washington, D.C. on January 13, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-1907 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Bruin Corp. and Bruin Marketing, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Bruin Corporation and Bruin Marketing, Inc. (Bruin), Capital National Bank Building, 1300 Main Street, Houston, Texas 77002. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 210.62, and 205.202. The principal amount of the alleged violations for the period September 1978 through December 1979 is $188,627.26.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may

file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 5th day of January, 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-1600 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Hideca Petroleum Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Hideca Petroleum Corp. (Hideca), One Riverway, Suite 2480, Houston, Texas 77056. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 210.62(c), and 205.202. The principal amount of the alleged violations for the period October 1978 through November 1979 is $7,847,940.48.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 6th day of January, 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-1601 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Kelly Trading Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(C), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Kelly Trading Corporation (Kelly), 5065 Westheimer, Suite 805 East, Houston, Texas 77056. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 210.62, and 205.202. The principal amount of the alleged violations for the period January through November 1980 is $360,986.25.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 6th day of January, 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-1603 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Osborne Energy Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Osborne Energy Corporation and its President E. O. White, Eleven Greenway Plaza, Suite 626, Houston, Texas 77046. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 210.62, and 205.202. The principal amount of the alleged violations for the period October through December 1980 is $3,002,024.71.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 6th day of January, 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-1602 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulation Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective February 1, 1983. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue, SW., Room BE-034, Washington, D.C. 20585, telephone (202) 252-6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine

the price ceilings is described in Section III.

State	Dollars per million BTU's
Alabama	3.90
Arizona [1]	3.82
Arkansas [1]	3.86
California	3.80
Colorado [1]	3.77
Connecticut [1]	4.01
Delaware [1]	3.95
Florida	3.83
Georgia [1]	3.96
Idaho [1]	3.77
Illinois [1]	3.53
Indiana	3.65
Iowa [1]	3.56
Kansas [1]	3.86
Kentucky [1]	3.93
Louisiana [1]	3.90
Maine [1]	4.01
Maryland [1]	3.96
Massachusetts	3.91
Michigan	3.57
Minnesota	3.60
Mississippi [1]	3.90
Missouri [1]	3.86
Montana [2]	3.77
Nebraska [1]	3.86
Nevada [1]	3.82
New Hampshire [1]	4.01
New Jersey	3.95
New Mexico	3.37
New York [1]	3.96
North Carolina [1]	3.96
North Dakota [1]	3.85
Ohio	3.69
Oklahoma [1]	3.66
Oregon [1]	3.82
Pennsylvania [1]	3.96
Rhode Island [1]	4.01
South Carolina [1]	3.96
South Dakota [1]	3.86
Tennessee [1]	3.96
Texas	3.60
Utah [1]	3.77
Vermont [1]	4.01
Virginia [1]	3.96
Washington [1]	3.82
West Virginia [1]	3.83
Wisconsin	3.72
Wyoming [2]	3.77

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM79–21.
[2] Region based price computed as the weighted average price of Regions E, F, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distilate fuel oil landed in the greater New York City Metropolitan area during November 1982 was $41.59 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective February 1, 1983, is $9.32 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: For each selling price, the number of gallons sold to large industrial users in the months of September 1982, October 1982, and November 1982.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used To Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective February 1, 1983, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, September 1982, October 1982, and November 1982. Reported prices for sales in September 1982 were adjusted by the percent change in the nationwide volume-weighted average price from September 1982 to November 1982. Prices for October 1982 were similarly adjusted by the percent change in the nationwide volume-weighted average price from October 1982 to November 1982. The volume-weighted 3-month average of the adjusted September 1982 and October 1982, and the reported November 1982 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B. (1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section II.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were no reported sales in Region G for the months of September, October, and November 1982. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume weighted average price ceilings for Region E, Region F, and Region H.

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States.

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premisies. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 sulfur residual fuel oil for the ten trading days ending January 14, 1983, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of November 1982. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region. States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Region B

Delaware, Maryland, New Jersey, New York, Pennsylvania

Region C

Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virginia

Region D

Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, Wisconsin

Region E

Iowa, Kansas, Missouri, Minnesota, Nebraska, North Dakota, South Dakota

Region F

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Region G

Colorado, Idaho, Montana, Utah, Wyoming

Region H

Arizona, California, Nevada, Oregon, Washington

Issued in Washington, D.C., January 18, 1983.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 83-1796 Filed 1-19-83; 11:23 am]

BILLING CODE 6450-01-M

Office of Energy Research

Materials R&D Panel Energy Research Advisory Board; Meeting:

Notice is hereby given of the following meeting:

Name: Materials R&D Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and Time: February 25, 1983; 8 a.m. to 4 p.m.

Place: Department of Energy, Room 4A-110, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585.

Contact: William Woodard, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-8, 1000 Independence Avenue, SW, Washington, DC 20585, Telephone: 202/252-8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide lone-range guidance in these areas to the Department.

Tentative agenda

—Discussion of Initial Working Outline for Draft Report

—Future Meetings Outside Washington, D.C.

—Overview of Other Federal Agencies' Programs in Materials R&D

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on January 17, 1983.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 83-1608 Filed 1-20-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. G-11893-000, et al.]

Mobil Producing Texas & New Mexico Inc., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

January 17, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 2, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised it will be

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-11683-000, D, Jan. 3, 1983	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Northern Natural Gas Company, Eunice Area, Lea County, New Mexico.	(1)	
G-18041-000, D, June 2, 1982	Coastal Oil & Gas Corporation, Nine Greenway Plaza, Houston Texas 77046.	Columbian Fuel Corporation, Jefferson Field (Sharp-McMillan Lands), Nicholas County, West Virginia.	(2)	
G-18041-001, D, June 2, 1982	do	Columbia Gas Transmission Corp. (formerly United Fuel Gas Co.), Scott Field, Putnam County, West Virginia.	(3)	
G-18041-002, B, June 2, 1982	do	Consolidated Gas Supply Corp., Crook Field, Boone and Raleigh Counties, West Virginia.	(4)	
G-18041-003, D, June 2, 1982	do	Consolidated Gas Supply Corp., Triadelphia Field (Eunice Lands), Wyoming and Logan Counties, West Virginia.	(2)	
C162-249-000, D, June 2, 1982	do	Columbia Gas Transmission Corp. (formerly United Fuel Gas Co.), Stafford Field (Skillet, Fork, and Hare Lands), Mingo County, West Virginia.	(3)	
C163-1128-000, D, June 2, 1982	do	Consolidated Gas Supply Corporation, Crook Field (Y and O Lands), Boone County, West Virginia.	(2)	
C80-429-001, D, December 9, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Comapany, Vermilion Block 251 Area, Offshore Louisiana.	(5)	14.73
C83-105-000 (C80-600), B, Dec. 27, 1982.	Sun Exploration and Production Company, formerly Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	United Gas Pipe Line Company, State Tract 773-L, Mustang Island Area, Offshore Nueces County, Texas.	(6)	
C83-106-000, A, Dec. 27, 1982	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	West Lake Arthur Corperation, Vermilion Block 251, Offshore Louisiana.	(5)	15.025
C83-107-000 (C83-1025), B, Dec. 27, 1982.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Arkansas Louisiana Gas Company, North Carter Field, Beckham County, Oklahoma.	(6)	
C83-108-000 (C80-320), B, Dec. 29, 1982.	Charles F. Lucas Jr. and Genavieve J. Anderson (successor to L & H Drilling Company, Inc.), 4631 Old Hartford Road, Owensboro, Kentucky 42301.	Texas Gas Transmission Corporation, Sugar Creek Gas Field, Hopkins County, Kentucky.	(7)	
C83-109-000 (C67-187), B, Dec. 29, 1982.	do	Texas Gas Transmission Corporation, New Hope Gas Field, Hopkins County, Kentucky.	(7)	
C83-110-000 (C766-821), B, Jan. 3, 1983.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, East Cameron Parish, Louisiana.	(5)	
C83-111-000 (C81-139-000), B, Jan. 3, 1983.	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Cold Springs Field, San Jacinto County, Texas.	(5)	
C83-112-000 (G-15511), B, Jan. 3, 1983.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	West Lake Natural Gasoline Company, Nena Lucia Field, Nolan County, Texas.	(10)	
C83-113-000 (G-20685), B, Jan. 3, 1983.	do	do	(10)	
C83-114-000 (G-15510), B, Jan. 3, 1983.	do	do	(10)	
C83-115-000, A, Jan. 3, 1983	Amoco Production Company, P.O. Box 3092, Houston, Texas 77253.	Tennessee Gas Pipeline Company, South East Tomball Field, Harris County, Texas.	(11)	14.73
G-18731-000, Jan. 6, 1983	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Lone Star Gas Company, Big Mineral Creek Field, Grayson County, Texas.	(12)	14.73

[1] By assignment and Bill of Sale dated October 19, 1982, to be effective November 1, 1982, Mobil Producing Texas & New Mexico Inc. assigned to Bliss Petroleum Inc. a certain lease.
[2] Leases subject to rate schedule were assigned to W. C. DeArman effective February 1, 1974. Coastal retained the undeveloped deep rights.
[3] Applicant is filing under Gas Purchase Contract dated July 18, 1980.
[4] Sun released rights to this lease because the reserves are depleted and the wells have been plugged and abandoned.
[5] Applicant is filing under Gas Purchase and Sales Agreement dated December 23, 1982.
[6] ARCO released all leases covered by the May 3, 1961 Gas Purchase Contract and no longer owns any working interest in the properties. The contract expired on its own terms on August 1, 1981, and was cancelled effective that date.
[7] Field depleted.
[8] Depletion of gas reserves & release of acreage by virtue of release dated July 31, 1973.
[9] On July 26, 1982, Getty Oil Company assigned all its interest in the dedicated acreage to Mr. Joe E. Smith.
[10] Original contract containing percentage-of-fixed-sum minimum price provision has been cancelled and superceded by a bonafide percentage-of-proceeds contract.
[11] Applicant is filing under Gas Purchase Agreement dated October 16, 1981.
[12] Applicant is filing under Gas Sales Contract dated September 15, 1981, amended by amendment dated April 15, 1982.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-1586 Filed 1-20-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Week of December 20 Through December 24, 1982

Correction

In FR Doc. 83-1468 beginning on page 2426 in the issue of Wednesday, January 19, 1983, second column, in the heading, the Subagency now reading "**Federal Energy Regulatory Commission**" should read as set forth above.

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2288-5]

Availability of Environmental Impact Statements Filed January 10 Through January 14, 1983 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5075 or 382-5076.

Corps of Engineers:
EIS No. 830022, Draft, COE, SEV, OR, WA, Mouth of the Columbia River, Navigation Channel Improvement, Due: Mar. 7, 1983
EIS No. 830013, DSuppl, COE, OK, Kaw Lake Hydropower & Multipurpose Project, Kay/Osage/Cowley Counties, Due: Mar. 7, 1983
Department of Interior:
EIS No. 830016, Draft, BLM, SEV, UT, WY, Chevron Phosphate Project, C/O, Right-of-Way Permit, Due: Mar. 15, 1983
EIS No. 830020, Final, BLM, UT, Price River Resource Area Grazing Mgmt. Plan, Carbon and Emery Cos., Due: Feb. 21, 1983
Department of Transportation:
EIS No. 830012, Draft, FHW, MD, I-595 Construction, I-95 to I-170, Baltimore County, Due: Mar. 11, 1983
EIS No. 830024, Draft, FHW, IL, Lake Front Highway Construction, I-94 to IL-132, Lake County, Due: Mar. 12, 1983
EIS No. 830014, Final, FHW, TN, Carthage

Bypass Construction, TN–53 to TN–25, Smith County, Due: Feb. 21, 1983
Department of Housing and Urban Development:
EIS No. 830015, Final, HUD, WY, Trails West Addition/Cottonwood Replat, Mortgage Ins., Natrona County, Due: Feb. 21, 1983
EIS No. 830025, Final, CDB, IL, Woodlawn Village Water/Sewer Facilities, UDAG, Jefferson County, Due: Feb. 21, 1983
EIS No. 830019, Final, HUD, UT, Utah Housing Development, Areawide Study, Due: Feb. 21, 1983
Environmental Protection Agency:
EIS No. 830017, Draft, EPA, SEV, FL, AL, MS, Pensacola/Mobile/Gulfport Disposal Sites, Designation, Due: Mar. 7, 1983
EIS No. 830023, Draft, EPA, AK, City of Anchorage Wastewater Treatment Facilities Expansion, Grant, Due: Feb. 21, 1983
Department of Defense, Navy:
EIS No. 830021, Final, USN, CA, West Coast Landing Craft Air Cushion Operational Base, San Diego, Co., Due: Feb. 21, 1983
Nuclear Regulatory Commission:
EIS No. 830018, Final, NRC, SC, Catawba Nuclear Station Units 1 and 2, Operating License, York County, Due: Feb. 21, 1983
Amended Notices:
EIS No. 820224, Draft, AFS, AK, Situk River Wild and Scenic Designation Study, Published FR Apr. 30, 1982—Review reopened, Due: Feb. 11, 1983
EIS No. 741082, Draft, NPS, UT, Capitol Reef National Park, Wilderness, Officially withdrawn
EIS No. 741725, Draft, NPS, SEV, NC, TN, Great Smokey Mountain National Park Wilderness Area, Officially withdrawn
EIS No. 760871, Draft, NPS, ME, Acadia National Park, General Management Plan, Officially withdrawn
EIS No. 761093, Draft, NPS, AZ, Grand Canyon National Park Wilderness Area, Officially withdrawn
EIS No. 760774, Draft, IBR, AZ, Orme Dam and Reservoir Construction, Central Arizona Project, Officially withdrawn

Dated: January 18, 1983.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 83–1684 Filed 1–20–83; 8:45 am]

BILLING CODE 6560-50-M

[ER–FRL–2281–1]

Availability of Environmental Impact Statements Filed December 27 Through December 30, 1982 Pursuant to 40 CFR Part 1506.9

Correction

In FR Doc. 83–471 on page 863 in the issue of Friday, January 7, 1983, make the following correction:

In the second and third columns, under "Amended Notices," remove the references to footnote 1 from all the entries except the first one, EIS No. 820815.

BILLING CODE 1505-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Penn Square Bank, N.A., Oklahoma City, Oklahoma; Issuance of Powers of Attorney

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Public Notice.

SUMMARY: On October 27, 1982, the Federal Deposit Insurance Corporation (hereafter "FDIC") published notice of its appointment as Receiver of the Penn Square Bank N.A., Oklahoma City, Oklahoma, and of the issuance by the FDIC of general powers of attorney in favor of Thomas R. Procopio, liquidator, and six assistant liquidators (See 47 FR 47677, October 27, 1982). The notice was published in order to facilitate FDIC's discharge of its responsibilities as Receiver and specifically to comply with the provisions of title 16, section 20 of the Oklahoma Statutes (16 O.S. section 20), which creates an exception, based upon such publication, to the otherwise applicable requirement that powers of attorney be recorded locally in order to effect conveyances of interests in property. This notice supplements and updates the prior October 27, 1982 notice.

Notice

On January 6, 1983, the Director of the FDIC's Division of Liquidation appointed Thomas McAllister and John W. White acting assistant liquidators and provided each of them with power of attorney to act on behalf of the FDIC. On the same date powers of attorney that has previously been issued to Lewis F. Greene and Lamar C. Kelly, Jr., were revoked. Accordingly, with respect to both Mr. White and Mr. McAllister, each has been authorized and empowered to:

Sign, seal, and deliver as the act and deed of the FDIC any instrument in writing, and to do every other thing necessary and proper for the collection and recovery by the FDIC of any and all sums, moneys and properties of every kind and nature whatsoever for and on behalf of the FDIC, and to give receipts and acquittances therefor in the name and on behalf of the FDIC, for any and all such sums, moneys and properties received or taken into his possession; and further, without limitation on the generality of the foregoing, each is authorized and empowered for and in the name of the FDIC, to release, discharge or assign any and all judgments, mortgages on real estate or personal property, including the release and discharge of the same of record in the office of any prothonotary or register of deeds wherever located where payments on account of the same in redemption or otherwise may have been made by the parties debtor, to endorse receipt of such payment upon the records in any such office or in any other appropriate public office; also to receipt, collect and give all proper acquittances for any other sums of money owing the FDIC or payable to the FDIC for any asset which he may sell or dispose of; also to execute any and all transfers and assignments as may be necessary to assign any shares, bonds, securities or other choses in action; also to sign, seal, acknowledge and deliver any and all leases and agreements as he shall deem necessary or proper in the care and management of the foregoing assets; to sign effectual receipts for the payment of all rents and profits due or to become due thereon; also to extend, postpone, release and satisfy or do any other thing advisable in his discretion affecting the lien of any mortgage or mortgages now or hereafter held, standing or appearing upon the records in any public office wherever located; also to execute, acknowledge, and deliver, in the name of the FDIC, a power of attorney, wherever necessary or required by law, to any attorney employed by the FDIC, and in its name and stead, to foreclose any mortgages, or other securities on either real or personal property, wherever located, which it may not own or hereafter acquire, and generally to do and perform every act necessary, convenient or desirable in the use, liquidation and collection of the foregoing assets held by the FDIC wherever located.

Dated: January 17, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83–1611 Filed 1–20–83; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

Valley First Federal Savings and Loan Association El Centro, California; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in Section 5(d)(6)(A) of the Home Owners Loan Act, as amended (12 U.S.C. 1464(d)(6)(A) (1976)), and Section 406(b) of the National Housing Act, as amended (Garn—St Germain Depository Institutions Act of 1982, Pub. L. 97–320 (October 15, 1982), section 122(b), 96 Stat. 1469, 1481–1482, to be codified at 12 U.S.C. 1729(b)), the Federal Home Loan Bank Board appointed the Federal

Savings and Loan Insurance Corporation as sole receiver for Valley First Federal Savings and Loan Association, El Centro, California, effective January 14, 1983.

Dated: January 17, 1983.

J. J. Finn,

Secretary.

[FR Doc. 83-1698 Filed 1-20-83; 8:45 am]

BILLING CODE 6726-01-M

FEDERAL RESERVE SYSTEM

American Fletcher Corp. et al.; Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 115.4(b)(1)), for permission to engage de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American Fletcher Corporation,* Indianapolis, Indiana, (consumer finance and related insurance activities; Indiana): To engage through its subsidiary, American Fletcher Financial Services, Inc., in making or acquiring loans or other extensions of credit for personal family or household purposes, including loans secured by home equities, purchasing consumer installment sales finance contracts and acting as agent with respect to credit life and disability insurance on borrowing customers and insurance on property taken as collateral for such loans and contracts. These activities will be conducted from an office in Columbus, Indiana serving Bartholomew County, Indiana. Comments on this application must be received not later than February 10, 1983.

2. *Larch Bancorporation, Inc.,* Larchwood, Iowa (personal property leasing activities; Minnesota): To engage in making leases of personal property in accordance with the Federal Reserve Board's Regulation Y Section 225.4(a)(6). Specifically, the Larch Bancorporation, Inc., is seeking approval to lease one complete computer system to an affiliated bank, namely the Exchange State Bank of Hills, Hills, Minnesota. These activities would be conducted from its office located in the Security Savings Bank Building, in Larchwood, Iowa, and serving northwest Lyon County, Iowa, and southeast Rock County, Minnesota. Comments on this application must be received not later than February 5, 1983.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (travelers check sales activities; worldwide geographic service area): To engage, through a de novo office of its direct subsidiary, BA Cheque Corporation, a Delaware corporation, in the activity of selling travelers checks. Such activity will include, but not be limited to, processing customer claims for refunds for lost or stolen travelers checks. The activity will be conducted from a de novo office located in London, England, having a worldwide geographic service area. Comments on this application must be received not later than February 11, 1983.

2. *First Interstate Bancorp,* Los, Angeles, California (financing and servicing activities, provision of investment or financial advice; worldwide): Through its subsidiary, First Interstate Merchant Bankers, Ltd., to engage in extending and arranging credit for specialized projects; in servicing such extensions of credit; and in acting as investment or financial advisor by providing general economic information and advice, general economic statistical forecasting services and industry studies to projects for which financing is arranged. These activities would be conducted from offices in Los Angeles, California, serving North America, Central America, South America, Australia, and the rest of the world. Comments on this application must be received not later than February 16, 1983.

3. *Security Pacific Corporation,* Los Angeles, California (finance and credit life and credit accident and health insurance activities; New Jersey): To engage through its subsidiary, Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from an office of Security Pacific Finance Corp. located in Paramus, New Jersey, serving the State of New Jersey and would constitute a relocation of an existing office of Security Pacific Finance Corp. which is currently located in Westwood, New Jersey. Comments on this application must be received not later than February 11, 1983.

4. *Security Pacific Corporation,* Los Angeles, California (finance and credit life and credit accident and health insurance activities; Mississippi): To engage through its subsidiary, Security Pacific Finance Corp., in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from an office of Security Pacific Finance Corp. located in Jackson, Mississippi, serving the State of Mississippi. Comments on this application must be received not later than February 11, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1630 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Bartow Bancshares, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Bartow Bancshares, Inc.*, Cartersville, Georgia; to become a bank holding company by acquiring 80 percent or more of the voting shares of Bartow County Bank, Cartersville, Georgia. Comments on this application must be received not later than February 11, 1983.

2. *CCB Bancshares, Inc.*, Hahira, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens Bank of Hahira, Hahira, Georgia. Comments on this application must be received not later than February 11, 1983.

3. *Hartsville Bancshares, Inc.*, Hartsville, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Hartsville, Hartsville, Tennessee. Comments on this application must be received not later than February 10, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Naperville Financial Corporation*, Naperville, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Naperville National Bank and Trust Company, Naperville, Illinois. Comments on this application must be received not later than February 11, 1983.

2. *South Central Bancorp*, Edinburg, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Edinburg State Bank, Edinburg, Indiana. Comments on this application must be received not later than February 4, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Financial Services, Inc.*, Brownsville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Brownsville, Tennessee. Comments on this application must be received not later than February 11, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1636 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

First Financial Bancorp et al; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Financial Bancorp*, Monroe, Ohio; to become a bank houlding company by acquiring 100 percent of the voting shares of First National Bank of Southwestern Ohio, Monroe, Ohio and The Citizens Commercial Bank & Trust Company, Celina, Ohio. Comments on this application must be received not later than February 16, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Gueydan Bancshares, Inc.*, Gueydan, Louisiana; to become a bank holding company by acquiring up to 100 percent of the voting shares of Bank of Gueydan, Gueydan, Louisiana. Comments on this application must be received not later than February 16, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Intercity Bancorporation, Inc.*, Schofield, Wisconsin; to become a bank holding company by acquiring 95 percent or more of the voting shares of Intercity State Bank, Schofield, Wisconsin. Comments on this application must be received not later than February 16, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Derby Financial Corporation*, Wichita, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Derby Bancshares, Inc., and thereby indirectly acquire 96.7 percent of the shares of First National Bank of Derby both in Derby, Kansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than February 16, 1983.

2. *Garden Banc Shares, Inc.*, Hutchinson, Kansas; to become a bank holding company by acquring 100 percent of the voting shares of The Fourth Bank of Garden City, N.A., Garden City, Kansas, a de novo bank. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be recived not later than February 16, 1983.

3. *Texas Gulf Coast Bancshares*, Bay City, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Bay City Bank & Trust Co., Bay City, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 16, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1628 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Fleet Financial Group, Inc., et al; Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 115.4(b)(1)), for permission to engagee de novo, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comments that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island (mortgage banking and insurance agency activities; New Jersey): To engage through its direct subsidiary, Fleet Mortgage Corp. (formerly Mortgage Associates, Inc.), in the origination, sale and servicing of residential mortgage loans, commercial mortgage loans and loans secured by junior liens on residential real estate and the sale of credit life and credit accident and health insurance directly related to extensions of credit. These activities would be conducted from a new office to be located in Cranford, New Jersey, serving the State of New Jersey. Comments on this application must be received not later than February 14, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and Barclays Bank International Limited, London, England (leasing activities; New York and contiguous states): To engage through their subsidiary, Barclays-American/Leasing, Inc. ("BAL"), in leasing financing of personal property by means of leases that meet the standards of section 225.4(A)(6) of Regulation Y. These activities would be conducted from an office of BAL in New York, New York, serving New York state and contiguous states. Comments on this application must be received not later than February 14, 1983.

2. *Chemical New York Corporation*, New York, New York (financing and insurance activities; Mesa, Arizona): To continue to engage, through its subsidiary, Sunamerica Corporation, in the previously approved activities of generating and servicing loans and other extensions of credit; making or acquiring loans to consumers; acquiring installment contracts from retail sellers covering the time sales of goods and related services; making or acquiring loans and other extensions of credit to businesses (including but not limited to, inventory financing); making or acquiring extensions of credit secured by personal property lease contracts; making available to its debtors credit life, credit accident and health, mortgage disability, and property and casualty insurances, all directly related to such extensions of credit. These activities will be conducted from an office in Mesa, Arizona, servicing the State of Arizona. This application is for the relocation of an office. Comments on this application must be received not later than February 14, 1983.

3. *Hubco, Inc.*, union City, New Jersey (data processing activities; New York): To provide data processing services relating to leasing activities, through a wholly-owned subsidiary, Hub Financial Services, Inc., including access to proprietary soft-ware, where the soft-ware had been acquired in connection with that subsidiary's previously approved leasing activities. These activities would be conducted from offices in Union City, New Jersey, serving the major New York Metropolitan Area. Comments on this application must be received not later than February 11, 1983.

4. *Manufactuers Hanover Corporation*, New York, New York (mortgage banking activities; Texas): to engage through its subsidiary, Manufacturers Hanover Mortgage Corporation, in making or acquiring, for its own account or for the account of others loans and other extensions of credit such as would be made by a mortgage company, and servicing such loans and other extensions of credit for any person. These activities would be conducted from a de novo office of Manufacturers Hanover Mortgage Corporation in Dallas, Texas, serving Dallas, Collon, Tarrant, Denton, Ellis, and Johnson Counties, Texas. Comments on this application must be received not later than February 14, 1983.

C. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation*, Pittsburgh, Pennsylvania (commercial lending and leasing activities; United States and overseas); To engage through its subsidiary, Mellon Financial Services Corporation, in commercial lending, including accounts receivable and inventory financing, and permissible personal property leasing, including acting as agent, broker, or adviser in leasing such property. These activities would be conducted from an existing office of Applicants' subsidiary in Oak Brook, Illinois, serving the United States and overseas clients as well. Comments on this application must be received not later than February 16, 1983.

D. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W. Atlanta, Georgia 30303:

1. *Barnett Banks of Florida, Inc.*, Jacksonville, Florida (check verification services; North and South Carolina): To engage through its subsidiary, Verifications, Inc., in offering from additional offices, check verification services, including authorizing subscribing merchants to accept certain personal purchase money checks and obligating Verifications, Inc. to purchase properly verified checks which are subsequently dishonored. These activities would be conducted from additional offices in Durham, Greensboro, and Winston-Salem, North Carolina; and Charleston, and Greenville, South Carolina, as well as from existing offices of Verifications, Inc. in North and South Carolina and would be offered throughout the States of North and South Carolina. Comments

on this application must be received not later than February 11, 1983.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (financing, servicing, and insurance activities; de novo office; Virginia and the District of Columbia): To engage, through its indirect subsidiary, FinanceAmerica Mortgage Services Company, a Virginia corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. Credit-related property insurance will not be offered by the above-named corporation. Such activities will include, but not be limited to, making loans and other extensions of credit to businesses, purchasing installment sales finance contracts, making loans secured by real and personal property, and offering credit-related life and credit-related accident and health insurance directly related to extensions of credit made or acquired by FinanceAmerica Mortgage Services Company. Credit-related life and credit-related accident and health insurance may be reinsured by BA Insurance Company, Inc., an affiliate of FinanceAmerica Mortgage Services Company. These activities will be conducted from a de novo office located in Annandale, Virginia, serving the entire State of Virgina and the District of Columbia. Comments on this application must be received not later than February 16, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc.83-1631 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Interstate Financial Corp. et al; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Interstate Financial Corporation,* Dayton, Ohio; to acquire 100 per cent of the voting shares or assets of The Waynesville National Bank, Waynesville, Ohio. Comments on this application must be received not later than February 11, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First City Bancorporation of Texas, Inc.,* Houston, Texas; to acquire 100 per cent of the voting shares or assets of First City Bank-MOPAC, N.A., Austin, Texas. This application may be inspected at the offices of the Board of Governors, or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 11, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1635 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Metter Financial Services, Inc.; Formation of Banking Holding Company

Metter Financial Services, Inc., Metter, Georgia, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Metter Banking Company, Metter, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Metter Financial Services, Inc., Metter, Georgia, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Metter System, Inc., Metter, Georgia.

Applicant states that the proposed subsidiary would engage in data processing activities. These activities would be performed from offices of Applicant's subsidiary in Metter, Georgia, and the geographic area to be served in the State of Georgia. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 9, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1637 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Northwest Pennsylvania Corp. et al; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that

requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Northwest Pennsylvania Corp.*, Oil City, Pennsylvania; to acquire 100 percent of the voting shares or assets of Union Bank & Trust Co., Erie, Pennsylvania. Comments on this application must be received not later than February 16, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois [illegible]

1. *First Illinois Corporation*, Evanston, Illinois; to acquire 100 percent of the voting shares or assets of Northwest Trust & Savings Bank, Arlington Heights, Illinois. Comments on this application must be received not later than February 15, 1983.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Rice Lake Bancorp., Inc.*, Rice Lake, Wisconsin; to acquire 100 percent of the voting shares or assets of Citizens State Bank, Birchwood, Wisconsin. Comments on this application must be received not later than February 16, 1983.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Arkansas Valley Banc Shares, Inc., Northwest Kansas Banc Shares, Inc., Santa Fe Trail Banc Shares, Inc., Southwest Kansas Banc Shares, Inc.*, all in Hutchinson, Kansas; to each acquire 16.67 percent of the voting shares or assets of Garden Banc Shares, Inc., Hutchinson, Kansas, a proposed bank holding company with respect to The Fourth Bank of Garden City, N.A., Garden City, Kansas, a *de novo* bank. This application may be inspected at the offices of he Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than February 16, 1983.

2. *Chisholm Trail Financial Corporation*, Wichita, Kansas; to acquire 24.9 percent of the voting shares or assets of Derby Financial Corporation, Wichita, Kansas, and thereby indirectly acquire shares of Derby Bancshares, Inc. and First National Bank of Derby, both in Derby, Kansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than February 16, 1983.

3. *Republic Bancshares of Missouri, Inc.*, Kansas City, Missouri; to acquire at least 90 percent of the voting shares or assets of St. James Bank, St. James, Missouri. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Kansas City. Comments on this application must be received not later than February 16, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1629 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Philadelphia National Corp. and National Central Financial Corp.; Consolidation of Bank Holding Companies

Philadelphia National Corporation, Philadelphia, Pennsylvania ("PNC") and National Central Financial Corporation, Lancaster, Pennsylvania ("NCFC"), have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842 *et seq.*) to consolidate their operations. NCFC would establish a new subsidiary corporation that would merge with PNC, which would be the surviving corporation. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)). Philadelphia National Corporation, Philadelphia, Pennsylvania, and National Central Financial Corporation, Lancaster, Pennsylvania, also engage in the following nonbank activities: mortgage banking; consumer financing; underwriting credit life and credit accident and health insurance; commercial financing and factoring; investment management and advisory services; and the ownership of a small business investment company.

Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

National Central Financial Corporation would also acquire Philadelphia International Bank, New York, New York, Philadelphia, Pennsylvania, and Los Angeles, California, and Philadelphia International Investment Corporation, Philadelphia, Pennsylvania, two corporations organized pursuant to section 25(a) of the Federal Reserve Act.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 12, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1634 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

Warroad Bancshares, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Warroad Bancshares, Inc., Warroad, Minnesota*; to become a bank holding company by acquiring 100 percent of the voting shares of Security State Bank of Warroad, Warroad, Minnesota. Comments on this application must be received not later than February 11, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Lafayette County Bancshare, Inc.*, Lexington, Missouri; to become a bank holding company by acquiring 82.59 percent or more of the voting shares of Lafayette County Bank of Lexington/Wellington, Lexington, Missouri. Comments on this application must be received not later than February 11, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Commonwealth Bancshares, Inc.*, Bellaire, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Commonwealth Bank, Bellaire, Texas. Comments on this application must be received not later than February 11, 1983.

2. *Lincoln Bancshares, Inc.*, Ruston, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Lincoln Bank & Trust Co., Ruston, Louisiana. Comments on this application must be received not later than February 11, 1983.

3. *Nichols Bancshares, Inc.*, Kenedy, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First Nichols National Bank of Kenedy, Kenedy, Texas. Comments on this application must be received not later than February 11, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Capital Bancorp*, Downey, California; to become a bank holding company by acquiring 100 percent of the voting shares of Capital Bank, Downey, California. Comments on this application must be received not later than February 11, 1983.

E. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First State Bancorp of Princeton, Illinois, Inc.*, Princeton, Illinois, to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to First State Bank of Princeton, Princeton, Illinois, and 80 percent or more of the voting shares of Farmers' State Bank of Sheffield, Illinois, Sheffield, Illinois. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than February 11, 1983.

Board of Governors of the Federal Reserve System, January 17, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1633 Filed 1-20-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 79N-0113; DESI 2847]

Certain Parenteral Multivitamin Products; Drug Efficacy Study Implementation; Withdrawal of Approval

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug applications for certain parenteral multivitamin products for which FDA offered an opportunity for a hearing, but for which no hearing was requested. The products lack substantial evidence of effectiveness.

EFFECTIVE DATE: February 22, 1983.

ADDRESS: Requests for opinion of the applicability of this notice to a specific drug product should be identified with Docket No. 79N-0113 and the reference number DESI 2847 and directed to the Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 5, 1982 (47 FR 44022), the Director of the National Center for Drugs and Biologics revoked the temporary exemption that had allowed certain parenteral multivitamin products to remain on the market beyond time limits established under the Drug Efficacy Study Implementation program. That notice also proposed to withdraw approval of the new drug applications that provide for these products and offered an opportunity for a hearing on the proposal. No hearing requests were received. The approval of the following new drug applications is now being withdrawn.

1. NDA 4-895; Parbexin Injectable containing thiamine hydrochloride, niacinamide, dexpanthenol, riboflavin, and pyridoxine hydrochloride; Cooper Vision Pharmaceuticals, P.O. Box 367, San German, Puerto Rico 00753.

2. NDA 6-373; Vi-Syneral Injectable containing Vitiamin A, ergocalciferol, ascorbic acid, thiamine hydrochloride, riboflavin, niacinamide, pyridoxine hydrochloride, dexpanthenol, dl-alpha tocopheryl acetate; Fisons Corp., Pharmaceutical Division, 2 Preston Ct., Bedford, MA 01730.

3. NDA 7-094; Soluzyme Injectable containing cyanocobalamin, folic acid, thiamine hydrochloride, sodium pantothenate, and niacinamide; The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

4. That part of NDA 7-590 pertaining to Manibee Injectable containing thiamine hydrochloride, niacinamide, dexpanthenol, pyridoxine hydrochloride, and riboflavin; Endo Laboratories, Inc., subsidiary of E. I. Dupont de Nemours & Co., Inc., 1000 Stewart Ave., Garden City, NY 11530.

5. NDA 7-619; Betolake Improved Injectable containing thiamine hydrochloride, riboflavin, niacinamide, pyridoxine hydrochloride and dexpanthenol; Merrell Dow Pharmaceuticals Inc., 2110 E. Galbraith Rd., Cincinnati, OH 45215.

6. NDA 6-141 Folbesyn Injectable containing thiamine hydrochloride, sodium panthothenate, niacinamide, riboflavin, pyridoxine hydrochloride, cyanocobalamin, ascorbic acid, and folic acid, Lederle Laboratories, P.O. Box 500, Pearl River, NY 10965.

Approval of the following new drug applications was previously withdrawn for failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). Conclusions that certain parenteral multivitamins lack substantial evidence of effectiveness are applicable to these products also.

1. NDA 2-847; Breonex L Injectable and Breonex M Injectalbe, both containing thiamine hydrochloride, riboflavin, pyridoxine hydrochloride, panthenol, niacinamide, and cyanocobalamin; Cooper Laboratories,

Inc., 3145 Porter Dr., Palo Alto, CA 94304.

2. NDA 4–635; Beclysyl Injection containing dextrose, sodium chloride, thiamine hydrochloride, riboflavin, niacinamide, pyridoxine hydrochloride, and cyanocobalamin; Abbott Laboratories, 14th & Sheridan Rd., North Chicago, IL 60064.

3. That part of NDA 7–590 pertaining to Manibee-C500 Injectable containing thiamine hydrochloride, niacinamide, dexpanthenol, pyridoxine hydrochloride, riboflavin, and ascorbic acid; Endo Laboratories Inc.

Any drug product that is identical, related, or similar to a drug product named above and is not the subject of an approved new drug application or conditionally approved new drug application is covered by the new drug applications reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

Based on new information on the drug product, and the evidence available when the applications were approved, the Director of the National Center for Drugs and Biologics, under the Federal Food, Drug and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** on June 22, 1982), finds that there is lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of the new drug applications or portions of new drug applications listed above as having an approval in effect, and all amendments and supplements thereto, is withdrawn effective February 22, 1983.

Shipment in interstate commerce of the above products or any identical, related, or similar product that is not the subject of an approval or conditionally approved new drug application will then be unlawful.

Dated: January 13, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics

[FR Doc. 83–1419 Filed 1–20–83; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: Baltimore District Office, chaired by Thomas L. Hooker, District Director.

DATE: Wednesday, February 23, 1983, 10 a.m. to 12 m.

ADDRESS: Community College of Baltimore/Harbor Campus, Lombard St. at Market Place, Baltimore, MD 21202.

FOR FURTHER INFORMATION CONTACT:

Anne Lane, Consumer Affairs Officer, Food and Drug Administration, 900 Madison Ave., Baltimore, MD 21202, 301–962–3731

Cincinnati District Office, chaired by James C. Simmons, District Director.

DATE: Wednesday March 2, 1983, 1 p.m.

ADDRESS: Federal Bldg., Rm. 418, 234 Summit St., Toledo, OH 43604.

FOR FURTHER INFORMATION CONTACT:

Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, 216–522–4844.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: January 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–1519 Filed 1–20–83; 8:45 am]

BILLING CODE 4160–01–M

Health Professional Organization Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming meeting with health professional organizations to be chaired by Arthur Hull Hayes, Jr., M.D., Commissioner of Food and Drugs.

DATE: The meeting will be held from 3:30 P.M. to 5:30 p.m., Monday, January 24, 1983.

ADDRESS: The meeting will be held at the Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC, Rm. 703–727A.

FOR FURTHER INFORMATION CONTACT:

Stuart L. Nightingale, M.D., Associate Commissioner for Health Affairs (HFY–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6143.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs meets periodically with executives of the health professional organizations to share mutual concerns and facilitate dissemination of FDA proposals and decisions affecting the country's health care. The agenda items for discussion at the meeting include updates on the medical/scientific and policy implications of important current issues.

Dated: January 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–1613 Filed 1–20–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 78N–0158]

Food Labeling; Safe and Suitable Ingredients in Food Standards

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that there will be no immediate revision in its current policy to allow the use of "safe and suitable" optional ingredients in standardized foods. FDA announced intentions to propose a modification of the policy by limiting its use to optional ingredients that are used in quantities of less than 5 percent and do not alter the basic characteristics of the food. FDA has determined that such a policy change would not be in the best interest of consumers or the regulated industry. Therefore, FDA will continue to provide in food standards, where appropriate, for the use of functional categories of safe and suitable optional ingredients.

FOR FURTHER INFORMATION CONTACT: Prince G. Harrill, Bureau of Foods (HFF–210), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 21, 1979 (44 FR 75990), FDA, the United States Department of Agriculture (USDA), and the staff of the Federal Trade Commission's Bureau of Consumer Protection (FTC) announced their tentative positions on a variety of food labeling issues. FDA's policy on the use of "safe and suitable" optional ingredients in standardized foods was

among the issues discussed in that notice.

As indicated in the notice, under authority of the Federal Food, Drug, and Cosmetic Act, FDA issues standard of identity regulations that describe what ingredients may or must be used in making traditional foods. Mandatory ingredients are specifically indentified in the standard, must be used in the food as prescribed in the standard, and need not be declared on the label of the standardized product. Standards of identity also currently allow for the use of optional ingredients that are "safe and suitable," that perform specific functions as indicated in the standard, and that would be declared on the label.

Under 21 CFR 130.3(d), the phrase "safe and suitable" means that the ingredient it describes:

(1) Performs an appropriate function in the food in which it is used.

(2) Is used at a level no higher than necessary to achieve its intended purpose in that food.

(3) Is not a food additive or color additive as defined in section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act as used in that food or is a food additive or color additive as so defined and is used in conformity with regulations established pursuant to section 409 or 706 of the act.

Thus, any safe and suitable optional ingredient used in a standardized food is either (1) an approved food or color additive, or (2) prior sanctioned, or (3) generally recognized as safe—a category known by the acronym "GRAS".

Before enactment of the Food Additives Amendment of 1958 and the Color Additive Amendments of 1960 to the act, all ingredients is standardized foods were prescribed by regulation. Food standards promulgated at that time were almost strict recipes, specifically listing the mandatory and optional ingredients that could be used, except for a few ingredients such as colors, flavors, and spices. In 1961, the issuance of the breaded shrimp standard (21 CFR 161.175) represented a shift toward greater flexibility in the use of safe and suitable optional ingredients. Although the food standard specified that breaded shrimp must contain 50 percent shrimp, it permitted the use of "any" safe and suitable batter or breading. This shift in policy was made possible because, as a result of the food and color additive amendments, the agency no longer had to rely on food standards as the mechanism for premarket review of the safety of substances added to foods.

Recognizing that there were only a limited number of food standards for which such broad, general flexibility would be appropriate, FDA also began to increase the flexibility of food standards by allowing for the use of safe and suitable optional ingredients according to general functional categories, that is, food standards began to allow for use of any safe and suitable ingredient that performed a particular function specified in the standard. For example, food standards allowed for the use of "safe and suitable emulsifiers" or "safe and suitable preservatives" without specifically naming the emulsifiers and preservatives that would be safe and suitable. Issues related to the ingredient's safety were then resolved according to other sections of the act.

The latter approach of indicating in the food standard the general functional categories of safe and suitable optional ingredients that may be used has often been referred to as the agency's safe and suitable policy, as distinguished from the traditional, strict recipe-type listing of optional ingredients. In actuality, however, all optional ingredients used in standardized foods must be safe and suitable, regardless of the manner in which they are designated in the standard.

The agency announced in the December 21, 1979 notice that it would propose to change its safe and suitable ingredients policy. The new policy would:

1. Apply only to optional functional ingredients used in quantities of less than 5 percent. For the purpose of the new policy, the term "functional ingredients" would be defined as ingredients that do not alter the basic characteristics of the food.

2. Require the declaration on the product's label of any ingredient contained in the product (as now required—with the exception of colors, flavors, and spices—for nonstandardized foods regulated by FDA and all USDA-regulated foods).

3. Change the descriptive phrase "safe and suitable" to one, such as "permitted functional ingredient," that is less confusing and more accurately descriptive of the concept.

FDA asked for public comment on the tentative revised policy. Comments were received from consumers, consumer organizations, industry, and trade associations. Most of the comments did not address the specific points of the agency's tentative policy, nor did they provide information relevant to the agency's current "safe and suitable" policy or the announced tentative position.

Some of the comments from industry and industry representatives objected to establishing a 5-percent limit on the level at which general functional category designations of "safe and suitable" optional ingredients would be used. One comment said that use of the 5-percent limit would be extremely costly to regulatory agencies, consumers, and the industry because all existing food standards would have to be reevaluated, and possibly revised, under the new policy. Several comments also contended that the limit was arbitrary, would reduce the flexibility of some food standards, and could not be justified on the basis of health and safety considerations.

A few of the industry comments expressed general support for the tentative position, particularly if there would be no change in the optional ingredients approach. A few comments specifically stated that they had no objections to changing from the descriptive phrase "safe and suitable" to "permitted functional ingredients."

The idea most often expressed in consumer comments was that all ingredients should be declared on the labels of all foods.

After reviewing and evaluating the comments received in response to FDA's tentative position on safe and suitable ingredients in food standards, the agency has reconsidered that position and determined that it would not be in the consumers' or the regulated industry's best interest to initiate rulemaking procedures to establish the 5-percent limit. Thus, FDA's current policy for the use of safe and suitable optional ingredients in standardized foods will remain in effect, and FDA will continue, where appropriate, to provide for the use of functional categories of safe and suitable ingredients. Whenever appropriate for a particular standard, however, the agency will list by name in the food standard those ingredients it considers to be suitable to accomplish an intended technical effect in the food.

Further, although there were no major objections to changing the descriptive phrase "safe and suitable" to "permitted functional ingredients," there also were no persuasive arguments presented in favor of the change. Thus, FDA is not proceeding with the change. The phrase "safe and suitable" will continue to be used to indicate the agency's policy for listing safe and suitable ingredients in food standards by general functional categories.

Dated: January 17, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-1614 Filed 1-20-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

President's Cancer Panel; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the President's Cancer Panel, March 4, 1983, at the University of Texas, Houston Main Building, 10th Floor, 1100 Holcombe Boulevard, Houston, Texas 77030. The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items include reports by the Director, National Cancer Institute, and the Chairman, President's Cancer Panel; and discussions to obtain information on grants supported by the National Cancer Institute from scientists of the universities in the Houston area. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of Panel members, upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A35, National Institutes of Health, Bethesda, Maryland 20205 (301/496–1148) will furnish substantive program information.

Dated: January 12, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 83–1624 Filed 1–20–83; 8:45 am]

BILLING CODE 4140–01–M

President's Cancer Panel ad hoc Working Group To Consider the Parameters of Outstanding Investigator Awards; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the ad hoc Working Group To Consider the Parameters of Outstanding Investigator Awards, President's Cancer Panel, National Cancer Institute, February 7, 1983, Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open on February 7 from 8:30 a.m. to adjournment. Attendance by the public will be limited to space available.

The meeting will be for the consideration of working drafts to propose a series of alternatives and the establishment of an Outstanding Investigator Award Mechanism.

Requests for information on the meeting should be directed to Dr. Elliott Stonehill, National Cancer Institute, Building 31, Room 11A35, Bethesda, Maryland 20205 (301/496–1148).

Dated: January 10, 1983.

Betty Beveridge,

Committee Management Officer, NCI.

[FR Doc. 83–1625 Filed 1–20–83; 8:45 am]

BILLING CODE 4140–01–M

National Arthritis Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Arthritis Advisory board on February 23, 1983, 9:00 a.m. to 5:00 p.m., at the Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814. The meeting which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat arthritis. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the Hotel lobby.

Certain subcommittees of the Board will meet the day before, February 22. Further information, times and meeting locations of the subcommittees may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20205, (301) 496–1991. The agenda and rosters of the members can also be obtained from his office. Summaries of the meeting may be obtained by contacting Carole A. Frank, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31A, Bethesda, Maryland 20205, (301) 496–5765.

Dated: January 12, 1983.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 83–1626 Filed 1–20–83; 8:45 am]

BILLING CODE 4140–01–M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was last published on January 14.

Public Health Service

Office of the Assistant Secretary for Health

Subject: Parental Notification and Recordkeeping Requirements Applicable to Projects for Family Planning Services Funded Under Title X of the Public Health Service Act—New

Respondents: Title X project directors; directors and staff or Federally funded family planning clinics

OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: State Social Security Wage Contribution Return (SSA–3961)—Revision

Respondents: State or local governments

Subject: SSA/State SSI Information Exchange (SSA–8220 (1–83))—Revision

Respondents: State or local government

OMB Desk Officer: Milo Sunderhauf

Health Care Financing Administration

Subject: Freedom of Choice Waiver Requests: Information Collection Requirements in 42 CFR 431.55 (HCFA–8002)—New

Respondents: State Medicaid agencies

Subject: Uniform Hosptial Bill (HCFA–1450)—New

Respondents: Hospitals

Subject: Billing Form for Long Term Care Demonstration in North San Diego County (HCFA–1487D)—Extension/no changes

Respondents: Hospitals and social service agencies participating in the demonstration

OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

Subject: Child Welfare Indicators Survey—New

Respondents: Child welfare county agencies

Subject: Comparative Study of State Case Review Systems: Dispositional Hearings—New

Respondents: State and local agencies for foster care services, judges, court personnel

OMB Desk Office: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–7024.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524–F, Washington, D.C. 20201
OMB Reports Managment Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer)
Dated: January 17, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83–1688 Filed 1–20–83; 8:45 am]
BILLING CODE 4150–04–M

Advisory Council on Social Security; Public Hearing

AGENCY: Health and Human Services Department.

ACTION: Notice of cancellation of public hearing.

SUMMARY: Notice is hereby given that the one day public hearing scheduled for Atlanta on February 1 is cancelled. This hearing was announced in 47 FR 56723; however, due to a minimal response to the invitation to present oral testimony, it has been decided that holding the hearng would not be justified. Statements for the record will be accepted until March 15, 1983.

FOR FURTHER INFORMAITON CONTACT: Thomas R. Burke, Executive Director, 200 Independence Avenue, SW., Washington, D.C. 20201; telephone 202–755–8670 or 755–8671.

Thomas R. Burke,

Executive Director.

[FR Doc. 83–1852 Filed 1–20–83; 9:41 am]
BILLING CODE 4120–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI–107]

Intended Environmental Impact Statement, Ardenwood Forest Project, Patterson Ranch Residential Development in Fremont, California

The U.S. Department of Housing and Urban Development (HUD) gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Ardenwood Forest Project, Patterson Ranch Residential Development in Fremont, California. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Parts 1500)

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., January 13, 1983.

Francis G. Hass,

Deputy Director, Office of Environment and Energy.

Appendix

The U.S. Department of Housing and Urban Development (HUD) San Francisco Area Office gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for a residential development project in the City of Fremont, California and solicits information and comments for consideration in the EIS. Because parts of the proposed project will be located in a floodplain the EIS will discuss the impact of the project on said floodplain. The procedural requirements of E.O. 11988 Floodplain Management and E.O. 11990 Protection of Wetlands will be carried out separately from the intended EIS.

Description: The proposed residential development project is identified as Ardenwood Forest Project, Patterson Ranch Residential Development and is seeking loan assistance from the Department under its Title X program.

Residential development is proposed for approximately 3,800 dwelling units on an area of approximately 1,300 acres. The project will include supporting commercial uses, school sites, recreation facilities, open apace and services uses. The project is generally bounded by Union City on the north, Coyote Hills Regional Park on the west, Freeway I–580 and Newark City on the south and State Freeway 17 on the east.

Early Start: HUD will conduct an environmental assessment to ascertain if it can participate in an initial development phase under 24 CFR 50.21(h).

Need: An EIS is proposed due to HUD threshold requirement in accordance with housing program environmental regulations and probable impact on: topography, water quality, air quality, noise, vegetation, soils, utilities, and traffic volumes.

Alternatives: At this time the HUD alternatives are: accept the proposed development as submitted, accept the proposed development with modifications, or reject the proposed development.

Scoping: Interested individuals, organizations, and agencies are invited to comment on significant issues in writing within 30–days from the date of this notice to the HUD San Francisco Area Office address below.

State Required Environmental Assessment: Comments may consider the City of Fremont Environmental Impact Report prepared December 1981 under State of California requirements. Material from this Environmental Assessment will be utilized in the preparation of this EIS.

Comments: Comments regarding this proposal should be sent within 30–days of the date of this notice to: Henry D. Dishroom, Area Manager, 1 Embarcadero Center, Suite 1600, San Francisco, California 94111. Attention: Tad Masaoka, Environmental Clearance Officer. The Area Office phone number is (415) 556–2238.

[FR Doc. 83–1729 Filed 1–20–83; 8:45 am]
BILLING CODE 4210–29–M

[Docket No. NI–106]

Intended Environmental Impact Statement (EIS) for the Elkhorn Valley Development, Evansville, Wyoming

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Elkhorn Valley Development, Evansville, Wyoming. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisidiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., January 13, 1983.

Francis G. Hass,

Deputy Director, Office of Environment and Energy.

Appendix

The HUD Area Office in Denver, Colorado, intends to prepare an EIS on the Elkhorn Valley Development, described below, and requests information and comments for consideration in the EIS.

Description: Approximately 4,021 single/multi-family and mobile home dwelling units will be constructed in this project as well as commercial, industrail, school site, park and recreational land uses on appoximately 1,092.5 acres.

Need: An EIS is required because the total number of dwelling units exceeds a HUD established threshold.

Alternatives: The alternatives are HUD Participation in the development as proposed by the developer, participation in the development provided that HUD required modifications are implemented by the developer, or rejection of participation in the development.

Scoping: A scoping meeting will not be held. HUD will request input from the appropriate Government agencies and service organizations. This notice will also appear in a paper of local circulation in Casper, Wyoming.

Comments: Comments should be forwarded within 21 days of publication of this Notice to: Carroll F. Goodwin, Area Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 1405 Curtis Street, Denver, Colorado 80202.

[FR Doc. 83-1728 Filed 1-20-83; 8:45 am]
BILLING CODE 4210-29-M

Office of Administration

[Docket No. N-83-1200]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Officer of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chaper 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above.

Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Voucher for Payment of Annual Contributions and HAPP Operating Statement
Office: Housing
Form Nos.: HUD-52681 and HUD-52682
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 16,800
Status: New
Contact: Myra Newbill, HUD, (202) 755-5353; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 9, 1982.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Section 8 Requisition of Funds, Requisition for Partial Payment of Annual Contributions (HAPP)
Office: Housing
Form No. HUD-52663
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 2,080
Status: New
Contact: Myra Newbill, HUD, (202) 755-5353; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 9, 1982.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Housing Assistance Payments Program
Office: Housing
Form No. HUD-52671, 52672 and 52673
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 11,200
Status: New
Contact: Myra Newbill, HUD, (202) 755-5353; Robert Neal, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 9, 1982.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Low-Income Housing Program Operating Budget
Office: Housing
Form No. HUD–52598 and HUD–52656
Frequency of Submission: Semiannually
Affected Public: State or Local Governments
Estimated Burden Hours: 360,000
Status: Revision
Contact: Kenneth Moul, HUD, (202) 755–8145; Robert Neal, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 9, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83–1730 Filed 1–20–83; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–83–1201]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Evaluation of the Congregate Housing Services Program: Performance and Impact Evaluation
Office: Policy Development and Research
Form No. None
Frequency of Submission: Annually
Affected Public: Individuals or Households
Estimated Burden Hours: 3,399
Status: Extension
Contact: Deborah Greenstein, HUD, (202) 755–5574 Robert Neal, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 17, 1982.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83–1731 Filed 1–20–83; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Navajo Tribe; Plan for the Use and Distribution of Navajo Tribe Judgment Funds in Docket 229 Before the United States Court of Claims

January 7, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93–134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian Tribe. Funds were appropriated on October 23, 1981, in satisfaction of the award granted to the Navajo Tribe in United States Court of Claims in Docket 229. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated July 26, 1982, and was received (as recorded in the Congressional Record) by the House of Representatives on July 28, 1982, and by the Senate on July 29, 1982. The plan became effective on December 12, 1982, as provided by Section 5 of the 1973 Act since Congress did not adopt a resolution disapproving it.

The plan reads as follows:

"The funds appropriated on October 23, 1981, in satisfaction of an award granted by the United States Court of Claims in Docket 229 to the Navajo Tribe, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be distributed as herein provided:

A. The Secretary shall transfer ten (10) million dollars, plus all interest and investment income accrued, to the Navajo Scholarship Trust Fund. The interest therefrom shall be utilized to provide educational assistance to tribal members pursuant to the provisions of the "Plan of Operation" approved by Resolution ACAP–36–80 or any subsequent resolution approved by the Secretary.

B. The remainder of these funds shall be utilized by the Navajo Tribal Council for land acquisition."

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83–1697 Filed 1–20–83; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Reclamation

[INT–DES 83–3]

Tahoe City Land Transfer, 64-Acre Tract, Tahoe City, California; Availability of Draft Environmental Impact Statement and Public Hearing Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental impact statement assessing impacts associated with the proposed transfer of administrative authority for 64 acres of Federal land at Tahoe City, California. The proposed transfer will be from the Bureau of Reclamation to the Forest Service, Department of Agriculture. The draft environmental impact statement

examines the changes in land use and associated impacts which can be anticipated if administration for this land were transferred directly to the Forest Service, if it were reported as excess to the General Service Administration, or if it were to remain under the administration of the Bureau of Reclamation.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, DC 20240, Telephone: (202) 343–4991

Division of Management Support, General Services, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234–3019

Regional Environmental Quality Office, Bureau of Reclamation, Federal Building, 2800 Cottage Way, Room W–1102, Sacramento, CA 95825, Telephone: (916) 484–4792

Lahontan Basin Projects Office, Bureau of Reclamation, Federal Building, 705 North Plaza Street, Carson City, NV 89701, Telephone: (702) 882–3436.

Single copies of the statement may be obtained on request to the above-listed offices. Copies will also be sent to libraries in project vicinity.

Written comments on the draft environmental impact statement should be submitted to the Bureau of Reclamation office in Sacramento, California, by March 15, 1983.

A public hearing will be held at the Old Elks Lodge, 300 Fairway Drive, Tahoe City, California, from 1 p.m. to 9 p.m. on February 24, 1983. If, because of inclement weather, the meeting cannot be held on this date, the public hearing will be rescheduled to March 1, 1983, at the same time and location.

Individuals and representatives of interested organizations will have an opportunity to make oral presentations on the draft environmental impact statement at the hearing. Those wishing to testify must notify the Bureau of Reclamation office in Carson City, Nevada, by 4 p.m. on February 18, 1983, of their intention. Each witness will be limited to a 10-minute oral presentation. Statements longer than 10 minutes should be summarized orally and a complete written text filed with the presiding official. A prepared list of witnesses according to the order of their appearance will be available the day before the hearing at the Carson City office. Witnesses not scheduled to appear may be given an opportunity to testify as time permits. A sign-up sheet will be provided at the hearing.

Both oral and written comments on the current draft environmental impact statement will be considered in preparing the final environmental impact statement on the proposed transfer.

Dated: January 17, 1983.

R. N. Broadbent,

Commissioner of Reclamation.

[FR Doc. 83–1618 Filed 1–20–83; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

John Day Fossil Beds National Monument; Boundary Change

Pursuant to Title III, Section 302, of the Act of November 10, 1978, Pub. L. 95–625 (92 Stat. 3476) notice is hereby given of the boundary changes for the John Day Fossil Beds National Monument as depicted on the map herein published.

Dated: December 28, 1982.

Daniel J. Tobin, Jr.,

Regional Director, Pacific Northwest Region.

[FR Doc. 83–1691 Filed 1–20–83; 8:45 am]

BILLING CODE 4310–70–M

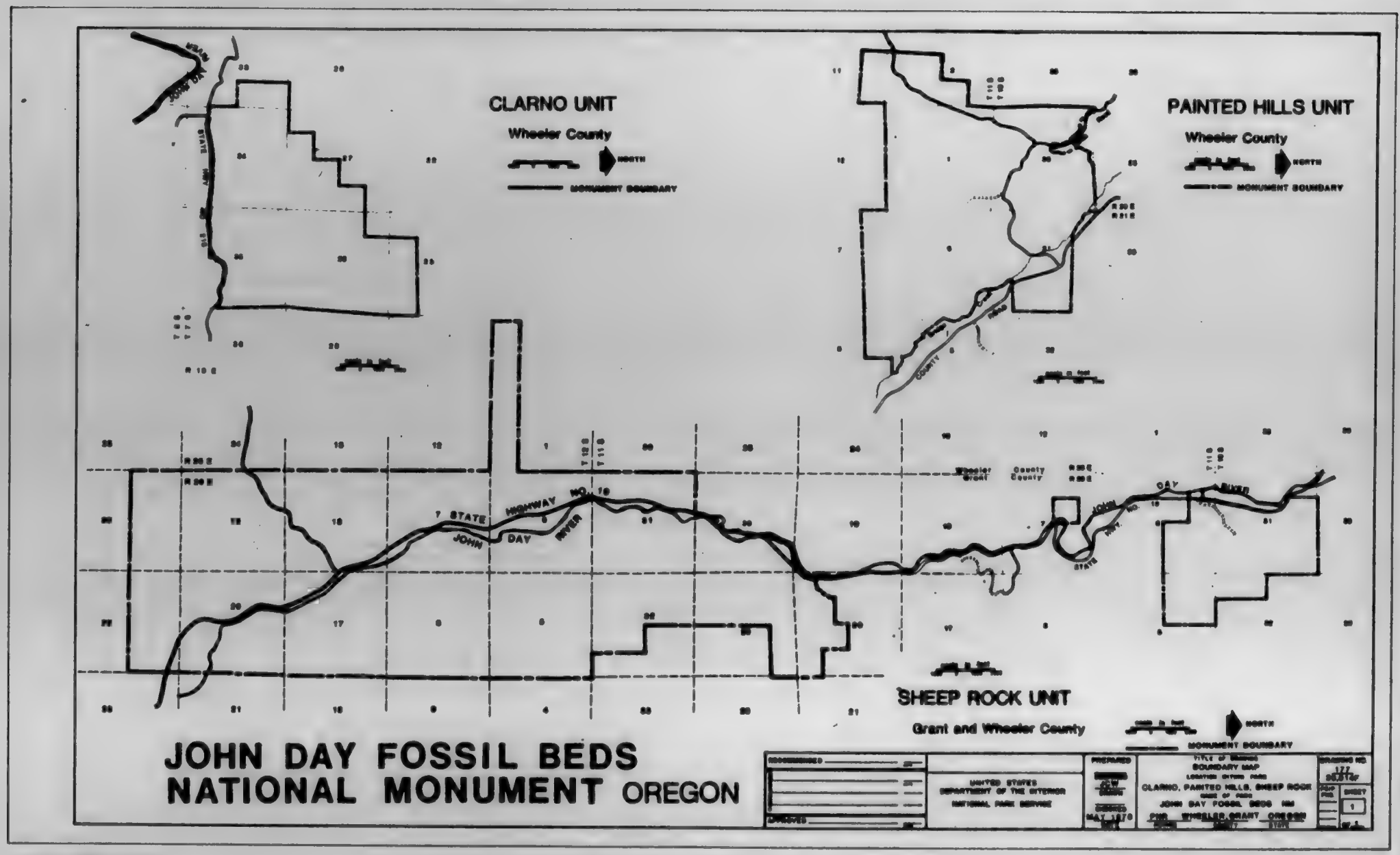

BILLING CODE 4310-70-C

Midwest Regional Advisory Committee; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Midwest Regional Advisory Committee will be held on February 14–15 beginning on Monday, February 14, at 12 o'clock noon (CST) at the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska.

The Committee was established pursuant to Section 3 of the Act of August 18, 1970, 16 U.S.C. 1a–2, by the Secretary of the Interior to advise the Regional Director, Midwest Region, National Park Service, on programs, policies, and such other matters as may be referred to it by the Regional Director. It also functions to provide closer communication wtih the public on such matters.

The members of the Committee are as follows:

Mr. Norman G. Duke, Northfield, Ohio (Chairman)
Ms. Halina M. Frizzelle, Pinckney, Michigan
Mr. William L. Lieber, Indianapolis, Indiana
Ms. Sally B. Schanbacher, Springfield, Illinois
Mr. Cherry Warren, Exeter, Missouri

The purpose of this meeting is to allow the Committee to organize and to familiarize themselves with the purpose, policies, and programs of the Midwest Regional Office of the National Park Service.

The meeting will be open to the public. Any member of the public may file with the Committee, prior to the meeting, a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting or who wish to submit written statements, may contact J. L. Dunning, Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone (402) 221–3431.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68103.

Dated: January 5, 1983.

J. L. Dunning,
Regional Director, Midwest Region.

[FR Doc. 83–1690 Filed 1–20–83; 8:45 am]
BILLING CODE 4310–70–M

Ozark National Scenic Riverways, Missouri; Boundary Adjustment

AGENCY: National Park Service, Interior.
ACTION: Ozark National Scenic Riverways, Notice of Boundary Adjustment.

In accordance with the Act of August 27, 1964, 16 U.S.C. 460m–3, which authorizes alterations in the boundaries of the Ozark National Scenic Riverways in the State of Missouri, notice is hereby given that boundary alterations have been made in the Devil's Well area of the riverway.

This alteration to the riverways boundary is necessary to assume continued unimpeded access to Devil's Well. The area to be included in the boundary alteration is severance land acquired by the United States and title is vested in the United States. This alteration will not cause the 65,000-acre limitation as set out in the Act of August 27, 1964, 16 U.S.C. 460m–3 to be exceeded.

Copies of the maps depicting the boundary alterations are on file and available for inspection at the following addresses:

Director, National Park Service, Department of the Interior, Washington, D.C. 20240
Regional Director, Midwest Region, National Park Service, 1709 Jackson, Omaha, Nebraska 68102
Superintendent, Ozark National Scenic Riverways, Van Buren, Missouri 63965.

Dated December 17, 1982.

J. L. Dunning,
Regional Director, Midwest Region.

[FR Doc. 83–1692– Filed 1–20–83; 8:45 am]
BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 387]

Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.
ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:
Douglas Galloway, (202) 275–7278,
or
Tom Smerdon, (202) 275–7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board[1]	Decided Date
[illegible]	Kansas City Southern Railway Co., ICC–KCS–C–0042 (soybean cake or meal or soybean meal, flaked, in bulk)	3	1–13–83
[illegible]	Southern Pacific Transportation Co., ICC–SP–C–0311 (soybean oil, and flour, soybean)	2	1–13–83
[illegible]	Union Pacific Railroad Co., ICC–UP–C–008, Supplement 2 (set-up motor vehicles)	3	1–13–83
[illegible]	Missouri Pacific Railroad Co., ICC–MP–C–0224 (wheat, grain sorghums and soybeans)	1	1–13–83
645	Missouri Pacific Railroad Co., ICC–MP–C–0223 (soybeans)	2	1–13–83
646	The Baltimore and Ohio Railroad Co., ICC–BO–C–0114 (industrial sand, aplite rock)	3	1–13–83
647	Baltimore and Ohio Railroad Co., ICC–BO–C–0112 (industrial sand)	1	1–13–83
649	Soo Line Railroad Co., ICC–SOO–C–0152 (chlorine gas, liquefied sodium, caustic)	3	1–13–83
650	Soo Line Railroad Co., ICC–SOO–C–0148 (sodium, caustic)	2	1–13–83
651	Soo Line Railroad Co., ICC–SOO–C–0149 (chlorine gas, liquified sodium, caustic)	1	1–13–83
653	Southern Pacific Transportation Co., ICC–SP–C–0353 (tires)	3	1–13–83
654	Seaboard System Railroad, Inc., ICC–SBD–C–0006 (iron ore) via Port of Mobile, AL	3	1–13–83
[illegible]	Seaboard System Railroad, Inc., ICC–SBD–C–0002 (superphosphate, other than ammoniated diammonium phosphate or monammonium phosphate, fertilizer)	3	1–13–83
657	Denver and Rio Grande Western Railroad Co., ICC–DRGW–C0017–A, 0047–A, and 0059–A, (canned goods)	3	1–13–83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1532 Filed 1-22-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from § 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

James H. Bayne,

Acting Secretary.

Please direct status inquiries to Team 5, (202) 275-7289.

Volume No. OP5-FC-011

MC-FC-81087. By decision of January 13, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to DONALD E. NILES, d.b.a. NILES TRANSPORTATION, of Wellsboro, PA, of Certificate No. MC 123099 Sub 8 issued October 7, 1981 to H. ANDERSON TRUCKING COMPANY, INC., Wellsboro, PA, authorizing the transportation of *malt beverages*, in containers, (d) from Rochester, NY and Baltimore, MD, to points in Elkland, PA, (b) from Buffalo and Utica, NY, to Sayre and Blossburg, PA, (c) between Rochester, Utica, and Buffalo, NY, on the one hand, and, on the other, points in Potter, Tioga, Lycoming, Northumberland, and Clinton Counties, PA, and (a) from Rochester, NY, to points in Pennsylvania (except points in Potter, Tioga, Lycoming, Northumberland, and Clinton Counties, PA). Transferee is not a carrier. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722.

MC-FC-81095. By decision of January 13, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to TWIN LAKES TRAILS, INC., Mountain Home, AR, of Certificate No. MC 52479 issued February 19, 1965 to SUNNYLAND STAGES, INC., Springfield, MO, authorizing the transportation of *passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers*, (1) between Springfield, Mo, and Harrison, AR, serving all intermediate points: From Springfield over unnumbered highway (formerly portion U.S. Hwy 65) via Galloway and Ozark, MO to junction U.S. Hwy 65 near Selmore, MO, then over U.S. Hwy 65 to Harrison, and return over the same route, and (2) during the season extending from May 15 to September 30, inclusive, between junction U.S. Hwy 65 and U.S. Hwy 160 (formerly Missouri Hwy 76) and Branson, MO, serving all intermediate points: (a) from junction U.S. Hwy 65 and U.S. Hwy 160 (formerly Missouri Hwy 76) over U.S. Hwy 160 to junction Missouri Hwy 76, then over Missouri Hwy 76 to Forsyth, MO, then over Missouri Hwy 86 (formerly portion Missouri Hwy 78) to junction U.S. Hwy 65 (formerly portion Missouri Hwy 76), then over U.S. Hwy 65 to Branson, and return over the same route, and (b) serving the point of Rockaway Beach, MO, over unnumbered highway, from Missouri Hwy 76, and return. Transferee is not a carrier. Representative: Mavis L. Gibson, 1025 Hwy 62 S.W., P.O. Box 743, Mountain Home, AR 72653. By decision of January 11, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to BEST WAY TRUCKING, INC., of Liberty, MO, of Permit No. MC-158708 issued July 23, 1982, and Certificate Nos. MC-158708 Subs 1 and 2 issued September 2, and June 23, 1982, respectively, to BEST-WAY TRUCK LINE, INC. of Richmond, MO, authorizing the transportation of (1) *such commodities* as are dealt in or used by manufacturers of electronic equipment, between points in the U.S. under continuing contract(s) with Zenith Radio Corporation, of Glenview, IL, (2) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (3) *plastic products*, between points in Douglas County, KS, and Washoe County, NV, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, GA, IL, IA, IN, KS, KY, MI, MD, MN, MO, NE, NV, NJ, NY, NC, OH, OK, PA, SC, TN, TX, WA, WV, and WI. Representative: Frank W. Taylor, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105-1981.

MC-FC-81129. By decision of January 11, 1983 issued under U.S.C. 10926 and the transfer rules at CFR 1181, Review Board Number 3 approved the transfer to STEVE DRABISH AND NICHOLAS COMANICI, d/b/a/ THE E AND M TRANSIT COMPANY, Walton Hills, OH of Certificate No. MC-117829 issued July 27, 1959 to MERLIN L. VAN VOORHIS d/b/a THE E AND M TRANSIT COMPANY, of East Canton, OH, authorizing the transportation over irregular routes of passengers and their baggage, in charter operations, beginning and ending at points in Stark (except Alliance and Massillon) and Carroll Counties, OH and extending to points in IN, KY, MI, PA and WV.

By decision of January 13, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to WILLIS F. NIELSON and NENA T. NIELSON of St. George, UT, of Certificate No. MC-129098 Sub-No. 1, issued October 21, 1968, to GOLDEN CIRCLE TOURS, INC., authorizing the transportation of (1) *passengers and their baggage and express*, over regular routes, between Kanab, UT, and St. George, UT: From Kanab over U.S. Hwy 89 to Fredonia, AZ, then over AZ Hwy 389 to the AZ-UT boundary line, near Colorado City, AZ, then over UT Hwy 59 to Hurricane, UT, then over UT Hwy 17 to junction Interstate Hwy 15, near Washington, UT, and then over Interstate Hwy 15 to St. George, and return over the same route, (2) *passengers and their baggage*, in special and charter operations over irregular

routes, in round trip tours, between Cedar City, UT, Page and Grand Canyon, AZ, and Kane and Garfield Counties, UT, beginning and ending at Cedar City, UT and Grand Canyon, AZ and Kane and Garfield Counties UT, and extending to points in Mohave and Coconino Counties, AZ and points in a specifically defined area of UT, with certain restrictions. Representative: Irene Warr, 311 South State St., Suite 280, Salt Lake City, UT 84111.

For the following, please direct status calls to Team 2 at 202–275–7030.

Volume No. OP2–FC–027

MC–F–81043, By decision of January 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3, approved the transfer to G. E. MIDDLETON, d.b.a. G & M SUPPLY, Scappoose, OR, of Certificate No. MC–156763, issued February 25, 1982, to MIDDLETON LEASING, INC., Scappoose, OR., authorizing the transportation of (1) *building materials*, (2) *lumber and wood products*, and (3) *metal products*, between points in OR, WA, CA, and ID. Representative: Marvin Middleton, P.O. Box 340, Scappose, OR 97056.

MC–FC–81072. By decision of January 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR Part 1181, Review Board Number 3 approved the transfer to transferee GORDON POCH COMPANY, INC., Horicon, WI, of Permit No. MC–143193 (Sub-No. 1), issued October 14, 1981, to transferor, J & G TRUCKING, INC., Horicon, WI, authorizing the transportation over irregular routes, of (1) ethyl alcohol, in bulk, in tank vehicles, from Juneau, WI, to points in MN, IA, IN, IL, and MI; and (2) brewer's yeast, in bulk, in tank vehicles, from points in MN, IA, IN, IL, and MI, to Juneau, WI. An application for temporary authority has been filed. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI, 53719 for transferee and transferor.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–FC–019

MC–FC–81130, filed December 28, 1982. By decision of January 13, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 40 CFR 1181, Review Board No. 3 approved the transfer to NIP FREIGHTSYSTEMS, INC., of Bellevue, WA, of Certificate No. MC–161057, issued November 2, 1982, to RIGA TRUCK LINES, INC., of Baker, OR, authorizing the transportation of (1) *lumber and wood products*, (2) *building materials*, and (3) *metal and metal products*, between points in AZ, AR, CA, CO, ID, KS, LA, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. An application for temporary authority has been filed. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701 for transferor and transferee.

[FR Doc. 83–1653 Filed 1–20–83; 8:45 am]
BILLING CODE 7035–01–M

[OP2–MCF–022]

Motor Carriers; Decision-Notice; Finance Application

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or inproper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: January 10, 1983, by the Review Board Number 3, Members Krock, Joyce, and Dowell.

By the Commission.

James H. Bayne,

Acting Secretary.

MC–F–15049, filed December 27, 1982. UNITED CARRIERS CORPORATION (UNITED) (1984 Coffman Rd., Newark, OH 43055)—CONTROL—ABLE TRANSIT, INC. (ABLE) (600 W.Church St., Newark, OH 43055). Representative: A. Charles Tell, Suite 1800, E. Broad St., Columbus, OH 43215. United seeks authority to acquire control of Able through the purchase of all of the issued and outstanding capital stock of Able. H. E. LeFevre, the majority stockholder of United, seeks authority to acquire control of Able's rights through the transaction. The operating rights of Able sought to be controlled by United are contained in contract carrier permits in No. MC–156253 and No. MC–156253 (Sub No. 1), authorizing the transportation of general commodities (with exceptions), between points in the U.S., under continuing contracts with Owen-Corning Fiberglas of Toledo, OH, and Anchor Hocking Corporation of Lancaster, OH. United, a non-carrier, also controls B & L Motor Freight, Inc. (MC–123255), Truck

One, Inc. (MC–156327), and Ellis Express, Inc. (MC–162662), all of which are motor common carriers authorized to serve principal points in the U.S.

[FR Doc. 83–1864 Filed 1–20–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–029

Decided: January 14, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 10922 (Sub-6), filed January 3, 1983. Applicant: V–K BUS LINES, INC., 149 Laredo, St. Louis, MO 63125. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105 (314) 727–0777. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 95622 (Sub-5), filed January 5, 1983. Applicant: AVERY TRANSPORTATION, INC., Box 444, Beach Lake, PA 18405. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017, 212–532–5100. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 111422 (Sub-13), filed January 6, 1983. Applicant: O. D. ANDERSON, INC., 153 Conneaut Lake Rd., Greenville, PA 16125. Representative: Maxwell A. Howell 2554 Massachusetts Avenue NW., Washington, DC 20008, 202–483–8633. Transporting *passengers and their baggage*, in charter operations, between points in the U.S., under continuing contract(s) with Anderson Tours, Inc., of Greenville, PA.

MC 117173 (Sub-3), filed December 6, 1982. Applicant: McCARTER TRANSIT, INC., 2569 Darlington Rd., Beaver Falls, PA 15010. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave, Pittsburgh, PA 15222, 412–471–3300. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 138942 (Sub-3), filed January 3, 1983. Applicant: MONARCH COACHES, INC., 26 West 548 Geneva Road, Wheaton, IL 60187. Representative: Patrick H. Smyth, 105 West Madison St., Suite 1008, Chicago, IL 60602, (312) 263–2397. (1) transporting *passengers*, in charter and special operations, between points in the U.S. (including AK but excluding HI), (2) transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) As a *Broker of general commodities* (execpt household goods), between points in the U.S. (except AK and HI).

Note.—Applicant in (1) above seeks to provide privately-funded charter and special transportation.

MC 157643 (Sub-1), filed December 22, 1982. Applicant: CAPITOL INTERNATIONAL TOURS, INC., 1061 South Cameron St., Harrisburg, PA 17104. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108–1166, (717) 232–8000. Transporting

passengers, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 160263, filed December 30, 1982. Applicant: APPLE BUS & COACH CO., INC., 1751 Bath Ave., Brooklyn, NY 11214. Representative: Norman Turk, 225 Broadway, New York, NY 10007, 212–619–1540 Transporting *passengers,* in charter and special operations, beginning and ending at New York, NY, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 163503 (Sub-2), filed December 28, 1982. Applicant: NATIONAL FREIGHT SYSTEM, INC., 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell (same as applicant), (214) 642–6402. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 165232 (Sub-1), filed January 3, 1983. Applicant: AIRLINE MOVING & STORAGE, INC., 142 Stockton St., Jacksonville, FL 32204. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. (1) Transporting, for on on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (2) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 165242, filed December 16, 1982. Applicant: ROY IRWIN, d.b.a. ROY'S BUS LEASING, 419 Milam Dr., Euless, TX 76039. Representative: Roy Irwin (same address as applicant), 817–267–3880. Transporting *passengers,* in charter and special operations, beginning and ending at points in TX, and extending to points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165313, filed December 21, 1982. Applicant: NICKELS TOURS, INC., 18225 Burnham Avenue, Lansing, IL 60438. Representative: Patrick H. Smyth, 105 West Madison St., Suite 1008, Chicago, IL 60602, (312) 263–2397. (1) Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI), (2) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) As a *broker of general commodities,* (except household goods) between points in the U.S. (except AK and HI).

Note.—In Part (1), applicant seeks to provide privately-funded charter and special transportation.

MC 165512, filed January 4, 1983. Applicant: HARRY'S TRANSPORTATION SERVICE, INC., 623 Linden Blvd., Brooklyn, NY 11203. Representative: Jeremy Kahn, 1511 K St. NW. Suite 733, Investment Bldg., Washington, D.C. 20005, 202–783–3525. Transporting *passengers,* in charter and special operations, beginning and ending at points in NY, NJ, and CT, and extending to points in the U.S. (including AK, but excluding HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165542, filed January 3, 1983. Applicant: KARL B. HERTZ, d.b.a. DESERT PACIFIC CHARTER LINES, 4791 Arrow Hwy., P.O. Box 67, Montclair, CA 91763. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, 213–945–2745. Transporting *passengers,* in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 165553, filed January 7, 1983. Applicant: JAMES P. CLEMMER, 517 A N. 27th Ave. Yakima, WA 98902. Representative: James P. Clemmer (same address as applicant), 509–248–8348. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165572, filed January 7, 1983. Applicant: RALPH A. HOLLISTER & JOHN R. HOLLISTER, d.b.a. H & H TRANSPORT, 552 West Cornell Court, Upland, CA 91786. Representative: James Robert Evans, 145 West Wisconsin Ave., Neenah, WI 54956, 414–722–2848. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the Following, please direct status calls to Team 4 (202) 275–7669.

Volume No. OP4–021

Decided: January 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 47786 (Sub-8), filed January 6, 1983. Applicant: ROSSMEYER & WEBER, INC., d.b.a. RARITAN VALLEY BUS SERVICE, Box 312, Metuchen, NJ 08040. Representative: Robert E. Goldstein, 370 Lexington Ave., New York, NY 10017, (212) 532–5181. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 67226 (Sub-11), filed January 10, 1983. Applicant: THE BALTIMORE MOTOR COACH COMPANY, 100 W. West St., Baltimore, MD 21230. Representative: Barbara Gold, 1520 Fidelity Bldg., 210 N. Charles St., Baltimore MD 21201, (301) 837–6066. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 68167 (Sub-38), filed January 6, 1983. Applicant: WASHINGTON, VIRGINIA AND MARYLAND COACH COMPANY, INC., 4115 Dorforth Drive, Fairfax, VA 22030. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425-13th St., NW, Washington, DC 20004, (202) 737–1030. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 111216 (Sub-3), filed January 7, 1983. Applicant: BLACK HILLS & WESTERN TOURS, INC., P.O. Box 1106, Rapid City, SD 57709. Representative: H. Ray Herr (same address as applicant), (605) 342–4461. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI). Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's

written request, or Certificate of Registration No. MC–111216 (Sub-No. 2).

Note.—Applicant seeks to provide privately funded special and charter transportation.

MC 148366 (Sub-1), filed January 7, 1983. Applicant: STRAIN'S BUS CO., INC., 2450 30th Avenue SE., Rochester, MN 55901. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *passengers,* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 151206 (Sub-3), filed January 5, 1983. Applicant: NANCY & DWIGHT'S HOLIDAY TOURS, INC., P.O. Box 188, Randleman, NC 27317. Representative: Dwight E. Thompson (same address as applicant), (919) 498–2003. Transporting *passengers,* in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 157167 (Sub-1), filed January 5, 1983. Applicant: LINCOLN COACH TRAVEL, INC., 12681 Route 30 (P.O. Box 369), Irwin, PA 15642. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108–1166, (717) 232–8000. Transporting *passengers,* in charter and special operations, between points in the U.S. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) to team 4, Room 5331

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165246 (Sub-1), filed January 5, 1983. Applicant: EMERALD EMPIRE TRANSPORTATION SYSTEM, INC., 9000 W. Washington Blvd., Culver City, CA 90230. Representative: Warren N. Grossman, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017, (213) 627–8471. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 165487, filed December 29, 1982. Applicant: GEORGE A. THOMAS, R.R. #5, Box 102, Muncie, IN 47302. Representative: George A. Thomas (same address as applicant), (317) 284–6294. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165546, filed January 6, 1983. Applicant: LeROY E. GUY, Rt. 3, 410 Celtic Court, Colorado Springs, CO 80908. Representative: LeRoy E. Guy (same address as applicant), (303) 488–3519. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165547, filed January 6, 1983. Applicant: DAN GRADY, d.b.a. TRAILER TRANSPORT SERVICE, P.O. Box 6631, Oakland, CA 94603. Representative: Dan Grady, 382 Holly Dr., San Rafael, CA 94903, (415) 792–5091. As a *broker of general commodities* (except household goods), between points in U.S.

MC 165556, filed January 5, 1983. Applicant: RELIABLE FREIGHT BROKERAGE, INC., 3224 Toone St., Baltimore, MD 21224. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165586, filed January 10, 1983. Applicant: AMERICAN INDEPENDENT CARRIERS, INC., 207 Manatee Rd., Winter Haven, FL 33880. Representative: Donald E. Potrafka, P.O. Box 6429, Augusta, GA 30906, (404) 793–6955. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners,* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165587, filed January 10, 1983. Applicant: McKENZIE COACH, 4655 Brown St., Philadelphia, PA 19131. Representative: Larry McKenzie (Same address as applicant), (215) 222–0160. Transporting *passengers,* in charter and special operations, beginning and ending at points in PA, NJ, DE, MD, and DC, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165617, filed January 11, 1983. Applicant: BILLY W. AND LINDA L. MONTGOMERY d.b.a. B. MONTGOMERY AND SONS, P.O. Box 238, Keno, OR 97627. Representative: Billy W. Montgomery (same address as applicant, (503) 884–8695. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–023

Decided: January 17, 1983.

By the Commission, Review Board No. 2, members Carletion, Williams, and Ewing.

MC 159197 (Sub-2), filed December 20, 1983. Applicant: BURLINGTON STAGE LINES, LTD., d.b.a. BURLINGTON TRAILWAYS, P.O. Box 491, West Burlington, TA 52655. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441.Transporting *passengers,* (A) in charter and special operations, between points in the U.S. (except HI), (B) over regular routes, in intrastate, interstate, and foreign commerce, (1) between Davenport, IA, and the junction of Interstate Hwy 80 and IA Hwy 38, from Davenport over U.S. Hwy 6 to junction IA Hwy 38, then over IA Hwy 38 to junction Interstate Hwy 80, (2) between Cedar Rapids and Iowa City, IA, from Cedar Rapids over Interstate Hwy 380 to Iowa City, and (3) between St. Louis, and Wentzville, MO, over Interstate Hwy 70, (C) over regular routes, in intrastate commerce, on routes in No. MC–159197 (Sub–No. 1) and in MC–2890 (Sub–No. 18), acquired in MC–F–14737, as follows: (1) MC–159197 (Sub–No. 1), in its entirety over routes which extend between Iowa City and Muscatine, IA, and (2) MC–2890 (Sub–No. 18), in part, between Muscatine and Cedar Rapids, IA, in intrastate commerce between West Liberta and Cedar Rapids, IA.

Note.—Applicant seeks in (A) to provide privately-funded charter and special transportation, in (B) to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route, and in (C) to provide regular-route service in intrastate commerce under 49 U.S.C. 10922(c)(2)(B).

Note.—Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register** issue.

Part A will be published in vol # OP4–023.
Part B will be published in vol # OP4–024.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1666 Filed 1–20–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriage of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982, at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 2, (202) 275–7030.

Volume No. OP2–028

Decided: January 14, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 43283 (Sub-10), filed January 4, 1983. Applicant: WASHBURN STORAGE COMPANY, 83 5th St., Macon, GA 31202. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods,* between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY, and DC.

MC 104832 (Sub-16), filed December 23, 1982. Applicant: HOLMAN TRANSFER COMPANY, 49 S.E. Clay, Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, 503–226–3755. Transporting *food and related products,* between points in OR and WA, under continuing contract(s) with Keebler Co., of Elmhurst, IL.

MC 108313 (Sub-18), filed January 3, 1983. Applicant: CALEDONIA LINES, INC., 100 Sunny Sol Blvd., P.O. Box 8, Caledonia, NY 14423. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (315) 472–8845. Transporting *chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with DAL Specialties, Inc., of Ransomville, NY.

MC 110683 (Sub-204), filed January 5, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Robert L. Stover (same address as applicant), 202–783–8131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Sears, Roebuck and Company, of Chicago, IL.

MC 117503 (Sub-20), filed November 29, 1982. Applicant: HATFIELD TRUCKING SERVICE, INC., 1625 North C St., Sacramento, CA 95814. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, 415–986–8696. Transporting *general commodities* (except classes A and B explosives, household goods, and

commodities in bulk), between points in CA, ID, NV, OR, and WA.

MC 124472 (Sub-8), filed January 7, 1983. Applicant: HARDING TRANSPORTATION, INC., 6875 East Evans Ave., Denver, CO 80222. Representative: Charles J. Kimball, 1600 Sherman St., #665, Denver, CO 80203, 303–839–5856. Transporting *glass, glass products, and related materials, equipment, and supplies,* between points in the U.S. (except AK and HI).

MC 129453 (Sub-4), filed December 3, 1982. Applicant: STARCK VAN LINES OF COLUMBUS, INC., 3901 Grove Port Road, Columbus, OH 43207. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington DC 20036 (202) 785–0024. Transporting *household goods,* between points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV, WI, WY, and DC.

MC 145992 (Sub-6), filed December 6, 1982. Applicant: FUNBUS SYSTEMS, INC., 304 Katella Way, Anaheim, CA 92802. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609 (213) 945–2745. Transporting *passengers,* (1) between San Diego and San Francisco, CA: from San Diego over Interstate Hwy 5 to junction U.S. Hwy 101, at Los Angeles, CA, then over U.S. Hwy 101 to San Francisco; (2) between Los Angeles, CA, and junction U.S. Hwy 101 and CA Hwy 152, near Gilroy, CA: from Los Angeles over Interstate Hwy 5 to junction CA Hwy 152, near Los Banos, CA, then over CA Hwy 152 to junction U.S. Hwy 101; (3) between junction Interstate Hwy 5 and CA Hwy 152, near Los Banos, CA, and San Francisco, CA: from junction Interstate Hwy 5 and CA Hwy 152, over Interstate Hwy 5 to junction Interstate Hwy 580, then over Interstate Hwy 580 to junction Interstate Hwy 80, then over Interstate Hwy 80 to San Francisco; (4) between San Jose and San Francisco, CA, over Interstate Hwy 280; (5) between junction Interstate Hwy 280 and CA Hwy 92, and junction U.S. Hwy 101 and CA Hwy 92, over CA Hwy 92; (6) between junction Interstate Hwys 280 and 380 and junction Interstate Hwy 380 and U.S Hwy 101, over Interstate Hwy 380; (7) between San Diego, CA, and the port of entry on the international boundary line between the U.S. and the Republic of Mexico, at San Ysidro, CA, (a) over Interstate Hwy 5, and (b) over Interstate Hwy 805; (8) between San Diego, CA, and junction Interstate Hwy 15 and CA Hwy 60, near Ontario, CA, over Interstate Hwy 15; (9) between Buena Park, CA, and junction Interstate Hwy 15 and CA Hwy 60, near Ontario, CA: from Buena Park over CA Hwy 91 to junction CA Hwy 57, then over CA Hwy 57 to junction CA Hwy 60, then over CA Hwy 60 to junction Interstate Hwy 15; (10) between junction CA Hwy 91 and Interstate Hwy 5 and Los Angeles, CA: from junction CA Hwy 91 and Interstate Hwy 5 over Hwy 91 to junction Interstate Hwy 405, then over Interstate Hwy 405 to Los Angeles; (11) between Los Angeles, CA, and junction CA Hwy 60 and CA Hwy 57, over CA Hwy 60; (12) between junction CA Hwy 60 and Interstate Hwy 15, near Ontario, CA, and, Las Vegas, NV, over Interstate Hwy 15; (13) return over the same routes in routes (1), (2), (3), (9), and (10) above and (14) serving all intermediate points on routes (1) through (13) above.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(B) over the same route.

MC 147612 (Sub-6), filed January 4, 1983. Applicant: WILLARD D. VAN ZUIDEN TRUCKING, INC., Box 333, Albany, IL 61230. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603 (312) 263–2306. Transporting *metal products, lumber and wood products, building materials, Mercer commodities, and chemicals and related products,* between points in the U.S. (except AK and HI).

MC 148632 (Sub-11), filed January 10, 1983. Applicant: DIXON MOTOR FREIGHT, INC., 2620 Old Egg Harbor Rd., Lindenwold, NJ 08021. Representative: Gary V. Dixon (same address as applicant) 609–767–5885. Transporting *such commodities* as are sold in department stores, between those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX.

MC 150093 (Sub-6), filed January 10, 1983. Applicant: THE TOM DAVIS CORP., d.b.a. DAVIS LINES, 5335 N.W. 111th Drive, Grimes, IA 50111. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *metal products,* between points in Story County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161462 (Sub-5), filed January 4, 1983. Applicant: ILLINI 48 INC., 5501 West 109th St., Oak Lawn, IL 60453. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, 312–782–8880. Transporting *such commodities* as are dealt in or used by wholesale, retail, and chain grocery and food business houses, between points in NJ, NY, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162372, filed December 23, 1982. Applicant: LUSK TRANSPORTATION SERVICE, P.O. Box 3567, 306 Bell Crest Dr., Cleveland, TN 37311. Representative: Charles R. Lusk, Jr. (same address as applicant) 615–476–3075. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products, between points in TN, MN, WI, IL, KY, PA, MO, IA, TX, NE, OH, and VA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 163762, filed December 20, 1982. Applicant: COLT CARTAGE CO., INC., 1535 Round Table Dr., Dallas, TX 75247. Representative: Larry J. Mack, 3115 Oradell, Apt #207, Dallas, TX 75220, 214–630–9687. Transporting *air conditioning and heating units,* between points in OK and TX, under continuing contract(s) with Borg-Warner Central Environmental Systems, Incorporated, of Philadelphia, PA.

MC 165282, filed December 20, 1982. Applicant: M & M TRANSPORTATION, 8140 Enterprise Dr., Newark, CA 94560. Representative: Michael Prefling (same address as applicant) 415–794–2908. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Personal Products Company, of Menlo Park, CA.

MC 165342, filed December 22, 1982. Applicant: DONALD R. BURNFIELD, d.b.a. BURNFIELD TRUCKING, Box 65, Belpre, OH 45714. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *lumber and wood products,* between points in WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165523, filed January 3, 1983. Applicant: WESTON W. JOHNSON, 7645 S.W. Whitford Drive, Portland, OR 97223. Representative: Weston W. Johnson (same address as applicant) 503–246–6422. Transporting *motor vehicles,* between points in the U.S. (except AK and HI), under continuing contract(s) with General Motors Acceptance Corporation, of Portland, OR.

For the following, please direct status calls to Team 4 (202) 275–7669.

Volume No. OP4–020

Decided: January 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 101177 (Sub-2), filed January 5, 1983. Applicant: W. JEFF HAMMOND MOVING & STORAGE, INC., 4001 Fort Campbell Blvd., Hopkinsville, KY 42240. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902 (301) 649–5074. Transporting (a) *household goods, furniture and fixtures, office electrical and electronic equipment, and communications instruments and equipment,* (1) between points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, WV, and DC, and (2) between those points named in (1) above, on the one hand, and, on the other, points in AZ, CA, CO, CT, DE, IA, KS, MA, MI, MN, NE, NJ, NM, NV, NY, UT, and WI, and (b) *textile mill products,* between points in Christian County, KY, on the one hand, and, on the other, Philadelphia, PA, New York, NY, Miami, FL, Los Angeles, CA, Dallas, TX, Minneapolis, MN, Chicago, IL, Kansas City, MO, and points in Middlesex County, MA.

MC 112627 (Sub-38), filed January 6, 1983. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, NY 14437. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580 (716) 671–1021. Transporting (1) *canned foodstuffs,* between points in Oswego County, NY, on the one hand, and, on the other, points in PA, NJ and OH, and (2) *edible liquid commoodities,* (a) between points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundaries of Itasca and Koochiching Counties, MN, to the International boundary line between the U.S. and Canada, and (b) between those points in (a) above, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121037 (Sub-3), filed January 3, 1983. Applicant: CONTINENTAL FREIGHTWAYS, INC., P.O. Box 9423, Houston, TX 77011. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459 (713) 437–1768. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 138237 (Sub-20), filed January 5, 1983. Applicant: METRO HAULING, INC., 20848 77th Ave., South, Kent, WA 98031. Representative: Jack R. Davis, 1200 IBM Bldg., Seattle, WA 98101 (206) 624–7373. Transporting *chemicals and related products,* between points in WA, OR, CA, MT, ID, WY, AZ, CO, NV, UT, and NM.

MC 143956 (Sub-36), filed January 6, 1983. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, P.O. Box 393 Berne, IN 46711 (219) 589–8883. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 147007 (Sub-10), filed January 7, 1983. Applicant: EVERFRESH TRANSPORTATION COMPANY, 6600 East Nine Mile Rd., Warren, MI 48091. Representative: John S. Barbour, 2711 East Jefferson, Suite 202, Detroit, MI 48207 (313) 259–6555. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Foremost-McKesson, Inc., of San Francisco, CA 94104.

MC 148556 (Sub-3), filed January 5, 1983. Applicant: KEEBLER COMPANY, One Hollow Tree Lane, Elmhurst, IL 60126. Representative: John M. Sanderson, Jr. (Same address as applicant), (312) 833–2900. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with the Quaker Oats Company of Chicago, IL.

MC 156957, filed January 7, 1983. Applicant: CANACO TRANSPORT LTD., 5755 Desjardins St., St. Hyacinthe, Quebec, CN J2S 1A6. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 854–5870. Transporting *pulp, paper and related products,* between points of entry on the International Boundary line between the U.S. and Canada, at points in ME, MI, NH, NY, and VT, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IA, IL, IN, KY, KS, LA, MA, MD, ME, MI, MN, MO, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, WI, WV, and DC.

MC 158306 (Sub-1), filed January 5, 1983. Applicant: RICHARD J. WARREN, d.b.a. WARREN TRANSPORT, 10031 McGee Rd., Box 57 McBain, MI 49657. Representative: Richard J. Warren (same address applicant), (616) 825–2192. Transporting *bus seats and seat parts,* between points in Kent County, MI, on the one hand, and, on the other, points in Alameda County, CA.

MC 163527, filed January 7, 1983. Applicant: R & J ASSOCIATES, INC., 131 Maplewood Ave., Thomasville, NC 27360. Representative: Richard A. Hicks (Same address as applicant), (919) 475–2867. Transporting *particleboard and fiberboard,* between points in the U.S. (except AK and HI), under continuing contract(s) with Canterboard, Inc., of Thomasville, NC.

MC 164086 (Sub-1), filed January 5, 1983. Applicant: VERN'S TRUCKING, INC., 6721 S. 85th St., Omaha, NE 68127. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting (1) *chemicals and related products,* between Minneapolis, MN, and points in Lucas County, OH and Brown County, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *food and related products,* between points in the U.S. (except AK and HI).

MC 164726 (Sub-1), filed December 30, 1982. Applicant: C & D VAN HORN, INC., Box 93 Valley St., Delaware, NJ 07833. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting (1) *citrus juice concentrate,* between points in Orange, Polk, Manatee, Pasco, Indian River, St. Lucie, Lake, De Soto, Hendry and Highlands Counties, FL, on the one hand, and, on the other, New York, NY; and (2) *food and related products,* between points in Union County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165346, filed January 5, 1983. Applicant: INLAND TRANSPORTATION SYSTEMS, INC., 2905 Haddock, Muskogee, OK 74401. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262–1322. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Muskogee County, OK, on the one hand, and, on the other, points in OK.

MC 165466, filed January 3, 1983. Applicant: RICHARD AND ANN GILBERT d.b.a. GILBERT AND SONS, Route 4, Box 528, Tecumseh, OK 74873. Representative: James P. Whitten, 820 NW 38th St., Oklahoma City, OK 73118, (405) 947–7660. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 165477, filed December 30, 1982. Applicant: ATLANTA NEWS AGENCY, INC., 4070 Shirley Dr., SW, Atlanta, GA 30336. Representative: Charles H. White, Jr., 1019 19th St., NW., Suite 800, Washington, DC 20036 (202) 785–3420. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing

contract(s) with Atlanta News Agency, Inc., and its subsidiaries of Atlanta, GA.

MC 165497, filed January 3, 1983. Applicant: ROBERT W. BARTON d.b.a. RWB TRUCKING, 10904 Woodland, Albuquerque, NM 87112. Representative: James C. Ash, 2524 Vermont NE, Albuquerque, NM 87110 (505) 298–7511. Transporting *beer, wine, liquor and non-alcoholic mixes*, between points in the U.S. (except AK and HI), under continuing contract(s) with United Wholesale Liquors, Inc. and Bacchus Distributing Company of Albuquerque, NM.

MC 165507, filed January 4, 1983. Applicant: BUSCH INDUSTRIAL PRODUCTS CORPORATION, 10877 Watson Rd., St. Louis, MO 63127. Representative: Michael F. Morrone, 1150 17th St., NW., Suite 1000, Washington, DC 20036 (202) 457–1124. Transporting food and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with Metz Baking Company of Sioux City, IA, Sunrise Bakery, Inc., d.b.a. Reising's Sunrise Bakery, Inc. of New Orleans, LA, Holsum Bakery, Inc. of Phoenix, AZ, Dakota Bake-N-Serv, Inc. of Jamestown, ND, Golden Pantry Foods, Inc. of Madelia, MN, Best Buy Foods, Inc. of Phoenix, AZ, Tombstone Pizza Corp. of Medford, WI, and Lowenberg Bakery, Inc.of Ottumwa, IA.

MC 165517, filed January 4, 1983. Applicant: J.P. STEVENS & COMPANY, INC., P.O. Box 20087, Greensboro, NC 27420. Representative: William H. Borghesani, Jr., 1150 17th St., NW, Suite 1000, Washington, DC 20036 (202) 457–1122. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 165526, filed January 4, 1983. Applicant: BAMBRICK ENTERPRISES, INC., P.O. Box 216, Douglasville, PA 19518. Representative: Joseph T. Bambrick, Jr. (same address as applicant) (215) 385–6086. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Aladdin Industries and its subsidiaries of Nashville, TN, Assembly and Distribution Terminals of Massachusetts, Inc., of Allston, MA, Assembly and Distribution Terminals of California, Inc., of Los Angeles, CA, Assembly and Distribution Terminals of Washington, Inc., of Seattle, WA, Assembly and Distribution Terminals of Oregon, Inc., of Portland, OR, General Nutrition Corporation, of Pittsburgh, PA and Sherwood Medical, of St. Louis, MO.

MC 165536, filed January 3, 1983. Applicant: HOLLAND TRANSPORT CO., Box 137, Dawson, WV 24932. Representative: Robert W. Holland (same address as applicant) (304) 392–5584. Transporting *lumber and wood products*, between points in the U.S., (except AK and HI), under continuing contract(s) with Olen W. Blankenship Lumber Co., of Smoot, WV.

MC 165566, filed January 7, 1983. Applicant: B.G.S. TRANSPORTING AND TOWING CORP., 158 Medford Ave., Patchogue, NY 11772. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St., NW., Washington, DC 2005 (202) 783–3525. Transporting *used automobiles, auto parts* and *auto accessories*, between points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC.

MC 165607, filed January 10, 1983. Applicant: CHALLENGER MOTOR FREIGHT, INC., P.O. Box 86, Savage, MN 55378. Representative: V. S. Harris (same address as applicant) (612) 929–2818. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MN, ND, SD, IA, WI, and IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume NO. OP4–024

Decided: January 17, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 159197 (Sub-2), filed December 20, 1982. Applicant: BURLINGTON STAGE LINES, LTD., d.b.a. BURLINGTON TRAILWAYS, P.O. Box 491, West Burlington, IA 52655. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304 (703) 751–2441. Transporting *passengers*, (A) in charter and special operations, between points in the U.S. (except HI), (B) over regular routes, in intrastate, interstate, and foreign commerce, (1) between Davenport, IA, and the junction of Interstate Hwy 80 and IA Hwy 38, from Davenport over U.S. Hwy 6 to junction IA Hwy 38, then over IA Hwy 38 to junction Interstate Hwy 80, (2) between Cedar Rpids and Iowa City, IA, from Cedar Rapids over Interstate Hwy 380 to Iowa City, and (3) between St. Louis, and Wentzville, MO, over Interstate Hwy 70, (C) over regular routes, in intrastate commerce, on routes in No. MC 159197 (Sub-No. 1) and in MC–2890 (Sub-No. 18), acquired in MC–F–14737, as follows: (1) MC–159197 (Sub-No. 1), in its entirety over routes which extend between Iowa City and Muscatine, IA, and (2) MC–2890 (Sub-No. 16), in part, between Muscatine and Cedar Rapids, IA, in intrastate commerce between West Liberta and Cedar Rapids, IA.

Note.—Applicant seeks in (A) to provide privately-funded charter and special transportation, in (B) to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route, and in (C) to provide regular-route service in intrastate commerce under 49 U.S.C. 10922(c)(2)(B).

Note.—Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this Federal Register issue. Part A will be published in Vol. #OP4–023. Part B will be published in VOL # OP4–024.

James H. Bayne,
Acting Secretary.

[FR Doc. 83–1689 Filed 1–20–83; 8:45 am]
BILLING CODE 7035–01–M

[Docket No. AB–1 (Sub-151)]

Chicago and North Western Transportation Company—Abandonment—In Carroll County, IA; Findings

The Commission has issued a certificate authorizing Chicago and North Western Transportation Company to abandon its 16.8 mile rail line between Carroll (milepost 421.7) and Manning (milepost 438.5) in Carroll County, IA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27 (formerly 49 CFR 1121.38).

James H. Bayne,
Acting Secretary.

[FR Doc. 83–1690 Filed 1–20–83; 8:45 am]
BILLING CODE 7035–01–M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Dana Corporation, 4500 Dorr St., Toledo, Ohio 43615.

2. Wholly-owned subsidiaries which will participate in the operations and state(s) of incorporation are as follows:

i. Wix Corporation, a Delaware corporation;

ii. Boston Industrial Products, Inc., a Delaware corporation;

iii. Dana Distribution, Inc., a Delaware corporation;

iv. DTF Trucking, Inc., a Delaware corporation.

(1) Parent corporation and address of principal office: General Foods Corporation (a Delaware corporation), 250 North Street, White Plains, New York 10625.

(2) Wholly owned subsidiaries which will participate in the operations, and states of incorporation:

(a) Birds Eye, Inc. (Delaware)
(b) Brisk Transportation Inc. (Delaware)
(c) Don's Prize, Inc. (Ohio)
(d) General Foods Caribbean Manufacturing Corporation (Delaware)
(e) General Foods Domestic International Sales Company, Inc. (Delaware)
(f) General Foods Inc. (Puerto Rico)
(g) General Foods Manufacturing Corporation (Delaware)
(h) General Pectin Manufacturing Corporation (Delaware)
(i) General Foods Overseas Development Corporation (Delaware)
(j) Vict. Th. Engwall & Co., Inc. (Delaware)
(k) General Foods Trading Company (Delaware)
(l) Hudson Commercial Corporation (Delaware)
(m) Italsalumi, Inc. (Illinois)
(n) Kohrs Packing Company (Illinois)
(o) Oscar Mayer & Co. Inc. (Delaware)
(p) Oscar Mayer Export, Ltd. (Wisconsin)
(q) Oscar Mayer Foods Corporation (Delaware)
(r) Maxwell House, Inc. (Delaware)
(s) Meriwether's Restaurants, Inc. (Delaware)
(t) Quality Industrial Plastics, Co., Inc. (Delaware)
(u) Scientific Protein Laboratories, Inc. (Illinois)
(v) Birds Eye de Mexico, S.A. de C.V. (Mexico)
(w) Canterbury Foods (Alberta) Ltd. (Alberta, Canada)
(x) Franklin Baker Company of the Philippines (Philippines)
(y) General Foods, Inc. (Canada)
(z) Hostess Food Products Limited (Ontario, Canada)
(aa) Entenmann's, Inc. (Delaware)
(bb) Entenmann's Bakery of Florida, Inc. (Florida)
(cc) Entenmann's Frozen Foods, Inc. (Florida)

1. Parent corporation and address of principal office: Henredon Furniture Industries, Inc., Post Office Box 70, Henredon Road, Morganton, North Carolina 28655.

2. Wholly-owned subsidiaries which will participate in the operations and addresses of their principal offices:

(a) Henredon Transportation Company, Post Office Box 70, Henredon Road, Morganton, North Carolina 28655.

(b) Marimont Furniture, Inc., Post Office Box 70, Henredon Road, Morganton, North Carolina 28655.

(c) The North Carolina Schoonbeck Company, 641 Ward Street, High Point, North Carolina 27261.

(d) Connoisseurs Gallery, Inc., Post Office Box 70, Henredon Road, Morganton, North Carolina 28655.

(e) Henredon Export Company, Post Office Box 70, Henredon Road, Morganton, North Carolina 28655.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1657 Filed 1-20-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15045]

Lloyd W. Sharp—Control Exemption—Carson Truck Lines, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 FR 53303 (November 24, 1982), Llyod W. Sharp, who controls B & G Trucking, Inc. (MC-146820), through the ownership of 50 percent of its outstanding capital stock, seeks an exemption from the requirement under section 11343 of prior regulatory approval for his acquisition of control of Carson Truck Lines, Inc., (MC-142835).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215.

Comments should refer to No. MC-F-15045.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 17, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1612 Filed 1-20-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15061]

McCoy Group, Inc.—Control Exemption—McMorHan Trucking Company, Inc. and GMC Motor Truck Sales, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 47 FR 53303 (November 24, 1982), the McCoy Group, Inc. (McCoy) and, in turn, Robert L. McCoy and Mary J. McCoy, who jointly control McCoy, seek an exemption from the requirement under section 11343 of prior regulatory approval for their acquisition of an increased level of control of McMorHan Trucking Co., Inc. (Nos. MC-136774 and MC-143029 and GMC Motor Truck Sales, Inc., (No. MC-155774), both of which are motor carriers.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES:

(1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423
and

(2) Petitioner's representative: Donald B. Levine, 180 North LaSalle Street, Suite 2210, Chicago, IL 60601.

Comments should refer to No. MC–F–15061.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: Janaury 17, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1660 Filed 1–20–83; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30089]

Springfield Terminal Railway Company—Acquisition and Operation—Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10901 the acquisition and operation by Springfield Terminal Railway Company of 4.8 miles of track in Hampden County, MA.

DATES: This exemption will be effective on February 22, 1982. Petitions to stay the effectiveness of this decision must be filed by January 31, 1983, and petitions for reconsideration must be filed by February 10, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representative: Sidney Weinberg, 150 Causeway Street, Boston, MA 02114

Pleadings should refer to Finance Docket No. 30089.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, D.C. 20423 (202) 289–4357—DC metropolitan area (800) 424–5403—Toll free for outside the DC area.

Decided: January 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1655 Filed 1–20–83; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council; Meeting

The regular winter meeting of the Business Research Advisory Council will be held at 9:30 a.m., February 9, 1983, in Room N–5437 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry. The agenda for the meeting is as follows:

1. Chairman's Opening Remarks—Warren H. Bacon
2. Commissioner's Remarks—Janet L. Norwood
3. Committee Reports:

(a) Employment and Unemployment (Employment estimates in defense industries, analysis of unemployment insurance data.)

(b) Wages and Industrial Relations (Industrial relations impact of two CPI's.)

(c) Price Indexes (CPI progress report, International Price Indexes.)

4. Other Business
5. Chairman's Closing Remarks.

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 272–5241.

Signed at Washington, D.C., this 17th day of January 1983.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 83–1723 Filed 1–20–83; 8:45 am]

BILLING CODE 4510–24–M

Business Research Advisory Council Committees; Meetings and Agenda

The regular winter meetings of committees of the Business Research Advisory Council will be held on February 7 and 8, 1983.

The Committees on Employment and Unemployment and Wages and Industrial Relations will hold its meetings in Room 2740 of the General Accounting Office Building, 441 G Street, NW., Washington D.C.

The meeting of the Committee on Price Indexes will be held in Room 7216 of the Bicentennial Building, 600 E Street, NW., Washinton, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Monday, February 7

1:30 p.m.—Committee on Employment and Unemployment.

1. Revisions in national labor force series.
2. The outlook for labor market information (FY 1984 budget impact).
3. Use of unemployment insurance (202) data for labor market analysis.
4. Estimating employment in defense industries.
5. Sources of differences between UI claims and unemployment count.
6. Report on agenda for OMB SIC Revision task force.
7. Other Business.

Tuesday, February 8

9:30 a.m.—Committee on Wages and Industrial Relations.

1. Review of WIR Work in Progress.
2. Fiscal Year 1984 Budget.
3. 1982 Patterns in Collective Bargaining.
4. Impact of Two CPI's on Labor Relations.
5. Other Business.

Tuesday, February 8

1:30 p.m.—Committee on Price Indexes.

1. International Price Program status report.
2. Producer Prices and Price Indexes status report.
3. Consumer Prices and Price Indexes status report.
4. Other Business.

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Kenneth C. Van Auken, Executive Secretay, Business Research Advisory Council on Area Code (202) 272–5241.

Signed at Washington, D.C. this 17th day of January 1983.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 83-1724 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-24-M

Employment and Training Administration

[TA-W-13,988]

Amstar Corporation, American Sugar Division, Philadelphia, Pennsylvania; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation (TA-W-13,988) was initiated on November 30, 1982 in response to a petition received on November 22, 1982 which was filed on behalf of workers at Amstar Corporation, American Sugar Division, Philadelphia, Pennsylvania. The workers produce refined sugar.

On August 16, 1982 an investigation (TA-W-988) was initiated in response to a petition received on August 6, 1982, which was filed on behalf of the same group of workers.

Since the identical group of workers is the subject of the ongoing investigation (TA-W-13,706), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 12th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-1473 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 10, 1983–January 14, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,533; Hanna Novelty Co., Inc., Monticello, IN

TA-W-13,598; Airco Carbon, St. Mary's, PA

TA-W-13,139; Armco, Inc., Kansas City Works, Union Wire Rope Plant, Kansas City, MO

TA-W-13,404; Hellertown Manufacturing Co., Toledo, OH

TA-W-13,500; Hellertown Manufacturing Co., Burlington, IA

TA-W-13,501; Hellertown Manufacturing Co., Cambridge, OH

TA-W-13,502; Hellertown Manufacturing Co., Hellertown, PA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-13,376; F. Joseph Lamb Co., Warren, MI

Aggregate U.S. imports of transfer machines are negligible.

TA-W-13,448; Hadron, Inc., Lake Orion, MI

Aggregate U.S. imports of transfer machines are negligible.

Affirmative Determinations

TA-W-13,329; Bendix Corp., Heavy Vehicle Systems Group, Elyria, OH

A certification was issued covering all workers of the firm separated on or after November 1, 1981.

TA-W-13,459; Fashion Hall, Inc., Brooklyn, NY

A certification was issued covering all workers of the firm separated on or after April 23, 1981 and before June 30, 1981.

TA-W-13,469; Easy Made Manufacturing Co., Inc., Bronx, NY

A certification was issued in response to a petition received on April 20, 1982 covering all workers separated on or after August 28, 1981.

TA-W-13,581; Hoh River Cedar Products, Inc., (Sol Due Shake Co.), Beaver, WA

A certification was issued in response to a petition received on June 14, 1982 covering all workers separated on or after October 1, 1981.

TA-W-13,599; Airway Industries, Inc., Airway Park, Ellwood City, PA

A certification was issued in response to a petition received on June 22, 1982 covering all workers separated on or after October 1, 1981.

TA-W-13,509; Kennecott Minerals Co., Utah Copper Div., Magna, UT

A certification was issued in response to a petition received on May 25, 1982 covering all workers separated on or after January 1, 1982.

TA-W-13,628; Chino Mines Co. (A Kennecott-Mitsubishi Partnership), Hurley, NM

A certification was issued in response to a petition received on May 25, 1982 covering all workers separated on or after January 1, 1982,

TA-W-13,648; Kennecott Minerals Co., Ray Mines Div., Ray, AZ

A certification was issued in response to a petition received on May 25, 1982 covering all workers separated on or after January 1, 1982.

TA-W-13,649; Kennecott Minerals Co., Ray Mines Div., Hayden, AZ

A certification was issued in response to a petition received on May 25, 1982 covering all workers separated on or after January 1, 1982.

TA-W-13,257; Al Tech Specialty Steel Corp., Dunkirk, NY

A certification was issued covering all workers engaged in employment related to the production of stainless steel bars and stainless steel rods separated on or after September 1, 1981.

TA-W-13,614; Al Tech Specialty Steel Corp., Watervliet, NY

A certification was issued covering all workers engaged in employment related to the production of stainless steel bars and stainless steel rods separated on or after September 1, 1981.

I hereby certify that the aforementioned determinations were issued during the period January 10, 1983–January 14, 1983. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213, during normal business hours or will be mailed to persons who write to the above address.

Dated: January 18, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-1727 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 31, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 31, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 17th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Agers Brothers, Inc. (workers)	DeSoto, MO	1/11/83	1/7/83	TA-W-14,221	Barite mining.
Artco Woven Label, Inc. (workers)	Marlboro, NH	1/10/83	1/5/83	TA-W-14,222	Labels—woven, small.
Dresser Industries, Inc., Magcobar Minerals Div. (Teamsters).	Potosi, MO	1/10/83	1/4/83	TA-W-14,223	Barite, mining, crushing, packaging, and shipping.
Interlake, Inc., Globe Metallurgal Div. (USWA)	Beverly, OH	1/13/83	1/10/83	TA-W-14,224	Ferrosilicon, low and high carbon chrom, silicide chrom and silicon metals.
I.T.T. Grinnell (USWA)	Princeton, KY	1/13/83	1/10/83	TA-W-14,225	Fittings—welded.
Kentland Elkhorn Coal Corp. (UMWA)	Pike Co., KY	1/11/82	1/3/83	TA-W-14,226	Coal mining.
Plymouth Tube Co. (USWA)	Dunkirk, NY	1/7/83	1/6/83	TA-W-14,227	Tubing—steel, stainless; tubing—welded, heat, exhange.
RCA Corp., Consumer Electronics (IBEW)	Indianapolis, IN	1/11/83	1/7/83	TA-W-14,228	Yokes.
Milchem, Inc. (workers)	Mineral Point, MO	1/7/83	12/31/82	TA-W-14,229	Barite—griding.
Tuscaloosa Energy Corp. (UMWA)	Elkhorn City, KY	1/11/83	1/3/83	TA-W-14,230	Coal—mining.

[FR Doc. 83-1726 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,800]

Pacific States Cast Iron Pipe Company Provo, Utah; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation (TA-W-13,800) was initiated on September 27, 1982 in response to a petition received on September 23, 1982 which was filed on behalf of workers at Pacific States Cast Iron Pipe Company, Provo, Utah.

The workers produce cast iron pressure pipe, fittings, gate valves and fire hydrants.

The petitioning workers requested in a letter that the petition be withdrawn. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 12th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-1474 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

Asp Realty Co., Inc.; Profit Sharing Plan; Proposed Exemptions

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Asp Realty Company, Inc., Profit Sharing Plan (the Plan), Located in Fargo, North Dakota

[Application No. D–3435]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The contribution to the Plan by Asp Realty Company, Inc. (the Employer), the Plan sponsor, of certain contracts for deed (Contracts), provided that the Internal Revenue Service (IRS) does not determine that the Employer's Federal tax deduction with respect to such contributions exceeded the fair market value of the Contracts on the date of their contribution to the Plan; and (2) the guarantee by the Employer to replace such Contracts if defaulted upon and indemnify the Plan against any loss suffered due to such default.

Effective Date: The effective date of the proposed exemption, if granted, will be January 1, 1975.

1. The Plan is a defined contribution plan with ten participants as of May 3, 1982 and Plan assets of $345,764.58 as of May 28, 1982.[1] The Plan trustees (the Trustees) are John Thompson and Charles Asp, who are each principal shareholders of the Employer and of Edgewood Rentals, Inc. (Edgewood), whose stock ownership and management is substantially similar to the Employer. The Employer and Edgewood are in the realty business.

2. Edgewood sold properties to unrelated third party buyers under the Contracts, which were wrap-around mortgages subject to existing mortgages with third party banks. Edgewood had in some cases assumed these existing mortgages and in some cases had placed them on the property either to pay construction costs or to pay off prior mortgages on the property in existence at the time it was acquired by Edgewood. Contract payments were amortized on a schedule of 25 to 30 years with a balloon payment due within a substantially shorter period of time. The Employer purchased Contracts from Edgewood for their face value which was the difference between the amount of the outstanding mortgage and the balance due under the Contract.

3. Beginning prior to the passage of the Act, the Employer, due to chronic cash flow problems, funded the Plan principally by contributing the Contracts to the Plan. The Employer continued to contribute Contracts in lieu of cash contributions after the fiduciary responsibility provisions became effective on January 1, 1975 in precisely the same manner as prior to January 1, 1975, based on the advice of the Employer's attorney that such transactions did not constitute prohibited transactions under section 406 of the Act.

4. The Plan assumed no liability for the mortgage payments due under the Contract to the third party bank and, in effect, acquired a second mortgage on the underlying property. Additionally, the Plan paid no commissions with regard to the contributions. The Employer agreed to replace any Contract on which payments were in default and also to make up any losses suffered by the Plan as a result of such default. This agreement was reduced to writing on June 6, 1977. The Plan experienced no loss with respect to the Contracts.

5. The applicant emphasizes that throughout the sequence of transactions described herein, the face value of the Contracts was utilized consistently by the Employer for all Contract valuations. First, the Employer purchased the Contracts at face value from Edgewood. Second, the Employer contributed the Contracts to the Plan and took a Federal tax deduction based upon the face value of the Contract. In addition, allocations to participant's accounts were based upon the same face value. Finally, upon termination of the Plan, the Employer purchased all remaining Contracts held by the Plan for an amount which represented the face value of each Contract.

6. While the applicant acknowledges the Contracts were not appraised by independent appraisers prior to their contribution, and that there were no comparable transactions between unrelated parties in the Plan's immediate geographic area, the applicant maintains that the value utilized for the contribution of the Contracts, that is, the face value, represented the fair market value of each of the Contracts, because the contributions were made within a relatively short period of time after the execution of the Contracts (usually within six months) so as to ensure that their value had not fluctuated.

7. The Department believes that as a general matter, applicants for exemptions of this type must, among other things, present independent corroborative evidence to support an assertion that the claimed value of an asset constitutes its fair market value. Often this is accomplished by the submission of one or more appraisals performed by independent qualified appraisers or by a showing of contemporaneous transactions with non-parties in interest under terms identical to those accepted by the subject plan. The applicant asserts that it acted in good faith with respect to these transactions and cites in support the fact that a consistent manner was utilized (face value) in valuing the Contracts, for all purposes. The transactions were entered into only after obtaining the advice of counsel, and, therefore, it had no reason to believe that the contributions constituted prohibited transactions. No evidence was presented, however, to indicate that the fair market value of the Contracts was independently established.

8. The Department understands from the applicant that the IRS has undertaken an investigation of the Plan regarding the contributions discussed herein. Accordingly, the Department believes it is appropriate to propose an exemption for the contribution of Contracts by the Employer to the Plan, provided that the IRS does not determine that the Contracts were valued at more than fair market value.

For Further Information Contact: Robert Sandler of the Department,

[1] The Plan was terminated in June 1982.

telephone (202) 523–8195. (This is not a toll-free number.)

Operating Engineers Journeymen and Apprentice Training Trust (the Plan), Located in the City of Industry, California

[Application No. L–3588]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, (1) the restrictions of section 406(a) of the Act shall not apply to the proposed use by the Plan of certain real property owned by Mr. William Schmidt (Schmidt), a party in interest with respect to the Plan, for storage and training purposes, provided that the terms and conditions of such use are at least as favorable to the Plan as those obtainable by the Plan in an arm's length transaction with an unrelated party; and (2) the restrictions of section 406(a), 406(b)(1) and 406(b)(2) shall not apply to the execution of an indemnification agreement between the Plan and Schmidt relating to the use of such property, provided that the terms and conditions of such agreement are at least as favorable to the Plan as those obtainable by the Plan in an arm's length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a collectively bargained multiemployer plan established in accordance with section 302(c)(5) of the Labor-Management Relations Act of 1947, as amended. On June 30, 1981, the Plan had approximately 13,381 participants and net assets of approximately $4,257,211.

2. In 1982 the Plan purchased a piece of equipment known as a rock plant (the Rock Plant) for the training of journeymen and apprentices in the use of such equipment. Prior to such purchase, several sites for the Rock Plant had been offered for use by the Plan. However, all of those sites were subsequently found to be either unsuitable or unavailable for various reasons. The trustees of the Plan (the Trustees) were faced with the problem of where to store and use the Rock Plant without incurring substantial storage fees. One of the Trustees, Schmidt, has offered to permit the Plan to use a portion of his property in Soledad, California (the Site) for the storage and use of the Rock Plant. Schmidt is a contributing employer to the Plan as well as a Trustee. The application states that Schmidt has excluded himself from participating in the decision-making process of the Trustees as they decide whether or not to use the offered Site. The Site, which is located within a quarry, is about 300 feet by 300 feet, and is completely fenced with a six foot chain link fence which is secured by locking at night.

3. Schmidt will charge no rental to the Plan for the use of the Site, nor will he benefit in any other way except for the general availability of better trained workmen in the industry. No tax deductions will be taken by Schmidt with respect to the Plan's use of the property. The Plan will have the right to sell or otherwise dispose of any materials produced by the Rock Plant, however, if any material is left at the Site, the Trustees will determine whether Schmidt should be permitted to dispose of it. Schmidt will exclude himself from participation in any decisions by the Trustees concerning the disposition of material produced by the Rock Plant. An agreement to be executed between Schmidt and the Trustees (the Agreement) provides for use of the Site by the Plan for an indefinite time, but gives Schmidt the right to terminate the Agreement at will upon reasonable notice to the Trustees.

4. In return for use of the Site, the Trustees will agree to indemnify, defend and hold harmless Schmidt against any and all claims, actions and causes of action which may arise from the Plan's use of the site, except for any claims, actions or causes of action which may arise from the gross negligence or intentional misconduct of Schmidt, his agents, representatives or employees.

5. The Trustees represent that the use of the site by the Plan is in the best interests of the Plan's participants and that it will prevent the Plan from incurring a loss, both beneficially and financially, which would occur if the Rock Plant could not be utilized. Additionally, the Plan will have a suitable site to use at no cost.

6. In summary, the applicants represent that the proposed transactions meet the statutory criteria of section 408(a) of the Act because:

(a) The Plan will benefit by the use of the Site for training and storage purposes at no cost to the Plan;

(b) The Trustees have been unable to find any other suitable locations for such purposes; and

(c) The Trustees state that use of the Site by the Plan is in the best interests of the Plan's participants.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

Thermo Electric Co., Inc., Employees' Profit Sharing and Retirement Plan and Trust (the Plan), Located in Saddle Brook, New Jersey

[Application No. D–3658]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale of real property (the Property) by the Plan to Thermo Electric Co., Inc. (the Employer) in exchange for the Employer's promissory note (the Note), provided that the terms of the transaction are no less favorable to the Plan than those obtainable in a similar transaction with an unrelated third party.

Summary of Facts and Representations

1. As of June 30, 1981, the Plan had 265 participants and total assets of $2,718,477. The trustee of the Plan is Mr. Robert J. MacDonald, an employee of the Employer. The Plan is administered by a Profit Sharing Commitee consisting of three persons appointed by the board of directors of the Employer. Any investment of Plan assets must be approved by the Profit Sharing Committee. As of January 14, 1982, the members of this Committee were Mr. David Schneider, Mr. Martin Meerholz, and Ms. Darlene Kammerer, each of whom is an employee (but not a stockholder, officer, or director) of the Employer.

2. The Property is situated in Shenandoah Valley, Jefferson County, West Virginia and is the location of Harpers Ferry Caverns and Yogi Bear's Jellystone Park Campgrounds. The campgrounds, comprising approximately 35 acres, were established to compliment the cavern attraction, comprising approximately 31.7 acres, for area visitors and tourists. The site is located off of Route 340 in Harpers Ferry, West Virginia, 2½ miles northwest of Harpers Ferry National Historical Park. The campground contains 181 campsites, many with water, sewerage and electrical service, as well as various support facilities, including a ranger station building, comfort stations, a teen hut, swimming pool complex, 18-hole mini-golf course, tennis courts, and

various other structures. A private paved roadway connects with Bakerton Road to provide access to the Property from Route 340. The Property is not presently in use and has been closed to the public since sometime during the summer of 1978.

3. In early 1969, Harpers Ferry Cavern, Inc. (the Developer) acquired the Harpers Ferry Cavern site from Mr. H. B. Long. At that time, the site was subject to a first mortgage held by Eastern Liberty Federal Savings and Loan Association of Washington, D.C. (Lender 1). The Developer proceeded to develop and install the campground facility described above. Financing for many of the campground improvements described above was obtained by the Developer in September 1974, through a loan of $350,000 by the Plan.[1] The applicants represent that both the Developer and Lender 1 are and were unrelated to the Employer. In April 1978, the Developer defaulted in its payments to both Lender 1 and the Plan, and the Plan was advised that Lender 1 had instituted proceedings to foreclose on its mortgage on the Property. A foreclosure sale was held on June 2, 1978. An outstanding principal balance of $230,000 was owed to the Plan by the Developer at the time of the foreclosure sale. After careful deliberation, the Plan's advisory committee decided, consistent with the recommendation of the Plan trustee and in an effort to protect the Plan's interest and to minimize its losses, to bid on the Property at the foreclosure sale. This decision was predicated, in part, upon information available to the committee that the independently appraised value of the Property was $1,568,000. At the foreclosure sale, the Plan was the successful bidder.

4. The Plan invested a total of $821,294 to acquire the Property as a result of the foreclosure, including the balance then owed to the Plan by the Developer and payment by the Plan of the balance due on the first mortgage held by Lender 1, legal fees, property taxes past due, and other closing costs. The Plan expects to recover approximately $19,000 through an involuntary bankruptcy proceeding the Plan instituted against the Developer, reducing the Plan's initial investment in the Property to approximately $802,000.[2] The Plan has made numerous efforts since 1978 to sell the Property to an unrelated third party. On at least two occasions the Property was listed for sale with a real estate broker. Offers were also made to the National Park Service and the Pick Hotel Corporation and several private parties. Despite these efforts, the Plan has been unable to sell the Property. At present there is no current prospect for the sale of the Property.

5. The parties propose that the Employer purchase the Property from the Plan for $802,000, the net amount of the Plan's initial investment in the Property. The purchase price would be paid out over a period of 10 years with interest at the rate of 10 percent per annum. The purchase price would be evidenced by the Note, which is payable in monthly installments of interest and annual installments of principal in the amount of $80,200, with the first payment of principal due one year from the date of sale. The Plan would not pay a sales commission in connection with the sale, and all costs of the proposed sale would be paid by the Employer. In addition, the Employer will assume full responsibility from the date of sale for the various holding costs to which the Property is subject, including but not limited to property taxes, assessments, insurance, security, maintenance, and upkeep. These holding costs amounted to over $14,000 for the six months ended December 31, 1981. Since 1978, when the Plan acquired the Property, the Plan has incurred more than $164,000 in such expenses.

A letter of credit in the amount of $815,000 will be issued by Irving Trust Company, of New York City, in favor of the independent fiduciary who will administer the proposed transaction on behalf of the Plan (see 8, below) for purposes of providing full collateral for the maximum amount of principal and interest that would be due under the Note in the event of default. Such letter of credit will be automatically extended for periods of one year unless Irving Trust Company elects not to extend it and provides prior written notice of such election. In the event that Irving Trust Company does not renew the letter of credit and the Employer does not acquire an equally suitable letter of credit within ten days of being notified of such non-renewal, or if the Employer does not make full payment of principal and interest within such ten day period, the independent fiduciary will draw upon the letter of credit while it is still in effect to pay off the principal and interest owed by the Employer to the Plan in connection with this transaction.

The entire balance due under the Note (both principal and accrued but unpaid interest) shall become due and payable upon any merger or consolidation of the Employer with another entity or upon the sale of substantially all of the Employer's assets to another entity, unless the independent fiduciary mentioned below waives this requirement. Should any interest in the Employer be sold during the term of the Note, the obligation for payment thereunder may not be assigned or transferred but will remain the full liability of the Employer. Should the Employer sell the Property before payment in full of the principal and interest due to the Plan, the Employer will pay the Plan 50% of the net profit, if any, realized from such sale. For this purpose, "net profit" means the difference between the sale price to a third party and the principal obligation of $802,000 plus any interest paid thereon by the Employer to the Plan plus any expenses paid by the Employer which are directly attributable to the Property, such as taxes, insurance, security and maintenance costs, if any, as agreed upon by the Employer and the independent fiduciary. Any such sharing of profit would not adversely affect the payments due to the Plan under the Note; the Employer would remain obligated to make all payments of principal and interest due under the Note.

6. Mr. Richard L. Bowers, SRPA, S.R/W.A., CRA, has appraised the Property and estimates that its fair market value as of June 14, 1982, ranged between $480,000 to $510,000. The appraisal shows that the highest and best use for the approximately 35 acres with the campground improvements is either its former use as a campground facility if improvements are made to make it into a functional property and there is adequate advertising, or its use as a summer camp type resort for a church group, Boy Scouts, Girl Scouts, etc., because of the facilities already in place on the Property. Mr. Bowers explains that the Property has declined in value since 1978 for several reasons. The improvements and caverns portion of the Property are in a dilapidated condition and contribute no value to the Property as of June 1982. Based on his physical inspection of the Property, current financing and interest rates, he considers it highly unlikely to see an investor put in additional capital to recover the caverns as a tourist attraction under current economic conditions. He also states that the buildings, roads, swimming pool, and parking pads show much physical deterioration in the campground area, and that a buyer or investor in the Property would have to spend additional

[1] The Department expresses no opinion as to whether the loan or any other action with respect to the Property violated any provision of Part 4 of Title I of the Act.

[2] See Footnote 1, above.

capital to put the Property in condition to produce income.

Mr. Bowers has been an appraiser and counselor since 1957 for all types of real estate (residential, commercial, industrial, farms, and special use), with 3½ years of staff and reviewing appraisal experience for the U.S. Army Corps of Engineers. He has certified that he has no interest—past, present, or prospective—in the Property which would tend to influence his opinion of its value. The applicants represent that there is no relationship between Mr. Bowers and the Employer, its officers and directors.

7. The applicants state that if the proposed transaction is consummated in the current Plan year ending June 30, 1983, and any portion of the principal payments to be made by the Employer in excess of the fair market value ascribed to the Property by Mr. Bowers' appraisal is treated by the Internal Revenue Service as an Employer contribution to the Plan, such treatment will not disqualify the Plan under section 415 of the Code.

8. Mr. Daniel McColley has agreed to serve as independent fiduciary to the Plan with respect to the proposed transaction and to administer the terms and conditions of the proposed transaction on behalf of the Plan. He states that he is familiar with, understands, and agrees to assume the duties and responsibilities imposed upon fiduciaries by the Act. Mr. McColley is a retired business executive presently engaged in a fiduciary capacity as a trustee for a number of companies in bankruptcy proceedings before the United States Bankruptcy Courts in both the Eastern and Southern Districts of New York. He is familiar with real estate, having performed numerous appraisals for the Courts and for others of both real and personal property, as well as having served as tax assessor for the Borough of Watchung, New Jersey. Mr. McColley has also served as a trustee of various pension plans and has spent many years as a member of the board of directors of several companies. As a director for these companies, Mr. McColley served as a member of various committees with duties in the areas of audit and investment. His experience includes review and evaluation of promissory notes and their present fair market value. It is represented that Mr. McColley has had no prior relationship with the Plan, the Employer, or the officers, directors, or trustees of either entity.

9. Mr. McColley has examined the application for exemption, the documents and records maintained by the Plan pertaining to the Property and the Plan's efforts to sell the Property to an unrelated third party, the Note, Mr. Bower's appraisal of the Property, and the Employer's financial records. He has also met with the representatives of several local realtors, the local Chamber of Commerce, as well as a local campground operator, regarding the Property, local economic and market conditions, and tourism in the area in general. At Mr. McColley's requst, the Employer has agreed to furnish him the following information in connection with his serving as a fiduciary to the Plan with respect to the proposed transaction:

(a) Within 90 days after the close of each fiscal year of the Employer, an audited balance sheet and audited income, profit and loss statement, each certified by an independent public accountant selected by the Employer, presenting the Employer's assets and liabilities as of the close of its fiscal year and the results of its operations during said fiscal year.

(b) Within 45 days after the close of each quarter of the Employer's fiscal year, a balance sheet and income, profit and loss statement similar to that required by subparagraph (a), unaudited, but certified to by the Employer's president or chief financial officer, setting forth the Employer's assets and liabilities as of the close of the quarter and the results of its operations during that quarter and for its current fiscal year to end of that quarter. Said balance sheet and income, profit and loss statement may be subject to audit and year-end adjustment.

(c) At three-month intervals, a report itemizing all expenses and costs incurred by the Employer which are attributable or chargeable to the Property during the preceding three-month period.

(d) Copies of each check and deposit ticket or other evidence satisfactory to the independent fiduciary of the payment of all principal and interest required to be paid by the Employer under the Note within 20 days after each such payment is due.

(e) As soon as possible, but in any event within 10 days of the occurrence, full information as to any possible sale of the Property by the Employer to any third party.

It was also at Mr. McColley's request that the Employer agreed to the conditions described in the last paragraph of 5, above.

10. As a result of his examinations and based upon his personal knowledge of real estate transactions and the real estate market, Mr. McColley has made the following determinations:

(a) With due regard for issuance of a letter of credit, the present fair market value of the Note is at least equal to the fair market value of the Property.

(b) The proposed sales price is fair and equitable and not less than the fair market value of the Property as appraised by Mr. Bowers.

(c) The terms of the proposed transactions are fair and reasonable in light of current economic conditions.

(d) The proposed transaction is not only protective of the rights of the participants and beneficiaries of the Plan but is clearly in their best interests.

(e) The lack of downpayment by the Employer under the proposed sale does not vitiate the benefits of the proposed transaction, nor does it adversely impact upon the interests of the Plan and its participation and beneficiaries. The lack of downpayment must be viewed in the context of the total proposed transaction, which includes immediate conversion of this non-income producing asset of the Plan into an interest earning asset and relieves the Plan of the expenses currently attendant to maintaining the Property. For example, the net gain to the Plan during the first year of the proposed transaction will approximate over $100,000, which may be invested for the benefit of the Plan and its participants. This gain will be realized by a combination of interest on the Note and absorption of expenses such as real estate tax, security service, and insurance by the Employer.

(f) The 10% interest rate to be paid by the Employer to the Plan does not adversely affect the interest of the Plan and its participants and beneficiaries for the same reasons stated in (e), above. The current downward trend in interest rates substantially narrows the gap between the 10% rate proposed for the Note and the market interest rate for comparable loans. Any spread between the 10% rate proposed for the Note and the prevailing market rate of interest for comparable loans at the time of closing of the proposed transaction would be more than offset by the benefits flowing to the Plan from the proposed transaction.

11. In summary, the applicants represent that the proposed transaction meets the exemptive criteria provided by section 408(a) of the Act because: (a) The proposed sales price is not less than the fair market value of the Property as estimated by an independent appraiser; (b) an independent fiduciary believes that the fair market value of the Note is at least equal to the fair market value of the Property, that the terms of the proposed transaction are fair and

reasonable in light of current economic conditions, and that the proposed transaction protects the rights of Plan participants and beneficiaries and is clearly in their best interests; (c) such independent fiduciary will administer the proposed transaction on behalf of the Plan and will receive frequent periodic reports from the Employer to assist the independent fiduciary in so doing; (d) a letter of credit in the amount of $815,000 will be issued by Irving Trust Company in favor of such independent fiduciary to provide full collateral for the maximum amount of principal and interest that would be due under the Note in the event of default; (e) the proposed transaction will enable the Plan to dispose of a non-income producing asset and will relieve the Plan of the high holding costs relating to such asset; (f) the Employer will pay all costs of the proposed sale; and (g) if the Employer subsequently sells the Property at a profit, the Plan will receive half of such profit and the independent fiduciary mentioned above must agree to the determination of the amount of such profit.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under the applicable provisions of the Code, including sections 401(a)(4), 404, 415.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Sackman-Gilliland Corporation Money Purchase Pension Plan (the Plan), Located in Garden City, New York

[Application No. D–3514]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(2) of the Act and section 4975(c)(a) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale by the Plan to Bankers Trust Company (the Trustee) of eight mortgage notes (the Mortgages) for their unpaid principal balance plus accrued interest, provided the amount paid for each Mortgage is not less than its fair market value at the time the transaction is consummated.

Summary of Facts and Representations

1. The Trustee is a New York banking corporation. Through its parent, Bankers Trust New York Corporation, the Trustee owns indirectly all of the outstanding shares of the Sackman-Gilliland Corporation (S–G), the sponsor of the Plan. S–G, which ceased doing business in early 1982, was an entity engaged in the mortgage brokerage business.

2. The Plan, which is in the process of being liquidated, is a defined contribution plan with 39 participants and assets having a fair market value of approximately $3,250,000 as of December 31, 1981. The Trustee is responsible for making investment decisions concerning the Plan.

3. Since S–G is no longer conducting business, the Trustee intends to liquidate the Plan's assets and distribute benefits to the participants and beneficiaries. Included among the Plan's assets are the eight Mortgages, five of which are secured by commercial real property and three by residential real property. The Mortgages are predominantly first mortgages made during the mid-1960's through the late 1070's either to the Plan directly or indirectly through S–G which would subsequently assign the Mortgage to the Plan.[1] With the exception of one Mortgage, none of the makers of the Mortgages were parties in interest with respect to the Plan.[2] the Mortgages carry fixed rates of interest ranging between 6½ percent to 10 percent and were originally made in amounts varying between $19,000 to $200,000. The Mortgages mature in the mid-1980's through the late 1990's. As of December 31, 1981, the total unpaid principal balance of the Mortgages was $338,507.

4. The Trustee proposes to purchase the Mortgages for cash in the amount of the aggregate unpaid principal balance plus accrued interest rather than at their current total fair market value of approximately $245,000. If the Mortgages were sold on the open market, the Trustee believes the Plan would suffer an estimated loss of $93,000. The Trustee states that the loss could be avoided if it were allowed to purchase the Mortgages for its own portfolio. The proposed sale will not involve the payment of any fees or commissions by the Plan.

5. The Trustee believes that based upon its knowledge as a commercial lender and its knowledge of the secondary mortgage market, that $245,000 is the approximate total fair market value for the Mortgages. The Trustee notes that the total fair market value figure is significantly less than the Mortgages' aggregate face amount, (the proposed purchase price) since the interest rates are substantially below prevailing market rates for comparable mortgages.

6. In summary, the application states that the proposed transaction will satisfy the criteria set forth in section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the sale will enable the Plan to liquidate its assets for eventual distribution to the Plan participants and beneficiaries; and (c) the sales price to be paid by the Trustee for the Mortgages will be greater than their current aggregate fair market value.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

F.E.S. Drilling Consultants, Inc., Money Purchase and Defined Benefit Pension Plans (the Plans), Located in Elk City, Oklahoma

[Application No. D–3611]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted the sanctions resulting from the application of section 4975 of the Code,

[1] The Department is not proposing an exemption for the transfer of any Mortgages to the Plan by S–G to the extent such transactions constituted prohibited transactions.

[2] In the Mortgage involving a party in interest, it is represented that the transaction predates July 1, 1974 and is therefore subject to the transitional relief afforded under section 414(c)(1) of the Act. The Mortgage in question was acquired by the Plan in 1969. The trustees at that time were part owners of S–G, the maker of the Mortgage. The present mortgagor, to the best of the Trustee's knowledge, is not a party in interest with respect to the Plan.

by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of certain registered securities by F.E.S. Drilling Consultants, Inc. (the Employer) to the Plans, provided that the terms of the sale are not less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated party on the date of sale.

Summary of Facts and Representations

1. The Plans are a money purchase and a defined benefit plan with two participants. Forest and Marsha Shreves (the Shreves) [1] are the only participants in the Plans. The Shreves also serve as trustees of the Plans. The Plans are funded by one trust.

2. The Plans wish to purchase certain registered securities (the Securities) from the Employer. The Securities include: 300 shares of the common stock of AMAREX, Inc. (the AMAREX Stock) and 200 shares of the common stock of Phillips Petroleum (the Phillips Stock). This proposed transaction will involve 20 percent of the total assets of the Plans.

3. The Plans will pay fair market value for the Securities. The applicant represents that the fair market value of the Securities will be calculated as the average between the high and low price for the day on the date of the sale. The fair market value of the AMAREX Stock was $5.625 per share as of September 14, 1982. The fair market value of the Phillips stock was $28.937 per share as of September 14, 1982. These valuations are based upon *The Wall Street Journal.*

4. In summary, the applicant represents that the proposed transaction meets the criteria for an exemption under section 4975(c)(2) of the Code because:

(a) It will be a one-time cash transaction;

(b) The Securities are marketable with trading occurring daily on the open market;

(c) The Plans will save brokerage costs of about 3 percent of the value of the Securities by purchasing them from the Employer;

(d) The trustees of the Plans represent that the proposed transaction is in the interests of and protective of the Plans; and

(e) The applicant represents that in the event new participants enter the Plans, a new trust will be established to fund the benefits of the new participants. This action will be taken in order to assure that any new participants would not be prejudiced by the investment in the Securities. Thus, the only persons affected by the transactions are the Shreves and they desire and will cause the transactions to be consummated.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Sun Valley Mobile Homes, Inc., Target Pension Plan (the Pension Plan) and Sun Valley Mobile Homes, Inc., Profit Sharing Plan (the Profit Sharing Plan; Collectively, the Plans), Located in Mesa, Arizona

[Application Nos. D–3620 and D–3621]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) Loans (the Loans) by the Plans of 35 percent of their aggregate assets to Sun Valley Mobile Homes, Inc. (the Employer), provided the terms and conditions of the Loans are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party; and (2) the guarantee of repayment of the Loans by the principal shareholders of the Employer.

Temporary Nature of Exemption: The exemption, if granted, will be temporary in nature and will expire five years from the date of the grant with respect to the making of the Loans by the Plans to the Employer. Subsequent to the expiration of this exemption, the Plans may hold the Loans provided they originate during the five year period.

Summary of Facts and Representations

1. The Pension Plan and the Profit Sharing Plan each provided benefits to thirteen participants on September 9, 1982. As of October 31, 1981, the Pension Plan had total assets of $170,140 and the Profit Sharing Plan had total assets of $145,228. The trustees of the Plans (the Trustees) who are members of the Employer's Board of Directors are Messrs. Ray B. Elson, Edwin W. Graber and James R. Elson. The Trustees are responsible for making investment decisions for the Plans.

2. The Employer is an Arizona corporation which has been engaged in the business of selling mobile homes (the Mobile Homes) at the retail level since September 1, 1972. The Employer maintains its principal place of business (the Real Property) at 1830 East Main Street, Mesa, Arizona. The same individuals who serve as the Trustees for the Plans own all of the stock of the Employer corporation. As of October 31, 1981, the Employer had total assets of $1,233,437.

3. Since its inception, the Employer has engaged in a practice known as "flooring". This has entailed obtaining third party financing from banks for the purchase of the Mobile Homes which are subsequently sold to the Employer's customers. The purchase prices of the Mobile Homes range from $35,000 to $75,000.

4. An exemption is requested to allow the Plans, for a period of five years, to make Loans to the Employer on a recurring basis. The proceeds of the Loans will be used by the Employer in the acquisition of new Mobile Homes utilizing an arrangement presently undertaken with the Employer's bank, First Interstate Bank of Arizona (First Interstate), located in Mesa, Arizona. According to this arrangement, First Interstate will finance the entire cost of a Mobile Home if the cost is $35,000 or less. If the cost is greater than $35,000, then the maximum amount the Employer can borrow from First Interstate is 10 percent less than the invoice cost of the Mobile Home. The Plans will make the Loans on the same basis as First Interstate. In addition, no Loan individually or collectively with the other Loans, will exceed 35 percent of the fair market value of the assets of each Plan.

5. The Loans will be further subject to the following conditions:

(a) Each Loan will be evidenced by a promissory note providing for the repayment of principal and interest over a two year period at an interest rate established at 1¾ percent above the prime rate of First Interstate. (This is the same interest rate the Employer presently pays to First Interstate to finance Mobile Home acquisitions.)

(b) Interest accruing on each Loan will be repaid monthly and adjusted by an independent fiduciary on the day First Interstate announces a change in the prime rate. As far as principal is concerned, there will be a principal payment of 20 percent of the amount financed on a Mobile Home at the end of six months from the date of the Loan; an additional 20 percent at the end of one year; an additional 20 percent

[1] Since the Shreves are the sole shareholders of the Employer and the only participants in the Plans, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(c)(1). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

eighteen months from the date of the Loan; and the balance of 40 percent payable at the end of two years. In the event of a sale of a Mobile Home prior to the expiration of the two year period, the remaining principal balance will be paid at the time of the sale.

(c) Each Loan will be secured by a first lien on a Mobile Home and a perfected security interest filed under the Uniform Commercial Code. As additional security, the Employer will offer a recorded second deed of trust on the Real Property. The balance due on the first deed of trust was $59,000 as of October 22, 1982. According to an appraisal report prepared by Mr. R. Veldon Naylor (Mr. Naylor), MAI, ASA, SRWA, CRA of Mesa, Arizona on February 10, 1980, the Real Property had a fair market value of $525,000. In an updated appraisal dated November 29, 1982, Mr. Naylor has certified that the current value of the Real Property is not less than the value found in the 1980 appraisal.

(d) As further security, repayment of the Loans will be guaranteed by the Trustees who had a combined net worth in excess of $3 million as of September 1982.

(e) At all times, the fair market values of the Mobile Homes securing the Loans and the Employer's equity in the Real Property will represent at least 150 percent of the outstanding balances of the Loans.

(f) The Employer will maintain insurance on the Mobile Homes and Real Property and designate the Plans as the beneficiaries of the insurance policies.

6. Mr. Gene A. Schwarzkopf (Mr. Schwarzkopf), a certified public accountant and a former tax manager and financial analyst for several corporations, has agreed to serve as the independent fiduciary for the Loans. Mr. Schwarzkopf is totally independent of the Employer and its principal shareholders. He currently does not provide any services to the Employer or its shareholders, nor has he provided such services in the past. Mr. Schwarzkopf represents he has consulted with ERISA counsel regarding his duties, responsibilities and liabilities under the Act as an independent fiduciary.

Mr. Schwarzkopf believes the proposed transactions are appropriate for the Plans and in the best interests of their participants and beneficiaries. He indicates he has reviewed the portfolio of the Plans and concludes that the Plans do not have specific current cash flow requirements to meet any obligations. He states that limiting the Loans to 35 percent of the Plans' total assets will provide sufficient liquid assets to meet the needs resulting from terminations. He also states that substantially all the assets of the Plans are liquid and the portion needed to make the Loans can be obtained from a money market fund. He further represents that diversifying investments in the Plans under the proposed transactions will enhance the rate of return to the Plans and at the same time there will be collateral in amounts that make the transactions a prudent investment.

Mr. Schwarzkopf represents that the Loans are an appropriate investment for the Plans because of the repayment terms which are basically identical to the loans the Employer has made with First Interstate, the collateral offered and the personal guarantees given by the Trustees. He says he realizes the Loans will be between 90 percent to 100 percent of the cost of a Mobile Home. This method, he notes, is the one followed since September 1, 1972 in the Employer's financing arrangements with First Interstate. He states that this experience over time indicates the repayment terms are prudent.

As the independent fiduciary, Mr. Schwarzkopf will approve each Loan and monitor the repayment terms. In addition, Mr. Schwarzkopf will be responsible for monitoring the fair market value of the collateral used to secure the Loans and demanding additional collateral from the Employer should the combined value fall below 150 percent of the outstanding balance of the Loans. Mr. Schwarzkopf will also be responsible for taking actions deemed necessary to enforce and protect the interests of the Plans.

7. In summary, it is represented that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because: (a) The Loans will be approved and monitored by Mr. Schwarzkopf, an independent fiduciary; (b) the Loans will be secured at all times by first security interests in the Mobile Homes and by a second deed of trust in the Real Property; (c) the collateral will have a value of at least 150 percent of the outstanding balance of the Loans and if the value of the collateral falls below this level Mr. Schwarzkopf will demand that the Employer pledge additional collateral; and (d) the Trustees will personally guarantee the Loans.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Reliable Stores Corporation Pension Plan and Trust (the Plan), Located in Baltimore, Maryland

[Application No. D-3650]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) The proposed cash purchase by the Plan of a deed of trust note (the Note) from Reliable Stores Corporation (the Employer), the sponsor of the Plan; and (2) the resulting extension of credit by the Plan to REKA Properties Limited Partnership (REKA), a party in interest with respect to the Plan, provided that the terms and conditions of such transaction are at least as favorable to the Plan as those which the Plan could receive in a similar transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan which as of December 31, 1981 had assets of $10,216,653 and 1,139 participants. The Employer is engaged in the retail sale of furniture, home furnishings and jewelry. As of January 31, 1982, the Employer's net worth was in excess of $18,000,000.

2. During 1979 and 1980, the Employer purchased approximately 127,000 square feet of real estate in Fairfax County, Virginia and thereon constructed a retail furniture store (the Property). REKA is a partnership that was formed for the purposes of purchasing the Property from the Employer and leasing it back to the Employer. Certain of REKA's general partners are officers and/or directors of the Employer. REKA purchased the Property from the Employer on April 1, 1982 for $2,100,000 and leased the Property back to the Employer under a 25 year lease (the Lease) with five optional renewal periods of five years each. To finance in part the purchase price of $2,100,000, on April 1, 1982 REKA borrowed $750,000 from the Employer. This debt is evidenced by the Note, which is secured by a first deed of trust (Deed of Trust) on the Property. The terms of the Note require equal monthly payments of $9,375 for 25 years and interest on the unpaid principal at the rate of 14.8%. Any remedy under the

Note in the event of default is enforceable by the trustee under the Deed of Trust, Alexander Title Services, Inc. (Alexander), which is independent of all parties to the proposed transaction. The Note provides that in any action to collect any amounts due by REKA, the holder of the Note must look solely to the Property for satisfaction of the debt without the right to seek a money judgment against REKA. The Deed of Trust securing the Note also secures indebtedness of REKA to an unrelated third party, the Katz Trust, in the amount of $750,000. An intercreditors' agreement (the Intercreditors' Agreement) between the Employer and the Katz Trust provides that upon a foreclosure, sale or other disposition of the Property, the Katz Trust and the Employer will share equally in the proceeds. An independent appraiser, John B. Piper, M.A.I., of Vienna, Virginia, appraised the Property as having a fair market value of $2,450,000 as of October 11, 1982. As further security for the Note, REKA assigned to the Employer one half of its interest in the Lease. The remaining one half interest in the Lease was assigned to the Katz Trust.

3. The Employer is requesting an exemption which will permit the Plan to purchase the Note from the Employer and for the resulting extension of credit by the Plan to REKA. The Plan will pay the Employer cash for the Note in the amount of the total outstanding principal balance of the Note as of the date of purchase. The total outstanding principal balance of the Note as of December 15, 1982 was $748,040. As additional security for the Note beyond its interest in the Deed of Trust, the Employer will assign to the Plan its one half interest in the Lease which REKA had assigned to the Employer and will assign to the Plan its rights under the Intercreditors' Agreement. Maryland National Bank, an independent trustee of the Plan, will monitor the receipt of payments under the Note and will instruct Alexander to pursue any available remedy on behalf of the Plan in the event of default. At all times while the Note remains outstanding, REKA will insure the Property against loss by hazard or damage, with the Plan as the named insured to the extent of the Plan's interest in the Property.

4. The applicant represents that the proposed transaction will allow the plan to earn a high rate of return on its investment. In addition, Stanford G. Rothschild, Jr. (Rothschild), an independent fiduciary of the Plan, who is a registered investment adviser whose office is located in Baltimore, Maryland, has reviewed the proposed purchase of the Note by the Plan and represents that the terms will be in line with the market for comparable fixed debt marketable investments and that the price the Plan is paying for the Note is not more than the fair market value of the Note. Rothschild also represents that the proposed transaction will be a prudent and appropriate investment for the Plan.

5. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act because: (1) An independent investment adviser has reviewed the proposed transaction and has determined it to be a prudent and appropriate investment for the Plan; (2) an independent trustee of the Plan will monitor the receipt of payments due under the Note: (3) the rights of the Plan under the Deed of Trust will be enforced by an independent trustee; (4) the interest rate of the Note provides the Plan with a high return on its investment; (5) the Note is secured by a first mortgage on the Property with a value substantially in excess of the amount of the Note and also by an assignment of rent under the Lease; and (6) the proposed transaction will involve only about 7.3% of Plan assets.

For Further Information Contact: Richard Small of the Department, telephone (202) 523–7222. (This is not a toll-free number.)

Haserjian Bros., Inc., Profit Sharing Plan (the Plan), Located in Hollywood, California

[Application No. D–3663]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of a note by the Plan for $936,282.57 to Haserjian Bros. Realty Co. (Realty), a party in interest with respect to the Plan, provided that the terms of the transaction were not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party on the date of consummation of the transaction.

Effective Date: The effective date of the proposed exemption, if granted, would be August 10, 1982.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan with 192 participants as of June 30, 1982. The Plan's trustee is the Central Bank located in Oakland, California. The Plan's Advisory Committee consists of Ted and Harold Haserjian (the Haserjians), Bryan Haserjian and Andrew Reid (the Committee). Haserjian Bros., Inc. (the Employer) is a California corporation engaged in the sale of carpeting. The Employer is wholly owned by the Haserjians.

2. On March 16, 1981, through Professional Lease Funding Inc., an unrelated mortgage broker, the Plan loaned $680,000.00 to Brentwood Townhomes Associates, a limited partnership (Brentwood, Ltd.). The loan was to be used to complete a development of townhome condominiums located at 820–832 Gretna Green Way in Brentwood, California (the Property).

3. The loan, as evidenced by a promissory note (the Note), was payable with interest at a rate of 24% per annum and the borrower, Brentwood, Ltd., paid the Plan three points ($20,400) in advance as additional consideration for its receipt of the loan. The Note provided for monthly-interest-only payments of $13,600, commencing on April 20, 1981. The Note was secured by the lien of a second deed of trust in favor of the Plan on the Property. The first lien on the Property in the amount of $2,150,000 was held by the Imperial Bank (the Bank).

4. Brentwood, Ltd. defaulted on the Note after tendering the first monthly interest payment.[1] On June 11, 1981, because of the default on the Note, the Plan recorded on the local land records a Notice of Default and Election to Sell. On or about July 23, 1981, Brentwood, Ltd. became a limited partner of B.T.A., Ltd., and transferred title to the Property to B.T.A., Ltd., by virtue of a grant deed recorded on August 10, 1981. The Plan waited the required statutory period allowed to bring the Note current and when it wasn't, a Notice of Trustee's Sale was recorded by the Plan on September 21, 1981. This Notice provided that Pacific Sentinel Corporation, the trustee under the trust deed securing the Note, would sell the Property on October 21, 1981 by way of foreclosure. On October 21, 1981, B.T.A., Ltd. commenced a Chapter 11 bankruptcy proceeding by filing a

[1] In this proposed exemption, the Department expresses no opinion as to whether the Plan's acquisition or holding of the Note violated any provision of Part 4 of Title I of the Act.

voluntary petition in the United States Bankruptcy Court, Central District of California. This action enjoined the Plan from proceeding with its scheduled Trustee's Sale. In November 1981, the Bank filed a complaint for relief from a stay of its own parallel effort to foreclose. The trial upon the Bank's complaint commenced on May 21, 1982. On June 25, 1982, a continuation of the trial failed to take place because B.T.A., Ltd. unilaterally defaulted to the Bank.

5. Finding itself inadequately protected by B.T.A., Ltd.'s decision, the Plan filed a complaint for relief in the Bankruptcy Court on June 25, 1982. On that date, the Plan was granted an order from the Bankruptcy Court enabling it to reschedule its trustee's foreclosure sale for August 4, 1982. On July 8, 1982, the Plan was granted an order from the Bankruptcy Court relieving the Plan from the automatic stay of its foreclosure imposed by B.T.A., Ltd.'s Chapter 11 bankruptcy filing. The applicant represents that this decree was issued by the Bankruptcy Court because there was insufficient collateral available to protect the Plan's interest.

6. Pursuant to permission of the Bankruptcy Court, both the Bank and the Plan were permitted to schedule foreclosure sales on July 28, 1982 and August 4, 1982, respectively. In light of the Plan's exposure to loss upon foreclosure by the Bank as holder of the first trust deed, Realty (a partnership wholly owned by the Haserjians) offered to purchase the Bank's interest. On July 28, 1982, Realty purchased the Bank's note for $2,868,206.33 (the total principal and accrued interest outstanding under the Bank's note). Realty then offered to purchase the Plan's Note. The Committee after considering the fact that foreclosure had been delayed for over a year felt that it should proceed immediately to protect the Plan by transferring the Note to Realty prior to the foreclosure sale, which had been rescheduled for August 11, 1982. On August 10, 1982, the Committee agreed to sell the Note and transfer its second deed of trust to Realty for $936,282.57 (the total principal and accrued interest outstanding and due under the Note as of August 10, 1982). The applicant represents that the Plan did not pay any brokerage fees or similar sales charges with respect to the sale. Realty intends to foreclose upon the Property, complete its development, and dispose of it at the highest possible price, which may result in a loss.

7. The applicant represents that the Plan for over a year had not received any income on the Note. Also, the Property securing the Note had deteriorated in value since the improvements on the Property were not completed and due to adverse market conditions.

8. In summary, the applicant represents that the transaction met the statutory criteria for an exemption under section 408(a) of the Act because

(a) It was a one time transaction for cash;

(b) The Plan did not incur any costs in connection with the sale; and

(c) The Plan was able to sell the Note, which was in default, for its unpaid principal balance plus accrued interest.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (this is not a toll-free number.)

Walter M. Roberts Enterprises, Inc., Employees' Profit Sharing Plan (the Plan), Located in Nelson, New York

[Application No. D-3691]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale for $33,500 in cash of certain unimproved real property (the Real Property) by the Plan to Three J Company (the Partnership), provided this amount is not less than the fair market value of the Real Property at the time the sale is consummated.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with twenty participants and total assets of $150,906 as of December 31, 1981. The trustees of the Plan (the Trustees) are Messrs. Walter M. and Jan M. Roberts. The Trustees make investment decisions for the Plan. The Plan is maintained by Walter M. Roberts, Inc. (the Employer) which is engaged in the machinery and equipment sale and leasing business.

2. On November 16, 1977, the Trustees purchased the Real Property for the Plan with the possible intention of some day selling it to the Employer. The Real Property was purchased by general warranty deed for the cash amount of $30,000 from Messrs. Emil, Thomas and William Muller who are unrelated parties. The Real Property consists of a two acre vacant parcel of commercially-zoned land situated between Route 96 and Rowley Road in Victor, New York. Since its acquisition, the Real Property has not produced any income nor has it been used or leased. The Real Property is not adjacent to any property owned by the Plan, the Employer or the Partnership. The total real estate taxes paid on the Real Property since its purchase by the Plan have been less $2,500. In addition, the Plan has never paid any insurance premiums on the Real Property.[1]

3. The Trustees propose to sell the Real Property to the Partnership (consisting of the Trustees and Mr. Jerry Roberts) for $33,500 in cash. The purchasers are shareholders of the Employer as well as its officers, directors and employees. The Plan will not incur any real estate fees or commissions in connection with the sale.

4. On August 3, 1982, Mrs. Helen P. Connelly (Ms. Connelly), an independent licensed real estate broker affiliated with Home Realtors of Victor, New York, placed the fair market value of the Real Property at $33,500. Ms. Connelly based her opinion of the value of the Real Property on such factors as her personal familiarity with the Real Property, the date of its valuation, its character, use and location, and the trends and market conditions as they affect current property values. Ms. Connelly also stated that since none of the parcels in the vicinity of the Real Property had been developed or sold to others, there was little appreciation in their respective values. Consequently, she attributed only a 10 percent increase in value to the Real Property since its acquisition by the Plan.

5. In summary, it is represented that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the sales price for the Real Property has been determined by an independent appraiser; (c) the Plan will not incur any real estate commissions or fees in connection with the sale; and (d) the sale will allow the Plan to divest itself of an asset producing no income.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

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[1] The Department expresses no opinion on whether or not the acquisition and holding by the Plan of the Real Property violates any provision of Part 4 of Title I of the Act.

Corning Glass Works Pension Plan (the Plan), Located in Corning, New York

[Application No. D-3721]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed contribution (the Contribution) of a certain limited partnership interest (the Partnership Interest) to the Plan by Corning Glass Works (the Employer), the sponsor of the Plan, provided that the value of the Partnership Interest used for the Contribution is not greater than the fair market value of the Partnership Interest at the time of the Contribution.

Summary of Facts and Representations

1. The Plan is a defined benefit plan which as of August 27, 1982 and 20,000 participants and assets of approximately $320,000,00. The Citibank N.A. (the Bank) located in New York City, New York is the trustee of the assets of the Plan which are the subject of this exemption request.

2. During 1979 and 1980, the Employer committed, as a limited partner, to an undivided $1,500,000 Partnership Interest in Mayfield III, a $30,000,000 venture capital limited partnership consisting of 5 general partners and 60 limited partners. One of such 60 limited partners is a director of the Employer (who is not an officer of the Employer) who with his family holds an undivided $2,280,000 interest in Mayfield III. The applicant represents that all other general and limited partners in Mayfield III are unrelated to the Employer. Mayfield III provides capital to young companies that the general partners of Mayfield III believe will have exceptional growth in sales and profits. The Employer represents that it would be desirable and prudent for a portion of the assets of the Plan to be invested in the venture capital area. The Employer represents that an investment in the venture capital area would provide the Plan with additional asset diversification and an opportunity for aggressive growth in asset value.

3. The Employer is requesting an exemption which will permit the Contribution. The fair market value of the Partnership Interest will be determined by the general partners of Mayfield III based upon the value of the securities which are owned by Mayfield III. In addition, the applicant represents that the Federal tax deduction which the Employer will take for the Contribution will not exceed the fair market value of the Partnership Interest. The Employer represents that the fair market value of the Partnership Interest as of September 30, 1982 was $1,722,800.

4. The Bank has examined the Contribution and represents that the proposed Contribution will be in the best interests of the participants and beneficiaries of the Plan. The Bank also represents that the method that will be used in valuing the Partnership Interest for the Contribution is in conformity with generally accepted accounting principles and appears to be a fully acceptable method of valuation. In addition, the Contribution has been examined by T. Rowe Price Associates, Inc. (Price), an independent investment advisor located in Baltimore, Maryland. Price represents that the Contribution will be in the best interests of the participants and beneficiaries of the Plan. Price also represents that the valuation method used in determining the value of the Partnership Interest for the Contribution is reasonable and is the standard method used in the venture capital business.

4. In summary, the applicant represents that the Contribution meets the statutory criteria of section 408(a) of the Act as follows: (1) The Bank represents that it will be in the best interests of the participants and beneficiaries of the Plan; (2) Price, an independent investment advisory firm, represents that it will be in the best interests of the participants and beneficiaries of the Plan; (3) the value used for the Contribution will be determined by the general partners of Mayfield III using a method which has been approved by the Bank and Price; and (4) the Plan will obtain an investment which will allow it to diversify its assets and which will provide for potential capital appreciation.

Notice to interested persons

The comment and hearing period will be open for a period of 60 days from the date of publication of this notice of pendency in the **Federal Register**.

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

Restated Pension Plan and Trust Agreement of Winchester Orthopaedic Associates, Ltd. (the Plan), Located in Winchester, Virginia

[Application No. D-3777]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed loan (the Loan) of $189,000 by the Plan to Medical Associates Special Holdings (the Borrower), a party in interest with respect to the plan, to finance construction of an addition to a building leased to Winchester Orthopaedic Associates, Ltd. (the Employer) and Medical Circle Physical Therapy (the Co-Tenant), both parties in interest with respect to the Plan, provided the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated third party.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 17 participants and total assets as of September 30, 1981, of $615,380.44, including $454,087.63 deposited in checking, savings, and certificate-of-deposit accounts at the Commercial and Savings Bank, Winchester, Virginia (the Bank), which has agreed to serve as a fiduciary to the Plan with respect to the Loan. It is represented that $134,165.12 has or will be contributed to the Plan for the Plan year ending September 30, 1982. The applicants represent that the Plan has sufficient liquid assets, other than those proposed to be invested in the Loan, to pay all anticipated benefits on a timely basis. The trustees of the Plan are Drs. H. George White, Jr., Thomas J. Schulz, and Dennis W. Wise.

2. All three trustees of the Plan and Dr. Benjamin V. Rezba (collectively, the Owners) own the Employer, the Borrower, and the Co-Tenant. The Owners are also employees of the Employer. The Borrower owns the building mentioned above, a five-year old medical building containing about 12 examination rooms and located at 128 Medical Circle, Winchester, Virginia, which is leased to the Employer and the

Co-Tenant. As a result of increased practice, the Employer and the Co-Tenant require additional office facilities, and the Borrower intends to construct a significant addition to the existing building for this purpose.

3. To finance such construction, the Borrower wishes to borrow $189,000 from the Plan and to repay such amount plus interest in uniform amortized payments of $2,775.87 per month over a 15-year period. The Loan will bear interest at the rate of 16% per year on the unpaid balance for the first five years. The yearly interest rate will be redetermined at the end of each five years to such amount as is equal to the greater of 16% or 1% over the prime rate at the Bank, and the amortized monthly payment shall be redetermined in accordance with any such change to the interest rate. A late charge will be assessed equal to 4% of the amount of every installment paid more than 14 days after such installment was due. The Loan will be guaranteed by the Owners, whose aggregate net worth is more than 12 times the amount of the Loan. Their guarantees will be in the same form as that usually utilized by the Bank.

4. The Loan will be partially secured by a deed of trust on the subject building, the proposed addition, and the land on which they are situated (aggregately, the Property). The Property will be insured against fire and other calamity, with the Plan designated as loss payee. The deed of trust which will serve as partial security for the Loan will be subordinate to an existing lien on the Property in the form of 6.75%, 20-year industrial development bonds (the Bonds) approved by the Winchester Industrial Development Authority in the amount of $450,000.00. If the Property is sold, the Bonds will become the obligation of the new owners of the Property. However, the deed of trust which will secure the Loan will not be transferable and must be paid off if the Property is sold.

5. The Loan will also be secured by a pledge of all the outstanding shares of stock of the Employer to the extent that the sum of the fair market values of such shares and the Property equal 150% of the sum of the amounts of the Loan ($189,000) and the Bonds ($450,000). The Bank has reviewed financial information relating to the Employer and has determined that all of the outstanding shares of stock of the Employer are worth more than $393,000. The applicants represent that the Loan is based on customary business practices in the Winchester, Virginia area and is in accordance with commercially reasonable terms offered at local banks, which terms are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party in the Winchester area.

6. Mr. Emil W. Miller, an independent real estate appraiser and conultant, has estimated that the fair market value of the Property on November 1, 1982, was $810,000.00, based upon its highest and best use as medical offices. Mr. Miller's appraisal report shows that the assumable financing available at a very favorable rate, in the form of the Bonds, increases the value of the Property. Mr. Miller is an Associate Senior Real Estate Appraiser with the Society of Real Estate Appraisers and has been designated as a Level 2 Appraiser by the Federal National Mortgage Association. The appraisal report states that he has now, and anticipates in the future, no interest or relationship in any way with the Property or owners or any employees of the project appraised.

7. The Bank will serve as trustee for Plan assets invested in the Loan and will have the final authority to determine whether the Plan will make the Loan and to monitor the Loan throughout its existence. All payments due under the Loan will be payable to the Bank as a Plan trustee. Throughout the duration of the Loan, the Bank will also determine whether additional security is needed to ensure that the ratio of the fair market value of the security for the Loan to the outstanding balances due under both the Loan and the Bonds is at least 150%. In the event that additional collateral is necessary to maintain such 150% ratio, (a) Each of the Owners will agree to pledge personal assets for this purpose, and/or (b) the Bank may cause the Loan payments to be accelerated in order to maintain the 150% ratio. The Bank has determined that the Loan is in the best interests of the Plan and its participants and beneficiaries principally as a result of the excellent security for the investment and the high rate of return as compared to other available investment alternatives. In addition to reviewing the specific terms and conditions of the Loan, the Bank has examined the overall Plan investment portfolio, considered the cash flow needs of the Plan, given consideration to the necessity of a sale of any Plan assets, examined the diversification of Plan assets in light of the Loan, and reviewed the terms of the Loan as such terms comport with the Plan's investment scheme.

8. It is represented that the Owners, the Borrower, the Employer, and the Co-Tenant are not officers, directors, or shareholders of the Bank and have not borrowed or received credit from the Bank or had any other business dealings with the Bank except as set forth below. A number of these parties do have checking accounts, savings accounts, and certificates of deposit at the Bank; however, the ratio of the amount of these deposits to the total amount of such deposits held by the Bank for all of its customers is less than 1%. Dr. White owes a balance of $23,550.02 to the Bank on his residence deed of trust. Dr. Schulz owes the Bank a balance of $17,549.58. Both these loans are significantly less than 1% of the total loans to all Bank customers.

9. In summary, the applicants represent that the proposed transaction meets the exemptive criteria provided by section 408(a) of the Act because (a) The Bank, an independent fiduciary, will have final authority to determine whether or not the Plan will make the Loan; (b) the Bank will monitor the Loan until it is fully repaid and will ensure that the fair market value of the security for the Loan equals or exceeds 150% of the outstanding balance due under both the Loan and the Bonds at all times; (c) an independent appraiser and the Bank have respectively estimated the fair market values of the Property and the shares of stock of the Employer securing the Loan, and the sum of such values equals 150% of the sum of the amounts of the Loan and the Bonds; (d) less than 31% of the Plan's assets will be invested in the Loan, and the Plan will have sufficient remaining liquid assets to pay timely all anticipated benefits; (e) the Loan is guaranteed by the Owners, whose aggregate net worth exceeds 12 times the amount of the Loan; (f) the Loan is based on customary business practices in the Winchester, Virginia area and is in accordance with commercially reasonable terms offered at local banks; and (g) the Bank believes the Loan will be in the best interests of the Plan and its participants and beneficiaries.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does

not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 18th day of January 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of labor.

[FR Doc 83-1732 Filed 1-20-83; 8:45 am]

BILLING CODE 4510-29-M

Bradford Clinic, P.A. Profit Sharing Plan & Trust; Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition, the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Profit Sharing Plan & Trust of Bradford Clinic, P.A. (the Plan), Located in Charlotte, North Carolina

[Prohibited Transaction Exemption 83-10; Exemption Application No. D-2386]

Exemption

The restrictions of sections 406 (a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) The purchase by the Plan from Pyramid Partners (the Partnership) of a medical clinic building known as the Bradford Clinic, provided that the purchase price does not exceed its fair market value as of the date of purchase; (2) the assumption by the Plan of the Partnership's role in the lease to Bradford Clinic, P.A. (the Employer) of the Bradford Clinic and the land on which it is situated, provided that the proposed rent-guarantee and the proposed amendments to the lease described in the notice of proposed exemption are adopted before the Plan becomes a party to the lease, and provided further that the terms of the lease are no less favorable to the Plan than those obtainable in a similar lease with an unrelated third party; and (3) the guarantee by the owners of the Employer of the Employer's obligation to make all rental payments required under the lease.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 9, 1982, at 47 FR 15449.

Written Comments and Hearing Requests

The Department received one comment on the proposed exemption. This comment suggests alternative transactions, in lieu of exempting the proposed transactions, to correct the prior prohibited transactions mentioned in the notice of proposed exemption. As stated in such notice, an independent fiduciary has determined that the proposed transactions are in the interest of the Plan and protect the rights of the participants and beneficiaries of the Plan. Further, the applicants have already represented that within 60 days of the date the grant notice is published in the **Federal Register** the Employer will file Form 5330, Return of Initial Excise Taxes Related to Pension and Profit Sharing Plans, with the Internal Revenue Service reporting all prior prohibited transactions and paying the excise taxes due thereon. After considering the entire record, including the comment received, the Department has determined that the exemption should be granted as proposed.

For Further Information Contact: Mrs.

Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–11; Exemption Application No. D–3273]

Westview Clinic, P.A. Profit Sharing Plan and Trust (the Plan), Located in West St. Paul, Minnesota

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) A loan (the Loan) by the Plan of $80,000 to Emerson Building and Leasing Company (Emerson), provided the terms and conditions of such Loan remain at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party; and (2) the guaranty of repayment of the Loan by the general partners of Emerson.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 30, 1982 at 47 FR 53967.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

[Prohibited Transaction Exemption 83–12; Exemption Application No. D–3448]

Michael L. Perich, D.D.S. Inc., Profit Sharing Plan (the Plan), Located in Sacramento, California

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale by the Plan of a limited partnership interest in Trust Investors Limited to Dr. Michael L. Perich for $75,000, provided that this amount is not less than the fair market value at the time of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 30, 1982 at 47 FR 53961.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Radiology Associates P.A. Profit Sharing Plan (the Plan), Located in Little Rock, Arkansas

[Prohibited Transaction Exemption 83–13; Exemption Application No. D–3488]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed loan of funds by the Plan to Medical Equipment Leasing Company, a party in interest with respect to the Plan, provided that the terms and conditions of the loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 21, 1982 at 47 FR 41657.

Written Comments and Hearing Requests: The applicant informed the Department that it was unable to comply timely with the notice to interested persons requirement as set forth in the notice of pendency. Notice, however, was provided to interested persons on October 22, 1982. Pursuant to discussion with the Department, such notice informed interested persons that the comment period with respect to the proposed exemption was extended to November 26, 1982. The Department notes this change and has determined that adequate notice has been provided.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting to plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 18th day of January 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83–1734 Filed 1–20–83; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3730]

Proposed Exemption for Certain Transactions Involving the Norman E. Storm Professional Corporation Employees' Pension Plan, Located in Southfield, Michigan

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed formation and operation of a limited partnership (the Partnership) entered into between the Norman E. Storm Professional Corporation Employees' Pension Plan (the Plan) and Norman E. Storm, a disqualified person with respect to the Plan. The proposed exemption, if granted, would affect the Plan, Norman E. Storm and the beneficiaries of the Plan. Because Mr. Storm is the sole shareholder of Norman E. Storm Professional Corporation (the Employer), the sponsor of the Plan and is the sole Plan participant, there is no jurisdiction under Title I of the

Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(c)(1). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

DATES: Written comments and requests for a public hearing must be received by the Department on or before February 22, 1983.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D–3730. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by Mr. Storm, the trustee of the Plan, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a money purchase pension plan which provides for individual accounts and permits a participant to exercise control over the assets in his account. Mr. Storm is the only participant in the Plan. Mr. Storm is also the trustee of the Plan and the sole shareholder of the Employer. As of April 17, 1981, the Plan had total assets of $300,000.

2. The applicant proposes that Mr. Storm and the Plan enter into a limited partnership agreement for the purchase, sale and rental of condominium apartments located mainly in Florida and Michigan. The applicant represents that all transactions will occur only between the Partnership and parties unrelated to the Plan, the Partnership or Mr. Storm. Mr. Storm will be the general partner and the Plan would be the limited partner in the Partnership. The initial investment in the Partnership will require $5,000 from Mr. Storm as general partner and $70,000 from the Plan as limited partner. The Plan will not be liable for any obligations of the Partnership above its initial capital contribution, nor will Mr. Storm as general partner be authorized under the limited partnership agreement to seek additional capital from the Plan. The determination of each partner's distributive share of the Partnership income, gain, loss deduction, credit or allowance for any Partnership accounting period shall be in accordance with each partner's percentage interest in the Partnership except that Mr. Storm will receive as compensation for services rendered the Partnership as general partner income equal to eight percent (8%) of the annual gross receipts of the Partnership. The Partnership property will be valued on an annual basis and cash distributions will be made on an annual basis. Upon liquidation of the Partnership, proceeds of the liquidation will be allocated in accordance with the partners capital accounts. The investments of the Partnership will be directed by Mr. Storm. Mr. Storm represents that investing in real estate should provide the Plan with a better rate of return than other investment alternatives.

3. In summary, the applicant represents that the proposed transaction meets the criteria for an exemption under section 4975(c)(2) of the Code because: (1) Beyond its initial capital investment in the Partnership, the Plan will not be liable for the obligations of the Partnership; (2) Mr. Storm, as general partner, will not be authorized to seek additional capital contributions to the Partnership by the Plan; (3) the investments of the Partnership will be controlled by the sole participant of the Plan; and (4) Mr. Storm, the Plan trustee, represents the transaction is in the best interests of the Plan and its participant and beneficiary.

Notice to Interested Persons

Because Mr. Storm is the only participant in the Plan and sole stockholder of the Employer, it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transactin is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under section 4975(c)(2) of the Code and in accordance with the

procedures set forth in Rev. Proc. 75–26. If the exemption is granted, the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the formation and operation of the Partnership between the Plan and Norman E. Storm, a disqualified person with respect to the Plan, provided the terms and conditions of the partnership agreement are at least as favorable to the Plan as the Plan could obtain in a transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 18th day of January, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83–1733 Filed 1–20–83; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Mine Safety and Health Administration
Daily Inspection of Hoist Records
MSHA–242R
Daily
Businesses or other institutions; small business or organization
SIC: Major groups 11 and 12
59,250 responses; 2,963 hours

The record of hoist equipment examinations assures that coal mine operators are inspecting their equipment, in particular the wire rope, for and development of unsafe conditions.

Reinstatement

Employment and Training Administration
WIN Employability Plan and Certification Record
ETA 596
On occasion
State or local government
SIC: 944
430,950 responses; 35,898 hours; 1 form

This form summarizes appraisal and employability plan information, and provides for registrants' signatures, indicating their agreement with the employability plan, and for assurance by the SAU that registrants are certified for social services.

WIN Status Change Notice
ETA 597
On occasion
State or local government
SIC: 944
969,000 responses; 48,450 hours; 1 form

This form provides a record of WIN registrant status and activity in the WIN program from entry into employment to deregistration and follow-through.

Signed at Washington, D.C. this 18th day of January, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83–1725 Filed 1–20–83; 8:45 am]

BILLING CODE 4510-30; 4510-43-M

All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to the requirements of Pub. L. 95–602, I hereby certify that the Consumer Price Index for All Urban Consumers rose by 5.1 percent between October 1981 and October 1982 from a level of 279.9 (1967=100) in October 1981 to a level of 294.1 (1967=100) in October 1982.

Signed at Washington, D.C., on the 14th day of January 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83–1472 Filed 1–20–83; 8:45 am]

BILLING CODE 4510-24-M

MERIT SYSTEMS PROTECTION BOARD

Air Traffic Controller Appeals

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Merit Systems Protection Board intends to complete action on all appeals from air traffic controllers on February 1, 1983.

This notice revokes a prior notice in 47 FR 22623 (1982) which set December 31, 1982, as the anticipated completion date of air traffic controller appeals. The date set in the prior notice was established in the expectation that the appropriation of supplemental funds would be imminent. However, the additional funds were not appropriated until July 18, 1982. Thus, until that date the Board was without the resources

needed to adjudicate the appeals as expeditiously as it had anticipated.

At this time the Board has completed hearings on all of the appeals and has issued decisions on more than 6,400 of those appeals. The Board is therefore, confident that decisions will be rendered on all of the remaining appeals by February 1, 1983.

This notice constitutes the public announcement of a new completion date required by 5 U.S.C. 7701(i)(1).

DATES: New Completion Date: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Michael W. Doheny, (202) 653–7980.

Dated: January 18, 1983.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 83–1803 Filed 1–20–83; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Media Arts Advisory Panel (Film/Video Production); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Film/Video Production) to the National Council on the Arts will be held on February 7–9, 1983, from 9:00 a.m.–5:30 p.m. in the 12th floor screening room of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of infomation given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 522b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83–1705 Filed 1–20–83; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Safety Research Program; Meeting

The ACRS Subcommittee on the Safety Research Program will hold a meeting on February 9, 1983, Room 1046, at 1717 H Street, NW, Washington, DC. The Subcommittee wil discuss a draft of the ACRS Report to the Congress on the NRC Safety Research Program for Fiscal Years 1984 and 1985.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, February 9, 1983–8:30 a.m. until 2:00 p.m.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then discuss a draft of the ACRS Report to the Congress on the NRC Safety Research Program for Fiscal Years 1984 and 1985.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 18, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–1716 Filed 1–20–83; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–316]

Indiana and Michigan Electric Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR–74, issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of the Donald C. Cook Nuclear Plant, Unit No. 2 (the facility) located in Berrien County, Michigan. The amendment is effective as of its date of issuance.

This amendment approves the Cycle 4 reload, the increase in power level from 3391 to 3411 megawatts thermal, and changes the related Technical Specifications. A License Condition for Cycle 4 is imposed as is a general condition prohibiting Cycle 5 operation until further approval is obtained from the NRC.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on August 27, 1982 (47 FR 37983). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application for amendment dated April 7, 1982, as supplemented by letters dated June 11 and June 30, 1982, July 8, 1982, September 30, 1982, December 9 and December 22, 1982 and January 12, 1983, (2) Amendment No. 48 to License No. DPR–74, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public

Document Room, 1717 H Street NW., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of January, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-1717 Filed 1-20-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-362]

Southern California Edison Co., et al.; Issuance of Amendment Facility Operating License No. NPF-15

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. NPF-15, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensee) for the San Onofre Nuclear Generating Station, Unit 3 (the facility) located in San Diego County, California.

Amendment No. 1 contains three changes. The first change is to the Technical Specifications to allow the shutdown cooling trains to be removed from operation for up to one hour per eight-hour period during performance of core alterations in the vicinity of the reactor pressure vessel hot legs. This part of the amendment was authorized by telephone on November 19, 1982 and became effective November 19, 1982. Moreover, a confirmatory letter to the licensees was issued on November 30, 1982.

The second change is to the Technical Specifications to allow the non-critical component cooling water (CCW) loop to circulate water to the reactor coolant pumps after safety injection initiation. The non-critical CCW loop will still be required to isolate on high containment pressure. This part of the amendment is effective January 14, 1983.

The third item grants an exemption to 10 CFR Part 50, General Design Criteria 56 until March 22, 1983.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Southern California Edison Company's letters dated November 19, December 20 and 21, 1982, and January 7, 1983, (2) the Commission's letter to the licensees dated November 30, 1982, (3) Amendment No. 1 to Facility Operating License No. NPF-15, and (4) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of January, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-1718 Filed 1-20-83; 8:45 am]

BILLING CODE 7590-01-M

Amendment to NRC Requirements Regarding Mandatory Review for Declassification

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice Amending NRC's Mandatory Review for Declassification Requirements.

SUMMARY: The Nuclear Regulatory Commission is amending its requirements regarding Mandatory Review for Declassification. This action is necessary pursuant to Section 3.4 of Executive Order (E.O.) 12356, relating to national security information. This notice also contains instructions for submitting suggestions or complaints regarding NRC's information security program.

EFFECTIVE DATE: January 21, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Whipp, Chief, Information Security Branch, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 427-4476.

SUPPLEMENTARY INFORMATION: Pursuant to E.O. 12356, "National Security Information," and its Implementing Directive, the Nuclear Regulatory Commission is amending in its entirety:

1. Section D.10 of its Manual Chapter Appendix 2101, Part XIV,[1] Mandatory Review for Declassification to read as follows:

a. NRC information classified under E.O. 12356 or predecessor orders shall be subject to a *mandatory* review for declassification by NRC, whenever:

(1) The request is made by a United States citizen, permanent resident alien, Federal agency, or State or local government; and

(2) The request describes the document or material containing the information with sufficient specificity to enable NRC to locate it with a reasonable amount of effort.

b. Any person desiring a mandatory review for declassification of NRC documents containing classified information should address such requests to the Director, Division of Security, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Requests need not be made on any special form, nor does the requested information have to be identified by date or title, but shall, as specified in the E.O., describe the information with sufficient specificity to enable NRC to locate the records containing the requested information with a reasonable amount of effort.

c. The Director, Division of Security, will acknowledge receipt of the request and initiate action to obtain the requested information.

d. Responses to mandatory declassification review requests shall be governed by the amount of search and review time required to process the request.

(1) Every effort will be made to make a prompt declassification determination and notify the requester accordingly. If a prompt declassification determination cannot be made, the Director, Division of Security, will advise the requester of the additional time needed to process the request.

(2) A final determination shall be made on each request within one year from the date of receipt, except in

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[1] Published in the **Federal Register** on September 11, 1979 (44 FR 52899).

unusual circumstances, in which case the Director, Division of Security, will advise the requester of the additional time required.

e. When information cannot be declassified in its entirety, effort will be made to release, consistent with other applicable law, those declassified portions of the requested information that constitute a coherent segment. Upon the denial of an initial request, the Director, Division of Security, will notify the requester of his/her rights to appeal such denial to the Executive Director for Operations. The appeal shall be in writing, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and shall specify why the requester believes the information or material does not warrant classification. This appeal must be filed within 60 days of receipt of the denial.

f. The Executive Director for Operations will normally render a decision on the matter within 30 working days following receipt of the appeal. The Executive Director for Operations will notify the requester in writing of the final decision and of the reasons for any denial. If additional time is required in rendering a decision, the Executive Director for Operations will notify the requester of the additional time needed and the reason for the extension.

g. If the NRC receives a mandatory review for declassification request for records in its possession that were originated by another agency, the NRC shall forward the request, a copy of the records requested and its recommendation for action to that agency for processing in accordance with that agency's mandatory review procedures. In those instances where the originating agency does not want their identity disclosed or the existence or nonexistence of the requested information is itself classifiable under the provisions of the E.O., NRC will advise the requester accordingly.

h. Except as provided in (1), (2), and (3) below, a mandatory review for declassification request for classified records in NRC's possession which contain foreign government information shall be processed in accordance with the provisions of this section.

(1) If the NRC initially received or classified the foreign government information, the NRC shall be responsible for making a declassification determination after consultation with concerned agencies.

(2) If the NRC did not initially receive or classify the foreign government information, the NRC shall refer the request to the agency that received or classified the foreign government information for appropriate action.

(3) Consultation with the foreign originator through appropriate channels may be necessary prior to final action on the request.

i. If the NRC receives a mandatory review for declassification request for records in its possession that pertain to cryptologic information and information concerning intelligence activities (including special activities) or intelligence sources or methods, it shall be processed solely in accordance with special procedures issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

j. Charges for services (e.g. locating and reproducing copies of records) will be made, when deemed applicable, in accordance with NRC regulations and will be consistent with charges for information requested under the Freedom of Information Act, 10 CFR 9.14 (44 FR 16002 March 16, 1979, as amended at 45 FR 70225, October 23, 1980) or the Privacy ACT, 10 CFR 9.85.

2. Instructions for Submitting Suggestions or Complaints Regarding NRC's Information Security Program.

NRC requirements regarding its Information Security Program are contained in NRC Manual Chapter Appendix 2101 Part XIV, "Classification, Downgrading and Declassification." Copies of Part XIV, as well as other parts to NRC's Manual Chapter and Appendix 2101, "NRC Security Program," in accordance with 10 CFR Part 9, "Public Records," are available for review at NRC's Public Document Room, 1717 H Street NW., Washington, DC 20555. Suggestions or complaints regarding NRC's Information Security Program should be submitted in writing to the U.S. Nuclear Regulatory Commission, Director, Division of Security, Washington, DC 20555.

Dated at Bethesda, Maryland, this 10th day of January, 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-1721 Filed 1-20-83; 8:45 am]

BILLING CODE 7590-01-M

Availability of FY 1983 funds for Financial Assistance To Enhance Technology Transfer and Dissemination of Nuclear Energy Process and Safety Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U. S. Nuclear Regulatory Commission (NRC), Office of Nuclear Regulatory Research announces proposed availability of FY 1983 funds to support professional meetings, symposia, conferences, national and international commissions and publications for the expansion, exchange and transfer of knowledge, ideas and concepts directed toward the research necessary to provide a technology base to assess the safety of nuclear power.

Projects will be funded through grants.

DATE: Proposals will be accepted for the period 1/1/83 through 7/31/83

ADDRESS: U.S. Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts, Office of Administration, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: The cognizant NRC grant official is Mr. Kellogg Morton, telephone (301) 492-4294.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement

Pursuant to Section 31.a. and 141.b. of the Atomic Energy Act of 1954, as amended, the NRC, office of Nuclear Regulatory Research proposes to support educational institutions, nonprofit institutions, state and local Governments, and professional societies through providing funds for expansion, exchange and transfer of knowledge, ideas and concepts directed toward the research program. The program includes, but is not limited to, support of professional meetings, symposia, conferences, national and international commissions, and publications (hereinafter called project). The primary purpose of this will be to stimulate research to provide a technological base for the safety assessment of systems and subsystems technologies used in nuclear power applications. The results of this program will be to increase public understanding relating to nuclear safety, to enlarge the fund of theoretical and practical knowledge and technical information, and ultimately to enhance the protection of the public health and safety.

Eligible Applicants

Educational institutions, nonprofit entities, state and local Governments and professional societies are eligible to apply for a grant under this announcement.

C. Research Proposals

A research proposal should describe (i) the objectives and scientific significance of the proposed meeting, symposium, conference, or commission,

(ii) the methodology to be proposed or discussed, and its suitability, (iii) the qualifications of the participants and the proposing organization, and (iv) the level of financial support required to perform the proposed effort.

Proposals should be as brief and concise as is consistent with communication to the reviewers. Neither unduly elaborate applications nor voluminous supporting documentation is desired.

State and local Governments shall submit proposals utilizing the standard forms specified in Office of Management and Budget (OMB) Circular A–102, Attachment M. Nonprofit organizations, universities and professional societies shall submit proposals utilizing the standard forms stipulated in OMB Circular A–110, Attachment M.

The format used for project proposals should give a clear presentation of the proposed project and its relation to the specific objectives contained in this notice. Each proposal should follow the format outlined below unless the NRC specifically authorizes exceptions.

1. Cover Page. The Cover Page should be typed according to the following format (submit separate cover pages if the proposal is multi-institutional):

Title of Proposal—To include the term "conference," "symposium," "workshop," or other similar designation to assist in the identification of the project;
Location and Dates of Conference, Symposium, Workshop, etc.;
Name of Principal Participants;
Total Cost of Proposal;
Period of Proposal;
Organization or Institution and Department;
Required Signatures;
Principal Participants:

Name _____
Date _____
Address _____
Telephone No. _____

Required Organization Approval:

Name _____
Date _____
Address _____
Telephone No. _____

Organization Financial Officer:

Name _____
Date _____
Address _____
Telephone No. _____

2. Project Description. Each proposal shall provide, in ten pages or less, a complete and accurate description of the proposed project. This section shall provide the basic information to be used in evaluating the proposal to determine its priority for funding.

Applicants must identify other proposed sources of financial support for a particular project.

The information provided in this section must be brief and specific. Detailed background information may be included as supporting documentation to the proposal.

The following format shall be used for the project description:

(a) Project Goals and Objectives—

The project's objectives must be clearly and unambiguously stated.

The proposal should justify the project including the problems it intends to clarify and the development it may stimulate.

(b) Project Outline—

The proposal should show the project format and agenda, including a list of principal areas or topics to be addressed.

(c) Project Benefits—

The proposal should indicate the direct and indirect benefits that the project seeks to achieve and to whom these benefits will accrue.

(d) Project Management—

The proposal should describe the physical facilities required for the conduct of the project. Further, the proposal should include brief biographical sketches of individuals responsible for planning the project.

(e) Project Costs—

Nonprofit organizations shall adhere to the cost principals set forth in OMB Circular A–122; Educational Institutions shall adhere to the cost principals set forth in OMB Circular A–21; and state and local Governments shall adhere to the cost principals set forth in OMB Circular A–87.

The proposal must provide a detailed schedule of project costs, identifying in particular:

(1) Salaries—in proportion to the time or effort directly related to the project;

(2) Equipment (rental only);

(3) Travel and Per Diem/subsistance in relation to the project;

(4) Publication Costs;

(5) Other Direct Costs (specify)—e.g., supplies or registration fees;

Note—Dues to organizations, federations or societies, exclusive of registration fees are not allowed as a charge.

(6) Indirect Costs (attach negotiated agreement/cost allocation plan); and

(7) Supporting Documentation. The supporting documentation should contain any additional information that will strengthen the proposal.

D. Proposal Submission and Deadline

This program announcement is valid for the period of 1/1/83 to 7/31/83.

Proposal submissions shall be in 1 signed original and 6 copies.

E. Funds

For Fiscal Year 1983, the U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research anticipates making $75,000 to $100,000 available for funding the project(s) mentioned herein.

The NRC anticipates that approximately 5 to 10 projects will be funded. Further, the NRC anticipates that its average support will be $5,000–$15,000 per project.

F. Evaluation Process

All proposals received as a result of this announcement will be evaluated by an NRC review panel.

G. Evaluation Criteria

The award of NRD grants is discretionary. Generally, projects are supported in order of merit to the extent permitted by available funds.

Evaluation of proposals will employ the following criteria:

1. Potential usefulness of the proposed project for the advancement of scientific knowledge;

2. Clarity of statement of objectives, methods, and anticipated results;

3. Range of issues covered by the meeting agenda;

4. Qualifications and experience of project speakers; and

5. Reasonableness of estimated cost in relation to anticipated results.

H. Disposition of Proposals

Notification of award will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be so advised by the Grants Officer.

I. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from or submitted to: U.S. Nuclear Regulatory Commission, Attn: Grants Officer, Division of Contracts, Office of Administration, Washington, DC 20555.

The address for hand-carried applications is: U.S. Nuclear Regulatory Commission, Attn: Grants Officer, Division of Contracts, Office of Administration, Room 2223, 4550 Montgomery Avenue, Bethesda, MD 20814.

Nothing in this solicitation should be construed as committing the NRC to dividing available funds among all qualified applicants.

Dated at Washington, D.C. this 9th day of January 1983.

Kellogg V. Morton,

Chief, Technical Contracts Branch, Division of Contracts, Office of Administration.

[FR Doc. 83-1729 Filed 1-20-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Re-establishment of National Eligibility Committee for the Combined Federal Campaign (Formerly the Committee on Private Agency Eligibility)

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Executive Order 12353, Charitable Fund Raising, signed March 23, 1982, requires the Director, Office of Personnel Management, to establish procedures to conduct the annual Combined Federal Campaign. To carry out this responsibility and insure that the views of all interested parties are considered, this Committee is being re-established. This Committee continues the work of the Committee on Private Voluntary Agency Eligibility under a new name which more clearly defines its function. The Director has determined that the function of this Committee is in the public interest.

EFFECTIVE DATE: February 9, 1983.

FOR FURTHER INFORMATION CONTACT: Samuel E. Zattiero (202) 632-4533.

SUPPLEMENTARY INFORMATION: The committee's charter is set out below.

Office of Personnel Management.

Donald J. Devine,

Director.

National Eligibility Committee for the Combined Federal Campaign

Charter

A. *Official Designation.* The National Eligibility Committee for the Combined Federal Campaign (the "Committee") was convened by the Director of the Office of Personnel Management (the "Director") under authority of Executive Order 12353 (March 23, 1982). It continues, under a new name, the work and functions previously performed by the Committee on Private Voluntary Agency Eligibility.

B. *Objectives and Scope of Activity.* The purpose of the Committee is to insure through prior review of applications and supplementary financial and accounting data that only responsible and worthy national voluntary agencies are authorized to solicit on the job in Federal installations, and to make recommendations, when requested, regarding other matters relating to charitable fund-raising in the Federal service. The Committee is composed of Federal officials, representatives of recognized Federal employee organizations, and representations of the public, all appointed by, and serving at the pleasure of, the Director.

C. *Duration.* The duration of the Committee is indefinite.

D. *Agency and Offical To Whom the Committee Reports.* The Committee advises the Director of the Office of Personnel Management.

E. *Agency Providing Support.* The Office of Personnel Management provides the necessary support for the Committee.

F. *Committee Responsibilities.* The responsibilities of the Committee are solely advisory and are to consider applications of organizations seeking to participate in the Combined Federal Campaign as national voluntary agencies with fund-raising privileges within the Federal service in accordance with Executive Order 12353 (March 23, 1982) and regulations promulgated thereunder; to make recommendations thereon to the Director; and, upon the Director's request, to advise the Director on other matters regarding charitable fund-raising in the Federal service.

G. *Estimated Annual Operating Costs.* Approximately $1,500 and 1/20th staff year.

H. *Meetings.* The Committee meets approximately once a year.

I. *Date Filed.*

[FR Doc. 83-1679 Filed 1-20-83; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19426; File No. SR-NSCC-82-30]

Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corporation

January 13, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 23, 1982, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change permanently adopts certain temporary amendments to NSCC's formula for calculating participants' contributions to the clearing fund. During 1982, NSCC reviewed its safeguards and determined, among other things, that users of NSCC's Envelope Settlement System ("ESS") were not required to make clearing fund deposits that, in NSCC's view, were commensurate with the risks associated with this service. Accordingly, NSCC filed a temporary proposed rule change to expire on December 31, 1982 (File No. SR-NSCC-82-10) that modified NSCC's clearing fund formula to increase the size of the clearing fund contributions from certain ESS users. On June 28, 1982, the Commission approved that temporary proposed rule change.[1]

Based on its experience with the modified ESS clearing fund contribution formula, NSCC has determined that the temporary rule changes should be incorporated permanently into NSCC's rules. Accordingly, NSCC has filed File No. SR-NSCC-82-30 for that purpose. NSCC believes that the proposal is in furtherance of Section 17A(b)(3)(F) of the Act which requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e)(4) of Securities Exchange Act Rule 19b-4, which provides that a proposal may take effect on filing when it effects a change in an existing service of a registered clearing agency that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible; and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-82-30.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written

[1] Securities Exchange Act Release No. 19062 (June 28, 1982), 47 FR 29426 (July 6, 1982). The formula was subsequently modified slightly by File No. SR-NSCC-82-24. *See* Securities Exchange Act Release No. 19147 (October 18, 1982), 47 FR 47381 (October 25, 1982).

communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1940 Filed 1-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12968; (812-5269)]

Bankers Life Co., Bankers Life Separate Account B and BLC Equity Services Corp.; Application for an Order

January 13, 1983.

Notice is hereby given that Bankers Life Company ("Bankers Life"), a mutual life insurance company organized under the laws of the State of Iowa, Bankers Life Separate Account B ("Account B"), a separate account of Bankers Life registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, and BLC Equity Services Corporation, 711 High Street, Des Moines, IA 50307 (collectively, "Applicants") filed, with respect to a new series of variable annuity contracts to be issued by Account B ("New Contracts"), an application on August 9, 1982 and an amendment thereto on January 3, 1983 for an order of the Commission pursuant to Section 6(c) of the Act granting exemptions from the provisions of Sections 2(a)(32), 2(a)(35), 12(d)(1), 22(c), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit the transactions described in the application and pursuant to Section 11 of the Act approving the terms of certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant statutory provisions.

Bankers Life established Account B on January 12, 1970 for the purpose of funding certain variable annuity contracts issued by Bankers Life. In connection with the commencement of operations of Account B and the issuance of certain group variable annuity contracts, Applicants obtained exemptive relief from the provisions of Sections 22(d), 22(e), 26(a), 27(c)(1), 27(c)(2) and 27(d) of the Act. Applicants now seek additional exemptive relief necessitated by the proposed issuance of the New Contracts. Under the New Contracts, assets attributable thereto will be invested in shares of BLC Fund, Inc., or BLC Money Market Fund, Inc., each a diversified open-end management company registered under the Act.

All or a portion of each contribution made on behalf of a participant under a New Contract will be allocated among one or more divisions of Account B for investment in shares of one or more of the funds. Prior to the annuity commencement date, and investment account will be maintained for each participant with respect to each division of Account B. Upon notice to Bankers Life, all or part of the value of a participant's investment account maintained with respect to one division maybe transferred to an account maintained with respect to another division for the same type of contribution. Such transfers may be made at any time at least one month before the participant's annuity commencement date, but only two transfers from any one investment account may be made in a twelve-month period without the consent of Bankers Life.

Applicants state that under the New Contracts a contingent deferred sales charge will be assessed in some circumstances in the event of cash withdrawal except in the case of a participant's death or permanent disability. The contingent deferred sales charge will also be imposed where, pursuant to the provisions of New Contracts issued in connection with tax-sheltered annuity plans and deferred compensation plans, investment account values of all participants are withdrawn for the purpose of transferring such values to another funding agent. The contingent deferred sales charge will be 7% of the amount being paid (*i.e.*, the net payment), less 0.7% for each completed contribution year during which a participant was covered under a New Contract. Applicants represent that the amount of any contingent deferred sales charge will never exceed 9% of the purchase payments to which the charge relates. For this purpose, withdrawals will be related to purchase payments on a first-in, first-out basis and "purchase payments" will include purchase payments made under any associated fixed-dollar annuity contract from which transfers have been made.

Other charges under the New Contracts include a charge for administrative expenses relating to the New Contracts of $25 plus 0.5% of up to $50,000 of each participant's total investment account values. Bankers Life will deduct this charge proportionately from the value of each participant's investment accounts on the earlier of the last day of each contribution year or the date a participant's investment accounts are applied or paid in full. A pro rata charge will be made for any fractional part of a contribution year. If investment accounts are established for a participant under both a New Contract and an associated fixed-dollar annuity contract, the administration charge will be deducted pro rata from all such investment accounts based on the proportionate value of each account to the total value of such acounts. Moreover, if contributions for a participant are made under a New Contract as part of a retirement plan sponsored by, or a program of, his employer, and if Bankers Lif receives all of the annuity contributions for all participating employees, then the value of all of the investment accounts of all such employee participants will be aggregated when the 0.5% portion of the administration charge is determined. Such portion of the charge will be deducted pro rata from the investment accounts of all such employee-participants based on the proportionate value of each account to the total value of such accounts. The employer of a participant may agree to make a separate payment of all or a portion of the administration charge for all participants who are employees of such employer. Bankers Life states that it does not expect to recover from the charge any amount above its accumulated expenses associated with the New Contracts.

Bankers Life will assess a mortality and expense risks charge based on an annual rate of 1.4965% for all New Contracts except those issued in connection with individual retirement annuities designed for a single "rollover" contribution pursuant to provisions of the Code ("Rollover Contracts"). For Rollover Contracts the charge is 1.0001%. The mortality and expense risks charge will be deducted as of the end of each valuation period from the assets of Account B. Bankers Life estimates that a reasonable allocation of the total charge would be 0.2490% for the mortality risk and 1.2475% for the expense risk (0.2490% and 0.7511%, respectively, for Rollover

Contracts). Bankers Life may change this charge once each year on 60 days' written notice to the contractholder and each employer and participant affected by the change, except that the charge may not exceed 2.0% on an annual basis and no increase in the charge in excess of 1.75% on an annual basis may be made without the prior approval of the Commission. Any change in the charge will not apply to annuities which are in the course of payment prior to the effective date of the change.

Applicants submit that Bankers Life is entitled to reasonable compensation for is assumption of mortality and expense risks, that the mortality and expense risks charge provided for under the New Contracts is reasonable, and that a mortality and expense risks charge of 1.75% is within the range of charges provided for by other insurance companies for comparable products. In this connection, Applicants state that Bankers Life has reviewed other contracts with risk charges equal to 1.75% on an annual basis and in its opinion the mortality and expense guarantees contained in the New Contracts are on balance comparable to the guarantees contained in such other contracts. Applicants represent that a memorandum setting forth the conclusions of Bankers Life in this regard will be maintained and preserved by it and may be subject to such reasonable periodic, special and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe.

Applicants state that Bankers Life will deduct from the value of a participant's investment accounts the amount of any premium taxes levied by a state or any other government entity. Unless otherwise required by law, the deduction will be made at the time such value is applied to provide annuity payments.

Relief Requested

Applicants request an exemption from Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(c)(1), and 27(d) of the Act and Rule 22c–1 thereunder to the extent necessary to permit Applicants to offer the New Contracts with the proposed contingent deferred sales charge.

Applicants request an exemption from Sections 26(a) and 27(c)(2) to the extent necessary to permit them to sell the New Contracts with the proposed administrative and mortality and expense risks charges.

Applicants request an exemption from Sections 26(a) and 27(c)(2) to permit shares of BLC Money Market Fund, Inc., in addition to shares of BLC Fund, Inc., to be held pursuant to an open account system without the use of stock certificates.

Applicants request an exemption from Section 12(d)(1) to the extent necessary to permit Account B to invest in shares of BLC Fund, Inc., and BLC Money Market Fund, Inc., without regard to the limitations of Sections 12(d)(1) (A) and (B).

Applicants request approval pursuant to Section 11 of the transfer provisions described in the application, provided that such approval shall not apply to an investment account maintained with respect to a division of Account B invested in shares other than shares of BLC Fund, Inc., or BLC Money Market Fund, Inc.

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–1644 Filed 1–20–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12966; (812–5316)]

First Georgia Bancshares, Inc.; Filing of Application

January 13, 1983.

Notice is hereby given that First Georgia Bancshares, Inc. ("Applicant"), 127 Peachtree Street, N.E., Atlanta, Georgia 30301, a Georgia business corporation, filed an application on September 16, 1982, requesting an order of the Commission, pursuant to Section 3(b)(2) of the Investment Company Act of 1940 (the "Act"), declaring that Applicant is not an investment company under the Act or, alternatively, for an order, pursuant to Section 6(c) of the Act, exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was incorporated on January 14, 1972, to serve as a one-bank holding company and that on August 1, 1973, Applicant acquired all of the outstanding common stock of the Bank of Fulton County ("BFC"). Applicant states further that immediately upon completion of the purchase, Applicant issued 250,000 shares of its $2.50 par value common stock to BFC, which in turn exchanged this stock for all of the assets and liabilities of First Georgia Bank ("FGB"). Applicant states that this transaction was accounted for as a pooling of interests. Applicant states that FGB then liquidated, exchanging one share of Applicant's common stock for each share of the then outstanding FGB common stock. Applicant states that BFC then changed its name to First Georgia Bank (the "Bank").

Applicant states that, in summary, the former shareholders of FGB, upon liquidation thereof, became the sole shareholders of Applicant, holding the same number of shares of Applicant and in the same proportion as they did of FGB. Applicant represents that there has not been a significant turn-over in the ownership of Applicant's common stock, and many of the former holders of the Bank's shares continue to hold Applicant's shares.

Applicant states that, in 1975, as a result of losses at the Bank, additional equity was needed by the Bank to comply with applicable banking regulations. Applicant states that, as a result of certain transactions, First Railroad & Banking Company of Georgia, a bank holding company based in Augusta, Georgia ("First Railroad"), purchased 3,000,000 shares of nonvoting convertible preferred shares of the Bank. Applicant states that, in December 1978, First Railroad converted its entire holding of preferred shares into common stock of the Bank with the result that Applicant's ownership interest in the voting stock of the Bank was diluted

from 100% to 20%. Applicant states that its only material asset at present is its 20% ownership of the voting stock of the Bank, and its sole source of operating earnings is from dividends and management fees paid by the Bank.

Applicant states that the Bank is a banking corporation chartered under the laws of Georgia and that it is a member of the Federal Reserve System. Applicant states further that the Bank provides a full range of commercial banking services to its customers, with special emphasis on the retail and small commercial banking market.

Applicant states that its common stock is registered under Section 12(g) of the Securities Exchange Act of 1934 (the "1934 Act"). Applicant states further that, as a 1934 Act reporting company, it provides its shareholders with proxy materials, annual reports and other information required by and in conformity with the provisions of the 1934 Act. Applicant represents that it is also subject to the Bank Holding Company Act of 1956 (the "1956 Act"), which applies to any company which has control over any bank or over any company that is or becomes a bank holding company under the 1956 Act. Applicant states that, despite the dilution of its ownership interest in the Bank in 1978, it is deemed by the Federal Reserve Board to control the Bank within the meaning of the 1956 Act.

Section 3(b)(2) of the Act excepts from the definition of "investment company" a company that is primarily engaged through a controlled company in a business other than that of investing, reinvesting, owning, holding, or trading in securities. Section 6(c) of the Act authorizes the Commission to grant an exemption from all provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that its primary business is operating and managing the Bank. Applicant further asserts that, among other things, it currently is guaranteed a twenty percent representation on the Board of Directors of the Bank as a result of one of the conditions imposed by the Georgia Commissioner of Banking and Finance in approving the application of First Railroad to convert its preferred stock of the Bank. Applicant states that all but one of its officers and directors hold positions with the Bank, with the Chairman of the Board and President of Applicant serving as the Chairman of the Board and as a director of the Bank. Applicant states further that these officers and directors actively participate in the management and policies of the Bank, and Applicant receives a monthly management fee from the Bank for the performance of such services. Applicant contends that it exercises control over the Bank through its ownership interest in the Bank and through such management interlocks and that the presumption of non-control under Section 2(a)(9) of the Act has been rebutted.

Applicant asserts that it was not organized as and has not held itself out to be an investment company, nor has it acquired a diversified portfolio or had a policy of shifting its investments. Applicant maintains that, rather, as a holding company, it has been primarily engaged in the business of banking through its interest in the Bank. Applicant asserts that it is prohibited by the 1956 Act from engaging through investment or otherwise in any business not closely tied to banking. Applicant further asserts that its investors do not at this time need whatever additional protection might be afforded by registration under the Act.

Notice is further given that any interested person may, not later than February 7, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication shoud be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personnally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1642 Filed 1-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12967; (812-5253)]

Premier Money Market Fund, Inc.; Filing of Application for Order

January 13, 1983.

Notice is hereby given that Premier Money Market Fund, Inc. ("Applicant"), 4333 Edgewood Road, N.E., Cedar Rapids, Iowa 52499, a no-load, open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on July 27, 1982, and an amendment thereto on November 8, 1982, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act for a complete statement of the provisions from which an exemption is being sought.

Applicant states that it is a "money market fund" which seeks to obtain as high a level of current income as is consistent with the preservation of capital and liquidity. Applicant represents that its only shareholder will be Premier Variable Annuity Account, a separate account of Pacific Fidelity Life Insurance Company, a California corporation engaged in the insurance and annuity business. Applicant represents further that Pacific Fidelity Life Insurance Company is a subsidiary of Life Investors Inc., an Iowa corporation.

Applicant states that it will invest exclusively in the following high-grade domestic and international money market instruments: (1) Obligations issued or guaranteed as to interest and principal by the government of the United States or any agency or instrumentality thereof; (2) U.S. dollar-denominated time deposits, certificates of deposit and bankers' acceptances of U.S. banks and their branches located outside of the U.S. and of foreign banks

and their branches and agencies located worldwide, provided that the bank has capital, surplus and undivided profits (as of the date of its most recently published annual financial statements) with a value in excess of $100,000,000 at the date of investment; (3) commercial paper which at the date of investment is rated A–1 by Standard & Poor's Corporation ("Standard & Poor's") or Prime–1 by Moody's Investors Service, Inc. ("Moody's"), or F–1 by Fitch Investors Services, Inc., or, if not rated, is issued by companies which at the date of investment have an outstanding debt issue rated AAA or AA by Standard & Poor's or Aaa or Aa by Moody's; (4) Short-term (one year or less) corporate obligations which at the date of investment are rated AAA or AA by Standard & Poor's or Aaa or Aa by Moody's.

Applicant states further that it may enter into repurchase agreements with respect to obligations in which it is authorized to invest. Applicant asserts that it will comply with the requirements set forth in Investment Company Act Release No. 10666 (April 18, 1979), relating to repurchase agreements, in all repurchase agreements entered into by Applicant with broker-dealers and banks.

Applicant states that its net asset value per share for purposes of both purchases and redemptions of shares will be determined as of the close of trading on each day the New York Stock Exchange is open for trading (currently 4:00 p.m., New York City time) and at such other times and/or on such other days as there is sufficient trading in the portfolio securities of Applicant to materially affect its net asset value per share. Applicant states that it proposes to utilize the amortize cost valuation method for valuing its portfolio instruments and that it will value an instrument at its cost and thereafter assume a constant amortization to maturity of any discount or premium, regardless of the impact of fluctuating interest rates on market value of the instrument.

Applicant represents that investments will be made only in instruments having a maturity of one year or less, although obligations underlying repurchase agreements may have a maturity in excess of one year. Applicant represents further that the average maturity of all instruments in the portfolio (computed on a dollar-weighted basis) will be maintained at 120 days or less.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes thereof, from any provision of the Act or its rules and regulations, if and to the extent that such exemption is necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant believes that it will hold a high percentage of the instruments it purchases to maturity. Applicant states that, as a result, short term variations in the "market price" of such instruments will have little practical relevance to the value of Applicant's investments. Applicant represents that investors in money market funds are generally not concerned with the theoretical differences which might occur between yield achieved through "market" pricing and the yield computed by using the valuation method decribed in the application. Applicant expresses its view that such investors are, however, concerned that the daily net income declared by such a fund not exhibit the volatility that can occur when changes in "market" prices causes changes in yield on a daily or weekly basis. Applicant represents further that the proposed method of valuation will benefit shareholders by enabling Applicant to maintain a constant net asset value of $1.00 per share while providing shareholders with the opportunity to receive a relatively stable flow of investment income.

Applicant believes that, because it invests only in high quality securities with a remaining maturity of one year or less and maintains a dollar weighted average portfolio maturity of 120 days or less, there will normally be a negligible discrepancy between market value and the amortized cost of its portfolio securities. Accordingly, Applicant's Board of Directors has determined that the amortized cost method of valuing its portfolio securities will reflect the fair value of such securities, absent unusual or extraordinary circumstances, and is appropriate and in the best interests of its shareholders.

Applicant agrees that the following conditions may be imposed in any order granting the requested exemption:

1. Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to assure to the extent reasonably practicable taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Directors shall be the following:

(a) Review by the Board of Directors as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions, chosen by its Board of Directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates or market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share, and Applicant will not (1) purchase any instrument with a remaining maturity of greater than one year, or (2) maintain a dollar-weighted average portfolio maturity in excess of 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to

120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition (1) above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar denominated instruments which the Board of Directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than February 7, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon its own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1843 Filed 1-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19434; File No. SR-CBOE-82-17]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 11, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of Proposed Rule Change

Additions are italicized; deletions are bracketed.

Position Limits

Rule 4.11. Except with the prior written permission of the President or his designee, no member shall make, for any account in which it has an interest or for the account of any customer, an opening transaction on any exchange in any option contract dealt in on the Exchange if the member has reason to believe that as a result of such transaction the member or its customer would, acting alone or in concert with others, directly or indirectly, [hold or] control [or be obligated in respect of] an aggregate position in excess of 2,000 option contracts (whether long or short) of the put class and the call class on the same side of the market covering the same underlying security combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options, or such other number of option contracts as may be fixed from time to time by the Board as the position limit for one or more classes or series of options. Reasonable notice shall be given to each new position limit fixed by the Board, by posting notice thereof on the bulletin board of the Exchange.

* * * Interpretations and Policies:

.01 No change.

.02 In connection with Rules 4.11 and 4.12, absent control, option positions in an account in which a member or customer has an interest will not be aggregated with option positions in other accounts involving the same member or customer. For purposes of these rules "control" means the ability to make, or significantly to influence, investment decisions respecting an account; and the definition of "control" contained in Rule 1.1(k) does not apply. The Business Conduct Committee (BCC) shall decide, based on a report of investigation prepared by the staff, whether control is present. A member or customer directly affected by such a determination may ask the BCC to reconsider but may not request any other review except in the context of a disciplinary proceeding.

Exercise Limits

Rule 4.12. Except with the prior written permission of the President or his designee, no member shall exercise, for any account in which it has an interest or for the account of any customer, a long position in any option contract of a class of options dealt in on the Exchange where such member or customer, acting alone or in concert with others, directly or indirectly, has or will have exercised within any five consecutive business days aggregate long positions in excess of 2,000 option contracts of that class of options or such other number of option contracts as may be fixed from time to time by the Board as the exercise limit for that class of options. Reasonable notice shall be given of each new exercise limit fixed by the Board, by posting notice thereof on the bulletin board of the Exchange. *Whether option positions should be aggregated under this rule shall be determined by the process described in Interpretation .02 to Exchange Rule 4.11.*

Securities Accounts and Orders of Market-Makers

Rule 8.9. No change.

* * * Interpretations and Policies:

.01 through .04 and .06 and .07 No change.

.05 To compute the positions or exercises attributable to each participant in a joint account for purposes of determining compliance with Rules 4.11 and 4.12, positions or exercises in the joint account shall be aggregated with all positions or exercises in options covering the same underlying security which any participant or any member organization

associated with a participant (holds or) controls [or is obligated in respect of].

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to make clear that the Exchange's position and exercise limit rules require aggregation only of option positions controlled, directly or indirectly, by the same individual or entity. The general purpose of the position-limit rule was described as follows in the Securities and Exchange Commission's (SEC) "Special Study of the Options Market."

* * * These rules were adopted by the options exchanges primarily to minimize manipulative potential and to prevent the accumulation of large options positions that, if exercised against uncovered writers, would cause them to buy the underlying stock which would likely affect the price of the underlying stock. The position limit rules have the additional effect of limiting the financial exposure of market participants.

The present rule is overbroad. It requires aggregation when aggregation is not necessary "to minimize manipulative potential." An example of this is the aggregation of a securities firm's proprietary account with a related company's institutional account, when the investment decisions involved are not controlled by the same individual(s).

Control should be the focus. Such a focus does not change the general purpose of the position-limit rule. However, it should be noted that the use of options to manipulate the price of an underlying security can be detected by means of the exchanges' intermarket surveillance project. Furthermore, there are other effective protections respecting "limiting the financial exposure of market participants," namely, the SEC's Net Capital Rule, Regulation T of the Federal Reserve Board and the maintenance margin requirements of the exchanges.

While detailed guidelines concerning enforcement only can be developed on a case-by-case basis, the following are examples of conditions that create a rebuttable presumption of control over an account: (1) owning an account (either directly, or indirectly by means of owning 25 or more percent of a corporation that owns the account) or (2) participating in a joint account.

In order to rebut the presumption described above, a person must demonstrate that he possesses the power to do none of the following: (1) Make investment decisions; (2) supervise, in a material way, any person who makes investment decisions; or (3) establish investment policies for any person who makes investment decisions. Possession of the power to do one of more of the above in connection with accounts means that aggregation should occur.

Determinations respecting aggregation will be made by the Exchange's Business Conduct Committee (BCC) based on a staff investigation. A person affected by such a determination may petition in writing for reconsideration by the BCC. Additional review of BCC determinations respecting aggregation only can be obtained by means of a disciplinary action, that is, after a violation of the position or exercise limit has been alleged to have taken place. Affording full-scale review of aggregation determinations would be duplicative and would create a potential for undue delay that would harm enforcement efforts.

The basis for this rule-change filing is section 6 (b) (5) of the Securities Exchange Act of 1934, in that the change is in the public interest because it will lessen an unrealistic regulatory burden without diminishing investor protection.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the rule change will impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 14, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1645 Filed 1-20-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19428; File No. SR-NYSE-83-2]

Self-Regulatory Organizations; Proposed Rule Change By New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), notice is hereby given that on January 7, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposal consists of revisions to the Exchange's Guidelines for Floor Conduct and Safety to increase the penalties that may be imposed for "Floor decorum" violations on the trading Floor.

II. Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

The purpose of the Exchange's Guidelines for Floor Conduct and Safety which were adopted in 1977, is to ensure that the behavior of individuals on the Floor of the Exchange contributes to the efficient and undisrupted conduct of business, and does not jeopardize the safety or welfare of others. To enforce the regulation pertaining to Floor employees, the Exchange determined to add two new provisions to the present Floor Conduct and Safety Guidelines. The first one pertains to the prohibition on floor clerical employees entering or crossing the trading Floor between the hours of 9:50 a.m. to 4:05 p.m. The penalties for the first and second violation of this provision is a 3-day and 5-day ticket suspension respectively.

The second new provision of the Floor Conduct and Safety Guidelines pertains to the obligation of members and member organizations to have a representative on the Floor between the hours prescribed by the Exchange to insure that all reports due to members and member organizations have been received and that open items are resolved promptly. The penalties for the first the second violation of this provision is a $250 fine and a $500 fine respectively.

The Exchange also proposes to make certain "housekeeing" changes to language of the provision in the Guidelines pertaining to damage or abuse of trading Floor facilities or equipment to more accurately reflect the systems currently in use on the trading Floor.

The revisions to the Guidelines for Floor Conduct and Safety do not affect the rights of members and Floor clerical employees of members and member organizations to appeal, pursuant to existing Exchange rules and procedures, any penalties that are imposed.

The revisions to the Guidelines for Floor Conduct and Safety are intended to promote the efficient, undisrupted conduct of business on the trading Floor. This, in turn, will facilitate transactions in securities, perfect the mechanism of a free and open market, and protect investors and the public interest, as called for by Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Since the revisions to the Guidelines for Floor Conduct and Safety are concerned solely with regulating behavior on the trading Floor, they will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited not received written comments on its revisions to the Guidelines for Floor Conduct and Safety.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Branch, 450 Fifth Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 13, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–1641 Filed 1–20–83; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09–5309]

Allied Business Investors, Inc.; Issuance of License To Operate as a Small Business Investment Company

On June 30, 1982, a notice was published in the **Federal Register** (47 FR 28519), stating that Allied Business Investors, Inc., 626 West 15th Street, Los Angeles, California 90015 had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

The period for comment expired on July 15, 1982, and no significant comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 09/09–5309 to Allied Business Investors, Inc.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83–1740 Filed 1–20–83; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02-0445]

American Commercial Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On April 6, 1982, a notice was published in the **Federal Register** (47 FR 14821) stating that American Commercial Capital Corporation, 310 Madison Avenue, New York, New York 13402 had filed an Application with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1982)), for a license to operate as a small business investment company.

Interested parties were given until the close of business on April 21, 1982, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the application and all other pertinent information, the SBA approved the issuance of License No. 02/02-0443 on December 30, 1982, to American Commercial Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-1739 Filed 1-20-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5456]

Avdon Capital Corp.; Application for License To Operate As a Small Business Investment Company (SBIC)

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Avdon Capital Corporation, 805 Avenue L, Brooklyn, New York 11230 with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982).

The officers, and directors of the Applicant are as follows:

Avruhum M. Donner, 1282 E. 10th Street, Brooklyn, New York 11223, President, Director, 50%

David Newberg, 7 Manor Lane, Lawrence, New York 11559, Secretary, Treasurer, Director, 50%

Chaim Gensberg, 1615 E. 9th Street, Brooklyn, New York 11223

The Applicant will begin operations with a capitalization of $500,000 which will be a source of equity capital and long-term loans for qualified small business concerns.

The Applicant will conduct the operations principally in the State of New York.

As an SBIC under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Brooklyn, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

January 14, 1983.

[FR Doc. 83-1736 Filed 1-20-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0184]

Grocers Capital Company, Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to Section 107.1004 of the Regulations governing small business investment companies (13 CFR 107.1004 (1983)) for approval of a conflict of interest transaction.

Grocers proposes to loan $42,500 to Publix Market, Inc., 1300 N. Chester Avenue, Oildale, California. The proceeds of the loan will be used to purchase equipment or inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by § 107.3 of the SBA Rules and Regulations.

As a result, Grocers' financing to Publix Market, Inc., falls within the purview of § 107.3 and 107.1004 (b)(5) of the Regulations. Grocers' loan to Publix Market, Inc. requires prior written approval of SBA.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Oildale, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-1737 Filed 1-20-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0314]

Ivanhoe Venture Capital, Ltd.; Issuance of License To Operate as a Small Business Investment Company

On December 9, 1982, a notice was published in the **Federal Register** (47 FR 55445), stating that Ivanhoe Venture Capital, Ltd., 737 Pearl Street, Suite 202, La Jolla, California 92037, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

The period for comment expired on December 24, 1982, and no significant comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 09/09-0314 to Ivanhoe Venture Capital, Ltd.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 14, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-1738 Filed 1-20-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan No. 2074]

Louisiana; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Parishes of Allen, Beauregard, Calcasieu, Catahoula, Grant, LaSalle, Natchitoches, Ouachita, Rapides and Winn in the State of Louisiana constitute a disaster area because of damage resulting from severe storms and flooding beginning on December 19, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 14, 1983, and for economic injury until the close of business on October 11, 1983, at: U.S. Small Business Administration, Ford-Fisk Building, 1661 Canal Street, 2nd Floor, New Orleans, Louisiana 70112.

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere, 13⅜ percent.
Homeowners without credit available elsewhere, 6⅜ percent.
Businesses with credit available elsewhere, 11½ percent.
Businesses without credit available elsewhere, 8 percent.
Businesses (EIDL) without credit available elsewhere, 8 percent.
Other (non-profit organizations including charitable and religious organizations), 11⅜ percent.

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 13, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-1735 Filed 1-20-83; 8:45 am]

BILLING CODE 8025-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB, for review, the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This notice contains an extension and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Joe Lackey, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: January 17, 1983.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extension

(1) Office of Budget and Finance.
(2) Monthly Summary of Payroll Deductions for Government Life Insurance.
(3) VA Form 4-800a.
(4) Monthly.
(5) Employers of Insured Veterans.
(6) 936 responses.
(7) 234 hours.
(8) Not applicable under 3504(H).

[FR Doc. 83-1674 Filed 1-20-83; 8:45 am]

BILLING CODE 8320-01-M

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 17, 1983, at 10:00 a.m., the Veterans Administration Regional Office, St. Petersburg, Florida, Station Committee on Educational Allowances, shall, at the Federal Building, Room 602A, 144 1st Avenue South, St. Petersburg, Florida, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in the Lineman Apprenticeship Training Program at City of Homestead, 790 North Homestead Blvd., Homestead, FL, 33030, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 13, 1983.

Carlos L. Rainwater,

Director.

[FR Doc. 83-1693 Filed 1-20-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 15
Friday, January 21, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., January 26, 1983.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

1. Identification of Controlled Carriers.

Portion closed to the public:

1. Docket No. 82–47: Agreement No. 10266—Agreement Between Intercontinental Transport, B.V. and Compagnie Generale Maritime—consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Assistant Secretary (202) 523–5725.

[S–67–83 Filed 1–19–83; 11:08 am]

BILLING CODE 6730–01–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 18, 1983.

TIME AND DATE: 10 a.m., Friday, January 21, 1983.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Closed (Pursuant to 5 U.S.C. 552(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Florence Mining Company, Docket No. PITT 77–15, etc., IBMA 77–32. (The Commissioners granted the operators' petition for reconsideration of the Commission's August 31, 1982 decision and the issues include whether 30 CFR 75.1405 applies to certain mine haulage equipment.)

2. Southwestern Illinois Coal Corporation, Docket No. LAKE 80–216. (Issues include whether the judge erred in vacating a citation alleging a violation of 30 CFR 77.1710, dealing with the wearing of safety equipment.)

3. Jones & Laughlin Steel Corporation, Docket No. PENN 81–96–R. (Issues include whether the judge properly determined that 30 CFR 75.303 does not require preshift examination of coal carrying conveyer belts.)

4. A. H. Smith Stone Company, Docket No. VA 81–51–M. (Issues include whether the judge erred in finding a violation of 30 CFR 56.4–35.)

5. U.S. Steel Corporation, Docket No. KENT 81–136. (Issues include interpretation and application of 30 CFR 77.1605(k).)

It was determined by a unanimous vote of Commissioners that the above meeting be closed and that no earlier announcement of the meeting was possible. Items 1 through 3 are items continued from the previously announced meeting held on January 18, 1983. Items 4 and 5 have been added for discussion and action.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–66–83 Filed 1–19–83; 12:47 pm]

BILLING CODE 6735–01–M

3

FEDERAL RESERVE SYSTEM

(Board of Governors)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 1857, Friday, January 14, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, January 19, 1983.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

1. Proposed staffing within the Board.
2. Federal Reserve Board officer salary administration.

CONTRACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 18, 1983.

James McAfee,

Associate Secretary of the Board.

[S–64–83 Filed 1–19–83; 11:02 am]

BILLING CODE 6210–01–M

4

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 11 a.m., Wednesday, January 26, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 19, 1983.

James McAfee,

Associate Secretary of the Board.

[S–65–83 Filed 1–19–83; 11:00 am]

BILLING CODE 6210–01–M

5

FEDERAL RESERVE SYSTEM

Board of Governors.

TIME AND DATE: 10 a.m., Wednesday, January 26, 1983.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20561.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda:

1. (1) Proposed preemption determinations under Regulation Z (Truth in Lending) concerning truth in lending laws of Arizona, Florida, and Missouri (Proposed earlier for public comment; Docket No. R–0395); and (2) proposed revision of the Board's Rules Regarding Delegation of Authority concerning future determinations.
2. Publication for comment of proposed amendments to Regulation Z (Truth in Lending) that would: (1) Delete "arrangers of credit" from the definition of creditors, (2) exempt certain student loans, and (3) reinstate provisions regarding liability for use of faulty calculation tools.
3. Technical changes to Regulation 3 (Electronic Fund Transfers) to conform with proposed amendments to Regulation Z (Truth in Lending).

Regular Agenda:

4. Proposed adoption of depreciation allowance in the Board's budget.

5. Proposed Federal Reserve Bank budgets for 1983.

6. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: January 19, 1983.

James McAfee,

Associate Secretary of the Board.

[S–86–83 Filed 1–19–83; 11:03 am]

BILLING CODE 6210–01–M

6

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Public Hearing

DATE: January 14, 1983.

PLACE: Alumni House, University of Utah, Salt Lake City, UT.

TIME: 9 a.m. until 5 p.m.

PURPOSE: To receive testimony in the area of Credit Policies for the Guaranteed Student Loan Program. Written testimony is invited, and may be sent to the Commission at the above address.

FOR FURTHER INFORMATION CONTACT: Donna M. Lumia, Hearings Coordinator, (202) 472–9023.

Submitted the 3rd day of January 1983.

Richard T. Jerue,

Chief Executive Officer.

[S–93–83 Filed 1–19–83; 12:48 am]

BILLING CODE 6820–BC–M

7

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Public Hearing

DATE: January 25, 1983.

PLACE: Hoover Memorial Building, Stanford University, Palo Alto, CA.

TIME: 9 a.m. until 5 p.m.

PURPOSE: To receive testimony, in the area of Graduate Education, from University Presidents, Deans Faculty and students. Written testimony is invited, and may be sent to the Commission at the above address.

FOR FURTHER INFORMATION CONTACT: Donna M. Lumia, Hearings Coordinator (202) 472–9023.

Submitted the 3rd day of January 1983.

Richard T. Jerue,

Chief Executive Officer.

[S–92–83 Filed 1–19–83; 12:48 pm]

BILLING CODE 6820–BC–M

8

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Public Hearing

DATE: January 26, 1983.

PLACE: University of Southern California, Los Angeles, CA.

TIME: 9 a.m. until 3 p.m.

PURPOSE: To receive testimony, in the case of Graduate Education, from University Presidents, Deans, Faculty and students. Written testimony is invited, and may be sent to the Commission at the above address.

FOR FURTHER INFORMATION CONTACT: Donna M. Lumia, Hearings Coordinator (202) 472–9023.

Submitted the 3rd day of January 1983.

Richard T. Jerue,

Chief Executive Officer.

[S–91–83 Filed 1–19–83; 12:48 pm]

BILLING CODE 6820–BC–M

9

NATIONAL MEDIATION BOARD

TIME AND PLACE: 2 p.m., Wednesday, February 9, 1983.

PLACE: Board Hearing Room, eighth floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of January, 1983.

2. Other priority matters which may come before the Board for which notice will be given at the earliest praticable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523–5920.

Dated: January 17, 1983.

[S–89–83 Filed 1–19–83; 12:47 pm]

BILLING CODE 7550–01–M

10

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of January 24, 1983, at 450 5th Street, NW., Washington, D.C.

A closed meeting will be held on Tuesday, January 25, 1983, at 10:00 a.m. Open meetings will be held on Tuesday, January 25, 1983, at 3:00 p.m. and on Thursday, January 27, 1983, at 10:30 a.m. in Room 1C30.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas and Longstreth, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 25, 1983, at 10:00 a.m., will be:

Litigation matters.
Formal orders of investigation.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive action.
Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Tuesday, January 25, 1983, at 3:00 p.m., will be:

The Commission will meet with members of the Municipal Securities Rulemaking Board ("MSRB") to discuss bond registration, clearing, transfer, NYSE Rule 387, and investor representation on the MSRB. For further information, please contact Dean V. Shahinian at (202) 272–2388.

The subject matter of the open meeting scheduled for Thursday, January 27, 1983, at 10:00 a.m., will be:

1. Consideration of whether to grant the application John F. Kauffman to become associated with a broker-dealer, as a registered representative in a non-supervisory capacity. For further information, please contact Philip L. Sbarbaro at (202) 272–2240.

2. Consideration of whether to issue an order, pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act and Rule 11Aa3–2 thereunder, authorizing the Intermarket Trading System ("ITS") participants to act jointly in operating the ITS on an indefinite

basis. For further information, please contact William W. Uchimoto at (202) 272–2409.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bob Zutz at (202) 272–2091.

January 18, 1983.

[S–83–83 Filed 1–18–83; 4:46 am]

BILLING CODE 8010–01–M

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U.S. RAILWAY ASSOCIATION

DATE AND TIME: 10 a.m., January 27, 1983.

PLACE: Board Room, Room 2–500, fifth floor, 955 L'Enfant Plaza North, SW., Washington, D.C.

STATUS: The first portion of the meeting will be closed to the public; the second portion will be open.

MATTERS TO BE CONSIDERED BY THE USRA BOARD OF DIRECTORS: Portion Closed to the Public (10:00 a.m.):

1. Internal Personnel Matters.
2. Litigation Report.
3. Review of Conrail Confidential and Proprietary Financial Information.

Portion Open to the Public (10:30 a.m.):

4. Approval of Minutes of December 15, 1982 Meeting.
5. Conrail Request for Waiver of Financing Agreement.
6. Conrail Request for Waiver of Financing Agreement.
7. Conrail Request for Association to Purchase Accounts Receivable.
8. Conrail Request for Waiver of Financing Agreement.
9. Conrail Request for Section 211(h) loan.
10. Conrail Monitoring Indicators.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 488–8777, ext. 503.

[S–90–83 Filed 1–19–83; 12:47 p.m.]

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Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Georgia:	
GA82-1058	Oct. 8, 1982.
GA82-1059	Oct. 8, 1982.
GA81-1233	May 22, 1981.
District of Columbia: DC82-3031	Nov. 12, 1982.
Minnesota:	
MN82-2064	Nov. 26, 1982.
MN82-2069	Dec. 27, 1982.
Tennessee: TN82-2071	Jan. 5, 1983.
New Jersey:	
NJ82-3006	Feb. 26, 1982.
NJ81-3053	Oct. 9, 1981.
NJ81-3063	Dec. 28, 1981.
Maryland: DC82-3031	Nov. 12, 1982.
Virginia: DC82-3031	Nov. 12, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedes decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL82-1042 (AL83-1001)	Sept. 10, 1982.
Florida: FL80-1050 (FL83-1004)	Feb. 8, 1980.
Georgia:	
GA82-1033 (GA83-1002)	July 2, 1982.
GA82-1051 (GA-1003)	Sept. 24, 1982.
Minnesota: MN8-2022 (MN83-2003)	May 22, 1981.
Missouri: MO82-4007 (MO83-4010)	Feb. 19, 1982.
Ohio:	
OH80-2020 (OH83-2002)	Mar. 28, 1980.
OH81-2008 (OH83-2004)	Apr. 3, 1981.
OH81-2024 (OH83-2005)	May 15, 1981.

Cancellation of General Wage Determination Decision

This is to advise all interested parties that the Department of Labor intends to withdraw 10 days from the date of this notice the following general wage determination.

NJ79-3045—Camden County, New Jersey dated November 9, 1979 in 44 FR 65291—Residential Construction.

Signed at Washington, D.C., this 14th day of January 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION #GA82-1058 - Mod. #1 (47 FR 44665 - October 8, 1982) Chatham County, Georgia	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.20	$ 3.015
Elevator Constructors:		
Mechanics	12.65	a + 2.69
Helpers	8.855	a + 2.69
Probationary helpers	6.325	
Millwrights:		
Contracts $4.5 Million or less	12.85	.85
Contracts over $4.5 Million	13.60	.85
Power Equipment Operators:		
GROUP I	13.63	1.87
GROUP II	12.20	1.87
GROUP III	9.86	1.87
GROUP IV	7.69	1.87

DECISION #GA82-1059 - Mod. #2 (47 FR 44664 - October 8, 1982) Richmond County, Georgia	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$16.20	$ 3.015
Elevator Constructors:		
Mechanics	12.65	a + 2.69
Helpers	8.855	a + 2.69
Probationary helpers	6.325	
Painters:		
Brush & 9" roller	9.85	1.30
Power tools, sign painting, glazing, structural steel (painting & cleaning excluding metal doors & frames)	10.35	1.30
Paperhanging	10.60	1.30
Drywall finishers	11.10	1.30
All types of epoxy & chemical materials, such as bitumastic, conaps, & clornate, all stage work, window jacks, botsun chair, ladder jacks & built-up scaffold, extension ladder over 36'	11.50	1.30
Painters (Cont'd.):		
Regular spray & gloves, & blasting	$11.75	$ 1.30
Power Equipment Operators:		
GROUP I	13.63	1.87
GROUP II	12.20	1.87
GROUP III	9.86	1.87
GROUP IV	7.69	1.87

DECISION #GA81-1233 - Mod. #4 (46 FR 25101 - May 22, 1981) Chattahoochee & Muscogee Counties, Georgia	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Elevator Constructors:		
Mechanics	$13.45	2.69+a+b
Helpers	9.415	2.69+a+b
Probationary helpers	6.725	

DECISION NO. DC82-3031- MOD. #1 (47 FR 51364-November 12, 1982) District of Columbia; Maryland-Montgomery & Prince Georges Counties; & D.C. Training School; Virginia-Independent City of Alexandria, Arlington & Fairfax Counties	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS (EXCLUDING HEAVY CONSTRUCTION)		
ALL CLASSIFICATIONS FRINGE BENEFITS TO READ:		1.73
LABORERS (HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINE CONSTRUCTION PROJECTS, EXCEPT TUNNELS, RAISES AND SHAFTS FOR FREE AIR)		
ALL CLASSIFICATIONS FRINGE BENEFITS TO READ:		1.73
LABORERS (HEAVY CONSTRUCTION TUNNELS RAISES AND SHAFTS FOR FREE AIR)		
ALL CLASSIFICATIONS FRINGE BENEFITS TO READ:		1.73

MODIFICATION PAGE 2

DECISION NO. MN82-2064 - MOD. #1 (47 FR 53622 - November 26, 1982) Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, & Washington Counties, Minnesota	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Anoka (Exclu. Anoka & Fridley Twps.) & Remaining Cos.:		
Commercial Building:		
Electricians	$15.75	$3.69
Cable Splicers	16.35	3.76

DECISION NO. MN82-2069 - MOD. #1 (47 FR 57612 - December 27, 1982) Benton, Sherburne, & Stearns Counties, Minnesota	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Sherburne (Rem. of Co.) Co.:		
Electricians	15.75	3.69
Cable Splicers	16.35	3.76

DECISION NO. TN82-2071 - MOD. #1 (48 FR 930 - January 5, 1983) Statewide, Tennessee	Basic Hourly Rates	Fringe Benefits
Add:		
Electricians for Shelby County only	$17.48	1.45+ 3.55%

DECISION NO. NJ82-3006 - MOD. #4 (47 FR 8523 - FEBRUARY 26, 1982) BERGEN, ESSEX, HUDSON AND PASSIC COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS:		
BERGEN, HUDSON (excluding EAST NEWARK, HARRISON, AND KEARNY), and PASSIC COUNTIES	$17.38	4.05

DECISION NO. NJ81-3053 - MOD. #17 (46 FR 50243 - October 9, 1981) BERGEN, ESSEX, HUDSON, HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET, SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
ADD:		
DIVERS AND DIVER TENDERS:		
ZONE 1		
Divers	18.25	5.75
Diver Tenders	15.09	5.75
DIVER AND DIVER TENDERS ZONES:		
ZONE 1 - Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Cos.		

DECISION NO. NJ81-3063 - MOD. #12 (46 FR 62746 - Dec. 28, 1981) ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, GLOUCESTER, MERCER, MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY	Basic Hourly Rates	Fringe Benefits
ADD:		
DIVERS AND DIVER TENDERS:		
ZONE 1		
Divers	19.29	5.75
Diver Tenders	15.09	5.75
DIVER & DIVER TENDERS ZONES:		
ZONE 1 - Mercer and Monmouth Cos.		

SUPERSEDEAS DECISION

STATE: ALABAMA
DECISION NUMBER: AL83-1001
COUNTIES: COLBERT & LAUDERDALE
DATE: DATE OF PUBLICATION

SUPERSEDEAS DECISION

STATE: FLORIDA
COUNTIES: CHARLOTTE, COLLIER, GLADES, HENDRY & LEE

SUPERSEDEAS DECISION

STATE: ALABAMA
DECISION NUMBER: AL83-1001
COUNTIES: COLBERT & LAUDERDALE
DATE: DATE OF PUBLICATION
Supersedes Decision No.: AL82-1042 dated September 10, 1982 in 47 FR 39967.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$ 11.16	$ 2.26
BRICKLAYERS:		
Bricklayers, Blocklayers, & Stonemasons	13.67	
Saw Operators	13.92	
CARPENTERS:		
Carpenters, Soft Floor Layers	12.90	.50
Piledrivermen	13.15	.50
Millwrights	13.40	.50
CEMENT MASONS:		
Cement Masons	10.15	.65
Power Tool Operators	10.40	.65
ELECTRICIANS:		
Electricians	11.10	1.90 + 3%
Cablesplicers	11.11	1.80 + 4%
IRONWORKERS	11.62	1.88
LABORERS:		
Unskilled, Mason Tenders, Mortar Mixers, & Plasterers Tenders	8.01	1.00
Air Tool Operators & Pipe-Layers	8.11	1.00
PAINTERS:		
COMMERCIAL	10.65	.75
INDUSTRIAL	11.80	.75
PLASTERERS	10.44	.65
PLUMBERS & STEAMFITTERS	$ 14.85	$ 2.03
ROOFERS	11.10	.55
SHEET METAL WORKERS	14.61	1.96
WELDERS-Rate for Craft		
POWER EQUIPMENT OPERATORS:		
GROUP A	13.03	1.80
GROUP B	11.53	1.50
GROUP C	10.17	1.30

POWER EQUIPMENT OPERATORS-Definitions:
GROUP A-Backhoe, Bulldozers, Crane, Crane Car, Central Mixing Plant, Concrete Pump, Derrick, Dragline, Dredge, Drill, Elevating Grader, Finishing Machine (concrete), Forklift, Front End Loader, Gradall, Grout Pump, Helicopter, Pilot, Hoist, Locomotive Engineer, Mechanic, Motor Patrol, Mucking Mechanic, Master Pilot, Piledriver, Post Hole Digger, Scraper (pull type & self Prop.), Shovel, Sweeper, Tractor(spec. Equip.), Trenching Machine, Well Point, and Winch Truck Operators.
GROUP B-Bituminous Dist., Central Air Comp., Concrete Mixer (port.), Fireman Floating Equip., Front End Loader, Rubber Tire, ½ cu. yd. & under, Locomotive Brakeman, Locomotive Flagman, Locomotive Switchman, Oiler-Driver (35 tons crane & over), Outboard Motor Boat (when used for towing), Paving Machine, Post Hole Digger Mounted on Farm Type Tractor & walk behind type Trenching Machine Operators.
GROUP C-Air Compressors (port.), Conveyor, Fireman Stationary Equip., Oiler, Outboard Motor Boat & Pump Operators

OILER DRIVER - additional $.10 per hour.

All Cranes, Derrick, and Gantry Tower Crane Operators Operating such equipment with an overall height of 150 ft. including jobs-additional $.50 per hour.

All Scraper Operators Operating Tandem Scrapers receive $.25 per hour additional for each additional Scraper (bowl).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: FLORIDA
DECISION NUMBER: FL83-1004
COUNTIES: CHARLOTTE, COLLIER, GLADES, HENDRY & LEE
DATE: DATE OF PUBLICATION
Supersedes Decision No.: FL80-1050 dated February 8, 1980 in 45 FR 8834.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$ 7.08	
BRICKLAYERS	8.34	
CARPENTERS	7.00	
CEMENT MASONS	8.00	
DRYWALL FINISHER	10.00	
DRYWALL HANGER	10.00	
ELECTRICIANS	6.94	
INSULATION INSTALLER- Batt or Blown	6.95	
IRONWORKERS	7.00	
LABORERS:		
Mason Tenders	5.88	
Mortar Mixers	6.00	
Plasterers Tenders	6.50	
Unskilled	5.17	
MARBLE SETTERS	5.75	
PAINTERS	6.95	
PLASTERERS	$10.00	
PLUMBERS & PIPEFITTERS	7.50	
ROOFERS	6.00	
SHEET METAL WORKERS	8.50	
TILE SETTERS	10.00	
TRUCK DRIVERS	4.75	
POWER EQUIPMENT OPERATORS		
Backhoe	6.00	
Crane	9.00	
Grader	8.49	
Loader	6.00	
Paver	6.13	
Roller	5.75	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: GEORGIA

COUNTIES: CLAYTON, DEKLAB & FULTON

DECISION NUMBER GA83-1002

DATE: DATE OF PUBLICATION

Supersedes Decision Number GA82-1033, dated July 2, 1982, in 47 FR 29148.

DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$14.60	$ 2.20
BOILERMAKERS	16.20	3.015
BRICKLAYERS & STONE MASONS	13.97	2.10
CARPENTERS, DRYWALL HANGERS & RESILIENT FLOOR LAYERS	14.00	1.77
CARPET LAYERS	10.30	1.77
CEMENT MASONS	13.95	1.40
ELECTRICIANS:		
Wiremen	18.[illegible]	21%
Cable Splicers	13.90	21%
ELEVATOR CONSTRUCTORS:		
Mechanics	13.45	2.69+a+b
Helpers	9.415	2.69+a+b
Probationary helpers	6.725	
GLAZIERS	13.45	1.[illegible]4
IRONWORKERS	14.92	1.[illegible]7
LATHERS	11.8[illegible]	.[illegible]
MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	1[illegible].97	2.03
MARBLE, TILE, & TERRAZZO FINISHERS	10.19	.66
MILLWRIGHTS	14.38	2.07
PAINTERS:		
Brush, Roller & Drywall Finishers	13.60	2.60
Paperhangers	13.85	2.60
Drywall taping (where pressurized tools are used), boatswain chair & windowjack work, all steel above 25' (where no scaffold is erected), & any scaffold above 25' (not floored solid)	14.10	2.6[illegible]
Spray, steamcleaning, waterblasting, sandblasting, steeple-jack work, gold leafing, stencil designing, graining, & marbelizing	14.60	2.60
PILEDRIVERMEN	14.15	1.77
PLASTERERS	14.17	1.65
PLUMBERS & PIPEFITTERS	14.60	2.24
ROOFERS	11.00	.55
SHEET METAL WORKERS	14.24	2.29
SPRINKLER FITTERS	14.57	2.83

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Vacation Pay Credit: Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% for employees with 6 months to 5 years of service..

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

DECISION NO. GA83-1002

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits
GROUP A	$14.21	1.88
GROUP A-1	13.99	1.88
GROUP B	13.64	1.88
GROUP B-1	13.42	1.88
GROUP C	11.21	1.88
GROUP D-1	12.01	1.88
GROUP D-2	10.40	1.88
GROUP E	10.62	1.88
GROUP F	9.27	1.88

LABORERS		Basic Hourly Rates	Fringe Benefits
GROUP 1		$ 9.96	1.12
GROUP 2		10.18	1.12
GROUP 3		10.46	1.12
GROUP 4		10.71	1.12
GROUP 5		11.03	1.12
GROUP 6	(25¢ above rate for classification under which employed)		

DECISION NO. GA82-1033

CLASSIFICATION DEFINITIONS - LABORERS

GROUP 1 - Batch plant man; buggy rollers (Ga.); cleaners, brick or lumber; clearing of right-of-way & building site (hand tools); concrete curer-sealer and liquid hardner; conveyor operator, used in tending plasterers & bricklayers; electricians laborer; excavator, backfiller, grader, hand; forklift operator, walk-type mech. used in tending plasterers and bricklayers; form oilers; form stripper; metal pan handler; plumber laborer; pipe doper; precast slab layer (floor, roofs, walks, curbs); puddlers, concrete; rail porter; railroad track laborer; reinforcing steel handler; scaffolds and staging for masons & Plasterers, erecting & removing; scarifyer, concrete, mech. or hand; sheeting and shoring laborers; steam jennies, used in cleaning equipment; tenders (all crafts); tool room man; truck spotter dumper; water boy; winch handler (manual); wrecking buildings & miscellaneous structures.

GROUP 2 - All tool operators: air, electric or gas powered, such as jackhammer, paving breaker, tampers, vibrator, spade, chipping hammer, & barco tamp.; bucket dump man, concrete; burner demolition work; chain saw operator; form setter, steel; mixer, mortar, cement, grout, clay, etc. (hand machine oper.); mortar mixer used in connection with hose for gypsum roofs, plastering, asbestos, fiber, soundproofing, etc.; motorized post hole digger; power saw operator, concrete, outside building; steam cleaning machine operator; sewer pipe layer, yarner, wiper & pot pot man; slip form raisers steel or wood, jack or screw type, wheelbarrow operator, motorized.

GROUP 3 - Powderman tender; wagon drill operator, track or wheel type and other equipment used in drilling for blasting.

GROUP 4 - Caisson work, hole man; tunnel laborer.

GROUP 5 - Nozzleman, concrete pneu.; powderman.

GROUP 6 - Chimneys or stacks, isolated.

DECISION NO. GA83-1002

SUPERSEDEAS DECISION

STATE: GEORGIA

COUNTIES: DEKALB & FULTON

DECISION NUMBER: GA83-1003

DATE: DATE OF PUBLICATION

Supersedes Decision Number GA82-1051, dated September 24, 1982, in 47 FR 42255.

DECISION NO. GA83-1002

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

GROUP A - Crane operator (truck, tower, crawler, or locomotive);

GROUP A-1 - Backhoe operator, clamshell operator, concrete mix operator - mix plant, concrete pump operator - Ridley or similar type, derrick operator, dragline operator, drill operator - caisson foundation type, elevator operator - temporary construction elevator used to haul building material and personnel, elevating grader operator, hoisting engine operator, locomotive operator, mechancis - heavy duty, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 feet depth capacity, tugger hoist operator, well drill operator - performing foundation work, winch truck operator - hoisting material, air compressor operator - 365 C.F.M. and over, furnishing air simultaneously for more than one contractor.

GROUP B - Bulldozer operator, dewatering system operator - where multiple pumps are used, dozer shovel operator, drill operator - Quarry Master type, fireman stationary or portable, forklift operator, generator operator - 75 K.V.A. and over, motor grader operator, motor scraper operator (pans), oilers on cranes with earth boring drill attached with a separate power source, pusher dozer operator, self propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator - up to and including 6 feet depth capacity, well point system operator (including the operation of all pumps on project operated by the contractor.

GROUP B-1 - Elevator operator - inside electric permanent house elevator used to haul building materials and personnel.

GROUP C - Air compressor - 600 cubic feet and over, air compressor operator-battery of two 300 cubic feet and over, Hydrohammer operator, concrete batch plant operator.

GROUP D-1 - Oiler-grease truck, truck or locomotive crane.

GROUP D-2 - Oiler - unspecified, pump operator - over 4", up to 4 batteries, welding machine operator - 4 or more batteries, portable, gas, or diesel driven.

GROUP E - Concrete mixer operator - skip types except paving mixers, concrete finishing machine operator, concrete paving machine operator, roller operator - asphalt type, well drill operator - not performing foundation work.

GROUP F - Air compressor operator - over 150 CRM but less than 600 cubic feet, conveyor operator - chain or belt type, sand blasting machine operator, water pump operator 4 inches and over, up to and including three welding machines do not require an operator.

SUPERSEDEAS DECISION

STATE: GEORGIA
COUNTIES: DEKALB & FULTON
DECISION NUMBER: GA83-1003
DATE: DATE OF PUBLICATION
Supersedes Decision Number GA82-1051, dated September 24, 1982, in 47 FR 42255.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION PROJECTS (does not include Sewer & Water Lines Construction Projects).

	Basic Hourly Rates	Fringe Benefits
BRICK MASONS	$13.97	$ 2.10
CARPENTERS	14.00	1.77
CEMENT MASONS/FINISHERS	13.95	1.40
ELECTRICIANS	15.00	21%
IRONWORKERS	14.92	1.97
LABORERS:		
Unskilled	9.96	1.12
Air tool operators (air, electric, or gas powered, such as jackhammer, paving breaker, tamper, vibrator, spade, chipping hammer, & barco tamp), & pipe layers	10.18	1.12
Tunnel laborers	10.71	1.12
Powdermen	10.46	1.12
Miners	12.56	1.12
PAINTERS:		
Brush & Roller	13.60	2.60
Spray	14.60	2.60
PILEDRIVERMEN	14.15	1.77
PLUMBERS & PIPEFITTERS	14.60	2.24
SHEET METAL WORKERS	14.24	2.29
TRUCK DRIVERS	7.17	
WATERPROOFERS (ROOFERS)	11.00	.55
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Crane	$14.21	$ 1.88
Backhoe, Mechanic, & Mucker	13.99	1.88
Bulldozer, Front end loader, & Motor grador	13.64	1.88
Oiler/Greaser, & Pump	10.40	1.88

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN83-2003
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision No. MN81-2022 dated May 22, 1981 in 46 FR 28102
DESCRIPTION OF WORK: Heavy and Highway Construction Projects

*Beltrami, Clearwater, Kittson, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake, & Roseau

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$9.50	
CEMENT MASONS	10.70	
LABORERS:		
Unskilled	6.68	
Skilled	8.72	
Rakers	7.87	$1.03
POWER EQUIPMENT OPERATORS:		
Asphalt Distributor Spreader	9.62	
Asphalt Plant	9.77	
Bulldozer	10.64	
Cranes, Derricks, & Draglines	10.66	
Crusher & Screening Plant	10.32	1.03
Fireman	9.51	1.03
Front End Loader	10.55	
Grader	10.32	1.03
Mechanics	10.30	
Motor Patrols	10.70	1.03
Rollers	8.59	
Rollers, Finish	10.32	1.03
Scrapers	12.53	1.90
Screedman	9.43	
Tractor, Wheel	8.83	1.03
TRUCK DRIVERS:		
Bituminous Distributor Drivers	9.51	1.03
Tandem	9.51	1.03
Four Axle	8.60	1.60
Five Axle	9.00	1.55
Truck Mechanic	9.87	1.03

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Missouri
DECISION NUMBER: MO83-4010
COUNTIES: Franklin, Jefferson, Lincoln, St. Charles, Warren, and City and County of St. Louis
DATE: Date of Publication
Superseded Decision No. MO82-4007 dated February 19, 1982, in 47 FR 7599
DESCRIPTION OF WORK: Building projects, excluding single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Asbestos Workers	$18.99	$2.76
Swing Stage of Bosun's Chair	19.74	2.76
BOILERMAKERS	16.27	2.825
BRICKLAYERS: Stonemasons	13.35	2.76
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN:*		
Zone 1	15.26	2.23
CARPENTERS:*		
Zone 2:		
Contracts $200,000.00 and under	10.35	1.50
Contracts over $200,000.00	15.26	2.23
Zone 3:		
Contracts $25,000.00 and under	14.46	2.00
Contracts over $25,000,00	15.26	2.23
Zone 4:		
Contracts under $250,000.00	11.35	1.50
Contracts over $250,000.00	15.26	2.23
Zone 5:		
Contracts $250,000.00 and under	10.65	1.50
Contracts over $250,000.00	15.26	2.23
CEMENT MASONS:*		
Zone 1	15.35	2.60
Zone 2		
Projects less than $700,000.00	14.65	2.60
Projects over $700,000.00	15.35	2.60
ELECTRICIANS:*		
Zone 1	15.80	1.39+ 28½%
Zone 2	15.80	1.39+ 28½%
Zone 3	14.78	1.39+ 28½%

*ZONE DESCRIPTIONS - Page 2

	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS	$14.19	2.465 +a
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	2.465 +a
ELEVATOR CONSTRUCTORS' (PROB.)	50%JR	
GLAZIERS:		
Glaziers	15.81	4.91+ 13.2%
St. Louis County:		
Glaziers (installing of art glass; repairing, cleaning, cementing and waterproofing in connection with the restoration of stained and leaded glass windows)	0.86	**
** 1.00+50% of Premium + a and b		
IRONWORKERS	15.325	2.24
LABORERS:*		
Zone 1:		
General Laborers	14.425	1.75
Wrecking Laborers	14.30	1.75
Dynamiter or Powderman	14.925	1.75
Plasterers' Tenders	13.425	1.75
Mason Tenders, brick	14.40	1.85
Plumber, Labor	14.30	2.20
Zone 2:		
Contracts $500,000.00 or less:		
General Laborers	11.50	1.35
Mason Tenders; Plumbers' Laborers; Plaster Tender	11.70	1.35
Contracts over $500,000.00:		
General Laborers	13.00	1.35
Mason Tenders; Plumbers' Laborers; Plaster Tender	13.20	1.35

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:*		
Zone 1	15.80	1.39+ 28½%
Zone 2	15.80	1.39+ 28½%
Zone 3	14.78	1.39+ 28½%
ROOFERS:		
Roofers	13.50	1.75
Roofers: Tile, Slate & Composition	14.00	1.75
SHEETMETAL WORKERS	15.325	2.24
TERRAZZO WORKERS	14.00	1.75
TILE SETTERS	13.50	1.75
TRUCK DRIVERS:*		
Zone 1:		
Dump Trucks, Single Axle	14.425	1.75
Dump Trucks, Tandem Axle	14.425	1.75
Dump Trucks, Three Axle	14.425	1.75
Dump Trucks, Four Axle	14.425	1.75
Dump Trucks, Five Axle	14.425	1.75
Dump Trucks, Six Axle	14.425	1.75
Dump Trucks, Seven Axle	14.425	1.75
Dump Trucks, Eight Axle	14.425	1.75
Dump Trucks, Nine Axle	14.425	1.75
Dump Trucks, Ten Axle	14.425	1.75
Dump Trucks, Eleven Axle	14.425	1.75
Dump Trucks, Twelve Axle	14.425	1.75
Dump Trucks, Thirteen Axle	14.425	1.75
Dump Trucks, Fourteen Axle	14.425	1.75
Dump Trucks, Fifteen Axle	14.425	1.75
Dump Trucks, Sixteen Axle	14.425	1.75
Dump Trucks, Seventeen Axle	14.425	1.75
Dump Trucks, Eighteen Axle	14.425	1.75
Dump Trucks, Nineteen Axle	14.425	1.75
Dump Trucks, Twenty Axle	14.425	1.75
Dump Trucks, Twenty-one Axle	14.425	1.75
Dump Trucks, Twenty-two Axle	14.425	1.75
Dump Trucks, Twenty-three Axle	14.425	1.75
Dump Trucks, Twenty-four Axle	14.425	1.75
Dump Trucks, Twenty-five Axle	14.425	1.75
Dump Trucks, Twenty-six Axle	14.425	1.75
Dump Trucks, Twenty-seven Axle	14.425	1.75
Dump Trucks, Twenty-eight Axle	14.425	1.75
Dump Trucks, Twenty-nine Axle	14.425	1.75
Dump Trucks, Thirty Axle	14.425	1.75
Dump Trucks, Thirty-one Axle	14.425	1.75
Dump Trucks, Thirty-two Axle	14.425	1.75
Dump Trucks, Thirty-three Axle	14.425	1.75
Dump Trucks, Thirty-four Axle	14.425	1.75
Dump Trucks, Thirty-five Axle	14.425	1.75
Dump Trucks, Thirty-six Axle	14.425	1.75
Dump Trucks, Thirty-seven Axle	14.425	1.75
Dump Trucks, Thirty-eight Axle	14.425	1.75
Dump Trucks, Thirty-nine Axle	14.425	1.75
Dump Trucks, Forty Axle	14.425	1.75
Dump Trucks, Forty-one Axle	14.425	1.75
Dump Trucks, Forty-two Axle	14.425	1.75
Dump Trucks, Forty-three Axle	14.425	1.75
Dump Trucks, Forty-four Axle	14.425	1.75
Dump Trucks, Forty-five Axle	14.425	1.75
Dump Trucks, Forty-six Axle	14.425	1.75
Dump Trucks, Forty-seven Axle	14.425	1.75
Dump Trucks, Forty-eight Axle	14.425	1.75
Dump Trucks, Forty-nine Axle	14.425	1.75
Dump Trucks, Fifty Axle	14.425	1.75
Dump Trucks, Fifty-one Axle	14.425	1.75
Dump Trucks, Fifty-two Axle	14.425	1.75
Dump Trucks, Fifty-three Axle	14.425	1.75
Dump Trucks, Fifty-four Axle	14.425	1.75
Dump Trucks, Fifty-five Axle	14.425	1.75
Dump Trucks, Fifty-six Axle	14.425	1.75
Dump Trucks, Fifty-seven Axle	14.425	1.75
Dump Trucks, Fifty-eight Axle	14.425	1.75
Dump Trucks, Fifty-nine Axle	14.425	1.75
Dump Trucks, Sixty Axle	14.425	1.75
Dump Trucks, Sixty-one Axle	14.425	1.75
Dump Trucks, Sixty-two Axle	14.425	1.75
Dump Trucks, Sixty-three Axle	14.425	1.75
Dump Trucks, Sixty-four Axle	14.425	1.75
Dump Trucks, Sixty-five Axle	14.425	1.75
Dump Trucks, Sixty-six Axle	14.425	1.75
Dump Trucks, Sixty-seven Axle	14.425	1.75
Dump Trucks, Sixty-eight Axle	14.425	1.75
Dump Trucks, Sixty-nine Axle	14.425	1.75
Dump Trucks, Seventy Axle	14.425	1.75
Dump Trucks, Seventy-one Axle	14.425	1.75
Dump Trucks, Seventy-two Axle	14.425	1.75
Dump Trucks, Seventy-three Axle	14.425	1.75
Dump Trucks, Seventy-four Axle	14.425	1.75
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Dump Trucks, Seventy-nine Axle	14.425	1.75
Dump Trucks, Eighty Axle	14.425	1.75
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Dump Trucks, Eighty-eight Axle	14.425	1.75
Dump Trucks, Eighty-nine Axle	14.425	1.75
Dump Trucks, Ninety Axle	14.425	1.75
Dump Trucks, Ninety-one Axle	14.425	1.75
Dump Trucks, Ninety-two Axle	14.425	1.75
Dump Trucks, Ninety-three Axle	14.425	1.75
Dump Trucks, Ninety-four Axle	14.425	1.75
Dump Trucks, Ninety-five Axle	14.425	1.75
Dump Trucks, Ninety-six Axle	14.425	1.75
Dump Trucks, Ninety-seven Axle	14.425	1.75
Dump Trucks, Ninety-eight Axle	14.425	1.75
Dump Trucks, Ninety-nine Axle	14.425	1.75
Dump Trucks, One Hundred Axle	14.425	1.75
Dump Trucks, One Hundred-one Axle	14.425	1.75
Dump Trucks, One Hundred-two Axle	14.425	1.75
Dump Trucks, One Hundred-three Axle	14.425	1.75
Dump Trucks, One Hundred-four Axle	14.425	1.75
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Dump Trucks, One Hundred-twelve Axle	14.425	1.75
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Dump Trucks, One Hundred-fourteen Axle	14.425	1.75
Dump Trucks, One Hundred-fifteen Axle	14.425	1.75
Dump Trucks, One Hundred-sixteen Axle	14.425	1.75
Dump Trucks, One Hundred-seventeen Axle	14.425	1.75
Dump Trucks, One Hundred-eighteen Axle	14.425	1.75
Dump Trucks, One Hundred-nineteen Axle	14.425	1.75
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Dump Trucks, One Hundred-sixty-nine Axle	14.425	1.75
Dump Trucks, One Hundred-seventy Axle	14.425	1.75
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Dump Trucks, One Hundred-seventy-two Axle	14.425	1.75
Dump Trucks, One Hundred-seventy-three Axle	14.425	1.75
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Dump Trucks, One Hundred-seventy-nine Axle	14.425	1.75
Dump Trucks, One Hundred-eighty Axle	14.425	1.75
Dump Trucks, One Hundred-eighty-one Axle	14.425	1.75
Dump Trucks, One Hundred-eighty-two Axle	14.425	1.75
Dump Trucks, One Hundred-eighty-three Axle	14.425	1.75
Dump Trucks, One Hundred-eighty-four Axle	14.425	1.75
Dump Trucks, One Hundred-eighty-five Axle	14.425	1.75
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Dump Trucks, One Hundred-eighty-eight Axle	14.425	1.75
Dump Trucks, One Hundred-eighty-nine Axle	14.425	1.75
Dump Trucks, One Hundred-ninety Axle	14.425	1.75
Dump Trucks, One Hundred-ninety-one Axle	14.425	1.75
Dump Trucks, One Hundred-ninety-two Axle	14.425	1.75
Dump Trucks, One Hundred-ninety-three Axle	14.425	1.75
Dump Trucks, One Hundred-ninety-four Axle	14.425	1.75
Dump Trucks, One Hundred-ninety-five Axle	14.425	1.75
Dump Trucks, One Hundred-ninety-six Axle	14.425	1.75
Dump Trucks, One Hundred-ninety-seven Axle	14.425	1.75
Dump Trucks, One Hundred-ninety-eight Axle	14.425	1.75
Dump Trucks, One Hundred-ninety-nine Axle	14.425	1.75
Dump Trucks, Two Hundred Axle	14.425	1.75
Dump Trucks, Two Hundred-one Axle	14.425	1.75
Dump Trucks, Two Hundred-two Axle	14.425	1.75
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Dump Trucks, Two Hundred-thirteen Axle	14.425	1.75
Dump Trucks, Two Hundred-fourteen Axle	14.425	1.75
Dump Trucks, Two Hundred-fifteen Axle	14.425	1.75
Dump Trucks, Two Hundred-sixteen Axle	14.425	1.75
Dump Trucks, Two Hundred-seventeen Axle	14.425	1.75
Dump Trucks, Two Hundred-eighteen Axle	14.425	1.75
Dump Trucks, Two Hundred-nineteen Axle	14.425	1.75
Dump Trucks, Two Hundred-twenty Axle	14.425	1.75
Dump Trucks, Two Hundred-twenty-one Axle	14.425	1.75
Dump Trucks, Two Hundred-twenty-two Axle	14.425	1.75
Dump Trucks, Two Hundred-twenty-three Axle	14.425	1.75
Dump Trucks, Two Hundred-twenty-four Axle	14.425	1.75
Dump Trucks, Two Hundred-twenty-five Axle	14.425	1.75
Dump Trucks, Two Hundred-twenty-six Axle	14.425	1.75
Dump Trucks, Two Hundred-twenty-seven Axle	14.425	1.75
Dump Trucks, Two Hundred-twenty-eight Axle	14.425	1.75
Dump Trucks, Two Hundred-twenty-nine Axle	14.425	1.75
Dump Trucks, Two Hundred-thirty Axle	14.425	1.75
Dump Trucks, Two Hundred-thirty-one Axle	14.425	1.75
Dump Trucks, Two Hundred-thirty-two Axle	14.425	1.75
Dump Trucks, Two Hundred-thirty-three Axle	14.425	1.75
Dump Trucks, Two Hundred-thirty-four Axle	14.425	1.75
Dump Trucks, Two Hundred-thirty-five Axle	14.425	1.75
Dump Trucks, Two Hundred-thirty-six Axle	14.425	1.75
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Dump Trucks, Two Hundred-forty Axle	14.425	1.75
Dump Trucks, Two Hundred-forty-one Axle	14.425	1.75
Dump Trucks, Two Hundred-forty-two Axle	14.425	1.75
Dump Trucks, Two Hundred-forty-three Axle	14.425	1.75
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Dump Trucks, Two Hundred-sixty-two Axle	14.425	1.75
Dump Trucks, Two Hundred-sixty-three Axle	14.425	1.75
Dump Trucks, Two Hundred-sixty-four Axle	14.425	1.75
Dump Trucks, Two Hundred-sixty-five Axle	14.425	1.75
Dump Trucks, Two Hundred-sixty-six Axle	14.425	1.75
Dump Trucks, Two Hundred-sixty-seven Axle	14.425	1.75
Dump Trucks, Two Hundred-sixty-eight Axle	14.425	1.75
Dump Trucks, Two Hundred-sixty-nine Axle	14.425	1.75
Dump Trucks, Two Hundred-seventy Axle	14.425	1.75
Dump Trucks, Two Hundred-seventy-one Axle	14.425	1.75
Dump Trucks, Two Hundred-seventy-two Axle	14.425	1.75
Dump Trucks, Two Hundred-seventy-three Axle	14.425	1.75
Dump Trucks, Two Hundred-seventy-four Axle	14.425	1.75
Dump Trucks, Two Hundred-seventy-five Axle	14.425	1.75
Dump Trucks, Two Hundred-seventy-six Axle	14.425	1.75
Dump Trucks, Two Hundred-seventy-seven Axle	14.425	1.75
Dump Trucks, Two Hundred-seventy-eight Axle	14.425	1.75
Dump Trucks, Two Hundred-seventy-nine Axle	14.425	1.75
Dump Trucks, Two Hundred-eighty Axle	14.425	1.75
Dump Trucks, Two Hundred-eighty-one Axle	14.425	1.75
Dump Trucks, Two Hundred-eighty-two Axle	14.425	1.75
Dump Trucks, Two Hundred-eighty-three Axle	14.425	1.75
Dump Trucks, Two Hundred-eighty-four Axle	14.425	1.75
Dump Trucks, Two Hundred-eighty-five Axle	14.425	1.75
Dump Trucks, Two Hundred-eighty-six Axle	14.425	1.75
Dump Trucks, Two Hundred-eighty-seven Axle	14.425	1.75
Dump Trucks, Two Hundred-eighty-eight Axle	14.425	1.75
Dump Trucks, Two Hundred-eighty-nine Axle	14.425	1.75
Dump Trucks, Two Hundred-ninety Axle	14.425	1.75
Dump Trucks, Two Hundred-ninety-one Axle	14.425	1.75
Dump Trucks, Two Hundred-ninety-two Axle	14.425	1.75
Dump Trucks, Two Hundred-ninety-three Axle	14.425	1.75
Dump Trucks, Two Hundred-ninety-four Axle	14.425	1.75
Dump Trucks, Two Hundred-ninety-five Axle	14.425	1.75
Dump Trucks, Two Hundred-ninety-six Axle	14.425	1.75
Dump Trucks, Two Hundred-ninety-seven Axle	14.425	1.75
Dump Trucks, Two Hundred-ninety-eight Axle	14.425	1.75
Dump Trucks, Two Hundred-ninety-nine Axle	14.425	1.75
Dump Trucks, Three Hundred Axle	14.425	1.75
Dump Trucks, Three Hundred-one Axle	14.425	1.75
Dump Trucks, Three Hundred-two Axle	14.425	1.75
Dump Trucks, Three Hundred-three Axle	14.425	1.75
Dump Trucks, Three Hundred-four Axle	14.425	1.75
Dump Trucks, Three Hundred-five Axle	14.425	1.75
Dump Trucks, Three Hundred-six Axle	14.425	1.75
Dump Trucks, Three Hundred-seven Axle	14.425	1.75
Dump Trucks, Three Hundred-eight Axle	14.425	1.75
Dump Trucks, Three Hundred-nine Axle	14.425	1.75
Dump Trucks, Three Hundred-ten Axle	14.425	1.75
Dump Trucks, Three Hundred-eleven Axle	14.425	1.75
Dump Trucks, Three Hundred-twelve Axle	14.425	1.75
Dump Trucks, Three Hundred-thirteen Axle	14.425	1.75
Dump Trucks, Three Hundred-fourteen Axle	14.425	1.75
Dump Trucks, Three Hundred-fifteen Axle	14.425	1.75
Dump Trucks, Three Hundred-sixteen Axle	14.425	1.75
Dump Trucks, Three Hundred-seventeen Axle	14.425	1.75
Dump Trucks, Three Hundred-eighteen Axle	14.425	1.75
Dump Trucks, Three Hundred-nineteen Axle	14.425	1.75
Dump Trucks, Three Hundred-twenty Axle	14.425	1.75
Dump Trucks, Three Hundred-twenty-one Axle	14.425	1.75
Dump Trucks, Three Hundred-twenty-two Axle	14.425	1.75
Dump Trucks, Three Hundred-twenty-three Axle	14.425	1.75
Dump Trucks, Three Hundred-twenty-four Axle	14.425	1.75
Dump Trucks, Three Hundred-twenty-five Axle	14.425	1.75
Dump Trucks, Three Hundred-twenty-six Axle	14.425	1.75
Dump Trucks, Three Hundred-twenty-seven Axle	14.425	1.75
Dump Trucks, Three Hundred-twenty-eight Axle	14.425	1.75
Dump Trucks, Three Hundred-twenty-nine Axle	14.425	1.75
Dump Trucks, Three Hundred-thirty Axle	14.425	1.75
Dump Trucks, Three Hundred-thirty-one Axle	14.425	1.75
Dump Trucks, Three Hundred-thirty-two Axle	14.425	1.75
Dump Trucks, Three Hundred-thirty-three Axle	14.425	1.75
Dump Trucks, Three Hundred-thirty-four Axle	14.425	1.75
Dump Trucks, Three Hundred-thirty-five Axle	14.425	1.75
Dump Trucks, Three Hundred-thirty-six Axle	14.425	1.75
Dump Trucks, Three Hundred-thirty-seven Axle	14.425	1.75
Dump Trucks, Three Hundred-thirty-eight Axle	14.425	1.75
Dump Trucks, Three Hundred-thirty-nine Axle	14.425	1.75
Dump Trucks, Three Hundred-forty Axle	14.425	1.75
Dump Trucks, Three Hundred-forty-one Axle	14.425	1.75
Dump Trucks, Three Hundred-forty-two Axle	14.425	1.75
Dump Trucks, Three Hundred-forty-three Axle	14.425	1.75
Dump Trucks, Three Hundred-forty-four Axle	14.425	1.75
Dump Trucks, Three Hundred-forty-five Axle	14.425	1.75
Dump Trucks, Three Hundred-forty-six Axle	14.425	1.75
Dump Trucks, Three Hundred-forty-seven Axle	14.425	1.75
Dump Trucks, Three Hundred-forty-eight Axle	14.425	1.75
Dump Trucks, Three Hundred-forty-nine Axle	14.425	1.75
Dump Trucks, Three Hundred-fifty Axle	14.425	1.75
Dump Trucks, Three Hundred-fifty-one Axle	14.425	1.75
Dump Trucks, Three Hundred-fifty-two Axle	14.425	1.75
Dump Trucks, Three Hundred-fifty-three Axle	14.425	1.75
Dump Trucks, Three Hundred-fifty-four Axle	14.425	1.75
Dump Trucks, Three Hundred-fifty-five Axle	14.425	1.75
Dump Trucks, Three Hundred-fifty-six Axle	14.425	1.75
Dump Trucks, Three Hundred-fifty-seven Axle	14.425	1.75
Dump Trucks, Three Hundred-fifty-eight Axle	14.425	1.75
Dump Trucks, Three Hundred-fifty-nine Axle	14.425	1.75
Dump Trucks, Three Hundred-sixty Axle	14.425	1.75
Dump Trucks, Three Hundred-sixty-one Axle	14.425	1.75
Dump Trucks, Three Hundred-sixty-two Axle	14.425	1.75
Dump Trucks, Three Hundred-sixty-three Axle	14.425	1.75
Dump Trucks, Three Hundred-sixty-four Axle	14.425	1.75
Dump Trucks, Three Hundred-sixty-five Axle	14.425	1.75
Dump Trucks, Three Hundred-sixty-six Axle	14.425	1.75
Dump Trucks, Three Hundred-sixty-seven Axle	14.425	1.75
Dump Trucks, Three Hundred-sixty-eight Axle	14.425	1.75
Dump Trucks, Three Hundred-sixty-nine Axle	14.425	1.75
Dump Trucks, Three Hundred-seventy Axle	14.425	1.75
Dump Trucks, Three Hundred-seventy-one Axle	14.425	1.75
Dump Trucks, Three Hundred-seventy-two Axle	14.425	1.75
Dump Trucks, Three Hundred-seventy-three Ax

	Basic Hourly Rates	Fringe Benefits
LABORERS:* (Cont'd)		
Zone 3:		
Laborers	$13.80	$1.55
Powderman; Mason Tenders; Plaster Tenders	13.30	1.55
Zone 4:		
General Laborer	14.15	1.56
Dynamiter or Powderman	14.65	1.56

ZONE DESCRIPTIONS

CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN:
Zone 1: St. Louis City and County
Zone 2: Franklin County
Zone 3: Jefferson County
Zone 4: St. Charles County
Zone 5: Lincoln and Warren Counties

CEMENT MASONS:
Zone 1: St. Louis City and County; Jefferson and St. Charles Counties
Zone 2: Franklin, Lincoln, and Warren Counties

ELECTRICIANS:
Zone 1: City and County of St. Louis, and St. Charles County
Zone 2: Franklin, Jefferson, Lincoln, and Warren Counties where the electrical contracts exceeds $15,000.00
Zone 3: Franklin, Jefferson, Lincoln, and Warren Counties where the electrical contract does not exceed $15,000.00

LABORERS:
Zone 1: City and County of St. Louis
Zone 2: Franklin County
Zone 3: Jefferson County
Zone 4: St. Charles County

FOOTNOTES

ELEVATOR CONSTRUCTORS:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day

FOOTNOTES (Cont'd)

GLAZIERS:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day
b. Employee with one (1) year of service, the employer pays 2% of all hours worked at straight time, the negotiated inside wage rate; employee with three (3) years or more of service, the employer pays 4% of all hours worked at straight time, the negotiated inside wage rate; employee with twelve (12) years or more, the employer pays 6% of all hours worked at straight time, the negotiated inside wage rate; employee with fifteen (15) years or more of service, the employer pays 8% of all hours worked at straight time, the negotiated inside wage rate.

	Basic Hourly Rates	Fringe Benefits
LABORERS:* (Cont'd)		
Zone 5:		
Projects under one (1) million dollars	$13.475	1.66
Projects one (1) to ten (10) million dollars	13.975	1.66
Projects ten (10) million dollars and over	14.475	1.66
MARBLE SETTERS	14.11	2.905
MARBLE FINISHERS	14.65	
PAINTERS:		
Brush	16.11	1.30
Spray & sandblasting	18.11	1.30
PIPEFITTERS:*		
Zone 1	16.85	4.875
PIPEFITTERS and PLUMBERS:*		
Zone 1	16.85	4.875
PLASTERERS	15.555	1.62
PLUMBERS:*		
Zone 1	15.405	3.35
ROOFERS:		
Composition; Slate and Tile	14.85	2.05
Kettleman	12.65	2.05
SHEET METAL WORKERS	18.16	3.35+ 3%
SPRINKLER FITTERS	18.86	2.87
TERRAZZO WORKERS	17.55	
TILE SETTERS	$13.98	2.905
TILE WORKERS' FINISHERS	11.70	1.605
TRUCK DRIVERS:		
Group 1 - Trucks or trailers of a water level capacity of 11.99 cu. yds. or less, fork lift trucks, job site ambulances & pick-up trucks and flat bed trucks	13.52	76.00 per/wk +b
Group 2 - Trucks or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace and and similar equipment of same capacity	13.72	76.00 per/wk +b
Group 3 - Trucks or trailers of a water level capacity of 22.0 cu. yds. & over including euclids, speedace and all floats, flat bed trailers, boom trucks & similar equipment of same capacity	13.82	76.00 per/wk +b

*ZONE DESCRIPTIONS - Page 4

FOOTNOTE

b - Paid vacation of 3 days for 600 hours of service in any one contract year; 4 days paid vacation for 800 hours of service in any one contract year; 5 days paid vacation for 1,000 hours of service in any one contract year. Also 7 paid holidays.

Welders - Receive rate prescribed for craft performing operation to which welding is incidental

ZONE DESCRIPTIONS

LABORERS: (Cont'd)
Zone 5: Lincoln and Warren Counties
PIPEFITTERS:
Zone 1: Franklin, Jefferson, St. Charles, St. Louis City and County and Warren Counties
PIPEFITTERS AND PLUMBERS:
Zone 1: Lincoln County
PLUMBERS:
Zone 1: Franklin, Jefferson, St. Charles, St. Louis City and County and Warren Counties

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	$15.17	$3.00
Group 2	15.17	3.00
Group 3	13.87	3.00
Group 4	13.42	3.00

Group 1: Backhoe; Cableway; Crane, Crawler or Truck; Crane, Hydraulic-truck or crusier mounted-16 tons and over; Crane, Locomotive; Derrick, steam; Hoisting Car and Hoisting Boat; Dragline; Dredge; Gradeall, Crawler or Tire Mounted; Locomotive, gas, steam and other power; Piledriver; Land or scoop Skimmer; Shovel, power (steam, gas, electric or other powered); Switch Boat; Whirley

Group 2: Air Tugger with air compressor; Anchor Placing Barge; Asphalt Spreader; Athey Force Feeder Loader (self-propelled); Back-filling Machine; Boat Operator-Push Boat or Tow Boat (job site); Boiler, high pressure breaking in period; Boom Trunk, placing or erecting; Boring Machine, footing foundation; Bullfloat; Cherry Picker, combination concerete hoist and mixer such as Mixer-mobile; Compressor-welder combination; Concrete Breaker (Truck or tractor mounted); Concrete Pump, such as Pumpcrete Machine, Conceret Spreader; Compressor (when operator run throttle); Compressor-generator combination;

Group 2: (Cont'd)
Compressor-pump combination; Generators, two 30 KW or over, or any number developing over 30 KW; Generator-pump combination Conveyer, large (not self-propelled) hoisting or moving brick and concrete into and/or on floor level, one or both; Crane, Hydraulic, Rough Terrain, self-propelled; Crane hydraulic-truck or crusier mounted, under 16 tons; Drilling Machines, self-powered, used for earth or rock drilling or boring (Wagon Drills and any hand drills obtaining power from other sources including Concrete Breakers, Jackhammers and Barco equipment); Elevating Grader; Engine Man, dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled Oscillating Screed; Forklift; Grader, road with power blade; Highlift; Hoist, concrete and brick (brick cages on concrete skips operating in or on tower, Towermobile or similar equipment); Hoist, stack; Hydro-hammer; Lad-a-vator, hoisting brick or concrete; Loading Machine (such as Barber-Greene); Mixer-mobile, Mucking Machine, Pipe Cleaning Machine; Pipe Wrapping Machine; Plant, asphalt; Plant, concrete producing or ready-mix, job site; Plant, heating, job site; Plant, mixing, job site; Plant, power generating, job site; Pumps, two self powered, over 2" through 6" pumps, electric submersible, one through three over 4" Quad-track; Roller, asphalt, top or subgrade; Scoop, tractor drawn; Spreader Box; Subgrader; Tie Tamper; Tractor, crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; Trenching Machine; Tunnel Boring Machine; Vibrating Machine, automatic, automatic propelled; Welding Machines (gasoline or diesel) more than one but not over four (regardless of size); Well Drilling Machine; Mechanic on job site; Mixer, paving; Compressors, two, not more than 50 feet apart

Group 3:
Air Tugger with plant, air; Boiler, for power or heating on construction projects; Boiler, temporary; Compressor, air, one; Compressor, air (mounted on truck); Concrete Saw, self-propelled; Conveyor, large (not self-propelled); Conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; Curb Finishing Machine; Ditch Paving Machine; Elevator (building construction or alteration); Endless Chain Hoist; Fireman; Form Grader; Generator, one over 30 KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-a-vator, other hoisting; Manlift; Mixer, asphalt, over 8 cu. ft. capacity; Mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; Mixer, without side loader, 2 bag capacity or more; Mixer with side loader, regardless of size, not Paver; Oiler on dredge; Oiler on Truck Crane; Pug Mill Operator; Pump; Pump, self-powered, automatic controller over 2" during use in connection with construction work; Sweeper, street; Welding Machine, one over 400 amp.; Winch operating from truck; Scissor Lift (used for hoisting); Curb Finishing Machine; Tractor, small wheel type, 50 HP and under with Grader, blade and similar equipment

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NUMBER: OH83-2002 COUNTIES: Butler & Warren
Supersedes Decision No.: OH80-2020 dated March 28, 1980 DATE: Date of Publication

POWER EQUIPMENT OPERATORS (Cont'd)

Group 4: Boat Operator, outboard motor (job site); Conveyor (such as Con-vay-it) regardless of how used; Oiler; Sweeper, floor

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NUMBER: OH83-2002
COUNTIES: Butler & Warren
DATE: Date of Publication
Supersedes Decision No.: OH80-2020 dated March 28, 1980 in 45 FR 20661
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING & HEATING MECHANICS	$8.77	
BRICKLAYERS; Blocklayers	9.00	
CARPENTERS	7.81	
DRYWALL FINISHERS & TAPERS	7.00	
ELECTRICIANS	7.68	
INSULATORS	5.41	
LABORERS:		
Common	6.64	
Landscapers	6.00	
PLUMBERS & Pipefitters	8.52	
SHEET METAL WORKERS	9.43	
TRUCK DRIVERS	7.60	
POWER EQUIPMENT OPERATORS:		
Backhoes	7.37	
Bulldozers	8.00	
Front End Loaders	6.97	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NUMBER: OH83-2004
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision No. OH81-2008, dated April 3, 1981 in 46 FR 20446
DESCRIPTION OF WORK: Residential Construction Projects Consisting of single family homes and apartments up to and including 4 stories

*Crawford, Hancock, Seneca, & Wyandot

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$9.00	
CARPENTERS	8.46	
CEMENT MASONS	10.00	
DRYWALL FINISHERS & TAPERS	8.00	
DRYWALL HANGERS	7.65	
ELECTRICIANS	8.72	
INSULATORS	6.02	
LABORERS:		
Common	6.15	
Landscapers	5.00	
PLUMBERS	11.41	
ROOFERS	6.37	
SHEET METAL WORKERS	7.27	
SOFT FLOOR LAYERS; Carpet Layers	[illegible]	
POWER EQUIPMENT OPERATORS:		
Backhoes	7.50	
Bulldozers	7.50	
Front End Loaders	7.57	
TRUCK DRIVERS	4.50	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: Ohio
DECISION NUMBER: OH83-2005
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision No. OH81-2024 dated May 15, 1981 in 46 FR 27054
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

*Greene, Miami, Montgomery, & Preble

	Basic Hourly Rates	Fringe Benefits		Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$6.63				
BRICKLAYERS; Blocklayers	8.50				
CARPENTERS	6.30				
CEMENT MASONS	8.44				
DRYWALL HANGERS	7.55				
DRYWALL TAPERS & FINISHERS	7.00				
ELECTRICIANS	6.84				
INSULATORS	5.47				
LABORERS	5.54				
PAINTERS, Brush	5.80				
PLUMBERS; Pipefitters	7.29				
ROOFERS	6.00				
SHEET METAL WORKERS	7.54				
SOFT FLOOR LAYERS	7.10				
TILE SETTERS	7.60				
TRUCK DRIVERS	5.54				
POWER EQUIPMENT OPERATORS:					
Backhoes	7.80				
Bulldozers	7.00				
Front End Loaders	7.02				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

[FR Doc. 83-1479 Filed 1-20-83; 8:45 am]
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Part III

Environmental Protection Agency

Underground Injection Control Program

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[OW-FRL 2243-1]

Underground Injection Control Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending its Consolidated Permit Regulations (40 CFR Part 122), as promulgated on May 19, 1980, to allow more flexibility to the Agency in prescribing Class II Underground Injection Control (UIC) programs for Indian lands under the Safe Drinking Water Act.

DATES: This amendment to 40 CFR Part 122 will become effective February 22, 1983.

ADDRESSES: Comments of a technical and non-substantive nature should be addressed to Thomas E. Belk, Chief, Ground Water Protection Branch, EPA, Office of Drinking Water, (WH-550), 401 "M" Street, SW Washington, DC. 20460.

FOR FURTHER INFORMATION CONTACT: Thomas E. Belk, Chief, Ground Water Protection Branch, Environmental Protection Agency, (202) 382-5530.

SUPPLEMENTARY INFORMATION: The amendment promulgated today was proposed by the Agency on April 23, 1982 (47 FR 17578 *et seq.*) The preamble to this proposal contains a comprehensive discussion of the justification for this action.

Briefly, Section 1425 of the Safe Drinking Water Act (SDWA), added in December 1980, gives the Administrator more flexibility in reviewing State UIC programs for oil and gas related wells. The standard for these programs is that they be effective and meet the general requirements of Section 1421(b)(1)(A)–(D) of the Act, rather than the more specific requirements of EPA's regulations promulgated under the Act, 40 CFR Parts 122, 124 and 146.

The Agency must prescribe and implement UIC programs on Indian reservations and lands whenever the States do not have the requisite jurisdiction. This amendment gives the Administrator the same flexibility in prescribing these programs that she has in reviewing programs subject to Section 1425.

It allows the Administrator to give special consideration to the interests and preferences of affected tribal governments. It also reduces the possibility that oil and gas production may be unnecessarily impeded by the imposition on an operator of inconsistent requirements established by a State (within its jurisdiction) and by EPA (for Indian lands in that State).

The amendment as promulgated today differs slightly from the proposed language, reflecting minor changes made for the sake of clarity. No substantive change has been made from the amendment as proposed.

Response to Comments

Testimony on the proposed amendment was given at a public hearing held in Washington, D.C. on June 2, 1982, and was overwhelmingly favorable. In addition, written comments were received which were generally favorable except for two dissenting views.

One commentor indicated that neither the SDWA nor the opinion of the courts in recent cases indicate that EPA has authority over Indian lands for the implementation of some programs. EPA is firmly convinced, however, that under the SDWA the Agency does have such authority. This is based on the statute's unrestricted coverage of "any underground injection" (SDWA Section 1421(b)(1)(A)), the requirement that UIC regulations shall apply to injection by any persons (SDWA Section 1421(b)(1)(D)), and the established principle that a Federal statute applicable in general terms to all persons includes Indians absent a clear showing to the contrary.

Another commentor expressed a fear that the flexibility given by the amendment could be used to implement stricter programs than those based on the 40 CFR Parts 122, 124 and 146 requirements. Each specific program for Indian lands or reservations will be prescribed after consultation with affected parties and through formal rulemaking which will give all parties ample opportunity to question any requirement which they may deem excessive.

All other comments were highly favorable. They varied, however, with respect to the weight EPA should give to the various interests involved. Some recommended that the concerns of the tribal government should govern the type of program implemented on Indian reservations while others placed greater importance on the operator's interest in consistency between program requirements of neighboring jurisdictions.

The Agency anticipated the existence of these various interests, and, for this reason, specified the factors it intends to take into account in prescribing programs for Indian lands. It seeks the flexibility of this amendment in part so that it may do a more responsive job of balancing the interests involved. The programs prescribed will be the result of consultation with all interested parties and will, therefore, vary from case to case. In order to reduce further the regulatory burden on operators, EPA is also actively seeking a coordinated approach to the implementation of the program. The Bureau of Indian Affairs and the Minerals Management Service of the Department of the Interior have been approached on this matter.

Impact on Small Businesses

Under the Regulatory Flexibility Act an agency is required to prepare an initial regulatory flexibility analysis whenever it is required to publish general notice of any rule, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This amendment will provide increased regulatory flexibility. Therefore, the Administrator certifies that this regulation will not have a significant impact on a substantial number of small entities.

Executive Order 12291

Under Executive Order 12291, EPA must judge whether the rule is major and therefore subject to the requirements of a regulatory impact analysis. This amendment will not impose additional costs nor set any additional requirements for the regulated community. It does not constitute major rulemaking .

This amendment was submitted to OMB for review as required by Executive Order 12291.

(Sec. 1421, 1422, 1423, 1431, 1445, 1447, 1450, Safe Drinking Water Act, as amended, 42 U.S.C. 300(f) *et seq.*)

List of Subjects in 40 CFR Part 122

Administrative practice and procedures, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, water supply, Confidential business information.

Note.—This amendment, currently numbered 40 CFR 122.46, will be renumbered 40 CFR 144.2 in the revision of the Consolidated Permit Regulations expected to be published in the near future.

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE UNDERGROUND INJECTION CONTROL PROGRAM

40 CFR Part 122 is amended as follows:

1. Add § 122.46 which reads:

§ 122.46 Alternate class II programs for Indian lands.

Notwithstanding the requirements of this Part or of Parts 124 and 146 of this chapter, the Administrator may promulgate an alternate UIC Program for Class II wells on any Indian reservation or Indian lands. In promulgating such a program, the Administrator shall consider the following factors:

(a) The interest and preferences of the tribal government having responsibility for the given reservation or Indian lands;

(b) The consistency between the alternate program and any program in effect in an adjoining jurisdiction; and,

(c) Such other factors as are necessary and appropriate to carry out the Safe Drinking Water Act.

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Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

U.S. Fishing Industry; Financial Assistance for Research and Development Projects

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Financial Assistance for Research and Development Project to Strengthen and Develop the U.S. Fishing Industry

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Saltonstall-Kennedy Funds Notice of availability/Instruction to the public.

SUMMARY: For fiscal year 1983, Saltonstall-Kennedy funds will be available to assist persons in carrying out research and development projects addressed to any aspect of a United States fishery (as herein defined) involving the United States fishing industry (recreational or commercial) including, but not limited to, harvesting, processing, marketing, and associated infrastructures. Projects will be funded through grants and cooperative agreements. Any individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands, any fishery development foundation or other private non-profit corporation located in Alaska, or any corporation, partnership, association or other entity, non-profit or otherwise, if a citizen of the United States (as defined by Section 2 of the Shipping Act of 1916 (46 U.S.C. 802)), is eligible to apply for funding under this solicitation. The National Marine Fisheries Service (NMFS), NMFS employees and their immediate relatives are not eligible to apply.

This notice sets forth conditions under which applications will be received and evaluated to determine appropriateness for funding. This notice of availability of financial assistance for fisheries research and development projects will also appear in the *Commerce Business Daily*. Information collection requirements contained in this notice have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0648–0086.

This solicitation has been reviewed in accordance with Executive Order 12291 and the Commerce Department guidelines implementing that Order. The National Marine Fisheries Service has determined that this solicitation is not "major" within the context of the Order or its implementing guideline because the solicitation does not significantly affect the economy, costs or prices, competition, employment, investment, or productivity.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Hutchinson, Industry Development Division, National Marine Fisheries Service, Washington, D.C. 20235, phone: 202–634–7451.

I. Introduction

The Saltonstall-Kennedy (S–K) Act (15 U.S.C. 713c–2–713c–3) makes up to 30 percent of the gross receipts collected under the customs laws from duties on fishery products available to the Secretary of Commerce. At least 50 percent of these funds must be used by the Secretary each year to make grants to assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including, but not limited to, harvesting, processing, and marketing. United States fisheries [1] include any fishery that is or may be engaged in by U.S. citizens or nationals or citizens of the Northern Mariana Islands. For fiscal year 1983, about $8 million of Saltonstall-Kennedy monies are available to fund fisheries research and development projects which promote the goals and priorities of the NMFS fisheries development and utilization program. The phrase "fishing industry" is intended to include both the commercial and recreational sectors of U.S. fisheries.

II. Saltonstall-Kennedy Activities

The Saltonstall-Kennedy grant program constitutes an important part of the NMFS fisheries development and utilization program. Under this program, the National Marine Fisheries Service will consider funding projects which relate to the development of one specific fishery, projects which relate to more than one fishery, or projects which are national in scope.

The NMFS has two objectives for funding projects. They are (1) to maintain stability in and strengthen traditional fisheries; and (2) provide for the growth of the fishing industry through increased utilization of nontraditional resources.

Traditional fisheries are those for which the existing fishing industry has the capability to fully harvest, process and market the fishery resources which are available and historically has done so. Stability in traditional fisheries can be influenced by resource fluctuations; changing economic conditions; and product safety and quality concerns of the public. In order to maintain stability in traditional fisheries, the NMFS will support projects that increase the financial stability of the fishing industry to ensure that the industry remains competitive in world and domestic markets. This could involve providing assistance for expansion into nontraditional fisheries that the industry has the capability to use. Research to improve the efficiency of harvesting, processing, or marketing of fishery products will be supported, as will product safety and quality research, if it is related to the production and use of products provided from the traditional fisheries or would support expansion of the existing industry into nontraditional fisheries.

In supporting growth of the fishing industry, NMFS will target its activities on underutilized fisheries such as Alaska groundfish, coastal pelagics in the South Atlantic and Gulf of Mexico and squid and mackerel in the North Atlantic. NMFS recognizes that the existing industry cannot fully utilize these resources because of inadequate harvesting, processing, marketing, or other capabilities. Research will be supported which will lessen the risks associated with expansion by the present industry or entry by new participants into these fisheries.

For fiscal year 1983, NMFS seeks to fund fisheries research and development projects which will address regional and national concerns developed in consultation with members of the fishing industry. In general, the areas of concern relate to the following activities:

A. *Harvesting activities* to demonstrate the economic feasibility of commercial or recreational harvesting of fisheries resources and to provide fishermen with information that documents the potential profitability of commercial or recreational harvesting activities and identifies abundance, location, and seasonal characteristics of stocks of fish;

B. *Quality enhancement and control* to develop, evaluate or demonstrate handling, sorting, grading, storage, and processing or distribution methods or techniques that will enable fishermen, processors, and those in the distribution chain to maintain or improve the quality of fish and fish products marketed domestically or in foreign countries or used by recreational fishermen;

C. *Domestic market development* to increase domestic consumption of

[1] For purposes of this notice, a fishery is defined as one or more stocks of fish, including tuna, which are identified as a unit based on geographic, scientific, technical, recreational and economic characteristics, and any and all phases of fishing for such stocks. Examples of fisheries are: Alaskan groundfish, Pacific whiting, New England whiting, Gulf of Mexico groundfish, etc. The term "United States fishery" is defined by the S–K Act as any fishery, including any tuna fishery, which is or may be engaged in by citizens or nationals of the United States or citizens of the Northern Mariana Islands.

underutilized fish by increasing the use of nontraditional fisheries products in traditional markets or expanding the use of all fish in nontraditional markets; identification and solution of safety and public health problems impeding domestic market expansion would be included; for recreational fisheries, this would include increased use of nontraditional species, awareness of sport-fishing opportunities, and activities increasing the opportunities and value of recreational fishing;

D. *Foreign market development* to increase U.S. exports of fish and fish products with particular emphasis on the underutilized species and domestic recreational fishing opportunities for foreign visitors;

E. *Improvement in efficiency and productivity* to lower the costs of supplying domestic fish and fish products to consumers or to increase the output or value of existing or new methods or techniques for harvesting, processing, distributing or marketing domestic fisheries products; and

F. *Economic and investment studies* to document the costs and profitability of any activity that would enable the fishing industry to increase use of underutilized fisheries resources or increase the value of fisheries products or to refine or improve upon methodologies for ascertaining the economic and social value of recreational fisheries.

Projects having the highest priority for funding are described in Section III. NMFS has identified, after consultation with the fishing industry, specific species of fish and activities which will receive the highest priority for funding. Fisheries research, development, and utilization applications should relate to one or more of the areas of concern. Other projects within the areas of concern will also be considered, although funding will be available only for exceptionally good projects and only if projects of adequate quality and quantity addressing the specific needs are not received.

With the exception of the Western Pacific, funding will not be provided for projects primarily involving the following activities: (1) infrastructure planning; (2) port and harbor development; (3) aquaculture research and development; (4) resource enhancement; (5) research evaluating the ability or extent to which fish are attracted to artificial reefs or fish aggregating devices; and (6) extension activities such as newsletters, training, or technology transfer unless identified as a necessary part of a specific project.

Endorsement and support from broad-based interest groups concerned with the development and strengthening of the U.S. fishing industry will be taken into account as a positive factor during the review process. There is no guarantee that sufficient funds will be available to make awards for all approved projects.

III. Regional and National Priorities

NMFS is seeking to encourage a regional approach to developing and strengthening U.S. fisheries. "Region" refers to a geographic area in which fishing for a species or group of species would likely take place. A region generally corresponds to the range over which the species of fish can be harvested and/or the area encompassed by the NMFS Regions. Regional priorities have been identified and established by NMFS in conjunction with fishing industry groups, other organizations and local governmental units having an interest in the development and utilization of fisheries in the region.

Projects addressing national concerns are generally those which require the coordinated participation of members of the fishing industry from more than one Region or involve activities such as generic domestic and export marketing activities or seafood quality and safety research where results directly impact the fishing industry or consumers on a national scale. NMFS intends to support strong Regional fisheries development programs and will consider for evaluation as a national project only those projects providing clear evidence of the necessary participation of members of the fishing industry in more than one Region and having broad national impacts. If it is determined that an application submitted as a national project can best be evaluated at the Regional level, it will be referred to the appropriate Region and will be evaluated in accordance with the Regional priorities.

Specific fish resources and needs within each Region and at the national level which have the greatest potential for development have been identified. These fish resources, and the major needs related to their development or full utilization which will be given priority for funding are:

A. *Northeast Region.* In the Northeast Region, priority will be given to supporting growth of the squid and mackerel fisheries and in encouraging and maintaining product quality in traditional offshore fisheries through improvements in harvesting and processing operations. Projects addressing other important underutilized species will be considered, however, priority will be given to projects which would:

1. Improve the effectiveness of fishing gear in harvesting operations;
2. Demonstrate the technical and economic feasibility of processing equipment for squid in commercial operations;
3. Demonstrate improvements in quality of squid and mackerel as well as traditional offshore fisheries through better on-board handling techniques;
4. Demonstrate improvements in quality of processed fishery products through in-plant training;
5. Develop export and domestic markets for underutilized species. Proposals in this area must be closely coordinated and consistent with National Market Development Programs; and
6. Promote the stabilization and growth of the recreational fishing industry.

B. *Southeast Region.* (1) *Commercial.* Projects to be funded in the Southeast Region should have the general purpose of helping to shift current harvesting, processing, and marketing activities from traditional shrimp fisheries into alternate fisheries, particularly the coastal pelagics. Coastal pelagics include herrings, menhaden, sardines, tunas, bonitos, ladyfish, and jacks. Projects addressing other important underutilized species will also be considered. Priority will be given to proposals which:

(a) Assess the commercial significance of stocks through contracted fishing vessels and spotter aircraft in the Southeast Region;

(b) Develop, evaluate, or demonstrate new technology for the harvest of midwater schooling species in deeper offshore waters;

(c) Develop, evaluate, or demonstrate new technology for on-board or shoreside handling, grading, and storage systems;

(d) Develop new products or processes for underutilized species which provide evidence of consumer/market acceptance and a determination of economic feasibility; and

(e) Develop export or domestic markets for underutilized species. Proposals in this area must be closely coordinated and consistent with National Market Development Programs.

(2) *Recreational* Projects are solicited which will either address problems affecting the stability of traditional recreational fisheries or will redirect fishing effort to presently underutilized sport caught species. While other proposals will be considered, priority

funding consideration will be given to projects which would:

(a) Develop specific opportunities and methods for increasing the use of nontraditional sport caught species in the Southeast;

(b) Develop improved methodologies for cost/benefit and valuation analyses of artificial reef development projects;

(c) Develop an artificial reef deployment (siting) plan(s) for one or more areas of the Region (South Atlantic, Gulf, and/or Caribbean) to enhance fishery habitat and fishing opportunities. Such plans should consider demand for fishing opportunities, fishing patterns, access facilities, Federal, state, and local laws, fishery and related habitat concerns and other relevant factors, and should recommend reef management strategies; and

(d) Develop a guide, suitable for use by domestic and foreign travelers, which identifies recreational fishing opportunities in the Southeast and describes how visitors can best take advantage of these opportunities.

C. *Southwest Region.* the Southwest Region is comprised of two distinct geographic areas—the Pacific Islands and the California coast. The island fisheries differ significantly in many ways from mainland fisheries.

(1) *Pacific.* Priority consideration will be given to projects that address problems of tuna harvesting or contribute to the fishery development goals of Hawaii, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and the Trust Territories of the Pacific Islands. The development of fisheries on underutilized resources will also be considered.

Priority will be given to projects which would:

(a) Contribute to the development of small scale island fisheries. Focus should be on improved efficiency in harvesting techniques, processing and marketing systems, and associated infrastructures;

(b) Investigate methods or techniques to support tuna harvesting in the Central and Western Pacific;

(c) Address area-wide problems of on-board fish handling and distribution; and

(d) Provide underutilized fisheries development opportunities. Species of special of special significance include, but are not limited to trochus, deepwater shrimp, snapper, grouper, alfonsin and armorhead.

(2) *California.* Priority consideration will be given to projects that contribute to stability in the traditional fisheries or resolve problems associated with greater use of Pacific whiting, shortbelly rockfish, squid, mackerel and herring.

Priority will be given to projects which would:

(a) Assess the commerical potential of harvesting squid in nontraditional areas, and demonstrate improved on-board handling methods for squid to increase the range of the squid fleet;

(b) Test the feasibility of developing a seafood quality program for fresh/frozen West Coast fish covering all phases of product handling;

(c) Provide higher value uses for seafood processing wastes and harvesting by-catch and demonstrate the technical and economic feasibility of the higher value use;

(d) Examine alternative uses for residual herring carcasses from the herring roe fishery and provide a determination of market and economic feasibility; and

(e) Develop new domestic or export products for mackerel, shortbelly rockfish, squid and albacore, including a determination of product acceptability. Proposals in this area must be closely coordinated and consistent with National Market Development Programs.

D. *Northwest Region.* Projects to be funded in the Northwest Region are to be directed to problems affecting the stability of the traditional fisheries and providing a redirection of current harvesting, processing, and marketing activities from traditional fisheries into the squid, Pacific whiting, and other potentially significant species within the West Coast fishery conservation zone. Priority will be given to funding projects which address any of the following areas:

(1) Domestic and export market development. Proposals in this area must be closely coordinated and consistent with National Market Development Progams;

(2) Product form development which provides evidence of consumer/market acceptance and a determination of economic feasibility; and

(3) Redirection of traditional salmon recreational fishing effort into non-salmonid species.

E. *Alaska Region.* Priority will be given to promoting the development and growth of U.S. fisheries for Pacific cod, Alaska pollock, Atka mackerel, and the various flounder species. Projects to be given priority for funding should resolve problems associated with the use of these species related to any of the following areas:

(1) Improving the quality of fish delivered to processing plants;

(2) Improved processing capability;

(3) Developing domestic markets for pollock. Proposals in this area must be closely coordinated and consistent with National Market Development Programs;

(4) Developing export markets for stock fish, salt cod, and pollock roe; and

(5) Developing new products using minced pollock and provide evidence of consumer/market acceptance and a determination of economic feasibility.

In supporting the stability of the existing fishing industry in Alaska, projects should address problems unique to remote geographical areas of Alaska and problems in obtaining trained fisheries and processing work forces. Any application submitted should be a practical, hands-on activity which will address the specific needs described above.

F. *National Priorities.* (1) *Domestic Market Development.* The NMFS intends to fund projects which are generic in approach and which will contribute to the increased use of seafood in the U.S. marketplace. Priority will be given to projects which address any of the following.

(a) Provide for the design, construction, and organization of a seafood exhibit at the Food Marketing Institute, National Grocers Association, and National Restaurant Association shows in 1984.

(b) Coordination, design, printing, and dissemination of any or all of the following:

(i) A periodic National Seafood Information Bulletin providing product availability, handling quality maintenance, and merchandising opportunities oriented to food marketers and emphasizing important regional species.

(ii) A pamphlet on Seafood and Health for national disribution which highlights current research findings on human health as related to seafood consumption.

(iii) A Seafood purchasing and merchandising aid for use by food marketers to reflect seasonal and regional availability of major commercial species.

(c) Development, pre- and post-market assessment, and dissemination of consumer information through a multi-media approach with emphasis on electronic media placement in national network and selected media markets.

(d) Conduct retail retaining seminars on seafood quality, handling, and distribution with emphasis on regional U.S. species in 10 major markets.

(e) Analyze and report on consumer attitudes toward seafood separately and in relationship to actual seafood

consumption, from data collection in 1981 from 10,000 respondents by the Market Research Corporation for NMFS.

(f) Determine domestic market trends and assess consumer perceptions for fabricated (e.g. minced, emulsified, extruded, etc.) foods and economic feasibility for including fish flesh in such products.

(2) *Export Market Development.* The NMFS intends to fund projects which provide direct access for U.S. exporters to buyers in other countries. Projects to be funded should address any of the following:

(a) Develop a series of publications entitled "How to Export to ———," which describes in detail procedures for exporting fish and fish products to the European Economic Community (United Kingdom, West Germany, Denmark, Greece, Belgium, Luxemburg, Netherlands, France, and Italy), Australia, Korea, Hong Kong, and Nigeria.

(b) Provide for the design, construction, and organization of a U.S. seafood exhibit at SIAL '84 in Paris, France in November 1984.

(c) Provide for the design, construction, and organization of a U.S. seafood exhibit at Alimentaria '84 in Barcelona, Spain in March 1984.

(d) Provide for the design, construction, and organization of a U.S. seafood exhibit at the ROKA '84 International Food Exhibit in Utrecht, the Netherlands in February 1984.

(e) Provide for the design, construction, and organization of a U.S. seafood exhibit at the International Food Show, in New York City in April 1984.

(f) Provide for the design, construction, and organization of a U.S. seafood exhibit at Food Asia '84 in Singapore in April 1984.

3. *Improving Safety, Quality and Use of Fish and Fish Products.*[2] NMFS is soliciting projects which support its goal of providing consumers with a good quality and wide variety of wholesome, nutritious fish and fish products. The research priorities for 1983 follow:

(a) Development of a specific field test for detecting ciguatera in species of Caribbean and Pacific origin including isolation and/or purification of ciguatoxin.

(b) Demonstration of the safe application of retortable pouch technology for fishery products, including the development of appropriate processing protocols.

(c) Collect and translate foreign country importing regulations related to fishery products safety (including the specific tolerance level or criteria, method of analysis to determine compliance with the established tolerance or criteria, the applicable sampling plan(s), and statistical applications which are used to determine acceptance or rejection of the U.S. fishery products).

(d) Authentic pack studies permitting objective and subjective measurements of changes in inherent textural and sensory characteristics at various intervals of storage or quality loss in traditional and underutilized species.

(e) Develop a specific sensitive methodology for detection of hepatitis A virus in molluscan harvest areas and shellfish products.

4. *Recreational Fisheries Development.* The NMFS intends to fund projects to resolve problems which threaten the stability of the marine recreational fishing industry. Projects to be given priority for funding should address any of the following areas:

(a) Implementing a program to coordinate the use of innovative techniques to locate artificial reefs, such as the use of oil drilling platforms or construction rubble (waste) which would develop, describe, and recommend artificial reef deployment (siting) and management strategies responsive to the needs of all areas of the country; and

(b) Implement a public awareness program to increase awareness about opportunities for recreational fishing along the nation's waterfronts.

[2] All planned research in the area of product quality and safety should be conducted in general accordance with the Good Laboratory Practice Regulations as promulgated by the Food and Drug Administration (FDA) appearing in the **Federal Register** vol. 43, Friday, December 22, 1981, page 60013–60019.

IV. How To Apply

A. Eligible Applicants

Applications for grants or cooperative agreements for fisheries development projects can be made, in accordance with the procedures set forth in this notice, by:

1. Any individual who is a citizen or national of the United States;

2. Any individual who is a citizen of the Northern Mariana Islands (NMI), being an individual who qualifies as such under Section 8 of the Schedule on Transitional Matters attached to the Constitution of the NMI;

3. any fishery development foundation or other private non-profit corporation located in Alaska;

4. any corporation, partnership, association, or other entity (including, but not limited to, any fishery development foundation or other private non-profit corporation not located in Alaska), non-profit or otherwise, if such entity is a citizen of the United States within the meaning of Section 2 of the Shipping Act, 1916 as amended (46 U.S.C. 802).[3] NMFS encourages women and minority individuals and groups to submit applications. NMFS employees (or their immediate families, including full, part-time, and intermittent personnel) and NMFS offices or centers are not eligible to submit an application under this solicitation, or aid in the preparation of an application, except to provide necessary information or guidance about the fisheries development and utilization program and the priorities and procedures included in this solicitation.

B. Amount and Duration of Funding

For fiscal year 1983, NMFS will have about $8 million available to fund the fishery research and development projects solicited herein. Grants or cooperative agreements will generally be awarded for a period of 1 year. Publication of this announcement shall not obligate NMFS to award any specific grant or to obligate the entire amount of funds available or any part thereof.

C. Cost-Sharing Requirements

The amount of a grant must be at least 50 percent of the total cost of the project.

[3] To qualify as a citizen of the United States within the meaning of this statute, citizens or nationals of the United States or citizens of the NMI must own not less than 75 percent of the interest in the entity or, in the case of a non-profit entity, exercise control of the entity that is determined by the Secretary to be equivalent to such ownership; and, in the case of a corporation, the president or other chief executive officer and the chairman of the board of directors must be citizens of the United States, no more of its board of directors than a minority of the number necessary to constitute a quorum may be non-citizens, and the corporation itself must be organized under the laws of the United States, or of a State, including the District of Columbia, Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, and NMI or any other Commonwealth, territory, or possession of the United States. Seventy-five percent of the interest in a corporation shall not be deemed to be owned by citizens or nationals of the United States or citizens of the NMI, if: (i) the title to 75 percent of its stock is not vested in such citizens or nationals of the United States or citizens of the NMI free from any trust or fiduciary obligation in favor of any person not a citizen or national of the United States or citizen of the NMI; (ii) 75 percent of the voting power in such corporation is not vested in citizens or nationals of the United States or citizens of the NMI; (iii) through any contract or understanding it is arranged that more than 25 percent of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen or national of the United States or a citizen of the NMI; or (iv) by any means whatsoever, control of any interest in the corporation is conferred upon or permitted to be exercised by any person who is not a citizen or national of the United States or a citizen of the NMI.

The non-Federal share may include funds received from private sources or from State or local Governments or the value of inkind contributions. In-kind contributions are noncash contributions provided by the applicant or non-Federal third parties. In-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to, and permission to use real or personal property owned by other (for which consideration is not required) in carrying out the project.

The percentage of the total project costs provided from non-Federal sources, not to exceed 50 percent of the cost of the project, will be an important factor in the selection of projects to be funded. Exemption from cost-sharing requirements may be granted in unusual circumstances only to non-profit public interest organizations which demonstrate no financial ability to meet cost-sharing requirements. The total project costs and the percentage of cost sharing required will be determined as described below.

1. *Determining Total Project Cost.* The total costs of a project consist of all cost incurred in the performance of project tasks, including the value of the in-kind contributions, which are necessary to accomplish the objectives of the project during the peirod in which the project is to be conducted. A project begins on the date that a formal grant or other agreement between the applicant and an authorized representative of the United States takes effect, and ends when a final report is submitted and accepted by such authorized representative. Accordingly, the time expended and costs incurred in either development of a project or the finanical assistance application, or in any subsequent discussions or negotiations up to the point of formal award, are neither reimbursable nor recognizable as part of the recipient's cost share.

NMFS will determine appropriateness of all cost-sharing proposals, including the valuation of in-kind contributions, on the basis of guidance provided in Office of Management and Budget (OMB) Circular A–110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations." In general, the value of in-kind services or property used to fulfill the cost-sharing requirements will be the fair market value of the services or property. Thus, the value is equivalent to the costs of obtaining such services or property if they had not been donated. Cost sharing to be provided may include:

(a) Expenses incurred as project costs. (Not all charges require cash outlays by the grantee during the project period; examples are depreciation and use charges for building and equipment.)

(b) Project cost paid with cash contributed or donated to the grantee by other non-Federal public agencies and institutions, or private organizations or individuals.

(c) The value of in-kind contributions.

2. *Determining the Level of Cost Sharing Required.* As previously stated, the amount of a grant must be at least 50 percent of the total cost of the project. The percentage of the total cost required to be provided from non-Federal sources will be as follows:

(a) *20 percent.* For projects in which direct fishing industry participation may be limited, the non-Federal cost share shall be no less than 20 percent of the total cost. Projects in this category benefit many interest groups and, therefore, offer no unique advantage to members of the fishing industry. Projects in this category might relate to: economic of food technology research, seafood product safety, or consumer attitudes toward seafoods. Because of their nature, these projects would ordinarily be conducted by or for State or local Government entities or by non-profit organizations.

(b) *30 percent.* For projects in which direct fishing industry participation can be significant, the non-Federal cost share shall be no less than 30 percent of the total project cost. These projects contain significant or indeterminate risks which prevent an individual or group within the fishing industry from undertaking them without assistance. Projects in this category would ordinarily deal with the nontraditional species, demonstration of new harvesting gear or processing methods, the development of new fish product concepts or forms, or the enhanced use of domestically harvested fish in institutional markets or for personal consumption.

(c) *40 percent.* For projects which involve significant fishing industry participation, entail a limited risk, and in which the prospects for immediate future gain from the project are significant, the non-Federal cost share shall be no less than 40 percent of the total project cost. These projects would involve established fisheries or market as, for example, expanding the markets for fish or parts of fish normally discarded during harvesting or processing. Such projects require significant participation by individuals or groups within the fishing industry to ensure their success.

In determining the category of cost sharing in which the project belongs NMFS will consider:

(i) The project's direct benefits to the fishing and seafood industry;

(ii) The financial risk that would be assumed by members of the fishing industry in undertaking the project;

(iii) The potential of the project to generate revenues that would allow members of the fishing industry to recover costs incurred through participation in the project; and

(iv) The compatibility of the project with national fisheries development and utilization policy and its potential for national or Regional economic benefit.

A project which will benefit the general public, such as a research project dealing with the safety of fish and fish products or demonstrating advanced technologies to benefit recreational fisheries, will have a lower cost-sharing requirement than one which directly benefits only a specific segment of the fishing industry or an identifiable number of firms. Similarly, industry demonstration projects in high-risk ventures, such as those which involve the harvesting, processing, or marketing of nontraditional U.S. species, will be expected to provide lesser amounts of cost sharing than would industry projects related to species for which strong domestic or foreign markets already exist. Projects which have a high potential for fulfilling national fisheries development and utilization policy or making significant contributions to the national economy might also have a lower cost-sharing requirement than projects with a lesser potential for doing so.

D. Format

Applications for project funding must be complete. They must identify the principal participants and include copies of any agreements between the participants and the applicant describing the specific tasks to be performed. Project applications should give a clear presentation of the proposed work, the methods for carrying out the project, and its relevance to developing and strengthening the U.S. fishing industry. Applicants should not assume prior knowledge on the part of MNFS as to the relative merits of the project described in the application. The applicant is advised to contact the appropriate regional office for guidance in preparing project descriptions. Such consultations with NMFS staff will not result in more favorable consideration of any project. Applications shall be submitted in the following format:

1. *Cover Sheet.* A Federal Government standard from 424 shall be used as the cover sheet for each project within an application. Standard form 424 may be

obtained from the NMES Regional Offices or NMFS Washington Office listed in Section IV.E.

2. *Project Summary.* A summary of not more than one page shall be provided for each project within the application and shall contain the following information:

(a) Project title.

(b) Name of applicant.

(c) Primary objective of project.

(d) Summary of work to be performed.

(e) Principal geographic impact of project (local, statewide, regional, national).

(f) Total Federal funds requested; total amount and percentage of total project costs.

(g) Project costs to be provided from non-Federal Government sources; total amount and percentage of total project costs.

(h) Total project costs.

(i) Principal uses for Federal funds and amounts requested for each use (salaries, travel, vessel charter, subcontracts, equipment rental, etc.).

3. *Project Description.* Each project within the application shall be completely and accurately described. Each project description may be up to fifteen pages in length. All portions of the project description will be made available to the public and members of the fishing industry for review and comment; therefore, NMFS will not guarantee the confidentiality of any information submitted as part of any project nor will NMFS accept for consideration any project requesting confidentiality of any part of the project. Each project shall be described as follows:

(a) *Identification of Problem(s).* Describe how existing conditions prevent or impede the U.S. fishing industry from developing the fishery or using existing fisheries. In this description, identify (i) the species of fish involved, (ii) the specific problem(s) that the fishing industry has encountered, (iii) the sectors of the fishing industry that are affected, and (iv) the impact of the problem(s) on the fishing industry.

(b) *Project Goals and Objectives.* Clearly state what the project would accomplish and how this would eliminate or reduce the problem(s) described above. In addition, the impact of the proposed work should be described in terms of anticipated increased landings, production, sales, exports, product quality, safety, or any other measurable factor.

(c) *Appropriateness and Need for Government Financial Assistance.* Clearly describe why members of the fishing industry have been unable to obtain funds from other public or private sources for the proposed work. Factors which inhibit private industry from undertaking the project are of particular importance. The applicant should list all other sources of funding which are or have been sought for the project.

(d) *Participation by Persons or Groups Other Than the Applicant.* Describe (i) the level of participation by NMFS, Sea Grant, or other Government and non-Government entities, particularly members of the fishing industry, required to ensure the success of the project(s); and (ii) the nature of such participation. In addition, list names and addresses of the principal persons or groups consulted during the preparation of the project description.

(e) *Federal, State, and Local Government Activities.* List any existing Federal, State, or local Government plans or activities, including State Coastal Zone Management Plans, which would be affected by this project, and describe the relationship between the project and these plans or activities. Last names and addresses of persons contacted to provide this informtion.

(f) *Project Outline.* Describe the work to be performed during the project starting with the first month's work and continuing to the last month.

(g) *Project Management.* Describe how the the project will be organized and managed. List all persons or groups who will be involved in the project, their qualifications, and their level of involvement in the project. Provide copies of any agreements between the applicant and participants who are not directly employed by the applicant which describe the specific tasks that will be performed.

(h) *Monitoring of Project Performance.* Describe how the progress of the project would be monitored and who will participate in the monitoring. Specify what actions would be taken in the event specific project tasks become unattainable. This is particularly important in demonstration projects that can be affected by factors beyond the control of the applicant.

(i) *Evaluation of Project Results.* The applicant is required to provide an evaluation of the project when it is completed. Describe the methodology or procedures to be followed to determine the impact of the project in promoting increased landings, production, sales, exports, product quality, safety, or other measurable factors.

(j) *Project Benefits.* Describe the benefits anticipated from conducting the project and identify the sectors of the fishing industry which will receive the benefits. Benefits should be described in terms that can be measured.

(k) *Dissemination of Project Results.* Describe how the project results will be conveyed to the members of the fishing industry or others who could directly benefit from the project.

(l) *Project Costs.* Provide a detailed schedule of project costs, identifying in particular: (i) Sub-contracts, (ii) salaries, (iii) travel cost, and (iv) all other administrative and technical costs of the project. Funds will ordinarily not be granted for the purchase of capital equipment. Fee or profit will not be paid by NMFS under any funding award.

Any applicant submitting a project may request funds to cover administrative costs associated with the management of the project and the performance of functions required by the Federal Government as part of the grant award if the project is funded. These functions are identified in Section VI, A, "Obligations of the Applicant." These costs are to be identified for each project submitted. In applications containing two or more projects, administrative costs are not to be combined for all projects but must be identified separately for each individual project. The amount of administrative funds provided will be based on the actual number of projects and specific activities which will be funded.

(m) *Cost Sharing for the Project.* Specify all activities which will be funded from non-Federal sources, including in-kind contributions. State the total amount of non-Federal funds, including in-kind contributions, to be committed to the project, and specify the time at which such contributions will be available. Projects costs provided by the applicant cannot exceed percent of total project costs.

4. *Supporting Documentation.* This section shall include any required documents and any additional information necessary or useful to the description of the project. The amount of information given in this section will depend on the type of project proposed. The applicant should present any information which would emphasize the value of the project in terms of the significance of the problems addressed. Without such information, the merits of the project may not be fully understood, or the value of the project to fisheries development may be underestimated. The absence of adequate supporting documentation may cause reviewers to question assertions made in describing the project and may result in a lower ranking of the project. Reviewers will not necessarily review material provided as supporting documentation except where sufficient detail is lacking in the project description to properly

evaluate the project. Therefore, information presented in this section should be referenced in the project description, where appropriate.

E. Application Submission and Deadline

1. *Deadline.* Applications for funding under this program shall be accepted between February 1, 1983 and April 1, 1983. An application will be considered to be timely filed if (a) the application is in any of the offices listed below on or before April 1, 1983, or (b) the application is postmarked (First Class Mail) no later than March 28, 1983.

2. *Submission of Applications to NMFS.* One signed original and two (2) copies of the complete application must be submitted. Applications are not to be bound in any manner.

(a) Applications relating to a specific fishery or a particular region should be submitted to the appropriate NMFS Regional Office as specified below:

Northeast Region (Maine, Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Michigan, Minnesota): Regional Director, National Marine Fisheries Service, 7 Pleasant Street, Gloucester, MA 01930. Phone: (617) 281–3000.

Southeast Region (North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, Oklahoma, Arkansas, Tennessee, Kentucky, Missouri, Kansas, Nebraska, Iowa, Puerto Rico, Virgin Islands): Regional Director, National Marine Fisheries Service, Duval Bldg., 9450 Koger Blvd., St. Petersburg, Florida 33702. Phone: (813) 893–3142.

Southwest Region (California, Hawaii, Nevada, Arizona, American Samoa, Guam, Trust Territory of Pacific Islands): Regional Director, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. Phone: (213) 548–2575.

Northwest Region (Washington, Oregon, Idaho, Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota): Regional Director, National Marine Fisheries Service, 7600 Sand Point Way, N.E., Bin C15700, Seattle, Washington 98115. Phone: (206) 527–6150.

Alaska Region (Alaska): Regional Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. Phone: (907) 586–7221.

(b) Applications that do not directly address the development of a particular fishery or region of the country but do address broad national concerns, such as impediments to increased use of fish and fish products both domestically and abroad, industry productivity or efficiency, product quality and safety, or consumer welfare identified in Section III, Regional and National Priorities, should be sent to: Director, Office of Industry Services, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235.

NMFS shall review all applications to determine the appropriate reviewing office. NMFS determination of this matter shall be final.

V. Review Process and Criteria

A. Evaluation and Ranking of Proposed Projects

Applications which meet the requirements of this solicitation will be evaluated by the NMFS office determined by NMFS to be the most appropriate to evaluate the proposed work. This will normally be the office where the application is filed. The project(s) contained in the application will be evaluated in consultation with representatives from other Federal government agencies with programs affecting the U.S. fishing industry, members of the fishing industry, and consumer groups on the basis of technical merit. The regional and Washington offices of NMFS will make project descriptions available for review as follows:

1. Public review and comment. Regional projects may be inspected at the office to which they are submitted. All projects will be available for inspection at the NMFS Office of Industry Services, 3300 Whitehaven Street NW., Room 367, Washington, D.C. from April 12, 1983 to April 29, 1983. Written comments will be accepted at the regional or Washington offices until April 29, 1983.

2. Consultation with members of the fishing industry. NMFS shall, in its discretion, request comment from members of the fishing industry who have knowledge in the area of a project or who would be affected by a project.

3. Consultation with Government agencies. Projects will be reviewed in consultation with NMFS Research Centers and Utilization Laboratories, Regional Fisheries Management Councils, and the appropriate NOAA Grants/Contracts Offices. The appropriate Regional Fisheries Management Council may be asked to review projects and advise of any real or potential conflicts with Council activities.

A technical evaluation of each project will be conducted. If an application contains two or more projects, the projects will be evaluated separately. All comments submitted to NMFS will be taken into consideration in the technical evaluation of projects. Projects will be given point scores based on the following criteria:

(a) Adequacy of research/development/demonstration for resolving an impediment and possibilities of securing productive results (20 points).

(b) Soundness of design/technical approach for resolving an impediment (20 points).

(c) Organization and management of the project, including qualifications and previous related experience of the management team and the personnel involved (20 points).

(d) Effectiveness of proposed methods for monitoring and evaluating the success or failure of the project in resolving an impediment (20 points).

(e) Appropriateness of the budget in terms of the work to be performed (20 points).

A panel of NMFS, fishing industry, consumer representatives, and others, as appropriate, will be convened by each reviewing office to rank the projects filed with the office. The panel will consider the significance of the problem addressed in the project along with the technical evaluation and will rank each project in terms of importance or need for funding. The panel will make recommendations on the level of funding to be awarded for each project and the merits and benefits of funding each project.

B. Funding Awards

After projects have been evaluated by the reviewing offices, recommendations for project funding will be developed by the Regional Directors for regional projects and the Director, Office of Industry Services for national projects. The recommendations will be submitted to the Assistant Administrator for Fisheries for review. The Assistant Administrator for Fisheries will determine the number of projects to be funded based on the recommendations provided to him, consistency of projects with national fisheries policy, and the amount of funds available for the program.

The exact amount of funds to be awarded for a project will be determined in preaward discussions between the applicant and NOAA/NMFS Program and Grants representatives. The form of the financial assistance agreement and the award will be determined by NOAA Grants Officers. All applications will be approved or Misapproved before July 30, 1983. Projects approved and

recommended for funding will be subject to review by the Secretary of Commerce before funding is authorized.

VI. Administrative Requirements

A. Obligations of the Applicant

An Applicant shall:

1. Meet all application requirements and provide all information necessary for the evaluation of the project.

2. Be available, upon request, in person or by designated representative, to respond to questions during the review and evaluation of the project(s).

3. If a project is funded, manage the day-to-day operations of the project, be responsible for the performance of all activities for which funds are granted, and be responsible for the satisfaction of all administrative and managerial conditions imposed by NMFS.

4. If a project is funded, keep records sufficient to disclose the use made of grant funds, provide an audit of the use of funds, and allow access to records for audit and examination by the Secretary, the Comptroller of the United States, or their authorized representatives.

5. If a project is funded, submit quarterly project status reports to NMFS within thirty days after the end of each calendar quarter, on the use of funds and progress of the project. These reports shall specify, for each project funded:

(a) Whether goals or objectives are being achieved within projected time periods;

(b) Where necessary, state reasons why goals or objectives are not being met;

(c) Any changes in plans or redirection of resources or activities and the reason therefor;

(d) Such report shall be submitted within the time and to the individual specified in the funding agreement.

6. If a project is funded, submit a final report within 90 days after the end of each project. This report shall describe the project and include an evaluation of the work performed and the results and benefits of the work in sufficient detail to enable NMFS to assess the completed project for its annual report to Congress as specified in subsection B(6) of this section. Results should be described in relation to the project objectives of resolving specific impediments, and should be quantified to the extent possible. Potential uses of project results in private industry should be specified. Any conditions or requirements necessary to make productive use of project results should be identified.

7. If project is funded, comply with Office of Management and Budget Circulars A–102 (for use by states and local governments) and A–110 (for use by universities, hospitals and other non-profit organizations) which provide standards for financial management systems of financial assistance (grant or cooperative agreement) activities.

Consistent with the OMB Circulars, the following is a description of audit requirements under the Saltonstall-Kennedy Program by type of recipient.

States and Local Governments: Grant or cooperative agreement recipients which are states or local governments should have audits conducted in accordance with Attachment P of OMB Circular A–102.

Educational Institutions: Grant or cooperative agreement recipients which are educational institutions will be audited by their cognizant Federal audit agency. The cognizant agency for each educational institution is listed in OMB Circular A–88. Upon completion of a specific financial assistance award or on a regularly scheduled basis, the cognizant Federal audit agency will conduct an audit of the institution's financial management system.

Hospitals and Other Non-Profit Organizations: Grants or cooperative agreement recipients which are hospitals or other non-profit organizations must have audits conducted by Independent Public Accountants (IPA's) in accordance with the General Accounting Office *Standards for Audit of Government Organizations, Programs, Activities and Functions.* The grant or cooperative agreement recipient is responsible for arranging for the audit to be conducted by an IPA. Under the Saltonstall-Kennedy Program, non-profit organizations are required to obtain an audit of any project where the estimated cost of the grant or cooperative agreement is $100,000 or more, and/or where sub-award(s) of $50,000 or more to non-profit organizations are contemplated.

Other: All other recipients will follow procedures established for hospitals and other non-profit organizations.

8. Submit such additional reports as may be required by NMFS.

B. Obligations of the National Marine Fisheries Service

NMFS shall:

1. provide all forms and exlanatory information necessary for the proper submisson of applications for fisheries development and utilization projects;

2. provide advice, through NMFS Office servicing the applicant's area, to inform applicants of NMFS fisheries development policies and goals;

3. when projects submitted to regional offices are approved for funding, the NMFS Regional Director of such regional office shall inform the applicant of all requirements and conditions for the use of such funds;

4. monitor all projects to ascertain their effectiveness in achieving project objectives and in producing measurable results. Actual accomplishments of a project will be compared with intended or anticipated accomplishments.

5. make project results and reports available upon request to Congress, public agencies or the public.

6. include in the annual report to Congress a description of all funded projects, a list of applications approved and disapproved, the total amount of grants made during the current fiscal year and the extent to which available funds were not obligated or expended for such fiscal year. The report shall also include an assessment of each funded project that was completed in the proceding year in terms of the extent to which project objectives were attained and the extent to which it contributed to fishery development.

C. Legal Requirements

The applicant shall be required to satisfy the requirements of applicable local, State and Federal Laws.

(Federal Domestic Assistance Catalogue No. 11.427 Fisheries Development and Utilization Research and Demonstration Grants and Cooperative Agreements)

Signed at Washington, D.C. this 18th day of January 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

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Poultry and Poultry Products
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Quarantine
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The President

Proclamation 5014 of January 20, 1983

Tricentennial Anniversary Year of German Settlement in America

By the President of the United States of America

A Proclamation

On October 6, 1683, a group of thirteen Mennonite families, coming from the city of Krefeld, now in the Federal Republic of Germany, founded Germantown, Pennsylvania, today a suburb of Philadelphia. Since then, more than seven million German immigrants have entered the United States and made extraordinary human, economic, political, social, and cultural contributions to the growth and success of our great country.

Today there are more than sixty million Americans of German descent, a number about equal to the total population of the Federal Republic of Germany. More Americans claim German ancestry than any other nationality.

During my address to the Bundestag in Bonn in June of last year, I spoke of the importance which the United States attaches to the Tricentennial year of 1983 commemorating German settlement in America. Despite the legacy of two world wars which found us on opposing sides, West Germany and the United States have forged an exceptionally close relationship during the past three decades. The success of the Marshall Plan, the Berlin Airlift, and the ensuing NATO partnership have led to a recognition of our common democratic ideals and joint interest in Western economic and political strength.

Throughout 1983 there will be numerous activities and observances to celebrate the Tricentennial. President Karl Carstens has accepted my invitation to attend the culminating event in Philadelphia next October.

The Congress, by Senate Joint Resolution 260, has designated 1983 as the "Tricentennial Anniversary Year of German Settlement in America" and has authorized and requested the President to issue a Proclamation in observance of that year. By the same Resolution, the Congress established the Presidential Commission for the German-American Tricentennial to plan, encourage, develop and coordinate the commemoration of this historic event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the year commencing on January 1, 1983, as the Tricentennial Anniversary Year of German Settlement in America, and urge all Americans to observe the year with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of Jan., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

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Red Cross Month, 1983

By the President of the United States of America

A Proclamation

American Red Cross volunteers are among the millions of citizens who quietly serve their fellow man. Since the first settlement on our shores, a volunteer spirit has characterized the American way. This spirit has been reflected in the actions of the neighbor who is always ready to lend a hand.

The services performed by the Red Cross provide us with benefits that would otherwise cost billions of dollars. Last year, it was the volunteer who—giving freely of his or her time, energy, and talent—made it possible for the Red Cross to collect and provide the ill and injured with nearly six million units of blood. Volunteers established shelters to feed and attend to disaster victims, conducted thousands of courses to improve the quality of life by teaching nutrition, first aid, water safety, home nursing, and preparation for parenthood. The volunteer reached out to our young people, to members of the military, to veterans, and to the elderly and through personal contact eased their loneliness and fears.

For 102 years, the American Red Cross has been an essential ingredient of American life, helping us to learn, to grow, and to prosper. In accordance with this year's theme: "The Red Cross. We'll Help. Will You?" I urge all Americans to donate their time and financial resources in support of Red Cross activities. By giving of ourselves, we give the greatest gift one human being can give another—the gift of love.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America and Honorary Chairman of the American National Red Cross, do hereby designate March 1983 as Red Cross Month.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of Jan., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-2027
Filed 1-21-83; 10:37 am]
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Presidential Documents

Proclamation 5016 of January 20, 1983

National Consumers' Week, 1983

By the President of the United States of America

A Proclamation

A major function of our competitive free enterprise economy is to satisfy consumer demand. The effective demand of consumers is what keeps producers in the business of supplying goods and services and is vital to keeping the wheels of industry turning. Therefore, it is most important that we fully recognize the crucial role consumers play in our economy.

Everyone is a consumer, but too often this role is the most neglected in terms of preparation and training. In our complex market economy major decisions have to be made about living within our means; protecting our futures through insurance, pension plans, and investments; choosing goods and services from our global marketplace; and voting on issues directly affecting our public and private consumption. Because consumer and economic education can contribute immeasurably to our competence as consumers and citizens, it should be started in the schools at the earliest possible time.

Consumers should have access to a wide assortment of competitively priced goods and services produced here and abroad; accurate information on product content and care, on contractual agreements, on the cost of credit—essentially whatever facts are needed to make an informed choice. But of greatest importance to consumers and private enterprise is protection against the marketing of goods that are hazardous to health or life, a fair hearing of complaints with appropriate remedies where justified, and dutiful consideration of consumer concerns at all levels of government.

It is clear that the greatest fairness for consumers can be achieved through the active cooperation of business, government, and consumers themselves working to insure equity, increased competition, and safety in our free market economy.

Because an effective and efficient system of commerce depends on an informed and educated public, I urge schools, public and private agencies, and all appropriate public-spirited groups to advance consumer competence by helping provide the necessary consumer and economic information for all our citizens to make well thought-out choices in the marketplace. While the responsibility for consumer education rests primarily with the individual, the communications media and other interested organizations and institutions play an instrumental part in furthering the understanding of American consumers. I urge consumers to avail themselves of this valuable information and to wisely select the goods and services they seek.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning April 24, 1983 as National Consumers' Week.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th. day of Jan., in the year of our Lord nineteen hundred and eight-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-2028
Filed 1-21-83; 10:38 am]
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Federal Register
Vol. 48, No. 16
Monday, January 24, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-346]

Imported Fire Ant Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the list of regulated areas under the imported fire ant quarantine and regulations by (1) designating previously nonregulated areas in Alabama and Georgia as generally infested areas; (2) expanding previously designated generally infested areas in Alabama, Mississippi, and South Carolina; and (3) deleting a previously designated suppressive area in Alabama. The quarantine and regulations, among other things, impose restrictions on the interstate movement of regulated articles from generally infested areas. This action is necessary in order to prevent the artificial spread of the imported fire ant and to delete unnecessary restrictions on the interstate movement of regulated articles.

EFFECTIVE DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The amendment has been issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department it has been determined that the amendment will have an estimated annual effect on the economy of less than $2500; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512-1.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action affects the interstate movement of regulated articles from specified areas in the States of Alabama, Georgia, Mississippi, and South Carolina. There are thousands of small entities that move such articles interstate from those States and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the Department, it has been determined that approximately 130 small entities move such articles interstate from the specified areas in those States. Further, the overall economic impact from this action is estimated to be less than $2500.

Background

A document published in the Federal Register on September 17, 1982, (47 FR 41096-41099), set forth an interim rule amending § 301.81-2a of the imported fire ant quarantine and regulations (7 CFR 301.81-2a). The document amended the quarantine and regulations by (1) designating previously nonregulated areas in Alabama and Georgia as generally infested areas; (2) expanding previously designated generally infested areas in Alabama, Mississippi, and South Carolina; and (3) deleting a previously designated suppressive area in Alabama.

The amendment became effective on the date of publication. The document provided that the amendment was necessary as an emergency measure in order to prevent the artificial spread of the imported fire ant and to delete unnecessary restrictions on the interstate movement of regulated articles.

Comments were solicited for 60 days after publication of the amendment. No comments were received in response to the amendment. The factual situations which were set forth in the document of September 17, 1982, still provide a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the Federal Register on September 17, 1982.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantines, Transportation, Imported Fire Ant.

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477 as amended; 38 FR 19141)

Done at Washington, D.C., this 18th day of January 1983.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-1799 Filed 1-21-83; 8:45 am]
BILLING CODE 3410-34-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Air Florida, Inc. and Air Ontario, Limited

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Air Florida, Inc. and Air Ontario, Limited to the listing of carriers which have entered into agreements with the Service for the preinspection of their passengers and crews at locations outside the United States. Preinspection outside the United

States facilitates processing passengers and crews upon arrival at a U.S. port of entry, and is a convenience to the traveling public.

EFFECTIVE DATES: Agreement with Air Florida, Inc. is December 1, 1982 and agreement with Air Ontario, Limited is December 7, 1982.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of the Immigration and Naturalization Service has entered into agreements with the following carriers to provide for the preinspection of its passengers and crews as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)):

At Montreal, Canada	Effective
Air Florida, Inc	Dec. 1, 1982.
Air Ontario, Limited	Dec. 7, 1982.

At Toronto, Canada	Effective
Air Florida, Inc	Dec. 1, 1982.
Air Ontario, Limited	Dec. 7, 1982

Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds an air carrier to the present listing and is editorial in nature.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Government contracts, Inspections.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

1. Section 238.4 is amended as follows:

a. Add in alphabetical order, "Air Florida, Inc." and "Air Ontario, Limited", under "At Montreal".

b. Add in alphabetical order, "Air Florida, Inc." and "Air Ontario, Limited", under "At Toronto".

c. Remove "Great Lakes Airlines Limited" under "At Montreal".

d. Remove "Great Lakes Airlines Limited" under "At Toronto".

* * * * *

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: January 17, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 83-1886 Filed 1-21-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket Number 82-015F]

Exemptions for Certain Poultry Slaughter and Processing Operations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This is a final rule amending the Federal poultry products inspection regulations to implement Pub. L. 97–206 which revised the Poultry Products Inspection Act by increasing the number of turkeys which may be slaughtered and processed by certain small enterprises without inspection under the Act, and by denying exemptions to enterprises which share their slaughter or processing facilities with other enterprises.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. James E. Harbottle, Staff Officer, Meat and Poultry Inspection Operations, Inspection Coordination Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7905.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made an initial determination that this final rule is not a "major" rule under Executive Order 12291 because no new costs are being imposed on the affected industry or others. The rule benefits certain segments of the industry by increasing the number of turkeys allowed to be slaughtered and processed without inspection and provides turkey producers an opportunity to increase their annual production without imposing any additional inspection costs. Consequently, this action is not anticipated to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Background

On June 30, 1982, Pub. L. 97–206 was adopted (96 Stat. 136). This law amends the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) by increasing the number of turkeys which a producer may slaughter and/or process annually without inspection for distribution in intrastate commerce. The new law requires, however, that any such poultry producer or other person who slaughters and/or processes poultry at a facility used by another for the same purpose, regardless of the amount, must have the poultry inspected, except when the Secretary grants an exemption from the inspection.

One of the requirements of the PPIA is that the Secretary of Agriculture, through appointed inspectors, provide ante-mortem and post-mortem inspection of poultry and poultry products to assure that such products, when distributed to the consumer, are wholesome, not adulterated, and properly marked, labeled, and packaged.

However, section 15 of the PPIA contains several inspection exemptions for small producers who slaughter and process their own poultry, for their own use, and for other small enterprises distributing poultry products in intrastate commerce.

Prior to the recent amendment, the PPIA provided that certain small producers could raise, slaughter and/or process, and distribute in intrastate commerce up to 5,000 turkeys annually or an equivalent number of any other poultry species (4 birds of another species being considered equivalent to 1 turkey) without inspection. The amendment increased the exemption from 5,000 to 20,000 turkeys, and eliminated the distinction between turkeys and other birds. However, these producers continue to be subject to other provisions of the Act, particularly labeling and sanitary requirements.

Additionally, under the previous provisions of the PPIA, producers who slaughtered less than 250 turkeys or 1,000 birds of another species were exempt from all requirements of the PPIA, provided that the poultry was raised on their farms and not distributed in interstate commerce. The amendment increased the exemption from 250 to 1,000 turkeys, and eliminated the distinction between turkeys and other birds. The intention of these provisions was to allow small poultry producers to realize a profit without being burdened by costly Federal regulations.

The legislative history indicates that at the time of the PPIA's implementation, Congress was concerned about the small producers who sold their own slaughtered birds and the imposition of burdensome regulations upon them. Another consideration appears to have been that the average carcass weight or gross income from an average turkey carcass is approximately 5 times greater than that of an average chicken carcass. As such, it appears likely that this was the rationale for the turkey/other species bird ratio.

Legislative Change

Turkey producers have asserted that the PPIA equivalency ratio of 4 birds equaling 1 turkey is discriminatory, and therefore the exemption limit should be the same regardless of the bird's species. The contention of small turkey producers was that the 5,000 exemption limit prohibited them from earning an adequate income, and slaughtering more turkeys would have required them to come under inspection, thus placing additional requirements and costs on their operations.

In view of this situation, the turkey industry sought to revise the exemption limit. In response to their efforts, House Resolution 3863 was introduced into Congress. It raised the number of turkeys which could be slaughtered and processed without inspection. On June 30, 1982, Pub. L. 97-206 was adopted which increased the annual turkey exemption limit from 5,000 to 20,000. The 20,000 limit is now equivalent to the existing exemption limit of 20,000 birds of other species (4 birds equal 1 turkey: $5,000 \times 4 = 20,000$). To correspond with this increase, the law also raised the turkey slaughter exemption limit as it applies to poultry producers raising their own turkeys from 250 to 1,000. Again, the 1,000 limit is equivalent to the existing limit of 1,000 birds of another species ($250 \times 4 = 1,000$).

A new provision was also added to the PPIA concerning the eligibility of any person slaughtering or processing poultry products for exemption from inspection. The provision prohibits inspection exemptions for any person slaughtering or processing poultry products at a facility used by another person for the same purpose. However, the provision is further qualified, inasmuch as it grants the Secretary the authority to allow exemptions to any person if he determines, after reviewing the application of such person, that the exemption would not circumvent the intent of the PPIA.

Final Rule

Section 381.10(b) of the Federal poultry products inspection regulations [9 CFR 381.10(b)] provides that no person is qualified for certain exemptions from inspection if such person slaughters or processes more than 5,000 turkeys or the equivalent number of birds of another species (or 20,000). Section 381.10(c)(1) of the poultry products inspection regulations (9 CFR 381.10(c)(1)) provides that any poultry producer is exempt from the PPIA if he slaughters not more than 250 turkeys or the equivalent number of birds of another species (or 1,000) raised on his own farm. Therefore, in order to implement the revisions to the PPIA made by Pub. L. 97-206, the Agency is revising the relevant portions of the poultry products inspection regulations.

Section 381.10(b) (9 CFR 381.10(b)) is amended by changing the phrase "5,000 turkeys or an equivalent number of poultry of all species in the calendar year (four birds of other species being deemed the equivalent of one turkey)" to "20,000 poultry" and setting forth the new condition which would disqualify any person for exemption from inspection.

Section 381.10(c)(1) (9 CFR 381.10(c)(1)) would be amended by substituting the phrase "1,000 poultry" for "250 turkeys, or not more than an equivalent number of birds of all species," and by deleting the phrase "(4 birds of other species being deemed the equivalent of 1 turkey)".

List of Subjects in 9 CFR Part 381

Poultry products inspection, Exemption.

PART 381—[AMENDED]

Accordingly, § 381.10 of the poultry products inspection regulations (9 CFR 381.10) is amended by revising paragraphs (b) and (c)(1) to read as follows:

§ 381.10 Exemptions for specified operations.

* * * * *

(b) No person qualifies for any exemption specified in paragraph (a)(5), (6), or (7) of this section if, in the current calendar year, such person:

(1) Slaughters or processes the products of more than 20,000 poultry, or

(2) Slaughters or processes poultry products at a facility used for slaughtering or processing poultry products by any other person, except when the Administrator grants such exemption after determining, upon review of a person's application, that such an exemption will not impair effectuating the purposes of the Act.

(c) * * *

(1) Such producer slaughters not more than 1,000 poultry during the calendar year for which this exemption is being determined;

* * * * *

(71 Stat. 441, as amended, 21 U.S.C. 451 *et seq.*)

Pursuant to the provisions contained in 5 U.S.C. 553 this action is being implemented as a final rule. The Agency has determined that notice and comment requirements are unnecessary because the action is merely revising the poultry products inspection regulations to reflect the statutory provisions contained in Pub. L. 97-206.

* * * * *

Done at Washington, D.C. on January 7, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-1796 Filed 1-21-83; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-104-AD; Amdt. 39-4543]

Airworthiness Directives; Fairchild Republic Model F-27 and FH-227 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On October 27, 1982, the FAA issued telegraphic Airworthiness Directive (AD) T82-22-51, effective upon receipt, to all known U.S. operators of Fairchild Republic F-27 and FH-227 airplanes, certificated in all categories. The AD required inspection and replacement, if necessary, of the moisture separator assemblies. The inspection was necessary after the

failure of a moisture separator assembly in flight which resulted in a wheel well fire. This amendment publishes the telegraphic AD in the Federal Register making it effective to all persons.

DATES: Effective February 3, 1983. This AD was effective earlier to all recipients of telegraphic AD T82-22-51 dated October 27, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Vito Pulera, Aerospace Engineer, Systems and Equipment Section, ANE-173, Federal Aviation Administration, New York Aircraft Certification Office, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581; telephone (516) 791-6427.

SUPPLEMENTARY INFORMATION: On October 27, 1982, the FAA issued telegraphic AD T82-22-51 which required inspection and subsequent replacement, if necessary, of the pneumatic system moisture separator assemblies. This action was the result of an accident which occurred on an FH-227 after failure of a moisture separator in flight which resulted in a wheel well fire destroying the adjacent structure and part of the fuselage. The separator shell failed under pressure and severed a fuel line. Fuel in the wheel well ignited at touchdown. This AD publishes the telegraphic AD in the Federal Register. Since this condition is likely to exist or develop on other airplanes of this same type design, this AD requires inspection of all miosture separator assemblies. This AD is now published to make it effective to all persons.

Since a situation existed, and still exists, that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Fairchild Republic: Applies to Fairchild Republic Models F-27 and FH-227 airplanes certificated in all categories. To prevent moisture separator assembly shell failure, accomplish the following:

A. Prior to accumulating 100 landings or within 20 days, whichever occurs first, unless accomplished with the last 12 months, inspect the aircraft's moisture separator assembly P/N's 890469, 890469-01, 890469-02, 891572, or 891572-01, as applicable (two per aircraft), for the following:

(1) Any of the above separator assemblies having upper shell assemblies P/N 841665 or 841665-01 which have been in service for three years or 20,000 cycles, whichever occurs first, must be immediately removed from service and replaced with a serviceable shell assembly.

(2) Any shell assembly P/N 841665 or 841665-01 confirmed to have been installed less than three years or 20,000 cycles accumulated service, whichever comes first, which has not had the annual fluorescent penetrant inspection of shell assembly specified by the Walter Kidde Maintenance and Overhaul Manual F-41024B must be removed from service for the inspection and overhaul specified. Strict compliance with the crack and corrosion detection criteria of the Walter Kidde Manual is mandatory.

(3) Any shell assembly P/N 841665 or 841665-01 with manufacturing dates stamped on the top of the shell housing prior to September 1979 which have never been in service must be inspected in accordance with Kidde Manual F-41024B before being put in service.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective February 3, 1983, and was effective earlier to those recipients of Telegraphic AD T82-22-51 dated October 27, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT**".

Issued in Seattle, Washington on January 14, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-1621 Filed 1-21-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 76-CE-1-AD; Amdt. 39-4540]

Airworthiness Directives; Cessna 300 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, Revision of Existing Airworthiness Directive (AD).

SUMMARY: This amendment revises Airworthiness Directive (AD) 76-08-02, Amendment 39-2582, as revised by Amendment 39-2608, applicable to Cessna 300 and 400 series airplanes. The manufacturer has demonstrated to the FAA that certain additional strobe lights are explosion proof and advises that they have been installed on affected airplanes and deactivated per AD 76-08-02. Accordingly, the applicability statement of AD 76-08-02 is being revised to exclude those airplanes on which these additional strobe lights have been installed. The exclusion of aircraft equipped with these strobe lights will permit activation of the lights by the lights by the operator and increase the level of safety in the operation of these airplanes.

DATES: Effective January 31, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Information pertaining to this revision is contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: James Leeder, Aerospace Engineer, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67208; Telephone (316) 260-7008.

SUPPLEMENTARY INFORMATION: The FAA issued AD 76-08-02, Amendment 39-2582 (41 FR 16451, 16452) as revised by Amendment 39-2608 (41 FR 20159) applicable to Cessna 300 and 400 series airplanes, which requires deactivation of the strobe light system when strobe lights which had not been demonstrated to be explosion proof were installed. Subsequent to this action, the airplane manufacturer has demonstrated to the FAA that Symbolic Displays P/N 30-0199-1, 30-0199-2, 31-0725-1 and 30-0329 and Grimes P/N 30-1172-5 strobe lights are explosion proof and has been installing these strobe lights on certain airplanes to which AD 76-08-02 is applicable. Although these lights meet established safety criteria, the AD

requires that they be deactivated. This requirement is no longer necessary and in fact derogates safety by prohibiting use of an installed system which would increase the visibility of the affected airplanes and reduce the possibility of inflight collisions. Accordingly, the applicability statement of AD 76-08-02 is being revised to exclude those airplanes on which the above-mentioned strobe lights are installed.

Since this amendment is both clarifying and relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, AD 76-08-02, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising the first paragraph of the applicability statement to read as follows:

Cessna: Applies to the following models of airplanes if equipment with strobe lights installed in the wing tip fuel tank nose cap, except those airplanes having Symbolic Displays, P/Ns 30-0005, 30-0199-1, 30-0199-2, 30-0199-3, 30-0329, 31-0725-1 and 701133-1, Whelen Engineering Company, Inc., P/N A430, and Grimes Manufacturing Company (Grimes) P/Ns 30-0515-5, 30-1172-1, 30-1172-5, 30-0531-1 and 30-0467-5 strobe lights.

This amendment becomes effective January 31, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(a)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this amendment involves revision of a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), because its effect on the economy reduces a regulatory burden.

Issued in Kansas City, Missouri, on January 13, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-1792 Filed 1-21-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-ANE-27; Amdt 39-4541]

Airworthiness Directive; Switlik Parachute Company, Inc., Life Preservers/Individual Flotation Devices

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) to identify faulty inflation valves in Switlik Parachute Company, Inc., life preservers/individual flotation devices, and to replace them in accordance with Switlik Service Bulletin 25-00-16, dated April 1, 1982. This AD is prompted by reports of failure of these devices to inflate properly. Failure to inflate could result in possible loss of life under emergency ditching conditions.

DATES: Effective February 28, 1983. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Switlik Parachute Company, Inc., 1325 East State Street, Trenton, New Jersey 08607.

A copy of the service bulletin is contained in the Rules Docket, Federal Aviation Administration, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Kenneth Tunjian, Systems and Equipment Section (ANE-173), New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6427.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD to identify faulty inflation valves in Switlik Parachute Company, Inc., life preservers/individual flotation devices, and to replace them in accordance with Switlik Service Bulletin 25-00-16, dated April 1, 1982, was published in the **Federal Register** at 47 FR 34430, August 9, 1982. The proposal was prompted by reports of failures of these devices to inflate properly.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Comments were received from nine operators. Five commenters agreed with the proposed compliance time, one requested an extension to 24 months, one requested an extension to 36 months, one requested an undefined extension, and one described the proposal as unnecessary.

The FAA believes that the proposed AD is necessary because failure to inflate could result in possible loss of life under emergency ditching conditions. The FAA has changed the compliance time from 18 months to 24 months after the effective date of the AD because of the low probability of required life preserver/individual flotation device use in planned ditching. This change responds to requests of three operators to extend the compliance time so that the proposed inspection could be performed within their regularly scheduled overhauls.

List of Subjects in 14 CFR Part 39

Life preservers, Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Switlik Parachute Company, Inc. Applies to inflatable life preservers and individual flotation devices, all models and part numbers, manufactured between June 1, 1981, and March 22, 1982.

Compliance required within the next 24 months after the effective date of this AD, unless previously accomplished.

To detect life preservers and flotation devices which have CO_2 inflation valve manifolds that may operate improperly, and to correct the deficiency, perform the following in accordance with the Accomplishment Instructions, Paragraph 2, of Switlik Parachute Company, Inc., Service Bulletin 25-00-16, dated April 1, 1982:

1. Inspect the lower shoulder of the valve stem for a thin groove (1/16 to 1/32 inch wide). If the groove is not present, the air check valve is acceptable.

2. If the groove is present, the air check valve must be replaced and the faulty valve discarded.

3. After installation of the replacement air check valve, inflate the life vest cell and test the operation of the air check valve.

An equivalent method of compliance may be approved upon request to the Manager, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the compliance time of this AD may be adjusted upon request to the Manager, New York Aircraft Certification Office, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

All persons affected by this directive who have not already received the manufacturer's service bulletin may obtain a copy upon request to Switlik Parachute Company, Inc., 1325 East State Street, Trenton, New Jersey 08607. This document may also be examined at Federal Aviation Administration, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Note.—Because this is a one-time action that may be accomplished in conjunction with other scheduled actions, and the cost is estimated at less than $2 per unit, the FAA has determined that this document involves a regulation which is not considered to be (1) major under Executive Order 12291; or (2) significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) it is certified that under the criteria of the Regulatory Flexibility Act the rule will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared for this document, is contained in the public docket, and a copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on January 13, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 83-1619 Filed 1-21-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-NW-58-AD; Amdt. 39-4542]

Airworthiness Directives: Boeing Model 727 and 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) that requires installation of equipment that will provide a positive indication to the flight crew of the normal and unwanted operation of each engine starter on Boeing Model 727 and 737 series airplanes. There have been numerous incidents involving undetected, prolonged starter operation during takeoff and in-flight that have resulted in the destruction of the starter and subsequent damage to flammable fluid lines and electrical wiring, engine compartment fires, and loss of portions of the engine cowling. Destruction of the starter has also caused serious injuries to maintenance personnel during airplane ground operations. This AD is necessary to assure that the crew will have a positive warning of unwanted starter operation.

DATE: Effective February 28, 1983. Compliance schedule as prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Mullin, Aerospace Engineer, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington; telephone (206) 767-2520. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 (14 CFR Part 39) of the Federal Aviation Regulations to include an AD requiring the installation of equipment that will provide a positive indication to the flight crew of normal and unwanted operation of each engine starter on Boeing Model 727 and 737 series airplanes was published in the **Federal Register** on March 22, 1982 (47 FR 12186). Two additional notices which extended the comment period until July 31 and then further extended it to October 10, 1982, were published in the **Federal Register** on July 6, 1982 (47 FR 29255), and September 16, 1982 (47 FR 40809), respectively. Interested persons have been afforded the opportunity to participate in the making of this amendment and due consideration has been given to all relevant data and comments provided. A total of 63 comments were received concerning the proposed rule from the type certificate holder, domestic and foreign operators of the affected airplane models, and other interested parties. Several substantive changes and changes of an editorial and clarifying nature have been made to the proposed rule based upon the comments received and upon further review within the FAA.

Discussion of Comments

A discussion of the major comments received and the FAA's position thereon follows:

Four of the comments addressed the statistical trends of reported starter overrun incidents and recommended that no mandatory action be taken due to the stable or decreasing rate of these incidents. The FAA does not accept this rationale for this type of occurrence. While studies have consistently shown that the rate of starter overruns is not statistically alarming (0.58 per month in 1981), it has repeatedly demonstrated its potential for causing extensive engine compartment damage, such as fuel-fed fires, loss of critical systems, and loss of significant portions of engine cowling. There have been 78 reported starter overrun incidents since 1975.

Thirty-eight of the comments stated that the existing systems and available procedures are adequate to control the situation. The FAA does not agree. The existing production design utilizes the airplane's pneumatic manifold pressure indicating system to indicate the opening and closing of the start valve. The pressure transmitter for this system is located approximately 14 feet from the respective engine starter on the Model 727 and 37 feet from the respective starter on the Model 737. If all associated systems are operating correctly on the airplane, the pneumatic manifold pressure indicator will provide an indication of the operation of the start valve; however, due to the remote location of the pressure transmitter from the start valve and the many additional factors which can affect the pressure indication, the manifold pressure system cannot provide a positive indication of start valve operation. The FAA position relative to the starter turbine wheel containment device and the start valve vendor design improvements were discussed in the NPRM and have not changed. The containment device is intended to stop the large mass of the escaping starter turbine. It does not provide containment of all parts being expelled nor can it retain the vaporized oil mixture which is released from the starter during the destruction. It is this vaporized oil which is believed to be explosively ignited during destruction and thereby creating a pressure rise sufficient to cause the loss of engine cowling. The start valve vendor improvements have improved the level of airworthiness of the valve and will probably contribute to a reduction of starter overrun incidents. However, no single improvement or combination of improvements can provide the inherent safety of a positive indication of starter operation.

The manufacturer has elected to incorporate a start system pressure indicating system on new production Model 737 series airplanes beginning in the fall of 1982.

Thirteen commenters objected to the 12-month compliance period proposed in the NPRM. Due to parts availability and the possible lengthy period that each airplane would be unavailable for flight operations during the incorporation of an acceptable indicating system, an unacceptably large portion of each

operator's fleet would be unintentionally grounded. The FAA agrees with this assessment and the compliance period in the rule as adopted has been revised upward to 24 months.

One commenter noted that the proposed rule did not identify what actions the flight crew might take once an unwanted starter operation is indicated. Therefore, subparagraph B.2. of the text has been revised to include the general actions that are considered necessary when an unwanted starter operation is indicated.

One commenter objected to the reference to the FAA-approved airplane flight manual in the text of the proposed rule. The text has been changed to reflect that this refers to the manual which must be carried on the airplane, according to the rules under which it is operated.

One commenter proposed that the final system include a means of activating the existing master caution system. The FAA believes that this is not currently necessary. As indicated in the text, the FAA's Seattle Aircraft Certification Office must approve each proposed indicating system. Possible complying systems that are currently envisioned by the FAA include the indicators being located on the pilots' center instrument panel. This location would place the indicators within the normal field of vision of the crew, making additional caution cues unnecessary. However, if systems are proposed which would place the indicators of starter operation outside of the pilots' normal field of vision, then some means of drawing the crew's attention to the indication will be necessary. The complexity and costs of such systems would be inherently higher since additional design features would be necessary to inhibit nuisance cautions during normal engine starts.

Two comments were received which suggested that valuable information would be wasted if new crew procedures were created which excluded cross-checking of the existing pneumatic pressure indications during normal engine starts. This was never the intention of the FAA. It is envisioned that crew cross-checking of pneumatic pressure indications will still exist and be utilized in conjunction with the new system. As indicated earlier in the discussion, the pneumatic duct pressure gauge is an indication of starter operation, albeit not a positive indication, and as such it will retain some importance during normal ground engine starting operations.

Three of the comments received requested that if a final rule is promulgated, it contain an allowance for continued operations with the indicating system inoperative in accordance with the minimum equipment list (MEL). Systems or procedures that would provide an equivalent level of safety to the specified indicating system would be necessary in order to grant this request. Inoperative equipment operations will be reviewed on a case by case basis with respect to the indicating system utilized and the proposed MEL operating procedures. A clarifying statement has been added to the text concerning this issue.

Thirteen comments were received which indicated that duct pressure indicating systems such as those that have been offered as a customer option by the type certificate holder can induce other operational problems, i.e., false indications, unwarranted engine shutdowns, aborted takeoffs and flights, etc. This rule permits the widest possible latitude in system selection for the airplane operators. Several other types of systems with the potential of providing the type of operation indication are feasible and have been utilized in other similar applications. Twelve commenters indicated a desire to utilize other possible alternate systems. This rule also provides for the approval of alternative systems. Operators who wish to incorporate systems which accomplish the intent of the rule or systems and procedures that will provide an equivalent level of safety should submit these proposals to the Seattle Aircraft Certification Office.

One commenter requested that the proposed rule be withdrawn and action taken with individual operators who have experienced starter failures through the cognizant FAA Flight Standards Field Offices. The FAA disagrees with this position. Most starter failures are not caused by any particular act or omission on the part of an operator's operations or maintenance personnel.

Seven commenters asked if improving the level of airworthiness of the starters and/or start valves would not be a more effective approach to solving the problem. This option was evaluated by the FAA, and it was adjudged to be more economical and effective to require the installation of an indicating system. From the standpoint of the starter, since they are not designed for continuous operations, it would have to be designed to be fail-safe. This would require the development of a new starter, qualification on the engine/airplane series, and retrofitting of the engine fleet. Although notable improvements have been made in the starter valves, it is the opinion of the FAA that no improvement in the start valve can provide the level of safety of an indication system. If fail-safe starters or starting systems are developed, the FAA will consider them under the provisions of paragraph C of the text.

Two commenters requested a further public meeting to discuss the record of incidents and the need for corrective action prior to the promulgation of a final rule. In light of the 6½-month comment period and the presentation made by the Air Transport Association and its member airlines on May 13, 1982, the FAA does not believe it to be in the public interest to further delay final rulemaking action.

Cost Estimate

It has been estimated that approximately 985 Model 727 series airplanes and 290 Model 737 series airplanes will be affected by this AD and that it will involve from 100 to 200 man-hours per Model 727 airplane and from 100 to 200 man-hours per Model 737 airplane (depending on the availability of existing aircraft wiring) to accomplish the modification. Necessary modification components are estimated to cost less than $5,000 per airplane. Based on the average labor costs of $35 per man-hour, the total cost impact of this proposed modification is under $15,000 per airplane ($18,825,000 for the entire fleet). For these reasons the rule is not considered to be a major rule under the criteria of Executive Order 12991. Few, if any, small entities within the meaning of the regulatory flexibility act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to Boeing Model 727 and 737 series airplanes, certificated in all categories. Compliance required as indicated, unless already accomplished. To prevent undetected prolonged engine starter operation, accomplish the following:

A. Within 24 months from the effective date of this AD, unless already accomplished, install an FAA-approved system that will provide a positive indication to the flight crew of the normal and unwanted operation of each engine starter. Approval of any proposed system must be obtained from the FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Note.—When specific complying systems are approved by the Seattle Aircraft Certification Office, the FAA Flight Operations Evaluation Board will review the system(s) for master minimum equipment list (MMEL) consideration.

B. Concurrent with the incorporation of an indicating system described in paragraph A, the airplane manual required by Subpart G of Part 121 (14 CFR Part 121) or Subpart C of Part 125 (14 CFR Part 125) of the Federal Aviation Regulations shall be revised to include:

1. A provision that the flight crew verify that the cockpit indicating system, required by paragraph A, indicates that the starter is de-energized after each engine start; and

2. Crew procedures, i.e., verifying start switch "off", closing the bleed valve of the affected engine, shutting down the affected engine, etc., to be accomplished when unwanted starter operation is indicated during ground and flight operations.

C. Alternative means of compliance with this AD which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, 9010 East Marginal Way South, Seattle, Washington.

D. A special flight permit may be issued in accordance with FAR 21.197 and 21.199 for the purpose of flying an aircraft which has exceeded the compliance period to a maintenance facility where the modification can be performed.

This amendment becomes effective February 28, 1983.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since it involves few, if any, small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on January 14, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-1617 Filed 1-22-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AGL-48]

Designation of Transition Area; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, correction.

SUMMARY: The nature of this federal action is to correct the currently published definition of the transition area designated for Metro East Airport, St. Jacob, Illinois. The current definition inaccurately references the Troy, Illinois, VORTAC facility radial as 090°, and should read 094°. The intended effect of this action is to ensure accuracy of the charted transition area and of the published definition.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The currently defined and published transition area inaccurately references the Troy, Illinois, VORTAC radial in magnetic variation as 090° and should be expressed in true variation as 094°. This action is to accurately define the area of the St. Jacob, Illinois, transition area.

History

On page 55726 of the **Federal Register** dated February 8, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) so as to establish a 700-foot controlled airspace transition area near St. Jacob, Illinois. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

On page 19515 of the **Federal Register** dated May 6, 1982, the FAA published a final rule for establishment of the transition area.

Except for editorial changes, and except as specifically discussed above, this correction is the same as that proposed in the notice and as the published Final Rule. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective February 23, 1983 as follows:

St. Jacob, Illinois

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Shafer Metro East Airport (latitude 38°43'55" N., longitude 89°48'17" W.), and within 1.75 miles each side of the Troy, Illinois, VORTAC facility 094° radial extending from the 5-mile radius to 6.5 miles west of the Shafer Metro East Airport.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 6, 1983.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 83-1622 Filed 1-21-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-3]

Designation of Transition Area.; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The nature of this federal action is to correct the current published definition of the transition area designated for Rusk County Airport near Ladysmith, Wisconsin. The current definition references Ladysmith NDB which should be shown as Rusk County NDB. The intended effect of this action is to ensure accuracy of the charted transition area and of the published definition.

EFFECTIVE DATE: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The currently defined and published

transition area incorrectly references the Ladysmith NDB. The correct name of the NDB is Rusk County NDB. This action is to add Rusk County NDB in place of Ladysmith NDB.

History

On page 19554 of the **Federal Register** dated May 6, 1982, the FAA proposed to amend § 71.181 of the Federal Aviation Regulations (14 CFR part 71) so as to establish a 700-foot controlled airspace transition area near Ladysmith, Wisconsin. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments or the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

On page 29219 of the **Federal Register** dated July 6, 1982, the FAA published a Final Rule for establishment of the transition area.

Except for editorial changes, and except as specifically discussed above, this correction is the same as that proposed in the notice and the same as the published Final Rule. Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective February 23, 1983, as follows:

Ladysmith, Wisconsin

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Rusk County Airport (Latitude 45°29'57"N., Longitude 91°00'06"W.) at Ladysmith, Wisconsin, and extending 3 miles either side of the 151° bearing from the Rusk County NDB, extending from 6½ miles to 8½ miles.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 6, 1983.

Monte R. Belger,

Director, Great Lakes Region.

[FR Doc. 83-1623 Filed 1-21-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-61]

Alteration of Control Zone, Fort Lauderdale, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Fort Lauderdale, Florida, (Executive Airport) control zone by correcting the geographical coordinates of the airport and the name of a navigational aid. No change in airspace is intended by this action.

DATES:

Effective date: 0901 G.m.t., February 17, 1983.

Comments must be received on or before February 1, 1983.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves technical corrections to the description of the control zone and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to correct the geographical coordinates of Fort Lauderdale Executive Airport and to correct the name of a navigational aid upon which a control zone arrival extension is predicated. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3 dated January 29, 1982. Under the circumstances presented, the FAA concludes that there is a need for a regulation to properly list the geographical coordinates of the airport and to change the name of the Tropic RBN to Praiz RBN so that the description of the control zone will be technically correct. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective in less than 60 days after its publication in the **Federal Register.**

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t., February 17, 1983, as follows:

Fort Lauderdale Executive Airport, FL—Revised

By deleting the words, "* * * (lat. 26°11'41"N., * * *" and "* * * Tropic * * *", and substituting for them the words, "* * * (lat. 26°11'45"N., * * *" and "* * * Praiz * * *."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979);

and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on January 7, 1983.

Jonathan Howe,

Director, Southern Region.

[FR Doc. 83-1615 Filed 1-21-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23501; Amdt. No. 1234]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this admendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

Effective March 17, 1983

Napa, CA—Napa County, VOR Rwy 6, Amdt. 10
Elizabethtown, KY—Elizabethtown, RNAV Rwy 5, Original
Flint, MI—Bishop, VOR Rwy 18, Amdt. 15
Flint, MI—Bishop, VOR Rwy 27, Amdt. 18
Flint, MI—Bishop, VOR Rwy 36, Amdt. 12
Findlay, OH—Findlay, VOR Rwy 7, Amdt. 9
Findlay, OH—Findlay, VOR Rwy 25, Amdt. 2
Findlay, OH—Findlay, VOR Rwy 36, Amdt. 3
Shelby, OH—Shelby Community, VOR-A, Amdt. 3

Effective March 3, 1983

Avalon, CA—Catalina, VOR-A, Amdt. 4
Avalon, CA—Catalina, VOR/DME-B, Amdt. 2
Ft Lauderdale, FL—Ft Lauderdale-Hollywood Intl, VOR Rwy 13, Amdt. 14
Ft Myers, FL—Page Field, VOR Rwy 5, Amdt. 7
Ft Myers, FL—Page Field, VOR Rwy 23, Amdt. 5
Moultrie, GA—Moultrie Muni, VOR Rwy 4, Amdt. 11
Jennings, LA—Jennings, VOR/DME-A, Amdt. 3
Haverhill, MA—Haverhill, VOR-A, Amdt. 4
Winona, MN—Winona Muni-Max Conrad Fld, VOR Rwy 29, Amdt. 11

Winona, MN—Winona Muni-Max Conrad Fld, VOR–A, Amdt. 9
Greenwood, MS—Greenwood-LeFlore, VOR Rwy 5, Amdt. 8
Indianola, MS—Indianola Muni, VOR/DME–A, Amdt. 7
Indianola, MS—Indianola Muni, VOR/DME–B, Amdt. 2
Bedford, PA—Bedford VOR/DME–A, Amdt. 1
Titusville, PA—Titusville, VOR–A, Amdt. 4
Monahans, TX—Roy Hurd Memorial, VOR/DME Rwy 12, Original
LaCrosse, WI—LaCrosse Muni, VOR Rwy 13, Amdt. 21
LaCrosse, WI—LaCrosse Muni, VOR Rwy 36, Amdt. 23

2. By amending §97.25 SDF–LOC–LDA SIAPs identified as follows:

Effective March 17, 1983

Napa, CA—Napa County, LOC Rwy 36L, Amdt. 1
Milwaukee, WI—General Mitchell Field, LOC Rwy 25L, Amdt. 2

Effective March 3, 1983

Macon, GA—Herbert Smart Downtown, LOC Rwy 9, Amdt. 1
Waycross, GA—Waycross-Ware County, LOC Rwy 18, Amdt. 1
Greenville, SC—Donaldson Center, LOC Rwy 4, Original

3. By amending §97.27 NDB/ADF SIAPs identified as follows:

Effective March 17, 1983

Murray, KY—Murray-Calloway County, NDB Rwy 23, Amdt. 4
Adrian, MI—Lenawee County, NDB Rwy 5, Amdt. 5
Columbus, OH—Ohio State University, NDB Rwy 9R, Amdt. 1
Columbus, OH—Ohio State University, NDB Rwy 27L, Amdt. 5
Findlay, OH—Findlay, NDB Rwy 36, Amdt. 8

Effective March 3, 1983

Sylacauga, AL—Lee Merkle Fld, NDB–A, Amdt. 1
Modesto, CA—Modesto City-County Arpt-Harry Sham Field, NDB Rwy 28R, Amdt. 5
Washington, DC—Dulles Intl, VOR/DME or TACAN Rwy 12, Amdt. 5
Ft Myers, FL—Page Field, NDB Rwy 5, Amdt. 3
Jennings, LA—Jennings, NDB Rwy 13, Original
Wiscasset, ME—Wiscasset, NDB Rwy 25, Amdt. 2
Indianola, MS—Indianola Muni, NDB Rwy 17, Amdt. 3
Indianola, MS—Indianola Muni, NDB Rwy 35, Amdt. 3
Cuba, MO—Cuba Muni, NDB Rwy 18, Amdt. 1
Cuba, MO—Cuba Muni, NDB Rwy 36, Amdt. 1
Farmingdale, NY—Republic, VOR–A, Amdt. 6, cancelled
White Plains, NY—Westchester County, NDB Rwy 16, Amdt. 18
Providence, RI—Theodore Francis Green State, NDB Rwy 5R, Amdt. 12
Greenville, SC—Donaldson Center, NDB Rwy 4, Original, cancelled
Greenville, SC—Donaldson Center, NDB Rwy 4, Original
LaCrosse, WI—LaCrosse Muni, NDB Rwy 18, Amdt. 9

4. By amending §97.29 ILS–MLS SIAPs identified as follows:

Effective March 17, 1983

Flint, MI—Bishop, ILS Rwy 27, Amdt. 2
Columbus, OH—Ohio State University, ILS Rwy 9R, Amdt. 3

Effective March 3, 1983

Modesto, CA—Modesto City-County Arpt-Harry Sham Field, ILS Rwy 28R, Amdt. 9
Washington, DC—Dulles Intl, ILS Rwy 1L, Amdt. 1
Washington, DC—Dulles Intl, ILS Rwy 19R, Amdt. 16
Ft Myers, FL—Page Field, ILS Rwy 5, Amdt. 4
Presque Isle, ME—Northern Maine Regional Arpt at Presque Is, ILS Rwy 1, Amdt. 4
Greenwood, MS—Greenwood-LeFlore, ILS/DME Rwy 18, Amdt. 2
White Plains, NY—Westchester County, ILS Rwy 16, Amdt. 20
White Plains, NY—Westchester County, ILS Rwy 34, Amdt. 1
Providence, RI—Theodore Francis Green State, ILS Rwy 5R, Amdt. 10
Providence, RI—Theodore Francis Green State, ILS Rwy 23L, Amdt. 1
Providence, RI—Theodore Francis Green State, ILS/DME Rwy 34, Amdt. 2
LaCrosse, WI—LaCrosse Muni, ILS Rwy 18, Amdt. 10

Effective January 7, 1983

Manchester, NH—Manchester Arpt/Grenier Industrial Airpark, ILS Rwy 35, Amdt. 12

5. By amending § 97.31 RADAR SIAPs identified as follows:

Effective March 3, 1983

Washington, DC—Dulles Intl, RADAR–1, Amdt. 10
Wiscasset, ME—Wiscasset, RADAR–1, Original
San Juan, PR—Puerto Rico Intl, RADAR–1, Amdt. 2, cancelled

Effective January 12, 1983

Harrisburg, PA—Capital City, RADAR–1, Amdt. 9

6. By amending § 97.33 RNAV SIAPs identified as follows:

Effective March 17, 1983

Columbus, OH—Ohio State University, RNAV Rwy 27L, Amdt. 4

Effective March 3, 1983

Washington, DC—Dulles Intl, RNAV Rwy 12, Amdt. 7
Washington, DC—Dulles Intl, RNAV Rwy 19R, Amdt. 5
Tampa, FL—Tampa Intl, RNAV Rwy 18R, Amdt. 2, cancelled
Greenwood, MS—Greenwood-LeFlore, RNAV Rwy 18, Amdt. 5
Farmingdale, NY—Republic, RNAV Rwy 19, Amdt. 1, cancelled
White Plains, NY—Westchester County, RNAV Rwy 34, Amdt. 2

Effective January 4, 1983

Leesburg, VA—Leesburg Muni/Godfrey/Field, RNAV Rwy 17, Amdt. 7

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on January 14, 1983.

John M. Howard,

Manager, Aircraft Programs Division.

[FR Doc. 83-1793 Filed 1-21-83; 8:45 am]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 253

[Econ. Reg. Dockets 40772, 38021, 38348; Order 82-12-84]

Terms of Contract of Carriage

AGENCY: Civil Aeronautics Board.

ACTION: Waiver of rule by Order 82–12–84.

SUMMARY: The CAB is waiving its rules for notice to passengers of contract terms incorporated by reference with respect to ticket sales at locations that both: (1) Are outside the United States, and (2) are not U.S. air carrier ticket offices. As conditions to this waiver, passengers must be given notice as provided in CAB rules before they check in for travel on the domestic part of a foreign trip, and the price paid for that part of the trip must be fully refundable, with passengers being notified of that fact. The waiver is granted pending a rulemaking on this subject.

DATES: Effective: December 16, 1982. Adopted: December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825

Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 253

Advertising, Air carriers, Air transportation, Claims, Consumer protection, Law, and Travel.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of December, 1982. In the matter of Joint Petition of IATA and ATA to clarify, amend, or modify a final rule prior to its effective date; Docket Nos. 40772, 38021, and 38348.

In ER–1302, 47 FR 52128, November 19, 1982, the Board issued a new 14 CFR Part 253, setting requirements for notice to passengers of terms incorporated by reference into their contracts of carriage. The rules are reflective of the ending of tariffs for domestic airline travel as of January 1, 1983, and thus apply only to domestic travel. The notice to passengers that must be given on or with the ticket, however, by the terms of the rule is applicable to sales anywhere in the world.

The Air Transport Association of America (ATA) and the International Air Transport Association (IATA) submitted a joint petition for modification of Part 253 prior to its effective date. They claimed that the application of the rule, for the notice that must be given with tickets, to all ticket outlets world-wide would be an excessive burden in light of the fact that only a small fraction of those tickets would include flight segments in U.S. domestic air transportation, to which the rule would apply. They suggested that a more practical rule would require that notice be given to passengers, where their tickets have been sold at foreign outlets, before embarking on a domestic segment, but not necessarily at the time of ticket sale.

In the only answer to the petition, Transamerica requested that if further rulemaking proceedings are needed to resolve the question, an exemption from the requirements of Part 253 for foreign sales be granted pending the clarification.

The Board tentatively finds that the ATA/IATA petition has merit. It appears that the cost of having to stock written material applicable only to U.S. domestic flight segments in every ticket-selling location throughout the world might outweigh any informational benefits.

The solution suggested by ATA/IATA, of having the contract information given to passengers before they begin their domestic portion of their travel, appears reasonable, with one modification. Contract information is only meaningful if a contracting party, in this case the passenger, has a chance to act on it, or ultimately to reject it. For most airline ticket sales, this is not a grave problem because the tickets are fully refundable, so that the purchaser may back out of the deal at any time before actually using the transportation. For the system suggested by ATA/IATA for foreign sales to work fairly, this must be the case—the ticket for a domestic segment for which the passenger receives contract notice only after arriving in the U.S. must be fully refundable. Furthermore, the Board is of the opinion that passengers in this situation should be informed of their right not to use the transportation thus to and receive a full refund.

Because of the short time remaining before January 1, 1983, when the new nontariff system goes into effect, it will not be feasible to issue a notice of proposed rulemaking, receive comments, and issue a final rule in time for carriers to adjust their procedures accordingly. The Board is therefore hereby issuing a waiver of its rules according to the above conditions, as suggested in Transamerica's answer. At the same time, because of the complexity of the factors involved, the Board would like to receive comment on the alternative established by the waiver, and will issue a notice of proposed rulemaking to that end.

The Board emphasizes that this order imposes no new mandatory requirements; it is purely permissive. A carrier that complies with the existing requirements of Part 253 for all its sales will be unaffected by this order. Since there will be no tariffs in effect for the domestic segments in question, carriers will be free to grant refunds if they are required by this order. The waiver conditions should therefore not inhibit foreign sales of domestic tickets.

Accordingly, it is hereby ordered that the requirements of 14 CFR Part 253 for notice to be given with a ticket for air transportation are waived with respect to sales at locations that both (1) are outside the United States, and (2) are not U.S. air carrier ticket offices as defined in Part 253, but only upon the following conditions:

(a) The passenger shall be given notice that complies with Part 253 not later than the time that he or she checks in for travel on a segment in interstate or overseas air transportation;

(b) The portion of the ticket that relates to any flight segments in interstate or overseas air transportation shall be fully refundable without penalty, and the passenger shall be given conspicuous notice of that fact.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–1866 Filed 1–21–83; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 254

[Docket Nos. 40366, 38621; Amdt. No. 1; Reg. ER–1316]

Domestic Baggage Liability; Approval By Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved the notice requirements contained in new Part 254 of the Board's Economic Regulations, "Domestic Baggage Liability." This approval has been granted through December 31, 1985. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: January 19, 1983. Effective: December 20, 1982.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington D.C. 20428, (202) 673–6042.

PART 254—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 254 of its Economic Regulations (14 CFR Part 254) by adding a note at the end of the table of contents to Part 254 to read:

Note.—The notice requirements contained in § 254.4 have been approved by the Office of Management and Budget under number 3024–0000.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–1877 Filed 1–21–83; 8:45 am]

BILLING CODE 6320–01–M

14 CFR Part 399

[Policy Statements, Dockets 37982, 40584; Order 82-12-67]

Statements of General Policy

AGENCY: Civil Aeronautics Board.

ACTION: Termination of rulemaking by Order 82-12-67.

SUMMARY: The CAB is closing two dockets concerning domestic passenger fare flexibility. The rulemakings had proposed several changes in the zones in which airlines could raise or lower fares without CAB approval. The CAB's fare-setting authority ended on January 1, 1983, mooting the issues involved.

DATES: Effective: December 16, 1982. Adopted: December 16, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 399

Administrative practice and procedure, Advertising, Air carriers, Antitrust, Archives and records, Consumer protection, Freight forwarders, Grant programs—Transportation, Hawaii, Motor carriers, Puerto Rico, Railroads, Reporting requirements, Travel agents, and Virgin Islands.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of December, 1982.

In the matter of Domestic Passenger Fare Flexibility; Dockets 37982, 40584.

In a Notice of Proposed Rulemaking dated April 1, 1982 (PSDR-74, Docket 40584), we asked for comments on three possible ways of changing the Board's domestic passenger fare flexibility rules. These three options were intended as a means of assisting the transition to the end of all domestic fare regulation on January 1, 1983.

Several interested parties filed comments on the apparent merits and demerits of each option. However, we did not take action on any of the options primarily because the Air Traffic Controllers' strike placed added constraints upon the airline system which would have prevented an accurate test of the free market system.[1]

On May 20, 1982, Wien Air Alaska, Inc. petitioned us (Docket 37982) to amend our Policy Statements[2] so that the same rules applicable to fare flexibility within the 48 contiguous states and between the Mainland and Puerto Rico/Virgin Islands, Hawaii and Alaska would apply to fares within Alaska. On June 4, 1982, Kodiak Western Alaska Airlines, Inc. filed an answer in support of Wien's petition. However, we also did not take any action on this petition mainly because carriers were permitted to file intra-Alaska fares above the fixed ceiling levels if adequate economic justification was provided.

On January 1, 1983, the Board's authority over domestic passenger fares expires, thus ending regulatory control of all domestic pricing and placing maximum reliance on competitive market forces. Under these circumstances we believe that the dockets above should be closed.

Accordingly, we close Dockets 37982 and 40584.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1667 Filed 1-21-83; 8:45 am]

BILLING CODE 6320-01-M

[1] See Order 82-11-33, November 5, 1982, which denied the application of United Airlines for emergency exemption from application of the SIFL.

[2] Regulations PS-96, adopted July 14, 1980, and PS-98, adopted October 21, 1980, established broader zones of flexibility for various interstate and overseas ratemaking entities, but did not include the intra-Alaska entity.

FEDERAL TRADE COMMISSION

16 CFR Part 460

Trade Regulation Rule; Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Denial of petitions for exemption covering sellers of mobile homes, and notice of lifting of temporary partial stay.

SUMMARY: The Federal Trade Commission has decided to deny petitions for exemption from § 460.16 of its trade regulation rule on the labeling and advertising of home insulation (16 CFR Part 460) insofar as it applies to sellers of mobile homes. In connection with its decision, the Commission also has decided to lift the temporary partial stay of § 460.16 which it previously issued to mobile home sellers (45 FR 66927). The Commission has decided that consideration of an exemption from §§ 460.18 and 460.19 of the Rule as it applies to mobile home sellers should be included in the Commission's separate consideration of a petition for exemption from those sections for all new home sellers filed by the National Association of Home Builders.

DATE: Effective date of lifting of temporary partial stay of § 460.16: February 23, 1983.

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202-376-2891, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

I. Background

Briefly stated, the major provisions of the Federal Trade Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation (hereinafter cited as "the R-value Rule" or "the Rule"), 16 CFR Part 460, require: (1) That home insulation manufacturers use standardized test procedures to determine the R-values of their products, and that they disclose R-values and related information on package labels and fact sheets distributed to installers and other retail sales outlets; (2) that home insulation installers and other retail sellers make the fact sheets available to consumers prior to purchase; (3) that home insulation installers make written disclosures to consumers of R-values and related information concerning the insulation installed; (4) that new home sellers disclose in the sales contract R-values and related information concerning the insulation installed in the new home; and (5) that advertisers who make specific product and energy savings claims about home insulation products also make disclosures concerning those claims. The Rule became effective on September 29, 1980.[1]

Insulation can be a very significant energy conservation measure. Its insulating capacity can be measured only by its R-value, which signifies the insulation's degree of resistance to the flow of heat. No other piece of information can tell the consumer how the insulation is likely to perform as an insulator, and whether the cost of the insulation is justified. Yet, the rulemaking record in this matter demonstrated that the home insulation market frequently had failed to provide this crucial information to consumers. In the Commission's opinion, the industry's failure systematically to provide R-value information prior to sale is both an unfair and deceptive act or practice within the meaning of Section 5 of the

[1] Notice of effective date of rule, 45 FR 54702 (Aug. 15, 1980).

Federal Trade Commission Act, 15 U.S.C. 45(a).[2]

The primary purpose of the Rule is to correct the failure of the home insulation marketplace to provide this essential pre-purchase information to the consumer. The information gives consumers an opportunity to compare relative insulating efficiencies, to select the product with the greatest efficiency and potential for energy savings, to make a cost-effective purchase, and to consider the main variables limiting insulation effectiveness and realization of claimed energy savings.[3]

As to sales of new homes, the Commission found in the original rulemaking proceeding that new home buyers will spend additional money on insulation if they are advised to do so by sellers. The Commission also found that new home sellers, in turn, were capitalizing on this heightened consumer interest in energy conservation by advertising the energy efficient features of their homes.

The Commission noted that the amount of insulation installed in the home may significantly affect the consumer's decision to buy. The Commission decided that, in this context no less in the context of an insulation purchase alone, the R-value of the insulation installed in the home is a factor material to the consumer's purchasing decision. The Commission concluded that the disclosure of this information will permit the new home buyer to evaluate the energy efficiency of his or her home, thereby furthering the national policy of energy conservation.[4]

Three trade associations representing various interests in the mobile home industry filed petitions with the Commission for an exemption from the Rlule.[5] Petitioner National Manufactured Housing Federation ("NMHF") is an organization of twenty-two state and regional associations, representing mobile home retailers, community owners, and developers. Petitioner Manufactured Housing Institute, Inc. ("MHI") is a national trade association for mobile home manufacturers and suppliers. Petitioner Indiana Manufactured Housing Association ("IMHA") is a trade association representing mobile home manufacturers and retailers in Indiana. Although the petitioners filed separate exemption requests, the petitions raise identical issues. Cumulatively, the petitions request an exemption from every requirement of the Rule which could apply to the sale of mobile homes.[6] The Commission is treating all the petitions together as a petition for a total exemption from all requirements of the Rule.

Based on petitioners' assertions, the Commission granted a temporary stay of § 460.16 with respect to mobile home sellers, pending a final Commission determination on the petitions for exemption from the Rule.[7] Section 460.16 requires "new home" sellers, including mobile home sellers, to disclose in the sales contract the type, thickness, and R-value of any insulation installed in each part of the home. The Commission denied a stay of other sections of the Rule applicable to mobile homes, including §§ 460.18 and 460.19 which are triggered only if the advertiser disseminates insulation ads or savings claims.

In response to the petitioners' requests for a stay, the Commission temporarily stayed § 460.16 of the Rule insofar as it applies to mobile home sellers, after it weighed the likelihood of success on the merits, the harm to petitioners, and the public interest.[8] The Commission's decision rested on the following premises argued by the petitioners: a Department of Housing and Urban Development ("HUD") minimum standard for mobile homes had become the industry's maximum performance standard; nearly all mobile homes contain the same type and amount of insulation; and, because of certain design characteristics of a mobile home, no manufacturer is likely to offer options with increased amounts of insulation. Presumably, if these premises were correct, the primary purpose of the Rule, *i.e.*, to correct the failure of the marketplace to provide essential pre-purchase information to the consumer, would not be served by application of § 460.16 to mobile home sellers; sellers of mobile homes would not compete with respect to the thermal performance of the insulation in their mobile homes even if the Rule applied to them.

After the Commission granted the stay, the preliminary results of an investigation by the Commission's staff suggested that, contrary to petitioners' assertions, mobile home manufacturers do offer a variety of insulation packages to potential buyers.[9] The availability of optional "energy packages" suggests that R-value information may be a valuable consumer tool for comparison shopping in the mobile home area.[10] As the Commission noted in its Statement of Basis and Purpose for the Rule, the amount of insulation installed in a new home may significantly affect the consumer's decision to buy.[11] If mobile home sellers offer a variety of insulation options, the R-value of the insulation may be a factor material to the consumer's purchase decision.

In view of the conflict between the petitioners' assertions in support of the exemption and the preliminary results of the Commission staff's investigation, the Commission solicited public comments on whether to grant an exemption from the Rule to mobile home manufacturers and retailers.[12] The request for public comment noted specifically the factual conflict and raised questions which addressed issues concerning the conflict.[13] In addition, the Commission stated in the notice that, with regard to requirements of the Rule other than § 460.16, such as § 460.18, and 460.19, petitioners had not directly addressed why they should be exempted from them.

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[2] Statement of Basis and Purpose, 44 FR 50218, 50221–25.

[3] *Id.*, at 50218.

[4] *Id.*, at 50232.

[5] The exemption requests are filed in the public record of FTC File No. 215–59 as Document Numbers X–8, X–9, X–10, X–11, and X–12. Because one petitioner submitted a supplement, X–11, and because another petitioner requested the exemption twice, X–8 and X–10, there are five filings instead of three.

All documents cited by Document Number or by a letter and page designation (*e.g.*, L/1201) in these footnotes are filed and available for public inspection in FTC File No. 215–59.

[6] All three petitioners request an exemption from § 460.16 of the Rule (required disclosures in sales contracts). Petitioners NMHF and IMHA also request an exemption from §§ 460.18 and 460.19 (required disclosures in promotional materials).

[7] Notice of temporary partial stay, 45 FR 68927 (Oct. 17, 1980). The stay was made effective as of September 29, 1980.

[8] *Id.*

[9] Invitation for Public Comment on Petitions for an Exemption from the Commission's Trade Regulation Rule on Labeling and Advertising of Home Insulation, 46 FR 41080, 41081 (Aug. 14, 1981).

[10] *Id.*

[11] *See* note 2, *supra*, at 50232.

[12] *See* note 9, *supra*.

[13] The following questions were raised:

—Should petitioners be exempt from § 460.18 and 460.19, which apply if ads contain certain triggering claims or energy-savings claims about an insulation product?

—To what extent do the construction standards issued by HUD effectively provide the information necessary for home buyers to evaluate the thermal efficiency of insulation in mobile homes?

—Are consumers interested in buying mobile homes which are more energy efficient than those which meet present HUD standards?

—To what extent do mobile home sellers offer a variety of insulating options?

—Is R-value information about insulation presently advertised to prospective purchasers of mobile homes?

—To what extent are potential mobile home buyers also potential site-built home buyers?

—What would disclosure of insulation R-value cost the mobile home industry?

—*Id.* at 41081.

II. The Legal Standard for Exemption

Section 18 (g)(2) of the FTC Act states the statutory test for granting an exemptoin from a trade regulation rule:

> If, on its own motion or on the basis of a petition * * * the Commission finds that the application of a rule * * * to any person or class of persons is not necessary to prevent the unfair or deceptive act or practice to which the rule relates, the Commission may exempt such person or class from all or part of such rule.[14]

Thus, the statute does not require the Commission to reconsider issues it explicitly considered and decided when it promulgated the Rule; it rather seeks to direct the Commission's attention to the "exception" to the Rule argued by the petitioners.

In issuing the Rule, the Commission specifically decided that "new homes" should be covered.[15] The Rule is designed to provide consumers with a standard measurement of thermal efficiency that they can use to compare insulation products and to purchase the insulation product that matches their R-value needs.[16] The Commission required disclosure of insulation R-values and related information concerning new homes because it determined that the R-value of the insulation installed in a new home is a material factor in the consumer's house buying decision, and that the pre-purchase disclosure of R-value in sales contracts would therefore enable the new home buyer to evaluate the energy efficiency of his or her home.[17]

Absent a reasonable basis to distinguish mobile homes from other homes in relation to the need for insulation R-value disclosures prior to sale, the Commission was justified in assuming the mobile homes belonged in the class of "new homes" covered by the Rule. Although petitioners did not participate in the rulemaking proceedings, members of the modular home industry did participate and addressed issues relating to disclosures by new home sellers.[18] Modular homes are very similar to mobile homes. According to a brochure published by one petitioner, the only material difference between a "mobile" home and a "modular" home is the construction code to which the home has been built.[19]

III. Analysis

A total of twenty-eight (28) comments were submitted. Two, submitted after the end of the comment period, were not included in the Commission's analysis of the exemption request. Of those remaining, twenty-three (23) took a position on whether or not to grant an exemption: Fifteen (15) opposed granting any exemption; seven (7) supported a complete exemption; and one (1) proposed an exemption only from § 460.16. Of the three petitioners, only MHI and NMHF filed comments. Finally, two (2) comments did not address the exemption question but raised the issue of whether or not the retail installment sales contract used for mobile homes is a "sales contract" as the term is used in § 460.16.

A. Disclosures in Sales Contract.

After carefully considering the record, including the petitions, staff submissions, and public comments, the Commission does not believe that petitioners have sustained the burden of the test in Section 18(g)(2) of the FTC Act concerning an exemption from § 460.16 of the rule. When the Commission stayed § 460.16, it relied on petitioners' assertions that the HUD standard had become a maximum standard for the industry and that all manufacturers were building mobile homes with the same insulation R-value. Requiring an industry member to disclose information which is uniform for all industry members would not promote informed comparative decision making in that industry's marketplace. Based on the record, as discussed below, the Commission now believes that is not the case in the mobile home industry.

In addition, a rationale that all manufacturers are building mobile homes with the same insulation R-value does not take into account a market which includes not only mobile homes but also modular homes and site-built homes. Commenters supporting the exemption argued that there is no competition, or very little competition, between mobile homes and site-built homes.[20] No mention, however, was made of modular homes. One commenter opposing the exemption argued that consumers should be informed about the large difference in insulation R-values between site-built homes and mobile homes.[21]

Because of the limited information in the Commission's possession in this proceeding, the Commission cannot assess the extent of competition among sellers of mobile homes, modular homes, and site-built homes. Nevertheless, the Commission believes that the determination that there are a variety of home insulation options in mobile homes precludes the need to address the competition issue. The variety of home insulation options available allows for useful, comparative decision making by consumers who are only shopping in the mobile home market.

1. *Insulation Options Available.* The Commission's staff placed mobile home advertisements on the public record. These advertisements show that there are a variety of home insulation options for mobile homes from which consumers can choose. The Commission's invitation for public comment raised this issue.[22] None of the commenters challenged the conclusion that insulation R-value options are available.

On the other hand, petitioners MHI and NMHF argue a different issue concerning the ads: that the ads were placed on the record to show that mobile home manufacturers and dealers advertise to consumers, whereas the ads were directed solely to dealers.[23]

Accepting *arguendo* that none of the promotional materials which staff placed on the public record were available to consumers, and that advertised R-values were only intended to induce mobile home retailers to buy from specific mobile home manufacturers, these materials nevertheless indicate that there are insulation options available and that there are different levels of insulation R-value available in mobile homes for consumers to consider. Indeed, although some degree of variety or options is present in this industry, commenters supporting and opposing the exemption agree that R-values are seldom disclosed to the public.[24] However, the

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[14] 15 U.S.C. 57a(g)(2).

[15] *See* note 2, *supra*, at 50232.

[16] *Id.* at 50218.

[17] *Id.* at 50232.

[18] Donald L. Gilchrist, President, National Association of Home Manufacturers. FTC File No. 215–59, pages L/1201–03 and T/1371–415; R-Anell Homes, Inc., Document No. J–7; Boise Cascade. Manufactured Housing Division, Eastern Operations, Document No. J–17.

[19] MHI's *Quick Facts About the Manufactured Housing Industry*, Document No Y–42, at 2:

> For purposes of this publication the terms "mobile" and "modular" are used interchangeably because the only material difference between the two is the construction code to which the home has been built.

[20] Manufactured Housing Institute, Document No. Y–54; National Manufactured Housing Federation, Inc., Document No. Y–55.

[21] Rural America, Document No. Y–53.

[22] *See* note 9, *supra*, at 41061.

[23] Manufactured Housing Institute, Document No. Y–54; National Manufactured Housing Federation, Inc., Document No. Y–55.

[24] Rural America, Document No. Y–53; Manufactured Housing Institute, Document No. Y–54; National Manufactured Housing Federation, Inc., Document No. Y–55.

primary purpose of the Rule is to correct the failure of the marketplace to provide essential pre-purchase information about R-values to consumers. Failure to disclose R-value is not a basis for an exemption, but a basis for the Rule.

Among the advertisements placed on the record by the Commission's staff, there are a range of R-values and insulation options: R-values for floors range from 11 to 19, for walls from 7 to 19, and for ceilings from 11 to 45.[25]

2. *Heat Loss Certificate and HUD Standard.* Even if a variety of insulation options are available, the contract disclosures required by § 460.16 of the Rule may be unnecessary if other regulations already accomplish the purposes for which § 460.16 is intended. According to all the commenters who support the exemption, the HUD standard is such a regulation.[26] NMHF states it thus:

> Because HUD's regulation of the mobile home industry provides not only energy efficiency disclosures to the purchaser but also mandatory energy standards, the FTC Home Insulation Rule represents unnecessary additional regulation over the mobile home industry.[27]

Commenters also assert that the "heat loss certificate" or "heating certificate" (hereinafter cited as "the certificate") is the means by which energy efficiency disclosures are made in the mobile home industry.[28] The certificate is posted in every new mobile home. According to MHI, because disclosures are made with respect to the energy efficiency of Manufactured homes by the heat loss certificate, the mobile home industry does not commit any of the unfair or deceptive acts or practices which the Commission envisioned when it promulgated § 460.16 of the Rule.[29]

Non-industry commenters argue that the heat loss certificate is not a very clear or simple document.[30] Although these commenters bring into question broader issues regarding the heat loss certificate, the Commission believes that it is unnecessary for the Commission to consider such broad issues in this proceeding.

The Commission does not believe that the HUD mandated information provides comparative insulation information by which a consumer can choose between competing mobile homes.[31] When it promulgated the Rule, the Commission determined that the amount of insulation installed in a new home may significantly affect the consumer's decision to buy. It decided that, in the new home context no less than in the context of an insulation purchase alone, the R-value of the insulation installed in the new home is a factor material to the consumer's purchasing decision. Thus, the Commission concluded that the disclosure of R-value information about the insulation will permit the new home buyer to evaluate the energy efficiency of the home, thereby furthering the national policy of energy conservation and facilitating comparison buying.[32]

The HUD mandated heating certificate, on the other hand discloses only that the mobile home has been constructed in compliance with minimum thermal standards and that it should be used only in a certain geographical zone of the United States so that the heating equipment can maintain at least a minimum tempeature inside the home. The certificate contains no information about the R-value of the insulation in the mobile home, or any other information which would enable the potential purchaser to compare the thermal efficency of one mobile home to another.

If the heat loss certificate fails as an adequate substitute for the disclosures required by the Rule, the mandatory HUD standard alone cannot justify an exemption from § 460.16. The HUD mobile home standard, as well as most state and local building codes, may require some insulation in mobile homes; in addition, other HUD regulations, the Minimum Property Standards, provide minimum levels of insulation for any new homes that are constructed under HUD programs or with HUD financial backing.[33] Nevertheless, in its Statement of Basis and Purpose, the Commission found that minimum performance standards which do not require R-value disclosures to new home purchasers are insufficient.[34]

3. *Industry Structure.* Petitioners MHI and NMHF have argued in their petitions and comments that, because the independent mobile home retailers have no direct knowledge of or control over the insulation installed in the mobile home by the mobile home manufacturer, the structure of the mobile home industry is at variance with the market structure presumed by Section 460.16 of the Rule. As stated by NMHF: "Because the mobile home retailer has no control over or direct knowledge of the insulation installed in the mobile home he sells, he cannot be expected to place the required R-value information in each of his sales contracts.[35]

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[25] Young American Homes has R–11 floor, R–11 walls, R–21 ceiling. Document No. Y–29. Dupont Homes has a home with R–12 floor, R–13 walls, R–17 ceiling, and another with R–11 floor, R–9 walls, R–19 ceiling. Document No. Y–27. EZ Space Manufacturing has R–19 floor, R–19 walls, R–38 ceiling. Document No. Y–22. Rochester has R–19 floor, R–19 walls, R–45 ceiling. Document No. Y–17. Champion Home Builders offers an "Extra Insulation Package Offered at Additional Cost," but does not disclose the R-value. Document No. Y–32. Patriot Homes, Inc., has a standard R–11 floor, R–7 walls, R–11 ceiling; it has an option for R–11 floor, R–11 walls, R–18 ceiling, and a second option for R–11 floor, R–11 walls, R–22 ceiling. Rual America. Document No. Y–53. Friendship Industries, Inc., has an "Ultra Energy Savings Package" which consists of R–18 floor, R–19 walls, R–33 ceiling. *id.*

[26] Manufactured Housing Institute, Document No. Y–54; National Manufactured Housing Federation, Inc., Document No. Y–55; Texas Manufactured Housing Association, Document No. Y–57; National Manufactured Housing Finance Association, Document No. Y–59; Florida Power Corporation, Document No. Y–61; Western Manufactured Housing Institute, Finance Committee, Document No. Y–65; General Electric Credit Corportation, Document No. Y–72.

[27] National Manufactured Housing Federation, Inc., Document No. Y–55, at p. 5.

[28] Manufactured Housing Institute, Document No. Y–54; National Manufactured Housing Federation, Inc., Document No. Y–55.

[29] Manufactured Housing Institute, Document No. Y–54, at pp. 3–8

[30] Rural American, Document No. Y–53; Community Action Program, Belknap—Merrimack Counties, Inc., Document No. Y–58; Mineral Insulation Manufacturers Association, Document No. Y–73; Housing Assistance Council, Inc., Document No. Y–77.

[31] The HUD mandated heating certificate includes the following information

HEATING CERTIFICATE

Home Manufacturer————

Plant Location————

Home Model————

(Include Winter Climate Zone Map)

This mobile home has been thermally insulated to conform with the requirements of the Federal Mobile Home Construction and Safety Standards for all locations within climatic Zone————.

Heating Equipment Manufacturer————

Heating Equipment Model————

The above equipment has the capacity to maintain an average 70° F temperature in this home at outdoor temperatures of —F.

To maximize furnace operating economy and to conserve energy it is recommended that this home be installed where the outdoor winter design temperature (97 ½%) is not higher than — degrees Fahrenheit. 1

The above information had been calculated assuming a maximum wind velocity of 15 MPH at standard atmospheric pressure.

1. The temperature to be specified shall be 20° F or 30% of the design temperature difference, whichever is greater, added to the temperature specified as the heating system capacity certification temperature without storm windows or insulating glass for Zone I and with storm windows or insulating glass for Zones II and III. Design temperature difference is 70 minus the heating system capacity certification temperature in degrees Fahrenheit.

Mobile Home Construction and Safety Standards, 40 FR 58752, at 58769 (Dec. 18, 1975).

[32] *See* note 2, *supra*, at 50232.

[33] Lawrence G. Spielvogel, Inc., Document No. Y–50.

[34] *See* note 2, *supra*, at 50232.

[35] National Manufactured Housing Federation, Inc., Document No. Y–55, at p.7.

In the Commission's view, this argument has no merit in the context of the rule's requirements, and it already has been rejected by the Commission. Section 460.8 of the Rule states: "[I]f you are not a manufacturer [of insulation] you can rely on the R-value data given to you by the manufacturer, unless you know or should know that the data is false or not based on the proper tests." The manufacturers of mobile homes, the same as insulation retailers and installers and other new home sellers, may rely on the R-value data provided by the insulation manufacturers. That data includes the type, R-value and thickness of the insulation used in the construction of the mobile home. The mobile home manufacturer in turn can relay that data to the retailer, who may rely on the information unless he or she knows it to be false. The transmittal of information poses a minimal burden on mobile home manufacturers and retailers, and can be accomplished within the sales distribution system of the mobile home industry.

While independent mobile home retailers must rely on R-value information transmitted to them, so too must insulation retailers and installers and site-built home builders and mobile home manufacturers rely on information given to them by manufacturers of insulation. Whether there are two links or three links in the distribution chain, any party who is not a manufacturer of insulation and who relies on the information from the insulation manufacturer in good faith is protected. Therefore, the Commission does not believe that the market structure of the mobile home industry warrants an exemption from § 460.16 of the Rule.

4. *Cost to Mobile Home Industry.* The Commission specifically requested comments about the cost which would be incurred by the mobile home industry in complying with § 460.16 of the Rule. One commenter observes that disclosing R-value is less burdensome for mobile home manufacturers than for site-built home builders because there are many mobile homes of the same type built by each mobile home manufacturer.[36]

The only specific references to cost made by industry members in their comments deal with the costs that would be incurred by requiring R-value disclosure in the installment sales contract. One commenter argued that state statutes and major lending institutions control the specific language or provisions of the retail sales contract which mobile home retailers are required to use and that, if disclosure was required in these contracts, the industry would lose this major source of financing.[37]

A second comment contains the only cost figures which were submitted. These cost figures deal only with the changing of the retail installment sales contracts currently in use. The commenter estimates that the total expense for disclosing R-value information on mobile home installment sales contracts "would undoubtedly exceed $1,000,000."[38] He suggested that the Commission should clarify the term "sales contract" to include the traditional purchase order contract utilized in mobile home sales instead of just the retail installment sales contract which is typically used as the financing document for the transaction.[39]

Therefore, concerning costs the Rule may impose upon the mobile home industry, commenters cited only costs associated with a perceived need to change the retail installment sales contract. However, the Rule does not require that disclosure be made in a retail installment sales contract. Section 460.16 of the Rule states only that disclosure must be made "in every sales contract." The Commission's staff already has given informal advice that the disclosures may be made in a separate document attached to the sales contract.[40] The Commission affirms the staff's informal advice. Similarly, the disclosures may be made in the purchase order contract instead of in the retail installment sales contract. Lastly, no evidence has been submitted to show that costs for mobile home sellers to comply with the Rule are peculiarly high compared with those incurred by others who are covered by the Rule.

B. Disclosures in Advertising.

When the Commission requested public comments, it noted that petitioners had not directly addressed the issue of why mobile home sellers should be exempted from §§ 460.18 and 460.19 of the Rule. Sections 460.18 and 460.19 require disclosure in advertisements only if the advertiser makes certain triggering claims, including savings claims, about an insulation product. The Commission's staff has given informal advice that these sections apply to mobile home sellers and other new home sellers who make the triggering claims about the insulation in the mobile home or other new home.[41] The Commission agrees.

Beyond arguing that the aforementioned HUD standard does or does not justify an exemption from these sections, commenters did not closely examine the requirements of these sections as they apply to mobile home advertisers. In a separate petition for an exemption, however, the National Association of Home Builders ("NAHB") has requested an exemption for new home sellers from part or all of the requirements of §§ 460.18 and 460.19. The Commission tentatively has decided to grant new home sellers, including mobile home sellers, an exemption from portions of §§ 460.18 and 460.19.[42] The Commission believes that its decision in response to the NAHB petition should also determine the question of an exemption from these sections for mobile home sellers.

IV. Conclusions and Decision

The Rule's primary purpose is to correct the failure of the marketplace to provide essential pre-purchase information about R-values to consumers. In an initial belief that there was no significant difference in the R-value of insulation installed in competing mobile homes, the Commission granted members of the mobile home industry a stay of § 460.16 of the Rule. If uniform insulation R-values existed for all mobile homes, the purchasing decision of consumers shopping for a mobile home would not be affected by disclosure of insulation R-values. However, the Commission has found that there exists a variety of home insulation options for mobile homes. This variety extends not only among different mobile home manufacturers but also among the options offered by individual mobile home manufacturers.

The Commission also evaluated whether the Rule would duplicate the HUD standard and its required heat loss certificate. All housing is subject to some form of local or federal standards; that mobile homes are subject to the HUD standard should not preclude mobile home sellers from disclosing comparative information under the Rule. While refraining from judging the heat loss certificate itself, the Commission believes that the certificate's disclosures are neither the same as the Rule's nor an adequate substitute for the disclosures required by the Rule.

The Commission next evaluated the structure of the mobile home industry

[36] Lawrence G. Spielvogel, Inc., Document No. Y-56.

[37] Texas Manufactured Housing Association. Document No. Y-57.

[38] Lawrence J. Kettenback, Jr., Document No. Y-70.

[39] *Id.*

[40] Staff compliance guidelines, 45 FR 68920, at 68925 (Oct. 17, 1980).

[41] *Id.* at 68926.

[42] Temporary partial stay of rules and request for comments, 47 FR 29830 (July 9, 1982).

and the costs that the Rule may impose upon the industry. The Commission believes that in neither case will an undue burden be imposed upon the mobile home industry.

Concerning the costs associated with the perceived need to change the retail installment sales contract, the Commission points out that the disclosures required by § 460.16 can be made in the purchase order contract or in a separate document attached to the sales contract instead of in the retail installment sales contract.

In view of all of these reasons, the Commission has decided to deny the petition insofar as it requests an exemption from § 460.16 for mobile home sellers, and to lift the stay of § 460.16 which it granted to members of the mobile home industry. The stay will be lifted on February 23, 1983.

With regard to §§ 460.18 and 460.19, the Commission's decision in response to the NAHB petition [43] also will determine the question of exemption from these sections for mobile home sellers.

List of Subjects in 16 CFR Part 460

Advertising, Insulation, Labeling, Trade practices.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 83-1869 Filed 1-21-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. R-83-984]

Recognition of Substantially Equivalent Laws

Correction

In FR Doc. 83-754 beginning on page 1190 in the issue of Tuesday, January 11, 1983, on page 1191, third column, § 115.11, first entry under "**Localities**", "Phoenix, AR" should read "Phoenix, AZ".

BILLING CODE 1505-01-M

[43] *Id.*

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13 82-09]

Drawbridge Operation Regulations; South Fork Willapa River, Wash.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Burlington Northern Railroad Company, the Coast Guard is changing the regulations governing the railroad drawbridge across the South Fork Willapa River, mile 0.3, at Raymond, Wash., by requiring 24-hours advance notice for openings. This change is being made because of a steady decrease in requests for opening the draw. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on February 23, 1983.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief Bridge Section, Aids to Navigation Branch, Thirteenth Coast Guard District (Telephone: (206) 442-5864).

SUPPLEMENTARY INFORMATION: On October 7, 1982, the Coast Guard published a proposed rule, (47 FR 44346) concerning this amendment. The Commander, Thirteenth Coast Guard District also published this proposal as a Public Notice dated October 7, 1982. In each notice, interested persons were given until November 22, 1982, to submit comments.

Drafting Information

The drafters of this rule are Commander Richard E. Cunningham, project officer, and Lieutenant Commander D. Gary Beck, project attorney.

Discussion of Comments

Four letters were received in response to the Notice of Proposed Rule Making, all from federal agencies. The responses offered either no objection or no comment to the proposal. Therefore, there are no substantive changes being made in the final rule. Some minor editorial changes have been made for clarification and consistency only. Other than the Burlington Northern Railroad Company, there are no known businesses, including small entities, that would be affected by the change. There are only minimal economic impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. The Burlington Northern Railroad Company would benefit because it would be relieved of the burden of providing a salaried full-time operator for infrequent bridge openings.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(d) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 177.770 (b)(1)(ii) and (b)(2) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.770 Willapa Harbor and navigable tributaries, Wash.; bridges.

* * * * *

(b) * * *

(1) * * *

(ii) Burlington Northern Railroad Company bridge, South Fork Willapa River at Raymond, Washington: Two long blasts of a horn or whistle, followed quickly by one short blast.

* * * * *

(2) Constant attendance by draw tenders is not required at the State highway bridge across the North Fork Willapa River at Raymond, the State highway bridge across the Naselle River about 6 miles downstream from Naselle, and at the Burlington Northern railroad bridge across the South Fork Willapa River at Raymond. Vessels requiring openings of the State highway bridges shall give advance notice of not less than 2 hours for openings between 8 a.m. and 5 p.m. on all days except Saturdays, Sundays, and federal holidays, and advance notice of not less than 8 hours for openings at any other

time. Vessels requiring openings of the Burlington Northern railroad bridge shall give at least 24 hours advance notice. The owners of the bridges shall keep conspicuously posted on both the upstream and downstream sides, in such a manner that they can be easily read at any time, summaries of the regulations of this section, together with notices stating exactly how the bridge operators may be reached to obtain openings of the bridges, including names, addresses, and telephone numbers.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: January 6, 1983.

C. F. DeWolf,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 83–1879 Filed 1–21–83; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A–3–FRL 2282–4; Docket No; 107WV–3]

Designation of Areas for Air Quality Planning Purposes; Approval of Redesignation of Attainment Status for State of West Virginia

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval in changing the air quality designation for the portions of Union and Winfield Magisterial Districts, west of Interstate Highway I–79 in Marion County, West Virginia to an attainment status of the National Ambient Air Quality Standards for Total Suspended Particulates (TSP). This change is based on eight consecutive calendar quarters of air quality data showing attainment.

DATES: This action will be effective on March 25, 1983 unless notice is received by February 23, 1983 that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Mr. James E. Sydnor of the EPA, Region III address shown below. Copies of the request for redesignation may be examined during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106; Attn: Patricia Gaughan (3AW11)

West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia 25311; Attn: Mr. Carl G. Beard

FOR FURTHER INFORMATION CONTACT: Lillie R. Ellerbe (3AW13) 215/597–8170 at the EPA, Region III address indicated above.

SUPPLEMENTARY INFORMATION: The West Virginia Air Pollution Control Commission has submitted to the U.S. Environmental Protection Agency (EPA) a request to have the portions of Union and Winfield Magisterial Districts, west of Interstate Highway I–79 in Marion County, West Virginia redesignated to an attainment area for TSP under Section 107 of the Clean Air Act and 40 CFR Part 81.

The air quality data for July 1980 through June 1982 from the two monitoring sites in Marion County both indicate that this area shows no violations of the TSP air quality standards. EPA has examined the air quality data collected from the two sites used to demonstrate attainment and found that the data were collected in accordance with all EPA requirements. Accordingly, EPA is approving the Commission's request for redesignation to attainment.

EPA is today changing the Section 107 attainment status designation for the portions of Union and Winfield Magisterial Districts, west of Interstate Highway I–79 in Marion County to an attainment status for TSP without prior proposal. The public is avised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days from today that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Conclusion

The Administrator's decision to approve the redesignation was based on a determination that it meets the requirements of Section 107 of the Clean Air Act and 40 CFR Part 81, Designation of Areas for Air Quality Planning Purposes.

As a result of EPA's decision to approve this redesignation, 40 CFR Part 81, § 81.349 is being revised as shown below.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas, Intergovernmental relations.

(Section 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: January 12, 1983.

Anne M. Gorsuch,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart C—Section 107 Attainment Status Designations

§ 81.349 [Amended]

In § 81.349, the TSP table is revised by changing the entry for Marion County to read as follows: § 81.349 West Virginia

WEST VIRGINIA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
• • •	•	•	•	•
In Marion County, all portions of Union and Winfield Magisterial Districts west of Interstate Highway I–79.				X.
• • •	•	•	•	•
• • •	•	•	•	•

[FR Doc. 83–1745 Filed 1–21–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6358]

Final Flood Elevation Determination; Township of Battle Creek, Calhoun County, Michigan

AGENCY: Federal Emergency Management Agency.

ACTION: Deletion of final rule for the Township of Battle Creek, Calhoun County, Michigan.

SUMMARY: The Federal Emergency Management Agency has erroneously published the final flood elevation determination for the Township of Battle Creek, Calhoun County, Michigan. This notice will serve to delete that publication.

EFFECTIVE DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: As a result of the Township of Battle Creek's recent annexation to the City of Battle Creek, Calhoun County, Michigan, the Federal Emergency Management Agency has determined that the notice of final flood elevation determination for the Township of Battle Creek, Calhoun County, Michigan, published at 45 FR 52713, on November 23, 1982, should be deleted. The final flood elevation determinations for the Township of Battle Creek will be incorporated into the City of Battle Creek's Flood Insurance Study and Flood Insurance Rate Map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Emergency Management Agency)

Issued: January 6, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-1808 Filed 1-21-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Dekalb, Illinois Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of DeKalb, Illinois. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of DeKalb, Illinois, that certain structures are not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structures are not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for those structures as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 170182, Panel No. 0005A, published on October 6, 1980, in 45 FR 66073, indicates that the Bio Disc Building, Pump Building and Generator Building, of the DeKalb Sanitary District, Wastewater Treatment Plant, located within Section 14, Township 40 North, Range 4 East of the Third Principal Meridian, City of DeKalb, DeKalb County, Illinois, as recorded in Book 120, Page 83, Book 181, Page 139, Book 136, Page 368, Book 148, Page 431, Book 297, Page 9, Book 395, Pages 619 through 621 and as Document Nos. 420799 and 419367, in the Office of the Recorder of Deeds of DeKalb County, Illinois, are located within the Special Flood Hazard Area.

Map No. 170182, Panel No. 0005A, is hereby corrected to reflect that the above-mentioned structures are not within the Special Flood Hazard Area identified on September 29, 1978. The structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood Insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 26, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: December 30, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-1809 Filed 1-21-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-6048]

Letter of Map Amendment for the City of Shoreview, Minnesota Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Shoreview, Minnesota. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Shoreview, Minnesota, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 270384, Panel No. 0001B, published on May 12, 1981, in 46 FR 26306, indicates that Lots Nos. 5 through 8 and the four-lot unit of Lots Nos. 9 through 12, Block 5, Cherry Wood Hills, City of Shoreview, Ramsey County, Minnesota, as recorded in Book 95 of Plats, Pages 14 through 16, as Document No. 2161157, in the Office of the Recorder of Ramsey County, Minnesota, are located within the Special Flood Hazard Area.

Map No. 270384, Panel No. 0001B, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on April 1, 1981. The property is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on substantial number of small entities. This rule provides routine legal notice to technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood Insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E. O. 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: December 30, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs Support.

[FR Doc. 83–1812 Filed 1–21–83; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Omaha, Nebraska Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Omaha, Nebraska. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Omaha, Nebraska, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 315274 Panel 0025D, published on October 6, 1980, in 45 FR 66108, indicates that Lots 6, 7, 9 and 17 through 19, 114th Plaza, Omaha, Nebraska, as recorded in Book 1607, Page 485 and Book 1628, Page 116, in the Office of the Recorder, Douglas County, Nebraska are located within the Special Flood Hazard Area.

Map No. H & I 315274 Panel 0025D is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on October 15, 1982. These structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a

substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued December 30, 1982.

Dave McLoughlin,

Acting Associate Director State and Local Programs and Support.

[FR Doc. 83-1813 Filed 1-21-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6263]

Letter of Map Amendment for the Township of Pleasant, North Dakota Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Township of Pleasant, North Dakota. It has been determined by the Acting Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Pleasant, North Dakota, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. 380263 Panel 0025A, published on February 3, 1982, in 47 FR 12799, indicates that the existing structure located on Lot 162 of the Oxbow Country Club and Estates, Township of Pleasant, Cass County, North Dakota, recorded as Document No. 480003 in Book J of Plats, page 31, in the Office of the Register of Deeds, Cass County, North Dakota, is located within the Special Flood Hazard Area.

Map No. 380263 Panel 0025A is hereby corrected to reflect that the existing structures located on the above-mentioned lot are not within the Special Flood Hazard Area identified on February 3, 1982. These structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Acting Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support.)

Issued: January 3, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-1814 Filed 1-21-83; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-6349]

Letter of Map Amendment for the City of Junction City, Oreg., Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Junction City, Oregon. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Junction City, Oregon, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472. (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda,

Maryland 20034, Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 410124 Panel 0001B, published on July 13, 1982, in 47 FR 30251, indicates that Lot 16, Block 1; and Lots 2, 10 and 12, Block 4, Third Addition to Brentwood Homes, Junction City, Oregon, as recorded In Volume 69, Page 55, in the Office of the Recorder, Lane County, Oregon, are located within the Special Flood Hazard Area.

Map No. H & I 410124 Panel 0001B is hereby corrected to reflect that the existing structures located on the above-mentioned lots are not within the Special Flood Hazard Area identified on June 15, 1982. These structures are in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 3, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83–1615 Filed 1–21–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5939]

Letter of Map Amendment for Unincorporated Area of Caroline County, Maryland Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule, Map Correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Caroline County, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Area of Caroline County, Maryland, that a certain structure is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that structure as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 240130, Panel No. 0305B, published on November 3, 1980, in 45 FR 72660, indicates that the existing structure located on Lot No. 8, as shown on the "Survey Plat Showing That Part of Tammuxzena Shores Belonging to B. Hope Harrison Inc.", Unincorporated Area of Caroline County, Maryland, as recorded in Plat File No. 2, Plat 167, in the Office of the Clerk of the Circuit Court of Caroline County, Maryland, is located within the Special Flood Hazard Area.

Map No. 240130, Panel No. 0305B, is hereby corrected to reflect that the existing structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on October 15, 1980. The structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood Insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 23, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83–1610 Filed 1–21–83; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA 5939]

Letter of Map Amendment for Unincorporated Area of Caroline County, Maryland Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, Map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the Unincorporated Area of Caroline County, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Unincorporated Area of Caroline County, Maryland, that a certain structure is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject structure is not within

the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that structure as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. 240130, Panel No. 0305B, published on November 3, 1980, in 45 FR 72660, indicates that the existing residential structure located on Lot No. 1, as shown on the "Survey Plat Showing That Part of Tammuxzena Shores Belonging to B. Hope Harrison Inc.", Unincorporated Area of Caroline County, Maryland, as recorded in Plat File No. 2, Plat 167, in the Office of the Clerk of the Circuit Court of Caroline County, Maryland, is located within the Special Flood Hazard Area.

Map No. 240130, Panel No. 0305B, is hereby corrected to reflect that the existing residential structure located on the above-mentioned property is not within the Special Flood Hazard Area identified on October 15, 1980. The residential structure is in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood Insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: December 23, 1982.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83–1811 Filed 1–21–83; 8:45 am]

BILLING CODE 6718–03–M

Proposed Rules

Federal Register
Vol. 48, No. 16
Monday, January 24, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 967

Celery Grown in Florida; Decision on Proposed Amendment of Marketing Agreement and Order and Referendum Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision proposes an amendment to the marketing agreement and order regulating celery grown in Florida, and provides for a referendum on the amendment among affected producers. The proposed amendment would authorize changes in the number of industry members serving on the Florida Celery Committee. This proposal is designed to improve the program's administration.

DATES: Referendum Period February 8–February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–2615.

SUPPLEMENTARY INFORMATION: Prior Documents in this Proceeding: Notice of Hearing—Issued October 5, 1982, and published October 13, 1982 (47 FR 45020). Notice of Recommended Decision—Issued December 2, 1982, and published December 7, 1982 (47 FR 54975).

This formal rulemaking action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This proposed action relates to industry representation on the marketing order administrative committee and to the voting procedures of that committee, and will not affect costs for the handlers regulated under the program.

This proposed amendment was formulated on the record of a public hearing held in Orlando, Florida, on November 1, 1982. Notice of the hearing was published in the October 13, 1982, issue of the **Federal Register**. The notice set forth a proposed amendment submitted by the Florida Celery Committee on behalf of celery producers and handlers in the production area.

On the basis of the evidence introduced at the hearing and placed in the record, on December 2, 1982, the Deputy Administrator filed a recommended decision with the U.S. Department of Agriculture Hearing Clerk. The recommended decision was published in the December 7, 1982, issue of the **Federal Register** (47 FR 54975), and allowed 30 days (or until January 6, 1983) for the filing of exceptions to it. No exceptions were received.

Findings and Conclusions. The material issues, findings and conclusions, and general findings of the recommended decision are hereby approved and adopted by reference and made part of this decision.

Marketing agreement and order. Annexed and made a part of this decision are two documents entitled "Marketing Agreement, as Further Amended, Regulating the Handling of Celery Grown in Florida",[1] and "Order Amending the Order, Regulating the Handling of Celery Grown in Florida", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the **Federal Register**. The regulatory provision of the marketing agreement are identical to those contained in the order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*), to determine whether the issuance of the annexed order amending the order regulating the handling of celery grown in Florida, is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1981, through July 31, 1982.

The agents of the Secretary to conduct such referendum are hereby designated to be William C. Knope, and Anne M. Dec.

Signed at Washington, D.C., on January 18, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order[2] Amending the Order Regulating the Handling of Celery Grown in Florida

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of Marketing Order No. 967 (7 CFR Part 967), regulating the handling of celery grown in Florida.

Upon the basis of the record, it is found that:

(1) The order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as hereby amended, regulates the handling of celery grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the

[1] Filed as part of the original.

[2] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

marketing order upon which hearings have been held;

(3) The order, as hereby amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as hereby amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of celery grown in the production area; and

(5) All handling of celery grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of celery grown in Florida shall be in conformity to and in compliance with the terms and conditions of the said order, as hereby amended.

The provisions of the proposed marketing order, amending the order, contained in the recommended decision issued by the Deputy Administrator on December 2, 1982, and published in the **Federal Register** on December 7, 1982 (47 FR 54975), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

List of Subjects in 7 CFR Part 967

Marketing agreements and orders, Celery, Florida.

PART 967—CELERY GROWN IN FLORIDA

(1) Section 967.25 is amended by adding paragraph (b) to read:

§ 967.25 Establishment and membership.

* * * * *

(b) The Secretary, upon the recommendation of the committee, may reestablish the number of producer or handler members on the committee. In recommending any such change, the committee shall give consideration to the total number of growers and handlers in the production area during the current or previous season, and other relevant factors. A change in the number of committee members can become effective at any time, provided, the effective date is more than 30 days prior to the date on which nominations are held.

(2) Section 967.27 is amended by revising paragraph (a), and adding (g) to read:

§ 967.27 Nominations.

(a) Growers in each group, as established in paragraph (d) of this section or as reestablished pursuant to paragraph (g) of this section, may nominate persons for each member and alternate position in their respective group.

* * * * *

(g) The Secretary, upon recommendation of the committee, may reestablish groups and may reapportion committee membership among the various groups. In recommending such changes, the committee shall give consideration to (1) changes in the relative positions of existing groups with respect to celery production and shipments; (2) changes in the numbers of producers and handlers in each group; and (3) other relevant factors. A change in the establishment of groups or in apportionment of members among groups can become effective at any time, provided, the effective date is more than 30 days prior to the date on which nominations are held.

(3) In Section 967.29, paragraph (a) is revised to read:

§ 967.29 Procedure.

(a) At an assembled meeting, all votes shall be cast in person, and a simple majority of committee members (including alternates acting for absent members) shall constitute a quorum. Decisions of the committee shall require the concurring vote of a majority of the members and alternates in attendance and entitled to vote.

* * * * *

[FR Doc. 83-1900 Filed 1-21-83; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-35]

Union of Concerned Scientists; Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: On November 18, 1982 47 FR 51889, the NRC published for public comment a notice of receipt of a petition for rulemaking on emergency planning which petition was dated October 14, 1982, and filed with the Commission by the Union of Concerned Scientists. At the request of the UCS the NRC is extending the period for comment on the petition for rulemaking from January 17, 1983 to January 24, 1983.

DATE: Comments on the petition for rulemaking on emergency planning (47 FR 51889) must be submitted to the NRC by January 24, 1983.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301-492-7086 or Toll Free: 800-368-5642.

Dated at Washington, D.C. this 19th day of January 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-1862 Filed 1-21-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-NM-113-AD]

Airworthiness Directives; Pacific Scientific Company, Kin-Tech Division

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new Airworthiness Directive (AD) that would require replacement of the lower cover of certain rotary buckles used in aircraft flight attendant seat restraint systems. This proposed AD is required to assure that a broken cam plate will not result in the entrapment of the occupant during emergency conditions.

DATES: Comments must be received no later than March 15, 1983. Compliance schedule: within 180 days from the

effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Pacific Scientific Company, Kin-Tech Division, 1346 South State College Boulevard, Anaheim, California 92803. This information also may be examined at FAA Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Western Aircraft Certification Field Office, 15000 Aviation Boulevard, Hawthorne, California. Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Rules Docket No. 82–NM–113–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Walt Eierman, Aerospace Engineer, ANM–173W, Federal Aviation Administration, Northwest Mountain Region, Western Aircraft Certification Field Office, 15000 Aviation Boulevard, Hawthorne, California, telephone (213) 536–6387.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket 82–NM–113–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

Two instances have been reported where a flight attendant has been unable to unlatch a Pacific Scientific rotary buckle restraint system. In each case one of the lobes on the stamped rotary cam plate had broken off. This allowed the cam plate to be over-rotated which permitted the locking pawl to be captured in the locked position. Pacific Scientific buckle assemblies Part Numbers 1107261–01, –05 and –09 manufactured prior to 1982 were of this design. Pacific Scientific has incorporated two (2) rivet stops within the buckle cover which precludes over-rotation of the cam plate in the event of cam failure. This condition, if uncorrected, could result in an occupant being trapped in the seat.

Since this condition is likely to exist in other seat belts of the same type design, the proposed AD would establish a requirement to replace the lower cover with a new design cover. Therefore, in consideration of the hazardous consequences of being trapped in a seat during an emergency situation, the proposed AD is considered to be necessary.

The costs that would be associated with this proposed AD are estimated to be $12 for each of 6000 units in U.S. airline service. The total is estimated at $72,000. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Pacific Scientific Company, Kin-Tech Division

Applies to Pacific Scientific flight attendant restraint system rotary buckle assemblies, Part Numbers 1107261–01, –05 and –09 manufactured prior to 1982.

Compliance required within 180 days from the effective date of this AD, unless previously accomplished.

To prevent the entrapment of occupants caused by the inability to release the restraint system assemblies, accomplish the following:

a. Inspect flight attendant restraint systems to determine if Pacific Scientific rotary buckle as identified in Figure 1 of Pacific Scientific Service Bulletin 1107261–25–01 is installed.

b. If installed, determine if the old lower cover 1107270–01 or the new cover assembly 1107525–01 is installed. The cover is not identified with a part number, however, with the old cover only the two (2) attachment screw heads will be seen. The new cover assembly also has two (2) rivet upsets on the outside of the cover assembly and, in addition, the lap belt and/or inertia reel nameplate should be identified with the letter "M" after the assembly part number.

c. If the new cover assembly 1107525–01 is installed, no further action is required per this AD.

d. If the old cover 1107270–01 is installed, replace the old cover with the new 1107525–01 cover assembly and stamp or mark a suffix letter "M" next to part number on each lap belt and on inertia reel nameplate.

Note.—Pacific Scientific Service Bulletin 1107261–25–01, Revision 1, dated June 1, 1982, pertains to this subject.

e. Alternate inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Manager, Western Aircraft Certification Field Office, FAA, Northwest Mountain Region.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble: the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on January 14, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83–1630 Filed 1–21–83; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[LR–2117]

Manufacturers Excise Taxes on Petroleum Products

Correction

In FR Doc. 83–256 beginning on page 437 in the issue of Wednesday, January 5, 1983, make the following changes:

1. On page 438, third column, § 48.4063–1(a)(3)(i), fifth line, the word "common" should be removed.

2. On page 439, third column, § 48.4091–2(b)(2)(iii), fourth line "renovate" should read "renovated".

3. On page 440, first column, § 48.4091–3(a)(2), thirteenth line, "us" should read "use" and insert "and" after "cutting"; third column, § 48.4091–4(b)(1), last paragraph of "Exemption Certificate", fourth line, insert the following after "of": "not more than $10,000, or imprisonment for".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket PS–74; Notice 1]

Transportation of Gas or Hazardous Liquids by Pipeline; Repair or Removal of Girth Weld Defects

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend the pipeline construction requirements of Parts 192 and 195 by replacing the present regulations on the repair or removal of defective girth welds with performance standards for weld repair, and incorporating by reference the procedural requirements of Section 7.0 of API Standard 1104 in recognition of an American Petroleum Institute (API) June 1981 petition. The proposed requirements would permit the repair of weld cracks as well as multiple repairs of other weld defects under controlled conditions in a more cost effective manner and assure that the soundness and mechanical properties of a repaired weld will be equal to an acceptable new weld.

DATE: Interested persons are invited to submit written comments on this proposal. All comments must be filed by March 10, 1983. Late filed comments will be considered so far as practicable. Interested persons should submit as part of their written comments all the material that is considered relevant to any statement of fact or argument made.

ADDRESS: Communications should be sent to the Dockets Branch, Room 8426, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, and identify the docket and notice numbers.

FOR FURTHER INFORMATION CONTACT: William A. Gloe, (202) 426–2082.

SUPPLEMENTARY INFORMATION

Background

Weld repair requirements of Parts 192 and 195 were derived from industry standards that were in effect at the time of issuance of the Federal pipeline safety regulations, and were based on concepts that safety would be adversely affected by certain types of weld repair, particularly the repair of cracks and multiple repair of other defects. The American National Standards Institute (ANSI) B31.8 standard was generally followed as a guide for the gas regulations, and B31.4 for the liquid regulations. The applicable sections of the DOT regulations are § 192.245, "Repair or Removal of Defects," § 195.230, "Welds: Repair of Defects," and § 192.232, "Welds: Removal of Defects."

Changes made in the industry standards since 1970 have resulted in differences from the present DOT regulations with regard to limitations on the repair of cracks and whether or not multiple repair of defects may be made. API Standard 1104, referenced by ANSI B31.4 for weld repair, was revised in 1973 to permit operators to develop and follow procedures for the repair of girth weld cracks and for multiple repair that are not permitted by the DOT regulations. The API 1104 Committee has indicated that the reason for the addition of repair provisions was to adapt the standard to pipeline and other piping construction where the repair of cracks and multiple repair might be appropriate, or where repair may be preferable to cutting out of a section of pipe containing the defective weld and welding in a new short section. ANSI B31.8 was revised in 1975 to incorporate the weld repair provisions of the 1973 edition of API 1104, such that ANSI B31.8 and ANSI B31.4 are now consistent. The DOT regulations are now much more restrictive than the industry standards.

Currently, § 192.245, governing the repair and removal of defects, specifies that a weld must be removed if it has a crack that is more than 2 inches long or that penetrates either the root or second bead, and adds that if a repair is not acceptable, the weld must be removed. However, the rule provides an exception that additional repairs made in accordance with qualified procedures are permitted for offshore pipelines being installed from a pipelay vessel. Section 195.230 specifies that an unacceptable weld may not be repaired unless there are no cracks in the weld and the segment of the weld was not previously repaired, but makes a similar exception to § 192.245 for offshore pipelines being installed from a pipelay vessel. Section 195.232 provides that a cylinder of the pipe containing the weld must be removed whenever the weld contains one or more cracks or the weld was repaired but did not meet the standards of acceptability.

Under the provisions of the President's Executive Order 12291, the MTB has performed a regulatory review of the girth weld repair sections of Parts 192 and 195. That review of the MTB technical and pipeline accident information, including waiver petitions and resulting MTB actions, has shown that the present requirements are overly stringent and costly. Documented estimates of cost savings over the past 6 years as a result of waiving the repair limitations for four pipeline operators have been more than 16 million dollars. It is not known how many other pipeline construction projects have been, or would be, affected adversely by these weld repair limitations in the future, although it is believed that the number is substantial. MTB accordingly proposes the adoption of the requirements of Section 7.0 of API 1104 (15th edition, 1980) with further supporting and definitive performance language to assure a sound, ductile weld when repair is completed.

American Petroleum Institute Petition

On June 2, 1981, the API petitioned on behalf of the API–AGA Joint Committee on Oil and Gas Pipeline Field Welding Practices to replace the relevant sections of Parts 192 and 195 with the following: "Repair or Removal of Defects: Each weld that is found unacceptable under (§ 192.241(c) or § 195.228(b)) must be removed or repaired. Repairs must meet the requirements of Section 7.0, 'Repair or Removal of Defects' of API Standard 1104." Section 7.0 of API Standard 1104 (15th edition, 1980) is quoted in its entirety as follows:

Section 7.0, Repair or Removal of Defects

7.1 Authorization for Repair of Defects Except Cracks

Defects, except cracks, in the root and filler beads may be repaired with prior company authorization. Defects, except cracks, in the cover pass may be repaired without prior company authorization. When repairs are made in a previously repaired area, a procedure similar to that for the repair of cracks shall be used (Paragraph 7.4). All repairs must meet the Standards of Acceptability—Nondestructive Testing, Section 6.0 of this standard.

7.2 Removal and Preparation for Repair of Defects

Before repairs are made, injurious defects shall be entirely removed to sound metal. All slag and scale shall be removed. Preheating may be required by the company.

7.3 Testing of Repairs

Repaired areas shall be re-radiographed, or inspected by the same means previously used.

The company may, if it chooses, reinspect all of a weld containing a repair in the same manner as it is allowed to inspect any production weld (Par. 5.1. and 5.2).

7.4 Authorization and Procedure For Repair of Cracks

Cracked welds shall be removed from the line unless a repair is authorized by the company. Such weld cracks may be repaired provided:

a. The crack is less than 8 percent of the weld length.

b. A complete repair procedure has been developed and documented. The repair procedure shall include:

(i) Method of exploration of the crack area.

(ii) Method of crack removal.

(iii) Preheat and interpass heat requirements.

(iv) Welding procedure and type of electrodes.

(v) Interpass nondestructive inspection requirements.

(vi) Postheat treatment.

c. The repair is made under the supervision of a technician experienced in repair welding techniques.

d. The weld is made by a qualified welder.

e. The repair groove is examined by a magnetic particle or dye penetrant test to assure complete removal of the crack.

The regulation changes for which API petitions would overcome objections to the current weld repair regulations by permitting the repair of cracks and the multiple repair of weld defects, but add a crack length limitation of 8 percent of the weld length and are not definitive with regard to the required properties of the weld after repair is completed. MTB does not have data that would support the 8 percent limitation, other than informal information from the API 1104 Committee that this limit is consistent with other provisions of the workmanship standards for weld defects. The central issue as to whether Section 7.0 of API 1104 may be considered adequate for weld repair (of cracks and for multiple repairs) is whether or not the procedures assure the soundness and mechanical properties equivalent to an acceptable welded joint. Since Section 7.0 only cites in 7.4.a(iv) the welding procedure and type of electrodes as a control (which may or may not be effectively applied), MTB believes it is necessary to state the objective of Section 7 in performance terms. This is simply that the repair procedure must assure that the same minimum requirements for soundness and mechnanical properties as specified for the original weld will be met after completion of the repair.

The API petition transmittal letter also states that "Compliance [with the present DOT regulations] has proven impossible where fittings, valves, and flanges are involved since there is no pipe to be cut out on one side of the weld." Curiously, Section 7.0 of API 1104 makes no exemption for welds at fittings other than for application of the 8 percent limit for crack repair. It may be implied that weld cracks have not occurred at fittings that are more than 8 percent of the weld length, or that if the cracks were longer, the fitting should be removed from the line. A more plausible interpretation is that the phrase "Cracked welds shall be removed from the line" means that the weld only shall be removed, permitting the use of air-arc gouging and grinding or other similar technique to avoid grossly enlarging the weld groove. It is not clear, in this regard, as to what practical purpose the 8 percent limit serves. Nevertheless, MTB seeks comment as to the need in the Federal regulations for a specific limit on a crack length that may be repaired, assuming that all of the other provisions of Section 7.0 of API 1104 would be followed in making the repair.

The API letter petition is available in the docket for this proceeding for review and copying by interested persons.

Clarification of Removal of Welds

As stated above, Part 192 now specifies the conditions under which an unacceptable weld must be "removed," but does not otherwise expressly regulate the extent or process of removal. Part 195 specifies, in contrast, that when a weld is to be "removed," a cylinder of the pipe containing the weld must be removed. The conditions requiring removal are that (a) a first weld repair has been found unacceptable or (b) the weld contains unrepairable cracks. Because of the difference in definition between the gas and liquid regulations and the questionable effect of requiring that a section of pipe on each side of the weld be removed, MTB finds it necessary to further consider the meaning of the term "removed" in the proposed rule.

Section 7.0 of API 1104 requires that cracked welds shall be removed from the line unless a repair is authorized by the company. MTB considers that further definition or restriction of weld removal as in Part 195 is not needed since if an entire new weld is made as other than a repair, the requirements of the original welding procedure, including all essential variables, would apply to assure a quality weld. In either case, if Section 7.0 is applicable, MTB considers that the established provisions for both the welding qualification procedure and the repair procedure (along with supplemental visual inspection and nondestructive testing) are adequate to assure quality pipeline welding. MTB believes that retention of the specific requirement for the method of removal of a defective weld would add no safety benefit and is unnecessary.

Multiple Repairs

As previously stated, multiple repairs of weld defects, or more than one repair of a single weld defect, have not been permitted by the DOT pipeline safety regulations for onshore pipelines, this prohibition having been derived from pre-1970 industry consensus standards for pipeline welding. Since that time, the industry has developed and implemented procedures that have been successfully applied in the performance of pipeline weld repair. The API asserted in its 1981 petition that a compelling reason to allow multiple repairs of weld defects in onshore pipelines is that multiple repairs are now permitted in the construction of offshore pipelines. There is merit in this assertion because the stress of laying offshore pipelines from lay barges is more severe than that encountered in the construction of onshore pipelines, and no failures have been reported to DOT in the past 10 years of offshore pipeline construction due to multiple repairs of weld defects.

A waiver petition submitted by the Louisiana Offshore Oil Port Authority (LOOP) for 105 platform piping welds that had each been repaired more than once (up to seven times) provided fracture toughness test data to show that toughness of the welded joint was not impaired or degraded by multiple repairs of the same defect in up to six repairs. Though fracture toughness as determined by the Charpy "V" notch impact test was slightly degraded in one segment of the weld repaired seven or more times, it was strongly suggested by the supporting documentation that if the procedures of Section 7.0 of API 1104 had been followed with respect to

verification of complete removal of the defect prior to weld repair, the number of repairs would not have been necessary.

As of this date, MTB has no data that would suggest that a hazardous condition may be created by the allowance of multiple repairs of girth weld defects in accordance with the procedures of Section 7.0 of API 1104. However, commenters are requested to provide any data that may be available on adverse effects of multiple repair welding, particularly on higher strength grades of steel line pipe that may require precautionary provisions for satisfactory repair that may not now be contained in Section 7.0.

Discontinuation of Weld Repair Regulation

During the MTB regulatory review, consideration was given to other alternatives, including the deletion of all weld repair or removal requirements from the regulations on the basis that the other sections of the regulations on welding would still require qualified welding procedures and qualified welders, and would be applicable to repair welding. The basic determining factor as to whether a specific weld repair regulation was necessary then became an assessment of the extent of the problem.

In the absence of more specific information, the failure of girth welds identified on reports to DOT (due to any cause) was reviewed to provide an indication of the degree of hazard that may exist. From DOT pipeline accident records, it was found that for the past 7 years, there has been an annual average of 30 reportable failures in gas transmission lines and an average of from three to four reportable failures in hazardous liquid pipelines. Many more girth weld failures are shown as "nonreportable" leaks on gas annual report form totals. "Nonreportable" leaks in hazardous liquid lines are not available because liquid line operators are not required to submit annual reports.

While acknowledging that historical accident data may not be representative of present-day welding and inspection techology, further review was made of DOT data as published by the industry. In an American Gas Association (AGA) report published as NG–18 Report No. 108, the AGA summarized all incidents for the 6-year period from 1970 through 1975, showing girth weld failures as 6.2 percent of the total number of incidents. An "incident" is defined by the AGA report as a failure that requires a written report to be submitted in accordance with § 191.15 of 49 CFR Part 191, "Transmission and gathering systems: Leak report." The total number of incidents shown in the AGA report for the 6-year period was 2,459, which at a 6.2 percent rate would be approximately 25 girth weld failures per year. The report states that for all transmission and gathering incidents during the 6-year period "the number of deaths per year has averaged less than four, while the number of injuries per year for the same period has averaged 22."

Other information reviewed included Advisory Bulletins published by the MTB, including National Transportation Safety Board (NTSB) reports cited therein. The following information is excerpted from Advisory Bulletin No. 73–12 for December 1973:

> In an NTSB report on a natural gas liquids fire near Austin, Texas, in which six persons died and two were critically burned, the probable cause ws stated to be due to improper pipeline repair welding procedures. NTSB made several recommendations, among which was the recommendation that OPS (now OPSR) should "incorporate into 49 CFR Part 195 specifications for pipeline repair welding procedures designed to avoid stress concentration." The NTSB report number is: NTSB–PAR–73–4. Single copies of NTSB reports may be obtained by writing the Publications Branch, NTSB, Washington, D.C. 20594.

In Advisory Bulletin No. 77–2 for February 1977, the following information is given for a crude oil pipeline accident:

> In an NTSB investigation of a crude oil pipeline accident near Abilene, Texas, in which six men died, it was determined that the probable cause was the attempted repair of "a leak in a cracked fillet weld on a full-wrap repair sleeve" and that the cracked fillet weld was made improperly during the repair of an earlier leak." The NTSB report number is: NTSB–PAR–76–4.

While it is not clear from review of accident report data as to the exact nature of the causal factors, it does become evident that the number of human casualties from one accident resulting from an improper weld repaid can be high. What part of the number of other girth weld failures may be attributed to improper weld repair cannot be known with certainty unless the accident is described in an investigative report, such as an NTSB report. DOT report forms do not contain specific entry blanks for failure due to weld repair.

From a review of the above information, MTB has concluded that a justification does not exist for the discontinuation of weld repair regulation. Facts as above indicate that more effective regulation is needed to avoid a potentially hazardous condition, while at the same time, reducing the cost of pipeline construction.

Girth Weld Repair Waiver History

Waivers from the requirements of §§ 192.245, 195.230, and 195.232 granted by MTB since 1975 have resulted in estimated total cost savings of a minimum of 16 million dollars and have materially assisted in meeting scheduled completion dates for several major pipeline construction projects. Waivers from these requirements have been granted by the DOT for the Alyeska Pipeline Service Company (42 FR 29993, June 9, 1977), the Michigan Wisconsin Pipe Line Company (42 FR 33406, June 30, 1977), LOOP Inc. (46 FR 22306, April 16, 1981), and the Northern Border Pipeline Company (47 FR 20715, May 13, 1982). The waiver petitions had several features in common: (1) They were all for major projects and large diameter pipe (to 48 inches for the Trans-Alaska Pipeline System), Stressing the high cost and adverse schedule effects of replacement versus repair; (2) All waivers recognized the importance of completely documented weld repair procedures; (3) All stated the importance of demonstrating the mechanical properties of the repaired welds as a part of the procedures; (4) All stressed fracture toughness and other special mechanical testing to anticipate and satisfy pipeline design criteria, such as possible permanent strain and fatigue; and (5) Two emphasized the impossibility of removing welds adjacent to, or between fittings, necessitating repair rather than removal. This waiver chronology typifies the scope of the problem and corrective actions, and strongly suggests the need for an amendment utilizing performance standards, along with Section 7.0 of API 1104, as a part of the revised Federal pipeline safety regulations for repair or removal of welds.

MTB believes that the data obtained in processing of these waivers provides valuable basic criteria guidance for revision of the regulations. Waiver petitions listed above, accompanying data, and grants of waivers are also on file in the Dockets Branch for the review of interested persons.

Epilogue.

The MTB has determined that this document does not require a full draft evaluation since the proposal has a minimal impact on the industry and is favorably responsive to a petition for amendment of the regulations by the API as the representative industry consensus standards organization. Also, since the proposed rule would have a

positive effect on the economy of less than $100 million a year, would result in a cost savings to consumers, industry, and government, and no adverse effects are anticipated, this action is not "major" under Executive Order 12291 or "significant" under DOT procedures.

Because MTB has only limited cost data relating to four weld repair waiver actions, additional cost data is now sought from the public and the industry about the resulting effect of amending the regulations as proposed.

List of Subjects

49 CFR Part 192

Pipeline.

49 CFR Part 195

Ammonia, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

Proposed Rule

Based on the foregoing, MTB proposes that Title 49, Code of Federal Regulations, Parts 192 and 195, be amended as follows:

PART 192—[AMENDED]

(1) By revising § 192.245 to read:

§ 192.245 Removal or repair of defective welds.

Each weld that is unacceptable under Section 192.241(c) must be removed, or repaired as follows:

(a) The repair of weld defects and the testing of weld repairs shall be in accordance with the requirements of Section 7.0 of API Standard 1104 and assure a sound, ductile weld when repair is completed.

(b) Multiple repairs, in accordance with subparagraph (a), may be made provided that the weld repair procedures assure that the minimum mechanical properties specified in the welding procedure for the original weld are met upon completion of the final weld repair.

PART 195—[AMENDED]

§ 195.232 [Removed]

(2) By removing § 195.232 and by revising § 195.230 to read:

§ 195.230 Welds: Repair of defects.

Each weld that is unacceptable under Section 195.228 must be removed, or repaired as follows:

(a) The repair of weld defects and the testing of weld repairs shall be in accordance with the requirements of Section 7.0 of API Standard 1104 and assure a sound, ductile weld when repair is completed.

(b) Multiple repairs, in accordance with subparagraph (a), may be made provided that the weld repair procedures assure that the minimum mechanical properties specified in the welding procedure for the original weld are met upon completion of the final weld repair.

(Authoriy citation for Part 192 is: 49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53; Appendix A to Part 1, and Appendix A to Part 106)

(Authority citation for Part 195 is: 49 U.S.C. 2002; 49 CFR 1.53; Appendix A to Part 1; and Appendix A to Part 106)

Issued in Washington, D.C., on January 19, 1983.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 83-1843 Filed 1-21-83; 8:45 am]

BILLING CODE 4910-60-M

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49 CFR Parts 192 and 195

[Docket No. PS-89; Notice 2]

Transportation of Natural and Other Gas and Hazardous Liquids by Pipelines; Line Marking at Navigable Waterways

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: By this notice, MTB proposes to revoke the regulations that require pipeline operators to place and maintain line markers at locations where gas and hazardous liquid pipelines cross navigable waterways. The current regulations are considered costly and unnecessary for safety in light of requirements and practices of the U.S. Army Corps of Engineers.

DATE: Interested persons are invited to submit written comments on this notice before March 10, 1983. Late filed comments will be considered as far as practicable. All interested persons must submit as part of their written comments all the material that they consider relevant to any statement of fact made by them.

ADDRESS: Communications should be sent to the Dockets Branch, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. All comments and docket materials may be reviewed in the Dockets Branch, Room 8426, between the hours of 8:30 a.m. to 5:00 p.m. each working day.

FOR FURTHER INFORMATION CONTACT: Mr. L. M. Furrow, 202-426-2392, regarding the content of this notice, or the Dockets Branch, 202-426-3148, regarding copies of this notice or other information in the dockets.

SUPPLEMENTARY INFORMATION:

Background

Line markers (or signs) historically have been installed by gas and hazardous liquid pipeline companies at navigable waterway crossings to warn vessel pilots of the presence of underwater pipelines. The objective of this practice is to reduce the possibility that underwater pipelines will be damaged by activities such as anchoring, dredging, pile driving, spud mooring, or by collision at the shoreline. A version of this voluntary practice became mandatory for hazardous liquid pipelines when § 195.410, Line markers, was adopted in 1970 (34 FR 15473). Later, the standards in § 192.707 for marking gas pipelines were amended in 1975 (40 FR 13502) to, among other things, establish specific, detailed requirements for marking mains and transmission lines at navigable waterway crossings.

Although the term "navigable waterway" is not defined in either the gas or liquid regulations, MTB has interpreted it in a manner consistent with the U.S. Coast Guard's application of the term. This application has been recently expanded, however, by statutes and court decisions to include waters where there is little or no likelihood that marine activities will damage pipelines. For instance, markers would not be very useful for protecting crossings of minor streams that, although "navigable," have no vessel traffic and no likelihood of being dredged.

Another problem with both the gas and liquid line marking regulations is the difficulty and impracticality of installing warning signs at the shore that are large enough to be seen from passing vessels. Usually as waterways increase in size, so must the signs to provide adequate notice. At some point, aesthetic objections occur.

These problems caused MTB to include §§ 192.707 and 195.410 in its program for reviewing existing regulations, with a view toward revoking or revising these regulations that are not achieving their intended purpose. Key considerations in the review regarding line marking at navigable waterways were: (1) The seriousness of the safety problem the regulations were intended to remedy, (2) the burdens imposed by the regulations, and (3) duplication of the regulations with requirements of another agency.

At the outset of the review, MTB brought the question of the need for line markers at navigable waterways before

the Technical Pipeline Safety Standards Committee, a statutory advisory committee concerned with gas pipeline safety standards. On one occasion, the committee recommended that the term "navigable waterway" be narrowly defined to avoid unnecessary markers, and the markers not be required where channels are marked by aids to navigation and the Corps of Engineers, the National Ocean Survey, or the Defense Mapping Agency maintains charts that show utility crossings. Later, the committee considered the matter again without changing its original recommendation. This time, however, many members openly doubted the value of the line marking regulation in view of the apparently low potential for accidents or likelihood of serious consequences in the event of an accident, and the questionable effectiveness of markers in preventing accidents.

Also included in the review were several petitions for waivers and rulemaking received from the industry. MTB has received waiver petitions from Tennessee Gas Pipeline Company (79–3W), East Tennessee Natural Gas (79–5W), Midwestern Gas transmission (79–4W), and the Northern Natural Gas Company (80–1W). The petitioners requested that MTB grant them a waiver from compliance with the provisions of § 192.707(a) for all of their pipeline crossings of rivers, streams, and inland waters do not have either of the following characteristics: (1) U.S. Coast Guard aids to navigation; or (2) regularly scheduled commercial traffic. The petitioners stated that since MTB's regulations do not define the meaning of navigable waters, and since new laws and Court rulings have extended the meaning of "navigable waterway" to "any head waters capable to floating a canoe, bateaux, or log," markers are required on thousands of pipeline crossings of streams and tributaries where there is no possibility of damage from anchors or dredging. (It should be noted that a permit for dredging in navigable waterways must be obtained from the Corps of Engineers, and obstructions to dredging (such as pipelines) are noted on the permit.)

Tennessee Gas Pipeline Company stated that it would cost them in excess of $8,000,000 to install signs at all navigable water crossings on their system. East Tennessee estimated their costs as at least $600,000.

Another petitioner (P–10), the Interstate Natural Gas Association of America, has requested that MTB amend part 192 to establish a definition of "navigable waterway" that would limit the installation of markers to waterways that have either Coast Guard aids to navigation or vessel traffic that could damage the pipeline. This request is consistent with the waiver petitions discussed above, in that markers would be required only where there is potential for anchor damage.

MTB's review concluded, preliminarily, that despite their longstanding usage, there was no empirical evidence to demonstrate the effectiveness of line markers in reducing the potential for accidents at navigable waterway crossings. It was also obvious that marker benefits, if any, would not likely be available at night or in fog, of far from shore where markers of moderate size could not be seen.

Another finding was that the consequences of accidents that have occurred have not been severe in terms of deaths and injuries. From 1970 through 1979, there were 40 accidents reported on gas pipeline crossings caused by marine activities, resulting in no deaths and four injuries. Between 1968 and 1977, there were only 16 marine-activity related accidents on liquid pipelines, and no deaths or injuries were reported.

Finally, even in the absence of a complete cost study, the information supplied by Tennessee Gas showed that compliance with the existing requirements for water crossings that might be classed as navigable is very costly for the industry.

Advance Notice

To complete its review of the regulations that require placement of line markers at navigable waterway crossings, MTB issued an Advance Notice of Proposed Rulemaking (ANPRM) on June 17, 1981 (FR 46 32287, June 22, 1981), inviting comments on the problem of interference with underwater pipeline crossings, the benefits of installing line markers at these crossings, and the size and costs of markers to be used.

In the ANPRM, MTB identified five alternatives that were being considered in deciding what, if any, rulemaking action to take. Also, MTB requested information from interested persons to aid in determining which alternative to choose. To focus the discussion on the issues which MTB believed would be of the greatest help in deciding which alternative to choose, MTB asked five questions relating to the alternatives.

Sixty-seven persons responded to the ANPRM. They included public utility companies, gas and liquid transmission companies, State agencies, industry associations, industry standards-making bodies, maritime associations, a barge company, and other Federal agencies.

Responses to Questions

As to the risk posed by underwater pipelines, virtually all commenters said that the threat to public safety of an underwater gas or hazardous liquid pipeline is small. They based this opinion on a belief that damage to such pipelines occurs infrequently, and when damage does occur, it's usually in remote and sparsely populated areas where there are few ignition sources and few people are at risk. The majority of respondents stated that only in areas which have commercial traffic or dredging activities is there any potential threat to underwater pipelines. They cited the inattention of mariners, emergency anchoring, anchor dragging, barge sinking, and striking of pipelines by hulls or propellers as accident causes. Contributing factors were stated as the narrowness of many waterways, pipeline exposure due to erosion at riverbanks, and shifting of cover on riverbeds.

All the commenters had difficulty in evaluating the degree of effectiveness of signs in preventing accidents. Nevertheless, many respondents asserted that line markers are worthwhile on those waterways where the potential threat of damage to pipelines is significant. Many operators mentioned the fact that line markers may be seen at night by use of a vessel's spotlight. The usefulness of line markers in pinpointing the spot where a pipeline enters the water and the advantage of having the name of the commodity carried and a phone number on the line marker for appropriate response in case of an emergency were thought to be of value by several of the respondents.

There was a mixed response regarding whether markers should be required on waterways where the Corps of Engineers, the National Ocean Survey, or the Defense Mapping Agency maintains charts showing utility crossings or where there are aids to navigation. The majority were nearly unanimous in stating that installation of markers should be voluntary where there are currently Coast Guard aids-to-navigation or where crossings are shown on charts maintained by the above agencies. These respondents expressed the belief that the maintained charts provide a sufficient safeguard, and line markers should not be mandatory where such charts show pipeline crossings. In contrast, some commenters thought that markers should be required at crossings where there are Coast Guard aids-to-

navigation or traffic of vessels of a size that could damage a pipeline. Others pointed out that to be effective, charts must be kept accurate and up-to-date. Some pipeline operators and mariners stated that the charts are often not large enough for sufficient accuracy. Also, some State agencies mentioned that it cannot be presumed that pilots will use their charts at all times.

In regard to the use of lights or buoys to show a pipeline's location instead of conventional markers, most respondents considered the use of lights or buoys impracticable and not cost-effective. They cited the high initial cost of the devices, high maintenance costs, and the infrequency of accidents. In addition, the possibility of lights and buoys being mistaken for Coast Guard aids-to-navigation was mentioned. Also, they said the slack in buoy mooring chains would permit buoys to change position from directly over a pipeline and reduce their usefulness in showing the precise location of pipelines. Some of the respondents suggested, however, that lights and buoys should be considered for use on a site-specific basis, generally in wide channels, but their use in these areas should be subject to Coast Guard approval to prevent interference with the present aids-to-navigation system.

Several commenters recommended approaches other than line markers as a solution to the problem of underwater pipeline damage. There was general agreement that the present permit requirements of the Army Corps of Engineers are adequate to control the threat of accidents due to dredging or construction projects. Also, most of the respondents stated that "one-call" systems are effective in reducing accidents. It should be noted that a new Federal rule requiring gas operators to conduct or participate in "one-call" damage prevention programs in populated areas goes into effect April 1, 1983 (47 FR 13818, April 1982). Pipeline operators opposed deeper burial of pipelines because of the expense, while some State agencies and mariners were in favor of deeper burial.

Regarding the size of signs, all respondents agreed that if a requirement for installation of line markers at navigable waterways is to remain in force, 12-inch letters is the maximum size necessary. The opinions on how large the line marker signs should be varied from 4 by 8 feet to 8 by 12 feet. The majority preferred that visibility be based upon the use of binoculars. Some thought that line markers should be placed in the waterway itself for large bodies of water, recognizing that the line markers might then become a hazard. The respondents agreed that line markers should be of a standard size, shape, and color scheme.

Many of the pipeline operators responding to the ANPRM stated that if the marking of pipeline crossings is to continue to be regulated, then the regulations should be reissued as performance requirements. It was their opinion that pipeline operators are in the best position to determine the importance of and the type of marker that would effectively protect the crossings.

In the ANPRM, MTB asked what would be the result if markers were no longer required. Virtually all the respondents who operate pipelines that cross navigable waterways stated that even in the absence of Federal regulations, they would install and maintain line markers at those crossings where they believe the line markers would serve a need. Many commenters pointed out that before there were Federal regulations, line markers had been installed where they believed there was a potential danger to pipelines from marine activities, and they would continue to be installed if the requirements were removed.

Those who opposed repeal of the waterway line marking regulations included the Interstate Natural Gas Association of America and some pipeline operators. They believed that even though the effectiveness of line markers as an accident prevention tool could not be quantified, crossing markers serve a useful purpose and regulations requiring them should be retained. Also, they said without Federal requirements, line markers at waterways would not be consistent throughout the nation.

Responses to Alternative Actions

Alternative 1. "Continue the present rules that line markers be placed at all crossings of waterways capable of floating a canoe, bateaux, or log, in a size large enough to be discerned from vessels in a channel."

Of the 67 respondents to the ANPRM, not one supported Alternative 1. The respondent's objections to Alternative 1 may be summed up in two categories: (1) Too expensive; and (2) The absence or low probability of hazards to pipelines in most areas covered by the current rules. Each commenter estimated the cost impact upon his individual company, except for the trade associations who presented an average range of cost based upon the estimated cost to their members. The estimates of cost per company for full compliance with the current rules ranged from $100,000 to $8,000,000 for installation of markers, plus a yearly maintenance of approximately 10 percent of the original installation.

MTB's Regulatory Evaluation, an examination of the costs and benefits of the alternatives, shows that the cost of Alternative 1 would far exceed the total annual expected benefits.

Therefore, for the reasons stated above, MTB has removed Alternative 1 from any further consideration.

Alternative 2. "Require line markers only at crossings of rivers or other bodies of water which carry potentially damaging vessels or where channel dredging and commercial dredging (such as oyster shell dredging) is commonly performed, but place a reasonable limit on the size of signs."

Slightly less than half of the respondents preferred the adoption of Alternative 2, provided any new regulation be written in performance language. While most respondents that preferred Alternative 2 did not substantiate their choice, several commenters in this group said they believed that line markers were effective in preventing damage to pipelines. Even these commenters did not give examples of how markers had, in their experience, been effective.

MTB is not persuaded by the respondents who favored Alternative 2 that there should be a Federal pipeline safety requirement for placement of line markers at particular waterways. The waters to which the respondents would apply such a requirement, ones where damage to pipelines is most likely to occur, are the same ones they stated they would continue to mark in the absence of any Federal pipeline safety requirement. Indeed, the Regulatory Evaluation indicates that in high traffic locations, it is cost beneficial to install line markers, giving credence to the industry comments that line markers will be voluntarily installed where appropriate. MTB does not believe that it should require by regulation that which industry largely does on its own initiative, particularly when the failure to act voluntarily would not measurably threaten public safety.

Another consideration regarding Alternative 2 is that the Corps of Engineers and the Coast Guard also have regulations which affect the safety of pipelines crossing navigable waterways.

The Corps of Engineers and National Ocean Survey of the Department of Commerce produce charts for purposes of navigation on U.S. waterways. Submarine cables and pipelines are shown on these charts, based on information furnished by the Corps as

set forth in 33 CFR 209.310 and 209.325 (g), (h), and (i). Also, information about pipelines which affect navigation is published in Notices to Mariners, a Coast Guard and Department of Commerce publication, and in the U.S. Coast Pilot Monthly, another government sponsored publication, both of which are available to mariners. The U.S. Coast Guard requires vessels of 1,600 gross tons and up operating on the navigable waters of the U.S. to carry current government charts, coast pilots, and Notices to Mariners (33 CFR 164.33). Thus, information about pipeline crossings that could affect navigation is available on charts and publications to pilots of all vessels, and required to be kept on vessels with sufficient capacity to damage pipelines.

Moreover, the Corps of Engineers has authority under Sec. 10 of the River and Harbor Act of 1899 to regulate and grant permits for pipeline crossings of navigable waters of the United States and for dredging or other construction activities that might interfere with such crossings. The regulations which apply to the issuance of permits are in 33 CFR Parts 320 through 330.

The Corps of Engineers' policies for review of applications for Department of Army permits include a public interest review (33 CFR 320.4). All factors which may be relevant to a proposed crossing are considered, among which are navigation, safety, and in general, the needs and welfare of the people. comments on the ANPRM from the Corps stated that the need for line markers is also part of this review. No permit is granted unless its issuance is found to be in the public interest.

Thus, the Corps not only furnishes information about pipeline crossings that is used by mariners, but also conducts a case-by-case review of the safety of pipeline crossings of navigable waters, including the need for line markers. Furthermore, after a crossing is constructed, the Corps' permitting program in regard to dredging and marine construction activities serves to protect the crossing against damage. It follows, therefore, that the present requirements of §§ 192.707 and 195.410 for marking navigable waterway crossings are to a large extent unnecessary in light of the Corps of Engineers' practices.

For the above reasons, MTB does not propose to adopt Alternative 2.

Alternative 3. "Require all future underwater pipelines and the replacement of any existing underwater pipelines to be placed deep enough underneath the waterway bed to avoid foreseeable potential damage (rather than being dredged or bridged and laid on or near the existing bed of the waterway). In this case, existing pipeline crossings would be marked according to Alternative 1, 2, 4, or 5."

The response to Alternative 3 was mixed. The pipeline operators were unanimously opposed to Alternative 3. They stated that it would be costly to bury pipelines under stream beds, and it was not possible to justify the additional cost.

Some State agencies and mariners were in favor of deeper burial. They contended that deeper burial would give pipelines greater protection and possibly eliminate all damage to pipelines caused by marine activities.

MTB agrees that deeper burial would afford greater protection for pipelines, but it would also be considerably more expensive than normal installation techniques. MTB's Regulatory Evaluation shows that deeper burial cannot be justified by the savings in accidents to be avoided. For this reason, MTB has ruled out Alternative 3 for further consideration in this rulemaking proceeding.

Alternative 4. "Revoke the present requirements for line markers at navigable waterways. In this case, safety would be regulated by other existing Department of Transportation requirements, such as depth of burial, by "one-call" damage prevention programs, or by Coast Guard and Corps of Engineer requirements discussed above."

Slightly fewer respondents were in favor of Alternative 4 than were in favor of Alternative 2. Their reasons for favoring revocation of the current rules were: (1) Underwater pipelines pose little, if any, threat to the public. (2) It is doubtful if line markers or other location-type markings prevent damage to underwater pipelines because most damage is the result of action taken in an emergency situation or due to the inattentiveness of marine personnel. (3) It is unnecessary to require by Federal regulation that which prudent operations would do in the absence of Federal regulations. (4) There is no direct indication that line markers have had any effect on reducing accidental damage to underwater pipelines.

After reviewing all the comments and considering other information available, MTB does not believe that its current requirements for placing line markers at navigable waterway crossings are justified. In short, MTB believes that because of their location, there is little risk of damage to underwater pipelines, and most of the incidents to underwater pipelines that do occur expose very few members of the general public to danger. Moreover, there is insufficient evidence to show that line markers have had any effect in preventing damage to underwater pipelines, and such quantitative information appears unobtainable.

A major factor related to the lack of need for Federal regulations is MTB's belief, as supported by the comments, that most operators will voluntarily install and maintain line markers at crossings where they consider line markers to be helpful. Clearly, it is unnecessary for MTB to require by Federal regulations what industry can and will do in the absence of Federal regulations.

Another very important consideration involves the requirements and practices of the Corps of Engineers regarding issuing permits for pipeline crossings, dredging, and other construction activities in navigable waterways and the information provided mariners about pipeline crossings. The Corps' permitting and informational programs protect the public not only in regard to hazards to navigation, but also against risks posed by interference with underwater pipelines by vessels, dredging, or other water-use activity.

For the above reasons, MTB has selected Alternative 4 as the rulemaking action being proposed by this notice.

Alternative 5. "Use lights or buoys for line markers in place of signs; or use a combination of lights, buoys, and signs.

Not a single respondent thought that the use of lights or buoys for line markers would be cost effective and should be adopted as a Federal standard. Their main reason was the excessive cost to install lights and buoys. They also stated that maintenance of lights and buoys would be expensive. Several respondents mentioned that buoy mooring chains required a certain amount of slack which would permit the buoy to move from directly over the pipeline and prevent it from accurately marking the location of the pipeline. But several stated that a combination of lights, buoys, and signs would be an effective combination on some waters, particularly on wide bodies of water. Yet even these commenters said the cost of initial installation and follow-up maintenance would be extremely costly and a drawback to their use. Also, several respondents mentioned the fact that lights and buoys would have to be made compatible with the Coast Guard's aids-to-navigation system to avoid confusion.

MTB believes that it would indeed be extremely costly to require the use of lights and buoys, and the burden of making them compatible with the Coast

Guard's system would be a large cost factor. For this reason, along with the doubts mentioned above about a marker's effectiveness in accident prevention, Alternative 5 was not adopted as a rulemaking proposal.

Cost Impact

This notice does not propose a "major rule" under Executive Order 12291. The Order defines a "major rule" as one which would have an annual effect on the economy of $100 million or more, a major increase in costs, or a significant adverse on the economy. As shown by the Regulatory Evaluation for this proceeding, this notice does not make any proposal that would have such an impact. This notice also does not propose a "significant" rule as defined by the Department of Transportation Policies and Procedures (DOT Order 2100.5).

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires a review of certain rules proposed after January 1, 1981, for their effects on small businesses, organizations, and governmental bodies. I certify that the proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities because there will be no direct or indirect costs of compliance or other adverse effects.

List of Subjects

49 CFR Part 192

Pipeline safety.

49 CFR Part 195

Ammonia, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

Therefore, for reasons set out in the preamble, MTB proposes to amend 49 CFR Parts 192 and 195 as follows:

PART 192—[AMENDED]

1. Section 192.707 would be amended by revising paragraph (a) introductory text, (a)(1), (b), and the introductory text of (d) to read as follows and by removing paragraphs (e) and (f):

§ 192.707 Line markers for mains and transmission lines.

(a) *Buried pipelines.* Except as provided in paragraph (b) of this section, a line marker must be placed and maintained as close as practical over each buried main and transmission line—

(1) At each crossing of a public road and railroad; and

* * * * *

(b) *Exceptions for buried pipelines.* Line markers are not required for buried mains and transmission lines—

(1) Located offshore or at crossings of or under navigable waterways; or

(2) In Class 3 or Class 4 locations—

(i) Where placement of a marker is impractical; or

(ii) Where a damage prevention program is in effect under § 192.614.

* * * * *

(d) *Marker warning.* The following must be written legibly on a background of sharply contrasting color on each line marker:

* * * * *

2. Section 195.410 would be amended by revising paragraphs (a) introductory text, (a)(2), and (b) to read as follows, by removing paragraph (c), and by redesignating paragraph (d) as paragraph (c):

§ 195.410 Line markers.

(a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following:

* * * * *

(2) The marker must state at least the following: "Warning" followed by the words "Petroleum (or the name of the hazardous liquid transported) Pipeline" (in lettering at least 1 inch high with an approximate stroke of one-quarter inch on a background of sharply contrasting color), the name of the operator and a telephone number (including area code) where the operator can be reached at all times.

(b) Line markers are not required for buried pipelines located—

(1) Offshore or at crossings of or under navigable waterways; or

(2) In heavily developed urban areas such as downtown business centers where—

(i) The placement of markers is impracticable and would not serve the purpose for which markers are intended; and

(ii) The local government maintains current substructure records.

* * * * *

(49 U.S.C. 1672 and 2002; 49 CFR 1.53, Appendix A of Part 1 and Appendix A of Part 106)

Issued in Washington, D.C., on January 18, 1983.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 83-1747 Filed 1-21-83; 8:45 am]
BILLING CODE 4910-60-M

Notices

Federal Register
Vol. 48, No. 16
Monday, January 24, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Federal Grain Inspection Service Advisory Committee; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following committee meeting:

Name: Federal Grain Inspection Service Advisory Committee
Date: February 9, 1983
Place: U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 2096 South Building, Washington, D.C. 20250
Time: 8:30 a.m.
Purpose: To enable the members to discuss and provide advice to the Administrator of the Federal Grain Inspection Service with respect to the efficient and economical implementation of the U.S. Grain Standards Act of 1976, in order to assure the normal movement of grain in an orderly and timely manner

The agenda includes (1) financial matters, (2) quality control plan, (3) a proposed inbound truck inspection plan, (4) a report on recordkeeping requirements, (5) establishing a moisture subcommittee, and (6) other matters.

The meeting will be open to the public, but space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting should contact Dr. Kenneth A. Gilles, Administrator, FGIS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–0219.

K. A. Gilles,
Administrator.
January 17, 1983.

[FR Doc. 83–1871 Filed 1–21–83; 8:45 am]
BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.) Week Ended January 14, 1983

Subpart Q applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate class A final order without further proceedings.

Date filed	Docket No.	Description
Jan. 12, 1983	41222	United Air Carriers, Inc. d/b/a Overseas National Airways, c/o Richard J. Kendall, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Suite 900 South, Washington, D.C. 20036. Application of United Air Carriers, Inc. d/b/a Overseas National Airways, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance or amendment of a certificate of public convenience and necessity for authority to engage in scheduled air transportation of passengers, property and mail, as follows: a. Foreign scheduled air transportation between the United States, Lebanon and Qatar; and/or b. Authority to combine the United States, Lebanon, Qatar service with service to the transatlantic points listed in ONA's certificate for route 336F to the extent such operations are consistent with bilateral agreements between the United States and other countries. Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 9, 1983.
Jan. 14, 1983	41088	Air Washington, Inc., c/o Frederick P. Hiltz, Schwabe, Williamson, Hyatt, Moore & Roberts, The Flour Mill Suite 302, 1000 Potomac Street, N.W. Washington, D.C. 20007. Information supplied pursuant to Order 82–12–46 with respect to the Application of Air Washington, Inc. Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 11, 1983.

Phyllis T. Kaylor
Secretary.

[FR Doc. 83–1880 Filed 1–21–83; 8:45 am]
BILLING CODE 6320-01-M

[Order 83–1–46; Agreement C.A.B. 28911 R–1 through R–5; Agreement C.A.B. 28920]

Agreements Adopted by the Tariff Coordinating Conferences of the International Air Transport Association; Baggage Matters; Order

Issued Under Delegated Authority January 13, 1983.

Agreements among various members of the International Air Transport Association (IATA) have been filed with the Board under section 421(a) of the Federal Aviation Act of 1958 and Part 261 of the Board's Economic Regulations. They were adopted at the Special Baggage Conference held in Geneva during November 29–30, 1982, or by mail vote, and are intended for effectiveness March 1, 1983, through March 31, 1985.

The agreements propose a piece-related baggage system to/from the United States and U.S. territories, in a somewhat altered version of an earlier IATA proposal which the Board disapproved by Order 82–10–85, October 21, 1982. Under the new proposal, first-class passengers' free-baggage allowance would consist of two checked pieces of 62 inches each,[1] while economy-class travelers' allowance would be limited to one 62-inch and one 55-inch piece; the maximum weight of any checked piece qualifying as free baggage in either class would be 23 kilograms (50 pounds). Passengers in both classes of service would also be allowed one or more carry-on pieces not exceeding a total of 45 inches.

Normal excess-baggage charges would apply to any piece failing to meet one of the three limitations placed on the free allowance. Such charges would apply to any piece which is either (a) excessive in number, (b) over 62 inches

[1] Height plus width plus depth.

but no more than 80 inches,[2] or (c) over 23 kilograms (50 pounds) but no more than 32 kilograms (70 pounds). Normal charges would also apply to pieces whose size *and* weight fall within the above limitations. Double charges would apply to *excess* pieces which also fall within either or both of the above size and weight limitations. Bags exceeding either 80 inches or 32 kilograms, moreover, would require prior handling arrangements with the carrier and incur a triple charge for the first 45 kilograms plus one further charge for each additional 10 kilograms. Special provisions are included for the carriage of bicycles, sporting gear and certain other items. Finally, the proposal stipulates that the baggage provisions and charges do *not* apply to commercial courier services.[3]

The purpose of this order is to establish procedural dates for the submission of carrier justification in support of the agreements and comments and replies by interested persons. Pan American World Airways, Inc., the only U.S. air carrier member of IATA that is a party to the agreements, shall submit full justification, with detailed supporting data, for the agreements. In particular, we expect such justification to include, by ratemaking entity,[4] the average weight of a passenger's checked baggage; the percentage of passengers whose checked baggage exceeds (a) 23 kilograms, and (b) 30 kilograms; the extent of any current space problems arising from passengers' tendering extraordinary amounts of baggage, and the agreements' expected effect on these problems; unusual costs associated with acceptance of extraordinary amounts of baggage; and the agreements' expected impact on excess-baggage revenues. We also expect the carrier to provide an economic rationale for the double- and triple-charging scheme included in this proposal.

Accordingly, we order that:

1. Pan American World Airways, Inc., the only United States air carrier member of the International Air Transport Association that is a party to Agreements C.A.B. 28911 and C.A.B. 28920, shall file by January 31, 1983, full documentation and economic justification for the baggage provisions and charges contained in the agreements;

2. Interested persons and parties shall submit comments and objections by February 7, 1983;

3. Reply comments shall be submitted by February 17, 1983;

4. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the agreements shall not be filed in advance of Board action on the agreements; and

5. This order shall be served on the International Air Transport Association and Pan American World Airways, Inc.

We shall publish this order in the **Federal Register.**

Norman D. Schwartz,

Assistant Director, Fares, Rates and Tariffs, Bureau of International Aviation.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1861 Filed 1-21-83; 8:45 am]

BILLING CODE 6320-01-M

[2] Over 55 inches in the case of an economy-class passenger's second checked piece.

[3] The new proposal alters the earlier, disapproved one in that it largely abandons a scheme whereby excess, oversize, and/or overweight pieces, even though under 80 inches and 32 kilograms, could have been subject to triple and quadruple charges. The earlier agreement was also ambiguous as to its application to courier services. The proposed normal excess-baggage charges, however, are generally identical to those contained in the earlier agreement.

[4] Atlantic, Pacific, and Latin America.

[Docket No. 40839]

Central Zone-Caracas/Maracaibo Venezuela Service Case; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this case is assigned to be held before the Board on Wednesday, February 9, 1983, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise The Secretary, in writing, on or before Tuesday, February 1, 1983, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., January 17, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-1862 Filed 1-21-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41127]

Sea and Sun Airlines, Inc. Enforcement Proceeding; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on January 28, 1983, at 10:00 a.m. (local time), in Room 1012, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., January 18, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-1863 Filed 1-21-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 41221]

California-Alberta Service Case; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 16, 1983, at 10:00 a.m. (local time), in Room 1027, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and prospective party and three copies to the Judge of: (1) Proposed statements of issues; (2) proposed stipulations; (3) proposed requests for additional information and evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of International Aviation will circulate its material on or before February 4, 1983, and the other parties on or before February 11, 1983.* The submissions of the other parties shall be limited to points on which they differ with the Bureau of International Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., January 18, 1983.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 83-1864 Filed 1-21-83; 8:45 am]

BILLING CODE 6320-01-M

*These are delivery dates.

COMMISSION ON CIVIL RIGHTS

Georgia Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 10:30 am and will end at 2:30 pm, on February 16, 1983, at the Marriott Hotel Downtown, Courtland and International Boulevard, in Room 12 Oaks, Atlanta, Georgia, 30043. The purpose of this meeting will be to conduct a press conference from 10:30 am to 11:30 am, to release the Committee's report *Perceptions of Hate*

Group Activity in Georgia, and from 11:30 am to 2:30 pm conduct the regular scheduled Committee meeting to discuss plans for the study on Women and Minorities in the Media in Georgia.

Persons desiring additional information or planning a presentation to the committee, should contact the Chairperson, Clayton Sinclair, Jr., 301 Equitable Building, 100 Peachtree Street, Atlanta, Georgia, 30303, (404) 681–0797 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Room 362, Atlanta, Georgia, 30303, (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rule and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–1825 Filed 1–21–83; 8:45 am]

BILLING CODE 6335–01–M

Indiana Advisory Committee; the Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Indiana Advisory Committee to the Commission will convene at 7:00 pm and will end at 10:00 pm on February 17, 1983, at the Sheraton Hotel Gary, 465 Broadway Street, in the Huron Room, Gary Indiana, 46401. The purpose of this meeting will be to discuss the status of the prison project, block grants, and review the housing discrimination draft statement.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Joseph J. Russell, 4165 Gran Haven Drive, Bloomington, Indiana, 47401, (812) 337–9632 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois. 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 17, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–1830 Filed 1–21–83; 8:45 am]

BILLING CODE 6335–01–M

Kentucky Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Kentucky Advisory Committee to the Commission will convene at 10:00 am and will end at 2:00 pm, on February 23, 1983, at the Executive Inn—East, 978 Phillips Lane, in the Whitehart Room, Louisville, Kentucky, 40213. The purpose of this meeting will be to conduct a press conference from 10:00 am to 11:00 am, to release the Louisville Community Development Block Grant report, and from 11:00 am until 2:00 pm, conduct the Committee meeting to discuss program activities for Fiscal year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, James M. Rosenblum, 33 Ten Broeck Way, Louisville, Kentucky, 40222, (502) 636–1411 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Room 362, Atlanta, Georgia, 30303, (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 17, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–1827 Filed 1–21–83; 8:45 am]

BILLING CODE 6335–01–M

Massachusetts Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00 pm and will end at 6:00 pm, on February 15, 1982, in the Conference Room, at the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110. The purpose of this meeting will be to discuss the on-going study of successful affirmative action in the private sector, and of prosecution of violators of the Massachusetts civil rights law.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Bradford E. Brown, 17 Roberta Jean Circle, Post Office Box 95, East Falmouth, Massachusetts, 02536, (617) 548–5123 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–1824 Filed 1–21–83; 8:45 am]

BILLING CODE 6335–01–M

New York Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee to the Commission will convene at 4:00 pm and will end at 6:30 pm, on February 17, 1983, at the Summit Hotel, 569 Lexington Avenue, New York, New York, 10017. The purpose of this meeting will be to discuss program activities for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee should contact the Chairperson, Robert Mangum, 420 East Twenty-Third Street, New York, New York 10010, (212) 420–3935 or the Eastern Regional Office, Jacob K. Javits Building, 26 Federal Plaza, Room 1639, New York, New York 10278, (212) 264–0400.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 17, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83–1828 Filed 1–21–83; 8:45 am]

BILLING CODE 6335–01–M

Rhode Island Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 9:30 p.m., on February 23, 1983, at the U.S. Post Office, 24 Corliss Park, in Room 209, Providence, Rhode Island, 02908. The purpose of this meeting will be to review the draft of the annual report on civil rights developments in 1982 in Rhode Island and discuss program activities for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Dorothy D. Zimmering, 12 Chapin Road, Barrington, Rhode Island, 02806, (401) 245–3515 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 17, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-1820 Filed 1-21-83; 8:45 am]

BILLING CODE 6335-01-M

Tennessee Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 3:30p and will end at 7:30p, on February 18, 1983, at the Radisson Plaza, 2 Commerce Place, in the Johnson Room, Nashville, Tennessee, 37239. The purpose of this meeting will be to discuss program activities for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mattie R. Crossley, 351 Fay Avenue, Memphis, Tennessee, 38109, (901) 276-4461 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Room 362, Atlanta, Georgia, 30303, (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-1836 Filed 1-21-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Salmon and Steelhead Advisory Commission; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Meeting of the Salmon and Steelhead Advisory Commission.

DATE: February 17, 1983. The meeting will commence at 10:00 a.m. and is scheduled to continue no later than 3:00 p.m. The meeting will be open to interested members of the public; a public comment period will be held at 11:30 a.m.

ADDRESS: Hyatt Hotel, 17001 Pacific-Highway South, Seattle, Washington 98118, (206) 244-6000.

MEETING AGENDA: The Commission will meet to consider possible solutions to issues, problems, and concerns regarding the salmon and steelhead resource and which need to be resolved in order to provide coordinated management, research, enforcement, and enhancement. The Commission will also consider current budgetary issues and the possible hiring of consultants for special tasks.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Regional Director, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, Washington 98115, Telephone: (206) 527-6150.

Dated: January 19, 1983.

Joe P. Clem,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-1672 Filed 1-21-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Navy

Public Information Collection Requirement Submitted to OMB for Review

The Department of the Navy has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Recurring

Annual or Final Accounting Report by Trustee of Incompetent Naval Personnel—NAVJAG 5800/13; Supplemental Report to the Annual or Final Accounting Report by Trustee of Incompetent Naval Personnel—NAVJAG 5800/13A

The Secretary of the Navy has been granted authority under 37 U.S.C. 601-04 to appoint trustees for members of the Navy and Marine Corps who have been declared mentally incompetent to handle their financial affairs. The appointment enables the trustee to receive the military pay in behalf of the servicemember for his/her sole use and benefit and for the benefit of his/her legal dependents if any. The Annual or Final Accounting is the required form of accountability by the trustee justifying the expenditures of trustee funds. The accounting serves as a monitor of the trustee's management of these funds.

Individuals: 800 responses, 1600 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), IRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from Navy Judge Advocate General, 200 Stovall Street, Alexandria, Virginia 22332, Hoffman Building II, Room 8S33, telephone (202) 325-0733.

Dated: January 18, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-1838 Filed 1-21-83; 8:45 am]

BILLING CODE 3810-01-M

President's Commission on Strategic Forces Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed session on January 20, and 21, 1983 at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. Because of the stringent deadline imposed by the President, timely notice of the meeting cannot be provided.

Discussions during the meeting will involve classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separate classified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with Section 10(d) of Pub. L. 92–463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

Dated: January 19, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-1960 Filed 1-21-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Guaranteed Student Loan Program and Plus Program

AGENCY: Office of Postsecondary Education, Ed.

ACTION: Notice of special allowances for quarter ending December 31, 1982.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Postsecondary Education announces a special allowance to holders of eligible loans made under the Guaranteed Student Loan Program (GSLP) or the PLUS Program. This special allowance is provided for under section 438 of the Higher Education Act of 1965 (the Act), as amended (20 U.S.C. 1087–1). Except for loans subject to section 438(b)(2)(B) of the Act, 20 U.S.C. 1087–1(b)(2)(B), for the quarter ending December 31, 1982, the special allowance will be paid at the following rates:

	Applicable interest rate (percent)	Annual special allowance rate (percent)	Special allowance rate (percent) for quarter ending [1]
GSLP loans or PLUS loans made prior to Oct. 1, 1981	7	4.75	1.1875
	9	3.75	0.9375
GSLP loans or PLUS loans made on or after Oct. 1, 1981	7	4.72	1.18
	9	2.72	0.68
	12	0.00	0.00
	14	0.00	0.00

[1] December 31, 1982.

The Assistant Secretary determines the special allowance rate in the manner specified in the Act, for loans at each applicable interest rate by making the following four calculations:

(a) *Step 1.*

Determine the average bond equivalent rate of the 91-day Treasury bills auctioned during the quarter for which this notice applies;

(b) *Step 2.*

Subtract from that averaage the applicable interest rate (7, 9, 12, or 14 percent) of loans for which a holder is requesting payment;

(c) *Step 3.*

(1) Add 3.5 percent to the remainder; and

(2) In the case of loans made before October 1, 1981, round the sum upward to the nearest one-eighth of one percent;

(d) *Step 4.*

Divide the resulting percent in Step 3 (either (c)(1) or (c)(2), as applicable) by four.

FOR FURTHER INFORMATION CONTACT: Andrejs Penikis, Program Specialist, or Larry Oxendine, Chief, Policy Section, Guaranted Student Loan Branch, Division of Policy and Program Development, Department of Education on (202) 245–2475.

Dated: January 19, 1983.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Program and PLUS Program)

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-1979 Filed 1-21-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

[Docket No. EP–40–882–1]

Energy Emergency Preparedness; Availability of Reports

AGENCY: Office of Environmental Protection, Safety, and Emergency Preparedness, DOE.

ACTION: Notice of availability of reports.

SUMMARY: On January 3, 1983, the President transmitted to Congress a report, "Comprehensive Energy Emergency Response Procedures," prepared by the Department of Energy (DOE) and required under the Energy Emergency Preparedness Act of 1982 (EEPA). Two other reports required by EEPA—"Regional Petroleum Reserves Report" and "Strategic Alcohol Fuel Reserve Report"—were submitted to Congress on December 30, 1982, by the Secretary of Energy.

The Comprehensive Energy Emergency Response Procedures Report describes generally the Administration's energy emergency preparedness policies and procedures. It also describes responses which might be employed in mild, moderately severe, and severe hypothetical oil disruption scenarios. The appendix to the report describes in more detail some of the specific energy emergency programs and procedures available at the Federal level.

The Regional Petroleum Reserves report examines the costs and benefits of establishing petroleum reserves at various locations throughout the United States, as compared with continued development of the more centralized Strategic Petroleum Reserve. The Strategic Alcohol Fuel Reserve Report compares the costs and benefits of three potential alcohol fuel storage options to the ongoing SPR program.

Both reports find that the current SPR program is the most efficient and cost-effective approach. Establishing regional petroleum reserves and creating an alcohol fuel reserve would add significant costs and administrative problems to the SPR program without corresponding economic benefits, the reports point out.

Copies of the three reports may be obtained by telephoning or writing the Office of Public Affairs, Room 1E–218, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252–5568.

This Notice summarizes the principal comments on these three reports offered by the public in response to a September 29, 1982, Notice of Inquiry (47 FR 42801).

FOR FURTHER INFORMATION CONTACT: Finn K. Neilsen, Director, Office of Energy Contingency Planning, Office of Energy Emergencies, U.S. Department of Energy, Forrestal Building, Room GH–060 (Mail Stop EP–43), 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252–4000.

SUPPLEMENTARY INFORMATION:

I. Background

On August 3, 1982, the President signed into law the Energy Emergency Preparedness Act of 1982 (EEPA, the Act) (Pub. L. 97–229). The Act adopted a series of amendments to certain available legal authorities related to the International Energy Program (IEP), the Strategic Petroleum Reserve (SPR), and other emergency preparedness programs. In addition, the Act prescribed the preparation and submission to Congress of a legal memorandum on the President's energy emergency authorities, an SPR Drawdown Plan, an SPR Drawdown and Distribution Report, a Regional Petroleum Reserve Report, a Strategic Alcohol Fuel Reserve Report, a report setting forth Comprehensive Energy Emergency Response Procedures, and a report on the economic impacts of energy supply disruptions.

On November 15, 1982, the President transmitted to Congress the memorandum of law prepared by the Department of Justice analyzing the President's energy emergency authorities. The SPR Drawdown Plan

and the SPR Drawdown and Distribution Report were transmitted to Congress December 1, 1982. In addition, DOE released on December 1, 1982, a report entitled, "Issues and Analysis on the Use of the SPR: Staff Paper on Department of Energy Approaches and Current Status of Studies" (DOE/EP–0075).

On December 17, 1982, DOE published a Notice in the **Federal Register** advising the public of the availability of the SPR reports (47 FR 56547). The Notice also summarized the principal comments on the two SPR reports offered by the public in response to the September 29, 1982, Notice of Inquiry.

The seventh report required by the EEPA—on the economic impacts of energy supply disruptions—is required to be submitted to Congress by August 3, 1983.

II. Summary of the Contents of the Comprehensive Energy Emergency Response Procedures Report

This Report was required by section 3 of EEPA, which amended Title II of the Energy Policy and Conservation Act (EPCA) by adding, *inter alia*, a new section 272(b) (42 U.S.C. 6282(g)). The new EPCA section required the President to submit to Congress comprehensive energy emergency response procedures for implementing the emergency authorities described in the Justice Department's memorandum of law noted above.

The Report consists of four major sections and an appendix, each dealing with a different aspect of the EEPA requirement. Section I addresses the energy emergency response policy of the Administration, which is predicated on the assumption that the most effective and efficient means of dealing with the adverse impacts of petroleum shortages is a basic reliance on marketplace mechanisms and the natural ability of the market to adjust to shortages speedily and without Governmental interference. Essentially, this policy translates into a program of encouraging creation of adequate stocks of petroleum prior to any shortages, including filling of the SPR and the encouragement of private petroleum stockpiling. The policy also calls for the reduction of barriers to market adjustments during an energy emergency; providing incentives where necessary and appropriate for self-insurance measures by consumers, producers, and marketers of petroleum products in advance of an energy shortage; and the widespread communication by the Federal Government at the time of a crisis of thorough and accurate information on the dimensions and duration of an energy emergency.

Section II of the Report describes the Federal Government's energy emergency management and decisionmaking processes. It focuses on the structure of the decisionmaking and policymaking systems and the procedures which may be utilized to assess the nature and probable impacts of an energy emergency, decide on the appropriate measures to respond to a particular energy emergency, and implement the selected response measures. The purpose of these response procedures is to ensure the orderly but rapid development of an appropriate response plan, tailored to the specific nature of the emergency at hand, and to generate the best available information and expertise in the formulation of situation analyses and response options for the President, the Secretary of Energy, and other Federal officials.

Section III of the Report addresses the responses which might be employed and the general sequence of their employment in mild, moderately severe, and severe hypothetical oil disruption scenarios. It stresses, however, the impracticability of identifying any specific response to a given level of shortfall in advance of the event itself.

Section IV discusses those areas of energy emergency authorities in which some legislative changes may be appropriate or desirable. Chief among these are amendment of the Defense Production Act to minimize antitrust and conflict-of-interest barriers to facilitate private sector assistance in dealing with energy emergencies, and provision of authority to maximize options for the transportation of SPR oil during an emergency. This section points out, however, that the development of Administration proposals for modifications to statutory emergency authorities requires considerably more study and discussion within the Administration than was possible within the time limits set for presentation of the Report.

The Appendix to the Report describes in more detail some of the potential response measures and other emergency preparedness activities, including the IEP, the SPR, Emergency Executive Manpower Reserves, defense programs, emergency public information, State and local governmental coordination, economic analyses, and energy supply enhancement.

III. Summary of Public Comment on the Comprehensive Energy Emergency Response Procedures

In response to DOE's September 29, 1982, Notice of Inquiry, thirty-one comments addressing the Comprehensive Energy Emergency Response Procedures reporting requirement of EEPA were received by DOE. The majority of comments were provided by the petroleum industry and energy consumer groups, with the balance provided by State governments.

The principal comments were as follows:

(1) While there was general support among commentors for a policy of noninterference with the market during moderate energy supply interruptions, that consensus changed when it came to severe shortages. The larger oil companies were divided. Several advocated some form of allocation to cope with severe shortages (Sun, Ashland, Crown), while others continued to support an unrestrained free market approach (Exxon, Getty). User groups were also divided in their opinions, with two, the Industrial Oil Consumers Group (IOCG) and the American Iron and Steel Association, requesting an unequivocal statement from the Government rejecting all forms of controls in the belief that "* * * the lack of an unequivocal statement by DOE can only lend support to those who believe that in an interruption the Government will reinstitute controls. This conviction is a primary impediment to self-help measures." We believe that the quotations from President Reagan's veto message on the SPAA, appearing on pages 3–4 of the Report, adequately confirm the Administration's opposition to price and allocation controls over petroleum.

Other groups expressed concerns about the ability of the market to adequately meet their energy needs, and advocated various forms of allocation controls. Among those supporting this viewpoint were the National Council of Farmer Cooperatives (NCFC), the Farmers Union Central Exchange, Inc., the National Liquid Petroleum Gas Association, and the American Bus Association. The Society of Independent Gasoline Marketers of America raised the point that the type of market "shake-out" which could accompany a severe energy emergency would not necessarily reflect penalties for inefficiency, since the terms of competition could change too quickly for effective reaction by marketers, and because under such conditions, "(t)he only factor of consequence in the marketplace is the

ability to obtain product at a price which is roughly equivalent to the price paid by one's competitors. Thus a highly efficient participant in the market which is unable to acquire product at an economically acceptable cost can be driven from the marketplace by an inefficient competitor which is able to obtain such product."

(2) A number of commentors, including Shell, Exxon, and the American Petroleum Institute (API), opposed the use of any "trigger" mechanism which would automatically invoke a Government response in an energy emergency, advocating instead the use of judgment to tailor responses to specific situations. The Independent Refiners Association disagreed, calling for an automatically-triggered crude oil sharing measure in the event of "* * * significant disparity between contract prices and spot market prices." A number of commentors expressed the view that if a crisis precipitated Government intervention in the marketplace, then the Government should withdraw from the market as soon as the crisis ends.

(3) There was widespread concern regarding the proliferation of energy emergency regulations among the States. Fourteen of the respondents, including the States of New Mexico and Montana, cited a need for some form of Federal coordination and preemption of State regulations to prevent interference with interstate activities without recourse to the courts. This is an area which DOE is still studying, to determine whether any action is appropriate.

(4) Eight respondents suggested the formation of some form of advisory committee to assist the Federal Government in preparing for and managing an energy emergency. These included major oil companies, such as Shell and Exxon, and several consumer associations, such as the Chemical Manufacturers Association, the IOCG, and the Private Truck Council of America. This idea has considerable merit, and DOE is currently evaluating its practicality and usefulness.

(5) Other comments addressed a variety of suggestions, including support for a public information program to deal with the psychological impact of a supply disruption (IOCG, NCFC, State of Connecticut); requests for additional antitrust and conflict of interest protection for industry advisors to the Government (including API and Shell); and suggestions that the Federal Government take steps to provide incentives for private stockpiling of energy supplies.

IV. Summary of the Contents of the Regional Petroleum Reserves (RPR) Report

The RPR report was required by section 6(c) of EEPA, which called for a report regarding actions taken to comply with the provisions of section 157 of the EPCA, which authorized the development of regional petroleum reserves. EEPA requirements included: an analysis of the economic benefits and costs of establishing regional reserves; an assessment of the ability to transport petroleum products to refiners, distributors, and end users within the regions specified in EPCA section 157(a); a review of the comparative costs of creating and operating RPR's for such regions compared to the costs of continuing current plans for the centralized SPR; and a listing of potential sites for the establishment of regional reserves.

The RPR report provides a review of the actions taken since 1977 to identify import-dependent regions and examine the degree to which they may be vulnerable to energy supply disruptions. Such analyses have included assessments of the advantages and disadvantages of in-region versus central storage, comparative cost factors, the extent to which any perceived additional benefits of in-region storage would justify the higher costs associated with regional reserves, and the flexibility of the petroleum industry. The earlier DOE studies concluded that crude oil storage in centralized salt domes provided the most efficient, flexible, and secure means of providing protection to all regions and noncontiguous areas of the Nation at the lowest cost. It was acknowledged, however, that in the event of simultaneous occurrence of certain extreme conditions there existed the possibility of regional shortfalls in the event of a severe energy supply disruption.

While uncertainties as to the likelihood that these extreme conditions could occur were thoroughly explored in earlier studies, the RPR report readdresses key issues to reflect current industry conditions within the free market context. It also provides the most current assessment of SPR distribution capabilities and their impact on regional and noncontiguous storage issues and current comparative cost data.

The key findings of the RPR report confirm the findings set forth in the original SPR Plan:

(1) The centralized SPR remains the most economical, efficient, and flexible means of providing protection to all regions and noncontiguous areas.

(2) Reliance on the marketplace to distribute crude oil will assure that all regions and noncontiguous areas receive an equitable share of available product supplies.

(3) Sufficient refining capacity will be available during a supply disruption to process SPR crude oil into the desired product slate.

(4) SPR system enhancements, current free market strategies, and the removal of prior regulatory barriers will significantly increase the flexibility of the SPR system in providing protection to all regions and noncontiguous areas.

V. Summary of Public Comment on the RPR.

In response to the Notice of Public Inquiry, thirty comments regarding the Regional Petroleum Reserves reporting requirement of EEPA were received by DOE. The majority of these were provided by the petroleum industry and government-related entities, including the States, the National Governors' Association, and the Commonwealth of Puerto Rico. The balance of comments were provided by various associations and private sector groups. The principal comments were as follows:

(1) Over 25 percent of the comments were submitted by the Northeastern States or associations and private-sector groups whose interests are closely aligned with the Northeastern area. These comments were consistently in favor of establishing in-region RPR's. The States of Maine and Connecticut and the New England Governors' Conference emphasized the import dependency of New England, and stressed concerns regarding the ability of centralized crude oil storage to provide timely relief to the region in the event of a supply disruption. In-region petroleum reserves were seen as a mechanism for alleviating short-term supply deficiencies and for providing protection until SPR oil could enter the market as refined product. The value of such a mechanism in reducing public panic during the initial stages of a supply disruption was also cited.

The New England Fuel Institute, the Independent Fuel Terminal Operators Association (IFTOA), and the Empire State Petroleum Association expressed similar concerns as a basis for their support for placing SPR storage components near consuming centers. The current availability of surplus storage cpacity in the region was a key factor in comments regarding the cost effectiveness of regional storage. Both the New England Governors' Conference

and a firm, New England Energy, provided data on available excess storage capacity.

(2) States as geographically diverse as Arizona, Montana, Mississippi, Washington, and Illinois supported the establishment of regional reserves in close proximity to their respective locations. Issues of regional equity in SPR use policy were raised, as well as concerns regarding each area's unique vulnerabilities to petroleum supply disruptions. Generally, State comments reflected the view that an in-region RPR would provide a necessary additional level of security to those areas with unique supply or distribution concerns. Mississippi provided data on the availability of salt dome formations for potential RPR use.

(3) Pacific Resources, Inc., and the Commonwealth of Puerto Rico provided comments in support of the establishment of noncontiguous petroleum reserves in Hawaii and Puerto Rico, respectively, which emphasized their unique dependency on foreign imports. Puerto Rico, while continuing to support the development of an SPR storage component in its area, commented more specifically on provisions it believed should be incorporated into the SPR Distribution Plan to accomodate its unique needs and circumstances. Pacific Resources, Inc., provided a copy of a recent report entitled, "The Role of a Regional Petroleum Reserve in Hawaii: Flexibility for Responding to Oil Supply Disruptions," which emphasized Hawaii's limited response flexibility due to the small size of the petroleum market and the limited number of suppliers.

(4) The National Governors' Association (NGA) reflected State concerns and cited the development of regional crude oil and petroleum product reserves as a "critical element of an effective energy emergency response policy."

(5) National association, such as the Chemical Manufacturers Association (CMA) and the American Bus Association, expressed interest in the EEPA-mandated analysis and the need to address the ability of regional storage to provide greater efficiency, cost effectiveness, or security. The National Council of Farmer Cooperatives similarly supported an assessment of the issues involved, and raised potential supply problems in rural areas of the Midwest and upper Great Plains.

(6) The majority of petroleum industry comments were from the larger companies, such as Getty, Sun, Exxon, Shell, and the Tosco Corporation, and were consistently opposed to the establishment of in-region RPR's. These commentors based their opposition on the ability of the existing SPR system to provide adequate protection to all areas on a cost-effective basis. Many expressed the belief that development of RPR's would be both unnecessary and wasteful, and cited technical problems associated with product storage. An independent refiner, Seaview Petroleum, commented that an RPR would be an expensive alternative to centralized storage, but felt that the institutional inequities of the then-existing SPR Distribution Plan tended to strengthen arguments in behalf of RPR's.

(7) The International Association of Independent Tanker Owners and the law firm of Arent, Fox, Kintner, Plotkin, and Kahn, on behalf of Lars Krogh and Company, provided information regarding the use of floating storage as an RPR option. Advantages, such as cost-competitiveness, mobility, and reduced loss during drawdown were cited, as well as data regarding the current surplus of tankers.

VI. Summary of the Contents of the Strategic Alcohol Fuel Reserve (SAFURE) Report.

The SAFURE report was required by section 6(d) of EEPA, which called for a study of the feasibility of establishing a strategic alcohol fuel reserve to supplement the SPR. The Conference Report on EEPA indicated that the report should include: an assessment of priority end uses which could be satisfied by use of alcohol in lieu of petroleum products; and evaluation of the relative economic benefits, including a projection of costs and impact on balance of trade and domestic employment; an analysis of the projected impact on the cost and operation of agricultural programs administered by the Federal Government, including impacts on the prices of domestic agricultural commodities and the cost of storage; and an assessment of alternative storage and distribution options.

The report examined three ethanol storage program options, each of which was compared to storage of an equivalent amount of oil in the currently-planned SPR. The options included: ethanol production spare capacity utilizing existing uneconomical ethanol production capacity to fill a 32.1 million barrel reserve; a market diversion option whereby the Government purchases ethanol for SAFURE storage of 21 million barrels; and a dedicated plants option with the Government purchasing the output of five new plants for a 21 million barrel reserve.

A comparison was made for each of the three options with an equivalent amount of crude oil based on acquisition costs, storage costs, transportation and distribution costs, avoided Federal grain program costs, and the value of stored commodity in a disruption or at the end of the defined period. Since uncertainties could be associated with some key parameters, a number of sensitivity analyses were conducted changing the assumptions for selected key parameters in the base case. The key findings of the report include the following:

(1) Assuming petroleum supply disruptions in the years 1990 and 2000, the loss in net national economic benefits resulting from the creation and maintenance of a SAFURE versus the SPR could range from $14 to $40 per barrel. The lowest loss could occur with the market diversion option, assuming a disruption in the year 1990. The greatest loss could occur during a disruption in the year 2000 under the spare capacity utilization option.

(2) A number of sensitivity analyses were conducted, including such factors as: a 6 percent discount rate, high and low oil price paths, no oil supply disruption, high and low ethanol production costs, high and low ethanol storage costs, and high and low agricultural savings. It was found that the only positive net national economic benefits could take place in the case of high oil prices with a dedicated plants program—$9 per barrel. All other sensitivity analyses yielded a loss in maintaining a SAFURE.

(3) The highest value for ethanol during a disruption is as a gasoline octane enhancer. Other potential uses, such as in home heating oil, aviation fuel, or diesel fuel, are in the research and development stage or require exceptional implementation measures.

(4) Potential savings in Federal grain storage costs resulting from the creation of an SAFURE would be negligible. The amount of grain required to produce ethanol to fill a reserve of 21 to 32.1 million barrels represents less than one-half of one percent of the world grain market. Also, under the Administration's proposed payment-in-kind program, Commodity Credit Corporation and farmer-held stocks would already be reduced substantially.

(5) Any advantages of a SAFURE on employment or on the Nation's balance of payments would likely be offset by reduced employment in SPR activities and in reduced goods and services flowing back to the United States.

VII. Summary of Public Comment on the SAFURE Report

In response to the Notice of Inquiry, fifteen comments regarding the efficacy of a SAFURE were received by DOE. A third of the comments were provided by oil companies. The remaining responses were submitted by State governments, trade organizations, and private sector groups. The principal comments were as follows:

(1) All the oil companies except Ashland Development, Inc., opposed the creation of a SAFURE. The Atlantic Richfield Company noted that, even though it has developed and sold alcohol fuels for more than ten years, a SAFURE would have limited use (i.e., as a gasoline extender, that ethanol is not economically viable since its current demand is the result of Federal and State incentives, and that the cost of storing ethanol is much greather than the cost of storing crude oil. Exxon pointed out that gasoline may not be in the shortest supply during a disruption, so the demand for ethanol would be limited. Getty commented that a SAFURE would be unnecessary and wasteful. Shell stated that the significance of alcohol as an alternative fuel is minimal. Ashland Development, Inc., provided data on the favorable economics of blending ethanol with gasoline at the refinery.

(2) General Motors was against the creation of a SAFURE, stating that the current use and short-term outlook for methanol in vehicles does not justify the development of a SAFURE.

(3) The State of Montana supported a SAFURE as a means of encouraging a strong and viable alcohol fuels industry. Illinois stated its belief that it was important to study the feasibility of an alcohol reserve. The Nebraska Alcohol Commission advocated a SAFURE, citing the logistical advantages of decentralized storage capability and minimized product transportation requirements. The Commission also pointed out the availability of feedstocks to produce ethanol, and noted that ethanol as a gasoline extender needed no additional refining.

(4) The National Council of Farmer Cooperatives supported a healthy alcohol fuels industry that would help absorb grain surpluses. The Council noted, however, that data is lacking on the economics of establishing a SAFURE. The Panhandle Cooperative Association in Nebraska supported the SAFURE as a means of creating a supply of energy when needed, and a demand for a raw material.

(5) The New England Governors' Conference, Inc., submitted an article on the economic and energy efficiency of gasohol versus other liquid fuels which indicated the preference for gasohol over other synthetic fuels, but recognized the need for Government support for the product to be competitive. An organization called Alcohol Power strongly supported a SAFURE as a means of reducing U.S. vulnerability to international oil disruptions.

(6) The Alabama Electric Cooperative (AEC) and Harmon Engineering supported creation of a SAFURE, noting that ethanol is the most widely used alternative liquid fuel, is derived from domestic resources, and can be stored and transported in a manner similar to gasoline. AEC commissioned Harmon Engineering to do a feasibility study on building an alcohol plant. Both companies would like the AEC-proposed plant to be used as a demonstration project for a SAFURE program.

VIII

All comments received in response to the Notice of Inquiry from the public are available for public inspection in the DOE Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between 8:00 a.m. and 4:00 p.m., Monday through Friday. The docket number designation is "Energy Emergency Preparedness, Docket No. EP–40–82–1."

Copies of the Comprehensive Energy Emergency Response Procedures Report (DOE/EP–0081), the Regional Petroleum Reserves Report (DOE/EP–0080), and the Strategic Alcohol Fuel Reserve Report (DOE/EP–0079) may be obtained by writing or contacting the DOE Office of Public Affairs, Room 1E–218, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252–5568.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

January 18, 1983.

[FR Doc. 83–1860 Filed 1–21–83; 8:45 am]

BILLING CODE 6450–01–M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S–EU–750, to the United Kingdom Atomic Energy Authority, 10 grams of uranium-238 and 5 grams of uranium-235, for use as an isotopic standards for mass spectrometry and for fission foils in an accelerator.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 19, 1982.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83–1849 Filed 1–21–83; 8:45 am]

BILLING CODE 6450–01–M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; European Atomic Energy Community and Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer:

RTD–SW(EU)–124, from the Federal Republic of Germany to Sweden, 1,410 kilograms of uranium, containing 39.813 kilograms of U–235 (2.82% enrichment) contained in 8 fuel assemblies for the Forsmark 1 power reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 19, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-1847 Filed 1-21-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Dane Energy Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Dane Energy Company at 1775 St. James Place, Suite 160, Houston, Texas 77056. This Proposed Remedial Order alleges pricing violations in the amount of $42,562,990.97 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Parts 205, 210 and 212, Subparts I and L during the time period November 1978 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas on the 7th day of January, 1983.

Ben L. Lemos,

Director, Dallas Office Economic Regulatory Administration.

[FR Doc. 83-1846 Filed 1-21-83; 8:45 am]

BILLING CODE 6450-01-M

Southern Union Refining Co. and Midland-Lea Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of Proposed Remedial Order which was issued to Southern Union Refining Co. and Midland-Lea, Inc. at P.O. Box 980, Hobbs, New Mexico 88240. This Proposed Remedial Order alleges pricing violations in the amount of $3,386,339.07 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Parts 205, 210 and 212, Subpart I and L during the time period April 1980 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Deputy Director, Crude Reseller Audit & Litigation Support Group, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR 205.93

Issued in Dallas, Texas on the 7th day of January 1983.

Ben L. Lemos,

Director, Dallas Office Economic Regulatory Administration.

[FR Doc. 83-1848 Filed 1-21-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP83-130-000]

Arkansas Louisiana Gas Co.; Application

January 18, 1983.

Take notice that on December 16, 1982, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP83-130-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of taps on certain jurisdictional gas pipelines and related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate taps on the lines identified below adjacent to the described homes and business establishments:

Line	Home or business establishment
694-2	Paul Ellis, Hughes County, Oklahoma.
2	Mark Munkers, Major County, Oklahoma.
AT-18	Weesely Energy Corporation's oil and gas leases in the William Survey A-274, Upshur County, Texas.

It is stated that the gas supply for these customers would be from general system supply with impact on Applicant's supply being negligible.

Applicant asserts the cost of the proposed facilities to be $16,830 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1777 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-138-000]

Cleveland Electric Illuminating Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, Directing Summary Disposition, Denying Request for Expanded Investigation, Granting Request for Expedited Hearing, and Establishing Hearing Procedures

Issued: January 18, 1983.

On November 19, 1982 Cleveland Electric Illuminating Company (CEI) submitted for filing a proposed increase in rates for partial requirements and transmission services provided to the City of Cleveland, Ohio (City). In its filing CEI also proposed a change in the emergency service rate to City. [1] The proposed rates would increase revenues by approximately $716,000 (5.1%) during the calendar year 1983 test period. CEI requests an effective date of January 18, 1983, for the revised rates.

Notice of the filing was published in the **Federal Register** with comments due on or before December 14, 1982. City filed a timely motion to intervene, protest, and request for suspension and expedited hearing on changes in terms and conditions of service. City urges a five month suspension, but if the Commission suspends the rates and charges for less than five months, City requests at a minimum that the proposed changes in terms and conditions be suspended for five months and that an expedited hearing be ordered in order to prevent irreparable harm to City.

In support of its request for a five month suspension, City alleges the following improper adjustments or treatment in the company's wholesale cost of service: Excessive rate of return on common equity; inclusion of costs associated with coal purchases that are purportedly in excess of average market price; [2] excessive cash working capital allowance and fuel inventory; inclusion of expenses associated with cancelled nuclear generating plants; failure to synchronize interest expense for tax purposes with interest costs for rate of return purposes; inadequate credits for the company's sale of investment tax credits and accelerated cost recovery depreciation rights; use of a unit of production method to determine depreciation charges for the Davis-Besse nuclear unit; use of demand ratchet in conjunction with a 12 CP demand allocator; and overstated transmission and capacity allocation factors.

City also contends that the impact of the new demand ratchet proposed by CEI is understated and that the imposition of such ratchet will cause the City to forego taking full advantage of low cost purchased power opportunities which would otherwise be available in 1983. City further contends that the revised emergency service schedule would be discriminatory because the company is not offering a short-term or limited-term power rate schedule or other interchange services. In addition, City contends that other terms and conditions of service are discriminatory, violate the terms of a Nuclear Regulatory Commission license, and fail to adequately compensate City for inadvertent power deliveries to CEI.

On December 29, 1982, CEI filed an answer to City's pleading. CEI asserts, inter alia, that City's objections to the rate of return are unsupported; that the coal cost issue res resolved by the Public Utilities Commission of Ohio; that expenses for cancelled plants are allowable; and that it is inappropriate in this forum to consider the failure to provide certain alternative services to City. CEI requests that the Commission not impose a five month suspension.

Also on December 29, 1982, CEI filed a letter requesting a first rate order establishing that its cost of service reflects a normalization method of accounting, in order to comply with the Economic Recovery Tax Act of 1981. Such an order was issued on December 30, 1982.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), City's unopposed motion to intervene serves to make it a party to this proceeding.

As noted by City, CEI has failed to synchronize test year interest expense used in the income tax calculation with the interest portion of the claimed rate of return. Consistent with *Gulf States Utilities Company*, Docket No. ER82-375-000, 20 FERC ¶ 61,039 (1982), summary disposition is warranted. In the instant proceeding, the use of a synchronized interest expense would increase the cost of service submitted by CEI; however, we shall not allow the company to charge rates higher than those originally proposed. The summary resolution of this issue should be reflected in CEI's cost of service at the conclusion of this case.

In our order of August 3, 1982, *Cleveland Electric Illuminating Co., et al.*, Docket Nos. ER81-612-000, ER82-424-000, ER82-79-000, ER81-779-000, 20 FERC ¶ 61,159 (1982), the Commission denied a motion to sever the coal pricing issue from four separate dockets for consolidation and investigation, stating that:

> Coal costs are only at issue in the Pennsylvania Power Company * * * [*supra*] and Ohio Edison Company * * * [*supra*] dockets. We believe that these proceedings, which have already made provisions to hear the coal issue, should be permitted to progress in a regular fashion and not be interrupted by an omnibus investigation. To do so, may eliminate any possibility of settlement and termination of these two proceedings.

We reach the same conclusion in this proceeding. The coal cost issue which has now been raised by City should also be addressed in this docket where evidence can be presented and briefs can be submitted by all parties more appropriately. Therefore, we shall deny City's request to expand the prior investigations to include the coal costs involved in the rates and charges proposed herein by CEI.

CEI currently provides power to City under an emergency service schedule [3] during those times when City has failed to purchase a sufficient amount of power from other sources to meet its requirements. Under the proposed agreement, emergency service would be available to City only in the event of a breakdown on City's system, or in the generation or transmission to which it has a firm entitlement, which impairs City's ability to meet the loads of its system. Service rendered during the first 24 hours would be provided at the cost of generating such energy plus 1.4 mills/kWh. If service is requested for two consecutive days or more, an extended emergency generation service charge of 5 mills/kWh would be applied to all service rendered after the first day. If energy is purchased by CEI to provide emergency service, the charge would include an extended emergency transmission service charge.

Although our preliminary analysis indicates that the proposed rates may be cost justified, CEI is substantially modifying the type of service that it is providing. Under the present emergency service schedule, the Class II and Class III power available to city was, in effect, short-term and limited-term power service. By redefining the service schedule to restrict supplemental service

[1] *See* Attachment A for rate schedule designations.

[2] City requests that an investigation of this issue presently pending in *Ohio Edison Co.*, Docket No. ER82-79-000, and *Pennsylvania Power Co.*, Docket No. ER82-779-000, be expanded to include the coal costs involved in the rates and charges proposed by CEI.

[3] Service delivered during a period not exceeding 48 hours is considered Class I power. Service delivered during a period which will exceed 48 hours but will not be more than 30 days is considered Class II power. Service delivered during a period which will exceed 30 days is considered Class III power.

to emergency situations only, CEI has effectively eliminated short-term and limited-term power services. Thus, the current filing is somewhat in the nature of a notice of termination or curtailment of service.

In addition, CEI is concurrently seeking to impose a 50% twelve-month demand ratchet which, when first effective, will be applied to levels of service rendered during a period when the conditions of service were significantly different for those contemplated under the proposed rates. City alleges that the effective increase in power costs will be more than eight million dollars (rather than $700,000 based on test year revenue comparisons) because the demand ratchet provision will force City to forego more economic sources of power and energy.

Under the circumstances, City may suffer irreparable harm if the changes in terms and conditions are allowed to go into effect without a full five month suspension. Consistent with the *West Texas* criteria,[4] a five month suspension of the filing is therefore appropriate. Accordingly, CEI's submittal will be accepted for filing to become effective, subject to refund, on June 19, 1983. City's request for an expedited hearing will be granted with respect to the changes in terms and conditions of service in order that a decision on the reasonableness of such changes can be rendered prior to the end of the suspension period.

The Commission orders:

(A) CEI's proposed rates are hereby accepted for filing and suspended for five months from 60 days after filing to become effective, subject to refund, on June 19, 1983.

(B) Summary disposition is hereby ordered, as discussed in the body of this order, with respect to CEI's failure to synchronize its interest expense deduction for income tax purposes. CEI shall reflect our decision with respect to this issue in its compliance cost of service at the conclusion of this proceeding.

(C) City's request for an expanded investigation, presently pending in two separate documents, of the coal costs involved in the rates and charges proposed by CEI is hereby denied as discussed in the body of this order.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of CEI's rates. Such hearing shall be expedited, as explained in the body of this order, to allow a Commission decision on CEI's proposed changes in terms and conditions of service within the period of suspension.

(E) The Commission staff shall serve top sheets in this proceeding on or before January 28, 1983.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT A—CLEVELAND ELECTRIC ILLUMINATING COMPANY DOCKET NO. ER83-136-000 RATE SCHEDULE DESIGNATIONS

Designation	Description
Supplement No. 8 to Rate Schedule FPC No. 12.	Service Schedule A, Emergency Service.
Supplement No. 9 to Rate Schedule FPC No. 12 (supersedes Supplement No. 8).	Service Schedule B, Firm Power Service.
Third Revised Sheet No. 4 under FERC Electric Tariff First Revised Volume No. 1 (supersedes Second Revised Sheet No. 4).	Transmission Service Rates and Charges.
First Revised Sheet No. 5 under FERC Electric Tariff First Revised Volume No. 1 (supersedes Original Sheet No. 5).	Transmission Service Rates and Charges.

[FR Doc. 83-1776 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-546-001]

Columbia Gas Transmission Corp.; Amendment

January 18, 1983.

Take notice that on December 29, 1982, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP82-546-001, an amendment to its application in Docket No. CP82-546-000 deleting therefrom its request for authorization to construct and operate the facilities constituting its Franklinville Project, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Columbia states that it proposes to defer indefinitely its Franklinville Project due to an anticipated delay in the development of associated acreage by independent producers of natural gas under farmout agreements with Columbia.

Any person desiring to be heard or to make protest with reference to said amendment should on or before February 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1775 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-467-001]

Columbia Gas Transmission Corp.; Petition To Vacate Order

January 18, 1983.

Take notice that on December 23, 1982, Columbia Gas Transmission Corporation (Columbia), P.O. Box. 1273, Charleston, West Virginia 25325, filed in Docket No. CP78-467-001 a petition pursuant to Section 385.207(a)(5) of the Commission's Rules of Practice and

[4] In explaining its suspension policy, in *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC 61,189 (1982), the Commission stated that:

"* * * in cases in which increased revenues do not appear to be excessive, but other, extraordinary factors indicate that wholesale customers may suffer irreparable harm absent a five month suspension, we shall order a maximum suspension." [footnote omitted]

Procedure (18 CFR 385.207(a)(5)) to vacate the order issued April 4, 1979, in Docket No. CP78-467, all as more fully set forth in the petition to vacate which is on file with the Commission and open to public inspection.

It is stated that by order issued April 4, 1979, Columbia was authorized pursuant to Section 7(c) of the Natural Gas Act to transport up to 400 Mcf of natural gas per day for a two-year term from the date of initial delivery for the Fruehauf Corporation (Fruehauf). It is further stated that such quantities of natural gas were to be purchased and utilized by Fruehauf for high priority industrial uses at its plant in Utica, New York.

Columbia asserts that over three years have elapsed since the issuance of such order and that the transportation service authorized thereunder has never commenced since Fruehauf's Utica plant is not in danger of being curtailed. Columbia further asserts that it has advised Fruehauf by letter of September 29, 1980, that a petition would be made to the Commission to vacate the subject certificate. Columbia states the gas transportation agreement dated May 1, 1978, between Columbia and Fruehauf was cancelled by Columbia on September 23, 1981.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 of 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1780 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-323-005]

El Paso Natural Gas Co.; Petition To Amend

January 18, 1983.

Take notice that on December 16, 1982, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-323-005 a petition to amend the order issued September 30, 1982, in Docket No. CP82-323-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for J. R. Simplot Company (Simplot) to an additional delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Pursuant to the order dated September 30, 1982, El Paso states it is authorized to transport natural gas for Simplot with delivery to Northwest Pipeline Corporation (Northwest) which gas is purchased from Southern Union Gathering Company in order to provide an economical source of natural gas for feedstock purposes in the operation of Simplot's anhydrous ammonia plant near Pocatello, Idaho.

El Paso indicates that the additional delivery point is located at an existing point of interconnection between the facilities of El Paso and Pacific Gas and Electric Company at the boundary between the States of Arizona and California in Mohave County, Arizona (Topock Delivery Point), and would be utilized from time to time when Northwest is unable to accept volumes of gas tendered by El Paso for the account of Simplot at the primary delivery point located near Ignacio, Colorado. Pursuant to the terms of a related amendatory agreement dated October 12, 1982, between El Paso and Simplot, ARTICLE V of the transportation agreement has been expanded to provide that Simplot would pay El Paso for each Mcf for natural gas transported through El Paso's mainline transmission facilities and delivered at the Topock Delivery Point, the rate in effect and reflected from time to time as the "Mainline Transmission Charge—California" set forth on Sheet No. 1-D.2 of El Paso's FERC Gas Tariff Volume No. 2.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1779 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-370-003]

El Paso Natural Gas Co.; Petition To Amend

January 18, 1983.

Take notice that on December 16, 1982, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-370-003 a petition to amend the order issued September 30, 1982, in Docket No. CP82-370-000 pursuant to section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for the account of Phillips Pacific Chemical Company (Phillips Pacific) from one additional receipt point and to one additional delivery point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that El Paso and Phillips Pacific have entered into amendatory agreements dated August 17, 1982, and October 12, 1982, wherein the parties agreed to establish a second El Paso receipt point and delivery point, respectively, under the transportation arrangement. The August 17, 1982, amendatory agreement serves to establish the Rio Puerco Meter Station receipt point, Valencia County, New Mexico, as a second El Paso receipt point under the subject transportation arrangement with Phillips Pacific, it is explained. Such additional receipt point would, it is stated, be utilized from time to time, particularly on those days when El Paso is unable to accept the entire volume of natural gas which may be tendered to El Paso for transportation at the original Kutz receipt point due to capacity constraints existing at El Paso's Blanco plant facilities. It is asserted that on days the Rio Puerco Meter Station receipt point is used Phillips Pacific would cause Gas Company of New Mexico to transport and deliver certain volumes of natural gas to El Paso at such point for subsequent delivery by back haul to Northwest Pipeline Corporation at the Ignacio delivery point, La Plata County, Colorado. It is stated that Phillips Pacific would pay El Paso for gas received at the Rio Puerco Meter Station receipt point the Back Haul Charge reflected from time to time on Sheet No. 1-D.2 of El Paso's currently effective FERC Gas Tariff, Third Revised Volume No. 2.

El Paso also states that the October 12, 1982, amendatory agreement serves to establish the Topock delivery point, Mohave County, Arizona, as a second El Paso delivery point under the subject transportation arrangement. Such additional delivery point, located at an existing point of interconnection between the facilities of El Paso and Pacific Gas and Electric Company at the boundary between the States of Arizona and California in Mohave County, Arizona, would be utilized from time to time when Northwest is unable to accept volumes of gas tendered by El Paso for the account of Phillips Pacific at the Ignacio delivery point, it is stated. Phillips Pacific would pay El Paso for gas transported through El Paso's mainline transmission facilities and delivered at the Topock delivery point the rate in effect and reflected from time to time as the "Mainline Transmission Charge—California" set forth on Sheet No. 1–D.2 of El Paso's FERC Gas Tariff, Third Revised Volume No. 2.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Feb. 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1780 Filed 1–21–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP82–556–000 and CP82–555–003

El Paso Natural Gas Co., Application

January 18, 1983.

Take notice that on September 29, 1982, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82–556–000 an application as amended December 16, 1982, in Docket No. CP82–556–003 pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportion of natural gas for Beker Industries Corp. (Beker), all as more fully set forth in the application and the amendment to the application, as amended, which is on file with the Commission and open to public inspection.

It is asserted that El Paso and Beker have entered into a transportation agreement dated August 4, 1982, providing for El Paso to receive up to 15,000 Mcf of natural gas per day on a best-efforts basis from Southern Union Gathering Company in San Juan County, New Mexico, Kutz delivery point, and/or Gas Company of New Mexico in Valencia County, New Mexico, Rio Puerco meter station, and concurrently deliver such gas by displacement or short haul to Northwest Pipeline Corporation (Northwest) at a point in La Plata County, Colorado, Ignacio delivery point. It is asserted that the transportation agreement provides that Beker would pay El Paso for each Mcf received at the Kutz delivery point and the Rio Puerco meter station and delivered to Northwest at the Ignacio delivery point, El Paso's currently effective short haul charge and back haul charge, respectively, as reflected from time to time on Sheet 1–D.2 of El Paso's FERC Gas Tariff, Volume No. 2. It is stated that the current short haul charge is 3.98 cents per Mcf.

El Paso and Beker have also entered into an October 12, 1982, amendatory agreement which adds an additional deljvery point located at an existing point of interconnection between the facilities of El Paso and Pacific Gas and Electric Company (PG&E), the Topock delivery point in Mohave County, Arizona, which El Paso indicates would be used when Northwest is unable to accept volumes of gas tendered by El Paso for the account of Beker at the Ignacio delivery point. The amendatory agreement provides for Beker to pay El Paso for any volumes of gas delivered to the Topock delivery point the "Mainline Transportation Charge—California" set forth on Sheet 1–D.2 of El Paso's Volume FERC Gas Tariff, Volume No. 2, it is asserted.

It is explained that the proposed transportation service would provide Beker with an economical supply of gas for use in its Conda, Idaho, ammonia plant. It is stated that Beker purchases the subject gas from Southern Union Gathering Company.

Any person desiring to be heard or to make any protest with reference to said application, as amended, should on or before February 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1781 Filed 1–21–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ES83–21–000]

Gulf States Utilities Co.; Application

January 18, 1983.

Take notice that on January 13, 1983, Gulf States Utilities Company (Applicant) filed an application seeking an order under Section 204(a) of the Federal Power Act authorizing the Applicant to issue up to 750,000 Shares of New Preferred Stock, $100 par value, via negotiated placement. Such securities are proposed to be issued in one or more series over a two-year period pursuant to Commission policy announced in Release FE–1228 dated November 24, 1982.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 4, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in

accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1771 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER83-110-001, ER83-112-000, and ER83-136-000

Montaup Electric Co.; Compliance Filing

January 18, 1983.

Take notice that on January 10, 1983, Montaup Electric Company filed revised rates in compliance with the Commission's order of December 30, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 4, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1772 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-131-000]

Northern Natural Gas Co.; Application

January 18, 1983.

Take notice that on December 16, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-131-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities in the offshore Texas area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 3 miles of 24-inch pipeline in the Matagorda Island area, offshore Texas, extending from the producer's platform located in Matagorda Island Block 624 to the proposed Seagull Shoreline System to be constructed in Matagorda Island Block 624. Applicant further states that it has contracted to purchase 32.5 percent of the reserves underlying Matagorda Island Block 624 from Mesa Petroleum Company. The remaining 67.5 percent of reserves attributable to Matagorda Island Block 624 presently are undedicated, Applicant states.

Applicant avers that the proposed facilities would be designed to provide a daily capacity of 320,000 Mcf per day. Applicant states that such facilities would allow the transportation of the natural gas reserves attributable to Matagorda Island Blocks 624 and 623 as production begins in 1983. Applicant anticipates that excess capacity would be available for Matagorda Island Block 622 reserves when drilling has been completed, the reserves attached to the facilities proposed herein, and production commences.

Applicant estimates that the proposed facilities would cost $5,020,000. Such costs, it is asserted, would be financed from Applicant's cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (10 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1782 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-236-003]

Northern Natural Gas Co.; Petition To Amend

January 18, 1983.

Take notice that on December 23, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-236-003 a petition to amend the order issued July 31, 1981, as amended, in Docket No. CP81-236-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an extension of the term of Northern's sale of natural gas to El Paso Natural Gas Company (El Paso) through October 31, 1983, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Northern states that by amending order issued July 30, 1982, in this proceeding it was authorized to extend its authority to sell natural gas to El Paso for a period of six months expiring on January 30,1983. Northern asserts it is permitted to sell an average of 200,000 Mcf of natural gas per day to El Paso. Northern proposes herein to continue to sell the subject gas to El Paso for a period ending October 31, 1983. Northern asserts that such extension would provide direct and indirect benefits to both Northern's and El Paso's customers. It is further asserted that such sale would enable Northern to better manage its overall gas supply and by doing so would reduce the exposure of substantial deficiency payments which are projected to reach approximately $112,000,000 by the year ending 1982.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person

wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1773 Filed 1-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-362-004]

Northwest Pipeline Corporation; Petition To Amend

January 18, 1983.

Take notice that on October 25, 1982, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82-362-004 a petition to amend the order issued September 30, 1982, in Docket No. CP82-362-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an alternate route for the transportation of natural gas for the account of Phillips Pacific Chemical Company (Phillips Pacific), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Northwest states that on September 30, 1982, it was authorized to transport up to 10,000 Mcf of natural gas per day for the account of Phillips Pacific on a best-efforts basis from the San Juan area in New Mexico to Phillips Pacific's ammonia plant in Benton County, Washington.

Northwest proposes herein to add a new receipt point to the May 12, 1982, gas transportation agreement between Northwest, Phillips Pacific, and Gas Company of New Mexico. The new receipt point is located at a point near Spokane, Washington, it is asserted. It is stated that the proposed alternate route would involve delivery of gas by El Paso Natural Gas Company to Pacific Gas & Electric Company (PG&E), transportation by PG&E to Pacific Gas Transmission Company (PGT), displacement by PGT to Northwest near Spokane, Washington, and transportation by Northwest from Spokane to Phillips Pacific for use by the latter at its ammonia plant in Benton County, Washington.

Northwest's rate for the proposed alternate transportation service would be computed, it is stated, using two billing milage units. Northwest submits that its currently effective mainline rate is 1.5 cents per million Btu per billing mileage unit plus retention of 1 percent of the gas received for transportation as compensation for fuel and losses.

It is asserted that such alternate transportation route is required because of operational constraints on Northwest's mainline.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1783 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-250-003]

Northwest Pipeline Corp.; Petition To Amend

January 18, 1983.

Take notice that on October 25, 1982, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82-250-003 a petition to amend the order issued September 30, 1982, in Docket No. CP82-250-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an alternate route for the transportation of natural gas for the account of Beker Industries Corp. (Beker), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Northwest states that on September 30, 1982, it was authorized to transport up to 10,000 Mcf of natural gas per day for the account of Beker on a best-efforts basis from the San Juan Basin area in New Mexico to Beker's ammonia plant in Conda, Idaho.

Northwest proposes herein to add a new receipt point to the March 9, 1982, gas transportation agreement between Northwest and Beker. The new receipt point, it is explained, is located at a point near Spokane, Washington. It is submitted that the proposed alternate route would involve delivery of gas by El Paso Natural Gas Company to Pacific Gas & Electric Company (PG&E), transportation by PG&E to Pacific Gas Transmission Company (PGT), displacement by PGT to Northwest near Spokane, Washington, and transportation by Northwest from Spokane to Beker for use by the latter at its ammonia plant at Conda, Idaho.

Northwest's rate for the proposed alternate transportation service would be computed, it is stated, using 7 billing mileage units. Northwest submits that its currently effective mainline rate is 1.5 cents per million Btu per billing mileage unit plus retention of 1 percent of the gas received for transportation as compensation for fuel and losses.

It is asserted that such alternate transportation route is required because of operational constraints on Northwest's mainline.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Feb. 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1784 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-532-009]

Ozark Gas Transmission System; Petition To Amend

January 18, 1983.

Take notice that on December 22, 1982, Ozark Gas Transmission System (Petitioner), 2700 Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP78-532-009 a petition to amend the order issued October 2, 1981, in Docket No. CP78-532 pursuant to Section 7(c) of the Natural Gas Act so as to conform authorization to the actual pipeline system constructed and to waive noise level conditions, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it was authorized to construct and operate a pipeline system consisting of 285 miles of main pipeline and approximately 180 miles of laterals and appurtenant facilities at a cost of approximately $120,000,000. Petitioner indicates that it actually constructed 266.1 miles of 20-inch pipeline and 146.5 miles of 4-inch to 12-inch lateral pipeline along with 25,650 horsepower of compression at a cost of approximately $138,400,000. Petitioner states that a number of factors, such as location of available gas supplies, caused certain differences between the system proposed and as actually constructed.

Petitioner also indicates that the ambient noise level at the site of its ONG Compressor Station which Petitioner located near two existing compressor stations exceeds the 55 dB(A) level ordered by the Commission even without Petitioner's facility being operated. As a result, Petitioner requests waiver of Condition No. 6 in the Initial Decision, as adopted by the Commission, to permit Petitioner to operate the ONG Compressor Station provided it does not raise the ambient noise level by more than 3 dB(A).

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Feb. 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-1786 Filed 1-21-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-120-000]

Pacific Gas Transmission Co.; Request Under Blanket Authorization

January 18, 1983.

Take notice that on December 8, 1982, Pacific Gas Transmission Company (PGT), 245 Market Street, San Francisco, California 94106, filed in Docket No. CP83-120-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that PGT proposes to abandon certain gas sales facilities used to provide deliveries of natural gas to Northwest Pipeline Corporation (Northwest) at Beaver Marsh, Oregon, under the authorization issued in Docket No. CP82-530-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

PGT states that by order issued in Docket No. CP82-59 PGT was authorized to construct the subject tap and metering facilities and to deliver gas to Northwest at Beaver Marsh, Oregon. PGT avers that it transported gas for the account of Northwest from the international border at Kingsgate, British Columbia, to Beaver Marsh. After delivery, Northwest resold this gas to CP National Corporation (CP National), it is asserted.

PGT states that the Commission authorized Northwest to abandon its natural gas service to CP National at the Beaver Marsh delivery point and to reallocate such natural gas service to CP National at Northwest's La Grande delivery point in Union County, Oregon, pursuant to order issued July 15, 1981, in Docket No. CP81-135. As a result, the PGT facilities at Beaver Marsh are no longer being utilized to provide gas deliveries to Northwest, it is averred.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 C.F.R. 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 C.F.R. 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-1786 Filed 1-21-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-1-28-001]

Panhandle Eastern Pipe Line Co.; Change in Tariff

January 17, 1983.

Take notice that on January 14, 1983 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Forty-Fourth Revised Sheet No. 3-A
Twenty-First Revised Sheed No. 3-B
Eighth Revised Sheet No. 3-C.1
Eighth Revised Sheet No. 3-C.2
Eighth Revised Sheet No. 3-C.3

The proposed effective date of these tariff sheets is March 1, 1983.

These revised tariff sheets reflect rate adjustments as follows:

(1) A DCA Commodity Surcharge Adjustment pursuant to § 16.6(e) of the General Terms and Conditions; and

(2) A Rate Adjustment pursuant to § 18.4 of the General Terms and Conditions, such adjustment reflecting a proposed Pipeline Supplier rate adjustment to be effective concurrently herewith; and

(3) A PGA Rate Adjustment pursuant to § 18.3 of the General Terms and Conditions, such adjustment reflecting the current cost of gas and recovery of amounts in the deferred purchased gas cost account; and

(4) A "Reduced PGA" rate, and projected incremental pricing surcharges for each direct sale non-exempt industrial boiler fuel facility and each sale-for-resale customer in accordance with Section 21 of the General Terms and Conditions; and

(5) A Purchased Gas Transmission and Compression and Transportation Revenue tracking adjustment in accordance with Article VI of the Stipulation and Agreement dated November 21, 1980 in Docket No. RP80-78 and pursuant to Paragraph (B) of the Commission's Order issued April 30, 1982 in Docket No. RP82-58; and

(6) An ANGTS Rate Adjustment pursuant to Section 22 of the General Terms and Conditions.

Panhandle states that the PGA Rate Adjustment reflected herein includes Panhandle's pipeline supplier, Trunkline Gas Company's (Trunkline), purchases from a new supplier, Trunkline LNG Company (LNG Company) LNG Company commenced deliveries to Trunkline on October 15, 1982. The deliveries by LNG Company to Trunkline are pursuant to LNG Company's Rate Schedule PLNG-1 of its FERC Gas Tariff Original Volume No. 1 which rate schedule was the subject of the Commission's Order dated July 31,

1981 in LNG Company's Docket No. RP81–85–000.

Pursuant to the Stipulation and Agreement dated November 21, 1980 in Docket No. RP80–78, approved by Commission order issued January 27, 1981, Panhandle included in its rates a Purchased Gas Transmission and Compression and Transportation Revenue tracking provision designed to assure that the jurisdictional portion of all, but only those transmission and compression costs and transportation revenues actually incurred by Panhandle during the Docket No. RP80–78 effective period would be recovered. To facilitate such recovery, Panhandle maintained Deferred Accounts associated with the Cost of Transmission and Compression of Gas by Others and Transportation Revenues. Since the Docket No. RP80–78, rates were superseded on October 1, 1982 by rates filed in Docket No. RP82–58, no Transmission and Compression Rate Adjustment is permitted. Therefore Panhandle has made an adjustment to reverse the Transmission and Compression rate adjustment included in its prior effective rates, and has transferred the balance in the deferred Transmission and Compression of Gas Account to the Deferred Purchase Gas Cost Account.

Panhandle further states that the PGA Rate Adjustment filed herewith reflects current payments to Panhandle's applicable gas suppliers pursuant to the Commission's Order Nos. 93 and 93–A issued in Docket No. RM80–33. On December 24, 1982 the Commission issued an order in Docket No. RM80–33 which vacated the partial stay previously granted in these proceedings. The Commission's Order of December 24, 1981 reaffirmed the December 1, 1978 effective date of the so-called "Btu-rule" (18 CFR § 270.204) which prescribes the standard for determining the Btu content of natural gas in calculating maximum lawful prices under the Natural Gas Policy Act of 1978. Therefore, in view of the Commission's Order of December 24, 1981 Panhandle has also included payments in the instant PGA Rate Adjustment to affected producers retroactive to December 1, 1978 based on the application of Section 207.204 of the Commission's Regulations. Panhandle is still in the process of finalizing its computations with respect to its total obligations related to these retroactive payments. However, included herein is $22,620,084, which is a portion of Panhandle's obligation to its gas suppliers as a result of the application of Section 270.204 retroactive to December 1, 1978. Such amounts will be disbursed by Panhandle prior to the March 1, 1983 effective date of the instant PGA Rate Adjustment.

Pursuant to Ordering Paragraph (E) of the Commission's Order dated August 31, 1982 in Docket No. TA82–2–28–000 the cost of concurrent exchange gas recorded in Account No. 806 has been excluded from Panhandle's deferred purchased gas cost account. In accordance with the Commission's Order in Docket No. TA82–2–28–000 a one-time adjustment to reflect the elimination of such exchange gas from Account No. 191 has been included herewith to ensure recovery of purchase gas cost associated with these imbalances. Also computations of Panhandle's Deferred Purchase Gas Carrying Cost Account have been modified in accordance with the Commission's Order dated October 13, 1982 in Docket No. TA82–2–28–000.

Copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.211, 285.214). All such petitions or protests should be filed on or before February 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1774 Filed 1–21–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP83–132–000]

Texas Eastern Transmission Corp.; Application

January 18, 1983.

Take notice that on December 20, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP83–132–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Public Service Electric and Gas Company (PSE&G), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that PSE&G has purchased a quantity of natural gas from Equitable Gas Company (Equitable). Applicant proposes pursuant to a gas transportation agreement dated December 15, 1982, to receive, by displacement, up to 50,000 dt equivalent of natural gas per day from Equitable for the account of PSE&G at an existing point of interconnection between Applicant and Equitable located at Applicant's meter station 355 in Westmoreland County, Pennsylvania, or at other mutually agreeable existing points of delivery in Applicant's Zone C. Applicant further proposes to transport and redeliver equal quantities, less quantities retained for applicable shrinkage, to PSE&G at the existing point of interconnection between Applicant and PSE&G located at meter station 128 in Union County, New Jersey, and other mutually agreeable delivery points.

Applicant proposes to charge PSE&G 18.72 cents per dt equivalent under Applicant's Rate Schedule TS–1 for the proposed transportation service provided; however, for quantities transported and delivered by Applicant which when added to the quantities delivered to PSE&G under Applicant's Rate Schedules TS–1 and SS–II and other transportation agreements exceed the combined total curtailment of natural gas sales to PSE&G under all of Applicant's firm sales rate schedules, Applicant would charge PSE&G its Rate Schedule TS–1 excess rate of 21.58 cents per dt equivalent. It is stated that Applicant would retain 5.0 percent of the gas transported for shrinkage from April 16 through November 15 of each year and 11.0 percent of all gas received for transportation from November 16 through April 15 of each year. Applicant further states that retention of revenues derived from the transportation service proposed herein would be subject to Applicant's pending rate proceeding in Docket No. RP81–109–000.

Applicant further requests that the authorization granted herein be limited to a term commencing upon the date of initial delivery and terminating six months from the effective date.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the

Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules or Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1787 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-30-002]

Trunkline Gas Co. Change in Tariff

January 17, 1983.

Take notice that on Jan. 14, 1983 Trunkline Gas Company (Trunkline) tendered for filing Forty-First Revised Sheet No. 3-A and Eighth Revised Sheet No. 3-B to its FERC Gas Tariff, Original Volume No. 1. Trunkline submits that these revised tariff sheets reflect rate adjustments as follows:

(1) A PGA Adjustment in accordance with Section 18 of the General Terms and Conditions for increases in the current cost of gas, which reflect purchases from a new supplier, Trunkline LNG Company (LNG Company) and recovery of amounts in the deferred purchased gas cost account; and

(2) A "Reduced PGA" rate, and projected incremental pricing surcharges for each direct sale non-exempt industrial boiler fuel facility and each sale-for-resale customers in accordance with Section 21 of the General Terms and Conditions; and

(3) A Purchased Gas Transmission and Compression tracking adjustment pursuant to Article V of the Stipulation and Agreement in Docket No. RP80-106; and

(4) A Gas Purchase Prepayments tracking adjustment pursuant to Article X of the Stipulation and Agreement in Docket No. RP80-106; and

(5) An Advance Payment tracking adjustment pursuant to Article IV of the Stipulation and Agreement in Docket No. RP80-106.

An effective date of March 1, 1983 is proposed.

Trunkline states that on October 15, 1982 LNG Company commenced deliveries of gas to Trunkline. First regular deliveries of LNG, as defined in LNG Company's Rate Schedule PLNG-1, of its FERC Gas Tariff, Original Volume No. 1, occurred during December 1982. Accordingly, LNG Company, effective January 1, 1983, commenced billing under its cost of service tariff as provided in Article XI of its Rate Schedule PLNG-1. Therefore, these volumes have been priced at LNG Company's estimated unit Cost of Service for the six month period beginning March 1, 1983 pursuant to LNG Company's Rate Schedule PLNG-1, which was accepted by the Commission, and made effective subject to refund, by order issued July 31, 1981, in Docket No. RP81-85

The PGA Rate Adjustment filed herewith reflects current payments to Trunkline's applicable gas suppliers pursuant to the Commission's Order Nos. 93 and 93-A issued in Docket No. RM80-33. Based on the application of Section 270.204 of the Commission's Regulations, Trunkline has included payments to affected producers retroactive to December 1, 1978 in its two prior PGA Rate Adjustments. However, Trunkline has not included in this filing any amounts associated with its remaining liability for these retroactive payments. Trunkline will reflect in its next PGA filing its final obligation relative to these retroactive payments.

Trunkline further states that pursuant to Ordering Paragraph (C) of the Commission's Order dated November 24, 1982 in Docket No. TA82-2-30-000 the cost of concurrent exchange gas recorded in Account No. 806 has been excluded from Trunkline's deferred purchased gas cost account. In accordance with the Commission's Order in Docket No. TA82-2-30-000 a one-time adjustment to reflect the elimination of such exchange gas from Account No. 191 has been included herewith to ensure recovery of purchase gas cost associated with those imbalances. Also, computations of Trunkline's Deferred Purchased Gas Carrying Cost Account have been modified in accordance with Ordering Paragraph (B) of the Commission's Order dated Novembe 24, 1982 in Docket No. TA82-2-30-000.

Copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1775 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-29-000]

W. B. McCarter, Jr., et al.; Amendment of Application for Adjustment

January 18, 1983.

On June 21, 1982, W. B. McCarter, Jr. (McCarter), 1820 Southwest Tower Building, Houston, Texas 77002, filed with the Federal Energy Regulatory Commission (Commission), on behalf of himself, Resource Investments, and Barbara McCarter, (applicants) an application for adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432, (Supp. V 1982), and Rule 1104 of the Commission's Rules of Practice and Procedure, 18 CFR § 385.1104 (formerly § 1.41). Notice of such application was issued July 15, 1982 (47 FR 31605, July 21, 1982). McCarter requested a waiver of the provision of § 273.204(a)(1) of the Commission's regulations (18 CFR § 273.204(a)(1)). On January 3, 1983, the Commission received from McCarter an amendment to his application, requesting waiver of the provisions of

§§ 273.202(a)(1) and 273.202(b)(2)(i) (18 CFR 273.202 (a)(1) and (b)(2)(i)).

In his original application for adjustment, McCarter sought adjustment of the provisions of § 273.204(a)(1) which limit retroactive collection of NGPA maximum lawful prices for natural gas to the deliveries of such natural gas occurring between the date on which an application for an NGPA well category eligibility determination is filed with a jurisdictional agency, and the date on which said eligibility determination becomes final. In this amendment, McCarter seeks an adjustment of the provision in § 273.202(a)(1), which provides that interim collection of the incentive prices under NGPA section 102, 103, 107, or 108 may not begin until an application has been filed with the jurisdictional agency for a determination of eligibility under the applicable NGPA section. McCarter also seeks an adjustment of the provision of § 273.202(b)(2)(i), which generally limits the total period for which interim collection may be made to twelve months after the first delivery for which such collection is made.

McCarter seeks authorization to retain the excess of the NGPA section 102 ceiling price over the otherwise applicable price which is the NGPA section 109 ceiling price, for certain deliveries made from the 8300' sand reservoir of the R. J. Hine Estate No. 1 Well, located in the Rogers Gully Field, Jefferson Davis Parish, Louisiana. (The applicants are all working interest owners of the R. J. Hine Estate No. 1 Well.) The subject deliveries from the 8300' sand reservoir were made prior to the date of filing with the Louisiana Office of Conservation (Louisiana) of an application for an NGPA section 102(c)(1)(C) eligibility determination for the 8300' sand.

Although an application for an NGPA section 102(c)(1)(C) eligibility determination was filed with Louisiana when the well was completed in the 8200' sand reservoir, McCarter states that he did not realize that a separate well category application would be required for gas produced from the recompletion of the well in the 8300' sand reservoir, after the 8200' sand reservoir had been depleted. Although production and sales from the 8300' sand reservoir commenced on July 10, 1981, McCarter did not file a separate well category application for gas produced from the 8300' sand until October 20, 1981, however, McCarter has not refunded the amount in question in the subject application, pending action on this application. On September 28, 1982, Louisiana approved McCarter's application. From October 20, 1981 through September 22, 1982, McCarter has continued to collect the NGPA section 102 price pursuant to the interim collection authority of § 273.202. Since the approval of the application by Louisiana, McCarter has collected the NGPA section 102 price for deliveries from the 8300' sand reservoir, pursuant to § 273.203.

In his amended application, McCarter requests an adjustment of §§ 273.202 (a)(1) and (b)(2)(i) to retain the collection of approximately $48,895.86, plus interest, which represents the difference between the NGPA section 102 price and the NGPA section 109 price which would apply to deliveries of gas from the 8300' sand made prior to the October 20, 1981 filing of the application for an eligibility determination for said gas. In support of his original application for adjustment, McCarter stated that the basis for the requested relief is the alleged existence of the same type of "inequity" which the Commission spoke of in Order No. 149, where the Commission ruled it would not require refunds from producers that had misinterpreted the regulations under NGPA section 103, which require separate eligibility determinations for each proration unit from the same well. McCarter states that no factual, legal or policy distinction exists between the applicants' instant request for adjustment relief and the basis for the relief granted in Order No. 149. (Order No. 149, Docket No. RM81-31, issued May 28, 1981). McCarter apparently also bases the request for relief sought in this amendment on Order No. 149.

The procedures applicable to the conduct of this adjustment proceeding are found in Rules 1101-1117 of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101-1117.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Rule 214 (18 CFR 385.214). All petitions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**. In view of this amendment to McCarter's application for adjustment, the review period will be extended until May 3, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1786 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP83-98-000 and CP83-98-001]

West Lake Arthur Corp.; Application

January 18, 1983.

Take notice that on November 19, 1982, West Lake Arthur Corporation (Applicant), 1200 Milam Building, Houston, Texas 77002, filed in Docket No. CP83-98-000 an application as supplemented in Docket No. CP83-98-001,[1] December 2, 1982, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas to its customer, Cajun Natural Gas Company (Cajun), at additional delivery points, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it was authorized on January 26, 1982, in Docket No. CP81-115-000 to sell up to 100,000 Mcf of natural gas per day to Cajun. Applicant proposes herein deliver gas to Cajun at the following additional deliver points:

(1) Primary points of delivery would be a point of interconnection between Tennessee Gas Pipeline Company, a Division of Tenneco Inc.'s (Tennessee) 30-inch Kinder-Sabine pipeline 2.49 miles west of Tennessee's Compressor Station No. 823 and Trunkline Gas Company's pipeline near Kinder, Jefferson Davis Parish, Louisiana, or a point of interconnection between Tennessee's West Leg Blue Water Line and Columbia Gulf Transmission Company's 24-inch line, Acadia Parish, Louisiana.

(2) The alternate point(s) of deliver would be the interconnection between the pipeline facilities of Tennessee and Sugar Bowl Gas Corporation located in St. Mary Parish, Louisiana, or the Blue Water Plant in Acadia Parish, Louisiana.

Applicant states that the volumes presently delivered to Cajun are far short of the authorized amount. Applicant further states that it has recently contracted with Tenneco Oil Company, a Division of Tenneco Inc., for additional supply which would enable Applicant to deliver an additional 40,000 Mcf of gas per day to Cajun.

Any person desiring to be heard or to make any protest with reference to said

[1] The filing of December 2, 1982, asked that the filing in Docket No. CP83-98-000 be construed as a request for a certificate of public convenience and necessity pursuant to Section 7(c) of the Natural Gas Act, but no fee was paid as required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) until December 22, 1982; thus, filing was not completed until the latter date.

application, as supplemented, should on or before February 9, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without notice before the Commission or its designee on the application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1769 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-226-000]

Western Massachusetts Electric Co.; Filing

January 17, 1983.

Take notice that on January 3, 1983, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed Purchase Agreement with Respect to Doreen and Woodland Road Gas Turbine Units (Purchase Agreement) dated November 1, 1982 between WMECO, and the Village of Hyde Park Electric Department (Hyde Park).

WMECO states that the Purchase Agreement provides for a sale to Hyde Park of specified percentages of capacity and associated energy from two gas turbine generating units during the period from November 1, 1982 to October 31, 1990.

WMECO further states that the Capacity Charge for the proposed service was determined on a cost of service basis and was determined in accordance with Appendix C and Exhibits thereto of the Purchase Agreement. The Variable Maintenance Charge is derived from historical costs. The Additional Maintenance Charge is twice the Variable Maintenance Charge, based on manufacturer's recommendations. The Transmission Charge rate is the annual average cost of transmission service on the Northeast Utilities (NU) system at the time that the sale was made, and was determined in accordance with Appendix E and Exhibits thereto of the Purchase Agreement. The monthly Transmission Charge is determined by the product of (i) the transmission charge rate divided by twelve ($/KW-month), and (ii) the number of kilowatts of winter capability which Hyde Park is entitled to receive during each month. The Transmission Charge is reduced to give due recognition of the payments made by Hyde Park to intervening systems providing transmission service over Pool Transmission Facilities.

WMECO requests an effective date of November 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Hyde Park.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1770 Filed 1-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Volume 811]
Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978
Issued: January 18, 1983.

[Volume 811]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 18, 1983.

JD NO	JA DKT	API NO	F	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS COMPISSION									
-AMERICAN PETROLEUM ENERGY CO INC				RECEIVED:	12/17/82	JA: CO			
8313839	82-271	0506706313		103		AGENTA-UTE #15	IGNACIO-BLANCO	100.0	NORTHWEST PIPELIN
8313840	82-255	0506706333		103		ANGENTA - FEE #17	IGNACIO BLANCO	35.0	NORTHWEST PIPELIN
8313832	82-253	0506706360		107-TF		ANGENTA UTE 3	IGNACIO-BLANCO	30.0	NORTHWEST PIPELIN
8313846	82-256	0506706333		107-TF		ANGENTA-FEE #17	IGNACIO-BLANCO	30.0	NORTHWEST PIPELIN
8313831	82-254	0506706442		107-TF		DAVIS GAS UNIT #1	IGNACIO-BLANCO	30.0	NORTHWEST PIPELIN
-AMOCO PRODUCTION CO				RECEIVED:	12/17/82	JA: CO			
8313944	82-216	0512309845		107-TF		ALBERT SACK UNIT "C" #1	WATTENBERG	149.0	PANHANDLE EASTERN
8313939	82-219	0500107366		107-TF		CHAMPLIN 125 AMOCO "F" #1	WATTENBERG	62.0	PANHANDLE EASTERN
8313942	82-223	0500107367		107-TF		CHAMPLIN 125 AMOCO "G" #1	WATTENBERG	85.0	PANHANDLE EASTERN
8313936	82-220	0500107350		107-TF		CHAMPLIN 125 AMOCO "H" #1	WATTENBERG	175.0	PANHANDLE EASTERN
8313940	82-221	0500107339		107-TF		CHAMPLIN 125 AMOCO "J" #1	WATTENBERG	46.0	PANHANDLE EASTERN
8313941	82-222	0512310084		107-TF		CHAMPLIN 246 AMOCO "A" #1	WATTENBERG	20.0	PANHANDLE EASTERN
8313895	82-224	0503906373		103		CHAMPLIN 569 AMOCO "E" #3	COMMANCHE CREEK	10.0	AMOCO PRODUCTION
8313896	82-210	0503964030		103		CHAMPLIN 569 AMOCO "E" #5	COMMANCHE CREEK	70.0	AMOCO PRODUCTION
8313943	82-218	0512309911		107-TF		JACK W EASTMAN GAS UNIT #1	WATTENBERG	171.0	PANHANDLE EASTERN
8313871	82-319	0512310083		107-TF		LONGMONT FARMS GAS UNIT "B" #1	WATTENBERG	125.0	PANHANDLE EASTERN
8313914	82-270	0512310249		103		PHILLIP CAMENISCH GAS UNIT #2	WATTENBERG	182.5	PANHANDLE EASTERN
8313932	82-217	0500107553		107-TF		STATE OF COLORADO "AN" #1	WATTENBERG	28.0	PANHANDLE EASTERN
8313904	82-295	0500107872		103		UPRR 23 PAN AM "M" #3	TRAPPER	100.0	PANHANDLE EASTERN
8313945	82-215	0512309895		107-TF		UPRR 38 PAN AM GAS UNIT "K" #1	WATTENBERG	292.0	PANHANDLE EASTERN
8313910	82-211	0512309721		107-TF		UPRR 43 PAN AM "S" #1	WATTENBERG	100.0	PANHANDLE EASTERN
8313908	82-212	0512309743		107-TF		UPRR 43 PAN AM "T" #1	WATTENBERG	75.0	PANHANDLE EASTERN
8313947	82-213	0512309722		107-TF		UPRR 43 PAN AM "U" #1	WATTENBERG	40.0	PANHANDLE EASTERN
8313946	82-214	0512309741		107-TF		UPRR 43 PAN AM "V" #1	WATTENBERG	100.0	PANHANDLE EASTERN
8313913	82-312	0512310060		103		WILLIAM E GEE GAS UNIT #2	WATTENBERG	774.0	PANHANDLE EASTERN
-BASIC EARTH SCIENCE SYSTEMS INC				RECEIVED:	12/17/82	JA: CO			
8313838	82-287	0500506505		102-4		VIOLA FRICK #32-2	GAZELLE	105.6	SUN GAS CO
-BOW VALLEY PETROLEUM INC				RECEIVED:	12/17/82	JA: CO			
8313937	82-264	0507708395		107-TF		CARLTON CURRIER #2-1	VEGA	45.0	
8313851	82-259	0507708406		107-TF		PALLADRO #15-1	PLATEAU CREEK - CDZET	91.0	ROCKY MOUNTAIN NA
8313850	82-244	0507708202		107-TF		WISSEL #17-1	PLATEAU CREEK	31.5	ROCKY MOUNTAIN NA
8313849	82-245	0507708193		107-TF		WISSEL #17-2	PLATEAU CREEK	20.0	ROCKY MOUNTAIN NA
-BYRON OIL INDUSTRIES INC				RECEIVED:	12/17/82	JA: CO			
8313920	82-579	0500107829		103		BYRON - J CHRISTIANSEN #3	SPINDLE WATTENBERG PO	15.5	INTER NORTH INC
8313919	82-580	0500107907		103		BYRON - MCELWAIN #16	SPINDLE WATTENBERG PO	8.6	INTERNORTH INC
8313921	82-578	0500107744		103		BYRON - STATE OF COLORADO #5	SPINDLE WATTENBERG PO	9.6	INTER NORTH INC
8313861	82-268	0500107745		103		BYRON-DEGENHART #8	SPINDLE	5.4	INTERNORTH INC
8313862	82-267	0500107756		103		BYRON-EDSTROM #4	SPINDLE	6.9	INTERNORTH INC
8313918	82-265	0500107828		103		BYRON-MARK MCELWAIN #15	SPINDLE	15.3	INTERNORTH INC
8313922	82-577	0500107908		103		BYRON-STATE OF COLORADO #6	SPINDLE WATTENBERG PO	4.4	INTER NORTH INC

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8313917	82-576	0500107934		103		BYRON-STATE OF COLORADO #7
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/17/82	JA: CO
8313886	82-257	0500107864		103		ABBOTT LANDS 32-1 #6
8313950	82-501	0500107864		102-2		ABBOTT LANDS 32-1 #6
8313951	82-496	0500107945		102-2		ABBOTT LANDS 41-1 #2
8313952	82-497	0500107863		102-2		ABBOTT LANDS 42-1 #1
8313899	82-313	0500107615		103		ANTELOPE FARMS 41-23 #2
8313901	82-180	0500107853		103		CARLSON 32-33 #2
8313958	82-502	0500107688		102-2		CAVENDER 32-11 #1
8313957	82-500	0500107689		102-2		CAVENDER 41-11 #2
8313885	82-277	0500108055		103		CAVENDER 42-11 #4
8313956	82-503	0500108055		102-2		CAVENDER 42-11 #4
8313842	82-499	0500506795		102-2		CHAS W MUEGGE 41-11 #2
8313898	82-427	0500506795		103		CHAS W MUEGGE 41-11 #2
8313892	82-374	0512310572		103		HILLENBRAND 31-33 #2
8313893	82-302	0512310567		103		HILLENBRAND 42-33 #1
8313843	82-304	0500107980		103		KALLSEN 32-9 #2
8313887	82-258	0500107980		103		KALLSEN 32-9 #2
8313902	82-179	0500107770		103		L J CARLSON 42-33 #1
8313955	82-504	0500107839		102-2		LAURIDSON 31-13 #1
8313905	82-165	0508707358		103		MENG 42-5 #1
8313906	82-166	0508707539		103		ORTH 12-28 #1
8313900	82-296	0500108009		103		PILAND 11-31 #2
8313954	82-351	0500107930		102-2		RALPH E DOWNING #1
8313953	82-350	0500107995		102-2		RALPH E DOWNING 42-19 #2
8313923	82-276	0512310472		103		REEVE 41-15 (4-65) #1
8313894	82-303	0500107999		103		RUTH DAVIS 41-23 #1
8313903	82-498	0500108104		103		TRUPP 32-35 #2
8313897	82-387	0503906363		103		WHITEHEAD 41-7 #4
-CITIES SERVICE COMPANY				RECEIVED:	12/17/82	JA: CO
8313859	82-238	0512109742		107-TF		AXSOM "C" #1
-CONTINENTAL GAS TRANSMISSION				RECEIVED:	12/17/82	JA: CO
8313841	82-485	0500107687		103		MEYER 41-20
-COORS ENERGY CO				RECEIVED:	12/17/82	JA: CO
8313836	82-39	0507708127		107-TF		ACCO-MEADORS 1-24
-COSEKA RESOURCES (USA) LIMITED				RECEIVED:	12/17/82	JA: CO
8313834	82-161	0510308580		107-TF		GENTRY #15-29-4-103
8313845	82-162	0504506176		102-2		GENTRY #16-6-5-103
8313835	82-160	0510308579		107-TF		GENTRY #7-29-4-103
8313864	82-163	0510308712		102-2		GENTRY #7X-29-4-103
8313833	82-227	0510308375		107-TF		GENTRY #8-31-4-103
-DOME PETROLEUM CORP				RECEIVED:	12/17/82	JA: CO
8313866	82-343	0506706439		103		MCCULLOCH #1
8313867	82-241	0506706495		103		UNITED #35-1
-ENERGY MINERALS CORPORATION				RECEIVED:	12/17/82	JA: CO
8313909	81-1004	0512310025		108		KRAUSE #1
-ENERGY OIL INC				RECEIVED:	12/17/82	JA: CO
8313907	81-663	0512310090		107-TF		BRUNTZ #1
8313927	82-77	0512310017		107-TF		CARR #1
8313924	82-334	0512397660		103		CHESTNUT #1
8313929	82-141	0512310401		107-TF		GRANT ARENS #1
8313925	82-335	0512310554		103		KRAUSE #2
8313930	82-3	0512310417		107-TF		PRATT #1

FIELD NAME	PROD	PURCHASER
SPINDLE WATTENBERG PO	8.6	INTER NORTH INC
BASELINE	15.8	COLORADO INTERSTA
BASELINE	15.0	COLORADO INTERSTA
BASELINE	110.0	COLORADO INTERSTA
BASELINE	131.0	COLORADO INTERSTA
PORTER	93.0	COLORADO INTERSTA
RADAR	130.0	PANHANDLE EASTERN
KRAUTHEAD	124.0	COLORADO INTERSTA
KRAUTHEAD	91.0	COLORADO INTERSTA
KRAUTHEAD	60.8	COLORADO INTERSTA
KRAUTHEAD	60.0	COLORADO INTERSTA
FAIRWAY	29.0	AMOCO PRODUCTION
FAIRWAY	29.0	AMOCO PRODUCTION
BANNER LAKE	22.0	COLORADO INTERSTA
BANNER LAKE	182.0	COLORADO INTERSTA
WATTENBERG	80.0	PANHANDLE EASTERN
WATTENBERG	15.0	PANHANDLE EASTERN
RADAR	188.8	PANHANDLE EASTERN
BASELINE	64.0	COLORADO INTERSTA
BOXER	6.0	KOCH HYDROCARBON
BOXER	98.0	KOCH HYDROCARBON
HAWKEYE	36.0	PANHANDLE EASTERN
ARROYO	40.0	AMOCO PRODUCTION
ARROYO	4.0	AMOCO PRODUCTION
HAMBERT	120.0	PANHANDLE EASTERN
FENCE POST	12.0	COLORADO INTERSTA
RADAR	164.8	COLORADO INTERSTA
COMANCHE CREEK	11.0	AMOCO PRODUCTION
WHITE EAGLE	73.0	NATURAL GAS PIPEL
BENNETT	56.0	PANHANDLE EASTERN
PLATEAU	135.4	INTER NORTH INC
WILDCAT	56.3	NORTHWEST PIPELIN
WILDCAT	27.8	NORTHWEST PIPELIN
WILDCAT	54.8	NORTHWEST PIPELIN
WILDCAT	44.2	NATURAL GAS CORP
WILDCAT	0.0	MONO POWER CO
IGNACIO BLANCO	1047.2	NORTHWEST PIPELIN
IGNACIO BLANCO	1181.1	NORTHWEST PIPELIN
WAITE LAKE	5.8	CRYSTAL OIL CO
WILDCAT	225.0	PANHANDLE EASTERN
WILDCAT	36.0	PANHANDLE EASTERN
WATTENBURG	225.0	PANHANDLE EASTERN
WILDCAT	0.0	PANHANDLE EASTERN
WATTENBURG	225.0	PANHANDLE EASTERN
WILDCAT	45.0	PANHANDLE EASTERN

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JD NO JA DKT API NO D SEC(1) SEC(2) WELL NAME

FIELD NAME PROD PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8313912	82-70	0512310416		103		PRATT #2
8313934	82-71	0512310416		107-TF		PRATT #2
				RECEIVED:	12/17/82	JA: CO
-GRIFFIN PETROLEUM CORP						
8313837	82-260	0512310464		102-4		HUMMELL #1
				RECEIVED:	12/17/82	JA: CO
-GULF ENERGY CORP						
8313880	82-676	0500108052		103		C LISCO #14-22
8313881	82-318	0500108052		103		C LISCO #14-31
8313884	82-279	0500108048		103		DANFORD CHAMPLIN FARMS #4-2
8313883	82-505	0500108078		103		DANFORD CHAMPLIN FARMS #4-3
8313882	82-747	0500108124		103		DANFORD CHAMPLIN FARMS #4-4
				RECEIVED:	12/17/82	JA: CO
-J W NYLUND						
8313889	82-323	0512310570		103		ENGSTROM #1
8313890	82-457	0512310571		103		JOHNSON #1
8313888	82-322	0512310580		103		KNOLL #1
8313959	82-236	0512310368		102-2		MERTENS #1
8313891	82-458	0512310596		103		RAY MERTENS #1
				RECEIVED:	12/17/82	JA: CO
-J-W OPERATING COMPANY						
8313855	82-320	0512506638		107-TF		HENIK #2-1
8313964	82-433	0512506638		102-2		HENIK #2-1
8313873	82-317	0512506251		108-PB		J BROPHY #2
8313963	82-432	0512506677		102-2		R KORF #4-A
8313854	82-321	0512506617		107-TF		SALLY S CLARKE #1-17
8313962	82-431	0512506617		102-2		SALLY S CLARKE #1-17
8313856	82-280	0512109501		107-TF		VORCE #1
				RECEIVED:	12/17/82	JA: CO
-JOHN P LOCKRIDGE						
8313857	82-332	0512506650		107-TF		DEVLIN #12-19
				RECEIVED:	12/17/82	JA: CO
-LUNDVALL ASSOCIATES						
8313969	82-248	0512310500		107-TF		LUNDVALL #1
8313970	82-771	0512310663		107-TF		RASMUSSON #1
				RECEIVED:	12/17/82	JA: CO
-MARTIN EXPLORATION MGMT CORP						
8313869	82-272	0501306115		107-TF		CATTELL #1-10
8313872	82-311	0501306087		107-TF		DAWSON #2-10
8313935	82-251	0501306086		107-TF		ERTL #5-18
8313870	82-310	0501306069		107-TF		GRAHAM #22-2
				RECEIVED:	12/17/82	JA: CO
-MIDLANDS GAS CORPORATION						
8313858	82-305	0512506382		107-TF		BLACH BROS RANCH 1-20
8313965	82-306	0512506382		102-2		BLACH BROS RANCH 1-20
8313830	82-207	0512506624		103		COOK 1-33
8313860	82-208	0512506624		107-TF		COOK 1-33
8313868	82-155	0512506623		103		KITZMILLER 1-4
8313928	82-154	0512506623		107-TF		KITZMILLER 1-4
8313966	82-232	0512506562		102-2		WOOLERY/ROUNDTREE 1-34
				RECEIVED:	12/17/82	JA: CO
-NATOMAS NORTH AMERICA INC						
8313948	82-250	0506706574		107-TF		FREIENMUTH 1-7
8313847	82-237	0506706264		107-RT		GEARHART #1-8
8313949	82-249	0506706572		107-TF		HILL #1-8
				RECEIVED:	12/17/82	JA: CO
-NIELSON ENTERPRISES INC						
8313848	82-390	0512307974		107-RT		FRITZLER #1
8313916	82-275	0512310474		103		SARCHET #2
8313915	82-269	0512310418		103		STITT #2
				RECEIVED:	12/17/82	JA: CO
-NORTHWEST PIPELINE CORPORATION						
8313876	82-860	0506705295		108		IGNACIO 33-7 #12
				RECEIVED:	12/17/82	JA: CO
-OXOCO						

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FIELD NAME	PROD	PURCHASER
WATTENBURG	365.0	PANHANDLE EASTERN
WATTENBURG	365.0	PANHANDLE EASTERN
UNNAMED	458.8	PHILLIPS PETROLEU
SONAR	36.0	COLORADO INTERSTA
SONAR	36.0	COLORADO INTERSTA
BEAR GULCH	292.0	COLORADO INTERSTA
BEAR GULCH	260.0	COLORADO INTERSTA
BEAR GULCH	110.0	COLORADO INTERSTA
GRAIL	6.0	KANSAS-NEBRASKA N
GRAIL	18.0	KANSAS-NEBRASKA N
UNNAMED	30.0	KANSAS-NEBRASKA N
UNNAMED	105.0	KANSAS-NEBRASKA N
ANVIL	36.0	KANSAS-NEBRASKA N
WAVERLY	194.2	KANSAS-NEBRASKA N
WAVERLY	194.2	KANSAS-NEBRASKA N
WAVERLY	0.0	KANSAS NEBRASKA N
WAVERLY	345.7	KANSAS-NEBRASKA N
ROCK CREEK	33.6	CITIES SERVICE GA
ROCK CREEK	33.6	CITIES SERVICE GA
WILDCAT	21.0	NATURAL GAS PIPEL
BONNY FIELD	36.0	CITIES SERVICE GA
WILDCAT	100.0	PANHANDLE EASTERN
WILDCAT	100.0	PANHANDLE EASTERN
WATTENBERG	60.0	PANHANDLE EASTERN
BOULDER VALLEY	75.0	PANHANDLE EASTERN
BOULDER VALLEY	75.0	PANHANDLE EASTERN
BOULDER VALLEY	75.0	PANHANDLE EASTERN
BUCKBOARD	15.0	KANSAS-NEBRASKA N
BUCKBOARD	15.0	KANSAS-NEBRASKA N
BEECHER ISLAND	31.0	KANSAS-NEBRASKA N
BEECHER ISLAND	31.0	KANSAS-NEBRASKA N
BEECHER ISLAND	114.0	KANSAS-NEBRASKA N
BEECHER ISLAND	114.0	KANSAS-NEBRASKA N
WILDCAT	114.0	KANSAS-NEBRASKA N
IGNACIO-BLANCO	100.0	NORTHWEST PIPE LI
IGNACIO BLANCO	876.0	NORTHWEST PIPE LI
IGNACIO-BLANCO	100.0	NORTHWEST PIPE LI
WATTENBERG-CODELL	30.0	PANHANDLE EASTERN
WATTENBERG	25.0	PANHANDLE EASTERN
WATTENBERG	30.0	PANHANDLE EASTERN
IGNACIO BLANCO MESAVE	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8313877	82-877	0500107196		108		NORA ALLISON #1
-PETROMAX ENERGY CORP				RECEIVED:	12/17/82	JA: CO
8313844	82-714	0512310599		102-2		OPEL #17-1
8313968	82-715	0512310599		107-TF		OPEL #17-1
-R R BANEY OPERATING				RECEIVED:	12/17/82	JA: CO
8313879	82-309	0512310382		103		STATE #5 74/6591-5
-SANDLIN OIL CORP				RECEIVED:	12/17/82	JA: CO
8313911	82-329	0512300000		107-TF		SANDLIN-WELD COUNTY #1
-SIERRA GROUP				RECEIVED:	12/17/82	JA: CO
8313933	82-324	0512310232		107-TF		MCCARTY #1
8313926	82-378	0512310514		103		MCCARTY #2
8313967	82-379	0512300000		107-TF		MCCARTY #2
-ST VRAIN RESOURCES INC				RECEIVED:	12/17/82	JA: CO
8313878	82-383	0512310515		103		LEHAN #8-1
8313931	82-382	0512310515		107-TF		LEHAN #8-1
-TETON ENERGY CO INC				RECEIVED:	12/17/82	JA: CO
8313853	82-283	0507708401		107-TF		DOLLEY 36-3
8313865	82-284	0507708401		102-2		DOLLEY 36-3
8313852	82-282	0507708391		107-TF		DOLLEY 6-2
8313863	82-281	0507708391		102-2		DOLLEY 6-2
-VESSELS OIL & GAS COMPANY				RECEIVED:	12/17/82	JA: CO
8313936	82-331	0501306103		107-TF		HALEY "G" UNIT #1
-WONDERLY CORP				RECEIVED:	12/17/82	JA: CO
8313960	82-239	0500107971		102-2		ABBOTT LAND #41-18
8313961	82-243	0500108005		102-2		ZEILER #23-18
-WORLDWIDE ENERGY CORPORATION				RECEIVED:	12/17/82	JA: CO
8313874	82-700	0500906101		108		RATCLIFF #2
-ZACHARY OIL OPERATING CO				RECEIVED:	12/17/82	JA: CO
8313875	82-804	0506700000		108		MCELVAIN-TATUM #1
********** PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES **********						
-ANGERMAN ASSOCIATES INC				RECEIVED:	12/20/82	JA: PA
8314002	18143	3706326928		103		WAYBE FORSHA #1 - IND-26928
-ASHTOLA PRODUCTION CO				RECEIVED:	12/20/82	JA: PA
8314003	18219	3705120312		102-2		E MARCHEWKA #1
-ATLAS RESOURCES INC				RECEIVED:	12/20/82	JA: PA
8313973	15473	3706326857		103		MCADOO #1
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/20/82	JA: PA
8313996	18080	3706326875		103		B MOYER WN-1884
8313992	17499	3703321377		103		G MADERIA #4 WN-1934
8313997	18082	3706327126		103		RHEUL STIFFLER WN-1909
-D & P DRILLING CO				RECEIVED:	12/20/82	JA: PA
8314001	18142	3706327167		103		FRANK BRESSLER #1
-DELTA DRILLING CO				RECEIVED:	12/20/82	JA: PA
8313988	15944	3706326893		103		E M OLLIVER #1 IND 26893
8314033	18342	3706326893		102-4		E M OLLIVER #1 IND 26893
8314013	18322	3706326044		102-4		F M DICK #1 IND 26044
8314016	18325	3706326593		102-4		F OLLIVER #1 IND 26593
8314034	18343	3706326933		102-4		G DUNEGAN #1 IND 26933
8314031	18340	3706326820		102-4		I M RHODES #1 IND 26820
8314037	18347	3706326037		102-4		K J MCCRACKEN #1
8314015	18324	3706326254		102-4		L W CHRISTIE #1

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FIELD NAME	PROD	PURCHASER
RADAR	17.0	PANHANDLE EASTERN
WATTENBERG	110.0	PANHANDLE EASTERN
WATTENBERG	110.0	PANHANDLE EASTERN
LOST CREEK	10.0	CRYSTAL OIL CORP
WATTENBERG	0.0	PANHANDLE EASTERN
JOHNSTOWN	22.0	PANHANDLE EASTERN
WATTENBERG	25.0	PANHANDLE EASTERN
WATTENBERG	25.0	PANHANDLE EASTERN
WILDCAT	0.0	PANHANDLE EASTERN
WILDCAT	0.0	PANHANDLE EASTERN
PLATEAU	145.6	NORTHWEST PIPELIN
PLATEAU	145.6	NORTHWEST PIPELIN
PLATEAU	306.6	NORTHWEST PIPELIN
PLATEAU	306.6	NORTHWEST PIPELIN
WATTENBERG	438.0	PANHANDLE EASTERN
BASE LINE	55.1	COLORADO INTERSTA
BASE LINE	77.4	COLORADO INTERSTA
PLAYA	0.0	PANHANDLE EASTERN
IGNACIO BLANCO-MESA V	13.0	EL PASO NATURAL G
W PA - UPPER DEVONIAN	15.0	PEOPLES NATURAL G
	27.0	UGI DEVELOPMENT C
GRANT	19.0	COLUMBIA GAS TRAN
MONTGOMERY	4.0	GENERAL SYSTEM PU
PENN TOWNSHIP	19.0	GENERAL SYSTEM PU
GREENE	27.0	GENERAL SYSTEM PU
CHAMBERSVILLE	50.0	T W PHILLIPS GAS
CHERRYHILL	0.0	COLUMBIA GAS TRAN
CHERRYHILL	0.0	COLUMBIA GAS TRAN
CHERRYHILL	0.0	COLUMBIA GAS TRAN
CHERRYHILL	0.0	COLUMBIA GAS TRAN
CHERRYHILL	0.0	COLUMBIA GAS TRAN
CHERRYHILL	0.0	COLUMBIA GAS TRAN
CHERRYHILL	0.0	COLUMBIA GAS TRAN
CHERRYHILL	0.0	COLUMBIA GAS TRAN

JD NO JA DKT API NO D SEC(1) SEC(2) WELL NAME

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FIELD NAME PROD PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314023	18332	3706326773		102-4		M GENCHUR #2 IND 26773	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314038	18348	3706326043		102-4		M GRESKO #1 IND 26043	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314025	18334	3706326757		102-4		M GRESKO #3 IND 26757	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314032	18341	3706326929		102-4		M GRESKO #4 IND 26929	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314029	18338	3706326758		102-4		MURDICK-MORGAN #2 IND 26758	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314030	18339	3706326759		102-4		MURDICK-MORGAN #3 IND 26759	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314028	18337	3706326760		102-4		MURDICK-MORGAN #4 IND 26760	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314012	18321	3706326038		102-4		OAKES #1 IND 26038	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314035	18344	3706300000		103		OLLIVER-SHANK #1 IND 27155	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314047	18371	3706300000		102-4		OLLIVER-SHANK #1 IND 27155	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314024	18333	3706326860		102-4		R J HAINES #1 IND 26860	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314019	18328	3706326153		102-4		R P CRAMER #1 IND 26153	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314026	18335	3706326822		102-4		R ST CLAIR #2 IND 26822	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314021	18330	3706326798		102-4		R ST CLAIR #3 IND 26798	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314027	18336	3706326823		102-4		R ST CLAIR #4 IND 26823	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314022	18331	3706326811		102-4		R ST CLAIR #5 IND 26811	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314020	18329	3706326084		102-4		R W CRAMER #1 IND 26084	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314011	18320	3706326210		102-4		RHEA LAWER #1 IND 26210	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314017	18326	3706326498		102-4		RHEA LAWER #2 IND 26498	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314018	18327	3706326499		102-4		RHEA LAWER #3 IND 26499	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314014	18323	3706326284		102-4		TROUGH-DICK #1 IND 26284	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314036	18346	3706326085		102-4		W E MURDICK #1	CHERRYHILL	0.0	COLUMBIA GAS TRAN
8314010	18319	3706326098		102-4		WOLFE #1 IND 26098	CHERRYHILL	0.0	COLUMBIA GAS TRAN
-ENERGY PRODUCTION CO				RECEIVED:	12/20/82	JA: PA			
8313986	15838	3706326964		103		JOHN LACARTE #10	NOLO MOUNTAIN	10.8	COLUMBIA GAS TRAN
8313987	15839	3706326963		103		JOHN LACARTE #6	NOLO MOUNTAIN	16.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	12/20/82	JA: PA			
8314043	18363	3704920759		108		G SMITH #1	NORTH EAST	5.0	NATIONAL FUEL GAS
8314041	18361	3704920733		108		G SMITH #3	NORTH EAST	1.0	NATIONAL FUEL GAS
8314040	18360	3704920612		108		H ORTON #2	NORTH EAST	13.0	NATIONAL FUEL GAS
8314044	18364	3704920913		108		KLOSZEWSKI #1	NORTH EAST DEEP	17.0	NATIONAL FUEL GAS
8314046	18366	3704920568		108		LLOYD #1	NORTH EAST	5.0	NATIONAL FUEL GAS
8314042	18362	3704920738		108		R JONES #1	NORTHEAST DEEP	4.0	NATIONAL FUEL GAS
8314045	18365	3704920944		108		WASIELEWSKI #1	ERIE DEEP	5.0	NATIONAL FUEL GAS
-FOX OIL & GAS INC				RECEIVED:	12/20/82	JA: PA			
8313974	15633	3706324808		108		RUTH KEITH #1	GREEN TOWNSHIP	28.5	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	12/20/82	JA: PA			
8313999	18128	3703321443		103		J L BROTHERS #8	BURNSIDE	0.0	CONSOLIDATED GAS
8314000	18130	3703321444		103		J L BROTHERS #9	BURNSIDE	0.0	CONSOLIDATED GAS
-KEPCO INC				RECEIVED:	12/20/82	JA: PA			
8313990	17812	3705921682		102-4		T L BEASLEY #2 (PK-18)	RUFF CREEK	14.0	NEW JERSEY NATURA
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	12/20/82	JA: PA			
8313994	17760	3706327028		103		BRUNER #5	KENNETH BRUNER	48.8	COLUMBIA GAS TRAN
8314008	18263	3706327083		103		DAVID KEY	THOMAS BARNES	11.9	COLUMBIA GAS TRAN
8313993	17759	3706326770		103		OAKPOINT #1	OAKPOINT REALTY	7.3	
-KRIEBEL GAS CO INC				RECEIVED:	12/20/82	JA: PA			
8313998	18092	3706327048		103		STEELE #1	ROCHESTER MILLS	72.0	
-P & G EXPLORATION INC				RECEIVED:	12/20/82	JA: PA			
8313972	15428	3706326034		108		DARRELL EVANS #1 IND-26034	BRUSHVALLEY	5.0	COLUMBIA GAS TRAN
8313971	15384	3706324698		108		RAPACH #2 IND-24698	CHERRYHILL	5.0	COLUMBIA GAS TRAN
-PEOPLES NATURAL GAS CO				RECEIVED:	12/20/82	JA: PA			
8313995	17991	3706327129		103		MUSSER FORESTS #1 - IND-27129	W PENNA - UPPER DEVON	30.8	PEOPLES NATURAL G
8314009	18306	3706327190		103		MUSSER FORESTS #4 - IND-27190	W PENNA - UPPER DEVON	17.0	PEOPLES NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PETRO EVALUATION SERVICES INC				RECEIVED: 12/20/82		JA: PA			
8313976	15707	3704921726		103		H AYLSWORTH #1	FRANKLIN CENTER	33.0	COLUMBIA GAS TRAN
8313977	15708	3704921726		107-TF		H AYLSWORTH #1	FRANKLIN CENTER	33.0	COLUMBIA GAS TRAN
8313980	15711	3704921772		103		RAMEY #1	ALBION	32.0	COLUMBIA GAS TRAN
8313981	15712	3704921772		107-TF		RAMEY #1	ALBION	32.0	COLUMBIA GAS TRAN
8313978	15709	3704921826		103		SZYMANOWICZ #1	ALBION	34.0	COLUMBIA GAS TRAN
8313979	15710	3704921826		107-TF		SZYMANOWICZ #1	ALBION	34.0	COLUMBIA GAS TRAN
8313984	15715	3704921728		103		TEDESCO #1	FRANKLIN CENTER	30.0	COLUMBIA GAS TRAN
8313985	15716	3704921728		107-TF		TEDESCO #1	FRANKLIN CENTER	30.0	COLUMBIA GAS TRAN
8313982	15713	3704921841		103		TYDINGS #1	FRANKLIN CENTER	33.0	COLUMBIA GAS TRAN
8313983	15714	3704921841		107-TF		TYDINGS #1	FRANKLIN CENTER	33.0	COLUMBIA GAS TRAN
-PHILLIPS PRODUCTION CO				RECEIVED: 12/20/82		JA: PA			
8313975	15680	3706326968		103		HELEN R PELES #1	MONTGOMERY	25.0	
-S W JACK DRILLING CO				RECEIVED: 12/20/82		JA: PA			
8314039	18355	3703322400		108		SHERWOOD #1	SANDY	0.0	CONSOLIDATED GAS
-T W PHILLIPS GAS & OIL CO				RECEIVED: 12/20/82		JA: PA			
8314061	18387	3700320038		108		A H SMITH #1	FAWN	1.5	T W PHILLIPS GAS
8314062	18388	3700300000		108		A H SMITH #2	FAWN	0.6	T W PHILLIPS GAS
8314058	18384	3700300000		108		A H SMITH #3	FAWN	2.8	T W PHILLIPS GAS
8314090	18416	3712900000		108		ARNIE WALKER #3	WASHINGTON	1.4	T W PHILLIPS GAS
8314079	18405	3712900000		108		BERTHA M LEMON #2	LOYALHANNA	1.1	T W PHILLIPS GAS
8314065	18391	3700300000		108		D A HANKEY #1 (MICHAEL HANKEY #2)	PLUM	2.0	T W PHILLIPS GAS
8314068	18394	3700320037		108		D N MCDOWELL #3	PLUM	2.2	T W PHILLIPS GAS
8314070	18396	3700300000		108		DANIEL MCKEAN #1	PLUM	3.0	T W PHILLIPS GAS
8314060	18386	3700300000		108		DANIEL MCKEAN #2	PLUM	1.8	T W PHILLIPS GAS
8314055	18381	3700300000		108		DAVID H HARRISON #2	HARRISON	2.2	T W PHILLIPS GAS
8314071	18397	3700300000		108		DAVID R STOTLER #1	PENN	2.3	T W PHILLIPS GAS
8314069	18395	3700300000		108		DAVID R STOTLER #2	PENN	1.4	T W PHILLIPS GAS
8314076	18402	3712920175		108		DENT & STOTLER #1	SALEM	1.8	T W PHILLIPS GAS
8314088	18406	3712900000		108		E E NOEL #1	LOYALHANNA	0.2	T W PHILLIPS GAS
8314072	18398	3712920118		108		E G HEIMBERGER #1	BELL	0.7	T W PHILLIPS GAS
8314059	18385	3700300000		108		EDWARD MURRAY #3	FRAZER	2.5	T W PHILLIPS GAS
8314081	18407	3712900000		108		ERNEST SCHWARTZ #1	BELL	0.6	T W PHILLIPS GAS
8314091	18417	3712900000		108		FRANK BEIGHLEY #2	FRANKLIN	0.5	T W PHILLIPS GAS
8314057	18383	3700320044		108		FREDERICK GRAYBIGLE #3	HARRISON	1.9	T W PHILLIPS GAS
8314077	18403	3712920183		108		J M MORAN JR #1	LOYALHANNA	0.5	T W PHILLIPS GAS
8314051	18377	3700300000		108		J C MULLETT #2	FRAZER	0.2	T W PHILLIPS GAS
8314085	18411	3712920366		108		J C ROWAN & J O CONNELL #1	WASHINGTON	1.3	T W PHILLIPS GAS
8314067	18393	3700300000		108		J M CLEMENTS #1	PLUM	2.9	T W PHILLIPS GAS
8314056	18383	3700300000		108		J M CLEMENTS #3	PLUM	2.9	T W PHILLIPS GAS
8314050	18376	3700300000		108		JANE E & S A ELLIOTT #2	PLUM	2.0	T W PHILLIPS GAS
8314049	18375	3700300000		108		JOHN G DUERR HRS #1	PLUM	1.4	T W PHILLIPS GAS
8314074	18400	3712920523		108		JOSEPH J DENT #1	DERRY	8.6	T W PHILLIPS GAS
8314054	18380	3700300000		108		LEE G MURRAY #1	WEST DEER	0.7	T W PHILLIPS GAS
8314092	18418	3712920469		108		LORENZ BRUNECKE #3	FRANKLIN	1.0	T W PHILLIPS GAS
8314063	18389	3700300000		108		MARGARET L HAMILTON #1	PLUM	4.0	T W PHILLIPS GAS
8314082	18408	3712900000		108		MICHAEL A CICO #1	LOYALHANNA	1.2	T W PHILLIPS GAS
8314053	18379	3700300000		108		MRS ELLA M ABER #1	PATTON	0.6	T W PHILLIPS GAS
8314075	18401	3712920272		108		NEWHOUSE & JOHNSTON	SALEM	1.3	T W PHILLIPS GAS
8314078	18404	3712920282		108		PAUL T & IDA FORNEY #1	LOYALHANNA	0.6	T W PHILLIPS GAS
8314048	18374	3700300000		108		PENN SALT CO #1	HARRISON	1.2	T W PHILLIPS GAS
8314083	18409	3712920371		108		PETER BEIGHLEY #1	WASHINGTON	1.1	T W PHILLIPS GAS
8314084	18410	3712920384		108		PINE RUN REFORMED CHURCH #1	WASHINGTON	3.0	T W PHILLIPS GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314086	18412	3712920396		108		PINE RUN REFORMED CHURCH #2	WASHINGTON	1.1	T W PHILLIPS GAS
8314087	18413	3712920397		108		PINE RUN REFORMED CHURCH #3	WASHINGTON	1.1	T W PHILLIPS GAS
8314089	18415	3712920398		108		PINE RUN REFORMED CHURCH #4	WASHINGTON	1.1	T W PHILLIPS GAS
8314064	18390	3700300000		108		R A MCCLELLAND #1	PLUM	2.0	T W PHILLIPS GAS
8314066	18392	3700300000		108		R A MCCLELLAND #2	PLUM	2.0	T W PHILLIPS GAS
8314052	18378	3700300000		108		R A MCCLELLAND #3	PLUM	2.0	T W PHILLIPS GAS
8314073	18399	3712920183		108		R B MORAN JR #2	FRAZER	0.2	T W PHILLIPS GAS
8314060	18386	3700300000		108		R C MCCLELLAND #1	PLUM	2.0	T W PHILLIPS GAS
8314047	18373	3700300000		108		R C MCCLELLAND #2	PLUM	2.0	T W PHILLIPS GAS
8314046	18372	3700300000		108		R C MCCLELLAND #3	PLUM	2.0	T W PHILLIPS GAS
8314045	18371	3700300000		108		R C MCCLELLAND #4	PLUM	2.0	T W PHILLIPS GAS
8314044	18370	3700300000		108		R C MCCLELLAND #5	PLUM	2.0	T W PHILLIPS GAS
8314043	18369	3700300000		108		R C MCCLELLAND #6	PLUM	2.0	T W PHILLIPS GAS
8314042	18368	3700300000		108		R C MCCLELLAND #7	PLUM	2.0	T W PHILLIPS GAS
8314041	18367	3700300000		108		R C MCCLELLAND #8	PLUM	2.0	T W PHILLIPS GAS
8314040	18366	3700300000		108		R C MCCLELLAND #9	PLUM	2.0	T W PHILLIPS GAS
8314096	18422	3712900000		108		ROBERT A CICO #1	LOYALHANNA	1.2	T W PHILLIPS GAS
8314095	18421	3712900000		108		ROBERT A CICO #2	LOYALHANNA	1.2	T W PHILLIPS GAS
8314094	18420	3712900000		108		ROBERT A CICO #3	LOYALHANNA	1.2	T W PHILLIPS GAS
8314093	18419	3712900000		108		ROBERT A CICO #4	LOYALHANNA	1.2	T W PHILLIPS GAS
8314097	18423	3712900000		108		ROBERT A CICO #5	LOYALHANNA	1.2	T W PHILLIPS GAS
8314098	18424	3712900000		108		ROBERT A CICO #6	LOYALHANNA	1.2	T W PHILLIPS GAS
8314099	18425	3712900000		108		ROBERT A CICO

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME		PROD	PURCHASER
8314087	18413	3712920346		108		R T & J C WATT #1	WASHINGTON		0.6	T W PHILLIPS GAS
8314064	18390	3700300000		108		ROBERT JACKSON #3	PLUM		1.4	T W PHILLIPS GAS
8314088	18412	3712920673		108		SUSANNA WALKER #3	WASHINGTON		2.2	T W PHILLIPS GAS
8314086	18414	3712920240		108		T M MILLER HRS #1	ALLEGHENY		1.0	T W PHILLIPS GAS
8314089	18415	3712920225		108		T M MILLER HRS #2	ALLEGHENY		1.4	T W PHILLIPS GAS
8314052	18378	3700300000		108		TARENTUM STONE & COAL CO #1	FRAZER		1.7	T W PHILLIPS GAS
8314066	18392	3700300000		108		THOMAS E MALLISEE #1	PLUM		1.3	T W PHILLIPS GAS
8314073	18399	3712920571		108		TREAS OF USA #1-120	DERRY		4.2	T W PHILLIPS GAS
-UNION DRILLING INC				RECEIVED:	12/20/82	JA: PA				
8314006	18255	3706326716		103		HUGH V RYAN #1 0773	CHERRYHILL		0.0	COLUMBIA GAS TRAN
8313991	17492	3706326896		103		HUGH V RYAN #1 0778	CHERRYHILL	TOWNSHIP	0.0	COLUMBIA GAS TRAN
8314007	18256	3706326990		103		JOHN H MILLER JR #1 0642	CHERRYHILL		0.0	COLUMBIA GAS TRAN
8314004	18253	3706326833		103		KENNETH ALSOP #2 0764	CHERRYHILL		0.0	COLUMBIA GAS TRAN
8314005	18254	3706327009		103		KENNETH ALSOP #3 0765	CHERRYHILL		0.0	COLUMBIA GAS TRAN
-WINNER JAMES JR				RECEIVED:	12/20/82	JA: PA				
8313989	16733	3705920413		107-TF		WINNER-HALLIDAY #3	MERCER		20.0	NATIONAL FUEL GAS

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1706 Filed 1–21–83; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 18, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD									
-BROWNING & WELCH				RECEIVED:	12/20/82	JA: AL			
8314335	12-10-824 PD	0105720300		103		FRED MORRIS 18-5 WELL #1	HUBBERTVILLE	185.0	CORONADO TRANSMIS
8314336	12-10-825 PD	0105720299		102-2		J C SHEPHARD 13-2 #1	DAVIS CHAPEL	240.0	CORONADO TRANSMIS
-EXXON CORPORATION				RECEIVED:	12/20/82	JA: AL			
8314334	12-10-821PD	0105320173		107-DP		SCOTT PAPER CO 15-1 #2	BIG ESCAMBIA CREEK	220.0	CIBA-GEIGY CORP
-GETTY OIL COMPANY				RECEIVED:	12/20/82	JA: AL			
8314338	12-10-828 PD	0109720210		107-DP		CREOLA MINERALS 33-16 #1	HATTERS POND	0.0	UNITED GAS PIPELI
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/20/82	JA: AL			
8314333	1026823PD	0105720292		103		DOBBS ESTATE 12-11	DAVIS CHAPEL	0.0	
-HOWELL PETROLEUM CORP				RECEIVED:	12/20/82	JA: AL			
8314337	12-10-826 PD	0105720279		102-2		EASON-MORGAN 36-2	MUSGROVE CREEK	300.0	HOWELL PIPELINE C
8314332	10-26-822PDA	0105720275		102-4		YOUNGBLOOD 2-11	STUDHORSE CREEK	50.0	HOWELL PIPELINE C
-MICHIGAN OIL COMPANY				RECEIVED:	12/20/82	JA: AL			
8314339	12-10-829 PD	0107520403		102-2		R H STRAWBRIDGE 9-2	LITTLE HELLS CREEK	225.0	HOWELL PETROLEUM
8314340	12-10-821 PD	0107520427		102-2		S MULLINS 8-1 #1	LITTLE HELL CREEK	200.0	HOWELL PETROLEUM
8314341	12-10-8211PD	0107520434		102-2		VERLA HARRISON 16-1	LITTLE HELLS CREEK	200.0	HOWELL PETROLEUM
CALIFORNIA DEPARTMENT OF CONSERVATION									
-ARGO PETROLEUM CORP				RECEIVED:	12/20/82	JA: CA			
8314328	82-2-0007	0411121066		102-4		FERNDALE 107	SILVERTHREAD	36.0	
8314330	82-2-0008	0411121163		102-4		FERNDALE 110	SILVERTHREAD	40.0	
8314329	82-2-0009	0411121105		102-4		FERNDALE 209	SILVERTHREAD	9.0	
8314331	82-2-0010	0411121178		102-4		FERNDALE 211	SILVERTHREAD	160.0	
-TENNECO OIL COMPANY				RECEIVED:	12/20/82	JA: CA			
8314327	82-4-0196	0402965151		102-4		PALOMA 55X-31	PALOMA	2.5	PACIFIC LIGHTING
KANSAS CORPORATION COMMISSION									
-BENSON MINERAL GROUP				RECEIVED:	12/20/82	JA: KS			
8314343	K-81-0834	1514520476		108-ER		BRYANT #1		0.0	INTER NORTH INC
-LEE BANKS				RECEIVED:	12/20/82	JA: KS			
8314342	K-82-0691	1511920190		108-ER		CORNELSEN #1	MEADE	0.0	INTER NORTH INC
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ATHENS COUNTY INVESTORS				RECEIVED:	12/20/82	JA: OH			
8314095		3400922471		103		ROY & BETTY STEWART #2	TROY	30.0	
-BELDEN & BLAKE OIL PRODUCTION				RECEIVED:	12/20/82	JA: OH			
8314102		3401921354		108		C & B RAUSCHENBACH COMM #2 - 0974		3.0	
8314099		3401920829		108		C & G GOOD COMM #2 - 0736		3.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314103		3401921457		108		C & G GOOD COMM #3 - 1113		3.0	
8314097		3401920657		108		C & G GOOD COMM #1 - 0656		3.0	
8314096		3401920646		108		E H FRANK #1 - 0651		3.0	
8314100		3401920932		108		E H FRANK COMM #3 - 0740		3.0	
8314101		3401921352		108		MARY SAVAGE - #1 - 0972		3.0	
8314098		3401920719		108		W JANSON #3 - 0700		3.0	
-BELL OIL				RECEIVED: 12/20/82 JA: OH					
8314104		3413725553		107-TF		CHARLES KANGAS B1	BEARFIELD	5.0	NATIONAL GAS CORP
-BETHEL RESOURCES INC				RECEIVED: 12/20/82 JA: OH					
8314106		3407522325		103	107-TF	GLEN & GLADYS SCHLEGEL #1	HOLMESVILLE - NORTH	10.0	COLUMBIA GAS TRAN
8314105		3407521625		103	107-TF	GLENN & GLADYS SCHLEGEL #2	HOLMESVILLE WEST	10.0	COLUMBIA GAS TRAN
8314107		3416922249		103	107-TF	MACOLM & NANCY PETERSON #1	CHESTER	10.0	COLUMBIA GAS TRAN
8314108		3416922258		103	107-TF	MARY N SNYDER #1	WOOSTER NORTH	10.0	COLUMBIA GAS TRAN
-CARROLL RESOURCES				RECEIVED: 12/20/82 JA: OH					
8314109		3410322117		103		ROBERT STINE #1	HOMER	7.0	
-CLINTON OIL CO				RECEIVED: 12/20/82 JA: OH					
8314110		3408924351		103		A LIPFERT #3-636	HOPEWELL	10.0	
8314111		3413322943		103	107-TF	H GRIFFITH #2-690	STREETSBORO	10.0	
-COLETCO INC				RECEIVED: 12/20/82 JA: OH					
8314113		3410323164		103	107-TF	NORTH LANES INC-SEARCEY 1	SHARON	0.0	
8314112		3410323130		103	107-TF	WOLF 1	WESTFIELD	0.0	
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED: 12/20/82 JA: OH					
8314115		3412122782		103		HERMAN BROCK #3	ELK	18.3	
-DANNY ARTZ				RECEIVED: 12/20/82 JA: OH					
8314094		3408922450		108		ARTZ #1		2.0	COLUMBIA GAS TRAN
8314093		3408920254		108		ARTZ #2		1.5	COLUMBIA GAS TRAN
-DAVID R HILL				RECEIVED: 12/20/82 JA: OH					
8314161		3407322663		103		EMERICK #1 2663	UNION FURNACE-SOUTH	7.0	
-DELTA RESOURCES INC				RECEIVED: 12/20/82 JA: OH					
8314116		3410322539		103	107-TF	LEACH #1	BEDFORD	12.0	COLUMBIA GAS TRAN
-DORFMAN PRODUCTION CO				RECEIVED: 12/20/82 JA: OH					
8314118		3409921441		103	107-TF	BROWN "A" UNIT #1	DAMASCUS	12.0	COLUMBIA GAS TRAN
8314121		3409921480		103	107-TF	HAWKINS "B" UNIT #2	DAMASCUS	12.0	COLUMBIA GAS TRAN
8314122		3409921512		103	107-TF	HAWKINS "C" UNIT #1	DAMASCUS	12.0	COLUMBIA GAS TRAN
8314119		3409921455		103	107-TF	KILE UNIT #1	DAMASCUS	12.0	COLUMBIA GAS TRAN
8314117		3409921268		103	107-TF	WAGNER UNIT #1	DAMASCUS	12.0	COLUMBIA GAS TRAN
8314120		3409921467		103	107-TF	WAGNER UNIT #3	DAMASCUS	12.0	COLUMBIA GAS TRAN
-DRILLMASTERS LTD				RECEIVED: 12/20/82 JA: OH					
8314123		3400922618		107-TF		JOLLICK - FAIR #1	CANAAN	0.0	COLUMBIA GAS TRAN
8314124		3400922628		107-TF		SHEETER #1	CANAAN	0.0	COLUMBIA GAS TRAN
8314125		3400922637		107-TF		SHEETER #3	CANAAN	0.0	COLUMBIA GAS TRAN
-EAGLE PETROLEUM				RECEIVED: 12/10/82 JA: OH					
8313073		3411985701		107-TF		PHILO 1		12.0	
-ENERGY DEVELOPMENT CORP				RECEIVED: 12/20/82 JA: OH					
8314127		3400722044		103	107-TF	CROSS #1	ROME	19.0	
8314128A		3407523605		103		DAGUE WELL #1	PRAIRIE	18.0	COLUMBIA GAS TRAN
8314128B		3407523605	D	107-TF		DAGUE WELL #1	PRAIRIE	18.0	COLUMBIA GAS TRAN
8314129		3416923296		103	107-TF	LEINER WELL #1	FRANKLIN	20.0	COLUMBIA GAS TRAN
8314126		3400722018		103	107-TF	WATSON #1	NEW LYME	18.0	
8314309		3416923295		103	107-TF	WONDERLING WELL #1	FRANKLIN	19.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED: 12/20/82 JA: OH					
8314131		3416320737		103	107-TF	BENEDICT #6	SWAN	36.5	COLUMBIA GAS TRAN
8314130		3400922550		103	107-TF	DRYDOCK COAL #10 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ENVIRONMENTAL EXPLORATION				RECEIVED: 12/20/82 JA: OH					
8314132		3416320738		103	107-TF	BENEDICT #7	SWAN	36.5	COLUMBIA GAS TRAN
8314133		3416320739		103	107-TF	BENEDICT #8	SWAN	36.5	COLUMBIA GAS TRAN
-EXCO				RECEIVED: 12/20/82 JA: OH					
8314134		3400922551		103	107-TF	DRYDOCK COAL #11 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314135		3400922552		103	107-TF	DRYDOCK COAL #12 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314136		3400922553		103	107-TF	DRYDOCK COAL #13 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314137		3400922554		103	107-TF	DRYDOCK COAL #14 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314138		3400922555		103	107-TF	DRYDOCK COAL #15 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314139		3400922556		103	107-TF	DRYDOCK COAL #16 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314140		3400922557		103	107-TF	DRYDOCK COAL #17 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314141		3400922558		103	107-TF	DRYDOCK COAL #18 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314142		3400922559		103	107-TF	DRYDOCK COAL #19 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314143		3400922560		103	107-TF	DRYDOCK COAL #20 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314144		3400922561		103	107-TF	DRYDOCK COAL #21 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314145		3400922562		103	107-TF	DRYDOCK COAL #22 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314146		3400922563		103	107-TF	DRYDOCK COAL #23 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314147		3400922564		103	107-TF	DRYDOCK COAL #24 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314148		3400922565		103	107-TF	DRYDOCK COAL #25 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314149		3400922566		103	107-TF	DRYDOCK COAL #26 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314150		3400922567		103	107-TF	DRYDOCK COAL #27 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314151		3400922568		103	107-TF	DRYDOCK COAL #28 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314152		3400922569		103	107-TF	DRYDOCK COAL #29 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314153		3400922570		103	107-TF	DRYDOCK COAL #30 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314154		3400922571		103	107-TF	DRYDOCK COAL #31 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314155		3400922572		103	107-TF	DRYDOCK COAL #32 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314156		3400922573		103	107-TF	DRYDOCK COAL #33 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314157		3400922574		103	107-TF	DRYDOCK COAL #34 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314158		3400922575		103	107-TF	DRYDOCK COAL #35 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314159		3400922576		103	107-TF	DRYDOCK COAL #36 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314160		3400922577		103	107-TF	DRYDOCK COAL #37 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
-FRANK A NASH				RECEIVED: 12/20/82 JA: OH					
8314162		3407322664		103		EMERICK #2 2664	UNION FURNACE-SOUTH	7.0	
-GEORGE OIL CO				RECEIVED: 12/20/82 JA: OH					
8314163		3410322540		103	107-TF	LEACH #2	BEDFORD	12.0	COLUMBIA GAS TRAN
-GLENN & GLADYS SCHLEGEL				RECEIVED: 12/20/82 JA: OH					
8314164		3407522326		103	107-TF	GLEN & GLADYS SCHLEGEL #3	HOLMESVILLE - NORTH	10.0	COLUMBIA GAS TRAN
8314165		3407522327		103	107-TF	GLEN & GLADYS SCHLEGEL #4	HOLMESVILLE - NORTH	10.0	COLUMBIA GAS TRAN
-GREAT LAKES ENERGY DEVELOPMENT				RECEIVED: 12/20/82 JA: OH					
8314166		3400922578		103	107-TF	DRYDOCK COAL #38 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314167		3400922579		103	107-TF	DRYDOCK COAL #39 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314168		3400922580		103	107-TF	DRYDOCK COAL #40 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314169		3400922581		103	107-TF	DRYDOCK COAL #41 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314170		3400922582		103	107-TF	DRYDOCK COAL #42 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314171		3400922583		103	107-TF	DRYDOCK COAL #43 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314172		3400922584		103	107-TF	DRYDOCK COAL #44 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314173		3400922585		103	107-TF	DRYDOCK COAL #45 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314174		3400922586		103	107-TF	DRYDOCK COAL #46 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314175		3400922587		103	107-TF	DRYDOCK COAL #47 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314176		3400922588		103	107-TF	DRYDOCK COAL #48 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314177		3400922589		103	107-TF	DRYDOCK COAL #49 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314178		3400922590		103	107-TF	DRYDOCK COAL #50 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314179		3400922591		103	107-TF	DRYDOCK COAL #51 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314180		3400922592		103	107-TF	DRYDOCK COAL #52 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314181		3400922593		103	107-TF	DRYDOCK COAL #53 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314182		3400922594		103	107-TF	DRYDOCK COAL #54 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314183		3400922595		103	107-TF	DRYDOCK COAL #55 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314184		3400922596		103	107-TF	DRYDOCK COAL #56 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314185		3400922597		103	107-TF	DRYDOCK COAL #57 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314186		3400922598		103	107-TF	DRYDOCK COAL #58 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314187		3400922599		103	107-TF	DRYDOCK COAL #59 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314188		3400922600		103	107-TF	DRYDOCK COAL #60 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314189		3400922601		103	107-TF	DRYDOCK COAL #61 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314190		3400922602		103	107-TF	DRYDOCK COAL #62 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314191		3400922603		103	107-TF	DRYDOCK COAL #63 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314192		3400922604		103	107-TF	DRYDOCK COAL #64 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314193		3400922605		103	107-TF	DRYDOCK COAL #65 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314194		3400922606		103	107-TF	DRYDOCK COAL #66 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314195		3400922607		103	107-TF	DRYDOCK COAL #67 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314196		3400922608		103	107-TF	DRYDOCK COAL #68 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314197		3400922609		103	107-TF	DRYDOCK COAL #69 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314198		3400922610		103	107-TF	DRYDOCK COAL #70 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314199		3400922611		103	107-TF	DRYDOCK COAL #71 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314200		3400922612		103	107-TF	DRYDOCK COAL #72 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314201		3400922613		103	107-TF	DRYDOCK COAL #73 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314202		3400922614		103	107-TF	DRYDOCK COAL #74 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314203		3400922615		103	107-TF	DRYDOCK COAL #75 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314204		3400922616		103	107-TF	DRYDOCK COAL #76 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
8314205		3400922617		103	107-TF	DRYDOCK COAL #77 TR	TRIMBLE	27.3	COLUMBIA GAS TRAN
-HARRISON OIL & GAS				RECEIVED: 12/20/82 JA: OH					
8314207		3400722045		103	107-TF	CROSS #2	ROME	19.0	
-HOPEWELL OIL & GAS DEVELOPMENT				RECEIVED: 12/20/82 JA: OH					
8314208		3415322944		103	107-TF	H GRIFFITH #3-691	HOPEWELL	10.0	
8314209		3415322945		103	107-TF	H GRIFFITH #4-692	HOPEWELL	10.0	
-HUNTER PRODUCTION CO				RECEIVED: 12/20/82 JA: OH					
8314210		3410322541		103	107-TF	LEACH #3	BEDFORD	12.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES				RECEIVED: 12/20/82 JA: OH					
8314211		3410322542		103	107-TF	LEACH #4	BEDFORD	12.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314212		3400922619		107-TF		JOLLICK - FAIR #2	CANAAN	0.0	COLUMBIA GAS TRAN
8314213		3400922620		107-TF		JOLLICK - FAIR #3	CANAAN	0.0	COLUMBIA GAS TRAN
8314214		3400922621		107-TF		JOLLICK - FAIR #4	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314215		3400922622		107-TF		JOLLICK - FAIR #5	CANAAN	0.0	COLUMBIA GAS TRAN
8314216		3400922623		107-TF		JOLLICK - FAIR #6	CANAAN	0.0	COLUMBIA GAS TRAN
8314217		3400922624		107-TF		JOLLICK - FAIR #7	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314218		3400922625		107-TF		JOLLICK - FAIR #8	CANAAN	0.0	COLUMBIA GAS TRAN
8314219		3400922626		107-TF		JOLLICK - FAIR #9	CANAAN	0.0	COLUMBIA GAS TRAN
8314220		3400922627		107-TF		JOLLICK - FAIR #10	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314221		3400922628		107-TF		JOLLICK - FAIR #11	CANAAN	0.0	COLUMBIA GAS TRAN
8314222		3400922629		107-TF		JOLLICK - FAIR #12	CANAAN	0.0	COLUMBIA GAS TRAN
8314223		3400922630		107-TF		JOLLICK - FAIR #13	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314224		3400922631		107-TF		JOLLICK - FAIR #14	CANAAN	0.0	COLUMBIA GAS TRAN
8314225		3400922632		107-TF		JOLLICK - FAIR #15	CANAAN	0.0	COLUMBIA GAS TRAN
8314226		3400922633		107-TF		JOLLICK - FAIR #16	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314227		3400922634		107-TF		JOLLICK - FAIR #17	CANAAN	0.0	COLUMBIA GAS TRAN
8314228		3400922635		107-TF		JOLLICK - FAIR #18	CANAAN	0.0	COLUMBIA GAS TRAN
8314229		3400922636		107-TF		JOLLICK - FAIR #19	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314230		3400922637		107-TF		JOLLICK - FAIR #20	CANAAN	0.0	COLUMBIA GAS TRAN
8314231		3400922638		107-TF		JOLLICK - FAIR #21	CANAAN	0.0	COLUMBIA GAS TRAN
8314232		3400922639		107-TF		JOLLICK - FAIR #22	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314233		3400922640		107-TF		JOLLICK - FAIR #23	CANAAN	0.0	COLUMBIA GAS TRAN
8314234		3400922641		107-TF		JOLLICK - FAIR #24	CANAAN	0.0	COLUMBIA GAS TRAN
8314235		3400922642		107-TF		JOLLICK - FAIR #25	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314236		3400922643		107-TF		JOLLICK - FAIR #26	CANAAN	0.0	COLUMBIA GAS TRAN
8314237		3400922644		107-TF		JOLLICK - FAIR #27	CANAAN	0.0	COLUMBIA GAS TRAN
8314238		3400922645		107-TF		JOLLICK - FAIR #28	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314239		3400922646		107-TF		JOLLICK - FAIR #29	CANAAN	0.0	COLUMBIA GAS TRAN
8314240		3400922647		107-TF		JOLLICK - FAIR #30	CANAAN	0.0	COLUMBIA GAS TRAN
8314241		3400922648		107-TF		JOLLICK - FAIR #31	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314242		3400922649		107-TF		JOLLICK - FAIR #32	CANAAN	0.0	COLUMBIA GAS TRAN
8314243		3400922650		107-TF		JOLLICK - FAIR #33	CANAAN	0.0	COLUMBIA GAS TRAN
8314244		3400922651		107-TF		JOLLICK - FAIR #34	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314245		3400922652		107-TF		JOLLICK - FAIR #35	CANAAN	0.0	COLUMBIA GAS TRAN
8314246		3400922653		107-TF		JOLLICK - FAIR #36	CANAAN	0.0	COLUMBIA GAS TRAN
8314247		3400922654		107-TF		JOLLICK - FAIR #37	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314248		3400922655		107-TF		JOLLICK - FAIR #38	CANAAN	0.0	COLUMBIA GAS TRAN
8314249		3400922656		107-TF		JOLLICK - FAIR #39	CANAAN	0.0	COLUMBIA GAS TRAN
8314250		3400922657		107-TF		JOLLICK - FAIR #40	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314251		3400922658		107-TF		JOLLICK - FAIR #41	CANAAN	0.0	COLUMBIA GAS TRAN
8314252		3400922659		107-TF		JOLLICK - FAIR #42	CANAAN	0.0	COLUMBIA GAS TRAN
8314253		3400922660		107-TF		JOLLICK - FAIR #43	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314254		3400922661		107-TF		JOLLICK - FAIR #44	CANAAN	0.0	COLUMBIA GAS TRAN
8314255		3400922662		107-TF		JOLLICK - FAIR #45	CANAAN	0.0	COLUMBIA GAS TRAN
8314256		3400922663		107-TF		JOLLICK - FAIR #46	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314257		3400922664		107-TF		JOLLICK - FAIR #47	CANAAN	0.0	COLUMBIA GAS TRAN
8314258		3400922665		107-TF		JOLLICK - FAIR #48	CANAAN	0.0	COLUMBIA GAS TRAN
8314259		3400922666		107-TF		JOLLICK - FAIR #49	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314260		3400922667		107-TF		JOLLICK - FAIR #50	CANAAN	0.0	COLUMBIA GAS TRAN
8314261		3400922668		107-TF		JOLLICK - FAIR #51	CANAAN	0.0	COLUMBIA GAS TRAN
8314262		3400922669		107-TF		JOLLICK - FAIR #52	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314263		3400922670		107-TF		JOLLICK - FAIR #53	CANAAN	0.0	COLUMBIA GAS TRAN
8314264		3400922671		107-TF		JOLLICK - FAIR #54	CANAAN	0.0	COLUMBIA GAS TRAN
8314265		3400922672		107-TF		JOLLICK - FAIR #55	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314266		3400922673		107-TF		JOLLICK - FAIR #56	CANAAN	0.0	COLUMBIA GAS TRAN
8314267		3400922674		107-TF		JOLLICK - FAIR #57	CANAAN	0.0	COLUMBIA GAS TRAN
8314268		3400922675		107-TF		JOLLICK - FAIR #58	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314269		3400922676		107-TF		JOLLICK - FAIR #59	CANAAN	0.0	COLUMBIA GAS TRAN
8314270		3400922677		107-TF		JOLLICK - FAIR #60	CANAAN	0.0	COLUMBIA GAS TRAN
8314271		3400922678		107-TF		JOLLICK - FAIR #61	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314272		3400922679		107-TF		JOLLICK - FAIR #62	CANAAN	0.0	COLUMBIA GAS TRAN
8314273		3400922680		107-TF		JOLLICK - FAIR #63	CANAAN	0.0	COLUMBIA GAS TRAN
8314274		3400922681		107-TF		JOLLICK - FAIR #64	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314275		3400922682		107-TF		JOLLICK - FAIR #65	CANAAN	0.0	COLUMBIA GAS TRAN
8314276		3400922683		107-TF		JOLLICK - FAIR #66	CANAAN	0.0	COLUMBIA GAS TRAN
8314277		3400922684		107-TF		JOLLICK - FAIR #67	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314278		3400922685		107-TF		JOLLICK - FAIR #68	CANAAN	0.0	COLUMBIA GAS TRAN
8314279		3400922686		107-TF		JOLLICK - FAIR #69	CANAAN	0.0	COLUMBIA GAS TRAN
8314280		3400922687		107-TF		JOLLICK - FAIR #70	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314281		3400922688		107-TF		JOLLICK - FAIR #71	CANAAN	0.0	COLUMBIA GAS TRAN
8314282		3400922689		107-TF		JOLLICK - FAIR #72	CANAAN	0.0	COLUMBIA GAS TRAN
8314283		3400922690		107-TF		JOLLICK - FAIR #73	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314284		3400922691		107-TF		JOLLICK - FAIR #74	CANAAN	0.0	COLUMBIA GAS TRAN
8314285		3400922692		107-TF		JOLLICK - FAIR #75	CANAAN	0.0	COLUMBIA GAS TRAN
8314286		3400922693		107-TF		JOLLICK - FAIR #76	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314287		3400922694		107-TF		JOLLICK - FAIR #77	CANAAN	0.0	COLUMBIA GAS TRAN
8314288		3400922695		107-TF		JOLLICK - FAIR #78	CANAAN	0.0	COLUMBIA GAS TRAN
8314289		3400922696		107-TF		JOLLICK - FAIR #79	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314290		3400922697		107-TF		JOLLICK - FAIR #80	CANAAN	0.0	COLUMBIA GAS TRAN
8314291		3400922698		107-TF		JOLLICK - FAIR #81	CANAAN	0.0	COLUMBIA GAS TRAN
8314292		3400922699		107-TF		JOLLICK - FAIR #82	CANAAN	0.0	COLUMBIA GAS TRAN
-JAMES L WHITE & ASSOCIATES				RECEIVED: 12/20/82 JA: OH					
8314293		3400922700		107-TF		JOLLICK - FAIR #83	CANAAN	0.0	COLUMBIA GAS TRAN
8314294	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ENVIROGAS INC				RECEIVED: 12/20/82		JA: OH			
8314132		3400922519		103	107-TF	DRYDOCK COAL #1D	DOVER	18.2	COLUMBIA GAS TRAN
8314133		3400922521		103	107-TF	DRYDOCK COAL #3D	DOVER	27.3	COLUMBIA GAS TRAN
-F R G ASSOCIATES				RECEIVED: 12/20/82		JA: OH			
8314134		3416727309		103		GRANT EDWARDS #1	WARREN TWP	56.5	RIVER GAS CO
-FRANK A CSAPO JR				RECEIVED: 12/20/82		JA: OH			
8314114		3416923388		103	107-TF	ROBERT LENGACHER #2	MILTON	18.8	COLUMBIA GAS TRAN
-FUTURE ENERGY CORPORATION				RECEIVED: 12/20/82		JA: OH			
8314135		3411522146		103	107-TF	CLEMENS #2	MALTA	30.0	
-G W F CORP				RECEIVED: 12/20/82		JA: OH			
8314137		3400922555		107-TF		CRUISE #1	CARTHAGE	0.0	
8314136		3400922426		107-TF		MCDANIEL #1	ROME	20.0	
-GASEARCH INC				RECEIVED: 12/20/82		JA: OH			
8314139		3415520921	D	107-RT		DEANGELO #1	LORDSTOWN	0.0	COLUMBIA GAS TRAN
8314141		3415520926	D	107-RT		DEANGELO #2	LORDSTOWN	100.0	COLUMBIA GAS TRAN
8314140		3415520925	D	107-RT		DEANGELO #3	LORDSTOWN	100.0	COLUMBIA GAS TRAN
8314143		3415522214		103	107-TF	NILES CITY-OHIO EDISON #1	WEATHERSFIELD	28.0	
8314138		3415520877	D	107-RT		POWELL #1	HUBBARD	100.0	COLUMBIA GAS TRAN
8314142		3415520987	D	107-RT		POWELL #2	HUBBARD	100.0	COLUMBIA GAS TRAN
-GORMLEY & JOHNSON				RECEIVED: 12/20/82		JA: OH			
8314144		3405320661		107-TF		PAULINE RIFE #2	CHESHIRE	10.0	COLUMBIA GAS TRAN
8314145		3405320554		107-TF		PAULINE RIFE #3	CHESHIRE	10.0	COLUMBIA GAS TRAN
8314146		3405320729		107-TF		PAULINE RIFE #4	CHESHIRE	10.0	
8314147		3410521826		107-RT		RAMSBURG #2	RUTLAND	0.0	COLUMBIA GAS TRAN
8314148		3410521963		107-TF		RAMSBURG #3	RUTLAND	0.0	COLUMBIA GAS TRAN
8314149		3410522327		107-TF		RAMSBURG #4	RUTLAND	10.0	
-GREENLAND PARTNERSHIP	-1 1982			RECEIVED: 12/10/82		JA: OH			
83130*1		3407322520		107-TF		NORMAN/CASSELLS #3		0.0	COLUMBIA GAS TRAN
-H & W DRILLING INC				RECEIVED: 12/20/82		JA: OH			
8314150		3410521983		103	107-TF	HIRAM SLAWTER #1	RUTLAND	1.7	COLUMBIA GAS TRAN
8314151		3410522276		103	107-TF	HIRAM SLAWTER #3	RUTLAND	1.8	COLUMBIA GAS TRAN
-HENRY OIL & GAS CO				RECEIVED: 12/20/82		JA: OH			
8314152		3416700796		108		MARGARET DAY #3	BIG INJUN	11.0	RIVER GAS CO
-HERALD OIL & GAS CO				RECEIVED: 12/20/82		JA: OH			
8314154		3410522542		107-TF		BOBBS-PARSONS #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8314156		3410522555		107-TF		CHARLES CHAPMAN #1	SCIPIO	0.0	COLUMBIA GAS TRAN
8314153		3410522404		107-TF		GLADYS TUCKERMAN #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8314155		3410525450		107-TF		JACK HART #1	BEDFORD	0.0	COLUMBIA GAS TRAN
8314159		3410522568		107-TF		LOMA HALL #1	SCIPIO	0.0	COLUMBIA GAS TRAN
8314157		3410522563		107-TF		LYLE HYSELL #1	SALISBURY	0.0	COLUMBIA GAS TRAN
8314158		3410522564		107-TF		NORMAN WEYERSMILLER #1	SALISBURY	0.0	COLUMBIA GAS TRAN
-HILL GAS & OIL				RECEIVED: 12/20/82		JA: OH			
8314162		3405320395		107-TF		ROBERT HENRY #1	GALLIPOLIS	10.0	COLUMBIA GAS TRAN
-HOPCO RESOURCES INC				RECEIVED: 12/20/82		JA: OH			
8314163A		3403124924		103		MARTIN #4	KEENE	12.0	COLUMBIA GAS TRAN
8314163B		3403124924	D	107-TF		MARTIN #4	KEENE	12.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED: 12/20/82		JA: OH			
8314164		3411122266		107-DV		ETHEL E DENBOW #1	SUMMIT	18.0	COLUMBIA GAS TRAN
8314166		3411122785		107-DV		L K WHEATLEY #1	SUMMIT	15.0	COLUMBIA GAS TRAN
8314165		3411122755		107-DV		L V & EDNA JOHNSON #2	SENECA	15.0	COLUMBIA GAS TRAN
8314167		3411522895		107-TF		SCOTT FISHER #3	HOMER	15.0	KRACO GAS
8314168		3411522896		107-TF		SCOTT FISHER #4	UNION	8.0	KRACO GAS
8314169		3411522897		107-TF		SCOTT FISHER #5	UNION	8.0	KRACO GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314160		3411522898		107-TF		SCOTT FISHER #6	UNION	18.0	KNACO GAS
-J D DRILLING CO				RECEIVED:	12/20/82	JA: OH			
8314172		3410522216		107-TF		CHARLES ESKEW #3	SALISBURY	8.0	COLUMBIA GAS TRAN
8314171		3410522215		107-TF		CHARLES ESKEW #4	POMEROY	8.0	COLUMBIA GAS TRAN
8314170		3400922208		107-TF		FRED R COLBURN #1	SHADE	9.0	COLUMBIA GAS TRAN
-JOHN F WILLIAMS				RECEIVED:	12/20/82	JA: OH			
8314308		3407521367	D	108		KAUFMAN		2.0	COLUMBIA GAS TRAN
-KRAMER EXPLORATION CO				RECEIVED:	12/20/82	JA: OH			
8314182		3410522491		103	107-TF	BARTON #2	RUTLAND	12.0	COLUMBIA GAS TRAN
8314183		3410522492		103	107-TF	BARTON #4	RUTLAND	12.0	COLUMBIA GAS TRAN
8314179		3405320782		103	107-TF	OHIO POWER #12	CHESHIRE	12.0	COLUMBIA GAS TRAN
8314178		3405320779		103	107-TF	OHIO POWER CO #11	CHESHIRE	12.0	COLUMBIA GAS TRAN
8314180		3405320783		103	107-TF	OHIO POWER CO #13	CHESHIRE	12.0	COLUMBIA GAS TRAN
8314173		3405320764		103	107-TF	OHIO POWER CO #16	CHESHIRE	12.0	COLUMBIA GAS TRAN
8314181		3405320795		103	107-TF	OHIO POWER CO #25	CHESHIRE	12.0	COLUMBIA GAS TRAN
8314174		3405320770		103	107-TF	OHIO POWER CO #4	CHESHIRE	12.0	COLUMBIA GAS TRAN
8314175		3405320776		103	107-TF	OHIO POWER CO #5	CHESHIRE	12.0	COLUMBIA GAS TRAN
8314176		3405320777		103	107-TF	OHIO POWER CO #6	CHESHIRE	12.0	COLUMBIA GAS TRAN
8314177		3405320778		103	107-TF	OHIO POWER CO #7	CHESHIRE	12.0	COLUMBIA GAS TRAN
-LANCER DRILLING ASSOCIATES				RECEIVED:	12/20/82	JA: OH			
8314184A		3403521138		103		GILMOUR ACADEMY CORP #1	GATES MILLS	30.0	
8314184B		3403521138	D	107-TF		GILMOUR ACADEMY CORP #1	GATES MILLS	30.0	
-MAGNUM DRILLING INC				RECEIVED:	12/20/82	JA: OH			
8314185		3410522498		103	107-TF	KNOTTS #3	BEDFORD	5.0	COLUMBIA GAS TRAN
-MIDLAND OIL CO				RECEIVED:	12/20/82	JA: OH			
8314186		3408924498		103		FRANK L ORR #4	BOWLING GREEN	12.0	
-MORGAN-PENNINGTON INC				RECEIVED:	12/20/82	JA: OH			
8314187		3407523820		103		DARLING #1	MONROE	8.0	COLUMBIA GAS TRAN
8314188		3407523874		103		TILTON #1	KNOX	6.2	COLUMBIA GAS TRAN
-NATIONAL PRODUCTION CORPORATION				RECEIVED:	12/20/82	JA: OH			
8314189		3411926422		107-TF		JOHN H MORRISON #1	HOPEWELL	12.0	NATIONAL GAS & OI
-NEIHART EXPLORATION & DEVELOPMENT C				RECEIVED:	12/20/82	JA: OH			
8314190		3411122572	D	107-DV		MCCAMMON #1	CENTER	50.0	
-OHIO NATURAL FUEL CO				RECEIVED:	12/20/82	JA: OH			
8314192		3403124526		107-TF		HUFF #2	JACKSON	30.0	COLUMBIA GAS TRAN
-ONEAL PETROLEUM INC				RECEIVED:	12/20/82	JA: OH			
8314194		3411522286		107-TF		DEARTH #4	PENNSVILLE	10.0	COLUMBIA GAS TRAN
8314195		3411522665		107-TF		G SCOTT #8	PENN	4.0	COLUMBIA GAS TRAN
8314193		3411522127		107-TF		WILLIAM ELLIOTT #1	PENN	12.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	12/20/82	JA: OH			
8314196		3407523719		103		A A DETE #3	RICHLAND	10.0	
8314202		3416923081		103		CALVIN FRYE #10	WOOSTER	10.0	
8314197		3411522078		107-TF		GOLDIE WOODWARD #1	DEERFIELD	8.0	
8314200		3411522518		107-TF		KENNETH SWANSON #1	DEERFIELD	10.0	
8314201		3411522767		107-TF		PERLEY CLAWSON #1	DEERFIELD	8.0	
8314198		3411522094		107-TF		ROBERT SMITH #1	DEERFIELD	10.0	
8314199		3411522276		107-TF		ROBERT SMITH #4	DEERFIELD	10.0	
-PETRO EVALUATION SERVICES INC				RECEIVED:	12/20/82	JA: OH			
8314203		3416922989		103	107-TF	RUPP #1	MILTON	20.0	COLUMBIA GAS TRAN
-PETRO OIL CO				RECEIVED:	12/20/82	JA: OH			
8314204		3411924327	D	107-RT		JOHNSON #1	LICKING	8.0	COLUMBIA GAS TRAN
-PONDEROSA OIL COMPANY				RECEIVED:	12/20/82	JA: OH			
8314205		3407523911		107-TF		ABE KEIM #2	SALT CREEK	9.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314206		3407523912		107-TF		MILDRED A RICHESON #1	SALT CREEK	12.0	COLUMBIA GAS TRAN
-POWER RESOURCES INC				RECEIVED: 12/20/82		JA: OH			
8314207		3415723762		103		CONOTTON LAND CO #11	WARREN	0.0	M B OPERATING CO
-QUAKER STATE OIL REFINING CORP				RECEIVED: 12/20/82		JA: OH			
8314210		3411926328		103	107-TF	MOZENA #2	ADAMS	5.5	COLUMBIA GAS TRAN
8314209		3400922576		103	107-TF	SUGAR CREEK COAL & MINING CO #2	DOVER	7.3	TENNESSEE GAS PIP
8314208		3400922575		103	107-TF	SUGAR CREEK COAL #4	AMES	3.7	TENNESSEE GAS PIP
-RELIANCE OIL CORP				RECEIVED: 12/20/82		JA: OH			
8314211		3408922640	D	108		FRANK THOMPSON #1		1.0	NATIONAL GAS & OI
8314212		3408922670	D	108		FRANK THOMPSON #2		1.0	NATIONAL GAS & OI
-REMOE OIL & GAS CO				RECEIVED: 12/20/82		JA: OH			
8314213		3416722378		108		HAUGHT #1		0.5	COLUMBIA GAS TRAN
8314214		3416722639		108		HAUGHT #2		0.5	COLUMBIA GAS TRAN
-RICHARD W ULLMAN				RECEIVED: 12/20/82		JA: OH			
8314296		3411522955		107-TF		HERSHBERGER #1	CHESTERHILL	15.0	COLUMBIA GAS TRAN
8314294		3411522931		107-TF		HILL #2	CHESTERHILL	15.0	COLUMBIA GAS TRAN
8314292		3400922676		107-TF		LEWIS #3	BERN	15.0	COLUMBIA GAS TRAN
8314295		3411522932		107-TF		SCOTT #1	CHESTERHILL	15.0	COLUMBIA GAS TRAN
8314293		3411522913		107-TF		STONE #1	MARION	15.0	COLUMBIA GAS TRAN
-RIMCO OPERATING INC				RECEIVED: 12/20/82		JA: OH			
8314215		3416923340		103	107-DP	M MYKRANTZ #1	PLAIN	12.0	COLUMBIA GAS TRAN
-RIVER CITY DRILLING INC				RECEIVED: 12/20/82		JA: OH			
8314216		3416727256		103		FLORENCE #3	BEAR CREEK	0.0	OHIO OIL GATHERIN
-ROVI RESOURCES CORP				RECEIVED: 12/20/82		JA: OH			
8314234		3411522901		107-TF		FORRESTAL #2	BLOOM	15.0	COLUMBIA GAS TRAN
8314235		3411529360		107-TF		FORRESTAL #5	BLOOM TWP	11.0	COLUMBIA GAS TRAN
8314236		3411529370		107-TF		FORRESTAL #6	BLOOM	11.0	COLUMBIA GAS TRAN
8314237		3411522938		107-TF		FORRESTAL #7	BLOOM TWP	11.0	COLUMBIA GAS TRAN
8314243		3411926334		107-TF		HARROP #2	BLUE ROCK	15.0	COLUMBIA GAS TRAN
8314231		3411522873		107-TF		J REX #6	BLOOM	11.0	COLUMBIA GAS TRAN
8314227		3411522792		107-TF		REX #2	BLOOM	15.0	COLUMBIA GAS TRAN
8314228		3411522793		107-TF		REX #3	BLOOM	11.0	COLUMBIA GAS TRAN
8314229		3411522794		107-TF		REX #4	BLOOM	11.0	COLUMBIA GAS TRAN
8314233		3411522875		107-TF		REX #5	BLOOM	15.0	COLUMBIA GAS TRAN
8314230		3411522872		107-TF		REX #7	BLOOM	15.0	COLUMBIA GAS TRAN
8314232		3411522874		107-TF		REX #8	BLOOM	15.0	COLUMBIA GAS TRAN
8314242		3411522948		107-TF		RICHARDSON #3	BLOOM	11.0	COLUMBIA GAS TRAN
8314240		3411522946		107-TF		RICHARDSON #4	BLOOM	11.0	COLUMBIA GAS TRAN
8314239		3411522945		107-TF		RICHARDSON #5	BLOOM	15.0	COLUMBIA GAS TRAN
8314238		3411522944		107-TF		RICHARDSON #7	BLOOM	15.0	COLUMBIA GAS TRAN
8314241		3411529470		107-TF		RICHARDSON #8	BLOOM	15.0	COLUMBIA GAS TRAN
-ROYAL LEVERAGED LTD 82-II				RECEIVED: 12/20/82		JA: OH			
8314218		3410522503		103	107-TF	F ROSS #2	BEDFORD	5.0	COLUMBIA GAS TRAN
8314217		3405327870		103	107-TF	LAWHON #1	ADDISON	5.0	COLUMBIA GAS TRAN
-ROYAL PETROLEUM LTD 82-B				RECEIVED: 12/20/82		JA: OH			
8314220		3410522546		103	107-TF	FRECKER #2	BEDFORD	5.0	COLUMBIA GAS TRAN
8314219		3410522506		103	107-TF	HOOD #1	SALISBURY	5.0	COLUMBIA GAS TRAN
8314221		3410522547		103	107-TF	HOOD #4	SALISBURY	5.0	COLUMBIA GAS TRAN
-RUN GAS CO				RECEIVED: 12/20/82		JA: OH			
8314225		3416722303		108		HEARN #2	BLOOMFIELD	2.2	RIVER GAS CO
8314226		3416722449		108		RINARD #1	BLOOMFIELD	2.2	RIVER GAS CO
8314222		3416722192		108		SKINNER #1	BLOOMFIELD	2.2	RIVER GAS CO
8314223		3416722212		108		SKINNER #2	BLOOMFIELD	2.2	RIVER GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314224		3416722860		108		SKINNER #3	BLOOMFIELD	2.2	RIVER GAS CO
-SANDHILL ENERGY INC (OH)				RECEIVED:	12/20/82	JA: OH			
8314247		3416727251		107-DV		CHARLES HALL #2	RAVEN ROCK	14.6	
8314246		3416727224	D	107-DV		LONGFELLOW #6	GRANDVIEW	14.6	
8314244		3411122874		107-DV		MANSFIELD #1	BENTON	27.3	
8314245		3411122880		103		MANSFIELD #8	BENTON	18.3	
-SHONGUM OIL & GAS INC				RECEIVED:	12/20/82	JA: OH			
8314248		3412122866		107-DV		DAVID WELLS #1	NOBLE	12.0	COLUMBIA GAS TRAN
-STRATA CORP				RECEIVED:	12/20/82	JA: OH			
8314276		3411926166		107-TF		B HILL #1	HOPEWELL	20.0	
8314273		3411926163		107-TF		C MURREY #1	HOPEWELL	15.0	
8314277		3411926181		107-TF		CARNEY #1	NEWTON	20.0	
8314257		3400922236		107-TF		CIRCLE J FARM #1	ROME	7.0	
8314264		3400922294		107-TF		CIRCLED #5	ROME	3.0	
8314251		3400922163		107-TF		COX #2	AMES	4.0	
8314272		3400922544		107-TF		DELAVAL #1	CANAAN	10.0	
8314250		3400922081		107-TF		DOCIE #1	CANAAN	4.0	
8314259		3400922244		107-TF		ESKY #3	AMES	4.0	
8314280		3412725648		107-TF		ESSELSTEIN #1	PLEASANT	10.8	
8314274		3411926164		107-TF		J MURREY #1	HOPEWELL	15.0	
8314249		3400922080		107-TF		JOHNSON #5	CANAAN	6.0	
8314271		3400922449		107-TF		K LEWIS #1	ROME	5.0	
8314265		3400922325		107-TF		KARNS #1	ROME	5.0	
8314258		3400922237		107-TF		KASLER #1	AMES	6.0	
8314268		3400922429		107-TF		LAWRENCE #1	BERN	5.0	
8314275		3411926165		107-TF		M MURREY #1	HOPEWELL	20.0	
8314279		3412725026		107-TF		PEABODY LEWIS #8	NEW LEXINGTON	10.0	
8314281		3412725684		107-TF		PEABODY 2-A	PIKE	15.0	
8314269		3400922445		107-TF		ROOT #2	ROME	3.0	
8314270		3400922446		107-TF		ROOT #3	ROME	3.0	
8314278		3411926192		107-TF		SCHWARTZMILLER #1	SPRINGFIELD	20.0	
8314262		3400922286		107-TF		STILWELL #1	CANAAN	4.0	
8314263		3400922287		107-TF		STILWELL #2	CANAAN	3.0	
8314261		3400922276		107-TF		TRI COUNTY #12	BERN	0.0	
8314253		3400122167		107-TF		TRI COUNTY #3	BERN	5.0	
8314254		3400922169		107-TF		TRI COUNTY #5	BERN	6.0	
8314256		3400922181		107-TF		TRI COUNTY #6	BERN	6.0	
8314255		3400922170		107-TF		TRI COUNTY #7	BERN	5.0	
8314260		3400922272		107-TF		TRI COUNTY #8	BERN	5.0	
8314252		3400922165		107-TF		TRI-COUNTY #1	BERN	4.0	
8314266		3400922329		107-TF		WHITE #1	ROME	3.0	
8314267		3400922356		107-TF		WHITE #2	ROME	3.0	
-TOWNER PETROLEUM CO				RECEIVED:	12/20/82	JA: OH			
8314283		3405923210		103	107-TF	DRINKWORTH R #3	LONDONDERRY	27.0	TENNESSEE GAS PIP
8314284		3405923351		103	107-TF	GUNN R #1	JEFFERSON	27.0	TENNESSEE GAS PIP
8314285		3405923380		103	107-TF	HEINISH A #2	OXFORD	27.0	TENNESSEE GAS PIP
8314282		3405923195		103	107-TF	TUTTLE/TUTTLE #1	WASHINGTON	27.0	TENNESSEE GAS PIP
-UNITED PETROLEUM CORP				RECEIVED:	12/20/82	JA: OH			
8314291		3413320860		108		BLACK #3	SHALERSVILLE	2.5	AMERICAN ENERGY S
8314286		3409920567	D	108		CUA #1	ELLSWORTH	20.0	AMERICAN ENERGY S
8314290		3409921035	D	107-TF		HUNTER #1	CANFIELD	0.0	AMERICAN ENERGY S
8314289		3409921034	D	107-TF		HUNTER UNIT #1	CANFIELD	0.0	AMERICAN ENERGY S
8314287		3409920568	D	108		SCHESLER #1	ELLSWORTH	0.0	AMERICAN ENERGY S

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-VIKING RESOURCES CORP				RECEIVED:	12/20/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-VIKING RESOURCES CORP			RECEIVED: 12/20/82 JA: OH						
8314301		3408520391	103		107-TF	BREWSTER #1	PERRY	30.0	
8314304		3408520394	103		107-TF	DUGAN UNIT #1	PERRY	30.0	
8314305		3408520395	103		107-TF	DUGAN UNIT #2	PERRY	30.0	
8314300		3408520381	103		107-TF	LOSELY #4	PERRY	30.0	
8314299		3408520379	103		107-TF	OLIVER/BREWSTER UNIT #1	PERRY	30.0	
8314303		3408520393	103		107-TF	OLIVER/BREWSTER UNIT #2	PERRY	30.0	
8314297		3408520344	103		107-TF	SINES & SONS #2	PERRY	30.0	
8314302		3408520391	103		107-TF	STALLARD #1	PERRY	30.0	
8314298		3408520360	102-4			VERNICK/WRIGHT UNIT #1	MADISON	30.0	YANKEE RESOURCES
-WALL OIL & GAS CO			RECEIVED: 12/20/82 JA: OH						
8314307		3416723074	108			HALL #1		1.4	COLUMBIA GAS TRAN
-WILLIAM J NOLL			RECEIVED: 12/20/82 JA: OH						
8314191		3412727958	108			WILLIAM NOLL #1		0.0	NATIONAL GAS & OI
-WM OIL & GAS INC			RECEIVED: 12/20/82 JA: OH						
8314306		3411522592	107-TF			LETHART-MUSICK #5	PENN	1.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-OXXO INC			RECEIVED: 12/20/82 JA: OK						
8314345	17591	3513300000	102-3	103		REYNOLDS #1		1084.6	
8314344	17590	3513321784	102-3	103		REYNOLDS NO 2		372.4	
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-UNITED PETROLEUM CORP			RECEIVED: 12/20/82 JA: PA						
8314268		3703321007	108			WILT #5	GOSHEN	7.0	AMERICAN ENERGY S
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
-BEREN CORPORATION			RECEIVED: 12/20/82 JA: CO 1						
8314311	CD-394-82	0512310295	103			GOVERNMENT #2-27	SOONER	37.0	KANSAS-NEBRASKA N
-COORS ENERGY CO			RECEIVED: 12/20/82 JA: CO 1						
8314324	CD-478-82	0507708500	102-2		107-TF	USA 1-17SC	SHEEP CREEK	385.0	NORTHWEST PIPELIN
8314323	CD-477-82	0504506373	102-2		107-TF	USA 1-33DF	DRY FORK FEDERAL UNIT	145.3	NORTHWEST PIPELIN
8314325	CD-479-82	0507708496	102-2		107-TF	USA 1-5MR	MONUMENT ROCKS FEDERA	365.0	NORTHWEST PIPELIN
8314326	CD-0476-82	0507708507	102-2		107-TF	USA 2-12	PLATEAU	138.0	INTER NORTH INC
-KOCH INDUSTRIES INC			RECEIVED: 12/20/82 JA: CO 1						
8314314	CD-464-82	0507709456	107-TF			HORSESHOE CANYON 1-21	SHIRE GULCH	360.0	NORTHWEST PIPELIN
8314313	CD-467-82	0507708443	107-TF			WINTER FLATS 2-11-100 (DAKOTA)	WINTER FLATS	750.0	NORTHWEST PIPELIN
-LADD PETROLEUM CORPORATION			RECEIVED: 12/20/82 JA: CO 1						
8314318	CD-527-82-PB	0506705573	108-PB			LONG MOUNTAIN #1-27	IGNACIO BLANCO MV	0.0	NORTHWEST PIPELIN
8314328	CD-489-82-B	0506706596	103			TRAIL CANYON #2-6 PICTURED CLIFFS -	IGNACIO-BLANCO	819.1	WESTERN SLOPE GAS
8314319	CD-489-82-A	0506706598	103			TRAIL CANYON #2-6-DAKOTA RESERVIOR	IGNACIO-BLANCO	333.2	WESTERN SLOPE GAS
-SOUTHLAND ROYALTY CO			RECEIVED: 12/20/82 JA: CO 1						
8314315	CD-345-82	0510308857	107-TF			DIAMOND SHAMROCK FEDERAL #1-5	UNDESIGNATED	48.0	NORTHWEST PIPELIN
8314316	CD-344-82	0510308857	103			DIAMOND SHAMROCK FEDERAL #1-5	UNDESIGNATED	48.0	NORTHWEST PIPELIN
-VECO DRILLING INC			RECEIVED: 12/20/82 JA: CO 1						
8314310	CD-226-82	0507708367	102-4			FEDERAL #3	EAST BAR X	365.0	NORTHWEST PIPELIN
-CONSOLIDATED OIL & GAS INC			RECEIVED: 12/20/82 JA: UT 1						
8314312	UD-488-82	4303730726	103			BLUFF #13-4	BLUFF EXTENSION	18.3	EL PASO NATURAL G
-COSEKA RESOURCES (USA) LIMITED			RECEIVED: 12/20/82 JA: UT 1						
8314321	UD-458-82	4301930646	102-5			FEDERAL #13-5-16-25	WILDCAT	224.5	NORTHWEST PIPELIN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314322	UD-451-82	4301930645		103	3	FEDERAL #6-4-16-25	WILDCAT	20.4	NORTHWEST PIPELIN
-SOUTHLAND ROYALTY CO				RECEIVED: 12/20/82		JA: UT 1			
8314317	UD-482-82	4303730296		108		WHITE MESA UNIT #113	WHITE MESA	7.0	EL PASO NATURAL G

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8661.

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Section 102
102-2: Ne
102-3: Ne
102-4: Ne
102-5: Ne
Section 107
107-GB: G
107-CS: G
107-DV: L
107-PE: P
107-TF: N
107-RT: P
Section 108
108-SA: S
108-ER: E
108-PB: P

Kenneth F.

Secretary.

[FR Doc. 83-17
BILLING COD

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1766 Filed 1–21–83; 8:45 am]
BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 18, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-REEF PETROLEUM CORP				RECEIVED:	12/21/82	JA: MI			
8314347		2102500000		102-4		CHILDS #2-32	CLARENCE "32"	0.0	BATTLE CREEK GAS
8314346		2102500000		102-4		SCHMIDT #3-35	CLARENCE "35"	63.0	BATTLE CREEK GAS
8314348		2102500000		102-4		SIMMONS #4-29A	CLARENCE "29"	0.0	BATTLE CREEK GAS
WEST VIRGINIA DEPARTMENT OF MINES									
-ASHLAND EXPLORATION INC				RECEIVED:	11/21/82	JA: WV			
8314349		4701900458		107-DV		H T SHAHR #1 -088731	PAINT CREEK	5.5	
-ASHLAND EXPLORATION INC				RECEIVED:	12/21/82	JA: WV			
8314361		4708100575		103		BEDFORD LAND CO #19 - 092651	PAINT CREEK	64.0	COLUMBIA GAS TRAN
8314350		4708100575		107-DV		BEDFORD LAND CO #19 -092652	PAINT CREEK	57.0	
8314362		4703903769		103		EASTERN GAS & FUEL #62-R - 092291	PAINT CREEK	25.0	COLUMBIA GAS TRAN
8314351		4703903769		107-DV		EASTERN GAS & FUEL #62-R -092292	PAINT CREEK	48.0	
8314355		4703501583		107-DV		ELIZABETH W PERKINS #25 - 091922	NEW FIELD	21.0	CONSOLIDATED GAS
8314356		4708703440		107-DV		ELIZABETH W PERKINS #26 - 091932	NEW FIELD	15.4	CONSOLIDATED GAS
8314363		4705900983		103		ELK CREEK COAL CO #22 - 092491	LOGAN-WYOMING	31.0	CONSOLIDATED GAS
8314354		4705900983		107-DV		ELK CREEK COAL CO #22 - 092492	LOGAN-WYOMING	94.0	CONSOLIDATED GAS
8314370		4701900131		108		POCAHONTAS LAND #13 - 166001	LOUP CREEK	21.0	ELKEM METALS CO
8314369		4700501250		108		SOUTHERN LAND CO #9 - 083131	LOGAN-WYOMING	20.0	CONSOLIDATED GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	12/21/82	JA: WV			
8314366		4700121223		108		D O'BRIEN #1	BARKER	15.0	CONSOLIDATED GAS
8314367		4700121202		108		D SOUTHERLY #1	VALLEY	17.0	CONSOLIDATED GAS
8314364		4700121347		108		MARSH #1	BARKER	12.0	CONSOLIDATED GAS
8314365		4700121234		108		MCLEAN #1	BARKER	9.0	CONSOLIDATED GAS
8314368		4700121062		108		R L VOWLS #2	VALLEY	11.0	CONSOLIDATED GAS
8314360		4700121197		108		TALBOTT LUMBER CO #1	VALLEY	3.7	CONSOLIDATED GAS
-CHASE PETROLEUM				RECEIVED:	12/21/82	JA: WV			
8314352		4708505242		102-3		BLACK #3	UNION DISTRICT	15.0	
8314373		4708505242		107-DV		BLACK #3	UNION DISTRICT	15.0	
8314374		4701703043		107-DV		GRAY #2	SOUTHWEST DISTRICT	20.0	
8314372		4708505416		107-DV		GRIMM #1	UNION DISTRICT	30.0	
8314353		4702103746		107-DV		MOYERS #1	TROY DISTRICT	12.8	
8314371		4708505222		107-DV		WINDLE-MULLINIX #1	UNION DISTRICT	15.0	
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/21/82	JA: WV			
8314375		4703301477		108		REYNOLDS-GORE WN-7412	COAL	1.0	GENERAL SYSTEM PU
8314357		4708503861		108		V M WILSON 12475	MURPHY DISTRICT	20.0	GENERAL SYSTEM PU
-SWIFT ENERGY CO				RECEIVED:	12/21/82	JA: WV			
8314359		4709700702		108		WENTZ #2	BUCKHANNON-CENTURY	11.7	COLUMBIA GAS TRAN
8314358		4706100237		108		WENTZ "G"	BUCKHANNON-CENTURY	7.7	COLUMBIA GAS TRAN
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
-AAA OPERATING CO INC				RECEIVED:	12/22/82	JA: NM 4			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/22/82	JA: WV			
8314376		4703301477		108		REYNOLDS-GORE WN-7412	COAL	1.0	GENERAL SYSTEM PU
8314377		4708503861		108		V M WILSON 12475	MURPHY DISTRICT	20.0	GENERAL SYSTEM PU
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/22/82	JA: WV			
8314378		4703301477		108		REYNOLDS-GORE WN-7412	COAL	1.0	GENERAL SYSTEM PU
8314379		4708503861		108		V M WILSON 12475	MURPHY DISTRICT	20.0	GENERAL SYSTEM PU

JD NO.	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8314558	NM 1423-82	3004523462		108		FEDERAL E #6
-ALPHA TWENTY-ONE PRODUCTION CO				RECEIVED:	12/22/82	JA: NM 4
8314473	NM 1275-82	3002570723		103		WERTA FEDERAL #1
-AMERADA HESS CORPORATION				RECEIVED:	12/22/82	JA: NM 4
8314557	NM-1424-82	3003900000		108		J APACHE "F" #4
-AMOCO PRODUCTION CO				RECEIVED:	12/22/82	JA: NM 4
8314455	NM-0978-82	3004511725		108		ABRAMS GAS COM "B" #2
8314393	NM-1545-82	3004507567		108		DAY GAS COM #1 (3RD)
8314456	NM 0977-82	3004523774		108		DAY GAS COM "A" #1
8314492	NM-1217-82	3004506976		108		FRED FEASEL "A" #1(2ND)
8314400	NM-1534-82	3004506985		108		FRED FEASEL "C" #1
8314502	NM-1219-82	3004509144		108		FRED FEASEL "E" #1
8314436	NM-0990-82	3004511604		108		GALLEGOS CANYON UNIT #226 (3RD)
8314394	NM-1538-82	3004511736		108		GALLEGOS CANYON UNIT #242
8314482	NM-1237-82	3004506512		108		GINTHER GAS COM #2
8314437	NM-0985-82	3004506402		108		H B MCGRADY "A" #2
8314398	NM-1536-82	3004507273		108		J F DAY "C" #2
8314460	NM-1317-82	3003922508		103		JICARILLA APACHE "A" 118 #6
8314547	NM-1467-82	3003922527		103		JICARILLA APACHE TRIBAL 122 #2
8314397	NM-1537-82	3003906549		108		JICARILLA APACHE 102 #1 (3RD)
8314395	NM-1544-82	3003921274		108		JICARILLA APACHE 102 #17
8314399	NM 1535-82	3003921317		108		JICARILLA APACHE 102 #18 (3RD)
8314401	NM-1533-82	3003921388		108		JICARILLA APACHE 102 #19 (2ND)
8314402	NM-1532-82	3003921322		108		JICARILLA APACHE 102 #26
8314499	NM-1222-82	3003906561		108		JICARILLA APACHE 102 #3(3RD)
8314483	NM-1238-82	3003906153		108		JICARILLA CONTRACT #146 #12(3RD)
8314498	NM-1221-82	3003906166		108		JICARILLA CONTRACT 146 #5(3RD)
8314503	NM-1220-82	3003906153		108		JICARILLA CONTRACT 146 #6(4TH)
8314451	NM-0976-82	3003922000		108		JICARILLA CONTRACT 148 #18
8314491	NM-1216-82	3003906266		108		JICARILLA CONTRACT 155 #5(3RD)
8314396	NM-1543-82	3004506803		108		MADELINE N GALT "F" #1 (2ND)
8314481	NM-1235-82	3004510387		108		STANOLIND "A" #1(3RD)
8314501	NM-1218-82	3004510267		108		STANOLIND "A" #2(4TH)
-ARCO OIL AND GAS COMPANY				RECEIVED:	12/22/82	JA: NM 4
8314442	NM-1089-82	3004525340		103		ATLANTIC A #101
8314414	NM 0013-82ER	3002502030		108-ER		JUSTIS FEDERAL #3-Y
-BCO INC				RECEIVED:	12/22/82	JA: NM 4
8314466	NM 1271-82	3003970069		103		DUNN #11
8314467	NM 1271-82	3003970069		103		DUNN #11
-BLACKWOOD & NICHOLS CO LTD				RECEIVED:	12/22/82	JA: NM 4
8314496	NM-1230-82	3004510938		108		NORTHEAST BLANCO UNIT #60-7
8314497	NM-1231-82	3004510572		108		NORTHEAST BLANCO UNIT #61-15
8314500	NM-1229-82	3004510263		108		NORTHEAST BLANCO UNIT #62-30
-CHACE OIL COMPANY INC				RECEIVED:	12/22/82	JA: NM 4
8314463	NM 1282-82	3003970082		103		CHACE APACHE 54-11
-CITIES SERVICE COMPANY				RECEIVED:	12/22/82	JA: NM 4
8314443	NM-1084-82	3001523252		108		GOVERNMENT AK #1
-CONOCO INC				RECEIVED:	12/22/82	JA: NM 4
8314487	NM-1090-82	3002527599		103		HAWK A #9
8314439	NM-1007-82	3003922745		103		JICARILLA 20 #9
8314513	NM-1393-82	3002586796		108		LOCKHART A-27 #12
8314512	NM-1394-82	3002509425		108		LYNN B-1 #1
8314507	NM-1401-82	3003900000		108		NORTHEAST HAYNES #10

FIELD NAME	PROD	PURCHASER
LARGO CHACRA	14.0	EL PASO NATURAL G
UNDESIGNATED TUBB	15.0	EL PASO NATURAL G
OTERO	20.6	EL PASO NATURAL G
AZTEC - PICTURED CLIF	20.0	EL PASO NATURAL G
BASIN-DAKOTA	19.0	SOUTHERN UNION GA
FULCHER KUTZ - PICTUR	11.0	SOUTHERN UNION GA
FULCHER KUTZ - PICTUR	19.0	SOUTHERN UNION GA
FULCHER KUTZ - PICTUR	20.0	SOUTHERN UNION GA
FULCHER KUTZ-PICTURED	17.0	SOUTHERN UNION GA
BASIN DAKOTA	20.0	EL PASO NATURAL G
BASIN DAKOTA	14.0	EL PASO NATURAL G
BASIN-DAKOTA	20.0	EL PASO NATURAL G
BASIN DAKOTA	21.0	EL PASO NATURAL G
FULCHER KUTZ - PICTUR	18.0	SOUTHERN UNION GA
GAVILAN PICTURED CLIF	104.0	NORTHWEST PIPELIN
BASIN DAKOTA	26.0	GAS CO OF NEW MEX
TAPACITO - PICTURED C	10.0	GAS CO OF NEW MEX
TAPACITO - PICTURED C	17.0	GAS CO OF NEW MEX
TAPACITO - PICTURED C	10.0	GAS CO OF NEW MEX
TAPACITO PICTURED CLI	16.0	GAS CO OF NEW MEX
TAPACITO PICTURED CLI	15.0	GAS CO OF NEW MEX
TAPACITO-PICTURED CLI	8.0	GAS CO OF NEW MEX
OTERO CHACRA	20.0	EL PASO NATURAL G
SOUTH BLANCO PICTURED	17.0	NORTHWEST PIPELIN
SOUTH BLANCO-PICTURED	12.0	NORTHWEST PIPELIN
OTERO-CHACRA	19.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	16.8	NORTHWEST PIPELIN
FULCHER KUTZ - PICTUR	18.0	SOUTHERN UNION GA
BLANCO-MESAVERDE	19.0	EL PASO NATURAL G
BASIN DAKOTA	17.0	EL PASO NATURAL G
EAST AZTEC	27.0	EL PASO NATURAL G
JUSTIS (BLINEBRY)	3.0	EL PASO NATURAL G
UNDESIGNATED GRANEROS	10.0	EL PASO NATURAL G
LYBROOK GALLUP	55.0	EL PASO NATURAL G
BLANCO MESAVERDE NF 7	16.0	EL PASO NATURAL G
BLANCO MESAVERDE NF 1	16.0	EL PASO NATURAL G
BLANCO MESAVERDE SW 3	17.0	EL PASO NATURAL G
CHACON-DAKOTA	0.0	EL PASO NATURAL G
WILDCAT ABO	3.0	INTER NORTH INC
NMFU	15.0	GETTY OIL CO
WEST LINDRITH	38.0	EL PASO NATURAL G
NMFU - TUBB GAS	7.0	EL PASO NATURAL G
NMFU - JALMAT GAS	15.4	EL PASO NATURAL G
OTERO RANCH	8.3	EL PASO NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8314514	NM-1392-82	3003900000		108		NORTHEAST HAYNES #9
8314509	NM-1397-82	3002504306		108		REED B #13
8314494	NM-1119-82	3002527717		103		RUSSELL FEDERAL 17 #11
8314495	NM-1120-82	3002527716		103		RUSSELL FEDERAL 17 #12
8314488	NM-1091-82	3002526334		103		SEMU BURGER #107
8314510	NM-1396-82	3002524743		108		SEMU EUMONT #91
8314438	NM-1008-82	3002527289		103		SEMU TUBB #120
8314511	NM-1395-82	3002509546		108		VAUGHAN A-12 #1
-CURTIS J LITTLE				RECEIVED:	12/22/82	JA: NM 4
8314530	NM-1474-82	3003922874		107-TF		FOSTER #1
8314529	NM-1475-82	3003922905		107-TF		FOSTER #2
8314528	NM-1476-82	3003922953		107-TF		FOSTER #3
8314527	NM-1477-82	3003922906		107-TF		FOSTER #4
-D L HANNIFIN				RECEIVED:	12/22/82	JA: NM 4
8314376	NM-1342-82	3000560400		108		HANLAD FEDERAL #1
8314537	NM-1343-82	3000560449		108		HANLAD FEDERAL #2
8314515	NM-1391-82	3000560373		108		LILLIE FEDERAL #2
8314518	NM-1388-82	3000560379		108		NOLA FEDERAL #1
8314517	NM-1389-82	3000560416		108		NOLA FEDERAL #3
8314516	NM-1390-82	3000560436		108		NOLA FEDERAL #4
-DEPCO INC				RECEIVED:	12/22/82	JA: NM 4
8314392	NM-152082107	3000561508		102-2	107-TF	VANCE FEDERAL #3
-DUGAN PRODUCTION CORP				RECEIVED:	12/22/82	JA: NM 4
8314480	NM 1270-82	3004522939		103		BLANCO WASH #3
8314475	NM 1266-82	3004522940		103		BLANCO WASH #7
-EL PASO EXPLORATION CO				RECEIVED:	12/22/82	JA: NM 4
8314550	NM-1460-82	3002500000		108		CARLSON FEDERAL #1
8314543	NM-1360-82	3003906568		108		JICARILLA 119 N #1
8314519	NM-1358-82	3003907140		108		JICARILLA 119 N #6
8314411	NM 0030-82PB	3003922076		108-PB		JICARILLA 120 C #19
8314428	NM 0162-82PB	3003922076		108-PB		JICARILLA 120 C #19
8314429	NM 0105-82PB	3003922076		108-PB		JICARILLA 120 C #19
8314430	NM 0061-82PB	3003922076		108-PB		JICARILLA 120 C #19
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/22/82	JA: NM 4
8314555	NM-1445-82	3004521406		108		BALLARD #17
8314526	NM-1481-82	3004511746		108		BLANCO #16
8314408	NM 0014-82ER	3004508719		108-ER		FLORANCE E #1
8314448	NM-0877-82	3004507869		108		GRAMBLING #1
8314534	NM-1366-82	3004521983		108		GRAMBLING C #11 J
8314461	NM-1319-82	3004507220		108		LACKEY B MA MV & CH
8314433	NM 0167-82PB	3004506326		108-PB		LODEWICK #8
8314485	NM-1096-82	3004521083		108		MUDGE #37
8314486	NM-1097-82	3004521084		108		MUDGE #42 PC
8314556	NM-1444-82	3003920724		108		SAN JUAN 27-4 UNIT #71
8314446	NM-0696-82	3003920510		108		SAN JUAN 28-4 UNIT #35
8314548	NM-1485-82	3003907422		108		SAN JUAN 28-7 UNIT #22
8314489	NM-1094-82	3003920993		108		SAN JUAN 28-7 UNIT #232
8314546	NM-1468-82	3003921084		108		SAN JUAN 28-7 UNIT #243
8314434	NM 0163-82PB	3003907843		108-PR		SAN JUAN 30-6 UNIT #80
8314435	NM-0076-82	3004509441		108		SCHUMACHER #12
8314465	NM-1291-82	3004509441		108		SCHUMACHER #12
8314432	NM 0168-82PB	3003907342		108-PB		SJ 28-5 UNIT #46
8314490	NM-1145-82	3004512098		108		TAPP #5

FIELD NAME	PROD	PURCHASER
OTERO RANCH	7.9	EL PASO NATURAL G
NMFU-EUNICE MONUMENT	2.2	PHILLIPS PETROLEU
EAST MASON	37.0	PHILLIPS PETROLEU
EAST MASON	18.0	PHILLIPS PETROLEU
NMFU	47.8	WARREN PETROLEUM
NMFU - EUMONT GAS	18.8	EL PASO NATURAL G
NMFU - MONUMENT TUBB	100.8	WARREN PETROLEUM
NMFU - JALMAT GAS	18.3	EL PASO NATURAL G
SO BLANCO PC	25.0	EL PASO NATURAL G
SOUTH BLANCO PICTURED	0.0	EL PASO NATURAL G
SOUTH BLANCO PICTURED	25.0	EL PASO NATURAL G
SOUTH BLANCO PICTURED	25.0	EL PASO NATURAL G
SAM RANCH GRAYBURG	18.2	EL PASO NATURAL G
SAMS RANCH GRAYBURG	18.2	EL PASO NATURAL G
SAMS RANCH GRAYBURG	7.6	EL PASO NATURAL G
SAMS RANCH GRAYBURG	18.0	EL PASO NATURAL G
SAMS RANCH GRAYBURG	0.0	EL PASO NATURAL G
SAMS RANCH GRAYBURG	9.8	EL PASO NATURAL G
UND ABO	0.0	TRANWESTERN PIPEL
WHITE WASH MANCOS - D	4.0	EL PASO NATURAL G
WHITE WASH MANCOS - D	3.5	EL PASO NATURAL G
JUSTIS GLORIETTA	16.6	EL PASO NATURAL G
TAPACITO - PICTURED C	20.0	NORTHWEST PIPELIN
TAPACITO - PICTURED C	14.0	NORTHWEST PIPELIN
BLANCO SOUTH - PICTUR	22.0	NORTHWEST PIPELIN
BLANCO SOUTH - PICTUR	22.0	NORTHWEST PIPELIN
BLANCO SOUTH - PICTUR	22.0	NORTHWEST PIPELIN
BLANCO SOUTH - PICTUR	22.0	NORTHWEST PIPELIN
ANGELS PEAK-GALLUP GA	19.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	23.0	EL PASO NATURAL G
BLANCO MESAVERDE	12.8	EL PASO NATURAL G
BLANCO - MESA VERDE	11.0	EL PASO NATURAL G
BLANCO - PICTURED CLI	20.0	EL PASO NATURAL G
BLANCO - MESA VERDE &	19.0	EL PASO NATURAL G
BASIN DAKOTA	21.0	EL PASO NATURAL G
BLANCO - PICTURED CLI	19.0	EL PASO NATURAL G
BLANCO - PICTURED CLI	21.0	EL PASO NATURAL G
BASIN - DAKOTA	12.0	EL PASO NATURAL G
BASIN - DAKOTA	16.0	EL PASO NATURAL G
BLANCO-MESA VERDE	22.0	EL PASO NATURAL G
BASIN - DAKOTA	16.0	EL PASO NATURAL G
BASIN - DAKOTA	21.0	EL PASO NATURAL G
BLANCO MESAVERDE	19.7	EL PASO NATURAL G
BASIN - DAKOTA	21.0	EL PASO NATURAL G
BASIN DAKOTA	20.0	EL PASO NATURAL G
BLANCO-MESAVERDE GAS	12.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	19.0	EL PASO NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME

FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-ENERGY RESERVES GROUP INC				RECEIVED:	12/22/82	JA: NM 4
8314464	NM 1284-82	3004524788		103		O H RANDEL #8 P C
-FULLER PETROLEUM INC				RECEIVED:	12/22/82	JA: NM 4
8314522	NM-1422-82	3001523868		102-2		BRUSHY DRAW DEEP FEDERAL #1
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/22/82	JA: NM 4
8314447	NM-0892-82	3002527740		103		WEST TONTO "A" FEDERAL COMM 1-Y
-HOLLY ENERGY INC				RECEIVED:	12/22/82	JA: NM 4
8314454	NM 0979-82	3002527492		103		SALT LAKE SOUTH DEEP #1
-INTEGRATED ENERGY INC				RECEIVED:	12/22/82	JA: NM 4
8314553	NM-1451-82	3004320363		108		FEDERAL 26-22-7 #1
-JEROME P MCHUGH				RECEIVED:	12/22/82	JA: NM 4
8314449	NM-0943-82	3003920198		108		APACHE #3 DK & GL
8314450	NM-0933-82	3003920348		108		TIGER #1
-LIVELY EXPLORATION COMPANY				RECEIVED:	12/22/82	JA: NM 4
8314458	NM-1896-81	3004524455		108		LIVELY #17E
-LLANO INCORPORATED				RECEIVED:	12/22/82	JA: NM 4
8314409	NM 0015-82ER	3002500889		108-ER		PRICE FEDERAL "5" #2
-MARTIN YATES III				RECEIVED:	12/22/82	JA: NM 4
8314474	NM 1274-82	3001524134		103		ROBINSON FEDERAL #2
-MCCLELLAN OIL CORPORATION				RECEIVED:	12/22/82	JA: NM 4
8314386	NM-1519-82	3000560506		108		MCCLELLAN FEDERAL #1
8314385	NM-1518-82	3000560530		108		MCCLELLAN FEDERAL #2 NM-2581
-MCKAY OIL CORP				RECEIVED:	12/22/82	JA: NM 4
8314521	NM-149482107	3000561616		102-2	107-TF	HUSKY-MCKAY FEDERAL #1
-MERRION OIL & GAS CORP				RECEIVED:	12/22/82	JA: NM 4
8314423	NM-0186-82	3004320494		108		BADLAND FLATS #1
8314424	NM-0185-82	3004523923		108		CHACO #13
8314421	NM-0184-82	3004523924		108		CHACO #14
8314422	NM-0183-82	3004524612		108		CHACO LIMITED #3
8314419	NM-0182-82	3004524611		108		CHACO LIMITED #3-J
8314420	NM-0181-82	3004523694		108		HI ROLL #1-R
8314415	NM-0180-82	3004523839		108		RUBY #1
8314444	NM1125-82017	3004525376		107-TF		WARITO #1
-MESA PETROLEUM CO				RECEIVED:	12/22/82	JA: NM 4
8314533	NM-137382107	3000561656		102-2	107-TF	CAROL FEDERAL #3
8314541	NM-137582107	3000561658		102-2	107-TF	CHINA FEDERAL #11
8314540	NM-137682107	3000561659		102-2	107-TF	CHINA FEDERAL #12
8314504	NM-137882107	3000561669		102-2	107-TF	CHINA FEDERAL #14
8314524	NM-147282107	3000561085		102-2	107-TF	CHINA FEDERAL #2
8314532	NM-137482107	3000561627		102-2	107-TF	CHINA FEDERAL #6
8314505	NM1415-82107	3000561679		102-2	107-TF	CHINA FEDERAL COM #10
8314525	NM-147182107	3000561696		102-2	107-TF	DEBBIE FEDERAL #1
8314523	NM-147382107	3000561720		102-2	107-TF	DEBBIE FEDERAL #6
8314479	NM 1260-82-A	3004525287		103		GAGE 3M
8314472	NM 1260-82-B	3004525287		103		GAGE 3M DK
8314539	NM-137782107	3000561629		102-2	107-TF	KAREN FEDERAL #1
8314535	NM-137282107	3000561087		102-2	107-TF	MACHO FEDERAL #1
8314542	NM-137182107	3000561649		102-2	107-TF	MACHO FEDERAL #11
8314531	NM-137982107	3000561088		102-2	107-TF	MACHO FEDERAL #4
8314506	NM-141482107	3000561648		102-2	107-TF	MACHO FEDERAL COM #10
8314559	NM-141682107	3000561674		102-2	107-TF	SHELLY FEDERAL #1
8314425	NM-0227-82	3001523101		102-4		WILLIAMSON FEDERAL COM #2
-MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED:	12/22/82	JA: NM 4

FIELD NAME	PROD	PURCHASER
WEST KUTZ PICTURED CL	6.1	EL PASO NATURAL G
WILDCAT	548.0	EL PASO NATURAL G
WEST TONTO	0.0	GAS CO OF NEW MEX
SOUTH SALT LAKE MORRO	400.0	LLANO INC
RUSTY CHACRA EXTENSIO	198.6	SOUTHWEST GAS COR
BASIN DAKOTA & GALLUP	27.0	NORTHWEST PIPELIN
TAPACITO PICTURED CLI	12.0	NORTHWEST PIPELIN
BASIN DAKOTA	17.0	EL PASO NATURAL G
LUSK STRAWN	0.5	CONTINENTAL OIL C
LOCO HILLS-GRAYBURG	0.0	PHILLIPS PETROLEU
SAMS RANCH (GRAYBURG)	14.1	EL PASO NATURAL G
SAMS RANCH (GRAYBURG)	8.3	EL PASO NATURAL G
PECOS SLOPE ABO (GAS)	160.0	TRANSWESTERN PIPE
SOUTH BLANCO PICTURED	6.7	EL PASO NATURAL G
WAW FRUITLAND PICTURE	10.5	EL PASO NATURAL G
WAW/FRUITLAND PICTURE	1.2	EL PASO NATURAL G
WAW/FRUITLAND PICTURE	8.4	EL PASO NATURAL G
WAW/FRUITLAND PICTURE	12.6	EL PASO NATURAL G
WAW/FRUITLAND PICTURE	16.2	SOUTHWEST GAS COR
WAW FRUITLAND PICTURE	15.9	EL PASO NATURAL G
DUFERS POINT	64.0	NORTHWEST PIPELIN
UNDESIGNATED ABO	387.0	
UNDESIGNATED ABO	252.0	
UNDESIGNATED ABO	270.0	
UNDESIGNATED ABO	666.0	
UNDESIGNATED ABO	510.0	
UNDESIGNATED ABO	37.0	
UNDESIGNATED ABO	360.0	
UNDESIGNATED ABO	65.0	
UNDESIGNATED ABO	700.0	
MESAVERDE	621.0	EL PASO NATURAL G
BASIN DAKOTA	534.0	EL PASO NATURAL G
WILDCAT ABO	409.0	
UNDESIGNATED ABO	677.0	
UNDESIGNATED ABO	616.0	
UNDESIGNATED ABO	27.0	
UNDESIGNATED ABO	365.0	
UNDESIGNATED ABO	300.0	
DIAMOND MOUND ATOKA-M	253.0	NORTHERN NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8314536	NM-1350-82	3003906540		108		JICARILLA H #10
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	12/22/82	JA: NM 4
8314417	NM-0111-82-A	3003922754		103		SAN JUAN 30-5 #74 MV
8314416	NM-0111-82-B	3003922754		103		SAN JUAN 30-5 #74 PC
8314468	NM 1277-82	3003922757		103		SAN JUAN 31-6 #3A
8314431	NM 0169-82PB	3003920779		108-PB		SAN JUAN 31-6 UNIT #24
8314520	NM-1356-82	3004511000		108		SAN JUAN 32-8 UNIT 19
8314403	NM-1527-82	3004525130		107-TF		SAN JUAN 32-8 UNIT 47
-PERRY R BASS				RECEIVED:	12/22/82	JA: NM 4
8314551	NM-145882103	3001523578		103		BIG EDDY UNIT #83
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	12/22/82	JA: NM 4
8314427	NM-0215-82	3001523155		103		BERRY "A" FEDERAL #5
8314426	NM-0216-82	3001523517		103		BERRY "A" FEDERAL #6
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/22/82	JA: NM 4
8314381	NM-1513-82	3002502457		108		CRUCES #1
-ROBERT L BAYLESS				RECEIVED:	12/22/82	JA: NM 4
8314478	NM 1248-82	3004320645		103		JICARILLA 392 B #1
8314484	NM 1249-82	3004320644		103		JICARILLA 393 B #1
-SANDERS PETROLEUM CORP				RECEIVED:	12/22/82	JA: NM 4
8314545	NM-148382107	3000561142		102-2	107-TF	HUGGINS DRAW #1
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	12/22/82	JA: NM 4
8314391	NM-1499-82	3004524354		108		HODGES #1-Y
8314390	NM-1500-82	3004524328		108		HODGES #16
8314404	NM-1496-82	3003906447		108		JICARILLA "A" #4
8314382	NM 1497-82	3004511856		108		NEWSOM #18
8314384	NM-1498-82	3004524561		108		NEWSOM "A" #13
8314388	NM-1502-82	3004524472		108		NICKSON #18
8314389	NM-1501-82	3004523780		108		SUSCO FEDERAL #1
-SOUTHLAND ROYALTY CO				RECEIVED:	12/22/82	JA: NM 4
8314469	NM 1273-82	3004524946		103		BROWNING STEWART #6
8314493	NM-1118-82	3004522914		103		F J TITT #2-A
8314383	NM-1504-82	3004507266		108		ROBINSON #2
8314387	NM-1503-82	3004524150		108		STATE LINE #2
8314470	NM 1272-82-A	3004525389		103		TOMMY BOLACK #1E
8314471	NM 1272-82-B	3004525389		103		TOMMY BOLACK #1E
-TENNECO OIL COMPANY				RECEIVED:	12/22/82	JA: NM 4
8314406	NM-1490-82	3004513092		108		CORNELL C1
8314407	NM-1488-82	3004523977		108		FLORANCE 118
8314544	NM-1487-82	3004523976		108		FLORANCE 119
8314452	NM 0972-82	3004525307		103		FLORANCE 18R
8314445	NM 0841-82	3004524804		103		GIOMI COM A1R
8314405	NM-1491-82	3004511605		108		SCHWERDTFEGER A3
-TEXACO INC				RECEIVED:	12/22/82	JA: NM 4
8314410	NM 0018-82ER	3002500000		108-ER		C C FRATOR "B" FED #12
-W M GALLAWAY				RECEIVED:	12/22/82	JA: NM 4
8314418	NM 0011-82ER	3004502967		108-ER		DELLO #6
8314412	NM 0012-82ER	3004521002		108-ER		DELO #8
-YATES PETROLEUM CORPORATION				RECEIVED:	12/22/82	JA: NM 4
8314554	NM-1447-82	3001523371		102-3		BENSON DEEP UNIT #2
8314378	NM-133382107	3000561591		102-3	107-TF	BINNION "TT" FEDERAL #4
8314379	NM-133182107	3000561592		102-3	107-TF	CUMMINGS "TO" FEDERAL #1
8314459	NM1329-82107	3000560968		102-2	107-TF	GODFREY "MP" FEDERAL #3
8314377	NM-133482107	3000561619		102-2	107-TF	HAHN "NH" FEDERAL #4

FIELD NAME	PROD	PURCHASER
GAVALIN PICTURED CLIF	13.4	NORTHWEST PIPELIN
BLANCO MESAVERDE	72.4	NORTHWEST PIPELIN
GOBERNADOR PICTURED C	41.8	NORTHWEST PIPELIN
BLANCO MESAVERDE	152.0	NORTHWEST PIPELIN
BASIN DAKOTA	0.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	122.5	NORTHWEST PIPELIN
SAND POINT ATOKA	126.0	NATURAL GAS PIPEL
GRAYBURG-JACKSON SR-Q	0.4	PHILLIPS PETROLEU
GRAYBURG-JACKSON SR-Q	0.4	PHILLIPS PETROLEU
LYNCH-YATES-SEVEN RIV	1.0	EL PASO NATURAL G
BALLARD PIC CLIFFS	58.0	EL PASO NATURAL G
BALLARD PICTURED CLIF	60.0	EL PASO NATURAL G
PECOS SLOPE ABO (GAS)	100.0	TRANSWESTERN PIPE
BALLARD PICTURE CLIFF	12.0	GAS CO OF NEW MEX
BALLARD PICTURE CLIFF	10.0	GAS CO OF NEW MEX
TAPACITO PICTURE CLIF	12.0	GAS CO OF NEW MEX
BASIN DAKOTA	12.6	EL PASO NATURAL G
BALLARD PICTURE CLIFF	10.5	GAS CO OF NEW MEX
BALLARD PICTURE CLIFF	6.5	GAS CO OF NEW MEX
SOUTH GALLEGOS	2.2	EL PASO NATURAL G
AZTEC	155.0	SOUTHERN UNION GA
BLANCO	39.0	SOUTHERN UNION GA
BASIN	17.0	EL PASO NATURAL G
BASIN DAKOTA	18.0	EL PASO NATURAL G
BASIN	155.0	SOUTHERN UNION GA
FLORA VISTA	15.0	SOUTHERN UNION GA
BASIN DAKOTA	17.0	EL PASO NATURAL G
BASIN DAKOTA	18.0	EL PASO NATURAL G
BASIN DAKOTA	13.0	EL PASO NATURAL G
BLANCO MESAVERDE	500.0	SOUTHERN UNION GA
BLANCO PICTURED CLIFF	89.0	EL PASO NATURAL G
BASIN DAKOTA	51.0	NORTHWEST PIPELIN
JUATIO BLINEBRY	14.3	EL PASO NATURAL G
FULCHER KUTZ	2.0	SOUTHERN UNION GA
FULCHER KUTZ PICTURED	5.0	EL PASO NATURAL G
WILDCAT MORROW	0.0	
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
UND PECOS SOPE ABO	0.0	TRANSWESTERN PIPE
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8314561	NM-142082107	3000561652		102-3	107-TF	MONAGHAN BOYD FEDERAL #7

FIELD NAME	PROD	PURCHASER

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314561	NM-142082107	3000561652		102-2	107-TF	MONAGHAN "OY" FEDERAL #7	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8314549	NM-1457-82	3001523506		107-TF		MURPHY "NW" FED #1	EAGLE CREEK PERMO PEN	0.0	TRANSWESTERN PIPE
8314462	NM1321-82107	3000561593		102-3	107-TF	NORTH STURGEON "PR" FED #2	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8314538	NM-1338-82	3001524095		102-4		OAKASON "NV" FEDERAL #3	UND MORROW	0.0	TRANSWESTERN PIPE
8314380	NM-133082107	3000561548		102-2	107-TF	POWERS "OL" FEDERAL #6	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8314568	1419-82-107	3000561594		102-2	107-TF	THOMAS "LN" FEDERAL #6	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8314476	NM 1263-82	3000520866		103		UNION "SI" FEDERAL #2	UND TOMAHAWK SA	0.0	CITIES SERVICE CO
-ZIA ENERGY INC				RECEIVED:	12/22/82	JA: NM 4			
8314413	NM 0017-82ER	3002504345		108-ER		ELLIOTT FEDERAL COMM #2	EUMONT YATES 7 RIVERS	21.9	EL PASO NATURAL G
-MULTISTATE OIL PROPERTIES NV				RECEIVED:	12/22/82	JA: OK 4			
8314453	OKA-0946-82	3501922556		103		SOUTH GRAHAM DEESE SAND UNIT #26-7A	SHO-VEL-TUM	8.0	MOBIL OIL CORP
8314457	OKA-1005-82	3501922520		103		SOUTH GRAHAM DEESE SAND UNIT 25A-9A	SHO-VEL-TUM	9.0	MOBIL OIL CORP
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/22/82	JA: OK 4			
8314477	OKA 1261-82	3501921420		103		EAST BINGER UNIT #24-2	EAST BINGER	0.0	OKLAHOMA NATURAL
-SAMSON RESOURCES COMPANY				RECEIVED:	12/22/82	JA: OK 4			
8314441	NM1035-82103	3512120804		103		ARMY UNIT #1	ASHLAND	219.0	ARKANSAS LOUISIAN
8314440	OKA103682103	3512120849		103		NAVY UNIT #1	EAST ASHLAND	177.9	ARKANSAS LOUISIAN
-TENNECO OIL COMPANY				RECEIVED:	12/22/82	JA: OK 4			
8314508	OKA-1398-82	3503920776		102-2		WALKING WOMAN 1-31	NORTH WEATHERFORD	118.8	
-TEXAS EMPIRE EXPLORATION CORP				RECEIVED:	12/22/82	JA: OK 4			
8314552	OKA-1456-82	3512120950		102-2		RAMSEY #1-14		0.0	

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1787 Filed 1–21–83; 8:45 am]

BILLING CODE 6717–01–M

[Volume 814]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 18, 1983.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
INDIANA DEPARTMENT OF NATURAL RESOURCES									
-INDIANA FARM BUREAU COOPERATIVE ASS			RECEIVED:	12/22/82		JA: IN			
8314572		1314720592		102-4		BEATRICE SCHNACKE #1	RICHLAND CITY NORTH	182.5	
8314573		1314720599		102-4		BEATRICE SCHNACKE #2	RICHLAND CITY NORTH	350.0	
KANSAS CORPORATION COMMISSION									
-W B OSBORN JR (OPERATOR)			RECEIVED:	12/23/82		JA: KS			
8314571	K-82-0680	1509320761		102-2		ELLIS #1-H	HUGOTON	50.0	PANHANDLE EASTERN
NORTH DAKOTA INDUSTRIAL COMMISSION									
-DIAMOND SHAMROCK CORPORATION			RECEIVED:	12/22/82		JA: ND			
8314562	663	3300700526		102-2		RAUCH SHAPIRO #21-5	WILDCAT	61.0	KOCH HYDROCARBON
-JERRY CHAMBERS EXPLORATION CO			RECEIVED:	12/22/82		JA: ND			
8314563	664	3300700806		102-2		CONNELL FEE 6-22	BUCKHORN	1.8	KOCH HYDROCARBONS
-RANGER OIL CO			RECEIVED:	12/22/82		JA: ND			
8314570	671	3305301404		102-3		ROC-ELLESTAD #9-35	WILDCAT (CAMEL BUTTE	544.0	AMINOIL USA
-TENNECO OIL COMPANY			RECEIVED:	12/22/82		JA: ND			
8314564	665	3300700859		102-2		AMERADA STATE 3-16	ANDERSON COULEE	416.0	MONTANA DAKOTA UT
-TEXACO INC			RECEIVED:	12/22/82		JA: ND			
8314566	667	3305301534		102-3		C M LODMER #5	BLUE BUTTES	163.0	MONTANA DAKOTA UT
8314568	669	3305301535		102-3		G V LEVANG "B" #1	BLUE BUTTES	92.8	MONTANA-DAKOTA UT
8314569	670	3310500957		102-3		SLETTE-STANGELAND (NCT-1) B 1	WILLOW CREEK	0.0	MONTANA-DAKOTA UT
-TOM BROWN INC			RECEIVED:	12/22/82		JA: ND			
8314565	666	3305301562		102-2		BRATCHER STATE 10-24	OUTPOST TO ALEXANDER	0.0	PHILLIPS PETROLEU
-UNIVERSAL RESOURCES CORPORATION			RECEIVED:	12/22/82		JA: ND			
8314567	668	3305300000		102-3		T K UNIT 1-30	KEENE	0.0	AMINOIL USA INC
OHIO DEPARTMENT OF NATURAL RESOURCES									
-AMERICAN WELL MANAGEMENT COMPANY			RECEIVED:	12/23/82		JA: OH			
8314581		3408923567		108		JOHNSON #1		3.6	COLUMBIA GAS TRAN
8314582		3408923570		108		JOHNSON #2		3.6	COLUMBIA GAS TRAN
8314583		3408923571		108		JOHNSON #3		3.6	COLUMBIA GAS TRAN
8314585		3408923964		108		OLA PALMER #1		5.5	COLUMBIA GAS TRAN
8314584		3408923963		108		OLA PALMER #2		5.5	COLUMBIA GAS TRAN
-ATHENS COUNTY INVESTORS			RECEIVED:	12/23/82		JA: OH			
8314586		3416727198		107-DV		ROY MOORE #1	LUDLOW	54.0	COLUMBIA GAS TRAN
-ATLAS ENERGY GROUP INC			RECEIVED:	12/23/82		JA: OH			
8314587		3415521537		103	107-TF	MINES #2	HOWLAND	0.0	COLUMBIA GAS TRAN
-CUYAHOGA EXPLORATION & DEVELOPMENT			RECEIVED:	12/23/82		JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314588		3412122782		107-DV		HERMAN BROCK #3	ELK	18.3	
-DORAN & ASSOCIATES INC				RECEIVED:	12/23/82	JA: OH			
8314593		3408720292		107-DV		BERKLEY E BRUCE #1	PERRY	12.0	COLUMBIA GAS TRAN
8314592		3408720290		107-DV		CARL HESSON #1	FAYETTE	12.0	COLUMBIA GAS TRAN
8314591		3408720289		107-DV		ELMER SITES #1	LAURENCE	12.0	COLUMBIA GAS TRAN
8314589		3408720285		107-DV		HAROLD PETTY #1	FAYETTE	12.0	COLUMBIA GAS TRAN
8314595		3408720304		107-DV		JUNE A SENNEY #1	WINDSOR	12.0	COLUMBIA GAS TRAN
8314590		3408720286		107-DV		PERRY BRAMMER #1	PERRY	12.0	COLUMBIA GAS TRAN
8314594		3408720294		107-DV		RALPH ASBURY #1	KITTS HILL	12.0	COLUMBIA GAS TRAN
8314596		3408720325		107-DV		TIM BRYANT #1	PERRY	12.0	COLUMBIA GAS TRAN
-FORAKER PRODUCING COMPANY INC				RECEIVED:	12/23/82	JA: OH			
8314597		3412724029		108		WOLFE #1		7.0	
-JOHN F WILLIAMS				RECEIVED:	12/23/82	JA: OH			
8314641		3407521344		108		BOYD #2		10.0	COLUMBIA GAS TRAN
8314642		3407521357		108		BOYD #4		2.0	COLUMBIA GAS TRAN
-KENSINGTON INVESTORS LTD				RECEIVED:	12/23/82	JA: OH			
8314598		3416726285		107-DV		EVERETT MOORE #2	GRANDVIEW	32.0	COLUMBIA GAS TRAN
-L & M PETHOLEUM INC				RECEIVED:	12/23/82	JA: OH			
8314600		3412725681		107-TF		BLAINE/SHARSHALL #6	SALT LICK	10.0	COLUMBIA GAS TRAN
8314599		3412725589		107-TF		ROBERT JEWITT #2	SALT LICK	10.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED:	12/23/82	JA: OH			
8314602		3405520366		107-TF		J PAPESCH #1	AUBURN	30.0	YANKEE RESOURCES
8314601		3405520365		107-TF		T DWYER UNIT #1	AUBURN	30.0	YANKEE RESOURCES
8314603		3405520384		107-TF		W RAJEWSKI #1	BURTON	36.0	YANKEE RESOURCES
-MAJ				RECEIVED:	12/23/82	JA: OH			
8314606		3414520284		107-DV		AUTIE & ELIZA CONLEY #3	MADISON	0.4	
8314608		3414520287		107-DV		CLETIS & INEZ DUMMITT #3	MADISON	0.6	
8314607		3414520286		107-DV		CLETIS INEZ DUMMITT #2	MADISON	1.1	
8314605		3414520275		107-DV		DONALD HACKWORTH #1	MADISON	0.7	
8314604		3413120077		107-DV		JAMES & BETTY MCGUIRE #1	SCIOTO	0.4	
-MURPHY OIL CO				RECEIVED:	12/23/82	JA: OH			
8314609		3410521850		108		HAYES #1		0.0	COLUMBIA GAS TRAN
-PINE TOP ESTATES PARTNERSHIP				RECEIVED:	12/23/82	JA: OH			
8314611		3415321202		103	107-TF	T R KELLY & M G KELLY	BATH	0.0	EAST OHIO GAS CO
-POI ENERGY INC				RECEIVED:	12/23/82	JA: OH			
8314610		3415521042		108		MCGARRY #1		4.0	COLUMBIA GAS TRAN
-POMINEX INC				RECEIVED:	12/23/82	JA: OH			
8314612		3409921533		103	107-TF	SWARTZ UNIT #1	CANFIELD	18.0	
-POTOMAC VALLEY INVESTORS				RECEIVED:	12/23/82	JA: OH			
8314613		3416727236		107-DV		JOYCE SIMPSON #1	NEWPORT	25.0	RIVER GAS CO
-RIMCO OPERATING INC				RECEIVED:	12/23/82	JA: OH			
8314614		3416923384		103	107-TF	YOUNKERS #1	CANAAN	12.0	COLUMBIA GAS TRAN
-SANDHILL ENERGY INC (OH)				RECEIVED:	12/23/82	JA: OH			
8314615		3411122880		107-DV		MANSFIELD #8	BENTON	18.3	
-SOUTHERN TRIANGLE OIL CO INC				RECEIVED:	12/23/82	JA: OH			
8314618		3412723587		108		HILLIS #1		1.0	COLUMBIA GAS TRAN
8314616		3412723585		108		HILLIS #2		1.0	COLUMBIA GAS TRAN
8314617		3412723586		108		HILLIS #3		1.0	COLUMBIA GAS TRAN
-TIGER OIL INC				RECEIVED:	12/23/82	JA: OH			
8314619		3411122943		107-DV		BRADFIELD B-2	JACKSON	20.0	RIVER GAS CO
-TRISTAR PETROLEUM RESOURCES				RECEIVED:	12/23/82	JA: OH			
8314634		3407920158		107-DV		BILL R GOBLE #1	SCIOTO	1.8	
8314636		3407920162		107-DV		EDGAR CRABTREE #1	SCIOTO	2.2	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314626		3407920147		107-DV		EENA J ADAMS #1	SCIOTO	0.2	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314626		3407920147		107-DV		EENA J ADAMS #1	SCIOTO	0.2	
8314629		3407920152		107-DV		FRANK A HATTEN JR #1	SCIOTO	1.8	
8314633		3407920157		107-DV		HOWARD HOOVER #1	SCIOTO	5.5	
8314632		3407920155		107-DV		JERRY HENDERSON #1	SCIOTO	2.6	
8314635		3407920159		107-DV		KERMIT E GAHM #1	SCIOTO	1.1	
8314627		3407920149		107-DV		MARY MISNER #1	SCIOTO	1.5	
8314628		3407920150		107-DV		OTIS L LAYNE #1	SCIOTO	0.9	
8314624		3407920144		107-DV		RICHARD CORIELL #1	HAMILTON	0.4	
8314625		3407920145		107-DV		RICHARD CORIELL #2	HAMILTON	1.8	
8314637		3407920163		107-DV		ROBERT LEONARD #1	SCIOTO	3.7	
8314630		3407920153		107-DV		RODNEY MARHOOVER #1	SCIOTO	3.7	
8314631		3407920154		107-DV		RODNEY MARHOOVER #2	SCIOTO	1.8	
-UNITED PETROLEUM CORP				RECEIVED:	12/23/82	JA: OH			
8314638		3409920766	D	107-TF		DEMES #1	ELLSWORTH	0.0	AMERICAN ENERGY S
-WHITACRE ENTERPRISES				RECEIVED:	12/23/82	JA: OH			
8314639		3411122909		107-DV		H MCDONALD #2	WASHINGTON	10.0	COLUMBIA GAS TRAN
-WHITACRE OIL CO				RECEIVED:	12/23/82	JA: OH			
8314640		3411122918		107-DV		A WHITACRE #3	WASHINGTON	6.0	COLUMBIA GAS TRAN
-WILLIAM N TIPKA				RECEIVED:	12/23/82	JA: OH			
8314622		3410323180		107-TF		CARL MYERS #3	SHARON	10.0	BARTLO OIL & GAS
8314623		3415723615		107-TF		ROBINSON #1	OXFORD	30.0	COLUMBIA GAS TRAN
8314621		3410323105		107-TF		SHARON ACRES INC #3	SHARON	10.0	BARTLO OIL & GAS
8314620		3405923301		107-TF		SIMMONS #1	WASHINGTON	8.0	LIBBEY-OWENS-FORD
-ZENITH OIL & GAS INC				RECEIVED:	12/23/82	JA: OH			
8314643		3411924983		107-TF		MCKEE #1	NASHPORT	1.5	NATIONAL GAS & OI
8314645		3411925406		107-TF		MCKEE #2	NASHPORT	1.5	NATIONAL GAS & OI
8314644		3411925359		107-TF		WHEELER-MCKEE #1	NASHPORT	1.5	NATIONAL GAS & OI
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-AMADARKO PRODUCTION COMPANY				RECEIVED:	12/21/82	JA: OK			
8314720	18486	3513921596		103		ULLOM "A" #3	FOSTLE	91.0	PANHANDLE EASTERN
-ANCHORAGE OIL & GAS INC				RECEIVED:	12/21/82	JA: OK			
8314700	18561	3501121701		103		NUSZ #1	N E OKEENE	1.4	PHILLIPS PETROLEU
-ANDOVER OIL COMPANY				RECEIVED:	12/21/82	JA: OK			
8314678	18725	3501722140		102-2		ADAMS PARK #7-2		180.0	DELHI GAS PIPELIN
8314648	18489	3507323510		103		FOX #20-1		180.0	PHILLIPS PETROLEU
-APACHE CORPORATION				RECEIVED:	12/21/82	JA: OK			
8314653	18502	3512920767		103		SPROWLS #1-5		273.0	EL PASO NATURAL G
-APOLLO PRODUCTION LTD				RECEIVED:	12/21/82	JA: OK			
8314713	18712	3507322595		103		GRUMMER #24-4	OKARCHE	41.7	PHILLIPS PETROLEU
8314714	18710	3507322597		103		TUTTY 25-2	OKARCHE	12.8	PHILLIPS PETROLEU
-BLACK EAGLE EXPLORATION CO				RECEIVED:	12/21/82	JA: OK			
8314656	18514	3511122982		103		SPANISH PEAK #1		25.6	PHILLIPS PETROLEU
-BOGERT OIL CO				RECEIVED:	12/21/82	JA: OK			
8314650	18491	3508322033		103		BEECHER #1-19	SOONER TREND	39.0	EASON OIL CO
8314674	18619	3508322103		103		JECH #1-35	SOONER TREND	225.0	CONOCO INC
8314649	18490	3507323459		103		OPPEL 1-2	SOONER TREND	90.0	PHILLIPS PETROLEU
-BRAXTON OIL AND GAS CORP				RECEIVED:	12/21/82	JA: OK			
8314647	18488	3507122536		103		STATE #2	NORTHEAST PECKHAM	50.0	CHASE EXPLORATION
-C L & S OIL CO INC				RECEIVED:	12/21/82	JA: OK			
8314689	18522	3510321684		103		KARCHER #1	WEST PERRY	30.0	ARCO OIL & GAS CO
-CHAMPLIN EXPLORATION INC				RECEIVED:	12/21/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8314675	18707	3504321361		102-4		SINGLETON #2
				RECEIVED:	12/21/82	JA: OK
-CLARK RESOURCES INC						
8314718	18495	3505320914		103		HAMILTON 6-1
8314704	18541	3507323575		103		KRAUS 29-1
				RECEIVED:	12/21/82	JA: OK
-CLAY MOORE						
8314707	18451	3510920579		103		V DULANEY #1-C
				RECEIVED:	12/21/82	JA: OK
-COLA PETROLEUM INC						
8314671	18416	3502720511		103		DIVIS #1
				RECEIVED:	12/21/82	JA: OK
-COTTON PETROLEUM CORPORATION						
8314665	18464	3500722258		103		GOSSEN #1
				RECEIVED:	12/21/82	JA: OK
-DEM OPERATIONS						
8314679	18469	3505300000		103		MARY ANN #1
				RECEIVED:	12/21/82	JA: OK
-DIAMOND SHAMROCK CORPORATION						
8314677	18718	3504321314		102-2		J NOLAN GRAYBILL #1-32
8314676	18717	3504321281		102-2		ORVILLE WALTON "C" #1
				RECEIVED:	12/21/82	JA: OK
-DOUBLE EAGLE OIL & GAS CO INC						
8314697	18284	3507323348		103		CLINE 1-18
				RECEIVED:	12/21/82	JA: OK
-DYCO PETROLEUM CORPORATION						
8314695	17922	3503920648		103		CHITTENDEN #1-18
				RECEIVED:	12/21/82	JA: OK
-ELDER & VAUGHN						
8314692	18692	3500721667		103		OYLER #1
				RECEIVED:	12/21/82	JA: OK
-ESTATE OF H L HUNT						
8314664	18460	3509322445		103		BURLISON #1
				RECEIVED:	12/21/82	JA: OK
-GEORGE RODMAN INC						
8314663	18485	3504921752		102-4		BRIDWELL #1-24
				RECEIVED:	12/21/82	JA: OK
-GREEN OPERATING CO						
8314716	18498	3508121738		102-4	103	GARRETT #11-1
				RECEIVED:	12/21/82	JA: OK
-H E & G INC						
8314673	18323	3508720679		103		PYBAS #1-A
				RECEIVED:	12/21/82	JA: OK
-HARPER OIL COMPANY						
8314666	18459	3504723081		103		ALLEN-MORRISON #2
				RECEIVED:	12/21/82	JA: OK
-HAWKINS OIL & GAS INC						
8314696	18214	3515321325		103		STARK #1-2A
				RECEIVED:	12/21/82	JA: OK
-HPC INC						
8314694	17468	3503920413		103		DON MCNEIL #2-22
				RECEIVED:	12/21/82	JA: OK
-HUNTON OIL & GAS CORP						
8314699	18450	3508300000		103		GEM-BECKET #1
				RECEIVED:	12/21/82	JA: OK
-INCLINE PRODUCTION CO						
8314657	18526	3503723963		103		OKLAHOMA BRICK #1
8314658	18527	3503723979		103		OKLAHOMA BRICK #2
8314659	18528	3503724018		103		OKLAHOMA BRICK #3
				RECEIVED:	12/21/82	JA: OK
-INEXCO OIL COMPANY						
8314660	18654	3503920623		102-2		WHITE #1-11
				RECEIVED:	12/21/82	JA: OK
-J W ALBRITTON						
8314684	18606	3512321838		103		PRICE #1
				RECEIVED:	12/21/82	JA: OK
-JERRY SCOTT DRILLING CO INC						
8314672	18375	3506321557		103		ECKLES #1
				RECEIVED:	12/21/82	JA: OK
-JIMMY W GRAY						
8314702	18553	3504921882		103		DENNIS #1
				RECEIVED:	12/21/82	JA: OK
-KELLOIL INC						
8314670	18418	3500722888		103		ZIMMERMAN #1
				RECEIVED:	12/21/82	JA: OK
-LARIO OIL & GAS COMPANY						
8314709	18151	3504921695		103		THOMPSON #3

FIELD NAME	PROD	PURCHASER
NORTHEAST KREMLIN	0.0	CRA INC
	50.0	CITIES SERVICE GA
SOONER TREND	55.0	CITIES SERVICE GA
S E GARDEN	85.0	SUN EXPLORATION &
WEST MOORE	11.0	SUN GAS CO
NORTH BALKO	0.0	INTERNORTH INC
	50.0	CRA INC
LEEDY SW	14.0	
UNDESIGNATED	74.0	
SOONER TREND	0.0	PHILLIPS PETROLEU
	0.0	TRANSOK PIPELINE
UNALLOCATED	40.0	INTER NORTH INC
DANE	120.0	DELHI GAS PIPELIN
GOLDEN TREND	0.0	WARREN PETROLEUM
SOUTHWEST MT VERNON	85.0	SUN EXPLORATION &
NW IRON CHAPEL	0.0	SUN GAS CO
NORTH ENID	127.0	CHAMPLIN PETROLEU
S WOODWARD	1095.0	PRODUCERS GAS CO
THOMAS SOUTH	0.0	TRANSOK PIPELINE
S CRESCENT	0.0	CONOCO INC
MOUNDS DISTRICT	73.0	PHILLIPS PETROLEU
MOUNDS DISTRICT	10.0	PHILLIPS PETROLEU
MOUNDS DISTRICT	54.0	PHILLIPS PETROLEU
UNDESIGNATED	274.0	EL PASO NATURAL G
NORTH ADA	18.3	ARKANSAS LOUISIAN
GREASY CREEK	0.0	
ANTIOC	40.0	WARREN PETROLEUM
	9.0	PHILLIPS PETROLEU
WEST WHITEBEAD	26.5	BUCKEYE NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8314710	18149	3504921836		103		THOMPSON #5

FIELD NAME	PROD	PURCHASER
WEST WHITEBEAD	71.1	BUCKEYE NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314710	18149	3504921836		103		THOMPSON #5	WEST WHITEBEAD	71.1	BUCKEYE NATURAL G
-LEEMAN ENERGY CORP				RECEIVED:	12/21/82	JA: OK			
8314717	18497	3504921826		103		KRAMER #1	NE ANTIOCH	36.0	WARREN PETROLEUM
-MACK OIL CO				RECEIVED:	12/21/82	JA: OK			
8314708	18423	3505320823		103		KRETCHMAR #1		35.0	
8314681	18467	3504723025		103		LORENA #1	E HUNTER	70.0	
-MAHAN-ROWSEY INC.				RECEIVED:	12/21/82	JA: OK			
8314646	18476	3504921903		103		BRADY #2		274.0	WARREN PETROLEUM
-MARCUS EXPLORATION INC				RECEIVED:	12/21/82	JA: OK			
8314652	18500	3510321703		103		CARRIER #1	GANSEL	13.0	ARCO OIL & GAS CO
8314651	18499	3510321703		103		MEYER #1	GANSEL	50.8	ARCO OIL & GAS CO
-MAY PETROLEUM INC				RECEIVED:	12/21/82	JA: OK			
8314687	18609	3504722780		103		MAYS #1		0.0	
-MOBIL OIL CORP				RECEIVED:	12/21/82	JA: OK			
8314719	18463	3513921602		103		MACKAY (RNG 179) UNIT #2	GUYMON-HUGOTON	40.0	CITIES SERVICE GA
-MORAN EXPLORATION INC				RECEIVED:	12/21/82	JA: OK			
8314705	18539	3501722253		103		FRY #2	SOUTHWEST YUKON	0.0	PHILLIPS PETROLEU
8314680	18466	3501722831		103		O G & E #2	WEST OKARCHE	0.0	PHILLIPS PETROLEU
-OUACHITA EXPLORATION INC				RECEIVED:	12/21/82	JA: OK			
8314721	18515	3505121261		103		BENTLEY #1	EAST CEMENT	73.0	TRANSOK PIPELINE
8314722	18516	3505121263		103		BENTLEY #2	EAST CEMENT	100.0	TRANSOK PIPELINE
-PELTO OIL CO				RECEIVED:	12/21/82	JA: OK			
8314667	18458	3510721203		103		COLLINS #2	IRON POST	300.0	KERR-MCGEE CORP
-R W MONCRIEF INC				RECEIVED:	12/21/82	JA: OK			
8314712	21645	3501500000		107-DP		STALDER 1-24		365.0	TENNESSEE GAS PIP
-RATLIFF EXPLORATION CO				RECEIVED:	12/21/82	JA: OK			
8314690	18663	3510920597		102-4		CLARKLAND #28-1	WHEATLAND	0.0	CONOCO INC
8314691	18664	3510920542		102-2		MISTLETOE #1	NE MUSTANG	0.0	MOBIL OIL CORP
-RICKS EXPLORATION CO				RECEIVED:	12/21/82	JA: OK			
8314706	18461	3507920425		103		BRIDGES 20A	SUNSET CORNER	45.0	ARKANSAS LOUISIAN
-SENECA OIL COMPANY				RECEIVED:	12/21/82	JA: OK			
8314715	18693	3504321410		102-2	103	MARTIN #1-33		211.7	
-SK RESOURCES INC				RECEIVED:	12/21/82	JA: OK			
8314703	18552	3508321902		103		HOPFER #1	WEST MULHALL	7.3	EASON OIL CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/21/82	JA: OK			
8314693	18694	3512920628		102-2		RALPH J BECKNER ESTATE #1	WILDCAT	631.0	TRANSWESTERN PIPE
-TEXACO INC				RECEIVED:	12/21/82	JA: OK			
8314661	18658	3507323617		102-4		K SCHROEDER #2	OKARCHE NE	0.0	CONOCO INC
8314662	18660	3507323608		102-4		SOUTHWEST TITLE & TRUST UNIT #2	OKARCHE N E	0.0	CONOCO INC
-TEXASGULF INC				RECEIVED:	12/21/82	JA: OK			
8314686	18613	3511721392		103		DOOLIN 1-15	SOUTH HALLET	95.0	EMPIRE PIPELINE C
8314683	18602	3511721379		103		TAYLOR 1-18	NORTH HALLETT	2.0	EMPIRE PIPELINE C
8314688	18614	3511721360		103		THOMAS #1-15	SOUTH HALLETT	9.0	EMPIRE PIPELINE C
-TRIAD ENERGY INC				RECEIVED:	12/21/82	JA: OK			
8314682	18492	3510321669		103		SCHULZ #1	PERRY DIST	22.0	
-UNION OIL COMPANY OF CALIF				RECEIVED:	12/21/82	JA: OK			
8314669	18420	3501922398		103		SIMMONS #1-18	S E JOINER	150.0	LONE STAR GAS CO
-VULCAN ENERGY CORP				RECEIVED:	12/21/82	JA: OK			
8314698	18413	3507323409		103		MARKUS #2	SOONER TREND	146.0	PHILLIPS PETROLEU
-WARD PETROLEUM CORP				RECEIVED:	12/21/82	JA: OK			
8314685	18607	3504321483		103		LEWIS #1	WEST CANTON	185.0	MUSTANG FUEL CORP
8314668	18455	3509332240		103		SLEMMER #1	AMES AREA	165.0	PHILLIPS PETROLEU
-WARREN DRILLING CO INC				RECEIVED:	12/21/82	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8314654	18512	3509322495		103		FOSTER #2
8314655	18513	3507323431		103		ISHLER #1
-WELDON BRUCE				RECEIVED:	12/21/82	JA: OK
8314701	18559	3505121040		103		BOSWELL #1
-WESTHEIMER-NEUSTADT CORP				RECEIVED:	12/21/82	JA: OK
8314711	17856	3505921134		103		BEST #1
**********						
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA						
**********						
-CNG PRODUCING COMPANY				RECEIVED:	12/23/82	JA: LA 3
8314723	G2-2643	1770240679		102-5		A-12S1
8314740	G2-2650	1770240632	D	102-5		A-2S1
-EXXON CORPORATION				RECEIVED:	12/23/82	JA: LA 3
8314742	G2-3278	1770840530		102-1		OCS-G 4109 #A-2
8314726	G2-3029	1771740135		102-5		OCS-032 #3
-GULF OIL CORPORATION				RECEIVED:	12/23/82	JA: LA 3
8314743	G2-2932	1771540394		102-5		OCS-G 1256 #B-4 S/T
8314766	G2-2851	1771540391		102-5		OCS-G 1256 #B-5
8314751	G2-3271	1772440228		102-1		OCS-G 4127 WELL A-1 M/F BLK 311
8314725	G2-3270	1771540406		102-1		OCS-G 4463 #A-1
-MOBIL OIL EXPLORATION & PROD S E				RECEIVED:	12/23/82	JA: LA 3
8314745	G2-3291	1771040933		102-1		EUGENE ISLAND 354 #A - 8A
-ODECO OIL & GAS CO				RECEIVED:	12/23/82	JA: LA 3
8314753	G2-2817	1771140616		102-5		OCS-064 #47E
8314755	G2-3144	1771140647		102-5		OCS-069 #9A
-PENNZOIL COMPANY				RECEIVED:	12/22/82	JA: LA 3
8314578	G2-3009	1772240059		102-5		SOUTH PASS 78 #A-10
8314574	G2-3012	1772240059		102-5		SOUTH PASS 78 #A-10D
8314580	G2-3013	1772240060		102-5		SOUTH PASS 78 #A-11
8314577	G2-3313	1772240045		102-5		SOUTH PASS 78 #A-6A
8314576	G2-3008	1772240054		102-5		SOUTH PASS 78 #A-9
8314575	G2-3007	1772240054		102-5		SOUTH PASS 78 #A-9A
-PENNZOIL COMPANY				RECEIVED:	12/23/82	JA: LA 3
8314760	G2-3010	1772240059		102-5		SOUTH PASS 78 #A-10A
8314758	G2-3011	1772240059		102-5		SOUTH PASS 78 #A-10B
8314741	G2-3014	1772240060		102-5		SOUTH PASS 78 #A-11D
8314764	G2-3015	1772240069		102-5		SOUTH PASS 78 #A-12
8314736	G2-3016	1772240069		102-5		SOUTH PASS 78 #A-12D
8314762	G2-3312	1772240045		102-5		SOUTH PASS 78 #A-6
-SHELL OFFSHORE INC				RECEIVED:	12/23/82	JA: LA 3
8314731	G2-2702	1760817401		102-5		MC BLK 194 FLD OCS-G 2638 #A-10
8314733	G2-2704	1760817401		102-5		MC BLK 194 OCS-G 2643 #A-57
8314746	G2-2703	1760817400		102-5		MC 194 OCS-G 2643 #A-15
-SUPERIOR OIL CO				RECEIVED:	12/23/82	JA: LA 3
8314748	G2-3151	1770040450		107-DP		OCS-0247 #11
-TENNECO OIL COMPANY				RECEIVED:	12/23/82	JA: LA 3
8314727	G2-2818	1773140016		102-1		SABINE PASS 11 #A-1
8314744	G2-3285	1770540527		102-1		VERMILION BLOCK 28 #1
8314756	G2-3026	1770240680		102-1		WEST CAMERON 493 #B-2
8314738	G2-3027	1770240680		102-1		WEST CAMERON 493 #B-2D
-TRANSCO EXPLORATION COMPANY				RECEIVED:	12/23/82	JA: LA 3
8314730	G2-2766	1770840435		102-5		#7
-AMINOIL USA INC				RECEIVED:	12/23/82	JA: TX 3

FIELD NAME	PROD	PURCHASER
RINGWOOD	80.0	PHILLIPS PETROLEU
SOONER TREND	12.0	ONG WESTERN INC
	72.0	OKLAHOMA NATURAL
S W BUFFALO	100.0	
WEST CAMERON	1200.0	COLUMBIA GAS TRAN
WEST CAMERON	1600.0	COLUMBIA GAS TRAN
SOUTH MARSH ISLAND	4000.0	COLUMBIA GAS TRAN
GRAND ISLE	200.0	COLUMBIA GAS TRAN
SOUTH TIMBALIER	145.0	TEXAS EASTERN TRA
SOUTH TIMBALIER	220.0	TEXAS EASTERN TRA
MAIN PASS	0.0	SOUTHERN NATURAL
SOUTH TIMBALIER	1642.0	TEXAS EASTERN TRA
EUGENE ISLAND	94.0	SEA ROBIN PIPELIN
SHIP SHOAL 113 FIELD	110.0	TRANSCONTINENTAL
SHIP SHOAL 113 FIELD	550.0	TRANSCONTINENTAL
SOUTH PASS	219.0	UNITED GAS PIPE L
SOUTH PASS	0.0	UNITED GAS PIPE L
SOUTH PASS	164.0	UNITED GAS PIPE L
SOUTH PASS AREA	3830.0	UNITED GAS PIPE L
SOUTH PASS	219.0	UNITED GAS PIPE L
SOUTH PASS	219.0	UNITED GAS PIPE L
SOUTH PASS	219.0	UNITED GAS PIPE L
SOUTH PASS	219.0	UNITED GAS PIPE L
SOUTH PASS	219.0	UNITED GAS PIPE L
SOUTH PASS	600.0	UNITED GAS PIPE L
SOUTH PASS	219.0	UNITED GAS PIPE L
SOUTH PASS	219.0	UNITED GAS PIPE L
SOUTH PASS AREA	2740.0	UNITED GAS PIPE L
MISSISSIPPI CANYON	0.0	SOUTHERN NATURAL
MISSISSIPPI CANYON	0.0	SOUTHERN NATURAL
MISSISSIPPI CANYON	0.0	SOUTHERN NATURAL
WEST CAMERON	3000.0	MICHIGAN-WISCONSI
SABINE PASS	330.0	TENNESSEE GAS PIP
VERMILION	730.0	TENNESSEE GAS PIP
WEST CAMERON 493	0.0	
WEST CAMERON 493	0.0	
SOUTH MARSH ISLAND	3650.0	TRANSCONTINENTAL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8314729	G2-2741	4271140444		102-5		OCS-G-3285 #B-11A
-ELF AQUITAINE INC				RECEIVED:	12/23/82	JA: TX 3

FIELD NAME	PROD	PURCHASER
WEST CAMERON BLOCK	312.0	NATURAL GAS PIPEL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8314729	G2-2741	4271140444		102-5		OCS-G-3286 #B-11A	WEST CAMERON BLOCK	312.0	NATURAL GAS PIPEL
-ELF AQUITAINE INC				RECEIVED:	12/23/82	JA: TX 3			
8314759	G2-3260	4270540069		102-1		OCS-G-3940 #A-1	BRAZOS	5568.0	SOUTHERN NATURAL
8314724	G2-3261	4270540076		102-1		OCS-G-3940 #A-2	BRAZOS	5568.0	SOUTHERN NATURAL
8314761	G2-3262	4270540077		102-1		OCS-G-3940 #A-4	BRAZOS	5568.0	SOUTHERN NATURAL
-TENNECO OIL COMPANY				RECEIVED:	12/23/82	JA: TX 3			
8314765	G2-2923	4271540014		102-1		SABINE PASS 18 #A-5	SABINE PASS	5000.0	TENNESSEE GAS PIP
-TRANSCO EXPLORATION COMPANY				RECEIVED:	12/22/82	JA: TX 3			
8314579	G2-2729	4271340019		102-5		#A-2	NORTH PADRE ISLAND	1095.0	TRANSCONTINENTAL
-TRANSCO EXPLORATION COMPANY				RECEIVED:	12/23/82	JA: TX 3			
8314732	G2-2727	4271340018		102-5		#A-1	NORTH PADRE ISLAND	1095.0	TRANSCONTINENTAL
8314752	G2-2728	4271340018		102-5		#A-1D	NORTH PADRE ISLAND	1507.0	TRANSCONTINENTAL
8314757	G2-2739	4271340028		102-5		#A-10	NORTH PADRE ISLAND	2738.0	TRANSCONTINENTAL
8314739	G2-2740	4271340023		102-5		#A-12	NORTH PADRE ISLAND	731.0	TRANSCONTINENTAL
8314728	G2-2730	4271340020		102-5		#A-3	NORTH PADRE ISLAND	902.0	TRANSCONTINENTAL
8314747	G2-2731	4271340026		102-5		#A-4	NORTH PADRE ISLAND	1168.0	TRANSCONTINENTAL
8314763	G2-2732	4271340026		102-5		#A-4D	NORTH PADRE ISLAND	960.0	TRANSCONTINENTAL
8314735	G2-2733	4271340024		102-5		#A-5	NORTH PADRE ISLAND	1460.0	TRANSCONTINENTAL
8314737	G2-2734	4271340022		102-5		#A-7	NORTH PADRE ISLAND	713.0	TRANSCONTINENTAL
8314754	G2-2735	4271340027		102-5		#A-8	NORTH PADRE ISLAND	808.0	TRANSCONTINENTAL
8314750	G2-2736	4271340027		102-5		#A-8D	NORTH PADRE ISLAND	1551.0	TRANSCONTINENTAL
8314734	G2-2737	4271340021		102-5		#A-9	NORTH PADRE ISLAND	1095.0	TRANSCONTINENTAL
8314749	G2-2738	4271340021		102-5		#A-9D	NORTH PADRE ISLAND	1460.0	TRANSCONTINENTAL

SOURCE DATA FOR THIS NOTICE IS AVAILABLE ON MAGNETIC TAPE FROM THE NATIONAL TECHNICAL INFORMATION SERVICE (NTIS). FOR INFORMATION, CONTACT STUART WEISMAN (NTIS) AT (703) 487-4808, 5285 PORT ROYAL RD, SPRINGFIELD, VA 22161, OR SANDRA SPEAR (FERC) (202) 357-8681.

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–1788 Filed 1–21–83; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of December 20 Through December 24, 1982

During the week of December 20 through December 24, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearing and Appeals.

Remedial Order

Ven-Fuel, Inc., 12/21/82; BRO–1274

Ven-Fuel, Inc. objected to a Proposed Remedial Order which the Southeast District Office of Enforcement of the Economic Regulatory Administration (ERA) issued to the firm on June 27, 1980. In the Proposed Remedial Order, the ERA found that during the period October 1973 through October 1974, Ven-Fuel, a reseller-retailer, had charged prices in sales of No. 6 residual fuel oil which were in excess of its maximum lawful selling prices calculated in accordance with the Mandatory Petroleum Price Regulations. After considering the firm's objections, the DOE concluded that the Proposed Remedial Order should issue as a final Remedial Order. The DOE determined that the firm's contention that a settlement with the overcharged customer barred DOE enforcement should be rejected. The important issues discussed in the Decision and Order include: (i) The definition of "firm" for purposes of calculating cost increases, as well as for determining the application of the exemption for the first sale into United States commerce under 10 CFR 212.53(b), (ii) the applicability of the refiner price rule to a reseller controlled by a foreign refiner, and (iii) factors to be used in determining the nearest comparable outlet.

Implementation of Special Refund Procedures

Office of Special Counsel: in the Matter of Standard Oil Company (Indiana), 12/21/82; BFF–0007

The Economic Regulatory Administration's Office of Special Counsel filed a Petition for the Implementation of Special Refund Procedures in which it requested the Office of Hearings and Appeals to formulate procedures for distributing $72 million in settlement funds obtained from Standard Oil Company (Indiana), commonly known as Amoco. The Office of Hearings and Appeals adopted final procedures dividing the fund into six pools for claims related to purchases or rights to purchase crude oil, motor gasoline, middle distillates, natural gas liquids, residual fuel oil and related products, and aviation gasoline and jet fuel. Refund applicants seeking a portion of the motor gasoline or middle distillate pools could elect to have their refund computed using certain presumptions about the extent of their injury from the alleged overcharges which the OHA based upon information about the distribution systems for those products. The procedures for filing applications for refund for all products were set forth in the Decision and a deadline of May 1, 1983 was established for filing applications. The entire text of the Decision was published in the **Federal Register** on January 3, 1983.

Refund Applications

Vickers Energy Corporation/Petroleum Marketing Company et al., 12/21/82; RF1–102 et al.

On July 17, 1981, the Office of Hearings and Appeals issued a Decision and Order implementing special refund procedures for the distribution of a $2,850,000 fund obtained by the DOE through a consent order with Vickers Energy Corporation. *Office of Enforcement,* 8 DOE ¶ 82,598 (1981). The July 17 Decision stated that the DOE would accept applications for refund from qualified claimants that purchased Vickers motor gasoline from other than company-operated outlets during the period covered by the consent order, August 19, 1973 through March 31, 1979. On December 21, 1982 the DOE issued a Decision and Order concerning five Applications for Refund, based on purchases of Vickers motor gasoline in excess of a 50,000 gallon per month small claims threshold. In considering the applications, the DOE required each firm to establish that it did not pass through any alleged overcharges to its own customers. The December 21 Decision includes applications from two firms which submitted detailed information concerning their Vickers purchase volumes, acquisition costs, selling prices and banks of unrecouped increased product costs. An analysis was conducted to determine the degree of injury sustained by these firms and both applications were granted to the extent indicated in the analysis. In addition, the December 21 Decision includes applications from three firms who could not submit the evidence necessary to establish that they did not pass through any Vickers price increases. These firms therefore agreed to limit their claims to the 50,000 gallon per month threshold. Accordingly, these applications were granted at the threshold level.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Company Name and Case No.

Crown Central Petroleum Corporation, ROMACO, Inc., State of Maryland, ERA—HRJ–0028

Dismissals

The following submissions were dismissed:

Company Name and Case No.

Gulf States Oil & Refining Company; HEN–0008
Jordan Gas Company; BEE–1642
Mills Bennett Estate; HEE–0042

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: January 17, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-1845 Filed 1-21-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51450; BH-FRL 2289-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74379). This notice announces receipt of twenty-two PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-365 and 83-366, April 6, 1983.

PMN 83-367, 83-368, 83-369, 83-370, 83-371, and 83-372, April 9, 1983.

PMN 83-373, 83-374, 83-375, and 83-376, April 10, 1983.

PMN 83-377, 83-378, 83-379, 83-380, 83-381, and 83-392, April 11, 1983.

PMN 83-386, 83-387, 83-388, 83-389, 83-390, and 83-391, April 12, 1983.

Written comments by:

PMN 83-365 and 83-366, March 7, 1983.

PMN 83-367, 83-368, 83-369, 83-370, 83-371, and 83-372, March 10, 1983.

PMN 83-373, 83-374, 83-375, and 83-376, March 11, 1983.

PMN 83-377, 83-378, 83-379, 83-380, 83-381, and 83-392, March 12, 1983.

PMN 83-386, 83-387, 83-388, 83-389, 83-390, and 83-391, March 13, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51450]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460 (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-365

Manufacturer. Confidential.

Chemical. (G) Aromatic methylurea.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, a total of 4 workers, up to 2 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. Minimal.

PMN 83-366

Manufacturer. Nalco Chemical Company.

Chemical. (S) An aqueous solution of ammonium acrylate.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, a total of 15 workers.

Environmental Release/Disposal. No data submitted. Disposal in accordance with existing regulations.

PMN 83-367

Manufacturer. Sandoz Colors and Chemicals.

Chemical. (G) Metal complexed substituted aromatic salt.

Use/Production. (S) Industrial colorant for writing paper. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal, a total of 3 workers, up to 1 hr/da, up to 3 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air with 10-1000 kg/yr to water. Disposal by on-site biological waste treatment system.

PMN 83-368

Manufacturer. Confidential.

Chemical. (G) Disubstituted benzenesulfonic acid alkali metal salt.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, and eye, a total of 12 workers, up to 120 man hours/yr.

Environmental Release/Disposal. No release. Disposal by publicly owned treatment works (POTW).

PMN 83-369

Importer. Confidential.

Chemical. (G) Methyl-methylpyrazoloquinazolonazomethyl-benzothiazole.

Use/Import. (S) Industrial colorant for paper. Import range: Confidential.

Toxicity Data. Acute oral: 6.8 g/kg; Irritation: Skin—Irritant, Eye-Severe; 96 hr, LC_{50} (minnow): 220 mg/1; I.P. LD_{50}: 498 mg/kg.

Exposure. Processing, use and disposal: dermal, a total of 4 workers, up to 2 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. 10-100 kg/yr released to land with 400 kg/yr maximum to water. Disposal by processor's treatment works.

PMN 83-370

Importer. Confidential.

Chemical. (S) 8-acetyl-3-dodecyl-7,7,9,9-tetramethyl-1,1,3,8-triazaspiro[4,5]decane-2,4-dione.

Use/Import. (G) Closed use. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Minimal, Eye—Minimal; Ames Test: Negative; Skin—sensitization: Strong sensitizing potential.

Exposure. Dermal and inhalation.

Environmental Release/Disposal. No release.

PMN 83-371

Manufacturer. Confidential.

Chemical. (S) Polymer of: neopentyl glycol, 1,6 hexanediol, trimethylol propane, dimethyl 1,4 cyclohexane dicarboxylate, azelaic acid, isophthalic acid.

Use/Production. (G) Open use. Prod. range: 2,500-60,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and disposal: dermal and inhalation, a total of 11 workers, up to 8 hrs/da, up to 40 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air, 12 hrs/da, 30da/yr. Disposal by approved landfill.

PMN 83-372

Importer. Sandoz Colors and chemicals.

Chemical. (G) Metal complexed, substituted aromatic compound.

Use/Import. (S) Site-limited intermediate. Import range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Processing: dermal, a total of 1 worker, up to ½ hr/da, up to 3 da/yr.

Environmental Release/Disposal. No release.

PMN 83–373

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Substituted polyurea.

Use/Production. (S) Liquid injection molding, long pot-life castings, and one-part coatings and adhesives. Prod. range: Confidential

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Disposal by incineration and approved landfill.

PMN 83–374

Manufacturer. Sandoz Colors and Chemicals.

Chemical. (G) Metal complexed substituted aromatic salt.

Use/Production. (S) Industrial colorant for writing paper. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal, a total of 3 workers, up to 1 hr/da, up to 2 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air with 10–100 kg/yr released to land. Disposal by on-site biological waste.

PMN 83–375

Manufacturer. Confidential.

Chemical. (G) Substituted benzene.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: ~ 2 g/kg; Irritation: Skin—Moderate, Eye—Slight.

Exposure. Manufacture and use: dermal, a total of 24 workers, up to 30 min/da, up to 85 da/yr.

Environmental Release/Disposal. No release. Disposal by biological treatment system.

PMN 83–376

Manufacturer. Confidential.

Chemical. (S) Spiro[2H-1-benzopyran-2'2'-[2H]] indole, 1'3'-dihydro-1',3',3'-trimethyl-6,8,-dinitro-.

Use/Production. (G) Coating for commercial materials. Prod. rang: Confidential.

Toxicity Data. Acute oral: 5 g/kg; Irritation: Skin—0.0 out of 8.0, Eye—2.3 out of 110.0.

Exposure. Manufacture and processing: a total of 52 workers, up to 30 min/da, up to 4 da/yr.

Environmental Release/Disposal. Disposal by incineration.

PMN 83–377

Manufacturer. Confidential.

Chemical. (G) Substituted benzene.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >2 g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Severe, Eye—Slight; Inhalation: Negative @ 98 parts per million (ppm).

Exposure. Manufacture and use: dermal, a total of 16 workers, up to 30 min/da, up to 85 da/yr.

Environmental Release/Disposal. Release by off-gases caustic scrubbed. Disposal by on-site industrial waste treatment.

PMN 83–378

Importer. Confidential.

Chemical. (G) Methyl-methyleneimidazole derivative of copper phthalocyanine, compound with acetic acid.

Use/Import. (S) Colorant for paper. Import range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Irritant, Eye—Severe; Ames Test: Non-mutagenic.

Exposure. Processing: dermal, a total of 4 workers, up to 2 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to water. Disposal by incineration.

PMN 83–379

Importer. Confidential.

Chemical. (G) Methyl-methyleneimidazole derivative of copper phthalocyanine, compound with methoxy-acetic acid.

Use/Import. (S) Colorant for paper. Import range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Irritant, Eye—Severe; Ames Test: Non-mutagenic.

Exposure. Processing: dermal, a total of 4 workers, up to 2 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to water. Disposal by incineration.

PMN 83–380

Importer. Confidential.

Chemical. (G) Methyl-methyleneimidazole derivative of chloroethylindolophenodioxazine compound with acetic acid.

Use/Import. (S) Colorant for paper. Import range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Irritant, Eye—Severe; Ames Test: Non-mutagenic.

Exposure. Processing: dermal, a total of 4 workers, up to 2 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to water. Disposal by incineration.

PMN 83–381

Importer. Confidential.

Chemical. (G) Methyl-methyleneimidazole derivative of chloroethylindolophenodioxazine, compound with methoxy-acetic acid.

Use/Import. (S) Colorant for paper. Import range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Irritant, Eye—Severe; Ames Test: Non-mutagenic.

Exposure. Processing: dermal, a total of 4 workers, up to 2 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to water. Disposal by incineration.

PMN 83–386

Manufacturer. Confidential.

Chemical. (G) Disubstituted 4-amino-5-hydroxy-2,7-naphthalenedisulfonic acid, alkali metal salt.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: a total of 17 workers, up to 120 man hours.

Environmental Release/Disposal. No release. Disposal by biological treatment system.

PMN 83–387

Manufacturer. Confidential.

Chemical. (G) Isophthalic-phthalic-adipic-benzoic acid-trimethylol propane-neopentyl glycol resin.

Use/Production. (S) Industrial, site-limited, protective coating resin. Prod. range: 120,000–150,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 3 workers, up to 6 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. No release.

PMN 83–388

Manufacturer. Confidential.

Chemical. (S) Tallow-ethylene glycol-pentaerythritol-phthalic benzoic acid resin.

Use/Production. (S) Industrial, site-limited, protective coating resin. Prod. range: 60,000–75,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 3 workers, up to 6 hrs/da, up to 3 da/yr.

Environmental Release/Disposal. No release.

PMN 83–389

Importer. Confidential.

Chemical. (G) ((Substituted heterocycle)azo)substituted aniline, acid salts.

Use/Import. (S) Colorant for textiles. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Use: minimal.
Environmental Release/Disposal. Disposal by POTW and biological treatment system.

PMN 83-390

Manufacturer. Confidential.
Chemical. (G) Polyester-imide resin.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 83-391

Manufacturer. Confidential.
Chemical. (G) Disubstituted bis(phenylazo)4-amino-5-hydroxy-2,7-naphthalenedisulfonic acid, alkali metal salt.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: a total of 22 workers, up to 448 man hours/yr.
Environmental Release/Disposal. No release. Disposal by POTW and approved landfill.

PMN 83-392

Manufacturer. Confidential.
Chemical. (S) 3,5-dinitrosalicylaldehyde.
Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 1 worker, up to 16 hrs/yr.
Environmental Release/Disposal. No data submitted.

Dated: January 14, 1983.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 83-1854 Filed 1-21-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL ELECTION COMMISSION

[Notice 1983-2]

Filing Dates for Colorado Special Election

AGENCY: Federal Election Commission.
ACTION: Notice of filing dates for Colorado special election.

SUMMARY: Committees required to file reports in connection with the special election to be held in the 6th Congressional District of Colorado on March 29, 1983, must file a 12-day pre-election report due on March 17, 1983, and a 30-day post-election report due on April 28, 1983.

After filing these reports, committees should resume filing reports on a semi-annual basis for 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office 1325 K Street, NW., Washington, D.C. 20463, Tel: (202) 523-4068; Toll-free: (800) 424-9530.

Notice of Filing Dates for Special Election, 6th Congressional District, Colorado

The State of Colorado has scheduled a special election in the 6th Congressional District for March 29, 1983.

All principal campaign committees of candidates involved in the special election, and all other political committees not filing monthly that support candidates in this special election, shall file a 12-day preelection report due on March 17, 1983, with coverage dates from January 1, 1983, or the date of registration, whichever is later, through March 9, 1983, and a 30-day post election report due on April 28, 1983, with coverage dates from March 10, 1983, through April 18, 1983.

After filing these reports, committees should resume filing reports on a semi-annual basis for 1983.

Dated: January 18, 1983.

Danny Lee McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83-1706 Filed 1-21-83; 8:45 am]
BILLING CODE 6715-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-673-DR]

Arkansas; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.
ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Arkansas (FEMA-673-DR), dated December 13, 1982, and related determinations.

DATED: January 14, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: The notice of a major disaster for the State of Arkansas dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

For Public Assistance: the Counties of Conway, Montgomery, Perry and Scott and the City of Rosebud only in White County.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-1807 Filed 1-21-83; 8:45 am]
BILLING CODE 6718-02-M

[FEMA-674-DR]

Illinois; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.
ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA-674-DR), dated December 13, 1982, and related determinations.

DATED: January 13, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

NOTICE: The notice of a major disaster for the State of Illinois dated December 13, 1982, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 13, 1982:

For Public Assistance: Fulton County.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-1805 Filed 1-21-83; 8:45 am]
BILLING CODE 6718-02-M

[FEMA-675-DR]

Louisiana; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.
ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA-675-DR), dated January 11, 1983, and related determinations.

DATES: January 17, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

NOTICE: The notice of a major disaster for the State of Louisiana dated January 11, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 11, 1983:

For Individual Assistance: The Parishes of Avoyelles, Caldwell, Evangeline, Franklin, Lincoln, Morehouse, Richland, Union and Vernon.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lee M. Thomas,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-1868 Filed 1-21-83; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[No. 82-811-A]

Prices for Federal Home Loan Bank Services

Correction

In FR Doc. 82-34815 beginning on page 57768 in the issue of Tuesday, December 28, 1982, make the following corrections.

1. On page 57768, third column, the table "Federal Home Loan Bank of Atlanta", the heading "Fee" should have read "Fee (per item)"; and the first entry reading "$50" should read "$50/mo"; the next entry reading "(per item)" should be removed.

2. On page 57770, first page, the table "Federal Home Loan Bank of Seattle", line "D." under "Standard Services" should read "D. Cycle or monthly delivery with statement matching:"; in line "D." under "Special Services" the word "(truncating)" should be removed, and a new entry added directly below it reading "Truncating ..... .030".

3. On page 57772, third column, in the table "Federal Home Loan Bank of Little Rock", the last item in the "Fee (per item)" column, the figure "$10." should be added for "Overdrafts".

BILLING CODE 1505-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-213]

Security Savings & Loan Association, Salina, Kansas; Final Action Approval of Post-Approval Amendment to Mutual-to-Stock Conversion Application

Notice is hereby given that on January 13, 1983, the General Counsel of the Federal Home Loan Bank Board ("Board"), acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 1 to the mutual-to-stock conversion application of Security Savings and Loan Association, Salina, Kansas ("Association"). The application had been approved by the Board by Resolution No. 81-89, dated February 12, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C., 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Topeka, P.O. Box 176, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas, 66601.

Dated: January 19, 1983.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-1844 Filed 1-21-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[License No. 2021]

Independent Ocean Freight Forwarder; Bee International Inc.; Order of Revocation

On January 13, 1982, Bee International Inc., P.O. Box 11166, Jacksonville, FL 32211, surrendered its Independent Ocean Freight Forwarder License No. 2021 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2021 issued to Bee International Inc. be revoked effective January 13, 1982, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Bee International Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-1874 Filed 1-21-83; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder Licenses; Le Mare Transport, Inc. et al.; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Le Mare Transport, Inc., 2760 N.W. 36th Street, Miami, FL 33142, Officers: Alfredo Torres, President; Heriberto Feliciano, Secretary/Treasurer

Dennis W. McLean d.b.a. All Oceans Cargo Co., 2819 South 284 Place, Federal Way, Washington 98003

Intersped Inc., 67 Broad Street, New York, NY 10004, Officers: Robert Walter, President; John Wedel, Vice President; May Wong, Treasurer

International Service Associates, Inc., 6960 Martin Drive, Suite L, New Orleans, LA 70126, Officers: Judith A. Watts, President; James E. White, Jr., Senior Vice President; Walter C. Backhus, Vice President-Operations

Wysong, Inc., d.b.a. Paramount Services International, 7023 Jackson Street, Paramount, CA 90723, Officers: Donald E. Wysong, President/Director/Chief Finance Officer; Marcie K. Seto, Vice President; Michael V. Wysong, Secretary/Director; Steven Quackenbush, Vice President-Sales

Soo Bok Kang, d.b.a. Kolax Forwarding Inc., 444 West Ocean Blvd., Suite 608, Long Beach, CA 90802

Barry Tien, 15 Helen Court, Piscataway, NJ 08854.

By the Federal Maritime Commission.

Dated: January 19, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-1875 Filed 1-21-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Maybaco Co. et al.; Proposed Acquisition of ABC Associates, Inc.

The Maybaco Company and Equitable Bancorporation, both of Baltimore, Maryland, have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of ABG Associates, Inc., Baltimore, Maryland.

Applicant states that the proposed subsidiary would engage in mortgage banking and loan servicing activities, including the arrangement, placement and brokerage of conventional and government-assisted mortgage financing, the making of construction and other mortgage loans, the preparation and processing of applications for FHA insurance, GNMA permanent mortgage loans and other types of government supports for mortgage financing, servicing mortgage loans and issuing mortgage-backed securities guaranteed by GNMA; and providing financial advisory services to public housing authorities and other units of state and local governments concerning real estate financing proposals. These activities would be performed from offices of Applicant's subsidiary in Baltimore, Maryland, Richmond, Virginia, and Washington, D.C., and the geographic areas to be served are Maryland, Pennsylvania, Delaware, the District of Columbia, West Virginia, Virginia, and North Carolina. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than February 17, 1983.

Board of Governors of the Federal Reserve System, January 18, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1801 Filed 1-21-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Wayne County Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Wayne County Bankcshares, Inc.*, Waynesboro, Tennessee; to become a bank holding company be acquiring 80 percent of the voting shares of Wayne County Bank, Waynesboro, Tennessee. Comments on this application must be received not later than February 17, 1983.

B. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Texas First Financial Corporation*, San Augustine, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of San Augustine Bancshares, Inc., San Augustine, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 17, 1983.

Board of Governors of the Federal Reserve System, January 18, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-1802 Filed 1-21-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Teoxicology Program; Meeting

National Toxicology Program Board of Scientific Counselors Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National tolicology Program Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on February 28, 1983.

The meeting will be open to the public from 9:00 a.m. until adjournment. The primary agenda item is the completion of peer review on draft technical reports of toxicology and carcinogenesis bioassays from the National Toxicology Program (NTP). Reviews will be conducted by the Technical Reports Review Subcommittee of the Board in conjunction with an *ad hoc* panel of experts.

Draft technical reports on the following chemicals listed alphabetically (with Chemical Abstract Service registry numbers and routes of administration) will be peer reviewed February 28. Also listed are the NTP chemnical managers for each bioassay.

Chemical (CAS Registry No.)	Route	Chemical Manager (telephone No.)
Asbestos, crocidolite (12001-29-5).	Feed	Dr. E. McConnell (919-541-3440).
Chlorobenzen (108-90-7).	Gavage	Dr. W. Kluwe (919-541-4177).
1,2-Diochloropropane (78-87-5).	Gavage	Dr. J. Lamb (919-541-6216).
Diglycidyl resorcinol ether (DGRE) (101-90-6).	Gavage	Dr. E. McConnell (919-541-3440).
Ethoxylated dodecyl alcohol (9002-92-0).	Feed	Dr. B. Gupta (919-541-3233.)
Ethyl acrylate (140-88-5).	Gavage	Dr. R. Maronpot (919-541-4861).
1,1,1-Trichloroethane (Methyl chloroform) (71-55-6).	Gavage	Dr. L. Birnbaum (919-541-3726).

The Technical Reports Review Subcommittee has expressed an interest in learning of current Program practices,

particularly those relevant to general toxicological characterization and two-year studies for chronic toxicity and carcinogenicity. As time permits following the peer review of the draft technical reports, Program staff will provide an overview of current procedures that are used prior to design and implementation of two-year studies. The procedures for selection of dose route also will be featured.

The Executive Secretary, Dr. Larry hart, Office of the Director, National Toxicology Program (P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919–541–3971), FTS (629–3971), will furnish rosters of subcommittee and panel members and other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: January 18, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83–1690 Filed 1–21–83; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 13314]

California; Proposed Withdrawal and Opportunity for Public Hearing

Correction

In FR Doc. 82–35391 appearing on page 56381 in the issue of Thursday, December 30, 1982, make the following correction:

In the second line of the third paragraph of the document, "to protest the islands" should have read "to protect the islands".

BILLING CODE 1505–01–M

Grazing Administration; Exclusive of Alaska; Schedule of Grazing Fees for 1983

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Livestock Grazing Fees for the 1983 Fee Year.

SUMMARY: Pursuant to the authority vested in the Secretary of the Interior, notice is hereby given of the schedule of fees for the 1983 fee year, beginning March 1, 1983, and ending February 28, 1984, for livestock grazing of the public lands under the administration of the Bureau of Land Management.

For the purposes of establishing charges, one animal unit month shall be considered equivalent to grazing use by one cow, five sheep or one horse for one month.

Pursuant to Department of the Interior regulations (43 CFR 4130.5–1(a)), as published in the **Federal Register** on January 10, 1979 (44 FR 2173), fees on all public lands administered by the Bureau of Land Management shall be $1.40 per animal unit month.

Bills shall be issued in accordance with the rates prescribed in this notice.

EFFECTIVE DATE: March 1, 1983.

ADDRESS: Any suggestions or inquiries should be sent to: Director (220), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Judy Nelson, (202) 653–9210.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 19, 1983.

[FR Doc. 83–1663 Filed 1–21–83; 8:45 am]

BILLING CODE 4310–84–M

Arizona Strip District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Arizona Strip District Grazing Advisory Board will meet on Thursday, February 24, 1983 at 9:00 a.m. to discuss range improvement plans and policy for Fiscal Year 1983.

DATE: February 24, 1983.

ADDRESS: Rodeway Inn, Banquet Room, 258 East St. George, Utah, St. George, Utah 84770.

FOR FURTHER INFORMATION CONTACT: G. Bill Lamb, 196 E. Tabernacle St., St. George, Utah 84770, (801) 673–3545.

SUPPLEMENTARY INFORMATION: The Arizona Strip District Grazing Advisory Board will meet at 9:00 a.m. on Thursday, February 24, 1983 in the banquet room of the Rodeway Inn at 258 East St. George Blvd. in St. George, Utah. The primary topics on the agenda will be range policy, range improvement projects, and maintenance. The meeting is open to the public. Anyone wishing to make a presentation to the Board should contact the District Manager of the Arizona Strip District at 106 E. Tabernacle St., in St. George, Utah or call (801) 673–3545 at least 5 days prior to the meeting.

Kenneth R. Drew,

Acting District Manager, Arizona Strip District.

[FR Doc. 83–1670 Filed 1–21–83; 8:45 am]

BILLING CODE 4310–84–M

Colorado; Final Supplemental Environmental Impact Statement for the Prototype Oil Shale Leasing Program

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Final Supplemental Environmental Impact Statement for the Prototype Oil Shale Leasing Program, Craig District, Colorado.

SUMMARY: The purpose of this notice is to announce the availability of the Final Supplemental Environmental Impact Statement (EIS) for the Prototype Oil Shale Leasing Program. The EIS analyzes the potential impacts of leasing one or two tracts in the Piceance Basin of Colorado under the Prototype Oil Shale Leasing Program.

FOR FURTHER INFORMATION CONTACT: Oil Shale Projects Team Leader, Bureau of Land Management, White River Resource Area, PO Box 928, Meeker, Colorado 81641, Telephone (303) 878–3601.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior proposes to offer for lease one or two additional prototype oil shale leases in the Piceance Basin, northwestern Colorado to supplement the Department's existing prototype oil shale leasing program. The environmental and socioeconomic impacts of the following alternatives have been analyzed in the EIS: leasing Tract C–11 only, leasing Tract C–18 only, leasing both Tract C–11 and C–18 (combined Alternative), and a No Action Alternative. this document supplements the 1973 Prototype EIS. If leased, the additional tract(s) would provide the opportunity for the extraction of oil shale concurrently with associated minerals, as well as for development of other appropriate technologies, more completely fulfilling the original goals of the prototype program. The impact analysis shows that, generally, most adverse impacts reach significance when compounded by developing two leases.

The Final EIS is a full reprint of the Draft EIS. It includes changes made as a result of public comment on the Draft EIS, copies of the comment letters received from the public, transcripts of the public hearings on the Draft EIS, and responses to the comments.

The preferred alternative identified in the Final EIS is to lease only Tract C–11. However, the EIS is not the decision document. The decision on whether or not to lease one or two additional tracts under the prototype oil shale program will be made by the Secretary of

Interior. That decision will be made based on the information provided in the Final EIS, public concerns and comments, the recommendations of the Regional Oil Shale Team, and other resource management considerations. No action will be taken for at least 30 days following filing of the Final EIS with the Environmental Protection Agency and distribution to the public.

Availability

Single copies of the Final EIS may be obtained from the address above, or from:

Bureau of Land Management, Craig District Office, PO Box 248, Craig, CO 81626

Bureau of Land Management, Colorado State Office, 1037 20th Street, Denver, CO 80202.

George C. Francis,

State Director, Colorado.

[FR Doc. 83-1638 Filed 1-21-83; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Coastal Barrier Resources Act; Reports to Congress; Scoping Meeting

AGENCY: Office of the Secretary—U.S. Department of the Interior.

ACTION: Notice of scoping meeting.

SUMMARY: This notice sets forth the schedule of a forthcoming meeting of the Coastal Barriers Task Force. The meeting will be held as a workshop designed to address the requirements of Section 10 of the Coastal Barrier Resources Act (Pub. L. 97-348).

DATE: February 10, 1983, 9:00 a.m. to 4:00 p.m.

ADDRESS: Room 7000A&B, Main Interior Building, 18th & C Streets, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Lanzone, Manager, Coastal Barriers Task Force, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4905).

SUPPLEMENTARY INFORMATION: Section 10 of the Act directs the Secretary to submit a report to Congress by October 1985 which contains:

(1) Recommendations for the conservation of fish, wildlife, and other natural resources of the System based on an evaluation and comparison of all management alternatives, and combinations thereof, such as State and local actions (including management plans approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)), Federal actions (including acquisition for administration as part of the National Wildlife Refuge System), and initiatives by private organizations and individuals;

(2) Recommendations for additions to, or deletions from, the Coastal Barrier Resources System, and for modifications to the boundaries of System units;

(3) A summary of the comments received from the Governors of the States, State coastal zone management agencies, other government officials, and the public regarding the System; and

(4) An analysis of the effect, if any, that general revenue sharing grants made under section 102 of the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221) have had on undeveloped coastal barriers.

The workshop will focus on components of paragraph (1) of Section 10, with particular attention to State and local actions and initiatives by private organizations.

Dated: January 13, 1983.

Ric Davidge,

Chairman, Coastal Barriers Task Force.

[FR Doc. 83-1651 Filed 1-21-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting sponsored by the Advisory Committee on Voluntary Foreign Aid which will be held February 8, 1983, in the Board Room of the Cooperative League of the USA (CLUSA), 1828 L Street, NW., Suite 1100, Washington, D.C., 9:30 a.m.

This will be an informal briefing for the PVO community by a staff member of the Senate Committee.

The meeting will be open to the public. Any interested person may attend, request to appear before, or file statements with the Advisory Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

There will be an AID representative at the meeting. It is suggested that those desiring further information contact Martha McCabe (202) 872-0550 or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Dated: January 13, 1983.

Julia Chang Bloch,

Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 83-1637 Filed 1-21-83; 8:45 am]

BILLING CODE 8116-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-232

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 42364 (Sub-1-1TA), filed January 10, 1983. Applicant: B & B GENERAL

STORAGE WAREHOUSE, INC., 182–10 Liberty Avenue, Jamaica, NY 11412. Representative: Harold Sacks, 19 West 44th Street, New York, NY 10036. *Household goods:* between points in New York and Great Neck, NY, and NC, SC, FL, GA, AL, MS, ME and NH. Supporting shipper(s): Sperry Gyroscope, Inc., Great Neck, NY 11828; Baron Upholstery, Inc., 30 West 26th Street, New York, NY.

MC 134806 (Sub-1–51TA), filed January 3, 1983. Applicant: B–D–R TRANSPORT, INC., Vernon Drive, P.O. Box 1277, Brattleboro, VT 05301. Representative: Edward T. Love, 4401 East West Highway, Suite 404, Bethesda, MD 20814. *Contract carrier:* irregular routes: *Spas (Fiber glass hot tubs)* between El Cajon, CA, on the one hand, and, on the other, South Deerfield, MA, under continuing contract(s) with Habitat, South Deerfield, MA. Supporting shipper: Habitat, 123 Elm Street, South Deerfield, MA 01372.

MC 165583 (Sub-1–1TA), filed January 10, 1983. Applicant: CARE TRANSPORT, INC., 15 Middletown Avenue, North Haven, CT 06473. Representative: Raymond Talipski, 121 S. Main Street, Taylor, PA 18517. *General comodities, (except household goods, bulk commodities and classes A and B explosives),* between North Haven, CT, on the one hand, and, on the other, points in CT having a prior or subsequent movement in Interstate Commerce. Supporting shipper: (The Charter Oak Shippers Cooperative, P.O. Box 1147, Darien, CT.

MC 116859 (Sub-1–2TA), filed January 3, 1983. Applicant: CLARK TRANSFER, INC., 403 Dulty Lane, P.O. Box 190, Burlington, NJ 08016. Representative: David A. Sutherlund, 1150 Connecticut Ave. NW., Suite 400, Washington, DC 20036. *Contract carrier:* irregular routes: *Magazines and printed matter, and materials, equipment and supplies used in the manufacture and distribution of magazines and printed matter* between points in CT, DE, MD, NJ, NY, PA, VA, WV, and DC, under continuing contract(s) with Family Circle, Inc., New York, NY. Supporting shipper: Family Circle, Inc., 488 Madison Avenue, New York, NY 10022.

MC 165569 (Sub-1–1TA), filed January 7, 1983. Applicant: ROBERT DUMONT ENTERPRISES, INC., Tilton Hill Road, P.O. Box 244, Pittsfield, NH 03263. Representative: Marsha A. DuMont (same as applicant). *Contract carrier:* irregular routes: *Plastic and rubber commodities and products used in the manufacture thereof, except in bulk, in tank vehicles,* between Nashua, NH, Auburn, ME, Sabatis, ME, and Detroit, MI, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, and WV, under continuing contract(s) with Beebe Rubber Co. Inc., Nashua, NH and Continental Plastic Co., Fraser, MI. Supporting shipper(s): Beebe Rubber Company, Inc., 20 Marsha;; Street, Nashua, NH 03060; Continental Plastic Company, 33525 Grosebeck Road, Fraser, MI 48026.

MC 165532 (Sub-1–1TA), filed January 6, 1983. Applicant: JOHN M. GREENLEE d.b.a. GREENLEE TRUCKING AND SPREADING SERVICE, 35 Austerlitz Street, Chatham, NY 12037. Representative: Jeremy Kahn, Esq., Suite 733, Investment Bldg., 1511 K Street, NW., Washington, DC 20005. *Lime and limestone and fertilizers* from Canaan, CT, Adams, MA, and Chatham, NY, to points in Columbia, Dutchess, Greene, Renesselaer and Westchester Counties, NY and Berkshire County, MA, under continuing contract(s) with Agway, Inc., Syracuse, NY. Supporting shipper: Agway, Inc., P.O. Box 4933, Syracuse, NY 13221.

MC 154993 (Sub-1–9TA), filed January 4, 1983. Applicant: H & W ENTERPRISES, INC., S. Witham Road, P.O. Box 325, Auburn, ME 04210. Representative: Ignatius B. Trombetta. 1001 One Public Square Bldg., Cleveland, OH 44113. *Contract carrier:* irregular routes: *Metal, plastic, rubber electronic and related products* (1) between points in ME on the one hand, and, on the other, points in TX, TN, OK and NC, and (2) from facilities in ME to points in WI, IL, MI, IN, OH, PA, CA, FL, GA, SC, VA, MD, NJ, NY, CT and MA, under continuing contract(s) with American Stabilis, Inc. of Lewiston, ME. Supporting shipper: American Stabilis, Inc., Cedar Street, Lewiston, ME.

MC 154993 (Sub-1–10TA), filed January 11, 1983. Applicant: H & W ENTERPRISES, INC., S. Witham Road, P.O. Box 325, Auburn, ME 04210. Representative: Ignatius B. Trombetta, 1001 One Public Square Bldg., Cleveland, OH 44113. *Contract carrier:* irregular routes: *Food and related products* from points in MI, NY and MA, to points in ME, under continuing contract(s) with Down East Food Distributors, Inc. and Bakers Supply Inc. of Auburn, ME. Supporting Shipper: Down East Food Distributors, Inc., 250 Minot Avenue, P.O. Box 738, Auburn, ME 04210; Bakers Supply Inc., P.O. Box 406, Auburn, ME 04210.

MC 153785 (Sub-1–2TA), filed January 4, 1983. Applicant: JOSEPH R. PACE, R.F.D. No. 2, 12 Jewel Court, Londonderry, NH 03053. Representative: Joseph R. Pace (same as applicant). *Art and decorative objects* between points in CT, ME, MA, NH, NY. Supporting Shipper: Creiger Sesen Associates, Inc., Ten Post Office Square, Boston, MA.

MC 165445 (Sub-1–1TA), filed January 3, 1983. Applicant: J. E. THOMPSON TRANSPORT LIMITED, 23 Dickenson Drive, P.O. Box 338, Ingleside, Ontario, CD KOC 1A0. Representative: Robert D. Gunderman, Esq., Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Cheese molds* between ports of entry on the International Boundary line between the U.S. and CD in NY, on the one hand, and on the other, St. Lawrence County, NY, under continuing contract(s) with Kraft Limited, Montreal, Quebec, CD. Supporting Shipper: Kraft Limited, P.O. Box 6118, Montreal, Quebec, CD, Station A H3C 3J3.

MC 164841 (Sub-1–1TA), filed January 7, 1983. Applicant: JOHN MARTINKO d.b.a. TOWN & COUNTRY LIMOUSINE, 74 Euclid Avenue, Stamford, CT 06902. Representative: Dennis Dean Kirk, Esq., Suite 929, Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Passengers and their baggage,* in charter and special operation, between points in Fairfield County, CT, on the one hand, and on the other, points in NY and NJ. Supporting Shipper(s): There are ten statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 164543 (Sub-1–1TA), filed December 30, 1982. Applicant: TRANSPORT SPERIBEL INC., 20 Marie-Victorin Boulevard, Boucherville, Quebec, CD J4B 1V5. Representative: Robert D. Gunderman, Esq., Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Paper and paper products, and materials, supplies and equipment used in the manufacture, production, sale or distribution of paper and paper products,* between ports of entry on the International Boundary Line between the U.S. and CD on the St. Lawrence River, on the one hand, and on the other, St. Albans, VT, under continuing contract(s) with Domtar Pulp & Paper Products of Montreal, Quebec, CD. Supporting Shipper: Domtar Pulp & Paper Products, 395 de Maisonneuve Blvd., West, P.O. Box 7211, Montreal, Quebec, CD H3C 3M2.

MC 141733 (Sub-1–1TA) filed January 6, 1983. Applicant: UNION TRANSIT COMPANY, INC., 2460 Boston Road, Wilbraham, MA 01096. Representative: James M. Burns, Suite 403, 1365 Main

Street, Springfield, MA 01103. *Contract carrier:* irregular routes: *Artist supplies, paints, brushes, pencils, cements, glue, ink, easels, pallets, drawing papers and pads and chalk and related materials,* between points in Hampden County, MA, Los Angeles County, CA, Cook and DuPage Counties, IL, and Tarrant County, TX, under continuing contract(s) with Morilla, Inc., Holyoke, MA. Supporting shipper: Morilla, Inc., 75 Appleton Street, Holyoke, MA 01040.

MC 160039 (Sub-1–2TA), filed January 6, 1983. Applicant: WEX ENTERPRISES, INC., 118 Hall Street, P.O. Box 2009, Concord, NH 03301. Representative: Wesley S. Chused, Weiner & Chused, 15 Court Square, Boston, MA 02108. *General commodities (except Classes A and B explosives, household goods and commodities in bulk),* between Manchester, CT, and Billerica, MA, under continuing contract(s) with J.C. Penney Co., Inc., of Manchester, CT. Supporting shipper: J.C. Penney Co., Inc., P.O. Box 178, Manchester, CT 06040.

The following applications were filed in Region 2. Send protests to: ICC, Fed, Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 160593 (Sub-2–1TA), filed January 11, 1983. Applicant: ATLANTIC TRUCKING CO., INC., 3501 Toone St., Baltimore, MD 21224. Representative: Dixie C. Newhouse 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Contract: Irregular: (1) *Food and related products* between Baltimore, MD, including its commercial zone, on the one hand, and, on the other, points in CA and Memphis, TN, including its commercial zone, under a continuing contract(s) with Old Line Company; and (2) *steel screws and nuts* between Baltimore MD, including its commercial zone, on the one hand, and, on the other, Elkhart and Indianapolis, IN and Louisville, KY, including their respective commercial zones, under a continuing contract(s) with Garden Bolt Industries, for 270 days. Supporting shippers: Old Line Co., 1124 East 25th St., Baltimore, MD 21218 and Garden Bolt Industries, 901 Stewart Ave., Garden City, NY 11530.

MC 157809 (Sub-II–3TA), filed January 5, 1983 Applicant: JOHN LAHOTSKI, STEPHEN LAHOTSKI, WILLIAM LAHOTSKI AND PAUL LAHOTSKI, d.b.a. BLUE AND WHITE TRUCKING, 161 Phillips St., Throop, PA 18512. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517. (1) *Coal and coal products,* between Luzerne, Schuylkill and Northumberland Counties, PA, on the one hand, and, on the other, points in NY, NJ and CT. (2) *Foodstuffs and related products,* between Onondago County, NY, on the one hand, and, on the other, Luzerne County, PA. Between Monroe County, NY, Baltimore County, MD and Philadelphia County, PA, on the one hand, and, on the other, points in Lackawanna County, PA. Supporting shippers: Falcone Beverage Co., 320 S. Main St., Pittston, PA 18640; Anthricite Resources, 98 New St., Pittston, PA 18640; Ferranti Brothers, Inc., North-South Rd., Scranton, PA 18508.

MC 86690 (Sub-II–14TA), filed January 3, 1983. Applicant: BOND TRANSFER CO., INC., 1301 Towson Street, Baltimore, MD 21230. Representative: Leonard W. Smith III (same address as above). Contract, irregular; *Food and Related Products* From Baltimore, MD to all points in the states of: CT, DE, MA, ME, NH, NJ, NY, PA, RI, VT, VA, NC, and Washington DC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Martin Gillet & Company, Inc., 6801 Eastern Ave., Baltimore, MD 21224.

MC 150080 (Sub-II–11TA), filed January 5, 1983, Applicant: CONTROLLED CARRIERS, INC., P.O. Box 10, E. Earl, Pa. 17519 Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Plastic products,* between the facilities of Dart Container, at or near Leola, PA; Mason MI and Lithonia GA, on the one hand, and, on the other, all points in and East of AL, IN, KY, TN and MI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Dart Container Corp., 500 Hogsback, Mason, MI 48854.

MC 2796 (Sub-II–1TA), filed January 4, 1983. Applicant: FULLINGTON AUTO BUS COMPANY, 316 Cherry St., Clearfield, PA 16830. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Common, regular: *Passengers and their baggage,* between Williamsport, PA and State College, PA, over the following route: U.S. Hwy 220 to its intersection with PA Hwy 120 at or near Castanea, PA; then over PA 120 to its intersection with PA 150; then over PA 150 to its intersection with PA 144-PA 150 at or near Milesburg, PA; then over PA 144-PA 150 to Bellefonte, PA; then over PA 550 to its intersection with PA 150; then over PA 150 to its intersection with PA 26; then over PA 26 to State College; and return over the same route. Applicant intends to tack this authority with its existing regular route authority and its pending application in SUB 11. Applicant also seeks to provide regular service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B). An underlying ETA seeks 120 days authority. Supporting shipper(s): There are eight supporting statements attached to this application which may be examined at the Phila. Regional Office.

MC 154687 (Sub-II–2TA), filed January 5, 1983. Applicant: D. L. GEORGE & SONS CONSTRUCTION CO., INC., Box K, Blue Ridge Summit, PA 17214. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Ground stone, in bags, and related materials* between Hagerstown, MD and Charmain, PA, on the one hand, and, on the other, points in FL. Restricted to traffic originating at or destined to facilities used by Har Tru Corp. An underlying ETA seeks 120 days authority. Supporting shippers: Har Tru Corp., Hagerstown, MD.

MC 82007 (Sub-II–2TA), filed December 29, 1982. Applicant: GREGG BUS SERVICE, INC., P.O. Box 125, Yorklyn, DE 19736. Representative: Harry J. Jordan, Suite 502, Solar Building, 1000 Sixteenth Street, NW., Washington, DC 20036. *Passengers* between Newark, DE, and Philadelphia, PA: From Newark over U.S. Hwy 95 to Philadelphia and return over the same route, serving all intermediate points for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Delaware Transportation Authority, PO Box 778, Dover, DE 19901.

MC 99969 (Sub-II–3TA), filed January 3, 1983. Applicant: HUNTLEY TRUCKING CO., Route 1, Box 66A, New Plymouth, OH 45654. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Coal* from points in Vinton Cty, OH to points in Woods Cty, WV, for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Sands Hill Coal Co., Inc., 1203 N. Penn Ave., Wellston, OH 45692.

MC 124017 (Sub-II–3TA), filed January 5, 1983. Applicant: R. JEFFREY & SONS, INC., R.D. #1, Elysburg, PA 17824. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. *Synthetic abrasives, crude, in bulk, in dump vehicles,* between Port of Entry at Niagara Falls, NY, on the one hand, and, on the other, Worcester, MA, for 270 days. Supporting shipper: Norton Company, One New Bond St., Worcester, MA 01606.

MC 161495 (Sub-II–5TA), filed January 4, 1983. Applicant: KEY TRANSPORT, INC., 3858 West Michigan St., Sidney, OH 45365. Representative: David P. Bunnell, Key Transport, Inc., 3858 West Michigan St., Sidney, OH 45365. *(1) Coal, (2) Soybean products and (3) Materials, equipment and supplies used in the manufacture and distribution*

thereof between points in OH and points in KY for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): Cargill, 2400 Industrial Drive, Sidney, OH 45365. Gary Gilardi, Inc., 2001 River Road, Sidney, OH 45365.

MC 165550 (Sub-II–1TA), filed January 5, 1983. Applicant: LEHIGH TRANSPORT, INC., 3745 Aramingo Ave., Philadelphia, PA 19137. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Phila., PA 19107. *Pulp board and fiber board,* from points of entry in New York State to Buchanan, NY, and return. An underlying ETA seeks 120 days authority. Supporting shipper: Georgia Pacific Corp., 1062 Lancaster Ave., Rosemont, PA.

MC 164906 (Sub-II–1TA), filed December 29, 1982. Applicant: M.D. TRUCKING, INC., 564 Haymore Ave., N., Worthington, OH 43085. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. (a) *Auto parts* from Goldsboro, North Carolina to Pinola, IN; Chicago, IL; Toledo, OH; and Pinconning, MI., (b) *Metal products* from Chicago, IL; Gary, IN; Detroit, MI; and Middletown, OH to Goldsboro, NC. for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: A.P. Parts Co., 315 Matzinger Road, P.O. Box 985, Toledo, OH 43694.

MC 107012 (Sub-II–257TA), filed January 4, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the United States, under continuing contract(s) with Monsanto Company, St. Louis, MO for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Monsanto Company, 800 North Lindberg Blvd., St. Louis, MO 63167.

MC 107012 (Sub-II–258TA), filed January 5, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same as applicant). Contract, irregular: *General commodities (except classes A & B explosives, commodities in bulk, and household goods as defined by the Commission)* between points in the U.S., under continuing contract(s) with Ralston Purina Company, St. Louis, MO for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63164.

MC 152840 (Sub-2–5TA), filed January 11, 1983. Applicant: PATRICIA AND JAMES KEELER d.b.a., P & J Transportation Co., Route 4295, Berkey, OH 43504. Representative: John P. Diel (same address as applicant). *Cleaning, scouring, washing compounds & other products related to manufacture and sale to food distribution warehouses* between points in MN, WI, IL, IN, OH, MI, PA, NJ, NY, MD. for 270 days. Supporting shipper: Economics Laboratory, Inc., 3001 Channahon Road, Joliet, IL. 60436.

MC 4242 (Sub-II–2TA), filed January 3, 1983. Applicant: PITTSBURGH-FAYETTE EXPRESS, INC., P.O. Box 141, Charleroi, PA 15022. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Candy products,* between Pittsburgh, PA, on the one hand, and, on the other, Des Plaines, IL. Supporting shipper: D. L. Clark Co., 503 Martindale St., Pittsburgh, PA.

MC 145767 (Sub-II–1TA), filed January 4, 1983. Applicant: ROLLING ROCK BUILDING STONE, INC., RD #4, Boyertown, PA 19512. Representative: Jeffrey Hanna, P.O. Box 74, Oley, PA 19547. Contract, irregular: *plastic goods and steel channel* from Schuylkill County, PA and Erie County, NY to Fairfield County, CT; and from fairfield County, CT to points in NY, NJ, PA, under continuing contract(s) with Defender Energy of CT, Inc. Supporting shipper: Defender Energy of CT, Inc., P.O. Box 460, Baldwin Place, NY 10505.

MC 165581 (Sub-II–1TA), filed January 10, 1983. Applicant: VANGUARD TRANSPORTATION SYSTEMS, INC., 6673 Lake Drive, P.O. Box 475, West Chester, OH 45069. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *General commodities* (except classes A and B explosives, household goods and commodities in bulk) between Atlanta, GA, Chicago, IL, Detroit, MI, St. Louis, MO, Cincinnati, OH, Pittsburgh, PA and Parkersburg, WV, and the commercial zones thereof, on the one hand, and, on the other, all points in GA, IL, IN, KS, KY, MI, MO, OH, PA, TN, WV, and WI. for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s): There are 10 supporting shippers. Their statements may be examined at the ICC Office in Phila., PA.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA, 30309.

MC 164313 (Sub-3–2TA), filed January 14, 1983. Applicant: QUALITY MULCH COMPANY, INC., Rte. 1, Box 203, Hamlet, NC 28345. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375. *Contract,* irregular: *plywood* from the facilities of Dillon Veneer & Plywood Company, located at or near Dillon, SC, to points in NC; Dublin, GA; Clarksville, TN and Galax, VA, under account with Dillon Veneer & Plywood Company of Dillon, SC. Supporting shipper: Dillon Veneer & Plywood Co., P.O. Box 310, Dillon, SC 29536.

MC 165674 (Sub-3–1TA), filed January 14, 1983. Applicant: JOY TRUCK LINES, INC., 119 Maresco Drive, N.E., Dalton, GA 30702. Representative: Kim G. Meyer, Suite 1006, 225 Peachtree St., N.E., Atlanta, GA 30303. (1) *Carpet, padding, adhesives, linoleum, roll-up machines, and materials, equipment and supplies used in the manufacture, sale and distribution thereof:* (a) between points in Dalton, GA and its commercial zone, on the one hand, and, on the other, points in GA, having a prior or subsequent movement in interstate commerce; and (b) between Dalton, GA and its commercial zone on the one hand, and, on the other, points in OH, WI, IN, MI, IL. PA, WV, NY, KY, TN, IA, Greenville, SC, Glasgow, VA, Chattanooga, TN (and their respective commercial zones); and (2) *Paint pigments and paint cans,* from Hubbard, OH and its commercial zone to points in GA; under a continuing contract(s) with Carpet Shippers Association, Inc., Dalton, GA.

MC 153228 (Sub-3–2TA), filed January 14, 1983. Applicant: Z TRUCKING & FORWARDERS, INC., 5440 West 5th Street, Jacksonville, FL 32205. Representative: O. C. Beakes, 836 Riverside Avenue, Jacksonville, FL 32204. *General commodities (except classes A and B explosives)* between points and places in FL, GA, SC, NC, AL and TN. Applicant intends to tack the authority herein applied for to the authority it holds in MC–153228. There are 8 shippers supporting affidavits attached to the application which may be reviewed at the Regional Office of the Interstate Commerce Commission in Atlanta, GA.

MC 165404 (Sub-3–1TA), filed January 14, 1983. Applicant: JOHNSON MOVING SERVICES, INC., 808 Seaboard St., P.O. Box 792, Myrtle Beach, SC 29578–0792. Representative: Richard P. Proctor (same address as applicant). *Used household goods for the account of the United States Government incidental to the performance of a pack-and-crate service on behalf of the Department of Defense* between points and places within the six South Carolina counties of Horry, Georgetown, Williamsburg, Florence, Marion, and Dillon. Supporting shipper: Department of Defense, Falls Church, VA 22041.

MC 153679 (Sub-3–9TA), filed January 14, 1983. Applicant: CUMBERLAND FREIGHT LINE, INC., 13th Street, Smyrna, TN 37167. Representative: J. Greg Hardeman, 618 United Southern Bank Building, Nashville, TN 37219. *Contract,* irregular: *General commodities (exept Classes A & B explosives, household goods, and commodities in bulk):* between points in the U.S. (Except AK and HI) under a continuing contract with National Transportation Consultants, Inc., Northfield, OH. Supporting shipper: National Transportation Consultants, Inc., P.O. Box 22, Northfield, OH 44067.

MC 2934 (Sub-3–52 TA), filed January 14, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, Indiana 46032. Representative: W. G. Lowry (same as above). *Contract:* Irregular: *Household goods and general commodities* (except Class A and B explosives); between points in the United States (excluding Alaska and Hawaii), under continuning contracts with Hughes Aircraft Company, P.O. Box 90515, Building 103, M/S 5735, Los Angeles, CA 90009. Supporting shipper: Hughes Aircraft Company, P.O. Box 90515, Building 103, M/S 5735, Los Angeles, CA 90009.

The following applications were filed in Region 4. Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 125853 (Sub-4–1TA), filed January 5, 1983. Applicant: TOWNE AIR FREIGHT, INC., 4135 West Progress Drive, South Bend, IN 46628. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. *Contract* irregular: Drugs, toilet preparations, and chemicals NOI, and materials, equipment and supplies utilized in the manufacture, distribution and sale thereof, between Elkhart and St. Joseph Counties, IN, on the one hand, and, on the other, the commercial zones of Detroit, MI and Ft. Wayne and Indianapolis, IN under continuing contract(s) with Miles Laboratory, Inc., 1127 Myrtle Avenue, Elkhart, IN 46514. An underlying ETA seeks 120 days authority. Supporting shipper: Miles Laboratory, Inc., 1127 Myrtle Avenue, Elkhart, IN 46512.

MC 125894 (Sub-4–7TA), filed November 23, 1982. Applicant: J & R SCHUGEL TRUCKING, INC., 2026 North Broadway, New Ulm, MN 56073. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. *Mobile home building materials,* between points in Marion County, FL; Thomas County, GA; Elkhart and Kosciusko Counties, IN; Reno County, KS; Yamhill County, OR; Lancaster County, PA; Charleston and Greenville Counties, SC; Bell and Galveston Counties, TX and Clark County, WI; two supporting shippers.

MC 144886 (Sub-4–2TA), filed January 5, 1983. Applicant: JACK W. BAUER, d.b.a. BAUER'S TRUCKING, Rt. 2, Medford, WI 54451. Representative: Wayne W. Wilson 150 E. Gilman St., Madison, WI 53703. *General commodities,* (except Classes A and B explosives, household goods, and commodities in bulk) between Medford, WI, on the one hand, and, on the other, points in Clark, Ashland, Price, Rusk, and Taylor Counties, WI. Underlying ETA seeks 120 day authority. There are seven supporting shipper statements of support attached to this application which may be examined at the I.C.C. Regional Office in Chicago, IL.

MC 156049 (Sub-4–2TA), filed January 5, 1983. Applicant: CASPER CARTAGE, INC., 6265 Fairwood, Dearborn Heights, MI 48127. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. *Metal containers and lids and material used in the manufacturing and distribution of metal containers and lids,* between Cincinnati, OH and its commercial zone and Detroit, MI. Supporting shipper: Continental Can Company, Inc., 711 Jorie Boulevard, Oak Brook, IL 60521.

MC 15735 (Sub-4–49TA), filed January 7, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403 Chicago, IL 60680. *Cantract,* irregular: *Household goods* between points in the U.S. (including AK but excluding HI) under a continuing contract with LAWI/CSA Consolidators Inc., of Huntington Park, California.

MC 123865 (Sub-4–1TA), filed January 7, 1983. Applicant: LING TRANSFER, INC., Box 192, Dixon, 61021. Representative: James A. Andreoni, Perona, Perona, & Tonozzi, 222 East St. Paul Street, Spring Valley, IL 61362–0187, phone: (815) 664–2393. Transporting *coal and coal products, ores and minerals, farm products and general commodities,* in bulk only, between points within a 25-mile radius of Peru, IL, and points within a 50-mile radius of Madison, WI., and points within a 50-mile radius of Belait, WI., over irregular routes. Supporting shippers: Tabor Grain, Div. of Archer Daniel Midlands Co., La Salle, IL 61301.

MC 165138 (Sub-4–1TA), filed January 7, 1983. Applicant: MLB DELIVERY, INC., 833 Main Street, Carmel, IN 46032. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201, (812) 379–2556. *Contract* irregular: *Motor vehicle cargo and passenger vans,* between Elkhart County, IN., on the one hand, and, on the other, points in AZ; CO; FL; GA; TN; TX; and UT; under continuing contracts with Century Motor Coach, Inc., and Citation Motor Coach, Inc., both of Elkhart, IN. Supporting shipper: Century Motor Coach, Inc. and Citation Motor Coach, Inc., both of Elkhart, IN.

MC 165301 (Sub-4–1TA), filed January 7, 1983. Applicant: WIESBROCK TRUCKING, INC., RFD Box 21, Leonore, IL 61332. Representative: James A. Andreoni, Perona, Perona & Tonozzi, 222 East St. Paul Street, Spring Valley, IL 61362, phone: (815) 664–2392. Transporting *coal and coal products, ores and minerals, farm products and general commodities,* in bulk only, between points within a 25-mile radius of Peru, IL, and points within a 50-mile radius of Madison, WI., and points within a 50-mile radius of Beloit, WI., over irregular routes. Supporting shipper: Tabor Grain, Div. of Archer, Daniel, Midlands Co., P.O. Box 183, La Salle, IL 61301.

MC 165310 (Sub-4–1TA), filed January 7, 1983. Applicant: RAINBOW LEASING INC., 1415 South Clark Blvd., Jeffersonville, IN 47130. Representative: Robert L. Hawkins (same address as applicant). *Such commodities as are dealt in by wholesale and retail food, grocery, drug, and department stores, and materials, equipment, and supplies used in the manufacture, sale, and distribution of such commodities* between Clark and Floyd Counties in IN and Jefferson County in KY on the one hand, and, on the other hand, all points in the states of IN, KY, OH. Supporting shipper: The Anaconda Aluminum Co., 4451 Robards Lane, Louisville, KY 40218 and Colgate Palmolive Company, Inc., State & Woerner Streets, Jeffersonville, IN 47130.

MC 165356 (Sub-4–1TA), filed January 7, 1983. Applicant: BSA, INC., 504 Woodvale Drive, DeForest, WI 53532. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, P.O. Box 5066, Madison, WI 53795–0066, 608–238–3119. Floor coverings from points in GA to Chicago, IL and Janesville, Madison and Milwaukee, WI and points in their respective commercial zones. An underlying ETA seeks 120 day authority. There are a total of 10 supporting shippers.

MC 165567 (Sub-4–1TA), filed January 7, 1983. Applicant: SALT SERVICE & SUPPLY CO., 619 North Loucks, Aurora, IL 60505. Representative: Michael A.

Lehor, Jr. (same address as applicant), (312) 898–4346. Transporting *Salt and Salt Products* from Hutchison, KS to points in Cook, DuPage, Kane, Kendall, Kale and Will Counties, IL. Supporting shipper: Cargill Inc., P.O. Box 5621, Minneapolis, MN 55440.

MC 15735 (Sub-4–50TA), filed January 10, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (including AK but excluding HI) under a continuing contract with NUS Corporation and its subsidiaries of Gaithersburg, Maryland.

MC 115160 (Sub-4–1TA), filed January 10, 1983. Applicant: LAWRENCE TRANSPORTATION CO., P.O. Box 755, Tioga, ND 58852. Representative: Fred E. Whisenand, McIntee & Whisenand, 113 E. Broadway, P.O. Box 1307, Williston, ND 58801. *Mercer* commodities between all points and places within the U.S. of America, including AK. Supporting shippers: There are eleven (11) statements of support attached to this application which may be examined at the ICC regional office in Chicago, IL.

MC 115855 (Sub-4–1TA), filed January 10, 1983. Applicant: KHS AIR FREIGHT, INC., 255 N. 28th Street, Battle Creek, MI 49015. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933, (517) 482–2400. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between Detroit, MI and its commercial zone; Cook County, IL; Berrien, St. Joseph, Branch, Calhoun, Kalamazoo, Allegan, and Kent Counties, MI. Supporting shippers: Lyons Transportation Lines, Inc., 138 East 26th Street, P.O. Box 10488, Erie, PA 16514; Gryphon Shipping Services, Inc., 1300 Mark Street, Elk Grove Village, IL 60007.

MC 156645 (Sub-4–2TA), filed January 11, 1983. Applicant: FLEET CARRIERS, INC., 3158 Des Plaines Ave., Des Plaines, IL 60018. Representative: Thomas M. O'Brien, Sullivan & Associates, Ltd., 180 N. Michigan Avenue, Chicago, IL 60601. *Contract; Irregular: Such commodities* as are dealt in by manufacturers of business graphics equipment, between points in the U.S. (except AK and HI), under continuing contract(s) with A.M. International, Inc. of Chicago, IL.

MC 159736 (Sub-4–1TA), January 10, 1983. Applicant: DTX, INC., 500 Hogsback Rd., Mason, MI 48854. Representative: John R. Frederick, DTX, Inc., 500 Hogsback Rd., Mason, MI 48854. *Contract carrier:* irregular routes: *Rubber or plastic products,* between Owensboro, KY and points in the United States, under continuing contract(s) with Dart Polymers, Inc. of Owensboro, KY. Supporting shipper: Dart Polymers, Inc., 2400 Harbor Rd., Owenboro, KY 42301.

MC 160706 (Sub-4–3), filed January 11, 1983. Applicant: CHARLES FOLKENS, Rural Route #1, Big Lake, MN 55309. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. Contract, irregular route, *Plumbing and Heating Supplies,* from Minneapolis, MN and its commercial zone on the one hand, to points in SD and IA under continuing contract(s) with Roberts Hamilton Co., Golden Valley, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 162610 (Sub-4–9TA), filed January 11, 1983. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 West 47th Street, Lyons, IL 60534. Representative: Thomas M. O'Brien, Sullivan & Associates, Ltd., 180 North Michigan Avenue, Suite 1700, Chicago, IL 60601. *Contract; irregular: General commodities* (except Classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Express Forwarding and Storage, Inc. of Des Plaines, IL. Supporting Shipper: Express Forwarding and Storage, Inc., 3150 River Road, Des Plaines, IL 60018.

MC 165619 (Sub-4–1TA), filed January 11, 1983. Applicant: SAMUEL, DANNY AND SAMMY DESNICA, d.b.a. HAL-COR TRUCKING, 2437 Root River Parkway, West Allis, WI 53227. Representative: Daniel R. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Such commodities as are dealt in or used by a manufacturer of fertilizer ingredients or leather products* between Oak Creek, WI, and Rockford, MI. An underlying ETA seeks 120 days authority. Supporting Shipper: Hynite Corporation, 4301 East Depot Road, Oak Creek, WI 53154.

MC 158306 (Sub-4–2TA), filed January 11, 1983. Applicant: RICHARD J. WARREN, d.b.a. WARREN TRANSPORT, 10031 McGee Rd., Box 57, McBain, MI 49657. Representative: Richard J. Warren (same as above). Seats, passenger bus (backs or cushions or bus seat parts, in boxes or crates or wrapped) from Grand Rapids, MI to Hayward, CA. An underlying ETA was not filed. Supporting Shipper: Gillig Corp., 25800 Clawiter Rd., P.O. Box 3008, Hayward, CA.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 67234 (Sub-5–43TA), filed January 10, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, irregular *General commodities* (except Classes A and B explosives and commodities in bulk) between points in the U.S. (including AK and HI) under continuing contract(s) with Holiday Inns, Inc. Supporting shipper: Holiday Inns, Inc., Memphis, TN.

MC 133959 (Sub-5–7TA), filed January 10, 1983. Applicant: ALBAUGH TRUCK LINE, INC., 123 Main Street, Elkhart, IA 50073. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Food, paper products, and containers between points in IA, NE, OH, KS, and OK on the one hand and, on the other, points in IL, IN, OH, NE, KS, MO, OK and KY. Supporting shipper—Beatrice Foods, Inc., Des Moines, IA.

MC 144667 (Sub-5–10TA), filed January 10, 1983. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *General commodities* (except Classes A and B explosives, household goods, and commodities in bulk) between points in NE, CO and WY on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Navajo Shippers, Inc., Denver, Co.

MC 154115 (Sub-5–3TA), filed January 10, 1983. Applicant: SERVICE TRUCKING, INC., Route #1, Pratt, KS 67124. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601. *Bagged starch and dehydrated corn syrup, and corn syrup in drums,* from McPherson, KS, and Keokuk, IA, to points in the U.S. (except Ak and HI). Supporting shippers: Chemstar Products, Inc., South, Minneapolis, MN; The Hubinger Company, Keokuk, IA.

MC 159538 (Sub-5–2TA), filed January 10, 1983. Applicant: NEWSOM TRUCKING AND CONSTRUCTION, INC., Rt. 1, Box 149, Livingston, LA 70754. Representative: (Same as applicant). Contract; Irregular, (1)*Scrap iron* from the dock of Reserve Barge Service in Reserve, La. to the Bayou Steel Corp. plant site in Laplace, La; (2) *finished products consisting of iron and steel, construction members such as, but not limited to, I-Beams, H-Beams, Channel-Beams, of various sizes, dimensions and material,* from the plant site of Bayou Steel Corp. in Laplace, La.

to points in the U.S. Supporting shipper: Bayou Steel Corp., Laplace, LA.

MC 165318 (Sub-5–1TA), filed January 10, 1983. Applicant: HERREN TRANSPORTATION SERVICES, P.O. Box 574, Lancaster, TX 75146. Representative: Patricia A. Herren, Junction Fm Road 1382 & Beltline Rd., Cedar Hill, TX 75104. Contract; irregular. *Potassium Chloride in 100 pound bags shipped in van trailers* between Lea, Chaves, and Eddy Counties NM on the one hand, and, on the other, Ellis, Trarrant, and Dallas Counties,TX and *Salt in large barrels shipped in van trailers* between Ellis, Tarrant, and Dallas Counties, TX on the one hand, and on the other, points in MO., IL., IN., OH., WI., PA., and NY. Supporting shipper: Atlantes Industries, Midlothian, TX.

MC 165578 (Sub-5–1TA), filed January 10, 1983. Applicant: CARL HATTON BUTANE CO., P.O. Box 100, Altus, OK 73521. Representative: Carl Hatton (same as above). (1) *Ammonia* from Borger and Sunray, TX to Altus, OK; (2) *Propane* from Borger, TX to Elk City, Arnett and Canute, OK and from Bridgeport, TX to Grandfield and Lawton, OK. Supporting Shipper(s); Howard's Butane Propane Co., Inc., Elk City, OK; Pool Chemical Co., Inc., Texline, TX; Glenn's Propane Co., Inc., Arnett, OK; McClurkan Butane Co., Grandfield, OK; Beck & Root Fuel Co., Canute, OK.

MC 165580 (Sub-5–1TA), filed January 10, 1983. Applicant: ANTHONY J. MIELLA, 1810 Brownell, Kansas City, MO 64124.. Representative: (Same as applicant). *Passengers, in Charter/ Special operations,* beginning and ending at points in Kansas City, MO, and extending to points in NE, KS, IA, OK, and IL. Supporting Shippers: Panethiers Law Firm, Kansas City, MO; Jackson Co. Sports Authority, Kansas City, MO; George Young, Raytown, MO; Larabee Plumbing & Heating, Kansas City, MO.

MC 156580 (Sub-5–2TA), filed January 14, 1983. Applicant: TRAN STAR TRANSIT, INC., 510 S. 110th St., Edwardsville, KS 66113. Representative: Thomas A. Stroud, 109 Madison Avenue, Memphis, TN 38103. (1) *Pet products* from Dallas County, TX to points in the U.S. (except AK and HI); (2) *food additives* from Kansas City, KS, Kansas City, MO and points in their respective commercial zones to points in the U.S. (except AK and HI); (3) *beverages* between Kansas City, KS, Kansas City, MO, and points in their respective commercial zones, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (4) *frozen foods* from Edwardsville, KS to Chicago, IL and points in its commercial zone and points in CA. Supporting Shippers: 6.

MC 139903 (Sub-5–4TA), filed January 14, 1983. Applicant: R. B. & N. M. STUCKY, d.b.a. S & S DAIRIES, Route 2, Moundridge, KS 67107. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612. *Liquid sweetners,* Part 1) From Hereford and Sugarland, TX; Sterling and Johnstown, CO; Clinton, Dubuque and Cedar Rapids, IA; Kansas City and St. Louis, MO; Chaska, MN and points in ND and MN to points in AR; CO; IA; KS; MN; MO; NE; OK; & TX. Part 2) From Keokuk, IA to points in MT; CO; SD; NE; KS; OK; TX; MN; IA; MO; AR; LA; WI; IL; MI; IN; OH; NY; MA; KY; TN; AB; GA; SC & FL. Supporting Shippers: Pepsi-Cola Bottling Co. of Wichita, Inc., Wichita, KS; American Crystal Sugar Co., Moorehead, MN; Hubinger Co., Keokuk, IA.

MC 142757 (Sub-5–3TA), filed January 14, 1983. Applicant: ROBERTSON TRUCKING, INC., P.O. Drawer 100, Elkhart, KS 67950. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 6612. *Polymer,* From the Commercial Zone of New Orleans, LA to Texas County, OK. Supporting Shipper: Edwin L. Cox and Berry R. Cox Oil and Gas Producers, Liberal, KS.

MC 160753 (Sub-5–3TA), filed January 12, 1983. Applicant: ROLAND ACOSTA, d.b.a. ACOSTA FRUIT & VEGETABLE CO., P.O. Box 986, Edinburg, TX 78539. Representative: Roland Acosta, Rt. 1, Box 129–A, Mission, TX 78572. Contract, Irregular; *Paper and Paper Products, Bags and Sacks* between points in TX, on the one hand, and, on the other, points in the U.S., except AK and HI, under continuing contract with Kenneth Fox Supply Co., McAllen, TX.

MC 161079 (Sub-5–2TA), filed January 12, 1983. Applicant: H. J. WAGNER, d.b.a. WICHITA SOUTH & WEST, 115 Ave. "A" East, Kingman, KS 67068. Representative: W. J. Wagner (same as above). *Plate steel, steel pipe, and steel articles* between Pratt, KS and its commercial zones, on the one hand, and on the other, Houston, TX, Lone Star, TX, Ft. Worth, TX, Tulsa, OK, and Muskogee, OK and their commercial zones. Supporting Shipper: R & R Industries, Inc., Pratt, KS.

MC 163503 (Sub-5–10TA), filed January 13, 1983. Applicant: NATIONAL FREIGHT SYSTEM, INC., 2305 Oak Lane, Suite 115, Grand Prairie, TX 75051. Representative: Stephen W. Mitchell (same address as above). *Leather Products and such commodities as are used in the Processing and Manufacture of Leather Products* between points in CA, CO, GA, IL, IL, IN, KS, LA, MA, MI, MN, MO, NE, NY, OK, OR, TX and WA. Supporting shipper(s): 7.

MC 165659 (Sub-5–1TA), filed January 13, 1983. Applicant: ROBERT F. DALE, d.b.a. DALE TRANSPORTATION, 6016 Laurel, Raytown, MO 64133. Representative: Robert F. Dale, (same as applicant). Contract; Irregular. *Stock paper computer forms in boxes,* between Kansas City, MO, on the one hand, and, on the other, all points in KS. Supporting shipper: Bowater Computer Forms, Inc., Lee's Summit, MO.

MC 164095 (Sub-5–3TA), filed January 13, 1983. Applicant: BIG RED EXPRESS, INC., 7911 L Street, Omaha, NE 68127. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Food products,* from the facilities of Prime International Corp. at Omaha, NE to points in AL, AR, CO, FL, GA, IL, KS, KY, LA, MN, MO, NC, OH, OK, SC, TN, TX, VA and DC. Supporting shipper(s): Prime International Corp. Omaha, NE.

MC 165658 (Sub-5–1TA), filed January 13, 1983. Applicant: COMMERICAL ENTERPRISES LTD 11128 John Galt Blvd., Suite 391, Omaha, NE 68137. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 2210B, Omaha, NE 68114. *Salt and Chemicals,* from the facilities of Great Salt Lake Minerals & Chemicals Corporation, Little Mountain (Weber County), UT to points in IA, KS, MN, NE, SD, and WI, Supporting shipper: Great Salt Lake Minerals & Chemicals Corp. Polk City, IA.

MC 138161 (Sub-5–2TA), filed January 14, 1983. Applicant: TRANSPORT EXPRESS, INC., Box 663, Dodge City, KS 67801. Representative: Clyde N. Christey, Ks. CREDIT Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612. *Propane,* Part 1) From points in Woodward, Harper & Grant Counties, OK and Moore County, TX., to points in KS west of US Highway 81 and US Interstate Highway 135 and points in NE south of NE Highway 91, NE Highway 2 and US Highway 20 and west of US Highway 20 and west of US Highway 77 and US Highway 385 and points in CO east of US Highway 24, CO Highway 131, US Highway 40, CO Highway 14 and CO Highway 127. Part 2) From points in Butler, Grant, Clay, Reno, Seward, Morton, Stevens & McPherson Counties, KS. to points in CO east of US Highway 285, US Highway 24, CO Highway 131, US Highway 40, CO Highway 14 and CO Highway 127, and points in NE south of NE Highway 91, NE Highway 2 and US Highway 20 and

west of US Highway 77 and US Highway 385 and Texas County, OK. Part 3) From points in Jefferson, Douglas, Elbert, Araphaho, Adams, Denver, and Boulder Conties, CO to points in KS west of US Highway 81 and US Highway 135 and points in NE south of NE Highway 91, NE Highway 2, and US Highway 20 and west of US Highway 77 and US Highway 385 and points in Texas County, OK Supporting shipper: L. J. Fisher, dba Col-Kan Propane Service Holly, CO.

The following applications were filed in region 6. Send protests to: Interstate Commerce Commssion, Region 6 Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 165568 (Sub-6–1TA), filed January 7 1983. Applicant: JIM BAKER TRUCKING, INC., P.O. Box 11503, Santa Rosa, CA 95406. Representative: David Robinson, 2228 W. Northern Ave., Suite B201, Phoenix, AZ 85021. *Building materials and such goods as are dealt in by wholesale and retail department and grocery stores,* between points in Napa, Sonoma, Stanislaus and Sacramento Counties, CA; Maricopa County, AZ for 270 days. An underlying ETA seeks 120 days' authority. Supporting shippers: Alpha Products, P.O. Box 30520, Phoenix, AZ. 85046; Manufacturers Direct Sales, Inc., 4365 E. Redfield Rd., Phoenix, AZ. 85032.

MC 133154 (Sub-6–5TA), filed January 10, 1983. Applicant: BELL TRANSPORT COMPANY, 14000 E. 183rd St., La Palma, CA 90623. Representative: Robert C. Rodgers (same as applicant). *Contract Carrier,* Irregular Routes: *Such commodities as are manufactured or distributed by Casa Grande Rockwool, Inc. including supplies and materials used in the manufacture of such merchandise,* between points in CA and AZ for the account of Casa Grande Rockwool, Inc. for 270 days. Supportin shipper: Casa Grande Rockwool, Inc., 1474 Vip Bld., Casa Grande, AZ 85222.

MC 143392 (Sub-6–1TA), filed January 10, 1983. Applicant: BLACK PINE TRUCKING, INC., Rt. 8, Box 97, Idaho Falls, ID 83401. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Contract Carrier,* Irregular routes: *Coal,* from Carbon County, UT to points in ID, for the account of Price River Coal Company, for 270 days. Supporting shipper: Price River Coal Company, P.O. Box 629, Helper, UT 84526.

MC 165584 (Sub-6–1TA), filed January 10, 1983. Applicant: MICHAEL F. MANN d.b.a. CHEMTRANS, 2099 W. 3950 S., Roy, UT 84067. Representative: Irene Warr, 311 So. State St., Ste 280, Salt Lake City, UT 84111. *Contact carrier,* irregular routes, *chemicals and related products,* (1) From CA, Denver, CO, and Sweetwater County WY, to UT; and (2) From Salt Lake City, UT to NV, CA, WY & ID, under continuing contract(s) with Van Waters & Rogers division of Univar Corporation, for 270 days. ETA seeking 120 days authority has been filed. Supporting shipper: Van Waters & Rogers, division of Univar Corporation, 650 West 800 South, Salt Lake City, 84110.

MC 104832 (Sub-6–5TA), filed January 6, 1983. Applicant: HOLMAN TRANSFER CO., 49 S E Clay, Portland, OR 97214. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Ave., Portland, OR 97210. *Contract carrier:* irregular routes: *food and related products,* between Portland, OR and its commercial zone, on the one hand, and points in WA, on the other, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Keebler Company, One Hollow Tree Lane, Elmhurst, IL 60126.

MC 156922 (Sub-6–2TA), filed January 10, 1983. Applicant: IMMANUEL FREIGHT LINES, INC., 13920 Mica St., Santa Fe Springs, CA 90670. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. *General commodities* (except household goods, commodities in bulk, and classes A and B explosives), between Atlanta, GA, Chicago, IL, Davenport and Fort Madison, IA, and Kansas City, MO and their respective commercial zones, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MI. MN, MO, OH, PA, WV and WI, restricted to the transportation of traffic having a prior or subsequent movement by rail. Supporting shippers: Immanuel Transport, Inc., 13920 Mica St., Santa Fe Springs, CA 90670; John M. Boast, Inc., 1607 West River Dr., Davenport, IA 52803.

MC 113059 (Sub-6–7TA), filed January 10, 1983. Applicant: KELLER TRANSPORT, INC., Route 9, Katy Lane, Billings, MT 59102. Representative: F. E. Keller (same address as applicant). *Materials, supplies and equipment incidental to or used in the construction, development and production of natural gas, petroleum and coal; and the construction and maintenance of highways, irrigation and power projects* between points in ID, MT, ND, SD, WY and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are seven (7) supporting shippers to this application. Their statements may be examined at the regional office listed.

MC 140827 (Sub-6–4TA), filed January 10, 1983. Applicant: MARKET TRANSPORT, LTD., 110 North Marine Dr., Portland, OR 97217. Representative: Tony Leineweber (same address as applicant). *Contract carrier,* irregular routes: *General commodities* (except Classes A & B explosives, household goods and commodities in bulk) between Springfield OR and points in AZ, CA, CO, ID, MT, NV, NM, UT, WA & WY for the account of The Clorox Company Kingsford Division, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Clorox Company Kingsford Division, 1221 Broadway, Oakland, CA 94612.

MC 147978 (Sub-6–8TA), filed January 6, 1983. Applicant: SYSTEM REEFER SERVICE, INC., 4614 Lincoln Ave., Cypress, CA 90630. Representative: Charles E. Creager, P.O. Box 1417, Hagerstown, MD 21740. *General commodities (except Classes A & B explosives, household goods and commodities in bulk)* between ports of entry on the international boundary line between the U.S. and CD at points in MI and NY, on the one hand, and on the other, points in WA, OR, ID, MT, WY, CA, NV, UT, CO, AZ and NM, for 270 days. Supporting shipper: Schenker of Canada Limited, 34 King St. East, Toronto, Ontario, CD M5C1E7.

MC 164578 (Sub-6–2TA), filed January 6, 1983. Applicant: TRUCK CONTROL SERVICE, INC., 7017 N. 56th Ave., Glendale, AZ 85301. Representative: Phil B. Hammond, 3003 N. Central, Suite 2201, Phoeniz, AZ 85012. *Contract carrier:* Irregular routes: *cocoa beans, cocoa liqueur, cocoa powder and cocoa cake* from Philadelphia, PA; Wilmington, DE; Pennsauken, West Depfordt, Riverside, Newark, Camden and Glassboro, NJ; and Norfolk, VA, to Burlingame and San Francisco, CA, for the account of Guittard Chocolate Company for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Guittard Chocolate Company, 10 Guittard Road, Burlingame, CA 94010.

MC 165585 (Sub-6–1TA), filed January 10, 1983. Applicant: WESTERN STANDARD TRANSPORT, 799 Industrial Way, Vernon, CA 90058.Representative: John C. Russell, 1545 Wilshire Blvd., Suite 606, Los Angeles, CA 90017. *General commodities,* (except Classes A & B Explosives, commodities in bulk and household goods) between Los Angeles and San Francisco, CA, on the one hand, and, on the other, points in CA, for 270 days. Applicant intends to interline. Supporting shipper: American Freight

System, Inc., 9393 West 110th St., Overland Park, KS 66210.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1817 Filed 1-21-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP 3-18]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided January 17, 1983.

In the matter of 90-Day Intrastate Motor Common Carriers of Passengers.

The following applications, filed on or after November 19, 1982, are governed by Part 1168 of the Commission's Rules of Practice. See 49 CFR Part 1168, published in the **Federal Register** on November 24, 1982, at 47 FR 53275. For compliance procedures, see 49 CFR 1168.6 and 49 U.S.C. 10922(c)(2)(E).

Persons wishing to oppose an application must follow the rules under 49 CFR Part 1168. In addition to fitness grounds, applications may be opposed on the grounds that the transportation to be authorized would directly compete with a commuter bus operation and would have a significant adverse effect on all commuter bus service in the area in which the competing service will be performed. Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 25 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance rquirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 30 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Carleton, Williams, and Ewing.

Note.—All applications are filed under 49 U.S.C. 10922(c)(2)(A) for authority to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has interstate, regular-route authority on November 19, 1982.

Please direct status inquires to Team 3, (202) 275-5223.

MC 1515 (Sub-322), filed December 14, 1982 and previously noticed in the **Federal Register** issue of January 6, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Station 1510, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant) (602) 248-5016. Applicant seeks authority in intrastate commerce to conduct service at all intermediate points on routes in No. MC-1515 (Sub-Nos. 7, 71, 252, 269, 306, and 310) and in No. MC-1501 (Sub-Nos. 92, 97, 167, 207, and 236), acquired in No. MC-F-8531, as follows: (1) No. MC-1515 (Sub-No. 252), over all of the routes which traverse New York, (2) No. MC-1515 (Sub-No. 269), over all of the routes which traverse New York, (3) No. MC-1515 (Sub-No. 306), over all of the routes which traverse Colorado and Wyoming, (4) No. MC-1515 (Sub-No. 310), over all of the routes which traverse Indiana, (5) No. MC-1501 (Sub-No. 92), over all of the routes which traverse DE, IL, IN, KY, MD, MI, MO, NJ, NY, OH, PA, VA and WV, (6) No. MC-1501 (Sub-No. 167), over all of the routes which traverse CT, NJ and NY, (7) No. MC-1501 (Sub-No. 207) over all of the routes which traverse Virginia and Maryland, (8) No. MC-1515 (Sub-No. 7), in part, all of the routes on Third Revised Sheet No. 56 which traverse Idaho, (9) No. MC-1515 (Sub-No. 71), in part, (a) page 5, between Denver and the Colorado-New Mexico State Line, and (b) page 7, between Denver and the Colorado-Nebraska State Line northeast of Sterling, (10) No. MC-1501 (Sub-No. 97), in part, between Paris, IL and Evansville, IN, and (11) No. MC-1501 (Sub-No. 236), in part, (a) between New York, NY, and junction Interstate Hwy 287 and Interchange No. 13 of Interstate Hwy 95 at Port Chester, NY and (b) between junction Interchange No. 8 of Interstate Hwy 87 and Interstate Hwy 287 and Suffern, NY.

Note.—The purpose of this republication is to correctly reflect the territorial description in item (5) to add the state of West Virginia.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1818 Filed 1-21-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP1-18]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of petitions for intervention must be filed with the Commission within 30 days after the date of this **Federal Register** Notice. Applicant may file a verified statement in rebuttal within 50 days. Such pleadings shall comply with 49 CFR 1160.1-1160.49 addressing specifically the issue(s) indicated as the purpose for this republication.

James H. Bayne,

Acting Secretary.

Please direct status inquiries to Team 1, (202) 275-7992.

MC 147491 (Sub-6), (republication), filed April 13, 1982. Published in the **Federal Register** of May 7, 1982, and republished this issue. Applicant: TAB TRUCKING, INC., 4342 Janitrol Road, Columbus, OH 43228. Representative: Paul R. Brown, 31 West Whittier St., Columbus, OH 43206. A decision by the Commission, Division 2, Acting as an Appellate Division, decided January 6, 1983 and served January 12, 1983, finds that applicant is authorized to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives and household goods), between points in Alabama, Arkansas,

Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this republication is to include the State of Mississippi as part of the sought territory.

MC 160500 (Sub-1), (republication), filed August 27, 1982. Published in the **Federal Register** of September 13, 1982, and republished in this issue. Applicant: SILVER STREAK EXPRESS, INC., 1002 Fuselage Ave., Baltimore, MD 21220. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415. A decision by the Commission, Review Board Number 1, decided December 27, 1982 and served January 10, 1983, finds that applicant is authorized to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *transportation equipment,* between points in California, Colorado, Maryland, Nevada, and Texas. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to offer the shipping public a broader choice of carriers for meeting its transportation needs and will promote desirable competition among carriers.

[FR Doc. 83–1821 Filed 1–21–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–52 (Sub-22)

Atchison, Topeka & Santa Fe Railway Co.—Abandonment—Between Burro Mountain Junction and Silver City in Grant County, NM; Findings

The Commission has issued a certificate authorizing the Atchison, Topeka and Santa Fe Railway Company to abandon its 12.63-mile rail line between Burro Mountain Junction (milepost 33.97) and Silver City (milepost 46.6) in Grant County, NM. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27 (formerly 49 CFR 1121.38).

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1820 Filed 1–21–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15044]

JPB Corporation—Control—North Alabama Express, Inc., and Interamerican Carrier Corporation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1) *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343,* 47 *Fed. Reg.* 53303 (November 24, 1982), JPB Corporation (JPB) and its majority stockholder, Mr. James P. Byrne, seek an exemption from the requirements under section 11343 of prior regulatory approval for the acquisition of control of North Alabama Express, Inc. (MC–97260) and Interamerican Carrier Corporation (MC–162702). JPB also controls Clark Transport, Inc. (MC–106647) and Car Carriers, Inc. (MC–133324), pursuant to the Commission's prior approval.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESS: Send comments to:

(1) Motor Section, Team 1, Room 2379, Interstate Commerce Commission, Washington, DC 20423
and
(2) Petitioner's representative, Thomas M. O'Brien, Sullivan and Associates Ltd., 180 North Michigan Ave., Suite 1700, Chicago, IL 60601.

Comments should refer to No. MC–F–15044.

FOR FURTHER INFORMATION CONTACT: Joyce Lannon, (202) 275–7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 18, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1823 Filed 1–21–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15032]

Kephart Trucking Co.—Purchase Exemption—Tajon, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub–No 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C 11343,* 47 FR 53303 (November 24, 1982), Kephart Trucking Co. (Kephart) (MC–138386) and Tajon, Inc. (Tajon), (MC–4570), seek an exemption from the requirement of prior regulatory approval for the purchase by Kephart of all of Tajon's operating rights. In addition authority is sought for Kephart to temporarily lease Tajon's operating rights pending disposition of the petition for exemption.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423.
and
(2) Petitioners' representative, Dwight L. Koerber, Jr., 110 North Second Street, P.O. Box 1320, Clearfield, PA 16830.

Comments should refer to No. MC–F–15032.

FOR FURTHER INFORMATION CONTACT: Joyce Lannon, (202) 275–79.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 18, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,
Acting Secretary.

[FR Doc. 83-1822 Filed 1-21-83; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30086]

Southern Pacific Transportation Co.—Discontinuance of Service Exemption—In Lane County, OR

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the discontinuance of service by the Southern Pacific Transportation Company over 10.45 miles of Weyerhaeuser Company track from milepost 649.36 at Hendricks to milepost 659.81 near Hyland, OR, in Lane County, subject to conditions for the protection of employees.

DATES: This exemption is effective on February 23, 1983. Petitions to stay must be filed by February 3, 1983; petitions for reconsideration must be filed by February 14, 1983.

ADDRESS: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Gary A. Laakso, Southern Pacific Transportation Company, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

Pleadings should refer to Finance Docket No. 30086.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Avenue NW, Washington, DC 20423, (202) 289-4357—DC metropolitan area (800) 424-5403—Toll free from outside the DC area.

Decided: January 17, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

James H. Bayne,
Acting Secretary.

[FR Doc. 83-1819 Filed 1-21-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

National Institute of Justice Advisory Board; Meeting

Notice is hereby given that the National Institute of Justice Advisory Board will hold its meeting on February 4, 1983 from 9:00 a.m. to 6:00 p.m.; on February 5, 1983 from 1:00 p.m. to 5:00 p.m. and on February 6, 1983 from 9:00 a.m. to 12:00 p.m. at the Marriott Hotel, 555 Canal, New Orleans, Louisiana.

The meeting is being held in conjunction with the midwinter meeting of the American Bar Association. On February 4, 1983 from 9:00 a.m.–12:30 p.m. and from 3:00–6:00 p.m., representatives of the American Bar Association's Sections and Divisions and affiliated courts related organizations will present their views on research needs in the courts area. During the remaining sessions on February 4–6, 1983, the Advisory Board will conduct its regular business. Main items on the agenda will include a briefing on the adjudication research program of the NIJ, a briefing on the hearings conducted in Nashville with corrections practitioners and reports from Advisory Board subcommittees.

The meeting is open to the public. For further information please contact Betty M. Chemers, National Institute of Justice, U.S. Department of Justice (202–724–2953).

Dated: January 14, 1983.

James K. Stewart,
Director.

[FR Doc. 83-1836 Filed 1-21-83; 8:45 am]
BILLING CODE 4410-18-M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Technology Meeting

In accordance with the Federal Advisory Committee Act. Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Women in Science & Technology.

Place: Rm. 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Date: Thursday-Friday, February 10–11, 1983.

Time: Thursday, 9–5 p.m.; Friday, 9–3 p.m.

Type of meeting: Open.

Contact person: Mrs. Mary Poats, Executive Secretary of the Committee, National Science Foundation, Rm. 537, 1800 G Street, NW., Washington, D.C. 20550, Telephone: 202/357–9571.

Purpose of subcommitte: Responsible for all Committee matters relating to the participation in and opportunities for education, training, and research for women in science and technology, and the impact of science and technology on women.

Summary minutes: May be obtained from the contact person at the above stated address.

Agenda: The Subcommittee is asked to consider mechanisms to increase participation of women in Foundation programs and research projects; to provide advice to the Director for the modification of NSF policies and procedures relating to women appointments on advisory committees, as well as to suggest a modification of the internal distribution of funds to implement this program.

Dated: January 19, 1982.

M. Rebecca Winkler,
Committee Management Coordinator.

[FR Doc. 83-1887 Filed 1-21-83; 8:45 am]
BILLING CODE 7555-01-M

Directorate for Engineering; Division of Civil and Environmental Engineering; Earthquake Hazard Mitigation Advisory Subcommittee; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for the Earthquake Hazard Mitigation Program of the Division of Civil and Environmental Engineering (CEE).

Date and time: February 9, 1983—7:00 p.m. to 10:00 p.m. February 10, 1983—9:00 a.m. to 5:00 p.m.

Place: MGM Grand Hotel, 2500 East Second Street, Reno, Nevada 89595.

Type of meeting: Open.

Contact person: Rowena Peacock, Administrative Assistant (CEE), National Science Foundation, Room 1130, Washingtin, D.C., Telephone: (202) 357–9545.

Summary minutes: May be obtained from the Contact Person.

Agenda:

Wednesday, February 9, 1983

7:00–8:00—Welcome and Discussion of Division Activities
8:00–9:00—Review of Budgets and Reports of Sub-programs
9:00–10:00—Status Reports on Special Projects

Thursday, February 10, 1983

9:00–10:00—Continuation of Status Reports

10:00–12:00—Interagency Coordination Activities
12:00–1:30—LUNCH
1:30–5:00—Discussion of General Issues for Long Range Planning
5:00–Adjournment.

M. Rebecca Winkler,
Committee Management Coordinator.
Dated: January 19, 1983.
[FR Doc. 83-1855 Filed 1-21-83; 8:45 am]
BILLING CODE 7555-01-M

Subcommittee on Millimeter- and Submillimeter-Wavelength Astronomy of the Advisory Committee for Astronomical Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Millimeter- and Submillimeter-Wavelength Astronomy.

Date and time: February 10, 1983, 1 PM–5 PM; February 11, 1983, 9 AM–1 PM.

Place: The Conference Room, Crawford Hill Laboratory, Bell Telephone, Holmdel, NJ.

Type of meeting: Open.

Contact person: Dr. Vernon L. Pankonin, Division of Astronomical Sciences, Room 618, National Science Foundation, Washington, DC 20550, 202/357–9696.

Summary Minutes: May be obtained from the contact person.

Purpose of Committee: To study future needs for this field of millimeter-and submillimeter-wavelength astronomy.

Agenda: Discussion of each of the questions in the charge to the Subcommittee as follows:

1. What are the emerging emphases in the science which is addressed by observations at millimeter and submillimeter wavelengths?
2. Are the millimeter-and submillimeter-wavelength facilities in the United States, at universities and National Centers, and abroad adequate for the science to be addressed?
3. Are the facilities surveyed above accessible to U.S. astronmers? If not, what should be done to improve the accessibility?
4. What new facilities and instrumentation are required to remedy inadequacies, and what are the relative priorities for implementation?

Dated: January 19, 1983.

M. Rebecca Winkler,
Committee Management Coordinator.

[FR Doc. 83-1859 Filed 1-21-83; 8:45 am]
BILLING CODE 7555-01-M

Subpanel on Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Subpanel on Developmental Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and time: February 10, 11, 12, 1983, starting at 9:00 a.m., to 5:00 p.m.

Place: Room 540, National Science Foundation, 1800 G Street, N.W. Washington, D.C.

Type of meeting: Closed

Contact person: Dr. Clifton A. Poodry, Program Director, Developmental Biology Program Room 332–E, National Science Foundation, Washington, D.C. 20550 telephone 202/357–7989

Purpose of subpanel: To provide advice and recommendations concerning support of research in developmental biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 522(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF July 6, 1979.

Dated: January 19, 1983.

M. Rebecca Winkler,
Committee Management Coordinator.

[FR Doc. 83-1860 Filed 1-21-83; 8:45 am]
BILLING CODE 7555-01-M

Subpanel on Molecular Biology, Group B, of the Advisory Panel for the Physiology, Cellular, and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meetings:

Name: Subpanel on Molecular Biology, Group A, of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and time: February 10 & 11, 1983, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G St, NW Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. Huber Warner, Program Director, Biochemistry Program, Room 329, National Science Foundation, Washington, DC 20550.

Purpose of subpanel: To provide advice and recommendations concerning support for research in Molecular Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are with exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Office pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. R. Winkler,
Committee Management Coordinator.

Dated: January 19, 1983.

[FR Doc. 83-1858 Filed 1-21-83; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Reliability and Probabilistic Assessment; Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on February 9, 1983, Room 1046, at 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the study on precursors to potential severe core damage accidents, NUREG/CR–2497.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its

consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

Wednesday, February 9, 1983—2:30 p.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentation by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 18, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83–1580 Filed 1–21–83; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review By Office of Management and Budget

Agency Clearance Officer—Kenneth Fogash, 202–272–2700.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Amendment
Item 402 of Regulation S–K
No. 270–190

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance a proposed amendment to Item 402 of Regulation S–K under the Securities Exchange Act of 1934 which sets forth requirements with respect to disclosure of management remuneration.

The proposed amendments are intended to streamline and simplify Item 402 in a manner consistent with investor protection.

Submit comments to OMB Desk Officer: Robert Veeder, 202–395–4814.

George A. Fitzsimmons,

Secretary.

January 17, 1983

[FR Doc. 83–1694 Filed 1–21–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19436; SR–NYSE–83–1]

New York Stock Exchange, Inc.; Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change

January 17, 1983.

In the matter of New York Stock Exchange, Inc., 11 Wall Street, New York, NY 10005 (SR–NYSE–83–1).

Description of New York Stock Exchange Rule 103A and the Proposed Rule Change

The New York Stock Exchange, Inc. ("NYSE") submitted on January 7, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder. The rule change would extend the effectiveness of NYSE Rule 103A from January 15, 1983 to June 30, 1983, and raise the standard for minimum acceptable performance under Rule 103A from 3.0 to 4.50.

Rule 103A establishes minimum standards of acceptable performance for NYSE specialist units and provides a non-disciplinary procedure for the reallocation of one or more securities assigned to a specialist unit which has fallen below these minimum standards.[1] The standards are based upon the results of a subjective quarterly questionnaire survey of floor brokers selected by the Exchange staff. Failure to achieve specific scores either on the survey as a whole or on one or more specific questions for a certain number of quarters constitutes unacceptable performance for purposes of Rule 103A.[2] In the event of a specialist unit falls below "acceptable performance" levels, the Market Performance Committee of the NYSE (the "Committee") may issue a Supplemental Questionnaire to assist the Committee in determining whether a reallocation proceeding should be initiated, and if so, which stocks might be appropriate for reallocation.[3] If the Committee determines that the results of the Supplemental Questionnaire so warrant, it may order the commencement of reallocation proceedings.

The reallocation proceeding consists of a hearing in which the Committee will consider all material relevant to the specialist unit's performance, including any extenuating or mitigating circumstances offered by the specialist unit. Following the hearing, the Committee may either cancel the specialist's registration in a particular stock or stocks, or, because of extenuating or mitigating circumstances, give the unit a specified time within which to improve its performance. A specialist unit may appeal any Committee decision to the NYSE Board of Governors.[4]

In addition, the Exchange has a procedure called a performance improvement action. Under this procedure the Exchange staff informally counsels any unit failing below the Rule 103A minimum performance level for one quarter.[5]

In anticipation of the January 15, 1983, expiration of the pilot program, the NYSE this past summer constituted a subcommittee of the Exchange's Quality of Markets Committee to consider,

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[1] Rule 103A was approved initially by the Commission as a two-year pilot program on May 15, 1979. Securities Exchange Act Release No. 15627, May 15, 1979; 44 FR 29778, May 22, 1979. Most recently on December 21, 1981, the Commission approved an extension of the effectiveness of Rule 103A to January 15, 1983. Securities Exchange Act Release No. 18357, December 21, 1981; 46 FR 63434, December 31, 1981.

[2] The quarterly survey—the Specialist Performance Evaluation Questionnaire ("SPEQ")—currently consists of five questions. Floor brokers grade a unit's performance in the area covered by each question on a 1 to 7-point grading scale, with 1 being the worst and 7 the best score. The current standard for unacceptable performance under Rule 103A is 3.0, so that if a specialist unit receives, for example, an overall quarterly grade below a 3.0 for two or more quarters, his performance is considered unacceptable. The 3.0 standard was adopted at a time when the Exchange used a 5-point grading scale, so that the Exchange's adoption of a 7-point grading scale in May 1982 required that the 3.0 standard be revised upward in this proposed rule change.

[3] Alternatively, the Committee may elect to proceed directly to reallocation proceedings without issuance of an additional Supplemental Questionnaire if a unit has previously had a Supplemental Questionnaire issued as the result of unacceptable performance ratings.

[4] Commission review of the Exchange's final decision is not available under Section 19(d)(2) of the Act because the Commission, in its initial approval of Rule 103A, accepted the Exchange's designation of the Rule as non-disciplinary. Securities Exchange Act Release No. 15627, May 15, 1979; 44 FR 29778, May 22, 1979.

[5] Since the adoption of the seven-point grading scale in 1982, no unit has fallen below the existing 3.0 standard for acceptable performance; thus, no units have been subjected to "performance improvement actions" since the first quarter of 1982. During this time the Exchange staff has, however, selected units to counsel informally on the basis of low overall SPEQ rankings (relative to all specialist units) as well as by use of certain other ad hoc criteria.

among other things, the development of a permanent reallocation program. While the NYSE indicated initially that it hoped to be able to comply with a Commission request for a submission on this subject by November 1982, the Exchange subsequently indicated that a complete review of its reallocation program could not be finished before the expiration of the pilot. The Exchange now indicates in the rule filing that it expects to complete a major study of the specialist system by June 1983. This study will include, among other things, reviews of the function and role of the specialist, qualitative and quantitative performance measures (e.g., the SPEQ), indicators of market quality or competitiveness, and methods of specialist performance improvement.

In the interim, the Exchange proposes to raise the Rule 103A standard for minimum acceptable performance from 3.0 to 4.50 and to extend the effectiveness of the rule to June 30, 1983, pending completion of the study. In addition, the Exchange has agreed that by February 15, 1983, it will file with the Commission, pursuant to Rule 19b–4 under the Act, the 1982 revisions to the Specialist Performance Evaluation Questionnaire. The Exchange has also agreed that by March 15, 1983, it will file with the Commission, pursuant to Rule 19b–4 under the Act, NYSE's standards and procedures for the initial allocation of securities to specialists.[6]

Request for Comment

Publication of the proposed rule change is expected to be made in the **Federal Register** during the week of January 24, 1983. Interested persons are invited to submit written data, views and arguments concerning the publication of the submission in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–NYSE–83–1.[7]

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and any subsequent amendments also will be available at the NYSE's principal office.

Discussion

In November 1981 the Commission's staff made several recommendations to the Exchange regarding its procedures under Rule 103A.[8] The most important of these was the adoption of a relative standard for measuring satisfactory performance [9] and the elimination of the Supplemental Questionnaire. In the Commission's view, the use of relative scores as a standard for determining unacceptable performance for purposes of Rule 103A was essential in view of an apparent trend towards inflated grading by floor brokers [10] which potentially could undermine the usefullness of the fixed minimum performance standards under Rule 103A.[11] The Commission had reservations concerning continued use of the Supplemental Questionnaire because the Exchange's experience with that questionnaire indicated that its use might unnecessarily protract Rule 103A proceedings and tended to nullify the results of the regular, quarterly evaluations of specialists.

While the Commission views the Exchange's proposal to raise the 103A standard for unacceptable performance as an indication of the Exchange's willingness to make a necessary interim revision, the Commission continues to believe that the concerns expressed in its 1981 recommendations remain valid.[12] The Commission remains concerned that Rule 103A as currently designed and operated is, at best, a limited deterrent to substandard performance.[13] Nevertheless, the Commission believes it is appropriate to permit the pilot to remain in effect while the Exchange undertakes its study of the specialist system and specialist performance improvement.

Accordingly, the Commission finds that an extension of the effectiveness of Rule 103A to June 30, 1983, is necessary and appropriate in order to give the Exchange time to consider and implement, as part of its ongoing study of the specialist system, the changes required to make its reallocation procedures viable on a permanent basis.[14] The Commission finds, therefore, that approval of the part of the proposed rule change that would extend the effectiveness of Rule 103A through June 30, 1983, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission wishes to emphasize, however, that it continues to have major concerns regarding the standards and operation of the NYSE's reallocation procedures. For this reason, the Commission urges the NYSE to complete its study promptly so as to permit the

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[6] See letter from James E. Buck, Secretary, NYSE, to Michael Cavalier, SEC, dated January 6, 1983. The Commission has requested the filing of the Exchange's policies and procedures for the initial allocation of securities because of the close connection between the Exchange's allocation and reallocation procedures, both of which share the same regulatory end and rely heavily upon the Specialist Performance Evaluation Questionnaire.

[7] The Exchange has requested, and the Commission below in this order grants, accelerated approval of the part of the proposed rule change that would extend the effectiveness of Rule 103A through June 30, 1983. The Exchange has not requested accelerated approval of the proposed change in the standard for unacceptable performance under Rule 103A. Comments are invited on both parts of the proposed rule change.

[8] See letter from Douglas Scarff, Director, Division of Market Regulation, to John Phelan, President, NYSE, dated November 10, 1981.

[9] Under the Commission's proposal, a unit falling in the bottom 20% of all NYSE specialist units for 3 consecutive quarters would be deemed to have performed unsatisfactorily.

[10] Prior to the adoption of the 7-point scale in May of 1982, only one unit fell below the 103A standard for unacceptable performance. The failure of any unit to fall below the 3.0 standard since adoption of the seven-point scale in May, 1982, see note 5, supra, may be attributed largely to the adoption of the new scale without adjustment of the standard, rather than to grade inflation. However, only one unit would have fallen below the 4.5 standard set in the proposed rule change for any of the last three quarters.

[11] The Commission wishes to make clear its believe that an effective reallocation mechanism need not impose a quota system; indeed, it is probably inappropriate that reallocation proceedings result in reallocations of stock in many instances. However, any such system must ensure that disparities in the level of specialist performance be effectively addressed. The Commission is unable to determine, at this time, that the NYSE's present standards achieve that goal.

[12] The Exchange has not, for example, agreed to adopt a mechanism whereby the 103A minimum performance standards would be adjusted automatically or regularly to account for grade inflation. Moreover, the Commission continues to believe that adoption of a relative ranking standard is the best way to resolve the grade inflation problem. In addition, this interim revision would not address other concerns of the Commission, such as the need to eliminate the Supplemental Questionnaire and the need to address substandard specialist performance in non-consecutive quarters.

[13] The Commission notes that since the commencement of the pilot in 1979, only one Supplemental Questionnaire has been issued as the result of unacceptable performance ratings and no rallocation procedure has ever been held. The Commission believes this is largely attributable to the present design and implementation of procedures under Rule 103A.

[14] The Exchange has pending a proposal (SR–NYSE–81–11) to make Rule 103A permanent. Securities Exchange Act Release No. 17550, April 23, 1981; 46 FR 24351, April 30, 1981.

NYSE to submit the necessary changes in time for the Commission to consider them by June 30, 1983. Without significant revisions to the existing system, the Commission preliminarily does not believe that it would be receptive to additional temporary extensions.

The Commission finds good cause for approving the part of proposed rule change that would extend the effectiveness of Rule 103A through June 30, 1983 prior to the thirtieth day after the date of publication of notice of filing thereof, in that the pilot program under Rule 103A expired on January 15, 1983. The Commission believes that it is appropriate to continue the program on a pilot basis for a limited period.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the portion of the proposed rule change referenced above be, and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1833 Filed 1-21-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34—19435; File No. SR-AMEX-82-24]

American Stock Exchange; Self-Regulatory Organizations; Proposed Rule Change; Relating to Aggregation of Options Positions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 15, 1982, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" or "the Exchange") proposes to amend Rules 904 and 905 relating to option position and exercise limits, as set forth below. Italics indicate material proposed to be added; brackets [] indicate material to be deleted.

Rule 904. Position Limits

Except with the prior written approval of the Exchange in each instance, no member or member organization shall effect, for any account in which such member or member organization has an interest or for the account of any partner, officer, director or employee thereof or for the account of any customer, an opening transaction (whether on the Exchange or on another Participating Exchange) in an option contract of any class of options dealt in on the Exchange if the member or member organization has reason to believe that as a result of such transaction the member or member organization or partner, officer, director or employee thereof or customer would, acting alone or in concert with others, directly or indirectly, [hold or] control [or be obligated in respect of] an aggregate position in option contracts (whether long or short) of the put class and the call class on the same side of the market covering any underlying security in excess of:

(i) through (vi)—no change.

. . . Commentary

.01 through .06—no change.

.07 For purposes of aggregation of option positions under this Rule, the term "control" means the power to direct or cause the direction of the management or policies with respect to option transactions in the account of a person. A person who has the power to direct or cause the direction of the management or policies with respect to such an account shall be presumed to control such account. Such presumption may be rebutted by evidence, but shall continue until a determination to the contrary has been made by the Exchange.

Rule 905. Exercise Limits

No change.

. . . Commentary

.01 through .03—no change.

.04 For purposes of determining compliance with the exercise provisions of this Rule, the number of option contracts exercised for an account will be aggregated with all other accounts which are controlled (as that term is defined in Commentary .07 or Rule 904) by the same person or entity.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

Since the inception of the Exchange's options trading program, the position limit rule (Rule 904) has limited the number of options contracts that any single account can own. Basically, position limits are intended to be a disincentive to manipulation by preventing the accumulation of large positions.

In applying the rule, aggregation of option positions are applicable to individual accounts as well as positions of two or more accounts where there is either common ownership, direct or indirect, or other form of control between such accounts, and to accounts which act in concert to accumulate positions.

The Exchange believes that the aggregation provisions of the position limit rule which requires the automatic aggregation of positions based upon ownership is too restrictive. By requiring the aggregation of accounts under common ownership, the option positions of two entirely separate and independent subsidiaries must be aggregated with their parent companies for purposes of the position limit rule. Hence, under the present rule, a securities firm's proprietary options account must be aggregated with a related company's institutional account, even though the investment decisions are not under common control.

Experience has shown that actual control of an account, rather than ownership per se, is the proper focus for aggregation purposes. "Control" is the power to direct or cause the direction of the management or investment decisions with respect to an account's transactions, whether through ownership, contract or otherwise. Thus, a person or entity who has such power over another's account would be presumed to control that account. Accordingly, the positions in accounts controlled by the same person or entity should be aggregated for purposes of positions limits. However, the presumption of control would be rebuttable.

For example, a person or entity could attempt to rebut a presumption of control based on mere ownership of two accounts by showing, among other

things, that the accounts have different and unrelated money managers or that investment decisions are made independently and separately for each of the two accounts. By permitting the presumption of control to be rebuttable, the Exchange will have the opportunity to review each case independently, thus allowing case-by-case consideration of the application of the position limit rule.

Accordingly, the Exchange proposes to amend Rule 904 to revise its approach in interpreting this Rule. Similarly, the Exchange proposes to amend Rule 905 (Exercise Limits) to reflect the same approach in interpreting the aggregation provisions of that Rule.

The proposed changes are consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and rules and regulations thereunder applicable to the Exchange in that they provide for a more functional and practical standard for determining if the option positions of two or more accounts should be aggregated for purposes of the position and exercise limit rules.

Therefore, the proposed rule changes are consistent with Section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and protect investers and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

While no written comments were solicited or received, the Exchange's Options Committee, a group composed of members and representatives of member organizations, has reviewed and approved the rule proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: January 14, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1832 Filed 1-21-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19384; File No. SE-MSRB-82-15]

Municipal Securities Rulemaking Board; Self-Regulatory Organizations; Proposed Rule Change Relating to Uniform Practice

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 22, 1982, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The Municipal Securities Rulemaking Board ("Board") is filing herewith an amendment (the "proposed rule change") to rule G-12 relating to uniform practice. The proposed rule change is as follows:

Rule G-12. Uniform Practice *

(a) through (d) No change.

(e) Delivery of Securities. The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities.

(i) through (iv) No change.

(v) Units of Delivery. Delivery of bonds shall be made in the following denominations:

(A) for bearer bonds, in denominations of $1,000 or $5,000 par value; and

(B) for registered bonds, in denominations which are multiples of $1,000 par value, up to $100,000 par value; *provided, however, that registered bonds issued after January 1, 1983 shall be delivered in denominations of $5,000 par value until January 1, 1985.*

Delivery of other municipal securities shall be made in the denominations specified on the confirmation as required pursuant to paragraph (c)(vi) of this rule except that deliveries of notes may be made in denominations smaller than those specified if the notes delivered can be aggregated to constitute the denominations specified.

(vi) through (xvi) No change, (f) through (l) No change.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Board rule G-12 sets forth certain practices to be followed by all municipal securities brokers, and municipal securities dealers with respect to the comparison, clearance and settlement of inter-dealer transactions in municipal securities. Among other matters, the rule specifies the certificate denomination sizes which are considered to be standard for delivery purposes. With respect to securities in registered form, rule G-12 (e)(v)(B) currently specifies certificate denominations in multiples of $1,000 not to exceed $100,000 as standard for delivery purposes. Registered certificates in alternative denominations, such as $500 or $250,000 per certificate, are not acceptable for delivery purposes unless specific agreement to this effect is reached at the time of trade.

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* Italics indicate additions.

In December 1980 the Congress enacted legislation requiring that mortgage revenue municipal securities issued on or after January 1, 1982 be issued solely in registered form. In mid-1982, as an increasing number of registered mortgage revenue securities began to be traded in the municipal market, the Board began to receive comments from municipal securities brokers and dealers that the use of registered securities certificates in denominations larger than the traditional $5,000 denomination was causing a significant increase in the number of transactions that failed to be completed on settlement date.

The recently-enacted Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA"), as amended by Congress on December 21, 1982, will extend the registration requirement to substantially all long-term municipal securities (*i.e.*, municipal securities maturing in more than one year) issued on or after July 1, 1983. Members of the municipal securities industry generally have expressed concern to the Board that the clearance problems resulting from the use of large-denomination registered certificates will be significantly more burdensome for municipal securities brokers and dealers when all new issues are exclusively in registered form. These industry representatives have asserted that the present inefficiencies of the transfer process for municipal securities are such that the use of larger-denomination certificates, which must frequently be transferred into smaller denominations in connection with the settlement of transactions, will cause significant delays in the clearance process.

The Board concurs that the use of large-denomination certificates may cause such delays, and believes that these delays in the clearance of transactions will impose serious burdens on municipal securities brokers and dealers, both in increased financing costs on fail transactions and transfer items and also in higher requirements under the SEC's net capital and customer protection rules. Similarly, these delays will affect investors' ability to manage their portfolios and may contribute to increases in issuers' interest costs. Accordingly, the Board has concluded that it is appropriate to amend rule G–12 in order to minimize these burdens on the clearance process during the initial implementation period of the registration requirement.

The proposed rule change would amend the provisions of rule G–12 (e)(v)(B) regarding standard denominations of registered securities certificates to specify that, with respect to registered securities issued on or after January 1, 1983, certificates of $5,000 denomination must be delivered on transactions settled prior to January 1, 1985 (if the parties of the transaction do not agree otherwise). The proposed rule change is not, by its terms, applicable to deliveries of securities issued prior to January 1, 1983, the originally-scheduled effective date of the registration provisions of TEFRA. The Board is aware that many persons who have purchased registered mortgage revenue securities currently hold such securities in large denomination certificates. the Board does not believe that it would be appropriate to impose at this time a new delivery standard for such securities, and accordingly, the proposed rule change would not apply to registered securities issued prior to January 1, 1983.

The Board has included in the proposed rule change a provision that, as of a "sunset" date of January 1, 1985, the designation of $5,000 denomination certificates as standard on deliveries of registered securities will lapse, and the larger denomination certificates permitted under the current rule will again be acceptable for delivery purposes. The Board recognizes that, for a variety of reasons, the use of $5,000 denomination certificates cannot be viewed as a long-term solution to the problems caused by transfer agent inefficiency. The Board views the requirement for the use of small denomination certificates set forth in the proposed rule change as an interim measure, necessary until efficient transfer mechanisms come into use for most municipal issues.

(b) The proposed rule change has been adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which authorizes and directs the Board to adopt rules which are:

> Designed * * * to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *.

The Board has concluded that the application of the provisions of the currently-effective rule during the initial implementation of TEFRA's registration requirement might prove significantly disruptive to the municipal market and a serious impediment to the efficient clearance and settlement of municipal securities transactions. The Board believes that the proposed rule change serves to minimize potential impedients during the period in which the municipal securities market generally moves toward an efficient transfer system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that, in the context of TEFRA's requirement that municipal securities generally be issued in registered form, the current provisions of the rule may, in conjunction with existing inefficient transfer mechanisms, impose a burden on competition. The significant financing costs and net capital penalties caused by the need to submit large denomination certificates to an inefficient transfer system to obtain smaller denominations will be much more onerous for smaller municipal securities brokers and dealers, and may force such organizations to curtail or cease their municipal securities activities. The Board believes that the proposed rule change will act to minimize the burden on competition.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule change. Prior to the adoption of the proposed rule change the Board received written comments on the question of the appropriate standard certificate denomination for registered municipal securities from several industry commentators. The majority of these industry commentators expressed support for an amendment to the provisions of rule G–12(e)(v)(B) substantially similar to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 30, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1831 Filed 1-21-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before February 22, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

Copies

Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency clearance officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200 Washington, D.C. 20416, Telephone: (202) 653-8538

OMB reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

Title: Application for Small Business Size Determination.

Form Nos. SBA 355 and SBA 1340

Frequency: Nonrecurring.

Description of Respondents: Firms that require a formal size determination to qualify for SBA assistance.

Annual Responses: 3,500.

Annual Burden Hours: 14,000.

Type of Request: New.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 83-1873 Filed 1-21-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airport Traffic Control at Valdez, Alaska; Closing

Notice is hereby given that on or about January 21, 1983, the FAA will decommission a visual flight rules Airport Traffic Control Tower at Valdez, Alaska. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Anchorage, Alaska, on January 13, 1983.

Franklin L. Cunningham,

Acting Director, Alaskan Region.

[FR Doc. 83-1795 Filed 1-21-83; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 149—Airborne Distance Measuring Equipment (DME); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 149 on Airborne Distance Measuring Equipment (DME) to be held on February 16-18, 1983 in the RTCA Conference Room, One McPherson Square, 1425 K Street, Suite 500, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Second Meeting Held on October 13-15, 1982; (3) Report on Coordination with the European Organization for Civil Aviation Electronics (EUROCAE) Working Group 25; (4) Briefing on International Civil Aviation Organization (ICAO) All Weather Operations Panel (AWOP-9) Activities; (5) Review Task Assignments From Second Meeting; (6) Review Third Draft of Committee Report on Minimum Operational Performance Standards for Airborne Distance Measuring Equipment; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on January 17, 1983.

Karl F. Bierach,

Designated Officer.

[FR Doc. 83-1638 Filed 1-21-83; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Technical Hazardous-Liquid Pipeline Safety Standards Committee; Advisory Committee Charter

This notice announces the renewal of the Technical Hazardous-Liquid Pipeline Safety Standards Committee under section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 1 section 10; Pub. L. 92-463) and sets forth the charter of the Committee prepared in accordance with section 9 of that Act.

The purpose of the Technical Hazardous-Liquid Pipeline Safety Standards Committee is to review proposed hazardous liquid pipeline safety standards and report to the Associate Director for Pipeline Safety Regulation on the technical feasibility, reasonableness, and practicability of each such proposal. The Committee may propose safety standards to the

Associate Director for his consideration for hazardous liquid pipeline facilities.

It has been determined that renewal of the Technical Hazardous-Liquid Pipeline Safety Standards Committee is in the public interest in connection with the performance of duties imposed by law on the Department under section 204(a) of the Hazardous Liquid Pipeline Safety Act of 1979.

The charter of the Committee is set forth below:

Charter—Technical Hazardous–Liquid Pipeline Safety Standards Committee

1. Purpose

This charter of the Technical Hazardous-Liquid Pipeline Safety Standards Committee is prepared in accordance with the Federal Advisory Committee Act enacted October 6, 1972.

2. Background

Section 204 of the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA) authorizes the establishment and prescribes the duties of the Technical Hazardous-Liquid Pipeline Safety Standards Committee. The Committee was established on January 16, 1981, by the appointment of 15 members.

3. Sponsor

The Office of Pipeline Safety Regulation is the Committee sponsor. The Associate Director for Pipeline Safety Regulation of the Materials Transportation Bureau is designated the Executive Director of the Committee and shall be the Department of Transportation (DOT) official authorized to call or adjourn meetings, approve the agenda, and otherwise monitor the Committee's meetings and progress.

4. Committee Objectives and Duties

The Associate Director for Pipeline Safety Regulation shall submit to the Committee for its consideration any notice of proposed hazardous liquid pipeline safety standards published in the **Federal Register** (including both new standards and amendments to existing standards). Within 90 days after receipt by the Committee of any such proposal, the Committee shall prepare a report on the technical feasbility, reasonableness, and practicability of the proposal. Each report by the Committee, including any minority views, shall, if timely made, be published and form a part of the proceedings for the promulgation of standards. The Director, Materials Transportation Bureau, may prescribe a final standard at any time after the 90th day after a proposal's submission to the Committee, whether or not the Committee has reported on such proposal. The Committee may propose safety standards to the Associate Director for his consideration for hazardous liquid pipeline facilities. The Associate Director shall not be bound by conclusions of the Committee, but in the event that the conclusions of the majority of the current members of the Committee are rejected, the reasons for rejection shall be incorporated in the preamble published with the final rule (HLPSA, Section 204, and 49 CFR 1.53). The Committee may also review and report on other matters related to the Department's hazardous liquid pipeline safety rulemaking function as are presented by the Associate Director.

5. Membership

a. The Committee shall be composed of 15 members, each of whom shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of the transportation of hazardous liquids or the operation of pipeline facilities. Members shall be appointed on the basis of their experience in the safety regulation of the transportation of hazardous liquids and of pipeline facilities, or their training, experience, or knowledge in one or more fields of engineering applied in the transportation of hazardous liquid or the operation of pipeline facilities to evaluate hazardous liquid safety standards, as follows:

(1) Five members shall be selected from Federal, State, or local governmental agencies, and two of the five shall be State commissioners selected after consultation with representatives of the national organization of State commissions;

(2) Four members shall be selected from the hazardous liquids industry, after consultation with industry representatives, and not less than three of the four shall be currently engaged in the active operation of pipeline facilities; and

(3) Six members shall be selected from the general public.

b. The membership shall be fairly balanced in terms of the points of view represented, and the advice and recommendations of the Committee shall be the result of its independent judgment (FACA, section 5(b) (2) and (3)).

c. Members are appointed for a term of 3 years except that a member may serve until his successor is appointed, but for not more than a total of 6 years.

6. Appointment of Officers

At the first meeting of each calendar year, the Associate Director shall appoint a Chairman and Vice-Chairman, and the Committee shall, by majority vote of the members present, elect a Secretary. These three officers, who will serve until their successors are appointed, shall constitute an executive committee.

Meetings and Procedures

a. *Calling meetings.* The Associate Director for Pipeline Safety Regulation shall approve in advance the scheduling and agenda of each Committee meeting (FACA, section 10(f)). The Committee may recommend agenda items to the Associate Director. A designated officer or employee of the Federal government shall attend each Committee meeting and is authorized to adjourn the meeting whenever he determines it to be in the public interest (FACA, section 10(e)).

b. *Presiding at Meetings.* The chairman shall preside at all meetings of the Committee and of the Executive Committee, except that the Associate Director or his delegate may preside whenever the Committee is, at the request of an official of the Department of Transportation, advising the Department on matters other than notices of proposed rulemaking. The Vice-Chairman shall assume and perform the duties of the Chairman in the event of his absence. A majority of the current members of the Committee must be present at a meeting to perform the Committee's statutory duties.

c. *Duties of Secretary.* The Committee secretary shall, as directed by the Chairman, monitor records, summarize activities, prepare and process letter ballots, and prepare reports for submission to the Associate Director. In the absence of the Secretary, the Chairman appoints a member of the Committee to perform the duties of the Secretary.

d. *Notice of meetings.* Notice of each Committee meeting shall be published in the **Federal Register** at least 15 days in advance of the meeting, except in emergency situations. Other forms of notice are to be used to the extent practicable (FACA, section 10 (a)(2)).

e. *Frequency of committee meetings.* The Committee meets at least twice each calendar year. In addition, Committee members may be polled or asked for comments on notices of proposed rulemaking or other matters at any time without formally assembling at one place.

f. *Public participation.* Each Committee meeting shall be open to the public, and interested persons shall be permitted to attend, appear before, or file written statements with the Committee, subject to the limitations

contained in the exceptions to the Freedom of Information Act (5 U.S.C. 552(b)), and also subject to reasonable rules prescribed concerning availability of space, time, etc. (FACA, section 10(a)(1) and (3)).

g. *Minutes.* Detailed minutes of each Committee meeting shall be kept and certified to by the Committee Chairman. The minutes shall contain a record of the persons participating, a complete and accurate description of the matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Committee (FACA, section 10(c)).

h. *Availablity of records.* The records, reports, transcripts, minutes, and other documents of the Committee shall be available for public inspection and copying at the Office of Pipeline Safety Regulation, 400 Seventh Street, SW., Washington D.C. 20590, subject to the limitations contained in the exceptions to the Freedom of Information Act, 5 U.S.C. 552(b) (FACA, section 10(b)).

8. Compensation

Members of the Committee other than Federal employees shall be compensated at the rate of $150 per day (including travel time) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence.

9. Duration of the Committee

Under the provisions of the Hazardous Liquid Pipeline Safety Act, the Committee's purposes are continuing in nature; therefore, the Committee has an indefinite duration. The Committee itself must be renewed at successive 2 year intervals by the appropriate action of the Secretary (FACA, section 14(c)).

10. Adminmistrative Support

The Associate Director for Pipeline Safety Regulation is responsible for providing office space, equipment, supplies, clerical help, and other administrative and financial support for the Committee.

11. Annual Operating Cost

Estimated annual operating cost is approximately $40,000 for salaries, travel, and recording the proceedings, plus about one-eighth person-year of staff support.

12. Public Interest

The formation and use of the Technical Hazardous-Liquid Pipeline Safety Standards Committee is determined to be in the public interest in connection with the performance of duties imposed on the Department by law. In fact, the Hazardous Liquid Pipeline Safety Act of 1979 specifically requires the DOT to submit all proposed hazardous liquid pipeline safety standards to the Committee as part of the proceedings for the promulgation of such standards.

13. Filing Date

January 16, 1983—This is the effective date of the charter which will expire 2 years from the date unless sooner terminated.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 83-1748 Filed 1-21-83; 8:45 am]

BILLING CODE 4910-60-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 16
Monday, January 24, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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Consumer Product Safety Commission	1
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Federal Mine Safety and Health Review Commission	5
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Occupational Safety and Health Review Commission	9, 10

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, January 26, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public:

1. *Voluntary Standards Procedures*
The staff and representatives from various voluntary standards organizations will brief the Commission on voluntary standards procedures.
2. *Fire Toxicity: Status*
The staff will brief the Commission on the status of the fire toxicity project.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207; 301–492–6800.

[S–102–83 Filed 1–20–83; 3:52 pm]
BILLING CODE 6355–01–M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From January 20th Open Meeting

January 17, 1983.

The following item has been deleted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the January 20, 1983 Open Meeting and previously listed in the Commission's Notice of January 13, 1983.

Agenda, Item No., and Subject

Common Carrier—6—*Title:* AT&T and the BSOCs (Resale and Sharing of Intrastate WATS Used for Completion of Interstate Communications). *Summary:* Satellite Business Systems (SBS) has filed a petition for a declaratory ruling by the Commission that the Bell System Operating Companies (BSOCs) should not refuse WATS connections within a state to carriers which intend to resell the service to endusers as a link in through interstate communications—despite any resale restrictions in the BSOCs' intrastate WATS tariffs. Other non-Bell interstate carriers, including Western Union, MCI, ARINC, and several certificated interstate resale carriers, have filed comments in support of SBS's petition; ARINC and the resellers advocate that the ruling be framed so as to encompass restrictions on shared use—as well as resale—of WATS for intrastate distribution of interstate communications, whether by other common carriers or by private entities. AT&T (on behalf of the BSOCs), NARUC, and several state utilities commissions have filed in opposition. AT&T and NARUC urge the Commission to permit the BSOCs to continue to enforce resale and sharing restrictions on intrastate WATS used in interstate communications, until such time as the BSOCs shall have revised their intrastate WATS rates to be more usage-sensitive.

Issued: January 17, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–99–83 Filed 1–20–83; 2:50 pm]
BILLING CODE 6712–01–M

3

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From January 20th Open Meeting

January 17, 1983.

The following item has been deleted at the request of the Private Radio Bureau from the list of agenda items scheduled for consideration at the January 20, 1983, Open Meeting and previously listed in the Commission's Notice of January 13, 1983.

Agenda, Item No., and Subject

Private Radio—6—*Title:* Notice of Proposed Rule Making to provide for to use of facsimile by the maritime mobile service. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rule Making to include in its rules provisions permitting use of the facsimile mode of communications between high seas vessels and the shore using frequencies between 2 and 27.5 MHz.

Issued: Janaury 17, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–98–83 Filed 1–20–83; 2:50 pm]
BILLING CODE 6712–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:40 p.m. on Wednesday, January 19, 1983, the Board of Directors the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider recommendations with respect to the initiation and conduct of cease-and-desist proceedings against four insured banks (names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: January 20, 1983.
Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–100–83 Filed 1–20–83; 4:02 pm]
BILLING CODE 6714–01–M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 19, 1983.

TIME AND DATE: 10 a.m., Wednesday, January 26, 1983.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Sellersburg Stone Co., Docket No. LAKE 80-363-M, etc. (Issues include whether penalties assessed by ALJ are appropriate.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-97-83 Filed 1-20-83; 2:50 pm]

BILLING CODE 6735-01-M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-05]

TIME AND DATE: 2:30 p.m., Wednesday, February 2, 1983.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 701-TA-168 (Welded Carbon Steel Pipes and Tubes from the Republic of Korea)—briefing and vote.
6. Investigations 701-TA-170, -171, and -173 (Certain Carbon Steel Products from the Republic of Korea)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-94-83 Filed 1-19-83 4:25 pm]

BILLING CODE 7020-02-M

7

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-3]

TIME AND DATE: 9 a.m., Tuesday, January 25, 1983.

PLACE: NTSB Board Room, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first item will be open to the public. The last six items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Multiple-Vehicle Collision and Fire, Caldecott Tunnel, near Oakland, California, April 7, 1982, and Letters of Recommendation.
2. *Opinion and Order:* Wendler v. Administrator, Dkt. 1-EAJA-SE-4887; disposition of applicant's appeal.
3. *Opinion and Order:* Application of Catskill Airways, Inc., Stephen C. Low and Granville C. Bentley for attorney fees and expenses, NTSB No. 2-EAJA; disposition of appeal from denial of application.
4. *Order denying reconsideration:* Administrator v. Cassie, Dkt. EA-1831; disposition of respondent's petition for reconsideration.
5. *Opinion and Order:* Administrator v. Roach, Dkt. SE-5396; disposition of respondent's appeal.
6. *Opinion and Order:* Administrator v. Pollauf, Dkt. SE-5497; disposition of respondent's appeal.
7. *Opinion and Order on Interlocking Appeal:* Administrator v. Aerospace Maintenance Co., Dkt. SE-4928; disposition of respondent's interlocking appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

January 14, 1983.

[S-95-83 Filed 1-20-83; 9:32 am]

BILLING CODE 4910-58-M

8

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 24, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: Thursday, January 27:

10:00 a.m.
Discussion/Possible Vote on Procedures for Hearing on NFS-Erwin (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting):
a. Commission Review of Director's Decision Re Emergency Planning Deficiencies
b. NFS Erwin Hearing: NRDC's Request for DOE's Classified Information; Hearing Scope Issues; and Related Matters

Friday, January 28:

10:00 a.m.
Briefing on Staff Actions Regarding Uranium Mill Tailings Regulations (Public Meeting)

ADDITIONAL INFORMATION:

On January 17 the Commission voted 5-0 to hold Discussion of Possible Enforcement Action, held that day.

On January 18 the Commission voted 3-0 (Chairman Palladino and Commissioner Gilinsky not present) to hold Briefing on Implementation of Public Law 97-415, held that day.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary Gilbert (202) 634-1410.

January 18, 1983.

Gary Gilbert,
Office of the Secretary.

[S-96-83 Filed 1-20-83; 10:09 am]

BILLING CODE 7590-01-M

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on February 10, 1983.

PLACE: Suite 316, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: January 20, 1983.

[S-100-83 Filed 1-20-83; 3:13 pm]

BILLING CODE 7590-01-M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on February 17, 1983.

PLACE: Suite 316, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: January 20, 1983.

[S-101-83 Filed 1-20-83; 3:13 pm]

BILLING CODE 7590-01-M

federal register

Monday
January 24, 1983

Part II

Office of Management and Budget

Implementation of Executive Order 12372, Intergovernmental Review of Federal Programs

OFFICE OF MANAGEMENT AND BUDGET

Implementation of Executive Order 12372, Intergovernmental Review of Federal Programs

AGENCY: Intergovernmental Affairs Division and Associate Director for Management, Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Executive Order 12372, "Intergovernmental Review of Federal Programs," was signed by President Reagan on July 14, 1982. Each agency, except HUD, is issuing a proposed rule or Notice in today's **Federal Register** for public comment on implementation of this Executive Order. HUD's proposed rule will be published as soon as Congressional review, now in process, is completed. This Executive Order appears as an Attachment to this Notice.

Notice is given that all interested parties are invited to participate in a meeting on implementation of E.O. 12372. A meeting on this Order will be held in Washington, D.C. and one or more subsequent meetings may be held in Washington, D.C. or elsewhere.

Date, Time, and Location of Meeting

The meeting will be held on March 2, 1983 in Washington, D.C. Details will follow in the **Federal Register** as to time and place, as well as procedures for oral and written presentations.

FOR FURTHER INFORMATION CONTACT:

For General Information on the Implementation of E.O. 12372, contact Winnifred M. Austermann, Office of the Deputy Associate Director for Intergovernmental Affairs, Office of Management and Budget, 726 Jackson Place, N.W., Room 10235, Washington, D.C. 20503, Phone: 202/395–3050.

For information on individual agency proposals, contact the person listed in the appropriate agency document published elsewhere in today's **Federal Register.**

Dated: January 12, 1983.

Harold I. Steinberg,

Associate Director for Management.

BILLING CODE 3110-01-M

Attachment

Executive Order 12372—Intergovernmental Review of Federal Programs

Note.—Executive Order 12372 was originally published in the Federal Register on July 16, 1982 (47 FR 30959).

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 401(a) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(a)) and Section 301 of Title 3 of the United States Code, and in order to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for the State and local government coordination and review of proposed Federal financial assistance and direct Federal development, it is hereby ordered as follows:

Section 1. Federal agencies shall provide opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance or direct Federal development.

Sec. 2. To the extent the States, in consultation with local general purpose governments, and local special purpose governments they consider appropriate, develop their own processes or refine existing processes for State and local elected officials to review and coordinate proposed Federal financial assistance and direct Federal development, the Federal agencies shall, to the extent permitted by law:

(a) Utilize the State process to determine official views of State and local elected officials.

(b) Communicate with State and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Make efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the designated State process. For those cases where the concerns cannot be accommodated, Federal officials shall explain the bases for their decision in a timely manner.

(d) Allow the States to simplify and consolidate existing Federally required State plan submissions. Where State planning and budgeting systems are sufficient and where permitted by law, the substitution of State plans for Federally required State plans shall be encouraged by the agencies.

(e) Seek the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas. Existing interstate mechanisms that are redesignated as part of the State process may be used for this purpose.

(f) Support State and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a Federally-prescribed membership, which is established for a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

Sec. 3. (a) The State process referred to in Section 2 shall include those where States delegate, in specific instances, to local elected officials the review, coordination, and communication with Federal agencies.

(b) At the discretion of the State and local elected officials, the State process may exclude certain Federal programs from review and comment.

Sec. 4. The Office of Management and Budget (OMB) shall maintain a list of official State entities designated by the States to review and coordinate proposed Federal financial assistance and direct Federal development. The Office of Management and Budget shall disseminate such lists to the Federal agencies.

Sec. 5. (a) Agencies shall propose rules and regulations governing the formulation, evaluation, and review of proposed Federal financial assistance and direct Federal development pursuant to this Order, to be submitted to the Office of Management and Budget for approval.

(b) The rules and regulations which result from the process indicated in Section 5(a) above shall replace any current rules and regulations and become effective April 30, 1983.

Sec. 6. The Director of the Office of Management and Budget is authorized to prescribe such rules and regulations, if any, as he deems appropriate for the effective implementation and administration of this Order and the Intergovernmental Cooperation Act of 1968. The Director is also authorized to exercise the authority vested in the President by Section 401(a) of that Act (42 U.S.C. 4231(a)), in a manner consistent with this Order.

Sec. 7. The Memorandum of November 8, 1968, is terminated (33 *Fed. Reg.* 16487, November 13, 1968). The Director of the Office of Management and Budget shall revoke OMB Circular A-95, which was issued pursuant to that Memorandum. However, Federal agencies shall continue to comply with the rules and regulations issued pursuant to that Memorandum, including those issued by the Office of Management and Budget, until new rules and regulations have been issued in accord with this Order.

Sec. 8. The Director of the Office of Management and Budget shall report to the President within two years on Federal agency compliance with this Order. The views of State and local elected officials on their experiences with these policies, along with any suggestions for improvement, will be included in the Director's report.

Ronald Reagan

THE WHITE HOUSE,
July 14, 1982.

[FR Doc. 83-1881 Filed 1-21-83; 8:45 am]
BILLING CODE 3110-01-C

federal register

Monday
January 24, 1983

Part III

Office of Management and Budget

State Plans Eligible for Modification Under Executive Order 12372

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OFFICE OF MANAGEMENT AND BUDGET

State Plans Eligible for Modification Under Executive Order 12372

Section 2(d) of Executive Order 12372 directs Federal agencies to "allow" states to simplify or consolidate existing Federally required State plans and, where permitted by law, to "encourage" states to substitute their own plans for Federally required state plans.

State plans required by the Federal Government that are eligible for modification (i.e., simplification, consolidation, or substitution) under the Order are listed below. The Federal Government is willing to consider other state plans for eligibility for modification under this section.

Dated: January 12, 1983.

Harold I. Steinberg,

Associate Director for Management.

Agency	CFDA No. [1]	Program title
Agriculture	10.550	Food Distribution.
	10.557	Special Supplemental Food Program for Women, Infants and Children (WIC).
	10.559	Summer Food Service Program for Children.
	10.560	State Administrative Expenses for Child Nutrition.
	10.564	Nutrition Education and Training Program.
	10.565	Commodity Supplemental Food Program.
Education	[illegible]	Adult Education—State Administered Programs.
	84.027	Handicapped Preschool and School Programs.
	[illegible]	Public Library Services.
	[illegible]	Interlibrary Cooperation.
	[illegible]	Vocational Education—Basic Grants to States.
	84.049	Vocational Education—Consumer and Homemaking Educa[illegible].
	84.050	Vocational Education—Program Improvement and Supportive Services.
	84.052	Vocational Education—Special Programs for the Disadvantaged.
	84.121	Vocational . Education—State Planning and Evaluation.
	84.126	Rehabilitation Services—Basic Support.
Energy	81.041	State Energy Conservation.
	81.042	Weatherization Assistance for Low-Income Persons.
	81.043	Supplemental State Energy Conservation.
	81.052	Energy Conservation for Institutional Buildings.
HHS	13.630	Administration on Developmental Disabilities—Basic Support and Advocacy Grants.
	13.633	Special Programs for the Aging—Title II, Parts A and B—Grants for Supportive Services and Senior Centers.
	13.635	Special Programs for the Aging—Title III, Part C—Nutrition Services.
	13.645	Child Welfare Services—State [illegible].
	13.646	[illegible].
	13.659	Adoption Assistance.
Interior	15.252	Abandoned Mine Land Reclamation Program.
	15.605	Fish Restoration.
	15.611	[illegible] Restoration.
	15.916	Outdoor Recreation—Acquisition, Development and Planning.
	15.904	Historic Preservation Grants-in-Aid.
Justice	16.540	Juvenile Justice and Delinquency Prevention—Allocation to States.
	16.541	Juvenile Justice and Delinquency Prevention—Special Emphasis and Technical Assist[illegible].
Labor	17.207	Employment Service.
Transportation	[illegible]	Local Rail Service Assistance.
	[illegible]	State and Highway Community Safety.
	[illegible]	Gas Pipeline Safety.
EPA	[illegible]	Air Pollution Control Program [illegible].
	66.419	Water Pollution Control—State and Interstate Program [illegible].
	—	Water Quality Management Planning.
	66,432	State Public Water System Supervision Program Grants
	66.433	State Underground Water Source Protection Program [illegible].
	[illegible]	Construction Management Assi[illegible].
	[illegible]	Hazardous Waste Management Financial Assistance to [illegible].
	[illegible]	Environmental Protection Consolidated Grants—Program Support.
	[illegible]	Pesticides Enforcement Program Grants.
	—	Pesticides Applicator Certification and Training.
FEMA	83.503	Emergency Management Assist[illegible].
	[illegible]	State Disaster Preparedness [illegible].
	83.506	Earthquake and Hurricane Loss Study and Contingency Planning Grants.
	[illegible]	Disaster Assistance: Two Subprograms— 1. Temporary Housing (if the State assumes operational re[illegible]); 2. Individual and Family [illegible].

[1] CFDA = Catalog of Federal Domestic Assistance.

[FR Doc. 83-1662 Filed 1-21-83; 8:45 am]

BILLING CODE 3110-01-M

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Part IV

Department of Agriculture

Office of the Secretary, Farmers Home Administration, Forest Service, and Food and Nutrition Service

Intergovernmental Review of Department of Agriculture Programs and Activities

Rescission of Regulations Involving Consultation With State and Local Governments

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3015

Intergovernmental Review of Department of Agriculture Programs and Activities

AGENCY: Department of Agriculture (USDA).

ACTION: Proposed rules.

SUMMARY: This document proposes to rescind and subsequently reserve section 3015.203, "OMB Circular A-95" by adding a new subpart V in order to implement Exceutive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Department of Agriculture. Exceutive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A-95. They provide for a new, more effective, intergovernmental consultation system. Under the Order State and local elected officials, not the Federal government will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Lyn Zimmerman, Office of Finance and Management, USDA, Room 10-A, Administration Building, Washington, D.C. 20250. Comments will be available for inspection at the above address from 9:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Larry Wilson, Deputy Director, Office of Finance and Management, USDA, Room 143-W, Administration Building, Washington, D.C. 20250 (telephone (202) 447-7557).

SUPPLEMENTARY INFORMATION:

Classification

This proposed action has been reviewed under Executive Order 12291 and it has been determined that this is not a major rule.

Regulatory Analysis

Although this proposal will directly affect recipients of Federal assistance from agencies administered by the Department of Agriculture, this proposal does not involve a substantial issue of fact or law, and it is unlikely to have a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in costs or prices for consumers, individuals, industries, Federal, State, or local government agencies, or geographic regions. Additionally, the Assistant Secretary for Administration certifies that it will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Background

For many years, consultation between State and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A-95. The A-95 system required State and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular State and local governments. This system also required review of Federal programs by State and local agencies without regard to the priorities of their elected leadership. The A-95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of State and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, State and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Order directs the revocation of Circular A-95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, States and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When State and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to State and local views than Circular A-95 did. In addition, States will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required State plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A-95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for States to reduce administrative burdens in Federal programs requiring State plans. In contrast to the A-95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected State and local officials.

OMB Guidance to States

In order to assist States as they begin their work in implementing the Order, OMB on or before today wrote to each State concerning the establishment of an official State process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a State that transmits the result of the State review and coordination with recommendations that differ from this Federal proposal to the Department and other Federal agencies and to which the Department directs official communications (e.g., explanations of nonaccommodation) to the State under the Order. A State may have as few or as many entities as it chooses to perform review and coordination, and to conduct discussions with the Department. However, there should be only on point of contact to officially transmit recommendations for chenge to all Federal agencies under the Order. It is up to the State whether the single point of contact plays a substantive role with respect to the State's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that States are not required to adopt an official State process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

This Department and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with State and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Department's obligations and procedures in response to the views expressed by State and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in December (See 47 FR 57369, December 23, 1983). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Department proposes to make the final rule effective immediately upon its publication on April 30.

Removal of Regulations Implementing OMB Circular A–95

In connection with this proposed rulemaking, the Department is proposing to rescind § 3015.203, its existing regulations implementing former OMB Circular A–95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A–95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. Regulations and directives promulgated by individual USDA Agencies will be propose for removal by each Agency simultaneously with this proposed rulemaking. Final rules carrying out the removal will be published on or about April 30, 1983, in conjunction with the Department's final rule implementing Executive Order 12372.

Section-by-Section Analysis

Section 3015.301 What is the purpose of this subpart?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster and improved system of intergovernmental consultation.

Subsection (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with State and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Department's action. For example, it is not intended that a State or local government would have the right to sue the Department because the Department failed to explain a nonaccommodation of a State recommendation.

Section 3015.302 What definitions apply to this subpart?

This section defines several terms. used frequently in the proposed rule. "Department" means the Department of Agriculture. "Order" means Executive Order 12372. "Secretary" means the Secretary of Agriculture or an official or employee of the Department acting under a delegation of authority from the Secretary. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. An official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. The definition of "State" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 States.

In addition to these definitions, three other terms—simplify, consolidate, and substitute—are defined in § 3015.309, State Plans. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 3015.307).

Section 3015.303 What programs and activities of the Department are subject to this subpart?

The intent of the Order is that State and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. Subsection (a) provides that the Department will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let States know which of the Department's programs and activities they may choose to cover.

The attachment to this preamble contains a list of Federal financial assistance and direct development programs and activities that the Department proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. The Department seeks comments on the proposed exclusions. After promulgation of the final rules, if the Department wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, States should assume that all the Department's other Federal financial assistance and direct Federal development programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Department) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or

activities where formal consultation would endanger National security.

Even if a program or activity is excluded from the consultation system established by the Order, State and local officials would still have an opportunity to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of State and local governments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

Subsection (b) simply states the Secretary's obligation, to the extent permitted by law, to use a State's official process to determine official views of State and local officials. This obligation, which derives directly from the Order, extends only to programs and activities subject to the Order which a State has selected for coverage under § 3015.304 of these regulations. Should the Department fail to utilize the official State process, concerns should be raised with the Secretary.

Section 3015.304 What are the Secretary's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into the Department's regulation, emphasizing the Department's obligations under the Order. The mechanisms by which the Department will carry out many of these general obligations are developed further in other sections of the rule. For example, subsection (b)(4) of this section is further elaborated in § 3015.309 concerning State plans.

Subsection (b)(2) means the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the States in sufficient time to be able to exert meaningful influence on the Department's course of action. For example, the Department would make sure that the State learned of draft assistance announcements including decision criteria, proposed Federal development project decisions, and so forth, in time to make a meaningful response.

Section 3015.305 What procedures apply to a State's Choice of programs under the Order?

States may choose to consult with the Department under the Order concerning any of the Department's programs and activities that the Department's **Federal Register** notice on or about April 30, 1983, and consequently, lists as subject to the Order. However, these regulations do not require States to consult with the Department concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A-95, which gave States no discretion concerning program selection. Under the Order, each State may choose whether to use the consultation system with respect to any particular program or activity. This gives States increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a State decides that an existing consultation system is adequate, the State might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A State also might want to decline to cover a program which has only minor effects on the State and its people.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's **Federal Register** notice is entirely up to each State. While the Department will be happy to discuss with States the most effective ways of carrying out consultation concerning its programs and activities, the Department will not attempt to constrain the State's discretion with respect to program selection.

Subsection (a) of this section sets out a purely administrative requirement pertaining to program selection. The State must notify the Secretary of the programs and activities it chooses to cover. When it first establishes its official process, the State can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities that the State has chosen to cover. Subsequently, the State should send all program coverage information (additions, deletions, other changes) directly to the Department. This information will enable the Department's personnel who work on a particular program or activity to know which States they must consult with under the provisions of the Order.

Subsection (b) provides that, once a State has established a process and made its program selections known to the Department, the Department will use the State's process concerning the programs and activities selected by the State as soon as feasible. While the Department will make every effort to use the State's process, there may be situations, on individual programs or projects, where the Department may not be able to do so for a time. The Department will make determinations concerning when to begin using the State's official process on a case-by-case basis and will let the States know when it will start to use the State process.

Subsection (c) provides that the Department may establish deadlines for changes by States in the program selection choices. A State may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Department may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Department may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the States that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Department of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 3015.306 How does the Secretary give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Subsection (a) points out that the Order would apply not only to comments prepared pursuant to the official State process, but also to comments formulated by local elected officials to whom the State's consultation role has been delegated in specific instances. Section 3(a) of the Order permits States to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the State process. This means that States may choose not only which programs and activities to cover but also who within the State has the opportunity to carry out the consultation. States have

complete discretion concerning delegation of their consultation role.

For example, a State could delegate to a single mayor the State's consultation role with respect to a project occurring in his or her city. The State could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The State could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the State's consultation role is delegated stands in the shoes of the official State process with respect to the Department. For example, efforts by the Department to reach a negotiated solution with the local official will be pursued directly with the official, not with the State itself.

The local official to whom the State's consultation role had been delegated would not send his or her comment directly to the Department. Rather, the official would send the comment to the Department through the State single point of contact. The Department would work with the local official in attempting to reach an accommodation, but if efforts at accommodation were unsuccessful, the Department would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the State single point of contact would alert the Department to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the State to the Department informing the Department that the comment was an official comment of the State.

Section 2(b) of the Order requires Federal agencies to communicate with State and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Subsection (b) incorporates this provision of the Order into these regulations. What the requirement means is that the Department is obligated to make efforts to ensure that States infomation on proposed actions or decisions of the Department is available to the States in sufficient time to exert meaningful influence on the Department's course of action. For example, the Department would make sure that the State learned of draft assistance announcements including decision criteria proposed Federal development project decisions, and so forth, in time to make a meaningful response.

It is difficult to specify, in advance, the precise timeframes that will implement the Order's notification requirement for the Department's widely varied programs and activities. However, subsection (c) states that, as a general rule, States choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situation) to comment on proposed Federal financial assistance or direct Federal development before the Department commits itself to a given course of action. The Department, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring States a meaningful opportunity to influence decisions by the Department, the Department may need to establish deadlines or timeframes in nonregulatory program specific announcements for comment on particular actions or types of actions. Consequently, as provided in subsection (d), the Department may define, for its varying programs and activities, the length of comment periods and the starting point from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, timeframes may differ among different types of programs (e.g., one-year grants, multi-year grants, direct development projects, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadline for quarterly apportionment).

In some of the Department's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Department. Once the initial decision is made, the Department has little discretion with respect to the subsequent decisions. The Department could inform States of the key decision points on which their comments are essential if the States are to have a meaningful role in influencing the Department's decision.

In most financial assistance programs, a State, local, or private agency applies to the Department for a grant or cooperative agreement or otherwise seeks Departmental approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from the Department, the State should work with applicant organizations to ensure that applications are provided to the State in a timely manner. If it becomes necessary, the Department may establish requirements in nonregulatory program specific announcements for applicants to submit copies of their application to the State.

In order to ensure timely completion of Federal decisionmaking, the Department may require States to complete their reviews of applications and to submit their comments to the Secretary by a certain date. The intent of this provision is to prevent undue delays in Federal decisions affecting the State. A similar provision in subsection (d)(3), permits the Secretary to establish deadlines in nonregulatory program specific announcements for State review of the Department's direct development activities.

Subsection (e) makes an important point with respect to the way that communications between States and the Department would work. Under the Order, a State may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Department and the official State process flow efficiently, the Department strongly encourages States to establish a "single point of contact" for State communications with Federal agencies. Channeling communications from the States to Federal agencies and from agencies back to the State through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. The Department needs a means of separating the letters from State and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Department to make this necessary administrative distinction.

In the absence of a State process, or with respect to a program that a State has not selected for coverage, the Department will work with the State in a manner which is consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that States send to the Department. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, the Department is required to make a decision on certain statutorily established factors. In other cases, the Department, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Department would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the Department's decisions, comments must be relevant to the factors on which the Department bases its decisions. For example, if a Department's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Department could not accommodate a State comment addressing costs during the technical review.

Second, States can assist the Department's implementation of the Order by clearly specifying the magnitude of the State's concerns. Often, it may be difficult for the Department to tell whether a State is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Department's position. For example, if a State wants the Department to recognize the State's priorities, accept only a modified *financial* assistance application, or deny a financial assistance application, it would be very helpful if the State identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate State concerns. The Department's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the States.

Third, the Department may not be in a good position to accommodate State and local concerns unless the State speaks with one voice in its comments. The Department recognizes that different State and local officials and agencies may not always agree among themselves concerning the course of action the Department should follow. The single point of contact should reconcile conflicting views before transmission to avoid the Department's having to seek clarification concerning which set of views the State wants the Department to accommodate. The process will work much better if the Department receives a single set of comments.

Section 3015.307 How does the Secretary make efforts to accommodate State and local concerns?

Subsection (a) provides that when a State comments to the Department under the Order, the Department has three choices. The Department can accept the State's comments (i.e., do as the State recommends). Second, it can reach a mutually agreeable solution with the State. This solution can differ from the original State position on the matter. Third, if the Department cannot accept the State's comments or reach a mutually agreeable solution, the Department is obligated to give the State a timely, simple explanation of the Department's reasons for not doing so. While the Department is not required to accept the State's comments or to begin discussions toward another solution, the Department does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Department's reasons for its decision to the State. A telephone call, a meeting, or a letter would perform this function. The Department has the discretion to choose the most appropriate means of communicating the explanation in each case. The explanation is made by a designee of the Seretary.

There is one exception to the Department's descretion to chcose the means of communicating the explanation. As subsection (a)(3)(ii) provides, the Governor of the State may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Department's explanation will be in a letter.

Subsection (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from the Department. The Department will direct all such explanations to the single point of contact in each State that has one. This is true even where accommodation discussions have occurred between the Department and another party in the State.

Subsection (b) concerns safeguards to ensure that the interests of States are protected in nonaccommodation situations. Subsection (b)(1) provides that a nonaccommodation explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation except as provided in subsection (b)(2). This waiting period is intended to permit States to respond to the Department in cases of nonaccommodation before the Department has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Department has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Subsection (b)(2) recognizes that there will be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Department to wait ten days before implementing its decision. In a situation where the Department cannot observe the waiting period, the Secretary or a designee of the Secretary at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Department implements the decision. The nonaccommodation explanation will include the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 3015.308 What are the Secretary's obligations in interstate situations?

In some cases, action taken by the Department in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, the Department has certain additional obligations. First, the Department must identify its direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the Department must, as provided in subsection (b), notify the potentially affected States, whether or

not they have established an official State process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Department must provide the affected States an opportunity for comment of at least 45 days before the Department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for States to coordinate among themselves before providing views to the Department.

The Department, obviously, cannot require States to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, the Department strongly encourages each affected State to share its comments with and obtain the views of other affected States, using the other State's single point of contact, if there is one, or an approporiate State official if there is not a single point of contact. The Department encourages States to reconcile differences where they exist, so that the States can present the Department with a unified position. If the affected States provide the Department with conflicting recommendations, the Departmemt will, with respect to States that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of views provided in § 3015.307.

Section 3015.309 How may a State simplify, consolidate, or substitute Federally required State plans?

This section carries out section 2(d) of the Order, which directs Federal agencies to "allow" States to consolidate or simplify plans and to "encourage" States to substitute their own plans for Federally required State plans.

Subsection (a) defines three terms used in this section. For a State to "'simplify" a plan means that as State may develop its own format, choose its own submission date, and select the planning period covered by the plan. "Consolidate" means that the State may meet statutory and regulatory requirements by combining two or more plans into one document. The State may also select the format, submission date, and planning period for consolidated plan. "Substitute" means that a State may use a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan mandated by the Department. State plans required by the Department that are eligible for modification (i.e., simplification, consolidation, or substitution) under the Order will be listed by the Department in an accompanying **Federal Register** notice. The Department is willing to consider other State plans for eligibility for modification (i.e., simplification, consolidation, or substitution) under this section.

For purposes of State plan modifications, it is necessary to draw a distinction between the State's decision concerning which plans it wants to try to modify and the Department's decision concerning whether to accept modified plans. Subsection (b) deals with the first of these issues. A State may decide to try to simplify, consolidate or substitute State plans without prior approval by the Department. The State's discretion in this respect is complete.

Subsection (c) points out that the Department will review the content of State proposals to simplify, consolidate, or substitute State plans to ensure that they meet all applicable Federal requirements. Under this provision, the Department could disapprove the content of a modified plan on the basis, for example, of legal insufficiency or the failure of the modified plan to meet Federally mandated substantive standards. If the Department disapproves a State plan, the State may have recourse to any existing appeal process of the Department applicable to the program in question. However, the Department does not propose any new special appeal process for situations in which the Department does not accept a modified plan.

This subsection is not intended to give the Department any new authority it does not already have to review or disapprove State plans. For example, if a statute limits the grounds on which the Department may disapprove a State plan submission, this subsection is not intended to expand those limits. The subsection does emphasize, however, that these regulations do not impair the Department's existing authority to review and, if necessary, disapprove State plans. This section also does not affect any existing statutory or regulatory requirements concerning submission dates, planning periods, or formats of State plans. The Department will review and make appropriate modifications in regulatory requirements without a statutory basis to allow more State flexibility.

The Department's ability to review State plans is important not only for the Department's ability to administer its programs effectively but also to prevent States from inadvertently causing delays in Departmental funding decisions. In many financial assistance programs, required program standards must be met through a State plan before Federal funds are awarded. The Department may not be in a position to award funds to recipients if a plan does not meet legal requirements or substantive Federal program standards.

The Department encourages States which wish to simplify, consolidate or substitute State plans to inform the Department well in advance of their intentions. Early discussions between State officials and the Department regarding proposed modifications of plans will help to avoid later problems, including unexpected delays or disapprovals of modifications. The Department is very willing to work closely with State officials on plan modifications and, where feasible, will provide technical assistance or advice in plan modification efforts.

Section 3015.310 May the Secretary waive any provision of this subpart?

This section allows the Secretary to waive any provision in these regulations in an emergency. The Department expects to use this provision sparingly, since the Department's policy is to carry out the Order as fully as it can.

List of Subjects in 7 CFR Part 3015

Grant programs (Agriculture), Intergovernmental relations.

Issued at Washington, D.C., January 24, 1983

John J. Franke, Jr.,
Assistant Secretary for Administration.
John R. Block,
Secretary of Agriculture.

Attachment—List of Proposed Exclusions from Scope

There are certain programs that do not affect State and local governments. Therefore, the Department proposes to exclude these particular programs based on the exclusion criteria listed in the attachment.

Proposed Programs and Activities Excluded From Executive Order 12372

Program/Activity Name and Basis for Exclusion

Cooperative State Research Service

Special Research Grants—Basic Research grants in Food and Agricultural Sciences

Alcohol Fuels Research Grants—Basic Research on evaluation, treatment, and conversion of biomass resources for the manufacture of ethyl alcohol

Native Latex Research—Basic Research in the commercialization of Native Latex

Competitive Research Grants—Basic Research grants in the areas of Biological Nitrogen Fixation, Biological Stress on Plants, Photosynthesis, Genetic Mechanisms of Crop Improvement and human requirements for nutrients
1890 Land-Grant College Research Facilities—Formula grants to upgrade research facilities to strengthen capacity to conduct research in the Food and Agricultural Sciences

Agricultural Research Service

Basic and Applied Agriculture Research—Research, development, and demonstration that does not have a unique geographic focus, are not directly relevant to State and local government responsibilities, do not require an EIS, and do not expose the public to adverse exposure or hazard

Cooperative State Research Service

Payments to Agricultural Experiment Stations under the Hatch Act—Formula grants to support Agricultural Research at State Agricultural Experiment Stations
Payments to 1890 Land-Grant—Formula grants to support Colleges and Tuskegee Institute—Agricultural Research at 1890 Land-Grant Colleges and Tuskegee Institute
Animal Health and Disease Research—Research, development, and demonstration program
Cooperative Forestry Research—Research, development and demonstration program

Rural Electrification Administration

Rural Electrification Loans and Loan Guarantees—Direct financial assistance between the Federal government and a non-governmental entity
Rural Telephone Loans and Loan Guarantees—Direct financial assistance between the Federal government and a non-governmental entity
Rural Telephone Bank Loans—Direct financial assistance between the Federal government and a non-governmental entity

Food and Nutrition Service

Food Stamp Program (Coupons)—The Food Stamp Program is an entitlement program and therefore is not covered by Executive Order 12372. State and local officials participate in regulatory decisions as members of the public at large

Farmers Home Administration

Farm Operating Loans—Direct financial assistance between the Federal government and non-governmental entities
Farm Ownership Loans—Direct financial assistance between the Federal government and non-governmental entities
Recreation Loans—Direct financial assistance between the Federal government and non-governmental entities
Soil and water Loans—Direct financial assistance between the Federal government and non-governmental entities
Grazing Association Loans—Direct financial assistance between the Federal government and non-governmental entities
Indian Land Acquisition Loans—Direct financial assistance between the Federal government and non-governmental entities
Soil Surveys (Land Grant Universities only)—Soil survey research and the field collection of data is accomplished by Federal and Land Grant University personnel. Final decisions affecting the integrity of studies are based on National needs and technical criteria
Emergency Loans and Economic Emergency Loans—Emergency assistance to nongovernmental entities

Soil Conservation Service

Conservation Operations—snow surveys and water forecasting—Program is data collection program from multistate sample frame. Data deals with water content of snow pack in the western mountain States. Stream flows result in water being used in a number of States before reaching the ocean. Final decisions affecting the integrity of studies are based on National needs and technical criteria
Conservation Operations Plant Materials Centers—All operations are internal to the agency and plants developed are released through universities
Conservation Operations—technical assistance—Technical assistance to individual land users, including Indians
Conservation Operations—Inventory and monitoring—Program consists of data collection using a nationwide sample frame. Final decisions affecting the integrity of studies are based on National needs and technical criteria
Great Plains Conservation Program (GPCP)—Technical and financial assistance to individual land users
Rural Abandoned Mine Program (RAMP)—Technical and financial assistance to individual land users

Agricultural Stabilization and Conservation Service

Commodity Loans and Purchases—Direct payments to individuals
Cotton Production Stabilization—Direct payments to individuals
Dairy Indemnity Payments—Direct payments to individuals
Emergency Conservation Program—Direct payments to individuals
Feed Grain Production Stabilization—Direct payments to individuals
Storage Facilities and Equipment Loans—Direct payments to individuals
Wheat Production Stabilization—Direct payments to individuals
National Wool Act Payments—Direct payments to individuals
Water Bank Program—Direct payments to individuals
Agricultural Conservation Program—Direct payments to individuals
Appalachian Land Stabilization and Conservation Program—Direct payments to individuals
Forestry Incentives Program—Direct payments to individuals
Rice Production Stabilization—Direct payments to individuals
Emergency Feed Program—Direct payments to individuals
Grain Reserve Program—Direct payments to individuals
Rural Clean Water Program—Direct payments to individuals

Statistical Reporting Service

Crop and Livestock Estimates—Federal statutory preemption precludes any State or local jurisdiction over this program, and the recommendations of State and local governments can have little or no bearing on Federal decisions in this area. Meaningful consultation would breech the confidentiality required by Federal statute (18 U.S.C. 1902) relating to the disclosure of crop information
Statistical Research and Service—Research, development and demonstration program, and direct financial assistance between the Federal government and a non-governmental entity

Economic Research Service

Economic Analysis and Research—Research, development and demonstration program; and direct financial assistance between the Federal government and non-governmental entities

Federal Crop Insurance Corporation

Federal Crop Insurance—Direct payment to individuals, payment of claims under contract, and direct

financial assistance between the Federal government and the individual

Human Nutrition Information Service

Consumer Nutrition—Research, development, and demonstration. Program has National focus, is not directly relevant to the responsibilities of a state or local government, does not require an Environmental Impact Statement, and does not require unusual measures to limit the possibility of adverse exposure or hazard to the general public

Nutrition Guidance and Education Research—Research, development, and demonstration. Program has National focus, is not directly relevant to the responsibilities of a state or local government, does not require an Environmental Impact Statement, does not require unusual measures to limit the possibility of adverse exposure or hazard to the general public

Food and Nutrition Information—Research, development and demonstration. Program consists of maintaining a library collection of materials on food and nutrition, lending materials to nongovernmental entities and government agencies, and developing bibliographic data base. No interpretation of information is provided. Program has a national focus, is not directly relevant to the governmental responsibilities of a state or local government, does not require an Environmental Impact Statement, and does not require unusual measures to limit the possibility of adverse exposure or hazard to the general public

Forest Service

Research grants and Cooperative Agreements—Direct financial assistance between the federal government and a non-governmental entity

Forest Service research activities as follows: Research, development, and demonstration programs or activities.

Fire and Atmospheric Sciences Research
Forest Insect and Disease Research
Renewable Resources Evaluation Research
Renewable Resources Economics Research
Surface Environment and Mining Research
Trees and Timber Management Research
Watershed Management Research
Wildlife, Range, and Fish Habitat Research
Forest Recreation Research
Forest Products Utilization Research
Forest Engineering Research

National Forest Systems Activities as follows: Funds are distributed by formulas that are established by laws, and federal agencies have no authority to approve specific sites or projects where funds will be issued

Schools and Roads—Grants to States
School and Roads—Grants to Counties
School Funds—Grants to Arizona
Additional Lands—Grants to Minnesota
National Forest System Activities—Land management practices involved with the administration and protection of resources on National Forest System lands, which are not direct development
Negotiations of involved and sensitive land exchanges or purchases which would be endangered or hampered with premature release of appraisal figures, resulting in adverse effects of local land speculation
Programs with characteristics inappropriate for coverage. For example, assistance to educational institutions regarding fire prevention and soil and water conservation
Projects which are of small scale or size, are highly localized as to impacts, or display other characteristics which make review impractical

PART 3015—[AMENDED]

1. The authority citation for Part 3015 reads as follows:

Authority: 5 U.S.C. 301.

§ 3015.203 [Reserved]

2. Subpart U—Miscellaneous, § 3015.203 is removed and subsequently reserved.

3. A new Subpart V is added as follows:

Subpart V—Intergovernmental Review of Department of Agriculture Programs and Activities

Sec.
3015.300 [Reserved]
3015.301 What is the purpose of this Subpart?
3015.302 What definitions apply to this Subpart?
3015.303 What programs and activities of the Department are subject to this Subpart?
3015.304 What are the Secretary's general responsibilities under the Order?
3015.305 What procedures apply to a State's choice of programs under the order?
3015.306 How does the Secretary give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?
3015.307 How does the Secretary make efforts to accommodate State and local concerns?
3015.308 What are the Secretary's obligations in interstate situations?
3015.309 How may a State simplify, consolidate, or substitute Federally required State plans?
3015.310 May the Secretary waive any provision of this Subpart?

Authority: Executive Order 12372 (July 14 1982 47 FR 30959); section 401(b) Intergovernmental Cooperation Act of 1968 (42 U.S.C. 423(b)).

§ 3015.300 [Reserved]

§ 3015.301 What is the purpose of this Subpart?

(a) This subpart implments Executive Order 12372 issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and this subpart are intended only to improve the internal management of the Department. Neither the Order nor this subpart are intended to create any right or benefit enforceable at law by a party against the Department or its officers.

§ 3015.302 What definitions apply to this Subpart?

(a) "Department" means the U.S. Department of Agriculture.

(b) "Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(c) "Secretary" means the Secretary of the U.S. Department of Agriculture or an official or employee of the Department acting for the Secretary under a delegation of authority.

(d) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, and the Trust Territory of the Pacific Islands.

§ 3015.303 What programs and activities of the Department are subject to this Subpart?

(a) The Secretary publishes in the **Federal Register** a list of the Department's programs and activities that are subject to the Order and this subpart.

(b) With respect to programs and activites that are subject to the Order and this subpart and that a State chooses to cover under section 3015.305 of this subpart, the Secretary, to the extent permitted by law, uses the official State process to determine official views of State and local elected officials.

§ 3015.304 What are the Secretary's general responsibilities under the Order?

(a) The Secretary provides opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, on that would be directly affected by, proposed Federal financial assistance from, or direct Federal development by, the Department.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance and proposed Federal development, the Secretary, to the extent permitted by Law:

(1) Uses the State process to determine official views of State and local elected officials;

(2) Communicates with State and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the State process;

(4) Allows the States to simplify and consolidate existing Federally required State plan submissions;

(5) Where State planning and budgeting systems are sufficient and where permitted by law, encourages the substitution of State plans for Federally required State plans;

(6) Seeks the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports State and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 3015.305 What procedures apply to a State's choice of programs under the Order?

(a) Each State that adopts a process under the Order notifies the Secretary of the Department's programs that the State chooses to cover under the Order.

(b) The Secretary uses a State's process under the Order as soon as feasible, depending on individual programs and projects, after the State notifies the Secretary of its program choices.

(c) States may change their program choices under the Order at any time. The Secretary may establish deadlines by which States are required to inform the Secretary of changes in their program choices.

§ 3015.306 How does the Secretary give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a State pursuant to an official process it has established under the Order, including comments where the State has delegated to local elected officials the review, coordination and communication with the Department.

(b) With respect to programs and activities that are subject to the Order and this subpart and that a State chooses to cover under § 3015.305 of this subpart, the Secretary, to the extent permitted by law, communicates with State and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Except in unusual circumstances, the Secretary gives States at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 3015.308 for comment periods pertaining to interstate situations).

(d) Subject to paragraph (c), of this section, the Secretary may establish deadlines for:

(1) Applicants to submit copies of their applications to the States; and

(2) States to complete their review of applications under a program and to submit their comments to the Department.

(3) States to complete their review of proposed direct Federal development and to submit their comments to the Department.

(e) The Secretary responds as provided in the Order to all comments from a State that are provided through a State office or official that acts as a single point of contact under the Order between the State and all Federal agencies.

§ 3015.307 How does the Secretary make efforts to accommodate State and local concerns?

(a) If a State provides comments to the Department in accordance with § 3015.307(e) of this subpart, the Secretary:

(1) Accepts the State's comments;

(2) Reaches a mutually agreeable solution with the State; or

(3)(i) Provides the State with a timely explanation of the basis for the Department's decision; or

(ii) If requested by the Governor, provides the explanation in writing; or

(iii) If the State has designated a State office or official as a single point of contact between the State and all Federal agencies, provides any explanation under paragraph (a)(3) of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the State that.

(1) The Department will not implement its decision for ten days after the State receives the explanation; or

(2) The decision was reviewed and it was determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 3015.308 What are the Secretary's obligations in interstate situations?

The Secretary is responible for:

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the affected States, including States that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected States an opportunity of at least 45 days to comment.

§ 3015.309 How may a State simplify, consolidate, or substitute Federally required State plans?

(a) As used in this section:

(1) "Simplify" means that a State may develop its own format, choose its own submission date, and select the planning period for a State plan.

(2) "Consolidate" means that a state may meet statutory and regulatory requirements by combining two or more plans into one document and that the State can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a State may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a State may decide to try to simplify, consolidate, or substitute Federally

required State plans without prior approval by the Secretary.

(c) The Secretary reviews each State plan that a State has simplified, consolidated, or substituted and accepts the plan only if its contents meet Federal requirements.

§ 3015.310 May the Secretary waive any provision of this Subpart?

In an emergency, the Secretary may waive any provision of these regulations.

[FR Doc. 83-1663 Filed 1-21-83; 8:45 am]
BILLING CODE 3410-KS-M

Farmers Home Administration

7 CFR Parts 1901, 1942, 1944, 1948, 1980

Rescission of Regulations Involving Consultation With State and Local Governments

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this proposed regulation is to notify interested persons of those provisions of regulations involving consultation with State or local agencies or officials which will no longer be needed when regulations implementing Executive Order (E.O.) 12372 are put into effect. A Notice of Proposed Rulemaking pertaining to that Order is being published in the **Federal Register** simultaneously with this proposed rule. A full understanding of the proposed action contained here may be gained by referring to that proposed rule, 7 CFR Part 3015, Subpart V.

DATE: Comments must be received on or before March 10, 1983.

ADDRESSES: Interested persons should submit comments in duplicate to Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, Washington, D.C. 20250, telephone (202) 382-9745. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Warren B. Clayman, Environmental Specialist, Farmers Home Administration, U.S. Department of Agriculture, Room 6309, Washington, D.C. 20250, telephone (202) 382-9626.

List of Subjects in

7 CFR Part 1901

Indians; Intergovernmental relations

7 CFR Part 1942

Business and industry; Grant programs—housing and community development; Rural areas

7 CFR Part 1944

Farm labor housing; Migrant labor; Public housing; Rent subsidies

7 CFR Part 1948

Business and industry; Community development and facilities; Energy; Housing; Planning; Transportation

7 CFR Part 1980

Loan programs—agriculture; Loan programs—business and industry—rural development assistance

For the reasons set out in 7 CFR 3015 Subpart B Farmers Home Administration proposes to amend the following Regulations:

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart H—A-95 Review, Evaluation, and Coordination of Projects

§ 1901.352 [Amended]

1. Section 1901.352 is amended by removing paragraphs (a)(2), (a)(4) through (a)(14) and (b); and redesignating paragraph (a)(3) as (a)(2) and paragraph (c) as (b) and paragraph (d) as (c).

§ 1901.355 [Amended]

2. Section 1901.355 is amended by removing paragraphs (a)(2)(vii) and (b), and redesignating paragraphs (c) through (e) as (b) through (d), respectively.

PART 1942—ASSOCIATIONS

Subpart G—Industrial Development Grants

§ 1942.302 [Amended]

3. Section 1942.302 is amended by removing paragraphs (b) and (c) and redesignating paragraph (d) as (b).

Subpart I—Resource Conservation and Development (RCD) Loans and Watershed (WS) Loans and Watershed Advances

§ 1942.402 [Amended]

4. Section 1942.402(b) is amended by removing the last sentence of this paragraph.

5. Section 1942.412(a)(1)(i) is revised to read as follows:

§ 1942.412 Preapplication and application processing.

(a) * * *

(1) * * *

(i) The County Supervisor or other person designated by the State Director may assist the applicant in completing Form AD-621, "Preapplication for Federal Assistance" and will forward one copy of Form AD-621 to the State Director.

* * * * *

§ 1942.412 [Amended]

6. Section 1942.412 (a)(1)(ii) is further amended by removing "and the State clearinghouse" from the first sentence and ending this sentence after "SCS".

PART 1944—HOUSING

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations

7. Sections 1944.164(k) is revised to read as follows:

§ 1944.164 Limitations and conditions.

* * * * *

(k) *Intergovernmental Review.* Intergovernmental consultation should be carried out in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities".

* * * * *

Exhibit A-1 [Amended]

8. Exhibit A-1 is amended by removing the second undesignated paragraph in paragraph I, E, 2. and revising paragraph II.B. to read as follows:

II. * * *

B. If applicable, evidence of compliance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities".

* * * * *

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

9. Section 1944.215(n) is revised to read as follows:

§ 1944.215 Special conditions.

* * * * *

(n) *Intergovernmental Review.* FmHa will give due consideration to any comments received in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities."

* * * * *

Subpart K—Technical and Supervisory Assistance Grants

§ 1944.523 [Amended]

10. Section 1944.523 is amended by removing "A–95 and" from the title of this section; by removing paragraphs (a)(1) and (b); and by redesignating paragraph (a) as the introductory paragraph of § 1944.423, and paragraphs (a)(2) through (a)(4) as paragraphs (a) through (c), respectively.

§ 1944.526 [Amended]

11. Section 1944.526(c)(2) is amended by substituting in the first sentence of the paragraph "including any comments received in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities" for "including A–95 comments received".

12. Section 1944.529 (b)(9) is revised to read as follows:

§ 1944.529 Project selection.

* * * * *

(b) * * *

(9) Any comments received in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities".

* * * * *

13. Section 1944.531 paragraph (c)(3) is revised to read as follows:

§ 1944.531 Application submission.

* * * * *

(c) * * *

(3) Any comments received in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities".

* * * * *

Exhibit B [Amended]

14. Exhibit B is amended by removing paragraph B.2 and retaining the unnumbered second paragraph which begins with "The State Office will refer . . ."

Exhibit C [Amended]

15. Exhibit C, paragraph B is amended by removing the first sentence.

PART 1948—RURAL DEVELOPMENT

Subpart B—Section 601—Energy Impacted Area Development Assistance Program

§ 1948.66 [Removed and Reserved]

16. Section 1948.66 is removed and reserved.

17. In Section 1948.78 paragraph (h) is removed and paragraph (i) is redesignated as paragraph (h) and paragraph (f) is revised to read as follows:

§ 1948.78 Growth management and housing planning projects.

* * * * *

(f) Governors should give full consideration to local and substate priorities in the development of the State Investment Strategy for Energy Impacted Areas.

* * * * *

18. Section 1948.79, paragraphs (b) and (k)(3) are revised to read as follows:

§ 1948.79 Application procedure for planning grants.

* * * * *

(b) Intergovernmental consultation should be carried out in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities".

* * * * *

(k) * * *

(3) Any comments received in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities.

* * * * *

§ 1948.80 [Amended]

19. Section 1948.80 is amended by substituting in paragraph (g) "received in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities", for "from the A–95 clearinghouse(s)."

20. Section 1948.84, paragraphs (c) and (i)(2) are revised to read as follows:

§ 1948.84 Application procedure for site development and acquisition grants.

* * * * *

(c) Intergovernmental consultation should be carried out in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities".

* * * * *

(i) * * *

(2) Any comments received in accordance with 7 CFR Part 3015, "Intergovernmental Review of Department of Agriculture Programs and Activities".

* * * * *

PART 1980—GENERAL

Subpart A—General

§ 1980.6 [Amended]

21. Section 1980.6 is amended by removing paragraph (a)(1) and redesignating paragraphs (2) through (18) as (1) through (17), respectively.

§ 1980.40 [Amended]

22. Section 1980.40 is amended by removing "State and sub-State clearinghouse" after "Applicant's Environmental Impact Evaluation," in the first sentence of this section.

Subpart E—Business and Industrial Loan Program

§ 1980.451 [Amended]

23. Section 1980.451(d)(3) is amended by removing "and clearinghouse (A–95 Agency) comments and recommendations," from the first sentence and ending this sentence at ". . . State development strategies."

(5 U.S.C. 301)

Dated: January 6, 1983.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 83–1664 Filed 1–21–83: 8:45 am]

BILLING CODE 3410–07–M

Forest Service

36 CFR Part 219

Rescission of Regulations Involving Consultation With State and Local Governments

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed regulation is to notify interested persons of those provisions of regulations involving consultation with State or local agencies or officials which will no longer be needed when regulations implementing Executive Order (E.O.) 12372 are put into effect. A notice of proposed rulemaking pertaining to that Order is being published in the Federal Register simultaneously with this proposed rule. A full understanding of the proposed action contained here may be gained by referring to that proposed rule, 7 CFR Part 3015, Subpart V.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Comments may be sent to the following address: R. Max Peterson, Chief (1300), Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: David R. Wallace, Administrative Management Staff, Forest Service, 202–447–8456.

List of Subjects in 36 CFR Part 219

National forests; Environmental impact statement; Timber; Fish and wildlife; Water resources; Range management; and Recreation.

For the reasons set out in 7 CFR 3015, subpart V, Part 219 of Title 36 of the Code of Federal Regulations is proposed to be amended as follows:

1. The Authority citation for Part 219 reads as follows:

Authority: Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613); and 5 U.S.C. 301.

2. The first sentence of paragraph (b) of § 219.7 is revised to read as follows:

§ 219.7 Coordination with other public planning efforts.

* * * * *

(b) The responsible line officer shall give notice of the preparation of a land and resource management plan, along with a general schedule of anticipated planning actions, to the official or agency so designated by the affected state (including the Commonwealth of Puerto Rico).* * *

Dated: January 7, 1983.

John B. Crowell, Jr.,

Assistant Secretary for Natural Resources and Environment.

[FR Doc. 83-1665 Filed 1-21-83; 8:45 am]

BILLING CODE 3410-11-M

Food and Nutrition Service

7 CFR Parts 225, 227, 235, 246, 247, 250, and 253

Rescission of Regulations Involving Consultation With State and Local Governments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed regulation is to notify interested persons of those provisions of regulations involving consultation with State or local agencies or officials which will no longer be needed when regulations implementing Executive Order (E.O.) 12372 are put into effect. A Notice of Proposed Rulemaking pertaining to that Order is being published in the **Federal Register** simultaneously with this proposed rule. A full understanding of the proposed action contained here may be gained by referring to that proposed rule, 7 CFR Part 3015, Subpart V.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Send comments to: Vicky Urcuyo, Assistant to the Deputy Administrator for Special Nutrition Programs, Food and Nutrition Service, 3101 Park Center Drive, Room 1113, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Vicky Urcuyo, Assistant to the Deputy Administrator for Special Nutrition Programs at the above address, (703) 756-3054.

List of Subjects

7 CFR Part 225

Food and nutrition service, Food assistance program, Grant programs—health, infant and children; Reporting requirements.

7 CFR Part 227

Education, Food and nutrition service, Grant programs—education, Grant programs—health, infants and children, Nutrition.

7 CFR Part 235

Food assistance programs, National school lunch programs, School breakfast program, special milk program, Grants administration, Intergovernmental relations, Reporting and recordkeeping requirements, Administrative practice and procedure.

7 CFR Part 246

Food and nutrition service, Food assistance programs, Food donations, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Public assistance program, WIC, Women.

7 CFR Part 247

Agriculture commodities, Commodity supplemental food programs, Food and nutrition service, Food assistance programs, Food donations, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Public assistance programs, Women.

7 CFR Part 250

Aged—Agricultural commodities, Business and industry, Food and nutrition service, Food assistance programs, Food donations, Food processing, Grant programs—social programs, Infants and children, Price support programs, Reporting requirements, School breakfast and lunch programs, Surplus agricultural commodities.

For the reasons set out in 7 CFR 3015, Subpart B, the Department is proposing to amend the following regulations:

Part	Title
225	Summer Food Service Program.
227	Nutrition Education and Training Program.
235	State Administrative Expense Funds.
246	Special Supplemental Food Program for Women, Infants and Children.
247	Commodity Supplemental Food Program.
250	Food Distribution Program.
253	Food Distribution Program on Indian Reservations.

PARTS 225, 227, 235, 246, 247, 250, and 253—[Amended]

§ 225.6 [Amended]

1. 7 CFR 225.6, paragraphs (c), (d), and (e) are removed and paragraphs (f) and (g) are redesignated as § 225.6 (c) and (d) respectively.

§ 227.30 [Amended]

2. 7 CFR 227.30, paragraph (a) is removed and paragraphs (b) through (g) are redesignated as § 227.30 (a) through (f) respectively.

§ 227.31 [Amended]

3. 7 CFR 227.31, paragraph (c) is amended by removing the fourth and fifth sentences.

§ 227.37 [Amended]

4. 7 CFR 227.37(b)(6) is removed and paragraphs (b) (7) through (21) are redesignated as as paragraphs (b) (6) through (20) respectively.

§ 235.4 [Amended]

5. 7 CFR 235.4(d) is amended by removing the fourth and fifth sentences.

§ 246.4 [Amended]

6. 7 CFR 246.4, paragraph (c) is removed and paragraphs (d) and (e) are redesignated as § 246.4 (c) and (d) respectively.

7. 7 CFR 246.4, newly redesignated paragraph (c) is amended by removing the last sentence.

§ 247.5 [Amended]

8. 7 CFR 247.5, paragraph (c) is removed and paragraphs (d) and (e) are redesignated as § 247.5 (c) and (d) respectively.

§ 250.6 [Amended]

9. 7 CFR 250.6, introductory paragraph (f) is amended by removing the fifth and sixth sentences.

10. 7 CFR 250.6 (w)(3) is removed.

11. 7 CFR 253.5, paragraph (a)(1)(ii) is revised to read as follows:

§ 253.5 State agency requirements.

(a) Plan of operation.

(1) * * *

(ii) A State agency which is not an ITO shall submit its plan of operation, budget and any substantive subsequent amendments to the ITO for comment at

least 45 days prior to submission of the plan, budget or amendment to FNS. Comments by the IYO shall be attached to the plan, budget or amendment which is submitted to FNS. This paragraph does not apply to amendments required by FNS under section § 253.7(a)(1).

* * * * *

§ 246.2 [Amended]

12. In 7 CFR 246.2, the definition of "A–95" is removed.

§ 247.2 [Amended]

13. In 7 CFR 247.2, the definition of "A–95" is removed.

(Executive Order 12372, July 14, 1982, 47 FR 30959, sec. 401(b) of the Intergovernment Cooperation Act of 1968 (42 U.S.C. 4231(b))

Dated: January 6, 1983.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 83–1666 Filed 1–21–83; 8:45 am]

BILLING CODE 3410–30–M

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7 CFR Part 282

Food Stamp Program: Rescission of Regulations Involving Consultation With State and Local Governments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rules.

SUMMARY: The purpose of this proposed regulation is to notify interested persons of those provisions of regulations involving consultation with State or local agencies or officials which will no longer be needed when regulations implementing Executive Order (E.O.) 12372 are put into effect. A Notice of Proposed Rulemaking pertaining to that Order is being published in the Federal Register simultaneously with this proposed rule. A full understanding of the proposed action contained here may be gained by referring to that proposed rule, 7 CFR Part 3015, Subpart V.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Please submit comments to Thomas O'Connor, Acting Branch Chief, Program Design and Rulemaking Branch, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756–3425. Comments will be available for public inspection during regular business hours (8:30 a.m. to 5:00 p.m.) at the agency's offices: Room 708, 3101 Park Center Drive, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: John Hitchcock, State Agency Management Section, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756–3431.

List of Subjects in 7 CFR Part 282

Food stamps, Government contracts, Grant programs—social programs, Research.

Amendment

For the reasons set out in 7 CFR 3015, subpart V, Part 282 of Subchapter C, Chapter II of Title 7, Code of Federal Regulations is proposed to be amended as follows:

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

1. Section 282.4 is amended by revising paragraph (a) to read as follows:

§ 282.4 Approval of proposals.

(a) *Presubmission proposal review.* All suggestions for project operations and formal proposals for such operations shall be subject to the application procedures contained in OMB Circular A–102.

* * * * *

(E.O. 12372 (July 14, 1982, 47 FR 30959); § 401(b) Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)))

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps)

Dated: January 6, 1983.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 83–1667 Filed 1–21–83; 8:45 am]

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federal register

Monday
January 24, 1983

Part V

Department of Commerce

Office of the Secretary

Intergovernmental Review of Department of Commerce Programs and Activities

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Parts 303, 307, and 309

15 CFR Parts 13, 905, 920, 921, 923, 930, 931, and 2301

50 CFR Part 401

Intergovernmental Review of Department of Commerce Programs and Activities

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Department of Commerce. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Managment and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, state and local elected officials, not the Federal government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATES: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to H. Stephen Halloway, Associate General Counsel for Legislation and Regulation, U.S. Department of Commerce, Room 5892, Washington, D.C. 20230. Comments will be available for inspection at the above address from 9:00 a.m. to 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Barry Bird, Office of the General Counsel, (202) 377–3084.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal Agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of the elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of state and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for states to reduce administrative burdens in Federal programs requiring state plans. In contrast to the A–95 system, which relied heavily on clearinghouse, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected state and local officials.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB wrote to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to the Department and other Federal agencies and to which the Department directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the Department. However, there should be only one point of contact to transmit officially recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

This Department and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the

extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Department's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in December (47 FR 57369, December 23, 1982). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Department proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing the Department's obligations. For example, when the proposed regulation says that the Secretary "provides the state with a timely explanation," the regulation requires the Secretary to do so.

Removal of Regulations Implementing OMB Circular A–95

In connection with this proposed rulemaking, the Department is proposing to remove its existing regulations implementing former OMB Circular A–95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A–95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. In order to carry out this directive, the Department is listing in this notice those regulatory provisions implementing Circular A–95 that it proposes to remove (13 CFR 309.17 and 15 CFR 905). Final rules carrying out the removal will be published on or about April 30, 1983, in conjunction with the Department's final rule implementing Executive Order 12372. The Department also proposed to remove or make conforming amendments to certain other intergovernmental consultation regulations listed at the end of this NPRM, and seeks comment on these actions as well.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Department has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with the Department and allow state and local governments to establish cost-effective consultation procedures. For this reason, the Department believes that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently, the Department certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 13.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Department's action. For example, it is not intended that a state or local government would have the right to sue the Department because the Department failed to explain a nonaccommodation of a state recommendation,.

Section 13.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Department" means the Department of Commerce. "Order" means Executive Order 12372. "Secretary" means the Secretary of Commerce or an official or employee of the Department acting under a delegation of authority from the Secretary. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states.

In addition to these definitions, several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 13.7).

Section 13.3 What programs and activities of the Department are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federel programs and activities as they wish. This section provides that the Department will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let states know which of the Department's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those programs and activities that the Department proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. The Department seeks comments on the proposed exclusions. After promulgation of the final rules, if the Department wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, states should assume that all the Department's other Federal financial assistance and direct Federal development programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Department) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

If at any time a state believes that any official of the Department has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Secretary.

Section 13.4 What are the Secretary's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into the Department's regulation, exphasizing the Department's obligations under the Order. The mechanisms by which the Department will carry out many of these general obligations are developed further in other sections of the rule.

Paragraph (b)(2) means the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the states in sufficient time to be able to exert meaningful influence on the Department's course of action. For example, the Department would make sure that the state learned of draft assistance announcements (including decision criteria), proposed Federal development project decisions, and so forth, in time to make a meaningful response.

Section 13.5 What procedures apply to state's choice of programs under the Order?

States may choose to consult with the Department under the Order concerning any of the Department's programs and activities that the Department's **Federal Register** notice on or about April 30, 1983 and subsequently lists as subject to the Order. However, these regulations do not require states to consult with the Department concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A-95, which gave states no discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's **Federal Register** notice is entirely up to each state. While the Department will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Department will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Secretary of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the Department. This information will enable the Department's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selection known to the Department, the Department will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Department will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Department may not be able to do so for a time. The Department will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the Department may establish deadlines by which states must inform the Department of changes in their program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Department may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Department may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the state that, for exaample, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Department of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 13.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the state's

consultation role is delegated stands in the shoes of the official state process with respect to the Department. For example, efforts by the Department to reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to the Department. Rather, the official would send the comment to the Department through the state single point of contact. The Department would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Department would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Department to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the Department informing the Department that the comment was an official comment of the state.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Department's widely varied programs and activities. However, paragraph (b) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before the Department commits itself to a given course of action. The Department, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Department, the Department may need to establish deadlines or time frames (by means of nonregulatory, program specific announcements) for comment on particular actions or types of actions. Consequently, as provided in paragraph (c), the Department may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multi-year grants, direct development projects, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadline for quarterly apportionment).

In some of the Department's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Department. Once the initial decision is made, the Department has little discretion with respect to the subsequent decisions. The Department could inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Department's decision.

In most financial assistance programs, a state, local, or private agency applies to the Department for a grant or cooperative agreement or otherwise seeks Departmental approval for financial assistance to be provided. In order to receive notification of applications for finacial assistance from the Department, the state should work with applicant organizations to ensure that applications are provided to the state in a timely manner. If it becomes necessary, the Department may establish requirements in nonregulatory, program specific announcements for applicants to submit copies of their application to the state.

In order to ensure timely completion of Federal decisionmaking, the Department may require states to complete their reviews of applications and to submit their comments to the Secretary by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state. A similar provision, in paragraph (c)(3), permits the Secretary to establish deadlines in nonregulatory, program specific announcements for state review of the Department's direct development activities.

Paragraph (d) makes an important point with respect to the way that communications between states and the Department would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Department and the official state process flow efficiently, the Department strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. The Department needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Department to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, the Department will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the Department. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, the Department is required to make a decision based on certain statutorily established factors. In other cases, the Department, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Department would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the Department's decisions, comments must be relevant to the factors on which the Department bases its decisions. For example, if a Department's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Department could not accommodate a state comment addressing costs during the technical review.

Second, states can assist the Department's implementation of the Order by clearly specifying the

magnitude of the state's concerns. Often, it may be difficult for the Department to tell whether a state is firmly recommending a given course of action, has a mild perference for or reservation about the action, or is simply seeking clarification of the Department's position. For example, if a state wants the Department to recognize the state's priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate state concerns. The Department's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Department may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. The Department recognizes that different state and local officals and agencies may not always agree among themselves concerning the course of action the Department should follow. The single point of contact should reconcile conflicting views before transmission to avoid the Department's having to seek clarification concerning which set of views the state wants the Department to accommodate. The process will work much better if the Department receives a single set of comments.

Section 13.7 How does the Secretary make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the Department under the Order, the Department has three choices. The Department can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the Department cannot accept the state's comments or reach a mutually agreeable solution, the Department is obligated to give the state a timely, simple explanation of the Department's reasons for not doing so. While the Department is not required to accept the state's comments or to begin discussions towards another solution, the Department does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Department's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. The Department has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Secretary.

There is one exception to the Department's discretion to choose the mode of communicating the explanation. As subdivision (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Department's explanation will be in a letter.

Subdivision (a)(3)(iii) spells out the role of the single point contact in receiving explanations from the Department. The Department will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Department and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Department in cases of nonaccommodation before the Department has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Department has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Department to wait ten days before implementing its decision. In a situation where the Department cannot observe the waiting period, the Secretary or a designee of the Secretary at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Department implements the decision. The nonaccommodation explanation will incude the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 13.8 What are the Secretary's obligations in interstate situations?

In some cases, action taken by the Department in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, the Department has certain additional obligations. First, the Department must identify its direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the Department must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Department must provide the affected states an opportunity for comment of at least 45 days before the Department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Department.

The Department, obviously, cannot require states to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, the Department strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Department encourages states to reconcile differences where they exist, so that the states can present the Department with a unified position. If the affected states provide the Department with conflicting recommendations, the Department will, with respect to states that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 13.7.

Issued at Washington, D.C. January 17, 1983.

Malcolm Baldridge,

Secretary of Commerce.

Attachment—List of Programs and Activities Proposed for Exclusion From Scope of the Order

A. Economic Development Administration

1. Miscellaneous grants under 13 CFR Parts 305, 307 and 309 to Federally-recognized tribal governments (Catalogue of Federal Domestic Assistance ("CFDA") Numbers 11.300, 302, 303, 307). E.O. 12372 does not apply to programs and activities directly administered by tribal governments.

2. Technical assistance and program evaluation activities which are performed under basic ordering agreements (CFDA #11.303). Certain technical assistance and program evaluation projects conducted by EDA are performed under agreements entered into directly by EDA with the provider of the services and are not covered by E.O. 12372 since they do not constitute financial assistance directly affecting a state or local government under section 1 of the Order. In addition, other technical assistance projects which have a national focus without significant local effects are exempt from the Order.

3. Economic research. Economic research projects are exempt from the Order when they examine problems of national scope and are performed by non-governmental entities.

B. International Trade Administration

1. Trade Adjustment Assistance Program (CFDA #11.109). This program involves the provision of financial and technical assistance to firms adversely affected by competition from imports. Activities under the program do not directly affect state and local governments and are outside the scope of E.O. 12372.

C. Minority Business Development Agency

1. MBDA conducts several programs to assist minority entrepreneurs (CFDA #11.800). MBDA provides services to minority enterpreneurs primarily through its Business Development Center Program. Other programs include the Technology Commmercialization Program, Trade Association Program, and Native American Program. Insofar as these programs benefit minority enterprises and do not affect state and local governments directly, they are outside the scope of E.O. 12372.

D. National Bureau of Standards

1. Measurement and Engineering Research and Standards (CFDA #11.601, 603, 604). NBS conducts activities relating to measurement and engineering research and standards. These activities do not have a geographic focus and do not directly affect state and local governments. Accordingly, these activities are outside the scope of the Order.

E. National Oceanic and Atmospheric Administration

1. Programs not involving the extension of assistance to State and local governments. Several of NOAA's programs provide assistance directly to fishermen and do not directly affect state and local governments. These programs are the Fisherman's Contingency Fund (CFDA #11.408), the Fishing Vessel and Gear Damage Compensation Fund (CFDA #11.409), the Fisherman's Guaranty Fund (CFDA #11.410), and Fishing Vessel Obligation Guarantees (CFDA #11.415). Accordingly, these programs are outside the scope of the Order.

2. Programs partially exempt from E.O. 12372. Several other NOAA programs provide assistance primarily to nongovernmental entities. To the extent a program provides assistance to an applicant which is not a state or local government or an agency thereof, and does not directly affect a state or local govenment, it is outside the scope of the Order. Programs which are partially exempt from E.O. 12372 are the Sea Grant Support Program (CFDA #11.417), Financial Assistance for Marine-Pollution Research (CFDA #11.426), and the Fisheries Development and Utilization Research and Development Grants and Cooperative Agreements Program (CFDA #11.427).

List of Subjects in 15 CFR Part 13

Intergovernmental relations.

1. For the reasons set out in the Preamble, the Department of Commerce proposes to amend Title 15, Code of Federal Regulations, by adding a new Part 13, to read as follows:

TITLE 15—[AMENDED]

PART 13—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF COMMERCE PROGRAMS AND ACTIVITIES

Sec.

13.1 What is the purpose of these regulations?
13.2 What definitions apply to these regulations?
13.3 What programs and activities of the Department are subject to these regulations?
13.4 What are the Secretary's general responsibilities under the Order?
13.5 What procedures apply to a state's choice of programs under the Order?
13.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?
13.7 How does the Secretary make efforts to accommodate state and local concerns?
13.8 What are the Secretary's obligations in interstate situations?
13.9 [Reserved]

Authority: Executive Order 12372 (July 14, 1982; (17 FR 30959); section 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b))

§13.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovermental partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal develpoment.

(c) The Order and these regulations are intended only to improve the internal management of the Department.

Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Department or its officers.

§ 13.2 What definitions apply to these regulations?

"Department" means the U.S. Department of Commerce.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Secretary" means the Secretary of the U.S. Department of Commerce or an official or employee of the Department acting for the Secretary under a delegation of authority.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 13.3 What programs and activities of the Department are subject to these regulations?

The Secretary publishes in the **Federal Register** a list of the Department's

programs and and activities that are subject to the Order and these regulations.

§ 13.4 What are the Secretary's general responsibilities under the Order?

(a) The Secretary provides opportunities for consultation by elected officials of those states and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from, or direct Federal development by, the Department.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance or direct Federal development, the Secretary, to the extent permitted by law:

(1) Uses the State process to determine official views of state and local elected officials;

(2) Communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate state and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the state process;

(4) Allows the states to simplify and consolidate existing Federally required state plan submissions;

(5) Where state planning and budgeting systems are sufficient and where permitted by law, encourages the substitution of State plans for Federally required state plans;

(6) Seeks the coordination of views of affected state and local elected officials in one state with those of another state when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports state and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which as a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 13.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Secretary of the Department's programs that the state chooses to cover under the Order.

(b) The Secretary uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Secretary of its program choices.

(c) States may change their program choices under the Order at any time. The Secretary may establish deadlines by which states are required to inform the Secretary of changes in their program choices.

§ 13.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, coordination and communication with the Department.

(b) Except in unusual circumstances, the Secretary gives states at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 13.8 for comment periods pertaining to interstate situations).

(c) Subject to paragraph (b) of this section, the Secretary may establish deadlines for:

(1) Applicants to submit copies of their applications to the states; and

(2) States to complete their review of applications under a financial assistance program and to submit their comments to the Department.

(3) States to complete their review of proposed direct Federal development and to submit their comments to the Department.

(d) The Secretary responds as provided in the Order to all comments from a state that are provided through a state office of official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 13.7 How does the Secretary make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Department in accordance with § 13.6(d), the Secretary:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3)(i) Provides the state with a timely explanation of the basis for the Department's decision.

(ii) If requested by the Governor, the Secretary provides the explanation in writing.

(iii) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Secretary provides any explanation under paragraph (a)(3) of this section to the office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the state that—

(1) The Department will not implement its decision for ten days after the state receives the explanation; or

(2) The Secretary has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 13.8 What are the Secretary's obligations in interstate situations?

The Secretary is responsible for:

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

§ 13.9 [Reserved]

2. The Secretary also proposes to remove the following regulations which implement OMB Circular A–95:

TITLE 13—[AMENDED]

PART 309—[AMENDED]

§ 309.17 [Amended]

(a) 13 CFR is amended by removing § 309.17.

TITLE 15—[AMENDED]

PART 905—[REMOVED]

(b) 15 CFR is amended by removing Part 905.

3. The Secretary proposes to amend the following regulations to conform them to the changes made above:

TITLE 13—[AMENDED]

PARTS 303 AND 307—[AMENDED]

§§ 303.4–3 and 307.53 [Amended]

(a) 13 CFR is amended by removing § 303.4–3(b)(5)(i), § 303.4–3(d)(4)(i), and § 307.53(b)(1).

TITLE 15—[AMENDED]

PARTS 920, 921 AND 923—[AMENDED]

§§ 920.53, 920.55, 920.58, 920.59, 920.61, 921.14, 923.92, 923.95, 923.98 [Amended]

(b) 15 CFR 920.53, 920.55, 920.58, 920.59, and 920.61; § 921.14(c) and § 923.92(b)(3), 923.95(a) and 923.98(c) are amended by substituting the phrase "Executive Order 12372" wherever those sections contain reference to "Office of

Management and Budget Circular Number A–95"; "OMB Circular A–95 (revised)"; or "A–95".

PARTS 930 AND 931—[AMENDED]

Subpart F (§§ 930.90 through 930.100) [Amended]

(c) 15 CFR is amended by removing Part 930, Subpart F (§§ 930.90–930.100) (Amendments to conform these regulations to the Executive Order will be published shortly after the date of this publication) and § 931.92.

TITLE 50—[AMENDED]

PART 401—[AMENDED]

(d) 50 CFR 401.5 is revised to read as follows:

§ 401.5 Coordination with States.

The Secretary will approve an Application For Federal Assistance only after he has coordinated the application with the State office established to review applications under Executive Order 12372 (if the State has established such an office and wishes to review these applications) and other non-Federal entities which have management authority over the resource to be affected.

TITLE 15—[AMENDED]

PART 2301—[AMENDED]

(e) 15 CFR 2301.8 is amended by revising paragraph (e) to read as follows:

§ 2301.8 Service of applications.

* * * * *

(e) The State office established to review applications under Executive Order 12372, if the State has established such an office and wishes to review these applications.

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Part VI

Department of Defense

Office of the Secretary and Corps of Engineers, Department of the Army

Intergovernmental Review of Department of Defense Programs and Activities

Intergovernmental Review of Department of the Army Corps of Engineers Civil Works Programs and Activities

DEPARTMENT OF DEFENSE

32 CFR Part 243

Intergovernmental Review of Department of Defense Programs and Activities

AGENCY: Department of Defense, Office of the Secretary.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to direct Federal development programs and activities of the Department of Defense. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, state, and local elected official, not the Federal Government, will determine what Federal programs and activities encompassed by the order to review and the procedures by which the review will take place.

DATES: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Director, Office of Economic Adjustment, Room 3D968, Pentagon, Washington, D.C. 20301. Commenters wishing to have their submissions acknowledged should include a stamped, self-addressed postcard with their comments. Comments will be available for inspection at the above address from 8:30 a.m. to 5:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Colonel Michael D. Davies (202) 697–3006.

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through the regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governemnts. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of state and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states, and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy emphasizes the role of elected State and local officials.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB wrote, on or before today, to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to the Department and other Federal agencies and to which the Department directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the Department. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's reviews, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

This Department and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Under A–95 procedures this Department sought Memoranda of Understanding with State clearinghouses on what programs would be reviewed and how the review would be accomplished. The Department proposes to continue these memoranda with the state single points of contract; revising them as necessary.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Department's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and

OMB was made available to the public in December (47 FR 57369, December, 23, 1982). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Department proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing the Department's obligations. For example, when the proposed regulation says that the Secretary "provides the State with a timely explanation," the regulation requires the Secretary to do so. The format shown will not necessarily be the format of the final rules.

Removal of Regulations Implementing OMB Circular A-95

In connection with this proposed rulemaking, the Department is proposing to remove its existing regulations implementing former OMB Circular A-95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Department has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with the Department and allow state and local governments to establish cost-effective consultation procedures. For this reason, the Department believes that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently, the Department certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 243.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intented to create any right of judicial review of the Department's action. For example, it is not intended that a state or local government would have the right to sue the Department because the Department failed to explain a nonaccommodation of a state recommendation.

Section 243.2 What definitions apply to those regulations?

This section defines several terms used frequently in the proposed rule. "Department" means the Department of Defense. "Order" means Executive Order 12372. "Secretary" means the Secretary of Defense or an official or employee of the Department acting under a delegation of authority from the secretary. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands. The definition of "State" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 2432.7).

Section 243.3 What programs and activites of the Department are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. Paragraph (a) provides that the Department will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. A list of programs currently reviewed by the states and proposed for inclusion in the scope of the order is an attachment to this preamble. Updated lists will be published when necessary to let states know which of the Department's programs and activities are encompassed by the order.

Because of the number and diversity of the Department's activities, a compilation of excluded programs is not practical; however, activities and programs that clearly are not direct Federal development like research and development, testing and demonstrations, academic training and procurement by the Department are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security. The civil works programs of the Army Corps of Engineers are subject to separate proposed regulations.

Even if a program of activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401 of the Intergovernmental Cooperation Act of 1968 (42 USC 4231), require Federal agencies to consider the views of state and local governments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

Paragraph (b) simply states the Secretary's obligation, to the extent permitted by law, to use a state's official process to determine official views of state and local officials. This obligation, which derives directly from the Order, extends only to programs and activities subject to the Order which a state has selected for coverage under S 243.5 of these regulations. If at any time a state believes that any official of the Department has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Secretary.

Section 243.4 [Reserved]

Section 243.5 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with the Department under the Order concerning any of the Department's programs and activities contained in the Department's **Federal Register** notice on or about April 30, 1983 or subsequently lists as subject to the Order. However, these regulations do not require states to consult with the Department concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave states no discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's **Federal Register** notice is entirely up to each state. While the Department will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Department will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Secretary of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the Department. This information will enable the Department's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to the Department, the Department will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Department will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Department may not be able to do so for a time. The Department will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the Department may establish deadlines by which states must inform the Department of changes in their program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Department may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Department may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Department of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 243.6 How does the Secretary give states an opportunity to comment on proposed direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to the Department. For example, efforts by the Department to reach a negotiated solution with the local official will be pursued directly with the officials; not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to the Department. Rather, the official would send the comment to the Department through the state single point of contact. The Department would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Department would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Department to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the Department informing the Department that the comment was an official comment of the state.

Section 2(b) of the Order requires Federal agencies to communicate with state and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Paragraph (b) incorporates this provision of the Order into these regulations. What the requirement means is the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the states in sufficient time to be able to exert meaningful influence on the Department's course of action. For example, the Department would make sure that the state learned of draft assistance announcements including decision criteria, proposed federal development project decisions, and so forth, in time to make a meaningful response.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Department's widely varied programs and activities. However, paragraph (c) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed direct Federal development before the Department commits itself to a given course of action. The Department, on a case-be-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to obligate funds before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Department, the Department may need to establish deadlines or time frames in nonregulatory program specific announcements for comment on particular actions or types of actions. Consequently, as provided in paragraph (d), the Department may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs for different stages of the same program or at different times.

In some of the Department's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Department. Once the initial decision is made, the Department has little discretion with respect to the subsequent decisions. The Department could inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Department's decision.

In order to ensure timely completion of Federal decisionmaking, the Department may require states to complete their reviews and to submit their comments to the Secretary by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state. A similar provision, in paragraph (d)(3), permits the Secretary to establish deadlines in nonregulatory program specific announcements for state review of the Department's direct development activities.

Paragraph (e) makes an important point with respect to the way that communications between states and the Department would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Department and the official state process flow efficiently, the Department strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. The Department needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Department to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, the Department will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the Department. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, the Department is required to make a decision based on certain statutorily established factors. In other cases, the Department, through regulation or guidance, has established decisionmaking criteria for various action. It is unlikely that the Department would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the Department's decisions, comments must be relevant to the factors on which the Department bases its decisions.

Second, states can assist the Department's implementation of the Order by clearly specifying the magnitude of the state's concerns. Often, it may be difficult for the Department to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Department's position. The Order directs Federal agencies to make efforts to accommodate state concerns. The Department's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Department may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. The Department recognizes that diferent state and local officials and agencies may not always agree among themselves concerning the course of action the Department should follow. The single point of contact should reconcile conflicting views before transmission to avoid the Department's having to seek clarification concerning which set of views the state wants the Department to accommodate. The process will work much better if the Department receives a single set of comments.

Section 243.7 How does the Secretary make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the Department under the Order, the Department has three choices. The Department can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the Department cannot accept the state's comments or reach a mutually agreeable solution, the Department is obligated to give the state a timely, simple explanation of the Department's reasons for not doing so. While the Department is not required to accept the state's comments or to begin discussions towards another solution, the Department does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Department's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. The Department has the

discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Secretary.

There is one exception to the Department's discretion to choose the mode of communicating the explanation. As subdivision (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Department's explanation will be in a letter.

Subdivision (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from the Department. The Department will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Department and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Subparagraph (b)(1) provides that a nonaccommodation explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in subparagraph (b)(2). This waiting period is intended to permit states to respond to the Department in cases of nonaccommodation before the Department has begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Department has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Subparagraph (b)(2) recognizes that there will be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Department to wait ten days before implementing its decision. In a situation where the Department cannot observe the waiting period, the Secretary or a designee of the Secretary at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Department implements the decision. The nonaccommodation explanation will include the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 243.8 What are the Secretary's obligations in interstate situations?

In some cases, action taken by the Department in direct Federal development programs may have an impact on interstate areas. In these situations, the Department has certain additional obligations. First, the Department must identify its direct Federal development actions or decisions that have an impact on interstate areas. Having done so, the Department must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, the end of fiscal year), the Department must provide the affected states an opportunity for comment of at least 45 days before the Department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Department.

The Department, obviously, cannot require states to coordinate with each other on proposed direct development having an impact on an interstate area. However, the Department strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Department encourages states to reconcile differences where they exist, so that the states can present the Department with a unified position. If the affected states provide the Department with conflicting recommendations, the Department will, with respect to states that have established a process under the Order, accommodate recommendations to the extent possible and explain its non-accommodations of other points of view as provided in Section 243.7.

Section 243.9 [Reserved]

Section 243.10 May the Secretary waive any provision of these regulations?

This section allows the Secretary to waive any provision in these regulations in an emergency. The Department expects to use this provision sparingly, since the Department's policy is to carry out the Order as fully as it can.

List of Subjects in 32 CFR Part 243

Federal financial assistance; Federal development programs; Intergovernmental relations.

The Department proposed to include the following programs and activities within the scope of the order.

1. Installation Comprehensive Plans
a. Installation Master Plans
b. Installation Comprehensive Plans (Environmental Narrative) (Air Force)
2. Major Military Construction
3. Family Housing Projects
4. Real Property Acquisitions and Disposals
5. Withdrawals of Public Domain Land for Military Use
6. Substantial changes in existing utilization of installations
7. Draft and Final Environmental Impact Statements (as part of the standard process)
8. Air Installation Compatible Use Zone (AICUZ) studies
9. Natural Resources Plans, if specifically requested.
10. Appropriate information and data for regional plans, programs and projects.

Issued at Washington, D.C., January 17, 1983.

M. S. Healy,
OSD Federal Register Liaison Officer, Department of Defense.
January 17, 1983.

For the reasons set out in the Preamble, the Department of Defense proposes to amend Title 32, Code of Federal Regulations, by revising Part 243, to read as follows:

PART 243—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF DEFENSE PROGRAMS AND ACTIVITIES

Sec.
243.1 What is the purpose of these regulations?
243.2 What definitions apply to these regulations?
243.3 What programs and activities of the Department are subject to these regulations?
243.4 [Reserved]
243.5 What procedures apply to a state's choice of programs under the Order?
243.6 How does the Secretary give states an opportunity to comment on proposed direct Federal development?
243.7 How does the Secretary make efforts to accommodate state and local concerns?
243.8 What are the Secretary's obligations in interstate situations?
243.9 [Reserved]

243.10. May the Secretary waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982; 47 FR 30959); section 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231 (b)).

§ 243.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Department. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a part against the Department or its officers.

(d) The regulations in this part do not change intergovernmental review agreements with states established by Memoranda of Understanding.

§ 243.2 What difinitions apply to these regulations?

"Department" means the U.S. Department of Defense.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Secretary" means the Secretary of the U.S. Department of Defense or an official or employee of the Department acting for the Secretary under a delegation of authority.

"State" means any of the 50 states, The District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Somoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 234.3 What programs and activities of the Department are subject to these regulations?

(a) The Secretary publishes in the **Federal Register** a list of the Department's programs and activities that are subject to the Order and these regulations.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 242.5, the Secretary, to the extent permitted by law, uses the official state process to determine official views of state and local elected officials.

(c) The civil works function of the Army Corps of Engineers is subject to separate regulations.

§ 243.4 [Reserved]

§ 243.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Secretary of the Department's programs that the state chooses to cover under the Order.

(b) The Secretary uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Secretary of its program choices.

(c) States may change their program choices under the Order at any time. The Secretary may establish deadlines by which states are required to inform the Secretary of changes in their program choices.

§ 243.6 How does the Secretary give states an opportunity to comment on proposed direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, coordination and communication with the Department.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 243.5, the Secretary, to the extent permitted by law, communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Except in unusual circumstances, the Secretary gives states at least 30 days to comment on any proposed direct Federal development (see § 243.8 for comment periods pertaining to interstate situations).

(d) Subject to subsection (c), the Secretary may establish deadlines for states to complete their review of proposed direct Federal development and to submit their comments to the Department.

(e) The Secretary responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 243.7 How does the Secretary make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Department in accordance with § 243.6(e), the Secretary:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3) (i) Provides the state with a timely explanation of the basis for the Department's decision.

(ii) If requested by the Governor, the Secretary provides the explanation in writing.

(iii) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Secretary provides any explanation under paragraph (a)

(3) Of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the state that—

(1) The Department will not implement its decision for ten days after the state receives the explanation; or

(2) The Secretary has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 243.8 What are the Secretary's obligations in interstate situations?

The Secretary is responsible for:

(a) Identifying proposed direct Federal development that has an inpact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

§ 243.9 [Reserved]

§ 243.10 May the Secretary waive any provision of these regulations?

In an emergency, the Secretary may waive any provision of these regulations.

[FR Doc. 83-1069 Filed 1-21-83; 8:45 am]
BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

33 CFR Part 384

Intergovernmental Review of Department of the Army Corps of Engineers Civil Works Programs and Activities

AGENCY: Corps of Engineers, Department of the Army, DOD.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Department of the Army, Corps of Engineers. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, state and local elected officials, not the Federal government, will determine what Federal programs and activities to review within the scope of the Order and the procedures by which the review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Office of the Chief of Engineers, DAEN–CWP, 20 Massachusetts Ave. N.W., Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Wolff, Assistant Chief, Planning Division, Directorate of Civil Works (202–272–0146).

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became burdensome and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of State and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Integovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accomodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected State and local officials.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB on or before today wrote to each state concerning the establishment of an official state process. The letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination under the Order with recommendations that differ from the Federal proposal to the Corps and other Federal agencies and to which the Corps directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses perform review and coordination and to conduct discussions with the Corps. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available. In addition, current Corps consultation procedures will remain in effect if the state chooses not to adopt a process.

We and other Federal agencies have the basic responsibility of ensuring that our programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out our obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in December (47 FR 57369, December 23, 1982). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to the Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, we propose to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing our obligations. For example, when the proposed regulation says that the Corps "provides the State with a timely explanation," the regulation requires the Corps to do so.

Removal of Regulations Implementing OMB Circular A-95

The regulations which are being proposed are intended to ultimately supersede earlier regulations implementing former OMB Circular A-95 which were revoked on November 10, 1981 (46 FR 55516). Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on or about April 30, 1983.. In order to carry out this directive, we will be superseding our earlier regulations implementing OMB Circular A-95 with final publication of this proposed rule. Final rules will be published on or about April 30, 1983 implementing Executive Order 12372.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

We have determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with us and allow state and local governments to establish cost-effective consultation procedures. For this reason, we believe that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently, we certify, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 384.1 What is the purpose of these regulations?

This section briefy states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve our internal management of our consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of our action. For example, it is not intended that a state or local government would have the right to sue us because we failed to explain a nonaccommodation of a state recommendation.

Section 384.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. For example, "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate or explain in § 384.7).

Section 384.3 What programs and activities of the Corps are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish that fall within the scope of the Order. Paragraph (a) provides that the Corps will publish a **Federal Register** notice, in conjunction with the publication of the final rule, listing the programs and activities that are subject to the Order. Appendix A of this Preamble is our proposed listing. Public comment concerning programs included or excluded, as described below, is invited. Updated lists will be published when necessary in order to let states know which of the Corps' Civil Works programs and activities they may choose to cover.

After promulgation of the final rules, if we want to exclude new programs or activities from coverage under the Order, we will publish a **Federal Register** notice requesting comment on the proposed exclusions.

Activities that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Corps) are not subject to the Order. Also, the Order and these regulations are intended to apply to individual projects or activities which impact directly on state or local governments and not to national policy decisions such as changes in cost sharing policies, proposed regulations, legislative initiatives or formulations of annual budget requests. The Order also does not apply to classified programs or activities where formal consultation could endanger national security.

Regulatory activities of the Corps are not included in Appendix A. These programs include the review of permit applications under Section 404 of the Clean Water Act; Sections 9 and 10 of the River and Harbor Act of 1899; and Section 103 of the Ocean Dumping Act. In our view, these activities do not constitute financial assistance or direct Federal development and are therefore not within the scope of the Order. In addition, these activities are currently subject to adequate and detailed consultation requirements as specified elsewhere in law and regulations. Furthermore, through state regulatory programs, states may assert direct control over activities regulated by the Corps. We realize that another approach might be to include these regulatory programs within the purview of the regulations implementing the Order but to require states which select such programs as part of their processes to adopt consultation procedures as specified in regulations implementing those regulatory programs. We understand that at least one agency's regulations published as a proposed rule in today's **Federal Register** adopts this approach. In our view, states are afforded equal opportunities for consultation regardless of which approach is employed. However, coverage of such programs in these regulations could result in duplicative procedures.

Even if a program or activity is excluded for the consultation system established by the Order, state and local official would still have an opportunity to have their views considered by the Corps. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 USC 4231(b)), require

Federal agencies to consider the views of state and local governments. May of the statutes under which we operate our programs have their own consultation requirements, such as the Fish and Wildlife Coordination Act. We will, of course, comply with all existing or further statutory requirements of this kind. However, we are not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

Paragraph (b) simply states the Corps' obligation, to the extent permitted by law, to use a state's official process to determine official views of state and local officials. This obligation, which derives directly from the Order, extends only to programs and activities subject to the Order which a state has selected for coverage under § 384.5 of these regulations. If at any time a state believes that any official of the Crops has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Corps District Commander or the next higher appropriate official.

Paragraph (c) clarifies that the consultation requirements of these regulations do not extend to actions undertaken prior to the effective date of the regulation.

Section 384.4 What are the Corp's general responsibilities under the Order?

This section incorporated the most important portion of the Executive Order 12372 in to the Corps' regulation, emphasizing our obligations under the Order. The mechanism by which we will carry out many of these general obligations are developed further in other sections of the rule.

Paragraph (a) requires that the Corps provide opportunities for consultation by affected state and local officials and that Division Commander advise states of the appropriate opportunities for such consultation.

Paragraph (b)(2) means the Corps is obligated to make efforts to ensure that information on proposed actions or decisions of the Corps is available to the states in sufficient time to be able to exert meaningful influence on the Corps' course of action. For example we would make sure that the state learned or proposed Corps project decisions in time to make meaningful response.

This and other sections of the regulation specify the appropriate level within the Corps chain of command at which decisions are made or actions are undertaken with respect to implementation of the Order. Public comment is invited on the levels which are indicated.

Section 384.5 What procedures apply to state's choice of programs under the Order?

States may choose to consult with the Corps under the Order concerning any of the programs and activities that will be listed as subject to the Order. However, these regulations do not require states to consult with us concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave states no discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity, or part thereof. This give states increases flexibility to determine how best to allocate their resources. Corps programs listed in Appendix A having existing consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program, or a part of the program, under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the appropriate Division Commander of the programs and activities it chooses to cover; see Appendix B to this Preamble of listing of Division Commander. When it first establishes its official process, the state can meet this requirement by sending to OMB, as well as to the Division Commander, a list of the Federal programs and activities it wishes to cover. This information will enable the Corps personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to us, we will use the state's process concerning the programs and activities selected by the state as soon as feasible.

Paragraph (c) provides for states to change their selected programs at any time.

We would like to encourage states to consult with the appropriate Division Commanders in the development of their programs. We wish to emphasize that the choice of whether to cover a particular program or activity, or part thereof, listed in Appendix A to the Preamble is entirely up to each state. While we will be happy to discuss with states the most effective ways of carrying out consultation concerning Corps programs and activities, we will not attempt to constrain the state's discretion with respect to the program selection.

Section 384.6 How do states comment on Corps Civil Works activities?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local officials in specific instances, the review, coordination, and communication with Federal agencies that normally takes place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to the Corps. For example, efforts by the Corps to reach a negotiated solution with the delegated official will be pursued directly with the official, not with the state itself.

The official to whom the state's consultation role had been delegated would not send his or her comment directly to the Corps. Rather, the official would send the comment to us through the state single point of contact. We would work with the delegated official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, we would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert us to the fact that the official's comments should be dealt with under the provisions of the Order and make

unnecessary a separate communication from the state to the Corps informing us that the comment was an official comment of the state.

Section 2(b) of the Order requires Federal agencies to communicate with state and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Paragraph (b) incorporates this provision of the Order into these regulations. What the requirement means is that we are obligated to make efforts to ensure that information on proposed actions or decisions by us is available to the states in sufficient time to be able to exert meaningful influence on our course of action. For example, the Corps would make sure that the state learned of a proposed project decision in time to make a meaningful response.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for our widely varied programs and activities. However, paragraph (c) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before we commit ourselves to a given course of action. We may, on a case-by-case basis, allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence our decisions, we will need to establish deadlines or time frames for comment on particular actions or types of actions. Consequently, as provided in paragraph (d), we may define, for varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances.

In some of the Corps' programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by us. Once the initial decision is made, the Corps has little discretion with respect to the subsequent decisions. The Corps could inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Corps' decision.

Paragraph (e) makes an important point with regard to the way that communications between states and the Federal agencies would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of giving the Corps a single state view. In addition, it will enable us to know which communications to treat as official under the provisions of the Order. We need a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit us to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, we will work with the state, consistent with existing legal requirements and Corps policies and procedures for coordination with states.

The proposed regulation would not impose any constraints on the content of comments that states send to us. However, we would strongly encourage commenters under the Order to follow three principles which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Sometimes, we are required to make a decision based on certain statutorily established factors. In other cases, through regulation or guidance, we have established decisionmaking criteria for various actions. It is unlikely that we would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decision making process. In order to have meaningful influence on our decisions, comments must be relevant to the factors on which we base our decisions.

Second, states can assist our implementation of the Order by clearly specifying the magnitude of the state's concerns. Often, it may be difficult for us to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of our position. The Order directs Federal agencies to make efforts to accommodate state concerns. Our ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, we may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. We recognize that different state and local officials and agencies may not always agree among themselves concerning the course of action we should follow. The single point of contact should reconcile conflicting views before transmission in order to avoid our having to seek clarification concerning which set of views the state wants to accommodate. The process will work much better if we receive a single set of comments.

Section 384.7 How does the Corps make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the Corps under the Order, the Corps has three choices. We can accept the state's comments (i.e., do as the state recommends). Second, we can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if we cannot accept the state's comments or reach a mutually agreeable solution, we are obligated to give the state a timely, simple explanation of our reasons for not doing so. While we are not required to accept the state's comments or to begin discussions towards another solution, we have an obligation to provide a simple explanation of our decision.

Normally, the explanation could take any form which adequately communicates our reasons for our decision to the state. A telephone call, a meeting, or a letter would perform this function. We have the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by the Corps Commander at the level at which the decision is made or the action is taken.

There is one exception to the Corps' discretion to choose the mode of communicating the explanation. As subdivision (a)(3) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from the Governor, the Corps' explanation will be in a letter.

Subdivision (a)(3) also spells out the role of the single point of contact in receiving explanations from the Corps. We will direct our explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Corps and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Subparagraph (b)(1) provides that a nonaccommodation explanation will state that we will not implement our decision until ten days after the single point of contact receives the explanation except as provided in subparagraph (b)(2). This waiting period is intended to permit states to respond to us in cases of nonaccommodation before we have carried out the decision. In a case in which we have provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Subparagraph (b)(2) recognizes that there will be some situations in which we cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, or an emergency, that may make it infeasible for us to wait ten days before implementing our decision. In a situation where we cannot observe the waiting period, the Assistant Secretary or the Corps Commander at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Corps implements the decision. The nonaccommodation explanation will include the Corps' reasons for determining that the ten-day waiting period is not feasible.

Section 384.8 What are the Corps' obligations in interstate situations?

In some cases, action taken by the Corps in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, we have certain additional obligations. First, we must identify our direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, we must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g. emergencies) we must provide the affected states an opportunity for comment of at least 45 days before we commit ourselves to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Corps.

The Corps, obviously, cannot require states to coordinate with each other on proposed Federal assistance or direct develpment having an impact on an interstate area. However, we strongly encourage each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. We encourage states to reconcile differences where they exist, so that the states can present us with a unified position. If the affected states provide us with conflicting recommendations, we will, with respect to states that have established a process under the Order, accommodate recommendations to the extent possible and explain our nonaccommodations of other points of view as provided in § 384.7.

Section 384.9 [Reserved]

Section 384.10 In an emergency, what are the requirements for compliance with the Order and these regulations?

This section allows the Division Commander to waive any provision in these regulations in an emergency where delays may endanger life or property. We expect to use this provision sparingly, since our policy is to carry out the Order as fully as we can. This section also provides a programmatic exclusion for emergency activities and disaster assistance under Public Law 99, 84th Congress which routinely involves close coordination with the state.

List of Subjects in 33 CFR Part 384

Intergovernmental relations.

Dated: January 17, 1983.

For the Chief of Engineers.

Paul F. Kavanaugh,

Collone, Corps of Engineers, Executive Director of Civil Works.

Appendix A—List of Programs Subject to the Order
Appendix B—List of Division Commanders

APPENDIX A.—U.S. ARMY CORPS OF ENGINEERS CIVIL WORKS PROGRAMS SUBJECT TO E.O. 12372

Program	Authority	Federal domestic assistance catalog
Direct Federal Development		
Planning, Design and Construction of Civil Works Projects Specifically Authorized by Congress.	Each study and project is specifically authorized by Congress.	Not applicable.
Recreation Facilities at Completed Projects.	Section 4, Public Law 78-534.	Not applicable.
Continuing Authorities Program: Planning, Design and Construction of Small Projects Not Specifically Authorized by Congress.		
● Snagging and Clearing for Flood Control (Section 208 Program).	Section 2, Public Law 79-14, as amended.	12.108.
● Snagging and Clearing for Navigation (Section 3 Program).	Section 3, Public Law 79-14.	12.109.
● Emergency Streambank and Shoreline Protection of Public Works (Section 14 Program).	Section 14, Public Law 79-526, as amended.	12.105.
● Flood Control (Section 205 Programs).	Section 205, Public Law 80-858, as amended.	12.106.
● Navigation (Section 107 Program).	Section 107, Public Law 86-645, as amended.	12.107.
● Beach Erosion Control (Section 103 Program).	Section 103, Public Law 87-874, as amended.	12.101.
● Mitigation of Shore Damage Attributable to Navigation Projects (Section 111 Program).	Section 111, Public Law 90-483, as amended.	Not applicable.
Aquatic Plant Control.	Section 104, Public Law 85-500, as amended.	12.100.
Federal Financial Assistance (Technical Assistance)		
Planning Assistance to States (Section 22 Program).	Section 22, Public Law 93-251.	12.110.
Floodplain Management Services Program (FPMS Program).	Section 206, Public Law 90-645.	12.104

APPENDIX B.—LISTING OF U.S ARMY CORPS OF ENGINEERS DIVISION COMMANDERS; ASSIGNMENTS FOR COORDINATION OF STATE PROCESSES UNDER E. O. 12372

Commander, U.S. Army Engineer Division, New England, 424 Trapelo Road, Waltham, MA 02254.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
Commander, U.S. Army Engineer Division, North Atlantic, 90 Church Street, New York, NY 10007.	Delaware, District of Columbia, Maryland, New Jersey New York, Pennsylvania, Virginia.

APPENDIX B.—LISTING OF U.S ARMY CORPS OF ENGINEERS DIVISION COMMANDERS; ASSIGNMENTS FOR COORDINATION OF STATE PROCESSES UNDER E. O. 12372—Continued

Commander, U.S. Army Engineer Division, South Atlantic, 510 Title Building, 30 Pryor Street, S.W., Atlanta, GA 30303.	Alabama, Florida, Georgia, North Carolina, Puerto Rico, South Carolina, U.S. Virgin Islands.
Commander, U.S. Army Engineer Division, Ohio River, P.O. Box 1159, Cincinnati, OH 45201.	Indiana, Kentucky, Ohio, Tennessee, West Virginia.
Commander, U.S. Army Engineer Division, North Central, 536 Clark Street, Chicago, Il 60605.	Illinois, Iowa, Michigan, Minnesota, Wisconsin.
Commander, U.S. Army Engineer Division, Lower Mississippi Valley, P.O. Box 80, Vicksburg, MS 39180.	Louisiana, Mississippi.
Commander, U.S. Army Engineer Division, Missouri River, P.O. Box 103 Downtown Station, Omaha, NE 68114.	Colorado, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wyoming.
Commander, U.S. Army Engineer Division, Southwestern, 1114 Commerce Street, Dallas, TX 75242.	Arkansas, New Mexico, Oklahoma, Texas.
Commander, U.S. Army Engineer Division, North Pacific, P.O. Box 2870, Portland, OR 97208.	Alaska, Idaho, Oregon, Washington.
Commander, U.S. Army Engineer Division, South Pacific, 630 Sansome Street, Room 1216, San Francisco, CA 94111.	Arizona, California, Nevada, Utah.
Commander, U.S. Army Engineer Division, Pacific Ocean, Building 230, Ft. Shafter, HI 96858.	American Samoa, Guam, Hawaii, Northern Mariana Island, Trust Territory of the Pacific Islands.

1. For the reasons set out in the Preamble, the Department of the Army, Corps of Engineers proposed to amend Title 33, Code of Federal Regulations, by adding a new Part 384, to read as follows:

PART 384—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF THE ARMY, CORPS OF ENGINEERS, CIVIL WORKS PROGRAMS AND ACTIVITIES

Sec.

384.1 What is the purpose of these regulations?
384.2 What definitions apply to these regulations?
384.3 What programs and activities of the Corps are subject to these regulations?
384.4 What are the Corps' general responsibilities under the Order?
384.5 What procedures apply to a state's choice of programs under the Order?
384.6 How do states comment on proposed Corps Civil Works Programs and Activities?
384.7 How does the Corps make efforts to accommodate state and local concerns?
384.8 What are the Corps' obligations in interstate situations?
384.9 [Reserved]
384.10 In an emergency, what are the requirements for compliance with the Order and this regulation?

Authority: Executive Order 12372 (July 14, 1982; 47 Fed. Reg. 30,959); section 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)).

§ 384.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Corps. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Corps or its officers.

§ 384.2 What definitions apply to these regulations?

"Assistant Secretary" means the Assistant Secretary of the Army (Civil Works).

"Corps" means the U.S. Army Corps of Engineers.

"Corps Commander" means a District Commander, Division Commander or the Chief of Engineers.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 384.3 What programs and activities of the Corps are subject to these regulations?

(a) The Corps publishes in the **Federal Register** a list of the Corps' programs and activities that are subject to the Order and these regulations. The Order and these regulations do not apply to procurement, proposed regulations, legislation, budget formulation, classified programs, activities where consultation could endanger national security, or to national policy decisions.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 384.5, the Corps, to the extent permitted by law, uses the official state process to determine official views of state and local elected officials.

(c) Only actions or proposed actions which are to be undertaken after [effective date of final regulation] will be required to conform to these regulations.

§ 384.4 What are the Corp's general responsibilities under the Order?

(a) The Corps provides opportunities for consultation by elected officials of those state and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed actions by the Corps. Division Commanders will provide states with the nature and timing of consultation opportunities for each of the programs covered by these regulations.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Cops, to the extent permitted by law:

(1) Uses the State process to determine official views of state and local elected officials;

(2) Communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate state and local elected officials' concerns with proposed actions that are communicated through the state process;

(4) Seeks the coordination of views of affected state and local elected officials in one state with those of another state when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(5) Supports state and local governments by discouraging the reauthorization of creation of any planning organization which is Federally funded, which has a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 384.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the appropriate Division Commander of the programs that the state chooses to cover under the Order. (For a listing of Division Commanders and the states for which they are responsible for coordination of this regulation, write to office of the Chief of Engineers, DAEN–CWP, 20 Massachusetts Ave., N.W., Washington, D.C. 20314.

(b) The Corps uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Division Commander of its program choices.

(c) States may change their program choices under the Order at any time.

§ 384.6 How do states comment on proposed Corps Civil Works programs and activities?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local officials the review, coordination and communication with the Corps.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 384.5, the Corps, to the extent permitted by law, communicates with state and local elected officials as early in a program or planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Except in unusual circumstances, the Corps gives states at least 30 days to comment on any proposed action (see § 384.8 for comment periods pertaining to interstate situations).

(d) Subject to paragraph (c) of this section, the Corps may establish deadlines for states to complete their review of proposed Corps actions and to submit their comments to the Corps.

(e) The Corps Commander at the level at which the action takes place or the decision is made responds, as provided in § 384.7, to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 384.7 How does the Corps make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Corps in accordance with § 384.6(e), the Corps Commander at the level at which the action takes place or the decision is made:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3) Provides the state with a timely explanation of the basis for the Corps decision. If requested by the Governor, the Corps Commander provides the explanation in writing. If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Corps Commander at the level at which the action takes place or the decision is made provides an explanation to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Corps Commander informs the state that:

(1) The Corps will not implement its decision for ten days after the state receives the explanation; or

(2) The Assistant Secretary or the Corps Commander above the level taking the action or making the decision has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not possible.

§ 384.8 What are the Corps obligations in interstate situations?

The Corps is responsible for:

(a) Identifying proposed Corps activities and programs covered by the Order that have an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

§ 384.9 [Reserved]

§ 384.10 In an emergency, what are the requirements for compliance with the Order and this regulation?

(a) Emergency and disaster recovery actions performed under Public Law 99, 84th Congress, are excluded from the requirements of the Order and this regulation.

(b) Other emergency actions may be excluded from the requirements of the Order and this regulation, as determined by the appropriate Division Commander, where delays may endanger life or property.

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Federal Register

Monday
January 24, 1983

Part VII

Department of Education

Intergovernmental Review of Department of Education Programs

DEPARTMENT OF EDUCATION

34 CFR Parts 75, 76, and 79

Intergovernmental Review Of Department of Education Programs

AGENCY: Education Department.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to adopt rules to implement Executive Order 12372, titled "Intergovernmental Review of Federal Programs." The Executive Order and these regulations are intended to foster an intergovernmental partnership and a strengthened Federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance from the Department. The regulations will replace the intergovernmental consultation system developed under Office of Management and Budget Circular A–95.

DATE: Comments must be submitteed on or before March 10, 1983.

ADDRESSES: Written comments should be submitted to Mr. Chester Glod, Assistance Management and Procurement Service, 400 Maryland Avenue, SW. (Regional Office Building No. 3, Room 5082), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Chester Glod at (202) 245–7810.

SUPPLEMENTARY INFORMATION:

Background

For many years, formal consultation between State and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required State and local governments to follow prescribed review procedures and only provided for review of certain specified Federal programs, regardless of the circumstances affecting particular State and local governments. The system was limited to review of Federal programs by State and local agencies without regard to the priorities of their elected leadership. Although few programs of the Department of Education were subject to the A–95 process, for the Government as a whole the process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of State and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, State and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of OMB Circular A–95, and provides for a new, more effective intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, States and localities will take the initiative for establishing their own review procedures and priorities. State and local elected officials will determine, from a list of programs to be covered under the Order, which Federal programs and activities to review. When State and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This provision to "make efforts to accommodate or explain" should give greater weight to State and local views than under OMB Circular A–95. In addition, States will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute federally required State plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under OMB Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation is intended to significantly reduce that burden, as well as opening opportunities for States to reduce administrative burdens in Federal programs requiring State plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected State and local officials.

OMB Guidance to States

In order to assist States as they begin to implement the Order, OMB wrote to each concerning the establishment of an official State process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact". A "single point of contact" is the office or official in a State that transmits the results of the State's review and coordination to the Department and other Federal agencies and to which the Department and other Federal agencies would direct official communications (e.g., explanations of nonaccommodations) to the State under the Order. A State may have as few or as many entities as it chooses to perform review and coordination. However, States are encouraged to have only one point of contact to communicate with all Federal agencies under the Order. It is up to the State whether the single point of contact plays a substantive role with respect to the State's views, or simply acts as a focal point for communications. Under the proposed rules, the Secretary would only be required to respond as provided in the Excutive Order to a State's concerns if those concerns are sent through a single point of contact. Of course, the Secretary may choose to follow the provisions of the regulations even if a State chose not establish such a point of contact.

It is also worth emphasizing that States are not required to adopt an official State process at all. However, after final regulations implementing the Order become effective (Final regulations are scheduled to be published on April 30, 1983), the existing A–95 consultation system will no longer be in effect, although other existing statutory and regulatory consultation requirements would not be affected by these regulations. The Department may propose changes in those other existing statutes and regulations at a later date. An inventory of these existing requirements will be available.

This Department and other Federal agencies have the responsibility of ensuring that their programs and activities are carried out in conformity with the Order. The Office of Management and Budget will have general Government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control or agency actions. Nor will OMB act as a forum for "appeals" by non-Federal parties of agency actions.

Development of Proposed Rules

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with State and local elected officials in a consistent and understandable way. To this end, OMB and the Federal agencies affected by the Order have worked together to make common policy decisions and, to

the extent feasible, to draft common regulatory language. The resulting regulations are intended to minimize the regulatory burden on non-Federal parties. For the most part, these proposed rules spell out the Department's obligations in response to the views expressed by State and local elected officials. A paper discussing the policy decisions made by OMB and the agencies was made available to the public on December 23, 1982 (47 FR 57369). Following the close of the comment period, OMB and the agencies will again work together with the aim of promulgating final regulations that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

Withdrawal of Regulations Implementing OMB Circular A-95

In connection with these proposed rules the Department is proposing to withdraw its existing regulations implementing OMB Circular A-95. Executive Order 12372 directed OMB to withdraw the Circular itself, and the OMB directive withdrawing the Circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. In order to carry out this directive, the Department is listing in this NPRM those regulatory provisions implementing Circular A-95 that it proposes to withdraw. Final regulations carrying out the withdrawal will be published on April 30, 1983, in conjuction with the Department's final regulations implementing the Executive Order.

Executive Order 12291

These proposed rules have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act

The proposed rules would simplify consultation with the Department and allow State and local governments to establish cost-effective consultation procedures. For this reason, the Department believes that any economic impact will be insignificant, in any case. Consequently, the Department certifies under the Regulatory Flexibility Act, that these proposed rules would not have a substantial economic impact on a significant number of small entities.

Paperwork Reduction Act

These proposed rules are not subject to Section 3504(h) of the Paperwork Reduction Act since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 79.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernment consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with State and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Department's action. For example, it is not intended that these regulations would create a right of a State or local government to sue the Department if the Department failed to explain a nonaccommodation of a State recommendation.

Section 79.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rules. "Department" means the Department of Education. "Order" means Executive Order 12372. "Secretary" means the Secretary of Education or an official or employee of the Department acting under a delegation of authority from the Secretary. This does not mean that there must be a new delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands. The definition of "State" means that the District of Columbia, Puerto Rico, and other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 States.

In addition to these definitions, three other terms—"simplify," "consolidate," and "substitute"—are defined in § 79.9, relating to State plans. Several other terms appearing in the Order are not defined in this section, but are used or implemented in the proposed rules in a way that makes their meaning clear (e.g., "accommodate" and "explain" in § 79.7).

Section 79.3 What programs and activities of the Department are subject to these regulations?

The intent of the Order is that State and local elected officials should have the opportunity to consult under the Order concerning Federal programs of their choice. This section provides that the Department will publish a **Federal Register** notice listing the Department's programs that are subject to the Order. Attachment A to this document contains the list of programs to be included under the Order. If necessary, that list will be revised and republished when these proposed rules are published in final form. An updated list will be published as necessary to let States know which of the Department's programs they may choose to cover.

The progams followed by an asterisk (*) in Attachment A are formula grant programs to the States. Although they are subject to these regulations, it should be noted that the Department has no discretion under these programs concerning who will receive the grants (the States are the only eligible applicants), the amount of funding to be provided to each grantee (the distribution of funds is established by statutory formula), the selection of specific sites or projects (the States make those decisions), or whether to provide funding (the States are entitled to receive program funds as long as Congress appropriates funds and the States meet the legal requirements of those programs). The Department reviews the State plans mandated by the formula grant program statutes only to insure that they meet the requirements established by those statutes and their implementing regulations. However, to the extent that the Department has any discretion with regard to the formula grant programs, they are subject to these regulations.

Attachment B to this document contains a list of those programs and activities that the Department proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. Exclusions are based on Government-wide criteria, and the reasons given for exclusion reflect those criteria. In the future, if the Department wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comments on the proposed exclusions.

The Order and these proposed rules do not apply to the preparation of regulations, legislation, or budgets, or to classified programs or activities where

formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, State and local officials would still have an opportunity to have their views considered by the Department through normal channels. Statutory requirements for consultation, including Section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), would continue to require Federal agencies to consider the views of State and local governments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities. If at any time a State believes that any official of the Department has not made appropriate use of the official State process, the State is invited to raise its concerns directly with the Secretary.

Section 79.4 What are the Secretary's general responsibilities under the order?

This section would incorporate the most important portions of Executive Order 12372 into the Department's regulations, emphasizing the Department's obligations under the Order. The mechanisms by which the Department will carry out many of these general obligations are developed further in other sections of the proposed rule. For example, paragraph (b)(4) of this section is further elaborated in § 79.9, concerning State plans.

Paragraph (b)(2) of this section means the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the States in sufficient time to be able to exert meaningful influence on the Department's course of action. For example, the Department would make sure that States learn of assistance announcements, including decision criteria, in time to make a meaningful response.

Section 79.5 What procedures apply to a State's choice of programs under the order?

States may choose to consult with the Department under the Order concerning any of the Department's programs and activities that the Department's **Federal Register** notice lists as subject to the Order. However, these proposed rules do not require States to consult with the Department concerning any particular program or activity. This is an important distinction between the Order's consultation system and the system establish under OMB Circular A–95, which gave States no discretion concerning program selection. Under the Order, each State may choose whether to use the consultation system with respect to any particular program or activity. This gives States increased flexibility to determine how best to allocate their resources. For example, some Federal programs have existing statutory consultation requirements. If a State decides that an existing consultation system is adequate, the State might choose not to cover the program under its Executive Order process, thereby avoiding duplication and saving resources for use on other programs. A State also might want to decline to cover a program which has only minor effects on the State and its people.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's **Federal Register** notice is entirely up to each State. While the Department will be happy to discuss with States the most effective ways of carrying out consultation concerning its programs and activities, the Department will not attempt to constrain the State's discretion with respect to program selection from the published list.

To begin the consultation process under the order, the State notifies the Secretary of the programs and activities it chooses to cover. When it first establishes its official process, the State can meet this requirement by sending to OMB, along with other information required to establish the State's official process under the Order, a list of the Federal programs and activities of that agency that the State has chosen to cover. Subsequently, the State should send all information regarding the Department's programs (additions, deletions, or other changes) directly to the Department. This information will enable the Departmeent's personnel who work on a particular program or activity to know which States they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a State has established a process and made its program selections known to the Department, the Department will use the State's process concerning the programs and activities selected by the State as soon as feasible. While the Department will make every effort to use the State's process as soon as the State gives the notice of its program selections, there may be situations, on individual programs or projects or groups of programs, where the Department may not be able to do so for a time. For example, it would not be possible to interrupt ongoing Nation-wide grant competitions, and coverage would have to await the next competition cycle. The Department will make determinations concerning when to begin using the State's official process on a case-by-case basis and will let the State know when it will start to use the State's process.

Paragraph (c) provides that the Department may establish deadlines for changes by States in the program selection choices. A State may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Department may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Department may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the States that, for example, if they wished to have consultation under the Order begin during a particular fiscal year, they would have to inform the Department of their program selection changes by a certain date.

Section 79.6 How does the Secretary give States an opportunity to comment on proposed Federal financial assistance?

Paragraph (a) of this section points out that the Order would apply not only to comments prepared under the official State process but also to comments formulated by local elected officials to whom the State's consultation role has been delegated in specific instances. Section 3(a) of the Order permits States to delegate to local elected officials, in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the State process. This means that States may choose not only which programs and activities to cover but also who within the State has the opportunity to carry out the consultation. States have complete discretion cocerning delegation of their consultation role.

For example, a State could delegate to a mayor the State's consultation role with respect to a project occurring in his or her city. The State could delegate all consultation under a particular program to elected officials of the local governments whose jurisdictions are affected by projects under the program. The State could delegate its consultation

role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice-versa. In any case of delegation, the local elected official to whom the State's consultation role is delegated stands in the shoes of the State with respect to the Department. For example, efforts by the Department to reach a negotiated solution with the local elected official will be pursued directly with the official, not with the State itself.

Paragraph (b) states that, as a general rule, States that choose to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations—see § 79.8) to comemnt on proposed Federal financial assistance under that program before the Department commits itself to a given course of action. The Department, on a case-by-case basis, may allow a shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are the necessity to make a grant or cooperative aggreement decision before the end of a fiscal year or a statutory deadline.

In order to meet the Order's objective of ensuring States a meaningful opportunity to influence decisions by the Department, the Department may need to establish deadlines for comment on particular actions or types of actions. Any deadlines would be consistent with the rule of giving State at least 30 days to comment.

Under the Department's discretionary grant programs, applications are sent directly to the Department for consideration, usually in response to an application notice published in the **Federal Register**. For programs covered by the Order, the Department will inform applicants of the procedures to be followed in obtaining State review of their applications, either in the application notice itself, or in the application package that is provided to prospective applicants.

In order to ensure timely completion of Federal decisionmaking, the Department generally will require States to complete their review of applications and to submit their comments to the Secretary by a particular date. This is intended to prevent undue delays in Federal decisions affecting the State and to ensure timely grant awards.

Paragraph (d) makes an important point with respect to the way that communications between States and the Department would work. Under the Order, a State may organize its consultafion process any way it chooses. However, in order to ensure efficient communications between the Department and the State, the Department strongly encourages States to establish a "single point of contact" for State communications with Federal agencies. Channeling communications from the States to Federal agencies and from agencies back to the States through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. A local official to whom the State's consultation role has been delegated would not send his or her comment directly to the Department if the State has designated a single point of contact. Rather, the official would send the comment to the Department through the State's single point of contact. The Department would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Department would explain the nonaccommodation to the single point of contact. The Department needs a means of separating the letters from State and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. A State's use of a single point of contact will permit the Department to make this necessary administrative distinction. However, if a State chooses to adopt a process under the Order without a single point of contact, the Secretary may choose at his discretion to follow the provisions of the Order and these regulations with respect to that State.

Where a State chooses not to adopt a process under the Order, or where a State has chosen not to cover a particular program, the Department will work with the State, consistent with existing legal requirements, through normal channels. The provisions of the Order and these regulations will not apply, however.

The proposed rules do not include any constraints on the content of comments that States send to the Department. However, the Department makes its grants under statutory and regulatory constraints that limit its discretion to accommodate State and local concerns.

To affect the Department's decisions, comments provided under the Order must address the statutes, regulations, or other legal requirements that govern the Department's selection and approval of applications. For example, the Department's regulations generally include specific criteria for selecting applications under discretionary grant programs. Unless a State's comments address these selection criteria or other legal requirements that govern selection of applications, the Department would be precluded from accommodating the State's concerns. States are therefore strongly encouraged to relate their comments to the selection criteria, funding priorities, or other applicable legal requirements on which the Department bases its decisions.

States can also assist the Department's implementation of the Order by clearly specifying the magnitude of the State's concerns. It would be very useful if a State would indicate whether it is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Department's position. The Order directs Federal agencies to make efforts to accommodate State concerns. The Department's ability to do so is dependent, to a significant degree, on the clear articulation of concerns by the States.

The Department would also be in a better position to accommodate State and local concerns if the State speaks with one voice in its comments. The Department recognizes that different State and local officials and agencies may not always agree among themselves concerning the course of action the Department should follow. However, if the Department receives conflicting comments, it will probably be necessary to seek clarification concerning which set of views the State wants the Department to accommodate. In the absence of such a clarification, the Department may find it necessary to simply inform the single point of contact of the reasons for its decision. The process will work much better if the Department does not receive conflicting positions in comments from a State.

Section 79.7 How does the Secretary make efforts to accommodate State and local concerns?

Paragraph (a) of this section provides that when a State comments to the Department under the Order, the Department has three choices. First, the Department can accept the State's comments (i.e., do as the State recommends). Second, it can reach a mutually agreeable solution with the State. This solution can differ from the original State or Federal position on the matter. Third, if the Department does not accept the State's comments or reach a mutually agreeable solution, the Department is obligated to give the State an explanation of the Department's reasons for not doing so. While the

Department is not required to accommodate a State's concerns by accepting the State's comments or by reaching another solution, in such a case the Department does have an obligation to provide an explanation of its decision.

The explanation could take the form of a telephone call, a meeting, or a letter. The Department has the discretion to choose the most appropriate mode of communicating the explanation in each case unless the Governor of the State has previously requested that the explanation be in writing.

Paragraph (a)(3)(iii) explains the role of the single point of contact in receiving explanations from the Department. The Department will direct all explanations to the single point of contact in each State that has one. This is true even where accommodation discussions have occurred between the Department and another office or official of the State.

Paragraph (b) concerns safeguards to ensure that the interests of the State are protected in nonaccommodation situations. Normally, as provided in paragraph (b)(1), an explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation. This waiting period is intended to permit States to respond to the Department in cases of nonaccommodation before the Department has awarded a grant or other financial assistance. In a case in which the Department has provided a verbal explanation of a decision to the single point of contact and the Governor subsequently requests a written explanation the ten day period runs from the date of the verbal explanation, not from the date of any subsequent letter.

Paragraph (b)(2) recognizes that there may be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline or the end of a fiscal year that makes it infeasible for the Department to wait ten days before implementing its decision. In a situation where the Department cannot observe the waiting period, the Secretary or a high-level designee of the Secretary will review the decision before the nonaccommodation explanation is made and before the Department implements the decision. The nonaccommodation explanation will include the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 79.8 What are the Secretary's obligations in interstate situations?

In some cases, an action taken by the Department under a Federal financial assistance program has an impact on an interstate area. In these situations, the Department has certain additional obligations. First, the Department must identify its proposed financial assistance that has such an impact. Having done so, the Department would, as provided in paragraph (b) of this section, notify the potentially affected States, whether or not they have established an official State process under the Order. Except in unusual circumstances (e.g., emergencies such as grant awards at the end of the fiscal year), the Department must provide the affected States an opportunity for comment of at least 45 days before the Department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for States to coordinate among themselves before providing views to the Department.

The Department would not require States to Coordinate with each other on proposed Federal assistance having an impact on an interstate area. However, the Department strongly encourages each affected State to share its comments with and obtain the views of other affected States, using the other State's single point of contact, if there is one, or an appropriate State official if there is not a single point of contact. The Department encourages States to reconcile any differences so that the States can present the Department with a unified position. If the affected States provide the Department with conflicting recommendations, the Department will, with respect to States that have established a process under the Order, either accommodate recommendations or explain its nonaccommodation as provided in § 79.7.

Section 79.9 How may a State simplify, consolidate, or substitute State plans?

This section carries out section 2(d) of the Order, which directs Federal agencies to the extent permitted by law, to allow States to consolidate or simplify plans and to encourage States to substitute their own plans for Federally required State plans.

Paragraph (a) defines three terms used in this section. For a State to "simplify" a plan means that a State develops its own format, chooses its own submission date, and selects the planning period covered by the plan. "Consolidate" means that the State combines two or more plans into one document. The State may also select the format, submission date, and planning period for a consolidated plan. "Substitute" means that a State uses a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan that is only designed to meet Federal requirements. State plans required by the Department that are eligible for modification (i.e., simplification, consolidation, or substitution) under the Order will be listed by the Department in a **Federal Register** notice accompanying the final regulations.

For purposes of State plan modification, it is necessary to draw a distinction between the State's decision concerning which plans it wants to try to modify and the Department's decision concerning whether it may accept those modified plans. Paragraph (b) deals with the first of these issues. A State may decide to try to simplify, consolidate or substitute State plans without prior approval by the Department. The State's discretion in this respect is complete.

Paragraph (c) recognizes that the Department must review the content of any State proposals to simplify, consolidate, or substitute State plans to ensure that they meet all applicable Federal requirements. Generally, under the statutes that govern the Department's State plan programs, the Department could only disapprove a modified plan if the plan failed to meet the requirements of the program statute. The Department does not expect ever to have to disapprove a State plan. However, if such a disapproval were ever necessary, the State would have recourse to an appeal process in accordance with existing law.

Paragraph (c) is not intended to give the Department any new authority it does not already have to review, approve, or disapprove State plans. The paragraph does emphasize, however, that these regulations also do not impair the Department's existing authority to review and, if ever necessary, disapprove State plans. This section also does not affect any existing statutory or regulatory requirements concerning submission dates, planning periods, or formats of State plans. The Department will review and make appropriate future modifications in regulatory requirements to allow more State flexibility.

The Department encourages States which wish to simplify, consolidate or substitute State plans to inform the Department of their intentions well in advance. Early discussions between State officials and the Department regarding proposed modifications of

plans will help to avoid later problems, including unnecessary delays in approvals. The Department is very willing to work closely with State officials on plan modifications and, where feasible, will provide technical assistance or advice in plan modification efforts.

List of Subjects

34 CFR Part 75

Grant programs—education, Grants administration.

34 CFR Parts 76 and 79

Grant programs—education, Grants administration, Intergovernmental relations, State-administered programs.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before March 10, 1983, will be considered before the Secretary issues the final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Regional Office Building No. 3, Room 5680, 7th and D Streets, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Citation of Legal Authority

A citation of legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

Dated: January 17, 1983.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance does not apply)

Attachments—List of Proposed Inclusions under Scope; List of Proposed Exclusions from Scope.

ATTACHMENT A—DEPARTMENT OF EDUCATION PROGRAMS PROPOSED FOR INCLUSION UNDER EXECUTIVE ORDER 12372 **

Program name	CFDA reference
Adult education—State administered program*	84.002
Bilingual education	84.003
Title IV of the Civil Rights Act of 1964	84.004
Program for education of handicapped children in State operated or supported schools*	84.009
Migrant education program—State formula grant program*	84.011
Follow Through	84.014
Handicapped early childhood assistance	84.024

ATTACHMENT A—DEPARTMENT OF EDUCATION PROGRAMS PROPOSED FOR INCLUSION UNDER EXECUTIVE ORDER 12372 **—Continued

Program name	CFDA reference
Handicapped media services and captioned films	84.026
Handicapped preschool and school programs*	84.027
Handicapped regional resource centers	84.028
Handicapped teacher recruitment and information	84.030
Public library services*	84.034
Interlibrary cooperation*	84.035
School assistance in federally affected areas—Construction	84.040
Vocational education—Basic grants to States*	84.048
Vocational education—Consumer and homemaking education*	84.049
Vocational education—Program improvement and supportive services*	84.050
Vocational education—Special programs for the disadvantaged*	84.052
Vocational education—State advisory councils*	84.053
Indian education—Entitlement grants to local educational agencies and tribal schools	84.060
Indian education—Adult Indian education	84.062
Bilingual vocational training	84.077
Regional education programs for deaf and other handicapped persons	84.078
Women's educational equity	84.083
Strengthening research library resources	84.091
Bilingual vocational instructor training	84.099
Bilingual vocational instructional materials, methods, and techniques	84.100
Fund for the improvement of postsecondary education	84.116
Vocational education—State planning and evaluation	84.121
Territorial teacher training assistance program	84.124
Rehabilitation services—Basic support	84.126
Rehabilitation services—Client assistance projects	84.126F
Rehabilitation services—Migratory worker vocational rehabilitation service projects	84.128G
Centers for independent living	84.132
Migrant education—Interstate and intrastate coordination program	84.144
Federal real property assistance program	84.145
Transition program for refugee children*	84.146
The following programs authorized subchapter D of chapter 2 of the Education Consolidation and Improvement Act	84.151
National diffusion network program	
Law related education program	
Inexpensive book distribution program	
Arts in education program	
Alcohol and drug abuse program	
Neglected or delinquent transition services	84.152
General assistance for the Virgin Islands*	***

* Formula grant programs to the States.

** Financial assistance transactions with Federally recognized Indian Tribal governments and nongovernmental entities, including State postsecondary educational institutions, are excluded from coverage under the Order.

***Number not assigned.

Attachment B—General Criteria Used by Federal Agencies in Identifying the Scope of Executive Order 12372

The categories of exclusions were prepared to help agencies identify which program or activities should be subject to the provisions of E.O. 12372. Three categories of exclusions are presented: generic, class, and individual. Subcategories list the types of programs or activities covered within each category.

To help in the identification, two examples of inclusion—programs and activities subject to the provisions of the Executive Order—are also described. These are not the only programs and activities subject to the Executive Order. These examples are presented because related programs and activities are covered in the class exclusion category.

1. *Generic Exclusions:* Those programs or activities excluded by previously announced administration policy are:

a. Proposed federal legislation, regulations, and budget formulation.

b. Direct payments to individuals. (See also 2d.)

c. Classified programs or activities where formal consultation would endanger national security.

d. Financial transfers for which federal agencies have no funding discretion or direct authority to approve specific sites or projects. (Examples include):

(1) General Revenue Sharing;

(2) Payments in lieu of taxes;

(3) Funds, allocated by formula, from sale receipts or proceeds from products/resources on federal lands;

(4) Block grants which are characterized by:

(a) Substantial flexibility being given state and local governments to allocate funds among different areas of effort and between state and locally derived priorities; and

(b) An absence of requirements that the recipient submit satisfactory plans or proposals for the use of these grant monies before the funds are provided.

e. Programs and activities directly administered by a federally recognized tribal government.

2. *Class Exclusions:* Those additional activities or programs determined not to be within the definition of financial assistance, direct federal development, or federal licensing or permitting under the Executive Order and thereby excluded are:

a. Certain financial transactions such as: standard procurement contracts; letter contracts; basic ordering agreements; purchase orders; joint ventures; job orders; acceptance of offers; operating funds for government-owned/contractor-operated facilities (GOCO); subawards under contracts, grant, or cooperative agreements; public utility contracts; consulting services; commodity purchases; payment of claims; leases and easements of a non-major nature; purchase of notes, stock, or bonds; and land grants.

b. Research, development, and demonstration other than that specified in the description of inclusions below.

c. Criminal or civil enforcement matters.

d. Direct financial assistance between the federal government and a *non-governmental entity*, such as a non-profit organization, business, corporation, association, private school or university. However, certain research, development, and demonstration awards to such non-governmental entities may be included (see 4 below). (A *governmental entity* is any state; independent state organization, board or commission; general purpose local government; special purpose local or regional government; council of government; non-profit organization established by state law or local ordinance exclusively to provide a governmental service and the substantial portion of the funding for which is federal. State and municipal colleges and universities are considered a non-governmental entity for the purposes of this memorandum.

Programs or activities with eligible recipients who may be either governmental or non-governmental entities: Some programs or activities have as eligible recipients both governmental and non-governmental entities, including individuals and private section organizations. Under this paragraph programs or activities providing assistance to non-governmental entities can be excluded. The issue raised was whether such a program or activity should be excluded in its entirety because some of the potential recipients would qualify it for an exclusion. Our determination is that such a mix of recipients does not, by itself, allow the exclusion of a program or activity. Instead, agencies may choose either of two alternatives: 1.) to include these nongovernmental entities within the scope and subject some to the state process by not excluding the program, or, 2.) to exempt transactions with non-governmental entities from the intergovernmental review and consultation requirements by referencing such an exemption in their rulemaking.

e. Academic training and institutional aid grants; receipts from federally financed fellowships; scholarships; and student loans by institutions of higher education.

f. Federal rate-setting for utility services provided to state or local governments by the Federal Government.

g. A non-governmental entity's consultation with state or local government officials or securing state or local government review, approval, or certification, as a condition of receiving a federal or federally authorized license or permit.

3. *Individual Exclusions:* Those programs or activities that may be excluded on request of a federal agency. Requests for exclusions will be evaluated against the following qualifying factors and criteria:

a. A federal constitutional or statutory preemption precludes any state or local government jurisdiction over or responsibility for the individual federal program or activity, and recommendations or views of state or local governments can have little or no bearing on federal decisions in this area;

b. Meaningful consultation for the program or activity would breech financial, business, or trade secret confidentiality required by federal statute;

c. Affects other countries, particularly on matters of common interest to the United States and Canada or Mexico, and the consultation requirements of the Executive Order would interfere with the conduct of foreign policy;

d. Intergovernmental review consistent with the Executive Order would substantially impede the achievement of Presidentially or Congressionally established national goals.

4. *Selected Examples of Included Programs and Activities:* These programs and activities are considered as being *within* the scope of the Executive Order and subject to its intergovernmental review provisions.

a. The following forms of federal assistance or financial transactions with government entities: grants; cooperative agreements; subsidies; loans; loan guarantees; insurance; technical assistance; expert information or counseling; property donations; real property acquisition or disposal; including obtaining major leases or easements; program or activities (other than General Revenue Sharing) receiving an exception to the provisions of the Federal Grant and Cooperative Agreement Act of 1977, Public Law 95–224.

b. A research, development, or demonstration program or activity;

(1) which has a unique geographic focus and is directly relevant to the governmental responsibilities of a state or local government within that geographic area; or

(2) which necessitates the preparation of an Environmental Impact Statement under NEPA; or

(3) which is to be newly initiated at a particular site or location and does not necessitate the preparation of an Environmental Impact Statement, but requires unusual measures to limit the possibility of adverse exposure or hazard to the general public (for example: special protective containment of shielding facilities or air, land, or water buffer zones).

DEPARTMENT OF EDUCATION PROGRAMS PROPOSED FOR EXCLUSION FROM EXECUTIVE ORDER 12372 [1]

Program name	Basis for exclusion (category)	CFDA reference
Interest Subsidy Grants for Academic Facilities Loans.	2(d)	84.001.
Bilingual Education-Fellowship Program.	2(e)	84.003.
Bilingual Education—School of Education Projects.	2(e)	84.003.
College Library Resources	2(d)	84.005.
Supplemental Education Opportunity Grants.	2(d), (e)	84.007.
Chapter 1 of the Education Consolidation and Improvement Act—Projects Operated by Local Educational Agencies.	1(d)	84.010.
Chapter 1 of ECIA, State Administration.	1(d)	84.012.
Chapter 1 of ECIA, Projects Operated by SEA's for Children in State-Oriented Institutions for Neglected or Delinquent Youth.	1(d)	84.013.
National Resource Center	2(d)	84.015.
National Resource Fellowships	2(e)	84.015.
Undergraduate International Studies and Foreign Language Program.	2(d)	84.016.
International Research and Studies.	2(e)	84.017.
Teacher Exchange	2(e)	84.018.
Fulbright-Hays Faculty Research Abroad Program in Foreign Language and Area Studies.	2(e)	84.019.
Foreign Curriculum Consultants.	2(e)	84.020.
Group Projects Abroad for Non-Western Language and Area Studies.	2(e)	84.021.
Fulbright-Hays Doctoral Dissertation Research Abroad Program for Foreign Language and Area Studies.	2(e)	84.022.
Handicapped Research and Demonstration.	2(b)	84.023.
Handicapped Innovative Program-Deaf-Blind Centers.	2(b)	84.025.
Training personnel for the Handicapped.	2(e)	84.029.
Special Needs Program	2(d)	84.031.
Strengthening Program	2(d)	84.031.
Challenge Grant Program	2(d)	84.031.
Guaranteed Student Loan Program Special Allowance/Interest Payments.	1(d)	84.032.

DEPARTMENT OF EDUCATION PROGRAMS PROPOSED FOR EXCLUSION FROM EXECUTIVE ORDER 12372 [1]—Continued

Program name	Basis for exclusion (category)	CFDA reference
Federally Insured Student Loan.	1(d)	84.032.
Auxiliary Loans (PLUS) Special Allowance.	1(d)	84.032.
College Work-Study	2(d), (e)	84.033.
Library Training	2(d)	84.036.
National Defense/Direct Student Loan Cancellations.	2(d), 2(e)	84.037.
National Direct Student Loan	2(d), 2(e)	84.038.
Library Research and Demonstration.	2(d)	84.039.
School Assistance in Federally Affected Areas—Maintenance and Operations.	1(d)	84.041.
Special Services for Disadvantaged Students.	2(d)	84.042.
Talent Search	2(d)	84.044.
Continuing Postsecondary Education Program and Planning.	1(d)	84.046.
Upward Bound	2(d)	84.047.
Vocational Education—Program Improvement Projects.	2(e)	84.051.
Cooperative Education Programs.	2(d)	84.055.
Cooperative Education and Supplemental College Work-Study.	1(d), 2(d)	84.055.
Indian Education Act—Special Programs and Projects.	2(e)	84.061.
Pell Grants	1(b)	84.063.
Veterans Cost-of-Instruction	2(d)	84.064.
Educational Opportunity Centers.	2(d)	84.066
State Student Incentive Grant Program.	1(d)	84.069.
State Student Incentive Grant Program.	3(a)	84.069.
Indian Education Act, Grants to Indian Controlled Schools.	1(e)	84.072.
Innovative Programs for Severely Handicapped Children.	2(b)	84.086.
Indian Educaton Act, Fellowships.	2(e)	84.087.
Fellowships for Graduate and Professional Study.	2(d)	84.094.
Institutional Grants for Graduate and Professional Study.	2(d)	84.094.
Law School Clinical Experience Program.	2(d)	84.097.
Vocational Education—Program for Indian Tribes and Indian Organizations.	1(e)	84.101.
Staff Training for Professional Development.	2(d)	84.103.
Biomedical Sciences	2(d)	84.112.
Capacity-Building Grants to Universities by the National Center for Education Statistics.	2(d)	84.114(b).
Capacity-Building Grants to Vocational Education Institutions by the National Center for Education Statistics.	2(d)	84.114(c).
Research, Development, and Demonstration Activities and Programs of the National Institute of Education.	2(b)	84.117.
Minority Institution Science Improvement Program.	2(d)	84.120.
Rehabilitation Services:		
Projects & Demonstrations for Services to Severely Handicapped Individuals.	2(d)	84.128A.
Projects with Industry	2(d)	84.128B.
Comprehensive Rehabilitation Centers.	2(d)	84.128C.
Helen Keller National Center	3(b)	84.128D.
Special Projects—Spinal Cord Injury Centers.	2(d)	84.128E.
Handicapped American Indian Vocational Rehabilitation Service Program.	1(e)	84.128H.
Projects for Initiating Special Recreation Programs.	2(d)	84.128J.
Rehabilitation Training Program.	2(e)	84.129.

[1] Financial entities, incl tions, and F are propose [2] Number

DEPARTMENT OF EDUCATION PROGRAMS PROPOSED FOR EXCLUSION FROM EXECUTIVE ORDER 12372 [1]—Continued

Program name	Basis for exclusion (category)	CFDA reference
National Institute of Handicapped Research.	2(b)	84.133.
Aid to Land-Grant Colleges	1(d), 2(b)	84.116.
Legal Training for the Disadvantaged.	2(d)	84.136.
Title IV, Higher Education Act, High School Equivalency Program.	2(e)	84.141.
College Housing Loans	2(d)	84.142.
Allen J. Ellender Fellowships	2(d)	84.148.
Title IV, Higher Education Act, College Assistance Migrant Program.	2(e)	84.149.
Chapter 2 of the Education Consolidation and Improvement Act—Except the Chapter 2 programs listed in attachment A to the preamble.	1(d), 2(b), 2(e)	84.151.
Research Activities of the National Center for Educational Statistics.	2(b)	(2).
Research, Development, and Demonstration Activities and Programs of the Center for Educational Improvement (Incorporating the Office of Libraries and Learning Technology and the Professional Development and Dissemination Programs).	2(b)	(2).
Educational Technology Program in the Office of the Assistant Secretary, Including Research, Development and Demonstration.	2(b)	(2).

[1] Financial assistance transactions with non-governmental entities, including State Postsecondary educational institutions, and Federally recognized Indian Tribal governments, are proposed for exclusion from Executive Order 12372.
[2] Number not assigned.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding a new Part 79 to read as follows:

PART 79—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAMS

Sec.

79.1 What is the purpose of these regulations?
79.2 What definitions apply to these regulations?
79.3 What programs and activities of the Department are subject to these regulations?
79.4 What are the Secretary's general responsibilities under the Order?
79.5 What procedures apply to a State's choice of programs under the Order?
79.6 How does the Secretrry give States an opportunity to comment on proposed Federal financial assistance?
79.7 How does the Secretary make efforts to accommodate State and local concerns?
79.8 What are the Secretary's obligations in interstate situations?
79.9 How may a State simplify, consolidate, or subsitute Federally required State plans?
79.10 [Reserved]

Authority: Executive Order 12372 (July 14, 1982; 47 FR 30959); section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)).

§ 79.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

(c) The Order and these regulations are intended only to improve the internal management of the Department's consultation with State and local governments. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Department or its officers.

(42 U.S.C. 4231(b))

§ 79.2 What definitions apply to these regulations?

"Department" means the U.S. Department of Education.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Secretary" means the Secretary of the U.S. Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

"State" means any of the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

(42 U.S.C. 4231(b))

§ 79.3 What programs and activities of the Department are subject to these regulations?

The Secretary publishes in the **Federal Register** a list of the Department's programs and activities that are subject to the Order and these regulations.

(42 U.S.C. 4231(b))

§ 79.4 What are the Secretary's general responsibilities under the Order?

(a) The Secretary provides opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from the Department.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance, the Secretary, to the extent permitted by law—

(1) Uses the State process to determine official views of State and local elected officials;

(2) Communicates with State and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance that are communicated through the State process;

(4) Allows the States to simplify and consolidate existing Federally required State plan submissions;

(5) Where State planning and budgeting systems are sufficient and where permitted by law, encourages the substitution of State plans for Federally required State plans;

(6) Seeks the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports State and local governments by discouraging the reauthorization or creation of any planning organization which is Federally funded, which has a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

(42 U.S.C. 4231(b))

§ 79.5 What procedures apply to a State's choice of programs under the Order?

(a) Each State that adopts a process under the Order notifies the Secretary of the Department's programs that the State chooses to cover under the Order.

(b) The Secretary uses a State's process under the Order as soon as feasible, depending on individual programs and projects, after the State notifies the Secretary of its program choices.

(c) States may change their program choices under the Order at any time. The Secretary may establish deadlines by which States are required to inform the Secretary of changes in their program choices.

(42 U.S.C. 4231(b))

§ 79.6 How does the Secretary give States an opportunity to comment on proposed Federal financial assistance?

(a) This section applies to all comments received from a State under an official process the State has established under the Order, including

comments where the State has delegated to local elected officials the review, coordination, and communication with the Department.

(b) Except in unusual circumstances, the Secretary gives States at least 30 days to comment on any proposed Federal financial assistance. (See § 79.8 on comment periods pertaining to interstate situations.)

(c) Subject to paragraph (b) of this section, the Secretary may establish deadlines for—

(1) Applicants to submit copies of their applications to the States; and

(2) States to complete their review of applications under a program and to submit their review of applications under a program and to submit their comments to the Department.

(d) The Secretary responds as provided in the Order to all comments from a State that are provided through a State office or official that acts as a single point of contact under the Order between the State and all Federal agencies.

(42 U.S.C. 4231(b))

§ 79.7 How does the Secretary make efforts to accommodate State and local concerns?

(a) If a State provides comments to the Department in accordance with § 79.6(d), the Secretary either—

(1) Accepts the State's comments;

(2) Reaches a mutually agreeable solution with the State; or

(3)(i) Provides the State with a timely explanation of the basis for the Department's decision.

(ii) If previously requested by the Governor, the Secretary provides the explanation in writing.

(iii) If the State has designated a State office or official as a single point of contact between the State and all Federal agencies, the Secretary provides any explanation under paragraph (a)(3) of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the State that—

(1) The Department will not implement its decision for ten days after the State received the explanation; or

(2) The Secretary has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

(42 U.S.C. 4231(b))

§ 79.8 What are the Secretary's obligations in interstate situations?

The Secretary is responsible for—

(a) Identifying proposed Federal financial assistance that has an impact on interstate areas;

(b) Notifying the affected States, including States that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected States an opportunity of at least 45 days to comment.

(42 U.S.C. 4231(b))

§ 79.9 How may a State simplify, consolidate, or substitute Federally required State plans?

(a) As used in this section—

(1) "Simplify" means that a State develops its own format, chooses its own submission date, and selects the planning period for a State plan.

(2) "Consolidate" means that a State meets statutory and regulatory requirements by combining two or more plans into one document and that the State selects the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a State uses a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) To the extent consistent with law, a State may decide to try to simplify, consolidate, or substitute Federally required State plans without prior approval by the Secretary.

(c) The Secretary reviews each State plan that a State has simplified, consolidated, or substituted to ensure that the plan meets Federal requirements.

(42 U.S.C. 4231(b))

§ 79.10 [Reserved]

The Secretary also proposes to amend Title 34 of the Code of Federal Regulations by removing §§ 75.170, 75.171, 75.172, 75.173 and 76.105.

PART 75—[AMENDED]

§§ 75.170 through 75.173 [Removed]

PART 76—[AMENDED]

§ 76.105 [Removed]

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Part VIII

Department of Energy

Intergovernmental Review of Department of Energy Programs and Activities and Financial Assistance Rules

DEPARTMENT OF ENERGY

10 CFR Parts 600 and 1005

Intergovernmental Review of Department of Energy Programs and Activities and Financial Assistance Rules

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Department of Energy. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective intergovernmental consultation system. Under the Order, State and local elected officials, not the Federal Government, will determine what Federal programs and activities to review and the procedures by which the review will take place. In addition, a conforming amendment to 10 CFR 600.11 is proposed.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to the Financial Assistance Policy Branch (MA–931.2), Procurement and Assistance Management Directorate, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Thomas Reynolds, Chief, Financial Assistance Policy Branch (MA–931.2), Procurement and Assistance Management Directorate, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–8191

Mary Ann Masterson, Office of the Assistant General Counsel for Procurement and Incentives (GC–44), Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–1526.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95, "Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects." (41 FR 2052, January 13, 1976). The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of state and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, what Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity to simplify, consolidate, or substitute Federally required state plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for states to reduce administrative burdens in Federal programs requiring state plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected state and local officials.

OMB Guidance to States

In order to assist states as they begin to work in implementing the Order, OMB on or before today wrote to each state concerning the establishment of an official state process. This letter will reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to the Department and other Federal agencies and to which the Department directs official communications (e.g., explanation of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the Department. However, there should be only one point to contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

This Department and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB

act as forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Department's obligations and procedures in response to the views expressed by the state and local elected officials. A paper discussing the policy decisions resulting from the OMB-led effort was made available to the public (47 FR 57369, December 23, 1982). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Department proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing the Department's obligations. For example, when the proposed regulation says that the Secretary "provides the State with a timely written explanation," the regulation means that the Secretary is obligated to do so.

Removal of Regulations Implementing OMB Circular A–95

In connection with this proposed rulemaking, the Department is proposing to remove its existing regulations implementing former OMB Circular A–95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A–95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. In order to carry out this directive, the Department proposes to amend 10 CFR 600.11, which implements OMB Circular A–95, to state that intergovernmental review of the Department's grant and cooperative agreement transactions shall be conducted in accordance with today's proposed rule (10 CFR 1005) implementing Executive Order 12372. Final rules carrying out this amendment will be published on or about April 30, 1983, in conjunction with the Department's final rule implementing Executive Order 12372.

Executive Orders 12291 and 12372, Regulatory Flexibility Act and Paperwork Reduction Act

The Department has determined that this is not a major rule under Executive Order 12291. The Office of Management and Budget has approved the proposed rule pursuant to Section 5(a) of Executive Order 12372. The proposed rule would simplify consultation with the Department and allow state and local governments to establish cost-effective consultation procedures. For this reason, the Department believes that any economic impacts will not be significant, in any case. Consequently, the Department certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Public Hearing

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law and that the proposed rule should not have a substantial impact on the nation's economy or large numbers of individuals or businesses. Therefore, pursuant to Pub. L. 95–91, the DOE Organization Act, the Department does not plan to hold a public hearing on this proposed rule. Interested persons are invited to participate in this rulemaking by submitting in writing, data, views, or arguments with respect to the proposals set forth in this notice.

Section-by-Section Analysis

Section 1005.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with state and local governments. Neither the Order not these regulations are intended to create any right of judicial review of the Department's action. For example, it is not intended that a state or local government would have the right to sue the Department because the Department failed to explain a nonaccommodation of a state recommendation.

Section 1005.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Department" means the Department of Energy. "Order" means Executive Order 12372. "Secretary means the Secretary of Energy or an official or employee of the Department acting under a delegation of authority from the Secretary. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as the 50 states.

In addition to these definitions, three other terms—simplify, consolidate and substitute—are defined in § 1005.9, State Plans. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 1005.7).

Section 1005.3 What programs and activities of the Department are subject to these regulations?

Paragraph (a) provides that the Department will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let states know which of the Department's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those programs and activities that the Department proposes to exclude from coverage under the

Order. The reason for each proposed exclusion is also listed. The Department seeks comments on the proposed exclusions. After promulgation of the final rules, if the Department wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusion.

At this time, states should assume that all of the Department's other Federal financial assistance and direct Federal development programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., operating funds for government-owned, contractor-operated facilities, procurement by the Department) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 USC 4231(b)), require Federal agencies to consider the views of state and local governments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities. If at any time a state believes that any official of the Department has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Secretary.

In addition to the programs and activities proposed in the attachment to this preamble for exclusion, proposed § 1005.3(b) establishes a class exclusion for the Department's financial assistance transactions with other than state and local governments. The class exclusion affects the Department's financial assistance activities in two ways.

First, for certain Departmental financial assistance programs, state and local governments are precluded from eligibility by Federal statute or regulation (e.g., Loans for Bid or Proposal Preparation by Minority Business Enterprises). Generally, state and local governments neither provide non-Federal funds for, nor are directly affected by, such programs. As a result, the Department proposes in the attachment to this preamble to exclude such programs from coverge under the proposed regulations. Occasionally however, Departmental financial assistance to a non-governmental entity may directly affect a state or local government (e.g., major energy development project necessitating the preparation of an environmental impact statement). Paragraph (b) thus provides that the Department, in such infrequent cases, will identify such projects in the **Federal Register** listing of programs and activities subject to the regulations.

Second, in other Departmental financial assistance programs, state and local governments are eligible to compete with non-governmental entities (e.g., non-profit organizations, colleges and universities) for discretionary financial assistance awards. In these cases, the Department is concerned that any opportunity for a state to comment on the application of a competing non-governmental entity (see proposed § 1005.6) could provide, at a minimum, an appearance of an unfair competitive practice. The Department is committed to maintaining the highest standards of impartiality and integrity in the award of public funds. Thus, the Department proposes to exclude financial assistance transactions with non-governmental entities for those programs under which both governmental and non-governmental entities are eligible recipients. The proposed regulations would apply, however, to financial assistance transactions with state and local governments under such programs. In this context, a governmental entity is any state, independent state organization, board, or commission; general purpose local government; special purpose local or regional government; council of governments; or non-profit organization established by state law or local ordinance exclusively to provide a governmental service and the substantial portion of the funding for which is federal. State and local colleges and universities are considered non-governmental entities for this purpose.

The class exclusion for non-governmental entities is not proposed to apply to the Department's direct development activities since it is the nature of the project not the organizational-type of any involved entity which should determine the coverage for direct development.

Section 1005.4 What are the Secretary's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into the Department's regulation, emphasizing the Department's obligations under the Order. The mechanisms by which the Department will carry out many of these general obligations are developed further in other sections of the rule. For example, paragraph (b)(4) of this section is further elaborated in § 1005.9, concerning state plans.

Paragraph (b)(2) means the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the states in sufficient time to be able to exert meaningful influence on the Department's course of action. For example, the Department would endeavor to make sure that the state learned of assistance announcements including decision criteria, proposed Federal development project decisions, and so forth, in time to make a meaningful response.

Section 1005.5 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with the Department under the Order concerning any of the Department's programs and activities that the department identifies by **Federal Register** notice as subject to the Order. However, these regulations do not require states to consult with the Department concerning any particular program or activity. This is an important distinction between the Order's policy system and the system established under Circular A-95, which gave states no discretion concerning program selection. Under the Order, states may choose whether to use the consultation system with respect any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's **Federal Register** notice is

entirely up to each state. While the Department will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Department will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Secretary of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the Department. This information will enable the Department's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to the Department, the Department will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Department will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Department may not be able to do so for a time. The Department will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the state know when it will start to use the state process.

Paragraph (c) provides that the Department may establish deadlines for changes by states in the program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Department may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Department may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the state that, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Department of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 1005.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process, but also the comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may chose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by products under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case, of delegation, the local official to whom the state's consultation role is delegated acts on behalf of the official state process with respect to the Department. For example, the Department's efforts to accommodate the concerns expressed by the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to the Department. Rather, the official would send the comment to the Department through the state single point of contact. The Department would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Department would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Department to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the Department informing the Department that the comment was an official comment of the state.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Department's widely varied program and activities. However, paragraph (b) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before the Department commits itself to a given course of action. The Department, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the expiration of an appropriation, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Department, the Department may need to establish deadlines or time frames for comment on particular actions or types of actions. Consequently, as provided in paragraph (c), the Department may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multi-year grants, direct development projects), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year).

In some of the Department's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Department. Once the initial decision is made, the Department has little discretion with respect to the subsequent decisions. The Department could inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Department's decision.

In most financial assistance programs, an organization applies to the Department for a grant or otherwise

seeks Departmental approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from the Department, the state should work with applicant organizations to ensure that applications are provided to the state in a timely manner. If it becomes necessary, the Department may establish requirements for applicants to submit copies of their applications to the state.

In order to ensure timely completion of Federal decisionmaking, the Department may require states to complete their reviews of applications and to submit their comments to the Secretary by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state. A similar provision, in paragraph (c)(3), permits the Secretary to establish deadlines for state review of the Department's direct development activities.

Paragraph (d) makes an important point with respect to the way that communications between states and the Department would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Department and the official state process flow efficiently, the Department strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. States would identify this single point of contact in their initial submission to OMB. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. The Department needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. State's use of a single point of contact will permit the Department to make this necessary administrative distinction.

In the absence of a state process or single point of contact, or with respect to a program that a state has not selected for coverage, the Department will work with the state in its normal manner, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the Department. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations and other requirements governing a specific program or decision. Often, the Department is required by statute to make a decision based on certain statutorily established factors. In other cases, the Department, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Department would be able to accomodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the Department's decisions, comments must be relevant to the factors, on which the Department is required to base its decisions. For example, if a Department's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Department could not accommodate a state comment addressing costs during the technical review.

Second, states can assist the Department's implementation of the Order by clearly specifying the magnitude of the state's concerns. Often, it may be difficult for the Department to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Department's position. For example, if a state wants the Department to recognize the state's priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accomodate state concerns. The Department's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Department may not be in a good position to accomodate state and local concerns unless the state speaks with one voice in its comments. The Department recognizes that different state and local officials and agencies often will not always agree among themselves concerning the course of action the Department should follow. The single point of contact should reconcile conflicting views before transmission to avoid the Department having to seek clarification concerning which set of views the state wants the Department to accommodate. The process will work much better if the Department receives a single set of comments.

Section 1005.7 How does the Secretary make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the Department under the Order, the Department has three choices. The Department can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the Department cannot accept the state's comments or reach a mutually agreeable solution, the Department is obligated to give the state a timely, simple explanation of the Department's reasons for not doing so. While the Department is not required to accept the state's comments or to begin discussion towards another solution, the Department does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Department's reasons for its decision to the state. A telephone call, a meeting, or letter would perform this function. The Department has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Secretary.

There is one exception to the Department's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Department's explanation will be in a letter.

Paragraph (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from the Department. The Department will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Department and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1) provides that the nonaccommodation explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Department in cases of nonaccommodation before the Department has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Department has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Department to wait ten days before implementing its decision. In a situation where the Department cannot observe the waiting period, the Secretary will review the decision before the nonaccommodation explanation is made and before the Department implements the decision. The nonaccommodation explanation will include the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 1005.6 What are the Secretary's obligations in interstate situations?

In some cases, action taken by the Department in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, the Department has certain additional obligations. First, the Department must identify its direct Federal development or Federal financial assistance actions or decisions that may affect interstate areas. Having done so, the Department must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Department must provide the affected states an opportunity for comment of at least 45 days before the Department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Department.

The Department cannot require states to coordinate with each other on proposed Federal financial assistance or direct Federal development having an impact on an interstate area. However, the Department strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Department encourages states to reconcile differences where they exist, so that the states provide the Department with a unified position. If the affected states provide the Department with conflicting recommendations, the Department will, with respect to states that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 1005.7.

Section 1005.9 How may a state simplify, consolidate or substitute Federally required state plans?

This section, which applies only to the Department's financial assistance programs, carries out section 2(d) of the Order, which directs Federal agencies to "allow" states to consolidate or simplify plans and to "encourage" states to substitute their own plans for Federally required state plans.

Paragraph (a) defines three terms used in this section. For a state to "simplify" a plan means that a state can develop its own format, choose its own submission date, and select the planning period covered by the plan. "Consolidate" means that the state can meet statutory and regulatory requirements by combining two or more plans into one document. The state can also select the format, submission date, and planning period for a consolidated plan. "Substitute" means that a state can use a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan mandated by the Department. State plans required by the Department that are eligible for modification (i.e., simplification, consolidation, or substitution) under the order will be listed by the Department in an OMB notice published in today's **Federal Register**. The Department is willing to consider other plans for eligibility for modification (i.e., simplification, consolidation, or substitution) under this section.

For purposes of state plan modifications, it is necessary to draw a distinction between the state's decision concerning which plans it wants to try to modify and the Department's decision concerning whether the accept modified plans. Paragraph (b) deals with the first of these issues. A state may decide to try to simplify, consolidate or substitute state plans without prior approval by the Department. The state's discretion in this respect is complete.

Paragraph (c) points out that the Department will review the content of state proposals to simplify, consolidate, or substitute state plans to ensure that they meet all applicable Federal requirements. Under this provision, the Department could disapprove the content of a modified plan on the basis of legal insufficiency. If the Department disapproves a state plan, the state may have recourse to any existing appeal process of the Department applicable to the program in question. However, the Department does not propose any special appeal process for situations in which the Department does not accept a modified plan.

This paragraph is not intended to give the Department any new authority it does not already have to review or disapprove state plans. For example, if a statute limits the grounds on which the Department may disapprove a state plan submission, this paragraph is not intended to expand those limits. The paragraph does emphasize, however, that these regulations do not impair the Department's existing authority to review and, if necessary, disapprove state plans. This section also does not affect any existing statutory or regulatory requirements (e.g., submission dates, planning periods, or formats of state plans). The Department intends to review and as appropriate, make modifications in regulatory requirements without a statutory basis to allow more state flexibility.

The Department's ability to review state plans is important not only for the Department's ability to administer its programs effectively but also to prevent states from inadvertently causing delays in Departmental funding decisions. In many financial assistance programs, required program standards must be met through a state plan before Federal funds are awarded. The Department may not be in a position to award funds, if a plan does not meet legal requirements.

The Department encourages states who wish to simplify, consolidate or

substitute state plans to inform the Department well in advance of their intentions. Early discussions between state officials and the Department regarding proposed modifications of plans will help to avoid later problems, including unexpected delays or disapprovals of modifications. The Department is very willing to work closely with state officials on plan modifications and, where feasible, will provide technical assistance or advice in plan modification efforts.

Section 1005.10 May the Secretary waive any provision of these regulations?

This section allows the Secretary to waive any provision in these regulations in an emergency. The Department expects to use this provision sparingly, since the Department's policy is to carry out the Order as fully as it can.

List of Subject in 10 CFR Part 1005

Intergovernmental relations.

Issued at Washington, D.C., January 17, 1983.

Donald Paul Hodel,

Secretary of Energy.

Attachment—List of Proposed Department of Energy Programs Excluded From Coverage

The Department proposes to exclude from coverage under Executive Order 12372 and this regulation the following programs and activities. The reasons for these exclusions are that state and local governments neither provide the non-Federal funds for, nor are directly affected by, these programs and activities.

The Department's research, development and demonstration programs and activities are proposed for exclusion from coverage under the Executive Order and this regulation except when such programs or activities (1) have a unique geographic focus and are directly relevant to the governmental responsibilities of a state or local government within that geographic area; (2) necessitate the preparation of an Environmental Impact Statment under NEPA; or (3) are to be initiated at a particular site or location and require unusual measures to limit the possibility of adverse exposure or hazard to the general public. These programs include:

1. Electric and Hybrid Vehicle Research Development, Demonstration and Production Loan Guarantees, Pub. L. 94–413, as amended, 15 U.S.C. 2501; CFDA 81.060.

2. Energy-Related Inventions, Pub. L. 93–577, 42 U.S.C. 5913; CFDA 81.036.

3. Basic Energy Sciences, High Energy/Nuclear Physics, Fusion Energy, Health and Environmental Research, Program Analysis and Field Operations Management, Pub. L. 83–703, 42 U.S.C. 2051; Pub. L. 93–438, 42 U.S.C. 5812; CFDA 81.049.

Programs which involve direct financial assistance between the Department and a non-governmental entity are proposed for exclusion from coverage under the Executive Order and this regulation. These include:

1. Coal Loan Guarantee Program, Pub. L. 94–163, as amended, CFDA 81.056.

2. Loans for Bid or Proposal Preparation by Minority Business Enterprises, Pub. L. 95–619, 42 U.S.C. 7141(e); CFDA 81.063.

3. Small Business Innovation Research Program, Pub. L. 97–219.

1. For the reasons set out in the Preamble, the Department of Energy proposes to amend Title 10, Code of Federal Regulations, by adding a new Part 1005, to read as follows:

PART 1005—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF ENERGY PROGRAMS AND ACTIVITIES

Sec.

1005.1 What is the purpose of these regulations?
1005.2 What definitions apply to these regulations?
1005.3 What programs and activities of the Department are subject to these regulations?
1005.4 What are the Secretary's general responsibilities under the Order?
1005.5 What procedures apply to a state's choice of programs under the Order?
1005.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development? Select Committee
1005.7 How does the Secretary make efforts to accommodate state and local concerns?
1005.8 What are the Secretary's obligations in interstate situations?
1005.9 How may a state simplify, consolidate, or substitute Federally required State plans?
1005.10 May the Secretary waive any provision of these regulations?

Authority: Executive Order 12372 (47 FR 30959, July 16, 1982); Section 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)).

§ 1005.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982 and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened federalism by relying on state and local processes for the state and local government coordination and review of proposed Federal financial assistance and direct federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Department. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Department or its officers.

§ 1005.2 What definitions apply to these regulations?

As used in this part:

"Department" means the U.S. Department of Energy.

"Order" means Executive Order 12372, issued July 14, 1982 and titled "Intergovernmental Review of Federal Programs."

"Secretary" means the Secretary of the U.S. Department of Energy or an official or employee of the Department acting for the Secretary under a delegation of authority.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands or the Trust Territory of the Pacific Islands.

§ 1005.3 What programs and activities of the Department are subject to these regulations?

(a) The Secretary publishes in the **Federal Register** a list of the Department's programs and activities that are subject to the Order and these regulations.

(b) Unless otherwise stated in the **Federal Register** listing identified in paragraph (a) of this section, these regulations do not apply to the Department's financial assistance transactions with other than state and local governments.

§ 1005.4 What are the Secretary's general responsibilities under the Order?

(a) The Secretary provides opportunities for consultation by elected officials of those state and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from, or direct Federal development by, the Department.

(b) If a state adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Secretary, to the extent permitted by law:

(1) Uses the state process to determine official views of state and local elected officials;

(2) Communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate state and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the state process;

(4) Allows the states to simplify and consolidate existing Federally required state plan submissions;

(5) Where state planning and budgeting systems are sufficient and where permitted by law, encourages the substitution of state plans for Federally required state plans;

(6) Seeks the coordination of views of affected state and local elected officials in one state with those of another state when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports state and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a Federally-prescribed membership, which is established for a limited purpose, and which is not adequately representative of, or accountable to, state or local elected officials.

§ 1005.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Secretary of the Department's programs that the state chooses to cover under the Order.

(b) The Secretary uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Secretary of its program choices.

(c) States may change their program choices under the Order at any time. The Secretary may establish deadlines by which state are required to inform the Secretary of changes in their program choices.

§ 1005.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, coordination, and communication with the Department.

(b) Except in unusual circumstances, the Secretary gives states at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 1005.8 for comment periods pertaining to interstate situations).

(c) Subject to paragraph (b) of this section, the Secretary may establish deadlines for:

(1) Applicants to submit copies of their applications to the states; and

(2) States to complete their review of applications under a financial assistance program and to submit their comments to the Department.

(3) States to complete their review of proposed direct Federal development and to submit their comments to the Department.

(d) The Secretary responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 1005.7 How does the Secretary make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Department in accordance with § 1005.6(d), the Secretary:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3) (i) Provides the state with a timely explanation of the basis for the Department's decision.

(ii) If requested by the Governor, the Secretary provides the explanation in writing.

(iii) The Secretary provides any explanation under paragraph (a)(3) of this section to the state office or official designated as a single point of contact between the State and all Federal agencies.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the state that:

(1) The Department will not implement its decision for ten days after the state receives the explanation; or

(2) The Secretary has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 1005.8 What are the Secretary's obligations in interstate situations?

The Secretary is responsible for:

(a) Identifying proposed Federal financial assistance and direct Federal development that has an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days for comment.

§ 1005.9 How may a state simplify, consolidate, or substitute Federally required State plans?

(a) As used in this section:

(1) "Simplify" means that a state can develop its own format, choose its own submission date, and select the planning period for a state plan;

(2) "Consolidate" means that a state can meet statutory and regulatory requirements by combining two or more plans into one document and that the state can select the format, submission date, and planning period for the consolidated plan; and

(3) "Substitute" means that a state can use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a state may decide to try to simplify, consolidate, or substitute Federally required state plans without prior approval by the Secretary.

(c) The Secretary reviews each state plan that a state has simplified consolidated or substituted and accepts the plan only if it meets Federal requirements.

§ 1005.10 May the Secretary waive any provision of these regulations?

In an emergency, the Secretary may waive any provision of these regulations.

PART 600—FINANCIAL ASSISTANCE RULES

2. The Department also proposes to amend § 600.2(e)(1)(iii), and revise § 600.11 of the DOE Financial Assistance Rules, 10 CFR Part 600 (revised at 47 FR 44076, October 5, 1982), as follows:

a. The table of contents of Subpart A is amended by revising the section heading for § 600.11 to read as follows:

Subpart A—General

Sec.

* * * * *

600.11 Intergovernmental review.

* * * * *

b. In § 600.2, paragraph (e)(1)(iii) is removed and (e)(1)(iv) through (vii) are redesignated as (e)(1) (iii) through (vi) and are revised to read as follows:

§ 600.2 Applicability.

* * * * *

(e) *OMB Circulars.* * * *

(1) * * *

(iii) OMB Circular A–124, Patents—Small Business Firms and Nonprofit Organizations (47 FR 7556, February 19, 1982).

(iv) OMB Circular A–21, Cost Principles Applicable to Grants, Contracts and Other Agreements with Institutions of Higher Education (44 FR 12368, March 6, 1979 as amended by 47 FR 33658, August 3, 1982).

(v) OMB Circular A–87, Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments (46 FR 9548, January 28, 1981).

(vi) OMB Circular A–122, Cost Principles Applicable to Grants, Contracts and Other Agreements with Nonprofit Organizations (45 FR 46022, July 8, 1980).

* * * * *

c. Section 600.11 is revised to read as follows:

§ 600.11 Intergovernmental review.

Intergovernmental review of DOE financial assistance shall be conducted in accordance with 10 CFR Part 1005.

[FR Doc. 83–1672 Filed 1–21–83; 8:45 am]

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Federal Register

Monday
January 24, 1983

Part IX

Department of Health and Human Services

Office of the Secretary

Intergovernmental Review of Department of Health and Human Services Programs and Activities

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

42 CFR Parts 51c, 52b, 55a, 56, 122

45 CFR Parts 100, 224, 1351

Intergovernmental Review of Department of Health and Human Services Programs and Activities

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Department of Health and Human Services. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, state and local elected officials, not the Federal government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments in writing to Gordon Boe, Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs, Room 632–F, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201. Comments will be available for inspection at the above address from 9 a.m. to 5:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gordon Boe, Special Assistant to the Deputy Under Secretary for the Intergovernmental Affairs, Room 632–F, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, (202) 245–6036.

SUPPLEMENTAL INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of state and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of OMB Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for states to reduce administrative burdens in Federal programs requiring state plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected state and local officials.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB wrote on or before today to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to the Department and other Federal agencies and to which the Department directs official communications (e.g., explanation of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the Department. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

This Department and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state

and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Department's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public on December 23, 1982 (47 FR 57369). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Department proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing the Department's obligations. For example, when the proposed regulation says that the Secretary "provides the state with a timely explanation," the regulation requires the Secretary to do do.

Removal of Regulations Implementing OMB Circular A-95

In connection with this proposed rulemaking, the Department is proposing to remove its existing regulations implementing former OMB Circular A-95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. In order to carry out this directive, the Department is listing in this notice those regulatory provisions implementing Circular A-95 that it proposes to remove. Final rules carrying out the removal will be published on or about April 30, 1983, in conjunction with the Department's final rule implementing Executive Order 12372.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Department has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with the Department and allow state and local governments to establish cost-effective consultation procedures. For this reason, the Department believes that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently, the Department certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 100.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Department's action. For example, it is not intended that a state or local government would have the right to sue the Department because the Department failed to explain a nonaccommodation of a state recommendation.

Section 100.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Department" means the Department of Health and Human Services. "Order" means Executive Order 12372. "Secretary" means the Secretary of Health and Human Services or an official or employee of the Department acting under a delegation of authority from the Secretary. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states.

In addition to these definitions, three other terms—simplify, consolidate, and substitute—are defined in § 100.9, State Plans. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 100.7).

Section 100.3 What programs and activities of the Department are subject to these regulations?

Attachment A lists those programs which the Department believes to be outside the scope of the Order. Attachment B lists those programs that the Department proposes to be subject to these regulations.

The programs followed by an asterisk (*) in Attachment B are closed-ended formula grant programs to the states. Although they are subject to these regulations, it should be noted that the Department has no discretion under these programs concerning who will receive the grants (the states are the only eligible applicants), the amount of funding to be provided to each grantee (the distribution of funds is established by statutory formula), the selection of specific sites or projects (the states make those decisions), or whether to provide funding (the states are entitled to receive program funds as long as they meet the legal requirements of those programs). The Department reviews the state plans mandated by the formula grant program statutes only to ensure that they meet the requirements established by those statutes and their implementing regulations. However, to the extent that the department has any discretion with regard to the formula grant programs, they are subject to these regulations.

The Department emphasizes that the plans required by the formula grant programs in Attachment B are eligible for simplification, consolidation and substitution under the provisions of § 100.9 of these regulations. Moreover, a state may, when legally permissible, choose to use its own consultation process developed under the Order to assist in developing the plans, provide opportunities for state and local officials to review the plans before they are

submitted to the Department, and submit the plans through its "single point of contact." The Department will then review the plans to ensure that they meet the statutory and regulatory requirements, and inform the state's single point of contact (or the relevant state agency if the plans are not submitted through the single point of contact) when the plans are approved. If modifications are needed to meet the legal requirements before the plans can be approved, the Department will inform the state of the changes that need to be made.

In developing Attachment A, the Department examined its programs and activities in light of the provisions of the Executive Order, the Fact sheet that accompanied the Order, and the non-binding criteria that were used by Federal agencies in their determinations. The Department believes that the programs listed in Attachment A are outside the scope of the Executive Order. The reasons for the Department's decisions are identified in Attachment A. Comments are invited regarding these programs.

The Department's open-ended entitlement programs (Medicaid, State Health Care Providers Survey, Medicaid Fraud Control, AFDC, State and Local Training under AFDC, Child Support Enforcement and Foster Care) are not subject to these regulations for the following reasons: (a) The Department has no discretion with regard to funding; and (b) the state plan requirements for these programs are set by statute and regulation to a much greater degree than the other programs requiring state plans.

In addition, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Department) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, or budget formulation.

After the promulgation of the final rules, updated lists will be published when necessary, in order to let the states know which programs they may choose to cover. Comments will be requested on any new or additional programs that the Department believes should not be subject to these regulations.

Even if a program or activity is not subject to these regulations, state and local officials would still have opportunities to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs or activities.

Paragraph (b) simply states the Secretary's obligation, to the extent permitted by law, to use a state's official process to determine official views of state and local officials. This obligation, which derives directly from the Order, extends only to programs and activities subject to the Order which a state has selected for coverage under § 100.5 of these regulations. If at any time a state believes that any official of the Department has not made appropriate us of the official state process, the state is invited to raise its concerns directly with the Secretary.

Section 100.4 [Reserved]

Section 100.5 What procedures apply to a state's choice of programs under the Order?

State may choose to consult with the Department under the Order concerning any of the Department's programs and activities that the Department's **Federal Register** notice on or about April 30, 1983 lists as subject to the Order. However, these regulations do not require states to consult with the Department concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave states no discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's **Federal Register** notice is entirely up to each state. While the Department will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Department will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Secretary of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the Department. This information will enable the Department's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to the Department, the Department will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Department will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Department may not be able to do so for a time. The Department will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the Department may establish deadlines by which states must inform the Department of changes in their program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the department may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Department may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would

have to inform the Department of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 100.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to the Department. For example, efforts by the Department to reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to the Department. Rather, the official would send the comment to the Department through the state single point of contact. The Department would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Department would explain the nonaccomodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Department to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the Department informing the department that the comment was an official comment of the state.

Section 2(b) of the Order requires Federal agencies to communicate with state and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Paragraph (b) incorporates this provision of the Order into these regulations. What the requirement means is the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the states in sufficient time to be able to exert meaningful influence on the Department's course of action. For example, the department would make sure that the state learned of assistance announcements, proposed Federal development project decisions, and so forth, in time to make a meaningful response.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Department's widely varied programs and activities. However, paragraph (c) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before the Department commits itself to a given course of action. The Department, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Department, the Department may need to establish deadlines or time frames, in non-regulatory program-specific announcements, for comment on particular actions or types of actions. Consequently, as provided in paragraph (d), the Department may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multi-year grants, direct development projects), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadline for quarterly apportionment).

In some of the Department's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Department. Once the initial decision is made, the Department has little discretion with respect to the subsequent decisions. The Department could inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Department's decision.

In most financial assistance programs, a state, local, or private agency applies to the Department for a grant or cooperative agreement or otherwise seeks Departmental approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from the Department, the state should work with applicant organizations to ensure that applications are provided to the state in a timely manner. If it becomes necessary, the Department may establish requirements, in non-regulatory program-specific announcements, for applicants to submit copies of their application to the state.

In order to ensure timely completion of Federal decisionmaking, the Department may require states to complete their reviews of applications and to submit their comments to the Secretary by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state. A similar provision, in paragraph (d)(3), permits the Secretary to establish deadlines, in non-regulatory program-specific announcements, for state review of the Department's direct development activities.

Paragraph (e) makes an important point with respect to the way that communications between states and the Department would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Department and the official state process flow efficiently, the Department strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from

agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. The Department needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. State's use of a single point of contact will permit the Department to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, the Department will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the Deparment. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, the Department is required to make a decision based on certain statutorily established factors. In other cases, the Department, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Department would be able to accommodate concens that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence of the Department's decisions, comments must be relevant to the factors on which the Department bases its decisions. For example, if the Department's standards call for a decision to be made at certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Department could not accommodate a state comment addressing costs during the technical review.

Second, states can assist the Department's implementation of the Order by clearly specifying the magnitude of the state's concerns. Often, it may be difficult for the Department to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Department's position. For example, if a state wants the Department ot recognize the state's priorities, accept only a modified financial assistance application, or deny a financial asisstance application, it would be very helpful if the state identifies its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate state concerns. The Department's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Department may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. The Department recognizes that different state and local officials and agencies may not always agree among themselves concerning the course of action the Department should follow. The single point of contact should reconcile conflicting views before transmission to avoid the Department's having to seek clarification concerning which set of views the state wants the Department to accommodate. The process will work much better if the Department receives a single set of comments.

Section 100.7 How does the Secretary make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the Department under the Order, the Department has three choices. The Department can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the Department cannot accept the state's comments or reach a mutualy agreeable solution, the Department is obligated to give the state a timely, simple explanation of the Department's reasons for not doing so. While the Department is not required to accept the state's comments or to begin discussions towards another solution, the Department does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Department's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. The Department has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Secretary.

There is one exception to the Department's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Department's explanation will be in a letter.

Paragraph (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from the Department. The Department will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Department and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Department in cases of nonaccommodation before the Department has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Department has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten-day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Department to wait ten days before implementing its decision. In a situation where the Department cannot observe the waiting period, the Secretary or a designee of the Secretary at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Department implements

the decision. The nonaccommodation explanation will include the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 100.8 What are the Secretary's obligations in interstate situations?

In some cases, action taken by the Department in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, the Department has certain additional obligations. First, the Department must identify its direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the Department must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Department must provide the affected states an opportunity for comment of at least 45 days before the department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Department.

The Department, obviously, cannot require states to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, the Department strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Department encourages states to reconcile differences where they exist, so that states can present the Department with a unified position. If the affected states provide the Department with conflicting recommendations, the Department will, with respect to states that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 100.7.

Section 100.9 How may a state simplify, consolidate or substitute Federally required state plans?

This section carries out section 2(d) of the Order, which directs Federal agencies to "allow" states to consolidate or simplify plans and to "encourage" states to substitute their own plans for Federally required state plans.

Paragraph (a) defines three terms used in this section. For a state to "simplify" a plan means that a state may develop its own format, choose its own submission date, and select the planning period covered by the plan. "Consolidate" means that the state may meet statutory and regulatory requirements by combining two or more plans into one document. The state may also select the format, submission date, and planning period for a consolidated plan. "Substitute" means that a state may use a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan mandated by the Department. State plans required by the Department that are eligible for modification (i.e., simplification, consolidation, or substitution) under the Order will be listed by the Department in a OMB notice published in today's **Federal Register**. The Department is willing to consider other state plans for eligibility for modification under this section.

For purposes of state plan modifications, it is necessary to draw a distinction between the state's decision concerning which plans it wants to try to modify and the Department's decision concerning whether to accept modified plans. Paragraph (b) deals with the first of these issues. A state may decide to try to simplify, consolidate or substitute state plans without prior approval by the Department. The state's discretion in this respect is complete.

Paragraph (c) points out that the Department will review the content of state proposals to simplify, consolidate, or substitute state plans to ensure that they meet all applicable Federal requirements. Under this provision, the Department could disapprove the content of a modified plan on the basis, for example, of legal insufficiency or the failure of the modified plan to meet Federally mandated substantive standards. If the Department disapproves a state plan, the state may have recourse to any existing appeal process of the Department applicable to the program in question. However, the Department does not propose any new special appeal process for situations in which the Department does not accept a modified plan.

This paragraph is not intended to give the Department any new authority it does not already have to review or disapprove state plans. For example, if a statute limits the grounds on which the Department may disapprove a state plan submission, this paragraph is not intended to expand those limits. The paragraph does emphasize, however, that these regulations do not impair the Department's existing authority to review and, if necessary, disapprove state plans. This section also does not affect any existing statutory or regulatory requirements concerning submission dates, planning periods, or formats of state plans. The Department will review and made appropriate modifications in regulatory requirements without a statutory basis to allow more state flexibility.

The Department's ability to review state plans is important not only for the Department's ability to administer its programs effectively but also to prevent states from inadvertently causing delays in Departmental funding decisions. In many financial assistance programs, required program standards must be met through a state plan before Federal funds are awarded. The Department may not be in a position to award funds to recipients in a plan does not meet legal requirements or substantive Federal program standards.

The Department encourages states which wish to simplify, consolidate or substitute state plans to inform the Department well in advance of their intentions. Early discussions between state officials and the Department regarding proposed modifications of plans will help to avoid later problems, including unexpected delays or disapprovals of modifications. The Department is very willing to work closely with state officials on plan modifications, and where feasible, will provide technical assistance or advice in plan modification efforts.

Section 100.10 May the Secretary waive any provision of these regulations?

This section allows the Secretary to waive any provision in these regulations in an emergency. The Department expects to use this provision sparingly, since the Department's policy is to carry out the Order as fully as it can.

List of Subjects in 45 CFR Part 100

Intergovernmental relations.

Issued at Washington, D.C., January 13, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services.

Attachment A—Proposed List of HHS Programs Not Subject to Executive Order 12372 and These Regulations

Attachment B—HHS Programs Subject to Executive Order 12372 and These Regulations

Attachment A—HHS Programs Not Subject to Executive Order 12372 and These Regulations

There are several types of financial assistance activities which HHS has determined are not subject to the Executive Order and these regulations. These activities include:

1. Research that does not directly affect states or municipalities;
2. Academic training;
3. Direct payments to individuals;
4. Financial transfers for which HHS has no funding discretion or direct authority to approve specific sites or projects;
5. Programs administered by Federally-recognized Indian tribes;
6. Direct financial assistance to non-governmental entities (e.g., a non-profit organization, business, corporation, association, private school or university, and a state or municipal college or university); and
7. Programs having unique characteristics that make it impractical to subject them to the provisions of these regulations.

The programs that follow are listed according to the above categories. Some programs are characterized by more than one category. In those cases, the program title is followed by the number of any other category that also applies.

All *Catalog of Federal Domestic Assistance* numbers are taken from the 1982 *Catalog.*

1. Research That Does Not Directly Affect States or Municipalities

13.103 FDA Research
None FDA Demonstration Grants
None FDA Education/Information Dissemination
13.110 Maternal and Child Health Federal Consolidated Programs (2,6)
13.111 Adolescent Family Life Research Grants
13.226 Health Services Research and Development—Grants (2,6)
13.242 Mental Health Research Grants
13.262 Occupational Safety and Health Research Grants (2,6)
13.271 Alcohol Research Scientist Development and Research Scientist Awards (6)
13.273 Alcohol Research Grants
13.277 Drug Abuse Research Scientists Development and Research Scientist Awards (6)
13.279 Drug Abuse Research
13.281 Mental Health Research Scientist Development and Research Scientist Awards (6)
13.306 Laboratory Animal Sciences and Primate Research (6)
13.333 Clinical Research (6)
13.337 Biomedical Research Support (6)
13.361 Nursing Research Project Grants
13.371 Biotechnology Research (6)
13.375 Minority Biomedical Research Support (6)
13.393 Cancer Cause and Prevention Research (6)
13.394 Cancer Detection and Diagnostic Research (6)
13.395 Cancer Treatment Research (6)
13.396 Cancer Biology Research (6)
13.397 Cancer Centers Support (6)
13.398 Cancer Research Manpower (6)
13.399 Cancer Control (6)
13.608 Child Welfare Research and Demonstration
13.647 Social Services Research and Demonstration
13.652 Adoption Opportunities (6)
13.766 HCFA Research
13.812 SSA Research
13.821 Physiology and Biomedical Research (6)
13.823 Primary Care Research and Demonstration Grants
13.837 Heart and Vascular Diseases Research (6)
13.838 Lung Diseases Research (6)
13.839 Blood Diseases and Resources Research (6)
13.840 Caries Research (6)
13.841 Periodontal Disease Research (6)
13.842 Craniofacial Anomalies Research (6)
13.843 Restorative Materials Research (6)
13.844 Pain Control and Behavioral Studies (6)
13.845 Dental Research Institutes (6)
13.846 Arthritis, Musculoskeletal and Skin Diseases Research (6)
13.847 Diabetes, Endocrinology and Metabolism Research (6)
13.848 Digestive Diseases and Nutrition Research (6)
13.849 Kidney Disease, Urology and Hematology Research (6)
13.853 Clinical Research (6)
13.854 Biological Basis Research (6)
13.855 Immunology, Allergic and Immunologic Diseases Research (6)
13.856 Microbiology and Infectious Diseases Research (6)
13.859 Pharmocological Sciences (6)
13.862 Genetics Research (6)
13.863 Cellular and Molecular Basis of Disease Research (6)
13.864 Population Research (6)
13.865 Research for Mothers and Children (6)
13.866 Aging Research (6)
13.867 Retinal and Choroidal Diseases Research (6)
13.868 Corneal Diseases Research (6)
13.869 Cataract Research (6)
13.870 Glaucoma research (6)
13.871 Strabismus, Amblyophobia and Visual Processing (6)
13.878 Soft Tissue Stomatology and Nutrition Research (6)
13.879 Medical Library Assistance (6)
13.880 Minority Access to Research Careers (6)
13.891 Alcohol Research Center Grants
13.892 Prediction, Detection and Assessment of Environmentally Caused Diseases and Disorders (6)
13.893 Mechanisms of Environmental Diseases and Disorders (6)
13.894 Environmental Health Research and Manpower Development Resources (2,6)
13.974 Family Planning Services Delivery Improvement Research Grants
13.989 Senior International Awards Program (2)
None Policy Research (administered by the Assistant Secretary for Planning and Evaluation (6)

2. Academic Training

13.244 Mental Health Clinical Service-Related Training Grants
13.263 Occupational Safety and Health Training Grants (6)
13.272 Alcohol National Research Awards for Research Training
13.274 Alcohol Clinical Service-Related Training Grants
13.278 Drug Abuse Research Service Awards for Research Training
13.280 Drug Abuse Clinical or Service-Related Training Grants
13.282 Mental Health National Research Service Awards for Research Training
13.298 Nurse Practioner Training Program and Nurse Practitioner Traineeships
13.299 Advanced Nurse Training Program
13.339 Health Professions Capitation Grants (4,6)
13.342 Health Professions Student Loans
13.358 Professional Nurse Traineeships
13.359 Nurse Training Improvement
13.363 Nursing Scholarships (4)
13.364 Nursing Student Loans
13.379 Grants for Graduate Training in Family Medicine
13.381 Health Professions—Financial Distress Grants (6)
13.384 Health Professions Start-Up Assistance (6)
13.632 Developmental Disabilities—University Affiliated Facilities (6)
13.648 Child Welfare Services Training Grants
13.668 Special Programs for the Aging—Title IV—Training, Research and Discretionary Projects and Programs (1,6)
13.820 Scholarships for First-Year Students of Exceptional Financial Need
13.822 Health Careers Opportunity Program
13.824 Area Health Education Centers (AHEC)
13.884 Grants for Residency Training in General Internal Medicine and/or General Pediatrics
13.886 Grants for Physician Training
13.895 Grants for Faculty Development in Family Medicine
13.896 Grants for Predoctoral Training in Family Medicine
13.897 Residency Training in the General Practice of Dentistry
13.962 Health Administration Graduate Traineeships
13.963 Graduate Programs in Health Administration
13.964 Traineeships for Students in Schools of Public Health and Other Graduate Public Health Programs
13.969 Curriculum Development Grants
13.984 Grants for the Establishment of Departments of Family Medicine

3. Payments to Individuals

13.108 Health Education Assistance Loans (HEAL) (2)
13.288 National Health Service Corps Scholarship Program
13.297 National Research Service Awards (Nursing) (2)
13.773 Medicare—Hospital Insurance
13.774 Medicare—Supplementary Medical Insurance
13.802 Social Security Disability Insurance

13.803 Social Security Retirement Insurance
13.804 Social Security Benefits to Persons Aged 72 and over
13.805 Social Security Survivors Insurance
13.806 Special Benefits for Disabled Coal Miners
13.807 Supplemental Security Income
13.971 Health Professions Preparatory Scholarship Programs for Indians
13.972 Health Professions Scholarship Program for Indians
13.973 Special Loans for Former National Health Services Corps Members to Enter Private Practice

4. Financial Transfers for Which HHS Has No Funding Discretion or Direct Authority To Approve Specific Sites or Projects

13.658 Foster Care-Title IV–E
13.665 Community Services Block Grant
13.667 Social Services Block Grant
13.679 Child Support Enforcement
13.714 Medicaid
13.775 State Medicaid Fraud Control Units
13.777 State Health Care Providers Survey Certification
13.808 AFDC
13.810 AFDC—State and Local Training
13.814 Refugee Assistance—State Administered Programs
13.817 Entrant Assistance—Cuban and Haitian Entrants
13.818 Low-Income Home Energy Assistance
13.991 Preventive Health and Health Services Block Grant
13.992 Alcohol, Drug Abuse and Mental Health Block Grant
13.993 Primary Care Block Grant
13.994 Maternal and Child Health Block Grant

5. Programs Administered by Federally-Recognized Indian Tribes

13.228 Indian Health Services—Health Management Development Program
13.612 Native American Program Financial Assistance Grants (1,6)
13.655 Special Programs for the Aging—Title VI—Grants to Indian Tribes
13.661 Native American Programs—Research, Demonstration and Evaluation (1,6)
13.662 Native American Programs—Training and Technical Assistance (6)
13.970 Health Professions Recruitment Program for Indians (1,6)

6. Direct Financial Assistance to Non-Governmental Entities

13.776 Professional Standards Review Organizations
13.815 Refuge Assistance—Voluntary Agency Programs
None Entrant Resettlement Grants to National Voluntary Agencies

7. Programs Having Unique Characteristics

13.256 Health Maintenance Organizations
HMOs are businesses that must provide documentation in a qualification/loan application that is proprietary in nature. To require public review of these applications when a Federal loan or guarantee is involved could seriously jeopardize the confidentiality of these data and the HMO's competitive position in the marketplace.
HMOs have to be licensed by the State to operate. This is usually handled by the State Insurance and/or Health Commissioner's office. Requiring other State or local review would be a duplication of effort.
Loans and loan guarantees to HMOs are for operating deficits and are required to be paid back. They are not subsidy loans. The Federal government has a lien on net revenues and has all powers of a creditor to recover assets on behalf of the U.S. Government.
13.982 Mental Health Disaster Assistance
This program provides grants to support the provisions of mental health services to individuals in a disaster area. Funds may not be used for long-term treatment. The National Institute of Mental Health acts as the agent for the Federal Emergency Management Administration. The Governor of the applicant State must approve the applicant agency. State approval or review of the specific applications would impede quick action for services in a disaster situation.

Attachment B—Programs Subject to Executive Order 12372

13.217 Family Planning Projects
13.224 Community Health Centers
13.246 Migrant Health Centers Grants
13.258 National Health Service Corps
13.260 Family Planning Services
13.268 Immunization
13.293 State Health Planning and Development Agencies
13.294 Health Systems Agencies
13.392 Cancer Construction
13.600 Head Start
13.623 Runaway Youth
13.628 Child Abuse
13.630* Developmental Disabilities—Basic Support and Advocacy Grants
13.631 Developmental Disabilities—Special Projects
13.633* Aging—Title III A & B—Grants for Supportive Services and Senior Centers
13.635* Aging, Title III C—Nutrition
13.645* Child Welfare Services—State Grants
13.646* WIN
13.659* Adoption Assistance
13.676 Surplus Property Utilization
13.965 Black Lung Clinics
13.977 Venereal Disease
13.978 Venereal Disease Research, Demonstration and Public Information and Education Grants
13.985 Eye Research—Construction
13.987 Health Programs for Refugees
13.988 Cooperative Agreements for State-Based Diabetes Control Programs
13.990 National Health Promotion Training Network
13.995 Adolescent Family Life Demonstration Program
None Cuban-Haitian Special Placement
None Refugee Assistance Targeted Assistance Grants to States
None Entrant Assistance Targeted Assistance Grants to States

* Closed-ended formula grant programs to the States.

1. For the reasons set out in the Preamble, the Department of Health and Human Services proposes to amend Title 45, Code of Federal Regulations, by adding a new Part 100, to read as follows:

Title 45—[Amended]

PART 100—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF HEALTH AND HUMAN SERVICES PROGRAMS AND ACTIVITIES

Sec.
100.1 What is the purpose of these regulations?
100.2 What definitions apply to these regulations?
100.3 What programs and activities of the Department are subject to these regulations?
100.4 [Reserved]
100.5 What procedures apply to a state's choice of programs under the Order?
100.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?
100.7 How does the Secretary make efforts to accommodate state and local concerns?
100.8 What are the Secretary's obligations in interstate situations?
100.9 How may a state simplify, consolidate, or substitute Federally required state plans?
100.10 May the Secretary waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982; 47 FR 30959); section 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)).

§ 100.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Department. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Department or its officers.

§ 100.2 What definitions apply to these regulations?

"Department" means the U.S. Department of Health and Human Services.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Secretary" means the Secretary of the U.S. Department of Health and Human Services, or an official or employee of the Department acting for the Secretary under a delegation of authority.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 100.3 What programs and activities of the Department are subject to these regulations?

(a) The Secretary publishes in the Federal Register a list of the Department's programs and activities that are subject to the Order and these regulations.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 100.5, the Secretary to the extent permitted by law, uses the official state process to determine official views of state and local elected officials.

§ 100.4 [Reserved]

§ 100.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Secretary of the Department's programs that the state chooses to cover under the Order.

(b) The Secretary uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Secretary of its program choices.

(c) States may change their program choices under the Order at any time. The Secretary may establish deadlines by which states are required to inform the Secretary of changes in their program choices.

§ 100.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, coordination and communication with the Department.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 100.5, the Secretary, to the extent permitted by law, communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Except unusual circumstances, the Secretary gives states at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 100.8 for comment periods pertaining to interstate situations).

(d) Subject to paragraph (c) of this section, the Secretary may establish deadlines for:

(1) Applicants to submit copies of their applications to states;

(2) States to complete their review of applications under a financial assistance program and to submit their comments to the Department; and

(3) States to complete their review of proposed direct Federal development and to submit their comments to the Department.

(e) The Secretary responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 100.7 How does the Secretary make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Department in accordance with § 100.6(e), the Secretary:

(1) Accepts the state's comments; or

(2) Reaches a mutually agreeable solution with the state; or

(3) (i) Provides the state with a timely explanation of the basis for the Department's decision.

(ii) If requested by the Governor, the Secretary provides the explanation in writing.

(iii) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Secretary provides any explanation under paragraph (a)(3) of this section to that official.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the state that—

(1) The Department will not implement its decision for ten days after the state receives the explanation; or

(2) The Secretary has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 100.8 What are the Secretary's obligations in interstate situations?

The Secretary is responsible for—

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

§ 100.9 How may a state simplify, consolidate, or substitute Federally required state plans?

(a) As used in this section:

(1) "Simplify" means that a state may develop its own format, choose its own submission date, and select the planning period for a state plan.

(2) "Consolidate" means that a state may meet statutory and regulatory requirements by combining two or more plans into one document and that the state can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a state may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a state may decide to try to simplify, consolidate, or substitute Federally required state plans without prior approval by the Secretary.

(c) The Secretary reviews each state plan that a state has simplified, consolidated, or substituted and accepts the plan only if its contents meet Federal requirements.

§ 100.10 May the Secretary waive any provision of these regulations?

In an emergency, the Secretary may waive any provision of these regulations.

2. Subchapter D and Subchapter K, Chapter 1, Title 42 of the Code of Federal Regulations is amended as follows:

Title 42—[Amended]

PART 51c—GRANTS FOR COMMUNITY HEALTH SERVICES

42 CFR Part 51c is amended as follows:

1. In § 51c.104, paragraph (b) (10) is revised to read as follows:

§ 51c.104 Application.

* * * * *

(b) * * *

(10) Evidence that all applicable requirements for review and/or

approval of the application under Title XV of the Act have been met.
* * * * *

PART 52b—NATIONAL CANCER INSTITUTE CONSTRUCTION GRANTS

42 CFR Part 52b is amended as follows:

§ 52b.4 [Amended]

1. Section 52b.4, *Application,* is amended by removing paragraph (e).

PART 55a—PROGRAM GRANTS FOR BLACK LUNG CLINICS

42 CFR Part 52a is amended as follows:

§ 55a.4 [Amended]

1. Section 55a.4, *what must an application for a Black Lung Clinic grant contain?,* is amended by removing paragraph (e).

PART 56—GRANTS FOR MIGRANT HEALTH SERVICES

42 CFR Part 56 is amended as follows:

1. In § 56.104, paragraph (b)(12) is revised to read as follows:

§ 56.104 Application.
* * * * *
(b) * * *
(12) Evidence that all applicable requirements for review and/or approval of the application under title XV of the Act have been met.
* * * * *

PART 122—HEALTH SYSTEMS AGENCIES

42 CFR Part 122 is amended as follows:

1. In § 122.1, paragraph (b) is reserved as follows:

§ 122.1 Definitions.
* * * * *
(b) [Reserved]

2. In § 122.105, paragraph (a)(1)(vi) is revised to read as follows:

§ 122.105 Selection of agencies.
(a) * * *
(1) * * *
(vi) The adequacy of plans for developing working relationships with appropriate PSROs, State Agencies and Statewide Health Coordinating Councils; with health systems agencies which are designated for health services areas within the same standard metropolitan statistical area (as determined by the Office of Management and Budget) as the health service area for which the applicant is seeking designation; and with other planning bodies, and
* * * * *

3. In § 122.107, paragraphs (c)(11) (iii) and (iv) are reserved as follows:

§ 122.107 Full designation agreements.
* * * * *
(c) * * *
(11) * * *
(iii) [Reserved]
(iv) [Reserved]
* * * * *

4. In § 122.408, paragraph (b)(2) is revised to read as follows:

§ 122.408 Procedures for submission of application.
* * * * *
(b) * * *
(2) A copy of each application for a noncompeting continuation grant not subject to review under this subparagraph shall be provided by the applicant to the health systems agency at the time the application is submitted to the Federal funding agency.
* * * * *

5. In § 122.410, paragraph (a)(1)(v) is reserved to read as follows:

§ 122.410 Procedures for health systems agency review.
(a) * * *
(1) * * *
(v) [Reserved]
* * * * *

Title 45—[Amended]

PART 224—WORK INCENTIVE PROGRAMS FOR AFDC RECIPIENTS UNDER TITLE IV OF THE SOCIAL SECURITY ACT

45 CFR Part 224 is amended as follows:

1. In § 224.11 paragraphs (b) and (d)(2) and (3) are reserved as follows:

§ 224.11 Annual State WIN plans.
* * * * *
(b) (Reserved)
(d)(1) * * *
(2) [Reserved]
(3) [Reserved]
* * * * *

PART 1351—RUNAWAY YOUTH PROGRAM

45 CFR Part 1351 is amended as follows:

1. In § 1351.17, paragraph (c) is revised to read as follows:

§ 1351.17 How is application made for a Runaway Youth Program grant?
* * * * *
(c) Submit a completed application to the Grants Management Office at the appropriate Regional Office

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Part X

Department of the Interior

Office of the Secretary

Intergovernmental Review of Department of the Interior Programs and Activities

DEPARTMENT OF THE INTERIOR

43 CFR Part 9

Intergovernmental Review of Department of the Interior Programs and Activities

AGENCY: Office of the Secretary, Interior.
ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance programs and direct Federal development activities of the Department of the Interior. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, state and local elected officials, not the Federal Government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Department of the Interior, Office of Acquisition and Property Management, Division of Acquisition and Grants, 18th and C Streets, NW., Room 5528, Washington, D.C. 20240; (202) 343–6431. Comments will be available for inspection at the above address from 8:00 a.m. to 4:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Office of Acquisition and Property Management, Division of Acquisition and Grants, 18th and C Streets, NW., Washington, D.C. 20240; (202) 343–6431.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of state and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs". The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register.** The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for states to reduce administrative burdens in Federal programs requiring state plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected State and local officials.

OMB Guidance to States

In order to assist the states as they begin their work in implementing the Order. OMB wrote on or before today to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to the Department and other Federal agencies and to which the Department directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the Department. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

This Department and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

The Department has in place various consultation processes provided for by statute, regulation and other means. In addition, under A–95 procedures, the Department has sought and entered into understandings with states on review of the Department's programs. The Department proposes to continue its existing consultation processes, revising them as appropriate or necessary.

Therefore, the Department proposes no exclusions at this time; however, if a

state chooses to select programs or activities with existing consultation requirements, it must agree to adopt the existing requirements. A list of programs with existing requirements will be available.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Department's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public on December 23, 1982 (47 FR 57369). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Department proposes to make the final rule effective immediately upon its publication on April 30. As a matter of style, the proposed rules use the present tense when describing the Department's obligations. For example, when the proposed regulation says that the Secretary "provides the State with a timely explanation," the regulation requires the Secretary to do so.

Removal of Regulations Implementing OMB Circular A-95

The Department does not have existing regulations implementing former OMB Circular A-95.

Statement of Effects

The Department has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with the Department and allow state and local governments to establish cost-effective consultation procedures. For this reason, the Department believes that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently, the Department certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 9.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Department's action. For example, it is not intended that a state or local government would have the right to sue the Department because the Department failed to explain a nonaccommodation of a state recommendation.

Section 9.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Department" means the Department of the Interior. "Order" means Executive Order 12372. "Secretary" means the Secretary of the Interior or an official or employee of the Department acting under a delegation of authority from the Secretary. This does not mean that there must be a new specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands. The definition of "state" means that any jurisdiction mentioned may create an official consultation process and consult with Federal agencies.

In addition to these definitions, three other terms—simplify, consolidate, and substitute—are defined in § 9.9, State Plans. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 9.7).

Section 9.3 What programs and activities of the Department are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under that Order concerning as many Federal programs and activities as they wish. Paragraph (a) provides that the Department will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let states know which of the Department's programs and activities they may choose to cover.

The Department has determined that its programs and activities with formal and informal consultation processes already in place provide State and local government officials meaningful opportunities to contribute to program planning and decision-making. All of these opportunities are fully in accord with the spirit and intent of the Executive Order. It is in this spirit that the Department proposes to continue existing processes for consultation, rather than imposing additional or duplicative regulatory requirements and disrupting existing avenues of communication, procedures and time frames. Regular informal contacts, as well as formal public involvement procedures, have become an accepted and integral part of the Department's "good neighbor" approach to management of the Federal estate and its resources. In addition, the Department places a strong emphasis on a "principal-to-principal" relationship between the Secretary and State Governors, a practice that has proven extremely effective. All of these processes have been carefully developed, and most are required by the statutory and regulatory authorities that govern management and protection of natural resources and environmental quality.

With these factors in mind, the Department believes it is more beneficial to continue existing consultation processes with State and local governments rather than imposing additional or duplicative regulatory requirements under the Executive Order. In this way, effective working

relationships can continue in the most efficient and cost-effective manner. New programs will be reviewed when they are developed to determine applicability of coverage under the Executive Order. Activities and programs that clearly are not Federal financial assistance or direct Federal development (e.g., procurement by the Department) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, national policy decisions, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would continue to have an opportunity to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 USC 4231(b)), require Federal agencies to consider the views of state and local governments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

Paragraph (b) simply states the Secretary's obligation, to the extent permitted by law, to use a state's official process to determine official views of state and local officials. This obligation, which derives directly from the Order, extends only to programs and activities subject to the Order which a state has selected for coverage under § 9.5 of these regulations. If at any time a state believes that any official of the Department has not made appropriate use of the official state process, the state is invited to raise it concerns directly with the Secretary.

Section 9.4 [Reserved]

Section 9.5 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with the Department under the Order concerning any of the Department's programs and activities that the Department's **Federal Register** notice (on or about April 30, 1983 and subsequently) lists as subject to the Order. However, these regulations do not require states to consult with the Department concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A-95, which gave states no discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources.

For example, if a state decides it has limited interest in a particular program, the state might choose not to cover the program under its E.O. 12372 process, thereby saving resources for use on other programs.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's **Federal Register** notice is entirely up to each state. While the Department will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Department will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Secretary of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the Department. This information will enable the Department's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to the Department, the Department will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Department will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Department may not be able to do so for a time. The Department will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the Department may establish deadlines for changes by states in the program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Department may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Department may find it necessary to establish deadlines for program selection changes. These deadlines would usually be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Department of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 9.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the programs. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice-versa. In any case of delegation, the local official to whom the state's consultation role in delegated stands in the shoes of the official state process with respect to the Department. For example, efforts by the Department to

reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role has been delegated would not send his or her comment directly to the Department. Rather, the official would send the comment to the Department through the state single point of contact. The Department would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Department would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Department to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the Department informing the Department that the comment was an official comment of the state.

Section 2(b) of the Order requires Federal agencies to communicate with state and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Paragraph (b) incorporates this provision of the Order into these regulations. What the requirement means is that the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the states in sufficient time to be able to exert meaningful influence on the Department's course of action. For example, the Department would make sure that the state learned of assistance announcements, including decision criteria, proposed Federal development project decisions, and so forth, in time to make a meaningful response.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Department's widely varied programs and activities. However, paragraph (c) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance and direct Federal development actions before the Department commits itself to a given course of action. The Department, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Department, the Department may need to establish deadlines or time frames in nonregulatory program specific announcements for comment on particular actions or types of actions. Consequently, as provided in paragraph (d), the Department may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multi-year grants), for different stages of the same program (e.g., end of fiscal year, deadline for quarterly apportionment).

In some of the Department's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Department. Once the initial decision is made, the Department has little discretion with respect to the subsequent decisions. The Department could inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Department's decision.

In most financial assistance programs, a state, local, or private agency applies to the Department for a grant or cooperative agreement or otherwise seeks Departmental approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from the Department, the state should work with applicant organizations to ensure that applications are provided to the state in a timely manner. If it becomes necessary, the Department may establish requirements in nonregulatory program-specific announcements for applicants to submit copies of their application to the state.

In order to ensure timely completion of Federal dicisionmaking, the Department may require states to complete their reviews of applications and to submit their comments to the Secretary by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state. A similar provision, in paragraph (d)(3), permits the Secretary to establish deadlines in nonregulatory program-specific announcements for state review of the Department's direct development activities.

Paragraph (e) makes an important point with respect to the way that communications between states and the Department would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Department and the official state process flow efficiently, the Department strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. The Department needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Department to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, the Department will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the Department. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, the Department is required to make a decision based on certain statutorily established factors. In other cases, the Department, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Department would be able to accommodate comments that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to

have meaningful influence on the Department's decisions, comments must be relevant to the factors on which the Department bases its decisions. For example, if a Department's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Department could not accommodate a state comment addressing costs during the technical review.

Second, states can assist the Department's implementation of the Order by clearly specifying the magnitude of the state's concerns. Often, it may be difficult for the Department to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Department's position. For example, if a state wants the Department to recognize the state's priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate state concerns. The Department's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Department may not be in a good position to accomodate state and local concerns unless the state speaks with one voice in its comments. The Department recognizes that different state and local officials and agencies may not always agree among themselves concerning the course of action the Department should follow. The single point of contact should reconcile conflicting views before transmission to avoid the Department's having to seek clarification concerning which set of views the state wants the Department to accommodate. The process will work much better if the Department receives a single set of comments.

Section 9.7 How does the Secretary make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the Department under the Order, the Department has three choices. First, the Department can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the Department cannot accept the state's comments or reach a mutually agreeable solution, the Department is obligated to give the state a timely, simple explanation of the Department's reasons for not doing so. While the Department is not required to accept the state's comments or to begin discussions towards another solution, the Department does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Department's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. The Department has the discretion to choose the most appropriate mode of communicating the explanation in each case. There is one exception to the Department's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Department's explanation will be in a letter.

Paragraph (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from the Department. The Department will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Department and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Department in cases of nonaccommodation before the Department has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Department has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Department to wait ten days before implementing its decision.

In a situation where the Department cannot observe the waiting period, the Secretary or a designee of the Secretary at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Department implements the decision. The nonaccommodation explanation will include the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 9.8 What are the Secretary's obligations in interstate situations?

In some cases, action taken by the Department in Federal financial assistance or direct Federal development may have an impact on interstate areas. In these situations, the Department has certain additional obligations. First, the Department will identify its actions or decisions that have an impact on interstate areas. Having done so, the Department will, as provided in paragraph (b), notify the states on which there is a potential direct effect whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., statutory deadline, emergencies, financial assistance awards at the end of the fiscal year, etc.), as a general rule the Department will provide the affected states an opportunity for comment of at least 45 days before the Department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Department.

The Department, obviously, cannot require states to coordinate with each other on proposed Federal activities having an impact on an interstate area. However, the Department strongly encourages each affected state to share its comments with and obtain the views of affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Department encourages states to reconcile differences where they exist, so that the states can present the Department with a unified position. If the affected states provide the

Department with conflicting recommendations, the Department will, with respect to states that have established a process under the Order, make efforts to accommodate the states' concerns as provided in § 9.7.

Section 9.9 How may a state simplify, consolidate, or substitute Federally required state plans?

This section carries out section 2(d) of the Order, which directs Federal agencies to "allow" states to consolidate or simplify plans and to "encourage" states to substitute their own plans for Federally required state plans.

Paragraph (a) defines three terms used in this section. For a state to "simplify" a plan means that a state may develop its own format, choose its own submission date, and select the planning period covered by the plan. "Consolidate" means that the state may meet statutory and regulatory requirements by combining two or more plans into one document. The state may also select the format, submission date, and planning period for a consolidated plan. "Substitute" means that a state may use a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan mandated by the Department. States are encouraged to take full advantage of the possibilities of modification of state plans under this section. State plans required by the Department that are eligible for modification (i.e., simplification, consolidation, or substitution) under the order will be listed by the Department in an OMB notice published in today's **Federal Register**. The Department is willing to consider other state plans for eligibility for modification under this section.

For purposes of state plan modifications, it is necessary to draw a distinction between the state's decision concerning which plans it wants to try to modify and the Department's decision concerning whether to accept modified plans. Paragraph (b) deals with the first of these issues. A state may decide to try to simplify, consolidate or substitute state plans without prior approval by the Department. The state's discretion in this respect is complete.

Paragraph (c) points out that the Department may review the content of state proposals to simplify, consolidate, or substitute state plans to ensure that they meet all applicable Federal requirements. Under this provision, the Department could disapprove the content of a modified plan on the basis, for example, of legal insufficiency or the failure of the modified plan to meet Federally mandated substantive standards. If the Department disapproves a state plan, the state may have recourse to any existing appeal process of the Department applicable to the program in question. However, the Department does not propose any new special appeal process for situations in which the Department does not accept a modified plan.

This paragraph is not intended to give the Department any new authority it does not already have to review or disapprove state plans. For example, if a statute limits the grounds on which the Department may disapprove a state plan submission, this paragraph is not intended to expand those limits. The paragraph does emphasize, however, that these regulations do not impair the Department's existing authority to review and, if necessary, disapprove state plans. This section also does not affect any existing statutory or regulatory requirements concerning submission dates, planning periods, or formats of state plans. The Department will review and make appropriate modifications in regulatory requirements without a statutory basis to allow more state flexibility.

The Department's ability to review state plans is important not only for the Department's ability to administer its programs effectively but also to prevent states from inadvertently causing delays in Departmental funding decisions. In many financial assistance programs, required program standards must be met through a state plan before Federal funds are awarded. The Department may not be in a position to award funds to recipients if a plan does not meet legal requirements or substantive Federal program standards.

The Department encourages states which wish to simplify, consolidate or substitute state plans to inform the Department well in advance of their intentions. Early discussions between state officials and the Department regarding proposed modifications of plans will help to avoid later problems, including unexpected delays or disapprovals of modifications. The Department is very willing to work closely with state officials on plan modifications and, where feasible, will provide technical assistance or advice in plan modification efforts.

Section 9.10 May the Secretary waive any provision of these regulations?

This section allows the Secretary to waive any provision in these regulations in an emergency. The Department expects to use this provision sparingly, since the Department's policy is to carry out the Order as fully as it can.

Authorship Statement

Under the direction of OMB, an interagency group was established to draft common regulatory provisions for use by agencies in implementing E.O. 12372. The head official responsible for developing the Department's proposed regulations is Mr. Colonel Armstrong, Chief, Division of Acquisition and Grants, Office of Acquisition and Property Management.

List of Subjects in 43 CFR Part 9

Intergovernmental relations.

For the reasons set out in the preamble , the Department of the Interior proposes to amend Title 43, Code of Federal Regulations, by adding a new Part 9 to read as follows, pursuant to Executive Order 12372 (July 14, 1982); and Section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)).

Dated: January 17, 1983.

Richard R. Hite,

Deputy Assistant Secretary of the Interior.

PART 9—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF THE INTERIOR PROGRAMS AND ACTIVITIES

Sec.

9.1 What is the purpose of these regulations?
9.2 What definitions apply to these regulations?
9.3 What programs and activities of the Department are subject to these regulations?
9.4 (Reserved)
9.5 What procedures apply to a state's choice of programs under the Order?
9.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?
9.7 How does the Secretary make efforts to accommodate state and local concerns?
9.8 What are the Secretary's obligations in interstate situations?
9.9 How may a state simplify, consolidate, or substitute Federally required state plans?
9.10 May the Secretary waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982); (47 FR 30959); section 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)).

§ 9.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental

partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Department. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Department or its officers.

§ 9.2 What definitions apply to these regulations?

"Department" means the U.S. Department of the Interior.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Secretary" means the Secretary of the U.S. Department of the Interior or an official or employee of the Department acting for the Secretary under a delegation of authority.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 9.3 What programs and activities of the Department are subject to these regulations?

(a) The Secretary publishes in the **Federal Register** a list of the Department's programs and activities that are subject to the Order and these regulations.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 9.5, the Secretary, to the extent permitted by law, uses the official state process to determine official views of state and local elected officials.

(c) With respect to programs and activities that a state chooses to cover, and that have existing consultation processes, the State must agree to adopt those existing processes.

§ 9.4 [Reserved]

§ 9.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Secretary of the Department's programs that the state chooses to cover under the Order.

(b) The Secretary uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Secretary of its program choices.

(c) States may change their program choices under the Order at any time. The Secretary may establish deadlines by which states are required to inform the Secretary of changes in their program choices.

§ 9.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, coordination and communication with the Department.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 9.5, the Secretary, to the extent permitted by law, communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Except in unusual circumstances, the Secretary gives states at least 30 days to comment (see § 9.8 for comment periods pertaining to interstate situations).

(d) Subject to paragraph (c) of this section, the Secretary may establish deadlines for:

(1) Applicants to submit copies of their applications to the states; and

(2) States to complete their review of applications under a financial assistance program and to submit their comments to the Department.

(3) States to complete their review of proposed direct Federal development and to submit their comments to the Department.

(e) The Secretary responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 9.7 How does the Secretary make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Department in accordance with § 9.6(e), the Secretary:

(1) Accepts the state's comments; or

(2) Reaches a mutually agreeable solution with the state; or

(3)(i) Provides the state with a timely explanation of the basis for the Department's decision.

(ii) If requested by the Governor, the Secretary provides the explanation in writing.

(iii) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Secretary provides any explanation under paragraph (a)(3) of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the state that:

(1) The Department will not implement its decision for ten days after the state receives the explanation; or

(2) The Secretary has reviewed the decision and determined that because of unusual circumstances, the ten-day waiting period is not feasible.

§ 9.8 What are the Secretary's obligations in interstate situations?

The Secretary is responsible for:

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the states which are directly affected including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing such states an opportunity of at least 45 days to comment.

§ 9.9 How may a state simplify, consolidate, or substitute Federally required state plans?

(a) As used in this section:

(1) "Simplify" means that a state may develop its own format, choose its own submission date, and select the planning period for a state plan.

(2) "Consolidate" means that a state may meet statutory and regulatory requirements by combining two or more plans into one document and that the

state can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a state may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a state may decide to try to simplify, consolidate, or substitute Federally required state plans without prior approval by the Secretary.

(c) The Secretary reviews each state plan that a state has simplified, consolidated, or substituted and accepts the plan only if its contents meet Federal requirements.

§ 9.10 May the Secretary waive any provision of these regulations?

In an emergency, the Secretary may waive any provision of these regulations.

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Part XI

Department of Justice

Office of the Attorney General

Intergovernmental Review of Department of Justice Programs and Activities

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 30

[Order No. 995–83]

Intergovernmental Review of Department of Justice Programs and Activities

AGENCY: Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Department of Justice. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, state and local elected officials not the Federal Government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to the Office of Legal Policy, Room 4234, Department of Justice, Washington, D.C. 20530. Comments will be available for inspection at the above address from 10 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Paul P. Colborn, Office of Legal Policy, Room 4233, Department of Justice, Washington, D.C. 20530 (202/633–3239).

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the cirumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of state and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as open opportunities for states to reduce administrative burdnes in Federal programs requiring state plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of *elected* State and local officials.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB wrote on or before today to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination, with recommendations that differ from the Federal proposal, to the Department and other Federal agencies and to which the Department directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses perform review and coordination and conduct discussions with the Department. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule; they are identified in Attachment A to this notice.

This Department and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies

involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Department's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in December (47 FR 57369, December 23, 1982). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observe. Consequently, the Department proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing the Department's obligations. For example, when the proposed regulation says that the Attorney General "provides the State with a timely explanation," the regulation requires the Attorney General to do so.

Removal of Regulations Implementing OMB Circular A-95

In connection with this proposed rulemaking, the Department is proposing to remove its existing regulation implementing former OMB Circular A-95: 28 CFR Part 30 ("Final Regulation Relating To The LEAA Implementation of the OMB Circular A-95 Revised"). Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. Final rules carrying out the removal will be published on or about April 30, 1983, in conjunction with the Department's final rule implementing Executive Order 12372.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Department has determined that this is not a major rule under Executive Order 12291. The propsed rule would simplify consultation with the Department and allow state and local governments to establish cost-effective consultation procedures. For this reason, the Department believes that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently, the Department certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 30.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Department's action. For example, it is not intended that a state or local government would have the right to sue the Department because the Department failed to explain a nonaccommodation of a state recommendation.

Section 30.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Department" means the Department of Justice. "Order" Means Executive Order 12372. "Attorney General" means the Attorney General or an official or employee of the Department acting under a delegation of authority from the Attorney General. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states.

In addition to these definitions, three other terms—simplify, consolidate, and substitute—are defined in § 30.9, State Plans. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 30.7).

Section 30.3 What programs and activities of the Department are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. This section provides that the Department will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order; however, specific transactions that involve only non-governmental individuals or entities, and not state or local governments, are exempt from the Order. updated lists will be published when necessary in order to let states know which of the Department's programs and activities they may choose to cover. Attachment A to this notice is a list of current programs and activities the Department believes are subject to the Order; the list identifies any existing statutory consultation requirements that are not affected by the Order or these regulations.

Attachment B to this notice is a list of those programs and activities that the Department proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed The Department seeks comments on the proposed exclusions. After promulgation of the final rules, if the Department wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401(B) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. Many of the Department's program statutes have their own

consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

If at any time a state believes that any official of the Department has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Attorney General.

Section 30.4 What are the Attorney General's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into the Department's regulation, emphasizing the Department's obligations under the Order. The mechanisms by which the Department will carry out many of these general obligations are developed further in other sections of the rule. For example, paragraph (b)(4) of this section is further elaborated in § 30.9, concerning state plans.

Paragraph (b)(2) means the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the states in sufficient time for them to be able to exert meaningful influence on the Department's course of action. For example, the Department would make sure that the states learned of draft assistance announcements including decision criteria, proposed Federal development project decisions, and so forth, in time to make a meaningful response.

Section 30.5 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with the Department under the Order concerning any of the Department's programs and activities listed as subject to the Order by the Department's **Federal Register** notices on or about April 30, 1983 and subsequently. However, these regulations do not require states to consult with the Department concerning any particular program or activity. This is a important distinction between the Order's consultation policy and the system established under Circular A–95, which gave states no discretion concerning program selection. Under the order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's **Federal Register** notice is entirely up to each state. While the Department will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Department will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Attorney General of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the Department. This information will enable the Department's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to the Department, the Department will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Department will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Department may not be able to do so for a time. The Department will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the Department may establish deadlines by which states must inform the Department of changes in their program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Department may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Department may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Department of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 30.6 How does the Attorney General give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role, so long as the delegation is not inconsistent with law.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to the Department. For example, efforts by the Department to reach a negotiated solution with the

local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to the Department. Rather, the official would send the comment to the Department through the state single point of contact. The Department would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Department would explain the nonaccommodation to the. single point of contact. Routing the delegated comment through the state single point of contact would alert the Department to the fact that the local official's comment should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the department informing the Department that the comment was an official comment of the state.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Department's widely varied programs and activities. However, paragraph (b) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before the Department commits itself to a given course of action. The Department, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Department, the Department may need to establish, by non-regulatory program specific announcements, deadlines or time frames for comment on particular actions or types of actions. Consequently, as provided in paragraph (c), the Department may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different tyes of programs (e.g., one-year grants, multi-year grants, derect development projects, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadlines for quarterly apportionment).

In some of the Department's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Department. Once the initial decision is made, the Department has little discretion with respect to the subsequent decisions. The Department will attempt to inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Department's decision.

In most financial assistance programs, a state, local, or private agency applies to the Department for a grant or cooperative agreement or otherwise seeks Departmental approval for financial assistance to be provided. States should work directly with applicant organizations in order to receive timely notification of applications for financial assistance. If it becomes necessary, the Department may establish, by non-regulatory program specific announcements, requirements for applicants to submit copies of their applications to the state.

In order to ensure timely completion of Federal decisionmaking, the Department, by non-regulatory program specific announcements, may require states to complete their reviews of applications and proposed direct development and submit their comments to the Attorney General by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state.

Paragraph (d) makes an important point with respect to the way that communications between states and the Department would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Department and the official state process flow efficiently, the Department strongly encourages states to establish a "single point of contact" for state communications with the Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. The Department needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Department to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, the Department will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the Department. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the effficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, the Department is required to make a decision based on certain statutorily established factors. In other cases, the Department, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Department would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the Department's decisions, comments must be relevant to the factors on which the Department bases its decisions. For example, if the Department's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Departments could not accommodate a state comment addressing costs during the technical review.

Second, states can assist the Department's implementation of the Order by clearly specifying the magnitude of their concerns. Often, it may be difficult for the Department to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Department's position. For example, if a state wants the Department to recognize the state's

priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate state concerns. The Department's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Department may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. The Department recognizes that different state and local officials and agencies may not always agree among themselves concerning the course of action the Department should follow. Before transmitting the state comments, the single point of contact should reconcile conflicting views in order to avoid the Department's having to seek clarification concerning which set of views the state wants the Department to accommodate. The process will work much better if the Department receives a single set of comments.

Section 30.7 How does the Attorney General make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the Department under the Order, the Department has three choices. The Department can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the Department cannot accept the state's comments or reach a mutually agreeable solution, the Department is obligated to give the state a timely, simple explanation of the Department's reasons for not doing so. While the Department is not required to accept the state's comments or to begin discussions towards another solution, the Department does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Department's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. The Department has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Attorney General.

There is one exception to the Department's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Department's explanation will be in a letter.

Paragraph (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from the Department. The Department will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Department and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Department in cases of nonaccommodation before the Department has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Department has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten-day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Department to wait ten days before implementing its decision. In a situation where the Department cannot observe the waiting period, the Attorney General or a designee of the Attorney General at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Department implements the decision. The nonaccommodation explanation will include the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 30.8 What are the Attorney General's obligations in interstate situations?

In some cases, action taken by the Department in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, the Department has certain additional obligations. First, the Department must identify its direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the Department must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Department must provide the affected states an opportunity for comment or at least 45 days before the Department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Department.

The Department, obviously, cannot require states to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, the Department strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Department encourages states to reconcile differences where they exist, so that the states can present the Department with a unified position. If the affected states provide the Department with conflicting recommendations, the Department will, with respect to states that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 30.7.

Section 30.9 How may a state simplify, consolidate, or substitute Federally required state plans?

This section carries out section 2(d) of the Order, which directs Federal agencies to "allow" states to consolidate or simplify plans and to "encourage" states to substitute their own plans for Federally required state plans.

Paragraph (a) defines three terms used in this section. For a state to "simplify" a plan means that a state may develop its own format, choose its own submission date, and select the planning period covered by the plan. "Consolidate" means that the state may meet statutory and regulatory requirements by combining two or more plans into one document. The state may also select the format, submission date, and planning period for a consolidated plan. "Substitute" means that a state may use a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan mandated by the Department. State plans required by the Department that are eligible for modification (i.e., simplification, consolidation, or substitution) under the Order is listed in an OMB notice published in today's **Federal Register.**

For purposes of state plan modifications, it is necessary to draw a distinction between the state's decision concerning which plans it wants to try to modify and the Department's decision concerning whether to accept modified plans. Paragraph (b) deals with the first of these issues. A state may decide to try to simplify, consolidate or substitute state plans without prior approval by the Department. The state's discretion in this respect is complete, so long as the decision is not inconsistent with law.

Paragraph (c) points out that the Department will review the content of state proposals to simplify, consolidate, or substitute state plans to ensure that they meet all applicable Federal requirements. Under this provision, the Department could disapprove the content of a modified plan on the basis, for example, of legal insufficiency or the failure of the modified plan to meet Federally mandated substantive standards. If the Department disapproves a state plan, the state may have recourse to any existing appeal process of the Department applicable to the program in question. However, the Department does not propose any new special appeal process for situations in which the Department does not accept a modified plan.

This paragraph is not intended to give the Department any new authority it does not already have to review or disapprove state plans. For example, if a statute limits the grounds on which the Department may disapprove a state plan submission, this paragraph is not intended to expand those limits. The paragraph does emphasize, however, that these regulations do not impair the Department's existing authority to review and, if necessary, disapprove state plans. This section also does not affect any existing statutory or regulatory requirements concerning submission dates, planning periods, or formats or state plans. The Department will review and make appropriate modifications in regulatory requirements without a statutory basis to allow more state flexibility.

The Department's ability to review state plans is important not only for the Department's ability to administer its programs effectively but also to prevent states from inadvertently causing delays in Departmental funding decisions. In many financial assistance programs, required standards must be met through a state plan before Federal funds are awarded. The Department may not be in position to award funds to recipients if a plan does not meet legal requirements or substantive Federal program standards.

The Department encourages states which wish to simplify, consolidate or substitute state plans to inform the Department well in advance of the formal modification proposal. Early discussions between state officials and the Department regarding proposed modifications of plans will help to avoid later problems, including unexpected delays or disapprovals of modifications. The Department is very willing to work closely with state officials on plan modifications and, where feasible, will provide technical assistance or advice in plan modification efforts.

Section 30.10 May the Attorney General waive any provision of these regulations?

This section allows the Attorney General to waive any provision in these regulations in an emergency. The Department expects to use this provision sparingly, since the Department's policy is to carry out the Order as fully as it can.

List of Subjects in 28 CFR Part 30

Intergovernmental relations.

Dated: January 12, 1983.

William French Smith,

Attorney General.

Attachment A—List of Programs and Activities Subject to the Executive Order
Attachment B—List of Proposed Exclusions from Scope

For the reasons set out in the Preamble, the Department of Justice proposes to amend Title 28 of the Code of Federal Regulations by revising Part 30 to read as follows:

PART 30—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF JUSTICE PROGRAMS AND ACTIVITIES

Sec.

30.1 What is the purpose of these regulations?
30.2 What definitions apply to these regulations?
30.3 What programs and activities of the Department are subject to these regulations?
30.4 What are the Attorney General's general responsibilities under the Order?
30.5 What procedures apply to a state's choice of programs under the Order?
30.6 How does the Attorney General give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?
30.7 How does the Attorney General make efforts to accommodate state and local concerns?
30.8 What are the Attorney General's obligations in interstate situations?
30.9 How may a state simplify, consolidate, or substitute Federally required state plans?
30.10 May the Attorney General waive any provision of these regulations?

Authority: Executive Order 12371 (July 14, 1982; 47 FR 30959); section 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)).

§ 30.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) Executive Order 12372 and these regulations are intended only to improve the internal management of the Department. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Department or its officers.

§ 30.2 What definitions apply to these regulations?

"Department" means the U.S. Department of Justice.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Attorney General" means the Attorney General or an official or employee of the Department acting for the Attorney General under a delegation of authority.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 30.3 What programs and activities of the Department are subject to these regulations?

The Attorney General publishes in the Federal Register a list of the Department's programs and activities that are subject to the Order and these regulations.

§ 30.4 What are the Attorney General's general responsibilities under the Order?

(a) The Attorney General provides opportunities for consultation by elected officials of those state and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from, of direct Federal development by, the Department.

(b) If a state adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Attorney General, to the extent permitted by law:

(1) Uses the state process to determine official views of state and local elected officials;

(2) Communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate state and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the state process;

(4) Allows the states to simplify and consolidate existing Federally required state plan submissions;

(5) Where state planning and budgeting systems are sufficient and where permitted by law, encourages the substitution of State plans for Federally required state plans;

(6) Seeks the coordination of views of affected state and local elected officials in one state with those of another state when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports state and local government by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 30.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Attorney General of the Department's programs that the state chooses to cover under the Order.

(b) The Attorny General uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Attorney General of its program choices.

(c) States may change their program choices under the Order at any time. The Attorney General may establish deadlines by which states are required to inform the Attorney General of changes in their program choices.

§ 30.6 How does the Attorney General give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, corrdination and communication with the Department.

(b) Except in unusual circumstances, the Attorney General gives states at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 30.8 for comment periods pertaining to interstate situations).

(c) Subject to paragraph (b) of this section, the Attorney General may establish deadlines for:

(1) Applicants to submit copies of their applications to the states; and

(2) States to complete their review of applications under a financial assistance program or of proposed direct Federal development, and to submit their comments to the Department.

(d) The Attorney General responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 30.7 How does the Attorney General make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Department in accordance with § 30.6(d), the Attorney General:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3)(i) Provides the state with a timely explanation of the basis for the Department's decision.

(ii) If requested by the Governor, the Attorney General provides the explanation in writing.

(iii) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Attorney General provides any explanation under paragraph (a)(3) of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Attorney General informs the state that—

(1) The Department will not implement its decision for ten days after the state receives the explanation; or

(2) The Attorney General has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 30.8 What are the Attorney General's obligations in interstate situations?

The Attorney General is responsible for:

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

§ 30.9 How may a state simplify, consolidate, or substitute Federally required state plans?

(a) As used in this section:

(1) "Simplify" means that a state may develop its own format, choose its own submission date, and select the planning period for a state plan.

(2) "Consolidate" means that a state may meet statutory and regulatory requirements by combining two or more plans into one document and that the state can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a state may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a state may decide to try to simplify, consolidate, or substitute Federally required state plans without prior approval by the Attorney General.

(c) The Attorney General reviews each state plan that a state has

simplified, consolidated, or substituted and accepts the plan only if its contents meet Federal requirements.

§ 30.10 May the Attorney General waive any provision of these regulations?

In any emergency, the Attorney General may waive any provision of these regulations.

Note.—This Attachment A will not be published in Title 28 of the Code of Federal Regulations.

ATTACHMENT A—JUSTICE DEPARTMENT PROGRAMS AND ACTIVITIES COVERED BY EXECUTIVE ORDER 12372

Program/Activity (Parenthetical numbers are Catalog of Federal Domestic Assistance References)	Statutory or regulatory consultation provisions not affected by order or regulations
Bureau of Prisons—Construction projects such as correctional institutions and detention centers (no CFDA number)	None.
Immigration and Naturalization Service—Construction projects such as border patrol stations (no CFDA number)	None.
U.S. Marshals Service—Cooperative Agreement Program (no CFDA number)	None.
Office of Juvenile Justice and Delinquency Prevention—Formula Grant Program (16.540)	Sections 222, 223, 226 and 261(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601); and subparts B and D of 28 CFR Part 31.
Office of Juvenile Justice and Delinquency Prevention—Special Emphasis and Technical Assistance Grants, except grants to non-governmental entities (16.541).	Sections 225(b) and 226 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601).
Bureau of Justice Statistics—Criminal Justice Statistics Development Grants (16.550)	None.
Office of Justice Assistance, Research, and Statistics—Categorical Grants for Crime Prevention and Criminal Justice Improvement, except law enforcement accreditation grants (no CFDA number).	None.
National Institute of Corrections—Technical Assistance Grants, except contracts to individuals for specialized assistance (16.603).	None.

Note.—This Attachment B will not be published in Title 28 of the Code of Federal Regulations.

ATTACHMENT B—PROPOSED JUSTICE DEPARTMENT EXCLUSIONS FROM SCOPE OF EXECUTIVE ORDER 12372

Program/Activity (Parenthetical numbers are Catalog of Federal Domestic Assistance References)	Reason for exclusion
Drug Enforcement Administration—Narcotics and Dangerous Drugs Training (16.004)	Not financial assistance or development.
Federal Bureau of Investigation—Advanced Police Training (16.300)	Not financial assistance or development.
Federal Bureau of Investigation—Field Police Training (16.302)	Not financial assistance or development.
Office of Juvenile Justice and Delinquency Prevention—Research and Evaluation Programs of the National Institute of Juvenile Justice and Delinquency Prevention (16.542).	Research not directly affecting state or local governments.
Bureau of Justice Statistics—Statistics on Crime and Criminal Justice Program (16.551)	Research not directly affecting state or local governments.
Bureau of Justice Statistics—Federal Statistics and Information Policy Programs (16.553)	Research not directly affecting state or local governments.
National Institute of Justice—Research and Development Project Grants (16.560)	Research not directly affecting state or local governments.
National Institute of Justice—Visiting Fellows Program (16.561)	Research not directly affecting state or local governments.
National Institute of Justice—Criminal Justice Graduate Research Fellowships (16.562)	Research not directly affecting state or local governments.
Office of Justice Assistance, Research and Statistics—Public Safety Officers' Benefits Program (16.571)	Direct payments to individuals not directly affecting state or local governments.
National Institute of Corrections—Training and Staff Development (16.601)	Not financial assistance or development.
National Institute of Corrections—Research and Policy Formulation (16.602)	Research not directly affecting state or local governments.
Office of Legal Policy—Federal Justice Research Program (no CFDA number)	Research not directly affecting state or local governments.
Task forces with state and local governments established through U.S. Attorney offices or by the Drug Enforcement Administration (no CFDA number).	Not financial assistance or development.
Law Enforcement Coordinating Committees of federal, state, and loca law enforcement personnel, established by each U.S. Attorney (no CFDA number).	Not financial assistance or development.

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Part XII

Department of Labor

Office of the Secretary

Intergovernmental Review of Department of Labor Programs and Activities

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 17

30 CFR Part 46

Intergovernmental Review of Department of Labor Programs and Activities

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Department of Labor. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, state and local elected officials, not the Federal government, will determine what covered Federal programs and activities to review and the internal procedures by which the required review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Seth D. Zinman, Associate Solicitor for Legislation and Legal Counsel, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW., Room N2428, Washington, D.C. 20210. Commenters wishing to have their submissions acknowledged should include a stamped self-addressed postcard with their comments. The Docket Clerk will time and date stamp the postcard and return it to the commenter. Comments will be available for inspection at the above address from 9 a.m. to 4:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Annabelle Lockhart, tel. no. (202) 523–8176.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of state and area clearing houses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for states to reduce administrative burdens in Federal programs requiring state plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of *elected* State and local officials.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB wrote on or before today to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to the Department and other Federal agencies and to which the Department directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the Department. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

This Department and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies

must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Department's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in December 23, 1982, 47 FR 57369. Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Department proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing the Department's obligations. For example, when the proposed regulation says that the Secretary "provides the State with a timely explanation," the regulation requires the Secretary to do so.

Removal of Regulations Implementing OMB Circular A-95

In connection with this proposed rulemaking, the Department is proposing to remove its existing regulations implementing former OMB Circular A-95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. In order to carry out this directive, the Department is listing in this notice those regulatory provisions implementing Circular A-95 that it proposes to remove. Final rules carrying out the removal will be published on or about April 30, 1983, in conjunction with the Department's final rule implementing Executive Order 12372. The Department also proposes to remove the other intergovernmental consultation regulations listed at the end of this NPRM, and seeks comment on the proposed removals.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Department has determined that this is not a major rule under Executive Order 12291. The proposed rules would simplify consultation with the Department and allow State and local governments to establish cost-effective consultation procedures. For this reason, the Department believes that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently, the Department certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-By-Section Analysis

Section 17.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with state and local governments. Neither the Order nor these regulations is intended to create any right of judicial review of the Department's action. For example, it is not intended that a state or local government or any person would have the right to sue the Department because the Department failed to explain a nonaccommodation of a state recommendation.

Section 17.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Department" means the Department of Labor. "Order" means Executive Order 12372. "Secretary" means the Secretary of Labor or an official or employee of the Department acting under a delegation of authority from the Secretary. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. For example, any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states.

In addition to these definitions, three other terms—simplify, consolidate, and substitute—are defined in § 17.9, State Plans. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 17.7).

Section 17.3 What programs and activities of the Department are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. Paragraph (a) provides that the Department will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let states know which of the Department's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those programs and activities which come within the scope of the Order and another list which contains those provisions that the Department proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. The Department seeks comments on the proposed exclusions. After promulgation of the final rules, if the Department wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

Activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Department) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget

formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

Section 17.4 What are the Secretary's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into the Department's regulation, emphasizing the Department's obligations under the Order. The mechanisms by which the Department will carry out many of these general obligations are developed further in other sections of the rule. For example, paragraph (b)(4) of this section is further elaborated in § 17.9, concerning state plans.

Paragraph (b)(2) means the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the states in sufficient time to be able to exert meaningful influence on the Department's course of action. For example, the Department would make sure that the state learned of draft assistance announcements including decision criteria, proposed Federal development project decisions, and so forth, in time to make a meaningful response.

Section 17.5 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with the Department under the Order concerning any of the Department's programs and activities that the Department's **Federal Register** notice on or about April 30, 1983 and subsequently lists as subject to the Order. However, these regulations do not require states to consult with the Department concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave states no discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's **Federal Register** notice is entirely up to each state. While the Department will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Department will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Secretary of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the Department. This information will enable the Department's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to the Department, the Department will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Department will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Department may not be able to do so for a time. The Department will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the Department may establish deadlines by which states must inform the Department of changes in their program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Department may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Department may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Department of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 17.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pusuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which program and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officals in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the

local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to the Department. For example, efforts by the Department to reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to the Department. Rather, the official would send the comment to the Department through the state single point of contact. The Department would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Department would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Department to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the Department informing the Department that the comment was an official comment of the state.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Department's widely varied programs and activities. However, paragraph (b) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before the Department commits itself to a given course of action. The Department, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Department, the Department may need to establish deadlines or time frames in nonregulatory program specific announcements for comment on particular actions or types of actions. Consequently, as provided in paragraph (c), the Department may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multi-year grants, direct development projects, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadline for quarterly apportionment).

In some of the Department's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Department. Once the initial decision is made, the Department has little discretion with respect to the subsequent decisions. The Department could inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Department's decision.

In most financial assistance programs, a state, local, or private agency applies to the Department for a grant or cooperative agreement or otherwise seeks Departmental approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from the Department, the state should work with applicant organizations to ensure that applications are provided to the state in a timely manner. If it becomes necessary, the Department may establish requirements in non-regulatory program specific announcements for applicants to submit copies of their application to the state.

In order to ensure timely completion of Federal decisionmaking, the Department may require states to complete their reviews of applications and to submit their comments to the Secretary by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state. A similar provision, in paragraph (d)(3), permits the Secretary to establish deadlines in non-regulatory program specific announcements for state review of the Department's direct development activities.

Paragraph (d) makes an important point with respect to the way that communications between states and the Department would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Department and the official state process flow efficiently, the Department strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. The Department needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Department to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, the Department will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the Department. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, the Department is required to make a decision based on certain statutorily established factors. In other cases, the Department, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Department would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the Department's decisions, comments must be relevant to the factors on which the Department bases its decisions. For example, if a Department's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Department could not accommodate a state comment addressing costs during the technical review.

Second, states can assist the Department's implementation of the

Order by clearly specifying the magnitude of the state's concerns. Often, it may be diffcult for the Department to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Department's position. For example, if a state wants the Department to recognize the state's priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate state concerns. The Department's ability to do so succesfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Department may not be in a good position to accommodate state and local concerns unless the states speaks with one voice in its comments. The Department recognizes that different state and local officials and agencies may not always agree among themselves concerning the course of action the Department should follow. The single point of contact should reconcile conflicting views before transmission to avoid the Department's having to seek clarification concerning which set of views the state wants the Department to accommodate. The process will work much better if the Department receives a single set of comments.

Section 17.7 How does the Secretary make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the Department under the Order, the Department has three choices. The Department can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the Department cannot accept the state's comments or reach a mutually agreeable solution, the Department is obligated to give the state a timely, simple explanation of the Department's reasons for not doing so. While the Department is not required to accept the state's comments or to begin discussions towards another solution, the Department does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Department's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. The Department has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Secretary.

There is one exception to the Department's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Department's explanation will be in a letter.

Paragraph (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from the Department. The Department will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Department and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Department in cases of nonaccommodation before the Department has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Department has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Department to wait ten days before implementing its decision.

In a situation where the Department cannot observe the waiting period, the Secretary or a designee of the Secretary at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Department implements the decision. The nonaccommodation explanation will include the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 17.8 What are the Secretary's obligations in interstate situations?

In some cases, action taken by the Department in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, the Department has certain additional obligations. First, the Department must identify its direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the Department must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Department must provide the affected states an opportunity for comment of at least 45 days before the Department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing news to the Department.

The Department, obviously, cannot require states to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, the Department strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Department encourages states to reconcile differences where they exist, so that the states can present the Department with a unified position. If the affected states provide the Department with conflicting recommendations, the Department will, with respect to states that have established a process under the Order, accommodate recommendations to the

extent possible and explain its nonaccommodations of other points of view as provided in § 17.7.

Section 17.9 How may a state simplify, consolidate, or substitute Federally required state plans?

This section carries out section 2(d) of the Order, which directs Federal agencies to "allow" states to consolidate or simplify plans and to "encourage" states to substitute their own plans for Federally required state plans.

Paragraph (a) defines three terms used in this section. For a state to "simplify" a plan means that a state may develop its own format, choose its own submission date, and select the planning period covered by the plan. "Consolidate" means that the state may meet satutory and regulatory requirements by combining two or more plans into one document. The state may also select the format, submission date, and planning period for a consolidated plan. "Substitute" means that a state may use a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan mandated by the Department. State plans required by the Department that are eligible for modification (i.e., simplification, consolidation, or substitution) under the Order will be listed by the Department in an OMB notice, published in today's **Federal Register**. The Department is willing to consider other state plans for eligibility for modification under this section.

For purposes of state plan modifications, it is necessary to draw a distinction between the state's decision concerning which plans it wants to try to modify and the Department's decision concerning whether to accept modified plans. Paragraph (b) deals with the first of these issues. A state may decide to try to simplify, consolidate or substitute state plans without prior approval by the Department. The state's discretion in this respect is complete.

Paragraph (c) points out that the Department will review the content of state proposals to simplify, consolidate, or substitute state plans to ensure that they meet all applicable Federal requirements. Under this provision, the Department could disaprove the content of a modified plan on the basis, for example, of legal insufficiency or the failure of the modified plan to meet Federally mandated substantive standards. If the Department disapproves a state plan, the state may have recourse to any existing appeal process of the Department applicable to the program in question. However, the Department does not propose any new special appeal process for situations in which the Department does not accept a modified plan.

This paragraph is not intended to give the Department any new authority it does not already have to review or disapprove state plans. For example, if a statute limits the grounds on which the Department may disapprove a state plan submission, this paragraph is not intended to expand those limits. The paragraph does emphasize, however, that these regulations do not impair the Department's existing authority to review and, if necessary, disapprove state plans. This section also does not affect any statutory or regulatory requirements concerning submission dates, planning periods, or formats of state plans. The Department will review and make appropriate modifications in regulatory requirements without a statutory basis to allow more state flexibility.

The Department's ability to review state plans is important not only for the Department's ability to administer its programs effectively but also to prevent states from inadvertently causing delays in Departmental funding decisions. In many financial assistance programs, required program standards must be met through a state plan before Federal funds are awarded. The Department may not be in a position to award funds to recipients if a plan does not meet legal requirements or substantive Federal program standards.

The Department encourages states which wish to simplify, consolidate or substitute state plans to inform the Department well in advance of their intentions. Early discussions between state officials and the Department regarding proposed modifications of plans will help to avoid later problems, including unexpected delays or disapprovals of modifications. The Department is very willing to work closely with state officials on plan modifications and, where feasible, will provide technical assistance or advice in plan modification efforts.

Section 17.10 May the Secretary waive any provision of these regulations?

This section allows the Secretary to waive any provision in these regulations in an emergency. The Department expects to use this provision sparingly, since the Department's policy is to carry out the Order as fully as it can.

List of Subjects in 29 CFR Part 17

Intergovernmental relations.

Issued at Washington D.C. January 17, 1983.

Raymond J. Donovan,

Secretary of Labor.

TITLE 29—[AMENDED]

1. For the reasons set out in the Preamble, the Department of Labor proposes to amend Title 29, Code of Federal Regulations, by adding a new Part 17, to read as follows:

PART 17—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF LABOR PROGRAMS AND ACTIVITIES

Sec.

17.1 What is the purpose of these regulations?
17.2 What definitions apply to these regulations?
17.3 What programs and activities of the Department are subject to these regulations?
17.4 What are the Secretary's general responsibilities under the Order?
17.5 What procedures apply to a state's choice of programs under the Order?
17.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?
17.7 How does the Secretary make efforts to accommodate state and local concerns?
17.8 What are the Secretary's obligations in interstate situations?
17.9 How may a state simplify, consolidate, or substitute Federally required state plans?
17.10 May the Secretary waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982; 47 FR 30959); section 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231 (b)).

§ 17.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Department. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Department or its officers. Nor is it intended that compliance will be the subject of judicial review.

§ 17.2 What definitions apply to these regulations?

"Department" means the U.S. Department of Labor.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Secretary" means the Secretary of the U.S. Department of Labor or an official or employee of the Department acting for the Secretary under a delegation of authority.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 17.3 What programs and activities of the Department are subject to these regulations?

The Secretary publishes in the Federal Register a list of the Department's programs and activities that are subject to the Order and these regulations.

§ 17.4 What are the Secretary's general responsibilities under the Order?

(a) The Secretary provides opportunities for consultation by elected officials of those state and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from, or direct Federal development by, the Department.

(b) if a State adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Secretary, to the extent permitted by law:

(1) Uses the State process to determine official views of state and local elected officials;

(2) Communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Markes efforts to accommodate state and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the state process;

(4) Allows the states to simplify and consolidate existing Federally required state plan submissions;

(5) Where state planning and budgeting systems are sufficient and where permitted by law, encourages the substitution of State plans for Federally required state plans;

(6) Seeks the coordination of views of affected state and local elected officials in one state with those of another state when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports state and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 17.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Secretary of the Department's programs that the state chooses to cover under the Order.

(b) The Secretary uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Secretary of its program choices.

(c) States may change their program choices under the Order at any time. The Secretary may establish deadlines by which states are required to inform the Secretary of changes in their program choices.

§ 17.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, coordination and communication with the Department.

(b) Except in unusual circumstances, the Secretary gives states at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 17.8 for comment periods pertaining to interstate situations).

(c) Subject to paragraph (b) of this section, the Secretary may establish deadlines for:

(1) Applicants to submit copies of their applications to the states; and

(2) States to complete their review of applications under a financial assistance program and to submit their comments to the Department.

(3) States to complete their review of proposed direct Federal development and to submit their comments to the Department.

(d) The Secretary responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 17.7 How does the Secretary make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Department in accordance with § 17.6(e), the Secretary:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3)(i) Provides the state with a timely explanation of the basis for the Department's decision.

(ii) If requested by the Governor, the Secretary provides the explanation in writing.

(iii) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Secretary provides any explanation under paragraph (a)(3) of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the state that—

(1) The Department will not implement its decision for ten days after the state receives the explanation; or

(2) The Secretary have reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 17.8 What are the Secretary's obligations in interstate situations?

The Secretary is responsible for—

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

§ 17.9 How may a state simplify, consolidate, or substitute Federally required state plans?

(a) As used in this section:

(1) "Simplify" means that a state may develop its own format, choose its own submission date, and select the planning period for a state plan.

(2) "Consolidate" means that a state may meet statutory and regulatory requirements by combining two or more plans into one document and that the state can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a state may use a plan or other document that it

has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a state may decide to try to simplify, consolidate, or substitute Federally required state plans without prior approval by the Secretary.

(c) The Secretary reviews each state plan that a state has simplified, consolidated, or substituted and accepts the plan only if its contents meet Federal requirements.

§ 17.10 May the Secretary waive any provision of these regulations?

In an emergency, the Secretary may waive any provision of these regulations.

TITLE 30—[AMENDED]

PART 46—[REMOVED]

2. The Secretary also proposes to remove the following regulations:

1. Mine Safety and Health Administration—MSHA Provisions implementing Circular A–95 in 30 CFR Part 46.

Programs Covered by E.O. 12372

(1) Federal Mine Safety and Health Assistance to States Progam
Stat: Section 503 Pub. L. 91–173 as amended
(2) Work Incentive Program
Stat: Sections 432 (d), (e) and (f) of Pub. L. 92–223
(3) Senior Community Service Employment Program
Stat: Pub. L. 95–478
(4) Job Corps
Stat: Section 435 of Pub. L. 97–300
(5) Migrant and Seasonal Farmworkers Program
Stat: Section 402(d) of Pub. L. 97–300
(6) Job Training Partnership Act
Stat: Pub. L. 97–300
(7) Employment Service
Stat: Section 501 of Pub. L. 97–300
(8) Disabled Veteran's Outreach Program
Stat: 38 U.S.C. 2003A

Proposed Exclusions from Coverage Under E.O. 12372

(1) Unemployment Insurance Program—Under this program, there are already extensive requirements covered by law governing the relationship between states and the Department of Labor.

(2) Labor Force Statistics Program—Class Exclusion: Funding under Section 501, Pub. L. 97–300 for state agency participation in these programs will be on a contractual basis.

[FR Doc. 83–1709 Filed 1–21–83; 8:45 am]
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January 24, 1983

Part XIII

Department of State

Intergovernmental Review of Department of State Programs and Activities

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DEPARTMENT OF STATE

[Public Notice 845]

Intergovernmental Review of Department of State Programs and Activities

AGENCY: Office of the Legal Adviser, State.

ACTION: Notice.

SUMMARY: This Notice sets forth the Department's intention not to publish a proposed rule to implement Executive Order 12372, "Intergovernmental Review of Federal Programs," which replaced the intergovernmental consultation system developed under the Office of Management and Budget (OMB) Circular A–95.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Ely Maurer, Assistant Legal Adviser for Educational, Cultural and Public Affairs, Department of State, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Ely Maurer, Assistant Legal Adviser for Educational, Cultural and Public Affairs, Department of State, Washington, D.C. 20520, (202) 632–2682.

SUPPLEMENTARY INFORMATION: On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Most Federal agencies are publishing in today's **Federal Register** a Notice of Proposed Rulemaking to implement Executive Order 12372. However, the Department of State has concluded that it has no Federal financial assistance or direct Federal development programs or activities to which the Order should apply. Consequently, the Department is not publishing a proposed rule.

This Notice lists those programs and activities that the Department proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. The Department seeks comments on the proposed exclusions. If the Department wants to exclude new or additional programs or activities from coverage under the Order in the future, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind.

Program	Reason
1. Initial Refugee Resettlement and Relocation Program, 8 U.S.C. 1522.	Excluded for reasons of incompatibility with foreign relations requirements.
2. Cross-Border Permit Programs, 33 U.S.C. 535-535i; Executive Order 11423.	Excluded for reasons of incompatibility with foreign relations requirements.

Issued at Washington, D.C. January 17, 1983.

Davis R. Robinson,

Legal Adviser.

[FR Doc. 83–1753 Filed 1–21–83; 8:45 am]

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Part XIV

Department of Transportation

Office of the Secretary

Intergovernmental Review of Department of Transportation Programs and Activities

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 152

23 CFR Parts 420, 650, and 740

49 CFR Parts 17, 25, 266, and 450

[OST Docket No. 77; Notice No. 83-1]

Intergovernmental Review of Department of Transportation Programs and Activities

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Department of Transportation. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A-95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, state and local elected officials, not the Federal government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Docket Clerk, OST Docket No. 77, Department of Transportation, 400 7th Street, S.W., Room 10421, Washington, D.C., 20590. Commenters wishing to have their submissions acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will time and date stamp the postcard and return it to the commenter. Comments will be available for inspection at the above address from 9:00 a.m. to 5:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of the Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Room 10421, Washington, D.C., 20590. (202) 426-4723.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A-95. The A-95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A-95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result the impact of substantive comments was sometimes lost. A network of state an area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A-95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A-95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A-95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for states to reduce administrative burdens in Federal programs requiring state plans. In contrast to the A-95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected State and local officials.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB wrote on or before today to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to the Department and other Federal agencies and to which the Department directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the Department. However, there should be only one point of contact to officially transmit recommendations for change to communicate with all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A-95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

This Department and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Department's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in December (47 FR 57369, December 23, 1982). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Department proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing the Department's obligations. For example, when the proposed regulation says that the Secretary "provides the State with a timely explanation," the regulation requires the Secretary to do so.

Removal of Regulations Implementing OMB Circular A-95

In connection with this proposed rulemaking, the Department is proposing to remove its existing regulations implementing former OMB Circular A-95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. In order to carry out this directive, the Department is listing in this notice those regulatory provisions implementing Circular A-95 that it proposes to remove. Final rules carrying out the removal will be published on or about April 30, 1983, in conjunction with the Department's final rule implementing Executive Order 12372.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Department has determined that this is not a major rule under Executive Order 12291. The Department also has determined that the expected economic impact is so minimal that the proposal does not warrant a full evaluation. The proposed rule would simplify consultation with the Department and allow state and local governments to establish cost-effective consultation procedures. For this reason, the Department believes that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently, the Department certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 17.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Department's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Department's action. For example, it is not intended that a state or local government would have the right to sue the Department because the Department failed to explain a nonaccommodation of a state recommendation.

Section 17.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Department" means the Department of Transportation. "Order" means Executive Order 12372. "Secretary" means the Secretary of Transportation or an official or employee to the Department acting under a delegation of authority from the Secretary. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states.

In addition to these definitions, three other terms—simplify, consolidate, and substitute—are defined in § 17.9, State Plans. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 1707).

Section 17.3 What programs and activities of the Department are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. Paragraph (a) provides that the Department will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372, rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let states know which of the Department's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those programs and activities that the Department proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. The Department seeks comments on the proposed exclusions. After promulgation of the final rules, if the Department wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, states should assume that all the Department's other Federal financial assistance and direct Federal development programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement

by the Department) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Department. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. Many of the Department's program statutes have their own consultation requirements, and the Department will, of course, comply with all existing or future statutory requirements of this kind. However, the Department is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

Paragraph (b) simply states the Secretary's obligation, to the extent permitted by law, to use a state's official process to determine official views of state and local officials. This obligation, which derives directly from the Order, extends only to programs and activities subject to the Order which a state has selected for coverage under § 17.5 of these regulations. If at any time a state believes that any official of the Department has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Secretary.

Section 17.4 [Reserved]

Section 17.5 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with the Department under the Order concerning any of the Department's programs and activities that the Department's **Federal Register** notice on or about April 30, 1983 and subsequently lists as subject to the Order. However, these regulations do not require states to consult with the Department concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A-95, which gave states no discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

The Department emphasizes that the choice of whether to cover a particular program or activity listed in the Department's **Federal Register** notice is entirely up to each state. While the Department will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Department will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Secretary of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the Department. This information will enable the Department's personnel who work on a particular program or activity to know which states they must counsult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to the Department, the Department will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Department will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Department may not be able to do so for a time. The Department will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the Department may establish deadlines by which states must inform the Department of changes in their program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Department may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Department may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Department of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 17.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to the Department. For example, efforts by the Department to reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to the Department. Rather, the official would sent the comment to the Department through the state single point of contact. The Department would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Department would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Department to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the Department informing the Department that the comment was an official comment of the state.

Section 2(b) of the Order requires Federal agencies to communicate with state and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Paragraph (b) incorporates this provision of the Order into these regulations. What the requirement means is the Department is obligated to make efforts to ensure that information on proposed actions or decisions of the Department is available to the states in sufficient time to be able to exert meaningful influence on the Department's course of action. For example, the Department would make sure that the state learned of assistance announcements including decision criteria, proposed Federal development project decisions, and so forth, in time to make a meaningful response.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Department's widely varied programs and activities. However, paragraph (c) states that, as a general rule, states choosing to cover a particular program or activity wil have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before the Department commits itself to a given course of action. The Department, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Department, the Department may need to establish deadlines or time frames in nonregulatory program specific announcements for comment on particular actions or types of actions. Consequently, as provided in paragraph (d), the Department may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multi-year grants, direct development projects, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadline for quarterly apportionment).

In some of the Department's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Department. Once the initial decision is made, the Department has little discretion with respect to the subsequent decisions. The Department could inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Department's decision.

In most financial assistance programs, a state, local, or private agency applies to the Department for a grant or cooperative agreement or otherwise seeks Departmental approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from the Department, the state should work with applicant organizations to ensure that applications are provided to the state in a timely manner. If it becomes necessary, the Department may establish requirements in nonregulatory program specific announcements for applicants to submit copies of their application to the state.

In order to ensure timely completion of Federal decisionmaking, the Department may require states to complete their reviews of applications and to submit their comments to the Secretary by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state. A similar provision, in praragraph (d)(3), permits the Secretary to establish deadlines in nonregulatory program specific announcements for state review of the Department's direct development activities.

Paragraph (e) makes an important point with respect to the way that communications between states and the Department would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Department and the official state process flow efficiently, the Department strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Department to know which communications to treat as official under the provisions of the Order. The Department needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Department to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, the Department will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the Department. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, the Department is required to make a decision based on certain statutorily established factors. In other cases, the Department, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Department would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the

Department's decisions, comments must be relevant to the factors on which the Department bases its decisions. For example, if a Department's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Department could not accommodate a state comment addressing costs during the technical review.

Second, states can assist the Department's implementation of the Order by clearly specifying the magnitude of the state's concerns. Often, it may be difficult for the Department to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Department's position. For example, if a state wants the Department to recognize the state's priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate state concerns. The Department's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Department may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. The Department recognizes that different state and local officials and agencies may not always agree among themselves concerning the course of action the Department should follow. The single point of contact should reconcile conflicting views before transmission, to avoid the Department's having to seek clarification concerning which set of views the state wants the Department to accommodate. The process will work much better if the Department receives a single set of comments.

Section 17.7 How does the Secretary make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the Department under the Order, the Department has three choices. The Department can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the Department cannot accept the state's comments or reach a mutually agreeable solution, the Department is obligated to give the state a timely, simple explanation of the Department's reasons for not doing so. While the Department is not required to accept the state's comments or to begin discussions towards another solution, the Department does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Department's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. The Department has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Secretary.

There is one exception to the Department's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Department's explanation will be in a letter.

Paragraph (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from the Department. The Department will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Department and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that the Department will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Department in cases of nonaccommodation before the Department has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Department has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Department cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Department to wait ten days before implementing its decision. In a situation where the Department cannot observe the waiting period, the Secretary or a designee of the Secretary at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Department implements the decision. The nonaccommodation explanation will inclued the Department's reasons for determining that the ten-day waiting period is not feasible.

Section 17.8 What are the Secretary's obligations in interstate situations?

In some cases, action taken by the Department in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, the Department has certain additional obligations. First, the Department must identify its direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the Department must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Department must provide the affected states an opportunity for comment of at least 45 days before the Department commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Department.

The Department, obviously, cannot require states to coordinatae with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, the Department strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Department encourages states to reconcile differences where they exist,

so that the states can present the Department with a unified position. If the affected states provide the Department with conflicting recommendations, the Department will, with respect to states that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 17.11.

Section 17.9 How May a State Simplify, Consolidate, or Substitute Federally Required State Plans?

This section carries out section 2(d) of the Order, which directs Federal agencies to "allow" states to consolidate or simplify plans and to "encourage" states to substitute their own plans for Federally required state plans.

Paragraph (a) defines three terms used in this section. For a state to "simplify" a plan means that a state may develop its own format, choose its own submission date, and select the planning period covered by the plan. "Consolidate" means that the state may meet statutory and regulatory requirements by combining two or more plans into one document. The state may also select the format, submission date, and planning period for a consolidated plan. "Substitute" means that a state may use a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan mandated by the Department. State plans required by the Department that are eligible for modification (i.e., simplification, consolidation, or substitution) under the Order will be listed by the Department in an OMB notice published in today's **Federal Register.**

For purposes of state plan modifications, it is necessary to draw a distinction between the state's decision concerning which plans it wants to try to modify and the Department's decision concerning whether to accept modified plans. Paragraph (b) deals with the first of these issues. A state may decide to try to simplify, consolidate or substitute state plans without prior approval by the Department. The state's discretion in this respect is complete.

Paragraph (c) points out that the Department will review the content of state proposals to simplify, consolidate, or substitute state plans to ensure that they meet all applicable Federal requirements. Under this provision, the Department could disapprove the content of a modified plan on the basis, for example, of legal insufficiency, the failure of the modified plan to meet Federally mandated substantive standards, or insufficiency of state planning or budgeting systems. If the Department disapproves a state plan, the state may have recourse to any existing appeal process of the Department applicable to the program in question. However, the Department does not propose any new special appeal process for situations in which the Department does not accept a modified plan.

This paragraph is not intended to give the Department any new authority it does not already have to review or disapprove state plans. For example, if a statute limits the grounds on which the Department may disapprove a state plan submission, this paragraph is not intended to expand those limits. The paragraph does emphasize, however, that these regulations do not impair the Department's existing authority to review and, if necessary, disapprove state plans. This section also does not affect any existing statutory or regulatory requirements concerning submission dates, planning periods, or formats of state plans. The Department will review and make appropriate modifications in regulatory requirements without a statutory basis to allow more state flexibility.

The Department's ability to review state plans is important not only for the Department's ability to administer its programs effectively but also to prevent states from inadvertently causing delays in Departmental funding decisions. In many financial assistance programs, required program standards must be met through a state plan before Federal funds are awarded. The Department may not be in a position to award funds to recipients if a plan does not meet legal requirements or substantive Federal program standards.

The Department encourages states which wish to simplify, consolidate or substitute state plans to inform the Department well in advance of their intentions. Early discussions between state officials and the Department regarding proposed modifications of plans will help to avoid later problems, including unexpected delays or disapprovals of modifications. The Department is very willing to work closely with state officials on plan modifications and, where feasible, will provide technical assistance or advice in plan modification efforts.

Section 17.10 May the Secretary Waive Any Provision of These Regulations?

This section allows the Secretary to waive any provision in these regulations in an emergency. The Department expects to use this provision sparingly, since the Department's policy is to carry out the Order as fully as it can.

List of Subjects in 49 CFR Part 17

Intergovernmental relations.

Issued at Washington, D.C., January 14, 1983.

Andrew L. Lewis,

Secretary of Transportation.

Attachment—List of Proposed Exclusions From Scope

The Department proposes to exclude the following financial assistance programs from the scope of Executive Order 12372 and these regulations:

1. *National Highway Traffic Safety Administration/Federal Highway Administration*—Highway Safety Research and Development Program (23 U.S.C. 403). Section 403 grants can be made to state or local agencies, institutions, and individuals for research into highway safety issues. The program and grants under it do not have any specific geographic focus, and affect states and localities in which research takes place only slightly and incidentally. As a general matter, research programs of this type are not appropriate for coverage under the Order.

2. *Maritime Administration*—Grants to Students at State Maritime Academies. The Maritime Administration provides financial aid to students at state-operated maritime academies. These grants are direct payments to individuals, and consequently are not appropriate for coverage under the Order.

3. *Federal Aviation Administration*—Aircraft Guarantee Loan Program. The Aircraft Loan Guarantee Program is a financial assistance program aimed exclusively at non-governmental entities. Loan guarantees are given to partnerships or corporations rather than political subdivisions. Inclusion under the Order would require publication of confidential financial and operational data of applicants for loan guarantees. The interstate nature of most applicants' operations precludes identification of an appropriate state or local government for coordination purposes. Accordingly, this program is not appropriate for coverage under the Order.

4. *Federal Aviation Administration*—Minor Items of Acquisition or Construction Under the Airport Aid Program. Under the authority of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701 *et seq.*; "AADA") and the Airport and Airway Improvement Act of 1982 (Pub. L. 97–248; "AAIA"), the FAA has provided, and will continue to provide, grants for

airport development. This program will be covered by the Executive Order. However, the FAA proposes not to cover certain minor items of acquisition or construction that involve only routine or minor changes to an airport or do not change the use, scale, or intensity of use of an airport. These minor items of acquisition and construction, which are unlikely to have significant effects on state or local governments, were, with OMB approval, excepted from A–95 notification and review procedures. These exceptions to A–95 procedures have been published in Appendix E to 14 CFR Part 152, which this notice proposes to delete. The effect of this proposed exclusion is to continue the exception of these items from formal intergovernmental consultation procedures.

5. *Federal Aviation Administration*—The National Airport System Plan (NASP) and the National Plan of Integrated Airport Systems. The NASP identifies airports that are important elements in the national transportation system and describes the development that will be warranted over the ensuing ten years. The NASP is an unconstrained report of needs, and it contains considerably more development than could be financed with Federal aid. Development must be included in the NASP to be eligible for an airport aid grant, but inclusion does not represent Federal approval or commit Federal funds. One of the basic purposes of the NASP is to inform Congress and the public about the state of the airport system, viewed from a Federal perspective.

The NASP is prepared from the "bottom up." Local governments prepare master plans for specific airports, state governments and regional planning agencies incorporate these into system plans, and the FAA identifies the airports that have national significance. The FAA relies heavily on state and local plans, and makes Federal aid available to help fund these plans.

The National Plan of Integrated Airport Systems, which will replace the NASP in accordance with Pub. L. 97–248, will be a similar document and essentially the same procedures will be followed in preparing it.

Since coordinated planning is already an integral part of the preparation of these plans, it would not be appropriate to apply the procedures contemplated by the Order to the completed plan.

6. *Federal Aviation Administration*—Lease or Purchase of Land or Space for FAA Air Navigation or Air Traffic Control Facilities. As a general matter, FAA leases or purchases of land or space for air navigation or air traffic control facilities will be covered by the Order. However, there are some minor lease or purchase actions which are so minor as to have a minimal impact on the local community or state or local governments. In these cases, compliance with the Order would have no significant benefit and could impose disproportionate administrative burdens.

The types of actions which fall into this category, and which FAA proposes to exclude from coverage under the Order, include (1) lease of space in existing buildings; (2) lease of space for a firm term of one year or less; (3) lease of land for a firm term of one year or less; (4) purchase of land or easements for existing operational facilities; (5) purchase of 3 acres or less of land and associated easements and rights-of-way for new facilities.

The Department proposes to bring all its other financial assistance and direct development programs and activities under the coverage of the Order. Programs and activities of the Department which are neither direct development nor financial assistance (e.g., FAA air traffic control, Coast Guard search and rescue) are, of course, not covered under the Order.

The Department seeks comment on whether to exclude the programs mentioned above and on whether any other DOT financial assistance or direct development programs or activities should be excluded from the scope of the Order.

1. For the reasons set out in the Preamble, the Department of Transportation proposes to amend Title 49 Code of Federal Regulations, by adding a new Part 17, to read as follows:

Title 49—[Amended]

PART 17—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF TRANSPORTATION PROGRAMS AND ACTIVITIES

Sec.

17.1 What is the purpose of these regulations?
17.2 What definitions apply to these regulations?
17.3 What programs and activities of the Department are subject to these regulations?
17.4 Reserved
17.5 What procedures apply to a state's choice of programs under the Order?
17.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?
17.7 How does the Secretary make efforts to accommodate state and local concerns?
17.8 What are the Secretary's obligations in interstate situations?
17.9 How may a state simplify, consolidate, or substitute Federally required state plans?
17.10 May the Secretary waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982; 47 FR 30959); Sec. 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)).

§ 17.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Department. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Department or its officers.

§ 17.2 What definitions apply to these regulations?

"Department" means the U.S. Department of Transportation.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Secretary" means the Secretary of the U.S. Department of Transportation or an official or employee of the Department acting for the Secretary under a delegation of authority.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 17.3 What programs and activities of the Department are subject to these regulations?

(a) The Secretary publishes in the **Federal Register** a list of the Department's programs and activities that are subject to the Order and these regulations.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 17.5, the Secretary, to the extent permitted by law, uses the official state process to

determine official views of state and local elected officials.

§ 17.4 [Reserved]

§ 17.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Secretary of the Department's programs that the state chooses to cover under the Order.

(b) The Secretary uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Secretary of its program choices.

(c) States may change their program choices under the Order at any time. The Secretary may establish deadlines by which states are required to inform the Secretary of changes in their program choices.

§ 17.6 How does the Secretary give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, coordination and communication with the Department.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 17.7, the Secretary, to the extent permitted by law, communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Except in unusual circumstances, the Secretary gives states at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 17.8 for comment periods pertaining to interstate situations).

(d) Subject to paragraph (c) of this section, the Secretary may establish deadlines for:

(1) Applicants to submit copies of their applications to the states; and

(2) States to complete their review of applications under a financial assistance program and to submit their comments to the Department.

(3) States to complete their review of proposed direct Federal development and to submit their comments to the Department.

(e) The Secretary responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 17.7 How does the Secretary make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Department in accordance with § 17.6(e), the Secretary:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3)(i) Provides the state with a timely explanation of the basis for the Department's decision.

(ii) If requested by the Governor, the Secretary provides the explanation in writing.

(iii) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Secretary provides any explanation under paragraph (a)(3) of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Secretary informs the state that—

(1) The Department will not implement its decision for ten days after the state receives the explanation; or

(2) The Secretary has reviewed the decision and determines that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 17.8 What are the Secretary's obligations in interstate situations?

The Secretary is responsible for—

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

§ 17.9 How may a state simplify, consolidate, or substitute Federally required state plans?

(a) As used in this section:

(1) "Simplify" means that a state may develop its own format, choose its own submission date, and select the planning period for a state plan.

(2) "Consolidate" means that a state may meet statutory and regulatory requirements by combining two or more plans into one document and that the state can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a state may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a state may decide to try to simplify, consolidate, or substitute Federally required state plans without prior approval by the Secretary.

(c) The Secretary reviews each state plan that a state has simplified, consolidated, or substituted and accepts the plan only if its contents meet Federal requirements.

§ 17.10 May the Secretary waive any provision of these regulations?

In an emergency, the Secretary may waive any provision of these regulations.

2. The Secretary also proposes to amend the following regulations:

Title 14—[Amended]

PART 152—[AMENDED]

Appendix E—[Removed]

14 CFR Part 152, by removing Appendix E thereto in its entirety.

Title 23—[Amended]

PART 420—[AMENDED]

Subpart C—[Removed]

23 CFR Part 420, by removing Subpart C thereof in its entirety;

PART 650—[AMENDED]

§ 650.113 [Amended]

23 CFR Part 650, by removing § 650.113(b) thereof;

PART 740—[AMENDED]

§ 740.118 [Amended]

23 CFR Part 740, by removing § 740.118(e)(2) thereof, by removing the words "and the Regional and State clearinghouses" from § 740.118(e)(3) thereof, and, in § 740.118(e) thereof, by redesignating paragraph (e)(3) as paragraph (e)(2).

Title 49—[Amended]

PART 25—[AMENDED]

§ 25.29 [Amended]

49 CFR Part 25, by removing § 25.29(b) thereof;

PART 266—[AMENDED]

§ 266.15 [Amended]

49 CFR Part 266, by removing from § 266.15(a) thereof the second and third sentences, from the words "In accordance with . . ." through the words "there were no comments."

PART 450—[AMENDED]

§ 450.106 [Amended]

49 CFR Part 450, by substituting a period for the comma following the word "planning" in § 450.106(c) thereof and removing all language in that paragraph following the word "planning."

§ 450.100 [Amended]

49 CFR Part 450, by removing § 450.108(b) thereof, by substituting a period for a comma after the word "services" in § 450.108(d) thereof and removing all language in that paragraph following the word "services," and by redesignating in § 450.108 paragraph (c) as paragraph (b), paragraph (d) as paragraph (c), and paragraph (e) as paragraph (d).

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Monday
January 24, 1983

Part XV

Department of the Treasury

Office of the Secretary

Intergovernmental Review of Department of the Treasury Programs and Activities

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DEPARTMENT OF THE TREASURY

Office of the Secretary

Intergovernmental Review of Department of the Treasury Programs and Activities

AGENCY: Office of the Secretary, Treasury.

ACTION: Notice.

SUMMARY: This notice sets forth the intention of the Department of the Treasury not to publish a notice of proposed rulemaking to implement Executive Order 12372, "Intergovernmental Review of Federal Programs," which replaced the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit written comments (preferably in triplicate) to: Charles M. Mohan, Office of State and Local Finance, Room 3026, Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: For further information concerning a program or activity listed in this notice contact, as appropriate:

Office of Revenue Sharing: Richard S. Isen, Chief Counsel, 2401 E St., NW., Washington, D.C. 20226, (202) 634–5182;

U.S. Secret Service: John Meenan, Legal Counsel (Acting), 1800 G St., NW., Washington, D.C. 20223, (202) 535–5771;

Internal Revenue Service: Joel Gerber, Deputy Chief Counsel, 1111 Constitution Ave., NW., Room 3529, Washington, D.C. 20224, (202) 566–4241; or

Bureau of Alcohol, Tobacco and Firearms: Marvin Dessler, Chief Counsel, 1200 Pennsylvania Ave., NW., Room 5202, Washington, D.C. 20226, (202) 566–7772.

SUPPLEMENTARY INFORMATION: On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB Notice published in this issue of the **Federal Register.** The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning federalism and regulatory relief.

Under the order, States and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the order, which Federal programs and activities to review and the procedures for such reviews. When State and local elected officials bring their concerns to the attention of a Federal agency through this process, the agency will have to make efforts to accommodate the concerns and, if it does not accommodate them, explain why. This "accommodate or explain" provision gives greater weight to State and local views than provided by Circular A–95. In addition, States will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute federally required state plans.

Most Federal agencies are publishing in this issue of the **Federal Register** notices of proposed rulemaking to implement Executive Order 12372. The Department of the Treasury, however, has concluded that it has no Federal financial assistance or direct Federal development programs or activities to which the order should apply. Consequently, the Department is not publishing a notice of proposed rulemaking.

This Notice lists those programs and activities that the Department intends to exclude from coverage under the order, and the reason for the exclusion. If the Department intends to exclude new or additional programs or activities from coverage under the order, notice soliciting public comments will be published in the **Federal Register.**

Even if a program or activity is excluded from the consultation system established by the order, State and local officials still would have an opportunity to have their views considered by the Department. The Department notes that statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (24 U.S.C. 4231(b)), require Federal agencies to consider the views of State and local governments. In addition, the Department will adhere to consultation requirements contained in existing and future program statutes.

Special Analyses: This notice does not constitute a "major rule" for purposes of Executive Order 12291. Accordingly, a regulatory impact analysis is not required. Because this notice is not a notice of proposed rulemaking, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply and a regulatory flexibility analysis is not required.

The Department of the Treasury intends to exclude from coverage under Executive Order 12372 the programs and activities listed below. Included with each program or activity is the identification number in the Catalog of Federal Domestic Assistance (CFDA):

1. The following program is intended to be excluded because it is a formula grant entitlement program not subject to consultation with State and local governments:

Office of Revenue Sharing

(i) Program: Revenue Sharing, CFDA No: 21.300.

(ii) The following programs, identified by administering agency, are intended to be excluded because they are not susceptible to any reasonable form of intergovernmental review or consultation because they involve only technical assistance or expert information that is likely to be brief, episodic, or provided pursuant to request:

Internal Revenue Service

1. Program: Federal Tax Information for State Tax Officials, CFDA No: 21.004.

2. Program: Taxpayer Services, CFDA No: 21.003.

3. Program: Tax Counseling for the Elderly, CFDA No: 21.006.

Bureau of Alcohol, Tobacco and Firearms

1. Program: Laboratory Analysis, CFDA No: 21.051.

2. Program: Training Assistance, CFDA No: 21.052.

U.S. Secret Service

1. Program: Training Assistance, CFDA No: 21.100.

Dated: January 11, 1983.

Peter J. Wallison,

General Counsel.

[FR Doc. 83–1754 Filed 1–21–83; 8:45 am]

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Part XVI

ACTION

Intergovernmental Review of ACTION Programs and Activities

ACTION

45 CFR Part 1233

Intergovernmental Review of ACTION Programs and Activities

AGENCY: ACTION.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance programs and activities of ACTION. Executive Order 12372, and these proposed regulations are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective intergovernmental consultative system. Under the Order, State and local elected officials, not the Federal Government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to ACTION, Office of General Counsel, 806 Connecticut Avenue NW., Washington, D.C., 20525. Commenters wishing to have their submissions acknowledged should include a stamped, self-addressed postcard with their comments. Comments will be available for inspection at the above address from 9:30 a.m. to 3:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ronald C. Owens 202/254–7963.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of state and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB's notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities.

State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedure by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden.

The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for states to reduce administrative burdens in Federal programs requiring state plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected state and local officials.

OMB Guidance to States

In order to assist states as they begin to work in implementing the order, OMB on or before today wrote to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact". A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to ACTION and other Federal agencies and to which ACTION directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the Agency. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they are scheduled to be published on April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of existing requirements will be available.

This Agency and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed

regulations would spell out the Agency's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in the **Federal Register**, Volume 47, page 57369 (Dec. 23, 1982). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effecive date is observed. Consequently, the Agency proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing the Agency's obligations. For example, when the proposed regulation says the Director "provides the State with a timely explanation," the regulation requires the Director to do so.

Withdrawal of Regulations Implementing OMB Circular A–95

In connection with this proposed rulemaking, the Agency is proposing to withdraw its existing regulations implementing former OMB Circular A–95. Executive Order 12372 directed OMB to withdraw the Circular itself, and the OMB directive withdrawing the Circular told the Federal agencies to leave their A–95 regulations in place only until new regulations implementing the Order were promulgated April 30, 1983. Final rules carrying out the withdrawal will be published on or about April 30, 1983, in conjunction with the Agency's final rule implementing Executive Order 12372.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Agency has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with the Agency and allow state and local governments to establish cost-effective consultation procedures. For this reason, the Agency believes that any economic impact the regulation has will be positive. It is unlikely that its economic impact will be significant, in any case. Consequently, the Agency certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 1233.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Agency's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Agency's action. For example, it is not intended that a state or local government would have the right to sue the Agency because the Agency failed to explain a nonaccommodation of a state recommendation.

Section 1233.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Agency" means ACTION, The National Volunteer Agency. "Order" means the Executive Order 12372. "Director" means the Director of ACTION or an official or employee of the Agency acting under a delegation of authority from the Director. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states. Several terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 1233.7).

Section 1233.3 What programs and activities of the Agency are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. Paragraph (a) provides that the Agency will publish a **Federal Register** notice, in conjunction with the publication of its Final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let states know which of the Agency programs and activities they may choose to cover. After promulgation of the final rules, if the Agency wants to exclude any programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, states should assume that all the Agency's Federal financial assistance programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Agency) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Agency. Indeed, statutory requirements for consultation such as section 401(a) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(a)), require Federal agencies to consider the views of state and local governments. Many of the Agency's program statutes, such as the Older Americans Volunteer Programs, have their own consultation requirements, and the Agency will, of course, comply with all existing or future statutory requirements of this kind. However, the Agency is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

Subsection (b) simply states the Director's obligation, to the extent permitted by law, to use a state's official process to determine official views of state and local officials, This obligation, which derives directly from the Order, extends only to programs and activities subject to the Order which a state has

selected for coverage under § 1233.5 of these regulations. If at any time a state believes that any official of the Agency has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Director.

Section 1233.4 [Reserved]

Section 1233.5 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with the Agency under the Order concerning any of the Agency's programs and activities that the Agency's **Federal Register** notice on or about April 30, 1983, and subsequently lists as subject to the Order. However, these regulations do not require states to consult with the Agency concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave states no discretion concerning program selection. Under this Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people, such as ACTION's Mini-Grant and Demonstration projects.

The Agency emphasizes that the choice of whether to cover a particular program or activity listed in the Agency's **Federal Register** notice is entirely up to each state. While the Agency will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Agency will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Director of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending OMB, along with other information required to establish the process, a list of Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to ACTION. This information will enable ACTION personnel who work on a particular program to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to the Agency, ACTION will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Agency will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Agency may not be able to do so for a time. The Agency will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the Agency may establish deadlines for changes by states in program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Agency may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Agency may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Agency of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 1233.6 How does the Director give states an opportunity to comment on proposed Federal financial assistance?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officals in smaller jurisdictions, or vice-versa. In any case of delegation, the local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to the Agency. For example, efforts by the Agency to reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to the Agency. Rather, the official would send the comment to the Agency through the state single point of contact. The Agency would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Agency would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Agency to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the Agency informing the Agency that the comment was an official comment of the state.

Section 2(b) of the Order requires Federal agencies to communicate with state and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Paragraph (b) incorporates this provision of the Order into these regulations. What the requirement means is that the Agency is obligated to make efforts to ensure that information on proposed actions or decisions of the Agency is available to the states in sufficient time to be able to exert meaningful influence on the Agency's course of action. For example, the Agency would make sure that the state learned of assistance announcements, including decision criteria, in time to make a meaningful response.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Agency's widely

varied programs and activities. However, paragraph (c) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance before the Agency commits itself to a given course of action. The Agency, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Agency, the Agency may need to establish deadlines or time frames in non-regulatory specific announcements for comment on particular actions or types of actions. Consequently, as provided in paragraph (d), the Agency may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multi-year grants, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year,).

In some of the Agency's programs, a basic decision to go forward with a project may be the key decisions that determines a subsequent course of action by the Agency. Once the initial decision is made, the agency has little discretion with respect to the subsequent decisions. The Agency could inform states of the key decisions points on which their comments are essential if the states are to have a meaningful role in influencing the Agency decisions.

In most financial assistance programs, a state, local, or private agency applies to the Agency for a grant or cooperative agreement or otherwise seeks Agency approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from the Agency, the state should work with applicant organizations to ensure that applications are provided to the state in a timely manner. If it becomes necessary, the Agency may establish requirements in non-regulatory specific announcements for applicants to submit copies of their application to the state.

In order to ensure timely completion of Federal decisionmaking, the Agency may require states to complete their review of applications and to submit their comments to the Director by a particular date. The intent of this provisions is to prevent undue delays in Federal decisions affecting the state.

Paragraph (e) makes an important point with respect to the way that communications between states and the agency would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Agency and the official state process flow efficiently, the Agency strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the state through a single point has obvious benefits from the point of administrative simplicity. In addition, it will enable the Agency to know which communications to treat as official under the provisions of the Order. The Agency needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Agency to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, the Agency will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the Agency. However, the agency would strongly encourage commenters under the Order to follow three procedures which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program and decision. Often, the Agency is required to make a decision based on certain statutorily established factors. In other cases, the Agency, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Agency would be able to accommodate comments that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order, to have meaningful influence on the Agency's decisions, comments must be relevant to the factors on which the Agency bases its decisions. For example, if the Agency's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the agency could not accommodate a state comment addressing costs during the technical review.

Second, states can assist the Agency's implementation of the Order by clearly specifying the magnitude of the state's concerns. Often, it may be difficult for the Agency to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Agency's position. For example, if a state wants the Agency to recognize the state's priorities, accept only a modified grant application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate state concerns. The Agency's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Agency may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. The Agency recognizes that different state and local officials and agencies may not always agree among themselves concerning the course of action the Agency should follow. This single point of contact should reconcile conflicting views before transmission to avoid the Agency's having to seek clarification concerning which set of views the state wants the Agency to accommodate. The process will work much better if the Agency receives a single set of comments.

Section 1233.7 How does the Director make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the Agency under the Order, the Agency has three choices. The Agency can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter.

Third, if the Agency cannot accept the state's comments or reach a mutually agreeable solution, the Agency is obligated to give the state a timely, simply explanation of the Agency reasons for not doing so. While the Agency is not required to accept the state's comments or to begin discussions towards another solution, the Agency does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Agency's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. The Agency has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Director.

There is one exception to the Agency's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Agency's explanation will be in a letter.

Paragraph (a)(3)(ii) spells out the role of the single point of contact in receiving an explanation from the Agency. The Agency will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Agency and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that the Agency will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Agency in cases of nonaccommodation before the Agency has awarded a grant or cooperative agreement, or otherwise irrevocably carried out the decision. In a case in which the Agency has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Agency cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Agency to wait ten days before implementing its decision. In a situation where the Agency cannot observe the waiting period, the Director or a designee of the Director at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Agency implements the decision. The nonaccommodation explanation will include the Agency's reasons for determining that the ten-day waiting period is not feasible.

Section 1233.8 What are the Director's obligations in interstate situations?

In some cases, action taken by the Agency in Federal financial assistance programs may have an impact on interstate areas, as provided in paragraph (a). In these situations, the Agency has certain additional obligations. First, the Agency must identify its Federal financial assistance actions or decisions that have an impact on interstate areas.

Having done so, the Agency must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Agency must provide the affected states an opportunity for coment of at least 45 days, as provided in paragraph (c), before the Agency commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Agency.

The agency, obviously, cannot require states to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, the Agency strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Agency encourages states to reconcile differences where they exist, so that the states can present the Agency with a unified position.

If the affected states provide the Agency with conflicting recommendations, the Agency will, with respect to states that have established a process under the order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 1233.7.

Section 1233.9 [Reserved]

Section 1233.10 May the Director waive any provision of these regulations?

This section allows the Director to waive any provision in these regulations in an emergency. The Agency expects to use this provision sparingly, since the Agency's policy is to carry out the order as fully as it can.

List of Subjects in 45 CFR Part 1233

Intergovernmental relations.

Issued at Washington, D.C., January 17, 1983.

Thomas W. Pauken,
Director of ACTION.

1. Therefore, ACTION, the National Volunteer Agency proposes to amend Title 45, Code of Federal Regulations, by adding a new Part 1233, to read as follows:

PART 1233—INTERGOVERNMENTAL REVIEW OF ACTION PROGRAMS AND ACTIVITIES

Sec.

1233.1 What is the purpose of these regulations?
1233.2 What definitions apply to these regulations?
1233.3 What programs and activities of the Agency are subject to these regulations?
1233.4 [Reserved]
1233.5 What procedures apply to a state's choice of programs under the Order?
1233.6 How does the Director give states an opportunity to comment on proposed Federal financial assistance?
1233.7 How does the Director make efforts to accommodate state and local concerns?
1233.8 What are the Director's obligations in interstate situations?
1233.9 [Reserved]
1233.10 May the Director waive any provisions of these regulations?

Authority: Executive Order 12372 (July 14, 1982); section 401(a) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(a)).

§ 1233.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state and local

processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The order and these regulations are intended only to improve the internal management of the Agency. Neither the Order nor these regulations is intended to create any right or benefit enforceable at law by a party against the Agency or its officers.

§ 1233.2 What definitions apply to these regulations?

"Agency" means ACTION, the National Volunteer Agency. "Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Director" means the Director of ACTION or an official or employee of the Agency acting for the Director under a delegation of authority.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 1233.3 What programs and activities of the Agency are subject to these regulations?

(a) The Director publishes in the **Federal Register** a list of the Agency's programs and activities that are subject to the Order and these regulations.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 1233.5, the Director, to the extent permitted by law, uses the official state process to determine official views of state and local elected officials.

§ 1233.4 [Reserved]

§ 1233.5 What procedures apply to a state's choice of programs under the Order.

(a) Each state that adopts a process under the Order notifies the Director of the Agency which programs the state chooses to cover under the Order.

(b) The Director uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Director of its program choices.

(c) The Director may establish deadlines for states to change their program choices under the Order.

§ 1233.6 How does the Director give states an opportunity to comment on proposed Federal financial assistance?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, coordination and communication with the agency.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 1233.5, the Director, to the extent permitted by law, communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Except in unusual circumstances, the Director gives states at least 30 days to comment on any proposed Federal financial assistance (see § 1233.8 comment periods pertaining to interstate situations).

(d) Subject to paragraph (c) of this section, the Director may establish deadlines for—

(1) Applicants to submit copies of their applications to the states; and

States to complete their review of applications under a Federal financial assistance program and to submit their comments to the agency.

(e) The Director responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 1233.7 How does the Director make efforts to accommodate state and local concerns?

(a) If a state provides comments to the agency in accordance with § 1233.6(e), the Director—

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3)(i) Provides the state with a timely explanation of the basis for the agency's decision.

(ii) If requested by the Governor, the Director provides the explanation in writing

(iii) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Director provides any explanation under paragraph (a)(3) of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Director informs the state that—

(1) The Agency will not implement its decision for ten days after the state receives the explanation; or

(2) The Director has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 1233.8 What are the Director's obligations in interstate situations?

The Director is responsible for—

(a) Identifying proposed Federal financial assistance that has an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

§ 1233.9 [Reserved]

§ 1233.10 May the Director waive any provisions of these regulations?

In an emergency, the Director may waive any provisions of these regulations.

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Part XVII

Environmental Protection Agency

Intergovernmental Review of Environmental Protection Agency Programs and Activities

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 29, 30, 35, 40, 51, and 255

[OA-FRL-2281-3]

Intergovernmental Review of Environmental Protection Agency Programs and Activities

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Environmental Protection Agency (EPA). Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, state and local elected officials, not the Federal government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Central Docket Section (A–130), Attention: Docket No. G–82–05, Environmental Protection Agency, Washington, D.C. 20460. Comments will be available for inspection at the above address from 8:00 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John A. Gwynn, Acting Chief, Grants Policy and Procedures Branch (PM–216), Environmental Protection Agency, Washington, D.C. 20460 (202) 382–5268.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through the elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of state and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB Notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for states to reduce administrative burdens in Federal programs requiring state plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected state and local officials.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB wrote to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to the EPA and other Federal agencies and to which EPA directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with EPA. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available. Federally recognized Indian Tribes are exempted from the Order, but are encouraged to voluntarily take advantage of its opportunities for consultation.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out EPA's

obligations and procedures in response to the views expressed by state and local elected officials. A Notice of Availability of a paper discussing the policy decisions made by the agencies and OMB was published in the Federal Register on December 23, 1982 (47 FR 57369). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period on the proposed rule and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, EPA proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing EPA's obligations. For example, when the proposed regulation says that the Administrator "provides the state with a timely explanation," the regulation requires the Administrator to do so.

Removal of Regulations Implementing OMB Circular A-95

In connection with this proposed rulemaking, EPA is proposing to revise its existing regulations implementing former OMB Circular A-95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. In order to carry out this directive, EPA is listing in this Notice those regulatory provisions implementing Circular A-95 that it proposes to revise. Final rules carrying out the amendments will be published on or about April 30, 1983, in conjunction with EPA's final rule implementing Executive Order 12372.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

EPA has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with EPA and allow state and local governments to establish cost-effective consultation procedures. For this reason, EPA believes that any economic impact the regulation has will be positive. It is unlikely that any economic impacts will be significant. Consequently, EPA certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 29.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve EPA's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of EPA's action. For example, it is not intended that a state or local government would have the right to sue EPA because EPA failed to explain a nonaccommodation of a state recommendation.

Section 29.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Agency" means the Environmental Protection Agency (EPA). "Order" means Executive Order 12372. "Administrator" means the Administrator of the Environmental Protection Agency or an official or employee of the Agency acting under a delegation of authority from the Administrator. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states. The definition of "state" does not include Indian Tribes.

In addition to these definitions, three other terms—simplify, consolidate, and substitute—are defined in § 29.9. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 29.7).

Section 29.3 What programs and activities of the Environmental Protection Agency are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities they wish. EPA is publishing an Attachment to this Preamble listing the programs and activities proposed for exclusion and those that are subject to the Order. Updated lists will be published when necessary in order to let states know which EPA programs and activities they may choose to cover.

The list of those programs and activities that the Agency proposes to exclude from coverage under the Order also contains the reason for each proposed exclusion. The Agency seeks comments on the proposed exclusions. After promulgation of the Final Rule, if the Agency wants to exclude new or additional programs or activities from coverage under the Order, it will publish a Federal Register notice requesting comment on the proposed exclusions.

At this time, states should assume that all of the Agency's other Federal financial assistance and direct Federal development programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Agency) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials will still have an opportunity to have their views considered by the Agency. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. Many of the Agency's program statutes have their own consultation requirements, and EPA will, of course, comply with all

existing or future statutory requirements of this kind. However, the Agency is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities. If at any time a state believes that any EPA official has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Administrator.

Section 29.4 What are the Administrator's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into the Agency's regulation, emphasizing EPA's obligations under the Order. The mechanisms by which EPA will carry out many of these general obligations are developed further in other sections of the rule. For example, paragraph (b)(4) of this section is further elaborated in § 29.9, concerning state plans.

Paragraph (b)(2) means that EPA is obligated to make efforts to ensure that information on proposed actions or decisions of the Agency is available to the states in sufficient time to be able to exert meaningful influence on the Agency's course of action. For example, EPA would make sure that the state learned of draft assistance announcements, including decision criteria, proposed Federal development project decisions, and so forth, in time to make a meaningful response.

Section 29.5 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with EPA under the Order concerning any programs and activities EPA identifies as subject to the Order. However, these regulations do not require states to consult with EPA concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave states no discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state.

EPA emphasizes that the choice of whether to cover a particular program or activity identified as subject to these regulations is entirely up to each state. While EPA will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Agency will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Administrator of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to EPA. This information will enable EPA's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selection known to EPA, EPA will use the state's process concerning the programs and activities selected by the state as soon as feasible. EPA will determine when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that EPA may establish deadlines by which states must inform EPA of changes in their program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, EPA may need a certain amount of "lead time" before it can adapt its procedures to the changes circumstances. For this reason, the Agency may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform EPA of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 29.6 How does the Administrator give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to EPA. For example, efforts by EPA to reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would send comments directly to EPA. EPA would work with the local official in attempting to reach an accommodation, and, if efforts at accommodation were unsuccessful, EPA would explain the nonaccommodation to both the delegated official and the state's official single point of contact.

It is difficult to specify, in advance, the precise time frames that EPA will use to implement the Order's notification requirement for EPA's widely varied programs and activities. However, paragraph (b) states that, as a general rule, states choosing to cover a particular program or activity will have

at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before EPA commits itself to a given course of action. On a case-by case basis, EPA may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence EPA's decisions, EPA may need to establish deadlines or time frames in non-regulatory program specific announcements for comment on particular actions or types of actions. Consequently, as provided in paragraph (c), the Agency may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. For example, time frames may differ among different types of programs (e.g., one-year grants, direct development projects, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadline for quarterly apportionment).

In some of EPA's programs, a basic decision to go forward with a project may be the key decision that determines the Agency's subsequent course of action. Once the initial decision is made, EPA has little discretion with respect to the subsequent decisions. The Agency may inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing EPA's decision.

In most financial assistance programs, a state, local, or private agency applies to EPA for a grant or cooperative agreement or otherwise seeks Agency approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from EPA, the state should work with applicant organizations to ensure that applications are provided to the state in a timely manner. If it becomes necessary, EPA may establish requirements in non-regulatory program specific announcements for applicants to submit copies of their applications to the state.

In order to ensure timely completion of Federal decisionmaking, EPA may require states to complete their reviews of applications and to submit their comments to the Administrator by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state. A similar provision, in paragraph (c)(3), permits the Administrator to establish deadlines in non-regulatory program specific announcements for state review of the Agency's direct development activities.

Paragraph (d) makes an important point with respect to the way that communications between states and EPA would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between EPA and the official state process flow efficiently, EPA strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable EPA to know which communications to treat as official under the provisions of the Order. The Agency needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Agency to make this necessary administrative distinction.

In the absence of a state process, or in the case of a program that a state has not selected for coverage, EPA will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply.

The proposed regulation will not impose any constraints on the content of comments that states send to EPA. However, the Agency strongly encourages commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often EPA is required to make a decision based on certain statutorily established factors. In other cases, the Agency, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that EPA would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the Agency's decisions, comments must be relevant to the factors on which EPA bases its decisions. For example, if EPA's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, EPA could not accommodate a state comment addressing costs during the technical review.

Second, states can assist EPA's implementation of the Order by clearly specifying the magnitude of the state's concerns. Often, it may be difficult for EPA to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of EPA's position. For example, if a state wants EPA to recognize the state's priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate state concerns. EPA's ability to do so successfully is dependent, to a significant degree, on the clear articulation of conerns by the states.

Third, EPA may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. The Agency recognizes that different state and local officials and agencies may not always agree among themselves concerning the course of action EPA should follow. The single point of contact should reconcile conflicting points of view before transmission to avoid EPA having to seek clarification concerning which set of views the state wants EPA to accommodate. The process will work much better if EPA receives a single set of comments.

Section 29.7 How does the Administrator make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to EPA under the Order, EPA has three choices. EPA can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if EPA cannot accept the state's comments or reach a mutually agreeable solution, EPA is obligated to give the state a timely, simple explanation of the Agency's reasons for not doing so.

Normally, the explanation could take any form which adequately

communicates EPA's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. The Agency has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Administrator.

There is one exception to the Agency's discretion to choose the mode of communicating the explanation. As paragraph (a)(3) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When EPA receives such a request from a Governor, the Agency's explanation will be in a letter.

Paragraph (a)(4) spells out the role of the single point of contact in receiving explanations from EPA. EPA will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between EPA and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that EPA will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Agency in cases of nonaccommodation before EPA has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the EPA has provided an oral explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten-day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which EPA cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Agency to wait ten days before implementing its decision. In a situation where EPA cannot observe the waiting period, the Administrator will review the decision before the nonaccommodation explanation is made and before the Agency implements the decision. The nonaccommodation explanation will include EPA's reasons for determining that the ten-day waiting period is not feasible.

Section 29.8 What are the Administrator's obligations in interstate situations?

In some cases, action taken by EPA in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, EPA is generally required to meet certain additional obligations specified in paragraph (a). First, the Agency must identify its direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, EPA must notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), EPA must provide the affected states an opportunity for comment of at least 45 days before the Agency commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to EPA.

The obligations enumerated in paragraph (a), however, do not apply to EPA's promulgation of State Implementation Plans (SIPs) under section 110(c) of the Clean Air Act or to EPA's issuance of permits listed in the Attachment to this Preamble. As explained in the Attachment, EPA's existing procedures for these activities insure timely and adequate consideration of concerns raised by affected states before final decisions are made. EPA believes that the imposition of additional requirements is unnecessary.

EPA, obviously, cannot require states to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, we strongly encourage each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. EPA encourages states to reconcile differences where they exist, so that the states can present EPA with a unified position. If the affected states provide EPA with conflicting recommendations, EPA will, with respect to states that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 29.7.

Section 29.9 How may a state simplify, consolidate, or substitute Federally required state plans?

This section carries out section 2(d) of the Order, which directs Federal agencies to "allow" states to consolidate or simplify plans and to "encourage" states to substitute their own plans for Federally required state plans.

Paragraph (a) defines three terms used in this section. For a state to "simplify" a plan means that a state may develop its own format, choose its own submission date, and select the planning period covered by the plan. "Consolidate" means that the state may meet statutory and regulatory requirements by combining two or more plans into one document. The state may also select the format, submission date, and planning period for a consolidated plan. "Substitute" means that a state may use a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan mandated by EPA. State plans required by EPA that are eligible for modification (i.e., simplification, consolidation, or substitution) under the Order are limited to the work plans for EPA's continuing environmental programs listed in an OMB notice published in today's **Federal Register**. EPA is willing to consider other state plans for eligibility for modification under this section.

For purposes of state plan modifications, it is necessary to draw a distinction between the state's decision concerning which plans it wants to try to modify and EPA's decision concerning whether to accept modified plans. Paragraph (b) deals with the first of these issues. If not inconsistent with law, a state may decide to try to simplify, consolidate or substitute state plans without prior approval.

Paragraph (c) points out that EPA will review the content of state proposals to simplify, consolidate, or substitute state plans to ensure that they meet all applicable Federal requirements. Under this provision, EPA could disapprove the content of a modified plan on the basis, for example, of legal insufficiency or the failure of the modified plan to meet Federally mandated substantive standards. If EPA disapproves a state plan, the state may have recourse to the existing appeal process of the Agency applicable to the program in question (see 40 CFR Part 30 Subpart J). However, EPA does not propose any new special appeal process for situations in which the Agency does not accept a modified plan.

Paragraph (c) is not intended to give EPA any new authority it does not already have to review or disapprove state plans. For example, if a statute limits the grounds on which the Agency may disapprove a state plan submission, this paragraph is not intended to expand those limits. The paragraph does not emphasize, however, that these regulations do not impair the Agency's existing authority to review and, if necesssary, disapprove state plans. This section also does not affect any existing statutory or regulatory requirements concerning submission dates, planning periods, or formats of state plans. EPA has made appropriate modifications in regulatory requirements without a statutory basis to allow more state flexibility (see 40 CFR Part 35 Subpart A).

EPA's ability to review state plans is important not only for its ability to administer programs effectively but also to prevent states from inadvertently causing delays in Agency funding decisions. In many financial assistance programs, required program standards must be met through a state plan before Federal funds are awarded. EPA may not award funds to recipients if a plan does not meet legal requirements or substantive Federal program standards.

The Agency encourages states which wish to simplify, consolidate or substitute state plans to inform EPA well in advance of their intentions. Early discussions between state officials and EPA regarding proposed modifications of plans will help to avoid later problems, including unexpected delays or disapprovals of modifications. The Agency is very willing to work closely with state officials on plan modifications and, where feasible, will provide technical assistance or advice in plan modification efforts.

Section 29.10 May the Administrator waive any provision of these regulations?

This section allows the Administrator to waive any provision in these regulations in an emergency. EPA expects to use this provision sparingly, since the Agency's policy is to carry out the order as fully as it can.

List of Subjects in 40 CFR Part 29

Intergovernmental relations.

Dated: January 17, 1983.

Anne M. Gorsuch,

Administrator.

Attachment—List of Proposed Exclusions and Programs and Activities Subject to the Order

I. The following list identified EPA programs and activities proposed for exclusion and the basis for exclusion.

A. Training Grants and Fellowships

CFDA No. and Title

66.003 Air Pollution Control Manpower Training Grants
Water Pollution Control—Professional Training Grants
Water Pollution Control Fellowships
Safe Drinking Water—Professional Training Grants
Safe Drinking Water Fellowships

Basis for exclusion: Training grants and fellowships are not covered by the Executive Order.

B. Research, Development, and Demonstration

Activities under the following R&D programs *except* those which:

(1) Necessitate the preparation of an Environmental Impact Statement under NEPA (see 40 CFR Part 6—Subpart G); or

(2) Are to be newly initiated at a particular site or location and do not need an Environmental Impact Statement but require unusual measures to limit the possibility of adverse exposure or hazard to the general public; or

(3) Have a unique geographic focus and are directly relevant to the governmental responsibilities of a state or local government within that geographic area.

CFDA No. and Title

66.500 Environmental Protection—Consolidated Research Grants
66.501 Air Pollution Control Research Grants
66.502 Pesticides Control Research Grants
66.504 Solid Waste Disposal Research Grants
66.505 Water Pollution Control—Research, Development, and Demonstration Grants
66.506 Safe Drinking Water Research and Demonstration Grants
66.507 Toxic Substances Research Grants

Basis for exclusion: Research, development, and demonstration other than that specified in (1), (2), and (3) above are not covered by the Executive Order.

C. Plans and Permits

The following plans and permits where issued by EPA in interstate situations:

(1) EPA promulgated State Implementation Plan (SIP) under Section 110(c) of the Clean Air Act,

(2) Prevention of Significant Deterioration (PSD) permits under the Clean Air Act,

(3) National Pollutant Discharge Elimination System (NPDES) permits under the Clean Air Act,

(4) Underground Injection Control (UIC) permits under the Safe Drinking Water Act,

(5) Treatment, storage, and disposal permits under the Resource Conservation and Recovery Act (RCRA).

Basis for exclusion: Current procedure allows for interested parties (e.g., affected States) to comment on these activities before final decisions are made. An expansion of EPA's existing procedures to include a detailed interstate process under the Order would greatly impede EPA's issuance of permits or substitute SIPs. Such an expansion could require EPA to devote considerable time and effort to investigate speculative interstate impacts.

II. The following list identifies EPA programs and activities that are subject to the Order.

A. Financial Assistance

State and Local Assistance Programs

66.001 Air Pollution Control Program
66.418 Construction Grants for Wastewater Treatment Works
66.419 Water Pollution Control—State and Interstate Program Grants
— Water Quality Management Planning
66.432 State Public Water System Supervision—Program Grants
66.433 State Underground Water Source Protection—Program Grants
66.438 Construction Management Assistance
66.451 Hazardous Waste Management Financial Assistance to States
— State Inventories of Uncontrolled Hazardous Waste Sites
66.600 Environmental Protection Consolidated Grants—Program Support
66.603 Loan Guarantees for Construction of Treatment Works
66.700 Pesticides Enforcement Program Grants
— Superfund Cooperative Agreements (Remedial Clean Ups)

Research, Development, and Demonstration Projects—Subject to regulation only if proposed activity requires an Environmental Impact Statement (EIS); will be newly initiated at a particular site or location and does not require an EIS but does require unusual measures to limit the possibility of adverse exposure or hazard to the general public; or has a unique geographic focus and is directly relevant to the governmental responsibilities of a state or local government within that geographic area.

66.500 Environmental Protection—Consolidated Research Grants
66.501 Air Pollution Control Research Grants
66.502 Pesticides Control Research Grants
66.504 Solid Waste Disposal Research Grants
66.505 Water Pollution Control—Research, Development, and Demonstration Grants
66.506 Safe Drinking Water Research and Demonstration Grants
66.507 Toxic Substances Research Grants

B. Direct Federal Development

Real Property Acquisition or Disposal, Including Obtaining Major Leases or Easements

Construction of New EPA Facilities

EPA Issued Plans and Permits (except for exemptions to requirements under section 29.8(a))

1. For the reasons set out in the Preamble, the Environmental Protection Agency proposes to amend Title 40, Code of Federal Regulations, by adding a new Part 29 to read as follows:

PART 29—INTERGOVERNMENTAL REVIEW OF ENVIRONMENTAL PROTECTION AGENCY PROGRAMS AND ACTIVITIES

Sec.

29.1 What is the purpose of these regulations?
29.2 What definitions apply to these regulations?
29.3 What programs and activities of the Environmental Protection Agency are subject to these regulations?
29.4 What are the Administrator's general responsibiities under the Order?
29.5 What procedures apply to a State's choice of programs under the Order?
29.6 How does the Administrator give states an opportunity to comment on proposed Fedeal financial assistance and direct Federal development?
29.7 How does the Administrator make efforts to accomodate state and local concerns?
29.8 What are the Administrator's obligations in interstate situations?
29.9 How may a state simplify, consolidate, or substitute Fedeally required state plans?
29.10 May the Administrator waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982; 47 CFR 30955); section 401(a) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(a)).

29.1 What is the purpose of these regulations?

(a) These regulations implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Fedeal development.

(c) The Order and these regulations are intended only to improve the internal management of the Environmental Protection Agency (EPA). Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against EPA or its officers.

§ 29.2 What definitions apply to these regulations?

"Administrator" means the Administrator of the U.S. Environmental Protection Agency or an official or employee of the agency action for the Administrator under a delegation of authority.

"Agency" means the U.S. Environmental Protection Agency (EPA).

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernamental Review of Federal Programs."

"State" means any of the 50 states, the Distict of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Maiana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 29.3 What programs and activities of the Environmental Protection Agency are subject to these regulations?

The Administrator will publish a list in the **Federal Register** of the EPA programs and activities that are subject to the Order and these regulations.

§ 29.4 What are the Administrator's general responsibilities under the Order?

(a) The Administrator provides opportunities for consultation by elected officials of these state and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Fedeal finanical assistance from, or direct Federal development by, EPA.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Administrator, to the extent permitted by law:

(1) Uses the state process to determine official views of state and local elected officials;

(2) Communicates with state and local elected oficials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate state and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the state process;

(4) Allows the states to simplify and consolidate existing Federally required state plan submissions;

(5) Where state planning and budgeting systems are sufficient and were permitted by law, encourages the substitution of state plans for Federally required state plans;

(6) Seeks the coordination of views of affected state and local elected officials in one state with those of another state when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports state and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a limited purpose, and which is not adequately representative of, or accountable to, state or local elected officials.

§ 29.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under under the Order notifies the Administrator of the EPA programs that the state chooses to cover under the Order.

(b) The Administrator uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Administrator of its program choices.

(c) States may change their program choices under the Order at any time. The Administrator may establish deadlines by which states are required to inform the administrator of changes in their program choices

§ 29.6 How does the Administrator give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process it has estalished under the Order, including comments where the state has delegated to local elected officials the review, coordination and communication with EPA.

(b) Except in unusual circumstances, the Administrator gives state at least 30 days to comment on any proposed Federal finincial assistance or direct Federal development (see § 29.8 for comment periods pertaining to interstate situations).

(c) Subject to paragraph (b), the Administrator may establish deadlines for:

(1) Applicants to submit copies of their applications to the states;

(2) Stats to complete their review of financial assistance applications and to submit their comments to EPA; and

(3) States to complete their review of proposed direct Federal development and to submit their comments to EPA.

(d) The Administrator responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 29.7 How does the Administrator make efforts to accommodate state and local concerns?

(a) If a state provides comments to EPA in accordance with § 29.6(d), the Administrator:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3) Provides the state with a timely explanation of the basis for EPA's

nonaccommodation. If requested by the Governor, the Administrator provides the explanation in writing (certified mail; return receipt requested).

(4) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Administrator provides any explanation under paragraph (a)(3) to that office of official.

(b) In any explanation under paragraph (a), the Administrator informs the state that:

(1) EPA will not implement its decision for ten days after the state receives the explanation; or

(2) The Administrator has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 29.8 What are the Administrator's obligations in interstate situations?

(a) The Administrator is responsible for:

(1) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(2) Notifying the affected states, including states that have not adopted a process under the Order; and

(3) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

(b) The following plans and permits where issued by EPA are not subject to the requirements of paragraph (a):

(1) EPA promulgated State Implementation Plans (SIPs) under section 110(c) of the Clean Air Act;

(2) Prevention of Significant Deterioration (PSD) permits under the Clean Air Act;

(3) National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act;

(4) Underground Injection Control (UIC) permits under the Safe Drinking Water Act; or

(5) Treatment, storage, and disposal permits under the Resource Conservation and Recovery Act.

§ 29.9 How may a state simplify, consolidate, or substitute Federally required state plans?

(a) As used in this section:

(1) "Simplify" means that a state may develop its own format, choose its own submission date, and select the planning period for a state plan.

(2) "Consolidate" means that a state may meet statutory and regulatory requirements by combining two or more plans into one document and that the state can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a state may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a state may decide to try to simplify, consolidate, or substitute Federally required state plans without prior EPA approval.

(c) The Administrator reviews each state plan that a state has simplified, consolidated, or substituted and accepts the plan only if its content meets Federal requirements.

§ 29.10 May the Administrator waive any provision of these regulations?

In an emergency, the Administrator may waive any provision of these regulations.

2. In addition, we expect to make conforming amendments to the following regulations:

40 CFR Part 30: Sec. 30.305 et seq.

40 CFR Part 35: Sections 35.920–3(a)(3); 35.920–3(b)(4); 35.1620–6; 35.2040(a)(2); 35.2040(b)(2); 35.2040(c)(2).

40 CFR Part 40: Sec. 40.135–1(b).

40 CFR Part 51: Sections 51.241(c), 51.248(b), 51.251, and 51.252(b).

40 CFR Part 255: Sections 255.20 and 255.23(a).

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Monday
January 24, 1983

Part XVIII

Equal Employment Opportunity Commission

Intergovernmental Review of Equal Employment Opportunity Commission Programs and Activities

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Intergovernmental Review of Equal Employment Opportunity Commission Programs and Activities

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice.

SUMMARY: This Notice sets forth the Commission's intention not to publish a proposed rule to implement Executive Order 12372, "Intergovernmental Review of Federal Programs," which replaced the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Treva McCall, Executive Secretary, Executive Secretariat, Room 5215–101, EEOC, 2401 E Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: S. Jennifer Johnson, (telephone 202–634–6690), Office of Legal Counsel, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive order is reproduced as Attachment A to the OMB Notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Most Federal agencies are publishing in today's **Federal Register** a Notice of Proposed Rulemaking to implement Executive Order 12372. However, the Commission has concluded that it has no Federal financial assistance or direct Federal development programs or activities to which the Order should apply. Consequently, the Commission is not publishing a proposed rule.

This Notice lists those programs and activities that the Commission proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. The Commission seeks comments on the proposed exclusions. If the Commission wants to exclude new or additional programs or activities from coverage under the order in the future, it will publish a **Federal Register** Notice requesting comment on the proposed exclusions.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Commission. The Commission regularly consults with the state and local entities with which it contracts. Statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. The Commission will, of course, comply with all applicable existing or future statutory requirements of this kind.

The Department proposes to exclude the following:

Program	Catalog No.	Reason
1. TEROS—Tribal Employment Rights Offices.	30.009	By previously announced administration policy, programs and activities administered by a federally recognized tribal government are excluded from the scope of the Executive order.
2. Fair Employment Practice Agency Contracts.	30.002	The contracts between the Commission and certain state and local Fair Employment Practice agencies are standard procurement contracts. Such contracts are not within the scope of the Executive Order. By these contracts the Commission is able to have certain charges of employment discrimination, which are filed with the Commission, processed for it by the agencies.

Issued at Washington, D.C. January 17, 1983.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 83–1755 Filed 1–21–83; 8:45 am]

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Monday
January 24, 1983

Part XIX

Federal Emergency Management Agency

Intergovernmental Review of Federal Emergency Management Agency Programs and Activities

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 4, 9, 59, 60, 76, 300, and 302

Intergovernmental Review of Federal Emergency Management Agency Programs and Activities

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of FEMA. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, State and local elected officials, not the Federal Government will determine what Federal programs and activities to review and the procedures by which review will take place.

DATE: Comments must be received on or before March 10, 1983. This exception from a 60-day period is consistent with that of all other agencies.

ADDRESS: Interested persons should submit comments to Rules Docket Clerk, Office of General Counsel, FEMA, Room 835, 500 C Street, SW, Washington, DC 20472. Comments will be available for inspection at the above address from 9:00 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Assistant General Counsel, FEMA, Telephone: (202) 287–0177.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between State and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required State and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular State and local governments. The system also required review of Federal programs by State and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of State and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, State and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the Preamble of the OMB Notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, States and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When State and local officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to State and local views than Circular A–95 did. In addition, States will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required State plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for States to reduce administrative burdens in Federal programs requiring State plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of *elected* State and local officials.

OMB Guidance to States

In order to assist States as they begin their work in implementing the Order, OMB wrote on or before today to each State concerning the establishment of an official State process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a State that transmits the result of the State review and coordination with recommendation that differ from the Federal proposal to FEMA and other Federal departments and agencies and to which FEMA directs official communications (e.g., explanations of nonaccommodation) to the State under the Order. A State may have as few or as many entities as it chooses to perform review and coordination, and to conduct discussions with FEMA. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the State whether the single point of contact plays a substantive role with respect to the State's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that States are not required to adopt an official State process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

FEMA and other Federal departments and agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with State and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order and OMB have worked together to make common policy decisions and, to the extent feasible, to draft common

regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out FEMA's obligations and process in response to the views expressed by State and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public. Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, FEMA proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing FEMA's obligations. For example, when the proposed regulation says that the Director "provides the State with a timely explanation," the regulation requires the Director to do so.

Removal of Regulations Implementing OMB Circular A-95

In connection with this proposed rulemaking, FEMA is proposing to remove its existing regulations implementing former OMB Circular A-95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. In order to carry out this directive, FEMA is listing in this notice those regulatory provisions implementing Circular A-95 that it proposes to remove. Final rules carrying out the removal will be published on or about April 30, 1983, in conjunction with FEMA's final rule implementing Executive Order 12372.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

FEMA has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with FEMA and allow State and local governments to establish cost-effective consultation procedures. For this reason, FEMA believes that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently FEMA certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 4.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve FEMA's internal management of its consultation with State and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of FEMA's action. For example, it is not intended that a State or local government would have the right to sue FEMA because FEMA failed to explain a nonaccommodation of a State recommendation.

Section 4.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Agency" means the Federal Emergency Management Agency (FEMA). "Order" means Executive Order 12372. "Director" means the Director, FEMA, or an official or employee of FEMA acting under a delegation of authority from the Director. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Somoa, or the Trust Territory of the Pacific Islands. The definition of "State" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 States.

In addition to these definitions, three other terms—simplify, consolidate, and substitute—and defined in § 4.9, State Plans. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 4.7).

Section 4.3 What programs and activities of FEMA are subject to these regulations?

The intent of the Order is that State and local elected officials should have the opportunity to consult with Federal Agencies under the Order concerning as many Federal programs and activities as they wish. This section provides that FEMA will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. A proposed list is attached for comment. Updated lists will be published when necessary in order to let States know which of FEMA's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those programs and activities that FEMA proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. FEMA seeks comments on the proposed exclusions. After promulgation of the final rules, if FEMA wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, States should assume that all FEMA's, other Federal financial assistance and direct Federal development programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by FEMA) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, State and local officials would still have an opportunity to have their views considered by FEMA. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of State and local

governments. Many of FEMA's program statutes have their own consultation requirements, and FEMA will, of course, comply with all existing or future statutory requirements of this kind. However, FEMA is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities. If at any time a State believes that any official of FEMA has not made appropriate use of the official State process, the State is invited to raise its concerns directly with the Director.

Section 4.4 What are the Director's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into FEMA's regulation, emphasizing FEMA's obligations under the Order. The mechanisms by which FEMA will carry out many of these general obligations are developed further in other sections of the rule. For example, paragraph(b)(4) of this section is further elaborated in § 4.9, concerning State plans.

Paragraph (b)(2) means FEMA is obligated to make efforts to ensure that information on proposed actions or decisions of the Agency is available to the states in sufficient time to be able to exert meaningful influence on the Agency's course of action. For example, FEMA would make sure that the State learned of draft assistance announcements, including decision criteria, proposed Federal development project decision, and so forth, in time to make a meaningful response.

Section 4.5 What procedures apply to a State's choice of programs under the Order?

States may choose to consult with FEMA under the Order concerning any of FEMA's programs and activities that FEMA's **Federal Register** notice on or about April 30, 1983, and subsequently lists as subject to the Order. However, these regulations do not require States to consult with FEMA concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave States no discretion concerning program selection. Under the Order, each State may choose whether to use the consultation system with respect to any particular program or activity. This gives States increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a State decides that an existing consultation system is adequate, the State might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A State also might want to decline to cover a program which has only minor effects on the State and its people.

FEMA emphasizes that the choice of whether to cover a particular program or activity listed in FEMA's **Federal Register** notice is entirely up to each State. While FEMA will be happy to discuss with States the most effective ways of carrying out consultation concerning its programs and actitities, FEMA will not attempt to constrain the State's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administratively requirement pertaining to program selection. The State must notify the Director of the programs and activities it chooses to cover. When it first establishes its official process, the State can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the State has chosen to cover. Subsequently, the State should send all program coverage information (additions, deletions, other changes) directly to FEMA. This information will enable FEMA's personnel who work on a particular program or activity to know which States they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a State has established a process and made its program selections known to FEMA, the Agency will use the State's process concerning the programs and activities selected by the State as soon as feasible. While FEMA will make every effort to use the State's process, there may be situations, on individual programs or projects, where FEMA may not be able to do so for a time. FEMA will make determinations concerning when to begin using the State's official process on a case-by-case basis and will let the States know when it will start to use the State process.

Paragraph (c) provides that FEMA may establish deadlines for changes by States in the program selection choices. A State may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, FEMA may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, FEMA may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the States that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform FEMA of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 4.6 How does the Director give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official State process but also to comments formulated by local elected officials to whom the State's consultation role has been delegated in specific instances. Section 3(a) of the Order permits States to delegate to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the State process. This means that States may choose not only which programs and activities to cover but also who within the State has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a State could delegate to a single mayor the State's consultation role with respect to a project occurring in his or her city. The State could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The State could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the State's consultation role is delegated stands in the shoes of the official State process with respect to FEMA. For example, efforts by FEMA to reach a negotiated solution with the local official will be pursued directly with the official, not with the State itself.

The local official to whom the State's consultation role had been delegated would not send his or her comment directly to FEMA. Rather, the official would send the comment to FEMA through the State single point of contact. FEMA would work with the local official in attempting to reach an accommodation, but, if efforts at

accommodation were unsuccessful, FEMA would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the State single point of contact would alert FEMA to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the State to FEMA informing FEMA that the comment was an official comment of the State.

It is difficult to specify, in advance, the precise timeframes that will implement the Order's notification requirement for FEMA's widely varied programs and activities. However, paragraph (b) states that, as a general rule, States choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before FEMA commits itself to a given course of action. FEMA, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by FEMA, the Agency may need to establish deadlines or timeframes in nonregulatory program specific announcements for comment on particular actions or types of actions. Consequently, as provided in paragraph (c), FEMA may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, timeframes may differ among different types of programs (e.g., one-year grants, multi-year grants, direct development projects, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadline for quarterly apportionment).

In some of FEMA's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by FEMA. Once the initial decision is made, FEMA has little discretion with respect to the subsequent decisions. FEMA could inform States of the key decision points on which their comments are essential if the States are to have a meaningful role in influencing FEMA's decision.

In most financial assistance programs, a State, local or private agency applies to FEMA for a grant or cooperative agreement or otherwise seeks FEMA approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from FEMA the State should work with applicant organizations to ensure that applications are provided to the State in a timely manner. If it becomes necessary, FEMA may establish requirements in nonregulatory program specific announcements for applicants to submit copies of their application to the State.

In order to ensure timely completion of Federal decisionmaking, FEMA may require States to complete their reviews of applications and to submit their comments to the Director by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the State. A similar provision, in paragraph (c)(3), permits the Director to establish deadlines in nonregulatory program specific announcements for State review of FEMA's direct development activities.

Paragraph (d) makes an important point with respect to the way that communications between States and FEMA would work. Under the Order, a State may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between FEMA and the official State process flow efficiently, FEMA strongly encourages States to establish a "single point of contact" for State communications with Federal agencies. Channeling communications from the States to Federal agencies and from agencies back to the States through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable FEMA to know which communications to treat as official under the provisions of the Order. FEMA needs a means of separating the letters from State and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit FEMA to make this necessary administrative distinction.

In the absence of a State process, or with respect to a program that a State has not selected for coverage, FEMA will work with the State, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that States send to FEMA. However, FEMA would strongly encourate commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, FEMA is required to make a decision based on certain statutorily established factors. In other cases, FEMA, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that FEMA would be able to accommodate comments that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on FEMA's decisions, comments must be relevant to the factors on which FEMA bases its decisions. For example, if an agency's standards call for a decision to be made at a certain stage on the technical merits of financial assistance proposals before consideration is given to costs, FEMA could not accommodate a State comment addressing costs during the technical review.

Second, States can assist FEMA's implementation of the Order by clearly specifying the magnitude of the State's concerns. Often, it may be difficult for FEMA to tell whether a State is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of FEMA's position. For example, if a State wants FEMA to recognize the State's priorities, accept only a modified financial application, or deny a financial assistance application, it would be very helpful if the State identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate State concerns. FEMA's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the States.

Third, FEMA may not be in a good position to accommodate State and local concerns unless the State speaks with one voice in its comments. FEMA recognizes that different State and local officials and agencies may not always agree among themselves concerning the course of action FEMA should follow. The single point of contact should reconcile conflicting views before transmission to avoid the Agency's having to seek clarification concerning which set of views the State wants

FEMA to accommodate. The process will work much better if FEMA receives a single set of comments.

Section 4.7 How does the Director make efforts to accommodate State and local concerns?

Paragraph (a) provides that when a State comments to FEMA under the Order, FEMA has three choices. FEMA can accept the State's comments (i.e., do as the State recommends). Second, it can reach a mutually agreeable solution with the State. This solution can differ from the original State position on the matter. Third, if FEMA cannot accept the State's comments or reach a mutually agreeable solution, FEMA is obligated to give the State a timely, simple explanation of FEMA's reasons for not doing so. While FEMA is not required to accept the State's comments or to begin discussions towards another solution, FEMA does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates FEMA's reasons for its decisioin to the State. A telephone call, a meeting, or a letter would perform this function. FEMA has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Director.

There is one exception to FEMA's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) provides, the Governor of the State may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, FEMA's explanation will be in a letter.

Paragraph (a)(3)(iii) spells out the role of the single point of contact in receiving explanation from FEMA. The Agency will direct all such explanations to the single point of contact in each State that has one. This is true even where accommodation discussions have occurred between FEMA and another party in the State.

Paragraph (b) concerns safeguards to ensure that the interests of States are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that FEMA will not implement its decision until ten days after the single point of contact receives the explanation except as provided in paragraph (b)(2). This waiting period is intended to permit States to respond to FEMA in cases of nonaccommodation before FEMA has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which FEMA has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten-day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which FEMA cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for FEMA to wait ten days before implementing its decision. In a situation where FEMA cannot observe the waiting period, the Director or a designee of the Director at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before FEMA implements the decision. The nonaccommodation explanation will include FEMA's reasons for determining that the ten-day waiting period is not feasible.

Section 4.8 What are the Director's obligations in interstate situations?

In some cases, action taken by FEMA in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, FEMA has certain additional obligations. First, FEMA must identify its direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the Agency must, as provided in paragraph (b), notify the potentially affected States, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Agency must provide the affected States an opportunity for comment of at least 45 days before FEMA commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for States to coordinate among themselves before providing views to FEMA.

FEMA, obviously, cannot require States to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, the Agency strongly encourages each affected State to share its comments with and obtain the views of other affected States, using the other State's single point of contact, if there is one, or an appropriate State official if there is not a single point of contact. FEMA encourages States to reconcile differences where they exist, so that the States can present FEMA with a unified position. If the affected States provide the Agency with conflicting recommendations, FEMA will, with respect to States that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 4.7.

Section 4.9 How may a State simplify, consolidate, or substitute State plans?

This section carries out section 2(d) of the Order, which directs Federal agencies to "allow" States to consolidate or simplify plans and to "encourage" States to substitute their own plans for Federally required State plans.

Paragraph (a) defines three terms used in this section. For a State to "simplify" a plan means that a State may develop its own format, choose its own submission date, and select the planning period covered by the plan. "Consolidate" means that the State may meet statutory and regulatory requirements by combining two or more plans into one document. The State may also select the format, submission date, and planning period for a consolidated plan. "Substitute" means that a State may use a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan mandated by the Agency. State plans required by FEMA that are eligible for modification (i.e., simplification, consolidation, or substitution) under the Order will be listed by FEMA in an OMB notice, published in today's **Federal Register**. FEMA is willing to consider other State plans for eligibility for modification under this section.

For purposes of State plan modifications, it is necessary to draw a distinction between the State's decision concerning which plans it wants to try to modify and the Agency's decision concerning whether to accept modified plans. Paragraph (b) deals with the first of these issues. A State may decide to try to simplify, consolidate or substitute State plans without prior approval by FEMA. The State's discretion in this respect is complete.

Paragraph (c) points out that FEMA will review the content of State proposals to simplify, consolidate, or substitute State plans to ensure that

they meet all applicable Federal requirements. Under this provision, FEMA could disapprove the content of a modified plan on the basis, for example, of legal insufficiency or the failure of the modified plan to meet Federally mandated substantive standards. If FEMA disapproves a State plan, the State may have recourse to any existing appeal process of FEMA applicable to the program in question. However, FEMA does not propose any new special appeal process for situations in which the Agency does not accept a modified plan.

This paragraph is not intended to give FEMA any new authority it does not already have to review or disapprove State plans. For example, if a statute limits the grounds on which FEMA may disapprove a State plan submission, this paragraph is not intended to expand those limits. The paragraph does emphasize, however, that these regulations do not impair the Agency's existing authority to review and, if necessary, disapprove State plans. This section also does not affect any existing statutory or regulatory requirements concerning submission dates, planning periods, or formats of State plans. FEMA will review and make appropriate modifications in regulatory requirements without a statutory basis to allow more State flexibility.

The Agency's ability to review State plans is important not only for the Agency's ability to administer its programs effectively but also to prevent States from inadvertently causing delays in Agency funding decisions. In many financial assistance programs, required program standards must be met through a State plan before Federal funds are awarded. FEMA may not be in a position to award funds to recipients if a plan does not meet legal requirements or substantive Federal program standards.

FEMA encourages States which wish to simplify, consolidate or substitute State plans to inform the Agency well in advance of their intentions. Early discussions between State officials and FEMA regarding proposed modifications of plans will help to avoid later problems, including unexpected delays or disapprovals of modifications. FEMA is very willing to work closely with State officials on plan modifications and, where feasible, will provide technical assistance or advice in plan modification efforts.

Section 4.10 May the Director waive any provision of these regulations?

This section allows the Director to waive any provision in these regulations in an emergency. The Agency expects to use this provision sparingly, since the Agency's policy is to carry out the Order as fully as it can.

List of Subjects in 44 CFR Part 4

Intergovernmental relations.

The Federal Emergency Management Agency proposes to amend Title 44, Code of Federal Regulations,

1. By adding a new Part 4, to read as follows:

PART 4—INTERGOVERNMENTAL REVIEW OF FEDERAL EMERGENCY MANAGEMENT AGENCY PROGRAMS

Sec.

4.1 What is the purpose of these regulations?
4.2 What definitions apply to these regulations?
4.3 What programs and activities of the Agency are subject to these regulations?
4.4 What are the Director's general responsibilities under the Order?
4.5 What procedures apply to a State's choice of programs under the Order?
4.6 How does the Director's give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?
4.7 How does the Director make efforts to accommodate State and local concerns?
4.8 What are the Director's obligations in interstate situations?
4.9 How may a State simplify, consolidate, or substitute Federally required State plans?
4.10 May the Director waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982); section 401(b) of Intergovernmental Cooperation Act of 1968 (42 USC 4231(b)).

§ 4.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthening Federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the agency. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the agency or its officers.

§ 4.2 What definitions apply to these regulations?

"Agency" means Federal Emergency Management Agency (FEMA).

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Director" means the Director, FEMA, or an official or employee of FEMA acting for the Director under a delegation of authority.

"State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 4.3 What programs and activities of the Agency are subject to these regulations?

The Director publishes in the Federal Register a list of the Agency's programs and activities that are subject to the Order and these regulations.

§ 4.4 What are the Director's general responsibilities under the Order?

(a) The director provides opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from, or direct Federal development by, the Agency.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal Development, the Director, to the extent permitted by law.

(1) Uses the State process to determine official views of State and local elected officials;

(2) Communicates with State and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the State process;

(4) Allows the States to simplify the consolidate existing Federally required State plan submissions;

(5) Where State planning and budgeting systems are sufficient and where permitted by law, encourages the substitution of State plans for Federally required State plans;

(6) Seeks the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports State and local governments by discouraging the

reauthorization or creation of any planning organization which is Federally-funded, which has a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 4.5 What procedures apply to a State's choice of programs under the Order?

(a) Each State that adopts a process under the Order notifies the Director of the Agency's programs that the State chooses to cover under the Order.

(b) The Director uses a State's process under the Order as soon as feasible, depending on individual programs and projects, after the State notifies the Director of its program choices.

(c) States may change their program choices under the Order at any time. The Director may establish deadlines by which States are required to inform the Director of changes in their program choices under the Order.

§ 4.6 How does the Director give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a State pursuant to an official process it has established under the Order, including comments where the State has delegated to local elected officials the review, coordination and communication with the Agency.

(b) Except in unusual circumstances, the Director gives States at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 4.8 for comment periods pertaining to interstate situations).

(c) Subject to paragraph (b) of this section, the Director may establish deadlines for:

(1) Applicants to submit copies of their applications to the States;

(2) States to complete their review of applications unde a financial assistance program and to submit their comments to the Agency; and

(3) States to complete their review of proposed direct Federal development and to submit their comments to FEMA.

(d) The Director responds as provided in the Order to all comments from a State that are provided through a State office or official that acts as a single point of contact under the Order between the State and all Federal agencies.

§ 4.7 How does the Director make efforts to accommodate State and local concerns?

(a) If a State provides comments to the Agency in accordance with § 4.6(d), the Director:

(1) Accepts the State's comments;

(2) Reaches a mutually agreeable solution with the State; or

(3) (i) Provides the State with a timely explanation of the basis for the Agency's decision.

(ii) If requested by the Governor, the Director provides the explanation in writing.

(iii) If the State has designated a State office or official as a single point of contact between the State and all Federal agencies the Director provides any explanation under paragraph (a)(3) of this section, to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Director informs the State that—

(1) The Agency will not implement its decision for ten days after the State receives the explanation; or

(2) The Director has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 4.8 What are the Director's obligations in interstate situations?

The Director is responsible for:

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the affected States, including States that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected States an opportunity of at least 45 days to comment.

§ 4.9 How may a State simplify, consolidate, or substitute Federally required State Plans?

(a) As used in this section:

(1) "Simplify" means that a State may develop it own format, choose its own submission date, and select the planning period for a State plan.

(2) "Consolidate" means that a State may meet statutory and regulatory requirements by combining two or more plans into one document and that the State can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a State may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a State may decide to try to simplify, consolidate, or substitute Federally required State plans without prior approval by the Director.

(c) The Director reviews each State plan that a State has simplified, consolidated, or substituted and accepts the plan only if its contents meet Federal requirements.

§ 4.10 May the Director waive any provision of these regulations?

In an emergency, the Director may waive any provision of these regulations.

2. The Director also proposes to remove the following regulations:

PART 9—FLOODPLAIN MANAGEMENT AND PROTECTION OF WETLANDS—[AMENDED]

§ 9.8 [Amended]

2. Section 9.8(f)(2) is amended by removing the phrase "and OMB Circular A–95".

3. Section 9.8(c)(4)(i) is removed.

§ 9.12 [Amended]

4. Section 9.12(a) is amended by removing the first sentence.

PART 59—GENERAL PROVISIONS

§ 59.22 [Amended]

5. Section 59.22(d) is removed.

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

§ 60.2 [Amended]

6. Section 60.2(i) is removed.

PART 76—STATE ASSISTANCE PROGRAM FOR THE NATIONAL FLOOD INSURANCE PROGRAM

§ 76.4 [Amended]

7. Section 76.4(c)(vii) is removed.

PART 300—DISASTER PREPAREDNESS ASSISTANCE

§ 300.5 [Amended]

8. Section 300.5(i) is amended by striking from the introductory paragraph the words "The appropriate provisions of OMB Circular A–95 Revised, Evaluation, review and coordination of Federal and Federally-assisted programs (January 2, 1976);"

9. Section 300.5(i)(1) is removed.

10. Section 300.5(i)(3)(i) is amended by striking the words "The State clearinghouse"

PART 302—CIVIL DEFENSE—STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE PROGRAMS (CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES)

§ 302.5 [Amended]

11. Section 302.5(b) is amended by striking in the introductory paragraph the following: "(including the requirement of a 45 day period for comment by the Governor)."

Dated: January 17, 1983.

Louis O. Guiffrida,

Director, Federal Emergency Management Agency.

Attachments:
List of Proposed Exclusions from Scope.
List of Programs which are subject to FEMA Regulation 44 CFR Part 4.

List of Proposed Exclusions From Scope

Program	Reason
1. Federal Crime Insurance Program. 83.101.	Benefit paid directly to individual.
2. Federal Riot Reinsurance Program. 83.102.	Payments are direct to individuals. State involvement only for certain approvals.
3. Reimbursement for cost of firefighting on Federal property. 83.007.	This involves payment of a claim.
4. National Emergency Training.	
a. Student expense program 83.402.	Monies paid directly to individuals. Otherwise assistance is in form of training which is not considered financial assistance.
b. Architect-Engineer Program 83.401.	
c. Radiological Emergency Response Training. 83.402.	
d. Student stipend program 83.405.	
e. Courses or seminars conducted at National Fire Academy or Emergency Management Institute.	
5. Emergency Disaster Assistance and Relief under sections 305 and 306 of Disaster Relief Act; debris removal under sec. 403; fire suppression grants under sec. 417; and financial assistance under sec. 419. 83.516.	These activities are all emergency activities taken during or immediately post disaster, and there is no time for this consultation process for major disasters or emergencies consultation.
6. Disaster relief individual assistance; temporary housing under sec. 404; Individual and family grants under sec. 408; legal services under sec. 412. of Disaster Relief Act. 83.516.	These are excluded as all involve direct payment to individuals.
7. Flood Insurance to indivduals under National Flood Insurance Act. 83.100.	This is excluded as flood policies are issued directly to individuals.
8. Flood insurance—floodplain management aspects of National Flood Insurance Program (including community eligibility, identification of special hazard areas, and flood elevation determinations. 83.100.	A non-governmental entity's consultation with State or local government officials or securing State or local government review, approval, or certification as a condition of receiving a Federal or Federally authorized assistance.

List of Programs and Activities Which Are Subject to FEMA Regulation 44 CFR Part 4

"Intergovernmental Review of Federal Emergency Management Agency Programs"

1. Financial assistance under the Federal Civil Defense Act of 1950, as amended, 50 U.S.C. App. 2251 et seq., including without limitation:	
(a) Emergency Management Assistance	83.503
(b) Nuclear Civil Protection	83.514
(c) Emergency Instruction for Public	
(d) Shelter Surveys	83.509
(e) State Radiological Defense Offices	83.511
(f) Radiological Systems Maintenance	83.508
(g) State and Local Maintenance and Services	83.504
(h) State and Local Supporting Materials	83.513
(k) Emergency Management Training	83.403
2. The State assistance program under the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, 42 U.S.C. 4001, et seq.	83.501
3. Acquisition of flood damaged structures under sec. 1362 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4103	83.502
4. Grants or other financial assistance under the Earthquake Hazards Reduction Act, 42 U.S.C. 7701, et seq	
5. Disaster preparedness grants or other financial assistance under sec. 201 of the Disaster Relief Act of 1974, as amended, 42 U.S.C. 5131	83.505, 83.506
6. Grants, loans, or other financial assistance under secs. 402 and 414 of the Disaster Relief Act of 1974, as amended, 42 U.S.C. 5172, 5184	83.516
7. Grants and other financial assistance (except for claims under sec. 11) under the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. 2201, et seq.	

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Part XX

General Services Administration

Intergovernmental Review of General Services Administration Programs and Activities

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-6

Intergovernmental Review of General Services Administration Programs and Activities

AGENCY: General Services Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the General Services Administration (GSA). Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, State and local elected officials, not the Federal Government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATE: Comments must be received by March 10, 1983.

ADDRESS: Interested persons should submit comments to General Services Administration (DX), Washington, DC 20405. Comments will be available for inspection in Room 5241 of the General Services Building, 18th and F Streets, NW., Washington, DC, from 9:00 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert L. MacKinnon, Director, Special Projects Staff (DX) (202–535–7215).

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between State and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required State and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular State and local governments. The system also required review of Federal programs by State and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of State and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, State and local concerns.

On January 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB Notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, States and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When State and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to State and local views than Circular A–95 did. In addition, States will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required State plans.

Across the whole range of Federal programs and activities, the federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for States to reduce administrative burdens in Federal programs requiring State plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected State and local officials.

OMB Guidance to States

In order to assist States as they begin their work in implementing the Order, OMB wrote on or before today to each State concerning the establishment of an official State process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a State that transmits the result of the State review and coordination with recommendations that differ from the Federal proposal to GSA and other Federal agencies and to which GSA directs official communications (e.g., explanations of nonaccommodation) to the State under the Order. A State may have a few or as many entities as it chooses to perform review and coordination and to conduct discussions with GSA. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the State whether the single point of contact plays a substantive role with respect to the State's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that States are not required to adopt an official State process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

This agency and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general Government-wide oversight responsibility for the implementation of the Order, but will not attempt to execise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with State and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies

involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out GSA's obligations and procedures in response to the views expressed by State and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public on December 23, 1982, 47 FR 57369. Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, GSA proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when decribing the GAS's obligations. For example, when the proposed regulation says that the Administrator "provides the State with a timely explanation," the regulation requires the Administrator to do so.

Removal of Regulations Implementing OMB Circular A–95

In connection with this proposed rulemaking, GSA is proposing to remove its existing regulations implementing former OMB Circular A–95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A–95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. In order to carry out this directive, GSA is listing in this document those regulatory provisions implementing Circular A–95 that it proposes to remove. Final rules carrying out the removal will be published on or about April 30, 1983, in conjunction with GSA's final rule implementing Executive Order 12372.

Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act

GSA has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with GSA and allow State and local governments to establish cost-effective consultation procedures. For this reason, GSA believes that any economic impact the regulation has will be positive. It is unlikely that its economic impact will be significant, in any case. Consequently, GSA certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 101–6.2101 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve GSA's internal managment of its consultation with State and local governments. Neither the Order nor these regulations are intended to create any right of judical review of GSA's action. For example, it is not intended that a State or local government would have the right to sue GSA because GSA failed to explain a nonaccommodation of a State recommendation.

Section 101–6.2102 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "GSA" means the General Services Administration. "Order" means Executive Order 12372. "Administrator" means the Administrator of General Services or an official or employee of GSA acting under a delegation of authority from the Administrator. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or actrivity. "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands. The definition of "State" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an offical consultation process and consult with Federal agencies on the same basis as each of the 50 States.

In addition to these definitions, three other terms—simplify, consolidate, and substitute—are defined in § 101–6.2109, State Plans. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., "accommodate" is explained in § 101–6.2107).

Section 101–6.2103 What programs and activities of GSA are subject to these regulations?

The intent of the Order is that State and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. This section provides that GSA will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let States know which of GSA's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those programs and activities that GSA proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. GSA seeks comments on the proposed exclusions. After promulgation of the final rules, if GSA wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, States should assume that all GSA's other Federal financial assistance and direct Federal development programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by GSA) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, State and local officials would still have an opportunity to have their views considered by GSA. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of State and local

governments. Many of GSA's program statutes have their own consultation requirements, and GSA will, of course, comply with all existing or future statutory requirements of this kind. However, GSA is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities. If at any time a state believes that any official of GSA has not made appropriate use of the official State process, the State is invited to raise its concerns directly with the Administrator.

Section 101–6.2104 What are the Administrator's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into GSA's regulation, emphasizing GSA's obligations under the Order. The mechanisms by which GSA will carryout many of these general obligations are developed further in other sections of the rule. For example, paragraph (b)(4) of this section is further elaborated in § 101–6.2109, concerning State plans.

Paragraph (b)(2) means GSA is obligated to make efforts to assure that States learn of proposed actions or decisions of GSA in sufficient time to be able to exert meaningful influence on GSA's course of action. For example, GSA would make sure that the State learned of assistance applications, proposed Federal development project decisions, and so forth, in time to make a meaningful response.

Section 101–6.2105 What procedures apply to a State's choice of programs under the Order?

States may choose to consult with GSA under the Order concerning any of GSA's programs and activities listed as subject to the Order in GSA's **Federal Register** notices published on or about April 30, 1983 and subsequently. However, these regulations do not require states to consult with GSA concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave States no discretion concerning program selection. Under the Order, each Statef may choose whether to use the consultation system with respect to any particular program or activity. This gives States increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a State decides that an existing consultation system is adequate, the State might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A State also might want to decline to cover a program which has only minor effects on the State and its people.

GSA emphasizes that the choice of whether to cover a particular program or activity listed in the GSA's **Federal Register** notice is entirely up to each State. While GSA will be happy to discuss with States the most effective ways of carrying out consultation concerning its programs and activities, the GSA will not attempt to constrain the State's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The State must notify the Administrator of the programs and activities it chooses to cover. When it first establishes its official process, the State can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the State has chosen to cover. Subsequently, the State should send all program coverage information (additions, deletions, other changes) directly to GSA. This information will enable the GSA's personnel who work on a particular program or activity to know which States they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a State has established a process and made its program selections known to GSA, GSA will use the State's process concerning the programs and activities selected by the State as soon as feasible. While GSA will make every effort ot use the State's process, there may be situations, on individual programs or projects, where GSA may not be able to do so for a time. GSA will make determinations concerning when to begin using the State's official process on a case-by-case basis and will let the States know when it will start to use the State process.

Paragraph (c) provides that the GSA may establish deadlines for changes by States in the program selection choices. A State may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, GSA may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, GSA may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the States that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they wuld have to inform GSA of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 101–6.2106 How does the Administrator give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official State process but also to comments formulated by local elected officials to whom the State's consultation role has been delegated in specific instances. Section 3(a) of the Order permits States to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the State process. This means that States may choose not only which programs and activities to cover but also who within the State has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a State could delegate to a single mayor the State's consultation role with respect to a project occurring in his or her city. The State could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The State could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the State's consultation role is delegated stands in the shoes of the official State process with respect to GSA. For example, efforts by the GSA to reach a negotiated solution with the local official will be pursued directly with the official, not with the State itself.

The local official to whom the State's consultation role had been delegated would not send his or her comment directly to the Agency. Rather, the official would send the comment to GSA through the State single point of contact. GSA would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, GSA

would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the State single point of contact would alert GSA to the fact the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the State to GSA informing GSA that the comment was an official comment of the State.

It is difficult to specify, in advance, the precise time frames that will implement the order's notification requirement for GSA's widely varied programs and activities. However, paragraph (b) states that, as a general rule, States choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct federal development before GSA commits itself to a given course of action. GSA, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circimstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring States a meaningful opportunity to influence decisions by GSA, GSA may need to establish deadlines or time frames in nonregulatory program specific announcements for comment on particular actions or types of actions. Consequently, as provided in paragraph (c), GSA may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multiyear grants, direct development projects, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadline for quarterly apportionment).

In some of GSA's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by GSA. Once the initial decision is made, GSA has little discretion with respect to the subsequent decisions. GSA could inform States of the key decision points on which their comments are essential if the States are to have a meaningful role in influencing GSA's decision.

In most financial assistance programs, a State, local, or private agency applies to GSA for a grant or cooperative agreement or otherwise seeks GSA approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from GSA, the State should work with applicant organizations to ensure that applications are provided to the State in a timely manner. If it becomes necessary, GSA may establish requirements in nonregulatory program specific announcements for applicants to submit copies of their application to the State.

In order to ensure timely completion of Federal decisionmaking, the GSA may require States to complete their reviews of applications and to submit their comments to the Administrator by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the State. A similar provision, in paragraph (c)(3), permits the Administrator to establish deadlines in nonregulatory program specific announcements for State review of GSA's direct development activities.

Paragraph (d) makes an important point with respect to the way that communications between States and GSA would work. Under the Order, a State may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between GSA and the official State process flow efficiently, GSA strongly encourages States to establish a "single point of contact" for State communications with Federal agencies. Channeling communications from the States to Federal agencies and from agencies back to the States through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable GSA to know which communications to treat as official under the provisions of the Order. GSA needs a means of separating the letters from State and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit GSA to make this necessary administrative distinction.

In the absence of a State process, or with respect to a program that a State has not selected for coverage, GSA will work with the State, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that States send to GSA. However, GSA would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, GSA is required to make a decision based on certain statutorily established factors. In other cases, GSA, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that GSA would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on GSA's decisions, comments must be relevant to the factors on which GSA bases its decisions. For example, if an Agency's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Agency could not accommodate a state comment addressing costs during the technical review.

Second, States can assist GSA's implementation of the Order by clearly specifying the magnitude of the State's concerns. Often, it may be difficult for GSA to tell whether a State is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of GSA's position. For example, if a State wants GSA to recognize the State's priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the State identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate State concerns. GSA's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the States.

Third, GSA may not be in a good position to accommodate State and local concerns unless the State speaks with one voice in its comments. GSA recognizes that different State and local officials and agencies may not always agree among themselves concerning the course of action GSA should follow. The single point of contact should reconcile conflicting views before transmission to avoid GSA's having to seek clarification concerning which set of views the state wants GSA to accommodate. The

process will work much better if GSA receives a single set of comments.

Section 101–6.2107 How does the Administrator make efforts to accommodate State and local concerns?

Paragraph (a) provides that when a State comments to GSA under the Order, GSA has three choices. GSA can accept the State's comments (i.e., do as the State recommends). Second, it can reach a mutually agreeable solution with the State. This solution can differ from the original State position on the matter. Third, if GSA cannot accept the State's comments or reach a mutually agreeable solution, GSA is obligated to give the State a timely, simple explanation of GSA's reasons for not doing so. While GSA is not required to accept the State's comments or to begin discussions towards another solution, GSA does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates GSA's reasons for its decision to the State. A telephone call, a meeting, or a letter would perform this function. GSA has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Administrator.

There is one exception to GSA's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) provides, the Governor of the State may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, GSA's explanation will be in a letter.

Paragraph (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from GSA. GSA will direct all such explanations to the single point of contact in each State that has one. This is true even where accommodation discussions have occurred between GSA and another party in the State.

Paragraph (b) concerns safeguards to ensure that the interests of States are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that GSA will not implement its decision until ten days after the single point of contact receives the explanation except as provided in paragraph (b)(2). This waiting period is intended to permit States to respond to GSA in cases of nonaccommodation before GSA has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which GSA has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognized that there will be some situations in which GSA cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for GSA to wait ten days before implementing its decision. In a situation where GSA cannot observe the waiting period, the Administrator or a designee of the Administrator at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before GSA implements the decision. The nonaccommodation explanation will include GSA's reasons for determining that the ten-day waiting period is not feasible.

Section 101–6.2108 What are the Administrator's obligations in interstate situations?

In some cases, action taken by GSA in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, the GSA has certain additional obligations. First, GSA must identify its direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, GSA must, as provided in paragraph (b), notify the potentially affected States, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), GSA must provide the affected States an opportunity for comment of at least 45 days before GSA commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for States to coordinate among themselves before providing views to GSA.

GSA, obviously, cannot require States to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, GSA strongly encourages each affected State to share its comments with and obtain the views of other affected States, using the other State's single point of contact, if there is one, or an appropriate State official if there is not a single point of contact. GSA encourages States to reconcile differences where they exist, so that the States can present GSA with a unified position. If the affected States provide GSA with conflicting recommendations, the GSA will, with respect to States that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 101–6.2107.

Section 101–6.2109 How may a State simplify, consolidate, or substitute Federally required state plans?

This section carries out section 2(d) of the Order, which directs Federal agencies to "allow" States to consolidate or simplify plans and to "encourage" States to substitute their own plans for Federally required State plans.

Paragraph (a) defines three terms used in this section. for a State to "simplify" a plan means that a State may develop its own format, choose its own submission date, and select the planning period covered by the plan. "Consolidate" means that the State may meet statutory and regulatory requirements by combining two or more plans into one document. The State may also select the format, submission date, and planning period for a consolidated plan. "Substitute" means that a State may use a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan mandated by GSA. State plans required by GSA that are eligible for modification (i.e., simplification, consolidation, or substitution) under the Order will be listed by GSA in an accompanying **Federal Register** notice. GSA is willing to consider other State plans for eligibility for modification under this section.

For purposes of State plan modifications, it is necessary to draw a distinction between the State's decision concerning which plans it wants to try to modify and GSA's decision concerning whether to accept modified plans. Paragraph (b) deals with the first of these issues. A State may decide to try to simplify, consolidate, or substitute State plans without prior approval by GSA. The State's discretion in this respect is complete.

Paragraph (c) points out that the GSA may review the content of State proposals to simplify, consolidate, or substitute State plans to ensure that they meet all applicable Federal requirements. Under this provision, GSA could disapprove the content of a

modified plan on the basis, for example, of legal insufficiency or the failure of the modified plan to meet federally mandated substantive standards. If GSA disapproves a State plan, the State may have recourse to any existing appeal process of GSA applicable to the program in question. However, GSA does not propose any new special appeal process for situations in which GSA does not accept a modified plan.

This paragraph is not intended to give GSA any new authority it does not already have to review or disapprove State plans. For example, if a statute limits the grounds on which GSA may disapprove a State plan submission, this paragraph is not intended to expand those limits. The paragraph does emphasize, however, that these regulations do not impair GSA's existing authority to review and, if necessary, disapprove State plans. This section also does not affect any existing statutory or regulatory requirements concerning submission dates, planning periods, or formats of State plans. GSA will review and make appropriate modifications in regulatory requirements without a statutory basis to allow more State flexibility.

GSA's ability to review State plans is important not only for GSA's ability to administer its programs effectively but also to prevent States from inadvertently causing delays in GSA funding decisions. In many financial assistance programs, required program standards must be met through a State plan before Federal funds are awarded. GSA may not be in a position to award funds to recipients if a plan does not meet legal requirements or substantive Federal program standards.

GSA encourages States which wish to simplify, consolidate, or substitute State plans to inform GSA well in advance of their intentions. Early discussions between State officials and the GSA regarding proposed modifications of plans will help to avoid later problems, including unexpected delays or disapprovals of modifications. GSA is very willing to work closely with State officials on plan modifications and, where feasible, will provide technical assistance or advice in plan modifications efforts.

Section 101–6.2110 May the Administrator waive any provision of these regulations?

This section allows the Administrator to waive any provision in these regulations in an emergency. GSA expects to use this provision sparingly, since GSA's policy is to carry out the Order as fully as it can.

List of Subjects in 41 CFR Part 101–6

Civil rights, Government property management, Grant programs, Intergovernmental relations, Surplus Government property, Relocation assistance, Real property acquisition.

Dated: January 17, 1983.

Ray Kline,

Acting Administrator of General Services.

Attachment—List of Proposed Exclusions from Scope: None

PART 101–6—MISCELLANEOUS REGULATIONS

1. For the reasons set out in the preamble, the General Services Administration proposes to amend Title 41, Code of Federal Regulations, by adding a new Subpart 101–6.21, to read as follows:

Subpart 101–6.21—Intergovernmental Review of General Services Administration Programs and Activities

Sec.

101–6.2101 What is the purpose of these regulations?
101–6.2102 What definitions apply to these regulations?
101–6.2103 What programs and activities of the GSA are subject to these regulations?
101–6.2104 What are the Administrator's general responsibilities under the Order?
101–6.2105 What procedures apply to a State's choice of programs under the Order?
101–6.2106 How does the Administrator give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?
101–6.2107 How does the Administrator make efforts to accommodate State and local concerns?
101–6.2108 What are the Administrator's obligations in interstate situations?
101–6.2109 How may a State simplify, consolidate, or substitute Federally required State plans?
101–6.2110 May the Administrator waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982); 47 FR 30959; section 401(a) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(a)).

§ 101–6.2101 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on State and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of GSA. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against GSA or its officers.

§ 101–6.2102 What definitions apply to these regulations?

"GSA" means the U.S. General Services Administration.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Administrator" means the Administrator of General Services or an official or employee of GSA acting for the Administrator under a delegation of authority.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 101 6.2103 What programs and activities of GSA are subject to these regulations?

The Administrator publishes in the **Federal Register** a list of the GSA's programs and activities that are subject to the Order and these regulations.

§ 101–6.2104 What are the Administrator's general responsibilities under the Order?

(a) The Administrator provides opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that woud be directly affected by, proposed Federal financial assistance from, or direct Federal development by, GSA.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Administrator, to the extent permitted by law:

(1) Uses the State process to determine official views of State and local elected officials;

(2) Communicates with State and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the State process;

(4) Allows the States to simplify and consolidate existing Federally required State plan submissions;

(5) Where State planning and budgeting systems are sufficient and where permitted by law, encourages the substitution of State plans for Federally required State plans;

(6) Seeks the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports State and local governments by discouraging the reauthorization or creation of any planning organization which is federally-funded, which has a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 101–6.2105 What procedures apply to a State's choice of programs under the Order?

(a) Each State that adopts a process under the Order notifies the Administrator of the GSA programs that the State chooses to cover under the Order.

(b) The Administrator uses a State's process under the Order as soon as feasible, depending on individual programs and projects, after the State notifies the Administrator of its program choices.

(c) States may change their program choices under the Order at any time. The Administrator may establish deadlines by which States are required to inform the Administrator of changes in their program choices.

§ 101–6.2106 How does the Administrator give States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a State pursuant to an official process it has established under the Order, including comments where the State has delegated to local elected officials the review, coordination, and communication with GSA.

(b) Except in unusual circumstances, the Administrator gives States at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (See § 101–6.2108 for comment periods pertaining to interstate situations.)

(c) Subject to paragraph (d) of this section, the Administrator may establish deadlines for:

(1) Applicants to submit copies of their applications to the States; and

(2) States to complete their review of applications under a financial assistance program and to submit their comments to GSA.

(3) States to complete their review of proposed direct Federal development and to submit their comments to GSA.

(d) The Administrator responds as provided in the Order to all comments from a State that are provided through a State office or official that acts as a single point of contact under the Order between the State and all Federal agencies.

§ 101–6.2107 How does the Administrator make efforts to accommodate State and local concerns?

(a) If a State provides comments to GSA in accordance with § 101–6.2106(d), the Administrator:

(1) Accepts the State's comments;

(2) Reaches a mutually agreeable solution with the State; or

(3)(i) Provides the State with a timely explanation of the basis for GSA's decision.

(ii) If requested by the Governor, the Administrator provides the explanation in writing.

(iii) If the State has designated a state office or official as a single point of contact between the State and all Federal agencies, the Administrator provides an explanation under paragraph (a)(3)(i) of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Administrator informs the State that:

(1) GSA will not implement its decision for ten days after the State receives the explanation; or

(2) The Administrator has reviewed the decision and determined that because of unusual circumstances, the ten-day waiting period is not feasible.

§ 101–6.2108 What are the Administrator's obligations in interstate situations?

The Administrator is responsible for:

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the affected States, inlcuding States that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected States an opportunity of at least 45 days to comment.

§ 101–6.2109 How may a State simplify, consolidate, or substitute Federally required State plans?

(a) As used in this section:

(1) "Simplify" means that a State may develop its own format, choose its own submission date, and select the planning period for a State plan.

(2) "Consolidate" means that a State may meet statutory and regulatory requirements by combining two or more plans into one document and that the State can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a State may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a State may decide to try to simplify, consolidate, or substitute federally required State plans without prior approval by the Administrator.

(c) The Administrator reviews each State plan that a State has simplified, consolidated, or substituted and accepts the plan only if its contents meet Federal requirements.

§ 101–6.2110 May the Administrator waive any provision of these regulations?

In an emergency, the Administrator may waive any provision of these regulations.

2. GSA also proposes to remove the following regulations: None.

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Monday
January 24, 1983

Part XXI

National Aeronautics and Space Administration

Intergovernmental Review of National Aeronautics and Space Administration Programs and Activities

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1204

Intergovernmental Review of National Aeronautics and Space Administration Programs and Activities

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to direct Federal development programs and activities of NASA. Executive Order 12372 and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to James M. Bayne, Chief, Real Property Management Branch (Code NXG–2), NASA, Washington, DC 20546. Commenters wishing to have their submissions acknowledged should include a stamped, self-addressed postcard with their comments. The postcard will be time and date stamped and returned to the commenter. Comments will be available for inspection at the above address from 8:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: James M. Bayne, (202) 755–3647.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through a regulatory and organizational framework created under OMB Circular A–95.

On July 14, 1982, President Reagan signed Executive Order 12372, Intergovernmental Review of Federal Programs. The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials will determine, within the scope of the Order, what Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns or explain why it could not accommodate them. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected State and local officials.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB wrote on or before today to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in the state that transmits the result of the state review and coordination with recommendations that differ from the federal proposal to NASA and other Federal agencies and to which the Agency directs official communications (e.g., explanation of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination, and conduct discussion with NASA. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

NASA and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on the non-Federal parties. For the most part, these proposed regulations will spell out NASA's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public on December 23, 1982. Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is NASA's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Agency proposes to make the final rule effective immediately upon its publication on April 30, 1983.

As a matter of style, the proposed rules use the present tense when describing NASA's obligations. For example, when the proposed regulation says that the Administrator "provides the State with a timely written explanation," the regulation requires the Administrator to do so.

Removal of Regulations Implementing OMB Circular A–95

In connection with this proposed rulemaking, NASA is proposing to remove its existing regulations implementing former OMB Circular A–95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A–95 regulations in place only until new

regulations implementing the Order were promulgated on April 30, 1983. In order to carry out this directive, NASA is listing in this notice those regulatory provisions implementing Circular A–95 that it proposes to remove. Final rules carrying out the removal will be published on April 30, 1983, in conjunction with NASA's final rule implementing Executive Order 12372.

Executive Order 12291 and Regulatory Flexibility Act

NASA has determined that this is not a major rule under Executive Order 12291. NASA certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-By-Section Analysis

Section 1204.1501 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation.

Section 1204.1502 What definitions apply to these regulations?

This section defines several terms used used frequently in the proposed rule. "Agency" means National Aeronautics and Space Administration. "Order" means Executive Order 12372. "Administrator" means the Administrator of NASA or an official or employee of the Agency acting under a delegation of authority from the Administrator. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "state" meams that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states.

Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 1204.1507).

Section 1204.1503 What programs and activities of the Agency are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. Paragraph (a) of this section provides that the Agency will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let states know which of the Agency's programs and activities they may choose to cover.

Appendix 1 to this preamble contains a description of those programs and activities that the Agency proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also given. The Agency seeks comments on the proposed exclusions. After promulgation of the final rules, if the Agency wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, states are advised that NASA has no direct Federal financial assistance programs and that only its direct Federal development programs will be subject to the Order as described in Appendix 1 to the proposed regulations. Of course, activities and programs that clearly do not involve direct Federal development are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Agency. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of sate and local governments. Many of the Agency's program statutes have their own consultation requirements, and the Agency will, of course, comply with all existing or future statutory requirements of this kind. However, the Agency is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

Paragraph (b) of this section simply states the Administrator's obligation, to the extent permitted by law, to use a state's official process to determine official views of state and local officials. This obligation, which derives directly from the Order, extends only to programs and activities subject to the Order which a state has selected for coverage under § 1204.1505. If at any time a state believes that any official of the Agency has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Administrator or with the Agency's Intergovernmental Affairs Office.

Section 1204.1504 What are the Administrator's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into the Agency's regulation, emphasizing the Agency's obligations under the Order. The mechanisms by which the Agency will cary out many of these general obligations are developed further in other sections of the rule.

Section 1204.1505 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with the Agency under the Order concerning any of the Agency's programs and activities tha the Agency's **Federal Register** notice on or about April 30, 1983, and subsequently lists as subject to the Order. However, these regulations do not require states to consult with the Agency concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave states no discretion concerning program selection. Under the order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

The Agency emphasizes that the choice of whether to cover a particular

program or activity listed in the Agency's **Federal Register** notice is entirely up to each state. While the Agency will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Agency will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets our a purely administrative requirement pertaining to program selection. The state must notify the Administrator of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the Agency. This information will enable the Agency's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) of this section provides that once a state has established a process and made its program selections known to the Agency, the Agency will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Agency will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Agency may not be able to do so for a time. The Agency will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) of this section provides that the Agency may establish deadlines for changes by states in the program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Agency may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Agency may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Agency of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 1204.1506 How does the Administrator give states an opportunity to comment on proposed direct Federal development?

Paragraph (a) of this section points out that the Order would apply not only to comments prepared by the official state process itself, but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to the Agency. For example, efforts by the Agency to reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to the Agency. Rather, the official would send the comment to the Agency through the state single point of contact. The Agency would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessfull, the Agency would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Agency to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the Agency informing the Agency that the comment was an official comment of the state.

Section 2(b) of the Order requires Federal agencies to communicate with state and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Paragraph (b) of this section incorporates this provision of the Order into these regulations. What the requirement means is that the Agency is obligated to make efforts to ensure that information on proposed actions or decisions of the Agency is available to the states in sufficient time to exert meaningful influence on the Agency's course of action. For example, the Agency would make sure that the state learned of proposed project decisions, projected plan approvals, and so forth, in time to make a meaningful response.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Agency's programs. However, paragraph (c) of this section states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on a proposed action or decision before the Agency commits itself to a given course of action. The Agency, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Agency, the Agency may need to establish deadlines or time frames for comment on particular actions or types of actions. Consequently, as provided in paragraph (d) of this section, the Agency may define the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unsual circumstances.

In some to the Agency's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Agency. Once the initial decision is made, the Agency has little discretion with respect to the

subsequent decisions. The Agency could inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Agency's decision.

Paragraph (d) of this section permits the Administrator to establish deadlines for state reviews of the Agency's direct development activities.

Paragraph (e) of this section makes an important point with respect to the way the communications between states and the Agency would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Agency and the official state process flow efficiently, the Agency strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Agency to know which communications to treat as official under the provisions of the Order.

The Agency needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Agency to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, the Agency will work with the State, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the Agency. However, the Department would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, the Agency is required by statute to make a decision based on certain statutorily established factors. In other cases, the Agency, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Agency would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the Agency's decisions, comments must be relevant to the factors on which the Agency bases its decisions.

Second, states can assist the agency's implementation of the Order by clearly specifying the magnitude of the state's concerns. Often, it may be difficult for the Agency to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Agency's position as clearly as possible. For example, if a state wants the Agency to recognize the state's priorities, it would be very helpful if the state identified its position. The Order directs Federal agencies to make efforts to accommodate state concerns. The Agency's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Agency may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. The Agency recognizes that different state and local officials and agencies may not always agree among themselves concerning the course of action the Agency should follow. The single point of contact should reconcile conflicting views before transmission to avoid the Agency's having to seek clarification concerning which set of views the state wants the Agency to accommodate. The process will work much better if the Agency receives a single set of comments.

Section 1204.1507 How does the Administrator make efforts to accommodate state and local concerns?

Paragraph (a) of this section provides that when a state comments to the Agency under the Order, the Agency has three choices. The Agency can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the Agency cannot accept the state's comments or reach a mutually agreeable solution, the Agency is obligated to give the state a timely, simple explanation of the Agency's reasons for not doing so.

While the Agency is not required to accept the state's comments or to begin discussions towards another solution, the Agency does have an obligation to provide a single explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Agency's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. The Agency has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Administrator.

There is one exception to the Agency's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) of this section provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Agency's explanation will be in a letter.

Paragraph (a)(3)(iii) of this section spells out the role of the single point of contact in receiving explanations from the Agency. The Agency will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Agency and another party in the state.

Paragraph (b) of this section concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1) of this section, nonaccommodation provides that an explanation will state that the Agency will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Agency in cases of nonaccommodation before the Agency has let a contract, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Agency has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten-day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) of this section recognizes that there will be some situations in which the Agency cannot observe the ten-day waiting period.

These unusual circumstances could include, for example, a statutory deadline, emergency, or an end of a fiscal year situation may make it infeasible for the Agency to wait ten days before implementing its decision. In a situation where the Agency cannot observe the waiting period, the Administrator or a designee of the Administrator at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Agency implements the decision. The nonaccommodation explanation will include the Agency's reasons for determining that the ten-day waiting period is not feasible.

Section 1204.1508 What are the Administrator's obligations in interstate situations?

Often, action taken by the Agency in direct Federal development programs affect interstate areas. In these situations, the Agency has certain additional obligations. First, the Agency must identify its direct Federal development actions or decision that may affect interstate areas. Having done so, the Agency must, as provided in paragraph (b) of this section, notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances the Agency must provide the affected states an opportunity for comment of at least 45 days before the Agency commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Agency.

The Agency, obviously, cannot require states to coordinate with each other on actions or decisions having an interstate impact. However, the Agency strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Agency encourages states to reconcile differences where they exist, so that the states can present the Agency with a unified position. If the affected states provide the Agency with conflicting recommendations, the Agency will accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 1204.1507.

Section 1204.1509 [Reserved]

Section 1204.1510 May the Administrator waive any provision of these regulations?

This section allows the Administrator to waive any provision in these regulations in an emergency. The Agency expects to use this provision sparingly, since the Agency's policy is to carry out the Order as fully as it can.

Issued at Washington D.C. January 17, 1983.

James M. Beggs,

Administrator, National Aeronautics and Space Administration.

List of Subjects in 14 CFR Part 1204

Intergovernmental relations, Airports, Authority delegations (Government agencies), Federal buildings and facilities, Government contracts, Government employees, and Government procurement.

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

1. For the reasons set out in the Preamble, the Agency proposes to amend 14 CFR Part 1204 by revising Subpart 1204.15 to read as follows:

Subpart 1204.15—Intergovernmental Review of National Aeronautics and Space Administration Programs and Activities

Sec.

1204.1501 What is the purpose of these regulations?
1204.1502 What definitions apply to these regulations?
1204.1503 What programs and activities of NASA are subject to these regulations?
1204.1504 What are the Administrator's general responsibilities under the Order?
1204.1505 What procedures apply to a state's choice of programs under the Order?
1204.1506 How does the Administrator give the states an opportunity to comment on proposed direct Federal development?
1204.1507 How does the Administrator make efforts to accommodate state and local concerns?
1204.1508 What are the Administrator's obligations in interstate situations?
1204.1509 [Reserved].
1204.1510 May the Administrator waive of provision of the regulations?

Authority: Executive Order 12372 (July 14, 1982; 47 FR 30959); section 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)).

Subpart 1204.15—Intergovernmental Review of National Aeronautics and Space Administration Programs and Activities

§ 1204.1501 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development. (NASA does not have financial assistance programs.)

(c) The Order and these regulations are intended only to improve the internal management of the Agency. Neither the Order nor these regulations were intended to create any right or benefit enforceable at law by a party against the Agency or its officers.

§ 1204.1502 What definitions apply to these regulations?

(a) "Agency" means the National Aeronautics and Space Administration.

(b) "Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs".

(c)"Administrator" means the Administrator of the National Aeronautics and Space Administration or an official or employee of the Agency acting for the Administrator under a delegation of authority.

(d) "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory or Pacific Islands.

§ 1204.1503 What programs and activities of NASA are subject to these regulations?

(a) The Administrator publishes in the **Federal Register** a list of the Agency's programs and activities that are subject to the Order and these regulations.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 1204.1505 of these regulations, the Administrator, to the extent permitted by law, uses the official state process to determine official views of state and local elected officials.

§ 1204.1504 What are the Administrator's general responsibilities under the Order?

(a) The Administrator provides opportunities for consultation by elected officials of those state and local governments that would be directly affected by direct Federal development by the Agency.

(b) If a State adopts a process under the Order to review and coordinate

proposed direct Federal development, the Administrator, to the extent permitted by law:

(1) Uses the State process to determine official views of state and local elected officials;

(2) Communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate state and local elected officials' concerns with direct Federal development that are communicated through the state process;

(4) Seeks the coordination of views of affected state and local elected officials in one state with those of another state when direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(5) Supports state and local governments by discouraging the reauthorization or creation of any planning organization which is Federally funded, which has a limited purpose, the which is not adequately representative of, or accountable to, State or local elected officials.

§ 1204.1505 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Administrator of the Agency's programs that the state chooses to cover under the Order.

(b) The Administrator uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Administrator of its program choices.

(c) States may change their program choices under the Order at any time. The Administrator may establish deadlines by which states are required to inform the Administrator of changes in their program choices.

§ 1204.1506 How does the Administrator give the states an opportunity to comment on proposed direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process and has established under the Order, including comments where the state has delegated to local elected officials the review, coordination and communication with the Agency.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 1204.1505, the Administrator, to the extent permitted by law, communicates with state and local elected officials as early in a program planning cycle as is reasonable to explain specific plans and actions.

(c) Except in unusual circumstances, the Administrator gives states at least 30 days to comment on any proposed direct Federal development (see § 1204.1508 for comment periods pertaining to interstate situations).

(d) Subject to paragraph (c) of this section the Administrator may establish deadlines for states to complete the review of proposed direct Federal development and to submit their comments to the Agency.

(e) The Administrator responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal Agencies.

§ 1204.1507 How does the Administrator make efforts to accommodate with state and local concerns?

(a) If a state provides comments to the Agency under § 1204.1506(e) the Administrator:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3)(i) Provides the state with a timely written explanation of the basis for the Agency's decision.

(ii) If requested by the Governor, the administrator provides the explanation in writing.

(iii) It the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Administrator provides any explanation under paragraph (a)(3) of this section to that office or official.

(b) If any explanation under paragraph (a)(3) of this section, the Administrator informs the state that:

(1) The Agency will not implement its decision for ten days after the state receives the explanation; or

(2) The Administrator has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 1204.1508 What are the Administrator's obligations in interstate situations?

The Administrator is responsible for:

(a) Identifying proposed direct Federal development that has an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

§ 1204.1509 [Reserved]

§ 1204.1510 May the Administrator waive of provisions of the regulations?

In an emergency, the Administrator may waive any provision of these regulations.

Appendix 1

Exclusions from Scope:

NASA conducts Research and Development in the national interest in aeronautics, space, and related sciences and technologies. It operates ten Field Centers and several subordinate installations across the United States in the conduct of these programs. The programs which NASA conducts are initiated and completed in such a way that the mix of programs varies from year to year. As a resultl, each program is reauthorized each year.

All programs of the Agency, including R&D and the operation of facilities and installations, are subject to review and analysis to determine their impact on states and localities—this test including (but not being limited to) the criteria of E.O. 12372. The Agency excludes from the provision of the order and this rule those programs and activities unless analysis reveals them to have a potential state and local impact within the sense of E.O. 12372. Those determined to be subject to the E.O. will become the subject of appropriate coordination as they are authorized.

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Part XXII

National Foundation on the Arts and the Humanities

National Endowment for the Arts

Intergovernmental Review of National Endowment for the Arts Programs and Activities

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Part 1152

Intergovernmental Review of National Endowment for the Arts Programs and Activities

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the National Endowment for the Arts. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective intergovernmental consultation system. Under the Order, state and local elected officials not the Federal Government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Robert Wade, General Counsel for Management, National Endowment for the Arts, 2401 E Street, NW., Washington, D.C. 20506. Comments will be available for inspection at the above address from 9 a.m. to 5:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert Wade, 202–634–6374.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of state and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to a state and local views than Circular A–95 did. In addition, states wil have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for states to reduce administrative burdens in Federal programs requiring state plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected State and local officials.

OMB Guidance of States

In order to assist states as they begin their work in implementing the Order, OMB wrote on or before today to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the federal proposal to the Endowment and other Federal agencies and to which the Endowment directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the Endowment. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

The Endowment and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies

involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Endowment's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in the December 23, 1982, **Federal Register**. Following the close of the comment period, the agencies will again work together with the air of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Endowment proposes to make the final rule effective immediately upon its publication on April 30, 1983.

As a matter of style, the proposed rules use the present tense when describing the Endowment's obligations. For example, when the proposed regulation says that the Chairman "provides the State with a timely explanation," the regulation requires the Chairman to do so.

Removal of Regulations Implementing OMB Circular A–95

The Endowment does not have any existing regulation implementing former OMB Circular A–95.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Endowment has determined that the rule being promulgated hereunder is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with the Endowment and allow state and local governments to establish cost-effective consultation procedures. For this reason, the Endowment believes that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently, the Endowment certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-By-Section Analysis

Section 1152.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Endowment's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Endowment's action. For example, it is not intended that a state or local government would have the right to sue the Endowment because it failed to explain a nonaccommodation of a state recommendation.

Section 1152.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Endowment" means the National Endowment for the Arts. "Order" means Executive Order 12372. "Chairman" means the Chairman of the National Endowment for the Arts or an official or employee of the Endowment acting under a delegation of authority from the Chairman. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states.

In addition to these definitions, three other terms—simplify, consolidate, and substitute—are defined in 1152.9, State Plans. Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 1152.7).

Section 1152.3 What programs and activities of the Endowment are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. Paragraph (a) provides that the Endowment will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let states know which of the Endowment's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those programs and activities that the Endowment proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. The Endowment seeks comments on the proposed exclusion. After promulgation of the final rules, if the Endowment wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, states should assume that all the Endowment's other Federal financial assistance and direct Federal development programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Endowment) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, or budget formulation.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Endowment. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), requires Federal agencies to consider the views of state and local governments. The Endowment's enabling legislation has its own consultation requirements, and the Endowment will, of course, comply with all existing or future statutory requirements of this kind. However, the Endowment is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

If at any time a state believes that any official of the Endowment has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Chairman.

Section 1152.4 What are the Chairman's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into the Endowment's regulation, emphasizing the Endowment's obligations under the Order. The mechanisms by which the Endowment will carry out many of these general obligations are developed further in other sections of the rule. For example, paragraph (b)(4) of this section is further elaborated in 1152.9, concerning state plans.

Paragraph (b)(2) means the Endowment is obligated to make efforts to ensure that information on proposed actions or decisions of the Endowment is available to the States in sufficient time to be able to exert meaningful influence on the Endowment's course of action. For example, the Endowment would make sure that the state learned of draft assistance announcements including decision criteria, proposed Federal development project decisions, and so forth, in time to make a meaningful response.

Section 1152.5 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with the Endowment under the Order concerning any of the Endowment's programs and activities that the Endowment's **Federal Register** notice on or about April 30, 1983 and subsequent lists as subject to the Order. However, these regulations do not require states to consult with the Endowment concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave states no discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

The Endowment emphasizes that the choice of whether to cover a particular program or activity listed in the Endowment's **Federal Register** notice is entirely up to each state. While the Endowment will be happy to discuss with states the most effective ways of carrying our consultation concerning its programs and activities, the Department will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Chairman of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the Endowment. This information will enable the Endowment's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to the Endowment, the Endowment will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Endowment will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Endowment may not be able to do so for a time. The Endowment will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the Endowment may establish deadlines for changes by states in the program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Endowment may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Endowment may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Endowment of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 1152.6 How does the Chairman give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to the Endowment. For example, efforts by the Endowment to reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation rule had been delegated would not send his or her comment directly to the Endowment. Rather, the official would send the comment to the Endowment through the state single point of contact. The Endowment would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Endowment would

explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Endowment to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the Endowment informing the Endowment that the comment was an official comment of the state.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Endowment's programs and activities covered by the regulations. However, paragraph (c) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before the Endowment commits itself to a given course of action. The Endowment, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Endowment, it may need to establish deadlines or time frames in non-regulatory program specific announcements for comment on particular actions or types of actions. Consequently, as provided in paragraph (d), the Endowment may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multi-grants, direct development projects, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadline for quarterly apportionment).

In some of the Endowment's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Endowment. Once the initial decision is made, the Endowment has little discretion with respect to the subsequent decisions. It could inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Endowment's decision.

In most financial assistance programs, a state, local, or private agency applies to the Endowment for a grant or cooperative agreement or otherwise seeks Endowment approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from the Endowment, the state should work with applicant organizations to ensure that applications are provided to the state in a timely manner. If it becomes necessary, the Endowment may establish requirements in non-regulatory program specific announcements for applicants to submit copies of their application to the state.

In order to ensure timely completion of Federal decisionmaking, the Endownment may require states to complete their reviews of applications and to submit their comments to the Chairman by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state. A similar provision, in paragraph (d)(3), permits the Chairman to establish deadlines in non-regulatory program specific announcements for state review of the Endowment's direct development activities.

Paragraph (e) makes an important point with respect to the way that communications between states and the Endowment would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Endowment and the official states process flow efficiently, the Endowment strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Endowment to know which communications to treat as official under the provisions of the Order. The Endowment needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Endowment to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, the Endowment will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulations would not impose any constraints on the content of comments that states send to the Endowment. However, the Endowment would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often the Endowment is required to make a decision based on certain statutorily established factors. In other cases, the Endowment, through regulation or guidelines, has established decisionmaking criteria for various actions. It is unlikely that the Endowment would be able to accomodate concerns that do not address these rerquirements and standards, or which are not relevant to the decisionmaking process. In order to have a meaningful influence on the Endowment's decisions, comments must be relevant to the factors on which it bases its decisions. For example, if the Endowment's standards call for a decision to be made at a certain stage only on the artistic merits of financial assistance proposals, before consideration is given to costs, the Endowment could not accomodate a state comment addressing costs during the artistic review.

Second, states can assist the Endowment's implementation of the Order by clearly specifying the magnitude of the state's concerns. Often it may be difficult for the Endowment to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Endowment's position. For example, if a state wants the Endowment to recognize the state's priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accomodate

state concerns. The Endowment's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Endowment may not be in a good position to accomodate state and local concerns unless the state speaks with one voice in its comments. The Endowment recognizes that different state and local officials and agencies may not always agree among themselves concerning the course of action the Endowment should follow. To avoid the Endowment's having to seek clarification concerning which set of views the state wants the Endowment to accomodate. The process will work much better if the Endowment receives a single set of comments.

Section 1152.7 How does the Chairman make efforts to accomodate state and local concerns?

Paragraph (a) provides that when a state comments to the Endowment under the Order, the Endowment has three choices. The Endowment can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the Endowment cannot accept the state's comments or reach a mutually agreeable solution, the Endowment is obligated to give the state a timely, simple explanation of its reasons for not doing so. While the Endowment is not required to accept the state's comments or to begin discussions towards another solution, the Endowment does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Endowment's reasons for its decision to the state. A telephone call, meeting, or a letter would perform this function. The Endowment has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Chairman.

There is one exception to the Endowment's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Endowment's explanation will be in a letter.

Paragraph (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from the Endowment. The Endowment will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Endowment and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1), provides that nonaccommodation explanation will state that the Endowment will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Endowment in cases of nonaccommodation before the Endowment has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Endowment has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten-day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Endowment cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Endowment to wait ten days before implementing its decision. In a situation where the Endowment cannot observe the waiting period, the Chairman or a designee of the Chairman at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Endowment implements the decision. The nonaccommodation explanation will include the Endowment's reasons for determining that the ten-day waiting period is not feasible.

Section 1152.8 What are the Chairman's obligations in interstate situations?

In some cases, action taken by the Endowment in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, the Endowment has certain additional obligations. First, it must identify its direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the Endowment must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Endowment must provide the affected states an opportunity for comment of at least 45 days before it commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstste situations allows extra time for states to coordinate among themselves before providing views to the Endowment.

The Endowment obviously, cannot require states to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, the Endowment strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Endowment encourages states to reconcile differences where they exist, so that the states can present the Endowment with a unified position. If the affected states provide the Endowment with conflicting recommendations, the Endowment will, with respect to states that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 1152.7.

Section 1152.9 How may a state simplify, consolidate, or substitute federally required state plans?

This section carries out section 2(d) of the Order, which directs Federal agencies to "allow" states to consolidate or simplify plans and to "encourage" states to substitute their own plans for Federally required state plans.

Paragraph (a) defines three terms used in this section. For a state to "simplify" a plan means that a state may develop its own format, choose its own submission date, and select the planning period covered by the plan. "Consolidate" means that the state may meet statutory and regulatory requirements by combining two or more plans into one document. The state may also select the format, submission date, and planning period for the consolidated

plan. "Substitute" means that a state may use a plan or other document that is developed for its own purposes to meet Federal requirements in place of a plan mandated by the Endowment. State plans required by the Endowment that are eligible for modification (i.e., simplification, consolidation, or substitution) under the Order will be listed by the Endowment in an OMB notice published in today's **Federal Register**. The Endowment is willing to consider other state plans for eligibility for modification under this section.

For purposes of state plan modifications, it is necessary to draw a distinction between the state's decision concerning which plans it wants to try to modify and the Endowment's decision concerning whether to accept modified plans. Paragraph (b) deals with the first of these issues. A state may decide to try to simplify, consolidate or substitute state plans without prior approval by the Endowment. The state's discretion in this respect is complete.

Paragraph (c) points out that the Endowment will review the content of state proposals to simplify, consolidate, or substitute state plans to ensure that they meet all applicable Federal requirements. Under this provision, the Endowment could disapprove the content of a modified plan on the basis, for example, of legal insufficiency or the failure of the modified plan to meet Federally mandated substantive standards. If the Endowment disapproves a state plan, the state may have recourse to any existing appeal process of the Endowment applicable to the program in question. However, the Endowment does not propose any new special appeal process for situations in which the Endowment does not accept a modified plan.

This paragraph is not intended to give the Endowment any new authority it does not already have to review or disapprove state plans. For example, if a statute limits the grounds on which the Endowment may disapprove a state plan submission, this paragraph is not intended to expand those limits. The paragraph does emphasize, however, that these regulations do not impair the Endowment's existing authority to review and, if necessary, disapprove state plans. This section also does not affect any existing statutory or regulatory requirements concerning submission dates, planning periods, or formats of state plans. The Endowment will review and make appropriate modifications in regulatory requirements without a statutory basis to allow more state flexibility.

The Endowment's ability to review state plans is important not only for its ability to administer its programs effectively but also to prevent states from inadvertently causing delays in Endowment funding decisions. In many financial assistance programs, required program standards must be met through a state plan before Federal funds are awarded. The Endowment may not be in a position to award funds to recipients if a plan does not meet legal requirements or substantive Federal program standards.

The Endowment encourages states which wish to simplify, consolidate or substitute state plans to inform the Endowment well in advance of their intentions. Early discussions between state officials and the Endowment regarding proposed modifications of plans will help to avoid later problems, including unexpected delays or disapprovals of modifications. The Endowment is very willing to work closely with state officials on plan modifications and, where feasible, will provide technical assistance or advice in plan modification efforts.

Section 1152.10 May the Chairman waive any provision of these regulations?

This section allows the Chairman to waive any provision in these regulations in an emergency. The Endowment expects to use this provision sparingly, since the Endowment's policy is to carry out the Order as fully as it can.

List of Subjects in 45 CFR Part 1152

Intergovernmental relations.

Issued at Washington, D.C., January 17, 1983.

F. M. Hodsoll,

Chairman, National Endowment for the Arts.

Attachment—List of Proposed Exclusions from Scope

1. For the reasons set out in this Preamble, the National Endowment for the Arts proposes to amend Title 45, Code of Federal Regulations, by adding a new Part 1152, to read as follows:

PART 1152—INTERGOVERNMENTAL REVIEW OF NATIONAL ENDOWMENT FOR THE ARTS PROGRAMS AND ACTIVITIES

Sec.

1152.1 What is the purpose of these regulations?
1152.2 What definitions apply to these regulations?
1152.3 What programs and activities of the Endowment are subject to these regulations?
1152.4 What are the Chairman's general responsibilities under the Order?
1152.5 What procedures apply to a state's choice of programs under the Order?
1152.6 How does the Chairman give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?
1152.7 How does the Chairman make efforts to accommodate state and local concerns?
1152.8 What are the Chairman's obligations in interstate situations?
1152.9 How may a state simplify, consolidate, or substitute Federally required state plans?
1152.10 May the Chairman waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982; 47 FR 30959); section 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)).

§ 1152.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Endowment. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Endowment or its officers.

§ 1152.2 What definitions apply to these regulations?

"Endowment" means the National Endowment for the Arts.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Chairman" means the Chairman of the National Endowment for the Arts or an official or employee of the Endowment acting for the Chairman under a delegation of authority.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 1152.3 What programs and activities of the Endowment are subject to these regulations?

(a) The Chairman publishes in the **Federal Register** a list of the Endowment's programs and activities

that are subject to the Order and these regulations.

§ 1152.4 What are the Chairman's general responsibilities under the Order?

(a) The Chairman provides opportunities for consultation by elected officials of those state and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from, or direct Federal development by, the Endowment.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Chairman, to the extent permitted by law:

(1) Uses the State process to determine official views of state and local elected officials;

(2) Communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate state and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the state process;

(4) Allows the state to simplify and consolidate existing Federally required state plan submissions;

(5) Where state planning and budgeting systems are sufficient and where permitted by law, encourages the substitution of State plans for Federally required state plans;

(6) Seeks the coordination of views of affected state and local elected officials in one state with those of another state when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports state and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 1152.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Chairman of the Endowment's programs that the state chooses to cover under the Order.

(b) The Chairman uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Chairman of its program choices.

(c) States may change their program choices under the Order at any time. The Chairman may establish deadlines by which states are required to inform the Chairman of changes in their program choices.

§ 1152.6 How does the Chairman give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, coordination and communication with the Endowment.

(b) Except in unusual circumstances, the Chairman gives states at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 1152.8 for comment periods pertaining to interstate situations).

(c) Subject to paragraph (b) of this section, the Chairman may establish deadlines for:

(1) Applicants to submit copies of their applications to the states; and

(2) States to complete their review of applications under a financial assistance program and to submit their comments to the Endowment.

(3) States to complete their review of proposed direct Federal development, and submit their comments to the Endowment.

(d) The Chairman responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 1152.7 How does the Chairman make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Endowment in accordance with § 1152.6(d), the Chairman:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3)(i) Provides the state with a timely explanation of the basis for the Endowment's decision.

(ii) If requested by the Governor, the Chairman provides the explanation in writing.

(iii) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Chairman provides any explanation under paragraph (a)(3) of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Chairman informs the state that:

(1) The Endowment will not implement its decision for ten days after the state receives the explanation; or

(2) The Chairman has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 1152.8 What are the Chairman's obligations in interstate situations?

The Chairman is responsible for:

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

§ 1152.9 How may a state simplify, consolidate, or substitute Federally required state plans?

(a) As used in this section:

(1) "Simplify" means that a state may develop its own format, choose its own submission date, and select the planning period for a state plan.

(2) "Consolidate" means that a state may meet statutory and regulatory requirements by combining two or more plans into one document and that the state can select the format, submission date, and planning period for the consolidated plan.

(3) "Substitute" means that a state may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a state may decide to try to simplify, consolidate, or substitute Federally required state plans without prior approval by the Chairman.

(c) The Chairman reviews each state plan that a state has simplified, consolidated, or substituted and accepts the plan only if its contents meets Federal requirements.

§ 1152.10 May the Chairman waive any provision of these regulations?

In an emergency, the Chairman may waive any provision of these regulations.

Attachment—National Endowment for the Arts Programs/Activities Proposed for Exclusion From the Scope of Executive Order 12372

The National Endowment for the Arts proposes to exclude the following listing of programs/activities from the scope of E.O.

12372 in accordance with the following Government wide criteria:

Program/activity	Basis for exclusion	
	Generic exclusion	Data exclusion
	Excluded by previously announced administration Policy: Direct payments to individuals.	Excluded because not determined to be within the definition of financial assistance, direct federal licensing or permitting under the Executive Order: Direct financial assistance between the Federal government and a non-governmental entity.
Promotion of the Arts:		
Dance	X	X.
Design Arts	X	X.
Folk Arts	X	X.
International	X	X.
Literature	X	X.
Media: Film/ Radio/ Television.	X	X.
Museums	X	X.
Music	X	X.
Theatre	X	X.
Visual Arts	X	X.
National Endowment Fellowship Program.	X	
Challenge		X.
Expansion Arts		X.
Inter-Arts		X.
Opera-Musical Theatre.		X.

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Part XXIII

National Foundation on the Arts and the Humanities

National Endowment for the Humanities

Intergovernmental Review of National Endowment for the Humanities Programs and Activities

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Intergovernmental Review of National Endowment for the Humanities Programs and Activities

AGENCY: National Endowment for the Humanities, National Foundation of the Arts and the Humanities.

ACTION: Notice.

SUMMARY: This Notice sets forth the Endowment's intention not to publish a proposed rule to implement Executive Order 12372, "Intergovernmental Review of Federal Programs," which replaced the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Mr. Bruce Carnes, Office of Planning and Policy Assessment, National Endowment for the Humanities, Room 1016, 806 15th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Carnes, Office of Planning and Policy Assessment, 202–724–0344.

SUPPLEMENTARY INFORMATION: On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB Notice published in today's **Federal Register.** The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Most Federal agencies are publishing in today's **Federal Register** a Notice of Proposed Rulemaking to implement Executive Order 12372. However, the Endowment has concluded that it has no Federal financial assistance to which the Order should apply. Consequently, the Endowment is not publishing a proposed rule.

This Notice lists those programs and activities that the Endowment proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. The Endowment seeks comments on the proposed exclusions. If the Endowment wants to exclude new or additional programs or activities from coverage under the Order in the future, it will publish a **Federal Register** Notice requesting comment on the proposed exclusions.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Endowment. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. The Endowment will, of course, comply with all existing or future statutory requirements of this kind.

The Endowment proposes to exclude the following:

Program	Reason
Education Programs	
1. Humanities instruction in elementary and secondary schools (1981 CFDA #45.127).	1. Direct grants to schools and colleges to improve the teaching of the humanities in elementary and secondary schools.
2. Exemplary projects, nontraditional programs, and teaching materials	2. Direct grants to institutions of higher education to improve the quality of humanities instruction.
3. Central disciplines in undergraduate education	3. Direct grants to institutions of higher education to improve the quality of humanities instruction.
Fellowships and Seminars	
4. Fellowships for independent study research (1981 CFDA #45.142)	4. Direct payments for individuals research in the humanities; and, Research activities in the humanities.
5. Fellowships for college teachers (1981 CFDA #45.143)	5. Direct grants to individuals to conduct research in the humanities; and, Research activities in the humanities.
6. Summer stipends (1981 CFDA #45.121)	6. Direct grants to individuals to conduct research in the humanities; and, Research activities in the humanities.
7. Summer seminars for college teachers (1981 CFDA #45.116)	7. Direct grants to institutions of education to conduct seminars in the humanities.
8. Summer seminars for secondary school teachers	8. Direct grants to institutions of higher education to conduct seminars in the humanities.
9. Fellowships at centers for advanced study (1981 CFDA #45.122)	9. Direct grants to humanities and institutions to offer individual fellowships in the humanities.
Research Programs	
10. Basic research (1981 CFDA #45.140)	10. Direct grants to individuals to conduct research in the humanities; and, Research in the humanities.
11. Regional studies (1981 CFDA #45.141)	11. Direct grants to individuals to conduct research in the humanities; and, Research activities in the humanities
12. Intercultural research (1981 CFDA #45.148)	12. Research activities in the humanities; and, Direct grants to humanities institutions and organizations to sponsor fellowships in intercultural research in the humanities.
13. Humanities, science, and technology (1981 CFDA #45.133)	13. Direct grants to individuals to conduct projects which explore the interrelationships between the humanities and science and technology; and, Direct grants to organizations and educational institutions to establish or conduct programs which explore the interrelationships between the humanities and science and technology.
14. Research conferences (1981 CFDA #45.134)	14. Support for conferences for scholars to exchange and discuss new ideas, trends, and research in the humanities.
15. Research tools (1981 CFDA #45.145)	15. Direct grants to individuals to create a research tool or reference work for the humanities
16. Editions (1981 CFDA #45.146)	16. Direct grants to scholars to produce authoritative and annotated texts in all fields of the humanities.
17. Translations (1981 CFDA #45.147)	17. Direct grants to scholars to translate into English texts and documents written in foreign languages.
18. Organization and improvement projects (1981 CFDA #45.124)	18. Direct grants to institutions and organizations to organize or otherwise improve their resource collections in the humanities.
19. Conservation and preservation projects (1981 CFDA #45.149)	19. Direct grants to institutions and organizations to conserve and preserve documents that are in danger of deterioration.
20. Publications (1981 CFDA #45.132)	20. Direct grants to presses to help defray some of the cost of publishing books in the humanities.

Program	Reason
GENERAL PROGRAMS	
21. Humanities projects in media (1981 CFDA #45.104)	21. Direct grants to individuals to develop radio, television, or film programs or scripts in the humanities.
22. Humanities projects in museums and historical organizations (1981 CFDA #45.125).	22. Direct grants to museums and organizations to plan, develop, and implement exhibitions and interpretive programs in the humanities.
23. Youth programs (1981 CFDA #45.135)	23. Direct grants to individual youths to pursue research projects in the humanities; and, Direct grants to organizations and institutions to launch out-of-school programs in the humanities directed at youths.
24. Program development (1981 CFDA #45.113)	24. Direct grants to organizations and institutions to organize humanities programs directed at adult, general [illegible].
25. Humanities projects in libraries (1981 CFDA #45.137)	25. Direct grants to libraries to support humanities programs directed at the adult, out-of-school audiences.
STATE PROGRAMS	
26. State Programs (1981 CFDA #45.129)	26. Direct grants to non-governmental state humanities councils to provide partial support for the cost of regrants to [illegible] and local humanists.
PLANNING AND ASSESSMENT STUDIES	
27. Planning and Assessment studies (1981 CFDA #45.128)	27. Direct grants to organizations institutions to undertake data-gathering and analysis of information on issues important to the humanities.
CHALLENGE GRANTS	
28. Challenge grants (1981 CFDA #45.130)	28. Direct grants to institutions and organizations to stimulate private sector contributions for strengthening the humanities and their programs in the humanities.

Issued at Washington, D.C., January 17, 1983.

William J. Bennett,

Chairman, National Endowment for the Humanities.

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Part XXIV

National Science Foundation

Intergovernmental Review of National Science Foundation Programs and Activities

NATIONAL SCIENCE FOUNDATION

45 CFR Part 660

Intergovernmental Review of National Science Foundation Programs and Activities

AGENCY: National Science Foundation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the National Science Foundation. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new intergovernmental consultation system. Under the Order, state and local elected officials, not the Federal Government, will determine what Federal programs and activities to review and the procedures by which review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to the National Science Foundation, 1800 G Street NW., Washington, DC 20550. Attn: Office of the General Counsel. Comments will be available for inspection at the above address from 9:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ruth Greenstein, Office of the General Counsel, (202) 357–9438.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB Notice published in today's **Federal Register.** The Order directs the revocation of Circular A–95, and provides for a new intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB on or before today wrote to each state concening the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to the Foundation and other Federal agencies and to which the Foundation directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the Foundation. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications.

It it also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule.

The National Science Foundation has the basic responsibility of ensuring that its programs and activities are carried out in conformity with the Order's provisions. OMB will have general Government-wide oversight responsibility for the implementation of the Order. OMB will neither attempt to exercise any day-to-day operational control of agency actions nor act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the Foundation's obligations, in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in December (citation and date). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intentions that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Foundation proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing the Foundation's obligations. For example, when the proposed regulation says that the Director "provides the State with a timely explanation," the regulation requires the Director to do so.

Removal of Regulations Implementing OMB Circular A–95

In connection with this proposed rulemaking, the Foundation is proposing to remove its existing regulations implementing former OMB Circular A–95. Executive Order 12372 directed OMB to revoke the Circular itself, and the OMB directive revoking the Circular told Federal agencies to leave their A–95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. Final rules carrying out the removal will be published on or about April 30, 1983, in conjunction with the Foundation's

final rule implementing Executive Order 12372.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Foundation has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with the Foundation and allow state and local governments to establish cost-effective consultation procedures. For this reason, the Foundation believes that any economic impact the regulation has will be positive. It is unlikely that its economic impacts will be significant, in any case. Consequently, the Foundation certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 660.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to affect the Foundation's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Foundation's action. For example, it is not intended that a state or local government would have the right to sue the Foundation because the Foundation failed to explain a nonaccommodation of a state recommendation.

Section 660.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Foundation" means the National Science Foundation. "Order" means Executive Order 12372. "Director" means the Director of the National Science Foundation or an official or employee of the Foundation acting under a delegation of authority from the Director. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states.

Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 660.7).

Section 660.3 What programs and activities of the Foundation are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. Paragraph (a) provides that the Foundation will publish a Federal Register notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let states know which of the Foundation's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those programs and activities that the Foundation proposes to include and to exclude from coverage under the Order. The reason for each proposed inclusion or exclusion is also listed. The Foundation seeks comments on the proposed coverage. After promulgation of the final rules, if the Foundation wants to exclude from coverage under the Order new or additional programs or activities similar to those that are included, it will publish a Federal Register notice requesting comment on the proposed exclusions. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Foundation) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials may still have a statutory basis to have their views considered by the Foundation. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. However, the Foundation is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

Paragraph (b) simply states the Director's obligation, to the extent permitted by law, to use a state's official process to determine official views of state and local officials. This obligation, which derives directly from the Order, extends only to programs and activities subject to the Order which a state has selected for coverage under § 660.5 of these regulations. If at any time a state believes that any official of the Foundation has not made appropriate use of the official state process for included programs, the state is invited to raise its concerns directly with the Director.

Section 660.4 [Reserved]

Section 660.5 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with the Foundation under the Order concerning any of the Foundation's programs and activities that the Foundation's Federal Register notice on or about April 30, 1983, and subsequently lists as subject to the Order. However, these regulations do not require states to consult with the Foundation concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave states no discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. A state also might want to decline to cover a program which has only minor effects on the state and its people.

The Foundation emphasizes that the choice of whether to cover a particular program or activity listed in the Foundation's Federal Register notice is entirely up to each state. While the Foundation will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the Foundation will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Director of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the Foundation. This information will enable the Foundation's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to the Foundation, the Foundation will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the Foundation will make every effort to use the state's process, there may be situations, on individual programs or projects, where the Foundation may not be able to do so for a time. The Foundation will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the Foundation may establish deadlines for changes by states in the program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Foundation may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Foundation may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the Foundation of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 660.6 How does the Director give states an opportunity to comment on proposed Federal assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to the Foundation. For example, efforts by the Foundation to reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to the Foundation. Rather, the official would send the comment to the Foundation through the state single point of contact. The Foundation would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Foundation would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Foundation to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the Foundation informing the Foundation that the comment was an official comment of the State.

Section 2(b) of the Order requires Federal agencies to communicate with state and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Paragraph (b) incorporates this provision of the Order into these regulations. What the requirement means is that the Foundation is obligated to make efforts to ensure that information on proposed actions or decisions of the Foundation is available to the states in sufficient time to be able to exert meaningful influence on the Foundation's course of action. For example, the Foundation would make sure that the state learned of draft assistance announcements, including decision criteria, and so forth, in time to make a meaningful response.

Paragraph (c) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before the Foundation commits itself to a given course of action. The Foundation, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the Foundation, the Foundation may need to establish deadlines or time frames in nonregulatory program-specific announcements for comment on particular actions or types of actions. Consequently, as provided in paragraph (d), the Foundation may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multiyear grants, direct development projects, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadline for quarterly apportionment).

To permit the normal peer review process to function smoothly, the Foundation intends that any required state review of a grant application occur prior to the applicant submission of such application to the Foundation. The Foundation intends to allow applicants sufficient time to permit a 30-day state review prior to the submission of applications to the Foundation and will notify applicants of their responsibility to submit applications that require consultations under EO 12372 to the official state process at least 30 days prior to submission to the Foundation. States should work with applicant organizations to ensure that applications are provided to the states and the Foundation in a timely manner.

In order to ensure timely completion of Federal decisionmaking, the Foundation may require states to complete their reviews of applications and to submit their comments to the Director by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state. A similar provision, in paragraph (d)(3), permits the Director to establish deadlines in nonregulatory program-specific announcements for state review of the Foundation's direct development activities.

Paragraph (e) makes an important point with respect to the way that communications between states and the Foundation would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Foundation and the official state process flow efficiently, the Foundation strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. In addition, it will enable the Foundation to know which communications to treat as official under the provisions of the Order. The Foundation needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the Foundation to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage the Foundation will work with the State, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the Foundation. However, the Foundation would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. In some cases, the Foundation may be required to make a decision based on certain statutorily established factors. In other cases, the Foundation, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the Foundation would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the Foundation's decisions, comments must be relevant to the factors on which the Foundation bases its decisions. For example, if the Foundation's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the Foundation could not accommodate a state comment addressing costs during the technical review.

Second, states can assist the Foundation's implementation of the Order by clearly specifying the magnitude of the state's concerns. Often, it may be difficult for the Foundation to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Foundation's position. For example, if a state wants the Foundation to recognize the state's priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate state concerns. The Foundation's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, the Foundation may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. The Foundation recognizes that different state and local officials and agencies may not always agree among themselves concerning the course of action the Foundation should follow. The single point of contact should reconcile conflicting views before transmission to avoid the Foundation's having to seek clarification concerning which set of views the state wants the Foundation to accommodate. The process will work much better if the Foundation receives a single set of comments.

Section 660.7 How does the Director make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the Foundation under the Order, the Foundation has three choices. The Foundation can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the Foundation cannot accept the state's comments or reach a mutually agreeable solution, the Foundation is obligated to give the state a timely, simple explanation of the Foundation's reasons for not doing so. While the Foundation is not required to accept the state's comments or to begin discussions toward another solution, the Foundation does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Foundation's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. The Foundation has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation is made by a designee of the Director.

There is one exception to the Foundation's discretion to choose the mode of communicating the explanation. As paragraph (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Foundation's explanation will be in a letter.

Paragraph (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from the Foundation. The Foundation will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the Foundation and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situtions. Paragraph (b)(1) provides that a nonaccommodation explanation will state that the Foundation will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the Foundation in cases of nonaccommodation before the Foundation has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Foundation has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Paragraph (b)(2) recognizes that there will be some situations in which the Foundation cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Foundation to wait ten days before implementing its decision. In a situation where the Foundation cannot observe the waiting period and the National Science Board has not already reviewed the issue, the Director or a designee of the Director at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Foundation implements the decision. The nonaccommodation explanation will include the Foundation's reasons for determining that the ten-day waiting period is not feasible.

Section 660.8 What are the Director's obligations in interstate situations?

In some cases, action taken by the Foundation in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, the Foundation has certain additional obligations. First, the Foundation must identify its direct Federal development of Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the Foundation must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the Foundation must provide the affected states an opportunity for comment of at least 45 days before the Foundation commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Foundation.

The Foundation, obviously, cannot require states to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, the Foundation strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Foundation encourages states to reconcile differences where they exist, so that the states can present the Foundation with a unified position. If the affected states provide the Foundation with conflicting recommendations, the Foundation will, with respect to states that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 660.7.

Section 660.9 [Reserved]

Section 660.10 May the Director waive any provision of these regulations?

This section allows the Director to waive any provision in these regulations in an emergency. The Foundation expects to use this provision sparingly, since the Foundation's policy is to carry out the Order as fully as it can.

List of Subjects in Part 660

Intergovernmental relations.

Issued at Washington, D.C. January 24, 1983.

Edward Knapp,

Director, National Science Foundation.

Attachment—List of Proposed Inclusions and Exclusions from Scope.

Attachment: Programs or Activities Proposed as Eligible for Inclusion or as Excluded under EO 12372

Rationale: The primary criterion used to determine which NSF program or activities should be eligible for state review is the degree to which the program or activity is likely directly to affect state or local governments. As a general matter, research and research-related activities do not so affect state or local governments. Rather, the effects of research are generally felt by particular jurisdictions, if at all, only indirectly or tangentially. In addition, most NSF research and research-related programs are based on national competitions in which state and local governments rarely compete. Further, because OMB Circular A–5 generally excluded research from its coverage, the creation of a system which broadly included research as eligible for inclusion in a state review process would impose new burdens on the research-performing community inconsistent with the President's objectives of decreasing the regulatory burden on the public. The NSF therefore proposes that most research and research-related programs be excluded from generalized coverage under the Order.

The NSF does recognize, however, that its Intergovernmental Science & Technology Programs frequently involve state and local governments or deal with issues of direct and immediate concern to them. Similarly, although research programs as a whole do not directly affect state and local governments, individual research activities may occasionally have such a unique relationship to a particular jurisdiction or set of jurisdictions that consultation may be appropriate. The states should be permitted to review such activities if they wish.

The NSF thus proposes the following programs or activities as eligible for inclusion or as excluded under EO 12372 and these regulations.

A. Eligible for Inclusion

(1) Intergovernmental Science & Technology Programs (CFDA #47.036).

(2) Any research program or activity which:

(a) has a unique geographic focus and is directly relevant to the governmental responsibilities of a state or local government within that geographic area; or

(b) necessitates the preparation of an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA); or

(c) is to be newly initiated at a particular site or location and does not necessitate the preparation of an EIS, but requires unusual measures to limit the possibility of adverse exposure or hazard to the general public (e.g., special containment or shielding facilities for air, land, or water buffer zones).

B. Proposed for Exclusion

(1) Scientific Personnel Improvement (CFDA # 47.009).

(2) Research Activities in: Engineering; Mathematical and Physical Sciences; Astronomical, Atmospheric, Earth and Ocean Sciences; Biological, Behavioral, and Social Sciences. (These are currently listed in the CFDA at ## 47.041, 47.049, 47.050, and 47.051, respectively.)

(3) Scientific, Technological, and International Affairs (CFDA # 47.053).

(4) Two-Year and Four-Year College Research Instrumentation (CFDA # 47.055).

(5) Minority Research Initiation (CFDA # 47.057).

(6) Visiting Professorships for Women in Science and Engineering (CFDA # 47.059).

(7) Research Improvement in Minority Institutions (CFDA # 47.060).

1. For the reasons set out in the Preamble, the National Science Foundation proposes to amend Title 45, Code of Federal Regulations, by revising Part 660, to read as follows:

PART 660—INTERGOVERNMENTAL REVIEW OF NATIONAL SCIENCE FOUNDATION PROGRAMS AND ACTIVITIES

Sec.

660.1 What is the purpose of these regulations?
660.2 What definitions apply to these regulations?
660.3 What programs and activities of the Foundation are subject to these regulations?
660.4 [Reserved]
660.5 What procedures apply to a state's choice of programs under the Order?
660.6 How does the Director give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?
660.7 How does the Director make efforts to accommodate state and local concerns?
660.8 What are the Director's obligations in interstate situations?
660.9 [Reserved]
660.10 May the Director waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982; 47 FR 30959); section 401(b) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231 (b)).

§ 660.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to affect the internal management of the Foundation. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Foundation or its officers.

§ 660.2 What definitions apply to these regulations?

"Foundation" means the National Science Foundation.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Director" means the Director of the National Science Foundation or an official or employee of the Foundation acting for the Director under a delegation of authority.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 660.3 What programs and activities of the Foundation are subject to these regulations?

(a) The Director publishes in the **Federal Register** a list of the Foundation's programs and activities that are subject to the Order and these regulations.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 660.5, the Director, to the extent permitted by law, uses the official state process to determine official views of state and local elected officials.

§ 660.4 [Reserved]

§ 660.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Director of the Foundation's programs that the state chooses to cover under the Order.

(b) The Director uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Director of its program choices.

(c) States may change their program choices under the Order at any time. The Director may establish deadlines by which states are required to inform the Director of changes in their program choices.

§ 660.6 How does the Director give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, coordination, and communication with the Foundation.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to cover under § 660.5, the Director, to the extent permitted by law, communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Except in unusual circumstances, states will have at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 660.8 for comment periods pertaining to interstate situations).

(d) Subject to paragraph (c) of this section, the Director may establish deadlines for:

(1) Applicants to submit copies of their applications to the states prior to or concurrent with submission to the Foundation; and

(2) States to complete their review of applications under a financial assistance program and to submit their comments to the Foundation.

(3) States to complete their review of proposed direct Federal development and to submit their comments to the Foundation.

(e) The Director responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

§ 660.7 How does the Director make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Foundation in accordance with § 660.6(e), the Director:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3) (i) Provides the state with a timely explanation of the basis for the Foundation's decision.

(ii) If requested by the Governor, the Director provides the explanation in writing.

(iii) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, the Director provides any explanation under paragraph (a)(3) of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Director informs the state that:

(1) The Foundation will not implement its decision for ten days after the state receives the explanation; or

(2) The Director has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 660.8 What are the Director's obligations in interstate situations?

The Director is responsible for:

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

§ 903.9 [Reserved]

§ 903.10 May the Director waive any provision of these regulations?

In an emergency, the Director may waive any provision of these regulations.

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federal register

Monday
January 24, 1983

Part XXV

Office of Personnel Management

Intergovernmental Review of Office of Personnel Management Programs and Activities

OFFICE OF PERSONNEL MANAGEMENT

Intergovernmental Review of Office of Personnel Management Programs and Activities

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This notice sets forth the Office's intention not to publish a proposed rule to implement Executive Order 12372, "Intergovernmental Review of Federal Programs," which replaced the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to: Office of Personnel Management, Office of the General Counsel, Room 5H30, 19th and E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Richard A. Ong, 202/632–4600.

SUPPLEMENTARY INFORMATION: On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning federalism and regulatory relief. Under the order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute federally required state plans.

Most Federal agencies are publishing in today's **Federal Register** a Notice of Proposed Rulemaking to implement Executive Order 12372. However, the Office has concluded that it has no Federal financial assistance or direct Federal development programs or activities to which the order should apply. Consequently, the Office is not publishing a proposed rule.

This notice lists those programs and activities that the Office proposes to exclude from coverage under the order. The reason for each proposed exclusion is also listed. The Office seeks comments on the proposed exclusions. If the Office wants to exclude new or additional programs or activities from coverage under the order in the future, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

Even if a program or activity is excluded from the consultation system established by the order, state and local officials would still have an opportunity to have their views considered by the Office. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. At least one of the Office's program statutes has its own consultation requirements, and the Office will, of course, comply with all existing or future statutory requirements of this kind.

The Office proposes to exclude the programs or activities governed by the following:

Applicable statute	Reason
1. Intergovernmental Personnel Act of 1970, Pub. L. 91–648:	
a. 5 U.S.C. 3371–76, Assignments to and from States	• Federal action is not contingent on intergovernmental review or consultation between Federal agencies and state or local governments, or between state and local governments, pursuant to an established procedure mandated by statute or rule. Rather, consultation is merely implicit in 5 U.S.C. § 3372, which states that Federal agency heads may make personnel assignments "[o]n request from or with the concurrence of a State or local government * * *." The particular manner in which such consultation is to take place is thus not specifically set out. • The legislation governing this program established no advisory groups to Federal agencies with regularly constituted state or local government representation, or with Federally prescribed advisory groups to state and local government with regularly constituted state or local government representation. • The legislation governing this program prescribes no collateral intragovernmental review, comment, or concurrence on proposed Federal actions by state or local officials who are organizationally or jurisdictionally distinct from the state or local entity principally subject to or affected by the proposed action. • The legislation governing this program provides no specified opportunities for state or local government officials to comment on Federal agency activities or development. • The legislation governing this program does not provide that collateral intergovernmental or intragovernmental review and consultation through certifications or assurances are to be provided to a designated state or local official by another state or local official before further Federal action may be taken. • The program is limited in scope and affects only individual Federal, state and local employees. Federal or state employees who participate are only assigned on a case-by-case basis for temporary periods of time. State or local governments will be affected only if they request, or if they concur in, a proposed personnel assignment action. 5 U.S.C. 3372. • The program does not involve Federal financial assistance or direct Federal development. • The program is otherwise not within the purview of the Order so as to require the Office to publish a Notice of Proposed Rulemaking.
b. 42 U.S.C. Ch. 62, Intergovernmental Personnel Programs	• Appropriations for funding this program were rescinded by Pub. L. 97–12, 95 Stat. 75, and the Office does not intend to seek further funding for it.
2. 5 U.S.C. 4101–18, Employee Performance—Training	• Federal action is not contingent on intergovernmental review of consultation between Federal agencies and state or local governments, or between state and local governments, pursuant to an established procedure mandated by statute or rule. • The legislation governing this program established no advisory groups to Federal agencies with regularly constituted state or local government representation, or with federally prescribed advisory groups to state and local government with regularly constituted state or local government representation. • The legislation governing this program prescribes no collateral intragovernmental review, comment, or concurrence on proposed Federal actions by state or local officials who are organizationally or jurisdictionally distinct from the state or local entity principally subject to or affected by the proposed action. • The legislation governing this program provides no specified opportunities for state or local government officials to comment on Federal agency activities or development. • The legislation governing this program does not provide that collateral intergovernmental or intragovernmental review and consultation through certifications or assurances are to be provided to a designated state or local official by another state or local official before further Federal action may be taken.

Applicable statute	Reason
3. Title VI of the Civil Service Reform Act of 1978 (5 U.S.C. 4701–06, Personnel Research Programs and Demonstration Projects).	● The program provides training only for Federal employees and the possibility of involvement of state or local governments or interstate governmental organizations is remote. Training in "non-Government" facilities is specifically limited by 5 U.S.C. 4106 and 4118(b)(2) and such training would be necessary, in any event, only where a variety of training facilities or other "non-Government" facilities listed in 5 U.S.C. 4101(6) would be insufficient or unavailable. ● The program does not involve Federal financial assistance or direct Federal development. ● The program is otherwise not within the purview of the Order so as to require the Office to publish a Notice of Proposed Rulemaking. ● Federal action is not contingent on intergovernmental review or consultation between Federal agencies and state or local governments, or between state and local governments, pursuant to an established procedure mandated by statute or rule. ● The legislation governing this program established no advisory groups to Federal agencies with regularly constituted state or local government representation, or with Federally prescribed advisory groups to state and local government with regularly constituted state or local government representation. ● The legislation governing this program prescribes no collateral intragovernmental review, comment, or concurrence on proposed Federal actions by state or local officials who are organizationally or jurisdictionally distinct from the state or local entity principally subject to or affected by the proposed action. ● The legislation governing this program provides no specified opportunities for state or local government officials to comment on Federal agency activities or development. ● The legislation governing this program does not provide that collateral intergovernmental or intragovernmental review and consultation through certifications or assurances are to be provided to a designated state or local official by another state or local official before further Federal action may be taken. ● The program is limited in scope and affects only individual Federal, state and local employees. Federal or state employees who participate are only assigned to Federal, state, or local agencies with the concurrence of those agencies and on a case-by-case basis for temporary periods of time. ● The legislation mandates the establishment and maintenance of research programs relating only to Federal personnel management. State or local governments conceivably might be involved in these programs were the Federal Government to contract with a "public organization" to conduct and evaluate a demonstration project pursuant to 5 U.S.C. 4703(a). The likelihood that the Office will enter into such a contract is remote. ● The program does not involve Federal financial assistance or direct Federal development. ● The program is otherwise not within the purview of the Order so as to require the Office to publish a Notice of Proposed Rulemaking.

Issued at Washington, D.C. January 17, 1983.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83–1761 Filed 1–21–83; 8:45 am]

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Part XXVI

Postal Service

Procedures for Intergovernmental Review of Postal Service Facility Actions

POSTAL SERVICE

39 CFR Parts 775, 776, and 778

Procedures for Intergovernmental Review of Postal Service Facility Actions

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes procedures for implementing Executive Order 12372, Intergovernmental Review of Federal Programs. The proposed procedures would provide opportunity for consultation with the State and local governments that would be directly affected by postal facility project actions.

DATES: Written comments must be received by March 10, 1983.

ADDRESS: Written comments should be sent to: Director, Office of Program Planning, Real Estate and Buildings Department, U.S. Postal Service, Washington, DC 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 4141, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gerald Bugen, 202/245-4345.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between State and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A-95. After it was reorganized as an independent agency in 1971, the U.S. Postal Service continued to conduct its facility project actions in accordance with this program as a matter of policy which it prescribed in its regulations. See Postal Contracting Manual 18-518.3; 39 CFR 775.8(d)(3), 776.8(a).

On July 14, 1982, President Reagan signed Executive Order 12372, Intergovernmental Review of Federal Programs. The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A-95, and provides for a new intergovernmental consultation system consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, States and localities are to take the initiative for establishing review procedures and priorities. State and local elected officials are to determine which Federal programs and activities to review and the procedures by which the review will taken place. When State and local elected officials bring their concerns to a Federal agency's attention through this process, the agency must make efforts to accommodate the concerns and must explain the basis for its decision whenever accommodation is not possible. This "accommodate or explain" provision gives greater weight to State and local views than Circular A-95 did.

The Postal Service is an independent establishment intended to provide postal services in a business-like manner. It accordingly is exempt from most federal laws "dealing with public or federal contracts, property, works, officers, employees, budgets or funds," (39 U.S.C. 410) except those which the Congress or the Postal Service specifically determine to be applicable. Thus, to the extent that the Postal Service is exempt from the provisions of title IV of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231) and the Order, the proposed rule set out in this notice is authorized by the Postal Reorganization Act, U.S. Code title 39.

OMB Guidance to States

OMB indicated that it would write, on or before today, to each State concerning the establishment of an official State process. OMB's letter is to be reproduced in the **Federal Register** in the next few days. The letter is to explain the role of the "single point of contact." A "single point of contact" is the one office or official in a State that transmits the result of the State review coordination with recommendations that differ from the Federal proposal, to Federal agencies and to which the agencies direct official communications (e.g., explanations of nonaccommodation) to the State under the Order. A State may have as few or as many official entities as it chooses to perform review and coordination. The Order contemplates, however, that there should be only one point of contact in each State to transmit recommendations to Federal agencies. It is up to the State whether the single point of contact plays a substantive role with respect to the State's views, or simply acts as a focal point for official communications.

After final rules implementing the Order become effective (on or about April 30, 1983), the existing A-95 consultation system will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

Development of Proposed Regulations

The Executive Order provides for agency regulations to be made effective April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the Postal Service proposes to make its final rule effective immediately upon publication which is expected on April 30. It is intended that there will be no further rule-making with respect to this Executive Order except as future changes and conditions may require.

As a matter of style, the proposed rule uses the present tense when describing the Postal Service's undertakings. For example, when the proposed regulation says that the Postal Service "provides the state with a timely written explanation," the regulation requires the Postal Service to do so.

Conformance of Existing Regulations

In connection with this proposed rulemaking, the Postal Service proposes to conform existing regulations by removing references to former OMB Circular A-95. Executive Order 12372 directed OMB to revoke the Circular, itself, and the OMB directive revoking the Circular told Federal agencies to leave their A-95 regulations in place only until new regulations implementing the Order were promulgated on April 30, 1983. The Postal Service proposes to amend 39 CFR 775.8(d)(3) and 776.8(a) to replace references to the A-95 clearinghouse process with appropriate references to the new coordination process. In addition, once the rule is adopted, conforming changes are to be made to Postal Contracting Manual 18-518.3, incorporated in the **Federal Register** by reference (see 39 CFR 601.100) and corresponding procedures established in the Postal Service Administrative Support Manual.

Section-by-Section Analysis

Section 778.1 What is the purpose of these regulations?

This section briefly describes the Postal Service policy of adherence to the Executive Order and states that neither the order nor these regulations are intended to create any right of judicial review of the Postal Service's action.

Section 778.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule.

"Order" means Executive Order 12372. "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "State" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with federal agencies on the same basis as the 50 States. "Unusual circumstance" is defined, in its commonly understood sense, as a sudden, urgent, unforeseen situation in which immediate action is needed to prevent or respond to significant harm to life or property.

Section 778.3 What categories of facility project actions of the Postal Service are subject to these regulations?

Paragraph (a) provides that the Postal Service will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the categories of facility project actions that are subject to the Order. Updated lists will be published when necessary in order to let States know which of the Postal Service's categories of facility project actions they may choose to cover.

The attachment to this preamble contains a list of those categories of facility project actions that the Postal Service proposes to exclude from coverage under the regulations. The reasons for the proposed exclusion are included in the attachment. The Postal Service seeks comments on the proposed exclusions. After promulgation of the final rules, if the Postal Service wants to exclude new or additional categories of facility project actions from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

The Order and these regulations do not apply to proposed regulations, legislation, or budget formulation.

Paragraph (b) states the Postal Service's undertaking to use a State's official process to determine official views of State and local officials. This undertaking extends only to the categories of facility project actions which a State has selected for coverage under § 778.5 of these regulations.

Paragraph (c) provides that the Postal Service may waive any provision of these regulations if necessary to deal with an unusual circumstance. Clearly, the regulations should not delay or constrain the Postal Service's ability to prevent or mitigate harm to persons or property in an unusual circumstance. The Postal Service will use this provision sparingly, since its policy is to carry out the Order as fully as it can.

If at any time, a State believes that any offical of the Postal Service has not made appropriate use of the official State process, the State is invited to raise its concerns directly with the Postmaster General.

Section 778.4 [Reserved]

Section 778.5 What procedures apply to a State's choice of action categories?

States may choose to consult with the Postal Service under the Order concerning any of the Postal Service's facility project actions that the Postal Service's **Federal Register** notices list as subject to consultation. These regulations do not require States to consult with the Postal Service. A State might want to decline to cover kinds or sizes of project actions which can have only minor effects on the State and its people.

The Postal Service emphasizes that the choice of whether to cover a particular category of project actions listed in this proposed rule is entirely up to each State. While the Postal Service will discuss with States the most effective ways of carrying out consultation concerning its facility project actions, the Postal Service will not attempt to constrain the State's discretion with respect to project selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to project selection. The State must notify the Postal Service of the categories of facility project actions it chooses to cover. For example, a State may choose to cover only facility project actions which exceed 100,000 square feet of space. When it first establishes its official process, the State can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Postal Service categories of facility project actions it wishes to cover. OMB will inform the Postal Service of the categories of facility project actions that the State has chosen to cover. Subsequently, the State should send all coverage information (additions, deletions, other changes) directly to the Postal Service. This information will enable the Postal Service's personnel to know when they must consult.

Paragraph (b) provides that, once a State has established a process and made its selections known to the Postal Service, the Postal Service will use the State's process concerning the facility project actions selected by the State as soon as feasible.

Paragraph (c) provides that the Postal Service may establish deadlines for changes by States in the project selection choices. A State may add or delete a listed category of facility project actions from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, the Postal Service may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the Postal Service may find it necessary to establish deadlines for project category selection changes. These deadlines would simply be notifications to the States that, if a State wished to begin consultation with respect to a particular project on a given date, it would have to inform the Postal Service of its selection change a certain time (*e.g.*, 30 days, 45 days) in advance of that date.

Section 778.6 How does the Postal Service give States an opportunity to comment on proposed facility project actions?

Paragraph (a) points out that the Postal Service's consultation requirements apply not only to comments prepared by the State itself, but also to comments formulated by local elected officials to whom the State's consultation role has been delegated in specific instances. Section 3(a) of the Order permits States to delegate to local elected officials, in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the State process. This means that States may choose not only which categories of facility project actions to cover but also who within the State has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a State could delegate to a single mayor the State's consultation role with respect to a project occurring in his or her city. Or, the State could delegate all consultation under a particular category of facility project action to elected officials of the local governments whose jurisdictions are affected by projects under the program. Or, the State could delegate its consultation role for a particular category of facility project action to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local elected official to whom the State's

consultation role is delegated stands in the shoes of the official State process with respect to a Postal Service project that is within the scope of the delegation. In such a case, for example, the Postal Service efforts to reach a negotiated solution will be pursued directly with the local official, not with the State.

The local elected official to whom the State's consultation role had been delegated would not send his or her comment directly to the Postal Service. Rather, the official would send the comment to the Postal Service through the State single point of contact. The Postal Service would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the Postal Service would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the State single point of contact would alert the Postal Service to the fact that the local official's comments should be dealt with in accordance with the Order and make unnecessary a separate communication from the State informing the Postal Service that the comment was an official comment of the State.

Section 2(b) of the Order requires Federal agencies to communicate with State and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Paragraph (b) of § 778.6 adopts this provision of the Order as pertinent to postal facility project actions. The requirement means that the Postal Service undertakes to make efforts to ensure that States learn of proposed actions or decisions of the Postal Service in sufficient time to contribute meaningfully to the Postal Service's decision-making process.

Paragraph (c) states that, as a general rule, States choosing to cover a particular facility project action will have at least 30 days (45 days in the case of interstate situations and 90 days in the case of a project in the Maryland or Virginia portion of the Washington, DC, National Capital Region) to comment on a proposed action or decision before the Postal Service commits itself to a given course of action. The Postal Service, in the case of an unusual circumstance, may require a shorter period for comment.

Paragraph (d) states that for facility project actions in the Washington, DC National Capital Region, coordination and public notice contacts are accomplished directly with the National Capital Planning Commission.

Paragraph (e) makes an important point with respect to the way that communications between States and the Postal Service would work. Under the Order, a State may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the Postal Service and the official State process flow efficiently, the States are encouraged to establish a "single point of contact" for State communications with Federal agencies. Channeling communications from the Federal agencies to the States and from the States back to Federal agencies through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the Postal Service to know which communications to treat as official for the purposes of carrying out the provisions of the Order. The Postal Service needs a means of separating the letters from State and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond formally in accordance with the provisions of these regulations. States' use of a single point of contact will permit the Postal Service to make this necessary administrative distinction.

In the absence of a State process, or with respect to a category of project action that a State has not selected for coverage, the Postal Service will work with the State consistent with existing legal requirements. The provisions of these regulations will not apply, however.

The proposed regulations do not impose any constraint on the content of comments that States send to the Postal Service. Nonetheless, the Postal Service encourages commenters under the Order to follow the three policies below which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific facility project action. The Postal Service is required to base its facility project actions on certain statutorily established factors. In addition, the Postal Service, through regulation or guidance, has established decision-making criteria for various actions. It is unlikely the Postal Service would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to Postal Service's decision-making process. In order to influence the Postal Service's decisions, comments must be relevant to the factors on which the Postal Service bases its decisions.

Second, comments should clearly specify the seriousness of the State's concerns. It otherwise may be difficult for the Postal Service to tell whether a State is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification to aid its understanding of the Postal Service's planned action. For example, if a State wants the Postal Service to recognize the State's priorities, it would be helpful if the State identified its position as clearly as possible. These proposed regulations direct efforts to accommodate State concerns. The Postal Service's ability to do that successfully is dependent, to a significant degree, on the clear articulation of concerns by the States.

Third, the Postal Service may not be in a good position to accommodate State and local concerns unless the State speaks with one voice in its comments. The Postal Service recognizes that different State and local officials and agencies may not always agree among themselves concerning the course of action the Postal Service should follow. However, if it receives conflicting comments, the Postal Service probably will need to seek clarification concerning which set of views the State wants the Postal Service to accommodate. The single point of contact should reconcile conflicting views before transmission. In the absence of such a reconciliation and clarification, the Postal Service may find it necessary to inform the single point of contact of its interpretation of the situation and the reasons for its decision.

Section 778.7 How does the Postal Service make efforts to accommodate State and local concerns?

Paragraph (a) provides that when a State comments to the Postal Service in accordance with the Order, the Postal Service has three choices. First, it can accept the State's comments (i.e., do as the State recommends). Second, it can reach a mutually agreeable solution with the State. This solution can differ from the original State position on the matter. Third, if it cannot accept the State's comments or reach a mutually agreeable solution, the Postal Service gives the State a timely explanation of the Postal Service's reasons for not doing so. While the Postal Service is not required to accept the State's comments or to begin discussions looking toward another solution, the Postal Service does have an obligation to provide a simple explanation of its decision.

The explanation could be given by any mode of expression which

adequately communicates the Postal Service's reasons for its decision to the State. A meeting, a letter or, in appropriate circumstances, even a telephone call would perform this function. The Postal Service has the discretion to choose the most appropriate mode of communicating the explanation in each case.

There is one exception to the Postal Service's discretion to choose the mode of communicating the explanation. As paragraph (a)(3) provides, the Governor of the State may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, the Postal Service's explanation will be given in a letter.

Paragraph (a)(3) spells out the role of the single point of contact to receive explanations from the Postal Service. The Postal Service will direct all such explanations to the single point of contact in each State that has one, notwithstanding previous accommodation discussions between the Postal Service and another party in the State.

Paragraph (b) concerns safeguards to ensure that the interests of States are protected in nonaccommodation situations. Normally, as provided in paragraph (b)(1), nonaccommodation explanations will state that the Postal Service will not implement its decision until ten days after the State receives the explanation, except as provided in subparagraph (b)(2). This waiting period is intended to permit States to respond to the Postal Service in cases of nonaccommodation before the Postal Service has let a contract, begun construction of a facility, or otherwise irrevocably carried out the decision. In a case in which the Postal Service provides an oral explanation of a decision to the single point of contact, and the Governor subsequently requests a written explanation, the ten-day period starts to run from the date on which the original explanation is given to the single point of contact.

Subparagraph (b)(2) recognizes that there will be some situations in which the Postal Service cannot observe the ten-day waiting period. For example, an unusual circumstance may make it not feasible for the Postal Service to wait ten days before implementing its decision. In a situation where the Postal Service cannot obvserve the waiting period, a Postal Service official at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the Postal Service implements the decision. The nonaccommodation explanation will include the Postal Service's reasons for determining that the ten-day waiting period is not feasible.

Section 778.8 How does the Postal Service treat interstate situations?

In some cases, the action taken by the Postal Service on a project may have an impact on interstate areas. In these situations, the Postal Service has certain additional obligations. First, it must identify the project action that may affect inter-State areas. Second, having done so, it must, as provided in paragraph (b), notify the potentially affected States, whether or not they have established an official State process pursuant to the Order. Third, except in an unusual circumstance, it must provide the affected States an opportunity for comment of at least 45 days before the Postal Service commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for States to coordinate among themselves before providing views to the Postal Service.

The Postal Service, obviously, cannot require States to coordinate with each other on actions or decisions having an impact on an interstate area. However, the Postal Service encourages each affected State to share its comments with and obtain the views of other affected States, using the other States single point of contact, if there is one, or an appropriate State official if there is not a single point of contact. The Postal Service encourages States to reconcile differences where they exist, so that the States can present the Postal Service with a unified position. If the affected States provide the Postal Service with conflicting recommendations, the Postal Service will, with respect to States that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonacccommodations of other points of view as provided in § 778.7.

Section 778.9 [Reserved]

Section 778.10 [Reserved]

Although exempted by 39 U.S.C. 410(a) from the requirements of The Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553 (b), (c)), the Postal Service invites public comments on the following proposed new Part 778 of Title 39, Code of Federal Regulations.

List of Subjects in 39 CFR Part 778

Intergovernmental relations.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

Attachment—List of Proposed Exclusions From Scope

The Postal Service proposes to exclude the below listed categories of facility project actions from coverage under the regulations:

1. Facility repair projects—This category of action is excluded because it is not "development" within the meanig of the order.

2. Expansion, alteration or improvement of a facility where the gross size is not increased by more than 40% and the site size is not increased substantially—This category of action is excluded because Postal Service experience has shown that such actions do not have significant effects on state or local plans or programs.

3. Disposal of unimproved land—This category of action is excluded because Postal Service experience has shown that such actions do not have significant effects on state or local programs.

For the reasons set out in the Preamble, the Postal Service proposes to:

I. Amend Title 39, Code of Federal Regulations by adding a new Part 778 to read as follows:

PART 778—PROCEDURES FOR INTERGOVERNMENTAL REVIEW OF POSTAL SERVICE FACILITY ACTIONS

Sec.

778.1 What is the purpose of these regulations?
778.2 What definitions apply to these regulations?
778.3 What categories of facility program actions of the Postal Service are subject to these regulations?
778.4 [Reserved]
778.5 What procedures apply to a State's choice of action categories?
778.6 How does the Postal Service give States an opportunity to comment on proposed facility project actions?
778.7 How does the Postal Service make efforts to accommodate State and local concerns?
778.8 How does the Postal Service treat interstate situtations?
778.9 [Reserved]
778.10 [Reserved]

Authority: 39 U.S.C. 401.

§ 778.1 What is the purpose of these regulations?

(a) Executive Order 12372, Intergovernmental Review of Federal Programs, issued on July 14, 1982, in furtherance of Title IV of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231) provides for reliance on State and local processes for the State and local government

coordination and review of proposed direct Federal development projects.

(b) These regulations implement Executive Order 12372 and are adopted under the Postal Reorganization Act rather than the statute and Executive Order listed in paragraph (a) of this section to the extent the statute and Executive Order do not apply to the Postal Service under 39 U.S.C. 410(a).

(c) These regulations facilitate:

(1) Providing opportunity for consultation with those State and local governments that would be directly affected by a proposed postal facility project action;

(2) Using the State process to determine official views of State and local elected officials;

(3) Communicating with State and local elected officials as early in the facility project planning cycle as is reasonably feasible to explain specific plans and actions;

(4) Making efforts to accommodate State and local elected official's concerns with proposed facility project actions that are communicated through the designated State process, and in those cases where the concerns cannot be accommodated, explaining the bases for the Postal Service decision in a timely manner; and

(5) Seeking the coordination of views of affected State and local elected officials in one State with those of another State when the proposed facility project action has an impact of interstate metropolitan urban centers of other interstate areas.

(d) Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by any individual or entity, including municipal and State governments, against the Postal Service or its officers.

§ 778.2 What definitions apply to these regulations?

"Unusual circumstance" means a sudden, urgent, unforeseen situation requiring immediate action in order to prevent or respond to significant harm to life or property.

"Order" means Executive Order 12372, issued July 14, 1982, and titled Intergovernmental Review of Federal Programs.

"State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 778.3 What categories of facility project actions of the Postal Service are subject to these regulations?

(a) The Postal Service publishes in the Federal Register a list of its categories of facility project actions that are covered by these regulations.

(b) With respect to postal facility actions listed in paragraph (a) of this section that a State chooses to cover (see § 778.5), the Postal Service uses the official State process to determine official views of State and local elected officials.

(c) The Postal Service may waive any provision of these regulations in an unusual circumstance.

§ 778.4 [Reserved]

§ 778.5 What procedures apply to a state's action categories?

(a) Each State that adopts a process under the Order notifies the Postal Service of the categories of facility project actions that the State chooses to cover.

(b) The Postal Service uses a State's process under the Order as soon as feasible after the State notifies the Postal Service of its covered projects.

(c) States may change their covered projects at any time. The Postal Service may establish deadlines by which States are required to inform the Postal Service of changes in their covered projects.

(d) In the event a State chooses not to adopt a process under the Order, the Postal Service coordinates the proposed facility project with the local elected official (see § 778.6).

§ 778.6 How does the Postal Service give States an opportunity to comment on proposed facility project actions?

(a) This section applies to all comments received from a State pursuant to an official process it has established under the Order, including comments of local elected officials to whom the functions of review, coordination, and communication with the Postal Service have been delegated.

(b) With respect to facility project actions that are subject to these regulations and that a State chooses to cover under § 778.5, the Postal Service communicates with State and local elected officials as early in a project planning cycle as is reasonable to explain specific plans and actions.

(c) Except in an unusual circumstance, the Postal Service gives States at least 30 days to comment on any proposed facility project action (see § 778.8 for comment periods pertaining to interstate situations; and see paragraph (d) of this section for comment periods pertaining to projects in certain parts of the Washington, D.C., National Capital Region.).

(d) For facility project actions in the Washington, D.C., National Capital Region, coordination is accomplished through the National Capital Planning Commission (NCPC). The Postal Service gives the NCPC 90 days to comment on projects in the Maryland and Virginia portions of the Washington, D.C., National Capital Region.

(e) The Postal Service responds as provided in § 778.7 to all comments from a State that are provided through a State office or official that is the State's single point of contact.

§ 778.7 How does the Postal Service make efforts to accommodate State and local concerns?

(a) If a State provides comments to the Postal Service in the manner described in § 778.6(e), the Postal Service:

(1) Accepts the State's comments; or

(2) Reaches a mutually agreeable solution with the State; or

(3) Provides the State's single point of contact with a timely explanation of the basis of the Postal Service decision. If requested by the Governor, the Postal Service provides the explanation in writing.

(b) In any initial explanation to the State's single point of contact under paragraph (a)(3) of this section, the Postal Service informs the State that:

(1) The Postal Service will not implement its decision for ten days after the State receives the explanation; or

(2) The Postal Service official at a higher level than the official responsible for making the decision has reviewed the decision and determined that, because of an unusual circumstance, the ten-day waiting period is not feasible.

§ 778.8 How does the Postal Service treat interstate situations?

The Postal Service:

(a) Identifies proposed facility project actions that will have an impact on interstate areas;

(b) Notifies the affected States, including States that have not adopted a process under the Order; and

(c) Except in an unusual circumstance, provides the affected States an opportunity of at least 45 days to comment.

§ 778.9 [Reserved]

§ 778.10 [Reserved]

II. Amend the following regulations as indicated:

PART 775—[AMENDED]

§ 775.8 [Amended]

39 CFR 775.8(d)(3)(iii)—Replace "A–95 Clearinghouse" with "The State or local elected officials designated in accordance with the State's process under Executive Order 12372, Intergovernmental Review of Federal Programs, or if the State has not adopted a process under the order, the local elected official, if any, and the State's Governor."

PART 776—[AMENDED]

§ 776.8 [Amended]

39 CFR 776.8(a)—Replace "State, areawide, and local A–95 Clearinghouses listed in OMB circular A–95 (Revised) for the geographic area involved." with "the State or local elected officials designated in accordance with the State's process under Executive Order 12372, Intergovernmental Review of Federal Programs, or if the State has not adopted a process under the order, the local elected official, if any, and the State's Governor."

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Part XXVII

Small Business Administration

Intergovernmental Review of Small Business Administration Programs and Activities

SMALL BUSINESS ADMINISTRATION

13 CFR Part 135

Intergovernmental Review of Small Business Administration Programs and Activities

AGENCY: Small Business Administration, Office of the Administrator.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance programs and activities of the Small Business Administration (SBA). Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, state and local elected officials, not the Federal Government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

DATE: Comments must be received on or before March 10, 1983.

ADDRESS: Interested persons should submit comments to Martin D. Teckler, Associate General Counsel, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Comments will be available for inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Martin D. Teckler, Associate General Counsel, (202) 653–6662.

SUPPLEMENTARY INFORMATION:

Background

For many years, consulation betwen state and local officials and Federal agencies concerning Federal program and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. State and localities had to process too much paperwork, and, as a result, the impact of substantive comments was sometimes lost. A network of state and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB Notice published in today's **Federal Register.** The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is cnsistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute federally required state plans.

Across the whole range of Federal programs and activities, the federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for states to reduce administrative burdens in Federal programs requiring state plans. In contrast to the A–95 system, which relied heavily on clearinghouse, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with President's Federalism policy, emphasizes the role of elected state and local officials.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB wrote on or before today to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or official in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to the SBA and other Federal agencies and to which the SBA directs official communications (e.g., explanations of nonaccommodations) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the Agency. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantial role with respect to the state's views, or simply acts as a focal point for official communications.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. An inventory of these existing requirements will be available.

SBA and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way. To this end, the Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed

regulations will spell out the Agency's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public in December (see **Federal Register**, December 23, 1982, Vol. 47, No. 247 at 57369). Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the SBA proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing SBA's obligations. For example, when the proposed regulation says that the Administrator "provides the State with a timely explanation," the regulation requires the Administrator to do so.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

SBA has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with SBA and allow state and local governments to establish cost-effective consultation procedures. For this reason, SBA believes that any economic impact the regulation has will be positive. It is unlikely that its economic impact will be significant, in any case. Consequently, SBA certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 135.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and to foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the Agency's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the Agency's action. For example, it is not intended that a state or local government would have the right to sue SBA because SBA failed to explain a nonaccommodation of a state recommendation.

Section 135.2 What definitions apply to these regulations?

This section defines several terms used frequently in the proposed rule. "Agency" or "SBA" means the Small Business Administration. "Order" means Executive Order 12372. "Administrator" means the Administrator of the Small Business Administration or an official or employee of the Agency acting under a delegation of authority from the Administrator. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity. "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands. The definition of "states" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states.

Several other terms appearing in the Order are not defined in this section, but are used in the regulation in a way that makes their operational meaning clear (e.g., accommodate and explain in § 135.7).

Section 135.3 What programs and activities of the SBA are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. Paragraph (a) provides that the Agency will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let states know which of SBA's programs and activities they may choose to cover.

The attachment to this Preamble contains a list of those programs and activities that SBA proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. SBA seeks comments on the proposed exclusions. After promulgation of the final rules, if SBA wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, states should assume that all SBA's other programs which include state involvement will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the Agency) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by SBA. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)), require Federal agencies to consider the views of state and local governments. However, SBA is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

If, at any time, a state believes that any official of SBA has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Administrator.

Section 135.4 What are the Administrator's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into SBA's regulations, emphasizing SBA's obligations under the Order. The mechanisms by which SBA will carry out many of thes general obligations are developed further in other sections of the rule.

Paragraph (b)(2) means the Agency is obligated to make efforts to ensure that information on proposed actions or decisions of the SBA is available to the states in sufficient time to be able to exert meaningful influence on the

Agency's course of action. For example, SBA would make sure that the state learned of draft assistance announcements including decision criteria, etc., in time to make a meaningful response.

Section 135.5 What procedures apply to a state's choice of programs under the Order?

States may choose to consult with SBA under the Order concerning any of SBA's programs and activities that the SBA Federal Register notice on or about April 30, 1983, and subsequently lists as subject to the Order. However, these regulations do not require states to consult with SBA concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A-95, which give states no discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

SBA emphasizes that choice of whether to cover a particular program or activity listed in the Agency's Federal Register notice is entirely up to each state. While SBA will be happy to discuss with states the most effective ways of carrying out consultation concerning its programs and activities, the SBA will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Administrator of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to cover. OMB will inform each Federal agency of the programs and activities of each that the state has chosen to cover. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to SBA. This information will enable SBA's personnel who work on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and made its program selections known to the Agency, SBA will use the state's process concerning the programs and activities selected by the state as soon as feasible. While SBA may make every effort to use the state's process, there may be situations, on individual programs or projects, where SBA may not be able to do so for a time. SBA will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the Agency may establish deadlines for changes in states in the program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to occur under the Order, SBA may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, SBA may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform SBA of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 135.6 How does the Administrator give states an opportunity to comment on proposed Federal financial assistance?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate to local elected officials in specific instances the review, coordination, and communication with Federal agencies that normally takes place under the state process. This means that states may choose not only which programs and activities to cover but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdiction are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to SBA. For example, efforts by SBA to reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to SBA. Rather, the official would send the comment to SBA through the state single point of contact. SBA would work with the local official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, SBA would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the Agency to the fact that the local officials' comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to SBA informing the Agency that the comment was an official comment of the state.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the Agency's programs and activities. However, paragraph (b) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance before SBA commits itself to a given course of action. SBA, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate to make a grant or cooperative agreement decision before the end of the fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful

opportunity to influence decisions by the Agency, SBA may need to establish deadlines for time frames in nonregulatory program specific announcements for comment on particular actions or types of actions. Consequently, as provided in paragraph (c), SBA may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multiyear grants, direct development projects, permits), for different states of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadline for quarterly apportionment).

In some of SBA's programs, a basic decision to go forward with a project may be the key decision that determines a subsequent course of action by the Agency. Once the initial decision is made, SBA has little discretion with respect to the subsequent decisions. SBA would inform states of the key decision points on which their comments are essential if the states are to have a meaningful role in influencing the Agency's position.

In most financial assistance programs, a state, local, or private agency applies to the Agency for a grant or cooperative agreement or otherwise seeks Agency approval for financial assistance to be provided. In order to receive notification of applications for financial assistance from SBA, the state should work with applicant organizations to ensure that applications are provided to the state in a timely manner. If it becomes necessary, SBA may establish requirements in nonregulatory program specific announcements for applicants to submit copies of their application to the state.

In order to ensure timely completion of Federal decisionmaking, SBA may require states to complete their reviews of applications and to submit their comments to the Administrator by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state.

Paragraph (d) makes an important point with respect to the way that communications between states and the Agency would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between SBA and the official state process flow efficiently, SBA strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable SBA to know which communications to treat as official under the provisions of the Order. The Agency needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit SBA to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, SBA will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states sent to SBA. However, SBA would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, the Agency is required to make a decision based on certain statutorily established factors. In other cases, SBA, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that SBA would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the SBA's decisions, comments must be relevant to the factors on which the Agency bases its decisions. For example, if SBA's standards call for a decision to be made at a certain state only on the technical merits of financial assistance proposals, before consideration is given to costs, the Agency could not accommodate a state comment addressing costs during the technical review.

Second, states can assist SBA's implementation of the Order by clearly specifying the magnitude of the state's concerns. Often, it may be difficult for the SBA to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the Agency's position. For example, if a state wants SBA to recognize the state's priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate state concerns. SBA's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by the states.

Third, SBA may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. The Agency recognizes that different state and local officals and agencies may not always agree among themselves concerning the course of action SBA should follow. However, if it receives conflicting comments, SBA probably will need to seek clarification concerning which set of views the state wants the Agency to accommodate. The single point of contact should reconcile conflicting views before transmission to avoid the Agency's having to seek clarification concerning which set of views the state wants the Department to accommodate. The process will work much better if SBA receives a single set of comments.

Section 135.7 How does the Administrator make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to SBA under the Order, the Agency has three choices. The Agency can accept the state's comments (i.e., do as the state recommends.). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if SBA cannot accept the state's comments or reach a mutually agreeable solution, the Agency is obligated to give the state a timely, simple explanation of its reasons for not doing so. While SBA is not required to accept the state's comments or to begin discussions towards another solution, SBA does have an obligation to provide a simple explanation of its decision.

Normally, the explanation could take any form which adequately communicates the Agency's reasons for its decision to the state. A telephone call, a meeting, or a letter would perform this function. SBA has the discretion to choose the most appropriate mode of communicating the explanation in each case. The explanation can be made by a designee of the Administrator.

There is one exception to the Agency's discretion to choose the mode of communication the explanation. As

subdivision (a)(3)(ii) provides, the Governor of the state may request, in advance of the time the explanation is made or after it is communicated to the single point of contact, that an explanation of nonaccommodation be made in writing. When it receives such a request from a Governor, SBA's explanation will be by letter.

Subdivision (a)(3)(iii) spells out the role of the single point of contact in receiving explanations from the Agency. SBA will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between SBA and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Subparagraph (b)() provides that a nonaccommodation explanation will state that SBA will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in subparagraph (b)(2). This waiting period is intended to permit states to respond to SBA in case of nonaccommodation before the Agency has awarded a grant or cooperative agreement, begun construction of a facility, or other wise irrevocable carried out the decision. In a case in which SBA has provided a verbal explanation of a decision to the single point of contact, and the Governor subsequently has requested a written explanation, the ten day period will start to run from the date of the original explanation to the single point of contact.

Subparagraph (b)(2) recognizes that there will be some situations in which SBA cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the Agency to wait ten days before implementing its decision. In a situation where SBA cannot observe the waiting period, the Administrator or a designee of the Administrator at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explantion is made and before the Agency implements the decision. The nonaccommodation explanation will include SBA's reasons for determining that the ten-day waiting period is not feasible.

Section 135.8 What are the Administrator's obligations in interstate situations?

In some cases, action taken by SBA in Federal financial assistance programs may have an impact on interstate areas. In these situations, the Agency has certain additional obligations. First, SBA must identify its Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, SBA must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), SBA must provide the affected states an opportunity for comment of at least 45 days before the Agency commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the Agency.

SBA, obviously, cannot require states to coordinate with each other on proposed Federal assistance having an impact on an interstate area. However, SBA strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The Agency encourages states to reconcile differences where they exist, so that the states can present SBA with a unified position. If the affected states provide SBA with conflicting recommendations, the Agency will, with respect to states that have established a process under the Order, accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 135.7.

Section 135.9 [Reserved]

Section 135.10 May the Administrator waive any provision of these regulations?

This section allows the Administrator to waive any provision in these regulations in an emergency. SBA expects to use this provision sparingly, since the Agency's policy is carry out the Order as fully as it can.

Lists of Subjects in 13 CFR Part 135

Intergovernmental relations.

Issued at Washington, D.C., January 15, 1983.

James C. Sanders,

Administrator of the Small Business Administration.

Attachment—List of Proposed Exclusions from Scope

For the reasons set out in the Preamble, the Small Business Administration proposed to amend Title 13, Code of Federal Regulations, by adding a new Part 135, to read as follows:

PART 135—INTERGOVERNMENTAL REVIEW OF SMALL BUSINESS ADMINISTRATION PROGRAMS AND ACTIVITIES

Sec.

135.1 What is the purpose of these regulations?
135.2 What definitions apply to these regulations?
135.3 What programs and activities of SBA are subject to these regulations?
135.4 What are the Administrator's general responsibilities under the Order?
135.5 What procedures apply to a State's choice of programs under the Order?
135.6 How does the Administrator give States an opportunity to comment on proposed Federal financial assistance?
135.7 How does the Administrator make efforts to accommodate State and local concerns?
135.8 What are the Administrator's obligations in interstate situations?
135.9 [Reserved]
135.10 May the Administrator waive any provision of these regulations?

Authority: E.O. 12372 (July 14, 1982, 47 FR 30959); section 401(b), Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(a)).

§ 135.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership and a strengthened Federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Small Business Administration. Neither the Order nor these regulations are intended to create any right or benefit enforceable at law by a party against the Agency or its officers.

§ 135.2 What definitions apply to these regulations?

"Agency" or "SBA" means the U.S. Small Business Administration.

"Order" means Executive Order 12372, issued July 14, 1982, and titled "Intergovernmental Review of Federal Programs."

"Administrator" means the Administrator of the U.S. Small Business Administration or an official or employee of the Agency acting for the Administrator under a delegation of authority.

"State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 135.3 What programs and activities of SBA are subject to these regulations?

The Administrator publishes in the Federal Register a list of SBA's programs and activities that are subject to the Order and these regulations.

§ 135.4 What are the Administrator's general responsibilities under the Order?

(a) The Administrator provides opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from, or direct Federal development by, the Agency.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance, the Administrator, to the extent permitted by law:

(1) Uses the State process to determine official views of State and local elected officials;

(2) Communicates with State and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the State process;

(4) Seeks the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance has an impact on interstate metropolitan urban centers or other interstate areas; and

(5) Supports State and local governments by discouraging the reauthorization of creation of any planning organization which is federally-funded, which has a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 135.5 What procedures apply to a State's choice of programs under the Order?

(a) Each State that adopts a process under the Order notifies the Administrator of the Agency's programs that the State chooses to cover under the Order.

(b) The Administrator uses a State's process under the Order as soon as feasible, depending on individual programs and projects, after the State notifies the Administrator of its program choices.

(c) States may change their program choices under the Order at any time. The Administrator may establish a deadline by which States are required to inform the Administrator of changes in their program choices.

§135.6 How does the Administrator give States an opportunity to comment on proposed Federal financial assistance?

(a) This section applies to all comments received from a State pursuant to an official process it has established under the Order, including comments where the State has delegated to local elected officials the review, coordination and communication with the Agency.

(b) Except in unusual circumstances, the Administrator gives States at least 30 days to comment on any proposed Federal financial assistance (see § 135.8 comment periods pertaining to interstate situations).

(c) Subject to paragraph (b) of this section, the Administrator may establish deadlines for:

(1) Applicants to submit copies of this application to the States; and

(2) States to complete their review of applications under a financial assistance program and to submit their comments to the Agency.

(d) The Administrator responds as provided in the Order to all comments from a State that are provided through a State office or official that acts as a single point of contact under the Order between the State and all Federal agencies.

§ 135.7 How does the Administrator make efforts to accommodate State and local concerns?

(a) If a State provides comments to SBA in accordance with § 135.6(d), the Administrator:

(1) Accepts the State's comments;

(2) Reaches a mutually agreeable solution with the State; or

(3) (i) Provides the State with a timely explanation of the basis for the Agency's decision.

(ii) If requested by the Governor, the Administrator provides the explanation in writing.

(iii) If the State has designated a State office or official as a single point of contact between the State and all Federal agencies, the Administrator provides any explanation under paragraph (a)(3) of this section to that office or official.

(b) In any explanation under paragraph (a)(3) of this section, the Administrator informs the state that—

(1) SBA will not implement its decision for ten days after the State receives the explanation; or

(2) The Administrator has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.

§ 135.8 What are the Administrator's obligations in interstate situations?

The Administrator is responsible for:

(a) Identifying proposed Federal financial assistance that have an impact on interstate areas;

(b) Notifying the affected States, including States that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected States an opportunity of at least 45 days to comment.

§ 135.9 [Reserved]

§ 135.10 May the Administrator waive any provision of these regulations?

In an emergency, the Administrator may waive any provision of these regulations.

Attachment—Programs and Activities of the Small Business Administration Subject to or Excluded From the Scope of SBA's Regulations Implementing Executive Order 12372, "Intergovernmental Review of Federal Programs"

Programs Subject to the Regulations

Small Business Development Center Program: Direct grants to states or other authorized entities for small business development centers (SBDC's) as authorized by section 21(a)(1) of the Small Business Act, 15 U.S.C. 648(a)(1).

Programs Excluded From Coverage Under the Regulations

1. Excluded because they involve direct financial assistance between the Federal Government and non-governmental entities:

(a) State and local development company program, sections 501, 502 and 503 of the Small Business Investment Act of 1958, 15 U.S.C. 695, 696, 697.

(b) Pollution control program, section 404(b) of the Small Business Investment Act of 1958, 15 U.S.C. 694–1.

(c) Small business investment company program, section 301 of the Small Business Investment Act of 1958, 15 U.S.C. 681.

2. Excluded because it involves direct financial assistance between the Federal Government and individuals, businesses, or nonprofit organizations:

Disaster Loan Program, sections 7(b) (2)(C) and (D) of the Small Business Act, 15 U.S.C. 636(b)(2) (C) and (D).

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Monday
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Part XXVIII

Veterans Administration

Intergovernmental Review of Veterans Administration Programs and Activities

VETERANS ADMINISTRATION

38 CFR Part 40

Intergovernmental Review of Veterans Administration Programs and Activities

AGENCY: Veterans Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement Executive Order 12372, "Intergovernmental Review of Federal Programs." It applies to Federal financial assistance and direct Federal development programs and activities of the Veterans Administration. Executive Order 12372, and these proposed regulations, are intended to replace the intergovernmental consultation system developed under Office of Management and Budget (OMB) Circular A–95. They provide for a new, more effective, intergovernmental consultation system. Under the Order, state and local elected officials, not the Federal government, will determine what Federal programs and activities to review and the procedures by which the reviews will take place.

DATES: Comment Closing Date: Comments must be received on or before March 10, 1983.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed regulation to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132, of the above address, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until March 24, 1983.

FOR FURTHER INFORMATION CONTACT: Raymond S. Blunt (202) 389–2608.

SUPPLEMENTARY INFORMATION:

Background

For many years, consultation between state and local officials and Federal agencies concerning Federal programs and activities has taken place through an elaborate regulatory and organizational framework created under OMB Circular A–95. The A–95 system required state and local governments to follow prescribed review procedures and to review specified Federal programs, regardless of the circumstances affecting particular state and local governments. The system also required review of Federal programs by state and local agencies without regard to the priorities of their elected leadership. The A–95 process became highly bureaucratic, burdensome, and costly. States and localities had to process too much papework, and, as a result, the impact of substantive comments was sometimes lost. A network of state and area clearinghouses was created to manage this paperwork. State and local elected officials found it difficult to exert significant influence on Federal decisions through this system, and Federal agencies found the system a cumbersome method of obtaining information about, and responding appropriately to, state and local concerns.

On July 14, 1982, President Reagan signed Executive Order 12372, "Intergovernmental Review of Federal Programs." The Executive Order is reproduced as Attachment A to the OMB notice published in today's **Federal Register**. The Order directs the revocation of Circular A–95, and provides for a new, more effective, intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the Order, states and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal government, will determine, within the scope of the Order, which Federal programs and activities to review and the procedures by which the review will take place. When state and local elected officials bring their concerns to a Federal agency's attention through this process, the agency will have to make efforts to accommodate the concerns, and, if it does not accommodate them, explain why not. This "accommodate or explain" provision gives greater weight to state and local views than Circular A–95 did. In addition, states will have the opportunity, to the extent permitted by law, to simplify, consolidate, or substitute Federally required state plans.

Across the whole range of Federal programs and activities, the Federally required procedures for consultation under Circular A–95 created a substantial regulatory burden. The Executive Order's system of consultation will significantly reduce that burden, as well as opening opportunities for states to reduce administrative burdens in Federal programs requiring state plans. In contrast to the A–95 system, which relied heavily on clearinghouses, planning organizations, and other bodies which are not elected by the jurisdictions they serve, the Order, consistent with the President's Federalism policy, emphasizes the role of elected state and local officials.

OMB Guidance to States

In order to assist states as they begin their work in implementing the Order, OMB wrote on or before today to each state concerning the establishment of an official state process. This letter will be reproduced in the **Federal Register** in the next few days. This letter explains the role of the "single point of contact." A "single point of contact" is the one office or offical in a state that transmits the result of the state review and coordination with recommendations that differ from the Federal proposal to the VA and other Federal agencies and to which the VA directs official communications (e.g., explanations of nonaccommodation) to the state under the Order. A state may have as few or as many entities as it chooses to perform review and coordination and to conduct discussions with the VA. However, there should be only one point of contact to officially transmit recommendations for change to all Federal agencies under the Order. It is up to the state whether the single point of contact plays a substantive role with respect to the state's views, or simply acts as a focal point for official communications. If the objectives of the Executive Order are to be met, Federal agencies must ensure that they deal with state and local elected officials in a consistent and understandable way.

It is also worth emphasizing that states are not required to adopt an official state process at all. However, after final rules implementing the Order become effective (they will be published on or about April 30, 1983), the existing Federal A–95 consultation regulations will no longer be in effect. Other existing statutory consultation requirements are not affected by this proposed rule. The state must have an official state process in order to exercise the rights and privileges under the regulation. An inventory of these existing requirements will be available.

The VA and other Federal agencies have the basic responsibility of ensuring that their programs and activities are carried out in conformity with the Order's provisions. OMB will have general government-wide oversight responsibility for the implementation of the Order, but will not attempt to exercise any day-to-day, operational control of agency actions. Nor will OMB act as a forum for "appeals" of agency actions by non-Federal parties.

Development of Proposed Regulations

The Federal agencies affected by the Order have worked together to make common policy decisions and, to the extent feasible, to draft common regulatory language. The agencies involved chose an approach that minimizes the imposition of regulatory requirements on non-Federal parties. For the most part, these proposed regulations will spell out the VA's obligations and procedures in response to the views expressed by state and local elected officials. A paper discussing the policy decisions made by the agencies and OMB was made available to the public on December 23, 1982. Following the close of the comment period, the agencies will again work together with the aim of promulgating final rules that are substantially consistent with one another. It is the Federal Government's intention that there will be no further rulemaking with respect to this Executive Order.

The Executive Order mandates the implementation of final regulations by April 30, 1983. It will not be possible to have an adequate comment period and meet this deadline if the normal 30-day delay between the publication date of a final rule and its effective date is observed. Consequently, the VA proposes to make the final rule effective immediately upon its publication on April 30.

As a matter of style, the proposed rules use the present tense when describing the VA's obligations. For example, when the proposed regulation says that the Administrator "provides the State with a timely explanation," the regulation requires the Administrator to do so.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Administrator has determined that this is not a major rule under Executive Order 12291. The proposed rule would simplify consultation with the VA and allow state and local governments to establish cost-effective consultation procedures. For this reason, the VA believes that any economic impact the regulation has will be positive. It is unlikely that its economic impact will be significant, in any case. Consequently, the Administrator certifies, under the Regulatory Flexibility Act, that this rule would not have a substantial economic impact on a significant number of small entities. This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

Section-by-Section Analysis

Section 40.1 What is the purpose of these regulations?

This section briefly states the purpose of the regulations, which is to implement Executive Order 12372 and foster an improved system of intergovernmental consultation. Paragraph (c) states the important point that the Order, and these regulations, are intended only to improve the VA's internal management of its consultation with state and local governments. Neither the Order nor these regulations are intended to create any right of judicial review of the VA's action. It is not intended that a state or local government would have the right to sue the VA because the VA failed to accommodate or explain a nonaccommodation of a state recommendation.

Section 40.2 What definitions apply to these regulations?

(a) "Agency" means the Veterans Administration.

(b) "Order" means Executive Order 12372.

(c) "Administrator" means the Administrator of Veterans Affairs or an official or employee of the VA acting under a delegation of authority from the Administrator. This does not mean that there must be a new, specific, formal delegation pertaining to Executive Order 12372. Any official who has existing authority to act concerning a program or activity under a delegation could act under the Order concerning that program or activity.

(d) "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, or the trust territory of the Pacific Islands. The definition of "state" means that the District of Columbia, Puerto Rico, and the other jurisdictions mentioned may create an official consultation process and consult with Federal agencies on the same basis as each of the 50 states.

(e) "Emergency" means a sudden, urgent, unforeseen situation in which immediate action is needed to prevent or respond to significant harm to life or property. Harm to property would include damage to the environment.

(f) "Unusual circumstance" means the end of a fiscal year, a statutory deadline or any other circumstance making it impracticable for the agency to provide 30 days for comments (or 45 days in an interstate situation).

(g) "State process" means the official procedure chosen by the state to communicate with the agency.

(h) "Affected" means for purposes of interstate situations those states physically affected by the specific plans and projects.

Section 40.3 What programs and activities of the Agency are subject to these regulations?

The intent of the Order is that state and local elected officials should have the opportunity to consult with Federal agencies under the Order concerning as many Federal programs and activities as they wish. Paragraph (a) provides that the VA will publish a **Federal Register** notice, in conjunction with the publication of its final Executive Order 12372 rule, listing the programs and activities that are subject to the Order. Updated lists will be published when necessary in order to let states know which of the VA's programs and activities they may choose to cover.

The attachment to this preamble contains a list of those programs and activities that the VA proposes to exclude from coverage under the Order. The reason for each proposed exclusion is also listed. The VA seeks comments on the proposed exclusions. After the promulgation of the final roles, if the VA wants to exclude new or additional programs or activities from coverage under the Order, it will publish a **Federal Register** notice requesting comment on the proposed exclusions.

At this time, states should assume that all the VA's other Federal assistance and direct Federal development programs will be subject to the Order. Of course, activities and programs that clearly are neither Federal financial assistance nor direct Federal development (e.g., procurement by the VA) are not subject to the Order. Also, the Order and these regulations do not apply to proposed regulations, legislation, budget formulation, or classified programs or activities where formal consultation would endanger national security.

Even if a program or activity is excluded from the consultation system established by the Order, state and local officials would still have an opportunity to have their views considered by the Agency. Indeed, statutory requirements for consultation, such as section 401(b) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b), require Federal agencies to consider the views of state and local governments. Many of the VA's program statutes have their own consultation requirements, and the VA will, of course, comply with all

existing or future statutory requirements of this kind. However, the VA is not obligated to follow the provisions of the Order and these regulations with respect to excluded programs and activities.

Paragraph (b) simply states the Administrator's obligation, to the extent permitted by law, to use a state's official process to determine official views of state and local officials. This obligation, which derives directly from the Order, extends only to programs and activities subject to the Order which a state has selected for coverage under § 40.5 of these regulations. If at any time a state believes that any official of the VA has not made appropriate use of the official state process, the state is invited to raise its concerns directly with the Administrator.

Section 40.4 What are the Administrator's general responsibilities under the Order?

This section incorporates the most important portions of Executive Order 12372 into the VA's regulation, emphasizing the VA's obligations under the Order. The mechanisms by which the VA will carry out many of these general obligations are developed further in other sections of the rule.

Paragraph (b)(2) means the agency is obligated to make efforts to insure that information on proposed actions or decisions of the agency is available to states in sufficient time to be able to exert meaningful influence on the agency's course of action. For example, the agency would make sure that the state learned of draft assistance announcements including decision criteria, Federal development project decisions, and so forth in time to make a meaningful response.

Section 40.5 What procedures apply to state's choice of programs under the Order?

States may choose to consult with the VA under the Order concerning any of the VA's programs and activities that the VA's **Federal Register** notice, on or about April 30, 1983 and subsequently, lists as subject to the Order. However, these regulations do not require states to consult with the Agency concerning any particular program or activity. This is an important distinction between the Order's consultation policy and the system established under Circular A–95, which gave states much less discretion concerning program selection. Under the Order, each state may choose whether to use the consultation system with respect to any particular program or activity. This gives states increased flexibility to determine how best to allocate their resources. For example, many programs have existing statutory consultation systems. If a state decides that an existing consultation system is adequate, the state might choose not to cover the program under its E.O. 12372 process, thereby avoiding duplication and saving resources for use on other programs. A state also might want to decline to cover a program which has only minor effects on the state and its people.

The VA emphasizes that the choice of whether to include a particular program or activity listed in the VA's **Federal Register** notice is entirely up to each state. While the VA will discuss with states the most effective ways of carrying out consultation concerning its program and activities, the VA will not attempt to constrain the state's discretion with respect to program selection.

Paragraph (a) of this section sets out a purely administrative requirement pertaining to program selection. The state must notify the Administrator of the programs and activities it chooses to cover. When it first establishes its official process, the state can meet this requirement by sending to OMB, along with other information required to establish the process, a list of the Federal programs and activities it wishes to include. OMB will inform each Federal agency of the programs and activities that each state has chosen to include. Subsequently, the state should send all program coverage information (additions, deletions, other changes) directly to the VA. This information will enable VA's personnel working on a particular program or activity to know which states they must consult with under the provisions of the Order.

Paragraph (b) provides that, once a state has established a process and make its program selections known to the VA, the VA will use the state's process concerning the programs and activities selected by the state as soon as feasible. While the VA will make every effort to use the state's process, there may be situations, on individual programs or projects, where the VA may not be able to do so for a time. The VA will make determinations concerning when to begin using the state's official process on a case-by-case basis and will let the states know when it will start to use the state process.

Paragraph (c) provides that the VA may establish deadlines for changes by states in the program selection choices. A state may add or delete a program or activity from those it wishes to cover under the Order at any time. However, in order for meaningful consultation to cover under the Order, the VA may need a certain amount of "lead time" before it can adapt its procedures to the changed circumstances. For this reason, the VA may find it necessary to establish deadlines for program selection changes. These deadlines would simply be notifications to the states that, for example, if they wished to have consultation under the Order begin with respect to a particular program on a given date, they would have to inform the VA of their program selection change a certain time (e.g., 30 days, 45 days) prior to that date.

Section 40.6 How does the Administrator give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

Paragraph (a) points out that the Order would apply not only to comments prepared pursuant to the official state process but also to comments formulated by local elected officials to whom the state's consultation role has been delegated in specific instances. Section 3(a) of the Order permits states to delegate, to local elected officials in specific instances, the review, coordination, and communication with Federal agencies that normally take place under the state process. This means that states may choose not only which programs and activities to include but also who within the state has the opportunity to carry out the consultation. States have complete discretion concerning delegation of their consultation role.

For example, a state could delegate to a single mayor the state's consultation role with respect to a project occurring in his or her city. The state could delegate all consultation under a particular program to officials of the local governments whose jurisdictions are affected by projects under the program. The state could delegate its consultation role for a particular program to local elected officials in cities above 250,000 population but not to local officials in smaller jurisdictions, or vice versa. In any case of delegation, the local official to whom the state's consultation role is delegated stands in the shoes of the official state process with respect to the VA. For example, efforts by the VA to reach a negotiated solution with the local official will be pursued directly with the official, not with the state itself.

The local official to whom the state's consultation role had been delegated would not send his or her comment directly to the VA. Rather, the official would send the comment to the VA through the state single point of contact. The VA would work with the local

official in attempting to reach an accommodation, but, if efforts at accommodation were unsuccessful, the VA would explain the nonaccommodation to the single point of contact. Routing the delegated comment through the state single point of contact would alert the VA to the fact that the local official's comments should be dealt with under the provisions of the Order and make unnecessary a separate communication from the state to the VA informing the VA that the comment was an official comment of the state.

Section 2(b) of the Order requires Federal agencies to communicate with state and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions. Paragraph (b) incorporates this provision of the Order into these regulations. What the requirement means is that the VA is obligated to make efforts to ensure that information on proposed actions or decisions of the VA is available to the states in sufficient time to be able to exert meaningful influence on the VA's course of action. For example, the VA would make sure that the state learned of draft assistance announcements, including decision criteria, Federal development project decisions, and so forth, in time to make a meaningful response.

It is difficult to specify, in advance, the precise time frames that will implement the Order's notification requirement for the VA's widely varied programs and activities, However, paragraph (c) states that, as a general rule, states choosing to cover a particular program or activity will have at least 30 days (45 days in the case of interstate situations) to comment on proposed Federal financial assistance or direct Federal development before the VA commits itself to a given course of action. The VA, on a case-by-case basis, may allow a shorter period for comment if unusual circumstances make the shorter period necessary. Among the kinds of unusual circumstances that might necessitate a shorter comment period are an emergency, the necessity to make a grant or cooperative agreement decision before the end of a fiscal year, or a statutory deadline.

In order to meet the Order's objective of ensuring states a meaningful opportunity to influence decisions by the VA, the VA may need to establish deadlines or time frames in nonregulatory program specific announcements for comment on particular actions or types of action. Consequently, as provided in paragraph (d), the VA may define, for its varying programs and activities, the length of comment periods and the starting points from which comment periods would begin to run. States and localities would still have at least 30 days to comment (45 days in interstate situations), except under unusual circumstances. For example, time frames may differ among different types of programs (e.g., one-year grants, multi-year grants, direct development projects, permits), for different stages of the same program (e.g., first application, renewal), or at different times (e.g., end of fiscal year, deadlines for quarterly apportionment).

In most financial assistance programs, a state, local or private agency applies to the VA for a grant or cooperative agreement or otherwise seeks VA approval for financial assistance to be provided. In order to receive notification of applictions for financial assistance from the VA, the state should work with applicant organizations to ensure that applications are provided to the state in a timely manner. If it becomes necessary, the VA may establish requirements in nonregulatory program specific announcements for applicants to submit copies of their applications to the state.

In order to ensure timely completion of Federal decisionmaking, the VA may require states to complete their reviews of applications and to submit their comments to the Administrator by a particular date. The intent of this provision is to prevent undue delays in Federal decisions affecting the state. A similar provision, in paragraph (d)(3), permits the Administrator to establish deadlines in nonregulatory program specific announcements for state review of the VA's direct develop activities.

Paragraph (e) makes an important point with respect to the way that communications between states and the VA would work. Under the Order, a state may organize the mechanics of its consultation process any way it chooses. However, in order to ensure that communications between the VA and the official state process flow efficiently, the VA strongly encourages states to establish a "single point of contact" for state communications with Federal agencies. Channeling communications from the states to Federal agencies and from agencies back to the states through a single point has obvious benefits from the point of view of administrative simplicity. In addition, it will enable the VA to know which communications to treat as official under the provisions of the Order. The VA needs a means of separating the letters from state and local elected officials to which it will respond through normal correspondence channels from those letters to which it must respond under the provisions of the Order. States' use of a single point of contact will permit the VA to make this necessary administrative distinction.

In the absence of a state process, or with respect to a program that a state has not selected for coverage, the VA will work with the state, consistent with existing legal requirements. The provisions of the Order and these regulations will not apply, however.

The proposed regulation would not impose any constraints on the content of comments that states send to the VA. However, the VA would strongly encourage commenters under the Order to follow three policies which are important for the efficient operation of the Order's consultation system.

First, comments should address statutes, regulations, and other requirements governing a specific program or decision. Often, the VA is required to make a decision based on certain statutorily established factors. In other cases, the VA, through regulation or guidance, has established decisionmaking criteria for various actions. It is unlikely that the VA would be able to accommodate concerns that do not address these requirements and standards, or which are not relevant to the decisionmaking process. In order to have meaningful influence on the VA's decisions, comments must be relevant to the factors on which the VA bases its decisions. For example, if VA's standards call for a decision to be made at a certain stage only on the technical merits of financial assistance proposals, before consideration is given to costs, the VA could not accommodate a state comment addressing costs during the technical review.

Second, states can assist the VA's implementation of the Order by clearly specifying the magnitude of the states' concerns. Often, it may be difficult for the VA to tell whether a state is firmly recommending a given course of action, has a mild preference for or reservation about the action, or is simply seeking clarification of the VA's position. For example, if a state wants the VA to recognize the state's priorities, accept only a modified financial assistance application, or deny a financial assistance application, it would be very helpful if the state identified its position as clearly as possible. The Order directs Federal agencies to make efforts to accommodate state concerns. The VA's ability to do so successfully is dependent, to a significant degree, on the clear articulation of concerns by states.

Third, the VA may not be in a good position to accommodate state and local concerns unless the state speaks with one voice in its comments. The VA recognizes that different state and local officials and agencies may not always agree among themselves concerning the course of action the agency should follow. The single point of contact should reconcile conflicting views before transmission, to avoid the agency's having to seek clarification concerning which set of views the state wants the VA to accommodate. The process will work much better if the VA receives a single set of comments.

Section 40.7 How does the Administrator make efforts to accommodate state and local concerns?

Paragraph (a) provides that when a state comments to the VA under the Order, the VA has three choices. The VA can accept the state's comments (i.e., do as the state recommends). Second, it can reach a mutually agreeable solution with the state. This solution can differ from the original state position on the matter. Third, if the VA cannot accept the state's comments or reach a mutually agreeable solution, the VA is obligated to give the state a timely, simple explanation of the VA's reasons for not doing so. While the VA is not required to accept the state's comments or to begin discussions towards another solution, the VA does have an obligation to provide a simple explanation of its decision.

Normally, the explanation will be in writing, unless because of unusual circumstances time will not permit. The explanation is made by a designee of the Administrator.

Paragraph (a)(3)(ii) spells out the role of the single point of contact in receiving explanations from the VA. The VA will direct all such explanations to the single point of contact in each state that has one. This is true even where accommodation discussions have occurred between the VA and another party in the state.

Paragraph (b) concerns safeguards to ensure that the interests of states are protected in nonaccommodation situations. Paragraph (b)(1) provides that a nonaccommodation explanation will state that the VA will not implement its decision until ten days after the single point of contact receives the explanation, except as provided in paragraph (b)(2). This waiting period is intended to permit states to respond to the VA in cases of nonaccommodation before the VA has awarded a grant or cooperative agreement, begun construction of a facility, or otherwise irrevocably carried out the decision.

Paragraph (b)(2) recognizes that there will be some situations in which the VA cannot observe the ten-day waiting period. These unusual circumstances could include, for example, a statutory deadline, emergency, or end of a fiscal year situation that may make it infeasible for the VA to wait ten days before implementing its decision. In a situation where the VA cannot observe the waiting period, the Administrator or a designee of the Administrator at a higher level than the official responsible for making the original decision will review the decision before the nonaccommodation explanation is made and before the VA implements the decision. The nonaccommodation explanation will include the VA's reasons for determining that the ten-day waiting period is infeasible.

Section 40.8 What are the Administrator's obligations in interstate situations?

In some cases, action taken by the VA in Federal financial assistance and direct Federal development programs may have an impact on interstate areas. In these situations, the VA has certain additional obligations. First, the VA must identify its direct Federal development or Federal financial assistance actions or decisions that have an impact on interstate areas. Having done so, the VA must, as provided in paragraph (b), notify the potentially affected states, whether or not they have established an official state process under the Order. Except in unusual circumstances (e.g., emergencies, financial assistance awards at the end of the fiscal year), the VA must provide the affected states an opportunity for comment of at least 45 days before the Agency commits itself to a course of action. The increase in the minimum comment period from 30 to 45 days in interstate situations allows extra time for states to coordinate among themselves before providing views to the VA.

The VA, obviously, cannot require states to coordinate with each other on proposed Federal assistance or direct development having an impact on an interstate area. However, the VA strongly encourages each affected state to share its comments with and obtain the views of other affected states, using the other state's single point of contact, if there is one, or an appropriate state official if there is not a single point of contact. The VA encourages states to reconcile differences where they exist, so that the states can present the VA with a unified position. If the affected states provide the VA with conflicting recommendations, the VA will accommodate recommendations to the extent possible and explain its nonaccommodations of other points of view as provided in § 40.7. In any event, the VA may make a unilateral decision, notwithstanding irreconcilable differences, taking into consideration the views of the states.

Section 40.9 [Reserved]

Section 40.10 Waiver.

This section allows the Administrator to waive any provision in these regulations in an emergency. The agency expects to use this provision sparingly, since the agency's policy is to carry out the Order as fully as it can.

List of Subjects in 38 CFR Part 40

Intergovernmental relations, States, Veterans.

Approved: January 7, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

The Veterans Administration proposes to amend Title 38, Code of Federal Regulations, by adding a new Part 40, to read as follows:

PART 40—INTERGOVERNMENTAL REVIEW OF VETERANS ADMINISTRATION PROGRAMS

Sec.

40.1 What is the purpose of these regulations?
40.2 What definitions apply to these regulations?
40.3 What programs and activities of the Agency are subject to these regulations?
40.4 What are the Administrator's general responsibilities under the Order?
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40.10 May the Administrator waive any provision of these regulations?

Authority: Executive Order 12372 (July 14, 1982); (47 FR 30959); section 401(a) of Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(a)).

§ 40.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, issued July 14, 1982, and titled "Intergovernmetnal Review of Federal Programs."

(b) Executive Order 12372 is intended to foster an intergovernmental partnership by relying on state and local processes for state and local government coordination and review of proposed Federal financial assistance and direct Federal development.

(c) The Order and these regulations are intended only to improve the internal management of the Veterans Administration. Neither the Order nor these regulations are intended to create any right or benefit enforceable by law by a party against the Veterans Administration or its officers.

(E.O. 12372, July 14, 1982; 42 U.S.C. 4231(b)) * * *

§ 40.2 What definitions apply to these regulations?

For the purposes of §§ 40.1 through 40.10, the following definitions apply:

(a) "Agency" means the Veterans Administration.

(b) "Order" means Executive Order 12372, issued July 14, 1982, and titled "intergovernmental Review of Federal Programs."

(c) "Administration" means the Administrator of Veterans Affairs or an official or employee of the Veterans Administration acting for the Administrator under delegation of authority.

(d) "State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

(e) "Emergency" means a sudden, urgent, unforeseen situation in which immediate action is needed to prevent or respond to significant harm to life or property. Harm to property would include damage to the environment.

(f) "Unusual Circumstances" means the end of a fiscal year, a statutory deadline or any other circumstance making it impracticable for the agency to provide 30 days for comment (or 45 days in an interstate situation).

(g) "State Process" means the official procedure chosen by the state to communicate with the agency.

(h) "Affected" means for purposes of interstate situations those states physically affected by the specific plans and projects.

(E.O. 12372, July 14, 1982; 42 U.S.C. 4231(b))

§ 40.3 What programs and activities of the Agency are subject to these regulations?

(a) The Administrator publishes in the Federal Register a list of the Veterans Administration's programs and activities that are subject to the Order and these regulations.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to include under § 40.5, the Administrator, to the extent permitted by law, uses the official state process to determine official views of state and local elected officials.

(E.O. 12372, July 14, 1982; 42 U.S.C. 4231(b))

§ 40.4 What are the Administrator's general responsibilities under the Order?

(a) The Administrator provides opportunities for consultation by elected officials of those state and local governments that would provide the non-Federal funds, for, or that would be directly affected by, proposed Federal financial assistance from, or direct Federal development by, the Veterans Administration.

(b) If a state adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Administrator to the extent permitted by law:

(1) Uses state processes to determine official views of state and local elected officials;

(2) Communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate state and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the state process;

(4) Seeks the coordination of views of affected state and local elected officials in one state with those of another state when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas.

(E.O. 12372, July 14, 1982; 42 U.S.C. 4231(b))

§ 40.5 What procedures apply to a state's choice of programs under the Order?

(a) Each state that adopts a process under the Order notifies the Administrator of the Veterans Administration programs that the state chooses to include under the Order.

(b) The Administrator uses a state's process under the Order as soon as feasible, depending on individual programs and projects, after the state notifies the Administrator of its program choices.

(c) States may change their program choices under the Order at any time. The Administrator may establish deadlines for states to change their program choices.

(E.O. 12372, July 14, 1982; 42 U.S.C. 4231(b))

§ 40.6 How does the Administrator give states an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) This section applies to all comments received from a state pursuant to an official process it has established under the Order, including comments where the state has delegated to local elected officials the review, coordination and communication with the agency.

(b) With respect to programs and activities that are subject to the Order and these regulations and that a state chooses to include under § 40.5 the Administrator, to the extent permitted by law, communicates with state and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Except in unusual circumstances, the Administrator gives states at least 30 days to comment on any proposed Federal financial assistance or direct Federal development (see § 40.8 for comment periods pertaining to interstate situations).

(d) Subject to paragraph (c), the Administrator may establish deadlines for:

(1) Applicants to submit copies of their applications to the states;

(2) States to complete their review of applications under a financial assistance program and to submit their comments to the Veterans Administration;

(3) States to complete their view of direct Federal development projects and to submit their comments to the agency.

(e) The Administrator responds as provided in the Order to all comments from a state that are provided through a state office or official that acts as a single point of contact under the Order between the state and all Federal agencies.

(E.O. 12372, July 14, 1982; 42 U.S.C. 4231(b))

§ 40.7 How does the Administrator make efforts to accommodate state and local concerns?

(a) If a state provides comments to the Agency in accordance with § 40.6(e), the Administrator:

(1) Accepts the state's comments;

(2) Reaches a mutually agreeable solution with the state; or

(3) (i) Provides the state with a timely written explanation of the basis for the Veterans Administration's decision.

(ii) If the state has designated a state office or official as a single point of contact between the state and all Federal agencies, then the Administrator provides any explanation under subparagraph (a)(3) of this section to that office or official.

(b) In any explanation under subparagraph (a)(3) of this section the Administrator informs the state that:

(1) The Veterans Administration will not implement its decision for ten days after the state receives the explanation; or

(2) The Administrator has reviewed the decision and determined that because of unusual circumstances, the ten-day waiting period is not feasible.

(E.O. 12372, July 14, 1982, 42 U.S.C. 4231(b))

§ 40.8 What are the Administrator's obligations in interstate situations?

The Administrator is responsible for:

(a) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(b) Notifying the affected states, including states that have not adopted a process under the Order; and

(c) Except in unusual circumstances, providing the affected states an opportunity of at least 45 days to comment.

(E.O. 12372, July 14, 1982; 42 U.S.C. 4231(b))

§ 40.9 [Reserved]

§ 40.10 May the Administrator waive any provision of these regulations?

In any emergency, the Administrator may waive any provisions of this part.

(E.O. 12372, July 14, 1982, 42 U.S.C. 4231(b))

LIST OF PROPOSED EXCLUSIONS FROM SCOPE

Program/Activity name	Basis for exclusion	Reference
Assistance in Establishing New State Medical Schools [38 U.S.C. 5070].	Direct financial assistance between the Federal government and state and municipal colleges and universities.	
Grants to Affiliated Manpower Training Institutions [38 U.S.C. 5081].	Direct financial assistance between the Federal government and state and municipal colleges and universities.	
Assistance to Health Manpower Training Institutions [38 U.S.C. 5091].	Academic training institutional aid grants.	
Payments to State Homes [38 U.S.C. 641].	Nondiscretionary financial transfer funds allocated by formula.	
Sharing of Medical Facilities, Equipment, and Information [38 U.S.C. 5051].	These are contracts or agreements for the "mutual use of specialized medical resources."	
	Direct financial assistance between the Federal government and state municipal colleges and universities.	
	Direct financial assistance between the Federal government and non-governmental entities.	
Administration of Educational Benefits [38 U.S.C. 1770].	Individual Exclusion: The states, pursuant to 38 U.S.C. 1771 are required to establish "state approving agencies." Should the state fail to establish such an agency, the duties of the state approving agency become that of the Administrator. The state approving agencies are established to evaluate and approve institutions and courses of study in order to determine courses which may be approved for the enrollment of veterans. The statute does not explicitly preclude state or local government jurisdiction, but provides little, if any, discretion in the establishment or function of the agency. The state approving agencies are established for the specific purpose of administering a Federal program i.e., the Veterans Administration's educational program. The consultation process contemplated by the Executive Order 12372 is therefore precluded under this statute. Accordingly, this program should be excluded from the scope of the Executive Order.	
Home Loan Guaranty Program [38 U.S.C. 1801].	The guaranty program established pursuant to 38 U.S.C. 1801 should be categorized as a generic exclusion.	
	The Order expressly states, "federal agencies shall provide opportunities for consultation * * * of those states and local governments * * * that would be *directly affected* by, proposed Federal financial assistance or direct Federal development." [Emphasis Supplied].	
	The statute itself is explicit in setting forth the eligibility requirements. Any state or local government coordination has little impact, if any, upon the program. Moreover, the state and local governments are not directly affect by this program, the major purpose of which is to provide home financing for eligible veterans.	
	The basic entitlement under 38 U.S.C. 1802 is set forth below, in relevant part:	
	"(a) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for ninety days or more, or who was discharged or released from a period of active duty, any part of which occurred during World war II, the Korean conflict, or the Vietnam era, for a service-connected disability, shall be eligible for the housing loan benefits of this chapter..	
	"(d) Housing loans *will be automatically guaranteed* under this chapter only if made (1) by any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union, or mortgage and loan company, that is subject to examination and supervision by an agency of the United States or of any State, (2) by any State, or (3) by any lender approved by the Administrator." [Emphasis supplied].	
	The extent of the VA's involvement in the actual construction or purchase of residential housing is limited. With regard to dwellings constructed within one year of the loan, the chapter requires "no loan * * * shall be financed * * * unless the property meets or exceeds minimum requirements for planning, construction, and general acceptability prescribed by the Administrator." 38 U.S.C. 1804(a). Further, the seller or builder, in certain instances, must become a warrantor. 38 U.S.C. 1805..	
	Moreover, 38 U.S.C. 1810, explicitly states that the loan is automatically guaranteed for the purpose of purchasing, constructing, or refinancing housing owned and occupied by the veteran.	
	The Veterans Administration processed more than 100,000 loans this past year. Practically and philosophically the inclusion of the loan guarantee program as a part of the consultation process has not proven feasible. The clearinghouse review procedures under A-95 resulted in costly delays for the builder and developed without any positive results. The VA guaranteed loans represented only a small percentage of new home loans and that the clearinghouse procedure missed the majority of new homes and was, therefore, ineffective. The procedure has become a penalty against builders and developers who process subdivisions involving government guaranteed and insured loans.	
	Therefore, based upon the historical background of the program and the consultation process, as well as, the Order's implicit exclusion of programs involving non-governmental entities and direct payments to individuals, the VA considers this program excluded.	
Direct Development Programs		
Acquisition and Disposition of Property [38 U.S.C. 5001], [38 U.S.C. 621].	Although the construction, alteration, improvement of hospitals, as well as, cemeteries and memorials, is clearly within the scope of the Order the scope should be limited or defined to *include* only the following:.	
	A. Acquisition and Disposition of Property.	
	1. A building addition or new structure. (Minor utility pads or equipment and projects for additions, alteration, or modernization of an existing facility which do not substantially alter the scale or the type or intensity of use of such facility need not be reported.).	
	2. A major utility modernization that may require new primary sources or discharge points from the community.	
	3. An acquisition of real property.	
	4. A major building demolition project exceeding $500,000 expenditure.	
	5. A project for inpatient care purposes exceeding $2,000,000 expenditure *and* either.	
	(a) increases the bed capacity by 25,	
	(b) modifies the primary function of the facility, or	
	(c) provides a major new medical care service.	
National Cemeteries and Memorial [38 U.S.C. 1000].	B. National Cemeteries and Memorials.	
	A cemetery burial area expansion of 20 acres or more.	

LIST OF PROPOSED EXCLUSIONS FROM SCOPE—Continued

Program/Activity name	Basis for exclusion	Reference
	It is the VA's position that by establishing no thresholds: (1) The operation and planning of projects may be impaired and (2) goes far beyond the intent of the Order in that "minor" projects, as defined by the VA for budget purposes as being projects less than $2 million, do not affect state and local governments.	

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Part XXIX

Department of Transportation

Urban Mass Transportation Administration

Implementation of the Federal Public Transportation Act of 1982

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Implementation of the Federal Public Transportation Act of 1982

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Public Transportation Act of 1982 (the Act) (Pub. L. 97–424), effective January 6, 1983, makes significant changes to the programs of the Urban Mass Transportation Administration (UMTA). This notice provides preliminary information to potential grantees about the availability of funds in FY 1983 (which ends September 30, 1983) under a new formula program for transit capital projects funded from the Mass Transit Account of the Highway Trust Fund. It also describes generally some of the principal features of the changes that the new legislation makes in connection with UMTA's existing programs. Application instructions for the FY 1983 program, in the form of an UMTA Circular, will be published within approximately 30 days of the date of this notice. Instructions for FY 1984 and thereafter will be published prior to the beginning of FY 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Brian J. Cudahy, Office of Capital and Formula Assistance, (202) 472–2440, for information on general block grant development and management issues or the appropriate Regional Administrator for information concerning Section 5 issues; Mr. Kenneth E. Bolton, Office of Policy, (202) 426–4060, for information on block grant formula apportionments; or Mr. Daniel Duff, Office of Chief Counsel, (202) 426–4011, for information on legal matters. Except for Regional Administrators, all are located at 400 Seventh Street, S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: *New Section 9A Block Grant Capital Program.* This program is a modification, for FY 1983 only, of a new Section 9 Block Grant Program which is effective in FY's 1984–1986. The Section 9A program is effective only in FY 83, and may be used for any eligible projects other than operating assistance. It is funded under the Mass Transit Account of the Highway Trust Fund and is a formula apportionment program with a Federal/local share of 80/20 percent. (Appendix A, which is part of this notice, is a preliminary apportionment of funds to urbanized areas made on the basis of the statutory formula.) In accordance with the new legislation, the formula apportions funds on the basis of population, population density, fixed guideway route miles, and bus and fixed guideway vehicle revenue miles. Although the formula distinguishes between fixed guideway systems and bus transit systems, the amounts apportioned to an urbanized area on the basis of each type of service may be used for any eligible purpose at the discretion of local recipients.

Data used for formula apportionment are the latest published in the *National Urban Mass Transportation Statistics: Section 15 Report.* The data used for the preliminary FY 1983 apportionment (Appendix A) are basically those published in November, 1982, for the 1981 reporting period, which covers operating data reported for local fiscal years ending between July 1, 1980 and June 30, 1981. Data for the 1982 reporting period will be used for the apportionment of resources in FY 1984. Population and population density data are from the 1980 Census.

Preliminary apportionments are being published at this time to allow localities the opportunity to initiate planning, programing and project development activities. The FY 1983 apportionments are shown in Appendix A. The amounts shown in the apportionment table represent only 65 percent of the total funds available in FY 1983 under the provisions of the Act. The remaining 35 percent is being reserved for apportionment after consideration of certain data supplements. UMTA has used the most recently reported and published Section 15 data to expedite this preliminary apportionment, but will consider supplements to the data in the categories listed below.

(1) Public agencies which were not included in the 1981 Section 15 Annual Report.

(2) Private transit agencies which were under contract with a public agency but not included in the 1981 Section 15 Annual Report.

(3) Public or private agency transportation services included in the 1981 Section 15 Annual Report as "purchased transportation."

(4) Services provided by commuter rail and ferryboat operations which were not included in 1981 Section 15 Annual Report.

Public agencies should submit all supplemental data for the 1981 Reporting Period (bus vehicle revenue miles, fixed guideway vehicle revenue miles and fixed guideway route miles) to the Regional Offices within sixty days of the date of this Notice. Agencies making submissions are referred to UMTA's Section 15 Circulars (2710.1, 2710.2, 2710.5 and 2710.5A). Copies of these Circulars and general guidance on Section 15 reporting requirements can be obtained from the relevant UMTA Regional office. The remainder of funds available for obligation will be apportioned by July 1, 1983.

The "designated recipient" concept, currently used in the Section 5 program to identify those who may receive and dispense apportioned funds, is also used for the Section 9A program. Thus, existing designations remain effective unless changed at the local level. Procedures for new designations under Section 9A (and Section 9) are the same as under Section 5, except that such designations no longer require the concurrence of the Secretary of Transportation.

The cardinal feature of Section 9A (and Section 9) is that a single grant application may be submitted for a Program of Projects, rather than a series of applications for individual projects. A Program of Projects may be drawn from the familiar Transportation Improvement Program/Annual Element TIP/AE) utilized in the grant process for existing UMTA programs. To the extent that applicants can certify that the public information and comment process and other requirements in the new legislation have been met, UMTA will make every effort to facilitate the application process in Fiscal Year 1983 by permitting applicants to utilize the current TIP/AE cycle.

Another significant feature of the new program is the use, by applicants, of self-certifications that various requirements in the Act will be met. The subjects of these certifications will be familiar to UMTA grantees, and UMTA will adapt its current procedures (e.g., One-Time Submission of Standard Assurances for Capital Assistance Applications, UMTA Circular C 9100.1) to facilitate these self-certifications and similar requirements. The overriding intent of the Act in this respect is to simplify the grant application and review processes. The Act, however, requires a recipient to have independently conducted audits annually and requires the Secretary to conduct post-grant reviews and evaluations of compliance with certifications and other requirements.

FY 1983 Programs. In addition to the new Section 9A program discussed above, for the remainder of FY 1983 requirements for UMTA's existing Sections 3 and 5 grant programs will continue essentially as they have for the past several years. However, certain changes to these programs are effective January 6, 1983 and are discussed

below. In addition to these program specific changes discussed below, there also is a new alternative to life-cycle costing and a new Buy America requirement. The Buy America provision and the alternative to life cycle costing apply to any third party contract utilizing UMTA funds obligated after January 6, 1983. (However, the alternative to life cycle costing is not applicable to grants under Sections 9A and 9.)

UMTA will be publishing specific information on these provisions soon.

Existing Section 3 Capital Grant Program. The Section 3 Discretionary Capital Grant Program will be funded for FY 1983 pursuant to the FY 1983 DOT Appropriation Act (Pub. L. 97–369), at the following levels: Rail Modernization: $840.0 million; Bus and Bus Related Facilities: $500.0 million; and New Systems: $206.0 million. One major difference in the Section 3 program resulting from the new legislation is that the Federal/local share is changed from 80/20 percent to 75/25 percent. This new Federal/local share applies to any Section 3 funds obligated on or after January 6, 1983, except for projects covered before January 6, 1982 by a Letter of Intent, a Full Funding Contract, or a Letter of Commitment. The new legislation provides that any such projects will continue to be funded at the previously mandated Federal/local share (in most cases, 80/20).

Another change is that UMTA must determine before grant approval that a Section 3 applicant has or will have sufficient capability to maintain the facilities and equipment acquired under the grant. Also, to the extent practicable, in awarding Section 3 grants in FY 1983, UMTA should emphasize projects that are labor intensive and that can be under construction or in manufacturing within the shortest possible time.

Existing Section 5 Formula Program. The Section 5 Formula Program is funded in Fiscal Year 1983 at a level of $1.2 billion. Pursuant to the FY 1983 DOT Appropriation Act (Pub. L. 97–369), funds are made available as follows: Tier I (capital/operating), $680 million; Tier II (capital/operating), $125 million; Tier III (commuter rail/fixed guideway), $70 million; Tier IV (bus capital), $325 million. While these funds continue to be available for eligible operating and capital purposes, the new legislation specifically limits the amounts which may be used for operating assistance.

For operating assistance apportioned in FY 1983, an urbanized area of one million or more population is limited to an amount equal to 80 percent of its FY 1982 apportionment under Section 5 Tiers I, II and III; an urbanized area with a population between 200,000 and one million is limited to an amount equal to 90 percent of its FY 1982 apportionment under Section 5 Tiers I, II, and III; and an urbanized area with a population of less than 200,000 is limited to an amount equal to 95 percent of its FY 1982 apportionment under Section 5 Tiers I, II, and III. There is one exception to these percentage limitations. The new legislation does not appear to provide a specific limitation in FY 1983 for areas that became urbanized areas for the first time under the 1980 Census (new UZA's). Accordingly, the amount of Section 5 funds available for a new UZA for use as operating assistance in FY 1983 will be the amount appropriated in FY 1983 for such new UZA under Tiers I, II and III of Section 5. (In FY 1984, the amount of funds available to new UZA's for operating assistance will be limited to 40 percent of their Section 9 apportionment.)

In addition, under the new legislation a grantee may, in FY 1983, use its Tier IV (bus capital) apportionment for operating expenses up to the allowable percentage of its FY 1982 operating apportionment discussed in the previous sentence. Further, a grantee may transfer Tier IV funds and use such funds for operating assistance up to its total FY 1982 operating apportionment level, but any such funds are discounted by one-third, and only the remaining two-thirds of such discounted Tier IV funds will be available to the grantee for operating expenses. For example, a grantee must give up three dollars of capital funds in order to use two dollars from Tier IV for operating purposes under this provision. Specific guidance on this and other features of the new law will be published in the forthcoming UMTA Circular.

There are no further authorizations for the Section 5 program after FY 1983. Unobligated apportionments remain available as carry forward balances in accordance with the provisions of Section 5 until September 30, 1985; thereafter, unobligated funds are added to the new Section 9 Block Grant program for reapportionment. Appendix B which is part of this notice contains FY 1983 apportionments for Section 5.

Existing Section 18 Formula Program for Rural and Small Urbanized Areas. The FY 1983 DOT Appropriation Act provides $68.5 million for this program. These funds are apportioned based on non-urbanized population and will be available for those activities previously eligible under the Section 18 program. In addition, FY 1983 an amount equal to 2.93 percent of those funds made available from the Mass Transit Account of the Highway Trust Fund will be available in accordance with Section 18 requirements. These Mass Transit Account funds will also be apportioned based upon non-urbanized area population, but will be available for capital purposes only. The Section 18 program will continue to be administered by the Federal Highway Administration.

Future Years Programs. Beginning in FY 1984, no additional funds are authorized for the Section 9A and Section 5 programs, and the new Section 9 program will begin. The Section 9 program is similar in structure to the Section 9A program, except that its formula includes an incentive tier which requires passenger miles and operating cost data. Section 9 also permits operating costs as an eligible expense subject generally to much the same limitations described above in connection with Section 5. Under Section 9 the Federal/local shares are up to 80/20 percent for capital and up to 50/50 percent for net operating costs. Application instructions for the Section 9 program will be published prior to October 1, 1983.

The Section 3 Capital Grant Program will continue in FY 1984–1986 with the changes described above under existing Section 3 Capital Grant Program. However, in these years it will be funded entirely from the Mass Transit Account of the Highway Trust Fund. Other programs to be financed from this source are Section 4(i) Innovative Techniques, Section 8 Planning and Technical Studies, and Section 16(b)(2) Elderly and Handicapped Program Grants to Private Non-Profit Corporations and Associations.

Issued on: January 20, 1983.

Arthur E. Teele, Jr.,

Urban Mass Transportation Administrator.

Appendix A—FY 1983 Preliminary Apportionment of the Funds Made Available From the Mass Transit Account of the Highway Trust Fund as Provided Under the Federal Public Transportation Act of 1982

Definitions

The following definitions are used for calculating Section 9A formula apportionments. They are consistent with Section 15 definitions and the provisions of the Act:

Fixed Guideway Systems

Includes any public transportation facility which utilizes and occupies a separate right-of-way or rails for the exclusive use of public transportation service, including but not limited to fixed rail, automated guideway transit,

and exclusive facilities for buses and other high occupancy vehicles, and also means a public transportation facility which uses a fixed catenary system and utilizes a right-of-way useable by other forms of transportation. It also includes ferryboat operations, operated by or under contract to the designated recipient.

Vehicle Revenue Miles

Total miles traveled by revenue vehicles while in revenue service. Excludes miles traveled to and from storage facilities and other deadhead travel.

Route Miles or Miles of Directional Roadway

The total miles over which public transportation vehicles travel while in revenue service. If vehicles travel in both directions on a two-way roadway, each side of the roadway is counted. However, the measure is taken without respect to the number of traffic lanes or rail tracks existing in any given direction of right-of-way. For example, a one-mile segment of city street over which motor buses operate in both directions is counted as two miles of directional travel regardless of the fact that six different bus routes use all or part of that one-mile segment and that the street is a six-lane street. (Route miles and miles of directional roadway are interchangeable terms.)

Commuter Rail

That portion of main-line railroad transportation operations which encompasses urban passenger train service for local short-distance travel between a central city and adjacent suburbs. Such rail passenger service, using either locomotive-hauled or self-propelled railroad passenger cars, is generally characterized by multi-trip tickets, specific station-to-station fares, railroad employment practices, and usually only one or two stations in the central business district.

Commuter rail data is generally not yet reported in Section 15; therefore, UMTA utilized an estimating technique based on data currently reported for apportionment of Section 5, Tier 3, funds. It is UMTA's intention to collect the required data directly from the commuter rail agencies before final apportionment is made.

Motor Bus

Rubber-tired passenger vehicles operating singly on city streets. These buses are powered by internal combustion engines contained within the bus; they are, therefore, not restricted to operating on a fixed route.

Ferryboat

A vessel for carrying passengers and/or vehicles over a body of water. Ferryboat route miles are the round trip directional miles between terminals in statute miles.

Apportionment Formula

Consistent with the provisions of the Federal Public Transportation Act of 1983, the amount apportioned has been based on the following formula:

88.43% to Urbanized Areas over 200,000 Population
- *Bus Tier*—66.71%
- Over 1 million population—73.39%
  - 50% bus revenue vehicle miles
  - 25% population
  - 25% population/density
- Under 1 million population—26.61%
  - 50% bus revenue vehicle miles
  - 25% population
  - 25% population/density
- *Rail Tier*—33.29%
  - 60% fixed guideway revenue vehicle miles
  - 40% fixed guideway route miles

8.64% to Urbanized Areas less than 200,000 population
- 50% population
- 50% population density

2.93% to Non-Urbanized Areas
- 100% population

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FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND
MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST
FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
ALABAMA		
Birmingham	1152	
Mobile	457	
Montgomery	318	
Huntsville	213	
Tuscaloosa	156	
Anniston	104	
Gadsden	96	
Florence	102	
Decatur	76	
Dothan	66	
Auburn	64	
Non-Urbanized	354	
State Total		3158
ARIZONA		
Phoenix	2203	
Tucson	1248	
Yuma	104	
Non-Urbanized	134	
State Total		3689
ARKANSAS		
Little Rock-North Little Rock	536	
Fort Smith, AK-OK	128	
Pine Bluff	115	
Fayetteville, Springdale	84	
Non-Urbanized	286	
State Total		1149

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
CALIFORNIA		
Los Angeles-Long Beach	29184	
San Francisco-Oakland	20505	
San Diego	4830	
San Jose	4202	
Sacramento	2094	
Riverside-San Bernardino	1450	
Oxnard-Ventura-Thousand Oaks	647	
Fresno	1069	
Bakersfield	489	
Stockton	454	
Modesto	380	
Santa Barbara	351	
Santa Rosa	278	
Santa Cruz	199	
Seaside-Monterey	257	
Antioch	201	
Salinas	246	
Simi Valley	175	
Fairfield	127	
Palm Springs	90	
Yuba City	118	
Napa	133	
Visalia	112	
Santa Maria	113	
Lancaster	81	
Hemet	97	
Redding	74	
Chico	92	
Non-Urbanized	648	
State Total		68696
COLORADO		
Denver	3754	
Colorado Springs	559	
Pueblo	214	

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
Boulder	195	
Fort Collins	146	
Greeley	141	
Grand Junction	94	
Non-Urbanized	145	
State Total		5248
CONNECTICUT		
Connecticut Rail	2486	
Hartford	1561	
Bridgeport	819	
New Haven	965	
Stamford	348	
Waterbury	301	
New London-Norwich	227	
New Britain	276	
Norwalk	201	
Danbury	140	
Bristol	137	
Meriden	111	
Non-Urbanized	132	
State Total		7704
DELAWARE		
Wilmington, DL-NJ	933	
Non-Urbanized	38	
State Total		971
FLORIDA		
Miami	4685	
Fort Lauderdale	1909	
St. Petersburg	1628	

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
Jacksonville	1448	
Orlando	889	
Tampa	1029	
West Palm Beach	1031	
Sarasota-Bradenton	469	
Pensacola	337	
Melbourne-Cocoa	209	
Daytona Beach	273	
Fort Myers	216	
Tallahassee	196	
Lakeland	176	
Gainesville	183	
Fort Walton Beach	128	
Panama City	117	
Winter Haven	114	
Fort Pierce	102	
Naples	73	
Ocala	73	
Non-Urbanized	386	
State Total		15671
GEORGIA		
Atlanta	5177	
Augusta	375	
Columbus	476	
Savannah	285	
Macon	237	
Albany	133	
Athens	98	
Warner Robins	93	
Rome	74	
Non-Urbanized	476	
State Total		7424

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND
MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST
FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
IDAHO		
Boise City	247	
Pocatello	96	
Non-Urbanized	126	
State Total		469
ILLINOIS		
Chicago, IL-Northwestern, IN	40926	
Davenport-Rock Island-Moline	583	
Peoria	529	
Rockford	437	
Joliet	322	
Aurora-Elgin	301	
Springfield	248	
Champaign-Urbana	280	
Decatur	202	
Elgin	224	
Alton	149	
Bloomington-Normal	197	
Round Lake Beach	104	
Kankakee	131	
Danville	97	
Non-Urbanized	542	
State Total		45272
INDIANA		
Indianapolis	1723	
Fort Wayne	619	
South Bend, IN-MI	493	
Evansville	365	
Muncie	184	
Lafayette-West Lafayette	204	
Elkhart-Goshen	143	
Anderson	127	

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
Terre Haute	138	
Bloomington	143	
Kokomo	132	
Non-Urbanized	480	
State Total		4751
IOWA		
Des Moines	605	
Cedar Rapids	244	
Waterloo	172	
Sioux City, IA-NB-IN	151	
Dubuque, IA-IL	134	
Iowa City	103	
Non-Urbanized	329	
State Total		1738
KANSAS		
Wichita	651	
Topeka	223	
Lawrence	108	
Non-Urbanized	251	
State Total		1233
KENTUCKY		
Louisville, KY-IN	2073	
Lexington	385	
Owensboro	139	
Non-Urbanized	404	
State Total		3001

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
LOUISIANA		
New Orleans	3479	
Baton Rouge	552	
Shreveport	571	
Lake Charles	189	
Lafayette	219	
Monroe	178	
Alexandria	147	
Houma	96	
Non-Urbanized	333	
State Total		5764
MAINE		
Portland	174	
Lewiston-Auburn	90	
Bangor	76	
Non-Urbanized	146	
State Total		486
MARYLAND		
Baltimore	5877	
Hagerstown	111	
Annapolis	114	
Cumberland	95	
Non-Urbanized	179	
State Total		6376
MASSACHUSETTS		
Boston	15419	
Springfield-Chicopee-Holyoke, MA-CN	1203	
Worcester	601	

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
Lawrence-Haverhill, MA-NH	327	
Brockton	373	
Lowell	318	
Fall River, MA-RI	321	
New Bedford	317	
Fitchburg-Leominster	109	
Pittsfield	83	
Taunton	67	
Non-Urbanized	215	
State Total		19353
MICHIGAN		
Detroit	9983	
Grand Rapids	418	
Flint	653	
Lansing	331	
Ann Arbor	491	
Kalamazoo	272	
Saginaw	310	
Muskegon-Muskegon Heights	178	
Jackson	149	
Battle Creek	126	
Bay City	145	
Benton Harbor	105	
Port Huron	108	
Non-Urbanized	579	
State Total		13848
MINNESOTA		
Minneapolis-St. Paul	4433	
Duluth-Superior, MN-WI	177	
Rochester	129	
St. Cloud	114	
Non-Urbanized	336	
State Total		5189

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
MISSISSIPPI		
Jackson	368	
Biloxi-Gulfport	271	
Pascagoula-Moss Point	94	
Hattiesburg	83	
Non-Urbanized	321	
State Total		1137
MISSOURI		
St. Louis, MO-IL	4709	
Kansas City, MO-KS	2108	
Springfield	243	
St. Joseph, MO-KS	131	
Columbia	101	
Joplin	79	
Non-Urbanized	382	
State Total		7753
MONTANA		
Billings	158	
Great Falls	139	
Missoula	104	
Non-Urbanized	96	
State Total		497
NEBRASKA		
Omaha, NB-IA	1440	
Lincoln	359	
Non-Urbanized	156	
State Total		1955

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
NEVADA		
Las Vegas	488	
Reno	302	
Non-Urbanized	34	
State Total		824
NEW HAMPSHIRE		
Portsmouth-Dover-Rochester	131	
Manchester	201	
Nashua	138	
Non-Urbanized	104	
State Total		574
NEW JERSEY		
Trenton, NJ-PA	1485	
Atlantic City	248	
Vineland-Millville	106	
Non-Urbanized	178	
State Total		2017
NEW MEXICO		
Albuquerque	931	
Las Cruces	92	
Santa Fe	80	
Non-Urbanized	129	
State Total		1232

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND
MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
NEW YORK		
New York, NY-NE-NJ	116739	
Buffalo	2436	
Rochester	1698	
Albany-Schenectady-Troy	1395	
Syracuse	1172	
Binghamton	318	
Utica	267	
Poughkeepsie	223	
Elmira	138	
Newburgh	101	
Glens Fall	81	
Non-Urbanized	626	
State Total		125194
NORTH CAROLINA		
Charlotte	886	
Fayetteville	335	
Raleigh	427	
Winston-Salem	270	
Greensboro	322	
Durham	287	
Gastonia	160	
Asheville	146	
High Point	152	
Wilmington	124	
Jacksonville	102	
Concord	103	
Burlington	104	
Hickory	86	
Goldsboro	81	
Non-Urbanized	644	
State Total		4229

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
NORTH DAKOTA		
Fargo-Morehead, ND-MN	197	
Bismarck-Mandan	108	
Grand Forks	114	
Non-Urbanized	79	
State Total		498
OHIO		
Cleveland	5726	
Cincinnati	2768	
Columbus	2088	
Dayton	2737	
Akron	1067	
Toledo, OH-MI	1378	
Youngstown-Warren	651	
Canton	564	
Lorain-Elyria	211	
Hamilton	199	
Middletown	142	
Springfield	196	
Mansfield	126	
Steubenville-Weirton, OH-WV	128	
Lima	127	
Newark	85	
Non-Urbanized	709	
State Total		18902
OKLAHOMA		
Oklahoma City	919	
Tulsa	835	
Lawton	160	
Enid	77	
Non-Urbanized	292	
State Total		2283

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
OREGON		
Portland, OR-WA	3237	
Eugene	393	
Salem	273	
Medford	97	
Non-Urbanized	227	
State Total		4227
PENNSYLVANIA		
Philadelphia, PA-NJ	24571	
Pittsburgh	7274	
Scranton-Wilkes-Barre	876	
Allentown-Easton-Bethlehem, PA-NJ	1386	
Harrisburg	531	
Erie	431	
Reading	402	
Lancaster	302	
York	266	
Johnstown	179	
Altoona	168	
Monessen	105	
Williamsport	117	
State College	125	
Sharon	102	
Non-Urbanized	781	
State Total		37616
RHODE ISLAND		
Providence-Pawtucket, RI-MS	3184	
Newport	95	
Non-Urbanized	26	
State Total		3305

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
SOUTH CAROLINA		
Charleston	308	
Columbia	311	
Greenville	219	
Spartanburg	148	
Florence	83	
Anderson	79	
Rock Hill	74	
Non-Urbanized	321	
State Total		1543
SOUTH DAKOTA		
Sioux Falls	152	
Rapid City	88	
Non-Urbanized	92	
State Total		332
TENNESSEE		
Memphis, TN-MS	2350	
Nashville-Davidson	1082	
Chattanooga	576	
Knoxville	578	
Kingsport	118	
Johnson City	114	
Clarksville	116	
Bristol, TN-VA	72	
Jackson	74	
Non-Urbanized	416	
State Total		5496

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
TEXAS		
Dallas-Fort Worth	4286	
Houston	4086	
San Antonio	3187	
El Paso	1120	
Austin	804	
Corpus Christi	430	
Lubbock	299	
McAllen-Pharr-Edinburg	311	
Amarillo	254	
Waco	193	
Beaumont	192	
Port Arthur	171	
Texas City-La Marque	141	
Odessa	189	
Abilene	143	
Laredo	263	
Wichita Falls	160	
Brownsville	198	
Killeen	162	
Bryan-College Station	137	
San Angelo	128	
Tyler	129	
Midland	125	
Longview	102	
Harlingen-San Benito	107	
Texarkana, TX-AK	98	
Galveston	111	
Sherman-Denison	80	
Temple	73	
Victoria	101	
Non-Urbanized Area	848	
State Total		18628
UTAH		
Salt Lake City	2127	
Ogden	194	
Provo-Orem	310	
Non-Urbanized	68	
State Total		2699

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
VERMONT		
Burlington	121	
Non-Urbanized	72	
State Total		193
VIRGINIA		
Norfolk-Portsmouth	1642	
Richmond	1245	
Newport News-Hampton	600	
Roanoke	310	
Petersburg-Colonial Heights	175	
Lynchburg	127	
Charlottesville	128	
Danville	91	
Non-Urbanized	383	
State Total		4701
WASHINGTON		
Seattle-Everett	5542	
Tacoma	935	
Spokane	624	
Richland-Kennewick	180	
Yakima	158	
Olympia	109	
Bremerton	109	
Longview, WA-OR	89	
Bellingham	88	
Non-Urbanized	251	
State Total		8085

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
WEST VIRGINIA		
Huntington-Ashland, WVA-OH-KY	346	
Charleston	291	
Wheeling	210	
Parkersburg	138	
Non-Urbanized	257	
State Total		1242
WISCONSIN		
Milwaukee	3670	
Madison	938	
Green Bay	230	
Appleton	305	
Racine	280	
Kenosha	222	
Eau Claire	118	
La Crosse	133	
Sheboygan	119	
Wausau	93	
Oshkosh	116	
Janesville	97	
Beloit-WS-IL	90	
Non-Urbanized	394	
State Total		6805
WYOMING		
Casper	123	
Cheyenne	106	
Non-Urbanized	59	
State Total		288

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND
MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST
FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
ALASKA		
Anchorage	242	
Non-Urbanized	38	
State Total		280
HAWAII		
Honolulu	2939	
Kailua-Kaneohe	237	
Non-Urbanized	46	
State Total		3222
WASHINGTON, D.C., MD-VA	14045	
State Total		14045
PUERTO RICO		
San Juan	3523	
Ponce	546	
Caguas	329	
Mayaguez	232	
Vega Baja-Manati	170	
Arecibo	141	
Aguadilla	122	
Non-Urbanized	246	
State Total		5309
AMERICAN SAMOA		
Non-Urbanized	5	
State Total		5

FY 1983 PRELIMINARY APPORTIONMENT OF THE FUND MADE AVAILABLE FROM THE MASS TRANSIT ACCOUNT OF THE HIGHWAY TRUST FUND AS PROVIDED UNDER THE FEDERAL PUBLIC TRANSPORTATION ACT OF 1982

(Total Funds Apportioned are 65% of the FY 1983 Level)

($ in thousands)

State/Urbanized Area	Proposed Obligation Level	
GUAM		
Non-Urbanized	3	
State Total		3
VIRGIN ISLANDS		
Non-Urbanized	16	
State Total		16
Available for Immediate Obligation		506343
Reserved Obligation		272657
TOTAL		779000

APPENDIX B

This Appendix contains the apportionments for the Section 5 Formula Program for fiscal year 1983. The Department of Transportation and Related Agencies Appropriation Act, 1983, appropriated $1,200,000,000 for apportionment in fiscal year 1983. Appropriations were $680,000,000 for Tier I, $125,000,000 for Tier II, $70,000,000 for Tier III and $325,000,000 for Tier IV. The description of the procedures used to make Section 5 apportionments in fiscal year 1982 presented in the Federal Register of March 22, 1982 apply also to the fiscal year 1983 apportionments. However, funds provided for the Section 5 Formula Program for fiscal year 1983 were apportioned and allocated using data from the 1970 decennial census for one-quarter of the sums appropriated and the remainder apportioned and allocated on the basis of data from the 1980 decennial census.

In addition, this Appendix contains a table titled Operating Assistance Limitations, for use in determining operating assistance limitations provided for by the Federal Public Transportation Act of 1982. The first column in the table displays an amount equal to either 80%, 90% or 95% of the total Tiers I, II and III apportionments for fiscal year 1982. The second column displays an amount equal to the full fiscal year 1982 Tiers I, II, and III apportionments. These amounts must be used in conjunction with the limitations described in the main text of this Federal Register Notice and other factors including funding availability to determine the actual amount of funds available for operating assistance. An urbanized area that became an urbanized area for the first time under the 1980 census should refer to the main text of this Federal Register Notice for its limitation.

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 200,000 POPULATION (DOLLARS)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
Akron, Ohio	2,249,172	201,993		1,074,972
Albany—Schenectady—Troy, New York	2,174,463	196,844		1,039,265
Albuquerque, New Mexico	1,670,185	150,107		798,250
Allentown—Bethlehem—Easton, PA—NJ	1,816,528	167,302	528,293	868,193
(Part: New Jersey)	124,822	11,509	294,959	59,657
(Part: Pennsylvania)	1,691,706	155,793	233,334	808,536
Ann Arbor, Michigan	743,658	68,407		355,424
Atlanta, Georgia	5,891,681	1,374,893	414,749	2,815,877
Augusta, Georgia—South Carolina	679,969	58,595		324,995
(Part: Georgia)	532,597	45,895		254,550
(Part: South Carolina)	147,392	12,700		70,445
Aurora—Elgin, Illinois	285,847	26,238		136,642
Austin, Texas	1,583,961	143,938		757,050
Bakersfield, California	804,833	74,278		384,663
Baltimore, Maryland	8,967,933	2,035,318	594,100	4,286,144
Baton Rouge, Louisiana	1,347,420	120,047		643,987
Birmingham, Alabama	2,327,921	204,368		1,112,609
Boston, Massachusetts	13,209,228	3,013,526	5,309,013	6,313,234
Bridgeport, Connecticut	1,801,196	162,403	235,676	860,866
Buffalo, New York	5,639,260	1,274,736		2,695,235
Canton, Ohio	1,107,038	100,586		529,099
Charleston, South Carolina	1,132,531	96,192		541,283
Charlotte, North Carolina	1,319,855	116,276		630,813
Chattanooga, Tennessee—Georgia	980,560	83,264	31,633	468,650
(Part: Georgia)	134,102	11,391		64,093
(Part: Tennessee)	846,458	71,873	31,633	404,557
Chicago, Illinois—Northwestern Indiana	40,201,203	9,034,785	10,605,887	19,213,810
(Part: Illinois)	37,882,320	8,509,251	9,755,500	18,105,521
(Part: Indiana)	2,318,883	525,534	850,387	1,106,289
Cincinnati, Ohio—Kentucky	5,123,301	1,177,250		2,448,636
(Part: Kentucky)	860,434	198,016		411,237
(Part: Ohio)	4,262,867	979,233		2,037,400
Cleveland, Ohio	8,295,713	1,905,567	1,138,799	3,964,863
Colorado Springs, Colorado	1,025,176	90,275		489,974
Columbia, South Carolina	1,145,563	100,439		547,512
Columbus, Georgia—Alabama	816,382	71,191		390,183
(Part: Alabama)	100,640	8,701		48,100
(Part: Georgia)	715,742	62,489		342,082
Columbus, Ohio	3,793,548	871,003		1,813,093
Corpus Christi, Texas	895,064	77,699		427,788
Dallas—Ft. Worth,Texas	7,049,397	1,647,568		3,369,197
Dallas, Texas	1,398,409	325,478		668,357
Davenport—Rock Island—Moline, IA—IL	1,125,507	99,390		537,926
(Part: Illinois)	619,872	54,951		296,263
(Part: Iowa)	505,634	44,439		241,663
Dayton, Ohio	2,716,287	245,180		1,298,225
Denver, Colorado	6,151,774	1,406,518		2,940,188
Des Moines, Iowa	1,093,922	97,322		522,631
Detroit, Michigan	20,560,439	4,659,742	129,659	9,828,680
El Paso, Texas	1,907,221	173,027		911,540

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
Fayetteville, North Carolina	600,492	52,140		286,999
Flint, Michigan	1,449,431	130,758		692,743
Fort Lauderdale—Hollywood, Florida	4,519,439	928,732		2,160,026
Fort Wayne, Indiana	1,072,014	97,716		512,359
Fort Worth, Texas	674,280	58,576		322,266
Fresno, California	1,537,063	141,969		734,626
Grand Rapids, Michigan	1,552,593	138,673		742,048
Greenville, South Carolina	623,096	53,754		297,804
Harrisburg, Pennsylvania	1,114,339	99,273		532,589
Hartford, Connecticut	2,234,284	202,692		1,067,856
Honolulu, Hawaii	3,063,573	290,055		1,464,208
Houston, Texas	9,538,809	2,205,611		4,558,989
Indianapolis, Indiana	3,293,452	768,078		1,574,076
Jackson, Mississippi	706,690	60,638		337,757
Jacksonville, Florida	2,053,029	174,984		981,227
Kansas City, Missouri—Kansas	4,325,015	1,009,208		2,067,103
(Part: Kansas)	1,437,564	334,926		687,071
(Part: Missouri)	2,887,451	674,282		1,380,031
Knoxville, Tennessee	744,181	63,489		355,675
Lansing, Michigan	1,181,010	108,441		564,453
Las Vegas, Nevada	1,594,263	142,093		761,964
Lawrence—Haverhill, MA—NH	845,769	74,872	233,334	404,228
(Part: Massachusetts)	773,209	68,525	233,334	369,549
(Part: New Hampshire)	72,559	6,347		34,679
Little Rock—North Little Rock, Arkansas	1,075,062	94,177		513,816
Lorain—Elyria, Ohio	604,345	51,944		288,841
Los Angeles—Long Beach, California	58,104,219	13,001,349	1,147,861	27,770,399
Louisville, Kentucky—Indiana	3,583,107	690,289		1,712,514
(Part: Indiana)	399,105	78,068		190,749
(Part: Kentucky)	3,184,002	612,222		1,521,766
Madison, Wisconsin	966,547	87,992	24,604	461,953
Melbourne—Cocoa, Florida	536,285	45,245		256,313
Memphis, Tennessee—Mississippi—Arkansas	3,387,464	663,228		1,619,009
(Part: Arkansas)	89,775	20,709		42,907
(Part: Mississippi)	77,453	16,315		37,018
(Part: Tennessee)	3,220,236	626,205		1,539,083
Miami, Florida	9,003,952	2,023,257		4,303,360
Milwaukee, Wisconsin	5,293,616	1,222,607		2,530,037
Minneapolis—St. Paul, Minnesota	6,943,693	1,620,389	207,374	3,318,677
Mobile, Alabama	1,030,602	88,340		492,567
Nashville—Davidson, Tennessee	1,715,493	144,816		819,905
New Haven, Connecticut	1,592,375	143,729	235,676	761,062
New Orleans, Louisiana	6,314,053	1,417,713	478,014	3,017,746
Newport News—Hampton, Virginia	1,176,616	102,084		562,353
New York, N.Y.—Northeastern, New Jersey	106,682,726	23,754,152	25,906,527	50,988,068
(Part: New Jersey)	24,923,041	5,594,646	6,184,011	11,911,748
(Part: New York)	81,759,685	18,159,506	19,722,516	39,076,320
Norfolk—Portsmouth, Virginia	2,913,310	576,486		1,392,391
Ogden, Utah	553,620	47,628		264,597
Oklahoma City, Oklahoma	2,362,358	203,000		1,129,068

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
Omaha, Nebraska—Iowa	2,343,440	213,912		1,120,027
(Part: Iowa)	219,696	19,629		105,003
(Part: Nebraska)	2,123,742	194,283		1,015,024
Orlando, Florida	1,975,886	173,207		944,357
Oxnard—Ventura—Thousand Oaks, California	1,522,173	137,596		727,509
Pensacola, Florida	580,699	49,946		277,539
Peoria, Illinois	1,054,006	93,493		503,753
Philadelphia, Pennsylvania—New Jersey	23,286,076	5,250,044	9,343,123	11,129,374
(Part: New Jersey)	3,824,559	867,402	1,046,948	1,827,914
(Part: Pennsylvania)	19,461,517	4,382,643	8,296,175	9,301,460
Phoenix, Arizona	5,213,902	1,211,052		2,491,938
Pittsburgh, Pennsylvania	8,118,678	1,870,001	1,287,646	3,880,251
Portland, Oregon—Washington	4,557,771	1,045,195	38,663	2,178,346
(Part: Oregon)	4,083,563	936,205	38,663	1,951,703
(Part: Washington)	474,208	108,990		226,644
Providence, Rhode Island—Massachusetts	3,701,649	849,283	466,668	1,769,170
(Part: Massachusetts)	241,520	55,725	233,334	115,433
(Part: Rhode Island)	3,460,129	793,558	233,334	1,653,738
Raleigh, North Carolina	614,989	54,347		293,929
Richmond, Virginia	1,926,247	170,867		920,633
Rochester, New York	2,968,619	274,523		1,418,825
Rockford, Illinois	936,481	85,308		447,583
Sacramento, California	3,450,772	689,918		1,649,266
Salt Lake City, Utah	2,606,483	232,494		1,245,745
San Antonio, Texas	4,120,906	946,861		1,969,550
San Bernardino—Riverside, California	2,645,540	232,192		1,264,412
San Diego, California	7,226,279	1,660,018	644,864	3,453,736
San Francisco—Oakland, California	17,271,726	3,905,199	3,243,406	8,254,869
San Jose, California	6,269,809	1,422,604	431,209	2,996,600
San Juan, Puerto Rico	8,005,111	1,766,043		3,825,972
Sarasota-Bradenton, Florida	898,551	79,171		429,454
Scranton—Wilkes-Barre, Pennsylvania	1,202,674	106,117		574,807
Scranton, Pennsylvania	216,490	19,147		103,469
Seattle—Everett, Washington	6,252,242	1,435,318	35,148	2,988,204
Shreveport, Louisiana	1,064,648	94,818		508,839
South Bend, Indiana—Michigan	1,055,688	95,079		504,557
(Part: Indiana)	965,087	87,014		461,255
(Part: Michigan)	90,601	8,066		43,302
Spokane, Washington	1,132,178	102,244		541,115
Springfield—Chicopee—Holyoke, MA—CN	1,971,204	172,500		942,120
(Part: Connecticut)	219,103	19,248		104,718
(Part: Massachusetts)	1,752,101	153,251		837,401
St. Louis, Missouri—Illinois	9,192,136	2,096,833		4,393,300
(Part: Illinois)	1,233,539	283,168		589,559
(Part: Missouri)	7,958,597	1,813,665		3,803,741
St. Petersburg, Florida	3,426,362	703,359		1,637,600
Syracuse, New York	1,832,448	168,970		875,803
Tacoma, Washington	1,590,746	141,584		760,283

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AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
Tampa, Florida	2,037,024	182,263		973,578
Toledo, Ohio—Michigan	2,213,668	201,382		1,058,003
(Part: Michigan)	46,349	4,142		22,152
(Part: Ohio)	2,167,318	197,241		1,035,851
Trenton, New Jersey—Pennsylvania	1,312,215	121,637	648,789	627,162
(Part: New Jersey)	1,231,629	114,249	648,789	586,646
(Part: Pennsylvania)	80,587	7,388		38,516
Tucson, Arizona	1,814,692	164,073		867,316
Tulsa, Oklahoma	1,601,798	139,117		765,585
Washington, D.C.—Maryland—Virginia	14,174,997	3,215,905	2,899,399	6,774,815
(Part: District of Columbia)	5,616,714	1,263,290	829,496	2,684,459
(Part: Maryland)	4,853,774	1,107,295	1,507,533	2,319,819
(Part: Virginia)	3,704,509	845,320	562,370	1,770,537
West Palm Beach, Florida	1,894,572	170,531		905,494
Wichita, Kansas	1,333,555	120,241		637,361
Wilkes-Barre, Pennsylvania	260,596	23,643		124,550
Wilmington, Delaware—New Jersey—Maryland	1,749,735	158,106	233,334	836,270
(Part: Delaware)	1,639,140	148,279	233,334	783,412
(Part: Maryland)	26,408	2,362		12,621
(Part: New Jersey)	84,187	7,465		40,236
Worcester, Massachusetts	1,159,677	104,260		554,257
Youngstown—Warren, Ohio	1,729,927	156,805		826,803

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URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
ALABAMA				
Governors Apportionment for				
Alabama	2,647,278	224,582		1,265,243
(Anniston)	240,440	20,204		114,916
(Auburn-Opelika)	116,701	9,486		55,776
(Decatur)	133,315	11,131		63,716
(Dothan)	119,204	9,752		56,973
(Florence)	238,789	20,117		114,127
(Gadsden)	233,607	19,289		111,650
(Huntsville)	507,750	42,501		242,675
(Montgomery)	701,647	61,351		335,346
(Tuscaloosa)	355,825	30,752		170,063
ALASKA				
Governors Apportionment for				
Alaska	540,065	45,879		258,119
(Anchorage)	540,065	45,879		258,119
ARIZONA				
Governors Apportionment for				
Arizona	168,884	15,078		80,717
(Yuma)	168,884	15,078		80,717
ARKANSAS				
Governors Apportionment for				
Arkansas	781,322	67,136		373,427
(Fayetteville-Springdale)	148,676	12,302		71,058
(Fort Smith)	286,328	24,106		136,848
(Pine Bluff)	262,736	23,491		125,572
(Texarkana)	83,583	7,236		39,948
CALIFORNIA				
Govenors Apportionment for				
California	6,986,630	635,817		3,339,197
(Antioch-Pittsburg)	386,377	35,615		184,665
(Bakersfield)	217,670	20,007		104,033
(Chico)	152,786	13,463		73,023
(Fairfield)	209,480	18,585		100,119
(Hemet)	161,826	14,234		77,343
(Lancaster)	140,856	11,857		67,321
(Modesto)	727,344	67,412		347,628
(Napa)	210,384	19,339		100,551
(Palm Springs)	159,039	13,202		76,011
(Redding)	130,371	10,926		62,310
(Salinas)	462,674	44,264		221,131
(Santa Barbara)	722,950	67,024		345,528
(Santa Cruz)	416,667	36,205		199,142
(Santa Maria)	183,326	16,486		87,619
(Santa Rosa)	527,430	47,491		252,080
(Seaside-Monterey)	535,729	49,476		256,047
(Simi Valley)	340,964	31,081		162,961
(Stockton)	924,503	85,502		441,858
(Visalia)	183,451	16,387		87,079
(Yuba City)	191,976	17,187		91,753
(Yuma)	828	74		396

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
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(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
COLORADO				
Governors Apportionment for				
Colorado	1,514,464	137,878		723,825
(Boulder)	412,507	38,698		197,154
(Fort Collins)	240,429	21,409		114,911
(Grand Junction)	158,741	13,797		75,869
(Greeley)	223,244	20,560		106,698
(Pueblo)	479,544	43,414		229,194
CONNECTICUT				
Governors Apportionment for				
Connecticut	3,933,476	348,569	942,704	1,879,970
(Bristol)	306,179	26,646		146,336
(Danbury)	297,289	25,157	235,676	142,087
(Meriden)	272,974	24,070		130,465
(New Britain)	614,001	55,894		293,456
(New London-Norwich)	531,704	45,689		254,123
(Norwalk)	452,084	40,396	235,676	216,069
(Stamford)	784,143	70,312	235,676	374,774
(Waterbury)	675,104	60,405	235,676	322,660
DELAWARE				
Governors Apportionment for				
Delaware				
DISTRICT OF COLUMBIA				
Governors Apportionment for				
District of Columbia				
FLORIDA				
Governors Apportionment for				
Florida	3,778,678	326,359		1,085,987
(Daytona Beach)	571,805	49,214		273,289
(Fort Myers)	438,406	37,533		209,532
(Fort Walton Beach)	221,365	18,844		105,799
(Ft. Pierce)	177,473	14,974		84,822
(Gainesville)	381,536	33,712		182,352
(Lakeland)	377,141	32,595		180,251
(Melbourne-Cocoa)	177,244	15,371		84,712
(Naples)	129,059	10,729		61,683
(Ocala)	127,454	10,736		60,916
(Panama City)	202,108	17,140		96,596
(Pensacola)	189,271	17,048		90,461
(Tallahassee)	420,737	36,830		201,088
(Winter Haven)	194,992	16,769		93,195

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AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
GEORGIA				
Governors Apportionment for				
Georgia	2,129,725	185,993		1,017,883
(Albany)	313,497	27,020		149,833
(Athens)	167,685	14,388		80,144
(Augusta)	149,732	13,617		71,563
(Macon)	536,357	47,674		256,347
(Rome)	129,251	10,920		61,775
(Savannah)	677,455	58,781		323,784
(Warner Robins)	155,748	13,593		74,439
HAWAII				
Governors Apportionment for				
Hawaii	375,300	34,500		179,371
(Kailua-Kaneohe)	375,300	34,500		179,371
IDAHO				
Governors Apportionment for				
Idaho	668,956	59,556		319,722
(Boise City)	510,181	45,528		243,837
(Pocatello)	158,774	14,027		75,885
ILLINOIS				
Governors Apportionment for				
Illinois	4,787,514	434,358	1,100,034	2,288,150
(Alton)	356,762	31,326		170,511
(Aurora)	492,509	43,952	233,675	235,390
(Beloit)	18,150	1,599		8,675
(Bloomington-Normal)	399,325	37,108		190,854
(Champaign-Urbana)	600,870	56,979		287,180
(Danville)	159,504	14,183		76,234
(Decatur)	447,639	40,051		213,945
(Dubuque)	8,466	755		4,046
(Elgin)	359,876	32,740	233,676	172,000
(Joliet)	710,493	63,887	252,062	339,574
(Kankakee)	209,072	19,052		99,924
(Round Lake Beach)	177,382	15,276	380,621	84,778
(Springfield)	561,571	51,212		268,398
INDIANA				
Governors Apportionment for				
Indiana	2,860,559	258,849		1,367,179
(Anderson)	297,897	25,849		142,377
(Bloomington)	226,825	20,876		108,409
(Elkhart-Goshen)	240,015	20,995		114,713
(Evansville)	708,108	64,510		338,434
(Kokomo)	210,540	19,228		100,626
(Lafayette—West Lafayette)	437,947	40,589		209,313
(Muncie)	418,833	38,198		200,177
(Terre Haute)	320,393	28,604		153,129

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(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
IOWA				
Governors Apportionment for Iowa	1,728,668	151,155		826,201
(Cedar Rapids)	544,648	48,154		260,309
(Dubuque)	294,804	26,769		140,899
(Iowa City)	171,841	15,083		82,130
(Sioux City)	306,571	26,334		146,523
(Waterloo)	410,804	34,816		196,340
KANSAS				
Governors Apportionment for Kansas	699,038	62,308		334,099
(Lawrence)	174,902	15,846		83,593
(St. Joseph)	3,753	321		1,794
(Topeka)	520,383	46,141		248,712
KENTUCKY				
Governors Apportionment for Kentucky	1,515,444	137,969		724,293
(Clarksville)	82,603	7,077		39,479
(Evansville)	68,549	6,195		32,762
(Huntington-Ashland)	219,979	19,632		105,137
(Lexington-Fayette)	848,137	77,325		405,360
(Owensboro)	296,175	27,741		141,554
LOUISIANA				
Governors Apportionment for Louisiana	1,784,783	155,939		853,021
(Alexandria)	332,705	28,843		159,014
(Houma)	166,132	14,028		79,402
(Lafayette)	456,330	41,111		218,099
(Lake Charles)	427,019	36,991		204,090
(Monroe)	402,596	34,966		192,417
MAINE				
Governors Apportionment for Maine	790,303	66,781		377,719
(Bangor)	136,857	11,175		65,410
(Lewiston-Auburn)	217,799	17,899		104,095
(Portland)	405,177	35,220		193,651
(Portsmouth-Dover-Rochest)	30,470	2,488		14,563
MARYLAND				
Governors Apportionment for Maryland	527,154	45,962		251,949
(Annapolis)	188,910	16,629		90,288
(Cumberland)	154,074	13,290		73,638
(Hagerstown)	184,171	16,043		88,023

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(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
MASSACHUSETTS				
Governors Apportionment for				
Massachusetts	3,412,380	308,535	700,002	1,630,917
(Brockton)	777,233	70,712	233,334	371,472
(Fall River)	629,695	58,193		300,957
(Fitchburg-Leominster)	262,583	22,119	233,334	125,499
(Lowell)	733,354	66,489	233,334	350,500
(New Bedford)	683,853	63,754		326,842
(Pittsfield)	204,825	17,358		97,884
(Taunton)	120,837	9,909		57,753
MICHIGAN				
Governors Apportionment for				
Michigan	3,278,935	293,095		1,567,139
(Ann Arbor)	248,427	23,415		118,734
(Battle Creek)	301,419	26,376		144,060
(Bay City)	332,892	29,870		159,103
(Benton Harbor)	175,224	15,368		83,747
(Jackson)	329,854	29,267		157,651
(Kalamazoo)	613,875	54,068		293,396
(Muskegon—Muskegon Height)	410,414	35,919		196,154
(Port Huron)	179,137	15,865		85,617
(Saginaw)	687,692	62,945		328,677
MINNESOTA				
Governors Apportionment for				
Minnesota	1,066,894	94,323		509,913
(Duluth—Superior)	350,028	29,211		167,293
(Fargo—Moorhead)	149,291	13,461		71,352
(Grand Forks)	24,361	2,230		11,643
(La Crosse)	13,081	1,162		6,252
(Rochester)	283,386	26,043		135,442
(St. Cloud)	246,747	22,216		117,931
MISSISSIPPI				
Governors Apportionment for				
Mississippi	1,119,265	96,613		643,071
(Biloxi-Gulfport)	592,661	50,835		283,257
(Hattiesburg)	143,319	12,115		68,498
(Pascagoula-Moss Point)	163,304	13,755		78,049
(Jackson)	219,982	19,908		213,266
MISSOURI				
Governors Apportionment for				
Missouri	1,202,519	104,411		574,733
(Columbia)	228,296	19,521		109,112
(Joplin)	139,190	11,586		66,525
(Springfield)	530,791	46,650		253,687
(St. Joseph)	304,241	26,654		145,409

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(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
MONTANA				
Governors Apportionment for				
Montana	826,786	74,342		395,155
(Billings)	393,007	38,389		163,750
(Great Falls)	382,324	38,169		159,299
(Missoula)	133,265	12,796		55,526
NEBRASKA				
Governors Apportionment for				
Nebraska	803,504	72,849		384,027
(Lincoln)	763,900	69,439		365,099
(Sioux City)	39,604	3,410		18,928
NEVADA				
Governors Apportionment for				
Nevada	612,339	54,664		292,662
(Reno)	612,339	54,664		292,662
NEW HAMPSHIRE				
Governors Apportionment for				
New Hampshire	930,956	81,511		444,942
(Lowell)	1,729	156		827
(Manchester)	434,162	38,967		207,504
(Nashua)	289,067	25,549		138,157
(Portsmouth-Dover-Rochest)	205,997	16,818		98,455
NEW JERSEY				
Governors Apportionment for				
New Jersey	812,971	69,476	386,484	388,552
(Atlantic City)	555,985	48,680	386,484	265,728
(Vineland—Millville)	256,986	20,796		122,824
NEW MEXICO				
Governors Apportionment for				
New Mexico	292,113	25,229		139,613
(Las Cruces)	154,753	13,473		73,963
(Santa Fe)	137,360	11,756		65,650
NEW YORK				
Governors Apportionment for				
New York	2,491,390	220,945	143,992	1,190,738
(Binghamton)	726,078	65,769		347,023
(Danbury)	6,464	547		3,090
(Elmira)	315,526	28,669		150,803
(Glens Falls)	138,436	11,914		66,164
(Newburgh)	173,356	14,830		82,854
(Poughkeepsie)	482,649	41,931	143,992	230,678
(Utica-Rome)	648,881	57,285		310,127

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
NORTH CAROLINA				
Governors Apportionment for North Carolina	4,463,753	386,920		2,133,411
(Asheville)	330,389	28,068		157,907
(Burlington)	239,816	20,713		114,618
(Concord)	179,839	15,133		85,952
(Durham)	585,599	52,002		279,882
(Fayetteville)	174,657	15,535		83,476
(Gastonia)	369,116	31,518		176,416
(Goldsboro)	142,049	11,901		67,891
(Greensboro)	700,519	62,642		334,807
(Hickory)	151,919	12,685		72,608
(High Point)	356,521	30,608		170,396
(Jacksonville)	178,890	14,970		85,499
(Raleigh)	163,711	14,534		78,244
(Wilmington)	277,272	23,446		132,520
(Winston-Salem)	613,455	53,164		293,195
NORTH DAKOTA				
Governors Apportionment for North Dakota	625,336	56,286		298,573
(Bismarck-Mandan)	179,457	15,805		85,770
(Fargo—Moorhead)	288,232	26,048		137,758
(Grand Forks)	157,647	14,433		75,346
OHIO				
Governors Apportionment for Ohio	2,542,436	226,281		1,215,135
(Hamilton)	427,747	38,232		204,438
(Huntington—Ashland)	125,259	11,187		59,866
(Lima)	290,807	25,886		138,989
(Lorain—Elyria)	194,833	17,012		93,119
(Mansfield)	293,834	25,450		140,435
(Middletown)	243,373	20,853		116,318
(Newark)	143,522	12,511		68,595
(Parkersburg)	31,834	2,896		15,215
(Sharon)	13,403	1,209		6,406
(Springfield)	436,636	40,402		208,686
(Steubenville—Weirton)	186,401	16,356		89,089
(Wheeling)	154,789	14,289		73,980
OKLAHOMA				
Governors Apportionment for Oklahoma	512,480	44,550		244,935
(Enid)	132,809	11,344		63,475
(Fort Smith)	6,754	563		3,228
(Lawton)	372,918	32,643		178,233

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
OREGON				
Governors Apportionment for Oregon	1,497,900	135,604		715,908
(Eugene)	786,733	71,672		376,012
(Longview)	3,762	325		1,798
(Medford)	159,266	14,142		76,120
(Salem)	548,139	49,465		261,978
PENNSYLVANIA				
Governors Apportionment for Pennsylvania	4,609,965	422,647	233,334	2,203,292
(Altoona)	385,731	35,587		184,357
(Erie)	919,610	85,895		439,519
(Hagerstown)	2,423	211		1,158
(Johnstown)	414,854	37,699		198,276
(Lancaster)	637,211	57,349		304,549
(Monessen)	178,738	15,412		85,426
(Reading)	870,570	80,972	233,334	416,081
(Sharon)	151,891	13,699		72,595
(State College)	195,128	18,178		93,259
(Steubenville—Weirton)	1,041	90		497
(Williamsport)	267,617	24,236		127,905
(York)	585,152	53,318		279,668
PUERTO RICO				
Governors Apportionment for Puerto Rico	2,913,504	274,197		1,392,483
(Aguadilla)	197,007	17,843		94,158
(Arecibo)	232,405	20,689		111,076
(Caguas)	662,578	61,493		316,673
(Mayaguez)	472,448	44,185		225,802
(Ponce)	1,077,333	105,217		514,902
(Vega Baja-Manati)	271,732	24,770		129,872
RHODE ISLAND				
Governors Apportionment for Rhode Island	211,961	18,906		101,327
(Fall River)	55,012	4,944		26,292
(Newport)	156,995	13,963		75,034
SOUTH CAROLINA				
Governors Apportionment for South Carolina	932,288	80,070		445,579
(Anderson)	135,136	11,574		64,587
(Augusta)	21,007	1,797		10,040
(Florence)	143,429	12,147		68,551
(Greenville)	170,363	15,161		81,423
(Rock Hill)	128,792	10,885		61,555
(Spartanburg)	333,561	28,506		159,423

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS Tier I Operating and Capital Support Sect. 5 (a) (1)	Tier II Operating and Capital Support Sect. 5 (a) (2)	Tier III Fixed Guideway and Commuter Rail Support Sect. 5 (a) (3)	Tier IV Bus Capital Support Sect. 5 (a) (4)
SOUTH DAKOTA				
Governors Apportionment for				
South Dakota	493,810	43,702		236,013
(Rapid City)	147,388	12,935		70,443
(Sioux City)	4,931	421		2,357
(Sioux Falls)	341,491	30,346		163,213
TENNESSEE				
Governors Apportionment for				
Tennessee	1,039,740	88,404		496,935
(Bristol)	71,666	5,941		34,252
(Clarksville)	173,639	14,755		82,989
(Jackson)	128,125	10,844		61,236
(Johnson City)	197,826	16,694		94,549
(Kingsport)	261,931	21,789		125,188
(Knoxville)	206,553	18,380		98,720
TEXAS				
Governors Apportionment for				
Texas	8,199,098	718,467		3,918,687
(Abilene)	330,303	27,780		157,865
(Amarillo)	559,869	49,068		267,584
(Beaumont)	441,841	37,932		211,174
(Brownsville)	384,552	35,253		183,793
(Bryan-College Station)	280,640	24,329		134,129
(Galveston)	255,672	22,780		122,196
(Harlingen-San Benito)	229,826	19,811		109,843
(Killeen)	342,298	30,289		163,598
(Laredo)	491,408	46,442		234,664
(Longview)	177,433	15,020		84,626
(Lubbock)	656,442	57,461		313,741
(McAllen-Pharr-Edinburg)	612,454	55,198		292,717
(Midland)	270,350	23,741		129,212
(Odessa)	413,973	37,186		197,855
(Port Arthur)	411,969	34,972		196,897
(San Angelo)	279,200	24,479		133,441
(Sherman-Denison)	193,539	16,366		92,500
(Temple)	129,196	10,775		61,748
(Texarkana)	144,688	12,435		69,152
(Texas City-La Marque)	326,352	26,875		155,977
(Tyler)	281,151	24,874		134,373
(Victoria)	163,237	14,695		78,018
(Waco)	446,760	37,699		213,525
(Wichita Falls)	375,895	33,027		179,656
UTAH				
Governors Apportionment for				
Utah	782,479	69,352		373,980
(Ogden)	168,671	15,161		80,615
(Provo—Orem)	613,808	54,191		293,364
VERMONT				
Governors Apportionment for				
Vermont	206,719	17,804		98,800
(Burlington)	206,719	17,804		98,800

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
AMOUNTS APPORTIONED TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION (DOLLARS)
(Continued)

URBANIZED AREA	APPORTIONMENT BASIS			
	Tier I	Tier II	Tier III	Tier IV
	Operating and Capital Support	Operating and Capital Support	Fixed Guideway and Commuter Rail Support	Bus Capital Support
	Sect. 5 (a) (1)	Sect. 5 (a) (2)	Sect. 5 (a) (3)	Sect. 5 (a) (4)
VIRGINIA				
Governors Apportionment for				
Virginia	1,825,359	159,679		872,414
(Bristol)	55,988	4,641		26,759
(Charlottesville)	204,939	18,728		97,949
(Danville)	152,865	13,282		73,060
(Kingsport)	15,559	1,304		7,436
(Lynchburg)	298,119	25,100		142,484
(Petersburg-Colonial Heights)	407,504	35,670		194,763
(Roanoke)	690,385	60,954		329,963
WASHINGTON				
Governors Apportionment for				
Washington	1,368,838	119,683		654,224
(Bellingham)	147,619	12,951		70,553
(Bremerton)	182,625	15,930		87,284
(Longview)	146,547	12,658		70,041
(Olympia)	186,127	16,049		88,958
(Richland—Kennewick)	370,938	31,914		177,287
(Yakima)	334,982	30,181		160,102
WEST VIRGINIA				
Governors Apportionment for				
West Virginia	1,782,420	160,790		851,892
(Charleston)	656,972	58,818		313,994
(Cumberland)	7,065	509		3,376
(Huntington-Ashland)	425,379	38,631		203,306
(Parkersburg)	270,340	24,839		129,207
(Steubenville—Weirton)	120,669	10,492		57,673
(Wheeling)	301,995	27,401		144,336
WISCONSIN				
Governors Apportionment for				
Wisconsin	3,726,585	337,609		1,781,088
(Appleton)	657,113	60,287		314,061
(Beloit)	131,365	11,574		62,785
(Duluth-Superior)	90,584	7,469		43,294
(Eau Claire)	199,866	17,323		95,524
(Green Bay)	517,922	44,790		247,536
(Janesville)	158,577	14,120		75,790
(Kenosha)	472,800	44,712		225,971
(La Crosse)	277,907	25,048		132,823
(Oshkosh)	265,766	24,632		127,021
(Racine)	607,778	56,669		290,482
(Sheboygan)	191,753	17,331		91,647
(Wausau)	155,153	13,654		74,154
WYOMING				
Governors Apportionment for				
Wyoming	373,322	33,495		178,426
(Casper)	197,838	17,953		94,555
(Cheyenne)	175,484	15,542		83,871

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
OPERATING ASSISTANCE LIMITATIONS (000$)

URBANIZED AREA	FY 82 Tiers I, II & III 80/90/95%	FY 82 Tiers I, II & III TOTAL
Akron, Ohio	2,692	2,991
Albany-Schenectady-Troy, New York	2,611	2,901
Albuquerque, New Mexico	1,806	2,006
Allentown-Bethlehem-Easton, Pa.-N.J.	2,730	3,033
Ann Arbor, Michigan	1,145	1,272
Atlanta, Georgia	7,116	8,895
Augusta, Georgia-South Carolina	912	1,013
Austin, Texas	1,718	1,908
Bakersfield, California	1,120	1,244
Baltimore, Maryland	11,390	14,237
Baton Rouge, Louisiana	1,496	1,662
Birmingham, Alabama	2,749	3,054
Boston, Massachusetts	21,384	26,729
Bridgeport, Connecticut	2,386	2,652
Buffalo, New York	7,019	8,773
Canton, Ohio	1,319	1,465
Charleston, South Carolina	1,251	1,389
Charlotte, North Carolina	1,507	1,674
Chattanooga, Tennessee-Georgia	1,136	1,262
Chicago, Illinois-Northwestern Indiana	59,223	74,028
Cincinnati, Ohio-Kentucky	6,170	7,712
Cleveland, Ohio	11,288	14,110
Colorado Springs, Colorado	1,128	1,253
Columbia, South Carolina	1,287	1,429
Columbus, Georgia-Alabama	956	1,062
Columbus, Ohio	5,080	5,644
Corpus Christi, Texas	1,004	1,115
Dallas-Ft. Worth, Texas	10,123	12,653
Davenport-Rock Island-Moline, Iowa-Ill.	1,306	1,451
Dayton, Ohio	3,381	3,756
Denver, Colorado	6,911	8,638
Des Moines, Iowa	1,272	1,413
Detroit, Michigan	25,060	31,324
El Paso, Texas	2,080	2,311

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
OPERATING ASSISTANCE LIMITATIONS (000$)

URBANIZED AREA	FY 82 Tiers I, II & III 80/90/95%	FY 82 Tiers I, II & III TOTAL
Fayetteville, North Carolina	860	995
Flint, Michigan	1,769	1,965
Fort Lauderdale-Hollywood, Florida	4,439	5,548
Fort Wayne, Indiana	1,261	1,401
Fresno, California	1,698	1,886
Grand Rapids, Michigan	1,794	1,993
Greenville, South Carolina	867	963
Harrisburg, Pennsylvania	1,310	1,455
Hartford, Connecticut	2,658	2,953
Honolulu, Hawaii	3,292	3,657
Houston, Texas	10,636	13,295
Indianapolis, Indiana	4,422	4,913
Jackson, Mississippi	1,046	1,162
Jacksonville, Florida	2,343	2,603
Kansas City, Missouri-Kansas	5,228	6,534
Knoxville, Tennessee	1,043	1,158
Lansing, Michigan	1,346	1,495
Las Vegas, Nevada	1,597	1,774
Lawrence-Haverhill, Mass.-N.H.	989	1,098
Little Rock-North Little Rock, Arkansas	1,199	1,332
Lorain-Elyria, Ohio	909	1,009
Los Angeles-Long Beach, California	66,838	83,547
Louisville, Kentucky-Indiana	4,517	5,018
Madison, Wisconsin	1,154	1,282
Melbourne-Cocoa, Florida	815	905
Memphis, Tennessee-Mississippi-Arkansas	4,186	4,651
Miami, Florida	9,818	12,272
Milwaukee, Wisconsin	6,397	7,996
Minneapolis-St. Paul, Minnesota	8,529	10,661
Mobile, Alabama	1,167	1,296
Nashville-Davidson, Tennessee	1,941	2,156
New Haven, Connecticut	2,153	2,392
New Orleans, Louisiana	7,737	9,671
Newport News-Hampton, Virginia	1,320	1,466
New York, N.Y.- Northeastern New Jersey	154,792	193,490
Norfolk-Portsmouth, Virginia	3,585	3,983
Ogden, Utah	810	900
Oklahoma City, Oklahoma	2,686	2,984

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
OPERATING ASSISTANCE LIMITATIONS (000$)

URBANIZED AREA	FY 82 Tiers I, II & III 80/90/95%	FY 82 Tiers I, II & III TOTAL
Omaha, Nebraska-Iowa	2,755	3,061
Orlando, Florida	2,027	2,252
Oxnard-Ventura-Thousand Oaks, California	1,573	1,747
Pensacola, Florida	879	976
Peoria, Illinois	1,244	1,360
Philadelphia, Pennsylvania-New Jersey	37,263	46,578
Phoenix, Arizona	5,511	6,888
Pittsburgh, Pennsylvania	11,124	13,904
Portland, Oregon-Washington	5,154	6,442
Providence, Rhode Island-Massachusetts	5,503	6,114
Raleigh, North Carolina	847	941
Richmond, Virginia	2,242	2,491
Rochester, New York	3,595	3,994
Rockford, Illinois	1,127	1,252
Sacramento, California	4,066	4,517
Salt Lake City, Utah	2,844	3,159
San Antonio, Texas	5,349	5,943
San Bernardino-Riverside, California	2,940	3,266
San Diego, California	8,554	10,692
San Francisco-Oakland, California	22,775	28,468
San Jose, California	7,738	9,672
San Juan, Puerto Rico	8,795	10,993
Sarasota-Bradenton, Florida	1,078	1,197
Scranton-Wilkes-Barre, Pennsylvania	2,017	2,241
Seattle-Everett, Washington	7,227	9,003
Shreveport, Louisiana	1,223	1,358
South Bend, Indiana-Michigan	1,335	1,483
Spokane, Washington	1,296	1,440
Springfield-Chicopee-Holyoke, Mass.-Conn.	2,354	2,615
St. Louis, Missouri-Illinois	11,229	14,036
St. Petersburg, Florida	3,867	4,296
Syracuse, New York	2,207	2,454
Tacoma, Washington	1,804	2,004

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
OPERATING ASSISTANCE LIMITATIONS (000$)

URBANIZED AREA	FY 82 Tiers I, II & III 80/90/95%	FY 82 Tiers I, II & III TOTAL
Tampa, Florida	2,235	2,483
Toledo, Ohio-Michigan	2,607	2,896
Trenton, New Jersey-Pennsylvania	2,302	2,557
Tucson, Arizona	1,928	2,142
Tulsa, Oklahoma	1,826	2,028
Washington, D.C.-Maryland-Virginia	19,771	24,713
West Palm Beach, Florida	1,922	2,135
Wichita, Kansas	1,580	1,755
Wilmington, Delaware-New Jersey-Maryland	2,336	2,595
Worcester, Massachusetts	1,349	1,498
Youngstown-Warren, Ohio	2,078	2,308
ALABAMA		
(Anniston)	286	301
(Florence)	289	304
(Gadsden)	287	302
(Huntsville)	621	654
(Montgomery)	830	874
(Tuscaloosa)	431	454
ALASKA		
(Anchorage)	623	656
ARIZONA		
ARKANSAS		
(Fort Smith, Ark.-Okla.)	339	357
(Pine Bluff)	332	349
CALIFORNIA		
(Antioch-Pittsburg)	426	448
(Modesto)	803	845
(Salinas)	521	548
(Santa Barbara)	862	907
(Santa Cruz)	464	488
(Santa Rosa)	553	582
(Seaside-Monterey)	642	676
(Simi Valley)	377	397
(Stockton)	1,087	1,144

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
OPERATING ASSISTANCE LIMITATIONS (000$)

URBANIZED AREA	FY 82 Tiers I, II & III 80/90/95%	FY 82 Tiers I, II & III TOTAL
COLORADO		
(Boulder)	508	535
(Pueblo)	601	633
CONNECTICUT		
(Bristol)	367	386
(Danbury, Conn.-N.Y.)	612	644
(Meriden)	370	389
(New Britain)	770	811
(New London-Norwich)	657	692
(Norwalk)	833	877
(Stamford)	1,251	1,317
(Waterbury)	1,109	1,167
DELAWARE		
DISTRICT OF COLUMBIA		
FLORIDA		
(Daytona Beach)	634	667
(Fort Myers)	462	486
(Gainesville)	433	456
(Lakeland)	426	448
(Tallahassee)	485	510
GEORGIA		
(Albany)	390	410
(Macon)	668	703
(Savannah)	849	894
HAWAII		
IDAHO		
(Boise City)	579	609

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
OPERATING ASSISTANCE LIMITATIONS (000$)

URBANIZED AREA	FY 82 Tiers I, II & III 80/90/95%	FY 82 Tiers I, II & III TOTAL
ILLINOIS		
(Alton)	459	483
(Aurora)	891	938
(Bloomington-Norman)	471	496
(Champaign-Urbana)	759	799
(Decatur)	550	579
(Elgin)	785	826
(Joliet)	1,173	1,235
(Springfield)	715	753
INDIANA		
(Anderson)	373	393
(Evansville, Ind.-Ky.)	932	981
(Lafayette-West Lafayette)	541	569
(Muncie)	537	565
(Terre Haute)	409	430
IOWA		
(Cedar Rapids)	668	703
(Dubuque, Iowa-Ill.)	331	404
(Sioux City, Iowa-Nebr.- S.D.)	434	457
(Waterloo)	509	536
KANSAS		
(Topeka)	663	698
KENTUCKY		
(Lexington-Fayette)	1,049	1,104
(Owensboro)	368	387
LOUISIANA		
(Alexandria)	402	423
(Lafayette)	528	556
(Lake Charles)	512	539
(Monroe)	485	510
MAINE		
(Lewiston-Auburn)	265	279
(Portland)	504	531
MARYLAND		

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
OPERATING ASSISTANCE LIMITATIONS (000$)

URBANIZED AREA	FY 82 Tiers I, II & III 80/90/95%	FY 82 Tiers I, II & III TOTAL
MASSACHUSETTS		
(Brockton)	1,190	1,253
(Fall River, Mass.-R.I.)	841	885
(Fitchburg-Leominster)	327	344
(Lowell)	1,228	1,293
(New Bedford)	857	902
(Pittsfield)	261	275
MICHIGAN		
(Battle Creek)	387	407
(Bay City)	424	446
(Jackson)	404	425
(Kalamazoo)	756	796
(Muskegon-Muskegon Heights)	509	536
(Saginaw)	866	912
MINNESOTA		
(Duluth-Superior, Minn.-Wisc.)	559	588
(Rochester)	353	372
(St. Cloud)	299	315
MISSISSIPPI		
(Biloxi-Gulfport)	680	716
MISSOURI		
(Columbia)	248	288
(Springfield)	631	664
(St. Joseph, Mo.-Kans.)	389	409
MONTANA		
(Billings)	409	431
(Great Falls)	399	420
NEBRASKA		
(Lincoln)	920	968
NEVADA		
(Reno)	682	718
NEW HAMPSHIRE		
(Manchester)	524	552
(Nashua)	333	351

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
OPERATING ASSISTANCE LIMITATIONS (000$)

URBANIZED AREA	FY 82 Tiers I, II & III 80/90/95%	FY 82 Tiers I, II & III TOTAL
NEW JERSEY		
(Atlantic City)	1,125	1,184
(Vineland-Millville)	306	322
NEW MEXICO		
NEW YORK		
(Binghamton)	928	977
(Elmira)	405	426
(Poughkeepsie)	817	776
(Utica-Rome)	851	896
NORTH CAROLINA		
(Asheville)	387	407
(Burlington)	294	309
(Durham)	654	688
(Gastonia)	447	471
(Greensboro)	846	890
(Highpoint)	440	463
(Wilmington)	320	337
(Winston-Salem)	742	781
NORTH DAKOTA		
(Fargo-Moorhead, N. Dak.-Minn.)	539	567
OHIO		
(Hamilton)	509	536
(Lima)	366	385
(Mansfield)	366	385
(Springfield)	559	588
(Steubenville-Weirton, Ohio-W.Va.-Pa).	398	419
OKLAHOMA		
(Lawton)	467	492

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
OPERATING ASSISTANCE LIMITATIONS (000$)

URBANIZED AREA	FY 82 Tiers I, II & III 80/90/95%	FY 82 Tiers I, II & III TOTAL
OREGON		
(Eugene)	893	940
(Salem)	615	647
PENNSYLVANIA		
(Altoona)	503	529
(Erie)	1,144	1,204
(Johnstown)	539	567
(Lancaster)	748	787
(Reading)	1,365	1,437
(Williamsport)	342	360
(York)	729	767
PUERTO RICO		
(Caguas)	758	798
(Mayaguez)	559	588
(Ponce)	1,301	1,369
RHODE ISLAND		
SOUTH CAROLINA		
(Spartanburg)	362	415
SOUTH DAKOTA		
(Sioux Falls)	420	442
TENNESSEE		
(Clarksville, Tenn.-Ky.)	296	312
(Kingsport, Tenn.-Va.)	331	348
TEXAS		
(Abilene)	397	418
(Amarillo)	670	705
(Beaumont)	538	566
(Brownsville)	423	445
(Bryan-College Station)	306	322
(Galveston)	325	342
(Harlingen-San Benito)	263	277
(Killeen)	397	418
(Laredo)	542	570
(Lubbock)	782	823
(McAllen-Pharr-Edinburg)	671	706
(Midland)	318	335
(Odessa)	503	529

FISCAL YEAR 1983 UMTA SECTION 5 FORMULA APPORTIONMENTS
OPERATING ASSISTANCE LIMITATIONS (000$)

URBANIZED AREA	FY 82 Tiers I, II & III 80/90/95%	FY 82 Tiers I, II & III TOTAL
(Port Arthur)	515	542
(San Angelo)	332	349
(Sherman-Denison)	243	256
(Texarkana, Texas-Ark.)	280	295
(Texas City-La Marque)	380	400
(Tyler)	335	353
(Waco)	537	565
(Wichita Falls)	477	502
UTAH		
(Provo-Orem)	660	695
VERMONT		
VIRGINIA		
(Lynchburg)	357	376
(Petersburg-Colonial Heights)	510	537
(Roanoke)	839	883
WASHINGTON		
(Richland-Kennewick)	405	426
(Yakima)	398	419
WEST VIRGINIA		
(Charleston)	823	866
(Huntington-Ashland, W.Va.-Ky.-Ohio)	957	1,007
(Parkersburg, W.Va.-Ohio)	377	397
(Wheeling, W.Va.-Ohio)	563	593
WISCONSIN		
(Appleton)	808	850
(Green Bay)	623	656
(Kenosha)	596	627
(La Crosse, Wis.-Minn.)	355	374
(Oshkosh)	348	366
(Racine)	766	806
WYOMING		

[FR Doc. 83-2006 Filed 1-21-83; 8:45 am]
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federal register

Monday
January 24, 1983

Part XXX

Office of Management and Budget

Cost Principles for Nonprofit Organizations

OFFICE OF MANAGEMENT AND BUDGET

[Circular A-122]

Cost Principles for Nonprofit Organizations

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed revision to Circular A-122, "Cost Principles for Nonprofit Organizations." The proposed revision establishes special provisions for costs related to political advocacy. Similar revisions are being simultaneously proposed for civilian and defense contractors through appropriate actions by the Department of Defense, NASA and GSA, the three agencies with authority to issue procurement regulations. The purpose of these proposals is to ensure that federal tax dollars are not used, directly or indirectly, for the support of political advocacy.

Over the past 25 years, the volume of federal activity conducted through grantees and contractors has dramatically grown. Sound management of federal grants and contracts has correspondingly gained in importance. The responsibility of the President through OMB to improve the management of the executive branch of government with a view to efficient and economical service, and to fulfill other statutory and constitutional responsibilities, extends to issues of grant and contract management no less than to issues of direct federal activity.

In recent years, the problem of the use of federal funds for political advocacy by grantees and contractors has been identified by members of the public, by the Comptroller General, and by Members of Congress. As many of these parties have observed, the diversion to political advocacy of federal funds, and of equipment procured with and personnel compensated by federal funds, is an abuse of the system and an uneconomical, inefficient and inappropriate use of the public's resources. Moreover, the commingling of federal grant or contract activity with private political advocacy creates the appearance of federal support for particular positions in public debate. This appearance can create misunderstanding and interfere with the neutral, non-ideological administration of federally funded programs.

This proposal is designed to balance the First Amendment rights of federal grantees and contractors with the legitimate governmental interests of ensuring that the government does not subsidize, directly or indirectly, the political advocacy activities of private groups or institutions. These governmental interests are based on concern for protecting the free and robust interchange of ideas.

Americans have the First Amendment right both to engage freely in speech and political expression, and to refrain from speaking, without interference or control on the part of the government or its agents. *Wooley v. Maynard,* 430 U.S. 705, 714 (1977). The proposed revision is intended to ensure that the use of Federal grants, contracts and other agreements by private organizations engaging in political advocacy does not erode or infringe these constitutional rights, or distort the political process by encouraging or discouraging certain forms of political activity.

The activities of government in a democracy necessarily involve a degree of political advocacy, since government officials are expected to communicate with the people, explain their programs, and provide leadership and direction to the nation. Thus, Members of Congress and their staffs, the President and his political appointees, necessarily participate in forms of political advocacy. However, it is a distortion of the market place of ideas for the government to use its financial power to "tip the electoral process," *Elrod v. Burns,* 427 U.S. 353, 356 (1976), by subsidizing the political advocacy activities of private organizations and corporations. This proposal will ensure, to the extent consistent with the communications function of the government, that taxpayers are not required, directly or indirectly, "to contribute to the support of an ideological cause [they] may oppose." *Abood v. Detroit Board of Education,* 431 U.S. 209, 235–236 (1977). The proposal also seeks to avoid the appearance that, by awarding Federal grants, contracts, or other agreements to organizations engaged in politicial advocacy on particular sides of public issues, the Government has endorsed, fostered, or "prescribe[d] [as] orthodox" a particular view on such issues, *West Virginia State Board of Education v. Barnette,* 319 U.S. 624, 645 (1943).

The proposed revision would make unallowable the cost of political advocacy, whether direct or indirect. The revision would also make unallowable any costs of communications equipment, personnel, other equipment, meetings or conferences, or publications, where such cost items are used for political advocacy in whole or in part. The revision makes unallowable the costs of buildings and office space where 5 percent or more of the space is devoted to political advocacy. When federal grant or contract recipients use facilities, equipment, or personnel funded in part with federal monies for political advocacy, they may create the appearance of government support for their positions. Moreover, if federal funds are used to defray the overhead costs of organizations engaged in political advocacy, it frees up the organization's other funds for use in this political activity.

The principal effect of the revision will be that federal grantees and contractors that choose to engage in political advocacy must separate their grant or contract activity from their political activity. If they mix the two, then they will not receive government reimbursement for the jointly allocable costs. Contractors or grantees will not be permitted to require or induce employees paid in part or in whole with federal funds to engage in political advocacy activities, either as a formal part of job responsibilites or on their own time.

The definition of political advocacy used in this proposal is derived generally from the Internal Revenue Code, 26 U.S.C. 4911, defining attempts to "influence legislation," with modifications designed to comprise direct participation in elections or referenda, administrative processes, certain judicial processes, and other activity of a political advocacy nature.

These proposed revisions will become effective 30 days after final notice in the **Federal Register.** The revisions will affect only grants, contracts, and other agreements entered into after the effective date. Existing grants, contracts, and other agreements will not be immediately affected. Agency contracts and regulations will incorporate these provisions to the same extent and in the same manner as they do other provisions of Circular A-122.

Violations of these provisions will be a basis for cost disallowance, and in instances of serious or willful violations, may be a basis for debarment or suspension.

Comments should be submitted in duplicate to the Financial Management Division, Office of Management and Budget, Washington, D.C. 20503. All comments should be received within 45 days of this notice.

FOR FURTHER INFORMATION CONTACT: John J. Lordan, Chief, Financial Management Branch, Office of

Management and Budget, Washington, D.C. 20503, (202) 395–6823.

Issued in Washington, D.C., January 20, 1983.

Candice C. Bryant,

Acting Deputy Associate Director for Administration.

Appendix

The following questions and answers have been prepared by the Office of Management and Budget for informational purposes only.

Question: What is the purpose of these revisions?

Answer: The purpose is to ensure that federal contracts and grants are not used to support political advocacy either directly or indirectly. Thousands of contractors and grantees, administering hundreds of billions of federal dollars, have had wide latitude to engage in political advocacy activities, often using the same facilities and personnel paid for in part by the taxpayers. The current lack of a government-wide policy prohibiting the use of federal grant and contract funds for political advocacy has been criticized by the General Accounting Office. It is unfair to use federal tax money to support political causes. Nor is it an efficient or economical use of public resources to allow funds to be diverted from statutory purposes to political advocacy.

A particularly important abuse is that many contractors and grantees have been able to defray the overhead costs of their political advocacy, at public expense, by allocating some part of the cost to the administration of the contract or grant. Not only does this free up the organization's own resources for further political activity; it also creates the appearance that the government is supporting one or another side in a political controversy.

Question: How will the proposals work?

Answer: The proposals will revise cost principles applicable to federal grants, contracts (other than competitive, firm fixed price contracts), and other agreements. Recipients of federal grants, contracts, or other agreements will be barred from receiving government reimbursement for any activities connected with political advocacy at the national, state, or local levels. This includes membership or dues in trade associations or other organizations that have political advocacy as a substantial organizational purpose. In addition, salary costs will be unallowable to recipients who either require their employees to pay dues to political advocacy organizations or require them to engage in political advocacy on the job or during non-working hours. Finally, government funds will not be permitted to pay for facilities in which significant political advocacy activities are conducted, thus requiring physical separation of such activities from those involved in the performance of grants and contracts.

Question: What is an example of how this will work?

Answer: Take the example of a defense contractor which uses a corporate aircraft for oversight and management of a federal contract. If the contractor chooses to use the aircraft also for lobbying or other political activities—such as transporting corporate officials to discussions with Congressmen—then under the principles proposed by the Defense Department, the contractor cannot include the cost of the aircraft or of any use of the aircraft as part of overhead costs allocated in part to the contract.

As an example in the non-profit area, take an organization which receives a federal grant to promote better health services for low-income individuals, which decides to organize a political rally to promote more federal funding for medical programs. The organization could not be reimbursed for any portion of the salaries of individuals engaged in organizing the political rally or for any portion of other overhead costs (office machines, printing facilities, etc.) if the same overhead items were used for the rally. The organization would be free to hold the rally—but it would do so at its own expense, and without using people, facilities or resources partially funded by the Federal Government.

Question: How is it possible to define "political advocacy"?

Answer: The concept of political advocacy, or "influencing legislation," is used in the Internal Revenue Code restrictions on tax-exempt organizations. The Internal Revenue Code definition of "influencing legislation" is employed in this proposal, with several modifications to take account of changes in political practices (e.g., development of political action committees), Supreme Court developments (e.g., decisions declaring certain forms of litigation to be political expression), and shifts in the decisionmaking process (e.g., the growth of administrative agencies and referenda as means of political decisionmaking).

In particular, the scope of the Code definition ("influencing legislation") has been expanded to cover "governmental decisions" in general. Thus, for example, the Internal Revenue Code defines the term "influencing legislation" as including "any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof." The proposed revision to Circular A–122, correspondingly, defines "political advocacy" as including "attempting to influence governmental decisions through an attempt to affect the opinions of the general public or any segment thereof." The body of experience in interpreting the Internal Revenue Code provision, as appropriately modified, is expected to aid in the interpretation of the proposed revisions.

The proposals thus include as "political advocacy" direct participation in elections or referenda by means of contributions, endorsement, publicity, administration of political action committees, or similar activity; contributions to political advocacy organizations; attempting to influence government policy made through the regulatory process as well as the legislative process; and attempts to influence government policy through litigation as an *amicus curiae*, on behalf of the members of the organization, or on behalf of another party. In addition, several categories of activity excluded from the Code definition of "influencing legislation" (e.g., communications with organization members on political topics and lobbying with respect to the organization's own interest) have been included in the proposal's definition, to ensure that such activities are not conducted at the expense of the public.

Question: What is the penalty for violating these provisions?

Answer: Cost recovery, and in instances of serious or willful violations, suspension or debarment from federal grants or contracts.

Question: How does this proposal affect the First Amendment right of freedom of speech?

Answer: This proposal will promote the First Amendment value that a person can freely speak, or refrain from speaking, on political matters. The Supreme Court has recognized constitutional problems with requirements on a person "to contribute to the support of an ideological cause he may oppose." *Abood* v. *Detroit Board of Education*, 431 U.S. 209, 235–236 (1977). Although government in a democracy necessarily involves some degree of political advocacy because of the need to communicate with citizens, taxpayers cannot rightly be required to support the political advocacy of private organizations and corporations through federal grants and contracts.

Moreover, the freedom of First Amendment political advocacy is jeopardized when the views of particular groups are financed by the government. The use of federal grants or contracts for the support of one side in a political debate, like the use of political patronage for the support of a political party, can injure the "free functioning of the electoral process." *Elrod* v. *Burns*, 427 U.S. 353, 356 (1976). In the marketplace of ideas, where differing political opinions compete for public acceptance, the government should not be in the position of subsidizing the expression of views of particular organizations or corporations, as to defense or domestic policy. Nor should the government create the appearance of official support for the political advocacy of its grantees or contractors.

Question: Does this proposal infringe the First Amendment rights of recipient organizations?

Answer: No. Recipients remain free to engage in political advocacy on any side of any issue. The proposals merely ensure that organizations engage in political advocacy at their own expense—not the public's. If an organization chooses to exercise its First Amendment rights, it is only fair that it keep those political activities separate from its work at the expense of the public. It should not expect to have its political advocacy subsidized, or to be able to put facilities purchased in part by tax dollars to political use. Like federal agencies and employees, federal grantees and contractors are "expected to . . . execute the programs of the Government without bias or favoritism for or against any political party or group or the members thereof." *CSC* v. *National Association of Letter Carriers*, 413 U.S. 548, 565 (1973). Federal grant and contract activity will be more efficiently and fairly performed if it is not mixed with advocacy activities on one or the other side of political debate.

Question: Will these proposals prevent corporations or other organizations from lobbying in Congress or the agencies for grants or contracts?

Answers: No—but they will do it at their own expense, not the public's.

Question: Will organizations engaged in political advocacy be eligible to receive federal grants and contracts?

Answer: Absolutely. In a memorandum dated April 28, 1982, the Director of OMB made clear that:

"The Administration will continue to award grants and contracts to those parties who are most effective in fulfilling statutory purposes [and that] political advocacy groups may continue to receive grant and contract awards."

This policy will continue in effect, and just as agencies will be forbidden to award grants and contracts because of the political views of applicant groups, they will also be forbidden from discriminating against "parties most effective in fulfilling statutory purposes."

Question: What will be the practical effect on organizations that engage in political advocacy?

Answer: Federal grantees and contractors that choose to engage in political advocacy will need to separate their grant or contract activity from their political activity. If they mix the two, then they will not receive government reimbursement for the joint costs.

Question: What will be the effect on the employees of contractors and grantees?

Answer: Employees whose salary is paid in part with federal funds may not be required or induced to engage in political advocacy, either as a part of the job or on their own time. Nor may they be required to join or pay dues to an organization involved in substantial political advocacy. This will ensure that federal funds are not used to hire political armies or to generate political membership support—practices analogous to these held unconstitutional in *Elrod* v. *Burns*, 427 U.S. 347 (1976). Of course, individual employees remain free to engage in political advocacy on their own it they wish to do so.

Question: To what organizations do the proposals apply?

Answer: The proposed revision to OMB Circular A–122 will apply to all non-profit organizations receiving federal grants, contracts, or other agreements. Similar proposals are being applied by the Department of Defense, NASA, and the General Services Administration to civilian and defense contractors. The proposed revisions will apply to grants, contracts, and other agreements entered into after the effective date of the revisions. Existing grants, contracts, and other agreements will not be affected.

Question: Will these proposals interfere with organizations due process rights to defend their interests in court?

Answer: No. So long as an organization appears in court on its own behalf, litigation is not defined as political advocacy. However, when an organization goes into court to represent others, or to support the claim of others, such attempts to influence policy through the judicial process are a form of political advocacy, as the Supreme Court has held. *NAACP* v. *Button*, 371 U.S. 415, 429 (1963); *In re Primus*, 436 U.S. 412, 428 (1978). Such activities should not be supported by federal grant or contract money, unless the grant or contract was made expressly for that purpose. Attorneys fee award statutes are not affected by these proposals.

Question: Will these proposals make it more difficult for the federal government to reward its political supporters?

Answer: Yes. Currently, the federal government may be able to reward its supporters, and punish its opponents, by granting or denying federal grants to organizations engaged in political advocacy. By making such awards to a friendly organization the government assumes a portion of that organization's overhead costs, and thus supports the organizations political activities. In this way, the govenment can influence the political process by inducing recipients of federal funds to conform their behavior to the governments desires. This was one of the dangers of the political spoils system recognized by the Supreme Court in *Elrod* v. *Burns*, 427 U.S. 347, 355–356 (1976). These proposals will help make the process neutral again, by eliminating the "political spoils" aspect of the government funding process.

Question: Will these proposals solve the whole problem of federal tax money being used to support political advocacy?

Answer: No, but they make a major step in the right direction. Congress and the agencies must continue to be vigilant to ensure that grants and contracts are not awarded for purposes that involve political advocacy.

Circular A–122—Cost Principles for Nonprofit Organizations

Circular A–122 is revised by modifying Attachment B as follows:

1. Insert a new paragraph "B 33 *Political Advocacy.*"

a. The cost of activities constituting political advocacy are unallowable.

b. Political advocacy is any activity that includes:

(1) Attempting to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, through contributions, endorsements, publicity, or similar activity;

(2) Establishing, administering, contributing to, or paying the expenses of a political action committee, either directly or indirectly;

(3) Attempting to influence governmental decisions through an attempt to affect the opinions of the general public or any segment thereof;

(4) Attempting to influence governmental decisions through communications with any member or employee of a legislative body, or with any government official or employee who may participate in the decisionmaking process;

(5) Participating in or contributing to the expenses of litigation other than litigation in which the organization is a party with standing to sue or defend on its own behalf; or

(6) Contributing money, services, or any other thing of value, as dues or otherwise, to an organization that has political advocacy as a substantial organizational purpose, or that spends $100,000 or more per year on activities constituting political advocacy.

c. Political advocacy does not include the following activities:

(1) Making available the results of nonpartisan analysis, study, or research, the distribution of which is not primarily designed to influence the outcome of any Federal, State, or local election, referendum, initiative, or similar procedure, or any governmental decision;

(2) Providing technical advice or assistance to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision;

(3) Participating in litigation on behalf of other persons, if the organization has received a Federal, State, or local grant, contract, or other agreement for the express purpose of doing so;

(4) Applying or making a bid in connection with a grant, contract, unsolicited proposal, or other agreement, or providing information in connection with such application at the request of the government agency awarding the grant, contract, or other agreement; or

(5) Engaging in activities specifically required by law.

d. An organization has political advocacy as a "substantial organizational purpose" if:

(1) The organization's solicitations for membership or contributions

acknowledge that the organization engages in activities constituting political advocacy; or

(2) Twenty percent (20%) or more of the organization's annual expenditures, other than those incurred in connection with Federal, State or local grants, contracts, or other agreements, or incurred in connection with political advocacy.

e. The term, "governmental decisions" includes:

(1) The introduction, passage amendment, defeat, signing, or veto of legislation, appropriations, resolutions, or constitutional amendments at the Federal, State, or local level;

(2) Any rulemakings, guidelines, policy statements or other administrative decisions of general applicability and future effect; or

(3) Any licensing, grant, ratemaking, formal adjudication or informal adjudication, other than actions or decisions related to the administration of the specific grant, contract, or agreement involved.

f. Notwithstanding the provisions of other cost principles in this circular:

(1) Salary costs of individuals are unallowable if:

(a) The work of such individuals includes activities constituting political advocacy, other than activities that are both ministerial and non-material; or

(b) The organization has required or induced such individuals to join or pay dues to an organization, other than a labor union, that has political advocacy as a substantial organizational purpose, or to engage in political advocacy during non-working hours.

(2) The following costs are unallowable:

(a) Building or office space in which more than 5% of the usable space occupied by the organization or an affiliated organization is devoted to activities constituting political advocacy;

(b) Items of equipment or other items used in part for political advocacy;

(c) Meetings and conferences devoted in any part to political advocacy;

(d) Publication and printing allocable in part to political advocacy; and

(e) Membership in an organization that has political advocacy as a substantial organizational purpose, or that spends $100,000 or more per year in connection with political advocacy.

2. Renumber subsequent paragraphs.

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Commodity Futures Trading Commission

Customs Duties and Inspection
Customs Service

Equal Employment Opportunity
Equal Employment Opportunity Commission
Justice Department

Exports
International Trade Administration

Food Grades and Standards
Food and Drug Administration

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Defense Department
Veterans Administration

Hazardous Materials
Environmental Protection Agency

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Food and Nutrition Service
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Organization and Functions (Government Agencies)
Justice Department

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Rules and Regulations

Federal Register
Vol. 48, No. 17
Tuesday, January 25, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement

AGENCY: Office of Personnel Management.

ACTION: Amendment of interim rulemaking, with comments requested.

SUMMARY: On October 1, 1982, interim regulations were published in the **Federal Register** (47 FR 43634) to implement provisions of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253 enacted on September 8, 1982), which amended the retirement provisions of chapter 83 of title 5, United States Code. On October 15, 1982, Pub. L. 97–346 was enacted amending some of the provisions enacted in the Reconciliation Act. Amendments were made to the provisions on interest rates charged on deposits for military service and the applicability of the variable interest rate to refunds. Pub. L. 97–346 also amended the provisions on the increments of military service which may be purchased, the creditability of pre-1957 military service, the authority for the survivor of an employee or Member of Congress to make a deposit for military service, and the basis for computing the military basic pay for deposit purposes. In addition, Pub. L. 97–377, enacted on December 21, 1982, amended the Reconciliation Act provisions on the commencing dates of annuities. This document amends the interim regulations in accordance with the changes brought about by that public law and extends the comment period.

DATES: Effective January 25, 1983.

Comments must be received on or before March 28, 1983.

ADDRESS: Written comments may be sent to Jerome D. Julius, Office of Pay and Benefits Policy, Compensation Group, P.O. Box 57, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20044, or delivered to Room 4351.

FOR FURTHER INFORMATION CONTACT: Interest—Mary Angel, (202) 632–4684. Deposit for military service—Margaret Sears, (202) 632–4684.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253) made extensive changes in the Civil Service Retirement System. Public Law 97–346 was enacted October 15, 1982, to amend certain provisions of the Reconciliation Act. Some of these amendments necessitate changes in the interim regulation published in 47 FR 43634–43640, dated October 1, 1982. The interim regulation is amended by this document to conform with the changes made by Pub. L. 97–346. The changes are discussed below. The changes made by Pub. L. 97–346 and other minor editorial changes respond to some comments already received by OPM. However, consideration of other comments will be deferred until the expiration of this new comment period.

1. Interest Rates, Deposits, and Redeposits.

Section 303 of the Reconciliation Act increased the interest rates charged on deposits for service performed on and after October 1, 1982, in positions not covered by the retirement law and for redeposits of refunds paid by OPM on and after October 1, 1982. Section 3(j) of Pub. L. 97–346 changes this to provide that the lower rates of interest in effect before enactment of the Reconciliation Act cover refunds for which application was received either by the employing agency or by OPM by October 1, 1982. Conforming changes have been made to § 831.105 (d) and (e) of the interim regulations.

Section 303 of the Reconciliation Act also provided that an employee must be separated from covered service for at least 31 days or be in a single position not subject to the Retirement System for at least 31 days to receive a refund of retirement contributions. Section 3(f) of Pub. L. 97–346 changes this to allow a refund to an individual who was in more than one non-covered position during the 31-day period.

Section 306 of the Reconciliation Act provided that a deposit for military service completed before October 1, 1984, or 2 years from the date the individual first becomes an employee or Member, whichever is later, will not be subject to an interest charge. Deposits which extended beyond the two-year grace period were to be subject to an interest charge, but the exact rate of interest depended in part upon when the service was performed. Section 3(j) of Pub. L. 97–346 provides for payment of interest at 3 percent per year from October 1, 1984, or 2 years from the date the individual first becomes an employee or Member, whichever is later, through December 31, 1984, and thereafter at the yearly rate determined by the Secretary of the Treasury, compounded annually. The interest charge will be the same regardless of when the service was actually performed. Section 831.105(f) of the interim regulation has been amended to conform to this change in the law.

2. Service Credit for Post-1956 Military Service

Section 306 of the Reconciliation Act added a new subsection (j) to section 8334 of title 5, United States Code. This subsection provides for the payment of a deposit equal to 7 percent of an individual's basic pay under 37 U.S.C. 204, for military service performed after 1956. The amount of the deposit was to be based on exact basic pay information to be certified by the Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate. Section 3(e) of Pub. L. 97–346 deletes the requirement that the uniformed services provide exact pay information and provides instead that when an individual provides his or her employing agency with sufficient evidence of basic pay, i.e., complete pay records, the agency must use the total pay shown to compute the deposit owed. If the individual does not have complete pay records, Pub. L. 97–346 permits the uniformed services to respond to an individual's request for earnings information with an estimate of earnings rather than exact amounts. Amendments have been made to §§ 831.2103, 831.2106, and 831.2106 of the interim regulations, and former § 831.2109 has been eliminated because it is unnecessary.

The Reconciliation Act did not contain a provision which would permit survivors to make a deposit for military service. Section 3(d) of Pub. L. 97–346 provides the authority for survivors of employees and Members to make such deposits. Amendments have been made to §§ 831.2101, 831.2103, 831.2104, 831.2105, 831.2106, 831.2107, and 831.2108 of the interim regulations.

Public Law 97–346 also provides that individuals who retire or separate with title to an annuity after September 8, 1982, but before October 1, 1983 (or survivors of these individuals), may make a deposit for the post-1956 military service to OPM. Under the Reconciliation Act, individuals who retired between September 9 and September 30, 1982, were not eligible to make a deposit for military service. This provision is intended to avoid any hardship for individuals who retired without opportunity to make a deposit, or for employees who retire before employing agencies can implement the provisions to accept deposits for military service. This change is reflected in §§ 831.2101, 831.2102, 831.2104, 831.2105, 831.2106, and 831.2107. Old § 831.2105 has been eliminated entirely and the succeeding sections were renumbered.

The new statutory provision for making a deposit to OPM is basically an alternative as provided in the interim regulations. We strongly urge all agencies to implement the provisions on accepting deposits for military service according to the procedures in the law and regulations as quickly as possible, and to counsel employees who plan to retire before October 1, 1983, and who wish to make a deposit for military service to do so, if possible, before retirement to ensure expeditious processing of their retirement applications.

There are also two changes in Public Law 97–346 which confirm provisions in the interim regulations published October 1, 1982. First, section 3(a) provides for deposits for "full periods" of military service. (See § 831.2107.) Second, section 3(b) clearly states that pre-1957 military service is creditable regardless of whether a deposit is made for the post-1956 military service or not. (See § 831.301 (a) and (b).)

3. Reemployment Service

The Reconciliation Act amended section 8339(i) of title 5, United States Code, to provide that service performed after October 1, 1982, for which retirement deductions were not taken will not be included in the computation of annuity unless a deposit is made for the service. This amendment affected supplemental annuity benefits provided for reemployed annuitants under section 8344(a) of title 5, United States Code. In effect, the reemployed annuitant was prohibited from having retirement deductions taken from salary, but required to pay a deposit plus interest before further benefits could be paid. Public Law 97–346 has amended section 8344(a) to permit a reemployed annuitant to elect to have retirement deductions taken from salary. This amendment is reflected in the regulations in § 831.802.

4. Effective Dates of Annuities

The Reconciliation Act amended section 8345(b), title 5, United States Code, to provide that effective October 1, 1982, all annuities other than survivor annuities, disability annuities, and annuities based on involuntary separation from service (not for cause) would commence on the first day of the month after separation from service or after pay ceases and the service and age requirements for title to annuity are met.

Public Law 97–377, enacted December 21, 1982, amended the Reconciliation Act to provide that annuities payable to employees retiring voluntarily, or to Members retiring voluntarily or involuntarily, after serving three days or less in the month of retirement will also commence on the day after pay ceases and the service and age requirements for title to annuity are met.

5. Waiver of Notice Period

Pursuant to section 553 of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking and for making this amendment effective in less than 30 days because these provisions of Pub. L. 97–346 became effective on October 1, 1982, and corrections must be made to the interim regulations published October 1, 1982. For the convenience of the reader, the previous interim regulations, are included in the provisions set out below.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that within the scope of the Regulatory Flexibility Act, this regulation will not have a significant economic impact on a substantial number of small entities because it affects Federal employees and retirees only.

List of Subjects in 5 CFR Part 831

Government employees, Administrative practice and procedure, Claims, Firefighters, Handicapped, Law enforcement officers, Pensions, Retirement.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, Part 831 of Title 5 of the Code of Federal Regulations, is amended as shown:

PART 831—RETIREMENT

1. Section 831.104 is revised to read as follows:

§ 831.104 Application.

(a) Except as provided in paragraph (b) of this section, applications under subchapter III of chapter 83 of title 5, United States Code, shall be filed with OPM and shall be on forms prescribed by OPM.

(b) Applications to make deposit for military service shall be filed in accordance with Subpart U of this part.

2. In § 831.105, paragraphs (b) through (g) are revised to read as follows:

§ 831.105 Computation of interest.

* * * * *

(b) Interest is allowed on current deductions and deposits at the rate of 4 percent per year to December 31, 1947, and 3 percent per year thereafter, compounded annually, to December 31, 1956. However, if an employee or Member, before completing 5 years' civilian service, becomes separated from service, or if he or she is transferred to a position in which he or she is not subject to subchapter III of chapter 83 of title 5, United States Code, interest is allowed after December 31, 1956, at the rate of 3 percent per year, compounded annually, to date of final separation or transfer. Interest is not allowed for 1 year or less of covered service and interest is not allowed for any fractional part of a month in the total service.

(c) Interest at the rate of 3 percent per year through December 31, 1984, and, thereafter, at the yearly rate determined by the Secretary of Treasury, compounded annually, is allowed on voluntary contributions during periods of employment and, after the employee or Member has completed at least 5 years' civilian service, during periods of separation until the beginning date of annuity or death, whichever is earlier. For refund purposes, however, interest on voluntary contributions terminates on the date of the employee's or Member's final separation or on the date of the employee's or Member's last

transfer to a position in which he or she is not subject to subchapter III of chapter 83 of title 5, United States Code.

(d) For noncontributory service performed before October 1, 1982, and for redeposits of refunds paid on an application received by either the individual's employing agency or OPM before October 1, 1982, interest at the rate of 4 percent per year to December 31, 1947, and at the rate of 3 percent per year thereafter, compounded annually, is charged. Interest is charged on the outstanding balance of a deposit from the midpoint of each service period for which deposit is involved; interest is charged on the outstanding balance of a refund from the date the refund was paid. Interest is charged to the date of deposit or commencing date of annuity, whichever is earlier, except that interest is not charged for any period of separation from the service which began before October 1, 1956.

(e) For noncontributory service performed on or after October 1, 1982, and for redeposits of refunds paid on an application received by the individual's employing agency or OPM on or after October 1, 1982, interest is charged at the rate of 3 percent per year through December 31, 1984, and, thereafter, at the yearly rate determined by the Secretary of Treasury, compounded annually. Interest is charged on the outstanding balance of a deposit from the midpoint of each service period for which deposit is involved; interest is charged on the outstanding balance of a refund from the date the refund was paid. Interest is charged to the date of deposit.

(f) No interest is charged on a deposit for military service if that deposit is made before October 1, 1984, or within 2 years of the date that an individual first becomes an employee or Member under the civil service retirement system, whichever is later. When interest is charged on a deposit for military service, it is charged on the outstanding balance at the rate of 3 percent per year, compounded annually, from October 1, 1984, or 2 years from the date the individual first becomes an employee or Member, whichever is later, through December 31, 1984, and thereafter at the yearly rate determined by the Secretary of the Treasury.

(g) For calendar year 1985 and for each subsequent calendar year, OPM will publish a notice in the **Federal Register** to notify the public of the interest rate that will be in effect during that calendar year.

3. Section 831.301 is revised to read as follows:

§ 831.301 Military service.

(a) *Service of an individual who first became an employee or Member under the civil service retirement system before October 1, 1982.* A period of honorable active service in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States, or, after June 30, 1960, in the Regular Corps or Reserve Corps of the Public Health Service, or, after June 30, 1961, as a commissioned officer of the National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey and Environmental Science Services Administration), performed before the date of separation on which civil service annuity entitlement is based shall be included in the computation of the annuity provided—

(1) The employee or Member has completed 5 years' (18 months' for survivors of employees or Members who die in service) civilian service;

(2) The employee or Member is not receiving (or was not receiving at the time of death) military retired pay awarded for reasons other than (i) service-connected disability incurred in combat with an enemy of the United States, (ii) service-connected disability caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United States Code), or (iii) under chapter 67 of title 10, United States Code; and

(3)(i) The employee or Member (or his or her widow(er) or his or her child) is not entitled, or upon application would not be entitled, to monthly old-age or survivors benefits under section 202 of the Social Security Act (41 U.S.C. 402) based on the individual's wages or self-employment income, or

(ii) For an employee or Member (or his or her widow(er) or his or her child) who is entitled, or upon application would be entitled, to monthly old-age or survivors benefits under section 202 of the Social Security Act (41 U.S.C. 402) based on the individual's wages or self-employment income, the employee, Member, or survivor has completed a deposit in accordance with Subpart U of this part, for each full period of such military service performed after December 1956.

If a deposit has not been completed, periods of military service performed after December 31, 1956 (other than periods of military service covered by military leave with pay from a civilian position), are excluded from credit from and after the first day of the month in which the individual (or survivor) becomes entitled to Social Security benefits under section 202. Military service performed prior to January 1957 is included in the computation of the annuity regardless of whether a deposit is made for service after December 31, 1956.

(b) *Service of an individual who first becomes an employee or Member under the civil service retirement system on or after October 1, 1982.* A period of honorable active service after December 31, 1956, in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States, or, after June 30, 1960, in the Regular Corps or Reserve Corps of the Public Health Service, or, after June 30, 1961, as a commissioned officer of the National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey and Environmental Science Services Administration), performed before the date of separation on which civil service annuity entitlement is based shall be included in the computation of the annuity provided—

(1) The employee or Member has completed 5 years' (18 months' for survivors of employees or Members who die in service) civilian service;

(2) The employee or Member is not receiving or was not receiving at the time of death) military retired pay awarded for reasons other than (i) service-connected disability incurred in combat with an enemy of the United States, (ii) service-connected disability caused by an instrumentality of war and incurred in line of duty during a period of war (as that term is used in chapter 11 of title 38, United States Code), or (iii) under chapter 67 of title 10, United States Code; and

(3) The employee or Member has completed a deposit in an amount equal to 7 percent of his or her basic pay under § 204 of title 37, United States Code (plus interest, if any) for each full period of such military service performed after December 1956.

Military service performed prior to January 1957 is included in the computation of the annuity regardless of whether a deposit is made for service after December 31, 1956.

(c) *Military retirees and recipients of Veterans Administration benefits.* An employee or Member applying for annuity, who otherwise meets all conditions for receiving credit for military service, but who is in receipt of retired pay which bars credit for military service, may elect to waive the retired pay and have the military service added to civilian service to obtain a higher annuity payment. An applicant for disability retirement, who is receiving a Veterans Administration pension or compensation in lieu of military retired pay, may elect to waive

the retired pay and renounce the Veterans Administration pension or compensation and have the military service added to civilian service to obtain a higher annuity payment.

4. Section 831.303 is revised to read as follows:

§ 831.303 Civilian service.

(a) *Periods of civilian service performed before October 1, 1982, for which retirement deductions have not been taken.* Periods of creditable civilian service performed by an employee or Member after July 31, 1920, but before October 1, 1982, for which retirement deductions have not been taken shall be included in determining length of service to compute annuity under subchapter III of chapter 83 of title 5, United States Code; however, if the employee, Member, or survivor does not elect either to complete the deposit described by § 8334(c) of title 5, United States Code, or to eliminate the service from the annuity computation, his or her annuity is reduced by 10 percent of the amount which should have been deposited (plus interest) for the period of noncontributory service.

(b) *Periods of civilian service performed on or after October 1, 1982, for which retirement deductions have not been taken.* Periods of creditable civilian service performed by an employee or Member on or after October 1, 1982, for which retirement deductions have not been taken shall be included in determining length of service to compute the annuity under subchapter III of chapter 83 of title 5, United States Code, only if—

(1) The employee or Member subsequently occupies a position subject to subchapter III of chapter 83 of title 5, United States Code; and

(2) The employee, Member, or survivor makes a deposit for the service.

5. In § 831.502, paragraphs (e) and (f)(6) are revised to read as follows:

§ 831.502 Disability retirement.

* * * * *

(e) *Income limitation.* (1) Each disability annuitant who, on December 31 of any calendar year, is under 60 years of age shall report to OPM, in a format acceptable to OPM, on or before the following February 15, his or her income from wages and/or self-employment for that calendar year. If the annuitant fails to submit the report, OPM may suspend annuity payments until the report is received and the annuitant's entitlement to continued annuity is determined on the basis of that report.

(2) In regard to income received prior to January 1, 1983: When, in each of two succeeding calendar years, a disability annuitant under age 60 has received income from wages and/or self-employment, equaling at least 80 percent of the current rate of basic pay of the position from which he or she retired, the annuitant's earning capacity is deemed restored. If earning capacity is restored, OPM shall discontinue payment of the annuity at the expiration of 1 year from the end of the 2-year period. When the disability annuitant is reemployed by a department or agency within this 1-year period, OPM shall discontinue payment of the annuity from the date of reemployment.

(3) In regard to income received after December 31, 1982: When, in any calendar year, a disability annuitant under age 60 has received income from wages and/or self-employment, equaling at least 80 percent of the current rate of basic pay of the position from which he or she retired, the annuitant's earning capacity is deemed restored. If earning capacity is restored, OPM shall discontinue payment of the annuity 180 days from the end of the calendar year. One hundred and eighty days shall be computed on the basis that each month has 30 days. When the disability annuitant is reemployed by a department or agency within the 180-day period, OPM shall discontinue the annuity from the date of reemployment.

(f) *Reemployment.* * * *

(6) A disability annuity awarded to a former National Guard Technician under the provisions of 5 U.S.C. 8337(h), in addition to being subject to the provisions of paragraphs (d) and (e) of this section, shall terminate when—

(i) The annuitant is reemployed by a department or agency, or

(ii) The annuitant declines an offer of employment with a department or agency which is in the same commuting area and of the same grade as, or a level equivalent to, the position from which the annuitant retired.

6. Section 831.504 is revised to read as follows:

§ 831.504 Retirement based on involuntary separation.

(a) *General.* An employee who would otherwise be eligible for retirement based on involuntary separation from the service is not entitled to an annuity under section 8336(d)(1) of title 5, United States Code, if the employee has declined a reasonable offer of another position.

(b) *Criteria for reasonable offer.* For the purposes of determining entitlement to annuity based on such involuntary separation, the offer of a position must meet all of the following conditions to be considered a reasonable offer:

(1) The offer must be made in writing;

(2) The employee must meet established qualification requirements;

(3) The offered position must be—

(i) In the employee's agency, including an agency to which the employee with his or her function is transferred in a transfer of functions between agencies;

(ii) Within the employee's commuting area as defined in § 831.502(a) of this subpart, unless geographic mobility is a condition of the employee's employment;

(iii) Of the same tenure and work schedule; and

(iv) Not lower than the equivalent of two grades or pay levels below the employee's current grade or pay level, without consideration of the employee's eligibility to retain his or her current grade or pay under Part 536 of this chapter or other authority. In movements between pay schedules or pay systems, the representative rate of the grade or pay level that is two grades below that of the current position shall be compared with the representative rate of the grade or pay level of the offered position. For this purpose, "representative rate" has the meaning given that term in § 536.102 of this chapter.

7. Section 831.701 is revised to read as follows:

§ 831.701 Effective dates of annuities.

(a) Except as provided in paragraphs (b) and (c) of this section, an annuity of an employee or Member commences on the first day of the month after—

(1) Separation from the service; or

(2) Pay ceases and the service and age requirements for title to annuity are met.

(b) An annuity of—

(1) An employee involuntarily separated from service (except by removal for cause on charges of misconduct or delinquency) and eligible for an immediate annuity based on that involuntary separation;

(2) An employee or Member retiring due to a disability; and

(3) An employee or Member retiring after serving three days or less in the month of retirement—

shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to annuity are met.

(c) Survivor annuities commence as provided in § 831.1002.

(d) Except as provided in § 831.502, annuity terminates on the day of death or on the date of any other terminating event in each case when OPM terminates the annuity.

(e) Annuity accrues on a daily basis, one-thirtieth of the monthly rate constituting the daily rate. Annuity does not accrue for the thirty-first day of any month, except in the initial month if the employee's annuity commences on the 31st of a 31-day month. For accrual purposes, the last day of a 28-day month constitutes 3 days and the last day of a 29-day month constitutes 2 days.

8. Paragraphs (a), (b) and (c) of § 831.802 are revised to read as follows:

§ 831.802 Supplemental annuity and redetermined annuity.

(a) An annuitant employed in an appointive or elective position (unless excepted by 5 U.S.C. 8344(a)) may elect to have deductions for the Fund made from his or her pay. When an annuitant elects to have deductions made, he or she may not change the election during service under that appointive or elective position. When an annuitant is employed continuously for at least one year in such appointive or elective position and actually serves for at least one year on a full-time basis, or the equivalent of one year of full-time service on a part-time basis, in a position not excluded from coverage by section 8331(1)(i) and (ii) of title 5, United States Code, the annuitant is entitled to a supplemental annuity on termination of the employment by separation for more than three calendar days or by conversion to intermittent status; however, if the annuitant performs service on or after October 1, 1982, he or she must make a deposit for all such service if no deductions are taken from his or her salary in order to obtain a supplemental annuity based on the service on or after October 1, 1982. The supplemental annuity is (1) computed under the formula provided by the law in effect at the date of termination of employment, (2) based on all periods of full-time or part-time service performed after his or her retirement (service performed on or after October 1, 1982, must be covered by retirement deductions or a deposit of the retirement deductions which should have been taken, plus interest), with such periods considererd as part of his or her total service, and (3) based on the average basic pay (before annuity deduction) received during the periods of full-time or part-time service performed after his or her retirement.

(b) If the annuitant is employed continuously for at least 5 years in an appointive or elective position and actually serves for at least 5 years on a full-time basis, or the equivalent of 5 years of full-time service on a part-time basis, in a position not excluded from coverage by section 8331(1) (i) and (ii) of title 5, United States Code, the annuitant may make a deposit for service performed before October 1, 1982, (a deposit is required for service performed on or after October 1, 1982), and elect instead of the supplemental annuity described herein to have his or her retirement rights redetermined under the law in effect at separation date.

(c) The supplemental or redetermined annuity commences (1) on the first day of the month after separation from such employment, or (2) on the first day of the month after the annuitant is converted to an intermittent status and meets the service requirements.

* * * * *

9. Subpart U is revised to read as follows:

Subpart U—Deposits for Military Service

Sec.
831.2101 Purpose.
831.2102 Scope.
831.2103 Definitions.
831.2104 Eligibility to make deposits.
831.2105 Filing an application to make deposit.
831.2106 Processing applications for deposit for service.
831.2107 Payments on deposits.

§ 831.2101 Purpose.

This subpart prescribes the procedures to be followed when an employee or Member (or survivor of an employee or Member) wishes to make a deposit for service, and when a former employee or Member who retires or separates from civilian service with title to annuity after September 8, 1982, but before October 1, 1983 (or survivor of such employee or Member), wishes to make a deposit for service.

§ 831.2102 Scope.

This subpart applies to all agencies with employees occupying positions subject to subchapter III of chapter 83 of title 5, United States Code, the United States Senate, and the United States House of Representatives.

§ 831.2103 Definitions.

"Employee" shall have the same meaning as in 5 U.S.C. 8331(1).

"Estimated earnings" is an estimate of basic pay for a period of military service, as determined by an authorized official of the Department of Defense, the Department of Transportation, the Department of Commerce, or the Department of Health and Human Services.

"Fund" is the Civil Service Retirement and Disability Fund.

"Member" shall have the same meaning as in 5 U.S.C. 8331(2).

"OPM" is the Office of Personnel Management.

"Period of service" is the total years, months, and days from date of initial entry on active duty (or January 1, 1957, if that is later) to date of final discharge for enlisted military personnel, and to date of final release from active duty for officers and reservists. "Period of service" includes consecutive periods of service where there is no break in service, but does not include any lost time.

"Service" is active honorable military service performed after December 31, 1956.

"Sufficient evidence" of basic pay for service exists when the employee, Member, or survivor eligible to make a deposit for service provides copies of all official military pay documents, as identified in Federal Personnel Manual instructions published by OPM, which show the exact basic pay he or she received for a full period of service. If an employee, Member, or survivor does not have sufficient evidence of basic pay, he or she shall obtain a statement of estimated earnings from the appropriate branch of the military service.

"Survivor" shall have the same meaning as in 5 U.S.C. 8331(10).

§ 831.2104 Eligibility to make deposits.

The following individuals may make deposit for any full period of service performed before the separation on which title to civil service annuity is based:

(a) An employee or Member currently occupying a position subject to subchapter III of chapter 83 of title 5, United States Code, and the survivor(s) of such an employee or Member who dies in service; and

(b) A former employee or Member who was separated with title to an annuity or who retired from a position subject to subchapter III of chapter 83 of title 5, United States Code, after September 8, 1982, and before October 1, 1983, and the survivor(s) of such an employee or Member.

§ 831.2105 Filing an application to make deposit.

(a) An individual described in § 831.2104(1) of this subpart shall file an application for deposit with the appropriate office in the employing agency, or, for Members and Congressional employees, with the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate.

(b) An individual described in § 831.2104(2) of this subpart may file an application for deposit with OPM.

§ 831.2106 Processing applications for deposit for service.

(a) The agency, Clerk of the House of Representatives, or Secretary of the Senate shall have the employee or Member:

(1) Complete an application to make deposit;

(2) Provide a copy of his or her DD 214 or its equivalent to verify the period(s) of service; and

(3) Provide sufficient evidence of basic pay, if available, or a statement of estimated earnings.

(b) Upon receipt of the application, the DD 214(s), and either sufficient evidence of basic pay, if available, or a statement of estimated earnings, the agency; Clerk of the House of Representatives or Secretary of the Senate shall multiply the amount of basic pay by 7 percent to compute the exact deposit owed, exclusive of any interest.

(c) If interest is applicable, it shall be computed in accordance with instructions published by OPM in the Federal Personnel Manual.

(d) The agency, Clerk of the House of Representatives, or Secretary of the Senate shall establish a deposit account showing the total amount due, and a payment schedule (unless deposit is made in a lump sum), and record the date and amount of each payment.

(e) An individual who is eligible to make deposit to OPM shall submit an application to make deposit, accompanied by a copy of his or her DD 214(s) or its equivalent, as well as the sufficient evidence of basic pay, if available, or a statement of estimated earnings to OPM.

§ 831.2107 Payments on deposits.

(a) Deposits made to agencies, the Clerk of the House of Representatives or the Secretary of the Senate.

(1) Deposits made to agencies, the Clerk of the House of Representatives or the Secretary of the Senate shall be collected in full in one lump sum whenever this is possible.

(2) If the employee or Member cannot make payment in a lump sum, a payment schedule shall be established to permit installment payments (by allotments or otherwise) of no less than $50 each or such larger amount necessary to complete the deposit within 36 months of the initial payment date.

(3) If the employee or Member dies, the employing agency, Clerk of the House of Representatives or Secretary of the Senate shall advise the survivor of the right to make or complete a deposit. If the survivor decides to make or complete the payment, the agency shall collect the amount due in one lump sum.

(4) Payments received by the employing agency, the Secretary of the Senate, or the Clerk of the House of Representatives shall be remitted immediately to OPM for deposit to the Fund.

(5) Once the employee's, Member's, or survivor's deposit has been paid in full or closed out, the employing agency, Secretary of the Senate, or Clerk of the House of Representatives shall submit documentation pertaining to the deposit to OPM, in accordance with instructions published in the Federal Personnel Manual.

(6) Deposits must be made for full periods of service.

(b) Deposits made to OPM.

(1) Deposits made to OPM shall be made in a lump sum prior to final adjudication of the application for retirement or survivor benefits.

(2) Deposits must be made for full periods of service.

(c) Refunds of any monies deposited for military service may be made only when an individual is otherwise eligible for a refund under 5 U.S.C. 8342(a).

(5 U.S.C. 8347)

[FR Doc. 83-2011 Filed 1-24-83; 8:45 am]
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DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 723

Cigar-Filler (Type 41) and Maryland Tobacco Regulations 1983–1984 Marketing Year

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule governs the establishment of farm acreage allotments for the 1983 crops of cigar-filler (type 41) and Maryland (type 32) tobaccos by udating various references to marketing years and changing the title of a position within the Agricultural Stabilization and Conservation Service.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–4281.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291, and Secretary's Memorandum 1512–1 and has been classified "not major." This final rule has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases; Number: 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Section 312(a) of the Agricultural Adjustment Act of 1938, as amended, requires the Secretary to proclaim, not later than February 1, 1983, quotas for cigar-filler (type 41) and Maryland tobaccos for each of the three marketing years beginning October 1, 1983, and to hold a referendum of farmers who were engaged in the production of each of these kinds of tobacco in 1982 to see whether such farmers favor or oppose marketing quotas. Producers voting in a referendum for the three marketing years beginning October 1, 1980, opposed marketing quotas for cigar-filler (type 41) and Maryland tobaccos. Therefore, marketing quotas were not in effect for the previous 3 marketing years.

These regulations set forth the rules for establishing allotments for farms with history of tobacco production. Prior to holding of the referendum, producers need to know the 1983 farm acreage allotments established for their farms based on production of tobacco in the 5-year base period 1978–82. These regulations update marketing year references to reflect the 1978–82 base period used in establishment of acreage allotments for the 1983 referendum, and change the name of the "Director, Production Adjustment Division" to the "Director, Tobacco and Peanuts Division."

Since this rule makes no substantive changes in the regulations, it has been determined that no further public

rulemaking is required. It has also been determined that this rule will have no significant economical, social, environmental or regulatory impacts, because it merely reflects updating prior issued regulations. Therefore, a Final Regulatory Impact Analysis will not be prepared. Accordingly, this final rule shall become effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 723

Tobacco acreage allotments, Tobacco.

PART 723—[AMENDED]

Accordingly, the regulations at 7 CFR Part 723 are amended as follows:

1. Part 723 is amended by deleting "1980–1981" in the heading "Subpart—Cigar-Filler (Type 41) and Maryland Tobacco Allotment Regulations, 1980–1981 Marketing Year" and inserting in lieu thereof "1983–1984".

2. The authority citation for this subpart is revised to read as follows:

Authority: Secs. 301, 313, 316, 317, 363, 375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 75 Stat. 469, as amended, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 66, as amended, 70 Stat. 206, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314b, 1314c, 1363, 1375, 1377, 1378.

§ 723.51 [Amended]

3. Section 723.51 is amended by removing in the first sentence "1980–81" and in the second sentence "1977–78" and inserting in lieu thereof "1983–84" and "1980–81", respectively.

§ 723.54 [Amended]

4. Section 723.54 is amended by removing in the first sentence "Production Adjustment Division" and inserting in lieu thereof "Tobacco and Peanuts Division".

§ 723.55 [Amended]

5. Section 723.55(a) is amended by removing in the first sentence "form" and "1975–79" and inserting in lieu thereof "from" and "1978–82", respectively.

6. Section 723.55(b) is amended by removing "1977" wherever it appears and inserting in lieu thereof "1980".

§ 723.56 [Amended]

7. Section 723.56(a)(1) is amended by removing "(1975–79)" and inserting in lieu thereof "(1978–1982)".

8. Section 723.56(a)(2) is amended by removing "(1977–79)" and inserting in lieu thereof "(1980–82)".

9. Section 723.56(b) is amended by removing "1980" wherever it appears and inserting in lieu thereof "1983".

§ 723.59 [Amended]

10. Section 723.59(a) is amended by removing in the third sentence "1980" and inserting in lieu thereof "1983".

11. Section 723.59(b) is amended by removing "1980" wherever it appears and inserting in lieu thereof "1983".

§ 723.60 [Amended]

12. Section 723.60 is amended by removing "1980" and inserting in lieu thereof "1983".

Signed at Washington, D.C., on January 19, 1983.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83–1906 Filed 1–24–83; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 1011

[Marketing Agreements and Orders; Milk]

Milk in the Tennessee Valley Marketing Area; Temporary Revision of Supply Plant Shipping Percentage

Correction

In FR Doc. 83–1109 beginning on page 1698 in the issue of Friday, January 14, 1983, on page 1699, second column, the effective date should read "January 14, 1983."

BILLING CODE 1505–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 30118–10]

15 CFR Parts 379, 385, and 399

Extension of Foreign Policy Export Controls

AGENCY: International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: As required by section 6 of the Export Administration Act of 1979, the Secretaries of Commerce and State have reviewed foreign policy export controls and have determined that they should be continued, with some modifications, through January 20, 1984. This rule gives notice of this extension and amends the Export Administration Regulations to conform with the modifications in policy.

DATES: This rule is effective January 21, 1983. Comments must be received by the Department on or before March 22, 1983.

ADDRESS: Written comments (six copies) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (telephone (202) 377–4811).

SUPPLEMENTARY INFORMATION:

Regulatory Changes

Under the authority granted by section 6 of the Export Administration Act of 1979, the Secretary of Commerce, in consultation with the Secretary of State, has determined that most of the foreign policy controls that have been in effect will be extended through January 20, 1984. This notice announces the extension of controls and amends the Export Administration Regulations to reflect those areas where modifications have been made.

Controls on South Africa and Namibia have been modified to remove controls on exports to the military or police of all goods except those subject to national security, nuclear nonproliferation, and crime control policies, and automotive vehicles, watercraft, parts and accessories therefor, and tires. Essentially, this means that the broad categories of nonstrategic goods that can go to communist countries without a license may now be sold to the South African military and police without a license. We had decontrolled some of these categories last March, and more in September. This further step decontrols nonstrategic metal-working machinery, chemical and petroleum equipment, transportation equipment (except automotive vehicles and watercraft), metals and minerals and rubber products (except tires).

Controls on exports or transactions related to the 1980 Summer Olympic Games in Moscow, USSR, have not been extended, and lapse on January 21, 1983.

Human rights controls (15 CFR 376.14), while essentially unchanged, are modified by this Notice by adding electric cattle prods, buckshot shotgun shells, and "specially designed implements of torture" to the Commodity Control List (CCL). Such items are now controlled for crime control reasons. Also, the CCL entry "psychological testing machines" is clarified by revising it to read

"psychological stress analysis equipment," and the broad term "chemical agents, including tear gas * * *" also on the CCL, is revised to read "Tear gas."

Regulations concerning foreign policy export controls, not modified above, remain unchanged. These regulations relate to human rights; South Africa and Namibia; anti-terrorism; Libya; regional stability; North Korea, Vietnam, Kampuchea and Cuba; and the U.S.S.R. and Afghanistan. Nuclear non-proliferation controls are maintained primarily pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, and do not require annual extension.

Under section 6 of the Export Administration Act of 1979 and following consultation with the Department of State, it has been determined that this rule is necessary to further significantly the foreign policy of the United States. Appropriate persons in industry and the Congress have been consulted, and the criteria set forth in section 6(b) of the Act have been considered.

Under section 4(c), it has been determined that, notwithstanding foreign availability, failure to take this action would be detrimental to the foreign policy of the United States.

Under section 6(d), it has been determined that there are no feasible alternative means of achieving the purpose of this action. As provided in section 6(g), efforts are being made to obtain cooperation of countries that produce comparable items.

Saving Clause

Shipments of commodities removed from general license as a result of these changes that were on dock for lading, on lighter, laden aboard an exporting carrier, or enroute aboard a carrier to a port of export pursuant to actual orders for export prior to February 4, 1983, may be exported under the previous general license provisions up to and including February 18, 1983. Any such commodity not actually exported before midnight February 18, 1983, requires a validated export license.

Rulemaking Requirements and Invitation to Comment

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is exempt from the requirements of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation," because it relates to a foreign affairs function of the United States.

The period of submission of comments will close March 22, 1983. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001-B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of Code of Federal Regulations. Information about the inspection and copying of records at the facility may be otained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

List of Subjects

15 CFR Part 379

Exports, Science and technology.

15 CFR Part 385

Communist countries, Exports.

15 CFR Part 399

Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368-399) are amended as follows:

PART 379—[AMENDED]

§ 379.4 [Amended]

1. Section 379.4 is amended as follows:

A. Paragraph (e)(2)(i) of § 379.4 is amended by revising the phrase "*if* such direct products are listed in § 385.4(a)(2)(i) through (v);" to read "*if* such direct products are *not* listed in § 385.4(a)(2);".

B. Paragraph (g) of § 379.4 is removed and reserved.

PART 385—[AMENDED]

§ 385.2 [Amended]

2. Paragraph (d) of § 385.2 is removed and reserved.

3. Section 385.4 is amended as follows:

A. Paragraphs (a)(2) and (a)(5) (i), (ii), (iv), and (viii) are revised, and a paragraph (a)(5)(ix) is added, to read as follows:

§ 385.4 Country Group V.

(a) * * *

(2) A validated export license is required for export or reexport to the Republic of South Africa and Namibia if:

(i) The exporter knows or has reason to know that the commodity will be sold to or used by or for military or police entities in these destinations, or used to service equipment owned, controlled, or used by or for such entities; and

(ii) The commodities being exported or reexported are:

(A) Items identified on the Commodity Control List as controlled to any destination for reasons of national security, nuclear non-proliferation, or crime control; *or*

(B) Automotive vehicles, watercraft, parts or accessories for automotive

vehicles or watercraft, or tires included in CCL entries 6490F, 6499G, or 6799G.

See § 385.4(a)(5) below for licensing policy.

Supplement No. 2 to Part 385 identifies certain entities, in addition to the military and police forces of South Africa, that are considered to be military and police entities for purposes of this regulation.

* * * * *

(5) * * *

(i) Items *not* identified on the Commodity Control List as controlled for reasons of national security, nuclear non-proliferation, or crime control;

(ii) Medical supplies and medical equipment (including air ambulances).

(iii) * * *

(iv) Word processors, personal computers, electronic cash registers, hand-held stand-alone calculators, electronic copy machines, and personal communications of types identified in the "Reason for Control" paragraph of any entry on the Commodity Control List as being controlled for "national security," if the export would not contribute significantly to military or police functions;

* * * * *

(viii) Automotive vehicles, watercraft, or parts or accessories for automotive vehicles or watercraft, and tires included in CCL entries 6490F, 6499G, or 6799G, if the export would not contribute significantly to military or police functions;

(ix) Parts or software for commodities *not* described in § 385.4(a)(2) and parts or software for commodities approved under § 385.4(a)(5)(i) through (viii).

* * * * *

B. Paragraph (a)(4) of § 385.4 is amended by revising the phrase "foreign-made end products, other than those excepted under (2) above" to read "foreign-made end products of the types described in (2) above".

C. Paragraph (a)(5)(vii) of § 385.4 is amended by inserting the word "Nimrod," before the phrase "Atlas Aircraft Corporation."

Supplement No. 2 to Part 385 [Amended]

4. Paragraph 1. (a) of Supplement No. 2 to Part 385, Interpretations, is amended as follows:

A. The phrase "direct manufacturing" is removed from before the word "subsidiaries";

B. The word "Nimrod;" is inserted before the phrase "Atlas Aircraft Corporation;" and

C. The phrase "Bureau of State Security" is revised to read "National Intelligence Service".

PART 399—[AMENDED]

§ 399.1 [Amended]

5. Paragraph (f)(4)(ii) of § 399.1 is removed and reserved.

6. The Commodity Control List (Supplement No. 1 to § 399.1) is amended as follows:

A. In Commodity Groups 0 through 9, the second note which reads:

Note.—All Commodity Control List entries in this Group are subject to export controls on the basis of the following criteria:

You need a validated license to export or reexport to the U.S.S.R. if you know or have reason to know the commodity is for any use directly in preparation for, in conduct of, in support of, or visually identified with the 1980 Summer Olympic Games that began in Moscow on July 19, 1980. These commodities are subject to controls under the authority of the foreign policy provisions contained in section 6 of the Export Administration Act of 1979." in each case is removed.

B. The paragraph titled *"Special South Africa and Namibia Controls"* is removed from the following entries: 6098F, 6099G, 6191F, 6199G, 6299G, 6390F, 6391F, 6398G, 6399G, 6699G, 6779F, and 5994G.

C. Entry 6499G is amended by revising the paragraph titled *"Special South Africa and Namibia Controls"* to read as follows:

6499G OTHER TRANSPORTATION EQUIPMENT, N.E.S.; AND PARTS AND ACCESSORIES, N.E.S.

CONTROLS FOR ECCN 6499G:

* * * * *

Special South Africa and Naibia Controls: A validated license is required for export to the Republic of South Africa and Namibia of automotive vehicles (including motorcycles), watercraft, parts and accessories for automotive vehicles or watercraft, or tires if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a).

D. The heading for entry 5597B is amended by revising the phrase "psychological testing machines" to read "psychological stress analysis equipment."

E. The heading for entry 5680B is amended by changing the period to a comma and adding the phrase "and specially designed implements of torture."

F. The heading for entry 4799B is amended by revising the phrase "Chemical agents, including tear gas" to read "Tear gas."

G. Entry 6899G is amended by revising the paragraph titled *"Special South Africa and Namibia Controls"* to read as follows:

6899G OTHER RUBBER AND RUBBER PRODUCTS, N.E.S.

CONTROLS FOR ECCN 6899G:

* * * * *

Special South Africa and Namibia Controls: A validated license is required for export of tires to the Republic of South Africa and Namibia if intended for delivery to, or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 385.4(a)

H. The heading for entry 5998B is amended by inserting "buckshot shotgun shells;" after "18 inches or over;" and before "and arms, discharge type" and by inserting the phrase "electric cattle prods," after the phrase "shock batons,".

I. The heading for entry 6998F is amended by adding after the phrase "Shotgun shells," the words "except buckshot shotgun shells,".

J. The heading of entry 5999B is amended by inserting the phrase "specially designed implements of torture;" after the word "Saps;".

(Sec. 6, 13, and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.;* Executive Order No. 12214 (45 FR 29783, May 6, 1980))

Dated: January 21, 1983.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 83–2141 Filed 1–21–83; 4:45 pm]

BILLING CODE 3510–25–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9064]

American Medical Association; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies Paragraph IV (A) of the Commission's order issued on Oct. 12, 1979 (44 FR 64803), *modified* May 19, 1982 (47 FR 25118). The modification eliminates the requirement that the AMA utilize first class mail to send a copy of the order to its members

DATES: Final Order issued Oct. 12, 1979. Modified Order to Cease and Desist issued May 19, 1982. Modification of Decision and Order issued Dec. 22, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Selig S. Merber, Washington, D.C. 20580; (202) 634–4642.

SUPPLEMENTARY INFORMATION: In the Matter of American Medical Association, a corporation. Codification

appearing at 44 FR 64803 remains unchanged.

List of Subjects in 16 CFR Part 13

Advertising, Doctors, Medical facilities.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Modification of Decision and Order is as follows:

Modification of Decision and Order

In the Matter of American Medical Association, a corporation.

The American Medical Association ("AMA") has requested that the Commission modify its Order in Docket No. 9064 to relieve AMA of its obligation under Paragraph IV (A) of the Order to send by first-class mail a copy of a letter, Appendix A to the Order, to each of its present members.

After duly considering AMA's petition, the Commission on December 22, 1982 determined that public interest considerations warrant reopening of the order, and that Paragraph IV (A) should be modified to relieve AMA of the obligation to send the required letter by first-class mail. Accordingly,

It is ordered that the proceeding be, and it hereby is, reopened.

It is ordered that the Order be, and it hereby is, modified by substituting for Paragraph IV (A) of the Order, the following:

It is further ordered that respondent American Medical Association:

A. Send by mail under separate cover a copy of a letter in the form shown in Appendix A to this Order to each of its present members and to each constituent and component organization of respondent, within sixty (60) days after this Order becomes final.

By the Commission.

Issued: December 22, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 83-1923 Filed 1-24-83; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Conduct of Members and Employees and Former Members and Employees of the Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending its Code of Conduct for Commission members and employees and former Commission members and employees. These amendments are being made to conform the Code to the Commodity Exchange Act, as amended by the Futures Trading Act of 1982. The Commission's action relates solely to agency organization, procedure, and practice.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: James Kelly, Attorney, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, telephone (202) 254-9880.

SUPPLEMENTARY INFORMATION: The Commission's Code of Conduct, 17 CFR 140.735-1 et seq., as amended, 47 FR 26810 et seq. (June 22, 1982) generally establishes ethical standards for Commission members and employees and former Commission members and employees.[1] Recent amendments to the Commodity Exchange Act, brought about by the passage of the Futures Trading Act of 1982, Pub. L. No. 97-444, 96 Stat. 2294, necessitate revisions of various sections of the Code. Accordingly, the Commission has adopted the following amendments to its Code of Conduct. The Commission has consulted with and obtained the approval of the Office of Government Ethics of the Office of Personnel Management regarding these amendments.

(1) The first changes to the Code of Conduct are technical in nature and create no new duties or obligations for Commission members and employees, or former members and employees. At the same time, these changes do not relax any previously effective duties or obligations.

The Futures Trading Act of 1982 repeals Section 2(a)(7)(B) of the Commodity Exchange Act, 7 U.S.C. 4a(f)(2) (Supp. IV 1980), which contains a prohibition on appearances before, or communications to, the Commission by former Commissioners and Commission employees classified as GS-16 or above who hold positions excepted from the competitive service because of their confidential or policy making character. The prohibition applies for a period of one year after these individuals leave the Commission.

Section 2(a)(7)(B) was added to the Commodity Exchange Act by the Futures Trading Act of 1978.[2] Subsequently, the Congress enacted Title V of the Ethics in Government Act of 1978, which amended 18 U.S.C. 207, effective on July 1, 1979.[3] The one-year post-government employment restrictions of 18 U.S.C. 207(c) are essentially the same as those in former Section 2(a)(7)(B) of the Commodity Exchange Act and apply governmentwide. Members and senior officials at the Commission will continue to be bound by the provisions of 18 U.S.C. 207(c), notwithstanding the repeal of Section 2(a)(7)(B) of the Commodity Exchange Act.

The Commission is revising the Code of Conduct to delete all references to former Section 2(a)(7)(B) and to update all references to former Section 2(a)(7)(A) of the Commodity Exchange Act, 7 U.S.C. 4a(f)(1) (Supp. IV 1980), which has been redesignated Section 2(a)(7).

(2) Among other prohibitions, Section 9(d) of the Commodity Exchange Act, 7 U.S.C. 13(d) (Supp. IV 1980), generally bars investment transactions by Commission members and employees in actual commodities, with certain specific exceptions. The Futures Trading Act of 1982 amends Section 9(d) of the Commodity Exchange Act to broaden those exceptions. Conforming modifications of the provisions of footnote 3 to Section 140.735-4(b)(2) of the Code, 17 CFR 140.735-4(b)(2), are thus necessary.

In addition to those transactions in actual commodities which were previously permitted under Section 9(d), members and employees will no longer be prohibited from engaging in certain transactions entered into by a trustee of a trust (over which the member or employee exercises no control). The trustee may engage solely in hedging in connection with previously permitted farming or ranching operations and the trustee may lease oil, gas, or other mineral rights owned by a member or employee. Also, members and employees may buy or sell (except by means of an instrument regulated by the Commission) Government securities, certificates of deposit, and other similar financial instruments if no non-public information is used in making the transactions.

A member or employee planning to participate in any transaction within the scope of the broadened exceptions to Section 9(d) must still notify the Commission in advance, as at present.[4]

[1] The Commission's Code of Conduct was adopted in 1976, 41 FR 27510 *et seq.* (July 2, 1976). It has been amended by 42 FR 15902 (March 24, 1977), 45 FR 70441 (October 24, 1980), and 47 FR 26810 (June 22, 1982).

[2] Pub. L. No. 95-405, 92 Stat. 865, 868.

[3] Pub. L. No. 95-521, 92 Stat. 1864-1867 (1978), as amended by Pub. L. No. 96-28, 93 Stat. 76-77 (1979).

[4] The Futures Exchange Act of 1982 also extends the prohibitions of Section 9(d) of the Commodity Exchange Act to include leverage transactions, but

However, the Commission has modified the procedures for notification. In the future the notification shall be submitted to the General Counsel who will transmit this notification to the Commission. The notification will, as at present, be publicly available.

(3) Section 140.735–9 of the Code, 17 CFR 140.735–9, prohibits the disclosure by members and employees of non-public information which may affect the price of any commodity futures, commodity, or option, with the intent to assist another person in any transaction. Consistent with the amendment of Section 9(e) of the Commodity Exchange Act, 7 U.S.C. 13(e) (Supp. IV 1980), by the Futures Trading Act of 1982, the prohibitions of § 140.735–9 of the Code are being extended to bar the dissemination of non-public information by members and employees about margin accounts, margin contracts, leverage accounts, leverage contracts and their functional equivalents.

The Commission has determined that these amendments to the Code of Conduct relate solely to agency organization, procedure, and practice. Therefore, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, generally requiring notice of proposed rulemaking and other opportunity for public participation, are not applicable. The Commission further finds that, because of the need promptly to update its Code of Conduct in light of the enactment of the Futures Trading Act of 1982, there is good cause to make these amendments effective immediately upon publication in the **Federal Register.**

List of Subjects in 17 CFR Part 140

Commodity futures, Conflict of interests, Ethics, Organizations and functions.

PART 140—[AMENDED]

Accordingly, the Commission, pursuant to the authority contained in Sections 2(a)(11) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. 4a(j) and 12a(5); Executive Order 11222, 3 CFR, 1964–1965 Comp., as amended; 5 CFR 735.104; and 18 U.S.C. 207(j); amends its Code of Conduct, Subpart C of Part 140 of Chapter I of Title 17 of the Code of Federal Regulations as specified below:

§ 140.735–4 [Amended]

1. In § 140.735–4(b)(1), footnote 2 is amended by removing the letter "(A)" after "2(a)(7)".

2. In § 140.735–4(b)(2), footnote 3 is revised to read as follows:

[3]Attention is directed to the provision in section 9(d) of the Commodity Exchange Act which makes it a felony for any Commission member or employee or agent thereof to participate, directly or indirectly, in any investment transaction in an actual commodity. That section further provides that the prohibition against investment transactions in actual commodities does not apply to a transaction in which the Commission member or employee (a) buys an agricultural commodity or livestock for use in his own farming or ranching operations, (b) sells an agricultural commodity which he has produced in connection with his own farming or ranching operations, (c) sells livestock he has owned at least three months, (d) establishes a trust (over which he exercises no control) in which the trustee engages in hedging transactions in connection with permitted farming or ranching operations or in which the trustee leases oil, gas, or other mineral rights owned by a member or employee, or (e) buys or sells (except by means of an instrument regulated by the Commission) U.S. Government securities, certificates of deposit, or other similar financial instruments if no non-public information is used in the transaction. A member or employee or agent planning to participate in any transaction within the scope of (a), (b), (c), (d), or (e), shall submit to the General Counsel for transmission to the Commission a written notification setting forth all pertinent facts. The submission shall be publicly available. Attention is further directed to section 2(a)(7) of the Commodity Exchange Act.

3. In § 140.735–4(b)(3), footnote 5 is amended by removing the letter "(A)" after "2(a)(7)".

§ 140.735–5 [Amended]

4. In § 140.735–5(a), footnote 7 is amended by removing the letter "(A)" after "2(a)(7)".

§ 140.735–9 [Amended]

5. In § 140.735–9, footnote 15 is revised to read as follows:

[15]Attention is directed to section 9(e) of the Commodity Exchange Act, which provides that it shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution—(1) for any Commissioner or any employee or agent thereof who, by virtue of his employment or position, acquires information which may affect or tend to affect the price of any commodity futures or commodity and which information has not been promptly made public, to impart such information with intent to assist another person, directly or indirectly, to participate in any transaction in commodity futures, any transaction in an actual commodity, or in any transaction of the character of or which is commonly known to the trade as an option, privilege, indemnity, bid, offer, put, call, advance guaranty, or decline guaranty, or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract or other arrangement that the Commission determines to serve the same function or is marketed in the same manner as such standardized contract, and (2) for any person to acquire such information from any Commissioner or any employee or agent thereof and to use such information in any of the foregoing transactions.

§ 140.735–10 [Amended]

6. In § 140.735–10(c)(2), footnote 23 is amended by removing the second paragraph.

§ 140.735–12 [Amended]

7. In § 140.735–12, paragraph (a) is amended by removing the letter "(A)" after "2(a)(7)".

§ 140.735–13 [Amended]

8. In § 140.735–13(b), footnote 27 is amended by removing the letter "(A)" after "2(a)(7)".

Dated: January 20, 1983.

By the Commission (Chairman Johnson and Commissioners Stone, Phillips, Hineman and West).

Jane K. Stuckey,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 83–2017 Filed 1–24–83; 8:45 am]

BILLING CODE 6351–01–M

comparable revisions of the present Code of Conduct are not required. Prohibitions on member and employee participation in leverage transactions were effective on June 22, 1982. *See* 47 FR 28810, 28814 (June 22, 1978) and 17 CFR 140.735–4(b)(1)(iii). The legislative history of the Futures Trading Act of 1982 makes it clear that "[t]he amendment would conform the Act to the Commission's Code of Conduct *now in force*" (emphasis added). H.R. Rept. No. 97–565, 97th Cong., 2d Sess. (1982), at p. 103. *See also* S. Rept. No. 97–384, 97th Cong., 2d Sess. (1982) at p. 96.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 133

[Docket No. 76P–0078]

Mozzarella Cheese and Low-Moisture Mozzarella Cheese; Revision of Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the standards of identity for mozzarella cheese and low-moisture mozzarella cheese, and by cross-reference, part-skim mozzarella cheese and low-moisture part-skim mozzarella cheese, to permit the addition of safe and

suitable artificial coloring during the manufacturing process.

DATES: Other than any provisions that are stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin March 28, 1983, and all products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985, shall fully comply; objections by February 24, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eugene T. McGarrahan, Bureau of Foods (HFF–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–1155.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of February 1, 1977 (42 FR 5983) a proposal, based on a petition filed by Aiello Dairy Farms Co., Inc., 1638 63d St., Brooklyn, NY 11204, to amend the standards of identity for mozzarella cheese (21 CFR 133.156) and, by crossreference, part-skim mozzarella cheese (21 CFR 133.157), and low-moisture part-skim mozzarella cheese (21 CFR 133.158).

The petitioner proposed that the mozzarella cheese standards be amended to provide for the optional addition of the color additive, titanium dioxide, to the cheeses during the manufacturing process at a level not exceeding 1 percent by weight of the food as permitted in 21 CFR 73.575. The agency further proposed to amend the standards to permit the use of any safe and suitable artificial coloring without limiting the specific colorings and the amounts that may be used.

The comments received in response to the proposal and FDA's responses to them are as follows:

1. A trade association opposed the proposal because: (1) The proposal appears to be contrary to the petitioner's desires in that it provides for the addition of any safe and suitable coloring material without restriction of the quantity added, whereas the original petition seeks to opacify/remove coloring; (2) the proposal, by providing for the addition of artificial coloring to milk prior to coagulation, cutting, and separation of the whey from the curd allows the presence of undesirable additives in whey; and (3) the proposal contains no provision for the presence of titanium dioxide or other safe and suitable artificial coloring substances in whey.

FDA agrees that providing for the addition of safe and suitable artificial coloring without specifying its functional purpose would permit the possibility of the addition of color for purposes other than intended. Therefore, FDA is revising §§ 133.155(b) and 133.156(b) to permit the addition of safe and suitable artificial coloring only to mask or neutralize any natural yellow coloring in the curd.

FDA also agrees that residues may be present in the whey because of added coloring. The coloring of most concern to the comment is titanium dioxide. If the use of titanium dioxide in the processing of cheese causes residues in the whey, the whey processor would have to limit the acceptibility of such cheese whey. However, this should not be a problem for information submitted by the petitioner and on file with the Dockets Management Branch indicates that because of the small percent of titanium dioxide needed to whiten the cheese under current good manufacturing practice, almost all of the titanium dioxide used is absorbed by the cheese. Accordingly, there is likely to be very little mozzarella cheese whey produced that contains titanium dioxide.

FDA also agrees that there is no provision in the proposal or applicable regulations regarding the presence of titanium dioxide or other safe and suitable substances in whey. This is an obvious observation, however. Whey is a nonstandardized food byproduct. The carryover to a byproduct of ingredients used to make a standardized food should not be considered surprising.

Although section 403(k) (21 U.S.C. 343(k)) of the Federal Food, Drug, and Cosmetic Act (the act) does not require declaration of artificial coloring, the agency recommends that if any safe and suitable artificial coloring is used, that fact be disclosed in the name of the food, such as "artificially colored mozzarella cheese" or in close proximity to the name, such as "mozzarella cheese (artificially colored)", and/or that the name of the coloring used appear in the ingredient statement.

2. The trade association's letter also requested that the agency withhold further action on the proposal until (1) data are presented to demonstrate that residual artificial coloring (including titanium dioxide) does not impart undesirable properties to whey resulting from such mozzarella (type) cheese manufacture, and (2) information is provided to demonstrate that alteration of mozzarella color is, in effect, desirable and/or necessary.

There is no need to withhold action. The data and information requested are available from studies regarding the whitening of cheese and from manufacturers who have been using titanium dioxide in the processing of mozzarella cheese lawfully distributed intrastate. This information as well as a research study and marketing experience reports submitted by the petitioner to demonstrate that there is a definite need to offer white mozzarella (bleached or white colored) cheese to meet consumer preference are on file in this proceeding with the Dockets Management Branch.

3. The trade association also suggested that an environmental impact statement was needed because approximately 4.6 billion pounds of fluid whey, if not utilizable because of adulteration or alteration of physical and/or chemical properties, would have to be excluded from processing. The comment indicated that, in this case, the whey will require disposal through costly waste treatment facilities at an economic hardship for cheese manufacturers. It further stated that if costs incurred for this treatment of whey as a waste material are passed on to consumers in the form of higher cheese prices, an inflationary impact also will result.

FDA does not agree that an environmental impact statement is necessary. It has long been acccepted that regulated food additives or generally recognized as safe food additives that are provided for in the manufacture of cheese will also be present, in varying amounts, in the whey. Therefore, the presence of these food additives has not been a mandatory basis for the exclusion of whey. Only when special uses of whey make it necessary to set exacting specifications, has there been the need to selectively exclude whey sources and this has been a relatively infrequent occurrence. Therefore, to allow the use of the regulated color additive titanium dioxide in mozzarella cheese, in addition to all of the other allowable food additives used in cheeses, would not appear to increase the amount of whey that might be selectively excluded from use.

Billions of pounds of liquid whey are discarded each year because there is no economical use for it. There is no indication that the existing capacity to treat and dispose of discarded whey could not handle any increment in waste resulting from the use of titanium dioxide.

4. A comment from a restaurant chain opposed the amendment because it does not limit the specific colorings or the amounts that may be used and does not require disclosure of the presence of

coloring when used. The comment further urges mandatory declaration of artificial coloring. The comment requested, however, that no further action be taken to further the proposal prior to a clear showing that (1) it is desirable, (2) it is necessary, and (3) it will not have undesirable "side effects" in the cheese.

FDA continues to adhere to the policy set forth in 21 CFR 101.6 that the labels of standardized foods should bear "complete information" about the ingredients contained in the food. However, section 403(k) of the act specifically exempts the declaring of artificial color on the label of cheese, and thus such declaration cannot be made mandatory by regulation.

FDA notes that information was submitted by the petitioner that demonstrates that, to many people, a white mozzarella cheese is desirable and acceptable.

5. A consumer affairs group objected to the proposal because titanium dioxide had been approved by FDA several years ago, based on what the group termed "scanty evidence," and the substance has not been tested for either middle-term or long-term effects on health. They further stated that the addition of titanium dioxide to the food is irrelevant, because consumers do not expect titanium dioxide or any other color additive in cheese.

Regarding the group's objection that consumers do not expect titanium dioxide or any other color additive in cheese, the petitioner states that the amendment is being requested because many consumers demand a white mozzarella cheese, and such demand has been met by the cheese industry for over 35 years by using titanium dioxide, in States where it is presently allowed, to mask its yellow color.

FDA is aware that in the past some food additives and color additives may have been approved with less data than would be required by present-day scientific procedures. Approval may be granted on the basis of scientific procedures which include those human, animal, analytical, and other scientific studies appropriate to establish the safety of a substance. It is impossible in the present state of scientific knowledge to establish with absolute certainty the absolute harmlessness of the use of any substance. The safety of titanium dioxide as well as other regulated color additives was established with reasonable certainty, by competent scientists, for the intended conditions of use.

FDA advises that it is currently reevaluating the data that formed the basis for the "permanent" listing of color additives in previous years. Should FDA conclude that those data need updating, or that the decision to list a color should be reconsidered, appropriate action will be taken. In the meantime, titanium dioxide and all other color additives regulated for use in food are considered safe color additives, and if suitable may be used in mozzarella cheese in accordance with the standards as set forth below and the applicable color additive regulations.

6. A cheese company indicated that it believed that the proposal for the use of safe and suitable colors included the use of "bleaching agents." It further indicated concern as to the effect of bleaching agents on the riboflavin content of the cheese.

Safe and suitable colors do not include bleaching agents; the specific substance, titanium dioxide, is not a bleaching agent. Therefore, safe and suitable colors can have no effect on the riboflavin content of the cheese. The agency concludes that this comment does not provide any basis for modification of the proposed regulation. FDA points out that in industry cheesemaking, the three usual means of reducing the yellow color of cow's milk cheese are: (1) Adding neutralizing dyes which absorb yellow color, (2) bleaching the β-carotene with benzoyl peroxide, and (3) masking the yellow color with titanium dioxide.

7. A school of pharmacy requested that titanium dioxide be classified as an "opacifier" and be declared on the label.

FDA notes that 21 CFR 73.575 establishes that titanium dioxide is a "color additive" that may be safely used for coloring foods generally. Even though classified as an "opacifier", it is regulated as a color additive in cheese and exempted from label declaration by section 403(k) of the act.

8. The 48 comments received from consumers opposed the proposal for several reasons. Twenty-four stated that consumers prefer natural food either without or with as few as possible "artificial" additives. Four of these and five other comments stated that "eye appeal" is no reason for an additive in a natural food. Seven did not agree that mozzarella cheese is more desirable with a white, satiny appearance, and four stated that consumers should be educated as to why the color of mozzarella cheese varies.

FDA notes that the recognized cheese authority Frank V. Kosikowski, Ph. D., Professor of Food Service, Cornell University, in his book "Cheese and Fermented Milk Foods," pp. 413–416 (Ref. 1) explains that the color of a food carries with it a deep psychological meaning for the individual. He states that consumer desire for white mozzarella cheese stems from history, relating to areas of Europe and Asia where the cheeses of Mozzarella, Feta, Lightvan, and Roquefort varieties are white because the usual milking animals of the area, the water buffalo, sheep, and goat, give milk that is flat white.

As set out in the petition, many consumers have demanded a white mozzarella cheese for many years and simply will not purchase it unless it is white. The petitioner further states a readiness to substantiate this fact by providing evidence at a public hearing. In support of the proposed amendment, a dairy cooperative stated that, based upon its experience, consumers prefer a mozzarella cheese which has a uniformly white, satiny appearance and will invariably select the one which is whiter in appearance when confronted with a choice.

9. Twenty-one comments expressed concern that color additives could produce allergic reactions, and their presence in mozzarella cheese would not be in the interest of those who have extreme sensitivity to certain color additives and cannot tolerate them. Twelve of these comments dealt specifically with ingredient labeling, stating that everyone, not just persons with allergies, should be informed of the ingredients in all foods. One comment stated that FDA regulations should be amended "to provide for mandatory disclosure of any nonnatural process or additive rather than leaving it voluntary."

FDA advises that section 403(g) of the act (21 U.S.C. 343(g)) precludes food standard regulations from requiring the names of spice, flavoring, and coloring ingredients, even if optional, to be listed on the labels. Section 403(k) of the act (21 U.S.C. 343(k)) further exempts butter, cheese, and ice cream from labeling requirements by providing that the presence of artificial coloring need not be stated on the labels of such foods. These provisions of the law restrict the agency's ability to provide for "mandatory disclosure" of ingredients.

Nonetheless, FDA is aware of the public desire to have full ingredient listings on labels, including the names of individual color additives, and is attempting, within its legal authority, to provide this information. FDA has urged and will continue to urge manufacturers to voluntarily declare on food labels any artificial coloring that may be present. Furthermore, when there is clear evidence of a safety concern with the use of any color additive, the agency is prepared to take regulatory action under the color additive provisions of the act.

which may include labeling requirements, to ensure its safe use. For example, a final regulation published in the **Federal Register** of June 26, 1979 (44 FR 37212) amended the color additive regulation for FD&C Yellow 5 (21 CFR 74.1705) and 21 CFR 101.22 to require the label declaration of FD&C Yellow 5 because it has been shown to cause very severe allergic reactions in a significant number of individuals. Statutory authority for this action is found in section 706(b)(1) of the act (21 U.S.C. 376(b)(1)) which authorizes the Secretary to provide by regulation for the use of color additives" * * * if and to the extent that such additives are suitable and safe * * *." Because of the number and severity of the allergic reactions which would result from the undisclosed use of FD&C Yellow 5, the agency has concluded that its use would not be safe without a label declaration.

The comments to this revision of the mozzarella cheese standard to permit the use of color additives merely assert that some color additives are known to cause allergic reactions in some sensitive people. If FDA were presented with appropriate evidence showing that titanium dioxide, or any other color additive, caused severe and numerous allergic reactions similar to FD&C Yellow 5, it would propose regulations for the mandatory label disclosure of the color.

10. Nineteen comments stated that some food additives have proven to be poisonous, unsafe and in some cases carcinogenic. Some opposed the use of all colors in food because of the alleged relationship between ingestion of food and color additives and hyperkinesis in children, while some stated that if colors are used the consumer should be so informed by the label.

FDA is aware that behavioral disorders related to the hyperkinetic syndrome are found in children. The possible relationship between food and color additives and the hyperkinetic syndrome in children is a health issue that is currently being studied by various agencies within the Department of Health and Human Services and by outside groups. The findings of these studies will have a direct bearing on future actions of FDA in relation to the use of food and color additives.

As of the present time, however, data have not been presented to demonstrate that the use of safe and suitable artificial colors as proposed contributes to behavioral disorders.

FDA has consistently supported more complete and informative ingredient labeling of foods. FDA has also supported legislation that would require specific label designation of all additives in food, and it will continue to seek ways to provide more informative food labeling to consumers.

Accordingly, after consideration of the comments received and other relevant information, FDA concludes that it will promote honesty and fair dealing in the interest of consumers to amend the standards of identity for mozzarella cheeses as set forth below.

Reference

The following material has been placed on file with the Dockets Management Branch (address above) and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Kosikowski, F. V., "Cheese and Fermented Milk Foods," pp. 413–418, 2d Ed., 1977.

The requirement for a regulatory flexibility analysis under the Regulatory Flexibility Act does not apply to this final rule because the proposed rule was issued prior to January 1, 1981, and is therefore exempt.

List of Subjects in 21 CFR Part 133

Cheese, Food standards.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 133 is amended as follows:

PART 133—CHEESES AND RELATED CHEESE PRODUCTS

1. In § 133.155 by revising paragraphs (b) and (f) to read as follows:

§ 133.155 Mozzarella cheese and scamorza cheese.

* * * * *

(b) Milk, which is pasteurized, is warmed to approximately 88° F (31.1° C) and subjected to the action of harmless lactic-acid-producing bacteria, which may be added thereto as starter. The milk may be acidified with vinegar. Liquid rennet, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both may be added to aid in setting the milk to a semisolid mass. Safe and suitable artificial coloring to mask or neutralize any natural yellow color in the curd may be added. The mass is cut, and it may be stirred to facilitate separation of whey from the curd. The whey is drained, and the curd may be washed with cold water and the water drained off. The curd may be collected in bundles for further drainage and for ripening. The curd may be iced, it may be held under refrigeration, and it may be permitted to warm to room temperature and ripen further. The curd may be cut. It is immersed in hot water or heated with steam and is kneaded and stretched until smooth and free of lumps. Then it is cut and molded. The molded curd is firmed by immersion in cold water and may be salted in brine and drained.

* * * * *

(f) Label declaration of ingredients: Each of the ingredients used in the food shall be declared on the label as required by applicable sections of Part 101 of this chapter. Pursuant to section 403(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(k)), artificial color need not be declared, except as required by § 101.22(c) of this chapter. Voluntary declaration of such color in cheese is recommended.

2. In § 133.156 by revising paragraphs (b) and (f) to read as follows:

§ 133.156 Low-moisture mozarella and scamorza cheese.

* * * * *

(b) Milk which is pasteurized, and which may be clarified or homogenized or both, and which may be warmed, is subjected to the action of harmless lactic-acid-producing bacteria, which may be added thereto as a starter. The milk may be acidified with vinegar. Rennet, rennet paste, extract of rennet paste, or other safe and suitable milk-clotting enzyme that produces equivalent curd formation, singly or in any combination (with or without purified calcium chloride in a quantity not more than 0.02 percent, calculated as anhydrous calcium chloride, of the weight of the milk) is added to aid in setting the milk to a semisolid mass. Safe and suitable artificial coloring to mask or neutralize any natural yellow color in the curd may be added.

The mass is cut, stirred, and allowed to stand. It may be reheated and again stirred. The whey is drained, and the curd may be cut and piled to promote further separation of whey. It may be washed with cold water and the water drained off. The curd may be collected in bundles for further drainage and ripening. The curd may be used, it may be held under refrigeration, and it may be permitted to warm to room temperature and ripen further. The curd may be cut. It is immersed in hot water or heated with steam and is kneaded and stretched until smooth and free of lumps. Then it is cut and molded. In molding, the curd is kept sufficiently warm to cause proper sealing of the surface. The molded curd is firmed by

immersion in cold water and may be salted in brine and drained.

* * * * *

(f) Label declaration of ingredients: Each of the ingredients used in the food shall be declared on the label as required by applicable sections of Part 101 of this chapter. Pursuant to section 403(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(k)), artificial color need not be declared, except as required by § 101.22(c) of this chapter. Voluntary declaration of such color in cheese is recommended.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 24, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation Received objections may be seen in the office above between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Other than any provisions that are stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin March 28, 1983, and all products initially introduced or initially delivered for introduction into interstate commerce on or after July 1, 1985 shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register**.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: January 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1869 Filed 1-24-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 77N-0037]

GRAS Status of Certain Red and Brown Algae and Their Extractives

Correction

In FR Doc. 82-29222 beginning on page 47373 in the issue of Tuesday, October 26, 1982, make the following correction:

On page 47374, column one, paragraph designated as "4.," "fasica" should read "fascia."

BILLING CODE 1505-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Pyrantel Pamoate Paste

Correction

In FR Doc. 82-29338 beginning on page 47376 in the issue of Tuesday, October 26, 1982, make the following correction:

On page 47377, column one, § 520.2044(c), "Conditioners" should read "Conditions."

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5f

[T.D. 7864]

Change in Annual Accounting Period of Possessions Corporations and Virgin Islands Corporations

Correction

In FR Doc. 82-35314 beginning on page 57920 in the issue of Wednesday, December 29, 1982, make the following changes:

1. On page 57920, the third column, the second complete paragraph, the last line which presently reads "553(b)." should read "553(d)."

2. On page 57921, the first column, in the paragraph designated "(2)", in the second line there should be space between "936" and "may".

3. On the same page, in the same paragraph, the last line should read "paragraph (b)(1) of § 1.442-1."

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Memorandum 82-2]

Organization of the Department of Justice; Civil Rights Division

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This memorandum delegates the authority previously granted to the Assistant Attorney General, Civil Rights Division, to deny requests made under the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a.

EFFECTIVE DATE: September 1, 1982.

FOR FURTHER INFORMATION CONTACT: Janet L. Blizard, Freedom of Information/Privacy Act Officer, Civil Rights Division, Department of Justice, Washington, DC 20530 (202-633-4209).

SUPPLEMENTARY INFORMATION:

List of Subjects in 28 CFR Part 0

Government employees and organization and functions (government agencies).

PART 0—[AMENDED]

Pursuant to the authority vested in me by Subpart J of Part 0 of Chapter I of Title 28, Code of Federal Regulations, I issue the following memorandum which replaces Memorandum 78-1 as an appendix to Subpart J of Part 0 of Chapter I of Title 28, Code of Federal Regulations.

Accordingly, the Appendix to Subpart J of Part 0 of Title 28, Code of Federal Regulations, is amended by revising the Memorandum 78-1 to read:

Appendix to Subpart J—Civil Rights Division

* * * * *

[Memo 78-1]

Delegations of Authority Denials of Freedom of Information and Privacy Act Requests

1. The Deputy Assistant Attorney General for Litigative Enforcement will assume the duties and responsibilities previously assigned to the Assistant Attorney General by 28 CFR 16.5 (b) and (c) and 16.45(a), as amended July 1, 1977, and defined in those sections, for denying requests and obtaining extensions of time under the Freedom of Information Act, 5 U.S.C. 552, et seq., and the Privacy Act, 5 U.S.C. 552a, et seq.

2. In the absence or unavailability of the Deputy Assistant Attorney General for Litigative Enforcement, the Deputy Assistant Attorney General for Legislation and Litigation is authorized to assume the duties and responsibilities described in paragraph 1.

3. In the absence or unavailability of the Deputy Assistant Attorney General for Litigative Enforcement and the Deputy Assistant Attorney General for Legislation and Litigation, the Deputy Assistant Attorney General for Policy and Coordination, or in his or her absence or unavailability, the Chief of the Appellate Section, is authorized to assume the duties and responsibilities described in paragraph 1.

4. The Deputy Assistant Attorney General for Litigative Enforcement, the Deputy Assistant Attorney General for Legislation and Litigation, the Deputy Assistant Attorney General for Policy and Coordination or Chief of the Appellate Section, who signs a denial or partial denial of a request for records made under the Freedom of Information Act or the Privacy Act shall be the "person responsible for the denial" within the meaning of 5 U.S.C. 552a and 5 U.S.C. 552a (j) and (k).

Wm. Bradford Reynolds,

Assistant Attorney General, Civil Rights Division.

[FR Doc. 83-1957 Filed 1-24-83; 8:45 am]

BILLING CODE 4410-01-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Post-Vietnam Era Veterans' Educational Assistance Program

AGENCY: Veterans Administration and the Department of Defense.

ACTION: Final Regulations.

SUMMARY: These regulations, issued jointly by the Veterans Administration and the Department of Defense, clarify that participants in VEAP (Post-Vietnam Era Veterans' Educational Assistance Program) may not receive an extended period of eligibility for benefits. They also require State approving agencies to include in their monthly reports activities connected with schools which have students receiving benefits under VEAP. These regulations make these minor corrections in the regulations governing VEAP.

EFFECTIVE DATE: January 7, 1983.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: On pages 30269 and 30270 of the **Federal Register** of July 13, 1982, there was published notice of intent to amend Part 21 to make minor corrections in the regulations governing VEAP.

Interested people were given 30 days in which to submit comments, suggestions or objections regarding the proposal. The Veterans Administration and the Department of Defense received no comments. Accordingly, the agencies are adopting the proposal.

The Veterans Administration and the Department of Defense have determined that these regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The regulations will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs and the Secretary of Defense hereby certify that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. These regulations are exempt under 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This certification is based on the fact that the amendment to section 21.5030 will affect only individual benefit recipients. The amendment to section 21.5150 will affect only agencies of State government. States are not small entities according to the Regulatory Flexibility Act.

These regulations will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.120.

Approved: December 6, 1982.

Approved: January 7, 1983.

By direction of the Administrator:

Everett Alvarez, Jr.,

Deputy Administrator.

R. Dean Tice,

Deputy Assistant Secretary of Defense.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration amends 38 CFR Part 21 as follows:

1. In § 21.5030, paragraph (c)(3) is revised as follows:

§ 21.5030 Applications, claims informal claims, and time limits

* * * * *

(c) * * *

(3) Section 21.1032 (except paragraph (d))—Time limits.

(38 U.S.C. 1641, 1671)

2. In § 21.5150, paragraph (e) is added as follows:

§ 21.5150 State approving agencies.

* * * * *

(e) Section 21.4154—Report of activities.

(38 U.S.C. 1641, 1774)

[FR Doc. 83-2024 Filed 1-24-83; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 21

Extension of the Post-Vietnam Era Veterans' Educational Assistance Program

AGENCIES: Veterans Administration and Department of Defense.

ACTION: Final regulations.

SUMMARY: These regulations, issued jointly by the Veterans Administration and the Department of Defense, are necessary because President Reagan has extended VEAP (the Post-Vietnam Era Veterans' Educational Assistance Program). The Veterans Administration will no longer contribute to the fund for training that occurs after December 31, 1981. These contributions will be made by the Secretary of Defense. The Veterans' Education and Employment Assistance Act of 1976 requires this change in funding following an extension of the program.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont

Avenue, NW., Washington, D.C. 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: On pages 29269 and 29270 of the **Federal Register** of July 6, 1982, there was published notice of intent to amend Part 21 to implement President Reagan's extension of VEAP.

Interested people were given 30 days in which to submit comments, suggestions or objections regarding the proposal. The Veterans Administration and the Department of Defense received no comments, suggestions or objections. Accordingly, the agencies adopted the proposed § 21.5054. It appeared in the **Federal Register** on November 17, 1982. The agencies are adopting the remainder of the proposal now.

The agencies have determined that these regulations contain no major rules as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. They will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans Affairs and the Secretary of Defense hereby certify that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reasons for these certifications are as follows:

These regulations regulate individuals and provide for internal shifts within the Federal government in the funding for this program.

They will have no significant impact on small entities, i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Veterans Administration, Vocational education, Vocational rehabilitation.

(The Catalog of Domestic Assistance Program number is 64.120)

Approved: December 8, 1982.

Approved: January 7, 1983.

By direction of the Administrator:

Everett Alvarez, Jr.,

Deputy Administrator.

R. Dean Tice,

Deputy Assistant Secretary of Defense.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration is amending Part 21 as follows:

1. In § 21.5132, paragraph (b) (2) and (3) is revised as follows:

§ 21.5132 Criteria used in determining benefit payments.

* * * * *

(b) *Contributions.* * * *

(2) The amount the Veterans Administration has contributed to the fund for the individual. This is twice the individual's contribution. The Secretary of Defense will make this contribution instead of the Veterans Administration for all payments made for training that occurs after December 31, 1981.

(3) Any additional amount the Secretary of Defense has contributed to the fund for the individual. (38 U.S.C. 1631)

2. In § 21.5138, paragraph (b) (6), (7) and (10) is revised as follows:

§ 21.5138 Computation of benefit payments and monthly rates.

* * * * *

(b) *Computation of benefit payment.* The Veterans Administration will compute benefit payments as follows for all training except for those individuals to whom § 21.5136(b)(1) or § 21.5139 applies. (38 U.S.C. 1631; Pub. L. 96–466, 94 Stat. 2171)

* * * * *

(6) Enter two times the amount in line 11.....(12)———

(This is the Veterans Administration's portion of benefit payments for training completed before January 1, 1982. The Secretary of Defense will contribute this portion of the benefit payment for training that occurs after December 31, 1981.)

(7) Enter the amount of the additional contributions, if any, remaining in the fund which the Secretary of Defense contributed for the individual.....(j)———

* * * * *

(10) Divide line k by line 1. Enter the quotient.....(13)———

(This is the Department of Defense's portion for training completed before January 1, 1982. For training completed after December 31, 1981, this is the second part of the Department of Defense's portion.) (38 U.S.C. 1631)

* * * * *

[FR Doc 83–3022 Filed 1–24–83; 8:45 am]

BILLING CODE 8320–01–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 67]

ADP Services Contracting

AGENCY: General Services Administration.

ACTION: Temporary Regulation.

SUMMARY: The purpose of this regulation is to revise section 1–4.1209–3 to modify the procedures to be followed by agencies for selections under the Teleprocessing Services Program (TSP) Multiple Award Schedule (MSA). GSA temporarily discontinued calculating overall year-to-date, dollar volume discounts commencing with the start of FY 1983. The intent and effect is to bring the policies and procedures for the TSP MAS in line with actual practices.

DATE: Effective date: This regulation is effective October 1, 1982.

Expiration date: This regulation will expire September 30, 1983, unless revised or superseded earlier.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Office of Federal Procurement Regulations, Office of Acquisition Policy, (202–523–4755).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. The General Services Administration's decisions are based on adequate information concerning the need for, and consequences of, this rule. This rule has been written to ensure maximum benefits to Federal agencies. This is a Government-wide procurement regulation that will have little or no effect on society.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, FPR Temporary Regulation 67 is added to the appendix at the end of the chapter.

Federal Procurement Regulations

[FPR Temp. Reg. 67]

January 4, 1983.

To: Heads of Federal agencies

Subject: Teleprocessing Services Program (TSP) Multiple Award Schedule (MAS) Selections under Subpart 1–4.12

1. *Purpose.* This regulation modifies the procedures to be followed by agencies for selections under the TSP MAS. The requirement to consider the overall year-to-date, Government-wide volume of business for each of the competing TSP contractors in an individual agency source selection is deleted.

2. *Effective date.* This regulation is effective October 1, 1982.

3. *Expiration date.* This regulation expires on September 30, 1983.

4. *Background.* GSA has provided agencies making selections under the MAS with the year-to-date, Government-wide, dollar volume of business for the competing TSP contractors so that the appropriate dollar volume discounts could be applied in the selection process. However, serious difficulties have been encountered in the timely receipt and compilation of the discount data. It is necessary to simplify the approach. In Fiscal Year 1983, individual user evaluations will be based on an assumed "zero volume" for each contractor. Consequently, for individual order evaluation only, agencies will use the level of discount for each contractor that is applicable to the agency's estimated monthly usage for the requirement being evaluated.

5. *Explanation of change.* Paragraph (b)(4) in section 1–4.1209–3 is amended to delete the requirement to obtain the most recent rates and discounts from GSA, to read as follows:

(4) For selections under the MAS, prices, rates, and discounts applied in the calculation of system life cost shall conform to the terms of the schedule agreement. Related ADP support service costs for selections under the MAS shall be derived directly from the pricelists.

6. *Submission of comments.* Comments are invited concerning the effect or impact of this regulation and the policy and procedures that should be adopted in the future. Comments should be addressed to GSA, (KMPP), Washington, DC 20405 and should be submitted within 90 days after the publication of this regulation in the Federal Register.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–2020 Filed 1–24–83; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3110, 3120 and 3130

Oil and Gas Leasing; Making the Contingent Right Stipulation Optional to Applicant for an Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Rule related notice of final decision on using the Contingent Right Stipulation.

SUMMARY: By Federal Register notice published August 10, 1982 (47 FR 34577), the Bureau of Land Management requested comments on making the Contingent Right Stipulation optional to the applicant for an oil and gas lease on land administered by the Bureau.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Rob Cervantes, (202) 343–7722.

SUPPLEMENTARY INFORMATION: Twenty comments were received; fifteen from industry, two from trade associations, two from attorneys and one from a title service company.

The majority of the comments were opposed to the use of the contingent right stipulation. The degree of opposition ranged from moderate opposition to "adamantly and unequivocally" opposed. Although the Bureau indicated in the published notice that acceptance of a contingent right stipulation would be optional with the lessee, most commentors were concerned that the Bureau will be forced into the position of requiring a prospective lessee to accept a contingent right stipulation or to underwrite the necessary environmental assessment or environmental impact statement.

After careful consideration of the comments, the Department has decided to keep the option open to prospective lessees to accept a contingent right stipulation in order to accelerate lease issuance in those instances where the planning or environmental studies on the Bureau administered lands are not sufficiently complete to fully condition (stipulate) the lease. Such option is to the election of the lease applicant. If the applicant elects not to accept a contingent right stipulation the lease application will remain pending without loss of priority.

Applicants for oil and gas leases in test areas administered by the Forest Service will be asked by the Bureau whether they will accept a contingent right stipulation. Where the contingent right stipulation lease is not acceptable to applicant, the Bureau will hold the application pending without loss of priority.

Dated: January 19, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83–1986 Filed 1–24–83; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Public Land Order 6343

[OR–19046]

Oregon; Public Land Order No. 6086; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the land description of Public Land Order No. 6086 of November 16, 1981.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The land description in Public Land Order No. 6086 of November 16, 1981, in FR Doc. 81–33732 in the issue of Monday, November 23, 1981, at page 57290, is corrected as follows:

Under T. 1 S., R. 19 E., the line reading "sec. 11, SW¼SW¼," should read "sec. 11, SW¼NW¼."

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 15, 1983.

[FR Doc. 83–1992 Filed 1–24–83; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Public Land Order No. 6344

[OR–22054 (WASH)]

Oregon; Public Land Order No. 6181; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the land description in Public Land Order No. 6181 of February 25, 1982.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

In FR Doc. 82–6119 published at page 9841, in the issue of Monday, March 8, 1982, the land description is corrected as follows:

Under Willamette Meridian, the lines reading "T. 9 N., R. 25 N., sec. 20, that portion of S½SE¼NE¼," should read "T. 9 N., R. 25 E., sec. 20, that portion of lot 2, located within the NW¼."

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 15, 1983.

[FR Doc. 83–1991 Filed 1–24–83; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order No. 6345

[OR-19168]

Oregon; Public Land Order No. 6038; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the heading of Public Land Order No. 6038 of October 1, 1981, which cites Powersite Restoration No. 347 instead of Powersite Cancellation No. 347.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The heading in Public Land Order No. 6038 of October 1, 1981, in FR Doc. 81–29342 in the issue of Thursday, October 8, 1981, at page 49874, column one which reads "Oregon; Powersite Restoration No. 347" is hereby corrected to read "Oregon; Powersite Cancellation No. 347."

Garrey E. Carruthers,
Assistant Secretary of the Interior.
January 15, 1983.
[FR Doc. 83–1980 Filed 1–24–83; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Public Land Order 6346

[OR–19181]

Oregon; Public Land Order No. 6090; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the heading of Public Land Order No. 6090 of November 16, 1981, which cites Powersite Restoration No. 735 instead of Powersite Cancellation No. 324.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The heading in Public Land Order No. 6090 of November 16, 1981, in FR Doc. 81–35003 in the issue of Monday, December 7, 1981, at page 58542, column one which reads "Oregon; Powersite Restoration No. 735" is hereby corrected to read "Oregon; Powersite Cancellation No. 324."

Garrey E. Carruthers,
Assistant Secretary of the Interior.
January 15, 1983.
[FR Doc. 83–1993 Filed 1–24–83; 8:45 am]
BILLING CODE 4310–84–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 30113–08]

Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule related notice.

SUMMARY: 50 CFR 611.20(c) specifies that the initial estimates of U.S. harvests and TALFFS will be published at the beginning of the relevant fishing year. This notice presents the numbers as they existed on January 1, 1983, for all foreign fisheries, except Pacific groundfish. Proposed estimates for the latter were published at 47 FR 57977 on December 29, 1982.

EFFECTIVE DATE: January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Susan E. Jelley, 202–634–7432.

SUPPLEMENTARY INFORMATION:

January 1, 1983.

OPTIMUM YIELD (OY), ESTIMATED DOMESTIC ANNUAL HARVEST (DAH), ESTIMATED DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NON-PROCESSED FISH (DNP), AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+TALFF. DAH=DAP+JVP+DNP

Species	Species [illegible]	Areas	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
1. *Northwest Atlantic Ocean Fisheries:*									
A. Hake fishery:									
Hake, silver	104	1–4	[illegible]	22,600	[illegible]	0		0	[illegible]
		5	13,000	9,000	9,000	0		0	4,000
Hake, red	105	1–4	16,200	13,000	13,000	0		0	3,200
		5	5,800	500	500	0		[illegible]	2,500
B. Mackerel fishery: Mackerel, Atlantic	[illegible]		[illegible]	20,000	5,000	0		[illegible]	4,000
C. Trawl fishery:									
Herring, river	[illegible]		8,000	7,900	7,900	0		0	100
Other finfish	[illegible]		247,000	200,200	180,000	20,200		0	46,800
D. Squid fishery:									
Squid, long-finned	[illegible]		44,000	7,000	[illegible]7,000	0		19,000	18,000
Squid, short-finned	[illegible]		30,000	5,000	[illegible]5,000	0		[illegible]2,223	22,777
E. Butterfish fishery: Butterfish	212		11,000	7,000	7,000	0		0	4,000
2. *Atlantic and Gulf Fisheries:*									
A. Atlantic billfish and sharks fishery: [illegible]	[illegible]		6,150	5,000				0	1,150
B. Royal red shrimp fishery	[illegible]		177.8	111.6				0	[illegible]
3. *Western Pacific Ocean Fisheries:*									
A. Seamount Groundfish Fishery:									
Armorheads	200								
Alfonsins	[illegible]								
Other groundfish	499		[illegible]700	0	0	0		0	[illegible]
B. Pacific Billfish and Sharks Fishery:									
Swordfish	[illegible]	West Coast	318.4	350.2	0	0		0	0

OPTIMUM YIELD (OY), ESTIMATED DOMESTIC ANNUAL HARVEST (DAH), ESTIMATED DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NON-PROCESSED FISH (DNP), AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+TALFF. DAH=DAP+JVP+DNP—Continued

Species	Species code	Areas	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
		Hawaii & Midway	93.6	5.9	0	0		0.0	78.5
		Guam & N. Mananas	4.1	0.2	0	0		0.4	3.5
		American Samoa	2.4	0	0	0		0	2.4
		U.S. possessions	28.1	0	0	0		0	28.1
Blue Marlin	260	West Coast							
		Hawaii & Midway	512.0	000.4	0	0		8.6	78.8
		Guam & N. Mananas	20.0	3.0	0	0		20.0	0
		American Samoa	37.2	2.3	0	0		0	34.9
		U.S. possessions	76.3	0	0	0		0	76.3
Black Marlin	253	West Coast							
		Hawaii & Midway	97.7	104.7	0	0		0	0
		Guam & N. Mananas	0.6	0	0	0		0.1	0.5
		American Samoa	5.3	0	0	0		0	5.3
		U.S. possessions	6.2	0	0	0		0	6.2
Striped Marlin	251	West Coast	43.2	47.5	0	0		0	0
		Hawaii & Midway	223.2	07.7	0	0		15.5	100.0
		Guam & N. Mananas	5.0	0.8	0	0		0.8	4.2
		American Samoa	7.8	0	0	0		0	7.8
		U.S. possessions	46.6	0	0	0		0	46.6
Sailfish	252	West Coast						0	
Spearfish	252	Hawaii & Midway	42.7	21.4	0	0		0.9	17.4
		Guam & N. Mananas	4.6	0.2	0	0		0.5	4.1
		American Samoa	3.5	1.3	0	0		0	3.2
		U.S. possessions	14.3	0	0	0		0	14.3
Sharks 283, 285, 286, 287, 469		West Coast	27.6	20.4	0	0		0	0
		Hawaii & Midway	1,111.6	0	0	0		111.1	1,000.5
		Guam & N. Mananas	31.9	0	0	0		0	31.9
		American Samoa	101.6	0	0	0		0	101.6
		U.S. possessions	551.4	0	0	0		0	551.4
Wahoo	256	West Coast							
		Hawaii & Midway	295.9	317.8	0	0		0	0
		Guam & N. Mananas	25.1	27.1	0	0		0	0
		American Samoa	4.8	2.8	0	0		0	2.0
		U.S. possessions	0	0	0	0		0	0
Mahi mahi	237	West Coast							
	236	Hawaii & Midway	105.0	115.5	0	0		0	0
		Guam & N. Mananas	18.9	20.8	0	0		0	0
		American Samoa	5.4	4.4	0	0		0	2.0
		U.S. possessions	0	0	0	0		0	0
4. *Alaska Fisheries* (Source: 47 FR 1297):									
A. Bering Sea and Aleutian Islands groundfish fishery:									
Pollock	701	Bering Sea [1]	1,000,000	19,550	10,000	9,050	500	50,000	930,450
		Aleutians [2]	100,000	0	0	0		0	100,000
Yellowfin Sole	776		117,000	20,300	1,000	15,000	200	5,850	84,950
Turbots	721,118		80,050	1,075	1,000	75		4,500	84,425
Other Flatfishes	129		61,000	4,200	1,000	3,000	200	3,050	53,750
Pacific Cod	702		78,700	43,265	26,000	17,065	200	3,935	31,500
Pacific Ocean Perch: [4]	790	Bering Sea [1]	5,250	1,380	550	830		102	1,708
		Aleutians [2]	7,500	1,380	550	830		375	5,745
Other Rockfish	840		7,727	1,550	1,100	450		500	5,677
Sablefish	700	Bering Sea [1]	3,500	700	500	200		350	2,450
		Aleutians [2]	1,500	700	500	200		150	650
Atka Mackerel	207		24,500	100	0	100		1,240	23,460
Squid	558		10,000	50	0	50		500	9,450
Other Species [3]	499		74,249	2,000	1,400	250	100	3,712	68,537
B. Snail fishery: Snails (meats)	873		3,000	0	0	0		0	3,000
C. Gulf of Alaska Groundfish Fishery (Source: 47 FR 23939):									
Pollock	701	Western [5]	57,000	5,775	25	5,750		11,400	39,825
		Central [5]	65,200	13,320	5,380	7,940		19,040	02,840
		Eastern [5]	16,600	2,215	695	1,520		3,320	11,065
		Total	138,800	21,310				23,750	113,730
Pacific Cod	702	Western	16,560	1,880	240	1,040	600	3,312	11,368
		Central	33,540	8,050	2,480	1,370	1,200	8,706	20,752
		Eastern	9,900	2,070	390	500	1,700	1,980	5,550
		Total	60,000	10,000				12,000	28,000
Flounders	129	Western	10,400	700	100	600		2,080	7,620
		Central	14,700	1,120	300	820		2,940	10,640
		Eastern	8,400	1,360	900	460		1,680	5,360
		Total	33,500	3,180				6,700	23,620
Pacific Ocean Perch [4]	790	Western	2,700	885	25	320		540	1,815
		Central	7,900	1,255	295	960		1,580	5,065
		Eastern	875	500	300	200		175	200
		Total	11,475	2,100				2,295	7,080
Other Rockfish [6]	849	Total	7,600	900	700	200		1,520	5,180
Sablefish [7]	703	Western	2,100	270	100	170		420	1,410
		Central	3,800	1,220	1,000	220		760	1,820
		Yakutat District [8]	3,400	1,380	980	200		1,420	600
		Southeast Outside [8]	3,000	2,910	2,820	90		0	90
		Total	12,300	5,780				2,600	3,920
Atka Mackerel	207	Western	4,678	290	0	290		936	3,452
		Central	20,830	1,080	0	1,080		4,167	15,580
		Eastern	3,190	700	0	700		827	1,849
		Total	28,700	2,070				5,740	20,880
Squid	509	Total	5,000	150	0	150		1,000	3,850
Other Species [3]	499	Total	16,200	1,720	300	820	600	3,240	11,240
Thornyhead Rockfish	749	Total	3,750	6	6	0		750	2,994

OPTIMUM YIELD (OY), ESTIMATED DOMESTIC ANNUAL HARVEST (DAH), ESTIMATED DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NON-PROCESSED FISH (DNP), AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+TALFF. DAH=DAP+JVP+DNP—Continued

Species	Species code	Areas	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
5. *Pacific Groundfish:*									
	[Reserved]								

[1] Bering Sea means fishing areas I, II, and III in Figure 2, Appendix II of 50 CFR 611.9.
[2] Aleutian means fishing area IV in Figure 2, Appendix II of 50 CFR 611.9.
[3] The category "other species" inches sculpins, sharks, skates, eulachon smelts, capelin, and octopus.
[4] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus*, (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus*, (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[5] See Figure 1 of § 611.92(a) for description of regulatory areas and districts.
[6] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined in footnote 4 above, and *Sebastolobus* (thornyhead rockfish).
[7] Excludes values for the Southeast Inside District, which is not governed by these regulations.
[8] The Assistant Administrator for Fisheries has determined that 800 mt for *Loligo* and 3,800 mt for *Illex* will not be utilized by domestic processors and are available for joint ventures.

Authority: 16 U.S.C. 1801 et seq., unless otherwise noted.

Dated: January 17, 1983.

Carmen Blondin,

Acting Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-1804 Filed 1-24-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 17
Tuesday, January 25, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 315 and 316

Career and Career-Conditional Employment Temporary and Term Employment

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations would establish an authority under which persons having at least 1 year of service under permanent appointments in positions located in United States offices of the Panama Canal Commission may be given noncompetitive career-conditional, career, temporary, or term appointments in the competitive service. These regulations are needed to afford new appointees in these positions, which have been removed from the competitive service by law (22 U.S.C. 3651), benefits comparable to those already earned by current employees appointed when the positions were still in the competitive service.

DATE: Comments must be received on or before March 28, 1983.

ADDRESS: Written comments may be sent to Richard B. Post, Associate Director, Staffing Group, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20145, or delivered to Room 6F08, 1900 E Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William Bohling, Noncompetitive Staffing Branch, Staffing Group, (202) 632–6000.

SUPPLEMENTARY INFORMATION: The Panama Canal Act of 1979, now codified in title 22, United States Code, provided for establishment of the Panama Canal Employment System (PCES). Under 22 U.S.C. 3651, the PCES covers all positions in the Panama Canal Commission, including those located in the United States which were formerly filled in the competitive service.

Because certain provisions of the PCES are inappropriate for the U.S. based positions, these positions are excluded by regulation (35 CFR 253.8) from the PCES. Therefore, they will not be covered by the proposed regulations published on September 24, 1982 (47 FR 42110) providing noncompetitive appointment eligibility for PCES employees. However, the intent of the law is to minimize reduction of benefits for employees affected by implementation of the PCES. To accommodate situations such as that presented by the Panama Canal Commission's U.S. based positions, 22 U.S.C. 3652(d)(2) authorizes the President to extend to any employee the rights and privileges which are provided by applicable laws and regulations for citizens of the United States employed in the competitive service. Under this authority, OPM is proposing regulations to grant persons appointed to permanent positions in U.S. offices of the Panama Canal Commission noncompetitive appointment eligibility similar to that earned by employees in those same offices who were appointed when the positions were in the competitive service and comparable to that which would be afforded to U.S. citizens employed under the PCES by the proposed regulations of September 24, 1982.

Under the proposed regulations, basic eligibility for noncompetitive appointment would be established after 1 year of satisfactory service under a permanent appointment in offices of the Panama Canal Commission in the United States. Eligible employees who are entitled to veterans preference or who have 3 years of substantially continuous service under a qualifying appointment could be noncompetitively appointed at any time. Other eligible employees could be noncompetitively appointed within 3 years after separation from the qualifying appointment.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only the procedures used to appoint certain employees in Federal agencies.

List of Subjects in 5 CFR Parts 315 and 316

Government employees.

Office of Personnel Management.
Donald J. Devine,
Director.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Accordingly, the U.S. Office of Personnel Management proposes to add 5 CFR 315.609 and revise 5 CFR 316.302(c)(3) and 316.402(b)(2), to read as follows:

§ 315.609 Appointment based on service in United States positions of the Panama Canal Commission.

(a) *Agency authority.* An agency may appoint noncompetitively, for other than temporary or term employment, a United States citizen who has served under nontemporary appointment in a continuing position of the Panama Canal Commission located in the United States.

(b) *Service requirement.* An agency may appoint such an individual under this section only when, immediately prior to separation from a qualifying appointment with the Panama Canal Commission in the United States, the individual served continuously for at least 1 year under such qualifying appointment or under a combination of such appointment and nontemporary appointment in the Canal Zone Merit System or the Panama Canal Employment System.

(c) *Time limits.* (1) There is no time limit on the appointment under this section of an employee who:

(i) is a preference eligible; or

(ii) has completed at least 3 years of service, which did not include any break in service longer than 30 days, under one or more nontemporary appointments in Panama Canal Commission positions located in the United States or in positions under the Canal Zone Merit System and/or the Panama Canal Employment System.

(2) An agency may appoint under this section an employee who does not meet

the conditions in (c)(1) above only if no more than 3 years have elapsed since the individual's separation from a qualifying appointment.

(d) *Tenure on appointment.* (1) On appointment under paragraph (a) of this section, an individual whose qualifying service does not include any break in service of more than 30 days and totals at least 3 years becomes a career employee.

(2) All other individuals appointed under this section become career-conditional employees.

(e) *Acquisition of competitive status.* A person appointed under paragraph (a) of this section automatically acquires a competitive status:

(1) On appointment, if he or she has satisfactorily completed a 1-year trial period, which did not include more than 22 workdays in nonpay status, during qualifying employment with the Panama Canal Commission.

(2) On satisfactory completion of probation in accordance with § 315.801(a)(3) if he or she had not completed such a 1-year trial period.

* * * * *

PART 316—TEMPORARY AND TERM EMPLOYMENT

§ 316.302 Selection of term employees.

* * * * *

(c) An agency may give a term appointment without regard to the existence of an appropriate register to:

* * * * *

(3) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, 315.606, 315.608, or 315.609 of this chapter;

* * * * *

§ 316.402 Authorities for temporary appointments.

* * * * *

(b) *Noncompetitive temporary limited appointments.* An agency may give a temporary limited appointment without regard to the existence of an appropriate register to:

* * * * *

(2) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, 315.606, 315.607, 315.608, or 315.609 of this chapter.

* * * * *

(22 U.S.C. 3651, 3652)

[FR Doc. 83-2010 Filed 1-24-83; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 3015

Department of Agriculture Programs and Activities Covered Under Executive Order 12372

AGENCY: Department of Agriculture (USDA).

ACTION: Proposed rule related notice.

SUMMARY: The purpose of this notice is to inform State and local governments and other interested persons of proposed programs and activities included within the scope of Executive Order 12372, "Intergovernmental Review of Federal Programs." A full understanding of the requirements of the Order may be gained by referring to the proposed rules published in 7 CFR Part 3015, Subpart V, of the **Federal Register** on January 24, 1983.

FOR FURTHER INFORMATION CONTACT: Larry Wilson, Deputy Director, Office of Finance and Management, USDA, Room 143–W, Administration Building Washington, D.C. 20250 (telephone (202) 447–7557).

SUPPLEMENTARY INFORMATION:

The listing of programs and activities that are subject to Executive Order 12372 is as follows:

Animal Plant and Health Inspection Service

All Domestic Programs and Activities.

Farmers Home Administration

Rural Assistance payments
Farm Labor Housing Grants
Site Development Loans
Mutual and Self-Help Housing Grants
Self-Help Site Development Loans
Farm Labor Housing Loans
Rural Rental Housing Loans
Self-Help Technical Assistance Grants
Technical and Supervisory Assistance Grants
Operating Loans
Irrigation and Drainage Loans
Water and Waste Disposal Loan and Grant Program
Watershed Loans and Advances
Community Facilities Loans
Resources Conservation and Development Loans
Industrial Development Grants
Energy Impacted Area Development Assistance
Business and Industrial Loans
Biomass Energy and Alcohol Fuel Loans

Agricultural Marketing Service

Federal/State Marketing Improvement Program

Food and Nutrition Service

Summer Food Service Program
Nutrition Education and Training Program
State Administrative Matching Grants for Food Stamp Program
Special Supplemental Food Program for Women, Infants and Children
Commodity Supplemental Food Program
Food Processing
Food Distribution Program on Indian Reservations
School Breakfast Program
National School Lunch Program
Child Care Food Program
Special Milk Program for Children
State Administrative Expenses for Child Nutrition

Food Safety and Inspection Service

Cooperative Meat and Poultry Inspection Programs (wholesale meat, poultry and Talmadge-Aiken)

Soil Conservation Service

Watershed Planning and Operations
Resource Conservation and Development
Flood Plain Management
River Basin Survey and Investigation

Forest Service

Cooperative Forestry Assistance
National Forest System Land Management Practices which Involve Direct Development Activities

Extension Service

Cooperative Extension Service Programs

Dated: January 17, 1983.

John J. Franke, Jr.,

Assistance Secretary for Administration.

[FR Doc. 83-1797 Filed 1-24-83; 8:45 am]

BILLING CODE 3410-XS-M

FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Docket No. R-0445]

Regulation K; International Banking Operations; Export Trading Companies

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Bank Export Services Act (Pub. L. 97–290, Title II (1982)) amended the Bank Holding Company Act of 1956 to permit bank holding companies, their subsidiary Edge or Agreement corporations, and bankers' banks to invest in export trading companies. The regulation proposed for comment implements and interprets this provision by establishing procedures for

prior Board review of these investments and providing guidance on how the Board intends to administer the statute.

DATE: Comments must be received by March 14, 1983.

ADDRESS: Comments, which should refer to Docket No. R–0445, may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th & Constitution Avenue, NW., Washington, D.C. 20551, or delivered to Room B–2233 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected at Room B–1122 between the hours of 8:45 a.m. and 5:15 p.m., except as provided in the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Nancy Jacklin, Assistant General Counsel (202/452–3428), or Kathleen O'Day, Senior Attorney (202/452–3786), Legal Division; or Frederick R. Dahl, Associate Director (202/452–2726), or James Keller, Manager, International Banking Applications (202/452–2523), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: On October 8, 1982, the Export Trading Company Act of 1982 ("ETC Act") was enacted into law. The purpose of the statute is to encourage U.S. exports by facilitating the formation and operation of export trading companies and the expansion of export trade services generally. Title II of the ETC Act, known as the Bank Export Services Act ("BESA"), amends section 4 of the Bank Holding Company Act ("BHC Act") to permit bank holding companies to invest in export trading companies subject to certain limitations and after prior Board review. The objective of the BESA is to allow for meaningful and effective participation by bank holding companies in the financing and development of export trading companies.

The terms of the statute and the legislative history of the BESA seek to encourage bank holding companies to own and participate in export trading companies. The Board intends to fulfill its responsibilities under the BESA in accordance with the spirit motivating and underlying the legislation and notifications of proposed investments in this activity will be reviewed expeditiously. The Board's regulations have been framed to achieve two objectives set forth in the BESA: To facilitate the export of goods and services produced in the United States and to help avoid adverse effects on the subsidiary banks of the bank holding companies involved. Initially, information in some detail will have to be supplied to comply with the provisions of the ETC Act; as experience is gained with bank holding company involvement in this unfamiliar activity, it is anticipated that these requirements can be revised and procedures further simplified.

At the same time, the Board is cognizant of its responsibilities for the supervision of bank holding companies and their subsidiary banks. It will review notices of proposed investments carefully to ensure that the bank holding companies and their subsidiary banks are in a condition sufficiently satisfactory to engage in export trading company activities. The specific kinds of activities proposed and the risks attached to them will be evaluated in relation to the condition of the banking organization and the financial structure of the export trading company.

Investors Covered by the BESA

Section 4(c)(14) of the BHC Act (12 U.S.C. 1843(c)(14)) provides that bank holding companies and certain other banking organizations may invest in export trading companies. A bank that is organized solely to do business with other banks and their officers, directors or employees, is owned primarily by the banks with which it does business, and does not do business with the public—commonly called a "bankers' bank"—is regarded as a bank holding company for purposes of Section 4(c)(14), and is the only type of U.S. bank that is authorized by federal law to invest in export trading companies. A state-chartered bankers' bank may invest in export trading companies if such investment is consistent with State law. Foreign banking organizations also may invest in export trading companies on the same basis and under the same procedures as a bank holding company.

Edge corporations and Agreement corporations are companies that operate under sections 25(a) and 25, respectively, of the Federal Reserve Act and conduct international banking operations. An Edge or Agreement corporation may invest in export trading companies if it is a subsidiary of a bank holding company and not a subsidiary of a bank. An Edge or Agreement corporation must file notice of a proposed investment in an export trading company in the same manner as a bank holding company.

Activities of Export Trading Companies

An export trading company is defined in section 4(c)(14) of the BHC Act as "a company * * * which is exclusively engaged in activities related to international trade, and which is organized and operated principally for the purposes of exporting goods and services produced in the United States or for purposes of facilitating the exportation of goods and services produced in the United States by unaffiliated persons by providing one or more export trade services." 12 U.S.C. 1843(c)(14)(F)(i). The legislative history, in discussing the definition, emphasized that the Board was to regulate export trading companies "in a manner consistent with the Congressional intent: that ETCs promote, increase, and maximize U.S. exports." H. Rep. No. 924, 97th Cong., 2d Sess. 22 (1982). In order to assist in determining whether a bank-affiliated export trading company is principally engaged in exporting or facilitating exports of goods and services produced in the United States, the Board proposes to define "export trading company" as a company that, by engaging in one or more export trade services, annually derives more than half its revenues from U.S. exports or the facilitation of U.S. exports produced by unaffiliated persons. The export trading company would be able to engage, where necessary or useful in the conduct of its primary business of exporting, in activities related to importing, third party and barter trade up to half of its business. In determining whether goods are produced in the United States, reference may be made to the definitions used in preparing the Shipper's Export Declaration (a Department of Commerce form) for domestic merchandise exports from the United States. In determining whether services are "produced in the United States," for purposes of the BESA, references may be made generally to the concepts applied by the Department of Commerce in compiling the U.S. balance of payments accounts as to services exports, following the general rule that services performed by U.S. residents for non-U.S. residents would be considered covered by the term. The Board believes that the foregoing definition will allow the export trading company maximum flexibility in organizing and operating its business.

As to the specific activities of a bank-affiliated export trading company, the company may provide any single export trade service or combination of services listed in section 4(c)(14)(F)(ii) and any other services that serve to facilitate the export of U.S. goods and services produced by unaffiliated persons. In addition, the export trading company may engage in this same range of trade services with respect to importing and third party trade so long as the company overall is principally engaged in

exporting and facilitating U.S. exports produced by unaffiliated persons. Consistent with the language and legislative history of the BESA, goods and services of "unaffiliated persons" means goods and services produced by persons other than the export trading company itself or its subsidiaries. Because the services listed at section 4(c)(14)(F)(ii) do not all have precise or generally accepted meanings, the investor, in its notification and reports to the Board, is to describe the nature of the activities in which the export trading company proposes to engage in sufficient detail to allow the Board to determine that the investment is consistent with the purposes and provisions of the BESA.

The statute does prohibit an export trading company from engaging in certain specific activities. For example, section 4(c)(14)(D) permits the Board to order termination of a bank holding company's investment in an export trading company if the company takes positions in commodities or commodity contracts, securities or foreign exchange, except as may be necessary in the course of its business. As in the past, the Board would not regard an organization as speculating where the transactions are necessary in the course of business operations such as for bona fide hedging (*e.g.*, as that term has been applied by the Board in connection with forward and financial futures contracts or by the Commodities Futures Trading Commission in connection with commodity contracts).

Investments and Extensions of Credit

The legislation authorizes banking organizations, as described above, to invest in export trading companies subject to certain prudential limits on aggregate financial exposure by each organization in this new activity. The proposed regulations incorporate the statutory limitations on investment, *i.e.*, a bank holding company, Edge or agreement corporation or bankers' bank may invest a total of five per cent of its consolidated capital and surplus in export trading companies. An Edge or Agreement corporation not engaged in banking (*i.e.*, deposit-taking in the United States from unaffiliated persons) may invest a total of up to 25 per cent of its consolidated capital and surplus in export trading companies.

The legislation also contains certain restrictions on extensions of credit by banking organizations to affiliated export trading companies and their customers. A bank holding company's total outstanding extensions of credit, on a consolidated basis, to affiliated export trading companies are limited to 10 per cent of the bank holding company's consolidated capital and surplus, and this limitation is reflected in the proposed regulations. Extensions of credit by a bank holding company's subsidiary bank to an affiliated export trading company are also subject to the provisions of section 23A of the Federal Reserve Act, as recently amended by Pub. L. 97–320.

In addition to limiting the financial risk to affiliated banks by limiting the investor's financial exposure in export trading companies, the legislation contains a further provision specifically intended to mitigate potential conflicts of interests and associated risks where a banking organization is linked with a commercial venture. A bank holding company or its subsidiary may extend credit to an affiliated export trading company or its customers on terms no more favorable than those afforded similar borrowers in similar circumstances. The proposed regulation provides that the term "customer" includes affiliates of the customer in order to prevent potential evasions of the purpose of this statutory provision.

The proposed regulation also applies the foregoing limitation on preferential lending to extensions of credit by a bank holding company to a co-investor with at least a 10 per cent interest in an export trading company or to affiliates of the co-investor. The Board solicits comments on whether this limitation should apply only to "significant" credit transactions and on what transactions should be considered "significant." The Board is concerned that joint ventures, particularly between banking and nonbanking organizations, create a serious potential for conflicts of interest and concentration of economic resources. However, the Board recognizes that the legislation specifically authorizes joint ventures both between banking organizations and between banking and nonbanking organizations. The limitations contained in the proposed regulations on preferential lending, which are designed to reduce potential conflicts of interest and unsound banking practices that might result from joint venture export trading companies, do not in any way affect the ability of the bank holding company or its affiliated banks to offer to the export trading company, its customers, or a co-investor any rate that is based on the established creditworthiness of the borrower. Rather, the provision merely incorporates principles of sound banking practice.

In light of the foregoing limitations on preferential lending, the banking organization investor shall maintain adequate information on all transactions with its affiliated export trading companies, their customers and affiliates of customers, and co-investors covered by these provisions of the regulations and their affiliates.

Procedures

Section 4(c)(14) of the BHC Act provides that a bank holding company may make an investment in an export trading company after giving the Board 60 days' prior written notice if the Board does not within that time disapprove the investment based on the criteria specified in the statute. The Board may extend the time for disapproval for 30 days if the bank holding company has not provided material or accurate information as required in connection with any notice.

The procedure provide that the bank holding company submit its notice to the appropriate Reserve Bank. A bank holding company should provide in letter or outline form the information required by the regulation concerning its activities (including the four-digit Standard Industrial Classification (SIC), developed by the Office of Management and Budget) and managerial resources, and, the nature and detail of the information provided should be generally similar to that provided in connection with applications for specific consent filed by investors under Subpart A of Regulation K.

The Board anticipates that as a general matter notices will be processed within the 60-day period. In order to expedite the processing of notices, the proposed regulations allow for substantial flexibility in the investment decisions of banking organizations. An investor in an export trading company may either propose at the outset an investment in an export trading company providing a wide range of permissible services or, alternatively, propose an investment in an export trading company that performs a more limited range of activities—such as activities involved largely in the provision of professional and financial services.

A banking organization may choose initially not to committ the capital required or not to invest in the managerial resources needed for an investment in a "full service" export trading company. The proposed regulations in that case allow the banking organization to engage in the new activity in incremental stages, by notifying the Board of its initial investment. If the export trading company is a subsidiary of the investor,

a subsequent notice, which would be regarded as a notice of a further investment, would be required at such time as there is a significant change in the character of the export trading company. The Board seeks comments on whether banking organizations plan to invest in export trading companies in this manner and consequently whether the proposed regulation will facilitate banking organization involvement in export trading companies. In addition, the Board solicits comments on the types of export trading company activities that the proposed regulation lists as necessitating a further notice by the banking organization investor under these procedures.*

As the System gains experience with export trading companies, the Board will consider delegating consideration of investment notices to the Reserve Banks and adopting a general consent procedure for limited investments in export trading companies. The Board invites comment on whether and in what circumstances a general consent procedure might be adopted, including suggested amount and percentage limitations, and the reasons supporting these recommendations.

Supervision and Reporting

The Board intends to monitor the establishment and operation of export trading companies in a manner that minimizes regulatory burden, and is consistent with the Board's responsibility, established by Congress, of ensuring that export trading companies operate to promote U.S. exports without posing serious risk to affiliated banks.

In order to carry out its responsibilities, the Board will require reports on the activities and operation of the export trading company to determine compliance with the provisions of the BHCA, the BESA, and the Board's regulations. The Board will attempt to meet its informational needs through adaptations of reporting requirements currently required under the BHCA or the Federal Reserve Act. At least initially, however, separate reports may be required of export trading companies. These reports may be required on a more frequent basis than is usual for other types of nonbanking subsidiaries, but it is anticipated that frequency would be reduced as the System and the industry gain experience with export trading company activities.

The Board also may request such information as may be necessary to enable the Board to report to the Congress as required by Section 205 of the BESA on the effectiveness of bank participation in export trading companies and to make recommendations concerning the appropriateness of further legislation.

Regulatory Flexibility Act Analysis

For the purposes of regulatory flexibility, the major goal of the proposed regulations is the orderly provision and maintenance of information by bank holding companies so that the Board can effectively exercise its supervisory authority under the BHC Act as amended by the BESA.

The main class of small business entities affected by the proposed regulations is small bank holding companies. The ETC Act generally contemplates investments in export trading companies by bank holding companies with some international experience, acquired, for example, through foreign offices or customers. Hence one relevant group of small business entities is the class of small bank holding companies with such experience, which are relatively few in number. For this group, the costs of the proposed regulations are likely to be substantially the same as for large multinational bank holding companies.

While none of the provisions of the proposed regulation has been specifically designed for small business entities, they should benefit from the simplicity and brevity of the proposed regulations, as well as from a liberal definition of an export trading company. The Board has also sought comment on other possible provisions that might be useful to small entities, such as the entry into export trading company activities by stages and the adoption of a general consent procedure that exempts an investor from the prior notification requirement in making a limited investment in an export trading company.

List of Subjects in 12 CFR Part 211

Banks, banking, Federal Reserve System, Foreign banking, Investments, Reporting requirements.

Pursuant to its authority under section 5 of the Bank Holding Company Act (12 U.S.C. 1844), the Board proposes to amend 12 CFR Part 211 by adding a new Subpart C, reading as set forth below.

Sections 211.601 and 211.602 which currently appear in Subpart B are transferred to the end of this new Subpart C; the text remains unchanged. The text of new §§ 211.31 through 211.34 is set forth below.

PART 211—INTERNATIONAL BANKING OPERATIONS

* * * * *

Subpart C—Export Trading Companies

Sec.

211.31 Authority, purpose and scope.
211.32 Definitions.
211.33 Investments and extension of credit.
211.34 Procedures for filing and processing notices.
211.601 Status of certain offices for purposes of the International Banking Act restrictions on interstate banking operations.
211.602 Investments by United States banking organizations in foreign companies that transact business in the United States.

Authority: Federal Reserve Act (12 U.S.C. 21 *et seq.*); Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*); the International Banking Act of 1978 (Pub. L. 95–369; 92 Stat. 607; 12 U.S.C. 3101 *et seq.*); and the Bank Export Services Act (Title II, Pub. L. 97–290, 96 Stat. 1235 (1982)).

Subpart C—Export Trading Companies

§ 211.31 Authority, purpose and scope.

(a) *Authority.* This Subpart is issued by the Board of Governors of the Federal Reserve System ("Board") under the authority of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*) ("BHCA"), and the Bank Export Services Act (Title II, Pub. L. 97–290, 96 Stat. 1235 (1982)) ("BESA").

(b) *Purpose and scope.* This Subpart is in furtherance of the purposes of the BHCA and the BESA, the latter statute being designed to increase U.S. exports by encouraging investments and participation in export trading companies by bank holding companies and the specified investors. The provisions of this Subpart apply to: (1) Bank holding companies as defined in section 2 of the BHCA (12 U.S.C. 1841(a)); (2) Edge and Agreement corporations as described in § 211.1(b) of this Part, that are subsidiaries of bank holding companies but are not subsidiaries of banks; (3) bankers' banks as described in section 4(c)(14)(F)(iii) of the BHCA (12 U.S.C. § 1843(c)(14)(F)(iii)); and (4) foreign banking organizations as defined in

* As is the practice under Regulation Y, an eligible investor that has acquired 25 per cent or more of the shares of an export trading company in accordance with these regulations would not be expected to notify the Board of the export trading company's formation of a wholly-owned subsidiary to engage in activities permissible for the parent export trading company.

§ 211.23(a)(2) of this Part. These entities are hereinafter referred to as "eligible investors."

§ 211.32 Definitions.

The definitions of § 211.2 in Subpart A apply to this Subpart subject to the following:

(a) "Export trading company" means a company that is exclusively engaged in activities related to international trade and, by engaging in one or more export trade services, derives more than one-half its annual revenues from the export of, or from facilitating the export of, goods and services produced in the United States by persons other than the export trading company or its subsidiaries;

(b) "Extensions of credit" means extensions of credit as defined in § 215.3 of this Chapter (Regulation O) but does not include investments under this Subpart;

(c) The terms "bank," "company" and "subsidiary" have the same meanings as those contained in section 2 of the BHCA (12 U.S.C. 1841).

§ 211.33 Investments and extensions of credit.

(a) *Amount of Investments.* In accordance with the procedures of § 211.34 of this Subpart, an eligible investor may invest no more than five per cent of its consolidated capital and surplus in one or more export trading companies, except that an Edge or Agreement corporation not engaged in banking may invest as much as 25 per cent of its consolidated capital and surplus but no more than five per cent of the consolidated capital and surplus of its parent bank holding company.

(b) *Extensions of credit.* (1) *Amount.* An eligible investor in an export trading company or companies may extend credit directly or indirectly to the export trading company or companies in a total amount that at no time exceeds 10 per cent of the investor's consolidated capital and surplus.

(2) *Terms.* An eligible investor in an export trading company may not extend credit directly or indirectly to the export trading company or any of its customers or to any other investor holding 10 per cent or more of the shares of the export trading company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extensions of credit shall not involve more than the normal risk of repayment or present other unfavorable features. For the purposes of this provision, an investor in or customer of an export trading company includes any affiliate of the investor or customer.

§ 211.34 Procedures for filing and processing notices.

(a) *Filing notice.* (1) *Prior notice of investment.* An eligible investor shall give the Board 60 days' prior written notice of any investment in an export trading company. The investor shall include in its notice a description of the nature and extent of, and the managerial resources related to, each activity in which the export trading company is engaged or proposes to engage, including the four-digit Standard Industrial Classification for each activity, and such other information as the Board may prescribe.

(2) *Subsequent notice.* An eligible investor shall give the Board 60 days' prior written notice of changes in the activities of an export trading company that is a subsidiary of the investor if the export trading company expands its activities beyond those described in the initial notice to include: (i) The buying or selling of goods; (ii) product research and design; (iii) freight forwarding; (iv) product modification; or (v) other activities not specifically covered by the list of services contained in section 4(c)(14)(F)(i) of the BHCA. Such an expansion of activities shall be regarded as a proposed investment under this Subpart.

(b) *Time period for Board action.* (1) A proposed investment that has not been disapproved by the Board may be made 60 days after the Reserve Bank accepts the notice for processing. A proposed investment may be made before the expiration of the 60-day period if the Board notifies the investor in writing of its intention not to disapprove the investment.

(2) The Board may extend the 60-day period for an additional 30 days if the Board determines that the investor has not furnished all necessary information or that any material information furnished is substantially inaccurate. The Board may disapprove an investment if the necessary information is provided within a time insufficient to allow the Board reasonably to consider the information received.

(3) Within three days of a decision to disapprove an investment, the Board shall notify the investor in writing and state the reasons for the disapproval.

By order of the Board of Governors, January 19, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-1514 Filed 1-24-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 18

Proposed Customs Regulations Amendment Relating to Special Manifest Procedures for Overcarried and Prematurely Discharged Merchandise

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide detailed special manifest procedures for overcarried and prematurely discharged merchandise (merchandise which is unladen or discharged by the carrier at a Customs port other than the port for which the merchandise was manifested or destined) and other such types of movements whereby the normal transportation-in-bond procedures are not applicable. The special manifest procedures would authorize district directors of Customs at ports where such merchandise has been unladen discharged to permit it to be returned as a bonded shipment under a special manifest to the destination shown on the importing carrier's manifest (manifested port). The use of these manifest procedures, which apply primarily to overland shipments, would allow the importer on carrier to include the returned merchandise in the original entry summary previously filed at the manifested port and obtain the rate of duty applicable to that entry.

DATE: Comments must be recieved on or before March 28, 1983.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Benjamin Mahoney, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

Overcarried and prematurely discharged merchandise is imported merchandise which is unladen or discharge by the carrier at a Customs port other than the port for which the merchandise was manifested or destined.

For example, in the case of overcarried merchandise, a consumption intry is filed in New York (port of destination on manifest) to cover an entire shipment, but a portion of the shipment is inadvertently diverted to Miami where it is unladen or discharged. Prematurely discharged merchandise is where a consumption entry is filed in Miami (port of distination on manifest) to cover an entire shipment, but a portion of the shipment is inadvertently discharged in New York (port of entry). In each case, the importer wishes to return the overcarried or permaturely discharged merchandise to the manifested port and have it included in the original entry summary filed there and obtain the rate of duty applicable to that entry. This is significant because under section 315, Tariff Act of 1930, as amended (19 U.S.C. 1315), except as other wise specially provided for, the rate of duty imposed on articles entered for consumption or withdrawn from warehouse is the rate in effect when the document comprising the entry for consumption or withdrawal for consumption and any estimated duties then required to be paid have been deposited with the Customs at the manifested port.

The regulations now provide two different mainfest prodedures whereby prematurely discharged or overcarried merchandise may be returned to the manifested port.

(1) Under § 4.34(a) and (b), Customs Regulations (19 CFR 4.34(a) and (b)), which relate specifically to vessel shipments, upon receipt of a satisfactory written application from the owner or agent of the vessel establishing either that cargo was prematurely landed and left behind by the importing vessel through error or emergency or was not landed at its destination and was overcarried to another domestic port through error ro emergency, the district director may permit the cargo to be returned in the importing vessels, or in another vessel owned or chartered by the owner of the importing vessel, to the destination shown on the cargo Declaration, Customs From 1302, of the importing vessel, provided the importing vessel actually entered the port of destination.

(2) Under § 18.10a, Customs Regulations (19 CFR 18.10a), which relates primarily to overland shipments, merchandise for which no other type of bonded movement is appropriate may be shipped in bond from one port to another when such shipment is authorized by the district director having custody of the merchandise. For this purpose Customs Form 7512 is to be used as a special manifest. The manifest procedures are set forth in detail in Customs Circular TRA–7–EV, dated September 17, 1963,

Section 484, Tariff Act of 1930, amended (19 U.S.C. 1484) requires that a separate entry be filed for each shipment arriving in the United States. When an immediate transportation entry (I.T.) is separately filed for a portion of the original shipment, that portion is considered a separate shipment, and thus a separate consumption entry must be made for the portion of the merchandise even though a consumption entry was previously filed at the manifested port covering the entire shipment.

It has come to Customs attention that some overland freight carriers have been returning overcarried and prematurely discharged merchandise to the manifested port under an I.T. entry instead of using the special manifest procedures referred to in section 18.10a. In some cases this has resulted in a rate of duty and/or date of importation different from that applied to the merchandise which was timely delivered to the manifested port and covered under the original entry summary. To solve this problem, Customs Headquarters issued Ruling No. 711164, dated October 18, 1976, which held that merchandise, whether overcarried or prematurely discharged, may be included in an entry summary for consumption already filed at the manifested port and subject to the rates of duty applicable to that entry summary, if returned under one of the two special manifest procedures discussed above. The ruling also held that if, instead of the special manifest procedure, overcarried or prematurely discharged merchandise is returned to the manifested port under an I.T. entry, the returned merchandise would be accorded the same status as any other arrival of merchandise under an I.T. entry, unless the district director is satisfied that the filing of the I.T. entry was done because of a clerical error, mistake of fact, or other inadvertence within the meaning of section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)). Under these circumstances, the district director may permit the substitution of a special manifest for the I.T. entry.

Before issuance of Ruling No. 711164, *supra*, Customs Headquarters conducted an informal survey of its field offices to ascertain views on requiring the use of one of the two special manifest procedures for returning overcarried or prematurely discharged merchandise to the manifested port. While the ruling was favorably received, it was revealed that in many cases an I.T. entry was being filed and accepted for the returned merchandise because some Customs personnel and carriers were simply unfamiliar with the special manifest procedures referred to in § 18.10(a), Customs Regulations.

Accordingly, to clarify this situation, it is proposed to amend § 18.10a, Customs Regulations, to provide detailed manifest procedures for returning overcarried and prematurely discharged merchandise to the mainfested port. These procedures would apply also to other types of movements whereby the normal in-bond procedures are not applicable.

List of Subjects in 19 CFR Part 18

Customs duties and inspection, Imports, Common carriers, Freight forwarders, Motor carriers, and Freight.

Proposed Amendment to the Regulations

It is proposed to amend Part 18, Customs Regulations (19 CFR Part 18), in the following manner:

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

Section 18.10a, Customs Regulations (19 CFR 18.10a), would be revised to read as follows:

§ 18.10a Special manifest.

(a) *General.* Merchandise for which no other type of bonded movement is appropriate (e.g., prematurely discharged or overcarried merchandise and other such types of movements whereby the normal transportation-in-bond procedures are not applicable) may be shipped in bond from the port of unlading to the destination shown on the importing carrier's manifest (manifested port) when authorized by the district director having custody of the merchandise. For this purpose, Customs Form 7512 prepared in quadruplicate shall be used as a special manifest.

(b) *Manifest procedures.* (1) Written application shall be made to the district director where the merchandise is being held for permission to return it as a bonded shipment under a special manifest to the manifest port.

(2) The application and accompanying completed Customs Form 7512 shall identify the prematurely discharged or overcarried merchandise on the inward manifest of the importing carrier, and identify the date and entry number of any entry made at the manifested port

covering the merchandise to be returned. If the district director is satisfied that the merchandise will be delivered to Customs custody at the manifested port before expiration of 90 days from the date of the entry identified, or 90 days from the date of the importing carrier's arrival at the manifested port when no entry is identified, the district director may approve the shipment under a special manifest.

Authority

The amendment is proposed under the authority of R.S. 251, as amended, sections 315, 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (19 U.S.C. 66, 1315, 1484, 1498, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Executive Order 12291

Because this document will not result in a regulation which would be a "major" rule as defined by section 1(b) of E.O. 12291, a regulatory impact analysis and review as prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the proposed amendment will not have a significant economic impact on a substantial number of small entities.

In addition, the proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, the Secretary of the Treasury certifies under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the proposed amendment, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,
Commissioner of Customs.

Approved: January 5, 1983.

John M. Walker, Jr.,
Assistant Secretary of the Treasury

[FR Doc. 83-1976 Filed 1-24-83; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 81N-0312]

β-Carotene; Proposed Affirmation of GRAS Status as a Direct Human Food Ingredient

Correction

In FR Doc. 82-29223 beginning on page 47435 in the issue of Tuesday, October 26, 1982, make the following corrections:

1. On page 47436, column three, paragraph three, lines two and eleven "carotene" should appear in single quotes 'carotene.'

2. On page 47437, column two, line two "186.(b)(1)" should read "186.1(b)(1)."

3. On page 47437, column three, § 184.1245(a), line two, the chemical formula should read "$C_{40}H_{56}$."

BILLING CODE 1505-01-M

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21 CFR Parts 182 and 184

[Docket No. 81N-0340]

Thiamine Hydrochloride and Thiamine Mononitrate; Proposed Affirmation of GRAS Status as Direct Human Food Ingredients

Correction

In FR Doc. 82-29221 beginning on page 47438 in the issue of Tuesday, October 26, 1982, make the following corrections:

1. On page 47439, column one, paragraph three, line four, "sulfide" should read "sulfite."

2. On page 47439, column two, paragraph one, line nine, "degraduation" should read "degradation."

3. On page 47439, column two, paragraph one, line eleven, "matagenicity" should read "mutagenicity."

4. On page 47440, column two under the heading **List of Subjects** *"21 CFR Part 184"* should read *21 CFR Part 182"* and *"21 CFR Part 182"* should read *"21 CFR Part 184."*

5. On page 47440, column three, § 184.1875(a), line 2, the formula should read "($C_{12}H_{17}C1N_4OS.HC1$, CAS Reg. No. 67-03-8)."

BILLING CODE 1505-01-M

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21 CFR Part 184

[Docket No. 82N-0167]

Zinc Salts; Proposed Affirmation of GRAS Status

Correction

In FR Doc. 82-29340 beginning on page 47441 in the issue of Tuesday October 26, 1982, make the following corrections:

On page 47445, column two § 184.1997(c)(1) table, in the column designated as "Category of food," "§ 17.3(n)(3)" should read "§ 170.3(n)(3)" and in the column designated as "Functional use," "§ 1703(o)(20)" should read "§ 170.3(o)(20)."

BILLING CODE 1505-01-M

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21 CFR Part 184

[Docket No. 81N-0381]

Manganese Salts; Proposed Affirmation and Removal of GRAS Status as Direct Human Food Ingredients; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration is correcting the proposal to affirm that manganese chloride and manganese sulfate are generally recognized as safe (GRAS) as direct human food ingredients.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In FR Doc. 82-34257 at page 56513 in the issue of Friday, December 17, 1982, the following changes are made:

1. At page 56514, in the first column in the first complete paragraph in the sixteenth line, "alcoholic beverages" should read "nonalcoholic beverages."

2. At page 56516, in the first column, in paragraph (c)(2) of § 184.1461 *Manganese sulfate*, in the fifth line, "alcoholic" should read "nonalcoholic";

in the sixth line, "§ 170.3(n)(2)" should read "§ 170.3(n)(3)."

Dated: January 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1805 Filed 1-24-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 341

[Docket No. 76N-052B]

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for OTC Bronchodilator Drug Products

Correction

In FR Doc. 82-29029 beginning on page 47520 in the issue of Tuesday, October 26, 1982, make the following correction:

On page 47523, column two, paragraph three, line fifteen, "(46 FR 47770)" should read "(46 FR 47740)."

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL-2290-7]

Compliance With the Statutory Provisions of Part D of the Clean Air Act

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule related notice.

SUMMARY: December 31, 1982, was an important milestone in this Nation's effort to improve the quality of its air in accordance with the Clean Air Act. In the near future EPA will summarize the status of the National effort to improve the air; explain the actions we are mandated to take under the current Clean Air Act; and enumerate the steps that EPA will take in partnership with the States to obtain clean air for all our citizens. Today's notice is for informational purposes only. A complete discussion of the policies and procedures regarding the issues mentioned herein will appear in the proposals scheduled for publication in the **Federal Register** by early February 1983.

FOR FURTHER INFORMATION CONTACT: Darryl D. Tyler, Director, Control Programs Development Division (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711 (telephone (919) 541-5551).

SUPPLEMENTARY INFORMATION:

I. Background

Section 107 of the Clean Air Act provides for the identification and designation of areas which have not attained national ambient air quality standards. Part D of the Clean Air Act requires that primary ambient air quality standards for particulate matter, sulfur dioxide, nitrogen dioxide, carbon monoxide, and ozone be attained no later than December 31, 1982. Plan revisions providing for attainment of these standards were to have been submitted to the Agency by January 1, 1979. Extensions to December 31, 1987, were authorized under statutorily prescribed conditions for attainment of the carbon monoxide and the ozone standards. The general conditions for these extensions were: (1) The request for an extension of the attainment date must have been submitted by January 1, 1979, (2) the area must have demonstrated that attainment was impossible by December 31, 1982, and (3) the area must have submitted to the agency by July 1, 1982 a plan revision that demonstrates attainment by December 31, 1987. This 1982 plan revision must provide for "enforceable measures" necessary to assure attainment by December 31, 1987, and must also provide for sufficient emission reductions to ensure reasonable further progress toward attainment by 1987.

II. Consequences of Failure to Meet Statutory Requirements

A. *Construction Moratorium.* Section 110(a)(2)(I) of the Clean Air Act requires that State implementation plans provide:

> That after June 30, 1979, no major stationary source shall be constructed or modified in any nonattainment area * * * if the emissions from such facility will cause or contribute to concentrations of any pollutant for which a national ambient air quality standard is exceeded in such area, unless, as of the time of application for a permit for such construction or modification, such plan meets the requirements of Part D (relating to nonattainment areas).

One of the "requirements of Part D" that a plan must meet is:

> To provide for attainment of each * * * national ambient air quality standard * * * as expeditiously as practicable, but, in the case of national primary ambient air quality standards, not later than December 31, 1982. (Section 172(a)(11))

For areas granted an extension to 1987 for attainment of carbon monoxide and ozone standards (extension areas), the 1982 plan revisions are to include enforceable measures to assure attainment by not later than December 31, 1987. (Sections 172(a)(2) and 173(c))

If an area fails to attain the applicable standard by December 31, 1982, or if a 1982 plan revision does not include enforceable measures to assure attainment by December 31, 1987, or does not meet other Part D requirements, the Act in general requires the imposition of a moratorium on the construction or modification of major new stationary sources of the pollutant for which the area is designated nonattainment.

B. *Funding Restrictions.* Section 176(a) requires the agency to withhold Clean Air Act grants and the Department of Transportation to withhold highway funds (except those relating to safety, mass transit, or transportation improvement related to maintaining or improving air quality) from States that have failed to submit or make reasonable efforts to submit plan revisions required by the Act. Section 176(b) requires the Agency to withhold Clean Air Act grants from those areas where a State or local government has failed to implement an approved plan. The Agency's determination as to the extent these provisions must be applied to States that do not meet the 1982 attainment deadline or to extension areas that have failed to meet Part D requirements relating to the 1982 plan revision will be made on a case-by-case basis after solicitation of public comment.

Section 316(b) authorizes the Agency to withhold grants for the construction of sewage treatment facilities under the Clean Water Act in any area where a State fails to have in effect an approved Part D plan.

III. Procedures for Nonattainment Determination

The initial indicator of whether an area is "attainment" or "nonattainment" under the Clean Air Act is the area's designation under Section 107. The Agency recognizes that in many instances substantial air quality progress has been made, and that there will be cases where data will demonstrate that an area has attained the applicable standards by December 31, 1982 even though the area retains a nonattainment designation. To give States with areas having a high probability of attainment an opportunity to make such a demonstration, all areas currently designated as nonattainment under Section 107 will be divided, based on air quality history and data available to the Agency, into two tiers—those areas that the Agency believes will be able to demonstrate attainment (Tier I)

and those areas that the Agency believes will not be able to make such a demonstration (Tier II). A more complete discussion of these and related issues appears in the December 29, 1982 memorandum, "Policy for Areas That do Not Attain the Primary National Ambient Air Quality Standards by December 31, 1982," from Kathleen M. Bennett to EPA Regional Administrators. A copy of the memorandum is attached as Appendix A.

IV. Future Agency Action

Agency action on the 1982 State Plan revisions and on areas that did not attain air quality standards by December 31, 1982 will be initiated by companion proposals scheduled to appear in the **Federal Register** by early February 1983. At that time, the Agency will take the following actions:

(1) Propose to approve or disapprove all 1982 State plan revisions for areas granted an extension to 1987 for attainment of the carbon monoxide or ozone standard.

(2) Make an initial finding as to the adequacy of State plans for nonattainment areas without extensions and propose that the construction moratorium on major new sources be imposed in those areas found to have inadequate plans.

(3) Suggest that the States with plans proposed for disapproval or found to be inadequate immediately redouble their efforts in partnership with EPA to:

(a) Confirm the nature and extent of the air pollution problem;

(b) Bring all available expertise to bear on seeking solutions to those problems; and

(c) Implement corrective actions.

(4) Propose to exclude from the Tier II category those areas which are nonattainment because of transported ozone or ozone precursors and solicit comments on their continued eligibility under current Agency policy.

To provide adequate notice and an opportunity for public comment, the Agency will establish a 45-day period for comment on the proposals. Thereafter, the Agency will evaluate, summarize, and prepare responses to the comments and make its final determination. The Agency will then promulgate its determinations, and impose the construction moratorium as required in the appropriate nonattainment areas. At that same time, the Agency, as appropriate, will propose funding restrictions for nonattainment areas without extensions and for extension areas. Additional public comments will be solicited. After the close of this comment period, the Agency will respond to the comments, make its final determinations, and promulgate the funding restrictions where required.

V. Authority

This notice is issued under the authority granted by Sections 110, 171–178, and 301 of the Clean Air Act, 42 U.S.C. 7410, 7501–7508, and 7601.

Dated: January 20, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

December 29, 1982.

Memorandum

Subject: Policy For Areas That Do Not Attain the Primary National Ambient Air Quality Standards by December 31, 1982

From: Kathleen M. Bennett, Assistant Administrator for Air, Noise, and Radiation (ANR–443)

To: Regional Administrator, Regions I–X

I. The 1982 Attainment Date

The Clean Air Act requires that the primary ambient air quality standards for particulate matter, sulfur dioxide, and nitrogen dioxide be attained no later than December 31, 1982. The primary standards for ozone and carbon monoxide were also to be attained by that date, except where extensions of the attainment date beyond 1982 were granted under strictly prescribed statutory circumstances.[1]

This memorandum delineates the Agency's policy for all areas subject to the 1982 deadline for attainment of the primary ambient air quality standards.

II. Consequences of Failure To Attain by December 31, 1982

In general, if an area fails to attain the primary ambient air quality standards, the Clean Air Act imposes certain statutory consequences:

A. The area is subject to a ban on the construction or modification of major stationary sources emitting the pollutant for which the area is nonattainment, and

B. The area may be subject to a suspension of certain Federal grant funds for failing to "submit" a satisfactory plan (Section 176(a)) or failing to "implement" the plan the State submitted (Section 176(b)).

III. Procedures for Determining Nonattainment

A. The initial indicator of whether an area is "attainment" or "nonattainment" under the Clean Air Act is the area's designation under Section 107. If a State believes that an area designated as nonattainment has attained the national standards, and can make a demonstration to that effect in accordance with current EPA policy, the State should promptly apply for redesignation. The Agency will consider exceptions to existing requirements for redesignation on a case-by-case basis in order to facilitate redesignation, where appropriate.

B. There will be cases where data will demonstrate that the area has attained the standards by the end of 1982 even though the area retains a nonattainment designation. To give States which have areas having a high probability of attainment an opportunity to make such a showing, all areas currently designated as nonattainment under Section 107 will be divided into two classes—those areas the Agency believes will not be able to demonstrate attainment and those areas which the Agency believes will be able to make such a demonstration.

C. To provide adequate notice and ensure broad public participation, the Agency will propose a formal finding that the State plan is inadequate to attain the standards before the sanctions will be imposed. Therefore, the Agency will propose, in the **Federal Register**, to find the implementation plan deficient for those areas designated as nonattainment where the Agency believes the standards have not been attained by the statutory date or where the plan does not meet the requirements of Part D of the Act.

D. The Agency will also propose for comment the extent of the area to be found nonattainment and the nature and scope of the consequences which the Agency believes should apply. After public comment, EPA will proceed to take final action and impose the sanctions, unless information obtained from those comments indicates that the area has attained the standards, and that the plan also meets other Part D requirements.

While attainment of the national standards by December 31, 1982, is one general requirement of Part D of the Act, there are other provisions of the Act with which some States have not yet complied. Some States have not submitted an adequate implementation plan as required by the Act. In other cases, States have not fulfilled conditions (such as requirements for additional regulations or information) on which Federal approval of the State plan had been contingent. Where either of these two circumstances exist, the Agency intends to find that the State plan is inadequate following the public comment period, unless information to the contrary is presented, and to impose the applicable sanctions.

Action to implement this post-1982 policy will be initiated by issuing proposals of implementation plan deficiency in the **Federal Register** by January 31, 1983. The analysis needed to support the identification of those areas we believe will not attain the national standards has begun. We will appreciate your continuing efforts with the Office of Air Quality Planning and Standards to develop a **Federal Register** notice consistent with this policy.

IV. Other

A. The deadline for attainment of the national primary standards described above applies to all nonextension areas irrespective of when the area is determined to be nonattainment. Existing regulations will be revised, where necessary, to reflect this interpretation.

[1] Areas that received this extension should have submitted to the Agency by July 1, 1982, a revised State Implementation Plan to provide for attainment of these standards no later than December 31, 1987.

B. A plan for an area that is still experiencing violations after 1982 may nevertheless meet the Part D requirements, if interstate transport is the sole cause of the violations and the plan is adequate to assure that intrastate sources would not cause the violations.

[FR Doc. 83-2088 Filed 1-24-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 65

[A-3-FRC 2264-2]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Pennsylvania Department of Environmental Resources to American Can Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA has proposed to approve an administrative order issued by the Pennsylvania Department of Environmental Resources to American Can Company. The order requires the company to bring air emissions from its Lemoyne Plant in Lemoyne, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by April 9, 1985. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before February 23, 1983.

ADDRESS: Comments should be submitted to Director, Air & Waste Management Division, EPA Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Patrick M. McManus, Environmental Engineer, Air & RCRA Compliance Section (3AW22), Air & Waste Management Division, U.S. EPA Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597-9893.

SUPPLEMENTARY INFORMATION: American Can Corporation operates a metal can manufacturing facility at Lemoyne, Pennsylvania. The order under consideration addresses emissions from the surface coating processes at the facility, which are subject to § 129.52 of Title 25 of the Pennsylvania Code. The regulation limits the emissions of volatile organic compounds (VOC), and is part of the federally approved Pennsylvania State Implementation Plan. The order requires final compliance with the regulation by April 9, 1985 through the use of low solvent coatings.

Because this order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA has reviewed the order and has found that the order does satisfy the requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the order will not preclude assessment of any compliance penalties under Section 120 of the Act, unless the source is otherwise entitled to an exemption under Section 120(a)(B) or (C).

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: November 26, 1982.

Peter N. Bibko,

Regional Administrator, Region III.

[FR Doc. 83-1983 Filed 1-24-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 123

[SW-3-FRL 2290-5]

Maryland's Application for Interim Authorization, Phase II, Component A, Hazardous Waste Management Program; Public Hearing and Comment Period

AGENCY: Environmental Protection Agency, Region III.

ACTION: Notice of Public Hearing and Public Comment Period.

SUMMARY: EPA is announcing the availability for public review of the Maryland application for Phase II, Component A, Interim Authorization, inviting public comment, and giving notice of a public hearing to be held on the application. This is in accordance with agency regulations to protect human health and the environment from improper management of hazardous waste, including the provisions for authorization of State programs to operate in lieu of the Federal program and for a transitional stage in which states can be granted interim program authorization.

DATES: If significant public interest is expressed, a public hearing is scheduled for Wednesday, March 9, 1983 at 7:00 p.m. EPA reserves the right to cancel the public hearing if significant public interest is not communicated by telephone or in writing by Monday, February 28, 1983. EPA will determine by Wednesday, March 2, 1983 whether there is significant interest to hold the public hearing. The State of Maryland will participate in any public hearing held by EPA on this subject. Regardless of whether a public hearing is held, all written comments on the Maryland Phase II, Component A, Interim Authorization application must be received by the close of business on Wednesday, March 16, 1983.

ADDRESSES: To find out if EPA will hold

a public hearing on Maryland's application based on EPA's decision that there is significant public interest in such a hearing, write or telephone after March 2, 1983, the EPA contact person listed below

Copies of the Maryland Phase II, Component A, Interim Authorization application are available during normal business hours at the following addresses for inspection and copying:

Maryland Department of Health and Mental Hygiene, Waste Management Administration, 2nd Floor, O'Connor Building, 201 West Preston Street, Baltimore, Maryland 21201 (contact: Bernard Bigham)

Office of Environmental Programs, Failinger Complex, Rt. 6 and Naves Crossroad, Cumberland, Maryland 21502 (contact: Robert Creter)

Waste Management Administration, Centreville Multi-Service Center, 120 Broadway, Centreville, Maryland 21617 (contact: John Chlada)

EPA Headquarters Library, 401 N Street SW., Washington, DC 20460 (contact: Sami Klein)

US EPA, Region III, Library, 2nd Floor, 6th and Walnut Streets, Philadelphia, PA. 19106 (215) 597–0580 (contact: Diane McCreary)

Written comments should be sent to John Humphries, State Waste Management Section (3AW31), US EPA, Region III, 6th and Walnut Streets, Philadelphia, PA 19106 (215) 597–2863

If significant public interest is expressed, and EPA decides to hold the public hearing on Wednesday, March 9th, 1983 at 7:00 p.m., it will be held in the 1st Floor Auditorium, State Office Complex, 300 West Preston Street, Baltimore, Maryland.

FOR FURTHER INFORMATION CONTACT: John Humphries, State Waste Management Section (3AW31), US EPA, Region III, 6th and Walnut Streets, Philadelphia, PA 19106 (215) 597–2863.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

Phase I of the Federal program, published in the May 19, 1980 **Federal Register** (45 FR 33063), includes regulations pertaining to the identification and listing of hazardous wastes; standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits. The State of Maryland received interim authorization for Phase I on July 8, 1981.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Phase II of the Federal program includes permitting procedures and standards for hazardous waste management facilities. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting surface impoundments, waste piles, land treatment facilities and landfills.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123, Subpart F, as amended by 47 FR 32377.

As noted in the May 19, 1980 **Federal Register**, copies of complete state submittals for Phase II interim authorization are to be made available for public inspection and comment. In addition, if significant public interest exists, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: January 18, 1983.

Peter N. Bibko,

Regional Administrator.

[FR Doc. 83–1978 Filed 1–24–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83–15; RM–4061; FCC 83–11]

Signal Coverage Requirements Over Community Business and Factory Areas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes amendments to §§ 73.24(j), 73.182(f), and 73.188(b) of the Commission's Rules relating to AM radio station signal level requirements over a community's business and factory areas. The rule making is initiated in response to a petition submitted by the law firm of Miller and Fields, P.C. The proposals would delete the existing requirements that a specified signal level be placed over the business and factory areas of a community. Petitioner contends that the term "business area" is too vague for proper application. Additionally, comment is requested on the deletion of § 73.151(a)(3) of the Rules, which requires license applicants for AM directional facilities to submit measurement studies showing compliance with the community coverage standards.

DATES: Comments must be filed on or before February 25, 1983, and reply comments on or before March 14, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcast.

Adopted: January 13, 1983.
Released: January 19, 1983.

1. Before the Commission is a petition for rule making filed by the law firm of Miller and Fields, P.C.,[1] seeking the deletion of the requirement in § 73.24(j) of the Commission's Rules that AM broadcast stations place a 25 mV/m signal over a community's business district. Specifically, the rule in question states:

An authorization for a new standard broadcast station or increase in facilities of an existing station will be issued only after a

[1] Public notice of the petition was given March 8, 1982, Report No. 1138.

satisfactory showing has been made in regard to the following:

* * * * *

(j) That the 25 mV/m contour encompasses the business district of the community to which the station is assigned * * *

No comments were received in response to the petition.

2. The 25 mV/m business district coverage standard and the related requirement that residential areas receive a 5 mV/m signal are intended to guarantee that the principal community served by an AM facility receives premium reception service.[2] The basis for requiring higher signal levels over business areas is found in the propagation characteristics of the frequencies used by AM broadcasters. AM frequencies are acutely susceptible to "noise" caused by electric machinery and equipment. AM frequencies also tend to be absorbed by large steel-girdered buildings, many of which are clustered in a community's business district. To overcome these natural handicaps and provide a premium signal over such affected areas, a higher signal level is necessary. So long as AM stations utilize the frequencies on which they presently operate, these handicaps will continue.

3. When initially established,[3] the business area requirements made a good deal of sense. The Commission was authorizing AM service to large industrial cities containing large steel-girdered buildings and intensive man-made nois. For those types of cities, the 25 mV/m coverage requirement was probably a necessity for the provision of adequate service to the downtown area. The type of community presently receiving AM allocations, however, is much different. The vast majority of AM grants today are for small communities outside metropolitan areas. The Large buildings and man-made noise prevalent in large industrial cities are simply not a problem. Consequently, the business area coverage requirements apparently are unduly burdensome and essentially irrelevant as applied to new AM allocations.

4. Further, licensed AM stations may find it increasingly difficult to comply fully with the rule as new business areas develop throughout larger cities. The Commission has long recognized that business and factory areas are not easily defined or concentrated in one central area of a given community. In *Bay Cities Communications Corporation*, 83 F.C.C. 2d 210, 214 (1980), we stated that growth patterns in many American cities have given rise to extensive suburban retail areas, and that with suburbanization, many central business districts have declined dramatically. Given these facts, we have conceded that requiring a 25 mV/m signal over every business area in cities where areas are widely scattered would in effect be requiring a 25 mV/m coverage standard over an entre community. *H–B–K Enterprises*, 14 F.C.C. 2d 241, 242 (Rev. Bd. 1968).

5. The factors described in the two previous paragraphs indicate that the business area coverage requirement may no longer be a relevant consideration in determining whether an AM station is adequately serving its community of license. Accordingly, we propose to delete this requirement. Comments are requested on this proposal.

6. In addition to § 73.24(j), references to desired signal levels in business and factory areas are also found in § 73.182(f) and 72.188(b)(1). Section 73.182(f) specifies the signal levels necessary to render primary service to different types of service areas. In order to provide primary service to city business and factory areas, a field strength of 10 to 50 mV/m is required.[4] Section 73.188(b)(1) mandates that transmitters be located such that a minimum field strength of 25 to 50 mV/m will be obtained over the business or factory areas of the city. Commenters should indicate whether the requirements of §§ 73.182(f) and 73.188(b)(1) are fundamentally different from that found in § 73.24(j) to the extent that they should be afforded different treatment.

7. Deleting the business and factor area coverage requirements would leave the 5 mV/m coverage standard as our sole principal community signal coverage requirement for AM stations. There appear to be several advantages to such an approach. Broadcasters would no longer be foreced to make subjective judgments about what areas constitute business districts. Where one community has several *bona fide* business areas, the licensee would not be required to cover them all with a 25 mV/m signal. Finally, the Commission would no longer be required to analyze waiver requests and make imperfect determinations on the basis of "substantial compliance" or findings that the "primary" business and factory areas are covered.[5] Therefore, it appears that requiring a 5 mV/m signal over a station's principal community may be a sufficient guarantee that the licensee is adequately serving its city of license.[6] The extent to which a licensee would than attempt to place higher signal levels over business areas would be a marketplace decision left to the discretion of the broadcaster.

8. One additional issue requires our attention at this time. Regardless of our ultimate decision regarding the substantive business and factory area coverage requirements for AM stations, we are of the opinion that the measurement requirements of § 73.151(a)(3) are unnecessary and should be deleted.[7] In essence, the rule requires permittees of directional AM facilities, in connection with their covering license applications, to take field strength measurements to determine that the 25 mV/m contour covers the main business district and that the 5 mV/m and nighttime interference-free contours encompass the community of license. Section 73.24(j) presently requires a showing from construction permit applicants that the specified contours will cover the community of license. We do not feel that it is necessary to require a license

[2] Premium service which is required over an AM station's principal community, should not be confused with primary service as defined in Section 73.182 of the Rules. The obligation to provide premium service imposes a higher standard than that required for primary service. *Greenwich Broadcasting Corp.*, 36 F.C.C. 1294 (Rev. Bd. 1964).

[3] The 25 mV/m standard was included in the original AM Standards of Good Engineering Practice.

[4] When a range of values is given for primary service levels, the Commission has held that the lowest figure given is controlling. The Commission does not empoly a siding scale approach based on the size of a community. *S&W Enterprised, Inc.*, 37 F.C.C. 220 (1964). *But see* § 73.182(g). We are taking this opportunity, therefore, to delete the references to the higher signal level when a range of levels is given.

[5] *E.G., H–B–K Enterprises*, 13 RR 2d 1135 (Rev. Bd. 1968). (The rule is met if the requisite signal is put over the "principal" business and factory areas.)

[6] We are also proposing to amend the language of the 5 mV/m requirement the effect that the signal will be expected to cover "the entire principal community to be served." This language conforms with the rules relating to FM and TV signal coverage requirements. See §§ 73.315(a) and 73.685(a).

[7] Section 73.151(a)(3) of the Rules requires the following showing:

The 25 and 5 mV/m field strength contours and the nighttime interference-free contour, when the pattern is for nighttime operation, as well as any other contours specified by the instrument of authorization, plotted on a map which has the largest practical scale. These contours need not be shown for distances greater than 20 miles from the antenna except that the field strength contours on the far side of the business and residential areas of the city in which the main studio is located shall be shown. When the station is limited by interference within the 5 mV/m contour the latter contour need not be shown. In the event the 5 mV/m contour includes and extends beyond the city and beyond 20 miles, the highest signal intensity contour that entirely includes the city may be plotted in lieu of the 5 mV/m contour; in the event that the 5 mV/m contour does not include the city, the contour of highest signal strength encompassing the city shall be plotted in addition to the 5 mV/m contour.

applicant again to establish compliance with our principal city coverage requirements. Such a requirement is duplicative and exacts an unnecessary burden on both the permittee and the Commission's staff.[8] Also, as indicated above, the requirements of § 73.151(a)(3) apply only to directional AM facilities. The absence of a similar requirement with respect to nondirectional AM facilities has resulted in no significant public interest problems. Accordingly, we seek comment on the propriety of deleting § 73.151(a)(3) of our Rules in its entirety.

9. *Regulatory Flexibility Act Initial Analysis.* Petitioners contend that requirements mandating minimum field strength levels over a community's business district impose vague standards of little or no utility. This *Notice* explores these issues in an effort to determine whether the existing business area coverage standards should be deleted. Authority for the initiation of this rule making is found in Section 303(b) of the Communications Act of 1934, as amended, which gives the Commission the authority to prescribe the nature of the service to be rendered by each class of licensed station, and Section 303(g) of the Act which promotes the encouragement of the larger and more effective use of radio in the public interest.

10. Primarily, the proposed amendments would lessen the burdens on applicants for new AM facilities by deleting or amending existing signal coverage and measurement requirements. The extent to which lessening these coverage burdens relates to increased operating efficiency and savings by licensees is unknown and should be addressed by commenting parties. We presume that any modification to our business area and factory coverage requirements would apply to all AM licensees and applicants. However, commenters are expressly requested to specify whether, consistent with legal requirements in the Communications Act, appropriate exemptions or modifications might be made to minimize any significant economic impact on small entities.

11. The amendments proposed are deregulatory and do not contain any recording, record keeping or other compliance requirements. There are no other federal rules which overlap, duplicate or conflict with these proposals.

12. Accordingly, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, it is proposed that Part 73 of the Commission's Rules be amended as set forth in the attached Appendix.

13. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before February 25, 1983, and reply comments on or before March 14, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

14. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, Room 239, 1919 M Street, NW., Washington, D.C. For general information on how to file comments, please contact the FCC Consumer Assistance and Information Division at (202) 632–7000.

15. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally,* § 1.1231 of the Commission's Rules.

16. For further information regarding this proceeding, contact Michael A. McGregor, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

The following amendments to Part 73 of Chapter I of Title 47 of the Code of Federal Regulations are proposed.

1. Section 73.24 would be amended by revising the introductory text of the section and paragraph (j) as follows:

§ 73.24 Broadcast facilities; showing required.

An authorization for a new standard broadcast station or increase in facilities of an existing station will be issued only after a satisfactory showing has been made in regard to the following, among others:

* * * * *

(j) That the 5mV/m contour (or, at night, the interference-free contour, if of a higher value) encompasses the entire principal community to be served.

* * * * *

§ 73.151 [Amended]

2. Section 73.151(a)(3) would be removed.

3. Section 73.182(f) would be revised as follows:

§ 73.182 Engineering standards of allocation.

* * * * *

(f) The signals necessary to render primary service to different types of service areas are as follows:

[8] Of course, if we delete the 25 mV/m business and factory area coverage requirements, the related § 73.151(a)(3) showing would be entirely irrelevant.

Area	Field strength ground-wave (mV/m)
City residential areas	2
Rural—all areas during winter or northern areas during summer	0.1
Rural—southern areas during summer	0.25

* * * * * *

4. Section 73.188(b) would be revised as follows:

§ 73.188 Location of transmitter.

* * * * *

(b) The site selected should meet the following conditions: (1) A minimum field strength of 5 mV/m will be obtained over the entire principal community to be served.

(2) The absorption of the signal is the minimum for any obtainable sites in the area. As a guide in this respect the absorption of the signals from other stations in that area should be followed, as well as the results of tests on other sites.

(3) The population within the blanket contour does not exceed that specified by § 73.24(g).

* * * * *

[FR Doc. 83-2023 Filed 1-24-83; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 17
Tuesday, January 25, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 83-001]

Advisory Committee on Swine Health Protection; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a meeting of the Secretary's Advisory Committee on Swine Health Protection.

SUMMARY: The purpose of this document is to give notice of a meeting of the Secretary's Advisory Committee on Swine Health Protection.

Place, date, and time of meeting: Room 104A, Administration Building, United States Department of Agriculture, 12th and Jefferson Drive, SW., Washington, D.C., February 3, 1983 from 8:15 a.m. to 4:00 p.m., and February 4, 1983 from 8:15 a.m. to 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: E. R. Mackery, Senior Staff Veterinarian, Special Diseases Staff, APHIS, VS, Federal Building, Room 821, Hyattsville, Maryland 20782, 301-436-8438.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to consult with the Secretary concerning matters within the Scope of the Act, including evaluating State programs for purposes of section 10 of the Act, which addresses the adequacy of: (1) Applicable laws and regulations, (2) enforcement of such laws and regulations, and (3) recordkeeping and reporting of program activities; and to assist effective coordination among State and Federal programs.

This will be the first meeting of the Secretary's Advisory Committee on Swine Health Protection following the publication of Part 166, Swine Health Protection, which became effective on January 1, 1983, and which implements the Swine Health Protection Act, Pub. L. 95-445.

The meeting is open to the public. Written statements concerning these matters may be filed with the Committee before or at the time of the meeting. Written statements may be forwarded to E. R. Mackery, Senior Staff Veterinarian, Special Diseases Staff, APHIS, VS, Federal Building, Room 821, Hyattsville, MD 20782, 301-436-8438.

Dated: January 18, 1983.

C. W. McMillan,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 83-1904 Filed 1-20-83; 11:52 am]

BILLING CODE 3410-34-M

Commodity Credit Corporation

1983 Peanut Program; Proposed Determination Regarding National Average Support Levels for Quota and Additional Peanuts and the Minimum Commodity Credit Corporation Export Edible Sales Price for Additional Loan Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determination.

SUMMARY: This notice requests comments with respect to the following determinations for the 1983 crop of peanuts: (1) The national average level of support for quota peanuts, (2) the national average level of support for additional peanuts and (3) the Commodity Credit Corporation (CCC) export edible sales policy for 1983-crop additional peanuts which are pledged as collateral for a price support loan. These determinations are necessary to satisfy the requirements of Section 108A of the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act"), and to provide the producers with information which is needed in order to make financial plans in accordance with the program provisions.

DATE: Comments must be received on or before February 11, 1983, to be assured of consideration.

ADDRESSES: Send comments to Director, Analysis Division, 3741 South Building, P.O. Box 2415, Washington, D.C. 20013. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday in Room 3741, South Building, 14th and Independence Avenue, SW., Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Gypsy Banks, Agricultural Economist, Agricultural Stabilization and Conservation Service, USDA, Room 3732—South Building, P.O. 2415, Washington, D.C. 20013; (202) 447-5953. The Preliminary Regulatory Impact Analysis is available upon request.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance program that this notice applies to are: Title—Commodity Loans and Purchases, Number—10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

It has been determined that the public comment period with respect to this notice of proposed determination should be reduced from 60 days to 15 days. The determiantion of the national average loan level for 1983-crop additional peanuts is required by law to be made by the Secretary of Agriculture no later than February 15, 1983. The determination of the national average support level for 1983-crop quota peanuts and the minimum CCC export edible sales price for additional loan collateral peanuts are usually made at the same time in order to allow peanut producers an opportunity to make financial plans.

A description of the applicable statutory authority requiring the

determinations set forth in this notice, as well as the pertinent data relating to these determinations, are set forth below.

A. *National Average Support Level for Quota Peanuts.* Section 108A(1) of the Act provides that the national average support level for each of the 1983, 1984 and 1985 crops of quota peanuts shall be the national average quota support rate for such peanuts for the preceding crop, adjusted to reflect any increase, during the period January 1 and ending December 31 of the calendar year immediately preceding the marketing year for the crop for which a level of support is being determined, in the national average cost of peanut production, excluding any increase in the cost of land except that in no event shall the national average quota support rate for any such crop exceed by more than 6 per centum the national average quota support rate for the preceding crop.

Because the 1982 calendar year immediately precedes the 1983 marketing year for which the 1983 quota support is being determined, the 1983 quota support level is required to be the 1982 quota support of $550 per ton adjusted to reflect the increase in the cost of production for 1982-crop peanuts. The cost of producing 1982-crop peanuts is estimated to be below the cost of producing 1981 crop peanuts; therefore, the national average support level for 1983 crop of quota peanuts would remain unchanged from the 1982 level of $550 per ton. Details of the cost of production estimates are shown in the following table.

NATIONAL AVERAGE COST OF PEANUT PRODUCTION

[Dollars per ton]

Item	1981	1982	1982[1]
Variable, machinery ownership, farm overhead, and management less value of secondary product	443.80	411.72	411.72
Land allocation:			
Composite, current	108.63	112.86	108.63
Composite, acquisition	88.58	87.61	93.58
Current value	85.34	89.68	85.34
Total costs with:			
Composite, current	552.23	524.40	520.35
Composite, acquisition	537.18	506.73	505.30
Current value	506.94	481.25	477.06

[1]Excluding increase in land cost.

B. *National average level of support for additional peanuts.* Section 108A (2) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on 1983-crop additional peanuts at such level as the Secretary determines to be appropriate, taking into consideration certain factors. The Act further provides that the Secretary shall establish the level of support for additional peanuts at such level which is estimated by the Secretary to ensure that there are no losses to CCC on the sale or disposal of such peanuts. Additional peanuts are defined in the Act as the following: (A) Any peanuts marketed from a farm for which a farm poundage quota has been established and that are in excess of the quota marketings from such farm, and (B) all peanuts marketed from a farm for which no farm poundage quota has been established. The Act requires that the level of support for 1983-crop additional peanuts shall be announced no later than February 15, 1983. In determining the level of support for additional peanuts, the Secretary shall take into consideration the following factors.

1. *Demand for peanut oil and meal.* The expected lower level of U.S. peanuts available for crushing in 1983/84, 2 percent below estimates for 1982/83 and 29 percent below 1981/82, could increase the peanut oil prices relative to soy oil prices. Peanut oil and meal prices are expected to average about 30 cents per pound and $150 per ton, respectively, for the 1983/84 marketing year.

2. *Expected prices of other vegetable oils and protein meals.* In 1982/83, world aggregate production of oilseeds is estimated to be 204 million short tons (185.1 million metric tons) or 7 percent higher than such production of oilseeds in 1981/82. Soybeans account for 52.6 percent of the total world aggregate oilseed production while peanuts account for 9.6 percent. Because of soybean dominance of the total supply, it leads the demand-supply price patterns for oilseeds. Large supplies and low prices dominate the 1982/83 U.S. soybean outlook. Although both domestic use and exports are expected to rise this season, the increase will fall short of the change in supplies. Stocks will build and real soybean prices could fall to their lowest level in many years. In 1982/83, soybean oil prices are estimated to range from 16 to 20 cents per pound compared to 19 cents per pound in 1981/82. Soybean meal prices are expected to range from $150 to $175 per ton, $7 to $32 per ton below 1981/82.

Soybean acreage will likely decrease in 1983 but supplies are expected to continue to be large relative to demand. Demand for oil and meal is expected to strengthen. however, price increases for soy oil are projected to range from 2.5 percent below to 21.9 percent above 1982/83 and soybean meal prices are projected to increase 2.9 to 20.0 percent over expected 1982/83 levels.

3. *Demand for peanuts in foreign markets.* The demand for U.S. peanuts in foreign markets is expected to strengthen as U.S. exports return to their more historical levels prior to the drought-reduced 1980 crop. The U.S. is expected to supply as much as 425,000 short tons to the export market in the 1983/84 marketing year, 15.8 percent above the 367,000 short ton estimate for the 1982/83 marketing year.

In addition to consideration of the above factors, the Act also provides that the support rate must be established at a level estimated to ensure no loss to CCC from the sale or disposal of additional peanuts placed under loan. In order to determine a loan rate to ensure that there is no loss to CCC from the sale or disposal of such peanuts, net gains and losses on additional loan pools must be considered. Factors influencing net gains and losses on these pools include the following: (1) Initial loan outlays, (2) costs to CCC for such items as inspection, storage, shrinkage, and fumigation, (3) projected prices with respect to CCC sales of peanuts for domestic edible use, export edible use and crushing, and (4) projected net gains or losses for the quota loan pool. The Preliminary Regulatory Impact Analysis examines these factors in detail.

C. *Minimum CCC export edible sales price for additional peanuts pledged as collateral for a price support loan.* The determination of a minimum CCC export edible sales price with regard to such peanuts is discretionary with the Secretary. This determination is being made currently with the determination of the price support levels in order to give handlers and growers adequate information on which to base export contracts for additional peanuts. If the minimum sales price is established too high it discourages export contracting between handlers and growers and encourages the production of additional peanuts for the loan program on the assumption that the minimum sales price is the price growers will receive for their loan peanuts. This assumption may be incorrect, however, since a misjudgement in the price of edible peanuts in the export market could result in CCC losing edible sales and having to crush the loan inventory. In such case, growers would only receive the additional loan rate. If the minimum sales price is too low, returns from export sales will not be maximized and grower income will be reduced, since export contracts between handlers and growers are generally based on the CCC minimum sales price.

Proposed Determinations

Comments are requested on the following issues with respect to 1983-crop peanuts.

(1) The national average price support level for quota peanuts.

(2) The national average price support level for additional peanuts.

(3) The minimum CCC export edible sales price for additional loan collateral peanuts.

All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday in Room 3741-South Building, 14th and Independence Avenue, SW., Washington, D.C. 20013.

Signed at Washington, D.C., on January 21, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-2079 Filed 1-24-83; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Medicine Bow National Forest Grazing Advisory Board; Meeting

The annual meeting of the Medicine Bow National Forest Grazing Advisory Board will be Feburary 23, 1983, at 10 a.m. in the Medicine Bow National Forest Supervisor's Office, 605 Skyline Drive, Laramie, Wyoming.

The agenda for the meeting will include: (1) Accepting new board members; (2) acquaint new members with the function of the Board; (3) recommendations concerning the development of allotment management plans and the utilization of range betterment funds; (4) location and agenda for the summer tour; and (5) amend by-laws for ways to select a board member in case of tie vote.

The meeting will be open to the public. Persons who wish to attend and participate should notify Don Schmidtlein (307-745-8971) Laramie, Wyoming, prior to the meeting. Public members may participate in discussions at any time during the meeting, or may file a written statement following the meeting.

Dated: January 1, 1983.

Sonny J. O'Neal,

Forest Supervisor.

[FR Doc. 83-1985 Filed 1-24-83; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Decision on Application for Duty-Free Entry of Scientific Instrument; U.S. Department of Energy

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00341. Applicant: U.S. Department of Energy, Pinellas Area Office, P.O. Box 11500, Byran Dairy Road, St. Petersburgh, FL 33733. Instrument: JMS-01BM Spark Source Mass Spectrometer System. Manufacturer: JEOL Limited, Japan. Intended use of instrument: See Notice on page 41799 in the **Federal Register** of September 22, 1982.

Comments: No comments have been received with respect to this application. Decision: Applicant approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (February 2, 1982). REASONS: The foreign instrument has a resolution of 10,000. It also obtains and maintains an analyzer vacuum of at least 10^{-8} torr. The National Bureau of Standards advises in its memorandum dated December 2, 1982 that: (1) The capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manfactured in the United States at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-1981 Filed 1-24-83; 8:45 am]

BILLING CODE 3510-25-M

Decision on Application for Duty-Free Entry of Scientific Instrument; U.S. Geological Survey

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00218. Applicant: U.S. Geological Survey, Western Region, 345 Middlefield Road, MS 85, Menlo Park, CA 94025. Instrument: Mass Spectrometer, System, MAT 260. Manufacturer: Finnigan-Mat, West Germany. Intended use of instrument: See Notice on page 29581 in the **Federal Register** of July 7, 1982.

Comments: Comments supporting the applicant were received from Finnigan-MAT on July 19, 1982. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (September 26, 1979). Reasons: This application is a resubmission of Docket Number 80-00454 which was denied without prejudice to resubmission on January 27, 1982 for informational deficiencies. The foreign instrument provides automated analysis of twelve samples. The National Bureau of Standards advises in its memorandum dated November 19, 1982 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use available at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign

instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-1982 Filed 1-24-83; 8:45 am]

BILLING CODE 3510-25-M

Decision on Application for Duty-Free Entry of Scientific Instrument; Indiana University

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00302. Applicant: Indiana University, 1101 East 17th Street, Bloomington, IN 47407. Instrument: High Resolution Gas Chromatograph Mass Spectrometer, MS80. Manufacturer: Kratos Analytical, United Kingdom. Intended use of instrument: See Notice on page 39547 in the **Federal Register** of September 8, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument is intended to be used, and have it available to the applicant without unreasonable delay in accordance with Subsection 301.5(d)(4)(i) of the regulations, at the time the foreign instrument was ordered (May 18, 1982). Reasons: On February 25, 1982 the applicant mailed a letter to Nuclide Corporation (Nuclide) seeking a mass spectrometer with a resolution of 1000 to 25,000. Nuclide did not respond to this letter. Further, Nuclide did not comment on this application or oppose it in any way. The National Bureau of Standards advises in its memorandum dated November 17, 1982 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose, (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use and (3) it knows of no domestic manufacturer both willing and able to provide a mass spectrometer with the required resolution at the time the foreign instrument was ordered.

Mass spectrometers fall in the category of instruments that are produced on order. As to the domestic availability of such instruments the regulations provide:

> * * * In determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case * * *. Whether or not the domestic manufacturer has field tested or demonstrated the instrument will not, in itself, enter into the decision regarding the manufacturer's ability to manufacture an instrument. Similarly, in determining whether a domestic manufacturer is willing to produce an instrument, the Director may take into account the nature of the bid process, the manufacturer's policy toward manufacture of the product(s) in question, the minimum size of the manufacturer's production runs whether the manufacturer has bid similar instruments in the past, etc. Also if a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument.

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purpose of comparison with the foreign instrument. Where an applicant, as in this case, extends in good faith a letter to a domestic manufacturer and receives no reply, it is apparent that the domestic manufacturer is either not willing or able to produce an instrument of equivalent scientific value to the foreign instrument. Accordingly, the Department of Commerce finds that no domestic manufacturer was both "able and willing" to manufacture a domestic instrument of equivalent scientific value to the foreign instrument for such purpose as the foreign instrument is intended to be used at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-1950 Filed 1-24-83; 8:45 am]

BILLING CODE 3510-25-M

Decision on Application for Duty-Free Entry of Scientific Instrument; University of California

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00324. Applicant: University of California, Berkeley, Purchasing Department, 2405 Bowditch Street, Berkeley, CA 94702. Instrument: Mass Spectrometer, Model MS 50S with Accessories. Manufacturer: Kratos, United Kingdom. Intended use of instrument: See Notice on page 57718 in the **Federal Register** of November 25, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (June 23, 1981). Reasons: The foreign instrument provides a resolution of 150,000 (10% valley definition) and fast repetitive scanning (10-12 seconds cycle time, mass 800 to 60, at resolution M/ΔM-10,000). The Department of Health and Human Services advises in its memorandum dated December 1, 1981 that (1) the capabilities of the foreign instrument described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which

is being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-1960 Filed 1-24-83; 8:45 am]

BILLING CODE 3510-25-M

Decision on Application for Duty-Free Entry of Scientific Instrument; University of Kansas Center for Research Inc.

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-650, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 2097, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00301. Applicant: University of Kansas Center for Research, Incorporated, 2291 Irving Hill Road, Lawrence Kansas 66045. Instrument: Weissenberg Rheogoniometer, Model R19, Type A/D/L with Programmable Drive System. Manufacturer: Sangamo Transducers, United Kingdom. Intended use of instrument: See Notice on page 39547 in the Federal Register of September 8, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, if being manufactured in the United States. Reasons: This application is a resubmission of Docket Number 81-00172 which was denied without prejudice to resubmission on April 23, 1982 for informational deficiencies. The foreign instrument provides a wide range of shear stresses (9.55×10^{-4} to 1.27×10^{-7} dynes per square centimeter). The National Bureau of Standards advises in its memorandum dated December 20, 1982 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-1959 Filed 1-24-83; 8:45 am]

BILLING CODE 3510-25-M

Computer Peripherals Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving: (A) Technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

Time and Place

February 17, 1983, at 9:30 a.m. The meeting will take place at the Federal Building, Room 2007, 450 Golden Gate Avenue, San Francisco, California.

Agenda

General Session:

(1) Opening remarks by the Acting Chairman.

(2) Presentation of papers or comments by the public.

(3) Review of the Committee charter.

(4) Review of the Committee organization.

(5) A review of subcommittee activities:

a. Memory and Media,

b. Foreign Availability,

c. Display and Terminals, and

d. Export Regulations.

(6) New Business. Executive Session.

(7) Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12350.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 2613, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: January 17, 1983.

John K. Boidock,

Director, Office of Export Administration.

[FR Doc. 83-1963 Filed 1-24-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Permit Modification Request; Sea World, Inc.

Notice is hereby given that Sea World, Incorporated, 1720 South Shores Road, Mission Bay, San Diego, California 92102, has requested a modification to Public Display/Scientific Research Permit No. 252 issued on January 12, 1979, under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing that Taking and Importing of Marine Mammals (50 CFR Part 216).

The Permit Holder is requesting to take one (1) additional Pacific pilot whale (*Globicephala macrorhynchus*) as a replacement for an animal which died during acclimation in captivity. The additional animal would be taken by the means, in the area, and for the purposes set forth in the original permit application.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or view, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service

Documents submitted in connection with the above request are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 19, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-2013 Filed 1-24-83; 8:45 am]

BILLING CODE 3510-22-M

International Whaling Commission; Meetings

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of Meetings.

SUMMARY: NOAA makes use of an Interagency Committee to assist in preparing for meetings of the International Whaling Commission (IWC). This notice sets forth guidelines for participation on the Committee and a tentative schedule of meetings and other important dates.

DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Dean Swanson, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235. Phone: (202) 634–1792.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is charged with the responsibility of discharging the obligations of the United States under the International Convention for the Regulation of Whaling, 1946. This authority has been delegated to the Administrator of NOAA who also serves as the United States Commissioner to the IWC. The Administrator is responsible for the preparation and negotiation of United States positions on international issues involving whaling and for all matters involving the IWC. He is assisted by the Departments of State and Interior, the Marine Mammal Commission, and other interested agencies.

Each year NOAA conducts a series of meetings and other actions to prepare for the annual meeting of the IWC which is held in the summer. The primary purpose of the preparatory meetings is to provide for participation in the development of policy by members of the public and non-governmental organizations interested in whale conservation. The NOAA believes that this participation is valuable and important for the effective development and implementation of United States whaling policy.

Because the meetings discuss United States negotiating positions, the substance of the meetings must be kept strictly confidential. For example, proposed position papers that may be circulated at a meeting for discussion cannot be removed from the meeting site and must be collected at the close of each meeting.

Any United States citizen with an identifiable interest in United States whale conservation policy may participate, but NOAA reserves the authority to inquire about the interests of any person who appears at a meeting and to determine the appropriateness of that person's participation. Persons who represent foreign interests may not attend. These stringent measures are necessary to protect the confidentiality of United States negotiating positions and are a necessary basis for the relatively open process of preparing for IWC meetings in comparison with most other international negotiations.

The tentative schedule of meetings, including those of the IWC, and deadlines for the preparation of position papers during 1983 is as follows:

March 3—Interagency Committee Meeting to initiate preparations for the July IWC meetings. Any subcommittees that may be required to address specific issues will be constituted. A list of issues anticipated for July will be circulated at the meeting. Interested persons who are unable to attend are welcome to submit comments and recommendations to the Administrator for consideration at the meeting or anytime thereafter. Such submissions should be sent to: Dr. John V. Byrne, Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20230.

April 4—Nominations for the United States Delegation to the July IWC meetings are due to the Administrator.

April 22—(approximate date) Anticipated Interagency Committee Meeting following receipt of the preliminary agenda for the July IWC meetings which is due to be circulated by the IWC Secretariat on or before April 9. The meeting will review the preliminary agenda and proposed additions to this agenda, all of which will be available at the meeting. The date and location for this meeting will be confirmed as soon as the preliminary agenda is received.

April 29—Forward United States agenda changes to the IWC Secretariat.

May 9—Draft position papers due to the Administrator.

May 9 through July 17—Prenegotiations.

May 18—Due date for circulation of the provisional agenda by the IWC Secretariat. This "second draft" of the agenda reflects additions submitted by all member countries and stands until considered by the Commission at the opening session of its annual meeting.

June 3—Revised position papers due to the Administrator.

June 15—Final Interagency Committee Meeting to consider United States position papers and discuss arrangements for the Delegation's work.

June 15–23—Scientific Committee workshop on right whales, Boston, MA.

June 25–July 7—Annual Meeting of the Scientific Committee, Cambridge, England.

July 11–16—Technical Committee subcommittee and working group meetings (on aboriginal subsistence need for whaling, infractions, and such other meeting as may be scheduled), and preliminary meetings of the Finance and Administration Committee.

July 17—Meeting of the United States Delegation, Metropole Hotel, Brighton, England.

July 18–23—35th Annual Meeting of the IWC, Metropole Hotel, Brighton, England.

Persons who would like to be included in these meetings may contact Dean Swanson at the address or telephone number provided above to obtain meeting times and locations.

Dated: January 18, 1983.

Carmen J. Blondin,

Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-2014 Filed 1-24-83; 8:45 am]

BILLING CODE 3510-22-M

United States Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

On January 4, 1983, notice was given in the **Federal Register** (p. 320), that the Travel and Tourism Advisory Board would meet on February 2, 1983. Notice is hereby given that the Travel and Tourism Advisory Board meeting will begin at 10:00 am in Room 4830 of the Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and State tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97–63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to order.
II. Approval of the minutes.
III. Reports.
A. International travel trends for 1982 and outlook for 1983.
B. Update on USTTA inflight survey.
C. Research committee report.
D. U.S./Mexico tourism relations.
1. Status of the Mexican Visit USA market.
2. U.S./Mexico bilateral tourism agreement.
E. Minority tourism activities.
F. Activities of the National Tourism Policy Council.
1. Decisions and actions.
2. Mission and functions.
3. Travel and Tourism Advisory Board/Tourism Policy Council coordination. Duties of the Travel and Tourism Advisory Board under the National Tourism Policy Act.
IV. New Business.
A. Barriers to trade in tourism.
B. Visa Waiver Legislation.
1. Status report.
2. Proposed penalties for carrying passengers with invalid visas.
C. Customs trial programs and legislative proposals.
1. Single agency inspection service at U.S. gateways.
2. Clearance at Los Angeles for the 1984 Olympics.
3. User fees for Customs and Immigration.
D. Marketing Plan.
1. 1983 strategy.
2. 1984 plan.
3. Proposals for alternative funding.
E. Joint venture with McDonnell Douglas on production of a new travel promotion film.
V. Miscellaneous.
VI. Date of next meeting.
VII. Adjournment.

A limited number of seats will be available for observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Christine Hathaway, Committee Control Officer, United States Travel and Tourism Administration, Room 1865, U.S. Department of Commerce, Washington, D.C. 20230, (telephone: 202/377–0136), will respond to public requests for information about the meeting.

Peter McCoy,

Under Secretary for Travel and Tourism Department of Commerce.

[FR Doc. 83-1986 Filed 1-24-83; 8:45 am]

BILLING CODE 3510-11-M

COMMODITY FUTURES TRADING COMMISSION

Contract Market Rules; Proposed Disapproval; Chicago Board of Trade

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Proposed Disapproval of Contract Market Rules; Opportunity for Public Comment.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is publishing notice of its proposed disapproval of the Chicago Board of Trade's ("CBT" or "Exchange") proposed Rules 353.00 and 354.00. Proposed Rule 353.00 would require that any person who executes trades for others on the floor of the Exchange be compensated on a per-contract basis, and would prohibit compensation on a salaried basis. Proposed Rule 354.00 would restrict those who do not have a substantial personal equity interest in a membership to executing trades for their personal accounts only. The Commission is proposing to disapprove the proposed rules pursuant to Section 5a(12) of the Commodity Exchange Act, as amended ("Act"), on the grounds that the proposed rules are anticompetitive and that their approval by the Commission would be inconsistent with Section 15 of the Act; that the standards for denial of access set forth therein would effectively vitiate the procedural safeguards prescribed by Section 8c(1)(B) of the Act, which requires adequate notice of any exchange access denial, including the reasons therefor; and that the Exchange has not satisfactorily demonstrated that approval of the proposed rules would not be contrary to the public interest, as required by Section 5(g) of the Act.[1]

DATE: Comments must be received on or before March 28, 1983.

ADDRESS: Interested persons should submit comments to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Karen Matteson or David S. Mitchell, Attorney Advisors, Division of Trading and Markets, at the above address. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letters dated June 10, 1982, CBT submitted proposed Rules 353.00 and 354.00 for Commission approval pursuant to Section 5a(12) of the Act, 7 U.S.C. 7a(12) (Supp. V 1981). On June 16, 1982, the Commission's Division of

[1] The Commission also has determined that the proposed rules are of major economic significance and that, accordingly, their publication for public comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Act.

Trading and Markets ("Division") remitted these submissions pursuant to delegated authority conferred by Rule 1.41a(c), 17 CFR 1.41a(c) (1982) because the submissions did not comply with the form and content requirements of Rule 1.41(b), 17 CFR 1.41(b) (1982). The proposed rules were resubmitted by CBT in two letters dated August 31, 1982.

Proposed Rule 353.00 provides that:

Any person who executes trades for others on the floor of the Exchange must be compensated for such executions by fees calculated on a per-contract basis. Any compensation arrangement which has the direct or indirect effect of compensating a floor broker in the form of a salary shall be prohibited. The Floor Broker Committee shall have authority to order the investigation of whether violations of this Rule have occurred and in any such instance to recommend that the Board of Directors take appropriate action. In addition, that Committee shall have the authority to waive any of the provisions of this Rule, for good cause shown.

Proposed Rule 354.00 provides that:

An individual who does not have a substantial personal equity interest in a membership, a membership interest, or a permit may execute trades on the Floor of the Exchange for his personal account only.

The provisions of this Rule will not apply to any delegate principally engaged as a floor broker as of the date of the adoption of this Rule by the membership and for a period extending 3 years thereafter provided that said delegate shall, within 30 days of the effective date of this Rule, obtain and deliver to the Floor Broker Committee an acceptable guaranty from a clearing firm against errors incurred in the execution of orders.

Provided however, that under extraordinary market conditions, a member-employee of a member firm may fill orders only on an "as needed" basis to assist in maintaining an efficient order flow.

The Floor Broker Committee shall have authority to order the investigation of whether violations of this rule have occurred and in any such instance to recommend that the Board of Directors take appropriate action.

II. Background

The Act and the Commission's regulations recognize the critical role which floor brokers play in connection with the execution of customer orders on contract markets.[2] As the floor brokers are the persons that actually execute these transactions in the trading pit or ring or similar place required to be provided by the contract markets, it is evident that their activities are vital to the operations of the contract markets and in turn to the commodity industry.

With respect to their manner of compensation, the floor brokers of the CBT and of the other contract markets may be divided into two categories: (1) those who are not affiliated with a particular futures commission merchant ("FCM") and who typically receive fees calculated on a per-contract basis, *i.e.*, Commissions and (2) those who are employees of a particular FCM and as such generally receive a salary. Proposed CBT Rules 353.00 and 354.00 would prohibit the latter group from continuing to act as floor brokers and as a practical matter prohibit their employer FCMs from using them to provide floor brokerage services. The proposed rules would produce these results by preventing FCMs from using salaried floor brokers to execute customer orders, by restricting the use of FCM-owned seats for floor brokerage and by requiring that all floor brokers be compensated on a per-contract basis. The numbers of salaried floor brokers currently on the CBT floor are significant, as out of the total of approximately 2700 individuals who have trading privileges on the floor of the CBT, about 800 (30%) are delegates or employees of FCMs and do not own their own memberships. (*See* CBT letter dated August 31, 1982 concerning proposed Rule 354.00). As a result, as even the CBT concedes, adoption of these rules would dramatically curtail the trading privileges of almost one-third of those individuals currently holding such privileges, as well as eliminate the ability of present (and future) member firms to use them for floor brokerage services on a salaried basis. Moreover, the Commission understands that the FCMs which employ these floor brokers account for, in the aggregate, a substantial percentage of all trades executed for public customers on the CBT.[3]

The loss of salaried floor brokers also could have other adverse effects on the functioning of the CBT's markets and their participants. For example, it appears that member firms would no longer be able to compete among themselves for customer business based upon the perceived advantages to customers of better price or service that may result from dealing with a firm that employs its own floor brokers, as all firms would be compelled to use independent floor brokers to execute the orders of their customers. By limiting free competition in setting floor brokerage rates through permitting only one method of compensating floor brokers, the proposed rules also would appear to deprive customers of their existing ability to consider the manner in which brokerage firms have their orders executed on the floor of the Exchange when deciding to select or retain a firm to handle their trading accounts. Further, the existing ability of customers to agree with a firm on a commission or fee for execution of their transactions apparently would be restricted, as a member FCM would be prohibited from negotiating to pay a floor broker on a salaried, rather than on a per-contract basis. Thus, customers could end up paying higher commissions than would be charged if member FCMs were able to use salaried floor brokers. The cumulative effect of these impediments on the ability of customers to obtain brokerage services in a manner freely negotiable between the customers and floor brokers could impact upon the liquidity of trading in CBT contracts. Accordingly, in view of the significance of the floor broker function and of the substantial impact which adoption of these rules would have on a large portion of the floor broker population of the CBT, on the member FCMs which employ salaried floor brokers, on customers and on the Exchange itself, the Commission believes that the Exchange's justification for these proposed rules must be examined with special care.

III. Justification for Proposed Rules 353.00 and 354.00

The Exchange advances essentially two arguments in favor of the proposed rules. First, CBT argues that the proposed rules will protect customers because "the exchange believes that

[2] The term "floor broker" is defined in Section 2(a)(1) of the Act, 7 U.S.C. 2 (Supp. V 1981), to mean "any person who, in or surrounding any 'pit', 'ring', 'post', or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market." *See also* Rule 1.3(n), 17 CFR 1.3(n) (1982). Pursuant to Section 4e, 7 U.S.C. 6e (1976), a person may not lawfully act as a floor broker without having registered as such with the commission in accordance with Section 4f(1), 7 U.S.C. 6f(1) (Supp. V 1981) and the Commission's regulations. Further, the Act and the regulations thereunder impose various other requirements on floor brokers. *See, e.g.*, Section 4g(3), 7 U.S.C 6g(3) (1976) (floor brokers must maintain daily trading records for each customer in a specified form and manner) and Rule 1.35, 17 CFR 1.35 (1982) (floor brokers must record on their trading cards their own trades and those for customers to aid in the detection of potential market irregularities and trading abuses). *See also* Rule 155.2, 17 CFR 155.2 (1982) (contract markets must adopt rules which generally prohibit floor brokers from engaging in such practices as trading ahead of their customers, taking the other side of customers' orders and allocating trades in a manner which favors the floor broker at the expense of his customers). The Futures Trading Act of 1982, Pub. L. No. 97-444, amends in certain respects the foregoing statutory provisions (other than Section 4e) without, however, affecting their treatment of floor brokers.

[3] In this connection, the Commission notes that all other contract markets permit salaried floor brokers to execute customer orders.

there is less * * * incentive for [salaried] brokers to handle customer orders in the best possible way," and, in CBT's view, and FCM is more likely to pursue customer complaints if the broker involved is not its salaried employee. Second, CBT argues that the proposed rules will result in increased competition between floor brokers in the fees they charge for brokerage services and that the result of negotiation between independent floor brokers and FCMs will be that the market value of floor brokerage services will come to reflect more accurately the long-run cost of such services.

On June 16, the Division specifically requested certain information from the CBT to substantiate the Exchange's justification for Commission approval of the proposed rules, as required by Rule 1.41(b). First, the Division requested any available data concerning the number and type of complaints regarding executions of customer orders that were documented by the CBT and relied upon in proposing Rules 353.00 and 354.00, setting forth how many of these complaints were directed at floor brokers who were salaried employees of members. The Commission notes that the Exchange did not address this question in the August 31 resubmission which is directed to one of the two rationales offered for the proposed rules.

Second, the Division requested data as to the total number of floor brokers at the CBT and the number of salaried floor brokers who would be excluded should the proposed rules be approved. As already noted, in its August 31 submission, CBT stated that there are over 2700 individuals with floor trading privileges and that about 800 of these individuals are delegates or employees of firms and do not own their memberships.

Third, the Division requested any analysis performed by the Exchange as to the potential impact of the proposed rules on the cost of brokerage services to market participants. The Exchange responded by stating that the market value of floor brokerage services will accurately reflect the long run cost of floor brokerage if proposed Rule 353.00 is approved. In addition, CBT stated that if floor brokers are salaried employees, the employing firm will absorb the cost of broker errors and pass them on to customers through increased commission rates rather than looking to the floor broker for a favorable adjustment to the customer. The Commission notes that the Exchange has not presented any analysis or data to support either of these assertions. Nor is the Commission aware through its oversight of the contract markets and its administration of the reparations program of any special problems associated with salaried floor brokers.

Finally, the Division requested any standards or guidelines which will govern the Floor Broker Committee's authority to grant waivers of proposed Rule 353.00. The Exchange merely responded that the Committee "has indicated that waivers of the Rule will take into account whether the execution of customer orders was incidental to the functions for which the employee is being paid a salary." The Exchange thus has proposed only the vaguest of standards to govern waiver of application of the proposed rule.

In addition to requesting the above information, the Division also informed the Exchange that, in order for any resubmission of the proposed rules to conform to the requirement contained in Rule 1.41(b)(4), 17 CFR 1.41(b)(4) (1982), the Exchange had to set forth any substantive views expressed by the Board or Exchange members opposing adoption of the proposed rules. In its August 31 resubmission, the Exchange stated that the only objection raised with respect to adoption of proposed Rule 353.00 was that the Exchange should not regulate arrangements for payment of services rendered, especially since it does not regulate commission or brokerage levels. Several concerns were raised by those who opposed adoption of proposed Rule 354.00. Representatives of member firms currently employing persons holding firm-owned memberships objected to proposed Rule 354.00 because such employees would be prohibited under that rule from executing customer orders. Concern also was expressed that the amounts that could be charged in delegating memberships would be reduced as delegates would be restricted from executing orders for customers. Finally, some members were concerned that membership prices would drop if proposed Rule 354.00 were adopted and that those holding several memberships would thus suffer losses. The Commission notes that the exchange did not state how or whether it attempted to amend either proposed rule to address the concerns expressed by its members.

IV. Proposed Grounds for Commission Disapproval

The Commission is proposing disapproval of the proposed rules pursuant to Section 5a(12) of the Act on several grounds.[4] First, the proposed rules appear to have potentially severe anticompetitive effects which would not be sufficiently outweighted by furtherance of any objective, policy or purpose of the Act to permit Commission approval consistent with Section 15 of the Act, 7 U.S.C. 19 (1976).[5] Second, the proposed rules appear to establish a procedure for denying or restricting access to the Exchange by many members without providing the safeguards required by Section 8c(1)(B) of the Act, 7 U.S.C. 12c(1)(B) (1976 & Supp. V 1981). Third, the Exchange has not successfully demonstrated that approval of the proposed rules would not be contrary to the public interest, as required by Section 5(g) of the Act, 7 U.S.C. 7(g) (1976). Each of these bases for proposing disapproval of proposed Rules 353.00 and 354.00 is set forth in greater detail below.

A. Potential Anticompetitive Effects of the Proposed Rules

1. *Section 15.* The applicable portion of Section 15 of the Act provides:

> The Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act, in * * * approving any bylaw, rule, or regulation of a contract market * * *

Despite the restrictions on access these rules would impose and their apparent substantial anticompetitive effects which are discussed above, the Exchange argues that their implementation would foster competition. Specifically, CBT argues that implementation of proposed Rule 353.00 will result in increased competition between floor brokers in charges for brokerage services and that implementation of proposed Rule 354.00 will lead to better executions for customers and provide a greater incentive for member firms to pursue customer complaints of errors in execution. This allegedly will occur because members with a substantial personal financial interest in their memberships supposedly are more likely

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[4] Section 5a(12), *as amended by* Section 216(2) of the Futures Trading Act of 1982, Pub. L. No. 97-444, provides in pertinent part that "the Commission shall disapprove, after appropriate notice and opportunity for hearing, any [bylaw, rule, regulation, or resolution] which the Commission determines at any time to be in violation of the provisions of th[e] Act or the regulations of the Commission." By this **Federal Register** release, the Commission is prividing CBT with the written notice required thereunder.

[5] *Cf. National Society of Professional Engineers* v. *United States*, 435 U.S. 679 (1978). These anticompetitive effects also appear to render the proposed rules inconsistent with the consent decree entered in the case of *United States* v. *Board of Trade of the City of Chicago, Inc., infra* note 7.

to be motivated to obtain better executions of customer orders.

In remitting the CBT's original submission, the Division specifically requested that the Exchange provide available data concerning the number and type of complaints regarding execution of customer orders and identify the proportion of such complaints which were directed at salaried floor brokers to enable the Commission to determine the merits of the contention that independent floor brokers obtain better order executions for their customers. In response, the Exchange has not provided any data which would support this assertion. Nor has the Exchange provided any economic data which would indicate the effects of the proposed rules on the cost of brokerage fees to market participants, let alone data which would support its claim that under the proposed rules such cost would more accurately reflect the market value of floor brokerage services to the benefit of customers. In fact, by prescribing a single method of floor broker compensation and by reducing the number of persons who may execute orders for customers, it appears that the proposed rules have the potential for increasing brokerage commissions to the detriment of customers and of reducing liquidity in contracts traded on the CBT.

CBT does advance an argument that its proposed rules are procompetitive in another sense. The Exchange points out that of the 2700 individuals with floor trading privileges, only 800 are delegates or employees of firms who do not own their memberships. The Exchange argues that:

> Through individual and independent ownership an environment comparable to that found in models of perfect competition has been developed. The memberships are not concentrated in any particular individuals' [sic], firm's [sic] or groups of individuals or firms. The growing use of salaried brokers by firms could well result in a change in the basic nature of the Exchange as it has existed.

CBT, however, has not presented any data which establishes that there is a serious threat that floor brokers salaried by large FCMs are likely in the near future to outnumber floor brokers who own their own memberships such that a change in the basic nature of the Exchange will result. Moreover, the Exchange has not established that its alleged model of "perfect competition" for brokerage services would in fact be more competitive than other structures which might evolve, let alone that such evolution would be an inevitable consequence if these rules are not implemented. Indeed, it appears to the Commission that a primary purpose of these rules is to restrict or even reverse the natural evolution of competitive forces within the "model of perfect competition" of which the Exchange itself speaks. Thus, the Exchange has not shown that the apparent substantial anticompetitive effects of the proposed rules, in denying persons access to the trading floor merely because they are salaried, are mitigated except by a conclusory and undocumented assertion of such hypothetical or speculative effects.

In addition to the substantial anticompetitive effects which are likely to arise as a result of implementation of the proposed rules, the proposed exceptions to the rules create a further potential for restricting competition. Proposed Rule 353.00 requires that any person who executes trades for others be compensated on a per-contract basis. The Floor Broker Committee, however, may "waive any of the provisions of this Rule, for good cause shown." In remitting the initial submission, the Division requested that CBT provide the Commission with any standards or guidelines it intended to employ in granting waivers. In its subsequent submission, CBT merely states that:

> The Floor Broker Committee has indicated that waivers of the Rule will take into account whether the execution of customer orders was incidental to the functions for which the employee is being paid a salary.

This statement does not adequately define what "good cause" for a waiver would be. Rather, it sets forth another ill-defined standard upon which waivers may be granted. As a consequence, the decision to grant a waiver essentially would be left to the unfettered discretion of the Floor Broker Committee, with the possibility that decisions affecting trading privileges on the Exchange may not be based upon objective criteria such as economic efficiency, but rather upon purely subjective criteria. Absent more specific standards, a salaried floor broker would have no basis for anticipating how his application for a waiver would be treated and there would be a greater likelihood that waivers could be denied based upon perceived threats of additional competition.

Proposed Rule 354.00 contains a provision which would allow member-employees of members firms to fill orders on an "as needed" basis to assist in maintaining an efficient order flow under "extraordinary market conditions." The firm would determine when such market conditions exist. Of course, proposed Rule 353.00 would still prohibit floor brokers who fill orders from being compensated on a salaried, rather than on a per-contract basis. CBT asserts, however, that in determining whether to waive proposed Rule 353.00 because execution of customer orders was "incidental" to the functions for which an employee was being paid a salary, the Floor Broker Committee would consider whether such executions were being made pursuant to proposed Rule 354.00 because of "extraordinary market conditions." Given the indefinite nature of the standard that CBT proposes for waiver of application of proposed Rule 353.00, firms might be overly cautious in determining that "extraordinary market conditions" exist.

Based on the foregoing, it is clear that the proposed rules raise serious anticompetitive concerns which must be considered by the Commission pursuant to Section 15 in connection with approving contract market rules.[6] Section 15, of course, does not prevent the Commission from approving contract market rules which have anticompetitive effects where those effects are outweighed by the objectives, policies or purposes of the Act which would be served by those rules. Rather, it requires that the Commission, in approving contract market rules, consider the public interest served by the antitrust laws and endeavor to use the least anticompetitive means of achieving the objectives of the Act.

In this connection, it does not appear that the proposed rules are the least anticompetitive means of achieving the goals CBT presents as justifying the Rules' approval. The proposed rules at best appear to provide a very indirect method of ensuring proper execution of customer orders and CBT has not provided any indication that it considered other methods for dealing with erroneous executions by floor brokers. For example, the Exchange does not explain why it has chosen to propose these rules, rather than amendments to its Regulation 350.04, which governs errors and mishandling of orders.

Further, the Exchange presents no evidence that salaried floor brokers are a disproportionate source of errors or that FCMs in fact simply absorb errors

[6] The correctness of this analysis is not altered by the fact that proposed Rule 354.00 would permit for a limited period of time those individuals who are currently floor brokers to continue to execute customer orders without having a substantial personal equity interest in a membership under certain specified conditions, inasmuch as this provision does not materially lessen the substantial anticompetitive effects of the rule, as discussed above. Moreover, proposed Rule 353.00 would still apply in such circumstances, prohibiting these floor brokers from being compensated on a salaried basis.

by their floor brokers rather than taking steps to ensure that errors do not occur in the future. It seems highly unlikely that an FCM would tolerate a substantial error rate from a salaried floor broker without taking steps to remedy the situation. Consequently, it does not appear to the Commission that the substantial anticompetitive effects of the proposed rules are outweighed by any countervailing regulatory benefits or that their adoption would be the least anticompetitive means of achieving the objectives of the Act. Therefore, Commission approval of the proposed rules would appear to be inconsistent with Section 15.

2. *United States* v. *Board of Trade of the City of Chicago, Inc.* Commission approval of proposed CBT Rule 353.00 would appear to be inconsistent with not only Section 15 of the Act, but also with the consent decree entered in the case of *United States* v. *Board of Trade of the City of Chicago, Inc.*[7] In that consent decree, CBT was ordered to phase out fixing of commission rates and floor brokerage fees. In addition to permanently enjoining CBT from "directly or indirectly fixing, establishing, determining, recommending, suggesting, or adhering to any member or non-member commission rate or floor brokerage rate for commodity transactions on the Board," the court also permanently enjoined CBT from:

> Taking any other action restricting, directly or indirectly, the right of any member or of any non-member broker to agree with his customer on any commission or fee on any commodity transaction.[8]

Implementation of proposed Rule 353.00 by CBT would appear to violate this prohibition against restricting the right of a member FCM to agree with each customer on a commission or fee by forbidding the FCM to negotiate to pay a floor broker on a salaried, rather than on a per-contract basis. As noted above the FCM could thus be constrained to charge a higher commission than it would charge if it were able to use salaried floor brokers. Further, proposed Rule 353.00 runs counter to the court's purpose in entering the consent decree, which was "to provide for an orderly transition to *freely competitive* commission and floor brokerage rates on the (CBT)."[9] (Emphasis added). By permitting only one method of compensating floor brokers, CBT would be limiting free competition in setting floor brokerage rates. Therefore, implementation of proposed Rule 353.00 by CBT would appear to violate not only the explicit terms of the injunction issued by the court in *United States* v. *Board of Trade of the City of Chicago, Inc.*, but also would be contrary to the basic purpose of that decree.

B. Procedural Requirements for Denying Access to the Floor

Section 8c(1)(B) provides in pertinent part:

> Any * * * access denial procedure established by an exchange rule shall provide for written notice to the Commission and to the person who is * * * denied access, within thirty days, which includes the reasons for the Exchange action in the form and manner the Commission prescribes * * *.

Proposed Rules 353.00 and 354.00 clearly would deny access to the Exchange to a general class of persons who presently enjoy such access, while permitting broad exceptions pursuant to waivers granted by the Floor Broker Committee. As the standards for granting such waivers are extremely vague, the Commission believes that the inevitable result of this procedure would be that those not granted waivers would not be provided with the notice of access denial, including the reasons therefor, required by Section 8c(1)(B).[10] Section 8c(1)(B) ensures that members are not denied access in an unfair or arbitrary manner. As discussed *supra*, the standards set forth in the proposed rules for granting waivers are so indefinite that they could easily be applied in an arbitrary manner by the Floor Broker Committee or the Exchange. In addition, the standard which is to be applied in denying members access pursuant to the waiver provision of proposed Rule 353.00 is difficult to apply because the Exchange does not define or describe what sort of compensation arrangement may in fact have the indirect effect of compensating a floor broker on a salaried basis, or what guidelines the Floor Broker Committee would apply in making such a determination. Thus, the Commission does not believe that the procedures resulting from application of the proposed rules are susceptible of satisfying the procedural requirements of Section 8c(1)(B), since they do not ensure adequate notice to members with respect to what constitutes a violation of the rules, nor do they provide a description of the appropriate grounds for applying for a waiver or relying on an exception. Therefore, Commission aproval of the proposed rules would appear to be inconsistent with Section 8c(1)(B).

C. The Public Interest

Section 5 of the Act, 7 U.S.C. 7 (1976), provides in pertinent part:

> The Commission is hereby authorized and directed to designate any board of trade as a "contract market" when, and only when, such board of trade complies with and carries out the following conditions and requirements:
> * * * * * *
> (g) When such board of trade demonstrates that transactions for future delivery in the commodity for which designation as a contract market is sought will not be contrary to the public interest.

This section requires the Commission to disapprove proposed contract market rules pursuant ot Section 5a (12) if such rules conflict with or are inconsistent with the policies purposes and public interests embodied in the Act, as well as with the specific provisions of the Act and the Commission's regulations.[11] Further, Section 5(g) explicitly places the burden on the Exchange to establish that its proposed rules are not contrary to the public interest.

In this connection, Section 3 of the Act, 7 U.S.C. 5 (1976), *as amended by* Section 203 of the Futures Trading Act of 1982, Pub. L. No. 97–444, states that futures trading on the exchanges is "affected with a national public interest" which necessitates its regulation. Specifically, that provision embodies a Congressional finding that, among other things, futures contracts are traded in large volume by the public, futures prices are a basis for determining commodity prices, producers trade futures contracts to hedge against possible loss resulting from price fluctuation, and regulation to prevent unreasonable futures price fluctuations resulting from speculation, manipulation and control is necessary to protect interstate commerce and the national public interest. Proposed CBT Rules 353.00 and 354.00, by restricting access to the trading floor, could inhibit the ability of market participants to obtain access to CBT markets in a manner consistent with their

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[7] (1975–1977 Transfer Binder) Comm. Fut. L. Rep. (CCH) § 20,011 (1974).

[8] *Id.* at 20,517 (§ V(B)).

[9] *Id.* at 20,516 (§ IV).

[10] Rule 9.11, 17 CFR 9.11 (1982), sets forth the form, content and method of delivery of notice of Exchange decisions in disciplinary actions, which include actions denying access to members.

[11] 45 FR 34673, 34674 (May 23, 1980) (Notice of Agency Interpretation of Section 5a(12) of the Commodity Exchange Act). The validity of this interpretation was sustained in *Commodity Exchange, Inc.* v. *CFTC*, 543 F. Supp. 1340, 1353–54 (S.D.N.Y. 1982), *appeal docketed*, No. 81–3698 (2d Cir. 1982). In this regard, the Commission has advised Congress that if a proposed rule does not serve a valid economic purpose, the Commission will disapprove the rule under Section 5a(12). (Letter of August 8, 1978, from then-Chairman Bagley, for the Commission, to Sen. Talmadge and Rep. Foley.)

determination of the most economically efficient means of securing floor brokerage services, with possible resulting adverse effects on market liquidity. As a consequence, the use of contracts traded on the CBT as vehicles for price discovery and hedging, the economic purpose for which CBT is designated as a contract market in various commodities (and which is also a condition of its continued designation as such), may be impaired.

Thus, the Commission believes that CBT has not met its burden of demonstrating that proposed Rules 353.00 and 354.00 would be in the public interest.[12] On the contrary, the Commission believes that the proposed rules would not be in the public interest. First, the proposed rules appear likely to have substantial anticompetitive effects, rather than the procompetitive effects stated by the Exchange.[13] Second, implementation of proposed Rule 353.00 by CBT would be inconsistent with the explicit provisions and the purpose of the consent decree entered in *United States* v. *Board of Trade of the City of Chicago, Inc., supra* note 7. Third, the waiver provison set forth in proposed Rule 353.00 and the exception to proposed Rule 354.00 are so vague and indefinite that they could easily be applied in a discriminatory fashion which would result in unfairness to members. In addition, the vagueness of the waiver provision in proposed Rule 353.00 could discourage FCMs from relying on it to allow employees to fill orders for fear that application of proposed Rule 353.00 might not be waived, with other possible adverse consequences.

In sum, the Exchange has not established that its proposed rules would be in the public interest. Absent such demonstration, the Commission will be obligated, under Section 5(g), to disapprove the proposed rules pursuant to Section 5a(12) of the Act.[14]

V. Conclusion.

In view of the foregoing, the Commission hereby gives notice of its intention to disapprove, pursuant to Section 5a(12) of the Act, proposed Rules 353.00 and 354.00 of the CBT. Any person interested in submitting written data, views, or arguments on this matter should submit such comments by March 28, 1983, to Ms. Jane K. Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. In particular, the Commission requests that commentators provide statistics or other empirical data concerning such matters as the adverse effects of the proposed rules on firms which use salaried floor brokers to execute customer orders, the impact of the proposed rules on the cost of brokerage services to market participants, the incidence of improper executions of customer orders by salaried floor brokers as compared with independent floor brokers and the possibility that the restriction of floor brokerage services as proposed by the CBT will indirectly affect the liquidity of CBT markets.

Issued in Washington, D.C. on January 20, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-1997 Filed 1-21-83; 8:45 am]

BILLING CODE 6351-01-M

[12] As set forth above, CBT has not presented any data which would tend to establish that the proposed rules would increase competition. In addition, the exchange has not provided any evidence to support its claims that the proposed rules would be in the interest of customers by ensuring better execution of their orders or lower commission rates, while the reduction of the number of floor brokers available to promote liquidity which would result from the proposed rules could aversely affect the execution of customer orders.

[13] This does not mean that the Commission believes that the practice of employing salaried floor brokers is preferable to using independent floor brokers compensated on a per-contract basis. Rather, the Commission notes that a substantial portion of the CBT membership apparently has found some advantage in following the former practice and that denial of this choice to the membership is necessarily prejudicial to those members (and indirectly to the public) and without any countervailing benefits.

[14] In addition, the proposed rules also raise certain questions with respect to CBT's ability to comply with Section 5(e) of the Act, 7 U.S.C. 7(e) (1976), which requires that a governing board of a contract market "not exclude from membership in, and all privileges on, such [contract market], any duly authorized representative of any lawfully formed and conducted cooperative association of producers having adequate financial responsibility which is engaged in any cash commodity business * * *." For example, under the proposed rules, a cooperative association could not exercise the privilege of a member to execute orders for others as a floor broker, since for purposes of floor brokerage, membership effectively would be limited to individuals. The Commission specifically invites comments by cooperative associations as well as by other interested members of the public on this issue.

New Orleans Commodity Exchange: Proposed Amendments Relating To the Rough Rice Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The New Orleans Commodity Exchange ("NOCE" or "Exchange") has submitted a proposal to amend its rough rice futures contract. The NOCE proposal would redefine the delivery area from the four-state delivery region currently included in the contract to a specified area around Greenville, Mississippi, and would modify the par milling yield. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before February 24, 1983.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the New Orleans Commodity Exchange rough rice futures contract.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-6990.

SUPPLEMENTARY INFORMATION: The NOCE has submitted a proposal to amend Chapter 11 of its rough rice futures contract. The NOCE proposal would redefine the delivery area from the four-state delivery region currently included in the contract to a specified area around Greenville, Mississippi, and would modify the par milling yield.

The current rough rice contract specifies that delivery shall be at Exchange-approved facilities in Arkansas, Louisiana, Mississippi and Texas. Stuttgart, Arkansas is the par delivery point. Deliveries at facilities outside of Stuttgart in the four-state area are at a price differential, which is adjusted quarterly by Exchange officials to reflect changes in transportation costs between the non-par facilities and the par delivery point of Stuttgart.

The Exchange's proposal would eliminate Stuttgart and other parts of Arkansas, all of Texas, and portions of Mississippi and Louisiana from the delivery area for rough rice. The revised par delivery area would be limited to an area within a 10-mile radius of Greenville, Mississippi, with non-par delivery only at storage facilities declared regular by the Exchange which are outside the par area but within a 50-mile radius of Greenville. This 50-mile radius from Greenville would include sections of western Mississippi, southeastern Arkansas and northeastern Louisiana. The proposed differential for

deliveries in the non-par area would be fixed at $0.31 per hundredweight.

The Exchange indicates that the proposed changes in the contract's delivery terms and conditions would simplify the contract's delivery provisions by reducing the delivery area and eliminating the present complex system of locational price differentials for non-par delivery. The Exchange maintains that this simplification would provide long traders greater certainty as to the geographical location of delivery and would permit trading in the contract to price rough rice within a more limited geographical area than under the present contract's delivery terms. The NOCE also believes that there is an adequate deliverable supply of rough rice as well as sufficient warehouse storage facilities in the proposed delivery area. The Exchange further submits that, unlike commercial firms at the current par delivery point, firms in the proposed par delivery area are merchandisers of rough rice, and that such merchandising activity could contribute to more active trading in rough rice futures. Accordingly, the Exchange believes that the proposed changes should attract wider acceptance of the contract by the rice industry for hedging and price basing.

The rough rice contract now specifies a par milling yield of 55/70 (i.e., rough rice which yields, after milling, 55 percent whole kernels and 15 percent broken kernels, for a total milling yield of 70 percent.) The Exchange is proposing to change the par milling yield for the rough rice contract from 55/70 to 55/68—that is, the par milling yield would be 55 percent whole kernels and 13 percent broken kernels. The Exchange has indicated that the proposal reflects changing relationships between the proportional outputs of whole kernels and broken kernels in the milling process. The Exchange therefore has proposed that a 13 percent broken kernal standard be the basis for the par milling yield, rather than 15 percent standard, which would reduce the total milling yield to 68 percent. The Exchange also indicates that the 68 percent average total yield is more realistic and representative of the rice industry.

The proposed amendments to the rough rice contract would become effective immediately after Commission approval for all contract months subsequently listed by the Exchange for trading, but would not be applicable to currently listed months.

In accordance with Section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (Supp. V 1981), as amended, Pub. L. 97–444 (January 11, 1983), the Commission has determined that the proposal submitted by the NOCE concerning its rough rice futures contract is of major economic significance. Accordingly, the NOCE's proposed amendments to Chapter 11 will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the NOCE in support of the proposed rules may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by February 24, 1983. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C., on January 20, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-1998 Filed 1-24-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

January 10, 1983.

The USAF Scientific Advisory Board ad hoc committee on Advance Tactical Fighter Technologies will meet at Wright-Patterson AFB, Ohio on February 17–18, 1983. The purpose of the meeting will be to review the requirements and technologies associated with a next generation fighter. The meeting will convene at 8:30 a.m. and adjourn at 4:30 p.m. on February 17th and on February 18th will convene at 8:00 a.m. and adjourn at 3:00 p.m.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697–4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-1911 Filed 1-24-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Publication of Sample Cases and Expected Parental Contributions Under National Direct Student Loan; College Work-Study; Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of publication of sample cases and expected parental contributions for the approval of need analysis systems and notice of closing date for transmittal of information.

SUMMARY: The Secretary gives notice that the sample cases and expected parental contribution provided in the table below will be used in approving systems of need analysis for academic year 1983–84 for the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs. These programs are known collectively as the Campus-Based Programs. The Secretary takes this action under the authority of Section 4 of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97–301) and 34 CFR 674.13, 675.13, and 676.13, of the NDSL, CWS, and SEOG Program Regulations, respectively.

Institutions of higher education may use these approved systems of need analysis in determining the financial need of dependent and independent students under the respective Campus-Based Programs.

Closing Date for Transmittal of Information: An individual or organization wishing to have a system of need analysis approved must submit to the Secretary on or before February 24, 1983: A complete description of its system of need analysis for dependent and independent students, its student application form(s), the expected parental contributions produced by the system using the sample cases provided below, and a complete calculation of how each expected parental contribution was derived, including

enough information to allow the Secretary to duplicate these calculations and results. The Secretary will not accept this information in the form of computer programs, software, or mechanical devices. The Secretary will not accept this information after the closing date and will return information received after the closing date to the sender.

Documents Delivered by Mail: Descriptions of systems, application form(s), expected parental contributions, and calculations that are sent by mail must be postmarked on or before (insert 30 days from the date of publication) and addressed to Paula Husselmann, Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, SW. (Room 4018, Regional Office Building 3), Washington, D.C. 20202–3454.

An individual or organization must show proof of mailing these documents. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, or (3) any other proof of mailing acceptable to the Secretary of Education.

If these documents are sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An individual or organization should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an individual or organization should check with its local post office. An individual or organization is encouraged to use certified or at least first-class mail.

Documents Delivered by Hand: Descriptions of systems, application form(s), expected parental contributions, and calculations that are hand-delivered must be taken on or before February 24, 1983, to Paula Hüsselmann, Department of Education, Office of Student Financial Assistance, Campus and State Grant Branch, 7th and D Streets, SW., Room 4018, Regional Office Building 3, Washington, D.C. The Campus and State Grant Branch will accept these hand-delivered documents between 8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sundays and Federal holidays.

These documents will not be accepted after 4:30 p.m., February 24, 1983.

Program Information: This notice provides the sample cases and the expected parental contributions that the Secretary will use to approved need analysis systems for academic year 1983–84 under the Campus-Based Programs. In order to be approved, a system must meet the requirements provided in this notice.

An individual or organization must submit to the Secretary expected parental contributions for dependent students which: increase incrementally as the parents' financial strength (measured in constant dollars) increases, are equal for families of equal financial strength, and are within $50 of the expected parental contributions in 75 percent of the sample cases supplied by the Secretary. An individual or organization that wishes to have its system of need analysis approved for dependent students must also submit its system of need analysis for independent students. The Secretary will also approve a need analysis system for professional, graduate, and independent undergraduate students.

The expected parental contributions in this notice are based on the following assumptions: A 7 percent inflation rate for 1982; families of varying sizes with two parents and one dependent undergraduate student; the adjusted gross income of the older parent who is 45, the other parent not being gainfully employed; an asset protection allowance of $28,100; an 8 percent allowance for State and other taxes; and the use of 1982 U.S. income tax schedules for a joint return with standard deductions. The expected parental contributions in this notice did not take into account: Business or farm assets; nontaxable income (including social security benefits for education); unusual medical or dental expenses; other unusual expenses; or elementary and secondary tuition expenses.

The following table contains the sample cases and the expected parental contributions that the Secretary will use in determining the approval of need analysis systems for dependent and student under the Campus-Based Programs. The approved systems will be used for making awards to students under the Campus-Based Programs for academic year 1983–84.

SAMPLE CASES AND EXPECTED PARENTAL CONTRIBUTIONS FOR THE NDSL, CWS, AND SEOG PROGRAMS—ACADEMIC YEAR 1983–84

[Net assets and family size]

Adjusted gross income	$30,000				$40,000				$50,000				$60,000			
	3	4	5	6	3	4	5	6	3	4	5	6	3	4	5	6
$12,000	$110	0	0	0	$360	0	0	0	$640	$200	0	0	[illegible]	[illegible]	[illegible]	0
16,000	720	$280	0	0	960	$550	$140	0	1,240	810	$400	0	1,520	1,080	[illegible]	$200
20,000	1,290	870	$480	0	1,570	1,130	720	$270	1,870	1,400	990	[illegible]	[illegible]	1,690	1,250	800
24,000	1,900	1,420	1,020	$570	[illegible]	1,720	1,290	840	[illegible]	[illegible]	1,570	1,100	[illegible]	[illegible]	1,870	1,370
28,000	[illegible]	[illegible]	1,580	1,120	3,060	2,410	1,860	1,390	3,560	[illegible]	[illegible]	1,670	4,120	[illegible]	[illegible]	[illegible]
32,000	[illegible]	2,790	[illegible]	[illegible]	4,050	3,230	[illegible]	[illegible]	4,610	3,740	3,010	[illegible]	[illegible]	[illegible]	3,490	2,730

FOR FURTHER INFORMATION CONTACT: Margaret O. Henry or Paula M. Husselmann, telephone (202) 245–9720.

(Catalog of Federal Domestic Assistance No. 84.038, National Direct Student Loan Program, 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: January 20, 1983.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-2015 Filed 1-24-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and

Conservation Act (42 U.S.C. 6272), the following meeting notice is provided:

A meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on February 2 and 3, 1983, at the offices of the Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:30 a.m. on February 2. The meeting is being held in order to permit representatives of some of the members of IAB Subcommittee A to participate in a meeting of a joint Government/Industry Design Group for the preparation of the fourth IEA Allocation Systems Test (AST–4).

The agenda for the meeting is as follows:

1. Follow-up to Governing Board action relating to AST–4.
2. Test Guide review.
3. Briefings for participants in AST–4.
4. Antitrust clearance letters.
5. Plans for additional meetings.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., January 19, 1983.

Craig S. Bamberger,

Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 83–1908 Filed 1–24–83; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA–FC–83–001]

Powerplant and Industrial Fuel Use of 1978; Electric Utility Conservation Plans; Omaha Public Power District, et al.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of receipt of proposed electric utility conservation plans.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received two electric utility conservation plans developed and submitted for DOE approval pursuant to Section 808 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq., as amended (FUA or the Act).

Pursuant to 10 CFR 508.4(b), DOE hereby gives Notice of Receipt of Proposed Conservation Plans from the electric utility owners or operators listed in the **SUPPLEMENTARY INFORMATION** section below. The publication of this notice commences a thirty (30) day public comment period during which interested persons are invited to submit written comments concerning the content of any such proposed conservation plan.

The public file for each of the listed electric utility owners or operators containing the proposed conservation plan and any other pertinent documents is available at the Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, D.C. 20585, telephone (202) 252–6020. ERA will approve or non-approve the proposed plans of each electric utility within 120 days of the receipt of each plan. Approval or non-approval of a conservation plan will be based on the entire record of the proceeding, including any comments received during the public comment period provided herein. Notice of Approval or Non-approval of each econservation plan will be published in the Federal Register.

DATE: Written comments on any proposed conservation plan identified in the **SUPPLEMENTARY INFORMATION** section of this notice are due on or before February 24, 1983.

ADDRESS: Five copies of written comments shall be submitted to: Case Control Unit, Fuels Conversion Division, Forrestal Building, Room GA–093, 1000 Independence Avenue SW., Washington, D.C. 20585.

The name of the subject utility and the identifying case number should be printed on the outside of the envelop and on the douments contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–073 G, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–8162

Allan J. Stein, Esq., Office of the General Counsel, Forrestal Building, Room 6B–222, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2967.

SUPPLEMENTARY INFORMATION: Section 1023 of the Ominbus Budget Reconciliation Act of 1981, Pub. L. 97–35 (OBRA) amended FUA by adding a new section 808, entitled "Electric Utility Conservation Plan."

Section 808 requires utilities which own or operate any existing electric powerplant which used natural gas as a primary energy source between August 14, 1980 and August 13, 1981, and which also plan to use natural gas in any electric powerplant, to develop and submit to DOE for approval a conservation plan to conserve electric energy. The plan must set forth the means to achieve the conservation of electric energy at a level equal to 10 percent of the electric energy output of the utility sold within its own system which was attributable to natural gas during the four calendar quarters ending on June 30, 1981. The plan must be fully implemented during the five year period following DOE approval.

DOE will, within 120 days of the receipt of a proposed plan, approve each plan meeting the requirements of 10 CFR 508.8. If a proposed plan, as originally submitted, fails to meet the requirements for approval, DOE will notify the utility submitting the plan by letter, setting forth the reason therefor, and provide a reasonable time for the submission of a modified conservation plan. If an acceptable modified plan is not submitted within the specified time period, a Notice of Non-approval will be published in the Federal Register together with the basis for the determination that the proposed plan fails to meet the requirements of 10 CFR 508.8. The following list of utilities have submitted proposed conservation plans to DOE for approval. Publication of this notice does not constitute approval of such plans.

Utilities	FC Case No.	Date Filed
Omaha Public Power District, Omaha, Nebr.	52172-6000-00-49	12/2/82
Central Illinois Light Co., Peoria, Ill.	50485-0000-00-49	12/29/82

Issued in Washington, D.C., on January 18, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–1977 Filed 1–24–83; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER83–232–000]

Arizona Public Service Co.; Filing

January 19, 1983.

Take notice that on January 6, 1983, Arizona Public Service Company (Arizona) tendered for filing the First Revision of Exhibit B of Service Schedule D (Schedule D-Exhibit B) of the Power Coordination Agreement between Plains Electric Generation and Transmission Cooperative Inc. (Plains) and Arizona, Arizona FERC Rate Schedule No. 82.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 3, 1983. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1924 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-231-000]

Arizona Public Service Co.; Filing

January 19, 1983.

Take notice that on January 6, 1983, Arizona Public Service Company (Arizona) tendered for filing Third Revision of Exhibit B (Exhibit B) to the Wholesale Power Agreement between Plains Electric Generation and Transmission Cooperative Inc. (Plains) Arizona.

Arizona states that Exhibit B, executed by the parties on November 15, 1982 does not change any of the filed contract demands for the delivery points for the years 1983 and 1984, however, Plains has designated "Substation X" as "Pinetop Lakes" in this Exhibit B.

Copies of this filing have been served upon Plains and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20428, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1939 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-10-000]

Arkansas Power & Light Co.; Application

January 19, 1983.

Take notice that on January 13, 1983, Arkansas Power & Light Company (AP&L) filed an application seeking an order pursuant to Section 203 of the Federal Power Act authorizing it to sell two 115/13.8 kv substations to the City of Hope, Arkansas (Hope).

AP&L is incorporated under the laws of the State of Arkansas with its principal business office at Little Rock, Arkansas, and is engaged in the electric utility business in 66 counties in Arkansas, 12 counties in Missouri, three counties in Tennessee, one county in Mississippi and three parishes in Louisiana.

Hope receives transmission service from AP&L pursuant to a Transmission Service Agreement, which was filed with the Commission in Docket No. ER83-86-000. The substations to be purchased by Hope were formerly used to provide sale-for-resale service to it and will now be two points on interconnection between the AP&L transmission system and Hope's distribution system. Hope will pay AP&L $711,000 for the substations.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1925 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER 83-230-000]

Arkansas Power & Light Co.; filing

January 19, 1983.

Take notice that Arkansas Power & Light Company (AP&L), on January 5, 1983, tendered for filing a Power Coordination, Interchange and Transmission Agreement between City of Osceola, Arkansas and Arkansas Power & Light Company. This agreement, which has been executed by AP&L and Osceola, establishes rates and charges and contractual arrangements between AP&L and Osceola concerning service to Osceola of power and energy in excess of that supplied by Osceola's own generating capability and its jointly owned facilities. The agreement supersedes the existing Agreement for Electric Service to the City of Osceola, Arkansas by Arkansas Power & Light Company, dated June 16, 1970 and designated Rate Schedule FPC No. 63. A notice of cancellation of Rate Schedule FPC No. 63 was submitted with the filing.

AP&L requests an effective date of January 22, 1983, for the Power Coordination, Interchange and Transmission Agreement and for the cancellation of Rate Schedule FPC No. 63, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served the City of Osceola, Arkansas and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1926 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3612-000]

Brasfield Development, Ltd.; Commission Action Lifting Preliminary Permit Suspension

January 19, 1983.

On August 26, 1981 (16 FERC ¶62,246) the Director, Office of Electric Power Regulation, issued an order issuing a preliminary permit to Brasfield Development, Ltd. for Project No. 3612-000. Appomattox River Water Authority appealed the order issuing preliminary permit. On October 26, 1981, the Commission issued a notice of intent to act, suspending the effective date of the preliminary permit until further Commission action of the appeal.

On September 15, 1982, the Commission issued an order denying appeal. Since the Commission has acted

on the appeal, the preliminary permit is no longer suspended, and Brasfield Development, Ltd. is authorized to continue the work prescribed under the preliminary permit. Accordingly, the expiration date of the preliminary permit is extended to June 30, 1984, 18 months from the effective date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1927 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5686-001]

City of Canyonville; Surrender of Preliminary Permit

January 20, 1983.

Take notice that the City of Canyonville, Permittee for the proposed Elk Creek Hydropower Project No. 5686, has requested that its preliminary permit be terminated. The permit was issued on May 27, 1982 and would have expired on October 31, 1983. The project would have been located on the Elk Creek in Douglas County, Oregon.

The Permittee filed its request on December 28, 1982, and the surrender of the preliminary permit for Project No. 5686 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1940 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE83-229-000]

Commonwealth Electric Co.; Filing

January 19, 1983.

Take notice that on January 5, 1983, Commonwealth Electric Company ("Commonwealth") filed, pursuant to Section 205 of the Federal Power Act and the implementing provisions of Section 35.13 of the Commission's Regulations, a proposed change its currently-effective Rate Schedule FERC No. 34 accepted for filing by letter order of the Commission issued March 30, 1979 in FERC Docket No. ER78-579 ("Rate Schedule"). Said Rate Schedule is the Service Agreement (with 5 Exhibits attached) dated December 1, 1977 by and between Commonwealth and Boston Edison Company ("Edison").

Said change to the above-referenced Rate Schedule affects Supplement No. 3 thereto which states that Commonwealth's after tax return on equity shall be the return on equity last allowed Commonwealth by order of the Massachusetts Department of Public Utilities ("DPU") but in no event shall be less than 13%.

On May 28, 1982 Commonwealth received an order from the DPU which allowed Commonwealth a return on common equity 15.5%. Accordingly, Commonwealth hereby tenders for filing such change to Supplement No. 3 to its Rate Schedule FERC No. 34 to reflect and increase in return on common equity. Commonwealth has requested that the Commission's notice requirements be waived pursuant to § 35.11 of its Regulations in order to allow the tendered rate change to become effective as of June 1, 1982.

Copies of this filing have been served upon Boston Edison Company and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Rgulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (§§ 385.211. 385.214). All such motions or protests should be filed on or before February 2, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1928 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-228-000]

Consumers Power Co.; Filing

January 19, 1983.

Take notice that on January 5, 1983, Consumers Power Company (Consumers) tendered for filing a contract for wholesale electric service with the City of Coldwater, Michigan. Consumers states that the Service Agreement dated November 4, 1982 for the City of Coldwater establishes service to a second delivery point and will be effective for an initial period of three years on and after the date on which service is first made available, believed to be on or about November 6, 1982. Consumers states that rates charged under the contract are those established for wholesale service in Docket No. ER82-208, as they may be amended from time to time.

Consumers requests an effective date of November 7, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served on the City of Coldwater and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 31, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1929 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4449-002]

Dakota County, Minnesota; Surrender of Preliminary Permit

January 18, 1983.

Take notice that Dakota County, Minnesota, Permittee for the proposed Byllesby Dam Project No. 4449, has requested that its preliminary permit be terminated. The permit was issued on August 3, 1981, and would have expired on January 31, 1983. The project would have been located on the Cannon River in Dakota and Goodhue Counties, Minnesota.

The Permittee filed its request on December 20, 1982, and the surrender of the preliminary permit for Project No. 4449 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1930 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6101-001]

Energenics Systems Inc.; Surrender of Preliminary Permit

January 20, 1983.

Take notice that Energenics Systems Incorporated Permittee for the proposed John Martin Project has requested that its preliminary permit be terminated.

The preliminary permit was issued on July 28, 1982, and would have expired on December 31, 1983. The proposed project would have been located at the U.S. Army Corps of Engineers John Martin dam in Bent County, Colorado. Permittee indicated that the project would not appear to be an economic source of energy.

Permittee filed its request on December 28, 1982, and the surrender of its permit for Project No. 6101 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1941 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6950-000]

Franklin Falls Hydro Electric Corp.; Exemption From Licensing

Issued January 20, 1983.

A notice of exemption from licensing of a small hydroelectric project known as the Franklin Falls, Project No. 6950, was filed on December 20, 1982, by Franklin Falls Hydro Electric Corporation. The proposed project would be located on the Winnipesaukee River (New Hampshire Water Resources Board #87.09), Merrimack County, New Hampshire and would have a total installed capacity of 669 kW.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in Section 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project is exempted from licensing as of the date of this notice.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 83-1942 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3304-003]

Hydro Corp. of Pennsylvania; Surrender of Preliminary Permit

January 20, 1983.

Take notice that Hydro Corporation of Pennsylvania, Permittee for the proposed Crooked Creek Project No. 3304, has requested that its preliminary permit be terminated. The permit was issued on February 20, 1981, and would have expired on February 1, 1983. The project would have been located on Crooked Creek in Armstrong County, Pennsylvania.

Hydro Corporation of Pennsylvania has determined that hydro development at this time would not be economically feasible.

Permittee filed its request on December 27, 1982. The surrender of the preliminary permit for Project No. 3304 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1943 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-240-000]

Idaho Power Co.; Filing

January 19, 1983.

Take notice that on January 10, 1983, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during November, 1982, along with cost justification for the rate charged. The filing includes the following supplements:

Utah Power & Light Company, Supplement 13
Montana Power Company, Supplement 11
Sierra Pacific Power Company, Supplement 11
Portland General Electric Company, Supplement 10
Southern California Edison Company, Supplement 10
San Diego Gas & Electric Company, Supplement 7
Pacific Power & Light Company, Supplement 8
Los Angeles Water & Power Company, Supplement 9
City of Burbank, Supplement 9
City of Glendale, Supplement 9
City of Pasadena, Supplement 9

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1931 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Projects Nos. 4150-001 and 4195-001]

Indiana Municipal Power Agency; Surrender of Preliminary Permits

January 20, 1983.

Take notice that Indiana Municipal Power Agency, Permittee for the proposed Huntington Hydro Project No. 4150, and the proposed Salamonie Hydro Projects No. 4195, has requested that its preliminary permits be terminated. The permit for Project No. 4150 was issued on June 15, 1981, and would have expired on May 31, 1983. Project No. 4150 would have been located on the Wabash River in Huntington County, Indiana. The permit for Project No. 4195 was issued on June 11, 1981, and would have expired on May 31, 1983. Project No. 4195 would have been located on the Salamonie River in Wabash County, Indiana.

The Permittee filed its requests on December 20, 1982, and the surrender of the preliminary permits for Projects Nos. 4150 and 4195 are deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1944 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5407-001]

Richard K. Linville; Surrender of Preliminary Permit

January 20, 1983.

Take notice that Richard K. Linville, Permittee for the proposed Oakley Dam Project No. 5407, has requested that its preliminary permit be terminated. The permit was issued on July 14, 1982, and would have expired on December 31, 1983. The project would have been located on the Lower Goose Creek Reservoir in Cassia County, Idaho.

The Permittee filed its request on December 20, 1982, and the surrender of the preliminary permit for Project No. 5407 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1945 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4633-001]

Saranac Energy Corp.; Surrender of Preliminary Permit

January 20, 1983.

Take notice that Saranac Energy Corporation, Permittee for the proposed Rodman Dam Project No. 4633, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired on July 31, 1983. Project No. 4633 would have been located on the Ocklawaha River in Putman County, Florida.

The Permittee filed its request on December 3, 1982, and the surrender of the preliminary permit for Project No. 4633 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1946 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4526-001]

Shasta Mountain Hydro; Surrender of Preliminary Permit

January 20, 1983.

Take notice that Shasta Mountain Hydro, Permittee for the proposed Atkins Creek Power Project No. 4526, has requested that its preliminary permit be terminated. The preliminary permit was issued on August 28 1981, and would have expired on January 31, 1983. The project would have been located on Atkins Creek in Shasta County, California.

The Permittee filed its request on December 3, 1982, and the surrender of the preliminary permit for Project No. 4526 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1947 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6940-000]

Thomas R. and Harrison T. Southworth; Exemption From Licensing

Issued January 20, 1983.

A notice of exemption from licensing of a small hydroelectric project known as the Garland Mill Project No. 6940-000 was filed on December 17, 1982, by Thomas R. and Harrison T. Southworth. The proposed hydroelectric project would have an installed capacity of 15 kW and would be located on Garland Brook Coos County, New Hampshire.

Pursuant to §§ 4.109(c) of the Commission's regulations, and subject to the terms and conditions set forth in § 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notificatio that the above project is exempted from licensing as of the date of this notice. Any terms and conditions specified in any agency letters of certification do not apply to this exemption.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 83-1948 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4106-001]

Town Board of English; Surrender of Preliminary Permit

January 20, 1983.

Take notice that the Town Board of English, Permittee for the proposed Patoka Lake Dam Project No. 4106, has requested that its preliminary permit be terminated. The permit was issued on November 3, 1981, and would have expired on May 1, 1983. The project would have been located on the Patoka River in Dubois County, Indiana.

The Permittee filed its request on December 20, 1982, and the surrender of the preliminary permit for Project No. 4106 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1949 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL83-6-000]

Edmisten v. Aluminum Co. of America et al.; Filing

January 19, 1983.

In the matter of; Rufus L. Edmisten, Attorney General of the State of North Carolina v. Aluminum Company of America, Tapoco, Inc., and Nantahala Power and Light Company.

Take notice that on January 11, 1983, Rufus L. Edmisten, acting pursuant to his authority as Attorney General of the State of North Carolina ("complainant") filed a complaint against the Aluminum Company of America ("Alcoa"), Tapoco, Inc. ("Tapoco"), and Nantahala Power and Light Company ("NPL").

Complainant requests that the Commission:

A. Issue an order requiring Tapoco either to abandon its proposed Tapoco-TVA Exchange Contract or to file proper applications, under Part I of the Federal Power Act and Section 203 thereof, which are necessary for the disposal of the interconnection and transmission facilities involved.

B. Issue an order declaring the purported right of first refusal for TVA to acquire the Tallassee Project to be a legal nullity.

C. Initiate an investigation to determine why Tapoco and Nantahala actively seek or acquiesce in abandonment of the interconnection between them.

D. Investigate whether Tapoco has committed such a violation of the Federal Power Act as to warrant the revocation of its license for the Tallassee Project.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20428, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1936 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-241-000]

Idaho Power Co.; Filing

January 19, 1983.

Take notice that on January 10, 1983, Idaho Power Company (Idaho) tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in the State of Idaho, together with the Bonneville Power Administration's Average System Cost for the Idaho residential jurisdiction in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Idaho and the Bonneville Power Administration (BPA). Idaho also submitted its agreement with and/or objections to BPA's Average System Cost Adjustments.

Idaho states that the Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501. The Agreement provides for the exchange of electric power from Idaho and BPA for the benefit of Idaho's residential and farm customers.

A copy of this filing was served upon BPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1932 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-245-000]

Montaup Electric Co.; Filing

January 19, 1983.

Take notice that Montaup Electric Company ("Montaup") on January 11, 1983, tendered for filing a unit power sales agreement between Montaup and the Massachusetts Municipal Wholesale Electric Company ("MMWEC"). Under the power sales agreement Montaup sells to MMWEC a total of 11 MW of capacity and associated energy from Montaup's share 50 percent share in the Canal No. 2 electric generating unit for the period beginning November 1, 1982 and ending April 30, 1983. The agreement also provides for transmission service from the Canal No. 2 unit to MMWEC over Montaup's system.

Montaup requests waiver of the Commission's 60-day notice requirement in order to allow an effective date of November 1, 1982.

Copies of this filing have been served on MMWEC and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application, should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Commission Rules 211 and 214 (18 CFR §§ 385.211 and 385.214). All such petitions or protests should be filed on or before February 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1933 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER76-828-007 and EL76-18-000]

Nantahala Power & Light Co.; Compliance Filing

January 18, 1983.

Take notice that on December 17, 1982, Nantahala Power and Light Company filed revised Rate Schedules and Tariff Sheets pursuant to the Commission's Opinion No. 139, issued on May 14, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, on or before January 31, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1934 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-242-000]

Rochester Gas & Electric Co.; Filing

January 19, 1983.

Take notice that on January 10, 1983, Rochester Gas and Electric Corporation (Rochester) tendered for filing a rate schedule relating to the transmission by Rochester of electric energy and power from the Niagara hydro-electric power development project of the Power Authority of the State of New York (the Authority) to customers of the Authority under the terms of a contract, designated Niagara Contract NS-13 (the Contract), entered into by Rochester and the Authority on February 10, 1961.

Rochester states that the transmission agreement between Rochester and the Authority is embodied in Part Three of the Contract, and the rates charged the Authority by Rochester for the transmission service are set forth in Article X of the Contract. The rates set forth in the Contract are 1.05 mills per kilowatt hour of delivered energy, plus $0.25 per month per kilowatt of the billing demand of the Authority's customers. Under the terms of the Contract, these rates are subject to review three years after the effective date of the Contract and at the expiration of every five-year period thereafter. At those review times, the rates are subject to modification by mutual agreement.

Rochester proposes an effective date of February 10, 1961.

Copies of this filing have been served upon Power Authority of the State of New York, and the New York Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before February 23, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1935 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-227-000]

Tapoco, Inc.; Termination

January 19, 1983.

Take notice that on December 30, 1982, Tapoco, Inc. ("Tapoco") tendered for filing a Notice of Termination of Tapoco FERC Rate Schedule No. 2, effective January 1, 1983.

According to Tapoco, the New Fontana Agreement expires by its terms on December 31, 1982, and is being replaced by separate contracts between Tapoco and TVA, and Nantahala and TVA. The new Tapoco-TVA agreement was filed with the Commission on December 23, 1982 in Docket No. ER83-209. The separate replacement agreements for the New Fontana Agreement removes any reason for the continued existence of Rate Schedule No. 2 after December 31, 1982.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR §§ 385.211, 385.214). All such motions or protests should be filed on or before February 3, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1937 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4430-001, Project No. 4537-001]

Wisconsin Public Power Inc. System; Surrender of Preliminary Permits

January 18, 1983.

Take notice that Wisconsin Power Inc. System, Permittee for the proposed Mississippi River Lock and Dam Nos. 5 and 5A, Projects Nos. 4403 and 4537, respectively, has requested that its preliminary permits be terminated. The permits were issued on November 16, and 15, 1982, respectively, and would have expired on October 31, 1984. Projects Nos. 4430 and 4537 would have been located on the Mississippi River in Buffalo County, Wisconsin and Wionona County, Minnesota, respectively.

The Permittee filed its request on December 27, 1982, and the surrender of the preliminary permits for Projects Nos. 4430 and 4537 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-1938 Filed 1-24-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Representative Average Unit Costs of Energy

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy is updating the representative average unit costs of four residential energy sources used in the energy conservation program for consumer products to their 1983 forecasted values. The four sources are electricity, natural gas, No. 2 heating oil and propane. This program was established by the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 917), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619, 92 Stat. 3266).

EFFECTIVE DATE: The representative average unit costs of energy contained in this notice will become effective February 24, 1983 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station CE-113.1, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9127.

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Act) [1] requires that the Department of Energy (DOE) prescribe test procedures for the determination of the estimated annual operating cost and other measures of energy consumption for certain consumer products specified in the Act. DOE has prescribed test procedures for the types of products listed in Section 322(a)(1)-(13) of the Act. Those test procedures are found in 10 CFR Part 430, Subpart B.

Section 323(b) of the Act requires that the estimated annual operating cost of a covered product be computed from measurements of energy use in a representative average-use cycle and from representative average unit costs of the energy needed to operate such product during such cycle. The section further requires DOE to provide information regarding the representative average unit costs. In this notice, DOE is updating representative average unit costs of energy for use wherever such costs are needed to perform calculations in accordance with the test procedures. Most notably, these costs are used under the Federal Trade Commission labeling program established by Section 324 of the Act and in connection with advertisements of appliance energy use and energy costs which are covered by Section 323(c) of the Act.

On July 15, 1977 DOE's predecessor, the Federal Energy Administration, first published representative average unit costs of residential energy for use in the test procedures (42 FR 36549). This notice constitutes the fourth update of these representative average unit costs of energy. The first update was published by DOE on June 27, 1979 (44 FR 37534), the second on December 1, 1980 (45 FR 79575), and the third on May 4, 1982 (47 FR 19200). Effective on February 24, 1983 the cost figures published on May 4, 1982 will be superseded by the cost figures set forth in this notice.

DOE's Energy Information Administration (EIA) has developed the 1983 representative average unit costs of energy found in this notice. These costs were generated from the EIA Short-Term Energy Price Projection System, which forecasts prices of selected energy products based on changes in world oil prices, wellhead natural gas prices, seasonal patterns in retail prices and established trends in margins and operating expenses. Development of the 1983 representative average unit costs found in this notice is discussed in Volumes 1 and 2 of the November 1982 issue of EIA's quarterly publication of historical and forecasted energy consumption and prices, "Short-Term Energy Outlook," DOE/EIA 0202 (82/4Q). Copies of this report are available at the National Energy Information Center, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

The 1983 representative average unit costs stated in Table 1 are provided pursuant to Section 323(b)(2) of the Act and will become effective February 24, 1983. They will remain in effect until further notice.

Issued in Washington, D.C., January 10, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[1] References to the "Act" refer to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FOUR RESIDENTIAL ENERGY SOURCES (1983)

Type of energy	In common terms	As required by test procedure	Dollars per [illegible] Btu's [1]
Electricity	7.63¢/kWh [2 3]	$0.0873/kWh	$22.36
Natural Gas	62.7¢/therm [4] or $6.37/MCF [5 6]	$0.00000627/Btu	6.27
No. 2 Heating Oil	$1.22/gallon [7]	$0.00000880/Btu	8.80
Propane	78.7¢/gallon [8]	$0.00000685/Btu	6.85

[1] Btu stands for [illegible] thermal unit.
[2] kWh stands for kilowatt hour.
[3] 1 kWh=3,413 Btu's.

*1 therm=100,000 Btu's.
*MCF stands for 1,000 cubic feet.
*For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,016 Btu's.
*For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,700 Btu's.
*For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,000 Btu's

[FR Doc. 83-1907 Filed 1-24-83; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OA-FRL 2290-2]

Administrator's Toxic Substances Advisory Committee; Renewal

The U.S. Environmental Protection Agency announces the renewal of the Administrator's Toxic Substances Advisory Committee. It has been determined that renewal of this advisory committee is in the public interest in connection with the performance of duties imposed on the Agency by law. The charter which continues the Administrator's Toxic Substances Advisory Committee through December 31, 1983, has been filed with the appropriate Congressional Committees and the Library of Congress.

FOR FURTHER INFORMATION CONTACT: Mary Anne Beatty, EPA Committee Management Officer (A-101), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-382-5036.

Dated: January 14, 1983.

John W. Hernandez, Jr.,

Deputy Administrator.

[FR Doc. 83-1982 Filed 1-24-83; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-00038; TSH-FRL 2289-3]

Interagency Toxic Substances Data Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: This notice announces the forthcoming meeting of the Interagency Toxic Substances Data Committee.

DATE: The meeting will take place on March 1, 1983, at 9:30 a.m.

ADDRESS: The meeting will be held in the First Floor Conference Rm., Council on Environmental Quality, 722 Jackson Pl., NW., Washington, D.C. 20006.

Please use the entrance on Jackson Place.

FOR FURTHER INFORMATION CONTACT: Mary Belferman (TS-777), Executive Secretary, Interagency Toxic Substances Data Committee, Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202-554-1404).

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee usually take place on the first Tuesday of alternate months at 9:30 a.m. and are open to the public. This meeting and all future meetings will be held at the location given under **ADDRESS** above.

The next meeting of the Interagency Toxic Substances Data Committee will take place on May 3, 1983.

Dated: January 12, 1983.

Mary Belferman,

Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 83-1984 Filed 1-24-83; 8:45 am]
BILLING CODE 6560-50-M

[A-10-FRL 2289-6]

Issuance of PSD Permit to Chugach Electric Association, Inc.

Notice is hereby given that on December 30, 1982, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to Chugach Electric Association, Inc. for approval to expand the hours of operation for turbine No. 3 at the Bernice Lake Power Station near Kenai, Alaska.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulation, subject to certain conditions specified in the permit.

Copies of the permit are available for public inspecton upon request at the following location: Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Room 11D, M/S 532, Seattle, Washington 98101.

Dated: December 30, 1982.

John R. Spencer,

Regional Administrator.

[FR Doc. 83-1980 Filed 1-24-83; 8:45 am]
BILLING CODE 6560-50-M

[A-1-FRL 2289-7]

Prevention of Significant Deterioration of Air Quality Program (PSD); Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Informational notice.

SUMMARY: EPA Region I has delegated authority for implementation of portions of the Prevention of Significant Deterioration of Air Quality (PSD) program to the Rhode Island Department of Environmental Management (DEM) under 40 CFR 52.21. The Rhode Island DEM will receive all PSD applications, make applicability and Best Available Control Technology (BACT) determinations, and conduct source impact analyses. EPA will carry out the remaining portions of the program including issuing and enforcing final PSD permits.

EFFECTIVE DATE: September 30, 1982.

ADDRESS: Copies of DEM's request for delegation and EPA's approval outlining the terms of the delegation are available for public inspection at the State Air Programs Branch, Environmental Protection Agency, Region I, J.F.K. Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, State Air Programs Branch, Environmental Protection Agency, Region I, J.F.K. Federal Bilding, Boston, Massachusetts 02203, 617/223-5137.

SUPPLEMENTARY INFORMATION: On September 29, 1982 the Director of the Air and Hazardous Materials Division of the Rhode Island DEM submitted a request to EPA Region I for authority to implement portions of the federal PSD program. Specifically, the DEM requested authority to receive PSD permit applications directly, make applicability and BACT determinations, and conduct source impact analyses.

EPA has approved the Rhode Island DEM's request for partial delegation. The terms of the approved delegation are delineated in a letter from the Regional Administrator to the Director of DEM's Air and Hazardous Materials Division dated September 30, 1982. Under those terms, EPA will assist in complex applicability determinations, conduct the public participation elements of the program, determine if requests for the use of alternative models are appropriate, track increment consumption, issue final PSD permits, and enforce those premits.

Effective immediately, all applications and other information pursuant to 40 CFR 52.21 for sources and modifications proposing to locate in the State of Rhode Island should be sent directly to the DEM at the following address: Air and Hazardous Materials Division, Department of Environmental Management, 75 Davis Street-Cannon Bldg. Rm 204, Providence, Rhode Island 02908.

Dated: October 15, 1982.

Leslie Carothers,

Acting Regional Administrator.

[FR Doc. 83-1981 Filed 1-24-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee)

January 14, 1983.

Meeting

Main Committee

Friday, February 18, 1983, 9:30 A.M.–1:00 P.M., Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C. 20554.

Agenda

(1) Adoption of Agenda.
(2) Review of Minutes.
(3) Review of Plenipotentiary Conference Results—Urbany.
(4) Status of BSS Conference Preparations—E. Jacobs.
(5) Working Group Status Reports:
(A) Working Group A—W. Schnicke.
(B) Working Group B—R. Stowe.
(C) Working Group C—P. Ackerman.
(6) Expected Next Steps.
(7) Date of Next Meeting.
(8) Other Business.
(9) Adjournment.

Chairman

Stephen E. Doyle, (916) 355–6941.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-1987 Filed 1-24-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 82-829, File No. 24345-CD-P-(2)-82; CC Docket No. 82-830, File No. 24767-CD-P-(5)-82]

American Paging, Inc. (of Missouri) and United Telephone Co. of Missouri; Order Designating Applications for Hearing

Adopted: December 22, 1982.

Released: December 28, 1982.

In re applications of American Paging, Inc. (of Missouri) for a construction permit for a new one-way station to operate on frequency 158.10 MHz in the Domestic Public Land Mobile Radio Service (DPLMRS) with facilities at Kansas City and Grandview, Missouri, CC Docket No. 82-829, File No. 24345-CD-P-(2)-82; and United Telephone Co. of Missouri for a construction permit for a new one-way station to operate on frequency 158.10 MHz in the DPLMRS with facilities at Kansas City North, Missouri; Independence, Missouri; Kansas City, Missouri; Gardner, Kansas, and Raymore, Missouri, CC Docket No. 82-830, File No. 24767-CD-P-(5)-82; designated applications for consolidated hearing on stated issues.

By the Common Carrier Bureau:

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of American Paging, Inc. [of Missouri] (American) and United Telephone Co. of Missouri (UTC). American proposes to establish a new one-way paging service to operate on frequency 158.10 MHz at Kansas City and Jackson, Missouri. UTC proposes to establish a new one-way paging service to operate on frequency 158.10 MHz at five locations in the greater Kansas City, Missouri, area.

2. The proposals of American and UTC to use frequency 158.10 MHz in the same geographical area are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest.

3. We find both applicants to be legally, technically and otherwise qualified to construct and operate the proposed facilities.

4. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the application of American Paging, Inc. [of Missouri], File No. 24345-CD-P-(2)-82 and the application of United Telephone Co. of Missouri, File No. 24767-CD-P-(5)-82 to operate on frequency 158.10 MHz are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 43 dBu contours,[1] based upon the standards set forth in § 22.504(a) of the Commission's Rules,[2] and to determine and compare the relative demand for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

5. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

6. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

7. It is further ordered, that the applicants shall file written notices of appearances under § 1.221 of the Commission's Rules within twenty days of the release date of this Order.

8. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 83-1971 Filed 1-24-83; 8:45 am]

BILLING CODE 6712-01-M

[1] For the purpose of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6404, equation 8.

[MM Docket No. 82-846, File No. BPH-810724AB; and MM Docket No. 82-847, File No. BPH-820129AZ]

Radio Cobleskill, Inc.; and DGR Communications, Inc. and Hearing Designation Order

In re applications of DGR Communications, Inc., Cobleskill, New York, Req: 103.5 MHz, Channel 278B, 50 kW (H&V), 500 feet, MM Docket No. 82-846, File No. BPH-810724AB; Radio Cobleskill, Inc., Cobleskill, New York, Req: 103.5 MHz, Channel 278B, 50 kW (H&V), 500 feet, MM Docket No. 82-847, File No. BPH-820129AZ; for construction permit for a new FM station.

Adopted: December 27, 1982.

Released: January 12, 1983.

By the Chief, Mass Media Bureau:

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under

[2] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter, as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 150 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50, 50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits).

consideration the above-captioned mutually exclusive applications filed by DGR Communications, Inc. (DGR) and by Radio Cobleskill, Inc. (Radio).

2. *DGR.* DGR has proposed a transmitter site that is slightly short-spaced (134.04 miles instead of the required 135) with that proposed by Christina and Joel Martin (File No. BPH–800724AD) for an FM station to continue service to Berlin, New Hampshire, which was formally provided by station WXLO.[1] The Martin's application is mutually exclusive with 3 other applications to serve Berlin, and has been designated for hearing in a consolidated proceeding. *Memorandum Opinion and Order,* FCC 82–224, 51 RR 2d 819 (Released May 27, 1982). Therefore, DGR will required to file a request for waiver of the Commission's short-spacing rules (§ 73.207) with the presiding Administrative Law Judge to determine if circumstances exist to warrant, if applicable, a waiver of this Section. Accordingly, an issue will be specified on this matter.

3. *Radio.* Normally, § 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license. However, if a showing of good cause has been made, a main studio may be located outside that community. Radio states in its response to Item 5, Section V–B that its main studio will be at a location to be determined, with no indication that the determination would be limited to sites within the city of license. Under these circumstances, Radio will be required to file either an amended response to the above-referenced item and/or, if applicable, a showing of good cause should it propose to locate its main studio outside Cobleskill.

4. Since no determination has been reached that the antenna proposed by Radio would not constitute a menace to air navigation, an issue regarding this matter is required.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the proposal of DGR Communications Inc. is consistent with the minimum mileage requirements of Section 73.207 of the Commission's Rules, and, if not whether circumstances warrant a waiver of that Section.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Radio Cobleskill, Inc. would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

7. It is further ordered, That DGR Communications, Inc. file a request for waiver of § 73.207 of the Commission's Rules with the presiding Administrative Law Judge.

8. It is further ordered, That Radio Cobleskill, Inc. file an amended Section V–B, Item 5 or, if appropriate, a showing of good cause with the presiding Administrative Law Judge if its main studio will be located outside its city of license.

9. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding with respect to the air hazard issue only.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division.

[FR Doc. 83–1969 Filed 1–24–83; 8:45 am]

BILLING CODE 6712–01–M

[1] WXLO's license renewal was denied by the Commission for violations of § 73.1205 of the Rules. *White Mountain Broadcasting Co., Inc.,* 60 FCC 2d 342; *reconsid. denied,* 61 FCC 2d FCC 2d 472 (1976); *aff'd sub nom. White Mountain Broadcasting Co., Inc. v. FCC,* 598 F. 2d 274 (D.C. Cir.), *cert. denied,* 444 US 983 (1979).

[Report No. 1391]

Petitions for Reconsideration of Actions in Rule Making Proceedings

January 20, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 2 and 95 of the Commission's Rules to allocate to the CB Radio Service additional frequencies exclusively for single sideband transmission. (RM–3299).

Amendment of Part 97 of the Commission's Rules to establish a Hobbyist Class of Amateur Radio on frequencies between 27.41 and 28.00 MHz using single sideband transmissions only. (RM–3317).

Filed by: S. P. Guglielmino, National Director for The Personal Radio Operators Federation (Formerly The Personal Radio Operators International Federation), on 12–17–82.

Subject: Amendments to Part 76 of the Commission's Rules to Require Substantiation of Requests for Carriage or Nonduplication by Cable Televisions Systems. (RM–4096).

Filed by: David H. Lloyd, Robert Alan Garrett & Steven J. Hoffman, Attorneys for Major League Baseball on 1–14–83. Philip R. Hochberg, Attorney for National Basketball Association, National Hockey League, North American Soccer League and Major Indoor Soccer League on 1–17–83.

Subject: Amendment of § 73.3597 of the Commission's Rules (Applications for Voluntary Assignments or Transfers of Control) (BC Docket No. 81–897)

Filed by: Angela J. Campbell & Jeffery H. Olson, Attorneys for Citizens Communications Center, Chinese for Affirmative Action, Citizens Committee on the Media, National Association for Better Broadcasting & National Citizens Committee for Broadcasting on 1–12–83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–1970 Filed 1–24–83; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group Definitions and Rules Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Definitions and Rules Subcommittee scheduled to meet on Friday, February 4, 1983. The meeting will be held at 9:30 a.m. in the offices of MCI Telecommunications Corporation (1st Floor Meeting Room) at 1133 19th Street, N.W., Washington, D.C. and will be open to the public. The agenda for the meeting is as follows:

I. General Administrative Matters.
II. Review of Minutes of Previous Meeting.
III. Discussion of Individual Assignments.
IV. Other Business.
V. Presentation of Oral Statements.
VI. Adjournment.

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203/965–2830) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83–1968 Filed 1–24–83; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 83–6]

Companhia Siderurgica Nacional, (Brazilian National Steel Co.) v. Companhia de Navegacao Lloyd Brasileiro; Filing of Complaint and Assignment

Notice is given that a complaint filed by Companhia Siderurgica National (Brazilian National Steel Co.) against Companhia de Navegacao Lloyd Brasileiro was served January 18, 1983. Complainant alleges that respondent has subjected it to an overcharge of rates for ocean transportation.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83–1975 Filed 1–24–83; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Sterling Bancorp., Inc.*, Moline, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Sterling, Sterling, Illinois. Comments on this application must be received not later than February 18, 1983.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First State Bancorp., Inc.*, Caruthersville, Missouri; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Caruthersville, Caruthersville, Missouri. Comments onthis application must be received not later than February 18, 1983.

2. *Golden Oaks Bancshares, Inc.*, Waldo, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Peoples Bank, Waldo, Arkansas. Comments on this application must be received not later than February 18, 1983.

C. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Claremont Bancshares, Inc.*, Claremont, Minnesota; to become a bank holding company by acquiring 80 percent of the voting shares of Security State Bank of Claremont, Claremont, Minnesota. Comments on this application must be received not later than February 18, 1983.

D. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Brazosport Corporation*, Freeport, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Brazosport Bank of Texas, Freeport, Texas. Comments on this application must be received not later than February 18, 1983.

E. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Choteau Bancorporation, Inc.*, Choteau, Montana; to become a bank holding company by acquiring 87.2 percent of the voting shares of The Citizens State Bank of Choteau, Choteau, Montana. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Minneapolis. Comments on this application must be received not later than February 18, 1983.

Board of Governors of the Federal Reserve System, January 19, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83–1983 Filed 1–24–83; 8:45 am]

BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

Annual Summary of Records Holdings (Standard Form 136)

AGENCY: General Services Administration.

ACTION: Notice of Information Collection; Reinstatement.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget to review and approve the reinstatement of

an information collection request for the continued collection of data.

DATES: Comments on this information collection request must be submitted on or before February 11, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Anthony Artigliere, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda N. Brown (202) 724–1614.

SUPPLEMENTARY INFORMATION: a. *Purpose.* This report provides data for the Administrator's annual report to Congress and OMB on records disposition activities of the Federal Government. It also serves as a management tool to monitor records management activities and to determine the effectiveness of records management programs.

b. *Description of information collection.* The proposed revision to Standard Form 136 will delete the data requirements for information pertaining to the volume of records on hand at the beginning of the period, volume transferred, and the certification requirement. The affected public includes private businesses and firms that have Federal contracts for records management activities.

c. *Obtaining Copy of the Proposal.* A copy of the information collection proposal may be obtained from the Directives and Reports Management Branch (ORAI), Room 3011, GS Building, Washington, DC 20405, telephone number 566–1164.

Dated: January 17, 1983.

Clarence A. Lee,

Director of Administrative Services.

[FR Doc. 83–1974 Filed 1–24–83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83M–0006]

Alcon Laboratories, Inc.; Premarket Approval of Alcon Enzymatic Cleaner

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Alcon Enzymatic Cleaner enzyme tablets sponsored by Alcon Laboratories, Inc., Fort Worth, TX. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 24, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, Office of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On January 4, 1982, Alcon Laboratories, Inc., Fort Worth, TX, submitted to FDA an application for premarket approval of the Alcon Enzymatic Cleaner enzyme tablets for use in a heat or chemical lens care system in the weekly cleaning of soft (hydrophilic) contact lenses with 55 percent or less water content. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On December 22, 1982, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the Amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lens accessories were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 321(h)), such enzyme cleaner tablets are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or the solutions prepared from enzyme cleaner tablets for the use described above comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above), and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Alcon Enzymatic Cleaner states that the solution prepared from the enzyme cleaner tablets is indicated for use in a heat or chemical lens care system in the weekly cleaning of soft (hydrophilic) contact lenses with 55 percent or less water content. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new enzyme cleaner tablets that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA

action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition, supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 24, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1891 Filed 1-24-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0007]

Alcon Laboratories, Inc.; Premarket Approval of Microtherm™ Thermal Disinfector

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Microtherm™ Thermal Disinfector sponsored by Alcon Laboratories, Inc., Fort Worth, TX. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 24, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Office of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On June 14, 1982, Alcon Laboratories, Inc., Fort Worth, TX, submitted to FDA an application for premarket approval of the Microtherm™ Thermal Disinfector. The Microtherm™ Thermal Disinfector is to be used in conjunction with a lens storage case containing saline solution and soft (hydrophilic) contact lenses as a part of the heat (thermal) disinfection regimen. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On December 13, 1982, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft contact lens accessories were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 321(h)), soft contact lens accessories are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provided transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or accessories comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based on file with Dockets Management Branch (address above), and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 24, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1894 Filed 1-24-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82D-03094]

Heptachlor and Heptachlor Epoxide in Milk; Revision of Regulatory Level

Correction

In FR Doc. 82-29296 beginning on page 47466 in the issue of Tuesday, October 26, 1982, make the following correction:

On page 47466, column three, sixth line from the bottom "November 5, 1981" should read "November 5, 1982."

BILLING CODE 1505-01-M

[Docket No. 83N-0005]

Intermedics Intraocular, Inc.; Premarket Approval of Two-Loop Binkhorst Style Intraocular Lens Models 011 and 011B

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Two-Loop Binkhorst Style Intraocular Lens Models 011 and 011B sponsored by Intermedics Intraocular, Inc., Pasadena, CA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 24, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, Office of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On August 10, 1981, Intermedics Intraocular, Inc., Pasadena, CA, submitted to FDA an application for premarket approval of the Two-Loop Binkhorst Style Intraocular Lens Models 011 and 011B. The Model 011B lens contains blue haptics (attachment loops) made of polypropylene suture material and pigmented with the color additive [phthalocyaninato(2-)] copper This color additive is approved by FDA for use in polypropylene suture material in general and ophthalmic surgery. The use of [phthalocyaninato(2-)] copper to color the suture material in the Model 011B conforms to the listing requirements in 21 CFR 74.1045. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application for the use of this device in patients 60 years of age and older who have undergone extracapsular cataract extraction and are receiving the device as a primary implant. On December 15, 1982, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—Contact Charles H. Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 24, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1893 Filed 1-24-83; 8:45 am]

BILLING CODE 4160-01-M

Medical Radiation Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Medical Radiation Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on January 5, 1984, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: January 19, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-1892 Filed 1-24-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0012; DESI 9049]

Certain Topical Anti-Infective Drug Products; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval of Abbreviated New Drug Applications

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws conditional approval of the abbreviated new drug applications for eight combination anti-infective/steriod products for dermatological use. The basis of the withdrawal is that there is a lack of substantial evidence that these fixed-combination drugs are effective.

EFFECTIVE DATE: February 24, 1983.

ADDRESS: Requests for an opinion of the

applicability of this notice to a specific product should be identified with the reference number DESI 9049 and directed to the Division of Drug Labeling Compliance (HEN–310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the **Federal Register** of September 25, 1981 (46 FR 47408), the Director of the Bureau of Drugs revoked the temporary exemption for certain topical anti-infective drug products which had allowed the products to remain on the market beyond the time limit established for implementation of the Drug Efficacy Study. That notice also proposed to issue an order withdrawing conditional approval of the abbreviated new drug applications that provide for these products. This proposal was based on the lack of substantial evidence of effectiveness as required by section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), 21 CFR 314.111(a)(5), and 21 CFR 300.50. (As explained in the **Federal Register** notice of October 28, 1980 (45 FR 71354), all antibiotic form 6's for dermatologic products in the 60,000 series still under the DESI review, were considered conditionally approved ANDAs, exempt from certification requirements, and subject to the requirements of Section 505 of the Act.)

In response to the September 25, 1981 notice, Byk-Gulden, Inc. filed a hearing request. Subsequently, on November 24, 1981, Byk-Gulden withdrew its hearing request as it pertained to the following products. Therefore, conditional approval of the abbreviated new drug applications for these products is now withdrawn.

1. ANDA 60–202; Neomycin Sulfate-Hydrocortisone Ointment (1 percent and 2.5 percent); Kasco-Efco Laboratories, Inc., Division of Byk-Gulden, Inc., 60 Baylis Rd., Melville, NY 11747.

2. ANDA 60–215; Bacitracin-Neomycin Sulfate-Polymixin B Sulfate-Hydrocortisone Acetate Ointment; Byk-Gulden, Inc.

3. ANDA 60–315; Neomycin Sulfate-Hydrocortisone Ointment (0.5 percent, 1 percent, and 2.5 percent); Byk-Gulden, Inc.

4. ANDA 60–319; Hydrocortisone-Neomycin Cream (0.5 percent and 1 percent); Byk-Gulden, Inc.

This notice does not apply to the following products for which Byk-Gulden has submitted data intended to demonstrate effectiveness. They will be addressed in future **Federal Register** notices.

1. ANDA 62–135; Nystatin-Neomycin Sulfate-Gramicidin-Triamcinolone Acetonide Ointment; Byk-Gulden, Inc.

2. ANDA 62–135; Nystatin-Neomycin Sulfate-Gramicidin-Triamcinolone Acetonide Cream; Byk-Gulden, Inc.

3. No NDA or ANDA; Iodochlohydroxyquin with Hydrocortisone Cream and Ointment; Byk-Gulden, Inc.

Any drug product that is identical, related, or similar to the produots for which approval is being withdrawn and is not the subject of an approved new drug application is covered by the abbreviated new drug applications reviewed and is subject to this notice.

Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

The Director of the National Center for Drug and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1051–1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982) finds that on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications were conditionally approved, there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, conditional approval of ANDAs 60–202, 60–215, 60–315, and 60–319 and all amendments and supplements thereto is withdrawn effective February 24, 1983.

Shipment in interstate commerce of the above products or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: January 19, 1983.

Harry M. Myer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83–1890 Filed 1–24–83; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Health Resources and Services Administration Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Council on the National Health Services Corps

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, D.C. or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 300 Independence Avenue, SW., Washington, D.C. 20201, Telephone (202) 245–6791. Copies may be obtained from Ms. Charlotte Walch, National Health Services Corps, Health Resources and Services Administration, Room 7–34, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–5493.

Dated: January 19, 1983.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 83–1886 Filed 1–24–83; 8:45 am]

BILLING CODE 4160–15–M

Health Education Assistance Loan Program; "Maximum Interest Rates for Quarter Ending March 31, 1983"

Section 727 of the Public Health Service Act (42 CFR Part 60, previously 45 CFR Part 126) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools. Section 60.13(a)(4) of the program's implementing regulations provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending March 31, 1983, two interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 11¾ percent. Using the regulatory formula (45 CFR 126.13(a)(2)(3)), in effect prior to January 27, 1981, the Secretary computes the variable rate for this quarter by finding the sum of the fixed annual rate

(7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (8.22 percent), and rounding the result (4.72 percent) upward to the nearest ⅛ percent (4⅞ percent). The regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. However, because the average of the 4 quarters concluded by the quarter ending March 31, 1983 is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 13⅛ percent for the quarter ending June 30, 1982; 11 percent for the quarter ending September 30, 1982; and 11⅛ percent for the quarter ending December 31, 1982.

2. For fixed rate loans executed during the period of January 1, through March 31, 1983, and for variable rate loans executed after January 27, 1981, the interest rate is 11⅞ percent. Using the regulatory formula (42 CFR 60.13(a)(3)), in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (8.22 percent); adding 3.50 percent (11.72 percent); and rounding that figure to the next higher one-eighth of 1 percent (11⅞ percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: January 19, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83-1886 Filed 1-24-83; 8:45 am]

BILLING CODE 4160-16-M

National Institutes of Health

Meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension, and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, March 31,-April 1, 1983, Conference Room 7, 6th Floor, C-Wing, Building 31, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. to approximately 5:00 p.m. on Thursday, March 31, and Friday, April 1, to evaluate program support in Arteriosclerosis, Hypertension, and Lipid Metabolism. Attendance by the public will be limited on a space available basis.

Ms. Terry Bellicha, Chief, Public Inquiry and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. G. C. McMillan, Associate Director, Arteriosclerosis, Hypertension, and Lipid Metabolism Program, NHLBI, Room 4C-12, Federal Building, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-1613, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Disease Research, National Institutes of Health)

Dated: January 18, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-1885 Filed 1-24-83; 8:45 am]

BILLING CODE 4140-01-M

Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, March 16-17, 1983. The meeting will be held at the Federal Building, 7550 Wisconsin Avenue, Conference Room B119, Bethesda, Maryland 20205.

This meeting will be open to the public from 8:30 a.m. to adjournment to discuss new initiatives and program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of meetings and rosters of committee members. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland 20205, phone (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: January 18, 1983.

Betty J. Beveridge,

NIH Committe Management Officer.

[FR Doc. 83-1886 Filed 1-24-83; 8:45 am]

BILLING CODE 4140-01-M

Meeting of the Sickle Cell Disease Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, February 18, 1983. The meeting will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, Building 31, Conference Room 4, A-Wing. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 4A21, (301) 496-4236, will provide summaries of the meeting and roster of the Committee members.

Clarice D. Reid, M.D., Chief, Sickle Cell Disease Branch, DBDR, NHLBI, Federal Building, Room 504, (301) 496-6931, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: January 18, 1983.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 83-1887 Filed 1-24-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14892-A]

Alaska Native Claims Selection

Correction

In FR Doc 82-35381 beginning on page 58376 in the issue of Thursday, December 30, 1982, make the following correction:

On page 58377, second column, under T. 20 N., R. 70 W., the line now reading "Secs. 39, 30, and 31;" should have read "Secs. 29, 30, and 31;".

BILLING CODE 1505-01-M

[A-17600]

Arizona; Realty Action; Competitive Sale of Public Land in Pinal County

Correction

In FR Doc. 83-662 appearing on page 1232 in the issue of Tuesday, January 11, 1983, make the following corrections:

1. In the land description, within the entry of Parcel R, "N½SE¼NE¼SE¼" should have read "N½SE¼NE¼SW¼".

2. In the third column of page 1232, in the third line from the bottom of the page, "Lease A-1042" should have read "Lease A-11042".

BILLING CODE 1505-01-M

Montana: Exchange of Public and Private Lands

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M-56116A, Exchange of Public and Private Lands in Chouteau, Blaine, Hill, Judith Basin, Treasure, Fergus, Petroleum, and Toole Counties, Montana.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian

T. 34 N., R. 4 W.,
Sec. 6: SE¼NE¼.
T. 30 N., R. 3 E.,
Sec. 27: SE¼SW¼;
Sec. 28: SW¼;
Sec. 29: E½SE¼.
T. 27 N., R. 4 E.,
Sec. 32: SW¼SE¼.
T. 23 N., R. 6 E.,
Sec. 1: SE¼NW¼.
T. 26 N., R. 9 E.,
Sec. 19: NW¼NE¼.
T. 21 N., R. 10 E.,
Sec. 18: NW¼SE¼;
Sec. 32: SE¼SW¼.
T. 24 N., R. 10 E.,
Sec. 20: NE¼SE¼.
T. 25 N., R. 10 E.,
Sec. 5: SW¼NW¼.
T. 16 N., R. 11 E.,
Sec. 4: SE¼SE¼;
Sec. 7: Lot 4; SE¼SW¼;
Sec. 9: NE¼NE¼;
Sec. 19: SW¼NE¼.
T. 17 N., R. 11 E.,
Sec. 1: Lots 1 and 4.
T. 18 N., R. 11 E.,
Sec. 2: E½SW¼, SW¼SW¼;
Sec. 3: SE¼SE¼;
Sec. 9: SW¼SE¼;
Sec. 10: SE¼NE¼, NE¼SE¼;
Sec. 11: W½NW¼, NW¼SW¼;
Sec. 12: SE¼NW¼, NE¼SW¼;
Sec. 13: Lots 4, 5, 6, NW¼SE¼.
T. 26 N., R. 11 E.,
Sec. 1: SE¼NE¼, SE¼NW¼.
T. 32 N., R. 11 E.,
Sec. 5: Lot 1.
T. 37 N., R. 11 E.,
Sec. 2: Lots 5, 6, 7, 8, SW¼NE¼.
T. 12 N., R. 12 E.,
Sec. 1: Lots 1, 4; E½SW¼
T. 13 N., R. 12 E.,
Sec. 4: SW¼NW¼;
Sec. 11: W½NW¼;
Sec. 15: N½NW¼;
Sec. 19: Lots 1 and 2;
Sec. 25: SE¼SE¼;
Sec. 31: NE¼SW¼;
Sec. 32: SE¼NW¼.
T. 31 N., R. 12 E.,
Sec. 9: W½SE¼.
T. 35 N., R. 12 E.,
Sec. 18: SW¼NE¼.
T. 12 N., R. 13 E.,
Sec. 3: SW¼NW¼, NW¼SE¼;
Sec. 17: SW¼SE¼.
T. 13 N., R. 13 E.,
Sec. 8: E½NW¼;
Sec. 17: W½NW¼;
Sec. 18: NW¼NE¼;
Sec. 20: SW¼NW¼;
Sec. 30: NE¼NW¼;
Sec. 33: SW¼NE¼.
T. 14 N., R. 13 E.,
Sec. 31: SW¼SE¼.
T. 28 N., R. 13 E.,
Sec. 6: NE¼SW¼;
Sec. 17: NE¼NW¼.
T. 28 N., R. 13 E.,
Sec. 34: SE¼SW¼.
T. 16 N., R. 14 E.,
Sec. 14: NE¼SE¼.
T. 21 N., R 14 E.,
Sec. 14: SW¼NW¼.
T. 26 N., R. 15 E.,
Sec. 34: SE¼SE¼.
T. 37 N., R. 15 E.,
Sec. 28: W½SW¼.
T. 23 N., R. 18 E.,
Sec. 4: Lot 4.
Sec. 7: Lot 3; E½SW¼.
T. 24 N., R. 18 E.,
Sec. 33: SW¼NW¼.
T. 31 N., R. 18 E.,
Sec. 29: SW¼NE¼.
T. 28 N., R. 19 E.,
Sec. 29: NW¼SE¼;
Sec. 30: W½SE¼.
T. 29 N., R. 19 E.,
Sec. 15: SW¼SW¼.
T. 31 N., R 21 E.,
Sec. 20: NW¼NE¼.
T. 32 N., R. 21 E.,
Sec. 13: NE¼SW¼, NW¼SE¼.
T. 34 N., R. 21 E.,
Sec. 6: SE¼NE¼, NW¼SE¼.
T. 29 N., R. 22 E.,
Sec. 4: Lots 1, 2, 3, and 4.
T. 30 N., R. 22 E.,
Sec. 29: Lot 12.
T. 32 N., R. 22 E.,
Sec. 5: SW¼NW¼.
T. 12 N., R. 23 E.,
Sec. 14: NW¼.
T. 34 N., R. 24 E.,
Sec. 23: NE¼NE¼, SW¼SW¼;
Sec. 26: S½NE¼, S½;
Sec. 27: SE¼SE¼.
T. 19 N., R. 27 E.,
Sec. 32: NE¼SE¼.

Aggregating 4,682.36 acres of public land.

In exchange for the above land, the United States will acquire certain lands or interests in lands from the following private land parcels:

Principal Meridian

Fee Estate

Pavlovick

T. 23 N., R. 16 E.,
Sec. 24: portions of Lot 1 and SE¼SW¼;
Sec. 25: Lot 7 (excluding trailer court) and a portion of Council Island.
T. 23 N., R. 17 E.,
Sec. 30: portion of Council Island.

Charles Schwenke

T. 23 N., R. 22 E.,
Sec. 5: Lots 12, 13, and 20;
Sec. 6: Lots 11, 12, 13, 14, 20, and 21.

Howrey Island and Accretions Thereto

T. 6 N., R. 35 E.,
Sec. 15: Lots 5, 6, 7, 8, 9; SW¼SE¼;
Sec. 21: Lot 5;
Sec. 22: Lots 1, 2, 6, 7, 8, and 9.

Aggregating 864.2 acres of fee land, more or less.

Scenic-Access Easement or Fee Estate

Pavlovick

T. 23 N., R. 16 E.,
Sec. 23: Lot 1;
Sec. 24: Lot 2 (Norris Island);
Sec. 25: Lots 5, 6, and 8;
Sec. 26: Lots 5 and 6;
T. 23 N., R. 17 E.,
Sec. 30: Lots 6 and 7.

Agregating 216.75 acres of scenic-access easement or fee estate.

Not all of the lands described above will be involved in the exchange. Selections will be made from both lists to achieve comparable values.

DATES: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department.

FOR FURTHER INFORMATION CONTACT: Information concerning this exchange is available at the Lewistown District Office.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public lands described above from settlement, sale, location, and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The purpose of the exchange is to dispose of hard-to-manage BLM-administered lands, usually scattered, isolated tracts, while concurrently acquiring and consolidating land or interest in lands of public value. The private land includes land within the Upper Missouri Wild and Scenic Area, a Lewis and Clark campsite, the Kipp Homestead, excellent camping areas and wildlife habitat, historic sites with excellent interpretive potential for public enjoyment, and various river islands with recreational and wildlife values.

Only the surface estates will be exchanged and the subsurface estate shall remain with the present owners. The exchange will be based on equal appraised values of both the public and the deeded land. The action is consistent with the Bureau's planning for the lands involved and has been discussed with state and local officials. The public interest will be well served by making the exchange.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945. This reservation applies to the lands being transferred out of Federal ownership.

2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership.

3. All valid existing rights (e.g. rights-of-way, easements, and lease or record).

4. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

Dated: January 17, 1983.

Glenn W. Freeman,

District Manager.

[FR Doc. 83–1954 Filed 1–24–83; 8:45 am]

BILLING CODE 4310-84-M

[I–012235 et al]

Idaho; Order Providing for Opening of Public Land

January 17, 1983.

1. By decree dated August 30, 1976, of the District Court of the United States in and for the District of Idaho, Civil No. 1–67–97, Patent Nos. 1236706, 1236707, 1236708, 1236709 and 1236710 of September 3, 1964, were vacated, cancelled, set aside and annulled, and the title to the following-described public land embraced in those patents was restored to and quieted in the United States.

Boise Meridian, Idaho

T. 6 S., R. 8 E.,
Sec. 9, all;
Sec. 10, SW¼NE¼, S½NW¼, S½;
Sec. 15, W½NE¼, W½, N½SE¼.

The area described contains 1,560 acres in Owyhee County, Idaho.

2. The subject land is located approximately three miles southwest of Hammett on the plateau along the south side of the Snake River. The topography ranges from flat to slightly rolling at elevations from 2,600 to 2,900 feet above sea level. Vegetation consists primarily of crested wheatgrass, Russian thistle, wild mustard, cheatgrass and some scattered patches of sagebrush. These lands were farmed prior to their reversion to the goverment. Since then they have been used primarily for livestock grazing purposes.

3. Subject to valid existing rights, existing notices of realty action, the provisions of existing withdrawals and the requirements of applicable law, the land described in paragraph 1 above, will be, at 9:00 a.m. on February 23, 1983, opened to operation of the public land laws, including the mining and mineral leasing laws. Oil and gas leasing is not affected by this order because such deposits were retained and reserved by the United States when the lands were originally patented. All valid applications received at or prior to 9:00 a.m. on February 23, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Chief, Lands Section, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

William E. Ireland,

Chief, Lands Section.

[FR Doc. 83–1952 Filed 1–24–83; 8:45 am]

BILLING CODE 4310-84-M

Montana; Exchange of Public and Private Lands

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M–55087, Exchange of Public and Private Lands in Blaine and Hill Counties, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian, Montana

T. 31 N., R. 17 E.,
Sec. 34, SW¼NE¼.
T. 31 N., R. 18 E.,
Sec. 23, SW¼NE¼, SE¼NW¼, NE¼SW¼.
T. 33 N., R. 17 E.,
Sec. 2, lots 3 and 4.
T. 33 N., R. 18 E.,
Sec. 5, lots 1, 2, 3, S½NE¼, SE¼NW¼, NE¼SW¼.
T. 34 N., R. 18 E.,
Sec. 32, lot 1, N½SW¼.
T. 37 N., R. 26 E.,
Sec. 17, W½SW¼, NE¼SW¼;
Sec. 19, lots 1, 2, E½NW¼;
Sec. 20, W½W½, SE¼NW¼, SE¼SW¼.

Aggregating 1,153.73 acres of public land.

In exchange for these lands, the United States Government will acquire the surface estate in the following described lands:

Principal Meridian, Montana

T. 24 N., R. 20 E.,
Sec. 11, SE¼SE¼;
Sec. 12, lots 1, 2, 3, SW¼;
Sec. 13, NW¼;
Sec. 14, N½NE¼.
T. 24 N., R. 21 E.,
Sec. 7, lot 4;
Sec. 10, lots 2, 3, E½SW¼, W½SE¼;
Sec. 15, W½E½, NE¼NW¼, SE¼SW¼;
Sec. 22, N½NE¼, NE¼NW¼.

Aggregating 1,261.58 acres of private land.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the BLM, Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The proposed exchange is to acquire private land which has high public value for recreation management and future vehicle access needs. In return, approximately 1,153 acres of nearly isolated land would be transferred to private ownership. The proposed exchange will benefit public needs and improve manageability of public lands. The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 4 U.S.C. 945, for the lands being transferred out of Federal ownership.

2. All valid existing rights (e.g. rights-of-way, easements, and leases of record).

3. Value equilization by cash payment or acreage adjustment.

4. The exchange must meet the requirements of 43 CFR 4110.42(b)

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with state and local officials. The public interest will be well served by completion of this exchange.

SEGREGATION: The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

Dated: January 17, 1983.

Glenn W. Freeman,

District Manager, for the State Director.

[FR Doc. 83-1953 Filed 1-24-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Availability of Environmental Documents Prepared for OCS Mineral Pipeline Rights-of-Way Applications on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR Section 1501.4 and Section 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availablility of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs), prepared by the MMS for the following oil and gas pipeline rights-of-way applications proposed on the Gulf of Mexico OCS. This listing includes all proposals for which environmental documents were prepared by the Gulf of Mexico OCS Region in the 3-month period preceding this Notice.

Activity/operator	Location	FONSI date
Southern Natural Gas Company, OCS-G 5144	Matagorda Island Area, Blocks 703 and 686 (9.53 miles of 16" natural gas pipeline)	Oct. 27, 1982.
United Gas Pipe Line Company, OCS-G 5147	Vermilion Area, Blocks 381 and 397 (3.70 miles of 12" natural gas pipeline)	Do.
Tenneco Inc., OCS-G 5152	Ship Shoal Area, Blocks 181 and 171 (3.61 miles of 8" natural gas pipeline)	Dec. 9, 1982.
Texoma Production Company, OCS-G 5154	Main Pass Area, Blocks 150 and 151 (5.06 miles of 8" crude oil pipeline)	Oct. 28, 1982.
West Lake Arthur Corporation, OCS-G 5158	West Cameron Area, West Addition, Blocks 294 and 289 (3.29 miles of 12" natural gas pipeline)	Nov. 29, 1982.
United Gas Pipe Line Company, OCS-G 5148	South Marsh Island Area, South Addition, Blocks 155 and 127 (10.26 miles of 16" natural gas pipeline).	Oct. 27, 1982.
Amoco Production Company, OCS-G 5151	Eugene Island Area, Blocks 273 and 260 (7.90 miles of 6" oil pipeline)	Do.
Transcontinental Gas Pipe Line Corporation, OCS-G 5153	Eugene Island Area, Blocks 10 and 24 (1.35 miles of 12" natural gas pipeline)	Do.
Michigan Wisconsin Pipe Line Company, OCS-G 5155	Brazos Area, Blocks 451 and 474 (2.33 miles of 8¾" natural gas pipeline)	Oct. 22, 1982.
Transcontinental Gas Pipe Line Corporation, OCS-G 5145	Eugene Island Area, Blocks 108 and 129 (7.48 miles of 12" natural gas pipeline)	Oct. 5, 1982

Persons interested in reviewing environmenmtal documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Offshore Operations Support, Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, Phone 504/837-4720.

SUPPLEMENTARY INFORMATION: The MMS prepares EAs and FONSIs for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA & 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: January 14, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-1912 Filed 1-24-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Notice of Intention to Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Apostle Islands Outfitters, Inc., authorizing it to provide boat taxi, boat excursion and general merchandise facilities and services for the public at Apostle Islands National Lakeshore, Wisconsin, for a period of ten (10) years from the date of execution of the contract.

This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on August 16, 1982, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of a permit and in the negotiation of a new contract. This provision, in effect, grants Apostle Islands Outfitters, Inc., the opportunity to meet the terms and conditions of any other proposal submitted in response to this notice which the Secretary may consider better than the proposal submitted by Apostle Islands Outfitters, Inc. If Apostle Islands Outfitters, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, than the proposed new contract will be negotiated with Apostle Islands Outfitters, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth

(60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, for information as to the requirements of the proposed contract.

Dated: January 12, 1983.

J. L. Dunning,

Regional Director, Midwest Region.

[FR Doc. 83-2001 Filed 1-24-83; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places, Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 14, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 9, 1983.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Maricopa County

Phoenix, *U.S. Post Office*, 522 N. Central Ave.

Pima County

Tucson, *U.S. Post Office and Courthouse*, 55 E. Broadway

CALIFORNIA

Humboldt County

Eureka, *U.S. Post Office and Courthouse*, Fifth and H Sts.

Merced County

Merced, *U.S. Post Office*, 401 W. 18th St.

San Diego County

San Ysidro, *U.S. Inspection Station/U.S. Custom House*, Virginia and Tijuana Sts.

San Joaquin County

Stockton, *U.S. Post Office*, 401 N. San Joaquin St.

Stanislaus County

Modesto, *U.S. Post Office*, Twelfth and I Sts.

FLORIDA

Monroe County

Key West, *Key West Historic District*, Roughly bounded by Emma, Whitehead Sts., Mallory Square, Caroline, White Sts., Eisenhower Dr., United, Von Phister, South Sts., Vernon, Seminole Aves, and the Atlantic Ocean

ILLINOIS

Bureau County

Princeton, *Skinner, Richard M., House*, 627 E. Peru St.

Cass County

Beardstown, *Park House*, 200 W. Second St.

Cook County

Chicago, *King, Patrick J., House*, 3234 W. Washington Blvd.

Chicago, *Singer Building*, 120 S. State St.

Gallatin County

Old Shawneetown, *Peeples, Robert and John McKee, Houses*, Main St.

Lee County

Dixon, *Nachusa House*, 215 S. Galena Ave.

Logan County

Mt. Pulaski vicinity, *Buckles, Robert, Barn (Round Barns in Illinois TR)*, SE of Mt. Pulaski

McLean County

Chenoa, *Scott, Matthew T., House*, 227 1st Ave.

Peoria County

Norwood Park vicinity, *Christ Church of Lower Kickapoo*, W. of Norwood Park on Christ Church Rd.

Pike County

Summer Hill, *Scott, Lyman, House*, U.S. 54

Sangamon County

Springfield, *St. Nicholas Hotel*, 400 E. Jefferson St.

INDIANA

Dubois County

Jasper, *Gramelspacher-Gutzweiler House*, 11th and Main Sts.

Marion County

Indianapolis, *Lockefield Garden Apartments*, 900 Indiana Ave.

Monroe County

Bloomington, *Blair-Dunning House*, 608 W. 3rd St.

KANSAS

Douglas County

Lawrence, *Chi Omega Sorority House*, 1345 W. Campus Rd.

Ford County

Dodge City, *Sacred Heart Cathedral*, 903 Central Ave.

Gray County

Cimarron, *Cimarron Hotel*, 203 N. Main St.

Sedgwick County

Wichita, *North Topeka Avenue–10th Street Historic District*, 1065, 1103, 1109, 1113, and 1108 N. Topeka Ave.

Summer County

Caldwell, *Caldwell Carnegie Library*, 13 N. Osage St.

KENTUCKY

Christian County

Hopkinsville, *Dalton, Monroe, House*, 713 E. 7th St.

Jefferson County

Harrods Creek, *Nitta Yuma Historic District*, 5028, 5040, 5044, and 5051 Nitta Yuma

Nelson County

Bardstown, *Bardstown Historic District*, Roughly bounded by 1st, 3rd, and 5th Sts., Muir Ave., and RR tracks

Simpson County

Franklin, *Franklin Downtown Commercial District*, Roughly Main and College Sts. between Washington and Madison Sts.

Taylor County

Campbellsville vicinity, *Hiestand, Jacob, House, W of Campbellsville off KY 210*

Campbellsville, *Campbellsville Historic Commercial District*, Roughly bounded by Columbia Ave., Broadway, 1st, Hotchkiss Sts, Central Ave. (both sides), and RR tracks

MICHIGAN

Cheboygan County

Cheboygan, *Newton-Alloire House*, 337 Dresser St.

Wayne County

Detroit, *Grand Circus Park Historic District*, Roughly bounded by Clifford, John R. and Adams Sts.

Detroit, *Trinity Evangelical Lutheran Church Complex*, 1345 Gratiot Ave.

MINNESOTA

Ottertail County

Fergus Falls, *Hotel Kaddatz*, 111–112 W. Lincoln Ave.

Ramsey County

St. Paul, *Brings, Joseph, House (West Seventh Street Early Limestone Houses TR)*, 314 N. Smith Ave.

St. Paul, *Central Presbyterian Church*, 500 Cedar St.

St. Paul, *Mickey's Diner*, 36 W. Ninth St.

St. Paul, *Salvation Army Women's Home and Hospital*, 1471 W. Como Ave.

St. Paul, *Waldman, Anthony, House (West Seventh Street Early Limestone Houses TR)*, 445 N. Smith Ave.

St. Paul, *Weber, Martin, House (West Seventh Street Early Limestone Houses TR)*, 202 McBoal St.

St. Louis County

Buhl, *Buhl City Hall*, Jones Ave. at 4th St.

Buhl, *Buhl Public Library*, Jones Ave. at Frantz St.

Duluth, *Endion School*, 1801 E. First St.

MISSOURI

Adair County

Kirksville, *Dockery Hotel*, Elson & McPherson Sts.

Buchanan County

St. Joseph, *Thompson-Brown-Sandusky House*, 207 E. Cliff St.

Gasconade County

Morrison vicinity, *Shobe-Morrison House*, W. of Morrison off MO 100

Henry County

Clinton, *Dorman, Judge Jerubial Gideon, House*, 302 W. Franklin St.

Jackson County

Kansas City, *Ambassador Hotel District*, 3527, 3600 Broadway and 435, 441 Knickerbocker Pl.

Lewis County

Canton, *Lincoln School*, MO B

Ray County

Richmod, *Watkins House*, 302 S. Camden St.

St. Louis (Independent City)

Blair, Frank P., School, 2707 Rauschenbach Ave.
Chouteau Apartments/Parkway Dwellings, 4937–4943 Laclede Ave.
Lambert Building, 2101–2107 Locust St.
Liggett & Myers Tobacco Co. Building, 1900–1912 Pine St.
Lister Building, 4500 Olive St.
Mullanphy Historic District, N. 14th St. between Mullanphy and Howard and N. 13th between Howard and Tyler
Tiffany Neighborhood District, Roughly bounded by 39th St., Park, Grand, and Lafayette Aves.

St. Louis County

Manchester, *Manchester Methodist Episcopal Church*, 129 Woods Mill Rd.

NEBRASKA

Kimball County

Kimball, *Fraternal Hall*, 2nd and Chestnut Sts.

NEVADA

Clark County

Las Vegas, *U.S. Post Office and Courthouse*, 301 E. Stewart Ave.

NEW MEXICO

Bernalillo County

Albuquerque, *Menaul School Historic District*, Roughly bounded by Broaday, Claremont, Edith, and Menaul Aves. and 301 Menaul Blvd. N.E.

NEW YORK

Nassau County

Port Washington, *Main Street School*, Main and S. Washington St.

New York County

New York City, *Hotel Gerard*, 123 W. 44th St.

PENNSYLVANIA

Philadelphia County

Philadelphia, *Wissahickon*, Schuyler & Queen Sts.

RHODE ISLAND

Newport County

Little Compton vicinity, *Sakonnet Light Station*, S of Little Compton on Little Cormorant Rock

Providence County

North Smithfield, *Mowry, William, House*, Farnum Pike
North Smithfield, *Todd Farm*, 670 Farnum Pike

TEXAS

Dallas County

Dallas, *Continental Gin Company*, 3301–3333 Elm St., 212 and 232 Trunk Ave.

UTAH

Weber County

Ogden, *Lower 25th Street Historic District (Extension)*, Grant Ave.

VERMONT

Rutland County

Danby, *Danby Village Historic District*, Main St., Mt. Tabor Ave., Depot St., and Borough Hill Rd.

Windham County

Bellows Falls, *Moore and Thompson Paper Mill Complex*, Bridge St.

VIRGINIA

Augusta County

Middlebrook vicinity, *Mish, Henry, Barn*, N. of Middlebrook on VA 876
Middlebrook, *Middlebrook Historic District*, Jct. VA 252 and 876
Staunton vicinity, *Augusta Military Academy*, N of Staunton on U.S. 11
Swoope vicinity, *Shuey, Lewis, House*, S of Swoope on VA 713

Bath County

Millboro Springs vicinity, *Old Stone House (Robert Sitlington House)*, SW of Millboro Springs on VA 664

Caroline County

Woodford vicinity, *Edge Hill*, W of Woodford on VA 632

Charles City County

Charles City vicinity, *Edgewood*, W of Charles City on VA 5
Lamptie Hill vicinity, *Hardens*, W of Lamptie Hill on VA 5

Essex County

Dunbrooke vicinity, *Cherry Walk*, S of Dunbrooke on VA 620

Fauquier County

Casanova vicinity, *Melrose*, N of Casanova on VA 602
Upperville vicinity, *Oakley*, E of Upperville on U.S. 50

Loudoun County

Leesburg, *Waverly*, 212 S. King St.

Lynchburg (Independent City)

Daniel's Hill Historic District, Cabell, Norwood, Hancock, Stonewall from 6th to H St.

Newport News (Independent City)

Queen Hith Plantation Complex Site (Oakland Farm Industrial Park MRA),
Skiffes Creek Sand Spit Site (Oakland Farm Industrial Park MRA),
Southern Terminal Redoubt (Oakland Farm Industrial Park MRA),

Norfolk (Independent City)

Lafayette Grammar and High School, 3109 Tidewater Dr.

Rappahannock County

Sperryville, *Sperryville Historic District*, VA 522, 600, 1001, and 1002

Richmond (Independent City)

Masonic Temple, 101–107 W. Broad St.
Planters National Bank, 12th and E. Main Sts.
Virginia, The, 1 N. Fifth St.

Shenandoah County

Quicksburg vicinity, *Zirkle Mill*, W of Quicksburg on VA 42

WEST VIRGINIA

Fayette County

Glen Jean, *Bank of Glen Jean*, Main St.

Hardy County

Moorefield, *Allen, Judge J.W.P., House*, South Fork Rd.

Jefferson County

Shepherdstown vicinity, *Morgan-Bedinger-Dandridge House*, SW of Shepherdstown on WV 48

Kanawaha County

St. Albans, *Mohler, William E., House*, 819 Pennsylvania Ave.

Mason County

Clifton, *Powell—Redmond House*, 23 Columbia St.

Mercer County

Bramwell, *Bramwell Historic District*, Main, Rose, Bloch, Duhring, Wyatt, Church, N. and S. River Sts.

Morgan County

Berkeley Springs, *Dawson, T.H.B., House*, 300 S. Green St.

[FR Doc. 83–2002 Filed 1–24–83; 8:45 am]
BILLING CODE 4310–70–M

Office of the Secretary

Alaska Land Use Council; Meeting

As required by the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96–487, dated December 2, 1980, Section 1201, Paragraph (h), the Alaska Land Use Council will meet at 9:00 a.m., Wednesday, February 23, 1983 in the Governor's Conference Room, Third Floor, Capitol Building, Juneau, Alaska. Major items on the proposed agenda include:

—Kantishna Hills/Dunkle Mine Study.

—Bristol Bay Cooperative Management Study.
—St. George OCS Consultation.

William P. Horn,
Deputy Under Secretary.
January 19, 1983.

[FR Doc. 83-1955 Filed 1-24-83; 8:45 am]
BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Temporary Authority Applications

Correction

In FR Doc. 82-33975 beginning on page 56203 in the issue of Wednesday, December 15, 1982, make the following correction:

On page 56209, first column, under MC 163395 (Sub-4-2TA), Black Hawk Transport, in the 12th line, "to CL, CA and NV" should have read "to CO, CA and NV.

BILLING CODE 1505-01-M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; and interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. This notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

James H. Bayne,
Acting Secretary.

For the following, please direct status inquiries to Team 1 at 202-275-7992.

Volume No. OP1-FC-23

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC-FC-81136. By decision of January 18, 1983 issued under 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 1 approved the transfer to MPT Corporation, of Missoula, MT, of Certificate No. MC-125650 Sub 2, issued April 5, 1967, Sub 4, issued March 22, 1973, Sub 7, issued October 9, 1974, Sub 15, issued March 23, 1977, Sub 18, issued July 26, 1977, Sub 19, issued August 8, 1977, Sub 21, issued August 6, 1980, Sub 22, issued May 28, 1981 and Sub 23, issued May 26, 1981, to Mountain Pacific Trucking, Inc., of Missoula, MT, authorizing the transportation of specified food and related products, from, to or between specified points in MT, WY, ID, WA, OR, NV, UT, CA, CO, ND and SD. Applicant's representative: David L. Jackson, 203 North Ewing St., Helena, MT 59601.

MC-FC-81055. By decision of January 13, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 1 approved the transfer to Hilt Truck Line, Inc., a Nevada Corporation, of Las Vegas, NV, of Certificate No. MC-124211 (Sub-No. 386), issued January 7, 1982, to Hilt Truck Line, Inc., a Nebraska Corporation, of Omaha, NE, authorizing the transportation of general commodities (except class A and B explosives, household goods and commodities in bulk), between points in the U.S. Condition: Upon consummation and at the request of transferor, the authorities in Certificate No. MC-124211 and its remaining subs and Permit No. MC-145092 and subs thereunder shall be cancelled. Representative: Thomas L. Hilt, P.O. Box 988 D.T.S., Omaha, NE 68101. (712) 328-2393

Volume No. OP1-FC-24

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81117. By decision of January 13, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 3 approved the transfer to AKRON CANTON TRANSFER, INC, North Canton, OH, of Certificate No. MC-161260, issued November 17, 1982, to WAGONER MOVING AND STORAGE, INC., North Canton, OH, authorizing the transportation of new furniture and household goods, between points in IN, IL, MI, KY, TN, WV, MD, PA, NJ, CT, RI, MA, NY, NE, VT, NH, DE, VA, NC, SC, GA, FL, AL, MS, LA, WI, AR, TX, MO, CO, OK, KS, SD, ND, IA, NE, MN, OH, and DC. Representative: Robert G. Harris, 1499 W. Palmetto Pk. Rd. Boca Raton, FL 33432.

Volume No. OP1-FC-25

By the Commission, Review Board No. 2, Members Carleton, Willams, and Ewing.

MC-FC-81145. By decision of January 18, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, Review Board Number 2, approved the transfer to Lucky Trucking, Inc., of Casper, WY, of Certificate No. MC-156300, issued March 9, 1982, to Casper Hotshot Service, Inc., of Casper, WY, authorizing the transportation of (1) Mercer commodities and (2) mine and mill equipment and supplies, between points in WY, CO, UT, MT, ND and SD. Representative: Bob Oldson, P.O. Box 9695, Casper, WY.

Volume No. OP5-FC-014

Please direct status inquires to Team 5 at 202-275-7289.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81061. By decision of January 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1181, Review Board Number 3 approved the transfer to McKAY TRANSPORT CORP., Owosso, MI, of Certificate No. MC 140468 (Sub-No. 6) issued November 21, 1978 to DONALD R. BAJEMA AND GERALD O. BAJEMA, doing business as, RIVERVIEW DAIRY FARMS, Grand Rapids, MI, authorizing the transportation of *dairy products* (except in bulk), in tank vehicles equipped with mechanical refrigeration, from Lansing, MI, to points in Fulton, Lucas, Williams, and Wood Counties, OH. Representative: David E. Jerome, 436 North Center St., Northville, MI 48167.

Note.—Transferee is not a carrier.

[FR Doc. 1916 Filed 1-24-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commere, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service in for a named shipper "under contract." Please direct status inquiries to Team Three at (202) 275–5223.

Volume No. OP3–07

Decided: January 14, 1983.

MC 45414 (Sub-5), filed December 30, 1982. Applicant: HUB BUS LINES, INC., 321 Washington St., Somerville, MA 02143. Representative: Arthur M. White, 281 Pleasant St., P.O. Box 2547, Framingham, MA 01701, (617) 879–5000. Transporting *passengers*, in charter and special operations, beginning and ending at points in the U.S. and extending to points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 61335 (Sub-19), filed January 4, 1983. Applicant: TRANS-BRIDGE LINES, INC., 2012 Industrial Drive, Bethlehem, PA 18017. Representative: W. C. Mitchell, 370 Lexington Avenue, New York, NY 10017, (212) 868–6001. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 105154 (Sub-15), filed January 3, 1983. Applicant: TETON STAGE LINES, INC., 1425 Lindsay Blvd., Idaho Falls, ID 83402. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting (1) *passengers and their baggage and accessorial equipment*, in charter and special operations, between points in the U.S., under continuing contract(s) with the U.S. Government, the State of ID, Idaho State University, and Church of Jesus Christ of Latter Day Saints, (2) transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. and (3) *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant in (1) and (3) seeks to provide privately funded charter and special transportation.

MC 109495 (Sub-17), filed January 3, 1983. Applicant: BRUNSWICK TRANSPORTATION COMPANY, INC., Elm & Middle Sts., Brunswick, ME 04011. Representative: Robert J. Ouellette, 184 Main St., South Portland, ME 04106, (207) 799–8527. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 127955 (Sub-16), filed January 5, 1982. Applicant: RICCI TRANSPORTATION CO., INC., Odessa Ave. & Aloe St., Pomona, NJ 08240. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *passengers*, in charter and special operations, beginning and ending at points in NJ and extending to points in the U.S. (except HI).

MC 143515 (Sub-9), filed January 4, 1983. Applicant: P & W CHARTER SERVICE, INC., 1810 South 11th St., Union Gap, WA 98903. Representative: Randy Ammerman, P.O. Box 2455, Yakima, WA 98907, (509) 575–3655. Transporting *passengers*, in special and charter operations, beginning and ending at points in MT, ID, OR, and WA, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 162174 (Sub-1), filed January 4, 1983. Applicant: RED & TAN TOURS,

437 Tonnele Ave., Jersey City, NJ 07306. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017, (212) 532–5100. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

Volume No. OP3–12

Decided: January 18, 1983.

MC 165485, filed January 4, 1983. Applicant: JOHN D. GIBBS, 396½ Willow Glen Dr., Kalispell, MT 59901. Representative: John D. Gibbs (same address as applicant), (406) 755–4131. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–22

Decided: January 17, 1983.

MC 127777 (Sub-23), filed January 7, 1983. Applicant: MOBILE TRANSPORT SYSTEMS, INC., Rt. 1, Knapp, WI 54749. Representative: Audrey Thomas (same address as applicant), (715) 772–4483. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secretart materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

James H. Bayne,

Acting Secretary.

[FR Doc. 83–1918 Filed 1–24–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only; Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier property, freight forwarder, and household goods broker—of—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted. Please direct status inquiries to Team 3 at (202)275–5223.

Volume OP3–06

Decided: January 14, 1983.

MC 67234 (Sub-74), filed January 3, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Merrill Lynch Relocation Management, Inc., of White Plains, N.Y.

MC 67234 (Sub-75), filed December 30, 1982. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in

bulk), between points in the U.S., under continuing contract(s) with Technicare, of Solon, OH.

MC 83835 (Sub-176), filed December 27, 1982. Applicant: WALES TRANSPORTATION, INC., P.O. Box 226186, Dallas, TX 75266. Representative: J. Michael Alexander, 5801 Marvin D. Love Freeway Suite 301, Dallas, TX 75237–2385, (214) 339–4108. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s)— with Phillips Petroleum Company, and its wholly-owned subsidiary, Phillips Driscopipe, Inc., both of Bartlesville, OK.

MC 158784 (Sub-1), filed January 3, 1983. Applicant: RONALD E. BALIK, d.b.a. BALIK TRUCKING, R.R. #2, Fort Atkinson, IA 52144. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *beer* between Minneapolis, MN, and Milwaukee and La Crosse, WI, on the one hand, and, on the other, points in Winneshiek County, IA.

MC 159074 (Sub-1), filed December 22, 1982. Applicant: ABC TRANSPORT, INC., 400 E. Carrie Ave., St. Louis, MO 63114, (314) 423–5659. Representative: Samuel R. Green, 2424 Rustic Ridge, St. Louis, MO 63114, (314) 423–5659. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. except AK and HI).

MC 161024 (Sub-1), filed January 3, 1983. Applicant: RAMROD TRUCKING, INC., 9005 Weedy Lane, Houston, TX 77093. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767, (512) 472–8800. Transporting *Mercer commodities*, between points in TX, on the one hand, and, on the other, points in AL, AR, CA, CO, KS, LA, MS, NM, OK, and WY.

MC 161474, filed January 4, 1983. Applicant: FRANKLIN R. ABSHER, Route 1, Box 107–A, Arvonia, VA 23004. Representative: John M. Schilling, 300 West Main St., Richmond, VA 23220, (804) 782–1111. Transporting *fertilizer*, between Richmond, VA and points in NC.

MC 165085, filed January 4, 1983. Applicant: RAY BARBER, d.b.a. WEST END TRUCKING, Route 1, Box 233, Laveen, AZ 85339. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Foodmaker, Inc., of San Diego, CA.

MC 164535 (Sub-1), filed December 27, 1982. Applicant: JIM SANDEFUR, INC., 2035 Royalton, Wixom, MI 48096. Representative: David E. Jerome, 436 N. Center, Northville, MI 48167, (313) 348–4433. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Korex Company, of Wixom, MI, and Welton Associates, Inc., of Atlanta, GA.

MC 165174, filed December 30, 1982. Applicant: G. MALAKOFF & SONS TRANSPORT LTD., 2304 Bedford Ave. E., Regina, Saskatchewan, CD S4N OG9. Representative: Garry Malakoff (same address as applicant), (306) 359–3322. Transporting *asphalt*, between ports of entry on the International boundary line between the U.S. and Canada at points in ND and MT, on the one hand, and, on the other, points in ND and MT, under continuing contract(s) with Chevron Asphalt Ltd. of Regina, Saskatchewan, Canada.

MC 165454, filed January 3, 1983. Applicant: HURRYIN' HOOSIER TRANSPORT, INC., 2025 North Wabash Avenue, Kokomo, IN 46901. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 636–1301. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with (1) Collins Moving Systems, Inc., and (2) Syndicate Sales, Inc., both of Kokomo, IN.

MC 165465, filed January 4, 1983. Applicant: PAYLESS DRUG STORES NORTHWEST, INC., 9275 SW Peyton Lane, Wilsonville, OR 97070. Representative: Beverly Barclay (same address as applicant), (503) 682–4100. Transporting *general commodities* (except commodities in bulk, classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Washington Oregon Shipper's Co-op Association of Seattle, WA, and (2) Ramallah Wholesale Co., Inc., of Brisbane, CA.

MC 164575, filed January 4, 1983. Applicant: JOHN N. CALHOUN, d.b.a. JOHN CALHOUN TRUCKING, 2255 Loxwood, Salt Lake City, UT 84104. Representative: John N. Calhoun, P.O. Box 639, Bountiful, UT 84010, (801) 973–9265. Transporting *general commodities* (except household and classes A and B explosives), between points in the U.S. (except AK and HI).

Volume No. OP3–11

Decided: January 18, 1983.

MC 141995 (Sub-2), filed January 3, 1983. Applicant: INTERNATIONAL EX-AIR TRANSPORT COMPANY, INC., 220 Guadalupe St., Laredo, TX 78040. Representative: Eduardo Pena, Jr., Solar Bldg., 1000 16th St., N.W., Washington, DC 20036, (202) 347–0906. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between ports of entry on the International boundary line between the U.S. and Mexico in TX, on the one hand, and, on the other, points in TX.

MC 144514 (Sub-4), filed January 3, 1983. Applicant: J&M ENTERPRISES, LTD., 5300 Hubbell, P.O. Box 3145, Des Moines, IA 50316. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309, (515) 244–2329. Transporting *food and related products*, between points in Saline, Lancaster, York, and Dakota Counties, NE, Minnehaha and Lincoln Counties, SD, Saline County, MO, Omaha, NE, Kansas City, MO, Chicago and Beardstown, IL, Detroit, MI, Amarillo, TX, Oklahoma City, OK, and Ogden, UT, and points in IA, KS, and MN, on the one hand, and, on the other, those points in the U.S. in and west of MT, WY, CO, NM, and TX.

MC 148035 (Sub-14), filed January 4, 1983. Applicant: QUANDT TRANSPORT SERVICE, INC., 2806 No. 11th St., Omaha, NE, 68110. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE, 68114, (402) 397–7033. Transporting *general commodities* (except classes A and B explosives and household goods), between points in SD, NE, IA, MO, CO, WY, MN, and IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150245 (Sub-2), filed December 30, 1982. Applicant: BROWN'S SALVAGE, INC., Rt. 1, Box 157, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *feed*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sunshine Mills, Inc. of Tupelo, MS.

MC 152785 (Sub-1), filed January 4, 1983. Applicant: WILLIAM J. CHAMBERS and WILLIAM H. CHAMBERS, d.b.a. WESTWAY TRANSPORTATION CO., 153 Valencia Dr., Camarillo, CA 93010. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872–1106. Transporting *food and related products*, (a) between points in

AZ, CA and OR and (b) points in Clark County, WA, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, and OR.

MC 165065, filed December 6, 1982, previously noticed in the **Federal Register** on December 29, 1982. Applicant: L.M.O. TRUCKING, INC., P.O. Box 429, La Grande, OR 97850. Representative: Lawrence V. Smart, Jr., 419 N.W., 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *machinery and construction materials*, between those points in and east of Morrow, Grant, and Harney Counties, OR, on the one hand, and, on the other, points in WA and ID.

Note.—This republication corrects the territorial description.

MC 165394 (Sub-1), filed December 30, 1982. Applicant: TAE WEST CORPORATION, 3402 E. Fairway Dr., Suite 336, Coeur d'Alene, ID 83814. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701, (208) 336–5944. Transporting *lumber and wood products, building materials, and metal and metal products*, between points in the U.S. (except AK and HI).

MC 165514, filed January 4, 1983. Applicant: CHARLES B. JONES, d.b.a. JONES TRUCKING CO., 4701 Roman Forest Dr., Olive Branch, MS 38654. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Ave., Memphis, TN 38103, (901) 527–2482. Transporting *such commodities* as are used or dealt in by department, grocery, and drug stores and mail order houses, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 165524, filed January 3, 1983. Applicant: RICHARD S. BROWNING, SR., d.b.a. BROWNING AUTO TRANSPORTERS, P.O. Box 60116, Reno, NV 89506. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, (702) 882–5849. Transporting *transportation equipment*, between points in AL, AZ, AR, CA, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, NE, NV, NH, NY, NJ, NM, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, WY, and DC.

MC 165525, filed January 3, 1983. Applicant: FREELAND TRUCKING, INC., 1203 Adams St., Portage WI 53901. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901, (608) 742–3579. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

James H. Bayne,
Acting Secretary.

[FR Doc. 83–1917 Filed 1–24–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, are governed by 49 CFR 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

James H. Bayne,
Acting Secretary.

Volume No. OP1–27

Decided: January 19, 1983.

For status, call Team 1 (202) 275–7992.

MC 88141 (Sub-8)X, filed January 3, 1983. Applicant: SPENCER TRANSPORT, INC., 16516 Happy Hill Rd., Colonial Heights, VA 23834. Representative: J. Gray Spain (same address as applicant). Sub 7 permit: broaden (1) transil oil to "petroleum, natural gas and their products", and (2) the territorial description to "between points in the U.S. (except AK and HI)", under continuing contract(s) with the named shipper.

Volume No. OP3–13

Decided: January 18, 1983.

For status, call Team 3 (202) 275–5223.

MC 71074 (Sub-10)X, filed January 10, 1983. Applicant: WAREHOUSE TRANSPORT, INC., 62 Everett St., Westwood, MA 02090 Representative: David M. Marshall, Sixth Fl.—95 State St., Springfield, MA 01103, (413) 732–1136. Subs 5 and 7 permits: (a) remove the exception of commodities in bulk, and (b) broaden the territorial description to between points in the U.S. (except AK and HI), under continuing contract(s) with named shipper.

Volume No. OP5–015

Decided: January 14, 1983.

For status, call Team 5 (202) 275–7289.

MC 339 (Sub-15)X, filed December 27, 1982. Applicant: LINCOLN MOVING AND STORAGE CO., INC., 16000 Christensen Suite 314, Tukwila, WA 98188. Representative: H. E. Brown (same address as applicant), (206) 246–0710. Sub 13F certificate: (1) broaden household goods to "household goods, furniture and fixtures"; and (2) remove restriction in containers.

[FR Doc. 83–1915 Filed 1–24–83; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. OP3–20]

Motor Carriers; Permanent Authority Applications; Republications of Grants of Operating Rights Authority Prior to Certification

Decided: January 18, 1983.

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of petition for leave to intervene must be filed with the Commission within 30 days after the date of this **Federal Register** notice addressing specifically the issue(s) indicated as the purpose for republication.

James H. Bayne,
Acting Secretary.

MC 160385 (republication), filed February 3, 1982, published in the **Federal Register** issue of February 19, 1982, and republished this issue. Applicant: GLEEN BOWEN, d.b.a. BOWEN'S TRUCKING, 15309 66th Avenue East, Puyallup, WA 98371. Representative: (same as above) (206) 535–6349. A Decision of the Commission, Division 1, decided September 15, 1982 and served September 22, 1982 reopened

this proceeding and a Decision of the Commission, Division 1, Acting as an Appellate Division, decided January 6, 1983 and served January 14, 1983 finds on further consideration that the performance by applicant of the service as described herein will serve a useful public demand or need to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transportating general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in AZ, CA, CO, ID, MT, NV, OR, TX, UT, NM, WY, and WA; that applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to give notice to those parties who have relied on the previous notice in the **Federal Register** of the application as published and may have an interest in, and would be prejudiced by the lack of proper notice by the inclusion of Washington.

[FR Doc. 83-1914 Filed 1-24-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15048]

D & G Trucking Co., Inc.; Purchase Exemption, Shoemaker Trucking Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343,* 47 FR (November 24, 1982) D & G Trucking Co. Inc., seeks an exemption from the requirement under Section 11343 of prior regulatory approval for acquisition of a portion of the motor carrier operating rights of Shoemaker Trucking Company, i.e., Certificate Nos. MC-138875 (Sub-Nos. 307 and 312X(37)), which authorize, respectively, the transportation of (1) food and related products, between points in Ohio and South Carolina, on the one hand, and, on the other, points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Ohio, Oregon, Utah, Washington and Wyoming, and (2) metal products between points in Texas, on the one hand, and, on the other, points in the United States, except points in Idaho.

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: (1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423; (2) Petitioner's representative: David E. Wishney, P.O. Box 837, Boise, ID 83701.

Comments should refer to No. MC-F-15048.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge of contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 18, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1913 Filed 1-24-83; 8:45 am]

BILLING CODE 7035-01-M

[No. 38955 et al.] [1]

Ericon International Corp.; Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Twelve motor contract carriers have each requested exemption from the tariff filing requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted.

DATES: Comments are due on February 11, 1983. The sought relief will become effective on February 28, 1983, unless in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESSES: Send an original and, if possible, 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Robin Williams, (202) 275-7697

or

Howell I. Sporn, (202) 275-7691

SUPPLEMENTARY INFORMATION: Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 17061 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant exemptions to contract carriers when relief is consistent with the public interest and the transportatioin policy of section 10101. 49 U.S.C. 10702(b), 10761(b), and 10762(f).

The 12 motor contract carriers identified in the appendix filed individual petitions requesting exemptions under the three exemption provisions mentioned above. As the issues presented and the relief sought by these petitioners are substantially similar, we are consolidating them for notice purposes.

The petitioners hold a number of contract carrier permits to serve various shippers transporting a wide variety of commodities. They argue, generally, that the tariff filing requirements represent an undue burden on their ability to compete effectively and to offer their shippers the immediate service often required. Petitioners assert that they are interested in avoiding unnecessary expenses which handicap their efforts to provide economical and efficient service. They also argue that the Motor Carrier Act of 1980 encourages the Commission to remove obstacles which keep contract carriers from realizing their full potential. In addition, several petitioners state that they will provide interested parties with copies of their rates if requested.

We see no reason to deny these carriers the savings to be realized from a tariff filing exemption for existing contracts.[2] It appears that exemption of these carriers from the requirement that they file tariffs covering their existing contract operations is consistent with the public interest and the transportation policy of 49 U.S.C. 10101. We will not order these carriers to provide copies of their rates upon request by interested parties, since we have not imposed that requirement for other recent filings. See No. 38828, *Three Way Corporation, Petition for Exemption from Tariff Filing Requirements* (not printed), decided June 25, 1982.

We provisionally grant the sought relief. This provisional relief will become effective unless the Commission issues a further decision modifying or withdrawing the relief in response to adverse comments that may be filed.

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[1] This proceeding embraces twelve petitions for exemption filed by motor contract carriers, as set forth in the appendix.

[2] A proceeding to investigate the exemption of motor carriers on an industry-wide basis has been instituted in Ex Parte No. MC-165, *Exemption of Contract Carriers from Tariff Filing Requirements,* served December 21, 1982.

This decision does not appear to have a significant effect on either the quality of the human environment or conservation of energy resources. However, comments may be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b), and 10762(f))

Decided: January 18, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Sterrett, joined by Commissioner Andre, concurred with a separate expression. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

Commissioner Sterrett, joined by Commissioner Andre, concurring: I applaud petitioners' efforts to make their services and prices more responsive to the needs of contracting shippers. However, the failure to seek relief for future contracts will force these carriers to return to this agency for similar relief for each new shipper. I continue to believe that these exemptions should extend to future contracts as well.

Appendix

The dockets embraced by this proceeding are as follows:

No. 38955 Ericon International Corporation
No. 38957 Central Southern, Inc.
No. 38958 Cherokee Lines, Inc.
No. 38961 Trans-United, Inc.
No. 38965 Dennis Moss and Gary Moss, d.b.a. Motor West
No. 38966 Boncosky Transportation, Inc.
No. 38967 Chemical Leaman Tank Lines, Inc.
No. 38969 Motor Cargo Transport Corp.
No. 38970 Carrier Development Corporation
No. 38975 Watkins Motor Lines, Inc.
No. 38980 Platte Valley Freightways, Inc.
No. 38982 A. Luurtsema Truck Lines, Inc.

[FR Doc. 83-1920 Filed 1-24-83; 8:45 am]

BILLING CODE 7035-01-M

Senior Executive Service; Performance Review Board

Mary A. Kelly, Assistant Deputy Director, Motor Section, Office of Proceedings has been appointed to serve on the Performance Review Board.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1922 Filed 1-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 28540 (Sub-9)]

Chicago, Milwaukee, St. Paul and Pacific Railroad Co.; Reorganization; Acquisition by Grand Trunk Corp.; Amendment to Notice of Intent

Decided: January 18, 1983.

By petition filed January 10, 1983, Richard B. Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (MILW) and Grand Trunk Corporation (GTC) seek to amend the Prefiling Notification by changing the anticipated latest date for filing MILW's Amended Plan of Reorganization from February 5, 1983, to March 31, 1983. Under 49 CFR 1180.4(b)(3) a Prefiling Notification may be amended to indicate a change in the anticipated filing date. Thus, it is unnecessary for us to grant MILW and GTC leave to amend the Prefiling Notification. The Commission's Notice of Intent, published September 3, 1982, at 47 FR 39000 is amended accordingly. No other amendment is made to the Prefiling Notification.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-1921 Filed 1-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Amdt. No. 1 to eighth revised ICC order No. 80 under service order No. 1344]

Rerouting Traffic

To: St. Louis Southwestern Railway Company; Cadillac & Lake City Railway Company; Chicago and North Western Transportation Company; Iowa Railroad Company; South Central Arkansas Railway; North Central Oklahoma Railway Inc.; Oklahoma, Kansas and Texas Railroad Company, and Texas North Western Railway Company.

Upon further consideration of Eighth Revised I.C.C. Order No. 80 and good cause appearing therefor:

It is ordered, I.C.C. Order No. 80 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The order shall expire at 11:59 p.m., July 31, 1983, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., January 31, 1983.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 17, 1983.

Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 83-1919 Filed 1-24-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387]

St. Louis Southwestern Railway Co. et al.; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Provisional Exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 40 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register**.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275-7278;
or
Tom Smerdon (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Re-Board[1]	Decided date
651	St. Louis Southwestern Railway Co., Supplements 1 to ICC-SSW-C-0034, 0035, 0040, 0041, 0042, 0044, 0045, 0055, 0056, 0058, 0059, 0063, 0111, 0142, 0169, and 0197, (Various commodities)	2	1-17-83
652	Missouri Pacific Railroad Co., ICC-MP-C-0225, (Sugar, beet or cane, dry)	2	1-17-83
655	Seaboard System Railroad, Inc., ICC-SBD-C-0005, (Anhydrous ammonia)	2	1-17-83
658	Kansas City Southern Railway Co., ICC-KCS-C-0045, (Synthetic Rubber)	2	1-18-83

Sub-No.	Name of railroad, contract No., and specifics	Review Board[1]	Decided date
659	Soo Line Railroad Co., ICC-SOO-C-0153, (Woodpulp)	1	1-18-83
[illegible]	The Pittsburgh and Lake Erie Railroad Co., ICC-PLE-C-0024, (Bituminous steam coal)	3	1-18-83

[1] Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and [illegible].

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-1816 Filed 1-24-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Agency Forms Under Review

January 21, 1983.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 350(H) of Pub. L. 96-511 applies; (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer Larry E. Miesse, 202-633-4312

Revision

- Bureau of Justice Statistics

Department of Justice

National Indigent Criminal Defense Needs

Nonrecurring

State or local governments

Indigent criminal defense programs, county governments that fund indigent criminal defense programs: 1,488 responses: 693 hours: not applicable under 3504(h).

David Reed, 395-7231.

Larry E. Miesse,

Department Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice.

[FR Doc. 83-1972 Filed 1-24-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Report on Computer Matching Project Involving Beneficiaries of State Unemployment Insurance

a. *Authority:* The Office of Inspector General (OIG) pursuant to its Authority Under Pub. L. 95-452 (Inspector General Act of 1978) has initiated a program of computer matching.

b. *Description of the Match:* One of the responsibilities of the Inspector General under the Act is to prevent and detect fraud and abuse in the programs and operations of the Department of Labor while keeping the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the need for and progress of corrective actions. Computer matching is the most efficient and also the least intrusive means of determining the propriety of program claimants receiving benefits.

The Employment and Training Administration (ETA) of the Department of Labor provides guidance and administrative funding for state operated Unemployment Insurance (UI) Programs. The state UI programs provide weekly compensation payments to unemployed workers. This matching effort will compare state UI claimant records from the State Employment Security Agencies of California, Utah, Texas, Missouri, Massachusetts, Pennsylvania, Kentucky, New York, Arkansas, Tennessee, Mississippi, Maryland, Virginia and the District of Columbia, to U.S. Department of Treasury (TD) employee payroll records to identify individuals that received UI compensation during periods of TD employment. The states will provide USDOL/OIG computer tapes with certain claimant data extracted from their benefit history files. The TD will provide USDOL/OIG computer tapes with certain employee payroll data extracted from their payroll files. The period covered in the match will be October 4, 1980 through October 2, 1982. The State and TD tapes will be matched using specially developed computer programs which will be used only to support this project. The "raw hits" resulting from the crossmatch will be forwarded to the TD for validation that UI benefits were paid while actually employed. Through USDOL/OIG, validated listings of such payments will be forwarded to the appropriate state agency for administrative processing and recovery of validated overpayments. In addition, TD will use the validated listings to pursue investigations and take other appropriate action. Although scheduled as a one time match, recommendations for expanding the matching to include additional states and/or Federal agencies based on the results of this match may be made.

c. *Federal Records to be Matched:* Treasure/OS-002, Treasury Payroll/Personnel Information System-Treasury/OS, 46 FR 48, pg. 16464 on March 12, 1981.

Treasury/IRS-36.003, General Personnel Payroll Records Treasury/IRS, 46 FR 48, pg. 16606 on March 12, 1981.

d. *Period of the Match:* The first match should begin approximately in late January, 1983, with the final match being completed during March, 1983. Follow-up procedures may extend through the end of calendar year 1983.

e. *Privacy Protection and Data Security:* The personal privacy of individuals identified on tapes is protected by strict compliance with the Privacy Act (Public Law 93-579) and OMB Circular A-108. Information from matching programs is used only for official purposes and "raw hits" are not released to the press or to the public.

All automated data sets will be password protected, and only those who need to know will be given access to the data sets or the passwords. All paper listings of data will be stored in a room which will be locked when not occupied.

f. *Disposition of Source Records and Hits:* Source records will not become part of the DOL/OIG system of records and will be returned to the providing agency and/or destroyed within six months after completion of the match.

USDOL/OIG will not retain copies of "raw hit" listings. As stated above these listings will be forwarded to the TD for validation. The "raw hit" listings will not be retained by the TD for more than one year. The "validated hit" listings may be retained by USDOL/OIG, the TD and State Employment Security Agencies for up to three years, (commencing upon completion of the validation process) and will then be destroyed.

Signed at Washington, D.C., on the 20th day of January 1983.

Robert E. Magee,

Deputy Inspector General.

[FR Doc. 83-1987 Filed 1-24-83; 8:45 am]

BILLING CODE 4510-21-M

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of application involving the establishment of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, NW., Room 8000—Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C., this 19th day of January 1983.

Robert S. Kenyon,

Director, Office of Program Operations.

APPLICATIONS RECEIVED DURING THE WEEK ENDING JAN. 22, 1983

Name of Applicant and location of enterprise	Principal product or activity
Meridian Wood Products Co., Baker, Oreg.	Manufacture of wood finger-joint door frames and assorted wood mouldings.

[FR Doc. 83-1897 Filed 1-24-83; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-9]

NASA Advisory Council, Space Systems and Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Informal Advisory Subcommittee on Structures/Controls Interaction.

DATE AND TIME: February 15, 1983, 9 a.m. to 5 p.m.; February 16, 1983, 9 a.m. to 5 p.m.; February 17, 1983, 9 a.m. to 5 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 5026, 400 Maryland Ave., SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Deene J. Weidman, National Aeronautics and Space Administration, Code RTM-6, Washington, D.C. 20546 (202/755-3277).

SUPPLEMENTARY INFORMATION: This ad hoc informal subcommittee was formed with representation from three existing advisory subcommittees for the purpose of reviewing the control and structures interactions problems of large flexible spacecraft. This subcommittee will assess current control needs and structural methodology for spacecraft and recommend actions to provide technology needs for the future. The subcommittee, chaired by Dr. Joseph Garibotti, is comprised of seven members.

The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons, including the subcommittee members and participants).

Type of Meeting

Open.

Agenda

February 15, 1983

9 a.m.—Introduction and Subcommittee Goals.
9:50 a.m.—Review of Department of Defense Planned Research in Structures/Controls Interaction.
11 a.m.—Summary of Related NASA Mission Needs.
2:30 p.m.—Summary of Air Force Research and Plans.
5 p.m.—Adjourn.

February 16, 1983

9 a.m.—Complete Review of Related NASA and Air Force Research.
1 p.m.—Subcommittee Discussion.
5 p.m.—Adjourn.

February 17, 1983

9 a.m.—Subcommittee Discussion.

5 p.m.—Adjourn.

Dated: January 18, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-1950 Filed 1-24-83; 8:45 am]

BILLING CODE 7510-01-M

[Notice 83-10]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Materials and Structures.

DATE AND TIME: February 23, 1983, 9 a.m. to 5 p.m.; February 24, 1983, 9 a.m. to 5 p.m.

ADDRESS: National Aeronautics and Space Administration, Langley Research Center, Building 1219, Room 225, Hampton, VA.

FOR FURTHER INFORMATION CONTACT: Dr. Michael A. Greenfield, National Aeronautics and Space Administration, Code RTM-6, Washington, DC 20546 (202/755-3277).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Materials and Structures was established to assist the NASA in assessing the current adequacy of Materials, Structures, and Structural Dynamics technology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program. The Subcommittee, chaired by Mr. Warren Stauffer, is comprised of thirteen members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons, including the subcommittee members and participants).

Type of meetings

Open.

Agenda

February 23, 1983

9 a.m.—Introduction.
9:30 a.m.—Overview of Long Range Thrusts.
10 a.m.—Unsteady Aerodynamics.
2 p.m.—Advanced Metallics Research at Langley Research Center.
5 p.m.—Adjourn.

February 24, 1983

9 a.m.—Turbine Hot Section Durability.
1 p.m.—Subcommittee Discussions.
5 p.m.—Adjourn.

Dated: January 19, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-1951 Filed 1-24-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

AGENCY: National Commission for Employment Policy.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is given of the twenty-ninth meeting of the National Commission for Employment Policy in Washington, D.C., at a site to be announced. Call Velada Waller at (202) 724-1546 after January 20 for site information.

DATE: February 24-25, 1983, 9:00 A.M.-5:00 P.M.

Status

This meeting will be open to the public.

Matters To Be Discussed

The Commissioners will discuss possible responses to the current unemployment situation. They will consider a staff paper on general employment policy.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia W. Hogue, Director, National Commission for Employment Policy, 1522 K Street, NW., Suite 300, Washington, D.C. 20005, (202) 724-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established as title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95-524). The Act gives the Commission the Broad responsibility of advising the President and the Congress on national employment issues. Business meetings are open to the public. People wishing to submit written statements to the Commission that are germane to the agenda may do so, provided that such statements are in reproducible form and are submitted to the Director at least 5 days before the meeting and not more than 7 days after the meeting.

In addition, members of the general public may request to make oral presentations to the Commission, time permitting. Such statements must be applicable to the announced agenda and written application must be submitted to the Director at least 5 days before the meeting. This application should include: name and address of applicant, subject of presentation, relation to agenda, amount of time needed, individual's qualifications to speak on the subject, and a statement justifying the need for an oral rather than written presentation.

The Commission Chairman has the right to decide to what extent public oral presentations may be permitted at the meeting. Oral presentations will be limited to statements of facts and views and shall not include any questioning of the Commissioners or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting and materials prepared for it will be available for public inspection at the Commission's headquarters, 1522 K Street, N.W., Suite 300, Washington, D.C. 20005.

Signed in Washington, D.C., this 10th day of January 1983.

Patricia W. Hogue,

Director.

[FR Doc. 83-1988 Filed 1-24-83; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

SES Performance Review Board

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of members of the NEA Performance Review Board.

DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Carole S. McNamee, Personnel Management Specialist, Personnel Division, National Endowment for the Arts, 2401 E Street, NW., Room W-711, Washington, D.C. 20506, (202) 653-7509.

SUPPLEMENTARY INFORMATION: Sec. 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing

authority relative to the performance of the senior executive.

National Endowment for the Arts.

F. S. M. Hodsoll,

Chairman.

The following Senior Executive Service members have been selected to serve on the Performance Review Board of the National Endowment for the Arts: Robert A. Knisely, Deputy Chairman for Management, NEA; Hugh Southern, Deputy Chairman for Programs, NEA; Robert P. Wade, General Counsel for Management, NEA; Ana M. Steele, Associate Deputy Chairman for Programs, NEA; and Geoffrey Marshall, Deputy Chairman, National Endowment for the Humanities.

[FR Doc. 83-1910 Filed 1-24-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Emergency Core Cooling Systems; Meeting

The ACRS Subcommittee on Emergency Core Cooling Systems will hold a meeting on February 8, 1983, Room 1046, at 1717 H Street, NW, Washington, DC. The Subcommittee will review the NRC/Babcock and Wilcox Program plans to use the GERDA facility to address concerns with the thermal hydraulic behavior of B&W plants during transients and accidents.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Tuesday, February 8, 1983—8:30 a.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chariman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634-3267), between 8:15 a.m. and 5:00 p.m., e.s.t.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close sessions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: January 19, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-2004 Filed 1-24-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Policy and Procedures; Changed Meeting

The ACRS Subcommittee on Regulatory Policy and Procedures will hold a meeting on February 7 and 8, Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published January 13, 1983 (FR 48 1567). The Subcommittee will review the matter of regulatory reform including "regionalization".

A closed session may be held to discuss changes in the NRC internal personnel rules and practices associated with regionalization and the interaction of NRC field personnel and NRC headquarters personnel in dealing with safety related matters (Sunshine Act Exemption 2).

All other information previously published concerning the meeting remains unchanged.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Marvin C. Gaske (telephone 202/634-3265) between 8:15 a.m. and 5:00 p.m., e.s.t.

Dated: January 19, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-2005 Filed 1-24-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co. et al.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 61 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to reduce, during the remainder of the present fuel cycle, the required minimum number of operable flux detector thimbles to 50% of total.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated December 16, 1982, (2) Amendment No. 61 to License No. DPR-66 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa,

Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 19th day of January 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-2006 Filed 1-24-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289]

Metropolitan Edison Co. et al.; Rescheduling of Oral Argument

January 19, 1983.

In the matter of; Metropolitan Edison Co. *et al.* (Three Mile Island Nuclear Station, Unit No. 1); (Design Issues); rescheduling of oral argument.

Notice is hereby given that the evidentiary hearing in this proceeding previously scheduled for Tuesday, February 8, 1983, has been rescheduled for *9:00 a.m. on Tuesday, March 1, 1983,* in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-2007 Filed 1-24-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-142 OL]

University of California, Regents; Prehearing Conference

January 20, 1983.

In the matter of: Atomic Safety and Licensing Board; before Administrative Judges: John H. Frye, III, Chairman; Dr. Emmeth A. Luebke; and Dr. Oscar H. Paris. The Regents of the University of California (UCLA Research Reactor); Docket No. 50-142 OL (Proposed Renewal of Facility License).

Please take notice that a Prehearing Conference in the above captioned proceeding will take place on February 23 and 24, 1983, commencing at 9:30 a.m. each day at the Customs Courtroom, 6th Floor, Federal Building, 300 N. Los Angeles Street, Los Angeles, California.

Oral limited appearance statements will not be accepted at this conference; rather they will be scheduled during the forthcoming evidentiary hearings. Written limited appearance statements may be submitted at any time.

For the Atomic Safety and Licensing Board.

John H. Frye, III,

Chairman, Administrative Judge.

[FR Doc. 83-2009 Filed 1-24-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202-632-6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on December 28, 1982 (47 FR 56807). Individual authorities established or revoked under Schedules A, B, or C between December 1, 1982 and December 31, 1982 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year

Schedule A

The following exceptions are established:

Department of the Army

Five research oriented faculty positions, GS-14/15, with the U.S. Army War College, at Carlisle Barracks, Pennsylvania, with appointments to be made initially for up to 3 years and thereafter extended annually if needed. Effective December 10, 1982.

Executive Office of the President

Five positions at grades GS-9 through 15 in the Office of Management and Budget (OMB). Effective December 9, 1982.

Schedule C

The following exceptions are established:

Department of Agriculture

One Confidential Assistant to the Director, Office of Minority Affairs. Effective December 13, 1982.

One Special Assistant to the Director, Office of Rural Development Policy. Effective December 16, 1982.

One Confidential Assistant to the Assistant Secretary, Office of the Assistant Secretary. Effective December 23, 1982.

Department of the Army

One Confidential Staff Assistant to the Associate Director of Presidential Personnel, Office of the Secretary of the Army. Effective December 22, 1982.

Department of Commerce

One Legislative Director, National Oceanic and Atmospheric Administration. Effective December 6, 1982.

One Special Assistant to the Assistant Secretary for Communications and Information, Office of the Secretary. Effective December 17, 1982.

One Confidential Assistant to the Director, Office of Business Liaison. Effective December 22, 1982.

Department of Defense

One Staff Assistant to the Assistant to the Secretary of Defense (Communications), Office of the Secretary. Effective December 1, 1982.

One Assistant to the Deputy Assistant Secretary of Defense (East Asia & Pacific Affairs). Effective December 13, 1982.

One Confidential Assistant to the Secretary of Defense, Office of the Secretary of Defense. Effective December 22, 1982.

Department of Education

One Confidential Assistant to the Assistant Secretary, Office of the Assistant Secretary for Civil Rights. Effective December 1, 1982.

One Confidential Assistant to the Deputy Assistant Secretary for Institutional Support and International Education, Office of Postsecondary Education. Effective December 7, 1982.

One Confidential Assistant to the Assistant Secretary, Office of the Assistant Secretary for Elementary and Secondary Education. Effective December 9, 1982.

One Special Assistant to the Assistant Secretary, Office of the Assistant Secretary for Civil Rights. Effective December 20, 1982.

One Director, Special Concerns Staff, Office of the Assistant Secretary for Civil Rights. Effective December 20, 1982.

One Special Assistant to the Deputy Assistant Secretary for Student Financial Assistance Programs, Office of

Postsecondary Education. Effective December 22, 1982.

One Special Counsel to the Under Secretary, Office of the Under Secretary. Effective December 24, 1982.

Department of Energy

One Staff Assistant to the Assistant Secretary, Management and Administration. Effective December 28, 1982.

Department of Housing and Urban Development

One Executive Assistant to the Regional Administrator in Chicago, Illinois, Office of the Regional Administrator. Effective December 10, 1982.

One Executive Assistant to the Assistant Secretary for Community Planning and Development, Office of the Assistant Secretary. Effective December 29, 1982.

One Special Assistant to the Regional Administrator in Seattle, Washington, Office of the Regional Administrator. Effective December 30, 1982.

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations, Office of Legislation and Congressional Relations. Effective December 30, 1982.

Department of Health and Human Services

One Confidential Assistant to the Associate Commissioner for Governmental Affairs, Office of Governmental Affairs. Effective December 13, 1982.

One Confidential Assistant to the Associate Administrator for Policy, Office of the Associate Administrator for Policy. Effective December 27, 1982.

One Confidential Assistant to the Commissioner, Administration on Aging, Office of Human Development Services. Effective December 28, 1982.

Department of Interior

One Special Assistant to the Assistant Secretary of Policy, Budget and Administration, Office of the Secretary. Effective December 6, 1982.

Department of Justice

One Special Assistant to the Assistant Attorney General, Offices, Boards, and Divisions. Effective December 13, 1982.

Department of Labor

One Assistant to the Deputy Under Secretary for Legislation and Intergovernmental Relations. Effective December 1, 1982.

Department of State

One Foreign Affairs Officer, Bureau of International Organization Affairs. Effective December 3, 1982.

One Special Assistant to the Deputy Secretary of State, Office of the Deputy Secretary of State. Effective December 20, 1982.

One Executive Assistant to the Ambassador-at-Large, Office of Ambassador-at-large/U.S. Coordinator for Refugee Affairs. Effective December 20, 1982.

One Staff Assistant to the Deputy Secretary, Office of the Deputy Secretary of State. Effective December 30, 1982.

Department of Transportation

One Special Assistant to the Federal Highway Administrator, Office of the Administrator. Effective December 9, 1982.

One Staff Assistant to the Maritime Administrator, Office of the Administrator. Effective December 16, 1982.

One Deputy Director, Office of Public and Consumer Affairs. Effective December 22, 1982.

Department of Treasury

One Staff Assistant to the Assistant Secretary (Electronic Systems and Information Technology). Effective December 13, 1982.

Agency for International Development

One Special Assistant to the Assistant Administrator, Bureau for Asia. Effective December 9, 1982.

One Deputy Office Director, Office of External Relations. Effective December 14, 1982.

Executive Office of the President

One Public Affairs Assistant to the Assistant Director for Public Affairs, Office of Management and Budget. Effective December 6, 1982.

General Services Administration

One Confidential Assistant to the Regional Administrator in New York, Office of the Regional Administrator. Effective December 16, 1982.

One Special Assistant to the Director, Office of Communications. Effective December 29, 1982.

Government Printing Office

One Staff Assistant to the Legislative Liaison Office, Office of the Public Printer. Effective December 29, 1982

National Endowment for the Arts

One Deputy to the Chairman for Private Partnership. Effective December 1, 1982.

One Staff Assistant to the Deputy Chairman for Programs. Effective December 6, 1982.

Office of Personnel Management

One Staff Assistant (Typing) to the Director, Office of the Director. Effective December 6, 1982.

One Staff Assistant to the Deputy Director, Office of the Deputy Director. Effective December 29, 1982.

President's Commission on Executive Exchange

One Public Information Officer. Effective December 3, 1982.

Small Business Administration

One Confidential Assistant to the Deputy Administrator, Office of the Administrator. Effective December 10, 1982.

One Special Assistant to the Deputy Administrator, Office of the Administrator. Effective December 22,1982.

U.S. Information Agency

One Special Assistant to the Director, Office of Public Liaison. Effective December 15, 1982.

One Staff Assistant to the Director, Office of Public Liaison. Effective December 22, 1982.

Veterans Administration

One Confidential Assistant to the Associate Deputy Administrator for Logistics, Office of the Administrator. Effective December 2, 1982.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-1678 Filed 1-24-83; 8:45 am]

BILLING CODE 8325-01-M

Federal Employees Pay Council and the President's Pay Agent; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, the President's Pay Agent announces the following meeting:

Name: Federal Employees Pay Council.

Date and time: February 9, 1983, 2:00 p.m.

Place: U.S. Office of Personnel Management, 1900 E Street NW., Washington, D.C., Room 5A06A.

Type of meeting: Open.

Contact person: Merlin Berry, staff contact person, U.S. Office of Personnel Management, 1900 E Street NW.,

Washington, D.C., Telephone (202) 632–5595.

Purpose of meeting: To discuss approaches to Federal pay setting.

For the President's Pay Agent.

Donald J. Devine,

Director, Office of Personnel Management.

[FR Doc. 83–1994 Filed 1–24–83; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments; Certain Miniature Plug-In Blade Fuses

The United States International Trade Commission (the Commission) has found a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into, or sale in, the United States of certain miniature plug-in blade fuses that infringe two U.S. patents; are produced by a process that, if practiced in the United States, would infringe the claims of two U.S. patents; simulate the trade dress of the complianant's product; infringe U.S. trademarks; and misrepresent the place of geographic origin. The Commission found that the effect or tendency of these unfair methods of competition or unfair acts is to injure substantially an economically and efficiently operated industry in the United States.

Under section 337(g), the President may disapprove the determination of the Commission for policy reasons within sixty days following the date on which he received the determination from the Commission. Disapproval by the President would cause the determination, and any order issued under it, to be without force or effect. The President also may approve the determination, making it, and any order issued under it, final on the date the Commission receives notice of his approval. The determination, and any related order, will become final automatically following the sixty day review period if the President has not disapproved it.

Interested parties are invited to submit comments concerning foreign or domestic policy issues that should be considered by the President in making his decision regarding the case. Parties submitting comments regarding a domestic policy issue should refer to the portion of the Commission record in which information or comment concerning that issue was presented. If it made no presentation to the Commission of the domestic policy issue being raised, the party submitting the comment should include the reason for the lack of such presentation. The Trade Representative will be reluctant to review comments concerning domestic policy issues not addressed in the record developed before the Commission. Interested parties need not refer to the Commission record when submitting comments regarding foreign policy issues.

Comments submitted should not exceed 15 double spaced, letter sized pages, including attachments. The original and 19 copies of the submission must be delivered by the close of business Friday, February 4, 1983, to the Secretary, Trade Policy Staff Committee, 600 17th Street, NW., Room 500, Washington, D.C. 20506. Copies of comments received will be made available upon request and additional comments will be accepted through the close of business February 11, 1983. For further information, call Alice Zalik (202) 395–3432.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 83–2012 Filed 1–24–83; 8:45 am]

BILLING CODE 3190–01–M

PEACE CORPS

Notification of Proposed Peace Corps Awareness Survey

AGENCY: Peace Corps.

ACTION: Notice.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Peace Corps has submitted to the Office of Management and Budget a request to approve a Peace Corps Evaluation of Public Information Products for Volunteer Recruitment and Awareness Questionnaire with an expiration date of December 31, 1984. The Peace Corps will conduct an awareness survey on a quarterly basis to determine the effectiveness of Peace Corps advertising, posters, flyers and media events. Summary statistical data will be compiled as a basis for determining the effectiveness of or the continuation of specific methods of informing the public about Peace Corps Volunteer programs.

The survey will be conducted by geographic area and local telephone directories will be used to contact individuals on a random basis by telephone. The individuals, by a telephone conversation, will be asked questions and responses will be entered on the questionnaire. The questionnaire will not reflect a personal identifier. Personal information such as race, sex, age, marital status, education level, whether employed, etc., will be asked. The individual will be informed of the reason for the survey; who is conducting the study; the use of the information furnished; who has access to the survey forms; the authority for collecting the data and the participation in the survey is voluntary.

Information About the Proposed Collection

Agency Address: Peace Corps, 806 Connecticut Avenue, N.W., Washington, D.C. 20526.

Title of Survey: Evaluation of Public Information Products for Volunteer Recruitment and Awareness.

Type of Request: Approval of new questionnaire.

Frequency of Collection: Quarterly.

General Description of Respondents: The general public.

Estimated Number of Responses: 4,000 annually.

Estimated Hours for Respondents to Furnish Information: 20 minutes.

Comments: Comments on this proposal should be directed to Francine Picoult, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget on area code 202–395–7231 or John Nicholson, Director, Office of Communications, Peace Corps P–1207, Washington, D.C. 20526, area code 202–254–6896. Comments should be received on or before February 8, 1983.

This is not a proposal to which 44 U.S.C. 3504(h) applies.

This notice is issued in Washington, D.C., on January 19, 1983.

Robert T. Spencer,

Associate Director for Management.

[FR Doc. 83–1909 Filed 1–24–83; 8:45 am]

BILLING CODE 6051–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–19436; File No. SR–NYSE–83–1]

New York Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change Relating to the Changes to the Minimum Levels of Acceptable Performance and an Extension of the Effectiveness of NYSE Rule 103A to June 30, 1983

Pursuant to Section 19(b)(1) of the Securities Exchange Action of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 7, 1983, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would change the minimum level of acceptable specialist performance based on Floor broker evaluations and would extend the effectiveness of NYSE Rule 103A to June 30, 1983. Rule 103A authorizes the Market Performance Committee of the NYSE to withdraw NYSE approval of a member's registration as specialist in one or more stock(s) if the specialist has consistently received below-average evaluations by Floor brokers on the quarterly Specialist Performance Evaluation Questionnaire.

II. Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to modify the prescribed minimum acceptable levels of specialist performance based on evaluations by nonspecialist Floor members to correspond to changes that were made in the Specialist Performance Evaluation Questionnaire ("SPEQ") which is used to evaluate specialists in various aspects of their performance. One of the principal changes to the SPEQ concerns an increase in the rating scale from 1 to 5 points to 1 to 7 points. Thus, the minimum level of acceptable performance currently specified in Rule 103A as 3.00 is being increased to 4.50.

The rule change is also intended to extend the effectiveness of Rule 103A to June 30, 1983 in order that the Commission may consider an amendment proposed by the NYSE in File No. SR–NYSE–81–11 dated April 16, 1981 (on file with the Commission since April 20, 1981), which would make permanent Rule 103A as a rule of the NYSE.

The statutory basis for the rule change being requested is Section 6(b)(5) of the Securities Exchange Act of 1934 as amended ("the Act") which, among other things, requires Exchange rules to be designed to foster cooperation and coordination with persons engaged in regulating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change is concerned solely with cooperating and coordinating with the Commission in its endeavor to consider and respond to the NYSE's proposed amendment (File No. SR–NYSE–81–11) which would make NYSE rule 103A permanent. This rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission has found good cause for approving the part of the proposed rule change that woud extend the effectiveness of Rule 103A through June 30, 1983 prior to the thirtieth day after the date of publication of notice of filing thereof, in that Rule 103A expires on January 15, 1983, unless extended. As to the part of the proposed rule change that would modify the standard for determining acceptable performance under Rule 103A, within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such part of the proposed rule change or

(B) Institute proceedings to determine whether this part of proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 17, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–1898 Filed 1–24–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12971; 811–1567]

OTF Equities, Inc.; Application

January 14, 1983.

Notice is hereby given that OTF Equities, Inc. ("Applicant") 1450 Buhl Building, Detroit, Michigan 48226, a Delaware corporation, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, filed an application on October 13, 1982, and an amendment thereto on November 4, 1982, requesting an order of the Commission, pursuant to Section 8(f) of the Act declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized in November, 1967, and until March, 1975 was known as Ocean Technology Fund, Inc. From its inception through July, 1980, Applicant was engaged only in the business of being an investment company. Since March, 1975, Applicant has been a closed-end, non-diversified management investment company, and prior to that date it was an open-end,

non-diversified management investment company. Since July, 1980, Applicant has also engaged in the business of providing computer services and investment research to a single broker-dealer client, Wm. C. Roney & Co. in Detroit, Michigan.

The applicant states that, in 1980, Applicant's Board of Directors determined that it was in the best interest of Applicant and its stockholders for Applicant to become engaged in business activities other than those of an investment company. This determination was principally based upon the Board's conclusion that Applicant's small size (in terms of total assets) prevents it from making the size and number of investments that can produce sufficient income to pay for Applicant's operating expenses. Accordingly, on July 23, 1980, the stockholders of Applicant authorized a change in the nature of Applicant's business which would have the effect of causing Applicant to cease to be an investment company. The stockholders approved a proposal to authorize Applicant to: (a) Take action that would result in its having less than 40% of its total assets invested in investment securities; (b) amend Applicant's Certificate of Incorporation to allow Applicant to change the nature of its business so as to cease to be an investment company; and (c) amend certain fundamental investment policies in Applicant's Registration Statement to permit Applicant to pursue other types of business activities and certain borrowings. The amendments to Applicant's Certificate of Incorporation and Registration Statement was made.

According to the application, on November 1, 1982, Applicant exchanged 397,123 shares of its newly issued stock with David T. Marantette, David T. Marantette, III, and Laura F. Marantette (the "Marantettes") for 264,748 shares of common stock of Comp-U-Check, Inc., a Michigan corporation ("Comp-U-Check"), pursuant to a Stock Purchase Agreement among OTF and the Marantettes, dated December 30, 1981. Because the Marantettes are each "affiliated persons" of Applicant as that term is defined by Section 2(a)(3) of the Act, the exchange of shares pursuant to the Stock Purchase Agreement would have been prohibited by Section 17(a)(1) of the Act. Applicant therefore filed an application pursuant to Section 17(b) of the Act to exempt the transaction from the provisions of Section 17(a)(1) of the Act. An order granting the requested exemption was issued on October 7, 1982 (Investment Company Act Release No. 12713).

The application states that, as a result of the exchange of shares pursuant to the Stock Purchase Agreement, Applicant now owns 51.855% of the total outstanding shares of Comp-U-Check, and Comp-U-Check is thus a "majority owned subsidiary" of Applicant as that term is defined by Section 2(a)(24) of the Act. Consequently, the shares of Com-U-Check stock owned by Applicant are not "investment securities" of Applicant as that term is defined by Section 3(a)(3) of the Act and investment securities presently constitute only 15.73% of Applicant's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. It is also represented that Applicant does not propose to acquire investment securities having a value exceeding 40% of its total assets. Based upon the foregoing, and because it is claimed that Applicant is not, does not hold itself out as being and does not propose to be engaged primarily in the business of investing, re-investing or trading in securities, the Applicant contends that it has ceased to be an investment company as defined in Section 3 of the Act.

Applicant is not winding-up its affairs, however. The application states that Applicant anticipates expanding its business of providing computer services and investment research to Wm. C. Roney & Co. In addition, the application states that the Applicant continues to hold for investment purposes stock in several companies, including First Lincoln Financial Corporation, Bayly Corporation and Metropolitan Savings as well as certain money market accounts. It is represented that the market value of these securities amounts to less than $350,000, as compared to Comp-U-Check stock having a market value of $1,750,488. Moreover, Applicant, through Comp-U-Check, intends to engage in the following businesses: (i) Servicing retail and other businesses by the guarantee and verification of checks written by their customers; (ii) the collection of bad checks; and (iii) servicing banks in evaluating new applications for checking and savings accounts.

Section 8(f) of the Act provides that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and that upon the effectiveness of such an order, the registration under the Act of such company shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 7, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon it own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1901 Filed 1-24-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12972; 812-5385]

St. John D'el Rey Mining Co., p.l.c. and Companhia Auxiliar de Empresas de Mineracao—CAEMI; Filing of Application

January 14, 1983.

Notice is hereby given that St. John D'el Rey Mining Company, p.l.c. ("St. John"), 100 Erieview Plaza, 36th Floor, Cleveland, OH 44114, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company and organized under the laws of England; and Companhia Auxiliar de Empresas de Mineracao—CAEMI ("CAEMI"), Av Almirante Barroso, 52–17 Andar, 20031 Rio de Janeiro, Brazil, a company organized under the laws of Brazil, (St. John and CAEMI are referred to herein collectively as "Applicants"), filed an application for: (i) An order of the Commission pursuant to Section 17(b) of the Act to permit St. John to transfer to its affiliate, CAEMI, shares of stock of a Brazilian company in exchange for shares of stock of St. John which shall thereupon be cancelled; (ii) an order pursuant to Section 17(d) and Rule 17d–1 thereunder to permit St. John and CAEMI to enter into that transaction; and (iii) an order pursuant to Section 23(c)(3) to permit St. John, in connection with such transaction, to repurchase for cancellation shares of stock of which it is the issuer. All interested persons are referred to the application on file with the Commission for a statement of the

representations contained therein, which are summarized below.

The application states that St. John was incorporated under the laws of England in 1888, but, since 1960, has been a United States resident company. St. John represents that it is an inadvertent investment company; in 1973, in connection with a rights offering and sale of its Ordinary Shares to its shareholders, St. John registered as a closed-end, non-diversified, management investment company under the Act.

The application states that St. John has 3,982,655 issued and outstanding Ordinary Shares, par value 61.0 per share ("Ordinary Shares"). St. John represents that on August 31, 1982, The Hanna Mining Company ("Hanna"), a corporation organized in Delaware, owned (through a wholly-owned subsidiary) of record and beneficially 2,671,609 Ordinary Shares (67.1% of the outstanding Ordinary Shares) and CAMEI owned beneficially 1,197,360 Ordinary Shares (30.06% of the outstanding Ordinary Shares). According to the application, the remaining 113,686 outstanding Ordinary Shares (2.8% of such shares) are owned by approximately 180 shareholders, of whom approximately 100 are United States residents. The Ordinary Shares are listed on The Stock Exchange (London) and are traded in the United States as American Depositary Receipts.

The application states that in 1971, in order to satisfy a Brazilian governmental policy requiring that Brazilian nationals control mining companies in that country, St. John and CAEMI entered into contractual arrangements to combine their respective iron ore mining facilities and properties. It is asserted that pursuant to such arrangements, St. John transferred to a Brazilian company, Mineracoes Brasileiras Reunidas S.A.—MBR ("MBR"), in exchange for 49% of the outstanding voting stock of MBR, all of St. John's assets in Brazil. The remaining 51% of MBR's stock is owned by a Brazilian holding company, 70% of the stock of which is currently owned by CAEMI. Applicants state that St. John's 49% interest in MBR constitutes approximately 95% of St. John's total assets.

The application states that on July 30, 1981, CAEMI purchased at arm's length from Universe Tankships, Inc., a Liberian company, 1,126,926 Ordinary Shares of St. John for $19,062,559. Further, on March 31, 1982, CAEMI purchased from its affiliate, IMEAC International S.A., a Liechtenstein company, 70,434 Ordinary Shares for $1,077,385.

The application also states that in 1981 CAEMI increased its direct and indirect ownership of Empreendimentos Brasileiros de Mineracao S.A.—EMB ("EBM"), the company through which CAEMI holds its interest in MBR, from approximately 50% to approximately 70%. As a result of its recent acquisitions of shares of St. John and of EBM, CAEMI states that at present it owns indirectly approximately 51% of MBR.

According to the application, St. John and CAEMI propose to enter into a transaction whereby St. John would transfer to CAEMI 552,432,736 (30.06%) of its MBR shares upon the cancellation of all the St. John Ordinary Shares held by CAEMI (the "Share Exchange"). St. John states that, contingent upon the issuance by the Commission of the requisite orders permitting the proposed Share Exchange to go forward, it expects to present the Share Exchange to the holders of the Ordinary Shares for approval at an Extraordinary General Meeting tentatively scheduled for February 22, 1983, subject to leave of the English High Court of Justice (the "High Court") to convene such meeting. Applicants represent that CAEMI would not vote at the meeting; but that Hanna, which would hold 95.9% of St. John's remaining outstanding Ordinary Shares, has advised St. John that it would vote in favor if the Share Exchange, thus assuring approval of such proposed transaction. Applicants state that English law further requires that the High Court approve the Share Exchange after it has been approved by the shareholders an before it may be consummated. Dissenting St. John shareholders, if any, would have the right to petition the High Court to determine if the Share Exchange is fair and equitable.

Applicants represent that upon the consummation of the Share Exchange, St. John would cancel the Ordinary Shares it received from CAEMI, thereby reducing its outstanding Ordinary Shares from 3,982,655 to 2,785,295 shares. As a result of the reduction in the number of outstanding Ordinary Shares, Hanna's ownership of Ordinary Shares would increase from 67.1% to 95.9% and the public shareholders' ownership of Ordinary Shares would increase from 2.8% to 4.1%. St. John states that its proposed cancellation of the 1,197,360 Ordinary Shares it would receive from CAEMI should be treated, for purposes of accounting, as a reduction in capital.

St. John states that it expects that its capacity to pay dividends at current levels on the remaining outstanding Ordinary Shares would not be adversely affected by the Share Exchange. St. John asserts that the book value (or net asset coverage) of its remaining Ordinary Shares would increase from $5.03 per share to $5.14 per share. Further, St. John maintains that it would become eligible to apply for the insurance protection offered by the Overseas Private Investment Company for its MBR investment.

Pursuant to Section 2(a)(3) of the Act, CAEMI, which holds 30.06% of the Ordinary Shares of St. John, is an affiliate of St. John. MBR is an affiliate of St. John by reason of St. John's 49% ownership interest in MBR. Hanna, which holds 67.1% of St. John through a wholly-owned subsidiary, is also an affiliate of St. John.

Section 17(b) of the Act provides in pertinent part that transactions between affiliates shall be exempted from the restrictions set forth in Section 17(a) of the Act if the following conditions are met: a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned; b) the proposed transaction is consistent with the policy of each registered investment company concerned; and c) the proposed transaction is consistent with the purposes of the Act.

Pursuant to Section 17(b), Applicants request an exemption from Section 17(a) to permit St. John to transfer MBR shares to CAEMI, in connection with the Share Exchange. In support of the exemptive relief requested, Applicants contend that the exchange of securities in the proposed transaction would essentially cancel each other out. Applicants also maintain that the proposed exchange of St. John Ordinary Shares for MBR shares is fair and reasonable and would not involve overreaching by any party to the Share Exchange. Further, St. John contends that the Share Exchange would be consistent with the policies of St. John as announced in its Registration Statement on Form S-4 and would be consistent with the general purposes of the Act.

The application states that, even though St. John and CAEMI would be the only parties to the transaction and Applicants would not be acting in combination to effect a joint purpose, an exemptive order is requested pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder in view of the possibility that the joint ownership of MBR by Applicants might provide an element of

combination sufficient to necessitate an order pursuant to Section 17(d) and Rule 17d–1 thereunder.

In support of the exemptive relief requested, Applicants assert that the Share Exchange would serve to unwind the affiliated relationship between St. John and CAEMI; as a result of the Share Exchange, CAEMI would no longer hold any shares of St. John. Further, Applicants maintain that St. John's participation in the Share Exchange would be on a basis consistent with the provisions, policies and purposes of the Act, and the shares to be exchanged are substantially equal in value, so that St. John's participation would not be on a basis less advantageous than that of CAEMI.

St. John also requests an order pursuant to Section 23(c)(3) of the Act to permit it to repurchase for cancellation from CAEMI, in connection with the Share Exchange, shares of stock of which St. John is the issuer. Section 23(c)(3) of the Act provides that the Commission may permit such a transaction by order provided that the transaction is carried out on a basis which does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

In support of the exemptive relief requested, St. John submits that because the shares to be exchanged pursuant to the Share Exchange would be substantially equal in value and would not dilute the value of the outstanding Ordinary Shares held by the remaining shareholders, the proposed repurchase would be made on a basis which would not unfairly discriminate against any holders of its Ordinary Shares.

Notice if further given that any interested person wishing to request a hearing on the application may, not later than February 8, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit, or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date on order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–1902 Filed 1–24–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19437; File No. SR–PSDTC–82–5]

Pacific Securities Depository Trust Co.; Order Approving Proposed Rule Change

January 18, 1983.

On November 16, 1982, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act, 15 U.S.C. 78s(b)(2), (the "Act") and Rule 19b–4 thereunder, a proposed rule change authorizing PSDTC to implement a new system called the National Institutional Delivery System ("NIDS"). NIDS will replace the existing Pacific Clearing Corporation's Institutional Clearing Program, both of which permits PSDTC members electronically to confirm, affirm and settle institutional trades in PSDTC-eligible securities. NIDS also provides PSDTC members access to the Institutional Delivery System ("ID System") of the Depository Trust Company ("DTC") for the automated confirmation, affirmation and settlement of trades with participants of DTC and other registered securities depositories.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 19301, December 6, 1982) and publication in the **Federal Register** (47 FR 55559, December 10, 1982). The Commission received no comments from the public.

Briefly, NIDS operations can be described as follows. For institutional trades among PSDTC members in PSDTC-eligible securities, PSDTC processes trade data provided by PSDTC member brokers to generate confirmations. These confirmations are distributed to interested member brokers, agent banks and institutions. If a confirmation accurately represents a trade ordered by the institution, either the agent bank or the institution (depending on their arrangement) affirms the trade and notifies PSDTC. Trades may be affirmed within four days of trade date. Affirmed trades are reported daily to interested parties, enabling them to settle the trade by book-entry movements through NIDS on the fifth day after the trade in a time frame consistent with Pacific Stock Exchange ("PSE") Rule 10 § 12 and other similar self-regulatory organization rules. Settlement occurs through one of three methods, as determined by the participating agent banks: Trade for Trade, Continuous Net System ("CNS") or Comparison Only. The Comparison Only option permits trades to be confirmed and affirmed through NIDS but settled outside of PSDTC/NIDS.

For institutional trades involving participants in both PSDTC and DTC, PSDTC gathers trade data and affirmations through NIDS from PSDTC participants and, through the DTC ID System and the PSDTC–DTC interface, from DTC. PSDTC disseminates that information to the appropriate PSDTC participants and transmits the necessary data to DTC for dissemination through DTC's ID System to appropriate DTC participants. Security delivery obligations and money payments settle through the DTC–PSDTC interface with credits or debits to appropriate accounts. Trades that are to be settled through the DTC–PSDTC interface will be settled on a trade-for-trade basis.

Linking NIDS and the ID System also will enable PSDTC participants to deliver and receive confirmations and affirmations regarding trades involving PSDTC participants and participants in either the Philadelphia Depository Trust Company ("Philadep") or the Midwest Securities Trust Company ("MSTC"). These trades, however, are not eligible currently for settlement through NIDS or other institutional delivery systems because the third party inter-depository interfaces (which are used to settle, by book-entry movement, trades involving participants that are members of different depositories) do not currently provide direct links among PSDTC, Philadep and MSTC. Instead, the current system links PSDTC, Philadep and MSTC to DTC as a spoke to a hub. Thus, PSDTC participants who are parties to a trade involving participants in Philadep or MSTC must make independent arrangements for the delivery of the securities either by physical delivery of certificates or by a Miscellaneous Delivery Order through the third party inter-depository interfaces linking the various depositories to DTC.

PSDTC believes that the proposed rule change is consistent with the Act and, more specifically, Section 17A(b)(3)(F), in that it will promote the prompt and accurate clearance and foster cooperation and coordination among persons engaged in the clearance and settlement of securities transactions. The linking of the PSDTC and DTC clearance and settlement

facilities for institutional trades furthers the goals of a prompt and accurate national clearance system.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act. In addition, the proposed rule change represents a further step toward fulfillment of the Commission's goal of promoting a prompt and accurate national clearance and settlement system.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1899 Filed 1-24-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19433 (SR-Phlx-82-12)]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 14, 1983.

The Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA 19103, submitted on November 26, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 15b-4 thereunder, to amend its by-laws and rules to clarify the authority of the Exchange's Board of Governors to impose charges against member organizations based on commissions earned from transactions effected on the floor of the Exchange. In addition, the Exchange proposes to adopt rules to: (1) Codify the existing procedures by which member organizations on a monthly basis report commissions earned and pay the appropriate charge to the Exchange, and (2) increase the charges for late payment or reporting of floor brokerage commission fees.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19293, December 3, 1982) and by publication in the **Federal Register** (47 FR 55561, December 10, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-1900 Filed 1-24-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan #2072; Amdt. #3]

Arkansas; Declaration of Disaster Loan Area

Declaration #2072 (See 47 FR 57185), Amendment #1 (See 45 FR 565), and Amendment #2 (See 45 FR 2252) are amended in accordance with FEMA's declaration of December 23, 1982, to include Craighead, Hemsptead, Hot Spring, and Miller Counties in the State of Arkansas. All other information remains the same, i.e., the termination dates for filing applications for physical damage is close of business on February 11, 1983, and for economic injury until the close of business on September 13, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 30, 1982.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 83-1899 Filed 1-24-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan #2071; Amdt. #3]

Missouri; Declaration of Disaster Loan Area

The above numbered Declaration (See 47 FR 57185), Amendment #1 (See 48 FR 565), and Amendment #2 (See 48 FR 2252) are amended by adding the adjacent county of St. Francois as a result of damage caused by severe storms, tornadoes and flooding beginning on December 1, 1982. All other information remains the same, i.e., the termination date for filing applications for physical damage at close of business on February 10, 1983, and for economic injury until the close of business on September 12, 1983.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 13, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-2000 Filed 1-24-83; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before February 25, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L Street NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814

Forms Submitted for Review

- Title: Survey on Significant New Products, Services, Materials, and Process in U.S. Manufacturing from 1970 to 1982

Form No.:

Frequency: Non-recurring

Description of Respondents: Trade and Professional Association Executives and Trade publication writers and editors
Annual Responses: 400
Annual Burden Hours: 160
Type of Request: New

- Title: Survey of Selected Innovating Companies

Form No.:
Frequency: Non-recurring
Description of Respondents: Business enterprises manufacturing and selling products and processes and providing services
Annual Responses: 600
Annual Burden Hours: 600
Type of Request: New

- Title: Survey to Assess Effects of Decision Criteria on Small Business Investment

Form No.:
Frequency: Non-recurring
Description of Respondents: Financial institutions providing long-term capital and equity to businesses
Annual Responses: 160
Annual Burden Hours: 80
Type of Request: New.

Dated: January 20, 1983.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 83-1998 Filed 1-24-83; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Bureau of Government Financial Operations, Treasury.

ACTION: Notice of rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to Section II of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owed the Government. Treasury's Cash Management Regulations (I TRFM 6-8000) also prescribe use of this rate by agencies as a comparision point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given, therefore, that the applicable rate is 13%.

DATES: The rate will be in effect for the period beginning on April 1, 1983 and ending on June 30, 1983.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Cash Management Regulations and Compliance Staff, Bureau of Government Financial Operations, Department of the Treasury, Treasury Annex No. 1, PB-711, Washington, D.C. 20226. (Telephone: 202/634-5131).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal cash management systems, and is based on investment rates set for purposes of Pub. L. 95-147, 91 Stat. 1227. Computed each year by averaging investment rates for the twelve-month period ending every September 30 for applicability effective January 1, the rate is subject to quarterly revisions if the annual average, on a moving basis, changes by 2 per centum. The applicable rate will be published on or around the end of the first month of a given quarter for use during the succeeding calendar quarter.

Dated: January 20, 1983.

Russell D. Morris,

Assistant Commissioner.

[FR Doc. 83-1999 Filed 1-24-83; 8:45 am]
BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 17
Tuesday, January 25, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M–372, 1–20–83]

TIME AND DATE: 10 a.m., January 27, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket EAS–371, Petition for Modification of essential air service determination for Steamboat Springs/Hayden/Craig, Colorado, filed by Hayden and Craig. (Memo 927–A, BDA, OCCCA, OGC)
3. Docket 40271, Essential air service at Sault Ste. Marie, Michigan. (Memo 1666, BDA, OCCCA)
4. Docket 40807, Proposals to provide essential air service to Kotzebue, St. Mary's and Unalakleet, Alaska bush points. (Memo 1500–C, BDA, OCCCA)
5. Dockets 40807 and 40617, Remaining bush points on notice by Alaska Airlines and Wien Air Alaska which we have deferred requesting proposals. (BDA, OCCCA)
6. Dockets EAS–765 and EAS–792, Air Vermont's request to provide an alternate service pattern between Berlin, New Hampshire/Newport, Vermont and Boston, Massachusetts. (Memo 518–G, BDA, OCCCA)
7. Dockets 40123 and 40165, Petition for Reconsideration of the essential air service determination for Salem, Oregon, issued in Order 82–3–138 and selection of a carrier to serve North Bend and Salem, Oregon. (Memo 1659, BDA, OCCCA)
8. Dockets EAS–565 and 37501, Request for instructions on the request for review of the essential air service determination for Hazleton, Pennsylvania, established by Order 81–8–34. (Memo 012–I, BDA, OCCCA)
9. Docket 40621, Application of Peninsula Airways, Inc., for compensation for losses at St. George, Alaska. (Memo 1450–A, BDA, OCCCA, BCAA, OC)
10. Docket 40926, Petition of Pioneer Airways, Inc., for reconsideration of Order 82–10–81 denying its application for an adjustment to its subsidy rate for services provided at Sidney, Alliance, and Chadron, Nebraska. (Memo 1533–A, BDA, OGC)
11. Commuter carrier fitness determination of Trav'lers Aire, Inc. (Memo 1657, BDA)
12. Commuter carrier fitness determination of Pacific Cal Air, Inc. (BDA)
13. Commuter carrier fitness determination of East Hampton Aire, Inc. (Memo 1655, BDA)
14. Commuter carrier fitness determination of Ohio Valley Aviation, Inc. (Memo 1661, BDA)
15. Commuter carrier fitness determination of Tri-State Airlines, Inc. (BDA)
16. Docket 40860, Petition for Authority and Antitrust Immunity to Discuss Development of a System of Integrated Inventory Management for Certain Spare Parts. (BDA)
17. Dockets 40543 and 40544, NPRM to exempt from section 409 all interlocking relationships other than those between two certificated air carriers and those between a certificated air carrier and a foreign air carrier or their affiliates. (OGC, BDA)
18. Docket 21670, *Fronter Airlines, Inc. Subsidy Mail Rates Investigation.* (Memo 1036–6B)
19. Report to the Department of Health and Human Services on the Board's Implementation of Age Discrimination Act of 1975, as amended. (Memo 177–B, OGC)
20. Docket 40785, *Petition of John C. Grasso* (in *Pan American-National Merger*, Docket 33283) for order directing arbitration of LPP dispute. (Memo 1665, OGC)
21. Amendment to Part 302 to remove the requirement that Enforcement Division attorneys verify complaints. (OGC)
22. Docket 40772, Applicantion of rules for notice of contract terms to non-interline small aircraft flights. (OGC, BDA)
23. Docket 40734, Final rule to require all U.S. and foreign air carriers to adhere to the Montreal Agreement increasing passenger liability limits under the Warsaw Convention to $75,000. (OGC, BDA, BIA)
24. Dockets 38961 and 40751, Mail rate determinations for certificated mail service in Alaska and Hawaii. (Memo 1662, BIA, BDA)
25. Docket 35634, IATA agreement proposing a new "neutral rates" structure for carriage of cargo from the United States to Europe. (BIA)
26. Dockets 33887, 31237 and 34314, Joint application of Saudi Arabian Airlines Corporation (Saudia) and Pan American World Airways, Inc. for renewal of a blocked-space agreement (Agreement CAB 27693–A5), and applications of Pan American and Saudia for renewal of their respective exemption authorities to continue offering the New York-Dhahran service pursuant to the blocked-space agreement, and, in the case of Pan American, independently. (BIA, BDA, OGC, BALJ)
27. Docket 40246, Application of APA Interational Air, S.A. (APA) for a foreign air carrier permit to perform scheduled foreign air transportation between Puerto Plata, Dominican Republic and Miami, New York and San Juan. (BIA, OGC, BALJ)
28. Docket 41028, Order amending certificate of Capitol Air, Inc. to grant it scheduled combination authority between a point or points in the United States and a point or points in Austria. (Memo 1664, BIA, OGC, BALJ).
29. Docket 40669, Application of Airborne Express, Inc. for authority pursuant to section 401 to engage in foreign scheduled and charter air transportation of cargo between points in the United States and Toronto, Canada. (Memo 1663, BIA, OGC)
30. Docket 40887, *U.S.-People's Republic of China Service Proceeding. (Phase II).* Request for instructions. (OGC)
31. Discussion on Fiji. (BIA)
32. Report on Scandinavia. (BIA)
33. Report on Thailand. (BIA)
34. Report on Ireland. (BIA)

STATUS: 1–30 open, 31–34 closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S–106–83 Filed 1–21–83; 4:00 pm]

BILLING CODE 6320–01–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, January 25, 1983.

PLACE: Commission Conference room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 82–10–FOIA–23–BA, concerning a request for memoranda from closed Title VII case files.
4. Freedom of Information Act Appeal No. 82–9–FOIA–142–NY, concerning a request for access to records in a charge file.
5. Freedom of Information Act Appeal No. 82–10–FOIA–128–PA, concerning a request for respondent generated documents from open age charge files.
6. Freedom of Information Act Appeal No. 82–09–FOIA–101–PA, concerning a request for access to a closed Title VII charge file.
7. Interpretative Bulletin on Employee Benefit Plans under the Age Discrimination in Employment Act of 1967, as amended.
8. Proposed EEOC Field Reorganization.

Closed:

1. Litigation Authorization; General Counsel Recommendations. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 63406748 at all times for information on these meetings).

CONTACT PERSON FOR INFORMATION:
Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

Issued: January 18, 1983.

[S–104–83 Filed 1–20–83; 4:24 pm]

BILLING CODE 6570–06–M

3

POSTAL SERVICE

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 1:00 p.m. on Monday, January 31, 1983, in San Francisco, and at 8:00 a.m. on Tuesday, February 1, in Room 2007 of the Federal Building, 450 Golden Gate Avenue, San Francisco, California. As indicated in the following paragraph, the Monday meeting is closed to public observation. Should the Board fail to complete its agenda for the closed session on January 31, it is expected to resume its consideration of that agenda on February 1, following the open meeting. Requests for information about the meetings should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

At its meeting of January 6, 1983, the Board voted in accordance with the provisions of the Sunshine act to close to public observation its meeting scheduled for January 31. One agenda item of the meeting to be closed calls for consideration of Postal Service strategic planning. The other agenda item calls for consideration of the recommended decision of the Postal Rate Commission on third-class bulk rates in Docket No. R80–1, dated December 23, 1982.

Agenda

Monday Afternoon (Closed):

1. Discussion of Postal Rate Commission Recommended Decision on Third-Class Bulk Rates (Docket No. R80–1).
2. Strategic Planning:
   a. Discussion of future rate adjustments.
   b. Discussion of collective bargaining strategy.
   c. Discussion of future filing with Postal Rate Commission regarding E–COM service.

Tuesday Morning (Open):

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)
3. Adjustment in Executive Compensation.
   (The Board will consider approval of a recommendation by the Postmaster General Regarding adjustments in officer compensation.)
4. Quarterly Report on financial Performance.
   (Mr. Finch, Senior Assistant Postmaster General, Finance Group, will present the quarterly summary of financial performance.)
5. Quarterly Report on Service Performance.
   (Deputy Postmaster General Benson will present the quarterly summary of sevice performance.)
6. Report of the Regional Postmaster General
   (Mr. Caraveo, Regional Postmaster General, will report on postal conditions in the Western Region.)
7. Capital Investment Projects: a. General Mail Facility and Vehicle Maintenance Facility for West Palm Beach, Florida
   (Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will present a proposal for a general mail facility and vehicle maintenance facility for West Palm Beach, Florida, for approval by the Board.)
   b. General Mail Facility and Vehicle Maintenance Facility for Stockton, California
   (Mr. Caraveo will present a proposal for a general mail facility and vehicle maintenance facility in Stockton, California, for approval by the Board.)
8. Report on Postal Service Compliance with Policies of the Intergovernmental Cooperation Act.
   (Mr. Biglin and Mr. Cox will brief the Board on this matter.)
9. Discussion of E–COM Policy
   (The Board will discuss issues of general Postal Service policy that have arisen in connection with E–COM service.)
10. Consideration of Postal Rate Commission Opinion and Recommended Decision Approving Stipulation and Agreement in Docket No. MC83–1, Uniform Parcel Size and Weight Limitations, January 5, 1983.
    (The Governors will consider this recommended decision by the Postal Rate Commission, issued January 5, 1983.)
11. Policy on *Ex Parte* Communications
    (The Board will consider adoption of explicit regulations on *ex parte* communications to the Governors on issues in rate and classification proceedings that are subject to chapter 36 of title 39, U.S.C. Code.)
12. Review of Audited Financial Statements
    (The Board will consider final approval of the audited financial statements for Fiscal Year 1982.)
13. Consideration of Tentative March 7/8 Agenda

Louis A. Cox,

Secretary.

[S–105–83 Filed 1–21–83; 2:45 pm]

BILLING CODE 7710–12–M

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federal register

Tuesday
January 25, 1983

Part II

Department of Defense

Defense Acquisition Regulations

DEPARTMENT OF DEFENSE

32 CFR Parts 1-39

[DAC 76-38]

Defense Acquisition Regulation

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document publishes changes to the Defense Acquisition Regulation contained in the Code of Federal Regulations. The changes are the same as those in Defense Acquisition Circular 76-38, and contain changes to Progress Payment Policy.

EFFECTIVE DATE: September 1, 1982.

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, Room 3C257, Pentagon, Washington, D.C. 20301, Telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulation (DAR) is codified in Title 32, Parts 1-39, Volumes I, II, and III, of the Code of Federal Regulations (CFR). The September 1, 1982 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1976 edition of the DAR made by Defense Acquisition Circulars 76-1 through 76-30.

The Department of Defense announced the promulgation of the 1979 CFR edition in the **Federal Register** of December 31, 1979 (44 FR 77158), and also announced at that time that subsequent amendments to the DAR would be published in the **Federal Register.**

Defense Acquisition Circular 76-38

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76-38, issued September 1, 1982. The following is a summary of the amendments:

Progress Payment Policy. The progress payment rates for Foreign Military Sales contracts with other than small business concerns and with small business concerns have been increased from 90% to 95% and from 95% to 100%, respectively. DAR Appendix E-503.2(a) and the clauses at DAR 7-104.35 (a) and (b) have been modified to accommodate these increases. The policy in DAR Appendix E-530.1, allowing application of only one progress payment rate at any given time, has also been relaxed. Proposed modifications to DAR Section VII and Appendix E, to facilitate this policy change, as well as to bar the use of flexible progress payment provisions in conjunction with letter contracts and other unpriced contractual actions, are being circulated for Departmental coordination and industry comment. Pending publication of appropriate DAR revisions with respect to multiple rate progress payments, authority for their use in conjunction with contract modifications should be sought, and such authority may be granted on a case-by-case basis, pursuant to DAR Appendix E-218.

Because the Defense Acquisition Regulation concerns agency management, public property, and contracts, it is not necessary to issue proposed rules for public comment. Neither is it necessary to delay the effective date until 30 days after the date of publication of these rules, 5 U.S.C. 533 (a) and (d). The amendments became effective on September 1, 1982.

How to Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76-38. The number at the top of each page (for example, 7:81) identifies the page from the Regulation which is being replaced. The number at the bottom of the page is a reference to the last appearing numbered paragraph on that page, or if none shows, on a preceding page. The vertical line in the right margin indicates where the amendment is located.

List of Subjects in 32 CFR Parts 1-39

Government procurement.

Adoption of Amendments

Therefore, the Defense Acquisition Regulation contained in the August 1, 1981 edition of 32 CFR Parts 1-39, Volumes I, II, and III, is amended in the DAR paragraphs indicated by substitution of the replacement pages listed in the table.

DAR paragraph	Replacement pages
Volume I	
(None)	
Volume II	
7-104.35	7:82, 7:84, 7:84-D, 7:85, 7:86, 7:86-D.
Volume III	
E-503.2	E:42-B.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

January 10, 1983.

BILLING CODE 3810-01-M

7:82 DAC #76-38 1 SEPTEMBER 1982 CONTRACT CLAUSES AND SOLICITATION PROVISIONS

DAC #76-26 15 DECEMBER 1980 7:81 CONTRACT CLAUSES AND SOLICITATION PROVISIONS

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

(d) None of the provisions herein contravenes or is in conflict with the authority under which the Contractor is doing business or with the provision of any existing indenture or agreement of the Contractor.

(e) The Contractor has the power to enter into this contract and accept advance payments hereunder, and has taken all necessary action to authorize such acceptance under the terms and conditions of this contract

(f) None of the assets of the Contractor is subject to any lien or encumbrance of any character except for current taxes not delinquent, and except as shown in the financial statements furnished by the Contractor to the Administering Office. There has been no assignment of claims under any contract affected by these advance payment provisions, or if there has been any assignment, such assignments have been terminated

(g) All information furnished by the Contractor to the Administering Office in connection with each request for advance payments is true and correct.

(h) These representations and warranties shall be continuing, and shall be deemed to have been repeated by the submission of each invoice for advance payments. (MAY 1959)

(17) *Subadvances* Substantially the following provision should be included in the contract when subadvances are contemplated .

Subject to the prior written approval of the Administering Office, funds from the Special Bank Account may be used by the Contractor to make advance payments or down payments to subcontractors and materialmen in advance of performance by the subcontractor or materialman. Such subadvances shall not exceed . . ... percent of the subcontract price or estimated cost as the case may be, and the subcontractors or materialmen to whom such advances are made shall furnish adequate security therefor Unless other security is required by the Administering Office, covenants in subcontracts, expressly made for the benefit of the Government providing for a Special Bank Account for the subadvance, with Government lien thereon, and providing for a Government lien, paramount to all other liens, on all property under such subcontract, and imposing upon the subcontractor and the depository bank substantially the same duties and giving the Government substantially the same rights as are provided herein (and in the Agreement for Special Bank Account supplementary hereto) between the Government, the Contractor and the Bank, may be considered as adequate security for such subadvance.

[In case the alternate procedure for advance payments without a bank account is to be used in accordance with E-413.1, omit paragraph (17) above.]

(18) *Covenants.* The following are examples of some special provisions (subject to modification to adapt to the circumstances of individual cases) that may be utilized when and to the extent deemed appropriate in particular cases

During the period of time that advance payments may be made hereunder and so long as any such advance payments remain unliquidated, the Contractor shall not, without the prior written consent of the Administering Office

(a) Mortgage, pledge, or otherwise encumber, or suffer to be encumbered, any of the assets of the contractor now owned or hereafter acquired by him, or permit any preexisting mortgages, liens, or other encumbrances to remain on or attach to any assets of the Contractor which are allocated to the performance of this contract and with respect to which the Government has a lien hereunder,

(b) Sell, assign, transfer, or otherwise dispose of accounts receivable, notes or claims for money due or to become due;

(c) Declare or pay any dividends, except dividends payable in stock of the corporation, or make any other distribution on account of any shares of his capital stock, or purchase, redeem, or otherwise acquire for value any such stock, except as required by sinking fund or redemption arrangements reported to the Administering Office incident to the establishment of these advance payment provisions,

(d) Sell, convey, or lease all or a substantial part of his assets,

(e) Acquire for value the stock or other securities of any corporation, municipality, or governmental authority, except direct obligations of the United States,

(f) Make any advance or loan to or incur any liability as guarantor, surety, or accommodation endorser for any other firm, person, or corporation,

(g) Permit a writ of attachment or any similar process to be issued against his property without procuring release thereof or bonding the same within 30 days after the entry of the writ of attachment or any similar process,

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CONTRACT CLAUSES AND SOLICITATION PROVISIONS

(h) Pay any salaries, commissions, bonuses, or other remuneration in any form or manner to his directors, officers, or key employees in excess of existing rates of payments or of rates provided in existing agreements, in connection with which notice has been given to the Administering Office, or accrue such excess remuneration without first obtaining an agreement subordinating the same to all claims of the Government hereunder, or employ any person at a rate of compensation in excess of $..... per annum.

(i) Make any substantial change in management, ownership, or control of the corporation,

(j) Merge or consolidate with any other firm or corporation, change the type of his business or engage in any transaction outside the ordinary course of his business as presently conducted,

(k) Deposit any of his funds except in a bank or trust company insured by the Federal Deposit Insurance Corporation;

(l) Create or incur indebtedness for borrowed money or advances other than advances to be made hereunder, except as specified herein;

(m) Make or covenant himself to make capital expenditures exceeding in the aggregate $.....;

(n) Permit his net current assets, calculated in accordance with generally accepted accounting principles, to become less than $.....; or

(o) Make any payments on account of the obligations listed below, except in the manner and to the extent herein provided.

(End of clause)

7-104.35 *Progress Payments.* In accordance with E-510, insert one of the following clauses:

(a) Progress Payment Clause for Other Than Small Business Concerns.

Any change, addition, or deletion to this clause is subject to the prior approval requirements outlined in Appendix E, Part 2.

PROGRESS PAYMENT FOR OTHER THAN SMALL BUSINESS CONCERNS (1982 SEP)

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contracting Officer upon the following terms and conditions:

(a) *Computation of Amounts.*

(1) Unless a smaller amount is requested, each progress payment shall be (i) ninety percent (90%)**(See footnote at end of clause) of the amount of the Contractor's total costs which, except as provided in (a)(2) below, shall include only those recorded costs which result, at the time of the request, from payment made by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid, for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct travel, for other direct in-house costs, and for properly allocable and allowable indirect costs, all as shown by records maintained by the Contractor for purposes of obtaining payment under Government contracts plus (ii) the amount of progress payments which have been paid to Contractor's subcontractors and other divisions as provided in (j) below; all less the sum of previous progress payments.

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(2)(i) With respect to costs of pension, profit sharing, and employee stock ownership plan contributions, when these contributions are paid by the Contractor to the pension, profit sharing, or employee stock ownership plan funds less frequently than quarterly, accruals of the costs of these contributions shall be excluded from the Contractor's total costs for progress payment purposes until such costs are paid. If pension, profit sharing, and employee stock ownership plan contributions are paid on a quarterly or more frequent basis, accruals of cost of these contributions may be included in the Contractor's total costs for progress payment purposes provided these contributions are paid to the pension, profit sharing, and employee stock ownership plan funds within thirty (30) days after the close of the period covered by the payment. If payments are not made to the pension, profit sharing, and employee stock ownership plan funds within such thirty (30) day period, these costs shall be excluded from the Contractor's total costs for progress payment purposes until payment therefor has been made.

(ii) For those Contractors who elected to use the special transition method provided in Cost Accounting Standard (CAS) 410, "Allocation of Business Unit General and Administrative Expense to Final Cost Objective", General and Administrative Expenses (G&A) shall not be included in incurred costs eligible for progress payments until the work-in-process inventories of those contracts entered into after the applicability date of CAS 410, exceed the amounts contained in the CAS 410 suspense account and then limited to this contract's pro rata share of the G&A allocable to such excess. This limitation shall not apply where the CAS 410 suspense account is less than 5 million dollars.

(3) The Contractor's total costs ((a)(1)(i)) shall be reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices. However, such costs shall not include (i) any costs incurred by subcontractors or suppliers, or (ii) any payments or amounts payable to subcontractors or suppliers, except for completed work (including partial deliveries) to which the Contractor has acquired title and except for amounts paid or payable under cost-reimbursement or time and material subcontracts for work to which the Contractor has acquired title, or (iii) costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(4) The amount of unliquidated progress payments shall not exceed the lesser of (i) ninety percent (90%)**(See footnote at end of clause) of the costs mentioned in (a)(1)(i) above, plus any unliquidated progress payments mentioned in item (a)(1)(ii) above, both of which are applicable only to the supplies and services not yet delivered and invoiced to and accepted by the Government, or (ii) ninety percent (90%)**(See footnote at end of clause) of the total contract price of supplies and services not yet delivered and invoiced to and accepted by the Government, less unliquidated advance payments.

(5) The aggregate amount of progress payments made shall not exceed ninety percent (90%)**(See footnote at end of clause) of the total contract price.

(6) If at any time a progress payment or the unliquidated progress payments exceed the amount permitted by this paragraph (a), the Contractor shall pay the amount of such excess to the Government upon demand.

(7) If this contract includes FMS requirements, the contractor shall submit his requests for progress payments in accordance with the procedures below.

(i) If the contract contains only one FMS progress payment rate, and there is more than one customer country, the Contractor shall submit one DD Form 1195 with a supporting schedule showing the portions of the total requested payment to be attributed to each country's requirement.

(ii) If the contract contains more than one progress payment rate, then the Contractor shall submit separate DD Forms 1195 for the work covered by each different progress payment rate. If more than one FMS customer country is involved with the same progress payment rate, the Contractor shall attach a supporting schedule showing the portions of the total requested payment to be attributed to each customer country's requirement. For the purpose of submitting DD Form 1195, the Contractor shall allocate costs among customer countries in a manner acceptable to the Administrative Contracting Officer.

(b) Liquidation. Except as provided in the clause entitled "Termination for Convenience of the Government" all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress, the amount of unliquidated progress payments; or ninety percent (90%)**(See footnote at end of clause) or the applicable percentage (calculated in accordance with references in the *footnote at the end of the clause) of the gross amount invoiced, whichever is less. Repayment to the Government required by a retroactive price reduction will be made after calculating liquidations and payments on past invoices at the

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(h) Special Provisions Regarding Default. If this contract is terminated pursuant to the clause entitled "Default," (i) the Contractor shall, upon demand, pay to the Government the amount of unliquidated progress payments and (ii) with respect to all property as to which the Government elects not to require delivery under the clause entitled "Default," title shall vest in the Contractor upon full liquidation of progress payments, and the Government shall be liable for no payment except as provided by the "Default" clause.

(i) Reservations of Rights. The rights and remedies of the Government provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract. No payment, or vesting of title pursuant to this clause, shall excuse the Contractor from performance of his obligations under this contract, nor constitute a waiver of any of the rights and remedies of the parties under this contract. No delay or failure of the Government in exercising any right, power or privilege under this clause shall affect any such right, power or privilege, nor shall any single or partial exercise thereof preclude or impair any further exercise thereof or the exercise of any other right, power or privilege of the Government.

(j) Progress Payments to Subcontractors.

(1) The amounts mentioned in item (a)(1)(ii) above shall be all progress payments paid by the Contractor to his subcontractors or other divisions and remaining unliquidated when under subcontracts or interdivisional orders which conform to (2) below.

(2) Subcontracts or interdivisional orders on which progress payments to subcontractors or other divisions may be included in the base for progress payments pursuant to paragraph (a) of this clause are limited to those subcontracts in which there is expected to be a long "lead time," between the beginning of work and the first delivery, approximating four months or more for small business concerns and six months or more for firms which are not small business concerns, and in which the provisions regarding progress payments are substantially similar to and as favorable to the Government as this "Progress Payment" clause (except that in the case of those subcontractors which are small business concerns a "Progress Payment" clause substantially similar to 7-104.35(b) may be used). Progress payment rates for subcontractors shall be

either the uniform, standard progress payment rate under DAR Appendix E-503 or (if the subcontractor qualifies under Appendix E-530.3) the flexible progress payment rate under Appendix E-530, at the election of the subcontractor. All rights of the subcontractor with respect to all property to which the Government has title under the subcontract will be made subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to offer and provide progress payments to those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in Appendix E of the Defense Acquisition Regulation, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(End of clause)

* See E-512.2 and E-512.3 for calculation of alternate liquidation percentages. For contractors who elected to use the transition method in Appendix A of CAS 410, see E-512.1 and E-512.3(f) for calculation of adjusted ordinary and alternate liquidation percentages.

** The applicable uniform rate for FMS is 95%. In addition, if the contract is subject to flexible progress payment procedures under Appendix E-530, the progress payment rate will be determined by using the DoD Cash Flow Computer Model. The progress payment rate thus determined will be set forth in the Schedule.

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

(b) *Progress Payment Clause for Small Business Concerns.*

Any change, addition, or deletion to this clause is subject to the prior approval requirements outlined in Appendix E, Part 3.

PROGRESS PAYMENT FOR SMALL BUSINESS CONCERNS (1982 SEP)

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly, in amounts approved by the Contracting Officer under the following terms and conditions.

(a) *Computation of Amounts.*

(1) Unless a smaller amount is requested, each progress payment shall be (i) ninety-five percent (95%)** (See footnote at end of clause) of the amount of the Contractor's total costs incurred under this contract, except as provided herein with respect to costs of pension contributions, plus (ii) the amount of progress payments to subcontractors as provided in (j) below; all less the sum of previous progress payments. With respect to costs of pension contributions, when pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accruals of the costs of these pension contributions shall be excluded from Contractor's total costs for progress payment purposes until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals of the costs of these pension contributions may be included in Contractor's total costs for progress payment purposes provided that the pension contributions are paid to the retirement fund within thirty (30) days after the close of the period covered by the payment. If payments are not made to the fund within such thirty-day period, pension contribution costs shall be excluded from Contractor's total costs for progress payment purposes until payment therefor has been made.

(2) The Contractor's total costs ((a)(1)(i)) shall be reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices. However, such costs shall not include (i) any costs incurred by subcontractors or suppliers, or (ii) any payments or amounts payable to subcontractors or suppliers, except for completed work (including partial deliveries) to which the Contractor has acquired title and except for amounts paid or payable under cost-reimbursement or time and material subcontracts for work to which the Contractor has acquired title, or (iii) costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

(3) The amount of unliquidated progress payments shall not exceed the lesser of (i) ninety-five percent (95%)**(See footnote at end of clause) of the costs mentioned in (a)(1)(i) above, plus any unliquidated progress payments mentioned in item (a)(1)(ii) above, both of which are applicable only to the supplies and services not yet delivered and invoiced to and accepted by the Government, or (ii) ninety-five percent (95%)** (See footnote at end of clause) of the total contract price of supplies and services not yet delivered and invoiced to and accepted by the Government, less unliquidated advance payments.

(4) The aggregate amount of progress payments made shall not exceed ninety-five percent (95%)**(See footnote at end of clause) of the total contract price.

(5) If at any time a progress payment or the unliquidated progress payments exceed the amount permitted by this paragraph (a), the Contractor shall pay the amount of such excess to the Government upon demand.

(6) If this contract includes FMS requirements, the Contractor shall submit his requests for progress payments in accordance with the procedures below.

(i) If the contract contains only one FMS progress payment rate, and there is more than one customer country, the Contractor shall submit one DD Form 1195 with a supporting schedule showing the portions of the total requested payment to be attributed to each country's requirement.

(ii) If the contract contains more than one progress payment rate, then the Contractor shall submit separate DD Forms 1195 for the work covered by each different progress payment rate. If more than one FMS customer country is involved with the same progress payment rate, the Contractor shall attach a supporting schedule showing the portions of the total requested payment to be attributed to each customer country's requirement. For the purpose of submitting DD Form 1195, the Contractor shall allocate costs among customer countries in a manner acceptable to the Administrative Contracting Officer.

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7-104.35
ARMED SERVICES PROCUREMENT REGULATION

(h) Special Provisions Regarding Default. If this contract is terminated pursuant to the clause entitled "Default," (i) the Contractor shall, upon demand, pay to the Government the amount of unliquidated progress payments and (ii) with respect to all property as to which the Government elects not to require delivery under the clause entitled "Default," title shall vest in the Contractor upon full liquidation of progress payments, and the Government shall be liable for no payment except as provided by the "Default" clause.

(i) Reservations of Rights. The rights and remedies of the Government provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract. No payment, or vesting of title pursuant to this clause, shall excuse the Contractor from performance of his obligations under this contract, nor constitute a waiver of any of the rights and remedies of the parties under this contract. No delay or failure of the Government in exercising any right, power or privilege under this clause shall affect any such right, power or privilege, nor shall any single or partial exercise thereof preclude or impair any further exercise thereof or the exercise of any other right, power or privilege of the Government.

(j) Progress Payments to Subcontractors.

(1) The amount mentioned in item (a)(1)(ii) above shall be the sum of (i) all the progress payments made by the Contractor to his subcontractors and remaining unliquidated, and (ii) unpaid billings for progress payments to subcontractors which have been approved for current payment in the ordinary course of business, when under subcontracts which conform to (2) below.

(2) Subcontracts on which progress payments to subcontractors may be included in the base for progress payments pursuant to paragraph (a) of this clause are limited to those subcontracts in which there is expected to be a long "lead time," between the beginning of work and the first delivery, approximating four months or more for small business concerns and six months or more for firms which are not small business concerns, and in which the provisions regarding progress payments are substantially similar to and as favorable to the Government as this "Progress Payments" clause (except that in the case of those subcontractors which are small business concerns a "Progress Payment" clause substantially similar to 7-104.35(b) may be used). Progress payment rates for subcontractors shall be either the uniform, standard progress payment rate under Appendix E-503 or (if the subcontractor qualifies under Appendix E-530.3) the flexible progress payment rate under Appendix E-530, at the election of the subcontractor.

All rights of the subcontractor with respect to all property, to which the Government has title under the subcontract will be made subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) The billings described in (j)(1)(ii) above shall be paid promptly by the Contractor in the ordinary course of business, not later than a reasonable time after payment of equivalent amounts by the Government to the Contractor.

(5) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to offer and provide progress payments to those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in Appendix E of the Defense Acquisition Regulation, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(End of clause)

* For lower percentages for this paragraph (b) and for (a)(3)(ii) and (a)(4), see E-512.1.

** The applicable uniform rate for FMS contracts is 100%. In addition, if the contract is subject to flexible progress payment procedures under Appendix E-530, the progress payment rate will be determined by using the DoD Cash Flow Computer Model. The progress payment rate thus determined will be set forth in the Schedule.

DEFENSE CONTRACT FINANCING REGULATIONS

E-502.1 *Requests for Proposals.* Requests for proposals shall state that contract provision for progress payments will be made in conformity with regulations, and that the need for progress payments conforming to regulations will not be considered as a handicap or adverse factor in the award of contracts. Requests for proposals shall not state a liquidation rate for progress payments. See E-512.

E-503 Customary Progress Payments. Certain contracts may require contractor's predelivery or unbillable partial performance expenditures that will have a material impact on the contractor's working funds. These include production contracts which involve a long "lead time" or preparatory period between the beginning of work and the first production delivery, normally involving four months or more for small business concerns and six months or more for firms which are not small business concerns. They also include some contracts for research and development and some contracts for services which have a long time period, of approximately four months or more for small business concerns and six months or more for firms which are not small business concerns, between the beginning of work and the first opportunity to bill and receive payment for a significant element of contract performance. Progress payments are customary at (i) the uniform standard percentages of total costs (E-503.1, E-503.2) or flexible progress payment rates determined in accordance with E-530; (ii) the uniform cost base (E-509.5); (iii) the frequency of payment established in the progress payment clause (7-104.35); and (iv) the ordinary liquidation method (E-512.1) unless changed to the alternate method as provided in E-512.2 on this category of contracts and letter contracts contemplating a definitive fixed price type of contract. Length of lead time, or length of the time period within which billings for deliveries or for significant partial performance cannot be accomplished, are not a factor in qualifying letter contracts and their superseding definitive contracts for customary progress payments. Contract financing arrangements other than those set forth in this paragraph are regarded as unusual, and not within the category of customary progress payments (E-505).

The long lead time or preparatory period in these cases, and the accompanying predelivery or pre-partial performance billing expenditures that may have a material impact on the contractor's working funds, and the equivalent circumstances of letter contracts and their superseding definitive contracts, are regarded as making these customary progress payments reasonably necessary. The general preference for private financing is not applicable to this class of cases. Provision for customary progress payments will be made as a matter of course when requested by contractors who are known (from experience or adequate preaward investigation) to be reliable, competent, capable of satisfactory performance, in satisfactory financial condition, and to have an adequate accounting system and controls. In such cases, it is not necessary to require projections of cash receipts and expenditures or other demonstration of actual reasonable need for progress payments. However, in order to minimize administrative effort and expense, progress payments will be discouraged on relatively small contracts of the stronger and larger contractors who are not small business concerns, *e.g.*, contracts for less than $1,000,000, unless the circumstances of a group of such contracts, for contemporaneous performance, make such contracts the approximate

DEFENSE CONTRACT FINANCING REGULATIONS

equivalent of a larger contract that would have a material impact on the contractor's working funds. If a small business concern, and the contract involved, meet the above standards for customary progress payments, the smallness of the contract shall not deter the making of provision for customary progress payments to such small business concerns.

E-503.1 *Uniform Standard Percentages.* The uniform standard progress payment rate is 90% of total costs for firms which are not small business concerns, and 95% for small business concerns, whether or not awarded by formal advertising. If flexible progress payment rates are not used, higher percentages will be regarded as unusual (E-505) and not within the category of customary progress payments. No percentage higher than the uniform standard progress payment may be offered in any solicitation unless approved in advance in accordance with E-505, or unless developed in accordance with flexible progress payment procedures (E-530).

E-503.2 *Uniform Standard Percentages — Foreign Military Sales (FMS) Contracts.*

(a) Progress payments made on FMS contracts are subject to the same policies as normal DoD contracts except that the uniform standard progress payment rate is 95% of total costs for firms which are not small business concerns, and 100% for small business concerns.

(b) On FMS requirements, the Arms Export Control Act requires the deposit of FMS customer cash in advance of related payments to contractors. In order to comply with this requirement, all FMS contracts with progress payments must contain the billing procedures described below. For these purposes, the contractor shall allocate costs between customer countries in a manner acceptable to the Administrative Contracting Officer that does not incur undue administrative expense. If more than one customer country is covered by a contract, the contractor shall submit one DD Form 1195 with a supporting schedule showing the portions of the total requested payment to be attributed to each country's requirement.

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32 CFR Parts 1–39

[DAC 76–39]

Defense Acquisition Regulation

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document publishes changes to the Defense Acquisition Regulation contained in the Code of Federal Regulations. The changes are the same as those in Defense Acquisition Circular 76–39. Some of the changes include contract saving clauses (deviations); Prompt Payment Act, Public Law 97–177; cargo preference clauses; value engineering; delegation of DAR 3–211 Class D&F authority under DAR 3–303; mobile electric power generating sources; laundry and dry cleaning contracts; relocation costs; lobbying costs; and defense of fraud proceedings. Also included in this document are two information items: copy of a memorandum from the Secretary of Defense, dated September 9, 1982, Subject: Competitive Procurement; and copy of a memorandum from the Deputy Secretary of Defense, dated April 30, 1981, Subject: Improving the Acquisition Process.

EFFECTIVE DATE: October 20, 1982.

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, Room 3C257, Pentagon, Washington, D.C. 20301, Telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulation (DAR) is codified in Title 32, Parts 1–39, Volumes I, II, and III, of the Code of Federal Regulations (CFR). The September 1, 1982 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1976 edition of the DAR made by Defense Acquisition Circulars 76–1 through 76–36.

The Department of Defense announced the promulgation of the 1979 CFR edition in the **Federal Register** of December 31, 1979 (44 FR 77158), and also announced at that time that subsequent amendments to the DAR would be published in the **Federal Register.**

Defense Acquisition Circular 76–39.

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76–39, issued October 20, 1982. The following is a summary of the amendments:

Contract Saving Clauses (Deviations). DAR 1–109 is modified to expressly recognize saving clauses contemplating subsequent contract modifications in the event of anticipated changes in controlling regulations during the contact term as deviations.

Prompt Payment Act, Public Law 97–177. The Prompt Payment Act, Public Law 97–177, was recently enacted and requires Federal agencies to pay interest penalties when certain payments are made late, and to pay similar penalties when prompt payment discounts are taken after the offered discount period has lapsed. The Office of Management and Budget has issued OMB Circular A–125, dated August 19, 1982, to provide guidance to the Heads of Executive Departments to be followed in payment for supplies and services acquired under Federal contracts. The DAR Council has adopted a new Invoices clause at DAR 7–103.30. This provision provides a contractual understanding as to what describes a proper invoice. Other changes provided for the inclusion of this clause in appropriate solicitations. (Departments are reminded that acceptance of supplies and services is to be accomplished as promptly as possible.) These changes implement both the Prompt Payment Act and OMB Circular A–125. The Office of the Secretary of Defense (Comptroller) has also issued guidance governing when and how disbursing officers will pay interest penalties in accordance with the law.

Cargo Preference Clauses. In coordination with the Maritime Administration of the Department of Commerce, the DAR Council approved revisions to DAR 1–1404, 1–1405, 1–1409, 7–104.19 and 7–603.41 to (i) eliminate the exception for reporting shipments to less than specified minimum tonnages; and (ii) eliminate price adjustment provisions where foreign-flag shipping is used. These revisions apply *only* to contracts over $10,000.

Value Engineering. DAR Section I, Part 17, and the clause at 7–104.44(a) are revised (i) to expand the sharing base for acquisition savings to include successor contracting offices; and (ii) to provide an alternate sharing method by which settlement of a VECP may be made at no cost to either party.

Delegation of DAR 3–211 Class D&F Authority under DAR 3–303. A revision is made to DAR 3–303 which authorizes delegation of authority for making Class D&F's to extend such authority to DAR 3–211, provided that individual transactions do *not* exceed 5 million dollars.

Mobile Electric Power Generating Sources. DAR 5–1201.6 is modified to accurately reflect procurement responsibility for mobile electric power generating sources.

Laundry and Dry Cleaning Contracts. DAR 7–1400, 7–1800, and 22–800 are revised by deleting from the coverage outdated and nonstandard provisions which have caused difficulty in various field offices and which did not conform to the Uniform Contract Format or revised DoD guidance in this overall area.

Relocation Costs. DAC No. 76–37, Item V, contained revisions to DAR 15–205.25, Relocation Costs, This coverage was approved by the DAR Council on July 21, 1982. The cost principle, as approved, contained an item of unallowable cost which was inadvertently omitted from DAR 15–205.25(c) as it appears in DAC 76–37. This item of unallowable cost, "continuing mortgage principal payments on residence being sold," is now included in the enumeration at 15–205.25(c). The items which follow this correction have been re-numbered accordingly.

Lobbying Costs. Secretary of Defense Caspar W. Weinberger has directed the amendment of DAR 15–250.51, to make the costs of all lobbying activities in connection with any legislative body unallowable.

Defense of Fraud Proceedings. On September 29, 1982, the DAR Council approved a cost principle (DAR 15–205.52), specifically disallowing reimbursement of costs incurred by a contractor in the defense of criminal or civil fraud proceedings or administrative proceedings such as those leading to suspension or debarment when the action, brought by the Government, results in a conviction or judgment against the contractor, a decision to debar or suspend, or is resolved by consent or compromise.

Because the Defense Acquisition Regulation concerns agency management, public property, and contracts, it is not necessary to issue proposed rules for public comment. Neither is it necessary to delay the effective date until 30 days after the date of publication of these rules, 5 U.S.C. 533 (a) and (d). The amendments became effective on October 20, 1982.

How To Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76–39. The number at the top of each page (for example, 1:7) identifies the page from the Regulation which is being replaced. The number at the

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ARMED SERVICES PROCUREMENT REGULATION
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botton of the page is a reference to the last appearing numbered paragraph on that page, or if none shows, on a preceding page. The vertical line in the right margin indicates where the amendment is located.

List of Subjects in 32 CFR Parts 1–39

Government procurement.

Adoption of Amendments

Therefore, the Defense Acquisition Regulation contained in the August 1, 1981 edition of 32 CFR Parts 1–39, Volumes I, II, and III, is amended in the DAR paragraphs indicated by substitution of the replacement pages listed in the table.

DAR paragraph	Replacement pages
Volume I	
1–109.1 ((ix) added)	1:7.
1–314 ((m) added)	1:32–E, 1:32–F
1–1404	1:194.
1–1405	1:194.
1–1409	1:194
1–1701	1:201
1–1706.1	1:205
1–1706.3 (added)	1:206–B.
3–302	3:19.
3–303	3:20.
5–1201.6	5:76, 5:79.
Volume II	
7–103.30 (added)	7:30, 7:30–A
7–104.19	7:56.
7–104.44	7:94, 7:101
7–603.41	7:310.
7–1401.1 (deleted) (reserved)	7:420.
7–1401.2 (deleted) (reserved)	7:420.
7–1401.4 (deleted) (reserved)	7:420.
7–1401.7 (deleted) (reserved)	7:421–B.
7–1401.8 (deleted) (reserved)	7:421–B.
Section VII, Part 18 (deleted) (reserved)	7:441.
15–205.25	15:29–B, 15:30.
15–205.51	15:52–A, 15:52–B
15–205.52 (added)	15:52–B.
Volume III	
16–101.1	16:2.
16–102.4	16:7.
16–303	16:16.
Section XXII, Part 8 (deleted) (reserved)	22:21

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

January 10, 1983.

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GENERAL PROVISIONS

DAC #76-39 20 OCTOBER 1982 1:7
GENERAL PROVISIONS

zant unified Commander advised of significant deviations effected under this subparagraph (i));

(ii) when a contract clause is set forth in ASPR but not for use verbatim, use of a contract clause covering the same subject matter which is inconsistent with the intent, principle and substance of the ASPR clause or related coverage of the subject matter;

(iii) omission of any mandatory contract clause constitutes a deviation;

(iv) when a Standard, DD, or other form is prescribed by ASPR or a Department of Defense Directive, use of any other form for the same purpose constitutes a deviation;

(v) alteration of a Standard, DD, or other form (other than Departmental forms), except as authorized by ASPR or a Department of Defense Directive constitutes a deviation;

(vi) when limitations are imposed in ASPR or a Department of Defense Directive upon the use of a contract clause, form, procedure, type of contract, or any other procurement action, including but not limited to the making or amendment of a contract, or actions taken in connection with the solicitation of bids or proposals, award, administration or settlement of contracts, the imposition of lesser or greater limitations constitutes a deviation;

(vii) when a policy, procedure, method or practice of conducting procurement actions of any kind at any stage of the procurement process is covered by ASPR, any policy, procedure, method, or practice which is inconsistent with that set forth constitutes a deviation;

(viii) issuance of any instructions described in 1-108(a) (including an instruction for any additional contract clause, form, or type, or additional procurement policy, procedure, method or practice, not covered in ASPR or in Department of Defense Directives) constitutes a deviation unless permitted under 1-108(a)(i)-(vii); or

(ix) a contract saving clause whereby the parties are committed to a contract modification in the event of changes in controlling statutes or regulations during the term of the contract. Any such saving clause shall require approval pursuant to 1-109.3.

1-109.3 *Deviations Affecting One Contract or Transaction.*

(a) Deviations from this Regulation or a Department of Defense Directive which affect only one contract or procurement may be made or authorized in accordance with Departmental procedures *provided* (i) such circumstances justify a deviation; and (ii) written notice of such deviation, describing its nature and the basis for its justification, is furnished to each of the following:

The Deputy Under Secretary (Acquisition Management), OUSD(R&E)
Attention: DAR Council — The Pentagon — Washington, D.C. 20301

The Assistant Secretary of the Army (RDA)
Attn: DAR Council Policy Member — The Pentagon — Washington, D.C. 20310

The Assistant Secretary of the Navy (S&L)
Attn: DARS Staff
Crystal Plaza, Bldg. 5 — Washington, D.C. 20360

The Director of Contracting and Manufacturing Policy
Attn: AF/RDC(DAR) — The Pentagon — Washington, D.C. 20330

Executive Directorate, Contract Management
Defense Logistics Agency
Attn: DLA-AA — Cameron Station — Alexandria, Virginia 22314

The Director
National Security Agency
Fort George G. Meade, Maryland 20755

The Director
Defense Communications Agency
Washington, D.C. 20305

The Deputy Director, Operations and Administration
Defense Nuclear Agency
Washington, D.C. 20305

The Director, Logistics Office
Defense Mapping Agency
Bldg. 56, Naval Observatory — Washington, D.C. 20390

Such written notice shall be given in advance of the effective date of such deviations unless exigency of the situation requires immediate action.

(b) Deviations from certain DAR provisions, although affecting only one contract or transaction, are not permitted under (a) above. For example:

(i) provisions required by statute or executive order;
(ii) Section IX, Part 2, except as noted (see 9-202.3(a));
(iii) Section XV, Part 1 (see 15-107(b));
(iv) Section XV, Part 2 (see 15-204(a)); and
(v) Appendix E (see E-218).

1-109.3 *Deviations Affecting More Than One Contract or Contractor.* Except as authorized in 1-109.2, deviations from this Regulation or a Department of Defense Directive will not be effected unless approved in advance by the Deputy Under Secretary of Defense Research and Engineering (Acquisition Management) (DUSD(AM)); *provided*, however that unanimous approval by the members of the DAR Council will constitute approval of the DUSD(AM) of all matters except those involving major policy. Written requests for such approval will be submitted to the DUSD(AM) through the DAR Council as far in advance as exigencies of the situation will permit.

1-109.4 *Deviations Required by Government-to-Government Agreements.* Notwithstanding 1-109.2 and 1-109.3, any deviation from this Regulation that is required in order to comply with a treaty or executive agreement to which the United States is a party is authorized unless the deviation would substantively affect a provision of this Regulation that is based on the requirements of a law enacted after execution of the treaty or executive agreement. In the latter event, the deviation shall, in accordance with Departmental procedures, be referred to the DAR Council for consideration, and the cognizant unified Commander shall be advised of such action. Any procurement action which constitutes a

described in (k)(2) above. The determination to use the alternate provision at 7-103.12(b) in other situations shall be made by the head of the contracting activity responsible for the acquisition involved. Examples of the types of unusual circumstance where continued performance may be determined to be vital to the national security or public health and welfare include the acquisition of weapons, support systems, and related components other than those listed above, or other essential supplies or services whose timely reprocurement from other sources would be impracticable. In all contracts employing the alternate provision at 7-103.12(b), in the event of a dispute not arising under but relating to the contract, agencies should consider providing, through appropriate departmental procedures, financing of the continued performance, *Provided*, That the Government's interests are properly secured.

(L) *Certification of Contractor Claims Over $50,000.*

(1) Section 6(c)(1) of the Act requires that a contractor claim over $50,000 shall be certified at the time of submission that it is made in good faith; that the supporting data are accurate and complete to the best of the contractor's knowledge and belief; and that the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable.

(2) The certification shall be executed by the contractor if an individual. When the contractor is not an individual, the certification shall be executed by a senior company official in charge at the contractor's plant or location involved, or by an officer or general partner of the contractor having overall responsibility for the conduct of the contractor's affairs.

(3) In determining when the dollar thresholds requiring claim certification are met, the aggregate amount of both the increased and decreased costs shall be used. (See examples at 3-807.3(b)(ii).)

(m) *Claims for Interest Penalties Under the Prompt Payment Act.*

(1) The Prompt Payment Act (Public Law 97-177) provides that a contractor will be paid interest penalties when certain payments by the Government are not made on time or when discounts are taken for payments that are not made within the discount period. The act applies to payments made on contracts awarded after 1 October 1982.

Under the act, interest penalties are due if the contractor is not paid for delivery of complete items of supplies or services within 15 days after the required payment date (within 3 days for meat or meat food products and within 5 days for perishable agricultural commodities). Interest penalties are also due on the unpaid portion of discount payments made after the discount period. Claims for interest penalties not paid may be made under the Contract Disputes Act.

(2) The required payment date for purposes of the Prompt Payment Act is the date on which payment is due under the terms of the contract or, if a specific date on which payment is due is not established by the contract, 30 days after the later of the date on which a proper invoice is received in the designated paying office or the date on which the supplies or services are accepted. The required payment date for meat and meat food products is not later than the 7th day after delivery, and for perishable agricultural commodities is not later than the 10th day after delivery, unless another date is specified in the contract. The required payment date for improperly taken discounts is the last day of the discount period.

(3) Interest penalties begin to accrue on the day after the required payment date and end on the date on which payment of the amount due is made. Interest penalties do not continue to accrue under the Prompt Payment Act after the filing of a claim for such penalties under the Contract Disputes Act or for more than one year. Interest penalties also do not accrue under the Prompt Payment Act when payment is not made within the prescribed period after the required payment date because of a dispute over the amount of the payment or other allegations concerning compliance with the contract.

(xi) *New Guinea-Australia:* Includes Australia; New Guinea; Tasmania; New Zealand and Melanesia (comprising generally the Admiralty Islands, New Ireland, New Britain, the Solomons, New Hebrides and New Caledonia).

(xii) *East Asia:* Includes the ports of the mainland and islands of East Asia from and including Thailand to and including Japan; includes the Philippines, Formosa, the Ryukyu Islands and the Bonins.

(xiii) *Hawaii-Central Pacific:* Hawaiian Islands; Wake/Marcus; and Oceania and Micronesia (comprising generally Palau, Marianas, Carolines, Gilberts, Fijis, Marquesas, Tuamotu Archipelago, etc., but excluding oceanic island possessions of South American countries)..

(xiv) *Alaska and Aleutian Islands:* Includes the western coast of Canada and Alaska (including the Aleutian Islands) south of Cape Prince of Wales.

(xv) *U.S. Northwest:* Includes all Oregon and Washington ports.

(xvi) *U.S. West Coast:* Includes all California.

(xvii) *Western Mexico and Central America:* Includes the western coast of Mexico and the western coast of Central America.

(xviii) *Western South America:* Includes the western coast of South America from (and including) the Republic of Colombia to Cape Horn, and the Pacific Islands possessions of South American countries.

(xix) *Exempt Areas:*

(A) Alaska north of Cape Prince of Wales.

(B) Greenland, except Narsarssuak.

(C) Northern and eastern Canada from Goose Bay, Labrador, to Alaska.

(D) Ports and facilities under security restrictions in otherwise nonexempt areas.

(E) Antarctica.

(b) The procedures set forth below are applicable to all ocean shipments of supplies except:

(i) shipments in vessels assigned to United States Navy fleets other than the Military Sealift Command;

(ii) shipments which originate or terminate in "exempt areas" as established in (a) above;

(iii) shipments which originate and terminate in the same geographic area; *provided*, however, that supplies of the type described in 1-1402(i)(A) above shall be transported in United States-flag vessels to the extent such vessels are available at fair and reasonable United States-flag rates;

(iv) shipments aboard vessels of the Panama Canal Commission; and

(v) shipments of classified supplies where the classification prohibits the use of non-Government vessels.

1-1404 Procedures.

(a) Except for those supplies obtained for nonreimbursable contributions to foreign assistance programs for which the ocean transportation is to be provided by and at the expense of the recipient government, ocean transportation of supplies owned by the Government and in the possession of either a Department, or a contractor, or subcontractor of any tier, of a Department, will be provided by the Military Sealift Command. Accordingly, any contract which may involve ocean transportation of property owned by the Government and in the possession of the contractor or any of his subcontractors (including any contract under which title to property may pass to the Government prior to shipment) shall include a clause substantially as in 7-104.19(a). Upon receipt of advice from the contracting officer, the Military Sealift Command shall take such action as may be necessary and practicable to assure proper utilization of Government vessels and private United States vessels in accordance with this Part and applicable regulations. The Commander of the Military Sealift Command or his designated representative is authorized to make any determination as to availability of United States-flag vessels required to assure such proper utilization.

(b)(1) Except as provided in paragraph (2) below, procuring activities shall include the clause in 7-104.19(b) in any contract in excess of $10,000 which may involve the ocean transportation of supplies of the type described in 1-1402(i)(B) and (C). Additional provisions concerning the vessels to be used may be inserted in accordance with Departmental procedures.

(2) The contract shall include the clause in 7-104.19(c) in lieu of the clause in 7-104.19(b):

(i) when determined by the Head of a Procuring Activity, or his designee, to be necessary to assure proper implementation of the policy expressed in 1-1402; or

(ii) when the procuring activity has been instructed that particular supplies of the type described in 1-1402(i)(B) and (C) above are to be carried exclusively in private United States vessels:

1-1405 Reserved.

1-1406 Reserved.

1-1407 Reserved.

1-1408 Reserved.

1-1409 Construction Contracts. It is the policy of the Department of Defense to require construction contractors, including subcontractors and suppliers, engaged in overseas work to utilize United States-flag vessels to the extent that such vessels are available at fair and reasonable rates for United States-flag vessels. This policy is applicable to any supplies, materials, or equipment shipped from the United States for either the performance of the work or for incorporation in the work. To carry out this policy, the clause in 7-603.41 shall be included in any construction contract in excess of $10,000 which may involve the ocean transportation of materials. Upon request of the contracting officer, the Commander, Military Sealift Command, or his representative, will furnish advice as to the availability of United States-flag vessels for any particular shipment. These requirements shall not apply to Military Assistance Program projects, Agency for International Development

1-1700 Value Engineering (VE).
1-1701 Definitions.

(a) Acquisition savings means savings resulting from the application of value engineering change proposals (VECPs) to contracts awarded by the same contracting office or its successor for essentially the same unit. Acquisition savings include:

(i) Instant contract savings which are the net cost reductions on the contract under which the VECP was submitted and accepted and which are equal to the unit cost reduction multiplied by the number of units affected by the VECP, less the contractor's allowable development and implementation costs (on service contracts, the unit cost reduction is multiplied by the labor-hour rate agreed upon for the tasks involved; then the contractor's allowable development and implementation costs are subtracted from the total);

(ii) Concurrent contract savings, which are measurable net reductions in the prices of other contracts of the contracting office in existence at the time the VECP was accepted; and

(iii) Future contract savings, which are the product of the unit cost reduction under the instant contract, adjusted to consider the effects of learning, quantities, or other similar factors, multiplied by the number of units scheduled for delivery during the sharing period. If the instant contract is a multiyear contract, future contract savings include savings on all quantities funded after VECP acceptance.

(b) Collateral costs means agency costs of operation, maintenance, logistic support, or Government-furnished property.

(c) Collateral savings means those measurable net reductions resulting from the VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

(d) Contractor's development and implementation costs means those costs which the contractor incurred specifically in its development, testing, preparation, and submission of the VECP, as well as its costs to make the contractual changes required by Government acceptance of a VECP.

(e) Government costs means those agency costs that result directly from developing and implementing the VECP and any net increases in the cost of testing, operations, maintenance, and logistics support. They do not include the normal administrative costs of processing the VECP.

(f) Instant contract means the contract under which the VECP is submitted. It does not include increases in quantities after approval of the VECP due to contract modifications, exercise of options, or additional orders. If this is a multiyear contract, it does not include quantities funded after VECP approval. In a fixed-price contract with prospective price redetermination, the term refers to the period for which firm prices have been established.

(g) Negative instant contract savings means that the acceptance of the VECP results in:

(i) a reduction in the instant contract of the actual unit cost;

(ii) an excess of contractor's development and implementation costs as compared to the unit cost reduction multiplied by the number of units affected; and

(iii) a consequent equitable adjustment increasing the instant contract price.

These savings are not a Government cost.

(h) Net acquisition savings means acquisition savings less Government costs.

(i) Sharing period means that period that extends to the 3 years after acceptance of the first item incorporating the VECP, or the delivery schedule in effect for all affected end items on the instant contract when the VECP is accepted, whichever is longer.

(j) Unit means the item or task to which the parties agree the VECP shall apply.

(k) Unit cost reduction means the amount of the decrease in unit cost of performance (without deducting any development or implementation costs and, for future contracts, with adjustments for learning, change in quantities, or other similar factors as necessary) resulting from using the VECP. On service contracts, the unit cost reduction is equal to the costs per hour multiplied by the number of hours per line item task saved by the VECP.

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1-1704.4 *Value Engineering, Alternate III.* When the head of the contracting activity determines the cost of computing and tracking collateral savings will exceed the benefits to be derived, the contracting officer shall include in the contract the clause in 7-104.44, as changed by Alternate III.

1-1704.5 *Value Engineering, Alternate IV.* The contracting officer may include a mandatory VE program requirement in an architect-engineer contract. However, no VE sharing provisions shall be included. The contracting officer shall use the clause in 7-104.44, as changed by Alternate IV.

1-1704.6 *Value Engineering Incentive--Construction Clause.* The contracting officer shall include the clause in 7-602.50, Value Engineering Incentive--Construction, in all fixed-price and cost-reimbursement construction contracts of $100,000 or more, other than incentive contracts. The clause may be included in fixed-price or cost-reimbursement construction contracts under $100,000 if the contracting officer sees a potential for significant savings. The contracting officer shall not include the clause in incentive-type construction contracts.

1-1705 Processing VECPs.

(a) The contracting officer shall provide the contractor prompt written notification if (i) the VECP evaluation period will exceed 45 days after receipt of the VECP by the Government (the notification shall include the estimated decision date and the reasons for the additional time required), or (ii) the VECP is not accepted (the notification shall explain the reasons for nonacceptance).

(b) The contracting officer shall cite the Value Engineering clause (see 1-1704) when modifying the contract to incorporate a VECP or when making any VE-related change.

(c) The Government's decision to accept or reject a VECP; the Government's decision as to which of the sharing rates apply when the clause in 7-104.44, as changed by Alternate II, is used; and the Government's computation of collateral costs or collateral savings are not subject to the Disputes clause.

1-1706 Sharing Arrangements. The two types of savings shared by the Government and the contractor as a result of accepted VECPs are acquisition savings and collateral savings.

1-1706.1 *Sharing of Acquisition Savings.*

(a) The sharing base for acquisition savings is the number of affected end items on contracts of the contracting office which approved the VECP or its successor. The Head of the Contracting Activity (HCA) may extend the sharing base from the contracting office throughout the activity if the HCA determines in writing that it would

be more equitable or would significantly increase the contractor's incentive. The sharing base may be further expanded by the Secretary concerned. The sharing rates (Government/contractor) for acquisition savings for supplies and services are based on the type of contract, the Value Engineering clause, and the type of savings as follows:

	Incentive (Voluntary)		Program Requirement (Mandatory)	
TYPE OF CONTRACT	Instant	Concurrent and Future	Instant	Concurrent and Future
Fixed-Price (Other than Incentive)	50/50	50/50	75/25	75/25
Incentive (Fixed-Price or Cost)	*	50/50	*	75/25
Cost-Reimbursement** (Other than Incentive)	75/25	75/25	85/15	85/15

* Same ratio as the contract's cost incentive ratio.
** Includes cost-plus-award-fee contracts.

(b) Sharing on construction contracts applies only to savings on the instant contract. The sharing rates (Government/contractor) are as follows:

Fixed-Price*	45/55
Cost-Reimbursement*	75/25

* Other than incentive

(c) The contractor shall share in the savings on all affected units until the originally scheduled delivery date of the last affected unit under the instant contract or for 3 years after acceptance of the first unit incorporating the VECP, whichever is longer. For engineering development and low rate initial production contracts, the future sharing

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period shall encompass scheduled deliveries, equal in number to the quantity required over the highest 36 consecutive months of planned production, based on the Five Year Defense Program (FYDP) or other planning documentation at the time the VECP is accepted. Savings are paid through the contract under which the VECP was accepted. Within 3 months after concurrent contracts have been modified to reflect price reductions attributable to use of the VECP, the contracting officer shall modify the instant contract to provide the contractor's share of savings. On incentive contracts, the contractor's share of concurrent, future, and collateral savings shall be paid as a separate firm fixed-price contract line item on the instant contract. The contractor shall be responsible for maintaining, for 3 years after final payment on the contract under which the VECP was accepted, records adequately identifying the first delivered unit incorporating the applicable VECP.

(d) The contractor's share of future contract savings may be paid as subsequent contracts are awarded or in a lump-sum payment at the time the VECP is accepted. The contracting officer ordinarily shall make calculations as future contracts are awarded and, within 3 months after their award, modify the instant contract to provide the contractor's share of savings. Use of the lump-sum method must be agreed to by the contractor. For future acquisition savings calculated under the optional lump-sum method, the sharing base is an estimate of the number of items which will be purchased by the contracting office during the sharing period. In deciding to use the more convenient lump-sum method for an individual VECP, the contracting officer shall consider:

(i) the accuracy with which the number of items to be purchased during the sharing period can be estimated and the probability of actual production of the projected quantity;

(ii) the availability of funds for a lump-sum payment; and

(iii) the administrative expense of otherwise amending the instant contract as future contracts are awarded.

(e) The contractor's profit or fee shall be excluded when calculating the net savings on instant and future contracts.

(f) Departments shall establish procedures for funding and payment of the contractor's share of future savings.

1-1706.2 *Sharing of Collateral Savings.* The contractor's share of collateral savings is 20% of the estimated savings to be realized during an average year of use but shall not exceed (i) the contract's firm fixed-price, target price, target cost, or estimated cost at the time the VECP is accepted; or (ii) $100,000, whichever is greater.

1-1706.3 *Sharing Alternative - No-Cost Settlement Method.* In order to minimize the administrative costs for both parties when there is a known continuing requirement for the unit, consideration should be given to the settlement of a VECP submitted against the VE Incentive clause of the contract at no cost to either party. Under this method of settlement, the contractor would keep all of the savings on the instant contract, and all savings on his concurrent contracts only. The Government would keep all savings resulting from concurrent contracts placed on other sources, savings from all future contracts and all collateral savings. Use of this method must be by mutual agreement of both parties for individual VECPs.

1-1707 Relationship to Other Incentives. The Government shall offer the fullest possible range of motivation to contractors while precluding duplication of incentives. Those benefits of an approved VECP not rewardable under performance, design-to-cost, or similar incentives of the contract shall be rewarded under a Value Engineering clause. The targets of such incentives affected by the VECP shall not be adjusted because of the acceptance of the VECP.

(e) When an option provision in the contract is contemplated, the D&F shall set forth the approximate quantity to be awarded initially and the extent of the increase to be permitted by the option.

(f) D&Fs shall be dated at the time of signature.

(g) The authority to act under a D&F expires when the authority granted thereunder is exercised or on a specified expiration date, whichever first occurs. When the request for proposals or for quotations has been furnished to the prospective contractor prior to the expiration of the authority under the D&Fs, such authority will continue until award of the contract(s) resulting from that solicitation.

3-302 Determinations and Findings by the Secretary of a Department. The following determinations, and written findings in support thereof, may be made only by the Secretary of a Department and not delegated hereunder except to the extent provided in (i), (vii), and (viii) below:

(i) the determination required by 3-211 with respect to any negotiated contract for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test (but see 3-303(a)(ii) and 3-303(b) when the amount does not exceed $5 million);

(ii) the determination required by 3-212 with respect to any negotiated contract that should not be publicly disclosed;

(iii) the determination required by 3-213 with respect to any negotiated contract for technical equipment requiring standardization and interchangeability of parts;

(iv) the determination required by 3-214 with respect to any negotiated contract for technical or specialized supplies requiring a substantial initial investment or an extended period of preparation for manufacture;

(v) the determination required by 3-215 with respect to any negotiated contract entered into after advertising has proved unsatisfactory;

(vi) the determination required by 3-216 with respect to any negotiated contract entered into in the interest of national defense or industrial mobilization;

(vii) the determination required with respect to advance payments under any negotiated contract (but see Defense Contract Financing Regulations, Part 4, Appendix E); and

(viii) the determinations required with respect to waiving a requirement for submission of cost or pricing data and certification thereof (see 3-807.3(b)) and for inclusion of the clauses required by 7-104.29 and 7-104.42 (but see 3-303(a)(i) for contracts with foreign governments or agencies thereof).

In addition to the foregoing determinations, the Secretary of any Department may also make any of the determinations, and written findings in support thereof, that may be made by the Head of any Procuring Activity signing as a chief officer responsible for procurement or by a contracting officer.

3-303 Determinations and Findings Below the Secretarial Level.

(a) Determinations, and findings in support thereof, not required to be made by higher authority including those in (i) through (iv) below may be made with respect to individual purchases or contracts by the Head of a Procuring Activity signing as a chief officer responsible for procurement. Unless his authority is limited by higher authority, the contracting officer

may make the determinations and findings in (ii) through (iv) with respect to individual purchases and contracts:

(i) the determination required with respect to waiving the requirements for submission of cost or pricing data and certification thereof and for the inclusion of the clauses required by 7-104.29 and 7-104.42 for contracts with foreign governments or agencies thereof;

(ii) determinations and findings with respect to authority to enter into contracts by negotiation required by 3-202.3, 3-207.3, 3-208.3, 3-210.3 and 3-211.3; *provided*, that under 3-211.3 the basic contract or any single modification thereto does not obligate the Government to pay more than $5 million (in a procurement under 3-211, where it is known in advance that the scope of the contract will be expanded to include additional phases or where it is incrementally funded, the total estimated cost of all increments will be used as the basis for determining whether a determinations and finding will be made at the Secretarial level or by the contracting officer);

(iii) determinations and findings with respect to the use of a cost or a cost-plus-a-fixed-fee or an incentive-type contract required by 3-404.4, 3-405, 3-405.4, and 3-405.6; and

(iv) any other determinations and findings not required to be made by higher authority.

(b) The authority to make class determinations and findings with respect to authority to enter into contracts by negotiation pursuant to 3-202, 3-207, 3-208, 3-210 and 3-211 may be delegated by the Secretary of any Department; *Provided*, that any such delegation related to 3-211 shall limit individual transactions under a class to $5 million or less.

3-304 Reserved.

3-305 Formats for Determinations and Findings. A D&F with respect to (i) negotiation of an individual contract or a class of contracts, (ii) the type of contract to be used, or (iii) waiving a requirement for submission of cost or pricing data and certification thereof, should conform generally to the appropriate format set forth in Appendix J. A D&F for advance payments should be prepared in accordance with the format in E-410. A D&F for any other purpose shall be prepared in accordance with Departmental procedures. Each determination and findings shall set out enough facts and circumstances to justify clearly the specific determination made. Each determination and findings for authority to negotiate either an individual contract or a class of contracts shall clearly and convincingly establish that the use of formal advertising would not be feasible and practicable.

3-306 Procedure With Respect to Determinations and Findings.

(a) Determinations and findings for authority to negotiate required by 3-202, 3-207, 3-208, and 3-210 through 3-216 shall be signed by the appropriate official prior to issuance of a request for proposals or quotations. Any modifications of such Determinations and Findings subsequently found to be necessary will not require cancellation of the request for proposals or quotations, provided the

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Federal Supply Class Code	Commodity	DSA Center •
FSC ("P" after FSC number indicates partial FSC assignment.)		
4220	Marine Lifesaving and Diving Equipment.	DCSC
4310	Compressors and Vacuum Pumps.	DCSC
4320	Power and Hand Pumps.	DCSC
4330	Centrifugals, Separators, and Pressure and Vacuum Filters.	DCSC
4440	Driers, Dehydrators, and Anhydrators.	DCSC
4450	Industrial Fan and Blower Equipment.	DCSC
4460	Air Purification Equipment.	DCSC
4510	Plumbing Fixtures and Accessories.	DCSC
4520	Space Heating Equipment and Domestic Water Heaters.	DCSC
4530	Fuel Burning Equipment Units.	DCSC
4540	Miscellaneous Plumbing, Heating and Sanitation Equipment.	DCSC
4610	Water Purification Equipment.	DCSC
4620	Water Distillation Equipment, Marine and Industrial.	DCSC
4630	Sewage Treatment Equipment.	DCSC
4710	Pipe and Tube.	DCSC
4720	Hose and Tubing, Flexible.	DCSC
4730	Fittings and Specialities; Hose, Pipe and Tube.	DCSC
4810	Valves, Powered.	DCSC
4820	Valves, Nonpowered.	DCSC
4930	Lubrication and Fuel Dispensing Equipment.	DCSC
5280	Sets, Kits, and Outfits of Measuring Tools.	DGSC
5305	Screws.	DISC
5306	Bolts.	DISC
5307	Studs.	DISC
5310	Nuts and Washers.	DISC
5315	Nails, Keys and Pins.	DISC
5320	Rivets.	DISC
5325	Fastening Devices.	DISC
5330	Packing and Gasket Materials.	DISC
5335	Metal Screening.	DISC
5340	Miscellaneous Hardware.	DISC
5355	Knobs and Pointers.	DISC
5360	Coil, Flat and Wire Springs.	DISC
5365	Rings, Shims and Spacers.	DISC
5410	Prefabricated and Portable Buildings.	DCSC
5420	Bridges, Fixed and Floating.	DCSC
5430	Storage Tanks.	DCSC
5440	Scaffolding Equipment and Concrete Forms.	DCSC
5445	Prefabricated Tower Structures.	DCSC
5450	Miscellaneous Prefabricated Structures.	DCSC
5510	Lumber and Related Basic Wood Materials.	DCSC
5520	Millwork.	DCSC
5530	Plywood and Veneer.	DCSC
5560	Fencing, Fences and Gates.	DCSC
5680 P	Miscellaneous Construction Materials. This partial FSC assignment applies only to airplane landing mat. (Also, see footnote 1 at end of list relative to purchase of DSA managed items in GSA assigned classes.)	DCSC
5905	Resistors.	DESC
5910	Capacitors.	DESC
5915	Filters and Networks.	DESC
5920	Fuses and Lightning Arresters.	DESC
5925	Circuit Breakers.	DESC
5930	Switches.	DESC

[List continued on next page]

See footnotes at end of list.

Federal Supply Class Code	Commodity	DSA Center •
FSC ("P" after FSC number indicates partial FSC assignment.)		
5935	Connectors, Electrical.	DESC
5940	Lugs, Terminals, and Terminals Strips.	DGSC
5945	Relays, Contactors, and Solenoids.	DESC
5950	Coils and Transformers.	DESC
5955	Piezoelectric Crystals.	DESC
5960	Electron Tubes and Associated Hardware.	DESC
5961	Semiconductor Devices and Associated Hardware.	DESC
5962	Microelectronic Circuit Devices.	DESC
5965	Headsets, Handsets, Microphones and Speakers.	DESC
5970	Electrical Insulators and Insulating Materials.	DGSC
5975	Electrical Hardware and Supplies.	DGSC
5977	Electrical Contact Brushes and Electrodes.	DGSC
5985	Antennas, Waveguides, and Related Equipment.	DESC
5990	Synchros and Resolvers.	DESC
5995	Cable, Cord, and Wire Assemblies: Communication Equipment.	DGSC
5999	Miscellaneous Electrical and Electronic Components.	DESC
6105	Motors, Electrical.	DGSC
6110	Electrical Control Equipment.	DGSC
6115 P[9]	Generators and Generator Sets, Electrical.	DGSC
6130	Transformers: Distribution and Power Station.	DGSC
6145	Wire and Cable, Electrical.	DISC
6150	Miscellaneous Electric Power and Distribution Equipment.	DGSC
6210	Indoor and Outdoor Electric Lighting Fixtures.	DGSC
6220	Electric Vehicular Lights and Fixtures.	DGSC
6230	Electric Portable and Hand Lighting Equipment.	DGSC
6240	Electric Lamps.	DGSC
6250	Ballasts, Lampholders and Starters.	DGSC
6290	Nonelectrical Lighting Fixtures.	DGSC
6350	Miscellaneous Alarm and Signal Systems.	DGSC
6505 [6]	Drugs, Biologicals, and Official Reagents.	DPSC
6508 [6]	Medicated Cosmetics and Toiletries.	DPSC
6510 [6]	Surgical Dressing Materials.	DPSC
6515 [6]	Medical and Surgical Instruments, Equipment and Supplies.	DPSC
6520 [6]	Dental Instruments, Equipment, and Supplies.	DPSC
6525 [6]	X-Ray Equipment and Supplies: Medical, Dental and Veterinary.	DPSC
6530 [6]	Hospital Furniture, Equipment, Utensils, and Supplies.	DPSC
6532	Hospital and Surgical Clothing and Textile Special Purpose Items.	DPSC
6540 [6]	Opticians' Instruments, Equipment and Supplies.	DPSC
6545 [6]	Medical Sets, Kits, and Outfits.	DPSC
6630	Chemical Analysis Instruments.	DPSC
6635	Physical Properties Testing Equipment.	DGSC
6640	Laboratory Equipment and Supplies.	DPSC
6655	Geophysical and Astronomical Instruments.	DGSC
6670	Scales and Balances.	DGSC
6675	Drafting, Surveying and Mapping Instruments.	DGSC
6680	Liquid and Gas Flow, Liquid Level and Mechanical Motion Measuring Instruments.	DGSC
6750	Photographic Supplies.	DGSC
6810 [7]	Chemicals.	DPSC & DGSC
6820	Dyes.	DGSC

[List continued on next page]

See footnotes at end of list.

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Footnotes for list in 5-1201.6

1. These assignments do not apply to items decentralized by the DLA Center Commander, *i.e.*, designated for purchase by each Military Department, and to those items in DLA assigned Federal Supply Classes, which may be assigned to GSA for supply management. In addition, see 5-1201.2(a) which describes conditions under which a Military Service may purchase (contract for) Military Service supply managed items in DLA assigned Federal Supply Classes. See notes 2 and 3 below for further exceptions pertaining to certain DLA assignments.

2. DLA assignments in FSC 2510, 2520, 2530, 2540, 2590, 2805, 2910, 2920, 2930, 2940 and 2990 do not apply to repair parts peculiar to combat and tactical vehicles, which are assigned for coordinated procurement to the Department of the Army. In addition, the assignment in FSC-2805 does not apply to military standard engines 1.5 HP through 20 HP and parts peculiar therefor, which are assigned for coordinated procurement to the Department of the Army.

3. This partial FSC assignment in FSC 4210 does not apply to Fire Fighting Equipment developed by or under the sponsorship of a Military Department. The procurement responsibility for such equipment is assigned to the Department which developed or sponsored its development.

4. The Defense Supply Agency has procurement responsibility for all the items in the Classes of FS Group 65. In addition, DLA has procurement responsibility for all equipment and supplies related to the medical, dental, veterinary professions in Non-Group 65 Classes where the Military medical services have the sole or prime interest in such items. The specific item coverage of these Non-Group 65 items is published in the DOD Section of the Federal Supply Catalog for Medical Material C3-1 through C3-12, inclusive.

5. This assignment includes Health and Comfort items listed in AR 700-23. It also includes resale items for commissary stores (including brand name items).

6. DLA Centers are identified as follows:
DCSC — Defense Construction Supply Center.
DESC — Defense Electronics Supply Center.
DFSC — Defense Fuel Supply Center
DGSC — Defense General Supply Center.
DISC — Defense Industrial Supply Center.
DPSC — Defense Personnel Support Center.

7. DPSC is responsible for procurement of only petroleum base items in FSC 6810 and FSC 6850.

8. This partial assignment applies only to secondary items not identified as IPE. Such secondary items are listed in the applicable Federal Supply Catalog Management Data Lists of each respective Service.

9. This partial FSC assignment in FSC 6115 does not apply to Mobile Electric Power Generating Sources (MPEGS). The procurement direction responsibility for MEPGS is assigned to the DoD Project Manager, Mobile Electric Power by DoD Directive 4120.11. DoD components desiring to use other than the DoD Standard Family of Generator Sets, contained in MIL-STD 633, shall process a Request for Deviation in accordance with Joint Operating Procedures, AR 700-101, AFR 400-50, NAVMATINST 4120.100A, MCO 11310.8c and DLAR 4120.7, Subject: Management and Standardization of Mobile Electric Power Generating Sources, prior to initiating procurement.

5-1201.7 *Defense Nuclear Agency.**
Nuclear Ordnance

Federal Supply Class Code	*Commodity*
1105	Nuclear Bombs.
1110	Nuclear Projectiles.
1115	Nuclear Warheads and Warhead Sections.
1125	Nuclear Demolition Charges.
1127	Nuclear Rockets.
1130	Conversion Kits, Nuclear Ordnance.
1135	Fuzing and Firing Devices, Nuclear Ordnance.
1140	Nuclear Components.
1145	High Explosive Charges, Propellants, and Detonators: Nuclear Ordnance.
1190	Specialized Test and Handling Equipment, Nuclear Ordnance.
1195	Miscellaneous Nuclear Ordnance.

* In addition to the above, assignments to DNA include all items for which DNA has integrated management responsibility in accordance with DoD Directive 5100.31.

firmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The Contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

(End of clause)

7-103.29 *Clean Air and Water.* In accordance with 1-2302.2, insert the following clause.

CLEAN AIR AND WATER (1978 OCT)

(Applicable only if the contract exceeds $100,000, or the Contracting Officer has determined that orders under an indefinite quantity contract in any one year will exceed $100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c) (1)) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA, or the contract is not otherwise exempt.)

(a) The Contractor agrees as follows:

(i) to comply with all the requirements of section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq., as amended by Public Law 91-604) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this contract;

(ii) that no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing;

(iii) to use his best efforts to comply with clean air standards and clean water standards at the facilities in which the contract is being performed; and

(iv) to insert the substance of the provisions of this clause in any nonexempt subcontract, including this paragraph (iv).

(b) The terms used in this clause have the following meanings.

(1) The term "*Air Act*" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Public Law 91-604).

(2) The term "*Water Act*" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Public Law 92-500).

(3) The term "*clean air standards*" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), an approved implementation procedure or plan under section 111(c) or section

111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "*clean water standards*" means any enforceable limitation, control, condition, prohibition, standard or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by a local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "*compliance*" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an air or water pollution control agency in accordance with the requirement of the Air Act or Water Act and regulations issued pursuant thereto.

(6) The term "*facility*" means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor, subcontractor, to be utilized in the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are colocated in one geographical area.

(7) The term "*nonexempt contract or subcontract*" means a contract or subcontract of more than $100,000 which is not otherwise exempted pursuant to the EPA regulations implementing the Air Act and Water Act (40 CFR 15.5), as further implemented in ASPR 1-2302.4 or in FPR 1-1.2302-4 (whichever is applicable) and the procedures of the Department awarding the contract.

(End of clause)

7-103.30 *Invoices.*

INVOICES (1982 OCT)

(a) An invoice is a written request for payment under the contract for supplies delivered or for services rendered. In order to be proper, an invoice must include as applicable the following:

(i) invoice date;
(ii) name of contractor;
(iii) contract number (including order number, if any), contract line item number, contract description of supplies or services, quantity, contract unit of measure and unit price, and extended total;
(iy) shipment number and date of shipment (bill of lading number and weight of shipment will be shown for shipments on Government bills of lading);
(v) name and address to which payment is to be sent (which must be the same as that in the contract or on a proper notice of assignment);
(vi) name (where practicable), title, phone number and mailing address of person to be notified in event of a defective invoice; and
(vii) any other information or documentation required by other provisions of the contract (such as evidence of shipment).

Invoices shall be prepared and submitted in quadruplicate (one copy shall be marked "original") unless otherwise specified.

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(b) For purposes of determining if interest begins to accrue under the Prompt Payment Act (Public Law 97-177):

(i) a proper invoice will be deemed to have been received when it is received by the office designated in the contract for receipt of invoices and acceptance of the supplies delivered or services rendered has occurred;

(ii) payment shall be considered made on the date on which a check for such payment is dated;

(iii) payment terms (e.g., "net 20") offered by the Contractor will not be deemed a "required payment date;" and

(iv) the following periods of time will not be included:

(A) after receipt of an improper invoice and prior to notice of any defect or impropriety, but not to exceed 15 days (or any lesser period established by this contract); and

(B) between the date of a notice of any defect or impropriety and the date a proper invoice is received. When the notice is in writing, it shall be considered made on the date shown on the notice.

(End of clause)

7-104 Clauses to be used when applicable.

7-104.1 *Clauses for Fixed Price Supply Contracts Involving Construction Work.*

(a) In accordance with 12-106 and 18-703, insert the clauses in 7-602.23.

(b) In accordance with 7-602.20 and 7-602.24, insert the clauses set forth therein in addition to the clause in 7-104.3.

7-104.2 *Workmen's Compensation and War Hazard Insurance Overseas.*

(a) In accordance with 10-403(a), insert the following clause.

WORKMEN'S COMPENSATION INSURANCE (DEFENSE BASE ACT) (1960 JAN)

The Contractor before commencing performance under this contract shall provide and thereafter maintain such Workmen's Compensation Insurance or security as is required by the Defense Base Act, as amended (42 U.S.C. 1651). The Contractor further agrees to insert in all subcontracts hereunder to which the Defense Base Act is applicable, a clause similar to this clause, including this sentence, imposing on all such subcontractors a like requirement to comply with the Defense Base Act.

(End of clause)

(b) If a contract would otherwise be subject to 10-403(a) but 10-403(d) applies to some or all of the contractor's employees by reason of waiver by the Secretary of Labor, the provisions of 10-501.1(b) and (c) apply; and the following clause shall be included in the contract (see also 10-403(e)).

7-104.16 *Gratuities.* Insert the following clause in all fixed-price supply contracts and purchase orders, except contracts and purchase orders with foreign governments obligating solely funds other than those contained in Department of Defense appropriation acts.

GRATUITIES (1952 MAR)

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, by the Secretary or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract; *provided*, that the existence of the facts upon which the Secretary or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

7-104.17 *Convict Labor.* In accordance with Section XII, Part 2, insert the following clause.

CONVICT LABOR (1975 OCT)

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973.

(End of clause)

7-104.18 *Priorities, Allocations, and Allotments.* In accordance with 1-307.2, insert the following clause.

PRIORITIES, ALLOCATIONS, AND ALLOTMENTS (1975 OCT)

The Contractor shall follow the provisions of DMS Reg. 1 or DPS Reg. 1 and all other applicable regulations and orders of the Bureau of Domestic Commerce in obtaining controlled materials and other products and materials needed to fill this order.

(End of clause)

7-104.19 *Employment of Ocean-Going Vessels—Ocean Transport of Government-Owned Supplies.*

(a) In accordance with 1-1404(a), insert a clause substantially as follows:

OCEAN TRANSPORT OF GOVERNMENT-OWNED SUPPLIES (1963 NOV)

The Contractor shall advise the Contracting Officer of any proposed transportation by ocean vessels of Government-owned property in the possession of the Contractor or his subcontractors (including property under which title will pass to the Government prior to such transportation). Such property shall subsequently be transported only on United States-flag vessels as directed by the Contracting Officer.

(End of clause)

(b) In accordance with 1-1404(b)(1), insert the following clause.

EMPLOYMENT OF OCEAN-GOING VESSELS (1982 OCT)

If ocean transportation is required after the date of award of this contract in delivering any of the supplies to be furnished hereunder, the Contractor, promptly after each shipment, shall furnish to the U.S. Maritime Administration, Division of National Cargo, 14th and E Streets, N.W., Washington, D.C. 20230, one copy of the applicable ocean shipping document indicating for each shipment made under this contract the name and nationality of the vessel and the measurement tons (40 cubic feet) of dry cargo, or long tons (2,240 pounds) of bulk liquid cargo, shipped on such vessel.

(End of clause)

(c) In accordance with 1-1404(b)(2), insert the following clause.

PREFERENCE FOR UNITED STATES-FLAG VESSELS (1982 OCT)

(a) After the date of award of this contract, the Contractor shall employ privately owned United States-flag commercial vessels, and no others, in the transportation by sea of any supplies to be furnished hereunder; *provided*, however, that if such vessels are not available for timely shipment at fair and reasonable rates for such vessels, the Contractor shall so notify the Contracting Officer and request authorization to ship in foreign-flag vessels or designation of available United States-flag vessels. If the Contractor is authorized in writing by the Contracting Officer to ship such supplies in foreign-flag vessels, the contract price shall be equitably adjusted to reflect the difference in costs of shipping such supplies on privately owned United States-flag commercial vessels and foreign-flag vessels.

(b) Promptly after each shipment the Contractor shall furnish the U.S. Maritime Administration, Division of National Cargo, 14th and E Streets, N.W., Washington, D.C. 20230, one copy of the applicable shipping document indicating for each shipment made under the contract the name and nationality of the vessel and the measurement tons (40 cubic feet) of dry cargo, or long tons (2,240 pounds) of bulk liquid cargo shipped on such vessels.

(End of clause)

(d) *Reserved.*

knowledge and belief, the cost and pricing data submitted under (a) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each subcontract hereunder which exceeds $100,000 when entered into except where the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder in excess of $100,000, the Contractor shall insert the substance of the following clause:

SUBCONTRACTOR COST OR PRICING DATA—PRICE ADJUSTMENTS

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000. The requirements of this clause shall be limited to such contract modifications.

(b) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) prior to award of any subcontract, the amount of which is expected to exceed $100,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $100,000 when entered into.

(End of clause)

(b) Insert the following clause in all contracts, both formally advertised and negotiated, which exceed $100,000 other than those described in (a) above:

SUBCONTRACTOR COST OR PRICING DATA—PRICE ADJUSTMENTS (1970 JAN)

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000. The requirements of this clause shall be limited to such modifications.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances: (i) prior to the award of any subcontract the amount of which is expected to exceed $100,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract which exceeds $100,000.

(End of clause)

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(c) The requirement for inclusion of the above clauses in contracts with foreign governments or agencies thereof may be waived in exceptional cases by the Head of a Procuring Activity, stating in writing his reasons for such determination.

7-104.43 *Reserved.*

7-104.44 *Value Engineering (VE).*

(a) In accordance with 1-1704, insert the following clause:

VALUE ENGINEERING (1982 OCT)

(a) *Applicability.* This clause applies to any Value Engineering Change Proposal (VECP) developed, prepared, and submitted by the Contractor.

(b) *Definitions.*

(1) "Acquisition savings" means savings resulting from the application of VECPs to contracts awarded by the same contracting office or its successor for essentially the same unit. Acquisition savings include:

(i) instant contract savings, which are the net cost reductions on this, the instant contract, and which are equal to the unit cost reduction multiplied by the number of units affected by the VECP, less the Contractor's allowable development and implementation costs (on service contracts, the unit cost reduction is multiplied by the labor-hour rate agreed upon for the tasks involved; then the Contractor's allowable development and implementation costs are subtracted from the total);

(ii) concurrent contract savings, which are measurable net reductions in the prices of other contracts of the contracting office in existence at the time the VECP was accepted; and

(iii) future contract savings, which are the product of the unit cost reduction under the instant contract, adjusted to consider the effects of learning, quantities, or other similar factors, multiplied by

b. When the Government wishes and the Contractor agrees, payment of the Contractor's share of future contract savings may be made in a single lump-sum payment rather than in a series of payments over time as future contracts are awarded. Under this alternate procedure, the future contract savings may be calculated when the VECP is accepted, on the basis of the Contracting Officer's forecast of the number of units that will be delivered during the sharing period. The Contractor's share shall be included in the modification incorporating the VECP into the instant contract and shall not be subject to subsequent adjustment.

c. The Contractor's share on concurrent savings shall be determined by taking the reduction in price of all concurrent contracts, subtracting any Government costs or increase in instant contract price or target not yet offset, and multiplying the result by the Contractor's sharing percentages.

d. The Contractor's share on future contracts shall be determined by multiplying the number of units scheduled for delivery prior to the expiration of the sharing period times the unit cost reduction appropriate to the contract times the Contractor's sharing rate.

e. If the Government properly rejects or does not receive units on which the share is paid, the Contractor shall reimburse the Government the proportionate share of these payments.

(5) Alternate No-Cost Settlement Method. When, in accordance with 1-1706.3, the Government and the Contractor mutually agree to use the no-cost settlement method, the following applies:

(i) the Contractor will keep all the savings on the instant contract and on his concurrent contracts only.

(ii) the Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.

(g) *Collateral Savings.* If a VECP is accepted, the instant contract amount shall be increased, as specified in (f)(3)(iv), by 20 percent of the projected net reduction in collateral costs determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's

share of collateral savings shall not exceed (i) the contract's firm fixed price, target price, target cost, or estimated cost at the time the VECP is accepted, or (ii) $100,000, whichever is greater. The Contracting Officer shall be the sole determiner of the amount of collateral savings, and that amount shall not be subject to the Disputes clause. In all cases, degradation of performance, service life, or capability shall be considered in determining savings.

(h) *Relationship to Other Incentives.* Those benefits of an accepted VECP not rewardable under performance, design-to-cost (production unit cost, operating and support costs, reliability and maintainability), or similar incentives shall be rewarded under this clause. The targets of such incentives affected by the VECP shall not be adjusted because of VECP acceptance. If this contract does not provide such incentives to surpass specified targets, the VE sharing shall apply only to the amount of achievement better than target.

(i) *Subcontracts.* The Contractor shall include appropriate VE clauses in any subcontract of $100,000 or more and may include them in subcontracts of lesser value. To compute any adjustment in the contract price under paragraph (f) above, the Contractor's VECP development and implementation costs shall include any subcontractor's development and implementation costs and any VE incentive payments to subcontractors that clearly result from the VECP. No such payment or accrual to a subcontractor will be permitted to reduce the Government's share of concurrent, future, or collateral savings.

(j) *Data.* The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by making the following legend on the affected parts:

> "These data, furnished under the Value Engineering clause of Contract _____, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a VECP submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations."

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data.

(End of clause)

(b) Alternate I. In accordance with 1-1704.2, if the Contracting Officer selects a mandatory VE program requirement, substitute the following in place of paragraph (a) of the basic clause:

> (a) *General.* The Contractor shall (i) engage in a VE program and submit VE progress reports as specified in the contract schedule, and (ii) submit to the Contracting Officer any resulting Value Engineering Change Proposals (VECPs). (1980 DEC)
>
> (End of clause paragraph)

(c) Alternate II. In accordance with 1-1704.3, if the Contracting Officer selects both a VE incentive and mandatory VE program requirement, substitute the following in place of paragraph (a) of the basic clause:

> (a) *Applicability.* This clause applies to any Value Engineering Change Proposal (VECP) developed, prepared, and submitted by the Contractor. For those contract line items designated in the schedule as subject to the VE program requirement, the Contractor shall (i) engage in a VE program and submit VE progress reports as specified in the schedule, and (ii) submit to the Contracting Officer any resulting VECPs. The VE incentive provisions shall apply to the remaining areas of the contract. (1980 DEC)
>
> (End of clause paragraph)

(d) Alternate III. In accordance with 1-1704.4, when the head of the contracting activity determines that the cost of computing and tracking collateral savings will exceed the benefits to be derived, use the basic clause in 7-104.44, delete paragraph (g), and renumber the remaining paragraphs.

(e) Alternate IV. If a mandatory VE program requirement is included in an architect-engineer contract, use the clause in 7-104.44, but substitute paragraph (a) below for paragraph (a) of the basic clause, delete paragraphs (f), (g), and (h) of the basic clause, and renumber the remaining paragraphs.

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(a) *General.* The Contractor shall (i) engage in a VE program and submit VE progress reports as specified in the contract schedule, and (ii) submit to the Contracting Officer any resulting Value Engineering Change Proposals (VECPs). (1980 DEC)

(End of clause paragraph)

..... percent (.....%) of the lump sum price will be paid to the Contractor upon completion of his mobilization at the work site. The remaining .....percent (.....%) will be paid to the Contractor upon completion of demobilization.

(b) In the event the Contracting Officer considers that the amount in this item (.....%), which represents mobilization and (.....%) which represents demobilization, does not bear a reasonable relation to the cost of the work in this contract, the Contracting Officer may require the Contractor to produce cost data to justify this portion of the bid. Failure to justify such price to the satisfaction of the Contracting Officer will result in payment of actual mobilization costs, as determined by the Contracting Officer at the completion of mobilization, and actual demobilization costs, as determined by the Contracting Officer at the completion of demobilization, and payment of the remainder of this item in the final payment under this contract. The determination of the Contracting Officer is not subject to appeal.

(End of clause)

(3) The percentage of the lump sum price, for mobilization and demobilization in paragraph (a) of the above clauses, attributed to mobilization should generally be 60% and the remaining 40% considered to be the cost of demobilization. These percentages may be varied to reflect the situation contemplated under the particular contract, but in no event should mobilization exceed 80% of the payment item.

7-603.38 *Exclusion of Periods in Computing Completion Schedules.* Insert the following clause in contracts which provide that no work will be required between certain dates:

EXCLUSION OF PERIODS IN COMPUTING COMPLETION SCHEDULES (1965 JAN)

No work will be required during the period between ..... and ..... inclusive and such period has not been considered in computing the time allowed for completion. The Contractor may, however, perform work during all or any part of this period upon giving prior written notice to the Contracting Officer. If the work performed during such period is less than *(..... cubic yards) (the average monthly work necessary to complete the contract within the time specified) and the Contracting Officer maintains an inspection force during this period to inspect the work, the Contractor will be charged the percentage of the cost of maintaining such force that his work is less than *(..... cubic yards) (the average monthly work necessary to complete the contract within the time specified).

(End of clause)

(**Delete inapplicable provision.*)

7-603.39 *Amount of Liquidated Damages.* In accordance with 18-113, insert the following clause.

LIQUIDATED DAMAGES (1965 JAN)

In case of failure on the part of the Contractor to complete the work within the time fixed in the contract or any extensions thereof, the Contractor shall pay to the Government as liquidated damages, pursuant to the clause of this contract entitled "Termination for Default—Damages for Delay—Time Extensions", the sum of ..... for each day of delay.

(End of clause)

7-603.40 *Required Source for Jewel Bearings and Related Items.* In accordance with 1-2207.2, insert the clause in 7-104.37.

7-603.41 *Employment of Ocean-Going Vessels by Construction Contractors.* In accordance with 1-1409, insert the following clause.

EMPLOYMENT OF OCEAN-GOING VESSELS BY CONSTRUCTION CONTRACTORS (1982 OCT)

(a) If ocean transportation is required after the date of award of this contract to bring any supplies, materials, or equipment, to the construction site from the United States either for use in performance of or for incorporation in the work called for by this contract, United States-flag vessels shall be employed in such transportation to the extent such vessels are available at fair and reasonable rates for United States-flag vessels. The Contractor shall not make any shipment by other than a United States-flag vessel without notifying the Contracting Officer that United States-flag vessels are not available at fair and reasonable rates for such vessels and obtaining his permission to ship in other vessels. If such permission is granted, the contract price shall be equitably adjusted to reflect the difference in cost.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in each subcontract or purchase order hereunder which may involve the ocean transportation of construction supplies, materials, or equipment from the United States.

(c) Promptly after each shipment, the Contractor shall furnish to the U.S. Maritime Administration, Division of National Cargo, 14th and E Streets, N.W., Washington, D.C. 20230, one copy of the applicable ocean shipping document indicating for each shipment made under this contract the name and nationality of the vessel and the measurement tons (40 cubic feet) shipped on the vessel.

(End of clause)

7-603.42 *Architectural Designs and Data—Government Rights.*

(a) In accordance with 18-910.1(a), insert one of the following clauses, if appropriate.

(1) *Government Rights (Unlimited).*

GOVERNMENT RIGHTS (UNLIMITED) (1979 MAR)

The Government shall have unlimited rights, in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor for a period of three years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of clause)

7-1303.6 *Containers and Equipment.* If the contractor is to furnish cabinets for dispensing milk from bulk containers, a notice so stating shall be included in the Schedule of solicitations and resultant contracts. The notice shall state (i) the number of dispenser cabinets required, or a reasonably accurate estimate thereof, (ii) whether metal stands for the cabinets are required, (iii) the number of cabinets required with a capacity of two containers each, and (iv) the number required with a capacity of three containers each. In addition, the following clause shall be included in the contract.

CONTAINERS AND EQUIPMENT (1967 APR)

(a) Dispenser containers and filling equipment used by the Contractor in the performance of this contract, and any refrigerated bulk milk dispenser cabinets furnished by the Contractor, shall comply with MIL-STD-175, "Minimum Sanitary Standards for the Equipment and Methods for the Handling of Milk and Milk Products in Bulk Milk Dispensing Operations," as amended.

(b) Any bulk milk dispenser cabinets required by the Schedule to be furnished by the Contractor shall be installed, serviced, and maintained to the satisfaction of the Contracting Officer. All responsibility for the supply, installation, maintenance, and removal thereof, including labor and material costs, and for any damage thereto or loss or destruction, shall remain with the Contractor.

(c) When, and for as long as, the Contractor fails to furnish bulk milk dispenser cabinets or milk dispenser containers as required in the Schedule, or does not properly service, maintain, and repair said dispenser cabinets, so that milk cannot be dispensed as needed by the Government, the Contractor shall deliver a sufficient quantity of milk in half-pint containers to satisfy orders for milk dispenser containers, at the price per gallon for milk dispenser containers.

(d) Any contamination, spoilage, leakage, or other loss of any contents of a dispenser container due to functional failure of the dispenser cabinets or dispenser containers, except for a general power failure at the Government installation, shall be replaced immediately by the Contractor without cost to the Government.

(e) The tare weight of dispenser containers required to be certified in accordance with paragraph (b) of the clause entitled "Examination and Testing" shall include all parts of the container delivered as a complete unit, including lids, tubes, and seals.

(End of clause)

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Part 14—Laundry and Dry Cleaning Contracts

7-1400 Scope of Part. This Part sets forth special uniform contract clauses for laundry and dry cleaning contracts (see Section XXII, Part 7). These clauses are to be used when applicable in addition to other required or applicable clauses prescribed by Section VII, Part 19.

7-1401 Clauses to be Used When Applicable. The clauses of this paragraph may be modified to meet local conditions.

7-1401.1 *Reserved.*

7-1401.2 *Reserved.*

7-1401.3 *Reserved.*

7-1401.4 *Reserved.*

7-1401.5 *Count or Weight of Articles.* In accordance with 22-702, include the following, as applicable.

(a) *Count of Articles.* The following clause is for inclusion in contracts for laundry and dry cleaning services on a count of articles basis.

COUNT OF ARTICLES (1967 APR)

(a) The Contractor shall be liable for return of the number and kind of articles furnished for service under this contract, in accordance with the count of the Contracting Officer, or the number and kind of articles agreed upon as a result of a joint count by the Contractor and the Contracting Officer at the time of delivery to the Contractor.

(b) Delivery tickets in the number of copies required, and in the form approved by the Contracting Officer shall be completed by the Contractor at the time of his receipt of the articles to be serviced. One copy of each delivery ticket shall accompany the Contractor's invoice.

(End of clause)

(b) In case of damage to any property which the Contracting Officer and the Contractor agree can be satisfactorily repaired, the Contractor shall repair the property at his expense in a manner satisfactory to the Contracting Officer.

*Insert reasonable per pound price based on the average per pound value of the property to be serviced. When the contract requires laundry services on a bag type basis, reasonable per pound prices shall be identified by bag type.

(End of clause)

7-1401.7 *Reserved.*

7-1401.8 *Reserved.*

7-1401.9 *Reserved.*

7-1401.10 *Reserved.*

7-1401.11 *Special Definitions of Government Property.*

SPECIAL DEFINITIONS OF GOVERNMENT PROPERTY (1967 APR)

(a) The term "Government-furnished property," as used in this contract, means any supplies or facilities furnished to the Contractor by the Government for use in connection with the performance of this contract, but does not include the articles delivered to the Contractor to be laundered or dry cleaned.

(b) The term "Government-owned property," as used in this contract, means all of the articles delivered to the Contractor to be laundered or dry cleaned, expressly including any articles which may actually be owned by individual Government personnel.

(End of clause)

7-1401.12 *Individual Laundry.* The following clause shall be inserted in any contracts which, pursuant to Departmental authority, provide for laundry service to individual personnel.

INDIVIDUAL LAUNDRY (1967 APR)

(a) The Contractor shall provide laundry service on both a unit bundle and on a piece-rate bundle basis for individual personnel when required by this contract. The total number of pieces listed in the column "Estimated Quantity" in the Schedule is the estimated amount of individual laundry for this contract, but does not constitute any representation as to the amount of individual laundry to be required. Individuals may elect whether they shall patronize the laundry services. Services covered by this provision shall be on a weekly basis and the schedule for pickup and delivery shall be as specified elsewhere in this contract. Charges for individual laundry shall be on a per unit bundle or a piece-rate basis as indicated on the form, to be furnished by the Contractor, accompanying the bundle at time of pickup.

(b) The maximum number of pieces to be allowed per bundle is as specified in the Schedule and as follows:*

(i) Bundle consisting of twenty-six (26) pieces including laundry bag. This bundle shall contain approximately ..... pieces of outer garments which are to be starched and pressed. Outer garments shall include but not be limited to cotton shirts, trousers, jackets, dresses, coats.

(ii) Bundle consisting of thirteen (13) pieces including laundry bag. This bundle shall contain approximately ..... pieces of outer garments which are to be starched and pressed. Outer garments shall include but not be limited to cotton shirts, trousers, jackets, dresses, coats.

(c) Individual laundry bundles shall be accompanied by forms listing the items contained therein, prepared by the patrons concerned. Forms on individual laundry bundles shall clearly identify unit bundle or piece-rate bundle as applicable when both services are provided by this contract.

(End of clause)

*The number of pieces and the composition of a bundle may be revised by the contracting officer prior to advertising to meet local conditions.

7-1401.13 *Right of First Refusal for Employment of Displaced Laundry Workers.* In accordance with 4-1202, insert the clause in 7-104.104.

7-1401.14 *Maximum Weight Loss.* The following clause shall be included in all contracts for laundry services on a bulk weight basis.

MAXIMUM WEIGHT LOSS (1981 OCT)

The maximum weight loss allowable in servicing the laundry is * percent of the weight recorded on delivery tickets, as set forth in the clause entitled "Weight of Articles," when the laundry is picked up. Any weight loss in excess of this amount shall be subject to the clause hereof entitled "Loss or Damage."

*Insert applicable percentage not to exceed eight percent (8%).

(End of clause)

Part 18— Reserved

(i) difference between the mortgage interest rates of the old and new residences times the current balance of the old mortgage times 3 years; and

(ii) when mortgage differential payments are made on a lump sum basis and the employee leaves or is transferred again in less than 3 years, the amount initially recognized shall be proportionately adjusted to reflect payments only for the actual time of the relocation.

(8) Rental differential payments covering situations where relocated employees retain ownership of a vacated home in the old location and rent at the new location. The rented quarters at the new location must be comparable to those vacated, and the allowable differential payments may not exceed the actual rental costs for the new home, less the fair market rent for the vacated home times 3 years.

(9) Cost of canceling an unexpired lease.

(b) (CWAS) The costs described in (a) above must also meet the following criteria to be considered allowable.

(1) The move is for the benefit of the employer.

(2) Reimbursement must be in accordance with an established policy or practice that is consistently followed by the employer, and is designed to motivate employees to relocate promptly and economically.

(3) The costs are not otherwise unallowable under the provisions of 15-205.33, or any other paragraph of Part 2 (see 15-107 as related to large-scale contractor relocation).

(4) Amounts to be reimbursed shall not exceed the employee's actual expenses, except that for miscellaneous costs of the type discussed in (a)(4), a flat amount, not to exceed $1,000, may be allowed in lieu of actual costs.

(c) (CWAS-NA) The following types of costs are not allowable:

(1) Loss on sale of a home.

(2) Continuing mortgage principal payments on residence being sold.

(3) Costs incident to the acquisition of a home in a new location as follows:

(i) real estate brokers fees and commissions;

(ii) costs of litigation;

(iii) real and personal property insurance against damage or loss of property;

(iv) mortgage life insurance;

(v) owner's title policy insurance when such insurance was not previously carried by the employee on the old residence (however, cost of a mortgage title policy is allowable); and

(vi) property taxes and operating or maintenance costs.

(4) Payments for employee's income taxes or FICA (social security taxes) incident to reimbursed relocation costs.

(5) Payments for job counseling and placement assistance to employee spouses and dependents who were not employees of the contractor at the old location.

(6) Costs incident to furnishing equity or nonequity loans to employees or making arrangements with lenders for employees to obtain lower-than-market rate mortgage loans.

(d) (CWAS-NA) If relocation costs for an employee have been allowed either as an allocable indirect or direct cost, and the employee resigns within 12 months for reasons within the employee's control, the contractor shall refund or credit the relocation costs to the Government.

full CAS covered contracts on the same date that CAS 417 becomes applicable. For non-CAS covered contracts or modified CAS covered contracts, the cost of money will first be allowable for new awards made on or after the effective date of this cost principle change. Whether or not the contract is otherwise subject to the cost accounting standards, and except as specified in paragraph 3 (below), the cost of money for capital assets under construction, fabrication, or development is allowable only when:

(i) the cost of money is calculated, allocated to contracts, and costed in accordance with 3-1301;

(ii) the contractor maintains adequate records to demonstrate compliance with (i) above;

(iii) the cost of money for tangible capital assets is included in the capitalized cost which provides the basis for allowable depreciation costs, or in the case of intangible capital assets, the cost of money is included in the cost of those assets for which amortization costs are allowable.

(3) Actual interest cost in lieu of the calculated imputed cost of money for capital assets under construction, fabrication, or development is unallowable.

(4) The cost of money for capital assets under construction need not be entered on the contractor's books of account. However, the contractor shall (i) make a memorandum entry of the cost and (ii) maintain, in a manner that permits audit and verification, all relevant schedules, cost data, and other data necessary to support the entry.

(5) Cost of money that is allowable under subparagraph (b) of this cost principle shall be an "incurred cost" for reimbursement purposes under applicable cost reimbursement contracts and for progress payment purposes under fixed-price contracts. (See E-509.5.)

15-205.51 *Lobbying Costs.* (CWAS-NA)

(a) For the purpose of this section, lobbying is defined as any activity, including legislative liaison, or communication which is intended or designed to influence, directly or indirectly, or to engage in any campaign to encourage others to influence members of any legislative body, their staffs, or the staffs of their committees to favor or oppose legislation, appropriations or other actions of the legislative body, its members, or its committees. Lobbying activity includes, but is not limited to, all forms of communications for the above-mentioned purposes by the contractor, its employees, or its agents with the legislative body, its members, and staffs of members and committees.

(b) The costs of lobbying as defined herein, including the applicable portion of the salaries of the contractor's employees and the fees of individuals or firms engaged in lobbying, on behalf of the contractor (whether or not the individuals or firms are registered as lobbyists under any applicable law) are unallowable. In addition, the directly associated costs (see 15-201.6) of lobbying are unallowable.

15-205.52 *Defense of Fraud Proceedings.* (CWAS-NA)

(a) Costs incurred in connection with defense of any (i) criminal or civil investigation, grand jury proceeding or prosecution, (ii) civil litigation, or (iii) suspension, debarment or other administrative proceedings, or any combination of the foregoing, brought by the Government against a contractor, its agent or employee, are unallowable when the charges, which are the subject of the investigation, proceedings, or prosecution, involve fraud on the part of the contractor, its agent or employee, as defined in (b) below, and result in conviction (including conviction entered on a plea of nolo contendere), judgment against the contractor, its agent or employees, or decision to debar or suspend, or are resolved by consent or compromise.

(b) Fraud, as used in this paragraph, includes (i) acts of fraud or corruption or attempts to defraud the Government or to corrupt its agents, (ii) acts which constitute a cause for debarment or suspension under DAR 1-604.1(i) and 1-605.1(i), and (iii) acts which violate the False Claims Act, 31 U.S.C., sections 231-235, or the Anti-Kickback Act, 41 U.S.C., sections 51 and 54.

(c) Costs, as used in this paragraph, include, but are not limited to, administrative and clerical expenses; the costs of legal services, whether performed by in-house or private counsel; the costs of the services of accountants, consultants, or others retained by the contractor to assist it; the salaries and wages of employees, officers, and directors; and any of the foregoing costs incurred prior to the commencement of the formal judicial or administrative proceedings which bear a direct relationship to the proceedings.

(d) In circumstances where the charges of fraud are resolved by consent or compromise, the parties may agree as to the extent of allowability of such costs as a part of such resolution.

(e) Costs which may be unallowable under (a)-(d) above shall be differentiated and accounted for by the contractor so as to be separately identifiable. During the pendency of any proceeding or investigation covered by (a) above, the contracting officer should generally withhold payment of such costs. However, the contracting officer may in appropriate circumstances provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreement by the contractor to repay all unallowable costs, plus interest, if a conviction or judgment is rendered against it.

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CONTRACT COST PRINCIPLES AND PROCEDURES

15-206 Notice of Intent to Disallow or Not Recognize Costs.

(a) *Purpose.* The clause entitled "*Notice of Intent to Disallow or Not Recognize Costs*" is a required clause for all cost-type contracts and fixed-price incentive contracts and contracts providing for price redetermination (*see 7-203.35*). A Notice of Intent to Disallow or Not Recognize Costs provides the basis under a contract for the contractor to appeal, prior to final settlement of costs of the contract, a determination of exception to costs either incurred or to be incurred. It thereby provides a vehicle for disputes to be settled in a more timely fashion.

(b) At any time during the performance of the contract, the cognizant contracting officer may issue a Notice of Intent to Disallow or Not Recognize Costs stating his intent to take exception to specific costs or portions thereof, under the contract. Usually, the decision to issue a Notice of Intent to Disallow or Not Recognize Costs results from activities performed through monitorship of contractors' cost (*see Section XX, Part 10*), or on advice of auditors or technical personnel. Also, the decision to issue a Notice of Intent to Disallow or Not Recognize Costs shall only be made after discussion between the contracting officer and the contractor. The notice should be specific as to the type of cost to which exception is taken, the amount of such exception (if applicable), reasons for exception, applicable time period of the exception, and should reference the Notice of Intent to Disallow or Not Recognize Costs clause of the contract. When such notification involves elements of indirect costs, the approval of the contracting officer having authority for final settlement of overhead shall be obtained prior to issuance of of the notice except that a Corporate Administrative Contracting Officer (CACO) need not obtain the approval of local cognizant ACOs for items of corporate expense. When the Notice of Intent to Disallow Not Recognize Costs is issued, the originating contracting officer (CACO or ACO) will distribute information copies to all administrative contracting officers cognizant of that corporation. The notice will allow the contractor sixty days in which to contest the exception in writing and provide justification why the proposed expediture is justifiable and reasonable. The ACO will then consider the contractor's position and shall within sixty days either modify his original position or issue a decision in writing under the Disputes clause of the contract. When elements of indirect cost are involved, such decision will be rendered by the contecting officer with authority for final overhead settlement (*see 3-700*).

(c) As a minimum the Notice of Intent to Disallow or Not Recognize Costs should contain the following information:

(i) contractor identification;
(ii) contract(s) affected;
(iii) description of cost exception(s);
(iv) estimated dollar value by item;
(v) reason(s) for the exception;
(vi) applicable time period(s) involved;
(vii) potential impact on billing rates and FPRAs;
(viii) effective date of notice;
(ix) provision for acknowledgment of receipt;
(x) date when formal reply must be received; and
(xi) recipients of copies of notice.

SECTION XVI

PROCUREMENT FORMS

16-000 Scope of Section. This Section prescribes forms for use in connection with the procurement of supplies and services (see Appendix F for illustrations of these forms). In using these forms for procurement outside the United States, its possessions, and Puerto Rico, contract provisions which are made inapplicable to such procurement by or under authority of ASPR may be deleted.

16-001 Continuation of Forms. Except as may be otherwise indicated with respect to individual forms or groups thereof, all procurement forms may be continued on bond paper. The Continuation Sheet (Standard Form 36) may be used when columns are required. Continuation sheets will be annotated in the upper right-hand corner with the reference number of the document being continued and the serial page number of the total pages being prepared, *e.g.*, Page 5 of 15.

Part 1—Forms for Supply and Services Contracts

16-100 Scope of Part. This Part prescribes forms for use in acquiring supplies and services either by formal advertising or by negotiation (but see also Part 2 of this Section); it is not applicable to specialized acquisition for which other instructions are prescribed by DAR or Departmental procedures (see 1-108).

16-101 Forms for Advertised Supply or Services Contracts (Standard Forms 33, 33A, 32, 36, 30 and 26 and DD Form 1707).

16-101.1 *General.* The following contract forms shall be used in effecting acquisitions of supplies or services by formal advertising:

(i) Solicitation, Offer, and Award (Standard Form 33), including Representations, Certifications, and Acknowledgements (either March 1977 edition or exception approved 9/25/78) for use with Uniform Contract Format in 2-201(a) and 3-501(b) and Information to Offerors or Quoters (DD Form 1707), which may be reproduced locally, unless such action is precluded by Departmental direction;

(ii) Solicitation Instructions and Conditions (Standard Form 33A) (Jan. 1978 edition). In supply contracts substitute the Discounts clause in 7-103.14 and in service contracts substitute the Discounts clause in 7-1902.11 for paragraph 9(b). In both supply and service contracts, substitute the Invoices provision in 7-103.30 for paragraph 13, the Order of Precedence provision in 7-2003.41 for paragraph 19, and the Late Bids provision in 7-2002.2 for paragraphs 7 and 8. (For negotiated contracts, use the Late Technical Proposals provisions in 7-2002.3, or the Late Proposals provision in 7-2002.4);

(iii) General Provisions (Supply Contract), Standard Form 32, Apr. 1975 edition (to be used only when acquiring supplies). When using this form, the clause in 7-105.1(b) shall be added;

(iv) Any other special terms for the solicitation or additional contract provisions which are prescribed by the DAR or Departmental procedures (see 1-108);

(v) Continuation Sheet (Standard Form 36);

(vi) Amendment of Solicitation / Modification of Contract (Standard Form 30) when needed (see 16-103); and

(vii) Award/Contract (Standard Form 26) when needed.

16-101.2 *Conditions for Use.*

(a) The Solicitation, Offer and Award (Standard Form 33) shall be prepared in accordance with 2-201.

(1) Normally, only two copies of the solicitation will be forwarded to each prospective offeror and each offeror shall be requested to return one signed copy of his offer. In those cases where it is more practical or cost effective, three copies of the solicitation may be forwarded and the offeror requested to return two signed copies. For acquisitions made by the Defense Fuel Supply Center, four copies of the solicitation may be forwarded and the offeror requested to return three signed copies. A DD Form 1707 shall accompany each solicitation.

(b) Standard Forms 32 and 33A and any additional general provisions may be attached to each copy of the Solicitation. Alternatively, Standard Forms 32 and 33A may be incorporated by reference to the form number, name, and edition date; also, additional general provisions (contract clauses) that (i) are authorized in Section VII, (ii) do not contain blanks to be filled in by the offeror

reference to the DAR paragraph number, clause title and date. No other contract clauses shall be incorporated by reference but they shall be set forth in full in the solicitation.

(5) When a cost breakdown is required in connection with an offer, the DD Form 633 shall be used as provided in 16-206.

(6) This paragraph does not preclude the use of the purchase order forms prescribed in Section XVI, Part 3.

(7) When it is necessary to issue an amendment to a solicitation for offers, Standard Form 30 shall be used.

16-102.4 *Solicitation, Offer, and Award (Overseas) (DD Form 1665).*

(a) *General.* The following forms are prescribed for use outside the United States, its possessions and Puerto Rico in effecting negotiated fixed-price contracts for supplies or services:

(i) Solicitation, Offer, and Award (Overseas) (DD Form 1665), substituting the Late Technical Proposals provision in 7-2002.3 or the Late Proposals provision in 7-2002.4 for paragraphs 7 and 8, and substituting the Invoices provision in 7-103.30 for paragraph 12;

(ii) for contracting offices in the North Atlantic—Mediterranean area, including all of Europe, contract clause forms issued by USEUCOM (see 1-104(b)); for overseas contracting offices not under USEUCOM, any other forms containing contract provisions which are prescribed by DAR or Departmental procedures;

(iii) Continuation Sheet (Standard Form 36) (see 16-101.2(d)); and

(iv) Amendment of Solicitation / Modification of Contract (Standard Form 30) when needed (see 16-103).

(b) *Conditions for Use.* The conditions for use of DD Form 1665 are the same as for Standard Form 33 (see 16-102.3(b)).

(c) *Optional Use of Uniform Contract Format.* The Uniform Contract Format (see 3-501(b)(1)) may be used with the DD Form 1665.

16-103 Amendment of Solicitation / Modification of Contract (Standard Form 30).

(a) *General.* This paragraph prescribes a single form for (i) amendment of solicitations (whether advertised or negotiated), and (ii) modification of contracts including purchase and delivery orders entered into on DD Form 1155 (see 3-608.4).) Use of this form is optional for amendment of solicitation for the acquisition of construction and price change modification of contracts for the acquisition of petroleum products as a result of economic price adjustment.

(b) *Conditions for Use.* This form shall be used for:

(i) any amendment to a solicitation;

(ii) any change order issued pursuant to the Changes clause of a contract;

(iii) any other unilateral contract modification (see 1-201.2) issued pursuant to a contract provision authorizing such modification without the consent of the contractor;

(iv) administrative changes such as the correction of typographical mistakes, changes in the paying office and changes in accounting and appropriation data;

(v) supplemental agreements as defined in 1-201.18; and

(vi) provisioned items orders.

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(c) *Continuation of Amendments / Modifications.* Standard Form 36 or a blank sheet of paper may be used for continuation of amendments / modifications (see 16-101.2(d)).

(d) *Modification of Construction Contracts.* When used to modify a contract for construction, this form may be altered to provide for the contractor's written acknowledgment of the change orders. (See 16-405.4 for instructions relative to modifying a contract for construction.)

(e) *Identification of FMS Contract Modifications.* If the modification adds FMS requirements, identify the modification by clearly stamping or otherwise indicating "*FMS Requirement*" on the face of the modification and specify within the modification each FMS case identifier code by line/subline item number, e.g., FMS Case Identifier GY-D-DCA, for such added FMS items.

16-104 Instructions for Preparation of Forms for Advertised and Negotiated Supply and Services Contracts (Standard Forms 33, 26, 30, and 18).

16-104.1 *General.* The following information is applicable to all of the forms discussed in this paragraph.

(a) *Codes.* Entries in the code blocks provided on the forms are required if administration is assigned (i) to DCAS, or (ii) to a non-DCAS office listed in the DoD Directory of Contract Administration Services components and the contractor is located in the continental United States or Canada. The organizational entity address codes to be entered on contracts are as follows:

(1) *Codes published in the DoD Activity Address Directory (DODAAD), DoD 4000.25D.* These codes are to be used for Government entities. However, the "Ship To / Mark For" block shall use a DODAAD code for non-Government entities for shipments to satisfy MILSTRIP requisitions for that non-Government entity.

(2) *Codes published in Handbook of Non-Government Organizations for MILSCAP, H8-1/H8-2 Handbooks.* These codes will be used for all non-Government entities, except for the condition as noted in (i) above.

(b) *Dates.* All date entries shall be constructed with a 2-position numeric year; 3-position alpha month, and a 2-position numeric day; *e.g.*, 71NOV06.

(c) *Self-Explanatory Blocks.* Self-explanatory blocks are not discussed.

(d) *Uniform Contract Format (UCF).*

(1) A Uniform Contract Format (UCF) consisting of (i) a standard table of contents and (ii) a standard location for all provisions under applicable section headings is set forth in 2-201(a) and 3-501(b). The table of contents is required in written solicitations and contracts (excluding orders under basic ordering agreements). Placement of provisions under applicable section headings is required in written solicitations, solicitation amendments, awards under solicitations, contracts (including contracts under basic agreements), and contract modifications.

(2) When a particular Section or Sections are not necessary (as for example, Sections C and D are not necessary because part numbers, NSNs, brief item descriptions and/or preservation and packaging information in Section B provide sufficient descriptive details), the unnecessary Sections should not be checked.

(e) *Identification of Contract Type.* When forms discussed in this paragraph are prepared for execution as contract documents, or when the Standard Form 30 is being used as a contract modification document, the type of contract shall be identified by inserting in the title block the alpha code corresponding to the types described as follows:

(c) When Contract Cost Data Reports are required by the purchase request, the contractor shall be required to submit DD Forms 1921 and/or 1921-1 to support the DD Form 633. The DD Forms 1921 shall be prepared in accordance with the Contractor Cost Data Reporting (CCDR) System (Army - AMCP 715-8, Navy - NAVMAT P5241, and Air Force - AFLCP/AFSCP 800-15). The contractor supporting data shall be prepared in such a manner as to support each cost element on the DD Form 1921-1.

(d) DD Form 783 (Royalty Report (Foreign and Domestic)) is approved for use as the separate schedule required by DD Form 633.

16-206.2 *Contract Pricing Proposal Supporting Schedules* may be devised by contracting offices to require such supporting data to the foregoing forms as is considered necessary and reasonable through knowledge of industry, company or commodity practices.

16-207 Reserved.

16-208 Weighted Guidelines Profit/Fee Objective (DD Form 1547).

16-208.1 *General.* Weighted Guidelines Profit/Fee Objective (DD Form 1547) is to be used, as appropriate, to facilitate calculation of the Weighted Guidelines Profit/Fee Objective (see 3-808.2).

16-208.2 *Conditions for Use.* DD Form 1547 may be used in conjunction with the Record of Price Negotiation required by 3-811(b), *provided* that the rationale used in assigning the various rates is fully documented.

PROCUREMENT FORMS

Part 3—Purchase and Delivery Order Forms

16-300 Scope of Part. This Part prescribes forms for use (i) when purchases are authorized or required to be made by the purchase order or imprest fund method, (ii) as delivery orders, and (iii) as order against basic ordering agreements.

16-301 Receipt for Cash—Subvoucher (Standard Form 1165). Standard Form 1165 may be used in connection with procurements by the imprest fund (petty cash) method in accordance with 3-607.

16-302 Purchase Order — Invoice — Voucher (Standard Form 44). Standard Form 44 is authorized for use to accomplish small purchases in accordance with 3-608.9.

16-303 Order for Supplies or Services/Request for Quotations, (DD Forms 1155, 1155r, 1155r-1, and 1155c-1). Order for Supplies or Services/Request for Quotations, DD Form 1155 series, shall be used to accomplish small purchases in accordance with 3-608 and 16-402 and Blanket Purchase Agreements in accordance with 3-605, and may be used to place calls against Blanket Purchase Agreements in accordance with 3-605.5 and orders against basic ordering agreements in accordance with 3-410.2(a). Pending revision of the August 1981 edition of DD Form 1155r and the 1 Aug 68 edition of DD Form 1155r-1, the Invoices provision in 7-103.30 shall be substituted for paragraph 3, Payments, of both forms.

SERVICE CONTRACTS

Part 8—Reserved

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SERVICE CONTRACTS

SERVICE CONTRACTS

Part 9—Educational Service Agreements

22–900 Scope of Part. This Part prescribes procurement procedures for agreements with established schools, colleges, or universities, or other educational institutions for educational services using the institution's facilities, standard courses, and prevailing tuition and fees applicable to the general public. As used in this Part, "facilities" does not include the institution's dining rooms or dormitories. Also, as used in this Part, "fees" does not include charges for meals or lodging. Tuition assistance agreements, *i.e.*, payment by the Government of partial tuition under the off-duty educational program, are not included under this Part. Except in connection with the detailing of commissioned officers to law schools pursuant to 10 U.S.C. 2004, no agreement shall be made under this Part which will provide for, or results in, payment of Government funds for tuition or other expenses in connection with training in any legal profession. The format and clauses for educational service agreements are set forth in 16–501.

22–901 Definition of Educational Service Agreement. An educational service agreement is one which calls for educational services to be provided under the following conditions:

(i) the Government pays all normal tuition and fees for educational services provided to a student by the contractor under its regularly established schedule of tuition and fees applicable to all students generally; and

(ii) enrollment is at the contractor's institution under his regular rules and in courses and curricula which the institution offers to all students meeting the contractor's admission requirements, with no special courses or special fees applicable to Government students.

22–902 Method of Procurement.

(a) An educational service agreement is not a contract, but is a continuing offer which may be accepted by the Government by the placing of requests for services. Each request for services results in a separate contract.

(b) The terms of the educational service agreement provide that requests for services are negotiated under the authority of 10 U.S.C. 2304(a)(5) when the contractor is in the United States, its possessions, or Puerto Rico, or (6) if elsewhere.

22–903 Duration. Educational service agreements shall be for an indefinite duration and shall remain in effect until terminated. However, the issuing activity shall establish procedures to review each educational service agreement at least once each year (with due regard to the institution's academic calendar and at least 30 days before the beginning of a term) for the purpose of incorporating changes to reflect requirements of any Statute, Executive Order, or this regulation. If the parties do not agree on such required changes, the contracting officer shall terminate the agreement in accordance with its terms.

* U.S. GOVERNMENT PRINTING OFFICE: 1982-361-335:194

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32 CFR Parts 1–39

[DAC 76–40]

Defense Acquisition Regulation

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document publishes changes to the Defense Acquisition Regulation contained in the Code of Federal Regulations. The changes are the same as those in Defense Acquisition Circular 76–40. Some of the changes include use of specifications and standards in materiel acquisition; Prompt Payment Act; small purchase threshold; quality program requirements of DoD Directive 4155.1; and editorial corrections. Also included in this document are two items for information and guidance: (1) Certain DAR deviations have been authorized without established terms. Others have been, or may be, approved for terms extending beyond the effective date of the Federal Acquisition Regulation (FAR). All such deviations shall, notwithstanding their stated terms, terminate no later than the effective date of the FAR. The foregoing does not affect DAR deviations incorporated in contracts awarded prior to the effective date of the FAR. (2) Changes were made to the DAR by DAC 76–36, ". . . to reflect the elimination of a long-standing policy of using prompt payment discounts in the evaluation of offers." While not expressly stated, the change in policy was intended to apply equally to advertised and negotiated awards, including simplified small purchases.

EFFECTIVE DATE: November 26, 1982.

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, Room 3C257, Pentagon, Washington, D.C. 20301, Telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulation (DAR) is codified in Title 32, Parts 1–39, Volumes I, II, and III, of the Code of Federal Regulations (CFR). The September 1, 1982 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1976 edition of the DAR made by Defense Acquisition Circulars 76–1 through 76–36.

The Department of Defense announced the promulgation of the 1979 CFR edition in the **Federal Register** of December 31, 1979 (44 FR 77158), and also announced at that time that subsequent amendments to the DAR would be published in the **Federal Register.**

Defense Acquisition Circular 76–40

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76–40, issued November 26, 1982. The following is a summary of the amendments:

Use of Specifications and Standards in Materiel Acquisition. DAR Section I, Part 12, is revised to clarify description of the tailoring process. Related changes are made to 4–105(b) and 4–106.2.

Prompt Payment Act. The Invoices clause at 7–103.30, prescribed for use by Item IV of DAC 76–39 and previously through Departmental channels, is listed as a required clause for fixed price service contracts and for fixed price research and development contracts.

Small Purchase Threshold. When Public Law 97–86 raised the small purchase threshold from $10,000 to $25,000, various sections of the DAR were revised by Departmental instructions. Because of the urgency to effect those changes which had the most immediate impact on Department of Defense procurement, the changes published by Departmental instructions did not represent a complete list of every citation where the threshold figure had to be increased. With this DAC, Sections I, III, IV, VI, VII, VIII, IX, X, XI, XIV, XVI, and XVIII are revised consistent with Pub. L. 97–86. Also increased is the threshold at DAR 3–604, Competition and Price Reasonableness, from $500 to $1,000. Changes have been made as appropriate to other sections of the DAR which are related to this increased threshold. It should be noted that those portions of the above-referenced Departmental instructions which deal with the threshold increase are superseded by the replacement pages furnished with this DAC.

Quality Program Requirements of DoD Directive 4155.1. By publication of DoD Directive 4155.1, "Quality Program," a major change was made in the Department of Defense acquisition policy regarding quality of materiel being supplied to the Government. Revisions are made to DAR Sections I, VII, and XIV consistent with the change in policy. Of particular significance in the revised coverage are provisions for holding the contractor responsible for the quality of products and services by: (1) Assuring that contracts are not awarded to contractors with histories of providing supplies and services of unsatisfactory quality; (2) contract provisions which place the quality responsibility on contractors; and (3) exercising the Government's right to reject or return to contractors any defective items for either repair, correction, or replacement.

Editorial Corrections. The following editorial corrections are made to accommodate recent changes in DD Forms 1155 and 1155r: 3–605.3(b)(1)(ii), line 4—"Clause 16" is changed to read "Clause 15;" 3–608.2(b)(1)(xii)(C), line 2—"17" is changed to "16;" 3–608.4(b)(ii), line 3—"Clauses 17–20" is changed to read "Clauses 16–19."

Because the Defense Acquisition Regulation concerns agency management, public property, and contracts, it is not necessary to issue proposed rules for public comment. Neither is it necessary to delay the effective date until 30 days after the date of publication of these rules, 5 U.S.C. 533(a) and (d). The amendments became effective on November 26, 1982.

How to Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76–40. The number at the top of each page (for example, 1:27) identifies the page from the Regulation which is being replaced. The number at the bottom of the page is a reference to the last appearing numbered paragraph on that page, or if none shows, on a preceding page. The vertical line in the right margin indicates where the amendment is located.

List of Subjects in 32 CFR Parts 1–39

Government procurement.

Adoption of Amendments

Therefore, the Defense Acquisition Regulation contained in the August 1, 1981 edition of 32 CFR Parts 1–39, Volumes I, II, and III, is amended in the DAR paragraphs indicated by substitution of the replacement pages listed in the table.

DAR paragraph	Replacement pages
Volume I	
1–307.2	1:27.
1–330	1:72.
1–506.3	1:67, 1:68.
1–703	1:119.
1–704.3	1:122–B.
1–706.1	1:140, 1:141
1–706.5	1:142–D.
1–706.6	1:142–E.
1–706.7	1:144.
1–708	1:149.
1–803	1:154.
1–805.2	1:157.
1–805.3	1:157.
1–903.1	1:160.
1–1002.4	1:167.
1–1005.3	1:176.
1–1201	1:182.
1–1202	1:183.
Section III, Table of Contents	1.
3–101	3:1.

DAR paragraph	Replacement pages
3-203	3:6.
3-203.1	3:6.
3-203.2	3:7.
3-203.3	3:7.
3-409	3:50.
3-410.2	3:56.
3-506.2	3:74, 3:75.
3-600	3:77.
3-603.1	3:77, 3:78.
3-604.1	3:78-A.
3-604.2	3:78-A.
3-605.2	3:79.
3-605.3	3:80.
3-605.4	3:82.
3-606.2	3:83.
3-606.1	3:89, 3:90, 3:90-A, 3:91, 3:92, 3:92-A, 3:92-B, 3:93.
3-606.3	3:94.
3-606.4	3:95.
3-606.7	3:95.
3-605.1	3:117.
4-105	4:3.
4-106.1	4:4.
4-106.2	4:6.
4-803.3	4:40.
6-604	6:25.
6-1303.2	6:31.

Volume II

7-103.5	7:4, 7:4-A, 7:4-B, 7:5, 7:5-A, 7:6.
7-104.5	7:23.
7-104.9	7:44-A.
7-104.40	7:91.
7-104.41	7:91.
7-104.52	7:110.
7-104.58	7:113.
7-302.4	7:207, 7:208.
7-302.33 (added)	7:291.
7-602.10	7:277.
7-602.29	7:288, 7:291.
7-1901.25 (added)	7:446.
7-2101.5	7:530, 7:533.
8-701	8:39.
8-705.1	8:42.
8-705.2	8:42.
8-707	8:45.
8-709	8:45.
8-105	8:3.
8-104	8:4.
10-405	10:21.
11-401.1	11:14.
11-401.2	11:14.
Section XIV, Table of Contents	1, 2.
14-000	14:1.
14-001.1	14:1.
14-001.8 through 14-001.13 (added)	14:2.
14-101	14:3.
14-101.2	14:3.
14-101.5	14:4, 14:5.
14-105	14:6, 14:7.
14-103.1	14:7.
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M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

January 10, 1983.

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1-305.5 *Research, Exploratory Development and Advanced Development.* Solicitations shall generally indicate either a desired term of performance or a completion date. In cases where development of a tangible item by a given date is urgent, solicitations shall indicate such urgency. Generally, solicitations to conduct research and exploratory development work will specify a level of effort for a term of performance. However, solicitations calling for a specific item in the category of such exploratory or advanced development will specify a completion date. A contractor may propose an alternate term of performance or completion date without disqualification of his proposal.

1-306 Approval Signatures. Approval signatures on contracts or purchase authorizations shall be minimized to the greatest practical extent and, in the event that multiple approval signatures are required, they shall, where possible, be obtained concurrently.

1-307 Priorities, Allocations, and Allotments.

1-307.1 *General.* In the interest of keeping current defense programs on schedule and maintaining an administrative means of promptly mobilizing the nation's economic resources in event of war or national emergency, it is a statutory requirement and national policy to require contractors to use industrial priority ratings and allotment authority to support military procurement, to the extent required by the Bureau of Domestic Commerce (BDC), of the Department of Commerce. For additional guidance on Industrial Preparedness Planning for national emergencies, see 1-2200.

(a) *DoD Priorities and Allocations Manual.* Department of Defense implementation of all rules and regulations published by the BDC for which the Department of Defense is delegated administrative responsibility will be published in the Priorities and Allocations Manual promulgated by Department of Defense Instruction 4400.1. Authorized deviations to the priorities and allocations rules and regulations will likewise be published in the Manual.

(b) *Operating Responsibility.* In accordance with 1-403, the Departments shall comply with the priorities and allocations program, including the Defense Priorities System (DPS) and the Defense Materials System (DMS) as set forth in the Priorities and Allocations Manual and in the rules and regulations published by the BDC.

1-307.2 *Required Use of Priorities, Allocations, and Allotments Clause.* The contract clause set forth in 7-104.18 shall be inserted in or attached to all ratable contracts and orders. Ratable contracts are those contracts for supplies which are required to be supported with rating and allotment authority (see Priorities and Allocations Manual, Section 2).

1-307.3 *Inadequate Response to Solicitations.*

(a) In accordance with the policies and procedures of the Priorities and Allocations System, rated contracts and purchase orders or Authorized Controlled Material Orders may be placed on selected suppliers when adequate response to a solicitation is not received. Therefore, when there are no bids or proposals received as a result of a solicitation or if the bids or proposals received do not cover the entire requirement, normal procurement procedures shall be followed in attempting to locate sources, to the extent exigencies of the procurement will

permit. If such efforts are unsuccessful, and it is determined at this point in time that the procurement must be accomplished, then rated orders in the form of rated contracts, rated purchase orders or an Authorized Controlled Material Order shall be presented, to one or more (as appropriate) selected suppliers or manufacturers qualified to produce the item or material. This will be accomplished by a cover letter signed by the contracting officer, citing the requirements of the Defense Production Act and DPS Regulation 1, and requesting timely acceptance thereof by the contractor. The letter shall also request that any reasons for rejection be promptly furnished in writing, as required by the BDC Regulations. Rated orders will be placed pursuant to appropriate negotiation authority. Contracts and purchase orders shall contain, as a minimum, the following information in addition to normal contractual requirements to be a valid rated order:

(i) DO or DX rating on contracts or purchase orders as appropriate.
(ii) DMS allotment number or Authorized Controlled Material Orders.
(iii) Certification "Certified for National Defense Use Under DMS Reg 1 or DPS Reg 1 (as appropriate)."
(iv) Delivery schedule.
(v) Signature.

(b) Rated orders or Authorized Controlled Material Orders which are rejected by suppliers shall be forwarded to BDC, through established Departmental priorities assistance channels, for such action as BDC considers appropriate.

1-308 Documentation of Procurement Actions; Maintenance and Disposition of Contract Files.

(a) Each office performing purchasing, contract administration, or contract paying functions shall maintain official records of all actions with respect to solicitations and contracts in accordance with the provisions of this paragraph 1-308, except that the application of these provisions to small purchases and other simplified procurements covered by Section III, Part 6, is optional. The head of each such office shall be responsible for the establishment, currency, completeness, and review of this documentation, and for its final disposition, in accordance with Supplement 2 entitled "Contract File Maintenance, Closeout, and Disposition."

(b) The combination of official contract files listed in S2-101 shall contain documentation of all actions taken with respect to the contract, including final disposition, sufficient to constitute a full history of the transaction and permit ready reconstruction of all stages of the transaction, for the purpose of (i) providing a complete background to assure informed decisions at each step in the procurement, (ii) supporting actions taken by personnel in the procurement cycle, (iii) providing information for reviews and investigations conducted by the Department concerned, the Department of Defense, the General Accounting Office, or others, and (iv) furnishing essential facts in the event of litigation or Congressional inquiries.

1-309 Solicitations for Informational or Planning Purposes. It is the general policy of the Department of Defense to solicit bids, proposals or quotations only where there is a definite intention to award a contract or purchase order. However, in some cases solicitation for informational or planning purposes may be justified. Invitations for bids and requests for proposals will not be used for this

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Army:
Deputy Assistant Secretary (Acquisition)
Office of the Assistant Secretary of the Army
(Research, Development, and Acquisition)
Department of the Army
Washington, D. C. 20310

Navy:
Chief of Naval Material (MAT 00D1)
Navy Department
Washington, D. C. 20360

Air Force:
HQ USAF/RDX
The Pentagon
Washington, DC 20330

DLA:
Staff Director, Administration
Headquarters, Defense Logistics Agency
Attention DLA-X
Cameron Station
Alexandria, Virginia 22314

NSA:
Director of Procurement
Fort Meade, MD 20755

DCA:
HQ, Defense Communications Agency
Attention Code 201
Washington, D. C. 20305

DNA:
HQ, Defense Nuclear Agency
Washington, D. C. 20305

DMA:
HQ, Defense Mapping Agency, Attn: DMA-LO,
Washington, D. C. 20390

1-330 Contractor Liability for Damage to Government Property.

(a) *Policy.* It is the policy of the Department of Defense generally to act as a self-insurer for loss of or damage to property of the Government occurring after acceptance of supplies delivered to the Government or performance of services for the Government when the loss of or damage to property results from any defects or deficiencies in such supplies or services. This policy shall not apply:

(i) to loss of or damage to the contract end item itself (except in the case of major items as provided in (c) below); or

(ii) when contractor liability can be preserved without increasing the contract price; or

(iii) when contractor liability is expresaly provided by a clause authorized by this Regulation.

(b) *General.* Except as provided in (a) above or in (c) below, the basic "*Limitation of Liability*" clause in 7-104.45(a) shall be inserted in all contracts exceeding $25,000, and may be inserted in contracts of $25,000 or less when the contractor specifically requests its inclusion. This clause relieves the contractor from liability for loss of or damage to Government property except for end items delivered under the contract.

(c) (1) *Major Items* - In the procurement of major items (normally exceeding $100,000 in unit cost) such as missiles, aircraft, tanks, ships, aircraft engines and navigational or communication systems, it is Department of Defense policy, in addition to (a) above, to relieve the contractor from liability for loss of or damage to such major item(s) occurring after acceptance by the Government: (i) for all fixed price type contracts for major items, the clause in 7-104.45(b) shall be substituted for the clause in 7-104.45(a); (ii) for all cost type contracts for major items, the clause in 7-204.33(a) shall be substituted for the clause in 7-104.45(a). These clauses do not limit the Government's rights otherwise arising under the contract to have any defective items or components thereof, corrected, repaired, or replaced when discovery of the defect occurs prior to the loss of or damage to the major item, or equitable relief when the defect is discovered after loss or damage occurs.

(2) *Contracts Providing For Both Major Items And Other Contract End Items.* In a contract providing for the purchase of both major items and other contract end items, both a major items clause and the basic clause shall be inserted in accordance with the instructions in 7-104.45(c) for fixed-price type contracts and 7-204.33(b) for cost type contracts.

(3) *Service Contracts.* The clause in 7-1912 shall be inserted in all contracts requiring the performance of services (see 22-101(a)). For contracts requiring the performance of services and the delivery of supplies as separate line items, the appropriate clause in 7-104.45 shall be used in conjunction with the clause in 7-1912, and the line items to which each applies clearly identified. However, the clause in 7-1912 shall not be inserted in service contracts for the maintenance, repair, rehabilitation or modification of real property (22-101(b)(ii)) or for architect-engineering services (22-101(b)(iii)).

(4) *Subcontracts.* The "*Limitation of Liability*" clauses in 7-104.45, 7-204.33 and 7-1912 require the contractor to insert the substance of the clause applicable to its contract in any subcontracts, except that, a contractor under a contract for major items shall not insert the substance of the major items clause in either 7-104.45(b) or 7-204.33(a) in any subcontracts without the advance written approval of the contracting officer. The contracting officer should give this approval only when the circumstances would dictate use of the major items clause under the guidelines of (1) above if the subcontract were a direct prime contract with the Government.

(5) *Purchase Orders.* The clause in 7-104.45(a) or 7-1912, as applicable, may be used with the DD Form 1155, *Order for Supplies or Services/Request for Quotations*, when specifically requested for inclusion by the contractor.

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1–506.5 *Fees for Information.* Contingent fees paid for "information" leading to obtaining a Government contract or contracts are included in the prohibition and, accordingly, are in breach of the covenant unless the agent qualifies under the exception as a bona fide employee or a bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business.

1–506 Representation and Agreement Required From Prospective Contractors.

1–506.1 *General.* Except as provided in 1–506.3, each Department shall inquire of and secure a written representation from prospective contractors as to whether they have employed or retained any company or person (other than a full-time employee working solely for the prospective contractor) to solicit or secure the contract, and shall secure a written agreement to furnish information relating thereto as required by the contracting officer. When the SF 33 is not used, the clause in 7–2002.1 shall be included in the solicitation. The Contractor's Statement of Contingent or Other Fees (Standard Form 119) shall be used without deviation when either part of the inquiry provided in 7–2002.1 is answered in the affirmative. The form shall also be used without deviation in any other case when a Department desires to obtain such information. When further information is required, it may be obtained in any appropriate manner. Normally, submission of the form shall be required only of successful bidders and offerors, and contractors. (However, for Foreign Military Sales, see 6–1305.4.)

1–506.2 *Interpretation of the Representation.*

(a) For the purpose of the representation and agreement required from the prospective contractor, as described in 1–506.1, the definition of "bona fide employee" is as specified in 1–505.3.

(b) The fact that the prospective contractor retains a person who does not devote his full time solely to the prospective contractor does not necessarily mean that the relationship involved is in violation of the covenant against contingent fees or that there is any stigma attached to the contractor-agent relationship. It does mean, however, that the prospective contractor must fill out the representation in the affirmative and, as required, furnish information with respect to such employment or retainer.

(c) If the representation would otherwise be answered in the affirmative the fact that the person employed or retained by the bidder or offeror or contractor is an attorney, or a public relations consultant, or has any other special or professional title, does not permit answering in the negative.

1–506.3 *Exceptions.* The inquiry and agreement specified in 1–506.1 need not be made and submission of Standard Form 119 need not be requested in connection with the following:

(i) any contract in which the aggregate amount involved does not exceed $25,000;

(ii) any contract for services which are required to be performed by an individual contractor in person under Government supervision and paid for on a time basis;

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(iii) any contract for public utility services furnished by a public utility company where the utility company's rates for the services furnished are subject to regulation by Federal, State, or other regulatory body and the public utility company is the sole source of supply;

(iv) contracts to be made in foreign countries; and

(v) any other contracts, individually or by class, designated by the Secretary. (Reports of any such exceptions shall be filed promptly with the Administrator of General Services.)

1–507 Sales Commissions and Contingent Fees on Foreign Military Sales. See 6–1305.

1–508 Enforcement.

1–508.1 *General.* Each Department shall take the necessary steps to assure that the indicated proposed contractor has furnished a representation (negative or affirmative) and agreement required by 1–506.1.

(a) If the indicated proposed contractor makes such representation in the negative, such representation may be accepted and award made or offer accepted.

(b) If the indicated proposed contractor makes such representation in the affirmative, a completed Standard Form 119, in duplicate, shall be requested from him. In the case of formal advertising, the making of an award in accordance with established procedure of the Department concerned need not be delayed pending receipt of the form. In the case of negotiation, if the proposed contractor makes such representation in the affirmative, he shall be required to file a completed Standard Form 119, or the statement in lieu of the form, prior to acceptance of the offer or execution of the contract, unless the Chief of the Purchasing Office considers that the interest of the Government will be prejudiced by the suspension of negotiations pending receipt and consideration of an executed Standard Form 119.

(c) If the indicated proposed contractor fails to furnish the representation and agreement as required by 1–506.1, such failure shall be considered a minor informality and, prior to award, he shall be afforded a further opportunity to furnish such representation and agreement. A refusal or failure to furnish the representation and agreement after such opportunity has been afforded shall require rejection of the bid or offer.

1–508.2 *Failure or Refusal to Furnish Standard Form 119.* If the successful bidder or offeror or the contractor, upon request, refuses or fails to furnish a completed Standard Form 119, or a statement in lieu thereof, as provided in 1–506.1 the Chief of the Purchasing Office shall take one or more of the following actions, or other action, as may be appropriate:

(i) if an award has not been made or bid or offer has not been accepted, determine whether the bid or offer should be rejected;

(ii) if the contract has been awarded or bid or offer accepted, determine what action shall be taken, such as making an independent investigation or considering the eligibility of the contractor as a future contractor.

1–508.3 *Misrepresentations or Violations of the Covenant Against Contingent Fees.* In case of misrepresentation concerning contingent fees, or violation or breach of the covenant against contingent fees, or some other relevant im-

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(iii) If the determination of the Chairman, Size Appeals Board, Small Business Administration, on the appeal is not received by the contracting officer within the 30 working day period, it shall be presumed that the SBA District Director's size determination has been sustained.

(iv) Until receipt of the SBA determination of the size status, or expiration of the ten day period (30 days in case of an appeal to the Chairman, Size Appeals Board), whichever occurs first, contracting action shall be suspended; however, this suspension shall not apply to any urgent acquisition action which the contracting officer determines in writing must be awarded without delay to protect the public interest. The contracting officer's determination shall be placed in the contract file.

(4) *Appeal From Size Determination.* An appeal from a size determination made by an SBA District Director may be taken before the close of business on the fifth working day after the receipt of such decision. Unless such written notice of appeal is received by the SBA Size Appeals Board, Washington, D.C., within this time and the contracting officer has been notified of such appeal prior to award, the appellant will be deemed to have waived its rights of appeal insofar as the pending procurement is concerned.

(5) *Award of Set-Aside Acquisitions.* Except as provided in 3-508.1 or when the contracting officer determines in writing that award must be made without delay to protect the public interest, award will not be made prior to (i) five working days after the bid opening date for acquisitions placed through small business restricted advertising, or (ii) the deadline date for submitting a protest set forth in the notification to the apparently unsuccessful offeror(s) for small business set-aside acquisitions placed through conventional negotiation.

(c) *Product Classification.*

(1) *Determination by Contracting Officer.* The contracting officer shall determine the appropriate classification of a product or service establishing the small business definition to be used in a specific acquisition. If different products or services are being acquired on the same solicitation, an appropriate small business size standard shall be established for each product or service. Both the classification and the applicable size standard (number of employees, average annual receipts, etc.), pursuant to 1-701, shall be set forth in each solicitation in excess of $25,000, and in each solicitation of $25,000 or less which is a small business set-aside. The contracting officer's determination shall be final unless appealed in accordance with (2) below.

(2) *Appeal From Classification.* An appeal from a product or service classification determination by a contracting officer must be taken:

(i) not less than 10 working days before the bid opening date or the deadline for submitting proposals or quotations where this date or deadline is more than 30 days after the issuance of the invitation for bids or request for proposals or quotations; or

(ii) not less than five working days before the bid opening date or the deadline for submitting proposals or quotations where this date or deadline is 30 or less days after the issuance of the invitation for bids or request for proposals or quotations.

Such appeals shall be directed to the Chairman, Size Appeals Board, Small Business Administration, Washington, D.C. 20416.

(3) *Action of Size Appeals Board.* The Size Appeals Board will promptly notify the contracting officer of the receipt of a valid appeal and, if possible, will inform the contracting officer prior to the date set for opening of the solicitation of its ruling on the appeal. The SBA decision, if received prior to the opening date, shall be considered final, and solicitations will be modified to reflect such decision, if necessary. Where appropriate, opening dates may be extended. SBA rulings received after the opening date shall not apply to the current acquisition but shall apply in future acquisitions of the product or service.

1-704 Small and Disadvantaged Business Utilization Officials.

1-704.1 (a) Director of Small and Disadvantaged Business Utilization. The Director of Small and Disadvantaged Business Utilization is responsible for the overall management and direction of the DoD small business, disadvantaged business utilization, and labor surplus area programs and for advising the Secretary of Defense and the Deputy Secretary of Defense in matters relating to these programs. To that end, the Director will provide guidance to the Departments and periodically review the direction and implementation of their activities in promoting contract awards to small business, small disadvantaged business, and labor surplus area concerns.

(b) Director of Small Business and Economic Utilization Policy. The Director of Small Business and Economic Utilization Policy is responsible for the establishment, implementation, and execution of DoD small business and labor surplus area programs. Negotiations with the SBA, the Office of Federal Procurement Policy, the Office of Management and Budget, and other agencies or departments outside the Department of Defense, concerning small business and labor surplus area policy, programs, and DoD goals shall be conducted by the Director of Small Business and Economic Utilization Policy or, with his authorization, by representatives of the Departments. The Director of Small Business and Economic Utilization Policy, on behalf of the Director of Small and Disadvantaged Business Utilization, will provide guidance to the Departments' Directors of Small and Disadvantaged Business Utilization regarding small business and labor surplus area matters.

(c) Director of Disadvantaged Business Utilization Policy. The Director of Disadvantaged Business Utilization Policy is responsible for the establishment, implementation, and execution of the DoD socially and economically disadvantaged business utilization program. Negotiations with the Small Business Administration, the Office of Federal Procurement Policy, the Office of Management and Budget, and other agencies or departments outside the Department of Defense, concerning disadvantaged business

(ii) Navy - Head of a contracting activity or the official in charge of an activity having purchase authority of $10,000 or more, or in charge of a contract administration activity;
(iii) Air Force - Commander of each central procurement activity; the Wing/Base Commander of each local purchasing activity and the Chief of each contract administration activity. In addition, an Executive for Small and Disadvantaged Business Utilization shall be appointed by the Commander of each Major Air Command in the United States, not mandatorily reporting directly to the Commander but having ready access to such person, who will have primary responsibility for the effective implementation of the Air Force small business, small disadvantaged business utilization and labor surplus area program(s) within the Command;
(iv) Defense Logistics Agency - Commanders of Defense Supply Centers, Commanders, Defense Contract Administration Services Regions and Commanders of other DLA contracting activities;
(v) National Security Agency - the Director;
(vi) Defense Communications Agency - the Director;
(vii) Defense Nuclear Agency - the Director;
(viii) Defense Mapping Agency - Director; directors of subordinate components.

A copy of each appointment and termination of appointment of all such specialists shall be forwarded to the appropriate Department or Agency Office of Small and Disadvantaged Business Utilization (1-704.2). In addition to performing that portion of the specific program outlined in (b) below that is normally performed in the activity to which he is assigned, the small and disadvantaged business utilization specialist shall advise the head of the activity and shall perform such additional functions as are prescribed for him in furtherance of the overall small business, small disadvantaged business utilization and labor surplus area programs. A small and disadvantaged business utilization specialist shall be appointed on a full-time basis in all activities having sufficient business or program responsibility to justify such action. When the volume of contracting does not warrant assignment of a full time small and disadvantaged business utilization specialist, an individual shall be appointed as the specialist on a part-time basis. The responsibilities of this assignment shall take precedence over collateral responsibilities.

(b) A small and disadvantaged business utilization specialist (SADBU), appointed pursuant to (a) above, shall: perform the following duties, as determined to be appropriate to the activity by the appointing officer or by the Departmental or Agency Director or Staff Director of Small and Disadvantaged Business Utilization. The SADBU shall:
(i) maintain a program designed to locate capable small business, small disadvantaged business and labor surplus area business sources for current and future acquisitions, through SBA or other methods;
(ii) coordinate inquiries and requests for advice from small business, small disadvantaged business and labor surplus area business concerns on acquisition matters;
(iii) prior to the issuance of solicitations or contract modifications (except those which exercise an option), (A) for additional supplies or services in excess of $5,000 which have not been set aside under 1-706.1(c), or (B) for a dissolved small business-small purchase set-aside in excess of $5,000 (1-702(c)), review the contracting officer's justification for either action. In automated contracting systems, such reviews will be accomplished prior to entering the item into the automated system after which no further review of the individual acquisition will be necessary if the automated system is so programmed that any changes in the acquisition of the item satisfy the provisions of 1-702(c), 1-706.1(c) and (f), and 1-706.5(a)(1). Disagreements between the specialist and the contracting officer on proposed set-aside actions for small business (not including small business-small purchase set-asides (1-702(c))) shall be resolved under 1-706.3.
(iv) when small business concerns cannot be given an opportunity to compete because adequate specifications or drawings are not available, unless there are sufficient and valid reasons to the contrary, initiate action, in writing, with appropriate technical and contracting personnel to insure that necessary specifications or drawings for the current or future acquisitions, as appropriate, are available;
(v) review acquisition programs for possible breakout of items suitable for acquisition from small business concerns;
(vi) insure that financial assistance, available under existing regulations, is offered and that requests by small business concerns for proper assistance are not treated as a handicap in the award of contracts. (See Appendix H, Parts 4 and 5.)

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(ii) If the total proposed 8(a) contract price exceeds the estimated current fair market price (*i.e.*, it includes a business development expense), such expense shall not be funded by DoD. SBA has stated that it does not generally expect to assume business development expenses for construction. If SBA elects to pay such expenses, as an exception to its general rule, it will issue an SBA reimbursable order for the agreed amount to the DoD PCO in advance of contract award. If SBA requests audit assistance in determining the reasonableness of the proposed 8(a) price, such assistance will be furnished by the DoD to the extent available. In the event SBA elects not to fund the business development expense, award will not be made to SBA unless the proposed contract price is reduced by the amount of such expense.

1-705.6 *Small Business and Disadvantaged Business Goals.*

(a) The Director of Small and Disadvantaged Business Utilization is responsible for the development of overall DoD small business and disadvantaged business goals and for consulting with SBA regarding the establishment of such goals.

(b) Departmental Directors of Small and Disadvantaged Business Utilization are responsible for the development of small business and disadvantaged business utilization goals for subordinate elements within their department. These goals will be further assigned by these subordinate elements as appropriate, such as engineer district offices or individual contracting divisions within a central contracting activity or major commodity command.

(c) Heads of contracting activities are responsible for the attainment of assigned small business and disadvantaged business utilization goals.

(d) Within 60 days after the conclusion of each fiscal year, the Secretaries of the Military Departments and the Directors of Defense agencies shall report to the Secretary of Defense on the extent of participation by small business concerns and disadvantaged business concerns in contracts awarded by their Department. Such reports shall contain appropriate justifications for failure to meet goals established by the Office of the Secretary of Defense, as well as actions planned to increase the rate of participation by such firms in future contract awards. The Office of the Secretary of Defense will submit information to SBA concerning any failure to meet established goals and actions to be taken to improve future performance.

1-706 Set-Asides (Except Small Business-Small Purchase Set-Asides (1-702(c)).

1-706.1 *General.*

(a) Small business and labor surplus area (LSA) set-asides should be considered in the following order of precedence:

(i) Combined small business/LSA set-aside (1-706.7);

(ii) Partial set-aside for LSA firms (1-804.2);

(iii) Total set-aside for small business firms (1-706.5);

(iv) Partial set-aside for small business (1-706.6).

(b) Subject to the order of precedence established in (a) above, any individual acquisition or class of acquisitions, or any appropriate part thereof, shall be set aside for the exclusive participation of small business concerns when such action is determined to be in the interest of (i) maintaining or mobilizing the Nation's full productive capacity, (ii) war or national defense programs, or (iii) insuring that a fair proportion of Government acquisition is placed with small business concerns.

(c) Proposed acquisitions over $5,000 that are not subject to simplified small purchase procedures, and all proposed acquisitions over $10,000, shall be specifically reviewed for set-aside for exclusive participation by small firms in accordance with 1-706.5. In automated contracting systems, all proposed acquisitions which are not small business-small purchase set-asides (1-702(c)) will be considered for small business set-asides in accordance with 1-706.5. If necessary, the screening for set-asides will be accomplished before entering such requirements into the system.

(d) The contracting officer is responsible for either setting aside a requirement or documenting, in accordance with departmental procedures, why a set-aside is inappropriate. The Small and Disadvantaged Business Utilization Specialist is responsible for reviewing these acquisitions not set aside and for taking action in accordance with 1-706.5 as appropriate.

(e) The determination to make a set-aside may be unilateral or joint. A unilateral determination is one which is made by the contracting officer. A joint determination is one which is recommended by the SBA representative and concurred in by the contracting officer. Insofar as practicable, unilateral determinations rather than joint determinations shall be

used as the basis for set-asides. SBA recommendations for set-asides will be limited to those proposed acquisitions over $5,000 and not reserved for small business under the procedures of 1-702(c) which, after review by the small business specialist or the contracting officer, have been determined by either party not to meet the criteria for total or partial restriction to small business concerns.

(f) Once a product or service has been acquired successfully by a contracting office on the basis of a small business set-aside, all future requirements of that office for that particular product or service not subject to simplified small purchase procedures shall be acquired on the basis of a repetitive set-aside. This procedure will be followed unless the contracting officer determines that there is not a reasonable expectation that (i) offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns and (ii) awards will be made at reasonable prices. Withdrawal of a repetitive set-aside will be in accordance with 1-706.3.

(g) If a proposed small business set-aside is estimated to exceed $1,000,000 in value and a bond is required, the contracting officer shall, to the extent practicable, place contracts so as to allow more than one concern to perform the work.

(h) To provide for SBA consideration of individual set-asides at the request of its representative, the contracting office shall make available to him for review at the office (to the extent that he has been granted security clearance) all proposed classified and unclassified acquisitions expected to exceed $5,000 on which unilateral set-asides have not been made by the contracting officer or otherwise reserved for small business under the procedures of 1-702(c).

(i) In addition to individual acquisition set-asides, classes of current and future acquisitions, or portions thereof, of selected items or services may be set aside for exclusive small business participation. The determination to make a class set-aside may be either unilateral or joint. Unilateral set-asides regardless of value will normally be initiated by the contracting officer, but may also be initiated by recommendation of the small business specialist. Class set-asides may be recommended by the SBA representative for only those items or services on which unilateral class set-asides have not previously been made by the contracting officer. The determination to make a class set-aside shall not depend on the existence of a current acquisition if future acquisitions can be clearly

foreseen. Class set-asides shall apply only to the contracting office making or participating in the agreement. A class set-aside agreement should specifically identify the items or services subject thereto. Copies of each class set-aside agreement shall be retained at the contracting office. Any class of acquisitions proposed to be totally set aside shall satisfy the requirements of 1-706.5. The set-aside determination for any class of acquisitions proposed to be partially set aside shall specify that it does not apply to any individual acquisition not severable into two or more economic production runs or reasonable lots.

(j) None of the following is, in itself, sufficient cause for not making a set-aside:

(i) a large percentage of previous acquisitions of the item has been placed with small business concerns;
(ii) the item is on an established planning list under the Industrial Preparedness Program, except that a total set-aside shall not be authorized when one or more large business Planned Emergency Producers of the item desires to participate in the acquisition (but see 1-706.6 as to partial set-asides);
(iii) the item is on a Qualified Products List, except that a total set-aside shall not be authorized when the products of one or more large businesses are on the Qualified Products List unless it has been confirmed that none of such large businesses desires to participate in the acquisition (but see 1-706.6 as to partial set-asides);
(iv) a period of less than 30 days from date of issuance of solicitations is prescribed for the submission of offers;
(v) the acquisition is classified;
(vi) small business concerns are considered to be receiving a fair proportion of total contracts for supplies or services;

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(f) Any contracting action which has been appealed by the SBA representative shall be suspended pending the decision of the Chief of the Contracting Office. If the decision sustains the contracting officer, and if the SBA representative requests further suspension in accordance with (e) above, the suspension shall continue until (i) the SBA appeal is deemed to have been withdrawn (as provided in (e) above), or (ii) the matter is determined by the Secretary of the Department concerned. However, this procedure shall not apply to any particular contracting action that the contracting officer determines must be initiated without delay in order to protect the public interest, and as to which he inserts in the contract file a signed statement of justification approved at a level above the contracting officer. The contracting officer shall promptly give written notice to the SBA representative of any such contracting action initiated.

(g) The Secretary of the Department concerned will have 30 working days to either sustain or deny the appeal for set-aside action. Should it be determined that a decision cannot be made within this time, a later date will be established in writing by the Secretary of the Department concerned to the Administrator, SBA, citing the reasons why additional time is required. A copy of such correspondence will be provided to the Director of Small and Disadvantaged Business Utilization, Office of the Deputy Secretary of Defense.

(h) In those cases where an SBA representative is not assigned or available, and the contracting officer disagrees with the recommendation of the small business specialist regarding a small business set-aside for an individual acquisition or class of acquisitions or a portion thereof and so notifies the small business specialist in writing, or if the small business specialist disagrees with the contracting officer regarding a withdrawal or modification of a set-aside determination, the small business specialist may appeal in writing to the appointing authority (see 1-704.3(a)) for decision. A memorandum of the decision by the appointing authority shall be placed in the contract file. After receipt of a decision from the appointing authority, which shall be final, and if the decision approves the action of the contracting officer, the small business specialist shall forward for information and management purposes complete documentation of the case to the appropriate Departmental Director for Small and Disadvantaged Business Utilization or his designee as identified in 1-704.2.

(i) A signed memorandum of nonconcurrence in a recommended set-aside action or of any withdrawal or modification shall be made and retained in the contract file.

1-706.4 *Reporting for Department of Commerce Procurement Synopsis.* See 1-1003.8.

1-706.5 *Total Set-Asides.*

(a)(1) Subject to the order of precedence established in 1-706.1(a), the entire amount of an individual acquisition or class of acquisitions, including contracts for architectural and engineering services, research, development, test and evaluation, maintenance repair, and construction, except small business-small purchase set-asides (1-702(c)), shall be set aside for exclusive small business participation (1-701.1) if the contracting officer determines that there is a reasonable expectation that (i) offers will be obtained from at least two responsible small business concerns offering the products of different small business concerns and (ii) awards will be made at reasonable prices (1-706.3(a)). Total set-asides shall not be made unless such a reasonable expectation exists (but see 1-706.6 as to partial set asides). Although past acquisition history of the item or similar items is always important, it is not the only factor to be considered in determining whether a reasonable expectation exists. In making R&D small business set-asides, there must also be a reasonable expectation of obtaining from small business the best scientific and technological sources consistent with the demands of the proposed acquisition for the best mix of cost, performances, and schedules.

(2) Every proposed acquisition for construction, including maintenance and repairs, in excess of $5,000 and under $2 million (except dredging under $1 million), shall be considered individually, as though the Small and Disadvantaged Business Utilization Specialist had initiated a set-aside request, and the procedures of 1-706.3 shall apply.

(3) Every proposed acquisition of $2 million or more for construction, or $1 million or more for dredging, shall be considered on an individual acquisition basis under (1) above.

(b) Contracts (including small purchases not otherwise reserved under 1-702(c)) for total small business set-asides may be entered into by conventional negotiation or by a special method of contracting known as "Small Business Restricted Advertising." The latter method shall be used wherever possible (see also 3-201.3). Where multiyear contracting procedures are appropriate (see 1-322), total set-asides may be made in connection therewith. Solicitations shall be restricted to small business concerns. Small Business Restricted Advertising, including awards thereunder, shall be conducted in the same way as prescribed for formal advertising in Section II, except that bids and awards shall be restricted to small business concerns. Bids received from firms that do not qualify as small business concerns shall be considered as nonresponsive and shall be rejected.

(c) In acquisitions involving total set-asides for small business, each solicitation shall contain the clause in 7-2003.2. The applicable size standards shall be set forth in Section C of the solicitation.

1-706.6 *Partial Set-Asides.*

(a) Subject to the order of precedence established in 1-706.1(a), a portion of an acquisition, not including construction, shall be set aside for exclusive small business participation when:

(i) the acquisition exceeds $25,000; and

(ii) the acquisition is severable into two or more economic production runs or reasonable lots (see 1-804.1(a)(2)(i)-(v)); and

(iii) one or more small business concerns are expected to have the capability to furnish a severable portion of the acquisition at a reasonable price, except that a partial set-aside shall not be made if there is a reasonable expectation that only two concerns (one large and one small) with capability will respond with offers unless authorized by the Head of the Contracting Activity on a case-by-case basis. Before reaching this conclusion the contracting officer shall consult with the Small and Disadvantaged Business Utilization Specialist and may make advanced inquiries to determine the number of interested concerns. Similarly, a class of acquisitions, not including construction, may be partially set aside in accordance with 1-706.1(d). Under certain specified conditions, partial set-asides may be used in conjunction with multiyear contracting procedures (see 1-322.1(d)).

(b) When a portion of an acquisition is to be set aside for small business pursuant to (a) above, the acquisition shall be divided into a set-aside portion and a non-set-aside portion, each of which shall be not less than an economic production run or reasonable lot. Insofar as practical, the set-aside portion will be such as to make the maximum use of small business capacity. Delivery and other terms applicable to the set-aside portion of an item and those applicable to the non-set-aside portion of that item shall be comparable.

(c)(1) In acquisitions involving partial set-asides for small business, each solicitation shall contain the clause in 7-2003.3(a)(except see (c)(2) below). The applicable size standards shall be set forth in Section C of the solicitation.

(2) When experience indicates that token bidding, block bidding, tie-in bidding, or similar devices may occur, the alternate clause in 7-2003.3(b) may be used.

(d)(1) After the award price for the non-set-aside portion has been determined, negotiations may be conducted for the set-aside portion. Acquisition on the set-aside portion shall in all instances be effected by negotiation. Negotiations shall

be conducted only with those offerors who have submitted responsive offers on the non-set-aside portion. Negotiations shall be conducted with small business concerns in the order of priority as indicated in the foregoing clause, provided that, when equal low bids are received on the non-set-aside portion from concerns which are equally eligible for the set-aside portion, the concern which is awarded the non-set-aside portion (under equal low bid procedure of 2-407.6) shall have first priority with respect to negotiations for the set-aside portion. The set-aside portion shall be awarded as provided in the clause. An offeror entitled to receive the award for quantities of an item under the non-set-aside portion and who accepts the award of additional quantities under the set-aside portion shall not be requested to accept a lower price because of the increased quantities of the award, nor shall negotiation be conducted with a view to obtaining such a lower price based solely upon receipt of award of both portions of the acquisition. This does not prevent acceptance by the contracting officer of voluntary reductions in the price from the low eligible offeror prior to award, acceptance of voluntary refunds (see 1-312), or the change of prices after award by negotiation of a contract modification.

(2) Offers obtained under the provisions of the set-aside clause from firms eligible for the set-aside portion of the requirement shall be in writing and shall include (i) agreement as to the established set-aside price for the available set-aside quantity, (ii) agreement as to the required delivery, (iii) agreement that all other terms and conditions of the solicitation will apply to the set-aside award, and (iv) agreement to inclusion of the clauses "*Examination of Records by the Comptroller General*" in 7-104.15 and "*Audit by Department of Defense*" in 7-104.41(a).

(3) When the award of the non-set-aside portion has been made to a small business concern and the same concern is entitled to receive the set-aside portion of the solicitation, the set-aside portion may be added to the basic contract by supplemental agreement utilizing Standard Form 30. The supplemental agreement shall (i) include a reference to the contractor's letter offering on the set-aside quantity, (ii) state the price and delivery schedule applicable to the set-aside quantity, and (iii) include the clauses "*Examination of Records by Comptroller General*" in 7-104.15 and "*Audit by Department of Defense*" in 7-104.41(a), applicable to the set-aside portion only. Copies of all pertinent documents, including the signed offer, shall be attached. The supplemental agreement shall be signed by the contracting officer but need not be signed by the contractor since his signature on the attached offer will be deemed sufficient.

(4) When the award for the non-set-aside portion has been made to a firm other than the concern entitled to receive the set-aside portion of the solicitation, award of the set-aside portion will be made utilizing Standard Form 26. The offers obtained and the award utilized shall reference and include the same data indicated in paragraphs (2) and (3) above. Also, the award shall reference in Block 26 of Standard Form 26, the applicable solicitation and the contractor's written

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offer, and copies of the solicitation and offer shall be attached. The Standard Form 26 shall be signed by the contracting officer but need not be signed by the contractor. The contractor's signature on the attached offer will be deemed sufficient.

For purposes of 21-102 and 21-201, the non-set-aside and set-aside portions shall be reported separately.

1-706.7 *Combined Small Business—Labor Surplus Area Set-asides.*

(a) In the acquisition of certain items, the objectives of both the Small Business Act and Defense Manpower Policy (DMP) No. 4A may be attained in a single acquisition. Under this procedure, the total required quantity of an item would be set aside for exclusive participation by small business firms and a portion of that total quantity would be further set-aside for award to small business concerns which are also LSA firms.

(b) For acquisitions exceeding $25,000, the use of this combined small business-LSA set-aside procedure shall be considered. This procedure shall be used in preference to all others when the proposed acquisition meets the criteria for:

(i) total small business set-aside (1-706.5(a)(1)); and

(ii) a partial LSA set-aside (1-804.1(a)(1)).

(c) Contracts utilizing this procedure may be entered into by "Small Business Restricted Advertising," the preferred method, (see 3-201.3), or by conventional negotiation. This set-aside procedure may be used in multi-year contracting (see 1-322). Solicitations shall provide that offers may be submitted by small business firms only and that a part of the total requirement is further set-aside for LSA firms which are also small business concerns. Offers received from firms which do not qualify as small business concerns shall be considered nonresponsive and shall be rejected.

(d) (1) In combined small business-LSA set-asides each solicitation shall contain the clause in 7-2003.4(a) (except see (d)(2) below).

(2) When experience indicates that token bidding, block bidding, tie-in bidding, or similar devices may occur, the alternate clause in 7-2003.4(b) may be used.

(e)(1) After the award price for the non LSA set-aside portion has been determined, negotiations may be conducted for the LSA set-aside portion. Acquisition of the LSA set-aside portion shall in all instances be effected by negotiation. Negotiations shall be conducted only with those offerors who have submitted responsive offers on the non LSA set-aside portion. Negotiations shall be conducted in the order of priority as indicated in the foregoing clause; provided that, when equal low offers are received on the non LSA set-aside portion from concerns which are equally eligible for the LSA set-aside portion, the concern which is awarded the non LSA set-aside portion (under the equal low bid procedure of 2-407.6) shall have first priority with respect to negotiations for the LSA set-aside portion. The LSA set-aside portion shall be awarded as provided

(e.g., administrative reclassification by the SBA during performance or uneconomic and unnecessary subcontract decisions to take inappropriate advantage of the incentive).

(f) The small disadvantaged business concern representation in 7-2003.74 shall be included in all solicitations and all contracts which are awarded without reference to a solicitation, other than those involving small purchase. Failure to execute the representation will be deemed a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award.

1-707.4 *Reserved.*
1-707.5 *Reserved.*
1-707.6 *Reserved.*
1-707.7 *Reserved.*

1-708 Women-Owned Business Concerns.

(a) Executive Order 12138 created a National Women's Business Enterprise Policy and prescribed arrangements for developing, coordinating, and implementing a national program for women's business enterprises.

(b) To encourage the use of women-owned businesses in subcontracting, the clause in 7-104.52 shall be included in all contracts expected to exceed $25,000 except (i) contracts which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands; and (ii) contracts for services which are personal in nature.

Part 8—Labor Surplus Area Concerns

1-800 Scope of Part. This Part sets forth Department of Defense policy and procedures with respect to aiding labor surplus areas in the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands. This Part implements Defense Manpower Policy No. 4A, 27 Oct 1977 (32A CFR Part 134), and the Small Business Act as amended (15 USC 631), and U.S. Department of Labor Regs (20 CFR Part 654). Defense Manpower Policy No. 4A states the policy of the Government to encourage the placing of contracts and facilities in labor surplus areas and to assist such areas in making the best use of their available resources.

1-801 Definitions.

1-801.1 *Labor Surplus Area Concerns.* The term "labor surplus area concern" means a concern that agrees to perform or cause to be performed a substantial proportion of a contract in labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in labor surplus areas if the aggregate costs that will be incurred by the concern or its first tier subcontractors, on account of manufacturing or production performed in labor surplus areas amount to more than 50% of the contract price.

Example A. ABC Company, manufacturing in a labor surplus area, bids on a contract at $1,000. ABC Company will incur the following costs:

Direct labor	$230
Overhead	275
Purchase of materials from RST Company, which manufactures the materials in a full employment area	425

ABC Company qualifies as a substantial labor surplus area concern since it will incur costs in a labor surplus area amounting to more than 50% of the contract price.

Example B. DEF Company, manufacturing in a surplus area bids on a contract at $1,000. DEF Company will incur the following costs:

Direct labor	$200
Overhead	200
Purchase of materials from UVW Company, which is located in a labor surplus area but which merely distributes the materials from stocks on hand (the materials having been manufactured by UVW's supplier)	550

DEF Company does not qualify as a labor surplus area concern since its manufacturing and production costs do not exceed 50% of the contract price regardless of whether UVW's supplier manufactures in a labor surplus area.

1-801.2 *Labor Surplus Area.* The term "labor surplus area" means a geographic area which at the time of award is classified as such by the Department of Labor and listed as such by that Department in its publication "Listing of Eligible Labor Surplus Areas Under DMP No. 4A and Executive Order 10582".

1-801.3 *Small Business Concern.* See 1-701.

1-802 General Policy. Except as provided in 1-806 with respect to depressed industries, it is the policy of the Department of Defense to aid labor surplus areas (LSA) by placing contracts with LSA concerns, to the extent consistent with procurement objectives and when such contracts can be awarded at prices no higher than those obtainable from other concerns and by encouraging prime contractors to place subcontracts with LSA concerns. In carrying out this policy, and to accommodate the small business policies of Section I, Part 7, preference shall be given in the following order of priority to (i) LSA concerns which are also small business concerns, (ii) other LSA concerns, and (iii) small business concerns which are not LSA concerns. In no case will price differentials be paid for the purpose of carrying out this policy. Heads of Procuring Activities and chiefs of purchasing and contract administration offices are responsible for the effective implementation of the Labor Surplus Area Program within their respective offices. Responsibility for administration of the program may be assigned to small business specialists appointed pursuant to 1-704.3.

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1-803 Application of Policy.

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1–803 Application of Policy.

(a) Within the policy set forth in 1–802, the following shall be applied to contracts which are estimated to exceed $25,000:

(i) negotiated contracts shall, where acquisition objectives permit, be awarded to labor surplus area concerns; *provided*, that in no case shall price differentials be paid for the purpose of carrying out this policy;

(ii) when appropriate, acquisitions shall be made from LSA concerns by partial set-aside procedures, in accordance with 1–706.7 or 1–804 (but no total set-aside shall be made for LSA concerns) and such set-asides shall be given preference over any small business set-aside;

(iii) each Department shall assure that information identifying LSA is disseminated promptly to contracting personnel;

(iv) when less than a complete bidders list is to be used pursuant to 2–205.4, at least a pro rata number of prospective LSA concerns shall be solicited;

(v) subcontracting with concerns in LSA shall be encouraged in accordance with 1–805;

(vi) See 6–1403.1(a)(2) regarding purchases from qualifying country sources (see 6–001) where LSA set-asides are involved.

(b) Records of the total value of all contracts in excess of $25,000 placed with LSA concerns during each fiscal year, and reports based thereon, are maintained by each Department through the Department of Defense Reporting System described in 1–110 and Section XXI, Part 1. Accordingly, each Department, in soliciting bids and proposals for any contract estimated to exceed $25,000 shall request from any offeror, or other source, any information needed to determine whether the offeror is a LSA concern. Contract files shall be documented to indicate the extent to which LSA concerns were considered and the action taken with respect thereto.

1–804 Partial Set-Asides for Labor Surplus Area Concerns.

1–804.1 *General.*

(a)(1) In accordance with the policy set forth in 1–802 and 1–803 (see also 1–706.7), a portion of each acquisition shall be set aside for LSA concerns if:

(i) the acquisition is severable into two or more economic production runs or reasonable lots; and

(ii) one or more LSA concerns are expected to qualify as LSA concerns and to have the capability to furnish a severable portion of the acquisition at a reasonable price, except that a partial set-aside shall not be made if there is a reasonable expectation that offers will be received from only two concerns with capability (one concern which will not qualify as a LSA concern and one concern which will qualify as a LSA concern) unless authorized by the Head of the Contracting Activity on a case-by-case basis. Before reaching this con-

1–804.4 *Contract Authority.* Contracts for set-aside made under this Part 8 shall cite as authority 10 U.S.C. 2304(a)(1). For reporting purposes, see 3–201.2(b)(i) for contracts awarded to labor surplus area concerns and 3–201.2 (b)(ii) for contracts awarded to small business concerns which are not labor surplus area concerns.

1–805 Subcontracting With Labor Surplus Area Concerns.

1–805.1 *General Policy.*

(a) It is the policy of the Government to promote equitable opportunities for labor surplus area concerns to compete for defense subcontracts and to encourage placement of subcontracts with concerns which will perform such contracts substantially in labor surplus areas in the order of priority described in 1–802 where this can be done, consistent with efficient performance of contracts, at prices no higher than are obtainable elsewhere.

(b) To more effectively carry out the Government's policy objectives stated in (a) above, prime contractors and subcontractors having labor surplus area subcontracting programs must be informed of (1) the Government's evaluation of their efforts in carrying out an effective labor surplus area subcontracting program, (2) any specific noted deficiencies in their Labor Surplus Area Subcontracting Programs, and (3) any areas of outstanding achievement where they may have exceeded contractual requirements. To motivate a contractor to improve his program, he should be advised in general terms as to the type of actions will result in a reward, penalty, or no impact on profit or fee (see 3–808.5(d)). Any evaluation and remarks to the contractor, including areas of suggested improvement and areas where the contractor has exceeded contractual requirements, must be documented to furnish a basis for evaluation in connection with future awards.

1–805.2 *Labor Surplus Area Subcontracting Program.* The Government's labor surplus area subcontracting program requires Government prime contractors to assume an affirmative obligation with respect to subcontracting with labor surplus area concerns. These obligations are in addition to those required by the minority business enterprise subcontracting program (1–332) and the small business subcontracting program (1–707). In contracts which range from $25,000 to $500,000, the contractor undertakes the simple obligation of using his best efforts to place his subcontracts with concerns which will perform such subcontracts substantially in labor surplus areas where this can be done, consistent with the efficient performance of the contract, at prices no higher than are obtainable elsewhere. This undertaking is set forth in the contract clause prescribed in 1–805.3(a). In contracts which may exceed $500,000, the contractor is required, pursuant to the clause required by 1–805.3(b), to undertake a number of specific responsibilities designed to insure achievement of the objectives referred to above and to impose similar responsibilities on major subcontractors.

1–805.3 *Required Clauses.*

(a) The Utilization of Labor Surplus Area Concerns clause in 7–104.20(a) shall be inserted in all contracts which may exceed $25,000, except:

(1) contracts with foreign contractors which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands;

(2) contracts for services which are personal in nature;

(3) contracts for construction; and

(4) contracts with the petroleum and petroleum products industry.

(b) The Labor Surplus Area Subcontracting Program clause in 7-104.20(b) shall be included in all contracts which may exceed $500,000, but which contain the clause required by (a) above and which, in the opinion of the purchasing activity, offer substantial subcontracting possibilities. Prime contractors who are to be awarded contracts that do not exceed $500,000, which in the opinion of the purchasing activity offer substantial subcontracting possibilities, shall be urged to accept the clause.

1-805.4 *Reserved.*

1-806 Depressed Industries.

1-806.1 *General.* When an entire industry is depressed, the Director of the Federal Preparedness Agency of the General Services Administration may, under Defense Manpower Policy No. 4A, establish appropriate measures on an industry-wide, rather than on an area, basis. Designations of such industries are made by the Federal Preparedness Agency and such industries will be given special treatment as specified therein. Paragraph 1-806.2 reflects pertinent requirements with respect to the Petroleum and Petroleum Products Industry.

1-806.2 *Petroleum and Petroleum Products Industry. (Notification No. 38).* There shall be no labor surplus area set-asides in this industry.

Part 9—Responsible Prospective Contractors

1-900 Scope of Part. This Part sets forth (i) general policy with respect to responsibility of prospective contractors, (ii) minimum standards for responsible prospective contractors, (iii) requirements and procedures for determination of responsibility, and (iv) policy with regard to determination of subcontractor responsibility.

1-901 Applicability. This Part applies to procurement, advertised or negotiated, from contractors located in the United States, its possessions, or Puerto Rico and shall be applied in other places except where inconsistent with the laws and customs of the place where the prospective contractor is located. It is not applicable to procurement from (i) other governments (but see 1-904.3), including State and local governments; (ii) other United States Government departments and agencies, or their instrumentalities (such as Federal Prison Industries, Inc.); or (iii) National Industries for the Blind.

1-902 General Policy. Purchases shall be made from, and contracts shall be awarded to, responsible prospective contractors only. A responsible prospective contractor is one which meets the standards set forth in 1-903.1 and 1-903.2, and such special standards as may be prescribed in accordance with 1-903.3 and by overseas commanders. The award of a contract to a supplier based on lowest evaluated price alone can be false economy if there is subsequent default, late deliveries, or other unsatisfactory performance resulting in additional procurement or administrative costs. While it is important that Government purchases be made at the lowest price, this does not require an award to a supplier solely because he submits the lowest bid or offer. A prospective contractor must demonstrate affirmatively his responsibility, including, when necessary, that of his proposed subcontractors. The contracting officer shall make a determination of nonresponsibility if, after compliance with 1-905 and 1-906, the information thus obtained does not indicate clearly that the prospective contractor is responsible. Recent unsatisfactory performance, in either quality or timeliness of delivery, whether or not default proceedings were instituted, is an example of a problem which the contracting officer must consider and resolve as to its impact on the current procurement prior to making an affirmative determination of responsibility. Doubt as to productive capacity or financial strength which cannot be resolved affirmatively shall require a determination of nonresponsibility.

1-903 Minimum Standards for Responsible Prospective Contractors.

1-903.1 *General Standards.* Except as otherwise provided in this paragraph 1-903, a prospective contractor must:

(i) have adequate financial resources, or the ability to obtain such resources as required during performance of the contract (see Defense Contract Financing Regulations, Part 2, Appendix E, and any amendments thereto; see also 1-904.2 and 1-905.2; for SBA certificates of competency, see 1-705.4);

(ii) be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments, commercial as well as governmental (for SBA certificates of competency, see 1-705.4);

(iii) have a satisfactory record of performance including quality.

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(iii) have a satisfactory record of performance including quality. (Contractors who are seriously deficient in current contract performance, when the number of contracts and the extent of deficiency of each are considered, shall, in the absence of evidence to the contrary or circumstances properly beyond the control of the contractor, be presumed to be unable to meet this requirement.) Quality defects of a critical or repetitive nature without adequate and timely corrective action, including repair or replacement of items, shall also be presumptive of inability to meet this requirement. Past unsatisfactory performance, due to failure to apply necessary tenacity or perseverance to do an acceptable job, shall be sufficient to justify a finding of nonresponsibility. DoD components shall assure that contracts are not awarded to contractors with a history of providing supplies or services of an unsatisfactory quality. (In the case of small business concerns, see 1-705.4 and 1-905.2);

(iv) have a satisfactory record of integrity (In the case of a small business concern, see 1-705.4); and

(v) be otherwise qualified and eligible to receive an award under applicable laws and regulations, *e.g.*, Section XII, Part 8.

1-903.2 *Additional Standards.*

(a) ***Standards for Production, Maintenance, Construction, and Research and Development Contracts.*** In addition to the standards in 1-903.1, in procurement involving production, maintenance, construction (see 18-106), or research and development work (and in other procurement as appropriate), a prospective contractor must:

(i) have the necessary organization, experience, operational controls and technical skills, or the ability to obtain them (including where appropriate, such elements as production control procedures, property control system and quality assurance measures applicable to materials produced or services performed by the prospective contractor and subcontractors (see 1-903.4)); and

(ii) have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them. Where a prospective contractor proposes to use the facilities or equipment of another concern, not a subcontractor, or of his affiliate (see 2-201(a)B(ii) and (b)(xvii)), all existing business arrangements, firm or contingent, for the use of such facilities or equipment shall be considered in determining the ability of the prospective contractor to perform the contract; see also 1-904.2.

(b) ***Standards for Food.*** Procurement of food shall be made only from those sources which, in addition to meeting the standards in 1-903.1, are approved with respect to sanitation in accordance with standards and procedures prescribed in AR 40-657, NAVSUP Instruction 4355.4A, AFR 163-2 and MCO P10110.31B.

1-903.3 *Special Standards.* When the situation warrants, contracting officers shall develop with the assistance of technical personnel or other specialists, special standards of responsibility to be applicable to a particular procurement or class of procurements. Such special standards may be particularly desirable when a history of unsatisfactory performance has demonstrated the need for insuring the existence of unusual expertise or specialized facilities necessary for adequate contract performance. The resulting standards shall form a part of the solicitation and shall be applicable to all bidders or offerors.

do not require voluminous specifications or drawings. With regard to classified acquisitions, the foregoing instructions apply to the extent consistent with Departmental security instructions and procedures.

1-1002.2 *Limited Availability of Certain Specifications, Plans, and Drawings.* When the purchasing activity is not in possession of complete sets of specifications, plans, and drawings (as in some procurements of airframes, shipbuilding, or major weapons systems), or the drawings and specifications are classified, or are so voluminous that display and distribution in accordance with 1-1002 is impracticable, the solicitation shall contain notice of this fact and of the locations at which the specifications, plans, or drawings may be examined (see 1-1203).

1-1002.3 *Reserved.*

1-1002.4 *Displaying in Public Place.* A copy of each solicitation for an unclassified procurement in excess of $5,000 which provides at least 10 calendar days for submission of offers shall be displayed at the contracting office and, if appropriate, at some additional public place from the date issued until 7 days after bids or proposals have been opened.

1-1002.5 *Information Releases to Newspapers and Trade Journals.* A brief announcement of the proposed purchase may be made available to newspapers, trade journals, and magazines for publication without cost to the Government.

1-1002.6 *Paid Advertisements in Newspapers and Trade Journals.* See Section IV, Part 8.

1-1003 Synopses of Proposed Procurements.

1-1003.1 *General.*

(a) Except for procurements described in (b) and (c), every proposed advertised or negotiated procurement, including those basic ordering agreements which:

(i) involve specific supplies or services;

(ii) are supported by appropriate determinations and findings limiting future orders thereunder to the basic ordering agreement contractor; and

modifications to existing contracts when new funds are obligated for additional supplies and services made in the United States, its possessions, and Puerto Rico which may result in an award in excess of $10,000 shall be publicized promptly in the *Commerce Business Daily* "Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards". When an item is assigned or is within a Federal Supply Class assigned for procurement in Section V, Part 12, and is purchased by other than the assigned Department, the synopsis shall cite the applicable purchase exclusion number from 5-1201.1 or 5-1201.2(a). Modifications to an existing contract resulting from price changes, engineering changes, overruns, definitization of letter contracts, orders under a basic ordering agreement which was previously synopsized in accordance with 3-410.2(c)(4), and other similar transactions need not be publicized in the *Commerce Business Daily*.

(b) Only those classified procurements, where the information necessary to be included in the Synopsis cannot be worded in such a manner so as to preclude the disclosure of classified information, or where the mere disclosure of the Government's interest in the area of the proposed procurement would violate security requirements, shall not be publicized in the Synopsis. All other classified

procurements shall be publicized in the Synopsis, even though access to classified matter might be necessary in order to submit a proposal or to perform the contract (see 1-1003.9(f)(3)). The intent of the exception for classified procurement in the synopsis requirements of P.L. 87-305 is not to exempt every classified procurement from publicizing, but to provide a safeguard against violating security requirements.

(c) The following need not be publicized in the Synopsis (Exceptions 1 through 9 — Item 13 of the DD Form 350):

(i) see (b) above;

(ii) procurement of perishable subsistence;

(iii) procurement of electric power or energy, gas (natural or manufactured), water, or other utility services;

(iv) procurement (whether advertised or negotiated) which is of such urgency that the Government would be seriously injured by the delay involved in permitting the date set for receipt of bids, proposals, or quotations to be more than 15 calendar days from the date of transmittal of the synopsis or the date of issuance of the solicitation, whichever is earlier;

(v) procurement to be made by an order placed under an existing contract other than an order placed under a Basic Ordering Agreement;

(vi) procurement to be made from or through another Government department or agency, including procurements from the SBA using the authority of section 8(a) of the Small Business Act, or a mandatory source of supply such as an agency for the blind under the blind-made products program;

(vii) procurement of personal and professional services other than architect-engineer services (see 1-1003.4(b)(1));

(viii) procurement from educational institutions to be negotiated under 3-205;

(ix) procurement in which only foreign sources are to be solicited.

1-1003.2 *Time of Publicizing.* To allow concerns which are not on current bidders lists ample time to prepare bids, proposals, or quotations; purchasing offices should, when feasible, synopsize proposed procurements no later than ten days before the issuance of solicitations, or the placement of orders against basic ordering agreements if such basic ordering agreement has not previously been synopsized in accordance with 3-410.2(c)(4), as specified in 1-1003.9(b), *provided* that in the case of "Architectural and Engineering Services" and "Research and Development Procurements," every effort shall be made to allow an interval of 14 days. If definite dates for issuance of the solicitation document have not been established, show such dates as being either on or about a given date. If this is not feasible or practicable, purchasing offices shall synopsize proposed procurements not later than the date of issuance of solicitations unless the exceptions cited in 1-1003.1(b) and (c) are applicable.

1-1003.3 *Pre-Invitation / Solicitation Notices.* Where pre-invitation notices (see 2-205.6) or pre-solicitation notices (see 3-106.2) are used, a synopsis of the pre-invitation or pre-solicitation information shall be included in the *Commerce Business Daily*. This information need not be republished in the synopsis when the invitation for bids is issued. However, if the pre-invitation notice contains a set-

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tion, shall be referred to the Secretary of the Department concerned, and the appropriate legislative liaison office shall be informed. When a proposed reply is to be so referred to a Secretary, an interim reply shall be made to the congressional request indicating the action being taken.

(b) *Inclusion on Bidders Mailing Lists.* Any member of any Committee or Subcommittee of the Congress which is interested in procurement matters shall, upon request of the Committee or Subcommittee Chairman, be placed on applicable bidders mailing lists to receive automatic distribution of bid and proposal information in the specified area of interest.

1-1005 Publicizing Award Information.

1-1005.1 *Synopsis of Contract Awards.*

(a) *General.* With the exception of awards to SBA using the authority of section 8(a) of the Small Business Act, and awards for perishable subsistence and brand name items for commissary resale, awards of all unclassified contracts to be performed in whole or in part within the United States, exceeding $100,000 in amount, shall be published in the *Commerce Business Daily* "Synopsis of U.S. Government Proposed Procurement, Sales and Contract Awards"

(b) *Preparation and Transmittal.*

(1) Purchasing offices shall prepare and forward single copies of synopses of contract awards daily, using the same format as prescribed in 1-1003.9, to the address below, via first class mail.

U.S. Department of Commerce
Commerce Business Daily
P.O. Box 5999
Chicago, Illinois 60680

(2) The synopsis of contract awards shall contain the following information:

(i) the name and address of purchasing office;
(ii) the classification code (4-digit) applicable to the procurement action;
(iii) a clear and concise description of the supplies or services being procured, including a national stock number or a service stock number when assigned, such description to be followed by the contract number and date and, in parentheses, by the applicable number of the invitation for bids or requests for proposals;
(iv) the quantity of each item;
(v) the dollar amount of the award;
(vi) the name, size status ((S) for small business and (L) for large business), and the full address of the contractor;
(vii) for POB destination procurement when total shipments from a point of origin to a point of destination will exceed 200,000 pounds and destinations are firm—
(A) origin point of shipment when different from (vi) above;
(B) CONUS destination of shipment (see 1-1003.9(b)(6)); and
(C) scheduled delivery period (beginning and ending dates); and

(viii) when requested by the prime contractor, a statement of the industries, crafts, processes or component items in or for which subcontracts are available and subcontractors are desired, together with the general area, if any, indicated by the prime contractor, such as Southeast States, West Coast, New England.

1-1005.2 *Announcement of Awards.*

(a) *Public Announcement.* Information on proposed contractual actions over $3 million shall be submitted in writing in accordance with Departmental/Agency procedures. Report Control Symbol DD-LA(AR) 1279 applies. Departments will submit reports to the Office of the Assistant Secretary of Defense (Public Affairs) by the close of business the day before contract award is proposed, so that this data may be announced to the press at 1600 hours Washington, D.C. time on the day of award. Contracts excluded from this reporting requirement include (i) those placed with the Small Business Administration under Section 8(a) of the Small Business Act, and (ii) those placed with foreign firms when the place of delivery or performance is outside the United States or its possessions. Awards or release of information on proposed contracts shall not be made prior to the public release time of 1600 hours Washington, D.C. time.

(b) *Congressional Notification.* In accordance with Departmental procedures, Departments shall notify the appropriate Members of Congress (Senators and Representatives in whose state and district the proposed contractor is located and, if different, in whose state and district the work is to be performed) of contract awards of over $3 million concurrent with the public announcement described in (a) above.

1-1005.3 *Local Announcements of Awards Over $25,000.* Contract awards may also be the subject of local press release or other public announcements. When such press releases or public announcements are made, for procurements of $25,000 or more, they shall include the following information:

(i) for awards after formal advertising, state that the contract was awarded after competition by formal advertising and include the number of bids solicited and the number received, and state in general terms the basis for selection, *e.g.*, the lowest responsible bidder;
(ii) for awards after procurement by negotiation, include the information contained in the notice prescribed by 3-508.3 and where the award was made after competitive negotiation (either price or design competition), include a statement to this effect and state in general terms the basis for selection.

1-1006 Reserved.

1-1007 Public Release of Long-Range Procurement Estimates.

1-1007.1 *General.* To assist industry in planning its efforts, and to locate additional sources, it may be desirable to announce to the public long-range procurement estimates on certain items, groups or types of items, materials, or research and development projects and tasks procured by the Department of Defense. Procurement estimates with respect to proposed purchases may be provided to industry as far in advance as possible under the conditions contained in 1-1007.3, 1-1007.4 and 1-1007.5.

waiver of product qualification requirements. Where waivers have been granted, solicitations shall specifically indicate that the qualification requirement is inapplicable. Such information shall also be included in any Synopsis of the procurement.

1-1109 Inadequate Competition.

(a) *Pre-Solicitation.* In connection with procurement of a qualified product as an end item, the contracting officer shall review the applicable Qualified Products List prior to solicitation to ascertain whether the number of sources is adequate for competition. If, in the opinion of the contracting officer, the number of sources is inadequate, action shall be taken as prescribed below unless he already has the necessary information.

(1) The contracting officer shall request the activity that prepared the specification to provide information concerning the status of tests on additional products, including the anticipated dates when such tests will be completed so that opening of bids or submission of proposals may be so scheduled as to allow completion of the tests.

(2) If no tests are being conducted or contemplated, the contracting officer shall further request the preparing activity to advise whether a means of quality assurance other than qualification approval may be substituted in the procurement.

(b) *Post-Solicitation.* The contracting officer shall advise the specification preparing activity of the name and address of any concern which requested copies of the solicitation but was not included on the Qualified Products List. The specification preparing activity may then attempt to interest such concerns in becoming qualified.

1-1110 Reporting Nonconformance With Specification Requirements. If a supplier on the qualified products list repeatedly submits products not meeting specification requirements for inspection, resubmits products previously rejected without correcting the defects, or is otherwise unsatisfactory in the performance of contracts, he shall be reported to the activity that prepared the specification for a determination as to whether the supplier's product shall be removed from the list.

1-1111 Misuse of Qualified Products List Information. Misuse of qualified products list information, such as for advertising or publicity purposes contrary to that permitted in 1-1104(v), shall be reported promptly to the preparing activity.

Part 12—Specifications, Plans, and Drawings

1-1201 General.

(a) Plans, drawings, specifications, standards, or purchase descriptions for acquisitions shall state only the actual minimum needs of the Government and describe the supplies and/or services in a manner which will encourage maximum competition and eliminate, insofar as possible, any restrictive features which might unnecessarily limit acceptable offers to one supplier's product, or the products of a relatively few suppliers. Items to be acquired shall be described by citing the applicable specifications and standards or by a description containing the necessary requirements. Specifications and standards shall be selectively applied and tailored in their application. Selective application is the process of reviewing and selecting from available specifications, standards, and related documents those which have application to a particular acquisition. Tailoring is the process by which individual provisions (sections, paragraphs or sentences) of the selected specifications, standards, and related documents are reviewed and modified so that each one selected states only the minimum requirements of the Government. Such tailoring need not be made a part of the basic specification or standard but will vary with each application dependent upon the nature of the acquisition. When specifications are cited, they and all amendments or revisions thereof applicable to the acquisition, shall be identified, including the respective approval dates of the applicable issue, revision, amendment, or notices. When specifications, standards, or other documents are referenced in cited specifications, their effective issue or revision shall be that listed in the Department of Defense Index of Specifications and Standards (DoDISS) and supplements thereto, unless (i) specific issues are set forth therefor in the cited Specifications or (ii) different issues than those specified in the cited specifications are set forth in the solicitation. The date of the applicable DoDISS and supplements thereto shall be set forth in the solicitation. Copies of all specifications, standards, and other documents citing issue dates other than those shown for the documents by the specified DoDISS must be furnished with the solicitations as prescribed by 1-1203. The requirement to identify the DoDISS, specifications, standards, and other documents by issue refers to the specific calendar date of approval printed on the document or the latest applicable amendment or revision notice. Revision letters of drawings may be used in lieu of revision dates when the letters provide the same degree of identification as the dates. General identification such as "the issue in effect on the date of the solicitation," or similar language, shall not be used. Drawings and data furnished with solicitations shall be clear and legible.

(b) Many specifications cover several grades or types, and provide for several options in methods of inspection, etc. When such specifications are used, the solicitation shall state specifically the grade, type, or method of inspection, etc., on which bids or offers are to be based.

1-1202 Mandatory Specifications and Standards.

(a) Except as provided in (b) below, the following specifications and standards are mandatory for use by the Department of Defense in the acquisition of supplies and services covered by such specifications and standards:

(i) Federal specifications and standards, unless determined by the Department of Defense to be inapplicable for its use;

(ii) Military specifications and standards approved by the Department of Defense for its use; and

(iii) Industry documents adopted by the Department of Defense as listed in the Department of Defense Index of Specifications and Standards.

(b) Federal and Military specifications and standards need not be used for the following unless required by Departmental instructions:

(i) purchase of items for authorized resale except military clothing;

(ii) purchases for construction when nationally-recognized industry and technical source specifications and standards are available (see 18-107);

(iii) purchase of items in an amount not to exceed $10,000 (multiple small purchases of less than $10,000 of the same item shall not be made for the purpose of avoiding the use of Federal or Military specifications); or

(iv) purchases using small purchase procedures.

(c) Unless required by Departmental instructions, Federal and Military specifications and standards need not be prepared for use in the below listed contracting actions; however, existing Federal and Military specifications and standards, and adopted industry documents to the extent that they are applicable to the item or service required, shall be used for:

(i) purchase incident to research and development;

(ii) purchase of items for test or evaluation;

(iii) purchase of laboratory test equipment for use by Government laboratories;

(iv) purchase of one-time procurement items; or

(v) purchase of items—

(A) for which it is impracticable or uneconomical to prepare a specification or standard (repetitive use of a purchase description containing the essential characteristics of a specification, except for acquisition of unique components or replacement parts, will be construed as evidence of improper use of this exception); or

(B) when the purchase involves an item which is the product of private development and the provisions of 1-304 are complied with.

(d) If it is determined, in accordance with the procedures established under the Defense Standardization Program by the Under Secretary of Defense for Research and Engineering, that the specifications and standards listed in (a) above do not meet the particular or essential needs of a bureau, service, or command, then (except as provided in (b) and (c) above) applicable amendments, revisions or new specifications or standards (interim Federal or limited coordination Military) shall be immediately prepared and used.

(e) When it is necessary to make interim changes or corrections to specifications or standards to effect an acquisition, the authorizing activity shall take immediate action to advise the specification or standard preparing activity of the changes or corrections and the reasons giving rise thereto.

1-1203 Availability of Specifications, Standards, Plans and Drawings.

1-1203.1 *General.* Each solicitation shall be accompanied with the applicable specifications, standards, plans, drawings, descriptions and any other pertinent documents, or shall state where such documents may be obtained or examined, in

accordance with this paragraph. In the case of specifications and drawings available from the purchasing office, the solicitation should identify as precisely as possible the responsible individual's name and title, address and room number, office symbol, and telephone number, for purposes of facilitating and expediting requirements for documents or for examination of such documents.

1-1203.2 *Specifications and Standards Listed in the DODISS and Data Item Description Listed in DoD Directive 5000.19-L, Volume II.*

(a) A Department of Defense Single Stock Point (DODSSP) has been established at the Naval Publications and Forms Center in Philadelphia for unclassified Federal, Military and other specifications and standards (including commercial) listed in the Department of Defense Index of Specifications and Standards (DODISS) and data item descriptions listed in the Department of Defense Acquisition Management Systems and Data Requirements Control List (AMSDL) DODD 5000.19-L, Volume II. Except as provided in (b) below, such specifications, standards, and descriptions normally will not be furnished with the solicitation; but the solicitation shall contain the provision in 7-2003.8.

(b) Specifications and Standards listed in the DODISS (excluding commercial) and Data Items listed in the AMSDL may be furnished with the solicitation when:

(i) the nature and complexity of the item are such that furnishing with the solicitation is necessary to enable prospective contractors to make a competent initial evaluation of the solicitation;

(ii) in the judgment of the contracting officer, it would be impracticable for prospective contractors to obtain the specifications, standards and descriptions from the DODSSP in time to respond to the solicitation; *e.g.*, urgency of the procurement, isolated geographical area, or other cogent reason; or

(iii) a prospective contractor who has not previously bid on the item requests a copy of the solicitation.

(c) Purchasing activities may obtain copies of the DODISS and the AMSDL, as well as all unclassified specifications and standards (including commercial) listed in the DODISS, and data item descriptions listed in the AMSDL by sending DD Form 1425 to the DODSSP.

1-1203.3 *Specifications and Standards Not Listed in DODISS, Data Item Descriptions Not Listed in DoD Directive 5000.19-L, Volume II, and Plans, Drawings, and Other Pertinent Documents.* Specifications and standards not listed in the DODISS, and plans, drawings, and other pertinent documents (including new or revised Federal or Military specifications and standards not yet listed in DODISS) and data item descriptions not listed in DoD Directive 5000.19-L, Volume II, normally shall be furnished with the solicitation. When this is not feasible because of the bulk of the documents, the limited number of copies available, or for some other good reason, the solicitation shall include a provision substantially similar to that contained in 7-2003.9(a) or (b) as appropriate.

1-1204 Packaging and Marking Policies.

(a) All Department of Defense supplies, materials, and equipment shall be afforded the degree of packaging (preservation and packing) required to prevent deterioration and damages due to the hazards of shipment, handling and storage.

SECTION III—PROCUREMENT BY NEGOTIATION

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SECTION III

PROCUREMENT BY NEGOTIATION

Part 1—Use of Negotiation

3-100 Scope of Part. This Part deals with the nature and use of negotiation as distinguished from formal advertising, and with limitations upon that use.

3-101 General.

(a) Pursuant to the authority of 10 U.S.C. 2304(a), procurement may be effected by negotiation under any one of the exceptions (1) through (17) set forth in Part 2 of this Section. However, procurement shall be made by formal advertising when such method is feasible and practicable, even though existing conditions and circumstances would otherwise satisfy the requirements of Part 2 of this Section.

(b) When supplies or services are to be procured by negotiation, offers shall be solicited from the maximum number of qualified sources consistent with the nature and requirements of the supplies or services to be procured.

(c) No contract shall be entered into as a result of negotiation unless a business clearance or approval as is prescribed by applicable Departmental procedures has been obtained.

(d) Negotiated procurements shall be on a competitive basis to the maximum practical extent. When a proposed procurement appears to be necessarily noncompetitive, the contracting officer is responsible not only for assuring that competitive procurement is not feasible, but also for acting whenever possible to avoid the need for subsequent noncompetitive procurements. This action should include both examination of the reasons for the procurement being noncompetitive and steps to foster competitive conditions for subsequent procurements, particularly as to the availability of complete and accurate data, reasonableness of delivery requirements (1-305.2(a)), and possible breakout of components for competitive procurement. Except for procurement of electric power or energy, gas (natural or manufactured), water, or other utility services, and procurement of educational services from nonprofit institutions, contracts in excess of $25,000 shall not be negotiated on a noncompetitive basis without prior review at a level higher than the contracting officer to assure compliance with this subparagraph.

3-102 Reserved.

3-103 Records and Reports of Negotiated Contracts. In addition to the records and reports described in 1-308, 3-211.4, and 3-216.4, each Department is required to maintain a record of the total value of all contracts negotiated by it during each fiscal year under each of the circumstances permitting negotiation enumerated in Section III, Part 2. These records, and reports based thereon, are maintained through the Department of Defense Procurement reporting system described in 1-110 and Section XXI, Part 1.

3-104 Aid to Small Business and Minority Concerns in Negotiated Procurements. When negotiation is conducted, consideration shall be given to the size

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and minority status of the business concerns, and when subcontracting is consistent with the best interests of the Government, the extensive use of subcontractors shall be a favorable factor. See Section I, Part 7, and 1-322.

3-105 Aid to Labor Surplus Area Concerns in Negotiated Procurements. When negotiation is conducted, consideration shall be given as to whether the prospective supplier is a labor surplus area concern. See Section I, Part 8.

3-106 Presolicitation Notices and Conferences.

3-106.1 *General.* This Part describes a procedure which may be used as a preliminary step to negotiated procurements where the cost of preparing a formal solicitation and response would be substantial for both the Government and industry. This procedure is designed to develop sources for procurement; permit the Government to solicit for preliminary information based on a general description of the supplies or services involved; permit prospective offerors to submit proposals without undue expenditure of effort, time, and money; and to explain complicated specifications and requirements to interested firms. The presolicitation conference shall not be used as a method for prequalification of offerors, and may be used only when approved at a level higher than the contracting officer.

3-106.2 *Presolicitation Procedure.*

(a) When a presolicitation notice is used it shall be prepared by the contracting officer and forwarded to all known potential offerors. It shall at least request an expression of interest in the contemplated procurement and shall designate a time for submission of responses. In cases of complex procurement, it may also request information pertaining to management, engineering, and production capabilities. Each notice shall define as explicitly as possible the information to be furnished by the offeror and shall indicate whether it is contemplated that the presolicitation notice will be followed by a conference and a formal solicitation. Detailed drawings, specifications, or plans shall not normally be included in a presolicitation notice. The presolicitation notice shall be synopsized in accordance with 1-1003. See 1-309 for solicitations for informational or planning purposes; 2-205.6 for pre-invitation notices in formally advertised procurements; and 2-207 and 3-504 for pre-bid and pre-proposal conferences, respectively.

(b) All of those responding to the presolicitation notice shall be advised of the details of any pending presolicitation conference. The presolicitation conference shall be conducted by procurement personnel, and attended by technical and legal personnel as appropriate. All prospective offerors attending the conference shall be furnished copies of the solicitation, unless they decline to participate in the procurement. If it is determined to proceed with the procurement without a conference, those responding to the presolicitation notice shall be furnished a formal solicitation, except those who decline to participate. In addition, a copy of the solicitation shall be furnished to any prospective offeror who requests one (but see 1-603 and 1-609.7).

(c) All prospective contractors shall be furnished identical information in connection with the proposed procurement. Care shall be taken to safeguard any information received in confidence. (See 1-1004.)

3-107 Offeror Response Time. The guidance in 2-202.1 shall be applied to negotiated procurements.

Part 2—Circumstances Permitting Negotiation

3-200 General. Subject to the limitations set forth in Part 1 of this Section III and pursuant to the authority of 10 U.S.C. 2304(a), procurement may be effected by negotiation under any one of the exceptions ((1) through (17) of 10 U.S.C. 2304(a)) set forth in this Part 2, subject, in the case of construction contracts, to the further restrictions of 10 U.S.C. 2304(c) as set forth in 18-301. Each negotiated contract shall contain a reference to the authority under which it was negotiated.

3-201 National Emergency.

3-201.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(1), purchases and contracts may be negotiated if—

> "it is determined that such action is necessary in the public interest during a national emergency declared by Congress or the President."

3-201.2 *Application.*

(a) The authority of this paragraph 3-201 shall be used only to the extent determined by the Assistant Secretary of Defense (Installations and Logistics) to be necessary in the public interest, and then only in accordance with Departmental procedures consistent with this paragraph 3-201.

(b) For the duration of the national emergency declared pursuant to Presidential Proclamation 2914, dated December 16, 1950, the Assistant Secretary of Defense (Installations and Logistics) has determined that only the following procurements may be made pursuant to the authority of 10 U.S.C. 2304(a)(1):

(i) procurements made in keeping with (A) labor surplus set-aside programs (including, when no other negotiating authority is appropriate and the use of formal advertising is not feasible and practicable under the existing conditions and circumstances, the placement of contracts for the total or any part of the requirements set-aside which are not filled by awards made in accordance with the provisions of the Notice of Labor Surplus Area Set-Aside (see 1-804); or (B) disaster area programs; and

(ii) procurements made in keeping with the small business programs
  (A) after unilateral determinations for set-asides, or
  (B) to place the total or any part of the requirements set aside (unilateral or joint) which are not filled by awards to small business concerns, when no other negotiating authority is appropriate and the use of formal advertising is not feasible and practicable (see 1-706.7).

3-201.3 *Limitation.* The authority of this paragraph 3-201 shall not be used when negotiation is authorized by the provisions of 3-206 except that, in the event of a labor surplus or small business set-aside, this authority shall be used in preference to any other authority in this Part 2 (see 1-706.2 and 1-804.4). The authority of this paragraph shall not be to negotiate a reasonable price with a low responsible small business bidder whose bid has been determined by the contracting officer to be an unreasonable bid under Small Business Restricted Advertising procedures. When such an unreasonable bid is received, the set-aside shall be dis-

solved and the requirement procured on an unrestricted basis by the use of formal advertising or where appropriate by other negotiation authority in accordance with existing regulations.

3-202 Public Exigency.

3-202.1 *Authority.* Pursuant to the authority of 10 U.S.C. 2304(a)(2) purchases and contracts may be negotiated if—

"the public exigency will not permit the delay incident to advertising."

3-202.2 *Application.* In order for the authority of this paragraph 3-202 to be used, the need must be compelling and of unusual urgency, as when the Government would be seriously injured, financially or otherwise, if the supplies or services were not furnished by a certain date, and when they could not be procured by that date by means of formal advertising. When negotiating under this authority, competition to the maximum extent practicable, within the time allowed, shall be obtained. The following are illustrative of circumstances with respect to which this authority may be used:

(i) supplies, services, or construction needed at once because of fire, flood, explosion, or other disaster;

(ii) essential equipment for, or repair to, a ship when such equipment repair is needed at once for compliance with the orders of the ship;

(iii) essential equipment for, or repair to, aircraft grounded or about to be grounded, when such equipment or repair is needed at once for the performance of the operational mission of such aircraft;

(iv) construction needed at once to preserve a structure or its contents from damage;

(v) essential equipment for, or repair to, missiles or missile support equipment, when such equipment or repair is needed at once to preclude impairment of launch capabilities or mission performance;

(vi) purchase requests citing an issue priority designator under the Uniform Material Movement and Issue Priority System (UMMIPS), which may justify negotiation under this or other negotiation authority, but in such cases the specific circumstances must be set forth in the determination and findings; or

(vii) purchase requests citing "Electronic Warfare QRC Priority" as the priority designator.

3-202.3 *Limitation.* Every contract negotiated under the authority of this paragraph 3-202 shall be accompanied with a determination and findings justifying its use, signed by the contracting officer and prepared in accordance with the requirements of Part 3 of this Section III. The authority of this paragraph 3-202 shall not be used when negotiation is authorized by the provisions of 3-203 or 3-206.

3-203 Purchases Not More Than $25,000.

3-203.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(3), purchases and contracts may be negotiated if—

"the aggregate amount involved is not more than $25,000."

3-203.2 *Application.* Purchases or contracts aggregating not more than $25,000 shall be made in accordance with Part 6 of this Section, and 18-302 in the case of certain construction contracts.

3-203.3 *Limitation.* The authority of this paragraph 3-203 shall not be used when negotiation is authorized by the provisions of 3-206. However, where small business set asides are made, the appropriate paragraph 3-201.2 (for unilateral set-asides) or 3-217 (for joint class set-asides) shall be cited. When negotiations have been initiated under another provision of this Section, that provision shall be cited as the negotiation authority for any resulting contract, even though one or more contracts of not more than $25,000 in amount may result.

3-204 Personal or Professional Services.

3-204.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(4), purchases and contracts may be negotiated if—

"for personal or professional services."

3-204.2 *Application.* The authority of this paragraph 3-204 shall be used only when all of the following conditions have been satisfied:

(i) if personal services, they are required to be performed by an individual contractor in person (not by a firm), or if professional services, they may be performed either by an individual contractor in person or a firm or organization;

(ii) the services (A) are of a professional nature, or (B) are to be performed under Government supervision and paid for on a time basis; and

(iii) procurement of the services is authorized by law, and is effected in accordance with the requirements of any such law and in accordance with Departmental procedures.

3-204.3 *Limitations.* The authority of this paragraph 3-204, and the above conditions imposed upon its use, shall not apply to the procurement by negotiation of any type of service authorized under any other provision of this Section III.

3-205 Services of Educational Institutions.

3-205.1 *Authority.* Pursuant to the authority of 10 U.S.C. 2304(a)(5), purchases and contracts may be negotiated if—

"for any service by a university, college, or other educational institution".

3-205.2 *Application.* The following are illustrative of circumstances with respect to which the authority of this paragraph 3-205 may be used:

(i) educational or vocational training services to be rendered by any university, college, or other educational institution in connection with the training and education of personnel, and for necessary material, services, and supplies furnished by any such institution in connection therewith;

(ii) experimental, developmental, or research work (including services, tests, and reports necessary or incidental thereto) to be conducted by any university, college, or other educational institution, and reports furnished in connection therewith; or

(iii) analyses, studies, or reports (statistical or otherwise) to be conducted by any university, college, or other educational institution.

3-205.3 *Limitation.* Except as authorized in 22-902(b), the authority of this paragraph 3-205 shall not be used when negotiation is authorized by the provision of 3-203 or 3-206.

3-206 Purchases Outside the United States.

3-206.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(6), purchases and contracts may be negotiated if—

"for property or services to be procured and used outside the United States, and its Territories, possessions and Puerto Rico."

3-206.2 *Application.* The authority of this paragraph 3-206 shall be used only for the procurement of supplies to be shipped from, delivered, and used, or services to be performed, outside of the United States, its possessions and Puerto Rico, irrespective of the place of negotiation or execution of the contract. When the authority of this paragraph is available for the negotiation of a contract, no other negotiating authority shall be used, nor shall formal advertising be used.

3-207 Medicines or Medical Supplies.

3-207.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(7), purchases and contracts may be negotiated if—

"for medicine or medical supplies".

3-207.2 *Application.* The authority of this paragraph 3-207 shall be used only when the following two requirements have been satisfied:

(i) such supplies are peculiar to the field of medicine, including technical equipment such as surgical instruments, surgical and orthopedic appliances, X-ray supplies and equipment, and the like, but not including prosthetic equipment; and

(ii) whenever it is determined to be practicable, such advance publicity as is considered suitable with regard to the supplies involved and other relevant considerations shall be given for a period of at least 15 days before making a purchase of or contract for supplies or services, under this authority of this paragraph 3-207, for more than $10,000.

3-207.3 *Limitation.* Every contract negotiated under the authority of this paragraph 3-207 shall be accompanied with the determination and findings justifying its use, signed by the contracting officer and prepared in accordance with the requirements of Part 3 of this Section III. The authority of this paragraph 3-207 shall not be used when negotiation is authorized by the provisions of 3-203 or 3-206.

3-208 Supplies Purchased for Authorized Resale.

3-208.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(8), purchases and contracts may be negotiated if—

"for property for authorized resale".

3-208.2 *Application.*

(a) The authority of this paragraph 3-208 shall be used only for purchases for resale, where appropriated funds are involved, and ordinarily only for purchases of articles with brand names or of a proprietary nature which a selling activity believes or finds to be desired or preferred by its patrons.

balanced by a penalty in the form of decreased profit or fee for failure to achieve such targets. Performance incentives are particularly appropriate for inclusion in contracts for major weapons and equipment, both in development when desired performance objectives are known and the fabrication of prototypes for test and evaluation is required, and in production where there is potential for improved performance that would be highly desirable to the Government. Effort always should be made in these procurement situations to include a performance incentive in the contract. Performance incentives present complex problems in contract administration and should be negotiated and administered by contracting officers with the full cooperation of Government engineering and pricing specialists.

(c) *Limitations.*

(1) Performance incentives, when related to the performance of the product, may result in increased costs and shall always, except under firm fixed-price contracts, be coupled with a balancing of range of fee or profit on the cost and performance aspects, negotiated so as to give appropriate weight to basic procurement objectives. Where incentives relating to the performance of the product are included in a contract, and earliest possible delivery is of considerable importance to the Government, the contract normally should include a performance incentive relating to time of performance or for expedited delivery schedules.

(2) In the case of cost-plus-incentive-fee or cost-plus-award-fee type contracts, the maximum fee shall not exceed the limitation stated in 3-405.6(c)(2).

3-408 Letter Contract.

(a) *Definition.* A letter contract is a written preliminary contractual instrument which authorizes immediate commencement of manufacture of supplies, or performance of services, including, but not limited to, preproduction planning and the procurement of necessary materials.

(b) *Application.* A letter contract may be entered into when (i) the interests of national defense demand that the contractor be given a binding commitment so that work can be commenced immediately, and (ii) negotiation of a definitive contract in sufficient time to meet the procurement need is not possible, as, for example, when the nature of the work involved prevents the preparation of definitive requirements, specifications, or cost data.

(c) *Limitations.*

(1) A letter contract shall be used only after a written determination that no other type of contract is suitable.

(2) A letter contract shall not be entered into without competition when competition is practicable. Where a letter contract award is based on price competition, an overall price ceiling shall be included in the letter contract.

(3) A letter contract shall include an agreement between the Government and the contractor as to the date by which definitization is expected to be completed and a definitization schedule, as required by 7-802.5. This date shall be prior to:

(i) the expiration of 180 days from the date of the letter contract; or

(ii) forty percent (40%) of the production of the supplies, or the performance of the work, called for under the contract, whichever occurs first.

In extreme cases, an additional period may be authorized.

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(4) The maximum liability of the Government stated in the letter contract will be the amount estimated to be necessary to cover the contractor's requirements for funds prior to definitization, but this amount shall not exceed fifty percent (50%) of the total estimated cost of the procurement unless advance approval is obtained from the official authorizing the letter contract.

(5) The total estimated cost shall not exceed the funds available for obligation and commitment in the appropriate allotment account. Therefore, the letter contract shall not describe, refer to, or otherwise commit the Government to a definitive contract in excess of the funds available for obligation and commitment at the time the letter contract is executed.

(6) Amendments to letter contracts to accomplish new procurement may be used only if the new procurement is inseparable from the procurement covered by the existing letter contract. Such amendments are subject to the same limitations as new letter contracts.

(d) *Definitization.* A letter contract shall be superseded by a definitive contract at the earliest practicable date and not later than the target date established in the Definitization clause or any extension thereof by the contracting officer. To cover unusual cases in which the Government and the contractor, after exhausting all reasonable efforts, cannot negotiate a definitive contract because of failure to reach agreement as to price or fee, the clause in 7-802.5 requires the contractor to proceed with the work and gives the contracting officer the right, with approval of the Head of the Procuring Activity, to determine a reasonable price or fee in accordance with Section III, Part 8, and Section XV, subject to the Disputes clause.

(e) *Content.* Letter contracts shall be specifically negotiated and, as a minimum, shall include the clauses required by Section VII, Part 8. Whether executed on Standard Form 26 or Standard Form 30, a definitized contract will be numbered as a modification of the letter contract as provided in 20-204.3(a).

3-409 Indefinite Delivery Type Contracts.

(a) One of the following indefinite delivery type contracts may be used for procurement where the exact time of delivery is not known at time of contracting.

(b) For items with a shelf-life of less than six months, consideration will be given to use of indefinite delivery type contracts with orders to be placed either (i) directly by the users, or (ii) by central purchasing offices with deliveries direct to users. See 1-1204.

(c) Depending on the situation, indefinite delivery type contracts may provide for (i) firm fixed prices, (ii) economic price adjustment, (iii) price redetermination, or (iv) prices established in accordance with (d) below.

(d) When indefinite delivery type contracts, whether competitively awarded or not, are priced on the basis of catalog or market prices, the price to be paid may be determined by establishing an adjustment factor for application to the price in industry-wide pricing guides or manufacturer's price catalogs. Normally, the adjustment factor will be a fixed percentage discount for application to the price in effect on the date of each order.

(e) When it is desired to authorize the use of the fast pay procedure for orders not in excess of $25,000, the special data required by 3-606.3(b) shall be included in the contract. The clause in 3-606.3(b)(iv) shall be modified for this

This Agreement, including Parts A and B hereof, may be amended only by mutual agreement of the parties, and the Agreement may be terminated in its entirety by either party upon thirty (30) days written notice to the other party, except that this Agreement may be terminated by the Government at any time if the parties fail to agree upon any deletion, amendment or addition to this Agreement which is required by statute, Executive Order, or the Armed Services Procurement Regulation. No deletion, modification, addition to, or termination of, this Agreement shall affect any contracts theretofore entered into between the parties in which this Agreement or a portion thereof has been incorporated by reference.

This Agreement shall be reviewed, as a minimum, annually before the anniversary of its effective date, and revised to conform with all requirements of statutes, Executive Orders, or the Armed Services Procurement Regulation. This revision shall be evidenced by an agreement modifying this Basic Agreement or by the issuance of a superseding Basic Agreement.

This Agreement shall not be referred to by the Contractor in bids submitted in response to invitations for bids nor become a part of any contract placed through the process of formal advertising.

In WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written:

UNITED STATES OF AMERICA
By .....
(*Contracting Officer*)

.....
(*Name of Company*)
By .....
.....(*Title*)

(d) *Limitations.*

(1) Basic agreements shall neither cite appropriations to be charged nor to be used alone for the purpose of obligating funds.

(2) Basic agreements shall not in any manner provide for or imply any agreement on the part of the Government to place future orders or contracts with the contractor involved, nor shall they be used in any manner to restrict competition.

(3) Basic agreements generally shall be utilized only in connection with negotiated contracts.

3-410.2 *Basic Ordering Agreement.*

(a) *Description.*

(1) A basic ordering agreement is not a contract (but see 12-302, 12-602.1 and 12-1001). It is an agreement which is similar to a basic agreement (see 3-410.1) except that it also includes a description, as specific as practicable, of the supplies to be furnished or services to be performed when ordered and a description of the method for determination of the prices to be paid to the contractor for the supplies or services. Such method shall be consistent with the contract types authorized by this Part. Either the specific terms and conditions of delivery or a description of the method for their determination shall be set forth in the basic ordering agreement. The basic ordering agreement shall list one or more activities which are authorized to issue orders under the agreement. Any activity so named may issue orders specifying the supplies or services required. Orders shall be issued on DD Form 1155 or Standard Form 26 and shall incorporate by reference the provisions of the basic ordering agreement. When it is desired to

use the fast pay prmedure for orders not in excess of $25,000, the special data required by 3-606.3(b) shall be included in the basic ordering agreement. The clause in 7-104.84(a) shall be modified for this purpose to refer to orders and to the appropriate clause of the basic ordering agreement for the preparation of invoices.

(2) The basic ordering agreement shall specify the point at which each order becomes a binding contract. For example, the agreement may provide either (i) that issuance of an order gives rise to a contract immediately, (ii) that a contract arises upon the contractor's failure to reject the order within a specified number of days, or (iii) that a contract arises when the contractor accepts the order in a specified manner, such as by postcard, telegram, letter, signing and returning a copy of Standard Form 26 or DD Form 1155.

(b) *Applicability.* The basic ordering agreement may be used as a means of expediting procurement where specific items, quantities, and prices are not known at the time of execution of the agreement but where past experience or future plans indicate that a substantial number of requirements for items or services of the type covered by the basic ordering agreement will result in procurements from the contractor during the term of the agreement. Under proper circumstances, use of the procedures under the agreement is advantageous and economical in ordering parts for equipment support since such procedures substantially shorten the administrative time required for placing such articles in a production status, thereby not only decreasing the amount of support inventory required to be carried but also decreasing the possibility that parts procured will become obsolete as a result of design changes in the equipment.

(c) *Limitations.*

(1) Basic ordering agreements shall not in any manner provide for or imply any agreement on the part of the Government to place future orders or contracts with the contractor involved, nor shall they be used in any manner to restrict competition.

(2) Supplies or services may be ordered under a basic ordering agreement only under the following circumstances:

(i) If it is determined at the time the order is placed that it is impracticable to obtain competition by either formal advertising or negotiation for such supplies or services; or

(ii) If after a competitive solicitation of quotations or proposals from the maximum number of qualified sources (see 3-101), other than a solicitation accomplished by use of Standard Form 33, it is determined that the successful responsive offeror holds a basic ordering agreement, the terms of which are either identical to those of the solicitation or different in a way that could have no impact on price, quality or delivery, and if it is determined further that issuance of an order against the basic ordering agreement rather than preparation of a separate contract would not be prejudicial to the other offerors.

In situations covered by (ii), the choice of firms to be solicited shall be made in accordance with normal procedures, without regard to which firms hold basic ordering agreements; firms not holding a basic ordering agreement shall not be precluded by the solicitation from proposing or quoting; and the existence of a basic ordering agreement shall not be a consideration in source selection.

in 2-303.2, appropriately modified to relate to proposals and, if necessary, to telegraphic proposals.

(d) The normal revisions of proposals by offerors selected for discussion during the usual conduct of negotiations with such offerors are not to be considered as late proposals or late modifications to proposals.

(e) Late proposals and modifications of proposals which are not considered shall be held unopened, unless opened for identification, until after award and then retained with other unsuccessful proposals.

(f) The following shall, if available, be included in the purchase office files with respect to each late proposal or modification of proposal:

(i) the date of mailing, filing, or delivery, as the case may be;

(ii) the date and hour of receipt;

(iii) whether or not considered for award; and

(iv) the wrapper or other evidence if considered for award.

3-507 Treatment of Procurement Information.

3-507.1 *Restrictions on Disclosure and Use of Data in Proposals and Quotations.*

(a) A proposal, whether solicited or unsolicited, may include data, such as a technical design or concept or financial and management plan, which the offeror does not want disclosed to the public for any purpose or used by the Government for any purpose other than evaluation of the proposal. If an offeror wishes so to restrict his proposal, he shall mark the title page with the following legend:

> This data, furnished in connection with Request for Proposals No. .....*, shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate the proposal; *provided*, that if a contract is awarded to this offeror as a result of or in connection with the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the contract. This restriction does not limit the Government's right to use information contained in the data if it is obtained from another source without restriction. The data subject to this restriction is contained in Sheets ..... (1966 DEC)

*If proposal is unsolicited (see 4-101(e)), delete "furnished in connection with Request for Proposals No....."

The offeror shall mark each sheet of data which he wishes to restrict with the following legend:

> Use or disclosure of proposal data is subject to the restriction on the Title page of this Proposal. (1966 DEC)

Contracting officers and other Government personnel shall not refuse to consider any proposal merely because it or the data submitted with it is so marked. Those portions of the proposal and data which are so marked (except for information which is also obtained from another source without restriction) shall be used only to evaluate the proposal and shall not be disclosed outside the Government without the written permission of the offeror. If it is desired to duplicate, use, or

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disclose the data of the offeror to whom the contract is to be awarded, for purposes other than to evaluate the proposal, the contract should so provide. (See 9-201 for a description of "data" and Section IX, Part 2, in general, for the policy, instructions, and contract clauses with respect to the acquisition and use of data.)

(b) Proposals or quotations of subcontractors which are included as part of a proposal submitted by a prime-offeror may be marked as provided in (a) above.

(c) Records or data, other than the types of items listed in 1-329.1(b), bearing such a legend may be otherwise subject to release under the terms of the Freedom of Information Act, 5 U.S.C. 552, as amended (see 1-329). It is to be noted, however, that absent a request for such records or data pursuant to the statutory provisions, and the subsequent determination of releaseability, the legend shall be honored in accordance with (a) above.

(d) Proposals, solicited and unsolicited, shall be maintained and disposed of pursuant to 1-308 and related S2-102.1(x) and S2-501.

(e) See Part 9 of Section IV for further provisions with respect to unsolicited proposals.

3-507.2 *Disclosure of Information During the Pre-Award or Pre-Acceptance Period.*

(a) *General.* After receipt of proposals or quotations, no information contained in any proposal or quotation or information regarding the number or identity of the offerors shall be made available to the public, or to anyone within the Government not having a legitimate interest therein, as expressly provided by this Regulation. However, the negotiated price of the potentially selected offer shall be made available to the public in accordance with 4-1203.4(b)(3) when the procedures therein are used.

(b) *Equal Consideration and Information to All Prospective Contractors.* Discussions with prospective contractors regarding a potential procurement and the transmission of technical or other information shall be conducted only by the contracting officer, his superiors having contractual authority or others specifically authorized. Such personnel shall not furnish any information to a potential supplier which alone or together with other information may afford him an advantage over others. However, general information which would not be prejudicial to others may be furnished upon request *e.g.*, explanation of a particular contract clause or a particular condition of the schedule. When necessary to clarify ambiguities, or correct mistakes or omissions, an appropriate amendment to the solicitation shall be furnished in a timely manner to all to whom the solicitation has been furnished. See 3-505.

3-508 Information to Offerors.

3-508.1 *General.* Notice shall be provided offerors in accordance with 3-508.2 and 3-508.3 below. Such notice need not be given where disclosure may in some way prejudice the Government's interest or where the contract is:

(i) for subsistence;

(ii) negotiated pursuant to 10 U.S.C. 2304(A)(4), (5), or (6) (see 3-204, 3-205, or 3-206);

(iii) negotiated with a foreign supplier when only foreign sources of supplies or services have been solicited.

3-508.2 *Pre-Award Notice of Unacceptable Offers.*

(a) In any procurement in excess of $25,000 in which it appears that the period of evaluation of proposals is likely to exceed 30 days or in which a limited

number of suppliers have been selected for additional discussion (see 3-805), the contracting officer, upon determination that a proposal is unacceptable, shall provide prompt notice of that fact to the source submitting the proposal. Such notice need not be given where the proposed contract is to be awarded within a few days and notice pursuant to 3-508.3 below would suffice. In addition to stating that the proposal has been determined unacceptable, notice to the offeror shall indicate, in general terms, the basis for such determination and shall advise that, since further negotiation with him concerning this procurement is not contemplated, a revision of his proposal will not be considered.

(b) In any procurement involving a small business set-aside (excluding those processed in accordance with 3-600), upon final completion of negotiations and determinations of responsibility but prior to award, the contracting officer shall inform each unsuccessful offeror by written notice of the name and location of the apparently successful offeror(s). Each apparently unsuccessful offeror should be advised that any subsequent revisions of his proposal will not be considered, since no further negotiations are contemplated, and no further contact with the contracting officer need be made regarding the instant procurement unless the unsuccessful offeror has grounds to challenge the small business size status of the apparently successful offeror(s). This notification procedure shall not apply to procurements exempt by 3-508.1 above or to any urgent procurement action which the contracting officer determines in writing must be awarded without delay to protect the public interest. The contracting officer's determination shall be placed in the contract file.

3-508.3 *Post-Award Notice to Offerors.*

(a) Promptly after making all awards in any procurement in excess of $25,000, the contracting officer shall give written notice to the unsuccessful offerors that their proposals were not accepted, except that such notice need not be given where notice has been provided pursuant to 3-508.2(a). Such notice shall include:

(i) the number of prospective contractors solicited;

(ii) the number of proposals received;

(iii) the name and address of each offeror receiving an award;

(iv) the items, quantities, and unit prices of each award; *provided* that, where the number of items or other factors makes the listing of unit prices impracticable, only the total contract price need be furnished; and

(v) in general terms, the reasons why the offeror's proposal was not accepted, except where the price information in (iv) above readily reveals such reason, but in no event will an offeror's cost breakdown, profit, overhead rates, trade secrets, manufacturing processes and techniques, or other confidential business information be disclosed to any other offeror.

(b) In procurements of $25,000 or less and subject to the exceptions in 3-508.1 above, the information described in (a) above shall be furnished to unsuccessful offerors upon request.

(c) Such information as is authorized to be released to unsuccessful offerors pursuant to (a)(i) through (iv) above may, upon his request, be provided to the successful offeror.

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3-508.4 *Debriefing of Unsuccessful Offerors.*

(a) Offerors under negotiated procurements generally expend substantial time and effort in preparing their proposals. Therefore, those offerors not selected for contract award have a significant interest in learning why they were unsuccessful. Debriefing is the process by which purchasing offices provide unsuccessful offerors with the Government's evaluation of the significant factors contained in their proposals, citing determinative deficiencies and weaknesses. An adequate debriefing can provide the basis upon which offerors may improve future proposals and, in addition, give assurance that the selection has been handled fairly, in accordance with applicable regulations and the provisions of the solicitation.

(b) When a contract is awarded on some basis other than price, unsuccessful offerors shall be debriefed upon their written request, and furnished the basis for the selection decision and contract award. Debriefings shall be provided at the earliest feasible time after contract award. They shall be conducted by purchasing office officials familiar with the rationale for the selection decision and contract award.

(c) It is essential that debriefings be conducted in a scrupulously fair, objective and impartial manner. Debriefing information given offerors shall be factual and consistent with the evaluation. While offerors should be informed of the areas in which their technical or management proposals were weak or deficient, point-by-point comparisons with the technical or management proposals of the other offerors shall not be made. Furthermore, debriefings shall not reveal: (i) trade secrets; (ii) privileged or confidential manufacturing processes and techniques; (iii) commercial and financial information which is privileged or confidential, including cost breakdowns, profit, overhead rates, and similar information; or (iv) the relative merits or technical standing of competitors or the evaluation scoring.

(d) A summary of the debriefing shall be made a part of the contract file.

3-508.5 *Classified Information.* Classified information shall be furnished only in accordance with regulations governing classified information.

3-509 Protests Against Award. Protests against awards of negotiated procurements shall be treated substantially in accordance with 2-407.8.

3-510 Reserved.

PROCUREMENT BY NEGOTIATION

Part 6—Small Purchase and Other Simplified Purchase Procedures

3-600 Scope of Part. This Part sets forth simplified procedures for the procurement of supplies, nonpersonal services, and construction, the aggregate amount of which does not exceed $25,000, which are referred to in this Part as "small purchases." It also applies to certain other supplies and services. This Part does not preclude the use of bilateral purchase orders (see 3-608.4); Standard Form 19 for construction contracts (see 16-402.2 and 18-302); or a negotiated two-party formal contract for procurements not in excess of $25,000, for example where the procurement is classified or requires specific contract provision relating to technical inspection or test, specification changes, Government-furnished property, insurance, patents, price adjustments, or the like. When the total cost of services to repair Government equipment does not exceed $25,000, such services may be obtained by purchase orders or other appropriate small purchase method, regardless of the value of the Government equipment being repaired (see 3-608.2(b)(1)(viii)), except as provided in 3-608.2(b)(2). Procurements of supplies and services or construction initially estimated to exceed $25,000 shall not be made by the small purchase method, even though resulting awards do not exceed such amounts.

3-601 Purpose. The objective of the simplified purchase methods prescribed herein is to reduce administrative costs.

3-602 Definitions. As used in this Part, the following terms have the meanings set forth below.

(a) *Bulk funding concept* means a system whereby a contracting officer receives authorization from a fiscal and accounting officer to obligate funds on purchase documents against a specified lump sum of funds reserved for the purpose for a specified period of time rather than obtaining individual obligational authority on each purchase document.

(b) *Mail indicia* means the official printed markings substituted for stamps, *i.e.*, "Postage and Fees Paid" and appropriate department. This includes such markings on envelopes, cards, labels, wrappers, or tags.

(c) *Local delivery* means the movement of supplies or commodities wholly within a recognized metropolitan area in which both the point of pickup and the point of delivery are located.

3-603 Policy.

3-603.1 *General.*

(a) All purchases covered by this Part shall be accomplished by negotiation and shall cite the appropriate subparagraph of 10 U.S.C. 2304(a) in accordance with Part 2 of this Section. Such purchases shall be made only when requirements cannot be satisfied by procurement in accordance with Section V. The contracting officer shall use the purchase method covered by this Part which he determines to be most suitable to the immediate requirement and most efficient and economical. Simplified procedures may be used in procurements from Government established sources, if authorized by the basic contract or concurred in by the source.

(b) Requirements aggregating more than $25,000 shall not be broken down into several purchases which are less than $25,000 merely for the purpose of per-

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mitting negotiation under the small purchase procedures authorized by this Part. Related items (such as small hardware items or spare parts for vehicles) may be included in one solicitation, and the award made on "all or none" basis. In such cases, suppliers shall be advised of this award procedure when quotations are requested.

(c) The "bulk funding" concept shall be used to the maximum extent practicable to reduce processing delays, double handling, and documentation. Bulk funding is particularly appropriate when numerous purchases using the same type of funds are to be made during a given period.

(d) Installation or activity transportation facilities may be used for delivery from local suppliers to the purchasing installation only after consideration of the following methods:

(i) supplier delivery;
(ii) common carrier;
(iii) parcel post; and
(iv) mail indicia.

(e) Inspection procedures for small purchases shall be in accordance with 14-308.

(f) The use of United States-owned foreign currency in making payments for small purchases shall be in accordance with Section VI, Part 11.

(g) Each acquisition of supplies and services which has an anticipated value not in excess of $10,000 and which is subject to the small purchase procedures set forth in this part is a small business-small purchase set-aside (1-702(c)) unless the contracting officer (i) determines there is no reasonable expectation of obtaining two or more quotations for purchases in excess of $1,000 or at least one quotation for purchases not in excess of $1,000; or (ii) is unable to obtain quotation(s) that are, in either case, competitive with market prices in the industry and competitive in terms of quality and delivery as outlined in 3-604. In the event that the small business-small purchase set-aside is dissolved in accordance with (g)(ii), new quotes shall be solicited on an unrestricted basis. In automated contracting systems, all proposed acquisitions pursuant to small purchase procedures will be screened for reservation in accordance with the criteria in this paragraph. When source lists are maintained for acquisitions not exceeding $10,000, these source lists shall include all known small business concerns. The names of such concerns shall be obtained from the activity Small and Disadvantaged Business Utilization Specialist who, in turn, may request support from the SBA Procurement Center Representative or other Federal and private sources which maintain lists of small business concerns. Foreign concerns shall not be solicited nor awarded acquisitions reserved for small business concerns.

(h) In other acquisitions using small purchase procedures, solicitation of foreign firms located in qualifying countries (see 6-001 and 6-1043.1(a)) is not required unless determined to be in the best interests of the Government.

(i) When the acquisition is not reserved, quotations based on supplying foreign end products shall be evaluated in accordance with the procedures in 6-104.4.

3-604 Competition and Price Reasonableness.

3-604.1 *Purchases Not in Excess of $1,000.* Small purchases not exceeding $1,000 may be accomplished without securing competitive quotations if the prices are considered to be reasonable. Such purchases shall be distributed equitably among qualified suppliers. When practical, a quotation will be solicited from other than the previous supplier prior to placing a repeat order. The administrative cost of verifying the reasonableness of the price of purchases not in excess of $1,000 may more than offset potential savings in detecting instances of overpricing; therefore, action to verify the reasonableness of the price need be taken only when the buyer or contracting officer suspects or has information (e.g., comparison to previous price paid, personal knowledge of the item involved) to indicate that the price may not be reasonable. In some cases, e.g., first buy of new items, action to verify may also be required to determine whether or not the price is reasonable.

3-604.2 *Purchases in Excess of $1,000.*

(a) Solicitation of quotations from a reasonable number of qualified sources of supply shall be made to assure that the procurement is to the advantage of the Government, price and other factors considered, including the administrative cost of the purchase. Generally, solicitation shall be limited to three suppliers and, to the maximum extent possible, shall be restricted to the local trade area of either

the purchasing or the receiving activity. If practicable, two sources not included in the previous solicitation should be requested to furnish quotations. Quotations should generally be solicited orally except for construction contracts in excess of $2,000. Written solicitations should be used when (i) the suppliers are located outside the local area, (ii) special specifications are involved, (iii) a large number of line items are included in a single proposed procurement, or (iv) obtaining oral quotations is not considered economical or possible.

(b) Reasonableness of a proposed price should be based on competitive quotations. If only one response is received, or the price variance between multiple responses reflects lack of adequate competition, a statement shall be included in the contract file setting forth the basis of the determination of fair and reasonable price. This determination may be based on a comparison of the proposed price with prices found reasonable on previous purchases, current price lists, catalogs, advertisements, similar items in a related industry, value analysis, the contracting officer's personal knowledge of the item being procured, or any other means. Written records of solicitation may be limited to notes or abstracts to show vendor or vendors contacted, prices, delivery, and any other informal historical data. If a separate form is used for documentation of price reasonableness, DD Form 1784, Small Purchase Pricing Memorandum, shall be used (see 16-813). If this form is not used, the price reasonableness statement shall be based on one or more of the criteria set forth on the form. In any case, the contracting officer should gain as much knowledge as practicable of the physical and material characteristics and intended use of the item to be purchased. When only one source is solicited, an additional notation must be made to explain the absence of competition, except for procurement of utility services available only from one source or of educational services from nonprofit institutions. Notification to unsuccessful suppliers shall be given only if requested.

(c) Occasionally an item can be obtained only from a supplier who quotes a minimum order price or quantity, which either unreasonably exceeds stated quantity requirements, or results in an unreasonable price for the quantities required. If practicable before placing the order the requiring activity should be informed in such cases of all facts regarding the quotation and requested to confirm or alter its requirement for the item or items under consideration. The file shall be documented to support the final action taken.

3-605 Blanket Purchase Agreement (BPA).

3-605.1 *General.* A blanket purchase agreement is a simplified method of filling anticipated repetitive needs for small quantities of supplies or services by establishing "charge accounts" with qualified sources of supply (see 12-302, 12-602.1 and 12-1001). Blanket purchase agreements are designed to reduce administrative costs in accomplishing small purchases by eliminating the need for issuing individual purchase documents.

3-605.2 *Limitation on Use.* A blanket purchase agreement may not be used when a call exceeds $10,000, except that BPA calls up to $25,000 may be placed by Inventory Control Points and calls for subsistence are unlimited as to dollar value.

3-605.3 *Establishment of Blanket Purchase Agreements.*

(a) *Alternate Sources.* To the extent practicable, blanket purchase agreements for items of the same type should be placed concurrently with more than one supplier. All competitive sources should be given an equal opportunity to furnish supplies or services under such agreements.

(b) *Form.*

(1) Except as provided in (2) below, blanket purchase agreements shall be prepared and issued on DD Form 1155 (Order for Supplies or Services/Request for Quotations). Either the "General Provisions," DD Form 1155r, or the "Reverse of Order for Supplies or Services/Request for Quotations—Foreign," DD Form 1155r-1, as applicable, shall be used. Other applicable provisions of the blanket purchase agreement shall be set forth on the Standard Form 36 (Continuation Sheet) or on a blank sheet of paper. Clauses authorized in 3-608.2(b) which are mandatory for use in purchases over $10,000 shall be included in blanket purchase agreements that permit the placement of individual calls valued at more than $10,000. Additionally, the following provisions may be applicable:

(i) the Contract Work Hours and Safety Standards Act—Overtime Compensation clause in 7-103.16(a) shall be added unless it is reasonably anticipated that the aggregate of the total dollar amounts of orders to be placed thereunder will be $2,500 or less;

(ii) where the agreement is for the intended purchase of services covered by the Service Contract Act of 1965, as amended, the clause in 7-1903.41(a) or (b) shall be substituted for Clause 15 of the General Provisions and the procedures in 12-1005 complied with, unless it is reasonably anticipated that the aggregate of the total dollar amounts of orders to be placed thereunder will be $2,500 or less;

(iii) where the agreement is for the intended purchase of supplies, the Walsh-Healey Public Contracts Act clause in 7-103.17 shall be added, unless the agreement limits the aggregate total of orders to be placed thereunder to $10,000; and

(iv) where the agreement is for the intended purchase of supplies, the applicable equal opportunity clause in 7-103.18 shall be added.

(2) Blanket purchase agreements issued by the Defense Personnel Support Center may be prepared on its form "Order for Subsistence."

(c) *Numbering.* Enter the Procurement Instrument Identification (PII) number as prescribed in Section XX, Part 2.

(d) *Accounting Data.* Blanket purchase agreements need not cite any accounting data so that purchases utilizing different appropriation data may be made under the same agreement.

(e) *Negotiation Authority.* The Schedule of each agreement shall be annotated as follows:

> The issuance of individual calls under this blanket purchase agreement will be made under the authority of 10 U.S.C 2304(a)(1), 10 U.S.C. 2304(a)(3), 10 U.S.C. 2304(a)(6), or 10 U.S.C. 2304(a)(17).

If for the purchase of subsistence:

> The issuance of individual calls under this blanket purchase agreement will be made under the authority of 10 U.S.C. 2304(a)(1), 10 U.S.C. 2304(a)(3), 10 U.S.C. 2304(a)(6), 10 U.S.C. 2304(a)(9), or 10 U.S.C. 2304(a)(17).

This annotation shall not be duplicated on forms used to document individual calls, although the specific authority for the call may be cited therein.

(f) *Terms and Conditions.* Blanket purchase agreements shall contain the [illegible]

[illegible] billing period and for

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(f) *Terms and Conditions.* Blanket purchase agreements shall contain the following provisions:

(i) *Description of agreement*—a statement that the supplier shall furnish supplies or services, described therein in general terms, if and when requested by the contracting officer or his authorized representative during a specified period and within a stipulated aggregate amount, if any. Blanket purchase agreements may be limited to specific items or commodity groups or the scope of the agreement may encompass all items that the supplier is in a position to furnish.

(ii) *Extent of obligation*—a statement that the Government is obligated only to the extent of authorized calls actually placed against the blanket purchase agreement.

(iii) *Pricing*—a statement that the prices to the Government shall be as low as, or lower than those charged the supplier's most favored customer, in addition to any discounts for prompt payment.

(iv) *Call limitation*—a statement that no individual call under the agreement shall exceed $10,000 or such higher limitation set forth in 3–605.2.

(v) *Notice of individuals authorized to place calls and dollar limitations*—a provision that a list of names of individuals authorized to place calls under the agreement, identified by organizational component, and the dollar limitation per call for each individual shall be furnished the supplier by the contracting officer.

(vi) *Delivery tickets*—a requirement that all shipments under the agreement, except subscriptions and other charges for newspapers, magazines, or other periodicals shall be accompanied by delivery tickets or sales slips which shall contain the following minimum information—

(A) name of supplier;
(B) blanket purchase agreement number;
(C) date of call;
(D) call number;
(E) itemized list of supplies or services furnished;
(F) quantity, unit price, and extension of each item less applicable discounts (unit prices and extensions need not be shown when incompatible with the use of automated systems, *provided* that the invoice is itemized to show this information); and
(G) date of delivery or shipment.

(vii) *Invoices*—one of the following statements:

(A) A summary invoice shall be submitted at least monthly or upon expiration of the blanket purchase agreement, whichever occurs first, for all deliveries made during a billing period, identifying the delivery tickets covered therein, stating their total dollar value, and supported by receipted copies of the delivery tickets; or

(B) An itemized invoice shall be submitted at least monthly or upon expiration of the blanket purchase agreement, whichever first occurs, for all deliveries made during a billing period and for which payment has not been received. Such invoices need not be supported by copies of delivery tickets; or

(C) When billing procedures provide for an individual invoice for each delivery, these invoices shall be accumulated *provided* that:

(i) a consolidated payment will be made for each specified period; and

(ii) the period of any discounts will commence on final date of billing period or on the date of receipt of invoices for all deliveries accepted during the billing period, whichever is later.

The provision in (C) above should not be used if the accumulation of the individual invoices by the Government materially increases the administrative costs of this purchase method.

(D) An invoice for subscriptions or other charges for newspapers, magazines, or other periodicals shall show the starting and ending dates and shall state either that orders have been placed in effect or will be placed in effect upon receipt of payment.

(viii) The special data required by 3–606.3(b) when it is desired to use the fast payment procedure. Also see Block 16 of DD Form 1155.

3–605.4 *Competition Under Blanket Purchase Agreement.* Calls against blanket purchase agreements shall be placed only after compliance with 3–604. When concurrent agreements for similar items are in effect, calls not in excess of $1,000 shall be equitably distributed. In those instances where there are an insufficient number of BPAs for any given class of supplies or services to assure adequate competition, the individual placing the order shall solicit quotations from other sources.

3–605.5 *Calls Against Blanket Purchase Agreements.* Calls against blanket purchase agreements generally will be made orally, except that informal correspondence may be used when ordering against agreements outside the local trade area. Written calls may be executed on DD Form 1155. Documentation of calls shall be limited to essential information. Forms may be developed for this purpose locally.

3–605.6 *Receipt and Acceptance of Supplies or Services.* Acceptance of supplies or services shall be indicated by signature and date on the appropriate form by the authorized government representative after verification and notation of any exceptions. Use of the DD Form 250 Series, Material Inspection and Receiving Report (MIRR), shall be required by purchasing offices to document receipt and acceptance of supplies or services when the purchase is to be assigned to another activity for administration. A sales slip, delivery ticket, DD Form 1155 or DD Form 250 Series may be used for receipt and acceptance when purchases are retained for administration.

3–605.7 *Review Procedures.* The contracting officer or his designated representative shall review the blanket purchase agreement files at least semi-annually to assure that authorized procedures are being followed. When an activity ordering against a blanket purchase agreement does not come under the jurisdiction of the command of the contracting officer issuing the agreement, the com-

mand utilizing the blanket purchase agreement shall conduct the necessary review. In addition, the contracting office which entered into the blanket purchase agreement shall also review and update, as required, each blanket purchase agreement at least annually.

3–606 Fast Payment Procedure.

3–606.1 *General.* The fast payment procedure is designed to reduce lead time to consignees and to improve supplier relations by expediting payment for small purchases. The procedure provides for payment for supplies based on the contractor's submission of an invoice which constitutes a representation that the supplies have been delivered to a post office, common carrier or point of first receipt by the Government, and that the contractor agrees to replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to purchase agreements. Consignees shall notify the contracting office as soon as possible of supplies not received, damaged in transit, or not conforming to specifications of the purchase order.

3–606.2 *Conditions for Use.* When the conditions set forth below are present, the fast payment procedure should be used to the maximum extent possible, provided such use is consistent with the other conditions of the purchase. Use of the fast payment procedure would not be indicated, for example, in small purchases by posts, camps, and stations when material being purchased is destined for use at such activities and contract administration will be performed by the contracting office of such activities.

(i) Individual orders do not exceed $25,000, except that for purchases of (*a*) brand name commissary resale subsistence and (*b*) commercial type medical supplies for direct shipment overseas, the procedure may be used without limitation (see 7–104.84).

(ii) Title to the supplies will vest in the Government (A) upon delivery to a post office or common carrier for mailing or shipment to destination, or (B) upon receipt by the Government when the shipment is by means other than the post office or common carrier.

(iii) Supplier agrees to replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to purchase requirements.

3–606.3 *Preparation and Execution of Orders.*

(a) Orders shall be issued on Order for Supplies or Services/Request for Quotations (DD Form 1155), except that calls against blanket purchase agreements shall be issued in accordance with 3–605.5. Orders may be either priced or unpriced.

(b) Purchase orders or blanket purchase agreements using fast payment procedures shall include:

(i) a requirement for the supplies to be shipped transportation or postage prepaid;

(ii) a requirement that invoices be submitted direct to the finance or other office designated in the order, or in the case of unpriced purchase orders, to the contracting officer (see 3–608.3(c));

(iii) the following statement on consignee's copy: *Consignee's Notification to Contracting Activity of Nonreceipt, Damage, or Nonconformance.* The consignee shall notify the contracting office promptly after specified date of delivery in the purchase order, of supplies not

received, damaged in transit, or not conforming to specifications of the purchase order. Unless extenuating circumstances exist, such notification should be made not later than 60 days after specified date of delivery;

(iv) when DD Form 1155 is not used, the clause in 7–104.84(a);

(v) a requirement that outer shipping containers shall be marked "FAST PAY."

3–606.4 *Responsibility for Collection of Debts.* The contracting officer shall be primarily responsible for collecting debts resulting from failure of contractors to properly replace, repair, or correct supplies lost, damaged, or not conforming to purchase requirements (see E–602 and E–603).

3–607 Imprest Fund Method.

3–607.1 *General.* An imprest fund is a cash fund of a fixed amount established through an advance of funds, without appropriation charge, to an authorized imprest fund cashier to effect immediate cash payments of relatively small amounts for authorized purchases of supplies and nonpersonal services.

3–607.2 *Establishment of Imprest Funds.*

(a) *Authority.* Commanders of installations and of activities with purchasing authority are authorized to approve the establishment of imprest funds. The number of imprest funds at an installation shall be kept to a minimum and one imprest fund should be sufficient in most instances. Exceptions to this general rule may be justified for isolated activities when the location of the established fund is not readily accessible.

(b) *Amount of Imprest Funds.* The amount of each fund shall be established on the basis of the estimated monthly payments therefrom and the need for replenishment without undue administrative burden, but shall not exceed $5,000. A review shall be made at least quarterly to insure that the fund is not in excess of actual needs, and necessary adjustments shall be made.

(c) *Imprest Fund Cashiers.*

(1) Imprest fund cashiers must be appointed by the head of an installation or activity to make authorized cash payments for materials and nonpersonal services, maintain custody of funds, and file periodic vouchers to account for and replenish the imprest fund. An imprest fund cashier should be established at a convenient location on the installation or activity for the purpose of making payments to vendors or carriers, *e.g.*, in "Central Receiving." Disbursing officers and individuals responsible for originating, approving, and processing requirements are not eligible for appointment as imprest fund cashiers. Exceptions to this rule may be granted by the major headquarters exercising control over the installation or activity. In no event shall an imprest fund cashier have access to or control of more than one imprest fund.

(2) Each appointment and termination of appointment shall be approved by the head of the installation or activity. After approval, administrative orders signed by the appropriate authority shall be issued. Appointment orders shall contain the following:

(i) name of individual and duty station;

(ii) identification of disbursing station for which the cashier will act, including the accounting number assigned thereto;

(iii) specific duties to be performed;

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of paid reimbursement vouchers ordinarily will suffice for the records of the im-

of paid reimbursement vouchers ordinarily will suffice for the records of the imprest fund cashier.

(j) *Review.* The imprest fund cashier shall be required to account for the established fund at any time, by cash on hand, paid suppliers' receipts, unpaid reimbursement vouchers, and interim receipts for cash. Unannounced inspections, including cash counts are required to be made of each imprest fund at least quarterly by qualified individuals who are under the jurisdiction of the Comptroller or Chief Accounting Officer of the installation, where such positions exist, but in any case by individuals, excluding the disbursing officer advancing the funds and subordinates of the imprest fund cashier.

3-608 Purchase Orders.

3-608.1 *General.*

(a) Negotiated purchases of supplies, nonpersonal services and construction not in excess of $25,000 may be effected by using DD Form 1155 (*Order for Supplies or Services/Request for Quotations*) and its ancillary forms (for construction see also 16-402.2); Standard Form 44 (*Purchase Order - Invoice Voucher*) may also be used for material and nonpersonal services not in excess of $2,500.

(b) The DD Form 1155 provides for the arrangement of information in fixed locations, including sequential numbering of all blocks, and within certain of these blocks a code box for inserting alpha-numeric codes. The uniform arrangement of data and the provision for codes will facilitate manual and automated processing of contractual documents and interchange of information between purchasing offices and contract administration activities.

3-608.2 *Order for Supplies or Services Request for Quotations (DD Forms 1155, 1155r, 1155r-1; Standard Form 36; DD Form 1155c-1 and Standard Form 30).*

(a) *Forms.* The following forms may be used to issue purchase orders:

(i) DD Form 1155 (Order for Supplies or Services/Request for Quotations) which when used with DD Form 1155r in accordance with 3-608.2(b)(1) or with DD Form 1155r-1 in accordance with 3-608.2(b)(2) as appropriate, provides in one document—

(A) a purchase order, a blanket purchase agreement, a delivery order under a contract, or delivery order on Government agencies outside the Department of Defense (see Section V);

(B) a receiving and inspection report;

(C) a property voucher;

(D) a public voucher; and

(E) a document for acceptance by the supplier.

(ii) Standard Form 36 (Continuation Sheet) provides additional space or a blank sheet of paper may be used;

(iii) DD Form 1155c-1 (Commissary Continuation Sheet) (for use on optional basis), provides columns suited for commissary procurements; and

(iv) Standard Form 30 (Amendment of Solicitation/Modification of Contract) shall be used in all modifications to DD Form 1155 (see 3-608.4).

The foregoing forms may be used as snap-out manifold forms, as cut sheets, or as reproducible masters. In addition, DD Form 1155r or DD Form 1155r-1 may be printed on the reverse of DD Form 1155.

(b) *Conditions for Use.*

(i) *Use as a Purchase Order of Not More Than $25,000 in the United States, its Possessions, and Puerto Rico.* *The United States*, when used in a geographical sense, means the States and the District of Columbia. Possessions, in a geographical sense, include the Virgin Islands, the Swan Islands, Guantanamo Bay, Johnston Island, American Samoa, Guam, Wake Island, Midway Island, and the Guano Islands, but do not include Puerto Rico, leased bases, or trust territories. Definitions of *the United States*, in a contractual sense, vary according to individual laws, orders or regulations. Applicability is specified in the various DAR sections. DD Form 1155 is authorized for negotiated purchases of not more than $25,000 within the United States, its possessions, and Puerto Rico, *provided:*

(i) The procurement is unclassified, except that DD Form 1155 may be used for classified procurements if:

(A) the Military Security Requirements clause in 7-104.12 is inserted in the Schedule;

(B) DD Form 254 (Contract Security Classification Specification) (see 16-811) is incorporated in the purchase order; and

(C) the contractor's acceptance of the purchase order is obtained by use of DD Form 1155r at the time of issuance of the order.

(ii) No clause covering the subject matter of any clause set forth in this Regulation, other than clauses on DD Form 1155r (see also 16-303) and clauses referred to in this paragraph (3-608.2(b)(1)) and in 3-608.3 (Unpriced Purchase Order), 3-608.4 (Obtaining Contractor Acceptance and Modifying the Purchase Order), 14-302 (Standard Inspection Clauses), 14-303 (Inspection System Requirements), 14-304 (Quality Program Requirements), and 14-306(c) (Acceptance of Supplies or Services) is to be used.

(iii) When the order specifies the delivery of data, one of the clauses in 7-104.9, *Rights in Data and Computer Software*, shall be added as appropriate in accordance with the instructions contained in Section IX, Part 2.

(iv) When required by Section VI, Part 4, the clause, *Certain Communist Areas*, in 7-103.15 shall be used.

(v) When required by 1-323, the clause in 7-103.4(b), *Extent of Quantity Variation*, shall be added.

(vi) Reserved.

(vii) When the order is assigned to other than the purchasing office for administration, or if otherwise desired by the purchasing office, the clause, *Material Inspection and Receiving Report*, in 7-104.62 shall be used.

(viii) When Government property having an acquisition cost in excess of $50,000 is to be furnished (for use in performance of an order or for repair), the appropriate Government Property clause or clauses in 7-104.24 shall be inserted in the Schedule. When Government property having an acquisition cost not in excess of $50,000 is to be furnished for use in performance of the order or for repair, the Government-Furnished Property (Short Form) clause in 7-104.24(f) shall be inserted in the Schedule; *provided* that use of the clause shall be optional when the acquisition cost of property furnished for repair is not in excess of $10,000. When a Government Property clause is inserted in the Schedule, the contractor's signature shall be obtained on the DD Form 1155r.

(ix) When the order is for Military Assistance Program items, the *United States Products Certificate (Military Assistance Program)* at 7-2003.50 and the clause, *United States Products (Military Assistance Program)*, in 7-2003.51, shall be inserted in the Schedule, and Clause 6 (*Foreign Supplies*) of the General Provisions shall be deleted. In addition, the contractor's signature shall be obtained on DD Form 1155r.

(x) Reserved.

(xi) The clauses, *New Material*, 7-104.48, and *Government Surplus*, 7-104.49, may be used in accordance with the provisions of 1-1208.

(xii) When the order is for mortuary services—

(A) the following clauses shall be inserted in the Schedule:

(I) the Specifications clause in 7-1201.4;

(II) the Delivery and Performance clause in 7-1201.7;

(III) the Subcontracting clause in 7-1201.8;

(IV) the Inspection of Services clause in 7-1902.4;

(V) the Professional Requirements clause in 7-1201.11;

(VI) the Facility Requirements clause in 7-1201.12; and

(VII) the Preparation History clause in 7-1201.13;

(B) the Additional Default Provision clause in 7-1201.9 shall be inserted in the Schedule, with the following substitution for paragraph (a) and the first sentence of paragraph (b) of that clause:

(a) This clause supplements the "Termination for Default" clause of this contract.

(b) This contract may be terminated for default by written notice if during the performance of this contract.

(C) The Changes clause in 7-1902.2 shall be substituted for paragraph 16 of the Additional General Provisions on DD Form 1155r.

(xiii) *Reserved.*

(xiv) When required by Section VI, Part 3, the clauses, *Preference for Certain Domestic Commodities*, in 7-104.13; *Preference for Domestic Specialty Metals (Major Programs)*, in 7-104.93(a); and *Preference for Domestic Specialty Metals*, in 7-104.93(b), shall be added.

(xv) When required by Section XII, Part 10, the clause, *Service Contract Act of 1965, as Amended*, at 7-1903.41(a) for service contracts in excess of $2,500, or 7-1903.41(b) for service contracts not in excess of $2,500, shall be added.

(xvi) When required by 19-213.2, the clause, *Shipments to Ports--Clearance and Documentation Requirements*, at 7-104.74 shall be added.

(xvii) In accordance with 1-330, the clause in 7-104.45(a), *Limitation of Liability*, or 7-1912, *Limitation of Liability--Service Contract*, may be inserted.

(xviii) When the order requires the use of a Government bill of lading or mailing indicia, the clause, *F.O.B.--Government Bills of Lading and Prepaid Postage*, at 7-104.85 shall be added.

(xix) Reserved.

(xx) Reserved.

(xxi) At the contracting officer's discretion, the clause, *Duty-Free Entry--Qualifying Country End Products and Supplies*, at 7-104.32 may be used. (See 6-104.5 and 6-603.3(c).)

(xxii) When required by 12-302, the *Contract Work Hours and Safety Standards Act--Overtime Compensation* clause in 7-103.16(a) shall be added.

(xxiii) Reserved.

(xxiv) Reserved.

(xxv) When required by 1-706.5, the *Notice of Total Small Business Set-Aside* clause in 7-2003.2 shall be added.

(xxvi) The changes authorized by 16-402.2 shall be incorporated when construction procurements are negotiated in accordance with 18-302.

(xxvii) When required by 19-208.3(a), the clause, *FOB Destination*, in 7-104.71, and the clause, *FOB Destination--Evidence of Shipment*, in 7-104.76 shall be added.

(xxviii) When required by 1-2207.3(c)(i)(iii), the clause, *Required Sources for Miniature and Instrument Ball Bearings*, in 7-104.38 shall be added.

(xxix) When required by 1-2207.4(c)(i)(iii), the clause, *Required Sources for Precision Components for Mechanical Time Devices*, in 7-104.46 shall be added.

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(xxx) In accordance with 6-1312, all orders for the purchase of goods or services for Military Assistance Programs (MAP), International Military Educational Training (IMET) and Foreign Military Sales (FMS) shall include the clause, *Exclusionary Policies and Practices of Foreign Governments*, in 7-104.97.

(xxxi) As required by 12-1302(a), insert the clause, *Affirmative Action for Handicapped Workers*, in 7-103.28.

(xxxii) If the order is to involve materials of a hazardous nature, include the clause, *Hazardous Material Identification and Material Safety Data*, in 7-104.98, as prescribed by 1-323.2.

(xxxiii) When the order involves the purchase of gas in contractor-furnished returnable cylinders and the contractor retains title to the cylinders, the clause in 7-104.60, *Returnable Gas Cylinders*, shall be added. A similar clause may also be used in orders for other supplies involving reels, spools, drums, carboys, liquid petroleum gas containers, or other reusable containers, when the contractor is to retain title to the containers.

(xxxiv) In orders, except those exempted by 12-808(b) - (f), insert the applicable *Equal Opportunity* clause in 7-103.18(a) or (b).

(xxxv) When the purchase order includes FMS requirements, clearly indicate "FMS Requirement" on its face and specify within the order each FMS case identifier code by line/subline item number, e.g., FMS Case Identifier GY-D-DCA.

(xxxvi) The clause, *Delivery of Excess Quantities of $100 or Less*, in 7-104.103, may be used in accordance with instructions therein.

(xxxvii) For orders requiring payment in Canadian currency, the contract price shall be quoted in terms of Canadian dollars and shall be identified by the initials CN; e.g., $1,647.23CN. The contract shall clearly indicate on its face the US/Canadian conversion rate in effect at the time of award and the US dollar equivalent of the Canadian dollar contract amount.

(xxxviii) The *Walsh-Healey Public Contracts Act* clause in 7-103.17 shall be used in each order for supplies that exceeds $10,000 and is otherwise subject to the act, in accordance with 12-602.

(xxxix) Unless excepted under 12-402, the clause in 7-103.27, *Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era*, shall be in all orders of $10,000 or more.

(xl) The clause, *Utilization of Small Business and Small Disadvantaged Business Concerns*, in 7-104.14(a), shall be in all orders exceeding $10,000 except those which will be performed entirely outside the United States, the District of Columbia, or the Commonwealth of Puerto Rico, or for orders which are for services personal in nature.

(xli) Reserved.

(xlii) The clause, *Affirmative Action Compliance Requirements for Construction*, in 7-603.60 shall be inserted in orders exceeding $10,000 in accordance with 12-807.1, unless excepted under 12-808.

(xliii) The *Equal Opportunity* clause in 7-607.13 shall be included in architect-engineer contracts and is applicable to contractors who have been or are awarded Federal contracts and/or subcontracts which have an aggregate value in excess of $10,000. The clause is also applicable unless exempted under the rules, regulations and relevant orders of the Secretary of Labor (41 CFR, ch. 60).

(xliv) Unless exempted by 12-805, the clause, *Certification of Nonsegregated Facilities*, in 7-2003.14(b)(1)(A) shall be inserted in orders exceeding $10,000 and is applicable to orders, subcontracts and agreements with applicants who are themselves performing Federally assisted construction contracts exceeding $10,000 which are not exempt from the provisions of the *Equal Opportunity* clause.

(xlv) The clause, *Previous Contracts and Compliance Reports*, in 7-2003.14(b)(1)(B) shall be inserted in all contracts that exceed $10,000.

(xlvi) Except for construction orders, the clause, *Affirmative Action Compliance*, in 7-2003.14(b)(2) shall be inserted in all contracts that include the *Equal Opportunity* clause.

(xlvii) Unless exempted by 12-808, the clause, *Notification of Visa Denial*, at 7-2003.14(c) shall be included in all orders to be performed in or on behalf of a foreign country.

(xlviii) In accordance with 12-807.1, insert the clause, *Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity*, in 7-2003.14(d), in applicable solicitations involving construction in excess of $10,000. Follow the provision's parenthetical instructions for inserting the applicable construction trade(s), percentage goals, and geographical description of the covered area.

(xlix) In accordance with 1-702(c), insert the clause, *Notice of Small Business-Small Purchase Set-Aside*, in 7-2003.32 in all requests for quotations and purchase orders of $10,000 or less, which are subject to small purchase procedures, unless excepted under 1-603.1(g).

(3) *Use as a Purchase Order of Not More than $25,000 Outside the United States, its Possessions, and Puerto Rico.* DD Form 1155 and 1155r-1, with executed contractor's acceptance when required, are authorized for negotiated purchases of not more than $25,000 when such purchases are for supplies and services procured and used outside the United States, its possessions, and Puerto Rico, *provided:*

(i) the procurement is unclassified;

(ii) no clauses covering the subject matter of any clause set forth in this Regulation, other than clauses set forth in DD Form 1155r-1, are to be used, except that—

(A) either the standard foreign Disputes clauses in 7-103.12(b) or that clause as modified in accordance with 7-103.12(e) shall be inserted in the Schedule.

(B) When the order is translated into another language, the Schedule shall contain the provision in 7-2003.44.

(C) When Government property having acquisition cost in excess of $50,000 is to be furnished (for use in performance of an order or for repair), the Government Property clause in 7-104.24(a) shall be inserted in the Schedule in accordance with instructions in 7-104.24(b). When Government property having an acquisition cost not in excess of $50,000 is to be furnished for use in performance of the order or for repair, the Government-Furnished Property (Short Form) clause in 7-104.24(f) shall be inserted in the Schedule in accordance with instructions in that paragraph; *provided* that use of the clause shall be optional when the acquisition cost of property furnished for repair is not in excess of $10,000. When a Government Property clause is inserted in the Schedule, the contractor's signature shall be obtained on DD Form 1155r-1.

(D) A commercial warranty clause may be used in accordance with 1-324.4.

(E) When required by Section VI, Part 3, one of the clauses in 7-104.13, *Preference for Certain Domestic Commodities*; or 7-104.93(a), *Preference for Domestic Specialty Metals (Major Programs)*; or 7-104.93(b), *Preference for Domestic Specialty Metals*, shall be added. In purchases in excess of $2,500, the clause, *Certain Communist Areas*, in 7-103.15, shall be inserted in the Schedule when acceptance of supplies, services, or construction is to take place outside the United States, its possessions or Puerto Rico. DAR 6-402 provides that supplies from the Communist areas of North Korea, Vietnam, or Cuba may be acquired only in unusual situations; for example, in an emergency or when supplies are not available from any other source and a substitute supply is not acceptable. In such situations, the contracting officer shall determine for small purchases that there is need for an exception in accordance with Departmental procedures.

(F) The clause, *Delivery of Excess Quantities of $100 or Less*, in 7-104.103, may be used in accordance with instructions therein.

(G) Unless exempted by 12-808, the clause, *Notification of Visa Denial*, at 7-2003.14(c), shall be included in all orders to be performed in or on behalf of a foreign country.

(H) In accordance with 6-804, the statement in 7-104.58(c), to provide reporting of the balance of payments consequences of Defense procurement, will be placed on the face of applicable purchase orders.

The contracting officer may delete the Taxes clause from the DD Form 1155r-1 in purchases under $1,000 if he determines that the administrative burden of securing relief from such taxes would be out of proportion to the relief obtained, *provided*, that such clause shall be included in all orders in support of NATO infrastructure programs involving the expenditures of funds under Section 503(b) of the Foreign Military Sales Act of 1968. (See 11-403.1(a) on use of foreign taxes clauses.)

(c) *Solicitation and Evaluation of Quotations.*

(1) *General.* In using the purchase order method, competition shall be solicited in accordance with 3-604, and every effort shall be made to obtain prompt payment discounts. Written quotations may be solicited by Standard Form 18 (Request for Quotation), DD Form 1155 (Order for Supplies or Services/Request for Quotations), approved automated format, or teletype. When using the DD Form 1155 as a request for quotation, see 3-608.8 for guidance on specific entries required in certain blocks. When using a teletype as a request for quotation, general provisions applicable to the solicitation shall be incorporated by reference.

(2) *Evaluation of Quotations.* Quotations shall be evaluated inclusive of transportation charges from the shipping point of the supplier to the delivery destination. For orders exceeding $1,000, oral quotations shall be recorded directly on the purchase request, on an abstract sheet, or other appropriate work sheet. Except as provided under the unpriced purchase order method, quotations that are indefinite as to price or based on economic price adjustment or redetermination shall not be considered for award by the purchase order method.

(d) *Preparation and Issuance of Priced Purchase Orders.* All applicable blocks and spaces shall be completed with the required data pursuant to 3-608.8, including the following policy guidance:

(i) Supplies to be purchased will be identified in accordance with Section I, Part 12.

(ii) The quantity of supplies or services shall be specified. For bulk quantity items and those subject to shrinkage, evaporation, miscount, weight or footage variance, etc., a maximum allowable variation (normally not in excess of 10%) shall be specified in the order so that shipments in excess of the order quantity may be accepted if the reason for such excess comes within the Variation in Quantity clause of the order and the aggregate amount of the order does not exceed authorized limitations. The clause set forth in 1-325 will be used to express the permissible variation in quantity.

(iii) Purchase orders shall be issued on a fixed-price basis, except as

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(iii) Purchase orders shall be issued on a fixed-price basis, except as otherwise provided under 3-608.3 and shall include any trade discounts and offered prompt payment discounts.

(iv) Inspection of small purchase shall be in accordance with 14-308. Orders generally will provide that inspection and acceptance will be at destination and source inspection should be specified only when required by 14-305.2(c). When inspection and acceptance are to be performed at destination, advance copies of the purchase order shall be furnished to consignee(s) for material receipt purposes. Receiving reports shall be accomplished immediately upon receipt and acceptance of material to assure expeditious payment of orders and to obtain prompt payment discounts; except where the fast payment procedure is authorized.

(v) F.O.B. destination shall be specified for supplies to be delivered within the United States, except Alaska and Hawaii, unless there are valid reasons to the contrary.

(vi) The block "Deliver to F.O.B. Point BY" shall contain a definite calendar date by which delivery of supplies or performance of services is required.

(vii) The contracting officer's signature on purchase orders shall be in accordance with 20-101. Facsimile signatures may be used in the production of purchase orders by automated methods.

(viii) Distribution of copies of purchase orders and related forms shall be limited to those copies required for essential administration and transmission of contractual information.

(ix) Purchase orders for subscriptions or other charges for newspapers, magazines or other periodicals, or for other publications, for which advance payment is authorized shall contain the provision in 7-2003.45.

3-608.3 *Unpriced Purchase Order.*

(a) An unpriced purchase order is an order for supplies or services the price of which is not established at the time of issuance of the order. Contracting officers shall assure that suppliers receiving unpriced purchase orders are carefully selected.

(b) An unpriced purchase order may be used only when all of the following conditions are present:

(i) the transaction will not exceed $25,000;

(ii) it is impractical to obtain pricing in advance of issuance of the purchase order; and

(iii) the procurement is for:

(A) repairs to equipment requiring disassembly to determine the nature and extent of such repairs;

(B) sole source material for which cost cannot be readily established; or

(C) supplies or services where prices are known to be competitive but exact prices are not known.

(c) Unpriced purchase orders may be issued by using DD Form 1155 or written telecommunications media (see 3-608.10). A realistic monetary limitation, either for each line item or for the total order, shall be placed on the unpriced purchase order which shall be an obligation subject to adjustment when the firm

price is established. Each unpriced purchase order shall contain the provision in 7-2003.46. The contracting officer or his designated representative shall review the invoice price and, if reasonable (see 3-604.2(b)), process it for payment. Controls of outstanding unpriced purchase orders shall be maintained to assure regular followup with suppliers until the order is priced.

3-608.4 *Obtaining Contractor Acceptance and Modifying the Purchase Order.*

(a) When it is desired to consummate a binding contract between the parties before the contractor undertakes performance, the contracting officer shall mark in Block 16 on the DD Form 1155 the box requiring acceptance by the contractor.

(b) Standard Form 30 shall be used to modify the purchase order for administrative or other changes.

(i) Modifications making administrative changes such as the correction of typographical errors, changes in paying office and changes in accounting and appropriation data do not require contractor acceptance. In addition, the issuance of no cost Amended Shipping Instructions (ASIs) which modify unilateral purchase orders and which have been concurred in by the contractor by telephone or letter do not require contractor acceptance by signature on the Standard Form 30.

(ii) To otherwise modify the purchase order, and if not previously included in the purchase order, the Additional General Provisions (Clauses 16-19 of DD Form 1155r) shall be incorporated by reference in the Standard Form 30 (Amendment of Solicitation/Modification of Contract), and the contractor acceptance obtained by his signature on the Standard Form 30. Subsequent changes pursuant to the Changes clause shall not require contractor acceptance. However, other modifications outside the scope of the Changes clause, such as the addition of the Government Property Clause, shall require contractor acceptance by signature on the Standard Form 30.

(c) No additional clauses are authorized except as provided in 3-608.2(b) above. A superseding DD Form 1155 shall not be used to issue a change to an outstanding purchase order.

3-608.5 *Termination of Purchase Order.* A purchase order which has not been accepted in writing by the contractor may be withdrawn or canceled by the contracting officer any time prior to the supplier's initiation of performance. Notice of withdrawal or cancellation should be in writing and should request the contractor's acknowledgement thereof. If the contractor has begun performance on such purchase order, however, or if the contractor has accepted the purchase order in writing other than by signature on the DD Form 1155r or on a subsequently issued Standard Form 30, and it later becomes necessary to terminate the purchase order, the contractor should be asked to agree to cancellation of the order without cost or liability to either party. If he agrees, the cancellation shall be effected by use of Standard Form 30, incorporating the Additional General Provisions (DD Form 1155r), signed by the contracting officer and the contractor. If the contractor does not agree to a no-cost settlement, the case will be

referred to the legal office serving the installation and action will be withheld pending receipt of advice from that office. Termination of a purchase order which the contractor has accepted in writing by means of the Contractor Acceptance on DD Form 1155r, or a subsequently issued Standard Form 30 will be processed in accordance with the guidance set forth in Section VIII of this Regulation.

3-608.6 *Use of DD Form 1155 as a Delivery Order.*

(a) Except as to specialized procurements for which other instructions are given by this Regulation (as for example, where utility purchases are procured under General Services Administration area contracts, as provided in Section V, Part 8), DD Form 1155 shall be used without monetary limitation as a delivery order for ordering supplies and services:

(i) under indefinite delivery type contracts (see 3-409) including such contracts made by Government agencies outside the Department of Defense; *provided*, (A) the order is issued in accordance with, and subject to the terms and conditions of such contract, and (B) the order refers to the particular contract involved;

(ii) from Government agencies outside the Department of Defense; and

(iii) from designated Agencies for the Blind and Other Severely Handicapped in accordance with 5-504.1(c).

(b) All delivery orders shall contain the typewritten name of the contracting officer or ordering officer and the original thereof shall be manually signed; when reproducible masters are used, only the masters need be manually signed; when interleaved carbon forms are used, manual signature on the original shall suffice. Facsimile signatures may be used in the production of delivery orders by automated methods.

(c) Duplication of the DD Form 1155r or DD Form 1155r-1 is not required when DD Form 1155 is used as a delivery order.

(d) Within the monetary limitations of 3-605.2, the DD Form 1155 may be used to order against a blanket purchase agreement.

(e) If the delivery order includes FMS requirements, clearly indicate "FMS Requirement" on its face and specify within the order each FMS case identifier code by line/subline item number. e.g., FMS Case Identifier GY-D-DCA.

3-608.7 *Use of DD Form 1155 as a Public Voucher.* DD Form 1155 is authorized for use as a public voucher:

(i) not exceeding $25,000 when the form is used as a purchase order under 3-608.2(b)(1) above.

(ii) without monetary limitation when the form is used as a delivery order, and

(iii) without monetary limitation as the basis for payment of an invoice against blanket purchase agreements, or basic ordering agreements when a firm price has been established.

3-608.8 *Instructions for Entries on DD Form 1155 and Standard Form 30.*

(a) The instructions herein are mandatory for the preparation of orders if administration is assigned: (i) to DCAS, or (ii) to a non-DCAS office listed in the DoD Directory of Contract Administration Services components and the contractor is located in the continental United States or Canada.

(b) The organizational entity codes (address codes) referenced throughout 3-608.8 are as follows:

(i) *Codes published in DoD Activity Address Directory (DODAAD), DoD 4000.25D.* These codes will be used for Government entities in Blocks 6, 7, 9, 14,

3-802.2 *Selection of Prospective Sources.* Selection of qualified sources for solicitation of proposals is basic to sound pricing. Proposals should be solicited from a sufficient number of competent potential sources to insure adequate competition. (See 1-302, 1-702, 1-902, 3-101, 3-104, 3-105, 4-106.1 and 12-102.) The bidders mailing lists prescribed by 3-503 should be used when appropriate.

3-803 Type of Contract.

(a) The selection of an appropriate contract type and the negotiation of prices are related and should be considered together. Some of the factors for this joint consideration are listed in 3-401 and 3-402. The objective is to negotiate a contract type and price that includes reasonable contractor risk and provides the contractor with the greatest incentive for efficient and economical performance. When negotiations indicate the need for using other than a firm fixed-price contract, there should be compatibility between the type of contract selected and the contractor's accounting system.

(b) In the course of a procurement program, a series of contracts, or a single contract running for a lengthy term, the circumstances which make for selection of a given type of contract at the outset will frequently change so as to make a different type more appropriate during later periods. In particular, the repetitive or unduly protracted use of a cost-reimbursement type or time and materials contract is to be avoided where experience has provided a basis for firmer pricing which will promote efficient performance and will place a more reasonable degree of risk on the contractor. Thus, in the case of a time and materials contract, continuing consideration should be given to converting to another type of contract as early in the performance period as practicable.

(c) In selecting the contractor for a cost-reimbursement type contract, estimated costs of contract performance and proposed fees should not be considered as controlling, since in this type of contract advance estimates of cost may not provide valid indicators of final actual costs. There is no requirement that cost-reimbursement type contracts be awarded on the basis of either (i) the lowest proposed cost, (ii) the lowest proposed fee, or (iii) the lowest total estimated cost plus proposed fee. The award of cost-reimbursement type contracts primarily on the basis of estimated costs may encourage the submission of unrealistically low estimates and increase the likelihood of cost overruns. The cost estimate is important to determine the prospective contractor's understanding of the project and ability to organize and perform the contract. The agreed fee must be within the limits prescribed by law and appropriate to the work to be performed (see 3-808). Beyond this, however, the primary consideration in determining to whom the award shall be made is: which offeror can perform the contract in a manner most advantageous to the Government.

3-804 Reserved.

3-805 Written and Oral Discussions.

3-805.1 *General.* Written or oral discussions shall be conducted with all responsible offerors who submit proposals within a competitive range, except that this requirement need not be applied to procurements:

(i) of $25,000 or less;

(ii) in which prices or rates are fixed by law or regulation;

(iii) in which date of delivery will not permit discussion;

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(iv) of the set-aside portion of partial set-aside or by small business restricted advertising; or

(v) in which it can be clearly demonstrated from the existence of adequate competition or accurate prior cost experience with the product or service that acceptance of the most favorable initial proposal without discussion would result in a fair and reasonable price, provided however that the solicitation notified all offerors of the possibility that award might be made without discussion, and provided that such award is in fact made without any written or oral discussion with any offeror.

3-805.2 *Competitive Range.*

(a) The determination as to which proposals are in a competitive range shall be made by the contracting officer. The competitive range shall be determined on the basis of price or cost, technical and other salient factors and shall include all proposals which have a reasonable chance of being selected for award. When there is doubt as to whether a proposal is within the competitive range, that doubt shall be resolved by including it. The initial number of proposals considered as being within the competitive range may be reduced when, as a result of the written or oral discussions, any such proposal has been determined to no longer have a reasonable chance of being selected for award.

(b) No proposal from a responsible source offering an acceptable technical proposal shall be rejected for failure to fall within a competitive range unless such proposal includes a price proposal (except for procurement of architect-engineer services, see Section XVIII, Part 4). When unpriced technical proposals are solicited they shall be evaluated to determine those which are acceptable to the Government or which, after discussion, can be made acceptable. After necessary discussion of such technical proposals is completed, prices shall be solicited for all acceptable proposals.

3-805.3 *Discussions With Offerors.*

(a) All offerors selected to participate in discussions shall be advised of deficiencies in their proposals and shall be offered a reasonable opportunity to correct or resolve the deficiencies and to submit such price or cost, technical or other revisions to their proposals that may result from the discussions. A deficiency is defined as that part of an offeror's proposal which would not satisfy the Government's requirements.

(b) Discussions shall not disclose the strengths or weaknesses of competing offerors, or disclose any information from an offeror's proposal which would enable another offeror to improve his proposal as a result thereof.

(c) Auction techniques are strictly prohibited; an example would be indicating to an offeror a price which must be met to obtain further consideration, or informing him that his price is not low in relation to another offeror. On the other hand, it is permissible to inform an offeror that his price is considered by the Government to be too high.

(d) At the conclusion of discussions, a final, common cut-off date which allows a reasonable opportunity for submission of written "best and final" offers shall be established and all remaining participants so notified. If oral notification is given, it shall be confirmed in writing. The notification shall include informa-

technical personnel, small business specialists, and contracting officers to obtain information and recommendations with respect to potential sources and to consider the desirability of seeking other sources by publication of proposed procurements, in addition to the synopsis requirement.

(b) In addition to (a) above, and where the procurement mission warrants it, Research and Development Bidders Mailing Lists will be established by purchasing activities in accordance with ASPR Supplement No. 4, "Procedures for Submission of Applications To Be Placed on Research and Development Biddefs Mailing Lists."

4-104 Method of Contracting. In research and development procurements it is generally not possible to formulate precise specifications necessary for formal advertising and, therefore, negotiation is necessary. The inherent difficulties in obtaining research and development by formal advertising are recognized by the exception in 3-211. However, two-step formal advertising as stated in Section II, Part 5, may be useful, for example, in the case of an advanced developmental project. While the use of negotiation is the general rule for research and development contracts, this does not diminish the obligation to obtain competition to the maximum practicable extent. (See Section III, Parts 1 and 2.)

4-105 Statement of Work.

(a) The preparation and use of a clear and complete statement of work is essential to sound contracting for research and development. In research, exploratory development and advanced development, statements of work must be individually tailored by technical and contracting personnel to attain the desired degree of flexibility for contractor creativity, both in submitting proposals and in contract performance. Careful distinction must be drawn between level-of-effort work statements, which essentially require the furnishing of technical effort and a report on the results thereof, and task completion type work statements which often require development of tangible end items designed to meet specific performance characteristics.

(b) In preparing statements of work, the following elements shall be considered:

(i) a general description of the required objectives and desired results;

(ii) background information helpful to a clear understanding of the requirements and how they evolved;

(iii) technical considerations, such as any known specific phenomena or techniques;

(iv) a detailed description of the technical requirements and subordinate tasks; the emphasis shall be on achievement of performance, operational and support requirements, rather than specifying detailed procedures or methods of accomplishment;

(v) a description of reporting requirements and any other deliverable items, such as data, experimental hardware, mock-ups, prototypes, etc.;

(vi) design to cost requirements; and

(vii) other special considerations.

4-106 Selection of Research and Development Contractors.

4-106.1 *Selection of Sources.*

(a) *General.* Through its research and development programs, the Department of Defense must seek the most advanced scientific knowledge attainable and the best possible equipment, weapons, and weapon systems that can be

devised and produced. This means two things. First, it means seeking the best scientific and technological sources consistent with the demands of the proposed procurement for the best mix of cost, performances and schedules. Second, it means unremitting efforts to increase the number of qualified sources, and to encourage participation by small business concerns, as well as others, in Defense research and development. Alternate proposals provide a means to accomplish the two actions above. See also 1-903.

(b) *Small Business Sources.*

(1) Contracting officers, technical personnel, and small business specialists shall cooperatively seek and develop information on the technical competence of small business concerns for research and development contracts. Small business specialists shall regularly bring to the attention of contracting officers and technical personnel descriptive data, brochures, and other information as to small business concerns that are apparently competent to perform research or development work in fields in which the purchasing activity is interested.

(2) In order to cooperate with the Small Business Administration in carrying out its responsibility of assisting small business concerns to obtain contracts for research and development, contracting officers, technical personnel and small business specialists shall, upon request, provide to authorized SBA representatives information necessary to understand the Government's needs concerning research and development programs under consideration for specific future procurement actions. Normally, this information shall be provided to SBA representatives assigned to a purchasing activity, as early as practicable, and shall cover the Government's requirements for each proposed research and development procurement exceeding $25,000. To the maximum extent feasible, SBA shall be afforded a minimum of 15 working days to provide pertinent information concerning qualified potential small business sources developed through its investigation of the capabilities of specific firms in the particular field of research and development covered by such procurements. Full evaluation shall be given to any such information in selecting qualified sources. Sources recommended by SBA for a specific procurement shall be solicited. Exception to the policy of providing SBA a minimum 15 working day interval to recommend additional qualified small research and development sources for a proposed procurement will be permitted only in those cases where the head of the purchasing activity or his designated representative advises the SBA representative that such action would result in unjustifiable delay.

(c) *Recommendations by Technical Personnel.* Recommendations as to which potential sources are technically qualified shall be made by cognizant technical personnel after review of the information obtained as a result of advance publicity (see 4-103), and, as appropriate, on the basis of discussion with potential sources (either singly or in a group), correspondence or suitable surveys.

(d) *Research and Development Pools.* See 1-302.3.

4-106.2 *Solicitation.*

(a) To reduce the number of technical proposals, the preparation of which can be both costly and wasteful of scientific or engineering manpower, contracting officers should request proposals only from sources which have been technically evaluated and found qualified to perform research or development in the specific field of science or technology involved. Where several sources are found

fully qualified technically, proposals generally shall be solicited from each such source. Sources which become known as a result of synopses or other means of publicizing requirements shall be sent requests for proposals if such sources have been technically evaluated and determined reasonably qualified to perform, and possess the necessary security clearance. When a source not initially solicited requests a copy of a solicitation and such source has been technically evaluated within the past six months and determined not qualified, he may be so advised and his request denied. In the event such source has not been technically evaluated within the past six months a copy of the request for proposal shall be furnished but only after advice has been given to the source making the request as to the reasons for the limited solicitation and, as appropriate, the unlikelihood of any other source being able to qualify for a contract award under the circumstances. The formal solicitation process described above is not the only method of entering into contracts for research and development. The ongoing research and development work pursued in industrial laboratories is producing ideas and products of interest to the Government; this is especially true in the exploratory and advanced development segment of the research and development spectrum. In the R&D areas where there has been unique and significant industrial accomplishment by a specific concern, the establishment of specifications for solicitation of others may defeat the purpose of taking advantage of this industrial initiative. When a contractor has a new idea or product in the fields of exploratory development or advanced development there should be no hesitancy to discuss it with him, encourage him to submit a proposal, and to negotiate directly with him. Subject to 3-211, this can be done without a formal solicitation. Where there is no substantial question as to the choice of the source, as illustrated in (d) below solicitations may be limited to a single source.

(b) In soliciting proposals for the conduct of research and exploratory development, it may be desirable for the Government to furnish prospective contractors with certain information to elaborate on the proposed statement of work, permit optimum response by offerors, and allow more timely and comparable evaluation of proposals by the Government. This information normally should consist of the Government's estimate of the scientific and technical man-effort, or other reasonable indicators, it envisions when it is not possible to describe the magnitude of the proposed work to a sufficiently definitive degree. For example, the estimated effort may be expressed in terms of numbers of man-months or years in particular occupational categories. This technique may be appropriate in cases of contracts for research studies, investigations, or laboratory scale evaluations of feasibility where the Government desires to limit the scope of effort or depth of research. Where the degree of effort type of information is furnished, it should be made clear that such information is advisory only and is not cause for restricting what the contractor believes to be a meritorious technical proposal.

(c) In addition to (a) above, exploratory requests may be used to determine the existence of ideas or prior work in specific fields of research. However, the request for such information shall clearly state that it does not impose any obligation on the Government or signify a firm intention of the Government to enter into a contract.

(d) The following examples are illustrative of circumstances where there may be no substantial question as to choice of source:

(i) As a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work.

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(ii) The purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source.

(iii) Where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support.

(e) In all procurements of research or development in which no small business source was solicited for a proposal, a statement shall be included in the solicitation file setting forth the reasons for not soliciting small business.

(f) Solicitations shall require offerors to identify technical uncertainties and to make specific proposals for their resolution.

(g) Solicitation and evaluation of proposals should be planned to minimize offerors' and Government expense.

(h) Solicitations shall provide offerors the opportunity to indicate the appropriate specifications and standards and to specify the way they will be applied and tailored to achieve the objectives, desired results and comply with the requirements stated in the solicitation.

4-106.3 *Conduct of Discussions.* See 3-805 and 4-107.

The contracting officer should make certain that each prospective contractor fully understands the details of the various phases of the Government's requirement, especially the statement of work. This may be best accomplished by conferences between a prospective contractor, the contracting officer, and appropriate technical personnel, particularly where there is doubt that a work statement is understood or will be interpreted correctly by prospective contractors.

4-106.4 *Evaluation for Award.*

(a) Generally, research and development contracts should be awarded to those organizations, including educational organizations, which have the highest competence in the specific field of science or technology involved. However, awards should not be made for research or development capabilities that exceed those needed for the successful performance of the work.

(b) Before determining the technical competence of prospective contractors, and recommending to the contracting officer the concern or concerns that they consider most technically competent, cognizant technical personnel shall consider the following:

(i) the contractor's understanding of the scope of the work as shown by the scientific or technical approach proposed;

(ii) availability and competence of experienced engineering, scientific, or other technical personnel;

(iii) availability, from any source, of necessary research, test, and production facilities;

(iv) experience or pertinent novel ideas in the specific branch of science or technology involved; and

(v) the contractor's willingness to devote his resources to the proposed work with appropriate diligence.

(c) In determining to whom the contract shall be awarded, the Contracting Officer shall consider not only technical competence, but also all other pertinent factors including management capabilities, cost controls, and past performance in

Part 8—Paid Advertisements

4-800 Scope of Part. This Part sets forth procedures to be followed in placing paid advertising in media for (i) military and civilian personnel purposes, and (ii) proposed procurements.

4-801 Definitions. As used in this Part, the following terms have the meanings set forth below:

(i) "media" means any vehicle used to convey an advertising message; it includes newspapers, magazines, trade and professional journals, special printed media, radio and television;

(ii) "space" means the space purchased for advertising messages in printed media, and the time purchased for advertising messages on radio or television broadcasts;

(iii) "advertisement" means any single message prepared for insertion in media, regardless of the number of insertions;

(iv) "publication" means (A) the insertion of an advertisement in a newspaper, magazine, trade or professional journal, or any other printed media; or (B) the broadcasting of an advertisement over radio or television; and

(v) "newspaper" means a publication printed and distributed at stated intervals to convey news and includes trade journals which carry news in addition to technical matter.

4-802 Authority and Delegation To Place Advertisements.

4-802.1 *Authority and Delegation.* Authority to approve the publication of paid advertisements in newspapers is vested by statute (44 U.S.C. 3702) in the Secretary of each Department. This authority may be delegated by the Secretary in writing, by position designation, to subordinates within his Department. The delegation shall specify the limitations, if any, of the authority granted. Administrative duties involved in accomplishing the advertising may be delegated in writing, personally signed by the delegate, setting forth the extent of the administrative duties involved. A copy of the instrument delegating authority to advertise and a copy of the instrument assigning administrative duties thereunder will either be attached to the first voucher submitted for payment or shall be forwarded immediately upon issuance to the General Accounting Office address to which records of the Department are submitted for audit purposes. When authority to advertise has been delegated by the Secretary of the Department concerned, a reference to the authorizing directive on the advertisement order is acceptable in lieu of attaching a copy of the authority to the payment voucher. Copies of such instruments also shall be attached to the duplicate voucher submitted to the paying office pursuant to 4-803.5.

4-802.2 *Request for Authority To Place Advertisement.*

(a) Special or general authority to place advertisements in newspapers must be secured in advance by the use of DD Form 1535, Request/Approval for Authority To Advertise (see 16-504). Special authority permits the publication of a given advertisement a specified number of times in designated newspapers. General authority permits the publication of such advertisements during a designated fiscal year as may be required.

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(b) Requests for authority to place advertisements in newspapers shall be submitted through channels to the Secretary or his designee.

(c) Unless the Secretary of the Department concerned determines otherwise, DD Form 1535 is not required as authority to place advertisements in media other than newspapers.

4-803 Procedures.

4-803.1 *General.* Orders for paid advertisements may be placed either directly with the media or through an advertising agency (see 4-803.6).

4-803.2 *Rates.* Advertisements may be paid for at rates not to exceed the commercial rates charged to private individuals, with the usual discounts.

4-803.3 *Forms.* Orders placed directly with the media shall be issued on DD Form 1155, Order for Supplies or Services/Request for Quotations, if not in excess of $25,000; and on Standard Form 26, Award/Contract, if over that amount. Orders placed through an advertising agency under a basic ordering agreement shall be issued on DD Form 1155 regardless of amount. If for advertisements in newspapers, the date and number of the instrument of delegation or of assignment shall be put in Block 19 of DD Form 1155 or Block 16 of Standard Form 26; such information may be included for advertisements in other media.

4-803.4 *Proof of Publication.* Every invoice for official advertising shall be accompanied with a copy of the publication or advertisement (known as a "tear sheet") or an affidavit of publication made and furnished by the printer or publisher, by the radio or television station broadcasting the advertisement, or by the advertising agency concerned. Tear sheets or affidavits submitted as proof of publication shall be retained in the paying officer's files until settlement of his account by the General Accounting Office, after which they may be disposed of.

4-803.5 *Payment.* Upon receipt of the invoice, supported by a tear sheet or an affidavit of publication from the media or the advertising agency concerned, the officer placing the advertisement shall attach appropriate supporting documents, sign the certificate in Block 36 of DD Form 1155; or for orders over $25,000 (other than under a basic ordering agreement), make a similar certification on the second copy of the invoice; and submit the invoice in quadruplicate to the proper paying office for payment.

4-803.6 *Placing Advertising Through Advertising Agencies.*

(a) *General.* Basic ordering agreements may be entered into with advertising agencies to provide professional advertising services. The use of an advertising agency to assist in producing and placing effective advertisements may be advisable when a significant number of advertisements is to be placed in several publications and in national media.

(b) *Placing of Advertisements in Commissionable Media.* The services of advertising agencies in connection with the placing of advertisements in media often can be obtained at no additional cost to the Government over and above the space cost. This is because many media give advertising agencies a commission or discount (generally 15%) of the space cost, based on the standard card or other published rate. This commission or discount is not given to the Government. These services of the advertising agencies include but are not limited to

Defense Agencies--
Director, Advance Research Projects Agency;
Director, Defense Nuclear Agency;
Director, Defense Communications Agency;
Director, Defense Intelligence Agency.

(2) For acquisitions estimated to exceed $2 million in foreign cost--Secretary of the Department concerned, or the Under Secretary of Defense for Research and Engineering in the case of agencies set forth in (d)(1).

(e) Complete documentation justifying acquisitions under (a) and (c) above shall be prepared except for acquisitions made pursuant to (a)(ii) and (a)(vi). Such documentation shall be prepared by requiring activities, furnished in requests for determination submitted to the individuals listed in (b) and (d) above, and included in the contract file.

6-804 Identification of Expenditures in the United States. DoD balance of payment reporting instructions require the reporting of the amount of acquisitions of U.S. end products and services accomplished under these regulations. The following provisions are designed to facilitate such reporting by cognizant accounting and disbursing officers. It is essential in implementing these provisions that there be appropriate liaison between acquisition and accounting and disbursing personnel at each contracting activity.

(a) Except as provided in (b) below, the clause 7-104.58(a) shall be included in each contract of $25,000 that--

(i) requires the contractor to furnish U.S. end products except that the clause in 7-104.58(a) is not required if the contractor is a domestic concern and the Government will take title to the supplies to be furnished within the United States; or

(ii) in the case of a contract for construction, repair, or maintenance of real property, or for services, to be performed outside the United States, either--

(A) requires the contractor to acquire specified materials, equipment, or services from U.S. sources (whether or not the contractor is a domestic concern), or

(B) is with a contractor who is a domestic concern (whether or not specified items must be acquired from U.S. sources).

(b) In lieu of the clause specified in 7-104.58(a), the statement in 7-104.58(b) may be placed prominently on the face of each contract, purchase, or delivery order involving acquisitions of U.S. end products or services where the contracting officer considers that greater accuracy will be achieved or that inclusion of the contract clause is impracticable.

(c) To provide appropriate reporting of the balance of payments consequences of Defense acquisition for contracts of less than $25,000, the statement in 7-104.58(c) will be placed prominently on the face of each contract.

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Part 9--International Agreements and Coordination

6-901 Scope of Part. This Part concerns the applicability of international agreements other than those in Parts 13 through 15 and coordination with overseas commands and activities in purchasing from foreign sources.

6-902 International Agreements.

(a) Various treaties and international agreements in effect between the United States and foreign governments, especially those with governments receiving military and economic aid under the Foreign Assistance Act of 1961, affect acquisition in foreign countries. Particular attention should be given to the provisions in these agreements which pertain to purchase procedures, contract forms and clauses, taxes, patents, technical information, facilities, and other matters relating to acquisition.

(b) Copies of international agreements are filed with the United States European Command (APO 128, New York) covering existing agreements in the United Kingdom of Great Britain and Northern Ireland, Western European countries, North Africa, and in the Middle East. Agreements with countries in the Pacific and Far East are filed with the United States Pacific Command (CINCPAC). Many of the agreements are compiled in the "United States Treaties and Other International Agreements" series (TIAS), which is published by the Department of State. Copies of this publication are normally available in overseas legal offices and U.S. diplomatic missions. In addition, Military Assistance Advisory Groups, Naval Missions, and Joint United States Military Aid Groups normally have copies of the agreements applicable to the countries concerned.

(c) In placing contracts with contractors outside the United States for performance outside the United States, contracting officers, including those in the United States, shall ascertain the existence and applicability of any international agreements and, subject to the provisions of 1-109.4, shall comply with such agreements.

6-903 Coordination With Overseas Commands and Activities. When it has been determined that an acquisition will be made from a foreign contractor, overseas contracting offices shall be utilized to the maximum practical extent. Contracting offices not within the command jurisdiction of a unified or specified command, anticipating placement of contracts with foreign contractors, shall maintain liaison with the appropriate component commander during preaward negotiations and postaward administration. Where an acquisition may result in a requirement for logistical support of contractor employees or additional Government employees in an overseas location, the contracting officer shall insure that the contract file includes documentation reflecting specific advance approval for such commitment from the appropriate component commander.

be issued under this Act for the export of any major defense equipment sold under a contract in the amount of $35,000,000 or more to any foreign country which is not a member of the North Atlantic Treaty Organization, Australia, Japan or New Zealand unless such major defense equipment was sold under this Act." DoD policies and procedures with respect to commercial availability are contained in the Military Assistance and Sales Manual (DoD Manual 5105.38-M), Part III, Chapter H, entitled Commercial Availability, published by the Defense Security Assistance Agency. (See DoD Manual 5105.38-M.)

6-1302 Applicability. The Defense Acquisition Regulation shall apply to all purchases and contracts made by the Department of Defense in support of Foreign Military Sales (see 1-102).

6-1303 Preparation of DoD Offer and Acceptance, DD Form 1513.

6-1303.1 DD Form 1513 lists the items and/or services, estimated costs, the terms and conditions of sale, and provides for the foreign government's signature to indicate acceptance. (See Appendix F-200.1513.)

6-1303.2 Procedures.

(a) In connection with each Foreign Military Sale expected to involve a contract in excess of $25,000 which cannot be placed on the basis of price competition (as, for example, when the foreign customer has designated only one source as acceptable), before the Department of Defense furnishes prices for information purposes to potential foreign customers, prices, delivery and other relevant information shall be requested from the prospective source and such request shall state that it is for information for the purpose of a potential Foreign Military Sale and shall identify the customer.

(b) As a general rule on FMS programs requiring new acquisitions, the Contracting Officer should participate in the preparation of Price and Availability Data to support the tendering of the DoD Offer and Acceptance (DD Form 1513) by the U.S. Government to foreign countries and international organizations. In addition to the identification and review of sales commissions and fees (see 6-1305), the contracting officer shall request contractors to identify in advance of the DoD Offer and Acceptance any unusual provisions or deviations, particularly those proposed for the contract which could affect the prices quoted. Such unusual contractual requirements shall also be identified in the submittal of the price and availability data to the Departmental activity responsible for providing the DoD Offer and Acceptance to the foreign country. If the Departmental activity expands, modifies or does not accept such requirements, the contractor shall be advised prior to the submission of the offer to the foreign country.

6-1304 Pricing Acquisitions for Foreign Military Sales.

6-1304.1 General. When the Department of Defense undertakes purchasing for sale to a foreign country which has committed itself to bear the cost of the acquisition, the Department of Defense assumes responsibility to see to it that no more than a fair price is paid for the acquisition. Accordingly, FMS contracts shall be priced on the same principles and with the same care as are used in pricing normal defense contracts. This does not mean that prices of normal defense contracts for an item are automatically applicable to FMS contracts for the same

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item. On the contrary, application to FMS contracts of the pricing principles established by Section III, Part 8, and Section XV may require pricing results that differ from normal defense contract prices for the same item because certain kinds of costs may reasonably and allocably arise in different amounts for the former than for the latter. In this regard, known FMS requirements shall be separately identified in solicitations. (See 2-201(a) Section L, and 3-501(b) Section L).

6-1304.2 Commercial Sales to Foreign Customers. If the contractor has made sales of an item to foreign customers under comparable conditions including quantity and delivery, the pricing of FMS contracts shall be in accordance with 3-800.

6-1304.3 Cost of Doing Business With a Foreign Government or an International Organization.

(a) In pricing FMS contracts, where non-U.S. Government prices as described in 6-1304.2 do not exist, recognition should be given to costs of doing business with a foreign government or international organization (even though the form of the transaction is a defense purchase for the purpose of FMS) whenever comparable costs of doing business with the United States would be recognized in pricing normal defense contracts. Thus, recognition should be given to reasonable and allocable costs even though such costs might not be recognized in the same amounts in pricing normal defense contracts. Examples of such costs include, but are not limited to, the following:

(i) Selling Expenses (not otherwise limited by 15-205.37(c)); e.g.:
  (A) maintaining international sales and service organizations;
  (B) sales commissions and fees in accordance with 1-505.4 and 6-1305;
  (C) sales promotions, demonstrations, and related travel for the purposes of sales to foreign governments; however, such costs shall not be recovered against U.S. Government contracts for U.S. Government requirements. These expenses may be recovered provided that when required by paragraph 123.16 of the International Traffic in Arms Regulations (ITAR)(22 CFR Part 121), such promotion or demonstration has received U.S. Government approval.
  (D) configuration studies and related technical services undertaken as a direct selling effort to a foreign country.

(ii) Product Support and Postdelivery Service Expenses; e.g.:
  (A) operations or maintenance training, training or tactics films, manuals, or other related data;
  (B) technical field services provided in a foreign country related to accident investigations, weapon system problems, operations/tactics enhancement, and related travel to foreign countries.

(iii) Costs associated with the implementation of DoD offset arrangements.

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

7-103.2 *Changes.*

CHANGES (1968 JAN)

The Contracting Officer may at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this contract, in any one or more of the following: (i) Drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the Government in accordance therewith; (ii) method of shipment or packing; and (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change, *provided*, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes". However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

In the foregoing clause, the period of "30 days" within which any claim for adjustment must be asserted may be varied in accordance with Departmental procedures. In accordance with 10 U.S.C. 2306(f), prior to the pricing of any change order that is expected to exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the contracting officer shall require the contractor to furnish a Certificate of Current Cost or Pricing Data (see 3-807.6) and shall assure that the contract includes or is modified to include a defective pricing data clause (see 7-104.29) and the audit clause required by 7-104.41.

7-103.3 *Extras.*

EXTRAS (1949 JUL)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

(End of clause)

7-103.4 *Variation in Quantity.*

(a) Insert the following clause.

VARIATION IN QUANTITY (1949 JUL)

No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

(End of clause)

(b) In accordance with 1-325, insert the following clause.

EXTENT OF QUANTITY VARIATION (1965 APR)

The permissible variation under the clause of the General Provisions entitled "Variation in Quantity" shall be limited to:

Increase (Insert:.....% or None)

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Decrease (insert:.....% or None)
This increase or decrease shall apply to.....*
(End of clause)

* Insert in the blank the designation(s) to which the percentages apply, such as: (1) the total contract quantity; (2) item 1 only; (3) each quantity specified in the delivery schedule of the "Time of Delivery" clause. (4) the total item quantity for each destination; (5) the total quantity of each item without regard to destination.

7-103.5 *Inspection.*

(a) The following clause shall be inserted in all fixed-price supply contracts, except as provided in (b) and (c) below.

INSPECTION (1982 NOV)

(a) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the supplies hereunder and shall tender to the Government, for acceptance, only supplies that have been inspected in accordance with said inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of such system, the Contractor shall prepare records evidencing all inspections made pursuant thereto and the outcome thereof. Such records shall be kept complete and available to the Government during the performance of this contract and for such longer period as may be specified elsewhere in this contract. The Government may perform such reviews and evaluations as are reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.

(b) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and test by the Government, to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance. However, the Government assumes no contract obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.

(c) In case any supplies or lots of supplies are defective in material or workmanship or otherwise not in conformity with the requirements of this contract, the Government shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Contracting Officer, corrected in place by and at the expense of the Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If the Contractor fails promptly to remove such supplies or lots of supplies which are required to be removed or promptly to replace or correct such supplies or lots of supplies, the Government either (i) may by contract or otherwise replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby; or (ii) may terminate this contract for default as provided in the clause of this contract entitled "Default." Unless the Contractor corrects or replaces such supplies within the delivery schedule, the Contracting Officer may require the delivery of such supplies at a reduction in price which is equitable under the circumstances. Failure to agree to such reduction of price shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes".

(d) If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. If Government inspection or test is made at a point other than the premises of the Contractor or a subcontractor, it shall be at the expense of the Government except as otherwise provided in this contract; *provided*, that in case of rejection the Government shall not be liable for any reduction in value of samples used in connection with such inspection or test. All inspections and tests by the Government shall be performed in such a manner as not to unduly delay the work. The Government reserves the right to charge to the Contractor any additional cost of Government inspection and test when supplies are not ready at the time such inspection and test is requested by the Contractor or when reinspection or retest is necessitated by prior rejection. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this contract; but failure to inspect and accept or reject supplies shall neither relieve the Contractor from responsibility for such supplies as are not in accordance with the contract requirements nor impose liability on the Government therefor.

(e) The inspection and test by the Government of any supplies or lots of supplies does not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Unless otherwise provided in this contract, acceptance shall be conclusive except as regards (1) latent defects, (2) fraud, or (3) such gross mistakes as amount to fraud.

(f) If acceptance is not conclusive for any of the reasons in paragraph (e) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; *Provided*, That the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby.

(End of clause)

(b) The clause in (a) above shall be included in all fixed-price incentive contracts except that paragraphs (c) and (f) thereof shall be deleted and the following substituted:

(c) In case any supplies or lots of supplies are defective in material or workmanship or otherwise not in conformity with the requirements of this contract, the Government shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Contracting Officer, corrected in place by the Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. Prior to the establishment of the total final price, the cost of replacement or correction shall be considered as a cost incurred, or to be incurred, for the purpose of negotiating the total final negotiated cost under the incentive price revision clause of this contract. After the establishment of the total final price, all replacements or corrections made by the Contractor shall be accomplished at no increase in the total final price. If the Contractor fails either promptly to remove such supplies or lots of supplies which are required to be removed, or promptly to replace or correct such supplies or lots of supplies, the Government either (i) may by contract or otherwise replace or correct such supplies, and equitably reduce any target price, or, if it is established, the total final price of this contract; or (ii) may terminate this contract for default as provided in the clause of this contract entitled "Default". Unless the Contractor corrects or replaces such supplies within the delivery schedule, the Contracting Officer may require the delivery of such supplies, and equitably reduce any target price or, if it is established, the total final price of this contract. Failure to agree to such equitable reduction shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes"

(f) If acceptance is not conclusive for any of the reasons in paragraph (e) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in any target price or, if it is established, the total final price of this contract, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; *Provided*, That the Contracting Officer may require a reduction in any target price, or, if it is established, the total final price of this contract, if the Contractor fails to meet such delivery schedule; or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the total final price as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation costs from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure

such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and equitably reduce any target price or, if it is established, the total final price of this contract.

(c) The clause set forth in (a) above shall be included in contracts utilizing the clause in 7-109.3 except that paragraphs (c) and (f) shall be deleted and the following substituted:

(c) In case any supplies or lots of supplies are defective in material or workmanship or otherwise not in conformity with the requirements of this contract, the Government shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Contracting Officer, corrected in place by the Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. Prior to the establishment of the redetermined prices, the cost of replacement or correction shall be considered as a cost incurred, or to be incurred, for the purpose of negotiation to redetermine the fair and reasonable contract prices under the price redetermination clause of this contract. After the establishment of the redetermined prices all replacements shall be accomplished at no increase in the redetermined prices. If the Contractor fails either promptly to remove such supplies or lots of supplies which are required to be removed, or promptly to replace or correct such supplies or lots of supplies, the Government either (i) may by contract or otherwise replace or correct such supplies and equitably reduce the initial contract prices, or if it is established, the redetermined prices of this contract, or, (ii) may terminate this contract for default as provided in the clause of this contract entitled "Default". Unless the Contractor corrects or replaces such supplies within the delivery schedule, the Contracting Officer may require the delivery of such supplies, and equitably reduce the initial contract price or, if it is established, the redetermined prices of this contract. Failure to agree to such equitable reduction shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes".

(f) If acceptance is not conclusive for any of the reasons in paragraph (e) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in the initial contract prices, or, if it is established, the redetermined prices of this contract, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; *Provided*, That the Contracting Officer may require a reduction in the initial contract prices, or, if it is established, the redetermined prices of this contract, if the Contractor

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fails to meet such delivery schedule; or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the initial contract prices, or, if it is established, the redetermined prices of this contract, as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation costs from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and equitably reduce the initial contract prices, or, if it is established, the redetermined prices of this contract.

(d) The following paragraphs (g) and (h) shall be added when the contract provides for the performance of Government Procurement Quality Assurance at source:

(g) When requested by the authorized Government representative, the Contractor shall furnish to the Government:

(i) advance notification prior to starting inspections or tests in accordance with provisions contained in or referenced by this contract; and

(ii) advance notification when supplies will be ready for Government inspection.

(h) When the advance notification in (g) above is requested, the authorized Government representative shall specify the period and method of such advance notification; however, such requests shall not require more than two (2) workdays of advance notification if the Government representative is in residence in the Contractor's plant nor more than seven (7) workdays of advance notification in other instances. Notification shall be furnished to the Government representative designated in the request. (1977 SEP)

7-103.6 ***Title and Risk of Loss.***

TITLE AND RISK OF LOSS (1968 JUN)

(a) Unless this contract specifically provides for earlier passage of title, title to supplies covered by this contract shall pass to the Government upon formal acceptance, regardless of when or where the Government takes physical possession.

(b) (1) Unless this contract specifically provides otherwise, risk of loss of or damage to supplies covered by this contract shall remain with the Contractor until, and shall pass to the Government upon:

(i) delivery of the supplies to a carrier, if transportation is f.o.b. origin;

(ii) acceptance by the Government or delivery of possession of the supplies to the Government at the destination specified in this contract, whichever is later, if transportation is f.o.b. destination.

(2) Notwithstanding (1) above, the risk of loss of or damage to supplies which so fail to conform to the contract as to give a right of rejection shall remain with the Contractor until cure or acceptance, at which time (1) above shall apply.

(c) Notwithstanding (b) above, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.

(End of clause)

7-103.7 ***Payments.***

PAYMENTS (1958 JAN)

The Contractor shall be paid, upon the submission of proper invoices or vouchers, the prices stipulated herein for supplies delivered and accepted or services rendered and accepted, less deductions, if any, as herein provided. Unless otherwise specified, payment will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the Contractor, payment for accepted partial deliveries shall be made whenever such payment would equal or exceed either $1,000 or fifty percent (50%) of the total amount of this contract.

(End of clause)

In contracts for the furnishing of transportation and accessorial services there will be substituted for the word "proper" above, the words "properly certified."

7-104.4 *Notice to the Government of Labor Disputes.* Insert the following clause in all contracts involving the furnishing or production of any item on the Department of Defense Master Urgency List and in any other contract of a class or kind which the Head of the Procuring Activity concerned determines to be appropriate for the use of such a clause.

NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (1958 SEP)

(a) Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder as to which a labor dispute may delay the timely performance of this contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify his next higher tier subcontractor, or the prime contractor, as the case may be, of all relevant information with respect to such dispute.

(End of clause)

7-104.5 *Patent Indemnity.* In accordance with 9-103 and 9-103.1, insert the following clause.

PATENT INDEMNITY (1982 NOV)

If the amount of this contract is in excess of $25,000, the Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States letters patent (except letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) arising out of the manufacture or delivery of supplies or out of construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply to: (i) an infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor; (ii) an infringement resulting from addition to, or change in, such supplies or components furnished or construction work performed which addition or change was made subsequent to delivery or performance by the Contractor; or (iii) a claimed infringement which is settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(End of clause)

(a) In accordance with 9-103.1(b) and 9-103.3, add one of the following sentences:

The foregoing shall not apply to the following:
(Specifically identify the items to be
excluded from the Patent Indemnity clause.) (1964 SEP)

or

The foregoing shall apply only to the following:
(Specifically identify the items to which
the Patent Indemnity clause applies.) (1964 SEP)

(b) In accordance with 9-103.4, insert the following clause.

WAIVER OF INDEMNITY (1955 JAN)

Any provision of this contract to the contrary notwithstanding, the Government hereby authorizes and consents to the use and manufacture, solely in the performance of this contract, of any invention covered by the United States patents identified as listed below, and waives indemnification by the Contractor with respect to such patents: (Identify the patents by number or by other means if more appropriate).

(End of clause)

7-104.6 *Filing of Patent Applications.* In accordance with 9-106, insert the following clause.

FILING OF PATENT APPLICATIONS (1969 DEC)

(a) Before filing or causing to be filed a patent application in the United States disclosing any subject matter of this contract, which subject matter is classified "Secret" or higher, the Contractor shall, citing the thirty (30) day provision below transmit the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application should be placed under an order of secrecy or sealed in accordance with the provisions of 35 U.S.C. 181-18 or the issuance of a patent should be otherwise delayed under pertinent United States statutes or regulations; and the Contractor shall observe any instructions of the Contracting Officer with respect to the manner of delivery of the patent application to the United States Patent Office for filing, but the Contractor shall not be denied the right to file such patent application. If the Contracting Officer shall not have given any such instructions within thirty (30) days from the date of mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) The Contractor shall furnish to the Contracting Officer, at the time of or prior to the time when the Contractor files or causes to be filed a patent application in the United States disclosing any subject matter of this contract, which subject matter is classified "Confidential," a copy of such application for determination whether for reasons of national security, such application should be placed under an order of secrecy or the issuance of a patent should be otherwise delayed under pertinent United States statutes or regulations.

(c) Where the subject matter of this contract is classified for reasons of security, the Contractor shall not file, or cause to be filed in any country, other than in the United States as provided in (a) and (b) of this clause, an application or registration for a patent containing any of said subject matter without first obtaining written approval of the Contracting Officer.

(d) When filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter, and shall also promptly furnish to the Contracting Officer the serial number, filing date, and name of country of any such patent application. When transmitting the application to the United States Patent Office, the Contractor shall by separate letter identify by agency and number the contract or contracts which require security classification markings to be placed on the application.

(e) The substance of this clause shall be included in all subcontracts which cover or are likely to cover classified subject matter.

(End of clause)

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(l) *Identification of Technical Data.* In accordance with 9-503, insert the following clause.

IDENTIFICATION OF TECHNICAL DATA (1975 MAR)

Technical Data (as defined in the "Rights in Technical Data and Computer Software" clause of this contract) delivered under this contract shall be marked with the number of this contract, name of Contractor, and name of any subcontractor who generated the data.

(End of clause)

(m) *Deferred Ordering of Technical Data or Computer Software.* In accordance with 9-502(c), insert the following clause:

DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE (1974 NOV)

In addition to technical data or computer software specified elsewhere in this contract to be delivered hereunder, the Government may, at any time during the performance of this contract or within a period of three (3) years after acceptance of all items (other than technical data or computer software) to be delivered under this contract or the termination of this contract, order any technical data or computer software (as defined in the "Rights in Technical Data and Computer Software" clause of this contract) generated in the performance of this contract or any subcontract hereunder. When such technical data or computer software is ordered, the Contractor shall be compensated for converting the data or computer software into the prescribed form, for reproduction and delivery. The obligation to deliver such technical data of a subcontractor and pertaining to an item obtained from him shall expire three (3) years after the date the Contractor accepts the last delivery of that item from that subcontractor under this contract. The Government's rights to use said data or computer software shall be pursuant to the "Rights in Technical Data and Computer Software" clause of this contract.

(End of clause)

(n) *Requirements for Data.*

(1) The following clause shall be inserted in all contracts, except as provided in (2) below:

DATA REQUIREMENTS (1972 APR)

(a) Data means recorded information, regardless of form or characteristics.

(b) The Contractor is required to deliver only the data items listed on the DD Form 1423 (Contract Data Requirements List) and data items identified in and deliverable under any contract clause of Section VII of the Armed Services Procurement Regulation (ASPR) made a part of the contract.

(End of clause)

(2) The clause in (1) above need not be included in:

(i) any contract, of which the aggregate amount involved does not exceed $25,000 and in any blanket purchase agreement and purchase order utilizing the DD Form 1155; (However, the DD Form 1423 shall be used with orders issued under a basic ordering agreement.);

(ii) any contract awarded to a contractor outside the United States, except those under 6-501;

(iii) any research or exploratory development contract when reports are the only deliverable item(s) under the contract;

(iv) any service type contract, when the Contracting Officer determines that the use of the DD Form 1423 (Contract Data Requirements List) is impractical for use with respect to records prepared by a contractor in performing operation and maintenance under the contract;

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

sistent with this contract, including demand consequent upon default termination; (iii) the date of transmittal by the Government to the Contractor of a proposed supplemental agreement to confirm completed negotiations fixing the amount; or (iv) if this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or in connection with a negotiated pricing agreement not confirmed by contract supplement.

(End of clause)

The interest rates established by the Secretary of the Treasury will be published in the Federal Register every six months. The current rate may also be obtained from the Departmental Contract Finance Office representative.

7-104.40 *Competition in Subcontracting.* The following clause shall be included in all negotiated contracts over $10,000, except in firm fixed-price contracts where award is on the basis of effective price competition or where prices are established by law or regulation, and except in small purchases made pursuant to 3-600.

COMPETITION IN SUBCONTRACTING (1962 APR)

The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(End of clause)

7-104.41 *Audit by Department of Defense.*

(a) Insert the following clause in all contracts (except those entered into by formal advertising which are not expected to exceed $100,000, and except small purchases made pursuant to 3-600).

AUDIT BY DEPARTMENT OF DEFENSE (1978 AUG)

(a) *General.* The Contracting Officer or his representatives shall have the audit and inspection rights described in the applicable paragraphs (b), (c) and (d) below.

(b) *Examination of Costs.* If this is a cost reimbursement type, incentive, time and materials, labor hour, or price redeterminable contract, or any combination thereof, the Contractor shall maintain, and the Contracting Officer or his representatives shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. Such right of examination shall include inspection at all reasonable times of the Contractor's plants, or such parts thereof, as may be engaged in the performance of this contract.

(c) *Cost or Pricing Data.* If the Contractor submitted cost or pricing data in connection with the pricing of this contract or any change or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the Contracting Officer or his representatives who are employees of the United States Government shall have the right to examine all books, records, documents and other data of the Contractor related to the negotiation, pricing or performance of such contract, change or modification, for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted. Additionally, in the case of pricing any change or modification exceeding $100,000 to formally advertised contracts, the Comptroller General of the United States or his representatives who are employees of the United States Government shall have such rights. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(d) *Reports.* If the Contractor is required to furnish Contractor Cost Data Reports (CCDR), Contract Fund Status Reports (CFSR), or Cost Performance Reports (CPR) the Contracting Of-

ficer or his representatives shall have the right to examine books, records, other documents, and supporting materials, for the purpose of evaluating (i) the effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports, and (ii) the data reported

(e) *Availability*. The materials described in (b), (c) and (d) above shall be made available at the office of the Contractor, at all reasonable times, for inspection, audit, or reproduction, until the expiration of three (3) years from the date of final payment under this contract or such lesser time specified in Appendix M of the Armed Services Procurement Regulation, and for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (1) and (2) below:

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for a period of three (3) years from the date of any resulting final settlement.

(2) Records which relate to appeals under the "*Disputes*" clause of this contract, or litigation, or the settlement of claims arising out of the performance of this contract, shall be made available until such appeals, litigation, or claims have been disposed of

(f) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (f), in all subcontracts exceeding $10,000 hereunder, except altered as necessary for proper identification of the contracting parties and the Contracting Officer under the Government prime contract

(End of clause)

(b) In the case of consolidated facilities contracts, facilities acquisition contracts and facilities use contracts, paragraph (b) of the clause should be amended to read:

(b) *Examination of Costs*. The Contractor shall maintain, and the Contracting Officer and his representatives shall have the right to examine, books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly (1) all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract and (2) the use of, and charges for the use of, the facilities. Such right of examination shall include inspection at all reasonable times of the Contractor's plants, or such parts thereof, as may be engaged in the performance of this contract.

7-104.42 *Subcontractor Cost or Pricing Data.*

(a) The folluwing clause shall be inserted in all negotiated contracts expected to exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The contracting officer may include this clause, with appropriate reduction in the dollar amounts included therein, in other negotiated contracts where a Certificate of Current Cost or Pricing Data is required (see 3-807.3(b)(iii)) in connection with initial pricing of the contract.

SUBCONTRACTOR COST OR PRICING DATA (1970 JAN)

(a) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) prior to the award of any subcontract the amount of which is expected to exceed $100,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their

subtracted from what would otherwise be considered the quantity canceled for the purpose of computing allowable cancellation charges.

(End of clause)

7-104.48 *New Material.* In accordance with 1-1208, insert the following clause.

NEW MATERIAL (1965 JAN)

Except as to any supplies and components which the Specification or Schedule specifically provides need not be new, the Contractor represents that the supplies and components including any former Government property identified pursuant to the "Government Surplus" clause of this contract to be provided under this contract are new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety). If at any time during the performance of this contract, the Contractor believes that the furnishing of supplies or components which are not new is necessary or desirable, he shall notify the Contracting Officer immediately, in writing, including the reasons therefor and proposing any consideration which will flow to the Government if authorization to use such supplies is granted.

(End of clause)

7-104.49 *Government Surplus.* In accordance with 1-1208, insert the following clause.

GOVERNMENT SURPLUS (1965 JAN)

(a) In the event the bid or proposal is based on furnishing items or components which are former Government surplus property or residual inventory resulting from terminated Government contracts, a complete description of the items or components, quantity to be used, name of Government agency from which acquired, and date of acquisition shall be set forth on a separate sheet to be attached to bid or proposal. Notwithstanding any information provided in accordance with this provision, items furnished by the Contractor must comply in all respects with the specifications contained herein.

(b) Except as disclosed by the Contractor in (a) above, no property of the type described herein shall be furnished under this contract unless approved in writing by the Contracting Officer.

(End of clause)

7-104.50 *Management Systems.* In accordance with 1-331(e), insert the following clause.

MANAGEMENT SYSTEMS REQUIREMENTS (1971 NOV)

The Contractor shall utilize the management systems listed on the DD Form 1660, Management Systems Summary List, attached hereto and made a part hereof. Compliance with this clause shall not relieve the Contractor from complying with any other provision of this contract.

(End of clause)

7-104.51 *Production Progress Report.* In accordance with 25-202, insert the following clause.

PRODUCTION PROGRESS REPORTS (1971 APR)

(a) The Contractor shall prepare and submit to the Contracting Officer Production Progress Reports in accordance with the instructions set forth elsewhere in this contract.

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(b) During any delay in furnishing a Production Progress Report required under this contract, the Contracting Officer may withhold from payment an amount not exceeding $10,000 or 5% of the amount of this contract, whichever is less.

(End of clause)

7-104.52 *Utilization of Women-Owned Business Concerns.* In accordance with 1-708(b), insert the following clause.

UTILIZATION OF WOMEN-OWNED BUSINESS CONCERNS (1982 NOV)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use its best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, a "women-owned business" concern means a business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business and that is a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

(c) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as women-owned business concerns.

(End of clause)

7-104.53 *Reserved.*
7-104.54 *Reserved.*

United States. Identification shall consist of stating the full amount of the payment requested, subdivided into the following categories:

1. United States end products—Expenditures for material and equipment manufactured or produced in the United States, excluding transportation;
2. United States services—Expenditures for services performed in the United States, including charges for overhead, other indirect costs, and profit;
3. Transportation on United States carriers—Expenditures for transportation furnished by United States flag, ocean, surface, and air carriers; and
4. Expenditures not identified under 1, 2, and 3 above.

(b) If this contract is principally for supplies or if the Contractor is not an incorporated concern incorporated in the United States, or an unincorporated concern having its principal place of business in the United States, the amounts identified under (a)1, (a)2, and (a)3 above will be limited to payments made pursuant to the requirements either of the "United States Products and Services" clause, if any, or of any other specific provision of this contract that obligates the Contractor to procure certain materials, equipment, transportation, or services from United States sources.

(c) The identification of expenditures required under (a) above may be expressed either as dollar amounts or as percentages applicable to the total amount of the request for payment.

(d) The identification will be based on reasonable estimates by the Contractor. Nothing in this clause requires the establishment or maintenance of detailed accounting records or gives the United States Government any right to audit the Contractor's books or records.

(End of clause)

(b) In lieu of the clause specified in (a) above,, the following statement may be placed prominently on the face of each contract, purchase or delivery order involving procurement of U.S. end products or U.S. services where the contracting officer considers that greater accuracy will be achieved or that inclusion of the contract clause is impracticable:

U.S. Expenditures for:
U.S. end products — .....% of each invoice.
U.S. services — .....% of each invoice.
Transportation on U.S. carriers — .....% of each invoice.

(c) To provide appropriate reporting of the balance of payments consequences of Defense procurement for contracts of less than $25,000, the following statement will be placed prominently on the face of each contract, purchase or delivery order or other procurement document:

U.S. Expenditures for:
U.S. end products — .....% of each invoice.
U.S. services — .....% of each invoice.
Transportation on U.S. carriers — .....% of each invoice.

7-104.59 *Reserved.*

7-104.60 *Contractor-Furnished Returnable Gas Cylinders and Other Containers.* Insert the following clause in contracts involving the purchase of gas in contractor-furnished returnable cylinders where the contractor retains title to the cylinders. The clause may be used, with appropriate modification, in contracts for other supplies involving reels, spools, drums, carboys, liquid petroleum gas con-

tainers, or other reusable containers, where the contractor is to retain title to the containers.

RETURNABLE GAS CYLINDERS (1966 OCT)

(a) Cylinders shall remain the property of the Contractor but will be loaned without charge to the Government for a period of thirty (30) days* after the date of delivery of the cylinders to the f.o.b. point specified in the contract. Beginning with the first day after the expiration of the thirty (30) day loan period to and including the day the cylinders are delivered to the Contractor where the original delivery was f.o.b. origin, or to and including the date the cylinders are delivered or are made available for delivery to the Contractor's designated carrier in the case where the original delivery was f.o.b. destination, the Government shall pay the Contractor a rental of ..... dollars ($.....) per cylinder per day, regardless of type or capacity.

* The time period may be modified to comply with the customary commercial practice for the particular type of container being rented.

(b) This rental charge will be computed separately for cylinders of differing types, sizes, and capacities, and for each point of delivery named in the contract. A credit of thirty (30) cylinder days will accrue to the Government for each cylinder, regardless of type or capacity, delivered by the Contractor. A debit of one (1) cylinder day will accrue to the Government for each cylinder for each day after delivery to the f.o.b. point specified in this contract. At the end of the contract, if the total number of debits exceeds the total number of credits, rental shall be charged for the difference. If the total number of credits equals or exceeds the total number of debits, no rental charges will be made for the cylinders. No rental shall accrue to the Contractor in excess of the replacement value per cylinder specified in (c) below

(c) For each cylinder lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the replacement value as follows, less the allocable rental paid therefor:

(i) oxygen cylinders of 100–110 cubic foot capacity $.....;
(ii) oxygen cylinders of 200–220 cubic foot capacity $.....;
(iii) acetylene cylinders of 100–150 cubic foot capacity $.....; and
(iv) acetylene cylinders of 230–300 cubic foot capacity $.....

(d) Cylinders lost, or damaged beyond repair, and paid for by the Government shall become the property of the Government, subject to the following: If any lost cylinder is located within ..... (insert period of time) after payment by the Government, it may be returned to the Contractor by the Government, and the Contractor shall pay to the Government an amount equal to the replacement value, less rental computed in accordance with (a) above, beginning at the expiration of the thirty (30) day loan period specified in (a) above, and continuing to the date on which the cylinder was delivered to the Contractor.

(End of clause)

7–104.61 *Frequency Authorization.* Any contract which calls for developing, producing, constructing, testing, or operating a device for which a radio frequency authorization is required shall contain the following provision:

FREQUENCY AUTHORIZATION (1966 OCT)

(a) Authorization of radio frequencies required in support of this contract shall be obtained through the Contracting Officer by the Contractor or subcontractor in need thereof. Frequency management procedures prescribed in the Schedule of this contract shall be followed in obtaining radio frequency authorization.

(b) For any experimental, developmental or operational equipment for which the appropriate frequency allocation has not been made, the Contractor or subcontractor shall provide the

Part 3—Fixed-Price Research and Development Contracts

7–301 Applicability. As used throughout this Part, the term "fixed-price research and development contract" means any contract (other than a letter contract, a notice of award, or a modification not affecting new procurement) which (i) is entered into at a fixed price in an amount exceeding $2,500 (with or without any provision for price redetermination, economic price adjustment, or other form of price revision as covered in 3–404), and (ii) is for experimental, developmental, or research work. See 3–402(b) for use of types of contracts for research and development work.

7–302 Required Clauses. The following clauses shall be inserted, as required, in all fixed-price research and development contracts, except as may otherwise be indicated in this Part.

7–302.1 *Definitions.* Insert the contract clause in 7–103.1. Additional definitions may be included in such clause *provided* they are not inconsistent with such clause or the provisions of this Regulation.

7–302.2 *Payments.*

PAYMENTS (1959 JUN)

The Contractor shall be paid, upon submission of proper invoices or vouchers, the prices stipulated herein for work delivered or rendered and accepted, less deductions, if any, as herein provided. Unless otherwise specified, payment will be made upon acceptance of any portion of the work delivered or rendered for which a price is separately stated in the contract.

(End of clause)

7–302.3 *Standards of Work.*

STANDARDS OF WORK (1959 JUN)

The Contractor agrees that the performance of work and services pursuant to the requirements of this contract shall conform to high professional standards.

(End of clause)

7–302.4 *Inspection.*

(a) The following clause shall be used where the primary contract objective is delivery of end items other than designs, drawings, or reports, except where the contracting officer determines that the use of such clause is impracticable. Where this clause, or this clause as modified in (c) below, is not used, the clause in (b) below shall be used.

INSPECTION (1982 NOV)

(a) All work under this contract shall be subject to inspection and test by the Government, to the extent practicable, at all times (including the period of performance) and places, and in any event prior to acceptance. The Government through any authorized representative may inspect the premises of the Contractor or any subcontractor engaged in the performance of this contract.

(b) The Government may reject any work that is defective or otherwise not in conformity with the requirements of this contract. If the Contractor fails or is unable to correct or to replace such work within the delivery schedule or such later time as the Contracting Officer may authorize, the Contracting Officer may accept such work at a reduction in price which is equitable under the circumstances. Failure to agree on the reduction in price shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

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(c) If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide, without additional charge, all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. If the Government inspection or test is made at a point other than the premises of the Contractor or subcontractor, it shall be at the expense of the Government. All inspections and tests by the Government shall be performed in such a manner as not unduly to delay the work. Final inspection and acceptance or rejection of the work shall be made as promptly as practicable after delivery except as otherwise provided in this contract; but failure to inspect and accept, or reject the work shall neither relieve the Contractor from responsibility for such of the work as is not in accordance with the contract requirements nor impose liability on the Government therefor.

(d) The inspection and test by the Government of any work shall not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Except as otherwise provided in this contract, acceptance shall be conclusive except as regards (1) latent defects, (2) fraud, or (3) such gross mistakes as amount to fraud. If acceptance is not conclusive for any of these three causes, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (i) at no increase in contract price, to correct or replace the defective or nonconforming supplies (work) at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; *Provided*, the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule; or (ii) within a reasonable time after the Contractor's receipt of notice of defects or nonconformance, to repayment of such portion of the contract price as is equitable under the circumstances if it (the Government) elects not to require correction or replacement. When supplies (work) are (is) returned to the Contractor, the Contractor shall bear transportation costs from the original point of delivery to the Contractor's plant and return to the original point of delivery when that point is not the Contractor's plant.

(e) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the work hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the performance of this contract and for such longer period as may be specified elsewhere in this contract.

(End of clause)

(b) The following clause shall be inserted in all contracts subject to this Part where the clause in (a) above is not used.

INSPECTION (1959 JUN)

The Government, through any authorized representatives, has the right, at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection, or evaluation is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require his subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

(End of clause)

(c) When it is desired to require contractors to maintain an inspection system in accordance with Military Specification MIL-I-45208 (see 14-303), the clause in (a) above shall be included in the contract, except that the following shall be added as the second sentence of paragraph (e).

The inspection system shall be in accordance with the edition of Military Specifications MIL-I-45208 in effect on the date of this contract. (1967 AUG)

7-302.5 *Assignment of Claims.* In accordance with 7-103.8, insert the clause therein.

7-302.6 *Examination of Records by Comptroller General.* In accordance with 7-104.15, insert the clause therein.

7-302.7 *Federal, State, and Local Taxes.* In accordance with 11-401, insert the appropriate clause in 7-103.10.

7-302.8 *Utilization of Small Business and Small Disadvantaged Business Concerns.* In accordance with 1-707.3, insert one or more of the clauses in 7-104.14.

licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(iii) the Contractor shall share any royalties collected on a Subject Invention with the inventor; and

(iv) the balance of any royalties or income earned by the Contractor with respect to Subject Inventions, after payment of expenses (including payments to inventors) incidental to the administration of Subject Inventions, shall be utilized for the support of scientific research or education.

(End of clause)

7-302.24 *Reserved.*

7-302.25 *Military Security Requirements.* Insert the Military Security Requirements clause in accordance with 7-104.12.

7-302.26 *Utilization of Labor Surplus Area Concerns.* In accordance with 1-805.3, insert the clauses in 7-104.20.

7-302.27 *Government Delay of Work.* Insert the clause in 7-104.77.

7-302.28 *Title and Risk of Loss.* Insert the clause in 7-103.6.

7-302.29 *Pricing of Adjustments.* Insert the clause in 7-103.26.

7-302.30 *Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era.* Insert the clause in 7-103.27.

7-302.31 *Affirmative Action for Handicapped Workers.* Insert the clause in 7-103.28.

7-302.32 *Clean Air and Water.* In accordance with 1-2302.2, insert the clause in 7-103.29.

7-302.33 *Invoices.* Insert the clause in 7-103.30.

7-303 Clauses To Be Used When Applicable.

7-303.1 *Clauses for Contracts Involving Construction Work.* In accordance with 7-602.23, 12-106, 18-701, and 18-703, insert the Labor Standards Provisions in 7-602.23.

7-303.2 *Filing of Patent Applications.* In accordance with 9-106, insert the clause in 7-104.6.

7-303.3 *Reporting and Refund of Royalties.* In accordance with 9-110(d) and 9-111, insert the appropriate clause or clauses in 7-104.8.

7-303.4 *Reserved.*

7-303.5 *Preference for Certain Domestic Commodities.* In accordance with 6-305, insert the clause in 7-104.13.

7-303.6 *Priorities, Allocations, and Allotments.* In accordance with 1-307.2, insert the clause in 7-104.18.

7-303.7 *Government Property.* When the Government is to furnish, or the contractor is to acquire, Government property, insert the following clause if the contract is with an educational or nonprofit institution, if not, insert the appropriate clauses as provided in 7-104.24. Changes in the clause below, like those in 7-104.24(e), (f) and (g), may be made as therein provided.

GOVERNMENT PROPERTY (FIXED PRICE, NONPROFIT) (1972 SEP)

(a) *Government-furnished Property.* The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described as Government furnished property in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished property suitable for use (except for such property furnished "as is") will be delivered to the Contractor at the times stated in the Schedule, or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay, if any, occasioned the Contractor thereby, and shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by any such delay. Except for Government furnished property furnished "as is", in the event that Government-furnished property is received by the Contractor in a condition not suitable for its intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of such property, or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision effected by the return, disposition, repair or modification. The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(b) *Changes in Government-furnished Property.*

(1) By notice in writing, the Contracting Officer may (i) decrease the property furnished or to be furnished by the Government under this contract, or (ii) substitute other Government-owned property for property to be furnished by the Government, or to be acquired by the Contractor for the Government, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal, shipping, and disposal of property covered by such notice.

(2) In the event of any decrease in or substitution of property pursuant to paragraph (1) above, or any withdrawal of authority to use property provided under any other contract or lease, which property the Government had agreed in the Schedule to make available for the performance of this contract, the Contracting Officer, upon the written request of the Contractor (or, if the substitution of property causes a decrease in the cost of performance, on his own initiative), shall equitably adjust such contractual provisions as may be affected by the decrease, substitution or withdrawal, in accordance with the procedures provided in the "Changes" clause of this contract.

(c) *Title.*

(1) Title to all property furnished by the Government shall remain in the Government.

(2) Notwithstanding subparagraph (1) above, title to equipment purchased with funds available for research, having an acquisition cost of less than $1,000, shall vest in the Contractor upon acquisition or as soon thereafter as feasible, provided that the Contractor shall have obtained approval of the Contracting Officer prior to acquisition of such property.

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Act, as amended, be subject to reduction or setoff. (The preceding sentence applies only if this contract is made in time of war or national emergency as defined in said Act and is with the Department of Defense, the General Services Administration, the Energy Research and Development Administration, the National Aeronautics and Space Administration, the Federal Aviation Administration, or any other department or agency of the United States designated by the President pursuant to Clause 4 of the proviso of section 1 of the Assignment of Claims Act of 1940, as amended by the Act of May 15, 1951, 65 Stat. 41.)

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

(End of clause)

The last two sentences of paragraph (a) of the foregoing clause shall be deleted from contracts entered into with foreign contractors.

7-602.9 *Material and Workmanship.*

MATERIAL AND WORKMANSHIP (1964 JUN)

(a) Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in this contract, reference to any equipment, material, article, or patented process, by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition, and the Contractor may, at his option, use any equipment, material, article, or process which, in the judgment of the Contracting Officer, is equal to that named. The Contractor shall furnish to the Contracting Officer for his approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature, and rating of the machinery and mechanical and other equipment which the Contractor contemplates incorporating in the work. When required by this contract or when called for by the Contracting Officer, the Contractor shall furnish the Contracting Officer for approval full information concerning the material or articles which he contemplates incorporating in the work. When so directed, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles installed or used without required approval shall be at the risk of subsequent rejection.

(b) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may, in writing, require the Contractor to remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

(End of clause)

7-602.10 *Contractor Inspection System.*

(a) Except as provided in (b) below, insert the following clause in all contracts in excess of $25,000.

CONTRACTOR INSPECTION SYSTEM (1964 NOV)

The Contractor shall (i) maintain an adequate inspection system and perform such inspections as will assure that the work performed under the contract conforms to contract requirements, and (ii) maintain and make available to the Government adequate records of such inspections.

(End of clause)

(b) When it is desired to require contractors to maintain an inspection system in accordance with Military Specification MIL-I-45208 (see 14-303), the

clause in (a) above shall be included in the contract with the following additional sentence.

The inspection system shall be in accordance with the edition of Military Specification MIL-I-45208 in effect on the date of this contract. (1967 AUG)

7-602.11 *Inspection and Acceptance.*

INSPECTION AND ACCEPTANCE (1976 OCT)

(a) All work (which term includes but is not restricted to materials, workmanship, and manufacture and fabrication of components) shall be subject to inspection and test by the Government at all reasonable times and at all places prior to acceptance. Any such inspection and test is for the sole benefit of the Government and shall not relieve the Contractor of the responsibility of providing quality control measures to assure that the work strictly complies with the contract requirements. No inspection or test by the Government shall be construed as constituting or implying acceptance. Inspection or test shall not relieve the Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Government after acceptance of the completed work under the terms of paragraph (f) of this clause, except as hereinabove provided.

(b) The Contractor shall, without charge, replace any material or correct any workmanship found by the Government not to conform to the contract requirements, unless in the public interest the Government consents to accept such material or workmanship with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(c) If the Contractor does not promptly replace rejected material or correct rejected workmanship, the Government (1) may, by contract or otherwise, replace such material or correct such workmanship and charge the cost thereof to the Contractor, or (2) may terminate the Contractor's right to proceed in accordance with the clause of this contract entitled "*Termination for Default — Damages for Delay — Time Extensions.*"

(d) The Contractor shall furnish promptly, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspection and test as may be required by the Contracting Officer. All inspection and test by the Government shall be performed in such manner as not unnecessarily to delay the work. Special, full size, and performance tests shall be performed as described in this contract. The Government reserves the right to charge to the Contractor any additional cost of inspection or test when material or workmanship is not ready at the time specified by the Contractor for inspection or test or when reinspection or retest is necessitated by prior rejection.

(e) Should it be considered necessary or advisable by the Government at any time before acceptance of the entire work to make an examination of work already completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor and material. If such work is found to be defective or nonconforming in any material respect, due to the fault of the Contractor or his subcontractors, he shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, an equitable adjustment shall be made in the contract price to compensate the Contractor for the additional services involved in such examination and reconstruction and, if completion of the work has been delayed thereby, he shall, in addition, be granted a suitable extension of time.

(f) Unless otherwise provided in this contract, acceptance by the Government shall be made as promptly as practicable after completion and inspection of all work required by this contract, or that portion of the work that the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except as regards latent defects, fraud, or such gross mistakes as may amount to fraud or as regards the Government's rights under any warranty or guarantee.

(End of clause)

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7-602.27 *Federal, State, Local and Foreign Taxes.* In accordance with Section XI, Part 4, insert the appropriate clause set forth in 7-103.10; and in accordance with 11-302, the following clause.

NORTH CAROLINA STATE AND LOCAL SALES AND USE TAX (1977 JAN)

(a) As used throughout this clause, the term "materials" means building materials, supplies, fixtures and equipment which become a part of or are annexed to any building or structure erected, altered, or repaired under this contract.

(b) If this is a fixed-price type contract as defined in the Armed Services Procurement Regulation, the contract price includes North Carolina State and local sales and use taxes to be paid with respect to materials, notwithstanding any other provision of this contract. If this is a cost-reimbursement type contract as defined in such regulation, any North Carolina State and local sales and use taxes paid by the Contractor with respect to materials shall constitute an allowable cost under this contract.

(c) At the time specified in paragraph (d) below:

(i) The Contractor shall furnish the Contracting Officer certified statements setting forth the cost of the materials purchased from each vendor and the amount of North Carolina State and local sales and use taxes paid thereon. In the event the Contractor makes several purchases from the same vendor, such certified statement shall indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices and the North Carolina State and local sales and use taxes paid thereon. Such statement shall also include the cost of any tangible personal property withdrawn from the Contractor's warehouse stock and the amount of North Carolina State and local sales or use tax paid thereon by the Contractor. Any local sales or use taxes included in the Contractor's statements must be shown separately from the State sales or use taxes. The Contractor shall furnish such additional information as the Commissioner of Revenue of the State of North Carolina may require to substantiate a refund claim for sales or use taxes.

(ii) The Contractor shall obtain and furnish to the Contracting Officer similar certified statements by its subcontractors.

(d) If this contract is completed before the next October 1, the certified statements to be furnished pursuant to paragraph (c) above shall be submitted within sixty (60) days after completion. If this contract is not completed before the next October 1, such certified statements shall be submitted on or before the 30th day of November of each year and shall cover taxes paid during the twelve month period which ended the preceding September 30.

(e) The certified statements to be furnished pursuant to paragraph (c) above shall be in the following form:

I hereby certify that during the period ..... to ....., (name of contractor or subcontractor) paid North Carolina State and local sales and use taxes aggregating $ ..... (State) and $..... (local) with respect to building materials, supplies, fixtures and equipment which have become a part of or annexed to a building or structure erected, altered or repaired by (name of contractor) for the United States of America, and that the vendors from whom the property was purchased, the dates and numbers of the invoices covering the purchases, the total amount of the invoices of each vendor, the North Carolina State and local sales and use taxes paid thereon, shown separately, and the cost of property withdrawn from warehouse stock and North Carolina State and local sales or use taxes paid thereon are as set forth in the attachments hereto.

(End of clause)

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Note: In ship repair contracts, change paragraph (a) to read as follows:

(a) As used throughout this clause, the term "materials" means materials, supplies, fixtures and equipment which become a part of or are annexed to any vessel altered or repaired under this contract.

7-602.28 *Reserved.*

7-602.29 *Termination for Convenience of the Government.*

(a) *Contracts Over $25,000.* In accordance with 8-701(a), insert the following clause.

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT—CONSTRUCTION (1974 APR)

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) stop work under the contract on the date and to the extent specified in the Notice of Termination;

(ii) place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;

(vi) transfer title and deliver to the Government, in the manner, at the times, and to the extent, if any, directed by the Contracting Officer, (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (B) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the Government;

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to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41, 85 STAT 97 for the Renegotiation Board, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government; *provided*, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(k) Unless otherwise provided for in this contract, or by applicable statute, the Contractor shall—from the effective date of termination until the expiration of three years after final settlement under this contract—preserve and make available to the Government at all reasonable times at the office of the Contractor but without direct charge to the Government, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

(End of clause)

(b) *Contracts Not Exceeding $25,000.* In accordance with 8-705.2, insert the following clause.

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (1968 JAN)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the interest of the Government. If this contract is so terminated, the rights, duties and obligations of the parties hereto shall be in accordance with the applicable Sections of the Armed Services Procurement Regulation in effect on the date of this contract.

(End of clause)

7-602.30 *Notice and Assistance Regarding Patent and Copyright Infringement.* In accordance with 9-104, insert the clause in 7-103.23.

7-602.31 *Authorization and Consent.* In accordance with 9-102.1 and 18-902, insert the appropriate clause in 7-103.22 or 7-302.21.

7-602.32 *Composition of Contractor.*

COMPOSITION OF CONTRACTOR (1965 JAN)

If the Contractor hereunder is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

(End of clause)

7-602.33 *Site Investigation.*

SITE INVESTIGATION (1968 JAN)

The Contractor acknowledges that he has investigated and satisfied himself as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides or similar physical conditions at the site, the conformation and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the work. The Contractor further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from information presented by the drawings and specifications made a part of this contract. Any failure by the Contractor to

acquaint himself with the available information will not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the work. The Government assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the Government.

(End of clause)

7-602.34 *Protection of Existing Vegetation, Structures, Utilities, and Improvements.*

PROTECTION OF EXISTING VEGETATION, STRUCTURES, UTILITIES, AND IMPROVEMENTS (1968 JAN)

(a) The Contractor will preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site of work which is not to be removed and which does not unreasonably interfere with the construction work. Care will be taken in removing trees authorized for removal to avoid damage to vegetation to remain in place. Any limbs or branches of trees broken during such operations or by the careless operation of equipment, or by workmen, shall be trimmed with a clean cut and painted with an approved tree pruning compound as directed by the Contracting Officer.

(b) The Contractor will protect from damage all existing improvements or utilities at or near the site of the work, the location of which is made known to him, and will repair or restore any damage to such facilities resulting from failure to comply with the requirements of this contract or the failure to exercise reasonable care in the performance of the work. If the Contractor fails or refuses to repair any such damage promptly, the Contracting Officer may have the necessary work performed and charge the cost thereof to the Contractor.

(End of clause)

7-602.35 *Operations and Storage Areas.*

OPERATIONS AND STORAGE AREAS (1968 JAN)

(a) All operations of the Contractor (including storage of materials) upon Government premises shall be confined to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by his operations.

(b) Temporary buildings (storage sheds, shops, offices, etc.) may be erected by the Contractor only with the approval of the Contracting Officer, and shall be built with labor and materials furnished by the Contractor without expense to the Government. Such temporary buildings and utilities shall remain the property of the Contractor and shall be removed by him at his expense upon the completion of the work. With the written consent of the Contracting Officer, such buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways or construct and use such temporary roadways as may be authorized by the Contracting Officer. Where materials are transported in the prosecution of the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State or local law or regulation. When it is necessary to cross curbings or sidewalks, protection against damage shall be provided by the Contractor and any damaged roads, curbings, or sidewalks shall be repaired by, or at the expense of the Contractor.

(End of clause)

7-602.36 *Modification Proposals-Price Breakdown.* The requirements of this clause are in addition to and do not limit the requirements of 3-807.3 and 16-206 for the submission of cost or pricing data on DD Form 633.

and charge to the Contractor any cost occasioned to the Government that is directly related to the performance of such services; or (ii) terminate this contract for default as provided in the clause of this contract entitled "Default."

(c) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services to be performed hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the term of this contract and for such longer period as may be specified elsewhere in this contract.

(End of clause)

7-1902.5 *Payments.* In accordance with 7-103.7, insert the clause therein.

7-1902.6 *Assignment of Claims.* In accordance with 7-103.8, insert the clause therein.

7-1902.7 *Federal, State, Local and Foreign Taxes.* In accordance with 7-103.10, insert the appropriate clause therein.

7-1902.8 *Default.* In accordance with 7-103.11, insert the clause therein.

7-1902.9 *Disputes.* In accordance with 7-103.12, insert the appropriate clause therein.

7-1902.10 *Reserved.*

7-1902.11 *Discounts.*

DISCOUNTS (1971 NOV)

In connection with any discount offered, time will be computed from the date of completion of performance of the services or from the date correct invoice or voucher is received in the office specified by the Government, if the latter is later than date of completion of performance. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the Government check.

(End of clause)

When SF 33A is used, the above clause will be substituted for subparagraph (b) of clause 9, *Discounts* (see 16-101.1(ii)).

7-1902.12 *Contract Work Hours and Safety Standards Act—Overtime Compensation.* In accordance with 12-301, 12-302, and 12-306, insert the clauses in 7-103.16.

7-1902.13 *Equal Opportunity.* In accordance with 12-807.1, insert the applicable clause in 7-103.18.

7-1902.14 *Officials Not To Benefit.* Insert the clause in 7-103.19.

7-1902.15 *Covenant Against Contingent Fees.* Insert the clause in 7-103.20.

7-1902.16 *Termination for Convenience of the Government.*

(a) Except in stevedoring contracts and except as provided in (b) below, insert the appropriate clause in 7-103.21.

(b) If it has been reasonably determined that termination for convenience would not result in a claim for anything but the services rendered, the following clause may be used, regardless of contract amount, in lieu of any other termination for convenience clause. See 8-705.1(b).

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (1968 FEB)

The Contracting Officer, by written notice may terminate this contract, in whole or in part, when it is in the best interests of the Government. If this contract is so terminated, the Govern-

ment shall be liable only for payment in accordance with the payment provisions of this contract for services rendered prior to the effective date of termination.

(End of clause)

7-1902.17 *Authorization and Consent.* Except in contracts for stevedoring services and in accordance with 7-103.22, insert the clause therein.

7-1902.18 *Notice and Assistance Regarding Patent and Copyright Infringement.* Except in contracts for stevedoring services and in accordance with 7-103.23, insert the clause therein.

7-1902.19 *Reserved.*

7-1902.20 *Equal Opportunity Pre-Award Clearance of Subcontracts.* In accordance with 23-201.4, insert the clause in 7-104.22.

7-1902.21 *Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era.* Insert the clause in 7-103.27.

7-1902.22 *Pricing of Adjustments.* Insert the clause in 7-103.26.

7-1902.23 *Time of Delivery.* Insert a delivery clause in accordance with 7-104.92.

7-1902.24 *Affirmative Action for Handicapped Workers.* Insert the clause in 7-103.28.

7-1902.25 *Clean Air and Water.* In accordance with 1-2302.2, insert the clause in 7-103.29.

7-1902.26 *Invoices.* Insert the clause in 7-103.30.

7-1903 Clauses To Be Used When Applicable in Fixed-Price Service Contracts.

7-1903.1 *Clauses for Fixed-Price Service Contracts Involving Construction Work.*

(a) In accordance with 12-106 and 18-703, insert the clauses in 7-602.23.

(b) In accordance with 7-602.20 and 7-602.24, insert the clauses therein in addition to the clause in 7-104.3.

7-1903.2 *Workmen's Compensation and War Hazard Insurance Overseas.* In accordance with 10-403, insert the appropriate clause(s) in 7-104.2.

7-1903.3 *Notice to the Government of Labor Disputes.* In accordance with 7-104.4, insert the clause therein.

7-1903.4 *Notice of Radioactive Materials.* In accordance with 7-104.80, insert the clause therein.

7-1903.5 *Filing of Patent Applications.* In accordance with 9-106, insert the clause in 7-104.6.

7-1903.6 *Additional Bond Security.* If the contract will require the contractor to furnish a bond in connection therewith, insert the clause in 7-103.9.

7-1903.7 *Reporting and Refund of Royalties.* In accordance with 7-104.8, insert the appropriate clause or clauses therein.

7-1903.8 *Rights in Data.* In accordance with 7-104.9, insert the appropriate clause, or clauses, therein.

7-1903.9 *Ground and Flight Risk.* In accordance with 10-404, insert the clause in 7-104.10.

7-1903.10 *Military Security Requirements.* In accordance with 7-104.12, insert the clause therein.

7-1903.11 *Utilization of Small Business and Small Disadvantaged Business Concerns.* In accordance with 1-707.3, insert one or more of the clauses in 7-104.14.

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7-2101.4 *Specifications and Drawings.* Insert the clause in 7-602.2.
7-2101.5 *Changes.* Insert the clause in 7-602.3.
7-2101.6 *Differing Site Conditions.* Insert the clause in 7-602.4.
7-2101.7 *Termination for Default — Damages for Delay — Time Extensions.*

TERMINATION FOR DEFAULT — DAMAGES FOR DELAY — TIME EXTENSIONS (1976 OCT)

(a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within such time, the Government may, by written notice to the Contractor, terminate his right to proceed with the work or such part of the work as to which there has been delay. In such event the Government may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may be on the site of the work and necessary therefor. In addition, if title to property is vested in the Contractor under this contract it shall revest in the Government notwithstanding any other provision of this contract, except as to such property as the Contractor has disposed of by bona fide sale or property which has been removed from the site by the Contractor. Whether or not the Contractor's right to proceed with the work is terminated, he and his sureties shall be liable for any damage to the Government resulting from his refusal or failure to complete the work within the specified time.

(b) If fixed and agreed liquidated damages are provided in the contract and if the Government so terminates the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the Government in completing the work.

(c) If fixed and agreed liquidated damages are provided in the contract and if the Government does not so terminate the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed or accepted.

(d) The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:

(1) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the Government in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers; and

(2) The Contractor, within ten (10) days from the beginning of any such delay (unless the Contracting Officer grants a further period of time before the date of final payment under the contract), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the findings of fact justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in the "Disputes" clause of this contract.

(e) If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the Government, be the same as if the notice of termination had been issued pursuant to such clause. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the Government, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "*Disputes*".

CONTRACT CLAUSES AND SOLICITATION PROVISIONS

(f) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(g) As used in paragraph (d)(1) of this clause, the term "*subcontractors or suppliers*" means subcontractors or suppliers at any tier.

(End of clause)

During a period of national emergency, paragraph (d) of the above clause may be changed by deleting the word "unforeseeable" and inserting the phrase "other than normal weather", after the word "causes" wherever it appears.

7-2101.8 *Termination for Convenience of the Government.*

(a) Insert the following clause in contracts exceeding $25,000 in value. In accordance with E-621, the last sentence of paragraph (j) of the clause may be deleted in contracts with agencies of the United States Government, foreign governments or agencies thereof, or State or local governments or agencies thereof.

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (1976 OCT)

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. Upon receipt by the Contractor of the Notice of Termination, if title to property is vested in the Contractor under this contract, it shall revest in the Government notwithstanding any other provision of this contract, except as to such property as the Contractor has disposed of by bona fide sale or property which has been removed from the site by the Contractor.

(b) After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) stop work under the contract on the date and to the extent specified in the Notice of Termination;

(ii) place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;

(vi) transfer title and deliver to the Government, in the manner, at the times, and to the extent, if any, directed by the Contracting Officer, (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (B) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the Government;

(j) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41, 85 STAT 97 for the Renegotiation Board, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government; *provided*, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(k) Unless otherwise provided for in this contract, or by applicable statute, the Contractor shall—from the effective date of termination until the expiration of three (3) years after final settlement under this contract—preserve and make available to the Government at all reasonable times at the office of the Contractor but without direct charge to the Government, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

(End of clause)

(b) Insert the following clause in contracts not exceeding $25,000.

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (1976 OCT)

The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the interest of the Government. If this contract is so terminated, the rights, duties and obligations of the parties hereto shall be in accordance with the applicable Sections of the Armed Services Procurement Regulation in effect on the date of this contract. In addition, upon receipt by the Contractor of the Notice of Termination, if title to property is vested in the Contractor under this contract, it shall revest in the Government notwithstanding any other provision of this contract, except as to such property as the Contractor has disposed of by bona fide sale or property which has been removed from the site by the Contractor.

(End of clause)

7-2101.9 *Disputes.* Insert the appropriate clause in 7-602.6.
7-2101.10 *Assignment of Claims.* Insert the clause in 7-602.8.
7-2101.11 *Conditions Affecting the Work.* Insert the clause in 7-602.14.
7-2101.12 *Site Investigation.* Insert the clause in 7-602.33.
7-2101.13 *Protection of Existing Vegetation, Structures, Utilities, and Improvements.*

PROTECTION OF EXISTING VEGETATION, STRUCTURES, UTILITIES, AND IMPROVEMENTS (1976 OCT)

(a) The Contractor will preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site of work which is not to be removed and which does not unreasonably interfere with the dismantling or demolition work. Care will be taken in removing trees authorized for removal to avoid damage to vegetation to remain in place. Any limbs or branches of trees broken during such operations or by the careless operation of equipment, or by workmen, shall be trimmed with a clean cut and painted with an approved tree pruning compound as directed by the Contracting Officer.

(b) The Contractor will protect from damage all existing improvements or utilities at or near the site of the work, including adjacent property of a third party, the location of which is made known to him, and will repair or restore any damage to such facilities resulting from failure to comply with the requirements of this contract or the failure to exercise reasonable care in the performance of the work. If the Contractor fails or refuses to repair any such damage promptly, the Contracting Officer may have the necessary work performed and charge the cost thereof to the Contractor.

(End of clause)

7-2101.14 *Permits and Responsibilities.*

PERMITS AND RESPONSIBILITIES (1976 OCT)

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, State, and municipal laws, codes, and regulations, in connection with the prosecution of the work. He shall be similarly responsible for all damages to persons or property that occur as a result of his fault or negligence. He shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others.

(End of clause)

7-2101.15 *Other Contracts.* Insert the clause in 7-602.15.
7-2101.16 *Liability for Government Property.*

LIABILITY FOR GOVERNMENT PROPERTY (1976 OCT)

As to:

(i) items of property, title to which remains in the Government and which are to be delivered to the Government by the Contractor in the performance of the work; and
(ii) items of property, title to which is vested in the Contractor but which under the termination clauses of this contract is revested in the Government upon notice of termination;

the Contractor assumes the risk of and shall be responsible for any loss thereof or damage thereto except for reasonable wear and tear incident to removal and delivery to the Government.

(End of clause)

7-2101.17 *Workmanship.*

WORKMANSHIP (1976 OCT)

All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may, in writing, require the Contractor to remove from the work any employee the Contracting Officer deems incompetent, careless or otherwise objectionable.

(End of clause)

7-2101.18 *Superintendence by Contractor.* Insert the clause in 7-602.12.

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TERMINATION OF CONTRACTS

8–602.5 *Memorandum by the Contracting Officer.* In all cases where a contract is terminated for default or where a procedure authorized by 8–602.4 is followed, the PCO—or in the Air Force the contracting officer designated for this purpose, shall prepare a memorandum for the contract file explaining fully the reasons for the action taken.

8–602.6 *Repurchase Against Contractor's Account.*

(a) Where the supplies or services are still required after termination, repurchase of supplies or services which are the same as or similar to those called for in the contract, shall be made against the contractor's account as soon as practicable after termination. Such repurchase shall be at as reasonable a price as practicable considering the quality required by the Government and the time within which the supplies or services are required. The contract of repurchase may be made for a quantity in excess of the undelivered quantity terminated for default, when such excess quantity is needed, but excess cost may be charged against the defaulting contractor for no more than the undelivered quantity terminated for default (including variations in quantity permitted by the terminated contract). Generally, the PCO's decision to repurchase will be made prior to issuance of the termination notice.

(b) If the repurchase is for a quantity not in excess of the undelivered quantity terminated for default, the requirements of 10 U.S.C. 2304 (a), with respect to formal advertising, are inapplicable. However, the PCO may use formal advertising procedures. If the PCO decides to negotiate the repurchase contract, he may either (1) use any authority listed in 3–201 through 3–217 (10 U.S.C. 2304(a)(1)-(17)), as appropriate, or (2) if none of those authorities to negotiate is used, the contract shall identify the procurement as a repurchase in accordance with the provisions of the Default clause in the defaulted contract. If the repurchase is for a quantity in excess of the undelivered quantity terminated for default, the entire quantity shall be treated as a new procurement.

(c) If repurchase is effected at a price in excess of the price of the supplies terminated, the PCO shall make a written demand on the contractor for the total amount of such excess giving due consideration to any increases or decreases in other ascertainable costs such as transportation, discounts, etc., and shall take such other action as is required by Appendix E, Part 6, for collecting claims in favor of the Government.

8–602.7 *Other Damages.*

(a) If a contract is terminated for default or if a course of action in lieu of termination for default is followed (see 8–602.4), the PCO shall take appropriate action in accordance with Appendix E, Part 6, for ascertainment and collection of any liquidated damages to which the Government may be entitled under the contract. Pursuant to the contract provisions for liquidated damages in 7–105.5, such damages are in addition to any excess cost of reprocurement.

(b) If the Government has suffered any other ascertainable damages as a result of the contractor's default, the PCO, on the basis of legal advice, shall take appropriate action to assert the Government's claim for such damage in accordance with Appendix E, Part 6.

TERMINATION OF CONTRACTS

Part 7—Clauses

8–700 Scope of Part. This Part contains directions for certain contract clauses related to the termination of contracts for the convenience of the Government and for default. Special purpose clauses when authorized by Departmental procedures and consistent with the policies set forth in this Regulation may be used in appropriate cases.

8–701 Termination Clause for Fixed-Price Contracts.

(a) Except as otherwise permitted by 8–705, the clause in 7–103.21(b) shall be used in any fixed price contract in excess of $25,000 for supplies or experimental, developmental, or research work other than experimental, developmental, or research work with educational or nonprofit institutions, when no profit is contemplated. The clause in 7–602.29(a) shall be used in all fixed price construction contracts in excess of $25,000.

(b) The clause in 7–607.4 covering terminations for convenience and terminations for default shall be included in all fixed-price architect-engineer contracts.

(c) In accordance with E–621, the last sentence of paragraph (j) of the clauses in 7–103.21(b) and 7–602.29(a) may be deleted in contracts with agencies of the United States Government, foreign governments or agencies thereof, state or local governments or agencies thereof, or nonprofit contracts with nonprofit educational or research institutions.

8–702 Termination Clause for Cost-Reimbursement Type Contracts.

(a) The clause in 7–203.10 shall be used in any cost-reimbursement type contract, as defined in 3–405, for supplies and experimental, developmental, or research work other than experimental, developmental, or research work with educational or nonprofit institutions where no fee is contemplated. The clause in 7–605.26 shall be used in all cost-reimbursement type construction contracts.

(b) Reserved.

(c) In any contract for Architect-Engineer services where the clause in 7–203.10 is used, the term "Architect-Engineer" shall be substituted for the term "Contractor" wherever that term appears in the clause and paragraph (e)(i)(D)(II) shall be deleted and the following clause substituted therefor:

> (II) in the event of the termination of this contract for the default of the Architect-Engineer, the total fee payable shall be such proportionate part of the fee as the weighted value of the actual working drawings completed bears to the weighted value of the working drawings required or contemplated by the contract; (1970 JUL)

(d) In accordance with E–621, the last sentence of paragraph (j) of the clauses in 7–203.10 and 7–605.26 may be deleted in contracts with agencies of the United States Government, foreign governments or agencies thereof, state or local governments or agencies thereof, or nonprofit contracts with nonprofit educational or research institutions.

8–703 Termination Clause for Cost Reimbursement Type Subcontracts. The following termination clause is suggested for use in cost-reimbursement type subcontracts.

(II) in the event of the termination of this contract for the default of the Seller, the total fee payable shall be such proportionate part of the fee (or, if this contract calls for articles of different types, of such part of the fee as is reasonably allocable to the type of article under consideration) as the total number of articles delivered to and accepted by the Buyer bears to the total number of articles of a like kind called for by this contract;

If the amount determined under this subparagraph (i) is less than the total payment theretofore made to the Seller, the Seller shall repay to the Buyer the excess amount; or

(ii) if the settlement includes only the fee, the amount thereof will be determined in accordance with subparagraph (i)(D) above.

(f) In arriving at the amount due the Seller under this clause there shall be deducted (i) all unliquidated advance or other payments theretofore made to the Seller, applicable to the terminated portion of this contract, (ii) any claim which the Buyer may have against the Seller in connection with this contract, and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Seller or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Buyer.

(g) In the event of a partial termination, the portion of the fee which is payable with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Seller and the Buyer, and such adjustment shall be evidenced by an amendment to this contract.

(h) The Buyer may, from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Seller in connection with the terminated portion of the contract whenever in the opinion of the Buyer the aggregate of such payments shall be within the amount to which the Seller will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Seller to the Buyer upon demand, together with interest computed at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41, 85 STAT 97 for the Renegotiation Board, for the period from the date such excess payment is received by the Seller to the date on which such excess is repaid to the Buyer; *provided*, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Seller's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Buyer by reason of the circumstances.

(End of clause)

8-704 Research and Development Contracts with Educational and Other Nonprofit Institutions.

8-704.1 *Termination Clause.*

(a) The clause in 7-302.10(b) shall be used in any contract for experimental, developmental, or research work (whether fixed price or cost reimbursement type) with an educational institution when such contract is placed on a no-fee or no-profit basis except that in the case of organizations other than educational institutions, paragraph (d) shall be deleted and the paragraph in 7-302.10(c) shall be used.

(b) The clause in 7-302.10(c) shall be used in contracts with a nonprofit organization other than an educational institution.

8-704.2 *Suggested Clause for Subcontracts.* The clause in 7-302.10(b), suitably altered to indicate the relationship between the prime contractor and subcontractor, is suggested for use in subcontracts placed with educational or nonprofit institutions; *provided*, such subcontracts incorporate, or are negotiated on the basis of, the cost principles set forth in Section XV; and *provided further*, such subcontracts are placed on the no-fee or no-profit basis.

8-705 Short Form Termination Clauses for Fixed-Price Type Contracts.

8-705.1 *Supply and Service Contracts:*

(a) To facilitate the handling of purchases under fixed-price supply or service contracts not to exceed $25,000, the short form termination clause in 7-103.21(a) is authorized for use in lieu of any other clause providing for termination for the convenience of the Government; *provided*, such contracts obligate the Government to order or otherwise to be liable for a minimum quantity.

(b) To facilitate the obtaining of services where it can reasonably be determined that the kind and volume of service required would not, in the event of termination for convenience of the Government, present a basis for a termination claim other than for services rendered (such as, but not limited to, most contracts for rental of unreserved garage space, meals for inductees, or laundry and drycleaning services), the short form termination clause in 7-1902.16(b) is authorized for use in such service contracts, regardless of dollar value, in lieu of any other clause providing for termination for the convenience of the Government.

(c) Where DD 1155 is utilized for purchases not in excess of $25,000 and the additional general provisions are incorporated, clause 17 of that form shall be used in lieu of those specified in (a) and (b) above.

8-705.2 *Construction Contracts.* Generally, there is no need for a termination clause in construction contracts not in excess of $25,000. However, when the contracting officer determines that a termination clause should be included in such a contract, the clause in 7-602.29(b) shall be used, except where DD Form 1155 is utilized, clause 17 of that form shall be used in lieu of the clause in 7-602.29(b).

8-705.3 *Reserved.*

8-706 Subcontract Termination Clause. The following termination clause is suggested for use in fixed-price subcontracts.

TERMINATION (1974 APR)

(a) The performance of work under this contract may be terminated, in whole or from time to time in part, by the buyer in accordance with this clause. Termination of work hereunder shall be effected by delivery to the seller of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination and except as otherwise directed by the buyer, the seller shall:

(i) stop work under the contract on the date and to the extent specified in the Notice of Termination;

(ii) place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portions of the work under the contract as may not be terminated;

(iii) terminate all orders and subcontracts to the extent that they relate to the performance of any work terminated by the Notice of Termination;

(iv) assign to the buyer, in the manner, and to the extent directed by the buyer all of the right, title and interest of his seller under the orders or subcontracts so terminated;

(v) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts subject to the approval or ratification of the buyer to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;

(vi) transfer title and deliver in the manner, to the extent, and at the times directed by the buyer (A) the fabricated or unfabricated parts, work in process, completed work, supplies and other material produced as a part of, or acquired in connection with the

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(End of clause)

In accordance with E-621, the last sentence of paragraph (h) in the above clause may be deleted in subcontracts with agencies of the United States Government, foreign governments or agencies thereof, state or local governments or agencies thereof, or nonprofit contracts with nonprofit educational or research institutions.

8-707 Default Clause for Fixed-Price Supply Contracts. Insert the clause in 7-103.11, except for purchase orders.

8-708 Excusable Delays Clause for Cost-Reimbursement Type Contracts.

(a) *General.* The clause in 7-203.11 shall be used in all cost-reimbursement type supply contracts as defined in 7-202, in all cost-reimbursement type construction contracts, and in all cost-reimbursement type research and development contracts that contain the Termination clause in 7-203.10(a). It may be used in contracts that contain the Termination clauses in 7-302.10(b) or (c).

(b) *Architect-Engineer Contracts.* The following clause shall be inserted in each cost-reimbursement type Architect-Engineer contract:

EXCUSABLE DELAYS (JAN 1966)

The Architect-Engineer shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the Architect-Engineer to make progress in the prosecution of the work hereunder which endangers such performance) if such failure arises out of causes beyond the control and without the fault or negligence of the Architect-Engineer. Such causes may include but are not restricted to: acts of God or of the public enemy; acts of the Government in either its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes; and unusually severe weather; but in every case, the failure to perform must be beyond the control and without the fault or negligence of the Architect-Engineer. Upon request of the Architect-Engineer, the Contracting Officer shall ascertain the facts and extent of such failure and, if he shall determine that any failure to perform was occasioned by any one or more of the said causes, the completion dates shall be revised accordingly subject to the rights of the Government under the clause of this contract entitled "Termination".

(End of clause)

8-709 Default Clause for Fixed-Price Construction Contracts. The clause in 7-602.5 shall be used in each fixed-price construction contract in excess of $25,000.

8-710 Default Clause for Fixed-Price Research and Development Contracts. See 7-302.9.

8-711 Default Clause for Fixed-Price Architect-Engineer Contracts. See 7-607.4.

8-712 Special Termination Costs.

(a) The clause in 7-108.3 is authorized for use in an incrementally funded contract when:

(i) the contract term is two years or more;

(ii) the contract is estimated to require total RDT&E financing in excess of $25 million, or total production investment in excess of $100 million;

(iii) adequate resources are available within existing appropriated amounts to cover the contingent reserved liability for special termination costs in the event of contract termination; and

(iv) the use of the clause in the contract is approved by the Secretary of the Department concerned or his designee.

The clause may be used in circumstances other than those in (i) and (ii) above when approved by the Secretary of the Department concerned or his designee. Any addition to the categories of special termination costs listed in paragraph (a)(i) through (v) of the clause in 7-108.3 shall be processed in accordance with 1-109.3.

(b) The contractor and the contracting officer shall agree upon an amount that represents their best estimate of the total special termination costs to which the contractor would be entitled in the event of termination of the contract. Such amount shall be inserted in the clause.

(c) A provision allowing for negotiated adjustments of the amount reserved for special termination costs may be inserted as paragraph (d) of the clause. Contract provisions for periodic adjustments by mutual agreement of the parties may be established based on, among other things, (i) set time periods within the contract, (ii) the Government's incremental assignment of funds to the contract, or (iii) the time when certain performance milestones are accomplished by the contractor. Provisions for such adjustments may be considered desirable in contracts containing unusually long performance periods, or in contracts where the contractor's cost risk associated with the contingent special termination costs, in the event of Government termination, fluctuates extensively over the period of the contract, depending on the scope of work to be performed during a certain period of the contract, or the amount of funds to be assigned to the contract during any one increment.

Unless prohibited by 9–102(c), the clause in 7–302.21 shall be included in all contracts calling exclusively for experimental, developmental, or research work, and may be included in contracts calling for both supplies and experimental, developmental, or research work where the latter work is a primary purpose of the contract. In all other contracts for both supplies and experimental, developmental, or research work, the Authorization and Consent clause in 7–103.22 shall be used. If the clause in 7–302.21 is included in a contract, the clause in 7–103.22 shall not be included.

9–103 Patent Indemnification of Government by Contractor. In order that the Government may be reimbursed for liability for patent infringement arising out of or resulting from the performance of construction contracts or contracts for supplies which normally are or have been sold or offered for sale to the public in the commercial open market or which are the same as such supplies with a relatively minor modification thereof a clause providing for indemnification of the Government is to be included in such contracts in accordance with the instructions set forth below. A patent indemnity clause shall not be used in contracts:

(i) when the Authorization and Consent clause in 7–302.21 applicable to research and development contracts is authorized, except that in contracts calling also for supplies of the kind described above, a patent indemnity clause may be used with respect to such supplies;

(ii) when the contract is for supplies which clearly are not or have not been sold or offered for sale to the public in the commercial open market. However, even in the foregoing instance, a patent indemnity clause may be included where (A) in the case of contracts to be awarded by formal advertising it is desired to obtain an indemnity as to specific components or spare parts so sold or offered for sale, in which case the clause shall be modified pursuant to 9–103.1(b); or (B) in the case of contracts to be awarded either by formal advertising or negotiation, a patent owner contends that the prospective procurement would infringe his patent and the low bidder or offeror is willing to indemnify the Government as to such patent either (1) without increase in price on the basis that the patent is invalid or not infringed, or (2) for other good reasons;

(iii) when both performance and delivery are to be outside the United States, its possessions, or Puerto Rico, unless the contract indicates that the supplies are ultimately to be shipped into the United States, its possessions, or Puerto Rico, in which case the instructions of 9–103.1 or 9–103.3 are applicable; or

(iv) when the contract is for an amount of $25,000 or less, except that, as a matter of administrative convenience, the clause need not be deleted where it is a part of a standard form being used for contracts of $25,000 or less, since it is self-deleting as to such contracts.

9–103.1 *Patent Indemnification in Formally Advertised Contracts—Commercial Status Predetermined.*

(a) Except as prohibited by 9–103, the clause in 7–104.5 is appropriate in formally advertised construction contracts and shall be included in formally advertised contracts for supplies when it has been determined in advance of issuing

the invitation for bids that supplies (or such supplies apart from relatively minor modifications to be made thereto) normally are or have been sold or offered for sale by any supplier to the public in the commercial open market.

(b) When a supply contract calls in part for specific components or spare parts which normally are or have been sold or offered for sale by any supplier to the public in the commercial open market, or such items with relatively minor modifications, the Patent Indemnity clause in 7–104.5 shall be modified by adding to the end of the clause either of the sentences in 7–104.5(a).

9–103.2 *Reserved.*

9–103.3 *Patent Indemnification in Negotiated Contracts.* A patent indemnity clause is not required to be included in negotiated contracts, but may be included (i) in negotiated construction contracts, (ii) as authorized in 9–103(ii)(B), and (iii) in negotiated contracts for supplies where such supplies normally are or have been sold or offered for sale to the public in the commercial open market, or are such supplies with relatively minor modifications made thereto. Ordinarily, the contracting officer, in consultation with the contractor, should be able to determine whether the supplies being purchased normally are on sale or have been sold or offered for sale to the public in the commercial open market.

(a) Subject to the foregoing and to the prohibitions in 9–103, the clause in 7–104.5 is approved for use in negotiated contracts for construction work or supplies.

(b) When a supply contract calls in part for specific components or spare parts which normally are or have been sold or offered for sale to the public in the commercial open market, or such items with relatively minor modifications, the Patent Indemnity clause in 7–104.5 shall be modified by adding to the end of the clause either of the sentences in 7–104.5(a).

9–103.4 *Waiver of Indemnity by the Government.* If it is desired to exempt one or more specified United States patents from the patent indemnity clause in 7–104.5, authority shall first be obtained from the Secretary or his designee, and the clause in 7–104.5(b) shall be included in the contract, in addition to the patent indemnity clause.

9–104 Notice and Assistance. The Government should be notified by the contractor of all claims of infringement in connection with the performance of a Government contract which come to the contractor's attention. The contractor should also assist the Government, to the extent of evidence and information in the possession of the contractor, in connection with any suit against the Government, or any claims against the Government made before suit has been instituted, on account of any alleged patent or copyright infringement arising out of or resulting from the performance of the contract. Accordingly, the clause in 7–103.23 shall be included in all contracts in excess of $25,000 for supplies, services, construction, or experimental, developmental, or research work; *provided*, that the clause shall not be included in contracts when both performance and delivery are to be outside the United States, its possessions, or Puerto Rico, unless the contract indicates that the supplies are ultimately to be shipped into the United States, its possessions, or Puerto Rico. For proper action to be taken by the contracting officer with respect to reports of notices or claims of patent infringement received by him under the provisions of this paragraph 9–104, see Part 4 of this Section.

7–104.65 in all other contracts requiring work at a Government installation

7-104.65 in all other contracts requiring work on a Government installation. Neither clause is required, however, for contracts (i) of $25,000 or less, (ii) when only a small amount of work is required on a Government installation (*e.g.*, a few brief visits per month), or (iii) when all work on a Government installation is to be performed outside the United States, its possessions, and Puerto Rico. The coverage specified in 10-501 is the minimum insurance required and shall be included in the clause in 7-603.10 or in the contract schedule. Additional coverage and higher limits may be required by the contracting officer.

(b) The clause in 7-104.65 may also be included in contracts described in (a) (i), (ii), and (iii) above when the contracting officer judges this to be in the interest of the Government. In such contracts, if appropriate, any of the kinds of insurance listed in 10-501 may be omitted from the Schedule, and the limits may be lowered.

10-406 Capture and Detention of Contractor Employees. The clause in 7-104.94 is authorized for use when the employees of a contractor are subject to capture and detention under circumstances which may be outside the scope of the War Hazards Compensation Act (42 U.S.C. 1701 et seq.).

Part 5—Insurance Under Cost-Reimbursement Type Contracts

10-500 Scope of Part. This Part sets forth the policy of the Departments with respect to insurance under cost-reimbursement type contracts for supplies or services.

10-501 Policy. The types of insurance listed below, with the minimum amounts of liability indicated, ordinarily shall be required in cost-reimbursement contracts and subcontracts thereunder when the provisions of the prime contract are extended to the subcontract. (Insurance written on a single limit basis must be equal to or greater than the combined required minimums indicated.) An approved program of self-insurance, as provided in 10-303, may be substituted for any of the types of insurance ordinarily required.

10-501.1 *Workmen's Compensation and Employers' Liability Insurance.*

(a) Compliance with applicable workmen's compensation and occupational disease statutes shall be required. In jurisdictions where all occupational diseases are not compensable under applicable law, insurance for occupational disease shall be required under the employers' liability section of the insurance policy; however, such additional insurance shall not be required when contract operations are commingled with the contractor's commercial operations so that it would be impracticable to require such coverage. Employers' liability coverage in the minimum amount of $100,000 shall be required except in states with exclusive or monopolistic funds which do not permit the writing of workmen's compensation by private insurance carriers (Nevada, North Dakota, Ohio, Washington, West Virginia, and Wyoming). The clause in 7-104.2(a) shall be included in all public work contracts as described therein to be performed outside the United States.

(b) When the clause in 7-104.2(b) is required for contractor programs of self-insurance, and the Chief of the Contracting Office determines that the contractor shall not purchase insurance against the liability described in 10-403(d)(2), the clause in 7-104.2(c) shall be inserted in the contract.

(c) Each contract containing the clause in 7-104.2(c) shall contain:

(i) the estimated cost for war hazard losses;
(ii) the clause at 7-203.4(a) appropriately limited to cover allowable war hazard cost;
(iii) the Examination of Records clause (7-104.15); and
(iv) a provision similar to the following:

> The portion of this contract providing for the Contractor to afford protection to his employees and by subcontractors to their employees against war hazard risks

sioner may otherwise require. The requirements of the Commissioner are set forth in regulations which, in pertinent part, provide:

"To substantiate a refund claim for sales or use taxes paid on purchases of building materials, supplies, fixtures and equipment by its contractor, the claimant must secure from such contractor certified statements setting forth the cost of the property purchased from each vendor and the amount of sales and/or use taxes paid thereon. In the event the contractor makes several purchases from the same vendor, such certified statement must indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices and the sales and use taxes paid thereon. Such statement must also include the cost of any tangible personal property withdrawn from the contractor's warehouse stock and the amount of sales or use tax paid thereon by the contractor. Similar certified statements by his subcontractors must be obtained by the general contractor and furnished to the claimant. Any local sales or use taxes included in the contractors' statements must be shown separately from the State sales or use taxes."

(c) To assure that the United States will be in a position to obtain refunds of North Carolina State and local sales and use taxes to which it is entitled, the clause in 7–602.27 shall be inserted in all construction contracts to be performed in North Carolina, including vessel repair contracts.

(d) The clause in 7–602.27 requires construction contractors, including vessel repair contractors, to submit to contracting officers by November 30 each year certified statements covering North Carolina State and local sales and use taxes paid during the twelve month period which ended the preceding September 30. It will be the responsibility of each contracting officer concerned to assure that contractors comply with this requirement and to obtain the annual refund of North Carolina State and local sales and use taxes to which his activity may be entitled. The application for refund must be filed each year before March 31 and in the manner and form required by the Commissioner of Revenue of the State of North Carolina. Copies of the form to be used in filing refund claims may be obtained by writing to the State of North Carolina Department of Revenue, Raleigh, North Carolina 27602.

Part 4—Contract Clauses

11–401 Fixed-Price Type Contracts. The clauses prescribed herein are for use in fixed-price type contracts except those to be performed entirely outside the United States, its possessions, and Puerto Rico.

11–401.1 *Advertised and Certain Negotiated Contracts.*

(a) *Use of Clause.* The clause in 7–103.10(a) shall be used in:

(i) all formally advertised contracts except in construction contracts which do not exceed $25,000;

(ii) all competitively negotiated fixed-price contracts in excess of $25,000;

(iii) all noncompetitive negotiated fixed-price contracts in excess of $25,000, when use of the clause in in 7–103.10(b) is not required; and

(iv) any negotiated fixed-price contract in excess of $2,500 but not in excess of $25,000, at the discretion of the contracting officer. However, this clause shall not be used in purchases made under Section III, Part 6.

(b) *Description.* The clause provides that the contract price includes all applicable taxes. It provides for an increase or decrease in the contract price to compensate for changes in applicable Federal excise taxes or duties, except for social security or other employment taxes. It does not provide for any adjustment in the contract price to compensate for changes in State or local taxes.

11–401.2 *Noncompetitive Negotiated Contracts.*

(a) *Use of Clause.* The clause in 7–103.10(b) shall be used in all noncompetitive negotiated fixed-price contracts in excess of $25,000, when the contracting officer is satisfied (i) that the contract price does not include contingencies for State and local taxes and (ii) that unless this clause is used the contract price will include such contingencies.

(b) *Description.* The clause provides that the contract price includes all applicable Federal, State, and local taxes. It provides for an increase or decrease in the contract price to compensate for changes in Federal excise taxes or duties, and, with some exceptions, for changes in State and local taxes.

11–401.3 *Supplementary Clause for Possessions of the United States and Puerto Rico.* When a contract will be performed in whole or in part in a possession of the United States or in Puerto Rico, and either the clause in 7–103.10(a) or that in 7–103.10(b) is used, the contract shall contain the supplementary clause in 7–103.10(c).

11–401.4 *Matters Requiring Special Consideration.*

(a) A contract may, in accordance with (b) below, provide that the contract price include or exclude a specific tax, or require that the contractor take certain actions with regard to nonpayment, payment, protest or other treatment of a specific tax. Such special treatment may be required, for example, where the State or local tax law has been recently changed, where there is doubt as to the applicability or allocability of the tax, or where the applicability of the tax is being litigated.

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SECTION XIV

ACQUISITION QUALITY

14–000 Scope of Section. This Section prescribes policies and procedures (i) to assure that supplies and services acquired by the Department of Defense conform to the quality and quantity set forth in the contract and (ii) for the acceptance functions associated therewith.

(a) The Departments shall develop and manage a cost effective quality program to achieve the following objectives:

(1) Assure that all services provided and products designed, developed, purchased, produced, stored, distributed, operated, maintained, or disposed of, by contractors for the Department of Defense, conform to specified requirements;

(2) Effectively assure that only minimum essential quality and related technical requirements are specified in contracts;

(3) Tailor contractual quality requirements to meet the needs of each acquisition.

(b) The Departments will plan and implement a quality program as an integral part of all phases of the acquisition and support process, and will conduct quality audits to assure the attainment of quality products and services.

14–001 Definitions. As used in this Section, the words and terms described in this paragraph shall have the meanings set forth below.

14–001.1 *Government Acquisition Quality Assurance* means the Government function by which the Government determines whether a contractor has fulfilled his contract obligations pertaining to quality and quantity. This function is related to and generally precedes the act of acceptance as defined in 14–001.6 below.

14–001.2 *Contract Quality Requirements* means the detailed requisites for quality incumbent on the contractor, consisting of (i) all quality requirements contained in a contract; and (ii) the detailed contractual requisites provided by 14–101 incumbent on the contractor to substantiate conformance of product or service to quality requirements of the contract.

14–001.3 *Inspection* means the examination and testing of supplies or services (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether they conform to contract requirements.

14–001.4 *Testing* is an element of inspection and generally denotes the determination by technical means of the properties or elements of supplies, or components thereof, including functional operation, and involves the application of established scientific principles and procedures.

14–001.5 *Subcontractor* means any supplier, distributor, vendor, or firm which furnished supplies or services to or for a prime contractor or another subcontractor.

14–001.6 *Acceptance* means the act of an authorized representative of the Government by which the Government assumes for itself, or as agent of another, ownership of existing and identified supplies tendered or approves specific services rendered, as partial or complete performance of the contract on the part of the contractor.

ACQUISITION QUALITY

14–001.7 *Off-The-Shelf Item* means an item produced and placed in stock by a contractor prior to the contractor receiving orders or contracts for the sale of the item. The contractor may produce the items to either commercial or military/federal item specifications or descriptions. Off-the-shelf items include items stocked by distributors for which Government contracts may be received.

14–001.8 *Quality* means the composite of material attributes including performance features and characteristics of a product or service to satisfy a given need.

14–001.9 *Quality Program* is a program which is developed, planned and managed to carry out cost effectively all efforts to effect the quality of materials and services from concept through validation, full-scale development, production, deployment, and disposal.

14–001.10 *Quality Assurance* is a planned and systematic pattern of all actions necessary to provide adequate confidence that adequate technical requirements are established; products and services conform to established technical requirements; and satisfactory performance is achieved.

14–001.11 *Quality Audit* is a systematic examination of the acts and decisions with respect to quality in order to independently verify or evaluate the operational requirements of the Quality program or the specification or contract requirements of the product or service.

14–001.12 *Metrology* is the science of weights and measures used to determine conformance to technical requirements including the development of standards and systems for absolute and relative measurements.

14–001.13 *Calibration* is the comparison of a measurement system or device of unverified accuracy to a measurement system or device of known or greater accuracy to detect and correct any variation from required performance specifications of the unverified measurement system or device.

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Part 1—General

14–101 Types of Contract Quality Requirements. There are five basic categories of contract coverage for assuring conformance of products or services to contract requirements:

(a) not including any specific quality requirement in the contract, in which case the Government does not perform any acquisition quality assurance actions at source, but instead relies on the contractor's internal control to obtain the supplies or services specified in the contract;

(b) contractor responsibility provisions (14–101.1);

(c) standard inspection requirement (14–101.2);

(d) MIL-I–45208 Inspection System Requirement (14–101.3); and

(e) MIL-Q–9858 Quality Program Requirement (14–101.4). MIL-I–45208, Inspection System Requirement, or MIL-Q–9858, Quality Program Requirement, shall not be specified for off-the-shelf items or commercial items obtained with a commercial item description.

14–101.1 *Contractor Responsibility Provisions*, making the contractor responsible for the inspection and test of products before offering them to the Government, are effected by:

(i) citing in the contract Federal-Military Specifications which contain a "Responsibility for Inspection" clause in Section 4, "Quality Assurance Provisions" of the Specifications;

(ii) citing in the contract Federal-Military drawings which carry a note relative to the contractor's responsibility for inspection and test and

(iii) including the clause in 7–103.24 in the contract.

14–101.2 *Standard Inspection Requirement* is a requirement that the contractor establish and comply with an inspection system acceptable to the Government. This requirement is included in the standard inspection clauses (see, for example, paragraph (e) of the Inspection clause in 7–103.5(a)) and is not further defined by a Government specification. This requirement is appropriate when for reasons of practicability (*e.g.*, purchase of a commercial item) or because of the nature of the supplies (*i.e.*, the item serves a function that is not materially or consequentially related to military operations), it is not considered necessary to describe further what constitutes an acceptable inspection system.

14–101.3 *Inspection System Requirement* is a requirement, in addition to the Standard Inspection Requirement, that the contractor establish and maintain an inspection system in accordance with a Government specification. This requirement shall be referenced in contracts when technical requirements are such as to require control of quality by in-process as well as final end item inspection, including control of such elements of the manufacturing process as measuring and testing equipment, drawings and changes, inspection, documentation and records. The objectives and essential elements of an inspection system are prescribed in MIL-I–45208, which shall be referenced in contracts when an inspection system requirement has been established.

14–101.4 *Quality Program Requirement* is a requirement, in addition to the Standard Inspection Requirement, that the contractor establish and maintain a quality program in accordance with a Government specification. Such a requirement shall be established when the technical requirements of the contract are

such as to require control of work operations, in-process controls, and inspection, as well as attention to other factors (*e.g.*, organization, planning, work instructions, documentation control, advanced metrology). The objectives and essential elements of a quality program are prescribed in MIL-Q–9858 which shall be referenced in contracts when a quality program requirement has been established.

14–101.5 *Criteria for Applying Contract Quality Requirements.*

(a) Suggested aids in proper selection of contract quality requirements:

(i) Classification by type of contract quality requirement:

(A) *No Specific Contract Quality Requirement.* Generally used in purchases under Section III, Part 6, where there is no specific obligation on the contractor for the performance of inspection and no Government acquisition quality assurance actions can be performed at source.

(B) *Contractor Responsibility Clause.* (See 14–101.1.) Use of this requirement alone is restricted to purchases under Section III, Part 6.

(C) *Standard Inspection Requirement.* (See 14–101.2.) Must be used on all fixed price supply contracts over $10,000 not subject to small purchase procedures. It may be used alone or in conjunction with Contractor Responsibility clause on purchases under Section III, Part 6.

(D) *MIL-I–45208 and MIL-Q–9858.* (See 14–101.3 and 14–101.4.) Technical personnel shall be consulted before including one of these specifications in a contract. The Standard Inspection Requirement in (C) above must be used when either one of these specifications is used.

(E) No additional contract quality requirement shall be specified for commercial items acquired under a commercial item description.

(ii) Classification by contract item technical description:

(A) *Commercial* (catalogs, drawings, industrial standards).

(B) *Military-Federal* (drawings, specifications).

(C) *Off-the-shelf* (See 14–001.7).

(iii) Classification by type of items:

(A) *Complex items* have quality characteristics, not wholly visible in the end item, for which contractual conformance must progressively be established through precise measurements, tests and controls accomplished during purchasing, manufacturing, assembly, and functional operations either as an individual item or in conjunction with other items.

(B) *Noncomplex items* have quality characteristics for which simple measurement and test of the end item is sufficient to determine conformance to contract requirements.

(iv) Classification by type of application:

(A) *Critical.* A critical application of an item is one in which the failure of the item could injure personnel or jeopardize a military mission. Critical items may be either:

(i) peculiar, meaning items which have only one application, or

(ii) common, meaning items which have multiple applications.

Whether peculiar or common, purchases of critical items must have contract quality requirements.

14–102 Responsibilities of the Contractor.

(a) The contractor is responsible for carrying out his obligations as set forth in the terms and conditions of the contract and in the applicable specifications. Most Department of Defense contracts include, or reference, standard requirements, such as those in general provisions, special clauses for an inspection system or quality program, and performance and product specification requirements. The contractor is responsible for controlling product quality and for offering to the Government for acceptance only those supplies and services that conform to contract requirements and, when required, for maintaining and furnishing substantiating evidence of this conformance.

(b) The control of quality by the contractor may relate to, but is not limited to:

(i) manufacturing processes, to assure that the product is produced in accordance with technical requirements;
(ii) drawings, specifications, and engineering changes, to assure that manufacturing methods and operations reflect technical requirements;
(iii) testing and examination, to assure that practices and equipment provide the means for optimum evaluation of characteristics subjected to inspection;
(iv) reliability and maintainability assessment (life, endurance, and continued readiness);
(v) fabrication and delivery of products to assure that only conforming products are tendered to the Government;
(vi) technical documentation, including drawings, specifications, handbooks, manuals, and other technical publications; and
(vii) preservation, packaging, packing and marking.

14–103 Responsibilities of the Government. The Government shall determine the type and extent of Government acquisition quality assurance actions required, based upon the particular acquisition.

(a) These actions may include:
(i) inspection of supplies and services;
(ii) review of the contractor's inspection system, quality program, or of any other means employed by the contractor to control quality and to comply with contract requirements;
(iii) maintenance of Government records to reflect actions, deficiencies, and corrective measures; and
(iv) review and evaluation of quality information, including reports from the user, to initiate required corrective actions or to adjust Government acquisition quality assurance actions.

(b) The Government shall hold contractors responsible for the quality of products and services by means of:
(i) contract provisions that place responsibility on contractors;
(ii) the Government's exercising its right to reject or return contractor-responsible defective items for repair, correction or replacement; and
(iii) warranty clauses, when appropriate.

(B) *Noncritical.* A noncritical application is any application which is not critical. Noncritical items may also be either peculiar or common.

(b) *Application of the Criteria.* Decisions must be made as to whether the item is off-the-shelf, or commercial or Military-Federal, complex or noncomplex and whether its application is critical or noncritical, peculiar or common. Once these decisions are made, the table below will indicate the proper contract quality requirement.

Item Technical Description	Kind of Item	Application	Type of Contract Quality Requirement
Commercial	Noncomplex	Noncritical Common	14–101(a)
Commercial	Noncomplex	Noncritical Peculiar	14–101(a)
Commercial	Noncomplex	Critical	14–101(c)
Commercial	Complex	Noncritical Common	14–101(a)
Commercial	Complex	Noncritical Peculiar	14–101(a)
Commercial	Complex	Critical	14–101(d)
Military-Federal	Noncomplex	Noncritical Common	14–101(e)
Military-Federal	Noncomplex	Noncritical Peculiar	14–101(e)
Military-Federal	Noncomplex	Critical	14–101(d)
Military-Federal	Complex	Noncritical Common	14–101(e)
Military-Federal	Complex	Noncritical Peculiar	14–101(d)
Military-Federal	Complex	Critical	14–101(e)
Off-the-Shelf	All	Noncritical	14–101(a)
Off-the-Shelf	All	Critical	14–101(c)

(c) The table in (b) above is intended for use as a guide in selecting the contract quality requirement normally considered appropriate for the given item criteria. However, where circumstances warrant, a contract quality requirement of a greater or lesser degree than that arrived at through use of this table may be specified by the PCO except for off-the-shelf items as defined in 14–001.7. Contract quality requirements may be tailored to meet the needs of the specific acquisitions.

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(c) The Government shall consider the use of:
(i) contractual means for encouraging excellence in the conduct of contractor-responsible quality efforts;
(ii) incentive fee or award fee arrangements for achieving quality goals;
(iii) reduced Government surveillance when contractor's quality performance so indicates; and
(iv) other noncontractual motivation techniques.

(d) Contractors shall be provided maximum flexibility in establishing efficient and effective quality programs within specified contractual requirements.

14-103.1 *Subcontracts.* Government acquisition quality assurance at subcontractor's plants shall be performed only when necessary to assist the contract administration office cognizant at the prime contractor's plant. Paragraph 14-407 provides guidance on Government acquisition quality assurance actions at the subcontract level.

14-103.2 *Specialized Inspections Reserved to the Government.* Although contracts generally require that contractors are responsible for performing inspection prior to submitting supplies to the Government, there are situations when contracts will provide for specialized inspections to be performed solely by the Government. Among situations for which specialized Government inspection is required are the following:

(i) test requirements necessitate the use of specialized test equipment or facilities not ordinarily available in suppliers' plants or commercial laboratories (*e.g.*, ballistic testing of ammunition, unusual environmental tests, or simulated service tests); or
(ii) the contract requires Government testing for first article approval (see Section I, Part 19).

Part 2—Responsibilities of Government Organizations

14-201 Organization Responsible for Technical Requirements.

(a) The activity responsible for technical requirements (*e.g.*, specifications, drawings and standards) is responsible for prescribing inspection, testing, or other contract quality requirements that are essential to assure the integrity of products and services.

(b) To the extent feasible, alternative but substantially equivalent inspection methods shall be provided in order to obtain wide competition and low cost. Contractor-recommended alternatives may be authorized when in the interest of the Government and after approval by the activity responsible for technical requirements.

(c) The activity responsible for technical requirements may also prepare instructions regarding the type and extent of Government inspections pertaining to contracts for specific supplies or services that are complex or for which unusual requirements have been established. Such instructions shall be kept to a minimum taking into account the policy contained in 14-403(a). Normally, issuance of these instructions will not be appropriate for standard commercial items except when items having critical characteristics are being purchased. After issuance of these instructions, production problems, product-oriented visits, user experience and input from the contract administration office shall be analyzed periodically to determine whether conditions warrant a change in type and extent of the inspection requirements. Such analysis may result in decreasing or increasing Government inspection. These instructions shall be prepared on a contract-by-contract basis and shall not be issued:
(i) as a substitute for incomplete contract quality requirements;
(ii) where the contract does not impose equal or greater inspection requirements on the contractor;
(iii) encompassing broad or general designations such as "all requirements," "all characteristics," or "all characteristics in the classification of defects;"
(iv) on routine administrative procedures; or
(v) specifying continued inspection requirements when statistically sound sampling will provide an adequate degree of protection.

(d) In the preparation of such instructions, the technical activity shall consider, to the extent available and applicable, such factors as:
(i) the past quality history of the contractor;
(ii) the criticality of the materiel acquired in relation to its ultimate use considering such factors as reliability, safety and interchangeability;
(iii) problems encountered in the development of the product;
(iv) problems encountered in the acquisition of the same or similar materiel;
(v) previously generated feedback data from receiving, testing or using activities; and
(vi) other contractor's experience in overcoming manufacturing problems.

When knowledge of the determining factors, which resulted in the requirement for Government inspection, would be useful to the contract administration office in performing the acquisition quality assurance function, these factors should be provided to the contract administration office.

14–202 Purchasing Office.

(a) The purchasing office is responsible after coordinating, where necessary, with the technical activity for contractually formalizing requirements for quality and, within the provisions of 14–201(c), issuing Government inspection instructions to the contract administration office. The purchasing office shall include, in each solicitation and resultant contract, by contract clause, exhibit or specification reference, appropriate requirements for the contractor's control of quality for the supplies or services to be acquired (see 14–302 through 14–304).

(b) The purchasing office may conduct, in conjunction where necessary, with the activity responsible for technical requirements, product-oriented surveys and evaluations to determine the adequacy of the technical requirements relating to quality and product conformance to design intent. The purchasing office may arrange with the contract administration office to participate in pre-award surveys, post-award, and preproduction conferences, and first article testing. The purchasing office may aid the contract administration office in the transition from research and development to production, aid the technical activity in improving the quality requirements in contracts when first designated for competitive acquisition, and aid in ascertaining the source of difficulties associated with user experience reports.

14–203 Contract Administration Office.

(a) Except as otherwise specified in the contract, the contract administration office cognizant at a plant is responsible for the performance of Government acquisition quality assurance actions. The contract administration office shall verify that the contractor has fulfilled contract quality requirements. It is the contract administration office responsibility to develop and apply effective and efficient procedures for Government acquisition quality assurance. The contract administration office shall perform specific Government inspection actions when these actions are required in writing by the purchasing office. In implementing written Government inspection instructions, the contract administration office shall review these instructions and when appropriate, make recommendations to the purchasing office for their improvement in terms of both technical effectiveness and cost, particularly with respect to the utilization of Department of Defense personnel, equipment, and facilities. Written Government inspection instructions shall be continued on schedule as prescribed until the recommendation has been acted upon. The purchasing office is obligated to take appropriate action on such recommendation.

(b) The contract administration office shall report to the purchasing office any observed deficiencies in design or technical requirements, including contract quality requirements, and recommend necessary changes to the contract, specifications, or other requirements which will provide more effective operations or eliminate unnecessary costs.

Part 3—Contract Provisions

14–301 Quality Clauses.

(a) The appropriate clauses referenced in 14–302 through 14–304 shall be inserted in contracts other than those entered into by use of DD Form 1155, Order for Supplies and Services/Request for Quotations (see Section III, Part 6).

(b) In purchases made by use of DD Form 1155 there is a requirement for the contractor to perform inspection; however, the nature of the item may make it desirable in exceptional cases to include other clauses listed in 14–302 through 14–304.

14–302 Standard Inspection Clauses. Where inspection is sufficient to assure that the supplies and services conform to contract requirements (see 14–101.2), the appropriate standard inspection clause prescribed in the listing below shall be inserted in the contract:

(i) 7–103.24 and 7–103.5(a), (b) or (c);
(ii) 7–203.5(a);
(iii) 7–302.4(a) or (b);
(iv) 7–402.5(a)(1) or (3);
(v) 7–402.5(b);
(vi) 7–602.10(a);
(vii) 7–602.11;
(viii) 7–702.6;
(ix) 7–703.6;
(x) 7–704.8;
(xi) 7–901.21; or
(xii) 7–1902.4 or 7–1909.5.

14–303 Inspection System Requirements. When the technical requirements of the contract are such as to require control of quality by in-process as well as final end item inspection, including control of such elements of the manufacturing process as measuring and testing equipment, drawings and changes, inspection, documentation, and records, the appropriate inspection system clause listed below, referencing the latest revision of MIL-I–45208, shall be used:

(i) 7–103.5(a), (b) or (c); 7–103.24 and 7–104.33;
(ii) 7–203.5(a) and (b);
(iii) 7–302.4(a) or (b) and (c);
(iv) 7–402.5(a)(1) or (3) and (c);
(v) 7–402.5(b) and (c);
(vi) 7–602.10(a) and (b);
(vii) 7–703.44; or
(viii) 7–901.21 and 7–901.25.

14–304 Quality Program Requirements.

(a) When the technical requirements of the contract are such as to require control of work operations, in-process controls, inspections and tests, as well as attention to other factors (*e.g.*, organization, planning, work instructions, documentation control, advanced metrology), the appropriate clause listed below, referencing the latest revision of MIL-Q–9858, shall be used. This paragraph does not apply to construction contracts.

(i) 7–103.5(a), (b) or (c); 7–103.24 and 7–104.28;

(ii) 7-203.5(a) and 7-204.10;
(iii) 7-302.4(a) or (b) and 7-303.15;
(iv) 7-402.5(a)(1) or (3) and 7-403.15;
(v) 7-402.5(b) and 7-403.15; or
(vi) 7-901.21 and 7-901.26.

(b) The contracting officer may delete nonapplicable portions of MIL-Q-9858 in contracts for material maintenance.

14-305 Places of Performance of Government Acquisition Quality Assurance Actions.

14-305.1 *General.* Each contract shall designate the place or places where the Government reserves the right to perform those acquisition quality assurance actions that it considers necessary to determine that supplies and services conform to contract requirements. Where the contract provides for Government acquisition quality assurance actions at source, the place or places designated for such actions may not be changed without authorization of the contracting officer.

14-305.2 *Government Acquisition Quality Assurance at Source.*

(a) When a contract requires the contractor to establish and maintain an inspection system or a quality program in accordance with 14-101.3 or 14-101.4, Government acquisition quality assurance actions generally shall be performed at source.

(b) In addition to (a) above, Government acquisition quality assurance actions shall be performed at source where:

(i) performance of such actions at any other point would require uneconomical disassembly or destructive testing;
(ii) special instruments, gauges, or facilities required for performance of such actions are available only at source;
(iii) performance of such actions at any other point would destroy or require the replacement of costly special packing and packaging;
(iv) Government acquisition quality assurance during performance is essential; or
(v) supplies are destined for points of embarkation for overseas shipment (except as provided in 3-606.2, 14-305.3(b), and 14-306(c)).

(c) Where the contract provides for the performance of Government acquisition quality assurance actions at source, these actions shall be taken at such times and places (including any stage in the manufacturing process at both the contractor's and his subcontractor's plants) as may be necessary to determine conformance to contract requirements. In the event that it is in the best interest of the Government to authorize shipment before all Government acquisition quality assurance actions can be taken at source, the contract shall be modified to the extent appropriate prior to shipment, if delivery is f.o.b. origin, (i) to make the delivery term f.o.b. destination or otherwise to make the contractor responsible for risk of loss or damage in transit, and (ii) where delivery remains f.o.b. origin, to require the contractor to reimburse the Government for the cost of shipping and other expenses incurred by the Government in the event of rejection at destination.

(d) If a contractor's purchase order or subcontract includes FMS requirements and "quality assurance only" is requested at source, the requesting CAO shall clearly indicate "FMS Requirement" on the face of the document and provide the FMS case identifier code, associated item quantity and related DoD prime contract number and contract line/subline item number. When more than one FMS case is involved, the information shall be provided for each.

14-305.3 *Government Acquisition Quality Assurance at Destination.*

(a) Government acquisition quality assurance actions that can be performed at destination are normally limited to inspection of supplies. For many acquisitions, such inspection by the Government is sufficient. Supplies shall be inspected by the Government at destination when:

(i) they are purchased "off-the-shelf" and do not require technical inspection or no direct contract quality requirement is specified (14-101.5);
(ii) necessary testing equipment is located only at destination;
(iii) perishable subsistence supplies are purchased within the United States, except that perishable subsistence supplies destined for overseas shipment will normally be inspected for condition and quantity at points of embarkation;
(iv) brand name items are purchased for authorized resale, except that where supplies are destined for direct overseas shipment, inspection (and acceptance) will be made by the contracting officer or the official charged with such responsibility on the basis of a tally sheet evidencing receipt of shipment signed by the port transportation officer or other designated official at the transshipment point; or
(v) otherwise determined to be in the best interest of the Government.

(b) In no event shall a contract provide for Government inspection at a port of embarkation when the supplies are destined for overseas shipment, unless the contracting officer first determines that inspection functions can be provided at such destination. Similarly, overseas inspection shall not be required for supplies shipped from the United States except in unusual circumstances—as, for example, where inspection overseas is essential in conjunction with installation, operation, or other use of the supplies or equipment—and then only when the contracting officer first determines that inspection can be performed, or makes necessary arrangements for its performance, overseas.

14-306 Acceptance of Supplies or Services.

(a) Acceptance of supplies or services is the responsibility of the activity to which the function is assigned by the purchasing office. When a Government activity uses services of another Government activity or department for the purpose of acceptance, acceptance by the other activity or department is binding upon the activity for which the services are performed. Unless there are valid reasons to the contrary, acceptance shall be at origin (see 19-104).

(b) Depending upon the provisions of the contract, acceptance may be effected prior to, at the time of, or after delivery. Acceptance shall ordinarily be evidenced by execution of an acceptance certificate on the applicable inspection and receiving report form (DD Form 250, DD Form 1155, or Standard Form 44). When acceptance is accomplished at a point other than destination, supplies cannot be reinspected at destination for acceptance purposes. However, such supplies should be examined at destination for identity, damage in transit, quantity and condition.

(c) In certain instances where small losses would be incurred in the event of defects or where knowledge of the successful contractor's reputation or past performance provides assurance that the supplies would be replaced without contest, a Certificate of Conformance may be used as the sole basis for acceptance. To permit the Government this option, and at the discretion of the PCO, the Certificate of Conformance clause 7-104.100 may be inserted in solicitations and contracts requiring the contractor to certify that supplies comply with contract requirements. In no case shall the Government's right to inspect supplies under the inspection provisions of the contract be prejudiced.

14-307 Place of Acceptance.

Each contract shall specify the place of acceptance. A contract which provides for Government acquisition quality assurance actions only at source shall ordinarily provide for acceptance at source. A contract which provides for performance of Government acquisition quality assurance actions at destination shall ordinarily provide for acceptance at destination. Bulk petroleum contracts shall specify the point at which the Government takes title to the product.

14-308 Goverament Acquisition Quality Assurance Actions on Small Purchases.

(a) In determining the type and extent of Government acquisition quality assurance actions to be required on small purchases, the criticality of application of the item, the amount of possible losses, and the likelihood of uncontested replacement of defective supplies shall be considered.

(b) Government acquisition quality assurance of small purchases shall be at destination, unless the provisions of 14-305.2(a) or (b) apply. Government acquisition quality assurance actions shall be performed at source if defective supplies can harm personnel or equipment. In such case, one of the types of contract quality requirements described in 14-101 shall be included in the contract.

(c) Unless detailed Government acquisition quality assurance actions are necessary, inspection of small purchases shall consist of examination of:

(i) type and kind;
(ii) quantity;
(iii) condition;
(iv) operability, if readily determinable; and
(v) preservation, packaging, packing and marking, if applicable.

Part 4—Government Acquisition Quality Assurance Actions

14-401 General. This Part sets forth policies and procedures for performance of Government acquisition quality assurance actions by contract administration offices, designed to provide a systematic product-oriented plan, appropriate distribution of effort, and maintenance of suitable records.

14-402 Planning.

(a) Government acquisition quality assurance actions to determine a contractor's compliance with contract quality requirements shall be systematically planned, taking into consideration the relative importance of the product and the variety of tasks required of the available resources. Systematic planning shall include:

(i) review and analysis of pre-award surveys, post-award conferences, technical data packages, and first article approvals;
(ii) identification of the specific products, processes and procedures to be subjected to Government acquisition quality assurance as well as the specific characteristics of such products, processes, or procedures to be verified (in the absence of identification of specific characteristics by the purchasing office, those established by the contractor will be used to the maximum extent possible);
(iii) provisions for effective distribution and utilization of the Government's efforts and resources between inspection of products and inspection of the contractor's methods of regulating quality; and
(iv) provisions for keeping and using records.

(b) Planning to determine the extent of Government acquisition quality assurance actions shall include as a minimum:

(i) possible effect of failure on the health or safety of personnel, or on associated or related equipment;
(ii) tactical, strategic, or technical importance;
(iii) complexity and the need for required reliability;
(iv) pertinency, completeness, and reliability of the contractor's quality records;
(v) previous quality history of the contractor; and
(vi) unit cost.

14-403 Implementation.

(a) Determination of conformance to contract quality requirements shall be made on the basis of objective evidence of quality. In determining the acceptability of supplies or services, the contract administration office shall make optimum use of quality data generated by contractors. To the extent that contractor quality data are available and reliable, as determined by the contract administration office, such data shall be used to adjust the amount of Government acquisition quality assurance to a minimum consistent with proper assurance that the supplies or services accepted conform to contract quality requirements.

(b) When the contract requires the contractor to conduct particularly expensive tests involving destruction of supplies, extended periods of time for conducting the tests, or other factors contributing to high-testing costs, the tests shall be coordinated between the contractor and the Government to the maximum extent

practicable to avoid the need for later independent Government examination and testing.

(c) The following basic actions shall be taken to determine the contractor's compliance with the contract quality requirements:

(i) review and evaluation of the contractor's inspection procedures;

(ii) review and evaluation of the contractor's selection, calibration, maintenance, and use of gauges and measuring and test equipment;

(iii) review and evaluation of the contractor's quality records; and

(iv) performance of product verification inspection by the Government.

(d) Because of configuration, innumerable design characteristics, and life and reliability requirements, the quality of complex supplies and equipment cannot be adequately evaluated by inspection only; such supplies and equipment must be produced under regulated conditions if adequate assurance of product quality is to be realized. Systematic control of manufacturing processes by the producer is an essential prerequisite for assuring the quality of such items. It is also essential that the Government verify systematically that such control is, in fact, established and maintained by contractors.

(e) The Government, under the *Inspection* clause in 7-103.5, reserves the right to charge to the contractor any additional cost of Government inspection and test when supplies are not ready at the time such inspection and test is requested by the contractor or when reinspection or retest is necessitated by prior rejection. When a contract contains this clause, a record shall be maintained of the additional cost occasioned the Government by the delay, reinspection or retest. Such record shall include a description of any delay, the reasons for any reinspection or retest, and a statement of the hours spent by the Government, including wait time, as well as the cost of any applicable travel and transportation. When the Quality Assurance Representative considers that the circumstances warrant the assessment of the additional costs occasioned the Government by the delay, reinspection or retest, he shall forward his recommendation together with the record of additional costs to the contracting officer. If the contracting officer determines that such additional costs should be charged to the contractor, he shall notify the contractor, in writing, of his determination to exercise the Government's right under the Inspection clause and demand payment of such costs in accordance with the collection procedures established under Appendix E, Part 6. In arriving at any such recommendation and determination, consideration should be given to the frequency of such delay, reinspection or retest under both current and prior contracts; the cause of such delay, reinspection or retest; and the expense of recovering the additional costs. Charges for such delay, reinspection or retest normally should not be assessed when such delay, reinspection or retest occurs only occasionally, or results from causes beyond the contractor's control, or when the expense of recovery outweighs the costs to be recovered. Costs shall be determined at the standard DoD reimbursable rate in effect at the time of the delay, reinspection or retest.

14-404 Maintenance of Government Records. Suitable records shall be maintained by the contract administration office as part of the performance records of contractors in order to reflect:

(i) the nature of all Government acquisition quality assurance actions, including when appropriate the number of observations made and the number and type of deficiencies;

(ii) decisions regarding the acceptability of the products, the processes, and the requirements, together with action taken to correct deficiencies; and

(iii) distribution of Government acquisition quality assurance effort.

14-405 Quality Evaluation Data. The contract administration office shall establish a system providing as a minimum for the collection, evaluation and, use of quality data developed (1) by the contractor during manufacture and (2) by the Government through acquisition quality assurance actions and reports by users during initial use phase, where available. The objectives of the system are to:

(i) provide a foundation for technical actions aimed at maintaining and making needed improvements in the quality characteristics of both current and future products (subject to military requirements and cost considerations);

(ii) upgrade the methods and practices used to assure quality during manufacture, delivery, and use of the item;

(iii) provide a basis for managerial decisions relative to the allocation of Government acquisition quality assurance resources among different products and activities; and

(iv) determine production source capabilities as measured by product quality.

14-406 Nonconforming Supplies and Services.

(a) It is the policy of the Government that supplies or services which do not conform in all respects to the contract requirements should be rejected. Ordinarily, they will be rejected when the failure to conform adversely affects one or more of the following major areas: (i) performance, (ii) durability, (iii) reliability, (iv) interchangeability, (v) effective use or operations, (vi) weight or appearance (where a factor), or (vii) health or safety. However, there may be circumstances (e.g., reasons of economy or urgency) when acceptance of such nonconforming supplies or services is in the interests of the Government. Except as provided in (d) below, final decision for acceptance shall be made by the principal contracting officer based on information furnished by the contract administration office. The information shall be in writing except that in urgent cases it may be furnished orally and confirmed in writing. The information shall include:

(i) information explaining in what respect the supplies or services fail to conform to the contract requirements;

(ii) if feasible, a request from the contractor for acceptance of the supplies or services;

(iii) reasons for recommending acceptance or rejection of the supplies or services offered; and

(iv) if acceptance is recommended, what adjustment is deemed appropriate or has been offered by the contractor (if known).

The principal contracting officer shall, in appropriate cases, obtain the concurrence of the military activity responsible for the technical requirements. In addi-

tion, where health factors are involved, concurrence shall also be obtained from the Surgeon General of the Military Department concerned.

(b) Contractors ordinarily shall be given an opportunity to correct or replace nonconforming supplies or services if this can be done within the required delivery schedule. Unless the contract provides otherwise, such correction or replacement shall be made without additional cost to the Government. Paragraph (c) of the standard Inspection clause in 7-103.5(a) reserves to the Government the right to charge the contractor the cost of Government reinspection and retests because of prior rejection.

(c) Rejection of nonconforming supplies or services need not be in writing unless (i) the supplies have been rejected at a point other than the contractor's plant, (ii) the contractor persists in offering nonconforming supplies or services for acceptance, or (iii) delivery or performance was late without excusable cause. Any written notice of rejection shall state the reasons for rejection. It is important that a notice of rejection be furnished to the contractor promptly, because if timely notice of rejection is not furnished, acceptance may in certain cases be implied as a matter of law.

(d) When nonconformance of supplies or services is minor in that it does not affect (i) performance, (ii) durability, (iii) reliability, (iv) interchangeability, (v) effective use or operation, (vi) weight or appearance (where a factor), or (vii) health or safety, the contract administration office shall make the determination regarding the acceptance or rejection of such nonconforming supplies or services, except when authority to do so is withheld by the principal contracting officer. The contract administration office may establish a joint contractor-contract administration office Material Review Board to assist in making this determination. Acceptance of nonconforming supplies which affect (i) performance, (ii) durability, (iii) reliability, (iv) interchangeability, (v) effective use or operation, (vi) weight or appearance (where a factor), or (vii) health or safety is outside the scope of Material Review Board disposition and must be handled as specified by 14-406(a).

(e) Each contract under which nonconforming supplies or services are accepted under (a) above shall be modified to provide for an equitable price reduction or other consideration. In the case of minor nonconformances, as discussed in (d) above, the contract shall not be modified, except when it appears to the contract administration office that the savings to the contractor in fabricating the nonconforming supplies or performing the nonconforming services exceed the administrative cost to the Government of processing a contract modification (normally $50), or the best interests of the Government otherwise require that the contract be modified.

(f) Repeated tender of nonconforming supplies or services, including those with only minor defects, should be discouraged by appropriate action such as rejecting the supplies or services whenever feasible and documenting the contractor's performance record.

14-407 Government Acquisition Quality Assurance Actions at Subcontract Level.

14-407.1 *General.* Government acquisition quality assurance actions at the subcontract level do not relieve the contractor of any of his responsibilities under

the contract and do not establish any contractual relationship between the Government and the subcontractor. Such actions are to assist the contract administration office for the prime contract to determine that the prime contractor is assuring conformance of subcontracted supplies or services with contract requirements. When the Government elects to perform selected acquisition quality assurance actions at the subcontract level, the prime contractor shall be requested to assure that appropriate Government access authority is provided.

14-407.2 *Conditions.* Government acquisition quality assurance actions at the subcontract level shall be performed when:

(i) the item is to be shipped from the subcontractor's plant to the using activity;

(ii) the conditions for inspection at source established in 14-305.2(a) or (b) are applicable; or

(iii) the contract specifies that certain inspection is to be made by the Government, and such inspection can be performed only at the subcontractor's plant.

14-407.3 *Selective Evaluation at the Subcontract Level.* Selective evaluation of the contractor's control of his subcontractors may be requested by the contract administration office responsible for the contract in order to provide that office with additional assurance that supplies and services being received from subcontractors conform to quality requirements. Communications between contract administration offices concerning acquisition quality assurance actions to be performed shall be through Government channels. Requests for selective evaluation shall indicate Government acquisition quality actions to be performed, *e.g.*, specific characteristics, processes and procedures to be verified, tests to be witnessed, and records, reports, and certificates to be evaluated.

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14–408 Inspection Stamping.

(a) There is one Department of Defense inspection approval marking design for identification of material which has been inspected for conformance to only a portion of the contract quality requirements, and another for material which has been completely inspected for all contract quality requirements at source. The designs and their uses are as follows:

(i) *Partial (Circle) Inspection Approval Stamp.* This stamp is circular and is used by or under the direct supervision of the Government representative to identify contract or subcontract material which has been subjected to only a portion of the contract quality requirements applicable to the material at the time and place of Government acquisition quality assurance. Partial inspection approval stamping shall identify, for Government personnel, material which complies and all contract quality requirements applicable at the time and place of Government acquisition quality assurance, excepting those listed as uninspected on the associated Material Inspection and Receiving Report (DD Form 250), packing list, or comparable document.

(ii) *Complete (Square) Inspection Approval Stamp.* This stamp is square and is used by or under the direct supervision of the Government representative to identify contract or subcontract material which has satisfied all contract quality requirements. Complete inspection approval stamping shall identify, for Government personnel, material which is in complete conformance with all contract quality requirements applicable to the material at the time and place of inspection. Complete inspection approval establishes that material which once was partially approved has subsequently received complete approval. One imprint of the square stamp will void multiple imprints of the circle stamp.

(b) The marking of each item is neither required nor prohibited. Ordinarily, the stamping of shipping containers, packing lists, or lot routing tickets adequately serves to provide the necessary indication status and to control or facilitate the movement of material. No material shall be stamped in such a way as to damage the material.

(c) The placing of a Department of Defense Inspection Approval Stamp upon material does not mean that the material has been accepted by the Government. Acceptance is ordinarily evidenced by execution of the acceptance certificate on the applicable inspection and receiving report.

(d) NASA Publications include detailed policies and procedures regarding the use of National Aeronautics and Space Administration (NASA) Quality Status Stamps. When requested by NASA Centers, the Government representative shall use NASA Quality Status Stamps and apply the procedures of current NASA requirements for all NASA delegations.

14–409 Authorizing Shipment of Supplies.

14–409.1 *General.* Ordinarily, a representative of the contract administration office shall sign or stamp the shipping papers accompanying Government source-inspected supplies of both prime contracts and subcontracts to release them for

shipment. In accordance with the criteria in 14–409.2(a), however, an alternative procedure may be used in which the contractor assumes the responsibility for the release for shipment of such supplies inspected at his or his subcontractor's facilities, just as the contractor may be given the authority for other functions pertaining to the control of quality. When this alternative procedure is used, it will release Department of Defense manpower for technical functions by eliminating routine signing or stamping of the papers accompanying each shipment.

14–409.2 *Alternative Procedures—Contractor Release for Shipment.*

(a) The contract administration office may give the contractor authorization in writing to release supplies for shipment when:

(i) the stamping or signing of the shipping papers by a representative of the contract administration office impairs the operation of a planned Government acquisition quality assurance program or places an unreasonable demand on the Government representative's time; and

(ii) there is sufficient continuity of production to permit the establishment of a systematic and continuing Government evaluation of the contractor's control of quality; and

(iii) the contractor has a record of satisfactory product quality including quality pertaining to preparation for shipment.

(b) When there is an indication that the conditions in (a)(ii) or (iii) above no longer prevail, the authorization shall be withdrawn in writing.

(c) When the alternative procedure is used, the contractor shall:

(i) type or stamp, and sign, the following statement on the required copy or copies of the shipping paper(s) or on an attachment thereto—

The supplies comprising this shipment have been subjected to and have passed all examinations and tests required by the contract, were shipped in accordance with authorized shipping instructions, and conform to the quality, identity and condition called for in contractual requirements and to the quantity shown on this document. This shipment was released in accordance with paragraph 14–409 of the Defense Acquisition Regulation for Authorizing Shipment of Supplies under authorization of (*Name and Title of the authorized representative of the Contract Administration Office*) in a letter dated (*Date of authorizing letter*).

(*Signature and Title of Contractor's designated representative*)

and

(ii) release shipment and process, in accordance with established instructions, the DD Form 250 (Material Inspection and Receiving Report) or any other receiving report authorized by this Regulation.

Part 5—Contract Administration of Special Commodities

14–501 General. Special commodities are those that are subject to statutory requirements, support agreements with other than Department of Defense activities, or specific Office of Secretary of Defense policy guidance.

14–502 Subsistence.

(a) Any Federal activity capable of assuring wholesomeness and quality in food, including medical service personnel of the Military Departments, may be designated by the purchasing office to perform Government acquisition quality assurance actions on a reimbursable basis when appropriate, for subsistence contract items.

(b) The following is an explanation of particular terms used in this Part:

(i) *Subsistence*—food for, and provisions to be used in, feeding of personnel and animals;

(ii) *Medical Service Personnel*—officers and enlisted personnel of the Medical Services of the Departments of the Army, Navy, and Air Force designated to perform the required inspections of subsistence;

(iii) *Wholesomeness of Food*—that characteristic possessed by a food product which promotes good health and well being in the consumer; and

(iv) *Quality of Food*—the required elements or characteristics stated in the specification or other contractual document which the food must possess to comply with the desired degree of excellence exclusive of those characteristics required to assure wholesomeness.

(c) The Surgeons General of the Military Departments are responsible for the acceptance criteria, technical requirements, and inspection procedures needed to assure wholesomeness of foods. Wholesomeness assurance measures will include but not be limited to:

(i) establishment of standards or tolerances to evaluate wholesomeness from a microbiological, toxicological, and radiological viewpoint;

(ii) inspection of sources for sanitation including sources of component items when required;

(iii) approval of manufacturing processes to assure that technical procedures required to assure wholesomeness are incorporated and used; and

(iv) use of test and examination techniques during processing or for the finished item to detect insanitary practices or unwholesome food.

(d) Maximum utilization shall be made of existing inspection and grading services of other Federal agencies to perform acquisition quality assurance actions in processing plants economically and efficiently However, an adequate Government acquisition quality assurance workload shall be retained for training of medical service personnel and to provide a base for rotation of personnel between the continental United States and overseas.

14–503 Petroleum. The contract administration office may authorize the release of petroleum supplies without requiring the signing or stamping of shipping papers by a representative of the contract administration office, if the alternative procedures of 14–409.2 are used. In that event on petroleum servicing

contracts for receiving, storing, and issuing Government-owned petroleum products, the contractor shall be required to type or stamp and to sign the following statement on each copy of the shipping papers.

> I certify that the above supplies were (a) in the quantity indicated, (b) taken from Government-owned and approved stocks, and (c) loaded into inspected and approved containers. This shipment was released in accordance with paragraph 14–503 of the Defense Acquisition Regulation under authorization of (*Name and title of the authorized representative of the Contract Administration Office*) in a letter dated (*Date of authorizing letter*).
>
> (*Signature and Title of Contractor's designated Representative*)

14–504 Construction Projects.

(a) On-site inspection of buildings and other structures is normally performed by the Military Department responsible for their construction.

(b) Government acquisition quality assurance actions for construction materials and supplies acquired for military and civil works projects shall be performed by the contract administration office in accordance with this Section.

(c) The functions in (a) and (b) above will be performed so as to assure compatibility of buildings and structures and installed equipment.

Part 6—Other Agencies, Governments and Organizations

14-601 General. Except for the special quality assurance provisions below concerning the Federal Aviation Administration and NATO, performance of government acquisition quality assurance and other contract administration services for and by other government agencies, foreign governments and international organizations is in accordance with Section XX, Parts 5 and 6.

14-602 Federal Aviation Administration. Under Public Law 85-726 (72 Stat. 776, 49 U.S.C. 1423), the Federal Aviation Administration (FAA) has certain responsibilities and prerogatives in connection with the issuance and continuation of various certificates applicable to the design, manufacture, and airworthiness criteria of certain types of commercial aircraft and of aircraft equipment and accessories. The FAA evaluations are not a substitute for normal Department of Defense evaluations of the contractor's quality assurance measures. Actual records of such FAA evaluations may be of benefit, however, and should be utilized to maximum advantage by the contract administration office. That office is responsible for assuring that the supplies and services conform to the terms of the contract and that any required certificates and approvals are in the possession of the contractor prior to acceptance.

14-603 Quality Assurance Among NATO Countries. The NATO Standardization Agreements (STANAG) 4107—Mutual Acceptance of Government Quality Assurance sets forth procedures, terms and conditions under which mutual government quality assurance of military material and services is to be performed by the national authority of one NATO country on request of another NATO country, or a NATO organization. This agreement, with certain reservations, has been ratified by the United States and other nations in the North Atlantic Treaty Organization. The Military Departments may request NATO countries to perform quality assurance in accordance with STANAG 4107. Military Departments will also perform quality assurance in accordance with STANAG 4107 when requested by a NATO country. As a reservation to STANAG 4107, the U.S. Government reserves the right to require reimbursement for work performed for other NATO countries and organizations. Paragraph 20-506 applies. NATO Standardization Agreement (STANAG) 4108, Allied Quality Assurance Publications. This STANAG provides for the application of Allied Quality Assurance Publications (AQAP's). Its annexes furnish a list of AQAP's and the criteria for the application of those AQAP's which are contractually required in contracts between NATO countries.

14-604 International Military Sales (Non-NATO). Department of Defense components shall:

(i) perform quality assurance (QA) services on international military sales contracts or in accordance with existing agreements;

(ii) assure conformance to technical and quality requirements of international military sales contracts;

(iii) keep Government personnel and contractors informed on the use of QA publications; and

(iv) specify appropriate quality requirements in contracts awarded to other countries, and delegate QA services to the host government whenever satisfactory services are available, as appropriate.

and (iii) are not modified, may be incorporated by reference to the ASPR paragraph number, clause title and date. No other contract clauses shall be incorporated by reference but they shall be set forth in full in the solicitation.

(c) Award of contracts shall be accomplished by completing the Award portion of Standard Form 33 and furnishing a copy of the form, so completed, to each successful offeror. Alternatively, such award may be accomplished by completing the Award portion of Standard Form 26 and furnishing it to each successful offeror. Papers previously forwarded to offerors need not accompany the offeror's copy of the Award document. The required use of the Award portion of Standard Form 33 or Standard Form 26 does not preclude the additional use of informal documents, including telegrams, as notices of awards.

(d) Continuation Sheet (Standard Form 36) shall be used when additional space is required for Schedule, Amendment/Modification, or Award; however, where the columns thereon are not required, a blank sheet may be used. The appropriate Procurement Instrument Identification number (see Section XX, Part 2) and page number shall be shown on all continuation sheets.

16-102 Forms for Negotiated Supply or Services Contracts (Standard Forms 18, 26, 30, 32*, 33, 33A* and 36; DD Forms 1665, and 1707.)

*For DAR clause substitutions on Standard Form 32, Apr. 1975 edition, and Standard Form 33A, Jan. 1978 edition, see 16-101.

16-102.1 *Request for Quotation (Standard Form 18), and Information to Offerors or Quoters (DD Form 1707).*

(a) *General.* Standard Form 18 is authorized and DD Form 1707 is prescribed for obtaining price, cost, delivery, and related information from suppliers. DD Form 1707 may be reproduced locally, unless such action is precluded by Departmental direction.

(b) *Conditions for Use.*

(1) Standard Form 18 is authorized and DD Form 1707 is prescribed for use in other than simplified small purchases when it appears reasonably certain that the acquisition will be consummated by (i) a fixed-price contract involving negotiation or (ii) a cost-reimbursement contract. Continuation Sheet (Standard Form 36) may be used as required. One copy of DD Form 1707, and two copies of Standard Form 18 shall be sent to each prospective supplier and he shall be requested to return one signed copy of his quotation.

(2) Standard Form 18 may be used for simplified purchases made in accordance with Section III, Part 6, when written solicitations (other than by telegram) of quotations are required. (See 3-608.2(c)(1) for use of DD Form 1155 as a request for quotations.) Two copies of Standard Form 18 shall be sent to each prospective supplier and he shall be requested to return only one signed copy. A quotation submitted on this form or on DD Form 1155 is not to be construed as an offer which can be accepted by the Government to form a binding contract. Therefore, issuance by the Government of a purchase order pursuant to a supplier's quotation does not constitute a contract, but the purchase order is an offer by the Government to the supplier to

buy certain goods or services upon specified terms and conditions. DD Form 1707 shall not be used for simplified small purchases.

(3) Pending the publication of a new edition of the form, the solicitation representation prescribed by 7-2003.74 shall be added as Item 4 of the Representations and Certifications of Standard Form 18.

16-102.2 *Award/Contract (Standard Form 26).*

(a) *General.* Standard Form 26 is designed for use primarily when entering into contracts resulting from negotiation where the signature of both parties on a single document is appropriate. (See also 16-102.3 for use of this form as an award pursuant to receipt of a firm offer on Solicitation, Offer, and Award (Standard Form 33) and 3-410.2(a) for use of this form to place orders against basic ordering agreements.)

(b) *Conditions for Use.* This form, in conjunction with appropriate General Provisions as provided in (c) and (d) below, is prescribed for use in negotiated contracts except:

(i) contracts for which Solicitation, Offer, and Award (Standard Form 33) is used in accordance with 16-102.3;

(ii) contracts for the construction, alteration, or repair of buildings, bridges, roads or other kinds of real property;

(iii) procurements for which special contract forms are prescribed by ASPR (for example, 16-503, 16-504 and 16-505); and

(iv) procurements for which purchase order and related forms are authorized by Part 3 of this Section.

(c) *Negotiated Supply and Services Contracts.*

(1) Except as provided in (b) above, Award/Contract (Standard Form 26) shall be used with Standard Form 32 (General Provisions (Supply Contract)) (see 16-205) or with required nonpersonal services clauses, and any other forms containing contract provisions which are prescribed by ASPR or Departmental procedures, for entering into negotiated fixed-price contracts to which Section VII, Part 1, is applicable.

(2) Except as provided in (b) above, Award/Contract (Standard Form 26) shall be used with other forms containing contract provisions which are prescribed by ASPR or Departmental procedures for entering into negotiated cost reimbursement type contracts to which Section VII, Part 2, is applicable.

(d) *Special Negotiated Contracts.* Award/Contract (Standard Form 26) may be used for special procurements where clauses other than those on Standard Form 32 have been authorized. For example, cost-reimbursement research and development contracts with clauses prescribed by Section VII, Part 4; contracts for stevedoring services; time and materials contracts; personal and professional services contracts; and contracts for instruction of military personnel at educational institutions.

(e) *Corporate Certificate.* Where a corporate certificate is considered necessary or desirable, it may be executed on a typed sheet, identified by Procurement Instrument Identification (contract) number, and attached to Award/Contract (Standard Form 26).

(f) *Schedule and Continuation Sheet.* Standard Form 36 (Continuation Sheet) shall be used for the Schedule and Continuation Sheets (see 16-101.2(d)).

(g) *Effective Date.* The effective date shown on the Award/Contract (Standard Form 26) is the date agreed to by the contracting parties as the date on which the terms and conditions of the contract take effect. This date may be dif-

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(e) During a period of national emergency, paragraph (d) (1) of the "Termination for Default—Damages for Delay—Time Extensions" clause of Standard Form 23–A may be changed by deleting the words "unforeseeable causes" in the two places where they appear in the first sentence and substituting therefor the words "causes, other than normal weather".

(f) Deletion or modification of provisions in the above forms shall be accomplished in the "Alterations" paragraph of Standard Form 23, or in an "Alterations" paragraph added in the schedule of Standard Form 19, or in the specifications, as may be appropriate.

16–402 Negotiated Construction Contract Forms.

16–402.1 *General.* Use of the forms prescribed in 16–401 is optional for negotiated construction contracts. When used for negotiated contracts, the forms shall be adapted by lining out or obliterating the words "sealed" and "publicly opened" and adding language to (i) indicate the authority for negotiation, and (ii) replace paragraphs 7 and 8 of the Standard Form 22 with either the Late Technical Proposals provision in 7–2002.3 or the Late Proposal provision in 7–2002.4.

16–402.2 *Contracts Not Exceeding $25,000.*

(a) When procurements are negotiated in accordance with 18–302, either DD Form 1155, revised as indicated below and in 16–303, or Standard Form 19 with the appropriate changes indicated in 16–401.1(i), 16–401.2, 16–401.3, and 16–402.1, shall be used.

(b) Where DD Form 1155 is used for procurement of construction in the United States, its possessions and Puerto Rico, the following shall be accomplished:

(1) The following provisions on DD Form 1155r shall be deleted:

1. Inspection and Acceptance
2. Variation in Quantity
3. Payments
4. Discounts
15. Fast Payment Procedure
16. Service Contract Act of 1965
17. Changes
18. Termination for Default

(2) The following provisions from the reverse of Standard Form 19 shall be added to DD Form 1155r:

1. Changes and Changed Conditions (in the last line of (c), the reference to "Clause 3" shall be changed to "the 'Disputes' clause")
2. Termination for Default—Damages for Delay—Time Extensions (in the last line of (b), the reference to "Clause 3" shall be changed to "the 'Disputes' clause")
4. Responsibility of Contractor
5. Material and Workmanship
6. *Payments to Contractor* clause as revised in 16–401.1(i). However, if period of performance is less than one month or the total amount does not warrant progress payments, a single payment may be made in accordance with procedures in 16–401.2(a).

(3) The applicable additional clauses required by 3–608.2(b)(1) shall be added to DD Form 1155r, and where it is indicated that the low quotation may exceed $2,000, the following shall be accomplished.

(i) Standard Form 19–A, as modified in 16–401.1(ii), shall be attached along with the appropriate wage rate determination.

(ii) In accordance with 10–102.4, the provision in 7–2003.25 shall be added.

(iii) The following language shall be inserted on the face page of the DD Form 1155 prior to issuance:

> "If this quotation exceeds $2,000, the quoter shall furnish with his quotation a bid guaranty in an amount equal to .....% of his quotation; failure to submit the guaranty on time may be cause for rejection of the quotation.
>
> "If this quotation exceeds $2,000, notice to proceed will be issued upon receipt of acceptable payment and performance bonds."

and

(iv) Notice of payment and performance bonds shall be added in accordance with 10–103 and 16–401.2(c)(iii)(1)(B).

(c) Where DD Form 1155 is used for procurement of construction outside the United States, its possessions and Puerto Rico, the following shall be accomplished.

(1) The following provisions on DD Form 1155r–1 shall be deleted:

1. Inspection and Acceptance
2. Variation in Quantity
3. Payments
11. Examination of Records
13. Changes
14. Termination for Default

(2) The provisions from the reverse of Standard Form 19 listed in (b)(2) above also shall be added to DD Form 1155r–1.

(3) The applicable additional clauses required by 3–608.2(b)(2) shall be added to DD Form 1155r–1.

16–402.3 *Cost-Plus-Fixed-Fee Contracts.* When the use of a cost-plus-fixed-fee contract is authorized (18–112) and the appropriate determination has been made (3–405), the format below shall be used, together with the clauses required by 7–605 and 7–606. If the work is to be performed outside the United States, its possessions or Puerto Rico, such contract clauses shall be deleted or modified as necessary to reflect statutory requirements, agreements between the United States and the host foreign country, and agreements between the parties. For labor requirements applicable to overseas contracts, see 18–703.2.

Contract .....
(Negotiated)
COST-PLUS-FIXED-FEE CONSTRUCTION CONTRACT
DEPARTMENT OF THE .....
CONTRACTOR AND ADDRESS
CONTRACT FOR CONSTRUCTION OF

preparations. Where such an amendment is issued within a period of ten days prior to the date set for bid opening, a minimum of ten days lead time, except in emergencies, shall be allowed prospective bidders to prepare new or revised bids. The nature of any emergency preventing a ten day lead time will be documented.

18–207 Opening of Bids. See 2–402 and 18–108.1(c).

18–208 Cancellation of Invitations for Bids.

(a) Before opening, see 2–209.

(b) After opening, see 2–404.1 and 18–704.2.

18–209 Prequalification of Bidders.

(a) The prequalification of bidders procedure is used when it is necessary to assure timely and efficient performance of critical construction projects by limiting bidding to concerns of proven competence to perform in the required manner. The result of a prequalification is a list of bidders who are determined to be qualified to bid on a specific construction project.

(b) The Head of a Procuring Activity may authorize the prequalification of bidders when he determines in writing that a construction project is of such urgency or complexity as to require prequalification.

(c) Procedures to be used shall be approved by the Head of a Procuring Activity. They shall provide, in connection with small business concerns that:

(i) if the qualifying authority is of the opinion that a small business concern is not qualified for reasons relating to responsibility, the recommendation of the appropriate Small Business Regional Office shall be requested;

(ii) if that office expresses the opinion that the concern appears to have the requisite responsibility, it shall be permitted to submit a bid; and

(iii) if a small business concern submits the lowest responsive bid and is found to be non-responsible, the procedures prescribed by 1-705.4 shall be followed.

18–210 Award. No award shall be made at a price which, with allowances for Government imposed contingencies and overhead, exceeds the statutory authorization for the project unless the limitations for a particular contract can be and have been waived (see 18–110(c)). The effect of changes in wage rate determinations on award is discussed in 18–704.2.

18–211 Notice of Award. Award shall be made to the successful bidder as provided in 2–407.1. If a notice of award is issued, it shall:

(i) identify the invitation;

(ii) identify the contractor's bid;

(iii) set forth the award price;

(iv) specify date of commencement of work, or advise contractor that a notice to proceed will be issued;

(v) advise contractor that a formal contract must be executed before commencement of work; and

(vi) inform contractor that performance and payment bonds must be furnished.

Part 3—Negotiations

18–301 Limitation on Authority to Negotiate Contracts. Contracts for construction (see 18–101.1) shall be formally advertised whenever such method is feasible and practicable (see 18–102) under existing conditions and circumstances (but see 1–705.5(c)(2)(H)(ii) and 1–706.2), even though negotiation may be authorized as indicated hereafter.

18–301.1 *Work in the United States.* Contracts for construction mentioned above, to be performed in the United States, its possessions and Puerto Rico shall not be negotiated unless authorized pursuant to the following subsections of 10 U.S.C. 2304 (a): (1), (2), (3), (10), (11), (12), (15), or for contracts with Small Business Administration, (17). The appropriate code provision will be cited in the contract as authority for the negotiation. (See respectively, 3–201, 3–202, 3–203, 3–210, 3–211, 3–212, and 3–215.) Contracts to be performed in the possessions of the United States and Puerto Rico may not be negotiated pursuant to 10 U.S.C. 2304 (a) (6), (3–206).

18–301.2 *Work Outside the United States.* Contracts for construction to be performed outside the United States, its possessions or Puerto Rico shall be negotiated unless formal advertising is authorized in accordance with 18–102. The appropriate subsection of the code will be cited in all contracts as authority for negotiation.

18–302 Small Purchases. Procurements of construction of $25,000 or less may be negotiated in accordance with Section III, Part 6, and 16–402.2. Standard Form 19 or DD Form 1155, as appropriate, may be used for purchases of $25,000 or less.

18–303 Profit or Fee.

18–303.1 *Fixed-Price Construction and Architect-Engineer Contracts.* The guidance set forth in 3–808, while not required, may be used in considering profit as an element of price under fixed-price construction and architect-engineer contracts.

18–303.2 *Cost-Reimbursement Type Construction Contracts.*

(a) The fees of prime contractors under cost-plus-fixed-fee construction contracts shall be negotiated in accordance with Departmental procedures which have been approved by the Assistant Secretary of Defense (Installations and Logistics).

(b) The target fee of prime contractors in incentive fee contracts shall be established using the criteria and fee schedules provided for under Departmental procedures as a guide in conjunction with the reasonableness of the target cost, the maximum and minimum fees to be established and the fee adjustment formula.

(c) Limitations on fees in both of the above type contracts are set forth in 3–405.6(c)(2).

18–303.3 *Cost-Reimbursement Type Architect-Engineer Contracts.* (See Part 4 of this Section.) The fees under cost-reimbursement type architect-engineer contracts shall be established in accordance with applicable criteria provided in Departmental procedures.

18–304 Subcontracting Programs. See Section XXIII.

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clusively for experimental, developmental, or research work in the field of construction or architect-engineering. Where the contract calls for either experimental, developmental, or research work or supplies and materials, in addition to either construction or architect-engineer work, the clause in 7-103.22 shall be used.

18-903 Patent Indemnification of Government by Contractor.

18-903.1 *General.* A patent indemnity clause shall not be included in contracts calling solely for architect-engineer or experimental, developmental, or research work in the field of construction.

18-903.2 *Patent Indemnity Clauses in Supply Contracts.* See 9-103. The clause required by 9-103.1 relating to the procurement of supplies are applicable when the procurement is solely for construction materials or supplies as such, as distinguished from "construction" as defined in 18-101.1.

18-903.3 *Patent Indemnity Clause in Construction Contracts.*

(a) Except where complete performance is to be accomplished outside the United States, its possessions, and Puerto Rico, all contracts in excess of $25,000 calling for "construction" as defined in 18-101.1 shall contain the clause in 7-602.16(a) (see Standard Form 23-A).

(b) If it is determined that the construction will necessarily involve the use of structures, products, materials, equipment, processes, or methods which are nonstandard, noncommercial or special, the contract may list them in the specifications and may expressly exclude them from the patent indemnification by inserting in the contract the clause in 7-602.16(b).

18-903.4 *Waiver of Indemnity by the Government.* Exemption of specific patents from the patent indemnity provisions of the clauses prescribed in 18-903.2 and 18-903.3(a) shall be made only upon the authorization of the Secretary concerned or his authorized representative in accordance with 9-103.4.

18-904 Notice and Assistance. Subject to the prohibitions of 9-104, all contracts calling for construction work shall include the Notice and Assistance Regarding Patent and Copyright Infringement clause in 7-103.23.

18-905 Approval of Restricted Designs. Specifications for construction should allow for maximum latitude in the use of various types of commercially available products, materials, equipment or processes which will meet objective Government requirements. However, Government requirements may necessitate, or the architect-engineer may contemplate the use of structures, products, materials, equipment or processes which are available only from a sole source. In such event the architect-engineer should report to the contracting officer the items known to him to be sole source, and the reasons therefore, and advise the contracting officer of the extent to which such items are considered necessary to meet the Government's requirements. This will make possible timely planning and arrangements for the use of sole source items, or where appropriate, to consider alternate items. It is to be emphasized that this procedure is not intended to restrict the use of patented, or copyrighted items, but is merely to give the Government an opportunity to consider whether the specifications being drawn by the architect-engineer, in regard to any one item, are unnecessarily restricted, according to objective Government requirements, to a single sole item. The procedure is primarily for use in instances where the proposed design is expected

to be conventional or standard and where the design may be used in subsequent procurements. For this purpose, the clause in 7-608.13 may be inserted in architect-engineer contracts.

18-906 Processing of Infringement Claims. See Section IX, Part 4.

18-907 Classified Contracts. See 9-106.

18-908 Patent Rights.

(a) Any construction or architect-engineer contract which calls for or can be expected to involve the design, for use in the construction or operation of a Government facility, of novel structures, machines, products, materials, processes, or equipment (including construction equipment), and any contract having as one of its purposes the performance of experimental, developmental, or research work or test and evaluation studies involving such work, should include a patent rights clause in accordance with the policy and guidance of 9-701.

(b) Any construction or architect-engineer contract which calls for or can be expected to involve only standard types of construction to be built by previously developed equipment, methods, and processes shall not include a patent rights clause. The term "standard types of construction" as used herein means construction in which the distinctive features, if any, in all likelihood will amount to no more than:

(i) variations in size, shape or capacity of otherwise structurally orthodox and conventionally acting single structural members or multi-member structural groupings; or

(ii) purely artistic or esthetic (as distinguished from functionally significant) architectural configurations and designs of both structural and nonstructural members or groupings, which may or may not be sufficiently novel or meritorious to qualify for protection under the design patent or copyright laws.

Rights of the Government in and to any such distinctive design or copyright features, as distinguished from inventions of a mechanical or functional nature resulting from an architect-engineer contract or from a contract for construction involving architect-engineer services are provided for in the clause in 7-607.7(b) or in 7-603.42(a)(2) entitled "*Drawings and Other Data to Become Property of Government.*"

(c) Construction and architect-engineer contracts which require the development of novel structures, machines, products, equipment (including construction equipment), materials or processes shall include the clause in 7-603.42(a)(2) or 7-607.7(b) in addition to the appropriate "*Patent Rights*" clause prescribed by Section IX.

18-909 Patent Royalties. The provisions of 9-110, 9-111, and 9-112 are applicable to contracts for construction or construction supplies.

18-910 Acquisition and Use of Plans, Specifications and Drawings.

18-910.1 *Architectural Designs and Data Clauses for Architect-Engineer or Construction Contracts.*

(a) *Plans and Specifications and As-Built Drawings.*

(1) Except as provided in (2) below, insert the "*Government Rights (Unlimited)*" clause in 7-607.7(a) in contracts calling for architect-engineer services or in 7-603.42(a)(1) in contracts for construction involving architect-engineer services.

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Part III

Department of Justice

Equal Employment Opportunity Commission

Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance

DEPARTMENT OF JUSTICE

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

28 CFR Part 42

29 CFR Part 1691

[Attorney General Order No. 992-83]

Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance

AGENCY: Department of Justice and Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: This rule establishes procedures for handling complaints of employment discrimination filed on or after the effective date of the rule with Federal fund granting agencies under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the State and Local Fiscal Assistance Act of 1972, as amended, and other provisions of Federal law which prohibit discrimination on grounds of race, color, religion, sex or national origin in programs or activities receiving Federal financial assistance. The rule allows the fund granting agency to refer complaints to the Equal Employment Opportunity Commission (EEOC). For complaints covered both by Title VII of the Civil Rights Act of 1964, as amended, or the Equal Pay Act of 1963 and by Title VI of the Civil Rights Act of 1964, or other statutes under the fund granting agency's jurisdiction, the rule contemplates that complaints solely alleging employment discrimination against an individual will be referred to EEOC and that EEOC will conduct the investigation and conciliation efforts in most cases. The rule, therefore, will reduce duplicative efforts by different Federal agencies to enforce differing employment discrimination prohibitions, and thereby will reduce the burden on employers covered by more than one of those prohibitions. At the same time it will allow the Federal fund granting agencies to focus their resources on allegations of services discrimination and systemic employment discrimination. Employment discrimination complaints over which the Federal fund granting agency does not have jurisdiction will be transferred to EEOC. This rule is not a "major rule" as defined by Section 1(b) of Executive Order 12291.

EFFECTIVE DATE: March 28, 1983.

FOR FURTHER INFORMATION CONTACT:

Stuart Frisch, Acting Director, Coordination Division, Coordination and Guidance Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 2401 E Street, NW., Washington, D.C. 20506; (202) 653-9133; or

David L. Rose, Chief, Federal Enforcement Section, Civil Rights Division, Department of Justice, Washington, D.C. 20530; (202) 633-3831.

SUPPLEMENTARY INFORMATION:

I. Background

The authority of the Equal Employment Opportunity Commission (EEOC) to enforce prohibitions against employment discrimination on the basis of race, color, national origin, sex, or religion overlaps with the authority of Federal funding agencies to enforce prohibitions against employment discrimination by recipients of Federal funds. There is, therefore, a potential for duplicative efforts by Federal agencies that may cause needless burdens on the recipients, such as separate investigations by EEOC and other Federal agencies of the same complaint. In addition, victims of discrimination may be confused about where to file their complaints of employment discrimination and may, therefore, inadvertently lose their rights.

EEOC has responsibility to coordinate the Federal effort to enforce Federal equal employment opportunity law. Executive Order 12067, 43 FR 28967. The Attorney General has responsibility to coordinate Federal enforcement of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* ("Title VI") and Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.* ("Title IX"). Executive Order 12250, 45 FR 72995. EEOC and the Department of Justice hereby promulgate this regulation in order to coordinate enforcement of Federal equal employment opportunity law and to minimize the potential for duplicative investigations of employers covered by such laws.

The regulation allows Federal funding agencies to refer to EEOC complaints of employment discrimination covered by Title VI or similar provisions, Title IX, or the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. 1221 *et seq.* (the "revenue sharing act"), if they are also covered by Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et seq.* ("Title VII") or the Equal Pay Act of 1963, 29 U.S.C. 206(d). These complaints are called "joint complaints." EEOC, acting under its own authority and the delegated authority of the agency, would conduct an investigation of the allegations of employment discrimination and attempt to conciliate the complaint.

Under the regulation an agency must determine within thirty days of receipt of a complaint of employment discrimination whether it has jurisdiction over the complaint. If an agency does not have jurisdiction but EEOC may have jurisdiction, then the agency must transfer the complaint to EEOC. As a result, complainants are protected against losing their private rights because they filed their complaints with the wrong agency.

Joint complaints solely alleging employment discrimination against an individual will be referred to EEOC. If special circumstances warrant agency investigation of such a joint complaint, an agency may do so but it must first determine that EEOC will not independently investigate a similar complaint. In contrast, an agency is required to retain joint complaints alleging a pattern or practice of employment discrimination unless special circumstances warrant referral of the complaint to EEOC.

The procedures established by this regulation should reduce duplicative investigations by various Federal agencies of similar complaints of employment discrimination against an employer. Because agencies will refer to EEOC all joint complaints solely alleging employment discrimination against an individual, agencies will be able to focus their efforts on possible instances of systemic employment discrimination or discrimination in the provision of services to beneficiaries of Federally assisted programs. Consequently, agencies will be better able to perform their civil rights enforcement responsibilities. At the same time, the regulation will remove needless burdens on recipients of Federal funds.

The proposed regulation was published for public comment on April 17, 1981. We received and analyzed 14 comments from employers and their representatives, agencies and civil rights groups. Most of the comments were favorable. Our response to the comments and an explanation for significant changes in the proposed rule are set forth in the section-by-section anaylsis, *infra.* As an overview, we have made the following major changes:

(1) The regulation now applies to complaints of employment discrimination covered by the revenue sharing act. As a result, the Office of Revenue Sharing of the Department of the Treasury may refer to EEOC complaints covered by the revenue

sharing act if they are also covered by Title VII or the Equal Pay Act.

(2) The rule now provides that an agency must refer all joint complaints solely alleging employment discrimination against an individual to EEOC. If, however, an agency determines that special circumstances warrant its investigation of the complaint, then it may do so provided that its investigation will not duplicate independent efforts by EEOC.

(3) The regulation has been reorganized so that it will parallel the chronological processing of a complaint.

In addition, we received a number of comments from civil rights groups and others on Title IX coverage. Many urged that we delay promulgating this rule until the Supreme Court determined the extent to which Title IX covers employment. Promulgation of the rule was not delayed for that reason. Since the propose of the rule is to avoid duplication of effort, the scope of Title IX coverage was not viewed as critical. We note that the Supreme Court has ruled that Title IX covers employment discrimination and that the Department of Education's implementing regulations concerning employment discrimination are vaild. *North Haven Board of Education* v. *Bell*, —— U.S. ——, 50 U.S.L.W. 4501 (May 17, 1982).

II. Section-by-Section Analysis

Section 1 (28 CFR 42.601; 29 CFR 1691.1). This section describes the purpose and application of this regulation. When this regulation was published for comment, this section stated that the rule would not apply to complaints of employment discrimination filed under the revenue sharing act. At that time, EEOC and the Department of the Treasury's Office of Revenue Sharing ("ORS") planned to enter into a new Memorandum of Agreement concerning the matters covered by this regulation. After publication, EEOC and ORS decided to forego their separate Memorandum and to have their relationship covered by this rule. Accordingly, the existing Memorandum of Agreement between EEOC and ORS, dated October 11, 1974, is superseded by this rule.

This approach was supported in a comment written by various civil rights groups. That comment urged that the proposed rule be amended to incorporate the time limits in the revenue sharing act, 31 U.S.C. 1245, because in their view EEOC would be bound by revenue sharing act time limits when it processes a joint complaint referred by ORS. We have not incorporated those time limits because we believe the revenue sharing act time limits are "directive" and that the revenue sharing act does not create a private right of action against ORS for failure to comply with the time limits. As such, the effect of those time limits are similar to the time limits in Section 706(b) of Title VII, 42 U.S.C. 2000e–5(b), on EEOC determinations of reasonable cause. See *Occidental Life Insurance Co.* v. *EEOC*, 432 U.S. 355 (1977).

This rule does not affect existing Memoranda of Understanding between EEOC and the Office of Federal Contract Compliance Programs of the Department of Labor, between EEOC and the Federal Communications Commission and between EEOC and the Office of the Federal Inspector of the Alaska Natural Gas Transportation System.

Section 2 (28 CFR 42.602; 29 CFR 1691.2). This section provides for the sharing of information by EEOC and Federal fund granting agencies. It provides for the exchange of information relevant to EEOC and agency efforts to fulfill their respective enforcement responsibilities. The exchange of information is, therefore, not limited to information relevant to specific complaints of employment discrimination. Such a limitation, which was proposed by one comment, would unduly restrict government efforts to coordinate investigations of systemic employment discrimination.

Section 3 (28 CFR 42.603; 29 CFR 1691.3). Title VII places confidentiality requirements on EEOC. 42 U.S.C. 2000e–5(b), 2000e–8(e); 29 CFR 1601.22, 1601.26. This section provides that when EEOC supplies information, which is subject to Title VII's confidentiality requirements, to an agency, the agency is bound to observe Title VII's confidentiality requirements as would EEOC, except in two cases. An agency would not be bound by the requirements when: (1) It obtains the same information which it received from EEOC from an independent source, or (2) EEOC has obtained the information in the course of investigating a joint complaint and the agency plans to use the information in an enforcement proceeding. In the latter case, the agency is not bound by Title VII's confidentiality requirements because the agency had delegated its investigative authority to EEOC. EEOC, therefore, obtained the information under the agency's authority, as well as Title VII. Accordingly, the information may be used by the agency in an enforcement proceeding.

This section has been revised in order to make it clear that it applies to all information, which EEOC provides to an agency, that is subject to Title VII's confidentiality requirements. In addition, we have deleted our attempt to summarize the confidentiality requirements in order to avoid the possible implication—noted by one comment—that the section was not intended to be coextensive with the requirements of Title VII.

Section 4 (28 CFR 42.604; 29 CFR 1691.4). Section 4 provides that in determining whether a recipient of Federal financial assistance has engaged in an unlawful employment practice, agencies shall consider Title VII case law and EEOC guidelines, unless inapplicable. This section is an effort to foster a uniform approach to Federal equal employment opportunity law. Subsequent to the publication for comment of the proposed regulation, the Supreme Court granted certiorari in an employment discrimination case to review the issue of whether Title VI prohibits only intentional discrimination. *Guardians Association* v. *Civil Service Commission*, 633 F.2d 232 (2d Cir. 1980), *cert. granted*, No. 81–431 (January 11, 1982). By conditioning consideration of Title VII case law and EEOC Guidelines on their applicability, this Section will be able to accommodate the Supreme Court's decision on this legal issue.

Section 5 (28 CFR 42.605; 29 CFR 1691.5). This section provides time limits and procedures for agency processing of complaints of employment discrimination filed against recipients of Federal funds.

Section 5 has been restructured in an attempt to clarify the agency's responsibilities. Within ten days of receipt of a complaint of employment discrimination, an agency shall notify the respondent that it has received a complaint. This requirement of notification to the respondent within ten days is intended to be consistent with the notice requirement in Section 706(b) of Title VII. 42 U.S.C. 2000e–5(b); see also 31 CFR 51.61(b)(1). The consistency is necessary because complaints received by an agency which are transferred or referred to EEOC are deemed charges received by EEOC. The failure to provide such notice within ten days, however, does not bar the charging party from enforcing his or her Title VII rights. *E.g.*, *EEOC* v. *Burlington Northern, Inc.*, 644 F.2d 717 (8th Cir. 1981). Similarly, an agency's failure to meet any of the time limits set in this regulation will not bar the Government from taking enforcement action based upon the complaint involved. See *Occidental Life Insurance Co.* v. *EEOC*, 432 U.S. 355 (1977).

Section 5(b) expressly requires an agency to determine whether it has

jurisdiction over the complaint and whether EEOC may have jurisdiction over the complaint under Title VII or the Equal Pay Act. This requirement was implicit in the proposed rule and is now stated expressly in order to eliminate possible confusion. In addition, those determinations are to be made within thirty days of receipt of the complaint.

The rule distinguishes between a "transfer" and a "referral." A transfer occurs when an agency does not have jurisdiction over the complaint but EEOC may have jurisdiction. A transfer should, therefore, occur when an agency determines that it does not have jurisidiction over such a complaint. After a complaint is transferred, an agency has no further obligations in regard to the complaint.

A referral may occur when an agency and EEOC both have jurisdiction over the complaint. Such complaints are called "joint complaints." Under the rule, an agency may refer a joint complaint to EEOC for investigation and conciliation.

An agency may refer a joint complaint to EEOC without first consulting EEOC. The rule places a time limit on such referrals, requiring that they occur within thirty days of agency receipt of the complaint. The addition of this time limit will insure that agencies act promptly on joint complaints.

The proposed rule distinguished between "individual" and "systemic" joint complaints. The guidelines established by the proposed rule were that individual complaints should ordinarily be referred by the agency, while systemic complaints should ordinarily be retained by the agency.

Section 5(e) requires an agency to refer to EEOC all joint complaints solely alleging employment discrimination against an individual. The reason the rule now requires that all joint complaints solely alleging employment discrimination against an individual be referred to EEOC is to protect the rights of complainants who may be confused about where to file their complaints. By requiring agencies to refer all individual complaints to EEOC, the rule insures that the rights of complainants will be preserved under the statute of the fund granting agency and under Title VII.

An agency may investigate a joint complaint that it is required to refer to EEOC under Section 5(e) if it determines that special circumstances warrant such action and that its investigation will not be duplicative of an EEOC investigation. While the rule does not define what special circumstances would warrant agency investigation, one example would be where an agency is in the process of conducting a compliance review of the respondent and determines that it can handle the complaint expeditiously.

If there has been a dual filing (i.e., with the agency and EEOC), then it would be unwarranted for an agency to begin an investigation if EEOC already had one under way. The agency may investigate the complaint only if EEOC agrees to defer its investigation pending the agency investigation. If, on the other hand, there has not been a dual filing, then the agency may investigate the complaint if special circumstances warrant such action and EEOC will defer its investigation of the referred complaint pending the agency investigation.

Section 5(f) requires an agency to retain joint complaints that allege a pattern or practice of employment discrimination unless special circumstances warrant referral of the complaint to EEOC. Because several comments requested clarification of the term used in the proposed rule—"systematic acts of employment discrimination"—we have replaced that term with the term "pattern or practice," which is a term that is used in statutes such as Title VII and the revenue sharing act. See *Teamsters* v. *United States*, 431 U.S. 324 (1977); *United States* v. *Ironworkers, Local 86*, 443 F. 2d 544, 552 (9th Cir.), *cert. denied*, 404 U.S. 984 (1971).

Several comments suggested that agencies should be encouraged or required to refer joint complaints of systemic employment discrimination to EEOC. We have not adopted these suggestions because the investigation of such complaints is often fundamental to agency compliance programs and EEOC's resources to investigate those complaints are limited. Indeed, EEOC ordinarily limits the investigation of systemic complaints to the allegations which directly affect the complainant. Agencies should take these factors into account in deciding whether special circumstances warrant referral of pattern or practice complaints to EEOC.

We have also revised the procedures for handling joint complaints that allege discrimination in employment and in other (non-employment) practices of the recipient. Under the proposed rule, an agency had discretion to refer the employment aspects of the complaint but was required to retain the other aspects. If the agency referred the employment aspects of the complaint, then the agency and EEOC were required to coordinate their investigations. Several comments suggested that dividing these kinds of complaints between the agency and EEOC would be more burdensome to the respondent and would not increase efficiency. As a result, the rule now requires an agency to handle the entire complaint, absent special circumstances. In addition, the agency shall determine whether the complainant has filed a similar charge with EEOC. If the complainant has filed such a charge, then the agency and EEOC will coordinate their activities and upon agency request, EEOC will ordinarily defer its investigation pending the agency investigation. These changes should reduce the potential for duplicative investigations.

Finally, four additions have been made to the notice requirements upon referral of a joint complaint. First, the agency shall advise EEOC if it wants to receive advance notice of conciliation negotiations. Second, the agency shall advise EEOC whether it wants EEOC to investigate the facts "concerning the relationship between the alleged discrimination and the recipient's Federally assisted programs or activities." Third, the agency shall, where appropriate, advise EEOC whether a primary objective of financial assistance is to provide employment. EEOC needs this information in order to determine what information it must gather. See *infra*, Section 6. Because the revenue sharing act and Title IX, as well as some other grant statutes, cover employment discrimination without regard to whether a primary objective of the funds is to provide employment, this requirement does not apply to referrals under those statutes. Fourth, the agency shall inform the complainant and the recipient that the date the agency received the complaint will be deemed the date it was received by EEOC.

Section 6 (28 CFR 42.606; 29 CFR 1691.6). Under the proposed rule, an employment discrimination complaint covered by Title VII, which was filed with an agency, was treated as a Title VII charge. But the proposed rule did not provide for EEOC involvement or the issuance of a notice of right to sue under Title VII unless the agency transferred or referred the complaint to EEOC. In order to eliminate the confusion, Section 6(a) provides that a complaint filed with an agency will be deemed a charge received by EEOC only if an agency transfers or refers the complaint to EEOC. In such cases, the date the complaint was received by the agency will be deemed the date it was received by EEOC. Such complaints will be deemed charges filed with EEOC in accordance with the requirements of Section 706 of Title VII and EEOC's regulations. 29 CFR 1601.13; See *Mohasco Corp.* v. *Silver*, 447 U.S. 807

(1980). Because of the special nature of these complaints, EEOC will request that a State and local fair employment practice agency, which is a deferral agency, waive its right to the statutory period of exclusive processing, except when the deferral agency has earlier received the complaint and commenced its fact-finding or investigation.

Section 6(b) is new. It provides that EEOC shall, where appropriate, seek information concerning "whether the alleged discrimination is in a program or activity that receives Federal financial assistance." In addition, Section 6(b) concerns those referrals where employment discrimination is covered only if it causes discrimination with respect to beneficiaries or potential beneficiaries of the assisted programs, i.e., where the financial assistance does not have as a primary objective the provision of employment. Of course, none of the referrals under the revenue sharing act or Title IX will be subject to this kind of limitation. This subsection requires EEOC to seek sufficient information to allow the referring agency to determine whether the alleged employment discrimination causes discrimination against beneficiaries or potential beneficiaries of the assisted program. As one agency noted in its comment, if EEOC did not gather this information, then the agency would have to do so before it reached its determination on the merits in cases where EEOC found cause, was unable to conciliate and returned the complaint to the agency. In order to avoid having the referring agency conduct an investigation after EEOC has finished its investigation, this new provision was added. This provision does not, however, give EEOC authority to make determinations about "whether the alleged employment discrimination is in a program or activity that receives Federal financial assistance" or whether it causes discrimination against beneficiaries or potential beneficiaries of the assisted program.

Section 6 (c) and (d) appeared elsewhere in the proposed rule.

Section 6(e) is new. It provides that when EEOC agrees to defer an investigation of a complaint it has received pending an agency's investigation of the complaint, it shall give due weight to the agency's determination concerning the complaint. This requirement parallels the requirement that an agency give due weight to an EEOC determination concerning a complaint it had referred to EEOC.

Section 7 (28 CFR 42.607; 29 CFR 1691.7). This section on EEOC dismissals of complaints has been simplified. The proposed rule distinguished between dismissals based upon untimely filings, failure to state a claim and lack of reasonable cause. Under EEOC regulations, however, EEOC may dismiss a charge for other reasons. 29 CFR 1601.19 (c), (d) and (e). The final rule does not distinguish between kinds of dismissals. It, therefore, may not be read to limit EEOC's ability to dismiss a joint complaint.

This section has also been revised to provide that EEOC, rather than the referring agency, is to notify the complainant and the respondent of the dismissal, the reasons for dismissal and the effect it has on the complainant's rights. The proposed rule required the referring agency to give this notice but EEOC is in a better position to give this notice and to give it sooner. In addition, the section now expressly provides that notice goes to the recipient, as well as the complainant, that EEOC transmits its file to the referring agency and that EEOC issues a notice of right to sue under Title VII when it dismisses a complaint.

Section 8 (28 CFR 42.608; 29 CFR 1691.8). We received several comments suggesting that a referring agency should not be allowed to investigate a case after an EEOC dismissal. On the other hand, we also received a comment stating that a referring agency should not be allowed to close a complaint which is timely and states a claim under Title VI, simply because it is untimely or fails to state a claim under Title VII.

We believe that, consistent with an agency's statutory obligations, an agency should make determinations under Title VI, Title IX, or the revenue sharing act. Section 8, therefore, provides that a referring agency shall give "due weight" to EEOC's dismissal of the Title VII allegations of a joint complaint. If a complaint is dismissed because a charge is not timely under Title VII but the complaint is timely under Title VI, then little weight is due EEOC's dismissal. If, on the other hand, EEOC determines after investigation that there is not reasonable cause to believe the allegations of employment discrimination are true, then the referring agency should give great weight to EEOC's dismissal. Indeed, should the referring agency decide to take action despite EEOC's no cause finding, the agency is required to justify that decision in writing to the Assistant Attorney General and the Chairman of the EEOC. Still, the agency retains the authority to conduct additional investigation if necessary to discharge its duties.

Section 8 also provides that the referring agency shall determine its course of action within 30 days. This limit makes the section consistent with the time limit for referring agency determinations in unresolved complaints where EEOC found reasonable cause and was unable to conciliate. Section 10(a). The agency is also required to notify the respondent, as well as the complainant, of its determination.

Section 9 (28 CFR 42.609; 29 CFR 1691.9). Section 9 provides the procedure for EEOC reasonable cause determinations and conciliation efforts. The proposed rule provided that agencies shall participate in settlement and conciliation negotiations. "Settlement" negotiations are part of EEOC's rapid charge processing during which EEOC also conducts its preliminary investigation. We have determined that if agencies are required to participate in this phase of EEOC's work, then the agencies will save little work by referring joint complaints to EEOC. Section 9(a), therefore, provides that, upon EEOC's request, the referring agency shall participate in conciliation negotiations, which occur after a reasonable cause determination, but not in settlement negotiations. In addition, the rule has been revised to require EEOC to provide advance notice of any conciliation negotiations to agencies that request such notice.

Section 9(b) has been revised to state more clearly what happens when EEOC finds cause and is unable to conciliate. Section 9(b) provides that EEOC issues a notice of failure of conciliation in accordance with its rules and transmits the file to the referring agency. In complaints against private employers, EEOC determines whether it will litigate and, in accordance with its regulations, issues a notice of right to sue. Complaints against public employers are referred to the Department of Justice. EEOC and the Department of Justice are required to notify agencies if they decide to bring suit. Section 12(b).

Section 10 (28 CFR 42.610; 29 CFR 1691.10). Section 10 provides the procedure for agency enforcement of complaints where EEOC has made a reasonable cause determination and conciliation efforts have failed. The section has only been revised slightly. The referring agency is required to give due weight to EEOC's determination and to make its determination, within thirty days, of whether the recipient has violated any applicable civil rights provision which it has responsibility to enforce. Although one agency commented that the period should be lengthened, we believe that no change is necessary because the agency should be able to make its determination based

upon material in the EEOC file. Indeed, under the revisions of the rule EEOC will gather information for agency use not only on whether the alleged employment discrimination occurred, but also on whether it is covered by the relevant statute. Section 6(b). Should the agency need additional information to make its determination, it should attempt promptly to obtain the information.

Section 10(b) addresses cases where the referring agency has determined that the recipient has violated a civil rights provision which it has a responsibility to enforce. This subsection has been revised to require that the referring agency notify the complainant, as well as the recipient, if it determines that a civil rights provision has been violated.

In addition, Section 10 (c) has been revised to provide that when a referring agency determines that its civil rights provisions have not been violated, it must so notify the complainant and the recipient, and inform EEOC and the Department of Justice of the basis of its decision.

Section 11 (28 CFR 42.611; 29 CFR 1691.11). Section 11 provides that when EEOC negotiates a settlement prior to a determination or a conciliation agreement after a determination, EEOC shall so notify the referring agency. The referring agency may not take further action on the complaint of employment discrimination. The agency may, however, take the existence of the complaint into account in scheduling the recipient for a review under the agency's regulations.

Section 12 (28 CFR 42.612; 29 CFR 1691.12). This section provides for interagency consultation on pattern or practice investigations, administrative enforcement and litigation concerning the employment practices of the recipients of Federal funds. The regulation contemplates that interagency consultation shall routinely occur before the specified actions are initiated but recognizes that prior consultation may not always be practical. When it is not practical, consultation should occur as soon as possible after the action is initiated.

Section 13 (28 CFR 42.613; 29 CFR 1691.13). This definition section has been modified only in relatively minor ways. First, the Age Discrimination in Employment Act has been deleted from the definition of a "joint complaint," Section 13 (f), and age from the definition of Title VI. Section 13 (i); See Section 1. EEOC is not required to investigate complaints under the Age Discrimination in Employment Act. It is only required to notify prospective defendants and attempt conciliation by informal methods. Under the regulation, EEOC will, however, accept referrals of joint complaints which allege discrimination on the ground of age, as well as a ground covered by Title VII.

Second, the term "covered employment" was defined in the proposed rule to describe employment practices covered by Title VI. That definition provided, in part, that Title VI covers employment practices which "cause discrimination with respect to beneficiaries or potential beneficiaries of the assisted program." One comment argued that Title VI did not cover such employment practices. Courts have, however, recognized that employment discrimination which results in discrimination against beneficiaries or potential beneficiaries of a federally assisted program violates Title VI. E. g., *United States* v. *Jefferson County Board of Education,* 372 F.2d 836, 881–886 (5th Cir. 1966), *cert. denied,* 389 U.S. 840 (1967). In addition, the definition of "covered employment" is substantively identical to the one used in the Department of Justice's Coordination of Enforcement of Non-discrimination in Federally Assisted Programs regulation, 28 CFR 42.402(f), except that under this rule discrimination on the basis of religion or sex may also becovered. We have, however, deleted the definition because the term "covered employment" is not used in this regulation.

Third, for purposes of this rule, the term "Federal financial assistance" is defined to include funds disbursed under the revenue sharing act, even though for purposes other than this rule such funds do not constitute "Federal financial assistance." See, *Goolsby* v. *Blumenthal,* 590 F.2d 1369 (5th Cir. 1979) *(en banc), cert. denied,* 44 U.S. 970 (1980).

III. Regulatory Impact/Flexibility Analyses Not Required

This rule is not a "major rule" as defined by Section 1(b) of Executive Order 12291. The rule simply coordinates Federal agency investigation and enforcement of certain employment discrimination complaints. It will not have a major or significant impact on the economy. Accordingly, a regulatory impact analysis as described in Executive Order 11291 is not required. In addition, a regulatory flexibility analysis as described in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* is not required because the rule will not "have a significant economic impact on a substantial number of small entities." 5 U.S.C. 605.

This action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental impact statement was prepared.

List of Subjects in 28 CFR Part 42 and 29 CFR Part 1691

Civil rights, Equal employment opportunity, and Nondiscrimination.

Signed at Washington, D.C. this 9th day of December 1982.

For the Commission.

Clarence Thomas,

Chairman.

Signed at Washington, D.C. this 3rd day of January 1983.

For the Department.

William French Smith,

Attorney General.

TITLE 29—[AMENDED]

Chapter XIV—Equal Employment Opportunity Commission

1. By virtue of the authority vested in me by Exec. Order No. 12067, 3 CFR 206 (1979), 43 FR 28967, and for the reasons set out in the preamble, the rules of the Equal Employment Opportunity Commission, at Chapter XIV of Title 29, Code of Federal Regulations, are hereby amended by adding as a new Part 1691, the following:

PART 1691—PROCEDURES FOR COMPLAINTS OF EMPLOYMENT DISCRIMINATION FILED AGAINST RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

Sec.

1691.1 Purpose and application.
1691.2 Exchange of information.
1691.3 Confidentiality.
1691.4 Standards for investigation, reviews and hearings.
1691.5 Agency processing of complaints of employment discrimination.
1691.6 General rules concerning EEOC action on complaints.
1691.7 EEOC dismissals of complaints.
1691.8 Agency action on complaints dismissed by EEOC.
1691.9 EEOC reasonable cause determinations and conciliation efforts.
1691.10 Agency enforcement of unresolved complaints.
1691.11 EEOC negotiated settlements and conciliation agreements.
1691.12 Interagency consultation.
1691.13 Definitions.

Authority: E.O. 12250, 45 FR 72995 (November 4, 1980) and E.O. 12067, 43 FR 28967 (June 30, 1978).

§ 1691.1 Purpose and application.

The purpose of this regulation is to implement procedures for processing and resolving complaints of employment discrimination filed against recipients of Federal financial assistance subject to

Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the State and Local Fiscal Assistance Act of 1972, as amended, and provisions similar to Title VI and Title IX in Federal grant statutes. Enforcement of such provisions in Federal grant statutes is covered by this regulation to the extent they relate to prohibiting employment discrimination on the ground of race, color, national origin, religion or sex in programs receiving Federal financial assistance of the type subject to Title VI or Title IX. This regulation does not, however, apply to the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Justice and Delinquency Prevention Act, as amended, the Comprehensive Employment Training Act of 1973, as amended, or Executive Order 11246.

§ 1691.2 Exchange of information.

EEOC and agencies shall share any information relating to the employment policies and practices of recipients of Federal financial assistance that may assist each office in carrying out its responsibilities. Such information shall include, but not necessarily be limited to, affirmative action programs, annual employment reports, complaints, investigative files, conciliation or compliance agreements, and compliance review reports and files.

§ 1691.3 Confidentiality.

When an agency receives information obtained by EEOC, the agency shall observe the confidentiality requirements of Sections 706(b) and 709(e) of Title VII as would EEOC, except in cases where the agency receives the same information from a source independent of EEOC or has referred a joint complaint to EEOC under this regulation. In such cases, the agency may use independent source information or information obtained by EEOC under the agency's investigative authority in a subsequent Title VI, Title IX or revenue sharing act enforcement proceeding. Agency questions concerning confidentiality shall be directed to the Associate Legal Counsel for Legal Services, Office of Legal Counsel of EEOC.

§ 1691.4 Standards for investigation, reviews and hearings.

In any investigation, compliance review, hearing or other proceeding, agencies shall consider Title VII case law and EEOC Guidelines, 29 CFR Parts 1604–1607, unless inapplicable, in determining whether a recipient of Federal financial assistance has engaged in an unlawful employment practice.

§ 1691.5 Agency processing of complaints of employment discrimination.

(a) Within ten days of receipt of a complaint of employment discrimination, an agency shall notify the respondent that it has received a complaint of employment discrimination, including the date, place and circumstances of the alleged unlawful employment practice.

(b) Within thirty days of receipt of a complaint of employment discrimination an agency shall:

(i) Determine whether it has jurisdiction over the complaint under Title VI, Title IX, or the revenue sharing act; and

(ii) Determine whether EEOC may have jurisdiction over the complaint under Title VII or the Equal Pay Act.

(c) An agency shall transfer to EEOC a complaint of employment discrimination over which it does not have jurisdiction but over which EEOC may have jurisdiction within thirty days of receipt of a complaint. At the same time, the agency shall notify the complainant and the respondent of the transfer, the reason for the transfer, the location of the EEOC office to which the complaint was transferred and that the date the agency received the complaint will be deemed the date it was received by EEOC.

(d) If an agency determines that a complaint of employment discrimination is a joint complaint, then the agency may refer the complaint to EEOC. The agency need not consult with EEOC prior to such a referral. An agency referral of a joint complaint should occur within thirty days of receipt of the complaint.

(e) An agency shall refer to EEOC all joint complaints solely alleging employment discrimination against an individual. If an agency determines that special circumstances warrant its investigation of such a joint complaint, then the agency shall determine whether the complainant has filed a similar charge of employment discrimination with EEOC.

(i) If an agency determines that the complainant has filed a similar charge of employment discrimination with EEOC, then the agency may investigate the complaint if EEOC agrees to defer its investigation pending the agency investigation.

(ii) If an agency determines that the complainant has not filed a similar charge of employment discrimination with EEOC, then the agency may investigate the complaint if special circumstances warrant such action. In such cases, EEOC shall defer its investigation of the referred joint complaint pending the agency investigation.

(f) An agency shall not refer to EEOC a joint complaint alleging a pattern or practice of employment discrimination unless special circumstances warrant agency referral of the complaint to EEOC.

(g) If a joint complaint alleges discrimination in employment and in other practices of a recipient, an agency should, absent special circumstances, handle the entire complaint under the agency's own investigation procedures. In such cases, the agency shall determine whether the complainant has filed a similar charge of employment discrimination with EEOC. If such a charge has been filed, the agency and EEOC shall coordinate their activities. Upon agency request, EEOC should ordinarily defer its investigation pending the agency investigation.

(h) When a joint complaint is referred to EEOC for investigation, the agency shall advise EEOC of the relevant civil rights provision(s) applicable to the employment practices of the recipient, whether the agency wants to receive advance notice of any conciliation negotiations, whether the agency wants EEOC to seek information concerning the relationship between the alleged discrimination and the recipient's Federally assisted programs or activities and, where appropriate, whether a primary objective of the Federal financial assistance is to provide employment. The agency shall also notify the complainant and the recipient of the referral, the location of the EEOC office to which the complaint was referred, the identity of the civil rights provision(s) involved, the authority of EEOC under this regulation and that the date the agency received the complaint will be deemed the date it was received by EEOC. Specifically, the notice shall inform the recipient that the agency has delegated to EEOC its investigative authority under Title VI, Title IX, or the revenue sharing act, and the relevant act's implementing regulations. The agency, therefore, may use information obtained by EEOC under the agency's investigative authority in a subsequent Title VI, Title IX or revenue sharing act enforcement proceeding.

§ 1691.6 General rules concerning EEOC action on complaints.

(a) A complaint of employment discrimination filed with an agency, which is transferred or referred to EEOC under this regulation, shall be deemed a charge received by EEOC. For all

purposes under Title VII and the Equal Pay Act, the date such a complaint was received by an agency shall be deemed the date it was received by EEOC.

(b) When EEOC investigates a joint complaint it shall, where appropriate, seek sufficient information to allow the referring agency to determine whether the alleged employment discrimination is in a program or activity that receives Federal financial assistance and/or whether the alleged employment discrimination causes discrimination with respect to beneficiaries or potential beneficiaries of the assisted program.

(c) Upon referral of a joint complaint alleging a pattern or practice of employment discrimination, EEOC generally will limit its investigation to the allegation(s) which directly affect the complainant.

(d) If EEOC, in the course of an investigation of a joint complaint, is unable to obtain information from a recipient through voluntary means, EEOC shall consult with the referring agency to determine an appropriate course of action.

(e) If EEOC agrees to defer its investigation of a complaint of employment discrimination pending an agency investigation of the complaint, then EEOC shall give due weight to the agency's determination concerning the complaint.

§ 1691.7 EEOC dismissals of complaints.

If EEOC determines that the Title VII allegations of a joint complaint should be dismissed, EEOC shall notify the complainant and the recipient of the reason for the dismissal and the effect the dismissal has on the complainant's rights under the relevant civil rights provision(s) of the referring agency, and issue a notice of right to sue under Title VII. At the same time, EEOC shall transmit to the referring agency a copy of EEOC's file.

§ 1691.8 Agency action on complaints dismissed by EEOC.

Upon EEOC's transmittal of a dismissal under § 1691.7 of this part, the referring agency shall determine within thirty days, what, if any, action the agency intends to take with respect to the complaint and then notify the complainant and the recipient. In reaching that determination, the referring agency shall give due weight to EEOC's determination that the Title VII allegations of the joint complaint should be dismissed. If the referring agency decides to take action with respect to a complaint that EEOC has dismissed for lack of reasonable cause to believe that Title VII has been violated, the agency shall notify the Assistant Attorney General and the Chairman of the EEOC in writing of the action it plans to take and the basis of its decision to take such action.

§ 1691.9 EEOC reasonable cause determinations and conciliation efforts.

(a) If EEOC, after investigation of a joint complaint, determines that reasonable cause exists to believe that Title VII has been violated, EEOC shall advise the referring agency, the complainant and the recipient of that determination and attempt to resolve the complaint by informal methods of conference, conciliation and persuasion. If EEOC would like the referring agency to participate in conciliation negotiations, EEOC shall so notify the agency and the agency shall participate. EEOC shall provide advance notice of any conciliation negotiations to referring agencies that request such notice, whether or not EEOC requests their participation in the negotiations.

(b) If EEOC's efforts to resolve the complaint by informal methods of conference, conciliation and persuasion fail, EEOC shall:

(i) Issue a notice of failure of conciliation to the recipient in accordance with 29 CFR 1601.25;

(ii) Transmit to the referring agency a copy of EEOC's investigative file, including its Letter of Determination and notice of failure of conciliation;

(iii) If the recipient is not a government, governmental entity or political subdivision, determine whether EEOC will bring suit under Title VII and, in accordance with 29 CFR 1601.28, issue a notice of right to sue under Title VII;

(iv) If the recipient is a government, governmental entity or political subdivision, refer the matter to the Attorney General in accordance with 29 CFR 1601.29. The Attorney General, or his or her delegate, will determine whether the Department of Justice will bring suit under Title VII and, in accordance with 29 CFR 1601.28, issue a notice of right to sue under Title VII.

§ 1691.10 Agency enforcement of unresolved complaints.

(a) Upon EEOC's transmittal of a reasonable cause determination and notice of failure of conciliation under § 1691.9(b)(ii) of this regulation, the referring agency shall determine, within thirty days, whether the recipient has violated any applicable civil rights provision(s) which the agency has a responsibility to enforce. The referring agency shall give due weight to EEOC's determination that reasonable cause exists to believe that Title VII has been violated.

(b) If the referring agency determines that the recipient has violated any applicable civil rights provision(s) which the agency has a responsibility to enforce, the agency shall so notify the complainant and the recipient and determine whether further efforts to obtain voluntary compliance are warranted. In reaching that determination, the agency shall give due weight to the failure of EEOC's efforts to resolve the complaint by informal methods. If the referring agency determines that further efforts to obtain voluntary compliance are not warranted or if such further efforts fail, the agency shall initiate appropriate enforcement proceedings under its own regulations.

(c) If the referring agency determines that the recipient has not violated any applicable civil rights provision(s) which the agency has a responsibility to enforce, the agency shall notify the complainant, the recipient, the Assistant Attorney General and the Chairman of the EEOC in writing of the basis of that determination.

§ 1691.11 EEOC negotiated settlements and conciliation agreements.

If the parties enter into a negotiated settlement (as described in 29 CFR 1601.20) prior to a determination or a conciliation agreement (as described in 29 CFR 1601.24) after a determination, EEOC shall notify the referring agency that the complaint has been settled. The agency shall take no further action on the complaint of employment discrimination thereafter except that the agency may take the existence of the complaint into account in scheduling the recipient for a review under the agency's regulations.

§ 1691.12 Interagency consultation.

(a) Before investigating whether the employment practices of a recipient of Federal financial assistance constitute a pattern or practice of unlawful discrimination or initiating formal administrative enforcement procedures on that basis, an agency shall, to the extent practical, consult with the Chairman of the EEOC and the Assistant Attorney General to assure that duplication of effort will be minimized.

(b) Prior to the initiation of any legal action against a recipient of Federal financial assistance alleging unlawful employment practices, the Department of Justice and/or EEOC shall, to the extent practical, notify the appropriate agency or agencies of the proposed action and the substance of the allegations.

§ 1691.13 Definitions.

As used in this regulation, the term:

(a) "Agency" means any Federal department or agency which extends Federal financial assistance subject to any civil rights provision(s) to which this regulation applies.

(b) "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice, or his or her delegate.

(c) "Chairman of the EEOC" refers to the Chairman of the Equal Employment Opportunity Commission, or his or her delegate.

(d) "EEOC" means the Equal Employment Opportunity Commission and, where appropriate, any of its District Offices.

(e) "Federal financial assistance" includes: (1) Grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. For purposes of this regulation, the term "Federal financial assistance" also includes funds disbursed under the revenue sharing act.

(f) "Joint complaint" means a complaint of employment discrimination covered by Title VII or the Equal Pay Act and by Title VI, Title IX, or the revenue sharing act.

(g) "Recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under such program.

(h) "Revenue sharing act" refers to the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. 1221 *et seq.*

(i) "Title VI" refers to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d–4. Where appropriate, "Title VI" also refers to the civil rights provisions of other Federal statutes or regulations to the extent that they prohibit employment discrimination on the grounds of race, color, religion, sex or national origin in programs receiving Federal financial assistance of the type subject to Title VI itself.

(j) "Title VII" refers to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, *et seq.*

(k) "Title IX" refers to Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 to 1683.

TITLE 28—[AMENDED]

Chapter I—Department of Justice

2. By virtue of the authority vested in me by Section 602 of Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d–1, Exec. Order No. 12250, 3 CFR 298 (1981), 45 FR 72295, and for the reasons set out in the preamble, the rules of the Department of Justice, at Part 42 of Title 28 of the Code of Federal Regulations, are hereby amended by adding as a new Subpart H, the following:

PART 42—NONDISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES

* * * * *

Sec.

42.601 Purpose and application.
42.602 Exchange of information.
42.603 Confidentiality.
42.604 Standards for investigation, reviews and hearings.
42.605 Agency processing of complaints of employment discrimination.
42.606 General rules concerning EEOC action on complaints.
42.607 EEOC dismissals of complaints.
42.608 Agency action on complaints dismissed by EEOC.
42.609 EEOC reasonable cause determinations and conciliation efforts.
42.610 Agency enforcement of unresolved complaints.
42.611 EEOC negotiated settlement and conciliation agreements.
42.612 Interagency consultation.
42.613 Definitions.

Authority: E.O. 12250, 45 FR 72995 (November 4, 1980 and E.O. 12067, 43 FR 28967 (June 30, 1978).

* * * * *

Subpart H—Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance

§ 42.601 Purpose and application.

The purpose of this regulation is implement procedures for processing and resolving complaints of employment discrimination filed against recipients of Federal financial assistance subject to Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the State and Local Fiscal Assistance Act of 1972, as amended, and provisions similar to Title VI and Title IX in Federal grant statutes. Enforcement of such provisions in Federal grant statutes is covered by this regulation to the extent they relate to prohibiting employment discrimination on the ground of race, color, national origin, religion or sex in programs receiving Federal financial assistance of the type subject to Title VI or Title IX. This regulation does not, however, apply to the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Justice and Delinquency Prevention Act, as amended, the Comprehensive Employment Training Act of 1973, as amended, or Executive Order 11246.

§ 42.602 Exchange of information.

EEOC and agencies shall share any information relating to the employment policies and practices of recipients of federal financial assistance that may assist each office in carrying out its responsibilities. Such information shall include, but not necessarily be limited to, affirmative action programs, annual employment reports, complaints, investigative files, conciliation or compliance agreements, and compliance review reports and files.

§ 42.603 Confidentiality.

When an agency receives information obtained by EEOC, the agency shall observe the confidentiality requirements of Sections 706(b) and 709(e) of Title VII as would EEOC, except in cases where the agency receives the same information from a source independent of EEOC or has referred a joint complaint to EEOC under this regulation. In such cases, the agency may use independent source information or information obtained by EEOC under the agency's investigative authority in a subsequent Title VI, Title IX or revenue sharing act enforcement proceeding. Agency questions concerning confidentiality shall be directed to the Associate Legal Counsel for Legal Services, Office of Legal Counsel of EEOC.

§ 42.604 Standards for investigation, reviews and hearings.

In any investigation, compliance review, hearing or other proceeding, agencies shall consider Title VII case law and EEOC Guidelines, 29 CFR Parts 1604–1607, unless inapplicable, in determining whether a recipient of Federal financial assistance has engaged in an unlawful employment practice.

§ 42.605 Agency processing of complaints of employment discrimination.

(a) Within ten days of receipt of a complaint of employment discrimination, an agency shall notify the respondent that it has received a complaint of employment discrimination, including the date, place and circumstances of the alleged unlawful employment practice.

(b) Within thirty days of receipt of a complaint of employment discrimination an agency shall:

(i) Determine whether it has jurisdiction over the complaint under Title VI, Title IX, or the revenue sharing act; and

(ii) Determine whether EEOC may have jurisdiction over the complaint under Title VII of or the Equal Pay Act.

(c) An agency shall transfer to EEOC a complaint of employment discrimination over which it does not have jurisdiction but over which EEOC may have jurisdiction within thirty days of receipt of a complaint. At the same time, the agency shall notify the complainant and the respondent of the transfer, the reason for the transfer, the location of the EEOC office to which the complaint was transferred and that the date the agency received the complaint will be deemed the date it was received by EEOC.

(d) If any agency determines that a complaint of employment discrimination is a joint complaint, then the agency may refer the complaint to EEOC. The agency need not consult with EEOC prior to such a referral. An agency referral of a joint complaint should occur within thirty days of receipt of the complaint.

(e) An agency shall refer to EEOC all joint complaints solely alleging employment discrimination against an individual. If an agency determines that special circumstances warrant its investigation of such a joint complaint, then the agency shall determine whether the complainant has filed a similar charge of employment discrimination with EEOC.

(i) If an agency determines that the complainant has filed a similar charge of employment discrimination with EEOC, then the agency may investigate the complaint if EEOC agrees to defer its investigation pending the agency investigation.

(ii) If an agency determines that the complainant has not filed a similar charge of employment discrimination with the EEOC, then the agency may investigate the complaint if special circumstances warrant such action. In such cases, EEOC shall defer its investigation of the referred joint complaint pending the agency investigation.

(f) An agency shall not refer to EEOC a joint complaint alleging a pattern or practice of employment discrimination unless special circumstances warrant agency referral of the complaint to EEOC.

(g) If a joint complaint alleges discrimination in employment and in other practices of a recipient, an agency should, absent special circumstances, handle the entire complaint under the agency's own investigation procedures. In such cases, the agency shall determine whether the complainant has filed a similar charge of employment discrimination with EEOC. If such a charge has been filed, the agency and EEOC shall coordinate their activities. Upon agency request, EEOC should ordinarily defer its investigation pending the agency investigation.

(h) When a joint complaint is referred to EEOC for investigation, the agency shall advise EEOC of the relevant civil rights provision(s) applicable to the employment practices of the recipient, whether the agency wants to receive advance notice of any conciliation negotiations, whether the agency wants EEOC to seek information concerning the relationship between the alleged discrimination and the recipient's Federally assisted programs or activities and, where appropriate, whether a primary objective of the Federal financial assistance is to provide employment. The agency shall also notify the complainant and the recipient of the referral, the location of the EEOC office to which the complaint was referred, the identity of the civil rights provision(s) involved, the authority of EEOC under this regulation and that the date the agency received the complaint will be deemed the date it was received by EEOC. Specifically, the notice shall inform the recipient that the agency has delegated to EEOC its investigative authority under Title VI, Title IX, or the revenue sharing act, and the relevant act's implementing regulations. The agency, therefore, may use information obtained by EEOC under the agency's investigative authority in a subsequent Title VI, Title IX or revenue sharing act enforcement proceeding.

§ 42.606 General rules concerning EEOC action on complaints.

(a) A complaint of employment discrimination filed with an agency, which is transferred or referred to EEOC under this regulation, shall be deemed a charge received by EEOC. For all purposes under Title VII and the Equal Pay Act, the date such a complaint was received by an agency shall be deemed the date it was received by EEOC.

(b) When EEOC investigates a joint complaint it shall, where appropriate, seek sufficient information to allow the referring agency to determine whether the alleged employment discrimination is in a program or activity that receives Federal financial assistance and/or whether the alleged employment discrimination causes discrimination with respect to beneficiaries or potential beneficiaries of the assisted program.

(c) Upon referral of a joint complaint alleging a pattern or practice of employment discrimination, EEOC generally will limit its investigation to the allegation(s) which directly affect the complainant.

(d) If EEOC, in the course of an investigation of a joint complaint, is unable to obtain information from a recipient through voluntary means, EEOC shall consult with the referring agency to determine an appropriate course of action.

(e) If EEOC agrees to defer its investigation of a complaint of employment discrimination pending an agency investigation of the complaint, then EEOC shall give due weight to the agency's determination concerning the complaint.

§ 42.607 EEOC dismissals of complaints.

If EEOC determines that the Title VII allegations of a joint complaint should be dismissed, EEOC shall notify the complainant and the recipient of the reason for the dismissal and the effect the dismissal has on the complainant's rights under the relevant civil rights provision(s) of the referring agency, and issue a notice of right to sue under Title VII. At the same time, EEOC shall transmit to the referring agency a copy of EEOC's file.

§ 42.608 Agency action on complaints dismissed by EEOC.

Upon EEOC's transmittal of a dismissal under § 42.607 of this regulation, the referring agency shall determine within thirty days, what, if any, action the agency intends to take with respect to the complaint and then notify the complainant and the recipient. In reaching that determination, the referring agency shall give due weight to EEOC's determination that the Title VII allegations of the joint complaint should be dismissed. If the referring agency decides to take action with respect to a complaint that EEOC has dismissed for lack of reasonable cause to believe that Title VII has been violated, the agency shall notify the Assistant Attorney General and the Chairman of the EEOC

in writing of the action it plans to take and the basis of its decision to take such action.

§ 42.609 EEOC reasonable cause determination and conciliation efforts.

(a) If EEOC, after investigation of a joint complaint, determines that reasonable cause exists to believe that Title VII has been violated, EEOC shall advise the referring agency, the complainant and the recipient of that determination and attempt to resolve the complaint by informal methods of conference, conciliation and persuasion. If EEOC would like the referring agency to participate in conciliation negotiations, EEOC shall so notify the agency and the agency shall participate. EEOC shall provide advance notice of any conciliation negotiations to referring agencies that request such notice, whether or not EEOC requests their participation in the negotiations.

(b) If EEOC's efforts to resolve the complaint by informal methods of conference, conciliation and persuasion fail, EEOC shall:

(i) Issue a notice of failure of conciliation to the recipient in accordance with 29 CFR 1601.25;

(ii) Transmit to the referring agency a copy of EEOC's investigative file, including its Letter of Determination and notice of failure conciliation;

(iii) If the recipient is not a government, governmental entity or political subdivision, determine whether EEOC will bring suit under Title VII and, in accordance with 29 CFR 1601.28, issue a notice of right to sue under Title VII;

(iv) If the recipient is a government, governmental entity or political subdivision, refer the matter to the Attorney General in accordance with 29 CFR 1601.29. The Attorney General, or his or her delegate, will determine whether the Department of Justice will bring suit under Title VII and, in accordance with 29 CFR 1601.28, issue a notice of right to sue under Title VII.

§ 42.610 Agency enforcement of unresolved complaints.

(a) Upon EEOC's transmittal of a reasonable cause determination and notice of failure of conciliation under § 42.609(b)(ii) of this regulation, the referring agency shall determine, within thirty days, whether the recipient has violated any applicable civil rights provision(s) which the agency has a responsibility to enforce. The referring agency shall give due weight to EEOC's determination that reasonable cause exists to believe that Title VII has been violated.

(b) If the referring agency determines that the recipient has violated any applicable civil rights provision(s) which the agency has a responsibility to enforce, the agency shall so notify the complainant and the recipient and determine whether further efforts to obtain voluntary compliance are warranted. In reaching that determination, the agency shall give due weight to the failure of EEOC's efforts to resolve the complaint by informal methods. If the referring agency determines that further efforts to obtain voluntary compliance are not warranted or if such further efforts fail, the agency shall initiate appropriate enforcement proceedings under its own regulations.

(c) If the referring agency determines that the recipient has not violated any applicable civil rights provision(s) which the agency has a responsibility to enforce, the agency shall notify the complainant, the recipient, the Assistant Attorney General and the Chairman of the EEOC in writing of the basis of that determination.

§ 42.611 EEOC negotiated settlements and conciliation agreements.

If the parties enter into a negotiated settlement (as described in 29 CFR 1601.20) prior to a determination or a conciliation agreement (as described in 29 CFR 1601.24) after a determination, EEOC shall notify the referring agency that the complaint has been settled. The agency shall take no further action on the complaint of employment discrimination thereafter except that the agency may take the existence of the complaint into account in scheduling the recipient for a review under the agency's regulations.

§ 42.612 Interagency consultation.

(a) Before investigating whether the employment practices of a recipient of Federal financial assistance constitute a pattern or practice of unlawful discrimination or initiating formal administrative enforcement procedures on that basis, an agency shall, to the extent practical, consult with the Chairman of the EEOC and the Assistant Attorney General to assure that duplication of effort will be minimized.

(b) Prior to the initiation of any legal action against a recipient of Federal financial assistance alleging unlawful employment practices, the Department of Justice and/or EEOC shall, to the extent practical, notify the appropriate agency or agencies of the proposed action and the substance of the allegations.

§ 42.613 Definitions.

As used in this regulation, the term:

(a) "Agency" means any Federal department or agency which extends Federal financial assistance subject to any civil rights provision(s) to which this regulation applies.

(b) "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice, or his or her delegate.

(c) "Chairman of the EEOC" refers to the Chairman of the Equal Employment Opportunity Commission, or his or her delegate.

(d) "EEOC" means the Equal Empoyment Opportunity Commission and, where appropriate, any of its District Offices.

(e) "Federal financial assistance" includes: (1) Grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. For purposes of this regulation, the term "Federal financial assistance" also includes funds disbursed under the revenue sharing act.

(f) "Joint complaint" means a complaint of employment discrimination covered by Title VII or the Equal Pay Act and by Title VI, Title IX, or the revenue sharing act.

(g) "Recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such terms does not include any ultimate beneficiary under such program.

(h) "Revenue sharing act" refers to the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. 1221 *et seq.*

(i) "Title VI" refers to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d–4. Where appropriate, "Title VI" also refers to the civil rights provisions of other Federal statutes or regulations to the extent that they prohibit employment discrimination on

the ground or race, color, religion, sex or national origin in programs receiving Federal financial assistance of the type subject to Title VI itself.

(j) "Title VII" refers to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, *et seq.*

(k) "Title IX" refers to Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 to 1683.

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Communications Equipment
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Family Planning
Public Health Service

Income Taxes
Internal Revenue Service

Mortgages
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National Banks
Comptroller of Currency

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Environmental Protection Agency

Prisoners
Parole Commission

Privacy
Justice Department

Quarantine
Animal and Plant Health Inspection Service

Reporting and Recordkeeping Requirements
Securities and Exchange Commission

Savings and Loan Associations
Federal Home Loan Bank Board

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Presidential Documents

Title 3—

The President

Presidential Determination No. 83–4 of January 3, 1983

Presidential Determination With Respect to Pakistan

Memorandum for the Honorable George P. Shultz, the Secretary of State

Pursuant to the authority vested in me by Section 4 of the Arms Export Control Act, I hereby determine that the financing under the Arms Export Control Act of the sale to Pakistan of F–16 aircraft, together with associated equipment, munitions, and services, is important to the national security of the United States.

Pursuant to the authority vested in me by Section 163 of the second Joint Resolution appropriating funds for fiscal year 1983 (P.L. 97–377), I hereby certify that I have reliable assurances that Pakistan will not transfer sensitive United States equipment, materials, or technology in violation of agreements entered into under the Arms Export Control Act to any communist country, or to any country that receives arms from a communist country.

This determination, together with the justification therefor, shall be reported to Congress.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, January 3, 1983.

[FR Doc. 83–2307
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 82-353]

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rules.

SUMMARY: This document affirms seven interim rules which amended the Mediterranean fruit fly quarantine and regulations for California. These interim rules changed the list of regulated areas and the last of these interim rules also removed the Mediterranean fruit fly quarantine and regulations for California. Based on trapping and sampling surveys, it has been determined that the Mediterranean fruit fly has been eradicated from all of California, and that a quarantine and regulations are no longer necessary to prevent the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States.

It appears that the factual situations set forth in each of the interim rules provided a basis for the actions taken. Accordingly, the actions taken in these interim rules are affirmed.

EFFECTIVE DATE: January 26, 1983.

FOR FURTHER INFORMATION CONTACT: B. Glen Lee, Emergency Programs Coordinator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 609, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6365.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This affirmation of interim rules is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that the actions taken in the interim rules will have an annual effect on the economy of less than $750,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512–1.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that the actions affirmed by this document will not have a significant economic impact on a substantial number of small entities. The actions affected the interstate movement of previously regulated articles from previously regulated areas. These previously regulated areas consisted of all or portions of Alameda, Los Angeles, San Benito, San Joaquin, San Mateo, Santa Clara, Santa Cruz, and Stanislaus Counties in California. There are thousands of small entities that move such articles interstate from California and many more thousands of small entities that move such articles interstate from other States. However, based on information compiled by the U.S. Department of Agriculture, it has been determined that fewer than 250 small entities move such articles interstate from the previously regulated areas. Further, the overall economic impact from this action is estimated to be less than $750,000.

Background

The Mediterranean fruit fly quarantine and regulations had been set forth in 7 CFR 301.78 *et seq.* During the period from June 1, 1982, through September 21, 1982, seven interim rules were published in the **Federal Register** concerning the Mediterranean fruit fly quarantine and regulations.

These interim rules changed the lists of regulated areas in the quarantine and regulations by:

(1) Deleting areas in Los Angeles, San Benito, and Stanislaus Counties, (47 FR 23682–23683, June 1, 1982),

(2) Deleting areas in Santa Clara and Santa Cruz Counties (47 FR 26121–26122, June 17, 1982),

(3) Deleting all of Alameda County and an area in Santa Clara County (47 FR 28909–28911, July 2, 1982),

(4) Adding an area in San Joaquin County, (47 FR 29207–29209, July 6, 1982),

(5) Deleting areas in Santa Clara and Santa Cruz Counties (47 FR 34109–34111, August 6, 1982),

(6) Deleting all of San Mateo County and an area in Santa Clara County, (47 FR 38861–38862, September 3, 1982), and

(7) Deleting the last regulated area, an area in San Joaquin County (47 FR 41509–41510, September 21, 1982).

Also, the document published in the **Federal Register** on September 21, 1982, removed the quarantine and regulations (47 FR 41509–41510).

The quarantine and regulations were removed because it was determined, based on trapping and sampling surveys, that the Mediterranean fruit fly had been eradicated from all of California, and that a quarantine and regulations were no longer necessary to prevent the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States.

Comments were solicited for 60 days after publication of each of the seven documents. No comments were received in response to any of the documents.

It appears that the factual situations set forth in each of the documents provided a basis for the actions taken. Accordingly, it has been determined that the actions referred to above, including the action to remove the quarantine and regulations, are affirmed.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mediterranean fruit fly.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 7 CFR 2.17, 2.51, and 371.2(c))

Done at Washington, D.C., this 21st day of January 1983.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-2129 Filed 1-25-83; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 83-42]

Home Loan Amendments; Extension of Transition Period

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is extending the transition period during which Federal savings and loan associations may continue to make home loans pursuant to regulations in effect prior to August 16, 1982. This action permits associations to continue to use the previously existing authority during the pendency of proposed amendments to the regulations governing the operations of Federal associations, including real estate lending.

DATE: Effective January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Neil R. Crowley (202-377-6417), Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On August 11, 1982, Board Resolution 82-558 amended the regulations governing home loans made by Federal associations by replacing regulations authorizing the use of specific types of mortgage instruments with a general authorization to make loans on which the interest rate, the payment, the loan balance or the term to maturity may be adjusted. 47 FR 36612 (1982). The regulations require associations to provide loan applicants comprehensive information in writing regarding the terms of the loan. In order to facilitate transition to the new requirements, the Board permitted associations to continue to make loans under previously existing authority, and to conform to the disclosure requirements of those regulations, until December 31, 1982.

Because the Board recently proposed amendments to all of the regulations governing the operations of Federal associations, including real estate lending (Board Resolution No. 82-813 (December 16, 1982)), the Board has determined that it would be appropriate to extend the transition period for using the authority to make home loans in existence prior to August 16, 1982. Accordingly, the transition period provided in 12 CFR 545.6-2(a)(8) is being extended until the later of June 30, 1983, or final action on Board Resolution No. 82-813.

The Board finds that observance of the notice and comment period of 12 CFR 508.12 and 5 U.S.C. 553(b) is unnecessary because the amendments adopted in Board Resolution 82-813 already have been published for public comment, and that observance of the 30-day delay of effective date of 12 CFR 508.14 and 5 U.S.C. 553(d) is unnecessary because the amendments relieve a restriction.

Accordingly, the Board hereby amends Part 545, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

List of Subjects in 12 CFR Part 545

Savings and loan associations.

Subchapter C—Rules and Regulations for Federal Savings and Loan System

PART 545—OPERATIONS

Revise paragraph (a)(8) of § 545.6-2 as follows:

§ 545.6-2 Other residential real estate loans.

(a) Home loans.

* * * * *

(8) Until the later of June 30, 1983, or final Board action on Board Resolution No. 82-813, associations may, or may commit to, make, purchase, participate or otherwise deal in loans made pursuant to §§ 545.6-4, 545.6-4a and 545.6-4b of this Part, as those sections were constituted prior to August 16, 1982.

* * * * *

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947; 3 CFR, 1943-1948 Comp., p. 1071)

Dated: January 20, 1983.

J. J. Finn,

Secretary.

[FR Doc. 83-2110 Filed 1-25-83; 8:45 am]

BILLING CODE 6720-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 208

[Economic Reg. Amdt. No. 36, Dockets 40336, 38621; ER-1312]

Terms, Conditions and Limitations of Certificates To Engage in Charter Air Transportation; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Correction to Conforming Amendment.

SUMMARY: In ER-1312 at 48 FR 226, January 4, 1983, the CAB conformed its rules to take account of its recent codification of its domestic baggage liability rules. Because of a typographical error, the amendatory language of ER-1312 incorrectly stated that § 208.39 was amended. The correct citation, as discussed in the preamble of a related rule at 48 FR 226, is § 208.30.

DATES:

Effective January 1, 1983.

Adopted December 22, 1982.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5442.

List of Subjects in 14 CFR Part 208

Charter flights, Insurance, Military air transportation, Reporting requirements, Surety bonds, Travel agents.

Accordingly the references to § 208.39 in ER-1312 at 48 FR 227 are corrected to § 208.30.

Dated: January 21, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2147 Filed 1-25-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 221

[Economic Reg. Amdt. No. 62; Dockets 40336, 38621; ER-1310]

Tariffs; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Correction to Conforming Amendment.

SUMMARY: In ER-1310 at 48 FR 227, January 4, 1983, the CAB conformed Board-mandated notices concerning baggage liability to remove unnecessary references to domestic baggage liability from countersigns and ticket notices because they are governed by a new, recently adopted baggage rule. This notice corrects an inadvertent omission in the amendatory language of the

amendment. Instead of stating that 14 CFR 221.176 was amended, it should have specified that only paragraphs (a) and (b) of that section were being changed. Section 221.176 (c) through (g) remain unchanged.

DATES:

Adopted December 22, 1982.

Effective February 22, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5442.

List of Subjects in 14 CFR Part 221

Air rates and fares, Credit, Explosives, Freight, Handicapped.

Accordingly, amendatory paragraph 2 in column 3 at 48 FR 227 is corrected to read:

2. Section 221.176 *Notice of limited liability for baggage: alternative consolidated notice of baggage liability* is amended to remove the references to domestic baggage liability so that § 221.176 (a) and (b) are revised to read:

Dated: January 21, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2146 Filed 1-25-83; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-49A]

Staff Accounting Bulletin No. 49A

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: Staff Accounting Bulletin No. 49 (SAB 49), which was released on October 26, 1982 (47 FR 49627, Nov. 2, 1982), expressed the staff's views regarding disclosures by bank holding companies about loans to public and private sector borrowers located in countries that are experiencing liquidity problems. Since the issuance of SAB 49, the staff has received inquiries about its views with respect to the necessity to provide additional disclosures about restructurings of existing debt in these countries, funding of additional borrowings and other related matters. This staff accounting bulletin addresses these issues.

DATE: January 18, 1983.

FOR FURTHER INFORMATION CONTACT: Marc D. Oken or Edmund Coulson, Office of the Chief Accountant (202/272-2130); or Howard P. Hodges, Jr., Division of Corporation Finance (202/272-2553), Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

George A. Fitzsimmons,

Secretary.

January 18, 1983.

Staff Accounting Bulletin No. 49A

The staff herein adds Question 2 to Section H of Topic 11 of the Staff Accounting Bulletin Series. Section H discusses the appropriate disclosures by bank holding companies about loans to foreign countries that are experiencing liquidity problems.

Topic 11: Miscellaneous Disclosure

* * * * *

H. Disclosures by Bank Holding Companies About Certain Foreign Loans

* * * * *

Question 2:

What additional disclosures does the staff consider appropriate concerning developments occurring subsequent to the initial inclusion of the disclosures called for by Question 1 in a Securities Act or Securities Exchange Act filing?

Interpretive Response:

Generally, registrants should provide the most current information about outstandings to foreign countries experiencing liquidity problems when a periodic Exchange Act document or Securities Act offering is filed in order to make the information previously presented not materially misleading. While quantitative data need not be updated unless there is a material change, additional disclosures about any material subsequent developments may be necessary.

For example, certain foreign countries are currently negotiating with or have entered into agreements with U.S. lenders, other foreign banks, international lending agencies and others to restructure existing sovereign debt and to obtain additional new borrowings. The staff believes that such matters may be material developments, the disclosure of which would be essential to facilitate investor judgments about risks and uncertainties associated with lending activities in these countries. Generally, the disclosures should include discussions of the nature of such negotiations and a general description of any agreements, including the impact on the maturities of existing debt principal and on unpaid interest, any commitments of the registrant to extend additional borrowings to the foreign country, and any other arrangements such as agreements to maintain deposits with government banks.

An additional example of a material development that would warrant disclosure consideration relates to the status of private sector debt in certain foreign countries. The staff understands that at least one such foreign country is implementing a mechanism whereby the government's central bank would, in effect, purchase the obligation for past due interest payments of certain private sector borrowers who otherwise had the ability to make required interest payments on dollar denominated loans but were unable to exchange local currency for the necessary U.S. dollars. These arrangements are intended to enable otherwise creditworthy private sector borrowers to comply with the terms of their loan agreements as to interest payments.

As applied to any country using a mechanism of this general kind, there are complex considerations involved in evaluating whether interest payments pursuant to such a mechanism may be considered as "in substance" payments by the private sector borrowers for financial statement purposes and for purposes of determining whether such loans should be classified as nonperforming.[1] These determinations require careful analyses by registrants of the facts and circumstances, including the status of any scheduled principal payments.

The staff emphasizes that it is the responsibility of the registrant to determine the appropriate financial statement treatment and classification of loans. The staff believes, however, that the nature and impact of any arrangements such as the one referred to above often represent a material development which should be disclosed. The staff believes the following minimum disclosures about such arrangements are appropriate for countries which would be identified pursuant to Question 1[2] when total loans

[1] Industry Guide 3, "Statistical Disclosures by Bank Holding Companies," Item III.C.

[2] Question 1 was published in SAB 49 which was issued on October 26, 1982. Under either of the

by the registrant to all private sector borrowers in that foreign country are material[3] in relation to its total loans to such country:

- A general description of the private sector payment mechanism implemented.
- The amount of loans outstanding to private sector borrowers in that foreign country for which interest payments have been made under the payment mechanism and the status of principal payments due.
- The amounts of any interest accrued on loans to such borrowers in the most recent fiscal year and interim period which has not been remitted in dollars to the U.S. bank (this disclosure may be excluded if the total interest and fees recognized on such loans during the most recent fiscal year is clearly de minimis in relation to the total interest and fees recognized on all foreign loans).

The staff will continue to monitor closely accounting and disclosure practices in this area to ensure that appropriate information is being provided to investors and that the related financial statement treatment of foreign loans is not clearly inconsistent with any facts and circumstances which develop with respect to international lending matters.

[FR Doc. 83-2071 Filed 1-25-83; 8:45 am]
BILLING CODE 6010-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 1H5299/R128; PH-FRL 2291-3]

Metalaxyl; Tolerances for Pesticides in Food Administered by the Environmental Protection Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation for the combined residues of the fungicide metalaxyl and its metabolites in or on processed tomato products and processed potatoes, including potato chips and granules. This regulation to establish maximum permissible levels for residues of the fungicide in or on the commodities was requested, pursuant to a petition, by Ciba-Geigy Corporation.

EFFECTIVE DATE: January 26, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Rm. 3708, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA published a notice in the **Federal Register** of June 9, 1981 (46 FR 30562) that announced that the Ciba-Geigy Corporation, Agricultural Division, P.O. Box 11422, Greensboro, NC 27409, had submitted food additive petition 1H5299 to the Agency proposing that 21 CFR 193.277 be amended by establishing a regulation permitting residues of the fungicide metalaxly [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methyl)-*N*-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the food commodities processed tomatoes at 3.0 parts per million (ppm) and soybean meal at 1.0 ppm. The petition was subsequently amended (47 FR 53116, November 24, 1982) by adding the food additive tolerances for potato chips and potato granules at 4.0 ppm.

There were no comments received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a related document [PP 1F2500, 1F2532, 2F2695, 2F2732/R517] which appears elsewhere in this issue of the **Federal Register**. A feed additive regulation [FAP 1H5299/R129] for certain feed commodities also appears in this issue.

The food additive regulation for processed potatoes, including potato chips and processed tomatoes, will result in a theoretical maximum residue contribution (TMRC) of 0.45495 mg/day for a 60-kg person and will utilize 30.33 percent of the ADI. Tolerances for the raw agricultural commodities and feed items cited in the above final rule documents, will utilize 15.50 percent of the ADI.

The metabolism of metalaxyl is adequately understood, and an adequate analytical method, using gas chromatography, with flame ionization detector or mass spectrometry, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the food additive regulation is sought, and it is concluded that the pesticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) et seq.). Therefore, the food additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: January 13, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 193—[AMENDED]

Therefore, 21 CFR 193.277 is revised to read as follows:

§ 193.277 Metalaxyl.

(a) A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxy methyl-6-methyl)-*N*-methoxyacetyl)-alanine

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disclosure alternatives of SAB 49, registrants would identify countries in which the total public and private sector outstandings which are payable in U.S. dollars exceed one percent of the registrant's total consolidated outstandings.

[3] Generally, the staff believes that the disclosures should be provided if the private sector portion of the loan portfolio represents more than 20% of the total loans to such country or are otherwise material. The twenty percent criterion has been arbitrarily selected in the interest of facilitating disclosure and not as an indicator of a prudent level of lending to private sector borrowers in any country.

methylester, each expressed as metalaxyl, in or on the following food commodities:

Foods	Parts per million
Potatoes, processed (including potato chips)	4.0
Tomatoes, processed	3.0

(b) A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxy methyl-6-methyl)-*N*-methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in processed tomato products at 3.0 parts per million resulting from application of metalaxyl to growing tomatoes under an experimental use program. This regulation expires January 1, 1984.

[FR Doc. 83-2138 Filed 1-25-83; 8:45 am]
BILLING CODE 6560-50-M

21 CFR Part 561

[FAP 1H5299/R129; PH-FRL 2291-4]

Metalaxyl; Tolerances for Pesticides in Animal Feeds Administered by the Evironmental Protection Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation permitting the combined residues of the fungicide metalaxyl and its metabolites in or on dry tomato pomace, wet tomato pomace, and dried processed potato waste. This regulation to establish maximum permissible levels for residues of the fungicide in or on the commodities was requested, pursuant to a petition, by Ciba-Geigy Corporation.

EFFECTIVE DATE: January 26, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Rm. 3708, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C) Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA published a notice in the **Federal Register** of June 9, 1981 (46 FR 30562) that announced that the Ciba-Geigy Corporation, Agricultural Division, P.O. Box 11422, Greensboro, NC 27409, had submitted feed additive petition 1H5299 to the Agency proposing that 21 CFR 561.273 be amended by establishing a regulation permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxy methyl-6-methyl)-*N*-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the feed commodities dry tomato pomace at 16.0 parts per million (ppm), wet tomato pomace at 4.0 ppm, and soybean hulls and soapstock at 1.0 ppm. The petition was subsequently amended (47 FR 53116, November 24, 1982) by increasing the proposed feed additive tolerance for wet tomato pomace from 4.0 ppm to 5.0 ppm; deleting soybean hulls, soybean meal, and soybean soapstock; and adding dried potato meal at 4.0 ppm.

There were no comments received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a related document [PP 1F2500, 1F2531, 2F2531, 2F2732/R517] which appears elsewhere in this issue of the **Federal Register**. A food additive regulation [FAP 1H5299/R128] for certain food commodities also appears in this issue.

It is concluded that the tolerances established for residues of metalaxyl are adequate to cover any residues resulting from tomato pomace and dried processed potato waste used as animal feed. The feed additive regulation for dry tomato pomace, wet tomato pomace, and dried processed potato waste will result in a theoretical maximum residue contribution (TMRC) of .01705 mg/day for a 60-kg person and will utilize 1.14 percent of the ADI. Tolerances for the raw agricultural commodities and food items cited in the above documents, will utilize 44.69 percent of the ADI.

The metabolism of metalaxyl is adequately understood, and an adequate analytical method, gas chromatography with flame ionization detector or mass spectrometry, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the feed additive regulation is sought, and it is concluded that the pesticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) et seq.). Therefore, the feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds,
Pesticides and pests.

Dated: January 13, 1983.

Edwin L. Johnson,
Director, Office of Pesticide Programs.

PART 561—[AMENDED]

Therefore, 21 CFR 561.273 is revised to read as follows:

§ 561.273 Metalaxyl.

(a) A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methyl)-*N*-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the following feed commodities:

Feeds	Parts per million
Potato waste, dried, processed	4.0
Tomato pomace, dry	16.0
Tomato pomace, wet	5.0

(b) A regulation is established permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methyl)-*N*-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on wet tomato pomace at 5.0 parts per million (ppm), dry tomato pomace at 20.0 ppm, soybean hulls, soybean meal, and soybean soapstock at 1.0 ppm resulting from application of metalaxyl to growing tomatoes and soybeans under an experimental use program. This regulation expires January 1, 1984.

[FR Doc. 83-2130 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 390

[Docket No. R-82-1027]

Growing Equity and 10-Year Graduated Payment Mortgage-Backed Securities

AGENCY: Government National Mortgage Association, HUD.

ACTION: Final rule.

SUMMARY: This final rule establishes a new Mortgage-Backed Securities Program that provides for the guaranty by GNMA of securities based on and backed by pools of Growing Equity Mortgages (GEM's). GEM loans are single family mortgages which provide for monthly installments to increase annually for a predetermined term extending up to the maturity of the loan. Only GEM's that are eligible to be and are insured under the National Housing Act or are eligible to be and are guaranteed under Chapter 37 of Title 38, United States Code, will be eligible for inclusion in GNMA pools. This rule also amends the regulations governing the Graduated Payment Mortgage-Backed Securities Program to make eligible mortgages which provide for deferred payments of principal (and interest) and for monthly installments to increase for a period not to exceed the first ten years of the mortgages. Under existing regulations, only Graduated Payment Mortgages (GPM's) which provide for annually increasing monthly installments during the first five years may be included in GNMA pools. These amendments are intended to expand the secondary market in GEM's and GPM's and thereby make available additional mortgage money at reasonable interest rates, particularly to first-time homebuyers

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Richard W. Dyas, Vice President, Office of Mortgage-Backed Securities, Government National Mortgage Association, U.S. Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-8772. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Under section 306 (g) of the National Housing Act, as amended, the Government National Mortgage Association (GNMA) guarantees the timely payment of principal and interest on securities issued by approved private lenders. The securities are backed by federally insured or guaranteed mortgage loans. GNMA has customarily structured its programs to accommodate the parallel programs of the Department and the Veterans Administration (VA). Following this policy, GNMA established new single-family mortgage programs for 5-year Graduated Payment Mortgages (GPM's) insured by HUD in 1979 and for GPM's guaranteed by the VA in March 1982.

On November 23, 1982, HUD published in the **Federal Register** (47 FR 52727) a proposed rule to establish a new Mortgage-Backed Securities Program for Growing Equity Mortgages (GEM's) and expand the Graduated Payment Mortgage-Backed Securities Program to include 10-year GPM's. The proposed rule invited public comment for a 30-day period ending December 23, 1982. Four comments were received during the comment period, and they were generally in support of the amendments as set forth in the proposed rule. This final rule contains no changes in substance from the proposal.

The new program established by this final rule will accommodate GEM's with increasing payments for 10 years at 2 or 3 percent each year. HUD has insured these mortgages under section 245 of the National Housing Act since June 1982. This rule will also accommodate such other GEM or GPM programs as HUD or the VA may establish. To further facilitate the implementation of these programs, GNMA is reducing the minimum size of GPM and GEM pools to $500,000, from $1 million.

The eligibility of these loans for securities issuances will substantially enhance their marketability. HUD specifically seeks to encourage pension plan investment in housing thereby, to increase the availability of funds for mortgage lending and help maintain interest rates at reasonable levels.

Since this final rule will provide a benefit to homebuyers by increasing the availability of financing under the GEM and GPM programs, the Secretary has found that good cause exists for making this rule effective less than 30 days after its publication in the **Federal Register**. In addition, the requirements of section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), which provides for a delay in effectiveness of final rules for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairman and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs, and the House Committee on Banking, Finance and Urban Affairs, have been so waived. Accordingly, this final rule may become effective on the date set forth above.

A finding of no significant impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not:
(1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule merely expands the class of mortgages eligible to back securities guaranteed by GNMA.

This rule is listed at 47 FR 48448 as item GNMA-9-82 in the Department's Semiannual Agenda of Regulations published on October 28, 1982, pursuant

to Executive Order 12291 and the Regulatory Flexibility Act.

OMB Control Number

Information collection requirements contained in the Mortgage-Backed Securities Guide (GNMA 5500.1) referred to in 24 CFR 390.48 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control numbers 2503–0001, 2503–0004, 2503–0006, and 2503–0009.

GNMA's programs are not listed in the Catalog of Federal Domestic Assistance.

List of Subjects in 24 CFR Part 390

Mortgages, Securities.

PART 390—[AMENDED]

Accordingly, 24 CFR Part 390 is amended as follows: 1. Section 390.42 is revised to read as follows:

§ 390.42 Eligible mortgages.

Each issue of guaranteed securities shall be based on and backed by a pool of Graduated Payment Mortgages which:

(a) Are insured under the National Housing Act or guaranteed under Chapter 37 of Title 38, United States Code: *Provided,* That all such pooled mortgages shall provide for equal (level) monthly installments beginning no later than the 121st scheduled monthly installment; and

(b) Have a date for the first scheduled monthly payment of principal (which may be negative) and interest, or date of purchase from an Association approved auction, that is no more than 12 months prior to the date on which the Association makes its commitment to guarantee the issue of securities.

2. In § 390.43, paragraph (b) is revised to read as follows:

§ 390.43 Securities.

* * * * *

(b) *Issue Amount.* Each issue of securities shall be in an amount no less than $500,000. The total face amount of any issue of securities shall not exceed the aggregate scheduled unpaid principal balances of the mortgages in the pool as of the issue date of the securities. The Association and issuers reserve the right to consolidate pools of mortgages backing the securities with other pools backed by similar mortgages bearing the same interest rate and maturity dates.

* * * * *

3. Subparts D and E are respectively redesignated as "Subpart E—Marketing and Trading Requirements" and "Subpart F—Miscellaneous Provisions."

4. A new subpart D is added, to read as follows:

Subpart D—Growing Equity Mortgage-Backed Securities

Sec.

390.48 General.
390.48a Eligible issuers of securities.
390.48b Eligible mortgages.
390.48c Securities.
390.48d Pool Administration.
390.48e Guaranty.
390.48f Default.
390.48g Fees.

Subpart D—Growing Equity Mortgage-Backed Securities

§ 390.48 General.

This subpart provides for the guaranty by the Association of timely payment of principal and interest on modified pass-through securities based on and backed by eligible mortgages, which mortgages provide for annually increasing monthly installments. The Association is authorized by section 306(g) of the National Housing Act to make such guarantees. Issuance of securities under this subpart is subject to the provisions that follow, to the further provisions contained in the Mortgage-Backed Securities Guide (GNMA 5500.1), as it shall exist and be amended or supplemented from time to time, and to the contracts entered into by the participating parties. (Information collection requirements contained in the Mortgage-Backed Securities Guide have been approved by the Office of Management and Budget under OMB control number 2503–0001, 2503–0004, 2503–0006 and 2503–0009.)

§ 390.48a Eligible issuers of securities.

To be eligible to issue Growing Equity Mortgage-Backed Securities, an applicant shall satisfy those requirements applicable to the issuance of modified pass-through securities based on and backed by mortgages on one- to four-family residences as provided in § 390.3 (Eligible Issuers of Securities).

§ 390.48b Eligible mortgages.

Each issue of guaranteed securities shall be based on and backed by a pool of Growing Equity Mortgages which:

(a) Provide for monthly installments to increase annually for a predetermined term extending up to the maturity of the loan, and are eligible to be and are insured under the National Housing Act or are eligible to be and are guaranteed under Chapter 37 of Title 38, United States Code; and

(b) Have a date for the first scheduled monthly payment of principal and interest, or date of purchase from an Association-approved auction, that is no more than 12 months prior to the date on which the Association makes its commitment to guarantee the issue of securities.

§ 390.48c Securities.

(a) *Instruments.* Securities to be issued under this subpart shall be designated Growing Equity Mortgage-Backed Securities. They shall be issued in the form of modified pass-through type securities, which shall provide that each monthly installment payable to the holders shall consist of: (1) The interest due monthly on the securities computed as one-twelfth ($\frac{1}{12}$) of the annual rate provided for multiplied by the unpaid principal balance of the securities at the end of the prior month, and (2) the scheduled recoveries of principal due monthly on the pooled mortgages and apportioned to the holders by reason of the base and backing of these securities, such amounts of principal and interest to be remitted to the holders whether or not funds sufficient to pay an installment are collected by the issuer, together with (3) any apportioned prepayments or other unscheduled recoveries of principal on the pooled mortgages. Unscheduled recoveries of principal shall include amounts which an issuer must pay from its own funds to provide the holders with any principal that remains unrecovered after receipt of a final insurance claim settlement or other liquidation proceeds. At any time 90 days or more after default of any pooled mortgage the issuer may, at its option, repurchase such mortgage from the pool for an amount equal to the unpaid principal balance of the mortgage. The securities shall provide for specific maturity dates and dates upon which payments are to be made to the holders.

(b) *Issue Amount.* Each issue of securities shall be in an amount no less than $500,000. The total face amount of any issue of securities shall not exceed the aggregate scheduled unpaid principal balances of the mortgages in the pool as of the issue date of the securities. The Association and issuers reserve the right to consolidate pools of mortgages backing the securities with other pools backed by similar mortgages bearing the same interest rate and maturity dates.

(c) *Face Amount.* The original face amount of any security shall not be less than $25,000.

(d) *Transferability.* The securities are

freely transferable and assignable, but only on the books and records of the Association and the issuer.

§ 390.48d Pool Administration.

Administration of the securities and the pooled mortgages shall be in accordance with the provisions of § 390.9 (Pool Administration).

§ 390.48e Guaranty.

With respect to Growing Equity Mortgage-Backed Securities, the Association guarantees the timely monthly payment, whether or not collected, of the scheduled interest and principal installments, and any prepayments or other early recoveries of principal on the mortgages, as undertaken in the Association's guaranty appearing on the face of the instruments. The Association's guaranty is backed by the full faith and credit of the United States.

§ 390.48f Default.

Any failure or inability of an issuer to make fixed or other payments to securities holders when due shall be deemed an event of default under the guaranty agreement entered into between the Association and the issuer. Such other failures or inabilities of the issuer to perform any function or duty provided for in the guaranty agreement may also be deemed an event of default. Upon any default by an issuer, and payment by the Association under its guaranty, or any failure of the issuer to comply with the terms of the guaranty transaction, the Association may institute a claim against the issuer's fidelity bond, or may extinguish all right, title, or other interest of the issuer in the pooled mortgages, subject only to unsatisfied rights therein of the securities holders, by letter to the issuer making the mortgages the absolute property of the Association, or the Association may do both.

§ 390.48g Fees.

The Association may impose application fees, guaranty fees, securities transfer fees, and such other fees as it may deem appropriate.

(Sec. 309(a), National Housing Act (12 U.S.C. 1723a(a)); section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: January 18, 1983.

Warren Lasko,

Executive Vice President, Government National Mortgage Association.

[FR Doc. 83-2121 Filed 1-25-83; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 18

[T.D. 7872]

Certain Elections Under the Subchapter S Revision Act of 1982

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the time and manner of making certain elections, consents, and refusals under the Subchapter S Revision Act of 1982. This document also contains rules relating to the taxable year which the corporation may select in order to make the election to be an S corporation. Furthermore, it reflects the amendment made to that Act by the Technical Corrections Act of 1982. These regulations provide guidance to persons making these elections, consents, or refusals.

DATE: The temporary regulations generally apply to taxable years beginning after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Robert H. Ginsburgh of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to certain elections, consents, and refusals under various sections of the Internal Revenue Code of 1954 and under sections 2 and 6 of the Subchapter S Revision Act of 1982 (96 Stat. 1669). This document also reflects the amendment made to that Act by the Technical Corrections Act of 1982. These temporary regulations are included in Part 18, Temporary Income Tax Regulations Under the Subchapter S Revision Act of 1982. The temporary regulations provided by this document will remain in effect until superseded by later temporary or final regulations.

Special Analyses

The Commissioner of Internal Revenue has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB Implementation of the Order dated April 28, 1982.

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for these temporary regulations.

Drafting Information

The principal author of these temporary regulations is Robert H. Ginsburgh of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 18

Income taxes, Subchapter S Revision Act of 1982.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 18 is retitled and revised to read as follows:

PART 18—TEMPORARY INCOME TAX REGULATIONS UNDER THE SUBCHAPTER S REVISION ACT OF 1982

Sec.

18.0 Effective date of temporary regulations under the Subchapter S Revision Act of 1982.
18.1361-1 Election to treat qualified subchapter S trust as a trust described in section 1361(c)(2)(A)(i).
18.1362-1 Election to be an S corporation.
18.1362-2 Shareholders' consent.
18.1362-3 Revocation of election.
18.1362-4 Treatment of S termination year.
18.1377-1 Election to terminate year.
18.1378-1 Taxable year of S corporation.
18.1379-1 Transitional rules on enactment.
18.1379-2 Special rules for all elections, consents, and refusals.

Authority: Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and sec. 6(c)(3)(B)(iii) of the Subchapter S Revision Act of 1982 (96 Stat. 1669).

§ 18.0 Effective date of temporary regulations under the Subchapter S Revision Act of 1982.

The temporary regulations provided under §§ 18.1361-1, 18.1362-1 through 18.1362-4, 18.1377-1, 18.1379-1, and 18.1379-2 are effective with respect to taxable years beginning after 1982, and the temporary regulations provided under § 18.1378-1 are effective with respect to any election made after October 19, 1982.

§ 18.1361-1 Election to treat qualified subchapter S trust as a trust described in section 1361(c)(2)(A)(i).

(a) *Qualified subchapter S trust election.* This paragraph applies to the election provided in section 1361(d)(2) to

treat a qualified subchapter S trust (as defined in section 1361(d)(3)) as a trust described in section 1361(c)(2)(A)(i). The current income beneficiary of the trust or the legal representative of the current income beneficiary (or a natural or an adopted parent of the current income beneficiary in the case where a legal representative has not been appointed, but only if the current income beneficiary is a minor) shall make this election by signing and filing with the service center with which the corporation files its income tax return a statement that—

(1) Contains the name, address, and taxpayer identification number of the current income beneficiary, the trust, and the corporation,

(2) Identifies the election as an election under section 1361(d)(2),

(3) Specifies the date on which the election is to become effective (not earlier than 60 days before the date on which the election is filed), and

(4) Provides all information necessary to show that the current income beneficiary is entitled to make the election.

In all cases the corporation must make the election under section 1362(a) before an election under section 1361(d)(2) is made with respect to that corporation. In general, the election under section 1361(d)(2) must be filed within the 61-day period beginning on the date on which the stock of the corporation is transferred to the trust or within the 61-day period beginning on the first day of the first taxable year for which the election under section 1362(a) is effective, whichever period of time occurs later.

However, if stock of the corporation has been transferred to the trust on or before the date on which the corporation makes the election under section 1362(a), and if that election and that transfer are made before the beginning of the first day of the first taxable year for which that election is effective, the election under section 1361(d)(2) must be filed within the 61-day period beginning on the date on which the corporation makes the election under section 1362(a). When a grantor or another person is treated as the owner (under subpart E, part I, subchapter J, chapter 1 of the Code) of any stock in a small business corporation (determined without regard to section 1361(b)(1)(B)) that is held by the trust, the election under section 1361(d)(2) may not be made with respect to that corporation. Note that the election provided in section 1361(d)(2) does not itself constitute an election as to the status of the corporation; the corporation must make the election provided in section 1362(a) to be treated as an S corporation.

(b) *Successive income beneficiary.* If a prior income beneficiary of a qualified subchapter S trust has made an election under section 1361(d)(2), the successive income beneficiary of the trust shall be treated as consenting to the election unless that beneficiary affirmatively refuses to consent to the election. The successive income beneficiary of the trust shall make the affirmative refusal to consent by signing and filing with the service center with which the corporation files its income tax return a statement that—

(1) Contains the name, address, and taxpayer identification number of the successive income beneficiary, the trust, and the corporation,

(2) Identifies the refusal as an affirmative refusal to consent under section 1361(d)(2),

(3) Sets forth the date on which the successive income beneficiary became the income beneficiary, and

(4) Provides all information necessary to show that the successive income beneficiary is entitled to make this refusal.

The affirmative refusal to consent must be filed within 60 days after the date on which the successive income beneficiary became the income beneficiary. The affirmative refusal to consent shall be effective as of the date on which the successive income beneficiary became the income beneficiary.

(c) *Revocation of election under section 1361(d)(2).* An election made under section 1361(d)(2) may be revoked only with the consent of the Commissioner. An application for consent to revoke the election shall be signed by the current income beneficiary and filed with the service center with which the election was properly filed and shall—

(1) Contain the name, address, and taxpayer identification number of the current income beneficiary, and of the trust and the corporation identified in connection with the election,

(2) Identify the election being revoked as an election under section 1361(d)(2), and

(3) Explain why the current income beneficiary seeks to revoke the election.

§ 18.1362-1 Election to be an S corporation.

(a) *Manner of making election.* To make the election to be an S corporation, a small business corporation should file Form 2553, containing all the information required by that form. With respect to each shareholder who is required by paragraph (b) of § 18.1362-2 to consent to the election of the corporation, such shareholder shall make the consent in the manner provided in paragraph (a) of that section. The election form shall be signed by any person who is authorized to sign the return required to be filed under section 6037 and shall be filed with the service center designated in the instructions applicable to Form 2553.

(b) *Time of making election.* The election must be filed either at any time during the taxable year that immediately precedes the first taxable year for which the election is to be effective, or at any time during that portion of the first taxable year for which the election is to be effective which occurs before the 16th day of the third month of that year (or at any time during that year, if that year does not extend beyond the prescribed period of time). For example, if a corporation begins its first taxable year on January 5, 1983, an election will be effective beginning with the corporation's first taxable year only if the election is made within the period beginning after January 4, 1983, and ending before March 20, 1983. If a corporation makes an election for a taxable year that meets all the requirements provided in this section except that—

(1) The election is made at any time during that portion of that year which occurs after the 15th day of the third month of that year, or

(2) Any person who held stock at any time during that portion of that year which occurs before the time the election is made, and who does not hold stock at the time the election is made, does not consent to the election, the election is treated as being made for the next taxable year. In addition, if a corporation makes an election for a taxable year that meets all the requirements provided in this section, but if the corporation does not meet all the requirements provided in section 1361(b) at any time during that portion of that year which occurs before the time the election is made, the election is treated as being made for the next taxable year provided that the corporation meets all the requirements provided in section 1361(b) at the time the election is made.

§ 18.1362-2 Shareholders' consent.

(a) *Manner of making consent.* The consent of a shareholder to an election by a small business corporation must be made either on Form 2553 or on a separate statement signed by the shareholder in which the shareholder consents to the election of the corporation. The separate statement

must also set forth the name, address, and taxpayer identification number of the corporation and of the shareholder, the number of shares of stock owned by the shareholder, and the date (or dates) on which the stock was acquired. When a shareholder's consent is made on a separate statement, that statement must be attached to the election of the corporation. The shareholder's consent is binding and may not be withdrawn after a valid election is made by the corporation. The election of the corporation is not valid if any consent required by paragraph (b) of this section is not timely filed. See paragraph (c) of this section for the rules relating to extension of time for filing consents.

(b) *Persons required to consent*—(1) *In general.* Each person who is a shareholder (including any person who is treated as a shareholder under section 1361(c)(2)(B)) at the time the election is made must consent to the election of the corporation. If the election is made within the corporation's first taxable year for which it is effective, each person who was a shareholder (including any person who was treated as a shareholder under section 1361(c)(2)(B)) at any time during that portion of that year which occurs before the time the election is made, and who is not a shareholder at the time the election is made, must also consent to the election of the corporation.

(2) *Special rules.* When stock of the corporation is owned by a husband and wife as community property (or the income from which is community property), or is owned by tenants in common, joint tenants, or tenants by the entirety, each person having a community interest in such stock and each tenant in common, joint tenant, and tenant by the entirety must consent to the election. The consent of a minor must be made by the minor or by the legal representative of the minor (or by a natural or an adopted parent of the minor if no legal representative has been appointed). The consent of an estate must be made by an executor or administrator thereof. Where stock of the corporation is held by a trust that is described in section 1361(c)(2)(A)(i) or that is treated as a trust described in that section, each deemed owner who is considered to be a shareholder for purposes of section 1361(b)(1) must consent to the election; in the case of stock that is held by a trust to which that stock was transferred pursuant to the terms of a will, the estate of the testator that is considered to be the shareholder for purposes of section 1361(b)(1) must consent to the election; in the case of stock that is held by a trust that is described in section 1361(c)(2)(A)(iii), each beneficiary who is considered to be a shareholder for purposes of section 1361(b)(1) must consent to the election.

(c) *Extension of time for filing consents.* An election that is timely filed for any taxable year, and that would be valid except for the failure of any shareholder to file a timely consent, is not invalid for such reason if—

(1) It is shown to the satisfaction of the district director or director of the service center with which the corporation files its income tax return that there was reasonable cause for the failure to file such consent and that the interests of the Government will not be jeopardized by treating such election as valid,

(2) Such shareholder files a proper consent to the election within such extended period of time as may be granted by the Internal Revenue Service, and

(3) New consents are filed within such extended period of time as may be granted by the Internal Revenue Service, by all persons who were shareholders of the corporation at any time during the taxable year with respect to which the failure to consent would (but for the provisions of this paragraph) cause the corporation's election to be invalid, and by all persons who were shareholders of the corporation within the period beginning after such taxable year and ending before the date on which an extension of time is granted in accordance with this paragraph.

§ 18.1362–3 Revocation of election.

An election made under section 1362(a) may be revoked by the corporation for any taxable year of the corporation. A revocation can be made only with the consent of shareholders who hold at the time the revocation is made more than one-half of the number of issued and outstanding shares of stock (including nonvoting stock) of the corporation. Such revocation shall be made by the corporation by filing a statement that the corporation revokes the election made under section 1362(a), which statement shall state the number of shares of stock (including nonvoting stock) that is issued and outstanding at the time the revocation is made and shall indicate the date on which the revocation shall be effective. The statement shall be signed by any person authorized to sign the return required to be filed under section 6037 and shall be filed with the service center with which the election was properly filed. In addition, there shall be attached to the statement of revocation a statement of consent, signed by each shareholder who consents to the revocation by the corporation of the election made under section 1362(a) and stating the number of issued and outstanding shares of stock (including nonvoting stock) that is held by each such shareholder at the time the revocation is made, in which each such shareholder consents to the revocation by the corporation of the election made under section 1362(a). For the rules relating to the effective date of a revocation, see section 1362(d)(1) (C) and (D).

§ 18.1362–4 Treatment of S termination year.

In the case of a taxable year of a corporation that is an S termination year (as defined in section 1362(e)(4)), the corporation may elect under section 1362(e)(3) to have the rules provided in section 1362(e)(2) (relating to pro rata allocation of items) not apply. The election can be made only with the consent of all persons who are or were shareholders in the corporation at any time during the S termination year. Such election shall be made by the corporation by filing a statement that the corporation elects under section 1362(e)(3) to have the rules provided in section 1362(e)(2) not apply, which statement shall set forth the cause of the termination and the date thereof. The statement shall be signed by any person authorized to sign the return required to be filed under section 6037 and shall be filed with the return for the short taxable year described in section 1362(e)(1)(B). In addition, there shall be attached to the statement of election a statement of consent, signed by each person who is or was a shareholder in the corporation at any time during the S termination year, in which each such shareholder consents to the corporation making the election under section 1362(e)(3).

§ 18.1377–1 Election to terminate year.

In the case of a taxable year of an S corporation during which any shareholder terminates his or her entire shareholder interest in the corporation, the corporation may elect under section 1377(a)(2) to have the rules provided in section 1377(a)(1) applied as if the taxable year consisted of two taxable years. The election can be made only with the consent of all persons who are or were shareholders in the corporation at any time during such taxable year. Such election shall be made by the corporation by filing a statement that the corporation elects under section 1377(a)(2) to have the rules provided in section 1377(a)(1) applied as if the taxable year consisted of two taxable

years, which statement shall set forth the manner of the termination (*e.g.*, the sale of a shareholder's entire shareholder interest) and the date thereof and shall be filed with the return for such taxable year. The statement to be filed with the return for such taxable year shall be signed by any person authorized to sign the return required to be filed under section 6037. In addition, there shall be attached to the statement of election a statement of consent, signed by each person who is or was a shareholder in the corporation at any time during the taxable year, in which each such shareholder consents to the corporation making the election under section 1377(a)(2).

§ 18.1378–1 Taxable year of S corporation.

(a) *In general.* No corporation may make an election be an S corporation for any taxable year unless the taxable year is a permitted year. In addition, an S corporation shall not change its taxable year to any taxable year other than a permitted year. A permitted year is a taxable year ending on December 31 or is any other taxable year for which the corporation establishes a business purpose (within the meaning of § 1.442–1(b)(1)) to the satisfaction of the Commissioner.

(b) *Corporations qualifying for automatic change of taxable year to a taxable year ending December 31 and corporations adopting a taxable year ending December 31*—(1) *Qualification for automatic change.* Notwithstanding section 442 (relating to change of taxable year) and the regulations thereunder, a corporation may automatically change its taxable year to a taxable year ending on December 31 to comply with the permitted year requirement if all of its principal shareholders have taxable years ending on December 31, or if all of its principal shareholders concurrently change to such taxable year. A shareholder may not change his or her taxable year without securing prior approval from the Commissioner. See section 442 and the regulations thereunder. For purposes of this paragraph, a principal shareholder is a shareholder having 5% or more of the issued and outstanding stock of the corporation. See paragraph (d) of this section in the case where a corporation does not qualify under this subparagraph for an automatic change of its taxable year to a taxable year ending on December 31.

(2) *Effect of filing an election*—(i) *General rule.* The filing of an election to be an S corporation by a corporation that has, prior to making the election, adopted a taxable year ending other than on December 31, and that qualifies under paragraph (b)(1) of this section for an automatic change of its taxable year to a taxable year ending on December 31, shall constitute such automatic change for the first taxable year for which the election is effective. The filing of an election to be an S corporation by a corporation that has not, prior to making the election, adopted a taxable year shall constitute the adoption of a taxable year (or, if the corporation qualifies under paragraph (b)(1) of this section for the automatic change, the change to a taxable year) ending on December 31 for the first taxable year for which the election is effective. Where the taxable year has been changed pursuant to this subdivision and paragraph (b)(1) of this section, the first taxable year for which the election shall be effective shall commence on the first day of the first taxable year for which the election would have been effective if the taxable year had not been changed and shall end on December 31 of that taxable year. See § 18.1362–1(b) for the time within which to make an election to be an S corporation. The rules contained in this subparagraph are inapplicable with respect to any election governed by paragraph (b)(3) of this section or by paragraph (c) of this section.

(ii) *Request to retain (or adopt) a taxable year ending other than December 31.* A request to retain (or adopt) a taxable year ending other than on December 31 by a corporation subject to paragraph (b)(2)(i) of this section shall (except as provided in paragraph (b)(3)(ii) of this paragraph and in paragraph (c) of this section) be made on Form 2553 when the election to be an S corporation is filed. See § 18.1362–1(a) for the manner of making an election to be an S corporation. If such corporation receives permission to retain (or adopt) a taxable year ending other than on December 31, the election shall be effective and the provisions of paragraph (b)(2)(i) of this section shall be inapplicable. Denial of the request shall render the election ineffective unless—

(A) The request is accompanied by another request in which the corporation states that, in the event the request to retain (or adopt) a taxable year ending other than on December 31 is denied, it chooses to be governed by the provisions of paragraph (b)(2)(i) of this section, or

(B) The Commissioner waives the requirement to file the additional request described in paragraph (b)(2)(ii)(A) of this section and permits the corporation to be governed by the provisions of paragraph (b)(2)(i) of this section.

(3) *Elections filed after October 19, 1982, and before January 26, 1983*—(i) *General rule.* The filing of an election to be an S corporation within the period beginning after October 19, 1982, and ending before January 26, 1983, shall constitute—

(A) In the case of a corporation that has, prior to making the election, adopted a taxable year ending other than on December 31, and that qualifies under paragraph (b)(1) of this section for an automatic change of its taxable year to a taxable year ending on December 31, such automatic change for the first taxable year for which the election is effective, provided that a tax return for such first taxable year is filed by the corporation by the following March 15 (including extensions), or

(B) In the case of a corporation that has not, prior to making the election, adopted a taxable year, the adoption of a taxable year (or, if the corporation qualifies under paragraph (b)(1) of this section for the automatic change, the change to a taxable year) ending on December 31 for the first taxable year for which the election is effective, provided that a tax return for such first taxable year is filed by the corporation by the following March 15 (including extensions).

Where the taxable year has been changed pursuant to this subdivision and paragraph (b)(1) of this section, the first taxable year for which the election shall be effective shall commence on the first day of the first taxable year for which the election would have been effective if the taxable year had not been changed and shall end on December 31 of that taxable year. See § 18.1362–1(b) for the time within which to make an election to be an S corporation. The failure to file the tax return required by this subdivision shall render the election to be an S corporation ineffective. The rules contained in this subparagraph are inapplicable with respect to any election governed by paragraph (c) of this section.

(ii) *Request to retain (or adopt) a taxable year ending other than December 31.* If a corporation that is subject to paragraph (b)(3)(i) of this section filed an election to be an S corporation within the period beginning after October 19, 1982, and ending before January 26, 1983, and wishes to retain (or adopt) a taxable year ending other than on December 31, such corporation must (except as provided in paragraph (c) of this section) file before March 16, 1983, a request to retain (or

adopt) such taxable year. The request must also include the name, address, and taxpayer identification number of the corporation and must be filed with the service center with which the corporation files its income tax return. If the corporation receives permission to retain (or adopt) a taxable year ending other than on December 31, the election shall be effective and the provisions of paragraph (b)(3)(i) of this section shall be inapplicable. Denial of the request shall render the election ineffective unless—

(A) The request is accompanied by another request in which the corporation states that, in the event the request to retain (or adopt) a taxable year ending other than on December 31 is denied, it chooses to be governed by the provisions of paragraph (b)(3)(i) of this section, or

(B) The Commissioner waives the requirement to file the additional request described in paragraph (b)(ii)(A) of this section and permits the corporation to be governed by the provisions of paragraph (b)(i) of this section.

(c) *Special rules for certain elections.* A corporation (other than a corporation that was not in existence on January 1, 1982) that filed an election to be an S corporation within the period beginning after October 19, 1982, and ending before the 76th day after the close of its taxable year that ends in calendar year 1982, and that has a taxable year ending on September 30, October 31, or November 30, shall retain its taxable year (unless the corporation changes its taxable year in accordance with this section) and its election shall be effective.

(d) *Elections by corporations not qualifying for automatic change.* An election to be an S corporation made after October 19, 1982, by a corporation that has a taxable year ending other than on December 31, and that does not qualify under paragraph (b)(1) of this section for an automatic change of its taxable year to a taxable year ending on December 31, shall be ineffective unless the corporation has first secured a permitted year. At the request of a corporation wishing to secure a permitted year, the Commissioner shall make a determination that—

(1) The corporation's taxable year is a permitted year, or

(2) The corporation may, under § 1.442–1(b)(1), change its taxable year to a taxable year ending on December 31, or

(3) The corporation may, under §1.442–1(b)(1), change its taxable year to a taxable year ending other than on December 31, which taxable year shall be a permitted year.

§ 18.1379–1 Transitional rules on enactment.

(a) *Prior elections.* Any election that was made under section 1372(a) (as in effect before the enactment of the Subchapter S Revision Act of 1982), and that is still in effect as of the first day of a taxable year beginning in 1983, shall be treated as being an election made under section 1362(a). In addition, any election that was made under section 1371(g)(2) (as in effect before the enactment of that Act), and that is still in effect as of the first day of a taxable year beginning in 1983, shall be treated as being an election made under section 1362(d)(2).

(b) *Prior terminations.* For purposes of section 1362(g), any termination under section 1372(e) (as in effect before the enactment of the Subchapter S Revision Act of 1982) shall not be taken into account.

(c) *Time and manner of making an election under section 6(c)(3)(B) of the Subchapter S Revision Act of 1982.* In the case of a qualified oil corporation (as defined in section 6(c)(3)(B) of the Subchapter S Revision Act of 1982), the corporation may elect under that section of the Act to have the amendments made by the Act not apply and to have subchapter S (as in effect on July 1, 1982), chapter 1 of the Internal Revenue Code of 1954 apply. The election shall be made by the corporation by filing a statement that—

(1) Contains the name, address, and taxpayer identification number of the corporation and of each shareholder,

(2) Identifies the election as an election under section 6(c)(3)(B) of the Subchapter S Revision Act of 1982, and

(3) Provides all information necessary in the judgment of the district director to show that the corporation meets the requirements (other than the requirement of making this election) of a qualified oil corporation.

The statement shall be signed by any person authorized to sign the return required to be filed under section 6037 and by each person who is or was a shareholder in the corporation at any time during the taxable year beginning in 1983 and shall be filed with the return for that taxable year.

§ 18.1379–2 Special rules for all elections, consents, and refusals.

(a) *Additional information required.* If later regulations issued under the section of the Code or of the Subchapter S Revision Act of 1982 under which the election, consent, or refusal was made require the furnishing of information in addition to that which was furnished with the statement of election, consent, or refusal as provided by Part 18 of this Title, and if an office of the Internal Revenue Service requests the taxpayer to provide the additional information, the taxpayer shall furnish the additional information in a statement filed with that office of the Internal Revenue Service within 60 days after the date on which the request is made. This statement shall also—

(1) Contain the name, address, and taxpayer identification number of each party identified in connection with the election, consent, or refusal,

(2) Identify the election, consent, or refusal by reference to the section of the Code or Act under which the election, consent, or refusal was made, and

(3) Specify the scope of the election, consent, or refusal.

If the additional information is not provided within 60 days after the date on which the request is made, the election, consent, or refusal may, at the discretion of the Commissioner, be held invalid.

(b) *State law incorporator.* For purposes of any election, consent, or refusal provided in Part 18 of this Title, any person who is considered to be a shareholder for state law purposes solely by virtue of his or her status as an incorporator shall not be treated as a shareholder.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and section 6(c)(3)(B)(iii) of the Subchapter S Revision Act of 1982 (96 Stat. 1669))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: January 14, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83–2029 Filed 1–21–83; 10:43 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: United States Parole Commission.

ACTION: Correction of previous publication and confirmation of effective date.

SUMMARY: On December 16, 1982, the Parole Commission published new paroling policy guidelines to be effective January 31, 1983. The salient factor score, a facet of those guidelines which had not been under consideration for revision, contained several printer's errors when reprinted in this publication. A correction was published on January 11, 1983 (48 FR 1193). This correction was incomplete, and the complete correction appears below. The Commission now confirms the original effective date notwithstanding the fact that the corrections have appeared in print less than 30 days before the new guidelines will become effective. The Commission finds good cause not to delay the effective date because the subject-matter of the corrected rule is limited to a computation of items of legal record which prisoners have had ample previous notice to study and rectify and because no genuine prejudice would be likely to result from the foreshortened notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Michael A. Stover, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815, Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION:

1. The Corrected Salient Factor Score

The new paroling policy guidelines (28 CFR 2.20), which contain revisions to the offense severity table previously the subject of notice and public comment, were published at 47 FR 56334 (December 16, 1982), bearing an effective date of January 31, 1983. The salient factor score, which is a part of those guidelines, contained a number of printer's errors even though the score had not been under consideration for revision and was merely being reprinted for the sake of completeness. An incomplete correction was published at 48 FR 1193 (January 11, 1983).

The correct version of the score appears below. (The original errors appeared in both the right and left hand columns of Item A and the right hand column of Item B. The January 11, 1983, correction inadvertently repeated the error in the left hand column of Item A.)

BILLING CODE 4410-01-M

SALIENT FACTOR SCORE (SFS 81)

Item A: PRIOR CONVICTIONS/ADJUDICATIONS (ADULT OR JUVENILE)..... ☐

None ..... = 3
One ..... = 2
Two or three ... = 1
Four or more ... = 0

Item B: PRIOR COMMITMENT(S) OF MORE THAN THIRTY DAYS (ADULT OR JUVENILE).. ☐

None ..... = 2
One or two ..... = 1
Three or more .. = 0

Item C: AGE AT CURRENT OFFENSE/PRIOR COMMITMENTS..... ☐

Age at commencement of the current offense:
26 years of age or more ..... = 2 ***
20-25 years of age ..... = 1 ***
19 years of age or less ..... = 0

***EXCEPTION: If five or more prior commitments of more than thirty days (adult or juvenile), place an "x" here _____ and score this item ..... = 0.

Item D: RECENT COMMITMENT FREE PERIOD (THREE YEARS)..... ☐

No prior commitment of more than thirty days (adult or juvenile) or released to the community from last such commitment at least three years prior to the commencement of the current offense..... = 1

Otherwise ..... = 0

Item E: PROBATION/PAROLE/CONFINEMENT/ESCAPE STATUS VIOLATOR THIS TIME..... ☐

Neither on probation, parole, confinement, or escape status at the time of the current offense; nor committed as a probation, parole, confinement, or escape status violator this time..... = 1

Otherwise ..... = 0

Item F: HEROIN/OPIATE DEPENDENCE..... ☐

No history of heroin/opiate dependence ..... = 1

Otherwise ..... = 0

TOTAL SCORE..... ☐

NOTE: For purposes of the Salient Factor Score, an instance of criminal behavior resulting in a judicial determination of guilt or an admission of guilt before a judicial body shall be treated as as conviction, even if a conviction is not formally entered.

BILLING CODE 4410-01-C

2. Confirmation of the Original Effective Date

Although some prisoners may receive their initial hearings before thirty days elapse from the first reappearance in print of the correct salient factor score, such prisoners will not be prejudiced. We note first of all that a correct version of the score was actually distributed and posted throughout the Federal prison system, beginning January 3, 1983, and that this is the score which appears in the current Code of Federal Regulations.

With respect to the published error, the matters in question contain exclusively a mathematical computation of items of legal record, that is, prior criminal convictions and incarcerations. If a prisoner has not adequately researched his own record because of reliance on the incorrect score as published in 47 FR 56334 (December 16, 1982), the appeals provided at 28 CFR 2.25 and 2.26 more than adequately give him time to present any contrary proof to correct the record already furnished to the Commission. Prisoners who simply thought their guideline range would be more lenient will be disabused by actual notice provided in the prehearing review forms commonly sent to prisoners, or at the hearing itself. There is no legal prejudice in discovering the applicable guidelines for the first time at the initial hearing. See *Bowles* v. *Tennant*, 613 F.2d 776 (9th Cir. 1980).

Moreover, each prisoner's prior criminal record is contained in his presentence report, which is disclosed to him or his counsel at sentencing under Rule 32, Federal Rules of Criminal Procedure. Since a defendant's prior record is a self-evidently important concern for the sentencing court, we presume that any supposed errors in the record would have been pointed out to the court well before the defendant came before the Parole Commission, and the presentence report corrected accordingly.

By our calculations, the burden to the agency in delaying the carefully-planned implementation of the revised guidelines outweighs the actual need to ensure a full thirty day delay before the new guidelines become effective. A delay would not give prisoners the benefit of any different score, because the score which appears above and in the Code of Federal Regulations would be that applied. Moreover, in the instance of prisoners favorably affected by changes to the guidelines, a delay would give rise to more complaints of unfairness that the Commission expects to hear from prisoners who had let genuine errors in their criminal records go uncorrected in reliance on the incorrect salient factor score published on December 16, 1982.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners—Probation and parole.

Accordingly, pursuant to 18 U.S.C. 4203(a)(4) and 4204(a)(6), the effective date of the revisions to Title 28 CFR 2.20, published in the Federal Register on December 16, 1982, is hereby confirmed as January 31, 1983.

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: January 18, 1983.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 83-2290 Filed 1-25-83; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 2285-2]

Approval and Promulgation of Implementation Plans; Approval of Revision of the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves amendments to Delaware's Regulation No. II—Permits, for the control of air pollution. The amendments were submitted to EPA for approval as a revision to its State Implementation Plan (SIP) to satisfy requirements of the Clean Air Act Amendments of 1977. The revision streamlines procedures for obtaining permits to operate stationary sources of air pollutants.

EFFECTIVE DATE: This action will be effective March 28, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the submittal are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs & Energy Branch, Curtis Building, Second Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: Patricia A. Gaughan

Delaware Department of Natural Resources, and Environmental Control, Air Resources Section, Tatnall Building, P.O. Box 1401, Dover, DE 19901, ATTN: Robert R. Fresch

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Comments should be sent to Mr. Henry J. Sokolowski, P.E. (3AW12) at the EPA Region III address listed above.

FOR FURTHER INFORMATION CONTACT: Cynthia A. Clark (3AW12) at the EPA Region III address listed above, telephone 215/597-9377.

SUPPLEMENTARY INFORMATION: On October 14, 1982, the State of Delaware submitted for EPA approval a revision of its State Implementation Plan (SIP). The revisions consists of amendments to regulation No. II—Permits. The amendments allow operating permits to be issued without an expiration date. Elimination of the expiration date will significantly reduce the paperwork and staff time required by both the applicants and the State in renewing similar permits every three years. The amendments also improve the language of the regulation by deleting obsolete provisions and clarifying ambiguous sections.

Two new exemptions are included in the amended regulation. Operating permits are not required for residential wood-burning stoves or for stationary storage tanks which store only non-volatile liquids and have less than 5,000 gallons capacity. The State has determined, and EPA agrees, that these facilities need not be subject to permit requirements at this time.

The SIP revision was the subject of a public hearing held on August 23, 1982 as required by 40 CFR 51.4. No adverse public comments were presented. The revision satisfies all Federal requirements and is approvable by EPA.

The public is advised that this action will become effective 60 days from the publication date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and other notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I have certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 28, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Administrative practice and procedure, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Delaware was approved by the Director of the Federal Register on July 1, 1982.

(42 U.S.C. 7401–7642)

Dated: January 19, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart I—Delaware

In § 52.420, paragraph (c)(30) is added to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(30) A revision submitted by the State of Delaware on October 14, 1982, consisting of amendments to Regulation No. II—Permits.

[FR Doc. 83-2151 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL 2256-4; NC-003]

Approval and Promulgation of Implementation Plans; North Carolina; Revised SO_2 Emission Limit for Duke-Cliffside

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On December 7, 1982 (47 FR 54934), EPA announced approval of a revised sulfur dioxide (SO_2) emission limit for most fuel-burning sources in North Carolina. Duke Power Company's Cliffside Steam Station was excluded from that rulemaking; it could not be allowed to emit at the revised limit of 2.3 pounds per million British thermal units (#/MMBTU) of heat input because of possible violations of the ambient sulfur oxides standards. The State issued to this source a permit setting a more stringent limit, 2.2 #/MMBTU, and submitted the permit to EPA on September 24, 1982, for approval as a plan revision. EPA finds that the more stringent limit for Duke-Cliffside is adequate to protect the ambient standards and approves this permit. This action is being taken without prior proposal because the issues were fully set out in the notices on the revised North Carolina SO_2 limit.

EFFECTIVE DATE: This action will be effective on March 28, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments

ADDRESS: Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Air Management Branch, EPA Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365

North Carolina Department of Natural Resources & Community Development, P.O. Box 27687, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond S. Gregory, Air Management Branch, EPA Region IV, at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: EPA approved a revised SO_2 emission limit for certain fuel-burning sources in North Carolina on December 7, 1982 (47 FR 54934). The revision set an emission limit for SO_2 of 2.3 #/MMBTU. The State had excluded Duke Power Company's Cliffside Steam Station from the revision as not being able to emit at the 2.3 #/MMBTU limit without violating the national ambient air quality standards for sulfur oxides. Modeling results indicate that a limit of 2.2 #/MMBTU is adequate to protect the ambient standards in the vicinity of this plant, and North Carolina has issued a permit which requires observance of this limit. The permit was submitted for EPA's approval as a plan revision on September 24, 1982.

EPA's review of the information submitted by North Carolina indicates that the limit adopted for the Cliffside plant is adequate to protect the national ambient standards for sulfur oxides.

Action. Accordingly, EPA today approves the Cliffside permit as a plan revision. Since the issues involved in this action are straightforward and little or no public concern is anticipated, this action is taken without prior proposal. The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the North Carolina State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: January 19, 1983.

Anne M. Gorsuch,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart II—North Carolina

Section 52.1770 is amended by adding paragraph (c)(33) as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * *

(33) Permit restricting emissions of SO_2 from the Cliffside Steam Plant of Duke Power Company to 2.2 # per million Btu, submitted on September 24, 1982, by the North Carolina Department of Natural Resources and Community Development.

[FR Doc. 83-2152 Filed 1-25-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1F2500, 1F2531, 2F2695, 2F2732/R517; PH-FRL 2291-2]

Metalaxyl; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the fungicide metalaxyl and its metabolites in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of the fungicide in or on the commodities was requested, pursuant to petitions, by the Ciba-Geigy Corporation.

EFFECTIVE DATE: January 26, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Rm. 3708, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA published a notice in the **Federal Register** of June 9, 1981 (46 FR 30563) that announced that the Ciba-Geigy Corporation, Agricultural Division, P.O. Box 11422, Greensboro, NC 27409, had submitted pesticide petition 1F2500 to the Agency proposing that 40 CFR Part 180 be amended by establishing tolerances for residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and N-(2-hydroxy methyl-6-methyl)-N-(methyoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the raw agricultural commodities spinach at 10.0 ppm; soybean forage and fodder at 7.0 ppm; green onions at 5.0 ppm; wheat forage and straw at 2.0 ppm; tomatoes at 1.0 ppm; dry bulb onions at 1.0 ppm; kidney of cattle, goats, hogs, horses, poultry, and sheep at 1.0 ppm; broccoli at 0.6 ppm; cabbage at 0.6 ppm; cauliflower at 0.6 ppm; cucumbers at 0.5 ppm; head lettuce at 0.5 ppm; potatoes at 0.5 ppm; soybean grain at 0.5 ppm; melons at 0.3 ppm; liver of cattle, goats, hogs, horses, poultry, and sheep at 0.3 ppm; wheat grain at 0.2 ppm; cottonseed at 0.1 ppm; eggs and meat of poultry (excluding liver and kidney) at 0.05 ppm; meat, fat, and meat byproducts (excluding liver and kidney) at 0.05 ppm; and milk at 0.02 ppm. The petition was subsequently amended (47 FR 26019, June 16, 1982) by increasing the tolerance levels for the raw agricultural commodities cucumbers from 0.5 ppm to 1.0 ppm, green onions from 5.0 ppm to 10.0 ppm, and melons from 0.3 ppm to 1.0 ppm and deleting proposed tolerances on spinach, soybean forage and fodder, wheat forage and straw, broccoli, cabbage, cauliflower, head lettuce, soybean grain and wheat grain. On September 22, 1982 (46 FR 41855) the petition (1F2500) was again amended by decreasing the tolerance levels for the kidney of cattle, goats, hogs, horses, poultry, and sheep from 1.0 ppm to 0.4 ppm and increasing the tolerance levels for dry bulb onions from 1.0 ppm to 3.0 ppm and the liver of cattle, goats, hogs, horses, poultry, and sheep from 0.3 ppm to 0.4 ppm.

EPA published a notice in the **Federal Register** of August 5, 1982 (46 FR 39883) that announced that the Ciba-Geigy Corporation had submitted pesticide petition 1F2531 to the Agency proposing to amend 40 CFR 180 by establishing a tolerance for residues of the fungicide metalaxyl and its metabolites in or on the raw agricultural commodity avocados at 4.0 ppm.

EPA published a notice in the **Federal Register** of September 29, 1982 (47 FR 42805) that announced that the Ciba-Geigy Corporation had submitted pesticide petition 2F2732 proposing to amend 40 CFR Part 180 by establishing a tolerance for the combined residues of the metalaxyl and its metabolites in or on the raw agricultural commodity squash at 1.0 ppm.

EPA published a notice in the **Federal Register** of June 30, 1982 (47 FR 28453) that announced that the Ciba-Geigy Corporation had submitted pesticide petition 2F2695 to the Agency proposing to amend 40 CFR 180 by establishing a tolerance for the residues of the fungicide metalaxyl and its metabolites in or on the agricultural commodities forage grasses, forage legumes, grain crops, seed and pod vegetables (dry or succulent), and peanuts at 0.1 ppm.

There were no comments received in response to the notices of filing.

The data submitted in these petitions and other relevant material have been evaluated. The scientific data considered in support of these tolerances included a 3-month dietary study in rats with no-observed-effect level (NOEL) at 12.5 mg/kg/day (250 ppm), a 90-day dietary study in dogs with a NOEL of 6.25 mg/kg/day (250 ppm), a teratology study in rats with a NOEL of 120 mg/kg/day (highest dose tested), a *salmonella*/mammalian microsome mutagenicity study which was negative for mutagenicity, a mouse dominant lethal study which was negative for mutagenicity, a rabbit teratology with a NOEL of 20 mg/kg/day (highest dose tested), a 3-generation rat reproduction with a NOEL of 62.5 mg/kg/day (1250 ppm), a 6-month oral dog study with a NOEL of 6.25 mg/kg/day (250 ppm), and a 2-year chronic/oncogenic rat feeding study with a NOEL of 2.5 mg/kg/day (50 ppm) with no observed oncogenic effects at the highest dose tested. The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 2.5 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.025 mg/kg/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. These tolerances result in a theoretical maximum residue contribution (TMRC) of 0.21542 mg/day (1.5 kg diet) for a 60-kg person and will utilize 14.36 percent of the ADI.

Two related documents [FAP 1H5299/R128] and [FAP1H5299/1R129] establishing food and feed additive regulations respectively in or on various commodities, appear elsewhere in this issue of the **Federal Register**. These food and feed tolerances will result in a TMRC of 0.472 mg/day for a 60-kg person and will utilize 31.47 percent of the ADI.

The metabolism of metalaxyl is adequately understood, and an adequate analytical method, gas chromatography with flame ionization detector or mass spectrometry, is available for enforcement purposes.

The pesticide is considered useful for the purposes for which the tolerances are sought. Based on the information cited above, the Agency has determined

that the establishment of the tolerances in or on the various commodities will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Raw agricultural commodities, Pesticides and pests.

Dated: January 13, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended by adding § 180.408 to read as follows:

§ 180.408 Metalaxyl; tolerances for residues.

Tolerances are established for the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxy methyl-6-methyl)-*N*-(methoxyacetyl)-alanine methylester, each expressed as metalaxyl, in or on the following raw agricultural commodities:

Commodities	Parts Per Million
Avocados	4.0
Cattle, fat	0.4
Cattle, kidney	0.4
Cattle, liver	0.4
Cattle, meat	0.05
Cattle, mbyp (except kidney and liver)	0.05
Cottonseed	0.1
Cucumbers	1.0
Eggs	0.05
Goats, fat	0.4
Goats, kidney	0.4
Goats, liver	0.4
Goats, meat	0.05
Goats, mbyp (except kidney and liver)	0.05
Grain, crops	0.1
Grasses, forage	0.1
Hogs, fat	0.4
Hogs, kidney	0.4
Hogs, liver	0.4
Hogs, meat	0.05
Hogs, mbyp (except kidney and liver)	0.05
Horses, fat	0.4
Horses, kidney	0.4
Horses, liver	0.4
Horses, meat	0.05
Horses, mbyp (except kidney and liver)	0.05
Melons	0.1
Milk	0.02
Legumes, forage	0.1
Onions, dry bulb	0.1
Onions, green	10.0
Peanuts	0.1
Poultry, fat	0.4
Poultry, kidney	0.4
Poultry, meat	0.05
Poultry, mbyp (except kidney and liver)	0.05
Potatoes	0.5
Seed and pod vegetables (dry and succulent)	0.1
Sheep, fat	0.4
Sheep, kidney	0.4
Sheep, liver	0.4
Sheep, meat	0.05
Sheep, mbyp (except kidney and liver)	0.05
Squash	1.0
Tomatoes	1.0

[FR Doc. 83–2136 Filed 1–25–83; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 59

Parental Notification Requirements Applicable to Projects for Family Planning Services

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: The rules below amend the regulations governing the program for family planning services funded under Title X of the Public Health Service Act. The rules implement a 1981 amendment to Title X which requires projects supported by Title X to encourage, to the extent practical, family participation in the provision of project services. The rules require that projects notify the parent or guardian of unemancipated minors seeking family planning services when prescription drugs or devices are provided. In addition, where State law requires parental notification or consent to the provision of family planning services to minors, projects must comply with such law. The rules also remove from existing regulations a provision requiring projects to disregard family income when determining fees to be charged for services to certain minors.

DATE: The rules are effective February 25, 1983.

FOR FURTHER INFORMATION CONTACT: Marjory E. Mecklenburg, Deputy Assistant Secretary for Population Affairs, Room 725H, 200 Independence Avenue, SW., Washington, D.C. 20201, (202) 472–9093.

SUPPLEMENTARY INFORMATION: On February 22, 1982, the Secretary of Health and Human Services proposed rules implementing an amendment to Title X effected by Pub. L. 97–35 and clarifying the obligation of grantees to comply with certain applicable State laws. 47 FR 7699. The Secretary's request for public comment on the proposed rules elicited overwhelming response: Over 120,000 individuals and organizations contributed to the public comment by writing letters, signing petitions or sending form cards or letters, and these comments were duly considered. The issues raised by the public reflect this broad base of interest and are, accordingly, extremely diverse. The numerous issues raised are set out below, along with the Department's responses thereto. Also set out, as background, is a brief discussion of the statutory and regulatory framework of the rule, the provisions of the proposed rule, and a general description of the comments submitted on the proposed rule.

I. Background

Statutory and Regulatory Framework

Title X of the Public Health Service Act (42 U.S.C. 300 *et seq.*) establishes a program of Federal financial assistance to public and private nonprofit entities for the provision of voluntary family planning services. Under section 1001(a) of that title, the Secretary may make grants to such entities for projects which will provide a "broad range of acceptable and effective family planning services." Under a 1978 amendment to section 1001(a), projects are required to provide "services to adolescents." The regulations implementing this section provide, among other things, that family planning services will be made available without regard to age or marital status. 42 CFR 59.5(a)(4). They also provide that personal information obtained by the project will be kept confidential except where disclosure is made with the patient's consent, is necessary to provide service to the

patient, or is required by law. 42 CFR 59.11.

On August 13, 1981, Congress amended section 1001(a). Section 931(b)(1) of Pub. L. 97–35 added to section 1001(a) the following provision:

> To the extent practical, entities which receive grants or contracts under this subsection shall encourage family (sic) participation in projects assisted under this subsection.

The Conference Report on Pub. L. 97–35 explains section 931(b)(1) as follows:

> The conferees believe that, while family involvement is not mandated, it is important that families participate in the activities authorized by this title as much as possible. It is the intent of the conferees that grantees will encourage participants in Title X programs to include their families in counseling and involve them in decisions about services. House Rep. No. 97–208, at 799.

The rules below implement this statutory requirement.

Proposed Rules

Under the proposed rules, Title X projects would be required to notify the parents or guardian of an unemancipated minor when prescription drugs or devices are provided to such minor. A Federal definition of the term "unemancipated minor" was proposed for purposes of this requirement. This defintion treats minor age 17 or under as unemancipated generally, but otherwise looks to State law to determine what specific acts, such as marriage or parenthood, constitute acts of emancipation. Projects would also be required to inform the minor, prior to the provision of the service, about the notification requirement. Projects would be required to notify the minor's parents or guardian within 10 working days following the initial provision of services by the project, except when the project director determines that notification would result in physical harm to the minor by the parent or guardian. Projects would be required to keep records of the number of such exceptions, as well as reasons for the determination. Where notification is provided, projects would be required to verify that it was received and to keep records of the notification and verification.

Projects would also be required to comply with any State law requiring that notification be provided to or consent obtained from the parents or guardian of unemancipated minors regarding the provision of family planning services to such minors. Finally, the definition of "low income family" in the current regulations would be changed by eliminating the requirement that projects consider adolescents on the basis of their own resources (rather than their families' resources) for purposes of charging for services.

Public Comment

The publication of the proposed rule was followed by intense public interest in and debate about its provisions. In the months following publication, approximately 60,000 comments were received from individuals, including thousands of teenagers and parents. In addition, approximately 1,200 letters were received from a broad spectrum or organizations, including family planning clinics, State and local governmental agencies, national and local professional groups, church groups and so on. Moreover, approximately 250 forms letters, containing about 7,000 signatures, were received on the regulations, and about 50 different types of form postcards were sent in by some 10–20,000 individuals. Finally, approximately 400 petitions were submitted, many containing thousands of signatures.

The numbers and the nature of many of the comments make a precise count of the comment "for" and "against" the proposed rule impossible. For example, while many comments opposed the proposed rules as requiring too much intervention in the family planning decisions of minors, others opposed them on the ground that they did not require enough. In general, however, the public comment disclosed both a wide base of support for, as well as opposition to, the policies of the proposed rules. The Department has carefully considered the specific issues raised by the comments, and they are discussed below. However, the Department's ultimate concern is with the merits of the points made in the comments rather than the number of times they were made. Therefore, we do not discuss, except in general terms, the extent of support for particular points made by the public comment.

The public comment submitted was generally of two types. On the one hand, the majority of the public commenters either criticized or commended the proposed rule on the basis of issues that underlie the rule as a whole and supported their positions by: citing personal experiences; arguing on moral, philosophical or religious grounds; utilizing medical reports and social science data; or presenting legal arguments. For example, numerous comments contained projections on the proposed rule's probable effect on teenage pregnancy, abortion, sexual behavior, and welfare dependency. Similarly, a number of comments raised legal issues about the overall approach of the proposed rules, such as the right of privacy of minors, custodial rights of parents, and the confidentiality of the doctor-patient relationship. A minority of the commenters, on the other hand, addressed issues raised by specific provisions of the proposed rules. For example, a number of particular concerns were raised about the verification provision, including problems of ambiguity, cost and potential for fraud. The discussion below initially examines and responds to the general comments that apply to the rules as a whole. We then examine and respond to the more specific concerns voiced with respect to particular provisions of the proposed rules. However, because of the vast number of issues raised and the permutations and combinations of these issues, we have not attempted to address every issue specifically. Instead, where possible, we have grouped together similar issues and addressed what we believe to be the central questions they raise.

II. Comments on the Rule as a Whole

Constitutional Issues

A great number of commenters challenged the constitutional basis of the notification provisions of the proposed regulations. These commenters contended that a notification requirement would violate a minor's right to unrestricted access to contraceptives and constitutional right to privacy. The commenters cited, in support of their challenge, cases such as *Eisenstadt* v. *Baird*, 405 U.S. 438 (1972), *Carey* v. *Population Services International*, 431 U.S. 678 (1977), and *Planned Parenthood of Central Missouri* v. *Danforth*, 428 U.S. 52 (1976). Many commenters also challenged the constitutionality of the regulations because they assertedly failed to distinguish between "mature" and "immature" minors, citing principally the case of *H.L.* v. *Matheson*, 450 U.S. 398 (1981).

It is the conclusion of the Department that these cases are inapposite, since they all deal with attempts by governmental entities to regulate *access* to family planning services. Two Supreme Court cases have distinguished between situations in which government sought to prohibit or regulate access to family planning services and those in which government was making choices as to the kinds of behavior it would actively assist, concluding that in the latter situations the "compelling interest" test enunciated in the former

cases was inapplicable. *Maher* v. *Roe*, 432 U.S. 464 (1977), *Harris* v. *McRae*, 448 U.S. 297 (1980). The Supreme Court in *Harris*, in upholding the right of the Federal Government to limit funding for abortion services, said:

> It cannot be that because government may not prohibit contraceptives * * * government therefore has an affirmative constitutional obligation to ensure that all persons have the financial resources to obtain contraceptives. To translate the limitations on governmental power implicit in the Due Process Clause into an affirmative funding obligation would require Congress to subsidize the medically necessary abortion of an indigent woman even if Congress has not enacted * * * Medicaid * * *. Nothing in the Due Process Clause supports such an extraordinary result. Whether freedom of choice that is constitutionally protected warrants federal subsidization *is a question for Congress to answer, not a matter of constitutional entitlement.* (Emphasis added).

The instant regulation does not prohibit access to contraceptive services. Rather, it implements a Federal assistance program, *i.e.*, Title X of the Public Health Service Act, 42 U.S.C. 300(a), by giving specific meaning to the conditions Congress has established for provision of the assistance. As such, the constitutional issue involved here is indistinguishable from the primary issue in the *Harris* case. Thus, the Department need establish only that there is a rational basis for the "notification" requirements of the proposed regulation. Governmental concern with the health of the minor patient and concern for the proper role of the family in the provision of certain family planning services constitute a clear and rational basis for the regulation. Further, even in the context of the Federal assistance program, the regulation would not act as a bar to funded services. The parental notification requirement would apply only to requests for prescription drugs or devices, and even these would be available immediately, with parental notification being required only in the 10 days following the provision of services.

The proposed regulation was also frequently challenged as discriminating unconstitutionally on the basis of gender. Many commenters observed that the notification requirement applied only to prescription drugs and devices which, at this time, are used only by women. A few commenters who made this point cited *Craig* v. *Boren*, 429 U.S. 190 (1976). The Department does not consider the distinction made in the notification provisions of the regulation, *i.e.*, prescription drugs or devices, to be gender-based discrimination, which would fall within the Supreme Court's analysis in *Craig* v. *Boren*. In that case, the Court struck down as violating the equal protection clause of the Constitution a State statute setting a higher minimum age for the sale of beer to males than the age applicable to females. The Court found that this explicit gender-based distinction could not stand. The notification requirement, on the other hand, is a gender-neutral distinction focusing on health risks. As such, the regulation falls well within the test established in the case *Geduldig* v. *Aiello*, 417 U.S. 484 (1974), in which the Supreme Court upheld a State disability insurance law which excluded benefits for certain pregnancy related services. In upholding the law, the Court said:

> While it is true that only women can become pregnant, it does not follow that every legislative classification concerning pregnancy is a sex-based classification * * *. Absent a showing that distinction involving pregnancy are mere pretexts designed to effect an invidious discrimination against the members of one sex or the other, lawmakers are constitutionally free to include or exclude pregnancy from the coverage of legislation such as this on any reasonable basis, just as with respect to any other physical condition. *Geduldig* at 496, footnote 20.

The reasoning in *Geduldig* clearly applies to the proposed notification provisions: the "prescription" classification applies equally to men and women; there is (and can be) no evidence produced to establish that the classification is a pretext to effect an invidious discrimination; and the underlying considerations, *i.e.*, the health and safety of minors and concern for family involvement, establish clear and rational basis for the classification. Furthermore, as has already been noted, non-prescription contraceptive services are available to minor women without notification, and, unlike the total exclusion of benefits in *Geduldig*, prescription services will still be provided, subject only to a subsequent parental notification.

Legislative Intent

A great many commenters asserted that both the notification provisions in § 59.5(a)(12)(i) and the provisions requiring adherence to applicable State law in § 59.5(a)(12)(ii) are inconsistent with Title X. These commenters make the following points:

1. The basic authorizing legislation provides that projects shall offer a broad range of services without limitation.

2. The authorizing legislation was amended in 1978 expressly to require that services be provided to adolescents, and there is no qualifying language which would support the attachment of notification or consent requirements.

3. Congress has previously rejected attempts to amend the authorizing legislation by attaching to it parental notification or consent requirements. Commenters cite in particular the "Volkmer Amendment" which was proposed but not enacted in 1978.

4. Although section 1001(a) of the Public Health Service Act was amended in 1981 to add the requirement that "(t)o the extent practical, entities * * * shall encourage family participation in projects * * *", the amendment was not intended to mandate family involvement but merely to encourage such involvement.

The problem with the first three of these comments is that they seek to interpret individual parts of the statute or individual bits of legislative history without consideration of the course of statutory development. It is true that section 1001(a) requires projects to provide a broad range of services and requires that services be provided to adolescents. It is also true that Congress did not act favorably on previous proposals to add parental notification requirements to section 1001 (a). However, the simple fact is that Congress ultimately did amend section 1001(a) in 1981 to include a requirement that projects encourage family participation to the extent practical and in so doing signaled a change in direction. It is on the basis of this amendment that the notification provisions of the regulation have been proposed and it is in the light of this amendment and its legislative history that one must judge the propriety of the notification provisions, not the legislative history surrounding defeated legislative proposals or interpretations of the statute prior to the 1981 amendment. The significant legislative history to the 1981 amendment is contained in the Conference Committee report, which provides:

> The conferees believe that while family involvement is not mandated, it is important that families participate in the activity authorized by this title as much as possible. It is the intent of the Congress that grantees will encourage participants in Title X programs to include their families in counseling and involve them in discussions about services. H.R. Rep. No. 97–208, 97th Cong. 1st Sess. 799 (1981).

The Department feels that the notification provisions in the proposed regulation strike a desirable balance between the requirement that adolescents receive services and the requirement that family participation be encouraged to the extent practical. Unlike the Volkmer Amendment, the Congressional disapproval of which was cited by some commenters, these provisions do not require parental

notification before services may be provided. Nor do they *mandate* family involvement. They do no more than provide an opportunity for family involvement by having projects advise parents that their children have received prescription drugs or devices. Furthermore, by limiting the applicability to prescription drugs and devices, notification is required in an area in which the relevant health considerations make parental involvement particularly appropriate. Accordingly, it is the conclusion of the Department that the notification requirements are consistent with the provisions of section 1001(a) as amended and the relevant legislative history.

Many commenters also challenged the provision of proposed § 59.5(a)(12)(ii) as being inconsistent with the 1981 amendment and in particular the legislative history contained in the conference report. Those commenters misperceive the principal purpose of § 59.5(a)(12)(ii). That section was intended to rationalize an increasingly confusing situation created by, on the one hand § 59.5(a)(4), which prohibits projects from discrimination on the basis of age, and on the other hand, the eventuality of States enacting laws imposing parental consent or notification requirements. The Department has been called on to make complex distinctions to recognize the constraints imposed by § 59.5(a)(4) while at the same time paying deference to State laws in the area of consent to certain health and medical services, an area traditionally within the jurisdiction of the States. Section 59.5(a)(12)(ii) will resolve that tension by providing that notwithstanding the provisions of § 59.5(a)(4), projects must comply with State laws regarding parental consent and notification. It is the opinion of the Department that there is nothing in the statute or legislative history which would require the program to be operated in such a way as to preempt or supersede otherwise valid State law, particularly with regard to a matter so traditionally a State concern. Nor does the above-quoted conference report language lead one to a different conclusion. To the extent that the language is relevant in interpreting the statute, it is a constraint upon the imposition of a mandate *by the Federal government.* It does not evince any view on whether the Federal government may, in its implementation of Title X, recognize otherwise applicable State law in this area. To conclude otherwise would be to require the Federal government to supersede or preempt State law in order to implement the Title X program, a result which certainly is not compelled by the statute and legislative history.

Rights of Minors

A large number of commenters argued that the parental notification rule would unfairly infringe upon the minor's right of privacy. (For a discussion of comments arguing that this would be an unconstitutional infringement, see the section above on constitutional issues.) The argument advanced by these commenters, among whom were many teenagers, is that they should have the right to obtain family planning services in complete confidentiality and that their interest in doing so should outweigh the interest of parents in being notified of their receipt of these services.

Many commenters objected to the rule on the grounds that parental notification would constitute a breach of the confidentiality of the doctor-patient relationship. Several argued that the rule would conflict with State and Federal confidentiality requirements. Others argued that it would require physicians to breach applicable codes of ethics (e.g., the Hippocratic oath) and accepted medical practice. Several argued that the requirement that projects make the required records on parental notification available to the Secretary for inspection would be a further violation of the patient's right of confidentiality.

In response to these concerns, we call attention to the requirement that the project advise the minor of the notification requirement before providing services. The minor will then be able to decide whether to accept services subject to subsequent parental notification. By accepting the services, the minor will be in effect consenting to the notification (assuming that the exception for physical harm to the minor does not apply). In light of this consent by the minor, we conclude that the regulation does not improperly infringe on the minor's right to privacy, the confidentiality of the minor's records, or the doctor-patient relationship. Nor, for this reason, would the rule cause the physician to breach ethical code or accepted medical practice standards. As to the Department's right to inspect records, we would seek only sufficient information to determine that the regulatory requirements are being followed. This Department must retain the right to inspect records for all of its grantees providing health services, so that we can determine whether the grantees are complying with applicable requirements. This point is clearly made in existing regulations, see 45 CFR Part 74, Subpart J.

A number of commenters claimed that the proposed rule on notification would conflict with the laws of many States under which minors, including unemancipated minors, may consent on their own behalf to the receipt of family planning services. We do not see this conflict. Projects must comply with State law regarding parental consent, but where State law does not require that a parent consent, the regulation does not do so either.

Discrimination

The proposed rule was challenged by many commenters as leading to discrimination against minors on a number of grounds: gender, age, and income. Many commenters opposing the regulation argued that the regulation discriminates against women, since only females use prescription contraception. Several commenters cited the legislative history of Title X to argue that Congress never intended such alleged gender discrimination. They also quoted the Department's regulations implementing Title X, which stipulate that clinics must "provide services without regard to religion, creed, age, *sex,* parity or marital status" 42 CFR 59.5(a)(4). (Emphasis added). (As to the argument of some commenters that this alleged gender discrimination is unconstitutional, see the discussion above of constitutional issues.) Finally, with respect to gender discrimination, several commenters remarked that exemption of treatment for sexually transmitted diseases (STD) from parental notification essentially allows Title X monies to protect young men from adverse consequences of sexual activity without parental notification while protecting young women from only one of the adverse consequences of sexual activity without parental notification.

The Department is not persuaded that the regulations will constitute improper discrimination on the basis of sex. The rule on its face is gender-neutral in that its operation is triggered only by the provision of prescription drugs and devices without regard to gender. The notification requirement applies only with respect to drugs and devices that may be obtained only with a prescription. If contraceptives for male use become available that would require prescriptions, they too would fall within the scope of the rule.

We also believe that the notification requirement does not conflict with the requirement of § 59.5(a)(4) that services be provided without regard to sex. First, the notification requirement does not result in the denial of requested services

in any case. Second, it does not make distinctions on the basis of sex. Third, even if it were viewed as doing so, as a regulatory requirement applicable to specific situations, it must be complied with even if a separate, general regulatory provision may be viewed as supporting a contrary approach in situations not covered by the specific requirement.

With respect to the exception for treatment of STD, we find the argument even less convincing. This exception applies to males and females alike and thus demonstrates that the regulation is not based on gender distinctions. The exception, like the general rule, was developed on the basis of factors wholly apart from the issue of gender, *i.e.*, public health considerations.

A number of commenters noted that, in practice, the notification requirement will affect only females and argued that the regulation should therefore be broadened to include non-prescription contraceptives as well. They maintained that the goal of family involvement would be better served if parents were notified of their sons' sexual activity as well as that of their daughters. While we agree that family involvement is to be encouraged in all cases, we have concluded that the distinctions based on the use of prescriptions reaches the situations where the parental involvement is likely to be of the most significant value.

Several commenters alleged that the regulation would require discrimination on the basis of age in a manner that violates the Age Discrimination Act of 1975, 42 U.S.C. 6101, *et seq.*, and the government-wide implementing regulations published by the Department, 45 CFR Part 90. That Act and its implementing regulations create an exception for cases where age is used as a measure of some other characteristic which is sought to be ascertained in order to achieve a legitimate program purpose and which cannot practically be ascertained on an individual basis. In this regulation, the Department is using age as a measure of an unemancipated minor's ability to make important decisions with respect to prescription drugs whose health consequences are potentially significant, in order to encourage family participation, as mandated by statute, in those decisions about family planning services which we have concluded will most benefit from parental involvement. Given the nature of the program and the large number of minors served, we conclude that determinations of their ability to make these decisions cannot practically be made on an individual basis.

Some commenters claimed that the proposed amendment to the definition of "low income family" would result in discrimination against minors on the basis of income. We address this issue more fully below, but note here that the amendment simply removes a requirement that projects consider only a minor's income and not consider family resources. This simply puts minors on the same footing as all other applicants for services.

The Rights of Parents

Of those supporting the regulation, many commenters argued that the custodial rights and responsibilities of parents outweigh minors' interests in confidential family planning services. These commenters believed that the proposed regulations are at least a beginning step toward re-establishing legitimate parental control over their children's health care. Many of these commenters pointed out that parents are the ones who are morally, legally, and financially responsible for their minor children, and that these parental responsibilities should not be undermined by federally-funded programs which ignore parental rights.

Of those supporting the regulation as a means of reasserting parental rights, a small number of commenters developed constitutional and legal arguments. While acknowledging that minors have constitutionally protected rights, they cited case law for the proposition that parents also have constitutionally guaranteed and protected rights which establish their broad authority over their minor children. These commenters argued that parental notification will aid in re-establishing these parental rights. Further, some commenters argued that while minors enjoy a constitutional right to privacy just as adults do, the proposed regulations would not violate the minor's right to privacy. As with every other constitutional right, the right to privacy protects an individual against government intrusion into his or her private affairs. According to these commenters, a right of a dependent minor to keep his or her affairs private from parents does not exist.

Some commenters requested that the regulation be revised to require parental notification prior to the provision of service rather than within 10 days following the provision of prescription contraceptives. This change in timing of notification would make it possible for the parents to discuss the decision regarding contraceptive use with the minor before it occured, opening up the possibility that the parents might be able to dissuade the minor from being sexually active. In addition, the commenters asserted, by talking to the minor in advance, parents would have the opportunity to relate relevant family medical information that should be brought to the attention of the medical personnel dispensing prescription contraceptives. A few commenters questioned whether parental notification procedures were to be followed by the project at any subsequent clinic visits by minor after the initial visit.

As we noted in the preamble to the proposed rule, to require prior notification could unduly delay or otherwise restrict access to services for adolescents, contrary to the statute's policy. Thus, we have not adopted the prior notification requirement. We believe that the family participation that may follow the notification that is required will permit parents to accomplish the goals described by the commenters. As to the question about subsequent clinic visits, the regulation explicitly prohibits the project from dispensing additional prescription drugs or devices if it cannot verify that notification of the first prescription service was received. Conversely, where the project can so verify, no further notification is required.

Some commenters, including a number of parents, requested that the regulation be revised to require parental consent to the provision of prescription drugs and devices. We conclude that such a requirement would not maintain the proper Federal balance between the competing concerns of the statute that (1) services be provided to adolescents, and (2) family participation be encouraged. Accordingly, we have not adopted this proposal.

Family Participation

There was a wide divergence of views among the comments received regarding the choice of the parental notification requirement as the mechanism for encouraging family participation. Those who favored the regulation claimed that family relationships would improve. They maintained that parents and teenagers would communicate more freely because notification would make them aware of how important it is to discuss these matters in the home. This awareness, they argued, would lead in turn to more responsible behavior on the part of the parents as well as the adolescent. Teenagers may realize that parents can be sources of information, support and guidance, and the guilt caused by the minor's secrecy over obtaining contraceptives may be eliminated. Some felt family

relationships would improve because authority and responsibility would return to the parents.

Many opposed to the regulation claimed that notification would negatively affect family relationships. Parents may feel hurt that the child did not confide in them. Parents, upset about adolescent sexuality, may think the government has reprimanded them. A variety of commenters thought parents may be quite angry when they learn that their child is sexually active. They may restrict or punish the child verbally or physically, or deny the child food and shelter. They may also direct hostility toward their child's sex partner.

Some letters also speculated that the teenager would shut off all communication with parents. Teenagers who are frightened by the initial outburst of parents may do something rash, such as run away. Other siblings, whose movement may also be restricted by parents as a result of notification, may be upset with the teenager who went to the family planning clinic.

The Department recognizes that this diversity of opinion may well reflect the different possible outcomes of the parental notification requirement. Nevertheless, the Department has a responsibility to ensure that projects take specific steps to implement the statutory mandate that family participation be encouraged, and we have concluded that the approach set forth in the regulation is reasonably designed to achieve that end. That in some cases the notification may lead to some of the adverse consequences predicted by commenters does not alter the fact that the encouragement of family participation has been mandated by Congress, nor is it inconsistent with our conclusion that the benefits of the rule outweigh these potential disadvantages.

Many of the letters opposed to the regulations also acknowledged the need for parental involvement but viewed the proposal as unnecessary or counter-productive. Comments from health care providers said that local and national survey data indicated that over half of the adolescent patients already tell their parents of their use of clinic services. A few comments cited surveys saying that most of clinics have programs to involve parents.

The Department is encouraged by the reports of these comments that many family planning clinics recognize the value of parental involvement. The fact that some parents are already involved should minimize the adjustments clinics will need to make to comply with the regulations, but does not lessen the importance of notifying parents when their unemancipated minor children receive prescription contraceptives. Comments that concluded the regulation is unnecessary because over half of the minor girls already tell their parents fail to recognize the benefits that the notification will bring to those families in which the parents are not involved.

Effects of Notification on Minors

The issue most frequently raised regarding parental notification was the effect that notification would have on the minor. The different effects predicted range from decreased sexual activity to increases in pregnancy and abortion rates, from more consistent use of contraceptives to the use of less effective contraceptives or none at all. Various studies and publications were cited to support different predictions. Some commenters extrapolated from their predictions of individual behavior to develop predicted societal costs of the notification requirement. We summarize below the various predictions made by the commenters.

Adolescent sexual activity was a pervasive theme of the public comment. Of those supporting the regulation, many predicted that sexual activity will decrease. Some said that the notification would lead to communication between parents and the adolescent, and, as a result, the adolescent would decide to abstain. Others speculated that the fear of notification alone will cause the teenagers to abstain.

A few commenters predicted, on the other hand, that adolescent sexual activity will increase as a result of the regulation. Some writers thought that fear of punishment will lead to less communication with both parents and family planning counselors, and claimed that the resulting lack of information will lead to increased adolescent sexual activity. A few thought sexual activity will increase because the regulation "penalizes" the adolescent who takes responsibility for her actions, making it more likely that the adolescent will behave irresponsibly.

Many of the commenters felt that the regulation will not affect adolescent sexual activity. Some writers thought teenagers will go to private physicians or clinics that do not receive Title X funds so that they can continue to have prescription contraceptives and remain sexually active. Others maintained that the sexually active teenager will rely on non-prescription contraceptives that can be obtained without parental notification. Quite a few of the commenters speculated that adolescents will simply find other means of getting prescription contraceptives, such as the black market or the use of bogus identification. Writers frequently speculated that adolescents will be sexually active without using contraception.

The most common criticism leveled against the regulation was that it will cause an increase in adolescent pregnancies and abortions. These letters assumed that parental notification constitutes a barrier to adolescents receiving contraceptive services. Some mention that, for example, low-income girls who are dependent on federally-funded family planning services will not seek birth control information because the services are not confidential, and that pregnancy among these girls will increase because they will turn to less effective birth control methods or use none at all.

Many of these commenters based these views on Torres, *et al.*, "Telling Parents: Clinic Policies and Adolescents' Use of Family Planning and Abortion Services," in *Family Planning Perspectives* (1980). This study of unmarried female teenagers served by family planning clinics claimed that 54 percent thought their parents knew of their visit to the clinic and another 5 percent were not sure. The study claimed that if parental notification were required, 77 percent of the total would continue to use the clinic and 23 percent would not. This latter class was comprised of 15 percent who would continue sexual activity but use a non-prescription contraceptive method, 4 percent who would do so with no contraceptive method, 2 percent who would abstain, and 2 percent undecided. The study then predicted that 33,000 additional pregnancies per year would result from a parental notification requirement, and that 14,000 of these pregnancies would end in induced abortions. A few commenters based their predictions regarding increases in pregnancies on local clinic data or personal observations.

Building on these and similar assumptions, many commenters claimed that the affected unemancipated minors will face adverse health consequences. Comments frequently cited the health risks of pregnancy and childbirth as substantially exceeding those of using oral contraceptives. Other commenters speculated that many adolescents will forgo visiting family planning clinics because of the notification requirement, and that as a result health problems such as sexually transmitted diseases, pelvic inflammatory disease, and cervical abnormalities will go undetected. Still other commenters claimed that the psychological health of adolescents will be adversely affected

by the projected increase in pregnancies and that this will be manifested in part by increased suicide attempts.

A large number of commenters who supported the regulation endorsed the view stated by the Department in the preamble to the proposed rules that the health considerations involved the minors' decisions regarding sexual activity and use of prescription drugs and devices justify the imposition of the notification requirement. Many of these writers stated that Federal policy should recognize parental responsibility in an area of their children's lives which has significant health implications. They noted that, while the pill and IUD have been shown to be safe for most women, studies have cautioned against an array of harmful side effects of these methods for some women. Increased risks of ectopic pregnancy, infection of the ovaries and fallopian tubes, and infertility after discontinuance were cited as side effects of IUD use. Such side effects of bloodclotting and stroke in connection with oral contraceptive use also were of concern to these commenters.

The commenters in favor of parental notification argued that informing parents of their children's use of contraceptive drugs or devices would enable them to monitor for any possible occurrence of these side effects. The minor would have the benefit of counsel from a concerned adult who might have even greater familiarity with the minor's medical history than would the minor. Furthermore, if the minor followed a common pattern and failed to return to the family planning clinic after the initial visit (as much as 50 percent of the time, according to the HHS Inspector General's Service Delivery Assessment (SDA) of Family Planning Services Teenagers Report of 1978 which was cited by several commenters), the benefit of professional surveillance would be lost as well. These writers thought that if parents were involved from the beginning, the minor would receive help in evaluating any health effects that might occur from using prescription contraceptives and support for seeking medical attention when needed. These commenters contended that it would be less likely that the adolescent would discontinue contraception at the first sign of complications or be inconsistent in the ongoing use of prescription contraceptives, because an interested person, who would support the minor in acting prudently, would be available for guidance.

On the other hand, many writers questioned whether the parental notification regulations are justified on health grounds and urged an examination of the comparative risks to life and health from use of the IUD or pill and from pregnancy. For example, some cited information from the FDA oral contraceptive patient labeling insert to the effect that the risk of death associated with pregnancy and childbirth among teenagers is significantly higher than the risk of death associated with the use of the oral contraceptives. Others maintained that the risks associated with pregnancy and childbirth also exceed those associated with the use of other contraceptive methods.

A few writers pointed to the existence of studies indicating that the most common medical problems associated with the use of oral contraceptives are not problems of teenage pill users. A few other writers stated that there are health benefits for teenagers associated with oral contraceptive use. These writers also argued that current departmental guidelines for projects already provide adequate medical protection for minors receiving prescription contraceptives.

Some of the commenters who objected to the proposed rule claimed that parental involvement does not increase consistency in contraceptive use. To support these claims, some of these commenters cited a study by Herceg-Baron and Furstenberg, "Adolescent Contraceptive Use: The Impact of Family Support Systems," in *The Childbearing Decision: Fertility Attitudes and Behavior*, G.L. Fox, ed. (1982), of adolescents treated by family planning clinics.

We have carefully considered the assorted arguments raised regarding the effects on minors of the parental notification requirement. We are not convinced that these effects can reasonably be predicted at this time. The local clinic data and personal observations included in the comment were usually unsystematic and incomplete. Accordingly, the 1980 study by Torres, *et. al.*, continues to be the sole analytical basis for an estimated increase of adolescent pregnancies. We have serious concerns about the applicability and validity of this study. This is the study cited for the proposition that pregnancies, abortions, and births will increase substantially because of the regulation. These projections were relied upon by many as support for their arguments that minors will suffer adverse health effects. We believe that the methodology used in this study was severely flawed. Among our many objections are the following: (1) The analysis fails to account for minors who will go to a private physician or other non-Title X provider to obtain prescription contraceptives; (2) the study includes teenagers who would be considered emancipated under the rule and who would therefore not be subject to parental notification (the study did exclude married teenagers, but did not attempt to address other indicia of emancipation), and (3) the analysis incorrectly estimated rates of contraceptive failures among teenagers which overstated the negative impact of a notification requirement.

We are also unpersuaded by the conclusions advanced by many commenters that parental awareness and involvement do not increase consistency in contraceptive use. The 1982 study by Herceg-Baron and Furstenberg, in particular, is limited and does not comport with the findings reached in several other studies (e.g., G.I. Fox, "The Family's Role in Adolescent Sexual Behavior," in *Teenage Pregnancy in a Family Context: Implications and Policy*, (1981)). Further, in contrast to the author's conclusion, data presented in that 1982 study may very well support the conclusion that mother-daughter communication about sexual activity does lead to more effective use. We also do not believe that sufficient data have been developed to support the contention of some commenters that an assurance of confidentially is one of the major factors, if not *the* major factor, in the decisions of most minors to seek family planning services (see, for example, Zabin and Clark, "Why They Delay: A Study of Teenage Family Planning Clinic Patients," in *Family Planning Perspectives* (1981)).

We also believe that parental notification is justifiable on health grounds. The contention that the regulations will result in a large upswing in the number of teenage pregnancies and an overall deterioration of adolescent health because of the greater risks associated with pregnancy is misguided. As indicated above, we believe estimates of the number of additional pregnancies likely to result have been exaggerated. The contraceptive practices of teenagers may also improve as the result of parental involvement, with teenagers paying greater attention to the health consequences of the various available methods of contraception. New evidence indicates that teenagers who discontinue pill use largely do so because of experienced or feared side effects. (J.W. Ager *et al*, "Method Discontinuance in Teenage Women:

Implications for Teen Contraceptive Programs," 1982)). Also, some teenagers may be persuaded through conversations with their parents to abstain from sexual activity, removing all health risks associated with such activity. Given these various considerations, the Department does not see a sufficient basis for the claims of commenters that the notification requirement will adversely affect the health of minors.

Another health-related question raised in comments on the regulation pertains to the degree of health risk incurred by teenagers who use prescription contraceptives. The Department recognizes a difference of opinion among medical experts concerning the kinds and degrees of risk for teenagers involved in use of each various prescription contraceptive measures. However, clearly some measure of health risk does exist for contraceptives in the prescription category. The risk of taking oral contraceptives is such, for example, that patient package inserts containing warnings are required by the Federal government. Thus, the Department adheres to the view that parental notification is necessary to protect the health of the child.

In sum, we believe that the Congressional directive for family participation should be effectuated by the parental notification mechanism and that the opportunity that this notification presents for parental involvement in decisions regarding the use by minors of prescription drugs and devices will, on balance, be of benefit to the minors subject to the rule. However, in light of the various predictions concerning the consequences of this rule, we intend to monitor closely the effects of its implementation and to reconsider its appropriateness in light of any reliable data that are developed regarding its effects.

Effects on Family Planning Projects

Many letters from health-care providers complained that procedural costs necessitated by the parental notification provision of the regulations would pose severe hardships, especially after other recent funding cuts, and would detract notably from their ability to deliver services to eligible patients, a high proportion of whom are adolescents. Procedural costs related to notification and verification were detailed by many. Commenters also predicted that the requirement to determine whether a patient is emancipated or whether physical harm may result will generate further cost increases. Beyond the basic costs entailed in carrying out notification and verification, other costs were cited by some writers, such as for special staff training to handle any family conflict that might occur and for special media and public relations campaigns to clarify the regulations. A few commenters pointed out that the practice of clinic-hopping and giving false information each time would add to clinic expenses, since multiple health services are provided at initial visits.

We acknowledge that these requirements impose some additional costs and administrative burdens. We believe, however, that certified mail (with restricted delivery and return receipt requested) ensures parental notification and verification at minimal expense and at the same time effectuates the policies encompassed by the Department's approach to family involvement. The record-keeping is necessary for the Department to be able to monitor project compliance in this area to the same extent that we do for other program requirements. The Department estimates that counseling about the notice, processing the notification and verification, mailing, indirect expenses and the handling of exemptions will not impose substantial costs on projects.

A small number of comments discussed the impact of the regulation on family planning clinics which do not receive federal funds. These comments predicted that the regulation will impose significant costs on those programs. Some argued that the resources of clinics not receiving federal funds are not sufficient to serve the increased number of adolescents who will no longer go to the federally funded clinics. Other commenters argued that the regulation would reduce the number of adolescents seeking services from non-Title clinics, because teenagers will think that the notification requirement applies to all family planning clinics.

The Department views these concerns as highly speculative. We are not persuaded that the requirement will lead to a large shift of unemancipated minors to non-Title X clinics. In any event, we reiterate that this regulation imposes the parental notification requirement only on Title X projects.

Effects on Society

Several of those who opposed the regulation predicted that its implementation would impose major societal costs. They assumed a significant increase in adolescent pregnancies, with attendant costs for prenatal care and post-delivery support. Increased welfare and Medicaid expenditures were also predicted. Some of these letters cited lost human potential when adolescent pregnancies occur, claiming that 80 percent of adolescent mothers drop out of school and have fewer employment opportunities, and therefore have depressed earning and tax-paying potential.

Based as they are on assumptions regarding increases in adolescent pregnancies resulting from the notification requirement, these predictions are at least as conjectural as the underlying assumptions. In addition, they add another layer of assumptions, thus making the predictions even more difficult to accept. The Department will, of course, consider any reliable data that are developed with respect to these concerns and will reevaluate the regulation in light of such data.

III. Comments on Specific Provisions of the Rules

Notification Requirement

Proposed § 59.5(a)(12(i)(A) required that when prescription drugs or devices are provided to an unemancipated minor, the project must notify the minor's parents or guardian that they were provided within 10 working days following their provision. The project was required to tell the minor about the notification requirement prior to the provision of services.

Comment: Some of the specific comments on the notification provision addressed the timing of the notification. Some writers who supported the proposed regulations argued that parental notification should occur prior to the provision of service rather than 10 days following provision in order to enable the parents to discuss the decision regarding contraceptive use with the minor before it was implemented.

Some commenters question *who* must be notified. They asked whether the term "parents" means that both parents always must be notified. Raised as potential problems were cases where children live with only one parent, where both parents are unreachable, or where the teenager lives with neither parent (e.g., runaways, orphans, or immigrant teenagers whose parents are not in this country). Some commenters also argued that the logistical difficulties of notifying both parents would make the rule extremely costly and burdensome. Other urged that only one parent be notified where the two parents might be quite different in their likely reactions to notification of their child's contraceptive use or inquired whether the minor could designate

which parent to notify. Similarly, some commenters argued that siblings or other relatives should be listed as permissible alternates to parents for notification purposes.

Questions were also raised about the method of notification. Commenters criticized the proposed rule as vague, asking if notification could be done by telephone or mail, and if the latter, what type of mail. Some comments pointed out that if certified or registered mail is required, there will be significant costs to the projects in preparing and mailing the letters and handling necessary follow-up. Other pointed out that many parents who work during the day might be unable to receive registered mail, either because they were unwilling to pick it up or because of other problems (such as theft from mailboxes).

Many health professional who commented challenged the notification requirement on the ground that it would require them to violate State statutes requiring that family planning services be provided on a confidential basis. A few providers also stated that, where they provided services to a drug or alcohol abuser, they would be required to violate the Department's confidentiality regulations, 42 CFR Part 2.

Response: As already indicated in our discussion on *Comments on the Rule as a Whole,* the rules below retain the requirement that the notification be made within 10 working days following provision of the prescription drug or device to the patient. As stated above, we continue to believe that a Federal pre-service notification requirement is not consistent with the statute's goal of providing access to services. The 10-day rule will assure that parents can become involved on a timely basis and should serve to provide most of the benefits sought by those who supported notification prior to service. With respect to those commenters who questioned whether the rule would require repeated notifications, the answer is that it does not. Paragraph 59.5(a)(12)(i)(A) by its terms applies only to the "initial" provision of a prescription drug or device and when notification has been verified, no further notice is required for subsequent services.

The Department agrees with the points raised by many commenters concerning the practical difficulty of notifying both parents. Therefore, the term "parent or guardian" has been defined as "a parent or guardian residing with the minor or otherwise exercising ordinary parental functions with respect to the minor." We believe that this change addresses most of the logistical difficulties raised by various commenters. It is also consistent with the policy underlying the rule, in that it is the custodial parent who is likely to be the most concerned with and able to contribute to the minor's decision regarding contraception. As for the comments regarding orphans, we note that many will be covered by the "guardian" provision of the rule. Although we recognize that many runaways may be reluctant to have their parents contacted, it is our view that the Congressional policy of encouraging family involvement applies equally to such cases. Moreover, if the minor became a runaway because of physical abuse by a parent, the exemption of § 59.5(a)(12)(i)(B) would likely apply.

The Department has not accepted the suggestion to expand the class of persons to whom notification may be provided. While we recognize that in some cases siblings or other relatives exercise a quasi-parental influence on minors, we do not believe that it would be appropriate to permit the involvement of such relatives, in effect, to supersede the parent's or guardian's interest vis-a-vis the minor. Moreover, nothing in this rule precludes a minor from seeking the advice of such a relative, should the minor wish to do so.

While the Department, in general, has concluded that projects should be allowed administrative discretion in the implementation of these regulations, the notification and verification provisions are critical and we have decided to modify those provisions to spell out more clearly the kind of process to be used. The regulations as modified require that verification be accomplished by certified mail (with restricted delivery and return receipt requested), or similar evidence of notification (for example, a signed form, if the project has one). While this change leaves the projects with a degree of flexibility, it also provides, by the examples used, a minimum standard for verification. With regard to the record-keeping requirement of § 59.5(a)(12)(i)(D), the type of records kept will be a function of the notification method used.

With respect to the concerns voiced regarding the potential violation by health professionals of State confidentiality statutes, as noted earlier, no notification is undertaken until the minor is advised of the notification and consents to services knowing that notification will occur. Thus, we see no violation of State confidentiality statutes. For the same reason, the notification provision would not require providers to violate the Department's confidentiality regulations.

Verification Requirement

Proposed § 59.5(a)(12)(i)(A) required projects to verify that notification was received. Where the project was unable to verify receipt of the notification, it was prohibited from providing additional prescription drugs or devices to the minor.

Comment: Commenters, both for and against the proposed rules, criticized the verification requirement as unduly vague. Many questioned what methods of verification would suffice: oral acknowledgement, return receipts from registered mail notifications, or written "certificate of notice" signed by parents, minors and health care providers.

Commenters on both sides of the issue also criticized the requirement as too susceptible to fraud. In the case of return mail receipts, some writers pointed out that signatures on these could be forged. Other commenters questioned the degree of proof required in order for the project to verify that the minor's parents in fact received the notification and, on the assumption that some formal proof of identity would be required, stated that the requirement discriminated against persons without such papers.

A number of letters from providers questioned how the verification requirement would be applied. For example, a few writers questioned how parental refusal to acknowledge notification should be handled (how much follow-up effort should be made) and interpreted (i.e., as lack of verified notification, or as *de facto* consent). Similarly, questions were raised concerning what liability clinics would face in responding either positively or negatively to a continued request for prescription contraceptives from an adolescent in the face of parental objection after notification, particularly in cases where IUDs already have been inserted.

Response: The Department agrees with the comments criticizing the proposed verification requirement as too vague and full of loopholes. Therefore, § 59.5(a)(12)(i)(A) now specifies that documentary verification is required. It also provides that where, for example, certified mail is used, it must be done on a restricted delivery, return receipt basis, to assure that the parent or guardian actually receives the notification. A clinic may employ a different method of verification, but, under the rule, it must obtain a "similar form of documentation". That is, the documentation must be reasonably designed to assure that it was signed by the parent or guardian.

As to the situation where verification is not received, the rule is clear on its face that failure to obtain the requisite documentation means that additional prescription services may not be provided. The Department leaves to the judgment of the project personnel how much effort should be made a obtain verification, as such judgments will necessarily have to be made in light of the facts of each case. The question of the liability of a project which receives verification but where the parent indicates that he or she objects to continuation of service is one which is dependent on State law, and is a judgment that projects routinely make in providing services to minors.

Limitation to Prescription Drugs and Devices

Comment: Comments addressing specific provisions frequently criticized the fact that only prescription contraceptives are covered by § 59.5(a)(12)(i)(A). Some argued that parents have the right to know of any and all contraceptives given to their children. A related set of comments urged that nonprescription contraceptives should be included so that parents could be informed about contraceptives being dispensed to male children.

Many comments opposed the Department's singling out of prescription drugs and devices for regulation and challenged the health basis for the classification. These comments frequently pointed out that the health risks of prescription contraceptives are relatively small compared to the risk of pregnancy and argued that the prescription classification would therefore have a negative, rather then positive, impact on the health of teenage women. In this regard, the commenters frequently pointed to the fact that the classification includes the diaphragm, which poses no appreciable health risk. Some argued that use of diaphragms was no more likely to produce long-term consequences than spermicidal form or condoms which, as non-prescription methods, are not covered by the rule.

The prescription was also attacked as discriminating against women, in that it precludes use of all effective methods of female contraception without parental notification but does not preclude analogous male methods without parental notification.

A number of comments were received in support of the rule's limitation to prescription drugs and devices, however. These comments noted that while the pill and IUD have been shown to be safe for most women, studies have cautioned against an array of harmful side effects of these methods for some women.

The commenters favoring the prescription classification also argued that informing parents of their children's use of contraceptive drugs or devices would enable them to monitor for any possible occurrence of these side effects. These writers argued that, if parents were involved from the beginning, the minor would receive help in evaluating any health effects that might occur from using prescription contraceptives and support for seeking medical attention when needed. They also argued that it would be less likely that the adolescent would discontinue contraception at the first sign of complications or be inconsistent in the ongoing use of prescription contraceptives, since the adolescent would be able to discuss sexual activity and contraceptive use with an interested person, who would support acting prudently.

Response: The Department has retained the prescription classification as proposed. We recognize that parents have a legitimate concern in being informed of contraceptive use by their children. However, the statute expresses two competing concerns—providing adolescents with family planning services and encouraging family involvement—which the Department is required to weigh. In our judgment, the health risks generally associated with prescription drugs and devices dictate that steps be taken to promote family involvement in the prescription contraception decision that are otherwise not warranted in the case of nonprescription methods. It may be that after experience with the notification requirement in this critical area, the Department will wish to reconsider whether to broaden (or narrow) its application.

As discussed above, the Department does not agree with the projections made by many commenters as to the increase in teenage pregnancy likely to result from requiring notification of prescription methods. In this regard it should be noted that where a minor objects to notification, the project is free to provide the minor with nonprescription contraceptives and education concerning their use. In any event, it is our belief that the health concerns associated with the use of prescription methods are, as pointed out by many comments and discussed previously, sufficiently significant to justify providing parents with the opportunity to influence the contraceptive choice.

The prescription classification has not been changed to exclude the diaphragm, as urged by many comments. In the Department's view, it is reasonable to defer to the medical judgments made at the State and Federal levels regarding the general health consequences of drugs and devices. See, for example, the safety, and health criteria for prescription drugs set out in 21 USC 353.

As discussed more fully above, the commenters' arguments with respect to gender discrimination are without merit. The prescription classification does not affect all women, just those choosing prescription methods. Moreover, should a male prescription method become available, it would apply to male adolescents also.

Exception for Adverse Physical Harm

Proposed § 59.5(a)(12)(B) provided that a project is not required to comply with the parental notification requirement when "the project director determines that such notification will result in physical harm to the minor by the parents or guardian." The preamble to the proposed rules explains that the exception—

> Was meant to apply to cases where there is evidence of a history of child abuse, sexual abuse, or incest, or where there are other substantial grounds to determine that notification would result in physical harm to the minor by a parent or guardian. The exception does not apply to cases where notification would result in no more than disciplinary actions of an unsubstantial nature. 47 FR 7700.

Comment: The physical harm exception frequently elicited substantial public response. A few commenters supported the exception as consistent with the statute and their views of the custodial rights and responsibilities of parents and the law regulating parent-child relationships.

Most letters, while not rejecting the exception provision, suggested various modifications. A number of these urged that the scope of the exception be broadened in several respects. Several commenters believed that the exception should be broadened to include harm of a mental or emotional nature, arguing that such harm is as damaging to an adolescent as physical harm. Other commenters felt the exception should be broadened to cover cases in which someone other than the parent might harm the child, such as another sibling unhappy because of resulting restrictions on behavior that might be imposed upon that sibling as well. Still other commenters argued that the exemption category was too narrowly drawn because it did not include all potential victims, such as boyfriend who might be subjected to harm from the

minor's father. Others argued that notification would put undue stress on parents themselves.

Many of the comments criticized the exception as vague and ambiguous. Some noted that physical harm was not defined and suggested that the type and degree of physical harm be defined. A number of comments questioned the "substantial/unsubstantial" discussion in the preamble to the proposed rules which is quoted above, pointing out that such terms are vague and open to varying interpretations by project directors. Some letters argued that the lack of precision in the concept of substantial physical harm opened up the possibility that the exception provision could be stretched to, in effect, swallow the rule. For example, a project director might determine that, if the girl's fear of parental notification would lead her to drop contraception while remaining sexually active, the girl should be judged as subject to physical harm in the form of threatened pregnancy. Others argued that the exception did and should cover such physical harm, citing pregnancy of an unwed teenager as an adverse physical health consequence likely to result if parental notification would inhibit the teenager's use of contraception. Still others argued that vagueness of the concept of substantial physical harm would deter project directors from applying the expception even where warranted.

A related concern, based on the substantial physical harm discussion and the requirement that the projects keep records of the factual basis for exception determinations, was with the degree of investigation and documentation required in order for the exception to be applied. A number of commenters assumed that the exception could not be applied unless the project obtained concrete evidence of past physical abuse, such as medical or court records. Several of these commenters thought the prospect of documenting a history of child abuse, sexual abuse, or incest was so burdensome and costly that the provision would never be used. Others argued that the requirement would require modification of the standard informed consent form normally signed by the teenager so that the exempted teenager would know that her record could be opened to inspection as is allegedly provided by § 59.5(a)(12)(i)(D). Others commenters feared that enough information about the child and family might be conveyed to others to constitute a breach of confidentiality if the clinic undertook any form of investigation regarding abuse. Still others said there are ethical and legal obligations to report evidence of child abuse to the proper authorities and that the requirement would therefore add further costs to clinc functioning.

Several letters commented on the difficulty of gauging the probability that physical harm will occur with the needed degree of accuracy, with some concluding the exception provision will not ensure that physical harm will not occur. The question of legal liability in this matter was often raised by lawyers, doctors, and clinic staff. In particular, it was questioned whether the project director is legally responsible if the minor's parent does abuse her as the result of parental notification or if the parents learn that they were not notified because they were labelled as child abusers. Some commenters said the language of the provision should be clarified so that the exception could be granted if only one parent, not both parents, was determined to be a physical threat to the child. A few writers believed there was little need for such an exception provision since those teenagers subject to potential harm from parents would themselves be deterred from seeking services once they learned of the parental notification requirement.

Several comments from State agencies and other umbrella agencies criticized the exception provision as administratively unworkable. Where the grantee is, for example, a State and the project director a State official, it was argued that the project directors would simply be unable to make the requisite determinations.

Response: The Department recognizes the merit of the comments regarding the administrative problems caused by limiting the waiver authority to the project director. We have accordingly revised the exception to provide that a project director may delegate the authority to make such determinations to clinic directors. In our view, such personnel will be better able to make the substantive determinations called for, as they will have direct access to project records and be able to deal with the minor personally. Continuation of the requirement that a record of the factual basis of the determinations be kept will assure no loss of management control as a result of this change. In addition, as suggested by many comments, the exception has been changed to clarify that the harm need come from only one of the minor's parents.

The Department has not broadened the scope of the exception as urged by the comments. The difficulty of determining substantial mental harm and the inherent ambiguity and breadth of the concept lead us to conclude that expanding the exception to include such harm would create administrative problems and would expand the exception to a point where it might vitiate the rule. The suggestions that the exception be expanded to include other potential abusers besides the parent or guardian and other potential victims besides the minor are also rejected. The practical difficulties of determining the likelihood of harm, recognized by so many commenters, obviously increase as the connection between the notification and the projected result becomes more remote. Moreover, we believe that the cases of related abuse forecast by the comments will be exceedingly rare.

We do not accept the arguments that the type of physical harm falling within the exception needs further clarification. As stated in the preamble to the proposed rules, the exception is intended to cover cases where substantial harm is probable. As implicitly acknowledged by numerous comments, health professionals routinely make judgments about whether substantial harm has occurred and is likely to recur. To define further the degree of harm would in our view undesirably limit the flexibility of such professionals to apply the exception to the wide variety of fact situations they are likely to confront.

The comments arguing that the threat of pregnancy comes within the exception misread the exception. As written, the exception applies to harm to the minor *by a parent or guardian.* Presumably, a threat of pregnancy caused by the parent or guardian would not exist except in cases of incest; in those limited cases, as stated in the preamble to the proposed rules, the exception would apply.

The comments challenging the rule as imposing unduly costly investigation and documentation requirements generally misread the preamble statement quoted above. The intent of that statement was to describe the degree of probable physical harm required to come within the exception. While projects are required to describe the factual basis underlying determinations that the exception applies, the rule does not require investigation of medical and court records (which would generally be unavailable in any event). Rather, project or clinic directors are expected to apply the exception based on a reasonable professional judgment that a credible factual basis for it exists. Where the information received by the

project or clinic director is such as to require a report of abuse to the proper authorities, he or she will have to comply with responsibilities under State law. In this regard, we note that the rule does not expose project personnel to a potential liability that does not already exist, as the liability envisioned by the comments is a function of State reporting statutes, not this rule. Moreover, the decisions which the regulations require project personnel to make are not significantly different from many decisions which those professionals must make every day. Furthermore, family planning clinics in many areas presently require parental notification or consent, and we are unaware of any significant liability problem. Therefore, we do not anticipate that the regulations will add to the liability of project officials.

Definition of "Unemancipated Minor"

Proposed § 59.5(a)(12(i)(C) defined "unemancipated minor" for purposes of the notification requirement as "an individual who is age 17 or under and is not, with respect to factors other than age, emancipated under State law." Proposed § 59.5(a)(12)(ii) provided that projects must follow the applicable State law definition of "unemancipated minor" in complying with that requirement.

Comment: Numerous commenters questioned the "unemancipated minor" definition. Many commenters argued that it was inconsistent to defer to State laws that are more restrictive than the proposed definition of emancipation while at the same time overriding the legislative judgment of the 30 States which permit minors to consent to receiving birth control services.

A number of practical questions were raised with the definition, such as whether the word of the patient or official proof of age or emancipated status is required, and if so, what form of proof is required. A small number of comments disputed the Department's contention that the emancipation determination will not present special problems since clinics must currently decide whether minors are emancipated to obtain appropriate consent for provision of medical services. They asserted that, in most States, clinics are not now required to determine emancipation status in order to obtain consent for clinical services.

A few comments criticized the definition on the grounds that the ambiguity and lack of comprehensiveness of many State emancipation laws make the definition difficult to apply. For example, some stated that unmarried minors living with a male partner and receiving no support from parents are considered emancipated for some purposes and not for others under many State laws, or that many State laws do not specify the status of a minor when pregnancy ended in stillbirth. Other queried whether minors considered emancipated for receiving other medical treatment will be considered unemancipated when they seek prescription contraceptives.

A number of concerns were voiced about the potential for fraud inherent in application of the definition. For example, many commenters speculated that minors would lie about their age and obtain bogus identification cards. Other commenters questioned what the responsibility of the project would be for investigating or reporting such fraud.

Finally, many commenters argued that the regulation fails to distinguish between mature and immature minors and thus is unconstitutionally overly broad on its face. This argument is discussed in the section on the constitutional issues above. In addition, several commenters cited national and local clinic surveys which claimed that most unemancipated minors who are patients at family planning clinics are 16–17 years old and therefore probably fall within the mature minor category. Also, younger patients are more likely to have parental consent already, according to these surveys. On the other hand, a small number of comments argued that the mature minor doctrine is seriously flawed. According to these comments, the doctrine is vague and inconsistent, curtails custodial rights of parents without diminishing their responsibilities, and places minors in an undefined position between minority and majority. These commenters also argued that even if the mature minor doctrine applies to the provision of contraceptive services to minors, this application would not negate the right of parents to know what type of medical treatment their children are receiving from public agencies.

Response: The Department has retained § 59.5(a)(12)(i)(C) as proposed. We acknowledge that this definition does not treat as emancipated, for purposes of the notification requirement, minors who under State law can give legally effective consent for limited purposes. As stated by way of explanation of the definition in the preamble to the proposed rules, "if State law would treat persons age 12 or older as emancipated for purposes of consent to medical care, Title X projects would nonetheless have to treat them as unemancipated for purposes of [the notification requirement]." 47 FR at 7699. The definition of "unemancipated minor" does not override the legislative judgment of 30 States, as contended by many commenters. Minors served in those States continue, under the rule below, to be able to consent to receipt of prescription services. Moreover, the State laws in question generally do not deal with the issue of notification (as opposed to consent). Further, it is reasonable to set a Federal age standard to accomplish a Federal statutory purpose. See *Roe* v. *Califano*, 434 F. Supp. 1058 (D. Conn. 1977); *Naylor* v. *Weinberger*, C.A. No. 75–1790 (E.D. Pa. 1976). Additionally, although one section of the rule sets a Federal age of emancipation and another requires adherence to State law, these sections are not inconsistent; rather, they accomplish the goals of encouraging family participation, as required by statute, while clarifying the relationship between Federal and State law.

With respect to the practical concerns raised by the comments, projects should follow their established procedures (which may include requiring some proof of age) for determining when a minor is emancipated. While the concept of emancipation will vary somewhat from State to State and will require judgments on the part of project officials, these determinations are of the sort that project officials often make under current procedures. Accordingly, we conclude that the regulation will not materially add to project burdens.

We disagree with the comments challenging the definition as unconstitutional because it does not provide an exception for mature minors (except, of course, where the minor is emancipated under State law). As stated above, the court cases making the mature/immature distinction arose from governmental attempts to limit access to services and do not apply to situations where the government chooses to impose conditions on the financial assistance it provides. In addition, we believe that a mature minor exception in the definition would present major administrative difficulties for projects and enforcement difficulties for the government.

Exception for Venereal Disease

Proposed § 59.5(a)(12)(i)(E) provided that the notification requirement does not apply where prescription drugs are provided for the treatment of venereal disease. The preamble to the proposed rule stated that the exception for venereal disease "is consistent with the overriding public health necessity of ensuring prevention of infection of others." 47 FR at 7700.

Comment: The majority of the letters commenting on § 59.5(a)(12)(i)(E) used terminology divergent from that employed in this subsection. The term, "sexually-transmitted diseases" or "STD" was suggested instead of "venereal disease."

Comments supporting the exception generally mirrored the public health concerns addressed in the preamble to the proposed rules. Some of these comments pointed out that the safety of others is fostered when STD is treated, while the provision of contraceptives has implications for the physical health of only the patient. Other commenters argued that the prescription of drugs was "therapeutic" in the case of STD but not in the case of contraceptives. It was argued that direct and severe negative consequences to the patient follow non-treatment of STD, while failure to provide prescription contraceptives does not inevitably produce such serious medical complications. Other commenters said that there are no medically acceptable alternatives to immediate administration of therapeutic medication to someone with a potentially curable STD, while the provision of prescription contraceptives is but one of several strategies for preventing pregnancies, e.g., non-prescription methods or abstinence. A few commenters expressed the belief that the exemption had to be included because 50 States, the District of Columbia, and Puerto Rico have laws or regulations which allow minors to be examined and treated for STD without parental consent.

Occasionally, letters argued against the inclusion of an exemption for STD. Some argued that parents have the right to know if their child has STD, while a few others argued that parents should be notified about their child's treatment for STD, since the health risks of the antibiotics prescribed for such diseases are greater than those of prescription contraceptives. A few commenters suggested a modification of the proposed regulations to exempt adolescents being treated for STD from the requirement for parental notification for contraceptive services.

Many letters contained viewpoints about the probable impact of the regulations generally on the incidence of STD among adolescents. Some believed that the regulations would help curtail STD by causing adolescent sexual activity to decrease and by improving contraceptive practices of the sexually active through parental involvement in contraceptive decision-making. More frequently, however, commenters thought that the regulations would result in an upswing of STD among adolescents due to reduced attendance at family planning clinics. Information about STD, checkups for such diseases, and treatment of discovered cases provided at clinics in association with contraceptive services would allegedly be forgone.

A number of commenters argued that the exemption for STD exposed a basic inconsistency in the rule as a whole. They argued that, if the exemption derives from a concern that adolescents would not go to clinics for treatment of STD if parents were notified, the same logic applied to prescription contraceptives. Some also argued that the entire notification requirement should be dropped on the basis that adolescent pregnancy is as major a public health problem as STD is. Opponents of the proposed regulation also asserted that inclusion of the exemption recognizes that sexual activity among adolescents will continue regardless of these regulations.

Response: As suggested by many comments, the terminology of the exemption has been changed from "veneral disease" to "sexually transmitted disease." The exemption otherwise remains unchanged. The Department agrees with the commenters supporting the exemption that materially different considerations apply to the treatment of STD than apply to the prescription contraception decision. We reject the arguments equating the health risk to females of pregnancy to that of STD, as that argument does not consider the relevant risk in its entirety: The public health risk is not limited to females who forego contraception while engaging in sexual activity, but rather extends to the entire sexually active adolescent population. Moreover, as pointed out by many comments, there is no reasonable alternative to treatment in the case of STD, while a number of alternatives exist in the case of the prescription contraception decision. This consideration also justifies, in our view, not notifying the parents of minors being treated for STD.

For all these reasons, the Department also rejects the arguments that the STD exemption constitutes a fundamental inconsistency in the rule as a whole.

Requirement of Compliance With State Law

Proposed § 59.5(a)(12)(ii) required projects to comply with State laws requiring parental notification or consent to the provision of family planning services to persons who are unemancipated minors under State law.

Comment: A sizable minority of the comments discussed this provision of the proposed rule. Many commenters criticized the provision as inconsistent with the policy of "New Federalism" arguing that it would selectively defer to more restrictive State laws while overriding less restrictive State laws providing for confidential family planning services to adolescents. These commenters claimed that 30 States and the District of Columbia authorize minors to obtain family planning services or all health care including family planning on the basis of their own consent. Several of these commenters also claimed that 17 other States have granted physicians the ability to prescribe contraceptives to minors without parental consent or notification if deemed to be in the best interest of the minor. Several commenters asserted that either no State or only one State, Utah, requires parental notification of any kind and that Utah's statute is now subject to a constitutional challenge in light of *H.L. v. Matheson*, 450 U.S. 398 (1981), and is not being enforced.

Other commenters discussed administrative problems of the provision. They argued that unless State statutes providing for confidential family planning services for teenagers are repealed, Title X grantees who also receive State funds may violate either Federal regulations or State statutes in providing contraceptive services to adolescents.

Response: The proposed provision regarding compliance with State law remains unchanged in the rule set forth below. The Department notes that § 59.5(a)(12)(ii) is not inconsistent with State laws; on its face, it defers to State-imposed notification or consent requirements. Nor do we think that there is any inconsistency in deferring only to those State laws which impose parental notification or consent requirements going beyond the Federal mandates. As discussed above, we have deferred to the consent laws of all States, which are unaffected by any part of the rule. We recognize that conflicts may exist to the extent that States enact laws prohibiting parental notification. However, failure to defer to such laws is not indicative of a lack of consistency in the rule as a whole. Rather, in view of our belief that a parental notification requirement best accomplishes the intent of the 1981 amendment of section 1001(a), it would be inconsistent with this view were the Department to defer to contrary State laws.

With respect to the confidentiality problems under State laws, those

problems generally should not arise because the minor will have, in effect, consented to the parental notification. Projects are of course free to obtain written consents to such disclosures from the minors involved if they believe that it is legally advisable.

Definition of Low Income Family

Under the proposed rule, the definition of the term "low income family" at 42 CFR 59.2 would be revised to eliminate the requirement that minors be considered on the basis of their resources rather than those of their families.

Comment: A significant number of comments addressed the change in the definition of "low income family." A number argued that the change is an improvement, since the present definition has the effect of diverting limited Federal monies from those who most need financial assistance. Related comments stated that the change was justified because taxpayers should not subsidize health care which adolescents and their families could pay for themselves. Some of these commenters also argued that the present policy, by providing minors with free or below-cost services, allows them to avoid family participation in family planning services.

Many commenters criticized the change as unfair to poor and minority adolescents and argued that the current definition represents better public policy. It was argued in support of this position that adolescents earn little or no money on their own, the adults are often unwilling to disclose their incomes to children or to institutions, and that most adolescents do not have access to their families' income to pay for family planning services. A few commenters cited studies which found that teenagers' disposable income has little relationship to the income of their parents.

Other commenters discussed a report published by Chamie, *et al.*, "Factors Affecting Adolescents' Use of Family Planning Clinics," *Family Planning Perspectives*, (1982) in which 1,575 minor patients gave reasons why they used family planning clinics rather than private physicians. Answering a multiple-response question, 60 percent of the patients reported that they thought doctors were too expensive, and 33 percent of the patients said that they feared a private physician would inform their parents. These commenters predicted from this data that the change in definition would deter many adolescents from using family planning clinics.

A few comments from clinic staff members discussed the effects of the change in definition by describing the characteristics of their own clinic population. A small number noted that, among their patients, low income minors were likely to inform their parents and that middle class (and usually white) minors were least likely to inform their parents. They predicted that many of these middle class minors would stop using effective contraceptives, become pregnant, and be likely to abort the pregnancy because a child would disrupt their lifestyle and career plans.

Several commenters raised questions regarding the mechanics of the change. They questioned how family income would be assessed: would the word of the minor be acceptable or would a signed statement by the parents or official tax form be required. In addition, when the minor does not live at home or is in the custody of only one parent, they questioned whether the income of both parents must be considered.

Many comments opposing this provision argued that the change in definition would deter minors from seeking family planning services, and thereby violate the Title X provision regarding expanding services to adolescents. In this regard, some argued that the change is, *de facto*, a parental consent requirement, because it requires teenagers who cannot pay for themselves to ascertain and verify parental income prior to service; they alleged that if the parents refuse to disclose the family's income, it would effectively prohibit the teenager's receipt of family planning services, contrary to Congressional intent. They also asserted that the change is inconsistent with the requirement of sec. 1006(c) that "low income family" be defined so as to insure that "economic status shall not be a deterrent to participation" in family planning services.

Response: The proposed change in the definition of "low income family" is retained in the rule below. The Department continues to believe that it is inappropriate to target increasingly scarce Title X dollars to minors who, because of their family circumstances, can pay all or a portion of the cost of services.

The basic question raised by the proposed change is whether it will render family planning services unaffordable by adolescents. The Chamie study cited by many commenters indicates that approximately 50 percent of all adolescents already pay some amount for the services they receive. Moreover, because of its methodology, the study does not, in our view, clearly establish that lessening or eliminating the present subsidy will make the services unaffordable. We do not agree that children of middle class families will forgo family planning services because of the change in the definition of income. In the few cases where parents who are able to help pay for these services refuse to contribute, the clinics, in accordance with the existing language of the current regulations, will be able to adjust the fees. We also note in this regard that projects have significant latitude in establishing charging policy, as there is no Federal requirement that each service provided bear precisely its proportionate share of the project charge structure. Thus, where a project is concerned about the possible effect of the change, it has some flexibility in pricing its services. For these reasons, the low income provision is not a *de facto* consent requirement.

We also disagree with the contentions of opponents of the change that it violates Title X in various respects. For the reasons stated above, we do not think that the change will constitute an economic deterrent to services for adolescents whose families are not low income. Moreover, under section 1006(c), it is the income of the "family", not of the "person" that is relevant; thus, the definition below is more consistent with the statutory language on its face than was the prior definition. In addition, the legislative history of this provision makes clear that the focus of the provision was "medically indigent families" *See* H.R. Rep. No. 94–192 at 104; *see also* S. Rep. No. 94–29 at 93. The definition below is therefore completely consistent with sec. 1006(c).

The change in the definition is also consistent with the 1978 amendment to sec. 1001(a) requiring "services to adolescents." The regulation as a whole continues to require that such services be provided and, where the adolescent is from a low income family, that they be provided at no or reduced charge. The change hardly discriminates against the poorest adolescents, as charged by some comments, since the change in the definition stands to benefit them the most by targeting scarce Federal dollars to them.

With respect to the administrative difficulties foreseen by some commenters, the Department disagrees that these should be materially different from any that now exist. At present, projects are required by section 1006(c) and § 59.2 to make income determinations for the purpose of determining whether patients are "low

income." This requirement continues to apply, and we assume that projects will continue to employ the procedures they have already developed to comply with the existing regulatory requirements.

Executive Order 12291

Some commenters stated that the Department failed to comply with the requirements of Executive Order 12291. As noted in the preamble to the proposed amendments, the Secretary concluded that these amendments are not major rules within the meaning of the Executive Order because they will not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria. We have also considered the section 2 requirements of the Executive Order and, as reflected in the preamble to the notice of proposed rulemaking, have found (1) that we had adequate information concerning the need for and consequences of the requirements imposed by the amendments, (2) that the potential benefits to society outweigh potential costs to society, (3) that the amendments maximize the net benefits to society, and (4) that among the alternatives available to us, the requirements of these amendments involve the least net costs to society.

Paperwork Reduction

These amendments to the Department's Title X regulations contain requirements which have been reviewed and approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980. The OMB control number assigned to these requirements is *0937-0111.*

Regulatory Flexibility Analysis

For the reasons stated in the preamble to the proposed rules, the Secretary certifies that an initial regulatory flexibility analysis is not required.

List of Subjects in 42 CFR Part 59

Family planning, Grant programs—health, Youth.

The HHS regulations governing grants for family planning services, 42 CFR Part 59, are hereby revised as set forth below.

Dated: January 5, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: January 7, 1983.

Richard S. Schweiker,

Secretary.

PART 59—[AMENDED]

§ 59.2 [Amended]

1. The last sentence of the definition of "low income family" in 42 CFR 59.2 is revoked and removed.

2. 42 CFR 59.5 is amended by adding thereto the following paragraph (a)(12), to read as follows:

§ 59.5 What requirements must be met by a family planning project?

(a) * * *

(12) Encourage, to the extent practical, family participation in the provision of the project's services to unemancipated minors. Notwithstanding any other requirement of this subpart, a project shall,

(i)(A) When prescription drugs or prescription devices are initially provided by the project to an unemancipated minor, notify a parent or guardian that they were provided, within 10 working days following their provision. The project must tell the minor prior to the provision of services about this notification requirement. As used in this subsection, the phrase "parent or guardian" shall refer to a parent or guardian residing with the minor or otherwise exercising ordinary parental functions with respect to the minor. The project shall verify by certified mail (with restricted delivery and return receipt requested), or other similar form of documentation, that the notification has been received. Where the project is unable to verify that notification was received, the project shall not provide additional prescription drugs or devices to the minor.

(B) A project is not required to comply with paragraph (a)(12)(i)(A) of this section where the project director or clinic head (when specifically so designated by the project director) determines that notification will result in physical harm to the minor by a parent or guardian.

(C) For the purposes of this paragraph (a)(12)(i), an "unemancipated minor" is an individual who is age 17 or under and is not, with respect to factors other than age, emancipated under State law.

(D) The project must keep records of notifications provided pursuant to the first sentence of paragraph (a)(12)(i)(A), and of verification that those notifications were received. The project must also keep records of the number of determinations made under paragraph (a)(12)(i)(B) and the factual basis for such determinations. The project must make records required by this subparagraph available to the Secretary on request.

(E) This paragraph (a)(12)(i) does not apply where prescription drugs are provided for the treatment of sexually transmitted diseases.

(ii) Where State law requires the notification or consent of a parent or guardian to the provision of family planning services to an individual who is an unemancipated minor under State law, provide such services only in the compliance with such law.

(Sec. 215, Public Health Service Act, 58 Stat. 690, 42 U.S.C. 216; Sec. 1006(a), Public Health Service Act, 84 Stat. 1507, 42 U.S.C. 300a–4(a); sec. 931(b)(1) of Pub. L. 97–35, 95 Stat. 570, 42 U.S.C. 300(a))

[FR Doc. 83–2125 Filed 1–24–83; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 82-242; FCC 83-3]

Amendment To Simplify the Equipment Authorization Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is amending its rules to implement a simplified equipment authorization procedure to reduce the time spent by applicants in obtaining approval of their equipment. This procedure is similar to the existing type acceptance and certification procedures except that detailed measurement and construction data are deleted which allows a faster Commission review of the applications and thereby permit marketing at an earlier date.

DATES: Effective February 22, 1983.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Science and Technology, (202) 653–6288.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 2

Communications equipment, Imports, Radio.

Report and Order

Adopted: January 13, 1983.

Released: January 21, 1983.

By the Commission: Commissioner Quello concurring in the result.

1. A Notice of Proposed Rule Making (NPRM) in the above captioned matter was released on May 7, 1982. The deadline for the submission of comments was July 6, 1982 with reply comments due by July 21, 1982. In this proceeding, a new form of equipment authorization, known as "notification", was proposed. Notification would be similar to the existing type acceptance and certification procedures [1] with one major exception: the detailed measurement data that show compliance with the regulations and the construction data (circuit diagrams, photographs, component description, etc.) that are required under the present equipment authorization formats would not normally be required under notification. This deletion of normally submitted data would allow a faster Commission review of the application for an equipment authorization and would thereby permit marketing at an earlier date. The use of the notification procedure and an expanded use of the existing verification procedure will reduce the workload for the Commission allowing it some flexibility in the designation of its resources.

2. The NPRM was explicit in its intent not to review existing standards or to consider the placement of specific equipment under notification. That latter point, the designation of equipment to be included under notification or verification, would be handled in separate rule making proceedings. The intent of this proceeding was to receive comments on the establishment and the organization of the notification procedure. Comments were also requested on the propriety of eliminating the existing equipment authorization procedures should the proposed notification procedure and the existing verification procedure be expanded to such an extent that the other authorization procedures became minimally utilized.

Comment and Discussion

3. Comments were received from 20 organizations with three organizations filing reply comments. No comments were received from individuals. A listing of the organizations filing comments or reply comments is included as Appendix A, attached, along with the abbreviations used in this Order to discuss the material from these organizations. Most of the comments were from organizations involved in either land mobile communications or the manufacture of computing equipment which was recently placed under the equipment authorization program. In many cases, these comments argued either for or against the inclusion of specific equipment under notification or verification. A number of arguments against the adoption of the notification procedure were based on a desire to exclude certain equipment types from consideration under notification. Conversely, a number of comments favoring notification advocated the inclusion of their equipment under the notification procedure, as opposed to inclusion under the present approval category. As stated in paragraph seven of the NPRM, separate proceedings would be used to address the inclusion of particular categories of equipment under notification and no consideration of such comments would be given in this proceeding. Organizations which submitted comments of this nature are invited to restate their concerns in the forthcoming rule making proceedings or request that we incorporate these comments by reference.

4. Three major areas of concern were raised in the comments: (1) the administrative backlog at the Commission's Laboratory in issuing grants of equipment authorization and the subsequent desire of many of the commenters to institute an automatic grant of equipment authorization after a set period of time in the absence of specific action by the Commission; (2) the need to require measurement data or a sample under certain conditions; and (3) the effects of substituting the proposed notification procedure for the present type approval, type acceptance and certification procedures and equipment authorizations, with the possibility of eventually deleting those existing procedures.

Laboratory Backlog/Automatic Grants

5. The administrative backlog for granting equipment authorizations under the present regulations and the desire expressed by some of the commenters to provide for an automatic equipment authorization received the majority of comments. This response is significant as this question was not raised in the NPRM. These comments point out a reason for the notification proposal: a major problem incurred by the Commission in administering the equipment authorization procedures is the time now required to review the application and issue a grant of authorization. The time delay between the receipt of the application and the issuance of the grant appears to have become unacceptably costly to some sectors of industry because of the prohibition against marketing equipment until a grant has been issued. Many of the commenters specifically requested the Commission to pinpoint the delays at each stage of the authorization process to show how notification would reduce the total time delay. Others commented that the technical review which would be deleted under the proposed notification procedure accounts for a delay of only seven to 15 days and that the deletion of this portion of the review would not significantly change the total application processing time.

6. A reduction in the delay in obtaining a grant of equipment authorization to allow earlier marketing is the principal benefit expected of the notification procedure. This Commission is of the opinion that, a grant of notification could be issued within a significantly shorter period than the 30 to 90 days (and in some cases, even longer) currently required with the other authorization procedures. The simple deletion of the technical review process could save two to five weeks of the application processing time except in those cases where it is necessary to perform pre-grant testing. Additionally, the preparation time for the application to the Commission should be considerably reduced, amounting to a further savings to the applicant. It is realized that this time savings represents only a small portion of the total time spent in preparing an application, the testing of the equipment representing the major portion, yet the reduction in paperwork for the applicants should be considerable.

7. Regarding the matter of automatically granting notification within a specified number of days of the receipt of an application, it is interesting to note that such a regulation was in effect for type acceptance until 1974. An application was automatically granted after 30 days in the absence of Commission action to the contrary. This regulation was deleted in Docket No. 19356.[2] In responding to our proposal to

[1] Type acceptance and certification, along with type approval, are procedures under which this Commission determines that specific equipment is capable of compliance with the appropriate regulations. Should this review show that the equipment is capable of complying with the regulations and that the public interest would be served by a grant of the application, a grant of equipment authorization is issued and marketing of the equipment can begin. Verification is a separate procedure which requires the equipment supplier to determine that the equipment complies with the regulations. No information is submitted to the Commission for review and no grant is issued by the Commission under verification.

[2] Report and Order, FCC 74-113, 39 FR 5912.

delete the automatic grant provision, the commenters in that proceeding argued that:

> * * * industry has learned to include the 30 day period for grant of type acceptance in its design and production schedules for bringing a new product into production. It is contended further, that the deletion of this provision would introduce an untenable element of uncertainty into the involved process of putting a product on the market.[3]

The Commission responded to this argument with the following:

> This Commission cannot accept these arguments. With an equipment authorization serving as a de facto authorization to market equipment, the authorization must be based on a positive finding by the Commission, and cannot be based on the mere passage of time. The Commission must accordingly deny the request for the automatic grant of such an authorization.[4]

8. The arguments submitted by the commenters in the current proceeding are similar to those made in Docket No. 19356 and it would, at first, appear that no new material has been presented to the Commission to cause it to change its earlier opinion. Such a contention is countered by the argument from TI which states in its comments that the automatic grant of notification "* * * contrasts with the 'negative option' rejected in 1974 because the classes of equipment which fall into the notification category would have been the subject of *positive findings* by the Commission that such equipment poses little or no threat of interference because of its inherent nature or the experience gained by manufacturers in the development of devices which meet the Commission standards. *Cf.* Equipment Authorization procedures, 45 F.C.C. 2d 52, 29 R.R. 2d 781 (1974)" (emphasis added). This argument by TI is not sufficient to negate the earlier findings of this Commission. The decision to place equipment under notification will not be a finding that it is incapable of causing harmful interference. We realize that the equipment placed under this procedure is still capable of causing interference, the degree of which will vary among categories and among individual models and different manufacturers. "Positive findings" must still be made based on the information submitted by the manufacturer and the statement of compliance accompanying the application. No positive findings will have been made concerning the entire class of equipment placed under notification. Otherwise, we would propose that no equipment authorization be required for that category of equipment as opposed to placing it under notification. The argument of TI is not accepted as justifying the adoption of an automatic grant of approval and the decision in Docket No. 19356 will remain intact.

9. Once again, as in Docket No. 19356, we recognize the problems faced by industry in determining their market and advertising lead times because of the equipment authorization time delay. However, requiring action on an application for equipment authorization within a given time frame places a constraint on the Commission that will vary with staffing, budget appropriations, changes in equipment categories, and the degree of pre-grant testing which could be accomplished. This burden would not be in the public interest as it could force the Commission to automatically issue grants of authorization to equipment which would not otherwise receive approval, further proliferating the amount of noncomplying equipment reaching the marketplace. We are still committing ourselves to acting promptly on the applications and feel that this can be accomplished under notification. Every attempt will be made to process these applications and issue a grant within as short a time frame as possible.

Requirement for Measurement Data

10. Another point raised in the comments, particularly by EMCEE, concerned requiring the inclusion of measurement data, similar to that included with a conventional type acceptance or certification filing, with an application for notification whenever an applicant makes a first time filing under a Commission rule part. Variations of this concept occur in other comments. For example, Spectrum requested that the applicant be required to further certify that the necessary measurements were made by a qualified test laboratory, stating the name and address of the laboratory, or that they were made in the applicant's own qualified test laboratory and evidence as to the qualifications of that laboratory have been submitted to the Commission. This requirement would be used to positively alert the applicant of the need to test the equipment prior to submission and could encourage coordination with the FCC Laboratory staff on measurement techniques and interpretations of the various regulations. This latter point was referenced by some of the commenters, in particular Acrodyne, as a possible weakness of the notification procedure. Acrodyne pointed out that the applicant's knowledge of the pending technical review of the submitted application causes numerous FCC staff/manufacturer contacts on equipment design and testing procedures where the Commission staff may recommend alternative test equipment or methods. Also, such contacts prompt the manufacturer to more carefully design and thoroughly test the equipment, especially in light of the forthcoming technical review, and keeps the Commission staff abreast of the state-of-the-art in equipment design and testing. The comment expressed concern that notification would delete these FCC/manufacturer interactions and their associated benefits.

11. We are incorporating some of the suggested language from Spectrum into the compliance statement contained in Section 2.975(a)(6). It is felt that requiring the name and address of the test laboratory or in-house test facility to be included in the application will encourage continued contacts with the FCC Laboratory personnel should any problems arise concerning measurement procedures or interpretations of the regulations relating to specific standards. We believe that most manufacturers of previously approved equipment would continue such discussions with our staff without the need for this additional language but that encouragement should be given to new manufacturers and others that are not accustomed to filing applications for equipment authorizations.

12. There is an additional reason for adopting the suggestion from Spectrum. Many of the commenters felt that some manufacturers would be tempted by cost considerations to cut corners in their design and testing and would produce noncomplying equipment with a potential for causing interference. This temptation could be fueled by the cost of testing at an independent laboratory or by the cost of obtaining adequate test equipment and qualified personnel to make the measurements. It even appeared from the "flavor" of some of the comments that a few manufacturers felt that the adoption of the notification procedure would exempt them from the present testing requirements. This point should not be misunderstood. Such testing will be required by the rules and must be performed regardless of whether of not the results are reviewed by the FCC. The additional language added to the compliance statement will serve to further remind the applicant of the need to test the equipment.

13. At this point, we wish to emphasize that by the establishment and use of the notification procedure we are not downgrading the importance of

[3] Paragraph 25, *Ibid.*
[4] Paragraph 26, *Ibid.*

the authority conferred upon the Commission by Section 302 of the Communications Act of 1934, as amended (47 U.S.C. 302), nor the purpose and philosophy of the equipment marketing rules which were established pursuant to Section 302. The regulations adopted in Docket No. 18426 [5] require, with a few exceptions, that radio frequency devices subject to the technical standards in the Commission's rules comply with those standards prior to being marketed. In addition, radio frequency equipment subject to an equipment authorization is required to be covered by a grant of such authorization prior to being marketed. We wish to make clear that, under the notification procedure, devices subject to the procedure are required to comply with the applicable technical standards *and* to be covered by a grant of notification prior to marketing. The only exceptions to the pre-marketing compliance and authorization requirements for devices subject to any of the equipment authorization procedures are stated in Subpart I of Part 2 of the regulations (47 CFR 2.801 *et seq.*).

14. We are not adopting the proposal by EMCEE and others to require the inclusion of measurement data with an applicant's first time submission under a particular rule part. The notification procedure is unique among the other equipment authorization procedures in giving the Commission the ability to structure the format of the received application as desired. A sample of the equipment can be requested without measurement data, simulating the type approval authorization. Alternatively, the measurement data can be requested without a sample, simulating the type acceptance/certification authorization. Should a new type of equipment be submitted for approval, it is quite probable that both the measurement data and a sample would be requested by the Commission prior to the issuing of a grant of authorization. (This type of request is not unusual even under the present authorizations when a new category of equipment is involved, yet it is unlikely that we would place a new type of equipment under notification.) Likewise, it is possible that a new manufacturer or applicant for a grant of equipment authorization or a first time applicant under a specific rule part would be requested to submit additional data, depending on the type of equipment for which approval is sought. We intend to require the submission of such additional data when it is felt to be needed but do not wish to require its submission on a routine basis.

15. We cannot guarantee that samples or data will not be required prior to the issuance of a grant, as requested by the EIA/CEG. However, requests for additional information or test samples prior to the issuance of a grant are expected to be made sparingly and primarily for equipment with a history or probability of noncompliance with the regulations. In addition, some random pre-grant sampling and data submission requests may also be made as resources and time permit. We wish to stress that these requests for data and/or samples may be expected by applicants whenever an application is not sufficiently complete to determine if a grant should be issued or there are any questions concerning the submitted application or the appropriateness of issuing a grant of authorization. If a category of equipment covered under notification becomes a source of interference because of an increase in the level of use of the equipment, noncompliance with the regulations, or for any other reason, it is likely that additional information and/or an equipment sample would have to be submitted before a grant would be issued.

Retention of the Existing Authorizations

16. The third major area of concern expressed in the comments was the advisability of deleting the present type approval, type acceptance and certification equipment authorization procedures. Anaconda-Ericsson and Atari both requested a phased-in elimination of the existing authorization procedures, alleging that the existing procedures (1) cause additional costs to the manufacturer and, ultimately, the consumer, (2) duplicate the manufacturer's testing efforts, and (3) delay the market introduction of equipment. Additionally, COMSAT requested that the certification procedure be deleted for a six-month experimental period. Should the results from that experimental deletion prove favorable, certification should be permanently deleted and the possibility of deleting type acceptance and type approval should be considered.

17. Three companies, EMCEE, Acrodyne and GE, specifically requested that the type acceptance, type approval and certification procedures be retained. In addition, a number of parties (SIRSA, Motorola, M/A-COM, OKI, and Complico) filed in opposition to or in partial opposition to the notification procedure along with GE and Acrodyne mentioned above. In some cases the opposition was based on the possibility of including a certain category of equipment under notification, especially land mobile equipment. These commenters were adamant in urging the Commission to retain the existing procedures in order to minimize the marketing of noncomplying equipment. They argued that procedures such as type acceptance, unlike the notification procedure, are more likely to identify and resolve any technical problems before the equipment is introduced into the marketplace while notification would be more likely to identify equipment with defects only after the equipment is in the marketplace and interference problems have already resulted.

18. While comments regarding the inclusion of certain equipment categories, as earlier stated, were specifically not requested and will not be considered, the receipt of such comments emphasizing the manufacturers' opposition to using notification for their equipment indicates their belief that the present equipment authorizations are useful for controlling the interference potential of equipment in certain radio services. Indeed, this was the basic argument against adoption of the notification procedure. A few of the commenters stated that the present type acceptance program is not a burden. As stated by SIRSA, the current procedures applicable to land mobile radio equipment (type acceptance and certification) "* * * have not hindered the provision of diverse sources of reliable, technically sound, durable and economical land mobile radio equipment. We believe these procedures have contibuted to the current environment of diverse, quality equipment sources." SIRSA followed this comment by stating that "* * * the burdens of the existing authorizations appear minimal and justified." This line of reasoning was repeated in the reply comments from GE in which they state "As a principal manufacturer of radio equipment, GE has never believed that the type approval, type acceptance or certification processes imposed an undue regulatory burden on the supplier, but rather added an important and necessary safeguard against the marketing of radio frequency devices that could contaminate the spectrum."

19. We are convinced of the need to retain the existing procedures especially as applied to types of equipment which have a high potential for creating interference problems, equipment used in highly congested radio services, and equipment used in new areas of

[5] Report and Order, FCC 70-506, 35 FR 7694, 23 FCC 2d 79.

technology. All of the comments which supported deleting the present authorization procedures were filed by companies that have only recently had their equipment brought under these authorizations (COMSAT * and Atari are concerned with Class B computers recently placed under certification and Anaconda-Ericsson is concerned with equipment (subject to both type acceptance and certification) for the newly instituted Domestic Public Cellular Radio Telecommunications Service). Their concern with the time delays and other factors associated with the authorization procedures is therefore understandable. However, the demonstrated ability of the existing authorization procedures to minimize the amount of interference-causing equipment reaching the marketplace should not be overlooked. Therefore, the existing procedures are being retained.

20. Much of the objection against the notification proposal was based on a concern that some manufacturers would cut corners to reduce the price of their equipment or the cost of its production. Moreover, as pointed out by Motorola, even reputable manufacturers could inadvertently market noncomplying equipment as the result of either a simple error or because of a misinterpretation of the Commission's requirements. These problems might be detected in our sampling program. However, SIRSA remarked that if sampling of the marketed equipment was necessary under notification in order to achieve the same effectiveness as was achieved under type acceptance without sampling, then notification presents no substantial improvement over type acceptance in terms of benefit to the public or reduced demands on Commission resources. M/A-COM expressed similar reservations but would accept the notification proposal if it actually resulted in a substantial reduction in the application processing time. OKI further advanced this contention by stating that more demanding standards have been necessary to prevent interference and that it is important to maintain the effectiveness of the equipment authorization program and to strengthen rather than relax our standards. We believe that these concerns can be satisfied by judicious selection of the equipment to be placed under notification.

21. With the proper choice of equipment placed under notification, the institution of a strong sampling program will increase the effectiveness of notification in preventing noncomplying equipment from being marketed. We intend to give greater emphasis to equipment sampling, both pre-grant and post-grant. Such sampling was needed under the type acceptance and certification procedures but was used only on a limited basis as it also affected the backlog time for equipment authorization applications. This problem should be reduced by the actions we are taking today.

22. This increased sampling should be of great benefit to the Commission, especially in the area of post-grant sampling. It has been alleged that some of the samples submitted for type approval or even for type acceptance or certification (when requested) are what are known as "laboratory queens". These are engineering prototype or hand-assembled units with hand-picked components which are completely tested prior to submission to our laboratory. These units may not be representative of the quality of the equipment actually being produced in quantity and marketed to the public. As resources permit, our expanded sampling program will test equipment marketed to the public and will, therefore, be able to obtain a more accurate assessment of the equipment actually used by the public. This sampling will not be limited to equipment placed under notification or verification but will be expanded to cover all types of radio equipment, including those covered under type approval, certification and type acceptance. Such a program can be of substantial benefit to the public by reducing the quantity of interference-causing equipment being marketed and by allowing the Commission to identify and correct the sources of interfering equipment.

Miscellaneous Considerations

23. We received a number of additional miscellaneous comments in this proceeding. It was suggested that the notification procedure be replaced with a "registration" program or an "authentication" program with an automatic grant of authorization, that sampling tests be made on the manufacturer's premises, and that private companies be allowed to issue grants of equipment authorization. These suggestions must be considered to be beyond the scope of this proceeding.

24. Motorola suggested that schematics, photographs and a statement of the intended use of the equipment be required with an application for notification in order to positively identify the equipment and to allow the Commission to quickly verify that the equipment will satisfy the requirements applicable to the particular radio service. Atari opposed this suggestion in their reply comments as the requirement for such information would defeat the purpose of the notification proposal, i.e., the elimination of unnecessary information being sent to the Commission. We agree with Motorola on the ability of schematics and photographs to positively identify the equipment. However, the option to request this material is available under notification and will be used whenever it is felt to be necessary. We can not justify, especially without knowing the specific types of equipment to be included, requiring this material on a routine basis for precisely the reason given by Atari. One purpose of notification is to eliminate the filing of non-essential paperwork. The requirement for a statement of intended use of the equipment was proposed in the NPRM in this docket and is being adopted as proposed (see § 2.975(a)(3)). The amount of paperwork associated with this requirement is minimal, usually requiring only one sentence of information, while the statement can be used to determine if the equipment is eligible for operation in the concerned radio service or under the rule(s) cited by the applicant.

25. In order to facilitate minor design changes in authorized equipment, the regulations specify that certain permissive changes may be made without having to obtain a new grant of equipment authorization. The NPRM in this proceeding proposed that only those Class I permissive changes allowed for type accepted equipment (Section 2.1001(b) of the regulations) be permitted for equipment placed under notification. Motorola also requested that Class II permissive changes be allowed under notification. In a similar vein, TI, supported by Atari's reply comments, requested that permissive changes as currently applied to equipment authorized under the certification procedure (Section 2.1043 of the regulations) be allowed should equipment presently subject to certification be placed under notification. The only differences in the permissive changes for type accepted or certificated equipment concerns the introductory paragraph of the rule sections. Section 2.1001 restricts changes in the tube or semiconductor line up, the frequency multiplication circuitry, the basic frequency determining and stabilizing circuitry, the basis modulator circuit and the maximum power rating.

* While we are not aware of any Class B computing equipment presently being marketed by COMSAT, their comments lead us to believe that they may be contemplating entering this area.

Any changes in the restricted elements contained in the introductory paragraph of § 2.1001 are a change in equipment "type" and are not allowed as a permissive change under type acceptance, requiring the obtaining of a new grant of authorization. Section 2.1043 allows for changes in those restricted elements as long as the performance characteristics of the equipment are not adversely affected.

26. We are in agreement with Motorola that Class II permissive changes should be allowed in equipment placed under notification. We are also in agreement with TI and Atari that it would be unfair to reduce the degree of permissive change allowed in equipment formerly subject to the lesser restrictions under certification. Yet, we do not wish to impose two different types of permissive changes based on the heritage of the equipment. Therefore, in order to further reduce the regulatory restrictions under notification, we have amended § 2.977(b) of the proposed regulations to reflect the type of permissive changes currently allowed for equipment subject to the certification procedure, as detailed in § 2.1043 of the regulations. This change will reduce the restrictions on manufacturers of equipment which was previously subject to the type acceptance procedure but should not increase the interference potential of the devices since no degradation of the performance standards would be allowed under the Class I permissive change and any degradation allowed under a Class II permissive change would still not allow the equipment to exceed the limits in the technical standards contained in the regulations. Type acceptance was concerned with maintaining equipment of the same "type" under the identification submitted with the application. The necessity for requiring this under notification is not considered to be as critical as with equipment maintained under type acceptance.

27. In connection with permissive changes, the EIA/PCS requested that use of the notification procedure be allowed when modifications or permissive changes are made to equipment approved under one of the existing forms of equipment authorization but which was subsequently brought under the notification procedure prior to the modifications or permissive changes. We can see no reason not to allow this relaxation. Once a category of equipment is placed under notification, all other actions, involving any equipment of that category, regardless of the former approval issued to that equipment, will be treated under notification.

28. M/A-COM requested that the Commission utilize analytic modeling techniques to estimate any changes in enforcement costs under various alternative approaches to the notification procedure. This analysis would take the sampling procedure into account and could be used to compare the costs of the current equipment authorization procedures with the notification procedure and its sampling and possible enforcement problems. The cost comparison would allow the Commission to weigh the potential risks of notification against the benefits it is attempting to achieve. Analytic modeling can be a useful tool in evaluating regulatory alternatives. It should never be considered the final word, however, because it can only be as accurate as its assumptions and data. Moreover, any type of modeling that examined specific equipment types provides little insight into a proceeding that merely establishes new procedures. Furthermore, since we are bound by the Administrative Procedures Act to disclose our rationale for action in a particular area, parties believing we have erred have all the information necessary to seek relief either through us (on reconsideration) or through judicial review. We believe any action that would tend to restrict our analysis, even in the relatively narrow area of equipment authorization, would unduly limit our options to establish policies in the public interest. Thus, we are not adopting by M/A-COM's request.

29. TI requests the Commission to make a listing of certificated equipment more available under the notification procedure. Assuming for the moment that all certificated equipment were to be placed under notification, the sheer number of models of equipment would make this task unfeasible. Type accepted equipment which is published in the Commission's "Radio Equipment List, Equipment Acceptable for Licensing" constitutes only a small part of the equipment approved by this agency. The majority of equipment models are approved under certification as this category includes all receivers operating between 30 and 890 MHz, (including television and FM broadcast receivers) as well as CB receivers, low powered transmitters and many other nonlicensed devices. The sheer number of equipment models included under certification would make the publishing of an approved equipment list prohibitive. The cost of publishing would be prohibitive both to the Commission and to those members of the public that may wish or need a copy as the size of the publication would require many volumes instead of the one volume now published. There also appears to be little demand for a list of certificated equipment as no license is required to operate this equipment and the general public is expected to have very little need for such a list. The inquiries which are received generally reference specific equipment and can be most efficiently and economically handled on a case-by-case basis. We will continue to publish an equipment list, including that equipment placed under notification, for those licensed radio services which need to determine that the equipment has been approved prior to marketing and licensing, but we must consider any suggestions to expand this list to be beyond the scope of this item.

Rule Amendments

30. The rules being adopted in this proceeding are shown in the attached Appendix B. These regulations are almost identical to those proposed in the earlier notice in this docket. The following changes or additions have been made: (1) Section 2.975(a)(6) which contains the compliance statement to the filed with applications for notification was changed to indicate the laboratory which tested the equipment; (2) Section 2.977 regarding changes in equipment under notification has been revised to reflect the permissive changes currently contained in Section 2.1043 of the existing regulations for that equipment which retains the same identification specified in the grant of authorization; and (3) Section 2.975 contains a new paragraph (e) to alert applicants that measurement data, samples or other information may be required prior to the issuance of a grant of notification. While not discussed in the preceding text, a change was also made to § 2.933(b) though no comments were received on this rule section. A new grant of equipment authorization is necessary whenever there is a change in the identification of the equipment even if no changes are made in the design, circuitry or construction.

31. We expect the regulations adopted in this order to have a minimal adverse impact on both the manufacturers and users of this equipment. We wish to point out that no changes in these regulations are intended to change the technical standards relating to the equipment nor are they intended to delete any of the test requirements which currently exist with the other equipment authorization procedures. We

expect applicants for an authorization under notification to continue to contact the appropriate FCC personnel whenever any questions develop concerning specific testing methods, equipment design problems or interpretations of the regulations themselves. In other words, we do not wish the actions taken in this docket to change the interactions currently employed between industry and Commission personnel.

32. A number of benefits can be achieved from the proper handling of the notification procedure. The benefits to the manufacturers, and ultimately the consumer, include the ability to market equipment at an earlier date and the savings produced from this earlier marketing, the ability to more effectively plan a marketing penetration date, and the deletion of the preparation of a measurement data report. At the same time, the Commission will be able to concentrate its resources in the areas of the equipment authorization program where they are most needed. The interference aspect of the equipment must be taken into account before it is placed under notification if this program is to function correctly. We are hopeful that those organizations that furnished comments in this proceeding will continue their support in the associated proposals to place equipment under verification and notification.

Conclusion

40. In view of the foregoing, we find that the amended rules as described above and in the attached Appendix B are in the public interest, convenience and necessity. The authority for these amendments is contained in Sections 4(i), 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended. Accordingly, it is ordered, effective February 22, 1983, that Part 2 of the Commission's Rules and Regulations is amended as set out in the attached Appendix B and that all other requests for amendments, as detailed above, are denied. It is further ordered that this proceeding is terminated.

Federal Communications Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

William J. Tricarico,

Secretary.

Appendix A

Comments were received from:

1. Special Industrial Radio Service Association, Inc. (SIRSA)
2. GTE Service Corporation (GTE)
3. Phonic Ear, Inc. (Phonic Ear)
4. Electrohome Electronics (Electrohome)
5. Computer and Business Equipment Manufacturers Association (CBEMA)
6. Rockwell International Corporation (Rockwell)
7. Motorola, Inc. (Motorola)
8. Commodore Business Machines, Inc. (Commodore)
9. Anaconda-Ericsson, Inc. (Anaconda-Ericsson)
10. Personal Communications Section, Communications Division, Electronic Industries Association (EIA/PCS)
11. M/A-COM, Incorporated (M/A-COM)
12. Texas Instruments Incorporated (TI)
13. Electronics, Missiles & Communications, Inc. (EMCEE)
14. Atari, Inc. (Atari)
15. Consumer Electronics Group of the Electronic Industries Association (EIA/CEG)
16. Acrodyne Industries (Acrodyne)
17. OKI Advanced Communications (OKI)
18. COMSAT General TeleSystems, Inc. (COMSAT)
19. Complico (Complico)
20. Spectrum Measurements Corp. (Spectrum)

Reply comments were received from:

1. Atari, Inc.
2. Motorola, Inc.
3. General Electric Co. (GE)

Appendix B

Title 47 of the Code of Federal Regulations, Part 2, is amended as follows:

1. The Table of Contents for Part 2 is amended in Subpart J by adding a new § 2.904, revising the undesignated subheading after § 2.908, and by adding a new undesignated subheading and §§ 2.971–2.979 after § 2.969, to read as follows:

PART 2—[AMENDED]

* * * * *

Subpart J—Equipment Authorization Procedures

General Provisions

* * * * *

2.904 Notification

* * * * *

Application Procedures for Equipment Authorizations

2.909 * * *

* * * * *

2.969 * * *

Notification

2.971 Cross reference.
2.973 Limitations on notification.
2.975 Application for notification.
2.977 Changes in notified equipment.
2.979 Information required on identification label for notified equipment.

Type Acceptance

* * * * *

2. Section 2.803 of Subpart I is revised as follows:

§ 2.803 Equipment requiring Commission approval.

In the case of a radio frequency device, which, in accordance with the rules in this chapter must be type approved, type accepted, certificated or notified prior to use, no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any such radio frequency device, unless, prior thereto, such devices shall have been type approved, type accepted, certificated or notified as the case may be: *Provided, however,* That the advertising or display of a device, which has not been granted type approval, type acceptance, certification or notification, will not be deemed to be an offer for sale if such advertising contains, and the display is accompanied by, conspicuous notice worded as follows:

This device has not been approved by the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased until the approval of the FCC has been obtained.

This provision does not apply to radio frequency devices that could not be granted an equipment authorization or be legally operated under our current rules. Such devices shall not be advertised or displayed or offered for sale or lease or sold or leased. *Provided further,* That any non-approved device displayed under the terms of the above provision may not be activated or operated.

3. Section 2.901 is revised as follows:

§ 2.901 Basis and purpose.

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum, the Commission has developed technical standards for radio frequency equipment and parts or components thereof. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards provided, the rules governing the service may require that such equipment be verified by the manufacturer or importer, or that such equipment receive an equipment authorization from the Commission by one of the following procedures: type approval, type acceptance, certification, registration or notification.

(b) The following sections describe the verification procedure and the

procedures to be followed in obtaining type approval, type acceptance, certification or notification from the Commission and the conditions attendant to such a grant.

4. A new § 2.904 is added to read as follows:

§ 2.904 Notification.

(a) Notification is an equipment authorization issued by the Commission whereby the applicant makes measurements to determine that the equipment complies with the appropriate technical standards and reports that such measurements have been made and demonstrate the necessary compliance. Submittal of a sample unit or representative data to the Commission demonstrating compliance is not required unless specifically requested by the Commission pursuant to §§ 2.936, 2.943 or 2.945.

(b) Notification attaches to all items subsequently marketed by the grantee which are identical, as defined in § 2.908, to the sample(s) tested and found acceptable by the grantee.

(c) Permissive changes or other variations authorized by the Commission to equipment under the notification procedure shall be made in accordance with the restrictions contained in § 2.977.

5. The undesignated subheading after § 2.908 is revised to read as follows:

Application Procedures for Equipment Authorizations

6. Paragraph (c) and the introductory sentence of paragraph (a) of § 2.915 are revised as follows:

§ 2.915 Grant of application.

(a) The Commission will grant an application for type approval, type acceptance, certification or notification if it finds from an examination of the application and supporting data, or other matter which it may officially notice, that:

* * * * *

(c) Neither type approval, type acceptance, certification or notification shall attach to any equipment, nor shall any equipment authorization be deemed effective, until the application has been granted.

7. Section 2.931 is revised, as follows:

§ 2.931 Responsibility of the grantee.

In accepting a grant of an equipment authorization the grantee warrants that each unit of equipment marketed under such grant and bearing the identification specified in the grant will conform to the unit that was measured and that the data (design and rated operational characteristics) determined by the grantee for notification, filed with the application for type acceptance or certification, or measured by the Commission in the case of type approved equipment, continues to be representative of the equipment being produced under such grant within the variation that can be expected due to quantity production and testing on a statistical basis.

8. Paragraph (a) of § 2.932 is revised and a new paragraph (e) is added, as follows:

§ 2.932 Modification of equipment.

(a) A new application for an equipment authorization shall be filed whenever there is a change in the design, circuitry or construction of an equipment or device for which an equipment authorization has been issued, except as provided in paragraphs (b), (c), (d) and (e) of this section.

* * * * *

(e) Permissive changes may be made in notified equipment pursuant to § 2.977.

9. Paragraph (b)(5) and paragraph (c) of § 2.933 are revised, as follows:

§ 2.933 Change in identification of equipment.

* * * * *

(b) * * *

(5) Whether the data previously filed with the Commission (or measured by the Commission in the case of type approved equipment or measured by the applicant in the case of notified equipment) continues to be representative of and applicable to the equipment bearing the changed identification.

* * * * *

(c) If the change in identification also involves a change in design or circuitry which falls outside the purview of a permissive change described in §§ 2.977, 2.1001 or 2.1043, a complete application shall be filed pursuant to § 2.909.

10. A new paragraph (a)(3) is added to § 2.938 to read as follows:

§ 2.938 Retention of records.

(a) * * *

(3) For equipment covered under the notification procedure, a record of the test results that demonstrate compliance with the appropriate regulations.

* * * * *

11. Paragraph (a) of § 2.941 is revised as follows:

§ 2.941 Availability of information relating to grants.

(a) Grants of equipment authorization, other than for receivers and equipment authorized for use under Parts 15 or 18 of this Chapter, will be publicly announced in a timely manner by the Commission. Information about a receiver authorization or about the authorization of a specific model of equipment under Parts 15 or 18 of this Chapter may be obtained by contacting the Commission's Office of Science and Technology.

* * * * *

12. Paragraph (a) of § 2.943 is revised as follows:

§ 2.943 Submission of equipment for testing.

(a) The Commission may require an applicant for type acceptance, certification or notification to submit one or more sample units for measurement at the Commission's laboratory.

* * * * *

13. A new undesignated heading is added after § 2.969 and new §§ 2.971–2.979 are added to read as follows:

Notification

§ 2.971 Cross reference.

The general provisions of this subpart, 2.901, *et seq.*, shall apply to applications for the grants of notification.

§ 2.973 Limitations on notification.

Notification is a grant of equipment authorization issued by the Commission that signifies that the applicant has determined that the equipment has been shown to be capable of compliance with the applicable technical standards in the Commission's rules if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. Compliance with these standards shall not be construed to be a finding by the applicant with respect to matters not encompassed by the Commission's rules.

§ 2.975 Application for notification.

(a) Subsequent to the determination by the applicant that the equipment complies with the applicable standards, the applicant, who shall retain the responsibility for ensuring that the equipment continues to comply with such standards, shall file a request for the issuance of an equipment authorization on FCC Form 731, for each FCC Identifier, with all questions answered. Where a form item is not applicable, it shall be stated. The application shall be filed in the name of the party to whom the grantee code is assigned (see § 2.926 concerning the assignment of identifier codes). The following information shall be included in the filing, either in answer to the

questions on the form or as attachments thereto:

(1) name of the applicant indicating whether the applicant is the manufacturer of the equipment, a vendor other than the manufacturer, a licensee or a prospective licensee. Where the applicant is not the manufacturer of the equipment, the name of the manufacturer shall be stated;

(2) The following technical information:

(i) Type or types of emission (if applicable);

(ii) Frequency range;

(iii) Rated frequency tolerance (if applicable); and

(iv) Rated radio frequency power output, if applicable (if variable, give the range);

(3) A statement concerning the intended use of the device including both the type of use for which the device has been designed and the part(s) or subpart(s) of the rules governing the device;

(4) The FCC Identifier of the equipment for which notification is sought (see § 2.926) and a photograph or drawing of the equipment identification plate or label showing the information to be placed thereon in accordance with § 2.925;

(5) If specifically required under the rule section(s) under which the equipment is to be operated, photographs of the equipment of sufficient clarity to reveal its external appearance and size, both front and back; and

(6) A signed statement attesting to the following or its equivalent:

This equipment has been tested in accordance with the requirements contained in the appropriate Commission regulations. To the best of my knowledge, these tests were performed using measurement procedures consistent with industry or Commission standards and demonstrate that the equipment complies with the appropriate standards. Each unit manufactured, imported or marketed, as defined in the Commission's regulations, will conform to the sample(s) tested within the variations that can be expected due to quantity production and testing on a statistical basis. I further certify that the necessary measurements were made by (state the name and address of the test facility even if your own facility was used).

(b) The statement required in paragraph (a)(6) of this section shall be signed pursuant to § 2.909(c).

(c) Upon the satisfactory completion of the necessary testing to determine that the applicable standards are met, the submission of the material required in paragraph (a) of this section and the issuance of a grant of equipment authorization, marketing, as defined in § 2.803, is permitted.

(d) The authorization of the equipment through the notification procedure may be revoked pursuant to § 2.939.

(e) Further information may be requested prior to the issuance of a grant of notification. This information may include measurement data, photographs, circuit diagrams and descriptions, or any other material which may be deemed necessary.

§ 2.977 Changes in notified equipment.

(a) Under the notification procedure, the grantee warrants that each unit of equipment marketed under the identification specified in the grant of equipment authorization will conform to the unit(s) tested and found acceptable by the grantee and that data on file with the grantee, as required in § 2.938, continues to be representative of the equipment being produced under such notification within the variation that can be expected due to quantity production and testing on a statistical basis.

(b) Permissive changes in the design of notified equipment may be performed only under the conditions detailed in paragraphs (a) through (c) of § 2.1043.

§ 2.979 Information required on identification label for notified equipment.

Each equipment for which a notification application is filed shall bear an identification plate or label pursuant to §§ 2.925 and 2.926. The FCC Identifier for such equipment will be validated by the grant of notification.

[FR Doc. 83-2083 Filed 1-25-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 663

[Docket No. 30120-12]

Foreign Fishing; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; corrections and technical amendment.

SUMMARY: This document adds a vessel activity code for "joint ventures," and corrects amendatory language in a recent rulemaking and notice regarding specific groundfish and the "TALFF" table (Total Allowable Level of Foreign Fishing). The intended effect is to clarify and simplify various activities carried out under the Magnuson Act.

EFFECTIVE DATE: January 26, 1983.

FOR FURTHER INFORMATION CONTACT: Susan Jelley, National Marine Fisheries Service, 202-634-7432.

SUPPLEMENTARY INFORMATION: This document makes several corrections as well as a technical amendment to clarify administration of the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*).

1. Currently, foreign vessel permits are issued for three activities: harvesting, processing, or other support. Foreign vessels receiving U.S.-caught fish at sea ("joint ventures") have been permitted under activity code 2. A new activity code is added to separate processing of foreign-harvested fish from processing U.S.-harvested fish.

2. The amendatory language in a recent final rule is corrected to indicate which paragraphs are modified. The title of a section in another final rule is corrected.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing, Reporting requirements.

Dated: January 21, 1983.

Carmen Blondin,

Deputy Assisted Administrator for Fisheries Resource Management, National Marine Fisheries Services.

For the reasons stated in the preamble, 50 CFR Parts 611 and 663 and FR Documents 82-27711 and 82-27291 are amended as follows:

PART 611 [AMENDED]

1. The authority citation for 50 CFR Part 611 is as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. Amend 50 CFR 611.3 by adding a new paragraph to the end of paragraph (d) to read as follows:

§ 611.3 Permits for foreign fishing vessels.

* * * * *

(d) * * *

Class 4: Receipt at sea of United States harvested fish from vessels of the United States ("joint venture").

* * * * *

PART 663 [AMENDED]

3. In FR Doc. 82-27711 appearing on page 44264 in the issue of October 7, 1982, remove item 6.

§ 663.3 [Corrected]

4. In FR Doc. 82–27291, the title of § 663.3, appearing in the right-hand column on page 43975 in the issue of October 5, 1982, is corrected from "Retention to other laws" to "Relation to other laws".

[FR Doc. 83–2150 Filed 1–25–83; 8:45 am]
BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 48, No. 18
Wednesday, January 26, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Docket No. AO-144-A14]

Lemons Grown in California and Arizona; Amendment of Notice of Hearing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Change of location of public hearing.

SUMMARY: This document is intended to notify the public of a change in the location of a public hearing on a proposed marketing agreement and proposed further amendment of Marketing Order 910, as amended. Notice of the public hearing was published in the **Federal Register** on January 13, 1983 (48 FR 1508).

DATE: The hearing will begin at 9:00 a.m. on February 14, 1983.

ADDRESS: The hearing will be held at the Oak View Community Center, 18 Valley Road, Oak View, Calif., rather than at the location specified in the notice.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone: 202-447-5975; or Roland G. Harris, Los Angeles Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 845 S. Figueroa, Suite 504, Los Angeles, California 90017, telephone: 213-668-3190.

Signed at Washington, D.C., on: January 20, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-2074 Filed 1-25-83; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 170

[Docket No. PR-170]

Proposed Revision of License Fee Schedules

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: On November 22, 1982 (47 FR 52454), the NRC published for public comment a notice of proposed rulemaking regarding amendments to its regulations and fees for inspections and review of applications for permits, licenses, amendments, renewals, and special projects (including topical and other reports) dated November 15, 1982. At the request of the Atomic Industrial Forum the NRC is extending the period for comment on the proposed rule from January 18, 1983 to February 8, 1983.

DATE: Comments on the proposed rule (47 FR 52454, November 22, 1982) must be submitted to the NRC by February 8, 1983.

ADDRESSES: Send comments to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Services Branch. Deliver comments to: Room 1121, 1717 H Street, NW., Washington, D.C., between 8:15 a.m. and 5:00 p.m. Copies of comments may be examined and copied for a fee at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: William O. Miller, License Fee Management Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492-7225.

Dated at Washington, D.C. this 21st day of January 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-2115 Filed 1-25-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 34

[Docket No. 83-3]

Bankers' Banks

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("Comptroller") was recently granted express authority by Congress to charter limited purpose national associations of a type commonly known as bankers' banks to provide services solely to depository institutions. This new law gives the Comptroller substantial flexibility in the chartering and regulation of such bankers' banks. The Comptroller seeks comments on the standards and procedures to be used in the chartering and regulating of such bankers' banks.

DATE: Comments must be received on or before February 25, 1983.

ADDRESS: Comments should be sent to Docket No. 83-3, Communications Division, 3d Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, SW. Washington, D.C. 20219. Attention: C. Christine Jones. Telephone: (202) 447-1800. Comments will be available for inspection and photocopying.

FOR FURTHER INFORMATION CONTACT: Mark Leemon or Duff Jordan, Attorneys, Legal Advisory Services Division, (202) 447-1880, or Randall J. Miller, Bank Organization and Structure Division, (202) 447-1184, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: The first State-chartered bankers' bank was established in 1975 in Minnesota. That institution established an interstate network to perform data processing, proft analysis, compliance instruction, advertising, and other services for banks. Further interest in bankers' banks was sparked by section 711 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221) which authorizes national banks to invest in State-chartered bankers' banks.

Section 404 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320) ("Act") authorizes the Comptroller to charter bankers' banks, *i.e.*, limited purpose institutions that are owned exclusively by depository institutions and that will provide services solely to depository institutions and their directors, officers and employees. This authority is primarily contained in amendments to 12 U.S.C. 24 (Seventh) and 27.

Under the Act, a national bank is permitted to own up to 5% of the voting shares of a bankers' bank or of a bank holding company that controls a bankers' bank, provided that all the subsidiaries of the holding company provide services only to depository institutions. The Act limits a national bank's total investment in the stock of one or more bankers' banks to 10% of the investing bank's unimpaired capital and surplus. the Comptroller requests comments on the wide-reaching issues of bankers' banks as well as on the specific issues discussed below.

Rulemaking Authority

The Act grants the Comptroller rulemaking and enforcement authority regarding the chartering and operations of national bankers' banks. The Comptroller is empowered to specifically waive or modify any requirements normally applicable to national banks if such requirements are deemed to be inappropriate or irrelevant to bankers' banks. The Comptroller requests comments concerning how such general regulations might be structured as well as any comments concerning the specifics of such regulations. For example, a requirement generally applicable to national banks which may be inappropriate to bankers' banks are regulations promulgated pursuant to the Community Reinvestment Act of 1977 (12 CFR Part 25). The Comptroller specifically seeks comments concerning this and other requirements that may be inappropriate to all or certain types of bankers' banks.

Existing bankers' banks, operating under State charters in at least six States, perform functions traditionally offered by correspondent banks such as check collection. Bankers' banks typically are jointly owned by and provide services for small banks that seek the economies of scale available through combining resources. The Act parallels several State laws in permitting a wide range of activities by bankers' banks. The Comptroller seeks comments on the types of services that national bankers' banks should be permitted to perform. Respondents are also asked to comment on whether the Comptroller should enumerate specific permissible activities and prohibitions.

Chartering Procedures

The Comptroller anticipates that the chartering of national bankers' banks will be similar to existing chartering procedures, *i.e.*, applicant groups will be requested to submit information on the shareholders and the operating plan of the proposed institution. The Comptroller might, however, determine that the capital requirements generally applicable to a national bank would be inappropriate for certain limited purpose institutions. The issue of capital requirements can be briefly summarized: should bankers' banks be permitted to be operated on a relatively small capital base? An affirmative answer to this question could be premised on the rationale that bankers' banks will not be performing the types of risk activities (such as commercial lending) that necessitate a large capital base. Similarly, the character of their liabilities may differ from the norm for commercial banks. The Comptroller specifically seeks comments on this issue and any other statutory or regulating standards that might be inappropriate for bankers' banks.

A notice of proposed rulemaking will be published in due course after consideration of the available data and comments received in response to this notice.

List of Subjects in 12 CFR Part 34

National banks, Bankers' banks.

Dated: January 20, 1983.

Doyle L. Arnold,

Senior Deputy Comptroller for Policy and Planning.

[FR Doc. 83-2077 Filed 1-25-83; 8:45 am]

BILLING CODE 4810-33-M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Policy Statements, Dockets 37982, 40584; Order 82-12-67]

Statements of General Policy

Correction

FR Doc. 83-1867 was published on page 2969 in the issue of Monday, January 24, 1983. It terminated a rulemaking proceeding. It was incorrectly published as a rule document and should have appeared in the Proposed Rules section of the **Federal Register.**

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Monthly Statements Furnished to Futures Customers by Futures Commission Merchants; Extension of Comment Period

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On December 22, 1982, the Commission published in the **Federal Register** a proposed amendment to Section 1.33 of its regulations which would require futures commission merchants ("FCMs") to include in monthly statements to futures customers a detailed accounting of commissions and fees charged to the customer's account during the preceding month.[1] The comment period thereon was set to expire on January 21, 1983.

The Commission has received requests for an extension of that comment period. Because the Commission wishes to be certain that all parties have an opportunity to complete and submit their comments, it is allowing an additional thirty days for comment.

DATE: Accordingly, notice is hereby given that all comments on the Commission's proposed amendment to § 1.33 (47 FR 57055) must be submitted by February 21, 1983.

ADDRESS: 2033 K Street N.W., Washington, D.C. 20581, Attention, the Secretariat.

FOR FURTHER INFORMATION CONTACT: Paul G. Thompson, Esq., Legal Section, Division of Trading and Markets, at (202) 254-8955.

Issued in Washington, D.C. on January 20, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-2087 Filed 1-25-83; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229 and 240

[Release Nos. 33-6449; 34-19431; IC-12969; 35-22821; File No. S7-958]

Disclosure of Management Remuneration

AGENCY: Securities and Exchange Commission.

[1] 47 FR 57055.

ACTION: Proposed rulemaking.

SUMMARY: The Commission today is publishing for comment, as part of its comprehensive Proxy Review Program, proposed rule and schedule amendments relating to the disclosure of management remuneration. The proposed revisions are intended to simplify disclosure and reduce compliance burdens in a manner consistent with investor protection. The proposed revisions include amendments to Item 402 of Regulation S–K, the uniform item governing the disclosure of management remuneration in proxy statements, registration statements, and periodic reports.

DATE: Comments must be received on or before May 1, 1983.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7–858. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Susan P. Davis or Arthur H. Miller, (202) 272–2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

Executive Summary

The Commission is publishing for comment proposed amendments to Item 402 of Regulation S–K [17 CFR 229.402] and conforming amendments to Items 9, 10 and 11 of Schedule 14A [17 CFR 240.14a–101] under the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq.]. The proposed amendments would comprehensively revise Item 402 by limiting the Remuneration Table to disclosure of certain cash remuneration; by permitting other forms of remuneration to be disclosed pursuant to a narrative, tabular or other format; and by focusing on remuneration received or vested rather than including contingent remuneration. The proposed amendments to Schedule 14A reflect the changes proposed in Item 402 but do not significantly alter the existing disclosure requirements of the Schedule.

I. Background

The Commission is revisiting the disclosure provisions regarding management remuneration as part of its Proxy Review Program, which encompasses a review of all existing substantive and procedural provisions relating to the solicitation of proxies.[1] The Commission's goal in this project is to provide more meaningful information to investors and security holders, while, at the same time, simplifying and streamlining disclosure so as to reduce unnecessary burdens on registrants.

The Commission now has had approximately five years' experience with its existing disclosure provisions regarding management remuneration, which require disclosure of all direct and indirect remuneration, whether or not contingent, and prescribe a specific format for disclosure of most remuneration. The Commission believes that the current disclosure requirements have not been fully successful in communicating information about management remuneration in a manner that is easily understood by investors and security holders and that provides an accurate account of amounts actually paid. In addition, the complexity of the current disclosure provisions has resulted in increased costs of compliance for registrants and troublesome interpretive issues.

The Commission's current emphasis on tabular disclosure of remuneration came about in 1978 [2] as a result of its concern that the then-existing provisions for disclosure of management remuneration had become outmoded and that various forms of remuneration were not being reported. Prior to 1978, disclosure of management remuneration in proxy statements was governed by provisions that had been in place for over thirty years.[3]

In December 1978, the Commission made major revisions to Item 4. Foremost among these amendments was the adoption of a revised format for the Remuneration Table to require the disclosure, pursuant to a five column tabular format, of all remuneration that can be quantified and related to the services performed by management in a particular year and to key disclosure to amounts expensed for financial reporting purposes.[4] The amendments also revised Item 4 to require disclosure of "all" remuneration, as contrasted to the former "all direct" remuneration, and to change the persons with respect to whom individual disclosure was required from the three most highly compensated officers whose aggregate direct remuneration exceeded $40,000 to the five most highly compensated executive officers whose cash and cash-equivalent forms of remuneration exceeded $50,000. In addition, a new provision was added requiring disclosure of any arrangements by which directors of the registrant are compensated.

As a result of its experience with the December 1978 revisions, the Commission made a second set of major revisions to Item 4 in November 1980.[5] First, the Commission excluded stock options and stock appreciation rights from the Remuneration Table. Instead, Item 4 was revised to require disclosure, pursuant to a suggested tabular format, of certain specified information regarding the grant, exercise or realization, and unexercised amounts of, various options, warrants and rights. In addition, the Commission revised Item 4 to require disclosure with respect to defined benefit or actuarial plans in the form of a pension table (the "Pension Table") showing estimated annual benefits payable on retirement to individuals in specified remuneration and years-of-service classifications. The November 1980 revisions also added a new provision requiring a description, unless previously disclosed, of any

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[1] the Commission already has taken action in three other areas related to proxy regulation. Recently, the Commission adopted a new uniform disclosure item, Item 404 of Regulation S–K, regarding disclosure of management relationships and transactions. (Release No. 33–6441 (December 2, 1982) [47 FR 55661]). In addition, the Commission has issued releases soliciting comment on proposed revisions to Exchange Act Rule 14a–8 [17 CFR 240.14a–8] governing proposals by security holders (Release No. 34–19135 (October 14, 1982) [47 FR 47434]) and on the recommendations of the Advisory Committee on Shareholder Communications regarding ways to improve the process by which issuers communicate with the beneficial owners of securities held in nominee name. (Release No. 34–19291 (December 2, 1982) [47 FR 55491]).

[2] Release No. 33–6003 (December 4, 1978) (43 FR 58151).

[3] These provisions required disclosure of: (1) All direct remuneration, (2) annuity, pension and retirement benefits, (3) direct and indirect payments proposed to be made in the future which had not already been reported, and (4) options to purchase securities of the issuer or its subsidiaries. The provisions were incorporated into Regulation S–K as Item 4 thereof from Item 7 of Schedule 14A [17 CFR 240.14a–101 (1977)] at the time that Regulation S–K was created as the repository of uniform disclosure provisions under the Securities Act and Exchange Act. (Release No. 33–5949 (July 28, 1978) [43 FR 34402]).

[4] Column A of the Remuneration Table requires the disclosure of the names of the individuals and the number of persons in the group for which disclosure is required, and Column B calls for disclosure of the capacities in which any named individuals served the registrant. Column C1 includes all cash remuneration distributed or accrued in the form of salaries, fees, directors' fees, commissions and bonuses; Column C2 includes all remuneration distributed or accrued in the form of securities or property, insurance benefits or reimbursement, and personal benefits; and Column D includes contingent remuneration.

[5] Release No. 33–6281 (November 14, 1980) [45 FR 76982].

remunerative plans or arrangements which results or will result from the termination of employment if the amount involved is $50,000 or more.

Over the past few years, the disclosure provisions developed in 1978 and 1980 have been the subject of substantial criticism. Faulted as overly complex and burdensome, the provisions have resulted in disclosure that some times is confusing and focuses inordinately on detail. Moreover, the goal of making it possible to compare the cost of management of various registrants through uniform disclosure requirements has not been achieved.[6] Added to to these criticisms is the fact that, although the detail of the current provisions was designed specifically to alleviate many of the interpretive issues that had arisen under earlier provisions and to provide sufficient guidance to avoid the need for such interpretive advice in the future, numerous interpretive questions have continued to arise.[7]

II. Proposed Revisions

The Commission has determined that a substantially new Item 402, rather than minor adjustments to existing Item 402, is necessary to achieve the goals of improving the effectiveness of management remuneration disclosure and reducing the burdens of preparation. The proposed new Item 402 is discussed in detail on a section-by-section basis in the Appendix to this release.

Proposed Item 402 reflects three primary themes. First, the proposed Item focuses on remuneration actually received or vested; disclosure of contingent remuneration is proposed to be eliminated. Second, the proposed Item seeks clarity and simplicity by treating easily quantifiable remuneration differently from other forms of remuneration and by moving away from the focus on amounts expensed for financial reporting purposes. Specifically, cash remuneration paid to the named individuals and group during the last fiscal year would be presented in the Remuneration Table, while other remuneration generally could be presented in a narrative, tabular or other format, at the option of the registrant. Third, the proposed Item would focus on those persons who perform policy making functions for the registrant by limiting the persons to be included in the group to directors and executive officers.

Proposed Item 402 is divided into five sections. Proposed paragraph (a) would require disclosure, in tabular form (the "Cash Remuneration Table"), of cash amounts paid or earned during the last fiscal year. Pursuant to proposed paragraph (b), disclosure of remuneration paid or to be paid pursuant to various plans would be made in connection with the description of such plans. Pursuant to proposed paragraph (c), disclosure of other remuneration not covered by proposed paragraph (a) or (b), such as perquisites, would be disclosed in a narrative, tabular or other format. When such other remuneration does not exceed the greater of $10,000 or 10 percent of the cash remuneration disclosed in the Cash Remuneration Table, however, it would not be required to be disclosed. Disclosure of standard and other arrangements for the compensation of directors would continue to be required to be disclosed pursuant to proposed paragraph (d). Finally, disclosure of remunerative plans or arrangements relating to termination of employment would continue to be required pursuant to a separate provision, proposed paragraph (e).

III. Request for Comment

Any interested persons wishing to submit written comments on the proposed revisions to Item 402 of Regulation S–K, as well as on other matters that might have an impact on the proposals contained herein, are requested to do so. Commentators are specifically invited to make suggestions as to other revisions and to express their views as to the types of information about remuneration that are or are not important to investment and voting decisions. In addition, the Commission requests specific comment as to the costs incurred (by specific type and amount, if possible) by registrants in complying with existing Item 402 and the magnitude and areas of cost savings that registrants may realize if proposed Item 402 is adopted.

The Commission also requests comment on whether the proposed revisions, if adopted, would have an adverse effect on competition or would impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Securities Act and the Exchange Act. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under Section 23(a)(2) of the Exchange Act.

IV. Initial Regulatory Flexibility Analysis

This initial regulatory flexibility analysis, prepared in accordance with 5 U.S.C. 603, relates to the proposal of a substantially new Item 402 of Regulation S–K, governing the disclosure of management remuneration in proxy statements, registration statements and periodic reports.

Reason for Proposed Action

During 1982, the Securities and Exchange Commission (the "Commission") announced that it would be conducting a comprehensive and coordinated review of the rules, forms and schedules relating to the solicitation of proxies. Adopted in a piecemeal fashion, and the subject of frequent changes, the current proxy rules may contain duplicative requirements and may have caused difficulty for registrants in gathering information necessary for disclosure. Moreover, the disclosure requirements applicable to proxy statements have become more detailed and complex over the years.

As part of its study of the proxy rules, the Commission has reviewed existing Item 402 of Regulation S–K. As a result of that review, the Commission has determined to propose for comment a substantially new Item 402. The basic reasons for this rulemaking proceeding are to simplify existing Item 402 and to reduce the compliance burdens on registrants, while, at the same time, providing investors and security holders with meaningful information concerning management remuneration. New Item 402 would implement these objectives by focusing on remuneration actually paid or vested and eliminating the disclosure of contingent remuneration; by limiting, for the most part, the Remuneration Table to cash paid or distributed, as contrasted to amounts expensed for financial reporting purposes; by allowing registrants to disclose remuneration other than cash paid in a narrative, tabular or other format; and by focusing on those members of management who perform policy making functions for the registrant.

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[6] Indicative of the fact thast current Item 402 has not made the cost of management of various registrants comparable are two articles reporting executive compensation. *See Business Week*, May 10, 1982 at 76–102; *Forbes*, June 7, 1982 at 74–100. Although both articles apparently relied on information disclosed by registrants in proxy statements, the publications differ in reporting the remuneration of various executives.

[7] Beginning with the provisions in effect in 1977 and continuing through the current disclosure provisions, the Commission has had to issue several interpretive releases regarding the disclousre of management remuneration. *See* Release No. 33–6364 (December 3, 1981) [46 FR 60421]; Release No. 33–6166 (December 12, 1979) [44 FR 74808]; Release No. 33–6027 (February 22, 1979) [44 FR 16368]; Release No. 33–5904 (February 6, 1978) [43 FR 6060]; Release No. 33–5856 (August 18, 1977) [42 FR 43058].

Legal Basis

New Item 402 is being proposed pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933 (the "Securities Act") and Sections 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934 (the "Exchange Act").

Small Entities Subject to Item 402

The class of small issuers, as defined by Rule 0–10 (17 CFR 240.0–10) under the Exchange Act, which would be subject to new Item 402 is estimated to number 1,000.[8] With the recent adoption of Rules 12g–1 (17 CFR 240.12g–1) and 15d–6 (17 CFR 240.15d–6) under the Exchange Act, many small issuers can elect exemption from the periodic reporting requirements of Sections 12(g) or 15(d).[9] While no estimates are currently available as to the number of registrants that have elected such exemption, it is estimated that currently between 500 and 1,000 registrants would be subject to new Item 402 in preparing their annual reports on Form 10–K (17 CFR 249.310) and proxy statements pursuant to Regulation 14A (17 CFR 240.14a–1 et seq.)

In addition, the information called for by Item 402 is required to be included in all registration statements under the Securities Act except Form S–18 (17 CFR 239.28) (an optional registration statement available to small issuers and others.) Since 1981, over 200 offerings by small issuers, as defined by Rule 157 (17 CFR 230.157) under the Securities Act, have been registered on forms other than Form S–18.

Reporting, Recordkeeping and Other Compliance Requirements

The Commission believes that adoption of proposed new Item 402 would result in a reduction in reporting, recordkeeping and other compliance requirements for all registrants, including small entities. The Commission solicits comment on the impact that proposed new Item 402 would have on such small entities.

Overlapping or Conflicting Federal Rules

The Commission does not believe that existing rules duplicate proposed new Item 402. Adoption of new Item 402 will, however, necessitate conforming amendments to Items 9, 10 and 11 of Schedule 14A under the Exchange Act.

[8] Such class of small issuers is estimated to have numbered 1040 during fiscal year 1979, the most recent year for which a survey of issuers was conducted.

[9] *See* Release No. 34–18647 (April 15, 1982) [47 FR 17046].

Significant Alternatives

Pursuant to Section 603 of the Regulatory Flexibility Act, the following types of alternatives were considered:

(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

(2) The classification, consolidation, or simplification of compliance and reporting requirements under Item 402 for small entities;

(3) The use of performance rather than design standards; and

(4) An exemption from coverage of Item 402, or any part thereof, for small entities.

In the Commission's view, alternative (3) is not applicable because the proposal is not related to either performance or design standards. With respect to alternative (4), the Commission previously has determined which small entities may appropriately be exempted from reporting requirements, including, in some cases, the requirement to disclose information under Item 402, pursuant to Exchange Act Rules 12g–1 and 15d–6.

With respect to alternatives (1) and (2), the Commission has proposed to revise Item 402 in a manner that is intended to reduce burdens on all entities required to comply with that item, including small entities. The proposed revisions, which are set forth in the release accompanying this analysis, include changes that are expected to reduce compliance burdens particularly in the case of small entities, such as the proposed increase in the threshold for individual disclosure of remuneration for a registrant's five most highly compensated executive officers or directors. The Commission believes that, in view of the new system of classification exempting certain small issuers from reporting requirements and the reduction in burdens contemplated by the proposed revisions to Item 402, additional revisions to Item 402 to further ease burdens on small entities with regard to remuneration disclosure are not necessary. Furthermore, the Commission believes any such additional revisions would not be appropriate, in view of the importance of management compensation to informed investment and voting decisions.

Solicitation of Comments

The Commission encourages the submission of written comments with respect to any aspect of this Initial Regulatory Flexibility Analysis. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis if the proposed revisions are adopted. Persons wishing to submit written comments should file four copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. All submissions should refer to File No. S7–958 and will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

Authority

The revisions are being proposed pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933 and Sections 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 666; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3–5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b) 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78o(d), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

January 17, 1983.

Appendix

A. Proposed Item 402(a). Cash Remuneration Table

Proposed Item 402(a) would require disclosure, in the form of a table ("Cash Remuneration Table"), of remuneration that was paid or, in certain circumstances, is to be paid in the form of cash for management's services to the registrant during the last fiscal year. The Commission believes that cash payments are particularly suited to disclosure in a tabular format and that such a table will disclose such remuneration in a meaningful and comprehensible fashion. The specific components of cash remuneration and the persons covered by the Cash Remuneration Table are contained in Items 402(a) (1) and (2).

Proposed Item 402(a)(1). Cash Remuneration. Proposed Item 402(a)(1) would require the registrant to provide, in substantially the tabular form specified, all cash remuneration paid through the latest practicable date to each of the registrant's five most highly compensated executive officers or directors whose cash remuneration

exceeds $60,000, naming each such individual, and all executive officers and directors as a group, stating the number of persons in the group without naming them.[10] Thus, the registrant would disclose, in the Cash Remuneration Table, all salaries, commissions, fees or other cash remuneration which the designated persons have received for services rendered during the registrant's last fiscal year.[11]

The proposed format specified for the Cash Remuneration Table would reflect a technical revision to the heading of Column B, relating to position(s) in which individuals or group members served the registrant. The proposed heading would include the word "all" before "capacities in which served" in order to make clear the intent that all positions with the registrant should be noted in the Table.

Proposed Item 402(a) differs substantially from existing Item 402(a) in that tabular presentation of information is required only in the case of cash remuneration rather than all remuneration. Proposed Item 402(a) also would affect the scope of remuneration disclosure in two significant ways. First, individual disclosure would be limited to the five most highly compensated executive officers or directors whose cash remuneration exceeds $60,000. Currently, individual disclosure of remuneration is required in the case of the five most highly compensated executive officers or directors whose direct and indirect remuneration exceeds $50,000. The Commission believes that the existing threshold is too low, in view of the impact of inflation on salaries since 1978, when the $50,000 threshold was adopted.[12] In proposing to adjust the threshold, the Commission also has taken into account, however, the fact that fewer forms of remuneration would be aggregated under proposed Item 402(a) to determine whether the threshold is met than under existing Item 402(a).

Second, group disclosure of remuneration is proposed to be limited to all executive officers and directors as a group. This is different from group disclosure under existing Item 402, which covers all officers and directors. The Commission believes, however, that remuneration disclosure would be made more meaningful by focusing, in the case of officers, on those officers who perform policy making functions for the registrant.[13] This change also would be consistent with the scope of required disclosure in the amendments recently adopted concerning management transactions.[14]

In connection with its proposals regarding the scope of remuneration disclosure, the Commission solicits specific comment as to the executive officers and directors with respect to whom individual disclosure is appropriate. The existing requirement to make individual disclosure with respect to the five most highly compensated executive officers or directors was adopted in 1978, when it was changed from the top three such persons.[15] At that time, the Commission stated that a number of corporations, particularly those with larger and more diverse operations, have a chief executive office consisting of two or more persons or have top management functions performed by more than three persons.

The issue of individual remuneration disclosure raises a number of questions and suggests a number of alternative treatments. The first question is whether to require disclosure of only the aggregate remuneration figure for top management. The Commission generally has not taken this approach, believing investors find the individual remuneration information useful in making voting and investment decisions. It should be noted, however, that aggregate only remuneration disclosure is permitted in the case of foreign private issuers.[16]

The next question concerns the standard upon which an individual disclosure requirement should be based. The existing requirement endeavors to require remuneration disclosure on an individual basis for those few key managers who can be said to run the company as a whole, using a numerical approach. A number of alternative standards could be used to meet this objective. The first alternative would be to require individual disclosure only with respect to those executive officers or directors who hold certain specified titles or positions within a company, such as Chairman, Chief Executive Officer, Chief Operating Officer, President, Chief Financial Officer and/or Executive Vice President. This alternative could raise problems: (1) the titles or positions of executive officers and directors vary from company to company; and (2) individual disclosure could be avoided by the changing of titles or positions.

A second alternative would be to require individual disclosure only with respect to those executive officers or directors who perform certain key functions within the company. This, too, raises difficulties: (1) It may be difficult to define the functions the performance of which would trigger individual disclosure and any definition could tend to be expansive;[17] and (2) the relative importance assigned to various management functions differs from company to company.

A third alternative approach would be to require individual disclosure only with respect to those executive officers who also are directors, on the theory that such executive officers are the key policy makers within the company. This alternative also raises concerns: (1) The disclosure elicited would vary from company to company depending on a particular company's philosophy regarding the composition of its board; and (2) a company could avoid individual disclosure by excluding an executive officer from its board.

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[10] The tabular format specified contains three columns: Column A for the name of the individual or, in the case of all executive officers and directors as a group, the number in the group; Column B for the position(s) in which the individuals or group members have served the registrant during the past fiscal year; and Column C for the amount of the individuals' or group's total cash remuneration.

[11] Any cash bonuses earned during the last fiscal year and paid prior to the time remuneration disclosure is filed also would be covered by Item 402(a)(1). Often, however, cash bonuses earned during the registrant's last fiscal year have not been paid prior to the preparation of remuneration disclosure. In such cases, whether they would be included in the Cash Remuneration Table would depend on whether the specific bonus amounts have been determined by the time the remuneration disclosure is filed. See discussion, *infra*.

[12] This proposal would be consistent with amendments adopted recently to various Securities Act and Exchange Act rules to raise the dollar limits contained therein. (Release No. 33–6414 (June 29, 1982) [47 FR 29651]).

[13] Pursuant to Rule 405 under the Securities Act [17 CFR 230.405] and Rule 3b–7 under the Exchange Act [17 CFR 240.3b–7], the term "executive officer" is defined, when used in reference to a registrant, as the registrant's "president, any vice president of the registrant in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy making function or any other person who performs similar policy making functions for the registrant. Executive officers of subsidiaries may be deemed executive officers of the registrant if they perform such policy making functions for the registrant."

[14] Release No. 33–6441.

[15] Release No. 33–6003.

[16] *See* Instruction 1 to Item 402(a) of Regulation S–K.

[17] In this connection, the Commission recently adopted a uniform definition of executive officer which is based on the performance of policy making functions. *See* note 13, *supra*.

The numerical approach taken by the existing requirement represents a fourth alternative. This approach, by requiring the remuneration of the five most highly compensated executive officers or directors, has the benefit of certainty, but it also may serve to be over- or under-inclusive in particular cases. It should be noted, however, that the existing numerical requirement permits disclosure with respect to certain individuals to be omitted if: (1) Their placement among the five most highly compensated individuals results from such factors as unusually large bonuses or payments relating to overseas assignments; or (2) their remuneration does not exceed $50,000.

The Commission solicits commentators' views as to whether a standard for individual disclosure different from that proposed would be appropriate and, if so, what that standard should be and the rationale behind such standard. Commentators may find the following data, drawn from the remuneration disclosure in the 1981 proxy statements of approximately 676 companies,[18] helpful in their consideration of this issue. This data relates to the individuals named in remuneration disclosure as well as to the persons included in the group disclosure.

The first three tables present data relating to the individual executive officers and directors with respect to whom remuneration disclosure was included in the proxy statements monitored. Table I indicates the percentage of the 676 companies that included remuneration disclosure with respect to more than 5 individuals, the percentage that named 5 individuals and the percentage that named fewer than 5 individuals. Table II indicates, with respect to the 492 companies which named 5 or more individuals, the percentage of companies where all those named were executive officers and directors or directors only and the percentage of companies where 4, 3, 2, and 1, respectively, of those named were officer/directors or directors. Table III presents data with respect to the 166 companies that included fewer than 5 individuals in their remuneration disclosure, indicating: (1) the number of companies who named 4, 3, 2, and 1 individuals, respectively; and (2) within each such category, the proportion of those named who were officer/directors or directors.[19]

Table IV relates to the disclosure of remuneration for all officers and directors as a group. This table indicates the number of members included in the group disclosure by presenting the percentage of all proxy statements monitored which included a number falling in one of six ranges from fewer than 9 to 50 or more. Table IV also presents the average number of group members.

TABLE I.—NUMBER OF INDIVIDUAL EXECUTIVE OFFICERS AND DIRECTORS NAMED

	More than 5	5	Fewer than 5
Percentage of companies	3	73	[illegible][1]24

[1]This percentage includes 18 companies that did not name any individuals in the Remuneration Table.

TABLE II.—COMPANIES NAMING 5 OR MORE INDIVIDUALS

[Number of officer/directors and directors among individuals named in remuneration table]

	5 or more	4	3	2	1
Percentage of companies	14	18	21	25	12

TABLE III.—166 COMPANIES NAMING FEWER THAN 5 INDIVIDUALS

Proportion of individuals named that are officer/directors or directors	Number of individuals named in remuneration table (in percent)			
	4	3	2	1
All	19	[illegible]	59	[illegible]
⅔ to ¾	28	[illegible]	[illegible]	[illegible]
Half	36	[illegible]	41	[illegible]
⅓ to ½	17	35	[illegible]	[illegible]
None	[illegible]	[illegible]	[illegible]	3
Total	100 (56 cos.)	100 (34 cos.)	100 (41 cos.)	100 (35 cos.)

A. *Number of members in Group:*

TABLE IV.—OFFICER AND DIRECTORS AS A GROUP

	Fewer than 9	10 to 19	20 to 29	[illegible] to 39	40 to 49	50 or more
Percentage of companies	11	[illegible]	26	10	5	[illegible]

B. *Average number of members in group: 22.*

Proposed Item 402(a)(2). Bonuses and Deferred Compensation. In addition to cash remuneration earned during the registrant's last fiscal year that has been paid, proposed Item 402(a) would require certain unpaid cash bonuses, cash bonuses earned in a previous year and deferred compensation to be included in the Cash Remuneration Table. Proposed Item 402(a)(2)(i) would require disclosure of all cash bonuses to be paid to the named individuals and the group for services rendered in all capacities to the registrant and its subsidiaries during the last fiscal year unless such amounts have not been allocated at the time remuneration disclosure is filed. This provision is intended to address the situation where bonuses were earned during the fiscal year but have not yet been paid. If the registrant knows the amounts that are to be paid to the named individuals and groups, those amounts would be included in the Cash Remuneration Table.

In many instances, however, the registrant will have set aside a bonus pool but will not have determined, at the time remuneration disclosure is filed, the specific amounts to be paid to the named individuals and the group. In such cases, the bonuses would not be reported for the year in which they were earned. They, therefore, would be required to be disclosed in the year they were paid pursuant to proposed Item 402(a)(2)(ii), which provides that cash bonuses paid to the named individuals and group for services rendered in a prior fiscal year shall be included in the Cash Remuneration Table. In order to prevent the same bonuses from being reported twice, proposed Item 402(a)(2)(ii) also provides that such bonuses need not be reported in the year they were paid if they are disclosed in the Cash Remuneration Table in a prior fiscal year or would have been so reported had the named individual or group member been included in the Cash Remuneration Table for the prior fiscal year.

[18]These 676 companies were randomly selected from the 1200 companies selected to constitute a representative sample of all registered issuers with publicly traded securities monitored in connection with the Commission's 1978–81 Proxy Statement Disclosure Monitoring Program. For further discussion of the sampling technique in the selection of the 1200 companies, *see* Release Nos. 34–17518 (February 5, 1981) [46 FR 11954] and 34–18532 (March 3, 1982) [47 FR 10792].

[19]The eighteen companies that named no individuals are included in Table I but not in Table II or Table III.

Finally, proposed Item 402(a)(2)(iii) provides that the Cash Remuneration Table shall include all remuneration that would have been paid in cash to the name individuals or group for services rendered to the registrant and its subsidiaries during the last fiscal year but for the fact that the payment of such remuneration was deferred. This provision is intended to cover remuneration that is due to the named individuals or group but the payment of which has been deferred, either voluntarily by the individual or pursuant to the provisions of an agreement.

Proposed Instruction to Item 402(a). Proposed Item 402(a) contains an instruction regarding the determination of those persons who should be included in the Cash Remuneration Table. The substance of the proposed Instruction is essentially the same as that of existing Instruction 2 to Item 402(a).

B. Proposed Item 402(b). Plan Descriptions and Remuneration.

Proposed Item 402(b) would cover disclosure of all plans pursuant to which the registrant has paid during the last fiscal year, or proposes to pay in the future, any form of remuneration. Proposed Item 402(b) is derived, in large part, from existing Item 402(b) concerning plan descriptions. However, amounts paid pursuant to plans, which currently are included in the Remuneration Table pursuant to existing Item 402(a), generally would not be included in the new Cash Remuneration Table but would be disclosed under proposed Item 402(b).

Disclosure of plans pursuant to proposed Item 402(b) would not be required to be made in any particular form, with the exception of those covered by the Pension Table, discussed below. A registrant would be free to use a narrative, tabular or other format, or combination of formats, to present the information in a manner that may be readily understood by security holders and investors.

Proposed Item 402(b)(1). Remuneration Pursuant to Plans. Proposed Item 402(b)(1) would require the registrant to describe briefly all plans pursuant to which cash or non-cash remuneration was paid or distributed during that last fiscal year, or is to be paid or distributed in the future, to the named individuals and group included in the Cash Remuneration Table. As is the case under existing Item 402, a specific exemption would be provided for nondiscriminatory group life, health, hospitalization or medical reimbursement plans. The proposed exception would also cover nondiscriminatory relocation plans, consistent with previous staff interpretations.[20]

Proposed Items 402(b)(1) (i) through (vii) would specify information that is to be included in the description of various plans.[21] Paragraphs (b)(1) (i) through (v) would require information that currently is required to be included in plan descriptions under existing Item 402. The Commission proposes to make clear, however, that the summary of how a plan operates, as required by proposed Item 402(b)(1)(i), should include the persons covered by the plan, consistent with current practice.[22]

Proposed paragraphs (b)(1)(vi) and (vii) are intended to provide security holders with more understandable disclosure concerning amounts paid or to be paid to management pursuant to various plans. Paragraph (b)(1)(vi) would require disclosure, in connection with the description of a plan, of remuneration paid or distributed under the plan during the last fiscal year. Thus, disclosure would be made of amounts of securities,[23] property, cash [24] or other remuneration paid or distributed pursuant to plans during the last fiscal year. Such amounts currently are not required to be disclosed specifically in connection with plan descriptions but are set forth in various forms and locations throughout the remuneration disclosure.[25]

Paragraph (b)(1)(vii) would require disclosure of amounts accrued pursuant to plans for the accounts of the named individuals or group during the last fiscal year, the distribution or unconditional vesting of which is not subject to future events. Thus, disclosure would be required of amounts contributed to various compensation plans, such as stock purchase plans, profit sharing or thrift plans, that have become vested during the year, without regard to the year in which the contribution was made. In contrast to current Item 402, disclosure would not be required of amounts allocated to plans, the distribution or unconditional vesting of which is subject to future events.[26] The Commission believes that security holders and investors would be provided with adequate information about the costs of various remunerative plans if they are apprised of actual payments and amounts that vested during that year.[27]

The Commission requests specific comment on an issue related to plan disclosure. Under proposed Item 402(b), interest received on deferred compensation or dividends received on restricted stock would be required to be disclosed for the year in which they were paid. Such payments currently are required to be disclosed as remuneration under existing Item 402. The Commission requests comment, however, as to whether interest on deferred compensation or dividends on restricted stock should continue to be treated as remuneration.

Proposed Instructions to Item 402(b) Relating to Remuneration Pursuant to Plans. Proposed Item 402(b) contains two instructions relating to the plan descriptions under Item 402(b)(1). Proposed Instruction 1 would make clear that, when describing a plan pursuant to which the registrant has made cash payments during the last fiscal year, a registrant need not repeat disclosure under proposed Item 402(b)(1)(vi) if such cash payments were for services rendered in the last fiscal year, or were

[20] A similar addition is proposed to be made to Instruction 3(b) to Item 9 of Schedule 14A.

[21] The information required by paragraphs (b)(1)(vi) and (vii) concerning amounts paid or to be paid would not be required in connection with defined benefit or actuarial plans, nor would the information required by paragraph (b)(1)(vii) be required in connection with stock option or stock appreciation right ("SAR") plans. Information regarding payments under defined benefits plans would be covered, instead, by proposed Items 402(b) (2) and (3). Information concerning the grant of stock options or SARs would be covered by proposed Item 402(b)(4).

[22] Such persons would not be required to be mentioned by name if the coverage of the plan could be described in terms of the categories of persons covered (*e.g.*, directors who are employed by the registrant, all salaried employees, etc.). The Commission contemplates, however, that, if a generic category is used to describe the persons covered, such as "certain key employees," the registrant will provide any additional information that is necessary to describe adequately the coverage of the plan, such as the number of persons covered.

[23] This would include, for example, disclosure of amounts of stock allocated in an earlier year but with respect to which certain conditions on the vesting of such shares, such as the fulfillment of a specified retention period, are met in the last fiscal year.

[24] As discussed above, the Cash Remuneration Table does not cover cash paid for services rendered in a previous fiscal year, except for bonuses. Accordingly, cash paid during the last fiscal year pursuant to a plan for services rendered in a previous year would be covered by proposed Item 402(b)(1). Similarly, cash paid on the exercise of stock appreciation rights granted in a previous year would be covered by proposed Item 402(b)(1).

[25] For example, under existing Item 402, a cash value is required to be given to securities awarded pursuant to a plan for services rendered during the last fiscal year and such value is included in the Remuneration Table pursuant to Item 402(a).

[26] Such contingent amounts currently are required to be included in Column D of the Remuneration Table.

[27] If proposed Item 402(b)(1) is adopted, there may be instances in which of remuneration reported as vested pursuant to a plan would be reported again in a subsequent year when it was actually paid or distributed. In such instances, registrants may explain that amounts reported as paid or distributed represent amounts previously reported as vested.

bonuses for services in that or the previous year, and thus were included in the Cash Remuneration Table.[28] Similarly, disclosure, pursuant to proposed Item 402(b)(1)(vii), of cash amounts that have been deferred would not be required if such amounts were reported in the Cash Remuneration Table. In both cases, however, the registrant would be required to state that the cash amounts paid or deferred pursuant to the plan have been included in the Cash Remuneration Table.

Proposed Instruction 2 would define the term "plan" to include, as does the current definition, "any plan, contract, authorization or arrangement, whether or not set forth in any formal documents." The Instruction would make clear, however, that registrants would be expected to describe all plans pursuant to proposed Item 402(b), regardless of the type of remuneration involved. The Instruction also would state, consistent with previous staff interpretations, that a plan may be applicable to only one person.

Proposed Item 402(b)(2). Pension Table. Defined benefit or actuarial plans would be required to be described, as would other remunerative plans, pursuant to proposed Item 402(b)(1). Proposed Item 402(b)(2) specifies information that would be required to be included in the description of certain defined benefit or actuarial plans.

Specifically, proposed Item 402(b)(2) would require that the registrant, in describing the payment schedule, include a Pension Table, an example of which is set forth in the Item, showing estimated annual benefits payable upon retirement to persons in specified remuneration and years-of-service classifications. The Pension Table requirements, as proposed, are the same as those currently contained in Item 402. Proposed Item 402(b)(2) would make clear, however, that the requirement to include a Pension Table only applies to defined benefit and actuarial plans under which benefits are determined primarily by final compensation (or average final compensation) and years of service.

Proposed Item 402(b)(2) also would clarify certain other information that is required to be included in the description of such defined benefit or actuarial plans. This information would be the same as that which currently is required to be included under existing Item 402 with one exception. The requirement to state the estimated credited years of service for each of the individuals named in the Remuneration Table (the Cash Remuneration Table, in the case of the proposed Item) is proposed to be amended to require credited years of service as of normal retirement age. The Commission believes that this change would enable security holders and investors to better understand what amounts might be paid out pursuant to various pension plans.

Proposed Item 402(b)(3). Alternative Pension Plan Disclosure. Proposed Item 402(b)(3) would specify certain items of information to be included in a description of defined benefit or actuarial plans under which benefits are not determined primarily by final compensation (or average final compensation) and years of service, and thus for which the Pension Table under proposed Item 402(b)(2) is not appropriate. These items of disclosure are proposed to be the same as those required for such plans under existing Item 402.[29]

Proposed Instructions to Item 402(b) Regarding Pension Plan Disclosure. Proposed Item 402(b) contains two instructions relating to pension plan disclosure. Proposed Instruction 3 would provide guidance to registrants concerning appropriate levels of compensation to be included in a Pension Table. The substance of the Instruction is the same as that contained in existing Instruction 2 to Item 402(b).

Proposed Instruction 4 would define the term "normal retirement age." The definition would be the same as that currently contained in Instruction 3 to Item 402(b).

Proposed Item 402(b)(4). Stock Option and Stock Appreciation Right Plans. Stock option or stock appreciation right plans are among the remunerative plans required to be described pursuant to proposed Item 402(b)(1). Proposed Item 402(b)(4) sets forth certain specific information, concerning the options or SARS granted during the last fiscal year, that would be required to be disclosed in connection with such plans. Derived from existing Item 402(d),[30] the new provisions generally would require disclosure of the amount of securities subject to options or rights granted during that year, the average per share exercise or base price thereof, and any compensatory element of stock options that may occur at the time such options or rights are granted.

Disclosure would not be required, however, of certain information that currently is required to be disclosed under existing Item 402(d), including the net value realized from the exercise of options during the period, the aggregate amount of securities underlying all unexercised options or stock appreciation rights and the potential (unrealized) value of such unexercised options or rights. The proposal would eliminate disclosure of the net value realized on the exercise of options because the exercise giving rise to the realization of compensation may be unrelated to the performance of services to the registrant. Moreover, this disclosure has contributed to the confusion and lack of comparability of remuneration disclosure under the existing provision. On the other hand, the net value realized on the exercise of options or SARs may represent compensation from the registrant to the grantee and thus may be appropriate for disclosure as remuneration. Accordingly, the Commission requests specific comment as to whether the requirement to disclose the net value realized from the exercise of options should be included in Item 402 and, if so, in what manner, or whether it is more appropriate to reflect the details of such a compensation element in the registrant's financial statements or elsewhere. The Commission also seeks specific comments as to whether the other information currently required by Item 402(d) should be retained.

C. *Proposed Item 402(c). Other Remuneration.* Proposed Item 402(c) is intended to cover all remuneration not covered by proposed Items 402(a) and (b). Currently, the value of such remuneration, which may take such forms as perquisites or property, is required to be disclosed under existing Item 402 in the Remuneration Table, except that disclosure of perquisites is subject to a limited exception.[31]

The burdens imposed on registrants under the existing requirements to keep track of non-cash remuneration such as perquisites are sometimes substantial. It has been the Commission's experience, however, that such remuneration often represents a small percentage of the

[28] Cash payments relating to services rendered over a period of years, including the last fiscal year, are not intended to be disclosed on an apportioned basis in both the Cash Remuneration Table and the description of the plan pursuant to Item 402(b) but, rather, to be disclosed entirely pursuant to Item 402(b).

[29] *See* existing Instruction 3 to Item 402(b).

[30] While the terms "option" and "stock appreciation right" are not defined in proposed Item 402, the Commission solicits specific comment as to whether such definitions should be included and, if so, what they should provide.

[31] The value of personal benefits received by any named individual or member of the group is not required to be included if the registrant cannot determine without unreasonable effort or expense the specific amount of certain personal benefits, or the extent to which the benefits are personal rather than business, and after reasonable inquiry, concludes that the aggregate amounts of such benefits cannot be specifically ascertaind do not exceed $10,000 for the individual.

total remuneration paid to management. The Commission is concerned that, in such circumstances, the burdens imposed on registrants to generate the information may outweigh the importance of such information to investment and voting decisions. On the other hand, the Commission continues to believe that, if perquisites or other non-cash remuneration represent a significant amount or percentage of total remuneration, investors and security holders should be provided with more detailed information.

Proposed Item 402(c) reflects the Commission's attempts to balance the needs of security holders and investors for meaningful information about such non-cash remuneration and the interests of registrants in not being unduly burdened. Specifically, proposed Item 402(c) would establish thresholds below which disclosure of such remuneration would not be required. For individuals named in the Cash Remuneration Table, the threshold, as proposed in Item 402(c)(1), is $10,000 or 10 percent of remuneration reported in the Cash Remuneration Table, whichever is greater. For all executive officers and directors as a group, the threshold, as proposed in Item 402(c)(2), is the greater of $10,000 multiplied by the number of persons in the group or 10 percent of the remuneration reported for the group in the Cash Remuneration Table. Proposed Item 402(c) also would provide that, if a registrant were to exclude other remuneration paid to any named individual(s) or the group on the basis that such remuneration was less than the threshold amounts, the registrant would be required to include a statement to that effect.

Proposed Instructions to Item 402(c). Proposed Item 402(c) contains two instructions. Proposed Instruction 1 would make clear that "other remuneration" that might be required to be disclosed pursuant to proposed Item 402(c) may take any form, including personal benefits, securities or property. Proposed Instruction 2 would make clear that the thresholds in propose Items 402(c)(1) and (2) are not *de minimis* exclusionary provisions. If a registrant has paid other remuneration in excess of the thresholds, all such remuneration, not just the amount in excess of the threshold, would be required to be reported.

D. *Proposed Item 402(d). Remuneration of Directors.* Proposed Item 402(d)(1) would require a registrant to describe any standard arrangement, including amounts, pursuant to which directors of the registrant are compensated. This Item is the same as existing Item 402(c) with a minor language change. Proposed Item 402(d)(2) would require a registrant to describe any other arrangement, in addition to or in lieu of any standard arrangement, pursuant to which any director of the registrant was compensated, stating the amount paid and the name of the director. This Item is based on existing Item 402(c)(2) but is proposed to be revised to make clear that payments made to a director during the last fiscal year as compensation for a number of years' services, including services in the last fiscal year, would be required to be disclosed. In this regard, the Commission requests specific comment as to whether proposed Item 402(d)(2) or proposed Item 402(e), discussed below, should be amended further to ensure disclosure of such payments to directors where the payment is made in the fiscal year after the director has resigned.[32]

E. *Proposed Item 402(e). Termination of Employment.* Proposed Item 402(e) is essentially the same as existing Item 402(i), with minor modifications. It would require a registrant to describe, unless previously disclosed in a proxy or information statement, any remunerative plan or arrangement with any individual named in the Cash Remuneration Table for the latest or next preceding year, if such a plan or arrangement results or will result from the resignation, retirement or any other termination of employment with the registrant and its subsidiaries and the amount involved, including all periodic payments or installments, exceeds $60,000.[33]

Currently, Instruction 2 to Item 402(i) sets the threshold for disclosure at $50,000. Proposed Item 402(e) would raise the threshold to $60,000 and would incorporate it into the text of the section. In addition, existing Item 402(i) requires a registrant to disclose any termination plan or arrangement if such a plan or arrangement results or would result from, among other things, "any other termination by such individual of employment" with the registrant and its subsidiaries. Proposed Item 402(e) would revise that clause to make clear that the section is triggered by "any other termination of employment" with the registrant and its subsidiaries, whether by the individual or otherwise.

The termination of employment provision was added to the remuneration disclosure requirements in 1980[34] because the Commission believed that such arrangements are significant in assessing a registrant's compensation policy, and its experience indicated that many registrants were not disclosing such arrangements. The Commission and some commentators noted at that time, however, that information regarding termination arrangements may have been required by already-existing provisions. Nevertheless, the Commission believed a separate provision necessary. While proposed Item 402(e), together with proposed Item 402(b), would retain substantially the same disclosure requirements concerning plans or arrangements intended to compensate executive officers or directors in the event of termination of employment, the Commission invites specific comment as to whether a separate provision continues to be necessary or creates any confusion or overlap. Moreover, the Commission invites specific comment as to whether additional disclosure requirements, such as whether such plans or arrangements were approved by shareholders, should be imposed in this area.

F. *Proposed General Instructions to Item 402.* Proposed Item 402 contains three instructions applicable to the entire item. Proposed Instruction 1 is the same as existing Instruction 1 to Item 402(a) concerning the applicability of Item 402 to foreign private issuers. Proposed Instruction 2, which is derived, in part, from current Instruction 6 to Item 402(a), is intended to make clear that registrants are permitted to use flexibility in responding to Item 402. Of particular importance is the new portion of the Instruction, which states that remuneration paid pursuant to plans may be disclosed in any form that fairly describes such remuneration. Finally, proposed Instruction 3, which is based on existing Instruction 5 to Item 402(a), makes clear that proposed Item 402 would apply to certain transactions with third parties.

G. *Proposed Amendments to Schedule 14A.* In conjunction with the proposed revision of Item 402, the Commission is proposing a number of coordinating amendments to three Items of Schedule 14A: Item 9 (Bonus, profit sharing and other remuneration plans), Item 10 (Pension and retirement plans) and Item 11 (Options, warrants or rights).

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[32] Payments made to a director upon the termination of such director's services are not required to be disclosed pursuant to existing Item 402(i) unless the director has been named as one of the five most highly compensated executive officers or directors pursuant to existing Item 402(a). This condition for disclosure of termination agreements is retained in proposed Item 402(e), based on existing Item 402(i).

[33] Where such plans compensate management in the event of a merger or takeover, they are commonly referred to as "golden parachutes."

[34] Release No. 33-6231.

Currently, information must be provided under these Items with respect to, among others, all officers and directors as a group. The Commission is proposing to make "all executive officers and directors" a separate category, in conformity with the proposed coverage of Item 402.

The Commission is proposing several additional changes in Item 9. First, the proposed deletion of certain information regarding stock options under current Item 402(d) (1) and (2) necessitates a technical change in Item 9, which references those sections. Accordingly, the Commission is proposing to delete the references to Item 402(d) (1) and (2) in Item 9 and to replace them with the substance of those sections.[35]

Second, the proposed amendments to Item 9 reflect: (1) the addition of relocation plans to those plans with respect to which information need not be given;[36] and (2) the revised reference to the definition of "plan" in Item 402.

Finally, the Commission is proposing to amend Item 9 in one additional respect. Item 9 currently requires a registrant to state the weighted average option price of per share for options granted that are other than "restricted" or "qualified" stock options as those terms are defined in Sections 422 through 424 of the Internal Revenue Code (the "Code").[37] Since restricted stock option provisions in Section 424 apply only to options granted before January 1, 1964, and restricted stock options granted thereunder had to be exercised prior to May 21, 1981, restricted stock options are now extinct. Accordingly, the Commission is proposing to delete the references to restricted stock and to Section 424 of the Code. At the same time, the Commission specifically request comment as to whether a reference to "incentive" stock options, covered by new Section 422A of the Code, should be added to Item 9 in order to permit registrants not to state the weighted average option price per share in the case of incentive stock options in view of the Code's limitations on the pricing of such stock options.

[35] The Commission will be reviewing the disclosure required by Items 9, 10 and 11, including that drawn from current Item 402(d) (1) and (2), in a later stage of the Proxy Review Program and invites commentators' suggestions as to revisions that might be made to these Items.

[36] *See* Note 20, *supra*.

[37] I. R. C. §§ 422–424.

List of Subjects in 17 CFR Parts 229 and 240

Reporting requirements, Securities.

Text of Proposals

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is proposed to be amended as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

1. By revising § 229.402 to read as follows:

§ 229.402 (Item 402) Management remuneration.

(a)(1) *Cash remuneration.* Furnish, in substantially the tabular form specified, all cash remuneration paid to the following persons through the latest practicable date for services rendered in all capacities to the registrant and its subsidiaries during the registrant's last fiscal year:

(i) *Five executive officers or directors.* Each of the registrant's five most highly compensated executive officers or directors whose cash remuneration required to be disclosed pursuant to this paragraph exceeds $60,000, naming each such person; and

(ii) *All executive officers and directors.* All executive officers and directors as a group, stating the number of persons in the group without naming them.

(2) *Bonuses and deferred compensation.* The Cash Remuneration Table also shall include:

(i) All cash bonuses to be paid to the named individuals and group for services rendered in all capacities to the registrant and its subsidiaries during the last fiscal year unless such amounts have not been allocated at such time as remuneration disclosure is filed;

(ii) All cash bonuses paid during the last fiscal year for services rendered in all capacities to the registrant and its subsidiaries in a previous fiscal year, less any amount relating to the same contract, agreement, plan or arrangement included in the Cash Remuneration Table for a prior fiscal year and less any amount that would have been so included but for the fact that the individual was not included in the Cash Remuneration Table, as a named individual or as a member of the group, for such prior fiscal year; and

(iii) All remuneration that would have been paid in cash to the named individuals and group for services rendered in all capacities to the registrant and its subsidiaries during the last fiscal year but for the fact that the payment of such remuneration was deferred.

CASH REMUNERATION TABLE

(i)	(ii)	(iii)
Name of individual or number in group	All capacities in which served.	Cash remuneration

Instruction to Item 402(a)

Persons covered. (A) Paragraph (a) of this section applies to any individual who was an executive officer or director of the registrant at any time during the last fiscal year. Information need not be disclosed, however, for any portion of the period during which such individual was not an executive officer or director of the registrant, provided a statement to that effect is made. With respect to an individual who becomes for the first time an individual whose remuneration is to be reported in the Cash Remuneration Table, it is not necessary to report remuneration that would have been reported in the Table had the individual been included in prior years.

(B) Registrants should be flexible in determining which individuals should be named in the Cash Remuneration Table in order to ensure that disclosure is made with respect to key policy making members of management. Consideration should be given to the question of whether an individual's level of executive responsibilities, viewed in conjunction with such individual's actual level of cash remuneration, is such that the registrant reasonably may conclude that the person is among its five most highly compensated, key policy making executive officers. Under this standard, it may be appropriate, in certain circumstances, to include an executive officer of a subsidiary in the Cash Remuneration Table.

(C) In certain circumstances, it may be appropriate for a registrant not to include in the Cash Remuneration Table an individual who is one of the registrant's five most highly compensated executive officers or directors. Among the factors that should be considered in determining not to name an individual are: (i) The distribution or accrual of an unusually large amount of cash remuneration (such as a

bonus or commission) that is not part of a recurring arrangement and is unlikely to continue; and (ii) the payment of amounts of cash remuneration relating to overseas assignments that may be attributed predominantly to such assignments.

(b)(1) *Remuneration pursuant to plans.* Describe briefly all plans, pursuant to which cash or non-cash remuneration was paid or distributed during the last fiscal year, or is proposed to be paid or distributed in the future, to the named individuals and group specified in paragraph (a) of this section. Information need not be given with respect to any group life, health, hospitalization, medical reimbursement or relocation plans that do not discriminate, in scope, terms, or operation, in favor of officers or directors of the registrant and that are available generally to all salaried employees. The description of each plan shall include the following, except that the description of any defined benefit or actuarial plans need not include the information specified in paragraphs (b)(1)(vi) and (b)(1)(vii) of this section and the description of any stock option and stock appreciation right plan need not include the information specified in paragraph (b)(1)(vii) of this section:

(i) A summary of how the plan operates and who is covered by the plan;

(ii) The criteria used to determine amounts payable, including any performance formula or measure;

(iii) The time periods over which the measurement of benefits will be determined;

(iv) Payment schedules;

(v) Any recent material amendments to the plan;

(vi) Amounts paid or distributed pursuant to the plan to the named individuals and the group during the last fiscal year; and

(vii) Amounts accrued pursuant to the plan for the accounts of the named individuals and group during the last fiscal year, the distribution or unconditional vesting of which are not subject to future events.

(2) *Pension table.* As to defined benefit and actuarial plans, other than any defined benefit or actuarial plan under which benefits are not determined primarily by final compensation (or average final compensation) and years of service, include, as the payment schedule required by paragraph (b)(1)(iv) of this section, a separate Pension Table showing estimated annual benefits payable upon retirement (including amounts attributable to any defined benefit supplementary or excess pension award plans) to persons in specified remuneration and years-of-service classifications. In addition, in furnishing the information required by paragraphs (b)(1)(i)–(v) of this section, include:

(i) The remuneration covered by the plan, including the relationship of such covered remuneration to the remuneration reported in the Cash Remuneration Table pursuant to paragraph (a) of this section, and state the current remuneration covered by the plan for any individual named in the Cash Remuneration Table whose covered remuneration differs substantially (by more than 10 percent) from that set forth in the Cash Remuneration Table;

(ii) The estimated credited years of service, as of normal retirement age, for each of the individual named in the Cash Remuneration Table; and

(iii) A statement as to the basis upon which benefits are computed (*e.g.*, straight life annuity amounts) and whether or not the benefits listed in the Pension Table are subject to any deduction for Social Security or other offset amounts.

EXAMPLE OF PENSION TABLE

Remuneration	Years of service				
	15	20	25	30	35
125,000	xxx	xxx	xxx	xxx	xxx
150,000	xxx	xxx	xxx	xxx	xxx
175,000	xxx	xxx	xxx	xxx	xxx
200,000	xxx	xxx	xxx	xxx	xxx
225,000	xxx	xxx	xxx	xxx	xxx

(3) *Alternative pension plan disclosure.* In furnishing the information required by paragraphs (b)(1)(i)–(v) of this section with respect to defined benefit or actuarial plans under which benefits are not determined primarily by final compensation (or average final compensation) and years of service, include:

(i) The formula by which benefits are determined; and

(ii) The estimated annual benefits payable upon retirement at normal retirement age for each of the individuals named in the Cash Remuneration Table pursuant to paragraph (a) of this section.

(4) *Stock option and stock appreciation right plans.* In addition to providing the information required by paragraphs (b)(1)(i)–(vi) of this section, furnish:

(i) With respect to stock options granted during the last fiscal year: (A) the title and aggregate amount of securities subject to options; (B) the average per share exercise price; and (C) if such option exercise price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date. The title and aggregate amount of such securities subject to options, if any, which are in tandem with stock appreciation rights should be set forth separately.

(ii) With respect to plans pursuant to which stock appreciation rights not in tandem with options were granted during the last fiscal year: (A) the number of rights granted; and (B) the average per share base price thereof.

Instructions to Item 402(b)

1. *Cash paid pursuant to plans.* The cash remuneration paid pursuant to a plan need not be disclosed as amounts paid or distributed pursuant to paragraph (b)(1)(vi) of this section if such remuneration was included in the Cash Remuneration Table pursuant to paragraph (a) of this section and a statement to that effect is made. Similarly, the cash remuneration deferred under a deferred compensation plan need not be disclosed as amounts accrued pursuant to paragraph (b)(1)(vii) of this section if such remuneration was included in the Cash Remuneration Table and a statement to that effect is made.

2. *Definition of "plan".* The term "plan" includes any plan, contract, authorization or arrangement, whether or not set forth in any formal documents, pursuant to which the following may be received: cash, stock, restricted stock, phantom stock, stock options, stock appreciation rights, stock options in tandem with stock appreciation rights, warrants, performance units and performance shares. A plan may be applicable to one person.

3. *Pension levels.* Remuneration set forth in the Pension Table pursuant to paragraph (b)(2) of the this section shall allow for reasonable increases in existing compensation levels; alternatively, registrants may present as the highest remuneration level in the Pension Table an amount equal to 120 percent of the amount of covered remuneration of the most highly compensated individual named in the Cash Remuneration Table pursuant to paragraph (a) of this section.

4. *Definition of "normal retirement age".* The term "normal retirement age" means normal retirement age as defined in a pension or similar plan or, if not defined therein, the earliest time at which a participant may retire without any benefit reduction because of age.

(c) *Other remuneration.* Describe, stating amounts, any other remuneration not covered by paragraphs (a) or (b) of this section that was paid or distributed during the last fiscal year to the named individuals and group specified in paragraph (a) of this section unless:

(1) With respect to any named individual, the aggregate amount of such other remuneration is less than the greater of $10,000 or 10 percent of the remuneration reported in the Cash Remuneration Table for such person pursuant to paragraph (a) of this section

and a statement to that effect is made; or

(2) With respect to the group, the aggregate amount of such other remuneration is less than the greater of $10,000 times the number of persons in the group or 10 percent of the remuneration reported in the Cash Remuneration Table for the group pursuant to paragraph (a) of this section and a statement to that effect is made.

Instructions to Item 402(c)

1. *Scope.* Remuneration to be disclosed pursuant to this paragraph may include, among other things, personal benefits, securities or property that were paid or distributed other than pursuant to a plan.

2. *Threshold.* If the amount of other remuneration for a named individual or the group exceeds the established thresholds, the entire amount of such other remuneration must be disclosed pursuant to this paragraph.

(d) *Remuneration of directors.*

(1) *Standard arrangements.* Describe any standard arrangement, stating amounts, pursuant to which directors of the registrant are compensated for all services as a director, including any additional amounts payable for committee participation or special assignments.

(2) *Other arrangements.* Describe any other arrangments pursuant to which any director of the registrant was compensated during the registrant's last fiscal year for services as a director, stating the amount paid and the name of the director.

(e) *Termination of employment.* Unless previously disclosed by the registrant in a proxy or information statement filed pursuant to Section 14 of the Exchange Act or disclosed in response to any other paragraphs of this section, describe any remunerative plan or arrangement, including payments to be received from the registrant, with respect to any individual named in the Cash Remuneration Table pursuant to paragraph (a) of this section for the latest or then next preceding fiscal year if such a plan or arrangement results or will result from the resignation, retirement or any other termination of such individual's employment with the registrant and its subsidiaries and the amount involved, including all periodic payments or installments, exceeds $60,000.

General Instructions to Item 402

1. *Foreign private issuers.* A non-Canadian foreign private issuer may respond to all of Item 402 by indicating the aggregate payments or benefits paid or to be paid to all executive officers and directors as a group unless such registrants disclose to their security holders or otherwise make public the information specified in this section for individually named executive officers and directors, in which case such information also shall be disclosed.

2. *Presentation of disclosure.* With respect to the disclosure required pursuant to paragraph (a) of this section, the registrant may provide additional disclosure through one or more footnotes to the Cash Remuneration Table, through additional lines or columns, or otherwise. Similarly, with respect to the disclosure requird pursuant to paragraph (b) of this section, a registrant may describe remuneration paid or proposed to be paid pursuant to plans in tabular from or any other form that fairly describes such remuneration. For example, a registrant may disclose stock options and stock appreciation rights granted during the last fiscal year in a tabular format.

3. *Transactions with third parties.* This section includes transactions between the registrant and a third party where the primary purpose of the transaction is to furnish remuneration to any named individual or the group specified in paragraph (a) of this section. No information need be given in response to any paragraph of this section as to any such transaction if the transaction has been reported in response to Item 404 of Regulation S–K (§ 229.404 of this chapter).

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

2. By revising paragraphs (b) and (d) and Instructions 1 and 3 of Item 9; paragraphs (b) and (d) and Instruction 1 of Item 10; and paragraphs (b) and (c) and Instruction 1 of Item 11 of § 240.14a–101 to read as follows:

§ 240.14a–101 Schedule 14A—Information required in proxy statement.

* * * * *

Item 9. Bonus, profit sharing and other remuneration plans. * * *

(b) State separately the amounts which would have been distributable under the plan during the last fiscal year of the issuer to (1) all current directors and executive officers as a group, (2) all other current officers as a group, and (3) all employees if the plan has been in effect.

* * * * *

(d) Furnish such information, in addition to that required by this item and Item 402 of Regulation S–K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect, or in effect within the past five years, for: (1) Each director or executive officer named in answer to Item 402(a) of Regulation S–K (§ 229.402(a) of this chapter) who may participate in the plan to be acted upon, (2) all current directors and executive officers of the issuer as a group, if any director or executive officer may participate in the plan, (3) all other current officers of the issuer as a group, if any other officer may participate in the plan, and (iv) all employees, if employees may participate in the plan.

* * * * *

Instructions. 1. The term "plan" as used in this item means any plan as defined in Instruction 2 to Item 402(b) of Regulation S–K (§ 229.402(b) of this chapter).

* * * * *

3. The following instructions shall apply to paragraph (d):

(a) Information need only be given with respect to benefits received or set aside within the past five years.

(b) Information need not be included as to payments made for, or benefits to be received from, group life or accident insurance, group hospitalization, group relocation or similar group payments or benefits.

(c) If action is to be taken with respect to any plan in which directors or executive officers may participate, furnish the following information for the last five fiscal years of the issuer and any period subsequent to the end of the latest such fiscal year in aggregate amounts for the entire period for each such person and group: (1) As to options granted during the specified period, state the title and aggregate amount of securities subject to options, the average per share exercise price, and, if the option price was less than 100 percent of the market value of the security on the date of the grant, such fact and the market price on such date (The title and aggregate amount of such securities subject to options, if any, which are in tandem with stock appreciation rights should be set forth separately); and (2) As to the exercise or realization of options or stock appreciation rights held in tandem with options granted during the specified period or prior thereto, state the net value of securities (market value less any exercise price) or cash realized during the specified period. If any named person, or any other director or executive officer, purchased securities through the exercise of options during such period, state the aggregate amount of securities of that class sold during the period by such named person and by such named person and such other directors and executive officers as a group. If other officers or employees may participate in the plan to be acted upon, state the aggregate amount of securities called for by all options granted to such other officers or employees, respectively, during the five-year period and, if the options were other than for "qualified" stock options or options granted pursuant to an "employee stock purchase plan", as the quoted terms are defined in Sections 422 through 423 of the Internal Revenue Code, state that fact and the weighted average option price per share.

* * * * *

Item 10. Pension and retirement plans. * * *

(b) State (1) The approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid and the estimated annual payments necessary to pay the total amount over such period; (2) the estimated annual payment to be made with respect to current services; and (3) the amount of such annual payments to be made for the benefit

of (i) directors and executive officers, (ii) all other officers and (iii) employees.

* * * * *

(d) Furnish such information, in addition to that required by this item and Item 402 of Regulation S–K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation or other remuneration or incentive plans, now in effect or in effect within the past five years, for (1) Each director or executive officer named in answer to Item 402(a) of Regulation S–K (§ 229.402(a) of this chapter) who may participate in the plan to be acted upon; (2) all current directors and executive officers of the issuer as a group, if any director or executive officer may participate in the plan; (3) all other current officers of the issuer as a group, if any other officer may participate in the plan; and (4) all employees, if employees may participate in the plan.

* * * * *

Instructions 1. The term "plan" as used in this item means any plan as defined in Instruction 2 to Item 402(b) of Regulation S–K (§ 229.402(b) of this chapter). Instruction 2 to Item 9 shall apply to this item.

* * * * *

Item 11. Options, warrants or rights. * * *

* * * * *

(b) State separately the amount of options, warrants, or rights received or to be received by the following persons, naming each such person: (1) Each director or executive officer named in answer to Item 402(a) of Regulation S–K (§ 229.402(a) of this chapter); (2) each nominee for election as a director, (3) each associate of such directors, executive officers or nominees; and (4) each other person who received or is to receive 5 percent of such options, warrants or rights. State also the total amount of such options, warrants or rights received or to be received by all directors and executive officers of the issuer as a group, without naming them.

(c) Furnish such information, in addition to that required by this item and Item 402 of Regulation S–K (§ 229.402 of this chapter), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect or in effect within the past five years, for (1) each director or executive officer named in answer to Item 402(A) of Regulation S–K (§ 229.402(a) of this chapter) who may participate in the plan to be acted upon; (2) all current directors and executive officers of the issuer as a group, if any director or executive officer may participate in the plan; (3) all other current officers of the issuer as a group, if any other officer may participate in the plan; and (4) all employees, if employees may participate in the plan.

Instructions 1. The term "plan" as used in this item means any plan as defined in Instruction 2 to Item 402(b) of Regulation S–K (§ 229.402(b) of this chapter).

* * * * *

[FR Doc. 83–1903 Filed 1–25–83; 8:45 am]
BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–1–83]

Certain Elections Under the Subchapter S Revision Act of 1982

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Rules and Regulations section of this **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to: (1) The time and manner of making certain elections, consents, and refusals under the Subchapter S Revision Act of 1982 and (2) the taxable year which a corporation may select in order to make the election to be an S corporation. The text of those temporary regulations also serves as the common document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered by March 28, 1983. The proposed regulations are proposed to have the same effective dates as the temporary regulations.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–1–83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Robert H. Ginsburgh of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION: The temporary regulation in the Rules and Regulations section of this issue of the **Federal Register** retitles and revises 26 CFR Part 18. The final regulations which are proposed to be based on that temporary regulation would amend 26 CFR Part 1.

For the text of the temporary regulation, see FR Doc. 83–2029 (T.D. 7872) published in the Rules and Regulations section of this issue of the **Federal Register.**

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request of any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Special Analyses

The Commissioner of Internal Revenue has determined that his proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1980. Accordingly, a Regulatory Impact Analysis is not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

List of Subjects in 26 CFR 1.1361–1—1.1380–1

Income taxes, Small business, Subchapter S corporation, Cooperatives.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83–2030 Filed 1–21–83; 10:43 am]
BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 12–82]

Privacy Act of 1974; Production or Disclosure of Material or Information

AGENCY: Justice Department.

ACTION: Proposed rule.

SUMMARY: The Department of Justice proposes to amend 28 CFR 16.101, "Exemption of U.S. Marshals Service Systems—Limited access, as indicated," to provide additional specificity as to statutory authorities; to make editorial changes; and to promulgate a new exemption. The exemption will preclude serving "notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public

record." 5 U.S.C. 552a(e)(8). The exemption is necessary because the individual notice requirement would present a serious impediment to law enforcement in that it would give persons sufficient warning to avoid warrants, subpoenas, etc. The other changes have no effect on the public.

DATE: All comments must be received by February 8, 1983.

ADDRESS: All comments should be addressed to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: William J. Snider (202–633–3452).

SUPPLEMENTARY INFORMATION: Section 16.101 is amended to provide additional specificity as to the statutory authority for the current exemption of the Warrant Information System, JUSTICE/USM–007; the change the name of the Internal Inspection Information System, JUSTICE/USM–002 to Internal Investigations System, JUSTICE/USM–002 to correspond with the name change as published in the Notices section of today's **Federal Register**; to provide additional specificity as to the statutory authority for the current exemption of this system; to additionally exempt this system from subsection (e)(8) of the Privacy Act; and to make minor editorial changes. The Internal Investigations System, JUSTICE/USM–002 is being republished in full text in the Notices section of today's **Federal Register** to reflect the proposed exemption and other revisions. The Warrant Information System, JUSTICE/USM–007 will be republished in the Department's upcoming annual publication to reflect the same editorial change made here to § 16.101.

List of Subjects in 28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of Information, Privacy, Sunshine Act.

The authority for this proposed rule is 5 U.S.C. 552a.

Accordingly, it is proposed that 28 CFR 16.101 be amended as set forth below.

Dated: December 20, 1982.

Kevin D. Rooney,

Assistant Attorney General for Administration.

PART 16—[AMENDED]

Section 16.101 is amended by revising paragraph (a)(1), introductory text to paragraph (e), paragraphs (e)(1), (f) (1) and (2); by redesignating the existing paragraphs (f)(7) and (f)(8) as (f)(8) and (f)(9), respectively; and by adding a new paragraph (f)(7).

§ 16.101 Exemption of U.S. Marshals Service Systems—Limited access, as indicated.

(a) * * *

(1) Warrant Information System (JUSTICE/USM–007).

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C 552a(j) (2).

* * * * *

(e) The following system of records is exempt from 5 U.S.C. 552 (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (f) and (g) and may be additionally exempt from subsection (e)(8):

(1) Internal Investigations System (JUSTICE/USM–002)—Limited access.

These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(5) or (j)(2).

(f) * * *

(1) From subsection (c)(3) where the release of the disclosure accounting for disclosures made pursuant to subsection (b) of the Act would reveal a source who furnished information to the Government in confidence.

(2) From subsection (c)(4) for the reason stated in (b)(2) of this section.

* * * * *

(7) From subsection (e)(8) for the reason stated in (b)(7) of this section.

* * * * *

[FR Doc. 83–2100 Filed 1–25–83; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 939

Surface Mining and Reclamation Operations Under a Federal Program for Rhode Island

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Postponement of public hearing.

SUMMARY: The Office of Surface Mining (OSM) is announcing the postponement of the public hearing scheduled on the proposed Federal program for the regulation of surface coal mining and reclamation in Rhode Island, at the State's request and extension of the period for submitting written comments on the proposed Federal program.

DATE: The new deadline for submission of written comments is March 9, 1983. The public hearing on the proposed Federal program for the regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Rhode Island is rescheduled for March 2, 1983, to be held at 12:00 noon at the place listed below under "**ADDRESSES.**"

ADDRESSES: Written comments should be mailed or hand delivered to: Administrative Record Room (R&I–19), Office of Surface Mining, Pennsylvania Field Office, 100 Chestnut Street, Suite 300, Harrisburg, Pennsylvania 17101.

The public hearing on the proposed program will be held at: The John O. Pastore Federal Building, Room 309 Exchange Terrace, Providence, Rhode Island 02903.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Branch of Regulatory Programs, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION: On December 22, 1982, the Office of Surface Mining proposed a Federal program for the State of Rhode Island (47 FR 57246) which would regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Rhode Island. The proposed Federal program provided for a public hearing to be held to receive comments. It further provided that if commenters requested a hearing date later than that set, OSM would consider postponing the hearing until a later time. OSM received such a request from Rhode Island. The Director of OSM has determined that the request is reasonable, and is, therefore, rescheduling the public hearing for March, 2, 1983, to be held at the time and location listed above under "**ADDRESSES.**"

This announcement also extends the time period during which interested persons may submit written comments on the proposed Federal program. Written comments must be received at the location listed above under "**ADDRESSES**" on or before 5:00 p.m., on March 9, 1983, to be considered.

Dated: January 19, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 83–2003 Filed 1–25–83; 8:45 am]

BILLING CODE 4310–05–M

Notices

Federal Register
Vol. 48, No. 18
Wednesday, January 26, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 21, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Charles E. Caudill, Acting Statistical Clearance Officer (202) 447–6201.

New

• Agricultural Marketing Service
Administrative Information Collection for Proposed Amendment to Marketing Order 910 and Proposed Marketing Agreement
Nonrecurring
Farms and businesses: 175 responses; 102 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

Extension

• Forest Service
Pilot Qualification and Approval Record, Aircraft Data and Approval Record FS–5700–20 and FS–5700–21
Individuals or households and businesses or other institutions: 1,750 responses; 1,375 hours; not applicable under 3504(h)
Mary Barr (703) 235–8666

Galen Hart,

Acting Statistical Clearance Officer.

[FR Doc. 83–2076 Filed 1–25–83; 8:45 am]

BILLING CODE 3410-01-M

Commodity Credit Corporation

Rate of Interest on Delinquent Debts

ACTION: Notice of rate of interest on delinquent debts.

SUMMARY: This notice sets forth the rate of interest which the Commodity Credit Corporation (CCC) is charging on delinquent debts. Publication of this interest rate in the **Federal Register** by CCC is in accordance with the regulations found at 7 CFR Part 1403, Interest on Delinquent Debts. In the absence of a different rule prescribed by statute, contract or regulation, it has been determined that the applicable rate which is to be charged by CCC on delinquent debts is 13.00 percent per annum.

EFFECTIVE DATE: January 25, 1983.

FOR FURTHER INFORMATION CONTACT: Peggy Waters, Claims Specialist, Fiscal Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C., 20013, (202) 475–4499.

SUPPLEMENTARY INFORMATION: This notice has been reviewed in conformance with Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been classified as "not major." It has been determined that the provisions of this notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action will not have a major impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The Attorney General and Comptroller General have jointly promulgated the Federal Claims Collection Standards (FCCS) in 4 CFR Parts 101 through 105 as mandated by the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 951–953). CCC is generally exempt from the provisions of the FCCS, since CCC has the authority under Section 4(k) of the CCC Charter Act (15 U.S.C. 714b(k)) to make final and conclusive settlement and adjustment of all its claims. However, the Board of Directors, CCC, has administratively determined that the FCCS shall be applicable to all claims by CCC regardless of the amount (CCC Claims Policy Docket CZ 161a, Revision 4).

The FCCS requires that interest be charged on delinquent debts. In accordance with the FCCS, CCC issued the regulations at 7 CFR Part 1403, Interest on Delinquent Debts (see 46 FR 71442), to provide that CCC will charge interest on delinquent debts. These regulations provide at 7 CFR 1403.5 that CCC will publish a rate of interest to be charged on delinquent debts as a notice in the **Federal Register.**

Accordingly, the rate of interest which will be charged by Commodity Credit Corporation January 25, 1983 with respect to delinquent debts shall be 13.00 percent per annum.

Signed at Washington, D.C. on: January 20, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83–2075 Filed 1–25–83; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Order 83-1-78; Docket 41071]

Application of Akron/Canton Airlines, Inc. for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting the *Akron/Canton Airlines, Inc. Fitness Investigation*, 83-1-78, Docket 41071.

SUMMARY: The Board is instituting an investigation to determine the fitness of Akron/Canton Airlines to engage in the interstate and overseas air transportation of persons, property and mail between all points in the United States, its territories and possessions, except in all-cargo service within Alaska or Hawaii.

DATES: Persons wishing to intervene in the *Akron/Canton Airlines, Inc. Fitness Investigation* shall file their petitions in Docket 41071 by February 4, 1983.

ADDRESSES: Petitions to intervene should be filed in Docket 41701, and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on persons listed in the Attachment and on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Phyllis C. Solomon, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5340.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-1-78 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-1-78 to that address.

By the Bureau of Domestic Aviation: January 20, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2118 Filed 1-25-83; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40350]

North Pacific Airlines Fitness Investigation; Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-titled matter will be held on February 7, 1983, at 10:00 a.m. (local time), in Room 1012, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 20, 1983.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 83-2117 Filed 1-25-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Receipt of Application for Permit; Aquarium of Niagara Falls

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name, Aquarium of Niagara Falls (P99B). b. Address, 701 Whirlpool Street, Niagara Falls, New York 14301.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphins (Tursiops truncatus) 3.

4. Type of Take: To take for permanent maintenance.

5. Location of Activity: Mississippi Sound.

6. Period of Activity: 1 year.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 21, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-2133 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit; Marineland S.A.

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name, Marineland S.A. (P72B). b. Address, Costa d'en Blanes, Palma Nova, Mallorca Spain.

2. Type of Permit Public Display.

3. Name and Number of Animals: California sea lions (Zalophus californianus) 4. Atlantic bottlenose dolphin (Tursiops truncatus) 4.

4. Type of Take: To obtain captive born California sea lions from the United States and to take from the wild Atlantic bottlenose dolphins from the Southeastern Texas Coast.

5. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries. National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of

such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government.

(b) It includes: i. A certification from such appropriate government agency verifying the information set forth in the application; ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms; iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Ministry of Agriculture and Fishing in the Balearic Islands have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: January 21, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-2131 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Permit; Oregon State University

On December 1, 1982, Notice was published in the **Federal Register** (47 FR 54135), that an application had been filed with the National Marine Fisheries Service by Dr. Bruce R. Mate, Oregon State University, Newport, Oregon, 97365 for a permit to take gray whales by radio tagging and inadvertent harassment for the purposes of scientific research.

Notice is hereby given that on January 20, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Scientific Research Permit to Dr. Bruce R. Mate for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the permit; and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973.

The Permit and related documents are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC.;

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska, 99802;

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, N.E., Seattle, Washington 98115; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 20, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-2132 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Letter of Authorization

The National Marine Fisheries Service has issued a Letter of Authorization under the authority of the Marine Mammal Protection Act of 1972, as amended, to conduct activities allowed under 50 CFR Part 228, Subpart B—Taking of Ringed Seals Incidental to On-Ice Seismic Activities to the following: Marine Technical Services, Inc., 12725 Royal Drive, P.O. Box 1369, Stafford, Texas 77477, January 19, 1983.

This Letter of Authorization is valid for 1983, and is subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing Small Take of Marine Mammals Incidental to Specified Activities (50 CFR Part 228, Subparts A and B). This Letter is in addition to four others issued under the same authorization on January 14, 1983. Issuance of this letter does not change the original finding that the level of taking will have a negligible impact on the ringed seal species or stock and its habitat and its availability for subsistence use since this Letter was issued due to a change in contractors and not a change in geographic area covered or the methods of exploration used.

This Letter of Authorization is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

Dated: January 17, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-2134 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-22-M

National Ocean Service; Approval of Amendment No. 1 to the New Jersey Coastal Program

Notice is hereby given that the Office of Ocean and Coastal Resource Management has approved an amendment to the New Jersey Coastal Program effective January 11, 1983. The amendment adds the newly established New Jersey Coastal Resources and Development Policy entitled "Wetlands Buffer" (N.J.A.C. Section 7:7E–3.27).

Notice of intent to approve this amendment was printed in the **Federal Register** and interested parties had until November 4, 1982, to comment. A copy of the amendment to the New Jersey coastal program was distributed to all Federal agencies. Interested parties wishing to obtain copies of the amendment may request copies from: Doris Grimm, North Atlantic Region Program Officer, Coastal Programs Division, Office of Ocean and Coastal Resource Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

(Federal Domestic Assistance Catalog No. 11.419; Coastal Resource Management Program Administration.)

Dated: January 20, 1983.

William Matuszeski,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 83-2188 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-08-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1982 Census of Transportation; 1984 Commodity Transportation Survey—Reporting Procedure Study
Form numbers: Agency—TC-9401(F); TC-9401(S); TC-9402
Type of request: New
Burden: 1,500 respondents; 375 reporting hours
Needs and uses: The Commodity Transportation Survey is the only Federal program which measures the flow of commodities from origin to destination and by mode of transportation. This Reporting Procedure Study will validate improved data collection procedures to be incorporated into the final survey design.
Affected public: A sample of respondents will be selected from establishments classified in manufacturing, minerals, and wholesale trade
Frequency: Nonrecurring
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395-4814

Agency: National Oceanic and Atmospheric Administration
Title: Merger of Application for Certificate of Inclusion and Application for General Permits to Take Marine Mammals
Form numbers: OMB—0648-0083 and 0101
Type of request: Revision
Burden: 2,315 respondents; 983 reporting hours
Needs and uses: General permits and certificates of inclusion are issued solely as a benefit to fishermen to prevent them from prosecution under the Marine Mammal Protection Act for violation of the moratorium on the "taking" of marine mammals while fishing.
Affected public: Commercial fishermen
Frequency: Annually; biennially
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Ken Allen, 395-3785

Agency: National Oceanic and Atmospheric Administration
Title: Application for Federal Fisheries Permit
Form number(s): Agency—NOAA 88-155; OMB-0648-0007
Type of request: Extension
Burden: 10,000 respondents; 5,000 reporting hours
Needs and uses: The application provides information required for issuance of a permit to domestic fishermen engaged in fishing in the U.S. Fishery Conservation Zone. The permit is used to enumerate the number of participants in individual fisheries and to monitor the level of fishing activity.
Affected public: U.S. fishermen/dealers
Frequency: On occasion
Respondent's obligation: Required to obtain or retain benefit
OMB desk officer: Ken Allen, 395-3785

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 83-2184 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-CW-M

Patent and Trademark Office

Current Membership of Performance Review Board

This notice announces the current membership of the Performance Review Board for the Patent and Trademark Office. Since the last announcement of the membership in the **Federal Register** of March 8, 1982 (47 FR 9878), two of the members have left the agency and two new members have been appointed. The former members who have left the agency are:

Richard J. Shakman, Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231

Herbert C. Wamsley, Director, Trademark Examining Operation, U.S. Patent and Trademark Office, Washington, D.C. 20231

The two new members are:

Samih N. Zaharna, Director, Patent Examining Group 160, U.S. Patent and Trademark Office, Washington, D.C. 20231

Samuel S. Matthews, Director, Patent Examining Group 250, U.S. Patent and Trademark Office, Washington, D.C. 20231

Each new member is appointed to serve for a term of three years to expire on January 31, 1986.

The following member's term will expire on January 31, 1983: James O. Thomas, Jr., Member, Director, Patent Examining Group 140, U.S. Patent and Trademark Office, Washington, D.C. 20231.

The membership on the PRB on February 1, 1983, will be as follows:

Donald J. Quigg, Chairman, Deputy Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Rene D. Tegtmeyer, Member, Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Margaret M. Laurence, Member, Assistant Commissioner for Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Bradford R. Huther, Member, Assistant Commissioner for Finance and Planning, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Samuel S. Matthews, Member, Director, Examining Group 250, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—expires January 31, 1986.

Richard J. Wieland, (Outside) Member, Assistant General Counsel for Litigation, HQ National Aeronautics and Space Administration, Washington, D.C. 20546. Term—expires July 12, 1984.

Samih N. Zaharna, Member, Director, Patent Examining Group 160, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—expires January 31, 1986.

Persons desiring any further information about the membership of the PRB may contact Mr. Aaron W. Deitch, Personnel Officer, U.S. Patent and Trademark Office, Washington, D.C. 20231. Telephone (703) 557-2862.

Dated: January 21, 1983.

Donald J. Quigg,

Deputy Commissioner of Patents and Trademarks.

[FR Doc. 83-2060 Filed 1-25-83; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF EDUCATION

Grants to State Educational Agencies To Meet the Special Educational Needs of Migratory Children

AGENCY: Department of Education.

ACTION: Application Notice for Fiscal Year 1983 (School Year 1983-84).

Applications are invited for new grants under the Migrant Education Basic State Formula Grant Program to establish and improve State programs and local projects designed to meet the special educational needs of migratory

children of migratory agricultural workers and migratory fishers.

The authority for this program is contained in Section 554(a) of Chapter 1, ECIA (Pub. L. 97–35).

(20 U.S.C. 3803)

The only eligible applicants are State educational agencies (SEAs).

The purpose of this program is to provide financial assistance to SEAs to establish or improve programs designed to meet the special educational needs of migratory children of migratory agricultural workers or migratory fishers.

Closing date for transmittal of applications: An application must be mailed or hand-delivered by April 29, 1983, unless in response to a specific request, the U.S. Department of Education extends this closing date for a particular SEA.

The U.S. Department of Education may grant an extension if the applicant SEA can show that the April 29 closing date creates difficulties for that SEA because it has already planned its application development and submission according to a different schedule. If an applicant SEA needs an extension of the April 29 closing date, it should request one as soon as possible, and in any event, prior to April 15, 1983.

Applications delivered by mail: An application sent by mail must be addressed to Mr. Vidal A. Rivera, Jr., Acting Director, Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, Room 1100, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant SEA must show proof of mailing consisting of one of the following:

(1) A legibly-dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or, (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or first class mail. Each late applicant will be notified that its application will not be considered—unless that SEA has been granted an extension to the closing date.

Applications delivered by hand: An application that is hand-delivered must be taken to the Migrant Education Programs office, Office of Elementary and Secondary Education, U.S. Department of Education, Room 1100, Donohoe Building, 6th and D Streets, SW., Washington, D.C.

The Migrant Education Programs office will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Eastern Standard Time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The Secretary awards grants under this program to SEAs to establish or improve State programs and local projects designed to meet the special educational needs of migratory children of migratory agricultural workers and migratory fishers. An applicant SEA may submit a State Plan covering a period of one to three years.

The Secretary published proposed regulations for this program on December 3, 1982, at 47 FR 54718.

Available funds: The Second Continuing Resolution (Pub. L. 97–377) for fiscal year 1983 includes $248.679 million available for Migrant Education Programs for FY 1983 (school year 1983–84) grants. It is estimated these funds will support 51 State programs. This estimate, however, does not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and instructions will be mailed to all eligible SEAs. Additional forms and instructions may be obtained by writing to Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, Room 1100, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An application must be prepared and submitted in accordance with the proposed regulations, instructions, and forms included in the program information package. The program information package is intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program. The Secretary urges that the narrative portion of an application be as brief as possible. The Secretary also urges that an applicant not submit information that is not requested.

Special procedures: The application is subject to the State and areawide clearinghouse review procedures under OMB Circular A–95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A–95 requires an applicant to give the clearinghouse(s) sufficient time for review, consultation, and comments on its application.

In its application, an applicant must provide—

(1) The comments of each clearinghouse that commented on its application; or

(2) A statement that the applicant used the procedures of OMB Circular A–95 but did not receive any clearinghouse comments.

Applicable regulations: The regulations that apply to this program include the following:

(1) The proposed Migrant Education Basic State Formula Grant Program Regulations (34 CFR Part 201), which were published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on December 3, 1982, at 47 FR 54718. An applicant SEA should base its application on the NPRM. If major changes are made in the final regulations, the Secretary may extend the closing date to permit applicant SEAs to amend their applications.

(b) The proposed General Provisions Regulations (34 CFR Part 204) which were published concurrently with the proposed Migrant Education Basic State Formula Grant Program Regulations at 47 FR 54728.

Further information: For further information, contact Mr. Dustin Wilson, Director, Division of Program Operations, Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education. Room 1100, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245–9231.

(20 U.S.C. 3803)

Dated: January 21, 1983.

(Catalog of Federal Domestic Assistance No. 84.011; Migrant Education/Basic State Formula Grant Program)

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83-2116 Filed 1-25-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER83-237-000]

Arizona Public Service Co., Filing

January 20, 1983.

Take notice that on January 10, 1983, Arizona Public Service Company (Arizona) tendered for filing as an initial rate schedule an Interruptible Transmission Service Agreement between Arizona Electric Power Cooperative, Inc. (AEPCO) and Arizona executed December 15, 1982.

Arizona requests that the Agreement become effective 60 days from the date of filing.

A copy of this filing was served upon the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2042 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-14-000]

The Bibb Co.; Amendment of Application for Adjustment Seeking Relief From Incremental Pricing Provisions

January 20, 1983.

On March 9, 1982, the Bibb Company (Bibb) filed with the Federal Energy Regulatory Commission (Commission), an application for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1982), and § 385.1104 (formerly § 1.41) of the Commission's Rules of Practice and Procedure (18 CFR 385.1104). Notice of Bibb's application was issued on March 25, 1982 (47 FR 13551, March 31, 1982). Bibb sought interim and permanent relief from the Commission's incremental pricing regulations and also requested a refund of all prior incremental pricing surcharge payments. The Director, Office of Pipeline and Producer Regulation (Director), issued an Order Granting in Part and Denying in Part Request for Interim Relief from Incremental Pricing Provisions on April 18, 1982 (19 FERC ¶ 62,050). By letter dated October 25, 1982, Bibb amended its request for relief from incremental pricing provisions and also requested interim relief.

Bibb is a textile manufacturing company which operates ten plants. However, Bibb sought relief for only three plants: the Coliseum Plant at Macon, Georgia, the Columbus Plant at Columbus, Georgia, and the Camellia Plant near Forsyth, Georgia. Bibb alleged that, because of the incremental pricing surcharges assessed to these plants, it has suffered special hardship, inequity, and unfair distribution of burdens, and will continue to suffer, if relief is not granted. By order of the Director issued April 8, 1982, interim relief was granted only to the Coliseum Plant, and was denied to the Camellia and Columbus Plants.

In its amended application, Bibb requests interim and permanent adjustment relief from § 282.203(b) of the Commission's regulations for the Columbus Plant. Section 282.203(b) provides for exemption from the Commission's incremental pricing program under Title II of the NGPA for *inter alia*, industrial boiler fuel facilities which have reduced their average per day use of natural gas below a 300 Mcf per day level for each of the twelve consecutive months preceding the filing of an exemption affidavit.

By letter dated October 25, 1982, Bibb informed the Commission that its Columbus Plant had been exempt from incremental pricing surcharges as a small industrial boiler facility during the period January 1982 through July 1982. Bibb's exemption was forfeited when the plant's boiler fuel usage exceeded an average of 300 Mcf per day during August 1982. Bibb requests that the Commission excuse its excess use in August 1982, and continue to exempt the Columbus Plant from incremental surcharges since its use has not exceeded an average of 300 Mcf per day in any month since August 1982, and it does not expect to exceed that limitation in the future. Bibb stated that it exceeded the 300 Mcf per day limitation because its coal-fired boiler was being rebuilt in August 1982, and there were delays in shipment of necessary parts to Bibb which resulted in longer down-time than anticipated.

Rules 1101-1117 of the Commission's Rules of Practice and Procedure (18 CFR 385.1101-.1117) implement section 502(c) of the NGPA, and allow the Director to grant adjustments of rules and orders issued under the NGPA if the applicant can demonstrate that it suffers special hardship, inequity, or an unfair distribution of burdens due to the application of these rules and orders. Bibb alleges that due to its forfeiture of the exemption from incremental pricing it has suffered special hardship, inequity and unfair distribution of burdens, as is required for relief under NGPA section 502(c), and will continue to suffer same if it is not granted the requested relief. The procedures applicable to the conduct of this adjustment proceeding are found in Rules 1101-1117.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Rule 214 (18 CFR 385.214). All petitions to intervene must be filed within ten days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2043 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-248-000]

Central Illinois Public Service Co.; Filing

January 20, 1983.

Take notice that on January 13, 1983, Central Illinois Public Service Company (CIPS) tendered for filing changes in Rate Schedule W-5 (long-term firm wheeling service). The Company's proposal incorporates a two-step rate change. The first step would place into effect a rate of $1.93 per Kw of a customer's maximum monthly demand. The second step would effectuate a $2.02 per Kw rate. The tendered changes also incorporate various rate design revisions.

CIPS states that the tendered changes to Rate Schedule W-5 resulted from the Commission's December 15, 1982 order in Docket No. ER81-736-000.

CIPS requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to

intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2044 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-247-000]

Consumers Power Co.; Filing

January 20, 1983.

Take notice that Consumers Power Company (Consumers) on January 12, 1983, tendered for filing the Supplemental Agreement No. 1 to the Pere Marquette Facilities Agreement between Consumers and Wolverine Electric Cooperative, Inc.

The Pere Marquette Interconnection Facilities Agreement is one of eight facilities agreements related to a coordinated operating agreement between Consumers, on the one hand, and Wolverine Electric Cooperative, Inc., Northern Michigan Electric Cooperative, Inc., the City of Grand Haven, Michigan, the City of Traverse City, Michigan and the City of Zeeland, Michigan, on the other hand.

Consumers requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Wolverine Electric Cooperative, Inc., Northern Michigan Electric Cooperative, Inc., the City of Grand Haven, Michigan, the City of Traverse City, Michigan, the City of Zeeland, Michigan and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). all such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2045 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-236-000]

Detroit Edison Co.; Filing

January 20, 1983.

Take notice that Detroit Edison Company (Detroit) on January 10, 1983, tendered for filing the following two documents:

1. Limited Term Transmission Service Agreement between Detroit and the Village of Clinton, Michigan, and

2. Interconnection Agreement Michigan South Central Power Agency/ The Detroit Edison Company.

Detroit states that the proposed rate for transmission service to the Village of Clinton is 2.0 mills per kilowatt per hour plus the cost of energy plus 10% thereof not to exceed one-half mill per kilowatthour. This proposed rate is in conformance with the Commission's Order No. 84.

Detroit further states that the proposed rates for the agreement with the Michigan South Central Power Agency are also in compliance with rates filed previously with and accepted for filing by the Commission. The basic rate for Short Term Power is 85¢ per kilowatt per week plus energy at out-of-pocket costs plus 10% thereof.

Detroit requests an effective date of March 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2046 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-239-000]

Duke Power Co., Filing

January 20, 1983.

Take notice that Duke Power Company (Duke) tendered for filing on January 10, 1983, a revised Service Schedule G Bulk Power Wheeling to the Company's Interconnection Agreement with Carolina Power and Light Company. Duke states that this Agreement is on file with the Commission and has been designated Duke Rate Schedule FERC No. 10.

Duke further states that revised Service Schedule G–1982 Bulk Power Wheeling amends the prior Service Schedule–1979 by adding a provision for Carolina Power & Light Company's use of any available non-firm transmission capacity over and above the firm transmission capacity reserved for Carolina Power & Light Company under the schedule. In addition, Duke states that Service Schedule G–1982 contains an increase in the firm transmission rate. Based on a 12–month period ending June 30, 1982, Duke estimates that the proposed change in the firm transmission rate will increase annual revenues from Carolina Power & Light by approximately $443,366.

Duke requests an effective date of July 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were mailed to the customer and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2047 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-11-000]

Interstate Power Co.; Application

January 20, 1983.

Take notice that on January 17, 1983, Interstate Power Company (Applicant) of Dubuque, Iowa, filed an Application pursuant to Section 203 of the Federal Power Act seeking authority to sell to the Blackhawk Area Credit Union certain office facilities and real estate located in Carroll County, State of Illinois.

The facilities proposed to be sold by Applicant for a base purchase price of $50,000, consist of property and real estate located in Savanna, Illinois.

Applicant represents that after the sale there will be no change in the use of the facilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 17, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2048 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-238-000]

Louisville Gas and Electric Co.; Filing

January 20, 1983.

Take notice that on January 10, 1983, Louisville Gas and Electric Company (Louisville) tendered for filing the proposed cancellation of its Supplement No. 5 (Service Schedule G) to Rate Schedule FPC No. 21.

Louisville states that Supplement No. 5 (Service Schedule G) to Rate Schedule FPC No. 21 provided for an additional temporary 138 Kv interconnection point between Louisville and Public Service Company of Indiana, Inc. (Service Company) under the Interconnection Agreement between the companies, dated February 1, 1967. This temporary interconnection was necessitated to allow Service Company to most economically feed certain sections of its system during a period of construction and reconstruction thereon. The period of construction and reconstruction has terminated and the interconnection is no longer necessary.

Louisville requests an effective date of December 9, 1982.

Copies of this filing were served upon Public Service Company of Indiana, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2049 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-235-000]

Minnesota Power & Light Co.; Filing

January 20, 1983.

Take notice that Minnesota Power & Light Company (Minnesota) on January 10, 1983, tendered for filing executed contract supplements relating to rates for electric utility service to the following municipal customers: a) The City of Ely, Minnesota; and b) Stuntz Cooperative Light and Power Association.

Minnesota states that under the terms and conditions of the executed supplements, Minnesota will guarantee certain limitations on rate increases during the period 1983–1989.

Minnesota requests waiver of the Commission's regulations to the extent necessary to permit the executed agreements to become effective as specified in the various executed supplements.

Copies of the executed supplements have been served upon The City of Ely, Stuntz Cooperative Light and Power Association and the Minnesota Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2060 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-249-000]

Oklahoma Gas and Electric Co.; Filing

January 20, 1983.

Take notice that on January 13, 1983, Oklahoma Gas and Electric Company (OG&E) tendered for filing an Agreement for the sale of 150 MW of power and energy to Gulf States Utilities Company (GSU) for the year 1983. OG&E states the rate is the same as that contained in Docket No. ER82-309 which covered a similar sale during year 1982.

OG&E requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2051 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-244-000]

Southern California Edison Co., Filing

January 20, 1983.

Take notice that on January 10, 1983, Southern California Edison Company (Edison) tendered for a change of rates for monthly carrying charges under the provisions of Paragraph 12.5 of the Power Sale Agreement Among Edison, Arizona Public Service Company, Nevada Power Company, Tucson Gas and Electric Company, and Arizona Pooling Association, Inc. (APPA) (Rate Schedule FERC No. 92).

Edison requests an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2052 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-9-000]

Wisconsin Public Service Corp.; Application

January 20, 1983.

Take notice that Wisconsin Public Service Corporation (Applicant) on January 6, 1983, tendered for filing an application pursuant to Section 203 of the Federal Power Act for authority to sell certain facilities to the City of Manitowoc, Wisconsin.

Applicant indicates that the purchase price of the facilities being sold which are subject to the jurisdiction of the FERC is $430,101.28, subject to adjustment as provided in paragraph 2 of the Purchase Agreement.

The facilities subject to the jurisdiction of FERC which are to be sold consist of plant and land comprising part of Applicant's Manrap and Manitowoc Substations and Transmission Lines K-11 and J-62.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2053 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-113-000]

Energy Cogen Corp.—Alamitos; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 22, 1982, Energy Cogen Corp., (Applicant), The Exchange—Suit 344, Farmington, Connecticut 06032, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at the Alamitos Generating Station in Long Beach, California. The primary energy source to the facility will be obtained by capturing the energy lost when high pressure natural gas is throttled through reducing values before use in the electric generating stations. The facility will use turbo expanders to reduce pressure and generate electricity. Applicant defines the energy source as "waste." Some natural gas will be used in the facility to protect against freezing by increasing the gas temperature. The electric power production capacity of the facility will be 2,000 kilowatts. There are no other small power production facilities using the same energy source and owned by the Applicant which are located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2055 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-114-000]

Energy Cogen Corp.—Encina; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 22, 1982, Energy Cogen Corp., (Applicant), The Exchange—Suite 344, Farmington, Connecticut 06032, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at the Encina Power Plant in Carlsbad, California. The primary energy source to the facility will be obtained by capturing the energy lost when high pressure natural gas is throttled through reducing values before use in the electric generating stations. The facility will use turbo expanders to reduce pressure and generate electricity. Applicant defines the energy source as "waste." Some natural gas will be used in the facility to protect against freezing by increasing the gas temperature. The electric power production capacity of the facility will be 2,000 kilowatts. There are no other small power production facilities using the same energy source and owned by the Applicant which are located within

one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2066 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-108-000]

Energy Cogen Corp.—Etiwanda; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 22, 1982, Energy Cogen Corp. (Applicant), The Exchange—Suite 344, Farmington, Connecticut 06032, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at the Etiwanda Electric Generating Station in Etiwanda, California. The primary energy source to the facility will be obtained by capturing the energy lost when high pressure natural gas is throttled through reducing valves before use in the electric generating stations. The facility will use turbo expanders to reduce pressure and generate electricity. Applicant defines the energy source as "waste." Some natural gas will be used in the facility to protect against freezing by increasing the gas temperature. The electric power production capacity of the facility will be 2,000 kilowatts. There are no other small power production facilities using the same energy source and owned by the Applicant which are located within one miles of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 83-2064 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-116-000]

Energy Cogen Corp.—Moss Landing; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 22, 1982, Energy Cogen Corp., (Applicant), The Exchange—Suite 344, Farmington, Connecticut 06032, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at the Moss Landing Power Plant in Moss Landing, California. The primary energy source to the facility will be obtained by capturing the energy lost when high pressure natural gas is throttled through reducing values before use in the electric generating stations. The facility will use turbo expanders to reduce pressure and generate electricity. Applicant defines the energy source as "waste." Some natural gas will be used in the facility to protect against freezing by increasing the gas temperature. The electric power production capacity of the facility will be 6,000 kilowatts. There are no other small power production facilities using the same energy source and owned by the Applicant which are located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2068 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-115-000]

Energy Cogen Corp.—South Bay; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 21, 1983.

On December 22, 1982, Energy Cogen Corp., (Applicant), The Exchange—Suite 344, Farmington, Connecticut 06032, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at the South Bay Power Plant in Chula Vista, California. The primary energy source to the facility will be obtained by capturing the energy lost when high pressure natural gas is throttled through reducing values before use in the electric generating stations. The facility will use turbo expanders to reduce pressure and generate electricity. Applicant defines the energy source as "waste." Some natural gas will be used in the facility to protect against freezing by increasing the gas temperature. The electric power production capacity of the facility will be 1,000 kilowatts. There are no other small power production facilities using the same energy source and owned by the Applicant which are located within one mile of the facility. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2057 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-3-001]

Madison Gas & Electric Co.; Application for Exemption

January 21, 1983.

Take notice that Madison Gas & Electric Company (MGE), filed an application on December 29, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290. MGE proposes alternate compliance in the form of the application it intends to file with the Public Service Commission of Wisconsin for an electric rate increase on June 1, 1983.

In its application for exemption MGE states, in part, that it should not be required to file the specified data for the following reasons:

MGE believes that the information required by Subparts B, C, D, and E of Part 290 or substantially similar information will be filed by it in the June 1, 1983, rate increase application. MGE respectfully submits that this filing may be considered an alternative method of fulfilling the filing requirements of Subparts B, C, D, and E of the regulation.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on:

Donald J. Helfrecht, President, Madison Gas & Electric Company, P.O. Box 1231, Madison, Wisconsin 53701

and

David C. Mebane, General Counsel, Madison Gas & Electric Company, P.O. Box 1231, Madison, Wisconsin 53701

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2058 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-1-000]

Natural Gas Transmission Company of Ohio; Petition for Adjustment

January 21, 1983.

On October 18, 1982, the Natural Gas Transmission Company of Ohio filed with the Federal Energy Regulatory Commission a petition for an adjustment under Sections 502(c) and 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA), wherein the Natural Gas Transmission Company of Ohio has sought an adjustment from Subpart C of Part 284 of the Commission's Regulations in order to allow the Natural Gas Transmission Company of Ohio to substitute its existing 48.8 per MCF rate contained in one of its then effective intrastate transportation rate schedules on file with the Public Utilities Commission of Ohio as the rate for computing transportation services being performed by the Natural Gas Transmission Company of Ohio on behalf of Columbia Gas Transmission Corporation, pursuant to Section 311(a)(2) of the NGPA.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. (18 CFR Part 385, Subpart K).

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within fifteen (15) days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2060 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE83-1-000]

Nevada Power Co.; Application for Exemption

January 21, 1983.

Take notice that Nevada Power Company (NPC) filed an application on December 13, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, and biennially thereafter, information on the costs of providing electric service as specified in § 290.404(g)(5) as it applies to NPC's General Service (GS) class of service.

In its application for exemption NPC states, in part, that it should not be required to file the specified data. NPC states that data for the GS class of service was filed June 1982 and was collected on a sample metered basis. The data indicated that 20% to 30% of the sampled customers consumed off peak energy only. As a consequences, GS class customer consumption and demand at the time of system peak load was minimal, making "improved quality of accuracy over the previous filing" [Section 290.404(g)(5)] attainable only by a sizeable increase in the GS class of service sample size. The accompanying expense, in view of the relatively small number of GS class customers (accounting for less than 2.5% of total retail sales), is deemed costly and wasteful.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility published a summary of the application in newspapers of

general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20428, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period such person must also serve a copy of such comments on: Mr. Connell Marsden, Manager, Rates & Regulations, Nevada Power Company, 6226 West Sahara Avenue, P.O. Box 230, Las Vegas, Nevada 89151.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2061 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-34-002]

Puget Sound Power & Light Co.; Application for Partial Exemption

January 21, 1983.

Take notice that Puget Sound Power & Light Company (Puget) filed an application on January 3, 1983 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, and biennially thereafter, information on the costs of providing electric service as specified in § 290.202(a) as it applies to estimated hourly average energy costs, § 290.303(a) in its entirety, and §§ 290.303(g), 290.303(h), 290.501(a) and 290.502(a) as they apply to average and marginal hourly energy costs. As an alternative, Puget proposes to submit *monthly* values in place of estimated *hourly* average energy costs and marginal *hourly* energy costs.

In its application for exemption Puget states, in part, that it should not be required to file the specified data for the following reasons:

Eighty percent of the applicant's annual load requirements are met with hydro-electric energy, rendering an analysis of hourly average energy cost meaningless.

Previous marginal pricing analysis by the applicant found monthly marginal energy data, as opposed to hourly marginal energy data, would achieve the intent and purpose of Section 133 of PURPA.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period such person must also serve a copy of such comments on: Mr. R. H. Swartzell, Vice President, Rates, Puget Sound Power and Light Company, Puget Power Building, Bellevue, Washington 98009.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2062 Filed 1-25-83; 8:45 am]

BILLING CODE 6717-01-M

Southeastern Power Administration

Revised Proposed Long-Term Marketing Policy—Kerr-Philpott System of Projects

AGENCY: Southeastern Power Administration (SEPA), DOE.

ACTION: Extension of time within which to consult with and/or submit written comments to SEPA on the revised proposed long-term marketing policy for Kerr-Philpott System of Projects.

SUMMARY: In its Notice published in the **Federal Register** of June 25, 1982, 47 FR 27600, SEPA established January 17, 1983, as the deadline for consultations and receipt of written comments on the revised proposed long-term marketing policy for its Kerr-Philpott System. This Notice extends the deadline from January 17, 1983, until April 18, 1983.

DATE: Written comments on the subject revised proposed policy may be submitted through April 18, 1983. Consultations may be held through the same date.

FOR FURTHER INFORMATION CONTACT: Mr. Harry C. Geisinger, Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, 404-283-3261.

SUPPLEMENTARY INFORMATION: SEPA received near the deadline for receipt of written comments and consultations, a number of requests for consultations which it could not properly respond to during the time remaining. There may also be other interested parties who may request consultations. Furthermore, SEPA desires to receive such additional written comments after the consultations as may be forthcoming to assist in development of the policy including solution of major problems indicated in the June 25, 1982, Notice.

Issued at Elberton, Georgia, January 14, 1983.

Curtis H. Bell,

Acting Administrator.

[FR Doc. 83-2130 Filed 1-25-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ARP-FRL-2245-6]

Federal Radiation Protection Guidance for Public Exposure To Radiofrequency Radiation

Correction

In FR Doc. 82-34831 beginning on page 57338 in the issue of Thursday, December 23, 1982, make the following corrections:

1. On page 57339, first column, under **FOR FURTHER INFORMATION CONTACT,** "401 M Street, SE" should have read "401 M Street, SW".

2. On the same page, third column, in the first paragraph under **Biological Effects of Radiofrequency Radiation,** in the 15th line, "following the establishing" should have read "following in establishing".

3. On page 57340, first column, in the second paragraph under **Existing Standards,** third line, "10m2/cm^2" should have read "10mW/cm^2".

4 In the same column, in footnote 1 at the bottom of the page, references to "ASNI" should have been "ANSI".

BILLING CODE 1505-01-M

[W-2-FRL 2290-6]

Region II: Ground Water System of the Schenectady Aquifer; Request for EPA Determination Regarding Aquifers

A petition has been submitted by Frank J. Duci, Mayor, City of Schenectady, New York pursuant to Section 1424(e) of the Safe Drinking Water Act, Pub. L. 93-523, requesting the Administrator of the Environmental Protection Agency to make a determination that the Schenectady Aquifer (Great Flats Aquifer) is the sole or principal drinking water source for

approximately 157,000 residents of Schenectady and Saratoga Counties which, if contaminated, would create a significant hazard to public health.

FOR FURTHER INFORMATION CONTACT: Walter E. Andrews 212–264–1800.

SUPPLEMENTARY INFORMATION: This petition is reprinted in full below:

TO: Anne Gorsuch, Administrator United States Environmental Protection Agency

In the Matter of the Petition of the City of Schenectady for Designation of the Schenectady Aquifer as a Sole or Principal Source Aquifer under section 1424e of the Safe Drinking Water Act.

Petition

1. This petition for the designation of the Schenectady Aquifer as a Sole or Principal Source Aquifer is submitted by: Frank J. Duci, Mayor, City of Schenectady, City Hall, Schenectady, New York, (518) 382–5000.

2. The City of Schenectady as the owner and supplier of water to some 157,000 people, taken from the Schenectady Aquifer has an interest in maintaining and protecting the quality of the groundwater in the aquifer and is thus interested in the Administrator's determination.

3. The Schenectady Aquifer currently is the sole source of potable drinking water of approximately 157,000 residents of Schenectady and Saratoga Counties. Contamination of this aquifer by synthetic organic chemicals, gasoline or similar toxic substances would create a significant hazard to the health and welfare of the people using water from the aquifer. At the present time, water taken from the Schenectady Aquifer meets or exceeds federal and state drinking water standards.

4.(a) The water supply for the City of Schenectady and the communities to which it supplies, is derived from wells in an exceptionally permeable coarse sand and gravel aquifer which underlies the floodplain of the Mohawk River. The Schenectady Aquifer consists of a thick deposit of sand and gravel up to 200 feet thick and two miles wide, and underlain by glacial till. The aquifer is located in the Mohawk River Valley in upstate New York. Please see accompanying maps for a more specific location.

(b) The Schenectady Aquifer supplies water to the following municipalities: City of Schenectady, Rotterdam, Niskayuna, Scotia, Glenville, Charlton, Burnt Hills, Ballston Lake, and Rexford.

(c) Population served is estimated to be approximately 157,000 persons.

(d) There are no sufficient alternative sources of water which are of the same quality as that currently taken from the Schenectady Aquifer. The only potential alternative source of drinking water is the Mohawk River. However, due to the poor quality of the water, this would entail significant capital expenditures to build treatment and distribution facilities.

(e) Defining the exact boundaries of the area of influence of the Schenectady well fields is difficult because of the complex nature of the aquifer and the number of influences. Because the Schenectady Aquifer extends over many square miles of the Mohawk Valley, the area immediately surrounding the Schenectady well field is not the only area through which potential contaminants can enter the water system. When one considers the water system, a much larger area, the "Extended Areas of Influence" must be included. Even if the critical area, referred to as Zone I–G, the Cone of Depression around the well, is protected, contaminants from elsewhere could travel laterally to the protected area. Therefore, we have included Zone II–G, the Aquifer Recharge Area, and Zone III–G, the Watershed Area Tributary to the Recharge Area. These areas are shown on Map 2, and represent the geographic components of the water system—the areas of influence.

Zone I–G, the well head protection area is the area within a circle which has a radius of 200 feet from the well and is extended to include the well's "cone of depression". At the Schenectady Aquifer, water may enter from the river or from any point on land over the aquifer. Along with this water, any soluble or liquid material may also be drawn into the aquifer and travel through it to the well field. As municipalities, such as the City of Schenectady, use their wells, more water is drawn into the aquifer. Near the wells, a zone hydrologically known as a "cone of depression" develops. (See Map 2) As water is removed by pumping, groundwater slowly flows into the cone of depression and is pumped out. Pure water and any contaminant entering the ground near the cone of depression may travel to the well and enter the water supply. This zone is therefore the most critical because any contaminant entering this zone may be drawn into the aquifer.

The aquifer recharge area is the land area where precipitation percolates directly through the ground to the aquifer. This area is shown as Zone II–G on Map 2. The aquifer's ability to filter out many types of organic and chemical impurities as the water percolates down and travels underground is an important asset not found in surface reservior systems. Since the aquifer is recharged from both the Mohawk River and percolation through the ground surface, the absorption of toxic substances is also possible. In fact, serious groundwater contamination has occurred in the past and has resulted in the closing of public wells in many parts of New York State.

Zone III–G is the watershed area tributary to the recharge zone. Contaminants may be carried with the water from this zone that replenishes the recharge area. This zone was mapped by geographically locating the watershed based on existing contours that may contribute runoff to the recharge area. The geographic extent of this area having influence on the water system extends about four miles upstream. However, the watershed beyond this (Zone III–G–2) contributes runoff directly to the Mohawk River which may travel downstream and enter the aquifer system. This is a secondary zone and the potential for contamination would depend on the type and amount of the contaminant.

Please see the accompanying report "Water Supply and Aquifer Protection Study" and maps for further details.

(f) The primary source of recharge to the Schenectady Aquifer is the Mohawk River and is shown as Area II–G (Aquifer Recharge Area) on the enclosed map entitled "City Water Supply Geographic Components—Areas of Influence" (Sheet No. 2).

(g) The Schenectady Aquifer, like any aquifer, is vulnerable to contamination from many various and diverse sources. Among the potential sources of contamination to the Schenectady Aquifer are:

1. Onsite disposal systems.
2. Landfills and dumps.
3. Stormwater runoff recharge basins.
4. Snow disposal—stockpiling.
5. Accidental spills on transportation corridors or by vessels on the Mohawk River.
6. Wastewater lagoons.
7. Pesticide and fertilizer usage.
8. Stockpiling of deicing salt and coal.
9. Use of deicing salts on roadways.
10. Cemeteries.
11. Underground storage tanks or pipelines.
12. Dense commercial, industrial or residential development.

(h) Schenectady Aquifer.

Water supplies in area [1]	Population served
(Usage estimated at 34 million gallons per day)	
Schenectady City (Rotterdam WD #1, Niskayuna WE #1, 2, 3, 4, 6, 7, 8)	101,000
Rotterdam WD #5 (Rotterdam WD #2)	24,717
Rotterdam WD #4 (Pur. from Rotterdam WD #5)	1,750
Rotterdam WD #3	952
Scotia (V)	7,800
Glenville WD #2 (Pur. from Scotia (V))	1,750
Glenville WD #3 (Pur. from Scotia (V))	1,750
Glenville WD #11 (Glenville WD #1, 4, 5, 6, 7, 9, 10)	12,197
Charlton WD (Pur. from Glenville WD #11)	2,000
Burnt Hills—Ballston Lake WD (Pur. from Glenville WD #11)	3,500
Rexford WD (Pur. from Glenville WD #11)	800
Total [2]	156,916

[1] These figures are taken from a study entitled "Report on Ground Water Dependence in New York State" (New York State Department of Health, Division of Environmental Health, Bureau of Public Water Supply, 1981). A copy is enclosed with this petition.

[2] Mobile home parks, apartments and condominiums, etc., with their own well supply are not included in the population figures. Therefore, the actual population using the aquifer is greater than the figures shown.

5. The following maps showing the required information has been included with this petition.

(a) General Aquifer Area (Sheet 1).

(b) City Water Supply Geographic Components (Sheet 2).

(c) Land Use Within Aquifer Area (Sheet 3A).

(d) Land Use—Potentially Harmful Areas. Within Area of Influence (Sheet 3B).

(e) Zoning Within Aquifer Area (Sheet 4).

(f) Critical Area Future Expansion (Sheet 5).

6. Also included for your consideration are the following:

(a) *Water Supply and Aquifer Protection Study* (Prepared by the LA Partnership, Saratoga Springs, New York, for Richard J. Lilley, Jr., Superintendent of Water, City of Schenectady, 1982).

(b) *Report on Ground Water Dependence in New York State* (New York State Department of Health, 1981).

I conclude that the Schenectady Aquifer is the sole or principal source of drinking water in the area, and contamination of this aquifer would create significant hazards to the public health. I, therefore, respectfully request that the Administrator and the Regional Administrator of the U.S. Environmental Protection Agency determine that the Schenectady Aquifer be designated as the sole or principal source of drinking water for the area and that this determination be printed in the **Federal Register** as required by Section 1424(e) of the Safe Drinking Water Act.

Dated: ————

Respectfully submitted,

Frank J. Duci,

Petitioner, Mayor, City of Schenectady.

EPA intends to decide whether to make the requested determination at the earliest time consistent with a complete review of the relevant data and information, and a full opportunity for public participation. In this regard, the Agency is developing a full factual record, and solicits comments, data, and references to additional sources of information relevant to the determination required by Section 1424(e). In particular, information is sought concerning the hydrogeology of the Schenectady Aquifer, the boundaries of the aquifer and its recharge areas. In addition, EPA requests information concerning the area or areas dependent upon the aquifer for drinking water, the significance of current or anticipated projects reveiving federal financial assistance that may result in contaimination of the aquifer, the prospects that such contamination will occur as a result of current activities or events that may be anticipated, and any other relevant information.

Comments, data, and references in response to this Notice should be submitted in writing to Jacqueline E. Schafer, Regional Administrator, Region II, Environmental Protection Agency, 26 Federal Plaza, Room 900, New York, N.Y. 10278, attention: Schenectady Aquifer; within 60 days of this Notice. Information concerning the Schenectady Aquifer, including the original petition and attachments, will be available for inspection at the above address.

In addition to considering public comments sent to EPA, the Agency will hold a public hearing on March 3, 1983, 1:00 pm–4:00 pm and 7:00 pm–9:00 pm at the Proctors Theater, 432 State Street, Schenectady, N.Y.

Persons who wish to present prepared statements at the public hearing are urged to give notice to Mr. Damian Duda, Water Supply Branch, Region II, Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10278, (212) 264–1800. If possible, written copies of these statements should be submitted at the hearing for inclusion in the record.

Jacqueline E. Schafer,

Regional Administrator.

[FR Doc. 83–1979 Filed 1–25–83; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL 2290–4]

Science Advisory Board, Environmental Engineering Committee, Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the Environmental Engineering Committee (EEC) of the Science Advisory Board will be held in the Tenth Floor Conference Room, Cockrell Hall, University of Texas, 26th and San Jacinto Streets, Austin, Texas on February 10–11, 1983. The meeting will begin at 9:00 a.m. and last until approximately 5:00 p.m. each day.

The purpose of the meeting is twofold. First, the Committee will continue review of technical suport data pertaining to the proposed EPA effluent guidelines for the pesticides industry, developed under the Clean Water Act. The major issue under review will be the techniques and assumptions used by EPA in determining the types and levels of technology used to establish treatment limits, particularly for those pesticides for which an adequate data base does not exist. Second, the Committee will continue its review of proposed revisions to the Agency's definitions of secondary treatment.

The major issues are:

a. The technical implications of using a BOD test that inhibits nitrification in lieu of the present uninhibited BOD test.

b. The scientific and technical basis for seasonal (cold-weather) adjustments to trickling filter effluent limitations.

c. Whether newly-designed trickling filters can be expected to meet current effluent limits.

The meeting is open to the public. Any member of the public wishing to participate or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382–2552, or Terry F. Yosie, Acting Director, Science Advisory Board, at (202) 382–4126.

Terry F. Yosie,

Acting Director, Science Advisory Boord.

January 19, 1983.

[FR Doc. 83–2108 Filed 1–25–83; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30224; PH FRL 2291–1]

Albany International; Application To Register a pesticide product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by February 25, 1983.

ADDRESS: Written comments, identified by the document control number [OPP–30224] and the file symbol, should be submitted to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, CM#2, Rm. 207, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Franklin Gee, (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA received an application as follows to register a pesticide product containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 2(c)(4) of FIFRA. Notice of receipt of this application does not imply a decision by the Agency on the application.

Application Received

File Symbol: 36638–RR.
Applicant: Albany International Corp., 110 A Street, Needham Heights, MA 02194.
Product name: Nomate-Blockaide™. Insecticide.
Active ingredients: Cyclic dexadiene 3.1% Cyclic decene 3.1%. Cyclic pentadecatriene 3.1%. Decatriene 3.1%.
Proposed classification/Use: General. For outdoor boll weevil use on cotton.

Notice of approval or denial of an applicatfon to register a pesticide product will be announced in the **Federal Register.** Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered

before a final decision is made; comments received after the time specified will be considered only to the extent posssible without delaying processing of the application.

Written comments filed pursuant to this notice will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing such comments telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended).

Dated: January 13, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-2105 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-40-M

[OPTS-59111A; TSH-FRL 2290-8]

Toxic Substances; Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-83-14 and TM-83-15, two applications for test marketing exemptions (TME) under section 5 (h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: January 19, 1983.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M St. SW., Washington, D.C. 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the applications, and for the time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the applications. All other conditions described in the applications must be met. The following additional restrictions apply:

1. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 83-14

Date of Receipt: December 6, 1982.

Notice of Receipt: December 17, 1982 (47 FR 56550).

Applicant: Confidential.

Chemical: Chlorinated oleated hydrocarbon polymer (Generic).

Use: Confidential.

Import Volume: Confidential.

Number of Customers: 1.

Worker Exposure: Potential exposure will be by the dermal and inhalation routes. At the manufacturing site, a maximum of 4 workers will be potentially exposed for 2 hours/day for no more than 4 days during transfer operations. During use a maximum of 2 workers will be potentially exposed again during transfer operations.

Test Marketing Period: 90 days.

Commencing on: January 19, 1983.

Risk Assessment: Based on the type of polymer, molecular weight, and that the test market substance is not designed to be water soluble, no significant health or environmental concerns were identified.

Public Comments: None.

TME 83-15

Date of Receipt: December 9, 1982.

Notice of Receipt: December 17, 1982 (47 FR 56550).

Applicant: Confidential.

Chemical: (substituted) anthracenylimino-(substituted) carbomonocyclic acid alkylamine salt.

Use: Confidential.

Import Volume: Confidential.

Number of Customers: 1.

Exposure Information: The substance will be imported. During use in the customer's industrial setting a maximum of 5 workers will be potentially exposed for 2 hours/day for 2 days. Potential exposure is by the dermal route. Consumers will not be exposed to the new substance.

Test Marketing Period: 4 months.

Commencing on: January 19, 1983.

Risk Assessment: The Agency identified no significant health or environmental concerns for the test market substance. The substance is expected to be poorly absorbed. Acute toxicity is low based on submitted data, and no chronic concerns were identified. If released, the substance is expected to have low bioavailability based on lack of solubility, and the substance is expected to sorb strongly to soils and sediments. In addition, release to the environment will be low.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: January 19, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 83-2104 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.6 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T-4060.

Title: North Carolina/Harrington Lease.

Parties: North Carolina State Ports Authority (Port)/Harrington and Company, Inc. (Harrington)

Synopsis: Agreement No. T–4080, provides for (1) the lease of approximately six (6) acres at the Port of Wilmington for use by Harrington in its operation as steamship agent, and (2) preferential use by Harrington of Berths 6, 7 and 8 two days per week. As compensation, Harrington will pay Port a graduated annual rental of $48,000 to $84,000 over the five-year term of the lease, as well as wharfage charges on a guaranteed minimum of 25,000 tons of cargo per contract year. When and if approved by the Commission, this agreement will supersede and cancel Agreement No. T–3812, approved July 11, 1979.

Filing agent: Jerry A. Ganey, Director of Special Projects and Property Control, North Carolina State Ports Authority, P.O. Box 3248, Wilmington, North Carolina 28406.

Agreement No.: 8420–11.

Title: Israel/U.S. North Atlantic Ports Westbound Freight Conference.

Parties: Farrell Lines, Inc., Prudential Lines, Inc. and Zim Israel Navigation Co., Ltd.

Synopsis: Article 1.1 would be amended so that the conference membership could agree on compensation to be paid to brokers and forwarders.

Filing agent: Jeffrey F. Lawrence, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Agreement No.: 10464.

Title: Armada/GLTL East Africa Service.

Parties: Armada Great Lakes/East Africa Service, Ltd. and KG Great Lakes Transcaribbean Line GmbH & Co.

Synopsis: The joint venture is to operate a service between Canada/US Great Lakes and East/South Africa.

Filing agent: Thomas D. Wilcox, Suite 705, 1899 L Street, NW., Washington, D.C. 20036.

By Order of the Federal Maritime Commission.

Dated: January 21, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–2119 Filed 1–25–83: 8:45 am]

BILLING CODE 6730–01–M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on January 5, 1983, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96–325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No. LM–65–3.

Filing party: Mr. Peter C. Lambos, Lambos, Flynn, Nyland & Giardino, 29 Broadway, New York, New York 10006.

Summary: Agreement No. LM–65–3 is an amendment to the Job Security Program (JSP) Agreement between steamship carriers operating on the North Atlantic, South Atlantic and Gulf Coasts and the International Longshoremen's Association, AFL–CIO, covering the period October 1, 1980, through September 30, 1983.

The purpose of the amendment is to provide for the loan of $3,500,000 by JSP Agency, Inc. to the Hampton Roads Shipping Association.

The Federal Maritime Commission hereby gives notice that on December 14, 1982, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96–325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreements Nos. LM–80–1 and 81–1.

Filing party: R. Frederick Fishers, Esquire, Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreements Nos. LM–80 and LM–81 are collectively-bargained labor agreements between the Pacific Maritime Association and the International Longshoremen's and Warehousemen's Union. The subject agreements amend Agreements Nos. LM–80 and LM–81 by (1) suspending the implementation procedures of Agreement No. LM–81 and (2) adding certain container tonnage assessments to Agreement No. LM–80.

By Order of the Federal Maritime Commission.

Dated: January 21, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83–2127 Filed 1–25–83: 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

American Fletcher Corp., et al.; Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notive have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois [illegible]

1. *American Fletcher Corporation* (Fletcher), Indianapolis, Indiana (consumer finance and related insurance activities; Knox County, Indiana): To engage through its subsidiary, American Fletcher Financial Services, Inc. (Fletcher Financial), in making or acquiring loans or other extensions of credit for personal, family or household purposes, including loans secured by home equities, purchasing consumer installment sales finance contracts and acting as agent with respect to credit life and disability insurance on borrowing customers and insurance on property taken as collateral and limited solely to such loans and contracts of this subsidiary. Fletcher earlier secured approval to engage in insurance activities by Board Order of July 20, 1972. Fletcher Financial's insurance activities will be restricted according to the terms of clauses (A) and (B) of

section 601 of the Garn-St Germain Depository Institutions Act of 1982. These activities will be conducted from an office located in Vincennes, Indiana, serving Knox County, Indiana. Comments on this application must be received not later than February 14, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Bancorporation,* Minneapolis, Minnesota (financing, servicing and leasing activities; continental United States, Alaska, Hawaii, Puerto Rico, any commonwealth, territory or possession of the United States, Canada or Mexico): To engage, through a *de novo* subsidiary, Lease Northwest, Inc., in making or acquiring loans and other extensions of credit such as would be acquired by a commercial finance company, including commercial loans secured by a borrower's inventory, accounts receivable or other assets; servicing such loans for others; and making leases of real and personal property in accordance with Regulation Y. These activities would be conducted from offices in Minneapolis, Minnesota; Omaha, Nebraska; Des Moines, Iowa; Fargo, North Dakota; and Billings, Montana, serving the continental United States, Alaska, Hawaii, Puerto Rico, any commonwealth, territory or possession of the United States, Canada or Mexico. Comments on this application must be received not later than February 15, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First City Financial Corporation,* Albuquerque, New Mexico (data processing and data transmission services; New Mexico and west Texas): To engage, through its *de novo* subsidiary, First City Data Corp., in providing data processing and data transmission services, data bases or facilities (including data processing and data transmission hardware, software, documentation and operating personnel) for the internal operations of First City Financial Corporation and its subsidiaries, and in providing to others data processing and transmission services, facilities or data bases. These activities would be conducted from offices in Albuquerque and Hobbs, New Mexico, serving New Mexico and west Texas. Comments on this application must be received not later than February 18, 1983.

Board of Governors of the Federal Reserve System, January 20, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2089 Filed 1-25-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Central Arkansas Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Central Arkansas Bancshares, Inc.,* Malvern, Arkansas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Malvern, Malvern, Arkansas. Comments on this application must be received not later than February 18, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Ray Bancorporation, Inc.,* Ray, North Dakota; to become a bank holding company by acquiring 92.59 percent of the voting shares of Citizens State Bank of Ray, Ray, North Dakota. Comments on this application must be received not later than February 9, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Bern Bancshares, Inc.,* Bern, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of The State Bank of Bern, Bern, Kansas. Comments on this application must be received not later than February 18, 1983.

2. *Cedar Rapids State Company,* Cedar Rapids, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Cedar Rapids State Bank, Cedar Rapids, Nebraska. Comments on this application must be received not later than February 18, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Bank Holding Company,* Myrtle Point, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of Security Bank of Coos County, Myrtle Point, Oregon. Comments on this application must be received not later than February 18, 1983.

Board of Governors of the Federal Reserve System, January 20, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2090 Filed 1-25-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 47 FR 13587, March 31, 1982), is amended to (1) consolidate the functions of the CDC Library (HCA55) with the Management Analysis and Services Office (HCA59), staff service offices within the Office of Administrative Management (HCA5), and (2) change the name of the Management Analysis and Services Office to Communications and Management Analysis Office (HCA59).

Section HC-B, Organization and Functions, is hereby amended as follows:

Under the heading *Office of Administrative Management (HCA5),* delete in their entirety the headings and statements for *CDC Library (HCA55)* and *Management Analysis and Services Office (HCA59),* and insert the following after the heading and statement for the *Office of Administrative Management (HCA5):*

Communications and Management Analysis Office (HCA59). (1) Plans, coordinates, and provides CDC-wide administrative, technical, management, and information services in the following areas: Committee management, communications, correspondence, delegations of authorities, distribution, forms, Freedom of Information Act Index, issuances, Library services, mail, organization and functions, personnel and information security, policy and procedures, printing and reproduction, Privacy Act, public inquiries, real property and space management, records, regulations, reports, studies and surveys,and information processing; (2) develops and implements policies and procedures in these areas; (3) maintains liaison with HHS, PHS, General Services Administration, the Government Printing Office, and other Government and private agencies.

Dated: January 19, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-2108 Filed 1-25-83; 8:45 am]

BILLING CODE 4160-18-M

Office of the Secretary

Statement of Organization, Functions, and Delegations of Authority

Part A (Office of the Secretary), Chapter AM, Management and Budget Office, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services is amended. Specifically, Chapter AMS, Office of Management Services (42 FR 36310, July 14, 1977 as last amended by 45 FR 70133 of October 22, 1980) and Chapter AMF, Office of Facilities Engineering (44 FR 20304 of April 4, 1979) are amended; and Chapter AMM, Office of Management Analysis and Systems (42 FR 36312 of July 14, 1977 as last amended by 44 FR 6521 of February 1, 1979) is replaced. These changes reflect a restructuring of some of the administrative and management functions provided to the Department by the Office of the Assistant Secretary for Management and Budget. The changes are made to improve efficiency and effectiveness by consolidating several organizational sub-units within the Office of the Assistant Secretary for Management and Budget. The specific changes are:

1. Part A, Chapter AMS (Office of Management Services), the title of the Office is changed to the "Office of Facilities and Management Services"; and, Section AMS.00. Mission, and Section AMS.10. Organization, are deleted in their entirety and replaced with the following:

Section AMS.00 Mission

The mission of the Office of Facilities and Management Services is to: provide nationwide architectural-engineering management, direction, and services for both direct Federal and federally-assisted construction activities; manage facility engineering services for all HHS-owned or utilized real property throughout the country; administer the Federal surplus real property program; manage the HHS Safety and Occupational Health Program; provide advice, guidance, and management support with regard to personnel administration and grant operations to the Office of the Secretary components; and provide Department-wide leadership in the areas of administrative services and emergency coordination.

Section AMS.10 Organization

The Office of Facilities and Management Services, under a Director who reports to the Assistant Secretary for Management and Budget, consists of the following components:

Office of the Director
Office of Facilities Engineering
Division of OS Personnel
Division of Contract and Grant Operations
Division of Administrative Services
Division of Emergency Coordination

2. Part A, Chapter AMS (Office of Facilities and Management Services) Section 20. Functions is amended as follows:

(a) Delete subsection AMS.20.C in its entirety and reletter subsections D and E as C and D, respectively.

(b) Delete subsection AMS.20.F in its entirety and reletter subsection G as subsection E.

3. Part A, Chapter AMF (Office of Facilities Engineering) is relettered as Chapter AMS1 (Office of Facilities Engineering). Sections AMF.00, AMF.10, AMF.20 and AMF.30 are relettered AMS1.00, AMS1.10, AMS1.20 and AMS1.30, respectively.

4. Part A, Chapter AMS1 (Office of Facilities Engineering) is amended as follows:

(a) Section AMS1.10 Organization is amended to replace the first sentence with the following—"The Office of Facilities Engineering is headed by a Director who reports to the Director, Office of Facilities and Management Services, and who manages and supervises the activities of the following units:"

Section AMS1.10 Organization is amended by inserting below the title "Office of the Director" and above the title "Deputy Director for Technical Services" the title "Washington Facilities Division."

(b) Chapter AMS1, Section AMS1.20 Functions is amended by adding paragraph 7 to Subsection A, as follows:

7. Washington Facilities Division—plans and administers the HHS facilities management program in the Washington, D.C. area; provides engineering and architectural services in support of the maintenance and operations of all HHS facilities in the national capitol area; negotiates for, obtains, and allocates parking spaces in southwest Washington, D.C.; and implements and/or develops procedures, standards, and regulations for the occupational safety and health program within the Office of the Secretary.

(c) Chapter ASM1, Section ASM1.30 Delegations of Authority is deleted in its entirety.

5. Part A, Chapter AMM (Office of Management Analysis and Systems) is deleted in its entirety and replaced with the following:

AMM.00 Mission

A. Under the supervision of the Deputy Assistant Secretary for Management Analysis and Systems, the Office of Management Analysis and Systems advises the Secretary and the Assistant Secretary for Management and Budget on management issues which affect the attainment of the Department's goals and objectives.

B. The Office of Management Analysis and Systems: (1) Recommends management policies; (2) implements approved policies and assesses their effectiveness; (3) establishes management control mechanisms and administers the Department's management-by-objectives process; (4) administers the Departmental process designed to track and document efforts to reduce losses to fraud, abuse, and waste; (5) analyzes organizational structures and management procedures and recommends improvements; (6) applies management science and systems analysis techniques to the assessment of managerial issues; (7) guides and oversees the development of information systems; (8) implements the Department's policies on the collection, processing, and storage of information; (9) guides and oversees the Department's implementation of the requirements of the Paperwork Reduction Act of 1980 (Pub. L. 96-511); (10) guides and oversees the Department's compliance with environmental and historic preservation

statutes; and (11) guides and oversees the Department's printing management programs.

In carrying out its responsibilities, the Office is the Department's functional manager for guiding, monitoring, and evaluating the Department's procedures and operating practices in the eleven areas described above.

AMM.10 Organization

The Office of Management Analysis and Systems reports to the Assistant Secretary of Management and Budget. The Office consists of the following elements:

Immediate Office
Office of Computer and Information Systems
Office of Management Analysis
Office of Management Control
Office of Public and State Data Systems

AMM.20 Functions

A. Immediate Office

The Immediate Office of the Office of Management Analysis and Systems is responsible for directing, administering, and coordinating the activities of the Office Management Analysis and Systems.

B. Office of Computer and Information Systems

The Office of Computer and Information Systems is responsible for:

1. Developing and overseeing the policies and procedures by which the Department plans for, acquires, and manages its information systems:

2. Managing HHS computer information system activities in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511);

3. Managing the provision of automated information system services to components within the Office of the Secretary;

4. Representing the Department in dealing with Office of Management and Budget (OMB), General Services Administration (GSA), and other external entities regarding HSS information systems planning, budget, and management matters.

(a) Division of Management Information Systems Planning and Evaluation is responsible for:

(1) Establishing information systems policies which govern the development and operation of information systems throughout the Department;

(2) Evaluating the cost effectiveness of major information systems;

(3) Developing and establishing a Departmental planning process for relating information system requirements to HHS programmatic and administrative needs;

(4) Providing technical and management evaluations of the Department's long-range ADP and telecommunications financial plans;

(5) Establishing policies covering the use of information processing standards throughout the Department; and

(6) Establishing and maintaining the Department's inventory of information systems resources.

(b) The Division of Information Systems Security and Management is responsible for:

(1) Providing policy guidance, technical assistance, and oversight for the implementation of systems security processes and procedures for automated information systems and computer facilities throughout the Department;

(2) Developing short and long range plans for the management of the automated information systems security program;

(3) Conducting ADP security reviews and evaluations of the Department's automated information systems and computer facilities;

(4) Managing the development of the automated information systems serving the internal needs of the Office of Management Analysis and Systems; and,

(5) Providing technical advice, systems analysis, programming and operational support for designated Departmental automated systems.

(c) Division of Automatic Data Processing (ADP) and Telecommunications Resources is responsible for:

(1) Establishing HHS policies and procedures governing the acquisition, use, and replacement of ADP and telecommunications equipment;

(2) Establishing and overseeing a Departmental voice and data telecommunications management program for reducing Federal expenditures; and

(3) Evaluating the management and cost effectiveness of existing ADP and telecommunications equipment within HHS component organizations.

(d) Division of Data Processing is responsible for:

(1) Serving as a computer service organization which provides computer time and related services to the Office of the Secretary and, as resources permit, to other Department of Health and Human Services organizations;

(2) Designing and operating a Departmentwide Administrative Data Communications Utility; and

(3) Providing advice, guidance, and management with regard to automated data processing, telecommunications, and office systems management to the Office of the Secretary components.

C. Office of Management Analysis

The Office of Management Analysis advises senior Departmental officials on management and adminstrative issues related to the effective and efficient operation of the Department's programs. The Office of Management Analysis is responsible for:

1. Recommending management policies;

2. Implementing approved policies and assessing their effectiveness;

3. Analyzing organizational structures and management procedures and recommending improvements; and

4. Applying management science, systems analysis, and other quantitative techniques to the assessment of management problems.

(a) The Division of Organizational Analysis is responsible for:

(1) Serving as the principal source of advice to the Secretary on all aspects of Departmentwide organization analysis including: (a) planning for new organizational elements; (b) evaluating current organizational structures for effectiveness; (c) conducting the review process for reorganization proposals; and (d) maintaining documentation of the entire HHS organization to the division level;

(2) Administering the Department's system for the review, approval and documentation of delegations of authority;

(3) Overseeing HHS compliance with the National Environmental Policy Act, the National Historic Preservation Act, and related statutes and Executive Orders, by:

a. Maintaining liaison, for policy matters, with the Council on Environmental Quality, and related agencies and organizations;

b. Raising to the attention of the Secretary or other senior officials, policy matters which require their involvement;

c. Coordinating the review of environmental impact statements developed by other Federal departments; and

d. Providing technical assistance, training, procedural guidance and oversight, as necessary, to all HHS Operating Divisions to ensure their compliance with environmental and historic preservation requirements.

(4) Managing the Department's printing and copying activities by:

a. Providing policy guidance to, and oversight over, the printing and copying management programs carried out by the Department's Operating Divisions; and,

b. Providing Departmental liaison with the Congressional Joint Committee

on Printing, the Government Printing Office, and other governmental entities concerned with printing and copying management matters.

(5) Analyzing and recommending action on Freedom of Information Act appeals for documents denied by officials in the Office of the Secretary;

(6) Managing the HHS administrative directives system, with emphasis upon incorporation of Secretarial directives into that system; and

(7) Analyzing, and making recommendations related to, legislative proposals with potential impact upon the Department's organizational structure or managerial procedures.

(b) The Division of Management Evaluation is responsible for:

(1) Serving as the principal Departmental resource for carrying out management evaluations of programs and major functions, using a wide range of analytical methods including the application of quantitative analytical techniques;

(2) Analyzing programs and procedures to determine costs and efficiencies and to suggest alternative operating procedures where appropriate;

(3) Conducting management studies, surveys, and analyses of inter-agency and intra-agency programs, functions, and processes; and

(4) Administering the Department's special review procedures related to the obtaining of consultant services.

D. Office of Management Control

The Office of Management Control is responsible for:

1. Providing the Secretary and other key officials with advice and assistance in the implementation and installation of management systems for achieving end results from Departmental programs in the most effective and efficient manner possible.

2. Administering the HHS management-by-objectives process and providing the Secretary with periodic assessments of progress and problems related to the achievement of major operational objectives;

3. Administering the HHS management system used by the Secretary and other senior officials to guide, track, and record Departmental efforts aimed at reducing losses due to fraud, abuse, and waste; and

4. Providing advice on the managerial aspects of regulations, project proposals, policy issues, and decisions submitted for the Secretary's approval.

F. Office of Public and State Data Systems

The Office of Public and State Data Systems is responsible for:

1. Managing, in accordance with the Paperwork Reduction Act of 1980, the Department's activities related to the review and approval of all public-use reports and recordkeeping requirements which impose paperwork burden on the public;

2. Developing policies for, and administering, the Department's Information Collection Budget;

3. Developing policies and procedures for, and carrying out analytical and oversight activities related to, the Department's paperwork burden reduction efforts;

4. Establishing Departmental statistical policies;

5. Managing the Department's program for administering its internal forms and reporting requirements in the most effective and efficient manner possible and in accordance with the Paperwork Reduction Act of 1980;

6. Coordinating the Department's involvement in Federal interagency reports and forms;

7. Developing Departmental policies and procedures under which States obtain Federal financial participation in the costs of Automatic Data Processing (ADP) systems to support programs funded under the Social Security Act;

8. Acting as a central receiving point for, and coordinating the Departmental review and approval of, State requests for Federal funding in the cost of ADP system acquisitions; and

9. Coordinating the provision of technical assistance to states on information systems projects that will advance the use of computer technology in the administration of welfare and social services programs in the States.

Dated: January 20, 1983.

Richard S. Schweiker,

Secretary.

[FR Doc. 83-2109 Filed 1-25-83; 8:45 am]

BILLING CODE 4150-04-M

Social Security Administration

Conformity of Public Assistance Plan of the State of Minnesota With the Social Security Act; Hearing

Notice of hearing is hereby given as set forth in the following letter that has been sent to the Minnesota Department of Public Welfare and the Office of the Attorney General of the State of Minnesota.

Washington, D.C., January 13, 1983.

Arthur E. Noot,
Commissioner, Minnesota Department of Public Welfare, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, and
Alan T. Held,
Special Assistant Attorney General, 515 Transportation Building, St. Paul, Minnesota 55155.

Gentlemen: This letter is in response to the petition of the State of Minnesota, filed for Warren Spannaus, Attorney General, State of Minnesota, requesting reconsideration of the disapproval of Minnesota's Plan Submittal No. 82-24, dated April 5, 1982, of an amendment to Minnesota's State plan under Title IV-A of the Social Security Act entitled Aid to Families with Dependent Children (AFDC). The State's request for reconsideration dated December 13, 1982 was received in the Regional Office of the Social Security Administration on December 17, 1982.

The proposed plan amendment for purposes of determining eligibility and benefit amount treats persons with earned income differently than persons with unearned income or no income. The amendment increases the standard of need by 35 percent for earned income cases only.

Pursuant to 45 CFR 201.4, I am scheduling a hearing to be held on the 3rd day of March 1983 in the City of Washington, D.C., at 10:00 A.M. in Rooms 303-305H, Hubert H. Humphrey Building, 200 Independence Avenue, SW. Please let me know if the time set for the hearing is agreeable to you.

In accordance with 45 CFR 213.21, I have designated Alexander G. Teitz, a Board Member of the Departmental Grant Appeals Board, as the presiding officer for the hearing in this matter. The hearing will be conducted under the procedures in 45 CFR Part 213. A copy of the designation is enclosed.

The issues which will be considered at the hearing include whether the proposed plan amendment, by treating applicants and recipients with earned income differently than applicants and recipients without earned income, violates:

1. 45 CFR 233.10 (a)(1) which requires that groups of individuals selected for inclusion in the state plan and the eligibility conditions imposed must not exclude individuals or groups on an arbitrary or unreasonable basis and must not result in inequitable treatment of individuals or groups in the light of the provisions and purposes of the AFDC program.

2. 45 CFR 233.20(a)(1) which requires that determination of need and amount of assistance will be made on an objective and equitable basis and all types of income will be taken into consideration in the same way except where otherwise specifically authorized by Federal statute.

3. 45 CFR 233.20(a)(2) which requires that there be a statewide standard of assistance to be used in determining the needs of applicants and recipients and the amount of any assistance payment.

4. Section 402(a)(18) of the Social Security Act, as added by the Omnibus Budget Reconciliation Act of 1981, which provides that no family shall be eligible for assistance for any month in which the total income of the family exceeds 150 percent of the State's standard of need.

5. Section 402(a)(17) of the Social Security Act, as added by the Omnibus Budget Reconciliation Act of 1981, which provides that where a family's income exceeds the standard of need due to receipt of lump sum income, the family shall be ineligible for assistance for the number of months equal to the family's income divided by the standard of need.

Any further inquiries or submissions or correspondence regarding this matter should be filed in an original and two copies with Mr. Teitz at the Departmental Grant Appeals Board, Room 2004, Switzer Building, 330 C Street, SW., Washington, D.C. 20201, where the record in this matter will be kept. Each submission must include a statement that a copy of the material has been sent to the other party, identifying when and to whom the copy was sent. For convenience please refer to Docket No. 82-248 assigned to this matter.

John A. Svahn,

Commissioner of Social Security.

[FR Doc. 83-2124 Filed 1-25-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-83-1202]

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: Housing and Urban Development Department.

ACTION: Notice of proposed amendments to existing systems of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act systems of records: HUD/DEPT-52, Privacy Act Requesters; and HUD/DEPT-55, Executive Personnel Files.

EFFECTIVE DATE: The amendments shall become effective without further notice on February 25, 1983, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Robert English, Departmental Privacy Act Officer, Telephone 202-755-5908. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department is naming a new system manager for each system listed in order to accurately identify the official responsible for managing the system. This action is necessary to reflect current organizational placement of responsibility for managing these systems.

The notices were published November 4, 1981 at 46 FR 54893 (HUD/DEPT-52); and 46 FR 54894 (HUD/DEPT-55). The notices are being amended to read as follows:

HUD/DEPT-52

SYSTEM NAME: Privacy Act Requesters.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Information Policies and Systems, AI, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

* * * * *

HUD/DEPT-55

SYSTEM NAME: Executive Personnel Files.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Headquarters Operations Division, Office of Personnel, APH, Department of Housing and Urban Development 451 Seventh Street, S.W., Washington, D.C. 20410.

* * * * *

(5 U.S.C. 552(a), 88 Stat. 1896; Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d))

Dated: January 20, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-2142 Filed 1-25-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Proposed Contractual Actions Pending Through March 1983

Pursuant to section 228 of the Reclamation Reform Act of 1982 (96 Stat. 1261), The Department of the Interior must afford the affected public an opportunity to be aware of and to provide comments on water service and repayment contract negotiations being conducted by the Bureau of Reclamation. Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the **Federal Register** February 22, 1982, Vol. 47, page 7763, and the Reclamation Reform Act, a tabulation is provided below of proposed contractual actions in each of the seven Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during January, February, or March of 1983. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the addresses and telephone numbers given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Some of the actions listed have been publicized in the **Federal Register** previously. When this is the case, the date of publication is given. Individual notice of intent to negotiate, and other appropriate announcements, will be made in the **Federal Register** for those actions found to have widespread public interest. In addition, a wide variety of local publicity resources are being used selectively to inform the public affected by a specific contract proposal.

Acronym Definitions Used Herein:

(FR) **Federal Register**
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
(O&M) Operation and Maintenance
(CVP) Central Valley Project
(P-SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act
(SOFAR) Southern Fork American River

Pacific Northwest Region:

Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334–9011.

1. Boise Cascade Corporation, Columbia Basin Project, Washington; Industrial water service contract; 250 acre-feet; FR notice published April 7, 1980, Vol. 45, page 23531.

2. Boise Project Board of Control, Boise Project, Idaho-Oregon; Irrigation repayment contract; 22,800 acre-feet of stored water in Arrowrock Reservoir.

3. Bridgeport Public Schools, Chief Joseph Dam Project, Washington; Irrigation water service contract for 25 acres for a term of 40 years.

4. Columbia Irrigation District, Washington; SRPA loan repayment contract; $3,376,000 proposed obligation.

5. Douglas County Oregon; SRPA loan repayment contract; $1,605,000 proposed loan obligation. Loan application also includes a request for $14,395,000 in grant funds towards anadromous fish enhancement, recreation, fish and wildlife functions.

6. Potholes Reservoir Bank Storage Pumpers, Columbia Basin Project, Washington; Long-term irrigation water service contract not to exceed 320 acres or 1,000 acre-feet of water annually for a term of up to 40 years; FR notice published November 3, 1981, Vol. 46, page 54648.

7. Northwest Land and Investment, Inc., Columbia Basin Project, Washington; Temporary water service contract for 40 acre-feet.

8. Okanogan ID, Okanogan Project, Washington; R&B loan repayment contract; $10,792,000 proposed obligation.

9. Miscellaneous Water Users, Pacific Northwest Region, Idaho-Oregon and Washington; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

10. Rogue River Basin water users, Rogue River Basin Project, Oregon; Water service contracts; $5 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water per contractor for terms up to 40 years.

11. City of Hillsboro, Tualatin Project, Oregon; Repayment contract to repay $368,000 estimated cost of channel improvement at Spring Hill Pumping Plant.

12. Willamette Basin water users, Willamette Basin Project, Oregon; Water service contract; $1.25 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

13. Outlook ID, Yakima Project, Washington; R&B loan repayment contract; $2,487,000 proposed obligation; FR Notice published February 4, 1982, Vol. 47, page 5363.

14. Sunnyside Valley ID, Yakima Project, Washington; R&B loan repayment contract; $13,221,000 proposed obligation.

15. Granger ID, Yakima Project, Washington; R&B loan repayment contract; $1,111,000 proposed obligation.

16. Sunnyside Valley Board of Control, Yakima Project, Washington; R&B loan repayment contract; $15,901,000 proposed obligation.

17. Washington Water Power Company, Inc., Columbia Basin Project, Washington; Industrial water service contract; 32,000 acre-feet of water per year from Franklin D. Roosevelt Lake for the proposed Creston Powerplant; FR notice published December 11, 1982, Vol. 46, page 60658.

Mid-Pacific Region:

Bureau of Reclamation, (Federal Office Building) 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 484–4680.

1. El Dorado ID and El Dorado County Water Agency, CVP, California; Coordinated CVP/SOFAR Project operations and water service contract; 20,000 acre-feet with construction of Auburn Dam.

2. El Dorado ID, CVP, California; Amendatory water service contract; 1,000 acre-feet municipal and industrial water supply for service from Folsom Lake to the El Dorado Hills area.

3. 4–E Water District, CVP, California; Water service contract; 80 acre-feet; FR notice published October 3, 1979, Vol. 44, page 56991.

4. 2047 Drain Water Users Association, CVP, California; Water right settlement contract; FR notice published July 25, 1979, Vol. 44, page 43535.

5. Stockton-East Water District, CVP, California; Interim water service contract; 75,000 acre-feet from New Melones Reservoir; FR notice published February 5, 1982; Vol. 47, page 5473.

6. Central San Joaquin Water Conservation District, CVP, California; Water service contract; 49,000 acre-feet firm supply and 39,000 acre-feet interim supplies from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

7. Tuolumne Regional Water District, CVP, California; Water service contract; 3,200 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

8. Calaveras County Water District, CVP, California; Water service contract; 500 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

9. Solano ID, Solano Project, California; Amendatory loan contract providing for reconveyance and M&I water supply delivery.

10. Carson-Truckee Water Conservancy District, Washoe Project, California/Nevada; Interim water service contract; 10,000 acre-feet; FR notice published May 14, 1981, Vol. 46, page 26705.

11. Miscellaneous Water Users, Mid-Pacific Region, California, Oregon and Nevada; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

12. State of California, Department of Water Resources, CVP, California; Interim water service contract for approximately 500,000 acre-feet.

13. State of California, CVP, California; Coordinated operations agreement for Federal Central Valley Project (CVP) and the State Water Project (SWP); FR notice published June 8, 1979, Vol. 44, page 33164.

14. Madera ID, CVP, California; Agreement for conveyance of non-project water in Millerton Lake and the Madera Canal; Maximum of 50 cfs, Friant Unit.

15. Pacheco Water District, CVP, California; Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

16. City of Redding, CVP, California; Agreement for operation of the City of Redding's Lake Redding Power Project and resolution of potential impacts on Keswick Powerplant.

17. South San Joaquin ID and Oakdale ID, CVP, California; Operating agreement for conjunctive operation of New Melones Dam and Reservoir on the Stanislaus River; FR notice published June 6, 1979, Vol. 44, page 32483.

18. City of Santa Barbara, Cachuma Project, California; Agreement for conveyance of non-project water through Lauro Reservoir, Maximum of 21 cfs.

19. Yuba County Water Agency, South County Irrigation Project, SRPA, California; Loan repayment contract; $21,600,000 proposed obligation.

20. County of San Benito, San Felipe Division, CVP, California; Repayment

recreation agreement, will provide recreation facilities in an area that now has a deficit of recreation areas.

Upper Colorado Region:

Bureau of Reclamation, P.O. Box 11568, (125 South State Street) Salt Lake City, UT 84147, telephone (801) 524–5435.

1. Southern Ute Indian Tribe, Florida Project, Colorado; Amendatory contract to Contract No. 14–06–400–3038 of May 7, 1963; An administrative action to provide for delivery of 181 acre-feet of water presently delivered outside the terms of the existing contract.

2. Miscellaneous water users, Upper Colorado Region, Utah, Wyoming, Colorado, and New Mexico; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually M&I contractor for terms up to 2 years.

3. Southern Ute Indian Tribe, Animas-La Plata Project, Colorado; Water service contract; 26,500 acre-feet per year for M&I use; 3,300 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

4. Ute Mountain Ute Indian Tribe, Animas-La Plata Project, Colorado and New Mexico; Water service contract; 6,000 acre-feet per year for M&I use; 26,600 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

5. Navajo Tribal Utility Authority, Animas La-Plata Project, New Mexico; M&I water service contract; 7,600 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

6. Ute Mountain Ute Tribe and Bureau of Indian Affairs, Dolores Project, Colorado; Repayment contract; 1,000 acre-feet per year for M&I use; 22,900 acre-feet per year for irrigation; FR notice published September 10, 1980, Vol. 45, No. 177, page 59642.

7. Fontenelle (Chevron) State of Wyoming, Seedskadee Project, Wyoming; Water sales contract for 22,500 acre-feet per year for industrial use. Environmental Impact Statement under preparation; approval pending outcome.

8. Animas-La Plata Conservancy District, Animas-La Plata Project, Colorado; Water service contract; 9,200 acre-feet per year for M&I use; 72,200 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74, page 22472.

9. La Plata Conservancy District, Animas-La Plata Project, New Mexico; Water service contract; 16,000 acre-feet per year for irrigation; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

10. City of Farmington, Animas-La Plata Project, New Mexico; M&I water service contract; 19,700 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

11. City of Aztec, Animas-La Plata Project, New Mexico; M&I water service contract; 5,800 acre-feet per year; FR notice published April 17, 1981, Vol. 46, No. 74, page 22474.

12. City of Bloomfield, Animas-La Plata Project, New Mexico; M&I water service contract; 5,300 acre-feet per year; FR notice published April 17, 1981, vol. 46, No. 74, page 22474.

13. Central Utah Project, Bonneville Unit, Utah; Supplemental M&I repayment contract for 99,000 acre-feet per year; FR notice published August 22, 1980, Vol. 45, No. 165, page 56199; will resume negotiations.

14. Ogden River Water Users Association, Weber Basin Project, Utah; Emergency loan to stabilize and reinforce surge tank foundation; data for cost estimation not yet available; contract negotiation will be forthcoming.

Lower Colorado Region:

Bureau of Reclamation, P.O. Box 427, (Nevada Highway and Park Street) Boulder City, NV 89005, telephone (702) 293–8536.

1. Lake Havasu IDD for Horizon Six and Ansazi Pueblo, Boulder Canyon Project, Arizona; M&I water service contracts for 170 and 313 acre-feet per year, respectively. Contract execution pending approval and/or request for negotiating sessions by Lake Havasu IDD and submission of subcontracts for Bureau approval.

2. City of Yuma, Boulder Canyon Project, Arizona; Supplemental and amendatory M&I water service contract; 3,613 acre-feet.

3. Agricultural and M&I water users, Central Arizona Project, Arizona; Water service subcontracts; A certain percent of available supply for irrigation entities and up to 640,000 acre-feet for M&I use.

4. City of Needles, California; Contract for Miscellaneous Present Perfected Rights; Pursuant to Supreme Court Decree of March 9, 1964, in *Arizona* v. *California* as supplemented on January 9, 1979, for 1,500 acre-feet; Contract submitted to city for review and approval.

5. Cibola IDD, Boulder Canyon Project, Arizona; Water service contract for 22,560 acre-feet per year.

6. Roosevelt Water Conservation District, Higley, Arizona; R&B loan contract; $7,474,424; FR notice published March 30, 1979, Vol. 44, page 19048.

7. Roosevelt ID, Buckeye, Arizona; SRPA loan contract; $10,560,000; FR notice published December 9, 1980, Vol. 45, page 81130.

8. Ramona Municipal Water District, Ramona, California; SRPA loan contract; $19,224,000.

9. Fallbrook Public Utility District, Fallbrook, California; SRPA loan contract; $12,445,400.

Southwest Region:

Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler, Amarillo, TX 79101, telephone (806) 378–5430.

1. Village of Questa, San Juan-Chama Project, New Mexico; M&I water service contract for 200 acre-feet annually; FR notice published January 25, 1980, Volume 45, page 6178.

2. City of Belen, San Juan-Chama Project, New Mexico; M&I water service contract for 500 acre-feet annually. FR notice published April 28, 1982, Vol. 47, Page 1782.

3. Fort Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract to convert 4,700 acre-feet of irrigation water to M&I use; FR notice published August 13, 1981, Vol. 46, page 40940.

4. Foss Reservior Master Conservancy District, Washita Basin Project, Oklahoma; Amendatory repayment contract for remedial work. Necessity of amendment is dependent upon outcome of pending Safety of Dams legislation, S. 956 and H.R. 3208.

5. Harlingen ID, Lower Rio Grande Valley, Texas; Repayment contract for R&B program; Estimated cost is $3 million.

6. Vermejo Conservancy District, Vermejo Project, New Mexico; Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Pub. L. 96–550.

7. City of Albuquerque, San Juan-Chama and Rio Grande Projects, New Mexico; A water storage contract to hold a portion of the city's San Juan-Chama Project water in Elephant Butte Reservoir for potential resale to the French Wine Growers Association to irrigate 4,200 acres near Elephant Butte Reservoir.

8. State of Oklahoma, McGee Creek Project, Oklahoma; Repayment contract for State's share of costs associated with development of recreation facilities and certain fish and wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (Pub. L. 89–72), as amended.

9. State of Colorado, Closed Basin Division, San Luis Valley Project; Repayment contract for State's share of costs associated with development of recreation facilities and certain fish and wildlife facilities; Obligation will be negotiated in accordance with the Federal Water Project Recreation Act (Pub. L. 89–72), as amended; FR notice published February 12, 1982, Vol. 47, page 6493.

10. Arch Hurley Conservancy District, Tucumcari Project, New Mexico; R&B of project irrigation distribution system primarily dedicated to lining canals to conserve water.

11. New Mexico Interstate Stream Commission, San Juan-Chama Project, New Mexico; Interim irrigation water service contract for up to 2,000 acre-feet of water. The charge is expected to be approximately $8 per acre-foot.

12. San Angelo Water Supply Corporation, San Angelo, Texas; Repayment contract amendment may be needed for repayment of remedial structural work. Actual necessity for amendment is dependent upon Safety of Dams legislation for nonreimbursable funding.

Upper Missouri Region:

Bureau of Reclamation, P.O. Box 2553, Federal Building, 316 North 26th Street, Billings, Montana 59103, Telephone (406) 657–6413.

1. Miscellaneous Water Users, Upper Missouri Region, Montana, Wyoming, North Dakota and South Dakota; Temporary (interim) water service contracts for surplus project water; Maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms of up to 2 years.

2. Individual Irrigators, Canyon Ferry Unit, P–SMBP, Montana; Irrigation water service contracts not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

3. Crook County ID (formerly Belle Fourche-Wyoming Water Association), Keyhole Unit, P–SMBP, Wyoming; Repayment contract for irrigation storage; 10 percent (presently 18,500 acre-feet) of Keyhole Reservoir storage space as provided by Belle Fourche River Compact; FR notice published August 21, 1980, Vol. 45, Page 55842.

4. Belle River Pumpers Association, Keyhole Unit, P–SMBP, Wyoming; Repayment contract for irrigation storage; 3 percent (presently 5,500 acre-feet) of Keyhole Reservoir storage space; FR notice published March 29, 1982, Vol. 47, Page 13234.

5. Montana Power Company, Yellowtail Unit, P–SMBP, Montana; Industrial water service contract; 6,000 acre-feet of water annually for Colstrip Power Complex; FR notice published February 3, 1981, Vol. 46, Page 10544.

6. City of Riverton, Boysen Unit, P–SMBP, Wyoming; M&I water service contract; Up to 4,000 acre-foot of water annually; FR notice published October 5, 1981; Vol. 46, Page 48996.

7. West River Conservancy Sub-District, Shadehill Unit, P–SMBP, South Dakota; Irrigation water service contract; 5,808 acre-feet of water or 3 acre-feet per acre for 1,936 acres.

8. Bill Larson, Arrowwood Golf Course, Canyon Ferry Unit, P–SMBP, Montana; Municipal water service contract for irrigation of golf course; Up to 490 acre-feet annually.

9. Deaver ID, Shoshone Project, Wyoming; R&B loan repayment contract; Up to $1.6 million; FR notice published April 21, 1982, Vol. 47 Page 17118.

10. Nokota Company, Lake Sakakawea, P–SMBP, North Dakota; Industrial water service contract; Up to 16,800 acre-feet of water annually; FR notice published May 5, 1982 Vol. 47, Page 19472.

11. Dean and Sue Batt, Boysen Unit, P–SMBP, Wyoming; Irrigation water service, up to 15 acre-feet of water annually.

12. Hilde Construction Company, Canyon Ferry Unit, P–SMBP, Montana; Industrial water service contract; 25 acre-feet per year from Canyon Ferry Reservoir.

13. State of Wyoming, Buffalo Bill Dam Modifications, P–SMBP, Wyoming; Contract with State of Wyoming for division of additional water impounded, sharing of revenues, and sharing of costs to construct, operate, and maintain modification of the existing Buffalo Bill Dam and Reservoir.

14. WEB Rural Water Development Project, South Dakota; Grant and loan program for rural water facilities; To bring water to approximately 30,000 people and 50 rural communities.

15. Helena Valley ID, P–SMBP, Montana; R&B loan repayment contract; Up to $2.2 million.

16. Fort Shaw ID, Sun River Project, Montana; R&B loan repayment contract; Up to $1.5 million.

Lower Missouri Region:

Bureau of Reclamation, P.O. Box 25247 (Building 20, Denver Federal Center), Denver, Colorado 80225, telephone (303) 234–3327.

1. H&RW ID, Frenchman-Cambridge Unit, P–SMBP, Nebraska; Amendatory water service contract; $1,200,000 outstanding; FR notice published February 5, 1982, Vol. 47, Page 5472.

2. City of Cheyenne, Kendrick Project, Wyoming; Interim water storage contract; 10,000 acre-feet; FR notice published April 28, 1982, Vol. 47, page 18187.

3. Central Nebraska Public Power and ID, Glendo Unit, P–SMBP, Nebraska; Irrigation water service contract; 8,000 acre-feet; FR notice published February 7, 1980, Vol. 45, Page 8364.

4. Kirwin ID No. 1, Kirwin Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1982; $31,051.64 payment deferral; FR notice published November 10, 1982, Vol. 47, page 51009.

5. Cedar Bluff ID No. 6, Cedar Bluff Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1982; $18,820.10 payment deferral; FR notice published November 10, 1982 Vol. 47, page 51009.

6. Webster ID No. 4, Webster Unit, P–SMBP, Kansas; Deferment of repayment obligation for 1982; $32, 620.50 payment deferral; FR notice published November 10, 1982, Vol. 47, page 51009.

7. Purgatoire River Water Conservancy District, Trinidad Project, Colorado; Repayment contract for extension of the development period and revision of the repayment determination methodology; FR notice published September 28, 1982, Vol. 47, page 42642.

8. H&RW ID, Frenchman-Cambridge Division, P–SMBP, Nebraska; Deferment of repayment obligation for 1982; $38,688 payment deferral; FR notice published November 10, 1982, Vol. 47, page 51009.

9. Frenchman-Cambridge ID, Frenchman-Cambridge Division, P–SMBP, Nebraska; Amendatory R&B contract; Increases current R&B program obligation of $4.4 million to $5.5 million; FR notice published November 10, 1982, Vol. 47, page 51009.

10. Casper-Alcova ID, Kendrick Project, Wyoming; Amendatory contract to provide water service to subdivided district lands; FR notice published November 24, 1980, Vol. 45.

11. Corn Creek ID, Mitchell ID, Earl Micheal, Glenn Unit, Wyoming and Nebraska; Irrigation water service contracts.

12. Town of Breckenridge, Colorado-Big Thompson Project, Colorado; Storage in Green Mountain Reservoir.

13. Pueblo West Metropolitan District, Fryingpan-Arkansas Project, Colorado; Use of municipal outlet of Pueblo Dam for conveyance service.

14. Natron County, Wyoming, town of Mills, Wyoming, Wardwall Water and Sewer District Impact Joint Powers Board, Kendrick Project; Interim water storage contract; 750 acre-feet.

15. Miscellaneous water users, Lower Missouri Region, Southeastern Wyoming, Colorado, Nebraska and northern Kansas; Temporary (interim) water service contracts for surplus project water, maximum of 10,000 acre-feet annually per contractor for irrigation and maximum of 2,000 acre-feet annually per M&I contractor for terms up to 2 years.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) All meetings or negotiating sessions scheduled by the Bureau with a potential contractor for the purpose of discussing terms and conditions of a proposed contract will be open to the general public for observation. Only those people with authority to act on behalf of the appropriate public entities may negotiate the terms and conditions of a specific contract proposal. Advance notice of such meetings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau.

(2) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(3) Written comments on a proposed contract must be submitted to the appropriate Bureau officials at locations and within time limits set forth in advance public notices or as otherwise established by Bureau officials. Such written comments received and testimony presented at any public hearing will be reviewed and summarized by regional staff for use by the appropriate contract approving authority; i.e., a Regional Director, the Commissioner of Reclamation, or the Sectetary of the Interior.

(4) As specific proposed contracts become available for review and comment, copies may be obtained from the appropriate Regional Director identified above.

Dated January 20, 1983.

B. H. Spillers,

Acting Commissioner of Reclamation.

[FR Doc. 83-2107 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Conservation Plan for Incidental Take of Endangered Wildlife; Proposed Finding of No Significant Impact

AGENCY: Fish and Wildlife Service, Interim.

ACTION: Notice of proposed finding of no significant impact.

SUMMARY: A joint Federal Environmental Assessment and California Environmental Impact Report (hereinafter referred to as the "EA/EIR") has been prepared for the proposed incidental take of the mission blue butterfly *(Icaricia icarioides missionesis)*, San Bruno elfin butterfly *(Callophrys mossii bayensis)*, and San Francisco garter snake *(Thamnophis sirtalis tetrataenia)* under a conservation plan pursuant to Section 10(a) of the Endangered Species Act of 1973, as amended. On the basis of the EA/EIR and related documents the Services proposes to determine that the proposed incidental take of these endangered animals would not constitute a major Federal action significantly affecting the quality of the human environment and that a separate Federal Environmental Impact Statement will not be prepared for this proposed activity.

FOR FURTHER INFORMATION CONTACT: Mr. Richard M. Parsons; Chief, Federal Wildlife Permit Office; U.S. Fish and Wildlife Service; P.O. Box 3654; Arlington, Virginia 22203; (703) 235-1903.

SUPPLEMENTARY INFORMATION: On December 2, 1982, the Service published a notice in the **Federal Register** (47 FR 232, 54366-54367) soliciting public comments on an endangered species permit application jointly submitted by the County of San Mateo, CA; City of Brisbane, CA; City of Daly City, CA; and the City of South San Francisco, CA, for the incidental take of the endangered wildlife mentioned above. The notice provided background information on the permit application and the conservation plan to be used by the applicant to offset loss of the endangered wildlife due to incidental take during a development project within the San Bruno Mountain area in San Mateo County, California. The public comment period ended on January 3, 1983.

The Service is considering the issuance of a permit under the Endangered Species Act that would authorize the incidental taking of the mission blue butterfly, San Bruno elfin butterfly, and San Francisco garter snake within the San Bruno Mountain area. The permit would be conditioned on implementation of the San Bruno Mountain Area Habitat Conservation Plan through an Agreement with respect to such Plan to be entered into by concerned Federal, State, and local parties. The 1982 San Bruno Mountain Area Habitat Conservation Plan and the proposed permit have been the subject of a combined EA/EIR which was finalized in November, 1982. Between 1976 and 1982, local government entities in San Mateo County approved general plans for development and for protection of open space areas of San Bruno Mountain. These local government land use decisions were subject to full consideration in California Environmental Impact Reports and issuance of the proposed permit would be in harmony with such decisions.

Forty (40) public comments were received on this permit application. Based on a review of these public comments and evaluation of the information provided by the EA/EIR, the Habitat Conservation Plan, the Agreement, and other relevant documents, the Service has tentatively determined that as conditioned and mitigated by the requirements of the Habitat Conservation Plan and Agreement, issuance of a permit authorizing the incidental taking of mission blue butterflies, San Bruno elfin butterflies, and San Francisco garter snakes within the San Bruno Mountain area is not a major Federal action which would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act. Therefore, a separate Federal Environmental Impact Statement for this action is not currently scheduled to be prepared.

Pursuant to Title 40, Code of Federal Regulations, § 1501.4(e)(2), the Fish and Wildlife Service is making available for public review a Proposed Finding of No Significant Impact prior to making a final determination regarding the preparation of a separate Federal EIA or a Final Finding of No Significant Impact for the San Bruno Mountain incidental take permit application. Copies of the Proposed Finding of No Significant Impact will be on file for public review, during normal business hours until February 25, 1983, at the following locations: Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 601, Arlington, VA 22201, (703/235-1903); U.S. Fish and Wildlife Service, Region 1, Office of Federal Assistance, Lloyd 700 Building, Suite 550, 550 NE Multnomah Street, Portland, OR 97232 (503/231-6134) and; U.S. Fish and Wildlife Service Sacramento Office of Endangered Species, 1230 "N" Street, 14th Floor, Sacramento, CA 95814 (916/440-2791).

This action has been reviewed under the requirements of the National Environmental Policy Act (NEPA), as amended, the Council on Environmental Quality's NEPA Regulations (40 CFR Parts 1500-1508), and the Service's

guidelines concerning the implementation of NEPA.

Done at Washington, D.C., this 20th day of January 1983.

Robert A. Jantzen,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 83-2123 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Terry Snyder, Felton, PA, PRT 2-9868.

The applicant requests a permit to purchase in interstate commerce one captive-bred jaguar (*Panthera onca)* from Mr. Joseph Maynard, Rosamond, California for enhancement of propagation.

Applicant: Roeding Park Zoo, Fresno, CA, PRT 2-9932.

The applicant requests a permit to purchase in interstate commerce two Asian elephants (*Elephas maximus)* from Christiani Elephants, Inc., Myakka City, Florida for enhancement of propagation.

Applicant: Ralph V. Smith, Turquoisine Aviariis, Calimesa, CA, PRT 2-9973.

The applicant requests a permit to import captive bred Turquoisine parakeets *(Neophema pulchella)* and Scarlet-chested parakeets *(N. splendida)* from three European aviculturists for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: January 21, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-2120 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to take polar bears as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant:

a. Name: Richard N. Silverstein, M.D., *et al.*

b. Address: 3930 Richmond Avenue, Staten Island, NY 10021.

2. Type of permit: Take (sacrifice).

3. Name and number of animals: Polar bear (*Ursus maritimus*), one adult male.

4. Type of Activity: Sacrifice for biomedical research on Vitamin A metabolism and related efforts.

5. Location of Activity: Take to occur in Alaska: Research to occur at various institutions.

6. Period of Activity: Take between April 1-May 1, 1983.

The purpose of this application is to obtain a permit to authorize the sacrifice of one adult polar bear for biomedical research by serveral investigators including Dr. Silverstein. The primary objective of the research is to determine how polar bears, animals having unusually high concentrations of Vitamin A, are able to metabolize Vitamin A and block development of Vitamin A associated diseases. This basic research is to be used in determining ways to deal with abnormal Vitamin A metabolism in man.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-9931. Written data or views, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements contained in this notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road, Arlington, Virginia.

Dated: January 21, 1983.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-2122 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Exxon Company, U.S.A., Unit Operator of the South Timbalier Block 54 Federal Unit Agreement No. 14-08-001-3444, submitted on January 11, 1983, a proposed supplemental plan of development describing the activities it proposes to conduct on the South Timbalier Block 54 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837-4720, ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 17, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-2087 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary

Change in Discount Rate for Water Resources Planning

AGENCY: Office of Water Policy, Interior.

ACTION: Notice of change in discount rate.

SUMMARY: This notice sets forth the discount rate to be used in Federal water resources planning for fiscal year 1983.

DATES: This discount rate is to be used for the period October 1, 1982, through and including September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Deason, Office of Water Policy, Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the interest rate to be used by Federal agencies in the formulation and evaluation of plans for water and related land resources is 7⅞ percent for fiscal year 1983.

This rate has been computed in accordance with Sec. 80(a), Pub. L. 93-251 (88 Stat. 34) and 18 CFR 704.39, and, accordingly, is to be used by all Federal agencies in the formulation and evaluation of water and related land resources plans for the purpose of discounting future benefits and computing costs, or otherwise converting benefits and costs to a common time basis.

Dated: January 19, 1983.

Thomas G. Bahr,

Director.

[FR Doc. 83-2088 Filed 1-25-83; 8:45 am]

BILLING CODE 4310-10-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701-TA-187 (Final)]

Tool Steels From Brazil; Countervailing Duty Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: January 3, 1983.

SUMMARY: As a result of an affirmative preliminary determination by the U.S. Department of Commerce that there is a reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (19 U.S.C. 1671), are being provided to manufacturers, producers, or exporters in Brazil of certain tool steels provided for in items 606.93, 606.94, 606.95, 607.28, 607.34, 607.46, and 607.54 of the Tariff Schedules of the United States, the United States International Trade Commission hereby gives notice of the institution of investigation No. 701-TA-187 (Final) under section 705(b) of the act (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Unless the investigation is extended, the Department of Commerce will make its final countervailing duty determination in the case on or before March 14, 1983, and the Commission will make its final injury determination by May 2, 1983 (19 CFR 207.25).

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Miller (202-523-0305), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background.—On September 13, 1982, the Commission determined, on the basis of the information developed during the course of its preliminary investigation, that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of certain tool steels alleged to be subsidized by the Government of Brazil. The preliminary investigation was instituted in response to a petition filed on July 30, 1982, by counsel for several specialty steel producers and the United Steelworkers of America.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, February 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to section 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, February 10, 1982). A copy of the nonconfidential version of each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, August 4, 1982).

Staff report.—A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on March 9, 1983, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Hearing.—The Commission will hold a joint hearing in connection with this investigation and with inv. No. 731-TA-100 (Final), Certain Tool Steel from the Federal Republic of Germany, beginning at 10:00 a.m. on March 23, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 1, 1983. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on March 4, 1983, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is March 18, 1983.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, August 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, August 4, 1982). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24, as amended by 47 FR 6191, February 10, 1982) and must be submitted not later than the close of business on April 1, 1983.

Written submissions.—As mentioned, parties to this investigation may file

prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 1, 1983. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 47 FR 6188, February 10, 1982, and 47 FR 13791, April 1, 1982). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended by 47 FR 6190, February 10, 1982, and 47 FR 33682, August 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 6188, February 10, 1982; 47 FR 13791, April 1, 1982; and 47 FR 33682, August 4, 1982).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 47 FR 6190, Feb. 10, 1982).

By order of the Commission.

Issued: January 17, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-2150 Filed 1-25-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-125]

Grooved Wooden Handle Kitchen Utensils and Gadgets; Request for Comments Regarding Proposed Termination of Investigation Based on Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Request for public comments on the proposed termination of this investigation based on a consent order agreement.

SUMMARY: On November 30, 1982, complainant Bonny Products, Inc., respondents Four Star International Trading Co., and G & S Metal Products Co., Inc., and the Commission investigative attorney jointly moved to terminate the above-captioned investigation based on a consent order agreement (Moton No. 125–1). The proposed consent order agreement is based on a settlement agreement that was executed on November 19, 1982, by all the parties to the investigation and by a nonparty, Shen Fa Handicraft Center. On December 6, 1982, the presiding officer recommended [1] that the Commission grant Motion No. 125–1 by accepting the settlement agreement and the consent order agreement, but with paragraph 2 of the consent order deleted. Motion No. 125–1 and all the papers and exhibits filed in connection with it have been certified to the Commission by the presiding officer.

Pursuant to § 211.21 of the Commission's Rules of Practice and Procedure, the Commission seeks written comments from interested members of the public on the proposed termination of the investigation based on the consent order agreement. A nonconfidential version of the consent order agreement is set forth as follows:

Consent Order Agreement

Bonny Products, Inc. ("Complainant") filed a complaint on July 7, 1982, with the United States International Trade Commission ("Commission") under Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) regarding certain acts and practices of "Respondents" Four Star International Trading Co., Inc., and G & S Metal Products Co., Inc.

The Commission, having determined that it has jurisdiction over the subject matter of the complaint and that the complaint states a cause of action under Section 337, instituted Investigation No. 337–TA–125 on August 5, 1982, and published notice to that effect.

The subject matter of the investigation is the importation into and sale in the United States of certain grooved wooden handle kitchen utensils and gadgets by reason of alleged (1) misappropriation of trade dress, (2) false representation of source, and (3) common law trademark infringement, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Complainant and Respondents have agreed to settle with final effect all differences and claims of whatever nature underlying said complaint and investigation as set forth in the Settlement Agreement attached hereto as Attachment A and incorporated by reference as though fully set forth herein.

Now therefore, Complainant and Respondents desiring to terminate the investigation before the ruling by the Commission on any findings of fact or conclusion's of law and before the hearing or adjudication of any issue of fact or law related thereto agree that:

1. The Commission has, and Respondents and Complainant admit that the Commission, has subject matter jurisdiction, in rem jurisdiction, and in personam jurisdiction in this proceeding.

2. Respondents and Complainant agree to entry of a Consent Order, the term of which are as set forth in the Proposed Consent Order attached hereto as Attachment B and incorporated by reference as though fully set forth herein (hereinafter "Consent Order").

3. Respondents and Complainant waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. Enforcement, modification and revocation of the Consent Order entered pursuant to this agreement will be carried out pursuant to Subpart C of Part 211 of the Commission's Rules of Practice and Procedure (19 CFR 211).

5. Respondents have redesigned the wooden handle used on kitchen utensils and gadgets in current production (the redesigned handle is attached hereto as Exhibit 3), and Complainant agrees that the redesigned handle does not reasonably resemble the handle defined in paragraph 1 of the attached Settlement Agreement. In the event that during, and for a one year period following, the disposal by Respondent G & S of current inventory, as defined in paragraphs 2 and 3 of the Settlement Agreement, Respondents decide to

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[1] We note that this matter was transmitted by the presiding officer to the Commission as a Recommended Determination rather than an Initial Determination. While we will consider this matter as a Recommended Determination, we believe that motions to terminate an investigation should come to the Commission in the form of an Initial Determination pursuant to Rule 210.53(c). *See* Notice of Commission Not To Review Initial Determination in Inv. No. 337–TA–128, 47 FR 8060 (1982).

utilize a wooden handle or wooden handles on its kitchen utensils and gadgets other than the one shown in Exhibit 3 or a wooden handle or wooden handles substantially similar to the one shown in Exhibit 3, Respondents, through counsel for Respondent G & S, will submit the proposed new handle or handles to counsel for Complainant and request counsel for Complainant's statement that the proposed new design does not reasonably resemble the handle shown in Exhibit 2 (Complainant's handle). Counsel for Complainant shall provide his statement orally to counsel for Respondent G & S within three days of counsel for Complaintant's (sic) receipt of the new design or designs. The oral statement shall be confirmed in writing and mailed to counsel for Respondent G & S within 24 hours of the oral statement. The proposed design or designs shall not be shown to Complainant and shall be kept confidential. Counsel for Complainant shall also follow this procedure if he determines that the design reasonably resembles the handle shown in Exhibit 2 and requests in writing that Respondent withdraw the proposed design. Respondents will not, directly or through others, export to, import into, sell in or distribute in the United States kitchen utensils or gadgets with the proposed new handle or handle design until after the completion of all proceedings and compliance with all requirements set forth in this paragraph and paragraphs 6, 7, and 8 of this agreement.

6. In the event that counsel for Complainant objects to a design proposed by Respondents in that the proposed design reasonably resembles the handle shown in Exhibit 2, and in the event that Respondents disagree with that objection and do not withdraw the design, counsel for Respondent G & S shall within five days of receipt of counsel for Complainant's written objection submit to the Unfair Import Investigation Division, U.S. International Trade Commission ("UIID") a written statement of Respondents' reasons why Complainant's objections are not reasonable.

Such a statement shall be concurrently submitted to counsel for Complainant. Counsel for Complainant shall also within five days of receipt of counsel for Respondent G & S's statement, submit to the UIID a written statement of reasons why the proposed design does reasonably resemble the handle shown in Exhibit 2.

7. Upon receipt of the written statements by all parties, the UIID shall promptly state whether there is a reasonable basis for Complainant to object to the proposed design in that the proposed design reasonably resembles the Complainant's handle as shown in Exhibit 2. If the UIID states that there is a reasonable basis for said objection, Complainant's counsel may inform Complainant of the contemplated changes, but in no event will counsel show Complainant the proposed design. If the UIID states that there is a reasonable basis for the objection by Complainant's counsel to the new design, counsel for Respondents shall inform counsel for Complainant within five days after receipt of the UIID statement, if it will request a Commission proceeding pursuant to paragraph 8.

8. For the purpose of securing compliance with the Consent Order, any violation hereof shall result in a proceeding before the Commission to determine what action should be taken with respect to such violation of the Consent Order including an exclusion order, cease and desist order, and possible fines. Such a proceeding may be instituted if the Commission receives written notice from the Complainant, Complainant's counsel, or the UIID, or receives written request from Respondents to review the UIID statement, or otherwise has reason to believe that Respondents are not complying with the Consent Order and accompanying settlement agreement.

9. Complainant shall inform the UIID and counsel for Respondent G & S if a United States Federal Court or the United States Patent and Trademark Office has made a final determination and all appeals or time for appeals have expired, that the design shown in Exhibit 2 is not a valid trademark and/or valid trade dress of Complainant.

10. Respondent G & S shall inform the Commission in writing the date on which it disposes of all the inventory described in paragraph 3 of the Settlement Agreement. This Consent Order shall expire 12 months from the date on which all such inventory is disposed.

Attachment A (Settlement Agreement)

This agreement is made and entered into by and between Bonny Products, Inc. ("Bonny" or "Complainant"), and Four Star International Trading Co., G & S Metal Products Co., Inc. ("Four Star," "G & S", or Respondent [s]"), and Shen Fa Handicraft Center ("Shen Fa"), and is to settle and compromise the investigation (No. 337–TA–125) by the United States International Trade Commission ("Commission") instituted on August 5, 1982 in response to Complainant's action filed on July 7, 1982 under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). Complainant and Respondents have agreed to settle with final effect all differences and claims of whatsoever nature underlying said complaint and investigation in consideration of the mutual convenants set forth as follows:

1. Respondents and Shen Fa, their shareholders and corporate officers, and any present or future entities in which Respondents and Shen Fa, their shareholders or corporate officers have an ownership interest or managerial position, will not, directly or through others, manufacture, export to, import into, sell, or distribute in the United States or in any country, kitchen utensils and gadgets that (a) have a wooden handle like that of Exhibit 1 (Respondents' products) or (b) have a wooden handle in a form reasonably resembling the grooved and tapered handle that is attached hereto as Exhibit 2 (Complainant's products).

2. Notwithstanding the provisions of paragraph 1, Respondent G & S will be allowed to sell or offer to dispose of its United States inventory discussed in paragraph 3 of this agreement for eight months after the effective date of this agreement. All sales shall be on a one-time promotional basis and no additional supplies shall be offered or provided to a customer except to satisfy the requirements of the promotion as set forth by the appropriate governmental authority, and Respondent G & S shall so inform each purchaser.

3. Respondent G & S will provide Complainant with an accounting of its current United States inventory—which consists of approximately ——— individual kitchen utensils or gadgets and is estimated to be ——— at wholesale cost—of grooved and tapered wooden handle kitchen utensils and gadgets as shown in Exhibit 1. Such accounting shall be provided no later than on the effective date of this agreement. Respondent G & S shall supply to Complainant a second accounting of its inventory 120 days after the effective date of this agreement. Respondent G & S shall provide a final accounting to Complainant at the end of eight months after the effective date of this agreement. If Respondent G & S has disposed of all of the inventory prior to the required date of the second or third accounting, G & S shall, within twenty days of final disposition, provide to Complainant a final accounting and no additional accounting will be required. All such accountings shall be certified by a certified public accountant of Respondent G & S's choice.

4. Respondents warrant that the inventory identified in paragraph 3 constitutes the only existing inventory of the kitchen utensils and gadgets identified in Exhibit 1 that have been manufactured, exported to, imported into, sold or distributed in the United States or in any country by Respondents except for inventory that has been previously sold to retail accounts. Shen Fa warrants that it has no existing inventory of handles like those identified in Exhibit 1.

5. This agreement shall not be construed as an admission of liability on the part of the Respondents and Shen Fa regarding allegations raised in the complaint or in the investigation. For settlement purposes only, Respondents and Shen Fa recognize Complainant's rights to and in kitchen utensils and gadgets with handles as identified in Exhibit 2.

6. Within ten days of the effective date of this agreement, Complainant and Respondents shall execute a Joint Motion for Termination with the Commission Investigative Attorney and agree to a consent order to be submitted to the Commission pursuant to § 211.20 of the Commission's Rules of Practice and Procedure.

7. Jurisdiction over any disputes or matters arising under this agreement shall lie with the United States District Court in the District of Columbia.

8. This agreement, including Exhibits 1 and 2 hereto, and the attached consent order and consent order agreement, including Exhibit 3, represent the full and entire agreement for the settlement and compromise of the disputes and claims between the parties as set forth herein. Complainant specifically agrees that it will not institute a civil action in any court worldwide to seek remedies for any prior sales by Respondents and for any prior sale by Shen Fa to Respondents of the wooden handle design shown in Exhibit 1.

9. Each party to this agreement shall bear any costs incurred by it in the performance of this agreement.

Attachment B (Consent Order)

The United States International Trade Commission having initiated an investigation under section 337 of the Tariff Act of 1930, as amended, (19 U.S.C. 1337), of certain acts and practices of Respondents Four Star International Trading Co., Inc. and G & S Metal Products Co., Inc. ("Respondent's").

Respondents and Complainant, by their officers, and counsel for the Commission having executed an agreement to the terms of this Consent Order, an admission of all jurisdictional facts necessary to the entry of this Consent Order, an express waiver of all rights to seek judicial review or otherwise challenge or contest the validity of the consent order, and a statement that the enforcement, modification, and revocation will be carried out pursuant to Subpart C of Part 211 of the Commission's Rules of Practice and Procedure; and this Consent Order being necessary to conclude a compromise and settlement between Respondents and Complainant and to ensure the public interests; and

The Commission having published the Settlement Agreement and Consent Order Agreement and Consent Order on , 1983, and the thirty day period for public comment having ended and having duly considered all comments filed, the Commission hereby makes the following jurisdictional findings and enters the following order:

Order

1. The U.S. International Trade Commission has subject matter jurisdiction, in rem jurisdiction, in personam jurisdiction, and the proceeding is in the public interest.

2. This Consent Order shall apply to Complainant and Respondents, their shareholders and corporate officers, and any present or future entities in which Complainant and Respondents, their shareholders or corporate officers have an ownership interest or managerial position.

3. Respondents have redesigned the wooden handle used on kitchen utensils and gadgets in current production (the redesigned handle is attached hereto as Exhibit 3), and Complainant agrees that the redesigned handle does not reasonably resemble the handle defined in paragraph 1 of the attached Settlement Agreement. In the event that during, and for a one year period following, the disposal by Respondent G & S of current inventory, as defined in paragraphs 2 and 3 of the Settlement Agreement, Respondents decide to utilize a wooden handle or wooden handles on its kitchen utensils and gadgets other than the one shown in Exhibit 3 or a wooden handle or wooden handles substantially similar to the one shown in Exhibit 3, Respondents, through counsel for Respondent G & S, will submit the proposed new handle or handles to counsel for Complainant and request counsel for Complainant's statement that the proposed new design does not reasonable resemble the handle shown in Exhibit 2 (Complainant's handle). Counsel for Complainant shall provide his statement orally to counsel for Respondent G & S within three days of counsel for Complainant's receipt of the new design or designs. The oral statement shall be confirmed in writing and mailed to counsel for Respondent G & S within 24 hours of the oral statement. The proposed design or designs shall not be shown to Complainant and shall be kept confidential. Counsel for Complainant shall also follow this procedure if he determines that the design reasonably resembles the handle shown in Exhibit 2 and requests in writing that Respondent withdraw the proposed design. Respondents will not, directly or through others, export to, import into, sell in or distribute in the United States kitchen utensils or gadgets with the proposed new handle or handle design until after the completion of all proceedings and compliance with all requirements set forth in this paragraph and paragraphs 4, 5, and 6 of this order.

4. In the event that counsel for Complainant objects to a design proposed by Respondents in that the proposed design reasonably resembles the handle shown in Exhibit 2, and in the event that Respondents disagree with that objection and do not withdraw the design, counsel for Respondent G & S shall within five days of receipt of counsel for Complainant's written objection submit to the Unfair Import Investigation Division, U.S. International Trade Commission ("UIID") a written statement of Respondents' reasons why Complainant's objections are not reasonable. Such a statement shall be concurrently submitted to counsel for Complainant. Counsel for Complainant shall within five days of receipt of the statement of counsel for Respondent G & S, submit to the UIID a written statement of reasons why the proposed design does reasonably resemble the handle shown in Exhibit 2.

5. Upon receipt of the written statements by all parties, the UIID shall promptly state whether there is a reasonable basis for Complainant to object to the proposed design in that the proposed design reasonably resembles the Complainant's handle as shown in Exhibit 2. If the UIID states that there is a reasonable basis for said objection, Complainant's counsel may inform Complainant of the contemplated changes, but in no event will counsel show Complainant the proposed design. If the UIID states that there is a reasonable basis for the objection by Complainant's counsel to the new design, counsel for Respondents shall inform counsel for Complainant within five days after receipt of UIID's determination, if it will request a Commission proceeding pursuant to paragraph 6.

6. For the purpose of securing compliance with this Consent Order, any violation hereof shall in a proceeding before the Commission to determine what action should be taken with respect to such violation of the Consent Order including an exclusion order, a cease and desist order and possible fines. Such a proceeding may be instituted if the Commission receives written notice from the Complainant, Complainant's counsel or the UIID, or receives written request from Respondents to review the UIID statement, or otherwise has reason to believe that Respondents are not complying with the Consent Order and the Settlement Agreement attached hereto as Attachment A and incorporated by reference as though fully set forth herein. Any such proceeding must be commenced with (sic) ten (10) days after notice of intention to proceed is given.

7. Complainant shall inform the UIID and counsel for Respondent G & S if a United States Federal Court or the United States Patent and Trademark Office has made a final determination, and all appeals or time for appeals have expired, that the design shown in Exhibit 2 is not a valid trademark and/or valid trade dress of Complainant.

8. Respondent G & S shall inform the Commission in writing the date on which it disposes of all of the inventory described in paragraph 3 of the Settlement Agreement. This Consent Order shall expire 12 months from the date on which all such inventory is disposed.

DEADLINE: All comments must be received within thirty (30) days of publication of this notice.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337–TA–125 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation and sale of certain grooved wooden handle kitchen utensils and gadgets, by reason of alleged (1) misappropriation of trade dress, (2) false representation of source, and (3) common law trademark infringement. The alleged effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

Copies of any nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0079.

By order of the Commission.

Issued: January 20, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–2160 Filed 1–25–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–120]

Silica-Coated Lead Chromate-Pigments; Hearing on Presiding Officer's Recommendation and on Relief, Bonding, and Public Interest, and Schedule for Filing Written Submissions

AGENCY: U.S. International Trade Commission.

ACTION: The scheduling of a public hearing and written submissions in investigation No. 337-TA-120, Certain Silica-Coated Lead Chromate Pigments.

Notice is hereby given that the presiding officer in this investigation has issued a recommended determination that there is no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the unauthorized importation into the United States and in the sale of the silica-coated lead chromate pigments that are the subject of the investigation. Accordingly, the presiding officer's recommendation and the record have been certified to the Commission for review and a Commission determination. Interested persons may obtain copies of the nonconfidential version of the presiding officer's recommendation (as well as any other public documents on the record of the investigation) by contacting the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0176.

COMMISSION HEARING: The Commission will hold a public hearing on March 14, 1983, in the Commission's Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m. The hearing will be divided into two parts. First, the Commission will hear oral arguments on the presiding officer's recommended determination that no violation of section 337 of the Tariff Act of 1930 exists. Second, the Commission will hear presentations concerning appropriate relief, the effect that such relief would have upon the public interest, and the proper amount of the bond during the Presidential review period in the event that the Commission determines that there is a violation of section 337 and that relief should be granted. These matters will be heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden upon the parties.

ORAL ARGUMENTS: Parties to the investigation and interested Government agencies may present oral arguments concerning the presiding officer's recommended determination. That portion of a party's or an agency's total time allocated to oral argument may be used in any way the party or agency making argument sees fit, i. e., a portion of the time may be reserved for rebuttal or devoted to summation. The oral arguments will be held in the following order: complainant, respondents, Government agencies, and the Commission investigative attorney. Any rebuttals will be held in this order: respondents, complainant, Government agencies, and the Commission investigative attorney. Persons making oral argument are reminded that such argument must be based upon the evidentiary record certified to the Commission by the presiding officer.

ORAL PRESENTATIONS ON RELIEF, BONDING, AND THE PUBLIC INTEREST: Following the oral arguments on the presiding officer's recommendation, parties to the investigation, Government agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of relief, bonding, and the public interest. This portion of the hearing is quasi-legislative in nature; presentations need not be confined to the evidentiary record certified to the Commission by the presiding officer, and may include the testimony of witnesses. Oral presentations on relief, bonding, and the public interest will be heard in this order: complainant, respondents, Government agencies, the Commission investigative attorney, public-interest groups, and interested members of the public.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) an order which could result in one or more respondents' being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in hearing presentations

which address the form of relief, if any, which should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

If the Commission finds that a violation of section 337 has occurred and orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The commission is therefore interested in hearing presentations concerning the amount of the bond, if any, which should be imposed.

TIME LIMIT FOR ORAL ARGUMENT AND ORAL PRESENTATION: Complainant, respondents (taken collectively), the Commission investigative attorney, and Government agencies will be limited to a total a of 30 minutes (exclusive of time consumed by questions from the Commission or its advisory staff) for making both oral argument on violation and oral presentations on remedy, bonding, and the public interest. Persons making only oral presentations on remedy, bonding, and the public interest will be limited to 10 minutes (exclusive of time consumed by questions from the Commission and its advisory staff). The Commission may in its discretion expand the aforementioned time limits upon receipt of a timely request to do so.

WRITTEN SUBMISSIONS: On order to give greater focus to the hearing, the parties to the investigation and interested Government agencies are encouraged to file briefs on the issues of violation (to the extent they have not already briefed that issue in their written exceptions to the presiding officer's recommended determination), remedy, bonding, and the public interest. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or proposed cease and desist orders for the Commission's consideration. Persons other than the parties and Government agencies may file writen submissions addressing the issues of remedy, bonding, and the public interest. Written submissions on the question of violation must be filed not later than the close of business or February 10, 1983; written submissions on the questions of remedy, bonding, and the public interest must be filed not later than the close of business on February 17, 1983. During the course of the hearing, the parties may be asked to file posthearing briefs.

NOTICE OF APPEARANCE: Written requests to appear at the Commission hearing must be filed with the Office of the Secretary by March 7, 1983.

ADDITIONAL INFORMATION: Persons submitting briefs and/or written submissions must file the original document and 14 true copies thereof with the office of the Secretary on or before the deadlines stated above. Any person desiring to discuss confidential information or to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary to the commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential the information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be availble for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of April 21, 1982, 47 FR 17134.

FOR FURTHER INFORMATION CONTACT: Gracia M. Berg, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1620.

Issued: January 19, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–2158 Filed 1–25–83; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–118]

Sneakers With Fabric Uppers and Rubber Soles; Termination of Seven Respondents Based on a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation with respect to respondents Melville Corp., Thom McAn Shoe Co., Inc. Stride-Rite Footwear, Inc., Stride-Rite International, Ltd., Stride-Rite Corp., Genesco, Inc., and San Shoe Trading Corp. based on a settlement agreement.

SUMMARY: On September 24, 1982, complainant Van Doren Rubber Co., Inc. and the aforementioned respondents filed a joint motion, Motion No. 118–14, to terminate the investigation with respect to the aforementioned respondents on the basis of a settlement agreement. On November 8, 1982, the presiding officer recommended that the Commission grant the motion. The Commission published a **Federal Register** notice on December 15, 1982, seeking comments from interested members of the public and other government agencies on the proposed termination of the aforementioned respondents, (47 FR 56217). No comments were received. On January 20, 1983, the Commission granted the motion to terminate the investigation with respect to the aforementioned respondents on the basis of the settlement agreement.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and concerns alleged unfair trade practices in the importation into and sale in the United States of certain sneakers with fabric uppers and rubber soles. The Commission published notice of the institution of this investigation in the **Federal Register** of March 9, 1982, (47 FR 10103).

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.), in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 F Street NW., Washington, D.C. 20436, telephone 202–523–0143.

By order of the Commission.

Issued: January 21, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83–2157 Filed 1–25–83; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decision; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on Novermber 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication and applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an aplicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–22

Decided: Janaury 14, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 119640 (Sub-1), filed January 4, 1983. Applicant: OVERLAND STAGES, INC., 2600 Willowburn Ave., P.O. Box 26,040, Dayton, OH 45426. Representative: Edgar M. Hymans, 1587 Elizabeth Place, Cincinnati, OH 45237, (1–513) 242–7681. Transporting *passengers*, in charter and special opeartions, beginning at points in OH, IN and KY, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 136740 (Sub-1), filed January 6, 1983. Applicant: HY'S LIVERY SERVICE, INC., 489 Campbell Ave., West Haven, CT 06516. Representative: John J. Buckley, 250 Church Street, New Haven, CT 06510, (203) 624–2424. Transporting *passengers*, in charter and special operations, beginning and ending at points in CT, ME, NH, MA, RI, NY, NJ, PA, DE, MD, VA and DC, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 161781 (Sub-1), filed January 3, 1983. Applicant: AAA PICKUP AND DELIVERY, INC., 2615 Crestwood Dr., Birmingham, AL 35215. Representative: Julius Fore (same address as applicant), (205) 854–1705. Over regular routes, transporting *passengers*, between Birmingham, AL, and Iuka, MS, from Birmingham, over U.S. Hwy 78 to Jasper, AL, then over AL Hwy 4 via Nouvoo, AL, to National Bridge, AL, then over AL Hwy 5 via Haleyville, AL, to Bear Creek, AL, then over AL Hwy 172 to junction U.S. Hwy 43, then over U.S. Hwy 43 to Hackleburg, AL, then over AL Hwy 172 to Vina, AL, then over AL Hwy 19 to Red Bay, AL, then over AL Hwy 366 to junction MS Hwy 366, then over MS Hwy 366 to Belmont, MS, then over MS Hwy 25 to Iuka, and return over the same route, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

MC 165510, filed January 5, 1983. Applicant: NANCY A. GODFREY, 382B, Highway 46, Great Meadows, NJ 07838. Representative: Nancy A. Godfrey (same address as applicant), (201) 637–4137. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165540, filed January 6, 1983. Applicant: XEROX CORPORATION, 800 Phillips Rd., Bldg. 214B, Webster, NY 14580. Representative: Peter Ketchum (same address as applicant), (716) 422–6911. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status inquiries to Team 3 at 202–275–5223.

Volume No. OP3–15

Decided: January 19, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 165415, filed December 27, 1982. Applicant: AZALEA COACH CORPORATION, 4208 Brook Rd., Richmond, VA 23227. Representative:

William L. Jeffries, Jr., 523 E. Main St., Richmond, VA 23219, (804) 643–9066. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165434, filed January 3, 1983. Applicant: C. M. CONSULTANTS CORPORATION, 2818 DeCamp Rd., Youngstown, OH 44511. Representative: Andrew J. Carraway, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *passenger*, in charter and special operations, beginning and ending at points in OH and PA and extending to points in the U.S. (except HI).

Note. Applicant seeks to provide privately-funded charter and special transportation.

MC 165475, filed January 3, 1983. Applicant: JOHNNIE L. McDONALD, d.b.a. SUSIE Q. EXPRESS, 1417 Shawnee Trail, Henderson, TX 75653. Representative: (Same as applicant), (214) 657–7095. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle between points in the U.S. (except HI).

MC 165484, filed January 4, 1983. Applicant: JIMKE, INC., 4026 Whitehall Dr., Charlotte, NC 28208. Representative: Mark Perry, 236 Massachusetts Ave., NE., Suite 409, Washington, D.C. 20002, (202) 546–2298. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165464, filed December 28, 1982. Applicant: GRAYSON TRIPS & TOURS, INC., 1812 Greenvale Rd., Albany, GA 31707. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004, (202) 737–1030. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165495, filed January 4, 1983. Applicant: LA GRANGE BUS COMPANY, 103 W. Washinton St., La Grange, NC 28551. Representative: Lee A Spinks, 225 So. Franklin St., P.O. Drawer 153, Rocky Mount, NC 27801, (919) 977–2211. Transporting *passengers*, in charter and special operations, beginning and ending at points in NC and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165535, filed January 3, 1983. Applicant: MILES TO MINUTES TOURS, INC., 601 E. Tremont Ave., Bronx, NY 10457. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

'or the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–025

Decided: January 17, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 165577, filed January 7, 1983. Applicant: PREFERRED LIMOUSINES, INC., 1401 Industrial Hwy., Cinnaminson, NJ 08077. Representative: Richard W. Jones, III (same address as applicant), (609) 779–0100. Transporting *passengers*, in charter operations, beginning and ending at points in Burlington County, NJ, and extending to points in NJ, PA, NY, DE, MD, and DC.

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 165606, filed January 10, 1983. Applicant: EDWIN F. WILMARTH AND SONS, INC., d.b.a. ROSE TOURS, 718 Lanark Rd., Broad Channel, NY 11693. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10049, (212) 466–0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP4–027

Decided: January 18, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 153457 (Sub-2), filed January 11, 1983. Applicant: TEXAS U.S. TRUCKING, INC., 3061 Hardy St., Ft. Worth, TX 76106. Representative: Elizabeth McAdams (same address as applicant), (817) 625–4191. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except HI).

MC 158647 (Sub-1), filed January 10, 1983. Applicant: HAVE GROUP WILL TRAVEL TOURS, INC., 680 E. Edgewood Dr., Appleton, WI 54911. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 163816 (Sub-1), filed January 12, 1983. Applicant: AMERICAN INTERNATIONAL TRANSPORT, INC., 600 Absecon Blvd., Atlantic City, NJ 08401. Representative: Alan R. Squires, 818 Widener Bldg., 1339 Chestnut St., Philadelphia, PA 19107, (215) 564–3380. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165628, filed January 11, 1983. Applicant: PAUL HORST, 950 Rabbit Hill Rd., Lititz, PA 17543. Representative: Jack L. Schiller, 111–56 76th Dr., Forest Hills, NY 11375, (212) 263–2078. Transporting *food and other ediblé products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165627, filed January 11, 1983. Applicant: OSORNO TOURS OPERATOR, INC., 23–27 91st St., East Elmhurst, NY 11369. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status inquiries to Team 5 at 202–275–7289.

Volume No. OP5–013

Decided: January 14, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 123748 (Sub-30), filed January 4, 1983. Applicant: CONNECTICUT LIMOUSINE SERVICE, INC., 1060 State Street, New Haven, CT 06511. Representative: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103, 203–278–1330. Transporting

passengers, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 148098 (Sub-2), filed December 30, 1982. Applicant: CITIES TRANSIT, INC., 415 Ingraham Ave., P.O. Box 1553, Lakeland, FL 33802. Representative: M. Craig Massey, 1701 South Florida Ave., P.O. Drawer 2787, Dixieland Station, Lakeland, FL 33806–2787, 813–682–1178. Transporting *passengers*, in special operations, beginning and ending at points in FL, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special transportation.

MC 152738 (Sub-3), filed January 6, 1983. Applicant: GLEN AIR LIMOUSINE SERVICE, INC., 1007 Maple Avenue, Glen Rock, NJ 07452. Representative: A. David Millner, P.O. Box 4, 7 Becker Farm Road, Roseland, NJ 07068, 201–992–2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165508, filed January 3, 1983. Applicant: STEVEN A. FAUST, Petersburg, NE 68652. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309, 515–244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165529, filed January 6, 1983. Applicant: JAY ARLIE COOK, d.b.a. J. COOK & SON TRANSPORTATION, 2536 Patterson Road, Riverbank, CA 95367. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841, 617–657–6071. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone, fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165538, filed January 3, 1983. Applicant: BLUE STREAK TRANSPORTATION, INC., 7040 Edgefield Dr., New Orleans, LA 70128. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP5–017

Decided: January 17, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 135288 (Sub-9), filed January 6, 1983. Applicant: MCGILL'S TAXI AND BUS LINES, INC., d.b.a. ASHEBORO COACH CO., P.O. Box 5236, Greensboro, NC 27403. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth Street, NW., Washington, DC 20005, 202–296–5188. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 140318 (Sub-3), filed January 4, 1983. Applicant: HORNE STORAGE COMPANY, INC., P.O. Box 1744, Goldsboro, NC 27530. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (3) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 140649 (Sub-2), filed January 7, 1983. Applicant: GREENLAWN TRANSIT LINE, INC., 1400 East Fifth Avenue, Columbus, OH 43219. Representative: Philip W. Schaeffing (same address as applicant), 614–224–8000. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 162349, filed September 23, 1982. Initially published in the **Federal Register** on October 14, 1982. Applicant: AFFORDABLE TOURS, INC., Rt. 1, Box 189–A, Sauvies Island Rd., Portland, OR 97231. Representative: Dona L. Huson (same address as applicant), (503) 621–3185. Transporting *passengers*, in special and charter operations, beginning and ending at points in Clark County, WA, and extending to points in OR, NV, CA, AZ, UT, WY, CO, MT, ID, ND, SD, MN, TX, NM, OK, KS, and NE. Condition: Issuance of a certificate in this proceeding is subject to coincidental cancellation of Certificate No. MC–162349 issued December 27, 1982.

Note.—Applicant seeks to provide privately-funded charter transportation. This republication includes special operations and changes "Vancouver, WA" to "points in Clark County, WA."

MC 165408, filed December 30, 1982. Applicant: MID-SOUTH RICE SHIPPERS, INC., P.O. Box 5371, 1061 Raceway Rd., Greenville, MS 38701. Representative: Mary E. Ventura (same address as applicant) (601) 335–8261. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 165558, filed January 7, 1983. Applicant: WEBB BUS LINES, LTD., 124 Duke Ave., Portage La Prairie, Manitoba, Canada R1N OS6. Representative: Todd W. Foss, 15 Broadway, Suite 502, Fargo, ND 58102, 701–235–4487. Transporting *passengers*, in charter and special operations, beginning and ending at ports of entry on the international boundary line between the U.S. and Canada in AK, WA, ID, MT, ND, and MN, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165579, filed January 7, 1983. Applicant: SHERFIELD PRODUCE MARKETING, 9000 Keystone Crossing Office Center, Suite 950, Indianapolis, IN 46240. Representative: George M. Butterfield (same address as applicant), 317–844–0482. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

James H. Bayne,

Acting Secretary.

[FR Doc. 83–2089 Filed 1–25–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on

November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly. Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OP1–21

Decided: January 14, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 13300 (Sub-96) filed January 5, 1983. Applicant: CAROLINA COACH COMPANY, d.b.a. CAROLINA TRAILWAYS, 1201 S. Blount St., P.O. Box 28086, Raleigh, NC 27611. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751–2441. Over regular routes, transporting *passengers*, between DC, and Annapolis, MD, over U.S. Hwy 50, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

MC 16961 (Sub-10), filed January 6, 1983. Applicant: HUTCHINS TRUCKING COMPANY, 1000 Congress Street, Portland, ME 04102. Representative: John C. Lightbody, 30 Exchange Street, Portland, ME 04101, (207) 773–5651. Transporting *such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses, military commissaries and exchanges, restaurants, and hardware, discount drug and convenience stores, between points in ME, on the one hand, and, on the other, points in CT, MA, NH, NJ, NY, PA, RI and VT.

MC 33641 (Sub-168), filed January 6, 1983. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Breese, (same address applicant), (801) 972–7263. Transporting *classes A, B, and C explosives, blasting materials, and supplies, weapons, ammunition, and component parts of ammunition and explosives, and articles designated by the U.S. Government as sensitive,* between points in the U.S. (except AK and HI). CONDITION: To the extent that a certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall expire 5 years from its date of issuance.

MC 125681 (Sub-7), filed January 7, 1983. Applicant: MATERIALS TRANSPORT, INC., Box 248, 1405 9th St., Tell City, IN 47586. Representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204, (317) 639–4511. Transporting *gypsum,* between Joppa, IL, and points in Martin County, IN.

MC 152621 (Sub-15), filed January 4, 1983. Applicant: RUSH TRANSPORT, INC., 163 Main St., Route 131, Sturbridge, MA 01566. Representative: James M. Burns, 1365 Main St., Suite 403, Springfield, MA 01103, (413) 781–8205. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156980, filed December 28, 1982. Applicant: N.H. SOUTHWEST TRUCKING, INC., Benson Shores, Box 384, Hampstead, NH 03077. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841,

(617) 657–6071. Transporting *electical components,* between points in the U.S. (except AK and HI), under continuing contract(s) with Unitrode Corp., of Lexington, MA.

MC 157691 (Sub-4), filed January 4, 1983. Applicant: BLUE VELVET TRANSPORT, INC., P.O. Box 9477, Canton, OH 44711. Representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215, (614) 464–4103. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Swift & Company, of Chicago, IL.

MC 159220 (Sub-8), filed January 6, 1983. Applicant: REFRIGERATED INTERNATIONAL CARGO HAULERS, INC., 1170 Niagara St., Buffalo, NY 14240. Representative: Charles H. White, Jr., 1019 19th St., NW., Suite 800, Washington, DC 20036, (202) 785–3420. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Packerland Packing Co., Inc., of Green Bay, WI.

MC 161731 (Sub-1), filed January 4, 1983. Applicant: ANTHONY M. BRIDA, INC., R.D. #1 Box 415, Glassboro, NJ 08028. Representative: Anthony M. Brida (same address as applicant), (609) 881–1700. Transporting *natural and imitation stone and stone products,* between points in the U.S., under continuing contract(s) with Delsea Stone Corporation, of Clayton, NJ.

MC 163740, filed December 28, 1982. Applicant: 1843–7475 QUEBEC INC., 270 St. Jacques South, Coaticook, P.Q. Canada J1A 2N9. Representative: Adrien R. Paquette, 200 St. James St., Room 900, Montreal, Quebec, Canada H2Y 1M1, (514) 842–1864. Transporting *lumber,* between ports of entry on the international boundary line between the U.S. and Canada at points in VT, and Franklin, St. Lawrence and Clinton Counties, NY, on the one hand, and, on the other, points in ME, NH, MA, VT, CT, RI, NY, and NJ.

MC 165561, filed January 6, 1983. Applicant: DOROTHY SHAMROCK COAL COMPANY, INC., 2112 Northwestern Ave., Indianapolis, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *coal,* between points in the U.S. (except AK and HI), under continuing contract(s) with Dorothy Coal Sales, Inc., of Loveland, OH.

For the following, please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP–028

Decided: January 18, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 36517 (Sub-12), filed January 10, 1983. Applicant: JAMES J. KEATING, INC., P.O. Box 830; Perth Amboy, NJ 08862. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *commodities in bulk,* between those points in the U.S. in and east of MN, IA, MO, AR, and TX.

MC 152046 (Sub-1), filed January 11, 1983. Applicant: HOLMER TRUCKING, RR No. 2, Park Rapids, MN 56470. Representative: Jerry Holmer (same address as applicant), (218) 573–3333. Transporting *lumber, wood products* and *building materials,* between points in OR, WA, ID, MT, ND, SD, MN, and WI.

MC 153416 (Sub-2), filed January 10, 1983. Applicant: ACCORD SERVICES, INC., 301 S. 5th St., Kansas City, KS 66110. Representative: Alex M. Lewandowski, 1221 Baltimore Ave. Suite 600, Kansas City, MO 64105, (816) 221–1464. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Intermodal Marketing, Inc., of Kansas City, KS.

MC 154106 (Sub-4), filed January 12, 1983. Applicant: MT. HOPE TRUCKING, INC., P.O. Box 247, Mt. Hope, KS 67108. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110–L, Topeka, KS 66612, (913) 233–9629. Transporting *food and related products,* between points in CO, KS, MN, MO, NE, TX, WY, LA, IL, and IA, on the one hand, and, on the other, points in the U.S. (except AK, HI, WA, OR, ID, NV, NY, NJ, MD, VT, NH, MA, and ME).

MC 158366 (Sub-2), filed January 10, 1983. Applicant: GUY A. GRANGER, d.b.a. GRANGER TRUCKING CO., 10203 64th Ave. S., Seattle, WA 98178. Representative: Guy A. Granger (same address as applicant), (206) 725–0554. Transporting *lumber and wood products,* between points in Grays Harbor County, WA, on the one hand, and, on the other, points in NC and TN.

MC 163717, filed January 11, 1983. Applicant: C & D TRANSPORTATION, INC., P.O. Box 334, Rahway, NJ 07065. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting, *paper and paper products, plastic products,* and *metal products,* between points in the U.S. (except AK and HI), under continuing contract(s) with American Metal Moulding, Inc., of Edison, NJ.

MC 165316, filed January 10, 1983. Applicant: JOE CUTRONA'S QUALITY CARS, INC., 6878 Transit Rd., Williamsville, NY 14221. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043, (716) 681–7190. Transporting, *used cars,* between points in NY, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC.

Volume No. OP4–027

Decided: January 20, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 128927 (Sub-13), filed October 13, 1982, previously noticed in the **Federal Register** issue of November 1, 1982, and republished herein. Applicant: MARTIN TRUCKING CO., INC., Box 406, Tomah, WI 54660. Representative: James A. Spiegel, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting, *food and related products,* between points in MN and WI, on the one hand, and, on the other, points in IA, IL, IN, KY, MN, MO, OH and TN.

Note.—This republication reflects the addition of OH which was inadvertently omitted from the earlier notice.

For the following, please direct status inquiries to Team 5 (202) 275–7289.

Volume No. OP5–016

Decided: January 17, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 79658 (Sub-44), filed January 7, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424–2222. Transporting, *house goods,* between points in the U.S., under continuing contract(s) with Nabisco Brands, Inc., East of Hanover, NJ.

MC 102379 (Sub-3), filed December 30, 1982. Applicant: LUTHER McGILL, INCORPORATED, P.O. Box 785, Laurel, MS 39440. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, 601–948–5711. Transporting, (1) *Mercer commodities,* between points in AR, OK, and TN; and (2) between points in AR, OK, and TN, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, and TX.

MC 116509 (Sub-3), filed January 10, 1983. Applicant: FOOD PRODUCTS REFRIGERATED EXPRESS, INC., 1 Hackensack Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201)

234–0301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 125079 (Sub-5), filed January 4, 1983. Applicant: CLAY TRANSPORT, INC., 2400 Greensburg Rd., New Kensington, PA 15068. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting (1) *Coal and coal products,* (2) *ores and minerals,* (3) *building materials,* (4) *clay, concrete, glass or stone products,* (5) *metal products,* and (6) *machinery,* between points in PA, OH, and WV, on the one hand, and, on the other, points in PA, OH, WV, NY, IL, IN, MI, MD, NJ, DE, VA, and KY.

MC 125168 (Sub-30), filed January 7, 1983. Applicant: OIL TANK LINES, INC., Box 190, Darby, PA 19023. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *petroleum, natural gas and their products,* between points in the U.S., under continuing contract(s) with Sun Refining and Marketing Company, of Philadelphia, PA.

MC 128409 (Sub-12), filed January 7, 1983. Applicant: HAROLD MILLER TRUCKING, INC., P.O. Box 623, Moorhead, MN 56560. Representative: Richard P. Anderson, Federal Square, 112 Roberts Street, P.O. Box 2561, Fargo, ND 58108, 701–235–3300. Transporting *food and related products,* between points in ND, SD, and MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157809 (Sub-2), filed January 5, 1983. Applicant: JOHN LAHOTSKI, STEPHEN LAHOTSKI, WILLIAM LAHOTSKI AND PAUL LAHOTSKI, d.b.a., BLUE AND WHITE TRUCKING, 161 Phillips St., Throop, PA 18512. Representative: Raymond Talipshi, 121 S. Main St., Taylor, PA 18517, 717–344–8030. Transporting (1) *coal and coal products,* between points in Luzerne, Schuykill and Northumberland Counties, PA, on the one hand, and, on the other, points in NY, NJ and CT, (2) *food and related products,* (a) between points in Onondago County, NY, on the one hand, and, on the other, points in Luzerne County, PA, and (b) between points in Monroe County, NY, Baltimore County, MD and Philadelphia County, PA, on the one hand, and, on the other, points in Lackawanna County, PA.

MC 159659 (Sub-2), filed December 30, 1982. Applicant: J WAY STERILE SERVICE, INC., 639 Ramsey Avenue, Hillside, NJ 07205. Representative: A. David Millner, 7 Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992–2200. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Allstates Air Cargo, Inc., of Newark, NJ and Hartford Corporation, Oxford Division, of New Brunswick, NJ, (2) *building materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with Manufacturers Reserve Supply, Inc., of Irvington, NJ, and (3) *instruments and photographic goods,* between points in the U.S. (except AK and HI) under continuing contract(s) with Terumo Medical Corporation of Elkton, MD.

MC 160328, filed January 5, 1983. Applicant: JUNTTI MOVING & DELIVERY, 3616 Scheffer Drive, Lansing, MI 48906. Representative: David D. Bone, 2940 Lake Lansing Road, East Lansing, MI 48823, 517–351–2436. Transporting *household appliances* between Lansing, MI, on the one hand, and, on the other, points in Ingham, Eaton, Ionia, Clinton, Shiawassee, Livingston, Jackson, Calhoun, Washtenaw, Gratiot and Barry Counties, MI, under continuing contract(s) with General Electric Company, of Louisville, KY.

MC 165398, filed December 29, 1982. Applicant: M & J CARRIERS, INC., RR #1, Box 111A, Oakley, IL 62552. Representative: James E. Ashby (same address as applicant), 217–763–2111. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 165489, filed January 4, 1983. Applicant: TALLEY TRUCKING CO., INC., P.O. Box 9029, 7127 Kirkpatrick Blvd., Houston, TX 77011. Representative: Delmas W. Heinke, 11510 Corkwood, Houston, TX 77089, 713–481–2254. Transporting *clay, concrete, glass or stone products,* and *ores and minerals,* between points in TX, OK, MO, AR, LA, MS, and AL.

MC 165528, filed January 5, 1983. Applicant: DICKERSON TRUCKING, LTD., Route 2, Box 347, Axton, VA 24054. Representative: Franklin J. Dickerson (same address as applicant), 804–724–4226. Transporting *furniture and fixtures,* between points in Henry and Smyth Counties, VA on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with American Furniture Co., Inc., of Martinsville, VA.

MC 165548, filed January 6, 1983. Applicant: AMERICAN ASPHALT PRODUCTS, INC., 2382 Boston Road, Wilbraham, MA 01095. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, 617–742–3530. Transporting *petroleum products,* between points in ME, NH, VT, MA, RI, CT, NY, NJ, and PA.

Volume No. OP5–012

Decided: January 14, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–648, filed January 4, 1983. Applicant: AUTO MOVERS, INCORPORATED, 13090 Park St., Santa Fe Springs, CA 90670. Representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, DC 20006, (202) 833–8884. To operate as a *freight forwarder* of *transportation equipment* between points in the U.S.

MC 87128 (Sub-3), filed December 29, 1982. Applicant: WHERLEY MOVING & STORAGE CO., INC., 2793 Miller Trunk Hwy., Duluth, MN 55810. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods* between points in ND, SD, NE, KS, MO, IA, MN, WI, MI, OH, IN, IL, CO, WY, TX, OK, AR, and LA, on the one hand, and, on the other, points in the U.S. (except WA, OR, and CA).

MC 96889 (Sub-4), filed January 4, 1983. Applicant: E–B TRUCKING COMPANY, INCORPORATED, Hwy. 301 North, P.O. Box 518, Battleboro, NC 27809. Representative: E. Lisk Everette (same address as applicant), (919) 977–2547. Transporting *materials, equipment, and supplies* used in the processing and distribution of unmanufactured tobacco between points in FL, GA, KY, NC, SC, TN, and VA.

MC 99589 (Sub-2), filed January 4, 1983. Applicant: MADDUX & SONS, INC., 1927 Pan American Ave., P.O. Box 1077, Douglas, AZ 85607. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *such commodities* as are produced from mines, mills, and quarries, between El Paso, TX, and points in AZ and NM.

MC 121259 (Sub-4), filed January 4, 1983. Applicant: JAY-BEE CARTAGE CO., INC., 1514 S. Canel St., Chicago, IL 60607. Representative: Walter L. Weart, Suite 423, 2234 S. Goebbert Rd., Arlington Heights, IL 60005, 302–520–0507. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except ND, SD, MT, WY, ID, OR, WA, AK and HI).

MC 154108 (Sub-3), filed December 27, 1982. Applicant: CALHOUN TRANSPORTATION SERVICE, INC., Old Route 11, P.O. Box 10, Calhoun, TN 37309. Representative: M. C. Ellis, Chattanooga Freight Bureau, Inc., 1001 Market St., Chattanooga, TN 37402, (615) 756–3620. Transporting *general commodities* (except classes A and B explosives, households goods, and commodities in bulk), between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 158818 (Sub-1), filed December 30, 1982. Applicant: BOB BOYD, d.b.a. BOB BOYD TRUCKING, 417 North M, Livingston, MT 59047. Representative: Charles A. Murray, Jr., 2822 Third Ave. N, Billings, MT 59101, (406) 252–4165. Transporting *general commodities* (except classes A and B explosives and household goods), between points in MT, on the one hand, and, on the other, points in ND, SD, MN, WI, IL, IA, NE, KS, OK, MO, TX, CO, WY, CA, AZ, NM, IN, OH, MI, OR, WA, UT, AR, ID, AL, GA, NV and LA.

MC 165039, filed December 23, 1982. Applicant: CFI TRANSPORT, INC., P.O. Box 40, Valdese, NC 28690. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. Transporting *pet foods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sunshine Feed Mills, Inc., of Red Bay, AL and Sunshine Mills, Inc., of Tupelo, MS.

MC 165388, filed December 28, 1982. Applicant: RONSON LEASING, INC., Rear of 11 Ridge Rd., Lyndhurst, NJ 07071. Representative: John W. Metzger, 49 N. Duke St., Lancaster, PA 17602, (717) 299–1181. Transporting (1) *food and related products*, between St. Louis, MO, Chicago, IL, Detroit, MI, Denver, CO, New York, NY, Los Angeles, CA, and points in Morgan and Logan Counties, CO, on the one hand, and, on the other, points in the U.S., (except AK and HI), (2) *chemicals and related products*, between St. Louis, MO, Chicago, IL, and Detroit, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *such commodities* as are dealt in or used by manufacturers of noise control equipment, between Atlanta, GA, New York, NY, and points in Columbia and Luzerne Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (4) *rubber and plastic products, building materials, and small arms and small arms ammunition*, between Chicago, IL, New York, NY and points in Luzerne County, PA and Bergen County, MJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165518, filed January 6, 1983. Applicant: JETCO SERVICE COMPANY, 16910 Dallas Parkway, Suite 108, Dallas, TX 75248. Representative: Wayland Little, 617 Medina Dr., Lewisville, TX 75067, 214–436–8493. Transporting *clay products* between points in Thomas County, GA and Tippah County, MS, on the one hand, and, on the other, points in AR, LA, MS, OK, and TX.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–2000 Filed 1–25–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F. 233

The following applications were filed in region 4: Send Protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 110988 (Sub-No. 4–53TA), filed January 13, 1983. Applicant: SCHNEIDER TANK LINES, INC., P.O. Box 117, Appleton, WI 54912. Representative: Thomas E. Vandenberg, P.O. Box 2298, Green Bay, WI 54306. *General Commodities* between points in the United States, under continuing contract(s) with Foremost-McKesson, Inc. and its subsidiaries and affiliates. Supporting shipper: Foremost-McKesson, Inc., One Post Street, San Francisco, CA 94104.

MC 125681 (Sub-4–1TA), filed January 12, 1983. Applicant: Materials Transport, Inc., Box 248, 1405 9th St., Tell City, IN 47586. Representative: Warren C. Moberly, HARRISON & MOBERLY, 777 Chamber of Commerce Bldg., Indianpolis, IN 46204. Gypsum, from Martin County, IN to Joppa, IL (part of St. Louis, MO, commercial zone). Supporting Shipper: Missouri Portland Cement Company, 7711 Carondelet Ave., St. Louis MO 63105.

No. MC 144452 (Sub-No. 4–6), filed January 13, 1983. Applicant: ARLEN E. LINDQUIST, dba. ARLEN E. LINDQUIST TRUCKING, 9172 Davenport Street NE., Minneapolis, MN 55434. Representative: William J. Gambucci, 525 Lumber Exchange Building, Ten South Fifth Street, Minneapolis, MN 55402. *Petroleum products* from Tulsa, OK to points in WI and MT. Supporting shipper: John Deere Company, Deere & Company, John Deere Rd., Moline, IL 61265.

MC 152257 (Sub-4–5TA), filed January 13, 1983. Applicant: LORDCO TRUCKING, INC., 535–F Tollgate Road, Elgin, IL 60120. Representative: Paul J. Maton, 27 E. Monroe St., Suite 1000, Chicago, IL 60603, (312) 332–0905. *Contract;* irregular: such commodities as are dealt in or used by manufacturers or distributors of containers between La Crosse, WI, Chicago, IL, Belleville, IL, Evansville, IN, Madison, IL and Granite City, IL under continuing contract(s) with National Can Corporation of Chicago, IL.

MC 165668 (Sub-4–1TA), filed January 13, 1983. Applicant: WAUSAU CARRIERS, INC., P.O. Box 398, Wausau, WI 54401, 715/359–3497. Representative: Robert A. Wagman, P.O. Box 398, Wausau, WI 54401, 715/359–3497. *Contract carrier:* irregular routes: *General commodities* (except classes A

and B explosives, household goods, and commodities in bulk) between points in Lincoln and Marathon Counties, WI and points in the U.S., excluding AK and HI, under continuing contract(s) with the J.I. Case Company of Racine, WI. Supporting shipper: J.I. Case Company, 700 State Street, Racine, WI 53404.

MC 156707 (Sub-4–3TA), filed January 12, 1983. Applicant: MWK TRANSPORT CO., INC., 5401 West Donges Bay Road, Mequon, WI 53092. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *contract* carrier, over *irregular* routes, transporting: *Floor covering products* from points in Walker, Catoosa, Whitfield, Chatooga, Floyd, Bartow, Cherokee, Gordon, Pickens, Murray, Gilmer and Fannin Counties, GA to Chicago, IL, Milwaukee, WI, Minneapolis-St. Paul, MN and points in their respective commercial zones, under continuing contract(s) with Carson, Pirie, Scott & Company. Authority sought for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Carson, Pirie, Scott & Company, 13–127 Merchandise Mart, Chicago, Il 60654.

MC 162610 (Sub-4–10TA), filed January 13, 1983. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 W. 47th St., Lyons, IL 60534. Representative: Thomas M. O'Brien, Sullivan & Associates, Ltd., 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601. *Contract; irregular: Such commodities* as are dealt in by manufacturers and distributors of material handling equipment, from LaGrange, IL to points in the U.S. (except AK and HI), under continuing contract(s) with Crown Controls, d.b.a. Crown Lift Trucks of LaGrange, IL. Supporting shipper: Crown Controls, d.b.a. Crown Lift Trucks, 5436–5444 Dansher Road, LaGrange, IL 60525.

MC 162610 (Sub-4–11TA), filed January 14, 1983. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 W. 47th St., Lyons, IL 60534. Representative: Thomas M. O'Brien, Sullivan & Associates, Ltd., 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601. *Contract; irregular: Such commodities* as are dealt in by manufacturers and distributors of automotive exhaust systems, between Chicago, IL and Haleyville, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Grand Exhaust Systems, Inc. of Chicago, IL. Supporting shipper: Grand Exhaust Systems, Inc., 5310 W. 66th St., Chicago, IL 60638.

MC 163052 (Sub-4–2TA), filed January 12, 1983. Applicant: ALBERT R. MATHEY AND FRANCIS E. MATHEY, d.b.a. AM/FM TRUCKING, 650 Edward Street, Sycamore, IL 60178. Representative: Stephen H. Loeb, 2777 Finley Road, Suite 4, Downers Grove, IL 60515. *Contract, Irregular: Washers, gaskets or packing devices, catalogs, and cartons,* between the facilities of CR Industries at Elgin, IL, and Memphis, TN, under contract with CR Industries. Supporting shipper: CR Industries, 900 N State St., Elgin, IL 60120.

MC 165297 (Sub-4–1), filed January 13, 1983. Applicant: AUTO WHOLESALERS & TRANSPORT, INC., 965 County Road 18 North, Plymouth, MN 55441. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. *Motor Vehicles,* between points in AK, CO, IL, IA, LA, MN, MS, MO, MT, NE, ND, OK, SD, TX, WI and WY. Supporting shippers: Agency Rent A Car, Minneapolis, MN; C & D Auto Sales, Plymouth, MN; Knott Motors, Hopkins, MN; Maas Motors, Inc., Plymouth, MN; Minneapolis Auto Auction, Plymouth, MN.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 96878 (Sub-5–6TA), filed January 17, 1983. Applicant: CONSOLIDATED TRANSFER AND WAREHOUSE CO., INC., 1251 Taney, North Kansas City, MO 64116. Representative: Alfred L. King, same as above. *Plastic and paper articles* between Kansas City commercial zone and points in the U.S. (except AK and HI). Supporting shippers: Tension Envelope Corp., Kansas City, MO, Mar-Kay Plastics, Inc., Kansas City, MO; and Plastic Enterprises Co., Inc., Independence, MO.

MC 119765 (Sub-5–5TA), filed January 17, 1983. Applicant: EIGHT WAY EXPRESS, INC., 10855 West Dodge Road, Omaha, NE 68154. Representative: Floyd Foreman (same as applicant). (1) *Plastic and Plastic Products;* (2) *Food and related Products;* (3) Animal health products; and (4) Chemicals between IA and NE, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shippers: ABS Corp., Omaha, NE; Mid America Industries, Inc., Mead, NE; and FDL Foods, Inc., Dubuque, IA.

MC 135399 (Sub-5–7TA), filed January 17, 1983. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: A. William Brackett, 623 S. Henderson, 2nd Floor, Fort Worth, TX 76104. *Such commodities as are dealt in or used by foundries and industrial mills,* between TX, LA and AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: Custom Outlets, Houston, TX; Morrow Crane Company, Houston, TX; Universal Alloy, Valve and Fitting Co., Houston, TX and Adams Industries, Inc., Monroe, LA

MC 144982 (Sub-5–16TA), filed January 18, 1983. Applicant: OHIO PACIFIC EXPRESS, INC., P.O. Box 277, Benton, MO 63736. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Such Commodities as are dealt in or used by manufacturers and distributors of paint, chemicals, and related products,* from Dayton, OH and Richmond, KY to Reno, NV. Supporting shipper: The Sherwin-Williams Co., Cleveland, OH.

MC 150093 (Sub-5–7TA), filed January 17, 1983. Applicant: THE TOM DAVIS CORP., d.b.a. DAVIS LINES, 5335 N.W. 111th Drive, Grimes, Iowa 50111, Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Wines and liquors, between points in IA, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Iowa Beer and Liquor Control Department, Ankeny, Iowa 50021.

MC 151065 (Sub-5–3TA), filed January 17, 1983. Applicant: KANSAS CITY PIGGYBACK, INC., 3600 Great Midwest Drive, Kansas City, MO 64161. Representative: Donald J. Quinn, Commerce Bank Bldg., Suite 232, 8901 State Line, Kansas City, Missouri 64114. *General commodities, with the usual exceptions,* between Springfield, MO on the one hand, and, on the other, points in AR, IA, KS, MO, NE, OK and the St. Louis commercial zone. Supporting shippers: 5.

MC 159193 (Sub-5–2TA), filed January 17, 1983. Applicant: VAUGHN TRUCKING, INC., P.O. Box 127, Jonesboro, AR 72401. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Ste. 909, Memphis, TN 38103. Contract; Irregular. *General commodities (except Classes A and B explosives, household goods, and commodities in bulk* between Memphis, TN, and its commerical zone, and Shelby County, TN, on the one hand, and, on the other, points in the US (excluding AK and HI), under a continuing contract(s) with U.S. Freight Forwarder Co., Inc. Supporting shipper: U.S. Freight Forwarder Co., Inc., Memphis, TN.

MC 164017 (Sub-5–2TA), filed January 18, 1983. Applicant: HOUSBY FREIGHT

SYSTEMS CORP., 4733 NE 14th Street, Des Moines, IA. Representative: Charles A. Coppola, 4900 University Avenue, Suite 101, Des Moines, IA. *(1) Food and related products, (2) Paper and paper products, (3) such commodities as are dealt in by Farm and Home Supply stores, (4) vending machines, and (5) Materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) through (4).* Between points in Polk County, IA on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shippers: 7.

MC 164072 (Sub-5–4TA), filed January 17, 1983. Applicant: WINGS TRANSPORTATION, INC., 717 South 9th Street, Omaha, NE 68102. Representative: Debra Merritt (same as above). (1) *Food and Related Products,* between Cedar Rapids, IA and Chicago, IL and its commercial zone. (2) Adhesives and coatings, between Ogden, UT, on the one hand, and, on the other, points in the U.S.; and (3) Materials and supplies used in the manufacture and distribution of the commodities in (1) and (2) above, between points of origin and destinations as listed in (1) and (2) above. Supporting shippers: Penick & Ford, Cedar Rapids, IA; Swift Adhesives & Coatings, Ogden, Utah.

MC 165714 (Sub-5–1TA), filed January 17, 1983. Applicant: GREENWOOD TRUCKING SERVICES, INC., P.O. Box 59601, Dallas, TX 75229. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *General Commodities (except classes A and B explosives or hazardous materials)* between Dallas and Tarrant Counties, TX on the one hand, and, on the other, points in LA, OK and TX. Restricted to shipments having a prior or subsequent movement by rail or water transportation. Supporting shippers: There are five (5) supporting shippers.

MC 164366 (Sub-5–1TA), filed January 18, 1983. Applicant: AFFILIATED VAN LINES, INC., 2121 Washington St., Box 209, Lawton, OK 93502. Representative: Charles J. Kimball, 1600 Sherman St., No. 665, Denver, CO 80203. *Contract* irregular *household goods, as defined by the Commission,* between points in the U.S. (except AK and HI), under a continuing contract or contracts with Northrop WorldWide Aircraft Service, Inc.

MC 164366 (Sub-5–2TA), filed January 18, 1983. Applicant: AFFILIATED VAN LINES, INC., 2121 Washington St., Box 209, Lawton, OK 93502. Representative: Charles J. Kimball, 1600 Sherman St., No. 665, Denver, CO 80203. *Contract* irregular *household goods, as defined by the Commission,* between points in the U.S. (except AK and HI), under a continuing contract or contracts with Herb's Discount, Inc.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–2081 Filed 1–25–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. MC–150]

Minority Participation in the Motor Carrier Industry

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed update to list of minority and female owned carriers.

SUMMARY: The ICC is updating its listing of minority and female owned motor carriers in interstate regulated trucking. This will allow the Commission to carry out its responsibility mandated by the Motor Carrier Act of 1980 to monitor the level of participation of minority carriers in the transportation industry. In addition, this information is available to Congress and other agencies to help them design and deliver programs that address the specific needs of women and minorities.

The Commission is mailing out questionnaires to all carriers receiving operating authority since our last study was conducted. We are also contacting carriers on our current listing for verification of status.

For purposes of definition, a firm is female or minority owned if a female(s) or a member(s) of a minority group owns *more* than 50 percent of the company's stock. Carriers meeting this definition should contact the Commission to ensure inclusion in our listings.

DATE: New listings of minority and female owned carriers will be published March 1, 1983.

ADDRESS: Carrier name, address, and minority type should be sent to: Interstate Commerce Commission, Room 4119, Washington, DC 20423, Attention: Emily A. White.

FOR FURTHER INFORMATION CONTACT: Leland L. Gardner, (202) 275–0811 or Emily A. White, (202) 275–0788.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2081 Filed 1–25–83; 8:45 am]

BILLING CODE 7035–01–M

[OP3–MC–F–19]

Motor Carriers; Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349,* 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.**

Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action

under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: January 18, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

James H. Bayne,

Acting Secretary.

Note.—Please direct status inquiries to Team 3 (202) 275–5223.

MC–F–15065, filed January 4, 1983. ROBERT J. LEHMAN, (ROBERT), (P.O. Box P, Elyria, OH)—Continuance in Control—ZONE TRANSPORTATION COMPANY (ZONE)—Initial Common Carrier (P.O. Box 1379, Elyria, OH). Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. ROBERT seeks authority to continue in control of ZONE upon the institution by ZONE of operations in interstate or foreign commerce, as a motor common carrier. ZONE has filed an application in No. MC–165504 seeking authority to transport over irregular routes, general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, KY, MI, MO, NY, OH, PA, WV, and WI. ROBERT presently holds no permanent authority from the Commission, however, ROBERT also controls through stock ownership Lehman Cartage, Inc., a motor common carrier pursuant to Certificate issued in MC–7573 and Subs thereunder.

Note.—ZONE has filed a directly-related application in its initial common carrier permanent application. This application, docketed No. MC–165504 is published in this same **Federal Register** issue.

MC 165504, filed January 5, 1983. Applicant: ZONE TRANSPORTATION COMPANY, P.O. Box 1379, Elyria, OH 44035. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IN, KY, MI, MO, NY, OH, PA, WV, and WI.

Note.—This application is directly related to MC–F–15065, published in this same **Federal Register** issue.

[FR Doc. 83–2087 Filed 1–25–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will recieve an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

James H. Bayne,

Acting Secretary.

MC–FC–79716 (Supplemental Publication). By decision of November 23, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1161, Review Board Number 3 approved the transfer to ISADORE SPIEGEL, d.b.a. SPIEGEL TRUCKING CO., of Harrison, NJ, of Permit Nos. MC–125770. (Sub-Nos. 1, 10, 13, and 15), issued to SPIEGEL TRUCKING, INC., also of Harrison, NJ, which authorized the transportation of (1) *steel office furniture and equipment,* from Newark, NJ, to Baltimore, MD, Savannah, Albany, and Dorsaga, GA, Shelby, OH, Chicago, IL, Boston and Hingham, MA, Philadelphia, PA, and DC, under continuing contract(s) with Hillside Metal Products, Inc., of Newark, NJ; (2) *furniture parts and materials* used in the manufacture of office and library furniture (except in bulk in tank vehicles), between points in PA and Newark, NJ, on the one hand, and, on the other, points in CT, FL, GA, IL, IN, MA, MD, NY, NC, RI, OH, SC, TN, and VA, under continuing contract(s) with Art Metal-U.S.A., Inc./Steel Sales, Inc.; (3) *empty containers, trailers, and chassis,* between New York, NY, Newark, NJ, Philadelphia, PA, Baltimore, MD, Norfolk, VA, and Boston, MA, under continuing contract(s) with Container Transport International, Inc., of New York, NY; and (4) *parts and materials* used in the manufacture of furniture, from points in CT, GA, IL, MD, MA, NY, NC, OH, PA, VA, and SC, to the facilities of Art Metal-U.S.A. Inc., at Newark, NJ, under continuing contract(s) with Art Metal-U.S.A. Inc., of Newark, NJ. Applicants' representative: Harold L. Reckson, 33–28 Halsey Road, Fairlawn, NJ 07410.

Note.—The purpose of this supplemental publication is to give notice of additional authority approved for transfer in this proceeding. We previsously approved the transfer of Permit No. MC–125770 (Sub-No. 8), on May 7, 1982, notice of which appeared in the **Federal Register** on May 20, 1982 and June 15, 1982.

MC–FC–79874. By decision of August 23, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1161, Review Board Number 3, modified its prior decision published July 12, 1982, and approved the transfer to S.T.C. TRUCKING CO., INC., of Corringanville, MD of Certificae No. MC–154569 (Sub-

No. 4), issued to LEYDIG TRUCKING INC., of Corringanville, MD authorizing Coal, between points in VA, on the one hand, and, on the other, points in PA, MD, and WV. Applicant's Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740.

Note.—TA lease is sought. Transferee is not a carrier.

[FR Doc. 83-2066 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find: Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approval extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered: The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

James H. Bayne,

Acting Secretary.

Note.—Please direct status inquiries to Team 1 at 202-275-7992.

Volume No. OP1-FC-28

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81069. By decision January 19, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2 approved the transfer to RALPH SPARACINO, d.b.a. SPARACINO BROTHERS, Scranton, PA, of certificate No. MC-74460 issued December 13, 1966, to FRANTZ TRANSFER, INC., Trucksville, PA, authorizing the transportation of *general commodities* (with the usual exceptions), between Wilkes-Barre, PA, and points within 10 miles of Wilkes-Barre, and *butter, eggs, meat and packinghouses products,* between Wilkes-Barre and Scranton, PA, on the one hand and, on the other, Binghamton, Johnson City, Endicott, and Narrowsburg, NY, and points in PA within 80 miles of Wilkes-Barre. Transferee is a carrier holding authority under No. MC-7585. Representative: Raymond Talipski, 121 South Main St., Taylor, PA 18517.

Volume No. OP1-FC-29

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC 81078. By decision of January 19, 1983, issued under 49 U.S.C. 10931-10932 and the transfer rules at 49 CFR 1181, Review Board Number 1 approved the lease for a period of 1 year, to Ryan Services, Inc., of El Campo, TX, of Certificate of Registration No. MC-99850 (Sub-No. 2), issued February 9, 1976, to Texas Steel Culvert Co., Inc., of Arlington, TX, authorizing the transportation of specified commodities, between points in TX. Applicant's representative: M. Ward Bailey, 2416 Continental Life Bldg., Fort Worth, TX 76102.

[FR Doc. 83-2065 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15025]

Motor Carriers; Convoy Express, Inc.—Control Exemption—Associated Transports, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), added by section 21 of the Bus Regulatory Reform Act of 1982, Pub. L. 97-261 (September 20, 1982), Convoy Express, Inc. (Express), Auto Convoy Co. (Convoy), LeRoy L. Wade & Son, Inc. (Wade), and Associated Transports, Inc. (Associated), seek an exemption from the provisions of 49 U.S.C. 11343 to enable Express, a non-carrier wholly owned by Convoy, a motor common carrier (No. MC 59531), to acquire control of Associated, a motor common carrier (No. MC 30378), which is presently owned by Wade, also a motor common carrier (No. MC 108375).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative; Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013

Comments should refer to No. MC-F-15025.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7549.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petition's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 18, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83-2066 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15080]

Motor Carriers; Matson Truck Lines, Inc.—Merger Exemption—Shurson Trucking Company, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343, 47 Fed. Reg.* 53303 (November 24, 1982), Matson Truck Lines, Inc. (Matson) (No. MC 105007), Shurson Trucking Company, Inc. (Shurson) (No. MC 143739), and the five individuals in control of Matson and Shurson (Darryl E. Matson, Richard D. Matson, Quentin E. Matson, Gregory F. Matson, and Dale E. Matson), seek an exemption from the requirement under section 11343 of prior regulatory approval for the merger of Shurson into Matson for management, control and operation.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:
(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and
(2) Petitioner's representative: Val M. Higgins, Mackall, Crounse & Moore, 1600 TCF Tower, Minneopolis, MN 55402

Comments should refer to No. MC–F–15060.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 18, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–2085 Filed 1–25–83; 8:45 am]

BILLING CODE —M

[No. MC–F–15052]

Motor Carriers; Richard R. Ruehle—Continuance in Control Exemption—Titan Transportation, Inc., and Findlay Truck Line, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions filed by Motor Carriers of Property under 49 U.S.C. 11343*, 47 Fed. Reg. 53303 (November 24, 1982), Richard R. Ruehle seeks an exemption from the requirement under section 11343 of prior regulatory approval for his continuance in control of motor carriers Findlay Truck Line, Inc. (No. MC 120378), of Findlay, OH, and Titan Transportation, Inc., also of Findlay, OH, when the latter becomes a certificated carrier in No. MC 162951 (Sub-No. 1).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESS: Send comments to:
(1) Motor Section, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423, and
(2) Petitioner's representative: Philip B. Cochran, 50 West Broad Street, Columbus, OH 43215

Comments should refer to No. MC–F–15052.

FOR FURTHER INFORMATION CONTACT: Joyce Lannon, (202) 275–7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 19, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–2094 Filed 1–25–83; 8:45 am]

BILLING CODE 7035–1–M

[No. MC–F–15053]

Motor Carriers; Jem Trucking, Inc.—Purchase Exemption—Tom Miller Trucking Company, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1) *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982), JEM Trucking, Inc. (JEM) (MC 144999) and Tom Miller Trucking Company, Inc. (Miller) (MC 160275) seek an exemption from the requirements of prior regulatory approval for the purchase by JEM of all of Miller's operating rights. In addition, temporary authority is sought for JEM to lease Miller's operating rights pending disposition of the petition for exemption.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:
(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and
(2) Petitioner's representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064

Comments should refer to No. MC–F–15053.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 20, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 83–2092 Filed 1–25–83; 8:45 am]

BILLING CODE 7035–01–M

[No. MC–F–15082]

Motor Carriers; Howard A. Wells, Jr., et al.—Continuation in Control Exemption—Western Cargo, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemption Filed by Motor Carriers*, 367 I.C.C. 113 (1982), Howard A. Wells, Jr., James M. Wells, and Terry L. Wells, seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of Western Cargo, Inc. [No. MC 148980 (Sub-No. 2)]. The Wells also have a beneficial interest in Wells Cargo, Inc. (No. MC 43269). As Western Cargo, Inc., currently holds no authority from this Commission, an exemption would be granted only if Western Cargo's pending Sub-No. 2 application is granted.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register**.

ADDRESSES: Send comments to:
(1) Motor Section, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423
(2) Petitioner's representative: Royal F. Miller, Western Cargo, Inc., P.O. Box 20489, Reno, NV 89515

Comments should refer to No. MC–F–15082.

FOR FURTHER INFORMATION CONTACT: Joyce Lannon, (202) 275–7992.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 19, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne

Acting Secretary.

[FR Doc. 83-2093 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 324]

Motor Carriers; Permanent Authority Decisions Restriction Removals; Decision-Notice

Decided: January 3, 1983.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issed authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board Number 2, Members Carlton, Williams, and Ewing.

James H. Bayne,

Acting Secretary.

MC 3600 (Sub-No. 13)X, filed November 23, 1982. Applicant: FRANK MARTZ COACH COMPANY, P.O. Box 1007, Wilkes-Barre, PA 18702. Representative: John C. Fudesco, Suite 960, 1333 New Hampshire Ave., NW., Washington, D.C. 20036. Lead and Subs 1, 3, 4, 5, and 7 certificates: (A) Remove (1) intermediate point restriction prohibiting the transportation of traffic between New York, NY and intermediate points in Hudson and Essex Counties, NJ, lead; and (b) service at intermediate points limited to traffic originating at or destined to points beyond New York, NY and Newark, NJ, Sub 1; and (2) restriction against the transportation of passengers, baggage, express , or newspapers to or from New York, NY, which are either picked up or discharged east of the junction U.S. Highway 22 and New Jersey Highway 28 in Bridgewater Township, NJ, Sub 7, which precludes the unfettered transportation of passengers, baggage, express or newspapers to or from intermediate points on routes, which are east of junction Hwys 22 and 28; and (B) authorize passenger carrier service at all intermediate points along the described (1) regular routes, Sub 1; and (2) alternate routes, Subs 3, 4, 5 and 7.

[FR Doc. 83-2088 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 129)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—In Mills County, Ia; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 9.41 mile rail line between Hastings (milepost 0.33) and Henderson (milepost 9.74), in Mills, County, IA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis Gitomer, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10-days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27 (formerly 49 CFR 1121.38).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2084 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30081]

Rail Carriers; Southern Railway Company—Abandonment Exemption—Iredell County, NC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by the Southern Railway Company of 9.7 miles of line in Iredell County, NC, subject to standard labor protection provisions.

DATES: This exemption shall be effective on February 25, 1983. Petitions to stay the effectiveness of this decision must be filed by February 7, 1983, and petitions for reconsideration must be filed by February 15, 1983.

ADDRESSES: Send pleadings to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representatives: Nancy S. Fleischman, Southern Railway Company, P.O. Box 1808, Washington, D.C. 20013

Pleadings should refer to Finance Docket No. 30081.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact:

TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC metropolitan area, (800) 424-5403—Toll free for outside the DC area

Decided: January 18, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2082 Filed 1-25-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 82-25]

Registration Application; Joseph A. Bonaccorsi, M.D.

On September 15, 1982, the Acting Administrator of the Drug Enforcement Administration (DEA) directed to Joseph A. Bonaccorsi, M.D. (Respondent), an Order to Show Cause seeking to deny the application for DEA registration Respondent executed on October 22, 1981. The statutory ground for denial, under 21 U.S.C. 824(a)(2), was Respondent's conviction on January 4, 1977 in the Superior Court of New

Jersey. Cumberland County Court, Law Division of felony offenses relating to controlled substances.

Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and the matter was placed on the docket of Administrative Law Judge Francis L. Young. In lieu of a hearing on the issues, Respondent and DEA entered into an agreement. The Administrative Law Judge accepted the agreement and terminated administrative proceedings.

The Acting Administrator hereby approves the agreement entered into by the parties and publishes this Final Order under 21 CFR 1316.67. The Acting Administrator finds that Respondent pled guilty to two counts of distribution of controlled dangerous substances, in violation of N.J.S. 24:21–19(a)(1) and (b)(2) and N.J.S. 21:21–15a, and two counts of refusing and failing to keep records required to be kept for controlled dangerous substances, in violation of N.J.S. 24:21–21(a)(4) and (b); N.J.S. 24:21–13, N.J.S. 24:21–14(c) and N.J.S. 24:21–9 and New Jersey Administrative Code 8:65–5.3, 5.4 and 5.14. The Acting Administrator further finds that the New Jersey Board of Medical Examiners (Board) revoked Respondent's license to practice medicine and surgery in New Jersey on November 7, 1975, thereby terminating Respondent's authority to possess, dispense, prescribe or otherwise handle controlled substances in New Jersey. The Board thereafter amplified Respondent's license to permit him to practice medicine in a state, county or municipal charitable institution. The Board has also permitted Respondent to write prescriptions for controlled substances solely for patients at the institution at which he is employed, with each prescription to be filled at the institution pharmacy. Respondent is employed as a physician by the State of New Jersey at the New Jersey Memorial Home for Disabled Soldiers, Sailors, Marines and Their Wives and Widows in Vineland, New Jersey (Home).

Pursuant to the agreement, Respondent will submit to DEA quarterly reports for as long as he is employed at the Home. These reports will be a summary report of all controlled substances Respondent administered, dispensed and prescribed and shall include the name of the person who received the controlled substances, the controlled substances involved and its amount. The agreement is in effect only so long as Respondent is employed at the Home and that DEA will evaluate any future application for registration in another state or location independently of the agreement. Further, the agreement is probationary in nature and any violation of its terms will result in the summary revocation of Respondent's Certificate of Registration.

The agreement in this case is an appropriate resolution of the issues raised in the Order to Show Cause. 21 CFR 1301.76(a) provides that "a registrant shall not employ as an agent or an employee who has access to controlled substances any person who has had . . . his registration revoked at any time." The Acting Administrator finds Respondent's employment by the State of New Jersey at the Home is in the public interest, and that the public interest will be served if Respondent is permitted to handle controlled substances according to the terms of the agreement. Accordingly, the Acting Administrator waives the prohibition of 21 CFR 1301.76(a) to permit the State of New Jersey to employ Joseph A. Bonaccorsi, M.D. at the New Jersey Memorial Home for Disabled Soldiers, Sailors, Marines and Their Wives and Widows. See *Frank T. Riforgiato, M.D.*, 47 FR 50589 (1982); *Anthony Di Flumeri, M.D.*, Docket No. 82–9, 47 FR 30123 (1982) and *Joseph Bruce Friedman, M.D.*, Docket No. 81–17, 46 FR 58621 (1981) and cases cited therein, where the Administrator has waived application of 21 CFR 1301.76(a) in similar cases.

Pursuant to the authority vested in the Attorney General by 21 U.S.C. 823 and 824 and redelegated to the Administrator of the Drug Enforcement Administration, the Acting Administrator grants the application of Joseph A. Bonaccorsi, M.D., for registration under 21 U.S.C. 823 and 824 subject to the restrictions imposed by the agreement between Respondent and the Government, effective immediately.

Dated: January 17, 1983.

Francis M. Mullen, Jr.,

Acting Administrator.

[FR Doc. 83–2102 Filed 1–25–83; 8:45 am]

BILLING CODE 4410–09–M

[AAG/A Order No. 11–82]

Privacy Act of 1974; Additional Exemption for System of Records

Pursuant ot the Privacy Act of 1974, 5 U.S.C. 552a, the United States Marshals Service, Department of Justice proposes to modify a system of records entitled "Internal Investigations System, JUSTICE/USM–002." this system, most recently published at 46 FR 60343 (1981), consists of reports prepared by the Office of Internal Investigations, United States Marshals Service on findings of alleged misconduct of United States Marshals Service personnel.

The United States Marshals Service now proposes a new routine use which will allow release of information in the system to other Federal law enforcement agencies for further investigations where investigation has revealed actual or potential violation of criminal or civil laws. This routine use is compatible with the purposes for which the system is maintained; therefore, no report to the Office of Management and Budget and the Congress is required.

In the Proposed Rules section of today's **Federal Register**, the United States Marshals Service proposes to additionally exempt the system from the Privacy Act provision "to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record." 5 U.S.C. 552a(e)(8). This exemption applies to the extent that an investigation has revealed an actual or potential violation(s) of criminal or civil laws. (The system is currently exempt from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(4)(G) and (H), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5).)

These and minor editorial changes have been italicized for the convenience of the public.

Address any comments to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, N.W., Washington, D.C. 20530. If no comments are received within 30 days of the publication date of this notice, the new routine use will be adopted and a final rule will be published to accomplish codification of the new exemption in 28 CFR 16.101.

Dated: December 20, 1982.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/USM–002

SYSTEM NAME:

Internal Investigations System.

SYSTEM LOCATION:

United States Marshals Service: Department of Justice; One Tysons Corner Center, McLean, Virginia 22102.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Marshals Service employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Internal *Investigations* System contains reports prepared by the Office

of Internal *Investigations* United States Marshals Service on findings of alleged misconduct of U.S. Marshals, Service employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 CFR Subpart T. 0.11(n).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information gathered is used by U.S. Marshals Service in disciplinary proceedings against employees It is also used in administrative hearings before the *United States Merit Systems Protection Board* and in court proceedings. *To the extent that investigations reveal actual or potential violations of criminal or civil laws, the information is used by other Federal law enforcement agencies for further investigations.*

Release of Information to the News Media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of Information to Members of Congress:

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Originals stored in file.

RETRIEVABILITY:

Information is retrieved by name of employee.

SAFEGUARDS:

Records are stored in locked safe.

RETENTION AND DISPOSAL:

Records are retained for 12 months and then referred to Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Internal Investigations, U.S. Marshals Service; U.S. Department of Justice, One Tysons Corner Center, McLean, Virginia 22102.

NOTIFICATION PROCEDURE:

Same as System Manager.

RECORD ACCESS PROCEDURES:

To the extent that this system is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked 'Privacy Access Request.' It should clearly indicate name of the requestor, the nature of the record sought and approximate dates covered by the record. The requestor shall also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Information derived from investigation of alleged malfeasance, by U.S. Marshals Service Office of Internal Investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5). To the extent that investigations reveal actual or potential criminal or civil violations, this system is additionally exempt from subsection (e)(8) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register.**

[FR Doc. 83-2101 Filed 1-25-83; 8:45 am]
BILLING CODE 4410-01-M

MARINE MAMMAL COMMISSION

Marine Mammal Commission and Committee of Scientific Advisors on Marine Mammals; Meetings

The second notice is hereby given that the Marine Mammal Commission and the Committee of Scientific Advisors of Marine Mammals will meet on February 24, 25, and 26, 1983 at The New Otani Kaimana Beach Hotel, 2863 Kalakaua Avenue, Honolulu, Hawaii 96815. The revised agenda follows.

On February 24, from 11:00 a.m. to 5:10 p.m., the Commission and Committee will meet in public session to discuss and consider activities and problems related to: the California sea otter; bottlenose dolphin populations; preparations for forthcoming International Whaling Commission and North Pacific Fur Seal Commission meetings; and issues related to marine mammals in Alaska.

On February 25, from 9:00 a.m. to 6:00 p.m., the Commission and Committee will meet together in public session to discuss and consider the status of activities and problems affecting marine mammals, including matters related to: the protection and recovery of the endangered Hawaiian monk seal; humpback whales; marine mammal/fishery interactions; and net entanglement of marine mammals.

On February 26, from 8:30 a.m. to 11:25 a.m., the Commission and Committee will meet in public session to discuss and consider various aspects of the Minerals Management Service's activities affecting marine mammals and to summarize needed research efforts with respect to monk seals and sea otters.

The remainder of the meeting will consist of executive sessions of the Commission and Committee to be held on 24 February from 9:00 a.m. to 10:45 a.m. and on 26 February from 11:25 a.m. to 12:00 noon. These sessions will be devoted to the exchange of opinions and deliberations concerning internal personnel rules and practices, budget, interagency liaison, proposed policies and actions relating to international negotiations, proposed agency policies and actions, and the evaluation of proposals to conduct research in which participants will be candidly discussing and appraising the professional qualifications and competence of the proposers, their potential contribution to

the research program, and information given to the Commission and Committee in confidence. These sessions are concerned with matters listed in 5 U.S.C. 522(b)(c)(2), (3), (4), (6) and (9)(B), and therefore will not be open to the public.

January 21, 1983.

John R. Twiss, Jr.,

Executive Director,
Marine Mammal Commission.

[FR Doc. 83-2143 Filed 1-25-83; 8:45 am]

BILLING CODE 3825-81-M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Collective Ratemaking Process; Cancellation of Public Meeting

Date: Thursday, January 27, 1983.

Place: Russell Senate Office Building, Room 235, Constitution Avenue and First Street, NE., Washington, D.C. 20510.

Time: 9:00 a.m.

Purpose: The meeting of the Motor Carrier Ratemaking Study Commission scheduled for Thursday, January 27, 1983, (published at 48 FR 2085, Jan. 17, 1983) has been cancelled. The meeting will be rescheduled at a later date.

For further information, contact: Name: J. Kent Jarrell, Title: General Counsel, Phone No.: (202) 724-0600.

Submitted this, the 25th day of January, 1983.

Larry F. Darby,

Executive Director.

[FR Doc. 83-2328 Filed 1-25-83; 10:10 am]

BILLING CODE 6820-80-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-11]

NASA Advisory Council (NAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force for the Study of Issues in Selecting Private Citizens for Space Shuttle Flight.

DATE AND TIME: February 10-11, 1983, 9 a.m. to 5 p.m.

ADDRESS: NASA Headquarters, 600 Independence Avenue, Room 521J, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB-4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-8380).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force for the Study of Issues in Selecting Private Citizens for Space Shuttle Flight was established under the NASA Advisory Council to conduct a study of the relevant issues and to report its findings and recommendations to the Council. The Task Force is chaired by Dr. John E. Naugle, and includes eight other members.

The meeting will be closed to the public. The members will discuss and evaluate, in a hypothetical sense, the names and qualifications of real individuals to test the adequacy of purposes, suitability criteria, and selection methods relating to the possible Shuttle flight of private citizens. Throughout the sessions, the qualifications of these individuals will be candidly discussed and appraised. Because the meeting will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this meeting should be closed to the public.

Type of meeting: Closed.

Dated: January 20, 1983.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 83-2040 Filed 1-25-83; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. DPR-6, to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Big Rock Point Plant (facility) located in Charlevoix County, Michigan. This amendment is effective as of its date of issuance.

The amendment approves Technical Specification changes which pertain to (1) inservice inspection and (2) the definition of cold shutdown.

The applications for amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 27, 1978 and September 16, 1982, (2) Amendment No. 56 to License No. DPR-6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of January, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-2111 Filed 1-25-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Company; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Provisional Operating License No. DPR-20, to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Palisades Plant (the facility) located in Van Buren County, Michigan. This amendment is effective as of its date of issuance.

The amendment approves changes to the Appendix A Technical Specification provisions related to surveillance requirements for pumps, valves, and diesel generators.

The application for amendment complies with the standards and requirements of the Atomic Energy Act

of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 19, 1977, (2) Amendment No. 73 to License No. DPR-20, and (3) the Commission's related-Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 20th day of January, 1983

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-2112 Filed 1-25-83; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new revision or extension: New
2. The title of the information collection: Abandoned Well-Logging Sources
3. The form number if applicable: Not applicable
4. How often the collection is required: One time
5. Who will be required or asked to report: Agreement and Non-Agreement States
6. An estimate of the number of responses: 22
7. An estimate of the total number of hours needed to complete the requirement or request: 250
8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable
9. Abstract: NRC is requesting that specified States search their records pertaining to abandoned well-logging sources, annotate their records, and submit a verification letter or reply by telephone.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland this 20th day of January, 1983.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 83-2113 Filed 1-25-83; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 7.10, "Establishing Quality Assurance Programs for Packaging Used in the Transport of Radioactive Material," provides persons subject to the quality assurance requirements of 10 CFR Part 71 with information on the essential elements needed to develop, establish, and maintain a quality assurance program acceptable to the NRC staff for packages to transport radioactive materials.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 19th day of January, 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-2114 Filed 1-25-83; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Resource Assessment Subcommittee Meeting; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of the Resource Assessment Subcommittee of its Scientific and Statistical Advisory Committee.

DATE: Friday, February 4, 1983. 9:00 a.m.

ADDRESS: The meeting will be held at the Council's Central Office located at 700 SW. Taylor Street, Suite 200, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Tom Foley, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 83-2078 Filed 1-25-83; 8:45 am]

BILLING CODE 6560-02-M

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

Public Meeting

Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committees Act, that the twenty-eighth and final meeting of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research will be held in the Columbia C Room at the Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW., Washington, D.C. from 9:00 a.m. to 12:00 noon on Friday, February 11, 1983.

The meeting will be open to the public, subject to limitations of available space. The agenda will include, among other things, consideration of a final report on the Commission's work, and reports on the status of other pending reports and business.

Records shall be kept on all Commission proceedings and will be available for public inspection at the Commission office, located in Suite 555, 2000 K Street, NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Andrew Burness, Public Information Officer, at (202) 653–8051.

Barbara Mishkin,

Deputy Director.

[FR Doc. 83-2140 Filed 1-25-83; 8:45 am]

BILLING CODE 6820-AV

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12980; (812–5401)]

Daily Money Fund; Filing Application

January 19, 1983.

Notice is hereby given that Daily Money Fund ("Applicant"), (formerly Devonshire Street Fund), 82 Devonshire Street, Boston, Massachusetts 02109, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 17, 1982, pursuant to Section 6(c) of the Act, for an order of the Commission exempting Applicant and any additional separate portfolios that may be established by Applicant, from Section 2(a)(41) of the Act and from Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant's assets to be valued at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the Rules thereunder for the complete text of those provisions thereof from which an exemption is being sought.

Applicant states that it was organized and is presently legally existing as a business trust under the laws of The Commonwealth of Massachusetts. A registration statement under the Securities Act of 1933 and the Investment Company Act of 1940 on Form N–1 (file NO. 2–77909) was filed on June 7, 1982. Applicant presently consists of one Portfolio—a Money Market Portfolio. The Portfolio will invest in obligations of major U.S. banks, including U.S. dollar denominated obligations of foreign branches of U.S. banks and U.S. branches of foreign banks, prime commercial paper and obligations of the U.S. Government, its agencies or instrumentalities. The Applicant may also enter into repurchase agreements with broker-dealers and banks involving any security in which it is permitted to invest and may purchase new issues of government securities on a "when-issued" basis. In entering into repurchase agreements and purchasing "when issued" securities Applicant will comply with the views stated in Investment Company Act Release No. 10666.

Applicant is a series money market fund offering to individuals, corporations, fiduciaries and institutions a means to invest in a professionally managed portfolio of certain money market instruments with the objective of seeking as high a level of current income as is consistent with the preservation of capital and liquidity. Fidelity Management & Research Company ("Adviser") will serve as investment adviser to Applicant and will receive a fee at an annual rate of .70% of the average daily net assets of Applicant. The Applicant has adopted a Service Plan (the "Plan") pursuant to Rule 12b–1 under the Act. As provided in the Plan, the Adviser is permitted to make periodic payments through the Applicant's principal underwriter (Fidelity Distributors Corporation) out of the fee paid to the Adviser, its past profits or any other source available to it, to Qualified Recipients (certain securities dealers, financial institutions or other industry professionals) for distribution, administration and/or for servicing investors in Applicant's shares and for any costs of printing and distributing prospectuses and sales literature to prospective investors, advertising, and implementing and operating activities under the Plan.

In a May 31, 1977 interpretative release (Investment Company Act Release No. 9786), the Commission stated that (1) Rule 2a–4 requires that portfolio instruments of "money market" funds be valued with reference to market factors and (2) it would prospectively consider the use by a money market fund of the amortized cost basis for valuing its portfolio securities (except those having maturities of 60 days of less) to be inconsistent with Rule 2a–4. In view of the foregoing Applicant requests exemptions from the provisions of Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to value its portfolio securities by means of the amortized cost method of valuation.

Section 6(c) of the Act provides, in part, that the Commission upon application may conditionally or unconditionally exempt any person, security or transaction or any class or classes or persons, securities or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that it has been management's experience that in order to attract and retain investors Applicant must have a stable net asset value (preferably at $1.00 per share) and a constant and steady flow of investment income. Applicant believes that the valuation of its portfolio securities on the amortized cost basis will benefit shareholders by enabling it to maintain a constant $1.00 per share purchase and redemption price, while at the same time providing shareholders with a steady flow of investment income through daily dividends which reflect Applicant's net income as earned.

Applicant states that its Trustees have determined in good faith that in light of the characteristics of the Applicant as discribed above and absent unusual or extrordinary circumstances, the amortized cost method of valuing portfolio securities is appropriate and preferable for Applicant and reflects fair value of such securities. It is the Adviser's experience that given the nature of Applicant's policies and operations, there will be relatively negligible discrepancy between prices obtained by market value methods and amortized cost. Applicant submits that the issuance of the requested order by the Commission is appropriate in the public interest and consistent with the protection of investors and the purposes

fairly intended by the policy and provisions of the Act.

Applicant expressly consents to the imposition of the following conditions in any order granting the relief it requests:

(1) In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Trustees undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share for each portfolio, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

(2) Included with the procedures to be adopted by the Board of Trustees shall be the following:

(a) Review by the Board of Trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the Board of Trustees will promptly consider what action, if any, should be initiated.

(c) Where the Board of Trustees believes the extent of any deviation from Applicant's $1.00 amortized cost price per share for any portfolio may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average maturity of the relevant portfolio; withholding dividends; or utilizing a net asset value pershare as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share in each of its portfolios, provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days in each portfolio.[2]

(4) Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Trustees' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Trustees' meetings. The documents preserved purusuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) In each portfolio Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar-denominated instruments which the Board of Trustees determines present minimal credit risks and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Trustees.

(6) Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition (c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 14, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2072 Filed 1-25-83; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Trustees in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[2] In fulfilling this condition, of the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days for any of its portfolios, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity for that portfolio to 120 days or less as soon as reasonably practicable.

[Release No. 34–19441; File No. SR–MSTC–82–28]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 28, 1982 the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Proposed Price Revision Schedule for the Midwest Securities Trust Company, effective January 3, 1983, was submitted with the filing as Exhibit A.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects fo such statements.

A Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed price revisions, effective January 3, 1983, reflect increases in monthly fixed service fees and several transaction fees, primarily those related to labor intensive functions. Because of cost savings experienced through automation over the past year, along with a projected growth in activity, MSTC has been able to retain the majority of the existing fees during 1983 despite the impact of inflation on its overall operations and those of participants. In addition, several services will continue to be subject to variable rates or maximum rate fees, to reflect economies of scale and to encourage growth. Any fees for services not reflected in the proposed schedule are not being revised.

The proposed fee schedule is consistent with Section 17A of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among MSTC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed fee schedule.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: January 19, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–2073 Filed 1–25–83; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan No. 2075]

Mississippi; Declaration of Disaster Loan Area

Lowndes County in the State of Mississippi constitutes a disaster area as a result of damage caused by excessive rain and flooding which occurred on December 3, 1982 through January 6, 1983. Eligible persons, firms and organizations may file applications for physical damage until the close of business on March 21, 1983, and for economic injury until the close of business on October 19, 1983, at the address listed below:

U.S. Small Business Administration, 322 Federal Building, Jackson, Mississippi 39203

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere, 13⅜%

Homeowners without credit available elsewhere, 6⅞%

Businesses with credit available elsewhere, 11½%

Businesses without credit available elsewhere, 8%

Businesses (EIDL) without credit available elsewhere, 8%

Other (non-profit organizations including charitable and religious organizations), 11⅜%

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated June 20, 1983.

Robert B. Webber,

Acting Administrator.

[FR Doc. 83–2128 Filed 1–25–83; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 846]

Request for Comments on U.S. Participation in UNESCO

AGENCY: Under Secretary for Security Assistance, Science and Technology Report on UNESCO Activities, Department of State.

ACTION: Notice of period for public comments on U.S. participation in the United Nations Educational, Scientific and Cultural Organization (UNESCO).

SUMMARY: Notice is hereby given that the Department of State, in connection with the preparation of the report to the Congress on certain aspects of U.S. participation in UNESCO required by Sections 108 and 109 of Pub. L. 97–241, is providing the opportunity for public comments concerning the effectiveness of UNESCO's utilization of its funds and the quality of that Organization's programs and activities, particularly any effect of such programs and activities on the functioning of a free press.

DATE: The period for comment will be open until 5:00 p.m., February 14, 1983.

ADDRESS: Comments should be sent to the Acting Coordinator for International Communications and Information Policy, Room 7208, U.S. Department of State, Washington, D.C. 20520.

SUPPLEMENTARY INFORMATION: Section 108 of Pub. L. 97–241 requires, in relevant part, that the President report to the Congress his assessment of, *inter alia* the use of U.S. contributions to UNESCO to serve U.S. national interests. Section 109 of that law requires the Secretary of State to report to the Congress whether UNESCO implements "any policy or procedure the effect of which is to license journalists or their publications, to censor or otherwise restrict the free flow of information within or among

countries, or to impose mandatory codes of journalistic practice or ethics"; a finding that UNESCO implements any such action would prevent funds authorized by Pub. L. 97–241 from being used to pay the U.S. assessed contribution to UNESCO. Although not required to solicit public comment, the Department of State is providing this opportunity due to the expression of significant public interest on the general subject.

Dated: January 21, 1983.

William C. Salmon,

Acting Coordinator for International Communications and Information Policy.

[FR Doc. 83–2161 Filed 1–25–83; 8:45 am]

BILLING CODE 4710–19–M

[Public Notice CM–8/596]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Accounting Standards of the Advisory Committee on International Investment, Technology, and Development on Friday, February 11, 1983, from 10:00 a.m., to 12:00 noon in Room 1205 at the Department of State, 2201 C Street NW., Washington, D.C. 20502. The meeting will be open to the public.

The purpose of the meeting will be to discuss the upcoming meeting of the U.N. Intergovernmental Working Group on International Standards of Accounting and Reporting, which will be held February 22 to March 4. The Working Group will also discuss the status of ongoing OECD work on accounting.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: January 11, 1983.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 83–2070 Filed 1–25–83; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular; Public Debt Series—No. 1–83]

Treasury Notes; Series Q–1985

January 20, 1983.

The Secretary announced on January 19, 1983, that the interest rate on the notes designated Series Q–1985, described in Department Circular—Public Debt Series—No. 1–83 dated January 13, 1983, will be 9¾ percent. Interest on the notes will be payable at the rate of 9¾ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 83–2068 Filed 1–25–83; 8:45 am]

BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 18
Wednesday, January 26, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, January 27, 1983 following the Open Meeting which is scheduled to commence at 9:30 A.M. in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No. and Subject

Enforcement—1. (1) Results of a field investigation into the operation of Radio Station WTJH, East Point, Georgia, and (2) renewal applications for WTJH and commonly owned Radio Stations WJIZ (FM), Albany, Georgia, and WMJM and WFAV(FM) Cordele, Georgia.

Hearing—1. WIOO, Inc. Carlisle, Pennsylvania, AM radio comparative renewal proceeding (Docket Nos. 21506-07)

2. Applications for Review in the Depere, Wisconsin comparative FM Radio proceeding (BC Docket Nos. 80-310, 80-312).

3. Draft Decision in the United Broadcasting Company (Docket Nos. 20611 and 20612).

Enforcement Item 1 is closed to the public because it concerns Investigatory Records Matters (See 47 CFR 0.603 (g)).

Hearing Items 1, 2, and 3 are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend the appropriate portions of this meeting: Commissioners and their Assistants, Managing Director and members of his staff, General Counsel and members of his staff, Chief, Mass Media Bureau and members of his staff, Chief, Office of Public Affairs and members of his staff.

Action by the Commission:

Enforcement Item 1, January 19, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider this item in Closed Session.

Hearing Items 1, 2 and 3, January 19, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp voting to consider these items in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Affairs Office, telephone number (202) 254-7674.

Dated: January 20, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-111-83 Filed 1-24-83; 11:02 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

The following item has been deleted at the request of the Office of the Chairman from the list of agenda items scheduled for consideration at the January 20, 1983 Open Meeting and previously listed in the Commission's Notice of January 13, 1983.

Agenda, Item No., and Subject

General—3. Title: Requirements for Licensed Operators in Various Radio Services.
Summary: The Commission will consider whether or not to adopt a Notice of Proposed Rule Making to eliminate licensed operator requirements in various radio services.

Dated: January 20, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-113-83 Filed 1-24-83; 11:02 am]

BILLING CODE 6712-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 31, 1983, to consider the following matters:

SUMMARY AGENDA: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of Minutes of Previous Meetings

Application for consent to merge and establish one branch and to redesignate the main office: Clayton Banking Company, Clayton, Alabama, for consent to merge, under its charter and with the title "Southern Planters Bank & Trust," with Henry County Bank, Abbeville, Alabama, and to establish the sole office of Henry County Bank as a branch of the resultant bank, and for consent to redesignate the main office of Henry County Bank as the main office of the resultant bank.

Application for consent to purchase assets and assume liabilities and establish two branches: Kitsap County Bank, Port Orchard, Washington, for consent to purchase certain assets of and assume the liability to pay certain deposits made in the Poulsbo Branch of Prudential Mutual Savings Bank, Seattle, Washington, and the Bremerton Branch of State Mutual Savings Bank, Tacoma, Washington, and to establish those two offices as branches of Kitsap County Bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,399-L—Metropolitan Bank and Trust Company Tampa, Florida

Case No. 45,574—Mutual Savings Banks

Memorandum and Resolution re: American Bank & Trust Company, New York, New York

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Bank Supervision:

Memorandum re: First Pennsylvania Bank, N.A., Bala-Cynwyd, Pennsylvania; First Pennsylvania Corporation, Philadelphia, Pennsylvania; Report of Actions Taken Under Delegated Authority

Reports of the Director, Office of Corporate Audits:

Audit Report re: Chicago Region Financial Activities, dated December 16, 1982.
Audit Report re: Assessment Subsystem, dated January 6, 1983.

Discussion Agenda: No matters scheduled.

The meetings will be held in the Board Room on the sixth floor of the FDIC building located at 550–17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–114–83 Filed 1–24–83; 12:33 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that the open meeting of the Federal Deposit Insurance Corporation's Board of Directors scheduled for 2:00 p.m. on Monday, January 24, 1983, has been RESCHEDULED to 11:00 a.m. that same day and will be conducted by telephone conference call; and that the closed meeting of the Board of Directors scheduled for 2:30 p.m. on Monday, January 24, 1983, has been CANCELLED.

No earlier notice of the change in time of the open meeting and in the cancellation of the closed meeting was practicable.

Dated: January 21, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–115–83 Filed 1–24–83; 12:33 pm]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 31, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

SUMMARY AGENDA: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof: Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda

Applications for consent to convert into non-FDIC insured institutions:
Mid Maine Mutual Savings Bank, Auburn, Maine.
Society for Savings, Hartford, Connecticut.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets: Case No. 45,555–L Reserves for Losses, 124 Open Liquidation Cases.

Memorandum re: Revised cost estimates—FDIC-assisted mutual savings bank mergers.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.: Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation at (202) 389–4425.

Dated: January 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–116–83 Filed 1–24–83; 12:33 pm]

BILLING CODE 6714–01–M

6

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission

TIME AND DATE: January 26, 1983, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306

STATUS: Open

MATTERS TO BE CONSIDERED: Agenda

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda, 763rd Meeting—January 26, 1983, Regular Meeting (10:00 a.m.)

CAP–1. Project Nos. 6402–000 and 6403–000, Western Hydro Electric, Inc.
CAP–2. Project No. 6393–000, Lawrence J. McMurtrey
CAP–3. Project No. 6215–000, Western Hydro Electric, Inc.
CAP–4. Project No. 6205–000, Western Hydro Electric, Inc.
CAP–5. Project No. 6660–000, Raleigh and Virginia Stevens
CAP–6. Project No. 6765–001, BMB Enterprises
CAP–7. Project No. 6648–000, Lacomb Irrigation District
CAP–8. Project No. 4113–001, Long Lake Energy Corporation
Project No. 5315–001, Phoenix Hydro Corporation
Project No. 5323–001, Village of Phoenix, New York
Project No. 6806–001, New York State Energy Research and Development Authority
CAP–9. Project Nos. 5959–000, 5961–000, 5962–000, and 5963–000, New York State Office of Parks, Recreation and Historic Preservation
CAP–10. Project No. 6167–001, Ronald Rulofson
CAP–11. Project No. 5867–002, Long Lake Energy Corporation
CAP–12. Project No. 3193–002, City of Santa Clara, California
CAP–13. Project No. 4261–000, Consolidated Hydroelectric, Inc.
Project No. 5178–000, Modesto Irrigation District
CAP–14. Project Nos. 5312–000 and 001, J. R. Ferguson and Associates

Project Nos. 5337-000 and 001, Westfir Energy Company, Inc.
CAP-15. Project Nos. 2157-001 and 2157-010, Public Utility District No. 1 of Snohomish County and City of Everett, Washington
CAP-16. Project No. 6282-000, City of Boulder, Colorado Project No 6320-000, James W. Guercio
CAP-17. Omitted
CAP-18. Docket No. ER83-164-000, Iowa Public Service Company
CAP-19. Docket No. ER83-170-000, New England Power Company
CAP-20. Docket No. ER83-173-000, Metropolitan Edison Company
CAP-21. Docket Nos. ER82-853-001 and ER82-854-001, Appalacian Power Company
CAP-22. Docket No. ER83-2-001, Wisconsin Electric Power Company
CAP-23. Docket Nos. ER82-673-003 and ER82-673-004, Kentucky Utilities Company
CAP-24. Docket No. ER80-5-004, Minnesota Power & Light Company
CAP-25. Docket No. ER78-338-002, Public Service Company of New Mexico
CAP-26. Docket No. ER77-578-003, Kansas Gas and Electric Company
CAP-27. Docket Nos. ER81-70-000 and ER81-71-000, New England Power Company
CAP-28. Docket No. ER82-25-002, Commonwealth Edison Company
CAP-29. Docket No. ER82-26-000, West Florida Electric Cooperative Association, Inc. and Alabama Electric Cooperative, Inc. v. Gulf Power Company
CAP-30. Docket Nos. ER81-504-004 and ER 81-504-005, Delmarva Power & Light Company
CAP-31. Docket No. ER82-465-000, Empire District Electric Company
CAP-32. Docket No. ER78-379-000, Indiana & Michigan Electric Company
CAP-33. (A) Docket Nos. ER80-592, et al., Allegheny Power System, et al.
Docket Nos. ER80-657-000, ER82-672-000 and ER80-721-000, Cincinnati Gas & Electric Company
(B) Docket No. ER80-592, et al., Allegheny Power System, et al.
Docket No. ER80-613-000, Duke Power Company
(C) Docket No. ER80-592, et al., Allegheny Power System, et al.
Docket No. ER80-594-000, Iowa Power and Light Company
CAP-34. Project No. 3186-002, City of Ukiah, California Project No. 3351-000, Sonoma County Water Agency

Consent Miscellaneous Agenda

CAM-1. Docket No. RM83-49-000, Extension of Filing Date Under Section 133 of Purpa
CAM-2. Docket No. RM79-76-140 (Texas-11 Addition III), High-Cost Gas Produced From Tight Formations
CAM-3. Docket No. RM79-76-118 (New York-2), High-Cost Gas Produced From Tight Formations

Consent Gas Agenda

CAG-1. Docket No. RP83-34-000, Great Lakes Gas Transmission Company
CAG-2. Docket No. TA83-1-10-000 (PGA83-1), Tennessee Natural Gas Lines, Inc.
CAG-3. Docket No. TA83-1-15-000 (PGA83-1), Mid-Louisiana Gas Company
CAG-4. Docket No. TA83-1-16-000 (PGA83-1), National Fuel Gas Supply Corporation
CAG-5. Docket Nos. TA82-2-16-003, RP82-87-000 and TA83-1-16-001, National Fuel Gas Supply Corporation
CAG-6. Docket Nos. TA82-2-16-003 (PGA82-2b), RP82-87 and TA83-1-16-001 (GRI83-1a), National Fuel Gas Supply Corporation
CAG-7. Docket No. TA83-1-17-000 (PGA83-1), Texas Eastern Transmission Corporation
CAG-8. Docket No. TA83-1-61-000 (PGA83-1), West Lake Arthur Company
CAG-9. Docket No. RP82-115-001, Consolidated Gas Supply Corporation
CAG-10. Docket No. TA83-29-001 (PGA83-1a, IPR83-1, DCA83-1a), Transcontinental Gas Pipe Line Corporation
CAG-11. Docket No. RP82-33-004, El Paso Natural Gas Company
CAG-12. Docket No. TA83-1-43-000 (PGA83-1), Cities Service Gas Company
Docket No. RP82-113-000, Cities Service Gas Company
CAG-13. Docket No. RP83-13-002, El Paso Natural Gas Company
CAG-14. Docket Nos. TA82-2-17-005 (PGA82-2) (IPR82-2) and (DCA82-2) and RP81-109-007, Texas Eastern Transmission Corporation
CAG-15. Docket Nos. TA82-2-18-005 and RP82-74-004, Texas Gas Transmission Corporation
CAG-16. Docket No. TA83-1-53-002, Kansas-Nebraska Natural Gas Company, Inc.
CAG-17. Docket No. RP82-116-004, Southern Natural Gas Company
CAG-18. Docket No. TA82-2-42-009, TA82-2-42-001, RP81-130-000, and TA83-1-42-000, Transwestern Pipeline Company
CAG-19. Docket No. RP82-71-005, Northern Natural Gas Company
CAG-20. Docket No. TA82-2-46-003 (PGA82-2 and IPR82-2), Kentucky West Virginia Gas Company
CAG-21. Docket No. RP82-62-004, Natural Gas Pipeline Company of America
CAG-22. Docket Nos. TA83-1-6-000 and TA83-1-6-001 (PGA83-1, IPR83-1), Sea Robin Pipeline Company
CAG-23. Docket No. TA82-2-16-002, National Fuel Gas Supply Corporation
CAG-24. Docket No. TA82-2-22-000 (PGA82-2, IPR82-2, and RD&D82-2), Consolidated Gas Supply Corporation
CAG-25. Omitted
CAG-26. Docket Nos. RP80-97-019, 020, 021, RP81-54-008, 009 and 010, Tennessee Natural Gas Pipeline Company, et al.
CAG-27. Docket No. RP81-81-006, United Gas Pipeline Company
CAG-28. Docket No. OR78-1-011, Trans Alaska Pipeline System
CAG-29. Docket No. ST82-370-000, Northern Illinois Gas Company
CAG-30. Docket No. CI80-203-002, Eugene Shoal Oil Company
Docket No. CI83-14-001, CNG Producing Company
Docket No. CI83-17-001, Mesa Petroleum Company
Docket No. CI83-36-001, Superior Oil Company
Docket No. CI83-21-001, Koch Industries, Inc.
CAG-31. Docket No. CP83-132-000, Texas Eastern Transmission Corporation
CAG-32. Docket No. CP81-378-003, Texas Eastern Transmission Corporation
CAG-33. Docket No. CP83-29-000, Northern Natural Gas Company, Division of Internorth, Inc.
CAG-34. Docket No. CP82-524-000, Northern Natural Gas Company, Division of Internorth, Inc.
CAG-35. Docket No. CP80-271-001, United Gas Pipe Line Company
CAG-36. Docket No. CP84-109-000, Michigan Wisconsin Pipe Line Company
CAG-37. Docket No. CP82-452-001, Northwest Pipeline Corporation
CAG-38. Docket Nos. RP79-8-008 and RP80-8-001, Kansas-Nebraska Natural Gas Company, Inc.
CAG-39. Docket Nos. ST82-443-000 and ST82-445-000, Seagull Pipeline Corporation
CAG-40. Docket No. ST82-448-000, Cabot Corporation
CAG-41. Docket No. IS83-25-000, Mid-America Pipeline Company
CAG-42. Docket No. RP83-40-000, Inter-City Minnesota Pipelines Ltd.
CAG-43. Docket Nos. CI77-702-000, CI78-499-000, CI78-501-000, CI78-767-000, CI72-321-000, and CI74-214-000, Pennzoil Producing Company
Docket Nos. CI78-96-000, CI78-498-000, CI78-500-000, CI73-477-000, and CI73-546-000, Pennzoil Oil & Gas, Inc.

I. Licensed Project Matters:
P-1. Omitted
P-2. Project No. 289, Louisville Gas and Electric Company

II. Electric Rate Matters:
ER-1. Omitted
ER-2. Omitted

Miscellaneous Agenda

M-1. Docket No. RM82-10-000, Revision of Power System Statement: Form No. 12
M-2. Reserved
M-3. Reserved
M-4. Omitted
M-5. (A) Docket No. GP 83-10-000, State of Mississippi, Section 107 NGPA Determination, Sun Exploration and Production Company, Sun Gas Division, Ross Beatty No. 1 Well, JD No. 82-52240
(B) Docket No. GP83-9-000, State of Kansas, Section 102 NGPA Determination, TXO Production Corporation, Cromer #1 Well, JD No. 83-03969, State Docket No. K-82-0899
M-6. Docket No. RA82-28-000, MGPC, Inc.

Gas Agenda

I. Pipeline Rate Matters:
RP-1. Omitted
RP-2. Docket No. RP78-68-000, United Gas Pipe Line Company
RP-3. Docket No. RP79-23-003, Distrigas of Massachusetts Corporation
Docket No. RP79-24-002, Distrigas Corporation
RP-4. Docket No. RP80-107-009, Natural Gas Pipeline Company of America
RP-5. Docket Nos. RP80-91-000 and RP80-93-000, Arkansas-Louisiana Gas Company

II. Produced Matters: CI-1. Docket No. 67-1226-000, Phillips Petroleum Company

III. Pipeline Certificate Matters:
CP-1. Docket No. TC82-43-001, Kansas-Nebraska Natural Gas Company, Inc.

CP–2. Docket No. CP80–435–000, Alaskan Northwest Natural Gas Transportation Company
Docket No. CP78–13–000, et al., Northwest Alaskan Pipeline Company
CP–3. Docket No. CP81–188–002, Consolidated Gas Supply Corporation

Dated: January 19, 1983.

Kenneth F. Plumb,

Secretary.

[S–109–83 Filed 1–24–83; 10:33 pm]

BILLING CODE 6717–01–M

7

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10:30 A.M., Wednesday, February 2, 1983.

PLACE: Board Room, 6th Floor, 1700 G St., Washington, D.C.

STATUS: OPEN MEETING.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202–377–6679).

MATTERS TO BE CONSIDERED:

Applications for Bank Membership and Insurance of Accounts—Wilshire Savings and Loan Association, Los Angeles, California.

Insurance of Accounts—Union Mutual Savings Association, Albuquerque, New Mexico.

Designation of Peter Shaw and Kevin McCarthy as Supervisory Agents Federal Home Loan Bank of Boston.

No. 5, January 24, 1983.

[S–110–83 filed 1–24–83; 10:54 am]

BILLING CODE 6720–01–M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: 9:30 a.m., Monday, January 31, 1983.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed follow-up report to Congress on the International Banking Act of 1978.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 21, 1983.

James McAfee,

Associate Secretary of the Board.

[S–113–83 Filed 1–24–83; 11:43 am]

BILLING CODE 6210–01–M

9

INTERNATIONAL TRADE COMMISSION

Executive Resources Board (ERB).

TIME AND DATE: 11:00 a.m., Thursday, February 10, 1983.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

New Business

1. Approval of the 1983 Executive Development Participants' Individual Development Plans.

2. Managerial Development Candidates' Annual Appraisals.

Old Business

1. Discussion of the Presidential Exhange Program.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

[S–117–83 Filed 1–24–83; 1:53 pm]

BILLING CODE 7020–02–M

10

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

DATE: February 7, 1983.

PLACE: Ida Noyes Hall, Library, University of Chicago, Chicago, Illinois.

TIME: 10:00 a.m. to 5:00 p.m.

PURPOSE: To receive testimony in the area of "Access and Choice". Dr. John B. Lee, of Applied Systems Institute, Inc. will present a paper contracted by the Commission entitled: *Changes in College Participation Rates and Student Financial Assistance.*

Written testimony is invited, and may be sent to the Commission at the above address.

FOR FURTHER INFORMATION CONTACT: Donna M. Lumia, Hearings Coordinator, (202) 472–9023.

Submitted the 21st day of January 1983.

Richard T. Jerue,

Chief Executive Officer.

[S–107–83 Filed 1–24–83; 10:22 am]

BILLING CODE 6820–BC–M

11

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

DATE: February 16, 1983.

PLACE: Hyatt Lexington, Patterson Ballroom, Lexington, Kentucky.

TIME: 8:30 a.m. to 4:00 p.m.

PURPOSE: To receive testimony in the area of academic progress, the delivery system, and GSL loan servicing.

Written testimony is invited, and may be sent to the Commission at the above address.

FOR FURTHER INFORMATION CONTACT: Donna M. Lumia, Hearings Coordinator, (202) 472–9023.

Submitted the 21st day of January 1983.

Richard T. Jerue,

Chief Executive Officer.

[S–108–83 Filed 1–24–83; 10:22 am]

BILLING CODE 6820–BC–M

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January 26, 1983

Part II

Department of Health and Human Services

Office of Human Development Services

Child Abuse and Neglect Prevention and Treatment Program; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1340

Child Abuse and Neglect Prevention and Treatment Program

AGENCY: Office of Human Development Services, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is issuing final regulations to implement the amendments to the Child Abuse Prevention and Treatment Act contained in Title 1 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, Pub. L. 95–266, as amended. The regulations also clarify, simplify and eliminate where repetitive of the statute, the rules governing the Child Abuse and Neglect Prevention and Treatment Program and those related to the coordination of Federal activities related to child abuse and neglect.

EFFECTIVE DATE: February 25, 1983.

FOR FURTHER INFORMATION CONTACT: Jay Olson, Special Assistant to the Director, National Center on Child Abuse and Neglect, Room 2008D, Donohoe Building, 400 6th Street SW., P.O. Box 1182, Washington, D.C. 20013, (202) 245–2859.

SUPPLEMENTARY INFORMATION

Background

The Child Abuse Prevention and Treatment Act (Pub. L. 93–247) (the Act) (42 U.S.C. 5101 et seq.) was enacted in 1974. It established within the Department of Health, Education and Welfare (now the Department of Health and Human Services) the National Center on Child Abuse and Neglect. The National Center is organizationally located within the Children's Bureau of the Administration for Children, Youth and Families, Office of Human Development Services.

The National Center on Child Abuse and Neglect, through the Act, was given responsibility for:

- Compiling and disseminating an annual summary of recent and on-going research on child abuse and neglect,
- Developing and maintaining an information clearinghouse,
- Compiling, publishing and disseminating training materials,
- Providing technical assistance to public and nonprofit private agencies and organizations,
- Conducting research, and
- Making a complete and full study of the national incidence of child abuse and neglect.

The Act also authorized the Center to make grants or enter into contracts with public agencies or nonprofit private organizations for demonstration programs and projects designed to prevent, identify, and treat child abuse and neglect, as well as make grants to States to assist States in developing, strengthening and carrying out child abuse and neglect prevention and treatment programs.

Finally, the Act provided that the Secretary appoint an Advisory Board to assist in coordinating Federal programs and activities related to child abuse and neglect and develop Federal standards for child abuse and neglect prevention and treatment programs and projects.

Pub. L. 95–266, enacted on April 24, 1978, extended the Child Abuse Prevention and Treatment Act through September 30, 1981. It also amended the Act by adding, in Section 3, sexual exploitation to the definition of child abuse and neglect. As a result, States applying for a State child abuse and neglect grant under Section 4(b)(1) of the Act are required to include sexual exploitation in their definition of child abuse and neglect.

The Department published a Notice of Proposed Rulemaking (NPRM) on May 27, 1980 (45 FR 35794) to implement these amendments.

Subsequently, Title VI, Chapter 7, of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, extended the programs authorized by the Child Abuse Prevention and Treatment Act, Pub. L. 93–247, as amended, through Fiscal Years 1982 and 1983.

In addition to the changes in the regulation required by Pub. L. 95–266, the Department of Health and Human Services is taking this opportunity to clarify and simplify the existing regulation in accordance with the Secretary's regulatory reform principles. In this context, we have omitted from these final rules those provisions contained in the NPRM which merely repeat the statute.

Discussion of Major Comments and Changes

The Department received approximately 60 comments from 24 agencies, organizations and individuals in response to the NPRM published on May 27, 1980 (45 FR 35794). Included below is a summary of the major comments from respondents, our response to those comments, and a discussion of the changes that we have made in the regulations.

Subpart A—General Provisions

Section 1340.1 Purpose and Scope

Section 1340.1(b)(3) authorizes the National Center on Child Abuse and Neglect to make grants or contracts for research, demonstration, and service improvement programs and projects. Eligibility for an award of a grant or contract in these specific areas is governed by the Act and is different for research applicants and demonstration and service improvement applicants. Therefore, the phrase "with public or private agencies and organizations" has been deleted as it pertained to only one category of eligible applicant; also there is no need to repeat the Statute.

Section 1340.2 Definitions

There were a number of supportive comments for many provisions of the proposed regulation. This included support for the definition of child abuse and neglect contained in § 1340.2.

Definition of Sexual Abuse and Sexual Exploitction (§ 1340.2(d) (1) and (2))

Comment.—Some respondents were particularly concerned about the possibility that States may need a legislative change to include sexual exploitation in their definition of child abuse and neglect. (The definition of child abuse and neglect specifies the reportable conditions or situations of child maltreatment.)

Response.—The 1978 amendments to the Child Abuse Prevention and Treatment Act added "sexual exploitation" to the definition of child abuse and neglect in the Act (42 U.S.C. 5102). The current regulations include within the definition of "child abuse and neglect" the phrase "sexual abuse as defined by State law." In order to avoid confusion in the meaning of the terms "sexual abuse" and "sexual exploitation" we added definitions for each of these terms in the Notice of Proposed Rulemaking (see § 1340.2(d) (1) and (2)).

A State is not required to have the words "sexual abuse" and "sexual exploitation" in its State statute as long as the State statute covers the conditions and situations described in the definition of these terms in these regulations. If a State needs to amend its statute to include sexual exploitation as a reportable condition, it has until the close of the second general legislative session of the State legislature that convenes after the effective date of these regulations to do so (see § 1340.13(a)(1)). We believe that the definitions of "sexual abuse" and "sexual exploitation" in these

regulations implement the intent of Congress, to assure that the various forms of sexual mistreatment of children are reported. In addition, we believe the provision that allows States that do not now provide for the reporting of sexual exploitation a reasonable period of time to amend their statutes is a fair and reasonable method of enabling them to comply with the requirements of the Act.

Comment.—Concern was also expressed that the phrase "for commercial purposes" limited the definition of sexual exploitation. Commentors asserted that sexual exploitation for commercial purposes omits sexually exploitive acts by those persons using children for non-commercial purposes, e.g., out of a deviant interest and desire for personal gratification.

Response.—We agree. Therefore, in § 1340.2(d)(2), we have dropped the words "for commercial purposes" from the definition as proposed in the NPRM. It is our intent to include within this new definition all sexual exploitation of children.

Definition of Negligent Treatment (§ 1340.2(d)(3))

Comments.—We received strong recommendations that the definition of "negligent treatment or maltreatment" be expanded to include failure to provide medical care.

Response.—We have reviewed this matter and agree with the recommendation. The definition of negligent treatment or maltreatment in a majority of State reporting laws now includes the failure of parents or caretakers to provide adequate food, clothing, shelter and medical care. Thus, the basic needs of children are identified in most State statutes; failure to supply these necessities of life are cause to make a report to the agency mandated by statute to investigate reported cases of child abuse and neglect.

Also, recent events in which parents or guardians failed to provide needed medical care or treatment to handicapped infant children who later died suggest that legal protections are needed for these infants.

In addition, the language of the Child Abuse Prevention and Treatment Act, as amended, supports the inclusion of failure to provide adequate medical care as a reportable condition. Section 3 of the Act (42 U.S.C. 5102) defines "child abuse and neglect" to cover acts or situations constituting abuse or neglect which occurs "under circumstances which indicates that the child's *health* or welfare is harmed or threatened thereby * * *." Section 4(b)(2)(C) of the Act (42 U.S.C. 5103(b)(2)(C)) provides that "upon a finding of abuse or neglect, immediate steps shall be taken to protect the *health* and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect; * * *"

Legislative history also reflects Congressional concern about the failure to provide specific medical treatment for a child, unless it is not provided for religious reasons, by persons responsible for the child's health or welfare. The Report of the House Education and Labor Committee contains the following:

> The Committee recognized that "negligent treatment" is difficult to define, but it is not the intent of the Committee that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specific medical treatment for a child is *for that reason alone* considered to be a negligent parent. To clarify further, no parent or guardian who in good faith is providing to a child treatment solely by spiritual means such as prayer according to the tenets and practices of a recognized church through a duly accredited practitioner shall *for that reason alone* be considered to have neglected the child. (H. Rep. 93–685, 93*rd* Cong., 1*st* Sess. (1973), pp. 4–5). (Emphasis in original)

In light of these factors and the need to insure the protection of children's health, we have included the failure to provide adequate medical care as a part of the definition of negligent treatment in § 1340.2(d)(3). If a State needs to amend its statute to include the "failure to provide adequate medical care" as a reportable condition, it has until the close of the second general legislative session of the State legislature following the effective date of these regulations to do so.

The definition of "harm or threatened harm to a child's health or welfare" in the existing regulations, 45 CFR 1340.1–2(b)(1), contains a religious exception which was interpreted by the Department to be an eligibility requirement for a State grant under Section 4(b)(2) of the Act (42 U.S.C. 5103(b)(2)). This is an exception which provides that a parent or guardian who does not provide medical treatment for a child because of the parent's religious beliefs is not considered, for that reason alone, to be a negligent parent or guardian.

The religious exception in the proposed regulations appeared as a "Note" to the definition of 'negligent treatment or maltreatment' in § 1340.2(3) and was intended to be retained as an eligibility requirement for a State grant. That "Note" exempted a parent or guardian from being considered to have neglected his/her child if medical treatment is not provided because the parent or guardian is legitimately practicing his/her religious beliefs.

Eight respondents commented on this "Note" to the definition of "negligent treatment or maltreatment". Two respondents agreed with the deletion of the clause included in the current regulations, which recognizes the power of a court to require medical treatment over the religiously-based objections of the parent or guardian. These respondents also conveyed the satisfaction that had been expressed to them by the Christian Science Church with this part of the proposed regulation. One respondent requested that the substance of the "Note" be clearly stated as a regulation or be deleted.

Five of the respondents objected to this exemption and urged its removal from the proposed regulations. They presented several reasons for removing the proposed religious exemption from final regulations. Four respondents claimed that some children suffer and die as a result of their parents relying on spiritual healing under circumstances in which medical treatment could have prevented such results. Two respondents added that the religious exception impedes discovery of cases so that even if courts retain their power to order medical treatment, the exercise of that power often comes too late. Three respondents argued that all children deserve the protection of the law, with two of them observing that the religious exception served to deny children their constitutional right to life and to equal protection of the law. One respondent was also of the opinion that the religious exception inhibited criminal prosecution of parents, even if their child had died as a result of the failure to provide medical treatment. Another suggested that there should be a religious exception from criminal prosecution, but not one that impedes protective action under civil law. Finally, one respondent called attention to the fact that objections had been raised to the inclusion of the religious exception in the current regulations and that objections continue to be presented.

Response.—All of these responses were considered in the context of the Act, the regulation and the legislative history of the Act [H.R. Report No. 93–685, November 30, 1973, 93rd Congress, 1st Session (1973)]. The latter reported to the House of Representatives the bill that became the Child Abuse Prevention and Treatment Act, and contained a statement supporting a religious exception. As enacted, however, the Act

contained eligibility requirements for grants under Section 4(b)(2) (42 U.S.C. 5103(b)(2)); but did not include among them a religious exception. The Notice of Proposed Rulemaking of August 28, 1974 (39 FR 31507) to implement the Act included a religious exception as part of the definition of "child abuse and neglect." Although the Department received objections to this exception it concluded that the exception was intended by Congress. Consequently, in order to receive grants under Section 4(b)(1) of the Act (42 U.S.C. 5103(b)(1)), States were required to have a religious exception in their statutes or to certify their recognition of an exception by a State Attorney General's opinion. In 1978, when the Congress reauthorized the Act, it passed several amendments, including one that modified the definition of "child abuse and neglect." Again, however, the legislation failed to include mention of a religious exception. It was nonetheless included in the proposed regulations and elicited the comments noted above.

In light of this history and the objections of respondents, we have reexamined the legal support for a religious exception as an eligibility requirement under Section 4(b)(2) of the Act (42 U.S.C. 5103(b)(2)). We have concluded that such an eligibility provision is not required by the Act. Therefore, § 1340.2(d)(3)(ii) of the final regulation states that the regulations are not to be construed as prohibiting or requiring a finding of negligent treatment or maltreatment when a parent practicing his/her religious beliefs does not, for that reason alone, provide medical treatment for a child. Thus, States are free to recognize or not recognize a religious exception without that choice having any effect on eligibility for a State child abuse grant. The regulation provides at § 1340.2(d)(3)(ii) that if under State law a finding of negligent treatment is prohibited when medical treatment is withheld for religious reasons, that prohibition does not limit the authority of the State to insure that needed medical treatment is provided.

Definition of Threatened Harm (§ 1340.2(d)(4))

Comments.—One respondent requested that the regulation clarify the definition of "threatened harm to a child's health or welfare," which the proposed regulation defined as "a substantial risk of harm to the child's health or welfare." It was suggested that some less ambiguous term be used.

Response.—As there were no additional suggestions for changing or clarifying this definitional term and because we could find no substitute language which seemed to be clearer, it was decided that no change would be made.

"Threatened harm" is a part of the definition of child abuse and neglect in both the Act and regulations. The NPRM defined threatened harm to mean a substantial risk of harm to the child's health or welfare. The Act defines child abuse and neglect so as to include acts or omissions including child abuse, sexual abuse and child neglect by persons responsible for a child's welfare under circumstances which indicate harm or threatened harm to the health or welfare of the child. (42 U.S.C. 5102.) The reasons for the inclusion of "threatened harm" is based on the premise that society should not have to wait until a child is actually injured before protective action is taken. At the same time we recognize that, in some instances the harm that is threatened is not of a sufficient degree to necessitate State intervention. The term "substantial risk" is used to clarify that a State need not intervene until, in its judgment, the threat of harm to the child is real and significant.

Definition of a Person Responsible for a Child's Welfare (§ 1340.2(d)(6))

Comments.—The proposed regulation defined "a person responsible for a child's welfare" to include those persons responsible for around the clock care of children (§ 1340.2(5), now § 1340.2(d)(6)). A suggestion was made to add others to this definition such as teachers and employees of public or private institutions.

Response.—For children in settings which provide less than 24-hour care such as day care centers and schools, we believe that primary reliance should be placed on parents to protect their own children by voicing their concerns to school officials or seeking criminal action. Therefore, we do not believe a change in the language of the regulation to include personnel of day care centers and schools is necessary or desirable.

Coordination Requirements (§ 1340.4)

We have added a new § 1340.4 to the final rules which requires that all Federal agencies responsible for programs related to child abuse and neglect must provide information as required by the Commissioner to insure effective coordination of effort.

This is not a new requirement but is derived from Subpart D as proposed in the NPRM.

Subpart B—Grants to States

Section 1340.11 Allocation of Funds Available

Comment.—One comment suggested that the amount of State grant funds available for States that do not apply or are found ineligible should be allocated among the eligible States, deleting the second option in the proposed regulation that would permit the Commissioner of ACYF to authorize the use of funds "for such other purposes under the Act."

Response.—The suggestion is consistent with our current practices. Therefore, we have revised the regulation to limit reallocation of State grant funds to eligible States.

Section 1340.12 Application Process

We have deleted § 1340.12(b) of the NPRM which provided for the solicitation of State grant applications each Federal fiscal year by a publication in the **Federal Register** of a "Notice of Availability of funds for State grants." Since the only eligible applicants for State grants are the State agencies designated by the Governor to apply for such funds (§ 1340.12(a)), we have eliminated the annual **Federal Register** Notice effective in fiscal year 1982. Instead, we have substituted a specific program instruction, mailed directly to the appropriate State agencies, which includes necessary application forms, allocations and deadline for submission of the State grant application.

Comment.—A suggestion was made that eligible applicants for State grants include local public housing authorities.

Response.—State grants are made only to States. However, local public housing authorities may apply for a demonstration, research or service improvement grant under Section 2(b)(5) or Section 4 of the Act (42 U.S.C. 5101(b)(5) or 42 U.S.C. 5103).

Section 1340.14 Eligibility Requirements

Comments.—Some commentors objected to the deletion of the language found in the current regulation at 45 CFR 1340.3–3(b) pertaining to the definition of child abuse and neglect. That section explains that definitions of child abuse and neglect used by States which are the "same in substance" as the ones set forth in the regulation will be sufficient to meet Federal definitional requirements.

Response.—The language was deleted from the proposed regulations as unnecessary. However, respondents correctly pointed out that States have never been required to have language identical to the Act or regulation in

order to qualify for a grant. Therefore, we will retain the language of the current regulation in § 1340.14, to provide that a State's definition of child abuse and neglect which is the same in substance as the one set forth in the regulation will be acceptable.

Section 1340.14 of the proposed regulation also contained an elaboration of the ten eligibility requirements which a State must satisfy to qualify for a State grant. However, after more careful review of Section 4 (b) (2) of the Act, it was our decision not to repeat the provisions of the Act in regulations. Therefore, those requirements in the NPRM which duplicate the language of the Act have been eliminated. Of course, the requirements of the Act in Section 4 (b) (2) remain fully applicable.

Section 1340.14(c) of the NPRM providing immunity for persons reporting instances of child abuse and neglect from prosecution has been deleted because it duplicates the language of the Act in Section 4(b) (2) (A).

Comment.—One respondent requested further clarification of what was meant by a "different properly constituted authority" in § 1340.14(e).

Response.—In instances of child abuse and neglect that occur in an institutional setting, the investigating agency must be separate enough from the agency alleged to have abused or neglected a child to ensure an adequate impartial and objective investigation. This means that the State agency having responsibility for the investigation of reports of abuse or neglect may not investigate reported instances of child abuse or neglect made against institutions operated by that agency.

The same respondent also asked whether the State agency responsible for investigating allegations of institutional child abuse can investigate a reported instance of child abuse and neglect if the alleged abuse or neglect was by a contract vendor or purchase of service provider.

It is acceptable for the State mandated agency responsible for investigating reports of known and suspected instances of child abuse or neglect to investigate reports from residential facilities as long as such facilities do not have on their staff employees from the mandated agency and are not directly operated by the mandated agency. As these comments were related to the respondent's request for clarification of the meaning of the regulation we believe that no change in the regulation is necessary.

Section 1340.14(h) was revised by omitting that language which was duplicative of the Act. Sections 1340.14(i), (j), (k) and (l) were omitted as they were duplicative of provisions in the Act.

Comment.—Comments on § 1340.14(g) which mandates the appointment of a guardian *ad litem* in all judicial proceedings, involving an abused or neglected child, were concerned about: (1) The appropriateness of the person presenting the evidence in a judicial proceeding also serving as the guardian *ad item;* and (2) the absence of a provision which would permit a State to satisfy the guardian *ad litem* requirement by court rule.

Response.—On the basis of the comments received we are making two changes in § 1340.14(g). First, we are eliminating as a person who may serve as a guardian *ad litem* the attorney who presents the evidence in a judicial proceeding alleging child abuse or neglect. This was done to eliminate the possibility of conflicting roles as there is serious question about having a presenter of the evidence also serve as a child's guardian *ad litem.*

Secondly, a State may elect to promulgate Court Rules mandating the appointment of a guardian *ad litem* in judicial proceedings. This will now be an added option for the State in satisfying the guardian *ad litem* requirement.

Subpart C—Discretionary Grants and Contracts

There were no comments from respondents on Subpart C of the NPRM. Two of the three sections in this Subpart proposed in the NPRM have been eliminated from the final rule because they duplicate the language of the Act in Sections 2(b) and 4(b)(1) (discretionary grants and contracts). Only the provision regarding confidentiality (§ 1340.20) has been retained in Subpart C to afford the same protection of personal facts or circumstances about individuals involved in discretionary projects or programs as is provided to individuals under the State grant program.

Subpart D—Coordination of Federal Activities

Except for the coordination requirements for Federal agencies which now appears in new § 1340.4, we have eliminated Subpart D. We do not believe it is necessary to publish the administrative and procedural requirements for the Advisory Board in regulations.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. The Department concludes that this final rule is not a major rule within the meaning of the Executive Order because it does not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, Pub. L. 96–354, requires that an agency prepare a regulatory flexibility analysis for a proposed rule, or a final rule issued after a proposal, if a rule would have a significant economic impact on a substantial number of small businesses, small nonprofit organizations, or small governmental jurisdictions. However, this requirement does not apply to final rules for which a proposed rule was published before January 1, 1981 (section 4 of the Regulatory Flexibility Act). Because the proposed rule that preceded this final rule was published earlier, an analysis is not required under the Regulatory Flexibility Act.

Recordkeeping and Reporting Requirements

Under the Paperwork Reduction Act of 1980 the Department is required to submit to the Office of Management and Budget, for review and approval, any information collection or reporting requirement. Reporting requirements within § 1340.3(a) and 1340.12 requiring OMB approval, which was granted, are:

Section	Reporting requirements	Form/OMB Nos.	Expiration Date
1340.3(a)—Application of department-wide regulations.	45 CFR 74.73, Financial Status Report.	SF–269, 0990–0122	10/31/83
1340.12—Application process.	State grant application.	SF–424, 0990–0016	2/28/84

List of Subjects in 45 CFR Part 1340

Child welfare, Family violence, Grant programs—health, Grant programs—social programs, Reporting requirements, Research, Technical assistance, Youth.

(Catalog of Federal Domestic Assistance Program No. 13.628, Child Abuse and Neglect Prevention and Treatment)

Dated: July 20, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: January 4, 1983.

Richard S. Schweiker,

Secretary.

For the reasons set forth in the preamble, Part 1340 of 45 CFR is revised to read as follows:

PART 1340—CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT

Subpart A—General Provisions

Sec.

1340.1 Purpose and scope.
1340.2 Definitions.
1340.3 Applicability of Department-wide regulations.
1340.4 Coordination requirements.

Subpart B—Grants to States

1340.10 Purpose of this subpart.
1340.11 Allocation of funds available.
1340.12 Application process.
1340.13 Approval of applications.
1340.14 Eligibility requirements.

Subpart C—Discretionary Grants and Contracts

1340.20 Confidentiality.

Authority: The Child Abuse Prevention and Treatment Act Pub. L. 93–247, 88 Stat. 4; Pub. L. 95–266, 92 Stat. 205; Secs. 609–610, Pub. L. 97–35, 95 Stat. 488 (42 U.S.C. 5101 et seq.)

Subpart A—General Provisions

§1340.1 Purpose and scope.

(a) This part implements the Child Abuse Prevention and Treatment Act of 1974, as amended. As authorized by the Act, the National Center on Child Abuse and Neglect seeks to assist agencies and organizations at the national, State and community levels in their efforts to improve and expand child abuse and neglect prevention and treatment activities.

(b) The National Center on Child Abuse and Neglect seeks to meet these goals through:

(1) Conducting activities directly (by the Center);

(2) Making grants to States to improve and expand their child abuse and neglect prevention and treatment programs;

(3) Making grants to and entering into contracts for: Research, demonstration and service improvement programs and projects, and training, technical assistance and informational activities; and

(4) Coordinating Federal activities related to child abuse and neglect. This part establishes the standards and procedures for conducting the grant funded activities and contract and coordination activities.

(c) Requirements related to child abuse and neglect applicable to programs assisted under titles IV–A and IV–B of the Social Security Act are implemented by regulation at 45 CFR Part 1392, Subpart E.

(d) Federal financial assistance is not available under the Act for the construction of facilities.

§ 1340.2 Definitions

For the purposes of this part:

(a) "A properly constituted authority" is an agency with the legal power and responsibility to perform an investigation and take necessary steps to prevent and treat child abuse and neglect. A properly constituted authority may include a legally mandated, public or private child protective agency, or the police, the juvenile court or any agency thereof.

(b) "Act" means the Child Abuse Prevention and Treatment Act, 42 U.S.C. 5101, et seq.

(c) "Center" means the National Center on Child Abuse and Neglect established by the Secretary under the Act to administer this program.

(d) "Child abuse and neglect" means the physical or mental injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term encompasses both acts and omissions on the part of a responsible person.

(1) "Sexual abuse" includes rape, incest, and sexual molestation as those acts are defined by State law, by a person responsible for the child's welfare.

(2) "Sexual exploitation" includes allowing, permitting, or encouraging a child to engage in prostitution, as defined by State law, by a person responsible for the child's welfare; and allowing, permitting, encouraging or engaging in the obscene or pornographic photographing, filming, or depicting of a child as those acts are defined by State law, by a person responsible for the child's welfare.

(3)(i) "Negligent treatment or maltreatment" includes failure to provide adequate food, clothing, shelter, or medical care.

(ii) Nothing in this Part should be construed as requiring or prohibiting a finding of negligent treatment or maltreatment when a parent practicing his or her religious beliefs does not, for that reason alone, provide medical treatment for a child; provided, however, that if such a finding is prohibited, the prohibition shall not limit the administrative or judicial authority of the State to insure that medical services are provided to the child when his health requires it.

(4) "Threatened harm to a child's health or welfare" means a substantial risk of harm to the child's health or welfare.

(5) "A person responsible for a child's welfare" includes the child's parent, guardian, foster parent, an employee of a public or private residential home or facility or other person legally responsible under State law for the child's welfare in a residential setting.

(e) "Commissioner" means the Commissioner of the Administration for Children, Youth and Families of the Department of Health and Human Services.

(f) "Grants" includes grants and cooperative agreements.

(g) "Secretary" means the Secretary of Health and Human Services, or other HHS official or employee to whom the Secretary has delegated the authority specified in this part.

(h) "State" means each of the several States, the District of Columbia, Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific.

§ 1340.3 Applicability of Department-wide regulations.

(a) The following HHS regulations are applicable to all grants made under this part:

45 CFR Part 16—Procedures of the Departmental Grant Appeals Board.
45 CFR Part 46—Protection of human subjects
45 CFR Part 74—Administration of grants
45 CFR Part 75—Informal grant appeals procedures
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81—Practice and procedure for hearings under Part 80
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.

(b) The following regulations are applicable to all contracts awarded under this part:

47 CFR Chapter 1—Federal procurement regulations.
41 CFR Chapter 3—Federal procurement regulations—Department of Health and Human Services.

§ 1340.4 Coordination requirements.

All Federal agencies responsible for programs related to child abuse and neglect shall provide information as required by the Commissioner to insure effective coordination of efforts.

Subpart B—Grants to States

§ 1340.10 Purpose of this subpart.

This subpart sets forth the requirements and procedures States must meet in order to receive discretionary grants to improve or expand State child abuse and neglect prevention and treatment programs under sections 4(b) (1) and (2) of the Act (42 U.S.C. 5103(b) (1) and (2)).

§ 1340.11 Allocation of funds available.

(a) The Commissioner shall allocate the funds available for grants to States for each fiscal year among the States on the basis of the following formula:

(1) An amount of $25,000 or such other amount as the Commissioner may determine; plus

(2) An additional amount bearing the same ratio to the total amount made available for this purpose (reduced by the minimum amounts allocated to the States under paragraph (a)(1) of this section) as the number of children under the age of eighteen in each State bears to the total number of children under eighteen in all the States. Annual estimates of the number of children under the age of eighteen, provided by the Bureau of the Census of the Department of Commerce, are used in making this determination.

(b) If a State has not qualified for assistance under the Act and this subpart prior to a date designated by the Commissioner in each fiscal year, the amount previously allocated to the State shall be allocated among the eligible States.

§ 1340.12 Application process.

(a) The Governor of the State may submit an application or designate the State office, agency, or organization which may apply for assistance under this subpart. The State office, agency, or organization need not be limited in its mandate or activities to child abuse and neglect.

(b) Grant applications must include a description of the activities presently conducted by the State and its political subdivisions in preventing and treating child abuse and neglect, the activities to be assisted under the grant, a statement of how the proposed activities are expected to improve or expand child abuse prevention and treatment programs in the State, and other information required by the Commissioner in compliance with the paperwork reduction requirements of 44 U.S.C. Chapter 35 and any applicable directives issued by the Office of Management and Budget.

(c) States shall provide with the grant application a statement signed by the Governor that the State meets the requirements of the Act and of this subpart. This statement shall be in the form and include the documentation required by the Commissioner.

§ 1340.13 Approval of applications.

(a) The Commissioner shall approve an application for an award for funds under this subpart if he or she finds that:

(1) The State is qualified and has met all requirements of the Act and § 1340.14 of this Part, except for the definitional requirement of § 1340.14(a) with regard to the definition of "sexual exploitation" (see § 1340.2(2)) and the definitional requirement of negligent treatment as it relates to the failure to provide adequate health care (see 1340.2(d)(3)). The State must include these two definitional requirements in its definition of child abuse and neglect no later than the close of the second general legislative session of the State legislature following February 25, 1983;

(2) The funds are to be used to improve and expand child abuse or neglect prevention or treatment programs; and

(3) The State is otherwise in compliance with these regulations.

(b) At the time of an award under this subpart, the amount of funds not obligated from an award made eighteen or more months previously shall be subtracted from the amount of funds under the award, unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

§ 1340.14 Eligibility requirements.

In order for a State to qualify for an award under this subpart, the State must satisfy each of the following requirements:

(a) The State must satisfy each of the requirements provided in Section 4(b)(2) of the Act.

(b) *Definition of Child Abuse and Neglect.* Wherever the requirements below use the term "Child Abuse and Neglect" the State must define that term in accordance with § 1340.2. However, it is not necessary to adopt language identical to that used in § 1340.2, as long as the definition used in the State is the same in substance.

(c) *Reporting.* The State must provide by statute that specified persons must report and by statute or administrative procedure that all other persons are permitted to report known and suspected instances of child abuse and neglect to a child protective agency or other properly constituted authority.

(d) *Investigations.* The State must provide for the prompt initiation of an appropriate investigation by a child protective agency or other properly constituted authority to substantiate the accuracy of all reports of known or suspected child abuse or neglect. This investigation may include the use of reporting hotlines, contact with central registers, field investigations and interviews, home visits, consultation with other agencies, medical examinations, psychological and social evaluations, and reviews by multidisciplinary teams.

(e) *Institutional child abuse and neglect.* The State must have a statute or administrative procedure requiring that when a report of known or suspected child abuse or neglect involves the acts or omissions of the agency, institution, or facility to which the report would ordinarily be made, a different properly constituted authority must receive and investigate the report and take appropriate protective and corrective action.

(f) *Emergency services.* If an investigation of a report reveals that the reported child or any other child under the same care is in need of immediate protection, the State must provide emergency services to protect the child's health and welfare. These services may include emergency caretaker or homemaker services; emergency shelter care or medical services; review by a multidisciplinary team; and, if appropriate, criminal or civil court action to protect the child, to help the parents or guardians in their responsibilities and, if necessary, to remove the child from a dangerous situation.

(g) *Guardian ad litem:* In every case involving an abused or neglected child which results in a judicial proceeding, the State must insure the appointment of a guardian ad litem or other individual whom the State recognizes as fulfilling the same functions as a guardian ad litem, to represent and protect the rights and best interests of the child. This requirement may be satisfied: (1) By a statute mandating the appointments; (2) by a statute permitting the appointments, accompanied by a statement from the Governor that the appointments are made in every case; (3) in the absence of a specific statute, by a formal opinion of the Attorney General that the appointments are permitted, accompanied by a Governor's statement that the appointments are made in every case; or (4) by the State's

Uniform Court Rule mandating appointments in every case. However, the guardian *ad litem* shall not be the attorney responsible for presenting the evidence alleging child abuse or neglect.

(h) *Prevention and treatment services:* The State must demonstrate that it has throughout the State procedures and services deal with child abuse and neglect cases. These procedures and services include the determination of social service and medical needs and the provision of needed social and medical services.

(i) *Confidentiality.* (1) The State must provide by statute that all records concerning reports and reports of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense.

(2) If a State chooses to, it may authorize by statute disclosure to any or all of the following persons and agencies, under limitations and procedures the State determines:

(i) The agency (agencies) or organizations (including its designated multidisciplinary case consultation team) legally mandated by any Federal or State law to receive and investigate reports of known and suspected child abuse and neglect;

(ii) A court, under terms identified in State statute;

(iii) A grand jury;

(iv) A properly constituted authority (including its designated multidisciplinary case consultation team) investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of a report;

(v) A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected;

(vi) A person legally authorized to place a child in protective custody when the person has before him or her a child whom he or she reasonably suspects may be abused or neglected and the person requires the information in the report or record in order to determine whether to place the child in protective custody;

(vii) An agency authorized by a properly constituted authority to diagnose, care for, treat, or supervise a child who is the subject of a report or record of child abuse or neglect;

(viii) A person who is responsible for the child's welfare, with protection for the identity of any person reporting known or suspected child abuse or neglect and any other person where the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of such person;

(ix) A child named in the report or record alleged to have been abused or neglected or (as his/her representative) his/her guardian or guardian ad litem;

(x) An appropriate State or local official responsible for administration of the child protective service or for oversight of the enabling or appropriating legislation, carrying out his or her official functions; and

(xi) A person, agency, or organization engaged in a bonafide research or evaluation project, but without information identifying individuals named in a report or record, unless having that information open for review is essential to the research or evaluation, the appropriate State official gives prior written approval, and the child, through his/her representative as cited in paragraph (i), gives permission to release the information.

(3) Nothing in this section shall be interpreted to prevent the properly constituted authority from summarizing the outcome of an investigation to the person or official who reported the known or suspected instances of child abuse or neglect or to affect a State's laws or procedures concerning the confidentiality of its criminal court or its criminal justice system.

(4) HHS and the Comptroller General of the United States or any of their representatives shall have access to records, as required under 45 CFR 74.24.

Subpart C—Discretionary Grants and Contracts

§ 1340.20 Confidentiality.

All projects and programs supported under the Act must hold all information related to personal facts or circumstances about individuals involved in those projects or programs confidential and shall not disclose any of the information in other than summary, statistical, or other form which does not identify specific individuals, except in accordance with § 1340.14(i).

[FR Doc. 83-2149 Filed 1-25-83; 8:45 am]
BILLING CODE 4130-01-M

federal register

Wednesday
January 26, 1983

Part III

Department of Energy

National Energy Policy Plan; Public Hearings

DEPARTMENT OF ENERGY

National Energy Policy Plan; Public Hearings

AGENCY: Department of Energy.

ACTION: Notice of Public Hearings on National Energy Policy Plan.

SUMMARY: In accordance with section 801 of the Department of Energy Organization Act (Pub. L. 95–91), the Department of Energy (DOE) is beginning to prepare the fourth biennial National Energy Policy Plan (NEPP–IV) currently scheduled to be submitted to the Congress in the Spring. To have the benefit of a broad range of public viewpoints in the development of NEPP–IV, DOE will hold a series of public hearings throughout the Nation. Listed below are the dates, locations, and field contacts for the hearings.

Public Hearings on NEPP–IV

Atlanta, Georgia

Date and Time: March 2, 1983, 9:00 a.m. to 9:00 p.m.

Place: Richard B. Russell Building, 75 Spring Street, Atlanta, Georgia 30309.

Contact: Walter C. Butler, U.S. Department of Energy, Savannah River Operations Office, Atlanta Support Office, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309. Telephone: 404/881–2837.

Burlington, Vermont

Date and Time: March 3, 1983, 9:00 a.m. to 9:00 p.m.

Place: Raddisson Burlington Hotel, Burlington Square—Ballroom I, Burlington, Vermont 05401.

Contact: Hugh Saussy, Director, Boston Support Office, U.S. Department of Energy, Analex Building, Room 700, 150 Causeway Street, Boston, Massachusetts 02114. Telephone: 617/223–3701.

Denver, Colorado

Date and Time: March 4, 1983, 9:00 a.m. to 9:00 p.m.

Place: The Regency (Palladium Room), 3900 Elati, Valley Highway at 38th Avenue, Exit 213 on I–25, Denver, Colorado 80216.

Contact: Robert M. Zeeck, A0100, Public Affairs Officer, Western Area Power Administration, P.O. Box 3402, Golden, Colorado 80401. Telephone: 303/231–1554.

Detroit, Michigan

Date and Time: February 28, 1983, 9:00 a.m. to 9:00 p.m.

Place: McGregor Memorial. Conference Center, Room B–495, West Ferry Mall, (Between Cass Avenue and Anthony Wayne Drive), Wayne State University, Detroit, Michigan 48202.

Contact: Gary L. Pitchford, Director, Office of Communications, U.S. Department of Energy, Chicago Operations Office, 175 Boulevard, Room A–1136, Chicago, Illinois 60625. Telephone: 312/353–5769.

Sacramento, California

Date and Time: March 3, 1983, 9:00 a.m. to 9:00 p.m.

Place: Sacramento Community/Convention Center, Yuba Room, 1100 14th Street (14 & K), Sacramento, California 95814.

Contact: Ms. Fabienne Harris, Energy Information Center, San Francisco Operations Office, U.S. Department of Energy, 1333 Broadway, Oakland, California 94612. Telephone: 415/273–4428.

Tulsa, Oklahoma

Date and Time: March 1, 1983, 9:00 a.m. to 9:00 p.m.

Place: First National Bank Tower, Lower Level Auditorium, 5th Street and Boston Avenue, Tulsa, Oklahoma 74101.

Contact: Brad Byers, Public Affairs Officer, Southwestern Power Administration, P.O. Box 1619, Tulsa, Oklahoma 74101. Telephone: 918/581–7473.

Washington, D.C.

Date and Time: March 2, 1983, 9:00 a.m. to 9:00 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 8E–089, Washington, D.C. 20585.

Contact: Paula Unruh, Director, Office of Consumer Affairs, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. Telephone: 202/252–5373.

The morning session will begin at 9 a.m. with introductory remarks, followed immediately by presentations by individual citizens and representatives of groups and organizations.

To stimulate and focus discussion at these hearings, DOE staff have prepared a short working paper, which is appended to this Notice. There is no requirement, however, that presentations or discussions at the meeting be limited to the subject matter of this document. Single copies of the working paper will be available on February 2, 1983 and may be obtained free of charge from: Office of Public Affairs, Department of Energy, Forrestal Building, Room 1E–206, 1000 Independence Avenue, SW., Washington, D.C. 20585. Phone: 202–252–5575.

Further information and copies of the working paper also may be obtained from the following DOE Operations (Field) Offices:

Walter C. Butler, U.S. Department of Energy, Savannah River Operations, Atlanta Support Office, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309. Telephone: 404/881–2837

Hugh Saussy, Director, Boston Support Office, U.S. Department of Energy, Analex Building, Room 700, 150 Causeway Street, Boston, Massachusetts 02114. Telephone: 617/223–3701

Robert M. Zeeck, A0100, Public Affairs Officer, Western Area Power Administration, P.O. Box 3402, Golden, Colorado 80401. Telephone: 303/231–1554

Ms. Fabienne Harris, Energy Information Center, San Francisco Operations, U.S. Department of Energy, 1333 Broadway, Oakland, California 94612. Telephone: 415/273–4428.

Paula Unruh, Director, Office of Consumer Affairs, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. Telephone: 202/252–5373.

Gary L. Pitchford, Director, Office of Communications, U.S. Department of Energy, Chicago Operations Office, 175 West Jackson Boulevard, Room A–1136, Chicago, Illinois 60525. Telephone: 312/353–5769

Brad Byers, Public Affairs Officer, Southwestern Power Administration, P.O. Box 1619, Tulsa, Oklahoma 74101. Telephone: 918/581–7473.

Copies of the working paper may also be obtained from the hearing contacts and at the hearings.

The staff working paper is not intended to constitute a draft National Energy Policy Plan. It has been written to stimulate public comment and recommendations that can be used to shape the final document.

Procedures for Participation

Written Comment. Interested persons are invited to submit within 60 days of the date of this Notice, data, reviews, or recomendations with respect to the next National Energy Policy Plan. Written comments should be addressed to: William J. Silvey, Associate Director, Office of Policy, Planning, and Analysis, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

"NEPP–IV" should be written on the outside of the envelope and on documents submitted.

Any information or data considered confidential by the person furnishing it must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat the information or data according to its determination.

Public Hearings. Any person or representative of a group may make a written or oral request for an opportunity to make an oral presentation at the public hearings. Such requests must be received no later than 3 working days before the appropriate NEPP–IV hearing. Requests should be directed to the appropriate hearing contact at the address given above and should be in accordance with the procedures set forth below. Written requests should be labeled "NEPP–IV" both on the document and on the envelope. No oral requests for presentation will be scheduled until after all written requests are scheduled.

Those who register in advance will be heard first or at times reserved for them. Those present at the hearing who would like to speak but who have not preregistered will be accommodated if time permits. Verbatim transcripts will be made of all sessions.

It would be helpful if the person making the request would describe briefly the interest concerned; if applicable, indicate why she or he is a proper representative of the group having such an interest; and provide a phone number where she or he may be contacted during working hours.

While an attempt will be made to accommodate all who wish to be heard, it may not be practical to do so, and DOE reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the harings. Time allotted to each presentation may be limited, based on the number of persons requesting to be heard.

A presiding officer will be designated to conduct the hearings. These hearings will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings. As a rule, oral presentations shall be limited to 10 minutes. Any additional testimony may be submitted in writing.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts

Verbatim transcripts of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by DOE and made available for inspection at DOE's Freedom of Information Office Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, between the hours of 8 a.m. and 4 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., on January 21, 1983.

J. Hunter Chiles, III,

Director, Policy, Planning, and Analysis.

I. Developing the National Energy Policy Plan

The Department of Energy is beginning preparation of the fourth biennial National Energy Policy Plan (NEPP–IV), required by Title VIII of the Department of Energy Organization Act (Pub. L. 95–91). The President is scheduled to submit NEPP–IV to the Congress in the Spring.

To have the benefit of a broad range of viewpoints during development of the plan, the Department is requesting written comments and will hold a series of public hearings in February and March of 1983. The purpose of this paper is to provide background information for the hearings and to stimulate public discussion and comment on the issues.

The balance of this paper is divided into four sections. Section II provides a synopsis of key energy policy concepts. Section III describes the current U.S. energy situation. Section IV addresses both the near-term and longer term outlook regarding domestic energy production and consumption under current policies and the impacts of our international commitments. Section V discusses the areas of continuing concern on the Administration's energy policy agenda.

II. Current Policy

Energy is a significant component of every aspect of the U.S. economy and an important element of our national security. The United States has abundant and diverse energy resources; and, given an energy system that provides a balanced set of energy supplies and that is flexible enough to respond to market changes, these resources can be used efficiently and effectively to meet the Nation's needs.

A balanced, flexible energy system is the primary goal of this Adminstration's national energy policy, which is committed to assisting the market in efficiently distributing all of the Nation's energy resources. Under this policy, the Federal Government's role promotes economic recovery to reduce inflation and improve the availability of capital for new investments. Federal activity is focused on removing impediments to the market and conducting a program of basic and applied research that will increase the number of technological options available to non-Federal entities for implementation. The following are key elements of the Administration's strategy to achieve this goal:

- Reliance on the marketplace to obtain the most efficient and effective combination of energy production and consumption.
- Federal programs in long-range basic research, applied research, and technology development.
- An intensive program of economic regulatory reform to allow markets to respond more freely and effectively.
- A commitment to encourage a wide range of energy resources, including conservation and solar and other renewables, in addition to conventional resources.
- A program of environmental regulatory reform that will protect public health and safety while streamlining administrative processes, reducing delays, and balancing economic costs and effectiveness.
- Energy emergency preparedness that emphasizes market allocations, even during a supply disruption, and that reduces the Nation's economic vulnerability through a large Strategic Petroleum Reserve.

III. The Current Energy Situation

Energy consumption in the United States during 1982 totaled approximately 35 million barrels per day of oil equivalent (MMBDOE). Oil accounted for 42 percent of total energy use, natural gas, 26 percent; coal, 21 percent; and nuclear, hydropower, biomass, and other forms of energy, 11 percent.

About 86 percent of the energy consumed in the United States in 1982 was domestically produced, the highest level of domestic energy reliance in nearly a decade. The remainder was imported, mainly as oil (about 4.4 million barrels per day)—an import level significantly below the peak in 1977, when the United States imported about 25 percent of its energy needs. This decline in oil imports is the result of both a large decrease in domestic energy consumption and an increase in overall domestic production between 1977 and 1982.

In addition, the mix of fuels contributing to energy growth has changed in the past decade. Before the Arab oil embargo of 1973, growth came from oil and natural gas. Since then, however, virtually all the energy growth has come from coal and nuclear power.

Total energy use per dollar of gross national product (GNP) has shown a steady decline in the last decade. Between 1973 and 1982, the economy grew at a rate of about 1.8 percent per year, while total energy use dropped slightly. It could be argued that most of the decrease has resulted from higher oil and other fuel prices stimulating greater technological efficiency in the use of all fuels and more careful allocation and use of energy. Because changes to more energy-efficient capital stock are not rapid, this trend can be expected to continue. The average American car is more than 6 years old, and large industrial boilers are built to last 30 to 40 years. With continuing replacement of capital stock, energy use is expected to continue to grow more slowly than the output of the U.S. economy, even as economic recovery takes place. Although gains in energy efficiency are expected to continue in several fuel sectors, reductions in oil

consumption is an important barometer of overall performance. Imported oil has been the "swing" fuel—that is, the marginal source of supply—over several decades, and it will continue to be for the remainder of the century.

While the United States has become much less reliant on foreign energy supplies than it was a few years ago, it allies in the free world remain heavily dependent on energy imports, particularly petroleum. For example, Western Europe produced only 55 percent of its energy requirements in 1981; in the same year, Japan produced less than 20 percent of its needs. This situation is important for two reasons. First, the United States is only one of many participants in an integrated world oil market where price is a reflection of *worldwide* supply and demand and where rapid price changes have a significant impact on the economies of all countries that rely heavily on petroleum products. Second, despite decreasing levels of U.S. oil imports, the free world is expected to remain heavily dependent on imported oil supplies, particularly from the Persian Gulf, and thus vulnerable to the severe price shocks that can accompany sudden disruptions of these supplies.

Recognizing that oil supply disruptions impose enormous economic costs on consuming countries, the United States has taken a number of actions to protect against disruptions and to encourage similar actions by its allies. This Administration has nearly tripled the amount of oil stored in the Strategic Petroleum Reserve from 110 million barrels in January 1981 to a level of 300 million barrels in January 1983 (amounting to approximately 70 days of imports at present levels) and is proceeding with construction and fill to increase the size of the reserve to 750 million barrels. The President's veto of the Standby Petroleum Allocation Act permits reliance on the free market to allocate resources in the event of disruption and thus provides incentives for the private sector also to hold stocks.

In addition, the United States decreased its reliance on uncertain sources of oil in the Persian Gulf and North Africa and has increased supplies from other sources, most notably Mexico. Less than half the past year's imports came from OPEC, compared with almost three-quarters in 1977. Allies of the United States also have reduced purchases of OPEC oil. As a result, OPEC's portion of total world production has declined. Moreover, three allies (Japan, the Federal Republic of Germany, and the Netherlands) together hold more than 130 million barrels in government-owned stocks, and the German Government and industry jointly hold an additional 135 million barrels.

The United States initiated action with its allies in 1974 to create the International Energy Agency (IEA) oil-sharing system, which obligates member countries to maintain emergency oil reserves, to reduce oil demand in the event of a supply disruption or shortfall in the IEA as a whole or in individual countries, and to allocate the remaining shortfall among participants based on each member's historical consumption and net oil imports. Because IEA's definition of emergency reserves includes normal operating stocks, the United States has more than 2.5 times the minimum stocks required to fulfill its commitments.

Vulnerability to oil supply disruptions also is related to the level of spare crude oil production and refining capacity. Current spare crude oil production capacity, mostly in OPEC (but excluding Iran and Iraq), is estimated to be approximately 7 million to 10 million barrels per day—more than at any time in recent history.

IV. The Energy Outlook

Economic factors will be fundamental in determining long-term energy production and use, and both economic factors and the political environment ultimately will shape the Federal Government's response to the Nation's energy needs. The challenge facing the United States is to ensure a stable economic and regulatory climate that will provide sufficient flexibility for markets to response promptly and effectively to changes in the world energy economy.

The current situation and historical trends indicate that the energy outlook is not a question of energy "shortage"; it is an economic issue involving production, use and price of energy supplies. U.S. and worldwide reserves and emerging technologies are sufficient to meet estimated future energy demands as long as impediments to market activity do not restrict the availability and use of energy supplies. Nevertheless, the United States remains vulnerable to unexpected disruptions of a size that could cause prices to escalate rapidly and thus severely harm domestic and world economies.

In 1982, oil imports were 23 percent lower than in the previous year and 59 percent lower than the peak level in 1977. Long-term energy growth is expected to remain slower than economic growth. However, both U.S. and world inventories of oil are considerably lower than they were a year ago, and distillate fuel oil consumption in 1983 is expected to rise modestly above its 1982 level of 2.7 million barrels per day.

The following discussion is based on DOE's mid-range energy projections to the year 2000 which were prepared in July 1982 to initiate the development of NEPP–IV. It should be noted that energy futures are highly uncertain and are dependent on worldwide and domestic economics, policies, geology, and technology. Projections of energy futures vary depending on the assumptions made about a broad range of uncertainties. The projections below are neither predictions of what the future will be nor prescriptions for what it should be. Instead, they are provided as a point of departure for assessing current policy, and they are illustrative of a range of plausible future scenarios based on varying sets of assumptions.

Over the remainder of this century, U.S. energy consumption is expected to increase by about 25 percent while domestic energy production is expected to increase by about 35 percent. This supply trend reflects a changing energy supply mix that results in a projected decrease of about 40 percent in net U.S. energy imports between 1980 and 2000. A large share of this projected improvement results from an expected doubling of coal exports by the year 2000, which offsets 1.4 million barrels per day in the projected level of liquid fuel imports.

The trend away from oil use is expected to continue. While fluctuations in import levels will occur in line with changes in economic growth rates, oil use in the United States is expected to decline by about 10 percent between 1980 and 1985, while natural gas use is expected to remain stable and coal use to increase by about 20 percent. In addition, the use of nuclear power is expected to expand by 80 percent because many plants that are currently under construction will become operational. Effciency gains, such as those provided by improved gasoline mileage and increased use of insulation, will continue. Renewable energy sources, including hydropower, could develop from a currently modest contribution of about 6 percent of total energy consumption to become a more significant energy supply source in the long run. For the very long term, nuclear fusion is one of the most promising approaches to the generation of electricity.

Efforts to improve the flexibility of the marketplace and to increase national security while protecting the environment are progressing. During the past 18 months, the United States has made substantial headway in removing and streamlining regulations. However, significant portions of certain energy markets are not expected to be totally deregulated. Proposals for natural gas or electricity deregulation are concerned only with production—not with distribution levels where natural monopolies exist. Therefore, even with the major advantages that will accrue from deregulation of energy supply, these industries should not be expected to conduct their business as if they were operating in a totally free market environment. Interstate energy transmissions are still subject to the authority of the Federal Energy Regulatory Commission. State utility commissions will continue to set rates for intrastate electric power sales and natural gas distribution, and State and local ordinances will continue to affect decisions in areas such as coal slurry pipelines and the siting of new powerplants.

One of the benefits of eliminating market impediments such as price controls is reflected in higher levels of drilling and production of oil that have occurred since January, 1981, following the Administration's action to accelerate decontrol of oil prices. But market forces work in both directions, as the recent decline in the number of drilling rigs in use indicates, from a high of 4,520 active rigs in December, 1981, to a total of 2,696 active rigs in December, 1982. This decline is primarily caused by falling real (and nominal) oil prices and uncertainty about future prices as well as improved efficiency of rigs in operation. Despite these declines, the number of oil wells completed in 1982 increased 7 percent over 1981. Within this total, the number of exploratory oil wells completed in 1982 increased by 17 percent over 1981 levels.

In contrast, the number of exploratory gas wells completed in 1982 declined by 4 percent from 1981 levels. Deregulation of natural gas

prices would increase incentives to explore for an produce natural gas. Although the Natural Gas Policy Act of 1978 (NGPA) attempted to address the problems caused by more than two decades of natural gas price regulation, its complicated regulatory provisions have not allowed the natural gas market to adjust to changing market realities. Because market conditions have differed from those anticipated, NGPA pricing provisions have hindered price benefits from reaching consumers, have created unequal access to gas supplies, have encouraged inefficient production and use of gas, and have encouraged rigid contractual pricing provisions. As a result, NGPA will not fulfill its intended objectives. Because we cannot adequately anticipate future conditions, the only reasonable long-term solution is to allow the free market to determine price and allocation of energy supplies.

Although current projections show an increase in the use of nuclear energy, no new nuclear powerplants are expected to be ordered in the very near future, primarily because growth in demand is projected to be insufficient to warrant commitments to new baseload electricity-generation projects. In addition to lower demand growth, utilities are confronted with regulatory constraints on financing, uncertainties in permitting and licensing, and environmental, health, and safety considerations.

The Administration is committed to a policy that allows nuclear power to compete fairly in the marketplace. Recent passage of landmark nuclear waste management legislation is a major step toward removing the impediments to nuclear energy. In addition, the President's nuclear policy statement of October 8, 1981, calls for efforts to improve nuclear regulatory and licensing processes, to demonstrate breeder reactor technology and complete the Clinch River Breeder Reactor Plant, to eliminate the ban on reprocessing spent fuel and stabilize U.S. policy on commercial reprocessing, and to revitalize the electric utility industry.

Followup action are under way in all the areas identified in the President's statement. In addition to actions related specifically to nuclear power, the Department of Energy is near to completing a comprehensive study of the electric utility industry. Electricity is a price-controlled, universally-useable energy form where there seems to be little or no workable competition. It also is an exception to the rule insofar as the Administration does not propose general deregulation of electricity prices, which for the most part fall under the jurisdiction of the States. Rather, the challenge is to rationalize the existing regulatory scheme and to provide the necessary research to ensure efficient and stable electric supply and price stability in the future.

Coal production and synthetic fuel development also are important components of the U.S. energy future. Although coal is the nation's most abundant fossil fuel and an economic fuel for most new large boiler applications, it accounts for only about 20% of primary energy use. The coal industry has significantly increase production in response to market forces, but it is still operating below capacity partly because of the many regulatory barriers to using coal. The Federal regulatory process is being reformed to balance environmental concerns with economic considerations related to increased coal production and use. The Administration's objective also is to reduce constraints on coal use, especially the high costs and long leadtimes now required to build coal-fired plants, while ensuring adequate and continued safeguards to the environment and public health and safety. Government research on coal is being directed toward solving fundamental problems and toward generic research that may assist many companies in developing new equipment and processes.

The United States also has enormous hydrocarbon resources in the form of oil shale, tar sands, and heavy oil that can be processed into synthetic substitutes for conventional oil and gas. Responsibility for commercializing the technologies of alternative fuels rests with the private sector, with support from the Synthetic Fuels Corporation.

The use of renewable resources, including hydropower, is expected to continue to grow over the next decade, contributing as much as 9 percent of total U.S. energy demand in the year 2000. The federal government has an important role to play in encouraging a balanced energy program which includes the development of a range of energy technologies. With renewable resource technologies, as with other technologies, the Federal role is most appropriately focused on long-term research and development and on the resolution of technical issues.

The Administration's program for renewable energy resources emphasizes reliance on market forces and private investment initiatives. The elimination of large Federal subsidies for conventional fuels, together with the general increase in energy prices, enhances the competitive position of renewables. DOE's focus on long-range research and development encourages increased private sector initiatives to develop renewable systems.

Efforts to improve the efficiency with which our domestic resources are used provide not only domestic benefits but international benefits as well. According to the International Energy Agency (IEA) and individual countries themselves, Western Europe and Japan are expected to remain heavily dependent on imported energy supplies, particularly oil, through the end of the century. By the year 2000, one-third of Western Europe's energy requirements and 40 percent of Japan's needs will continue to be met by oil imports. This continuing high oil import dependence among our allies, coupled with the economic interdependence of the free world, will make the United States vulnerable to the economic impact of supply disruptions of instability in the world oil market despite its own low oil import dependence.

The United States shares IEA's concern that, over the longer term, increasing reliance on oil imports by Organisation for Economic Co-operation and Development countries and developing countries on oil imports could lead to strains in the world oil market. Even in the shorter term, a major reduction in the amount of oil available could result in sudden price increases that would have severe effects on free world economies. Conversely, a significant increase in the amount of oil on the market or a decline in demand for imported oil could result in changing circumstances and ultimately price decreases.

V. Areas Of Continuing Concern

A major issue of public policy concerns that area of the national economy where the marketplace either is artificially constrained or may not reflect the true value or cost of certain activities to society. The critical U.S. energy policy questions involve three key elements: the need for and consequences of Federal economic, health, and safety regulations; the appropriate role of the government in promoting basic and applied energy research; and the national security implications of energy supply. Despite recent progress, remaining impediments to market activity in both the United States and other industrialized countries can interfere with the efficient production, consumption, and trade of energy resources. Price controls, subsidies, and taxation policies prevent energy prices from reflecting market conditions and hinder the efficient allocation of energy supplies. Where the expected costs of potential long-run energy vulnerability outweigh domestic costs, such policies should be applied in a manner that entails the fewest impediments to free market operation.

In terms of domestic supplies, addressing the deficiencies in the Natural Gas Policy Act remains a critical issue. Achieving a more rational regulatory climate for electricity generation, as well as for increased use of renewable resources and fossil fuels, also remains an important objective.

The Federal Government has an important role to play in encouraging a balanced energy program that includes the development of a range of energy technologies. Efforts will continue to tailor this role to those areas that are most appropriate for Federal action. Recognizing government's continuing responsibility for basic and applied scientific research and development, Federal expenditures will continue to be directed toward a range of technologies that will help meet the Nation's energy needs in the mid- to long-term.

Reducing U.S. vulnerability to energy supply disruptions and assisting our allies to improve their energy security are critical issues. The Federal Government will continue to build the U.S. Strategic Petroleum Reserve and to encourage our allies to maintain oil stockpiles that can be drawn down in an emergency to reduce sharp increases in world oil prices and to stabilize the world oil market.

National security also can be enhanced by diversifying both domestic and international supplies. By decreasing our reliance on oil and increasing the use of other abundant resources, the United States can reduce its presence in the world oil market as a competitor to its more heavily dependent allies and developing nations. In addition, the Administration already has taken initiatives to assist certain allies with advanced nuclear

programs and adequate safeguards to use the significant energy potential of plutonium—an energy resource that many nations cannot afford to overlook. The use of domestic coal reserves also could be expanded, with the possibility that coal exports from the United States to Japan and Western Europe could be substituted for oil, thus reducinig their reliance on insecure Persian Gulf resources.

A number of these areas of continuing concern involve intense domestic controversy and will not be easily or quickly resolved. Ultimately, however, Americans will best be served by a market-based energy supply system that can flexibly respond to ever-changing needs, costs, and political impacts. In light of this, the Government must focus on removing unnecessary impediments to the production and distribution of abundant, secure, and economical energy supplies in the years to come.

Appendix

Value and Limitations of Projections

Projections of energy supply and energy demand for various dates in the future are of interest to those working in the energy field and to the general public. As long as both supply and demand are included and price assumptions are made clear, carefully prepared projections may be useful in assessing the future course of energy production and use. Yet even a "best estimate" projection is not a prediction, and it should not be described or regarded as one.

The projections in this section do not represent a statement of energy goals; and accordingly, the figures in this Appendix do not represent any policy view of the Department of Energy. Although projections try to take into account the most up-to-date and reasonable assumptions, actual events will inevitably will prove different than assumed. Therefore, while projections are useful in analyzing prospective problem areas, they cannot and should not be used as a blueprint for the future.

Comparison of Energy Projections to NEPP-III Energy Projections

Energy projections provided in this document reflect projections made in July 1982 and will be revised prior to the publication of NEPP IV. The 1982 projections incorporate revised assumptions about expected market adjustments and therefore differ somewhat from the projections made in the third National Energy Policy Plan (NEPP-III), which was published in July 1981. One of the most important differences between the two sets of projections is the set of world oil price path assumptions shown in Table 1. The July 1982 world oil price case is considerably lower than the NEPP-III case, especially during the early 1980's. Another important difference in assumptions between the two sets of projections is U.S. economic growth. Over the decade of the 1980's, the average growth rate is about the same for the July 1982 projections as for NEPP-III projections (about 2.8 percent per year), but the path of economic growth is different. When compared to NEPP-III, the July 1982 projections assume slower growth in the early 1980's and faster growth in the late 1980's.

Energy Consumption. Although total primary and end-use energy consumption do not differ greatly in the two sets of projections, considerable differences in the consumption of particular fuels—especially oil—do exist:

- Because of lower world oil prices and changed assumptions about industrial oil use, oil consumption by the year 2000 is 2.8 quadrillion Btu's (quads) higher in the July 1982 projections compared with NEPP-III.
- Oil consumption stays about the same in the residential/commercial sector and declines about 1.4 quads in the transportation sector. The decline in oil use in the transportation sector reflects recent data that shows a more rapid switch to automobiles with higher fuel efficiency than previously projected.
- The biggest change in oil use occurs in the industrial sector, where oil consumption is about 4.2 quads higher in the July 1982 projections compared to NEPP–III.
- The increase in oil consumption in the industrial sector results primarily from lower world oil prices. Also, oil consumption for industrial feedstocks was assumed to remain constant in NEPP–III, but in the July 1982 projections it is assumed to increase at a rate slightly lower than economic growth. Finally, oil consumption for small boilers and process heaters is assumed to decline more slowly from 1990 to 2000 compared to the assumption in NEPP–III.

Energy Conversion and Production. With regard to the projections of domestic energy production shown in Table 2, the July 1982 projections indicate that total production in the year 2000 is 90.0 quads, compared to 100 quads in NEPP–III. The 10.0-quad drop in year 2000 domestic production is accounted for by the following factors:

- 2.8 quads are from lower oil production (including natural gas liquids and shale oil) caused by lower world oil prices between 1982 and 1990, which results in about a 0.9-quad drop in enhanced oil recovery in 2000, a 0.7-quad drop in conventional production resulting from less exploration and development in the 1980's and a 1.2-quad drop in oil shale production.
- Natural gas production is about equal to the NEPP–III estimate.
- Much of the 10.0-quad decrease in domestic production results from lower projected production of coal, down about 5.0 quads from the NEPP–III projections for the year 2000. The drop in coal production results mainly from lower coal demand for synthetic oil and natural gas production (down about 4.1 quads for coal-based synthetic fuels).
- Increased oil consumption in the industrial sector (see Table 1), coupled with lower oil production, causes net oil imports in the July 1982 projections to increase to 4.6 million barrels per day by 2000 compared to a NEPP–III projection of only 1.2 million barrels per day by 2000.

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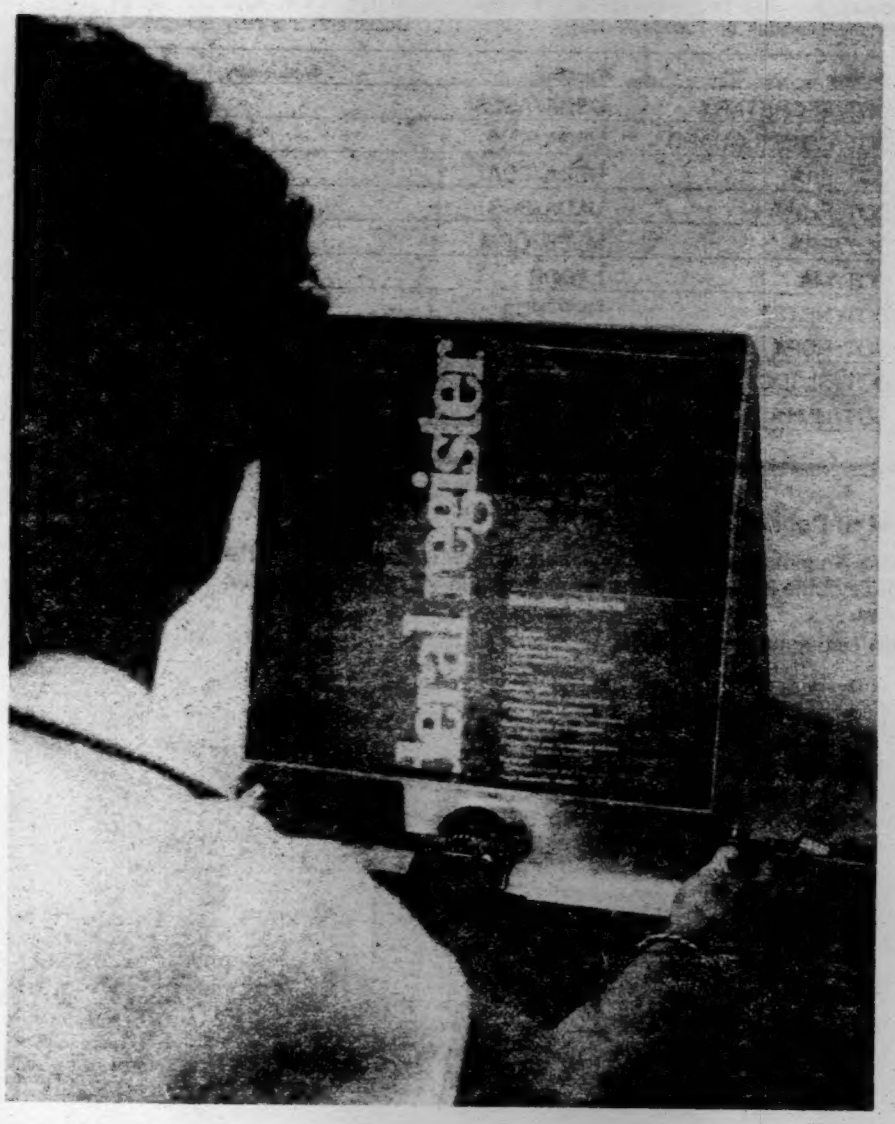

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